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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Laurens County

Honorable B. Alex Hyman, Circuit Court Judge

CHRISTOPHER JERMAINE WELLS,

RESPONDENT

V.

STATE OF SOUTH CAROLINA,

PETITIONER

APPELLATE CASE NO. 2025-001566

SUPPLEMENTAL APPENDIX

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OF KELLY BALL FROM JOHNNY LEE SAXON’S TRIAL)..... 1

State of South Carolina) In the Court of General Sessions
County of Laurens) Eighth Judicial Circuit
2015-GS-30-00477

State of South Carolina,)
vs.) Excerpted
Johnny Lee Saxon,) Transcript of Record
Defendant.)

August 30, 2016
Laurens, South Carolina

B E F O R E:

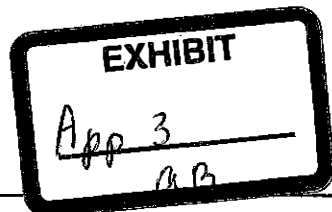
The Honorable Donald B. Hocker, Judge; and a jury

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1 THE BAILIFF: All jurors present, Your Honor.

2 THE COURT: All right. Thank you, Mr. Bolt. So
3 noted for the record.

4 All right. Solicitor Mowry, you ready?

5 MR. MOWRY: Yes, sir, Your Honor. We'd call Kelly
6 Ball.

7 (Off the record briefly.)

8 (Whereupon, the witness came forward.)

9 KELLY BALL, having been first duly sworn,
10 testified as follows:

11 THE BAILIFF: Okay. Speak into the mic.

12 DIRECT EXAMINATION

13 BY MR. MOWRY:

14 Q You are Kelly Ball?

15 A Yes.

16 Q Kelly, how old are you now?

17 A Thirty-eight years old.

18 Q So back in 2013, you'd have been 35 -- in October of
19 2013?

20 A Correct.

21 Q Let me ask you: We've heard the 911 audio in this
22 case, State's Exhibit No. 26. Is that you on it?

23 A Yes, sir.

24 Q What was your state of mind when you were on that
25 phone?

- 1 A I was in -- I was panicking.
- 2 Q Okay. Let me back up just a little bit. You've got
3 a criminal record; is that right?
- 4 A Correct.
- 5 Q You've got some felony convictions; is that right?
- 6 A Correct.
- 7 Q Were you a drug user in 2013?
- 8 A Yes.
- 9 Q Are you still?
- 10 A No.
- 11 Q What has brought you to stop your drug use?
- 12 A I changed the location I was living in. And this --
13 this situation that we're here for today took a big toll
14 on me as well and led me to change my lifestyle.
- 15 Q Okay. So you're living in another part of South
16 Carolina; is that right?
- 17 A Correct.
- 18 Q Matter of fact, from this case, did you receive some
19 psychiatric counseling?
- 20 A Yes, I did.
- 21 Q Did you admit yourself to Marshall Pickens
22 Psychiatric Hospital in Greenville?
- 23 A Yes.
- 24 Q How long did you stay there?
- 25 A I'm not positive. I would say five to seven days.

1 Q Okay. But it was because of this; is that right?

2 A Correct.

3 Q Okay. Let me back up just a little bit. And let's
4 talk about your situation in 2013. Who is -- was Johnny
5 Lee Cheeks to you?

6 A He was my best friend. I did live with him off and
7 on.

8 Q Okay. Did he also provide you drugs when you were
9 using drugs?

10 A Yes.

11 Q Where did Johnny Lee Cheeks live?

12 A 310 River Hill Road.

13 Q Okay. And that's in Enoree; is that right?

14 A Correct.

15 Q Is that in Laurens County?

16 A Yes, it is.

17 Q So it's on the -- on the Laurens part of Enoree?

18 A Correct.

19 Q When you called 911 on Halloween night of 2013, who
20 did you get connected to first?

21 A Spartanburg County 911.

22 Q Okay. And then they figured out where you were and
23 swapped you over to Greenville; is that right?

24 A To Laurens County.

25 Q Okay. How long had you known Johnny Lee Cheeks?

- 1 A I would say approximately 12 to 13 years.
- 2 Q Okay. Let me ask you this: Let's refer to State's
3 Exhibit No. 20. It shows you three pictures. Do you
4 recognize the men in these pictures?
- 5 A Two of them, I do. I'm -- at -- I do now.
- 6 Q Okay. Well, do you know who they are now?
- 7 A I do now.
- 8 Q Did you know who they were then?
- 9 A No.
- 10 Q Who are these men?
- 11 A Johnny Saxton [sic], David Walker, and Christopher
12 Wells.
- 13 Q So from the upper-left-hand corner across to the
14 right and then down?
- 15 A Correct.
- 16 Q Johnny Saxon, David Walker, Christopher Wells; is
17 ---
- 18 A That ---
- 19 Q --- that right?
- 20 A That is correct.
- 21 Q Had you seen any of them before Halloween night?
- 22 A No. Not to my knowledge that I recall.
- 23 Q Yeah. Not that you would recognize them that night;
24 is that ---
- 25 A No.

1 Q --- what you're saying?

2 That night did you see Johnny Lee Saxon at all?

3 A No, sir.

4 Q Okay. Let's go back and just describe what you were
5 doing the evening of Halloween, 2013.

6 A I -- Lee had came and picked me up. And from there
7 we went straight to Laurens to the Waffle House to pick
8 him up some food. He ate -- began eating his -- I drove
9 home. I drove to the Waffle House and home.

10 But on the way home, he began eating his food. When
11 we got to his home, we went and sat in his living room
12 and he finished his food from the Waffle House.

13 Q Okay. The Waffle House that you're talking about,
14 which one is that?

15 A It's the one in Laurens located on 221.

16 Q Okay. 221 and 385, right at that intersection?

17 A Yes, sir.

18 Q How far would you say that -- just in time, would
19 you say, that is from 310 River Hill Road?

20 A Ten minutes.

21 Q Ten minutes?

22 A (No audible response.)

23 Q Okay. So you drove there and back; is that right?

24 A Correct.

25 Q Any -- anything of significance during that time?

1 A No.

2 Q Okay. When you got back, what -- what did y'all do
3 then?

4 A We went into the home. Like I said, we was just --
5 we was just sitting in the living room.

6 Q Okay. Let me show you a couple of pictures here, if
7 I could. I'm going to -- well -- I'm -- a picture.

8 MR. MOWRY: I'm going to refer to State's Exhibit
9 No. 14, Your Honor.

10 Q Have you -- can you identify the subject matter of
11 that picture?

12 A This is Lee's residence and Lee's vehicle.

13 Q Okay. I'm going to go over here to the whiteboard.
14 This is Lee's vehicle, this blue Chevrolet right here; is
15 that right?

16 A Correct.

17 Q And what is this structure behind?

18 A That's Lee's residence.

19 Q Okay. So that's the residence he lived in?

20 A Yes.

21 Q Okay. Was there anything else besides drugs that he
22 sold?

23 A Yes. He sold liquor.

24 Q Where did he keep that?

25 A In the building that you can see behind the

1 residence, back there in the corner behind that tree.

2 Q Behind the tree?

3 A (No audible response.)

4 Q This -- this white building in the left-hand ---

5 A Yes. It's ---

6 Q --- side of the picture; is ---

7 A It's ---

8 Q --- that right?

9 A --- a storage building. Yes, sir.

10 Q Okay. What kind of liquor did he sell? Do you
11 know?

12 A Gin.

13 Q Gin?

14 A (No audible response.)

15 Q Was there anything else?

16 A No.

17 Q Or -- or was that pretty much it?

18 A That was pretty much it.

19 Q Okay. So you say you got home. You had driven this
20 car; is that right?

21 A Yes, sir.

22 Q What is this driveway made of? What's the -- what's
23 the material that is lining the driveway?

24 A It's, like, a woody mulch.

25 Q Okay. So y'all had driven his vehicle to the -- to

1 the Waffle House. How had you gotten the order in?

2 A By phone.

3 Q Okay. So you called in the order?

4 A Yes, sir.

5 Q Was the order ready when you got there?

6 A Yes, sir.

7 Q Okay. So y'all just got there, picked it up, turned
8 around, and drove back; is that right?

9 A Yes, sir.

10 Q So when you got back to 310 River Hill Road, what
11 did y'all do then?

12 A We parked the car, entered the home, and went
13 straight to the living room.

14 Q Okay. Is the position of the vehicle here the
15 position you left it in when -- when you got back? You
16 said you were driving?

17 A Yes, sir.

18 Q Is that position you left it in when you got back?

19 A Yes, sir.

20 Q Okay. So what happened when you -- when you got
21 there?

22 A We went inside; sat down in the living room. He was
23 finishing up his supper. And there was a knock at the
24 door.

25 Q Okay. Is that unusual for him to have knocks at

1 strange times?

2 A No.

3 Q Okay. What -- about what time of the evening was
4 this?

5 A I'm not real sure.

6 Q Let me ask you this.

7 A Sometime between ten and twelve o'clock.

8 Q Okay.

9 A I mean ---

10 Q Let me ask you this: How long before the 911 call
11 that you made was the knock at the door?

12 A Less than ten minutes.

13 Q Okay. So what did you do when you heard the knock
14 at the door?

15 A I stayed in the living room in my chair.

16 Q Okay.

17 A Uh-huh.

18 Q Was -- was that pretty much standard for y'all?

19 A Yes.

20 Q What did Johnny Lee Cheeks do?

21 A He went to the door. He opened the -- he had a -- a
22 door and a screen door. He opened the -- the door and --
23 and left it standing open. And he stepped outside the
24 screen door, which was not normal.

25 Q Okay.

1 A He ---

2 Q It -- it was not normal?

3 A No.

4 Q What -- what was normal for him?

5 A Normally, once he opened the big door, whoever was
6 on the other side would step inside the screen door. But
7 that's not what happened that night. He immediately --
8 when he heard this knock, stepped outside.

9 And he tried to slam the screen door. It was very
10 hard to get it to catch. But it did -- it -- he -- he
11 tried to slam it and make it catch. But it still didn't
12 catch.

13 Q Okay. So nothing unusual about getting the knock,
14 but the way he responded to it was -- was a bit unusual;
15 is that right?

16 A Correct.

17 Q Did you have any idea who was at the door?

18 A No.

19 Q Had you -- and -- and you had not seen David Walker
20 or Christopher Wells before that night?

21 A No, sir.

22 Q Okay. So you wouldn't have known them even if you
23 did see them; is ---

24 A Correct.

25 Q --- that right?

1 Okay. What happened then?

2 A Once he went outside the door, there was a verbal
3 disagreement that voices got kind of loud, which was not
4 abnormal either. So I really wasn't really alarmed at
5 that point.

6 Q Let me stop you there. How many voices do you think
7 you heard?

8 A Three.

9 Q Okay. Male or female?

10 A All male.

11 Q Okay. Did you hear any female voices that night?

12 A No, sir.

13 Q Okay. So voices got raised. What happened then?

14 A Then you could hear a scuffle, a light thud or two.
15 And then, shortly after that, I could -- I heard
16 gunshots.

17 Q All right. When you say "a light thud or two," how
18 big a thud are we talking about? What did it ---

19 A Like ---

20 Q --- what did ---

21 A --- someone being knocked to -- maybe them scuffling
22 and both of them hitting the ground. It wasn't a very
23 loud thud. It's just like I'm on the inside and their
24 bodies are scuffling on the ground. So it's not loud
25 thuds.

1 Q Okay. But -- but you -- you described a material on
2 the driveway. Did it sound like something falling on
3 that, or did it sound like something falling onto the car
4 or what? Metallic or hollow?

5 A I'm not real sure. But it sounded more like they
6 were hitting the ground.

7 Q Okay. Was that unusual?

8 A Yes.

9 Q Okay. What happened then?

10 A Then I heard a gunshot.

11 Q All right. Just one shot?

12 A Initially.

13 Q Okay. Then what?

14 A After the first gunshot, I got up out of my chair
15 and started to run down the hallway to the door. But
16 before I ever made it to the door, there were at least
17 two to three -- maybe four more shots.

