

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable Frank R. Addy, Circuit Court Judge

TYRONE LORENZA ROBINSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001540

APPENDIX

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front of the car. Then there was a mobile home or house or whatever it was. We were on the other side of that. So couple of hundred feet maybe?

Q Okay. And where your vehicle was parked, it was parked on Allen Road --

A Yes, sir.

Q -- or was it parked on Marshland?

A No, sir. Allen.

Q On Allen Road.

A Uh-huh.

Q Right there at the beginning of Allen Road when you turn off of Marshland?

A That's correct.

Q Okay. Okay. And you stated, I believe, that there were other officers on scene at that time; is that correct?

A There was.

Q How many other officers; do you recall?

A When I first got there, or at the time Mr. Robinson ...

Q Well, let's -- let's do both. When you first got there, how many officers were on scene?

A I only recall two.

Q Okay.

A Other than myself.

Q And by the time you made contact with Tyrone, had

other officers arrived?

A I know for -- yes. Yes.

Q Include -- was Officer Lear one of the ones that arrived ---

A Yes.

Q --- at that time?

A Yes.

Q Okay.

A Somewhere about that time. I don't know when though.

Q Okay. Now, you indicated that part of your concern was the fact that there were people in that area. I guess residents possibly, or people that were wandering up, that were starting to kind of form together and made you concerned about safety; is that correct?

A That's correct.

Q Okay. And where were they standing in relation to -- in relationship to you and Mr. Robinson?

A Well, from my first contact behind the mobile home or house or whatever it is, up to where he wanted to go to show his vehicle to me, which would have been more up front, towards Marshland Road area, the people were coming -- if you flip-flop around, you're looking out towards Marshland Road, they were coming from the left, coming from the area in which that little boy had been shot.

Q Okay. Over towards the area where I think the

trampoline was, kind of in that area at that time, correct?

A In that area. Not exactly at the trampoline, but --

Q Okay. Now, Officer, when Tyrone approached you, did you see what direction he came from?

A No, sir. I don't recall that.

Q Okay. And at the time that he approached you, I know that you were speaking with another individual in order to ascertain where this "Savoya" was; is that correct?

A That's correct, but I don't -- I don't know that gentleman's name.

Q Okay. And did you ever make contact with this person that you said was named "Savoya"?

A No, sir. I don't recall talking to anybody named "Savoya." I -- I may have, but there was a lot of people in a group, and I don't know if she was one of them.

Q Okay. Sargent Thomas, when Tyrone started talking to you, he was -- was trying to get you to go over and look at his vehicle; is that right?

A Yes, sir.

Q Okay. But based on the situation, did you ever get to go over to his vehicle with him?

A Yes, sir.

Q You did -- you did.

A Yes, sir.

Q Okay. So at some point during that conversation that

we see on this tape -- obviously we don't see where y'all are.

A Uh-huh.

Q We hear the conversation -- you have gone over to where his car was?

A That's correct.

Q Okay. And what car was that, do you recall?

A It was a green car. I don't remember what make or model.

Q Okay.

A The window was -- the back window was shattered out.

Q So you weren't -- how far were you from that vehicle, from that -- from that green car, when Tyrone came up to you?

A Well, I was towards the back of the trailer. If I go -- if I went around the backside of the trailer, this is Marshland up here (indicates.)

Q Uh-huh.

A He may have -- I -- I don't know where he came from. Out of the house maybe? I don't know. But his car was parked directly in front of that residence.

Q So it was in front of the one that you were already behind.

A That's correct.

Q Okay.

A But I was -- I was more -- not necessarily behind it as you would think. Like at this block right here (indicates) is the residence. I was behind -- I had come around this side behind over here (indicates) not behind. I don't want you -- just want you to misunderstand.

Q Okay. All right. And initially he was not detained, correct, when you were talking to him, when he approached you and you were speaking; and then you went and looked at his car, he was not in handcuffs at that time; is that correct?

A That's correct.

Q Okay. When you did detain him, I -- I noticed that -- that you told him that -- that you were primarily concerned about your safety and his safety, correct?

A That's correct.

Q Okay. Did you place him in handcuffs at that time or no?

A I did.

Q Okay. And then, based on what I saw, it appeared that you were waiting for a car to be brought to y'all; is that correct?

A That's correct.

Q Okay.

A Because Joe Lear had to go get his car to bring it back.

Q And this was to avoid having to walk Mr. Robinson through these people that had gathered?

A That's correct.

Q Okay.

MR. BAX: Moments indulgence, Your Honor.

THE COURT: All right, sir.

(Brief pause as Mr. Bax confers with co-counsel.)

MR. BAX: No further questions. Thank you, Sargent.

THE COURT: Thank you. Re-direct, Mr. Solicitor?

MR. STONE: Just a few, Your Honor.

(Brief pause.)

(Marked State's Exhibit No. 2 and 3, photos.)

RE-DIRECT EXAMINATION BY MR. STONE:

Q Let me show you what's marked as State's Exhibit 2 and State's Exhibit 3.

THE COURT: State's 2 is the disc earlier. You gonna remark that?

MR. STONE: Yes, sir. I'm sorry.

THE COURT: Okay, sir. That's all right. Whatever you ...

RE-DIRECT EXAMINATION BY MR. STONE:

Q You recognize those photographs?

A Yes, sir, I do.

Q And what do those depict?

A This was the car that Mr. Robinson said was his and

RE-DIRECT EXAMINATION BY MR. STONE - MARTIN THOMAS

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that he kept wanting to show me.

THE COURT: What number is that, please, Officer?

THE WITNESS: What -- two and -- it says 2 and 3, sir.

THE COURT: Okay. The first one -- both of them the same thing?

THE WITNESS: They're just different angles, sir.

THE COURT: Okay. Thank you.

RE-DIRECT EXAMINATION BY MR. STONE:

Q Are those fair and accurate depictions of how the car looked at that -- at that time?

A Yes, sir.

Q All right. Let me first hand you then State's Exhibit 2. You can just show the judge. What -- what is that exactly? This is State's Exhibit 2.

A This is the vehicle that Mr. Robinson said belonged to him that was in front of this residence, the one with the shattered-out windshield.

Q Okay. And State's Exhibit 3?

A Again, sir, this is just -- this is the same vehicle, but a slightly different angle.

Q Okay.

MR. STONE: Now I'll mark the tape, Your Honor, as State's Exhibit 4.

THE COURT: Okay. Thank you.

(Marked State's Exhibit No. 4, Incident Scene DVD.)

RE-DIRECT EXAMINATION BY MR. STONE:

Q And I will show you what's been marked State's Exhibit 4. Is this the disc that I asked you to review earlier?

A Yes, sir. It's -- that's my initials.

Q Is everything on that accurate -- fair and accurate as to what was taken out of your patrol car, as far as the video and the audio?

A Yes, sir.

Q Okay. And you reviewed the transcript that goes along with that as that -- as well?

A I did. Yes, sir.

Q All right. And that is accurate as well.

A Yes, sir.

MR. STONE: Your Honor, this is State's Exhibit 4.

THE COURT: Thank you.

MR. STONE: And that's all we have at this time.

THE COURT: All right. Thank you. Officer, you can step down.

THE WITNESS: Thank you.

THE COURT: Thank you, sir.

(The witness exits the stand.)

MR. STONE: Your Honor, the State calls Corporal Wendy Conant to the stand.

THE COURT: Corporal, come forward, please, ma'am, and be sworn.

DIRECT EXAMINATION BY MR. STONE - WENDY CONANT

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WENDY CONANT, having been first
duly sworn, testifies as follows:

THE COURT REPORTER: Would you spell your last name
for me?

THE WITNESS: Conant, C-o-n-a-n-t.

DIRECT EXAMINATION BY MR. STONE:

Q And you're a corporal; is that correct?

A Yes, sir.

Q Did I get the rank right? Okay.

Corporal, you were also called to -- to participate in
the investigation of -- of Tyrone Robinson; is that
correct?

A Yes, sir.

Q Now, on September the 1st, 2012, where did you go
first? I know you were at your house at first. Where did
you go once you were called in?

A When I was called in, I went to the Allen Road area,
where I -- where I was requested to meet with Corporal Lear
and follow him to the Hilton Head office in order to
interview Tyrone Robinson.

Q All right. Tyrone Robinson, I believe from the
testimony earlier, was actually in Lear's car; is that
correct?

A That's correct.

Q And he was in the car when you got there?

A That's correct.

Q Did you follow Lear to the -- to the patrol office?

A I ---

Q I mean, the Hilton Head office.

A I did.

Q And go straight there? Take any detours? What did you do?

A Straight there.

Q Once you got to the Hilton Head station, what did you do after that?

A We brought Tyrone into the interview room, and Corporal Lear and myself remained in the room with him while we waited for another investigator to come so we could interview him together.

Q And when you got him in there, did you -- did you perform any tests on him or anything like that?

A I did not perform any tests on him.

Q Okay.

A Oh. Well, after the handcuffs were placed in front of him for his comfort, we did do a GSR test with -- which is a gunshot residue collection kit.

Q And after that, at some point in time, did you also read Tyrone Robinson his rights?

A I did.

Q Now, the substation at Hilton Head in this interview

room, is that videotaped?

A It is.

Q And is that audio taped as well?

A It is.

Q Does it tape contemporaneously with the event that's going on?

A It is.

Q Have you reviewed the videotape of Tyrone Robinson when he was in that interview room on September the 1st?

A I have.

Q Is it accurate?

A Yes, it is.

Q Is it fair and accurate in -- in all manner of the time that you were actually in there with him?

A Yes, it is.

Q Now, at some point during your time --

MR. STONE: Excuse me just a moment, Your Honor. I'm going to mark this as State's Exhibit 5.

(Marked State's Exhibit No. 5, Miranda Warning Form.)

Q Let me show you what's been marked as State's Exhibit 5. Ask if you could identify that, please.

A Yes, sir. That's our county form that we use. It's called the "Miranda Warning Form." This is the standard form we use to read a person their rights, and we ask the person to follow along with us and initial that he

understands the rights. At the end of it, he can initial if he wishes to speak with us or not. And then he signs the form or she signs the form, and then two of us witness it.

Q Now, at some point during this -- this interview that we'll see just -- in just a moment, you actually read those rights to Tyrone Robinson; is that correct?

A I did.

Q Now, at -- at what point did the questioning start from your -- from your standpoint?

A I did not officially start questioning him until after this form was signed. He was speaking to us prior to this form being signed, and we were trying to get him to stop speaking until we could get this read to him. But he kept interrupting us as we were trying to read this to him.

Q Okay. Now, going specifically through that -- that right form -- the writing on this form, whose writing is this?

A Let's see, the case number, which is the first line, is my writing; the location where Miranda issued is my writing; the name is printed by Mr. Robinson; the date of birth was printed by myself. Then there's a statement of rights section which has four lines for initials, and those are the initials of Tyrone Robinson.

In the waiver of rights section, there's two places

where you check either "yes" or "no." Those are both checked "yes" by Mr. Robinson.

In the signature area, there's three lines. There's the signature of Mr. Robinson and then myself as a witness; and it was then Staff Sargent Andre Florencia was a witness.

Q Okay. All of which is signed and dated accordingly to those signatures; is that correct?

A Correct.

Q Now, did you read these rights to him as well or just show him the form?

A I read them to him.

Q So you read them to him, and then when he initials that, when does he initial them?

A He initialed them towards the very end. He signed it first, then we -- I explained to him that we need him to initial each of the four questions, and he initials them after he has signed it.

Q Okay. And if you would, please, read to the Court what you read to Mr. Robinson.

A (As read) "This is the Miranda warning form and it's a statement of your rights." And I read them one at a time, I say (as read): "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to have an attorney

present before or during questioning. If you cannot afford an attorney, one will be appointed for you before any questioning if you wish."

The next section is a waiver of the rights, and it says (as read): "Do you understand each of these rights I have explained to you?" And you would either check "yes" or "no."

Then there's a section that says (as read): "Having these rights in mind, do you wish to talk to us now?" And you would check "yes" or "no," and both were checked "yes."

And then everybody signs.

Q All right. And all of this is on this video as well; is that correct?

A Correct.

Q And as I recall with this video, there's a good portion of it where he is talking, you're moving the handcuffs around, and then you read him these rights. Does he -- he continue to talk after that as well?

A He does.

Q Now, have you reviewed this video?

A I have.

Q And you initialed that disc as well?

A I don't recall.

Q Okay. Let me go ahead and pull that out now while we do it.

DIRECT EXAMINATION BY MR. STONE - WENDY CONANT

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MR. STONE: And Your Honor, I will hand you up the rights form. This is State's Exhibit No. 5.

THE COURT: All right. Thank you.

(Hands exhibit to the Court.)

(Marked State's Exhibit No. 6, Miranda Warning DVD.)

(Brief pause to set up video.)

DIRECT EXAMINATION BY MR. STONE:

Q Let me show you what's been marked as State's Exhibit 6, this disc. Have you reviewed this disc?

A My initials are not on there, but I have reviewed it.

Q Is it -- is it accurate as to what took place in that interview room at -- at the Hilton Head station?

A Yes, it is.

MR. STONE: And Your Honor, at this time, I would offer that for the purposes of this hearing.

THE COURT: All right, sir.

MR. STONE: Your Honor, we have it, at this point, keyed up to right before he reads him his rights. There's about 20 to 30 minutes that goes on before that, and he is talking before those rights are read. We could play it either way, but I knew that -- think we'd already covered that base. But I'll be glad to cover it any way the defense needs me to do it.

THE COURT: Mr. Bax, what's your -- what's your wish in that regard?

MR. BAX: Your Honor, I'm fine with him starting at where he's read his rights.

THE COURT: Okay.

MR. BAX: No objection to that, Your Honor.

MR. STONE: Thank you.

THE COURT: Thank you.

MR. STONE: Thank you.

(Video plays.)

DIRECT EXAMINATION BY MR. STONE:

Q Corporal, you viewed all this. Does this go on for a while?

A Yes, it does.

Q He continues talking. And there was -- again, there was the segment before you read him his rights that he was talking as well; is that correct?

A Correct.

Q All right. At any point in time during any of this, or for that matter, any time that you were with him, did you threaten Mr. Robinson, promise him anything in any way, to get him to give you a statement?

A I did not.

Q You read him those rights from that -- from that sheet; is that correct?

A That's correct.

Q And did he indicate to you that he understood those

CROSS-EXAMINATION BY MR. BAX - WENDY CONANT

rights?

A He did. And at one point, he even read it along with me.

Q And then everything that he gave you or everything that he said after that and before that, in your opinion, was that voluntary?

A Yes.

MR. STONE: Your Honor, I don't have any further things. For the purposes of the Jackson/Denno hearing, I think that is -- that is enough to establish. We have the full disc if -- if Your Honor would like to review it.

THE COURT: All right. Thank you. Mr. Bax, cross-examine?

MR. BAX: Thank you. Briefly, Your Honor. Thank you.

CROSS-EXAMINATION BY MR. BAX:

Q Good afternoon, Ms. Conant. How you doing?

A Good. And yourself, sir?

Q Good. Just a couple of questions. Yourself and was that Officer Lear that was in with you?

A Initially it was Corporal Lear.

Q Uh-huh.

A And ---

Q And -- and who was the gentleman that signed as the other witness on the Miranda form?

A That was Master Sargent Andres Florencio.

CROSS-EXAMINATION BY MR. BAX - WENDY CONANT

Q Now, was it -- was it before or after that, from your recollection, that you collected the -- the GSR kit, or the gunshot residue kit?

A The GSR was done before the Miranda was read.

Q And Office Conant, did you remain -- well, let me ask you this: How long was Mr. Robinson in that interview from start to finish, do you know?

A I would estimate about an hour and 20 or 25 minutes.

Q Okay. And were you in the room with him that entire time?

A I stepped out at one point to take a phone call. And then towards the end, when he was moved to a different area, I was no longer with him.

Q Okay. And during that time when he was there for approximately an hour and a half/hour and 25 minutes, did other officers enter in and have conversations with Mr. Robinson?

A Well, it was initially Lear and myself, and then Master Sargent Florencio came in and we did the primary interview. And after that, I believe that somebody walked by in the hallway and might have come in and said hello to him. But he wasn't being interviewed.

Q Okay. Do you recall who it was that came in and said hello to him? Was that Captain Bromage?

A Yes, it was.

CROSS-EXAMINATION BY MR. BAX - WENDY CONANT

Q And while he was in that room and during that period of time, was he also -- did -- did Officer ** talk to him at any time?

A Not while I was present.

Q Now, you also mentioned the fact that he was taken to another area. Do you know where he was taken and why?

A I believe he was moved somewhere else because other people involved in the situation were being brought in, and they didn't want them exposed to each other.

Q And do you know where that was? Was he taken into Beaufort to County? Do you know where he went?

A He was still in the same building, but I don't know exactly where they brought him. Just to another location where nobody could see him.

Q And do you know if that other location was also video and audio tape like this room is?

A I don't know where they took him, so I can't say. Quite a bit of that building is under video surveillance, but not all of it's audio.

Q And finally, Officer Conant, Mr. Robinson basically gives his account of the events several times over; is that your remembrance?

A Uh-huh.

Q He would tell the story, and then he would tell it again; is that right?

A That's correct.

Q Okay. But in the interim, there was parts where he just sat there for awhile and just made conversation; is that correct?

A Correct.

Q Talked about things that were basically off topic; is that right?

A That's correct.

Q That's your remembrance of that?

A (No audible response.)

Q And of course, that wasn't things that you were asking about. That's just to fill the silence, was that your remembrance of it?

A There were a few instances like that.

Q Okay. All right.

MR. BAX: No further questions. Thank you, Your Honor.

THE COURT: Thank you. Mr. Stone, redirect?

MR. STONE: That's all we have at this time, Your Honor.

THE COURT: Thank you. Corporal, you can step down.

(The witness exits the stand.)

THE COURT: Mr. Stone, you indicated that's the last of your witnesses for the State on these issues?

MR. STONE: Yes, sir.

THE COURT: Thank you. Mr. Bax, does the defense wish to offer any testimony in the *Jackson v. Denno* issue?

MR. BAX: We do not have any witnesses that we wish to offer. There'd be some argument/discussion with the Court concerning some issues that we have when you're ready, Your Honor.

THE COURT: This would be a good time.

MR. BAX: Okay. Your Honor, the defense does not contest that Mr. Robinson was aware of his rights, and -- and I believe a good portion of what has been shown as well as what follows is admissible and we're not contesting that; however, Your Honor, there are portions of this interview as well as portions in -- well, there's portions on the -- the dash-cam of Sargent Martin Thomas that would be subject to a subsequent motion to suppress by the defense. That has to do with statements that were not Mr. Robinson's, but others that came up to Sargent Thomas. Your Honor's aware of those from the last time we attempted to try this case.

THE COURT: Right.

MR. BAX: As to this video, however, Your Honor, there are -- some portions in this video that we would object to and ask that they would be redacted. There's portions where Mr. Robinson is -- is in -- is in that room for a good period of time. And Officer Conant is there for a

large amount of time. Other officers are present.

And a lot of the off-topic conversations that occur while basically they're sitting there waiting to find out what's going to happen I don't think that are relevant. And I think that they're certainly more prejudicial than they are probative.

Most of them happen towards the last, I think, 30 minutes or so of the video; maybe 30/45 minutes of the video from my viewing.

So the defense's position would be that those should be redacted. To my remembrance there was some conversations about Mr. Robinson's religious beliefs that I think would certainly not be relevant material for the jury. And then I believe there was also a conversation that he had about the definition of what a gangster is, that I think is definitely not relevant and -- and would not pass 403. We would ask that that be redacted as well.

And finally, Your Honor, there is a couple of other discussions with my client that occurred at -- at another location. I have audio of those conversations. I do not have video of those conversations.

If the solicitor's not intending to move those forward, then I have no argument to be made. I just wanted to make sure, from an abundance of caution, that we wouldn't be dealing with those portions, either through

officer testimony or through the audio recordings, at some other time.

THE COURT: All right. Mr. Stone, let's deal with that first of all. The -- the off-camera audio that I have not heard, so what's the State's intention ---

MR. STONE: I don't believe we're going to -- I -- I'm not exactly sure what we're talking about. I don't believe we're going to use it. Everything that we have is audio/video in -- in this. So any of the -- any of the stuff that's -- I -- I -- we're not planning on using that, Your Honor.

THE COURT: Okay.

MR. STONE: So that's not an issue.

THE COURT: Okay.

MR. STONE: I will tell you this, Your Honor, just for the purposes and -- and he did not bring this up. The defense attorney did not bring this up, but -- but I've already redacted it.

He makes -- the defendant makes two references in his statement about being in prison before.

THE COURT: Right.

MR. STONE: And just recently getting out. We have redacted that. I don't think that's proper going before the Court. And so I know he hasn't made that motion, but we have -- we've already taken that out.

MR. BAX: Thank you, Mr. Stone. I would have done that. I appreciate that.

MR. STONE: The -- the religion -- well, first of all, the gangster stuff comes in toward the very end of this. Quite frankly, I -- I don't think there's a problem. We can cut that before we get to it. I don't think there's an issue.

The religion is -- is kind of interesting because -- is not a question -- first of all, it's not a question at all posed by law enforcement. For whatever reason, Mr. Robinson -- if -- if this is exactly what we're talking about, Mr. Robinson says that a few months ago he was visited by the Angel of Death, who said he was killing all of his family because he had been "prophesizing." That, Your Honor, we had planned on introducing quite frankly, because I think it shows Mr. Robinson state of mind.

I think that there is a -- there's clearly discussion as -- as you have seen from other statements, Mr. Robinson's made about ---

THE COURT: Uh-huh.

MR. STONE: --- getting cocaine that day, and being -- and -- and trying to get cocaine and things like this. I think that actually shows his state of mind at the time that all of this took place. I think that is relevant.

Again, not -- not responsive to any particular

question by law enforcement, he was basically "rambling," for -- for lack of a better term.

Other than -- the other material though, we have either redacted or we're not planning on using. So we would have no objection to -- to taking that out.

THE COURT: The -- is that in reference to the Thomas video as well -- I -- I guess, Mr. Bax, you're talking about the -- the female who came up there screaming and pointing the finger at ---

MR. BAX: Yes, sir.

MR. STONE: Now, that -- that's -- I do plan on -- everything on the Martin Thomas video, Your Honor, and I think you watched this before we ---

THE COURT: I did.

MR. STONE: We've shown it to you before. But let me just go ahead, and if I could, just go back over it a little bit.

THE COURT: Right.

MR. STONE: First of all, just out of an abundance of caution, I want to make sure we're clear on the record that -- that the Jackson/Denno issues have been covered. I think clearly Mr. Robinson's not in custody ---

THE COURT: Okay.

MR. STONE: --- up until a certain time ---

THE COURT: Right.

MR. STONE: --- when Mr. -- when Officer Thomas takes him into custody, reads him his rights there. He makes a statement at the scene, then goes directly to the Sheriff's Office, where he's continuing his statement, and then read his rights written on paper.

THE COURT: Sure.

MR. STONE: So I -- I do want to make sure I'm covering that base as well.

THE COURT: And I think that Mr. Bax may have conceded that point, but -- but whether he did or not, it is obvious that -- that Officer Thomas, at an early stage, when he realized that Mr. Robinson was going to interview -- going to, I should say, volunteer a great many statements about this, that he did, out of caution, give him his rights, even though he at that time was not in custody.

It appears that the custody occurred at sometime later. If I could hear the handcuffs being placed on him -- after the female came up and began screaming and pointing fingers, and it looks like things were getting volatile, I thought that that was about the time he really put the handcuffs on him.

He'd been Mirandized. In any event, was aware of his rights. As a matter of fact, he was -- he was repeating them, I think, along with both officers, Officers -- Sargent Thomas and Corporal Conant, to some extent.

Clearly he understood his rights. When he was in custody, the questions that were asked are -- were not the result of any threats or promises that were revealed here today certainly.

The -- the Conant interview, let's talk about that one. First of all, I haven't heard the -- the part about the religious statement, the "Angel of Death." I'd be glad to listen to it. I may have heard it before. Frankly, that -- it's been some time since I did if I have.

But if -- if that's a part of a voluntary rambling of his that -- at least reveals what his state of mind was at the time, then it would be relevant on that particular issue.

So I would be glad to -- to listen to that, if the need be, if y'all can point me to a time on the tape where it actually shows up so I won't have to listen to the whole thing.

MR. STONE: I -- I'm going to try to find that right now, Your Honor. I've got a transcript of it.

THE COURT: Okay.

MR. STONE: But frankly, I was hoping we could hear that better. And I hope it's -- audio's better in the courtroom ---

THE COURT: Right.

MR. STONE: --- than it was today. If it's not ---

THE COURT: Right.

MR. STONE: --- I may make copies of this transcript, and ask to distribute, because I -- it really was difficult -- I was hoping not to do that, but ---

THE COURT: Right.

MR. STONE: --- I could not understand very much of what Mr. Robinson was saying.

THE COURT: All right.

MR. BAX: Your Honor, for the Court's edification, Ms. Saxon's found the portion in the transcript. It's page 28.

MR. STONE: 28?

MR. BAX: Page 28 of -- of the transcription of his interview ---

THE COURT: Okay.

MR. BAX: --- where he starts talking about it, Your Honor.

THE COURT: Okay. There are parts of the interview -- or parts of Mr. Robinson's statement that I had trouble understanding as well.

First of all, in the police car, there's a lot of background noise, as we all understood. Radio transmissions, sirens going, people screaming, which made it difficult for me to separate most of those things. You had a transcript on the screen which was helpful in that regard.

As to the statement that was made in the -- in the police officer's interview room, there were large portions of that that I could not understand. Now, I attribute some of that to my -- to my deafness and hard of hearing. But I'm afraid that there -- a couple of those jurors on there are not quite as old as I am, but they could probably same -- have the same problem that I would hearing it. A transcript may be very -- very beneficial for their understanding.

Certainly I -- Mr. Bax has a copy of that transcript and if there are parts of it that are in question, their authenticity and their veracity is in question, we can deal with that. The transcript would not go to the jury, obviously. It would simply be to aid them in listening to the tape as it's played.

But I would suggest that if we get into that courtroom tomorrow and it is as difficult to understand as it was today, that you have those transcripts already available, if you don't -- if you don't intend to offer them just to begin with.

MR. STONE: Well -- and I -- I think that would be better. I was -- I was concerned. I was trying not to, but we already had -- we had a court reporter -- a certified court reporter do the transcripts.

THE COURT: Okay.

MR. STONE: And we have them. We can dupe -- either duplicate them, or put them up on a screen. And we'll just offer the tape itself in evidence, but use that as demonstrative evidence tomorrow.

THE COURT: That'll be fine.

MR. STONE: I'll have that covered one way or the other.

THE COURT: Okay.

MR. STONE: Of course, anything that -- that needs to be redacted, I'll make sure that's redacted as well, and give the defense attorney enough opportunity to take a look at that.

THE COURT: All right.

MR. STONE: If you'd like, we can go ahead and play that -- play that section of the tape.

(Mr. Stone confers with assistant.)

MR. STONE: And give you some help about where it is.

THE COURT: Okay. What -- what page, Mr. Bax? Twenty-eight did you say?

MR. BAX: It's 28 on our transcript of that particular interview. Each one of the interviews was transcribed as a separate ---

MR. STONE: Do you have that transcript, Judge?

THE COURT: No.

MR. STONE: I will hand you up mine, and then -- I

will start at page 27.

THE COURT: Okay. That's good.

(Mr. Stone hands a document to the Court.)

THE COURT: Thank you.

(Brief pause as counsel confer.)

THE COURT: All right. I've read the -- from 27 through the top of 29. I see the context of the "Angel of Death" statement.

MR. BAX: And Your Honor, I think we'd -- for some reason thought it was a little bit later. But it actually comes before the Miranda portion of the video you saw just a few minutes ago with Ms. Conant on the stand.

The defense would respond to the State, as far as state of mind, I didn't see it that way and I -- and I still don't see it that way. It seems to me that he is telling them things as -- as if having conversation with them.

A lot of what I saw from it comes, obviously, from Mr. Robinson's religious beliefs. And I believe that it is -- I -- I stand by my argument that it's not relevant. I stand by my argument that it would not pass 403, that it's more prejudicial than it is probative.

It doesn't go to the discussion about the facts of this case. It is something he references that occurred long before, and it really sounds more along the lines of a

personal religious experience than anything else. I don't see how it can be seen any other way.

And especially when you add in the fact that they didn't even get to the secondary set of Miranda. Obviously we heard the testimony and we heard the dash-cam that he'd been read Miranda before.

THE COURT: Right.

MR. BAX: But the fact that this comes prior to his being Mirandized via a written form is also indicative that I think he was just sitting there filling the empty space.

I think that was close in time, perhaps where they were getting the GSR kit together in order to take those swabs. It was around that time period I believe.

I would argue that that can -- I would -- I would think, and I -- and I firmly believe that -- especially since we don't really necessarily delve into the religious beliefs of jurors in order to respect their privacy in that area, that that comment could taint the jury in a way that wouldn't have anything to do with the determination of the facts, whether they even realized it or not, because that's kind of a -- an extreme experience at the very least.

THE COURT: All right. Mr. Stone, what says the State?

MR. STONE: First of all, as -- as far as when it arrived toward the Miranda -- this would have, of course,

been the second Miranda.

THE COURT: Right.

MR. STONE: That to me, I think, Your Honor, has already been covered.

Second thing is ---

THE COURT: Right.

MR. STONE: --- I -- I don't believe this is any type of real discussion about his religious beliefs. It appears to me to show demeanor. It shows his attitude at this time right after the -- right after a child has been killed. And it also I think shows it is particularly relevant in showing his state of mind at this particular time.

All of this conversation, again, is not even in response to any particular questions.

THE COURT: Right.

MR. STONE: It's not as if the officer asked, "Tell me about your religious beliefs." So I -- I believe that it is relevant in that context.

THE COURT: First of all, it -- it is -- it is not in response to any questions, no direct questions on these particular issues. It's all in the larger context that goes back to page 23, and I haven't gone back behind that.

He's being told at that point in time -- he clearly is being detained. They say he's not under arrest, but clearly he's in the jailhouse, he might be in handcuffs.

I'm not sure. But clearly his -- his freedom of movement has been restrained.

And so the -- the custodial aspect of the Miranda requirements is in place. He's already been read the Miranda warnings at one time on his way. I'm not sure what the time frame is between when we heard them on the tape and when he got here. It was not a long time.

He -- he is told that he was brought here for his own safety. It's not a good place for him to be out there, and he interrupts and talks about the -- he's the only one who was out there, "me and the shooter and the kid on the trampoline," and so forth.

And he talks about the incident again, as they ride by and -- and shoot up the house and the car -- or shoot up the car, I'm sorry.

And the officer really says nothing other than, "We called 9 -- you called 911. We got that."

And she does ask, "At what time did all this start?" And he said, "Early in the morning," and what time they did what.

And then he comes talking about, "They clean about 6:30 or 7. They clean 7 by 7," and so forth. And then he goes into the dialogue about the -- the event itself. And there is something of a -- sort of a rambling exchange at that point in time. He keeps injecting things about what

happened at the time, obviously, and trying to get them to look up some things that he's telling them about, "Go check this out or go check that out."

And when -- I'm looking for -- for something that the -- that he says, "You ain't gotta tell me no more." I'm trying to figure out what the officer told him at that point that he was responding to. The only thing she says on page 26 is -- whoever this is -- that, "Nobody's untouchable." And -- and then Mr. Robinson says, "I'm telling you, Bro, you not listening." And the officer says, "He's listening, but we ..." -- and then at that point, Mr. Robinson starts again.

That goes into a dialogue about the -- the Grim Reaper, and trouble following like a snake, and things of that nature. And then that blends into the -- the Black Angel of Death.

All of that I think is a -- it may be a stream of conscious rambling. I'm not sure what it happens to be, but it does show his state of mind about these -- these matters, whether he perceives a threat from these people and a right to respond, I'm not exactly sure. Whether he is talking about a threat that caused him to run, as he has already said he did.

I'm not sure it's the explanation and why it's being offered, but I think it is relevant, in any event, on his

state of mind.

I find that the Miranda warnings have been given; that the statement in that regard is voluntary. He is in custody. I find that the statement is relevant as to his state of mind at the time it was made. Okay.

MR. STONE: I believe also, Your Honor, to cover the -- leaving memoranda issue at this point and -- and covering the -- the issue that -- that includes statements by people out on the scene at Allen Road, that the audio/video of Martin Thomas's camera picks up --

THE COURT: Right.

MR. STONE: -- as well as -- I -- I know we showed you this at the last hearing, and I think -- quite frankly, I think the Court's already ruled on it, but let me just make sure that that's clear for the record. J. S. [REDACTED]

[REDACTED], who is out playing on the trampoline with K. S. [REDACTED] when he was killed, walks up -- goes up to Martin Thomas. Martin Thomas asks the question: "Did anybody see what happened?" J. S. [REDACTED] goes, "I did." At which time he points to Tyrone Robinson and says, "That man shot my best friend."

All of these testimonies -- statements, not only the statements from the people who are around there, who's saying, "That's -- that's Tyrone Robinson. That's the guy that did it," to the statement with J. S. [REDACTED], I

believe brings in two issues that I believe are covered very well by United States Supreme Court case law. The one is whether or not it's hearsay.

I think it's a well established hearsay exception under the present sense impression, and what used to be termed as *res gestae*, before they included that under 801 - 80 -- 803, subsection 1 and 2.

Second part of that, then if it is a well established hearsay exception, all of this clearly, Your Honor, is something that's taking place during the stress or the excitement of the moment, without time for cool reflection. I think it clearly falls under the hearsay exception.

The next step, however, is going to be a *Crawford* analysis, of whether or not that testimony is -- excuse me -- that -- the statements are testimonial. The determination about testimonial recently and -- and probably best clarified by the United States Supreme Court is in a case called *Michigan vs. Bryant*.

In *Michigan vs. Bryant*, a victim of a gunshot was at a gas station. Police officers responded to the scene. The victim tells law enforcement who shot him, where he was shot, and what happened. That was all found to be non-testimonial. As law enforcement was -- the primary purpose behind asking those questions were in response to an ongoing emergency.

Your Honor, that's exactly what Martin Thomas has found himself in, and I think that's evident from the video of being there in an ongoing emergency. In order for Michigan vs. -- *Michigan vs. Bryant* analysis, they basically go through two different columns of -- of ideas: What is testimonial and what's non-testimonial.

One of the factors the Court takes into consideration is where it takes place: Is it a station house? If it is, it's probably testimonial. If it's at the crime scene, however, it's not -- or it was found not to be in *Michigan vs. Bryant*.

Was there a weapon involved? If it were a fist, probably not so much an ongoing emergency as if it was a gun. And in this case, there is a gun, and just as *Michigan vs. Bryant* had as well.

The types of questions and what law enforcement was there for. Again, the ongoing emergency, whether or not the emergency is ongoing, and clearly, when Martin Thomas gets there, it is.

I believe under both the hearsay exception as well as *Michigan vs. Bryant* analysis, I believe all of that is admissible. It's on video -- or it's on audio. You can -- you can hear that, and we would offer it in that context.

THE COURT: All right. Mr. Bax?

MR. BAX: Thank you, Your Honor. Mr. Stone has

referenced both *Crawford v. Washington* and *Michigan vs. Bryant*. As Mr. Robinson pointed out last time, and -- and as I recall, Your Honor discussing last time, *Michigan vs. Bryant* is way off point and is not really where this case is.

In that case, it was someone who was determined to be a victim of the crime.

THE COURT: Right.

MR. BAX: That individual was wounded at the time. That individual later was deceased and obviously not available to testify in court.

So when you look at the situation where -- there's two distinct portions of Sargent Thomas's dash-cam that we would be moving to suppress. One is a portion that we actually heard when it was played earlier, where an individual -- a female individual came up and said, "That's him. That's him. I saw him." You heard that.

The portion where the young boy, J. S. [REDACTED] -- has not been played, but Your Honor has heard it before.

THE COURT: Right.

MR. BAX: And I think that the argument goes to both of those individuals. But we would be moving to suppress both of them.

Number 1, neither of those individuals were the victim of the crime. Neither of those individuals were wounded at

the time. In fact, the -- the female, which I believe was Ms. Brittany Brinson, was not even outside of her residence. She came out immediately following, within seconds, according to her testimony or her -- her -- what she's given on interview, after the shots were fired.

And the young boy was -- was brought over because individuals around were saying, you know, "Talk to him. He saw what happened."

THE COURT: Right.

MR. BAX: At that time, based on what we've heard from the officer on the stand, Sargent Thomas, this was a law enforcement officer who had Mr. Robinson, and who had placed him in his car, which is a marked police unit, blue lights over top of it.

The statements that were made were clearly to accuse Mr. Robinson of having a criminally liable role in what had just transpired.

THE COURT: Uh-huh.

MR. BAX: It is the defense's position that it was clearly testimonial. It does not fit where they were victims, they were not the recipient of a mortal wound or even any kind of injury whatsoever, and they were accusing Mr. Robinson in the two law enforcement officers, while he's sitting in the back of a police car. Even someone as young as J. S. [REDACTED] who was around the same age

as -- as K. S. in this case, he's well aware, even at that age, of what sitting in the back of a cop car and -- and -- and being arrested is. He knows what that is.

A boy of that age can certainly understand that when you tell an officer, "This person did something bad," that that's going to put that person in jail. And it was clearly the intent of both of those individuals to point him out for the purposes of prosecution.

So it'd be the State's -- or the defense's position that it was very much testimonial. And under *Crawford vs. Washington* -- especially due to the fact that neither of these individuals are dead. They are here.

THE COURT: Right.

MR. BAX: In fact, both of them are under subpoena.

THE COURT: Right.

MR. BAX: Brittany Brinson's under both State and defense subpoena, Your Honor, and J. S. 's under my subpoena.

THE COURT: Uh-huh.

MR. BAX: So they are available to testify.

THE COURT: Right.

MR. BAX: And you know, should they want to, there is the opportunity to call them to the stand and ask them, "Did you make this statement at that time and why?"

And if they're on the stand, that no longer goes

through the issue of hearsay or *Crawford*.

THE COURT: Right.

MR. BAX: So for those purposes, we'd be moving to suppress those statement from the dash-cam video.

THE COURT: All right. Mr. Stone, what does the State intend to do insofar as Ms. Brinson? Is she going to be testifying?

MR. STONE: At this point in time, Your Honor, I don't believe she is, neither her nor J. S. [REDACTED]. I would call your attention -- and I -- I know you're -- the Court has already been aware of this, but under Rule 802, the hearsay rule, the declarant is -- the declarant's availability is immaterial.

And so for under 803, subsection 1 and 2, present sense impression and excited utterance, we believe all those statements come in, regardless of whether the declarant is available or not.

And I did not hand you up a case, and I apologize for that. Here's -- I've given a copy to the defense. But here's a copy of State -- of *Michigan vs. Bryant*, which is the case I had cited earlier.

(Mr. Stone hands a document to the Court.)

THE COURT: Right. I believe I may have read it the last time, but I'm not sure.

The -- the testimony in my view is -- is more like an

excited utterance, at least insofar as the female victim's -- not female -- the female witness who was doing the screaming, whoever that is.

It's -- it's clear that -- that she was excited. I think that's inescapable. Anybody can determine that. I can't recall enough of -- of J. S.'s demeanor at the time he made the statement as to whether or not he was excited or not.

But -- but just because it -- it might be admissible as hearsay, that doesn't necessarily get it in if -- if there is a confrontation issue, as the case law has -- has -- has stated.

I'm reading, actually, from the prosecutor's book, *State v Garner*, as a case which is argued for part of that. I probably need to read Michigan and Bryant again.

Although Mr. Bax makes a good point when he says that -- that here we have a -- as it turns out, a dying victim, which depending on the timing of it all, could probably come in under some other rule of -- of evidence.

The -- the part where the -- where the lady is screaming, I -- that is not -- first of all, it's -- it's something that no questions were asked. She just came up volunteering that screaming, "He's the man," or something to that effect. And clearly she was excited. So it could come in under Rule 803(2) as -- as well as 803(3).

I really gotta look at that a little bit more in depth over the night to see if -- if the confrontation craws -- clause is still triggered by that. But of course, if they testify, then that takes care of that, if they're -- if they're here.

I'm not prepared, at this point, without reading *Michigan vs. Bryant* and without reading *State vs. Garner* again to -- to rule on whether or not those portions of the statement are admissible. I'll be prepared to do that tomorrow morning, however, before you have to make your opening statements, and you'll know how you can deal with that at that point in time.

I will hold those matters in abeyance overnight until I've had a chance to look at those cases in -- in greater detail.

MR. BAX: Thank you, Your Honor.

THE COURT: All right.

MR. STONE: Your Honor, this actually probably plays into the defense next motion, but I'll go ahead and tell you this as well. Dominique Griffin is on our witness list. He has been on our witness list last time as well as this time. He is here today. He is going to be back tomorrow morning.

Dominique Griffin was at the scene. He was actually in the house, and I don't know if you recall -- and -- and

I wish I had the model with me and I'd show you. But on the front house, where the initial shooting was taking place, the firing at the car --

THE COURT: Right.

MR. STONE: -- Dominique Griffin was actually in the house during that shooting.

He comes out of the house. He sees J. S. [REDACTED], the child, as well as Tyrone Robinson. And J. S. [REDACTED] says the same thing to him that he said to Martin Thomas. And we are going to offer him as a -- as a witness as well. So that's -- law enforcement did not get a statement from him, so we have not turned anything over. He's not made a statement, but again, he will be here tomorrow morning; and -- and has been, as far as I'm concerned, available.

THE COURT: Okay. All right. Thank you. I remember the diagram.

MR. STONE: That would be the same argument as far as the *Crawford* analysis. That would be the same argument as that as well.

THE COURT: Okay. But of course ---

MR. STONE: Of course, he's not a State -- that changes a little bit as well.

THE COURT: Right.

MR. STONE: So I -- I apologize. That actually is not the same analysis.

THE COURT: That's right. And at this juncture, we don't have a statement of Mr. Griffin being offered as we do of these other people though, right?

MR. STONE: Pardon me, sir? I'm sorry.

THE COURT: At this juncture, we don't have a statement that Mr. Griffin made that is being offered, as is the statement of J. S. or Ms. Brisbon, right?

MR. STONE: That's correct. That's correct.

THE COURT: Okay. So he's gonna have to testify to get that in.

MR. STONE: That's correct.

THE COURT: So that takes care of all those issues.

MR. STONE: Yes, sir.

THE COURT: Okay.

MR. BAX: And for clarity, Your Honor, the reason I had mentioned that was I saw that Dominique Griffin was on their witness list, obviously, the first time around Mr. Robinson was representing himself.

THE COURT: Right.

MR. BAX: So -- so I -- I would state that -- that that was something that got handed to Mr. Robinson. I don't recall really looking at the witness list last time as much. I was focusing on being able to advise him as to rules.

In looking at it this time, Your Honor, I've been

informed by my client, after March, when I was appointed to be his counsel at his request, that Dominique Griffin was actually somebody that he had initially wanted my office to talk to as a potential witness. And as you can see, he is on our witness list.

THE COURT: Right.

MR. BAX: Unfortunately, my investigator was never able to locate Dominique Griffin in order to serve him with a subpoena. So when I saw his name on the State's witness list, as -- as I mentioned to Solicitor Stone, I have been through the discovery in this case many times in the last four months, but it is voluminous as it is typically in a murder case --

THE COURT: Right.

MR. BAX: -- and I do not recall seeing anything mentioning from any officer or any incident report or any witness statement any information concerning something that Dominique Griffin had given to the State or any purpose why they would be calling him. And that was why I had mentioned it to Solicitor Stone this morning.

The motion I'd mentioned to him was motion to compel against the State as to any information that they have about what Mr. Griffin would be intending to testify to, and how they were able to glean that information. If there were some law enforcement officer that had an interview

with Mr. Griffin, I wanted to make sure that there were some kind of investigative notes or something that had not gotten filed in this case that I was entitled to look at. So that would be the first part of that motion.

The second part, Your Honor, is -- and I want to make sure that I'm clear on this and I didn't hear from wrong -- that Mr. Griffin was told by J. S. [REDACTED] the same thing that he basically said on the tape. If that's the case, obviously, I would be moving to exclude that as -- as -- as hearsay.

THE COURT: Right.

MR. BAX: And for a lot of the same reasons that we've talked about in the other motion.

THE COURT: Right.

MR. BAX: But on top of that you have the fact that, you know, this doesn't even have the authenticity of the video. This is coming secondhand through another person.

THE COURT: Right.

MR. BAX: So that would be my issues as to Dominique Griffin.

THE COURT: Yeah. I -- yeah. And you're right, the fact that Dominique heard ostensibly what J. S. [REDACTED] said, doesn't necessarily make J. S. [REDACTED]'s statement admissible.

If J. S. [REDACTED] does testify, then Dominique's statement that he saw J. S. [REDACTED] and the decedent in close proximity to where

the shooting occurred -- it might lend some credibility to the -- at least the scenario where this occurred and would put J. S. in the vicinity of where it happened in that regard. That would be Dominique's testimony as to where he saw these folks and when he saw them.

But you're right. It doesn't necessarily make an otherwise inadmissible statement by J. S. admissible just because he heard him say it.

MR. BAX: And -- and Your Honor, just going back to the issue of -- of discovery, in preparation for this, I would certainly ask the Court to -- or -- or -- or ask the solicitor provide anything that they may have.

I mean, as I said before, I knew about Mr. Griffin only because my client said he was in that area, and he might have seen something. But I was not aware of any contact the State had had with Mr. Griffin. And if there's anything out there, I would really -- believe that it would be pertinent and discoverable information for me.

THE COURT: Mr. Stone, what says the State to that? I understood that he had not made a statement or at least y'all didn't have a copy of the statement.

MR. STONE: He did not. He didn't -- he did not make a statement to law enforcement. I actually knocked on the door out at the crime scene myself, and -- and -- and met him. And that's where that took place. So he doesn't have

a statement to law enforcement. So there's nothing under either Rule 5 or Brady. There was nothing exculpatory that needed to be turned over.

THE COURT: Right.

MR. STONE: However, although I don't think there's any obligation to produce, I will tell you that's -- and I was not clear earlier. The -- the shooting that takes place -- Dominique Griffin stayed at his house until the shooting stops.

THE COURT: Right.

MR. STONE: And he comes out of his backdoor. When he comes out of his back door, that's where Tyrone Robinson's car was parked.

THE COURT: Right.

MR. STONE: He sees Tyrone Robinson walk up, J. S. [REDACTED] is walking behind him with tears in his eyes, and says, "It --" -- at which time he comes out, and he says, "That guy shot my best friend."

THE COURT: Right.

MR. STONE: This is separate and apart from the conversation that you hear on the tape with Martin Thomas. This is maybe 20 yards over --

THE COURT: Right.

MR. STONE: -- but this is a totally separate statement. So in other words we say the same thing, he's

pointing to the same defendant --

THE COURT: Right.

MR. STONE: -- this time it's heard by Dominique Griffin. But that's not the same. In other words those are two times that he -- that J. S. [REDACTED] says that.

THE COURT: Right.

MR. STONE: So I wanted to clarify that. I don't think I was very clear. But that's ---

THE COURT: Right.

MR. STONE: --- that's the testimony that he would be offering, and ---

THE COURT: Right.

MR. STONE: --- that he was actually in the house when the -- you heard the rapid-fire shooting outside of his house --

THE COURT: Right.

MR. STONE: -- that -- that he was in there with his one-month-old -- I think that's correct -- child, in a bed. And actually rolled on the floor when he heard the shooting.

THE COURT: Right.

MR. STONE: But that, I believe, was the shooting from the Youngs.

THE COURT: Right. Okay. Thank you for clearing that up.

MR. BAX: Well, and Your Honor, I have to respond if -- if Mr. Stone was actually the one who had contact with Mr. Griffin, that makes it kind of doubly bad. I mean, Mr. Stone is an attorney as I am and knows that these kind of things are essential for me to be able to be prepared for a case. We do not have trial by ambush in this country. That's the core principle of Rule 5 and Brady.

And obviously Rule 5 would come into play because this -- this is someone they intend to use in their case in chief against my client, then any information about what he is saying would be relevant through discovery.

And to find out now that there is a witness -- and -- and I think that to some degree we should not ignore -- and I'm not going to ignore the fact that the way that Mr. Stone has described this testimony, it is going to have impact on the case. It will be something that I would've had to have been prepared for because it puts the boy, as he said, with tears in his eyes, immediately following an event that is going to be characterized as traumatic for another young child, and that cost the life of his friend, another young child, on scene, in close proximity to where it happened and potentially in close proximity to my client, making an accusation.

THE COURT: Can -- Mr. Bax, can you point me to that part of Rule 5 that -- that is violated by this non-

disclosure?

MR. BAX: Yes, I can. Rule 5 -- and let me bring it up so that I cannot operate from memory. I've discovered that's bad no matter how many times you read a rule. If you give me a minute, Your Honor.

THE COURT: Okay.

(Brief pause.)

MR. BAX: Your Honor, I would like to Rule 5(A)(1)(a). It discusses the substance of any oral statement which the prosecution intends to offer in evidence at the trial. Well, that's as to the defendant.

THE COURT: Read -- read Rule 2 -- I mean, subpart rule -- of Rule -- (A)(2), information not subject to disclosure, and see if it doesn't more correctly, under that part of the rule. I'll be glad to hear from you on that.

(Brief pause.)

MR. STONE: Your Honor, may I just have just a moment?

THE COURT: Yes.

(Mr. Stone and Mr. Bax confer briefly.)

MR. BAX: Apparently I was sent an e-mail prior to me being make Tyrone's attorney, when I was second chair to him or -- or his shadow counsel, saying that there was a witness named Dominique Griffin. Not going too much into detail about it.

I don't recall that e-mail, that was prior to me being appointed to him. So I -- there's really not anything that I can argue from this point on that issue.

I do have a number of other motions. Would you like me to move on or ...

THE COURT: Yeah. Let me just -- like -- sort of put a cap on that. Rule 5(A)(2) lists the information that is not subject to disclosure, and it speaks directly to -- to what Mr. Stone was talking about a while ago. It -- it says (as read): "Except as provided in paragraphs A, B, and D" -- paragraph A has to do with a statement by defendant, which Mr. Bax was right, certainly you're entitled to all of that. B has to do with the defendant's prior record, which he's entitled to. D has to do with reports of examination and tests. None of that is applicable here.

(As read) "This rule does not authorize the discovery or inspection of reports, memoranda, other internal prosecution documents made by the attorney for the prosecution or other prosecution agents in connection with the investigation or prosecution of the case; or of statements made by prosecution witnesses or perspective prosecution witnesses" -- that would be Dominique Griffin -
- "provided that after a prosecution witness has testified on direct, then the Court shall, on motion, order the

prosecution to produce any statements, etc."

So I -- there's been no violation of Rule 5 in connection with the Dominique Griffin issue that I can see under the rule.

So now -- but I will be glad to have, Mr. Bax, for you to go on to the next motion.

MR. STONE: May I add ---

MR. BAX: All right.

MR. STONE: --- something to this, Your Honor.

THE COURT: All right.

MR. STONE: I apologize for taking the Court's time.

THE COURT: Okay.

MR. STONE: But I do think it's important. My concern is -- and we've been -- we -- we've discussed this, both at a national level as well as state level, and discovery is a particularly difficult issue. And I want to make sure that we are clear on the record as far as Your Honor's -- I don't particularly care. I -- I understand that the rule doesn't require me to turn that over. I don't particularly care to follow that in -- in that context.

And -- and what I was a little concerned about is I was making an argument. I knew legally it was right. I just was concerned why we didn't.

I found an e-mail -- actually my staff did. Hunter Swanson, who's working with me, actually sent an e-mail

out, and I do want to make this as part of the record if I could. It was sent on April the 3rd, after we had interviewed Dominique Griffin at the scene.

The e-mail reads (as read): "Just wanted to let you know" -- this was sent to Robert -- Robbie Ferguson and Arie Bax. And I do not recall if Mr. Bax was representing Tyrone Robinson at the time, but that was one of those things that the best we could come up with as far as notice.

(As read) "We just wanted to let you know about a possible additional witness who was not mentioned in the reports and was not interviewed by law enforcement. Dominique Griffin is Savoya Simmons's boyfriend -- lives at the house on the corner of Allen and Marshland Road -- and was home with their baby at the time the shooting was going on. He heard shots that sounded like they were coming from Marshland Road, rapid-fire-type rounds. He grabbed the baby and hit the floor. Once the shooting concluded, he ran to the back of the house where J. S. [REDACTED] had run up saying, quote, "He shot K. S. [REDACTED]." He saw Tyrone Robinson leave in his car."

And then it goes on to talk about other material, but I did want to put that on the record because I think it's important, Your Honor, for -- for you to know, as well as the appellate courts, that we do try to make sure that it's

-- it's not trial by ambush.

THE COURT: Thank you.

MR. STONE: Thank you for hearing from me on that.

THE COURT: All right. Thank you. Mr. Bax?

MR. BAX: Your Honor, the first I'd like to go into is what we've talked about in chambers. I have filed a written motion on it. And I would still be moving for a change of venue in this case.

I know that I forwarded a copy of my written motion to Your Honor. Hopefully you're still in receipt of that. If not, I can sort the pass you a copy.

THE COURT: Now, I got the motion earlier, the one that you sent earlier, some time ---

MR. BAX: Yes, Your Honor.

THE COURT: Yeah.

MR. BAX: I filed it in July --

THE COURT: Yeah.

MR. BAX: -- of this year, and I'm relying on that same -- that same motion.

THE COURT: Right.

MR. BAX: Your Honor, based on -- on my rough calculations of what we dealt with this morning with the jury, there was, I believe, over -- there was 65 -- approximately 65 percent of our available jury pool at that time that responded that they had read some kind of media

coverage about this case.

THE COURT: Right.

MR. BAX: Out of those individuals, we did lose a number of them, due to the specific voir dire up at the bench, as they came to Your Honor one at a time, as -- as we all went through this morning.

THE COURT: Right.

MR. BAX: There was obviously, in my opinion, a number of individuals who -- I -- I was questionable of their responses, but they -- they were what they were. But there was quite a few individuals who have followed the story, and while they stated that they could set that aside and be impartial, I ended up using seven of my strikes on jurors who had been exposed to media.

THE COURT: Right.

MR. BAX: And I did -- I did let other people onto the jury that had been exposed to media, but I had to make that choice.

THE COURT: Right.

MR. BAX: I had to make that choice based on my evaluation of their responses to Your Honor as to whether they were telling the truth --

THE COURT: Right.

MR. BAX: -- about whether they have been affected by that media, because frankly, I don't believe all of them

were.

THE COURT: Right.

MR. BAX: And no offense to them, but you know, to some degree, I think there were certain people that gave the impression, at least to me as an attorney, that they were very eager to be on this jury and not for the right reasons ---

THE COURT: Right.

MR. BAX: --- in my opinion.

So of the strikes that I used, the primary cause was that media exposure and their responses to that media exposure.

Additionally, because of the percentage of the jury pool who had been exposed to that media coverage is the other reason why I could not strike everyone who'd been exposed to that media coverage --

THE COURT: Right.

MR. BAX: -- because I would have run out of strikes, and -- and any of my other basises [sic] for the striking of those jurors would have gone by the wayside.

THE COURT: Right.

MR. BAX: And there were other areas, just like in a case that doesn't receive media coverage, where I would like to be able to strike jurors for other reasons: relationships, people that they know, their familial

relationships, any number of -- of things, Your Honor.

But I wasn't given as much of a choice on that, I think, as I should have been.

I believe that this is a case where the Court should consider striking the jury that we have and -- and changing venue because this is a reoccurring problem. We have only but so many people in Beaufort County, and obviously, the paper here does a very good job of appealing to that very local audience.

THE COURT: Right.

MR. BAX: I was made aware of the *Beaufort Gazette/Island Packet* within days of moving here and certainly had my issues with them, considering the fact that they refuse to respond to my subpoenas.

THE COURT: Right.

MR. BAX: But obviously this issue of media coverage is one that I'm very concerned about.

Based on what we've seen, based on what I have shown -- and also, Your Honor, I -- it would state -- you know, we -- we have looked into the media coverage issue in order to show saturation. There's been a huge amount of media coverage, not just by the local paper, but by also the local TV stations: WTOC and I think there's a couple of others.

And I'm -- I am quite hamstrung in my argument, Your

Honor, I -- I will put on the record, because I did issue subpoenas to *The Island Packet*, to WTOC, and I think two other news stations, in order to get not just data about the amount of coverage, but also data about the amount of attention that the Internet coverage of this story has gotten.

THE COURT: Right.

MR. BAX: We did have a motion to compel *The Island Packet* in front of Judge Mullen. There was oral arguments taken at that time. Mr. Jay Bender, from Columbia, represented the paper and came down and argued the case. At that time, Judge Mullen's ruling was held in abeyance because several questions that I had, several -- the pieces of information that I wanted, Mr. Bender could not really tell us whether the State was in -- or the paper was in possession of. That included information such as the number of update articles online that never actually made it into the printed final version of the papers; the number of times that those articles were viewed, i.e. "hits" on those website articles. Each article has its own basic website address.

THE COURT: Uh-huh.

MR. BAX: And each time someone opens it on their computer to view it that's recorded somewhere. It's called a "hit" on -- on -- on that website and any of its sub-

links. When you create a website, obviously you don't want to just have one page. Everything has to be dynamic these days ---

THE COURT: Right.

MR. BAX: --- in order to draw the attention of your viewer ---

THE COURT: Right.

MR. BAX: --- which is what you're looking for. Whether it's for profit or for advertising purposes or whatever, you want people to come to your website and you want them to move around, go from page to page.

Each of those pages is individually identifiable. I argued at that time that the information concerning, not only the -- the articles that are put online -- but don't actually ever make it into the paper because they're small or mid-size updates to a story that's either already running or one they're about to run -- are important to show how many times that was viewed.

If we have roughly 150 to 200,000 permanent residents in Beaufort County and it was viewed 350,000 times, you start to see that there's -- there's almost a complete saturation there. I mean, obviously, there's a number of people in our community that live here only during the summers. There's plenty of people that have moved away and maybe they still read the news here, but it is indicative

of the saturate -- saturization [sic.]

I was not provided that information. Mr. Bender was ordered by the Court to -- to provide that before our trial. He did not do that, and I was informed that my motion was denied via e-mail on Friday evening. So I was never privy to that information.

Additionally, I was in a situation where not only am I trying to prepare for this trial and represent Mr. Singleton, but I was in a situation of trying to chase down these TV news networks.

THE COURT: Uh-huh.

