

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Perry T. Gravely, Circuit Court Judge

Appellate Case No. 2026-000355

RECEIVED
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S.C. SUPREME COURT

The State of South Carolina Respondents,

vs.

Laquavius T. Cleveland.....Petitioner.

APPENDIX VOL, I

Bruce A. Byrholdt
SC Bar #1071
BYRHOLDT DRAWDY, LLC
2315 N. Main Street
Suite 1117
Anderson, SC 29621
(864) 261-3977
Attorney for Petitioner Cleveland

D. Russell Barlow, II
Sr. Assistance Deputy Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-3970
Attorney for Respondent

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Transcript of Trial July 21, 2014

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1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5 Plaintiff,) 2013-GS-37-1043, 1044
6 -vs-) July 21, 2014
7 Laquavius T. Cleveland,) Volume I (pgs. 1-68)
8 Defendant.) Transcript of Record
9 _____)

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11

B E F O R E:

12

13

The Honorable Alexander S. Macaulay, Judge;
and a jury.

14

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

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Lindsey Satterfield Simmons, Esquire
David Rhys Wagner, Jr., Esquire
Assistant Solicitors for the Tenth Judicial Circuit

18

19

Charles R. Griffin, Jr., Esquire
Attorney for Defendant

20

21

22

23

24

25

Diane L. Thommes, RPR, CRR
Circuit Court Reporter

I N D E X

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Jury Qualification

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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 10:36 a.m.)

4 THE COURT: Good morning, ladies and gentlemen.
5 My name is Alex Macaulay. I'm one of the resident
6 circuit judges here in the Tenth Circuit, which not
7 only includes our home county of Oconee but also
8 Anderson County.

9 This is a term of general sessions court,
10 sometimes called criminal court. Our purpose today is
11 to determine your qualifications and eligibility to
12 serve as jurors. In South Carolina we have three
13 sources of names from which names are selected for jury
14 service. Each of you is here because at least one of
15 these three sources applies to you. If you are a
16 registered voter or if you are a licensed South
17 Carolina driver or if you have a South Carolina
18 identification card from the highway department, then
19 you are eligible for jury service.

20 We all appreciate the sacrifice and inconvenience
21 jury service can cause to your personal lives, and we
22 thank you for being here. We will all do our very best
23 to minimize your inconvenience and try to make this a
24 beneficial and educational experience for you.

25 Now, the first stage of the jury qualification

1 process is called the roll call. Your clerk of court
2 will call the roll of all who have been summoned for
3 jury duty. When your name is called, please stand and
4 in a clear, audible voice provide the information that
5 is requested by the clerk of court.

6 As a part of the roll call and qualification
7 process, it is necessary that I administer an oath to
8 you; therefore, please stand and raise your right hand.

9 Do you swear or affirm that you will provide
10 truthful and complete responses and answers during this
11 jury qualification process? If you accept this oath,
12 please indicate by saying "I do" and sitting down.

13 Let the record reflect that all members of the
14 jury accepted the oath.

15 Madam Clerk, if you would, please.

16 THE CLERK: Ladies and gentlemen, as I call your
17 name, if you would please stand. We will need to know
18 the name of your employer and the job that you hold
19 with that employer; if you are married, we need to know
20 the same information for your spouse -- their job,
21 their employer and the job they hold with their
22 employer. If you or your spouse are retired, we need
23 to know your last job held.

24 Number 3, Danny Allsep.

25 POTENTIAL JUROR: I work for IMS Industrial

1 Maintenance Service, piping superintendent, Belton,
2 South Carolina.

3 THE CLERK: Are you married?

4 POTENTIAL JUROR: No.

5 THE CLERK: Thank you.

6 Number 4, George Askew.

7 POTENTIAL JUROR: I work for Clemson University.
8 I am vice president there. My wife is a homemaker.

9 THE CLERK: Number 5, John Bachman.

10 POTENTIAL JUROR: I'm retired. My last job was
11 managing director of Johnson & Johnson Portugal. My
12 wife is retired as well as a homemaker.

13 THE CLERK: Number 6, Whitney Ballard.

14 POTENTIAL JUROR: I'm disabled.

15 THE CLERK: Okay.

16 Number 9, Virginia Baumgarner.

17 POTENTIAL JUROR: Disabled. My husband is also
18 disabled.

19 THE CLERK: Okay. Thank you.

20 Number 10, Steven Beitz.

21 POTENTIAL JUROR: I'm employed with the Pickens
22 County School District, Easley High School. I'm a
23 teacher. My wife is employed with the Oconee County
24 School District, Seneca High School, and she is also a
25 teacher.

1 THE CLERK: Number 14, Matthew Blair.

2 POTENTIAL JUROR: I'm single and I work at Aramark
3 at Clemson University.

4 THE CLERK: Number 16, Ronald Bolmon.

5 POTENTIAL JUROR: I am married. Wright's Metal
6 Products in Lavonia, Georgia. My wife, she is employed
7 with Mega Motorsports in Salem.

8 THE CLERK: Thank you.

9 Number 17, Frances Boring.

10 POTENTIAL JUROR: I'm disabled. I was in retail
11 management. My husband is deceased.

12 THE CLERK: Thank you.

13 Number 19, Polly Brock.

14 POTENTIAL JUROR: I don't work. My husband does
15 at Ocone Publishing, route carrier.

16 THE CLERK: Number 24, Douglas Cawthon.

17 POTENTIAL JUROR: I work at Ingles Westminster,
18 third shift, lead stocker, and I'm single.

19 THE CLERK: Number 27, Alysa Chirillo.

20 POTENTIAL JUROR: I'm currently unemployed.

21 THE CLERK: Number 30, David Cobb.

22 POTENTIAL JUROR: Yes. I work at Stretch
23 Associates in Greenville, South Carolina. My wife
24 works at Clemson University.

25 THE CLERK: Okay. And what do you do for your

1 employer?

2 POTENTIAL JUROR: I'm a slitter operator.

3 THE CLERK: Okay. And your wife, what does she do
4 for the university?

5 POTENTIAL JUROR: She's accounts payable.

6 THE CLERK: Number 31, Kelly Cochran.

7 POTENTIAL JUROR: I am single. I am a nuclear
8 project coordinator for Siemens Fossil Services based
9 out of Orlando, Florida.

10 THE CLERK: Number 38, Tracey Crawford.

11 POTENTIAL JUROR: I am employed by the School
12 District of Ocone. I teach at Ravenel Elementary.
13 And my husband works for the Town of Central, and he's
14 the athletic director.

15 THE CLERK: Number 40, Patrick Darragh.

16 POTENTIAL JUROR: I'm a full-time student at
17 Clemson University.

18 THE CLERK: Number 43, Delisa Davis.

19 POTENTIAL JUROR: I work for Allied Barton
20 Security Service at Robert Bosch.

21 THE CLERK: Number 46, Zachary Derosé.

22 POTENTIAL JUROR: I'm a full-time student at
23 Clemson University as well as an intern. And my wife
24 is a full-time student at Liberty University.

25 THE CLERK: Number 47, Glenda Dickson.

1 POTENTIAL JUROR: Assistant Ombudsman at Clemson
2 University. My husband works for South Carolina DOT as
3 an assistant geodetic engineer.

4 THE CLERK: Number 48, Kelby Dobbs.

5 POTENTIAL JUROR: I work at AnMed Health as a
6 receptionist. My husband works for Lift Tech as a
7 machine operator.

8 THE CLERK: Number 50, Sara Edwards.

9 POTENTIAL JUROR: Publix Supermarkets, meat
10 cutter, single.

11 THE CLERK: Number 53, Matthew Evatt.

12 POTENTIAL JUROR: I work for Day and Zimmerman,
13 contractor at the nuclear plant. I am a scaffold
14 builder, not married.

15 THE CLERK: Number 54, Nancy Evatt.

16 POTENTIAL JUROR: I'm a retired teacher with the
17 School District of Oconee County. My husband works for
18 Dillard Funeral Home in Pickens.

19 THE CLERK: Number 55, Lacey Finfrock.

20 POTENTIAL JUROR: I work for Clemson University
21 Youth Learning Institute. I'm single.

22 THE CLERK: Number 57, James Foster.

23 POTENTIAL JUROR: I'm a self-employed real estate
24 appraiser. My wife is a registered nurse with AnMed
25 Health.

1 THE CLERK: Number 58, Philip Fronek.

2 POTENTIAL JUROR: I'm a quality manager at Shaw
3 Industries, and I'm not married.

4 THE CLERK: Number 59, Angela Galloway.

5 POTENTIAL JUROR: I work for Dollar General. I'm
6 a store manager. My husband is self-employed in
7 construction.

8 THE CLERK: Number 61, Carol Garland.

9 POTENTIAL JUROR: Teacher in the School District
10 of Ocone and my husband is a handyman and also with
11 the South Carolina National Guard.

12 THE CLERK: Number 63, Richard Gogreve.

13 POTENTIAL JUROR: I am a third shift bulldog
14 operator at Sandvik Tooling in Westminster, and my wife
15 is part-time, works at Air Unlimited and Ingles
16 supermarket.

17 THE CLERK: Number 65, Randy Grant.

18 POTENTIAL JUROR: I'm currently disabled. Wife
19 works at U.S. Engine Valve.

20 THE CLERK: And what does she do for U.S. Engine
21 Valve?

22 POTENTIAL JUROR: Runs machinery that runs the
23 valves.

24 THE CLERK: Thank you.

25 Number 66, William Gravley.

1 POTENTIAL JUROR: I work for School District of
2 Oconee County in maintenance. My wife works at
3 Community First Bank in loan operations.

4 THE CLERK: Number 67, Sandra Haines.

5 POTENTIAL JUROR: I work for the School District
6 of Oconee County. I'm the principal's secretary at
7 Walhalla High School. My husband works for Greatwide
8 Freight, and he's in sales.

9 THE CLERK: Number 77, Diane Hendrix.

10 POTENTIAL JUROR: I work for School District of
11 Oconee County, the cafeteria manager at West-Oak High
12 School. My husband retired from South Carolina DOT.

13 THE CLERK: Number 81, Jesse Hopper.

14 POTENTIAL JUROR: I work for Action Automotive,
15 automotive technician. My wife works at Oconee Medical
16 Center, pharmacy technician.

17 THE CLERK: Number 82, William Horton.

18 POTENTIAL JUROR: I retired from Duke Energy. My
19 wife is retired from the School District of Oconee
20 County. She taught elementary music.

21 THE CLERK: Number 86, Koti Hubbard.

22 POTENTIAL JUROR: I am a full-time doctoral
23 student at Clemson University, not married.

24 THE CLERK: Number 87, John Hulsey.

25 POTENTIAL JUROR: I'm an operating partner, Ruby

1 Tuesday's restaurants, and I'm single.

2 THE CLERK: Number 88, Adam Justice.

3 POTENTIAL JUROR: I work at Lake Keowee Dodge,
4 automotive technician.

5 THE CLERK: Number 91, Terrell Kingery.

6 POTENTIAL JUROR: Retired, Florida Department of
7 Law Enforcement. Last job was with the Department of
8 Defense. I'm married. My wife is retired.

9 THE CLERK: Okay. Number 94, William Langston.

10 POTENTIAL JUROR: I teach at Seneca High School
11 for the School District of Oconee County, and my wife
12 is a retired teacher also from Oconee County.

13 THE CLERK: Number 103, Bonnie Maracle.

14 POTENTIAL JUROR: I work for Drake Software
15 customer service and tech support, and my husband is a
16 church pastor employed by the Carolina Conference of
17 Seventh Day Adventists.

18 THE CLERK: Number 104, Pamela Marsh.

19 POTENTIAL JUROR: I take care of -- I work in my
20 home taking care of my grandson, who is two, full-time.
21 And I take my granddaughters, who are 13 and five and
22 12, part-time. And my husband is an orthopedic surgeon
23 at Cannon Memorial Hospital in Pickens.

24 THE CLERK: Number 105, Theodore Martin.

25 POTENTIAL JUROR: I'm a dentist. My practice is

1 Hare & Martin Dentistry. My wife is assistant bank
2 manager, Bank of America.

3 THE CLERK: Number 109, Mark McCarthy.

4 POTENTIAL JUROR: Driver for Bennett Drive Away,
5 not married.

6 THE CLERK: Number 111, Darlene McNulty.

7 POTENTIAL JUROR: I own Childrens Therapy Center
8 in Seneca. I'm an occupational therapist and provide
9 OT to special needs children. My husband owns and
10 operates Checker Lube.

11 THE CLERK: Number 113, Heather Metz.

12 POTENTIAL JUROR: Greenfield Industries,
13 setter/operator, and I'm not married.

14 THE CLERK: Number 118, Stephen Morrison.

15 POTENTIAL JUROR: I own Morrison Custom
16 Woodworking in Mountain Rest. My wife is a homemaker.

17 THE CLERK: Number 120, Sophia Mount.

18 POTENTIAL JUROR: I'm a student at Tri-County
19 Tech.

20 THE CLERK: Number 122, Shay Nabors.

21 POTENTIAL JUROR: I'm a cashier at Countryside,
22 and I'm single.

23 THE CLERK: Number 125, Donald Phillips.

24 POTENTIAL JUROR: I'm a teacher at Clemson
25 Montessori School. My wife is a retired nurse from

1 Anderson Medical Center.

2 THE CLERK: Number 126, Christopher Porter.

3 POTENTIAL JUROR: Home Depot, garden section.

4 THE CLERK: Number 127, Kevin Quarles.

5 POTENTIAL JUROR: Full-time student, ROTC Tech,
6 Clemson University.

7 THE CLERK: Number 128, Wayne Raffaldt.

8 POTENTIAL JUROR: Unemployed, single.

9 THE CLERK: Number 129, Ashley Ramirez.

10 POTENTIAL JUROR: Work for the School District of
11 Ocone County, teacher, Seneca High. My husband works
12 at Hendrick Honda as a salesman.

13 THE CLERK: Number 130, Carla Rathbone.

14 POTENTIAL JUROR: I work for Clemson University,
15 department CEO for computer information technology, and
16 my husband works for Duke Energy as a nuclear operator.

17 THE CLERK: Number 135, Amanda Rumsey.

18 POTENTIAL JUROR: Stay-at-home mom. My husband
19 works at Duke Energy in maintenance.

20 THE CLERK: Number 142, Leonard Smith.

21 POTENTIAL JUROR: I'm disabled. I formerly worked
22 as senior technician, Pine River Plastics. My wife is
23 senior lead operator for Dollar General.

24 THE CLERK: Number 143, Steven Spearman.

25 POTENTIAL JUROR: Full-time student, Southern

1 Wesleyan University, and part-time at Ingles Markets in
2 Westminster.

3 THE CLERK: Number 146, Perry Stancil.

4 POTENTIAL JUROR: Facilities technician, St. Jude
5 Medical. My wife is a lab technician at Oconee Medical
6 Center.

7 THE CLERK: Number 148, Glenda Stanton.

8 POTENTIAL JUROR: I work at Gastroenterology
9 Associates in Greenville, and I'm in accounts payable
10 there. My husband is a retired Oconee County deputy,
11 courtroom deputy.

12 THE CLERK: Number 149, Annette Stephenson.

13 POTENTIAL JUROR: I work for Action Staffing,
14 order filler. My husband works for Greenville County
15 Safety Office.

16 THE CLERK: Number 153, Kathleen Taylor.

17 POTENTIAL JUROR: Self-employed. I work for
18 homeowners taking care of their home, personal
19 caregiver, and also as a bookkeeper. My husband is an
20 over-the-road truck driver, also self-employed.

21 THE CLERK: Number 155, Mark Thompson.

22 POTENTIAL JUROR: Self-employed, Quality Coffee.
23 Wife does the same and SDOC.

24 THE CLERK: Number 158, Wanda Thrift.

25 POTENTIAL JUROR: Second grade teacher at Tamassee

1 Salem Elementary. My husband is retired from the
2 military.

3 THE CLERK: Number 160, Margaret Totin.

4 POTENTIAL JUROR: Homemaker. My husband works for
5 Exxon Mobil out of the country.

6 THE CLERK: Number 161, Brandy Towe.

7 POTENTIAL JUROR: I'm single. I work at BMW in
8 logistics.

9 THE CLERK: Number 162, Martha Usher.

10 POTENTIAL JUROR: I'm a retired school teacher. I
11 went back to work at Oconee GI Clinic. My husband is
12 deceased.

13 THE CLERK: Number 163, Marc Vaccaro.

14 POTENTIAL JUROR: I'm a school teacher at Walhalla
15 High School in Oconee County. My wife is currently
16 unemployed.

17 THE CLERK: Number 164, Mark Vaughn.

18 POTENTIAL JUROR: I work for Quality Coffee in
19 sales. My wife works at Oconee Medical Center as a
20 registered nurse.

21 THE CLERK: Number 165, Claudette Vest.

22 POTENTIAL JUROR: I manage Dunkin' Donuts, not
23 married.

24 THE CLERK: Number 167, Patsy Watkins.

25 POTENTIAL JUROR: I'm unemployed. My husband is

1 disabled.

2 THE CLERK: Number 168, Angela White.

3 POTENTIAL JUROR: Unemployed, single.

4 THE CLERK: Number 169, Cleveland Williams.

5 POTENTIAL JUROR: Food director at the Lighthouse
6 on Lake Keowee. My wife is a stay-at-home mom.

7 THE CLERK: Number 170, Patrick Williams.

8 POTENTIAL JUROR: Self-employed in the commercial
9 vegetable business, livestock business. My wife is a
10 surgery tech teacher at Tri-County Tech.

11 THE CLERK: Number 171, Adrienne Wilson.

12 POTENTIAL JUROR: I work at Blue Ridge Orthopedics
13 in Anderson as primary medical assistant to one of the
14 surgeons. My husband is a sales rep for a company
15 called Cellofoam.

16 THE CLERK: Okay. Is there anyone here whose name
17 I did not call? If you would please stand at this
18 time.

19 POTENTIAL JUROR: Just for purposes of disclosure,
20 I'm Juror Number 4. For the record, I spent two years
21 working with the Georgetown County Sheriff's Office
22 drug enforcement unit.

23 THE CLERK: Thank you.

24 THE COURT: Thank you very much.

25 Ladies and gentlemen, I now have certain questions

1 to ask you to determine your qualifications as jurors
2 in this court. These questions determine your general
3 eligibility to serve. State law requires that I ask
4 these questions and, quite frankly, some of the
5 questions are rather personal and you may not want to
6 stand and disclose the information openly in the
7 presence of your fellow jurors.

8 After each question, if any juror needs to
9 respond, I'll ask you to stand. If you do not want to
10 stand and respond at that time, that is fine. At the
11 end of the process I will give you a chance to come
12 forward and speak privately with me and the clerk. We
13 do not want any of you to suffer any embarrassment, so
14 if you do not want to stand, make a mental note and
15 remember to come forward at the end when I ask you to
16 do so. It is absolutely essential that we have
17 accurate information consistent with the oath you have
18 just now taken.

19 Now, the first series of questions have to do with
20 disqualifications. As I mentioned earlier, there are
21 three sources of names for jury service. You do not
22 have to have all three; you just have to have one of
23 the three.

24 Therefore, is there any member of the jury panel
25 who is not a qualified elector or a licensed motor

1 vehicle driver, nor do you have an identification card
2 from the highway department? If you have none of those
3 three things, if would you please stand at this time.

4 Is there any member of the jury panel who is not a
5 citizen of the United States of America? If so, please
6 stand.

7 Is there any member of the jury panel who is not
8 18 years of age or older and a citizen of South
9 Carolina and a resident of Oconee County? If so,
10 please stand.

11 Is there any member of the jury panel who is a
12 clerk, deputy clerk of the court, constable, sheriff,
13 probate judge, county commissioner, magistrate or other
14 county officer or employed within the walls of any
15 courthouse? If so, please stand.

16 Is there any member of the jury panel who has been
17 drawn for jury service within the last three years?
18 That would be 2014, 2013, and 2012. If any member of
19 the jury panel has been drawn for jury service within
20 the last three years, also that would be jury service
21 in this courthouse, in other words, the court of --
22 circuit court of South Carolina. Not magistrate's
23 court, not municipal court, not summary court, and not
24 even federal court.

25 Yes, ma'am. Your name, please.

1 POTENTIAL JUROR: Nancy Evatt.

2 THE COURT: Yes, ma'am.

3 POTENTIAL JUROR: I just served on a jury in the
4 federal court in Greenville two weeks ago.

5 THE COURT: Well, unfortunately, that does not
6 excuse you here. But I thank you for your service and
7 also your service this week. Thank you for that.

8 Now, please understand, of course, that whenever
9 you respond to a question, I'm going to have to ask you
10 to give me your name as well each time even though you
11 respond to more than one question. The reason for that
12 is this lady is taking down everything that's said in
13 the courtroom. So, therefore, in order for the record
14 to reflect who is speaking at the time, we need to have
15 you give us your name, or if you have your jury number,
16 that, too, please.

17 Is there any member of the jury panel who is a
18 commissioned constable with or without pay or other law
19 enforcement officer? If so, please stand.

20 Now, Madam Clerk -- excuse me -- Madam Solicitor,
21 Mr. Solicitor, what's the oldest indictment we're
22 dealing with?

23 MR. WAGNER: Your Honor, it would be 2012, 2013.

24 THE COURT: 2012?

25 MR. WAGNER: Yes, sir.

1 THE COURT: All right. Was any member of the jury
2 panel a member of the Grand Jury for Oconee County
3 during the past several years? That would be 2011,
4 2012, 2013 or 2014. If so, please stand.

5 Any member of the jury panel who was a member of
6 the Grand Jury for Oconee County in the last several
7 years, would you please stand at this time.

8 Now, the next four questions will require
9 individual consideration; therefore, please wait until
10 I have finished all four questions before standing if
11 you think you might need to respond to the questions or
12 even if you have a question about the questions
13 themselves.

14 In fact, I'll go through all four questions twice.
15 In other words, I'll go through the first time all four
16 questions, and I will not ask you to respond at that
17 time. However, I will go through the four questions a
18 second time, and after I have finished all four
19 questions, I will ask anyone who has a question about
20 the questions themselves, or even if they have a
21 question or they feel any of the questions might apply
22 to them, if they would please stand. I will then ask
23 you to come forward individually so I might consult
24 with you and the clerk of court at that time privately.
25 Again, do not respond to the questions until I ask you

1 to do so.

2 Is there any member of the jury panel who is
3 unable to read, write, speak or understand the English
4 language? Is there any member of the jury panel who
5 has less than a sixth grade education or its
6 equivalent? Is there any member of the jury panel who
7 has been convicted or pled guilty in a state or federal
8 court of record to a crime punishable by imprisonment
9 for more than one year and whose civil rights have not
10 been restored by pardon or amnesty? Is there any
11 member of the jury panel who is incapable by reason of
12 physical or mental infirmities to render efficient jury
13 service?

14 Again, I'm going through those four questions one
15 more time, and please do not respond or stand until I
16 ask you to do so at the end of all four questions.

17 Is there any member of the jury panel who is
18 unable to read, write, speak or understand the English
19 language? Is there any member of the jury panel who
20 has less than a sixth grade education or its
21 equivalent? Is there any member of the jury panel who
22 has been convicted or pled guilty in a state or federal
23 court of record to a crime punishable by imprisonment
24 by more than one year and whose civil rights have not
25 been restored by pardon or amnesty? Is there any

1 member of the jury panel who is incapable by reason of
2 physical or mental infirmities to render efficient jury
3 service?

4 If you think any of those questions might apply to
5 you, or even if you have a question about the questions
6 themselves, if would you please stand at this time.

7 THE COURT: Yes, ma'am.

8 POTENTIAL JUROR: I'm physically disabled. I
9 can't spell hardly anything, and it's hard to sit for
10 long periods of time.

11 THE COURT: I'm going to excuse you.

12 POTENTIAL JUROR: Thank you, sir.

13 THE CLERK: Have we got a copy of this downstairs?
14 If you will just have someone down in the clerk's
15 office make a copy of this. That way we will have it
16 on file if you ever get summoned again.

17 POTENTIAL JUROR: Thank you.

18 THE CLERK: That was Number 6, Whitney Ballard.

19 THE COURT: Good morning.

20 POTENTIAL JUROR: Juror 9, Virginia Baumgarner.
21 I'm on a feeding tube and I have a colostomy.

22 THE COURT: What we're going to do is excuse you.

23 POTENTIAL JUROR: Thank you.

24 THE COURT: Good morning. Your name, please.

25 POTENTIAL JUROR: Patsy Watkins. I'm Juror 167.

1 My husband is disabled and he's got cellulitis in his
2 legs, and I tend to him.

3 THE COURT: Full-time?

4 POTENTIAL JUROR: I'm the only one in our family.
5 I have kids, but they both work. They're both married.

6 THE COURT: I'm going to excuse you.

7 POTENTIAL JUROR: Thank you, sir. I appreciate
8 it.

9 THE COURT: Good luck to you, ma'am.

10 POTENTIAL JUROR: Thank you, sir.

11 THE COURT: Good morning, sir.

12 POTENTIAL JUROR: How you doing?

13 THE COURT: Very well.

14 POTENTIAL JUROR: Yes, sir. I got a doctor's
15 excuse. I got severe chronic pain in my neck and lower
16 back.

17 THE COURT: All right. Are you under a doctor's
18 care? Do you have a statement from them?

19 POTENTIAL JUROR: Yes, sir, I do.

20 THE CLERK: Can we have that one or do we need to
21 make a copy?

22 POTENTIAL JUROR: If you don't mind, I would like
23 a copy of that one back.

24 THE CLERK: Number 65?

25 POTENTIAL JUROR: Yes, ma'am.

1 THE COURT: Will you be at least getting treatment
2 for it?

3 POTENTIAL JUROR: Yes, sir.

4 I appreciate it. I tell you what, one of these
5 hurt severe, and I'm not authorized to end that in on
6 top of that. It's something.

7 THE COURT: Yes, sir. I understand.

8 THE CLERK: Okay. Thank you.

9 POTENTIAL JUROR: Thank you, ma'am.

10 THE COURT: Good luck to you, sir. Thank you for
11 being here.

12 POTENTIAL JUROR: Thank you, sir.

13 THE COURT: Good morning.

14 POTENTIAL JUROR: My 90-year-old father-in-law is
15 staying with me.

16 THE COURT: Number?

17 POTENTIAL JUROR: I'm not real comfortable leaving
18 him all day.

19 THE COURT: How old is he?

20 POTENTIAL JUROR: 90. I'm his daughter-in-law.

21 THE COURT: I'll excuse you. Good luck to you.

22 POTENTIAL JUROR: Appreciate it.

23 THE CLERK: 160.

24 THE COURT: All right.

25 Anyone else? Very good. Thank you.

1 We now move to jury exemptions. State law
2 provides for several exemptions to jury service. An
3 exemption does not mean you are not qualified to serve;
4 it simply means, in most instances, that you have the
5 right to choose to serve or not.

6 Now, the first class are those who are 65 years of
7 age or older who do not wish to serve. In other words,
8 if you are 65 years of age or older you may serve, but
9 if you do not wish to serve, then you do not have to.

10 Is there any member of the jury panel who is
11 65 years of age or older who does not wish to serve; if
12 so, would you please stand at this time.

13 Is there any member of the jury panel who is a
14 guard, jailer, or other employee with the South
15 Carolina Department of Corrections? If so, please
16 stand.

17 Now, the next has to do with educational
18 responsibilities. Is there any member of the jury
19 panel who is a full-time student, teacher or other
20 certified personnel -- school crossing guard, bus
21 driver, or anyone who is employed in any other
22 school-related function who is unable to serve on jury
23 duty this week as a result of that school involvement?
24 If this exemption applies to you and you wish to
25 exercise this exemption, your jury service will be

1 transferred to another term of court at a time which
2 will not conflict with your school responsibilities.

3 Again, is there any member of the jury panel who
4 is a full-time student, teacher, or other certified
5 school personnel -- school crossing guard, bus driver,
6 or anyone who is employed in any other school-related
7 function who is unable to serve on jury duty this week
8 as a result of that school involvement and wishes to
9 have the jury service transferred to another term of
10 court, if you would please stand at this time.

11 I think we have several probably that have been
12 transferred, listening to the qualifications or at
13 least the responses to the qualifications. So this is
14 probably the term that you will have to serve.

15 Again, is there any member of the jury panel who
16 is a person who has legal custody or duty of care for a
17 child less than seven years of age for whom adequate
18 care cannot be provided while you're performing jury
19 duty? Any person who has custody or -- legal custody
20 and duty of care for a child less than seven years of
21 age for whom adequate care cannot be provided while
22 you're performing jury duty, if you would please stand
23 at this time.

24 I think -- now that applies to grandmothers, too.
25 All right. Grandfathers as well.

1 Yes, ma'am.

2 POTENTIAL JUROR: Well, I don't have legal custody
3 of the children.

4 THE COURT: But you have the duty of care?

5 POTENTIAL JUROR: Yes, I do.

6 THE COURT: I mean, that's -- all right. Your
7 name, please?

8 POTENTIAL JUROR: One mother is a teacher at
9 Powdersville Elementary.

10 THE COURT: Your name, please.

11 POTENTIAL JUROR: I'm sorry. I'm Pam Marsh,
12 Pamela Marsh.

13 THE COURT: Yes, ma'am. And you have what --

14 POTENTIAL JUROR: Juror 104.

15 THE COURT: And you have two grandchildren; is
16 that right?

17 POTENTIAL JUROR: I have one that's two years old,
18 and then I have three other girls. But the
19 five-year-old just became school age, so she will go to
20 school, to kindergarten, but I have Daniel, who is two.
21 I have him full-time.

22 THE COURT: That's what I'm asking, right. So you
23 will be excused then. Now, if the mothers or the
24 fathers become full-time caretakers as well or if they
25 become over seven years of age, then, of course, you

1 will be eligible. Until that time you will be excused.

2 POTENTIAL JUROR: Once they go to school, I'm
3 free. Unfortunately, Daniel has a little sister due
4 next month. So I'm not going to be free for a little
5 while longer.

6 THE COURT: You've got something to do --

7 POTENTIAL JUROR: I raised the first three.

8 THE COURT: -- for several years. Now, good luck
9 to you. Thank you, Ms. Marsh.

10 POTENTIAL JUROR: Thank you so much.

11 THE COURT: Anyone else?

12 Now, the next applies to those who are the primary
13 caretaker of a person 65 years of age or older or a
14 severely disabled person who cannot care for him or
15 herself or cannot be left unattended while you're
16 performing jury duty.

17 Any member of the jury panel who is a primary
18 caretaker of a person 65 years of age or older or a
19 severely disabled person who cannot care for him or
20 herself or cannot be left unattended while you're
21 performing jury duty, will you please stand at this
22 time.

23 Is there any member of the jury panel who performs
24 services for a business, commercial, or agricultural
25 enterprise and those services are so essential to the

1 operation of that business, commercial, or agricultural
2 enterprise that the enterprise must cease or close or
3 cease to function if you are required to perform jury
4 duty this week, would you please stand at this time.

5 Any member of the jury panel who performs services
6 for a business, commercial, or agricultural enterprise
7 and those services are so essential to the operation of
8 that business, commercial, or agricultural enterprise
9 that the enterprise most close or cease to function if
10 you are required to perform jury duty this week, if you
11 would please stand.

12 THE COURT: Yes, sir, Doctor.

13 POTENTIAL JUROR: My father is out of town and
14 he's my business partner. If I'm not there, then
15 nobody will see my patients.

16 THE COURT: All right. Is there any time that you
17 might be available to serve?

18 POTENTIAL JUROR: Not likely due to the fact that
19 he's going part-time, so I'm there.

20 THE COURT: That's right. He's semi-retired,
21 isn't he?

22 POTENTIAL JUROR: Yes.

23 THE COURT: All right. Well, when you get a
24 partner in, we might have to call on you again, all
25 right, but you will be excused this week.