18 Q All right. Now, the room that you were talking
19 about, which side -- well, let me ask you this: Is this
20 the door you're talking about ---

21 A Correct.

22 Q --- that people came to? I'm pointing right here to
23 the right-hand side of the -- of the trailer.

24 A Yes, sir.

25 Q Which side is the -- the room that you were in?

DIRECT EXAMINATION BY MR. MOWRY - KELLY BALL 66

1 A It's the living room. And it's just a small hallway
2 down -- right down through there. I would say maybe 12-
3 to-15-foot hallway. And then, that's the living room.

4 Q Okay. So left turn in the door or right turn?

5 A Left turn into the door. And where that next window
6 is ---

7 Q Uh-huh.

8 A --- would be the living room.

9 Q Okay. So right here is the living room, and the
10 living room goes down this way; is that right?

11 A Right.

12 Q Okay. So you were in the living room. You heard
13 the scuffle. You heard the shot. You got up and did
14 what?

15 A I ran straight to the screen door that, like I say,
16 didn't catch. So it had a crack in it. But because I
17 heard gunshots, I -- I remained low. Because as you can
18 see, there's a fence around the front porch. So I
19 knowed, if I remained low, it was less likely that --
20 since I had then heard gunshots, that I would be shot.

21 Q Now ---

22 A So ---

23 Q --- you -- you said that you had heard one gunshot

24 ---

25 A Initially.

- 1 Q --- initially. And then, how many more?
- 2 A At least two to three, maybe even four.
- 3 Q Okay. Not sure; is ---
- 4 A I'm not sure ---
- 5 Q --- that right?
- 6 A --- exactly ---
- 7 Q Okay. But ---
- 8 A --- how many ---
- 9 Q --- but more than one?
- 10 A Absolutely.
- 11 Q All right. So you're at the door. What do you see?
- 12 A I can't see anything because I'm squatted. I --
- 13 well, I can see someone standing in the driveway, because
- 14 that -- the driveway, what you can't see in this picture,
- 15 goes uphill. So I can see the person who -- one person
- 16 who has made it as far as the -- the driveway. But
- 17 that's all I could see at that point.
- 18 So then -- do you want me to go on?
- 19 Q (No audible response.)
- 20 A At -- at that point what I do is I yell out that
- 21 crack in the door -- in the -- because the screen door
- 22 didn't shut: "Lee, are you okay? Are you shot?"
- 23 Q Okay.
- 24 A Because I heard gunshots.
- 25 Q Had you called 911 at that point?

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1 A Not until Lee said: "Yes, I am shot."

2 Q Okay.

3 A And I dialed 911 immediately at that point.

4 Q Whose phone did you use to do that?

5 A I'm not -- I had three phones going.

6 Q Okay.

7 MR. MOWRY: Give me just one second, Your Honor.

8 THE COURT: Sure.

9 (Off the record briefly.)

10 Q Okay. Will you come down for just a second?

11 A Sure.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: And when you're speaking, since you're
14 away from the microphone, make an extra effort to speak
15 up loud so we can hear you, okay?

16 THE WITNESS: Yes, sir.

17 Q Now, if you could stand on that side ---

18 A Okay, sure.

19 MR. MOWRY: I'm referring, Your Honor, to State's
20 Exhibit No. 39.

21 A Yes, sir.

22 Q Do you -- do you recognize this?

23 A I'm pretty sure I do. If I'm -- I'm correct, this
24 would be Lee's residence.

25 Q At -- you said it was 310 ---

- 1 A At 310.
- 2 Q --- 310.
- 3 Well, in this area, though, right?
- 4 A Right.
- 5 Q Okay. Is the number correct? Is this 310? I mean,
- 6 is this what -- what you would call 310?
- 7 A Yes, sir.
- 8 Q All right. But this is -- this is his house; is
- 9 that right?
- 10 A Correct.
- 11 Q And where is the driveway that you're talking about?
- 12 A This driveway goes -- as you can see, the vehicle is
- 13 pulled here. So the driveway goes all the way up through
- 14 here. And then, it his this gravel you see here, all the
- 15 way up. And then, this would be the top of the driveway.
- 16 So I was here, and the top of the driveway was here.
- 17 Q Okay. About far is that? Any idea?
- 18 A At least a hundred feet.
- 19 Q Okay. And what is up here at the top of the hill at
- 20 the -- at the road -- the top of the driveway?
- 21 A There's brush all the way down this side ---
- 22 Q Uh-huh.
- 23 A --- of the road to the driveway. And on this side,
- 24 as you can see, there's a tree and some brush here.
- 25 Q Is there any kind of lighting up in this area?

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1 A Yes. There -- well, there was a front-porch light.
2 And then, up in this area, there was a streetlight.

3 Q Okay. And was that working that night?

4 A Yes, sir.

5 Q Okay. So 310, it appears on here, is a -- is a
6 vacant lot; is that right?

7 MS. ZMROCZEK: Your Honor ---

8 A Correct.

9 Q But does that go ---

10 THE COURT: Okay. Wait -- wait one ---

11 MS. ZMROCZEK: I'm sorry.

12 THE COURT: --- second. I think we've ---

13 MS. ZMROCZEK: Both of us are trying to position ---

14 MR. MOWRY: I -- I'm ---

15 MS. ZMROCZEK: --- because I ---

16 MR. MOWRY: --- sorry.

17 MS. ZMROCZEK: --- can't see where he's pointing.

18 And -- but I know it's important for the jury. Just tell
19 me where you would like me to be so that I can see.

20 Because I ---

21 THE COURT: Just where -- so long as you're not
22 blocking the jury, you can just go wherever you want to,
23 Ms. Zmroczek.

24 MS. ZMROCZEK: Thank you.

25 Q So this is basically one property area, this 310 and

1 324; is that right?

2 A Correct.

3 Q Okay. All right. And that's all.

4 MS. ZMROCZEK: Can you go back to the light
5 question? I'm sorry.

6 MR. MOWRY: Yes.

7 Q Can -- can you show again where the light is?

8 A There's a front-porch light here. And it's not just
9 a front-porch light. It's floodlights. One points in
10 this direction; one points in that direction towards the
11 driveway. And then, up here at the top of the hill,
12 there is a -- a streetlight as well.

13 Q Okay. Thank you. That's all. You can take your --
14 take your seat again.

15 A (Complied.)

16 Q So you called out the door, "Lee are you all right?"

17 A Yes, sir.

18 Q And what was his reply?

19 A "No, I'm not. Get me help."

20 Q Okay.

21 A I said, "Lee, are you all right? Are you shot?"

22 He said, "Yes, I'm shot. Get me help."

23 Q Okay. What did you do after that?

24 A I dialed 911 immediately.

25 Q Okay. And that's when you were connected with

1 Spartanburg; is that right?

2 A Correct.

3 Q Okay.

4 A But I'm not aware of it at this point.

5 Q Right.

6 A Right.

7 Q Right. And what was your state of mind at that
8 point?

9 A I -- I was hysterical.

10 Q Okay. You have heard that video before -- or that
11 audio before; is that right?

12 A Yes, sir.

13 Q And does that sound like the way you were that
14 night?

15 A Yes.

16 Q And you would characterize that as what?

17 A Hysterical.

18 Q Okay. When you got 911 on the phone, what did you
19 do then?

20 A Once I had 911 on the phone, I exited the home and
21 went to where Lee was laying and began to try to move him
22 towards this -- the front porch and then finally into the
23 home.

24 Q Okay. Where was he, referring again to the
25 whiteboard photo with the trailer and the truck?

- 1 A Lee was approximately where the front tire of the
2 Suburban is, on this side.
- 3 Q Uh-huh. So he was up in this area?
- 4 A Correct.
- 5 Q All right. Did you see anybody else out there?
- 6 A Yes, sir. There was someone else laying there who
7 had been -- it was very evident had been shot as well.
- 8 Q Okay. Was there anybody else?
- 9 A Yes. There was a person in the driveway who took a
10 few steps backwards at first and then finally turned
11 around and ran -- completely ran up the hill.
- 12 Q All right. Let me show you State's Exhibit No. 20.
13 Do you recognize -- is -- is the man that you saw in the
14 driveway in that picture?
- 15 A Yes, sir.
- 16 Q All right. Would you point him out for me?
- 17 A (Indicated.)
- 18 Q All right. The man at the bottom?
- 19 A The man who was at the back tire?
- 20 Q Right. The -- the man -- the -- the man who is at
21 the bottom is the man that you saw standing in the
22 driveway?
- 23 A This is the man who was standing in the driveway.
- 24 Q All right.
- 25 MR. MOWRY: Your Honor, for the record, she has

1 pointed to the defendant, Christopher -- or the
2 codefendant, Christopher Wells, that ---

3 THE COURT: Okay.

4 MR. MOWRY: --- she saw in the driveway.

5 Q Did you later describe that person to law
6 enforcement?

7 A Yes, I did, to the best of my ability.

8 Q Did you give a name of a person that he looked like?

9 A Yes. I made the statement that he resembled a guy
10 named Ty.

11 Q All right. Was it Ty?

12 A It was not Ty. That was just my way of telling his
13 build.

14 Q Okay. Describing the person by saying that he
15 looked like somebody else?

16 A Correct.

17 Q But it was not Ty?

18 A Absolutely not.

19 Q Who was it?

20 A It was -- now I know that it was Christopher Wells.

21 Q Okay.

22 A Now I ---

23 Q What ---

24 A --- know their name.

25 Q All right. You say there was another person in the

1 yard. And ---

2 A Yes, sir.

3 Q --- what appeared to be his condition?

4 A At that time he was collapsed at the back tire of

5 the vehicle.

6 Q So Johnny Lee Cheeks was up in this area near the

7 front ---

8 A He was collapsed there.

9 Q And -- and this other individual was back here ---

10 A Who's ---

11 Q --- is that ---

12 A --- collapsed ---

13 Q --- right?

14 A --- right in that -- yeah -- in the area of the back

15 tire.

16 Q Okay. So around about in here; is ---

17 A Yes, sir.

18 Q --- that right?

19 Okay. Were you able to get Lee inside?

20 A Yes, sir.

21 Q Was he able to move at that point himself?

22 A I would drag him from his arms. And he would help

23 me with his feet. He would push at the -- the mulch

24 stuff with his feet, especially when we got to that one

25 little step up onto the porch.

1 Q Uh-huh.

2 A He had to help me with his feet in order for me not
3 to feel like I was hurting him.

4 Q All right. So this is the point that you started
5 and you got him inside the door; is ---

6 A I ---

7 Q --- that right?

8 A --- drug him around the front of the vehicle, up
9 onto the porch, to the door, and then inside and locked
10 the door behind us.

11 Q All right. How big was Johnny Lee Cheeks?

12 A I would say maybe 160 pounds.

13 Q How old was he at that point?

14 A Sixty-two -- am I right? Sixty-two.

15 Q Early sixties?

16 A Early sixties.

17 Q What were you doing with the phone with the -- that
18 you were on with 911?

19 A The telephone stayed with me the entire time in
20 between my shoulder and my ear.

21 Q Okay. So you were dragging and had the phone ---

22 A Yes.

23 Q --- tucked between your ear and the shoulder?

24 A (No audible response.)

25 Q How far into the residence did you get Lee?

1 A Just right inside the door.

2 Q Okay.

3 A My goal was just to get him to safety, out of harm's
4 way.

5 Q Okay. The individual that you saw, not the one
6 lying here, but the one standing, where was he on this --
7 or -- can -- can you see it on this -- on this chart?

8 A No.

9 Q Okay. Was he up the driveway?

10 A A little ways. At the very bottom of what we would
11 call the driveway. But can you see where this stone is,
12 this -- this cinder block?

13 Q Yes. Right here on the far ---

14 A No.

15 Q --- left ---

16 A No.

17 Q Down here?

18 A That cinder block.

19 Q Okay.

20 A Yes. That would be the driveway there.

21 Q Uh-huh.

22 A And he was standing approximately where that cinder
23 block is in the center of the driveway there.

24 Q Okay. So he was at -- at the bottom; is that right?

25 Bottom ---

1 A Right.

2 Q --- of the picture?

3 A Yes.

4 Q When you saw him, what did he do?

5 A He took, I would say, maybe three to four steps
6 backwards. And then he finally run. But there was a
7 brief pause before he started taking those steps
8 backwards.