MR. BAX: I spoke with one network -- I think it was WTOG -- representative over the phone. She assured me she was going to provide that same information about coverage, hits on the Internet, and I never heard back from her. And unfortunately, my resources are very limited as a public defender, and there's only been so much that I can do after these phone calls have been made and the subpoena's been issued.

Regardless of that, Your Honor, the media coverage, as I've reviewed it, includes well over a dozen articles. In fact, we printed out everything that they have, and I'm happy to provide it to Your Honor. It is well over 100 pages.

THE COURT: All right.

MR. BAX: And these are articles that were printed in the paper, and these are articles that were also repeated online and kept online.

Additionally, *The Island Packet* and *Beaufort Gazette*, they're one entity, published a timeline that was accessible by the general public on their website. That timeline is a link of all the different events as -- as they were reported or as has -- as -- as the paper's reporter saw it, including the dates and times of the funeral of -- of K. S. [REDACTED], pictures of that, dates of arrest, dates of bond hearings, dates of the prior trial. And that was linked on -- each time an article was put out, they re-linked that timeline.

In that timeline was also a link to the video. There was a dash-cam video from Corporal Evans's patrol unit. You cannot see Corporal Evans, but as Your Honor's aware from last time we tried to try this, and it -- it did pertain a lot to the Youngs. As Your Honor's aware, that video was also accessible to the media. That was released I believe -- and correct me if I'm wrong -- by Mr. Stone's office in response to a FOIA request, based on what I saw.

And that video was linked as an imbedded video, so when you clicked on it, you could watch the video.

THE COURT: Right.

MR. BAX: And that evidence has -- and that basically

potential evidence in -- in this case that has been exposed, or evidence that wouldn't be admissible in this particular case.

THE COURT: Right.

MR. BAX: In that video, Aaron Young, Sr., does accuse my client of being the real bad guy, the one who started this, the one that needed to be dealt with, as well as the one who was responsible for K. S.'s death.

That evidence -- that -- that piece of material is -- is out there, and that's not just a reporter's interpretation of what they viewed in a courtroom. That is the actual video from that dash-cam. That's all out there.

And we didn't get as specific on -- on that as -- as -- as -- as necessarily we -- we could have because I think to some degree there's an issue of confusing the jury; and also, we had time constraints.

THE COURT: Right.

MR. BAX: If we were to sit there and ask every single person about every single article that they read, (a) most likely wouldn't be able to necessarily remember it, but (b) we would still be over in jury selection right now.

THE COURT: Right.

MR. BAX: And I understand that, but do not want to waive my client's rights to make these arguments.

That being my argument on -- on -- on the motion to

change venue, Your Honor, I would like to -- to also place on the record that if Your Honor sees fit to deny that motion, I do feel like there is a remedy, a secondary remedy I would ask for. And I -- I can argue that now or I can wait until Your Honor issues your ruling on the change of venue motion.

THE COURT: All right. First of all, let me see if the solicitor wishes to add anything from it's perspective insofar as the change of venue is concerned.

MR. STONE: Your Honor, from the -- from the standpoint of -- of the law in this case, this is why the Supreme Court has outlined the particular process that the Court goes into, what the burden is, and -- and various things like that. And I'll just -- just very briefly.

The change of venue is in your discretion, and -- and absent some void of sound discretion, there's *State vs. Sheppard*, your proceeding and your voir dire of the jurors is -- is something that the Court -- the -- the appellate court give grave deference to.

In -- under *State vs. Caldwell*, which sort of is the outline of -- of the question (as read): "A denial of change of venue is not error if the jurors are found to have the ability to set aside any impressions or opinions, and render a verdict based on the evidence presented at trial."

You asked every one of those witnesses [sic] that question. Each one of them that still made the jury panel, answered that they had -- that they could set aside anything that they had heard before. In fact, you excused -- I don't recall exactly the same number, maybe five or six, who could not answer that question affirmatively.

Again, it is the defendant's burden to show actual prejudice to the defendant, again, based under *State vs. Caldwell*. And in this case, there simply has been no -- no -- no prejudice at all established. And I believe your questioning the process was -- was proper.

THE COURT: All right. Mr. Bax, clearly there -- there is no question that the media coverage in this particular case has -- has been widespread. Notwithstanding the fact that you were not able to get the information you sought, the information that was revealed in there today when -- when the jurors stood -- Ms. White, who is working with me this week, thank goodness, at the -- at the auspices of -- of Judge Mullen, who is not here today; and so it's her law clerk, Meghan White, has been helping me. And she color coded the -- the jury list of those who had exposure with a yellow highlighter. The whole page was yellow in some cases for almost.

So nobody would question the fact that there was widespread media exposure -- exposure. *The Island*

Packet/The Beaufort Gazette, TV stations to a lesser extent.

It is not that unusual, quite frankly, in -- in areas where you have something like this, which has attracted a whole lot of exposure, for a lot of people to read it. There are a lot of retired people here, a lot of folks who -- who have high levels of education. They're -- they are the types people, as they told me at sidebar on many occasions, "I just read the news. I try to keep up with it and try to keep up with what's going on," which, quite frankly, is admirable.

And when it gets right down to it, that's the type of jury veniary that -- that we want. We want people who are informed and who are educated, not necessarily to -- to prejudge these issues. But it indicates a civic responsibility, that these are not folks who hide under a rock somewhere, and -- and who run from television or run from the -- the new media when reports are out there.

Because I would imagine that all those folks who stood there and told me that they -- or at least most of them -- that they had read this in the *Island Packet* -- did not read just this. They read everything else was in there; and in whatever they -- their areas of interest were, they followed those types of things.

But the underlying question, of course, does not --

does not revolve around whether or not there was exposure or even overexposure, quite frankly, to pre-trial publicity. The question is the question that I asked each juror, and that is, as the record reflects, whether or not whatever they had read had caused them to form or express an opinion as to the guilt or the innocence of Mr. Robinson in this case.

They looked me in the eye. They did not equivocate. I can't read everybody that well. There are a lot of people who'd look me in the eye and lie to me from time to time. So I don't depend to be any sort of a seer in that regard. But I was -- frankly, I was -- I was struck by the candor of these folks, and by the fact that they seemed to be sincere and -- and -- and unblinking in their statement in that regard.

So I find that -- that -- that there is no burden -- there is -- the burden -- I'm sorry -- of -- of actual prejudice has not been met in this regard. We're all familiar with those cases: *Caldwell* is the one the solicitor stated. *State v. Manning* is one that I have a little bit of knowledge about, as well as *State v. Tucker*, another case that I have a little bit of knowledge about.

On *Tucker*, I was affirmed; on *Manning*, I was reversed. But the issue was the same, and that was the extent of pre-trial publicity. Of course, *State v. Manning* didn't have

anything to do with pre-trial publicity. It had to the -- had to do with whether or not the State was title to such a motion.

That's a long way of saying that respect the work that you -- that you've gone through to -- to find out exactly how widespread this coverage was. But I'm impressed that the answers that I received today indicates that, in spite of how widespread it was, it was not convincing enough to those folks who read it to cause them to prejudge the guilt or the innocence of Mr. Robinson, to the extent that they could not fairly and -- and serve impartially as a juror in this case.

The motion for change of venue is denied, and so I'll be glad to hear the alternative that you propose.

MR. BAX: Your Honor -- and it has to do with the integrity of the trial that we have now. Obviously, Your Honor has instructed the jury this afternoon not to expose themselves to anything going forward; however, as Your Honor is -- is aware, just from looking out across the audience, we are currently under the scrutiny of our First Amendment patrons.

In fact, my understand -- well, I'm looking at the fact that someone with the *Island Packet* is live streaming everything we're talking about right now.

THE COURT: Right.

MR. BAX: It's going out as we speak.

THE COURT: Right.

MR. BAX: And the problem is -- two things: Number 1, coverage of events is changing based on technology.

THE COURT: Uh-huh.

MR. BAX: It's becoming more minute-by-minute, it's becoming more 140-characters-by-140-characters; it is becoming more instant message, more text message, more tweeting, more YouTube. Everything is instantly accessible, and I think, to a large degree, that makes it harder to protect the integrity of the process.

And despite adamant instructions to jurors, and despite the fact that they have all been very sincere in their answers to Your Honor that they would put anything aside, it is not so much them that I worry about, but all those around them and everything around them.

THE COURT: Right.

MR. BAX: Our phones provide constant streams of information, and we cannot tell those jurors the moment they walk out of this courthouse that they are not to pick up their phone.

THE COURT: Right.

MR. BAX: It is an instrument, at this point, of basic necessity unfortunately. It -- it is probably not that far from being implanted on one of our limbs so that we can

never leave it behind.

THE COURT: Right.

MR. BAX: As a result of that, I think courts are going to have to adapt, and when we have a case of this magnitude. Involving fax such as this that are involving the kind of coverage that we have -- as I said, it's being tweeted right now as we speak. She's right back here in the corner, Ms. Lourie.

THE COURT: Uh-huh.

MR. BAX: The idea that the jurors themselves can't abstain themselves from getting any of that exposure I think is going past just legal fiction and into just plain old fantasy.

THE COURT: Uh-huh.

MR. BAX: They're all going to have family members, and we have no way of knowing what level of interest those family members have. But I can guarantee you this, once those family members find out what case they're on, regardless of whether or not that juror tells them, you know, "I can't talk about the case" --I'm sure they will --

THE COURT: Uh-huh.

MR. BAX: -- their family members are gonna find out what case they're on.

THE COURT: Right.

MR. BAX: And that means that they're going to be

spouting comments that they're reading; and their interest in the case once they find out their dad or their mother is on the case is going to rise.

THE COURT: Right.

MR. BAX: You could have teenage children, sitting there at the dinner table, asking Dad, "Well, what about this? They said this."

And this includes information coming out just today about rulings in here, Your Honor, on admissibility, that we're doing outside of the presence of the jury for a reason.

THE COURT: Right.

MR. BAX: Because the jury shouldn't be purview to these arguments about what is admissible and what is not.

As Your Honor knows it -- it runs across the problem of the judiciary commenting on the weight of information; it has to do with arguments of the defense to exclude things the juror could take as us trying to hide things.

THE COURT: Right.

MR. BAX: The same could be said of the State. If they say we're not going to go into these other statements, the jurors could take that in a negative way.

THE COURT: Right.

MR. BAX: So I have looked at all the case law concerning Your Honor's discretion in ordering that the

courtroom will be closed to the media, and that's what I would ask the Court to consider doing. In all the cases that I have looked at, Your Honor, it's basically a balancing test, and it's -- it's not exactly well-defined for Your Honor.

THE COURT: Right.

MR. BAX: And I know that Your Honor's head to look at in cases such as the ones you already cited, as well as the *Quattlebaum* case; some of these others where you had to gag certain things, and tell the media that could not put that out there.

THE COURT: Right.

MR. BAX: And I -- it has to be -- you know, the -- the -- the press's and the people's right to freedom of speech and freedom of information has to be balanced against my client's Sixth Amendment right to a fair trial.

THE COURT: Right.

MR. BAX: And at this point, I'm not asking that Your Honor completely gag the press from writing anything about this case. I think that would be going too far, and I don't, frankly, want to ask for something that I'm really just reaching for the stars on.

But I don't think it's unreasonable to ask them -- to put them out of the courtroom. They can certainly do articles about what they have seen from people coming and

going or interviews. I would certainly ask that the attorneys involved not give any interviews, but it don't know that we can control anybody else.

But the fact that they're even -- they're inside the courtroom, they're making streams of information available to the public based on hearings that are not even in the presence of the jury, and that this is going to be ongoing throughout the week, I think strongly threatens the integrity of the case. And as Your Honor knows, we've already spent a week trying to get this case through.

THE COURT: Right.

MR. BAX: I think from a judicial economy standpoint as well, not only the interest of my client stood against the interest of freedom of speech, that the interest of the judiciary being able to do its business are part of the balancing test, because once we get to the end of this case, if we find that a juror finally blurts out, says, "You know, my daughter's been telling me all about 'x,' 'y,' and 'z' --

THE COURT: Right.

MR. BAX: -- we're gonna end up in a mistrial situation potentially. And once again, the time of Mr. Stone, myself, my office, his office, and my client and Your Honor's been wasted; as well that of the juries who are, frankly, not getting paid a whole heck of a lot.

So I think it is well within reason to ask Your Honor to consider barring the press from the courtroom until the close of this case.

And -- and I would put on the record also, Your Honor, I did think about the idea of sequestration of the jury. But frankly, it just felt to me -- and I'm putting this on the record purely for -- for the purposes of -- of future review -- I felt like that was strategically not a good idea, as my understanding is those jurors would be put in a hotel where they would be cut off from their Internet access, they probably wouldn't be allowed to use their phones -- really, nowadays with Smart phones; and they would only be given access to some old movies and -- and that would be it. And unfortunately, that's the kind of thing that could potentially turn a somewhat uncomfortable and -- and -- and -- and feeling unlucky jury into a flat-out cranky and upset jury.

THE COURT: Right.

MR. BAX: So I -- I did not decide, in -- in -- in my small wisdom, to ask for that. So I feel that this is a reasonable request in light of the circumstances.

THE COURT: All right. Thank you. Quoting the Fourth Circuit case of *In Re The Press Association*, which reminds us a strong constitutional presumption in favor of open criminal proceedings because the Constitution provides for

that, that can be overcome only if there's an overriding interest based on specific findings that it's necessary to close the courtroom in order to preserve higher values.

It would be difficult for me, of course, to tell the press that it cannot come in when it has a constitutionally protected right, but yet allow the public in, which has the same right, no greater, no less. There has to be a -- the higher value, of course, is measured by protecting the defendant's, as you've said, Sixth Amendment right to a fair trial by an impartial jury. And I think we all understand, and I've understood it for many years as sitting in this role, that -- that -- that the press's responsibility is to inform the public. It is not protected defendant's right to a fair trial. So I recognize that sometimes those two things are sometimes antithetical, which the -- one's the antithesis of the other.

Several years ago -- I think the guy's name is Dan Abrams. He used to be on one of these trial networks. Is he still -- I think he -- he -- he spoke to some group that I was -- was a part of. Might have been a judicial conference. And he made no bones about the fact that -- that the press is really not interested in a fair trial. It was interested in news coverage because that's what it does. And that's right, that's what it does.

The Court, however, of course, is interested in a fair trial because that's what we do. And when those two things run afoul of each other, when -- when the public's right to know intrudes into the right of a defendant to a trial by a fair and impartial jury by the standard that has to be met, then we are at liberty to take the drastic action of closing the courtroom. Of course, we can't do it without giving the press a right to be heard, obviously, as Mr. Bender was down here last week, and -- and I'm sure that if I were to say I was going to have a hearing this afternoon at eight o'clock on the motion to close the courtroom, Mr. Bender would be right here somehow or another.

But I don't think, quite frankly, that it's necessary to -- to go to that very dramatic and extreme step under these particular circumstances. I know that this -- right this minute, in -- in Beaufort, is -- is apparently the judicial proceedings of -- of great interest. Not just here, the *State* newspaper yesterday had an article about this trial and about the trial that's gonna start next door, tomorrow morning sometime -- or next door -- that way or in here. As a matter of fact, this is where it's gonna be, in this room.

I realize that when I go to town and -- and prepare to start a high-profile case that's been pending for some time, that -- that the newspaper is going to report that

because that's what they do. They don't do it with the intention of making the Court's job any harder, but that is the impact of it.

There is, in Richland County, I believe, starting today, a trial of a University of South Carolina professor who -- she was murdered in 2011, I believe was the date. Almost four years ago. And frankly, the public probably had forgotten about it until they read the *State* newspaper this morning, and then they remembered it again. I don't criticize the papers for doing those things because, as I said, that's what they do. They try to inform the public.

And some judge in Columbia today is struggling with the same thing over there that I am here in this case because of the publicity.

There's another way, however, I think that I can do all that I can without reaching the -- the limits that you have suggested, Mr. Bax. I will voir dire the jurors tomorrow. I'm willing to voir dire them individually, to bring them out of the jury room one at the time, and ask them these questions, out of the presence of each other. And I'll do that every day during the course of this trial to see whether or not this is a problem. And if it becomes a problem, then frankly, strategy or not, I would choose to sequester the jury rather than to shut the courtroom down.

But for now, your motion to close the courtroom is

respectfully denied. I will voir dire the jurors when they come back tomorrow, before we begin. Okay.

MR. BAX: Thank you, Your Honor. Your Honor, moving on, I do have -- just for the purposes of the Court understanding where we're at, trying to estimate which ones we've finished here -- four more motions, Your Honor.

THE COURT: Okay.

MR. BAX: And obviously I would move to sequester the witnesses. I don't expect that motion to be long. We can even handle that right now, and that would be, obviously, the shortest of the motions.

My next motion is to quash the indictment, and I can start arguing that. But just for the Court's -- just to let the Court know, as I had stated before, I have my Castle Doctrine motion, which is gonna take a few minutes; and a motion concerning photographic evidence in this case, which would take a few minutes, obviously, as well. So that Your Honor will know just how much more I -- I've got to deal with.

THE COURT: Okay.

MR. BAX: So going to the -- the quashing the indictment, Your Honor --

THE COURT: Okay. If you'll just give me a minute and let me take the easy one first and get it out of the way --

-

MR. BAX: Certainly.

THE COURT: --- so we can close the book on sequestration.

MR. BAX: Sure, Your Honor.

MR. STONE: I -- I don't have any objection to that as long as all the witnesses are treated the same.

THE COURT: That's right. It -- it would be reciprocal. The -- the -- the victim's family, if there are any in that regard; the main investigating officer for the State will be there -- can remain. The sequestration order will be in effect closing the opening arguments tomorrow morning. Okay? All right. Now --

MR. BAX: Thank you, Your Honor.

THE COURT: -- to the motion to quash.

MR. BAX: Thank you. Your Honor, the -- the defense would move to quash the indictment as insufficient in this case. First of all, obviously, under State vs. Gentry, I, as a defense attorney, am required to make this motion prior to the swearing of the jury or -- or basically forever waive that. I'd have to face that issue on PCR.

But it -- it -- this is a situation where the motion to quash the indictment, I think, is very important; and -- and I believe a very strong argument.

The indictment in this case, which I'm sure Your Honor has copy of because you read it to the jury this morning --

THE COURT: I did, but I gave it back to the clerk, and I'm not sure that it's been -- you got it in here?

(Brief pause.)

MR. BAX: Your Honor, I would -- I would point to the body of the indictment, the portion, I believe, that Your Honor read to the jury veniary this morning in qualifications. It says that (as read): "In Beaufort County, on or about September 1, while engaged in an ongoing gun battle," comma, "an inherently dangerous felony," comma, "Tyrone Robinson did willfully, unlawfully ..." and it goes through the language of -- of murder at that point, and -- and -- and does give the victim's name and -- and the location for jurisdictional purposes.

THE COURT: Right.

MR. BAX: It is the portion here where it says (as read): "... while engaged in an ongoing gun battle -- comma -- an inherently dangerous felony...", that I address my motion to quash the indictment.

The language "inherently dangerous felony" indicates that -- and it is my understanding -- that the State, through the statements they've made in -- in court before, is going forward on -- on -- on a argument of felony murder. Felony murder, obviously, is -- is -- had a number of cases address it, and it -- it does have a little bit of a confused history --

THE COURT: Right.

MR. BAX: -- as far as whether it's an inference of malice or whether it's a substantive rule that says you must charge murder if there was another felony ongoing.

THE COURT: Right.

MR. BAX: However, those confusions aside, it is extremely clear, all the case law about the felony murder rule or the felony murder inference, that it must be -- it must allege that it was a -- that -- that the homicide, or the death of the victim, occurred during the commission of a felony. And it says a specifically enumerated felony, to the point where there are certain felonies that qualify and certain that don't.

The case -- the oldest case -- or one of the older cases that -- that's talked about is *Gore v. Leeke*, Your Honor.

THE COURT: Right.

MR. BAX: And I'm quoting out of the *McAninch* book, because that's one of the best sources I find that goes right to the -- to the source.

THE COURT: Right.

MR. BAX: *Gore v. Leeke*, Your Honor, can be found at 261 S.C. 308. It has it listed here as 199 S.E. 2d at 755. It's a 1973 case.

(The Court confers with law clerk.)

THE COURT: That book is in the other room, and I was trying to see if I could get Ms. White to ---

MR. BAX: And I certainly have no problem if you'd like to pause while you go get it.

THE COURT: All right.

MR. BAX: I have ---

THE COURT: I -- I can send her for it and continue.

MR. BAX: Here's a copy of the ---

THE COURT: It's a green book. Okay. *McAninch* has a lot to say about felony murder other than *Gore v. Leeke*, however, and I might ---

MR. BAX: It does.

THE COURT: I might need that as well.

(Brief pause.)

THE COURT: All right. That -- the -- the book is being retrieved. And while we're doing that, I can -- I can listen to you now in regard -- in connection with *Gore v. Leeke*.

MR. BAX: Thank you, Your Honor. What -- I believe I was addressing was that not only does it ask that -- it -- it requires that there be a specifically enumerated felony, but it -- it actually does that to the point where it even has felonies that do not qualify; because it talks about *malum in se*.

THE COURT: Right.

MR. BAX: In other words, that inherently dangerous aspect -- *McAninch* posits that crimes such as public embezzlement of funds would be an example of a potentially non-qualifying felony --

THE COURT: Right.

MR. BAX: -- one that is not necessarily foreseeable as an inherently dangerous felony.

So if your case law is clear, one that is *malum in se*, must be cited. And here we do not have that, Your Honor. And this is something that -- that is being dealt with -- I know it -- it has been dealt with in the other courtroom, but I think it is very important because it's been happening a lot as far as the cases that are before the Beaufort County Courts, and I'm sure before many of the county courts in this state.

It -- it talks about engaged in an ongoing gun battle.

THE COURT: Right.

MR. BAX: Your Honor, there is no gun battle charge in our felony book. You can pick up every chapter and you can look through it exhaustively.

THE COURT: Right.

MR. BAX: There's not a charge for gun battle.

THE COURT: Uh-huh.

MR. BAX: There's not a charge for shoot out, which is referenced in other indictments. It is not illegal --

there -- there's no specific crime for being in a gun battle.

THE COURT: Uh-huh.

MR. BAX: The reason being, Your Honor, is that we have charges for murder, we have charges for attempted murder, we have charges for pointing and presenting, we have charges for discharging a firearm. We have all these different break downs of different felonies that involve weapons, that involve assaults, that involve violence. But in every one of them, they're specific because we, in our jurisprudence, from here all the way back to the Wild West, decided that we needed to determine who was at fault, that just because there was an exchange of gunfire does not mean everybody who was involved is guilty of a crime.

And that has always been the substance of our case law in South Carolina and throughout the United States. And it is, in fact, the basis of the Castle Doctrine, which I'll be arguing next --

THE COURT: Right.

MR. BAX: -- is the idea that there are times when deadly force is justified.

THE COURT: Right.

MR. BAX: And there's times when you, as a human being and as a citizen of this state and this country, have the right to defend yourself.

As a result, the Legislature has never come up with a felony that's clearly defined that's entitled "gun battle" or "shoot out." As a result of that, Your Honor, this indictment does not pass muster.

Additionally, the case law involved in the chapter about felony murder in McAninch's book talks about this. There is the fact that the relationship between any other co-defendants, which obviously has to happen in a case where you're alleging felony murder --

THE COURT: Right.

MR. BAX: -- by definition --

THE COURT: Uh-huh.

MR. BAX: -- is crucial.

THE COURT: Uh-huh.

MR. BAX: And to be held responsible for the actions of a co-defendant, you have to be in a conspiracy with that co-defendant.

Your Honor, in this case, the only other individuals charged, as Your Honor is aware, is Aaron Young, Sr. And Aaron Young, Jr.

THE COURT: Right.

MR. BAX: And by the State's own allegations and by their own admissions -- which Your Honor's been party to in -- in prior hearings --

THE COURT: Uh-huh.

MR. BAX: -- they were conspiring to kill Mr. Robinson.

THE COURT: Right.

MR. BAX: It is beyond the realm of foreseeability or even reasonability that my client could be in a conspiracy with two other individuals to get himself killed.

THE COURT: Uh-huh.

MR. BAX: He didn't conspire to get himself shot at.

And you can't, by definition, conspire with your attackers to be attacked, nor can you conspire with you -- just like the Youngs can't conspire with Mr. Young to come and kill him.

THE COURT: Right.

MR. BAX: Unless we could provide some kind of very unique false suicide or false insurance claim case, I don't think you can ever claim that a conflagration between two parties, that resulted in some kind of violence or attempted violence, was something that they conspired to do.

In discussing this and looking at this and preparing for this hearing, I think the only time this would ever have been something that would have been an argument is when we still had dueling. Basically, when people would agree to meet on a field and -- and do that. Perhaps that would have been our argument at that time to say that

you've conspired with -- with the person shooting at you to be shot at.

Today, and with these facts, it doesn't fit. And as a result, this indictment, number one, does not adequately put forth a crime to which we are to defend against, nor as -- as Your Honor's aware, the case law requires for the sufficiency of an indictment -- it's not just a notice document. It's also something to where Your Honor is going to be able to present that to a jury in order to define what it is they have to make a decision on.

THE COURT: Uh-huh.

MR. BAX: And this is, I think, a very important point in this motion to quash, Your Honor. Not only does it not put me on notice of which inherently dangerous felony I am defending against, or I'm defending my client against, that he's defending himself against --

THE COURT: Right.

MR. BAX: -- which, I submit, is crucial and it's a failure -- is -- is basically insufficient on its face; but also, for the integrity of this process, when we get to the end of this trial, what is it that we argue? What is that I argue on opening? What is it that Your Honor charges the jury with?

My understanding -- and the case law backs this up -- you would have to define for that jury what that inherently

dangerous felony is, because as a matter of law, if they're going forward on this felony murder rule or felony murder inference, then they would have to make a determination that my client was committing an inherently dangerous, enumerated felony, and what that felony is when the homicide occurred, when the victim was killed; and the proximate result thereof.

At this point, there is -- you cannot define ongoing battle -- gun battle to that jury. And I know from my experience, and I know you know this better than I, no judge wants to be making up a charge from scratch.

THE COURT: Right.

MR. BAX: That's never where the Court wants to be. And I don't think that's where the appellate courts want you to be either.

THE COURT: Uh-huh.

MR. BAX: Obviously, at some point, everybody had to make up a charge, and it had to be reviewed --

THE COURT: Right.

MR. BAX: -- but at this point, in our jurisprudence, that should be beyond rare. We have -- we have gotten through a lot of this, and it's been clearly defined.

I know that, as I said before, the notice aspect of an indictment is important. And that is why it's -- it's referenced in *State v. Gentry* the way it is.

They changed it, obviously, for a long time. Indictments had to do with subject matter jurisdiction. As a former attorney general handling -- handling PCRs, it was the bane of my existence --

THE COURT: Right.

MR. BAX: -- that subject matter jurisdiction could be brought at any time.

THE COURT: Uh-huh.

MR. BAX: And I know for a fact that -- that my co-counsel, Deb Shupe, was very proud of *State v. Gentry* when it came out because she argued it while she was working with me. But the way that the State -- or the Courts define the change from subject matter to notice, they did make an important point to illustrate for all of us in the Bar that notice is not just an empty saying. It is important.

And when you already have a complicated factual scenario like we do here, definition is all the more important.

THE COURT: Right.

MR. BAX: Thank you.

THE COURT: Thank you. Mr. Stone?

MR. STONE: First of all, Your Honor, let's make sure that we're clear on what the motion is. I mean, are you talking about the sufficiency of the indictment, and not

only is that under *State vs. Gentry*, but also a very recent decision, 2013 decision, speaking -- the State -- the *State vs. Manuel Samuels* -- excuse me -- Myron Samuels. All of that is under the same context, and the context is for the sufficiency of the indictment to be challenged, the issue before the Court is, No. 1 (as read): "The offense is stated with sufficient certainty and particularity to enable the Court to know what judgement to pronounce."

I don't think there's any question in this case, Your Honor. This is a murder indictment giving you the -- the -- the knowledge at that point from there that it carries from 30 years to life. That is clear that it fits under -- under that part of Part 1.

(As read) "And the defendant to know what he is called upon to answer, and whether he has -- he may plead an acquittal of conviction thereof, and too, whether it apprises the defendant of the elements of the offense that it intended to be charged."

Quite frankly, I think the indictment has more than is necessary instead of less than is necessary. The issue is whether or not the indictment is -- on its face is sufficient to give you the ability to know how to sentence, the defendant to know whether or not he pleads guilty or not guilty, and whether or not he knows the elements of the crime.

It actually -- this indictment is more specific than it needs to be. It needed only to basically say he is charged with the murder of K. S. [REDACTED]. What I think we now go into is whether or not that you have jury charges that you can make to the jury. And -- and I apologize, but my jury charges are in Courtroom 1.

THE COURT: Uh-huh.

MR. STONE: And I was going to hand that up to you now and I'll be glad to do that after we take a break.

But in the context of the felony murder rule, it does establish malice on the part of the defendant. It -- it is in most of the cases, and as *McAninch* cites, almost every state has done it differently, and it's based not only on statutory law, but also on the common law establishment of malice.

You also -- and -- and the reason is very confusing. It's because it also meshes with not only transferred intent in this case ---

THE COURT: Uh-huh.

MR. STONE: --- which I believe that Tyrone Robinson was aiming at the Youngs ---

THE COURT: Uh-huh.

MR. STONE: --- when he hit K. S. [REDACTED].

THE COURT: Right.

MR. STONE: So I think you have a transferred intent

issue there as well.

And -- and what's very interesting is even for what *McAninch* -- as I recall reading *Gore vs. Leeke* and *McAninch's* analysis of that, he really doesn't even call it a felony murder case. In fact, he goes back to say although this is what the Court said, it really isn't a felony murder case. It's more of a hand of one is the hand of all, which also, I think, ties in with jury instructions that go to this -- that -- that go to the jury.

Tyrone Robinson was not conspiring with the Youngs. I don't think there's any allegation from the State that's the case. He was, however, involved in -- as he said in both the -- the tape that you heard from Martin Thomas earlier, as well as he -- makes the same statement, "There was a shoot out. It was a shoot out earlier. These guys came by. They chased me." And -- and I think you can certainly infer from that that is an inherently dangerous felony.

For the purpose of this motion, Your Honor, though, I think it is -- I -- I think the indictment is sufficient. I don't believe that -- I believe the only "sin," so to speak, from the indictment standpoint, is it may have more information in there than it needs to.

THE COURT: All right. Mr. Bax?

MR. STONE: And -- and I apologize. Also he stated as

-- as well, and I forgot to state this as well, is that this was all about a drug deal. There is lots of testimony that -- that people are armed. In fact, Tyrone Robinson is blaming the Youngs on being armed as well. So there is an armed drug deal going on as well.

THE COURT: Right. Thank you.

MR. STONE: Thank you.

THE COURT: Mr. Bax, I -- I concur that the -- that the indictment does seem to meet the requirements that the law requires it to meet, that is, stating the offense with sufficient clarity and putting Mr. Robinson on notice about what he's required to -- to answer.

The only thing about the -- the interesting point that you've raised is that what is the inherently dangerous felony? It could be the drug deal. It could be attempted murder, as they were shooting at each other. It could be several other events, I think, that were potentially unlawful, depending upon the truth -- what the truth is going to reveal in the course of the trial.

There might come a time, at -- at the conclusion of the State's case, for you to revisit this issue. But I don't think it comes up right this minute in any event.

And -- and I -- and I'm not sure that the -- that *Leeke* requires that this be as narrowly construed as you're suggesting to me. For now, the motion to quash the

indictment is respectfully denied. I will allow you to -- to raise some of those issues, perhaps at directed verdict or some other stage during these proceedings. But not at the -- not at this juncture in any event.

For those -- for these purposes, the indictment is sufficient. Thank you.

MR. BAX: And Your Honor, I understand your ruling and -- and we respect that ruling, we'll make that point. There's one -- just -- argument I meant to put on the record. I just state this if -- with Your Honor's permission.

THE COURT: Okay.

MR. BAX: The other aspect of this that I think does go to the issue of -- of quashing the indictment and notice is the fact that when you say "an ongoing gun battle," you can infer an inherently dangerous felony.

THE COURT: Uh-huh.

MR. BAX: I think that's -- and that -- that's the statement Mr. Stone just made in response to this motion. That is the problem with this.

THE COURT: Uh-huh.

MR. BAX: The problem is is that it allows the State to put their case up, let the chips fall where they may, pick the felony that they think works best, and concentrate on it. It's a scatter-shot technique, and the problem is

that exactly that notice document, as to indictment insufficiency, go to is we are not required to defend ourselves against the possibility of any number of felonies. As Mr. Stone just now said, "Well, it could have been an armed drug deal battle. Could have been an attempted murder battle. Whatever works the best when we get done, that's what we'll go with."

THE COURT: Right.

MR. BAX: That puts me at a real disadvantage because I fight against the drug deal gun battle, and then I turn around and have to fight something different. That's the whole purpose behind this. That is the whole reason why notice documents and -- and what you're going to be defending against have to be given with particularity.

As Your Honor has said, you know, these cases talk about the fact that there is a two-prong requirement that: They have to give the charge with sufficient particularity for the Court to be able to know what to pronounce judgment upon; as well as, No. 2, give the defendant notice of what he has to defend against.

I submit that even with, in fact, the statements of Solicitor Stone here in response, specifically illustrate the exact problem here. It's a scatter-shot. Whatever sticks against the wall, that's going to work later. And when there's a multitude of potentials and we let the chips

fall where they may in front of the jury, then it is left where the defense is hampered; and my client is -- is irrevocably prejudiced, in that I'm trying to dodge different balls at different times and there's only but so much the defense can do.

THE COURT: I think, insofar as the facts of this case are concerned, that I don't believe there are many secrets, insofar as those things are concerned. As to what -- at least what the allegations are going to be obviously and -- and -- and the facts of this particular case. Clearly, whatever legal theory flows from those, that is going to have to be tied directly to the facts themselves. So that -- that -- and that's where the defense in these cases, of course, goes for the most part as we know.

Although you've raised a legal defense in the quashing, nonetheless, I think that -- that -- that -- that there's not so much a "hidden ball trick" in this regard insofar as -- as the -- as the indictment is concerned in any event.

As I say, if -- if there is not some acknowledged legal theory that fits under these facts, then that's another matter we'll deal with when we -- when we get to that point.

All right. Let's go to the Castle Doctrine next, if that's the next thing on your list.

MR. BAX: That is, Your Honor. Thank you.

THE COURT: Okay.

MR. BAX: Obviously, you heard from my client at one point about this issue, and then I would like to express for the record my appreciation of the Court's allowing me to address it again.

THE COURT: Right.

MR. BAX: And -- and I -- and I believe that as -- as an attorney and -- and the fact that Mr. Robinson has chosen to -- to make me his attorney -- which I -- I think was a smart decision. I hope it ends up being a smart decision.

I think there are certain things about that argument that did not get addressed, and for the fullness of the record and to -- to request that Your Honor potentially -- I guess, to put this in the right context, the motion would technically be a motion to reconsider your decision on -- on the immunity granted under the Castle Doctrine.

I would argue that two -- couple -- couple of areas when it comes to the Castle Doctrine: No. 1, I think Mr. Robinson, to some degree, got hung up on the idea that -- or at least on -- to -- to some degree, on the fact that because he was both representing himself and the defendant, and the impartation of the facts was coming from his own recollection --

THE COURT: Right.

MR. BAX: -- he was dealing with a situation where he had cross interests to some degree. And -- and I think that that's one of the reasons why, you know, having legal counsel is -- is the more preferable way to go about it because we don't have that same -- we were not there. I was not there.

THE COURT: Right.

MR. BAX: In my looking at this as a observer, Your Honor, I do see that the Castle Doctrine does apply, quite clearly, in fact, I think.

There's two aspects to it: No. 1, there was an event earlier in the day, and there's a set of circumstances based on the -- the statements made by the Youngs, statements made by my client, that are basically uncontested.

THE COURT: Right.

MR. BAX: It is uncontested that there was an altercation at Wild Horse Road, at the residence of Aaron Young, Jr. and Aaron Young, Sr.

THE COURT: Uh-huh.

MR. BAX: It's basically uncontested, as you saw from the dash-cam video, my client admits that earlier, on Wild -- he calls it "Squire Pope" --

THE COURT: Right.

MR. BAX: But it's -- it's Old Wild Horse Road. Those roads are all kind of right around each other. The beginning of Hilton Head Island. I got quite lost going out there trying to find all these little places.

THE COURT: Right.

MR. BAX: But it's uncontested there was an altercation there; it's uncontested my client had a gun at that point and fired that gun at that point. And in fact, what I expect to see in this trial is evidence introduced to that effect, really without much contestation from us, Your Honor, including what looks like a bullet that was fired there into the ground at Old Wild Horse Road.

THE COURT: Right.

MR. BAX: Those facts are uncontested.

Additionally what is uncontested is that my client, when informed of whatever words the Youngs had, "We're going to go get our own guns. We're -- we're gonna get you," kind of thing, hightailed it and left.

THE COURT: Uh-huh.

MR. BAX: He took off.

Your Honor, the law is -- is -- is -- addresses withdrawal, and I -- and I go back to the *McAninch* book, and I really think he should have given me an "A." I just gotta put that out there.

THE COURT: Right.

MR. BAX: When I took the class from him, if he had known how much I was gonna use his book, I think he -- he may be up from the "B" to the "A," I think.

But it talks about withdrawal in the -- in the context of self-defense, on page 545, references a couple of cases, Your Honor, and I'd just like to -- to point that out.

And it does talk about the fact that South Carolina cases, such as *Hendrix*, have addressed the fact that there can be a sufficient withdrawal from a conflict, even if that's a conflict where, as Your Honor knows, when it comes to self-defense and the Castle Doctrine, you cannot be at fault in bringing upon the trouble.

THE COURT: Right.

MR. BAX: You cannot be the one that went and -- and started the whole mess and then try to claim self-defense.

THE COURT: Right.

MR. BAX: I think if all of this happened at Wild Horse Road, we wouldn't be in the statute that we are; however, withdrawal -- of the self-defense, they quote *State v. Hendrix*, I believe that's the name of the case, at 270 -- excuse me -- let me give you the Southeastern Second: 244 SE 2d, at page 506.

It talks about the fact that if you withdraw or you communicate in some way that you are withdrawing and then withdraw, your right to self-defense comes back. The idea

being if the person that you have had this altercation with, that maybe they would have been entitled to say self-defense if you started the fight, if you decide to turn tail and flee at the sight of resistance or that this fight was going to go beyond what you wanted, it is the responsibility of who would have then been the victim to cool down, to call law enforcement.

And in this case, it is undisputed that Mr. Robinson fled, he fled the scene, he left. It's also undisputed that the Youngs, Aaron Young, Sr. and Aaron Young, Jr., discussed, literally out loud, "Let's go after him."

THE COURT: Now, that might give him the right to reassert the -- the self-defense, but how -- which would -- which would be a defense, of course, could be raised if he can -- if he can otherwise meet the elements of it.

But how does that entitle him to the immunity of the Castle Doctrine?

MR. BAX: Well, Your Honor, obviously, the Castle Doctrine flows from the concept of self-defense. With -- without self-defense, you don't have the Castle Doctrine.

The Castle Doctrine has been basically codified. We now have statutory language that was referenced by my client in his hearing. In fact, he referenced the subsection C, which talks about if you're in a place where you legally have a right to be.

The reason that I believe that the Castle Doctrine then becomes important is the fact that he still -- he meets all the elements of the Castle Doctrine: He had fled; a time period had elapsed; these individuals came after him with the express intent of killing him.

So any response with lethal force that Mr. Robinson did, he would be immune from prosecution for the results of that lethal force.

I think that -- and the State argued that -- well, Mr. Robinson's not admitting that he used lethal force at that time. However, Your Honor, as a legal argument, it doesn't matter because the State is saying that he did. The evidence that's going to be presented at this trial is that Mr. Robinson fired back at the Youngs at some point. And I believe that -- that where they're going to go with this case is that he fired back as the Robinson's [sic] were trying to drive away.

THE COURT: Right.

MR. BAX: And that as a result, young Mr. Singleton was accidentally struck --

THE COURT: Right.

MR. BAX: -- and killed.

Mr. Robinson was in a place that he was legally entitled to be. This is his neighborhood, this is where he has stayed on more than one occasion. He is not under any

kind of trespass notice. The State has not alleged that he was illegally there. The State has not alleged that he was committing some crime that would have made him illegally in that place. This is his neighborhood. This is where he's from.

That's exactly why the Youngs went there because they know that's where Tyrone is from. Tyrone is, in fact, related to the victim in this case --

THE COURT: Right.

MR. BAX: -- because that is the people in that neighborhood. He's legally entitled to be there.

And the State is saying that he fired back and he used lethal force.

So regardless of what Mr. Robinson has -- has stated in his legal arguments or in his statements to law enforcement, they're alleging he used lethal force.

We're -- and -- and taking their allegations as true, in the light -- basically assuming that everything that they're saying is true, he's still immune from prosecution because he was legally entitled, under the Castle Doctrine, because he was where -- in a place he was legally entitled to be, to respond with deadly force.

It was not -- non-reciprocal. The allegations and -- and it's uncontested that his car had been filled with a number of bullet holes -- anywhere from nine to a dozen,

somewhere in that area -- and that any shots that are alleged to have come from Mr. Robinson immediately followed shots that were fired in his general direction and at his vehicle, with -- any -- and I would argue that any reasonable person, seeing their car shot all to heck, would be very safe in assuming that those people meant that -- meant him harm, meant to kill him; hoped that he was either in that vehicle or thought he was in that vehicle or thought he was just past it or hiding behind it or whatever.

So all the elements are met: The reasonableness of his response, the fact that he was in a place that he was legally entitled to be, and the fact that he would then be immune from lethal force.

Now, I know that in the memorandum, in response to Mr. Robinson's Castle Doctrine motion earlier, the State argued that he's not entitled to a -- to immunity under the Castle Doctrine also because he was responding to the Youngs, but it was Mr. Singleton who was the receiver of the deadly force.

THE COURT: Right.

MR. BAX: Your Honor, in looking at all these cases, it does not make an exception in that, if your bullet goes astray while you are legally defending your self, legally exerting your rights under the Castle Doctrine, that you

would then be liable.

There is nothing in the -- in the statute that says that. And I would argue that the State wants to argue transferred intent as they have just stated in the previous motion.

THE COURT: Right.

MR. BAX: It stands to reason that you cannot -- in this situation it basically equates to having your cake and eating it too. You can't at one point say I want to use transferred intent in order to show criminal liability -- we are arguing that any response fire was clearly directed at the Youngs in response to their attempts to kill him -- but when he's defending himself, you can't use transferred intent. That is two contrary positions. It -- it -- it -- I think really comes to a level of judicial estoppel. If you're gonna take the position that he can have transferred intent for criminal liability, you can't then turn around and say he can't have transferred intent for self-defense or Castle Doctrine.

So I would argue -- and there is no case law that they've been able to supply this Court that. And I've certainly not found anywhere anyone said if you were legally defending yourself and one of the bullets misses your attacker and hits a third party, that you're still -- that you're not entitled to self-defense or the Castle

Doctrine at that point. There is absolutely nothing that says that, and I think that would be contrary to the legislative intent.

THE COURT: Right. Where is the -- the -- the evidence of them attempting to get into his dwelling on force -- forcibly enter his dwelling or his residence or his vehicle? It seems to be the linchpin of the beginning of the Castle Doctrine.

Granted, the General Assembly put in the unfortunate language, which has created problems for all of us, that (as read): "A person not engaged in an unlawful activity, who's attacked in a place where he has a right to be, has no duty to retreat and to meet force with force, etc., including deadly force, if he believes it necessary to prevent his death ..." and so forth.

And that would seem to indicate that you can be out there on the street if you want to, and -- and the duty to retreat is no longer there if -- if you feel like you, in your own mind, have to kill somebody instead of driving off or seeking safety behind a locked door.

But the -- the Castle Doctrine started out as -- just as it says, the Castle Doctrine, it was the defense of habitation. And it created certain presumptions that normally you would have to have some sort of evidence, in a self-defense case, that -- that you were in imminent fear

of bodily harm and -- and -- and things of that nature. The Castle Doctrine says if somebody is trying to break into your house forcibly, then your present to be in imminent fear of bodily harm. You -- that -- that burden is already met under those circumstances.

As I understand it here, the evidence and the testimony was that -- that they came to is they -- and according to something that I heard at one point in time in these proceedings -- "Swiss-cheesed" his automobile. And then apparently were driving off, going down the road, in the -- in the direction away from the house, when, according to the evidence that the State has indicated, Mr. Robinson shot in their direction and unfortunately, hit K. S. .

You know, that -- that -- you might get into an argument of self-defense of transferred intent, an argument one way or another about that and the self-defense doctrine. But how do you -- how does that fit into the defense of habitation?

They've shot up his automobile. That's right. Now they're moving; they're going away. There apparently is no evidence at this point in time that they're unlawfully trying to enter the dwelling or the residence or the -- or the vehicle.

And depending upon the evidence in this case, he may

be able to raise the defense of self-defense. I don't know whether he will or not. But -- but what you're asking for is that he be immune from prosecution on this case under the Castle Doctrine. Can you -- can you tell me how that fits in?

MR. BAX: I can, Your Honor. Obviously it -- it -- as you mentioned, his vehicle is -- is mentioned in the -- in the statute. It talks about your residence or your vehicle, Your Honor, and -- and -- and that this has been raised -- and in other cases ---

THE COURT: It's "occupied vehicle," "occupied ---

MR. BAX: Well ---

THE COURT: --- vehicle."

MR. BAX: --- and that's the case, Your Honor. But the -- the thing is attempt to enter a place that -- the thing is, my belief on -- on that issue is the fact that he's in his neighborhood. There has been a number of shots.

THE COURT: Right.

MR. BAX: Okay. By the -- the undisputed facts that my understanding is going to come in is that not only have the Youngs come by and -- and shot up his car, but -- in other words, their -- the thing is this is -- as -- as they've said, the concept of the drive-by.

THE COURT: Right.

MR. BAX: The concept that someone's not going to get out and face you, "*mano-a-mano*," in the middle of the street, and do it the old honorable way.

THE COURT: Right.

MR. BAX: We're gonna hang out of a car, in a cowardly way, and fire off random bullets into a residential area.

THE COURT: Right.

MR. BAX: Which is why we're all here today, because that wanton disregard for unintentioned [sic] targets has been the tragedy of many a case.

But yet it -- it -- the fact that -- that a perpetrator would use that particular method I don't think is -- is meant to keep the -- the intended victim from being able to assert either self-defense or the Castle Doctrine.

I would point out, from a factual standpoint, Your Honor, that Mr. Robinson already had one -- two prior encounters with the Youngs: One was at Wild Horse Road --

THE COURT: Right.

MR. BAX: -- the second was as he's trying to flee --

THE COURT: Right.

MR. BAX: -- he encounters them and they attempt to shoot him one more time.

THE COURT: Right.

MR. BAX: There's an allegation that the gun jammed,

otherwise the issue would have been done right there.

THE COURT: Right.

MR. BAX: He then flees again, and he's in a neighborhood trying to find a way out. There's evidence that will be introduced that he was trying to get out of there, trying to find a way to get out of town --

THE COURT: Right.

MR. BAX: -- since they have shown their desire, physically, to follow him wherever he may go ---

THE COURT: Right.

MR. BAX: --- to finish this job.

You have individuals in that neighborhood which certainly don't want to let him necessarily in the house because there's the allegation of gun play involved.

THE COURT: Right.

MR. BAX: And they don't want their families, understandably, to be behind paper-thin walls of mobile homes.

Regardless of whether you try to break into someone's mobile home or their car, if you fire bullets into their car or bullets into their home, you intend for those bullets to act as your lethal agent, to break into that plane of existence and do harm to the residents therein. That is the clear intent of firing a weapon that sends these kind of projectiles at houses or cars.

THE COURT: Well, was he in the car at the time it was fired upon?

MR. BAX: I don't believe he was in the car at the time ---

THE COURT: Okay.

MR. BAX: --- I haven't -- I don't have any evidence to that fact.

THE COURT: I think he -- he, himself, has testified to the contrary, as I understand.

MR. BAX: He did. But that -- I would also point out the fact that if he's seen what they've just done --

THE COURT: Right.

MR. BAX: -- to his car, and he's seen that they have already chased him, not once but twice. Why would he have any reason but to believe that they are going to turn around and do it again?

THE COURT: He might not have any reason to believe anything different from that, and he had every reason to believe that they're out to kill him. I mean, they chased him, according to his version of the facts, up and down the island, shooting at him, because he testified or talked about that very forcibly at -- at the earlier proceedings.

But immunity does not apply like a defense. Immunity is greater than that. And for that reason, it has to be strictly construed -- the statute has to be strictly

construed, in my view, to give rise to an immunity of -- of this nature.

As a matter of fact, the law requires the elements to be proven in the Castle Doctrine by the defendant; unlike in self-defense, where they -- the State has the burden, in that regard, of overcoming self-defense.

And so when it says that -- that the person is presumed to have this reasonable fear of imminent harm, which jumps to the second or third prong of self-defense, it assumes that the defendant was not at -- or the person on trial -- in this case, Mr. Robinson -- was not at fault in starting the event.

So I'll give you the withdrawal on that to create that first prong being there. But then the -- the second prong which says he has to be in reasonable fear of serious bodily harm, and the statute says, well, if somebody's trying to break into your house, we'll presume that you're in reasonable fear of serious bodily harm. We have helped you pass that.

But in order to be entitled to that presumption, you have the burden of showing, by the greater weight of the evidence, that somebody else, the intruder -- Mr. Stone argued before the person who was killed, which is not the case here -- was unlawfully trying to get into your dwelling or your residence or your occupied vehicle.

Now, they weren't trying to get into his dwelling. They weren't trying to get into his residence because that's not where he lives. He was not occupying the vehicle. I don't think you get past that -- that initial stage in order to get to a -- to a Castle Doctrine defense in this case -- or Castle Doctrine immunity, I should say.

And it's -- and -- and the -- the statute is called, in certain instances, "defense of habitation." It's not defense of the neighborhood, it's defense of habitation. It is a narrow area.

As a matter of fact, there is some argument about whether the -- even the curtilage, the front yard, and things of that nature are entitled to -- to be treated like a residence or a dwelling or an occupied vehicle.

I don't -- I don't think that he gets past that point. He may, as I've said, at some point in time, depending upon the evidence, be able to raise the defense of self-defense and transferred intent and things of that nature, but not -- not in an immunity under the Castle Doctrine. The motion is respectfully denied.

I think you said then there -- there were some photographs that needed to be -- was it photographic evidence that you were going to argue against as well.

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

THE COURT: Okay. What -- go ahead.

MR. BAX: Well, Your Honor, obviously we have a young victim in this case. And I think it really doesn't matter because I've had these in cases where the victims were of all ages.

THE COURT: Right.

MR. BAX: Obviously, when you're dealing with a homicide case, you're -- you're dealing with -- with pictures of a graphic nature.

THE COURT: Right.

MR. BAX: And a lot of these pictures are -- they have the -- they have -- they have the -- the result of inflaming the passions of the jury.

THE COURT: Right.

MR. BAX: They're even traumatic to view. Your Honor, frankly, they were traumatic for me to view. I'm a parent of young children myself --

THE COURT: Right.

MR. BAX: -- and it was, as it has been in the last decade of my doing this, one of those things where I have to swallow and do my job.

THE COURT: Right.

MR. BAX: And that's something that I've signed on to do.

But I think for the purposes of proving the case, a lot of these pictures are unnecessary and would potentially

threaten the integrity of the jury's verdict ---

THE COURT: Right.

MR. BAX: --- in that it would appeal more to their passions and to -- to -- to kind of put them in a state of almost trauma than it would be probative.

Obviously under 403, that would be part of the argument, and there's plenty of case law about this, some negative and some positive. It's kind of been in both directions in my research.

THE COURT: Right.

MR. BAX: The most recent case is *Collins*, and it is not positive for me, but I agree whole heartedly with Judge Pleicones's dissent in that case.

THE COURT: That was the dog bite case?

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

THE COURT: Can we do this -- first of all, I need to know what we're talking about. So I need to have the photographs, so I can make the -- the statement.

I would -- I would ask you all to do this, to submit to me the ones which are in dispute -- and if it's all of them, then it's all of them -- and let me look at those overnight. I've got some homework that you all have given me, and I'm gonna -- you know, I'm gonna get it done.

And let me look at those, in view of the hour and these folks have been sitting around here and some of these

folks probably have lives outside this courtroom -- I'm not sure -- that they'd like to get to. They don't have anything more important than what we're doing here in -- in the greater scheme of things, but they do have other things to do notwithstanding that.

And I would like to look at those tonight, and I can meet with you all in chambers in the morning at nine o'clock and go over them and let you explain your rationale. We can come back and put it on the record as soon as -- before the jury comes out.

I just didn't want to -- first of all, I didn't want to take another 30 minutes here today -- tonight unnecessarily because right this minute, I don't know what we're talking about.

And if I've looked at the photographs, at least I'll be able to make a more reasoned determination, without having to look at those things, while you all are telling me about it because it's -- my -- my multitasking ability gets real weak about 6:30 every night when I'm trying to think and read and listen at the same time.

And then tomorrow, if -- if Joy happens to be here a little early -- I told her to be here at 9:30 -- if she's here a little early, we'll go out and put it on the record right then. I -- I've got to voir dire the jury tomorrow morning. I don't want to -- you know, I want to take care

of that early on. So we're going to be a little bit delayed starting this tomorrow.

But if I can look at those photographs, at least the ones that are in dispute. I take it -- I'm not sure how many of those you wish to offer, Mr. Solicitor, whether you -- you know, whether there's duplication.

MR. STONE: I will be so bold as to say that there will be no objection to any of these pictures. I'm not putting any graphic pictures in of the child or autopsies or anything like that.

I'll let him look at all of them, but I would submit to you that there's going to be -- the only -- the only picture that is remotely close to that, there are two x-rays that show where the bullet went in and the pathologist needs that to show the cause of death.

Other than that, we're not putting any other photographs like that in. Quite frankly, I -- I -- I don't want to do that.

I'll be glad to, obviously, leave -- let him have time to look at these. That's what I intend to do. If there's -- for some strange reason we see something that we absolutely have to put in that would be controversial, we will get in touch with him tonight and get that over to you as soon as possible.

But I really don't see it. I think all of these

pictures that we have right now -- there aren't any graphic pictures at all.

THE COURT: Okay. All right. Can you -- excuse me. Can you look at those and ---

MR. BAX: I certainly can, Your Honor, and -- and the -- the x-ray photos were already ones I was gonna concede -
-

THE COURT: Right.

MR. BAX: -- as -- as being a happy -- well, not a happy medium, but a medium --

THE COURT: Right.

MR. BAX: -- between the two necessities. So I will look through them and will inform you if there's any issue at all in the morning.

THE COURT: And if we need to argue about it, we'll argue about it then.

MR. BAX: Yes, sir.

THE COURT: All right. Thank you, Mr. Bax.

Mr. Solicitor, is there anything further before we break for the evening?

MR. STONE: No, sir. You don't want to spend the entire night with us, Judge.

(Courtroom laughter.)

MR. STONE: We've covered I think everything I can come up with.

THE COURT: Okay. I'm -- I'm the only one in here who doesn't need a note to get back into my house. I'm not -- I'm staying at the hotel. They don't care what time I get there, but the rest of your folks might ---

MR. STONE: I think my wife's already given up on me, Your Honor.

THE COURT: Okay. All right. Thank you all.

MR. STONE: What time -- I'm sorry. Back at 9:30 tomorrow morning, Your Honor.

THE COURT: 9:30. I'll be in -- I'll be in chambers around nine o'clock. In case any photographic issues have come up, we can deal with that at that time.

And we'll -- I'll deal with the voir dire of the jury. The jury will then be brought in, I'll appoint a foreperson, swear the jury, we'll make opening statements, and then we'll be prepared to start the testimony tomorrow. Thank you.

MR. BAX: Thank you, Your Honor.

MR. STONE: Thank you, Your Honor.

-- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourteenth Circuit Court for Beaufort County, South Carolina, on the 15th day of September, 2014.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

A handwritten signature in cursive script, reading "Bonnie H. Kelly", written over a horizontal line.

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

February 27, 2015

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BEAUFORT	)	DOCKET NO. 2012-GS-07-1935
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
TYRONE ROBINSON	)	
	)	
Defendant	)	
	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD

September 16, 2014
 Beaufort, South Carolina

VOLUME 2 (OF 5)

B E F O R E:

THE HONORABLE THOMAS G. COOPER, JR., JUDGE

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

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JOYCE C. RUEGER, CVR-M
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otherwise indicated in transcript]

STATE

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STATE

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25	Black bag	333	
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29	Shell Casing		
30	Bullet from house		
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32	Can of lubricant		
33	Bullets		
34	Bullet from autopsy		
35	Bottle of vinegar		

DEFENDANT

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1	Photo	326
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PROCEEDINGS

THE COURT: All right folks are we ready to proceed? Is the State ready to proceed?

MR. STONE: Yes sir, the State is ready.

THE COURT: Mr. Bax?

MR. BAX: Yes, Your Honor.

THE COURT: Gentlemen, when we left yesterday there were some things hanging, ends that we needed to tie down this morning. Most notably the due to the admissibility of the taped statements that show up on the video's here the screaming female whom I understand to be Ms. Brinson and also the statements of a young male which were not shown yesterday but which I am familiar with of J. S. [REDACTED] as to whether or not they are admissible under our rules.

The defense had made an objection that these are violations of Mr. Robinson's 6th Amendment right to a fair trial in this regard because he is denied confrontation of those particular witnesses under these circumstances further alleging or stating that the statements themselves were testimonial in nature. The distinction between testimonial or non testimonial evidence is important to this analysis. And in this regard the analysis of Crawford v Washington and other cases of that nature have been helpful to us.

1 Testimonial evidence traditionally is statements taken by
2 a police officer in interrogation because affidavits of
3 prior testimony that the defendant cannot cross-examine;
4 similar pretrial statements that a person would normally
5 expect to be used in a court of law in the prosecution of
6 a case. It is a declaration, a solemn declaration as has
7 been described or an affirmation made for the purpose of
8 establishing some fact.

9 Now if there appears to be an ongoing emergency that
10 the police officers are trying to deal with and
11 statements are made in that particular setting then the
12 statements are non-testimonial in nature; a statement
13 made in the course of a police interrogation under
14 circumstances objectively indicating but the main purpose
15 of the interrogation is to help them meet an ongoing
16 emergency.