1 POTENTIAL JUROR: Thank you, Judge.

2 THE COURT: Thank you, Doctor.

3 Yes, ma'am.

4 POTENTIAL JUROR: I'm Darlene McNulty, Number 111.

5 If I'm not there, the kids don't get their therapy.

6 THE COURT: Now this is what? I'm sorry.

7 POTENTIAL JUROR: Childrens Therapy Center.

8 THE COURT: Right. And you're the only therapist?

9 POTENTIAL JUROR: I'm the only OT there, yes.

10 THE COURT: All right. So you will be excused

11 then. Thank you, ma'am.

12 POTENTIAL JUROR: Thank you.

13 THE COURT: Thank you, ma'am.

14 Yes, ma'am.

15 POTENTIAL JUROR: Juror 59, Angie Galloway. I'm a

16 store manager for Dollar General. And it will be tough

17 for them to run the store without me.

18 THE COURT: Do you ever take any time off?

19 POTENTIAL JUROR: No. I get one day a week off.

20 THE COURT: But you would not have to close or

21 cease to function if you do have to serve?

22 POTENTIAL JUROR: Do what?

23 THE COURT: The store wouldn't close if you were

24 not there?

25 POTENTIAL JUROR: No. No. No. They would

1 have -- I would have to get somebody in there.

2 THE COURT: All right. I am going -- I'll excuse
3 you from service. Your name again, please, ma'am?

4 POTENTIAL JUROR: My name? Angela Galloway.

5 THE COURT: Ms. Galloway, thank you very much.

6 Now, ladies and gentlemen, that concludes the
7 statutory list of qualifications and exemptions from
8 jury service. But it may be that this week would
9 constitute an extreme hardship upon you for a
10 particular reason. I cannot permanently excuse a
11 qualified juror from service, but under extreme and
12 compelling circumstances, I may excuse a juror from
13 this term of court and transfer you to another term of
14 court, particularly jurors who have not been previously
15 transferred. Please recognize that general
16 inconvenience is not a sufficient basis to transfer you
17 to another term of court. To justify a transfer to
18 another term of court, service this week must
19 constitute an extreme hardship to you.

20 Now, ladies and gentlemen, this is the opportunity
21 for those who did not respond to the earlier questions
22 that I asked or any other questions that have been
23 asked, including those who have a compelling reason to
24 request a transfer of your jury service to another
25 week, please stand and I'll ask each of you to come

1 forward so I might speak to you individually.

2 Does anyone have anything they want to bring to
3 the Court's attention?

4 Very good. If you would, please.

5 Also, is Mr. Cleveland Donnel Williams with us?

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: Would you come forward, too. And
8 Mr. Eric Bolmon.

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: Good. If you would come forward, too.
11 And Matthew Robert Blair.

12 The ones I called we'll save until the last. The
13 others I'll take first.

14 THE COURT: Yes, ma'am. Your number?

15 POTENTIAL JUROR: Sandy Haines. I'm leaving for
16 vacation this week.

17 THE COURT: When?

18 POTENTIAL JUROR: Well, we're leaving Thursday to
19 Niagara Falls and Canada.

20 THE COURT: I'll excuse you.

21 POTENTIAL JUROR: Thank you.

22 THE COURT: Good morning.

23 POTENTIAL JUROR: Good morning. Diane Hendrix,
24 Juror 77.

25 THE COURT: Yes, ma'am.

1 POTENTIAL JUROR: Well, I was going to try to do
2 this time, but I understand it's an attempted murder
3 charge and --

4 THE COURT: I'm not sure.

5 POTENTIAL JUROR: Well, that's what I heard they
6 said on the radio.

7 THE COURT: Is it? Yes.

8 POTENTIAL JUROR: My brother-in-law, he was the
9 victim of a violent crime. He was murdered in 1996.

10 THE COURT: Do you think that would affect your
11 ability to give both the State and the defense a fair
12 and impartial --

13 POTENTIAL JUROR: I'm not sure.

14 THE COURT: Okay. That's an honest answer.

15 POTENTIAL JUROR: I'm really not sure.

16 THE COURT: So I'm going to excuse you, all right?

17 POTENTIAL JUROR: Thank you.

18 THE COURT: Thank you for being here.

19 POTENTIAL JUROR: Good morning, your Honor. I
20 don't have a seven-year-old child, but I do have a
21 16-year-old child. I'm the only provider for her. I
22 just got a new job three weeks ago. I have my pay
23 stubs to prove I've only been there three weeks.

24 THE COURT: Is your 16-year-old child disabled?

25 POTENTIAL JUROR: No, but there's no one to

1 provide for her.

2 THE COURT: Let me do this. I'm going to excuse
3 you this week.

4 POTENTIAL JUROR: Okay.

5 THE COURT: But is there some time later in the
6 year that might be less inconvenient?

7 POTENTIAL JUROR: I would just like to get more
8 time in with my employment and that would be fine.

9 THE COURT: Why don't we put her after the first
10 of the year.

11 POTENTIAL JUROR: That would be perfect. Thank
12 you so very much.

13 THE CLERK: 165.

14 THE COURT: Mr. Williams.

15 POTENTIAL JUROR: Good to see you. I'm picking
16 vegetables on -- my vegetables right now, and my
17 business partner, Kyle, and my only employee went to
18 Haiti on a mission trip.

19 THE COURT: I'm going to excuse you.

20 POTENTIAL JUROR: I'd be glad to serve later on.

21 THE COURT: What's a good time for you?

22 POTENTIAL JUROR: Winter. I'll be glad to serve
23 in wintertime.

24 THE COURT: Mr. Williams.

25 THE CLERK: 170.

1 THE COURT: Yes, ma'am.

2 POTENTIAL JUROR: Kathleen Taylor. I work for
3 some homeowners that have a home in the Cliffs and in
4 Florida. The wife just passed away Easter Sunday. He
5 has a trip going to Italy to scatter the remains with
6 all the children. They have two Golden Retrievers. I
7 have a flight on the 15th of August through the 30th.
8 I have to take care of their house in Florida and their
9 dogs.

10 THE COURT: You'll be out by the 15th.

11 POTENTIAL JUROR: No problem.

12 THE COURT: Thank you, ma'am. Your name, please,
13 ma'am.

14 POTENTIAL JUROR: Kathleen Taylor, 153.

15 THE COURT: Yes, sir.

16 POTENTIAL JUROR: Danny Allsep. I had prostate
17 cancer in 2008 and I don't know if I can sit through
18 this.

19 THE COURT: Well, I'm going to excuse you.

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: Good luck to you, sir.

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: Good morning, sir.

24 POTENTIAL JUROR: Good morning. I run my own
25 business, and if it's a couple days, I could probably

1 manage, but it would be pretty tricky.

2 THE COURT: It will be more than a couple days.

3 And you're the only employee?

4 POTENTIAL JUROR: No, I have five employees. It
5 won't shut down, it will just struggle.

6 THE COURT: I'm going to excuse you. Good luck to
7 you.

8 POTENTIAL JUROR: Thanks.

9 THE COURT: Good morning, sir.

10 POTENTIAL JUROR: Good morning. I'm 66, and I see
11 you still have a lot of young, intelligent people for
12 your candidates.

13 THE COURT: You don't have to serve if you don't
14 want to. By the way, I'm 72. Good luck to you. Your
15 name, please?

16 POTENTIAL JUROR: Terrell Kingery.

17 THE COURT: Thank you.

18 THE CLERK: Number 91.

19 THE COURT: Yes, sir. Your name?

20 POTENTIAL JUROR: Douglas Cawthon, Juror 24. I
21 work as a third shift lead stocker for Ingles
22 Westminster. Will this case conflict with that
23 schedule in any way?

24 POTENTIAL JUROR: No, not in third shift. I'm
25 sorry, but we're usually done by 5 o'clock. Start

1 usually about 9:00 to 10:00 in the morning.

2 POTENTIAL JUROR: Okay.

3 THE COURT: Go ahead. Stay with us. Thank you,
4 sir.

5 THE CLERK: Number 24.

6 THE COURT: Yes, ma'am.

7 POTENTIAL JUROR: Number 168. I have an
8 11-year-old son with me, and I know you said seven
9 years old, but I'm the only caregiver that he has. And
10 depending on the criminal case, I may not want him to
11 be in the courtroom to listen to whatever. So I'm just
12 wondering how that works.

13 THE COURT: Of course I can't keep anyone out, but
14 would you feel more comfortable on a civil case to
15 serve?

16 POTENTIAL JUROR: I just didn't know. It just
17 said criminal. I just don't want to be on a case --

18 THE COURT: Is there a time of year that might be
19 less --

20 POTENTIAL JUROR: When school is in would be
21 better.

22 THE COURT: Let's do that.

23 THE CLERK: After August?

24 POTENTIAL JUROR: That will be great.

25 THE COURT: We'll do that. Be sure it's a civil

1 case.

2 POTENTIAL JUROR: Okay. Thank you.

3 THE COURT: Good luck to you.

4 POTENTIAL JUROR: Thank you.

5 THE COURT: Yes, ma'am. Your name, please?

6 POTENTIAL JUROR: Carla Rathbone. I have /OEUG
7 syndrome really badly. I don't make a lot of saliva.
8 I have to have water in the courtroom.

9 THE COURT: Do what now?

10 POTENTIAL JUROR: I have to have water with me
11 because I don't produce a lot of saliva.

12 THE COURT: You can drink water.

13 POTENTIAL JUROR: I'm just saying can I have it in
14 the courtroom?

15 THE COURT: Yes, ma'am. And if you need to take a
16 break --

17 POTENTIAL JUROR: Okay. Thank you.

18 THE CLERK: Rathbone, 130.

19 THE COURT: All right. Now, if I may see
20 Mr. Blair, Mr. Bolmon and Mr. Williams.

21 POTENTIAL JUROR: Matt Blair.

22 THE COURT: Yes, sir. What is your social
23 security number?

24 POTENTIAL JUROR: [REDACTED].

25 THE COURT: Were you convicted of criminal damage

1 to property second degree in Georgia? Were you
2 convicted?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: And you received probation for two
5 years?

6 POTENTIAL JUROR: Correct.

7 THE COURT: I'm going to excuse you. Now, of
8 course, I can't do anything about your argument in
9 South Carolina. You can get, perhaps, a pardon for
10 that.

11 POTENTIAL JUROR: Okay. It doesn't show up as a
12 felony, does it?

13 THE COURT: No. In South Carolina it's if it's a
14 year or more. In other words, a felony or misdemeanor
15 makes no difference. Good luck to you.

16 POTENTIAL JUROR: Thank you, sir.

17 THE COURT: Yes, sir. Your name?

18 POTENTIAL JUROR: Eric Bolmon.

19 THE COURT: Your social security number?

20 POTENTIAL JUROR: [REDACTED].

21 THE COURT: Were you convicted of, looks like
22 attempted burglary in Georgia?

23 POTENTIAL JUROR: Yeah, when I was 17.

24 THE COURT: I guess you need to get that taken
25 care of, but you were put on probation for three years?

1 POTENTIAL JUROR: Yes.

2 THE COURT: All right.

3 POTENTIAL JUROR: Is it not gone?

4 THE COURT: No, it's still on here.

5 POTENTIAL JUROR: What do I need to do?

6 THE COURT: That's just it, I don't know what they
7 do in Georgia, but in South Carolina you go before the
8 pardon board. You can get information on how to do
9 that.

10 POTENTIAL JUROR: I assumed it was all taken care
11 of because I was only 17.

12 THE COURT: See if you can't get rid of it. Good
13 luck to you, sir.

14 POTENTIAL JUROR: Thank you, sir.

15 THE COURT: Mr. Williams, good morning, sir.

16 POTENTIAL JUROR: Hello, your Honor.

17 THE COURT: Your Social Security number?

18 POTENTIAL JUROR: [REDACTED].

19 THE COURT: Do you have a rap sheet?

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: Assault and battery, high and
22 aggravated nature, looks like it was 30 days. Where
23 was that?

24 POTENTIAL JUROR: I think I was about 19, maybe
25 18.

1 THE COURT: Was it in South Carolina?

2 POTENTIAL JUROR: Yes, sir. My rap sheet is about
3 a mile long.

4 THE COURT: You will be excused then.

5 POTENTIAL JUROR: God bless you.

6 THE COURT: All right.

7 Anybody have anything else they want to bring to
8 the Court's attention? Very good.

9 Madam Clerk, I find the jury is qualified.

10 Could I see the attorneys sidebar.

11 (WHEREUPON, a bench conference was held off the
12 record in the presence of the potential jurors, but out
13 of the hearing of the potential jurors.)

14 THE COURT: Ladies and gentlemen, before we draw
15 the first jury, I'm going to suggest we take a short
16 break. It looks like it's about a little more than 25
17 after 11 o'clock right now. I'm going to suggest we
18 take about 15 minutes. And if you could be back in
19 this part of the courtroom -- not necessarily in the
20 same seats, but just in this front part of the
21 courtroom on either side at quarter 'til 12:00 or
22 11:45, then we will draw the first jury in the case.

23 I do thank you and I look forward to working with
24 you this week.

25 Everyone else remain seated while the jury retires

1 from the courtroom.

2 (Whereupon, the potential jury panel exited the
3 courtroom at 11:26 a.m.)

4 THE COURT: We'll stand at ease until a quarter
5 'til.

6 (Whereupon, recess taken from 11:28 a.m.
7 to 11:50 a.m.)

8 THE COURT: All right. Ladies and gentlemen, this
9 is a term of general sessions court, as I mentioned
10 earlier. It's sometimes called criminal court. Its
11 purpose is to resolve questions of alleged criminal
12 conduct arising between the State of South Carolina and
13 the defendant in a fashion which will ensure that
14 justice under the law is accomplished.

15 Trial of a case begins with the selection of a
16 jury. Both the State and the defendant are entitled to
17 jurors who approach a case with an open mind. The
18 trial jury must be as free as humanly possible from any
19 bias, prejudice or sympathy to either side and free
20 from any preconceived ideas on the law or the facts of
21 a case. Therefore, certain questions will be asked of
22 you a, petit jury panel, questions which will be asked
23 to ensure each side a fair and impartial jury.

24 I might note further that if any person should
25 talk with you or attempt to talk with you about any

1 case scheduled for this term of court, it would be your
2 solemn duty to immediately report that matter to the
3 Court.

4 Now we'll begin the selection of the jury. If
5 anyone cannot hear me, if would you please raise your
6 hand because the questions I'll be asking are most
7 important. Now, of course, that's an interesting
8 question. If you didn't hear me, you wouldn't know to
9 raise your hand. But if anyone sees my mouth moving
10 and not understand what I'm saying, I'll try to improve
11 that, too.

12 All right. Madam Solicitor, you may call your
13 first case.

14 MS. SIMMONS: Your Honor, the State calls
15 2013-GS-37-1043 and 1044, State of South Carolina
16 versus Laquavius Cleveland, indictment for attempted
17 murder and possession of a weapon during the commission
18 of a violent crime.

19 THE COURT: All right. Ladies and gentlemen, we
20 are about to begin the trial of the case of State of
21 South Carolina versus Laquavius Tyshawn Cleveland, who
22 is charged in indictments number 2001 -- excuse me --
23 2013-GS-37-01043 with attempted murder, and in
24 indictment number 2013-GS-37-01044, possession of a
25 weapon during the commission of a violent crime.

1 The State will be represented by Ms. Simmons and
2 Mr. Wagner, and the defendant will be represented by
3 Mr. Griffin.

4 Ms. Simmons, if you would, please stand and
5 introduce yourself and anyone else who will be helping
6 you as well as Mr. Wagner.

7 MS. SIMMONS: Good morning. My name is Lindsey
8 Simmons. I'm the assistant solicitor here in the Tenth
9 Judicial Circuit employed by your elected Solicitor,
10 Crissy Adams.

11 MR. WAGNER: I'm David Wagner, also employed with
12 the Tenth Circuit. I'll be helping Ms. Simmons in this
13 case.

14 THE COURT: Thank you.

15 Mr. Griffin, if you would, please stand and
16 introduce yourself and your client.

17 MR. GRIFFIN: Charles Griffin, attorney from
18 Anderson, representing Laquavius Cleveland.

19 THE COURT: Mr. Cleveland, if you would stand,
20 please, and look upon the jury.

21 Very good. Thank you, sir.

22 The reason I ask people to stand is because these
23 days we might not recognize a name, but we could
24 recognize a face. And, of course, I'm also going to be
25 calling out a list of potential witnesses in this case,

1 and if they happen to be in the courtroom at the time
2 their names are called, if they would please stand as
3 well and look upon the jury.

4 Now, ladies and gentlemen, is there any member of
5 the jury panel related by blood or marriage to the
6 defendant, Laquavius Tyshawn Cleveland? If so, please
7 stand.

8 Any member of the jury panel related by blood or
9 marriage, close personal friend or business associate
10 of the defendant, Laquavius Tyshawn Cleveland, if you
11 would please stand at this time.

12 Is there any member of the jury panel a member of
13 the Grand Jury that found and returned the indictments
14 in this case? If so, please stand.

15 Now, as I said, I'm going to read out some names
16 of potential witnesses in this case. Now, a potential
17 witness is not a witness that must be called, but it's
18 a witness that may be called. And as I said, if they
19 are in the courtroom at the time their names are
20 called, if they would please stand and look upon the
21 jury:

22 Sergeant Amanda Tinsley of the Oconee County
23 Sheriff's Office; Captain Greg Reed of the Oconee
24 County Sheriff's Office; Officer Philip Robertson,
25 formerly of the Oconee County Sheriff's Office;

1 Sergeant Dwight Philpott of the Oconee County Sheriff's
2 Office; Lieutenant Gentry Hawk of the Oconee County
3 Sheriff's Office; Sergeant David McMahan of the Oconee
4 County Sheriff's Office; Sergeant William Freestate of
5 the Oconee County Sheriff's Office; Deputy Brandon
6 Meadows of the Oconee County Sheriff's Office; Sergeant
7 Philip Bryant of the Oconee County Sheriff's Office;
8 Joe Anderson of the Oconee Medical Center EMS;
9 Dr. Joseph Camunas of the Greenville Health -- excuse
10 me -- the Greenville Hospital System; Mr. Hakeem
11 Kirkland; Ms. Cindy Blackwell; Mr. Andrew Lusk.

12 Now, is there any member of the jury panel related
13 by blood or marriage or close personal friend or
14 business associate of Sergeant Amanda Tinsley, Captain
15 Greg Reed, Officer Philip Robertson, Sergeant David
16 Philpott, Lieutenant Gentry Hawk, Sergeant David
17 McMahan, Sergeant Will Freestate, Deputy Brandon
18 Meadows, Sergeant Philip Bryant, Mr. Joe Anderson,
19 Dr. Joseph Camunas of the Greenville Hospital System,
20 Mr. Hakeem Kirkland, Cindy Blackwell, or Mr. Andrew
21 Lusk? If you would, please stand at this time.

22 Yes, sir. Your name, please?

23 POTENTIAL JUROR: Hunter Smith.

24 THE COURT: Yes, sir.

25 POTENTIAL JUROR: Sergeant Philip Bryant is my

1 cousin by marriage.

2 THE COURT: Would that in any way affect your
3 ability to give both the State and the defendant a fair
4 and impartial trial?

5 POTENTIAL JUROR: No, sir.

6 THE COURT: Very good. Thank you, sir.

7 Yes, ma'am.

8 POTENTIAL JUROR: Polly Brock. Philip Bryant is
9 also my cousin by marriage.

10 THE COURT: Would that in any way interfere with
11 your ability to give both the State and the defendant a
12 fair and impartial trial?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Very good. Thank you, ma'am.

15 Now, that question has two parts to it or two
16 purposes. One, of course, is, as I said earlier, the
17 parties, the State and the defendant, are entitled to a
18 fair and impartial jury. However, also none of you
19 asked to be here. And you know what the case is about
20 now and generally what the case is about, and I don't
21 want to compromise any of your strongly held beliefs in
22 any fashion.

23 So, therefore, if you do not feel comfortable
24 sitting on such a case, advise the Court because, there
25 again, as I say, you not only -- or the parties, the

1 State and the defendant, are entitled to a fair and
2 impartial jury, you should feel completely comfortable
3 having to do what your duty is in a particular case.

4 All right. Has any member of the jury panel or
5 family member or close personal friend been prosecuted
6 by the Tenth Circuit Solicitor's Office? That's either
7 in Anderson or Oconee County. If so, please stand.

8 Has any member of the jury panel, family member or
9 close personal friend, ever been prosecuted by the
10 Tenth Circuit Solicitor's Office either in Anderson or
11 Oconee County? If you would, please stand at this
12 time.

13 Has any member of the jury panel or members of the
14 immediate family or close personal friend ever been
15 accused of and/or prosecuted for attempted murder? If
16 so, please stand.

17 Has any member of the jury panel formed or
18 expressed an opinion about this case? It's my
19 understanding it has received some reporting on either
20 news media or radio or TV or some other news outlet.
21 So has any member of the jury panel formed or expressed
22 an opinion about this case? If you would, please stand
23 at this time.

24 Is there any member of the jury panel aware of any
25 interest, bias or prejudice towards either the

1 defendant or the State of South Carolina? If so,
2 please stand.

3 Does any member of the jury panel know of any
4 reason why he or she could not give both the State of
5 South Carolina and the defendant a fair and impartial
6 trial? If so, please stand.

7 Any additional or further questions from the
8 State?

9 MR. WAGNER: Your Honor, could we approach?

10 THE COURT: Sure.

11 (WHEREUPON, a bench conference was held off the
12 record in the presence of the potential jurors, but out
13 of the hearing of the potential jurors.)

14 THE COURT: Yes, ma'am. Your name, please.

15 POTENTIAL JUROR: Yes. Heather Metz, Juror 113.

16 THE COURT: Yes, ma'am.

17 POTENTIAL JUROR: In my belief, Jesus Christ is
18 our lord and savior, and it's not our place to judge
19 anyone.

20 THE COURT: Very good. I'm going to have to ask
21 you to stay with us, but you will not be drawn on the
22 trial of this case.

23 POTENTIAL JUROR: Okay. Am I still here?

24 THE COURT: Yes, ma'am.

25 POTENTIAL JUROR: All right.

1 THE COURT: Yes, ma'am. That's what you were
2 drawn for, jury duty. As long as the other jurors are
3 working, I'm sure we have got some other Christians
4 here, too. And I'm one. All right. So you just have
5 to stay with us. Thank you.

6 There is another potential witness in this case,
7 Christopher Robinson. Is there any member of the jury
8 panel related by blood or marriage, close personal
9 friend or business associate of Christopher Robinson?
10 If so, please stand.

11 All right. Now, any further questions from the
12 State?

13 MR. WAGNER: No, sir.

14 THE COURT: From the defendant?

15 MR. GRIFFIN: None, your Honor.

16 THE COURT: I'm sorry, I did miss one. Is it
17 Yashica Cleveland?

18 MR. GRIFFIN: Yes, sir.

19 THE COURT: Mrs. Yashica Cleveland. Any member of
20 the jury panel related by blood or marriage or close
21 personal friend or business associate of Ms. Yashica
22 Cleveland? If so, please stand.

23 Very good. Now, is that everybody, all the
24 potential witnesses?

25 Now, remember these are potential witnesses.

1 These are not witnesses that have to be called, but
2 they may be called.

3 All right. The way that we draw a jury in general
4 sessions court is that the clerk of court has prepared
5 a list of potential jurors that could be called in the
6 trial of this case, and it's done randomly by the
7 computers here.

8 What we do is, it's not in any particular order,
9 but if your name is called, if you would come
10 forward -- Mr. Bailiff, if you would, please -- to the
11 front of the courtroom and bring anything you have with
12 you, and we'll -- stand where the bailiff is standing
13 looking back towards the back of the courtroom. The
14 State goes first, and the State will either say
15 "present the juror" or "excuse the juror." If the
16 juror is presented, it will be presented to the
17 defendant. At that time the defense attorney will say
18 either "swear the juror" or "excuse the juror."

19 Now, in this case we have five and ten; is that
20 correct, Madam Solicitor?

21 MS. SIMMONS: Yes, sir.

22 THE COURT: Is that correct, Mr. Griffin?

23 MR. GRIFFIN: Yes, your Honor.

24 THE COURT: And that way we will draw a jury, and
25 I'm going to suggest two alternates because this

1 case -- we're not going to start the case until later.

2 All right. So with that, Madam Clerk, you about
3 ready?

4 THE CLERK: Yes, sir.

5 THE COURT: Now I'm not going to be able to tell
6 my story.

7 The story that I tell is if anybody looks on the
8 back of this cabinet here, you will see a drum, a metal
9 drum. And that's the way we used to draw a jury in
10 general sessions court. The clerk would cut up all the
11 names on the jury roll and put each name, a separate
12 name, into a capsule, and then they put all the
13 capsules in this drum and then cranked the drum.

14 Then they would bring in either a child who could
15 not read or write or a person who was legally blind,
16 and they would reach in the drum and pull out a capsule
17 and hand it to the clerk, and the clerk would read the
18 name and the juror would come forward. But now with
19 all the technology we have, we don't do that. Only
20 problem is occasionally technology is not as efficient
21 as a child who cannot read or write or a person who is
22 legally blind.

23 All right. Are we ready? State ready?

24 MS. SIMMONS: Yes, your Honor.

25 THE COURT: Defense ready?

1 MR. GRIFFIN: Yes, your Honor.

2 THE COURT: Very good. If you would, please,
3 ma'am.

4 THE CLERK: Ladies and gentlemen, as I call your
5 name, if you would please come forward, bringing your
6 personal belongings, standing in front of the bar and
7 face the gallery.

8 Juror Number 88, Adam Justice.

9 What says the State?

10 MS. SIMMONS: Please present the juror.

11 THE CLERK: What says the defense?

12 MR. GRIFFIN: Present the juror, please.

13 THE CLERK: Sir, if you would, please take a seat
14 in the jury box.

15 Number 163, Marc Vaccaro.

16 What says the State?

17 MS. SIMMONS: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. GRIFFIN: Excuse the juror, please.

20 THE CLERK: Sir, you have been excused from this
21 case. You may be seated.

22 Number 50, Sara Edwards.

23 What says the State?

24 MS. SIMMONS: Please present the juror.

25 THE CLERK: What says the defense?

1 MR. GRIFFIN: Present her, please.

2 THE CLERK: Ma'am, if you would, please take a
3 seat in the jury box.

4 Number 171, Adrienne Wilson.

5 What says the State?

6 MS. SIMMONS: Please present the juror.

7 THE CLERK: What says the defense?

8 MR. GRIFFIN: Excuse her.

9 THE CLERK: Ma'am, you have been excused from this
10 case. You may be seated.

11 Number 103, Bonnie Maracle.

12 What says the State?

13 MS. SIMMONS: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. GRIFFIN: Excuse the lady, please.

16 THE CLERK: Ma'am, you have been excused from this
17 case. You may be seated.

18 Number 43, Delisa Davis.

19 What says the State?

20 MS. SIMMONS: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. GRIFFIN: Excuse the lady, please.

23 THE CLERK: Ma'am, you have been excused from this
24 case. You may be seated.

25 Number 148, Glenda Stanton.

1 What says the State?

2 MS. SIMMONS: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. GRIFFIN: Excuse the lady, please.

5 THE CLERK: Ma'am, you have been excused from this
6 case. You may be seated.

7 Number 120, Sophia Mount.

8 What says the State?

9 MS. SIMMONS: Please present the juror.

10 THE CLERK: What says the defense?

11 MR. GRIFFIN: Present her, please.

12 THE CLERK: Ma'am, if you would, please take a
13 seat in the jury box.

14 Number 129, Ashley Ramirez.

15 What says the State?

16 MS. SIMMONS: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. GRIFFIN: Present her, please.

19 THE CLERK: Ma'am, if you would, please take a
20 seat in the jury box.

21 Number 135, Amanda Rumsey.

22 What says the State?

23 MS. SIMMONS: Please present the juror.

24 THE CLERK: What says the defense?

25 MR. GRIFFIN: Present her, please.

1 THE CLERK: Ma'am, if you would, please take a
2 seat in the jury box.

3 Number 94, William Langston.

4 What says the State?

5 MS. SIMMONS: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. GRIFFIN: Present him, please.

8 THE CLERK: Sir, if you would, please take a seat
9 in the jury box.

10 Number 122, Shay Nabors.

11 What says the State?

12 MS. SIMMONS: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. GRIFFIN: Present her, please.

15 THE CLERK: Ma'am, if you would, please take a
16 seat in the jury box.

17 Number 164, Mark Vaughn.

18 What says the State?

19 MS. SIMMONS: Please present the juror.

20 THE CLERK: What says the defense?

21 MR. GRIFFIN: Present him, please.

22 THE CLERK: Sir, if you would, please take a seat
23 in the jury box.

24 Number 4, George Askew.

25 What says the State?

1 MS. SIMMONS: Please present the juror.

2 THE CLERK: What says the defense?

3 MR. GRIFFIN: Excuse him, please.

4 THE CLERK: Sir, you have been excused from this
5 case. You may be seated.

6 Number 149, Annette Stephenson.

7 What says the State?

8 MS. SIMMONS: Please present the juror.

9 THE CLERK: What says the defense?

10 MR. GRIFFIN: Present her, please.

11 THE CLERK: Ma'am, if you would, please take a
12 seat in the jury box.

13 Number 127, Kevin Quarles.

14 What says the State?

15 MS. SIMMONS: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. GRIFFIN: What number did you say that was?

18 THE CLERK: Number 127.

19 MR. GRIFFIN: Present him, please.

20 THE CLERK: Sir, if you would, please take a seat
21 in the jury box.

22 Number 109, Mark McCarthy.

23 What says the State?

24 MS. SIMMONS: Please present the juror.

25 THE CLERK: What says the defense?

1 MR. GRIFFIN: Excuse him, please.

2 THE CLERK: Sir, you have been excused from this
3 case. You may be seated.

4 Number 30, David Cobb.

5 What says the State?

6 MS. SIMMONS: Please present the juror.

7 THE CLERK: What says the defense?

8 MR. GRIFFIN: Present him, please.

9 THE CLERK: Sir, if you would, please take a seat
10 in the jury box.

11 Number 66, William Gravley.

12 What says the State?

13 MS. SIMMONS: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. GRIFFIN: Excuse him, please.

16 THE CLERK: Sir, you have been excused from this
17 case. You may be seated.

18 Number 87, John Hulsey.

19 What says the State?

20 MS. SIMMONS: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. GRIFFIN: Present him, please.

23 THE CLERK: Sir, if you would, please take a seat
24 in the jury box.

25 This will be for our first alternate.

1 Number 31, Kelly Cochran.

2 THE COURT: All right. Two and one on the
3 alternates.

4 THE CLERK: What says the State?

5 MS. SIMMONS: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. GRIFFIN: Excuse her, please.

8 THE CLERK: Ma'am, you have been excused from this
9 case. You may be seated.

10 Number 55, Lacey Finfrock.

11 What says the State?

12 MS. SIMMONS: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. GRIFFIN: Present her, please.

15 THE CLERK: Ma'am, if you would, please take a
16 seat in the jury box.

17 This will be for Alternate Number 2.

18 58, Philip Fronek.