9 Q And where were you looking when he was doing that?

10 A I was looking at him.

11 Q All right. Square in the face?

12 A Square in the face. And he ---

13 Q Okay.

14 A --- was looking me square in the face.

15 Q Okay. And you talked about the lights, the
16 floodlights. Where -- where were they shining?

17 A Okay. One would be located on this end of the
18 trailer that points towards the driveway. No.

19 Q Okay.

20 A It's -- it's actually ---

21 Q Oh.

22 A --- attached to the home there.

23 Q Okay.

24 A It's on this corner of the porch. One pointed up
25 the driveway.

1 Q Okay.

2 A And there was also another one of the other side of
3 the porch ---

4 Q Uh-huh.

5 A --- that pointed towards -- out -- like out there
6 towards the building.

7 Q Okay. Are those lit at this point?

8 A No.

9 Q Okay. But they were lit at that -- at that stage;
10 is ---

11 A Yes.

12 Q --- that right?

13 So they're not lit in the picture, but they were lit
14 when ---

15 A Yes. And they were actually motion lights.

16 Q Oh, motion-sensor lights?

17 A Yes.

18 Q Okay. I got you.

19 What did the -- you said the -- the individual took
20 several steps back. What happened after that?

21 A After that he turned and ran up the hill. Once he
22 began to get -- I don't know -- I would say maybe 10 to
23 15 feet away from the actual road, there was a car that
24 pulled towards the driveway to pick him up.

25 Q Okay. And where did that person get into the car?

1 What part of the car did he get into?

2 A He got into the backseat. The back -- the passenger
3 side -- and I'm not quite sure. But I -- I think it was
4 the backseat ---

5 Q All right.

6 A --- but the -- but it's passenger side.

7 Q Were you able to see inside the car?

8 A No.

9 Q Were you able to see if there was anybody else in
10 the car?

11 A No.

12 Q What made you assume that there was somebody else in
13 the car?

14 A Because the car did not drive itself to -- towards
15 the driveway.

16 Q Okay. Let me show you a few -- couple of pictures.
17 Did you describe the car to -- to 911?

18 A Yes. I think so.

19 Q You ---

20 A Like I said, I was pretty hysterical. I -- I'm
21 pretty sure I did.

22 Q Do you recall how you described it?

23 A A box-style, older-model vehicle, and I think it's
24 brown.

25 Q Okay.

- 1 A I think that's about what I said.
- 2 Q Now, I want to refer you to State's Exhibits 18, 19,
3 and 21. And you can look at these pictures and also look
4 at the whiteboard, the same pictures.
- 5 A Okay.
- 6 Q Does that appear to be the model or the type of car
7 that you were describing?
- 8 A This car is very similar to the car that I seen
9 leave the scene. I can't say it is the car. But it was
10 ---
- 11 Q Right.
- 12 A --- very similar.
- 13 Q Okay. You said it was brown that night.
- 14 A Yes, sir.
- 15 Q Where did you see the color?
- 16 A I'm seeing ---
- 17 Q I'm showing ---
- 18 A --- it from the bottom of the hill, and the car is
19 at the top of the hill.
- 20 Q Okay. And what kind of lighting is at the top of
21 the hill?
- 22 A There is a streetlight.
- 23 Q Uh-huh.
- 24 A But I'm not -- it's a -- it's a tinted ---
- 25 Q Uh-huh.

1 A --- streetlight.

2 Q It's kind of a mercury light or something ---

3 A Right.

4 Q --- like that?

5 Does that play tricks with the color sometimes?

6 A Yes.

7 Q Okay. But it appeared to you, it was brown?

8 A Right.

9 Q Okay. And you told that to 911 right at the time;
10 is that right?

11 A Yes, sir.

12 Q Okay. What happened then?

13 A Once Christopher Wells had gotten into the car, the
14 car began to gain speed and to pull -- I mean, it's --
15 began to pull away; slowly gained speed as it -- as it
16 left.

17 Q Which way did it go?

18 A It went towards 221, Laurens County way.

19 Q Okay.

20 A Does that makes sense?

21 Q Got you.

22 A Okay.

23 Q What happened with you next?

24 A I -- like, I continued to get him into the phone,
25 because I still didn't have him into the home. When the

1 car was pulling away, I actually had only got him to the
2 first step at that point. And when the car got -- it
3 started getting -- you know, right there at the driveway,
4 I became afraid. And I ran back inside until the car was
5 out of sight and then continued to pull him back into the
6 home.

7 Q Okay. Did you see anybody else at that point? Or
8 did you think it was just you and Lee at that stage?

9 A No. I knowed the other man was collapsed.

10 Q Okay. Did you later determine who that person was?

11 A Yes.

12 Q Who was that person?

13 A David Walker.

14 Q And referring again to State's Exhibit 20, he's the
15 man in the upper-right-hand corner?

16 A Yes, sir.

17 Q What happened then?

18 A Once we were inside the home, I locked the door
19 behind us. And there was a knock at the door -- not just
20 a knock, a banging at the door. And I said, "Who is it?"

21 And he said, "David."

22 And Lee said, "That's who shot me. Don't let him
23 in."

24 So I later found out that that was the collapsed --
25 other collapsed individual outside. And he had regained

1 his composure and got to the door and was trying to get
2 in. And he told us that he was going to finish him off
3 and he would kill me too.

4 Q Okay. But you heard Lee say, "That's the man who
5 shot me"?

6 A "Don't let him in. That's who shot me."

7 Q All right. And this is while you were on the phone
8 with 911; is that right?

9 A Yes, sir.

10 Q Okay. What happened then?

11 A Then I became more hysterical. But pretty much, I
12 bided my time until law enforcement and 911 could get
13 there. At some point in between there, Lee did remove
14 his gun from his body and said, "Will you put -- put this
15 where it goes."

16 Q Okay. And what was he referring to?

17 A His gun.

18 Q All right. I mean, where -- where was he referring
19 to, I should say.

20 A He -- up under the mattress ---

21 Q All right.

22 A --- would be where it would normally go.

23 Q Let me hand you what have been marked as State's
24 Exhibit Nos. 28 and 27 and -- for identification and ask
25 you if you can identify those.

- 1 A Yes, sir.
- 2 Q What are those?
- 3 A That is Lee's gun and holster.
- 4 Q Okay. And you took these from him; is that right?
- 5 A Yes.
- 6 Q And what did you do with them?
- 7 A I put them under the mattress.
- 8 THE COURT: Which number goes with which item,
9 Solicitor?
- 10 MR. MOWRY: The -- the holster is No. 28.
- 11 THE COURT: Okay.
- 12 MR. MOWRY: The gun is No. 27.
- 13 THE COURT: Okay. Thank you.
- 14 Q And let me hand you what's been marked as -- or what
15 -- which is State's Exhibit No. 12, the photo of that.
16 Do you recognize that?
- 17 A That's Lee's gun, laying in between the mattress and
18 the box spring.
- 19 Q Is that where you put it?
- 20 A Yes, sir.
- 21 Q Okay. Why did you do that?
- 22 A Because he asked me to. And that's what he meant by
23 "put it where it goes."
- 24 Q Okay. You knew where it went?
- 25 A Yes, sir.

1 Q All right.

2 MR. MOWRY: Your Honor, if there's no objection, I'm
3 going to offer State's Exhibits 28 and 27 into evidence
4 at this time.

5 MS. ZMROCZEK: No objection, Your Honor. I'd just
6 -- the -- I just -- I know that the jury probably knows
7 this, but that it -- the gun is inoperable, which is why
8 it's protected.

9 THE COURT: Right. It's -- it's already been -- by
10 someone -- properly secured ---

11 MR. MOWRY: Yes, sir.

12 THE COURT: --- not loaded.

13 MR. MOWRY: There -- it -- it -- there are no
14 bullets in the cylinder.

15 THE COURT: Right.

16 MR. MOWRY: And it -- there is a safety lock in
17 here. It -- it is inoperable.

18 THE COURT: Right. Without objection, 27 and 28
19 into evidence on behalf of the state.

20 THE COURT REPORTER: Mr. Mowry?

21 MR. MOWRY: Yes.

22 THE COURT REPORTER: I -- I need to see those
23 briefly.

24 MR. MOWRY: Okay.

25 THE COURT REPORTER: Thank you.

1 MR. MOWRY: Oh. I know what you mean. Okay.

2 Sorry.

3 THE COURT REPORTER: That's all right.

4 (Whereupon, State's Exhibits 27 and 28 were entered
5 into evidence.)

6 MR. MOWRY: Okay. Thanks.

7 THE COURT REPORTER: Thank you.

8 Q Were you and Lee still by yourselves inside the
9 house at that stage?

10 A Yes, sir.

11 Q Okay. What did you do next?

12 A After I put the gun away?

13 Q After you put the gun away.

14 A I sat down up against his bed to where I could still
15 see him and he could still see me.

16 Q Okay.

17 A And I sat right there in the floor and waited for
18 first responders.

19 Q Okay. Why were you back there by yourself?

20 A What do you mean?

21 Q Why were you back in the bedroom by yourself?

22 A I mean ---

23 Q You said why -- you were back there where you could
24 see Lee, but why were you back there by yourself?

25 A I couldn't get him any farther than right there

1 inside the door, which put him kind of wedged in between
2 the front door and the bathroom. Because the -- as -- as
3 soon as you walk in the front door, straight ahead is the
4 bathroom.

5 And then, the -- right -- the door immediate to the
6 right within, I'd say, 3 feet is his doorway to his
7 bedroom.

8 Q Okay.

9 A So I just -- I -- I was in such a hysterical state
10 of mind that I sat right there up against the bed and
11 talked him -- to -- to him and made sure he kept talking
12 to me.

13 Q Okay.

14 A And -- and at some point I think he did stop
15 talking, and it really scared me. And I -- I think I
16 even made the comment that, "I think he's dying," or
17 something to that effect. But then he began to talk
18 again, so then I knowed he was -- he was still alive.

19 Q Okay. Did you hear anything more from outside the
20 house?

21 A The -- the banging went on, I would say, maybe two
22 minutes. And then suddenly, it stopped.

23 Q Okay.

24 MR. MOWRY: I'm sorry.

25 (Off the record briefly.)

1 Q So you were basically at this end of the house; is
2 that right?

3 A Right.

4 Q And the knocking was coming from here; is ---

5 A Correct.

6 Q --- that right?

7 Okay. Were you on the -- okay. You said you were
8 still on the phone. What was going on at that point?

9 A 911 operator was trying to get me to calm down to
10 respond to her. But I also had another phone at this ear
11 from where I called my mom, after -- after I called 911,
12 of course, you know. With another phone I had there, I
13 called my mom from that phone so that she could help try
14 to keep me calm so I could remain calm enough to talk to
15 911.

16 Q And was she actually saying that she was going to
17 come over to the ---

18 MS. ZMROCZEK: Objection, Your Honor. That's
19 hearsay.

20 THE COURT: Okay. Sustained.

21 MR. MOWRY: Well, I wasn't going for the truth of
22 the matter asserted, Your Honor, just for the fact that
23 that was said.

24 THE COURT: Okay. State of mind, I'll overrule.
25 You may -- you may proceed.

1 Q Did she actually say that she was coming over, your
2 mother?

3 A No.

4 Q Okay. Did 911 say something to you about ---

5 A Yes.

6 Q --- that at that ---

7 A "Tell your mom do not come over."

8 Q Okay. How long after that did law enforcement get
9 there?

10 A I would say like twenty-five minutes later.

11 Q Twenty-five minutes ---

12 A From -- from the time I -- I made the call -- I
13 originally made the -- made the 911 call.

14 Q Right. But how long after ---

15 A I was inside up against the bed?

16 Q Right.

17 A I don't know. I was hysterical. But I would say
18 maybe ten minutes.

19 Q Okay. Short period of time; is that right?

20 A Correct.

21 Q Okay. What happened when law enforcement got there?
22 How did they identify themselves?

23 A Laurens County Sheriff's Office ---

24 Q Right.

25 A --- I think -- because I think it was the officers

1 at the door and EMS was behind them.