17 Those are the types of statements that are non-
18 testimonial in nature. When the person is making them
19 they are not making them with a mind toward testifying in
20 court or establishing some fact in a solemn sterile
21 setting of a police station or an interrogation room or
22 something of that nature. Now even though a statement is
23 non-testimonial in nature it doesn't mean it
24 automatically comes in just because it's non-testimonial.
25 It still has to come in under some hearsay exception. In

1 this particular case the statements made by Ms. Brinson
2 and Mr. Singleton first of all Ms. Brinson's statements
3 did not appear to be a result of an interrogation to
4 begin with. I'm not that certain about Mr. Singleton's
5 statements but I gather that they too may have been
6 produced under something like what happened and Mr.
7 Singleton was giving his reflection in his observation of
8 what happened.

9 Clearly the statements made by Ms. Brinson were
10 excited utterances under Rule 803(2). Mr. Singleton's
11 statements according to another witness who testified and
12 whose testimony was alluded to yesterday had tears
13 streaming from his eyes as he was making his statement
14 regarding who had shot his friend. So I find first of
15 all that the statements made by Ms. Brinson and Mr.
16 Singleton are non-testimonial; they are not the result of
17 formal interrogation.

18 Here was clearly an ongoing emergency and a crime
19 scene which was still hot to say the least. Bystanders
20 were approaching the police from one corner or another
21 screaming, shouting telling what they had seen or telling
22 what somebody told them they had seen and things of that
23 nature. So they were non-testimonial but as I've said
24 they still have to come in under a firmly rooted
25 exception to the hearsay rule and that exception here is

1 803(2) excited utterance rule of admissibility. Also
2 when we left yesterday there was an issue of perhaps some
3 photographs that may be a matter of question. When I
4 left you yesterday I got the impression that you all were
5 going to work through those things. But if there are any
6 objections to any of the photographs I'll be glad to deal
7 with them right now. Mr. Bax?

8 MR. BAX: Your Honor, we're in accord on the
9 photographs. I've looked at everything that Solicitor
10 Stone has and have no objections to them. As I stated
11 before the expert photographs were the ones that I was
12 already prepared to concede knowing that the Solicitor
13 has the duty to try and prove his case. So I've got
14 nothing objectionable in the photographs of what I've
15 seen. If something else comes up of course I reserve my
16 right to then make myself known to the court if there is
17 an objection but as of now no.

18 THE COURT: Good. Thank you. I've previously
19 ruled on the admissibility of Mr. Robinson's statements
20 or the statements which were objected to or parts of the
21 statements which were objected to yesterday as being
22 perhaps if those statements are religious beliefs the
23 angel of death statements and those things; all of those
24 statements were made after either being Mirandized or
25 even before he was in custody. So the implications of

1 violation of Fifth Amendment Rights would not arise out
2 of that. The statements were voluntarily made after
3 proper warnings had been given to him and the rights had
4 been read to him and in some cases he had actually signed
5 off on the rights form. No promises had been made, no
6 threats were made, the statements were involuntary in
7 that regard. The jury is entitled to consider them if it
8 chooses to do so.

9 I previously ruled on a motion to quash the
10 indictment. I need not repeat that. And I ruled on the
11 castle doctrine. In regard to the concern about the
12 pretrial publicity I just looked briefly at the Beaufort
13 Gazette this morning and saw that there was a brief
14 article on the inside page. We got pushed down beyond
15 the traffic light at the Berkeley Hall out there. But I
16 am still going to as I said yesterday, Mr. Bax going to
17 voir dire the jury to make sure there has been no
18 violation of that rule.

19 All right folks the jury now will be brought in. I
20 will appoint a foreperson. I will individually ask them
21 about any exposure to any information about this case
22 overnight. The jury will be sworn. I'll make some brief
23 opening comments and allow you all then at that point in
24 time proceed to openings. Mr. Stone, are you opening for
25 the State?

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1 MR. STONE: Yes, sir.

2 THE COURT: Okay. Thank you. Are both sides
3 ready for the jury?

4 MR. STONE: The State is ready.

5 MR. BAX: We are ready for the jury. I did want to
6 point out just in case you wanted to make sure that you
7 note it during your voir dire while we were pushed to an
8 inside page on the actual physical paper we're the first
9 thing that comes up on the website.

10 THE COURT: And that's what I understood that there
11 was a -- I understand there was also television coverage
12 last night.

13 MR. BAX: That's correct. And there is imbedded
14 video in all of the websites. Most of what I've seen
15 Your Honor is video that happened while the jury was in
16 here during selection. But there may be some video out
17 there of pretrials as well.

18 THE COURT: All right. I'll make that -- thank
19 you.

20 MR. BAX: Thank you.

21 THE COURT: Would you bring us the jury?

22 THE BAILIFF: The jury is entering the courtroom,
23 Your Honor.

24 THE COURT: Thank you, ma'am.

25 [Whereupon, the jury enters at 9:44 a.m.]

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1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: Thank you. Good morning ladies and
3 gentlemen. Before we begin the mornings work I want to
4 inquire of you regarding my instructions yesterday about
5 the publicity generated by this trial just to be certain
6 that perhaps inadvertently or innocently or mistakenly
7 you have been exposed to some information that would be
8 pertinent to your decision in this regard. So Mr.
9 Crocker have you been exposed in advertently or otherwise
10 to any information about this case since you left
11 yesterday?

12 MR. CROCKER: No, I haven't Your Honor.

13 THE COURT: Thank you, sir. Mr. Gaither, have you
14 been exposed inadvertently or otherwise exposed to any
15 information about this case since you left yesterday?

16 MR. GAITHER: No, sir.

17 THE COURT: Thank you. Mr. Dresher, have you?

18 MR. DRESHER: No, sir.

19 THE COURT: Thank you. Ms. McKoy, have you?

20 MS. MCKOY: No, sir.

21 THE COURT: Thank you, ma'am. Mr. Lorenz, have
22 you?

23 MR. LORENZ: No, sir.

24 THE COURT: Thank you. Ms. Seabrook, have you?

25 MS. SEABROOK: No, sir.

1 THE COURT: Thank you. Mr. Lancaster, have you?

2 MR. LANCASTER: No, sir.

3 THE COURT: Thank you. Mr. Uniejewski?

4 MR. UNIEJEWSKI: No, sir.

5 THE COURT: Thank you. Mr. Hughes, have you?

6 MS. HUGHES: Ms. Hughes?

7 THE COURT: Ms. Hughes; I'm sorry.

8 MS. HUGHES: No, sir.

9 THE COURT: I'm sorry Ms. Hughes. I was just
10 reading last names; I apologize. Mr. Burke, have you?

11 MR. BURKE: No, sir.

12 THE COURT: Mr. Dunning, have you?

13 MR. DUNNING: No, sir.

14 THE COURT: Mr. Womack, have you?

15 MR. WOMACK: No, sir.

16 THE COURT: Ms. Boston, have you?

17 MS. BOSTON: No, sir.

18 THE COURT: Thank you. Ms. Mauriocourt?

19 MS. MAURIOCOURT: No, sir.

20 THE COURT: Thank you very much. I inquire in that
21 regard because it is important. It's not that there are
22 any secrets out there floating around quite frankly that
23 you don't already know that haven't been revealed in what
24 we did yesterday or that you will soon find out in this
25 courtroom here. But the rules are still important and I

1 appreciate very much your abiding by them. Mr. Dresher,
2 I've asked you to occupy that seat sir because I want you
3 to serve as the foreperson of this jury. That means that
4 you will be the jury's spokesman here in court and when
5 the trial is over you will also be responsible for
6 writing the verdict of the jury. I'll tell you more
7 about that before you get to do it; you don't have to
8 worry about that now. Just remember you've got a
9 reserved seat. You will occupy that chair throughout the
10 trial of this case.

11 MR. DRESHER: Yes, sir.

12 THE COURT: Ms. Boston and Ms. Mauriocourt, ladies
13 you will occupy those two chairs as jurors throughout
14 this trial unless at some time during the trial I ask you
15 to sit somewhere else. The rest of you folks don't have
16 reserved seats. You've just got general admission seats;
17 you've got to do the best you can when you come in from
18 time to time.

19 But you've seen the seats are all the same and one
20 is just as comfortable as the other so just pick a seat
21 when you come in. It's always a good idea to do what you
22 just did; move all the way down before you take a seat
23 and don't leave an empty seat beyond you because if you
24 do somebody is going to step all over your feet and it
25 could get right painful during the course of the trial.

State v Tyrone Robinson
Jury Sworn
September 16, 2014

1 THE COURT: Ladies and gentlemen, you are going to
2 be sworn in now as jurors for the trial of this case. I
3 want you to pay particular attention to the oath that you
4 are about to take. It's a time honored oath. It is an
5 artfully worded oath. It tells you very completely but
6 at the same time very concisely what your
7 responsibilities are going to be as jurors during the
8 trial of this case. And I'm going to be reminding you
9 during this trial and indeed after the trial as to
10 exactly what you were sworn to do as jurors. Please give
11 your attention now to the Clerk as she swears you in.
12 Madame Clerk?

13 CLERK OF COURT: Would you please stand and raise
14 your right hand.

15 [Whereupon, the jurors are duly sworn by the Clerk
16 of Court as follows: Do you solemnly swear or affirm that
17 you shall well and truly try and true deliverance make
18 between the State of South Carolina and the accused at
19 the bar and a true verdict give according to the evidence
20 so help you God]

21 CLERK OF COURT: If you accept this oath please say
22 I do.

23 [Whereupon, all jurors respond affirmatively]
24
25

State v Tyrone Robinson
Court-Introduction to Jury
September 16, 2014

1 THE COURT: Ladies and gentlemen, let me take just
2 a few moments to tell you the procedure that we will
3 follow in the trial of this case and what your role as
4 jurors will be in the trial of this case.

5 In just a few minutes when I sit down the State
6 through Solicitor Stone is going to make a brief opening
7 statement for you. And in that opening statement he is
8 going to outline for you in something of a preview
9 fashion what this case is all about from the State's
10 point of view. He may also indicate to you some of what
11 he intends to offer by way of proof in support of the
12 charges which the State has brought in this indictment.

13 After he has made the opening statement on behalf of
14 the State then Mr. Bax on behalf of Mr. Robinson, the
15 defendant in this case, will have the right to make an
16 opening statement as well. But he is under no obligation
17 to do that for reasons that I will tell you in just a few
18 moments.

19 After the opening statements have been made then you
20 will actually begin to see and hear the presentation of
21 evidence. Evidence for the most part will take the form
22 of testimony of witnesses who will take an oath and will
23 sit right here [indicates] in this chair and will answer
24 questions that the lawyers from both sides will put to
25 them. Evidence will also take the form of photographs

1 and diagrams. There is a model there that you will is a
2 form of evidence during the course of this trial. The
3 State will offer its evidence and testimony first. And
4 after the State has completed putting in its evidence and
5 testimony the defendant has a right to offer evidence and
6 testimony but once again he is under no obligation to do
7 that.

8 Now after all of the evidence and testimony has been
9 presented to you then the lawyers will come back before
10 you and present their closing arguments, or final
11 statements as they are sometimes called, in which they
12 are allowed to summarize the evidence and to submit to
13 you conclusions that they claim you ought to draw from
14 the evidence that you have seen and heard; obviously
15 conclusions which support their side of this particular
16 case.

17 And after the final arguments have been made then I
18 will instruct you or charge you as to what the law is in
19 this case and then and only then will you be allowed to
20 go back to your jury room and finally start talking about
21 this case among yourselves. I've already told you that
22 you can't talk about it among yourselves or with anybody
23 else during the course of the trial and I need not
24 belabor that particular point. But the reason you can't
25 talk among yourselves about the case is this; once you

1 start talking about this case among yourselves you're
2 going to start to make up your mind about it. You're
3 going to start to draw conclusions based on what you've
4 talked about. Now it might happen that later in the
5 trial of the case you hear somebody take the stand and
6 tell you something that is different from what you've
7 already started to talk about and to make your mind up
8 about.

9 Well, if you've already done that then you are not
10 likely to receive that later testimony with an open
11 because you had already started to make up your mind
12 before you heard that. And so that's the reason that you
13 can't talk about because we expect you to keep an open
14 mind throughout this entire process. Listen to what you
15 hear from whatever source it might come and make up your
16 mind once you've started your joint deliberations and
17 your discussions among yourselves at the conclusion of
18 the trial of this case.

19 Now ladies and gentlemen you took an oath just a few
20 moments ago to well and truly try this case and to render
21 a true verdict according to the law and the evidence so
22 help you God. When it comes to the matter of evidence
23 let me tell you that the opening statements you're going
24 to hear are not evidence and the closing arguments are
25 not evidence. And the questions that the lawyers ask

1 they're not evidence either. Now all of those things are
2 important parts of this trial and we wouldn't be able to
3 have a very orderly proceeding without those things but
4 they are not evidence.

5 The evidence as I told you is the testimony from
6 this [indicates] chair. It is not the question that is
7 the evidence. It is the answer to the question that is
8 evidence because the answer comes from a person who is
9 under oath and whose testimony is subject to examination
10 and cross-examination to try to meet the test of strict
11 proof. The documents and items of course are evidence as
12 well.

13 Now the reason that it is real important that you
14 understand the distinction between what is evidence and
15 what is not evidence is this. When it comes to the
16 matter of evidence ladies and gentlemen you actually are
17 the judges. That's right. You came here as jurors and
18 you're just getting paid a juror's pay and it's not a lot
19 of money and we appreciate the sacrifice that you make
20 and the contributions that you make on behalf of the
21 efforts of this court. But when it comes to evidence
22 you're really the judges. Now I'm the judge of the law.
23 I've got the easy job. All I've got to do is decide as a
24 matter of law whether you can hear somebody tell you
25 something on this witness chair or whether you can look

1 at an item of evidence or not. But once I decide that
2 you can hear the testimony or look at the evidence from
3 that point on what you do with it is entirely up to you.
4 You've got the right to believe it or not believe it.
5 You have the obligation to decide how important it is and
6 how much weight you're going to assign to it if any in
7 your decision in this case.

8 I doubt that any of you have ever served as jurors
9 before but whether you have or not doesn't mean that you
10 are any more or less qualified to do what we're going to
11 be asking you to do in this particular case because
12 you're well qualified to make the decision that you are
13 going to have to make in deciding the facts of this case,
14 deciding the evidence of this case, deciding the truth of
15 this case.

16 Every since you've been able to think on your own
17 and make decisions for yourself you have been using the
18 same abilities that we expect you to bring to your
19 courtrooms experience of a juror, your common sense,
20 that's what it boils down to; your experiences in life.

21 The common experience and knowledge that you bring
22 from whatever you do your job, your work, your family;
23 all of those things bear to mind and come to play when
24 you decide what you believe and what you do not believe.
25 And so we ask you to use those same abilities and then

1 bring those to bear on what you hear in this courtroom.
2 And when you do you'll be able to decide the truth of
3 this case. And when you've decided where the truth of
4 this case lies you will take the truth that you find and
5 you will wrap it in the mantle of the law, which I will
6 give you in my instructions. And those two things will
7 come together; the truth that you find and the law that I
8 give you to result in a verdict which will speak the
9 truth of this particular case.

10 I told you a few moments ago that Mr. Robinson did
11 not have to offer an opening statement, he does not have
12 to offer evidence if he chooses not to do so. And the
13 reason for that is this. As I told you yesterday before
14 you were selected as jurors he has pled not guilty to the
15 charges contained in this indictment. The legal effect
16 of a plea of not guilty in the trial of a case is to
17 create a presumption on the defendant that he is innocent
18 of the charges.

19 Innocent until proven guilty you have heard that I'm
20 sure throughout your lives in your studies in Civics and
21 social studies and just following what goes on in the
22 world. When somebody pleads not guilty he is presumed to
23 be not guilty. And that means that he doesn't have to
24 prove that he's not guilty. That means that he doesn't
25 have to take the stand and try to convince you that he

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1 did not do the things that he is accused of doing. That
2 means that he does not have to bring a parade of
3 witnesses in here to try to convince you that he is
4 innocent of the charges contained in the indictment. He
5 is presumed to be innocent. So that places the burden of
6 proof on the State to prove that he is guilty to the
7 satisfaction of each of you beyond a reasonable doubt.

8 Now when the trial of this case is over I will give
9 you a more complete description of what we mean by proof
10 beyond a reasonable doubt. But for our purposes right
11 now in these brief openings moments let me tell you that
12 proof beyond a reasonable doubt is proof that leaves you
13 firmly convinced that the defendant is guilty of these
14 charges.

15 And so after hearing all the evidence in this case
16 if you are firmly convinced that he is guilty the State
17 will have met its burden of proof. But after hearing all
18 the evidence in this case if you believe there is still a
19 real possibility that he is not guilty the State has not
20 met its burden of proof and in that case the defendant
21 would be entitled to a verdict of not guilty.

22 Some of you have asked whether you have the right to
23 take notes in this particular trial. And Ms. Brown has
24 notepads here for those of you who want to use those
25 during the course of this trial. Let me tell you and

1 caution you in this regard you're free to take notes if
2 you wish to take them. But I urge you not to be so
3 consumed in what you're writing down that you don't hear
4 what is being said next. And that's always a problem
5 with these things. It's always important that you write
6 down if you can write down what the witness says not what
7 you think or summarize what the witness says. And so
8 there are certain constraints that necessarily have to be
9 placed on note taking. They are a memory to your aid
10 [sic] just like notes always are but don't let those
11 notes supplant or replace the testimony which is offered
12 here in court.

13 The notes will also be left in the jury room at
14 night. You won't be able to take them home with you.
15 And if in your final deliberations in discussing the
16 facts of this particular case if the collective wisdom of
17 the rest of the jury is that the testimony was this and
18 your notes say that your notes don't have any greater
19 weight than the collective wisdom of the rest of the
20 jurors. Having said that if you wish to take notes with
21 those constraints, you are free to do that.

22 Now ladies and gentlemen when the trial is over and
23 when you get this in your hands at the conclusion and go
24 back into the jury room to consider the things that I've
25 discussed with you and to decide whether or not the State

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1 has met its burden of proof you will be asked to write a
2 verdict at the conclusion of those things. And the
3 verdict will be guilty if you find that the State has met
4 its burden of proof and not guilty if the State has
5 failed to meet its burden of proof. And you will express
6 your opinion on the evidence in this case in those words
7 and those words alone.

8 I appreciate very much your attention to these
9 remarks ladies and gentlemen. Now please give your
10 attention to the lawyers as they make their opening
11 statements. Mr. Stone?

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State v Tyrone Robinson
Opening Statement by Mr. Stone
September 16, 2014

OPENING STATEMENT

BY MR. STONE:

May it please the court, Your Honor? September the 1st 2012 K. S. [REDACTED] died in a shootout. It wasn't a shootout he was involved in. He was eight years old at the time. He was playing outside on a trampoline with two of his friends. The shootout was between the Youngs, Aaron Young, Jr. and Aaron Young, Sr. and this man over here [indicates] Tyrone Robinson.

K. S. [REDACTED] didn't know what the fight was about. He had no reason to know anything about that. He didn't know how long it had been going on. You will. You will learn that on that day earlier Tyrone Robinson went over to Aaron Young's house. He got into an argument with the younger Young; there are two of them; Aaron Young, Sr. and Aaron Young, Jr. Tyrone Robinson gets in an argument with Young and Tyrone Robinson pulls out a revolver and he points it at the younger.

Aaron Young, Sr. struggles and gets in the middle of it, struggles with Tyrone Robinson and the gun goes off. It actually shoots the house that the Youngs live in. Tyrone Robinson then gets two more shots off before he gets in his car and leaves. The Youngs gave chase. Aaron Young, Jr. goes and gets a .9mm semi-automatic weapon with a clip that holds about 32 bullets in it.

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1 Aaron Young, Sr. drives the truck and they go chasing
2 Tyrone Robinson. They chase him from Wild Horse Road at
3 the very front of Hilton Head Island down through Oak
4 View in the Spanish Wells area and into Allen Road where
5 K. S. [REDACTED] and two of his friends are playing.

6 The Youngs find Tyrone Robinson's car and they shoot
7 it. Tyrone Robinson wasn't in the car. He had moved
8 away from the car and as the Youngs left Tyrone Robinson
9 returned fire with the same revolver that he had just
10 shot on Wild Horse Road. This time though the bullet
11 didn't land harmlessly and it didn't hit a house. It hit
12 K. S. [REDACTED] and it killed him.

13 Like I told you K. S. [REDACTED] didn't know how
14 long that fight had been going on. He didn't know who
15 started it. And you'll hear evidence of all of that; why
16 the fight started, what it was over, why the Youngs and
17 the Robinsons didn't like each other. And at the end of
18 the day none of it matters. It doesn't matter who
19 started it, it matters how it ended.

20 Your job -- first let me tell you what my job is and
21 the Judge mentioned it earlier. My job is to prove to
22 you this case beyond a reasonable doubt. Today is Tyrone
23 Robinson's case. You don't have to be concerned with the
24 Youngs today. That is for a different day in a different
25 courtroom with a different jury. Your decision will be

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Opening Statement by Mr. Stone
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1 strictly about Tyrone Robinson. My job is to prove to
2 you beyond a reasonable doubt that Tyrone Robinson killed
3 K. S. [REDACTED]. My job is to prove to you that K. S.
4 [REDACTED] died in that shootout. And if I don't do that
5 your job is to come back here and say you didn't do your
6 job Mr. Solicitor, he's not guilty.

7 But when we come back after you hear this testimony,
8 after you hear what happened that day I'm going to ask
9 you the same thing that the Judge just instructed you;
10 give us a verdict that speaks the truth. That's all I'll
11 ever ask of you. Give us a verdict that speaks the
12 truth. Thank you.

13 THE COURT: Thank you Mr. Stone. Mr. Bax?
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Thank you, Your Honor. May it please the court, Your Honor? Good morning ladies and gentlemen. Once again my name is Arie Bax. I work with the Beaufort County Public Defender's office. I have been practicing criminal law for over a decade all throughout the state of South Carolina. I'm happy to be here in this community. It is my choice to be here. I had the choice to go anywhere in South Carolina and I chose here; not only because of its beauty but because of its community.

Yes, the government has a job but our forefathers, the ones that wrote the Constitution did not want that government to have unchecked power as to who it would charge and how it would incarcerate them and take away their liberty. Do not make a mistake, this is important and someone else's life is at stake. It is a tragedy that this young boy lost his life. It is an absolute tragedy. It's a tragedy that I have had to live with as

1 the attorney in this case. It is a tragedy that all the
2 parties in this case have had to live with but no one
3 more so than the ones that lost K. S. . However, all
4 cases involve some kind of loss. All cases if they are
5 criminal involve someone being upset, someone has lost
6 something, someone is upset. There is a tragedy
7 somewhere.

8 Why is it that we have this system? Why is it that
9 we have a Judge, the law, rules of evidence, and a jury
10 that we worked very hard to pick who does not know what
11 is going on with this particular case, that does not know
12 more than what the common man would necessarily know. We
13 do that because in order for this system to work it is
14 based on the idea of calm, dispassionate, deliberative
15 process.

16 The Judge mentioned common sense to y'all earlier.
17 He said you are the judges of the facts because you have
18 the tools in your possession already as members of our
19 community. And I agree wholeheartedly with that and I
20 have talked to many a jury over the years about it to the
21 point where I have forgotten the number of times I've
22 talked about it. But it remains true today just like it
23 did ten years ago when I started this. You have the
24 tools. Every day when you go out in the community you
25 make judgments about someone's creditability. You go to

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1 the grocery store, you try to decide what product is
2 best. Every one of them is trying to tell you they are
3 the better noodle, they are the better sauce, they are
4 the better this. You've got to make a decision. You
5 take a lot of things into consideration.

6 You talk to someone who is trying to sell you
7 something. You're not mad at that person but if they
8 tell you something that you asked a different question
9 and they changed the subject you're thinking well, why
10 did they change the subject? Why don't they want to talk
11 about the gas mileage on this big car? You're making
12 those judgments in the community.

13 But I'm going to tell you something. What you are
14 going to hear, what you're going to see on the stand, and
15 what you're going to hear from the prosecution in this
16 case is going to have the tendency and I think sometimes
17 the intent to stir the passions, to make you as jurors
18 upset too. It is your duty to fight that. It is your
19 duty to suppress that and look at this calmly and
20 dispassionately.

21 They are going to paint this with a broad brush.
22 You've already heard from Solicitor Stone there was a
23 shootout. It doesn't matter who started it. Absolutely
24 wrong. And you're going to hear that that is why we have
25 the law and who started it does matter and always has

1 mattered. You are going to hear from the Judge that
2 there is no charge, there is no felony called shootout.
3 You have never heard of anybody being charged in a
4 warrant that says shootout because we don't have that in
5 the law. The reason why is we have always made a
6 determination of who started what and whether someone was
7 responding to save their own life.

8 We have always determined that we want to know and
9 we want to determine and a jury is there to do that; who
10 did what and who is guilty and who is not guilty. There
11 is no broad brush in the law. There is no everybody was
12 over in this neighborhood shooting so we're going to
13 arrest all of them and send them to jail. The law has
14 never allowed that and you're not going to allow that
15 this week; I know that.

16 We talked a little bit about common sense. You all
17 know exactly when common sense disappears don't you?
18 When you're upset; that's when you make bad judgments.
19 That's when you can't make a judgment about someone's
20 creditability when you're mad, when you're upset. It's a
21 common affliction of all human beings, myself included.
22 Being upset defeats the mind. It defeats your ability to
23 be calm and rational. And that's why you're sitting in
24 this courtroom completely safe and protected listening to
25 the evidence in a calm manner so that you are not making

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Opening Statement by Mr. Bax
September 16, 2014

1 rash judgments based on being upset, which is why the
2 evidence has to be judged in a manner that is
3 dispassionate because the facts do matter. Who started
4 it does matter. Who is guilty does matter otherwise we
5 wouldn't have this process. Every time anybody had a
6 weapon, anytime anything happened we'd just pick them all
7 up and throw them away. We don't do that.

8 This case has garnered a lot of attention because of
9 the tragedy. The media has covered this case. Many of
10 you answered our questions in Voir Dire and indicated
11 that you've read some of that media coverage. And I know
12 that you have promised the Judge and us that you will put
13 that aside and I believe in that promise.

14 But I want to caution you as well. In our minds we
15 tell ourselves a lot of things but it doesn't always come
16 out true so remember this. The media is under absolutely
17 no obligation to be accurate. They have no obligation to
18 be accurate. They can report what anybody tells them and
19 there is no obligation that they make sure that
20 information is absolutely accurate.

21 That is not the case here. You are going to be the
22 one that determines whether the information is accurate
23 because you're going to be able to see the people saying
24 it. You're going to be able to determine if there is a
25 reason for that person to lie not only based on what he

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September 16, 2014

1 said but not he has not said based on how he said it,
2 based on body language; those are all factors. So please
3 make your judgments, gather the evidence, and do your
4 deliberations based on what you see here and nowhere
5 else. Your duty is to examine this closely. Your duty
6 is to determine guilt for this individual; for Mr.
7 Robinson and for no one else. And that has to be based
8 on a determination of exactly what you believe happened
9 based on what has been presented. The law is not a broad
10 brush. We have never allowed that in this country and I
11 expect that you will keep it that way. Thank you.

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September 16, 2014

1 THE COURT: Thank you, Mr. Bax. Ms. Brown, if you
2 will pass out those notebooks. I'm sorry I didn't
3 indicate that earlier.

4 THE BAILIFF: I'm sorry; Your Honor.

5 [Whereupon, the bailiff provides notepads to the
6 jury]

7 THE COURT: The reason I asked Ms. Brown to wait
8 until after the opening statements to give you the
9 notebooks was because as I told you earlier the opening
10 statements are not evidence. So that's the reason you
11 didn't need to record those things because remember what
12 needs to be recorded. Mr. Stone, you may call your first
13 witness.

14 MR. STONE: The State calls Melanie Smith to the
15 stand.

16 THE COURT: Ms. Smith, come forward please and be
17 sworn.

18 MR. STONE: May we approach briefly, Your Honor?

19 THE COURT: Yes, sir.

20 [Whereupon, an off the record bench conference is
21 held]

22 THE COURT: Ladies and gentlemen, sometimes we
23 huddle over there and whisper behind your back because
24 we're talking about things that don't concern you. And I
25 always tell jurors however if you're real curious about

1 what we're whispering about over here behind your back
2 when the trial is over if you will come to me and ask me
3 what we were whispering about and if I can remember what
4 we were whispering about I'll tell you. But I remember
5 what we were whispering about just a moment ago.

6 The witness who was just called is on the stand in
7 the courtroom next door testifying right now in another
8 trial. She's in rather great demand and so we're going
9 to try to see how long it's going to be as to whether we
10 can put someone else in place.

11 This witness of course apparently is necessary to
12 lay some foundation for some other testimony that will
13 follow. It will make it easier for you to understand if
14 she can testify first. We're trying to find out how long
15 it's going to take for her next door and we'll keep you
16 advised momentarily. I'll have a word in just a moment.

17 MR. STONE: She is testifying right now. She's
18 finished her testimony and they're playing the exhibit
19 and so it should not be too much longer.

20 THE COURT: Okay. Like a few minutes?

21 MR. STONE: Yes, sir.

22 THE COURT: Folks, please step to your jury room.
23 I'm not going to put you out here under the microscope.
24 I apologize for this. It was unforeseen obviously and
25 it's not the sort of thing that happens very often. As a

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September 16, 2014

1 matter of fact it never has happened that I can recall
2 from my experience or Mr. Stone's experience. We will
3 get you back out as soon as she is available. Thank you.

4 [Whereupon, the jury exits at 10:14 a.m.]

5 THE COURT: Folks we will stand down momentarily.
6 As soon as she is available if you'll let me know we'll
7 get started again.

8 MR. STONE: I apologize. I've never had that
9 happen before.

10 [Whereupon, court is in recess from 10:15 a.m. until
11 10:22 a.m.]

12 THE COURT: Thank you.

13 MR. STONE: The State is ready, Your Honor. I
14 apologize; she just got off the witness stand.

15 THE COURT: Good. Is she already in the courtroom?

16 MR. STONE: She is right there [indicates].

17 THE COURT: Very good, thank you. Bring us the
18 jury please?

19 THE BAILIFF: The jury is entering the courtroom,
20 Your Honor.

21 [Whereupon, the jury enters at 10:25 a.m.]

22 THE COURT: Folks, Ms. Smith is now available from
23 the courtroom next door. It was a short delay but it was
24 in this case will be worth the fact that you will be able
25 to hear the case presented in a sequential manner and

1 make it easier for you to understand. Ms. Smith, come
2 forward please to be sworn.

3 [Whereupon, Ms. Smith comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 THE WITNESS: My name is Melanie Smith,
7 M-E-L-A-I-N-E, S-M-I-T-H.

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State v Tyrone Robinson
Melanie Smith-Direct Examination by Mr. Stone
September 16, 2014

1 MELANIE SMITH,

2 Having been first duly sworn,

3 Was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. STONE:

6 Q. Ms. Smith, what do you do ma'am?

7 A. I was the records custodian for Beaufort County
8 Sheriff's Office Communication Center.

9 Q. All right. Tell me about -- and I need you to speak
10 up just a little bit; you're kind of soft spoken. What
11 exactly do you mean with Beaufort County Communication
12 Center? What is that?

13 A. The 911 center. We receive incoming calls from the
14 public and dispatch Fire, EMS, and Police.

15 Q. Is that something that you do -- how long have you
16 been doing that?

17 A. Sixteen years.

18 Q. All of this when it comes to 911 traffic and calls
19 in you also dispatch out I'm assuming ambulances, law
20 enforcement as well?

21 A. Yes, sir.

22 Q. And this is for everything in Beaufort County is
23 that correct?

24 A. Yes, sir.

25 Q. Let me first -- at this point you're pretty familiar

State v Tyrone Robinson
Melanie Smith-Direct Examination by Mr. Stone
September 16, 2014

1 with Beaufort County I would imagine.

2 A. Just a little.

3 Q. Let me show you first what has been marked as
4 State's exhibit number 8.

5 [Whereupon, the witness is shown item]

6 Q. I'm going to ask you to keep your voice up but I'll
7 ask you to come down from the stand if that is all right
8 with Your Honor.

9 THE COURT: That will be fine. Ms. Smith, when you
10 get up off the stand if you will turn and generally face
11 in this [indicates] direction, stand on that side
12 [indicates] and face back in this direction so that you
13 back will not be to the court reporter please. Thank
14 you.

15 THE WITNESS: Okay.

16 [Whereupon, the witness steps down from the stand]

17 Q. [Mr. Stone] What I have put up here and I'm sure
18 everyone can see is State's exhibit 8. Do you recognize
19 this as an aerial view of basically parts of Hilton Head
20 Island?

21 A. Yes.

22 Q. First of all tell me what this area is that is
23 numbered number 1?

24 A. Wild Horse Squire Pope area.

25 Q. Okay. So this is -- all of this would sort of be

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1 considered the same area?

2 A. Correct.

3 Q. This I'm assuming is the Cross Island Expressway is
4 that correct?

5 A. Correct.

6 Q. And number 2 what is that area?

7 A. That's the Oak View Road area.

8 Q. And where is Spanish Wells in accordance with that?

9 A. Right here [indicates].

10 Q. Down in this area [indicates]? The lower quadrant
11 here [indicates]?

12 A. Correct.

13 Q. Okay. And then I think this [indicates] is
14 Marshland Road. Going down to area number 3 what is
15 that area?

16 A. That's Allen Road area.

17 Q. Okay. Speak to these folks here; I'm sorry.
18 Number 3 is?

19 A. Allen Road area.

20 Q. All right. Thank you, ma'am, if you would go ahead
21 and take the stand.

22 [Whereupon, the witness returns to the witness
23 stand]

24 Q. On September the 1st, 2012 did your dispatch center
25 receive 911 calls concerning the Allen Road area of

1 Beaufort County?

2 A. Yes.

3 Q. And as the records custodian are these calls that
4 are coming into your center are they recorded?

5 A. Yes.

6 Q. And are they recorded contemporaneously with the
7 call actually coming in?

8 A. Yes.

9 Q. How does that system work? Once it records it where
10 do those -- are they tapes, are they digital?

11 A. They are stored on a digital recording system and
12 they start recording as soon as they come into the system
13 until the line disconnects.

14 Q. So you actually hear some part of the call before
15 you pick up?

16 A. Correct.

17 Q. And all of that is kept in the ordinary course of
18 business of the EMS department or the Communications
19 Center?

20 A. Yes.

21 Q. Now, I will show you what has been marked as State's
22 exhibit number 7, which is a disk.

23 [Whereupon, the witness is shown item]

24 Q. Have you reviewed that disk?

25 A. Yes.

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1 Q. And have you reviewed the transcript that goes along
2 with that disk?

3 A. Yes.

4 Q. Is that accurate as to the 911 calls that came in on
5 September the 1st, 2012?

6 A. Correct.

7 Q. And you -- this was a recording actually a copy of
8 that digital recording that is kept in the ordinary
9 course of that business is that correct?

10 A. Correct.

11 MR. STONE: Your Honor, at this time we offer
12 State's exhibit number 7 into evidence.

13 THE COURT: Mr. Bax?

14 MR. BAX: No objection, Your Honor.

15 THE COURT: Thank you. Without objection.

16 [Whereupon, State's exhibit number 7 is entered into
17 evidence by the court]

18 MR. STONE: Your Honor, we have already pre-loaded
19 it into the computer and will show it on the monitor at
20 this time.

21 THE COURT: Good, thank you.

22 [Whereupon, the C.D. plays] [Not taken down]

23 MR. STONE: No further questions for this witness,
24 Your Honor.

25 THE COURT: Thank you. Mr. Bax, cross-examination?

1	CROSS-EXAMINATION
2	BY MR. BAX:
3	Q. Good morning, Ms. Smith.
4	A. Good morning.
5	Q. A couple of quick questions. Obviously what we have
6	heard here was a collection of multiple calls that came
7	in that day regarding this incident, correct?
8	A. Correct.
9	Q. Was that all the calls you received on this case for
10	that day?
11	A. No.
12	Q. Was there also a call from Mr. Robinson that came in
13	that day?
14	A. That I don't recall.
15	Q. Okay. So this isn't a complete listing of all the
16	calls that came in though, correct?
17	A. Correct.
18	Q. Okay.
19	MR. BAX: A moment's indulgence, Your Honor.
20	THE COURT: Yes, sir.
21	[Whereupon, Mr. Bax confers with Ms. Saxon]
22	MR. BAX: Approach the bench, Your Honor?
23	THE COURT: Yes, sir.
24	[Whereupon, an off the record bench conference is
25	held]

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1 MR. BAX: Your Honor, no further questions for Ms.
2 Smith.

3 THE COURT: Thank you. Mr. Stone, redirect?

4 MR. STONE: Nothing else, Your Honor.

5 THE COURT: Thank you. You can step down Ms.
6 Smith.

7 [Whereupon, the witness is excused and exits the
8 witness stand]

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State v Tyrone Robinson
Zachary Taylor-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: The State calls Zachary Taylor to the
2 stand.

3 THE COURT: Mr. Taylor, come forward please to be
4 sworn.

5 [Whereupon, Mr. Taylor comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 MR. STONE: State your full name because she needs
9 to get all that.

10 THE WITNESS: My name is Zachary William Taylor.

11 MR. STONE: And your last name is spelled
12 T-A-Y-L-O-R, is that correct?

13 THE WITNESS: Yes, sir.

14 - - - - -

15 ZACHARY TAYLOR,

16 Having been first duly sworn,

17 Was examined and testified as follows:

18 DIRECT EXAMINATION

19 Q. What do you do sir? I see you are in a I guess it's
20 a fire and rescue, EMS?

21 A. Yes sir, I'm a firefighter and driver for the town
22 of Hilton Head, Hilton Head Island Fire and Rescue. I'm
23 also a paramedic.

24 Q. How long have you been doing that?

25 A. I have been with the town since '93, for 21 years.

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1 I've been a paramedic for 22 years.

2 Q. What does being a paramedic mean? I hear that term
3 but what does that mean as opposed to someone who just
4 works at EMS?

5 A. Emergency medical technician provides a lot of first
6 responder care. And being a paramedic gives you the
7 opportunity to provide advanced care.

8 Q. Do you have special training that allows you to be a
9 paramedic?

10 A. Yes, sir.

11 Q. And what type of training is that? What are you
12 allowed to do as a paramedic?

13 A. As a paramedic I'm allowed to start I.V.'s,
14 administer medications, use a cardiac monitor to
15 determine whether or not the cardiac rhythm is life
16 threatening or otherwise, and to use that monitor to also
17 defibrillate and to try to change the outcome of that
18 condition.

19 Q. So you have the ability to determine if there are
20 vital signs, if somebody is alive and that type of thing
21 when you respond?

22 A. Yes, sir.

23 Q. Now did you respond on September the 1st 2012 to the
24 Allen Road area of Beaufort County?

25 A. Yes, sir.

1 Q. And when you got there did you find an eight year
2 old child there?

3 A. Yes, sir.

4 Q. Tell me about that. What did you do once you got
5 there?

6 A. When we first arrived there -- first of all we
7 staged prior to going there because the scene was not
8 secured. And then once we were cleared to go in I was
9 riding in the back of the ambulance so I had no idea of
10 exactly where we were.

11 But I was directed to where the patient was and I
12 found him on the ground with another person there trying
13 to do CPR and screaming that he's not breathing.

14 I determined -- I could not find a pulse and
15 determined that he was not breathing. I noted that there
16 was blood around the mouth and that he was essentially
17 dead.

18 Q. And you made that determination at the scene?

19 A. Yes, sir. I made that determination that he was not
20 breathing and didn't seem to be alive. I applied the
21 cardiac monitor and determined that there was no cardiac
22 rhythm and we proceeded to clear him.

23 Q. Thank you, sir. I don't have any further questions.

24 THE COURT: Mr. Bax?

25 MR. BAX: Thank you, Your Honor.

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Zachary Taylor-Cross-Examination by Mr. Bax
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1	CROSS-EXAMINATION
2	BY MR. BAX:
3	Q. Good morning, Mr. Taylor.
4	A. Morning, sir.
5	Q. Now despite the determinations did you still attempt
6	to administer any kind of life saving ---
7	A. --- yes, sir ---
8	Q. --- medications or treatment?
9	A. Yes, sir.
10	Q. Okay. And what did those detail? Further CPR?
11	A. Continuation of the CPR that was started by the
12	person on the scene. I transported to the hospital. We
13	did establish an I.V. access and we did administer one
14	drug; epinephrine. We also attempted to intubate.
15	Q. And based on what you were seeing and observing in
16	your training at the scene at one point you requested
17	through your dispatch to stop life-saving efforts on
18	scene is that correct?
19	A. I requested it through medical control. I actually
20	called the doctor on scene.
21	Q. And that request was refused at that time, correct?
22	A. Yes, sir.
23	Q. And so efforts were continued?
24	A. Yes, sir.
25	Q. Okay.

1 A. I had made the call while my partners were already
2 continuing the CPR and the life resuscitating efforts.

3 Q. Okay. In your treatment did you determine where
4 there was a wound on the young boy?

5 A. Initially when we first got to the scene yes, and it
6 was on the left side of the chest.

7 Q. Okay. Thank you Mr. Taylor.

8 MR. BAX: No further questions, Your Honor.

9 THE COURT: Mr. Stone, redirect?

10 MR. STONE: Nothing else, Your Honor.

11 THE COURT: Thank you Mr. Taylor. You can step
12 down.

13 [Whereupon, the witness is excused and exits the
14 witness stand]

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State v Tyrone Robinson
Charlese Mitchell-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: The State calls Charlese Mitchell.

2 THE COURT: Ms. Mitchell, come forward please ma'am
3 and be sworn.

4 [Whereupon, Ms. Mitchell comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 CHARLESE MITCHELL,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Hey Ms. Mitchell, are you doing all right?

14 A. Yes, sir.

15 Q. Please spell your last name for me?

16 A. M-I-T-C-H-E-L-L.

17 Q. Ms. Mitchell, where do you live ma'am?

18 A. I now reside at ■ Delaney Circle, Seabrook, South
19 Carolina.

20 Q. How long have you lived there?

21 A. A year and a half now.

22 Q. Prior to that where did you live?

23 A. 4 ■ Marshland Road on Hilton Head Island, South
24 Carolina.

25 Q. Now how close is that to Allen Road?

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1 A. Real close. It's like a house here [indicates] and
2 my house so it's not that far from me from Allen Road.

3 Q. How long did you live there?

4 A. I've been there for -- I'm 45 now so about 44 years.

5 Q. Let me talk to you specifically about September the
6 1st, 2012. Who lived there with you?

7 A. Myself, Tyrone Delaney, and my son C.J., which is
8 Calvin.

9 Q. Okay. Let me -- first of all you and I have talked
10 before. Have you seen this model [indicates]?

11 A. Yes, sir.

12 Q. Would this aid in your testimony today?

13 A. Yes, sir.

14 MR. STONE: Your Honor, if I could I'd like to
15 bring this in front of the jury?

16 THE COURT: Okay.

17 MR. STONE: And I'm going to ask her to step down.

18 [Whereupon, the witness steps down from the stand]

19 THE COURT: Ms. Mitchell, it will be helpful to us
20 if you stand on the other side and face this [indicates]
21 direction that way your back will not be to the court
22 reporter and she will be able to hear what you are saying
23 too.

24 THE WITNESS: Yes, sir.

25 THE COURT: That's perfect. Thank you.

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1 Q. [Mr. Stone] First of all this is the model I've
2 shown you before. Can you tell me on this -- we have it
3 marked Marshland Road, this is [indicates] Allen Road
4 obviously as it is marked on the model.

5 Can you show us please and I'll give you this
6 [indicates]. First of all it would be better for you
7 probably to stand here. You can stand anywhere you want
8 to; I just want to make sure...

9 THE COURT: As long as she is facing the court
10 reporter it doesn't matter where she stands.

11 Q. [Mr. Stone] Come on over here because I want the
12 jury to be able to see what you are pointing to.

13 [Whereupon, the witness complies]

14 Q. Tell me where your house is on that model?

15 A. This right here [indicates] is my house, right here.

16 Q. And this is the -- what is this address
17 specifically?

18 A. 4 Marshland Road.

19 Q. And this is where Tyrone Delaney lives with you and
20 C.J. or that in September?

21 A. Yes, sir.

22 Q. Okay. Who else lives in this neighborhood? Do you
23 know who else is around here?

24 A. Yes. This is my cousin Eddie Allen's old trailer
25 right here [indicates]. This mobile home right here

1 [indicates] is my Aunt Marguerite [phonetic] trailer
2 right here [indicates]. This trailer right here
3 [indicates] is my cousin Ernest's trailer right here.
4 This trailer right here [indicates] is my aunt
5 Marguerite's [phonetic] trailer right here.

6 This trailer here [indicates] is my Aunt Mary's
7 trailer, and this trailer right here [indicates] is my
8 aunt Shirley's trailer.

9 This right here [indicates] is the little bench that
10 they had that's outside the road where people going can
11 sit, and this right here [indicates] is my aunt Shirley's
12 little shed in the back.

13 Q. Okay. Now Brittany Brinson lives somewhere along
14 here [indicates] does she not?

15 A. Yes, sir.

16 Q. Where does she live?

17 A. She lives in this trailer [indicates] in front of
18 this mobile home right here [indicates].

19 Q. And I believe Dominique Griffin and Savoya
20 [phonetic] Simmons lives somewhere around this as well is
21 that correct?

22 A. They live in this -- in Aunt Shirley's house right
23 there [indicates].

24 Q. This is -- obviously here [indicates] this is a
25 trampoline is that correct?

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1 A. Yes, sir.

2 Q. And this is -- do you know who was living in this
3 house [indicates] at the time, this trailer here
4 [indicates]?

5 A. Some Mexicans or Hispanics were living in this
6 mobile home right there [indicates].

7 THE COURT REPORTER: I'm sorry, I didn't get the
8 name; repeat please?

9 THE WITNESS: Some Hispanics was living in this
10 trailer right here [indicates].

11 Q. [Mr. Stone] Were they home during this?

12 A. I don't think they were home, no sir.

13 Q. Tell me what is going on in your house here; it's
14 around 4 o'clock or so that afternoon.

15 A. I was home and me and my two step boys, which is
16 D. W. [REDACTED] and X .D. [REDACTED] we were home. At
17 that particular time while we were home we heard some
18 gunshots being fired while we were inside the house.

19 Q. Where were the gunshots coming from?

20 A. They sounded like they were coming closer by this
21 [indicates] the opening of Allen Road is where because it
22 wasn't that far away from our house.

23 Q. Somewhere around in here [indicates]?

24 A. Yes, sir.

25 Q. Okay.

1 A. When we heard --

2 Q. --- describe -- I'm sorry; describe to me the
3 gunshots that you heard. How many did you hear and how
4 fast were they; that kind of thing?

5 A. The gunshots that we heard the first sets were like
6 pow, pow, pow, pow, pow, pow were the first set of shots
7 that we heard the first time.

8 After we heard the first sets of gunshots me
9 personally I didn't dawn on it at the first set of shots.
10 After the first set of shots came in I would say within
11 10 to 15 minutes Mr. Tyrone Robinson knocked on my front
12 door.

13 Q. Now how do you know Tyrone Robinson?

14 A. Tyrone Robinson is my first cousin.

15 Q. Do you see Tyrone Robinson in the courtroom today?

16 A. Yes, sir.

17 Q. And where is he? Can you point him out for me
18 please?

19 A. Yes, sir. He is right there [indicates] with the
20 pink on.

21 MR. STONE: Your Honor, let the record reflect she
22 has identified the defendant.

23 THE COURT: Yes, sir.

24 Q. [Mr. Stone] Tyrone Robinson comes to your door.
25 What does he say when he gets there?

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1 A. When he came in there he walked -- he pretty much --
2 I opened the door, he came inside. When he came inside
3 he walked in the house. Inside the house I have like a
4 bar. He walked in and he sat a brown paper bag bottle
5 with a beer inside and he asked if my cousin Patrick
6 Young was home. Patrick Young was not there and he came
7 out and he asked if he could use the phone.

8 He got the phone, he walked outside. When he walked
9 outside the door he used the house phone. As he used the
10 house phone he was talking to somebody on the phone.
11 And as of that time my boyfriend Tyrone Delaney pulled
12 up.

13 Q. Now how does Tyrone Robinson look when he comes in
14 to your house?

15 A. He came into the house he had no shirt on. He had
16 on red shorts; he had a black handle sticking out of his
17 red shorts. He had on mismatched socks and some tennis
18 shoes.

19 Q. Okay. First let me show you what has been marked as
20 State's exhibit 13 and ask if you could identify that
21 photograph for me please?

22 [Whereupon, the witness is shown photograph]

23 A. Yes, sir. The vehicles or the trampoline?

24 Q. All of it.

25 A. Okay. The little blue Toyota car is my son's. The

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1 green truck is Tyrone Delaney's truck; the white Crown
2 Vic is mine, that's my mobile home that sits there
3 [indicates], that [indicates] is the trampoline that was
4 in the yard where the kids were playing. This
5 [indicates] blue bike was a bike that J. S. was riding on
6 and the red four wheeler is a bike that K. S. was on.

7 Q. Okay. Is that a fair and accurate depiction of the
8 scene as it appeared that day?

9 A. That is correct.

10 MR. STONE: Your Honor, at this time we would move
11 State's exhibit 13 into evidence.

12 MR. BAX: No objection, Your Honor.

13 THE COURT: Without objection 13 in evidence. Thank
14 you.

15 [Whereupon, State's exhibit number 13 is entered
16 into evidence by the court]

17 [Whereupon, the photo is shown on screen]

18 Q. [Mr. Stone] Now what has been showing on the monitor
19 is what you've already pointed out to me as State's
20 exhibit 13. But if you could can you tell the jury what
21 that is? First of all there is a white car right in
22 front. Whose car is that?

23 A. That white Crown Vic is my vehicle.

24 Q. And beside that what is there?

25 A. That is Tyrone Delaney's green truck, and on the

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1 side of it is my son's blue Toyota Yaris, that
2 [indicates] is my double wide mobile home right there,
3 that [indicates] is the trampoline that the kids were
4 playing on, that's [indicates] J. S.'s bike, and that
5 [indicates] is K. S.'s four wheeler.

6 Q. Now the first set of shots that you described were
7 the kids outside playing on the trampoline?

8 A. No sir, there were no kids.

9 Q. They had not gone out there at that point?

10 A. No, sir.

11 Q. Okay. Later on did they go out and play on the
12 trampoline?

13 A. They went -- my stepson, K. S., and J. S. went
14 outside after the first -- well my stepson went over to
15 the trampoline because J. S. and K. S. came over to my
16 house to get X .D. to play.

17 Q. Now how old is X .D.?

18 A. X .D. is I believe seven or eight.

19 Q. At that time he was seven or eight?

20 A. Yes.

21 Q. And J. S. how old was he at that time?
22 About the same age?

23 A. About the same age.

24 Q. Okay. Let me show you what has been marked as
25 State's exhibit 1.

1 [Whereupon, the witness is shown photograph]

2 Q. Is that a fair and accurate depiction of how Tyrone
3 Robinson looked that day?

4 A. That is correct.

5 Q. Okay.

6 MR. STONE: Your Honor, at this time we offer
7 State's exhibit 1 into evidence.

8 THE COURT: Without objection.

9 [Whereupon, State's exhibit number 1 is entered into
10 evidence by the court]

11 Q. [Mr. Stone] Let me show you -- let me show the jury
12 -- I'll put this up here.

13 MR. STONE: State's exhibit 1, Your Honor, I am
14 just publishing to the jury.

15 THE COURT: Yes, sir.

16 Q. [Mr. Stone] This is the outfit that he had on that
17 day when he came to your door?

18 A. Yes, sir.

19 Q. These are the red shorts and the shoes? This is how
20 he was dressed that day?

21 A. Yes, sir.

22 Q. And the black object was sticking out where?

23 A. The black object was sticking out right here
24 [indicates] in his pants, right in the waistline of his
25 pants was a black handle.

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1 Q. All right. What did they -- the black handle,
2 describe the black handle for me.

3 A. The black handle -- by me working for Palmetto Dunes
4 to me the black handle looked exactly like a hand gun.

5 Q. What kind of work did you do at Palmetto Dunes?

6 A. Dispatch security.

7 Q. Okay. So that car, the white Crown Vic was
8 actually your security car.

9 A. That's correct.

10 Q. When Tyrone Robinson knocks on your door he comes in
11 and he goes out. Can you hear him talking on the phone?
12 Can you hear him saying anything when he is out on the
13 phone?

14 A. The only thing that I actually heard when whoever he
15 was talking to on the phone said those motherfuckers.

16 Q. And I know you don't want to cuss and I apologize
17 for that but I need you to tell me exactly what he said.

18 A. Whoever he was on the phone with he said those
19 motherfuckers tried to kill me -- I'm sorry; was shooting
20 at him.

21 Q. Got you.

22 A. Yes, sir.

23 Q. Tyrone Delaney then pulls up is that correct?

24 A. That is correct.

25 Q. Tell me what happens when Tyrone Delaney gets there?

1 A. When Tyrone Delaney pulls up he when he came home he
2 met Tyrone. As you can see this [indicates] is our
3 driveway. As the three cars was here [indicates] Tyrone
4 came -- Tyrone Robinson was here [indicates]. Tyrone
5 wanted me -- and them two wound up talking outside.

6 Q. Delaney and Robinson? Use their last names if you
7 could.

8 A. Delaney and Robinson were outside talking. I then
9 stayed inside of the house. While them two were out
10 there talking that's when whatever he said to Tyrone I
11 don't too much know because I didn't hear that.

12 And after that was said and done that's when I
13 remained in the house and I finally came outside and
14 that's when I let Tyrone know that it was time for Tyrone
15 to leave, Tyrone Robinson to leave.

16 Q. And did he leave?

17 A. Yes sir, he did leave.

18 Q. And where did he go? Did you see him walk off? Did
19 you see which direction he went?

20 A. No because when Tyrone came in the house that was
21 it.

22 Q. When Delaney comes in the house that...

23 A. When Delaney came in the house that was it.

24 Q. What was the next thing that happened?

25 A. The next thing that happened we heard some -- the

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1 kids came over to the house. They asked can X .D. come
2 outside and play. We let X .D. and them went outside
3 and played. They were on this trampoline right here
4 [indicates].

5 While they were on this trampoline right here
6 [indicates] when me and Tyrone was in the house we heard
7 some more shots. We heard those more shots it was again
8 pow, pow, pow, pow, pow, pow kind of shots.

9 Q. Let me stop you because you used the word Tyrone.
10 You're inside the house with Mr. Delaney now, is that
11 correct?

12 A. Yes, with Mr. Delaney.

13 Q. Tyrone Robinson is gone?

14 A. Tyrone is gone.

15 Q. And that's when you hear the second set of shots?

16 A. After the kids were already on the trampoline. The
17 kids were outside playing on the trampoline. When we
18 heard the second round of shots that's when I came to the
19 door and told the kids to come inside of the house.

20 Q. Describe the second set of shots.

21 A. They were pow, pow, pow, pow, pow almost like the
22 first sets of shots.

23 Q. Okay. What did you do after that?

24 A. After that I told the kids to come inside the house.
25 The only person that came inside of the house was

1 Tyrone's son. J. S. and K. S. did not come in after I
2 told them to come inside the house after we heard the
3 second set of shots.

4 Q. Which way did they go?

5 A. They wound up going back toward the other way
6 because -- well, I don't have a picture of aunt Vena's
7 [phonetic] trailer but J. S. lives here [indicates].

8 Q. Okay. Here with Dominique Griffin and Savoya?

9 A. Correct. But back further back aunt Mary's trailer
10 is aunt Vena's trailer.

11 Q. And that's where J. S. lived?

12 A. No ---

13 Q. --- I'm sorry ---

14 A. --- no, this [indicates] is where J. S. lives, this
15 [indicates] is where K. S. grandmother lives past aunt
16 Mary's trailer.

17 Q. Okay.

18 A. But he left his four wheeler here [indicates].

19 Q. That [indicates] is K. S.'s four wheeler?

20 A. That's K. S.'s four wheeler that he left.

21 Q. What was the next thing that you heard?

22 A. The last thing that we heard after we got the kids
23 in the house as we seen was the grey truck, which is...

24 Q. Okay. Let's use this [indicates] as the grey
25 truck. Where did you see the grey truck?

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1 A. The last sets of three shots that we heard the grey
2 truck turn out of Allen Road because I was peeping
3 through my front door here [indicates]. We saw the grey
4 truck came and we heard three shots.

5 But those three shots that we heard as the grey
6 truck turned on Allen Road we heard pow, pow, pow. And
7 that was the last of the shots. The grey truck had
8 already gone down Marshland Road. The last vehicle that
9 we seen come down was Tyrone Robinson's black ---

10 Q. --- use that [indicates] to show it.

11 A. His car was the last car that came past after the
12 last three shots were fired.

13 Q. The last three shots that you hear did they sound
14 like the same as the first series?

15 A. No, sir. They sounded like single shots.

16 Q. Okay. Much slower than the first set?

17 A. Yes, sir.

18 Q. I'm going to show you what has been marked as
19 State's exhibit 3 and State's exhibit 2 and ask you is
20 that a fair and accurate depiction of Tyrone Robinson's
21 car as you saw it that day?

22 [Whereupon, the witness is shown photographs]

23 A. That's correct.

24 MR. STONE: Your Honor, at this time we would move
25 State's exhibit 2 and State's exhibit 3 into evidence.

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1 MR. BAX: No objection, Your Honor.

2 THE COURT: Without objection State's 2 and 3.

3 Thank you.

4 [Whereupon, State's exhibit numbers 2 and 3 is
5 entered into evidence by the court]

6 Q. [Mr. Stone] And I'll show this to the jury and ask
7 if you could come over here. This [indicates] is the car
8 Tyrone Robinson was driving that day?

9 A. Yes sir, because when he passed by he didn't have no
10 back window. He didn't have no back window in his car as
11 he rolled by.

12 Q. Okay. And it was in this condition here
13 [indicates]?

14 A. Yes, sir.

15 Q. Now did you recognize the person -- while I'm at it
16 let me show you what has been marked as State's exhibit 9
17 and 10.