19 What says the State?

20 MS. SIMMONS: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. GRIFFIN: Excuse him, please.

23 THE CLERK: Sir, you have been excused from this
24 case. You may be seated.

25 Number 48, Kelby Dobbs.

1 What says the State?

2 MS. SIMMONS: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. GRIFFIN: Present her, please.

5 THE CLERK: Ma'am, if you would, please take a
6 seat in the jury box.

7 THE COURT: Is there any reason this jury cannot
8 be sworn for the trial of this case?

9 MR. WAGNER: No, sir.

10 THE COURT: From the defense?

11 MR. GRIFFIN: No, sir.

12 THE COURT: All right. Mr. Hulsey, I'm going to
13 ask you to serve as foreman of this jury. So when we
14 come back, I'll ask you to sit in that first seat on
15 the front row.

16 THE FOREPERSON: Okay.

17 THE COURT: And the two alternates will always sit
18 at the end of the back row. Those are the only
19 reserved seats in the jury box because they are the two
20 that I need to be able to identify if something happens
21 or comes up. Everybody else can sit wherever they want
22 to in the box except for that last seat in the front
23 row because it's difficult to see the witnesses from
24 that last seat, and you want to sit closer to wherever
25 you are on the front row at the end.

1 So, therefore, I'm going to ask you to go with the
2 bailiff. He will show you the jury room that you will
3 be using during the trial of this case. I need to take
4 some matters up with the balance of the jury panel as
5 well as the attorneys.

6 But my instructions throughout the trial of the
7 case will be that you're not to undertake the
8 discussion of the case among yourselves in any way.
9 The reason for that, of course, is you don't know
10 what's going to be the most important part of the case.
11 It could be the opening statements by the attorneys,
12 the first witness, the closing arguments of the
13 attorneys, the charge on the law. So you need to have
14 an open mind throughout the trial of the case because
15 you never know what part is going to impress you the
16 most. Therefore, as I say, do not undertake the
17 discussion of the case amongst yourselves or permit
18 anyone else to discuss it with you.

19 With that, I'll ask you to retire to the jury room
20 with the bailiff.

21 Everyone else remain seated while the jury retires
22 from the courtroom.

23 (Whereupon, the jury exited the courtroom
24 at 12:19 p.m.)

25 THE COURT: All right. Ladies and gentlemen of

1 the jury panel who were not drawn on the trial of this
2 case, I'm going to excuse for the balance of the day.
3 However, I'm going to ask that you call in Tuesday
4 night, that will be tomorrow night, after 6 o'clock.

5 Now, do you have the telephone number? Madam
6 Clerk, were they --

7 THE CLERK: It's on the top of their letters.

8 THE COURT: If you have the letter that was given
9 to you this morning. All right. Call that number
10 after 6 o'clock and there will be a message on it. It
11 will either tell you to come in in the morning or
12 not -- or not in the morning but Wednesday morning or
13 call back, something of that nature. But whatever the
14 message says, do that. Your clerk of court has
15 provided this as a means of being able to permit you to
16 not have to be here unless it's absolutely necessary if
17 you're drawn or to be drawn on a jury.

18 If you are drawn, of course, it's absolutely
19 necessary that you do be here. So, therefore, call the
20 telephone number after 6 o'clock and do what the
21 message says.

22 Now, Ms. Metz, I'm sorry, but that's going to have
23 to include you, too. But if you would, please, call
24 back tomorrow afternoon after 6:00 p.m. All right?

25 Does everybody have the telephone number? Anybody

1 that does not have the telephone number, raise your
2 hand. Does everybody understand what to do as far as
3 being here -- yes, sir.

4 POTENTIAL JUROR: I just want to make sure I heard
5 you correctly. Tuesday afternoon; am I correct?

6 THE COURT: Tuesday afternoon after 6 o'clock.

7 POTENTIAL JUROR: Yes, sir. Thank you.

8 THE COURT: It will be on all night. So if you
9 don't get through the first time, keep calling and you
10 will get through. I'm glad you mentioned that because
11 if you don't get the message from the machine tomorrow
12 night, Tuesday night, you will have to get it from me
13 Wednesday morning. And I think you would rather get
14 the message from the machine. So keep calling until
15 you do get through.

16 All right. With that, I look forward to working
17 with you this week, but you are excused for the balance
18 of the day. And call back tomorrow afternoon after
19 6 o'clock the number you have. Very good. Thank you
20 very much.

21 Everyone else remain seated while the jury retires
22 from the courtroom.

23 (Whereupon, the remainder of the potential jurors
24 exited the courtroom at 12:23 p.m.)

25 THE COURT: All right. What time do you want to

1 start Wednesday?

2 MS. SIMMONS: Your Honor, there is a *Jackson v.*
3 *Denno* hearing that we will need to do Wednesday
4 morning. I don't anticipate that it would take more
5 than an hour.

6 THE COURT: So do you want to start at 10:00?

7 MS. SIMMONS: That's fine, Judge.

8 THE COURT: Then we can do the *Jackson v. Denno* at
9 9:00.

10 Mr. Griffin, can you make it here at 9:00?

11 MR. GRIFFIN: Yes, sir. I'll do my best, weather
12 permitting.

13 THE COURT: Well, we can say 10:30.

14 MS. SIMMONS: That would be fine, Judge. 9:30 and
15 10:30?

16 THE COURT: Yes, ma'am. Well, I do want to -- I'm
17 going to say 9 o'clock on the *Jackson v. Denno*. And if
18 we have trouble getting here, then it might be a little
19 bit later. But I don't want the jury to have to sit
20 back there and starting late. So I'm going to suggest
21 9 o'clock on the motion hearing, then 10:30 for the
22 jury's report.

23 MS. SIMMONS: Thank you, Judge.

24 THE COURT: Is that all right, Mr. Griffin?

25 MR. GRIFFIN: Yes, sir.

1 THE COURT: All right. Let's ask the jury to join
2 us, please.

3 (Whereupon, the jury came into open court at
4 approximately 12:25 p.m.)

5 THE COURT: All right, Mr. Foreman, we are not
6 going to start the trial of this case -- I have some
7 other things I have to take care of before we do start
8 the trial, so we're going to start Wednesday morning.
9 But even Wednesday, I've got some things I have to do
10 before we start this trial, so I'm going to suggest
11 that we come in at 10:30. We've got -- we'll be here
12 earlier, about 9 o'clock, in order to take care of
13 those things, but I do -- I think by 10:30 everything
14 will be out of the way and we can start so you don't
15 have to spend that much time back in the jury room.

16 Now, I tell jurors that this is perhaps the most
17 difficult part of the trial because you're going home
18 this afternoon or this evening, and somebody is going
19 to ask you, "What are you doing?" And they're going to
20 say -- you're going to tell them, "Well, I've been
21 drawn on a jury." They will say, "Well, what's it
22 about?" And you're going to have to say -- well, you
23 can't tell them. And they're going to look at you and
24 say something like, "That's ridiculous." And you're
25 going to have to tell them that you can't talk about it

1 because the judge said so. And then if they don't
2 understand, tell them I'll be here about 8:30 in the
3 morning, that's Tuesday morning. I'll be glad to
4 explain it to them. But I think that you understand
5 that this case is important to everybody involved in
6 the case and that it needs to be resolved in the proper
7 fashion, which means by the 12 jurors who will
8 ultimately be sitting on the deliberations of this case
9 when that takes place. And no one who will not be
10 sitting in that jury box with you or in that jury room
11 with you when you deliberate the verdict in the case
12 will be able to help you. Because they haven't heard
13 the first bit of testimony, argument, or seen the first
14 exhibit or anything else. The only thing they can do
15 is interfere with the proper resolution of the case.
16 So that's why I tell you that if they insist on talking
17 to you about it or asking you about it, tell them I'll
18 be glad to explain it to them.

19 Now, with that, I'm going to excuse you, like I
20 say, until Wednesday morning at 10:30, and just come
21 back to the jury room that you were in today.

22 Mr. Bailiff, if you would be sure they understand
23 how to get to that room.

24 THE BAILIFF: Yes, sir.

25 THE COURT: With that, I excuse you. I look

1 forward to working with you, and I thank you for your
2 patience with the Court today.

3 Everyone else remain seated while the jury retires
4 from the courtroom.

5 (Whereupon, the jury exited the courtroom
6 at 12:29 p.m.)

7 THE COURT: All right. Is there anything from the
8 State?

9 MR. WAGNER: Nothing.

10 THE COURT: Anything from the defense?

11 MR. GRIFFIN: Nothing, your Honor.

12 THE COURT: All right. Well, I'll see y'all at
13 9 o'clock or soon thereafter as we can be. And you
14 have got your witnesses lined up on the *Jackson v.*
15 *Denno* as well as the trial?

16 MS. SIMMONS: Yes, sir.

17 THE COURT: Very good. All right. I'll see you
18 on this case at 9 o'clock on Wednesday.

19 (WHEREUPON, proceedings adjourned at 12:29 p.m.)
20
21
22
23
24
25

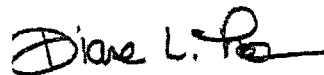
Certificate of Reporter

I, Diane L. Thommes, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Oconee County, South Carolina, on the 21st day of July 2014.

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

December 1, 2014



Diane L. Thommes, RPR, CRR
Circuit Court Reporter

1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5 Plaintiff,) 2013-GS-37-1043, 1044
6 -vs-) July 23, 2014
7 Laquavius T. Cleveland,) Volume II (pgs. 69-271)
8 Defendant.) Transcript of Record
9

10

11

B E F O R E:

12

13 The Honorable Alexander S. Macaulay, Judge;
and a jury.

14

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

16 Lindsey Satterfield Simmons, Esquire
David Rhys Wagner, Jr., Esquire
17 Assistant Solicitors for the Tenth Judicial Circuit

18 Charles R. Griffin, Jr., Esquire
Attorney for Defendant
19

20

21

22

23

24

25

Diane L. Thommes, RPR, CRR
Circuit Court Reporter

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E x h i b i t s

For the State:

<u>Marked</u>	<u>Description</u>	<u>I.D.</u>	<u>Admitted</u>
1	Rights waiver form	75	246
2	Statement of defendant	80	246
3	Record of Interview	86	246
4	Photograph	163	164
5	Photograph	164	165
6	Photograph	164	165
7	Photograph	164	165
8	Photograph	164	165
9	Photograph	164	165
10	Photograph	214	216
11	Photograph	214	217
12	Photograph	214	217
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19	Photograph	214	217
20	Photograph	214	217
21	Photograph	214	217
22	Photograph	214	217
23	Photograph	189	190
24	Photograph	190	191
25	Photograph	190	191
26	Photograph	190	191
27	Photograph	190	191
28	Photograph	190	191
29	Photograph	190	191
30	Photograph	179	180
31	Photograph	180	181
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33	Photograph	180	181
34	Photograph	180	181
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36	Photograph	180	181
37	Photograph	180	181
38	Photograph	180	181
39	Photograph	180	181
40	Photograph	180	181
41	Photograph	180	181
42	Photograph	180	181
43	CD of 911 call	174	175

For the Defendant:

<u>Marked</u>	<u>Description</u>	<u>I.D.</u>	<u>Admitted</u>
1	Polygraph consent	93	93
2	Parent/Guardian's consent	126	

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:37 a.m.)

4 THE COURT: Is the State ready to proceed?

5 MR. WAGNER: Yes, sir.

6 THE COURT: Defense ready to proceed?

7 MR. GRIFFIN: Yes, sir.

8 THE COURT: All right. We're back on the case of
9 State of South Carolina versus Laquavius Tyshawn
10 Cleveland. I understand there is a question as to the
11 voluntariness and admissibility of a statement
12 allegedly made by the defendant.

13 Is there anything from the defendant before we
14 proceed?

15 MR. GRIFFIN: Yes, sir. I've got a formal motion
16 to suppress regarding this statement that I would like
17 to tender.

18 THE COURT: Have you given them a copy of it?

19 MR. WAGNER: Yes.

20 THE COURT: Do you want to be heard on this motion
21 at this time or wait until we have the hearing?

22 MR. GRIFFIN: As part of -- I suppose the hearing
23 would be part of this.

24 THE COURT: That's what I would think, but I
25 wanted to be sure if you had something that you thought

1 might affect the admissibility of any statement.

2 MR. GRIFFIN: No, sir. It's all involving the
3 Jackson v. Denno hearing.

4 THE COURT: Very good. All right. With that --
5 and you are aware that he has moved to suppress any
6 statement made by the defendant?

7 MR. WAGNER: Yes, sir.

8 THE COURT: All right. You may proceed.

9 MR. WAGNER: Your Honor, we would call Sergeant
10 Tinsley.

11 MARGARET AMANDA TINSLEY,

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 THE COURT: If you would, please, ma'am, state
14 your name for the record.

15 THE WITNESS: Margaret Amanda Tinsley.

16 THE COURT: You may proceed.

17 DIRECT EXAMINATION

18 BY MR. WAGNER:

19 Q Sergeant Tinsley, can you tell us who you work for
20 and what are your job duties there?

21 A The Oconee County Sheriff's Office. I'm a
22 detective in investigations.

23 Q How long have you been working for the sheriff's
24 office?

25 A For about nine years, nine and a half years.

1 Q And how long have you been a detective in
2 investigations there?

3 A For about three years.

4 Q Part of your duties as a detective, are you on
5 call from time to time?

6 A I am.

7 Q Back on the weekend of July -- or July 8th, 2013,
8 were you on call that week?

9 A I was.

10 Q And as a result of that call, did you get called
11 out on a stabbing case involving the defendant,
12 Laquavius Cleveland?

13 A Yes.

14 Q Did you at any time that day talk to Laquavius
15 Cleveland and where did you talk to him, if you did?

16 A Yes, up at the sheriff's office.

17 Q And how did he get up there?

18 A His Aunt Patrice had picked him up from where he
19 had been and brought him to Corporal Philip Robertson
20 and Philip brought him to the sheriff's office.

21 Q Okay. And Philip, was he a road deputy at the
22 time?

23 A He was working -- he was working the road but
24 mainly through their traffic division worked the
25 interstate.

1 Q Okay. So he arrived at the sheriff's office in
2 Philip's patrol car?

3 A Yes.

4 Q Was he under arrest at the time?

5 A No.

6 Q And where did y'all talk to him?

7 A In investigations, in an interview room in
8 investigations.

9 Q About what time was that?

10 A Let's see. Around 5:48 p.m.

11 Q Did you advise him of his rights at that time?

12 A We did.

13 Q And did you do so using a form that you normally
14 use?

15 A Yes.

16 Q What do you call that form?

17 A It's a Miranda rights waiver form.

18 (WHEREUPON, State's Exhibit Number 1 was marked
19 for identification.)

20 BY MR. WAGNER:

21 Q Let me show you what's been marked State's
22 Exhibit 1 for identification. Do you recognize that?

23 A I do.

24 Q What is that?

25 A It's the form that we read him and that he signed

1 and initialed.

2 Q Is that the form you would use generally when you
3 were talking to somebody suspected of a crime?

4 A Yes.

5 Q And what's the title? What do you call that form
6 exactly?

7 A The rights form.

8 Q Okay.

9 A Miranda rights form.

10 Q Is it still in substantially the same condition as
11 it was when you used it that day?

12 A It is.

13 Q Is that the exact form that you used?

14 A It is.

15 Q Where did you talk to him? What kind of room is
16 this? It's like you call it an interview room. How
17 big is it?

18 A I think it's around an eight-foot-by-seven-foot
19 maybe room with no other doors but the door that comes
20 in and out of it with a table and four chairs.

21 Q And who was in there with you?

22 A Philip Robertson and Laquavius.

23 Q Just the three of you?

24 A Yes.

25 Q Was he denied any comforts like restroom, or did

1 you offer him anything to drink, anything to eat if he
2 wanted it?

3 A We did after we talked to him.

4 Q Okay. Was he in handcuffs?

5 A No.

6 Q Was he seated?

7 A Yes.

8 Q Was anybody else present besides Phil Robertson?

9 A No.

10 Q Was anybody like outside the door or anything or
11 just the three of y'all talking?

12 A Just the three of us.

13 Q And the form, State's Exhibit No. 1, what rights
14 exactly are on that form, and can you tell us exactly
15 how you went about advising him of his rights, what
16 exactly you said and how he did it?

17 A I told him before we ask him any questions we need
18 to read his rights to him since we were conducting an
19 investigation. It says, "Before we ask you any
20 questions, you must understand your rights. You have
21 the right to remain silent. Anything you say can be
22 used against you in court. You have the right to talk
23 to a lawyer for advice before we ask you any questions
24 and have him with you during questioning. If you
25 cannot afford a lawyer, one can be appointed for you

1 before questions if you wish. If you decide to answer
2 questions now without a lawyer present, you will still
3 have the right to stop answering questions at any point
4 in time." And the bottom part says, "I have read this
5 statement of my rights and I understand what my rights
6 are. I am willing to make a statement and answer
7 questions. I understand and know what I'm doing. No
8 promises or threats have been made to me and no
9 pressure or coercion of any kind has been used against
10 me."

11 Q Okay. And did you read it to him exactly like
12 that?

13 A I did.

14 Q Did you make sure that he understood it?

15 A Yes, and he signed -- he initialed beside each one
16 of those points and put his initial and signed it.
17 Philip witnessed it and I witnessed it.

18 Q So you went over it with him as you went, and he
19 was read each of those rights?

20 A Yes. Yes.

21 Q And he initialed that he understood it, and then
22 he signed saying that he understood it?

23 A Uh-huh.

24 Q In your time in law enforcement have you ever been
25 around people that have been under the influence of

1 alcohol or drugs?

2 A Yes.

3 Q Do you have an opinion as to whether he was under
4 the influence of anything that day? Did he seem to be
5 in his right frame of mind?

6 A He did. He didn't seem to be under the influence
7 of anything.

8 Q Did he talk to you normally?

9 A Yes.

10 Q Was his speech coherent?

11 A Yes.

12 Q Did he respond to your questions?

13 A Yes. He was very polite.

14 Q Did he agree to waive his rights and talk to you?

15 A Yes, he did.

16 Q At that point in time did y'all start discussing
17 what was happening and try to get his side of the
18 story?

19 A Yes.

20 Q Did you question him while you were doing that?

21 A Yes. What we typically do -- what I typically do
22 is allow them to tell us, and if I need clarification,
23 I'll ask somebody to clarify what they're saying,
24 but --

25 Q Did you -- at any time did anybody ever offer him

1 any hope for reward to get him to go ahead and talk to
2 you?

3 A No, it was very preliminary in the investigation.
4 We really -- I didn't even know -- I just knew that
5 someone had been stabbed, but I didn't know how many
6 times, I didn't know the seriousness of injuries or
7 anything like that. It was very, very early in the
8 investigation.

9 Q Were any threats or promises made to him in order
10 to induce him to sign the form, waive his rights and go
11 ahead and give you a statement?

12 A No.

13 Q Was there any intimidation?

14 A No.

15 Q Best of your knowledge, was his waiver of his
16 rights and his agreement to talk to you and the
17 statements that came later, were they given freely and
18 voluntarily by him?

19 A Yes, they were, uh-huh.

20 Q And did he tell you that he would talk to you?

21 A Yes.

22 (WHEREUPON, State's Exhibit Number 2 was marked
23 for identification.)

24 BY MR. WAGNER:

25 Q Let me show you what's been marked State's Exhibit

1 Number 2 for I.D. Do you recognize State's Exhibit 2
2 for identification?

3 A I do.

4 Q And what is that?

5 A This is the written statement that Laquavius wrote
6 after we initially had him talk to us and tell us what
7 happened. We asked him if he would write a voluntary
8 statement, and he agreed to write a voluntary
9 statement.

10 Q So what time, going back to State's Exhibit 1 on
11 the rights waiver, what time did you start talking to
12 him?

13 A We started talking to him, actually got his basic
14 information, at 5:48, and I read his rights to him at
15 5:50, we signed it at 5:52, and he began to write the
16 statement at 6:14.

17 Q In between that time was he telling you anything,
18 or did you just give him the statement and ask him to
19 start writing what happened?

20 A In between the statement and reading the Miranda?

21 Q In between the rights waiver and him agreeing to
22 talk to you, what happened in those minutes there? Did
23 you go ahead and give him the form and let him fill it
24 out?

25 A We let him talk to us first. And once he told us,

1 we then received his statement.

2 Q And is that statement still in substantially the
3 same condition as it was?

4 A It is.

5 Q Is that the original statement that he gave you?

6 A Yes, sir, it is.

7 Q Was that his writing or yours?

8 A It's his writing.

9 Q And what did he say happened?

10 A He said --

11 MR. GRIFFIN: Your Honor, I object to the
12 substance of the statement. That's beyond the scope of
13 a Jackson/Denno hearing, I believe.

14 THE COURT: Mr. Wagner.

15 MR. WAGNER: Your Honor, the Jackson v. Denno
16 hearing, that's what we're here for.

17 THE COURT: Actually, we're here to determine
18 whether or not a statement was given and if it was
19 given freely and voluntarily. Of course it's for the
20 Court. We have no jury here, so I'm going to permit
21 you to generally ask what the statement is about and,
22 again, what it is. Also as I understand, this is only
23 for identification purposes at this time and not for
24 admission or submission to the jury. All right.

25 BY MR. WAGNER:

1 Q In a nutshell, just --

2 THE COURT: Over your objection.

3 BY MR. WAGNER:

4 Q Basically what did he tell you on this statement,
5 State's Exhibit Number 2?

6 A He stated that they came over to his house and he
7 had -- Hakeem had fronted him \$200 about a year and a
8 half earlier. And Hakeem came over this particular day
9 wanting his money back, trying to get his money back.
10 And he said that Hakeem had a gun on him and he got
11 scared, and he stabbed him a couple of times in the
12 shoulder and ran.

13 Q Okay. And did he sign that statement?

14 A He did.

15 Q And did y'all -- when I say y'all, you and Philip
16 Robertson, anybody else?

17 A Just Philip and I witnessed it.

18 Q Did anybody promise him anything to give that
19 statement? Did anybody hold out any hope for reward to
20 give that statement?

21 A No.

22 Q Did anybody threaten or coerce him in any manner?

23 A No.

24 Q Did he stay -- after he gave you that statement,
25 did he stay around the sheriff's office there?

1 A He did.

2 Q And what did y'all do?

3 A We were waiting on some of the investigators.

4 Some of the investigators had been sent to Greenville.

5 Hakeem had been sent to Greenville because of his

6 injuries, so a couple officers had went to Greenville

7 Memorial to try to talk to him there. There were a

8 couple officers out at the scene where it took place,

9 and some of the people at the crime scene were at the

10 tire shop where he ended up at. So we were really

11 waiting for more information to come in from other

12 people. We went back to the conference room in CID.

13 We cut the television on and sat and watched television

14 while we waited for more information to come back.

15 Q So he wasn't being questioned in the lag there in
16 time?

17 A No.

18 Q Was he hungry? Did anybody offer him any food or
19 anything to drink?

20 A Captain Reed, Greg Reed, once they left the house
21 where this took place, he called us and asked us if he
22 wanted anything to eat or drink or anything because
23 they were coming back to the department. Laquavius and
24 I only got a sweet tea. Neither one of us were hungry,
25 so they brought us back sweet tea to drink.

1 Q So he got a sweet tea and you got a sweet tea. At
2 some point in time did you find out there was more to
3 the case? When these other detectives got back, did
4 you find out there was more to the case than he had
5 initially told you in State's Exhibit 2?

6 A We did. When Sergeant McMahan had gotten back, he
7 told us that Hakeem had been stabbed 11 times, and
8 Hakeem had given him pictures of text messages that
9 showed and talked about what Laquavius and Hakeem were
10 talking about in these text messages, Hakeem selling a
11 little bit of marijuana and a gun to Laquavius. And
12 that was why they were initially meeting, according to
13 Hakeem.

14 And so we got that information and realized the
15 extent of his injuries and how many times he had been
16 stabbed and the reason he was there and that didn't --
17 that didn't match up with what Laquavius had told us
18 initially in his initial statement.

19 Q And during that time frame for the officers to get
20 back, for you to find that out, for y'all to be sitting
21 there and watching TV and drinking iced tea, did that
22 take several hours?

23 A It did.

24 Q At some point in time later that evening did you
25 go ahead and talk to him again, and was he essentially

1 in custody with y'all; he had never left?

2 A Right.

3 (WHEREUPON, State's Exhibit Number 3 was marked
4 for identification.)

5 BY MR. WAGNER:

6 Q Let me show you what's been marked State's
7 Exhibit 3 for I.D. Do you recognize State's Exhibit
8 Number 3?

9 A I do.

10 Q What is that?

11 A It's the notes that I took on the second interview
12 when we were speaking -- when Captain Greg Reed and I
13 were speaking with Laquavius.

14 Q What time did y'all start talking to him again?

15 A It was at 1:15 a.m.

16 Q So it was late. Who was with you when you were
17 talking to Laquavius?

18 A Captain Greg Reed, Laquavius and I were in the
19 same room.

20 Q Same interview room?

21 A Uh-huh.

22 Q When you started talking to him, did you confront
23 him with new information that you had?

24 A We did. We told him about what we had discovered
25 from Hakeem, the photographs that we had of the text

1 messages, that we knew that it wasn't consistent with
2 what he told us initially, and we told him how many
3 times Hakeem had been stabbed.

4 Q Did y'all threaten him or try to coerce him in any
5 manner to talk to you?

6 A No.

7 Q Just --

8 A We just confronted him that it just wasn't adding
9 up.

10 Q Nobody tried to coerce him or threaten him?

11 A No.

12 Q Nobody promised him anything or held out any hope
13 for reward to get him to talk to you?

14 A No.

15 Q He agreed to talk to you some more?

16 A He did.

17 Q And, in a nutshell, what did he tell you the
18 second go-round?

19 A He -- he told us what was consistent with what
20 Hakeem had said, that he had contacted Hakeem --

21 MR. GRIFFIN: Your Honor, again I'm going to
22 object to the substance of the statement.

23 THE COURT: All right. Same objection?

24 MR. GRIFFIN: Yes.

25 THE COURT: Overruled.

1 THE WITNESS: It was that he and Hakeem, he had
2 contacted Hakeem, who was his cousin, in reference
3 to -- and who he had also bought a little bit of drugs
4 and a gun from before, that he contacted him in
5 reference to buying a little bit of marijuana and a
6 gun. He said the gun wasn't for him, it was for
7 someone else. But he had contacted him about that, and
8 they talked in those text messages, and he told us that
9 they did. And he said that was why Hakeem had come
10 over, over to his house. He said that he didn't have
11 the money to buy it, his mama was in a desperate
12 financial situation, so he planned on actually robbing
13 Hakeem of the gun and the marijuana and just robbing
14 from -- robbing him.

15 And he said that he went into the house after they
16 talked in the car for a little bit. He went back into
17 the house, he got a butcher knife. He described it
18 like what Michael Myers used in the movie *Halloween*,
19 butcher knife with a black handle. He got that and
20 come back outside. And when Hakeem looked away at the
21 neighbor's house and got distracted and wasn't looking
22 at him, he started stabbing him. And they scuffled for
23 a second, and then he took off running.

24 Q Was his second statement consistent with what you
25 had found out had happened through the rest of your

1 investigation?

2 A Yes.

3 Q How this defendant said he stabbed the victim,
4 from the angle and everything, was that consistent with
5 the wounds on the victim?

6 A Yes.

7 Q As a result of that, did you have him -- did you
8 get a written statement out of him to the second part
9 of that?

10 A We asked him if he would write a written
11 statement, and he said he was tired. He didn't feel
12 like it. I said, "Do you mind signing my notes?" And
13 he said, "No, I'll sign your notes." So I read my
14 notes back to him, and he signed my notes. And I
15 witnessed it and Greg Reed witnessed it. And that was
16 at 1:58 a.m.

17 Q And he signed your notes as being what his --

18 A Yes.

19 Q -- his statement was?

20 A Yes. I told him, "You let me know if I left
21 anything out. You let me know if there's something in
22 here that I have incorrect, that I need to change. If
23 you need to change anything, just point it out, let me
24 know."

25 Q I'll ask you this one more time. Was he ever

1 promised anything?

2 A No.

3 Q Was he ever threatened in any manner?

4 A No.

5 Q Was any coercion ever used against him to either
6 waive his rights or give you the first or second
7 statement?

8 A No.

9 Q To the best of your knowledge, was it freely and
10 voluntarily given by him?

11 A It was.

12 Q After that -- after the second statement, did you
13 get warrants the next morning?

14 A We got warrants that morning. I mean, probably
15 at, I think, just after this, probably around 2:30 a.m.
16 we stayed, went ahead and got -- we called Judge Norton
17 out, who met us at his office, and we went ahead and
18 got the warrants at that time.

19 Q At any time did he ever ask for an attorney?

20 A No.

21 Q If he had, would you have provided him one?

22 A We would have stopped our interview until he was
23 able to have one present.

24 Q But he wanted to talk to you and he kept talking
25 to you?

1 A Yes.

2 Q Thank you.

3 MR. WAGNER: That's all the questions I have.

4 THE COURT: All right.

5 Mr. Griffin.

6 MR. GRIFFIN: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. GRIFFIN:

9 Q All right. He was 16 years old at the time; isn't
10 that correct?

11 A That's correct.

12 Q And did you determine how far he went in school?

13 A We did.

14 Q How far was that?

15 A Says that eleventh grade, he will be going to Code
16 Academy.

17 Q He was going into the eleventh grade, but he just
18 got out of the tenth?

19 A Said he was -- eleventh grade will be Code
20 Academy, will be going to Code Academy.

21 Q So he was progressing to the eleventh grade at
22 that time; is that correct?

23 A Uh-huh.

24 Q Okay. And did anyone -- when he was brought to
25 the station, did anyone contact his mother?

1 A It was -- she was contacted before, actually.

2 Corporal Philip Robertson knew his mother previously,
3 beforehand.

4 Q Yes, ma'am.

5 A And she talked to him, and out of politeness, he
6 really asked her did she mind us talking to him and she
7 said no.

8 Q Did she ever call back and want to talk to him
9 while he was in there?

10 A No. I called her while talking to Laquavius. He
11 said that their house had cameras on it and that we
12 probably -- the whole thing would have been on video,
13 so I called her. She was at work, so I called her and
14 talked to her and asked her could she get us a copy
15 from ADT, a copy of that video from the house.

16 Q Okay. Was that before or after the first
17 statement was given?

18 A That was after.

19 Q And after the first statement was given, y'all
20 arranged for a polygraph to be taken?

21 A We did.

22 Q Okay. And how long did it take for the polygraph
23 examiner to get there?

24 A About an hour. He lives in Easley.

25 Q All right. And were you present during the

1 polygraph?

2 A I didn't go in the room, but I was at the -- I was
3 there in CID, in investigations.

4 (WHEREUPON, Defendant's Exhibit Number 1
5 was marked for identification.)

6 BY MR. GRIFFIN:

7 Q Okay. Is this a copy of the alleged consent that
8 Laquavius signed to be polygraphed?

9 A It appears to be. I didn't -- I didn't take this
10 from her, though. A different officer took this from
11 her, took it up there.

12 Q Somebody from the sheriff's office?

13 A She, Nina McKee, and Mike Lark, who's the
14 polygraph examiner.

15 Q Yes, ma'am.

16 A Met Yashica at her place of business, her work,
17 and met her there and got it signed by her there.

18 Q But that's the one Laquavius signed, isn't it?

19 A It looked like Laquavius' handwriting.

20 Q Okay? But I don't have a copy of that. Mike Lark
21 would have it.

22 MR. GRIFFIN: I move defense Exhibit 1 for
23 identification.

24 (WHEREUPON, Defendant's Exhibit Number 1 was
25 admitted into evidence.)

1 BY MR. GRIFFIN:

2 Q What time did the polygraph begin?

3 A I'm not sure. You would probably have to ask Mike
4 Lark that. He makes notes of those things. I didn't
5 make a note of it.