2 Q Okay. Did they come on in the house or did you have
3 to let them in?

4 A I had to let them in. I had that door locked.

5 Q Okay. And at that point did you hang up with 911?

6 A Once I let them in. Yes, sir.

7 Q Okay. When you hung up with 911, did you see the
8 person that you later identified as David Walker?

9 A Uh-huh.

10 Q Where was he?

11 A Yes, sir. He was collapsed in a swing on the front
12 porch.

13 Q Okay. So he was over in here; is that right?

14 A Correct.

15 Q Whoops. Pardon me.

16 A No.

17 MR. MOWRY: Can you back that up, Walter? My bad.

18 Q So he was over in here; is that right?

19 A Correct.

20 Q Okay. What do you remember happening after that?

21 A The officers coming in, securing the scene, and
22 getting me out of the home so that they could have more
23 room around him to take care of his wounds.

24 Q Okay. Do you remember seeing Lt. Cheek that night?

25 A Yes, sir.

1 Q When did you first see him? What -- what did --
2 what were the circumstances when you first saw him?

3 A I think he was at the door when I opened it.

4 Q Okay. What happened then?

5 A Like I say, he -- they came on in. They secured the
6 home. Before they ever took me out, they -- they -- they
7 come in and asked me where -- they asked Lee where was
8 his gun. And Lee said, "I gave it to her to put away."

9 And they asked me where I put the gun. And I showed
10 them where I had put it. Once they had the gun and the
11 -- you know, the -- the home secured to make sure no one
12 else was in it and everyone was okay, other than Lee
13 being shot, that was when they took me out.

14 Q Okay. Where did you go?

15 A Up to ---

16 Q Where did ---

17 A --- the top ---

18 Q --- they take you?

19 A --- of the hill and to a -- a Laurens County police
20 car.

21 Q Okay. So you were put in a -- in a deputy car; is
22 that right?

23 A Correct.

24 Q Did you speak with Detective Cheek ---

25 A Yes, sir.

- 1 Q --- a little later on?
2 What did he have you do?
- 3 A He had me write a statement.
- 4 Q All right. And what was your state of mind when you
5 were writing that?
- 6 A I was still hysterical. I was in shock.
- 7 Q Okay. The first statement that you wrote, did you
8 that evening, did you include everything?
- 9 A Absolutely not.
- 10 Q Did ---
- 11 A I was scatterbrained at that point.
- 12 Q Well, did you speak with him at a later time?
- 13 A Yes, sir.
- 14 Q Where did you meet with him?
- 15 A I met with him at the sheriff's office. But in
16 between that time, I had -- that night and since standing
17 in that home, because I was afraid, I went and stayed at
18 a hotel room.
- 19 Q Okay.
- 20 A And he did come to that hotel room that next
21 morning.
- 22 Q Okay.
- 23 A And I'm not sure, but I think maybe I wrote another
24 statement that morning, once I had time to calm down and
25 rethink through everything that had just happened.

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1 Q Would -- would it be a surprise to you that that did
2 not happen until November 5th?

3 A It wouldn't.

4 Q Okay. Several days later?

5 A It wouldn't. I was still in shock.

6 Q Okay. Where did you write this statement? Do you
7 recall? This second statement.

8 A Probably sheriff's office.

9 Q Okay. Did you include the facts as you knew them to
10 be from that night?

11 A Yes, sir.

12 Q Okay. Let me just ask you this again: Did you ever
13 see the defendant in this case, Johnny Lee Saxon, that
14 night?

15 A No, sir.

16 Q Okay.

17 MR. MOWRY: Beg the Court's indulgence.

18 THE COURT: Certainly.

19 (Off the record briefly.)

20 Q Kelly, I think that's all that I have. If you'd
21 answer any of the defense's questions, please.

22 THE COURT: Cross-examination?

23 A Yes, sir.

24 MS. ZMROCZEK: Thank you, Your Honor. May it please
25 the Court?

1 (Off the record briefly.)

2 CROSS-EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Ms. Ball?

5 A Yes.

6 Q Mr. Mowry asked you about your record?

7 A Yes, sir. I mean, yes, ma'am.

8 Q I believe ---

9 A I'm sorry.

10 Q --- that you had a -- a burglary in 2013?

11 A Yes, ma'am.

12 Q And a breach of peace in 2013 also?

13 A Yes, ma'am.

14 Q What -- tell the jury what you received for those,
15 what your sentence was. Were you on probation?

16 A Yes.

17 Q Okay. You have three children?

18 A Yes.

19 Q What are their names?

20 A Sharlie, Austin, and Ariel.

21 Q Okay. I want to ---

22 MS. ZMROCZEK: (To Mr. Bentley) If you could pull
23 up Defendant's 1.

24 (Off the record briefly.)

25 Q Okay. You said that -- that you -- that Lee left

1 310 River Hill Road?

2 A Yes.

3 Q Went to pick you up, and -- and you called it the
4 hills?

5 A Yes.

6 Q That's -- or on Read Street, correct?

7 A Correct.

8 Q And then went back down to -- to the Waffle House?

9 A Correct.

10 Q And you were driving?

11 A Lee drove to pick me up on the hill. From the hill
12 to the Waffle House, I drove. From the Waffle House back
13 to the home, I drove.

14 Q And -- and so it -- it was just straight up 221,
15 right?

16 A Yes.

17 Q All right. We're going to come back to that in a
18 little bit. I want to show you what's in ---

19 MS. ZMROCZEK: Go ahead. Thank you.

20 Q You recognize Defendant's 2?

21 A (No audible response.)

22 Q Well, once we get it turned correctly. Do you
23 recognize this?

24 A Yes. This is Lee's home.

25 Q Okay. And show me where -- if you can, if you don't

1 -- if you don't mind coming to step down, just keep your

2 -- if ---

3 MS. ZMROCZEK: Your Honor, may she step down?

4 THE COURT: She -- she sure can.

5 Just make you speak up loud enough.

6 THE WITNESS: Yes, sir.

7 (Whereupon, the witness exited the witness stand.)

8 Q And -- and obviously, don't touch the screen. But
9 -- but come show -- come show me where those floodlights
10 are on this house.

11 A Right here there's -- I'm sorry. Am I ---

12 Q Okay.

13 A --- not supposed to touch it?

14 Q Yeah. Try not to touch it.

15 A Okay. One points this way, and one points that way.

16 Q Okay. So if -- and -- and make sure you -- oh,
17 you're right here. So make sure you keep your voice up
18 so the jury can hear you. But it -- it's ---

19 A It's the ---

20 Q --- there underneath the awning?

21 A Yes. They're right here. And as you can see,
22 they're down far -- I'm sorry. They're down far enough
23 to where they -- they point out into the yard. One
24 points this way, and one points that way.

25 Q Okay. And what was this pole?

1 A Power pole.

2 Q Okay. There's no light on there?

3 A I'm not sure.

4 Q Okay. And then, your -- it -- it -- it's your
5 testimony today that there was a -- a -- a street pole up
6 at the top of the driveway?

7 A Yes. And it may not be on his driveway, but it is
8 right there at the top of the hill somewhere. There a
9 little cut-through road in front of it. It may even be
10 right there. But there's a -- there is a streetlight up
11 there at the top of the hill right there somewhere.

12 Q Okay. And I think he already was asking you about
13 Government's 37?

14 THE COURT: It's 39.

15 MR. MOWRY: 39 ---

16 MS. ZMROCZEK: 39.

17 MR. MOWRY: --- I think. Yeah.

18 MS. ZMROCZEK: Okay.

19 MR. MOWRY: Yep.

20 Q Can you show where that street pole would be on this
21 map?

22 A Like I say, I'm not sure exactly where it would be
23 or where it is. But it's right here in this area.

24 Q Okay.

25 A As you can see, there's a driveway here. And it

1 used to pull through to this road back here. But I -- it
2 doesn't anymore. And I'm not sure if it's here or if
3 it's right in here. But there is a streetlight up there.

4 Q Okay. On a big pole?

5 A Yeah. Yes, ma'am.

6 Q Who's Peanut?

7 A The dog.

8 Q What kind of dog is Peanut?

9 A A Chihuahua.

10 Q Kept -- he was outside?

11 A No.

12 Q Never kept him outside?

13 A Peanut was in the home when this took place.

14 Q Okay. Was he -- was he ever kept outside?

15 A She -- and yes ---

16 Q Sorry.

17 A --- she was at some point in time.

18 Q Okay.

19 A Sometimes. And when she was kept outside, she was
20 kept on a runner.

21 Q Okay. A -- a -- a -- on a -- like a leash?

22 A It was a runner.

23 Q Okay.

24 A It was a -- but a leash that -- that you could go
25 back and forth with it.

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1 Q All right. And she didn't like strangers, right?

2 A No.

3 Q In fact, I believe that ---

4 A She didn't like anybody.

5 Q She didn't like ---

6 A She didn't like his family. She didn't like me.

7 She didn't like anybody.

8 Q Okay. In fact, she bit one of the officers early on

9 in -- in this ---

10 A No. She never bit him.

11 Q Okay. She never did bite him?

12 A No, she didn't.

13 Q Okay. Did any officer ever threaten to shoot her

14 that night?

15 A If he bit -- if she bit him.

16 Q The shed that's in the back, that's where the liquor

17 and the drugs were stored?

18 A The liquor, definitely. Sometimes he'd have a

19 little bit of drugs out there.

20 Q Tell the jury what you consider to be a little bit

21 of drugs.

22 A He didn't keep more than a gram or two at any point

23 in time.

24 Q How many -- a gram of what?

25 A Crack.

1 Q Okay. And so -- so he only kept a gram or two of
2 crack?

3 A Yes.

4 Q Okay. What other drugs did he sell?

5 A He dabbled a little bit in marijuana, but not no
6 whole lot.

7 Q Okay. Did -- did he also use drugs?

8 A No.

9 Q He didn't use any drugs?

10 A No. He had in the past. And he had not used drugs
11 in, I would say, three or four years.

12 Q So he was completely clean?

13 A Yes.

14 Q Okay.

15 A Wait. He would smoke a joint occasionally.

16 Q So he wasn't completely clean?

17 A No.

18 Q Okay. But he would not do any cocaine?

19 A No. He had in the past, like I say. But he had not
20 for, I would say, three to four years, but don't quote
21 me. Because, you know what I'm saying, I can't be exact.

22 Q Well, I -- I -- I need to quote you, because this is
23 kind of important.

24 A I understand that. But I can't tell you exactly to
25 the day he's been clean. All I can tell you is he had

1 been clean for several years.

2 Q Okay. But you hadn't?

3 A No.

4 Q Okay. You got drugs from him?

5 A Yes.

6 Q You didn't always pay for them with money, right?

7 A I didn't have to pay for drugs at all, you know, but
8 when I had that money, that's who I would give it to.

9 Q Okay. So you never had to -- you generally -- he
10 didn't -- he didn't make you pay?

11 A No. He was my best friend for 12 years.

12 Q Okay. Y'all have any other kind of relationship?

13 A We have.

14 Q And how long had that sexual relationship been going
15 on?

16 A I would say maybe three or four times in the -- in
17 the whole time I've known him.

18 Q Three or four times in the whole 12 years?

19 A Yeah.

20 Q You got mad when he would hook up with ladies,
21 right?

22 A No.

23 Q You got mad when he hooked up with Teresa on ---

24 A No.

25 Q On April of 2013, do you recall when you were

1 arrested for breach of peace?

2 A I wasn't mad because he hooked up with her. I was
3 mad because she didn't want me at the home. And so I had
4 to -- I -- he wanted me to leave the home to keep her
5 from being angry.

6 Q So you recall being arrested for breach of peace on
7 April 2013?

8 A Yes.

9 Q And that was because she was in the home?

10 A I wasn't arrested because she was in the home.

11 Q Right.

12 A I was arrested because I didn't want to leave the
13 home, and she wanted me to leave the home.

14 Q Because she was going to get free drugs as well,
15 right?

16 A It didn't have anything to do with the drugs.

17 Q Teresa ---

18 A He's my best friend. And -- and she didn't want me
19 there. She was very jealous of me.

20 Q She was jealous of you?

21 A Correct.

22 Q But your -- it's your testimony today that she
23 didn't use drugs?

24 A Absolutely. But I didn't say that -- I -- I -- you
25 asked me what -- did I get upset because she was going to

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1 get free drugs too. It didn't matter to me if he gave me
2 drugs, her drugs, and the whole neighborhood drugs.