18 [Whereupon, the witness is shown photographs]

19 Q. Is that a fair and accurate depiction of the truck
20 that you saw go by?

21 A. Yes sir, that is.

22 MR. STONE: Your Honor, at this time we'd move
23 State's exhibits 9 and 10 into evidence.

24 MR. BAX: No objection, Your Honor.

25 THE COURT: Without objection.

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1 [Whereupon, State's exhibit numbers 9 and 10 are
2 entered into evidence by the court]

3 Q. [Mr. Stone] And this is the truck that you saw go by
4 first, then you heard the three shots is that correct?

5 A. That is correct.

6 Q. Then you saw Mr. Robinson's car ---

7 A. --- came behind that ---

8 Q. --- go after that?

9 A. Yes.

10 Q. Did you see who was driving this [indicates] truck?

11 A. Yes, sir.

12 Q. And who was driving this truck?

13 A. Aaron -- I call him Bennie Jr. but Aaron, Sr. was
14 driving this truck [indicates].

15 Q. Aaron Young, Sr.?

16 A. Yes, sir.

17 Q. Okay. And when the shots went off where was the
18 truck exactly? And you can just point to the area when
19 the last three shots were ---

20 A. --- when the last three shots were going the grey
21 truck was coming down the road. It sounded like it was
22 close in this area [indicates] as it was coming because I
23 was peeping through the door to make sure that everything
24 was already cleared or whatever they had going on. So
25 that's when the grey truck came rolling past.

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1 Q. Were you in a position of being able to see whether
2 or not there were shots being fired out of the grey truck
3 at that point?

4 A. When I was looking at the grey truck pass by all the
5 windows were up. On the driver's side the window was
6 completely up. And whoever was on the passenger side of
7 the vehicle, of the truck, they were inside of the truck
8 sitting down.

9 Q. Okay. And that's when the last three shots were
10 fired?

11 A. Yes, that is correct.

12 MR. STONE: I don't have any further questions at
13 this time for this witness, Your Honor,

14 THE COURT: Thank you, Mr. Stone.

15 Q. [Mr. Stone] Thank you, ma'am. If you'll answer any
16 questions...

17 THE COURT: Cross-examine Mr. Bax?

18 MR. BAX: Yes, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. I wanted to go through a couple of the places you
4 were describing just to make sure that I am clear with
5 it.

6 A. Okay.

7 Q. You were living here [indicates] correct?

8 A. This [indicates] is my home.

9 Q. This is [indicates] where you were at?

10 A. Yes, sir.

11 Q. Okay. And basically you've described that you
12 actually heard three sets of gunshots. That you heard a
13 set of rapid gunshots before you ever saw Mr. Robinson is
14 that correct?

15 A. The first sets of shots, yes.

16 Q. Okay. And then after Mr. Robinson left your
17 residence you heard another set of rapid shots.

18 A. That is correct.

19 Q. Okay. Now the time in between the first set of
20 rapid shots and the second set of rapid shots how long a
21 period of time was that?

22 A. I would say no longer than 10 to 15 minutes.

23 Q. Ten to 15 minutes?

24 A. That is correct.

25 Q. So in that period of time Tyrone came to the house,

1 had conversation with you ---
2 A. --- that is correct ---
3 Q. --- used the phone, and talked with Mr. Delaney.
4 A. That is correct.
5 Q. And left.
6 A. That is correct.
7 Q. Okay. You -- Ms. Mitchell did you see him drive
8 up? Did you see him arrive in a car or anything like
9 that?
10 A. He did not. He walked. Well, when he came in my
11 yard like I said when he came it was only two vehicles
12 there, which is my white Crown Vic and my son's little
13 blue Yaris was the only two vehicles that were parked in
14 my yard.
15 Q. And you've indicated in your direct testimony that
16 you didn't see where he came from correct?
17 A. I did not.
18 Q. He just came into the house?
19 A. He just came and knocked on the door and came inside
20 of the house.
21 Q. Okay. Now Ms. Mitchell it's possible to walk
22 through this area [indicates] back behind these trailers
23 correct ---
24 A. --- that is correct ---
25 Q. --- this kind of a wooded area back here

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1 [indicates]?

2 A. It is.

3 Q. Okay. And people do walk behind the trailers to
4 get back and forth to the homes correct?

5 A. Not to -- pretty much not to mine. Mine -- I don't
6 know because it's pretty much just me, Tyrone, and my son
7 so really we don't have nobody that would be coming to
8 visit.

9 Q. But it's possible to come back behind this house
10 [indicates] correct?

11 A. That's correct.

12 Q. And it's possible to return to these trailers
13 through that back wooded area?

14 A. That's correct.

15 Q. Okay. And I believe you testified that after Mr.
16 Robinson left you didn't see which way he went.

17 A. No, sir.

18 Q. Because he just exited the house and that was it.

19 A. Well, he was outside talking to Tyrone.

20 Q. Okay.

21 A. And I told Tyrone Delaney that is was time for
22 Tyrone to leave.

23 Q. Okay. So then Mr. Delaney relayed that to Mr.
24 Robinson as well ---

25 A. --- and he left ---

1 Q. --- and said it's time to go.
2 A. Yes sir and he left.
3 Q. Okay. And I believe you stated that he had asked
4 to use your phone. Now is your phone a wireless phone or
5 it is got a cord attached?
6 A. No sir, it was a wireless phone. Yes, sir.
7 Q. Okay. Did he make a phone call from that phone?
8 A. He did.
9 Q. Did he talk to that individual inside or outside
10 your house?
11 A. Outside of the house.
12 Q. Okay. And he returned the phone to Mr. Delaney
13 before he left?
14 A. Yes, sir.
15 Q. Now let's talk a little bit about that second and
16 third sets of fire that you heard. After Mr. Robinson
17 left you testified that you heard a second set of rapid
18 fire.
19 A. That was after Tyrone came home from work.
20 Q. Okay.
21 A. We heard ---
22 Q. --- Mr. Delaney was home and Mr. Robinson had left.
23 A. Mr. Robinson was gone.
24 Q. Okay. And that fire -- could you tell how many
25 shots that was?

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1 A. On the rapid one?

2 Q. Yes?

3 A. The rapid one was the same exact as the first. It
4 was just pow, pow, pow, pow, pow, pow; just like the
5 first.

6 Q. Okay. Were they so fast that it was hard to
7 determine how many shots were fired?

8 A. I really couldn't say. I can just give you the
9 sound of how I actually heard it.

10 Q. Okay. And I believe you described the fact that it
11 almost sounded like it was an automatic weapon.

12 A. To me the last three shots -- on the first with the
13 sets of shots?

14 Q. Uh Huh?

15 A. To me I don't know if it's an automatic but it was
16 just that way.

17 Q. Okay. So the last set of shots you described those
18 as three shots correct?

19 A. It was three shots.

20 Q. And those shots were slow and distinct between each
21 one?

22 A. That is. Each one was like pow, pow, pow.

23 Q. Okay. Now I want to move back a little bit. After
24 that second set of rapid shots is that when you asked the
25 kids to come inside?

1 A. After the second round of shots because they were
2 still playing on the trampoline.

3 Q. Okay.

4 A. And when they were playing on the trampoline when we
5 heard the second those shots I yelled and told the kids
6 to come inside the house.

7 Q. Okay. And you've testified that it's your son or
8 step-son.

9 A. My step-son.

10 Q. Your step-son came to your house but the other two
11 K. S. and J. S. they went the other way.

12 A. That's correct.

13 Q. And that's because J. S. lives here [indicates].

14 A. That's correct. J. S. lives here [indicates].

15 Q. And K. S.'s grandmother is up here [indicates] ---

16 A. --- and stayed by the back, that is correct.

17 Q. So the kids traveled in this direction [indicates]
18 this way [indicates]?

19 A. Yes.

20 Q. Okay. And when they -- you described hearing the
21 three shots from around in this area [indicates] as the
22 truck passed is that correct?

23 A. As the truck was passing by.

24 Q. Okay. And at that time the boys were headed this
25 way [indicates] correct?

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1 A. The boys were headed back that way [indicates]
2 because like I said J. S. lives there [indicates] and
3 K. S.'s grandmother lives further back.

4 Q. All right. And your testimony was the shots
5 sounded like they were close up to where the truck was
6 going by?

7 A. Yes, sir.

8 Q. Thank you Ms. Mitchell, I appreciate it.

9 MR. BAX: No further questions, Your Honor.

10 THE COURT: Thank you. Redirect Mr. Stone?

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1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. Did you go back out there -- I'm assuming after you
4 left you heard the last three shots. Did you go back out
5 here [indicates]?

6 A. I went back. What I did was I went inside the house
7 and as I in the house -- my bathroom is on this end
8 [indicates] so my bathroom faces this way [indicates]. I
9 heard somebody yelling.

10 As I heard somebody yelling and I wound up going to
11 the front door and that's when it came -- the noise was
12 coming closer this way [indicates]. So as I left and I
13 came this way [indicates] that when I noticed Brittany.

14 Q. And Brittany is Brittany Brinson?

15 A. Brittany Brinson was working on K. S. and that's
16 when I actually made a phone call to 911 to let 911 know
17 exactly what was going on. And I was in this area
18 [indicates] right up in here [indicates] where he was.

19 Q. Let me -- you are pointing right at this sort of the
20 end of this area right here [indicates]?

21 A. In this little area right here [indicates] yes, sir.

22 Q. That's where K. S. was when you went out there ---

23 A. --- yes, sir.

24 Q. At that point and I don't know if you stated but
25 could you tell what condition K. S. was in when you got

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1 there?

2 A. When I got there K. S. was laying there. His
3 tongue was already out. He was bleeding from the side of
4 his head and he was bleeding like almost to me on his
5 side. Brittany was working to do CPR on him to try to
6 get him back.

7 And as she was working on him that's when I was
8 still on the phone with 911 trying to get help and to let
9 them know what vehicle that -- on the grey truck what I
10 had actually seen with the grey truck because the grey
11 truck was already headed down Spanish Wells and so was
12 the vehicle right there [indicates] ---

13 Q. --- and the Spanish Wells area is over here
14 [indicates] ---

15 A. --- it's going back past my house way.

16 Q. All right. And when Tyrone Robinson's vehicle left
17 it went in the same direction?

18 A. It went in the same direction.

19 Q. When Tyrone Robinson goes into your house, and I
20 know you're related and you know him, but how close did
21 you get to him?

22 A. Close enough where he walked -- if this [indicates]
23 is half my trailer where he actually -- I was standing
24 here [indicates] and he like walked because this right
25 here [indicates] is ---

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1 Q. --- put me as far as the back -- if I'm Tyrone how
2 close did he get to you?

3 A. He walked past me ---

4 Q. --- past you ---

5 A. --- yes, because he walked in the door. I opened
6 the door and he walked past me to come in the house.

7 Q. And is that when you saw the black handle?

8 A. Yes, sir.

9 MR. BAX: Briefly on recross, Your Honor?

10 THE COURT: Yes sir.

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State v Tyrone Robinson
Charlese Mitchell-Recross-Examination by Mr. Bax
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RECROSS-EXAMINATION

BY MR. BAX:

Q. One quick follow up question. You stated in your testimony that you saw the grey truck go by. When you saw the grey truck by that was following those three shots correct?

A. Those were the last three shots that were fired.

Q. Okay. And you saw that truck after you had heard the three shots correct?

A. Yes.

MR. BAX: No further questions, Your Honor. Thank you.

THE COURT: You can have the last word, Mr. Stone.

MR. STONE: Nothing else, Your Honor.

THE COURT: Thank you, Ms. Mitchell you can step down. Thank you, ma'am.

[Whereupon, the witness is excused and exits the witness stand]

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1 MR. STONE: The State calls Tyrone Delaney.

2 THE COURT: Mr. Delaney, come forward please to be
3 sworn.

4 [Whereupon, Mr. Delaney comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 TYRONE DELANEY,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Sir, if you could please state your full name and
14 spell your last name.

15 A. Tyrone Delaney, D-E-L-A-N-E-Y.

16 Q. Let me get you to pull the microphone a little bit
17 closer to you so I can hear you okay.

18 [Whereupon, the witness complies]

19 Q. Mr. Delaney, on September 1st, 2012 where were you
20 living?

21 A. ■ Marshland.

22 Q. Pardon me?

23 A. ■ Marshland.

24 Q. And who were you living with?

25 A. Charlese Jackson.

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1 Q. And at this time I think her name is Charlese
2 Mitchell is that correct?

3 A. Mitchell.

4 Q. Okay. What -- at that point what were you doing?
5 You live with her -- how long have you been living with
6 her?

7 A. Two years.

8 Q. Specifically around 4 o'clock did you come home at
9 some point?

10 A. Around about 4:30.

11 Q. About 4:30? Where were you coming from?

12 A. O.C. Welch.

13 Q. Pardon me?

14 A. O.C. Welch.

15 THE COURT REPORTER: I still didn't hear you.

16 A. O.C. Welch.

17 Q. Do you work at O.C. Welch?

18 A. Yes, sir.

19 Q. And what do you do at O.C. Welch?

20 A. A technician.

21 Q. How long have you worked at O.C. Welch?

22 A. Thirteen years.

23 Q. And you're still there now is that correct?

24 A. Yes.

25 Q. What does a technician do? What do you do?

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1 A. Mechanic, oil change, tire rotation, engine work,
2 tune ups.

3 Q. You had gotten off work that day, came home and
4 that's -- what time do you normally get off work?

5 A. On a Saturday it is 4 o'clock.

6 Q. So by the time it took you -- at that time was O.C.
7 Welch still located out in the Bluffton area where it is
8 now?

9 A. Sun City.

10 Q. It was in that location?

11 A. Yes.

12 Q. Okay. So you came directly from work home?

13 A. Straight home.

14 Q. Now we have shown the jury this photograph but I
15 want to make sure that State's exhibit 13 has a truck in
16 it.

17 [Whereupon, the witness is shown photograph]

18 Q. Is that your truck?

19 A. Yes, sir.

20 Q. Okay. And this is as we showed earlier State's
21 exhibit 13. That is you -- is that a blue truck?

22 A. Green.

23 Q. It's green?

24 A. Its green.

25 Q. Tell me what happens when you get home.

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1 A. Tyrone was in my yard.
2 Q. Tyrone who?
3 A. Robinson.
4 Q. How do you know Tyrone Robinson?
5 A. From a family member.
6 Q. He was in your yard and your yard is on this model I
7 think right here [indicates] this front house?
8 A. Yes.
9 Q. Is that correct?
10 A. Yes.
11 Q. Okay. And you've seen this model before is that
12 correct?
13 A. Yes, sir.
14 Q. What was he doing in your yard when you pulled up?
15 A. He was on the phone when I pulled up.
16 Q. What was he -- you don't know who he was talking to?
17 A. No, sir.
18 Q. Okay. What happened then?
19 A. He asked me if I saw a grey truck on the road when I
20 came home. And I told him yes, they almost hit me head
21 on.
22 Q. Where did the grey truck almost hit you?
23 A. On Spanish Wells.
24 Q. This is somewhere down this road [indicates] over
25 here?

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1 A. Yes, way down.

2 Q. Let me get you to come off the stand. You've seen
3 this map before?

4 A. Yes.

5 [Whereupon, the witness leaves the witness stand]

6 Q. You're pretty quiet spoken so I need you to keep
7 your voice up if you could. I'm showing you what has
8 been marked as State's exhibit 8.

9 [Whereupon, the witness is shown map]

10 Q. Could you tell us -- I think this [indicates] has
11 been identified as the Wild Horse Road area, this
12 [indicates] is I believe Spanish Wells, this [indicates]
13 is the Oak View area and then Allen Road is over there
14 [indicates]. Can you show us -- let me get you to back
15 up so the foreperson can see you -- I'm going to give you
16 that, it might help.

17 [Whereupon, the witness is given pointer]

18 Q. Show me where you came from?

19 A. I was coming from this direction [indicates]
20 traveling up ---

21 THE COURT REPORTER: --- I need you to speak up
22 please.

23 Q. [Mr. Stone] Yes, speak up. This is [indicates] the
24 Allen Road area here.

25 A. Okay.

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1 Q. This is Spanish Wells here [indicates] and then I
2 think Marshland Road is going in this [indicates]
3 direction is that correct?

4 A. Yes, right up in there [indicates].

5 Q. Okay. Now speak up.

6 A. I was coming from this [indicates] direction.

7 Q. Toward the Allen Road area?

8 A. Toward Allen Road and when they came onto my lane
9 they almost hit me head-on at a high rate of speed and
10 they swerved into my lane and so I hit brakes so he could
11 straighten up and clear away so they can -- so I can go
12 home.

13 Right up in there [indicates] that's when they came
14 over in my lane. I had to hit brakes so they could
15 straighten up and get where they going.

16 Q. And then you headed at that point on to Allen Road.

17 A. On to Allen Road.

18 Q. I'll show you what's been marked as State's exhibit
19 9.

20 [Whereupon, the witness is shown photograph]

21 Q. Is that the truck that almost ran you off the road?

22 A. Yes.

23 Q. That would be State's exhibit number 9. And Tyrone
24 Robinson asked you specifically if you saw a grey truck?

25 A. Yes, sir.

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1 Q. And what did you tell him?

2 A. I said yes, they almost hit me head-on.

3 Q. What did he say about the grey truck?

4 A. He said them motherfuckers was just shooting at me.
5 They don't know who they are fucking with. I blast back
6 at them.

7 Q. And I understood the first part. Say that one more
8 time. He said -- take your time and speak very clearly
9 please.

10 A. He said them motherfuckers was just shooting at me.
11 They don't know who they messing with, so I shot back at
12 them.

13 Q. Did you see at any point a gun on Tyrone Robinson?

14 A. He showed me a black .38 revolver. He was waving it
15 in the air.

16 Q. He was waving it in the air?

17 A. Yes.

18 Q. And what was he saying while he was waving the black
19 revolver?

20 A. Them motherfuckers don't know who they playing with.

21 Q. Tell me -- when you call it a revolver what do you
22 mean?

23 A. It's a five shooter. It holds the bullets and they
24 shoot it out and it don't leave no shell casings. It
25 stays in the gun.

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1 Q. Is that the one with the little turn -- you pull the
2 trigger and it turns?

3 A. The belly part turns.

4 THE COURT REPORTER: The what?

5 A. The belly part of the gun it turns while you're
6 shooting it.

7 Q. [Mr. Stone] And that's the type of gun Tyrone
8 Robinson had with him that day?

9 A. Yes, sir.

10 Q. When you see the gun what do you do?

11 A. I go back in the house and tell Charlese he had to
12 leave.

13 Q. Let me ask you this. When Tyrone Robinson is
14 holding this gun and saying these people don't know who
15 they are dealing with how far are you away from him?

16 A. About two foot. I was still at my truck ---

17 Q. --- if I am Tyrone Robinson how close do I get to
18 you?

19 [Whereupon, Mr. Stone moves toward the witness]

20 A. Right there.

21 Q. Right here?

22 A. Right there. I was still at my truck at this time
23 and then when I got out to go in the house and tell her
24 that he got to leave.

25 Q. And that's when you went inside to tell her he's got

1 to go?

2 A. Yes.

3 Q. At that point you go in after you see the gun?

4 A. Yes, sir.

5 Q. Did she go out and tell Tyrone he had to leave?

6 A. Yes, sir.

7 Q. When he is saying that those -- and I apologize but

8 these motherfuckers is what he said, is that correct?

9 A. Yes, sir.

10 Q. When he said those motherfuckers don't know who they

11 are dealing with how close are you to him when he says

12 that?

13 A. We're kind of close then.

14 Q. Y'all are pretty much at the same distance that we

15 were before?

16 A. Yes, sir.

17 Q. And at the same time he is waving the gun?

18 A. Yes, sir.

19 Q. And then is that the same time he says he shoots

20 back?

21 A. Yes, sir.

22 Q. Did you see -- and I'm assuming at this point

23 Charlese goes out and tells him to leave. Are you with

24 her when she does that?

25 A. No, sir. I'm in the house.

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1 Q. Okay. Do you see Tyrone Robinson again that day?
2 A. No, sir. I saw him later on.
3 Q. Pardon me?
4 A. He came later on. He came back later.
5 Q. Now let me show you what has been marked as State's
6 exhibit 1.
7 [Whereupon, the witness is shown photograph]
8 Q. Is that a fair and accurate depiction of how Tyrone
9 Robinson looked that day?
10 A. Yes, sir.
11 Q. After Tyrone Robinson -- after Charlese goes out and
12 tells Tyrone Robinson to leave what happens after that?
13 A. Heard some rapid gunfire.
14 Q. About how much -- do you know about how much time?
15 A. It wasn't like no little gun. It was real rapid,
16 real quick.
17 Q. How long after he left did you hear the rapid
18 gunfire?
19 A. I want to say like maybe five or ten minutes after.
20 Q. Okay. So he leaves and then five to ten minutes
21 later you hear this rapid gunfire. How can you describe
22 that?
23 A. It almost sounded like a machine gun.
24 Q. How many shots went off do you know?
25 A. Not exactly.

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1 Q. Now you earlier stated that Robinson had a revolver
2 and that had five...

3 A. Five shots.

4 Q. Five shots, okay. The rapid fire did you hear more
5 than that when you heard the rapid fire shots?

6 A. After the rapid fire that was it. And then about
7 five or ten minutes after that you hear like three more
8 shots.

9 Q. After the first rapid fire what happened after that?
10 Where were the kids at this point?

11 A. They still was outside playing on the trampoline.

12 Q. Which kids were outside?

13 A. My kid, J. S., and K. S.

14 Q. And your kid's name is what?

15 A. X .D.

16 Q. Okay. So X .D. is outside with J. S. and what are
17 they doing?

18 A. Playing on the trampoline.

19 Q. And K. S. and they are all three playing on the
20 trampoline?

21 A. Yes, sir.

22 Q. And that's when you hear the rapid fire?

23 A. Yes, sir.

24 Q. What happens after that?

25 A. We yelled at them and told them to come in the

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1 house. My son ran to the house and the other two went
2 the other direction.

3 Q. Do you know why the other two went the other way?

4 A. I'm not sure.

5 Q. What happens after that?

6 A. That's when we heard the last three shots. When we
7 called them to come in the house then the last three
8 shots and that's when we heard the screaming.

9 Q. And that's when you heard the what?

10 A. Screaming for help.

11 Q. The last three shots did that sound the same as the
12 rapid fire that you heard earlier?

13 A. No, sir.

14 Q. And how was it different?

15 A. The rapid fire was like a [indicates sound] and the
16 last three shots was like a pow, pow, pow.

17 Q. Okay. And then you heard the screaming?

18 A. Yes, sir.

19 Q. What did you do after that?

20 A. We went outside to see what was going on.

21 Q. What did you see?

22 A. We see K. S. laying and a girl holding him trying
23 to bring him back.

24 Q. Trying to bring him back?

25 A. Yes, sir.

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1 MR. STONE: Excuse me just a moment.

2 THE COURT: Yes, sir.

3 [Whereupon, Mr. Stone confers with Mr. Thornton]

4 Q. [Mr. Stone] Let me show you what has been marked as
5 State's exhibit 3 and State's exhibit 2.

6 [Whereupon, the witness is shown photographs]

7 Q. Did you see that car that day?

8 A. Yes, sir.

9 Q. Where did you see this car?

10 A. Leaving then it came back.

11 Q. When did you see him leaving?

12 A. After the three shots.

13 Q. About how much time after the last three shots?

14 A. About ten minutes.

15 MR. STONE: Nothing else at this time, Your Honor.

16 THE COURT: Thank you. Cross-examine Mr. Bax?

17 MR. BAX: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning Mr. Delaney; is it still morning?

4 Well, I guess it is good morning, how you doing?

5 A. How you doing?

6 Q. Mr. Delaney, a couple of questions for you. I'll
7 stay right here so they can see this. Mr. Delaney you
8 testified that you arrived back from work at where you
9 were living with Ms. Mitchell around 4:30 is that right?

10 A. Yes, sir.

11 Q. And that Mr. Robinson was there in the yard?

12 A. Yes, sir.

13 Q. Okay. Now did he have y'all's house phone on him?

14 A. Yes, sir.

15 Q. Okay. Was he making a call when you were there?

16 A. When I got there he was on the phone already.

17 Q. Okay. He was already on the phone.

18 A. Yes, sir.

19 Q. Okay. And then he got off the phone and that's
20 when he talked to you?

21 A. Yes, sir.

22 Q. Okay. And that's when he asked you about the grey
23 truck?

24 A. Yes, sir.

25 Q. Okay. Now when you got home at 4:30 you were -- in

1 the following times you only heard two sets of shots
2 correct?

3 A. Yes, sir.

4 Q. So you didn't hear any shots preceding those two
5 sets of shots, it was just the two sets correct?

6 A. Just the two sets.

7 Q. Okay. Now but before you got there you had this
8 encounter with the grey truck that you have identified in
9 the State's photograph right?

10 A. Yes, sir.

11 Q. Okay. And you've indicated that that happened on
12 Marshland Road correct?

13 A. Spanish Wells Road.

14 Q. Spanish Wells, okay. I'm sorry; Spanish Wells Road.
15 Now Spanish Wells leads you to Marshland and that's why
16 you were on it because you were taking it to get home on
17 Marshland Road correct?

18 A. Yes, sir.

19 Q. Okay. Where you have this encounter with the grey
20 truck about how far is that from where you were living at
21 the time?

22 A. I would say about five or six miles.

23 Q. About five or six miles?

24 A. Yes, sir.

25 Q. Okay. And you've testified that when you heard

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1 that -- let me back up; I'm sorry. At some point Mr.
2 Robinson leaves, correct?

3 A. Yes, sir.

4 Q. Who was it that asked Mr. Robinson to leave was it
5 you or was it...

6 A. Yes, I went to Charlese and asked her to tell him to
7 leave.

8 Q. Okay. So Charlese asked him to leave?

9 A. Yes, sir.

10 Q. Okay. And he left correct?

11 A. Yes, sir.

12 Q. Okay. Now you've testified that he had this gun
13 and he was waiving it around. Now was he waving it
14 around out in the yard?

15 A. Yes, sir.

16 Q. Okay. So he didn't wave it around in the house
17 like you originally reported?

18 A. No, sir.

19 Q. Okay. Do you recall talking to law enforcement
20 about this case?

21 A. Yes, sir.

22 Q. Okay. Do you recall telling them that this
23 happened inside the house and not outside the house?

24 A. No, sir.

25 Q. Okay. So if you had said that before you were

1 confused. It happened outside the house?

2 A. Yes, sir.

3 Q. Okay. Now you indicated that it was about five or
4 ten minutes after Tyrone left that you heard that rapid
5 fire, that machine gun sound.

6 A. Yes, sir.

7 Q. Okay. Did you see who was firing at that time?

8 A. No, sir.

9 Q. Okay. When that happened your son, J. S., and
10 K. S. they were on the trampoline, correct?

11 A. Yes, sir.

12 Q. And at that time they were fine is that right?

13 A. Yes, sir.

14 Q. Okay. So no indication from you that any of the
15 children were wounded in any way?

16 A. No, sir.

17 Q. Okay. And was it you and Charlese or did both of
18 you tell the kids to come in the house?

19 A. Both of us.

20 Q. Both of y'all, okay. And it's your testimony that
21 X.D. came to your house --

22 A. --- yes ---

23 Q. --- because that's where he lives right?

24 A. Yes.

25 Q. And J. S. and K. S. they left going the other way

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1 correct?

2 A. Yes, sir.

3 Q. Now if you wouldn't mind would you step down please
4 for me.

5 [Whereupon, the witness leaves the witness stand]

6 Q. Now Tyrone you've testified that you had lived in
7 that house around two years at that time right?

8 A. Yes.

9 Q. Did you kind of know who lived in the neighborhood?

10 A. No, sir.

11 THE COURT REPORTER: I'm sorry I can't hear you ---

12 Q. [Mr. Bax] --- You didn't really necessarily know?

13 A. No, sir.

14 THE COURT: Mr. Delaney, I'm going to have to ask
15 you if you could generally face the court reporter and
16 speak up. She needs to hear what you're saying okay?

17 THE WITNESS: Okay.

18 MR. BAX: Thank you, Your Honor.

19 Q. [Mr. Bax] Did you know where J. S. lived in this
20 neighborhood over here [indicates]?

21 A. No, sir.

22 Q. Okay. And K. S. did you know where he lived at?

23 A. No, sir.

24 Q. Okay. But did you witness with your eyes K. S.
25 and J. S. heading this way [indicates]?

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1 A. Yes, sir.

2 Q. Okay.

3 MR. BAX: A moment's indulgence, Your Honor. You
4 can take the stand again Tyrone. Thank you.

5 [Whereupon, the witness returns to the stand]

6 [Whereupon, Mr. Bax confers with his client]

7 MR. BAX: Your Honor, no further questions for Mr.
8 Delaney.

9 THE COURT: Thank you. Mr. Stone, redirect?

10 MR. STONE: Just very briefly.

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1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. And I don't know if you can see back here but all of
4 this area here [indicates] I know this all isn't covered
5 in but is this a wooded area back in here [indicates]?

6 A. Yes, sir.

7 Q. And behind this trailer here [indicates] in the
8 center all of that is wooded area as well?

9 A. Yes, sir.

10 MR. STONE: I don't have any further questions for
11 this witness, Your Honor.

12 THE COURT: Thank you, sir. Mr. Delaney, you can
13 step down. Thank you.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

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1 MR. BAX: Your Honor?

2 THE COURT: Yes, sir?

3 MR. BAX: At this time I would request a brief
4 recess as a bathroom break and maybe to move some things
5 around in the courtroom.

6 THE COURT: Okay. It's about time for that. I
7 was going to stop in a few minutes in any event and this
8 will better than trying to interrupt the witness. Folks,
9 we'll take the morning recess at this time. I'm going to
10 send you to your jury room and we'll be back in about
11 fifteen minutes. I'll remind you not to talk about this
12 case among yourselves while you're in the jury room.
13 Thank you.

14 [Whereupon, the jury exits at 11:36 a.m.]

15 THE COURT: Folks, let's try to start back in
16 fifteen minutes. Thank you.

17 MR. STONE: Yes, sir.

18 [Whereupon, court is in recess from 11:37 a.m. until
19 12:02 p.m.]

20 THE COURT: I understand that there may be some
21 efforts to try to get a microphone. The person who is in
22 charge of that is not immediately available but they are
23 working on that. I think the jury probably can hear.
24 I'm not sure that Ms. Rueger can hear and that's my main
25 concern about that. But we'll just try to keep the

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1 witnesses voices up as loud as we can while they are away
2 from the stand and see what we can do to try to minimize
3 that problem. All right Mr. Stone, is the State ready to
4 proceed?

5 MR. STONE: The State is ready, Your Honor.

6 THE COURT: Okay. Mr. Bax?

7 MR. BAX: Your Honor, there was just a couple of
8 housekeeping matters real quickly. One, Ms. Saxon
9 informed me that some of the members of the gallery who
10 are watching that are not involved as far as witnesses
11 have been discussing the case in the -- I'm sure
12 unintentionally -- in the hallway where a lot of
13 witnesses who are under sequester are.

14 So out of an abundance of caution I wanted to make
15 the court aware of that. Just make sure or if it's
16 possible to request the court give an instruction to the
17 gallery that if they would please refrain from discussing
18 testimony outside of the courtroom where they may be
19 around individuals who have been sequestered as witnesses
20 the defense would appreciate that.

21 THE COURT: Folks, and I'm not sure who that is
22 directed toward but in any event I'll just make a blanket
23 instruction. Certainly the witnesses -- I mean the
24 spectators have a right to talk about this case. They
25 are under no constraints not to talk about it but they do

1 have to be mindful of discussing it in the presence of
2 other potential witnesses for the reasons that Mr. Bax
3 has said; it could interfere with the sequestration
4 process which we have in place. So I'm not telling you
5 don't talk about it. You've got every right to talk
6 about it but just be mindful of the fact that if somebody
7 is standing around you that you don't know that person
8 could be a potential witness on this list and so I would
9 urge you to be careful about that and I appreciate your
10 cooperation. Thank you.

11 MR. BAX: Thank you very much, Your Honor. And the
12 only other thing I wanted to bring up, and this can be
13 done at any time really if Your Honor sees fit to do it,
14 I know that in -- the 911 calls that the jury has already
15 heard and the dash cam video of Sergeant Thomas that I
16 expect the jury will see there is convenient
17 transcriptions of what they are hearing.

18 And I have not myself been able to see any
19 necessarily mistakes in that but obviously as Your Honor
20 knows people talk over each other, there are things in
21 the background and I do desire that the jury knows that
22 if they hear something that is not in the transcription
23 they should still take that audio to be what is
24 happening. And just because a transcriptionist says it a
25 little bit differently or doesn't include some background

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1 language or says something differently that the audio
2 itself is the evidence.

3 THE COURT: And I have a charge that I give to the
4 jury at the conclusion, I can give it now, reminding them
5 that the transcripts are simply an aid to assist them in
6 understanding the testimony. As you said their own ears
7 and their own hearing control if there is a distinction
8 between what is printed and what they hear. I can give
9 that now or I can give it at the conclusion as part of my
10 general charge. Which would you prefer?

11 MR. BAX: Well Your Honor since I know they are
12 going to be hearing a lot of things with transcription
13 below it I would ask Your Honor just to briefly address
14 it beforehand. And then if Your Honor sees fit to
15 address it again at the end I have no objection to that
16 either. Thank you, Your Honor.

17 THE COURT: Thank you. Bring us the jury please.

18 THE BAILIFF: The jury is entering the courtroom,
19 Your Honor.

20 [Whereupon, the jury enters at 12:08 p.m.]

21 THE COURT: Folks, I told the other court personnel
22 when I came in there is no such thing as a 15 minute
23 recess. There is always something that has to be done
24 during the recess that takes up that time. So I'm sorry
25 we were late getting you back out here but we're going to

1 continue in a minute as the State continues to offer
2 evidence and testimony. Before I get to that just one
3 point of caution; you've been watching listening to tapes
4 of recordings, 911 recordings and things of that nature
5 and you will continue to hear some of that throughout
6 part of the trial as it continues. And there has been
7 furnished for you transcriptions of what has been said.

8 And that's a help of course to you in understanding
9 because some of this is excited talking and talking over
10 and things like that. It would make it difficult if
11 you're like me and have trouble hearing anyway to discern
12 a lot of what is going on. But I tell you this the
13 transcriptions, that is the transcripts themselves, the
14 transcribed words that you see up there are put up there
15 as an aid to assist you in understanding what is actually
16 being said.

17 Now you're listening to what is being said at the
18 same time and so if you hear something that doesn't sound
19 like what you are reading up there then you go with your
20 hearing and not what you're reading because you can hear
21 too. The printed words are there to be an aid, an
22 assistance to you. And if it turns out that you don't
23 need that assistance that you are perfectly capable of
24 hearing everything that is being said and you hear it
25 well and it's not what they say up there on the printed

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1 screen I can assure you that would be an inadvertent
2 omission. But if you hear it differently than you see it
3 go with what you hear okay. Thank you. Mr. Stone?

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1 MR. STONE: The State calls Brittany Brinson to the
2 stand.

3 THE COURT: Ms. Brinson, come forward please ma'am
4 and be sworn.

5 [Whereupon, Ms. Brinson comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 MR. STONE: Ms. Brinson, how do you spell your last
9 name ma'am?

10 THE WITNESS: B-R-I-N-S-O-N.

11 - - - - -

12 BRITTANY BRINSON,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. STONE:

17 Q. I'm going to get you to pull the microphone a little
18 bit closer to you please ma'am. What do you do Ms.
19 Brinson?

20 A. I'm a registered nurse at Beaufort Memorial
21 Hospital.

22 Q. How long have you been a registered nurse?

23 A. Two and a half years.

24 Q. And that entire time you've spent at Beaufort
25 Memorial Hospital?

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- 1 A. Yes.
- 2 Q. What type of shift work do you do?
- 3 A. At the time it was 7 p.m. to 7 a.m.
- 4 Q. And at the time being September the 1st, 2012?
- 5 A. Yes.
- 6 Q. So you went in every morning at 7 o'clock or I'm
- 7 sorry.
- 8 A. Seven p.m.
- 9 Q. Okay, you went in at 7 p.m. until 7 a.m.
- 10 A. Uh Huh.
- 11 Q. Let me ask if you could first of all where were you
- 12 living at that time?
- 13 A. [REDACTED] Allen Road.
- 14 Q. Do you still live there?
- 15 A. Yes.
- 16 Q. And I know you have seen this model [indicates]
- 17 before is that correct?
- 18 A. Yes.
- 19 Q. Let me ask you -- and I need you to keep your voice
- 20 up -- could you point out where your house is on this?
- 21 Let me go ahead and get you to come down.
- 22 [Whereupon, the witness leaves the witness stand]
- 23 Q. I'll give you this and ask if you could -- that's
- 24 your house there that you're pointing to?
- 25 A. Yes.

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1 Q. And who lives there with you?
2 A. My Mom.
3 Q. And what is your Mom's name?
4 A. Marguerite Washington.
5 THE COURT REPORTER: I need you to speak up please.
6 THE COURT: Ms. Brinson, if you're going to
7 continue to talk Mr. Solicitor I'm going to ask you kind
8 of get down there where you see Mr. Bax standing and
9 facing this direction right here [indicates]. You don't
10 have to go all that way down; just that general direction
11 you'll have to come back to the model of course. If you
12 will face in that direction she'll be able to hear you.
13 He asked you who was your mother I think.
14 Q. [Mr. Stone] Now who was in that house with you?
15 A. Marguerite Washington and my son Kauirik [phonetic]
16 Green.
17 Q. And Marguerite Washington is what to you?
18 A. My mother.
19 Q. So the house itself is going to be registered in Ms.
20 Washington's name?
21 A. Yes.
22 Q. And were you living there at that time?
23 A. Yes.
24 Q. About two years ago I guess.
25 A. Yes.

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1 Q. Tell me what happens around 4 o'clock that
2 afternoon.

3 A. I was sitting in the house with my Mom and we were
4 just talking and I had just gotten up and was about to go
5 to work.

6 Q. Where in the house were you sitting?

7 A. Right here [indicates].

8 Q. Okay. And is that a den area?

9 A. Uh Huh.

10 Q. Okay. And say yes or no just so we can pick
11 everything up.

12 A. Yes.

13 Q. Okay. So you're sitting in the den area and you're
14 talking with your Mom?

15 A. Yes.

16 Q. What happens after that?

17 A. We heard what we thought were fireworks. And I went
18 to go to the back door to see what it was. And I peeked
19 out ---

20 Q. --- what do you mean you heard what sounded like
21 fireworks?

22 A. We thought it was fireworks. We didn't know at the
23 time it was gunshots.

24 Q. Okay.

25 A. So I walked to the back door and I peeked out the

1 window and I didn't see anything. So I opened the door
2 and I saw a man with red shorts on and two beer bottles
3 in his hand.

4 Q. Okay. And where was he when you walked outside the
5 house? I see two doors back here [indicates]. Is this
6 [indicates] the door you're talking about here?

7 A. This [indicates] door, yes.

8 Q. Okay. So you walk out of this [indicates] door.
9 Where do you see the man with the red shorts?

10 A. Between these two ---

11 THE COURT: --- I'm sorry; ma'am keep your voice
12 up; I'm sorry.

13 A. Right here [indicates].

14 Q. [Mr. Stone] Between these two buildings here
15 [indicates]?

16 A. He was coming around the house.

17 Q. So he is coming from around this [indicates]
18 direction when you see him?

19 A. Yes.

20 Q. Okay. And he's wearing red shorts?

21 A. Yes. And he has two beer bottles in his hand.

22 Q. Okay. What do you see after that?

23 A. I saw what I thought at the time was a little boy
24 running with J. S. and the little boy stopped running
25 and J. S. ---

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1 Q. --- let me stop you there. Who is J. S.?

2 A. J. S..

3 Q. J. S.?

4 A. Yes.

5 Q. Okay.

6 A. And the little boy stopped and J. S. kept running.
7 And I looked at him and I said what happened he pointed
8 at the guy in the red shorts and said he did it.

9 MR. BAX: Objection, Your Honor.

10 THE COURT: The little boy himself, is that right?

11 MR. STONE: Yes, sir. This I believe is...

12 THE COURT: I'll overrule that based on the ruling
13 that I made earlier.

14 MR. STONE: Thank you, Your Honor.

15 Q. [Mr. Stone] When you see J. S., and I guess it's
16 J. S.?

17 A. Yes.

18 Q. J. S.?

19 A. Uh Huh.

20 Q. First of all how old is J. S. at that time?

21 A. Maybe eight.

22 Q. And he is running with somebody else?

23 A. Yes.

24 Q. And where are they running? When do you see them,
25 where do you see them?

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1 A. They are running coming from here [indicates] this
2 direction.
3 Q. Coming from this direction [indicates] here?
4 A. Yes.
5 Q. Okay. And then what do you see at that point?
6 A. The little boy stopped running. He fell.
7 Q. And about where did he fall?
8 A. In this [indicates] area.
9 Q. Somewhere in this area [indicates] here?
10 A. Yes.
11 Q. Okay. And then I'm assuming J. S. [REDACTED] continued
12 in this direction [indicates] towards you?
13 A. Yes towards me.
14 Q. So when he gets to you where is the man in the red
15 shorts?
16 A. About in this area [indicates] right here.
17 Q. Okay. So he has come all the way around here
18 [indicates] and he's here [indicates]. Little J. S. [REDACTED] is
19 coming up in this [indicates] direction.
20 A. Yes, towards my back porch.
21 Q. Okay. How far away from J. S. [REDACTED] are you when he
22 points at the man in the red shorts?
23 A. Maybe the distance you are from me.
24 Q. From here [indicates]? I don't know how much that
25 is for the record; probably about three yards or

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1 something maybe. And where is the man in the red shorts?
2 How far away is he?
3 A. Probably where she [indicates] is in the pink shirt.
4 Q. She [indicates] is?
5 A. Uh Huh.
6 Q. Okay. And this is when J. S. points at him?
7 A. Yes.
8 Q. And what does he say at this point?
9 A. He did it.
10 Q. Okay. Where do you see -- what does the man in the
11 red shorts do after J. S. has pointed to him and said he
12 did it?
13 A. He kept walking.
14 Q. He kept walking?
15 A. Uh Huh.
16 Q. Which direction did he walk?
17 A. Around my house this [indicates] way.
18 Q. Okay. And heading in this [indicates] direction
19 over here?
20 A. Yes.
21 Q. Okay. What did you do after that?
22 A. I closed the door and ran to the front of the house
23 and I peeked out the window right here [indicates] and I
24 could see him walking.
25 Q. The man in the red shorts?

1 A. Uh Huh.

2 Q. Still walking?

3 A. Uh Huh.

4 THE COURT REPORTER: Is that yes?

5 A. Yes.

6 Q. [Mr. Stone] Go ahead and take the witness stand.

7 [Whereupon, the witness returns to the stand]

8 Q. At some point in time do you get on the phone with

9 911?

10 A. Yes.

11 Q. And I know they referred I think to Ms. Washington

12 but that would be the house that you were in, Ms.

13 Washington's house, is that correct?

14 A. Yes.

15 Q. That's you on the 911 tape?

16 A. Yes.

17 Q. What do you do after that?

18 A. After?

19 Q. What do you do after this point? You see the man in

20 the red shorts walking in this [indicates] direction here

21 towards I guess the Allen Road area, toward Allen Road?

22 A. Yes.

23 Q. Okay. And what do you do?

24 A. I went back outside and I kind of went towards the

25 little boy on the ground and then I ran back in the house

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1 and called 911.

2 Q. And the little boy on the ground that was K. S.

3 [REDACTED]?

4 A. It was.

5 [Whereupon, Mr. Stone confers with Mr. Thornton]

6 Q. When you -- how many sets of shots did you hear?

7 A. About 10 to 12.

8 Q. Okay. Tell me how -- you first heard the
9 fireworks. Did you hear a series of fireworks -- how did
10 that 10 or 12 shots I'm not sure ---

11 A. --- it was straight through then it was a pause and
12 then about two more shots.

13 Q. Okay. So there was a series of rapid and then a
14 pause and then about two more after that?

15 A. Yes.

16 MR. STONE: No further questions at this time, Your
17 Honor.

18 THE COURT: Thank you. Cross-examine Mr. Bax?

19 MR. BAX: Thank you, Your Honor.
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State v Tyrone Robinson
Brittany Brinson-Cross-Examination by Mr. Bax
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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Ms. Brinson, I'm going to ask you to get down from
4 the stand if you please again.

5 [Whereupon, the witness leaves the witness stand]

6 THE COURT: And once again Ms. Brinson if you will
7 stand on the other side and face in this direction. It's
8 real important that the court reporter hear what you say.
9 Thank you.

10 Q. [Mr. Bax] Thank you, Ms. Brinson. I just want to
11 have this here because I want to make sure that we've got
12 something to refer to. Ms. Brinson you testified that
13 you heard these shots and that you looked out of your
14 back door here [indicates] is that right?

15 A. Yes.

16 Q. Okay. And that Mr. Robinson was coming between
17 these two buildings [indicates]?

18 A. Yes.

19 Q. You testified that he had two bottles of beer in his
20 hands is that right?

21 A. Yes.

22 Q. Did he hold one bottle in each hand?

23 A. Like this [indicates].

24 Q. Like that, okay. Did you see a gun in his hands?

25 A. No.

State v Tyrone Robinson
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1 Q. Okay. Now you've spoken with law enforcement about
2 this case. You gave interviews to law enforcement right
3 after it happened correct?

4 A. Yes.

5 Q. Relaying to them what you've testified to here today
6 right?

7 A. Yes.

8 Q. And do you recall telling them that you looked out
9 here and saw Mr. Robinson within a few seconds of hearing
10 those last sets of shots is that correct?

11 A. Yes.

12 Q. So there was virtually no time after those shots.
13 You peeped out the window and saw -- actually stepped out
14 the back door and saw Mr. Robinson.

15 A. Yes.

16 Q. Without a gun in his hand, correct?

17 A. Yes. He just had two beer bottles.

18 Q. Now and you've also testified -- well, let me back
19 up. When you talked to law enforcement you indicated
20 that right when you looked out you saw young [REDACTED]

21 [REDACTED] K. S. [REDACTED] fall.

22 A. Yes.

23 Q. And that was right as you stepped out, correct?

24 A. Yes.

25 Q. So it was a very short period of time. He wasn't --

State v Tyrone Robinson
Brittany Brinson-Cross-Examination by Mr. Bax
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1 you didn't see him running but you came out and you saw
2 him fall.

3 A. No, I saw him running and then he fell.

4 Q. And then he fell, okay. How many steps did you see
5 him take at most?

6 A. Maybe five to six if I had to guess.

7 Q. Okay. And that was right about the same time that
8 last set of shots rang out is that correct?

9 A. Yes.

10 Q. How much time between the time you heard the last
11 set of shots and when you stepped out that back door?

12 A. I would say maybe 30 or 45 seconds. I mean I didn't
13 immediately get up and run to the back door.

14 Q. Okay. So it was seconds not minutes? It was a
15 very quick period of time correct?

16 A. Yes.

17 Q. Okay. And as soon as you came out a few steps and
18 K. S. fell, is that right?

19 A. Yes.

20 Q. Okay. And J. S. was in front of him, right?

21 A. They were running side by side.

22 Q. And they were running and he was -- so they were
23 side by side?

24 A. J. S. was on his left side.

25 Q. J. S. was on his left side?

State v Tyrone Robinson
Brittany Brinson-Cross-Examination by Mr. Bax
September 16, 2014

1 A. Uh Huh.

2 Q. Okay. Could you tell whether J. S. was a little
3 ahead or a little behind anything like that?

4 A. They were at the same; side by side.

5 Q. They were side by side okay. And they were -- J. S.
6 and K. S. they were headed in this [indicates]
7 direction?

8 A. Yes.

9 Q. Okay. So if you had come out your door you would
10 have been looking at their faces is that right?

11 A. Yes.

12 Q. Okay. Now you testified that you heard what
13 appeared to be or what you thought was fireworks.

14 A. Yes.

15 Q. And I believe you testified under direct that it was
16 two sets.

17 A. Uh Huh.

18 Q. Is that correct?

19 A. Yes.

20 Q. Were you able to tell how much time between the
21 first set and the second set of shots?

22 A. Seconds. It was rapid, pause, pow, pow.

23 Q. Okay. So not a whole lot of time between the two
24 sets of shots?

25 A. No.

State v Tyrone Robinson
Brittany Brinson-Cross-Examination by Mr. Bax
September 16, 2014

1 Q. Could you at all tell from hearing them where they
2 were coming from in your neighborhood?

3 A. Back here in this [indicates] area.

4 Q. Okay. Both sets?

5 A. Yes.

6 Q. Okay. If you will take the stand for me. Thank
7 you.

8 [Whereupon, the witness returns to the stand]

9 [Whereupon, Mr. Bax confers with his client]

10 Q. One brief follow up question Ms. Brinson. When you
11 were speaking with law enforcement do you recall
12 indicating that you also right after the shots heard a
13 car squealing off or heard a car leaving?

14 A. Yes.

15 Q. Okay. So you saw -- you saw Mr. Robinson but you
16 heard a car squealing off, correct?

17 A. After the gun shots.

18 Q. After the gun shots?

19 A. Yes.

20 Q. Did you see a car?

21 A. No.

22 Q. Okay. No further questions. Thank you Ms.
23 Brinson.

24 MR. BAX: Thank you, Your Honor.

25 THE COURT: Redirect?

State v Tyrone Robinson
Brittany Brinson-Redirect Examination by Mr. Stone
September 16, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. You heard the squealing tires after the first set of
4 shots or after the second set of shots?

5 A. After the second after all the gunshots had ceased.

6 Q. Okay. I don't have any further questions.

7 THE COURT: Thank you. You can step down Ms.
8 Brinson. Thank you.

9 [Whereupon, the witness is excused and exits the
10 witness stand]

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State v Tyrone Robinson
Dominique Griffin-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: Dominique Griffin.

2 THE COURT: Come forward Mr. Griffin please and be
3 sworn.

4 [Whereupon, Mr. Griffin comes forward]

5 MR. BAX: Your Honor, may we approach prior to the
6 beginning of his testimony.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 [Whereupon, an off the record bench conference is
10 held]

11 - - - - -

12 DOMINIQUE GRIFFIN,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. STONE:

17 Q. Mr. Griffin, where do you live sir?

18 A. 1 Marshland.

19 Q. How long have you lived at 1 Marshland?

20 A. I would say four years now.

21 Q. So on September 1st, 2012 you lived at that address,
22 is that correct?

23 A. Yes, sir.

24 Q. Now you have seen this model I believe before have
25 you not?

State v Tyrone Robinson
Dominique Griffin-Direct Examination by Mr. Stone
September 16, 2014

1 A. Yes.

2 Q. Could you come show us where your house is located
3 where you live?

4 [Whereupon, the witness steps down from the stand]

5 THE COURT: Excuse me, Mr. Stone. Mr. Griffin, if
6 you will face back in this general direction and keep
7 your voice up. This lady up here in front of me needs to
8 hear everything you're saying okay. Thank you.

9 Q. [Mr. Stone] Where do you live?

10 A. Right here [indicates].

11 Q. And that is -- I'm sorry, you told me the address
12 but I missed it. What is that address?

13 A. 1 Marshland.

14 Q. Okay. Who do you live there with?

15 A. My fiancé and my two kids.

16 Q. And who is your fiancé?

17 A. Savoya [phonetic] Simmons.

18 Q. Now your two kids live there as well. How old are
19 they?

20 A. Nine and two now.

21 Q. So September 2012 newborn I guess.

22 A. Yes.

23 Q. On September 1st, 2012 can you tell me what -- first
24 of all tell me what you were doing that afternoon
25 somewhere around 4 o'clock or 4:30?

1 A. This room right here [indicates] on this front
2 porch.
3 Q. Right.
4 A. I'm in the room with my newborn son.
5 Q. Okay. What are you doing?
6 A. Watching T.V. mostly until I heard numerous
7 gunshots.
8 Q. Tell me about the gunshots.
9 A. It sounded as if it was a machine gun going towards
10 Marshland Road that way [indicates]. But I was on the
11 floor and after that I actually got up.
12 Q. Okay. So you -- did you get on the floor when you
13 heard the shots?
14 A. Yes, sir.
15 Q. And your newborn was with you at the time?
16 A. Yes, he was under me.
17 Q. Okay. What happens after that? What do you do
18 after that?
19 A. I ran out the backdoor to check on my stepson ---
20 Q. --- now who is your stepson?
21 A. J. S. .
22 Q. J. S. ?
23 A. Yes, sir.
24 Q. How old was J. S. then?
25 A. He actually was maybe I would say seven.

State v Tyrone Robinson
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1 Q. Okay. What did you see when go out -- and this is
2 out of the backdoor of this house here [indicates] is
3 that correct?

4 A. Yes, the backdoor is right here [indicates].

5 Q. Keep your voice up so everybody can hear it. You go
6 out the backdoor and what do you see?

7 A. J. S. is running up to me pointing.

8 Q. When you see J. S. what does J. S. look like?

9 A. Crying.

10 Q. He's crying when he walks up to you -- actually he
11 was running ---

12 A. --- running out of breath crying.

13 Q. Running out of breath crying. Is anybody else
14 around?

15 A. At the moment no, it was just me and him. Then the
16 Mr. Robinson guy was coming behind him walking with him
17 or behind him. And he was pointing at him saying he shot
18 K. S., he shot K. S. ---

19 MR. BAX: --- objection, Your Honor.

20 THE COURT: I'll overrule the objection. I think
21 he's established the conditions J. S. was under running
22 out of breath crying establishes his excited utterance.
23 I'll allow it. Thank you.

24 MR. STONE: Thank you, Your Honor.

25 Q. [Mr. Stone] I'm going to show you what has been

State v Tyrone Robinson
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1 marked as State's exhibit 1.
2 [Whereupon, the witness is shown photograph]
3 Q. Do you recognize that person?
4 A. Yes.
5 Q. Speak up for me.
6 A. Yes, sir.
7 Q. Okay. And who is that?
8 A. That's Mr. Robinson.
9 Q. And where did you see Mr. Robinson?
10 A. Between this shed right here [indicates].
11 Q. Yes.
12 A. And the car; walking between coming towards.
13 Q. Okay. And here is -- let's assume this [indicates]
14 is the car. Where was this car parked?
15 A. On the backside of the add-on.
16 Q. Okay.
17 A. By the back door just like that [indicates].
18 Q. Let me show you what has been marked as State's
19 exhibit 2 and ask if you can identify that?
20 [Whereupon, the witness is shown photograph]
21 A. Yes, this is the car.
22 Q. This is the car?
23 A. That's the car that was on the side of my house.
24 Q. How close is J. S. [REDACTED] to you when he comes up to
25 the house?

State v Tyrone Robinson
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September 16, 2014

- 1 A. Not even a feet.
- 2 Q. So he's -- put me where he was to you.
- 3 A. Right here [indicates]. I was standing on the porch
- 4 he was right there [indicates].
- 5 Q. This is as close as far as -- where is Mr. Robinson?
- 6 A. From there he is right here [indicates] right here
- 7 [indicates] by the shed not too far behind.
- 8 Q. So he's coming in from behind J. S. this [indicates]
- 9 way?
- 10 A. Coming from this [indicates] way.
- 11 Q. From this [indicates] way?
- 12 A. Behind.
- 13 Q. And when J. S. says he did it what exactly did he
- 14 say?
- 15 A. He said -- he pointed at him and said he shot
- 16 K. S., he shot K. S.
- 17 Q. He pointed at Mr. Robinson over here [indicates] and
- 18 said that?
- 19 A. Yes, sir.
- 20 Q. Okay. What did Mr. Robinson do when J. S. pointed
- 21 at him and said he shot K. S.?
- 22 A. He didn't do nothing. He just looked as if he had
- 23 to go and actually got in the vehicle and backed up into
- 24 a fig tree, a four by four stick we had holding up the
- 25 fig a tree and left.

State v Tyrone Robinson
Dominique Griffin-Direct Examination by Mr. Stone
September 16, 2014

1 Q. Left in this car?
2 A. Yes, sir. What happened when he backed up into the
3 fig tree?
4 A. His windows were falling in.
5 Q. That's when the glass fell in?
6 A. Yes.
7 Q. Okay. Did Mr. Robinson say anything? Did he --
8 not anything?
9 A. Nothing.
10 Q. Just looked at you?
11 A. That was it.
12 Q. Go ahead and get back on the witness stand.
13 [Whereupon, the witness returns to the stand]
14 [Whereupon, Mr. Stone confers with Mr. Thornton]
15 Q. How did Mr. Robinson look to you when you looked at
16 him?
17 A. Like it was -- like it was actually up to having to
18 hurry up and leave in a hurry. Like you know I got to
19 go. Like I got to go.
20 Q. But he didn't say anything to you?
21 A. No.
22 Q. No further questions, thank you. If you don't mind
23 answering any questions he's got.
24 THE COURT: Thank you. Mr. Bax, cross-examine?
25 MR. BAX: Thank you, Your Honor.

State v Tyrone Robinson
Dominique Griffin-Cross-Examination by Mr. Bax
September 16, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. You can stay right there. I appreciate it Mr.
4 Griffin. And I know you can't see it from right here but
5 I know your own house. I think you indicated when you
6 came out of the house to find out what was going on to
7 check on J. S. you came out the back door is that
8 correct?

9 A. Yes, sir.

10 Q. And there is a little porch rail like a little porch
11 right here [indicates] right next to Mr. Robinson's car.

12 A. Yes, sir.

13 Q. That's where you came out?

14 A. Yes, sir.

15 Q. Okay. Why did you choose to come out the backdoor?

16 A. Because the front door never opens.

17 Q. Well, that's a good answer. When you heard the
18 gunfire could you tell what direction it was coming from?

19 A. If I may I can get up and...

20 Q. Come on down.

21 [Whereupon, the witness steps down from the stand]

22 Q. Stand on that [indicates] side for me.

23 A. It sounded as if it started here [indicates] and
24 continued down that way [indicates].

25 Q. Okay. Now you can go ahead and have a seat on the

State v Tyrone Robinson
Dominique Griffin-Cross-Examination by Mr. Bax
September 16, 2014

1 stand. I'm not going to ask you down again I promise.

2 [Whereupon, the witness returns to the stand]

3 Q. You've testified to what your stepson J. S. told
4 you outside the house right as he was running up
5 breathless and crying correct?

6 A. Yes.

7 Q. Now -- but he lives with you right?

8 A. Yes.

9 Q. Your stepson he's Savoya's son correct?

10 A. Yes.

11 Q. Okay. Did you later take him into the house that
12 day and ask him exactly what he saw?

13 A. No, I took him into the house. I didn't ask him.

14 Q. Okay. Did he tell you what he saw?

15 A. Yes.

16 Q. What did he tell you?

17 A. He shot K. S. .

18 Q. Did he ever say that he didn't actually see anyone
19 shoot anything?

20 A. No, I didn't go into details or anything. I just
21 went by what he told me when I came out the backdoor he
22 shot K. S. , he shot K. S. ; he was pointing at him.

23 Q. Okay. So there was no further discussion inside
24 the house by you?

25 A. No.

State v Tyrone Robinson
Dominique Griffin-Cross-Examination by Mr. Bax
September 16, 2014

1 MR. BAX: A moment's indulgence, Your Honor.

2 THE COURT: Yes, sir.

3 [Whereupon, Mr. Bax confers with his client]

4 Q. [Mr. Bax] Some final questions Mr. Griffin. Now
5 when you came out of the house you've testified that you
6 saw your son and you saw Mr. Robinson, correct?

7 A. Yes.

8 Q. Okay. Did you see what Mr. Robinson was holding?
9 Was he holding anything in his hands?

10 A. No, I didn't see all that.

11 Q. You didn't see anything that he was holding?

12 A. No.

13 Q. Did you see him with a gun?

14 A. No.

15 Q. Okay. Did you have a gun?

16 A. No.

17 Q. Okay. Do you own a firearm?

18 A. No.

19 Q. Did you own a firearm at that time?

20 A. No.

21 Q. No further questions. Thank you.

22 THE COURT: Thank you. Redirect?

23 MR. STONE: Nothing else, Your Honor.

24 THE COURT: Thank you Mr. Griffin, you may step
25 down.

State v Tyrone Robinson
Dominique Griffin-Cross-Examination by Mr. Bax
September 16, 2014

1 THE WITNESS: Yes, sir.

2 [Whereupon, the witness is excused and exits the

3 | witness stand]

State v Tyrone Robinson
Bennie Lee Hamilton-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: The State calls Bennie Lee Hamilton.

2 THE COURT: Mr. Hamilton, come forward please sir
3 and be sworn.

4 [Whereupon, Mr. Hamilton comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 BENNIE LEE HAMILTON,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. State your full name please sir?

14 A. Bennie Lee Hamilton.

15 Q. I need you to pull the microphone a little bit
16 closer to you please.

17 A. Bennie Lee Hamilton.

18 Q. How do you spell your last name, sir?

19 A. H-A-M-I-L-T-O-N.

20 Q. You're here under my subpoena is that correct?

21 A. Correct.

22 Q. May I ask you specifically about September the 1st,
23 2012? Did you see Tyrone Robinson that day?

24 A. Yes, sir.

25 Q. Okay. Let me get you to pull the microphone a

State v Tyrone Robinson
Bennie Lee Hamilton-Direct Examination by Mr. Stone
September 16, 2014

1 little bit closer to you.

2 A. Yes, sir.

3 Q. Where did you see Tyrone Robinson?

4 A. In Spanish Wells around Muddy Creek.

5 Q. Specifically whose house?

6 A. At Snake's house.

7 THE COURT REPORTER: At whose house?

8 Q. [Mr. Stone] Who is Snake?

9 A. Joseph.

10 Q. Bryant?

11 A. Right.

12 Q. That's Snake Bryant?

13 A. Yes.

14 Q. And where is that house located? I know it's in the

15 Spanish Wells area. Do you know what street that's on?

16 A. On Bryant Road.

17 Q. And that is going to be I guess as you go down

18 Marshland Road that will be off to the left? If you're

19 going away from the Cross Island Expressway it will be

20 over to the left, is that right?

21 A. Yes.

22 Q. Okay. What were you doing? You're at Bryant's

23 house when you see Tyrone Robinson. How do you see

24 Tyrone Robinson? Tell me about that encounter.

25 A. He just came in the house with no shirt on and some

State v Tyrone Robinson
Bennie Lee Hamilton-Direct Examination by Mr. Stone
September 16, 2014

1 gym shorts and like two beers in his hand. That's how he
2 came in.

3 Q. Okay. Did he ask you for help?

4 A. Yes. He asked me what I thought he should do?

5 Q. Did he tell you anything about where he had been?

6 A. Said he had been in a shootout.

7 Q. Said he had been in a shootout?

8 A. He said some others had been shooting at him.

9 Q. Okay. And did he specifically tell you he had been
10 in a shootout?

11 A. Yes. He said some fellows were shooting at him and
12 there has been in a shootout or something like that.

13 Q. Did he tell you that there was a child involved?

14 A. He said a little kid got shot or something like
15 that. A little kid got shot.

16 Q. Did he say if he had shot back at the people that
17 were shooting at him?

18 A. No, he didn't say exactly like he was shooting back
19 but it was like a shootout and I think that ---

20 MR. BAX: --- objection, Your Honor.

21 THE COURT: I'll sustain the objection.

22 Q. [Mr. Stone] Tell me exactly what he said.

23 A. He said he's been in a shootout on Allen Road and
24 the guys were trying to shoot him and a little kid got
25 shot.

State v Tyrone Robinson
Bennie Lee Hamilton-Direct Examination by Mr. Stone
September 16, 2014

1 Q. Did he tell you whether or not he shot?

2 A. No, he didn't say that he was shot -- shooting
3 either. He didn't say that he was shooting but there was
4 a shootout.

5 Q. Okay. What kind of help did he ask you for?

6 A. He asked me to take him to the police station.

7 Q. What else did he ask you for?

8 A. He asked if -- he used my phone and he asked if
9 there was any bleach in the house and stuff.

10 Q. He asked you for bleach?

11 A. Yes.

12 Q. Did you have any bleach at the house?

13 A. No.

14 Q. What did you have?

15 A. It wasn't my house I didn't have it. But what was
16 in the house was vinegar.

17 THE COURT: I'm sorry?

18 THE COURT REPORTER: I'm sorry I couldn't hear you.
19 You said vinegar; is that what you said?

20 A. Yes.

21 Q. [Mr. Stone] What did he do with the vinegar?

22 A. Cleaning his hands.

23 Q. He put the vinegar on his hands? Tyrone Robinson
24 put the vinegar on his hands?

25 A. Correct.

State v Tyrone Robinson
Bennie Lee Hamilton-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: Excuse me just a moment, Your Honor.

2 THE COURT: All right.

3 [Whereupon, Mr. Stone confers with Mr. Thornton]

4 Q. [Mr. Stone] That afternoon do you recall -- actually
5 a couple of days later do you recall speaking to an
6 investigator with the Beaufort County Sheriff's Office?

7 A. Yes.

8 Q. Do you also recall speaking to an investigator with
9 my office?

10 A. Yes.

11 Q. And do you recall the question coming up concerning
12 whether or not Mr. Robinson had shot at Allen Road?

13 A. Did he shoot?

14 Q. Yes? Do you recall being asked if Mr. Robinson told
15 you that he had shot at Allen Road?

16 A. I'm not sure. I just know it was shootout so I'm
17 expecting that both sides were shooting.

18 Q. And that's information you got from Mr. Robinson?

19 A. Yes, sir. It was a shootout.

20 MR. STONE: Nothing else at this time, Your Honor.

21 THE COURT: Thank you. Mr. Bax, cross-examine?

22 MR. BAX: Thank you, Your Honor.

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1 CROSS EXAMINATION

2 BY MR. BAX:

3 Q. Mr. Hamilton, you testified on direct that you did
4 speak to some law enforcement officers about what you've
5 just testified to back when it happened right?

6 A. Yes.

7 Q. Okay. Now did they come to the house over on Muddy
8 Creek or?

9 A. They met me on Muddy Creek.

10 Q. On Muddy Creek?

11 A. Yes.

12 Q. Okay. And this all occurred at a residence near
13 there, correct? Is that an apartment or a trailer?

14 A. Excuse me; what all occurred there?

15 Q. When you allege Mr. Robinson came over to Snake's
16 house ---

17 A. --- oh, yes ---

18 Q. --- is that a house, a trailer ---

19 A. --- yes, his trailer.

20 Q. It's a trailer? Okay. Now do you recall that when
21 you spoke with law enforcement you gave a written
22 statement that they asked you if you'd be willing to and
23 you wrote out a statement?

24 A. Right.

25 Q. Okay. Do you recall that in that statement you

State v Tyrone Robinson
Bennie Lee Hamilton-Cross-Examination by Mr. Bax
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1 indicated that Mr. Robinson said the other men shot the
2 little boy; that they were trying to shoot him and they
3 shot the little boy? Do you remember that?

4 A. I remember him saying -- he was saying that yes, it
5 was something like that they were trying to shoot him and
6 the killed the little boy.

7 Q. Okay. So you recall that and that's what you told
8 the police and put in your written statement, correct?

9 A. Yes and that it was a shootout, too.

10 Q. Thank you.

11 MR. BAX: A moment's indulgence.

12 [Whereupon, Mr. Bax confers with his client]

13 MR. BAX: No further, Your Honor.

14 THE COURT: Thank you.

15 MR. STONE: Just briefly.

16 THE COURT: Yes, sir.

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State v Tyrone Robinson
Bennie Lee Hamilton-Redirect Examination by Mr. Stone
September 16, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. Do you recall when telling the law enforcement
4 officers that Mr. Robinson said the Youngs shot at the
5 kid or was shooting at him and hit the kid, do you recall
6 that?

7 A. Yes. He said that they were trying to shoot him and
8 they killed the little boy.

9 Q. And in that same statement as he is talking to law
10 enforcement do you recall him saying that he went down
11 the road a little bit and shot back?

12 A. I believe I might have said -- I'm sorry; I may have
13 said that, yes.

14 Q. That's fine.

15 MR. STONE: Nothing else, Your Honor.

16 THE COURT: Thank you. Mr. Hamilton, you may step
17 down.

18 [Whereupon, the witness is excused and exits the
19 witness stand]

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State v Tyrone Robinson
Proceedings
September 16, 2014

1 THE COURT: We'll take a morning -- the lunch break
2 at this point in time if that's okay Mr. Solicitor unless
3 you've got somebody else that has to testify before
4 lunch?

5 MR. STONE: We're flexible. Thank you, Your Honor.

6 THE COURT: Folks, this is a good time for us to
7 take a lunch recess. We'll be in recess until 2 o'clock.
8 If you will be back in the jury room that's an hour and
9 15 minutes; I think that's enough time for you. Please
10 remember as always not to talk about this case with
11 anybody while you're out of the courtroom or among
12 yourselves when you get back at 2 o'clock. We'll start
13 back at 2 o'clock this afternoon. Thank you.

14 [Whereupon, the jury exits at 12:45 p.m.]

15 THE COURT: Mr. Stone, anything from the State
16 before we break for lunch?

17 MR. STONE: No sir, not from the State.

18 THE COURT: Thank you. Mr. Bax, from the defense
19 before we break?

20 MR. BAX: No, Your Honor.

21 THE COURT: Thank you. 2 o'clock folks. Thank
22 you.

23 [Whereupon, court is in recess from 12:45 until 2:00
24 p.m.]

25 THE COURT: Thank you, ladies and gentlemen.

State v Tyrone Robinson
Proceedings
September 16, 2014

1 Please be seated. Good afternoon. Is the State ready to
2 proceed?

3 MR. STONE: The State is ready, Your Honor.

4 THE COURT: Mr. Bax, is the defense ready?

5 MR. BAX: Yes, Your Honor.

6 THE COURT: Please bring us the jury.

7 THE BAILIFF: The jury is entering the courtroom,
8 Your Honor.

9 THE COURT: Thank you, ma'am.

10 [Whereupon, the jury enters at 2:02 p.m.]

11 THE COURT: Thank you ladies and gentlemen for your
12 prompt return from lunch. We're now ready to resume the
13 trial where we left off before lunch. The State is
14 continuing to offer evidence and testimony. Mr. Stone?

15 MR. STONE: Yes, sir.
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State v Tyrone Robinson
Martin Thomas-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: The State calls Martin Thomas to the
2 stand.

3 THE COURT: Mr. Thomas, come forward please and be
4 sworn.

5 [Whereupon, Mr. Thomas comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: Would you state your name and
9 spell your name for the record please.

10 THE WITNESS: Martin Thomas, M-A-R-T-I-N
11 T-H-O-M-A-S.

12 - - - - -

13 MARTIN THOMAS,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. STONE:

18 Q. And you're obviously with the Beaufort County
19 Sheriff's Office is that correct?

20 A. Yes, sir.

21 Q. How long have you been with the Sheriff's office?

22 A. Almost 14 years.

23 Q. In September of 2012 you were with the Sheriff's
24 Office at that time?

25 A. That's correct.

1 Q. What were your job duties? What did you do with the
2 Sheriff's Office at that point?

3 A. I was a supervisor on the southern -- on the
4 enforcement division on the southern side, on the Hilton
5 Head side.

6 Q. When you say enforcement division what is that
7 exactly?

8 A. It's a road officer. I respond to calls for
9 service, I assist the road officers with whatever duties
10 or whatever things that they need assistance with.

11 Q. Specifically around 4 o'clock or so September the
12 1st, 2012 did you respond to the Allen Road area?

13 A. I did.

14 Q. Now your car, the patrol car that you drive is it
15 equipped with a camera?

16 A. It is.

17 Q. And is there also equipment in that car for audio
18 tape?

19 A. There is.

20 Q. Do you have a body mic of any sort that is on you,
21 on your uniform?

22 A. On my belt, yes.

23 Q. Now if the camera is rolling and videotaping is it
24 also picking up sound at the same time?

25 A. It can be.

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1 Q. And if you are -- for instance if you park your
2 patrol and you leave your patrol car is there a process
3 in which the body mic can stay on?

4 A. Yes.

5 Q. How does that work?

6 A. There is an actual button on the body mic that you
7 have turn on in the morning or at the beginning of your
8 shift when you put it on your belt.

9 So either I can activate the camera by the body mic
10 itself if I'm standing outside the car or if I turn on
11 the blue lights or sirens the camera system will engage,
12 which also engages my body mic if the body mic button has
13 been turned on. You can turn it on from the actual
14 camera itself or from the machine down on the console.

15 Q. Did you have the videotape or the camera in the car
16 working and was it on as you responded to the Allen Road
17 incident?

18 A. I did. I was running lights and siren.

19 Q. Did you also have when you got out of your car at
20 Allen Road did you also have your body mic on?

21 A. I did.

22 Q. All of that is recorded I'm assuming into some type
23 of database is that correct?

24 A. Right. For my particular camera there is 7.4 gigs
25 or whatever it is and then that is maintained in the

1 system and then when you drive by one of the hotspots
2 it's automatically uploaded on to the server.

3 Q. When you arrived at Allen Road were you -- were
4 there a number of other officers already there or were
5 you one of the first ones there? How did that happen?

6 A. There were two officers already there and I was the
7 third. I was the first supervisor on scene.

8 Q. And what was your job when you got there? What was
9 your initial job duty when you responded?

10 A. Probably for crime scene containment. At that point
11 we didn't have a lot of information on who the shooter or
12 shooters were. So part of my job is to make sure the
13 officers are containing the crime scene and to obtain any
14 information that I had and relay that on to my supervisor
15 over the air.

16 Q. At some point during your time on Allen Road did you
17 come across Tyrone Robinson?

18 A. I did.

19 Q. And how did that happen?

20 A. I went from the actual location where the little boy
21 was and further when I was actually looking for a witness
22 that everybody was calling Savoya who witnessed the
23 incident so that I could get information to relay that
24 over. So if you're looking at the crime scene to the
25 right is where that young boy was and to the left, which

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1 is split by my patrol car and there is another house I
2 went around the backside of that trailer or that home to
3 look for this lady named Savoya who I never found.

4 Q. Okay. Now Tyrone Robinson -- let me show you what
5 has been marked as State's exhibit 1 and ask if you can
6 tell me is that a fair and accurate depiction of how
7 Tyrone Robinson looked that day when you saw him.

8 [Whereupon, the witness is shown photograph]

9 A. Yes.

10 Q. Okay. And do you see Tyrone Robinson in the
11 courtroom today?

12 A. Yes, I do.

13 Q. And can you point him out for me please?

14 A. He's the gentleman sitting in the salmon colored
15 shirt between the two counselors.

16 Q. Have you reviewed -- let me show you what has been
17 marked as State's exhibit 4 and ask if you have reviewed
18 that disk?

19 [Whereupon, the witness is shown exhibit]

20 A. Yes sir, my initials are on the disk.

21 Q. Is that a fair and accurate depiction of what your
22 camera picked up and what your body mic picked up?

23 A. Yes, sir.

24 Q. And there is a transcript that goes along with that.
25 Have you reviewed that as well?

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1 A. I have.

2 Q. And is that accurate as to what is going on in that
3 video?

4 A. It is.

5 Q. Now the video itself does not move is that correct?
6 The video ---

7 A. --- not unless you move it.

8 Q. Pardon me?

9 A. Not unless you move it physically.

10 Q. Okay. So during this video we are going to watch
11 that's just showing the outside of the car. The body mic
12 goes with you no matter what?

13 A. That's correct.

14 MR. STONE: At this time, Your Honor, we'd move
15 State's exhibit 4 into evidence.

16 THE COURT: Subject to the previous objection?

17 MR. BAX: That's correct, Your Honor. Thank you.

18 THE COURT: Thank you. State's 4 in evidence.

19 [Whereupon, State's exhibit number 4 is entered into
20 evidence by the court]

21 MR. STONE: We have already loaded that.

22 [Whereupon, the C.D. plays] [Not taken down]

23 MR. STONE: No further questions at this time, Your
24 Honor.

25 THE COURT: Thank you. Mr. Bax?

State v Tyrone Robinson
Martin Thomas-Cross-Examination by Mr. Bax
September 16, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good afternoon, Sergeant Thomas.

4 A. Good afternoon, sir.

5 Q. A couple of quick questions for you. Obviously
6 you've testified already that Mr. Robinson came up to you
7 while you were in that area trying to find Savoya I
8 believe it was, is that correct?

9 A. That's correct.

10 Q. Okay. And for the jury about how far were you from
11 your patrol unit when you were approached by Mr.
12 Robinson?

13 A. A guesstimate; a couple hundred yards on the other
14 side of the house that was closest to my car.

15 Q. Okay. During the time obviously we can't see you
16 or Mr. Robinson on this video because that camera is
17 aimed straight out the front of your vehicle, is that
18 correct?

19 A. That's correct.

20 Q. Okay. While you're talking with Mr. Robinson do
21 you stay in one place or do you move around a little bit?

22 A. We move around a little bit from when I was looking
23 for Savoya to when I encountered him to the very end when
24 I put him in the car.

25 Q. Okay. And we hear on this video that Mr. Robinson

1 is trying to show you his vehicle, is that correct?

2 A. That's correct.

3 Q. During that period of time where we hear you and Mr.
4 Robinson conversing do you go over and look at his car
5 for a brief period of time?

6 A. We do.

7 Q. Okay. And what did you observe when you saw his
8 car?

9 A. The back windshield was shattered.

10 Q. Okay. I'm going to show you what's marked as
11 State's 2 and State's 3.

12 MR. BAX: Approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 Q. [Mr. Bax] Let me pass those both to you Sergeant.

15 [Whereupon, the witness is shown photographs]

16 Q. Is that the vehicle that Mr. Robinson showed you
17 that day?

18 A. Yes sir, I believe it is.

19 Q. Did it appear in basically that same condition when
20 you saw it that day?

21 A. Yes, sir.

22 Q. Okay. And are there what appears to be visible
23 bullet holes in that car?

24 A. From this picture [indicates] I see a bullet hole.

25 Q. Okay. And does the back windshield appear to be

State v Tyrone Robinson
Martin Thomas-Cross-Examination by Mr. Bax
September 16, 2014

1 broken in some way?

2 A. It's completely shattered out.

3 Q. Completely shattered out, okay. Now it seemed like
4 from what we heard on the video that you were concerned
5 about both your safety and Mr. Robinson's safety because
6 there seemed to be a lot of people gathering around is
7 that right?

8 A. That's correct.

9 Q. Okay. As a result of that it sounded like you were
10 trying to get transportation for Mr. Robinson out of the
11 area is that right?

12 A. That's correct.

13 Q. Okay. And I believe what we heard was you calling
14 for one of your other officers to bring their vehicle
15 around is that right?

16 A. That's correct. The officer was standing right next
17 to me.

18 Q. Okay. And which officer was that Sergeant?

19 A. Corporal Lehr [phonetic].

20 Q. Now I noticed in the video that you are talking with
21 Mr. Robinson saying we're going to get you in the car and
22 he in fact says yes, I'll get in the car and then there
23 is a break in the video. Was that at the time in which
24 you put him in Lehr's car?

25 A. I don't recall the break. But no, him going into

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1 Lehr's car has nothing to do with my body mic.

2 Q. I understand, I understand. I'm just trying to
3 ascertain during the course of this video when Mr.
4 Robinson is put in the car. You had a conversation with
5 the young gentleman named J. S. [REDACTED] and we
6 hear that on the video correct?

7 A. That's correct.

8 Q. Okay. Had you put Mr. Robinson in Lehr's car
9 before that happened?

10 A. Yes.

11 Q. And had Mr. Lehr or Officer Lehr taken Tyrone
12 Robinson off scene before you talked with J. S.
13 [REDACTED]?

14 A. Yes.

15 Q. Okay. So when we hear you speaking with the young
16 boy Mr. Robinson is no longer on scene at that time?

17 A. That's correct. And I would have already walked
18 crossed back over the street to the general area where
19 the incident took place.

20 Q. Okay. Can you recall exactly how long between the
21 time that Mr. Robinson left with Mr. Lehr or Officer Lehr
22 and when you spoke to the young boy?

23 A. A very short time. A couple of minutes maybe, five
24 minutes; that's just a guess.

25 Q. Okay.

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1 MR. BAX: A moment's indulgence, Your Honor.

2 THE COURT: All right, sir.

3 [Whereupon, Mr. Bax confers with his client]

4 MR. BAX: Thank you, Your Honor. No further
5 questions at this time.

6 THE COURT: Thank you. Mr. Stone, redirect?

7 MR. STONE: Just briefly.

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State v Tyrone Robinson
Martin Thomas-Redirect Examination by Mr. Stone
September 16, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. I want to make sure. All of the conversation that
4 you had with Tyrone Robinson was on this video is that
5 correct?

6 A. Yes, sir.

7 Q. And this was an accurate video as to that
8 conversation?

9 A. Yes, sir.

10 Q. I notice a number of times he asked you to look at
11 his car and asked why my car is so shot up and all this
12 kind of stuff is that right?

13 A. That's correct.

14 Q. Did he ever ask you how the kid was doing?

15 A. No, sir.

16 MR. STONE: Nothing else, Your Honor.

17 THE COURT: Thank you. Any follow up Mr. Bax?

18 MR. BAX: Yes, briefly Your Honor.

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25

2 BY MR. BAX:

5	A. He did.

9 A. Yes sir, that's correct.

10 Q. Sergeant Thomas, were you in uniform that day?

11 | A. I was.

12 Q. Okay. And there were police cars in that vicinity
13 that could be seen where you were at correct?

14	A. Yes, sir.

15 Q. Visible units. Did any of them have their blue
16 lights going?

17 | A. I would say all of them probably did.

18	Q. Okay. Thank you.

19 THE COURT: Thank you. Mr. Stone, you've got the
20 last word.

21 MR. STONE: Nothing else, Your Honor.

22 THE COURT: Thank you. Officer, you can step
23 down. Thank you.

24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: Corporal Wendy Conant.

2 THE COURT: Ms. Conant, come forward please ma'am
3 and be sworn.

4 [Whereupon, Ms. Conant comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: Please state your name and spell
8 it for the record.

9 THE WITNESS: Wendy Conant, W-E-N-D-Y, C-O-N-A-N-T.

10 - - - - -

11 WENDY CONANT,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. STONE:

16 Q. And I called you Corporal is that correct?

17 A. That's correct.

18 Q. And you are with the Beaufort County Sheriff's
19 Office?

20 A. I am.

21 Q. What are your job duties with the Sheriff's Office?

22 A. I am currently an evidence technician. At the time
23 of this incident I was an investigator.

24 Q. Did you get called to the Hilton Head substation
25 concerning the shooting on Allen Road on September 1st,

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 16, 2014

1 2012?

2 A. I did.

3 Q. Tell me about that.

4 A. We get called out. I was at home obviously and I
5 responded to the area of Allen Road where the incident
6 had occurred. And I was given instruction to follow
7 Corporal Lehr to the Hilton Head substation. He had the
8 defendant in his car and I was to interview him at the
9 office.

10 Q. And the defendant being Tyrone Robinson?

11 A. That's correct.

12 Q. Let me show you what has marked as State's exhibit
13 1.

14 [Whereupon, the witness is shown photograph]

15 Q. Is this the man that you dealt with that day Tyrone
16 Robinson?

17 A. Yes.

18 Q. Now you followed behind Lehr. Did you go directly
19 to the Hilton Head substation?

20 A. Yes, we did.

21 Q. And once you got there did Mr. Robinson go into an
22 interview room?

23 A. Yes, he did.

24 Q. Now what was your primary function when you got to
25 the interview room with Mr. Robinson?

1 A. Initially I needed to do a gunshot residue evidence
2 collection kit, which we also call a G-S-R on his hands.

3 Q. How does that work?

4 A. It is a sealed kit that we receive and it contains
5 various components for checking a person's hands for
6 elements of gunshot residue.

7 We test his hands and those test results are sent up
8 to SLED for processing and SLED determines if there is
9 any gunshot residue on the hands.

10 Q. So you don't actually do the testing itself; you
11 just do the taking the sample.

12 A. Correct. I just take the samples and then I seal all
13 those samples in a bag and it goes up to SLED.

14 Q. Okay. And how do you take the sample off the
15 hands?

16 A. There are two different ways. There is one
17 component that has a little cap. You take the cap off
18 and underneath is a little black sticky patch. And that
19 sticky patch will pick up residue. So you do that on the
20 palms of his hands.

21 There is also another type in there where its swabs
22 and you wet them with a little bit of saline solution and
23 you again swab the hands with that as well. And you do
24 both the left and the right.

25 Q. And did you take gunshot residue tests from Tyrone

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 16, 2014

1 Robinson's hands?

2 A. I did.

3 Q. And did you seal them in that package afterwards?

4 A. I did.

5 Q. Is this a package provided to you by SLED?

6 A. Correct.

7 Q. And SLED is the State Law Enforcement Division is
8 that correct?

9 A. Yes.

10 Q. Okay. Let me show you what has been marked as
11 State's exhibit 24 and ask if you could identify that for
12 me please?

13 [Whereupon, the witness is shown exhibit]

14 A. This is the gunshot residue evidence collection kit
15 that I collected when I processed the hands of Tyrone
16 Robinson.

17 Q. Now when you take that type of test do you do it --
18 there are some initials on the outside. There are some
19 stickers on this, any of that coming from you? What
20 comes from you and what comes from somebody else?

21 A. I complete the front of the bag. There is a line
22 for subject's name. It says Tyrone Lorenzo Robinson.
23 The officer's name is the person who collected and its
24 myself, Wendy Conant. I put on my badge number, in this
25 case C-3776. The agency I represent Beaufort County

1 Sheriff's Office, and our case number and it was
2 20120901-707. These lines below are a chain of
3 possession and that gets completed when it's turned into
4 evidence.

5 So I signed it over to evidence on September 4th,
6 2012 at 12:30 and the person that received it from me was
7 Ms. Snyder and she received it at I think that says 12:30
8 hours.

9 Q. Now Ms. Snyder worked I think at that time she
10 worked in your evidence room, is that correct?

11 A. She did.

12 Q. Now how does that process work? You take the test,
13 you put it in this envelope, you fill it out, you turn it
14 into evidence is that correct?

15 A. Correct.

16 Q. What happens to it after you put it into evidence?

17 A. Evidence assigns a container number to it and that's
18 the white sticker that is on the back of it. It has a
19 container number, which is related to this specific item.
20 Each item in the case has a different container number.

21 It has the case number, the date that they received
22 it, and the receiving agency the Beaufort County
23 Sheriff's Office. And when I had given it them I had
24 also put this red seal on there and it had my initials
25 and that's how they can tell if it has been tampered

State v Tyrone Robinson
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September 16, 2014

1 with. If somebody tries to peel this back it will shred
2 or the red will stick to the bag and you can tell it has
3 been tampered with.

4 Q. So from your -- now the yellow I think -- what is
5 the yellow tape?

6 A. The yellow is all SLED and there is a SLED -- when
7 we bring it up to SLED they assign their own item number
8 to it so that's their yellow sticker.

9 And when they process it they have to get inside the
10 bag so they have to also reseal it so the yellow tape is
11 then resealing it after it has been processed.

12 Q. So the red seal you put on it and it stays in this
13 package and it goes to SLED and then they open the
14 package and -- so when it's in the evidence room nobody
15 is able to open this without breaking the red seal is
16 that correct?

17 A. Correct.

18 Q. When you put this -- when you took this test from
19 Tyrone Robinson and you put it in the bag did you change
20 or alter it in any way? Did you do anything to it other
21 than put it back in the package and seal it?

22 A. I did not. We even have a standard set of questions
23 or a form that comes with it telling us how to do it and
24 it's step by step and you always follow that same form on
25 how to do the process.

1 Q. Okay. And then at that point you put it into
2 evidence is that correct?

3 A. Correct.

4 Q. Okay. Now, at some point in time while you are
5 talking to Mr. Robinson do you also read him his rights?

6 A. I do.

7 Q. Now this is -- I recognize we've already had a video
8 of him already having his rights read to him but you
9 weren't there at that point is that correct?

10 A. I was not there.

11 Q. So this is when you arrive at the Sheriff's Office?

12 A. Yes.

13 Q. Now how do you do that?

14 A. This was after his G-S-R. And we have a standard
15 form we use where we read it to the person and we have
16 them read along with us. And I used our standard form
17 for that.

18 Q. Okay. Let me show you what has been marked as
19 State's exhibit 5 and ask if you can identify this
20 please?

21 [Whereupon, the witness is shown document]

22 A. This is our Beaufort County Sheriff's Office Miranda
23 Warning form.

24 Q. Is that the form that you read to Tyrone Robinson?

25 A. Yes, it is.

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Wendy Conant-Direct Examination by Mr. Stone
September 16, 2014

1 Q. Now the writing on that form is that your writing or
2 Mr. Robinson's?

3 A. It's a little bit of both of ours. The case number
4 at the top is my handwriting, the location where the
5 Miranda was issued, which was our office at Shelter Cove
6 Lane is my handwriting.

7 The name was completed by Tyrone Robinson. I
8 completed the date of birth of 8-31-75. In the statement
9 of rights section there are four lines for initials and
10 Tyrone placed his initials on those lines.

11 There is a waiver of rights section where you can
12 check off yes or no and there are two lines for that and
13 that is Tyrone's handwriting.

14 And then the form is signed and witnessed. Tyrone
15 signed it and dated it and put the time on it and then I
16 witnessed it as well as Master Sergeant Andres Florencio.

17 MR. STONE: At this time, Your Honor we would move
18 in State's exhibit number 5 into evidence.

19 MR. BAX: No objection.

20 THE COURT: All right. Without objection State's 5
21 in evidence.

22 [Whereupon, State's exhibit number 5 is entered into
23 evidence by the court]

24 Q. [Mr. Stone] Now the first thing I want you to do
25 please is tell the jury what rights you read to Tyrone

1 Robinson that afternoon.

2 A. Yes. I will read this form entirely. It says it's
3 the Beaufort County Sheriff's Office Miranda Warning
4 form. And as I'm reading this to the defendant it's on
5 the table in front of us and he's able to follow along
6 with me.

7 The case number is written on 20120901-707, location
8 where Miranda is issued is 58 Shelton Cove Lane, Hilton
9 Head Island, South Carolina. The name was filled in as
10 Tyrone Robinson, date of birth 8-31-75.

11 The next section is a statement of rights. And I
12 read these to him; there are four of them. The first one
13 is you have the right to remain silent. Second, anything
14 you say can and will be used against you in a court of
15 law, third, you have the right to have any attorney
16 present before or during questioning, and four, if you
17 cannot afford an attorney one will be appointed for you
18 before any questioning if you wish.

19 And then there is a waiver of rights section and
20 there are two things there. The first one says do you
21 understand each of these rights I have explained to you?

22 And the person is given a chance to either initial
23 yes or no; in this case yes was initialed. And having
24 these rights in mind do you wish to talk to us now? And
25 again they have the choice of yes or no and he initialed

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1 yes. He also initialed each of the statement of rights.
2 And by placing his initials on those lines that is our
3 indication that he understands those rights. If they
4 don't they have a chance to ask us any questions they
5 might have.

6 The final process is that the defendant or whoever
7 this is being read to signs it, which he did, and he
8 dated it and timed it on 9-1-12 at 7:15 p.m. and then I
9 witnessed it and Andres Florencio witnessed it as well.

10 Q. Did he indicate to you that he understood those
11 rights?

12 A. He did.

13 Q. And he initialed that -- those are his initials
14 beside each one of those rights?

15 A. Those are his initials.

16 Q. Did you promise him or threaten him in any way while
17 you were with him to get him to give you a statement?

18 A. I did not.

19 Q. I should have asked you this earlier. On this SLED
20 bag I know you testified that you seal on the red when
21 you place it into evidence. Did you also transport this
22 to SLED?

23 A. I did.

24 Q. When you transported it to SLED was the seal still
25 intact at that time?

1 A. It was.

2 Q. And had it been opened you would have been able to
3 tell that?

4 A. Yes.

5 Q. So it was in the same condition as you put it into
6 evidence when you took it back out to take to SLED?

7 A. Correct.

8 Q. Let me show you what has been marked as State's
9 exhibit 6.

10 [Whereupon, the witness is shown exhibit]

11 Q. Can you tell me what that is?

12 A. This is a DVD-R containing my interview of Tyrone
13 Robinson at our Hilton Head office.

14 Q. The interview room and I know State's exhibit 1
15 actually has a photograph of Mr. Robinson in that
16 interview room, that is a videotaped room, is that
17 correct?

18 A. Correct.

19 Q. And that is audiotaped at the same time?

20 A. Yes.

21 Q. All of that is contemporaneous with the event as it
22 is happening?

23 A. Yes.

24 Q. And the disk itself have you reviewed that?

25 A. I have.

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1 Q. It is accurate as to what took place in that
2 interview room?

3 A. It is.

4 Q. There is also -- have you had an opportunity to
5 review the transcript of that as well?

6 A. I have not.

7 Q. Okay. That's fine.

8 MR. STONE: Your Honor, at this time we'd offer
9 State's exhibit 6 into evidence.

10 THE COURT: Subject to previous objection?

11 MR. BAX: Exactly, Your Honor.

12 THE COURT: Thank you. In evidence subject to
13 previous objection.

14 [Whereupon, State's exhibit number 6 is entered into
15 evidence by the court]

16 MR. STONE: Your Honor, if I could hand this up to
17 you. This is concerning what we discussed last night.

18 [Whereupon, Mr. Stone provides documents to the
19 court]

20 THE COURT: Thank you.

21 MR. STONE: This has actually been added to the
22 video, Your Honor.

23 THE COURT: Okay. Thank you.

24 MR. STONE: Permission to publish at this time,
25 Your Honor?

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Wendy Conant-Direct Examination by Mr. Stone
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1 THE COURT: Yes, sir.

2 [Whereupon, the C.D. plays] [Not taken down]

3 MR. STONE: No further questions from this witness
4 at this time, Your Honor.

5 THE COURT: Thank you. Mr. Bax, cross-
6 examination?

7 MR. BAX: A moment, Your Honor.

8 [Whereupon, Mr. Bax confers with this client]

9 MR. BAX: No questions at this time.

10 THE COURT: Thank you. Corporal Conant, you can
11 step down. Thank you.

12 [Whereupon, the witness is excused and exits the
13 witness stand]

14 THE COURT: Ladies and gentlemen, this is a good
15 time to take the afternoon break. We'll send you back
16 there for about 20 minutes and we'll get you out and
17 resume around 4 o'clock. Please do not discuss this case
18 among yourselves while you are back in the jury room.
19 Thank you.

20 [Whereupon, the jury exits at 3:34 p.m.]

21 THE COURT: Folks we'll be in recess until about 4
22 o'clock. Thank you.

23 [Whereupon, court is in recess from 3:35 p.m. to
24 4:00 p.m.]

25

State v Tyrone Robinson
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September 16, 2014

1 THE COURT: Folks, both sides ready for the jury?

2 MR. STONE: Yes, sir.

3 MR. BAX: Yes, Your Honor.

4 THE COURT: Thank you. You can bring us the jury.

5 THE BAILIFF: The jury is entering the courtroom,
6 Your Honor.

7 THE COURT: Thank you.

8 [Whereupon, the jury enters at 4:00 p.m.]

9 THE COURT: Folks, some of the observant, astute
10 members of the clerk's staff and the courtroom staff who
11 are very concerned about your well-being and your comfort
12 have noticed that during the playing of the extended
13 video that you just watched that those poor unfortunates
14 who were sitting on this row [indicates] right here are
15 probably going to need a chiropractor if you have to go
16 through that much longer.

17 And it just so happens that we have three vacant
18 seats along that back row and they are going to be
19 showing some more of that stuff to you right now. So if
20 those of you on this first row right here [indicates]
21 would like to take those three seats that are vacant on
22 the back right there [indicates] that will leave this row
23 vacant and you can continue to occupy those throughout
24 the rest of the trial if you would like because there are
25 going to be some more exhibits that will be shown to you.

1 I doubt that we will have anything that long again but
2 there will be other exhibits shown to you and that should
3 be a little more comfortable. You can thank the Clerk's
4 staff for seeing that. I saw y'all leaning back but
5 didn't occur to me that your necks were about to kill you
6 and I'm sorry about that. All right Mr. Stone, you can
7 call your next witness.

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State v Tyrone Robinson
Ebony Campbell-Direct Examination by Mr. Stone
September 16, 2014

1 MR. STONE: The State calls Ebony Campbell.

2 THE COURT: Ms. Campbell, come forward and be
3 sworn.

4 [Whereupon, Ms. Campbell comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: State your name for the record and
8 spell it please.

9 THE WITNESS: My name is Ebony Campbell E-B-O-N-Y
10 Campbell is C-A-M-P-B-E-L-L.

11 - - - - -

12 EBONY CAMPBELL,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. STONE:

17 Q. Ms. Campbell, where do you live ma'am?

18 A. I live at 16-A Marshland Road.

19 Q. And how long have you lived there?

20 A. Twenty plus years.

21 Q. Are you from here originally?

22 A. Originally yes.

23 Q. Now I'm going to ask you to go back with me to
24 September 1st, 2012. Do you remember where you were that
25 day, that afternoon?

State v Tyrone Robinson
Ebony Campbell-Direct Examination by Mr. Stone
September 16, 2014

1 A. I was.

2 Q. Where were you?

3 A. I was at my boyfriend's house at ■ Old Wild Horse

4 Road.

5 Q. Now Wild Horse Road is in the Squire Pope area of

6 Hilton Head, is that correct?

7 A. It is.

8 Q. And how is your boyfriend?

9 A. Aaron Young, Sr.

10 Q. And who was there with you?

11 A. My stepson Aaron Young, Jr. was at home with us.

12 Q. And this is all at that Squire Pope residence?

13 A. Yes, sir.

14 Q. Tell me about 4 o'clock that afternoon -- well, let

15 me back up. At any point in time during that day did you

16 see Tyrone Robinson?

17 A. Yes, I did.

18 Q. And how do you know Tyrone Robinson?

19 A. He is my first cousin. My brother -- or my father

20 and his father are brothers.

21 Q. So you've known Tyrone Robinson your whole life?

22 A. Yes.

23 Q. When -- about what time did you see Tyrone Robinson?

24 A. A little bit before 4:00 or possibly a little after

25 4:00.

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1 Q. How are you certain about that time?

2 A. It was around the time when everyone was going to
3 work and everyone had to be to work by 4 o'clock.

4 Q. And that would be your boyfriend as well as your
5 stepson, is that correct?

6 A. Yes.

7 Q. Where were they working at the time?

8 A. Aaron, Jr. was working at King Fisher restaurant and
9 my boyfriend Aaron, Sr. was working at Chart House.

10 Q. When you saw Tyrone Robinson tell me about that.
11 Where were you?

12 A. We were just about to get inside our truck. I was
13 going to be dropped off to my mother's house and the
14 other guys were going to work and we were ---

15 Q. --- let me stop you there I just want to make sure.
16 The truck we're talking about is State's exhibit number 9
17 is that correct?

18 [Whereupon, the witness is shown photograph]

19 A. That was our truck, yes.

20 Q. That's your truck? Or that's the truck that you
21 were riding in, is that correct?

22 A. Yes.

23 Q. Okay. So you were about to get in the truck and
24 what do you see after that?

25 A. We were just about to get into truck when we saw a

1 dark green, what I thought was black that day but it was
2 green, Honda pull inside the driveway blocking us in. At
3 first we didn't know who it was. Jontu Singleton jumped
4 out and he just kind of said hey. I don't really
5 remember what he was talking about.

6 Q. Now Jontu Singleton how old is Jontu Singleton?

7 A. How old is he?

8 Q. Yes? Is he -- we've had some testimony about a
9 younger J. S. [REDACTED] so this is his father?

10 A. His father, Sr.; yes.

11 Q. Okay. Now let me show you also before you get too
12 far down the line what has been marked as State's exhibit
13 2.

14 [Whereupon, the witness is shown photograph]

15 Q. Other than the back glass in that is that the car
16 that you saw pull into your driveway?

17 A. Definitely.

18 Q. And that is the car that Jontu Singleton got out.
19 He got out the driver's side or the passenger side?

20 A. He got out of the passenger side.

21 Q. And he gets up and starts talking to whom?

22 A. He starts talking to Aaron, Sr.

23 Q. Okay. Where is Tyrone Robinson?

24 A. At that time he was still behind the driver wheel,
25 behind the wheel; he was still in the car.

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1 Q. Okay. What happens after that?

2 A. Well, Jontu jumps out. I don't really remember what
3 he was saying other than he needed two dollars for a beer
4 or something along those lines.

5 And somehow or another -- no one actually even paid
6 attention to the driver, we didn't. One way or another
7 he just -- Tyrone Robinson just kind of jumped out and
8 starting screaming obscenities at us and that's yes...

9 Q. How far away were you from Tyrone Robinson?

10 A. Initially I was probably maybe 30 steps from him I
11 would say.

12 Q. So from a distance between me and you how close or
13 far away?

14 A. I guess where you would be standing would be about
15 right where I was standing and this [indicates] would be
16 the car, so about that far initially.

17 Q. Okay. That's when he first got out of the car?

18 A. Yes.

19 Q. What happens after he gets out and starts -- who is
20 he yelling the obscenities to?

21 A. I believe at my stepson Aaron, Jr.

22 Q. What happens after that?

23 A. Well, I just kind of ran to the car side where he
24 was where he was standing and I tried to ---

25 Q. --- when you say he who are you talking about?

1 A. Tyrone Robinson.

2 Q. So you actually run towards Tyrone Robinson?

3 A. Yes, I did.

4 Q. Okay. Go ahead; I'm sorry.

5 A. So I just basically asking you know what are you
6 doing here? Please leave, you know please go back to
7 whatever you were doing before you came here. And so I'm
8 trying to coax him back inside the car but he's not
9 wanting to get back in the car.

10 He's wanting to argue or whatnot. And before I knew
11 it it's like I looked over and then I looked back over
12 and he had a gun pointed at my stepson.

13 Q. What kind of gun was it could you tell?

14 A. It was a revolver of some type. I don't know much
15 about guns.

16 Q. Do you know what color it was? Could you remember?

17 A. Black.

18 Q. It was black?

19 A. Uh Huh.

20 Q. And when he is pointing the revolver how close are
21 you to him when he is doing that?

22 A. I was still next to him but at that point I had
23 started to back away.

24 Q. So when you first see him is he still in the car or
25 is he kind of in the apex of the door or how was that?

State v Tyrone Robinson
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September 16, 2014

1 A. He is in the apex of the door.

2 Q. Okay. He's standing in the door and then how far
3 away from the door are you?

4 A. I am right next to him on the other side of the
5 door.

6 Q. Closer than you and I are right now or farther away?

7 A. Closer.

8 Q. Okay. So how close?

9 A. If this [indicates] is the apex of the door he is
10 standing here [indicates] and I'm here [indicates].

11 Q. Okay. And that's when you see him with the gun in
12 his hand?

13 A. Yes.

14 Q. Pointing it at J. S. [REDACTED]?

15 A. No, Aaron, Jr.

16 Q. Aaron, Jr., excuse me; Aaron, Jr. Okay. You start
17 backing away are you still talking to him?

18 A. I believe I was but it was more to the effect of the
19 same thing that I said earlier. You know please put that
20 away, please go home, go wherever; just please don't be
21 here.

22 And the next thing I know he and my boyfriend Aaron,
23 Sr. started tussling. It was not much -- it wasn't so
24 much of a fist fight, it was more like a wrestle. And
25 during that time he had the gun pointed this way

1 [indicates] and my boyfriend went to go and kind of knock
2 it out of his hand.

3 Q. Okay.

4 A. And when he knocked his hand this way [indicates]
5 the gun went off the first time. And that's when I
6 definitely starting running.

7 Q. That's when you ran?

8 A. That's when I ran.

9 Q. Okay. Do you know where that shot went?

10 A. Yes. It went into our neighbor's house.

11 Q. Okay.

12 A. Into one of the exterior walls.

13 Q. You start running. What happens after that?

14 A. At that point little Aaron -- I'm running faster
15 than little Aaron. Little Aaron is walking very quickly
16 but he's not running and my boyfriend is walking briskly
17 but not running.

18 Q. Got you. And what is Tyrone Robinson doing?

19 A. He's still -- he's shooting at this point. He is
20 letting off rounds at this point as we're like going
21 towards the house.

22 Q. Where did those shots go do you know?

23 A. I'm not sure.

24 Q. You're actually running away at this point?

25 A. Yes, I'm running away so I'm not sure.

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1 Q. When Robinson is holding the gun and Aaron Young
2 knocks it out of his hand or hits it out of his hand does
3 Aaron Young, Sr. have a gun at the same time?

4 A. No.

5 Q. Did anyone out there have a gun other than Tyrone
6 Robinson?

7 A. No.

8 Q. Did you see any other guns on Tyrone Robinson?

9 A. I did.

10 Q. Where was that?

11 A. In the driver's seat -- well, on the side of the
12 driver's seat. Say you open the door and along the
13 floorboard on the side of the seat there was another gun
14 just kind of stuck there. I could see the butt of it. I
15 couldn't see the head of it I could only see the butt of
16 it.

17 Q. Okay. Do you at this point go inside?

18 A. Yes.

19 Q. Does Aaron Young, Sr. come inside with you as well?

20 A. Yes.

21 Q. And where does Aaron Young, Jr. go?

22 A. Aaron Young, Jr. he came in the house as well so
23 we're all in the house, yes. The first one to go back
24 out was Aaron Young, Sr.

25 Q. And did you go back out with him when he went out?

State v Tyrone Robinson
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1 A. I did. I did, but it was several minutes later.

2 Q. Okay. And what about Aaron Young, Jr.?

3 A. He goes back out just a couple of seconds after his
4 father.

5 Q. Okay. What happens after that? Is Tyrone Robinson
6 still in the yard when they go back out?

7 A. Yes, he's still in the yard but he's trying to
8 retreat at that point. But there is a spot in our yard
9 that was concrete at one time.

10 It was poured I think back in the '70's and it
11 started to erode a little bit on the edges and the
12 undercarriage of his car got stuck on it so he wasn't
13 able to back up like he wanted to.

14 So he's still pretty much stuck there and they are
15 on their way back out to them -- back out to Tyrone and
16 he finally breaks free of the concrete and kind of just
17 skids out and leaves.

18 Q. What does Aaron Young, Jr. and Aaron Young, Sr. do
19 after that?

20 A. They talked among each other for a while and then
21 they decided that -- or Aaron Young, Sr. and I decided
22 that he wasn't going to go to work that day.

23 Junior had to go to work. He didn't have an option
24 or he wouldn't have a job so he had to go to work. So
25 the agreement was that I would stay at the house and wait

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1 for Senior to come back and I just waited.

2 Q. J. S. -- excuse me Jontu Singleton did he --
3 when Robinson left was Jontu Singleton with him?

4 A. Yes.

5 Q. Okay. He was there when he got there was he still
6 there when he left?

7 A. Jontu came walking back up at some point.

8 Q. Okay.

9 A. So I'm not sure if he went with them or whether -- I
10 know that he left in the truck with them. Now when they
11 put him out ---

12 Q. --- I'm sorry -- and I apologize I didn't ask that
13 question very well. So Jontu Singleton leaves with Aaron
14 Young, Jr. and Aaron Young, Sr. is that correct?

15 A. Yes.

16 Q. So when Tyrone Robinson leaves I guess Tyrone
17 Robinson leaves Jontu there at the house?

18 A. Yes.

19 Q. Okay. I'm sorry; I didn't ask that question very
20 well. Although Jontu comes with Tyrone Robinson when
21 Robinson leaves Jontu is still there is that correct?

22 A. Yes.

23 Q. And then all three of them go off in the truck
24 together?

25 A. Yes.

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1 Q. And you thought they were going to work?

2 A. They were supposed to, yes.

3 Q. They returned at some point?

4 A. Yes. It was about 30 minutes later, 30 or 40 ---

5 THE COURT: --- when you say all three left in the
6 truck which three are we talking about.

7 MR. STONE: I apologize, Your Honor ---

8 THE WITNESS: Jontu Singleton, Sr. Aaron Young,
9 Sr., Aaron Young, Jr.

10 THE COURT: Thank you.

11 Q. [Mr. Stone] Those three people in the truck, okay.
12 At some point you see Jontu Singleton come back?

13 A. Yes, he comes walking up on feet.

14 Q. And then Aaron Young, Sr. and Aaron Young, Jr. they
15 come back at some point?

16 A. They do.

17 Q. Let me show what's been marked as State's exhibit
18 18, 19, 20, and 21.

19 [Whereupon, the witness is shown photographs]

20 Q. Are these fair and accurate depictions of your -- I
21 believe it would be your neighbor's house on September
22 1st, 2012?

23 A. Yes, all four are accurate.

24 Q. Okay.

25 MR. STONE: Your Honor, at this time we would move

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1 State's exhibits 18, 19, 20, and 21 into evidence.

2 MR. BAX: No objection, Your Honor.

3 THE COURT: Thank you. Without objection 18 thru
4 21 in evidence.

5 [Whereupon, State's exhibit numbers 18, 19, 20, and
6 21 are entered into evidence by the court]

7 MR. STONE: Let me first show, if I may Your Honor,
8 publish this to the jury. This is State's exhibit 18.

9 [Whereupon, photo is shown on screen]

10 Q. [Mr. Stone] That is -- could you tell me what that
11 is? I know you're looking at the monitor as well but can
12 you tell me what that is?

13 A. That is my boyfriend's neighbor's house. It's the
14 front of the house. That's myself standing there.

15 Q. That is you in the red dress or the pink dress; I
16 can't tell?

17 A. It was coral.

18 Q. All right. Is this a few days later when the law
19 enforcement officers arrived at the house?

20 A. It is.

21 Q. Let me show you what has been marked and entered
22 into evidence as State's exhibit 19.

23 [Whereupon, photo is shown on screen]

24 Q. Is that the same house with an officer speaking to
25 someone at the front door?

State v Tyrone Robinson
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1 A. It is.

2 Q. Now the lady at the front door who is that?

3 A. She is the daughter of the couple who rented the
4 house.

5 Q. Okay. She's renting from?

6 A. From Aaron, Sr.'s father.

7 Q. Let me show you what has been marked as State's
8 exhibit 20. It's entered into evidence.

9 [Whereupon, photo is shown on screen]

10 Q. If you can't see that I'll give you the picture back
11 closer. But is that the bullet hole from the shot from
12 Tyrone Robinson's gun?

13 A. Yes.

14 Q. And were you there when law enforcement officers
15 went to that spot to get the bullet out?

16 A. I absolutely was.

17 Q. And also State's exhibit 21 is a close up.

18 [Whereupon, photo is shown on screen]

19 Q. Is that the bullet hole caused by Tyrone Robinson's
20 gun?

21 A. Yes.

22 MR. STONE: I don't have any further questions of
23 this witness at this time, Your Honor.

24 THE COURT: Thank you. Mr. Bax, cross-examine?

25 MR. BAX: Your Honor, may I approach?

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1 THE COURT: Yes, sir.

2 [Whereupon, an off the record bench conference is
3 held]

4 MR. STONE: Your Honor, I do not have anything else
5 on that right now.

6 THE COURT: All right. Do you have a copy of any
7 statement that Ms. Campbell may have made?

8 MR. STONE: Yes, sir. I believe the defense has it
9 but I've got another copy if they need it.

10 THE COURT: Okay.

11 MR. BAX: Your Honor, I do have a copy of the
12 written statement.

13 THE COURT: Okay. We'll leave that matter open
14 and see if they may be any other information on that but
15 certainly you can cross-examine on that issue.

16 MR. BAX: Obviously, Your Honor, I would reserve
17 the right to go on the record at a later time about this
18 issue.

19 THE COURT: Sure, yes sir.

20 MR. BAX: Thank you, Your Honor.

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State v Tyrone Robinson
Ebony Campbell-Cross-Examination by Mr. Bax
September 16, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good afternoon, Ms. Campbell. I just want to go
4 through a few questions with you, okay. You've testified
5 that you were over at ■ Old Wild Horse Road on September
6 1st, right?

7 A. Yes.

8 Q. And this encounter with Mr. Robinson that you've
9 described for the jury happened on that day at that
10 location, correct?

11 A. It did.

12 Q. Okay. Now you've indicated that yourself and Aaron
13 Young, Sr. and Aaron Young, Jr. were getting ready to
14 leave the residence at that time correct?

15 A. We were.

16 Q. Okay. And that was to go to work?

17 A. I was going home. They were going to work.

18 Q. Okay. So they were going to drop you at home on
19 Marshland Road.

20 A. Yes.

21 Q. Now you've testified that this green car that you've
22 identified, the green Acura in the pictures is what
23 pulled up and Jontu Singleton, Sr. is the one who first
24 got out.

25 A. Yes.

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1 Q. And he was having a conversation with Aaron Young,
2 Sr. is that correct?

3 A. It wasn't so much a conversation.

4 Q. Okay. How would you describe what J. S.

5 [REDACTED] was doing -- Sr.; excuse me?

6 A. Senior he was just kind of saying hey, how y'all
7 doing. I need two dollars for a beer and such and such
8 and such.

9 Q. Let me ask you this. Yourself and the two Youngs
10 were you still in the cab of the truck or were you
11 sitting in the truck?

12 A. No, we hadn't gotten in the truck yet.

13 Q. Hadn't gotten in the truck so you are standing in
14 proximity to the truck?

15 A. We were in front of the truck.

16 Q. In front of the truck. Was he addressing all three
17 of you when he was talking to y'all or does he talk to
18 one of y'all in particular?

19 A. Well, I understood that he wasn't speaking to me.
20 He was speaking to Senior and I'm sure Junior understood
21 as well that he wasn't speaking to him.

22 Q. Okay. So your understanding was he was talking to
23 Aaron Young, Sr. your boyfriend?

24 A. Yes.

25 Q. Okay. And he was talking about possibly borrowing

1 money from him.

2 A. Yes.

3 Q. How did Aaron Young, Sr. respond to him?

4 A. I don't clearly remember but I'm sure he would have
5 given it to him.

6 Q. Well, that's my next question. Did you hear
7 anything that indicated that Aaron Young, Sr. was going
8 to loan him any money?

9 A. I can't say that I did. I can't.

10 Q. Was Aaron Young, Sr. or Junior happy to see Jontu
11 Singleton coming up asking for money?

12 A. They weren't upset about it, no.

13 Q. So you don't recall what their response was to Jontu
14 Singleton, Sr.?

15 A. No, I'm sorry I don't.

16 Q. Was there any kind of argument between Jontu
17 Singleton, Sr. and the Youngs?

18 A. No ---

19 Q. --- before Mr. Robinson got out of the car?

20 A. Oh, no.

21 Q. Now you've testified that at some point Mr. Robinson
22 gets out of the car, this altercation happens. And when
23 the shot is fired you said you run towards the house,
24 correct?

25 A. Yes.

State v Tyrone Robinson
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1 Q. And the Youngs walked towards the house as well;
2 Aaron Young, Sr. and Aaron Young, Jr.

3 A. Yes, behind me.

4 Q. Okay. You were running and they were walking
5 briskly I believe was your testimony, right?

6 A. Yes.

7 Q. Okay. Were they saying anything to Mr. Robinson as
8 they walked towards the car -- excuse me; the house?

9 MR. STONE: Objection, Your Honor.

10 A. I can't answer that because I don't ---

11 THE COURT: --- I'm sorry; what's the nature of the
12 objection?

13 MR. STONE: Hearsay.

14 MR. BAX: Your Honor, they can't object to hearsay
15 now when they've been eliciting it this entire time.

16 THE COURT: Right.

17 MR. STONE: That's not correct, Your Honor.

18 THE COURT: My recollection is this whole thing has
19 been about conversations between Junior and Senior and
20 the individual in this case. I think he's entitled to
21 elicit that.

22 MR. BAX: Thank you, Your Honor.

23 Q. [Mr. Bax] I'll ask the question again. Was Aaron
24 Young, Jr. or Aaron Young, Sr. saying anything to Mr.
25 Robinson as they walked briskly towards the house?

1 A. Not that I remember. I don't want to tell you
2 something and it not be true when I don't remember it.

3 Q. So you don't recall anything that the Youngs have
4 said. You recall what J. S. [REDACTED] says. You've
5 testified to that, correct?

6 A. I remember Aaron Young, Sr. saying don't be here
7 when I get back or something along those effects but
8 that's the only thing that I really remember.

9 Q. Okay. And why did he say that?

10 A. I'm not sure why he said that.

11 Q. What did you take his meaning to be when he said
12 don't be here when I come back?

13 A. I think it was a bluff of some sort.

14 Q. And you don't recall Aaron Young, Sr. saying I've
15 got guns too. I'm going to go get my guns when he walked
16 towards the house briskly?

17 A. I don't remember him saying that because I don't
18 believe he said that.

19 Q. Well, let me ask you. Is it because he didn't say
20 it or because you don't remember it, yes or no?

21 A. I don't remember it.

22 Q. Okay. Now you've indicated that after y'all
23 entered the house that you saw Mr. Robinson get back in
24 his vehicle and attempt to get out of the driveway or out
25 of the front of the house, correct?

State v Tyrone Robinson
Ebony Campbell-Cross-Examination by Mr. Bax
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1 A. Yes.

2 Q. Now how were you able to see that from the house?

3 How were you seeing that? Looking through a window,
4 through an open door?

5 A. Looking out our back door window.

6 Q. A back door window, okay. And you've indicated that
7 he was stuck for a little bit but when the Youngs come
8 out his car breaks free of whatever it was stuck on and
9 speeds off, correct?

10 A. Yes.

11 Q. And your testimony was that Aaron Young, Jr. and
12 Aaron Young, Sr. were coming out of the house right about
13 that same time?

14 A. Yes.

15 Q. And did just Aaron Young, Jr. have a gun in his hand
16 or did both of them have guns in their hands?

17 A. Neither one of them had guns in their hands.

18 Q. So neither one of them had any guns on them at that
19 time?

20 A. No, sir.

21 Q. That's your testimony?

22 A. That's the truth.

23 Q. Okay. When you were looking at Mr. Robinson's car
24 you could see that it was trying to exit and then sped
25 off, correct? It was leaving the area?

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1 A. Yes.

2 Q. And Aaron Young, Jr. and Aaron Young, Sr. were
3 looking at the same thing you were looking at so they saw
4 Mr. Robinson leave correct?

5 A. Yes.

6 MR. BAX: A moment's indulgence, Your Honor.

7 THE COURT: All right, sir.

8 [Whereupon, Mr. Bax confers with his client]

9 MR. BAX: Your Honor, I'm going to have some items
10 premarked for I.D. only by the Clerk -- excuse me; the
11 court reporter.

12 THE COURT: Okay.

13 [Whereupon, defendant's exhibit numbers 1, 2, 3, 4,
14 and 5 are marked for identification only by the court
15 reporter]

16 Q. [Mr. Bax] Ms. Campbell, when they -- when Aaron
17 Young, Jr. and Aaron Young, Sr. were exiting the house as
18 Mr. Robinson was leaving in his car were they carrying a
19 bag? Were they carrying anything?

20 A. They weren't carrying anything at all.

21 Q. Okay.

22 MR. BAX: Approach the witness, Your Honor.

23 THE COURT: Yes, sir.

24 Q. [Mr. Bax] I'm just going to show you that picture.
25 You don't have to say what's on it.

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1 [Whereupon, the witness is shown photograph]

2 Q. Have you ever seen that before?

3 A. It looks like an old diaper bag.

4 Q. Well, you don't have to describe it. I'm just
5 asking you have you ever seen that before?

6 A. I think so, yes.

7 Q. Okay. Did they have that on them when they were
8 exiting the house?

9 A. No.

10 Q. Okay. I'm handing you what has been premarked as
11 defendant's exhibit 2 for I.D.

12 [Whereupon, the witness is shown photograph]

13 Q. Have you ever seen that before? Like I said you
14 don't have to describe it.

15 A. No.

16 Q. Okay. Did Aaron Young, Jr. or Aaron Young, Sr.
17 have anything like that on them when they left?

18 A. No.

19 Q. Okay. I'm going to hand you what has been marked
20 as defendant's 3.

21 [Whereupon, the witness is shown photograph]

22 Q. Have you ever seen that before?

23 A. No.

24 Q. Okay. Same question. Did they have anything that
25 looked like that on them when they left?

1 A. No, not that I recall. Or no, there was nothing in
2 their hands.

3 Q. What about that?

4 [Whereupon, the witness is shown photograph]

5 A. No.

6 Q. Finally, 5 is just all of those things together.

7 [Whereupon, the witness is shown photograph]

8 Q. Same thing; have you seen that before or see them
9 with that that day?

10 A. No, not on that day. I've seen this [indicates]
11 before.

12 Q. Where have you seen this before?

13 A. I think in my kitchen, but it was a very, very long
14 ago; I could be wrong.

15 Q. Okay. Thank you, Ms. Campbell.

16 MR. BAX: No further questions, Your Honor.

17 THE COURT: Thank you. Redirect, Mr. Stone?

18 MR. STONE: No, nothing else Your Honor.

19 THE COURT: Thank you. Ms. Campbell, you can step
20 down. Thank you, ma'am.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

23

24

25

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1 MR. STONE: Jontu Singleton.

2 [Whereupon, Mr. Singleton comes forward]

3 THE COURT: Mr. Singleton, if you'll come right
4 here [indicates] and have a seat.

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: Please state your name and spell it
8 for the record.

9 THE WITNESS: My name is Jontu Virgil Singleton,
10 Sr., J-O-N-T-U, V-I-R-G-I-L, S-I-N-G-L-E-T-O-N, S-R.

11 - - - - -

12 JONTU SINGLETON, SR.,

13 Having been first duly sworn,

14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. STONE:

17 Q. Mr. Singleton, you are currently in the Beaufort
18 County Detention Center is that correct?

19 A. Yes, sir.

20 Q. On separate charges not related to the incident on
21 Allen Road on September 1, 2012 is that correct?

22 A. Yes, sir.

23 Q. On September the 1st, 2012 you were with Tyrone
24 Robinson that day were you not?

25 A. Yes sir, I was.

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1 Q. How did that happen? How did that come about?

2 A. Well, I walked from my house around ---

3 Q. --- where was your house at that time?

4 A. It was on Gum Tree Road right around the corner from
5 Wild Horse Road.

6 Q. Got you. Go ahead.

7 A. I walked up to [REDACTED] Wild Horse Road, which is
8 Darryl Ferguson's house, one of my cousins, and
9 Robinson's car was there with the music playing loud and
10 he was arguing outside with one of the residents that
11 stays there.

12 And I walked up and asked Mr. Ferguson was he
13 looking for me. And he was like no, not really. That's
14 when I seen Robinson and I talked to Robinson as well as
15 he asked me if I wanted a beer, which I went to his car
16 and got a beer.

17 Q. So Robinson had beer in his car?

18 A. Yes, sir.

19 Q. Was Robinson drinking at that time, too?

20 A. Yes, sir.

21 Q. About what time was this?

22 A. I think it was like after 4:00.

23 Q. Okay. After 4:00 in the afternoon?

24 A. After 4:00 in the afternoon.

25 Q. Okay. And Robinson's car --let me show you what

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1 has been put into evidence as State's exhibit 3.

2 [Whereupon, the witness is shown photograph]

3 Q. Is that the car you're talking about?

4 A. Yes sir, it is.

5 Q. Okay. So do you stay there for a while and drink
6 beer with Mr. Robinson?

7 A. We wasn't there that long, probably like 10 or 15
8 minutes, sir.

9 Q. Where did you go after that?

10 A. We left to go to the store on Wild Horse Road.

11 Q. What kind of store is that?

12 A. It's a convenience store.

13 Q. What did you go to the convenience store for?

14 A. Some more beers and I told him on the way going to
15 the store to stop by Aaron, Sr.'s house so I can get some
16 money from him for some cigarettes as well.

17 Q. Okay. Did he stop by -- you're talking about
18 Aaron, Sr. What is Aaron, Sr.'s last name?

19 A. Aaron, Sr.; Young.

20 Q. Okay. And Aaron Young, Sr.'s house where is that
21 located?

22 A. Its located on Wild Horse Road as well.

23 Q. And you go there -- tell me what you do after that.

24 Do you go to the store first or do you go to Aaron Young,
25 Sr.?

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1 A. We stopped at Aaron, Sr.'s house first.

2 Q. Tell me what happened once you got there.

3 A. We pulled up in side of the bicycle path where his
4 house is located. They were standing outside Aaron
5 Young, Jr. and Aaron Young, Sr. And I got out the car --
6 and I think his girlfriend Ebony was there as well, and I
7 got out the car and was speaking with them.

8 I talked to Aaron Young, Sr. about giving me a few
9 dollars to go to the store and that's when I heard Tyrone
10 Robinson car door slam. He was in the car when I got
11 out. And he was approaching Aaron Young, Jr. and it
12 looked like a gun was in his hand and that's when they
13 started tussling over the gun.

14 Q. Who was tussling over the gun?

15 A. Aaron Young, Sr. walked off and went to Tyrone
16 Robinson and they were tussling over the gun.

17 Q. Did the gun go off at any point?

18 A. Yes, the gun did went off at that point.

19 Q. And how did the gun go off? What happened there?

20 A. After the gun went pow, one shot went off Aaron
21 Young, Sr. backed away and Robinson shot one down in the
22 ground at his feet. And he told me to come on get in the
23 car and let's go and that's when I told him no.

24 Q. So you told who no?

25 A. I told Mr. Robinson no.

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1 Q. Okay. So you didn't get back in the car with Mr.
2 Robinson?

3 A. No, sir.

4 Q. What did Mr. Robinson do?

5 A. He walked off and got in his car and was about to
6 leave and he spun off.

7 Q. Did he leave?

8 A. Yes, he left.

9 Q. What did you do?

10 A. I was like in shock for a little minute. I got
11 myself together and me and Aaron Young, Jr. and Sr. was
12 standing there and they walked off and went in the house
13 and came back out, which they had a book bag.

14 And we got in the truck and drove down Wild Horse
15 Road and went towards Spanish Wells Road. And at that
16 time we went down Oak View Road but ---

17 Q. --- let me get you to stop right there for me.

18 [Whereupon, State's exhibit number 25 is marked by
19 the court reporter]

20 Q. I'm going to show you what has been marked as
21 State's exhibit 25. There is another item in this bag
22 but right now what's in this bag, does this look like the
23 book bag that you saw that day?

24 [Whereupon, the witness is shown exhibit]

25 A. I'm definitely not sure but I believe that it was.

1 Q. Okay. And who had this bag or something that
2 looked like this?

3 A. Aaron Young, Sr. had the bag.

4 Q. When you get in the -- you then get in the truck is
5 that right?

6 A. Yes, we get in the truck. Aaron Young, Sr. was
7 driving and me and Aaron Young, Jr.

8 Q. And Aaron Young, Jr. was?

9 A. On the passenger side.

10 Q. He was on the passenger side?

11 A. Yes, sir.

12 Q. What were you doing? Where were you going?

13 A. At that point we left going towards 278, which is
14 approaching Spanish Wells Road and that's when they
15 pulled the bag -- out of the bag was a gun in the bag.

16 Q. And who pulled the gun out the bag?

17 A. Aaron Young, Sr.

18 Q. Now who is driving the car?

19 A. No, Aaron Young, Sr. was driving and Aaron Young,
20 Jr. pulled the gun out the bag.

21 Q. Okay. Let me get this straight because this is
22 important. Where are you sitting? Are you in the...

23 A. I was in the middle.

24 Q. You're in the middle?

25 A. Yes, sir.

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1 Q. To your left who is driving the truck who is that?

2 A. Aaron Young, Sr.

3 Q. Okay. And to your right?

4 A. Which is on the passenger side Aaron Young, Jr.

5 Q. Okay. Who's got the bag?

6 A. Aaron Young, Sr.

7 Q. In the driver's side?

8 A. Aaron Young, Jr. on the passenger side.

9 Q. And at this time Aaron Young, Jr. pulls something
10 out of the bag?

11 A. Yes, sir.

12 [Whereupon, State's exhibit number 26 is marked by
13 the court reporter]

14 Q. I'm showing you what has been marked as State's
15 exhibit 26, specifically in the bag --

16 MR. STONE: And Your Honor, I'm tearing the rest of
17 the evidence tape.

18 Q. [Mr. Stone] Is this the gun you saw Aaron Young, Jr.
19 take out of the bag?

20 [Whereupon, the witness is shown exhibit]

21 A. Yes, sir.

22 MR. STONE: At this time, Your Honor, I'd move item
23 number 26 into evidence.

24 MR. BAX: No objection, Your Honor.

25 THE COURT: Without objection, 26 in evidence.

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1 [Whereupon, State's exhibit number 26 is entered
2 into evidence by the court]

3 Q. [Mr. Stone] Was the gun in that condition or did it
4 have anything else on the gun, do you recall?

5 A. Well, it looked like it had like holes at the end of
6 the barrel.

7 Q. Okay. What do you mean by that; something on the
8 end of the barrel?

9 A. It looked like a muffler of some sort.

10 [Whereupon, State's exhibit number 27 is marked by
11 the court reporter]

12 Q. I'm showing you what has been marked as State's
13 exhibit 26 -- excuse me; 27, going into the evidence bag.

14 [Whereupon, the witness is shown exhibit]

15 Q. Does that appear to be what was on the end of the
16 gun?

17 A. It looked similar to it. It looked like it had
18 holes at the end of it though if I'm not -- if I'm sure.

19 Q. And at what point -- is it stuck into this
20 [indicates] part of it, the front of the gun?

21 A. Yes, sir.

22 Q. Okay. And did the gun have a clip on it?

23 A. Yes, sir.

24 [Whereupon, State's exhibit number 28 is marked by
25 the court reporter]

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1 Q. I'm showing you what is marked as State's exhibit

2 28. Does that appear to be the clip that was in the gun?

3 [Whereupon, the witness is shown exhibit]

4 A. Yes, sir.

5 MR. STONE: Your Honor, at this time we'd move
6 State's exhibit 28 into evidence.

7 MR. BAX: No objection, Your Honor.

8 THE COURT: What about 27?

9 MR. BAX: No objection to that either, Your Honor.

10 THE COURT: All right.

11 MR. STONE: Now, all State's exhibit 26, 27, and
12 28, yes sir, into evidence.

13 [Whereupon, State's exhibit numbers 27 and 28 are
14 entered into evidence by the court]

15 THE COURT: 25 is the bag and that has not been
16 offered yet?

17 THE COURT REPORTER: Correct, that's the book bag.

18 THE COURT: Right.

19 MR. STONE: That's correct.

20 Q. [Mr. Stone] Now is this the condition -- and I'm not
21 going to be able to put everything together on this -- is
22 this the condition generally --

23 MR. STONE: And this will not go in obviously
24 because of the trigger lock, Your Honor. It is trigger
25 locked.

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1 THE COURT: Good. Thank you.

2 Q. [Mr. Stone] Is this the condition that the gun was
3 in when you saw it when Aaron Young, Jr. took it out?

4 [Whereupon, the witness is shown exhibit]

5 A. Well, he had to put it together, sir.

6 Q. He had to put it together. And he put it together
7 in the passenger side?

8 A. As he was driving -- as Aaron Young, Sr. was driving
9 down Spanish Wells Road yes, sir.

10 Q. And Aaron Young, Jr. is in the passenger side
11 putting this together?

12 A. Yes, sir.

13 Q. Did Aaron Young, Sr. have a gun?

14 A. No, sir.

15 Q. Did you see any other gun in the truck?

16 A. No, sir.

17 Q. What are you going down Spanish Wells Road for?
18 What are y'all doing?

19 A. At the time he said he was looking for Tyrone but we
20 never seen him. We seen a car like it went down Oak View
21 and we went down Oak View and we didn't see the car like
22 it no more.

23 We came back out of Oak View Road and he went to
24 Marshland Road to Allen Road. We went down Allen Road
25 where Tyrone usually be at to Little Max's house. He

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1 wasn't there and we left out and went back to Wild Horse
2 Road.

3 Q. Did Aaron Young, Jr. try to shoot the gun at anytime
4 while you were with him?

5 A. No, he could not put the gun together.

6 Q. Okay. Was he able to get it together at some
7 point?

8 A. Not when I was with him.

9 Q. Did you stay with them? What happened after that?

10 A. We went back to Aaron Young, Sr. house on Wild Horse
11 Road.

12 Q. And when you went back to Aaron Young, Sr.'s house
13 what happened then? What did you do?

14 A. We got out the truck and was talking and Aaron
15 Young, Sr. and Aaron Young, Jr. left.

16 Q. So they dropped you back at their house and then
17 they went back out?

18 A. They left out, yes.

19 MR. STONE: Nothing else for this witness, Your
20 Honor.

21 THE COURT: Thank you. Mr. Bax?

22 MR. BAX: Thank you, Your Honor.

23

24

25

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good afternoon, Mr. Singleton.

4 A. How you doing.

5 Q. I just want to go back through a couple of things.

6 Now you testified that you met with Mr. Robinson in the
7 morning and he offered you a beer and you accepted and
8 that's when y'all started hanging out that day, correct?

9 A. No, sir. It was afternoon, sir.

10 Q. It was in the afternoon? Okay, I'm sorry so it was
11 after midday?

12 A. I'd say around 4:00.

13 Q. Around 4:00, okay. And that's when you saw him over
14 at his cousin's house with his music playing and he
15 offered you a beer is that right?

16 A. Yes, sir.

17 Q. Now you testified you were only there for about 10
18 or 15 minutes and y'all decided to go to the convenience
19 store, correct?

20 A. Yes, sir.

21 Q. To get some more to drink and some cigarettes,
22 correct?

23 A. Yes, sir.

24 Q. Your testimony is that when y'all were driving to
25 the convenience store it was you that asked to stop at

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1 the Youngs so you could borrow some money, is that right?

2 A. Yes, sir.

3 Q. Okay. And then why did you want to stop and get
4 some money from the Youngs? Did they owe you some money
5 or are you just close with them that way?

6 A. I'm close with them that way.

7 Q. And you were just wanting to get some money, a
8 couple of dollars for cigarettes or beer is that correct?

9 A. Yes, sir.

10 Q. Now when you arrived and started talking to Aaron
11 Young, Sr. and his son did they want to loan you the
12 money?

13 A. I believe he would have if I wouldn't have went
14 there with Tyrone Robinson.

15 Q. Okay. Did he -- did Aaron Young, Sr. say anything
16 to you before he went over towards Mr. Robinson?

17 A. No, sir.

18 Q. Was it a fairly short amount of time that you
19 started talking to him and then he went over to see
20 Tyrone?

21 A. Yes, sir.

22 Q. How long do you think, a minute, two minutes?

23 A. Probably like a minute.

24 Q. So in your remembrance Aaron Young, Sr. latched onto
25 the fact that Tyrone was there pretty quick?

1 A. Say that again?

2 Q. He saw that Tyrone was with you pretty quickly
3 didn't he?

4 A. Yes, sir.

5 Q. Okay. Now how as Aaron Young, Sr.'s demeanor when
6 he went over towards Mr. Robinson?

7 A. Well, he walked off pretty quick because Tyrone's
8 car door had just slammed and Tyrone was walking towards
9 Aaron Young, Jr. and it looked like a gun was in his hand
10 at that moment.

11 Q. And Aaron Young, Sr. was approaching him pretty
12 quick?

13 A. Yes, sir.

14 Q. Okay. Now some things happened. You said they
15 started to tussle over the gun and you said the gun went
16 off. Did you see where that bullet went? When the gun
17 went off where did that go?

18 A. No sir, I did not see.

19 Q. You did not see. You testified that Robinson may
20 have shot a round into the ground. Was that the first
21 round or the second round?

22 A. Second round.

23 Q. Second round. And then there wasn't any other shots
24 by Robinson is that correct?

25 A. Yes, sir.

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1 Q. Okay. So he shot a round into the ground and
2 didn't fire anymore?

3 A. No, sir.

4 Q. Okay. Let me ask you this. When you got to the
5 house was Ebony Campbell there? Well, let me ask you
6 this. Do you know who Ebony Campbell is?

7 A. Yes sir, I do know who she is.

8 Q. Was she there as well?

9 A. Yes, sir.

10 Q. All right. After the gun went off -- let me ask
11 you this. Was that when people started going into the
12 house? Did Ebony head towards the house at that point?

13 A. Yes, sir.

14 Q. And Aaron Young, Jr. and Sr. they headed towards the
15 house?

16 A. Yes, sir.

17 Q. When they were headed towards the house did they say
18 anything that you recall?

19 A. No, sir.

20 Q. Could you hear everything that they were saying?

21 A. At that time I was just lost. You know I wasn't
22 really focusing at time or paying attention really.

23 Q. Okay. While we still have power here let me hurry
24 up. Mr. Singleton, you stated that Tyrone got in his car
25 to go and you decided to stay. Did he ask you to get in

1 the car or did he say anything?

2 A. Yes, he asked me to come on and let's go and I was
3 like no.

4 Q. No. And so you chose to stay?

5 A. Yes, sir.

6 Q. And then he left?

7 A. He left.

8 Q. Okay. Now you stated that then the Youngs came out
9 of the house and when they first came out of the house
10 they had this black bag with them right here [indicates]?

11 A. Yes, sir.

12 Q. Okay. And obviously you've testified that you all
13 got into their truck, correct, and you've identified that
14 as this grey F-150 Ford truck, correct?

15 A. Yes, sir.

16 Q. Okay. Were they saying anything as they got into
17 the truck?

18 A. No sir, they was like we're just getting into the
19 truck. And they was arguing why I brought him here you
20 know. And I was like shit; I just needed to stop to
21 holler at you for a minute but...

22 Q. Okay. Now, did they tell you what they wanted to
23 do when they were getting you in the truck or not until
24 after the got the truck?

25 A. No, they just said they were going to look for

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1 Tyrone.

2 Q. So they said they were going to go look for Tyrone?

3 A. Yes.

4 Q. Okay. Now you testified that when they came out of
5 the house Aaron Young, Sr. had this black bag, is that
6 correct?

7 A. Yes, sir.

8 Q. And did you see Ebony Campbell in the door of the
9 trailer as they were coming out?

10 A. I don't recall, sir.

11 Q. Okay. But when they came out right after going in
12 they had the black bag with them, correct?

13 A. Yes, sir.

14 Q. Okay. Now you've testified that -- now was it
15 Senior or was it Junior that got this big old gun out of
16 the bag right here [indicates]?

17 A. Aaron Young, Jr.

18 Q. Junior did?

19 A. Took the gun out the bag.

20 Q. Because he was in the passenger seat, right?

21 A. He was in the passenger seat.

22 Q. So at some point Aaron Young, Sr. had to have handed
23 him the bag.

24 A. Yes, sir.

25 Q. Okay. What did he tell Aaron Young, Jr. to do?

1 A. At the moment I did not hear him say anything to
2 Aaron Young, Jr.

3 Q. So Aaron Young, Jr. got the bag and just started
4 doing this and you don't remember any conversation?

5 A. He was trying to put the gun together and couldn't.

6 Q. Was there any discussion between the Youngs as he
7 was trying to put this together?

8 A. He was trying to explain to him how to put the gun
9 together.

10 Q. Senior was trying to explain to Junior how to put
11 the gun together?

12 A. Yes.

13 Q. Okay. Now you've testified that when you were with
14 the Youngs you went to a number of places looking for
15 Tyrone correct?

16 A. We went to Allen Road.

17 Q. Allen Road?

18 A. We went down Marshland, down Oak View and back
19 around.

20 Q. And while you're going down these roads you're
21 looking around for Tyrone Robinson, correct? They were
22 looking around for that car is that right?

23 A. I believe so.

24 Q. Okay. And you testified earlier that these were
25 places that he was known to hang out, correct?

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1 A. Yes, sir.

2 Q. In fact I think you even mentioned was it Little

3 Max?

4 A. Yes, sir.

5 Q. Who is that?

6 A. I believe it is Tyrone's cousin.

7 Q. And where does he stay at?

8 A. Off of Allen Road.

9 Q. Off of Allen Road?

10 A. Yes, sir.

11 Q. So there were specific places that they were looking

12 to see where Tyrone was?

13 A. We only went to that area after we rode around

14 Spanish Wells Road and Oak View.

15 Q. Now you went down Oak View though. I believe -- I

16 think there is a map here. I don't know if you're going

17 to be able to see it but there is a more direct path that

18 you can take down Spanish Wells to get to Marshland Road,

19 right? Let me turn so the jury can see.

20 [Whereupon, the map is shown]

21 Q. In order to go down Oak View don't you have to cut

22 off of Spanish Wells?

23 A. Yes, cut off at Spanish Wells, sir.

24 Q. And you come up right here [indicates], correct, and

25 it rejoins what turns into Marshland Road; goes

1 underneath the overpass right?

2 A. Yes, sir.

3 Q. So if you were just trying to get to Allen Road as
4 quickly as possible you'd stay right there on Spanish
5 Wells, right?

6 A. Yes, sir.

7 Q. Now you've testified that Aaron Young, Jr. could not
8 get this gun here together, correct?

9 A. Correct.

10 Q. Okay. How was he -- from what you observed how was
11 he able to know that he wasn't getting together?

12 A. He was -- I mean I just seen him trying to put it
13 together. I mean I don't know what the hell he was doing
14 so. I don't mess with guns; I don't know.

15 Q. Okay. But obviously there was some problem is what
16 you're saying?

17 A. There was a problem, yes sir.

18 Q. There was a problem, okay. Now when they went back
19 to Old Wild Horse Road, they took you there, correct?

20 A. Yes, sir.

21 Q. They took you directly to Old Wild Horse Road?

22 A. Yes, sir.

23 Q. They didn't drop you off somewhere before they got
24 there so that you had to walk to Old Wild Horse Road?

25 A. Well, I don't recall.

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1 Q. Well, your testimony so far is that they took you to
2 Wild Horse Road.

3 A. Yes.

4 Q. Okay. Did they stop and get out of the car for a
5 minute when you got there?

6 A. We got out the car.

7 Q. So they got out of the car, correct?

8 A. Yes, sir.

9 Q. Out of the truck. Where was this gun when they got
10 out of the truck?

11 A. I don't recall. I think it was still inside the
12 vehicle.

13 Q. Okay. And at some point they got back in their
14 truck, correct?

15 A. Yes, sir.

16 Q. And they left again?

17 A. Yes, sir.

18 Q. What were they talking about before they left again?

19 A. I don't recall. I was talking to Ebony.

20 Q. Okay. So you don't recall whether they were
21 talking about still looking for Tyrone or not?

22 A. No, sir.

23 Q. But they still had the gun with them, correct?

24 A. I believe it still was inside the vehicle.

25 Q. Okay. Now after that you were at Old Wild Horse

1 Road and they had left. Where did you go at that point?

2 A. I walked off and went home.

3 Q. Okay. So you walked -- basically walked home?

4 A. Yes, sir.

5 Q. Okay. Let me backtrack a little bit. I want to
6 make sure I ask you this. You stated when you came back
7 to Wild Horse Road with Aaron Young, Jr. and Aaron Young,
8 Sr. that you were talking to Ebony.

9 A. Yes, sir.

10 Q. You telling her about what y'all had been doing?

11 A. No, I was asking her why would Tyrone come to her
12 house like that.

13 Q. Did she ask y'all where y'all had been?

14 A. I don't recall, sir.

15 Q. Okay.

16 MR. BAX: A moment's indulgence, Your Honor.

17 [Whereupon, Mr. Bax confers with his client]

18 MR. BAX: No further questions, Your Honor.

19 THE COURT: Thank you. Redirect?

20 MR. STONE: No sir, nothing else.

21 THE COURT: Thank you. You can step down, sir.

22 [Whereupon, the witness is excused and exits the
23 witness stand]

24

25

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1 THE COURT: Solicitor, this looks like a good time
2 to stop. Do you have anybody else you need to work in
3 today?

4 MR. STONE: No, sir.

5 THE COURT: All right. Ladies and gentlemen, this
6 is a good place to stop. I'm not sure how much of a
7 favor I'm doing turning you loose at 5 o'clock with the
8 sound of things outside but I'm going to go ahead and
9 wish you luck on your way home. I'll remind you again
10 not to talk about this case among yourselves or with
11 anybody else or expose yourself to any information about
12 it. We'll see you tomorrow morning once again at 9:30.
13 Have a safe trip home and a good evening. Thank you.

14 [Whereupon, the jury exits at 4:59 p.m.]

15 MR. STONE: Anything else before we break for the
16 day?

17 MR. STONE: No, sir. I had made a note -- I had
18 made a note earlier that I think the defense made an
19 objection as far as discovery is concerned with the
20 statements from Ebony Campbell. I have a note in my
21 notes that she had mentioned that earlier in a police
22 report. I cannot at this point locate the police report.
23 I'll try to do that overnight. It might also have been
24 the interview when she was in the car. She was arrested
25 along with the other two out of the Ford truck when it

1 was stopped. So I will try to find that over the evening
2 but I could not find it and keep the jury sitting here
3 waiting while I was looking for it.

4 THE COURT: Thanks for reminding me of that Mr.
5 Solicitor. Madame Reporter the sidebar conference during
6 the testimony of Ms. Ebony Campbell before cross-
7 examination of her Mr. Bax said that he did not have any
8 information regarding the testimony that she gave about a
9 second gun in Mr. Robinson's vehicle. And so they are
10 still searching to see where that information came from,
11 and if it can be verified or not. And Mr. Bax I'll be
12 glad to hear from your further in that regard once we
13 chase that thing down.

14 MR. BAX: Thank you, Your Honor. And I'll reserve
15 further argument for that time. I can certainly tell the
16 court we have researched, we doubled our search perhaps
17 is a better way to say it through everything that we have
18 that refers to Ebony Campbell. We do have an incident
19 report where Brandon Cooler, and officer with the
20 Sheriff's Office, interviewed her and we have her written
21 statement. And in neither of those things does it
22 mention a second gun. And obviously the reason for my
23 request at sidebar is obviously Solicitor Stone knew
24 about that because he specifically asked the question did
25 you see another gun in the car and I'm trying to

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1 ascertain where he is getting that information from, how
2 he knew to ask that question because I certainly would
3 not have known to ask that question based on what I have.

4 THE COURT: I understand. If it doesn't show up
5 anywhere else I'll allow her to be recalled during the
6 State's case and you can cross-examine her on the fact
7 that that information doesn't show up anywhere else if
8 you want to do it.

9 MR. BAX: Thank you very much, Your Honor.

10 THE COURT: All right. Okay folks, 9:30 tomorrow.

11 MR. STONE: Yes, sir.

12 MR. BAX: Yes, sir.

13 THE COURT: Thank you.

14 [Whereupon, court adjourns at 5:02 p.m.]
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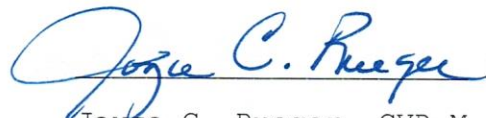
State v Tyrone Robinson
Certificate of the Court Reporter
September 16, 2014

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Beaufort County, South
Carolina on the 16th day of September, 2014.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

January 23, 2015



Joyce C. Rueger, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BEAUFORT	)	DOCKET NO. 2012-GS-07-1935
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
TYRONE ROBINSON	)	
	)	
Defendant	)	
	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD

September 17, 2014
Beaufort, South Carolina

VOLUME 3 (OF 5)

B E F O R E:

THE HONORABLE THOMAS G. COOPER, JR., JUDGE

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Circuit Court Reporter

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STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
1	Photo	
2	Photo	
3	Photo	
4	C.D. Dash Cam	
5	Miranda Warning form	
6	C.D.- Officer Conant interview	
7	C.D.- 911 calls	
8	Overview map	
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otherwise indicated in transcript]

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1	Photo		
2	Photo		
3	Photo		
4	Photo		
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6	Photo	384	385
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10	Photo	448	449
11	Photo	448	449

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1 PROCEEDINGS

2 THE COURT: All right folks, are both the State and
3 the defense ready for the jury?

4 MR. STONE: Yes sir, the State is ready, Your
5 Honor.

6 MR. BAX: The defense is ready, Your Honor. I was
7 about to approach Solicitor Stone. The only thing I was
8 wondering is just a little bit of an idea of when I might
9 need to start having defense witnesses ready. I do
10 expect that we're going to have Mr. DeFreese testimony
11 from the State and then obviously I would assume that we
12 will also hear from the pathologist in this case, Dr.
13 Tormos. I'm not sure what other witnesses so I'm trying
14 to figure out what kind of timeframe I need to be aware
15 of in order to have my investigator calling witnesses so
16 we can keep running smoothly, Your Honor.

17 THE COURT: You got any ideas that you can share
18 with us? I talked yesterday, as a matter of fact at the
19 end of the day I came down and I was talking with Mr.
20 Thornton and you were talking to somebody else at the
21 time Mr. Bax so you weren't in on the conversation. But
22 we were standing close to you because we didn't want to
23 talk with one side without the other side being present.
24 I got the impression that the State would take most of
25 the day. You all tell me?

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1 MR. STONE: We'll probably take -- I would not
2 think we'll take the entire day. I think we will get
3 most everything done this morning in the morning time.

4 THE COURT: Okay.

5 MR. STONE: We've got a number of basically chain
6 witnesses that are going to go right now and that should
7 not take us very long. So if it is -- if we go after
8 lunch it will not be long after lunch.

9 THE COURT: Okay. Does that give you something to
10 go by?

11 MR. BAX: It does, Your Honor. Obviously I would
12 have the standard motions after the rest of the defense
13 [sic] case. I guess it would have to be a situation
14 where I do have at least one witness that I have here
15 that I know he is eager to testify. He won't be a very
16 long witness. But if it's late in the afternoon I may
17 ask the court just to consider whether we should start
18 the defense case in the morning or not. We'll just play
19 it by ear at this point.

20 THE COURT: Okay. You know that it will not be in
21 the morning and we will not need them before this
22 afternoon in any event.

23 MR. BAX: Yes, Your Honor.

24 THE COURT: And if for some reason the State would
25 run out before lunch time I'll recess at that point in

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1 time and we won't start until you can get your folks here
2 this afternoon.

3 MR. BAX: Thank you, sir. We're ready to go.

4 THE COURT: Bring us the jury please.

5 THE BAILIFF: The jury is entering the courtroom,
6 Your Honor.

7 THE COURT: Thank you, ma'am.

8 [Whereupon, the jury enters at 9:35 a.m.]

9 THE COURT: Good morning ladies and gentlemen.
10 Thank you for your prompt return this morning. I'll
11 renew the invitation if you all from this end want to
12 take those seats back there in back in the event -- I
13 think they will be using the video viewer this morning
14 for some evidence. So I'll leave it up to you; the seats
15 are available to you.

16 I'm glad that you all survived the flood that I sent
17 you out in yesterday. I was a little concerned that we
18 didn't have a lifeguard on duty in the parking lot when
19 you all were out there. But I'm glad you all made it
20 back. We're ready now to continue where we left off
21 yesterday. The State is continuing to offer evidence and
22 testimony in this case. Mr. Stone?

23 MR. STONE: May we approach briefly before we
24 start, Your Honor.

25 THE COURT: Yes, sir.

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1 [Whereupon, an off the record bench conference is
2 held]

3 THE COURT: Ladies and gentlemen, I was reminded of
4 my need to voir dire you all and just ask you
5 individually about any exposure to the trial or evidence
6 in the trial of this or publicity about the trial of this
7 case after you left yesterday. I think it was covered on
8 the T.V. stations but the T.V. stations I think didn't
9 discover what was going on in this courtroom.

10 Nevertheless out of an abundance of caution I'll ask
11 you once again if any of you have been exposed to any
12 information about this case inadvertently or otherwise
13 outside of the courtroom. Mr. Crocker have you been?

14 MR. CROCKER: No, I haven't Your Honor.

15 THE COURT: Thank you, sir. Mr. Gaither, have
16 you?

17 MR. GAITHER: No, Your Honor.

18 THE COURT: Thank you. Mr. Dresher, have you?

19 MR. DRESHER: No, Your Honor.

20 THE COURT: Thank you. Ms. McKoy, have you?

21 MS. MCKOY: No, Your Honor.

22 THE COURT: Thank you, ma'am. Mr. Lorenz, have
23 you?

24 MR. LORENZ: No, Your Honor.

25 THE COURT: Thank you. Ms. Seabrook, have you?

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1 MS. SEABROOK: No, Your Honor.
2 THE COURT: Thank you. Mr. Lancaster, have you?
3 MR. LANCASTER: No, sir.
4 THE COURT: Thank you. Mr. Uniejewski?
5 MR. UNIEJEWSKI: No, Your Honor.
6 THE COURT: Thank you. Ms. Hughes?
7 MS. HUGHES: No, Your Honor.
8 THE COURT: Thank you. Mr. Burke, have you?
9 MR. BURKE: No, Your Honor.
10 THE COURT: Thank you, sir. Mr. Dunning?
11 MR. DUNNING: No, Your Honor.
12 THE COURT: Mr. Womack?
13 MR. WOMACK: No, Your Honor.
14 THE COURT: Ms. Boston?
15 MS. BOSTON: No, Your Honor.
16 THE COURT: Thank you. Ms. Mauriocourt?
17 MS. MAURIOCOURT: No, Your Honor.
18 THE COURT: Did I leave out anybody? Thank you,
19 folks. And thank you for reminding me Mr. Stone.
20 MR. STONE: Yes, sir.
21 THE COURT: All right. Mr. Stone?
22 MR. STONE: Yes, sir.
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State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Investigator Doug Seifert.
2 THE COURT: Come forward Mr. Seifert and be sworn.
3 [Whereupon, Mr. Seifert comes forward]
4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]
6 - - - - -
7 DOUG SEIFERT,
8 Having been first duly sworn,
9 Was examined and testified as follows:
10 DIRECT EXAMINATION
11 BY MR. STONE:
12 Q. Investigator Seifert, you're with the Beaufort
13 County Sheriff's Office?
14 A. I am, sir.
15 Q. And on September the 1st, 2012 what was your
16 involvement in the investigation concerning the death of
17 K. S. [REDACTED]?
18 A. I was called out on that day and I responded
19 straight to the 278 Gum Tree Lane where the other
20 defendants were.
21 Q. And the other defendants were Aaron Young, Jr. and
22 Aaron Young, Sr. is that correct?
23 A. That's correct, sir.
24 Q. We have put into evidence State's exhibit 10.
25 [Whereupon, the witness is shown photograph]

State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 Q. Was that the vehicle they were in?

2 A. Yes, sir.

3 Q. And you actually responded to that scene did you
4 not?

5 A. I did, sir.

6 Q. Let me show you what has been marked as State's
7 exhibit 11 and State's exhibit 15 and ask if these are
8 fair and accurate depictions of the truck bed -- the bed
9 of that Ford F-150?

10 [Whereupon, the witness is shown photographs]

11 A. Yes, sir.

12 MR. STONE: At this time, Your Honor, we'd move
13 these into evidence, State's exhibit 15 and State's
14 exhibit 11.

15 MR. BAX: No objection, Your Honor.

16 THE COURT: In evidence without objection.

17 [Whereupon, State's exhibit numbers 11 and 15 are
18 entered into evidence by the court]

19 Q. [Mr. Stone] Let me first show you what has been
20 marked as State's exhibit 11. Can you tell us what that
21 is please?

22 A. That's the back of the truck of the '95 Ford F-150
23 where there is an empty shell casing right there
24 [indicates].

25 Q. Let me show you what has been marked as State's

State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 exhibit 15 into evidence. Is that a close up picture of
2 those two shell casings?

3 A. It is.

4 Q. Did you, sir, take those shell casings from the
5 truck?

6 A. I did.

7 [Whereupon, State's exhibit number 29 is marked by
8 the court reporter]

9 Q. I'll show you what has been marked as State's
10 exhibit 29 and ask if you could identify that for me
11 please?

12 [Whereupon, the witness is shown exhibit]

13 A. These are the three shell casings, .9mm shell
14 casings that I collected out of the back of the truck
15 bed.

16 Q. Now there is some writing on there on the very
17 front. Did you put that writing in there?

18 A. That is my handwriting yes, sir.

19 Q. Okay. And what is the purpose behind that writing?

20 A. Just for that no one else had collected the actual
21 evidence; it was just me.

22 Q. Did you then put it in that bag and seal it?

23 A. I did, sir.

24 Q. And then what was your process with those shell
25 casings afterwards?

State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 A. Once I sealed the actual top of the actual bag you
2 actually sign your name on both sides and then once I did
3 that I actually handed that over to Corporal Conant.

4 Q. Wendy Conant?

5 A. Yes, sir.

6 Q. Did you change or alter these shell casings in any
7 way when you took them out of the truck bed?

8 A. No, sir.

9 MR. STONE: No further questions of this witness,
10 Your Honor.

11 THE COURT: Thank you. Mr. Bax?

12 MR. BAX: Thank you, Your Honor.

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State v Tyrone Robinson
Doug Seifert-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning Investigator Seifert.

4 A. Good morning, sir.

5 Q. A couple of questions for you. You testified that

6 you responded to the scene on Allen Road, is that

7 correct?

8 A. No sir, it was Gun Tree; 278.

9 Q. Right, I'm sorry. You responded to the location

10 where the Ford F-150 had been pulled over is that

11 correct?

12 A. That is correct, sir.

13 Q. Okay. And that's on one of those main roads coming

14 onto Hilton Head Island, correct; 278?

15 A. That is correct, yes sir.

16 Q. How far is that from ■ Old Wild Horse Road?

17 A. You can go two different ways. I would say within a

18 mile or mile and a half.

19 Q. Okay. Now you weren't the officer that actually

20 pulled or blue lighted this grey F-150 correct?

21 A. That is correct, sir. I did not blue light it.

22 Q. Okay. When you arrived were you able to determine

23 how long it had been since they were pulled? How long

24 had they been there on the road?

25 A. Not -- as far as my understanding it wasn't long,

1 they weren't pulled over that long.

2 Q. Okay. How many officers were on scene when you
3 arrived?

4 A. There were three when I first responded.

5 Q. And did they each have their own patrol unit? In
6 other words there were three marked patrol units around?

7 A. Yes, sir.

8 Q. Okay. And they had their blue lights activated?

9 A. Yes, sir.

10 Q. Okay. And how many -- did they inform you, did the
11 officers inform you or were you able to determine how
12 many occupants were in that vehicle when it was pulled
13 over?

14 A. Each individual officer stated that they had one in
15 the back of their car.

16 Q. So for a total of three, is that correct?

17 A. That is correct, sir.

18 Q. And who were those individuals?

19 A. As far as officers or the people ---

20 Q. --- the individuals that pulled out of the car.
21 What was their identity?

22 A. It was Aaron Young, Jr., Aaron Young, Sr., and Ebony
23 Campbell.

24 Q. Okay. And you've testified to the exhibits where
25 some shell casings were found in the back of the F-150

State v Tyrone Robinson
Doug Seifert-Cross-Examination by Mr. Bax
September 17, 2014

1 correct?

2 A. That is correct, sir

3 MR. BAX: Approach the witness, Your Honor?

4 THE COURT: Yes, sir.

5 MR. BAX: Thank you.

6 Q. [Mr. Bax] I'm going to show you what has been marked
7 as State's exhibit 26. I'm just going to lay that up
8 there. Did you locate anything like this in the truck?

9 [Whereupon, the witness is shown exhibit]

10 A. No, sir.

11 Q. Did any of the other officers locate anything like
12 this in the truck?

13 A. No, sir.

14 Q. Okay. There are some other items associated with
15 it; a clip. I assume the answer is the same that none of
16 these items were found in the truck at that time?

17 A. No, sir.

18 Q. Okay.

19 MR. BAX: And that was State's 28, Your Honor.

20 Q. [Mr. Bax] And finally there is State's 25, which is
21 a black bag.

22 [Whereupon, the witness is shown exhibit]

23 Q. Was there any bags like that that were located in
24 the car?

25 A. No, sir.

1 Q. Okay. Investigator Seifert, obviously yourself and
2 these three officers were on scene. Were the Youngs
3 placed under arrest at that time?

4 A. Yes, they were under arrest as far as they were
5 detained inside the vehicles, yes sir.

6 Q. Okay. And the pictures that the State has
7 introduced, State's 11 and 15 that show the pictures of
8 those casings in the back of the truck. Were those taken
9 there on 278?

10 A. Yes, sir.

11 Q. Okay. So that wasn't taken at a later time?

12 A. No, sir.

13 Q. Because I believe that vehicle was impounded by the
14 police for some period of time, is that correct?

15 A. Yes sir, it was by Duke's Towing.

16 Q. But they are on the road on 278 near Gum Tree did
17 you and the other officers or did the other officers have
18 an opportunity to look through the car incident to that
19 detainment?

20 A. Very briefly due to -- because of the congestion on
21 the road it was a very dangerous area to be at so it was
22 as far as -- we already knew we were going to tow it to
23 the actual impound lot. But as far as the back of the
24 truck we actually collected the casings because obviously
25 the air and everything like that.

State v Tyrone Robinson
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September 17, 2014

1 Q. Okay. Regardless of what y'all looked through
2 there on 278 y'all seized the car in the condition that
3 it was in at that time correct?

4 A. Yes, sir.

5 Q. So whatever was in that truck would have stayed in
6 that truck until you got a chance to search it at the
7 impound?

8 A. Yes, sir.

9 Q. So there wouldn't have been anything that went
10 missing in between?

11 A. No, sir.

12 Q. Okay. So if the gun had been in the car the
13 exhibit I've just showed you y'all would have found at
14 that time?

15 A. Yes, sir.

16 Q. Okay. Investigator Seifert, was that the end of
17 your role in this investigation or did you continue to
18 work on this case that day?

19 A. I continued to work on this case.

20 Q. Did that work include attempting to interview and
21 interviewing the Youngs, Sr. and Jr.?

22 A. Yes, sir.

23 Q. And did that occur just there at the side of the
24 road or were there other times that you were able to
25 interview them that day?

1 A. Once it was on the side of the road and I also did
2 it at the Hilton Head office.

3 Q. Okay. How far is the Hilton Head office from there
4 at 278 Gum Tree?

5 A. A mile and a half or two miles I'd guess.

6 Q. So a short transport and they were over there?

7 A. Yes, sir.

8 Q. About what time of the day was it when you arrived
9 on scene?

10 A. Can I refer to my notes?

11 Q. Yes, absolutely please do.

12 [Whereupon, the witness reviews documents]

13 A. It would be 1730 hours, which would be about 5:30 in
14 the evening.

15 Q. Okay. So can you estimate about how long they were
16 on the side of the road before they were taken over to
17 the Hilton Head branch office?

18 A. If I had to guess with myself it probably would have
19 been about 40 or 50 minutes if I had to guess.

20 Q. And just once again Investigator Seifert you were
21 involved in interviewing the Youngs later that day at the
22 Hilton Head branch office, correct?

23 A. That is correct, sir.

24 Q. Okay. And at your interview rooms at the Hilton
25 Head branch office you have interview rooms that are both

State v Tyrone Robinson
Doug Seifert-Cross-Examination by Mr. Bax
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1 videotaped and audio recorded, is that correct?

2 A. That is correct, sir.

3 Q. To your remembrance were the Youngs placed in rooms
4 similar to that that had those capabilities?

5 A. I believe certain ones were. Our office was
6 actually new at the time so I just knew that the one
7 interview room was mostly used had video that was
8 working.

9 Q. Okay. Thank you very much.

10 MR. BAX: A moment's indulgence, Your Honor.

11 THE COURT: Yes, sir.

12 [Whereupon, Mr. Bax confers with Ms. Saxon]

13 Q. [Mr. Bax] One final question Investigator Seifert.
14 You indicated you reported there to or responded to 278
15 Gum Tree. During the course of this investigation did
16 you ever have a chance to go to Allen Road later on for
17 the purposes of any gathering of evidence or looking at
18 the scene?

19 A. I did not as far as that evening or anything like
20 that. Actually I'm actually on the K-9 team and what we
21 did is try to scan for different pieces of evidence
22 throughout the neighborhood but that was it sir.

23 Q. During those searches were you a part of gathering
24 any other evidence? Did y'all find anything?

25 A. No, sir.

1 Q. Thank you Investigator Seifert.

2 MR. BAX: Your Honor, no further questions on cross
3 at this time.

4 THE COURT: Thank you. Redirect Mr. Stone?

5 MR. STONE: No, sir.

6 THE COURT: Thank you ---

7 MR. BAX: --- Your Honor, if I may could I approach
8 briefly?

9 THE COURT: Okay. Investigator Seifert, if you'll
10 stay right there just a minute. I'm not sure whether
11 this involves you or not but hang on a second.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Thank you.

14 [Whereupon, an off the record bench conference is
15 held]

16 THE COURT: Investigator, you can step down. We
17 may need you back at some other later time but I
18 understand you'll be where we can get you.

19 THE WITNESS: Thank you, sir.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22

23

24

25

State v Tyrone Robinson
John Adams-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: The State calls John Adams to the
2 stand.

3 THE COURT: Come forward please Mr. Adams to be
4 sworn.

5 [Whereupon, Mr. Adams comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 - - - - -

9 JOHN ADAMS,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STONE:

14 Q. Investigator Adams, you're with the Sheriff's
15 Office?

16 A. Yes, sir.

17 Q. At some point did you respond to Old Wild Horse --
18 was it Wild Horse Road I believe it is?

19 A. Old Wild Horse, yes sir.

20 Q. And did you respond for the purpose of inspecting a
21 bullet hole in a house?

22 A. Yes sir, I did.

23 [Whereupon, State's exhibit number 30 is marked by
24 the court reporter]

25 Q. Now I will show you these photographs that have

1 already been entered into evidence as State's exhibit 18,
2 19, 20, and 21 and ask if you recognize that?

3 [Whereupon, the witness is shown photographs]

4 A. Yes, sir.

5 Q. Okay. Is that the house that you inspected?

6 A. Yes sir, it is.

7 Q. Let me first go to State's exhibit -- and I'll put
8 it up on the monitor -- this is State's exhibit 18 and I
9 think we've had testimony that that is Ebony Campbell in
10 the front of this house. Is this the house that you went
11 to to inspect the bullet hole?

12 A. Yes sir, it is.

13 Q. State's exhibit 21 actually has a close up of that
14 bullet hole with a hand in it. Is that you?

15 A. It's my hand sir, yes sir.

16 Q. Did you retrieve a bullet out of that particular
17 spot?

18 A. Yes sir, we did.

19 Q. Let me show you what has been marked as State's
20 exhibit 30 and ask if you can identify that for me?

21 [Whereupon, the witness is shown exhibit]

22 A. Yes, sir.

23 Q. And what is that?

24 A. That is the bag containing the projectile that came
25 out of that hole in the wall.

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1 Q. You got this out of the wall? What did you do with
2 it once you got it?

3 A. The bullet was actually retrieved with the aid of
4 the owner of the residence. It had fallen within the
5 wall itself between the outer siding and the inner
6 drywall. And the bottom portion of the wall was pried
7 open and that bullet dropped on the ground and I picked
8 up, photographed it, and then put it in a tin and it was
9 sealed in that bag and turned over to Investigator
10 Albertin with the Sheriff's Office.

11 Q. And investigator Albertin was with you I believe at
12 the time?

13 A. She was, sir.

14 Q. And in fact I think this is Investigator Albertin in
15 State's exhibit 19 is that correct?

16 A. That is correct, sir.

17 Q. Okay. Did you change or alter the bullet in any
18 way when you took it when you picked it up and handed it
19 to Investigator Albertin?

20 A. No, sir.

21 Q. Okay.

22 MR. STONE: No further questions at this time, Your
23 Honor.

24 THE COURT: All right. Cross-examination?

25 MR. BAX: Thank you, Your Honor.

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1

CROSS-EXAMINATION

2

BY MR. BAX:

3

Q. Briefly -- good morning Officer Adams, how you
4 doing?

5

A. Good morning, sir.

6

Q. What was the date that you went over to 17 Old Wild
7 Horse Road and found this projectile?

8

A. September the 10th.

9

Q. And you indicated that there was another officer
10 with you at that date. Who was that?

11

A. Investigator Albertin.

12

Q. And this was the only projectile you took into
13 custody personally yourself. Did Investigator Albertin
14 find any other projectiles that day?

15

A. I don't believe we found any other projectiles. We
16 did find I believe an entire bullet that was over in the
17 ground but that was the only projectile that came out of
18 that residence.

19

Q. Okay. The projectile that was in the ground did
20 y'all seize that as well or take that into evidence?

21

A. I don't think it was a projectile. It was an entire
22 bullet.

23

Q. Oh, it was an unfired ---

24

A. --- an unfired bullet.

25

Q. Okay. Do you recall what caliber that unfired

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John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 bullet was?

2 A. I don't recall, sir.

3 Q. Was that taken into evidence at that time?

4 A. Yes, sir.

5 Q. Obviously the incident that we have had testimony
6 about Investigator Adams occurred on September 1st, 2012
7 is that correct?

8 A. Yes, sir.

9 Q. So this would have been roughly nine days later?

10 A. That is correct, sir.

11 Q. And did you go to do this search after already
12 having talked to the Youngs?

13 A. Yes, sir.

14 Q. Okay. So you had an opportunity at least to
15 attempt to speak with the Youngs and try to get some
16 statements from them, correct?

17 A. Yes, sir.

18 Q. And is that what led you to go to ■ Old Wild Horse
19 Road and look for this projectile?

20 A. It is.

21 Q. Okay. And Investigator Albertin was with you when
22 you went to speak with the Youngs as well is that
23 correct?

24 A. She was.

25 Q. When was it that you spoke to the Youngs? What day

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1 was that do you recall?

2 A. That was the 6th of September.

3 Q. Was that the first time that you had had the chance
4 to speak with the Youngs? Did you ever talk to them on
5 September 1st when they were first arrested?

6 A. No, sir.

7 Q. That was the first time you had contact with them?

8 A. It was.

9 Q. And you had an opportunity at that time to also
10 serve them with some warrants, is that correct?

11 A. That is correct, sir.

12 MR. BAX: Moment's indulgence, Your Honor.

13 THE COURT: Okay.

14 [Whereupon, Mr. Bax confers with Ms. Saxon]

15 MR. BAX: Briefly, Your Honor. I'd ask that a
16 couple of things be marked as defense for I.D. only.

17 THE COURT: All right.

18 [Whereupon, defendant's exhibit numbers 6, 7, and 8
19 are marked by the court reporter]

20 MR. BAX: Approach the witness, Your Honor?

21 THE COURT: Yes, sir.

22 Q. [Mr. Bax] Investigator Adams I'm just going to hand
23 you a couple of pictures that are marked for I.D. only.

24 [Whereupon, the witness is shown photographs]

25 Q. Do you recognize any of those objects in those

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 pictures?

2 A. Yes sir, I do.

3 Q. Can you identify for me what they are in those
4 pictures?

5 THE COURT: Identify them by exhibit numbers if you
6 would please?

7 MR. BAX: Yes sir, thank you.

8 A. Exhibit 6, 7, and 8 are all pictures of the
9 projectile that was collected from the wall.

10 Q. [Mr. Bax] Okay. Thank you very much. Were those
11 shots that you took or were those shots that were taken
12 later on?

13 A. I believe I took those shots right after the bullet
14 was collected.

15 Q. Fantastic. Thank you very much.

16 MR. BAX: Your Honor, the defense would move these
17 at this time into evidence as defense 6, 7, and 8.

18 MR. STONE: No objection.

19 THE COURT: Without objection defense 6, 7, and 8
20 in evidence.

21 MR. BAX: Thank you.

22 [Whereupon, defendant's exhibit numbers 6, 7, and 8
23 are entered into evidence by the court]

24 MR. BAX: No further questions. Thank you.

25 THE COURT: Thank you.

State v Tyrone Robinson
John Adams-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. When you interviewed the Youngs I think on the 6th
4 where were the Youngs?

5 A. They were at the Beaufort County Detention Center.

6 Q. They were in custody at that time?

7 A. They were, sir.

8 Q. And they had been in custody since they were taken
9 out of the truck?

10 A. I believe so.

11 Q. Okay.

12 MR. STONE: No further questions, Your Honor.

13 THE COURT: Thank you, sir. You can step down Mr.
14 Adams. Thank you.

15 [Whereupon, the witness is excused and exits the
16 witness stand]

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State v Tyrone Robinson
Laurel Albertin-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Laurel Albertin.

2 THE COURT: Ms. Albertin, come forward please ma'am
3 and be sworn.

4 [Whereupon, Ms. Albertin comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 LAUREL ALBERTIN,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Investigator Albertin you are with the Beaufort
14 County Sheriff's office?

15 A. Yes, sir.

16 Q. You were involved I believe in going to -- let me
17 just show you first what has been marked as State's
18 exhibit 19, a house on Old Wild Horse Road.

19 [Whereupon, the witness is shown photograph]

20 Q. Is that you in this photograph?

21 A. Yes sir, it is.

22 Q. Okay. You were with Investigator Adams when he
23 retrieved a bullet from the wall of this house?

24 A. Yes, I was.

25 Q. Let me show you what has been marked as State's

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Laurel Albertin-Direct Examination by Mr. Stone
September 17, 2014

1 exhibit 30 and ask if you could identify that please
2 ma'am?

3 [Whereupon, the witness is shown exhibit]

4 A. This is the bag with a projectile that I collected
5 from the Wild Horse -- ■ Old Wild Horse Road.

6 Q. Now Investigator Adams handed you this and then you
7 took it from him, is that correct?

8 A. Yes, sir.

9 Q. And at what point -- what did you do with it once
10 you took it?

11 A. I then secured the bag into a storage locker with a
12 lock that only I have. I initialed it and I turned it
13 over to our evidence technician.

14 Q. Did you change or alter the bullet in any way while
15 it was in your custody?

16 A. No, sir.

17 Q. And you put this directly into evidence, is that
18 correct?

19 A. Yes, sir.

20 MR. STONE: No further questions for this witness,
21 Your Honor.

22 THE COURT: Thank you. Mr. Bax?

23 MR. BAX: Briefly, Your Honor.

24

25

State v Tyrone Robinson
Laurel Albertin-Cross-Examination by Mr. Bax
September 17, 2014

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CROSS-EXAMINATION

BY MR. BAX:

Q. Good morning.

A. Good morning.

Q. You testified that you were with and in fact you are in the picture over at ■ Wild Horse Road. Now the house here [indicates] that you are in front of in the picture, State's exhibit number 19 is that ■ Old Wild Horse Road or is that the neighbor of ■? I'll pass that up to you.

[Whereupon, the witness is shown photograph]

Q. Do you recall from the structure of the neighborhood was that where the Youngs lived or was that where somebody lived next to them?

A. That is the house directly in front of the Youngs.

Q. Directly in front, okay. And have you had an opportunity to speak with Aaron Young, Jr. and Aaron Young, Sr. before you went over to look for this projectile?

A. Yes, sir.

Q. Okay. And that was at the Beaufort County Detention Center is that correct?

A. Yes.

Q. And at that time yourself and Investigator Adams served them with warrants, correct?

A. That's correct.

1 Q. Okay. And the reason that you went over there on
2 the 10th was based on at least in part on information
3 that was provided to you by the Youngs during those
4 interviews correct?

5 A. Correct.

6 Q. We have one projectile here and I want to show you
7 these.

8 MR. BAX: Approach, Your Honor?

9 THE COURT: All right.

10 Q. [Mr. Bax] These have been marked defendants exhibits
11 6, 7, and 8 and have been introduced into evidence.
12 Could you take a look at those and see if you can
13 identify those?

14 [Whereupon, the witness is shown photographs]

15 A. Yes, sir. That's the projectile we recovered there.

16 Q. Thank you very much. Was there anything else that
17 you and Investigator Adams recovered that day over there
18 at Wild Horse Road?

19 A. Yes. We recovered two shell casings, we recovered
20 one bullet and we also recovered numerous bottle caps,
21 cans, crushed cans, pennies, coins.

22 Q. Do you recall the caliber of the shell casings that
23 you recovered?

24 A. They were .9 mm.

25 Q. Okay. Was there an unspent cartridge, in other

State v Tyrone Robinson
Laurel Albertin-Cross-Examination by Mr. Bax
September 17, 2014

1 words a bullet that has not yet been fired that you found
2 outside?

3 A. Yes, sir.

4 Q. What was the caliber of that?

5 A. That was a .9 mm.

6 Q. That was a .9 mm as well? Okay. Anything else
7 that y'all found that day?

8 A. No, sir.

9 Q. Thank you very much.

10 MR. BAX: Moment's indulgence, Your Honor.

11 THE COURT: All right.

12 [Whereupon, Mr. Bax confers with Ms. Saxon and his
13 client]

14 MR. BAX: No further questions, Your Honor. The
15 same request as I had with Investigator Seifert.

16 THE COURT: Thank you.

17 MR. STONE: No objection.

18 THE COURT: All right. Investigator, you said you
19 turned the retrieved bullet put it in your storage locker
20 and then gave it to the evidence custodian. Who was the
21 evidence custodian?

22 THE WITNESS: That was Corporal Padgett.

23 THE COURT: Thank you. All right, anything
24 further Mr. Stone?

25 MR. STONE: Briefly.

State v Tyrone Robinson
Laurel Albertin-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. And then you sealed the package actually before you
4 put it into evidence is that correct?

5 A. Yes, sir.

6 Q. When it is in the evidence locker then that seal
7 when it was taken out -- you did not take it out. That
8 was I guess Wendy Conant took it out of the evidence
9 locker, is that correct? Let me hand it to so you can
10 see.

11 [Whereupon, the witness is shown exhibit]

12 A. I sealed the bag, I initialed -- I signed it and I
13 turned it over directly to Corporal Padgett where he
14 signed it.

15 Q. And then at that point that's the last contact you
16 had with it?

17 A. Yes, sir.

18 MR. STONE: Thank you, Your Honor.

19 THE COURT: Thank you. Investigator we may need
20 you back later today or perhaps even tomorrow so don't
21 leave the country.

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you, ma'am.

24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Captain Bob Bromage.

2 THE COURT: Captain Bromage, come around please and
3 be sworn.

4 [Whereupon, Captain Bromage comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 BOB BROMAGE,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Captain Bromage, you were also involved in the
14 investigation concerning the death of K. S. [REDACTED]?

15 A. I was.

16 Q. And at some point -- let me first show you State's
17 exhibit 17 and ask you if you could identify this for me
18 please?

19 [Whereupon, the witness is shown photograph]

20 A. That's the small duffle bag that contained the .9mm
21 pistol and accessories.

22 Q. And the photograph itself where is the location of
23 this?

24 A. Benny Young's shed behind his house on Wild Horse
25 Road.

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 Q. All right.

2 MR. STONE: At this time, Your Honor, we offer --

3 Q. [Mr. Stone] And that is a fair and accurate
4 depiction as you saw the scene that night?

5 A. It was.

6 MR. STONE: At this time Your Honor we offer
7 State's exhibit 17 into evidence.

8 MR. BAX: No objection, Your Honor.

9 THE COURT: Thank you. Without objection.

10 [Whereupon, State's exhibit number 17 is entered
11 into evidence by the court]

12 Q. [Mr. Stone] Tell me what we are looking at in this
13 view?

14 A. During the interview of Aaron Young, Sr.?

15 Q. Yes.

16 A. He decided that he was going to cooperate and bring
17 us to the gun that he and his son possessed during this
18 entire gun battle.

19 He led me and Sergeant Simms [phonetic] Trey Simms
20 to his father's residence where he and his son had hid
21 this after the incident. And it was a bag containing
22 what appeared to be a submachine gun, a .9mm submachine
23 gun.

24 Q. Okay. Let me hand you what has been marked as
25 State's exhibit 25 at this point just for identification.

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 [Whereupon, the witness is shown exhibit]

2 Q. Can you tell me what that is please?

3 A. That's the bag that contained the .9mm submachine
4 gun.

5 MR. STONE: At this time, Your Honor, we'd move
6 this into evidence as State's exhibit 25.

7 MR. BAX: No objection, Your Honor.

8 THE COURT: Without objection 25 in evidence.

9 [Whereupon, State's exhibit number 25 is entered
10 into evidence by the court]

11 Q. [Mr. Stone] I'll take this out. So this is the bag
12 in that doorway right there [indicates] is that correct?

13 A. It is, sir.

14 [Whereupon, State's exhibit number 31 is marked by
15 the court reporter]

16 MR. STONE: Your Honor, for purposes of the defense
17 all of this was together in the bag. I have just taken
18 it out just making sure we are clear as far as the
19 evidence is concerned.

20 THE COURT: That's fine.

21 Q. [Mr. Stone] Let me show you what has been marked as
22 State's exhibit 31. These items were inside this bag.

23 [Whereupon, the witness is shown exhibit]

24 Q. Was that part of what was inside the black bag?

25 A. It was. I contacted Corporal Cooler to meet me out

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 at the scene to process, photograph, and collect the
2 evidence. I was not equipped to do so at the time.

3 Q. But you were present during the collection of this?

4 A. Prior to the collection. When he got out there and
5 started photographing I looked in the bag myself with a
6 flashlight prior to him coming out.

7 Q. And these items were in that bag?

8 A. Yes.

9 MR. STONE: Your Honor, at this time we'd move
10 State's exhibit 31 into evidence.

11 MR. BAX: No objection, Your Honor.

12 THE COURT: And what is that?

13 MR. STONE: These are unfired .9mm bullets, a box
14 of them as well as individual ones.

15 THE COURT: Okay. Thank you.

16 [Whereupon, State's exhibit number 31 is entered
17 into evidence by the court]

18 Q. [Mr. Stone] And what has already been introduced
19 into evidence as State's exhibit 26 was this the gun that
20 was in that bag?

21 A. That was the gun in the bag.

22 Q. Okay.

23 [Whereupon, State's exhibit number 32 is marked by
24 the court reporter]

25 Q. [Mr. Stone] Also in this bag of evidence that has

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 already been put into evidence I will refer to this as
2 State's exhibit 32 for purposes of the record. This is a
3 can of lubricant. Was that in that bag as well?

4 A. Yes, sir.

5 MR. STONE: I want to move this into evidence as
6 well, Your Honor.

7 MR. BAX: No objection, Your Honor.

8 THE COURT: Thank you.

9 [Whereupon, State's exhibit number 32 is entered
10 into evidence by the court]

11 Q. [Mr. Stone] Item number 27 and 28 have also been
12 moved into evidence. This is part of the gun in State's
13 exhibit 26 is that correct?

14 A. That's correct.

15 Q. And this was with the gun at the same time?

16 A. It was.

17 MR. STONE: I don't have any further questions of
18 this witness at this time. Thank you, Captain.

19 THE COURT: Thank you. Mr. Bax?

20 MR. BAX: Thank you, Your Honor.

21

22

23

24

25

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning Captain Bromage.

4 A. Good morning, sir.

5 Q. A couple of questions briefly. You had stated
6 earlier in your direct testimony that this was discovered
7 as a result of Aaron Young, Sr. deciding to cooperate
8 correct?

9 A. That's correct.

10 Q. Okay. So the basic location where you found this
11 came from Aaron Young, Sr. is that correct?

12 A. It did.

13 Q. Okay. And just so that we are clear. I know there
14 is a little confusion about the family relations here.
15 You've also talked about Benny Young.

16 In order to make it clear to the jury who is who in
17 this family who is Benny Young in relation to Aaron
18 Young, Sr. and Jr.?

19 A. Benny Young is Aaron Young, Sr.'s father and Aaron
20 Young, Jr.'s grandfather.

21 Q. Okay. And I believe we've seen some testimony and
22 seen some evidence that Aaron Young, Sr. has been
23 referred to as Bennie as well at certain times, is that
24 correct?

25 A. The people in the community call him Bennie. It is

State v Tyrone Robinson
Bob Bromage-Cross-Examination by Mr. Bax
September 17, 2014

1 confusing; there's no question about it.

2 Q. Okay.

3 A. Aaron Young, Jr. who was 17 or 18 at the time.

4 Aaron Young, Sr. I think was 36 or 37 at the time. Benny
5 Young is 65; late 60's.

6 Q. And they can sometimes by people in the community
7 all be referred to as Bennie?

8 A. That's what I understand.

9 Q. And I believe there was some testimony that at some
10 point Benny Young, basically the third generation, the
11 oldest, the grandfather as it were, had some kind of
12 establishment; a bar or some kind of place that people
13 went is that correct?

14 A. Yes, he had Benny's Lounge in the 1990's that was
15 right in that area. As a matter of fact it was active on
16 the weekends.

17 Q. Was it in that same Squire Pope right in there where
18 those houses are?

19 A. Its right at the tip I believe of Wild Horse Road.

20 Q. Okay.

21 A. Which is just down from Squire Pope and Gum Tree and
22 all that; it's in the middle actually.

23 Q. And it's not active any more, is that correct?

24 A. Not that I know of.

25 Q. But a lot of people in the community still associate

1 them with that Benny's Lounge is that right?

2 A. They do.

3 Q. And that's kind of where calling them all Benny
4 comes from?

5 A. Yes, sir.

6 Q. Okay. And this building that is in the picture
7 that is still up and let me refer to it by number,
8 State's exhibit 17 I think you said this is a shed behind
9 Benny Young's place?

10 A. The oldest Benny Young?

11 Q. Yes?

12 A. This is on his property and it's a shed behind his
13 house.

14 Q. Okay. And how far from ■ Old Wild Horse Road
15 where Aaron Young, Jr. and Sr. were living is Benny's
16 place?

17 A. I didn't measure it. I stuck around that night to
18 make sure the gun was being properly collected and left.
19 I would say within 100 yards or something but I'm just
20 guessing.

21 Q. So in close proximity?

22 A. It's all in close proximity. It's definitely
23 walking distance from Benny's lounge and from where the
24 Youngs live.

25 Q. Okay. And when y'all found this you indicated it

State v Tyrone Robinson
Bob Bromage-Cross-Examination by Mr. Bax
September 17, 2014

1 was in that shed. Was it sitting in that location in the
2 picture or was it inside the shed somewhere?

3 A. It was right there. I went in and actually unzipped
4 it so see what was in it and I said okay, I'm going to
5 back out and let it gets photographed and I opened the
6 bag and looked in it and saw the submachine gun, the .9mm
7 and backed out at that point.

8 Q. Okay. So it was just in the floor right near the
9 door?

10 A. Well, it was hidden in there. It was obviously a
11 hasty throw it in there because we wouldn't have any idea
12 it was there.

13 Q. Okay. During the course of that evening did
14 yourself or any officers under your command get any
15 search warrant for the rest of that shed?

16 A. I'd have to look at Corporal Cooler's -- I believe
17 we had consent but we may have gotten a search warrant.
18 But again it was Benny Young, the oldest Benny Young's
19 property so nobody would have any standing -- any of our
20 defendants wouldn't have any standing with that so give
21 me a second. Can I?

22 Q. Certainly. Take your time.

23 [Whereupon, the witness reviews documents]

24 A. No, we didn't get a search warrant by the report.

25 Q. Well, and not for the issues of challenging anything

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1 obviously just from your remembrance did you or the other
2 officers get a chance to look through the rest of that
3 shed; consent or otherwise?

4 A. I would imagine. I instructed Corporal Cooler to do
5 but I did not.

6 Q. Okay. Were you made aware that any other weapons
7 were found on Benny Young's property or in that shed?

8 A. There were no other weapons found in this case.

9 Q. Okay.

10 MR. BAX: Moment's indulgence, Your Honor.

11 THE COURT: Yes, sir.

12 [Whereupon, Mr. Bax confers with Ms. Saxon]

13 Q. [Mr. Bax] One brief follow up, Captain. Earlier in
14 the evening did you have the opportunity to be at least
15 for some small periods of time part of the interviews of
16 Aaron Young, Sr. and Aaron Young, Jr.?

17 A. I oversaw the interviews to make sure that the tone
18 was right and that everything was going forward. Yes I
19 did; I spoke to everybody in this case.

20 Q. Okay. And I believe we've heard some testimony
21 about this from some of the other officers. The Youngs
22 were placed in a room that is audio and videotaped is
23 that correct?

24 A. If I could give you a layout of the office. We had
25 just moved into the new Hilton Head office at that point,

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1 which we had one interview room equipped with video and
2 audio. It was still basically under construction, we
3 were putting it all together so we had to put people in
4 different areas to stage them before we actually did the
5 formal interviews.

6 The formal interviews were done in the interview
7 room where Mr. Robinson was interviewed, Aaron Young, Jr.
8 was interviewed and Aaron Young, Sr. and then they were
9 held in different spots until we could transport them to
10 Beaufort.

11 Q. So you basically had to rotate them through that
12 room in order to do the interviews?

13 A. Unfortunately we did, yes sir.

14 Q. Okay. Now Captain the video feed of that formal
15 interview room is that something that can be viewed
16 outside the room by other officers?

17 A. At that time I don't think so at that time. Again,
18 we had just moved in a few months prior so we were still
19 putting everything together. So to find out what was
20 going on you actually had to go in the room and engage at
21 that point.

22 Q. Were there any windows to see or a window in the
23 door or a window in the wall or anything like that?

24 A. There is a window on the outside but you can't hear
25 what is going on.

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1 Q. Okay. So you can maybe see but not necessarily
2 hear.

3 A. Unless somebody's yelling you can't really get a
4 grasp of what is going on.

5 Q. Well, there was probably some yelling that night
6 though wasn't there?

7 A. Not that I recall as far as yelling. But there
8 could have been as far as the -- obviously this case
9 brings a lot of passion to it so the tone could have
10 changed several times.

11 Q. Okay. Thank you.

12 MR. BAX: No further questions, Your Honor.

13 THE COURT: Thank you. Mr. Stone?

14 MR. STONE: Nothing else, Your Honor. Thank you.

15 THE COURT: Thank you. Captain, you can step
16 down. Thank you.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

19 [Whereupon, State's exhibit number 33 is marked by
20 the court reporter]

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Derrick Nelson-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Derrick Nelson.

2 THE COURT: Officer Nelson, come forward please and
3 be sworn.

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 - - - - -

7 DERRICK NELSON,

8 Having been first duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q. Investigator Nelson, you're with the Beaufort County
13 Sheriff's office?

14 A. I am, sir.

15 Q. Specifically on the case involving Tyrone Robinson
16 did you process Tyrone Robinson's car?

17 A. I did.

18 Q. Let me show you what has been marked as State's
19 exhibit 14 and 16 and ask if you could identify those
20 photographs for me.

21 [Whereupon, the witness is shown photographs]

22 A. Yes, sir. These are photographs I took during the
23 execution of the search.

24 Q. Okay. And the car at this point is located at the
25 impound lot, is that correct?

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1 A. That's correct.

2 Q. That's a fair and accurate depiction of how the car
3 looked that day?

4 A. It is, sir.

5 Q. Now the sticks coming out I guess those are called
6 dowels, is that right?

7 A. Yes, sir.

8 Q. And what's the purpose of that?

9 A. Those are to help us determine the basic trajectory
10 of any projectiles that entered the vehicle.

11 Q. Okay.

12 MR. STONE: At this time, Your Honor, we'd move
13 State's exhibit 16 and 14 into evidence.

14 MR. BAX: No objection.

15 THE COURT: Without objection in evidence.

16 [Whereupon, State's exhibit numbers 14 and 16 are
17 entered into evidence by the court]

18 Q. [Mr. Stone] I'm now putting up on the monitor
19 State's exhibit 14.

20 [Whereupon, the photograph is shown]

21 Q. Is that a photograph -- what is that a photograph
22 of?

23 A. That is a photograph of Tyrone Robinson's vehicle at
24 the time we were processing it.

25 Q. And who are you out there with?

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1 A. I'm with Staff Sergeant Chapman [phonetic] also with
2 the Investigations Division.

3 Q. And State's exhibit 16?

4 [Whereupon, the photograph is shown]

5 A. That is also the same vehicle.

6 Q. Let me show you what has been marked as State's
7 exhibit 33 for identification and ask you to tell me what
8 is in that bag please.

9 [Whereupon, the witness is shown exhibit]

10 A. These are five projectiles that were taken out of
11 the vehicle at the time we processed it.

12 Q. So these bullets actually were taken out of this car
13 is that correct?

14 A. That's correct.

15 Q. When you took the -- when those bullets were taken
16 out of this car what did you do with them at that point?

17 A. We removed them, photographed them, and then sealed
18 them in small manila evidence bags and then put them in
19 these [indicates] evidence bags, sealed them, and turned
20 them into the Beaufort County evidence station.

21 Q. And do you initial these bags? How does the seal
22 work?

23 A. We do. We place an evidence seal on the top of the
24 bag and then my initials went on the seal of the bag.

25 Q. And these are your initials on each one of these

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1 seals?
2 A. That's correct.
3 Q. And that's the clear plastic bag, is that correct?
4 A. That's the proof, yes sir.
5 Q. And then inside the individual bag is the smaller
6 package that you put ---
7 A. --- put the projective in.
8 Q. And then what did you do with those projectiles
9 after you sealed the bag?
10 A. I turned them into BCSO evidence.
11 Q. Into the evidence room?
12 A. They went to; yes they went directly into evidence.
13 Q. Okay. And who was the evidence custodian on those?
14 A. It was Jimmy Padgett.
15 Q. Okay. Did you change or alter these in any way
16 from taking them out of Tyrone Robinson's car and putting
17 them into evidence other than to seal them in the
18 packaging and then initial the seal?
19 A. No, sir.
20 Q. What is the purpose by the way of sealing it with
21 evidence tape and putting your initials on the outside of
22 the evidence tape?
23 A. To make sure nothing gets tampered with.
24 Q. Okay.
25 MR. STONE: No further questions of this witness,

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1 Your Honor.

2 THE COURT: Thank you. Cross-examine?

3 MR. BAX: Thank you very much, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. I'm actually going to put these back up.

4 Investigator Nelson, I'm sorry that I'm moving this
5 around; I just want to make sure I get back where you can
6 see the most of it.

7 [Whereupon, the photo is shown on screen]

8 Q. Is that you there in the picture?

9 A. No sir, I'm taking the photographs.

10 Q. Who is in the picture?

11 A. That's Staff Sergeant Chapman.

12 Q. Okay. So he is assisting you -- is he the one who
13 is placing the dowels into the holes?

14 A. In that photograph, yes sir.

15 Q. Okay. Now this is showing the -- what side of the
16 car is this showing?

17 A. That's the driver's side of the vehicle.

18 Q. Okay. And as you said before those dowels are to
19 try and assist with determining the projectile of -- or
20 excuse me; the trajectory of the bullet or projectile is
21 that right?

22 A. That's correct.

23 Q. Okay. How many dowels are we seeing in this
24 photograph?

25 A. In this particular photograph there is only three.

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1 Q. Okay. I also see what appears to be kind of a
2 white dot there above the dowel closest to Chapman. Is
3 that another bullet hole? What is that?

4 A. That's a ricochet.

5 Q. A ricochet? So there is some kind of dent or mark.

6 A. That's correct.

7 Q. Where something possibly struck?

8 A. Correct.

9 Q. Okay. Did that appear to be something that had
10 been caused by a projectile?

11 A. It did because it seemed to have what appeared to be
12 like maybe lead deposits in the indentation.

13 Q. Okay. And so what we are seeing here is evidence
14 of at least four projectiles making contact with the car
15 on this [indicates] side?

16 A. That's correct.

17 Q. Okay. And I noticed that one of the dowels is
18 angled back toward the back of the car whereas the first
19 two are straight out. What does that indicate to you?

20 A. That they were shot from a different position?

21 Q. Okay. And that's why you're putting the dowels in
22 there to try and figure that out.

23 A. It helps us also plot trajectory on the inside of
24 car and helps locate projectiles on the inside for
25 recovery.

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1 Q. Okay. Moving to State's 14 -- and we were just on
2 16 -- this is a view of the back of the car is that
3 correct?

4 A. That is correct, sir.

5 Q. Okay. And these were additional dowels that have
6 been placed into the vehicle by yourself or Chapman in
7 order to do the same thing as we were seeing on the side
8 of the car correct?

9 A. Correct.

10 Q. How many dowels are we looking at here Officer
11 Nelson?

12 A. It looks like five, sir.

13 Q. Five? Okay. They kind of look like a porcupine.
14 They look like they are coming out at a couple of
15 different angles.

16 A. That's correct.

17 Q. Okay. And that would indicate the position not
18 only of the bullet going in the car but wherever the
19 projectile was shot from correct?

20 A. Correct.

21 Q. In your experience bullets travel a straight path
22 basically, correct?

23 A. Until they strike an object.

24 Q. Until they strike something. Now I believe it is
25 State's 33.

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1 MR. BAX: Approach, Your Honor?

2 THE COURT: Yes, sir.

3 MR. BAX: Thank you, sir.

4 Q. [Mr. Bax] I'm handing you what the Solicitor has
5 already handed you and it's been identified for
6 identification purposes as State's 33.

7 [Whereupon, the witness is shown exhibit]

8 Q. You indicated that was the projectiles you removed
9 from this vehicle is that correct?

10 A. Correct.

11 Q. Can you tell us how many projectiles y'all removed
12 from the car?

13 A. A total of five.

14 Q. A total of five? So between State's 14, which we've
15 stated has approximately five dowels sticking out of the
16 back of the car, there is another three dowels in State's
17 16. There were actually more bullet holes that there
18 were projectiles, is that correct?

19 A. That's correct.

20 Q. So based on this Officer Nelson were you able to
21 determine there might have been some projectiles you
22 weren't able to recover?

23 A. Yes, sir. There was one that went through the
24 bottom of the vehicle and exited the vehicle so it was
25 unrecoverable because its final trajectory couldn't be

1 determined. Another one would have entered the passenger
2 side rear wheel well and also could not be recovered
3 final trajectory. And that would account for all the
4 dowels.

5 Q. Okay. And so if we look at the dowels we have
6 approximately eight dowels going into this car if you
7 look at the five on the back and the three in this shot
8 correct?

9 A. Correct.

10 Q. And then of course we have the possible projectile
11 that skipped off the side of the car there that wasn't
12 recovered was it?

13 A. No, sir.

14 Q. Because that would have gone somewhere on the scene
15 there on Allen Road is that right?

16 A. It's possible.

17 Q. Possible, okay. And finally let me switch back to
18 this other shot. The back window was shattered in this
19 car, is that correct?

20 A. Correct.

21 Q. Were any of the other windows shattered that you
22 were able to tell?

23 A. No sir, I believe they were all just rolled down.

24 Q. Rolled down? Do you know whether or not they were
25 rolled down on the scene or not?

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1 A. I do not know.

2 Q. Okay. Were you present on the Allen Road scene at
3 all?

4 A. No, sir.

5 Q. Okay. But this car was in impound is that correct?

6 A. Correct.

7 Q. Where was that impound located at?

8 A. Its 120 Shanklin Road. It's behind our garage
9 complex.

10 Q. Okay. And the windows were down when it was in the
11 impound correct?

12 A. Correct.

13 Q. Okay. Typically -- well, this is towed by a private
14 towing company, is that right?

15 A. I'm not certain who towed it that day, sir.

16 Q. Okay. Does law enforcement have their own towing or
17 do they go to an independent contractor to do towing?

18 A. We have a wrecker -- or a rotation service that the
19 Sheriff's Office uses.

20 Q. Okay. Do those towing companies typically change
21 the car in any way or do anything to them at all when
22 they transport them for y'all's purposes?

23 A. No, sir.

24 Q. Okay. So it's possible that with this back
25 windshield being shattered like that a bullet could have

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1 passed through that window and then out an open window
2 correct?

3 A. It's possible.

4 Q. And you obviously can't place a dowel into an empty
5 window that has been shattered, correct?

6 A. Correct.

7 Q. And that back window that was shattered before you
8 looked at it is that right?

9 A. That's correct.

10 Q. So you weren't able to look at it when it was whole
11 to see if there were any additional bullet holes in it?

12 A. No, sir.

13 Q. Okay. Thank you. No further questions.

14 THE COURT: Thank you. Mr. Stone?

15 MR. STONE: No further questions, Your Honor.

16 THE COURT: Thank you. Investigator you can step
17 down. Thank you, sir.

18 [Whereupon, the witness is excused and exits the
19 witness stand]

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1 422

2 MR. STONE: Investigator Jeff Moran.

3 THE COURT: Investigator come forward please and be
4 sworn.

5 [Whereupon, Mr. Moran comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 - - - - -

9 JEFF MORAN,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STONE:

14 Q. Investigator Moran you were involved in the
15 investigation of the death of K. S. [REDACTED] as well,
16 is that correct?

17 A. That's correct.

18 Q. Now I want to specifically talk with you about two
19 events. First, did you attend the autopsy of K. S. [REDACTED]
20 [REDACTED]?

21 A. Yes, I did.

22 Q. Where did that autopsy take place?

23 A. The Medical University of South Carolina in
24 Charleston.

25 Q. You traveled up there?

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1 A. On Sunday the 2nd, yes.

2 Q. And you were actually present during the autopsy is
3 that correct?

4 A. That's correct.

5 Q. I believe Doctor Tormos was the pathologist, is that
6 correct?

7 A. Yes, sir.

8 Q. Were you present when Doctor Tormos removed the
9 bullet from K. S. [REDACTED]?

10 A. I was.

11 Q. Let me show you what has been marked as State's
12 exhibit -- I've not marked this; I'm sorry.

13 [Whereupon, State's exhibit number 34 is marked by
14 the court reporter]

15 Q. [Mr. Stone] State's exhibit 34 and ask you if you
16 could identify that please, sir.

17 [Whereupon, the witness is shown exhibit]

18 A. It's the evidence bag that I placed the bullet in
19 and a small tin can.

20 Q. Is that the bullet Doctor Tormos removed from K. S. [REDACTED]
21 [REDACTED]?

22 A. That's the same bullet I placed in this can.

23 Q. Pardon me?

24 A. That's the same bullet.

25 Q. And what did you do with the bullet once you

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1 received it from Doctor Tormos?

2 A. I returned to the substation on Hilton Head
3 Sheriff's Office locked it in a temporary locker with a
4 lock that only I have. And I think that was Sunday. On
5 Tuesday I transferred it to Investigator Conant who then
6 took some other evidence along and turned it in.

7 Q. Now did you seal the -- you did the actual sealing
8 of the bullet in this, is that correct?

9 A. I did.

10 Q. And then there is evidence tape on the outside I
11 guess of this bag. Is that tape that you put on there?

12 A. Yes, that's my badge number and the date I did it.

13 Q. Okay. And this was -- obviously it's unsealed now
14 but it was sealed at the time I guess in that way is that
15 correct?

16 A. Yes, sir.

17 Q. Prior to putting it in the bag did you change or
18 alter the bullet in any way?

19 A. No, I didn't.

20 Q. And then once it is sealed it's placed into the
21 evidence and you got it back out -- well, you put it in
22 your locker. When you got it back out of your locker was
23 it still sealed with your initial on it?

24 A. Yes, it was.

25 Q. And then you placed it in or you gave it directly to

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1 Wendy Conant?

2 A. Investigator Conant.

3 [Whereupon, State's exhibit number 35 is marked by
4 the court reporter]

5 Q. You also I believe went to Bryant Road, 31 Bryant
6 Road I believe Snake Bryant's house, is that correct?

7 A. Yes, sir.

8 Q. And why did you do that?

9 A. On Monday Investigator Nelson and I met with Bennie
10 Hamilton at the substation in Hilton Head. Bennie told
11 us that he was at Snake's house on Saturday when Tyrone
12 came to the house. Bennie told us that he came into the
13 house and ---

14 MR. BAX: --- objection, Your Honor.

15 MR. STONE: That's fine. We've already had Bennie
16 Hamilton's testimony ---

17 THE COURT: --- yes, Mr. Hamilton has already
18 testified about this very thing. As long as he stays
19 within that line he will be fine.

20 Q. [Mr. Stone] As a result of your conversation with
21 Bennie Hamilton you then went to Bryant Road is that
22 correct?

23 A. That's correct.

24 Q. Let me show you what has been marked as State's
25 exhibit 35 and ask if you could identify that please?

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1 [Whereupon, the witness is shown exhibit]

2 A. That's a plastic bottle of vinegar that I collected
3 from the table of Mr. Bryant's house.

4 Q. And that was on September the 3rd is that correct?

5 A. That's correct.

6 Q. And this is your evidence tag that you filled out is
7 that right?

8 A. Yes, sir.

9 MR. STONE: Your Honor, at this time we would move
10 State's exhibit 35 into evidence.

11 MR. BAX: No objection.

12 THE COURT: Thank you. Without objection.

13 [Whereupon, State's exhibit number 35 is entered
14 into evidence by the court]

15 MR. STONE: No further questions of this witness,
16 Your Honor.

17 THE COURT: Thank you. Mr. Bax?

18 MR. BAX: No questions for Investigator Moran.

19 THE COURT: Thank you. You can step down
20 Investigator. Thank you, sir.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

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September 17, 2014

1 MR. STONE: The State calls Wendy Conant to the
2 stand.

3 THE COURT: Ms. Conant, come forward please ma'am.
4 You've already been sworn. Take the stand.

5 [Whereupon, Ms. Conant comes forward]

6 - - - - -

7 WENDY CONANT,

8 Having been previously duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q. And you've already been sworn ma'am but let me now
13 ask you questions concerning the handling of evidence in
14 this particular case. I want to make sure I've got all
15 the items. You transported a number of items to SLED did
16 you not?

17 A. Yes, I did.

18 Q. And I know you're now involved in the evidence room
19 or the evidence section of the Beaufort County Sheriff's
20 Office?

21 A. Correct. I'm an evidence technician now.

22 Q. But at that time you were an investigator and part
23 of your job was to transport the evidence from here to
24 SLED where it would be tested, is that correct?

25 A. I would not normally transfer it to SLED, but we

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1 were needing the evidence processed quickly so I went up
2 that day at a special request.

3 Q. Now when you gathered the evidence some of the
4 evidence I'm assuming came directly to you and some you
5 actually retrieved from the evidence locker, is that
6 correct?

7 A. The evidence that was brought to Beaufort to be
8 logged in here was transferred to me by investigators of
9 the Hilton Head office and then I brought it here to
10 Beaufort where it was logged in and then it was logged
11 back out to go up to SLED.

12 Q. Okay. Let me first start with State's exhibit 29,
13 three what appear to be .9mm rounds. Did you retrieve
14 that piece of evidence and handle it?

15 A. Yes, I did.

16 Q. And tell me about that process?

17 A. These items were originally collected by
18 Investigator Doug Seifert who turned them over to me on
19 September 4th, 2012 at 10:39. I turned these items over
20 to the Beaufort evidence section on September 4th at
21 12:30.

22 Q. Did you then get them out of evidence and take them
23 to SLED?

24 A. I waited while the evidence technician processed
25 everything here in Beaufort because she had to process

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1 each individual item in one at a time. And I waited and
2 once they were processed in and logged, pre-logged with
3 SLED, then I took them right up there.

4 Q. Okay. Now this was, and I believe Investigator
5 Seifert testified earlier that he has sealed this when he
6 gave this to you or when you got it, is that correct?

7 A. Yes, sir. You can see his initials on the tape on
8 both sides.

9 Q. Did it remain sealed throughout the process until
10 you took it to SLED?

11 A. Yes, it did.

12 Q. Okay. And the purpose behind the sealing is what?

13 A. The purpose behind sealing is so that nobody can
14 tamper with the evidence. Again, this is the type of
15 tape if you try to peel it off to get in there it's not
16 going to peel; it's either going to break apart or it is
17 going to leave residue behind.

18 And the reason we sign the tape is because if
19 somebody does try to peel it thinking that they won't
20 damage the tape it's hard to get it back in the exact
21 position it was and the initials won't match up. In this
22 case they all match up.

23 Q. So you're dealing basically at this point just with
24 the package itself. You don't go in and touch the...

25 A. I do not.

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1 Q. And in fact to do that you would have had to break
2 the seal?

3 A. I would actually have opened it at a different
4 section; I would have retaped it and initialed it with
5 new tape.

6 Q. Okay. Let me show you what has been marked as
7 State's exhibit 33. Individual packages inside; feel
8 free to look through those if you can and tell me about
9 your evidence handling of those.

10 [Whereupon, the witness is shown exhibit]

11 A. There are one, two, three, four, five items in this
12 bag that came back from SLED. These items were all
13 initially collected by Corporal Derrick Nelson.

14 They were turned over to evidence technician Jimmy
15 Padgett and they are all done on the same date, which was
16 September 6th, 2012 at 10:20 a.m. These items were then
17 processed into evidence and subsequently pre-logged for
18 SLED.

19 And again on this day they requested that I bring
20 the items up to SLED. So I picked up these items and
21 personally brought them to SLED where they were logged in
22 at SLED for processing.

23 Q. And all those packages were sealed when you picked
24 them up?

25 A. They were.

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1 Q. And they were sealed with I think is that Derrick
2 Nelson's initials?

3 A. Yes, Derrick Nelson.

4 Q. All right. And so you are again dealing with the
5 outside packages not inside is that correct?

6 A. That's correct.

7 Q. And so they were sealed when you received them and
8 then they remained sealed from your time until the time
9 that you handed them to SLED.

10 A. They remained sealed.

11 Q. Go ahead and put them back into State's exhibit 33
12 please.

13 [Whereupon, the witness complies]

14 Q. Did you change or alter them in any way?

15 A. I did not.

16 Q. I'll show you what has been marked as State's
17 exhibit 30, a bullet from the house at Old Wild Horse
18 Road. Did you receive that as well?

19 [Whereupon, the witness is shown exhibit]

20 A. I believe this again was an item that was collected
21 Sergeant Laurel Albertin and turned over to evidence
22 technician James Padgett on September 12th at 10:20. And
23 I would have to refer to my notes to confirm if I brought
24 this to SLED.

25 Q. Sure.

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1 [Whereupon, the witness reviews documents]

2 A. I do not recall this ever being transferred to me.
3 I haven't signed the bag and I don't see any SLED tags on
4 here so I'm not sure that it was delivered to SLED.

5 Q. Okay. Inside this is a package as well. What is
6 that?

7 A. That is a SLED number. And just so you know it says
8 the description is a projectile from the wall of
9 residence. That is not on my list of what I brought to
10 SLED so I can't say who transferred that.

11 Q. Okay. Finally, let me show you what has been
12 marked as State's exhibit 34, a lead bullet projectile in
13 a small I guess tin container.

14 [Whereupon, the witness is shown exhibit]

15 A. Yes, this was an item that Sergeant Jeffrey Moran
16 collected in the autopsy up in Charleston. He
17 subsequently packaged it in here and turned it over to me
18 on September 4th, 2012 at 10:39.

19 I then transferred it to the evidence technician
20 here in Beaufort on September 4th 2012 at 12:30. Later
21 in the day once everything was processed in I brought
22 this item up to SLED and transferred it to them for
23 processing.

24 Q. And was it sealed at the time that you received it?

25 A. Yes, it was.

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1 Q. And I believe it has initials on the back as well is
2 that correct?

3 A. Yes, it does.

4 Q. And can you tell whose initials those are?

5 A. I can tell by the badge number that it is Jeff Moran
6 and he sealed it on September 2, 2012.

7 Q. Did you change or alter that in any way?

8 A. I did not.

9 Q. I believe you have already testified to this but I
10 want to make sure. This would be State's exhibit 24, the
11 gunshot residue test that you took from Tyrone Robinson.

12 [Whereupon, the witness is shown exhibit]

13 A. That's correct.

14 Q. And that is the actual kit itself is that correct?

15 A. Yes, sir.

16 Q. You created the kit -- what did you actually do?
17 You created the kit and then put it in that particular
18 package?

19 A. We actually have these kits they are given to us
20 just like this in this envelope and inside are numerous
21 tubes and containers that we use along with a bottle of
22 saline solution.

23 When we are given the kit it is not sealed. There
24 is a little red evidence tag inside along with the
25 instructions on how to complete the kit. Once we have

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1 completed the kit per the instructions we seal everything
2 inside the individual containers and then inside this
3 envelope and we place this piece of red tape on the back
4 and we put our initials on it; that way the item is
5 secured and sealed fully.

6 And if somebody tampers with it they are going to
7 have to pull down here [indicates] or rip the tape and
8 we'll know it has been tampered with.

9 Q. Okay. And once you seal it then it goes to SLED in
10 that condition is that correct?

11 A. That's correct.

12 Q. And you transported this to SLED yourself?

13 A. I did.

14 Q. And did you change or alter it in any way once you
15 put it in the seal -- in the package?

16 A. I did not.

17 MR. STONE: I think that's all the questions I have
18 of this witness at this point, Your Honor.

19 THE COURT: Thank you. Cross-examine?

20 MR. BAX: Briefly, Your Honor.

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Wendy Conant-Cross-Examination by Mr. Bax
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CROSS-EXAMINATION

BY MR. BAX:

Q. Everything that Solicitor Stone went through with you, you transported up to SLED. Was that all on the same date Officer Conant?

A. I went on two different dates.

Q. Okay. What were those two different dates?

A. If I could just quickly refer to my notes.

Q. Sure, take your time.

[Whereupon, the witness reviews notes]

A. The first time I went was on September 4th, 2012 and the second time was September 7th of 2012.

Q. And this State's exhibit 35 was not one of the items that you transported?

A. No, sir.

MR. BAX: No further questions, Your Honor.

THE COURT: Thank you.

MR. STONE: Nothing else at this time, Your Honor.

THE COURT: Thank you. You can step down Ms. Conant. Thank you.

[Whereupon, the witness is excused and exits the witness stand]

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1 MR. STONE: Your Honor, we have our next witnesses
2 are out of town so they are all on the way. But this
3 might be a good time for morning break.

4 THE COURT: We'll do that at this time thank you.
5 Ladies and gentlemen we'll take a morning recess. We'll
6 get you back out at about 10 minutes after the hour.
7 Please do not talk about this case among yourselves while
8 you are in the jury room. Thank you.

9 [Whereupon, the jury exits at 10:15 a.m.]

10 THE COURT: Folks, we'll take about 20 minutes.

11 MR. BAX: Your Honor, if I may approach briefly
12 before we begin the break?

13 THE COURT: Sure.

14 [Whereupon, an off the record bench conference is
15 held]

16 [Whereupon, court is in recess from 10:52 a.m. to
17 11:10 a.m.]

18 THE COURT: Thank you, folks.

19 [Whereupon, an off the record bench conference is
20 held]

21 MR. STONE: We're ready to go, Your Honor.

22 THE COURT: Would you bring us the jury.

23 THE BAILIFF: The jury is entering the courtroom,
24 Your Honor.

25 THE COURT: Thank you.

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1 [Whereupon, the jury enters at 11:15 a.m.]
2 THE COURT: Solicitor, you can call your next
3 witness.
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State v Tyrone Robinson
Roger Heaton-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Roger Heaton.

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

3 [Whereupon, Mr. Heaton comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 - - - - -

7 ROGER HEATON,

8 Having been first duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q. Investigator Heaton, who do you work with, sir?

13 A. Fourteenth Judicial Circuit Solicitor's Office.

14 Q. Let me show you what has been marked as State's
15 exhibit 30 and ask if you can identify that for me, sir.

16 [Whereupon, the witness is shown exhibit]

17 A. Yes sir, I can.

18 Q. And did you transport this item to SLED, which is
19 commonly known as the State Law Enforcement Division?

20 A. I did, sir.

21 Q. And when you received it was this red seal, which is
22 the sealed evidence, was that still intact?

23 A. Yes sir, it was.

24 Q. And when you transported it from the Sheriff's
25 Office to SLED was that seal still intact?

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1 A. It was, sir.

2 Q. And you then turned it into the SLED evidence room,
3 is that correct?

4 A. I did, sir.

5 Q. Did you change or alter this item in any way in the
6 transportation of it?

7 A. Absolutely not, sir.

8 MR. STONE: No further questions at this time, Your
9 Honor.

10 THE COURT: Thank you. Mr. Bax?

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CROSS-EXAMINATION

BY MR. BAX:

Q. Good morning, Roger.

A. Good morning, sir.

MR. BAX: I don't believe I have any questions for
Mr. Heaton. Thank you, Your Honor.

THE COURT: Thank you. Investigator ,you can step
down.

THE WITNESS: Thank you, Your Honor.

[Whereupon, the witness is excused and exits the
witness stand]

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1 MR. STONE: Doctor Lee Marie Tormos.

2 THE COURT: Doctor Tormos, if you will come forward
3 please ma'am and be sworn.

4 [Whereupon, Doctor Tormos comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 DR. LEE MARIE TORMOS,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Doctor Tormos, what do you do ma'am?

14 A. I'm a forensic pathologist at the Medical University
15 of South Carolina.

16 Q. What exactly is a forensic pathologist?

17 A. A forensic pathology is a doctor that has a
18 specialty degree in the study of disease and also in the
19 study of injury and how it causes death.

20 Q. And you are -- you actually practice pathology, you
21 perform autopsies and that sort?

22 A. I do practice autopsies on the bodies that are
23 referred to us by the coroners or by the doctors.

24 Q. And what type of special education do you have in
25 order to allow you to be a forensic pathologist?

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1 A. After completing your medical doctor degree, which
2 is four years, you have to do a specialty in pathology,
3 which is an another additional four years and then an
4 extra year in forensic pathology as a subspecialty of
5 pathology.

6 Q. And where did you do those?

7 A. I did my undergrad and my medical school and my
8 pathology specialty in the University of Puerto Rico and
9 then I came to the Medical University of South Carolina
10 where I completed my subspecialty training.

11 Q. How long have you been at the Medical University of
12 South Carolina now?

13 A. Four years.

14 Q. And you performed a number of autopsies during that
15 time?

16 A. Over a thousand, yes sir.

17 MR. STONE: At this time, Your Honor, we move that
18 she be admitted as an expert in the field of forensic
19 pathology.

20 THE COURT: Thank you. Mr. Bax, voir dire?

21 MR. BAX: No voir dire. We stipulate, Your Honor.

22 THE COURT: Thank you. Doctor Tormos is so
23 qualified as an expert. Go ahead.

24 Q. [Mr. Stone] Doctor Tormos, did you perform the
25 autopsy on K. S. [REDACTED] ?

1 A. Yes, I did.

2 Q. And that was at the Medical University of South
3 Carolina is that correct?

4 A. That's correct.

5 Q. Tell me first of all what did you -- what were your
6 findings? What exactly did you perform?

7 A. During the course of the examination we perform an
8 external examination and an internal examination. The
9 decedent is a young man of eight years old. He is just
10 over four feet tall.

11 He is 49 and a half inches tall, weighs 55 pounds.
12 And externally other than some very small bruises on the
13 left leg the main external exam finding was a gunshot
14 wound to the left chest.

15 Q. Could you determine the trajectory of that gunshot
16 wound?

17 A. Yes, I can.

18 Q. Tell me about that please?

19 A. The gunshot wound entered the left chest at the
20 seventh intercostal space, which is right under the
21 armpit at the midaxillary line seventh rib.

22 It did scrape the seventh rib and then it proceeded
23 to go through the left lung, the heart, the right lung
24 before exiting the chest cavity. It stayed under the
25 skin, it went through the armpit and it was recovered on

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1 the soft tissues on the posterior right arm.

2 Q. Now I understand a little of what you're telling me
3 could I get you to come down off the stand. I need you
4 to keep your voice up so she can hear you.

5 A. Absolutely.

6 [Whereupon, the witness steps down from the stand]

7 Q. Obviously I am taller than that but tell me exactly
8 -- you were saying various things. Show me on my body
9 where the bullet entered and where it ended up. First of
10 all was the bullet still in the child when you did the
11 autopsy?

12 A. Yes, the bullet was still there.

13 Q. Okay. Where did the bullet enter on the child if
14 you were using me as the child?

15 A. Okay. The seventh rib is located on the
16 midaxillary line right here [indicates] and the bullet
17 entered about mid chest.

18 It went in an upwards trajectory through the left
19 lung through the apex of the heart through the right lung
20 and it travelled on the armpit soft tissues and it was
21 recovered right here [indicates] on the posterior right
22 arm.

23 Q. Now I'm going to hand you this pointer. Show the
24 jury the trajectory of that bullet. I'm not sure where I
25 was. This angle I guess, yes ma'am.

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1 A. So left to right [indicates] at the mid chest ---

2 Q. --- make sure everybody on the jury can see it.

3 A. The trajectory of the bullet is like this

4 [indicates]. It is left to right slightly upwards and it
5 doesn't have a significant forward or backward deviation.

6 Q. Now let me also show you what has been marked into
7 evidence -- excuse me; marked for identification as
8 State's exhibit 23 and 22. First let me ask you if you
9 could identify those for me please?

10 [Whereupon, the witness is shown exhibits]

11 A. These are x-rays that I took at the autopsy on
12 September 2nd.

13 Q. And these are the x-rays of K. S. [REDACTED] ?

14 A. These are the x-rays of K. S. [REDACTED].

15 MR. STONE: At this time, Your Honor we're going to
16 move into evidence State's exhibit 22 and 23.

17 MR. BAX: No objection, Your Honor.

18 THE COURT: Thank you.

19 [Whereupon, State's exhibit numbers 22 and 23 are
20 entered into evidence by the court]

21 Q. Okay. Let me hold that if I could State's exhibit
22 23. And could you show the jury what that depicts
23 please?

24 A. Okay. This is a chest x-ray of the child. The
25 bullet enters right here [indicates], it goes through the

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1 intercostal space and it actually goes through the
2 muscles that hold the ribs together. It scrapes the
3 seventh rib and fractures it a little bit but it doesn't
4 fracture it all the way.

5 So it goes in, it goes in an upward trajectory; it
6 perforates the left lung hilum, which is the attachment
7 where all the blood vessels and the main bronchi are. It
8 perforates the atrium of the right heart. So it just
9 scrapes the top of the heart so it's not immediately
10 fatal.

11 It also gets the hilum of the right lung so again it
12 is perforating the area where all the blood vessels are
13 and where the main bronchi are; the airways. And then it
14 travels in an upward trajectory. It actually exits --
15 see this [indicates] is the third rib. It exits right
16 here [indicates], it exits the chest.

17 But this is [indicates] the armpit soft tissues and
18 as you can see it is higher than the armpit so it just
19 travels through the soft tissues of the armpit and it's
20 recovered this is actually behind the arm.

21 It's just that when you do an x-ray it takes 3-D and
22 put it into a two dimensional picture. But this is
23 actually the soft tissue behind the right arm.

24 Q. Now I know trajectory is from the standpoint of into
25 the body the trajectory you showed earlier I guess was

1 like that [indicates]?

2 A. Like that [indicates].

3 Q. If that appears from that can you tell us where the
4 shot came from? In other words was the shot coming from
5 below the child or above the child?

6 A. Well the ---

7 Q. --- and explain that if you can.

8 A. Absolutely. When we explain trajectories we explain
9 trajectories in the anatomic position like this
10 [indicates]. This is the normal anatomic position. When
11 people are being shot they are not standing like this
12 [indicates]. The torso does move forward, backwards.

13 People tend to duck when they hear gunshots so
14 likely the person is not standing like this [indicates].
15 So I can say that the child was standing or upright and
16 the shot came from the left side of his body. Now which
17 way his body was facing I don't know.

18 What I can tell you is that the upwards trajectory
19 may be easily explained by the child leaning. So it may
20 be a horizontal shot at or above the height where the
21 child is and the child is leaning somewhat and that
22 explains the upwards trajectory.

23 Q. So the shot could have come from horizontal to the
24 child or below the child. Could the shot have come from
25 above the child?

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1 A. If the child was pretty much upside down.

2 Q. Other than that assuming that the child is upright.

3 A. Upright then it would have to be pretty much near
4 the level of the child and the child is four feet tall so
5 the child is this [indicates] high.

6 So I'm thinking that it is a shot that is relatively
7 horizontal to the ground and the child is leaning a
8 little bit when the bullet enters the body. But I don't
9 think it can easily come from ---

10 Q. --- another way ---

11 A. --- higher up it cannot unless the child is pretty
12 much bent over at the waist and nearly upside down doing
13 a cartwheel.

14 Q. Okay. You said that it nicked various organs and
15 that it did not cause immediate death. What did you mean
16 by that?

17 A. Okay. The structures that are perforated by the
18 bullet are structures that are going to bleed in to the
19 chest cavity. And that's exactly what happened. He bled
20 into the right chest cavity from the perforations to the
21 vessels to the left lung and he bled into the right chest
22 cavity from perforations to the right lung.

23 And he also bled from that nicking off the top of
24 the heart as well. Now it's a venous bleed so it's a
25 slow bleed. It did not significantly hit the heart

1 muscles so it did not cause an arrhythmia to make the
2 heart stop. So while -- so he did have some survival
3 time to explain why he bled into the chest cavity and
4 also while he developed cerebral edema. Cerebral edema
5 does take a minute to happen and it is due to the
6 possible relative hypoxia that he is experiencing as he
7 is bleeding into his airways.

8 So his airways are perforated, his blood vessels
9 near his airways are perforated and as he is bleeding he
10 is bleeding into his airways and he is essentially
11 drowning in his own blood. And that creates a brain
12 edema that we also saw at autopsy.

13 Q. So when he is actually shot he doesn't die
14 immediately. There is going to be some time there.

15 A. Yes.

16 Q. Any way to estimate how much that time is?

17 A. No. People respond in different ways. There is no
18 way to estimate the survival time but it could easily be
19 a minute to two minutes.

20 Q. Thank you, doctor. Go ahead and take the stand
21 back.

22 [Whereupon, the witness returns to the stand]

23 Q. Doctor Tormos, do you have a manner of death and a
24 cause of death that you found as well is that correct?

25 A. The cause of death was determined to be a gunshot

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1 wound to the left lateral chest and the manner of death
2 is homicide.

3 Q. Thank you doctor. I don't have any further
4 questions.

5 THE COURT: Thank you. Mr. Bax, cross-examine?

6 MR. BAX: Thank you, Your Honor. A moment's
7 indulgence to ask Mr. Stone a question.

8 THE COURT: Go ahead.

9 [Whereupon, Mr. Bax confers with Mr. Stone]

10 MR. BAX: I'm going to wait a minute while
11 Solicitor Stone grabs something for me.

12 [Whereupon, Mr. Stone and Mr. Bax set up the
13 mannequin]

14 MR. BAX: Thank you. Excuse the delay, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Doctor Tormos I'm going to ask you to come down
4 again since we have the mannequin rather than use myself
5 if you would step down from the stand please with Your
6 Honor's permission.

7 THE COURT: That's right. Doctor, if you will
8 stand on the other side of the mannequin and face
9 generally in the direction of the court reporter she will
10 be able to hear you better that if your back is to her.
11 Thank you.

12 [Whereupon, the witness steps down from the stand]

13 Q. [Mr. Bax] Obviously Doctor Tormos we've been talking
14 about an injury that was to the left side of the chest
15 correct?

16 A. Yes.

17 Q. So I guess if we rotate this mannequin around that
18 is going to face the left side at you correct?

19 A. That is correct.

20 Q. Okay. A couple of things real quickly Doctor
21 Tormos while I have you down here. You've indicated, and
22 then you showed the jury this on Solicitor Stone that the
23 entry wound was on mid chest left side correct?

24 A. Yes.

25 Q. Can you indicate where that is on the mannequin?

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1 A. It's about right here [indicates].

2 Q. Okay. And obviously we have a left arm in this
3 situation. Mr. Singleton had a left arm. Was the left
4 arm wounded at all?

5 A. It was not.

6 Q. It was not? Obviously you've stated there was a
7 slightly upward trajectory and the projectile ended up
8 over in this arm [indicates] kind of towards the
9 shoulder?

10 A. Yes, that's correct.

11 Q. Okay. You talked about the fact that the
12 trajectory as far as its angle can sometimes be explained
13 by the fact that the body moves leaning to one side or
14 the other. Forward also is a way that we can lean as
15 well correct?

16 A. Absolutely.

17 Q. Okay. And Doctor in your experience a lot of times
18 people tend to lean somewhat forward when they run is
19 that correct?

20 A. That is correct.

21 Q. Okay. And when they run they also move their arms
22 like this [indicates] sometimes is that correct?

23 A. That is correct.

24 Q. Okay. So in a leaning forward posture with the
25 arms pumping like that [indicates] would that explain or

1 could that be a possible explanation for that trajectory
2 and the fact the left arm was not wounded?

3 A. Yes.

4 Q. Okay. Thank you very much. You can have a seat if
5 you'd like.

6 [Whereupon, the witness returns to the stand]

7 Q. Doctor Tormos, a couple of things. First of all you
8 removed the projectile from Mr. Singleton is that
9 correct?

10 A. Yes.

11 Q. Okay.

12 MR. BAX: Approach, Your Honor?

13 THE COURT: Yes, sir.

14 MR. BAX: Thank you very much. Actually first I'd
15 like to have a couple of things premarked.

16 [Whereupon, defendant's exhibit numbers 9, 10, and
17 11 are marked by the court reporter]

18 Q. [Mr. Bax] Doctor, I'm going to hand you what has
19 been premarked for I.D. as defendant's exhibit 9, 10, and
20 11. Would you look at those and see if you can identify
21 what is pictured there?

22 [Whereupon, the witness is shown photographs]

23 A. These are pictures of the bullet that was removed
24 from K. S. [REDACTED].

25 Q. Okay. And those are just of different angles of

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Dr. Lee Marie Tormos-Cross-Examination by Mr. Bax
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1 that bullet or projectile ---

2 A. --- of the same bullet, yes.

3 Q. Okay. Thank you very much. And were those
4 photographs taken there at the autopsy?

5 A. At the autopsy suite, yes.

6 Q. Okay. And they appear to be in the same condition
7 as -- they appear to be accurate representations of what
8 was taken a picture of at that time?

9 A. Absolutely.

10 Q. All right. Thank you very much.

11 MR. BAX: Your Honor, we'd move to introduce
12 defendant's exhibits 9, 10, and 11 at this time.

13 MR. STONE: No objection.

14 THE COURT: Thank you. 9, 10, and 11 in evidence.

15 [Whereupon, defendant's exhibit numbers 9, 10, and
16 11 are entered into evidence by the court]

17 MR. BAX: Permission to publish to the jury, Your
18 Honor?

19 THE COURT: Yes, sir.

20 [Whereupon, defendant's exhibits 9, 10, and 11 are
21 shown on screen]

22 Q. [Mr. Bax] And Doctor, you had testified earlier that
23 the projectile appeared to have scraped one of the ribs
24 partially cracking it.

25 A. Uh Huh.

1 Q. Is that also possible that that slightly changed the
2 trajectory of the bullet once it impacted that rib?

3 A. Not significantly. Children do have very soft ribs;
4 they are mostly cartilage at that point. So those
5 bullets tend to have so much energy that the chance of
6 deflection by a child's rib is minimal.

7 Q. Okay. So any deflection would have been minimal
8 correct?

9 A. Absolutely.

10 Q. Now I see on that projectile that there is a slight
11 scraping on the bottom of that projectile. From your
12 experience could that -- the hitting of the rib could
13 explain that slight scraping on the bottom of that
14 projectile?

15 A. Yes.

16 Q. Okay. You've also testified that the both -- that
17 the path of the trajectory basically passed through
18 really three of the most vital organs that we have in our
19 bodies; both lungs and it scraped the heart correct?

20 A. Yes, it did.

21 Q. Okay. So -- I mean this was a deadly wound is that
22 correct?

23 A. It was a deadly wound, yes.

24 Q. Okay. And you've testified that it scraped the
25 heart, which would not have immediately caused -- would

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1 not have caused immediate death is that correct?

2 A. That is correct.

3 Q. However death would have been fairly quick because
4 of the bleeding that happened in the heart and lungs is
5 that correct?

6 A. That is true.

7 Q. Okay. You testified that it can be different for
8 different people correct?

9 A. That is true, yes.

10 Q. Doctor Tormos, doesn't also the level of physical
11 activity that someone has been involved in immediately
12 prior to suffering such a wound also impact how quickly
13 they will die from a wound like this based on the amount
14 of bleeding that is going to happen?

15 A. I do not know the answer to that question.

16 Q. Let me ask you this. If someone is physically
17 exercising or having physical activity such as jumping on
18 a trampoline or running does this often times up the
19 heart rate?

20 A. Yes it does.

21 Q. Okay. And when the heart rate is up its going to
22 pump blood faster is that correct?

23 A. Yes, it will.

24 Q. Okay. So it is possible that if you are in the
25 middle of physical exertion as well as excitement that

1 you would be -- your heart would be pumping faster?

2 A. Your heart will be pumping faster, yes.

3 Q. Okay. Doctor Tormos, also we have glands in our
4 body correct?

5 A. Yes.

6 Q. Including a gland that secretes adrenalin correct?

7 A. Yes.

8 Q. Tell us a little bit about what adrenalin does.

9 Q. Adrenalin activates your fight or flight system,
10 which basically explains a lot of super things that the
11 body is able to do in an emergency situation.

12 You may have heard of parents lifting cars off of
13 their children in a fight or flight situation or people
14 running where they have a debilitating injury and they
15 would not be able to run. But because their life is in
16 danger they are able to perform tasks that otherwise
17 would not be able to perform under normal circumstances.

18 Q. And Doctor that is not universally -- it doesn't
19 always happen for each person; every person is different
20 correct?

21 A. There are some people that just like deer do they
22 freeze when the headlights are coming and their fight or
23 flight they just freeze so it doesn't happen for
24 everyone. Some people do react and they run or they get
25 out of the way and some people just freeze.

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1 Q. From a chemical aspect, Doctor regardless of the
2 person adrenaline has been known to cause the heart rate
3 also to rise as well as breathing rate to rise is that
4 correct?

5 A. The heart rate and the breathing rate will rise with
6 an adrenaline rush.

7 Q. And so regardless of relative or flight or fight
8 instinct the harder the heart is pumping the harder it's
9 going to bleed out correct?

10 A. Yes.

11 Q. So based on that testimony if the heart was beating
12 faster based on adrenaline, based on physical exercise
13 would that have sped up -- could that possibly have sped
14 up the death in this case?

15 A. I still stand that even with the fight or flight and
16 the adrenaline rush it is likely that he would have
17 survived a minute or two just because the vessels are
18 mostly veins in that area and as such it is a slow bleed
19 whereas the arteries are the ones that are a quick bleed
20 when the heart is pumping fast.

21 Q. Okay. But you have testified that if the heart is
22 beating faster it's going to be pumping blood harder
23 correct?

24 A. Yes.

25 Q. Okay. And this -- the individual in this case Mr.

1 Singleton as you've stated before was an eight year boy
2 correct?

3 A. Yes.

4 Q. You've already testified that his bones would have
5 been slightly softer than an adult correct?

6 A. Yes, I have.

7 Q. Obviously his lungs would be smaller than adults
8 correct?

9 A. Absolutely.

10 Q. Okay.

11 MR. BAX: Moment's indulgence, Your Honor.

12 THE COURT: All right.

13 [Whereupon, Mr. Bax confers with Ms. Saxon]

14 Q. [Mr. Bax] A couple of follow up questions, Doctor
15 Tormos. Thank you for your patience. First of all we
16 didn't really get into this in testimony when you're
17 doing an autopsy involving a gunshot victim is there
18 anything that you look for to determine whether the
19 firearm itself was close to the victim or further away
20 from the victim?

21 A. Yes. We look at the characteristics of the entrance
22 wound. The entrance wound will show an abrasion when the
23 bullet perforates the skin. But sometimes it will show
24 soot in the position if the gun is really close to the
25 body surface. And it can show stippling. Stippling is

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1 little tiny burns on the skin surrounding the entrance
2 gunshot wound that happens when the gunpowder that is
3 also expelled along with the bullet hits the skin. There
4 were neither in his case.

5 Now I did not get the shirt and if the child was
6 wearing a shirt maybe some of the soot or some of the
7 stippling would have been on the shirt. But I did not
8 get to examine the shirt.

9 Now on the skin there was no soot or no stippling
10 therefore these are classically characterized as distant
11 or undetermined distance gunshot wounds.

12 Q. So from everything that you had in this case there
13 was no way to indicate that it was a wound that was close
14 when the gun was fired?

15 A. There was no evidence that the weapon was close to
16 the skin at all.

17 Q. Secondly, you've also testified that a bullet like
18 this can have a lot of energy.

19 A. Yes.

20 Q. You testified that obviously any deviation from
21 hitting the rib would be very minimal because it has a
22 lot of energy going forward correct?

23 A. Yes.

24 Q. And as we have testified to before K. S. was eight
25 years old, correct, so he was not a full grown human

1 being is that correct?

2 A. That's true.

3 Q. How much did he weigh?

4 A. Fifty-five pounds.

5 Q. Fifty-five pounds, okay. In your experience the
6 energy transmuted from this bullet when it struck it can
7 be great. It can be enough to knock someone down is that
8 correct?

9 A. I don't know about knocking someone down, no.

10 Q. But clearly K. S. in this case is smaller than an
11 adult correct?

12 A. Yes.

13 Q. He weighs only 55 pounds.

14 A. Yes.

15 Q. So the energy imparted from that bullet to a smaller
16 human being just from a physics standpoint would be more
17 than it would be to a larger human being.

18 A. The energy displacement is the same in tissue
19 regardless of the size of the body.

20 MR. BAX: No further questions, Your Honor.

21 THE COURT: Thank you. Mr. Stone, redirect?

22 MR. STONE: Just briefly.

23

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State v Tyrone Robinson
Dr. Lee Marie Tormos-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. First of all I know we talked about a distance shot.
4 Assuming that the shirt is not a factor in this one way
5 or the other when you talk about distance how far? I
6 know there is a contact when you have the stippling and
7 things against the skin is that correct ---

8 A. --- Uh Huh.

9 Q. At what point does a gun no longer leave that type
10 of stippling?

11 A. Generally around three feet.

12 Q. Okay. So anything beyond three feet is going to be
13 considered by you a distance shot is that right?

14 A. That is correct.

15 Q. Okay. And I should have done this on this. Could
16 I get you to come down one more; and I apologize.

17 [Whereupon, the witness steps down from the stand]

18 Q. Obviously this [indicates] is much taller than four
19 feet tall but just assuming from the standpoint of the
20 ribs you showed me or you showed the jury that somewhere
21 in here [indicates] is where the bullet went in. I'll
22 let you just point it.

23 A. Yes. The bullet went in at the mid axillary line so
24 right in the middle of the torso [indicates].

25 Q. Okay. And it ended up here [indicates] is that

1 correct?
2 A. Okay. And it ended here [indicates] on the
3 posterior right arm.
4 Q. Okay. Right here [indicates]?
5 A. Uh Huh.
6 Q. So that's just about the angle right there
7 [indicates] is that correct?
8 A. Yes, maybe a little bit more.
9 Q. A little bit more?
10 A. Not much.
11 Q. Put it where you think it is and you can bend that
12 wire if you need to.
13 A. [witness indicates]
14 Q. Is that better?
15 A. Yes, it is.
16 Q. Thank you Doctor Tormos.
17 [Whereupon, the witness returns to the stand]
18 MR. BAX: Briefly, Your Honor?
19 THE COURT: Okay.
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RECROSS-EXAMINATION

BY MR. BAX:

Q. Just to make sure that we are clear as we talked about before and I think this model will do that. A slight lean forward and the arm here [indicates] is certainly possible for the position of the body?

A. Absolutely.

Q. Thank you.

MR. BAX: No further questions. Thank you, Your Honor.

THE COURT: Mr. Stone, you've got the last word.

MR. STONE: Nothing else. Thank you Doctor Tormos.

THE COURT: Thank you Doctor. You can step down and be excused without objection. Thank you so much.

THE WITNESS: Thank you.

[Whereupon, the witness is excused and exits the witness stand]

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1 MR. STONE: Illa Simmons.

2 THE COURT: Ms. Simmons, come forward please ma'am
3 and be sworn.

4 [Whereupon, Ms. Simmons comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 ILLA SIMMONS,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Ms. Simmons, what do you currently do?

14 A. I am retired from the South Carolina Law Enforcement
15 Division.

16 Q. And when you were with the South Carolina Law
17 Enforcement Division -- and everybody refers to that as
18 SLED is that correct?

19 A. Yes, sir.

20 Q. How long were you with SLED?

21 A. Fourteen years.

22 Q. And in September of 2012 what was your position with
23 SLED?

24 A. I worked in the forensics services laboratory, trace
25 evidence department. I analyzed gunshot residue,

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1 gunpowder residue, we analyzed arsons as well as
2 performing comparisons of glass, paints, and explosives.

3 Q. And what type of background and what type of
4 experience did you have in order to do that? And let's
5 specifically talk about gunshot residue.

6 A. I have a Bachelor of Science degree in Chemistry.
7 After completing that I came to work at where my first
8 three years were spent working with a SLED certified
9 court qualified trace evidence examiner. During that
10 time I had to take written and practical examinations and
11 pass them with 100 percent efficiency.

12 I was also a member of the F-B-I's gunshot residue
13 symposium where gunshot residue analysts from around the
14 world were invited to Quantico to discuss and set up the
15 A-S-T-M standards that would be used for everyone around
16 the world in the analysis of gunshot residue.

17 Q. What does A-S-T-M stand for?

18 A. American Standard Testing Methods.

19 Q. Okay. Now gunshot residue; exactly how do you --
20 tell me where gunshot residue comes from or how do you --
21 what is the purpose of testing for gunshot residue I
22 guess?

23 A. Gunshot residue is a mixture of microscopic
24 chemicals that come out of the gun when it is discharged.
25 It comes from the primer of the cartridge that is placed

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1 into the gun to be fired and it comes out in a cone
2 shaped cloud. It can get on anything in close proximity
3 to the weapon when the weapon discharges including the
4 hands and clothing of someone who is shooting a gun.

5 Q. Now if it gets on the hands for instance is there a
6 certain time that it can stay on the hands before --
7 while you can test or does it stay on the hands forever?

8 A. If it is a living individual we have never found
9 gunshot residue to last more than six hours and it starts
10 to come off immediately. It has a consistency of flour
11 so it is every easily removed if someone were to wash
12 their hands, clean their hands with hand sanitizer or
13 wipe them on a towel it can remove the gunshot residue.

14 Q. And the sweating of the hands as well does that
15 affect it as well?

16 A. Yes, sir.

17 Q. Now have you ever been qualified as an expert in
18 gunshot residue in order to testify in court?

19 A. Yes sir, over 300 times in State, Federal, and
20 General Sessions courts in South Carolina.

21 MR. STONE: At this time, Your Honor we would offer
22 her as an expert in trace evidence; in particular gunshot
23 residue.

24 THE COURT: All right. Mr. Bax?

25 MR. BAX: Voir Dire, Your Honor.

State v Tyrone Robinson
Illa Simmons-Voir Dire by Mr. Bax
September 17, 2014

1	
2	VOIR DIRE
3	BY MS. SIMMONS:
4	Q. Ms. Simmons, real quickly. You testified that at
5	one point during your training or one of the things that
6	you listed in your credentials was working with the F-B-I
7	on gunshot residue, correct?
8	A. Yes sir, I went for their symposium.
9	Q. Now you're aware that the F-B-I no longer does G-S-R
10	testing.
11	A. Yes sir, I am.
12	Q. Okay.
13	MR. BAX: No further questions, Your Honor. No
14	objection.
15	Thank you. All right, thank you. Mr. Stone?
16	MR. STONE: We offer her as an expert, Your Honor.
17	THE COURT: She's qualified.
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State v Tyrone Robinson
Illa Simmons-Direct Examination (resumes) by Mr. Stone
September 17, 2014

1 DIRECT EXAMINATION (RESUMES)

2 BY MR. STONE:

3 Q. Now did you do gunshot residue testing and
4 specifically I'm going to hand you up a kit, which has
5 been marked as State's exhibit 24, a gunshot residue test
6 taken from the hands of Tyrone Lorenzo Robinson.

7 [Whereupon, the witness is shown exhibit]

8 Q. Did you analyze that test kit?

9 A. Yes sir, it is marked with our laboratory
10 identification number, the evidence item number as well
11 as my initials and the date that I opened it to begin
12 analysis.

13 Q. And when -- you opened it so I'm assuming it was
14 sealed when you received it is that correct?

15 A. Yes sir, it was.

16 Q. And it was sealed with the I guess the initials of
17 the person from the Beaufort County Sheriff's office that
18 took it to begin with is that correct?

19 A. Yes, sir.

20 MR. STONE: First of all, Your Honor, I would offer
21 that into evidence. We have testimony it was sealed on
22 the front end as well as the back before Ms. Simmons
23 opened it.

24 THE COURT: Any objection?

25 MR. BAX: No, Your Honor.

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Illa Simmons-Direct Examination (resumes) by Mr. Stone
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1 THE COURT: Thank you. Without objection.

2 [Whereupon, State's exhibit number 24 is entered
3 into evidence by the court]

4 MR. STONE: This is State's exhibit 24 into
5 evidence.

6 Q. [Mr. Stone] State's exhibit 24 was the kit taken
7 from the hands of the defendant, Mr. Robinson. What were
8 your results of that test result?

9 A. Gunshot residue was found on the palm and back of
10 the right hand and round lead particles were found on the
11 palm and back of the left hand. Round lead particles are
12 one component of gunshot residue.

13 Q. And then powder itself, what did that consist of?

14 A. The gunshot residue is a mixture of lead, barium,
15 and antimony. When those three elements are found in
16 conjunction with one another in a round form it is
17 consistent to gunshot residue only; specifically to a
18 discharge of a firearm. It hasn't been found anywhere
19 else to be related to any other manmade or naturally made
20 occurrence.

21 Q. What can you tell us from that test result?

22 A. That this person was firing a gun or in close
23 proximity to a gun when it was fired.

24 Q. Thank you. I don't have any further questions.

25 MR. BAX: Briefly, Your Honor.

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Illa Simmons-Cross-Examination by Mr. Bax
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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Ms. Simmons, you've testified that G-S-R can be
4 present on someone who has either fired a weapon or been
5 in close proximity to a weapon.

6 Are you familiar with transference of G-S-R as well?
7 Can G-S-R be transferred from one object to another or
8 one person to another through physical contact?

9 A. It can.

10 Q. Okay. So if someone fires a gun and then shakes
11 your hand it is possible for you to have gunshot residue
12 on your hand at that point?

13 A. Only on the area of the hand that made contact with
14 the other person.

15 Q. Certainly. And you also testified that G-S-R is a
16 combination of barium, antimony, and rounded lead
17 particles correct?

18 A. Yes, sir.

19 Q. The barium and antimony the science indicates they
20 need to be of elevated levels; in other words they need
21 to be over a certain amount of barium or antimony in
22 order to be considered G-S-R is that correct?

23 A. Actually the analysis that we do we use a microscope
24 and these particles were found together; the lead, the
25 barium, and the antimony were all contained within one

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1 particle and it was a round particle so that's specific
2 to gunshot residue. It has nothing to do with the levels
3 of each element that is present.

4 Q. But you just testified that is something that you
5 did. Is that the way all labs do it?

6 A. Yes, sir. If gunshot residue is found if a round
7 particle with lead, barium, and antimony are found then
8 gunshot residue is found.

9 Q. So Ms. Simmons it's your testimony that other labs
10 do not also look at the amount of barium and antimony?

11 A. They can look at that but that is generally a
12 screening test and then they go forward to the
13 microscopic tests like we do to confirm that the elements
14 that were found actually were gunshot residue.

15 Q. Because barium and antimony in themselves can be
16 found in other materials correct, in household cleaning
17 products correct?

18 A. Yes sir, they can.

19 Q. Okay. Now moving on Ms. Simmons you've also
20 indicated that gunshot residue these elements that we've
21 talked about they don't necessarily go away unless
22 something actively takes them off such as washing the
23 hands or brushing against something enough to get it off
24 correct?

25 A. Just over time yes, they will come off of the hands.

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1 Q. In your experience it's certainly possible for
2 gunshot residue to remain on someone's hands for a day or
3 two days or even longer if they don't wash is that
4 correct?

5 A. No, sir. If someone shoots a gun at lunchtime at
6 noon by 6 o'clock there will be no gunshot residue left
7 on their hands.

8 Q. Excuse me?

9 A. A living person, yes sir.

10 Q. Ms. Simmons, so you're not aware of any experts that
11 would tell you that gunshot residue goes not go away
12 unless there is something that actively takes it off?

13 A. Not on a living person, no sir.

14 Q. What happens to the G-S-R on a living person in that
15 six hours, the body absorbs it?

16 A. The body can absorb it, yes sir.

17 MR. BAX: Moment's indulgence, Your Honor. A
18 sidebar please?

19 THE COURT: Sure.

20 [Whereupon, an off the record bench conference is
21 held]

22 MR. BAX: Your Honor, I have no further questions
23 for this witness.

24 THE COURT: Thank you. Mr. Stone, redirect?

25 MR. STONE: Just a couple.

State v Tyrone Robinson
Illa Simmons-Redirect Examination by Mr. Stone
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1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. The hard round particles how are those formed?

4 A. If you were to take water and throw it in the air
5 and freeze it in mid air you are going to end up with
6 round droplets. It's because the water is molten and
7 it's under pressure; it's being thrown up.

8 If a gun is fired the materials that are coming out
9 of this gun are also molten and they're under pressure
10 and that's why they form the round droplets because when
11 they hit the skin they immediately begin to cool and they
12 solidify into round particles.

13 That's why it is consistent then from a discharge or
14 a small explosion like what comes out of a gun and not
15 just every day contact.

16 Q. And so when we talk about the elements involved
17 that's actually elements that have been molded for lack
18 of a better term into that ball is that correct?

19 A. Yes, sir.

20 Q. So other items that may have barium in them or other
21 things like this are not going to be molded into
22 something unless they've been under that type of pressure
23 and heat is that correct?

24 A. That's correct.

25 Q. Okay. And that's the reason for the microscopic

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1 testing aside from just doing the screen is that right?

2 A. Yes, sir.

3 Q. The other thing I think the defense brought up the
4 area of the hands if they shake hands it can be

5 transferred off that kind of stuff. What areas of the
6 hands did you find gunshot residue on Tyrone Robinson?

7 A. I found it on the palm and back of the right hand
8 and I also found round lead on the palm and back of the
9 left hand.

10 Q. All right. Thank you.

11 MR. STONE: No further questions of this witness,
12 Your Honor.

13 THE COURT: Any follow up with this witness Mr.
14 Bax?

15 MR. BAX: Nothing, Your Honor.

16 THE COURT: Thank you. You can step down.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

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1 MR. STONE: Your Honor, we have one final witness.
2 He is testifying, while this has never happened to me in
3 29 years it's now happened twice in the same trial, he is
4 testifying on the stand in courtroom 2 right now as we
5 are speaking. So it may be best if we take a lunch break
6 or however you would like to handle it. We're prepared
7 to go forward whenever he gets through.

8 THE COURT: I understand. He's your final witness?

9 MR. STONE: Yes, sir.

10 THE COURT: And he will obviously take some time.
11 Unlike the witness yesterday his testimony as an expert
12 will probably take some more time?

13 Yes, sir. MR. STONE:

14 THE COURT: All right folks. We once again have
15 been preempted by another trial. We've got some popular
16 witnesses apparently or at least in this courtroom in
17 this courthouse. The good thing about it is they've only
18 had to make one trip. One of them was already here but
19 this one has only had to make one trip for both
20 courtrooms so that's been efficient. But the upshot of it
21 is obviously the State is not in a position to offer that
22 testimony right this minute because of the witness's
23 unavailability. But after lunch the witness will be
24 available and so we will start back at 1:15. Now it's an
25 early lunch so you'll get to beat the crowd to

1 restaurants I hope. Please be back in the jury room at
2 1:15. Don't talk about this case with anybody else or
3 among yourselves while you are out of the courtroom.
4 Thank you.

5 [Whereupon, the jury exits at 12:00 p.m.]

6 THE COURT: Ladies and gentlemen please note we're
7 still in session. I appreciate that but we've got
8 something to put on the record before we recess. Madame
9 Reporter, the record should reflect a sidebar conference
10 during the testimony -- during the cross-examination of
11 former agent Simmons regarding the length of time that
12 gunshot residue remains on the hands of a living person.
13 Mr. Bax indicated that her testimony was contrary to his
14 experience and the science that he is aware of insofar as
15 the duration is concerned.

16 He asked to strike her testimony, which I denied
17 because I have no evidence to the contrary at this point
18 in time. He also indicated that he may have to have a
19 continuance to try to get another expert on the other
20 side of that issue. I've asked him to present some
21 evidence which is clearly to the contrary of what she
22 said as the accepted science in this matter before I
23 could continue that. But I did want to make a notation
24 that he made a timely request in that regard. Mr. Bax,
25 does that adequately reflect the sidebar from your

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1 perspective?

2 MR. BAX: It does, Your Honor. I can put on the
3 record that I can specifically cite what case I was
4 referring to, State v Tremaine Wray that was tried in
5 front of Judge Michelle Childs. Myself and Jack Swerling
6 tried that case. Gunshot residue was a primary issue in
7 that case. The State had an expert who testified. I had
8 a consulting expert at the time. I will do my best to
9 contact that expert. I don't recall his name off the top
10 of my head. I'll have to try and see if Jack recalls who
11 that was.

12 THE COURT: That was a State court case?

13 MR. BAX: It was a State court case, that's correct
14 Your Honor.

15 THE COURT: And the defendant's name was?

16 MR. BAX: Tremaine Wray. First name is spelled
17 T-R-E-M-A-I-N-E; last name is Wray W-R-A-Y I believe. In
18 fact he's got a pending P-C-R that Judge Manning can't
19 seem to get scheduled based on Jack's and my schedules.

20 THE COURT: Okay. Was that a reported case? Did
21 it go up on appeal?

22 MR. BAX: I know that Mr. Ray reported it -- or
23 appealed it, which is why the P-C-R took so many years to
24 come back. It's been almost five years ago. I don't
25 recall ever seeing it in the advance sheets though.

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1 THE COURT: Okay. Thank you. Anything further
2 Mr. Stone from the State before we break for lunch?

3 MR. STONE: No, sir.

4 THE COURT: All right, 1:15 folks.

5 MR. STONE: Yes, sir.

6 MR. BAX: Thank you.

7 [Whereupon, court is in recess from 12:02 p.m. until
8 1:15 p.m.]

9 THE COURT: Thank you ladies and gentlemen. All
10 right folks, are both sides ready for the jury?

11 MR. STONE: The State is ready, Your Honor.

12 THE COURT: Mr. Bax?

13 MR. BAX: The defense is ready, Your Honor. Just
14 to put on the record about the issue concerning the last
15 witness of the State. I have consulted with my expert
16 and I believe that Mr. Fife [phonetic] can offer some
17 testimony that that particular part of her testimony is
18 not backed by the science. However, there is also
19 another expert Mr. Robinson that is working on my wife's
20 cases as a defense consultant and I would also like to
21 consult with him just to see if there are some additional
22 elements that Mr. Robinson can add. And I will present
23 that if anything tomorrow with Your Honor's permission.

24 THE COURT: All right. I'll be glad to deal with
25 that after you have a chance to look into it. I have

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1 done just some minimal research in the length of time
2 that we had and I have found at least one of these sites
3 dealing with forensic science that indicates that gunshot
4 residue depending upon activity and things of that nature
5 normally goes away in five hours thereabouts. I'll show
6 you the site if you would like to see it. But I'm sure
7 that probably is not -- she stated it with definitive --
8 the website doesn't come out with that same degree of
9 certainty.

10 But I'm wondering about the relevance in this
11 particular issue because I don't recall whether Mr.
12 Robinson in his statement has referred to shooting. He
13 said he was involved in a shootout but whether his
14 statement referred to him actually firing shots at that
15 point in time or not or whether there is any evidence
16 along those lines that would make this real relevant.
17 Can you help me with that?

18 MR. BAX: Well frankly, Your Honor, it really
19 doesn't matter. I'll be honest with you and that's
20 exactly what I'm going to tell the jury. I just get a
21 little irritated when I have a forensic scientist tell me
22 something that I believe based on my information and
23 studies to be inaccurate.

24 THE COURT: Right.

25 MR. BAX: But based on the information, the

1 evidence that has been introduced by the State including
2 my client's statements to Sergeant Thomas on the dash cam
3 he says I shot earlier at Wild Horse Road. He's said
4 that so the jury has that evidence that Mr. Robinson has
5 claimed to have shot over at Wild Horse Road, which would
6 certainly -- and my understanding of all the evidence
7 concerning the timeline that's well within six hours
8 anyway.

9 THE COURT: It is.

10 MR. BAX: So from that standpoint it doesn't
11 matter. I just -- I feel that I would be remiss if I let
12 what I felt was scientifically unfounded evidence come in
13 from an expert without trying to challenge it.
14 Ultimately I don't necessarily know that it's going to be
15 relevant to the factual examination by the jury.

16 THE COURT: Right. And of course there are two
17 burdens here; one that it is actually factually
18 inaccurate and of course I understand because I was
19 asking a separate said expert testifying in your wife's
20 case a few minutes or sometime ago that it normally goes
21 away in the six hours too. So apparently that is the
22 protocol that they operate under or at least that other
23 one does too. Is that person whoever he or she is I'm
24 not sure who the expert was.

25 MR. BAX: I'm not sure who that was in that case.

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1 THE COURT: I was just actually talking to the
2 Judge Early about it. So assuming without deciding that
3 it is inaccurate and perhaps not as certain a fact as the
4 expert testified then it becomes an issue of whether your
5 client is prejudiced by that information. And those are
6 the two things that I take into account. But in any
7 event if you have a chance to talk to that other expert
8 and of course your case will go into tomorrow I
9 understand at any event, which we can deal with it if it
10 comes up, okay?

11 MR. BAX: Thank you, Your Honor. There was one
12 other matter I wanted to make sure I addressed real
13 quickly because I know the day is moving on and while my
14 mind is on it. The matter that we discussed yesterday on
15 the record was the testimony of Ebony Campbell involved
16 her testifying that she saw a second gun or something
17 that appeared to be a second gun in Mr. Robinson's car.

18 THE COURT: Right.

19 MR. BAX: As I testified -- not as I testified but
20 as I stated to the court yesterday I have not been able
21 to find anything in my discovery as far as an incident
22 report, a witness statement or otherwise that indicated
23 that portion of her testimony. And I know that Solicitor
24 Stone indicated he hadn't found anything yet but he would
25 continue to look I wanted to go ahead and address and

1 find out if there has been any movement on that because
2 it would affect how I plan for the defense presentation.

3 THE COURT: All right. Mr. Solicitor, have you
4 gotten any more information to share on that particular
5 issue?

6 MR. THORNTON: Judge, if I could? I did some
7 research into it. I have not been able to locate any
8 reference to it. There was a reference frankly in the
9 Solicitor's outline that he and I operate under that said
10 that indicated it was in a previous interview.

11 Based on all the -- I talked to Ms. Hunter Swanson
12 who works with our office who was actually assisting the
13 Solicitor on this case prior to me what we believe
14 happened based on all the people I've talked to and
15 certainly there isn't any other reference in a report;
16 Mr. Bax is correct about that, or any of the interviews
17 or audio in this case that we've listened to.

18 What I think happened was in interviewing with --
19 we've done like one -- I think two interviews with Ebony
20 Campbell the second of which I sat in on. That's what
21 that notation referred to. In other words when we talked
22 to her, we being the Solicitor's office and Hunter
23 Swanson, she indicated that at our previous interview.
24 So it did not appear in any report. She did not write
25 that in any statement as Mr. Bax I think pointed out

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1 yesterday. So the interview that the notation in our
2 outline referred to was a previous interview done with
3 our office.

4 THE COURT: Thank you Mr. Thornton. Also, Mr. Bax I
5 told you that if that issue, the creditability on that
6 issue; of course she is going to say what she is going to
7 say. But if you wanted to call her I was going to let
8 you recall her in the State's case but since you can put
9 up evidence and you can call her on your own if you want
10 her to be cross-examined on that issue -- that's just a
11 strategic decision you'll have to make.

12 MR. BAX: And I would be able to let you know on
13 that decision before the State rests, Your Honor as far
14 as how that goes. And then the only other additional
15 thing I would put on the record is as Your Honor and I
16 discussed at sidebar under the section we discussed in
17 pretrial of Rule 5 if there are any notes that they have
18 from that interview with the Solicitor's office now that
19 she has testified on direct and especially the date at
20 which that occurred because I think it's relevant to know
21 how long after the incident and how many interviews she's
22 already been through before she finally remembered this
23 additional piece of information I would want to have
24 access to that information.

25 THE COURT: Well under the Rule you're entitled to

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1 that after she testifies if she gave a statement.

2 MR. THORNTON: Yes, sir. But I just want to make
3 clear I don't believe he is entitled to any notes of the
4 Solicitor or myself but she didn't provide anything in
5 writing to us. That was all just notes taken by us. I
6 do not believe he is inclined to get any written
7 materials we made in the preparation of the case.

8 THE COURT: Only her written statement ---

9 MR. THORNTON: --- yes, sir which was not done ---

10 THE COURT: --- that's right under the rules.
11 Okay. Now ready for the jury?

12 MR. STONE: The State is ready, Your Honor.

13 THE COURT: Bring us the jury please.

14 MR. THORNTON: Judge, as they are coming in I also
15 just want to mention for Mr. Bax is this issue is still
16 outstanding. We've informed Ms. Campbell and I didn't
17 know if he had her under subpoena or not she is still
18 under subpoena and she's on telephone standby in case Mr.
19 Bax wants her we'll make sure to get in contact with her.

20 THE COURT: Thank you.

21 MR. BAX: And Your Honor, if there is no written
22 materials the only thing I would ask and I don't see why
23 I wouldn't be able to get this information is just the
24 date of the interview. I don't see that that falls under
25 any privileged information.

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1 THE COURT: It probably wouldn't.

2 MR. THORNTON: If I can find out Judge when it was
3 or we've got it notated somewhere I am happy to let him
4 know.

5 MR. BAX: Thank you.

6 THE BAILIFF: The jury is entering the courtroom,
7 Your Honor.

8 THE COURT: Thank you.

9 [Whereupon, the jury enters at 1:27 p.m.]

10 THE COURT: Thank you folks for promptly coming
11 back from lunch. We had a few housekeeping matters that
12 we had to take care of before we were able to get you out
13 here. I apologize for that brief delay. I won't delay
14 you any longer. We will continue now as the State
15 continues to offer evidence and testimony in this case.

16 MR. STONE: Thank you, Your Honor.

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1 MR. STONE: Dan DeFreese.

2 THE COURT: Mr. DeFreese, come forward please to be
3 sworn.

4 [Whereupon, Mr. DeFreese comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 DAN DEFREESE,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Mr. DeFreese first of all what is your rank? I want
14 to make sure I get that right?

15 A. My rank?

16 Q. Yes, sir?

17 A. It's a senior agent right now.

18 Q. And you work with the State Law Enforcement
19 Division?

20 A. I do.

21 Q. And that's what everybody refers to as SLED is that
22 correct?

23 A. Yes.

24 Q. How long have you been with SLED?

25 A. For 47 years.

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1 Q. And in what capacity are you currently working with
2 SLED?

3 A. I work I the Firearm and Toolmark Department. I
4 analyze firearm and toolmark evidence in the SLED
5 laboratory in Columbia.

6 Q. And toolmarks what are we talking about as far as
7 that is concerned?

8 A. Most of the toolmark requests we get have to do with
9 compromised physical security devices like locks and
10 safes; things that people attack to get into a building
11 or to get into an area they shouldn't be in to. And they
12 deal with the microscopic analysis of marks left by tools
13 on various different surfaces.

14 And firearms identification is really a subset of
15 that kind of analysis wherein the bullet or cartridge
16 case is the object being marked and the firearm is the
17 tool that marks it and so essentially the same kind of
18 techniques are used in both.

19 Q. I've heard the term ballistics before. Is that the
20 same thing or is that something else?

21 A. People frequently refer to firearms identification
22 as ballistics especially in the northeastern United
23 States. They call it like the ballistics unit. But
24 ballistics is really the study of objects in flight. And
25 ballistics does touch upon what we do to a limited extent

1 but for the most part most of our requests are to
2 identify fired ammunition components to determine whether
3 a given bullet or cartridge case or what have you was
4 fired from a specific firearm or if two fired components
5 are fired by the same firearm when no gun is recovered.

6 Q. Okay. Now the concept here of tool mark
7 identification and firearm identification you do that in
8 your lab is that correct; in the SLED lab?

9 A. I do.

10 Q. And you've been doing that for how many years?

11 A. With the exception of about five years I've been
12 doing it for the entire time.

13 Q. Okay. So roughly 42 years?

14 A. About 42 years.

15 Q. Have you ever been qualified as an expert in
16 firearms identification and toolmarks in a courtroom
17 before?

18 A. I have.

19 Q. Multiple times I'm assuming?

20 A. I really don't know how many times. I estimate
21 between 600 and 700.

22 Q. What type of training have you received in order for
23 you to testify as to toolmarks and firearms
24 identification?

25 A. Well, my principle training occurred at SLED. After

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1 my employment I was assigned to the firearms laboratory
2 and I undertook a course of instruction that lasted for
3 about two and a half years. I studied under Lieutenant
4 Miller Cate who established the SLED laboratory when SLED
5 itself was established in 1947 and with Lieutenant Carl
6 Stokes.

7 And after a period of studying the techniques under
8 their supervision and working cases with them I began
9 accepting case work on my own and have been doing it
10 essentially every since. I've been testifying since
11 1969.

12 MR. STONE: At this time, Your Honor I would offer
13 senior agent DeFreese as an expert in the field of
14 toolmark identification as well as firearms
15 identification.

16 THE COURT: All right. Mr. Bax, any voir dire?

17 MR. BAX: No voir dire, no objection, Your Honor.

18 THE COURT: Thank you. Without objection agent
19 DeFreese is so qualified.

20 MR. STONE: Thank you.

21 Q. [Mr. Stone] Now agent DeFreese we'll go directly to
22 the piece of evidence that we have in this case. Let me
23 just start by handing you State's exhibit 34 and State's
24 exhibit 30. State's exhibit 30 is what appears to be a
25 bullet pulled from Old Wild Horse Road.

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1 [Whereupon, the witness is shown exhibit]

2 Q. I'll ask you sir that has some evidence tape on it.
3 When you received that -- first of all did you receive
4 that item at SLED?

5 A. Yes sir, I did.

6 Q. And how do you know that?

7 A. By the marks that I left on it and by the marks
8 which I left on the outside and inside packaging.

9 Q. And when you received it it was sealed in that
10 container; you actually were the one that unsealed it?

11 A. I was. This top tape seal was intact at the time I
12 received it.

13 Q. All right. I'll ask you the same question
14 concerning State's exhibit 34, which is a lead projectile
15 retrieved at K. S. [REDACTED]'s autopsy.

16 [Whereupon, the witness is shown exhibit]

17 A. Yes, sir I likewise received this specimen and it
18 was sealed in the paper bag at the time I received it.

19 MR. STONE: At this time we'd move State's exhibit
20 30 and State's exhibit 34 into evidence.

21 THE COURT: All right. Without objection?

22 MR. BAX: None, Your Honor.

23 THE COURT: Thank you.

24 [Whereupon, State's exhibit numbers 30 and 34 are
25 entered into evidence by the court]

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1 Q. [Mr. Stone] Let me first show you the items from
2 State's exhibit 34, the autopsy bullet and I'll ask you
3 if you made any comparison with that bullet and the
4 bullet retrieved at ■ Old Wild Horse Road, which is
5 State's exhibit 30?

6 A. Yes sir, I did.

7 Q. Now first of all before we go into that defining can
8 you tell me something about as far as how you determine
9 bullet toolmark so to speak?

10 A. To effect an identification or an elimination of a
11 bullet we do a side by side microscopic comparison. We
12 have a microscope, an optical device that permits us to
13 view parts of two different objects at the same time and
14 to move the images we see so that we can attempt to find
15 a match if one exists.

16 In the case where we don't have a firearm we would
17 simply compare two fired bullet specimens with each other
18 or two fired cartridge case specimens with each other.

19 Where we have a firearm we would compare a test
20 bullet or test cartridge case with a recovered bullet or
21 cartridge case to see if the same class characteristics
22 were present and beyond that if the same individual
23 characteristics were present.

24 And if they were we would make a conclusion that
25 both objects were fired by the same firearm or made by

1 the same tool. In cases where the bullets are too badly
2 damaged or where the firearm itself is so inconsistent,
3 so non repeatable in its markings that we just can't --
4 we can't match the test bullets with each other in those
5 sorts of situations our results might be inconclusive if
6 the class characteristics; that is the number of lands
7 and grooves present on the bullet or certain other class
8 characteristics about cartridge cases are present.

9 Where the class characteristics are different we can
10 conclude almost immediately that the two given bullets or
11 the two given cartridge cases were not fired by the same
12 gun.

13 Q. And the characteristics you're talking about and I
14 think you also mentioned lands and grooves. This is
15 marks made on the bullet itself?

16 A. I should back up and explain that within the barrel
17 of a rifled firearm, which includes rifles, pistols, and
18 revolvers, not usually shotguns even though now there are
19 rifle shotguns.

20 But there are a series of spiraling grooves and the
21 grooves are in there to grip the bullet that the raised
22 section between the grooves are known as the land. The
23 depressed area is called a groove. The bullet is a very,
24 very tight fit within the bore of a firearm so much so
25 that the barrel actually engraves the bullet as it passes

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1 down the bore and out of the gun. The number of lands
2 and grooves and the dimensions of the lands and grooves
3 vary by manufacturer of firearm and even among models of
4 firearms; different numbers of lands and grooves are
5 present within a gun barrel.

6 That is one of the general rifling characteristics
7 of a gun. It's caliber, the number of lands and grooves
8 and beyond that the direction of twists because the lands
9 and grooves will twist either to the right or to the left
10 in order to impart a spin on the bullet; much in the same
11 way that a quarterback puts a spin on a football to keep
12 it from tumbling end over end in flight.

13 The rifling is put there in the gun barrel to make
14 the bullet spin so the bullet will not turn end over end;
15 in essence to make the whole system more accurate.

16 Q. Okay. So you've got two things you are looking for
17 then, the lands and the grooves as well as the spin or
18 the direction of the spin is that correct?

19 A. The direction of twists ---

20 Q. --- excuse me; the direction of twists. You've got
21 a left twist or a right twist and then you have certain
22 number of lands and grooves is that correct?

23 A. Correct.

24 Q. And so that is going to vary on everything from the
25 length of the barrel to how many times they actually bore

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1 it out inside making the gun?

2 A. Well it varies according to the manufacturer's
3 tooling. The tooling they buy is such that for a given
4 manufacturer he is going to make a great many objects, a
5 great many guns that have essentially the same number of
6 lands and grooves and the same direction of twists.

7 Q. Okay. In the bullet taken from the autopsy, and I
8 think that's State's exhibit 30 but I may have that
9 number mistaken; let me make sure.

10 THE COURT: State's 34.

11 Q. [Mr. Stone] 34 okay. From State's exhibit 34 the
12 bullet that was taken from the autopsy how many lands and
13 grooves were in that bullet?

14 A. State's exhibit 34 is a plain lead .38 caliber
15 bullet, which could be fired in a .38 special or a .357
16 magnum caliber firearm. And its rifling is eight grooves
17 with right twists.

18 Q. Eight grooves with a right twist?

19 A. Correct.

20 Q. And item number 30, which was taken from the house
21 at Old Wild Horse how many lands and grooves and twists
22 were on that?

23 A. It's also a .38 special caliber bullet, which can be
24 fired from either a .38 special or a .357 magnum caliber
25 firearm and it has eight grooves with right twist.

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1 Q. Can you tell from either one of those bullets
2 whether or not they were fired by a revolver versus an
3 automatic?

4 A. Both of them have indications that they were fired
5 by a revolver.

6 Q. And I think I understand the difference but the
7 difference between a revolver and an automatic what is
8 that?

9 A. A revolver is a type of handgun that has a revolving
10 cylinder as its central member. Inside the receiver of a
11 revolver there is a rotating cylinder that has a number
12 of individual chambers. And as the gun is fired the
13 cylinder rotates; it revolves to bring a fresh unfired
14 cartridge into alignment with the barrel.

15 There is one barrel and for instance five or six or
16 however many chambers the gun has so each time the
17 cylinder has to rotate to bring that alignment into
18 effect at which time the firing mechanism initiates the
19 cartridge and the bullet jumps from the cylinder into the
20 back of the barrel and out the gun; the rifling being
21 inside the barrel.

22 Frequently revolvers get a little bit out of time.
23 That is that the cylinder doesn't just perfectly line up
24 the chamber within the cylinder doesn't line up exactly
25 with the bore. And when the bullet jumps that gap from

1 the cylinder into the back of the barrel frequently you
2 will see an area where the rifling will extend up the
3 nose or up towards the nose of the bullet and it will
4 leave marks that are consistent with it having been fired
5 by a revolver.

6 Q. Okay. And in both of these situations item 30 and
7 34 both of them have some type of characteristics that
8 indicate the revolver was used?

9 A. They do. They both have indications they were fired
10 by a revolver as opposed to like a rifle or a
11 semiautomatic pistol where the chamber and the barrel are
12 all integral, they are all one piece and there is no
13 disconnection between the chamber and the bore of the
14 gun.

15 Q. Okay. And I want to make sure -- you also have two
16 different types of metal in those two bullets is that
17 correct?

18 A. Well item 34 is a plain lead bullet.

19 Q. Okay.

20 A. It's not plated, it's not jacketed; it's just lead.
21 It has some grooves in it that would have contained a
22 lubricant to keep the lead from smearing in the bore.
23 Item 30 is a full metal jacketed bullet but it's actually
24 made in two pieces. It has an outer skin that is made of
25 a copper alloy and the outer drawn jacket has a core that

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1 is placed in the middle of it and then the two parts are
2 crimped together to create what's known as a full metal
3 case or a full metal jacketed bullet.

4 Q. Now in your experience testing various bullets from
5 crime scenes and things throughout your 47 year history
6 is it unusual to find two bullets that could in fact have
7 been fired from the same gun that would be different
8 materials?

9 A. It's not unusual. Sometimes they are the same and
10 sometimes they are different.

11 Q. And is there enough of those bullets to determine
12 whether or not the bullets are matched or were actually
13 fired from the same gun? Could you make a definitive
14 match on that?

15 A. It is possible sometimes to match like a lead bullet
16 with a jacketed bullet. It is possible to do. It's
17 somewhat more difficult because the lead bullet is
18 softer; the outside of the lead bullet surface is softer
19 than the outside of a jacketed bullet.

20 So sometimes there are minor differences in both
21 engagement and in the rifling signature that the gun will
22 leave on them. But when they are in sufficiently good
23 condition it is possible to match them. And when they
24 are not the fact that they are different becomes one more
25 factor that works against you.

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1 Q. Okay. And in these bullets were they in good
2 enough condition to make that type of match?

3 A. Both of them were damaged. Both of them were
4 appreciably damaged; item 34 probably more so than item
5 30. Item 30 looks worse than item 34 in terms of its
6 gross damage.

7 But by being a jacketed bullet a lot of the very
8 fine individual striated marks that represent the
9 signature of a particular gun barrel a lot of those
10 survived better because the jacket surface was somewhat
11 harder.

12 Q. Okay. So in that case though you can't make a full
13 match of those. Can you tell us whether or not those are
14 two consistent bullets? In other words are the twists
15 and the lands and the grooves -- the left twist as I
16 think you described it.

17 A. No, right twist.

18 Q. Right twist; excuse me. Are they consistent with
19 being fired from the same gun?

20 A. They are. Both of these bullets have the same
21 general rifling characteristics and beyond that there are
22 a few individual similarities noted on them, a few
23 individual striated marks that are similar on them. It's
24 just that there is not enough remaining undamaged area to
25 conclude that both of these bullets were fired by the

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1 same gun barrel.

2 Q. And both of them are a .38 is that correct?

3 A. They are.

4 Q. Okay. Now specifically I want to go to item from
5 the autopsy that would be item 34.

6 A. Right.

7 Q. Now speaking strictly in the context of -- well, let
8 me back up and start over. State's exhibit 29 and
9 State's exhibit 33 these items also were delivered to
10 SLED.

11 Did you receive them and were they in -- were they
12 sealed as they are at this time? Well, not at this time
13 but were they sealed when you received them.

14 [Whereupon, the witness is shown exhibits]

15 A. I previously inspected these today so without going
16 through taking every single one of them out the answer is
17 yes, they were sealed when I received them and this is
18 the evidence that I received.

19 Q. And then you opened them up to view them?

20 A. Correct.

21 MR. STONE: Your Honor, at this time we'd move
22 State's exhibit 33 into evidence.

23 MR. BAX: Without objection, Your Honor.

24 THE COURT: Thank you.

25 MR. STONE: And State's exhibit 29 into evidence.

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1 MR. BAX: Same.

2 THE COURT: Both admitted without objection.

3 [Whereupon, State's exhibit numbers 29 and 33 are
4 entered into evidence by the court]

5 Q. [Mr. Stone] Now State's exhibit 29 are the shells
6 that were taken from the bed of the Ford F-150. What
7 type of shells are those? And specifically what caliber
8 are those shells?

9 A. These are .9mm Luger caliber cartridge cases; they
10 are fired.

11 Q. And the items here that were in State's exhibit 33,
12 which were taken from Tyrone Robinson's car; these are
13 the spent bullets. Could you tell us what type of
14 caliber bullets those are?

15 A. They were .9mm Luger caliber bullets.

16 Q. I'll show you part -- well, I'll actually show you
17 State's exhibit 26 and ask if you could identify that.
18 That's already in evidence.

19 [Whereupon, the witness is shown exhibit]

20 A. Yes, I can.

21 Q. And what is that item?

22 A. This is a Masterpiece Arms. It's a I think a model
23 MPA-30 .9mm Luger. It's actually a semiautomatic pistol.

24 Q. What do you mean by semiautomatic pistol?

25 A. I mean it fires once for every pull of the trigger

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1 and it has no shoulder stock and it has a short barrel.

2 Q. And also I think these items as well were submitted.

3 What is this item here? I'm handing you State's exhibit
4 27.

5 [Whereupon, the witness is shown exhibit]

6 A. State's exhibit 27 is what the Masterpiece Arms
7 Company refers to as a safety extension. It's actually a
8 piece of aluminum that has a hole drilled in it. I
9 rather looks like a silencer but it has no baffles; it
10 has nothing in it that would effectively silence the
11 firearm.

12 They call it a safety extension because it keeps you
13 from getting your hand where you could shoot your own
14 hand with it. Or some people may choose to hold it to
15 make the gun steadier.

16 Q. But that item on that gun doesn't make it quieter?

17 A. No.

18 Q. And you fired this gun as well did you not?

19 A. I did.

20 Q. Still pretty loud ---

21 A. --- yes ---

22 Q. --- even with ---

23 A. --- it just moves the sound about that much

24 [indicates] farther than it would have been.

25 Q. All right. And this item here, which is State's

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1 exhibit 28 I'll hand that to you first and that is in
2 this bag here [indicates].

3 [Whereupon, the witness is shown exhibit]

4 Q. What is that?

5 A. This is a magazine assembly that is adapted for that
6 pistol.

7 Q. How many does that hold?

8 A. Normally it holds 32. I was actually able to get 33
9 cartridges in it. So with a fully loaded magazine and
10 one in the chamber the pistol would be capable of firing
11 as many as 34 times between re-loadings.

12 Q. And again the bullets are going to go as quickly as
13 you can pull the trigger is that correct?

14 A. Correct.

15 Q. And you shot it yourself?

16 A. I did.

17 Q. Did it shoot pretty fast?

18 A. As fast as you can let up on the trigger and pull it
19 again.

20 Q. Okay. And this part [indicates] I think goes into
21 here in [indicates] is that correct?

22 A. It does. If it didn't have a wire tie it would fit
23 right in.

24 Q. All right. These items pulled from this bag which
25 is State's exhibit 31 these bullets that were found in

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1 State's exhibit number 25, which is a black bag, what
2 kind of caliber bullet are those?

3 [Whereupon, the witness is shown exhibit]

4 A. One is a 50-Round box of Federal brand cartridges
5 that actually contains 29 cartridges. These are .9mm
6 Luger caliber. They are the correct caliber to use in
7 the Masterpiece Arms pistol or in other .9mm Luger
8 caliber firearms.

9 And the others are RWS brand .9mm Luger caliber
10 cartridges. They are the same caliber but they are made
11 by a different manufacturer and they are loaded with a
12 different weight bullet and a bullet that is constructed
13 differently than the Federals.

14 Q. Is that the same type -- would those bullets also
15 work in this type gun?

16 A. Yes. All of these cartridges can be fired in that
17 gun.

18 Q. Pretty much all of the cartridges that I've handed
19 you up with this gun can be fired in that gun?

20 A. Correct, except these [indicates] cartridges, the
21 RWS brand cartridges, are the same brand of cartridge as
22 these [indicates] fired cartridge cases and they are the
23 same type -- the same type bullet is loaded into these
24 [indicates] cartridges as the remaining fired bullets.

25 Q. Okay.

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1 A. It's an actual steel jacketed bullet and not a
2 copper alloy jacketed bullet.

3 Q. And when you said these just to make sure we're
4 clear that is item State's 29 which are the shells that
5 were taken from the pickup truck?

6 A. Correct.

7 Q. And that is the same type bullets as the shells that
8 were taken out of the bag ---

9 A. --- the same caliber, the same brand, and the same
10 type.

11 Q. But interestingly enough different than the other
12 boxes of bullets right?

13 A. Right. The others are the same caliber but not the
14 same brand and not the same type.

15 Q. Which is what I guess you said earlier it's not
16 unusual for you to see different types of bullets in the
17 same gun?

18 A. Correct.

19 Q. Okay. I want to make sure I'm clear then. This
20 gun [indicates], which is item 26, this gun [indicates]
21 did you do any testing as far as any of these bullets to
22 determine if this gun fired any of these -- could fire
23 any of those bullets?

24 A. I did.

25 Q. And the bullets specifically taken out of Tyrone

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1 Robinson's car could you tell us anything about those?

2 A. I can tell you for sure it was not fired by that
3 gun.

4 Q. Let me back up on that ---

5 A. --- the one -- excuse me; the item 34 bullet, the
6 .38 special caliber bullet this bullet [indicates] was
7 not fired by that gun.

8 Q. And that's the bullet from autopsy?

9 A. That's correct. That's what I meant to say.

10 Q. I'm sorry. And the bullets from Tyrone Robinson's
11 car here [indicates] that were taken out of his car that
12 would be State's exhibit 33 and this gun [indicates]?

13 A. There are five bullets in State's exhibit 33. All
14 five of those bullets were fired by that gun.

15 Q. Okay. Just to make sure I'm clear now because we
16 had a little bit of confusion there. This gun
17 [indicates] fired the bullets that were taken out of
18 Tyrone Robinson's car is that correct?

19 A. Correct.

20 Q. This gun could not have fired the bullet that was in
21 K. S. [REDACTED] ?

22 A. Correct. It also fired the three fired cartridges.
23 This gun [indicates] also fired the three fired
24 cartridges.

25 Q. And those cartridges that were found in the pickup

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1 truck?

2 A. Yes.

3 Q. And I also want to make sure too the bullet that
4 came out of Wild Horse Road, the bullet I showed you
5 earlier, this [indicates] is also a .38?

6 A. Yes.

7 Q. Is it possible that this bullet was fired by that
8 gun?

9 A. No.

10 MR. STONE: No further questions, Your Honor.

11 THE COURT: Thank you. Mr. Bax, cross-examine?

12 MR. BAX: Your Honor, as previously stated I'd ask
13 for a very, very brief recess.

14 THE COURT: Oh, I'm sorry, yes.

15 MR. BAX: Between direct and cross.

16 THE COURT: All right. Folks, step to your jury
17 room for just a moment. Counsel needs to confer before
18 he cross-examines this witness. Don't talk about this
19 case. We'll get you out in just a few moments and
20 continue.

21 [Whereupon, the jury exits at 1:55 p.m.]

22 [Whereupon, an off the record bench conference is
23 held]

24 THE COURT: Let's see if the jury is ready to come
25 back.

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1 THE BAILIFF: The jury is entering the courtroom,
2 Your Honor.

3 THE COURT: Thank you, ma'am.

4 [Whereupon, the jury enters at 2:07 p.m.]

5 THE COURT: Thank you folks for your patience with
6 us as we worked through that process. Mr. Bax?

7 MR. BAX: Thank you very much, Your Honor.

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CROSS-EXAMINATION

BY MR. BAX:

Q. Good afternoon Mr. DeFreese. How are you doing?

A. I'm doing fine, thank you.

Q. I want to ask you some questions. I know that we've gone through a lot of this in front of the jury already but you've testified that you were comparing -- let's talk about State's 30 and State's 34. Those were the two .38 caliber projectiles that you testified to earlier.

Are you familiar with what I'm referring to?

A. I am.

Q. And if you need me to hand anything to you please let me know; I'm happy to do it. Those were two different .38 caliber projectiles correct?

A. They were different in construction, yes sir.

Q. Well, just on a basic level they are two different bullets.

A. Two different bullets and different composition.

Q. Correct. And I do want to ask you about that. Obviously, and I think there are also some photographs that I am going to pass up to you in just a second.

But when you say construction in other words what you testified to the jury before they are the same caliber but they actually have a physically different look to them correct?

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1 A. Indeed they do.

2 Q. Okay. And that being because of the fact that one
3 of them has a copper alloy, basically a coat over it or a
4 jacket over it correct?

5 A. Yes. One of them is jacketed and one of them is
6 plain lead.

7 Q. Okay. And that construction has a lot to do with
8 what you've testified to here today that they have these
9 two projectiles appear to have the same general rifling
10 characteristics but you can't firmly conclude that they
11 were fired from the exact same gun correct?

12 A. That's correct.

13 Q. Okay.

14 MR. BAX: Approach the witness, Your Honor?

15 THE COURT: Yes, sir.

16 Q. [Mr. Bax] For the record, Your Honor, I'm handing
17 Mr. DeFreese defendant's exhibit 9 and defendant's
18 exhibit 6.

19 [Whereupon, the witness is shown photographs]

20 Q. Do those appear to be pictures of the projectiles
21 that we are talking about Mr. DeFreese?

22 A. They do.

23 Q. Okay. And in those pictures you can kind of see
24 that physical difference; you see copper on one
25 projectile and nothing but lead on the other projectile

1 correct?

2 A. Correct. Well, you can see the lead core plainly
3 exposed in the middle of the jacketed bullet as well.

4 Q. Correct.

5 A. But yes the external they are different colors
6 obviously.

7 Q. And some of that core that is exposed on the copper
8 round is based on the damage that it suffered upon impact
9 with whatever it hit is that correct?

10 A. I would say so. It appears to be missing at least
11 part of the bullet.

12 Q. Okay. And there is some damage to basically the
13 nose area and off to the side of that bullet where that
14 jacket seems to be somewhat missing, correct?

15 A. Correct.

16 Q. Okay.

17 A. And I believe there is some damage to the other side
18 of the bullet as well.

19 Q. Okay. In fact I think -- I'm going to hand you what
20 has been marked as defendant's -- actually introduced as
21 defendant's exhibit 7.

22 [Whereupon, the witness is shown photograph]

23 Q. Does that appear to be the opposite side of that
24 same projectile, Mr. DeFreese?

25 A. Yes sir, it does.

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1 Q. Okay. And that shows some damage as well, correct?

2 A. It does. It's rather badly abraded on that side.

3 Q. Okay.

4 MR. BAX: Your Honor, permission to publish
5 defendant's 6 and 9 to the jury?

6 THE COURT: Yes, sir.

7 MR. BAX: Thank you.

8 [Whereupon, the photographs are shown on screen]

9 Q. [Mr. Bax] Mr. DeFreese, I'm going to continue to
10 question you while they look at the pictures some. If
11 anybody needs me to stop I'll be happy to stop.

12 There is a combination of things here that I want to
13 talk about. Obviously as you've said there is different
14 construction on these two bullets. One has the jacket
15 and one is plain lead and that affects how the outside
16 surface is affected by the barrel is that correct?

17 A. It does. One is harder than the other.

18 Q. Okay. But in the end those differences and the
19 damage were part of the reason why you can't conclusively
20 say they were fired from the same gun, correct?

21 A. That's correct.

22 Q. Another reason obviously you don't have a gun to
23 compare to correct?

24 A. It would be somewhat easier if we had the correct
25 gun in that if we had the correct gun we could test fire

1 it with both jacketed test ammunition and with plain lead
2 test ammunition where we might have an increased chance
3 of achieving a match.

4 Q. But it's not guaranteed that you would get a match
5 even with the firearm present?

6 A. Absolutely.

7 Q. Okay. Now in this case Mr. DeFreese after you did
8 your comparisons you issued a report is that correct?

9 A. I did.

10 Q. And in that report you list a number of possible
11 manufacturers whose rifling characteristics would
12 potentially produce what you see on these two bullets is
13 that correct?

14 A. That is.

15 Q. Okay. And in fact you initially only had the soft
16 lead projectile to look at is that correct?

17 A. I believe that's correct.

18 Q. And you later looked at the jacketed round when it
19 was sent to you at a later time?

20 A. Correct.

21 Q. Okay. When you first looked at the first
22 projectile, the lead only projectile, it indicates -- and
23 I'm just going to ask you if this is what you recall from
24 your report that there was approximately I'm seeing about
25 19 or 20 different manufacturers that you listed if I am

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1 counting that correct. Do you have a copy of your report
2 with you Mr. DeFreese?

3 A. I do.

4 Q. In fact actually if you could, could you read out to
5 us the different manufacturers you found that could have
6 possibly manufactured a gun with those same rifling
7 characteristics?

8 [Whereupon, the witness reviews document]

9 A. State's exhibit 34 was my item 1 in the laboratory
10 number L12-10744. And among the brands of firearms that
11 I list, which have general rifling characteristics
12 approximately the same are Arminius, Charter Arms, COP,
13 Rohm, Ruger, Weihrauch, which is also sold under the EAA
14 name, the Bellmore/Crescent, BJT, Burgo, Cheyenne,
15 Dickson, EIG, Gecado, Herbert Schmidt, Liberty Arms,
16 Omega, PIC, which is Precise Imports, and RG Industries.

17 Q. Okay. If I've counted correctly that is 18
18 manufacturers.

19 A. I didn't count them; I read them. But I wouldn't
20 disagree with you.

21 Q. Okay. And so that's based on your training.
22 You're familiar with the manufacturing techniques of all
23 these manufacturers correct?

24 A. That's really based on a database of both bullets
25 and firearms that we know or have measured or others have

1 measured that have specifications within the range that I
2 saw on this bullet. Bear in mind that our bullet in
3 question, State's exhibit 34, is a lead bullet. It is
4 softer. There is a degree of slippage involved when the
5 bullet jumps out of the cylinder, goes down the barrel
6 and engages the rifling.

7 There is also a great deal of damage to that bullet.
8 And the dimensions that I used for purposes of generating
9 this list of possible makes was very generous because if
10 this list is provided for the investigators as an
11 investigative tool.

12 It's not really provided for the proof of the
13 matter. It's just to say guys when you are out there
14 looking for guns these are some of the brands that you
15 want to be looking for. And I gave it as wide a swath as
16 it looked like it would be beneficial. I could literally
17 have given them everything with eight lands and grooves
18 and right hand twists in .38 special and it wouldn't have
19 been very much bigger than this.

20 When it came down to measuring the other bullet the
21 other bullet was a jacketed bullet and its rifling
22 engagement was a good deal tighter than the engagement
23 that I saw on State's exhibit 34. And it's not uncommon
24 to end up having measured two different bullets and come
25 up with two different dimensions; one of them that you

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1 has a higher degree of confidence in than you do the
2 other; and that's the case here.

3 Q. So you wanted to make sure you gave law enforcement
4 every possibility or at least every reasonable
5 possibility when they are searching for a potential
6 firearm to match what you have examined in your lab
7 correct?

8 A. Correct.

9 Q. And when examining the second bullet you were able
10 to determine that that bullet had tighter grip in
11 whatever barrel that it got fired through necessarily
12 than what the lead projectile had correct?

13 A. It had a range that I had more confidence in then I
14 did on the first bullet.

15 Q. Okay. Now ---

16 A. --- there is a good deal of overlap as well.

17 Q. Okay. And the .38 caliber jacketed round as you've
18 said these are the same calibers and so its ostensibly
19 supposed to be manufactured to have the same diameter as
20 all other .38 caliber ammunition correct?

21 A. They should.

22 Q. They should?

23 A. They should. They don't always but they should.

24 Q. Okay. Now as a result of that, and like I said
25 before they have basically the same rifling

1 characteristics eight lands and grooves a right twist but
2 you cannot say for certain they were fired from the same
3 gun. And it is possible that they could have been fired
4 from two different .38 caliber revolvers made by any of
5 these manufacturers isn't that true?

6 A. Yes sir that is true.

7 Q. Okay. Now I want to move on to something else that
8 I think is very important. The item number 34, which is
9 the plain lead projectile that you first received and is
10 pictured in defendant's exhibit 9 you indicated there was
11 damage to that.

12 But in your testimony on direct you were specific
13 that it was a different kind of damage because obviously
14 to the naked eye the jacketed round looks a lot more
15 messed up than the plain lead round.

16 A. It does.

17 Q. Okay. So when you're talking about damage you're
18 talking about more microscopic damage along the sides of
19 that lead projectile is that correct; am I saying that
20 right?

21 A. I think that's a fair thing to say. If you look at
22 the bullet closely you can see deformation to it but it's
23 not the degree of deformation that you see with the
24 jacketed bullet. The jacketed bullet has its nose rather
25 completely knocked off and it's torn. This one looks