6 Q Do y'all have Mike Lark's notes?

7 A I have -- let's see. Here I don't. They do.

8 Q Okay. Do you recall what the note said?

9 A All I recall is he was showing signs of deception.
10 When Mike come out of the polygraph room, he told us he
11 was showing signs of deception.

12 Q And did -- was that communicated to Laquavius?

13 A I'm sure it was.

14 Q Okay. And who communicated that to him, to the
15 best of your knowledge?

16 A Best of my knowledge, it probably would have been
17 Mike Lark.

18 Q Okay. And then the second statement was taken; is
19 that correct?

20 A It was.

21 Q Okay. And that was taken as a result of the
22 polygraph examination?

23 A And the new information we had received that
24 didn't match his statement, his first statement.

25 Q Okay. Did you talk to the aunt that brought him

1 up there?

2 A No. She didn't bring him to the sheriff's office.
3 She met Philip Robertson at Laquavius' house. She took
4 him to Philip, and then Philip brought him to the
5 sheriff's office.

6 Q Okay. Do you recall what, if anything, his aunt
7 told him?

8 A I wasn't there when his aunt was with him, so I
9 don't know what he told her. I have no idea.

10 Q So you're not aware that she told him if he went
11 and gave y'all a statement, that he could go home?

12 A No, I wasn't aware of that.

13 Q Okay. I believe the only -- what kind of prior
14 contact did Laquavius have with law enforcement prior
15 to this date?

16 A Prior to this date, only time I personally had
17 anything with him was I went out to -- I got called out
18 when I worked the road in reference to a fight his mama
19 and her boyfriend had had, but nobody went to jail at
20 that time. He was just a witness to their altercation.
21 But other than that, he had other altercations with
22 other officers where he had been charged with attempted
23 murder, four other counts, with David McMahan.

24 Q Was that prior to this or right around the same
25 time?

1 A Prior to this. I think about a year earlier.

2 Q All right. Was he charged as a juvenile back
3 then?

4 A He was charged as a juvenile because he was 15
5 when it happened.

6 Q Do you recall what kind of -- was he held in
7 detention or was he allowed to go back home then?

8 A I wasn't a part of that investigation.

9 Q Okay. Are those charges still pending?

10 A Yes.

11 Q Okay.

12 A They're pending now in general sessions.

13 Q Okay. All right. After the second statement was
14 supposedly signed by Laquavius, that was around
15 2 o'clock in the morning?

16 A Yes.

17 Q So he was at the -- he was brought by a deputy to
18 the sheriff's office?

19 A Uh-huh.

20 Q Okay. And that lasted about eight hours?

21 A Let's see. Four, six -- six or seven hours.

22 Q Okay. I'm going to look here for a second.

23 The -- according to the notes I have that he --
24 according to, I believe, your notes, around 7 --

25 July 8, 2013, at 5:48 p.m. on your record of interview;

1 would that be correct?

2 A Yes.

3 Q Okay. And then the last statement, last statement
4 that he eventually gave was --

5 A At 1:58.

6 Q At 1:58 a.m., the next day?

7 A The next morning, uh-huh.

8 Q So that would be two hours -- almost two hours
9 into the next day, correct?

10 A Yes.

11 Q And then we're starting at right around 6 o'clock
12 the previous day, so six plus two is eight hours,
13 correct?

14 A Okay.

15 Q Did he -- I believe y'all asked him to call his
16 mother at one point?

17 A Uh-huh.

18 Q That was for the purposes of --

19 A Obtaining video --

20 Q -- verifying whether or not there was a security
21 system at the house?

22 A Uh-huh.

23 Q And that was after the first day, correct?

24 A Right.

25 Q And he didn't want to sign -- write up another

1 statement because you said he was tired?

2 A Everybody was tired.

3 Q Okay. And had he been asleep any that night?

4 A Had he been asleep any that night?

5 Q Yes, ma'am.

6 A No.

7 Q He was awake the whole time?

8 A Yeah.

9 Q You say the reason this Mr. Hakeem was over at the
10 house was to deliver a gun and marijuana to a
11 16-year-old?

12 A Uh-huh --

13 MR. WAGNER: Objection, your Honor.

14 MR. GRIFFIN: Your Honor, they got into it.

15 THE COURT: What's your objection?

16 MR. WAGNER: Your Honor, he's getting into things
17 outside the scope.

18 THE COURT: He's waiving his objection.

19 MR. GRIFFIN: I withdraw it, then.

20 BY MR. GRIFFIN:

21 Q Did you ever find out what kind of grades
22 Laquavius made while he was in school?

23 A No, I didn't find out what kind of grades he made.

24 Q And he was carried straight to detention from --
25 after he gave the last statement, y'all placed him

1 under arrest?

2 A Yes.

3 Q Was he free to leave prior to this?

4 A We didn't -- we didn't -- we really were just
5 detaining him, really.

6 Q Detaining him?

7 A But he was -- we -- we -- he was willfully staying
8 because he wanted, we thought, wanted to. -- I
9 thought -- personally I thought that there may be
10 video. He was telling us the truth. He was very
11 cooperative. So he was willfully saying, "Yeah, I'll
12 call my mama. We got it on video." So I thought,
13 yeah, he was staying because he was wanting to
14 cooperate.

15 Q Did you tell him he was free to leave at any
16 point?

17 A I don't remember if we did or didn't.

18 Q Okay.

19 Did y'all give him anything to eat while he was
20 there?

21 A We offered, but he didn't want anything to eat.

22 MR. GRIFFIN: That's all I have, your Honor.

23 THE COURT: Re-exam?

24 REDIRECT EXAMINATION

25 BY MR. WAGNER:

1 Q So he was there until the early morning hours into
2 the 8th on that second statement?

3 A Yes.

4 Q Were you able to find out what time he had gone to
5 bed the day before or what time he had gotten up?

6 A From what I understand, it was around noon. He
7 and his cousin had stayed up the night before playing
8 video games, so they didn't wake up until about noon
9 the next day.

10 Q So he had only been up about six hours when y'all
11 first started talking to him?

12 A Right.

13 Q So it wasn't like he had been up 24 hours or
14 something?

15 A Right.

16 Q I guess the flip side of that coin is how long had
17 you been up that day?

18 A I had been up since 6:00 a.m.

19 Q What does your day start off with?

20 A It started off with getting ready for work and
21 coming to work.

22 Q Did you work a murder that day, too?

23 A I worked a murder the very next day.

24 Q So if he went to bed at noon or got up at noon
25 that day, y'all were talking to him about six hours

1 later?

2 A Yes.

3 Q And then he was there for six to seven hours or so
4 from start to finish?

5 A Yes.

6 Q And part of that time was watching TV and just
7 hanging out?

8 A That's correct.

9 Q And he did have iced tea?

10 A He did.

11 Q And he was offered food but he didn't want
12 anything?

13 A Right. He said he wasn't hungry. And I didn't
14 eat either.

15 Q Did he ever complain about being tired or wanting
16 to leave or --

17 A No, he was -- he had just appeared to be patiently
18 waiting like the rest of us to find out about the
19 video. And all that took time unfortunately because we
20 had to contact his mama at work, and she had to wait
21 until she was on break to be able to call her
22 ex-boyfriend and to get information about the --
23 because he apparently had an app on his phone where he
24 could pull the video system up on his phone. And in
25 the meantime, when that was taking place, we ended up

1 going and meeting his mama or Deputy Nina McKee met his
2 mama at work and got that waiver signed for the
3 polygraph. And at that point she found out -- his mama
4 found out that the system had not been working for
5 several months. So at that point is when we realized
6 we didn't have any video of it.

7 Q Thank you, ma'am. That's all the questions I
8 have.

9 THE COURT: All right. Anything else? Recross?

10 MR. GRIFFIN: No, sir.

11 THE COURT: All right. You may step down. Thank
12 you, ma'am.

13 MR. WAGNER: Your Honor, we would call Captain
14 Reed.

15 GREG REED,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: If you would, please, sir, state and
18 spell your name for the record, sir.

19 THE WITNESS: Greg Reed.

20 THE COURT: Very good. Thank you. Spell your
21 last name.

22 THE WITNESS: R-e-e-d.

23 THE COURT: Thank you, sir.

24 DIRECT EXAMINATION

25 BY MR. WAGNER:

1 Q Captain Reed, who do you work for?

2 A Oconee County Sheriff's Office.

3 Q And what are your job duties there?

4 A I'm captain of CID and a couple other divisions.

5 Q CID being investigations?

6 A That's correct.

7 Q How long have you worked for the sheriff's office?

8 A 29 years-plus.

9 Q Okay. Were you working back on July 8th, 2013?

10 A I was.

11 Q Did you get involved in assisting Sergeant Tinsley
12 with an interview involving the defendant, Laquavius
13 Cleveland?

14 A Yes, I did.

15 Q Where did this occur and about what time did you
16 get involved?

17 A In the interview or the actual case?

18 Q Well, the actual case, I guess, briefly, and then
19 the interview.

20 A Okay. Actually, I was notified. If I'm not
21 mistaken, Sergeant Tinsley notified me that we had a
22 stabbing. I directed some investigators to go to the
23 incident location on Shiloh Road. Myself and another
24 investigator ended up going to Brown Street where the
25 defendant lived. Then I ended up sending some

1 investigators on to Greenville since Mr. Kirkland was
2 transported at that time to Greenville because of his
3 injuries.

4 Then later on that evening after we finished up,
5 ended up back at the law enforcement center in the CID.
6 On the way up there I called, asked if anybody needed
7 anything to eat. I actually did take Sergeant Tinsley
8 and the defendant an iced tea. And then after -- after
9 getting there, the other officers called and let us
10 know and did come back and let us know what they had
11 found out at Greenville from the victim and from the
12 cell phone.

13 And by that time we went into the next interview
14 after the interview he was just in showed deception,
15 which already has been brought out, and that's when we
16 got the next statement.

17 Q Okay. So were you present with Sergeant Tinsley
18 on the second statement?

19 A Yes, I was.

20 Q From the start?

21 A Yes.

22 Q You had been present prior to that, but you
23 weren't present when he was Mirandized?

24 A No. Actually, I wasn't, but when I come to the
25 center, I actually released Corporal Robertson where he

1 could go on with his duties.

2 Q And were you present at all during the first
3 statement?

4 A No.

5 Q The second statement that's marked State's
6 Exhibit 3 for identification, do you recognize that?

7 A Yes, I do.

8 Q Were you present when Sergeant Tinsley was filling
9 that out?

10 A Yes, I was.

11 Q Was she taking those notes and what's written on
12 State's Exhibit 3 on there, was she writing that down
13 as the defendant was talking?

14 A Yes, she was.

15 Q Were you there the entire time she was writing and
16 present when everything front and back was written?

17 A Yes, I was.

18 Q Were you present when the defendant signed it and
19 adopted those notes as his statement?

20 A I was.

21 Q Was he tired and at that point didn't want to give
22 a written statement?

23 A Yes, sir. He was asked -- Sergeant Tinsley asked
24 if we could actually get it in writing, and he advised
25 he was just tired and wanted to rest.

1 Q Okay. But then he signed it in your presence?

2 A Exactly, yes.

3 Q Okay. Did anybody ever promise him anything to
4 talk to y'all in that second -- second statement and
5 sign that statement as his notes -- as his statement?

6 A No, sir.

7 Q Did anybody ever hold out hope for reward that he
8 would benefit from talking to you and making that
9 statement?

10 A No, sir.

11 Q Did anybody ever threaten him or try to coerce him
12 in any manner?

13 A No, sir.

14 Q To the best of your knowledge, did he freely and
15 voluntarily talk to you and give you that statement?

16 A Yes, sir.

17 Q When you say you called up about bringing food up
18 earlier on your way back up there, that statement was
19 given after midnight. Approximately what time were you
20 calling and what time were you coming up to the
21 sheriff's office do you think?

22 A I don't know, but I know I got there probably a
23 couple hours before this statement because the tea and
24 everything was gotten, I think, before actually --
25 before the polygraph.

1 Q Was the defendant offered to get -- did you offer
2 to get food for him, too?

3 A Yes.

4 Q He just didn't want it?

5 A No. All he wanted was a sweet tea.

6 Q Sergeant Tinsley didn't want food either?

7 A Sweet tea.

8 Q Did he appear to be in his right frame of mind?

9 A Yes, he did.

10 Q Did he appear to understand what you were asking
11 him or what y'all were talking about?

12 A Yes, he did.

13 Q Was he cooperative and did he answer your
14 questions?

15 A Yes, he did and was.

16 Q On the second statement, did y'all confront him
17 with -- I say new evidence -- stuff that you had
18 learned since he talked to Sergeant Tinsley earlier
19 that evening?

20 A Yes. That was the main reason for us going back
21 in, to let him know what we had learned through the
22 investigation. It didn't match up with anything he had
23 told us earlier.

24 Q What he had told you on that second statement, did
25 it corroborate what you knew and believed to be true

1 about the case as it was?

2 A Yes, it did.

3 Q Was it consistent with what the other versions --

4 A Yes, it was consistent with what had been found
5 out by the other investigation.

6 MR. GRIFFIN: Your Honor, I object to that and
7 move to strike. That's not within the line of
8 *Jackson/Denno*, the statement is accurate.

9 THE COURT: I think it is because otherwise it
10 wouldn't be admissible at all.

11 MR. GRIFFIN: Well, the scope of *Jackson/Denno* is
12 whether it was voluntary. We're not at that stage.

13 THE COURT: Well, there again, I have to make an
14 initial ruling to find out if it's even admissible as
15 being relevant and material. And if it's not accurate,
16 then obviously it's not admissible. It will be for the
17 jury to determine whether or not it was actually made,
18 and if it was made, if it's an accurate statement.
19 I'll overrule your objection.

20 MR. WAGNER: Your Honor, nothing further for this
21 witness.

22 THE COURT: All right.

23 Cross-examine.

24 CROSS-EXAMINATION

25 BY MR. GRIFFIN:

1 Q Why was the polygraph examiner called in?

2 A To see if his version of his first statement was
3 true and accurate.

4 Q Okay. And were you present when Mr. Lark informed
5 him of the results of the polygraph?

6 A I was at the center when -- yes, sir, when that
7 happened, but I wasn't present when he told him, no.

8 Q Okay. But you are aware that did happen?

9 A Yeah. And I'm sure that we -- we also told him
10 that he didn't do good on the polygraph.

11 Q Who confronted him with this new evidence?

12 A Myself and Sergeant Tinsley.

13 Q All right. Did y'all tell him he was lying on the
14 first statement?

15 A We told him his first statement didn't match in
16 any way with what we had learned through the
17 investigation.

18 Q All right. Did any of this subsequent information
19 you received match the alleged victim's first
20 statement?

21 A I would have to look at his first statement, but,
22 yes, I believe it did.

23 Q Well, didn't that victim tell y'all to begin with
24 he didn't know why he did it?

25 A Again, I'd have to look at it. I wasn't part of

1 that statement.

2 Q Okay. When Mr. Cleveland had been prior detained
3 on some other charges, are you aware of the
4 circumstances surrounding his detention and release in
5 those cases?

6 A I'm aware of the cases a little bit, but I'm not
7 aware that much of his release.

8 Q Okay. Do you know whether or not -- well, he
9 wasn't detained on those charges indefinitely, was he?

10 A No, sir. If he had been, he wouldn't have been
11 out to be involved in this.

12 Q To be arrested for this one?

13 A Yeah.

14 Q Okay.

15 MR. GRIFFIN: That's all I have of this witness,
16 your Honor.

17 THE COURT: Okay.

18 Re-exam?

19 MR. WAGNER: Nothing, your Honor.

20 THE COURT: All right. You may step down.

21 MR. WAGNER: Your Honor, that's all we have got as
22 to this issue.

23 THE COURT: All right.

24 Mr. Griffin, you renew your motion?

25 MR. GRIFFIN: Yes, sir. I renew my motion.

1 THE COURT: All right. I found that there is
2 enough to go forward. And does the defendant have
3 anything it wants heard on the *Jackson v. Denno*?

4 MR. GRIFFIN: Excuse me, your Honor?

5 THE COURT: I say I find enough to go forward, in
6 other words, deny your motion. But does the defendant
7 have anything he wants to offer on the *Jackson v.*
8 *Denno*?

9 MR. GRIFFIN: Yes, sir. I suppose I'll call the
10 defendant to testify about the statement.

11 THE COURT: I mean, it's up to you. Or anyone
12 else, any other witnesses.

13 MR. GRIFFIN: Yes, sir. I may call his mother.

14 THE COURT: Very good.

15 LAQUAVIUS CLEVELAND,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: If you would, please, sir, give us
18 your full name for the record, spelling your last name.

19 THE WITNESS: Yes, sir. Laquavius Cleveland,
20 C-l-e-v-e-l-a-n-d.

21 THE COURT: Very good. Thank you, sir.

22 DIRECT EXAMINATION

23 BY MR. GRIFFIN:

24 Q Mr. Cleveland, do you recall the date of July 8,
25 2013?

1 A Yes, sir.

2 Q Okay. And do you recall meeting with the sheriff
3 deputies at your mother's house or somewhere else?

4 A Yes, sir.

5 Q Where was -- where did that occur?

6 A Where did I meet them at?

7 Q Yes.

8 A I met them first when my auntie came and got me.

9 Q Was anybody with your auntie?

10 A No, sir. Mr. Philip was sent -- I mean sent her.

11 Q Where did she take you?

12 A She took me to the house.

13 Q Whose house?

14 A My house.

15 Q Okay. Did you meet the officer there?

16 A Yes, sir.

17 Q Okay. Did your auntie tell you anything?

18 A She told me write a statement and I would be going
19 home.

20 Q Okay. And you had a little trouble with the law
21 before?

22 A Yes, sir.

23 Q All right. And did you get to go home after you
24 went to the -- got picked up then?

25 A In this case?

1 Q No, the other case prior to this one when you were
2 a juvenile.

3 A I was 14. Yes, sir.

4 Q They let you go?

5 A Yes, sir.

6 Q All right. They didn't detain you?

7 A No, sir.

8 Q Now, how did you get to the sheriff's office?

9 A Philip Robertson.

10 Q Mr. Robertson?

11 A Yes, sir.

12 Q Okay. And when you got there, did you meet with
13 the detective here?

14 A Yes, sir.

15 Q Okay. Did you feel once you got there, you could
16 get up and go home at any time?

17 A No, sir.

18 Q All right. And you gave the first statement?

19 A Yes, sir.

20 Q And then they called in a polygraph examiner?

21 A Yes, sir.

22 Q All right. And you took the polygraph?

23 A Yes, sir.

24 Q And did anybody inform you of the results of the
25 polygraph?

1 A Yes, sir. He did.

2 Q Who's he?

3 A The polygrapher.

4 Q What did he tell you?

5 A I was lying.

6 Q Okay. And then -- that's when you talked to the
7 detective again?

8 A Yes, sir.

9 Q Did they ever tell you that they had some more
10 evidence about it or another statement from somebody?

11 A First they meant from the victim.

12 Q Yeah.

13 A They told me -- they really didn't inform me too
14 much of a lot.

15 Q They didn't tell you what he said?

16 A No, sir.

17 Q Did they tell you they had something else?

18 A Not that I can recall.

19 Q Okay. And did you think they could use the
20 polygraph against you in court?

21 A Yes, sir.

22 Q And then you gave the second statement?

23 A Yes, sir.

24 Q All right. And you didn't write out another
25 statement; they wrote it for you or wrote on some paper

1 and you signed it, didn't you?

2 A Yes, sir.

3 Q Why didn't you write it?

4 A Tired. Just didn't really feel like it.

5 Q Did you think you were going to be able to go home
6 after all that?

7 A I had doubts, but, then again, I was just
8 basically referring to what my auntie told me.

9 Q Okay. But you didn't think you could leave at any
10 time during this period, just get up and call your mama
11 to come get you and go home?

12 A No, sir, I didn't think I could leave.

13 Q How many -- was anybody else in the room with you
14 when they were taking your statement?

15 A The first one?

16 Q Was your aunt there or anybody?

17 A No, sir.

18 Q You didn't have any other adults other than the
19 police officers and a polygraph examiner?

20 A No, sir.

21 Q Okay. What kind of room was it?

22 A Interrogation room. Well, first we went down to
23 some room, conference room, watched TV for a minute.
24 And then they like interrogated me in the interrogation,
25 room.

1 Q Where is the interrogation room? Is that where
2 you and me met in the jail?

3 A No, sir. That's up in the sheriff's department
4 area.

5 Q They got another one?

6 A Yes, sir.

7 Q All right. Do you recall how long you were in the
8 interrogation room, in that interrogation room?

9 A I would stay there for a minute, then I go to
10 watch TV and --

11 Q Okay. You meant a minute?

12 A Yes, sir.

13 Q A minute, is that slang for a long time?

14 A Yes, sir. My bad. I'm sorry.

15 Q In your mind a minute is not 60 seconds; that's a
16 good while?

17 A Yes, sir.

18 Q Okay.

19 MR. GRIFFIN: That's all I have of this witness.

20 THE COURT: All right.

21 Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. WAGNER:

24 Q I'll show you what's been marked State's Exhibit 1
25 for identification, Mr. Cleveland. Do you remember

1 that?

2 A Yes, sir.

3 Q Okay. Do you remember Sergeant Tinsley going over
4 that with you?

5 A Yes, sir.

6 Q Do you remember initialing -- do you remember her
7 filling it out and going over this line by line with
8 you and you initialing that you understood?

9 A Yes, sir.

10 Q Can you read and write?

11 A Yes, sir.

12 Q So you knew what she was asking you, and you know
13 she read you your rights and you understood what they
14 were?

15 A Yes, sir.

16 Q And do you remember signing down here that you
17 would agree to talk to her?

18 A That's my signature.

19 Q She didn't promise you anything or anything; she
20 didn't threaten you in any manner to make you do that,
21 did she?

22 A No, sir.

23 Q So you started talking to her. That was about
24 5:52. Now, you had been up -- you got up about
25 lunchtime, right? I mean, you were playing video games

1 the night before with somebody, stayed up all night?

2 A Yes, sir.

3 Q So you got up at lunchtime. Six hours later you
4 found yourself in this predicament?

5 A Yes, sir.

6 Q You were down there at the sheriff's office?

7 A Yes, sir.

8 Q And you came down there basically of your own free
9 will; rode with Philip Robertson there?

10 A Yes, sir, due to the fact that my auntie said, you
11 know, write a statement, I'd be going home.

12 Q But your auntie didn't go with you, did she?

13 A No, sir. She was going to follow me, but she
14 thought they were going to take me to the city police
15 department, but they took me to the county.

16 Q All right. So six -- roughly six hours, a little
17 over six hours later, you gave and I'll show you
18 State's Exhibit 2. Do you remember giving that
19 statement, writing that out?

20 A Looks like my handwriting.

21 Q Okay. Well, take a look at it, see, make sure.

22 A Yes, sir.

23 Q And you wrote that statement yourself, didn't you?

24 A Yes, sir.

25 Q Okay. Did anybody force you to write it?

1 A No, sir.

2 Q Did anybody promise you anything to write it?

3 A No, sir.

4 Q Were they nice to you?

5 A Yes, sir.

6 Q Okay. Were you polite back to them?

7 A Yes, sir.

8 Q Okay. And what you told them the first go-round
9 was on that statement, right? And you signed it and
10 you --

11 A Yes, sir.

12 Q Okay. All right. And that is your statement?

13 A Yes, sir.

14 Q Okay. And you made that freely and voluntarily?

15 A Due to what my auntie told me, based off that,
16 yes, sir.

17 Q But they didn't promise you anything and they
18 didn't threaten you to do this, right?

19 A Yes, sir.

20 Q Okay. And then -- and I'm -- they kept you there
21 for a little while. Y'all watched TV. What did y'all
22 watch?

23 A Some show. I mean, I don't --

24 Q Whatever you wanted to watch. I mean, did ya'll
25 watch -- they got a big 'ol TV in that room?

1 A Yes, sir. Yes, sir.

2 Q Okay. So y'all were watching shows for a while?

3 A Yes, sir.

4 Q Did they tell you the polygraph guy was going to
5 come?

6 A Yes, sir. They asked me to do one.

7 Q You agreed to take a polygraph?

8 A Yes, sir.

9 Q And was that guy nice to you?

10 A Yes, sir.

11 Q Okay. I mean, they told you you didn't do well?

12 A Yes, sir.

13 Q All right. Then they came back up and talked to
14 you again?

15 A Uh-huh.

16 Q All right. And this time it was Sergeant Tinsley
17 and Captain Reed?

18 A Yes, sir.

19 Q All right. And you agreed to talk to them?

20 A Yes, sir.

21 Q Now, they offered you some food, too, didn't they?

22 A Yes, sir.

23 Q You weren't hungry?

24 A No, sir.

25 Q Were you nervous?

1 A Anybody would be in this predicament.

2 Q All right. But you drank that iced tea, though,
3 right?

4 A Yes, sir.

5 Q All right. So you remember talking to Sergeant
6 Tinsley again. And by this time it's after midnight,
7 but you have only been up about 12 hours, so you're
8 still going strong, right?

9 A Yeah. I was tired.

10 Q I understand. I mean, it's midnight or
11 thereabouts. Do you remember telling her and her
12 taking down notes?

13 A I remember her taking down notes, yes, sir.

14 Q Now, you changed your story quite a bit the second
15 go-round. You kind of told what really happened,
16 didn't you?

17 A Yes, sir.

18 Q And then at the end, did she ever promise you
19 anything, did she ever threaten you in any manner to
20 make you talk to her the second time?

21 A No, sir.

22 Q Did Captain Reed? They were nice to you, weren't
23 they?

24 A Yes, sir.

25 Q Do you remember at the end of it she said, "Well,

1 look. Let's go ahead and take a written statement."

2 You said, "No, I'm tired. I don't want to do that."

3 But then she said, Do you want to sign -- she read
4 these back to you, didn't she?

5 A Yes, sir.

6 Q Every word.

7 Let me show you State's Exhibit 3. I'm holding it
8 here. Do you recognize that?

9 A I guess. Yes, sir.

10 Q Okay. Let me flip it over on the back side. Do
11 you recognize your signature?

12 A Yes, sir.

13 Q Do you remember Sergeant Tinsley reading that back
14 to you and saying, "Was that what happened?" and you
15 signed it?

16 A I can honestly say yes, sir.

17 Q Okay. And nobody ever promised you nothing or
18 threatened you in any manner?

19 A I was just going based on what my auntie told me.

20 Q Okay.

21 MR. WAGNER: No further questions, your Honor.

22 THE COURT: Re-exam?

23 MR. GRIFFIN: Nothing further of this witness.

24 THE COURT: All right. You may step down.

25 Thank you, sir.

1 MR. GRIFFIN: I have a witness out in the lobby,
2 sir.

3 YASHICA CLEVELAND,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 THE COURT: Ma'am, if you would, please, give us
6 your full name for the record, spelling your last name.

7 THE WITNESS: Yashica Nicola Cleveland,
8 C-l-e-v-e-l-a-n-d.

9 THE COURT: Thank you, ma'am.

10 DIRECT EXAMINATION

11 BY MR. GRIFFIN:

12 Q Ms. Cleveland, you're Laquavius' mother?

13 A Yes, sir.

14 Q Okay. And do you recall the day of July 8, 2013,
15 last year?

16 A What date was it?

17 Q July 8th of 2013 when he had the problem with the
18 law last time.

19 A Yes, sir.

20 Q Okay. Where were you that afternoon?

21 A At work.

22 Q Where do you work?

23 A At Parkway.

24 Q Excuse me?

25 A At the time I was working at Parkway Products.

1 Q What's that?

2 A It's a plant, I guess, between Seneca and
3 Walhalla.

4 Q When did you find out there had been a problem
5 with Laquavius?

6 A My sister called me about 4:30 -- about 4:25,
7 4:30 -- and said that my house was surrounded by
8 police, I need to get off work. And I was like, "Why
9 do I need to get off work?" And she said the police
10 was looking for Quay. I said, "What Quay do?" You
11 know, he's on house arrest. She was like, Philip
12 Robertson was over there, said that he supposedly left
13 my house, 2430 Brown Street, went down Shiloh Road to
14 his cousin's house, apparently got in a fight or
15 something, and he stabbed his cousin.

16 Q All right. And did you ever -- did anybody from
17 the Oconee County Sheriff's Office ever contact you?

18 A No. The investigator -- I can't remember her
19 name -- but she come up there between, I want to say
20 between 7:00 or 8:00, asking for a polygram test, my
21 permission to get him a polygram test.

22 Q You mean a polygraph?

23 A Well, polygraph, yes, sir.

24 Q All right. And did you realize he had already
25 given a statement at that point?

1 A No, sir, I didn't.

2 Q Did they tell you?

3 A No, sir. I didn't really know what was going on.
4 I just went off what my sister told me. Nobody said
5 they was still investigating the case. I didn't hear
6 nothing.

7 Q Okay. Did you try to call over there to find out
8 what was going on?

9 A Yes, sir. I kept calling. Nobody knew where my
10 son was at.

11 Q Okay. And how often did you call over there?

12 A I kept calling.

13 Q All right. And when was -- did you ever talk to
14 Quay that night?

15 A No, sir. I didn't talk to him until in the
16 morning.

17 Q Okay. Did anybody ever call you about getting
18 permission to question him or anything other than them
19 showing up with that document about the polygraph?

20 A No, sir.

21 Q Can you identify that document? Is that your
22 signature on it?

23 A Yes, sir.

24 Q All right. Is that the statement they brought for
25 you to sign about the polygraph?

1 A Yes.

2 THE COURT: Does that have an identification
3 number?

4 MR. GRIFFIN: Yes. It would be Defendant's Number
5 2, I guess.

6 (WHEREUPON, Defendant's Exhibit Number 2
7 was marked for identification.)

8 BY MR. GRIFFIN:

9 Q I'm going to show you Defendant Number 2. That's
10 the document they brought to you?

11 A This paper?

12 Q Yes.

13 A Yes, sir, that's the paper they brought.

14 Q Is that the only contact you had with Ocone
15 County law enforcement --

16 A Yes, sir.

17 Q -- after Quay got picked up and taken to the
18 sheriff's office?

19 A Yes, sir.

20 Q All right. And when did you get to see or talk to
21 Quay again after that?

22 A Investigator Greg Reed called, I want to say
23 between the hours of 2:00 and 3:00. Like I said, it
24 was over in the morning. I got off at 12:00. And he
25 said, "I have Laquavius Cleveland here." And I said,

1 "What happened?" And he said he really didn't know
2 what happened. He just know that him and his cousin
3 got into an altercation, and he supposedly had stabbed
4 his cousin 12 times. And that's when he let Quay talk
5 to me.

6 Q Okay. And Quay, he was what, 16 years old at the
7 time?

8 A Yes, sir. He was 16.

9 Q Okay. And he -- what kind of grades did he make
10 in school?

11 A Average grades. He had A's, B's and C's. He had
12 F's and pulled them up to C's. He had just like total
13 F's.

14 Q Total F's?

15 A Two.

16 Q Two F's?

17 A Yes, sir. He pulled them up to C's.

18 Q Did he ever have an IQ test done, to your
19 knowledge, or anything?

20 A Not to my knowledge.

21 Q All right. And what day is his birthday?

22 A

23 Q All right. And is your sister his auntie he's
24 referring to about taking him back to the house where
25 it all happened or supposedly happened?

1 A Yes, sir.

2 Q Okay. Do you know of any conversations that he
3 had with his aunt, auntie, going over there?

4 A My -- once they told her to go get him --

5 Q Who told her to go get him?

6 A From my understanding, Philip Robertson got -- was
7 talking to my sister, and she supposedly, from what she
8 tells me, that she asked -- Phil asked her if he would
9 go get her and bring him over there to talk to him. He
10 said he wasn't going to talk to nobody but
11 Mr. Robertson, so she brought him over there to talk to
12 him.