3 Q He had that much to go around?

4 A No, he didn't. It didn't matter to me who he gave
5 drugs to. That was his choice.

6 Q But Teresa didn't like you?

7 A Absolutely not.

8 Q Okay.

9 A Wait. I wouldn't say she didn't like me, because we
10 did -- we were on speaking terms. She didn't like for me
11 to be there at Lee's.

12 Q How often did you stay at Lee's?

13 A Wow. A lot.

14 Q You've testified before, right?

15 A Yes.

16 Q In this courtroom?

17 A Yes.

18 Q In that chair?

19 A Yes.

20 Q In the trials of the two previous mentioned -- David
21 Walker and Christopher Wells, right?

22 A Correct.

23 Q I want to -- I -- I want to write down how many
24 statements that you've given in this case, okay? So we
25 can kind of try to keep them straight. Would you agree

1 that there've been more than one statement?

2 A Yes.

3 Q And -- and -- and sworn testimony under oath, right?

4 A Yes.

5 Q The first statement that you gave, would you agree
6 with me, would be the 911 call?

7 A Yes. But I don't know how that's under oath. But
8 yes. I did -- I did ---

9 Q And that's ---

10 A --- make that ---

11 Q --- not under ---

12 A --- 911 call.

13 Q --- oath -- right.

14 So that was the 911 call. We're going to put that
15 in green. And that was October 31st, 2013.

16 A Correct.

17 Q Okay. The second -- not under oath, but the second
18 statement that you gave was with Investigator Crain. Do
19 you remember the investigator that came to your door, the
20 first investigator?

21 A To my door?

22 Q To the house?

23 A (No audible response.)

24 Q When the police responded.

25 A Oh, okay. Yes.

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1 Q Okay.

2 A Well, to the scene on -- on the 31st.

3 Q Correct.

4 A Yes.

5 Q That would be Investigator Crain, and he had a body
6 cam. Did you see him wearing the body cam?

7 A I didn't notice the body cams at the time.

8 Q Okay.

9 A No.

10 Q But ---

11 A I was ---

12 Q --- you've ---

13 A --- hysterical.

14 Q --- seen them? You've seen them since?

15 A I've seen them since, yes.

16 Q Okay. So body cam of -- of -- and we'll just say
17 Crain. And that was also on 10/31?

18 A Correct.

19 Q And then, Lt. Sweat -- you -- you stated that an
20 officer walked you back up to your -- to his patrol
21 vehicle, right?

22 A Yes.

23 Q And ---

24 A Not an officer. A slew of officers. I would say
25 six to eight officers walked me up the hill.

- 1 Q Six to eight officers?
- 2 A (No audible response.)
- 3 Q And you've seen that body cam, right?
- 4 A When I was walked up the hill?
- 5 Q (No audible response.)
- 6 A Probably.
- 7 Q Okay. So 10/31 -- we'll say to 11/1/13. Because
- 8 didn't they also take you back to the house that night
- 9 after ---
- 10 A I never left the home. I mean, I -- I -- we -- we
- 11 were -- we stayed on the property at the top of the hill
- 12 the entire time.
- 13 Q Okay. And then, but eventually, you went back into
- 14 the home?
- 15 A Yes.
- 16 Q Okay. And that was with a -- a -- a uniformed
- 17 officer?
- 18 A I don't know that they reentered the home with me.
- 19 No.
- 20 Q You don't recall?
- 21 A I -- I don't think they'd reentered the home with
- 22 me. They walked me back to the bottom of the hill. But
- 23 I don't recall them reentering the home.
- 24 Q Okay.
- 25 A Not with me.

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1 Q Okay. And then, you had the written statement on
2 11/1/13, right?

3 A (No audible response.)

4 Q That was the -- the -- the written statement that I
5 said you -- you -- you said you were hysterical when you
6 -- when you wrote that one?

7 A Yes. If it had turned over into the next day, then
8 yes. It would be 11/1.

9 Q Right. Right. The same evening ---

10 A Yes.

11 Q --- basically, right?

12 A Yes.

13 Q Okay. And that was with Investigator Cheek, right?

14 A Yes.

15 Q And -- and that's just this investigator right here?

16 A Right.

17 Q And then, you ---

18 A But these ---

19 Q --- wrote ---

20 A --- others you're calling out were not written
21 statements.

22 Q Right. Right. These ---

23 A Okay.

24 Q --- were -- these were either ---

25 A Verbal.

- 1 Q --- recorded or -- or oral or -- correct.
- 2 A Okay.
- 3 Q And so then, you give another written statement --
- 4 I'll put that one in purple -- on November 5th of 2013,
- 5 right?
- 6 A I can't tell you what date that was. I -- all I
- 7 know is I did give another written statement at the
- 8 sheriff's office.
- 9 Q Okay. All right. Well, I'll -- I'll show you a
- 10 copy in just a little bit so that we can be clear. I
- 11 just want to make sure I don't miss any of them.
- 12 You've stated on direct that you were in the
- 13 hospital?
- 14 A Yes.
- 15 Q From about 12/6 to about 12/16?
- 16 A I don't know the dates that I was in the hospital
- 17 there.
- 18 Q Okay. And you gave a statement there, or you told
- 19 them at least -- not gave a statement, but you talked
- 20 about what happened, right? You talked about what
- 21 happened and you said that you were in such grief, which
- 22 is why you had to go to the hospital, right?
- 23 A Okay. But -- yeah. But who are you saying I talked
- 24 to about what happened?
- 25 Q The medical professionals.

1 A Correct.

2 Q Okay. You testified right there in that chair in
3 February of 2015, right?

4 A I'm not sure about the date. But yes. The first
5 trial. Yes.

6 Q And the government relied on your testimony to help
7 convict a man, right?

8 A Correct.

9 Q Okay. And then, you testified again in April of
10 2016?

11 A Once again, I'm not sure about the date. But I did
12 testify, once again, in this chair on this second trial.

13 Q And the government also relied on that testimony to
14 convict a second ---

15 A Yes.

16 Q And then, you're testifying here today, right?

17 A Yes.

18 Q All right. So one, two, three, four, five, six,
19 seven, eight -- at least nine times?

20 A Right.

21 Q Okay. I want to kind of work backwards from -- from
22 these testimonies, okay?

23 So let's talk about the testimony that you gave
24 today. Just a few things that I -- I -- I had a few
25 questions on and I wanted to clear it to make sure I

1 heard you correctly.

2 A Okay.

3 Q The reason that you were admitted to the psych
4 hospital was because of this incident?

5 A Yes.

6 Q But not just this incident, right?

7 A This incident took a huge toll on me. I was -- I
8 was grieving deeply.

9 Q You had also been involved or a witness to or
10 affected by another murder very close to this one,
11 correct?

12 A No. I mean, I -- I wasn't a witness to that at all.

13 Q Didn't affect you at all?

14 A Yes. But it wasn't a murder. See -- no.

15 Q Okay.

16 A So no.

17 Q And you testified that you've never, ever, ever in
18 your 12 years or -- or however many years of friendship
19 with Lee, never, ever seen one of these men?

20 A Not to my knowledge. Not ---

21 Q Okay. Okay.

22 A It was not someone I seen often. I would not know
23 them.

24 Q But you had ---

25 A At all, if I ever seen them. You know, I wouldn't

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1 know that I had seen them before. I -- as far -- to my
2 knowledge, I've never seen those men before that night.

3 Q Okay. Do people around the Enoree community know
4 that you and Lee were together or friends or best friends
5 or ---

6 A Yes.

7 Q --- a -- do they know you as best friends or a
8 couple?

9 A It's according to who you was talking to.

10 Q Okay. Which -- were the people closest to you --
11 would they know about your relationship with him?

12 A Yes.

13 Q And that -- and that you lived with him?

14 A Yes.

15 Q But people that -- that -- that were kind of
16 outliers, people you didn't see or hang out with every
17 day, people that you didn't recognize by face, they --
18 what -- it's not that common knowledge that you lived
19 there, right?

20 A Yes. I -- I mean, after off and on for 12 years, it
21 was pretty common knowledge.

22 Q All right. When you went -- you talked about how
23 you went to Waffle House, right?

24 A Yes.

25 Q Who went inside to pay?

- 1 A Lee.
- 2 Q Lee did?
- 3 A Yes.
- 4 Q No doubt in your mind?
- 5 A There again, I'm not quite sure. A lot of this --
- 6 you know, the -- the -- a lot happened that night. But
- 7 to my knowledge, I think Lee went in and paid. Because I
- 8 was driving -- I think I left the vehicle running and he
- 9 went in. But like I say, I'm not positive.
- 10 Q Okay. Would you agree with me that as time goes on,
- 11 that your memory starts to forget things?
- 12 A Somewhat.
- 13 Q Okay.
- 14 A Yes.
- 15 Q Okay. And you would agree with me that the -- the
- 16 closer in time or real-time would be things as you're
- 17 perceiving them at that moment?
- 18 A I would. But -- but I think I know where you're
- 19 going with that. And I was very hysterical and -- and
- 20 grieving deeply for -- for the -- at least two months
- 21 after this took place.
- 22 Q That -- that was my next question. So that was
- 23 about two months?
- 24 A At least, yes.
- 25 Q Describe the grief -- describe -- just describe

1 that. Like ---

2 A It was very traumatic. It -- it was -- I -- I had
3 never been in the midst of something like that ever. And
4 -- and so it was very shocking, and it -- it took a huge
5 toll on me.

6 A lot -- like, a lot was lying in my hands, because
7 I wanted to do anything I could do to save him right
8 then. And then he died. So it -- it was -- it was a
9 lot. It was a lot.

10 Q And you said that you were scared?

11 A Yes.

12 Q Now, when you went into the house from -- from the
13 Waffle House, who turned the TV on?

14 A I don't know.

15 Q Was there a TV on?

16 A I don't know. I don't think so.

17 Q Okay.

18 A I'm not -- you -- I'm not positive about that
19 either, about the TV being on. But I don't -- I don't
20 think the TV was on. And if it was on, then Lee would've
21 cut it on.

22 Q Okay. And then, I -- I want to make sure that I
23 heard this correctly. What you're testifying to today is
24 that you heard a shot and you stood up and you went
25 towards the door?

1 A Yes.

2 Q Towards the shot?

3 A Yes.

4 Q And then, you heard four more and then you ran ---

5 A I'm already running. There was multiple more shots

6 before I ever got to the door. But once I heard the

7 first shot, I -- I feel like I kind of halted for a

8 minute, like, Was that a firecracker? Was that a shot?

9 You know, I wasn't real sure at first. But I wanted

10 to get up out of my seat. And then, as I got down closer

11 to the hallway, there was several more shots went off.

12 But yes. I went towards the shot.

13 Q Okay. I'm showing you Defendant's 3. Is that the

14 front porch?

15 A Yes.

16 Q And you've testified that you felt protected when

17 you were outside by the -- you were shaking your head.

18 A Once I exited the -- as you can see, there's a
19 screen door there, which is actually a glass screen door.

20 Q Right here.

21 A I -- I kind of felt protect as long as I was bent
22 down. Because I stayed crouched, kind of.

23 Q If -- if you don't mind -- if ---

24 MS. ZMROCZEK: Judge, may -- may she step off the
25 stand?

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1 THE COURT: Sure.

2 Q If you don't mind stepping up and -- and -- and
3 showing us how you crouched down.

4 (Whereupon, the witness exited the witness stand.)

5 A Once -- as I exited even the screen door, I was
6 crouched to -- to where I felt like I was protected by
7 that picket-fence thing around. I felt like I had
8 something around me to sort of protect me.

9 Q Okay. So was your head below the ---

10 A Absolutely.

11 Q Okay. All right. Have a seat -- and you can have a
12 seat.

13 (Whereupon, the witness resumed the witness stand.)

14 A Now, I felt like it was. I can't promise you that
15 it was. But at that time I felt like I was somewhat
16 protected. I still felt like I had some kind of, you
17 know, sheltering around me.

18 Q Right. Right. And your head is -- and your head --
19 and -- and these were above your head, right?

20 A As I was crouched, I'm pretty sure.

21 Q Okay. And at -- at -- at what point is that you
22 said that you saw this person and -- and you stared him
23 in the face?

24 A As I'm coming out. But you got to remember, this is
25 not facing the driveway. That's why you -- I wish y'all

1 had a picture from the -- from the front door, facing up
2 the driveway, so you could see. It's a direct shot up
3 the driveway. You can see everything from that front
4 door.

5 Q But -- but you'd agree with me, in this picture, at
6 least, if the picture were to continue, I would be
7 standing in what would be the driveway, right?

8 A Yes.

9 Q Okay. So -- so the -- the -- a picture from the
10 front door just shows the yard?

11 A A picture from the front door straight out. But if
12 you turn and you -- you -- toward that opening is, you
13 can see straight up the driveway.

14 Q And you said it was a hundred feet?

15 A All -- to the -- to the top of the driveway,
16 approximately. I'm not really sure.

17 Q Okay. And so we saw where the van was. Was this
18 person that you saw, was he on the driver side of the van
19 or still on the passenger ---

20 A There wasn't a van. It was a Suburban.

21 Q Okay.

22 A And they ---

23 Q Suburban.

24 A --- were on the driver side.

25 Q They were -- okay. So they were a good ways from

- 1 you, right?
- 2 A No.
- 3 Q How many feet?
- 4 A I pulled -- as you can see in the picture, the
5 Suburban's pulled all the way up.
- 6 Q Okay. So how many feet would you say?
- 7 A Maybe six feet.
- 8 Q And you had eye-to-eye contact with this person?
- 9 A Yes, I did.
- 10 Q And how much had you had to drink that night?
- 11 A Nothing.
- 12 Q Not one thing?
- 13 A No.
- 14 Q How much had you had to smoke?
- 15 A Nothing.
- 16 Q No marijuana?
- 17 A No.
- 18 Q No cocaine?
- 19 A No.
- 20 Q No crack?
- 21 A No. As soon as he picked me up, we went straight to
22 the Waffle House and came back. He hadn't even finished
23 eating. I hadn't had nothing to drink, and I hadn't had
24 nothing to smoke.
- 25 Q What had you done earlier before he came to pick you

1 up to go to the Waffle House?

2 A I don't -- I don't -- no. I don't recall doing any
3 drugs then either.

4 Q You were at Lee's house?

5 A What do you mean? He picked me up from the hill and
6 we went directly to the Waffle House.

7 Q So it's your testimony that you'd never been to his
8 house that day ---

9 A Yes.

10 Q --- that you ---

11 A Yes. Yes. I -- I -- probably maybe a hour to a
12 hour and a half prior ---

13 Q Okay.

14 A --- to -- to him picking me up again.

15 Q So you were at his house, and then you left?

16 A Yes.

17 Q And who picked you up? How'd you leave his house
18 the first time?

19 A A couple of guys from Enoree, Bo-Pete and Derrick
20 Styles.

21 Q How do you know them?

22 A They grew up with me in Enoree.

23 Q Okay. You were -- you testified today also that --
24 and -- and maybe I didn't hear this correctly, so please
25 correct me if I'm wrong. He said he was going to finish

1 him off and kill us both?

2 A Yes.

3 Q Who said that?

4 A David Walker.

5 Q When did David Walker say that?

6 A While he was banging on that door, when said -- I
7 said, "Who is it?"

8 And he says, "It's David."

9 And Lee says, "Don't let him in."

10 Q And you're still on the phone with 911, right?

11 A Yes.

12 Q And you've heard that call?

13 A Yes, I have.

14 Q And we can hear David talking on the phone -- he's
15 talking to you?

16 A You don't hear David talking to me.

17 Q Okay.

18 A You may heard Lee heard talking to me.

19 Q I'm sorry. You can hear Lee talking to you, right?

20 A Uh-huh. David's on the other side of the door.

21 Q He was on the other side of the ---

22 A On the outside of the home.

23 Q Okay.

24 A Banging, banging, banging, banging. And -- and not
25 just knocking. Banging. He's trying to knock the door

1 down.

2 Q Okay. But he's steady saying, "I'm going to finish
3 you off and kill you both"?

4 A I didn't say he was steady saying that. I said he
5 did say that.

6 Q Okay. The gun, this revolver, you knew that it was
7 kept under the bed, right?

8 A In between the mattress and the box spring. Yes.

9 Q In between the mattress?

10 A (No audible response.)

11 Q But if it wasn't in between the mattress and the box
12 spring, where was it?

13 A In the holster on Lee's waist.

14 Q He always just carried this around?

15 A If he had the gun. Yeah.

16 Q Okay. And he had the gun that night?

17 A Yes.

18 Q When you -- when he -- I -- I want to make sure I
19 understand what you're saying today. You're saying that
20 you were inside the house. Someone's -- David is beating
21 on the door, according to your testimony. David has now
22 said, at least once, that he is going to kill you and --
23 kill -- finish him off and kill you both, right?

24 A Yes.

25 Q And -- and at that moment, Lee slides the gun to you

1 and says, "Put this up"?

2 A No.

3 Q Okay.

4 A No. No. No. No.

5 Q All right. Clear that up.

6 A Once the banging stops, Lee says, "Put this where it
7 goes." And he didn't slide me anything. He handed it to
8 me.

9 And I wouldn't even reach out to get it at first. I
10 grabbed a piece of mail to hold it with to put it under
11 the mattress because I didn't want to take the risk of my
12 own fingerprints being on that gun.

13 Q But it was in the holster?

14 A No.

15 Q It wasn't ---

16 A Unh-unh.

17 Q --- in the holster?

18 A The -- he -- the gun and the holster was handed to
19 me separately.

20 Q So he shot twice -- Lee?

21 A I don't know how many times Lee shot. I wasn't in
22 the yard when any of the shots were fired.

23 Q Okay. You knew he was shot?

24 A Yes, I knew he was shot.

25 Q You knew he was shot in the neck?

- 1 A Yes.
- 2 Q You knew he was shot in the ---
- 3 A I did ---
- 4 Q --- abdomen ---
- 5 A --- not know ---
- 6 Q --- area?
- 7 A --- where the other shot was. The only shot that
- 8 was visible to me that I know exactly where -- where it
- 9 was, was in the neck.
- 10 Q And there was a lot of blood?
- 11 A Yes.
- 12 Q And he was on the floor?
- 13 A Yes.
- 14 Q I think you've testified he couldn't even walk?
- 15 A No, he couldn't walk.
- 16 Q Okay. I. Marshall Pickens is the -- the hospital
- 17 that you went to?
- 18 A Yes.
- 19 Q But before you went to the hospital, you went to the
- 20 emergency room?
- 21 A Yes. At Laurens County.
- 22 Q And that was -- I know you don't know the exact
- 23 date.
- 24 A No.
- 25 Q But sometime in early December?

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1 A I guess. I don't -- I'm -- I'm not real sure about
2 the dates. But -- yeah, probably right.

3 Q Okay. And you reported to them that you wanted to
4 kill yourself?

5 A I reported to them that I have a lot of issues going
6 on and if someone didn't help me, that I was going to
7 hurt me.

8 Q And they did a drug screen on you?

9 A I don't know about all that. I mean, I'm -- I'm
10 sure they did whatever they had to -- you know, needed to
11 do at that time.

12 Q And you would agree that they found cocaine and ---

13 A Absolutely.

14 Q And ---

15 A Sure.

16 Q --- amphetamines?

17 A Possibly. I'm not sure about that. But if it was
18 there, it was there. That -- I mean, I can't ---

19 Q Marijuana?

20 A Yeah, sure.

21 Q Opiates?

22 A Opiates meaning -- I took Lortabs. That -- is that
23 -- yeah.

24 Q Benzodiazepines?

25 A Probably, yes.

1 Q And so at least five different drugs in your system?

2 A Sure. I was -- I was trying to self-medicate.

3 Q Because you've been diagnosed as being bipolar,
4 right?

5 A Many, many years ago.

6 Q But -- and in fact, in April of 2013, you were also
7 in the hospital?

8 A Yes. The day after.

9 Q The fight with Teresa or whatever it was?

10 A Yes.

11 Q Okay. So you were in the hospital then as well?

12 A Yes.

13 Q And they gave you some lithium and -- and all kinds
14 of medications, right?

15 A Yeah.

16 Q But you didn't take them?

17 A I didn't have a choice but to take them. I was in
18 the hospital for ten to fourteen days then.

19 Q Okay. But then, when you got out, you just went
20 back to your recreational drugs?

21 A That's not true. For three months straight, I took
22 the -- that medication.

23 Q And then, when you ran out -- so May, June, July --
24 so you ran out around July?

25 A It's not that I ran out. It was dealing with mental

1 health, trying to get back in.

2 Q Okay. The shed back here -- this is Defendant's 4.
3 The shed back here, that's where the stuff was kept,
4 right?

5 A Yes.

6 Q Let me ask you something. Did Lee wear glasses?

7 A Occasionally. I mean, he did have a pair. But he
8 didn't wear them all the time.

9 Q Okay. Was he wearing glasses that night?

10 A I don't know. No. Not that I -- not -- I don't
11 think so.

12 Q Okay. Did he wear a hat that night?

13 A I'm not sure about that either. Lee was a hat
14 person, so very possibly.

15 Q He was a hat person?

16 A But if Lee didn't have his glasses on, he probably
17 would've had them in the case on him.

18 Q In the case on him?

19 A Uh-huh.

20 Q Okay. This is a photo lineup, dated November 5th,
21 2013.

22 A Uh-huh.

23 Q This was shown you to by Investigator Cheek?

24 A Yes.

25 Q Who is this person?

1 A That's Ty.

2 Q Who's this person?

3 A I don't know.

4 Q Okay. Who's this person?

5 A That's Derrick Styles.

6 Q That's Derrick?

7 A (No audible response.)

8 Q Do you recognize anybody else on here?

9 A No.

10 Q So Investigator Cheek showed you that lineup, but
11 did you ever pick anybody out of there?

12 A No.

13 Q Okay. And then, he showed you another lineup,
14 right?

15 A Yes.

16 Q A color lineup?

17 A (No audible response.)

18 Q Is Ty -- is Ty in there?

19 A I don't know. I can't tell with the way it's
20 turned. But I don't think so, because Ty was much
21 darker-skinned.

22 Q Okay. I'm showing you Defendant's 9.

23 A I can't tell you who that is. I can't -- I can't
24 see that person. You can't even see that person.

25 Q Okay. But Ty Pulley was a very dark-skinned, large

1 ---

2 A Yes. But that -- you can't even make him out in
3 that picture.

4 Q Okay. You said -- I'm showing you Defendant's 11.
5 You said that that looks similar to the car, but you
6 don't know that it was the car?

7 A Right. I can't say it was, and I can't say it
8 wasn't. But it is a box-style, older car.

9 Q Okay. And that -- you stated that who you -- the
10 person you now know as Christopher Wells got in the
11 passenger side?

12 A Yes.

13 Q That -- and you can see him from your porch a
14 hundred feet away in the dark?

15 A Yes.

16 Q Okay.

17 A With all the streetlights, of course I could.

18 Q All the streetlights?

19 A Or a streetlight.

20 Q Going back to the hospital, when they -- when they
21 took you in, they talked to you, right?

22 A (No audible response.)

23 Q And they were taking notes?

24 A Took me into Laurens County Hospital? What are we
25 talking about?

1 Q To I. Marshall Pickens.

2 A No. They didn't talk to me. When I went and got --
3 they -- initially, I wasn't talked to a whole lot. It
4 was a lot of group therapy, those kinds of things.

5 Q Okay. So there were other people there?

6 A Absolutely.

7 Q And -- and -- and so you talked about what you had
8 experienced in -- in group therapy?

9 A Yes.

10 Q Okay. You also spoke with a counselor, though?

11 A I don't recall having an individual counselor at
12 all. No.

13 Q No? You ---

14 A I had a doctor that -- but not a -- I didn't -- I
15 don't recall a counselor.

16 Q Okay. But you had a doctor?

17 A Yes.

18 Q And that doctor talked to you?

19 A Yes. But we didn't go into depth about what
20 happened at all. He just tried to -- he was there to
21 prescribe medication, is all he did, according to what
22 had been told in groups.