13 MR. GRIFFIN: All right. That's all I have.

14 CROSS-EXAMINATION

15 BY MR. WAGNER:

16 Q Were you present at the sheriff's office at any
17 time?

18 A What was that?

19 Q Were you present at the sheriff's office at any
20 time when your son was there talking to the detectives?

21 A No, sir, I wasn't.

22 Q Were you present at home when the stabbing took
23 place?

24 A No, sir.

25 Q Okay. So firsthand knowledge, you really don't

1 have any knowledge because you weren't there; there's
2 no way you could know what transpired?

3 A Yes, sir.

4 Q Do you remember Phil Robertson calling you just
5 saying, "Do you mind if I talk to Quay"?

6 A No, sir. As I can remember, I don't remember. I
7 do remember him talking to Patrice and Shannon.

8 Q Okay.

9 A Yes, sir.

10 Q And then do you remember them putting him on the
11 phone, though? He was calling, called your sister, I
12 think, and then she handed the phone to you and you
13 said, "Yeah, go ahead and talk to him." Do you
14 remember that?

15 A No, I don't. I swear I don't remember that.

16 Q Okay. But you remember coming and they got --

17 A Yeah, I do remember. Yes, sir, it was the
18 investigator. She called me.

19 Q But you have no way of knowing exactly what
20 transpired really from I guess the time he got up at
21 noon, your son got up at noon, through the stabbing all
22 the way into the nighttime when he's talking to the
23 sheriff's office; do you have any way of knowing --

24 A Like know that day? I was at home until about
25 3:30. I leave for work because I have to be there at

1 4:00.

2 Q Okay. But after that you really don't know --

3 A No, sir, I don't know.

4 MR. WAGNER: That's all the questions I have.

5 THE COURT: Re-exam?

6 MR. GRIFFIN: None, your Honor.

7 THE COURT: Okay. Ma'am, you may step down.

8 Thank you, ma'am.

9 Call your next witness.

10 MR. GRIFFIN: That would be the case for us on the
11 Jackson v. Denno hearing.

12 THE COURT: All right. Any reply?

13 MR. WAGNER: No, your Honor. We'd move to admit
14 State's Exhibit 1, 2 and 3 at this time.

15 THE COURT: All right.

16 Mr. Griffin.

17 MR. GRIFFIN: Your Honor, I would oppose admission
18 of the statements given the fact that the State has not
19 proven by a preponderance of the evidence that the
20 statements were admitted -- or given freely and
21 voluntarily pursuant to -- within the meaning of the
22 14th Amendment due process and also the Fifth Amendment
23 waiver of counsel and constitutional amendments.

24 Basically these matters are based on the totality
25 of the circumstances, and there are several factors

1 taken into consideration. One is the age. He was only
2 16 when this occurred. And the supreme court,
3 basically when applying totality of circumstances test
4 to a juvenile, in the past special caution should be
5 exercised particularly when there is a prolonged or
6 repeated questioning or when the interrogation occurs
7 in the absence of a parent, lawyer or friendly adult.
8 There's been some -- also when a juvenile is detained,
9 I believe the law enforcement officer is supposed to
10 notify the parent as soon as possible. There's been
11 some conflicting testimony on that. The mother
12 testified she wasn't notified until after the first
13 statement was given.

14 Also, your Honor, defendant was subjected to a
15 polygraph during this time. Basically the cases state
16 any coercion and that renders the statements
17 involuntary under the 14th Amendment. Basically South
18 Carolina has taken the position that polygraphs are
19 generally inadmissible. The supreme court has taken
20 the position that polygraphs are generally
21 inadmissible, and that basically when the results, due
22 to the unreliability -- basically when the polygraph
23 examiner who informed the defendant about the polygraph
24 results, basically he was boosting the reliability of
25 the polygraph to the defendant, therefore other courts

1 have held it's unacceptable for the police to use the
2 results of polygraph examination to tell them they lied
3 in order to extract a confession.

4 THE COURT: You got a case on that?

5 MR. GRIFFIN: *People vs. Hughes*, 2011 Illinois
6 appeal. It's a December 18th case, 2011. Case number
7 110237. *People vs. Hughes*, 2013 IL App (1st) 110237.
8 And in that case I believe when the officers told the
9 defendant about the polygraph results that they
10 basically were enhancing the credibility of the
11 polygraph to the defendant, therefore that amounted to
12 some type of coercion and the polygraph -- I mean the
13 confessions were suppressed.

14 Also, your Honor, he testified that he was tired,
15 worn down. The whole thing lasted about eight hours,
16 and oftentimes people will succumb, their free will
17 succumb after extended periods. The supreme court,
18 U.S. Supreme Court, in a recent case a couple years ago
19 basically came out and stated -- kind of reaffirmed
20 *Gallegos*, *In re Gault* and the other cases that came out
21 prior to *Miranda* where the juvenile, young children,
22 juveniles were first given some protections in these
23 interrogations.

24 And basically in 2011 the supreme court came out
25 basically reaffirming those cases. And from what I can

1 tell, basically the supreme court would rather have a
2 lawyer present once the questioning starts. Here he
3 had no lawyer. I mean, I don't -- I think the supreme
4 court doesn't feel -- these are children, they don't
5 see the finality of what they do, and they don't
6 realize the consequences of what they do; therefore,
7 they're basically incapable of waiving certain rights.
8 I mean, a minor can't even enter into a contract. It
9 may be voidable. And the supreme court basically said
10 special care should be taken and especially in a case
11 such as this where there may be a question of whether
12 he was in custody for interrogation purposes or not,
13 that juvenile confessions are, unless there's some
14 responsible adult present or a lawyer present, they
15 should not be allowed to be admitted into evidence and
16 should be suppressed.

17 From what I can tell this is a late hour,
18 eight-hour period, he was confined, incommunicado from
19 his parents and everybody else and, under the
20 circumstances, subjected to a polygraph test.
21 Several -- at least three officers were present during
22 the questioning. He was in a police-dominated
23 atmosphere, didn't feel that he could leave. And I
24 believe the officer testified that he was detained,
25 they were detaining him, but then she kind of

1 flip-flopped back and forth on that issue.

2 But I believe that, given the totality of the
3 circumstances here, that the -- that the confession
4 should be suppressed under *Jackson v. Denno* and the
5 supreme court rulings, especially in light of the
6 recent supreme court case that came out -- I believe it
7 was *J.D.B. vs. North Carolina*, 131 Supreme Court
8 2394 -- they said basically a child's age is more than
9 a chronological fact and that this is self-evident to
10 anybody who's been a child at one time.

11 THE COURT: I beg your pardon.

12 MR. GRIFFIN: I mean, the supreme court basically
13 said that children's chronological age is not a
14 chronological fact. Basically the supreme court said
15 that that's self-evident because everybody was a child
16 at one time.

17 THE COURT: I thought you said if anybody had been
18 a child at one time.

19 MR. GRIFFIN: No, sir. Basically the supreme
20 court said they're self-evident to anyone who has ever
21 been a child at any time including a police officer, et
22 cetera. And the supreme court in that case basically
23 said our history is replete with laws and judicial
24 recognition that children cannot be viewed simply as
25 miniature adults, and that youth remains a critical

1 factor for consideration, and the younger the child,
2 the more carefully scrutinized the questioning tactics
3 to determine if excessive coercion or intimidation or
4 simply immaturity would affect an adult -- whether or
5 not an adult had tainted the juvenile's confession, and
6 that often adults under certain circumstances would
7 simply not cooperate. Children are simply more
8 susceptible to police pressures and their will is more
9 likely to be overcome. And this case here illustrates
10 what the fears of the United States Supreme Court, that
11 they opined in the North Carolina case which is 2011.
12 Thank you.

13 THE COURT: Very good. All right. What does the
14 State say?

15 MR. WAGNER: Your Honor, as to the voluntariness,
16 I think even the defendant's own testimony was these
17 officers, they didn't promise him anything, they didn't
18 threaten anything. He freely and voluntarily waived
19 his rights. He gave them two statements. They offered
20 him food. They were nice to him. He watched TV. He,
21 basically through his own words, his own testimony
22 under oath said it was a freely and voluntarily given
23 statement.

24 But as to the fact that he was a juvenile, I would
25 submit to the Court under the state law this was a case

1 of attempted murder, and under state law it immediately
2 attaches to general sessions as an adult even though he
3 was 16 at the time. But I would cite a few cases here.

4 *In Re Williams*, 265 S.C. 295, and it's 217 S.E.2d
5 719. Your Honor, that's a supreme court case, and
6 basically they held that while the age of an individual
7 is a factor to be taken into consideration, the
8 admissibility of a statement or confession of a minor
9 depends on its voluntariness to be determined from the
10 totality of the circumstances under which it's made.
11 That's a case from 1975, your Honor.

12 We've got -- there is a couple others here. *State*
13 *v. Parker*, 381 S.C. 68, and it's also 671 S.E.2d 619.
14 That's a case where it is found that a 16-year-old's
15 confession was voluntary and admissible. As well as
16 *State v. Moses*, 390 S.C. 502, 702 S.E.2d 395. That's a
17 2010 court of appeals case from South Carolina where
18 the evidence supported the trial court's finding that a
19 learning disabled juvenile's custodial statement was
20 freely, knowingly and voluntarily made. And I think
21 all those, I think, dealt with the fact that the person
22 was 16 or younger, technically I guess a juvenile under
23 a lot of crimes.

24 However, in this crime, he was an adult from the
25 start. Even though he was 16, by his own testimony he

1 freely and voluntarily came there, talked to them,
2 waived his rights, gave them two statements. And he
3 said under oath both those statements were his and
4 that's what he had told them and that they had not
5 promised him anything or threatened or tried to coerce
6 him in any manner and they were, in fact, voluntary
7 statements by him.

8 THE COURT: All right.

9 Anything else, Mr. Griffin?

10 MR. GRIFFIN: Your Honor, there is a lot of cases
11 cited by counsel.

12 THE COURT: Let me, first of all, tell you about
13 your Illinois case. If I'm not mistaken -- of course
14 you have it there -- that the polygraph operator there
15 suggested, indicated or represented that a polygraph
16 was infallible. And I haven't heard anything here. I
17 think that the polygraph operator did no more than
18 polygraph operators do, either advise that there was --
19 that it supported the questions or they were evasive or
20 something of that nature. Even that. I think that's
21 what the Illinois case says. Otherwise it does come
22 down to totality. So let's start there.

23 MR. GRIFFIN: Yes, sir. Totality includes age,
24 educational level, especially the length of
25 interrogation. Here we have an eight-hour period where

1 he was held incommunicado and questioned off and on.

2 THE COURT: He was also watching TV sounds like.
3 I mean, if he can understand TV after a lengthy -- I
4 would imagine you could do almost anything.

5 MR. GRIFFIN: Yes, sir. There is -- that goes to
6 the fact that juvenile children watch television.
7 Obviously he wasn't free to leave during that period.

8 THE COURT: Well, the testimony was that he had
9 signed the waiver and part of the waiver being that he
10 was entitled to an attorney and that if he wished to
11 discontinue the investigation, interrogation, that he
12 could do it at any time, consult with an attorney.

13 MR. GRIFFIN: Yes, sir.

14 THE COURT: So, I mean, obviously the fact that he
15 didn't exercise his rights doesn't mean that he wasn't
16 aware of them.

17 MR. GRIFFIN: But I believe the case JCB or JDB in
18 the North Carolina supreme court kind of points out the
19 inherent --

20 THE COURT: How old was the child in the North
21 Carolina case?

22 MR. GRIFFIN: I think she was 14.

23 THE COURT: 14? There is a little bit of
24 difference between 14 and 16 besides the fact in South
25 Carolina the age of consent is 16, whereas 14 is not.

1 It was at one time, but the legislature, in its
2 infinite wisdom, decided 14 was too early for the age
3 of consent and they raised it to 16. But our
4 legislature recognizes there is a difference between 14
5 and 16.

6 MR. GRIFFIN: I lived in North Carolina. I think
7 the age of consent is 15.

8 THE COURT: Well, we won't go there, but anyway.

9 MR. GRIFFIN: But there is a number of factors
10 here, especially given the length of the interrogation
11 and the fact that no one was there, the mother, another
12 friendly adult or attorney, gives rise to the issue
13 that the interrogation simply overborne his free will
14 at that point given the length and the fact he had
15 nobody with him. And also there is an issue about
16 whether or not the parent was notified, the mother was
17 notified pursuant to code section -- excuse me.
18 Parents required under South Carolina Code Section
19 63-19-810, that the child is taken into custody, the
20 officer taking the child into custody shall notify the
21 parent, guardian or custodian of the child as soon as
22 possible.

23 THE COURT: Let me ask you. In this case was not
24 the mother notified and then instructed the aunt to
25 take the defendant to the location of the incident?

1 MR. GRIFFIN: Yes, but I don't think he was in
2 custody at that time. Just go down there.

3 THE COURT: He was in custody of the aunt.

4 MR. GRIFFIN: Yes, sir, he was in custody of the
5 aunt.

6 THE COURT: Who delivered custody to the officers
7 who were investigating whatever occurred at the
8 location that he took them.

9 MR. GRIFFIN: Yes, sir.

10 THE COURT: All right. Go ahead. I mean, I'm
11 just saying when you consider the totality, that means
12 that you have to look at the entire event rather than
13 just cherry-pick what seems to be favorable.

14 MR. GRIFFIN: Yes, sir. The aunt was acting on
15 behalf of law enforcement --

16 THE COURT: Actually, she was acting on behalf of
17 the mother because she would be locum tenens.

18 MR. GRIFFIN: But under the notification statute,
19 and there's some states that many courts have
20 suppressed juvenile confessions given custodial
21 interrogation where the officer violated parental
22 notification statutes. And there's law to support that
23 fact that when law enforcement doesn't notify the
24 parent as soon as possible, then the purpose of the law
25 requiring immediate notification when a child is taken

1 into custody is to permit where possible a parent to
2 confer with or counsel the juvenile before
3 interrogation and confession. That's *State vs. Horse*,
4 644 N.W.2d 211, 2002 case.

5 THE COURT: Well, again, as I understand it, the
6 mother was contacted. She contacted the aunt, or the
7 aunt -- she told the aunt. I can't remember exactly
8 how that initially -- I think the aunt called the
9 mother, told her there was a problem. The mother, as a
10 result of that conversation, what is it, the aunt
11 delivers the defendant to the scene where the alleged
12 event occurred.

13 MR. GRIFFIN: Yes, sir.

14 THE COURT: But, I mean, it's not whether they
15 took him off the streets and hid him in the back of a
16 warehouse. He came in, and all the testimony that I
17 heard, even from him, was that he cooperated willingly.

18 MR. GRIFFIN: Yes. Apparently he did cooperate.

19 THE COURT: Well, the thing is, let's get to
20 something that applies to this case rather than
21 something in Illinois and North Carolina.

22 MR. GRIFFIN: All right. Well, in *In re Gerald*,
23 that youngster was held for a good number of hours, and
24 he was questioned about five and a half hours. And I
25 believe in *Haley* the interrogation only lasted five,

1 and the U.S. Supreme Court struck that down. U.S.
2 Supreme Court case *Hailey*, 332 --

3 THE COURT: And how old was the defendant in
4 *Hailey*?

5 MR. GRIFFIN: I think he was about 15, your Honor.
6 But the *Hailey* custodial interrogation only lasted five
7 hours, and here this interrogation, which the Court
8 said it was significantly longer than most
9 interrogations, and the length of custody and
10 interrogation is additional evidence of -- the length
11 of custody and interrogation is additional evidence of
12 coercive conduct. And we would allege that holding him
13 eight hours and questioning him off and on for eight
14 hours would be evidence of coercive conduct, especially
15 without anyone there to counsel him.

16 And the fact he was subjected to a polygraph and
17 advised and thereafter basically ran through the
18 traditional questioning line of almost eight hours off
19 and on, and then he said he was tired, and in his
20 earlier testimony said he thought the polygraph would
21 be used against him in court and --

22 THE COURT: Beg your pardon?

23 MR. GRIFFIN: His testimony was that he thought
24 the polygraph could be used against him in court.

25 THE COURT: He thought.

1 MR. GRIFFIN: Yes, sir, he thought that.

2 THE COURT: Was he told that?

3 MR. GRIFFIN: Excuse me?

4 THE COURT: Was he told that?

5 MR. GRIFFIN: No, sir, that was his belief about
6 it. That's what his impression was after talking to
7 the polygraph examiner.

8 THE COURT: Polygraph examiner said it was
9 infallible?

10 MR. GRIFFIN: No, sir, he didn't say that --

11 THE COURT: That's what they did in Illinois.
12 That was the reason they --

13 MR. GRIFFIN: That was one of the issues there.

14 THE COURT: He just told him it was inconsistent.

15 MR. GRIFFIN: Yes, sir. But I would take that one
16 step further that he was basically --

17 THE COURT: Let's just -- again you understand and
18 you said from the first that I'm not here to decide
19 beyond a reasonable doubt. That's for the jury, so
20 save your arguments for that. I must determine whether
21 or not there has been anything to suggest that they're
22 not reliable by the preponderance of the evidence.

23 All right. Anything else?

24 MR. GRIFFIN: That would be all, your Honor.

25 THE COURT: All right. Having considered the

1 totality of the events leading up to the statements,
2 and there are two statements. The first one was taken
3 and actually handwritten by the defendant which
4 demonstrates at least two -- one thing, that he can
5 write. But more than likely he could also read what he
6 was writing, so that he was not incapable.

7 Also I understand that he has a certain, well,
8 prior experience with the juvenile justice system and
9 that would be *Miller* -- let's see. It's cited in *State*
10 *v. Parker*, 381 S.C. 68, 2008 court of appeals where it
11 lays out the various considerations, and one of them
12 is, of course, the age of the defendant.

13 In that case they cite *Miller*, *State vs. Miller*,
14 375 S.C. 385 and also *In re Michael C.*, 442 U.S. 707,
15 where a 16-year-old's prior arrest and time spent in
16 juvenile camp is a factor in whether he understood
17 consequences of Miranda rights. Here, obviously, the
18 age, education level of the defendant making A's, B's
19 and C's, I think even some of us have made also
20 exemplary grades and obviously is of above-average
21 intelligence.

22 Considering the totality, I do find that by a
23 preponderance of the evidence that the defendant was
24 fully advised of his rights under the Fifth and Sixth
25 Amendments as well as the 14th Amendment, those rights

1 being the right to remain silent; statement can and
2 will be used against him; he has a right to an
3 attorney; the Court would appoint, provide an attorney
4 for him; he has a right to consult with his attorney
5 and the right to interrupt and terminate the
6 interrogation; the interrogation would cease until an
7 attorney was provided for him, and he would be given an
8 opportunity to consult with his attorney; that the
9 defendant knowingly and intelligently waived those
10 rights under the Fifth and Sixth Amendments of the
11 Constitution; and that the alleged incriminating
12 statement or confession was freely and voluntarily
13 given without duress, coercion, without undue
14 influence, without reward, without promise of hope for
15 reward, without promise of leniency, without threat of
16 injury, without coercion or inducement of any kind.

17 The statement or confession was a voluntary
18 product of the free and unconstrained will of the
19 defendant. I find all of these foregoing conclusions
20 actually beyond a reasonable doubt, but I am only
21 concerned with whether or not by the preponderance of
22 the evidence. Of course it will be up to the jury to
23 determine, if it's submitted to the jury, the statement
24 is submitted to the jury, was in fact made and the
25 voluntariness was beyond a reasonable doubt.

1 All right. So the statements as marked for
2 identification I think State's Exhibit 2 and 3 being
3 the two statements allegedly made by the defendant will
4 be admitted.

5 (WHEREUPON, State's Exhibit Numbers 2 and 3 were
6 admitted into evidence.)

7 THE COURT: All right. It is now after
8 11 o'clock. The jury has been back there, though,
9 since 10:30. Let's take a little break and then we'll
10 come back.

11 I had a probation case, I understand.

12 Ms. Ware, are you going to represent the probation
13 office?

14 PROBATION OFFICER: Yes, sir.

15 THE COURT: Are you ready to go forward?

16 PROBATION OFFICER: Yes, sir.

17 THE COURT: I'll try to do that while we take a
18 break, but let's be ready to go forward at 11:30.

19 All right. Stand at ease in this case until
20 11:30, but I do want to see the parties on the other.

21 (Whereupon, recess taken in this case from
22 11:10 a.m. to 11:33 a.m. while the Court took up
23 another matter.)

24 THE COURT: All right. Is the State ready to
25 proceed?

1 MR. WAGNER: Yes, sir.

2 THE COURT: Defense ready to proceed?

3 MR. GRIFFIN: Yes, your Honor.

4 THE COURT: Ask the jury to join us.

5 (Whereupon, the jury came into open court at
6 approximately 11:35 a.m.)

7 THE COURT: Let the record reflect the jury and
8 alternates are in the jury box.

9 Madam Clerk, if you would please swear the jury.

10 (WHEREUPON, the jury was impaneled.)

11 THE COURT: Mr. Foreman, ladies and gentlemen of
12 the jury, I'm sure that each of you now fully
13 appreciates that this court, the court of general
14 sessions for Oconee County, exists for the purpose of
15 resolving questions of alleged criminal conduct arising
16 between the State of South Carolina and the defendant.

17 It is a guaranteed right of every citizen that a
18 charge of criminal conduct be presented in open court
19 according to certain rules of procedure. The State has
20 not only an equal right but a duty to present a charge
21 of criminal conduct in open court according to the same
22 rules of procedure. Each of the parties, therefore,
23 both the State and the defendant, have an equal right
24 to the opportunity of this judicial proceeding and to
25 have you as the jury selected and now sworn for the

1 trial of this case.

2 One of the most important aspects of your duty as
3 the jury lies essentially in the oath that you have
4 just now taken to well and truly try and determine the
5 facts of this case. That oath, in a very essential
6 way, says that you are the sole judges of the facts in
7 this case. Obviously any case tried in court will
8 involve a question about what happened or how something
9 came to happen or whom, if anyone, did anything in a
10 particular occurrence or circumstance. From this point
11 forward, then, no one concerned with the trial of this
12 case has the right to decide any question of fact in
13 this trial or the truth of it except you, the jury.
14 The facts then are for your resolution and your
15 decision and yours alone. And after you hear all the
16 evidence in the case, then it will be your duty by your
17 mutual and joint discussions to determine the truth of
18 the case by deciding the weight and the believability
19 of each part of the evidence and by applying the law to
20 the case thereto.

21 As trial judge, I am the judge of the law in the
22 case. It's also my responsibility, among other duties,
23 to preside over this trial, to rule on the
24 admissibility of evidence offered during the progress
25 of the trial, and to state to you, the jury, the law

1 applicable to the case.

2 The Constitution of South Carolina mandates that
3 I, as the trial judge, cannot directly or indirectly
4 comment on the facts in this case. The process of a
5 verdict is simply that you, the jury, first determine
6 what is the truth of the facts, and then apply to that
7 true state of facts that principle of law applicable,
8 and by that process determine and report to the Court
9 your final verdict in the case, speaking the truth of
10 the case as you determine it.

11 I will more fully and completely state to you the
12 principles of law applicable to the issues in this case
13 before it's submitted to you for your decision.
14 However, there are certain principles of law applicable
15 to the framework of every case in general sessions
16 court.

17 First, the defendant has entered a plea of not
18 guilty to the charges contained in the indictments.
19 Now remember the indictments in a case are not
20 evidence, and they are simply the written instruments
21 that contain the charges against the defendant, and it
22 serves as the formal document by which this case is
23 processed into this court.

24 A plea of not guilty places upon the State the
25 burden of proof in each case. What is meant by the

1 burden of proof? The defendant is presumed in law
2 innocent of all charges contained in the indictments.
3 The burden of proof requires the State to prove guilt
4 beyond a reasonable doubt, and, therefore, consistent
5 with that burden, the defendant or other accused party
6 shall be presumed innocent, and that presumption of
7 innocence is sufficient to compel a verdict of not
8 guilty or a verdict of acquittal unless you, the jury,
9 conclude that the State has satisfied its obligation to
10 prove the defendant guilty beyond a reasonable doubt.

11 Now, the term "reasonable doubt" means the kind of
12 doubt that would cause a reasonable person to hesitate
13 to act. Now, this case will be opened by the
14 Solicitor, after which the same opportunity will be
15 afforded to the defendant to make an opening statement.
16 When all of the evidence has been received by the
17 Court, counsel for the State and counsel for the
18 defendant will state to the jury their respective
19 positions after which the Court will fully state the
20 applicable law.

21 Obviously all parts of the case are important.
22 You do not know which witness in a case will impress
23 you, whether the first witness or the last witness. In
24 reaching your final conclusion, you will need the
25 guidance of the judgment of the other jurors. You will

1 need the guidance of the principles of law that will be
2 stated to you by the Court. For all these reasons,
3 then, if we have any recess periods when you retire to
4 your jury room or during an overnight or meal recess,
5 the Court instructs you that you must not undertake to
6 discuss this case among yourselves until the case is
7 finally given to you for your deliberation, nor are you
8 to discuss this case with anyone or permit anyone else
9 to discuss this case with you. If someone should try
10 to do so, you need to report them immediately.

11 Now, the verdict in this case must be the
12 unanimous verdict of all 12 jurors. Now, I'd like to
13 make a few other comments before we begin. As I
14 mentioned earlier, although I am the only person who
15 can tell you what the law is, you are the only ones who
16 can determine the facts. I do not have the right to
17 indicate how I may feel about the evidence presented,
18 and throughout this trial my intention will be to act
19 impartially towards each party.

20 Second, from time to time an attorney will object
21 to some bit of testimony or evidence which the other
22 side is seeking to present. As in sports or business
23 or any other structured activity, there are certain
24 rules that both sides must obey in presenting evidence.
25 These rules have a very definite purpose, to ensure

1 that the information you receive is the most
2 trustworthy and reliable evidence available. Objection
3 is a procedure we use for an attorney to call a
4 possible violation of the rules to the Court's
5 attention, and for this reason you should not hold an
6 attorney's objection against his or her client, nor
7 should you conclude from my ruling on an objection that
8 I favor one side or the other.

9 Finally, I would ask that you pay the closest
10 attention possible to the evidence presented to you. I
11 will ask that you do not take notes. If the note-taker
12 makes an error, his notes can be detrimental, not
13 helpful, during deliberations. The time tested system
14 is for each of you to listen carefully, and I'm
15 confident each of you will do that.

16 Now, the reason I suggest that you do not take
17 notes, it's been my experience if you take notes, we
18 have a tendency to concentrate on the note as we're
19 taking it. And, of course, a note is based on what we
20 think we hear. So, therefore, we're jotting it down,
21 and sometimes we're concerned about spelling or having
22 something else, more importantly, that we write down
23 what we think we hear.

24 Now, if you make an error in those notes, in other
25 words, if we miss a word, then that can change that

1 note entirely as far as its meaning. And I use the
2 word "not." In other words, either the witness says
3 the word "not" in the statement or deletes it, and we
4 think we hear it, and we put that in a note, then all
5 of a sudden if you're back in the jury room, somebody
6 will raise up and say, "I've got it written right
7 here." But, of course, it's an error. So I'd suggest
8 that we do not take notes and that we do, as I said
9 earlier, concentrate on the testimony as given from the
10 witnesses and the exhibits as they are presented in the
11 courtroom.

12 And if there is a question about what the actual
13 testimony was, do the same thing that you would do when
14 you reach your verdict in this case or verdicts in this
15 case. You use joint discussion of what was said among
16 yourselves. And then whatever is the one that
17 convinces you in a, as I say, unanimous sense, then
18 that would be what you would say rather than taking a
19 chance of a note that might, what is it, lead you in
20 error. Or a note that is in error lead you in the
21 wrong direction.

22 Now, having said all of that, I do take notes.
23 And it's not one of those things do as I say, not as I
24 do. The fact is that you and I have different purposes
25 in this courtroom. As I say, you are the only ones

1 that can determine the facts of the case. You are the
2 only ones that have the right to weigh the evidence to
3 determine the believability of the witnesses or the
4 testimony or the other evidence that is admitted in the
5 case.

6 I am only concerned about whether certain
7 procedures are followed. I am just checking off things
8 as they are done to be sure that the rules that are
9 required for presentation of a case fall in order. I
10 have no concern about the weight for what's being done.
11 That's for you and you alone. So with that we'll now
12 begin the trial, and I'll recognize the State for their
13 opening statement.

14 MR. WAGNER: Thank you, Judge.

15 THE COURT: Mr. Solicitor.

16 MR. WAGNER: Back on July 8th, 2013, the victim in
17 this case, his name is Hakeem. You're going to hear
18 from him. He's cousins with the defendant, or second
19 cousins. They were texting each other back and forth.
20 Hakeem was going to sell the defendant a bag of
21 marijuana and a pistol. They couldn't get it done on
22 the night before, so on the 8th the victim drove down.
23 He ended up meeting the defendant at his house right
24 nearby there.

25 He was in the process of selling the pistol,

1 that can determine the facts of the case. You are the
2 only ones that have the right to weigh the evidence to
3 determine the believability of the witnesses or the
4 testimony or the other evidence that is admitted in the
5 case.

6 I am only concerned about whether certain
7 procedures are followed. I am just checking off things
8 as they are done to be sure that the rules that are
9 required for presentation of a case fall in order. I
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16 MR. WAGNER: Back on July 8th, 2013, the victim in
17 this case, his name is Hakeem. You're going to hear
18 from him. He's cousins with the defendant, or second
19 cousins. They were texting each other back and forth.
20 Hakeem was going to sell the defendant a bag of
21 marijuana and a pistol. They couldn't get it done on
22 the night before, so on the 8th the victim drove down.
23 He ended up meeting the defendant at his house right
24 nearby there.

25 He was in the process of selling the pistol,

1 selling marijuana. The defendant, in an effort to
2 steal these items from him, pulled out a big knife,
3 stabbed the victim 11 times. He's charged with
4 attempted murder for that. He's charged with
5 possession of a knife during the commission of a
6 violent crime.

7 You're going to hear from half a dozen or so
8 witnesses from the State, people that were involved in
9 the investigation -- detectives, Sergeant Tinsley,
10 Captain Reed from the sheriff's office -- that talked
11 to the defendant afterwards. They're going to tell you
12 that he admitted it. You're going to hear from a nurse
13 and a paramedic that were at the scene to talk about
14 the victim's injuries and extent of them. You will see
15 pictures. You will see -- the evidence will come from
16 the witness stand from these witnesses. You will hear
17 the 911 call to the 911 operator. And all that, what
18 it's going to do is paint a picture of exactly what
19 happened on July 8, 2013, here in Oconee County when
20 the defendant attempted to murder his cousin by
21 stabbing him 11 times.

22 I anticipate it being a relatively quick case.
23 We're going to make every effort to move it along best
24 we can, try not to waste your time. Appreciate you
25 being here and hearing this case because the defendant

1 is entitled to a trial. He's pled not guilty to these
2 charges, and that puts the burden on us, the State of
3 South Carolina -- Ms. Simmons and I, we work for Oconee
4 County for the Solicitor's office as prosecutors --
5 puts the burden on us to prove beyond a reasonable
6 doubt that the defendant did what he's charged with.
7 Again, that's two charges, attempted murder and
8 possession of a knife during the commission of a
9 violent crime. It's two charges, actually one
10 incident.

11 Ask you to at least listen to all the testimony.
12 Sometimes in a case, in any case, sometimes there's
13 witnesses that appear before others do. We try to do
14 it as chronologically as we can. Sometimes we have to
15 call witnesses a little bit out of order, but bear with
16 us. You will understand what they're saying when
17 they're saying it. It may not be in the exact order
18 that we wanted. But if you would just listen to what
19 the witnesses say. That's what the evidence is going
20 to be. That's what the evidence is going to show.

21 At the end of this case we're going to be asking
22 for a verdict of guilty on both charges because the
23 defendant -- we will prove to you the defendant is
24 guilty of both charges. Thanks.

25 THE COURT: Mr. Griffin.

1 MR. GRIFFIN: May it please the Court.

2 Ladies and gentlemen of the jury, you will be
3 introduced to a number of witnesses, a number of
4 statements. I believe the Solicitor said that the
5 alleged victim here went to the defendant's house to
6 sell him -- sell marijuana and deliver a gun. Sell a
7 gun.

8 Well, the defendant is only 16 years old. I
9 believe the alleged victim here is in his 30s. And the
10 Solicitor made reference to statements. Well, I
11 believe the alleged victim gave one statement that he
12 doesn't know what happened, why all this happened; what
13 happened, he didn't know nothing about it. And then
14 apparently he gives another statement, and there's
15 about four different versions of what occurred here.

16 Bottom line is I believe the first statement is
17 that the alleged victim went over there to smoke some
18 marijuana with these kids. Then he changes his story.
19 And then we all end up here today. And the defendant
20 is charged with attempted murder in this matter and
21 possession of a deadly weapon during a crime. The
22 bottom line is the facts will bear out this man who
23 claims he got stabbed and robbed or -- well, he didn't
24 get robbed. He had a pistol on him the whole time.
25 There was no robbery. He left with the pistol and the

1 marijuana. And that's pretty much the crux of the
2 case, and I'm asking that you find the defendant not
3 guilty of this. And you will find out this is not a
4 clear-cut case as the prosecution would have you
5 believe. Thank you.

6 THE COURT: All right. You may call your first
7 witness.

8 MS. SIMMONS: Thank you, your Honor.

9 The State calls Cindy Blackwell.

10 CINDY BLACKWELL,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE COURT: Please state your full name, spelling
13 your last name for the reporter.

14 THE WITNESS: Cindy Blackwell, B-l-a-c-k-w-e-l-l.

15 THE COURT: Thank you, ma'am.

16 DIRECT EXAMINATION

17 BY MS. SIMMONS:

18 Q Ms. Blackwell, do you live here in Oconee County?

19 A Yes, I do.

20 Q And what's your present occupation?

21 A I -- business owner. I own a little like
22 antique/produce store called Purple Possum, and it's
23 currently under renovations because we're redoing the
24 parking lot, but in July of last year it was open.

25 Q And in July of last year what kind of business was

1 it back then?

2 A It was a produce stand.

3 Q Were you working anywhere else in July of 2013?

4 A Yes, I was. I was a third shift CNA at Country
5 Care, and I worked third shift there taking care of the
6 elderly, you know, changing their clothing, taking care
7 of their wounds, things like that.

8 Q When you say you're a CNA, what kind of
9 professional training or degree do you have?

10 A I don't have a license for CNA, but they hire you
11 to do CNA work without a license. The state of South
12 Carolina does not require it for certain places. Some
13 places they do, some places they don't. But you are
14 required to take classes and learn, you know, how to
15 recognize an emergency, how to take care of something
16 that, you know, needs medical attention right away or
17 administer medication, see the signs of a heart attack,
18 perform, you know, CPR, all that type things.

19 Q So you have some medical training?

20 A Yes, I do.

21 Q Okay. And what's the address of your produce
22 stand?

23 A It's Shiloh Road.

24 Q Is that in Oconee County?

25 A Yes, it is.

1 Q Okay. Were you at the produce stand on July 8th
2 of 2013?

3 A Yes, I was.

4 Q Anything unusual happen that day?

5 A Yes. When I come home from work every day, I had
6 like a little cot in the very, very back that I would
7 lay down and sleep for a couple hours. Well, the
8 mechanic that works out at the tire shop there, because
9 there is a tire shop as well as a produce stand, he
10 comes running in the front door, and I was almost
11 asleep and he hollers, "Call 911. Somebody has been
12 stabbed."

13 MR. GRIFFIN: Objection, your Honor. Hearsay.

14 THE COURT: I'm going to have to sustain the
15 objection.

16 Mr. Foreman, ladies and gentlemen of the jury,
17 hearsay is just what the term implies. It's what you
18 hear somebody else say. And the reason we don't admit
19 it into evidence is because we don't know what the
20 context of it was or even that same thing we were
21 talking about earlier with notes, we don't know if it
22 was an accurate hearing of what was said. In other
23 words, it might have been something else said that was
24 missed. It's no reflection on the witness. But it's a
25 rule of law that we have because, as I say, we're

1 trying to be sure that whatever evidence you have is
2 the most trustworthy and reliable evidence possible,
3 so, therefore, we do not permit hearsay.

4 If you have testimony to get something in, you, of
5 course, ask the person who allegedly said it and then
6 the other side can cross-examine to be sure that that's
7 what was intended to be said and what was in fact said.
8 As I say, these rules apply both to the State and to
9 the defendant.

10 All right. You may proceed. Restate your
11 question.

12 BY MS. SIMMONS:

13 Q Ms. Blackwell, based on what you were told, what
14 did you see?

15 A When I came out the front door, there was a guy
16 coming up through there. He had on a white shirt. His
17 shirt was not white anymore. There was blood dripping
18 all off his shirt. There was blood squirting out the
19 top of his head. From what I heard when I was asleep,
20 I just assumed, you know, I could put pressure on it
21 and get it stopped. Because I just thought somebody
22 fell or something like that because they were always
23 out there working.

24 When I see this guy, I know he needs medical
25 attention right away. So immediately someone calls

1 911. I have him sit on the steps and tried to calm him
2 down to keep him from moving around because the more he
3 moved, the more his heart beat, the more his heart
4 beat, the more he bled. I honestly thought the guy was
5 going to bleed to death. I had never seen firsthand --

6 MR. GRIFFIN: Your Honor, I object to the
7 conclusion as to what she thought.

8 THE COURT: Actually, what she was doing was
9 saying what she had never seen. Again, now, of course
10 she's not supposed to give any opinion she's not
11 qualified to do. But she can relate what she observed
12 and the context of what she observed, so I'm going to
13 overrule the objection but with that understanding.

14 So restate your question.

15 BY MS. SIMMONS:

16 Q What were the extent of the injuries that you saw?

17 A Well, the top part of his head right here, there
18 was blood squirting out the top of his head. The flesh
19 on the back part of his ear was hanging off. He took
20 his shirt out -- off, and there was a big, huge gash
21 here and blood was squirting out of that. My whole
22 step that's where you come in the front door was
23 completely red. The whole sidewalk was red. And, I
24 mean, there was just no stopping it. I mean, it was
25 just coming from all directions.

1 Q Did you know the victim prior to this day?

2 A Never seen him before in my life.

3 (WHEREUPON, State's Exhibit Numbers 4 through 9
4 were marked for identification.)

5 BY MS. SIMMONS:

6 Q I want to show you what has been premarked as
7 State's Exhibit 4 through 9.

8 MS. SIMMONS: Your Honor, may I approach the
9 witness?

10 THE COURT: Sure.

11 BY MS. SIMMONS:

12 Q Ms. Blackwell, are these photographs a fair and
13 accurate depiction of what you saw that day?

14 A Yes. This is the front of my store. Yes. This
15 is exactly what -- yeah. All of these are what I saw
16 that day.

17 THE COURT: Ms. Simmons, let's move to one side or
18 the other so the jury can see the witness.

19 BY MS. SIMMONS:

20 Q Have these photographs been altered in any way
21 from what you saw?

22 A No, they're exactly what I saw.

23 MS. SIMMONS: Judge, at this time the State would
24 move Exhibits 4 through 9 into evidence and move to
25 publish to the jury.

1 THE COURT: Of course, if you would, please, have
2 the witness identify what is represented by each of the
3 photographs, identifying which exhibit they are.

4 MS. SIMMONS: I will be glad to do that, Judge.

5 MR. GRIFFIN: Your Honor, I would object based on
6 the fact that the proper foundation hasn't been laid
7 and also the fact that these pictures are unduly
8 prejudicial and highly inflammatory.

9 THE COURT: Well, I haven't seen them.

10 MS. SIMMONS: Judge, may we approach?

11 THE COURT: Certainly.

12 (WHEREUPON, a bench conference was held off the
13 record in the presence of the jury, but out of the
14 hearing of the jury.)

15 THE COURT: Tell you what, let's do it over here.

16 I'm going to overrule the objection.

17 State's Exhibits 4, 5, 6, 7, 8 and 9 will be
18 admitted over the objection of the defendant.

19 (WHEREUPON, State's Exhibit Numbers 4 through 9
20 were admitted into evidence.)

21 MS. SIMMONS: Thank you, your Honor.

22 BY MS. SIMMONS:

23 Q Ms. Blackwell, I'm going to show you each picture,
24 and can you describe what you saw?

25 THE COURT: Let's see. Might want to get these

1 lights. Also you give us the number on the exhibit.

2 MS. SIMMONS: This is State's Exhibit 4, your
3 Honor.

4 THE COURT: Very good. Thank you.

5 THE WITNESS: This is the front of my produce
6 stand. That's the front door. And that's the blood
7 that -- where he was laying on the front step. The mat
8 there with all that blood on it is where I had to
9 remove it to clean. I had to use five gallons of
10 Clorox and a hose to clean the front of my store.

11 BY MS. SIMMONS:

12 Q Are you referring to this spot?

13 A Yes, I am, that mat and the spot right in front of
14 the door.

15 Q Thank you.

16 Where did you say the victim was lying?

17 A He came to the front of the store, and he was
18 lying right in front of my front door on that step.

19 Q I'm going to show you now what's been marked
20 State's Exhibit 5. Can you tell me what this is?

21 A Yes. That's him actually laying in front of the
22 door. As you can see, he's bleeding from lots and lots
23 of places. There's lots of stab wounds on this guy.

24 Q Then State's Exhibit 6. Again, can you describe
25 what we're seeing?

1 A Yeah. That's some of the oozing places that I was
2 referring to that are actual just huge, deep
3 lacerations that you can't stop because there's so
4 many. You can't stop the blood. There's just too many
5 places.

6 Q And State's Exhibit 7?

7 A Yeah, that's one of the big puncture holes when --
8 when he was able to actually sit up because he fell
9 over like that. He had bled so much that he fell over.
10 That was one of the places where it was just squirting
11 from him.

12 Q And State's Exhibit 8?

13 A And that's one of the big, huge places that was
14 just laid open. I mean, it just looked like it was
15 just torn, the flesh was just ripped.

16 Q And, lastly, State's Exhibit 9?

17 A That was one of the worst ones. And when I saw
18 that, I thought it, to me, I mean, just from my working
19 with the elderly and seeing different things, I thought
20 that probably was a punctured lung.

21 Q Thank you.

22 Ms. Blackwell, was the victim able to communicate
23 with you at all?

24 A Barely. I mean, I could -- I mean he -- he was --
25 when he first came, he was -- you could understand what

1 he was saying. But the more blood that, you know, he
2 was losing, by the time the ambulance got there he was,
3 you know, not really able to talk. But he was -- he
4 did communicate with me when he first came up.

5 Q At any point while he was under the stress of this
6 event, was he able to communicate who had done this to
7 him?

8 A I said, "What happened to you? Who did this?"
9 And he said, "My cousin."

10 Q And who transported the victim from your business?

11 A The EMS came and they transported him from my. . .

12 Q Have you had any further dealings with the victim
13 or the defendant in this case since July 8th of 2013?

14 A No. And I don't even know the defendant. I never
15 seen him. Didn't -- I mean, he was never on my place
16 of business, so I never saw the defendant.

17 MS. SIMMONS: Beg the Court's indulgence for one
18 moment.

19 Please answer any questions the defense may have.

20 MR. GRIFFIN: No questions, your Honor.

21 THE COURT: Very well. You may step down. Thank
22 you, ma'am.

23 Can the witness be excused?

24 MR. WAGNER: Yes, sir, please.

25 THE COURT: Any objection?

1 MR. GRIFFIN: No objection.

2 THE COURT: All right. Without objection, the
3 witness will be excused.

4 Let me see counsel. We can just do a sidebar over
5 here as far as scheduling.

6 (WHEREUPON, a bench conference was held off the
7 record in the presence of the jury, but out of the
8 hearing of the jury.)

9 THE COURT: Mr. Foreman, ladies and gentlemen of
10 the jury, I understand the next witness will involve
11 some technical testimony and evidence that will take
12 some time to not only prepare but also to present. So
13 I'm going to suggest that we go to lunch at this time.
14 I know it's an early lunch, but now I'm going to let
15 you also decide -- this will be your first
16 responsibility, Mr. Foreman. Consult with your jury
17 how long they might need for lunch. An hour, hour and
18 15 minutes, hour and a half. I know where you have to
19 go or can go for lunch. And it's not a unanimous
20 verdict, just a consensus, if you would. Just check
21 with them as to how long they need.

22 JURY FOREMAN: An hour is fine.

23 THE COURT: An hour. All right. Let's say 1:15
24 then. That's an hour and ten minutes. So come back to
25 the jury room that you have been in this morning. And,

1 again, I do want to apologize for having the delay in
2 getting started, but there were things I had to take
3 care of first before we could, and hopefully it will
4 make things move a little bit quicker and hopefully, if
5 it's possible, more efficiently.

6 Again, I do want to thank you for your patience,
7 as I say, and I look forward to coming back and we'll
8 continue the trial at 1:15. Very good. Thank you very
9 much.

10 Everyone else remain seated while the jury retires
11 from the courtroom.

12 (Whereupon, the jury exited the courtroom
13 at 12:07 p.m.)

14 THE COURT: All right. Let me ask Madam Clerk, do
15 we have a pointer?

16 THE CLERK: Yes.

17 THE COURT: I thought I had one.

18 THE CLERK: You did. You gave us one and normally
19 it's here. I'll find it.

20 THE COURT: All right. One thing I do need to
21 clarify for the record. On my consideration of the
22 exhibits, Plaintiff's Number 4, 5, 6, 7, 8 --
23 plaintiff's -- State's 4, 5, 6, 7, 8 and 9, I was
24 advised and I could see, of course, that they were not
25 color. They were black and white. I think the State

1 said they had changed the color or at least reduced the
2 color to black and white.

3 Also the ruling was based on the fact that they
4 might not be what one would like to have to look at,
5 but the mere fact is they did reflect the testimony
6 that the Court heard up until then and also the
7 testimony as to the exact condition of the alleged
8 victim at the time the photographs were taken. So I
9 find that they were more evidentiary than offensive.
10 So, therefore, that was what my ruling was based on.

11 Now, is there anything else we can do before we go
12 to lunch? Anything else?

13 You have -- Mr. Griffin, you have seen the other
14 photographs. Is there going to be any sort of
15 objection? I would rather rule on the admissibility
16 out of the jury's presence if I could.

17 MS. SIMMONS: Judge, the additional photographs
18 are of the scene and the victim's injuries as well, and
19 the ones that have blood on them have also been reduced
20 to black and white. And I have shown them all to
21 Mr. Griffin.

22 THE COURT: I haven't looked at them, but would
23 they be covered by my ruling -- I'm just thinking if
24 they are direct photographs of the scene to include the
25 victim, then I would probably find that they are

1 admissible even though they show things that might not
2 be attractive.

3 MR. GRIFFIN: I think they're all basically along
4 the lines of what has come in so far.

5 THE COURT: So I'm going to note your objection to
6 all the photographs, but subject to my ruling that they
7 will be admissible.

8 MR. GRIFFIN: Yes, sir.

9 THE COURT: All right. Very good.

10 MS. SIMMONS: Thank you, Judge.

11 (Lunch recess was taken from
12 12:10 p.m. until 1:23 p.m.)

13 THE COURT: State ready to proceed?

14 MR. WAGNER: Yes, sir.

15 THE COURT: Defense ready to proceed?

16 MR. GRIFFIN: Yes, sir.

17 THE COURT: And do we have a jury?

18 THE BAILIFF: Yes, sir.

19 THE COURT: All right. Let's ask the jury to come
20 in, please.

21 (Whereupon, the jury came into open court at
22 approximately 1:23 p.m.)

23 THE COURT: All right. Let the record reflect
24 that the jury and alternates are in the jury box.

25 Mr. Foreman, ladies and gentlemen of the jury,

1 we'll now continue the trial of the case and the State
2 may call its next witness.

3 MS. SIMMONS: Thank you, your Honor. May it
4 please the Court. The State calls Neal Burkett.

5 DANA NEAL BURKETT,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE COURT: Please state your full name, spelling
8 your last name for the reporter.

9 THE WITNESS: Dana Neal, Burkett, B-u-r-k-e-t-t.

10 THE COURT: You may proceed.

11 MS. SIMMONS: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY MS. SIMMONS:

14 Q Mr. Burkett, what's your occupation?

15 A I'm a senior dispatcher with the Oconee County
16 Sheriff's Office.

17 Q How long have you been there?

18 A Twelve years.

19 Q And what -- as a senior dispatcher, what are your
20 duties presently?

21 A Other than supervising the other dispatchers in
22 the room, answering 911 calls and dispatching out
23 public safety agencies.

24 Q Were you on duty on July 8th of 2013?

25 A Yes.

1 Q And did you receive a 911 call that afternoon
2 regarding a stabbing?

3 A Yes.

4 Q Around what time was that?

5 A About 4 -- about 4:04 p.m.

6 Q Who did the caller identify himself as?

7 A At first when I asked, I understood his name to be
8 Ken Kirkland, but later on I understand that was not
9 the correct first name.

10 Q So you later learned it was Hakeem?

11 A Yes.

12 Q What did you immediately do after the call came
13 in?

14 A I was gathering the information. He had
15 identified that he had been stabbed. I tried to get as
16 much information as to his injury, where he was, who
17 did it, and to get him at a point where I knew where he
18 was so I could get the law enforcement and also EMS to
19 him.

20 Q Did you ultimately dispatch help to Hakeem?

21 A Yes.

22 Q Did you also get dispatch from the hospital on the
23 line with you?

24 A Yes.

25 Q What's the purpose of that?

1 A For them to gather information so they can relay
2 to their paramedics and also administer any first aid
3 or pre-arrival instructions to any -- to the patient.

4 Q And do you stay on the line the entire time with
5 the hospital and the patient?

6 A Yes.

7 Q Are the 911 calls typically recorded in the
8 ordinary course of business?

9 A Yes.

10 Q How do you do that?

11 A They are digitally recorded to a server on-site.

12 Q Once the calls are recorded to the server, are
13 they altered or tampered with in any way once they are
14 stored?

15 A No.

16 MS. SIMMONS: Your Honor, may I approach the
17 witness?

18 THE COURT: Certainly.

19 (WHEREUPON, State's Exhibit Number 43 was marked
20 for identification.)

21 BY MS. SIMMONS:

22 Q Mr. Burkett, I'm going to show you what's been
23 premarked as State's Exhibit 43. Do you recognize
24 this?

25 A Yes. That is the copy of the call and my

1 initials.

2 Q Did you have a chance to review this?

3 A Yes.

4 Q What date did you do this?

5 A The 17th -- sorry, the 16th of this month.

6 Q Did you certify by your initials that this is a
7 fair and accurate copy of the call you received that
8 day?

9 A Yes.

10 Q Have any alterations or deletions been made?

11 A No.

12 MS. SIMMONS: Judge, at this time the State would
13 move to introduce State's Exhibit 43 and publish to the
14 jury.

15 THE COURT: Any objection?

16 MR. GRIFFIN: No objection.

17 THE COURT: All right. Without objection, then,
18 State's Exhibit No. 43 will be received.

19 You may proceed.

20 (WHEREUPON, State's Exhibit Number 43 was admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit Number 43 is played
23 for the jury from 1:28 p.m. until 1:42 p.m.)

24 BY MS. SIMMONS:

25 Q Is that a fair and accurate depiction of the call

1 you took that day?

2 A Yes.

3 Q And once this call was terminated, did that end
4 your involvement in this case?

5 A I'm sorry, what now?

6 Q Once that call was terminated, does that end your
7 involvement in this case?

8 A Up until when I was called to come and testify,
9 that's about it.

10 Q And do you personally know either the defendant or
11 the victim in this case?

12 A No.

13 Q Please answer any questions the defense may have.

14 A Okay.

15 CROSS-EXAMINATION

16 BY MR. GRIFFIN:

17 Q Yes, sir. You say when Mr. Kirkland first called
18 you, he told you he didn't know who it was?

19 A Yes.

20 Q Okay. He didn't know who stabbed him?

21 A He just indicated what he could based on my
22 questions at the time.

23 Q Okay. Then he said it was some light-skinned
24 black person?

25 A Yes.

1 Q Okay. And he didn't know who the name was?

2 A At that point in the call he did not give me a
3 name.

4 Q Okay. Then it changed later on to Quay?

5 A Yes.

6 MR. GRIFFIN: That's all I have.

7 THE COURT: Redirect?

8 MS. SIMMONS: Nothing further of this witness,
9 your Honor, and we would ask that he be excused at this
10 time.

11 THE COURT: Any objection?

12 MR. GRIFFIN: No, sir.

13 THE COURT: All right. Without objection, the
14 witness may be excused.

15 Thank you, sir.

16 All right. You may call your next witness.

17 MS. SIMMONS: Your Honor, the State calls Hakeem
18 Kirkland.

19 HAKEEM KIRKLAND,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 THE COURT: All right. If would you, please, give
22 us your full name, spelling your last name.

23 THE WITNESS: Hakeem Shimon Kirkland. Kirkland,
24 K-i-r-k-l-a-n-d.

25 THE COURT: Thank you, sir.

1 You may proceed.

2 MS. SIMMONS: Thank you, your Honor.

3 DIRECT EXAMINATION

4 BY MS. SIMMONS:

5 Q Hakeem, I know you're a little soft-spoken, so
6 speak up for me. Okay?

7 A Okay.

8 Q How old are you?

9 A 22.

10 Q How old were you back in July of 2013?

11 A 21.

12 Q Where do you live?

13 A In Seneca, South Carolina.

14 Q And, Hakeem, have you ever been convicted of a
15 crime?

16 A Yes, ma'am, back in 2011.

17 Q What was that?

18 A Possession of alcohol under a minor.

19 Q Is that it?

20 A Yeah, that's it.

21 Q How do you know the defendant, Laquavius
22 Cleveland?

23 A That's my second cousin.

24 Q Does he go by the street name Quay?

25 A Yes.

1 Q Prior to July of 2013, had you had any problems
2 with the defendant?

3 A No.

4 Q Did he contact you via text message on July 7,
5 2013, and July 8th?

6 A Yes.

7 (WHEREUPON, State's Exhibit Numbers 35 through 42
8 were marked for identification.)

9 BY MS. SIMMONS:

10 Q I'm going to show you those text messages. I'm
11 going to show you what's been premarked as State's
12 Exhibits 35 through 42.

13 MS. SIMMONS: Your Honor, if I may approach.

14 THE COURT: Certainly.

15 BY MS. SIMMONS:

16 Q Do you recognize these messages?

17 A Yes.

18 Q And how were these pictures taken of these text
19 messages?

20 A Like the red one is his, and the green one is
21 mine.

22 Q And were these pictures taken by law enforcement?

23 A Yes.

24 Q And are they exchanged between a number known to
25 you as a number belonging to Laquavius Cleveland?

1 A Yes, that number at the top right there.

2 Q Okay. I want to show you individually these, and
3 if you can tell us what's going on there.

4 A Okay.

5 Q And you have reviewed these pictures before. Have
6 any alterations, deletions been made to these pictures?

7 A No.

8 Q And are they a fair and accurate depiction of your
9 text conversation over July 7th and 8th of 2013?

10 A Yes.

11 MS. SIMMONS: Judge, at this time we would move
12 State's Exhibits 35 through 42 into evidence and ask to
13 publish to the jury.

14 THE COURT: Any objection?

15 MR. GRIFFIN: No objection.

16 THE COURT: All right. Without objection, State's
17 Exhibits Number 35, 36, 37, 38, 39, 40, 41 and 42 are
18 admitted.

19 (WHEREUPON, State's Exhibit Numbers 35 through 42
20 were admitted into evidence.)

21 BY MS. SIMMONS:

22 Q Hakeem, can you see that?

23 A Yeah.

24 THE COURT: Can you make it a little bit clearer?

25 MS. SIMMONS: Judge, the picture itself is not

1 clear.

2 THE WITNESS: Yeah. The top one he asked me am I
3 back. So that's all he was asking me, am I back and
4 stuff.

5 BY MS. SIMMONS:

6 Q Okay. And right here, what does this say?

7 A "You got sum 380 shells you wanna sell."

8 Q And is that from you or him?

9 A From him.

10 Q I'm going to show you State's Exhibit 36.

11 A "Hell naw. All I got is a clip full."

12 "Damn. Lght."

13 "I'm good."

14 "Lght. You still got that lil 25?"

15 Q What does that refer to?

16 A A gun.

17 "Yeah."

18 "How much again."

19 Q Now we're moving on to State's Exhibit 37.

20 A What, that one right there?

21 Q Yes.

22 A "70, but if a nigga get it soon, he can get it for
23 60."

24 "And you got sum shells."

25 "Yeah, I got some in the clip already."

1 "Can you meet me in like 20 minutes."

2 Q And this was occurring on July 7th?

3 A Yes.

4 "Meet you where."

5 "Milbs."

6 "Okay."

7 "You ready Cuzzo."

8 "Boy you done waited too late. You said

9 20 minutes."

10 "Laugh out loud. I know. My be Cuzzo."

11 Q So am I correct to assume that you did not meet on
12 that day?

13 A Huh-uh.

14 Q What was the reason of that?

15 A I just couldn't meet him.

16 Q And?

17 A "Okay. And I need a half and my homeboy want that
18 thang."

19 Q What's that discussion about?

20 A The gun, I guess. "That thang," that's what we
21 call "thang," gun, I guess.

22 Q Okay. And what's a half?

23 A A half, a half a reefer.

24 Q Okay.

25 A "Shit, I don't have a half. All I got is a

1 quarter left. And I bring that to your house."

2 "Ma here and okay that's cool. You can meet me --
3 you can't meet me nowhere." And I was like "naw." He
4 was like, "I can't come to you."

5 Q I'm going to show you State's Exhibit 40 now.

6 A I was like, "Oh, naw, I don't do nothing at my
7 house. I might can meet you in the trap."

8 Q What's the trap?

9 A It's just a little neighborhood.

10 Q Okay.

11 A "Damn. All right. Never mind." And I was like
12 "yeah." And then he was like, "You straight?" I was
13 like, "Yeah." He was like, "You got a half and that
14 thing is still for 60?"

15 Q Then moving on to State's Exhibit 41. And this
16 one is hard to read.

17 A I was like, "I can't sell no half because I can't
18 charge you what I want."

19 "Okay."

20 "You still want that thang?"

21 He was like, "Yeah, and you still charging 60?" I
22 was like, "Yeah."

23 "All right. And it got shells, right, because
24 government buying everything."

25 Q So how much was this transaction going to go for

1 dollar-wise?

2 A Altogether?

3 Q Yes.

4 A 150.

5 Q And, lastly, State's Exhibit 42.

6 A I was like, "What government?" I can't read that
7 right there.

8 MS. SIMMONS: Judge, may I approach the witness?

9 THE COURT: Certainly.

10 THE WITNESS: I was like, "The whole government
11 because they thinking about the end of the world.
12 Laugh out loud." I was like, "I'll be over there." He
13 was like, "All right." I said, "Pulling up." And he
14 was like, "Okay."

15 BY MS. SIMMONS:

16 Q And the "pulling up" text message, was that sent
17 on July 8th?

18 A July 8th.

19 Q As you were pulling up?

20 A Yes.

21 MS. SIMMONS: Madam Clerk, we can turn the lights
22 on. Thank you.

23 BY MS. SIMMONS:

24 Q Hakeem, who initiated all this?

25 A He did.

1 Q What was -- was the plan for you to deliver it to
2 him eventually?

3 A Yes.

4 Q Where did you end up meeting the defendant?

5 A At his house.

6 Q Is that in Oconee County?

7 A Yes.

8 Q What happened when you got to the house?

9 A When I got to the house, he came out the house and
10 sat in the car with me.

11 Q What did you talk about inside the car?

12 A I can't recall.

13 Q Did he stay in the car the whole time?

14 A No. He -- he asked for the gun, and he asked
15 could he go shoot it.

16 Q Did he do that?

17 A Yeah, he went to the back of the house and shot
18 the gun.

19 Q What happened next?

20 A Then he came back and got back in the car with me.

21 Q Where was the gun at that point?

22 A He had it. He was playing with it, so I got it
23 from him.

24 Q What did you do with it?

25 A Set it in my lap.

1 Q After you took the gun, did y'all stay in the car?

2 A Yeah. We sat in the car for a second, a little
3 bit longer.

4 Q What did you talk about then?

5 A I don't recall. We was just talking.

6 Q Did he stay in the car?

7 A He stayed in the car. After we finished talking,
8 he went back in the house. He went in the house, and
9 that's when he came back outside.

10 Q When he came back out, what happened?

11 A He got in the car.

12 Q Okay.

13 A And when he got in the car, we was talking for a
14 bit. Then he got out the car. He was like, "All
15 right, Cuzzo." The next thing I know he reached back
16 in and started stabbing me.

17 Q So was he in or out of the car when he started
18 stabbing you?

19 A It was like he was halfway out, he was halfway in.
20 Like if you were outside the car and you were leaning
21 in, that's how he was.

22 Q Did you have any idea how many times you were
23 stabbed?

24 A Not at the time.

25 Q Do you know now?

1 A Yes.

2 Q How many?

3 A Eleven.

4 Q Did he say anything when he was stabbing you?

5 A No.

6 Q Do you know what the knife looked like?

7 A It was long. That's all I know. It was like a
8 kitchen knife. I know when he tucked it back in,
9 that's the last time I seen it.

10 Q What happened when he stopped stabbing you?

11 A He jumped out the car and took off running.

12 Q In this whole scenario, at any point did you
13 threaten the defendant, argue with him, point a gun,
14 act aggressive towards him?

15 A No. We was talking like family. Like that's my
16 family.

17 Q How often were you talking with him prior to this
18 day?

19 A Like this wasn't a first-time thing. It's like we
20 done talked and kicked it before, like this is -- this
21 is nothing new.

22 Q Were you in a defensive posture while you were
23 being stabbed?

24 A Yeah.

25 Q Can you demonstrate for the jury?

1 A Like that right there. That's how my arm got
2 stabbed. It went straight through.

3 Q Where are all your stab wounds, what side of your
4 body?

5 A My right side.

6 Q And is that consistent with being stabbed from the
7 passenger side?

8 A Yes.

9 Q Why do you think he did this to you?

10 A I don't know.

11 Q Did he get away with the gun or the marijuana?

12 A No.

13 Q What did you do when you realized you were hurt?

14 A I jumped in my car and tried to make it home, but
15 I didn't get to make it home. I stopped at Seneca
16 Tires.

17 Q During the stabbing did you somehow end up outside
18 the car?

19 A Yeah. After he stabbed me -- when he was stabbing
20 me, I was trying to get out the car. So I finally got
21 out the car. That's when my door handle -- my door
22 panel fell off. So I pushed it open, I fell out the
23 car, rolled on the ground, and he took off. That's
24 when I jumped in the car and I took off.

25 Q When you realized you were hurt, did you make any

1 calls?

2 A Yes, to 911.

3 Q Why were you initially hesitant to call the 911 --
4 tell the 911 dispatcher who stabbed you?

5 A Because that's my cousin. Like we family. Like I
6 have been knowing him all my life. I didn't even want
7 him involved in this, but at the same time, he tried to
8 take my life.

9 Q Where did you finally end up driving to for help?

10 A Seneca Tires, the old TGIF.

11 Q Were they able to help you there?

12 A Yes.

13 Q You saw the lady testify earlier. Was that the
14 lady who helped you that day?

15 A Yes, ma'am.

16 Q I'm going to show you a few more pictures of that
17 day and have you identify those for me.

18 MS. SIMMONS: If I may approach, your Honor.

19 THE COURT: Yes.

20 (WHEREUPON, State's Exhibit Numbers 29 through 34
21 were marked for identification.)

22 BY MS. SIMMONS:

23 Q Hakeem, I'm going to show you State's Exhibits 29
24 through 34. Do you recognize these items?

25 A Yeah, that's my door. And that's the gun, the

1 .25.

2 Q And are these a fair and accurate depiction of the
3 things that belonged to you and the incident scene?

4 A Yes, that's the incident scene.

5 Q Have these been altered or tampered with in any
6 way; do you recognize these things?

7 A Yes.

8 MS. SIMMONS: Judge, the State would move in 29
9 through 34 and ask to publish to the jury.

10 THE COURT: Any objection?

11 MR. GRIFFIN: Other than my continuing objection
12 as to one of them.

13 MS. SIMMONS: Continuous objection as to the
14 black-and-whites, your Honor.

15 THE COURT: The what?

16 MS. SIMMONS: The continuous objection as to the
17 certain photographs (indicating).

18 THE COURT: Oh, all right. Now, that is of the
19 scene, right?

20 MS. SIMMONS: Yes, your Honor.

21 THE COURT: Overruled.

22 State's Exhibits Number 29, 30, 31, 32, 33, 34?

23 MS. SIMMONS: Yes, your Honor.

24 THE COURT: Are admitted over the objection.

25 (WHEREUPON, State's Exhibit Numbers 29 through 34

1 were admitted into evidence.)

2 BY MS. SIMMONS:

3 Q Showing you State's Exhibit 29, what is this?

4 A That's the house I pulled up to.

5 Q Again, that's in Ocone?

6 A Yes.

7 Q Where were you when you parked?

8 A Like right there, like right beside where you see
9 the walkway. He walked down a little -- no. Come
10 down. Like right there. That's where I was parked at.

11 Q And these markers, do you know what they mark?

12 A No, I don't know what they mark for.

13 Q So you were parked right here?

14 A Yeah. Because I fell out the car where all the
15 rocks and stuff is at right there.

16 Q Okay. And this is the house the defendant entered
17 and exited during the course of the conversation?

18 A Yes.

19 Q Show you what's been marked as State's Exhibit 30.
20 What is this?

21 A That's my door panel.

22 Q And what is the dark substance on it?

23 A Blood.

24 Q Show you what's marked as State's Exhibit 31. Can
25 you describe that for me?

1 A Blood.

2 Q Is that your car?

3 A Yes, that's my car.

4 Q State's Exhibit 32. What is that?

5 A Yeah, that's my car. I mean that's the gun when
6 it was in the dashboard in my car.

7 Q Is that the gun that the defendant was trying to
8 buy from you?

9 A Yes, ma'am.

10 Q And who put it in the glove box?

11 A I did.

12 Q And State's Exhibit 33 and 34?

13 A Yeah, that's it. Yes, it's the same gun.

14 Q That's the gun in question? Thank you.

15 Hakeem, you received 11 stab wounds that day?

16 A Yes.

17 Q Did you have any damage to any internal organs?

18 A A punctured lung and something about my kidney or
19 something like that.

20 Q Did you have any liver damage?

21 A Yeah, I think so. I think that's what the doctor
22 told me, liver and punctured lung. But that's when
23 they put me --

24 MR. GRIFFIN: Objection; hearsay.

25 THE COURT: Sustained.

1 BY MS. SIMMONS:

2 Q Hakeem, just keep your testimony to things you
3 actually know.

4 A Okay.

5 Q So your injuries were 11 stab wounds?

6 A Yeah, there was 11 of them.

7 Q And was your liver and lung damaged?

8 A Yes.

9 Q How long did you stay in the hospital?

10 A Four days.

11 Q Do you have any lasting effects from these stab
12 injuries today other than scars?

13 A Like I get the shakes sometimes like anxiety.
14 That's about it.

15 Q And just, once again, did you initiate this
16 transaction in any way?

17 A No.

18 Q And were you aggressive or hostile towards the
19 defendant in any way that day?

20 A No.

21 MS. SIMMONS: Beg the Court's indulgence for one
22 moment.

23 Please answer any questions the defense may have.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. GRIFFIN:

2 Q Mr. Kirkland, you say you went to Laquavius' house
3 to sell him marijuana and a gun?

4 A Yes.

5 Q And you had done that before, hadn't you?

6 A Yes.

7 Q And when you were initially stabbed, you told the
8 911 operator you didn't know who did it?

9 A Yes.

10 Q Okay. And then later you told the 911 operator on
11 in the conversation it was your cousin Quay who did it,
12 right?

13 A Yes.

14 Q Do you remember being interviewed at the hospital
15 by the detectives?

16 A Yes.

17 Q Do you remember telling them that you went over to
18 Quay's house just to smoke some weed?

19 A Yes.

20 Q Okay. And that you didn't have any problems with
21 him at that time, right?

22 A Yes.

23 Q And you said he just -- you had no idea why he
24 attacked you with a knife?

25 A Yes.

1 Q Okay. Isn't it true that you denied who did it
2 because you wanted to cover up the fact that you were
3 over there delivering marijuana and a pistol to an
4 underage person?

5 A Yes, but like it wasn't like -- I don't know, like
6 that's my cousin. Like I didn't even want to bring him
7 into it, but then I finally realized he tried to take
8 my life away over nothing.

9 Q All right. You said you had taken the pistol away
10 from him at one point in the car?

11 A Yeah. I got it back from him.

12 Q You said basically you just took it from him,
13 right?

14 A No, I didn't just take it from him. He was in
15 there playing with the gun, so I got it back from him.

16 Q You got it back from him?

17 A Uh-huh.

18 Q All right. And did the detective ever ask you
19 whether or not you had -- you and Quay got into it
20 about \$200 that Quay owed you?

21 A No, I don't know nothing about no \$200 he owed me
22 because he didn't owe me no \$200.

23 Q Y'all weren't beefing about nothing?

24 A No.

25 Q Were you ever charged in any of this stuff?

- 1 A No.
- 2 Q The pistol was found in your glove compartment?
- 3 A Yes.
- 4 Q And what happened to the marijuana?
- 5 A I don't know.
- 6 Q You don't know where it went?
- 7 A I don't recall.
- 8 Q Where was it when you got to Quay's house?
- 9 A In my lap.
- 10 Q Okay. How did the pistol get in the glove
- 11 compartment?
- 12 A I put it in there.
- 13 Q When did you put it in there?
- 14 A After I got stabbed, when I jumped in the car and
- 15 was driving down Shiloh Road trying to get to my house
- 16 but I stopped at Seneca Tire, that's when I put it in
- 17 there.
- 18 Q So you had the presence of mind to put it in the
- 19 glove compartment?
- 20 A Yes.
- 21 Q Was that before or after you called 911?
- 22 A During.
- 23 Q Had you been drinking that day?
- 24 A No.
- 25 Q Been smoking weed that day?

1 A No.

2 Q What else have you ever delivered over there to
3 Quay's house?

4 MS. SIMMONS: Objection, your Honor. Relevance.

5 THE COURT: Overruled.

6 BY MR. GRIFFIN:

7 Q Have you ever delivered anything else?

8 A No.

9 Q Okay. How often did you see Quay up to this
10 point, Laquavius?

11 A Sometime like whenever, you know what I'm saying,
12 like he was out and about, I seen him. I done shot
13 ball with him and everything because they stayed right
14 across the street from a church with a basketball goal
15 in the back.

16 Q Y'all shot basketball with him?

17 A Yeah. That's my cousin.

18 Q How often did you see him before that, I mean
19 daily or every other day or what?

20 A Every other day.

21 Q Okay. What is OG?

22 A Weed.

23 Q Okay. What's a Swisher mean?

24 A A cigar.

25 Q Cigar?

- 1 A Yeah.
- 2 Q Do you use them for anything else?
- 3 A No, that's its. That's all it means. A Swisher
- 4 is a cigar.
- 5 Q Where did you get the pistol from?
- 6 A I bought it.
- 7 Q From where?
- 8 A Off the street.
- 9 Q Off the streets?
- 10 A Yeah.
- 11 Q Do you buy and sell guns for anybody else?
- 12 A No. I can go buy a gun at the pawn shop. I ain't
- 13 got no record.
- 14 Q You buy them and sell them to other people?
- 15 A No, I buy them for protection.
- 16 Q Okay. And so you had the pistol in your lap?
- 17 A Yeah.
- 18 Q You claim Quay started stabbing you?
- 19 A Yeah.
- 20 Q Why didn't you shoot him?
- 21 A It fell. When he started stabbing me, it fell.
- 22 It was in my lap, and when he stabbed me, I jumped and
- 23 it fell on the floorboard.
- 24 Q Did you ever get your hands on it and try to shoot
- 25 at him?

1 A No. When he got out -- after he took off running,
2 I grabbed the gun, but I ain't never fired no shot.

3 Q And y'all weren't arguing over \$200 that you
4 fronted him earlier?

5 A No.

6 Q Did the detective ask you about that?

7 A No.

8 Q They never asked you about that?

9 A About the \$200 situation?

10 Q Yeah.

11 A Well, they asked me, but I told them he ain't
12 never owed me nothing.

13 Q Okay. Were you given any promises or anything for
14 your testimony today?

15 A No.

16 MR. GRIFFIN: That's all I have.

17 THE COURT: Re-exam?

18 REDIRECT EXAMINATION

19 BY MS. SIMMONS:

20 Q Hakeem, just two questions for you. Can you
21 please point out for the jury who stabbed you.

22 A (Indicating).

23 MS. SIMMONS: Your Honor, please let the record
24 reflect the defendant is being referenced by the
25 victim. He's pointing to him as the person who stabbed

1 him.

2 THE COURT: Very well.

3 BY MS. SIMMONS:

4 Q That's the person who stabbed you on July 8th,
5 2013?

6 A Yes.

7 Q Hakeem, if you had known the defendant needed
8 money or a gun or marijuana, what would you have done?

9 A I would have did it. It's my cousin. Like if he
10 down and bad, I would have did it for him. That's what
11 family is supposed to do.

12 Q If he would have needed money, would you have
13 given him the money?

14 A Yeah.

15 MS. SIMMONS: Thank you.

16 THE COURT: Recross?

17 MR. GRIFFIN: No, sir.

18 THE COURT: All right. You may step down.

19 You may call your next witness.

20 MS. SIMMONS: Thank you, Judge.

21 The State calls Joe Anderson.

22 JOSEPH ANDERSON,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE COURT: All right. If you would, please, sir,
25 give us your full name for the record, spelling your

1 last name.

2 THE WITNESS: Joseph Alexander Anderson.

3 THE COURT: Very good. Thank you, sir.

4 DIRECT EXAMINATION

5 BY MS. SIMMONS:

6 Q Mr. Anderson, where are you employed?

7 A Oconee Medical Center.

8 Q And how long have you been at Oconee Medical
9 Center?

10 A Since 2006.

11 Q What's your education background?

12 A I have an associate's degree in health science
13 with a minor in emergency medical technology.

14 Q And what kind of specialized training do you have
15 in emergency medical technology?

16 A Other than my paramedic, I have certifications in
17 prehospital trauma life support, pediatric advanced
18 life support, advanced trauma life support, and
19 advanced cardiac life support.

20 Q How many years total have you been a paramedic?

21 A Two years of training plus 26 years, total of
22 28 years.

23 Q Can you estimate how many calls regarding a -- how
24 many trauma calls you have been on during the course of
25 your career?

1 A Wow. Numerous. I couldn't begin to tell you.

2 Q In the hundreds or in the thousands?

3 A Probably close to a thousand.

4 Q And what range of injuries have you treated over
5 these 28 years?

6 A Everything from crushing to stabbings to
7 shootings, entrapments, all kinds.

8 Q What kind of treatment can you provide as a
9 paramedic or EMT?

10 A Pretty much we do everything that the doctor would
11 be able to do in the ER with the exception of certain
12 medications. That's it.

13 MS. SIMMONS: Your Honor, at this time we would
14 move Mr. Anderson as an expert in emergency medicine
15 and paramedic services based on his 28 years of
16 experience.

17 MR. GRIFFIN: No objection.

18 THE COURT: All right. Without objection, the
19 witness is qualified as an expert in emergency what?

20 THE WITNESS: Medical services.

21 THE COURT: EMS.

22 THE WITNESS: Same thing.

23 THE COURT: I'm just thinking about something for
24 the record. In other words, not as a physician but as
25 an EMS.

1 MS. SIMMONS: Right, as an emergency medical
2 service provider.

3 THE COURT: Mr. Foreman, ladies and gentlemen of
4 the jury, normally witnesses are only permitted to
5 testify -- and you have heard an objection to hearsay
6 and things like that -- as to things that they know of
7 their own knowledge and their own use of their own
8 faculties or senses. In other words, what they see or
9 hear as a physically involved person.

10 However, if a witness is qualified by reason of
11 their background, training, experience or education in
12 a particular area and qualify as such, they are
13 permitted to give their opinion. And that's what we
14 call experts.

15 Now, an expert's testimony is like the testimony
16 of any other witness. The value of it is for you to
17 determine. You weigh that evidence just as you would
18 any other evidence and give it the credit or what you
19 think it's deserving.

20 All right. You may proceed.

21 MS. SIMMONS: Thank you, Judge.

22 BY MS. SIMMONS:

23 Q Mr. Anderson, were you working at the hospital on
24 July 8th of 2013?

25 A Yes, ma'am.

1 Q Was that -- were all of your events you responded
2 to in Oconee County initially?

3 A Yes, ma'am.

4 Q Did you respond to a stabbing call the afternoon
5 of July 8, 2013?

6 A We did.

7 Q Where did you respond to?

8 A Shiloh Road.

9 Q What did you find when you got there?

10 A We found a gentleman laying on the front steps of
11 a small business and bleeding profusely.

12 Q Did you come to know this gentleman as Hakeem
13 Kirkland?

14 A Yes, ma'am.

15 Q What was your initial assessment of his injuries?

16 A Multiple stab wounds, profuse bleeding. He had
17 lost a lot of blood at that point.

18 Q What treatment did you provide immediately before
19 you even got him into the ambulance?

20 A We initially stabilized him on a long spine board.
21 We roll them to the side. I assessed his back. I
22 noticed he had several stab wounds on his back. Then
23 we put him on the spine board and we basically strap
24 them down to keep them from moving to incur any other
25 injuries.

1 Q What kind of further treatment did you determine
2 this victim needed?

3 A He needed to go to a trauma center, and we called
4 for the helicopter to fly him over to Greenville. We
5 have a golden hour that we're supposed to try to
6 maintain, and the helicopter wouldn't fly because the
7 weather, so we determined that we would have to
8 transport him by ground. So it would be stabilization,
9 IV, o2, rapid transport.

10 Q Did you make it to Greenville within an hour?

11 A I believe so. I believe it was like 35 or
12 38 minutes or something like that.

13 Q Were the services he received at Greenville, could
14 they not be provided by Ocone?

15 A No. He needed to be in a trauma center.

16 Q What treatment did you provide along the way to
17 Greenville other than stabilization?

18 A Administered oxygen, IV, helped stop some of the
19 bleeding by putting occlusive dressings on his chest
20 wound. He actually had a wound on his back, I think in
21 his scapular region, that needed to be dressed. So we
22 put occlusive dressings on that. In case there was
23 involvement of the lung, we have to seal that so that
24 air doesn't leak out.

25 Q What are the potential complications and risks

1 associated with the injuries you observed the victim
2 had?

3 A Wow. He had potential lung, heart, stab wounds to
4 the head. They were superficial, but they were
5 bleeding pretty bad. I couldn't really tell if they
6 went into the skull or not. There was no depression,
7 but, you know, he had life-threatening injuries.

8 Q And these life-threatening injuries were due to
9 the injuries themselves and the blood loss?

10 A Yes, ma'am.

11 Q Did you have any conversation with the victim on
12 the way to Greenville?

13 A Yes, ma'am.

14 Q What did he tell you had happened?

15 A He didn't tell me exactly what happened. He just
16 said his cousin stabbed him. And I basically said to
17 him, "You need to choose who you hang out with more
18 carefully," you know. It was just a short
19 conversation.

20 Q Did your involvement in this case end upon
21 transferring the victim to the custody of Greenville
22 Memorial Hospital?

23 A I'm sorry?

24 Q Did your involvement in this case end upon your
25 transferring the victim over to Greenville Memorial

1 Hospital?

2 A Yes.

3 Q Please answer any questions the defense may have.

4 MR. GRIFFIN: No questions.

5 THE COURT: All right. You may step down. Thank
6 you, sir.

7 MR. WAGNER: Your Honor, we'd ask this witness be
8 excused.

9 THE COURT: Any objection?

10 MR. GRIFFIN: No, sir.

11 THE COURT: All right. Without objection, you may
12 be excused. Again, thank you, sir.

13 May I see the attorneys, please?

14 (WHEREUPON, a bench conference was held off the
15 record in the presence of the jury, but out of the
16 hearing of the jury.)

17 THE COURT: Mr. Foreman, ladies and gentlemen of
18 the jury, we are simply moving along rather well, so
19 I'm going to suggest that we do take a break at this
20 time and then come back -- let's take 15 minutes.

21 And there are refreshments back there for the
22 jury?

23 THE BAILIFF: Yes, sir.

24 THE COURT: And we'll take this as the afternoon
25 break.

1 Now, I might say, it's my policy usually to break
2 about 5 o'clock each day. The reason for that is it's
3 been my experience that we have two worlds in these
4 days. One starts early in the morning and goes to
5 5:00, and the second one starts about 5:00. So I
6 usually try to get people out by that time. So you can
7 just put that -- if you have any problem with that,
8 though, do let the bailiff know and I'll see what we
9 can do about it.

10 Very good. Y'all are excused. Do not undertake
11 the discussion of this case among yourselves in any
12 way.

13 Everyone else remain seated while the jury retires
14 from the courtroom.

15 (Whereupon, the jury exited the courtroom
16 at 2:21 p.m.)

17 THE COURT: All right. Anything from the State
18 before we take a break?

19 MR. WAGNER: No, sir.

20 THE COURT: From the defense? Anything from the
21 defense before we take a break?

22 MR. GRIFFIN: Nothing.

23 THE COURT: All right. Let's try about
24 15 minutes.

25 (Whereupon, recess taken from 2:22 p.m.)

1 to 2:37 p.m.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. WAGNER: Yes, sir.

5 THE COURT: Defense ready? Mr. Griffin?

6 MR. GRIFFIN: Yes, sir, your Honor.

7 THE COURT: Ask the jury to join us, please.
8 (Whereupon, the jury came into open court at
9 approximately 2:38 p.m.)

10 THE COURT: All right. Let the record reflect the
11 jury and alternates are in the jury box.

12 Mr. Foreman and ladies and gentlemen of the jury,
13 we'll now proceed with the State's case.

14 Mr. Solicitor, you may call your next witness.

15 MR. WAGNER: Your Honor, we call Sergeant McMahan.

16 DAVID McMAHAN,

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE COURT: If you would, please, sir, give us
19 your full name, spelling your last name.

20 THE WITNESS: Yes, sir. David R. McMahan.
21 Spelling, M-c-M-a-h-a-n.

22 DIRECT EXAMINATION

23 BY MR. WAGNER:

24 Q Mr. McMahan, who do you work for?

25 A I work for the Oconee County Sheriff's Office.

1 Q What are your job duties there?

2 A I'm an investigator for the sheriff's office.

3 Q Do you work with Sergeant Tinsley and Captain
4 Reed?

5 A Yes, sir, I do.

6 Q Were you working in that capacity back on July 8,
7 2013?

8 A Yes, sir.

9 Q Did you get called to go out to the scene -- I
10 won't say scene of the stabbing, but the scene where
11 the victim was by the tire shop?

12 A Yes, sir. I received a phone call from my
13 captain, Captain Greg Reed. He advised me that I
14 needed to respond to that location, the tire shop, in
15 order to assist in the investigation of a stabbing.

16 Q When you got there, what did you see?

17 A When I got there, I saw there was a lot of blood
18 in the front steps of the business there and in the
19 general area where the steps was.

20 Q Was the victim still there?

21 A No, sir. The ambulance had taken him on to
22 Greenville Hospital just prior to my getting there.

23 Q What was your next step?

24 A My next step was I contacted my captain. He
25 advised me that he was aware that the victim was headed

1 to Greenville to the trauma center, and that he asked
2 me to respond as well to Greenville.

3 Q Okay. Did you respond to the trauma center?

4 A I did along with another investigator.

5 Q Okay. When you got there, what did you do?

6 A When I got there, I located him. He was in the
7 critical care unit at that time being treated, so I did
8 respond to that area and I spoke with the nurses there
9 and found out that he was conscious and that it was
10 possible that I could talk to him.

11 Q Okay. Did you talk to him?

12 A Yes, sir, I did.

13 Q And were you able to find out what happened?

14 A Yes. I spoke with the victim, Mr. Kirkland. He
15 was alert, he was conscious when I was speaking with
16 him. I noticed visible serious wounds all about the
17 right side of his body. And he did, when I asked him
18 what happened, he did start telling me what had
19 happened to him.

20 Q Was he reluctant to tell you who did it?

21 A No, he told me right off that -- who did it. He
22 was just reluctant to tell me what happened.

23 Q Okay.

24 A There was two questions I asked him: Who did it
25 and what happened.

1 Q What did you ask him?

2 A I asked him, I said, "Who did this to you?" And
3 he said, "My cousin Quay did it to me." And the second
4 part, "Tell me what happened. Tell me the story, why
5 this -- what led up to this." And he first told me, "I
6 just come over there to smoke some weed with him and
7 have a good time, and I don't know why in the world he
8 did this to me." He said they weren't arguing or
9 anything of that nature. It was a surprise to him why
10 he was attacked.

11 Q Okay. Were you able to find out later why he was
12 reluctant to tell you?

13 A Yes, sir. During that conversation, I had spoken
14 again with my captain, Greg Reed. He informed me --

15 MR. GRIFFIN: Your Honor, objection. Hearsay.

16 THE COURT: Mr. Wagner?

17 MR. WAGNER: Your Honor, I guess let me rephrase.
18 I think Mr. Griffin, I think they had kind of already
19 gone into that when he was cross-examining the victim
20 as to that conversation, but.

21 THE COURT: Well, let's see. You're asking this
22 witness what another witness said?

23 MR. WAGNER: But he -- yes, sir, your Honor, but
24 Mr. Griffin had already talked to the victim as far as
25 what he had said. They had already gone into the --

1 the conversation had already been testified to when the
2 victim testified as to what the victim said.

3 THE COURT: The victim hasn't testified.

4 MR. WAGNER: Yes, sir, Mr. Kirkland.

5 THE COURT: Oh, all right. Very good. I
6 understand. Yes. All right.

7 And let the record reflect Mr. Kirkland is in the
8 courtroom, so subject to cross-examination and recall.

9 Very well. You may proceed.

10 BY MR. WAGNER:

11 Q Sir, you were able to determine why he was
12 reluctant to --

13 THE COURT: Objection overruled.

14 BY MR. WAGNER:

15 Q -- tell you why?

16 A Yes. He was reluctant to tell me at first because
17 he was worried about the marijuana and the gun. That's
18 what he was worried about.

19 (WHEREUPON, State's Exhibit Numbers 10 through 22
20 were marked for identification.)

21 BY MR. WAGNER:

22 Q Let me show you what's been marked State's Exhibit
23 10 through, I believe, 22.

24 MR. GRIFFIN: The same objection I had to the
25 first set of photographs, the same nature.

1 THE COURT: All right. Let's have the witness
2 identify them.

3 THE WITNESS: Yes, sir. I recognize these
4 pictures.

5 THE COURT: Let's have them identify what they
6 are.

7 BY MR. WAGNER:

8 Q What are these, State's Exhibit 10 through 22?

9 THE COURT: And then go through each one.

10 THE WITNESS: Yes, sir. These are pictures that I
11 myself took at Greenville Hospital of the victim and
12 his injuries.

13 BY MR. WAGNER:

14 Q Do they fairly and accurately depict the victim as
15 he looked when you took the pictures that day?

16 A Yes, sir.

17 Q Have they been altered or tampered with in any
18 manner?

19 A No, sir.

20 MR. WAGNER: Your Honor, at this time we would
21 admit State's Exhibit 10 through 22.

22 THE COURT: All right. I'm going to permit the
23 defendant to voir dire the witness as to their
24 objection, if any.

25 MR. GRIFFIN: Your Honor, my objection earlier was

1 basically the prejudicial value outweighs the probative
2 value.

3 THE COURT: Well, I mean, that's not what's at
4 issue here. What the Court is concerned about is
5 whether or not they accurately reflect. As I
6 understand, these were made from the victim at the time
7 of his hospitalization.

8 MR. WAGNER: Yes, sir.

9 THE COURT: It's not anybody else's concept of it.

10 MR. WAGNER: No, sir. These are pictures that
11 Sergeant McMahan took.

12 THE COURT: In other words, if you felt there was
13 something, that they could not be relied on, that was
14 the main thing.

15 MR. GRIFFIN: Other than the prejudicial effect
16 may outweigh the probative value.

17 THE COURT: I'm sure they wouldn't be introducing
18 them if they weren't.

19 All right. Very good. I'm going to overrule the
20 objection. You can testify. That's State's
21 Exhibit Numbers 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,
22 21 -- 20, 21 and 22?

23 MR. WAGNER: Yes, sir.

24 THE COURT: Very good. All right. Admitted over
25 the objection of the defendant.

1 (WHEREUPON, State's Exhibit Numbers 10 through 22
2 were admitted into evidence.)

3 BY MR. WAGNER:

4 Q Sergeant McMahan, let's start with State's
5 Exhibit 10.

6 THE COURT: Which one is this?

7 MR. WAGNER: State's Exhibit Number 10.

8 BY MR. WAGNER:

9 Q What is that a picture of, Sergeant McMahan?

10 A That is a picture of the chest, of the victim's
11 chest wound. And, of course, the medical procedure
12 that was used, it was a chest tube is what the nurse
13 described.

14 Q By the time you got there, had he already been
15 through some surgery?

16 A He was in the trauma unit of the critical care.
17 I'm not sure about any surgery at the time other than
18 he may have been being prepared for it.

19 Q State's Exhibit Number 11?

20 A Yes, sir. I recognize that. That wound is the
21 wound right there at the top of the abdomen that the
22 nurse had described as entering the body and nicking or
23 cutting into the liver area.

24 Q We're talking about right here, right?

25 A Yes, sir.

1 Q The light lines right here, what were those?

2 A Those were staples to close the wound.

3 Q Okay. It's easier to see on the actual picture
4 than it is on the overhead.

5 State's Number 12?

6 A Yes, sir. That picture, I panned out to get an
7 overall view of the injuries there.

8 Q And the injuries here?

9 A Yes, sir. That particular wound, I asked the
10 victim, Mr. Kirkland, I said, "What do you remember
11 about that particular wound?" If you will notice, it's
12 quite wide right there. He said as he was being
13 stabbed, he put his arm up in this nature to try to
14 stave off some of the oncoming stabs that was being
15 thrown at him, and that's where the wound, the knife
16 actually went through the meaty part of his forearm and
17 exited out the other end. It was a through-and-through
18 wound.

19 Q In your line of law enforcement, what would you
20 call that?

21 A Yes, sir. My experience in law enforcement,
22 that's called a defensive wound.

23 Q Was that wound consistent with a defensive wound?

24 A Yes, sir.

25 Q Was it consistent with what the victim told you?

1 A Yes, sir, it was.

2 Q Let me show you State's Number 13. Is this a
3 different angle?

4 A Yes, sir, that's a different angle. It shows, as
5 I spoke of earlier, the entry of the knife and then the
6 exit through the meaty part. It completely went
7 through his arm.

8 Q And were there one wound or two?

9 A No, sir, it was one wound. It was an entrance
10 wound and it was an exit wound.

11 Q I mean, it went all the way through his arm, at
12 least part of it?

13 A Yes, sir, it did. It went all the way through his
14 arm.

15 Q State's Number 14?

16 A Yes, sir, I recognize that picture as well.

17 Q And what is that?

18 A It is a laceration that was described as one of
19 the major lacerations. And it's held together at that
20 point with two staples. And that's around the shoulder
21 area.

22 Q Number 15?

23 A That is also a wound. I believe that is in the
24 upper right portion of his chest. Also with staples.

25 Q State's Number 16?

1 A That, again, is another picture, an overall
2 picture and a picture of Mr. Kirkland's face, the
3 victim.

4 Q Number 17?

5 A Yes, sir. That's the victim, Mr. Kirkland. He
6 had some major wounds on his back, so he was assisted
7 and rolled over and I took pictures of those wounds as
8 well.

9 Q Were they up here?

10 A Yes, sir, right there in kind of the upper right
11 shoulder area, right in there.

12 Q Number 18 is a little bit closer view?

13 A Yes, sir. Those are the wounds in the back area
14 also consistent with his statement where he was trying
15 to get away, moving like this to try to get away from
16 the stab wounds.

17 Q State's Number 19?

18 A That's another wound in the right shoulder area,
19 right below his armpit right there.

20 Q State's Number 20?

21 A That's a second picture of his back trying to show
22 an overall view of the wounds in the back/shoulder
23 area.

24 Q 21?

25 A Yes, sir. That shows, as was stated earlier,

1 wounds to the head. One right as we can see behind his
2 ear, and should be another wound in there as well.

3 Q I think you got that on 22 here.

4 A Yes, sir. That's a second wound.

5 Q Was it a laceration? Is that another staple?

6 A That's another staple to close up that wound, yes,
7 sir.

8 Q Were the wounds consistent with being all on the
9 right side of the victim?

10 A Yes, sir. As I spoke with Mr. Kirkland and
11 examined his wounds, all that was consistent with this,
12 the right side of the area, right in here.

13 Q After you interviewed the victim and had taken
14 these pictures, did you call Captain Reed?

15 A I did. I called my captain to inform him of what
16 information I was gathering such as that.

17 Q And did you and the other detective go back to the
18 sheriff's office and inform them about what you found
19 out --

20 A Yes, sir.

21 Q -- later that evening?

22 A Yes, sir. I had informed him over the phone as
23 well as spoke to him face-to-face when I got back to
24 the sheriff's office.

25 Q Thank you, Sergeant. That's all the questions I

1 have.

2 A Yes, sir.

3 THE COURT: Cross-examination?

4 CROSS-EXAMINATION

5 BY MR. GRIFFIN:

6 Q Who were you with at the hospital?

7 A Who was I with, sir?

8 Q Did you go there with somebody?

9 A Yes, sir. I went with Sergeant Will Freestate.

10 Q And you interviewed Mr. Kirkland back here?

11 A Yes, sir, I did.

12 Q All right. And he initially told you that -- he
13 states he first drove to the suspect's house to smoke
14 some weed?

15 A That's what he told me, yes, sir.

16 Q And he states he had no problem, and he had no
17 idea why he got attacked?

18 A Yes, sir, that's what he told me.

19 Q Okay. And then he changed his story after that.
20 Did y'all confront him with some evidence?

21 A Yes, sir. When I -- as I stated earlier, I
22 received information, some new information, and I told
23 Mr. Kirkland, I said, Mr. Kirkland, we're not -- at
24 this point we're not concerned about marijuana, stuff
25 like that. We're concerned about your condition that

1 you're in and who did this to you, and that there was
2 information that surveillance cameras were on the scene
3 and there may be some video cameras, which is what was
4 told to us as stated earlier. And Mr. Kirkland said,
5 "I just want to tell you the truth, and that's when he
6 come out and told me."

7 Q So he finally admitted, when he knew he might have
8 been busted on some video, he went ahead and told you
9 about the weed and the pistol?

10 A He told me who did it. I mean, he never denied
11 that whatsoever from the beginning. He was just
12 reluctant because he was afraid he was going to be in
13 trouble for the marijuana.

14 Q All right. Did y'all ever arrest him for
15 conspiring to sell marijuana to somebody?

16 A No, sir.

17 Q All right. Did you ever tell anybody that you
18 were going to arrest him for possession with intent to
19 distribute?

20 A The victim you're speaking of?

21 Q Yeah.

22 A No, sir, I did not.

23 Q Did y'all ever find the marijuana?

24 A No, sir.

25 Q Where did you find the pistol?

1 A I believe it was testified that it was in the
2 glove box of the Crown Victoria.

3 Q Did y'all run a check on it to see if it had been
4 stolen?

5 A My role in the investigation was to interview the
6 victim, and I didn't take part in the gun.

7 Q All righty. Thank you.

8 A Yes, sir.

9 THE COURT: Re-examine?

10 MR. WAGNER: Nothing further, your Honor.

11 THE COURT: Very good.

12 You may step down. Thank you, sir.

13 MR. WAGNER: The State would call Sergeant
14 Tinsley.

15 MARGARET AMANDA TINSLEY,
16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: All right. You may proceed.

18 DIRECT EXAMINATION

19 BY MR. WAGNER:

20 Q Sergeant Tinsley --

21 THE COURT: Excuse me. Sergeant, if you would,
22 please give us your full name for the record, spelling
23 your last name.

24 THE WITNESS: Margaret Amanda Tinsley. Tinsley is
25 T-i-n-s-l-e-y.

1 THE COURT: Thank you, ma'am.

2 BY MR. WAGNER:

3 Q Who do you work for?

4 A The Oconee County Sheriff's Office.

5 Q How long have you worked for the sheriff's office?

6 A About nine and a half years, I think.

7 Q What are your job duties currently?

8 A I'm a detective in investigations.

9 Q Were they -- were you a detective back when this
10 stabbing happened?

11 A I was.

12 Q Were you on call that week?

13 A I was.

14 Q Explain to us what an average day as a detective
15 is being on call and how you ended up assigned to this
16 case as lead investigator.

17 A We rotate on-calls. And if you're on call and
18 something violent happens, then you're automatically
19 typically the lead investigator in that case. And
20 that's why I ended up getting this case that day. I
21 was on call.

22 Q What kind of cases do you normally work day to
23 day?

24 A Predominantly I work a lot of white collar crimes.
25 I work some crimes involving sex crimes against

1 children and child abuse cases, and we all work violent
2 crimes.

3 Q Ya'll kind of share those around?

4 A We do.

5 Q You were on call the week of July 8th, 2013?

6 A Yes.

7 Q And did you get assigned to work this attempted
8 murder case that we're here for today?

9 A Yes.

10 Q When did you first find out about it, how did you
11 find out about it, what did you do?

12 A We heard the call come out on the radio. One of
13 the investigators had a radio going, and we heard
14 dispatch dispatch officers to a stabbing. So we knew
15 it was -- it had just come in.

16 Q At some point in time after that did you develop
17 the defendant, Quay Cleveland, as a suspect?

18 A Yes.

19 Q Did y'all try to find him?

20 A Yes. It was told over the radio that the
21 defendant's name or the victim had said that the person
22 that stabbed him was Quay. And Sergeant McMahan had --

23 Q Did he know him?

24 A He had dealt with him previously, so he told us
25 that he had a guy nicknamed Quay, Laquavius Cleveland,

1 and he thought maybe it was him. And he also lived on
2 Mill Hill. So that's where we started looking. That's
3 where we knew to kind of start looking in that
4 direction.

5 Q Were y'all able to locate the defendant?

6 A Not at first. He had left the scene. But another
7 officer, Philip Robertson, knew the family, knew Quay's
8 family, Laquavius' family, and he made contact with
9 them, and they got Laquavius and brought him to Philip
10 and Philip brought them to the -- brought him to the
11 sheriff's office.

12 Q Okay. And what happened when he came to the
13 sheriff's office with Philip, another officer? Was he
14 in his patrol car?

15 A He was.

16 Q Was he under arrest at the time?

17 A No.

18 Q Was he in handcuffs or anything?

19 A No. It was very preliminary, very early in the
20 investigation. We really just didn't know what we had.
21 We knew there was a guy that had been stabbed but
22 didn't know the extent of his injuries or his
23 condition. So it was very early on in the
24 investigation.

25 Q What did ya'll do first thing?

1 A First thing we did was really we sat him in an
2 interview room, me and Philip Robertson, and we got his
3 basic information and read his Miranda rights to him.

4 Q Okay. Let me show you what's been marked State's
5 Exhibit 1. Do you recognize that?

6 A I do.

7 Q What is that?

8 A It's our Miranda rights waiver. It's a form
9 that's got the Miranda rights on it. We read it to the
10 person and allow them to read it if they want to. They
11 initial every point, they sign it, and we witness it
12 and put a date and time and everything on it.

13 Q Now, if you're questioning a suspect about a
14 crime, before you're able to question him when he's in
15 custody, he's at the sheriff's office, do you have to
16 do that?

17 A Yes.

18 Q Do y'all use that form to make sure that you cover
19 everything that you need to cover with him that you
20 legally need to do?

21 A Yes.

22 Q What exactly -- how did you actually go about it,
23 and how do you go about it with every defendant, but
24 how did you go about it with Mr. Cleveland?

25 A Well, I just -- typically tell them, I tell

1 everybody, since we're conducting an investigation and
2 we don't know where this may lead, we read just about
3 everybody their Miranda rights before we take a
4 statement from them because we don't know what
5 direction it's going to take once we begin to get
6 information from them. So I tell them that. And then
7 I fill out the place, the Oconee County Sheriff's
8 Office, the date, the 8th of July 2013, the time -- the
9 time was 5:50 p.m. -- and then -- you want me to read
10 the Miranda?

11 Q Yeah. Let me get -- is that the actual copy that
12 you used that night or that day?

13 A Yes.

14 Q And what time did you start it?

15 A 5:50.

16 Q So how did you go about -- you start up here at
17 the top?

18 A Uh-huh.

19 Q Okay. And tell us word-for-word how you went
20 about advising him.

21 A I said, "Before we ask you any questions, you must
22 understand your rights. You have the right to remain
23 silent. Anything you say can be used against you in
24 court. You have the right to talk to a lawyer for
25 advice before we ask you questions and have him with

1 you during questioning. If you cannot afford a lawyer,
2 one can be appointed for you before questions if you
3 wish. If you decide to answer questions now without a
4 lawyer present, you'll still have the right to stop
5 answering questions at any point in time."

6 The bottom part says, "I have read this statement
7 of my rights and understand what my rights are. I am
8 willing to make a statement and answer questions. I
9 understand and know what I'm doing. No promises or
10 threats have been made to me and no pressure or
11 coercion of any kind has been used against me." And
12 then he signed it, initialed each point to the side
13 over there. Philip witnessed it and I witnessed it at
14 5:52 p.m.

15 Q So it's his signature here?

16 A Uh-huh.

17 Q Philip Robertson signed it here?

18 A Yes.

19 Q You signed it here?

20 A Yes.

21 Q And you dated and timed it?

22 A Yes.

23 Q What's the "QC" down here on each one of those
24 rights that you read him?

25 A That would be for Quay. Quay is what we went by,

1 so Quay Cleveland.

2 Q Did he initial those?

3 A Uh-huh.

4 Q That was him telling you that he understood it?

5 A That's right.

6 Q Have you had an opportunity to encounter people
7 that have been under the influence of alcohol or drugs
8 or anything during your time in law enforcement?

9 A Yes.

10 Q Do you think he was under the influence of alcohol
11 or drugs or anything when you talked to him that
12 evening?

13 A No. He didn't appear to be.

14 Q Did he respond to your questions?

15 A He did.

16 Q Did y'all offer him food or drink, deny him the
17 use of the restroom, do anything to get him to waive
18 his rights?

19 A No.

20 Q Did you promise him anything or threaten him in
21 any manner?

22 A No.

23 Q Did you hold out any hope for reward, promise of
24 leniency?

25 A No.

1 Q Did he agree to waive his rights and sign that
2 statement and agree to talk to you?

3 A He did.

4 Q Let me show you what's been marked State's
5 Exhibit 2.

6 A This is Laquavius' voluntary written statement
7 that he wrote.

8 Q Okay, Did you take that statement after you read
9 him his Miranda rights and filled out the rights form?

10 A Yes. I asked him some questions first. He told
11 us a little bit about what had happened, and I asked
12 him would he write us a voluntary statement, and he
13 said he would.

14 Q Is that statement in substantially the exact same
15 condition as it was --

16 A It is.

17 Q Has it been in your possession ever since?

18 A Yes.

19 Q How did you go about taking this statement from
20 him?

21 A Like I said, I just -- we had just asked him some
22 initial questions ahead of time before he wrote this
23 statement. He told us basically what had happened, and
24 we just asked him would he be willing to give us a
25 voluntary written statement. He said he would give us

1 a statement, he would write one.

2 Q And who was present when this was going on?

3 A Philip Robertson and I were in the interview room
4 with him.

5 Q Just the three of y'all?

6 A Uh-huh.

7 Q Two police officers and Quay Cleveland?

8 A Uh-huh.

9 Q Did he go ahead and write you a statement?

10 A He did.

11 Q What did he say happened?

12 A Do you want me to just read this statement?

13 Q Please.

14 A "Monday, July 8th, brown Crown Victoria pulled up
15 at " -- I think that's -- "Brown Street. Him,
16 Hakeem, got out. Me, Chris, my cousin, was sitting on
17 the porch having a conversation about the old days and
18 fun we used to have. Then after talking for about
19 15 minutes, him, Hakeem, asked me to come here.

20 "We sat in the car, and he asked me about \$200
21 that I owed him. I said to him, 'I ain't got it.' He
22 started saying, 'What the fuck you mean?' I said, 'I
23 ain't got it.' And he said I got a certain time. I
24 said, 'I ain't gonna have it by then.' That's when he
25 reached from his left pocket with a gun, .25, put it in

1 his right hand and cocked it with his -- cocked it back
2 with his left hand" -- the next page -- "and grabbed --
3 I grabbed my pocketknife and stabbed him two times in
4 his right arm. Then he said, 'Oh, hell no,' and I ran.
5 He busted one shot and I was running for my life. I
6 dropped the knife after I got" -- I'm not sure what
7 that says.

8 Then it says, "I heard him pull out the driveway
9 when I was running, trying to see where I was going so
10 he can cut me off of my direction."

11 Q Was that the end of the statement?

12 A That was the end of the statement.

13 Q Is that what he wrote?

14 A That's what he wrote.

15 Q What is this big X here at the bottom covering up
16 all the empty space?

17 A It's just to show that that was the end of the
18 statement and nothing else was added.

19 Q Do you put that on there or does he?

20 A I did. I put the X on there.

21 Q You put that on there so nobody else can add
22 anything to it?

23 A Right.

24 Q And does he sign it down here at the bottom?

25 A He did.

1 Q He signed it?

2 A Uh-huh.

3 Q What happened after this statement was taken, what
4 did y'all do?

5 A At the time it was just me, Laquavius, and Philip
6 Robertson at the sheriff's office. The investigations,
7 everybody had pretty much that was involved had split
8 up and went different places. There were a couple
9 officers down at the house where the stabbing took
10 place, a couple officers were down working the crime
11 scene where -- the scene he ended up at the TGIF on
12 Shiloh Road, and there were a couple officers --
13 Sergeant McMahan and Will Freestate -- were at
14 Greenville. So we were just kind of really waiting on
15 everybody to get back to the sheriff's office and kind
16 of compound what information everybody had discovered
17 from where they were at. So we were just kind of
18 waiting.

19 So we -- Philip, Laquavius and I -- went back to
20 the -- CID investigations has got a conference room
21 that has got a television and refrigerator and things
22 like that, so we all three went back there and watched
23 television while we waited.

24 Q Did you have to wait several hours?

25 A Yes.

1 Q During that time did y'all offer him food or
2 anything to eat?

3 A We did. Philip took him to the restroom, and Greg
4 Reed, when he was on his way back to the sheriff's
5 office, called and asked if any of us wanted anything
6 to eat or drink. I asked Laquavius if he wanted
7 something to eat or drink, and he said no, just a sweet
8 tea to drink. And that's what I had, too, just a sweet
9 tea to drink. Neither one of us had anything to eat.

10 Q So he hung out with ya'll for several hours and
11 watched TV?

12 A Right.

13 Q What were you waiting to find out? Did you know
14 much about the case yet?

15 A I didn't -- all I knew is, like I said earlier, I
16 knew somebody had been stabbed. Didn't know the extent
17 of the injuries or his condition. I knew he had been
18 taken to Greenville, knew that something, a part of
19 whatever had happened happened there at Laquavius'
20 house, and that was even according to what Laquavius
21 had already told me. I knew that the victim had ended
22 up there at the place on Shiloh Road, but I didn't
23 really know a lot more detail than that.

24 Q Later that evening while y'all were still watching
25 TV and Sergeant McMahan got back, were you able to find

1 out more about the case than you knew initially?

2 A Yes. When Sergeant McMahan got back, that's when
3 he told us about that Hakeem had been stabbed 11 times,
4 not two. And he told us that Hakeem had told him about
5 the selling of the marijuana and the gun, that they had
6 talked about that ahead of time, and that's really why
7 he had went there to begin with. So we didn't know
8 that until David McMahan got back, got us more
9 information, realized that this was -- and plus he,
10 Laquavius, had said initially it was a pocketknife.
11 But the injuries that -- because he had a digital
12 camera, took digital pictures so we can pull them up
13 and see, and the injuries seemed much larger than a
14 pocketknife could have caused.

15 Q Did you and Captain Reed decide to talk to
16 Laquavius Cleveland again?

17 A Yes. We took him back to the same interview room.
18 Philip Robertson, he worked the road at the time, so
19 Captain Reed, when he got back to the sheriff's office,
20 he let him go, go ahead and go home, and Captain Reed
21 and I went back to the interview room and talked to
22 Laquavius.

23 Q Let me show you what's been marked State's Exhibit
24 3.

25 A These are my notes that were taken during that

1 interview and in which Laquavius signed and I signed
2 and Captain Greg Reed also signed. And I dated it and
3 put the time on it.

4 Q When you say he signed it, how come you didn't
5 take a second written statement?

6 A Well, by then we began this interview at 1:15
7 a.m., and this interview ended -- well, my notes ended,
8 this interview ended at 1:58 a.m. And Laquavius, I
9 asked him would he mind writing us a written statement,
10 giving us another written statement. He just said he
11 was tired, he would rather not. I asked him, "Would
12 you mind signing my notes?" I read those notes to him,
13 and I said, "You let me know if there's anything that I
14 need to include, if there's something I didn't get
15 right I need to correct, just let me know and I'll
16 correct it." And after reading my notes to him, he
17 signed my notes as in this was the information that he
18 was telling us. He signed it, I signed it, and Greg
19 Reed signed it, and I timed and dated it.

20 Q At any time did you ever promise him anything or
21 threaten him in any manner to give you the signed
22 statement?

23 A Huh-uh.

24 Q Did you ever hold out any hope for reward or --

25 A No. We just wanted the truth is what it amounted

1 to, and that's what we told him.

2 Q Did he ever at any time during the whole thing
3 ever ask for an attorney or tell you that he wanted to
4 cease questioning?

5 A No.

6 Q If he had done that, if he said he wanted to --
7 didn't want to talk to you anymore, what would you have
8 done?

9 A We would have stopped questioning until he had an
10 attorney present.

11 Q Did he ever ask for food or did you ever deny him
12 anything, food, bathroom?

13 A We offered it to him, but like I said, he had said
14 he wasn't hungry. They brought him back a sweet tea to
15 drink.

16 Q Okay. Had you been able to determine how long he
17 had been up as far as that day goes?

18 A He said that he and his cousin Chris had played
19 video games the night before, and he got up around noon
20 that day. He got up -- slept in until about noon.

21 Q So he got up at noon. The stabbing happened late
22 afternoon?

23 A About 4:30. A little after 4:30 I think is when
24 it happened.

25 Q Y'all were talking to him by around 6:00?

1 A Yes -- yes. He was at the sheriff's office. We
2 began that first interview where that Miranda was at
3 5:50 p.m. The call actually went out at 4:04 p.m., and
4 by 5:50 p.m. he was at the sheriff's office and I was
5 reading his Miranda.

6 Q And he actually started this third statement at
7 1:15 a.m.?

8 A Yes.

9 Q Finished it at 1:58 a.m., almost 2:00 in the
10 morning?

11 A Yes.

12 Q Some of that time, you said several hours, y'all
13 were watching TV and just hanging out?

14 A That's right.

15 Q Waiting to find out more?

16 A Right.

17 Q Was he staying there willingly and talking to you?

18 A Yes. In his -- when I first spoke with him in his
19 first interview, he had told me that there were cameras
20 at the house and all of it would be on video. And it
21 was through a security company, ADT. And he said,
22 "Well, I can't view it, but my mama knows how to view
23 it." Well, his mama was at work. And we called her at
24 work. It was broken. She worked in a plant, so it
25 didn't get real good service. But I told her that she

1 -- she said she couldn't view it, but her boyfriend --

2 MR. GRIFFIN: Objection, your Honor. Hearsay as
3 to what the mother said.

4 THE COURT: Sustain the objection.

5 BY MR. WAGNER:

6 Q Was there any actual footage of what happened?

7 A No. The service had been terminated for several
8 months, so there was no video available.

9 Q So did that take a while to find all that out?

10 A Yes, it took a while.

11 Q Back to State's Exhibit 3. Is this your exact
12 notes that you took on the night of the 7th --
13 July 8th --

14 A Yes, that's my --

15 Q -- but actually by the time this was done, when
16 this thing was taken, it had actually rolled into the
17 9th?

18 A That's right. Those are my exact notes.

19 Q Are they still in the exact same condition as they
20 were and have been in your file ever since?

21 A They are.

22 Q What did the defendant tell you the second time
23 you talked to him when you confronted him with new
24 information that you found out?

25 A Right. Well, we told him, you know, we knew about

1 the text messages so we knew about why Hakeem had come
2 over. And he wasn't stabbed twice, he was stabbed 11
3 times, and it just didn't seem to add up. And he said,
4 well -- and he admitted he wasn't telling us the truth
5 the first go-round.

6 And I'll read my notes for you. It says, "Quay
7 has bought guns from Hakeem before, but those other
8 guns were not for Quay. Quay contacted Hakeem about
9 buying marijuana and the gun. The gun was for someone
10 else, not Quay. Quay had not intended or planned --
11 I'm sorry. Quay had intended or planned on getting the
12 gun and weed and running without paying him. Hakeem
13 caught Quay trying to steal the gun and weed, gave him
14 the 'What the fuck?' Look." I put that in quotes
15 because that's what he was saying, that's what he told
16 me. "Quay decided to stab Hakeem twice in the
17 shoulder. Didn't mean to hurt him bad, just enough to
18 let Quay run away. When Hakeem got to the house" --
19 and this is where I made him start from the very
20 beginning again and tell me. Says, "When Hakeem got to
21 the house, Quay went to the car, got the gun, took it
22 to the back of the house, fired it, fired the gun
23 toward the ground at the corner of the house while he
24 was standing at the corner of the house by the
25 driveway, walked back to the car, told Hakeem that he

1 would go into the house to get the money." And you see
2 the side, there's a little side note there.

3 Q Are you talking about here?

4 A Yeah. "Quay asked -- Quay told me he asked a lot
5 of questions about the gun, how the gun worked, before
6 he test fired it and after he test fired it. So he
7 gave the gun back to Hakeem, and he told Hakeem that he
8 would go back into the house and get the money. He
9 gave Hakeem the gun before he went back into the house.
10 Quay went into the house, got the knife from the
11 kitchen because he did not want to hurt Hakeem with a
12 gun because a gun can do all kinds of damage." That's
13 what he specifically said. "He went back out to the
14 car. The weed and gun was on Hakeem's lap."

15 It's the next page. Quay walked to the passenger
16 side of the car. The door was already open. Hakeem
17 looked away from Quay toward the neighbor's house.
18 When Hakeem looked away, Quay leaned into the car and
19 was going to grab the gun and weed, but Hakeem looked
20 back at him and caught him and gave him 'What the
21 fuck?' Look. And Quay said that he thought that he was
22 caught.

23 Quay said from that moment, everything was an
24 adrenaline rush. Quay said he thought he stabbed
25 Hakeem only twice. He didn't mean to hurt him bad.

1 After he stabbed Hakeem, he ran away towards the
2 neighbors on the left of their woods, laid down and
3 watched the house. He stayed in the woods until he
4 started talking with or met up with Philip Robertson.
5 "Mr. Philip" he calls him. He doesn't know where the
6 knife fell to the ground at. He says the knife was
7 like the one Michael Myers used in the movie *Halloween*
8 with a black handle. Quay says he didn't use his full
9 force of strength when he stabbed Hakeem because he
10 didn't want the blade to penetrate deep. Quay states
11 he wishes he could take it all back.

12 Q Is that exactly what he told you the second time
13 ya'll talked to him that night?

14 A Yes.

15 Q Who was present with him?

16 A Captain Greg Reed was present in the room with me.

17 Q When you asked him to put it down in a second
18 written statement, he said he was tired?

19 A Right.

20 Q But he signed here basically adopting your notes
21 as his statement?

22 A Right.

23 Q And at that point in time did y'all cease talking
24 to him?

25 A Yes. Well, we told him he was under arrest and

1 going to be charged and he said he understood.

2 Q With what he told you in the second statement, did
3 it corroborate what you already knew about the case and
4 found out?

5 A Yes. That's when Hakeem -- what Hakeem had said
6 and what Laquavius was saying matched pretty much exact
7 the same, so we knew that that was -- we were at the
8 root of the truth behind what happened.

9 Q Later on that next morning did you go obtain
10 warrants we're here for today for attempted murder and
11 possession of a knife during commission of a violent
12 crime?

13 A That same morning. Once we told him we were under
14 arrest, I typed the affidavits up, and we called Judge
15 Blake Norton out at -- I guess it was probably 2:30 in
16 the morning, maybe 3 o'clock in the morning, and went
17 ahead and got those warrants and went ahead and served
18 them on him that same morning. That same morning, it
19 was probably 2:30 or 3 o'clock in the morning when we
20 served him with those warrants.

21 Q Did you look for the knife?

22 A We did. We went back out and tried to look in the
23 area he said he laid. I took a metal detector out
24 there, and we also took one of the dogs of the
25 sheriff's office, a cadaver dog. We thought maybe it

1 would pick up on the blood left behind on the knife but
2 we couldn't find it.

3 Q Did you do any other type of forensic test?

4 A We sent the gun off for fingerprints. None came
5 back on it. And we did GSR on both Laquavius' hands.
6 The gunshot residue kit, we did it on both Laquavius'
7 and Hakeem's and it was negative results on both.

8 Q Is it common -- what's a GSR?

9 A A gunshot residue kit where you can tell --
10 hopefully it will pick up gunshot residue that's left
11 behind when someone fires a gun.

12 Q Is it common for those kind of tests to come back
13 negative?

14 A It is. It's common especially for a small caliber
15 weapon as a semiautomatic, it's common for them to not
16 come back showing any gunshot residue.

17 MR. WAGNER: Your Honor, at this time we would
18 move to admit, if they're not already in, State's
19 Exhibits 1, 2 and 3.

20 THE COURT: All right. Let's have the lights,
21 please.

22 All right. Plaintiffs -- or State's Exhibits 1, 2
23 and 3 will be admitted.

24 (WHEREUPON, State's Exhibit Numbers 1 through 3
25 were admitted into evidence.)

1 THE COURT: Mr. Foreman, ladies and gentlemen of
2 the jury, there has been admitted into the record in
3 this case statements allegedly to have been made by the
4 defendant. Before you may consider these statements as
5 evidence for any purpose, you must determine four
6 questions.

7 First, did the defendant make the statement.
8 Second, was the defendant warned of his constitutional
9 rights. Third, did the defendant knowingly and
10 intelligently waive his constitutional rights. And
11 fourth, was the statement given voluntarily.

12 The fact that the Court has admitted a statement
13 into evidence should not be considered by you as any
14 evidence whatsoever that the defendant actually made
15 such a statement or that the required constitutional
16 safeguards were, in fact, provided and waived by the
17 defendant or that the statement was voluntarily given
18 because these issues are for you to determine. The
19 State must prove beyond a reasonable doubt each of
20 those four requirements I have just stated to you
21 before you may consider the statement as evidence for
22 any purpose whatsoever.

23 I'll more thoroughly charge you on the record, but
24 at this time understand that, although it has been
25 admitted, it is -- into evidence, the fact of whether

1 or not it is in fact what it says to be and whether
2 it's an accurate statement in accord with the
3 constitutional rights, that is for you to determine and
4 the State must prove beyond a reasonable doubt that
5 those matters were resolved.

6 All right. You may proceed.

7 BY MR. WAGNER:

8 Q One last question, Sergeant Tinsley. Why didn't
9 you charge the victim with anything?

10 A I honestly didn't think it was the right thing to
11 do. He had been stabbed 11 times. I felt like both
12 he, Hakeem, and Laquavius were equal participants in
13 the buying of that little bit of marijuana and that
14 gun. I didn't think it was the right thing to do
15 considering the circumstances of what happened to him.
16 He didn't deserve to be stabbed 11 times no matter what
17 he did. That's why I didn't think it was the right
18 thing to do, so I didn't charge him.

19 Q That's all the questions I have. Thank you,
20 ma'am.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. GRIFFIN:

24 Q You testified that you thought Hakeem and
25 Laquavius were equal participants?

1 A Yes.

2 Q Yes? Okay. You started this questioning right
3 around 5:48; is that correct, on July 8th?

4 A Right, uh-huh.

5 Q All right. He gave the first statement that you
6 alluded to soon thereafter?

7 A Yes. He started his written statement, the
8 voluntary statement, first written statement at
9 6:14 p.m.

10 Q Okay. And then the last one terminated right
11 around 2 o'clock in the morning the next day?

12 A Uh-huh.

13 Q Say "yes" or "no."

14 A Yes.

15 Q And that's approximately eight hours?

16 A It is.

17 Q Okay. And on the last statement that he gave, he
18 just, according to what you stated, that he just signed
19 the last page of the notes?

20 A He did.

21 Q This notepad doesn't contain any waivers as the
22 first one did, does it?

23 A No.

24 Q Okay. And you stated that the defendant said that
25 he was too tired to write another statement?

1 A Said he just didn't feel like it. Yep, said he
2 was tired and just didn't feel like it.

3 Q All right. And was his mother present during any
4 of this questioning?

5 A No.

6 Q Was he 16 years old?

7 A No, she didn't have to be.

8 Q But Laquavius, he was 16 years old?

9 A He was.

10 Q Okay. And you said in his second statement that
11 he just gave the gun back to Hakeem?

12 A Yes.

13 Q And that I believe in the statement he said one or
14 both of them shot the gun at some point?

15 A He said he did.

16 Q But you couldn't -- that's in that second
17 statement?

18 A Yes.

19 Q But there was no gunshot residue found on him?

20 A That's right.

21 Q Excuse me. I need a drink of water.

22 And how many officers were present during the
23 questioning while he was at the law enforcement center
24 there?

25 A The second one or first one?

1 Q Both of them.

2 A Just the first one was me and Philip Robertson.

3 The second one was me and Greg Reed.

4 Q Okay. So there were at least three officers --

5 A No, there were two officers at one time.

6 Q Okay.

7 A Greg didn't sit in on the first one, and Philip
8 didn't sit in on the second one.

9 Q Over the course of the night, there were three
10 officers, you were present, and during the course of
11 the night at least two others were present?

12 A Just temporarily for Philip to be relieved by
13 Greg. Greg said for him to go on home.

14 Q Okay. Did anybody ever find the marijuana?

15 A No.

16 Q And did you run a check on the .25 auto to see if
17 it came back legitimate?

18 A We did. It didn't come back stolen.

19 Q And did Mr. -- did you ever speak to Mr. Kirkland?

20 A I did.

21 Q Did you ask him why he bought the pistol?

22 A After he got out of the hospital, he come up to
23 the sheriff's office, and I interviewed him there.

24 Q What did he say the reason for buying the pistol
25 was?

1 A Well, he wasn't buying the pistol. He was selling
2 it.

3 Q Okay. Did you ask how he came into contact,
4 possession of it?

5 A No. At his age he could -- and he wasn't a
6 convicted felon -- he could have that gun lawfully, so,
7 no, I didn't inquire.

8 Q Okay. And Mr. Cleveland, he was arrested after he
9 gave this second statement?

10 A Yes.

11 Q You had already taken him into formal custody at
12 that point?

13 A Uh-huh.

14 Q All right. During this whole -- and you spoke to
15 his mother at various points during the day and night,
16 the next day?

17 A Uh-huh.

18 Q You have to say "yes" or "no." The court
19 reporter --

20 A Yes. Yes.

21 Q Do you recall his mother ever trying to call you
22 up during the -- between the times he was being
23 questioned?

24 A Not that I'm aware of.

25 Q Okay. And where was Laquavius taken after he was

1 formally arrested?

2 A He was taken to DJJ. At the time he was 16,
3 couldn't be housed at our jail, so he was taken down to
4 DJJ.

5 Q Department of Juvenile Justice?

6 A Yeah, Department of Juvenile Justice.

7 Q How long did he stay there?

8 A I'm not sure. I don't remember.

9 Q Was he held in the detention center?

10 A Yes. Judge Norton had given him a no bond because
11 I charged him as an adult. And this type of charge,
12 the magistrates don't issue a bond, so they had given
13 him no bond, so he stayed there until his bond hearing.

14 Q All right. Do you know when he was ever -- ever
15 had contact with an attorney?

16 A I don't know.

17 MR. GRIFFIN: That's all I have of this witness,
18 your Honor.

19 THE COURT: Re-exam.

20 REDIRECT EXAMINATION

21 BY MR. WAGNER:

22 Q Did the defendant have any defensive wounds on
23 him?

24 A No, he didn't have any injury whatsoever.

25 Q I think that's all the questions I have.

1 THE COURT: All right. You may step down.

2 MR. WAGNER: One more brief one, I think, Judge.

3 THE COURT: Very good.

4 MR. WAGNER: Call Captain Reed.

5 GREG REED,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE COURT: If you would, please, sir, give us
8 your full name for the record, spelling your last name.

9 THE WITNESS: Greg Reed, R-e-e-d.

10 THE COURT: Thank you, sir.

11 DIRECT EXAMINATION

12 BY MR. WAGNER:

13 Q Captain Reed, who do you work for?

14 A Oconee County Sheriff's Office.

15 Q How long have you been working for the sheriff's
16 office?

17 A 29-plus years.

18 Q What are your current job duties there?

19 A I'm captain over criminal investigation, evidence,
20 also the three divisions that fall under the umbrella
21 of community services. I'm a captain and commander of
22 the SWAT entry team and also a diver on the sheriff's
23 underwater evidence recovery team.

24 Q Were you working as captain over investigations
25 back on July 8, 2013?