23 Q Okay. So who is it in the hospital that you told
24 four men broke into my best friend's house and murdered
25 him?

1 A Everyone. Everyone in group therapy.

2 Q You told everyone in group therapy that four men
3 broke ---

4 A No.

5 Q --- into your ---

6 A Not ---

7 Q --- best friend's ---

8 A --- four men. Three men. That there were three
9 men; there were two men I seen; and then, one was --
10 there had to be another one in the car, because the car
11 didn't drive itself to pick the second man up.

12 Q Okay. So you never said: "Four men broke into my
13 house -- into my best friend's house and murdered him"?

14 A Not to my knowledge. No.

15 Q Okay. But they spoke to your mom at -- at the
16 hospital, right?

17 A I don't know. I don't recall that.

18 Q Okay. You stole from your mom to support your drug
19 habit?

20 A Sure, I did. A number of times. Yes.

21 Q Okay. In fact, we heard on the phone, when you were
22 -- when -- on the phone with 911, you called your mom?

23 A Yes.

24 Q And that the 911 operator said don't -- tell her not
25 to come over?

1 A Yes.

2 Q And what did you say?

3 A I don't -- I don't recall.

4 Q She was asking you why you were even there.

5 A Yes.

6 Q Okay.

7 A She did.

8 Q December 16th Investigator Cheek drove all the way
9 up to I. Marshall Pickens to talk to you, didn't he?

10 A Yes.

11 Q And in fact, you spoke with your counselor or doctor
12 and you told him that you wanted to talk to them about
13 this ---

14 A I didn't ---

15 Q --- murder?

16 A --- talk to a counselor or a doctor ---

17 Q Okay.

18 A --- to make that decision. I talked to the woman
19 who runs the entire facility. The president of the
20 facility came to me and talked to me one on one; told me
21 there was some men here. It wasn't just Lt. Cheeks.
22 There was several men here who wanted to talk to me.

23 Q How many men?

24 A I would say four or five.

25 Q In uniform?

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- 1 A No.
- 2 Q Okay. Did they have guns?
- 3 A No. Not that I recall.
- 4 Q Okay. And -- and -- and you told that lady that --
- 5 that they wanted you to pick somebody out of a lineup?
- 6 A That's not true either.
- 7 Q Okay.
- 8 A We had -- I had no idea what they wanted to talk
- 9 with me about at all, until I entered her office, where
- 10 they were already sitting.
- 11 Q Okay. And -- and so you -- you also told her:
- 12 "I've been working with them"?
- 13 A The woman -- I did tell her I had been working with
- 14 them before and if there was something I could do to help
- 15 them, then yes, I wanted to speak with them. But I did
- 16 not -- well, I didn't know anything about a lineup until
- 17 I was already in her office.
- 18 Q Okay. Lee was your best friend?
- 19 A Yes.
- 20 Q Okay. When you -- going backwards, when you
- 21 testified, you recall -- today -- just like today, when
- 22 you took the stand, you put your hand on the bible,
- 23 right?
- 24 A Yes.
- 25 Q Swore to tell the truth?

1 A Yes.

2 Q The whole truth?

3 A Yes.

4 Q And nothing but the truth?

5 A Yes.

6 Q Okay. And you did that back in April of 2016?

7 A Yes.

8 Q And that night you told them that you went -- you
9 told that jury that you went into the Waffle House to
10 pay?

11 A I don't know. Like I say, I'm not sure at this
12 point. Because it keeps getting further and further
13 away. But one of us went into the Waffle House to pay.

14 Q Okay.

15 A I do know that I drove there, and I drove back.

16 Q Okay. So we've refreshed your recollection ---

17 A And that wasn't -- but -- but you said that night.
18 We didn't have court at night.

19 Q I'm sorry?

20 A You said that that night. We didn't have court at
21 night.

22 Q We didn't have what?

23 A Court at night.

24 Q Right. But what you told them was that night --
25 meaning the night of Halloween?

CROSS-EXAMINATION BY MS. ZMROCZEK - KELLY BALL 134

1 A Yes.

2 Q Okay.

3 A Like I say, I'm -- I'm not quite sure who when in to
4 pay, him or me.

5 Q How much money did Lee have on him?

6 A Probably a couple thousand dollars.

7 Q Was it in hundreds? twenties?

8 A A little bit of everything.

9 Q Okay. Where'd he get that money?

10 A I don't know where Lee got his money. I know what
11 he did to make money. But I -- I can't -- I don't know
12 where he got that money, you know.

13 Q And that was sell drugs?

14 A Yes.

15 Q And sell liquor?

16 A Yes.

17 Q So he didn't have to pay taxes?

18 A I don't guess so, not -- not -- I mean, I don't
19 know. But I wouldn't think so.

20 Q Okay. Now, what -- do you recall telling the jury
21 -- that jury that when the person got to the house -- or
22 the people got to the house, they told Lee -- and you
23 overheard them -- say, "I'm going to rob you"?

24 A There was some loud yelling. I do, at one point,
25 remember someone saying, "We're here to rob you."

1 Q You told them in April -- you testified in April
2 2016 under oath that Lee had the gun and put it back in
3 the holster.

4 A I don't recall.

5 Q Okay.

6 A I mean, I may have. I -- I -- I don't know.

7 Q Okay.

8 A I -- I was so hysterical that night. I do -- did
9 not even recall putting the holster there with the gun.
10 But evidently, I did.

11 Q All right. But here's my question to you: When you
12 got the gun from Lee, was it in the holster?

13 A I do not know. All I know is I put the gun under
14 the mattress -- in between the mattress and the box
15 spring. I don't remember all those details. I was very
16 hysterical.

17 Q Okay. But you weren't hysterical in April when you
18 testified, right?

19 A No.

20 Q Okay. Let's go back to when you testified in
21 February of 2015. Were you hysterical then?

22 A No.

23 Q Okay. And at that time, you testified that there
24 was no holster, just the gun?

25 A Possibly.

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1 Q Okay.

2 A I -- possibly. Like I say, I don't recall. All I
3 know is I put the weapon in between the mattress and the
4 box spring because he -- because he said, "Put this where
5 it goes."

6 Q He said what?

7 A "Put this where it goes."

8 Q Okay. And you knew where it goes?

9 A Yes.

10 Q And you knew that it was there all the time?

11 A I've known that if he didn't have it on him, that's
12 where he kept it.

13 Q Okay. And did you see it on him when you were in
14 the car?

15 A No.

16 Q Okay. I just want to finish up and -- by listening
17 to the 911 call, just a few portions of it, okay?

18 A (No audible response.)

19 Q You would agree that that was the most immediate
20 time that you -- you know, that -- that's the first time
21 that you were speaking with someone about this case,
22 right?

23 A Right.

24 Q Okay.

25 (Whereupon, a portion of audio recording was played

1 in open court.)

2 Q Okay. So that -- that was the first thing you
3 remember saying to them, right?

4 A I don't remember -- you know, I -- I -- other than
5 hearing it, I -- I didn't remember what I said to them
6 and what I didn't. A lot of things I said -- thought I
7 said, I didn't say. A lot of things that I thought I --
8 that I -- I didn't -- before I heard it the first time, I
9 didn't expect for it to babble -- you -- me to babble
10 like that. But I was so panicked. I -- I was just
11 panicked. I -- all I could get out was the address.

12 Q Right. And -- and -- and that's the beauty, right,
13 of 911 recordings and body cams, because they actually
14 recall what happened ---

15 A Right.

16 Q --- right?

17 And what was said?

18 A (No audible response.)

19 Q So when our memory fades, we can rely on these
20 recordings to actually tell us what was said, right?

21 A Right.

22 Q Not just what you remember.

23 A Right.

24 Q Because you didn't know the man on the porch ---

25 A Right.

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1 Q --- right?

2 You didn't know who that was?

3 A No.

4 Q And ---

5 A Other than Lee saying -- once he said, "It's David,"
6 and Lee telling me, "Don't let him in. That's who shot
7 me." Other than that, I did not know the man on the
8 porch. All I knowed is his name was David and Lee was
9 saying that's who shot him.

10 Q Okay.

11 (Whereupon, a portion of audio recording was played
12 in open court.)

13 Q Okay. So that's what -- that's the description of
14 the car that you gave, right?

15 A Yes.

16 Q And, I mean, that -- that -- that was as clear in
17 your mind as it was going to be? That's was right as it
18 was happening, right?

19 A Right.

20 Q Okay.

21 (Whereupon, a portion of audio recording was played
22 in open court.)

23 Q "Who is it? Who is it? Hold on. Who is it?"
24 That's somebody banging at the door, right?

25 A Yes.

1 Q "Say your name."

2 But you didn't repeat a name, right?

3 A On the 911 ---

4 Q Okay.

5 A I don't guess I did.

6 Q But ---

7 A No. I mean ---

8 Q What you said was, "No."

9 A Yes. Because of what they had told me, it was no --
10 was -- and I said, "No. I'm not going to" -- because I
11 was not going to let them in.

12 Q Okay.

13 A I was -- I was panicking. I was -- I was freaking
14 out.

15 Q Right. Right. Right. But it -- it -- it's your
16 testimony that Lee told you, before -- in between that
17 time, that that's who shot me?

18 A Yes ---

19 Q Okay.

20 A --- he did. Once he said, "It's David," Lee said,
21 "Don't let him in. That's who shot me."

22 Q Okay. And that was all in -- right there when --
23 that we just listened to? We just couldn't hear it?

24 A No. Actually, in the other trials, they blowed it
25 up to where you could actually hear Lee say, "That's who

1 shot me."

2 Q Okay. And he was laying on the floor?

3 A Lee?

4 Q (No audible response.)

5 A He's laying -- yes. He's laying in the doorway.

6 Q Okay. Inside the house?

7 A Yes.

8 Q Because you had locked the door, right?

9 A Yes.

10 Q And he's been shot?

11 A Yes.

12 Q And this person outside is slumped over in a swing?

13 A No. Not at that point.

14 Q Okay. At that point where was he?

15 A He was banging on the door. He was initially laying
16 -- laying at the back tire. He regained his composure;
17 got to the door. Because I know that -- I know that I
18 know he was at that back tire when I was moving Lee.

19 So somehow, he got from that back tire to that door,
20 banging on it. After about two minutes, the banging
21 stopped. To -- the process set in and he fell backwards
22 onto the swing. A matter of fact, he was laying with his
23 leg stuck up in the air from where he fell back and he
24 couldn't move.

25 Q Okay. All of this while your door was locked?

1 A Yes. The door was locked. But I didn't see him
2 like that until after. I come out; he's still laying in
3 the swing when law enforcement brings me out of the home.

4 Q And that was to take you upstairs, right?

5 A Up ---

6 Q Or up the -- I mean, up to the ---

7 A Up to the hill.

8 Q --- police car?

9 A Yes.

10 Q Okay.

11 MS. ZMROCZEK: Beg the Court's indulgence.

12 THE COURT: Certainly.

13 (Off the record briefly.)

14 Q When you -- you testified on direct about how it was
15 unusual for him to go outside?

16 A Yes.

17 Q Because the people usually that bought the dope came
18 inside?

19 A Yes. They -- they would usually step inside the --
20 the screen door that's actually glass.

21 Q Okay. Okay. So they would come inside, generally?

22 A Yes.

23 Q But tonight -- or that night, he went outside?

24 A Yes.

25 Q Was he pulled outside?

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1 A I don't know that. Okay. This door -- this wooden
2 door that opens the actual big door opens up into -- it
3 -- it comes inside. And when it does, it blocks off the
4 whole hallway to where I can't see past the big door. So
5 if -- if -- on -- on a different night before tonight, I
6 would've -- I wouldn't never even have been able to see
7 who was on the other side of the door that had stepped
8 inside to do their little deal or whatever they were
9 going to do.

10 But -- so I couldn't see past that door. But I do
11 know that he wouldn't normally step outside that screen
12 door. And I do know that if he did step outside that
13 screen door, he would not have tried to shut that screen
14 door. He -- but that night it -- it slammed but didn't
15 catch, if that makes sense.

16 Q And he kept his gin in the shed?

17 A The majority of his gin.

18 Q Okay. Okay.

19 A There was ---

20 Q So ---

21 A --- there was always probably a couple of bottles of
22 gin in the home.

23 Q But also in the shed?

24 A Yes.

25 Q And he kept the cash on him or in the shed or in the

1 home?

2 A No. The cash would've been in his pocket.

3 Q Always?

4 A Always.

5 Q Always have around \$2,000?

6 A Somewhere abouts. I -- you know, he -- he kept a
7 good bit of money on him.

8 Q Okay. Because he sold a good bit of drugs?

9 A I wouldn't say that. Like I say, he -- he -- he
10 never had maybe a gram or two at the most.

11 Q Okay. And you would do anything to protect Lee,
12 right?

13 A Anything within my power without getting myself
14 harmed or killed.

15 Q Anything within your power ---

16 A Yes.

17 Q --- to protect Lee?

18 MS. ZMROCZEK: Thank you.

19 THE COURT: Any redirect, Solicitor?

20 MR. MOWRY: Yes, sir. I've got some. I think, for
21 everybody's comfort, it might be a good time to take a
22 break.

23 THE COURT: If -- if you think your redirect is
24 going to be somewhat lengthy, then let's to -- do take a
25 break.

1 MR. MOWRY: Yes, sir.

2 THE COURT: Okay. All right. Mr. Foreman, ladies
3 and gentlemen of the jury, we're going to take an
4 afternoon break, probably about fifteen minutes. I'll
5 remind you, no discussion among yourselves about this
6 case. And we'll get you back out shortly.

7 (Whereupon, the jury exited the courtroom at 3:32
8 p.m.)

9 (Off the record briefly.)

10 THE COURT: You're free to step down. You just
11 can't talk with anyone about your testimony. Okay?

12 THE WITNESS: Yes, sir. Thank you.

13 (Off the record from 3:32 p.m. until 3:58 p.m.)

14 MR. MOWRY: Your Honor, just for the record, I sat
15 down and almost -- when -- when I was concluding my
16 closing argument and -- and looked and realized that I
17 had a few pieces of evidence that I had not addressed. I
18 have discussed that with defense attorneys. Most of the
19 stuff was brought up in cross-examination so I would
20 reply to it.

21 But I just wanted to let Your Honor know, there were
22 a couple of other pieces that -- that I'm going to deal
23 with. It'll be very brief. It won't be -- it won't be
24 very long.

25 THE COURT: Okay. Are they -- has it been agreed

1 that they come into evidence for the state?

2 MR. MOWRY: Well, they -- they've been marked.
3 We'll -- we'll get them in through Ms. Ball, though.

4 THE COURT: Okay.

5 MS. ZMROCZEK: They're going to ---

6 THE COURT: All right.

7 MS. ZMROCZEK: --- come in one way or the other,
8 Your Honor, so -- either through her or the investigator
9 that collected them.

10 THE COURT: Okay.

11 MS. ZMROCZEK: So we're fine with it ---

12 THE COURT: All right.

13 MS. ZMROCZEK: --- either way.

14 THE COURT: Just so I can kind of have an idea,
15 Solicitor, I -- I'd like to not go any later than around
16 5:15 ---

17 MR. MOWRY: Okay.

18 THE COURT: --- today ---

19 MR. MOWRY: We ---

20 THE COURT: --- if ---

21 MR. MOWRY: --- we have Toris Moore, and we have
22 Emily Dawkins ---

23 THE COURT: Okay.

24 MR. MOWRY: --- Your Honor. I would like to get
25 them done today, if possible. I don't ---

REDIRECT EXAMINATION BY MR. MOWRY - KELLY BALL 146

1 THE COURT: Okay.

2 MR. MOWRY: --- know what the story ---

3 THE COURT: Okay.

4 MR. MOWRY: --- is going to be. I -- I don't think
5 we'll be that long. It might be a little more extensive
6 on cross, though. That's the problem.

7 THE COURT: Okay. All right. Well, we'll see how
8 it goes.

9 All right. Let's bring the jury out, Mr. Bolt.

10 MR. MOWRY: And can Ms. Ball resume the stand, Your
11 Honor?

12 THE COURT: Yes. Where is she?

13 MR. MOWRY: She's right here.

14 (Whereupon, the witness resumed the witness stand.)

15 (Off the record briefly.)

16 (Whereupon, the jury entered the courtroom at 4:01
17 p.m.)

18 THE BAILIFF: All jurors present, Your Honor.

19 THE COURT: Thank you, Mr. Bolt. So noted for the
20 record.

21 Solicitor, you may proceed on redirect.

22 MR. MOWRY: Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. MOWRY:

25 Q Kelly, I just want to ask you a few questions. Ms.

1 Zmroczek talked to you about a visit at Marshall Pickens
2 by some of the officers from Laurens County; is ---

3 A Yes.

4 Q --- that right?

5 A Yes.

6 Q What was the purpose of that visit?

7 A It was -- to come to find out, it was to pick
8 someone out of a lineup.

9 Q Did -- they were wanting to show you a lineup?

10 A Correct.

11 Q All right. And let me show you what's been marked
12 as State's Exhibit No. 36 for identification and ask you
13 if you can identify that.

14 A Yes.

15 Q What is that, please, ma'am?

16 A It's a lineup. And I picked Christopher Wells out
17 of the lineup and initialed it and circled it ---

18 Q Okay.

19 A --- for him.

20 Q So who showed you the lineup, the ---

21 A I think ---

22 Q The Laurens officers?

23 A Yes, the officers. I don't know which one.

24 Q What did they ask you?

25 A Is there anyone on there who you -- who -- who was

REDIRECT EXAMINATION BY MR. MOWRY - KELLY BALL 148

1 the -- the suspect in -- that -- that fled the scene?

2 There may or may not be. And ---

3 Q Anybody you recognize?

4 A Right.

5 Q And who did you pick?

6 A I picked No. 5.

7 Q And you circled him and put your initials there; is
8 that right?

9 A Correct.

10 Q Okay. How long did it take you? Was there any
11 doubt in your mind?

12 A Absolutely not. I ---

13 Q All right.

14 A --- knowed immediately.

15 Q You knew immediately?

16 A Just as soon as I looked at each of the pictures, I
17 didn't have a doubt. I pointed to it. And that's when
18 they asked me to circle and initial.

19 Q Okay.

20 MR. MOWRY: I would offer this into evidence at this
21 time, Your Honor.

22 THE COURT: And ---

23 MS. ZMROCZEK: No ---

24 THE COURT: --- what says the defense?

25 MS. ZMROCZEK: No objection.

1 THE COURT: Without objection, No. 36 into evidence
2 for the state.

3 (Whereupon, State's Exhibit 36 was entered into
4 evidence.)

5 MR. MOWRY: Thanks

6 Q Going back to No. 20 again, which one was the fella
7 you saw that night in the driveway before he ran up the
8 hill?

9 A The one on the bottom.

10 Q The one on the bottom?

11 A Yes.

12 Q Christopher Wells?

13 A (No audible response.)

14 Q Now, Ms. Zmroczek also asked you about how much
15 money Johnny had at any given time. You said quite a
16 lot; is that right?

17 A Yes. Normally.

18 Q One to two thousand dollars; is ---

19 A Correct.

20 Q --- that right?

21 Where would he keep it?

22 A In his billfold.

23 Q Let me show you what's been marked for
24 identification as State's Exhibit No. 37. Do you
25 recognize that?

REDIRECT EXAMINATION BY MR. MOWRY - KELLY BALL 150

- 1 A Yes.
- 2 Q What is that?
- 3 A That is Lee's billfold.
- 4 Q And where would he keep the money?
- 5 A He would keep it here and here. And he would just
6 keep, like, some small change in his right -- in his
7 pockets.
- 8 Q Okay. But this was his wallet; is ---
- 9 A Correct.
- 10 Q --- that right?
- 11 A Yes.
- 12 Q When you went out to him, did you check him for
13 anything?
- 14 A I did. I patted his front pocket on his shirt
15 because I know that that's where his dope tube was.
- 16 Q Okay.
- 17 A And he looked at me and he said, "It's gone. They
18 got it all."
- 19 Q Okay. Got -- he -- "It's gone; they got it all"?
- 20 A They got everything.
- 21 Q Did you find -- did he have the car keys?
- 22 A Yes. I handed him the car keys once we got back to
23 the residence, but they even took those. He didn't -- he
24 no longer had those.
- 25 Q Okay. Was his wallet on him anymore?

1 A No.

2 Q Did you have a set of keys where you could've driven
3 the vehicle?

4 A No.

5 Q So even if you had wanted to drive the vehicle, you
6 had no keys to start it up with; is ---

7 A No.

8 Q --- that right?

9 Okay. But he had this wallet that night, and when
10 you got out to him, it was gone; is that right?

11 A Correct.

12 Q Let me also hand you two other items and ask you if
13 you can identify these. The first one is State's Exhibit
14 No. 31 for identification. Do you recognize that?

15 A Yes. It's a medallion off of Lee's necklace.

16 Q A necklace?

17 A Yes. It's a medallion ---

18 Q Right.

19 A --- off of -- off of one.

20 Q And is that something he wore a lot or ---

21 A Yes.

22 Q Did he wear it all the time?

23 A Yes.

24 Q Okay. And let me hand you State's Exhibit No. 30
25 for identification. Do you recognize that?

REXCROSS EXAMINATION BY MS. ZMROCZEK - KELLY BALL 152

1 A Yes.

2 Q What is that?

3 A That's his chain.

4 Q Okay. So that's the chain and that's the medallion
5 the -- that -- that was on the chain; is that right?

6 A Correct.

7 Q 30 and 31 are the chain and the medallion that were
8 on the chain?

9 A (No audible response.)

10 (Off the record briefly.)

11 MR. MOWRY: Your Honor, that's all I have.

12 THE COURT: Okay.

13 MS. ZMROCZEK: Very -- very briefly, Your Honor, if
14 I may?

15 THE COURT: Okay.

16 MS. ZMROCZEK: Thank you.

17 REXCROSS-EXAMINATION

18 BY MS. ZMROCZEK:

19 Q No spare key to the van?

20 A To the Suburban, no.

21 Q Okay. Sorry. To the Suburban, no spare key?

22 A No. Not to my knowledge.

23 Q Okay. Dope tube?

24 A Uh-huh.

25 Q What kind of dope tube was it? Marijuana or crack?

1 A Crack.

2 Q Crack?

3 A Yes.

4 Q So he just carried that around with him all the
5 time?

6 A I know that it was in his front pocket. Once we got
7 back from the Waffle House, I knowed that his dope tube
8 was in his front pocket.

9 Q But he wasn't going to smoke it?

10 A No.

11 Q Were you?

12 A If -- I mean, at some point in time, yes, I would've
13 probably smoked that night.

14 Q And he told you ---

15 A "It's gone. It's all gone. They got everything."

16 Q "It's gone. It's all gone. They got everything."

17 A Yes.

18 Q While you're leaning down ---

19 A --- trying to pull him in -- my first thing before I
20 ever started to move him is when I patted his pocket.

21 Q All of this while you're on the phone with 911?

22 A Yes.

23 Q Thank you.

24 THE COURT: Thank you, ma'am. You can step down.

25 THE WITNESS: Okay.

1 THE COURT: Solicitor, does -- is 30, 31, 37 still
2 in the ID posture?

3 MR. MOWRY: Yes, sir.

4 THE COURT: Okay.

5 THE BAILIFF: Watch your step.

6 (Whereupon, the witness exited the witness stand.)

7 THE COURT: All right. Call your next witness,
8 please.

9 MR. MOWRY: Your Honor, can Ms. Ball be released
10 from her subpoena at this time?

11 THE COURT: Right. Any objection from the defense?

12 MS. ZMROCZEK: No objection..

13 THE COURT: Ma'am, you are free to leave the
14 courthouse. You're welcome to remain with us if you
15 like, but you're free to leave if that's your desire.

16 THE WITNESS: Okay. Thank you.

17 MR. MOWRY: We call Toris Moore.

18 (Off the record briefly.)

19 (Whereupon, the witness came forward.)

20 THE BAILIFF: Place your left hand on the bible and
21 raise your right hand.

22 THE WITNESS: (Complied.)

23 THE BAILIFF: There you go.

24 TORIS MOORE, having been first duly sworn,
25 testified as follows: