

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
3 -----X
4 STATE OF SOUTH CAROLINA, *
5 Plaintiff, *
6 vs. * Case No. 2023-GS-26-0414
7 FANOTTI NACIER NEAL, * 2023-GS-26-0416
8 Defendant. *
9 -----X
10 STATE OF SOUTH CAROLINA, *
11 Plaintiff, *
12 vs. * Case No. 2023-GS-26-1656
13 MICAH PRESSLEY, * 2023-GS-26-1657
14 Defendant. *
15 -----X

November 6-9, 2023

B E F O R E:

The Honorable William Seals, Presiding Judge

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Court Reporter: Bobbi Fisher, RPR

SC Official Court Reporter III

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SC Court of Appeals

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(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

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3	Photograph (Hearing Only)	50	--
4	Photograph (Hearing Only)	50	--
5	Photograph (Hearing Only)	50	--
6	Photograph (Hearing Only)	50	--
7	Photograph (Hearing Only)	50	--
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15	Photograph (Hearing Only)	50	--
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17	Only)		
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20	Jeans	136	371
21	Jeans	136	395
22	Black Hoodie	136	394
23	White T-Shirt	136	371
24	Black Mask	136	371
25	Handgun	136	396

1	21	Handgun	136	397
2	22	Bullets in Bag	136	400
3	23	Cell Phone	137	534
4	24	Bullet Casing	137	169
5	25	Bullet Projectile	137	498
6	26	Bullet Projectile	137	498
7	27	Body Cam DVD	137	152
8	28	Chain of Custody of Seized Items	157	170
9	29	PowerPoint of SCI Photos (ID ONLY)	157	n/a
10	30	Still Shot of CSI Photos	157	166
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1 Defendant's Exhibit

2	No.	Description	ID.	REC'D
3	1	Photograph (ID ONLY)	404	n/a
4	2	Photograph (ID ONLY)	404	n/a
5	3	Photograph (ID ONLY)	404	n/a
6	4	Photograph (ID ONLY)	404	n/a
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8

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1 or already gone from the scene. Second from that would be
2 to administer aid to the victim, and then third would be
3 to secure that scene for the detectives to come and assume
4 the investigation.

5 Q So what was the first thing that you did once you
6 arrived on the scene?

7 A The first thing I did when I arrived was I grabbed
8 my department-issued first aid kit and then I proceeded to
9 the apartment where the incident had occurred. And then
10 we knocked, and once the door had opened, we identified
11 that the suspect was gone, and I went into administering
12 aid to the victim.

13 Q And what did you -- when you first approached, did
14 you knock on the door or you just entered?

15 A When I first approached, I did knock on the door and
16 announced myself.

17 Q And once you first entered the room, how many people
18 did you see standing around; do you recall?

19 A Approximately five.

20 Q And can you explain, I guess, what you observed when
21 you walked in?

22 A As I entered into the apartment, I had seen a group
23 of young individuals. They appeared to be in more of a
24 state of shock. Our initial gathering from what they
25 appeared was that they were not a threat to our safety or

1 A Yes, ma'am.

2 Q Is that the missing hub cap?

3 A Yes, ma'am.

4 Q Okay. Let me ask you something, Ms. Floyd: Were
5 you driving that car into this apartment complex ---

6 A No, ma'am.

7 Q --- on May 29, 2022, at 5:38 in the morning?

8 A No, ma'am.

9 Q You were not driving your car?

10 A No, ma'am.

11 Q Were you in this car?

12 A No, ma'am.

13 Q Had you given anybody permission to drive this car
14 to Conway at 5:30 in the morning?

15 A Not that late, no, ma'am.

16 Q So this car was in Conway without your permission?

17 A Yes, ma'am.

18 Q Did you even know it was in Conway?

19 A No, ma'am.

20 MS. LIVESAY: Can you hit play? And if you don't
21 mind, just fast forward to when the car is leaving. Oh,
22 actually, I apologize. Could you take us to where the car
23 parks and everybody gets out.

24 BY MS. LIVESAY:

25 Q You say your sister's name is Charrel?

1 MS. LIVESAY: You need me to spell his name or
2 anything?

3 COURT REPORTER: The middle name?

4 THE WITNESS: My middle name? Ralph.

5 COURT REPORTER: Okay. Thank you.

6 DIRECT EXAMINATION

7 BY MS. LIVESAY:

8 Q Mr. Robinson, if you don't mind, tell these folks
9 where you're from.

10 A Florence, South Carolina.

11 Q And how old are you?

12 A 20.

13 Q And are you working anywhere?

14 A Mm-hmm.

15 Q Where are you working?

16 A I'm working at Zaxby's.

17 Q And did you go to high school?

18 A Go to what school?

19 Q Did you go to high school and graduate?

20 A Oh, yes, ma'am.

21 Q Okay. And the victim in this case, Joshua
22 McPherson, do you know him?

23 A I do.

24 Q And if you don't mind, tell these folks how you know
25 him.

1 A We were good friends. Me, him, his brother. We all
2 made music together.

3 Q And how about his brother? Do you know him? How
4 long had you known him?

5 A About six, seven years.

6 Q A long time.

7 And did y'all grow up in Florence together?

8 A I met them when I was in 7th grade.

9 Q And the defendants, Fanotti Neal and Micah Pressley,
10 do you know them?

11 A Uh-huh.

12 Q If you don't mind, tell these jurors how you know
13 those two defendants.

14 A I knew Fanotti. Me and Fanotti used to work at Blue
15 Beacon together. And then Micah, I had met him only one
16 time at the video shoot.

17 Q Okay. And the video shoot, about when did that
18 happen relative to this incident to when he got
19 murdered -- to when Josh got murdered?

20 A Maybe a month or two before.

21 Q Okay. So pretty close in time. Okay.

22 I'm going to show you now what's been marked State's
23 Exhibit 51. Have you seen the video, the music video that
24 you're talking about?

25 A Uh-huh.

1 Q And Micah Pressley was in the video?

2 A Uh-huh.

3 Q And could you point him out from the video?

4 A Yeah.

5 THE COURT: Make sure he answers yes or no.

6 MS. LIVESAY: Yes, sir.

7 BY MS. LIVESAY:

8 Q You have got to say yes or no because she's got to
9 take it down.

10 A Yes.

11 Q Okay.

12 MR. WILSON: Your Honor, I have a matter that we
13 probably need to take up outside the presence of the jury.

14 THE COURT: All right. If you would, step into the
15 jury room for just a moment. Do not discuss the case.

16 (The jury exited the courtroom at 11:23 a.m.)

17 MR. WILSON: Your Honor, I know we have not had any
18 in-camera hearings on identification in this case, and I
19 assume that's where we're headed here is that the
20 solicitor is attempting to elicit identification testimony
21 from this witness regarding this particular defendant.

22 If that is correct, then, you know, the procedure is
23 improper for her to do it this way. If she wants to do
24 it, the proper way to do it, we need to have a hearing to
25 make a determination as to whether or not this witness is

1 qualified to testify about any identification. Because,
2 otherwise, this is an in-court identification and the
3 first that I know about it of getting identification by
4 this witness.

5 THE COURT: I think if, it's an in-court
6 identification, it's proper. Any witnesses in the
7 identification are subject to your cross-examination, is
8 my understanding.

9 This isn't a lineup, is it? Or is it?

10 MR. WILSON: Well, I don't know. I don't --

11 THE COURT: I don't know either.

12 MR. HARRELSON: No, Your Honor, this isn't a lineup.

13 MS. LIVESAY: So here's the deal. This doesn't
14 require a Neil v. Biggers because there was no lineup. So
15 Mr. Wilson would be incorrect on that.

16 As to whether or not he can identify this defendant
17 off the video, the Court of Appeals and Supreme Court have
18 ruled that that is admissible. In fact, it says that,
19 even if he's not an eyewitness, if he can identify the
20 individual in a photograph or video, then no pretrial
21 hearing is required.

22 A hearing is required to determine whether or not
23 the police showed an improper photo lineup or there was
24 some sort of improper law enforcement coloring on the
25 identification.

1 Here, there is no law enforcement identification.
2 He knows the boy, he shot a music video with him two weeks
3 before, and he can identify him on the video just like the
4 young lady could identify her sister.

5 This has been done. I have got several Supreme
6 Court cases here that say that photographs -- both
7 witnesses and officers can ID defendants and suspects off
8 of a video system, video recording, and photographs.

9 THE COURT: And in court.

10 I believe she's right.

11 MR. WILSON: Your Honor, my concern here is this:
12 Is that, apparently, the police had some contact with this
13 defendant because there's a statement or at least he gave
14 some kind of statement to the police prior to this.

15 There was never any mention that he could identify
16 this defendant in any of that material that I saw. And
17 now we come to court and here, all of a sudden, the
18 solicitor is handing out pictures saying, "Can you
19 identify this person from this picture?"

20 We're two years into this now. I think that
21 that's -- I mean, I just have real problems with that.

22 I understand the Court's position. I accept that.
23 I will just do it on cross-examination. I'll ask about
24 it.

25 THE COURT: That's fine. Do y'all want to take a

1 ten-minute restroom break?

2 MR. WILSON: Yes, I'd appreciate it. Thank you.

3 MS. LIVESAY: I'm sorry, Judge? A break.

4 THE COURT: A ten-minute break.

5 MS. LIVESAY: Yeah, sure, sure.

6 THE COURT [to the witness:] You can stay right
7 where you are and don't talk to anybody. Okay?

8 All right. We'll be back in ten minutes.

9 (A recess was taken from 11:27 a.m. to 11:36 a.m.)

10 THE COURT: Let's go ahead and bring in the jury.

11 MR. WILSON: Your Honor, before we do that, we were
12 just discussing whether there was a lineup, and this
13 defendant -- I'm sorry -- this witness did participate in
14 a lineup regarding this incident. This defendant's
15 picture was not in that photographic lineup but the other
16 co-defendant was in that lineup, and he picked somebody
17 out of that lineup as being the person who was there.

18 THE COURT: So we're not talking about the lineup
19 right now?

20 MS. LIVESAY: You can have a copy, Judge, but it's
21 as to Fanotti Neal. It has nothing do with Micah
22 Pressley. In fact, Mr. Pressley's picture was not in that
23 lineup.

24 MR. WILSON: Your Honor, the thing here is this:
25 When the police are doing these lineups, they're doing it

1 to try to determine who the perpetrators of the crime are.
2 This defendant -- this witness was shown a lineup to try
3 to help do that. He actually picked out a person that he
4 says was involved. He was never given a lineup -- at
5 least if he was, nobody has given to me thus far --
6 showing whether or not he ever had a lineup of this
7 defendant.

8 Now, if he knows this defendant, then why wasn't he
9 given a lineup for a year and a half?

10 THE COURT: I don't know. But a lineup is not in
11 question right now; is that correct? He's going to
12 identify him in court from the video, not a lineup.

13 MS. LIVESAY: That's correct, Your Honor.

14 THE COURT: Then why is there an issue about the
15 lineup at this point? There isn't an issue.

16 MR. WILSON: Because once the cat's out of the bag,
17 I can't get it back in. Once he sits up there and he
18 says, "Oh, yeah, I recognize him, I know him from seeing
19 him in a video," then, you know, I can't undo that with
20 this jury.

21 THE COURT: But he can do that. He can sit here and
22 say, "I know him right now. I see him in the courtroom
23 and I know him." And that's the same thing.

24 MR. WILSON: I understand. I just ask my objection
25 be noted for the record.

1 THE COURT: I understand.

2 All right. Are you ready?

3 MS. LIVESAY: We're ready, Judge.

4 MR. WILSON: I'm ready, Your Honor.

5 MR. RIGNEY: Ready.

6 (The jury entered the courtroom at 11:40 a.m.)

7 MS. LIVESAY: Thank you, Judge.

8 BY MS. LIVESAY:

9 Q Mr. Robinson, before we had that interruption, you
10 were telling me whether or not you knew the defendants
11 Fanotti Neal and Micah Pressley. Do you know them?

12 A Mm-hmm.

13 Q You've got to say yes or no.

14 A Yes.

15 Q Okay. And tell these jurors how you know Fanotti
16 Neal.

17 A We worked at Blue Beacon, the truck wash in
18 Florence.

19 Q And how do you know Micah Pressley?

20 A I met him one time at a video shoot.

21 Q And how close in time was the video shoot to the
22 murder?

23 A Maybe -- maybe a month. A month apart. A month or
24 two.

25 Q So pretty close in time?

1 A Yes, ma'am.

2 Q And could you recognize Micah Pressley if you saw a
3 picture of him?

4 A Yes, ma'am.

5 Q And do you remember the video shoot?

6 A I wasn't there, but I came there after and everybody
7 was still there.

8 Q Okay. Have you seen the video?

9 A Mm-hmm.

10 THE COURT: Is that a --

11 A Yes, yes.

12 BY MS. LIVESAY:

13 Q I'm going to show you pictures, State's Exhibit 51
14 through 56. Tell me what I'm looking at.

15 A That's Micah Pressley right there.

16 Q Flip through all of them and tell me.

17 A It's the same. All of them still Micah Pressley.

18 Q 51 through 56 are all pictures of Micah Pressley?

19 A Yes, ma'am.

20 Q And do you know what the pictures are from?

21 A The video.

22 Q And you have seen the video?

23 A I did.

24 Q And these pictures are stillshots of him from the
25 video?

1 A Yes.

2 Q Yes or no?

3 A Yes.

4 MS. LIVESAY: Your Honor, at this time, the State
5 wishes to put 51 through 56 into evidence and publish them
6 to the jury.

7 THE COURT: Any objection?

8 MR. WILSON: Prior to my objection -- subject to my
9 objection.

10 MR. RIGNEY: No objection.

11 THE COURT: Overruled.

12 51 through 56 are into evidence.

13 (State Exhibit Nos. 51 through 56 were received in
14 evidence.)

15 BY MS. LIVESAY:

16 Q I'm showing the jury now State's Exhibit 51. Tell
17 me who that is a picture of.

18 A Micah Pressley.

19 THE COURT: He needs to speak up, please.

20 MR. HARRELSON: Your Honor, if I may approach.

21 [Adjusting microphone.]

22 BY MS. LIVESAY:

23 Q State's 52. Who is that a picture of?

24 A Micah Pressley.

25 Q And is this from the video?

1 A Yes.

2 Q And was this a month or two prior to the murder?

3 A Yes.

4 MS. LIVESAY: I'm going to hold onto it and maybe
5 we'll save some time.

6 BY MS. LIVESAY:

7 Q And all of these -- I'm going to show one more. Who
8 is this?

9 A Micah Pressley.

10 Q And this is the same video?

11 A Yes.

12 Q And what's he wearing? This is State's Evidence 53.

13 A Black Nike hoodie.

14 COURT REPORTER: I'm sorry; I can't hear. What was
15 that?

16 THE WITNESS: Black Nike hoodie.

17 COURT REPORTER: Thank you.

18 BY MS. LIVESAY:

19 Q And this is what he was wearing the day you saw him
20 at the video shoot; is that right?

21 A Yes.

22 Q And, Mr. Robinson, how would you describe the pants
23 he's wearing? Loose?

24 A Kind of -- kind of tight.

25 Q That's the way I would say it too. So some tight

1 jeans and a black Nike hoodie sweatshirt?

2 A Yes.

3 Q And this was a month or two before the murder?

4 A Yes.

5 Q Now, how about Joshua McPherson, the victim in this
6 case? Was he in the same music video?

7 A Yes.

8 Q And how about his brother, Jalen?

9 A Yeah.

10 Q If you don't mind, have a seat, Mr. Robinson.

11 Now, you said it earlier, and I apologize; I think
12 you said seven years, but I'm going to ask you to make
13 sure. How long had you known Jalen McPherson?

14 A Yeah, about seven years.

15 Q I think you said maybe 7th grade?

16 A Uh-huh.

17 Q So since 7th grade?

18 A Yes, ma'am.

19 Q And who is Joshua McPherson, the victim? How is he
20 related to Jalen?

21 A That's his younger brother.

22 Q Okay. And about how old was Josh when this
23 happened?

24 A 17.

25 Q And how long had you known Josh?

1 A For about the same amount of time. I met him when I
2 was in 7th grade.

3 Q Okay. So y'all all grew up together?

4 A Kind of.

5 Q Okay. And everybody lived in Florence?

6 A Yes.

7 Q And Micah Pressley and Fanotti Neal, did they live
8 in Florence?

9 A I'm pretty sure.

10 Q Now, the night that Josh was killed, do you remember
11 that night?

12 A I do.

13 Q And so these jurors know, where was he when he was
14 killed?

15 A He was -- he was on the couch.

16 Q On the couch where?

17 A What you mean?

18 Q Was he in his house? Was he --

19 A Oh, no, he was at the apartment. I forgot the name
20 of the apartments, but he was at an apartment in Conway.

21 Q And who all lived in that apartment?

22 A I think it was just Cameron and Shakira.

23 Q Were you in the apartment the night he was killed?

24 A I was.

25 Q Tell these folks what happened that night. Why were

1 y'all there?

2 A We were down there because his older brother, Jalen,
3 his birthday was that Monday and so we just came down
4 there to celebrate. And then after he got back in --
5 because we was on the strip and everybody just went --
6 everybody went in their room. And me and Josh, we had
7 stayed in the living room because we was about to go to
8 sleep.

9 And then I woke up. It was Fanotti. He had gave me
10 a fist bump. And then I went back to sleep. And then I
11 woke up to the sound of, like, two people tussling. And
12 then when I opened my eyes, somebody in a black hoodie had
13 shot Josh and they ran out the door.

14 Q You wake up after you hear the tussling?

15 A I do.

16 Q What exactly do you see?

17 A When I -- when I wake up, I see somebody standing in
18 the corner and Josh in the other corner. He was -- Josh
19 was still, like, sitting down, like looked like he was
20 about to get up, but somebody in a black hoodie had shot
21 him.

22 Q What did the person that shot him look like? What
23 do you remember seeing him look like? Wearing? Any
24 description.

25 A It was a black hoodie. He had the hood on, and it

1 was a black gun.

2 Q And you said the person ran out. How do you know
3 they ran out?

4 A Because, after he shot him, I pulled the cover back
5 over my face, and then I felt, like, the wind brush past
6 me after somebody ran. They had ran out the front door,
7 and I felt the wind brush past me.

8 Q And when you wake up, and you and Josh are in the
9 living room, is it just the two of y'all in the living
10 room?

11 A Yeah, it's just the two of us.

12 Q Okay. And were both of y'all asleep, calling it a
13 night in there?

14 A Mm-hmm.

15 Q Where was everybody else as far as your friends, the
16 other people that you hung out with? Where were they in
17 the apartment?

18 A They were in different rooms.

19 Q Okay.

20 A They were just in a separate room.

21 Q So they were in those rooms that we saw to the side?

22 A Yes.

23 Q Okay. And was anybody in the living room when Josh
24 was shot other than you, as far as your friends?

25 A Oh, no. It was just me.

1 Q So, out of your group, it was only you and Josh?

2 A Yes.

3 Q Okay. After he shot and you feel the person run out
4 beside you, what do you do?

5 A I pulled the covers back down from my head. I went
6 to check on Josh. I seen he was bleeding. And then
7 that's when I started banging on everybody's door to tell
8 them to come out to the living room.

9 Q And did they come out?

10 A Yeah.

11 Q And what happened when they came out?

12 A We got on the phone with the paramedics, and then
13 the paramedics was telling us to turn him flat on his back
14 and try to give him CPR.

15 Q Between the time you woke everybody up and the
16 police got there, what was going on in the apartment?

17 A We were just -- everybody was just trying to make
18 sure Josh was -- he was all right.

19 Q Everybody was what?

20 A Trying to make sure Josh was all right.

21 Q And how did Josh appear? After the shooting happens
22 and you wake everybody up and you look over there, how
23 does he appear?

24 A He wasn't moving.

25 Q I'm sorry?

1 A He wasn't moving.

2 MS. LIVESAY: One second, Your Honor. I apologize.
3 Can the witness step down, Your Honor?

4 THE COURT: Yes.

5 MS. LIVESAY: Thank you.

6 BY MS. LIVESAY:

7 Q Mr. Robinson, I'm showing you State's Evidence No.
8 40. Do you recognize it?

9 A It's the --

10 MR. WILSON: I can't hear him.

11 A This is where it happened.

12 BY MS. LIVESAY:

13 Q So this is where it all happened?

14 A Yes.

15 Q And if you don't mind, tell these folks where were
16 you at.

17 A I was in this chair right here.

18 Q And where was Josh?

19 A He was on the couch on the left side.

20 THE COURT: He's got to speak up.

21 A He was on the couch on the left side.

22 MR. HARRELSON: He's going to have to speak up.

23 A On the couch on the left side.

24 BY MS. LIVESAY:

25 Q Okay. So you were here in this little chair?

1 A Yes.

2 Q And Josh was here?

3 A Yes.

4 Q And everybody else was in a room with the door
5 closed?

6 A Yes.

7 Q Okay. When you first see Fanotti Neal, where is he
8 at in the room?

9 A He's on the left side of my chair. He had woke me
10 up and gave me like a fist bump.

11 Q Okay. Hold on one second.

12 MS. LIVESAY: I'm sorry, Judge.

13 BY MS. LIVESAY:

14 Q So I'm showing you now State's Exhibit 42. Does
15 that show where Fanotti was standing?

16 A Yes.

17 Q Okay. So State's 42 -- and you correct me if I'm
18 wrong -- this is the long couch here?

19 A Yes.

20 Q And this is where Josh was laying?

21 A Yes.

22 Q And this little corner right here where the table
23 is, this little blue thing is your chair where you were
24 sitting; is that correct?

25 A Yes.

1 Q And you wake up and Fanotti is standing right here
2 beside your chair; is that correct?

3 A Yes.

4 Q So it's kind of an L-shape. The chair is here; is
5 that right?

6 A Yeah.

7 Q And the long sofa that Josh was on was right here?

8 A Yeah.

9 Q And Fanotti was kind of in that angle up there?

10 A Yes.

11 Q Now, when you wake up and you see Fanotti, what is
12 he wearing and what does he look like? Do you remember?

13 A He had, like, on the little -- a beanie on his head.

14 Q Had a what?

15 A A beanie.

16 Q A beanie hat?

17 A Yeah, some type of hat.

18 Q And do you remember anything else he was wearing?

19 A (Witness nodding.)

20 Q No?

21 A No.

22 Q Okay. Now, when you see Fanotti, what runs through
23 your mind?

24 A I really didn't think too much of it. I just went
25 back to sleep.

1 Q Had anybody, to your knowledge, invited him there?

2 A No.

3 Q Had anybody, to your knowledge, invited anybody to
4 come over after y'all went to bed?

5 A No.

6 Q On State's Exhibit No. 40, on this picture, can you
7 show me where the guy wearing the dark hoodie, with the
8 hood up, where he was standing?

9 A Yes.

10 Q Show me.

11 A Right in that area right here.

12 Q So he was standing on this side of the room?

13 A Yes.

14 Q Now, he's standing there. And how is he holding the
15 gun? Show us.

16 A Like that. (Indicating).

17 Q Straight down?

18 A Mm-hmm.

19 Q And what color was the gun?

20 A Black.

21 THE COURT: He needs to answer yes or no.

22 THE WITNESS: Yes.

23 MS. LIVESAY: You have to make sure you speak up.

24 BY MS. LIVESAY:

25 Q You've got to make sure you speak up.

1 THE COURT: And yes and no.

2 BY MS. LIVESAY:

3 Q Okay. What color was the gun?

4 A Black.

5 Q Okay. And he was holding it straight out like that?

6 A Yes.

7 Q And do you remember, was he a great, big tall
8 fellow? Was he a fat fellow?

9 A No, he wasn't fat.

10 Q Was he tall?

11 A He might have been. I really couldn't tell the
12 height.

13 Q Okay. And what was Josh doing -- when you say the
14 guy is holding the gun like this, who is he pointing the
15 gun at?

16 A Josh.

17 Q And when he's pointing the gun at Josh, what is Josh
18 doing?

19 A It looks like he's -- Josh was trying to get up.

20 Q Get up off the couch?

21 A Yeah.

22 Q Do you know if he was ever able to get up off the
23 couch?

24 A No, I don't think so. He wasn't. He wasn't.

25 Q When you undo the covers, where is Josh?

1 A He was on the floor.

2 Q On the floor where?

3 A In front of the couch.

4 Q So he never even made it really past right there at
5 the couch?

6 A No, ma'am.

7 Q And Fanotti, where is he at, at this point? Is he
8 still in the room?

9 A I couldn't tell because I had -- after the shot went
10 off, I had pulled the covers back over my head.

11 Q Okay. And you pulled the covers back over your
12 head. And what's the next thing that happens?

13 A I pulled the covers over my head. After I felt
14 somebody run past me, I pulled the covers back down, and I
15 went to go check on Josh.

16 Q Okay. When you pulled the covers back down, was
17 Fanotti Neal in the room?

18 A No. No.

19 Q Did you see him in the room again?

20 A No, not -- not since he had gave me a fist bump.

21 Q So after the shooting, do you ever see Fanotti Neal
22 in that room between that time and when the police come?

23 A No.

24 Q And the boy in the black hoodie with the hoodie up
25 that you say is pointing the gun at Josh -- after the

1 shooting happens, you pulled the covers back down. Do you
2 see that fellow still in the room?

3 A No.

4 Q So after the shooting, both Fanotti and the boy in
5 the black hoodie are no longer there?

6 A They're no longer there.

7 Q Who is still in the room?

8 A Everybody that we had came with. So it was me -- it
9 was me, Josh, Jalen, Travion, and Cameron.

10 Q So none of your folks -- none of your friends --
11 none of the people that were there in the room, none of
12 them ran out of the room; is that right?

13 A Yeah, none of them ran out.

14 Q Now, when you look over and you see Josh trying to
15 get off the couch, do you see a gun in his hand?

16 A No, I don't.

17 Q Now, would you -- all these people you have named,
18 they're your friends?

19 A Yes.

20 Q Would you recognize their voice?

21 A Yes.

22 Q Thank you. Have a seat, Mr. Robinson.

23 MS. LIVESAY: Could you hear him okay?

24 COURT REPORTER: Yes.

25

1 BY MS. LIVESAY:

2 Q Mr. Robinson, I'm going to let you listen to a
3 portion of what's already been put into evidence. It's
4 State's 13, the 911 tape. You tell me if you recognize
5 those voices -- okay? -- and who the voice belongs to.

6 A Okay.

7 (Video plays/State's 13.)

8 BY MS. LIVESAY:

9 Q Who is that?

10 A Shakira.

11 Q And was she one of the young ladies in the house?

12 A Uh-huh.

13 THE COURT: Is that a yes or no?

14 THE WITNESS: Yes.

15 BY MS. LIVESAY:

16 Q So she definitely didn't run out.

17 A No.

18 (Video continues to play/State's 13.)

19 BY MS. LIVESAY:

20 Q Who was that?

21 A Cameron.

22 Q Okay. And was she one of the young ladies in the
23 house?

24 A Yes.

25 Q She's on the phone with 911. So did she run out of

1 the apartment?

2 A No.

3 (Video continues to play/State's 13.)

4 BY MS. LIVESAY:

5 Q Who is that?

6 A Jalen.

7 Q What's he doing?

8 A He's trying to give him CPR.

9 Q Trying to what?

10 A Give him CPR.

11 Q That's his brother?

12 A Yeah, his older brother.

13 Q Play just a hair more.

14 (Video continues to play/State's 13.)

15 BY MS. LIVESAY:

16 Q Who is that hollering now?

17 A Jalen. I mean, Josh's older brother, Jalen.

18 Q And what's going on in the apartment during this
19 time?

20 A We're just trying to get him to respond to
21 something.

22 Q Was everybody at that time trying to work on the
23 victim?

24 A Yeah.

25 Q Did anybody from your friend group that was in

1 there, did any of those people leave the apartment?

2 A No.

3 Q Did you see any of those people fire a shot?

4 A You said did I see them fire a shot?

5 Q Yeah, did they fire a gun?

6 A No.

7 Q Did you ever see them point a gun at anybody?

8 A No.

9 Q So let me ask you something, Mr. Wilson asked
10 earlier before you were in here about somebody cleaning up
11 the kitchen. There was a broom and a dust pan in the
12 kitchen. The boy that's in there hollering and crying,
13 was he the one in there using the broom to clean up the
14 kitchen?

15 A I don't remember anybody cleaning up a kitchen.

16 Q So you don't remember anybody in the kitchen in
17 there sweeping up before the police got there?

18 A No.

19 MS. LIVESAY: Play just a hair more.

20 (Video continues to play/State's 13.)

21 BY MS. LIVESAY:

22 Q So while this is going on, who was that?

23 A That's Jalen.

24 Q Okay. And what's he doing?

25 A Still trying to get him to respond.

1 Q And his brother's been shot?

2 A Yes.

3 Q And you're telling me, nobody was in the kitchen,
4 cleaning up?

5 A Yeah, because everybody was focused on Josh.

6 Q Now, the apartment you were staying in, do you
7 remember that apartment?

8 A Yes, I remember it.

9 Q Would you be able to recognize you and your friends
10 coming out of that apartment?

11 A Yes, ma'am.

12 (Video continues to play/State's 13.)

13 MS. LIVESAY: Pause.

14 BY MS. LIVESAY:

15 Q Who are these people?

16 A The girl is Shakira and I don't know the dude.

17 Q Okay. And did Shakira live there?

18 A Yes, she did.

19 (Video continues to play/State's 13.)

20 MS. LIVESAY: Hold.

21 BY MS. LIVESAY:

22 Q Is she unlocking the door?

23 A I believe so.

24 Q Okay. Y'all kept the door locked?

25 A Mm-hmm.

1 THE COURT: Is that a yes?

2 THE WITNESS: Oh, yeah.

3 BY MS. LIVESAY:

4 Q And she's using her key to get in; is that right?

5 A Yes.

6 (Video continues to play/State's 13.)

7 BY MS. LIVESAY:

8 Q Do you recognize these people?

9 A Yes.

10 Q Who are they?

11 A That's me, Travion, Cameron, and Jalen.

12 Q And which one is you?

13 A The one in the white shirt in the back with the
14 bookbag and the gray pants.

15 Q Right here?

16 A Yeah, that's me.

17 Q And are these other people that were hanging out for
18 Jalen's birthday?

19 A Yes.

20 Q Now, is Josh right here?

21 A No.

22 Q Okay.

23 (Video continues to play/State's 13.)

24 MS. LIVESAY: Pause, please.

25

1 BY MS. LIVESAY:

2 Q Who is this young man?

3 A Josh.

4 Q That's the young man that was shot?

5 A Yes.

6 (Video continues to play/State's 13.)

7 MS. LIVESAY: Stop.

8 BY MS. LIVESAY:

9 Q What's going on here?

10 A I think we're trying to get the door unlocked.

11 Q So Cameron is unlocking the door for everybody to
12 come in?

13 A Yes.

14 Q And the last young man strolling in kind of swinging
15 the food, that's the victim?

16 A Yes.

17 Q Where had y'all been?

18 A Before this?

19 Q Mm-hmm.

20 A We was on the strip at the beach.

21 Q Okay.

22 A And then we went to Waffle House.

23 Q Is that what he was swinging in his hand, the Waffle
24 House food?

25 A Yes, ma'am.

1 Q And is this the young man that Shakira had brought
2 in?

3 A Yes.

4 Q Now, hold on now -- this time --

5 MS. LIVESAY: Go back just a hair. Could you go up
6 to when the victim was coming in? I apologize.

7 (Video continues to play/State's 13.)

8 BY MS. LIVESAY:

9 Q This time about right, y'all got back around 3:48?

10 A Yes, ma'am.

11 Q In the morning?

12 A Yes, ma'am.

13 (Video continues to play/State's 13.)

14 MS. LIVESAY: Pause.

15 BY MS. LIVESAY:

16 Q This car right here, the red Impala with the missing
17 hub cap, have you ever seen it before?

18 A No.

19 Q And have you always lived in Florence?

20 A Uh-huh.

21 Q So you never saw that car in Florence?

22 THE COURT: Is that a yes or no?

23 THE WITNESS: Oh, yes.

24 And, yes, I always lived in Florence.

25

1 BY MS. LIVESAY:

2 Q Okay. And you have never seen this car?

3 A No, I didn't. I never seen the car.

4 Q And you don't know who drives this car?

5 A No, I don't.

6 Q Okay. And hold on, 5:38 is the time. What's going
7 on inside the apartment?

8 A I believe all of us are -- we might be asleep at
9 this moment.

10 Q Everybody is asleep?

11 A Yes, ma'am.

12 (Video continues to play/State's 13.)

13 BY MS. LIVESAY:

14 Q All right, Mr. Robinson. Do you recognize any of
15 those folks?

16 A I recognize two of them.

17 Q I'm sorry?

18 A I said I recognize two of them.

19 Q Okay. And who are the two that you recognize?

20 A Fanotti and Micah Pressley.

21 MS. LIVESAY: If you don't mind, step down, if
22 that's okay with Your Honor.

23 BY MS. LIVESAY:

24 Q Point out the people you recognize.

25 A (Witness complies.)

1 Q And who is who?

2 A That's Fanotti and that's Micah Pressley.

3 THE COURT: He's got to speak up.

4 BY MS. LIVESAY:

5 Q And how about these two girls; do you know them?

6 A No.

7 Q So speak up for me. Repeat again. Point out who
8 you know in the video. And really speak up.

9 A This right here is Fanotti, and this right here is
10 Micah Pressley.

11 Q Do you recognize any of the other people?

12 A No.

13 Q You don't know those two girls?

14 A No.

15 Q And how about the third big boy?

16 A I don't know him.

17 Q And did you invite any of these people to come over
18 at 5:42 a.m.?

19 A No.

20 Q Okay.

21 (Video continues to play/State's 13.)

22 BY MS. LIVESAY:

23 Q Did you --

24 MS. LIVESAY: Stop there.

25

1 BY MS. LIVESAY:

2 Q Did anybody open the door?

3 A No.

4 Q No?

5 A No.

6 Q So he knocked but nobody got up and opened the door?

7 A Yeah, nobody got up and opened the door.

8 Q Okay.

9 (Video continues to play/State's 13.)

10 MS. LIVESAY: Back up a little more. Back up just a
11 hair more. Stop. Go back just a hair. I know.

12 BY MS. LIVESAY:

13 Q Who is this?

14 A Micah Pressley.

15 Q Does that sweatshirt look familiar to you?

16 A Yes, ma'am.

17 Q How does it look familiar to you?

18 A From the video.

19 Q Same one he was wearing in the video?

20 A Yeah.

21 Q And did you see that movement he made?

22 A Yeah.

23 Q Do you know what that means?

24 A Yeah.

25 Q That movement?

1 A Yeah.

2 Q What does that mean?

3 A It's like a gun. Like simulating a gun.

4 Q You have to speak up.

5 A Simulating a gun.

6 MS. LIVESAY: Could you hear him?

7 COURT REPORTER: Barely.

8 BY MS. LIVESAY:

9 Q Stand right here for me.

10 And is this the same beanie you saw Fanotti Neal
11 wearing inside the apartment?

12 A Yes.

13 Q And did you know all these people were in the
14 apartment at some point? Did you know that?

15 A I didn't know.

16 Q Okay. So you were asleep. So you didn't even
17 realize all these people had gone into the apartment?

18 A Yeah.

19 Q And, to your knowledge, did anybody else in the
20 apartment know anything about these people in the
21 apartment?

22 A Yeah, I don't think anybody else knew.

23 MS. LIVESAY: If you don't mind, back up just a
24 hair. I want to show him one more thing.

25

1 BY MS. LIVESAY:

2 Q You remember Shakira or Cameron having to dig into
3 their shoe to get into the apartment?

4 A No, I don't remember.

5 Q You don't remember them digging something out of
6 their shoe to get in?

7 A No, I don't.

8 (Video continues to play/State's 13.)

9 BY MS. LIVESAY:

10 Q And the last thing you remember after the shooting
11 is somebody running past your chair?

12 A Yes, ma'am.

13 MS. LIVESAY: If you don't mind, can you take us to
14 the end.

15 (Video continues to play/State's 13.)

16 BY MS. LIVESAY:

17 Q You say the guy that was pointing the gun had a
18 black hoodie on?

19 A Yes.

20 Q With the hoodie up?

21 A Yes.

22 Q And you're sure the gun was black?

23 A Yes.

24 Q That's the gun you saw?

25 A Yes.

1 MS. LIVESAY: Go back just a hair. Pause. Hit it
2 again one more time.

3 (Video continues to play/State's 13.)

4 BY MS. LIVESAY:

5 Q Do you see anything in that boy's hand?

6 A Yes.

7 Q What do you see?

8 A The gun.

9 Q Can you tell what color it is?

10 A Black.

11 Q Have a seat, Mr. Robinson.

12 MS. LIVESAY: Hit it one more time for me.

13 (Video continues to play/State's 13.)

14 BY MS. LIVESAY:

15 Q Did anybody -- can you recognize who is running out
16 of the room?

17 A Yes.

18 Q And who is that running out of the room?

19 A Micah Pressley.

20 Q Okay.

21 (Video continues to play/State's 13.)

22 BY MS. LIVESAY:

23 Q How about the second guy?

24 A Fanotti Neal.

25 Q Okay. You said you saw a gun in somebody's hand

1 that was running out on the video?

2 A Yes.

3 Q Who?

4 A It was Micah Pressley.

5 Q So he didn't leave the gun behind?

6 A No.

7 Q Okay. So when Conway Police Department showed up,
8 had he left the gun behind?

9 A No. No, ma'am.

10 Q Okay. Do you know how many times Josh was shot?

11 A I think y'all told me it was two.

12 Q But did you know?

13 A Oh, no. I only heard one gunshot.

14 Q And when the police showed up, did you tell them who
15 you saw in the apartment?

16 A Yes.

17 Q And who did you tell that you unequivocally
18 recognized in the apartment?

19 A Fanotti Neal.

20 Q And you have told the police that?

21 A Yes.

22 Q Okay. And at the time, did you tell the police
23 about a guy in there with a black hoodie?

24 A No, because I only seen one person in there so I
25 thought they was the same person.

1 Q Okay. And now that you have had time to think, do
2 you think it was the same person?

3 A Same person that woke me up out of my sleep the
4 person is the same person who shot Josh?

5 Q Yes.

6 A No, I think it was two different people.

7 Q So when you first talked to the police, all you knew
8 was "I for sure saw Fanotti Neal"?

9 A Yes.

10 Q And at a later time when you were asked about what
11 you saw at the very moment he was shot is when you said it
12 was a guy in a black hoodie?

13 A Yes.

14 Q And at the time, you just assumed that was Fanotti
15 Neal?

16 A Yes.

17 Q And did you have any idea that five people were in
18 there walking around while you and Josh were asleep in the
19 living room?

20 A No, I did not know.

21 Q Okay. And at some point, three of them leave. Did
22 you see that on the video?

23 A I think -- you said three of them? You can play it
24 again for me.

25 (Video continues to play/State's 13.)

1 BY MS. LIVESAY:

2 Q Do you know those three people?

3 A No, I don't.

4 Q Did you know they were ever in the apartment?

5 A No, I didn't.

6 Q So you didn't know anything about them leaving out?

7 A Yeah, I didn't know.

8 Q And none of them are running out; right?

9 A Yeah, they're just walking.

10 Q Now, when you saw this video for the first time, was
11 it after you had talked to police?

12 A Yes.

13 Q Okay. And did you know anything about all these
14 people going into the apartment ---

15 A No.

16 Q --- until you saw the video?

17 A Yeah, I didn't know anything about it.

18 Q I want you to tell these 12 people, do you have any
19 doubt at all that that is Fanotti Neal on the video?

20 A Right -- the one right there right now?

21 Q Yeah. No, not right now, but on the video that you
22 pointed to earlier with the beanie, do you have any doubt
23 that's Fanotti Neal?

24 A No, I've got no doubt.

25 Q Do you have any doubt that that was Fanotti Neal

1 that you saw in the apartment?

2 A No. I know that was him.

3 Q And do you have any doubt that is Micah Pressley on
4 the video in that dark hoodie with the hoodie up?

5 A No, I got no doubt.

6 Q Do you or have you ever had any ill will with either
7 one of these guys?

8 A No, ma'am.

9 Q And have you ever had an argument with them, a
10 fight, or anything?

11 A No, ma'am.

12 Q Ever been disgruntled with them?

13 A No, ma'am.

14 Q Any reason to come up here and story about anything?

15 A No, ma'am.

16 Q Do you got any pending charges?

17 A No, ma'am.

18 Q And is everything you told these folks the truth?

19 A Yes, ma'am.

20 MS. LIVESAY: No further questions Your Honor.

21 THE COURT: Do y'all mind if we take a lunch break
22 until 1:30?

23 MR. WILSON: That will be fine, Your Honor.

24 THE COURT: We're going to feed you lunch. The
25 clerk's office has everything taken care of.

1 (The jury exited the courtroom at 12:32 p.m.)

2 THE COURT: You can't talk to anybody about this
3 case. Do you understand? What we're going to do is have
4 you follow the deputy. They're going to give you a room
5 to yourself. Just an hour and come back. Okay? If
6 you'll just follow her. She'll tell you what to do.

7 THE COURT: All right. We'll see you back in an
8 hour.

9 I'm going to put him in a separate room where he
10 can't talk to anybody. All right. We'll see you back
11 shortly.

12 (A lunch recess was taken at 12:33 p.m. to 1:31
13 p.m.)

14 (State's Exhibit No. 61, DVD, was marked for
15 identification.)

16 JURY QUESTION

17 THE COURT: We did have one question from a juror.
18 Well, let me read it to you and then I'll tell you what I
19 think.

20 It says, "Which defendant is which? Can each one be
21 identified in courtroom, not video?"

22 I think the juror just doesn't who Micah Pressley is
23 and who Fanotti Neal is. Do you-all mind, when they come
24 in, you just introduce Micah Pressley without a mask, and
25 you introduce your client without a mask?

1 MR. WILSON: Your Honor, they were introduced to the
2 entire panel prior to the commencement of the trial. I
3 think to do that now actually points to them -- I'm
4 just -- I would object to doing it at this point. You
5 know, whatever happens in the rest of the testimony is
6 fine, but I think -- and the reason that I'm saying this
7 is because if they're sitting there and they've been
8 listening to this trial thus far and they have seen the
9 video and they still don't know who these two defendants
10 are, then I think that is an issue in this trial -- a
11 factual issue that the State has to satisfy, not us.

12 THE COURT: Maybe we could have a witness identify
13 them in court.

14 MR. HARRELSON: Yes, Your Honor.

15 MR. WILSON: Well, they already did. I mean, she
16 had him do it. That's my point.

17 THE COURT: Unless they've got cancer or something
18 like that, they need to take those masks off. This is
19 2023, about to be 2024. Nobody is wearing a mask.

20 MR. HARRELSON: And, Your Honor, if you want, we can
21 have this witness identify the two defendants with the
22 masks off.

23 THE COURT: That's up to you, but...

24 MR. WILSON: Now, let me tell you, she's rested so
25 she can't now get back up and reopen her case.

1 THE COURT: She can come back to him in rebuttal
2 after you're through.

3 MR. WILSON: Well, that's true, but only on issues
4 that I raise, not on new matter, and that's a new matter.
5 In fact, she's already done it. She actually specifically
6 asked this witness who these two individuals and
7 pointed --

8 THE COURT: Well, if you question this witness about
9 who is who, then rebuttal would be which one is which.

10 MR. WILSON: I don't have any reason to question
11 this witness about who is who.

12 THE COURT: Then let's see where the
13 cross-examination goes.

14 Why don't we just bring in the jury and start.

15 MS. LIVESAY: Judge, if we can, Mr. Wilson has not
16 begun his cross. If it's not offensive to anybody, I can
17 just ask that question and sit down.

18 THE COURT: I'm fine with that.

19 MR. WILSON: It's offensive with me, you know,
20 because she has had her turn. And we have had a break in
21 between, and now she wants to come back after the break,
22 and then it won't be one question; it's going to be ten.
23 And I object.

24 THE COURT: It's within my discretion. I'm going to
25 allow her to present her case.

1 MS. LIVESAY: Thank you, Judge.

2 THE COURT: And you can cross-examine.

3 MR. WILSON: Subject to our objection, Your Honor.

4 THE COURT: I understand.

5 MR. WILSON: Thank you.

6 THE COURT: But we don't need those masks. Take
7 them off, unless something's wrong with you.

8 All right. Let's go ahead and bring out the jury.

9 (Court's Exhibit 1, Jury Question/Note, was marked
10 for identification and received into the record.)

11 (The jury entered the courtroom at 1:40 p.m.)

12 THE COURT: I recognize the State for a few
13 questions.

14 MS. LIVESAY: Thank you, Judge. Just a couple of
15 questions.

16 CONTINUING DIRECT EXAMINATION

17 BY MS. LIVESAY:

18 Q Mr. Robinson, do you see Micah Pressley in the
19 courtroom?

20 A I do.

21 Q And can you point him out for the jurors?

22 A Yes.

23 Q Point him out for us.

24 A (Witness complies.)

25 Q Which person at that table are you pointing to?

1 A The one in the black shirt.

2 Q And do you see Fanotti Neal?

3 A Yes.

4 Q And point him out for the jury.

5 A The one in the white shirt.

6 MS. LIVESAY: No further questions, Your Honor.

7 THE COURT: Thank you. Cross-examination.

8 MR. WILSON: Thank you very much, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WILSON:

11 Q Mr. -- what's your last name?

12 A Robinson.

13 Q Mr. Robinson, let's go back to the night this
14 incident occurred. All right? Tell me about what was
15 happening. Y'all had been to a party; right?

16 A Yes.

17 Q All right. And what time did the party start?

18 A I can't remember.

19 Q Well, what time did the party end?

20 A Maybe about like 12 or 1 or something.

21 Q 12 or 1.

22 And what were y'all doing at the party? Drinking
23 liquor? Drinking wine? Smoking pot? Using coke? Use
24 heroin? What were y'all doing at the party?

25 A Partying.

1 Q I'm sorry?

2 A I said partying.

3 Q You were partying?

4 A Yes.

5 Q Well, I know. And that's my question. What were
6 you doing at the party? Were you doing cocaine? Were you
7 doing heroin? Were you doing crack? What were you doing
8 at the party?

9 A Drinking maybe.

10 Q Drinking maybe?

11 A Yeah.

12 Q Well, how old were you at the time?

13 A 18.

14 Q 18? But you were drinking; right? Using drugs too?
15 Marijuana? Crack? Heroin?

16 A No.

17 Q No what?

18 A I don't -- no crack. Mari- --

19 Q No crack. Maybe a little heroin? Maybe a little
20 cocaine maybe? Right?

21 A No.

22 Q You're under oath; right?

23 A Mm-hmm.

24 Q You understand that; right?

25 A Yeah.

1 Q Do you know what under oath means?

2 A Yeah.

3 Q What does it mean?

4 A You can't -- you can't -- you're not supposed to
5 tell a lie.

6 Q You're not supposed to tell a lie. All right.

7 And so you're at this party. You're doing whatever
8 you're doing at the party until, you say, 1:00, 2:00 in
9 the morning. And then you come back to the hotel room or
10 to the apartment at some point in time; right?

11 A Yes.

12 Q All right. And are you intoxicated?

13 A Maybe a little tipsy.

14 Q A little tipsy. All right.

15 And when you're coming back a little tipsy, you go
16 and you sit on the couch or at least on the little chair
17 by the couch; right?

18 A Yes.

19 Q All right. And Mr. McPherson gets on the actual
20 couch; right?

21 A Yes.

22 Q All right. Now, you put something over your head;
23 right?

24 A A cover.

25 Q A cover?

1 A Yes.

2 Q What kind of cover was it that you put over your
3 head?

4 A A cover that you go to sleep with, like a blanket.

5 Q All right. You put a blanket over your head.

6 And then you say that, at some point in time while
7 this blanket is over your head, you hear a shot; right?

8 A Say it for me again.

9 Q After you put the blanket over your head initially,
10 you hear a shot at some point?

11 A Oh, yes.

12 Q Then you take the blanket down; right?

13 A Yes.

14 Q And when you take the blanket down, your story was
15 that you saw Mr. Fanotti in the corner by the window --
16 the sliding glass doors?

17 A Yes, somebody with a black hoodie.

18 Q Somebody with a black hoodie. So it wasn't
19 Mr. Fanotti?

20 A If he -- I think Micah Pressley had the black hoodie
21 on.

22 Q Well, I'm asking you what happened.

23 A Yeah, somebody with a black hoodie.

24 Q So you saw Micah Pressley in that room with a black
25 hoodie on that night? Is that what you're telling us?

1 **A** Yes.

2 **Q** Okay. Well, isn't it strange, though, that that's
3 not what you told the police? Why would you lie to the
4 police then when they come to you the night or the morning
5 that this happened -- the police talked to you that
6 morning; did they not?

7 **A** Yeah, they did.

8 **Q** Not only did they talk to you, they took you in the
9 back of their police car and asked you to tell them
10 exactly what happened; did they not?

11 **A** Yeah.

12 **Q** You never told them anything about some man with
13 some black hoodie, did you?

14 **A** No, that's because I didn't see -- see it until
15 after they showed me the video.

16 **Q** Right. After they showed you the video -- they
17 brought you down and showed you the video. And then when
18 they showed you the video, you said, "Oh, yeah, yeah,
19 yeah, that's what happened." Right?

20 **A** No, it all -- the video brought everything together.

21 **Q** The video brought everything together.

22 Well, why would you lie to the police --

23 **A** I didn't lie.

24 **Q** Why would you lie to the police and tell them that
25 the only person you saw that night in that room was

1 Mr. Fanotti, and now you're saying there are two people in
2 the room?

3 A Because Fanotti was the only person I seen in the
4 room and then, later, when they came to me with the video,
5 that's when I figured out there was more people in the
6 room.

7 Q Oh. So once you got the video and you saw somebody
8 else you say in the room, then, all of a sudden, you knew
9 there were two people in the room and so now it had to be
10 this gentleman; right?

11 A No. Because I seen -- the person I seen was
12 Fanotti. And after they showed me the video, they showed
13 me the video of Fanotti and Micah Pressley ---

14 Q Yeah.

15 A --- running out of the apartment.

16 Q Okay. So they showed you a video of two men running
17 out of the apartment, and then that's when you realized,
18 "Oh, that was the guy in the black hoodie that I saw with
19 Mr. Fanotti"; right? Is that what you're saying?

20 A Say it for me one more time.

21 Q Well, it's convoluted, isn't it?

22 Let me rephrase that and ask you this way: At any
23 point in time, on the night that this incident occurred,
24 did you ever tell the police about a man in a black hoodie
25 being in that room at any point in time that night?

1 A No.

2 Q No.

3 A Because the only person I seen was Fanotti.

4 Q That's right.

5 And now your story is there was some guy in a black
6 hoodie that ran past you. And that never happened, did
7 it?

8 A Hmm?

9 Q That never happened. No man in a black hoodie ran
10 past you; that's something you made up once you saw the
11 video.

12 A No.

13 Q In fact, let's talk about that video. You actually
14 met with the police to pick out of a lineup the individual
15 that you say you saw; right?

16 A Yes.

17 Q All right. And did you pick out that individual?

18 A Yes.

19 Q And who was that individual that you picked out?

20 A Fanotti.

21 Q You picked out Mr. Fanotti; right?

22 A Yes.

23 Q Did you ever pick -- from that day until January of
24 '23, did you ever pick anybody else out of the lineup and
25 say that that person was there?

1 A No.

2 Q No. No. But when you met with the police, they
3 wanted you to help them put a name to those faces; right?

4 A Yes.

5 Q Yeah. And, lo and behold, the name that came to
6 your mind: Micah Pressley.

7 Now, let's talk about something else because we know
8 that what you told the police -- either you told them a
9 lie or you're telling us a lie; right? Either way, you're
10 lying; right? No question about that; right?

11 A No.

12 Q All right. Let's talk about something else. Let's
13 talk about the gun that was found in the apartment.
14 You -- you were the only other person in that room with
15 Joshua McPherson?

16 A Yes.

17 Q No question about that, is there?

18 A Yeah, I was the only one in there.

19 Q No question.

20 And he was on the couch. You were in the chair next
21 to him; right?

22 A Yes.

23 Q Okay. Now, at some point in time -- well, let me
24 rephrase that and ask you this way: Was there a gun? Did
25 Mr. McPherson have a gun on his person that night?

1 A Not to my knowledge.

2 Q Not to your knowledge.

3 Now, you were in the apartment; right?

4 A I was.

5 Q All right. And you were the first person that went
6 to the body?

7 A Was I?

8 Q Yeah, after he was shot.

9 A Yeah, I was. I was.

10 Q You were the first person to get to him; right?

11 A Yes.

12 Q And you didn't remove the gun from him?

13 A No, I didn't. I didn't even see a gun.

14 Q All right. Well, do you know whether or not there
15 was a gun that was removed from his body?

16 A No, I didn't know.

17 Q You didn't know.

18 So did you have any conversations with the
19 solicitor's office about that?

20 A About a gun? I believe we did.

21 Q Yeah. You had a conversation with them about it;
22 right? And what did they tell you about the gun?

23 MS. LIVESAY: Your Honor, whatever I said in meeting
24 with Mr. Robinson is going to be hearsay.

25 MR. WILSON: She's absolutely right. I'll withdraw

1 the question.

2 BY MR. WILSON:

3 Q So you don't know anything about that gun that was
4 found; right?

5 A I didn't know -- I didn't know there was a gun.

6 MS. LIVESAY: And I'm going to have to object as to
7 facts not in evidence. There's no facts into evidence
8 about the victim having a gun.

9 MR. WILSON: Judge, there is --

10 THE COURT: This is cross-examination. You go
11 ahead.

12 BY MR. WILSON:

13 Q All right. Now, let me ask you this: So you don't
14 know about the gun.

15 Now, did you go to Mr. McPherson's aid once you took
16 the cover from over your head, after you say you heard the
17 shot; right? Because your story now is -- as I understand
18 it, and you correct me if I'm wrong -- your story is you
19 heard one shot?

20 A Yes.

21 Q You never heard two shots?

22 A I just heard one.

23 Q One. And you were on the couch next to him or on
24 the chair next to his couch; right?

25 A Yes.

1 Q All right. And when you pulled down your covers,
2 the only person you saw at that point was Mr. Fanotti,
3 according to you?

4 A No, I seen Fanotti when -- I seen Fanotti when he
5 first got there, I guess, and he fist-bump me. And then I
6 went back to sleep. And then I woke up to the sound of
7 two people, like, either tussling or wrestling. Then,
8 when I woke up, somebody in the black hoodie was standing
9 in the corner with a gun and they shot him. That's when I
10 pulled the covers back over my head, and I felt somebody
11 run past me. And after I pulled the covers back down from
12 my head, I went and checked on Josh.

13 Q Okay. But that's a new story; right? That's not a
14 story you told the night this happened.

15 A It's the same story.

16 Q When did you tell the police that you saw a man in a
17 black hoodie at any point that night?

18 A When?

19 Q The first time you tell that story is when you
20 talked to Ginger Pop from the solicitor's office on
21 January the 9th of 2023; is that not correct?

22 A I believe so.

23 Q Yeah. And so for -- from May the 29th of '22 until
24 January the 9th of 2023, your story was one person:
25 Mr. Fanotti.

1 And then, after you meet with the solicitor -- you
2 met with the solicitor; right? This lady right here?

3 A Yes.

4 Q Yeah. And after you met with them, then this is the
5 new story you came up with. Because that benefits the
6 facts of this case; right? Right?

7 A I believe that's when they showed me the video.

8 Q Yeah, they showed you the video.

9 What other conversation did they have with you?
10 Can't remember? Well, let me ask you this: These
11 individuals have been arrested within days of this
12 incident; right? So it was all over social media. Did
13 you ever go to the police any time before you met with the
14 solicitor and say, "Hey, look, I saw this guy on Facebook
15 that got arrested. That's the guy." Never, did you?

16 A No.

17 Q Nope. It wasn't until you met with them, had a
18 conversation with them, saw the video, and then, all of a
19 sudden, "I know who it is and he ran right past me";
20 right?

21 A He had a hoodie on.

22 Q Yeah, yeah.

23 Now, let me ask you about -- there was a picture,
24 38. Let me show you this picture. This is State's
25 Exhibit No. 37. Take a look at it for me. Have you ever

1 seen that picture before?

2 A No.

3 Q No? That night when you were there, did you see
4 that broom and that dust pan in the middle of the floor in
5 the kitchen?

6 A I don't recall.

7 Q Did you see the shell casing that was found in the
8 middle of the floor in the kitchen near this broom and
9 dust pan?

10 A No.

11 Q No. You didn't see it.

12 You didn't put it there; right?

13 A No.

14 Q Well, do you know who put it there?

15 A No.

16 Q There are five people in the house; right? Name
17 them for us. Five people in the house. Name them for us.

18 A That was with me?

19 Q Yes, sir, in the house before whoever came in came
20 in. Five people in the house. Who were the five people?

21 A Me, Travion, Cameron, Jalen, and Josh.

22 Q Okay. But the thing is, nobody is in that living
23 room except you and Mr. McPherson.

24 A Yeah.

25 Q Right? Everybody else is in a bedroom.

1 A Yes.

2 Q And their doors are closed?

3 A Yes.

4 Q In fact, they didn't even know what had happened
5 until you knocked on the door for Jalen McPherson?

6 A Yes.

7 Q And that's when everybody else got alarmed and woke
8 up and saw what was going on. How long between the time
9 that the shot or shots were fired before you knocked on
10 the door of Mr. McPherson -- Jalen McPherson?

11 A Maybe like -- probably like three to four minutes.

12 Q Three to four minutes.

13 Why in the world would you wait three or four
14 minutes after the shots were fired to call the brother of
15 the guy that had just been shot? Do you know how long
16 four or five minutes is? You're going to wait four or
17 five minutes after this victim has been shot before you
18 knock on his brother's door?

19 A That's because I went to go check on Josh first.

20 Q You went to go check on Josh first? And that took
21 you five minutes? You are standing literally -- sitting
22 literally next to him; right?

23 In fact, how close were you to him? Close as I am
24 to you or closer?

25 A It might have been a little closer.

1 Q Tell me when to stop.

2 A Probably about there.

3 Q So you're almost within arm's reach of him, but it
4 takes you four or five minutes from that point to get to
5 knock on the door of his brother?

6 A I mean, when I felt somebody run past me, I didn't
7 immediately take the blanket over my head.

8 Q Well, now, you didn't know somebody ran past you
9 when you first talked to the police. This is your new
10 story; remember? So you didn't know that, then, because
11 you didn't tell the police that. So this is your new
12 story. So I'm going back to your old story.

13 Truth of the matter is, both stories are a lie;
14 right?

15 A No.

16 Q No? Your story that you're telling here today came
17 as a result of your meeting -- and let me ask you, how
18 many times -- how many times did you meet with the
19 solicitor before you came up with this new story that
20 you're telling? Three? Four? 10? 12? How many times?

21 A No.

22 Q Huh?

23 A I only met with them -- I think I only met with them
24 three times.

25 Q Three times.

1 So it took three times for you to get this story
2 out; right?

3 A Oh, no, I -- no.

4 Q No what?

5 A It's the same story I have been telling.

6 Q I'm sorry; what?

7 A I said, it's the same story I have been telling.

8 Q Is this the same story you told the police that
9 night?

10 A I'm pretty sure.

11 Q So when did you tell the police anything about any
12 statement where you told the police about a man in a black
13 hoodie ran past you?

14 A I forgot the officer or detective name, but I'm
15 pretty sure I told him that.

16 Q You told him that. Okay.

17 So that's your fourth story now; right? That you
18 told him that; right? Because you said earlier you didn't
19 tell him. Now you're saying you did tell him.

20 A I'm pretty sure I did.

21 Q The truth is, you don't know what you told him
22 because you were high that night.

23 And is there any reason, once anybody was arrested,
24 that you did not see their picture, if you knew who they
25 were, and say, "Hey, look, that's him. That's the guy

1 that --- and here I am, police officers, it's May 30th or
2 June 2nd or 5th or whatever; I need to let y'all know that
3 this is the guy right here that y'all arrested a week
4 ago"? Any reason that you wouldn't have done that?

5 A The same day that it happened, I remember sitting in
6 the back of a police car, and I pulled up --- I pulled up a
7 picture of one of them -- of Fanotti. And that's who I
8 said that I seen that night.

9 Q Not only did you pull up a picture of Fanotti, you
10 also did a lineup with the police for Fanotti; did you
11 not?

12 A Yeah.

13 Q Yeah. And you picked him out of a lineup.

14 And not one time did you say anything about anybody
15 else to the police. Because they would have given you a
16 lineup for that too.

17 A That's because Fanotti was the only person I seen
18 that night. So I thought -- I thought the dude in the
19 hood -- I thought they were the same person, because he
20 was the only one I seen that night.

21 Q All right. So now let me go back to one last thing
22 here and then I'm going to be done with you. The gun.
23 Did you have a gun that night?

24 A I didn't.

25 Q I'm sorry?

1 A I did not.

2 Q You did not have a gun that night.

3 Do you normally have one? You just didn't have one
4 that night?

5 A No, I don't. I don't own one.

6 Q And you didn't see one with Mr. McPherson?

7 A No, sir, he didn't have one, not to my knowledge.

8 Q You deny that, that he had a gun?

9 A Yeah, I didn't see him with one.

10 Q Do you know whether or not guns were actually found,
11 one belonging to him? Do you know whether that happened?

12 A I don't know.

13 Q All right. You don't know.

14 You don't know a lot of stuff; right?

15 Now, let me ask you one other thing: If you hear a
16 shot, why would you pull down the covers from your face
17 and then pull it back up and not see what's going on? Why
18 would you do that?

19 A Say that one more time.

20 Q Your story or one of them -- one of your stories is
21 that you heard a shot; right?

22 A Yeah.

23 Q All right. You pulled down your whatever covers or
24 whatever you had over your head and then you put it back
25 over your head. Why?

1 A It was just my reaction.

2 Q That was just your reaction.

3 So you hear a shot. You pull down your whatever --

4 MS. LIVESAY: Your Honor, I'm going to have to
5 object because that's not the testimony he's given.

6 THE COURT: I'm going to overrule it. He talked
7 about covers.

8 MR. WILSON: Thank you, Your Honor.

9 BY MR. WILSON:

10 Q So you pulled down your mask or your -- I'm sorry;
11 not your mask -- your covers --

12 A Blanket.

13 Q And you put it back over your head after you hear a
14 shot? Why?

15 A I just said that was my reaction.

16 Q That was just your reaction.

17 So how long did you keep it over your head after you
18 put it back over your head?

19 A I really don't -- I really can't tell you a time
20 frame. It wasn't that long.

21 Q 30 seconds? Two hours? Ten minutes? What?

22 A Maybe about like 30 seconds.

23 Q Maybe about 30 seconds?

24 And then, when you pulled it down, what did you do?

25 A I went to go check on Josh.

1 Q So when you pulled it down, how did you know that
2 Josh had already been shot? Because you pulled it back
3 over your head once you heard a shot, and you didn't know
4 where the shot had come from; right?

5 A No, I seen -- I said I seen the dude in the hoodie
6 standing in the corner aiming at Josh.

7 Q Do you recall telling the police, at one point, that
8 you saw Fanotti standing in the corner with a gun pointing
9 at Mr. McPherson? Do you recall that?

10 A Yeah, because he was the only one I seen in the
11 apartment that night.

12 Q All right. So you told the police that at least on
13 one occasion; right?

14 A Yeah, I didn't -- I didn't know until I seen the
15 video that multiple people was in the apartment.

16 Q All right. You didn't know that there was more than
17 one person because nobody ever ran past you. You don't
18 know what happened in that apartment other than what you
19 say you saw when you pulled your covers off; right?
20 That's the truth of the matter; right?

21 A I mean, if that's what you say.

22 Q I'm asking you. You're telling the story -- these
23 stories. Let me put it that way. Right?

24 A (No response.)

25 Q I don't have any other questions for you.

CROSS-EXAMINATION

BY MR. RIGNEY:

Q Good afternoon, Mr. Robinson. I just have a few questions for you.

Let me start with, when they came in -- this person or persons came into the apartment -- and, apparently, you were asleep when they came in. So the first thing you know of someone coming in was when Fanotti greeted you, dabbed you up; is that correct?

A Yes.

Q And you don't have any knowledge of anyone forcibly entering the place. There was not enough noise going on, somebody breaking in, that you knew somebody was breaking in; right?

A Yeah, I didn't know.

Q Okay. And when Fanotti dabbed you up and greeted you, you were not afraid of anything; right?

A Yeah, I didn't think too much of it.

Q You've known him for a while; right?

A Yeah, from work.

Q From work. And you worked with him -- do you know how long you worked with him?

A I worked with him -- it was -- it was more than a month.

Q Okay. So did you socialize with him at work? Did

1 y'all go out and party, do anything while you were working
2 together?

3 A Yeah. Me and Jalen, we went to his house one time
4 just to play Madden.

5 Q So you went to Fanotti's house?

6 A To play Madden.

7 Q Okay. With Jalen?

8 A Uh-huh.

9 Q No problems with anyone?

10 A Yeah.

11 Q No disputes, no fights. Nobody's got any hard
12 feelings at all toward Fanotti?

13 A Yeah.

14 Q Neither you nor Jalen nor Josh nor anything you're
15 aware of?

16 A Mm-mm.

17 Q Okay. So you were asleep. People came in.
18 Somebody came in. At least, you know, one person coming
19 in. No forced entry that you could tell about?

20 A Yeah, I didn't hear anything.

21 Q Is it possible they had a key?

22 A I don't know.

23 Q Now, you and Fanotti at your work, y'all got along
24 at work; right? You worked together and you became -- you
25 got to know him enough that you could look at him and

1 figure out who he was; right?

2 A Mm-hmm.

3 Q Like you did with videos and things here today?

4 A (Witness nodding.)

5 Q So in determining who was doing the shooting, was
6 the hoodie -- who was wearing the hoodie, was that a key
7 element in what you were relying on to identify that
8 person?

9 A Say --

10 Q You said somebody is wearing a black hoodie; right?

11 A Yes.

12 Q And so, originally, you might have said that Fanotti
13 was the person that did the shooting?

14 A Yeah, because he was the only one I seen in the room
15 that night.

16 Q He's the only one you could remember being in the
17 room that night.

18 But then when you realized that there's more than
19 one person and you think through it, Fanotti wasn't
20 wearing a hoodie at all, was he, that night?

21 A He had on a beanie.

22 Q Right. That's what you told us earlier. Okay.

23 And so when he came around, he came in, did you have
24 any idea what he was doing there when you -- when Fanotti
25 greeted you?

1 A I just went -- I just went right back to sleep.

2 Q So you really didn't have any fear of anything, did
3 you?

4 A Mm-mm.

5 Q Now, do you know what he might have been doing? Was
6 he there to, like, just hang out and party maybe?

7 A I don't know.

8 Q Had he been there before, that you're aware of?

9 A That was my first time being there.

10 Q Your first time being there. Okay.

11 But you had been hanging out with him before?

12 A Yeah, just one time.

13 Q Without any problems. So, as far as you knew, he
14 was just there for reasons that you don't have any idea
15 about?

16 A Yeah.

17 Q Okay. You had no reason to fear for yourself or
18 anyone else in there because you didn't wake anybody
19 up ---

20 A Mm-mm.

21 Q --- and say, "Look, we got somebody in here that
22 doesn't belong here, I'm scared to death, let's get him
23 out of here." You didn't do that?

24 A Mm-mm.

25 THE COURT: You may want to answer yes or no.

1 BY MR. RIGNEY:

2 Q Please do answer yes or no.

3 A Okay.

4 Q Now, there's some talk about the black hoodie.

5 Let's deal with that just for a little bit. Is that the
6 means now that you're using to identify -- is that the
7 primary reason that you know it was not Fanotti that did
8 that because he was not wearing the black hoodie?

9 A Yes.

10 Q Okay. And had you -- I think you may have already
11 determined this, but it seems like you might have been
12 drinking, using some drugs that night. So you were kind
13 of tired and out of it?

14 A Yeah.

15 Q Is that maybe why you didn't identify the right
16 person when you were first asked about it by the police?

17 A No, because like I keep saying, Fanotti was the only
18 one I saw in the apartment that wasn't supposed to be
19 there that night.

20 Q And when you looked over in the corner and you saw
21 somebody with a black hoodie, you were kind of tired,
22 waking up?

23 A Yeah, I was just waking up.

24 Q And you had been using drugs and alcohol. So you
25 may have not had the best ability to identify people when

1 that happened? Is that how you maybe misidentified
2 Fanotti?

3 A I mean, I wouldn't say that. I knew for a fact I
4 seen a black hoodie.

5 Q Okay. And you now know for a fact that it wasn't
6 Fanotti wearing it?

7 A Yeah.

8 Q You don't have any evidence of anybody breaking in.
9 And for a long time, it seems like, you were -- I guess a
10 long time in terms of what happened there -- it seemed
11 like a long time perhaps when you heard the shot and then
12 you pulled the cover over your head, and then, at that
13 point, you didn't know what happened for a moment; is that
14 right?

15 A Yes.

16 Q And then you got up and started looking around.

17 Did you see anything that caused you to think that
18 you were in danger?

19 A No. I just -- after I pulled the covers down, I
20 went to go check on Josh.

21 Q So you weren't afraid, after hearing the shot, that
22 something might happen to you?

23 A Oh, I wasn't -- I wasn't really thinking. I just
24 seen him on the floor.

25 Q You never had a gun that night?

1 A No, sir.

2 Q I think at some point along in some of your
3 interviews, you maybe had said that things were happening
4 really fast. Is that sort of an accurate description of
5 the way you felt about that, looking back on it?

6 A Yes, sir.

7 Q And is that possible that, because of the speed that
8 everything was happening, that contributed to you
9 misidentifying Fanotti? That everything is happening so
10 fast, you're looking up and you see somebody, and you just
11 got greeted by someone, the only person you had seen, and
12 you thought that's him?

13 A Yes.

14 Q But when you found out that it was not him, you
15 corrected yourself?

16 A Yes.

17 Q And what you're telling us now is that it was
18 certainly not Fanotti that was standing in the corner with
19 the gun?

20 A Yeah, because he didn't have on a Nike hoodie that
21 night.

22 Q Did you ever see Fanotti with the gun that night?

23 A No.

24 Q You identified Fanotti and Micah both here in court
25 and on video; correct?

1 **A** Yes.

2 MR. RIGNEY: Your Honor, if I may, I want to play a
3 little video, also they have already introduced.

4 (Pause in the proceedings. Counsel conferring.)

5 (Video continues to play/State's 13.)

6 (Pause in the proceedings. Counsel conferring.)

7 BY MR. RIGNEY:

8 **Q** Mr. Robinson, can you tell from there -- do you need
9 to come look at this a little closer to see if you can
10 identify who that is?

11 **A** Yeah, I will.

12 **Q** Okay.

13 I'm going to ask you to identify who that is coming
14 out the door and pause it.

15 THE COURT: You're going to have to speak up.

16 BY MR. RIGNEY:

17 **Q** Who is that?

18 **A** Micah Pressley.

19 **Q** Okay. Can you see something in his hand?

20 COURT REPORTER: I'm sorry; I can't hear you.

21 THE COURT: Yeah, y'all got to speak up. I can't
22 hear you either. We've got to hear you too.

23 (Video continues to play/State's 13.)

24 BY MR. RIGNEY:

25 **Q** What about now? Can you see something in his hand?

1 A No, not from this angle.

2 Q No, not from this angle? Do you see a bright spot
3 there?

4 (Video continues to play/State's 13.)

5 THE COURT: Speak up. Speak up. We can't hear you.

6 BY MR. RIGNEY:

7 Q One more time, please. This is very -- there we go.
8 Did you see something then in his hand?

9 A It looked like --

10 Q What did it look like?

11 A You can replay it one more time for me.

12 (Video continues to play/State's 13.)

13 BY MR. RIGNEY:

14 Q Can you tell what that is?

15 A I really couldn't see it right there.

16 Q I think we have seen it. If you can -- do you need
17 to see it one more time? Do you think that would help, or
18 no?

19 (Video continues to play/State's 13.)

20 BY MR. RIGNEY:

21 Q One more time; watch his hands and see. Could you
22 tell anything being in his hand?

23 A It looked like some silver maybe.

24 Q Okay. Would you think that might have been a
25 weapon?

1 MR. WILSON: Your Honor, the video speaks for
2 itself. And having him interpret what he thinks he might
3 see, I object to it.

4 THE COURT: You can ask questions and he can answer
5 them.

6 MR. RIGNEY: Come on back.

7 BY MR. RIGNEY:

8 Q So is that Micah Pressley in that video that you
9 just watched there?

10 A Yes.

11 Q And did you think you might have seen a weapon in
12 his hands?

13 A From -- from a different angle that they showed
14 earlier, yes.

15 Q Okay. And you, once again -- I just want to make
16 sure that we know, you were not alarmed when Fanotti came
17 in?

18 A I wasn't.

19 Q And you didn't hear any difficult things going on?
20 No breaking of doors or anything?

21 A No. I was asleep.

22 Q No forced entry that you're aware of?

23 A No.

24 Q Thank you.

25 MR. RIGNEY: No more questions, Your Honor.

1 THE COURT: Redirect?

2 MS. LIVESAY: Thank you, Judge.

3 REDIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Mr. Robinson, I've got a few questions for you.

6 Do you remember Mr. Wilson asking you about a
7 statement on January the 9th, 2023? Do you remember that?
8 He said all this was fabricated?

9 A Oh, yes.

10 Q Do you remember that?

11 A Uh-huh.

12 Q Yes, when Mr. Wilson asked you about that.

13 Now, he forgot to bring up the fact -- do you
14 remember that that was a phone call, that that
15 conversation was over the phone? Do you remember that?

16 A Oh, yeah. Yes.

17 Q I'm sorry?

18 A Yes.

19 Q It was over the phone, wasn't it?

20 A Yes.

21 Q Okay. And where were you?

22 A Work. On break.

23 Q You were at work? In Florence?

24 A Yes.

25 Q Okay. And you spoke with the investigator in my

1 office, Ginger Pop; correct?

2 A Yep.

3 Q And it was over the phone?

4 A Yes.

5 Q And you were at work and said you couldn't meet with
6 us. Do you remember that?

7 A Yes.

8 Q And do you remember at that time you had not seen
9 the video? Do you remember that?

10 MR. WILSON: Your Honor, I'm going to object. She's
11 testifying. And she's not on cross-examination. This is
12 redirect. And that is not the appropriate manner in which
13 to do a redirect, so I object.

14 THE COURT: Yeah, just don't lead.

15 MS. LIVESAY: I understand.

16 BY MS. LIVESAY:

17 Q Mr. Robinson, do you remember talking to Ginger Pop
18 on January the 9th, 2023?

19 A Yes.

20 Q And how did you speak with Investigator Pop? Was it
21 in person or on the phone?

22 A On the phone.

23 Q Okay. And when you spoke with her on the phone,
24 where were you?

25 A On break at work.

1 Q Okay. And where do you work?

2 A At the time, I was working at Honda.

3 Q Okay. And is that in Florence or in Horry County?

4 A It's in Timmonsville.

5 Q Okay. So you weren't even in Conway; correct?

6 A Yeah, I wasn't.

7 Q Okay. And at the time we had that conversation, had
8 you seen any video at that point?

9 A No.

10 Q Okay. And this conversation that Mr. Wilson talked
11 to you about on January 9th was on the phone; correct?

12 A Yes.

13 Q Okay. And did we show you the video in the course
14 of that conversation?

15 A On January 9th? No.

16 Q Because it was over the phone; correct?

17 A Yes.

18 Q And had you met with me or anybody from my office
19 prior to January the 9th when we had that phone call?

20 A No.

21 Q That was the first time me and you had ever spoken
22 and you had ever talked with anybody from my office; is
23 that correct?

24 A Yes.

25 Q Now, do you remember that conversation with Ms. Pop?

- 1 A Not well.
- 2 Q I'm sorry?
- 3 A I said, "Not well."
- 4 Q Okay. You don't remember talking to her?
- 5 A Yeah, I remember talking to her.
- 6 Q Did you ever meet with Ms. Pop in person?
- 7 A No, ma'am.
- 8 Q So you couldn't even recognize her in the courtroom,
- 9 could you?
- 10 A No, ma'am.
- 11 Q Now, Mr. Wilson asked you about that conversation.
- 12 And at that time, did you tell Ms. Pop that Fanotti Neal
- 13 was in the room?
- 14 A Yes.
- 15 Q And did you tell Ms. Pop in that conversation that
- 16 there was a male in a black hoodie with a black gun that
- 17 shot Josh?
- 18 A Yes.
- 19 Q So you remember telling Ms. Pop that on January the
- 20 9th?
- 21 A Yes.
- 22 Q And had you seen the video prior to telling Ms. Pop
- 23 that?
- 24 A No.
- 25 Q Okay. Now, let's talk about this conversation --

1 this interview you had with the police. When was the
2 first time you talked to the police?

3 A It was right after -- like, right after it happened,
4 after the paramedics and everybody came.

5 Q Okay. And where did you talk to the police?

6 A In his truck.

7 Q In his truck.

8 And where was his truck parked?

9 A In the apartment complex.

10 Q Okay. Right there at the apartment complex; right?

11 A Yes.

12 Q So when you talked to him, they had just rolled your
13 friend out; correct?

14 A Yes.

15 Q And you were still sitting there in the apartment
16 complex in a truck, correct, talking to the police?

17 A Yes.

18 Q And do you remember who you talked to then?

19 A It was him right there (pointing).

20 Q You recognize him?

21 A Yes.

22 Q And you recognize him because you saw him in person;
23 correct?

24 A Yes.

25 Q Okay. And do you remember that, when you talked to

1 Detective Huggins that very day, you told him about a guy
2 wearing a hoodie in the corner of the apartment?

3 A Yes.

4 Q You told him that, didn't you?

5 A Yes.

6 Q Now, Mr. Pressley -- I'm sorry, Mr. Wilson asked you
7 about picking out Micah Pressley in a lineup. Do you
8 remember that?

9 A Picking out Micah Pressley in a lineup?

10 Q Yes.

11 A No, I don't remember that.

12 Q I'm asking, do you remember Mr. Wilson asking you
13 about that?

14 A Oh, oh, yeah.

15 Q That's fine.

16 Were you ever shown a lineup with Micah Pressley in
17 it?

18 A No.

19 Q Now, Mr. Wilson has gotten up here and said that you
20 have told multiple stories, just story after story after
21 story. Did you tell this man right here (indicating),
22 sitting right in the parking lot after they rolled your
23 friend out, did you tell him Fanotti Neal was in the
24 apartment?

25 A Yes.

1 Q Did you tell him there was another guy in a black
2 hoodie in the corner of the apartment?

3 A Yes.

4 Q That's what you told this man right here?

5 A Yes.

6 Q And when you talked to Ginger Pop -- had you seen
7 the video then?

8 A No.

9 Q You had not seen the video then?

10 A No.

11 Q Okay. Police had just gotten there; is that right?
12 The police had just gotten there when you talked to
13 Detective Huggins?

14 A Yes.

15 Q Okay. And you had not seen any kind of video?

16 A No.

17 Q About how long was it between when EMS came and got
18 Josh and when you talked to Detective Huggins in that
19 truck?

20 A I don't --

21 Q An hour?

22 A It probably wasn't even an hour.

23 Q Probably not even an hour.

24 And did you tell them that very day that Fanotti
25 Neal was the one in the apartment?

1 A Yes.

2 Q And did you tell them that very day about a guy
3 wearing a black hoodie?

4 A Yes.

5 Q And certainly there was nobody -- nobody had gotten
6 surveillance video at that point; correct?

7 A No.

8 Q Then did you talk to anybody? Did you go back to
9 the police station? Did anything like that happen?

10 A No, they told me to go home.

11 Q They didn't take you back to the police station;
12 correct? They let you go home?

13 A Yes.

14 Q And between the time they let you go home and the
15 time Investigator Ginger Pop reached out to you, did you
16 ever give any kind of statement regarding what you saw
17 that night?

18 A Like a written statement or...

19 Q Yes. Did you give any kind of statement to anybody
20 between the time you left that day and the time Ginger Pop
21 called you on the phone?

22 A I think -- I think I did because they had me come
23 back up to the police station.

24 Q I'm sorry?

25 A They had me come back up to the police station a

1 couple of days later.

2 Q So you went back to the police station?

3 A Yes.

4 Q And did you talk to Detective Huggins again?

5 A It might have been Detective Huggins. It might have
6 been somebody else, but it was a detective.

7 Q But it was somebody from the police department?

8 A Yes.

9 Q And did you tell him what happened?

10 A Yes.

11 Q And did you tell him that Fanotti Neal was in the
12 room?

13 A Yes.

14 Q And did you tell him about a guy in a black hoodie?

15 A Yes.

16 Q And when you spoke to Ginger Pop on January 9th,
17 2023, on the phone, did you tell her Fanotti Neal was in
18 the apartment?

19 A Yes.

20 Q And did you tell her it was a male in a black hoodie
21 with a black gun?

22 A Yes.

23 Q And when you gave these statements, had you watched
24 the surveillance footage?

25 A No.

- 1 Q That was not until a later date; correct?
- 2 A Yes.
- 3 Q Had you even met me prior to then?
- 4 A No.
- 5 Q You didn't meet me until after we talked on the
6 phone on January 9th; correct?
- 7 A Uh-huh.
- 8 Q Okay. Now, Mr. Wilson and Mr. Rigney have asked you
9 about drinking, doing drugs that night? Do you remember
10 that?
- 11 A We had a couple of shots to drink.
- 12 Q I'm sorry?
- 13 A We had a couple shots of drink.
- 14 Q And you saw the same video these folks saw; correct?
- 15 A Yes.
- 16 Q Were you falling down?
- 17 A Was I falling down?
- 18 Q Yeah.
- 19 A No.
- 20 Q You weren't falling down drunk?
- 21 A No.
- 22 Q Was anybody else in your group falling down drunk?
- 23 A No.
- 24 Q Was anybody acting crazy outside the door?
- 25 A No.

1 Q Was anybody out there doing their arm like this
2 (indicating)?

3 A No.

4 Q Was anybody reaching into their sock to get into the
5 door?

6 A No.

7 Q Now, he asked you about doing heroin, doing all this
8 kind of stuff. Do you remember that?

9 A No.

10 Q Mr. Robinson, were you doing any illegal drugs that
11 night as far as heroin, crack cocaine, anything like that?

12 A Marijuana but no crack, no heroin.

13 Q And have you got any pending charges on you now?

14 A No.

15 Q Have you ever been arrested for a drug charge?

16 A No.

17 Q Now, you know, there was on and on about this new
18 story, this new story. Tell these folks, have you ever
19 said anything different than what you are saying today?

20 A I have been saying this the entire time.

21 Q And do you have any ill will towards Micah Pressley
22 over here?

23 A No.

24 Q Have you got any reason to say that it was him other
25 than that's who you know it to be?

1 A No, I got no other reason.

2 Q And, in fact, you were just hanging out with him two
3 months ago -- a month or two months ago. Do you remember
4 that?

5 A Yeah, it was after the video.

6 Q Okay. And it was after this day right here?

7 A Yes.

8 Q And was he wearing these clothes when you saw him?

9 A Yes.

10 Q And there's certainly no doubt this is Micah
11 Pressley; correct?

12 A Yes, that's Micah Pressley.

13 Q And he's wearing the same sweatshirt and the same
14 type skinny jeans on the video; is he not?

15 A He is.

16 Q And he's from Florence; correct? Did he live in
17 Florence?

18 A I believe so.

19 Q Okay. Okay. Did you know that there was testimony
20 earlier that the car that brought him up here was from
21 Florence?

22 A Say it again.

23 Q Did you know there was testimony earlier in here
24 that that red car you saw came from Florence?

25 A Oh, no, I didn't know.

1 Q Okay. But certainly Florence is where Micah
2 Pressley lives; correct? And it's where Fanotti Neal
3 lives?

4 A Yes.

5 MS. LIVESAY: No further questions, Your Honor.

6 MR. WILSON: Your Honor, I have a matter of law that
7 I think we need to take up.

8 THE COURT: All right. Members of the jury, if you
9 would step into the jury room. Do not discuss the case.

10 (The jury exited the courtroom at 2:36 p.m.)

11 MOTIONS/MATTERS OF LAW

12 MR. WILSON: Your Honor, in the solicitor's
13 comments, she indicates that there was some statement
14 given by this defendant to law enforcement at the police
15 department. We have never received any of that. If that
16 ever happened, I never received it. I object to it. And
17 I'm going to ask for a mistrial as a result of it.

18 THE COURT: I thought -- hold on. Let's clarify
19 what happened. I thought that he spoke with the policeman
20 at the scene in the truck after it happened.

21 MR. WILSON: Yes, sir.

22 THE COURT: And then on the --

23 MR. WILSON: That's correct -- no, sir. She said,
24 in addition to that, that they went to the police station
25 -- that he went to the police station and gave a statement

1 to law enforcement about this and that he told them
2 specifically about this person in the black hoodie. He
3 also -- and there was also a statement about the black
4 hoodie from -- that he gave this officer, Officer Huggins,
5 a statement about the black hoodie.

6 If he gave Officer Huggins any statement about that,
7 I don't have that either. That is not in any material I
8 have received to date.

9 And I have the officer's report right here. And I
10 have been looking through it trying to see if there's
11 something --

12 THE COURT: Keep in mind, just because he says it --

13 MR. WILSON: No, sir. The solicitor said it. The
14 solicitor said it.

15 MS. LIVESAY: That's not true.

16 MR. WILSON: She was leading him --

17 MS. LIVESAY: That's definitely not true. And I'm
18 going to tell you something, Judge, I want it played back,
19 because Mr. Wilson is dead wrong.

20 I asked him -- and I don't know if it's intentional
21 or unintentional, but when I asked him, I said, "Did you
22 give any statement to law enforcement between the time in
23 the car and the time you talked to Ginger Pop," and he
24 said, "I went into the police station."

25 My understanding from Detective Huggins is, he came

1 into the police station to get his phone. He never had
2 any kind of sit-down interview.

3 His testimony was, "I gave that statement about the
4 black hoodie when I was sitting in the car in the parking
5 lot of the crime scene."

6 THE COURT: That's the way I understood it.

7 MS. LIVESAY: I never even knew he had gone back up
8 to the police department between then and Ginger Pop until
9 he just said it right there.

10 So to say that that's what I said and I have done
11 something wrong is incorrect. And I want it played back.

12 MR. WILSON: I want it played back too.

13 THE COURT: All right. Let's play it back. Give
14 her time to find it. See where it goes.

15 (The court reporter played back the requested
16 portion.)

17 MR. WILSON: We've covered that, Your Honor.

18 THE COURT: Yeah, let's begin. He said, "I think I
19 went to the police department," and then he added all this
20 stuff.

21 MR. WILSON: What I'm -- what I'm -- that's not what
22 I'm objecting to. What I'm objecting to is the fact that
23 she says to him, leading, which she shouldn't have been
24 doing in the first place, she says, "And isn't that what
25 you told them? Didn't you tell them on those occasions

1 that this man in the black hoodie was there?" That's what
2 I'm objecting to.

3 THE COURT: You should have objected to the leading
4 at the time.

5 MR. WILSON: She's leading. I objected to the
6 leading, but she did it anyway.

7 THE COURT: But you should have followed --

8 MR. WILSON: Then, on top of that, Judge, it leaves
9 this jury with the impression that this defendant gave a
10 statement to law enforcement saying that there was some
11 man with a black hoodie. There is nothing in any document
12 that I received from law enforcement or from the
13 solicitor's office prior to January the 9th when she sent
14 me that statement from Ginger Pop. There is nothing about
15 any man in a black hoodie. Nothing in no document. And I
16 object to it, I think it's improper, and I think that this
17 defendant is being prejudiced by it.

18 THE COURT: All right. The State?

19 MS. LIVESAY: Your Honor, the question was, "Did he
20 talk to law enforcement?" "Yes." I asked him did he give
21 the same statement. "Yes." Did he talk to Ginger Pop?
22 "Yes."

23 I asked him directly between the police being in the
24 parking lot and Ginger Pop did he give a statement.
25 Clearly, I didn't think there had been a statement in

1 between. He said, "Yes." That was the first time I had
2 ever heard it. And at that time he said, "Yes, that's
3 what I told him."

4 I learned that information the same time Mr. Wilson
5 did through inquiring of the witness. Witnesses say stuff
6 all the time that we learn for the first time right in
7 here.

8 Mr. -- Detective Huggins is the one that told me
9 right then that he told me, day one, that there was a
10 black hoodie in the corner of the room. That's what he
11 just told me right then.

12 And, of course, my conversation or Ginger Pop's
13 conversation on January the 9th was typed up and handed
14 over to Mr. Wilson. I have given him everything I have.
15 So I don't know what -- I can't produce something I don't
16 have.

17 MR. WILSON: And I'm not disputing that fact that
18 she's given me everything she has. I am not disputing
19 that whatsoever. But it doesn't change anything. If that
20 statement exists and if that happened, I was entitled to
21 have it. And I do not have it. And I'm not blaming the
22 solicitor for it because I believe her. If she says she
23 doesn't have it, she doesn't have it. I don't -- I don't
24 have a problem with that. But that doesn't change --

25 THE COURT: I tell you what we can do: I'm not

1 going to grant a mistrial. You can cross-examine him and
2 you can cross-examine the police in great detail if a
3 statement exists, and if there is one and it wasn't given
4 to you, we'll go from there. But it sounds like really
5 good cross-examination to me but not necessarily a
6 mistrial.

7 MR. WILSON: Your Honor, we move for a mistrial. I
8 understand the Court's ruling. We accept that.

9 THE COURT: All right. Go ahead and bring in the
10 jury.

11 MS. LIVESAY: And, Your Honor, while we have got a
12 minute, because Mr. Wilson has claimed recent fabrication,
13 the State wants to call Ginger Pop as well as Detective
14 Huggins next just for the purposes of prior consistent
15 statement under 801 so Mr. Wilson can cross-examine them
16 as well about these issues.

17 THE COURT: You can call whatever witnesses in
18 whatever order you want.

19 MS. LIVESAY: Thank you, Judge.

20 (The jury entered the courtroom at 2:47 p.m.)

21 THE COURT: All right. You may continue.

22 Mr. Wilson?

23 THE DEPUTY: Wait, we're missing one.

24 (Pause in the proceedings.)

25 (The final juror entered the courtroom at 2:49 p.m.)

RECROSS-EXAMINATION

BY MR. WILSON:

Q I'll be a brief. I just have a couple of questions.

In your conversations with the solicitor, you indicated that you told Officer Huggins back on the night or the morning of this incident that you saw the man in the black hoodie and you told him about that; right?

A Yes.

Q Is that your story?

A Yes.

Q Yes. So that's a yes?

A Yes.

Q All right. And that you told him that the man ran past you and that -- and went out the door or left; right?

A Yes.

Q All right. Then you say that you also met with the police down at the police station sometime after that; right?

A Yes.

Q And that you told them the same thing; that you told them that you saw the man in the black hoodie and that the man in the black hoodie ran past you and left? This would have been after the shots have been fired; right?

A Yes.

Q And then you said you met with the solicitor by

1 phone, I think in your latest conversation; right? And
2 you told them that -- about the man in the black hoodie;
3 right?

4 A Yes.

5 Q So your story is, is that, in each of your three
6 separate statements, that you told the police and the
7 solicitor about the man in the black hoodie. Is there any
8 question about the fact that you say you told them those
9 things?

10 A No.

11 Q No? Okay.

12 And when you went down to the police station, do you
13 recall who the officer was that you were talking to?

14 A No.

15 Q All right. You don't know.

16 Do you know when it was that you went down to the
17 police station and you told them that story?

18 A No. I --

19 Q Okay.

20 A I want to say it was around the time when I did the
21 lineup, I think.

22 Q When you did the lineup for who?

23 A I only did one lineup and that was for Fanotti.

24 Q And that would have been on the 29th -- right? -- of
25 May, the same day?

1 **A** No, I didn't do a lineup the 29th of May.

2 **Q** When did you do the lineup?

3 **A** I can't remember, but I'm pretty sure it wasn't the
4 same day.

5 **MR. WILSON:** May I approach, Your Honor?

6 **BY MR. WILSON:**

7 **Q** Let me show you this document. Take a look at it.
8 Can you read it?

9 **A** Yeah.

10 **MS. LIVESAY:** Your Honor, I'm going to object. This
11 is definitely outside of my redirect.

12 **MR. WILSON:** Do you want me to address --

13 **THE COURT:** I think it's in response. Go ahead and
14 ask the questions.

15 **MR. WILSON:** Thank you.

16 **BY MR. WILSON:**

17 **Q** Do you recognize what I just handed you?

18 **A** Yes.

19 **Q** What is it?

20 **A** The photo lineup.

21 **Q** The photo lineup of the lineup you did with the
22 police for Mr. Fanotti; right?

23 **A** Yes.

24 **Q** And what's the date on there that you did that?

25 **A** The 29th.

1 Q May the 29th. Same day of this incident; right?
2 Right?

3 A Yeah.

4 Q Yeah.

5 MR. WILSON: I don't have any other questions for
6 this witness.

7 MR. RIGNEY: No questions, Your Honor.

8 THE COURT: All right.

9 MS. LIVESAY: No further questions, Your Honor.

10 THE COURT: All right. You may step down. Thank
11 you.

12 Do you want to call your next witness?

13 MS. LIVESAY: Yes, sir. At this time, the State
14 calls Detective Huggins for just the limited purpose under
15 Rule 801(d)(1)(b), which is going to be prior consistent
16 statements.

17 DETECTIVE ALLAN HUGGINS,
18 after having been duly sworn, was examined and
19 testified to as follows:

20 THE CLERK: State your name and spell it, please.

21 THE WITNESS: Good afternoon. My name is Allan
22 Huggins. A-l-l-a-n H-u-g-g-i-n-s.

23 DIRECT EXAMINATION

24 BY MS. LIVESAY:

25 Q And, Detective Huggins, where are you currently

1 employed?

2 A I currently work for the City of Conway Police
3 Department.

4 Q And how long have you been employed there?

5 A I have been employed there since 2014.

6 Q And what were your responsibilities in May of 2022?

7 A May of 2022, I was assigned to the investigative
8 division as a federal task force officer with the Secret
9 Service. I handled major crimes and digital forensics and
10 analysis.

11 Q And as part of handling major crimes, did you
12 respond out to murders, rapes, robberies, any major crime?

13 A That is correct.

14 Q And did you respond out to the apartment on 544 when
15 Joshua McPherson was killed?

16 A I did, yes, ma'am.

17 Q And as part of your responsibilities, did you talk
18 with Marion Robinson?

19 A I did.

20 Q And where did you talk with Mr. Robinson?

21 A The initial interview was conducted in the front
22 seat of my assigned vehicle. We were parked directly in
23 front of the stairs to the entrance of the building in the
24 parking lot.

25 Q Okay. So sitting there in the parking lot?

1 A Yes. I was in the driver's seat, and he was in my
2 front passenger.

3 Q And about how long was it between when the murder
4 happened and when you talked to Mr. Robinson?

5 A I live roughly 20 minutes away from the incident
6 location. We did our initial brief. I established what
7 happened or preliminarily what happened. So I would say
8 roughly 30 to 45 minutes within the initial activation of
9 the incident.

10 Q And was Mr. Robinson an eyewitness?

11 A He was.

12 Q And is that why you interviewed him?

13 A Yes, ma'am.

14 Q And tell these folks what he told you on the very
15 day that the murder happened.

16 A Mr. Robinson had said he went out with some friends
17 the night previous to celebrate a birthday party. He said
18 that they had returned back to the residence roughly
19 around 3 a.m. after eating Waffle House.

20 He said that his friend, Joshua McPherson, was
21 sleeping on the couch inside the residence when he was
22 sitting on a small chair, sleeping. He said he was woken
23 up by Mr. Neal giving him what they call a dap; it would
24 have been like a hello. He said he went back to sleep
25 afterwards. He heard a scuffle. He said he heard a

1 scuffle and heard a gunshot. He said he was wearing a
2 blanket at the time. He said he saw an unknown individual
3 in the corner wearing a black hoodie with a black gun
4 present a weapon, at which point, he said, out of fear, he
5 pulled the blanket back up, at which time someone had ran
6 past him and exited the residence.

7 At that point, after the incident occurred, he said
8 he didn't know how long he laid under the blanket until --
9 after which he tried to render aid to his friend that was
10 dying on the floor. He said that he tried to render aid
11 and alert the other occupants of the building or the
12 residents to get help and call for 911, and that's about
13 all that he told me.

14 He said that he knew one of the people that had
15 dapped him up. He provided a Facebook page, which we
16 cross-referenced and did some intelligence gathering on
17 and later identified as Fanotti Neal. And that was all
18 kind of in that incident.

19 I also collected a cell phone during that interview.

20 Q We got you for a limited purpose under the rules,
21 Mr. Huggins ---

22 A Okay.

23 Q --- so I don't want to go outside the parameters.

24 Were you in here when Mr. Robinson testified?

25 A Yes.

1 Q And did he tell this jury anything different than he
2 told you on May the 29th after his friend was killed?

3 A No. He didn't tell me anything different. I think
4 our understanding of the statement was different later in
5 the investigation, once we finally started seeing the
6 totality of the facts with all the evidence that we
7 collected. I think we were both under the impression,
8 when he gave his statement, that Fanotti Neal and the male
9 in the black hoodie were one and the same. But we didn't
10 have all the facts at that time. We didn't have video.
11 We didn't know there were other people involved.

12 All we knew is that he saw Fanotti and then later
13 which he heard a gunshot and saw a male in a black hoodie,
14 which he, in turn, transposed Fanotti Neal into that male
15 with the black hoodie.

16 Q And during the course of the conversation, did you
17 also take it that they were one and the same?

18 A I did.

19 Q Okay. But there's no doubt he told you about
20 Fanotti Neal, and there's no doubt he told you about a
21 male in a black hoodie?

22 A Yes.

23 MS. LIVESAY: No further questions, Your Honor.

24 CROSS-EXAMINATION

25

1 BY MR. WILSON:

2 Q Detective, when you are conducting an investigation,
3 would you agree with me that it's important to get
4 accurate details about what's going on?

5 A It's imperative, sir.

6 Q It's imperative. It's imperative.

7 And not only do you want to get those details, you
8 want to put them in your report so that you can refer to
9 them and so that you can know about them; would you agree
10 with that?

11 A Yes, sir.

12 Q Show me anything -- this is your report. Take a
13 look at it. Take a look at that report. Point to me any
14 place in that report where you say that the defendant told
15 you -- I'm sorry, that the witness told you that he saw a
16 man in a black hoodie in that room at any point in time.

17 A So I understand your question and what my response
18 to that is, is that these are done chronologically. So
19 the facts change as we collect evidence and we start to
20 take into the totality.

21 So written documentation doesn't always encompass
22 all the facts that were given. That's why we wear body
23 cameras and everything is audio and video recorded. So
24 the minute details, such as a black hoodie, that may have
25 fallen through on written documentation don't go away

1 forever.

2 Q My point and my question again: Show me anything in
3 this report that says there was a man in the room with a
4 black hoodie, period.

5 A I don't believe it's in there, sir.

6 Q Right. And it's not in your report either?

7 A My report?

8 Q Yes, the one I just handed you.

9 A This is investigative follow-up. I don't -- out of
10 all the documentation in the binders, I can't tell you if
11 it's in one of those.

12 Q Well, look at it. It's yours. You wrote it. Tell
13 me what's in it.

14 A Sir, I said it's not in this report.

15 Q It's not in that report.

16 So you have got another report somewhere with some
17 different information in it? Is that what you're saying?

18 A No, I'm saying that, department-wide, we all carry
19 our own investigative notes and that everybody documents
20 their findings. So I'm not saying that it is or is not in
21 the reports. I'm simply answering your question saying
22 it's not in this one.

23 Q Show me any report that you have that you took at
24 any point in time from this witness who shows that this
25 witness told you that there was a man in a black hoodie in

1 the room, any -- I don't care where it is. If it's in
2 your luggage over there, that's fine. Show it to me.

3 A Yeah, see, this is just a brief synopsis. This
4 isn't even the totality of the conversation in the
5 interview. That is just saying that we conducted the
6 interview. It wouldn't be in this.

7 Q That's not my question. My question is: If you
8 have got it in some other document, show it to me.

9 A I'm sure it's on the audio and video of the body --
10 it's not in this document, sir.

11 Q All right. Now, you heard him say -- the solicitor
12 asked you about that, heard him say that he had gone down
13 to the police station on a separate occasion or had
14 another meeting with you or with some other officer at the
15 department -- right? -- and gave a statement?

16 A No, I don't think that's correct.

17 Q So that didn't happen, as far as you know?

18 A So I don't think that -- there was no statement or
19 talking, conversing. There was a recall for him to do the
20 lineup initially on the day, and then he came to the
21 station on a later date to retrieve his digital device
22 that we processed. There was no formal interview
23 conducting secondary at the Department or a follow-up
24 interview by the police department.

25 Q All right. So when he says or when the solicitor

1 says that he gave another statement indicating that there
2 was a man with the black hoodie to the police when he came
3 down there on that occasion, that's not true either, is
4 it?

5 A No, it's not.

6 Q All right. Now, there's this January 9th, 2023,
7 statement, some seven, eight months later, however many it
8 is. Were you present for the conversation between Ginger
9 Pop, the solicitor, and the witness?

10 A No, sir.

11 Q They didn't include you in on that?

12 A No, sir.

13 Q So you don't know what was said during that?

14 A I do not. I'm sorry.

15 Q I won't ask that. I'll withdraw it. Thank you so
16 much.

17 A You're very welcome.

18 CROSS-EXAMINATION

19 BY MR. RIGNEY:

20 Q I just want to ask one question of you, and that is
21 -- you mentioned your body cam.

22 A Mm-hmm, yes, sir.

23 Q So this first interview you did with him, the
24 mention of the black hoodie would appear on your body cam?

25 A It would, yeah.

1 MR. RIGNEY: No more questions.

2 MS. LIVESAY: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Detective Huggins, Mr. Wilson asked you about your
6 report. Did you take a look at it, that he showed you?

7 A Yes, ma'am.

8 Q And tell these folks about how long the synopsis was
9 of your conversation with Marion Robinson.

10 A Marion Robinson's synopsis was about a paragraph.
11 So roughly, you know, a quarter-page at 10 font.

12 Q Okay. And did it include everything?

13 A No, ma'am.

14 Q And at the time, did you think that Fanotti Neal and
15 the guy in the black hoodie were one and the same?

16 A Yes, ma'am.

17 Q And did Marion Robinson on that day tell you Fanotti
18 Neal was in the room?

19 A He did, yeah.

20 Q And did he tell you about a guy in a black hoodie?

21 A He did.

22 MS. LIVESAY: No further questions.

23 MR. WILSON: Nothing further, Your Honor.

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

25 Call your next witness.

1 MS. LIVESAY: Thank you. Ginger Pop.

2 DET. GINGER POP,

3 after having been duly sworn, was examined and
4 testified to as follows:

5 THE CLERK: State your full.

6 THE WITNESS: Ginger Pop. P-o-p.

7 DIRECT EXAMINATION

8 BY MS. LIVESAY:

9 Q And, Ms. Pop, if you don't mind, tell these folks
10 where you're currently employed.

11 A I'm an investigator at the solicitor's office.

12 Q And how long have you been employed with the
13 solicitor's office?

14 A Approximately 12 years.

15 Q And what did you do prior to working with the
16 solicitor's office?

17 A So I have been in law enforcement since 1999. I
18 started out as a game warden with the South Carolina
19 Department of Natural Resources and then went to the
20 Georgetown County Sheriff's Office for a little while and
21 then started here around 2012, 2011.

22 Q And what are your general responsibilities here at
23 the solicitor's office?

24 A We're kind of like the closers, so whatever
25 investigation the initial investigating agency has done,

1 THE CLERK: Please state your full name and spell
2 it.

3 THE WITNESS: Nick Contino. C-o-n-t-i-n-o.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Mr. Contino, where were you employed back in May of
7 2022?

8 A The Conway Police Department.

9 Q And what were your responsibilities?

10 A I was a detective.

11 Q Okay. And how long had you been with the police
12 department?

13 A Just shy of seven years.

14 Q Okay. And had you had any training?

15 A Yes, ma'am.

16 Q Tell me what kind of training you underwent to join
17 the police department and then what kind of training you
18 had while you were with the police department.

19 A At my hire date, I then went to the police academy
20 where I went through 12 weeks of training to become a
21 police officer. Furthermore, I went through advanced
22 training for more specialized crimes like Street Crimes
23 Unit, where I began investigations in search and seizure,
24 drugs and narcotics training.

25 My next promotion was to a detective. I went

1 through entry-level detective classes on homicide
2 investigations and, further, more investigative classes.

3 Q And what exactly were your responsibilities in May
4 of 2022?

5 A I was a detective at the time, and I assisted with
6 the homicide investigation.

7 Q Okay. And are you with the department now?

8 A I am not.

9 Q And why did you leave the department?

10 A December of last year, I was involved in an
11 officer-involved shooting ambush situation. It was a
12 family decision that I step down for a short time to take
13 a break.

14 Q And was that investigated, that officer-involved
15 shooting?

16 A Yes, ma'am.

17 Q And were you charged or found in any fault at all?

18 A No, ma'am.

19 Q Okay. And so you took some time off to kind of
20 reassess everything?

21 A Yes, ma'am.

22 Q Okay. Do you plan on going back into law
23 enforcement?

24 A I do.

25 Q Okay. And, in May of 2022, you were a detective?

1 A Yes, ma'am.

2 Q And during that time, did you have a reason to talk
3 with Fanotti Neal?

4 A Yes, ma'am.

5 Q Okay. And about how long did you talk with Fanotti
6 Neal?

7 A Approximately 30 to 40 minutes.

8 Q Okay. And where were you when you talked to him?

9 A We were at the local police department in Florence.
10 I believe it was the Florence County Sheriff's Office,
11 their local department out there.

12 Q Okay. And just so we're all on the same page, the
13 guy you talked to, is he in the courtroom today?

14 A Yes, ma'am.

15 Q Point out Fanotti Neal for the jurors.

16 A He would be the gentleman in the white shirt to my
17 left with the black tie and glasses on.

18 Q Okay. Does his appearance today look identical to
19 his appearance when you were with him in May of 2022?

20 A He did not have glasses on. I don't recall his
21 hair. He had a ski mask/cap on his head.

22 Q So he had his hair covered?

23 A Yes.

24 Q And he was not wearing glasses?

25 A No, ma'am.

1 Q And he wasn't in a suit and tie?

2 A No, ma'am.

3 Q And who all was in the room when you spoke with him?

4 A It was myself, Detective Huggins, and Mr. Neal.

5 Q And y'all were where?

6 A At the Florence County Sheriff's Office, I believe,
7 their local police department.

8 Q Okay. And, at that time, was Fanotti Neal in
9 custody?

10 A Yes, ma'am.

11 Q And because he was in custody, did you read him his
12 Miranda rights?

13 A Yes, ma'am.

14 Q I'm going to show you now what's been marked as
15 State's Exhibit 1. Detective Contino, if you don't mind,
16 tell me what you're looking at.

17 A It's the Miranda warning with his constitutional
18 rights, address, and signature.

19 Q And is that the Miranda form that the defendant
20 signed prior to speaking to law enforcement?

21 A Yes, ma'am.

22 MS. LIVESAY: At this time, Your Honor, the State
23 wishes to put in State's Exhibit 1 and publish at the
24 appropriate time.

25 MR. WILSON: I have no objections.

1 MR. RIGNEY: No objection.

2 THE COURT: All right.

3 (State's Exhibit No. 1 was received into evidence.)

4 BY MS. LIVESAY:

5 Q So now that it's in evidence, Detective Contino,
6 tell these jurors what you're looking at.

7 A It is a Miranda form with the constitutional rights
8 on it, case number, location, date and time, the address
9 of our location, each individual right that he's exercised
10 to, with a check mark next to it that he complied or
11 notated yes to, and his signature with the witness
12 signature, and then it's timed and dated as well.

13 Q And does that form include the rights that you read
14 to the defendant prior to speaking to him?

15 A Yes, ma'am.

16 Q And if you don't mind, tell these jurors the rights
17 that you read to him.

18 A "You have the right to remain silent. Anything you
19 say can and will be used against you in a court of law.
20 You have the right to speak to an attorney and have him
21 present with you while you're being questioned. If you
22 cannot afford an attorney, one will be appointed to
23 represent you before any questioning if you wish. You can
24 decide at any time to exercise these rights and not answer
25 any questions or make any statements. Do you understand

1 each of these rights as I have explained them to you?
2 Having these rights in mind, do you still wish to speak
3 with us now?"

4 Q Okay. So there were two questions on the form?

5 A Yes, ma'am.

6 Q What was the first question?

7 A "Do you understand each of those rights as I have
8 explained them to you?"

9 Q And did Fanotti Neal indicate yes or no?

10 A He indicated yes.

11 Q And what was the second question?

12 A "Having these rights in mind, do you still wish to
13 speak with us now?"

14 Q And what did Fanotti Neal indicate?

15 A Mr. Neal indicated yes.

16 Q And did the defendant sign the form saying that he
17 understood his rights and he wanted to talk to law
18 enforcement?

19 A Yes, ma'am.

20 Q Now, during the time you spoke with him, was
21 Mr. Neal in any way denied use of the bathroom, denied
22 something to eat or drink, anything of that sort?

23 A No, ma'am.

24 Q During that time, did he appear to be under the
25 influence of drugs or alcohol?

1 A No, ma'am.

2 Q Did he appear to be in any pain or discomfort?

3 A No, ma'am.

4 Q Did there appear to be any issue as to why he could

5 not understand those rights and speak with law

6 enforcement?

7 A No, ma'am.

8 Q And during that time, did he ever invoke his right

9 to remain silent?

10 A No, ma'am.

11 Q Did he ever invoke his right to speak with a lawyer?

12 A No, ma'am.

13 Q And did he speak with you freely and voluntarily?

14 A Yes, ma'am.

15 Q Okay. About how long was the conversation?

16 A The conversation was approximately 30 or 40 minutes.

17 Q Before we get into what was said, tell these folks a

18 little bit about the tempo of the conversation.

19 A The tempo -- for example, what do you...

20 Q Were you yelling at him? Were you threatening him?

21 A Oh, no, ma'am. It was a very cordial conversation,

22 just why we were in the position we were.

23 Q Did anybody even raise their voice to Mr. Neal?

24 A No, ma'am.

25 Q Did he ever raise his voice?

1 A No.

2 Q And did he answer your questions?

3 A Yes.

4 Q At times, did he volunteer information?

5 A Yes.

6 Q Now, Detective Contino, the important question, did

7 you talk with him about the night that Joshua McPherson

8 was murdered?

9 A Yes, ma'am.

10 Q And, in the beginning, did you ask him, "Were you in

11 Conway?"

12 A Yes, ma'am.

13 Q "Were you at the apartment?"

14 A Yes, ma'am.

15 Q And what did he tell you?

16 A He said he was not there.

17 Q He said what?

18 A He was not in Conway. He was not there.

19 Q Did he tell you where he was?

20 A He said he was in Florence.

21 Q Did you ever ask him if he ever went to Conway

22 during that time frame?

23 A Yes.

24 Q And what did he say?

25 A He denied it.

1 Q Now, did you continue to talk to him?

2 A Yes, ma'am.

3 Q And as part of that conversation, did you confront

4 him with evidence that y'all had discovered?

5 A Yes, ma'am.

6 Q And at that time, had y'all seen the video

7 surveillance?

8 A I believe so, yes, ma'am.

9 Q And did you confront him with the evidence you had?

10 A Yes, ma'am.

11 Q And after that, did you ask him again, "Were you in

12 Conway?"

13 A Yes, ma'am.

14 Q And then what did he say?

15 A He said he was not in Conway.

16 Q He said what?

17 A Oh, the second time?

18 Q Yeah.

19 A Then after -- after speaking to him longer, he

20 admitted he was in Conway.

21 Q So, originally, he said, "I was in Florence all

22 night"?

23 A Yes, ma'am.

24 Q Then you talked to him about the evidence, and then

25 he said, "Well, yeah, I did go to Conway"?

1 A Yes, ma'am.

2 Q And did he tell you where he left from?

3 A He said he left from Florence.

4 Q Okay. So he left Florence and came to Conway?

5 A Came to Conway.

6 Q Did he say he came straight to Conway?

7 A Yes, ma'am.

8 Q And did he tell you that he went to that apartment

9 complex?

10 A Yes, ma'am.

11 Q Did he say yes or no that he went?

12 A Yes, that he went to Conway -- to the apartment,

13 yes, ma'am.

14 Q And did he tell you whether or not he entered the

15 apartment?

16 A Yes. He indicated he did go inside.

17 Q Okay. So there's no confusion that Fanotti Neal

18 told you himself he came to Conway and he went into the

19 apartment?

20 A Yes, ma'am.

21 Q Okay. Now, when Fanotti spoke with you throughout

22 the 30- or 40-minute conversation, was his story the same,

23 consistent?

24 A It changed.

25 Q Did it change throughout the entirety of the

1 interview?

2 A Yes.

3 Q Now, he tells you he went into the apartment;
4 correct?

5 A Yes.

6 Q Did he tell you that he saw the victim, Joshua
7 McPherson, laying on the couch?

8 A Yes, he did.

9 Q And tell this jury what he told you Joshua
10 McPherson, the victim, was doing when he was walking
11 around in the apartment.

12 A He said the victim was sleeping on the couch.

13 Q So when he was in there, he told you that, while he
14 was walking around, the victim was asleep?

15 A Yes, ma'am.

16 Q Did he tell you he saw anybody else in that room?

17 A Yes.

18 Q Who else did he see in the room?

19 A There was someone on the couch beside him.

20 Q So he told you there was one boy on the long couch;
21 correct?

22 A Yes, ma'am.

23 Q That young man was asleep?

24 A Asleep.

25 Q And then he told you he saw another boy in the

1 chair?

2 A Yes, ma'am.

3 Q And tell us what he told you, when he was in the
4 apartment, that young man was doing.

5 A In his words, he said he was woke but not woke, so
6 he was laying there. Not asleep but I don't know, in his
7 words, he said woke but not woke.

8 Q Okay. Okay. So he told you, clearly, nobody was
9 up, moving around in the apartment; right? Did he ever
10 tell you that?

11 A No, ma'am.

12 Q So he told you that the two people that were in the
13 apartment, one was asleep and one was woke but not
14 completely woke, and that was the young man on the chair?

15 A Correct.

16 Q But nobody in the apartment was up and moving
17 around?

18 A Correct.

19 Q Okay. So there's no doubt he was in the apartment?

20 A Correct.

21 Q And there's no doubt there was a young man asleep on
22 the couch?

23 A Correct.

24 Q No doubt there was another little boy dozing in and
25 out in the chair?

1 A Correct.

2 Q And that's by the defendant's own words to the

3 police; correct?

4 A Correct.

5 Q Okay. And now was he under the influence? Did he

6 appear to be the under the influence?

7 A He did not appear to be under the influence.

8 Q Okay. So when Mr. Neal talked with you and gave you

9 this information, did he tell you where he went after he

10 left the apartment?

11 A Yes, ma'am.

12 Q Where did he go?

13 A He said back to Florence to Lamb Road.

14 Q Straight back to Florence?

15 A Yes, ma'am.

16 Q Straight back to where he came from?

17 A Yes, ma'am.

18 Q And did he tell you -- do you know how long it takes

19 to get from Florence -- from Lamb Road to Conway?

20 A Approximately an hour.

21 Q Okay. At least an hour ---

22 A At least.

23 Q ---- wouldn't you say?

24 A I believe so.

25 Q And did he tell you how long he was in the apartment

1 after that hour drive to Conway?

2 A I don't recall. I have his transcript here I can
3 view.

4 Q Did he say it was several hours?

5 A No. No, ma'am.

6 Q Did he say it was even an hour?

7 A No, ma'am.

8 Q So it was less than 30 minutes? So he said, "I'm in
9 there less than 30 minutes"?

10 A Yes, ma'am.

11 Q So he says that I drive from Florence an hour up,
12 I'm in the apartment less than an half an hour, which we
13 know now is less than that from the video.

14 A Correct.

15 Q And then I drive another hour straight back to
16 Florence?

17 A Correct.

18 Q Okay. And did he tell you what time of day he
19 undertook this very deliberate trip? Did he tell you what
20 time it was that he left Florence?

21 A I do not recall him saying what time he left
22 Florence, no.

23 Q Did he say whether it was daylight or nighttime?

24 A Nighttime.

25 Q Okay. So he told you, "When I left, it was dark

1 out"?

2 A Mm-hmm. Yes, ma'am.

3 Q Okay. Now, did you -- in the course of your
4 interactions with this defendant, did you collect the
5 clothing he was wearing that day?

6 A Yes, ma'am.

7 Q Okay. Now, how quick did you talk to him from when
8 the incident happened to when you were in Florence
9 interviewing him? Do you remember about how much time
10 passed?

11 A I know the times of the call and the times of the
12 interview. That time in between --- I'm not good with math
13 but it was from 6:00 in the morning to roughly 5:00 in the
14 afternoon, 4-something, 4:50, ten to 5:00 in the
15 afternoon.

16 Q So by the close of the day, y'all already had
17 apprehended him?

18 A Yes.

19 Q Now, in the course of your interactions, did you
20 collect his clothes?

21 A Yes.

22 Q And would you recognize them if I showed them to
23 you?

24 A Yes.

25 Q Detective, I'm going to show you State's Exhibit 15.

1 Do you recognize these?

2 A Yes.

3 Q And are these the jeans you collected off of Fanotti
4 Neal?

5 A Yes.

6 Q Showing you now State's Exhibit 18. Do you
7 recognize this?

8 A Yes.

9 Q Is this the shirt that you collected off Fanotti
10 Neal?

11 A Yes, ma'am.

12 Q Showing you now State's Exhibit No. 19.

13 A Yes, ma'am.

14 Q Do you recognize it?

15 A Yes, ma'am.

16 Q Did this come off Fanotti Neal?

17 A Yes.

18 MS. LIVESAY: Your Honor, at this time, the State
19 wishes to introduce 15, 18, and 19, and publish them to
20 the jury.

21 THE COURT: Any objection?

22 MR. WILSON: I have no objection, Your Honor.

23 MR. RIGNEY: No objection.

24 THE COURT: 15, 18, and 19 are in evidence.

25 (State's Exhibit Nos. 15, 18, and 19 was received in

1 evidence.)

2 MS. LIVESAY: Thank you. I'm going to publish at
3 this time.

4 [To Court Reporter:] By any chance, do you have a
5 pair of gloves?

6 Can I ask the witness to step down?

7 Can you put up State's Exhibit No. 50, please.

8 BY MS. LIVESAY:

9 Q Mr. Contino, I'm going to show the jurors State's
10 Evidence 15. Are these the jeans you got off of Fanotti
11 Neal on 5/29/2022?

12 A Yes, ma'am.

13 Q And you got these jeans off of him the day of the
14 murder; correct?

15 A Yes, ma'am.

16 Q The murder happened at 6:00, and by 5:00, you had
17 them?

18 A Yes.

19 Q And he was wearing these jeans?

20 A Yes, ma'am.

21 Q Okay. State's 18. Do you recognize it?

22 A Yes, ma'am.

23 Q Is this the shirt he was wearing?

24 A Yes. Yes, ma'am.

25 Q And this is the shirt he was wearing when you

1 apprehended him the day of the murder?

2 A Yes, ma'am.

3 Q Okay. Now, this piece is kind of interesting. Do
4 you recognize State's 19?

5 A Yes, ma'am.

6 Q Okay. And something about this one. This is the
7 hat he was wearing; correct?

8 A Yes, ma'am.

9 Q And the hat, when you unfold it -- let me take this
10 off -- and you roll it down, it turns into a mask?

11 A Yes, ma'am.

12 Q This is what you got off the defendant the day of
13 the murder?

14 A Yes, ma'am. Yes, ma'am.

15 Q And when you first see it on him, you don't know it
16 rolls down into a mask, do you?

17 A Correct.

18 Q But then, once you collected it, you realized it
19 rolls down to a ski mask?

20 A Correct.

21 MS. LIVESAY: Will you hold to -- the arrival at
22 5:40 something. Stay there. Stop.

23 BY MR. LIVESAY:

24 Q Now, a bookbag was collected; correct?

25 A Yes, ma'am.

1 Q And that was put into evidence?

2 A Yes, ma'am.

3 Q And I don't know if we got that or not; I'm going to
4 look into it. But these pants, are these the pants you
5 collected?

6 A No.

7 Q Okay. Okay. And this shirt, is that a shirt you
8 collected?

9 A No.

10 Q Okay. But the beanie, you did -- you were able to
11 get that?

12 A Yes, ma'am.

13 Q Okay. And that beanie is the one we have got here
14 that folds down into a mask?

15 A Correct.

16 MS. LIVESAY: Could you go to the end.

17 BY MS. LIVESAY:

18 Q And this time is correct; correct? The incident
19 happened around 6 a.m. Sunday morning; is that correct?

20 A Correct. I believe the call for service was just at
21 6:00 in the morning.

22 Q Okay. Okay.

23 MS. LIVESAY: And could we just do it right -- see
24 the time? Okay.

25 BY MS. LIVESAY:

1 Q When the car is leaving it's at least -- there you
2 go -- from 5:52; correct?

3 A Correct.

4 Q And about how long does it take to get from
5 Florence -- I'm sorry, from Conway to Florence?

6 A At least an hour.

7 Q Okay. So maybe you get back around 7:30?

8 A That's correct.

9 Q And between that time and when you came across him,
10 Mr. Neal had already changed all his clothes?

11 A Correct.

12 Q And did you ever locate the clothes he was wearing
13 the night of the murder?

14 A I don't believe so.

15 Q And would that have been helpful to your
16 investigation?

17 A Yes, ma'am.

18 Q Have a seat, Mr. Contino, please. Thank you.

19 Did y'all also collect the defendant's phone?

20 A Yes, ma'am.

21 Q Okay. And you did collect the bookbag; correct?

22 A Yes, ma'am.

23 Q And the bookbag -- do you remember it ended up being
24 a different bookbag than he was wearing the night of the
25 murder?

1 A I believe so.

2 (Counsel confers with her assistant off the record.)

3 BY MS. LIVESAY:

4 Q Did he give you his phone number?

5 A Yes, ma'am.

6 Q And if you don't mind, for purposes of the record,
7 what phone number did he give you?

8 A May I look at the transcript from the body cam?

9 MS. LIVESAY: Can he look at his notes to refresh
10 his memory, Judge?

11 THE COURT: Sure.

12 MS. LIVESAY: Thank you.

13 A Mr. Neal gave the phone number (843) 624-4089.

14 BY MS. LIVESAY:

15 Q And did he ultimately give you the code to get into
16 the phone?

17 A Yes, ma'am.

18 Q Okay. And did he tell you what his nickname was?

19 A Yes.

20 Q And what is his nickname?

21 A I think it's something Blixx. Hold on one second;
22 I'll get it word for word. Blixx? It would be his --
23 it's his Facebook name, user name would be Dat Blixky.
24 D-a-t B-l-i-x-k-y. Dat Blixky.

25 Q And y'all collected that information as part of the

1 investigation; is that correct?

2 A Yes.

3 Q Okay. And do you know where the police followed him
4 from when they ultimately apprehended him in Florence?

5 A Lamb Road.

6 Q And did you know that that was not his residence?

7 A Yes.

8 Q Okay. And did he tell you whether or not that's
9 where he left from?

10 A Yeah, he said his homeboy's house.

11 Q Did he acknowledge in the course of the interview
12 whether or not he knew that the victim was shot?

13 A At first he said that he didn't know and then he
14 asked us and we gave him the knowledge that he was shot.

15 Q If he had questions for the police, did he ask them?

16 A He asked what was going on, why he was there. I
17 could look at the transcript to see if he asked any
18 additional questions.

19 Q So he was alert?

20 A Yes.

21 Q So definitely not overwhelmed?

22 A No, ma'am.

23 Q Did he tell you whether or not he knew the victim?

24 A I don't recall if he did. I think he referred to
25 him as "bro was sleeping on the couch."

1 Q So he just told you he was sleeping on the couch?

2 A Yes, ma'am.

3 Q No further questions.

4 MR. WILSON: I have no questions.

5 THE COURT: Mr. Rigney?

6 MR. RIGNEY: Thank you.

7 CROSS-EXAMINATION

8 BY MR. RIGNEY:

9 Q Good afternoon.

10 A Good afternoon, sir.

11 Q So you interviewed Mr. Neal in Florence?

12 A Yes, sir.

13 Q And that was at the --- where did you interview him
14 in Florence?

15 A It was at the Florence County Sheriff's Office or
16 their local police department out there. I have the
17 address on the Miranda warning.

18 Q Did you watch him sign the Miranda warning?

19 A Yes, sir.

20 Q Do you remember which hand he used to sign it?

21 A I don't recall.

22 Q Okay. So is it fair to say that after initially
23 denying any involvement -- knowing anything about this, he
24 actually started to talk to you?

25 A Yes. He, at first, denied it and then started to

1 talk about the situation that happened.

2 Q And he cooperated to some extent?

3 A Yes, sir.

4 Q Do you remember him telling you along the way that
5 you're probably to ask him how did you get there, why did
6 you go, and he said, "I'm a backseat rider"?

7 A Yes, sir. I remember him saying "backseat rider".

8 MR. WILSON: Your Honor, I have a matter that --

9 THE COURT: Want to take it up here?

10 BENCH CONFERENCE

11 (The following bench conference occurred at the
12 bench and outside the hearing of the jury and others:)

13 MR. WILSON: This was my concern about Bruton. Now
14 he's getting into who was in the car and that kind of
15 thing, which is -- which violates Bruton. You know, I'm
16 sitting there; I'm the only other person there. You know,
17 I --

18 MS. LIVESAY: What did he ask?

19 MR. HARRELSON: What did you ask?

20 MR. WILSON: He asked about the car and how did he
21 get the car and who was driving the car.

22 MR. RIGNEY: I asked, "Did he refer to him as the
23 backseat rider?"

24 MR. WILSON: No.

25 THE COURT: What did you ask him?

1 MR. RIGNEY: I asked him did Neal say to him, "I was
2 a backseat rider." That's it.

3 MR. WILSON: The inference --

4 THE COURT: And that's it? That's all you asked?

5 MR. RIGNEY: That's all I asked.

6 THE COURT: Why don't we just leave it there.

7 MR. HARRELSON [To Mr. Rigney]: Would you mind just
8 speaking up a little bit? I can't hear.

9 MS. LIVESAY: I can't hear either.

10 THE COURT: You're soft-spoken.

11 MS. LIVESAY: Can we -- I hate to say this but can
12 we put the jury out? Give me just one a minute. I
13 apologize.

14 (Open court resumes:)

15 THE COURT: If you will step into the jury room for
16 just a moment.

17 (The jury exited the courtroom at 4:45 p.m.)

18 MR. WILSON: Your Honor, just so the record is
19 clear, my objection -- so that it's clear in the record,
20 my objection is, is that the question that he's asking,
21 which was, was his client a backseat rider, which the
22 inference then would be somebody else is driving the
23 vehicle. The only two people at this table is the two
24 defendants, which would lead to the inference that the
25 driver had to be my guy.

1 THE COURT: How many people are in the car?

2 MR. WILSON: Well, there are five. But the jury
3 doesn't know that, other than the fact that there's a
4 video. But it doesn't say who the driver was. And the
5 inference is that, because we're here, that my guy is the
6 driver of the vehicle, which, first of all, ain't even
7 true, but even if it was, it's still an inference.

8 The whole idea of Bruton is you can't raise an
9 inference through the testimony of a non-testifying
10 co-defendant against another non-testifying defendant.

11 And he gets asked that question, then, in the jury's
12 mind, my guy must have been the guy that drove him down
13 here.

14 THE COURT: Or the other three people did.

15 MR. WILSON: Well, I know, but the problem is, the
16 other three people ain't here. They're not in trial, and
17 they're not sitting at this table. We are. And that is
18 what puts -- it creates a problem for us because now,
19 somehow, I need to get up and explain why my guy wasn't
20 the driver. Well, if I do that, then I open a whole
21 'nother can of worms.

22 THE COURT: Anything from the State?

23 MS. LIVESAY: Your Honor, I think what we talked
24 about originally was Evans, and I think Evans was when the
25 co-defendant said, "I wasn't driving the vehicle," and

1 there was only two people in the vehicle. The Supreme
2 Court came down and said that's not Bruton. Even though
3 there was only two people in the car, it wasn't, on its
4 face, incriminating the co-defendant.

5 So I have got to disagree with Mr. Wilson in that
6 the rule is it's got to be, on its face, incriminating.
7 The fact that, like in Evans, he says, "I wasn't driving"
8 and there's only two people doesn't rise to the point of
9 Bruton.

10 THE COURT: And here, there were more than two
11 people.

12 MS. LIVESAY: Right. So I would have to say, you
13 know, if Mr. Rigney is asking was my guy was in the
14 backseat, I don't know that that rises, under Evans, to
15 Bruton because it's kind of the equivalent of saying my
16 guy wasn't driving. I'm not saying anything about Micah
17 Pressley. I'm just saying my guy was backseat riding.

18 THE COURT: And you're not going to ask any more
19 questions in that regard?

20 MR. RIGNEY: No more.

21 THE COURT: That's it?

22 MR. RIGNEY: Just the backseat rider.

23 THE COURT: That's all. He's already answered that.

24 MR. WILSON: Yes, sir. Just place my objection into
25 the record. Thank you.

1 MS. LIVESAY: And, Judge, if I can, if Mr. Rigney
2 could speak up just a little bit. Thank you. I
3 appreciate it.

4 (The jury entered the courtroom at 4:51 p.m.)

5 BY MR. RIGNEY:

6 Q Just a couple more questions, please.

7 A Yes, sir.

8 Q So when Mr. Neal arrived, he said that he dapped
9 Marion Robinson, who was asleep on the small chair? Did
10 he tell you that? He greeted him in some way, woke him
11 up?

12 A I don't know if Mr. Neal told me that in the
13 interview. I'd have to recall to the notes here just to
14 check, I guess.

15 Q Would that be -- could you quickly take a look at
16 that, please?

17 A Yep.

18 (Pause in the proceedings while the witness reviews
19 documents.)

20 BY MR. RIGNEY:

21 Q That should have been shortly after the part where
22 he started to talk to you.

23 A It says, "Dude on the little couch" -- it should be
24 right here. It says someone dapped him up, and he said,
25 "I don't think I seen him do that. I don't know."

1 Q If there was some dapping, greeting going on, would
2 you agree that it would not be consistent with him coming
3 there planning to hurt someone?

4 A If --- what are you asking? Sorry.

5 Q If he did go in and greet the person who is on the
6 short couch ---

7 A Yes.

8 Q --- and said hello to him, I don't see why he would
9 do that if he were intending to harm someone and get out
10 of there as quick as he could. Is that consistent with
11 what you would think that would be, someone would do that
12 and have the intent to harm?

13 A Everybody is different. I mean, I couldn't answer
14 to, you know, whether someone is intending to hurt
15 somebody or not, whether they like him or not. I can't
16 answer to that with a yes-or-no question.

17 Q All right. So the clothes that you recovered were
18 not the same ones that he was wearing when you saw the
19 video?

20 A No, sir.

21 Q And I don't have any more questions. Thank you.

22 THE COURT: Any redirect?

23 MS. LIVESAY: One second, Your Honor. Judge, I
24 don't -- I don't have any further questions on redirect
25 from what Mr. Rigney asked.

1 THE COURT: Thank you. You may step down. Thank
2 you.

3 THE WITNESS: Thank you.

4 THE COURT: Members of the jury, let's break for the
5 day. If you would be back at 9:30 tomorrow and we'll
6 resume. Do not research the case. Do not talk about the
7 case.

8 (The jury exited the courtroom at 4:58 p.m.)

9 THE COURT: See you at 9:30 in the morning.

10 (The trial adjourned at 5:00 p.m.)

11 WEDNESDAY, NOVEMBER 8, 2023.

12 (The trial resumed at 9:51 a.m.)

13 (State's Exhibit No. 62, Affidavit from Conway
14 Police Department, was marked for identification.)

15 (State's Exhibit No. 63, PowerPoint 1804 Battleboro,
16 was marked for identification.)

17 (State's Exhibit No. 64 through 89, Photographs, was
18 marked for identification.)

19 (State's Exhibit No. 90, Enlarged Map of Florence,
20 was marked for identification.)

21 (State's Exhibit No. 91, Backpack, was marked for
22 identification.)

23 THE COURT: Before we begin, apparently, your
24 client, Mr. Wilson, did not want to come?

25 MR. WILSON: That's my understanding, Your Honor.

1 THE COURT: Anything you want to put on the record
2 in that regard?

3 MR. WILSON: No, sir. There is an affidavit, as I
4 understand it, from someone in law enforcement who
5 actually went to Columbia to retrieve him, and I don't
6 know what happened. I haven't spoken to him this morning.
7 I did speak to him yesterday evening. He was in good
8 spirits. I don't know what happened.

9 THE COURT: Mr. Rigney, anything you want to put on
10 the record?

11 MR. RIGNEY: No, Your Honor.

12 THE COURT: And how about the solicitor? Anything
13 you want to put on the record?

14 MS. LIVESAY: Your Honor, the only thing the State
15 wants to put on the record -- and we talked with
16 Mr. Wilson in the elevator. I got a phone call this
17 morning from Detective Huggins about 7 a.m. That's when I
18 notified he did not want to come to court.

19 At that time, I asked Mr. Huggins to have the person
20 that went and got him to do the affidavit. We also have
21 the body camera from the officer that shows him saying,
22 "I'm not going to come." I don't mind running that off,
23 putting it in the record. Do you want me to do that and
24 then we can mark it?

25 MR. WILSON: I don't have any objection to marking

1 it as a Court's exhibit for whatever purposes.

2 THE COURT: I think that would be fine. And I think
3 we can proceed forward without him.

4 MS. LIVESAY: Right. He refused to leave his cell.

5 THE COURT: Obviously, he knew we were in trial, and
6 it was his day in court.

7 MS. LIVESAY: Yes, sir.

8 THE COURT: Are we ready to proceed?

9 MS. LIVESAY: Thank you, Your Honor.

10 (Court's Exhibit No. 2, Body Cam DVD from Detention
11 Center Officer.)

12 (Court's Exhibit No. 3, Conway P.D. Affidavit from
13 Detention Center.)

14 (The jury entered the courtroom at 9:54 a.m.)

15 THE COURT: State will call your next witness.

16 MR. HARRELSON: Yes, Your Honor. At this time, the
17 State will call T.J. Carpenter.

18 OFFICER TOMMY JOSEPH "T.J." CARPENTER

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE CLERK: Please be seated and state your full
22 name for the record and spell it, please.

23 THE WITNESS: My name is Tommy Joseph Carpenter.

24 DIRECT EXAMINATION

25

1 the search warrant was served at.

2 Q Okay. And what's this now showing?

3 A That would be the entrance door.

4 That is the living room area.

5 Same. Living room area.

6 Living room.

7 That's the nightstand to the right of the entrance
8 door where a tan-in-color GLOCK 19X was recovered, as you
9 can see in the photo there.

10 And that's the tan-in-color GLOCK 19X with a
11 25-round magazine.

12 Living room.

13 Same living room.

14 That's the kitchen area straight across from the
15 entrance.

16 That would be just the secondary room there with the
17 laundry room.

18 That is the living room facing into the first
19 bedroom to the right behind the TV.

20 That is the inside of that room, Bedroom 1.

21 That's the backpack that we recovered a GLOCK 19
22 black-in-color and 32 live rounds and a magazine loader.

23 That's the photo of the actual recovered item.

24 Again, same.

25 That's the serial number to the GLOCK 19 that was

1 recovered from the backpack.

2 That is the room right beside the bedroom to the
3 right. So it would be the second bedroom on the right
4 side of the mobile home.

5 Same room. And you can see in the bottom, there's a
6 black-in-color Nike sweatshirt on top of the boxes right
7 behind the door.

8 That's the sweatshirt, yes, sir.

9 These are the blue jeans. One pair was recovered
10 from there. It's in the same room as the sweatshirt. It
11 was just recovered to the left. So right to the right of
12 that entrance door.

13 There's the jeans that were recovered.

14 That's just a picture of just loose ammunition and
15 other items inside that room.

16 That's a picture of Micah Pressley's West Florence
17 High School ID card inside the same room.

18 That's Mr. Pressley's ID card.

19 MR. HARRELSON: Court's indulgence.

20 BY MR. HARRELSON:

21 Q I want to show you what's been marked as State's
22 Exhibit 17. Are you familiar with this?

23 A I am.

24 Q And what is this?

25 A That was the black-in-color Nike hoodie that we

1 that was just the way it worked out, I don't know, but the
2 idea is that the timing to get subpoenas to SLED and get
3 them here for a trial that's already started, to hand me a
4 piece of evidence that important is just not fair.

5 THE COURT: You don't need to stand.

6 (The jury entered the courtroom at 1:33 p.m.)

7 THE COURT: Go ahead and call your next witness.

8 MS. LIVESAY: Thank you, Judge. Paul Greer.

9 PAUL GREER,

10 after having been duly sworn, was examined and
11 testified to as follows:

12 THE CLERK: Please be seated. State your name for
13 the record and spell it, please.

14 THE WITNESS: My name is Paul Greer, G-r-e-e-r.

15 DIRECT EXAMINATION

16 BY MS. LIVESAY:

17 Q And, Mr. Greer, where are you currently employed?

18 A I'm employed at the South Carolina Law Enforcement
19 Division, which is commonly known as SLED.

20 Q And what is your job responsibilities at SLED?

21 A Yes, ma'am. At SLED, I'm a firearms examiner or
22 forensic scientist within our forensic services
23 laboratory.

24 Q If you don't mind, tell these people what that
25 means.

1 A Sure. The firearms examiner -- my day-to-day duties
2 include examination of firearms and firearms-related
3 evidence, so fired ammunition components such as a fired
4 cartridge case or fired bullet, and comparing those
5 components to test fires from firearms that are submitted
6 to the laboratory.

7 I also can look at tools and tool marks, conducting
8 general rifling characteristic exams on fire projectiles
9 that are submitted to the lab, conducting serial number
10 restorations on firearms with obliterated serial numbers,
11 and also performing destruction of weapons cases for
12 agencies across the State of South Carolina.

13 Q Okay. So that's a mouthful. Let me ask you this:
14 When an agency submits to you a gun and a shell casing,
15 what do you do with it? Tell us what are you are looking
16 at. What is the analysis?

17 A Sure. So at the root of what we're doing is called
18 firearms identification, and basically, all that is is a
19 discipline of forensic science where our main objective is
20 to compare those fired cartridge cases that are submitted
21 to the lab or those fired bullets and comparing those to a
22 firearm that may be submitted, so that way, we can say
23 they're fired by a specific firearm, if that's possible.

24 Those items are submitted to the laboratory.
25 They're submitted to our Evidence Control Department where

1 it's given a unique lab number and appropriate item
2 numbers. I receive that evidence at the appropriate time.
3 I will examine it, document all the characteristics of
4 those fired ammunition components. I will test-fire a
5 firearm, if it's submitted. And I'll compare all of those
6 items where applicable and where appropriate to each other
7 on a comparison microscope.

8 So if you think back to a lab you may have had in
9 school or something like that where you're able to look at
10 something under a microscope, what we have is a comparison
11 scope. We're able to look at two items at one time under
12 lighting -- using lighting in different angles and look at
13 tiny microscopic characteristics that are on those
14 cartridge cases and within the rifling of those fired
15 projectiles.

16 So those are tiny marks or impressions that you
17 really can't see well to evaluate with the naked eye, so
18 we're using that high-powered microscope to look at in
19 order to determine if these items were fired by a specific
20 firearm.

21 Q So you're trying to figure out if that particular
22 firearm fired the particular bullet that's submitted?

23 A Yes, ma'am. That is the end goal, yes, ma'am.

24 Q Okay. And when it's a shell casing, you're trying
25 to figure out if the gun that was submitted ejected the

1 shell casing that is submitted to SLED?

2 A If it was fired by that gun -- if it fired that gun.

3 Q And what kind of training have you undergone to
4 perform that analysis and make an opinion on it?

5 A Sure. I received a bachelors of science in
6 biological sciences from the University of South Carolina.
7 And upon my appointment at SLED, I began our SLED firearm
8 and tool mark course of instruction. This is an extensive
9 apprenticeship-style training program that's conducted
10 in-house at SLED under the supervision of other qualified
11 examiners.

12 During that time, approximately three years I was in
13 this training program, I assisted other examiners prep
14 their cases as they were working them. I conducted many
15 microscopic comparisons and also was given many written
16 and practical examinations.

17 At the conclusion of that training period, I was
18 given a multi-part comprehensive final exam that included
19 some mock casework for me to complete. I successfully
20 passed that and was then deemed competent to begin
21 firearms examination on my own.

22 Q And have you been qualified as an expert in South
23 Carolina?

24 A Yes, ma'am, I have.

25 Q And what have you been qualified as an expert in?

1 A Typically, an expert in firearms identification.

2 Q And how many times have you been qualified as an
3 expert in firearms identification?

4 A Approximately 45 times.

5 Q And have all those times been in General Sessions?

6 A That's in state and federal courts in the state of
7 South Carolina.

8 Q Okay. So both.

9 And did I get that correct, that the expertise is
10 firearms identification?

11 A Yes, ma'am, that's correct.

12 MS. LIVESAY: Your Honor, at this time, the State
13 wishes to submit Mr. Greer as an expert in firearms
14 identification.

15 MR. WILSON: I have no objection, Your Honor.

16 MR. RIGNEY: No objection, Your Honor.

17 THE COURT: Motion is granted.

18 BY MS. LIVESAY:

19 Q Now, I want you to take a look at these items,
20 Mr. Greer. Can you step down?

21 A Yes, ma'am.

22 MS. LIVESAY: Is that okay, Judge?

23 THE COURT: Yes, ma'am.

24 THE WITNESS: And may I bring my notes for
25 reference?

1 MS. LIVESAY: Sure.

2 BY MS. LIVESAY:

3 Q And I'm showing you now State's Exhibit 25 and 26.
4 Do you recognize those?

5 A Yes, ma'am, I do.

6 Q And are those the bullets that you looked at -- the
7 fired bullets -- and compared to these guns as part of
8 your analysis?

9 A These are in this container that's marked with our
10 SLED number. This contains SLED Items 18 and 20, which
11 are two projectiles that were submitted to the laboratory
12 that have been marked State's Exhibit 25 and 26. And I
13 did examine and compare these bullets.

14 Q Okay. Are they two separate bullets?

15 A They are.

16 Q Okay. If you don't mind, I'm going to open this bag
17 here so we can take them out.

18 I'm going to put these back in. I'm going to leave
19 it right here.

20 And these items -- these two fired bullets, what is
21 the description of these two bullets on your report --
22 these two fired bullets?

23 A SLED Item 18, which is -- right here, you can see
24 the bullet. It's one fired bullet, is what I have
25 determined that to be right here at the bottom. I

1 determined it to be one fired bullet. And based on its
2 submission to the SLED laboratory on those submission
3 documents, it was listed as from victim Joshua McPherson's
4 chest.

5 Q And that's a separate bullet. And how was that
6 described in your report?

7 A Yes. Based on my examination, I determined this to
8 be also one fired bullet. You can see that right there.
9 This listed on our submission paperwork to the laboratory
10 is listed as from victim Joshua McPherson's spine.

11 Q Okay. Now, my question to you is: Were these two
12 bullets fired by the same barrel or two separate barrels
13 of a gun?

14 A Yes, ma'am. Based on my examinations, it was
15 determined that those two bullets were fired by two -- or
16 fired through two separate firearm barrels.

17 Q Okay. So two guns -- two barrels contributed to
18 these two bullets?

19 A Yes, ma'am, that's correct.

20 Q The same barrel could not possibly have fired both?

21 A That's correct. Those bullets exhibit different
22 characteristics, different type of rifling so it would be
23 impossible for one of those projectiles to go through that
24 barrel and exhibit those characteristics.

25 So those bullets had to travel through two separate

1 firearm barrels.

2 Q Now, when I looked at them, just to the naked eye --

3 JUROR: Can I...

4 MS. LIVESAY: Sure, I'll give you a second to look
5 through them.

6 (Jurors examining bullets.)

7 BY MS. LIVESAY:

8 Q Now, Mr. Greer, when I look at them -- I know just
9 enough about firearms to be dangerous, but when I look at
10 them, they look very distinct. This one has a
11 mushroom-type look to it. Right? Like a little bomb.
12 And this one does not. Does that mean anything? Is that
13 significant?

14 A Those are just the characteristics of that
15 projectile. Different bullets have different shapes and
16 different types. For example, the one that looks like it
17 has mushroomed a little bit there and where you see those
18 petals bend back over, that's just simply a bullet type of
19 design. We refer to that as jacketed hollow point design
20 is what it's most consistent with.

21 The other is just kind of your typical round nose,
22 full metal jacket-style bullet that you hear some people
23 say. That's a common phrase you may hear. That's the
24 same thing but just that round nose style. Those are just
25 designs of the bullets.

1 Q Okay. So one is a hollow point?

2 A Yes, ma'am. Item 18 was consistent with being that
3 jacketed hollow point.

4 Q Okay. And the other one is just a regular style
5 bullet?

6 A Yes, ma'am, just a full metal jacket, round nose
7 style bullet.

8 Q Okay. And if you don't mind, tell these folks what
9 is the purpose of this hollow point that turns to this
10 kind of mushroom type of appearance?

11 A Sure. They're just different marketing techniques
12 employed by those different manufacturers of this
13 ammunition. Some have claimed that, you know, it has
14 better stopping power, something along those lines, as the
15 bullet expands, as it hits the target to maybe create more
16 damage as it strikes the target. These are all different
17 research and marketing techniques by those ammunition
18 manufacturers.

19 On our end of the examination, we document just the
20 design, so I don't have expertise on what that hollow
21 point does, but that's just kind of some of the marketing
22 behind those different ones.

23 Q Thank you, Mr. Greer.

24 And let me ask you something: In the course of your
25 analysis, did you look at the gun listed serial number

1 AFSG-329?

2 A Yes, ma'am, I did.

3 Q You examined that gun. Did you examine the gun with
4 the serial number BRGD-733?

5 A Yes, ma'am, I did.

6 Q So you examined both of these guns?

7 A Yes, ma'am. I did examine two firearms with those
8 serial numbers.

9 Q Okay. And this hollow point that is listed, what
10 number is this for you on your report?

11 A This hollow point-style bullet was SLED Item No. 18.

12 Q Okay. So when you looked at SLED No. 18, this
13 hollow point, could have either one of these guns fired
14 this bullet?

15 A Based on my comparisons of that bullet with my
16 test-fires for those two guns, it's possible. The results
17 were inconclusive, but it's possible that Item 12, which
18 was the firearm, I determined one GLOCK model 19X, with
19 serial number BRGD-733, could have fired SLED Item 18.

20 Q Okay. So this gun -- sorry about that. This gun
21 could have fired this hollow point bullet?

22 A Yes, ma'am, it's possible.

23 Q Okay. Now, is this Item 20 on your report?

24 A That is SLED Item 20.

25 Q Okay. And SLED Item 20 is going to be, again, the

1 fired bullet from the autopsy, the other one; correct?

2 A Yes, it was listed as from victim Joshua McPherson's
3 spine.

4 Q Okay. Could either one of these guns have fired
5 this bullet?

6 A Based on my comparisons of that bullet with test
7 fires from the firearms, it's possible. The results were
8 inconclusive that SLED Item 13, which was a GLOCK model
9 19, with the serial number AFSH-329, could have fired SLED
10 Item 20.

11 Q So this bullet could have been fired from this gun?

12 A Yes, ma'am, from the serial number AFSG-329.

13 Q Okay. Now, did you look at this shell casing?

14 A What I'm looking for -- when we receive evidence in
15 the lab, we'll mark it with our unique SLED lab number,
16 the item number, and our initials. So I'm just looking
17 for some of that information here on the item on the
18 packaging. I can see some of that information here
19 without removing it, but I did examine --

20 Q Do you want me to open it, get the scissors? Here.

21 A I can see this is my SLED Item 1, and it is still in
22 the position which I returned it in my heat-sealed Ziploc
23 pouch with my initials and seal date. So this is SLED
24 Item 1. And the State's exhibit number was on the
25 packaging there.

1 Q Sorry. It's State's Exhibit 24.

2 A State's Exhibit 24. And I determined this to be one
3 fired 9mm Luger caliber cartridge case. And you can see
4 the cartridge case right here.

5 Q Now, let me ask you something: Could either one of
6 these guns fired this shell casing?

7 A Based on, again, my microscopic comparisons, the
8 results were inconclusive, but it was possible that SLED
9 Item 12, which, again, was the GLOCK model 19X pistol with
10 serial number BRGD-733, could have fired SLED Item 1, the
11 fired cartridge case.

12 Q Now, only one shell casing was submitted; correct?

13 A That is all I received for examination.

14 Q Okay. And there's already been evidence there was
15 only one found.

16 So let me ask you this: Did you test-fire this gun,
17 which the serial number is AFSG-329? Did you test-fire
18 this gun?

19 A Yes, ma'am, I did.

20 Q And tell these folks what you found when you
21 test-fired this gun.

22 A Whenever we receive these firearms, we examine them
23 to see if they're safe to test-fire before we actually
24 take them into our test-firing recovery area to do that
25 procedure. When I was examining this gun and during that

1 test-firing process, it was discovered that that pistol
2 did have some missing components.

3 I will just read off here and just say that the
4 pistol, as I received it, did not have a firing pin
5 safety, the firing pin safety spring, the extractor, the
6 extractor depressor plunger, the extractor depressor
7 plunger spring, and the spring-loaded bearing. Those were
8 all missing. However, that did not prevent me from
9 test-firing, but it did cause the firearm to malfunction
10 during that test-firing process.

11 So when I was test-firing the gun, since it did not
12 have that extractor -- and what the extractor is in the
13 gun is that component that pulls the cartridge case out of
14 the chamber of the gun so, that way, it can be ejected or
15 kicked out.

16 It didn't have that component, so it was unable to
17 pull that cartridge case out of the gun, so I had to
18 manually remove that cartridge case each time and then
19 load another cartridge in to fire.

20 Q Okay. So the bullet fired?

21 A Yes, ma'am.

22 Q It came out of the barrel?

23 A Yes, ma'am.

24 Q But then the shell casing got caught in the gun?

25 A That's correct.

1 Q Okay. And tell these folks, how did you remove it?
2 Did you have to stop and put your finger in there? Did
3 you have to get a device in there? How did you have to
4 remove the casing?

5 A So the cartridge case in the chamber of that gun had
6 to be manually removed. So I had to stop, pull that slide
7 back, and using a finger or another -- like a wooden dowel
8 rod to pull that cartridge case out or push that cartridge
9 case out of the chamber so, that way, I could clear it so,
10 that way, it could be -- another cartridge could be loaded
11 in for firing.

12 Q Let me ask you this: So, ultimately, what that
13 means is this gun is missing some piece, and therefore,
14 when you fired it, the shell casing never ejected?

15 A Not when I was -- not during my test-firing.

16 Q Not without your digging your hand in there --
17 digging something in there and pulling it out; correct?

18 A That's correct. It had to be manually removed.

19 Q Okay. So when you fired it, the shell casing stayed
20 in the barrel of the gun. It did not kick out?

21 A That's correct. It stayed right there in that
22 chamber.

23 Q Okay. Now, let me ask you this -- and I don't know
24 if you tested this or not. But because the casing would
25 get stuck, could you fire another round without digging

1 the shell casing out of the barrel?

2 A No. That cartridge case had to be physically
3 removed because it was taking up all that space in the
4 chamber. When that cartridge is fired, it kind of swells
5 in the chamber so, that way, the pressures for firing can
6 be generated to fire properly.

7 In a typical working semiautomatic pistol such as
8 this, it should automatically extract and eject it, but
9 since that cartridge case remained in that chamber, there
10 was no room for another cartridge until you manually
11 removed that cartridge case out.

12 Q Okay. So this isn't a gun you could pow, pow, pow,
13 pow, pow?

14 A That should have been designed as a semiautomatic
15 pistol where, one pull of the trigger, you have one
16 cartridge and bullet that's fired. So as long as there's
17 ammunition or no malfunctions, when one pulled the
18 trigger, you have one cartridge that's fired and then
19 would have automatically loaded the next available from
20 the magazine. But, again, during my test-firing, I had
21 malfunctions.

22 Q Okay. So you could only get one shot out before you
23 had to get in there and dig the casing out?

24 A That's correct.

25 Q Now, did you test-fire the gun with the serial

1 number BRGD-733? Did you test-fire this gun?

2 A Yes, ma'am. And the gun with that serial number was
3 SLED Item 12.

4 Q Okay. And when you test-fired it, were there any
5 problems?

6 A No, ma'am. That firearm was in working order as I
7 received it. It worked and functioned as I expected it
8 to.

9 Q Okay. So when you fired the bullet, that gun kicked
10 out a shell casing?

11 A That's correct.

12 Q Okay. Now, you said earlier, when you were giving
13 your results, that this gun could have fired this bullet;
14 correct?

15 A That is SLED Item 20. SLED Item 20, it's possible
16 it could have been fired by SLED Item 13, which was the
17 GLOCK with serial number AFSG-329.

18 Q And this gun -- and this one is the one that
19 malfunctions, so it doesn't kick out a shell casing.

20 A That's correct.

21 Q Okay. This gun is fine; it kicks out a shell
22 casing?

23 A Yes. SLED Item 12, with the serial number BRGD-733,
24 worked and was in working order as I expected it to be.

25 Q Okay. And this gun could have fired Item 18?

1 A Yes, ma'am. Those results were inconclusive so it's
2 possible that it could have fired Item 18.

3 Q And it could have kicked out shell casing which is
4 Item No. 1?

5 A Yes, ma'am. It's possible that SLED Item 1 was
6 fired by SLED Item 12.

7 Q Okay. Now, you said that this could happen, but at
8 some point, you said it was kind of inconclusive?

9 A Yes, ma'am.

10 Q So what does that mean?

11 A So, as firearms examiners, we have four conclusions
12 that we can issue based on our comparisons and
13 examinations. Ultimately, the end goal is to say --
14 determine what was fired by a specific firearm.

15 So we have four conclusions: One being a positive,
16 meaning this was fired by this firearm. On the other side
17 of that, we have negative, meaning this was not fired by
18 that firearm or these were fired by a different firearm.

19 We have unsuitable, which also means that, due to a
20 lack of marks of value on those fired ammunition
21 components or due to damage, something has caused that so
22 it's unsuitable for identification. We cannot find any
23 markings on it that we'd be able to use for any further
24 comparisons.

25 And lastly is inconclusive. An inconclusive means

1 that there's not enough agreement or disagreement of those
2 individual microscopic characteristics that we're able to
3 tell that that was fired by that firearm or not fired by
4 that firearm.

5 So it's kind of a result of conclusion that we're
6 going to use for "we don't know based on what we're seeing
7 under the microscope." There's not enough agreement of
8 those tiny microscopic markings that we're looking at or
9 not enough disagreement for us to make that conclusion.

10 Q Okay. So what you're saying is, this bullet
11 couldn't have been fired by this gun; right?

12 A Yes, ma'am, those results were inconclusive so it's
13 possible that it was fired by that gun.

14 Q And it's inconclusive because it could have also
15 been fired from a similar gun of the same make and model?

16 A Yes, something with those same or similar class
17 characteristics, it's very possible.

18 Q Okay. And this gun could have fired this bullet;
19 correct?

20 A Yes, ma'am.

21 Q But was this also inconclusive in that other guns of
22 the same make and model could have fired this bullet?

23 A So SLED Item 20, which was one fired bullet, the
24 results of it were inconclusive with just Item 13, so it
25 could have been fired by Item 13 or by another firearm

1 with those similar rifling characteristics that were
2 exhibited on that bullet.

3 Q Okay. So possibly another GLOCK 19? 9 or 19,
4 whatever this gun is?

5 A That is a GLOCK model 19, yes, ma'am. So anything
6 with those similar rifling characteristics that we see on
7 that projectile. So it would be something with the same
8 rifling type with the same direction of that twist of the
9 rifling. All those characteristics would have to be there
10 for it to be fired, but it's possible it could have been
11 fired by another gun with those similar rifling
12 characteristics.

13 Q Okay. And let me ask you something, Mr. Wilson has
14 been asking about two other guns that were found in the
15 victim's apartment area. Were those submitted to SLED?
16 Did you have two other guns?

17 A I did have two other firearms, yes, ma'am.

18 Q Okay. And could those other two firearms, one of
19 them fired Item 20?

20 A Based on the -- all the firearms that I received,
21 the only firearm that was submitted to the SLED laboratory
22 that I test-fired that could have fired SLED Item 20,
23 which was the fired bullet, listed as from victim Joshua
24 McPherson's spine, was Item 13. It could not have been
25 fired from any of the other firearms submitted based on

1 sufficient differences in those class characteristics.

2 Q Okay. So the bullet that came from his spine ---

3 A Yes, ma'am.

4 Q --- four guns total were submitted?

5 A Yes, ma'am.

6 Q Two that were located from the defendant's house and
7 two from the victim's house; right? Am I right?

8 A I don't have descriptions of where all the firearms
9 were recovered.

10 Q I'm sorry. This gun -- where does it list this gun
11 as being located on your --

12 A SLED Item 13 did not have any indication of where it
13 was recovered from on our submission paperwork.

14 Q Okay.

15 A I'll double-check our submission paperwork.

16 Q Sure.

17 A No, ma'am, I did not have an indication.

18 Q It's okay. It's already been put into evidence. It
19 was located from the defendant's house.

20 A Okay.

21 Q And is this the gun -- the only gun out of all the
22 guns that were submitted that could have fired this bullet
23 that came from the young man's spine at the autopsy?

24 A That's correct. Based on what I received of all
25 four firearms, that is the only firearm that could have

1 potentially or possibly fired SLED Item 20.

2 Q So the two other guns that Mr. Wilson has asked
3 about from the victim's closet could have no way fired the
4 bullet that was found in Joshua McPherson that is labeled
5 20?

6 A No, ma'am. All the other firearms have different
7 class characteristics, so it was impossible for those
8 firearms, as they were submitted in their current state,
9 to have fired this -- fired those bullets.

10 Q And your testimony is the only one that could have
11 fired this bullet -- is this the only one that didn't
12 eject a projectile -- a shell casing?

13 A The other firearms that were submitted to the lab
14 were in proper working order as I expected them to be. I
15 did have problems with SLED Item 13 with that malfunction
16 that we discussed.

17 Q So every other gun that was submitted from the
18 defendant and the victim's house, except for this one --
19 this one from the defendant's house -- this is the only
20 one that did not spit out a shell casing; is that correct?

21 A Yes, ma'am, that is the only one that had the
22 malfunction.

23 Q Okay. And this is the only one that could have
24 fired the bullet from the man's spine?

25 A That's correct. Based on their configuration

1 submitted to the SLED laboratory, that is the only firearm
2 that could have fired that.

3 Q Now, this other gun could have fired this hollow
4 point; correct?

5 A That is SLED Item 12. It is possible, yes, ma'am,
6 that it fired SLED Item 18, which is that hollow point.

7 Q Okay. And could have one of the other guns fired
8 this bullet -- I'm sorry, this bullet that is listed 18?

9 A Based on those comparisons, it's possible that it
10 could have come from SLED Item 3, which was another GLOCK
11 firearm.

12 Q Okay. And the result was inconclusive because there
13 was nothing identifying on the bullet. It could have been
14 fired by this gun or one of similar make and model; is
15 that correct?

16 A That's correct.

17 Q And is the same true for the shell casing?

18 A Yes, ma'am.

19 Q Okay. And this fired bullet came from where?

20 A That is SLED Item 18. And listed on our submission
21 paperwork to the laboratory, it was listed as from victim
22 Joshua McPherson's chest.

23 Q Okay. But the one thing we can say for sure is that
24 this gun was the only one that was submitted that could
25 fire this bullet?

1 A That's correct.

2 Q Have a seat, Mr. Greer, please.

3 MS. LIVESAY: Got a housekeeping matter for this
4 young lady. Were items -- I'm sorry -- we have got them
5 marked as 25 and 26. Are they in evidence?

6 COURT REPORTER: I don't think so.

7 MS. LIVESAY: I'm sorry, just for a housekeeping
8 matter.

9 COURT REPORTER: 24 and 25?

10 MS. LIVESAY: 25 and 26. I put them back in the
11 bag.

12 COURT REPORTER: No.

13 MS. LIVESAY: Your Honor, at this time, Mr. Greer
14 has testified -- I apologize.

15 BY MS. LIVESAY;

16 Q Let me ask a couple of questions of you, Mr. Greer.

17 A Yes, ma'am.

18 Q A couple of chain questions ---

19 A Okay.

20 Q --- because I have to get these items into evidence,
21 got to produce the chain.

22 Did -- when you received the two bullets from the
23 autopsy, had they appeared to have been tampered with in
24 any form or fashion?

25 A Based on my documentation of those two bullets, they

1 were submitted to me in Container B. I have that they
2 were both in labeled closed envelopes inside a heat-seal
3 pouch. I have no notation of them being tampered with,
4 no, ma'am.

5 Q And would you have tested them if they appeared to
6 have been tampered with?

7 A If they had been tampered with, I would have made
8 some phone calls and followed up with the examiner analyst
9 who had processed it before me, and there would be
10 notation of that. But I have nothing documenting that
11 there was anything tampered or any appearance of tampering
12 with the evidence.

13 Q Okay. And were you the last person to touch the
14 evidence, you know, and test it; is that correct?

15 A Typically, in firearms, we are one of the last
16 departments in the building to receive the evidence for
17 testing. In this case, with SLED Items 18 and 20,
18 according to the chain of custody, it does appear I was
19 the last examiner to examine the evidence before it was
20 returned to the Evidence Control Department.

21 MS. LIVESAY: Your Honor, at this time, the State
22 wishes to put in items State's Exhibit 25 and 26 into
23 evidence.

24 THE COURT: Any objection?

25 MR. WILSON: I have no objections, Your Honor.

1 MR. RIGNEY: No objection, Your Honor.

2 THE COURT: 25 and 26 are into evidence without
3 objection.

4 (State's Exhibit No. 25 and 26 was received into
5 evidence.)

6 MS. LIVESAY: Thank you. One second, Judge.

7 BY MS. LIVESAY:

8 Q One more question. I'm showing you now State's
9 Exhibit No. 20, which is serial number AFSG-329. Okay?

10 A Okay.

11 Q And just so I'm clear, were either of the bullets
12 fired out of this gun? Could either one of the fired
13 bullets from the autopsy have been fired from this gun?

14 A Based on my examination and comparisons, the only
15 firearm that could have fired Item 20 that was submitted,
16 the results were inconclusive, but the only gun that could
17 have -- or firearm that could have fired Item 20 was SLED
18 Item 13, and that was the GLOCK Model 19 with serial
19 number ASFG-329.

20 Q So the only gun that could have fired the bullet
21 from the spine of the victim that was submitted to you was
22 this gun?

23 A Yes, ma'am.

24 Q Okay. And this is the one that doesn't eject the
25 shell casing?

1 A That's correct. That is the one that had the
2 malfunction.

3 MS. LIVESAY: No further questions at this time,
4 Your Honor.

5 CROSS-EXAMINATION

6 BY MR. WILSON:

7 Q Now, just so we're clear, you're not saying to this
8 Court that any of these bullets were fired by any of these
9 guns, are you?

10 A The results of those comparisons were inconclusive,
11 so, again, that means there was not enough agreement or
12 disagreement. So I couldn't tell that, yes, it was fired
13 by or, no, it was not fired by.

14 Q I'll repeat my question. My question is simple.
15 Can you tell us definitively that any of these two bullets
16 were fired by any of those two guns?

17 A No, sir. The results were inconclusive.

18 Q Inconclusive.

19 In fact, how many different types of Luger 9mm
20 weapons are out there that could have fired this shot?

21 A I don't know the exact number. There are --

22 Q Thousands?

23 A There are thousands of firearms that could. But,
24 again, the firearm that would have fired SLED Items 18 or
25 20 would have to have those similar rifling

1 characteristics.

2 Q Right. And you say "inconclusive" for a purpose;
3 right? It means that "I don't know." Isn't that what
4 "inconclusive" means? When you say the test results are
5 inconclusive, it means that "I don't know"?

6 A Yes, sir. Based on what I was looking at under the
7 microscope, I don't know. There was not enough agreement
8 or disagreement of those characteristics.

9 Q Not only that, the solicitor asked you about these
10 two guns. But you have got Items -- SLED Items 3 and 4 as
11 well; did you not?

12 A Yes, I did.

13 Q And those are the two guns from the apartment
14 complex; right?

15 A Those were submitted to SLED and listed on our
16 submission paperwork just each located in closet of
17 Suite C.

18 Q And you examined both of those weapons; did you not?

19 A Yes, sir, I did.

20 Q And that's in your report. The report that you
21 submitted to the solicitor, it's in there; is it not?

22 A Yes, sir, it is.

23 Q Yeah, it's in there.

24 And did you test-fire both of those guns?

25 A Yes, sir, I did.

1 Q And did you attempt to see if either of those guns
2 could have fired either of those projectiles which were
3 removed from the body of Mr. McPherson?

4 A Yes, sir, I did.

5 Q And tell us what your findings were.

6 A The results of the comparisons were inconclusive.
7 Based on those microscopic examinations and comparisons,
8 Item 3 and Item 12 was inconclusive with SLED Item 18. So
9 it's possible that one of those firearms or another
10 firearm with rifling characteristics that are similar
11 could have fired.

12 And results with Item 20, only Item 13 could have
13 fired that. It was impossible based on differences in
14 class characteristics that SLED Item 3, 4, 12 would have
15 fired from that gun.

16 Q 3 and 4 could have fired those shots. Could have.
17 Not saying they did because we don't know, do we? That's
18 a question.

19 A Oh, it's possible that SLED Item 3 could have fired
20 Item 18. SLED Item 4 could not have fired SLED Item 18 or
21 Item 20.

22 Q And Item 18 is the bullet that was found from the
23 body of Mr. McPherson; right?

24 A SLED Item 18 was listed from victim Joshua
25 McPherson's chest.

1 Q And that could have been fired by those guns that
2 were in the house at the time.

3 Now -- but we don't know that either, do we?

4 A SLED Item 18 could have only have been fired by SLED
5 Items 3 or 12. It could not have been fired by SLED Item
6 4 or 13.

7 Q Okay. All right.

8 Now, let me ask you: When you were asked to come
9 here today to talk about these guns, were you asked to
10 bring those two guns from Apartment C or Suite C or
11 whatever the name of it is that they're using? Did they
12 ask you to bring them?

13 A No, sir. I typically only handle evidence as it's
14 circulating throughout the laboratory. I do not handle
15 evidence or carry evidence outside the laboratory.

16 Q Okay. So when you came to testify today, you
17 thought you were going to testify about all these guns?

18 A I did not know which guns would be presented in
19 court.

20 Q Okay. Now, let's talk for a minute about the one
21 that you say would not eject. And that was the gold gun?
22 Which one was that, that would not eject?

23 A That was SLED Item 13. I believe it was --

24 Q Is that this one?

25 A Yes, sir. I see my SLED Item 13 on the box. I'll

1 just confirm everything here.

2 This firearm is unloaded and safe to handle. I'm
3 just going to confirm a few of those lab numbers there.

4 Yes, sir. This was SLED Item 13.

5 Q Okay. And this is the one that would not eject when
6 you had it; is that correct?

7 A That's correct. It was missing several components
8 and would not extract and eject properly.

9 Q All right. And do you know -- do you know when or
10 how that occurred that it started to malfunction?

11 A I just know that, as I received it, it was missing
12 those components.

13 Q And you don't know how long it had been in that
14 condition prior to your receiving it?

15 A No, sir, I do not.

16 Q Do you know whether it was in that condition when
17 the police received it?

18 A I have no idea of how it was received by the police.
19 I just know how I received it in the laboratory.

20 Q Now, let me ask you about the two other guns that
21 won't show up here in court. Let me ask you about them.
22 You have those two guns. You examined those two guns. Do
23 you do fingerprint analysis?

24 A No, sir, I don't.

25 Q Do you do blood analysis?

1 A No, sir, I do not.

2 Q Do you do DNA analysis?

3 A No, sir, I do not.

4 Q Is there anybody at SLED that does do all of those
5 things?

6 A We do have latent print departments and DNA
7 departments that handle those type of requests.

8 Q And who makes the decision to send it to that -- to
9 those various departments so that it can be examined for
10 DNA, for blood, or for saliva or whatever it is that
11 they're going to be looking for? Who makes that decision?

12 A Sure. So when evidence is submitted to the SLED
13 laboratory, it goes through a submission paperwork process
14 where the submitting agency is able to make those requests
15 for the different departments and put those DNA requests
16 or latent print or toxicology requests on the items that
17 they're submitting. Typically, that is done by the
18 submitting agency.

19 Q Okay. And do you know what the submitting agency
20 asked in this particular case?

21 A I just have what is on my submission document
22 paperwork.

23 Q And what is that?

24 A For which items?

25 Q I'm specifically interested in the two guns that we

1 have been talking about, Item 3 and 4 under your agency's
2 list.

3 A Yes, sir. Based on submission to the laboratory, it
4 appears that there was a DNA ownership and touch and
5 firearms request on Items 3 and 4, and that was how it was
6 submitted to the laboratory.

7 Q Okay. So the two guns that came from the home or
8 from the apartment, it was requested that DNA be done on
9 those items; right?

10 A Yes, sir. Upon the initial submission.

11 Q All right. But you wouldn't perform that, would
12 you?

13 A No, sir. Those requests are handled by those
14 respective departments. So there's any update to that,
15 that is also handled by those departments. We're very
16 discipline-specific within the laboratory, and since those
17 disciplines do not apply to firearms, I do not handle
18 those requests.

19 Q All right. Now, let's talk about the other item,
20 this particular gun, which the solicitor showed you. Take
21 a look at that.

22 A Again, this firearm is unloaded. I'm going to look
23 for those identifying marks with our lab number, item
24 number, and initials. And this is SLED Item 12.

25 Q Okay. Now, with SLED Item 12, did you make a

1 determination as to whether or not SLED Item 12 fired a
2 shot or at least -- I apologize. Let me rephrase that.

3 A Yes, sir.

4 Q Whether it fired one of the two bullets that were
5 removed from the body of the victim in this case?

6 A Yes, sir.

7 Q And what was your finding?

8 A The result of my comparison with SLED 12, which is
9 this pistol here, was inconclusive with SLED Item 18, and
10 that was the bullet as listed from victim Joshua
11 McPherson's chest. So it's possible it was fired by SLED
12 Item 12 or by another firearm.

13 Q All right. So it could have been fired by that one
14 or some other firearm?

15 A Yes, sir.

16 Q But you're saying you don't know.

17 A Yes, sir. The results were inconclusive.

18 Q Inconclusive.

19 And you said that there were four categories, I
20 think you said: Positive, negative -- what was the third
21 one?

22 A Unsuitable.

23 Q Unsuitable.

24 And then "I don't know," right?

25 A Those are the four categories.

1 Q And every single gun that has been presented to you
2 is inconclusive. Any question about that? Either it
3 didn't fire or it's inconclusive, of the four guns?

4 A My results were inconclusive, yes, sir.

5 Q Yeah. All right.

6 Now, when you finished with these items, what did
7 you do with them?

8 A When I finished with these items, they were sealed
9 to be returned to our Evidence Control Department.

10 Q And does that include Items 3 and 4 or your Items 3
11 and 4, which were the two guns from the apartment of Suite
12 C?

13 A Yes, sir, it would have.

14 Q Did you tamper with them other than for purposes of
15 testing? Did you do anything to those guns to alter or
16 change them in any way whatsoever other than for your
17 testing purposes?

18 A No, sir, I would not have.

19 Q Did you turn them back over to your custodian or to
20 another agent within your department without altering
21 them?

22 A I would have just examined them and test-fired them
23 during my examination purposes and packaged them for
24 return. I did not alter or change them.

25 Q All right. And that includes Items 3 and 4 on your

1 list?

2 A Yes, sir, that's correct.

3 Q All right. And I apologize if I asked you this
4 already; I apologize. It's getting late.

5 Did the gun -- after you tested Items 3 and 4, which
6 are the two guns from the apartment -- and you found that
7 at least one of them was capable of having fired one of
8 these shots; right?

9 A SLED Item 13 was the only one that could have fired
10 Item 20. It's possible that SLED Items 3 and 12 could
11 have fired Item 18.

12 Q Okay. And Item 3 is one of the guns that was in the
13 apartment?

14 A Yes, sir, from closet Suite C.

15 Q Yeah, yeah, yeah. Okay.

16 And my point or I guess my question is, once you
17 made your determination -- you said you turned it over to
18 somebody. Who did you turn it over to? Who did you turn
19 the guns over to, 3 and 4 specifically? That's what I'm
20 asking.

21 A Yes, sir. According to the chain of custody, I
22 returned SLED Item 3 and SLED Item 4 to forensic
23 technician Rachel Johnson.

24 Q You turned them over to Rachel Johnson?

25 A Yes, sir.

1 Q Okay. When you received -- I think it was 13. Is
2 that what it is?

3 A The GLOCK that had the malfunction?

4 Q Yeah.

5 A Yes, sir. SLED Item 13.

6 Q When you received Item 13, was there a shell or a
7 casing inside the chamber?

8 A I did not have any documentation of a cartridge case
9 being inside the chamber. That firearm was submitted with
10 a magazine as well as eight unfired 9mm Luger caliber
11 cartridges, and those, I believe, were packaged inside of
12 another Ziploc bag. And then I had another unfired
13 cartridge that was submitted inside a Ziploc bag
14 separately within that container.

15 Q Okay. If there had been an unejected shell casing
16 in that weapon when you received it, would you have noted
17 that?

18 A Yes, sir.

19 Q All right. And you didn't make any notes of that?

20 A No, sir. I did not have any -- and you're
21 referencing a fired cartridge case?

22 Q I am.

23 A Yes, sir. I did not have any notes about a fired
24 cartridge case being submitted with that firearm.

25 MR. WILSON: One second, Your Honor, please.

1 BY MR. WILSON:

2 Q Let me ask you -- and I understand there were only
3 four guns submitted to you, as best I understand; is that
4 fair?

5 A Yes, sir.

6 Q All right. So if you had received additional
7 weapons, could you have tested those weapons to make a
8 determination if those weapons fired either of these two
9 bullets?

10 A Yes, sir. That would be possible. But, again, for
11 those comparisons to be fully carried out and conducted,
12 those firearms and those barrels would have to have the
13 same rifling characteristics like that's exhibited on SLED
14 Items 18 and 20. So they would have to have the same
15 rifling type, the same number of lands and grooves and the
16 same direction of twist rifling.

17 Q Okay. And now riflings and grooves are made over a
18 period of time. And even when they come from the factory,
19 there are riflings and grooves already being made -- would
20 that be fair? -- in the barrel of the gun?

21 A Yes. That manufacturing process of that firearm,
22 that manufacturer inserts rifling into that barrel through
23 different manufacturing techniques. So that firearm
24 arrives to stores to be sold or to you as the customer
25 with rifling in it. The rifling inside that barrel is

1 what gives that bullet the twist and gives it the velocity
2 to travel towards its target.

3 Q But part of the problem is, when a bullet -- when
4 the actual projectile is damaged, then it's more difficult
5 to determine the lands and grooves on the projectile?

6 A Damage to a bullet after it's traveled through a
7 target can cause some issues in the microscopic comparison
8 process. Sometimes we're able to still count and
9 determine what that rifling is, to count the number of
10 lands and grooves to tell its twist and to tell what type
11 of rifling it is, but sometimes that microscopic -- those
12 tiny microscopic markings are damaged as it's traveling
13 through its target.

14 Q And that's what you're saying in this particular
15 case is, is that these projectiles are damaged to the
16 point that it makes it difficult, if not impossible, to
17 make that determination?

18 A Yes, sir. These were removed from a victim, so they
19 have traveled through some media or some substance. So
20 that, along with the rifling type and just how that
21 firearm may have been marking those bullets at that time,
22 I was unable to arrive at a conclusion that these bullets
23 were fired by a specific firearm, and that's where it led
24 to our inconclusive result.

25 Q Okay. And Item 3 and 4, which were the two items

1 from the apartment, or Suite C, one of those items is
2 inconclusive; is that correct?

3 A Yes, sir. SLED Item 18, which was the fired bullet
4 listed as from the chest, could have been fired by Item 3.

5 Q So let me see if I understand you. Item --- repeat
6 that for me, because I'm not getting that.

7 A Sure. SLED 18, which was the bullet listed as from
8 the chest, it was inconclusive. So it could have been
9 fired by SLED Item 3 or by SLED Item 12 or by another
10 firearm or firearms, such as you were suggesting. It
11 could not have been fired by SLED Item 4 or by SLED Item
12 13.

13 Q All right. I think I got you now. Thank you so
14 much. Appreciate it.

15 A Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. RIGNEY:

18 Q Good afternoon.

19 A Good afternoon.

20 Q I believe he covered things rather well.

21 A Yes, sir.

22 Q So I'm going to have some sort of summarizing
23 questions for you.

24 A Okay.

25 Q So you spoke often about "of the weapons submitted."

1 And this is the four items that were submitted to you,
2 four weapons; is that right?

3 A Yes, sir. There were four items submitted to the
4 laboratory.

5 Q Okay. And there are many other weapons out there
6 that, according to your analysis, could possibly have been
7 the weapon that fired the shots that we're talking about?

8 A Well, based on those results that were inconclusive,
9 it's possible that some of the firearms that we received
10 could have fired the evidence, but it's also possible that
11 another firearm with those similar rifling characteristics
12 or similar characteristics could have fired it.

13 Q So just to -- I think in two of the three it says
14 inconclusive, it could have been -- or by another firearm
15 with similar rifling characteristics, which you just said.
16 And I think one of them says "or by another firearm with
17 similar characteristics," which is not a great deal of
18 difference but a single word, I think, is out of the one
19 there.

20 At any rate, it's my understanding that you're
21 agreeing there could have been other weapons that fired
22 everything that we're talking about today?

23 A Those results are inconclusive, so that just means
24 -- I did not say that those bullets were fired by a
25 specific firearm. We were able to negate some of them,

1 but the possibility that some of the firearms submitted,
2 such as SLED Items 3 and 12 could have fired Item 18
3 exists. It could be another firearm, since we did not
4 identify that.

5 But, again, it would have to share those same
6 characteristics -- the caliber, lands and grooves,
7 direction of twist, and type of rifling -- for us to
8 compare that, because those are major class
9 characteristics.

10 And with Item 20, it could have only been fired by
11 Item 13 based on the firearms that were submitted. Or it
12 could be another firearm that has the similar
13 characteristics that Item 20 exhibited.

14 Q But the weapons that you examined are the only ones
15 that you found to be inconclusive or excluded? You didn't
16 examine any other weapons. These are the only ones you're
17 talking about; right?

18 A Those are the only four that were submitted to the
19 laboratory for this case.

20 Q Now, you -- I believe you said that you do not do
21 DNA analysis.

22 A No, sir.

23 Q Fingerprints?

24 A No, sir.

25 Q GSR?

1 **A** No, sir.

2 **Q** So you would not be able to identify or connect a
3 particular person with any of these weapons with your work
4 that you do?

5 **A** I do not do any of that testing from those
6 disciplines, only firearms identification.

7 **Q** Okay. Someone else at SLED would do that if it were
8 done?

9 **A** Yes, sir. Those requests for DNA latents would be
10 carried out by those respective departments.

11 **Q** Okay. And I do not have any further questions for
12 you. Thank you.

13 **A** Yes, sir. Thank you.

14 **THE COURT:** Any redirect?

15 **REDIRECT EXAMINATION**

16 **BY MS. LIVESAY:**

17 **Q** Mr. Greer, I just want to make sure I'm clear and
18 these 12 people are clear. The results you say are
19 inconclusive; correct?

20 **A** Yes, sir -- yes, ma'am.

21 **Q** Did you say "sir"? I'm going to let it go. I'm
22 going to let it go. [Laughter]

23 Step down, please.

24 **A** Yes, ma'am.

25 **Q** So you say these results are inconclusive; right?

1 A That's right.

2 Q So we need to shed through some of this and figure
3 out what's what because I don't want any kind of
4 cloudiness.

5 You say that the bullet that's labeled Item 20 that
6 came from the young man's spine, out of all the guns that
7 could have been or that were submitted, only this gun
8 could have fired this bullet?

9 A Yes. Out of all the firearms submitted to me, those
10 four, that is the only firearm that had those same
11 characteristics that this bullet had. So they had the
12 same type, the same caliber, the same rifling type, the
13 same number of lands and grooves, and the same direction
14 of twist, which is why I compared them.

15 The other firearms had different rifling
16 specifications. So based on those gross differences in
17 characteristics, that was the only firearm that I was
18 submitted that could have fired the bullet.

19 Q So Mr. Wilson asked you about the two guns from the
20 victim's house that are described from, like, Suite C. Do
21 you remember that?

22 A Yes, ma'am.

23 Q Okay. Tell these folks and tell me -- because I
24 want it clear -- is it inconclusive as to whether or not
25 the bullet from the victim's spine could have been fired

1 from one of those guns?

2 A No, that's not inconclusive. Those were negated.
3 Items 3 and 4 and also Item 12 could not have fired Item
4 20. That's not -- that is negative. Those results were
5 negative.

6 Q So the one thing that is not inconclusive is that
7 only this gun, out of the guns that were submitted, could
8 have fired the bullet in the victim's spine? Only this
9 one?

10 A That's correct.

11 Q And that is not inconclusive?

12 A The results of the comparison were inconclusive, but
13 that's the only gun out of those four that could have.
14 The others were negative.

15 Q Okay. So the one thing that's for sure is the other
16 guns from the victim's apartment could not have fired this
17 bullet?

18 A That's correct.

19 Q And that result is 1 in 10; correct?

20 A That's correct. It could not have been fired out of
21 this.

22 Q Okay. And that is not inconclusive?

23 A That's correct.

24 Q Okay. And this gun -- the shell casing does not
25 eject; is that true?

1 **A** Since it's missing those components, it did not have
2 that extractor to pull it out of the chamber so it did not
3 extract or eject that cartridge case.

4 **Q** Okay. And is there anything inconclusive about
5 that?

6 **A** No. That happened during all of my intensive
7 test-firing.

8 **Q** So the one thing that's certain is, out of all of
9 the guns, the only one that could have fired this one from
10 the victim's spine is the gun that was found from the
11 defendant's house that was submitted?

12 **A** Yes, that was submitted. The only one that could
13 have fired that one was the Item 13.

14 **Q** And there's nothing inconclusive about that?

15 **A** No.

16 **Q** Okay. Have a seat, Mr. Greer, please.

17 **A** Yes, ma'am.

18 **Q** Now, Mr. Wilson talked to you a little bit about --
19 let me ask you one more question.

20 There was some questions asked about that when you
21 got that black gun, the one that -- the only one that
22 could have fired out of the ones submitted to the victim's
23 spine, whether or not there was a shell casing in the
24 barrel. Do you remember that?

25 **A** Yes, ma'am.

1 Q And he asked you about that; correct?

2 A Correct.

3 Q Okay. How long did it take you to clear the shell
4 casing from the barrel in that gun?

5 A During my test-firing?

6 Q Yes.

7 A I don't have a documentation of how long it took,
8 but it would not take terribly long just to remove that or
9 if I had the supplies or a dowel rod to remove that
10 cartridge or cartridge case from the barrel, but it would
11 cause you to stop and work with the firearm to remove
12 that, but it doesn't have to take very long.

13 Q So if a young man was murdered with the gun on May
14 29th and the gun was recovered on May 31st, clearly,
15 within two days, somebody could have removed the casing?

16 A I suppose that's possible.

17 Q Okay. Did it take you two days to remove it?

18 A No, ma'am, it did not.

19 Q Okay. He also talked to you about did the solicitor
20 tell you to bring the evidence. Did she tell you to bring
21 these other two guns. Do you remember that?

22 A Yes, ma'am.

23 Q Does the solicitor's office ever tell you to bring
24 evidence like this to court?

25 A No. Typically, I have never transported evidence

1 like this to court.

2 Q Okay. So the fact that I didn't do it is how it's
3 done every time; correct? There's nothing unusual about
4 that?

5 A No, ma'am. Typically, all the evidence that leaves
6 the SLED laboratory is sent home through the submitting
7 agency so it can be returned to the proper agency, not
8 through analysts or technicians.

9 Q Okay. So you never bring it to court.

10 A No, ma'am. Typically, no.

11 Q Am I your boss, Mr. Greer?

12 A No, ma'am, you're aren't.

13 Q I didn't think so.

14 MS. LIVESAY: No further questions, Your Honor.

15 RE CROSS-EXAMINATION

16 BY MR. WILSON:

17 Q Just briefly. Because you send it to them -- back
18 to law enforcement so that they can bring it to court.
19 You don't keep it and bring it; right?

20 A When I return the evidence to our Evidence Control
21 Department, I typically am not associated with the
22 evidence again or dictating where it goes.

23 Q No, you send it back to the agency, which is Horry
24 County or the solicitor's office or to law enforcement so
25 that they will have it, and then they can bring it to

1 court if they want to bring it to court?

2 A Typically, the evidence is returned to the agency
3 that submitted it, so that would be your local city or
4 sheriff's office or whoever is given permission from the
5 agency to handle it.

6 Q And one last thing and then I'm done. She keeps
7 asking you about this gun, and whether this is the only
8 gun that could have fired that shot. And that's just not
9 true, is it?

10 A Is that SLED Item 13?

11 Q It is.

12 A Based on the firearms that I received, that's the
13 only one that could have possibly fired Item 20.

14 Q Of the ones that was submitted to you.

15 A That's correct.

16 Q There are how many hundreds of thousands of other
17 guns that could have fired this bullet other than this
18 gun? How many hundreds of thousands?

19 A Yes, sir. There are hundreds of thousands, but
20 again ---

21 Q Right?

22 A --- it would have to be another firearm with those
23 similar rifling characteristics.

24 Q Right, with similar rifling.

25 But we don't know that because they never sent you

1 anything but these two that they had you talk about today;
2 right? That's all they asked you to talk about today was
3 these two.

4 A Yes, sir. I only received four firearms.

5 Q Right.

6 So when you say it's inconclusive, "inconclusive"
7 means "I don't know."

8 A Yes, sir.

9 Q No other questions.

10 THE COURT: Mr. Rigney?

11 MR. RIGNEY: No questions, Your Honor.

12 THE COURT: Any objection to him being released?

13 MR. WILSON: None, Your Honor.

14 MR. RIGNEY: No.

15 THE COURT: Have a good day.

16 Call your next witness.

17 MR. HARRELSON: At this time, the State calls
18 Anthony Knecht.

19 THE CLERK: Please raise your right hand and put
20 your left hand on the Bible.

21 ANTHONY KNECHT,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: State your name for the record and spell
25 it, please.

1 A Correct.

2 Q Okay. And were any of them Micah Pressley or
3 Fanotti Neal?

4 A No.

5 Q And were the guns out in the open?

6 A One was out in the open. The other one was
7 concealed in a backpack in a bedroom.

8 Q Okay. Concealed in a backpack. But was it locked
9 up?

10 A No.

11 Q Were either guns locked up?

12 A No.

13 Q And there were three people running -- not running,
14 three people in the house that exited the house; is that
15 correct? At least three the day that you did the search
16 warrant or that Florence assisted in the search warrant?

17 A Correct.

18 Q Okay. And any three of them had access to the guns?

19 A Correct.

20 Q And you don't know how many people were in the house
21 touching the guns between the time of the murder and the
22 time you recovered the guns; correct?

23 A That's correct.

24 Q Okay. And if the guns were sent to SLED at that
25 point, two days later, after having multiple people

1 around -- one of them is laying clearly in the living
2 room; right?

3 A Right.

4 Q Right there by the TV, by the little game station;
5 correct?

6 A Yes, ma'am.

7 Q Okay. So you don't know how many people touched the
8 guns between the time the murder happened and two days
9 later when all these people are in the house?

10 A Correct.

11 Q But they were available to be touched by anybody;
12 correct?

13 A Yes, ma'am.

14 Q Okay. And if you had collected DNA or fingerprints,
15 wouldn't it just show the last person that touched it?

16 A Potentially.

17 Q Okay. And so there was no way to know by DNA
18 anything other than the last person that touched it?

19 A Correct.

20 Q Certainly that wouldn't be deemable after two days
21 in a house full of people, we couldn't just pin it on
22 whoever the DNA came back to, could we?

23 A It wouldn't be of investigative value, no.

24 Q Because it wouldn't be who actually fired the gun,
25 would it? It would be whoever touched it last?

1 something?

2 A I couldn't qualify. I mean, I really don't know how
3 touch DNA -- how long things work or stay.

4 Q Now, you told her that --

5 A No, I think I told her it's probable that the last
6 person's DNA would be there.

7 Q Would be there?

8 A Right.

9 Q But would you disagree with me that there might be
10 other people's DNA at the same time?

11 A I have seen several DNA results that have multiple
12 people or multiple, you know, contributors to the sample.

13 Q If we had tested the DNA, the weapons in the closet
14 and some of the other things for the DNA, the ones found
15 in Florence, then it's possible that we could have found
16 numerous people's DNA on it?

17 A Potentially.

18 Q Each one of those; right?

19 A Potentially.

20 Q Okay. And what's the primary purpose of DNA? Is
21 that to include or exclude or something in between?

22 A I think it can be used in multiple facets to include
23 or exclude. I know we use collection swabs for that
24 specific purpose to include or exclude somebody such as
25 like a CSC or rape.

1 Q So for your investigation for this particular crime,
2 you felt that the DNA evidence would be important enough
3 that you took DNA from several people, the swabs; correct?
4 You or your people working with you?

5 A It's like a fire hose the first couple of days; we
6 grab as much as we can. And then, at a later time, once
7 we start looking at all the facts, we try to prioritize
8 what we send up for collection and process because all
9 that takes time. And they will only accept a finite
10 amount of stuff, they'll only process certain amounts, and
11 then you have to make additional requests. So we really
12 have to prioritize what we're asking for.

13 Q And fingerprints, you did that too? Did you do
14 that? Do you rely on that?

15 A We do rely on fingerprints on some cases, yes.

16 Q In this particular case, did you take fingerprints?

17 A I believe in Investigator Bobbitt's testimony, he
18 said he processed for fingerprints at the scene, but none
19 were located or redeemable for examination. And I assume
20 that the weapons, when they were swabbed, were also
21 processed for prints, but, again, that's not my
22 department.

23 Q What about gunshot residue on hands? Are you
24 familiar with that?

25 A Gunshot residue is really a fleeting test. We do

1 not use that much anymore because of the simple fact that
2 it falls off quickly, it's easily removed. Unless we,
3 like, respond to a call and someone's running away from a
4 shooting and we get to them within minutes, it's not
5 something that's done.

6 Q Okay. So with respect to the five people that were
7 in the apartment at the time of the incident -- not the
8 ones that came there and left but the ones who were
9 actually in the apartment, the ones in the bedroom
10 sleeping, Marion on the short couch ---

11 A Correct.

12 Q --- did you take from any of those DNA?

13 A I don't believe so.

14 Q Fingerprints?

15 A No. I don't think any comparison cards were
16 created.

17 Q Now, you arrived there soon enough that the GSR test
18 would have been appropriate; right? The gunshot residue?

19 A Yeah, potentially.

20 Q Did you do those?

21 A No, sir.

22 Q Did you have any -- have you come across any
23 evidence -- DNA, fingerprints, or anything related to that
24 -- that connects Fanotti Neal to any weapon involved in
25 this crime?

1 A No, sir.

2 Q So even though he was there, we see in the video, we
3 cannot say that he actually -- we don't know what he did;
4 is that correct?

5 A No, I think we can only, based on the facts, infer.

6 Q Correct.

7 A Right.

8 Q And the videos -- the entire thing that you put
9 together for us, from his phone, you're not able to tell
10 from the phone what he physically did within that
11 apartment, are you?

12 A No, sir.

13 Q So it's possible, based on your personal knowledge
14 and your investigation, that he did nothing but go in and
15 come out?

16 A I believe his testimony provides more than that,
17 but...

18 Q So DNA, you have got nothing to connect him with a
19 weapon?

20 A Correct. We have nothing returning from processing
21 or not processing that connects Mr. Neal --

22 Q The video surveillance doesn't go inside?

23 A No, there's no video surveillance inside the
24 residence.

25 Q And as far as we know, he never touched the weapon?

1 A Not by any admission.

2 Q He never loaded the weapon?

3 A Not by his admission.

4 Q Never fired the weapon?

5 A Not by his admission.

6 Q As far as we know, he was merely present?

7 A I'd say the facts show something different, in my
8 opinion, on what I investigated.

9 Q But not that you can tie with anything related to
10 evidence that we can share with these people to say, "I
11 know he had a gun in his hand, I know he fired a weapon."
12 We don't have that?

13 A The only thing I guess we have is the rounds that
14 belong to two separate weapons. So, as an investigator,
15 it means two weapons was used.

16 Q Well, even if we know that, we have no idea who used
17 them. And then we've got people in that apartment who
18 weren't tested, and we have a weapon in that apartment
19 that is inconclusive as to whether it was used or not.

20 A Yes, sir.

21 MR. RIGNEY: I don't have any more questions, Your
22 Honor.

23 Thank you.

24 THE WITNESS: You're very welcome.

25 MS. LIVESAY: Thank you, Judge.

1 it from when they walk up. Okay. Thank you.

2 I'm going to tell you when to pause it, if you don't
3 mind. I know what I have got a question on.

4 A Okay.

5 (Video plays.)

6 BY MS. LIVESAY:

7 Q Pause. Is this Fanotti here?

8 A Yes, ma'am, it is.

9 Q And he told you that was him; right?

10 A Correct.

11 Q What's in his waistband? Can you see?

12 A Something light colored.

13 Q Something what?

14 A Something light colored, tan color.

15 Q And is it black?

16 A No.

17 Q Does it appear to match this color right here?

18 A Closely resembles that.

19 MR. WILSON: Your Honor, this is ridiculous. The
20 solicitor is -- the jury is very capable of deciding what
21 they see on this video, and for him to tell them what he
22 thinks they should see is improper. And the solicitor
23 knows that's improper.

24 THE COURT: She can rephrase the question, but I'm
25 going to let her go.

1 BY MS. LIVESAY:

2 Q So is there anything about this that makes you want
3 to think now that one of the guns inside the house were
4 used?

5 A No, ma'am.

6 Q Have a seat, if you don't mind.

7 A Yes, ma'am.

8 Q Now, Mr. Wilson asked you about blood spatter.

9 A He did.

10 Q Do you remember that?

11 A Yes, ma'am.

12 Q Okay. And do you remember seeing the coffee table
13 there in the house that he was laying in front of?

14 A Yes, ma'am.

15 Q Okay. And did it have sprinkles of blood spatter
16 all over it?

17 A No.

18 Q So this idea that, if the person was in close range,
19 there would be blood spatter all over the gun -- there
20 wasn't any on the coffee table; correct?

21 A No. I believe all the spatter was located on the
22 back wall behind the deceased and on the blinds that was
23 behind the deceased.

24 Q But you didn't see blood just sprinkled all over
25 that coffee table right in front of the young man?

1 A No, ma'am.

2 Q So this idea that the shooter would have had blood
3 on his gun from the victim, is there any reason to believe
4 that?

5 A There wasn't any evidence to show that, I believe.

6 Q Now, Mr. Rigney asked you about GSR.

7 A Yes, ma'am.

8 Q And do you know how fast you have to collect GSR off
9 a suspect's hands for SLED to even test it?

10 A It has to be immediate.

11 Q Okay. And so when you came in contact with Fanotti
12 Neal about 5:00 that afternoon and he had already changed
13 clothes, already got rid of the bookbag, was there any
14 reason to swab his hands for GSR?

15 A No, there was contradicting evidence to show that it
16 would be appropriate.

17 Q And would SLED have even tested it if you did?

18 A No.

19 Q Okay. And Micah Pressley was apprehended later on,
20 not even the same day; correct?

21 A Yeah, it was a couple of days later.

22 Q Just was he apprehended later on?

23 A He was not apprehended that day.

24 Q Not that day. After that day?

25 A Correct.

1 witness, same as we did two days ago with the defendant
2 with the COVID mask. If he could lower it or take it off.

3 THE COURT: Yeah, take it off. You look like a
4 healthy, young man to me.

5 (State's Exhibit No. 99, Photograph of Defendant
6 Pressley, was marked for identification.)

7 (The jury entered the courtroom at 9:47 a.m.)

8 THE COURT: All right. Call your next witness.

9 MS. LIVESAY: Thank you, Judge. At this time, the
10 State calls Ms. Charrel Floyd.

11 THE CLERK: Please raise your right hand and place
12 your left hand on the Bible.

13 CHARREL FLOYD,

14 after having been duly sworn, was examined and
15 testified to as follows:

16 THE CLERK: Please be seated and state your name and
17 spell it for me, please.

18 THE WITNESS: My name is Charrel Floyd.
19 C-h-a-r-r-e-l F-l-o-y-d.

20 THE COURT: If you don't mind, move up a little bit.
21 That microphone is feeding right to this lady so she can
22 get it all down.

23 THE WITNESS: Charrel Floyd. C-h-a-r-r-e-l
24 F-l-o-y-d.

25 DIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q And, Ms. Floyd, if you don't mind, tell these folks
3 right here where you're from.

4 A Florence, South Carolina.

5 Q And have you lived in Florence your entire life?

6 A Not my entire life but most of it.

7 Q In May of 2022, do you remember that time frame?

8 A Yes, ma'am.

9 Q And where were you living at that time?

10 A I was living with my mom, but I stayed with my
11 sister sometimes.

12 Q Okay. And where did your sister live?

13 A 3307 South Dingle Drive.

14 Q Dingle Drive?

15 A Yes, ma'am.

16 THE COURT: Can y'all hear?

17 They cannot hear back there.

18 BY MS. LIVESAY:

19 Q So, Ms. Floyd, everybody in here has got to hear
20 you, even these fine people way in the back. So I know
21 it's uncomfortable, but you've got to speak up because
22 they've got to make sure they can hear everything you're
23 saying.

24 A Yes, ma'am.

25 Q I know it's hard because you feel like you're

1 hollering, but just try to speak up.

2 So you said you -- where did your sister live?

3 A 3307 South Dingle Drive.

4 Q Okay. And is that in Florence?

5 A Yes, ma'am.

6 Q And is your sister the lady that had the red Impala?

7 A Yes, ma'am.

8 Q Okay. And, of course, you came here in shackles;

9 correct?

10 A Yes, ma'am.

11 Q So why are you in jail?

12 A Because I was with them at the time.

13 Q I'm sorry?

14 THE COURT: I can't hear.

15 A Because I was with them at the time.

16 BY MS. LIVESAY:

17 Q So you're in jail on the incident that we're here

18 today for?

19 A Yes, ma'am.

20 Q Okay. And you're only charged with burglary first;

21 is that right?

22 A I'm assuming, yes, ma'am.

23 Q And your attorney -- an attorney for you is present

24 in here; is that right?

25 A Yes, ma'am.

1 Q Okay. Okay. And I know you're in jail on this
2 charge. Had you ever been arrested before now?

3 A No, ma'am.

4 Q Okay. This is the first time you have ever been
5 arrested?

6 A Yes, ma'am.

7 Q Okay. And tell these folks how old were you when
8 you were arrested for this charge.

9 A 19.

10 Q 19. Okay. So very young.

11 Were you working at the time or in school?

12 A No, ma'am.

13 Q Okay. Okay. Now, did you take that red Impala from
14 Dingle Drive to Conway in May of 2022?

15 A Yes, ma'am.

16 MS. LIVESAY: Okay. If we can, can we pull that
17 video up.

18 BY MS. LIVESAY:

19 Q And before we bring that up, can you identify the
20 car on the video?

21 A Yes, ma'am.

22 Q Can you identify yourself on the video?

23 A Yes, ma'am.

24 MS. LIVESAY: Okay. If you can, can you bring us to
25 the point of the red Impala, please?

1 And we're showing her now State's Evidence No. 50.
2 50. Hold on, hold on. Stop it right there. Could you
3 move it back just a little bit? I apologize. Run it a
4 little more for me.

5 BY MS. LIVESAY:

6 Q Do you recognize any of those folks, Ms. Floyd?

7 A No, ma'am.

8 Q Okay. Do you recognize that car?

9 A Yes, ma'am.

10 Q And how do you recognize that car?

11 A That's my sister's car. She had it for about a year
12 and a half before I got arrested.

13 Q Okay. And are you in that car?

14 A Yes, ma'am.

15 Q And are there other people in the car with you?

16 A Yes, ma'am.

17 Q Okay.

18 (Video plays.)

19 MS. LIVESAY: Could you hit us right to when we see
20 somebody coming up to the apartments, please?

21 (Video plays.)

22 MS. LIVESAY: Just a hair back. Stop, please. I
23 apologize.

24 BY MS. LIVESAY:

25 Q Now, do you recognize these two people?

1 A Yes, ma'am. The first one is my cousin, Ky'Lisha
2 Mack, and the second one is me.
3 Q So the second young lady -- you had long hair then?
4 A Yes, ma'am.
5 Q And that's you?
6 A Yes, ma'am.
7 (Video plays.)
8 BY MS. LIVESAY:
9 Q Okay. How about the guy with the bookbag?
10 A Fanotti.
11 Q And did that young man drive in the Impala with
12 y'all to come to this apartment?
13 A Yes, ma'am.
14 (Video plays.)
15 MS. LIVESAY: Okay. Stop.
16 BY MS. LIVESAY:
17 Q Now, do you know the two fellows in the hoodies?
18 A The big one is Shi (ph) and the other one is --
19 Q You have got to talk up just one notch.
20 A The big one is Shi (ph), but I don't remember the
21 other one's name.
22 Q The other one, had you ever seen him before that
23 night?
24 A Around the neighborhood.
25 Q I'm sorry?

1 A Around the neighborhood.

2 Q You had seen him around the neighborhood?

3 A Yes, ma'am.

4 Q Had you seen him a handful of times?

5 A Yes, ma'am.

6 Q And you had always seen him in the neighborhood?

7 A Yes, ma'am.

8 Q And, of course, you saw him this night; right?

9 A Yes, ma'am.

10 Q Did he ride in the car with you all the way from
11 Florence to Conway?

12 A Yes, ma'am.

13 Q And when y'all left, did he ride all the way back
14 from Conway to Florence with you?

15 A Yes, ma'am.

16 Q And would you recognize him if you saw him in a
17 picture?

18 A Yes, ma'am.

19 Q Ms. Floyd, I'm showing you what's been marked as
20 State's Exhibit 99. Do you recognize the guy in that
21 picture?

22 A Yes, ma'am.

23 Q And how do you know the guy in that picture?

24 A I don't know him personally, but I know I have seen
25 him around the neighborhood.

1 Q I'm sorry; say that again?

2 A I don't know him personally, but I know I have seen

3 him around the neighborhood.

4 Q And is this the guy on that video?

5 A Yes, ma'am.

6 Q And are you 100 percent sure about that?

7 A Yes, ma'am.

8 Q And are you 100 percent sure the guy with the

9 bookbag and the skull cap is Fanotti?

10 A Yes, ma'am.

11 Q Okay. And are you 100 that the big guy is Shi?

12 A Yes, ma'am.

13 Q And are you 100 percent that the lady with the long

14 hair is you?

15 A Yes, ma'am.

16 Q And are you 100 that the lady in the cap is Kim?

17 A Yes, ma'am.

18 Q Okay. And do all of you go into the apartment?

19 A Yes, ma'am.

20 Q And do you know who lived in the apartment?

21 A No, ma'am.

22 Q Okay. And when y'all left from Florence to the

23 apartment, was it a straight shot? Did you stop off

24 anywhere?

25 A No, ma'am.

1 Q Straight shot?

2 A Yes, ma'am.

3 Q Straight to this apartment?

4 A Yes, ma'am.

5 Q Okay.

6 (Video plays.)

7 MS. LIVESAY: Could you pause it for me?

8 BY MS. LIVESAY:

9 Q Now, Ms. Floyd, is this video accurate?

10 A Yes, ma'am.

11 Q So what we're looking at now are y'all going into

12 the apartment. That's what happened?

13 A Yes, ma'am.

14 Q So nobody has altered the video?

15 A No, ma'am.

16 Q Okay. Now, let's talk about when you're in the

17 apartment. Did you see any of the people that lived in

18 the apartment while you were there?

19 A Only two people.

20 Q I'm sorry?

21 A Only two people.

22 Q Okay. Only two people. And where were those two

23 people located in the apartment?

24 A In the living room on the chairs.

25 Q In the living room. Okay. And tell these folks

1 what those two people were doing in the living room.

2 A Asleep.

3 Q I'm sorry, ma'am?

4 A Asleep.

5 Q Asleep? Okay.

6 And while y'all were in there, did you ever see any
7 of the other people coming in and out of the bedrooms?

8 A No, ma'am.

9 Q Okay. So was everybody in there, while y'all were
10 in there, asleep?

11 A I'm guessing. I didn't know anybody else was in
12 there.

13 Q Okay. But you know nobody came out of the other
14 rooms?

15 A No, ma'am.

16 Q Nobody came out?

17 A No, ma'am.

18 Q And did you hear any music playing?

19 A No, ma'am, not that I can remember.

20 Q Did you have any reason to believe that anything was
21 moving around or going on in the apartment?

22 A No, ma'am.

23 Q Okay. And the two people that were asleep in the
24 living room, how many -- was there a couch? A Chair? Two
25 chairs? What was in the living room?

1 **A** It was a long chair and then a small -- I think like
2 a recliner or something.

3 **Q** And the two people that were in the living room,
4 were they men or women?

5 **A** Two males.

6 **Q** Were they Black or White?

7 **A** Black.

8 **Q** There were two Black males.

9 Did you know either one of these Black males asleep
10 on the couch?

11 **A** No, ma'am.

12 **Q** Okay. And during the time that you're in the
13 apartment, do either one of these two males wake up?

14 **A** I seen one of them get up once but that was it.

15 **Q** What now?

16 **A** I seen one get up and that was it. All he did was
17 move and look back.

18 **Q** Okay. Did any of them get up and shake your hand or
19 anybody's hand?

20 **A** Not mines but I seen one shake Fanotti's hand.

21 **Q** Okay. So dabbed Fanotti?

22 **A** (Witness shakes head in the affirmative.)

23 **Q** And once he dabbed Fanotti, did he get up and start
24 moving around or did he just get back in the chair?

25 **A** He just laid back down.

1 Q So neither one of the boys on the couch ever really
2 got up and engaged y'all?

3 A No, ma'am.

4 Q Okay. Now -- and during the entirety of the time
5 that you were there, did anybody come out of any of the
6 bedrooms?

7 A No, ma'am.

8 Q And did you hear anybody moving around in any of the
9 bedrooms?

10 A No, ma'am.

11 Q Okay. Did you -- and the boy on the long couch, the
12 young man that was ultimately killed, did he ever show any
13 signs that he woke up?

14 A I seen him turn over but that was pretty much it.

15 Q I'm sorry?

16 A I seen him turn over but that was pretty much it.

17 Q One more time.

18 A I seen him turn over but that was pretty much it.

19 Q Okay. And did he ever get up and dab anybody?

20 A No, ma'am.

21 Q Okay. Did they ever get up and turn the lights on
22 or turn the TV on?

23 A No, ma'am.

24 Q And when y'all were in there, did you see any guns
25 on anybody?

1 **A** No, ma'am.

2 **Q** Okay. Did anybody in any of the rooms ever come out

3 with a gun?

4 **A** No, ma'am.

5 **Q** Okay. So y'all show up. At some point, do you

6 leave?

7 **A** Yes, ma'am.

8 **Q** And the timestamp is 5:44 in the morning. Is that

9 accurate? Is that about the time you were in there?

10 **A** Yes, ma'am, I believe so.

11 **Q** And was it dark out?

12 **A** It was like just -- like it was in between.

13 **Q** So the sun was about to come up?

14 **A** Yes, ma'am.

15 **Q** Okay.

16 (Video plays.)

17 BY MS. LIVESAY:

18 **Q** Who is that?

19 **A** I'm not sure. I can't really see it.

20 **Q** I'm sorry?

21 **A** Can you rewind it back a little bit?

22 **Q** Is that the guy in this picture?

23 **A** I believe so.

24 MS. LIVESAY: Could you hit pause?

25 BY MS. LIVESAY:

1 Q Who are these three people?

2 A That's me, Shi, and my cousin, Kim.

3 Q Are you the one shutting the door?

4 A Yes, ma'am.

5 Q Okay. So the three of y'all leave?

6 A Yes, ma'am.

7 Q Why did you leave?

8 A Because I didn't want to be in there anymore if they

9 was going to be asleep.

10 Q Okay. Wasn't nobody up and nothing was going on?

11 A No, ma'am.

12 Q But the boy in the black hoodie and Fanotti did not

13 leave out with you, did they?

14 A No, ma'am.

15 Q So when you left, they were still in the apartment?

16 A Yes, ma'am.

17 Q Okay. And when you left out, were the two boys in

18 the living room still asleep?

19 A Yes, ma'am.

20 Q Okay. And was everybody else still in their

21 bedroom?

22 A Yes, ma'am.

23 Q So you leave; all the bedroom doors are closed.

24 There's no noise going on in the bedrooms?

25 A No, ma'am.

1 Q And the two young men in the living room are asleep?

2 A Yes, ma'am.

3 Q And you're like, "There's nothing going on; I'm
4 going home"?

5 A Yes, ma'am.

6 Q And Fanotti and the boy in the black hoodie is
7 staying behind?

8 A Yes, ma'am.

9 Q Okay.

10 (Video plays.)

11 BY MS. LIVESAY:

12 Q Did anybody in that apartment -- that was staying in
13 the apartment -- of the apartment ever do anything
14 aggressive towards any of you folks?

15 A No, ma'am.

16 Q Never did anything aggressive?

17 A No, ma'am.

18 Q Say anything aggressive?

19 A No, ma'am.

20 Q Never even really woke up; did they?

21 A No, ma'am.

22 MS. LIVESAY: Could you get me back just a notch?

23 (Video plays.)

24 BY MS. LIVESAY:

25 Q Is that the man that you drove up here with?

1 A Yes, ma'am.

2 Q Okay. And is that the other man that you drove up

3 here with?

4 A Yes, ma'am.

5 Q So now the final two people come running out of the

6 apartment?

7 A Yes, ma'am.

8 Q Now, let me ask you something: When you came out of

9 the apartment and Shi came out of the apartment and Kim

10 came out of the apartment, nobody was running like this?

11 A No, ma'am.

12 Q Why weren't you running?

13 A There was no point to running. What am I running

14 for?

15 Q You didn't think you had no reason to run?

16 A No, ma'am.

17 Q Now, when you and Kim were walking in and out of the

18 apartment, neither one of y'all had hoodies with the hood

19 up, did you?

20 A No, ma'am.

21 Q And it was May?

22 A Yes, ma'am.

23 Q Was it warm out?

24 A Kind of sort of.

25 Q And, in fact, you had short sleeves on, didn't you?

1 A Yes, ma'am.

2 Q And Kim had on shorts?

3 A Yes, ma'am.

4 Q Now, when you left out, did you try to cover your
5 face?

6 A No, ma'am.

7 (Video plays.)

8 BY MS. LIVESAY:

9 Q Okay. Do you know who these people are here walking
10 in the parking lot?

11 A It looks like me, Shi, and Kim.

12 Q Okay. So that's the three of y'all?

13 A Yes, ma'am.

14 Q And neither one of you are running; correct?

15 A No, ma'am.

16 Q Okay.

17 (Video plays.)

18 BY MS. LIVESAY:

19 Q The two boys that run back to the car, are those the
20 same, Fanotti Neal and the other boy in the black hoodie?

21 A Yes, ma'am.

22 Q Okay. And those are the same boys you brought up?

23 A Yes, ma'am.

24 Q Okay. And do you know why they were running out?

25 A No, ma'am.

1 Q Okay. And while you were in the apartment, did you
2 hear any shots fired?

3 A No, ma'am.

4 Q Did you hear any kind of aggressive talk?

5 A No, ma'am.

6 Q Any kind of fight?

7 A No, ma'am.

8 Q Any kind of wrestling?

9 A No, ma'am.

10 Q And did you see anybody else in the apartment except
11 for the two men asleep on the couch?

12 A No, ma'am.

13 Q And were the lights kind of off?

14 A Yes, ma'am.

15 Q Okay. Did you find that strange?

16 A Not really, not at the time.

17 MS. LIVESAY: Okay. Your Honor, at this time, the
18 State wishes to admit the picture of Micah Pressley, which
19 is State's No. 99 into evidence.

20 THE COURT: Any objection?

21 MR. WILSON: I don't have any objection.

22 MR. RIGNEY: No objection.

23 THE COURT: 99 is in evidence without objection.

24 (State's Exhibit No. 99 was received into evidence.)

25 BY MS. LIVESAY:

1 Q Now, when you get back to Florence, where do you
2 drop everybody off at?

3 A At Shitterius's house.

4 Q And who?

5 A Shi's house.

6 Q Okay. And what road does Shi live on?

7 A Lamb Road.

8 Q Okay. Lamb Road.

9 Is that the road y'all left from?

10 A Yes, ma'am.

11 Q Okay. And then where did you go?

12 A I went to my sister's house.

13 Q Okay. Is that where you returned the car?

14 A Yes, ma'am.

15 Q Okay. So you returned the car?

16 A Yes, ma'am.

17 Q Okay. And then, at some point, do the police come
18 and talk to you?

19 A Yes, ma'am.

20 Q And where are you when the police come and talk to
21 you?

22 A In the house, asleep. In the house, asleep.

23 Q Okay. And do you remember who came and talked to
24 you?

25 A I think his name was Huggins or something like that.

1 Q You just remember it was a policeman?

2 A (Witness shakes head in the affirmative.)

3 Q Where did y'all talk? In your house? In a police

4 car? In police station? Where did y'all talk?

5 A In the car.

6 Q In the car?

7 A Yes, ma'am.

8 Q And at the time he was talking to you in the car at

9 that time, had you been arrested yet?

10 A Not while I was in the car.

11 Q No, you had not been arrested?

12 A No, ma'am.

13 Q And, at that time, were you hoping you weren't going

14 to get arrested?

15 A Apparently, I didn't believe I was in any trouble

16 because I didn't do anything wrong.

17 Q And you were how old at that time?

18 A 19.

19 Q Okay. And did you -- you were not in school and did

20 not have a job?

21 A No, ma'am.

22 Q And when you talked to the police, were you

23 forthcoming with them at that time?

24 A Yes, ma'am.

25 Q Okay. And did you see this video at that time?

1 A Yes, ma'am.

2 Q Okay. And when you were in the car, were you
3 nervous?

4 A No, ma'am. In the police car?

5 Q Yeah. When you were in the car with the police.

6 A Yes, ma'am.

7 Q Was it just you and the policeman?

8 A Yes, ma'am.

9 Q At that time, had you consulted with any kind of
10 lawyer?

11 A No, ma'am.

12 Q Okay. And you're 19. You're sitting in the car.
13 It's just you and the police; right?

14 A Yes, ma'am.

15 Q And, at that time, you didn't give the police any
16 names; is that right?

17 A No, ma'am.

18 Q Okay. And why was that?

19 A I'm not sure.

20 Q Okay. But the information that you're giving today,
21 is that truthful information?

22 A Yes, ma'am.

23 Q And since the time you talked to the police, have
24 you been able to consult your lawyer every time you want
25 to?

1 A Not really because I be having kind of a hard time
2 contacting him. Sometimes I don't have money to pay for
3 the call or he's not in the office, but I do talk to his
4 assistant.

5 Q But you have talked with your lawyer?

6 A Mm-hmm.

7 Q And you have talked to me?

8 A Yes, ma'am.

9 Q And have you ever talked to me without your lawyer
10 present?

11 A No, ma'am.

12 Q I would advise that.

13 In your discussions with your lawyer when I was
14 present, have I ever promised you anything?

15 A No, ma'am.

16 Q Have I ever told you, after you testified, you're
17 getting out of jail?

18 A No, ma'am.

19 Q And do you have any expectation of that?

20 A I would hope it would help me, but no, ma'am.

21 Q So you are hoping this will carry some weight with
22 myself and the judge?

23 A Yes, ma'am.

24 Q And -- but nobody has promised you anything?

25 A No, ma'am.

1 Q Okay. And all your charges are still pending?

2 A Yes, ma'am.

3 Q And nothing has changed with that?

4 A No, ma'am.

5 Q Okay. And nothing's changed with your current

6 status as far as bond?

7 A No, ma'am.

8 Q Okay. Now -- in the times you have had contact with

9 myself and your lawyer, have I ever told you anything

10 other than "tell the truth"?

11 A No, ma'am.

12 Q And are you absolutely 100 percent sure of the

13 identification you made of the people on the video?

14 A Yes, ma'am.

15 Q And are you 100 percent that one -- the boy with the

16 bookbag and the skull cap is Fanotti?

17 A Yes, ma'am.

18 Q And are you 100 percent that the thin boy in the

19 hoodie is this young man here, Micah Pressley?

20 A Yes, ma'am.

21 Q Do you have any ill will towards these two fellows?

22 A No, ma'am.

23 Q Did you even talk to them again after you dropped

24 them off?

25 A No, ma'am.

1 Q So you have not had any contact with them since you
2 dropped them off until we were all in this courtroom?

3 A No, ma'am.

4 Q Are you mad with them?

5 A No, ma'am.

6 Q Okay. One more question: Do you know why these two
7 boys stayed behind after the rest of you left?

8 A No, ma'am.

9 Q And when you left, the people living in the
10 apartment, are you 100 that they were all asleep when you
11 left?

12 A Yes, ma'am.

13 Q And you don't know why these two boys stayed behind
14 when everybody is asleep in the apartment?

15 A No, ma'am.

16 MS. LIVESAY: No further questions for this witness,
17 Your Honor.

18 THE COURT: Members of the jury, let's take a
19 ten-minute break. The court reporter is having some
20 difficulty with her equipment and she needs to fix it.

21 So if you would, step into the jury room.

22 (A recess was taken from 10:30 a.m. to 10:45 a.m.)

23 MS. LIVESAY: Judge, at this time, I don't -- the
24 picture of Micah Pressley, of course, came from the
25 Department of Juvenile Justice. I don't want to call

1 somebody from the Department of Juvenile Justice to say,
2 in our records, there's a picture of Micah Pressley.

3 So my thing is, we can either take judicial notice
4 or I can call Steve Brown, who is our investigator who
5 obtained it from the Department of Juvenile Justice to say
6 I know this is his picture, I have obtained it through
7 investigative means.

8 Either way is fine with me. If Ralph has a problem
9 with you taking judicial notice, I can certainly call
10 Investigator Brown, put him up, and he can say that's a
11 picture of him.

12 MR. WILSON: This is her case. She can try it
13 however she likes. I'm not consenting to anything.

14 THE COURT: Okay. All right. Bring in the jury.

15 (The jury entered the courtroom at 10:46 a.m.)

16 THE COURT: Mr. Wilson?

17 MR. WILSON: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. WILSON:

20 Q Ms. Floyd; right?

21 A Yes, sir.

22 Q Ms. Floyd, let's go back. Now, we know two things
23 about you. Right? We know that you won't tell the truth;
24 right? You will lie, won't you?

25 Yeah, you lied to the police; right?

1 A (Witness shrugs shoulders.)

2 Q You're hunching your shoulders. Did you or did you

3 not?

4 A No, not really.

5 Q I'm sorry?

6 A Not really.

7 Q Not really?

8 So when you told them that you were coming down here

9 for a party, that was the truth; right?

10 A Yes. That's what I was told on the phone.

11 Q I'm sorry?

12 A That's what I was told on the phone.

13 Q Somebody told you that on the phone?

14 A Yes, sir.

15 Q And when you told them that you didn't know who the

16 men were in the car, that was the truth too; right?

17 A I told him I didn't know them personally.

18 Q You told him you didn't know any of the men in the

19 car. In fact, you told them that you picked the three men

20 up at a gas station ---

21 A I didn't tell him that.

22 Q --- and gave them a ride?

23 You deny you told the police that?

24 A I told him I picked them up, and we went to the gas

25 station.

1 Q You told him you picked them up and went to the gas
2 station.

3 And then you told them another lie and you told them
4 that the guy's name was Steve; right?

5 A No.

6 Q And one name was James; right?

7 A No. I said James.

8 Q You said James?

9 A I never said --

10 Q And whose name was James?

11 MS. LIVESAY: Your Honor, can she answer the
12 question?

13 THE COURT: Yeah, let her finish.

14 MS. LIVESAY: Show the young lady a little respect.

15 THE COURT: Go ahead.

16 BY MR. WILSON:

17 Q So who is James?

18 A Micah.

19 Q Micah is James?

20 So you told the police that his name was James;
21 right?

22 A Yes.

23 Q That was a lie; right?

24 A Yes, sir.

25 Q Right. And you told them that you didn't know who

1 the other two guys were; right?

2 A I told him the big guy was Shi, and I told them the
3 other one, but I gave him a different name.

4 Q You deny that, at the very beginning, he questioned
5 you and he asked you who these people were in your car,
6 and you told him you didn't know. And then, after he
7 questioned for an extended period of time, then you
8 started to tell him -- give him names --

9 MS. LIVESAY: Your Honor, is there a question?

10 MR. WILSON: If you'll let me finish.

11 THE COURT: Go ahead and finish your question.

12 BY MR. WILSON:

13 Q My question to you is: On the night or the morning
14 that the police came and spoke with you, the police wanted
15 information about this case; did they not?

16 A Yes, sir.

17 Q All right. And how long did you stay in the police
18 car talking to them that day?

19 A I'm not sure of the exact time frame.

20 Q 45 minutes? An hour? Two hours? Five hours?

21 A Not that long.

22 Q I'm sorry?

23 A Probably -- probably less than 45 minutes.

24 Q And how many stories did you tell them in that
25 45-minute period?

1 A I told him that we went to the beach and that they
2 told us that we were going to a party.

3 Q I need you to speak up for me.

4 A I told him that we went to the beach, because they
5 told us that's where we were going.

6 Q Who told you that?

7 A The boys that I was on the phone with.

8 Q The boys that you were on the phone with. Which
9 were who?

10 A Shi ---

11 Q Shi who?

12 A --- Fanotti, and the other boy.

13 Q Shi, Fanotti, and the other boy.

14 Now, who is Shi?

15 A Shi is the big boy.

16 Q Shi is the big boy.

17 So who told you to steal your sister's car?

18 A The car wasn't stolen. I had permission.

19 Q So you're telling the truth about that?

20 A Yes.

21 Q You had permission to get your sister's car and
22 drive it down here to Myrtle Beach at 3:00 in the morning,
23 4:00 in the morning; right?

24 A My sister put the keys in my hand.

25 Q She put the keys in your hand ---

1 A Yes.

2 Q --- and told you to come to Myrtle Beach with her
3 car?

4 A She told us we could drive her car.

5 Q Do you know your sister came in here and testified?

6 A Yes.

7 Q So you're telling the truth about that too, aren't
8 you?

9 A Yes. And the police report was filed on a different
10 date.

11 Q Let me ask you something, ma'am: When you told the
12 police that you saw a gun and that the gun was in the
13 possession of somebody named Cuz -- do you remember saying
14 that?

15 A I never told him I seen a gun.

16 Q You never told this officer that you saw a gun in
17 the hands of somebody named Cuz? You deny that too?

18 A No, I never told him that.

19 Q You didn't say that either?

20 A No, sir.

21 Q All right. Now, well, let me ask you this: Did you
22 have a relationship with any of these guys?

23 A No, sir.

24 Q Well, when the police found you, you had on one sock
25 that belonged to a pair of socks that Mr. Fanotti had on;

1 did you not?

2 A No, sir.

3 Q You deny that, too?

4 A If you look at the video footage from where we at,
5 at the apartment, you would have seen that I had on no
6 socks.

7 Q You deny that you had on one of the socks and he had
8 on the other? So you both had on one sock out of each
9 pair?

10 A As I just stated, I had on no socks. Check the
11 video footage.

12 Q I'm talking about when you were arrested, not when
13 you --

14 A I didn't have on any socks then either.

15 Q Okay. All right. So you deny that too?

16 A Yes.

17 Q So that's a lie? You never told the police that?

18 A No, I never ---

19 Q And they --

20 A --- told them that.

21 Q I'm sorry. Go ahead.

22 A No.

23 Q And so the police didn't find that on you?

24 A No, sir.

25 Q And if the police come in here and say that, that

1 they did, then they're lying?

2 A Yes.

3 Q Okay. Now, let's talk for a minute about after you
4 get the car -- because you said your sister gave you her
5 car; right? With her permission and said it's okay, you
6 can come down to Myrtle Beach; right?

7 A Yes.

8 Q All right. And so you get the car. And then you
9 tell your sister who all these people are that you're
10 going to put her in your car and bring down to Myrtle
11 Beach with you?

12 A I didn't tell my sister that I was putting anybody
13 in her car.

14 Q When you got in the car, who did you call to get in
15 the car with you?

16 A I didn't call anybody. They were waiting on us.
17 They already knew that we were coming.

18 Q Well, how did they know that you were coming?

19 A Because they already called before I even left my
20 home, which was the apartment complex of Royal Street in
21 North Florence.

22 Q Who told?

23 A Shitterrius McDonald.

24 Q So Shiterrus McDonald is the one who planned to come
25 down here?

1 A He asked me if I wanted to go to the beach with
2 them, and they were all together.

3 Q Well, now, let me back up. Shiterrus McDonald is
4 inviting you to go to the beach, but you're the one that's
5 stealing your sister's car to drive here to go to the
6 beach?

7 A The car wasn't stolen.

8 Q Okay. Well, you're getting your sister's car.
9 Let's just put it that way; right?

10 A Yes.

11 Q So he tells you let's go down to the beach, and then
12 you get your sister's car, however you get it, and then
13 you go pick them up?

14 A Yes.

15 Q All right. Who did you pick up first?

16 A They were all together.

17 Q All four people were together?

18 A Ky'lesha Mack (ph) was with me. Her sister was the
19 one who came to pick me up from my apartment complex.

20 Q So was she with you when you got the car?

21 A Ky'lesha, yes.

22 Q All right. So Ky'lesha was with you. And who else?

23 A It was just me and Ky'lesha.

24 Q Well, what about Ms. Mack? Kim Mack? Who is that?

25 A That's Kim.

1 Q That's Kim Mack?

2 A Yes.

3 Q So you and Ms. Mack were together?

4 A Yes.

5 Q You get the car?

6 A Yes.

7 Q And where do you go?

8 A We go to pick up the boys.

9 Q Going to pick up the boys.

10 Now, you said that there was a conversation between

11 you and Shiterrus McDonald; right?

12 A Yes.

13 Q Now, are y'all related?

14 A No.

15 Q All right. So -- and what was -- is that your

16 boyfriend or what?

17 A No. He's just a friend.

18 Q Okay. And what time of night are we talking about?

19 A They called me about 9:00 or 10:00, because I was at

20 work with my mom at first. That's when I first got the

21 call. So then when I got home -- because the phone that I

22 was using at the time, it was not active, so I had to wait

23 to call back when I got back home to my apartment. And

24 that's when they asked, "Do y'all want to go to the

25 beach?"

1 So they paid my cousin's sister on CashApp to take
2 me to my sister's house to get my sister's car.

3 Q Who paid to take you -- who paid for you to do that?

4 A I'm not actually sure who sent the money but a
5 CashApp was sent to my cousin for her to come pick me up
6 to take me to my sister's house to get the car.

7 Q So you go to your sister's house to get the car, and
8 then you say you go pick up four people?

9 A Three.

10 Q Three people. Because you've got Kim Mack with you.

11 A Yes.

12 Q All right. And then, once you get in the -- are you
13 driving your sister's car?

14 A I was in the passenger seat.

15 Q Did your sister know that somebody else was going to
16 be driving her car?

17 A Yes.

18 Q So she gave the car really to the other girl; right?
19 Not to you?

20 A She technically gave it to both of us.

21 Q She gave it to both of y'all. Okay.

22 And then -- and that's the truth; right? That's the
23 truth?

24 A Yes.

25 Q I know. That's the truth.

1 And so, when you get the car, then you come down,
2 you pick up the other three people; right?

3 A Yes.

4 Q All right. And do you know who you're picking up?

5 A I know Shiterrus.

6 Q And is that the only one you knew?

7 A Yes, sir.

8 Q So you didn't know Mr. Fanotti then?

9 A No, sir.

10 Q You didn't know Mr. Pressley then?

11 A Not personally.

12 Q So you had never met these people, but now you're
13 picking them up in the middle of the night, 3:00 or 4:00
14 in the morning, and you're coming to the beach with them?
15 Is that what your testimony is?

16 A Yes, sir.

17 Q Okay. So you come down to the beach and you got
18 your friend driving the car; right?

19 A Yes.

20 Q So who tells you where to go?

21 A Fanotti.

22 Q Fanotti tells you where to go?

23 A Yes.

24 Q All right. And where does he tell you to go?

25 A He was just giving me directions on where to turn,

1 basically, like he had a GPS on his phone or something.

2 Q And let me ask you: Once he tells you where to
3 go -- you're not the driver -- the other lady follows the
4 direction; that is, Ms. Kim?

5 A Yes.

6 Q All right. And y'all get out. Y'all go to this
7 apartment; right?

8 A Yes.

9 Q All right. And so what is it that you're expecting
10 when you get to this apartment?

11 A I thought they was just stopping by to visit their
12 friends or whatever because that wasn't the plan on where
13 we were supposed to be going.

14 Q Okay. Well, didn't you say that, when y'all got
15 there, that somebody dapped somebody up, meaning, you
16 know, "Hey, what's going on" kind of thing; right?

17 A Yes.

18 Q So did y'all think you were breaking in the place?

19 A No.

20 Q All right. If you were breaking in, would there be
21 somebody there high-fiving you when you get inside?

22 A No.

23 Q All right. And so whoever was in the house was cool
24 with y'all being in there; were they not?

25 A I'm guessing.

1 Q Well, did anybody tell you, "Hey, get out of here.
2 What are you-all doing here at 4:00 in the morning?"

3 A No, sir.

4 Q In fact, it was just the opposite, according to your
5 story, because Fanotti was dapping whoever was sitting on
6 the couch. Or in the chair. I apologize. Right?

7 A Yes.

8 Q All right. And was there any argument?

9 A No, sir.

10 Q Anybody curse anybody?

11 A No, sir.

12 Q Any fight anybody?

13 A No, sir.

14 Q Did you see anybody with a gun in that room?

15 A No, sir.

16 Q Now, how long would you say you stayed in that room?

17 A I'm not really sure.

18 Q Well, five minutes? Eight minutes? 12 minutes? Do
19 you have any idea?

20 A Probably no longer than 20 minutes.

21 Q No longer than 20 minutes.

22 Okay. And what are you doing while you're in there,
23 this 20 minutes, 15 minutes, however long you're there?
24 Tell me what you're doing. Because you said to the
25 solicitor that one guy is on the couch, laying down.

1 Another guy is sitting in the chair half asleep or asleep.

2 So what are you doing in the house?

3 A I sat down on the one of the island chairs that was
4 in the kitchen, but then I got up and I went to where my
5 cousin and Shiterrus was, and me and my cousin went in the
6 bathroom, and we was playing in the mirror.

7 Q Okay. And you did what now?

8 A We were playing in the mirror.

9 Q Playing in the mirror?

10 A Yes.

11 Q What do you mean, "Playing in the mirror"? I don't
12 understand.

13 A Basically what girls do. Taking pictures and
14 whatnot.

15 Q So y'all -- at 4:00 in the morning, y'all are in
16 this house, and you and your -- Ms. Mack, is that who
17 you're talking about?

18 A Yes.

19 Q Y'all are taking pictures, photographs?

20 A Yes.

21 Q And whatever happened to those photographs? Do you
22 got any of them?

23 A No, sir.

24 Q Did you turn them over to the police?

25 A I mean, if they're still in her phone, but I don't

1 know if she still has them.

2 Q So did you tell the police about the photographs
3 that y'all had taken inside the apartment that night?

4 A Yes, sir.

5 Q So they knew about that?

6 A Yes, sir.

7 Q The police knew about that. All right.

8 And there was no argument, no fight, no disagreement
9 of any type while you were in that apartment, was there?

10 A No, sir.

11 Q And after you walked out of that apartment, where
12 did you go?

13 A To the car.

14 Q All right. Did you go directly to the car?

15 A Yes.

16 Q Stop anywhere between?

17 A No, sir.

18 Q Do anything else?

19 A No, sir.

20 Q When you left that apartment, did you see anybody
21 with a gun?

22 A No, sir.

23 Q All right. Did you hear any disagreement going on
24 in the apartment?

25 A No.

1 Q Now, when you got ready to leave, did you say
2 good-bye to the fellow that was dapping Mr. Fanotti?

3 A No, sir.

4 Q And so when three of you walk out -- and that was --
5 the big person is Shiterrus McDonald?

6 A Yes.

7 Q Is that who that is?

8 A Yes.

9 Q And then you and Ms. Mack?

10 A Yes.

11 Q All right. And how long after y'all get out the
12 door is it before the other two come out?

13 A I'm not sure.

14 Q All right. Well, had y'all made it all the way to
15 the car before you get there?

16 A Yes, sir. We were sitting in the car, and me and my
17 cousin was on her phone watching videos.

18 Q And so you still weren't concerned about anything;
19 right?

20 A No, sir.

21 Q And what was the plan then? Once you did this, what
22 was the plan?

23 A We just had wanted to go back home.

24 Q You just wanted to go back home?

25 A Yes.

1 Q So it's your car; right?

2 A Yes.

3 Q Was there any reason you couldn't just go back home?

4 A I didn't want to leave them because I was the one
5 who brought them up there.

6 Q Well, did you tell them, "Let's go"? When you got
7 ready to leave -- when the three of y'all walked out, did
8 you say to them, "Hey, let's go, guys. We're going home"?

9 A No, sir, because I would have believed they would
10 have walked out behind us.

11 Q Okay. So you were waiting for them in the car --
12 right? -- for the other two people who were still in the
13 house or in the apartment, you were waiting for them to
14 come out?

15 A Yes.

16 Q But you don't know how long you had to wait?

17 A No, sir.

18 Q But you did make it back to the car, and you were
19 sitting down at that point?

20 A Yes.

21 Q All right. When you get back into the car, all
22 right, what's the plan?

23 A To go home.

24 Q All right. So tell me what happens once the other
25 two -- once you get in the car and the other two come back

1 to the car, then what?

2 A We went back to Florence and dropped them off, and
3 then me and my cousin went to my sister's house, but then
4 my cousin left like an hour later.

5 Q So tell me about the conversations from the time
6 y'all left -- because it's an hour drive from Conway to
7 Florence. Tell me about the conversation from the time
8 y'all left the apartments here at Coastal to the time you
9 get back to Florence.

10 A There was no conversation. We were just listening
11 to music.

12 Q So, for an hour drive, there is no conversation?

13 A No.

14 Q Nobody says one word, you're just listening to
15 music?

16 A Maybe just me and my cousin.

17 Q Just you and your cousin?

18 A Yes.

19 Q So no discussion about anything?

20 A No.

21 Q Any discussion about, "Well, what took you guys so
22 long? Why didn't y'all come right along with us?"
23 Nothing?

24 A No, sir.

25 Q Nothing.

1 And the reason for that is, you don't want to know
2 nothing about whatever went on -- right? -- because that
3 might get you in some trouble; right?

4 And let's talk about that a second. How many times
5 did you meet with the solicitor?

6 A I'm not sure. Probably three times.

7 Q Three times. Three times? All right.

8 And they showed you video?

9 A Yes.

10 Q How many times did they show you the video?

11 A Once.

12 Q And they showed you the video because they wanted
13 you to be able to identify the other guy -- right? -- with
14 the so-called black hoodie; right? Isn't that right?

15 A (Witness shakes head in the affirmative.)

16 Q You're shaking your head. Say yes or no.

17 A Yes, sir.

18 Q Yeah. So they had you, on three separate occasions,
19 come in, look at the video because you need to identify
20 this person as being --

21 A I have seen only the video once.

22 Q You have seen the video once?

23 A Yes.

24 Q Well, you had already seen it with your lawyer, too,
25 hadn't you?

1 A No.

2 Q You hadn't?

3 A I only seen the video once, and that was, I believe,

4 the first day that I came in here.

5 Q First day you came in where?

6 A Into the courthouse when I was in the cell down the

7 hall.

8 Q Okay. Down which hall?

9 A I think it's when they first bring -- bring me in.

10 Q Okay. Well, let's go back. Let's talk about the

11 first meeting you had with the solicitor. Because you had

12 three, and you didn't see the video until the end.

13 Tell me about the first meeting. What was that

14 about?

15 A She wanted to make sure that I wanted to come up

16 here.

17 Q To make sure that what?

18 A That I wanted to come up here.

19 Q Wanted to come up here.

20 How long did you stay with her?

21 A Not really that long.

22 Q 20 minutes? An hour? Two hours?

23 A Probably a max of five minutes.

24 Q Okay. So less than five minutes; right? That's

25 what you're saying?

1 A Probably like five minutes.

2 Q Tell me about the second time when you had the
3 visit.

4 A Not really that long. Probably about the same
5 amount of time. She asked me a couple of questions and
6 that was it.

7 Q What did she ask you?

8 A I can't remember.

9 Q Can't remember? Could it have been about who that
10 other person was in that video; right? It could have been
11 that; right? It couldn't have been that Steve or James
12 fellow you were talking about to the police; right? It
13 couldn't have been that; right?

14 A Yes.

15 Q Yes, it was, or yes, it wasn't?

16 A It was.

17 Q It was? Yeah, it was.

18 Because that's what they wanted to know from you;
19 right?

20 A Yes.

21 Q And then you had a third visit with them after that;
22 right? So tell us about the third visit when you saw a
23 video.

24 A I saw the video the first day that I came in here.
25 The third time she visit was earlier.

1 Q All right. Now, I'm confused. Let's go back. You
2 said you had three visits. I thought you said you had
3 three total visits with the solicitor.

4 A Yes.

5 Q So which of those three visits did you see the
6 video?

7 A The first day that I was in here.

8 Q All right. The first day that you were in where?

9 A The first day that they brought me in here when I
10 was down the hall when they first brought me to the
11 courthouse.

12 Q Okay. All right. So let's see if I understand.
13 And that's not including the three visits, is what you're
14 saying. So that was a fourth time?

15 A The fourth? No. I only seen her three times since
16 I have been here.

17 Q Okay. And that's what I'm asking you. Which of
18 those three occasions did they show the video?

19 A The first one.

20 Q At the very first time you met with them, they
21 showed you the video?

22 A Yes.

23 Q Right. Okay. And that's when they were trying to
24 get you to tell them who that James guy was with the black
25 hoodie on?

1 A Yes.

2 Q Right. And now, you told -- you said that you --
3 nobody promised you anything, but you're hoping for a
4 deal; right?

5 A Yes, sir.

6 Q Yeah. And you know if you cooperate and give them
7 kind of what they want, they're at least in a position to
8 help you if they want to; right?

9 A Maybe.

10 Q Huh?

11 A Maybe.

12 Q Maybe? Maybe what?

13 A Maybe it will help out my case.

14 Q Right, right. If you tell them what they want to
15 hear, it might help out your case. And you want to get
16 some help, don't you?

17 A (Witness shakes head in the affirmative.)

18 Q Yeah. How long have you been in jail now?

19 A A year and four months, I believe.

20 Q A year and four months. And you want to get out,
21 don't you?

22 A (Witness shakes head in the affirmative.)

23 Q Say yes or no for me, please.

24 A Yes, sir.

25 Q Yeah. You want to get out.

1 And if coming in here and saying Steve -- the guy
2 you originally was Steve is now Pressley, then that's okay
3 with you if it's going to get you out of jail; right?

4 A I came in here on my own free will.

5 Q I understand.

6 A I had the choice of whether I wanted to come up here
7 or not, and I chose to.

8 Q Okay. All right.

9 Now, I'm going to ask you this: If you -- if they
10 showed you the video the first time and they talked with
11 you, why did they bring you back the other two times?

12 A To make sure I wasn't lying about who was in the
13 car.

14 Q To make sure you weren't lying about who was in the
15 car. And to get your story straight; right?

16 A (Witness shakes head in the affirmative.)

17 Q Say yes or no.

18 A Yes, sir.

19 Q Right. You wanted to get your story straight so
20 that when you come in here, you could tell a good story?

21 A I mean, I know who I was in the car with. I didn't
22 need a picture or a video because I knew who I was in the
23 car with.

24 Q All right. Now, you said you met three times with
25 the solicitor. And how many times did you meet with the

1 police?

2 A Once.

3 Q And that was that initial time when they had you in
4 the car?

5 A Yes.

6 Q Did you ever meet with them again?

7 A No, sir.

8 Q And was he present -- that is, the detective who
9 interviewed you -- was he present at any of the three
10 meetings that you had with the solicitor?

11 A No.

12 Q All right. Did they have you sign any kind of
13 paper, the solicitor's office, before you came in here to
14 testify?

15 A No.

16 Q No? So they didn't give you any written agreement
17 to come in and testify and tell you that you need to tell
18 the truth and be honest about whatever it is you say?
19 They didn't tell you that?

20 A No, sir.

21 Q All right. I'm going to ask you one more time: Did
22 you tell the detective, when he initially interviewed you,
23 that the person that was in that car and the person who
24 you say is in that video was somebody named James?

25 A Yes, that was the name that I gave him.

1 Q That was the name you gave him then; right?

2 A Yes.

3 Q But then you got confused. As he went on through
4 the interview, you got confused, and then you started
5 calling Mr. Fanotti "James"; right?

6 A No.

7 Q No? So you deny that, in your statement originally
8 to the police that you called Mr. Fanotti "James" and you
9 called the other gentleman in the video "James"?

10 A No, sir.

11 Q No, sir, you did not do that?

12 A No, sir.

13 Q That's not true?

14 A Yes, sir.

15 Q Okay. Do you deny that you told them that you met
16 these three boys at a gas station -- that you told the
17 officer that you met these three boys at a gas station?

18 A No. I told him that I picked up the boys and we
19 went to the gas station.

20 Q Okay. So he could have just got it wrong; right?

21 A Yes.

22 Q All right. I'm going to ask you this: Did you say
23 to the officer, "The male that I seen with the gun during
24 the murder was Cuz"?

25 A No, I never told him that I seen the gun, period.

1 Q Never told him that.

2 So if the officer put that in his report, he's not
3 telling the truth, is he?

4 A No, sir.

5 Q Right. So he just made that up?

6 A Yes, sir.

7 Q So what do we know about you? We know that you
8 won't always tell the truth; right? We know that; right?
9 Can we agree on that?

10 A No, sir.

11 Q We can't agree on that?

12 Well, can we agree at least that you're a thief and
13 that you took your sister's car without her permission and
14 you came down here to Myrtle Beach with it?

15 A The car wasn't stolen.

16 Q It wasn't stolen.

17 Did you take it without her permission to come to
18 Myrtle Beach?

19 A No, because that night, she gave me permission.

20 Q She gave you permission to come to Myrtle Beach?

21 A Yes.

22 Q So if your sister says something different than
23 that, she's lying too; right?

24 A Yes. The car was taken on a whole 'nother night.

25 If you look at the police report, you will see that it had

1 a whole different night and a whole different time.

2 Q So everybody is lying but you; right?

3 A I mean, you can look at the police report, because I
4 didn't get her car on that night until like 3:00 in the
5 morning.

6 Q And so what kind of deal is it that you're hoping to
7 get?

8 A Whatever they can give me.

9 Q Whatever they can give you.

10 And you have got a burglary charge; right?

11 A Yes.

12 Q Burglary in the first degree and what else?

13 A Accessory.

14 Q Accessory.

15 And do you know how much time you can get for that?

16 A No.

17 Q Do you know you can get 15 years to life for
18 burglary?

19 A No, sir.

20 Q Okay. You didn't know that? Your lawyer never told
21 you that?

22 A He told me a couple of times, but before then, I did
23 not know that.

24 Q And so you want him to do whatever you can do in
25 order to prevent that from happening; right?

1 A Yes, sir.

2 Q That's fair; right? I don't have any other
3 questions.

4 THE COURT: Mr. Rigney?

5 MR. RIGNEY: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. RIGNEY:

8 Q Good morning. Just a few questions for you.
9 How long have you known Fanotti Neal?

10 A Not that long. That was the only time I have ever
11 seen him, the night that I picked him up.

12 Q You didn't go to school with him?

13 A No, not that I can remember.

14 MS. LIVESAY: Judge, can we move the microphone
15 closer to Mr. Rigney? Thank you.

16 BY MR. RIGNEY:

17 Q Okay. Now, you have admitted already that you were
18 giving wrong names -- correct? -- to the police ---

19 A Yes, sir.

20 Q --- during your first interview with the detective?

21 A Yes, sir.

22 Q Is that right? Okay.

23 And you said that, when you went to the apartment,
24 you didn't know anybody that was in the apartment?

25 A No, sir.

1 Q Okay. Now, Shi is your cousin?

2 A No.

3 Q You know Shi?

4 A Yeah, I know him, but he's not my cousin. We're not
5 related.

6 Q Okay. Did you hear anything from Shi about who he
7 was wanting to go see at that apartment?

8 A No.

9 Q Did you hear anybody talk about sending a text to
10 somebody at the apartment saying, "We're on the way"?

11 A Not until we got there.

12 Q So, once you got there, you knew somebody had
13 already sent a text saying, "We're on the way"?

14 A Yes, sir.

15 Q So, in fact, for all you know, you were expected at
16 the apartment? Somebody was expecting you to come there;
17 is that right?

18 A He didn't send the message until we were outside of
19 the house door.

20 Q But you just told me that you knew, when you got
21 there, that it had already been sent. So I'm a little
22 confused.

23 But you know that a text message was sent or a
24 Facebook message was sent to someone in the apartment
25 saying "We're on the way"?

1 A Yes.

2 Q Okay. And you didn't know anybody in the apartment?

3 A No, sir.

4 Q And do you know that Shi knew someone in the

5 apartment?

6 A No, sir, not at the time.

7 Q Do you now know that he knew a cousin in there?

8 A Yes, sir.

9 Q So Shi knew someone in the apartment?

10 A Yes.

11 Q And Shi was the person who you know says that "I

12 have told them we're on the way"?

13 A (Witness shakes head in the affirmative.)

14 Q Okay. Do you know why you went to that apartment?

15 I think you have already told us that, but do you know?

16 A No, sir.

17 Q And you were not the driver that day?

18 A No, sir. I was in the passenger seat.

19 Q But it's your car, essentially. You were the one

20 that was in charge of it; right?

21 A (Witness shakes head in the affirmative.)

22 COURT REPORTER: Can I get an answer?

23 THE WITNESS: Ma'am?

24 COURT REPORTER: Can you give an answer?

25 THE WITNESS: Oh, yes, ma'am.

1 COURT REPORTER: Thank you.

2 BY MR. RIGNEY:

3 Q So when you went in the apartment, you saw two
4 people?

5 A Yes, sir.

6 Q And you think they were both asleep when you got
7 there; right?

8 A Yes.

9 Q Okay. Now, what's the first thing that happened
10 that you saw when you went in the apartment?

11 A I saw Fanotti walk over and dap the boy up that was
12 on the little chair.

13 Q So he went in and actually greeted somebody that was
14 in the apartment?

15 A Yes.

16 Q And so that person responded?

17 A Yes.

18 Q Was he scared?

19 A He didn't look like it.

20 Q Did he jump and say, "Help"?

21 A No.

22 Q Did he call the police?

23 A No.

24 Q So he was not surprised to see Fanotti Neal there,
25 was he?

1 A No, sir.

2 Q Now, you said that, when you're inside the

3 apartment, you didn't see anybody with guns?

4 A No, sir.

5 Q No guns you saw in the apartment at all, in fact?

6 A No, sir.

7 Q Now, while you were in the apartment, what part of

8 the apartment did you go to?

9 A I went in the first bedroom where Shi and my cousin

10 was.

11 Q Into what room?

12 A The first bedroom.

13 Q So you went into a bedroom. And was anybody

14 sleeping in there?

15 A No, the room was empty.

16 Q And who went in there with you?

17 A I went in by myself. They were already in there.

18 Q Who was in the room while you were in there?

19 A Shiterrus and Mack.

20 Q So there's three of you in the room?

21 A Yes.

22 Q And you don't know what was going on outside the

23 room while you were in the room?

24 A No.

25 Q Did anybody else come into that room while you three

1 were in there?

2 A No.

3 Q No one at all?

4 A No.

5 Q Okay. Was there anything -- any action by anyone
6 while you were in that apartment that was aggressive?

7 A No, sir.

8 Q Nobody got in a stance like they're about to fight?

9 A No, sir.

10 Q Nobody pulled a gun?

11 A No, sir.

12 Q A knife?

13 A No, sir.

14 Q A rope?

15 A No, sir.

16 Q Nothing?

17 A No, sir.

18 Q No aggression?

19 A No, sir.

20 Q Everybody is calm?

21 A Yes, sir.

22 Q Friendly?

23 A Yes, sir.

24 Q Everyone? Including Marion?

25 A I don't know who that is.

1 Q The guy that's on the short couch, the small chair,
2 the one that got dapped up by Fanotti.

3 A He wasn't aggressive at all.

4 Q And he was friendly; right?

5 A Yes, apparently, if he dapped the other boy up.

6 Q Okay. So he knew him, you think?

7 A Yes.

8 Q They knew each other?

9 A From the looks of it.

10 Q Okay. And they didn't seem to have any history of
11 violence between them?

12 A No, not that I noticed.

13 Q Neither one of them looked scared?

14 A No, not that I noticed.

15 Q So what was Fanotti doing in there? What did he do
16 while he was in there, that you know?

17 A At first, I seen him sitting down at the same little
18 island thing in the kitchen.

19 Q All right. Was he taking any sort of action that
20 made you scared or nervous?

21 A No, sir.

22 Q Would you say he was -- I don't know what the right
23 word you would use for it. Maybe you can find the words
24 for me, but I'll describe it the way I would say. He's
25 just hanging out there?

1 A Yes, sir.

2 Q Would it be fair to say he was -- he's just in
3 there?

4 A Yes, sir.

5 Q Not really doing anything, was he?

6 A Not from what I seen.

7 Q Okay. Would it be fair to say that he was merely
8 present?

9 A Yes, sir.

10 Q Just there with the other people?

11 A Yes, sir.

12 Q Okay. Now, when you left the apartment, you weren't
13 running?

14 A No, sir.

15 Q You weren't scared?

16 A No, sir.

17 Q Did you have any reason to be scared or running when
18 you left?

19 A No, sir.

20 Q Had anything happened in the apartment to cause you
21 to have any problems to worry about something might happen
22 to you?

23 A No, sir.

24 Q When you got in the car, what did you do?

25 A Me and my cousin was watching videos on her phone

1 and listening to music.

2 Q So you didn't drive away because you were afraid
3 that something had happened or would happen?

4 A Excuse me?

5 Q You didn't drive away immediately when you got to
6 the car?

7 A No, sir.

8 Q You stayed there and you waited for the other people
9 that were with you?

10 A Yes, sir.

11 Q I believe you said earlier that you brought them
12 over from Florence and you wanted to take them back?

13 A Yes, sir.

14 Q What was the reason you said you left -- left out of
15 the apartment?

16 A Because they were asleep. Why would I still be in
17 there? It was getting ---

18 Q Okay.

19 A --- boring, and I didn't want to be in there
20 anymore.

21 Q All right. So you didn't know anybody in there --
22 in the apartment?

23 A No, sir.

24 Q And you didn't feel like you ought to be in there
25 with not knowing anybody, nothing going on.

1 A No, sir.

2 Q No party?

3 A No, sir.

4 Q About what time was it again?

5 A Around 5:00.

6 Q Okay. Was anything strange going on in the

7 apartment while you were there ---

8 A No, sir.

9 Q --- in any way?

10 A No, sir.

11 Q Did you see anything in the apartment that looked

12 out of place?

13 A No, sir.

14 Q Anything that looked like someone was getting ready

15 to do something dangerous?

16 A No, sir.

17 Q Neither -- anything in place was looking scary nor

18 any people in there were looking scary to you?

19 A No, sir.

20 Q Okay. Now, we know that you have already admitted

21 that you didn't tell the truth all the time.

22 A Yes, sir.

23 Q Why today?

24 A Because I realized that I was wrong for lying about

25 their names, because this is a serious case.

1 Q Now, before you came in here to testify, did someone
2 take you somewhere and talk to you about "let's go over
3 what we're going to talk about"?

4 A Yes, sir.

5 Q Who did that?

6 A The solicitor.

7 Q Okay. How long did that take approximately?

8 A Not that long.

9 Q Now, you also told us that you don't have a deal
10 with anybody; right? They didn't promise you anything?

11 A No, sir.

12 Q And you're hoping for something good?

13 A Yes, sir.

14 Q Do you know what you're hoping for? Do you have an
15 estimation of what you think is going to happen?

16 A No, sir.

17 Q Do you know what it will -- what do you need to do
18 to make sure that you get, I guess, benefit from coming in
19 here today? What did they ask you to do today?

20 A Just to tell the truth.

21 Q Okay. And you're telling us that -- in spite of
22 what you've done in the past, you're telling the truth
23 today?

24 A Yes.

25 MR. RIGNEY: I don't have any more questions, Your

1 Honor.

2 THE COURT: Thank you, ma'am.

3 MS. LIVESAY: Thank you, Judge.

4 REDIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Ms. Floyd, had you ever been in any kind of trouble
7 or arrested before you got tangled up with these two?

8 A No, ma'am.

9 Q 19 years old, never been in trouble until you picked
10 them up that night?

11 A No, ma'am. No trouble whatsoever.

12 Q And they kept -- Mr. Wilson and Mr. Rigney were
13 asking you about what was going on in the apartment. Do
14 you remember that?

15 A Yes.

16 Q Okay. Tell these folks, when you left out of that
17 apartment, where was our victim, Joshua McPherson?

18 A Laying on the chair, asleep.

19 Q I'm sorry?

20 A Lying on the chair, asleep.

21 Q And he was asleep?

22 A Yes, ma'am.

23 Q The other boy was asleep?

24 A Yes, ma'am.

25 Q Were both of them unarmed?

1 A Yes, ma'am, as far as I could see.

2 Q You didn't see a gun, did you?

3 A No, ma'am.

4 Q Did they ever point a gun at anybody?

5 A No, ma'am.

6 Q Did anybody else in any of the other apartments

7 [verbatim] come out and point a gun at anybody?

8 A No, ma'am, all the doors was closed except for the

9 first bedroom, and that was the room that me, Shi, and

10 Mack went in.

11 Q And when you left, that young man was alive?

12 A Yes, ma'am.

13 Q And he was asleep right on that couch?

14 A Yes, ma'am.

15 Q Did anybody keep you and the other girl Kim and the

16 big fellow from leaving?

17 A No, ma'am.

18 Q Nobody kept you from leaving?

19 A No, ma'am.

20 Q Leave any time you want to?

21 A Yes, ma'am.

22 Q Why couldn't these two leave when you left?

23 A I'm not sure.

24 Q I'm sorry?

25 A I'm not sure.

1 Q But they didn't leave when you left, did they?

2 A No, ma'am.

3 Q And when you left, were they walking around in the

4 apartment?

5 A I remember one of them was sitting down.

6 Q I'm sorry?

7 A I remember one of them was sitting down.

8 Q When you left, the young man was still alive?

9 A Yes, ma'am.

10 Q When you left, the young man was still asleep?

11 A Yes, ma'am.

12 Q And there was no reason, none, to stay in the

13 apartment while everybody was asleep?

14 A No, ma'am.

15 Q Why couldn't these two just leave when you left and

16 leave that young man alive?

17 A I'm not sure.

18 Q Drove too far, didn't they? Come too far to leave

19 him alive, didn't they? Y'all drove an hour to come up

20 here; right?

21 A (No audible response.)

22 Q And had you ever driven these two to Conway before?

23 A No, ma'am.

24 Q Had you ever driven these two anywhere before that

25 night?

1 A No, ma'am.

2 Q This was a deliberate trip for these two; was it

3 not?

4 A Apparently so.

5 Q When you showed up, the big boy in the hoodie, you

6 knew him, didn't you?

7 A Yes, ma'am.

8 Q Did you know him the best out of everybody?

9 A Yes, ma'am.

10 Q And when you showed up, did you expect these two to

11 be there?

12 A Not really, but I heard voices in the background

13 while I was on the phone with him, so I assume he was with

14 people.

15 Q And had you ever driven these two around before?

16 A No, ma'am.

17 Q And had you ever been arrested before you got tied

18 up with them before?

19 A No, ma'am.

20 Q When they got in the car with you -- when Micah and

21 Fanotti got back in the car, running to the car, did they

22 have any injuries on them?

23 A Fanotti, I remember, he had a scar, when he first

24 got in the car. It was over one of his eyebrows.

25 Q And was he bleeding?

1 A It wasn't bleeding, but it was a scar over his
2 eyebrow. I remember that.

3 Q And how did he get it?

4 A I'm not sure.

5 Q Did he say how he got it?

6 A No, ma'am.

7 Q The young man on the couch that was asleep, could
8 you tell how big or small he was?

9 A He looked like he was kind of tall, but as if you're
10 asking about weight, no, I couldn't tell because he had on
11 a big blanket.

12 Q Could you tell about how old he was?

13 A No, ma'am.

14 Q So you couldn't tell if he was 17 or 45?

15 A Probably if he was 45, unless he had a young-looking
16 face, but...

17 Q So a younger guy?

18 A Yes, ma'am.

19 Q When y'all come in and everybody is walking around,
20 the young man, is he doing anything wrong?

21 A No, ma'am.

22 Q Just sitting there asleep?

23 A Yes, ma'am.

24 Q Where he had a right to be?

25 A Yes, ma'am.

1 Q Mr. Wilson asked you some questions about -- that we
2 had met two or three times before you came in here. Did I
3 ever meet with you without your lawyer?

4 A No, ma'am.

5 Q Have I ever told you anything other than tell you to
6 tell the truth?

7 A No, ma'am.

8 Q And I told you these people were going to question
9 you too, didn't I?

10 A Yes.

11 Q And what did I tell you?

12 A They were going to try to throw me off.

13 Q Nothing but tell the truth?

14 A Yes, ma'am.

15 Q Now, we met for the first time when?

16 A It was the first day that I got here.

17 Q So it was before today?

18 A Yes, ma'am.

19 Q Okay. And after we met, did you go home?

20 A Not home. I went back to jail.

21 Q And did they take the handcuffs off you?

22 A No.

23 Q How about the second time we met? Did they take the
24 handcuffs off you then?

25 A No.

1 Q Are you in any better situation now from meeting
2 with me than you were before?

3 A No, ma'am.

4 Q Is this week the first time somebody has shown you
5 the video from our office?

6 A It was a short lady that came and showed me the
7 first day that I was here.

8 Q Okay. But had anybody else shown you the video
9 while you have been in jail?

10 A No, ma'am.

11 Q So at least a year and a half has passed?

12 A Yes, ma'am.

13 Q Okay. And you drove up an hour with this crowd;
14 right?

15 A Yes, ma'am.

16 Q And an hour back?

17 A Yes, ma'am.

18 Q And you know who you drove up with and who you drove
19 back with, don't you?

20 A Yes, ma'am.

21 Q And Mr. Wilson was in here saying -- basically
22 asking you about if you come in here and say that it's
23 them, you're going to get something for it. Do you
24 remember him asking you that?

25 A Yes, ma'am.

1 Q Okay. Is the two people on that video, is it
2 Fanotti and the guy that's in the picture that's been
3 already admitted into evidence, is that the guy in the
4 hood that you already picked out?

5 A Yes.

6 Q Are you saying that because it's true?

7 A Yes, ma'am.

8 Q And did you know another witness, the young man
9 right there in the living room said the same thing? Did
10 you know that?

11 A No, ma'am.

12 Q And did you know he don't have any pending charges?
13 I can't do nothing for him. Did you know that?

14 A No, ma'am.

15 Q And he's saying the same thing you're saying. Did
16 you know that?

17 A No, ma'am.

18 Q Do you think -- when you get off this stand now that
19 you have testified, do you have any expectations that this
20 man is going to take the cuffs off you?

21 A No, ma'am.

22 Q Do you have any expectation you're going anywhere
23 but back in lockup?

24 A No, ma'am.

25 MS. LIVESAY: No further questions.

1 THE COURT: Any reply?

2 MR. WILSON: Just a couple of questions.

3 RECROSS-EXAMINATION

4 BY MR. WILSON:

5 Q You said that Mr. Fanotti had a scar over his eye
6 when he got back in the car?

7 A No. He had it before he got down there.

8 Q So that wasn't different than when y'all got there?

9 A No, sir.

10 Q Okay. And the solicitor asked you whether or not
11 you're in any better position today than you were the
12 first three times that you met with her. You're not in a
13 better position today, are you?

14 A No.

15 Q But you're hoping to be in a better position real
16 soon; right?

17 A Yes.

18 Q Yeah.

19 MR. WILSON: No other questions.

20 MR. RIGNEY: Just one.

21 RECROSS-EXAMINATION

22 BY MR. RIGNEY:

23 Q I just want to make sure that we understand that you
24 don't know what happened in the apartment after you left?
25 You have no idea?

1 after having been duly sworn, was examined and
2 testified to as follows:

3 THE CLERK: State your name for the record and spell
4 it, please.

5 THE WITNESS: Good morning. My name is Dr. Ellen
6 Riemer. R-i-e-m-e-r.

7 DIRECT EXAMINATION

8 BY MR. HARRELSON:

9 Q Dr. Riemer, where do you currently work?

10 A I work at the Medical University of South Carolina
11 in Charleston where I'm a forensic pathologist.

12 Q And how long have you worked at MUSC?

13 A A long time. Almost 15 years.

14 Q So in order to become a pathologist, did you have to
15 go through any type of education or training?

16 A Yes. So I -- after -- everybody goes to college and
17 I got my M.D. I went to medical school and received an
18 M.D. in 1997. Following that, I did a residency, which is
19 training, in the specialty of pathology, which is a
20 specialty of medicine just like cardiology or
21 gastroenterology.

22 So I completed that at Columbia Presbyterian Medical
23 Center in New York. Following that, I did a subspecialty
24 fellowship training in forensic pathology at the Office of
25 the Chief Medical Examiner of the State of Maryland.

1 Following that, I did an additional year of
2 fellowship training at Johns Hopkins Hospital in
3 cardiovascular and pulmonary pathology, which is another
4 area of my interest, and I've practiced forensic pathology
5 full time since then.

6 Q So after all of that education, how long did you --
7 or how long have you been working or practicing in the
8 field of pathology?

9 A Yes, so I -- including my training, that started in
10 1997, so that would be 26-plus years. If we don't count
11 the training years then -- yeah, it's a few years less
12 than that. So around 20 years.

13 Q And, as a pathologist, what are your duties?

14 A So my duties are to -- I perform autopsies in order
15 to determine the cause and manner of death. So the
16 autopsies -- sometimes I do an autopsy -- so my patients
17 are deceased and I do a complete autopsy on them, and
18 sometimes I have an answer that day on the cause of death
19 and sometimes it requires lots of testing and other
20 studies to determine the cause of death.

21 So every person is different, every death is
22 different, and I do what I need to do to determine the
23 cause and manner of death.

24 Q And speaking of autopsies, do you know how many
25 autopsies you have performed in your career?

1 A Yes. So over the course of my career, I have done
2 approximately 5,700 to 5,800 autopsies.

3 Q And how many times have you -- or have you ever
4 testified as an expert in forensic pathology?

5 A Yes. In the 200s, probably, over the course of my
6 career.

7 MR. HARRELSON: Your Honor, at this time the State
8 would move to have Dr. Riemer admitted as an expert.

9 THE COURT: Any objection?

10 MR. WILSON: No objections, Your Honor.

11 MR. RIGNEY: No objection.

12 THE COURT: Motion is granted.

13 BY MR. HARRELSON:

14 Q So, Doctor, were you involved in the case that
15 involved the victim in this case, Joshua McPherson?

16 A Yes. I performed the autopsy on Joshua McPherson at
17 the request of the Horry County Coroner's Office.

18 Q And can you please tell this jury a little bit about
19 the external descriptions of the victim?

20 A Yes. So, you know, before cutting begins at an
21 autopsy, I use the powers of my observation just to note
22 anything that may be wrong with somebody in just their
23 general condition.

24 So a question like that, I would say that he was a
25 -- appeared to be a healthy young man -- this is on my

1 external examination --- with two gunshot wounds to the
2 chest.

3 Q And did he appear to be an older man or a young man?

4 A Yes. He was young. So I was told he was 17.

5 Q And was he tall or was he short?

6 A So, at every autopsy, I do a height and weight on
7 the person. So the height is while they're lying down, so
8 I take a tape measure so it's approximate, and he was
9 73 inches tall, so 6-foot-1, and he weighed approximate --
10 he weighed 201 pounds.

11 Q And was he an athletic built?

12 A Yeah, I mean, he was --- he appeared to be, you know,
13 healthy, in good shape. You know, so a healthy, young
14 17-year-old.

15 Q And I think you said that you observed two gunshot
16 wounds -- or observed gunshot wounds. Where were those
17 gunshot wounds located?

18 A So both of them were on the front of the chest. One
19 of them was on the middle of the chest over the
20 breastbone, which is the sternum, and then the other one
21 was on the left side of the chest, a little bit lower down
22 but sort of like at the entrance -- it's like at the
23 bottom of the rib cage. So one was over the sternum, and
24 one was on the left side of the front of the chest near
25 the lower part of the rib cage.

1 Q So did you only observe two gunshot wounds?

2 A Yes, two gunshot wounds.

3 Q And let's talk a bit about the gunshot wound to the
4 middle chest. So what was the trajectory that you
5 observed?

6 A Okay. So just let me explain what that actually
7 means. So for every gunshot wound, I mean, I don't --
8 looking at them just externally -- I don't know where they
9 went and what they went through and how or if they were
10 responsible for death, but I -- on my internal
11 examination, I actually track the wound path through the
12 body, and depending where it ends up, it's going to have,
13 like, three directions. It's either front to back or back
14 to front, right/left, and then upward/downward.

15 So the gunshot wound to the middle of the chest, it
16 went -- after going through the front of the chest, it
17 went through the heart and the left lung before ending up
18 in the back. So heart, left lung, and then the bullet
19 ended up in the back.

20 So if we think of that in terms of three directions,
21 we come up with, like, a trajectory. So that would -- is
22 it front to back or back to front? It's front to back.

23 So front to back. And then it was also going from
24 right to left, because it started out in the middle and
25 ended up on the left side of the back. You know, if we

1 think in terms of, like, vectors, that's from right to
2 left, and there was no up- or downward deviation. It
3 ended up -- kind of went along with a level parallel to
4 the floor.

5 Q Okay. And what about the other -- the left side of
6 the chest?

7 A Yes, so the other gunshot wound was on the left side
8 of the chest, a little bit lower down. And, that one,
9 after entering the left side of the chest, it went through
10 the diaphragm, which is a muscle that underlies the lungs
11 and helps you breathe. So, when we breathe in, the
12 diaphragm kind of moves up and down to help, you know, air
13 come in and out of our lungs.

14 So it went through -- after the left side of the
15 chest, it kind of, you know, was like at the lower part of
16 the rib cage and went through the diaphragm, the liver,
17 and stomach, some bowel loops and supporting tissue in the
18 intestines, and then the aorta, which is a major blood
19 vessel of the body, and terminated in the lumbar spinal
20 cord. So that's in the middle.

21 So if we're thinking in terms of -- so both of these
22 are very severe wounds. So this other one -- the first
23 one went through the heart and the left lung, we're ending
24 up in the back. And then the other one started on the
25 lower side of the left side of the chest, went through the

1 diaphragm, which is a muscle used for breathing, the
2 liver, the stomach, intestines, aorta, and then ended up
3 in the -- it went through the spinal cord in the lower
4 part of the back.

5 So if we think in terms of the direction, that
6 one -- because it's starting on the left and ending up in
7 the middle, that's actually going from left to right.
8 Okay? So that makes sense. So it's starting on the left
9 and ending up in the middle.

10 So if we're thinking of those three directions,
11 that's going from left to right. That's also front to
12 back, but this one actually has a downward trajectory.

13 Q So you're saying that the first or the middle shot
14 or the shot in the middle of the chest went through his
15 heart, left lung, and left side of his back. So what type
16 of injuries would the victim have been suffering from that
17 gunshot wound?

18 A Oh, well, it's a -- I think you understand logically
19 that that's a very serious injury, nonsurvivable injury,
20 because the heart -- the heart was pierced by this bullet
21 and then it went into the left lung. As a result of that,
22 there's internal bleeding, but also the heart is not going
23 to be able to function also.

24 Q And what about the gunshot wound that was on the
25 left side of the chest?

1 A So the gunshot wound to the left side of the chest
2 was also -- either one of them would have been a fatal
3 wound on their own. So that one went through the
4 diaphragm so that's going to interfere with breathing.
5 Right? And then the liver and the stomach and the aorta,
6 which is a major blood vessel in the body, and then, in
7 the spinal cord, so the spinal cord can -- you know, that
8 can -- certainly if it was only to the spinal cord, he may
9 have just been left a paraplegic, but because everything
10 below the level of the spinal cord, it kind of like cuts
11 the spinal cord off below the level.

12 So if you get an injury in the lower part of the
13 spinal cord, everything in the body below that is going to
14 not work. But, in this case, it didn't just go through
15 the spinal cord, it also went through and caused also
16 bleeding internally.

17 Q And since it hit the spine and he could have been
18 paralyzed, would he have been able to stand up at this
19 point?

20 A No, he would not have been able to stand up.

21 Q So could any one of those two gunshot wounds alone
22 have killed the victim?

23 A Yes.

24 Q And what type of feeling would the victim be going
25 through at this time? Would he be able to breathe due to

1 these injuries?

2 A Well, you know, death is not usually instantaneous
3 like on television. When somebody is shot, it's not like
4 they're instantly dead. So there is some -- I don't
5 really know how long it might take, but he's going to
6 start -- like his breathing is going to slow down and his
7 heart is not going to be functioning. So, you know,
8 there's still some oxygen in his brain, so he's going to
9 be awake, but eventually, there's bleeding internally, so
10 he's going to lose blood pressure and stop breathing. It
11 kind of may take a minute or two.

12 Q So would he have been losing blood rapidly?

13 A Yeah, rapidly, because it went through the heart and
14 lungs. You know, there's going to be rapid bleeding. And
15 plus the aorta. So there's a lot of bleeding internally,
16 and it's going to be more rapid because we have got major
17 sources of blood, you know, coming from the heart and the
18 aorta.

19 Q And since he was shot in the lung, would his lungs
20 have been collapsing at this time?

21 A Yes. So the collapse of the lung is not just caused
22 by the bullet through the actual lung. That's going to
23 cause collapse of the lung, but also the injury to the
24 diaphragm keeps the lungs expanded so that injury to the
25 diaphragm will also attribute to collapse of the lung.

1 It's not just one thing. I mean, there's multiple
2 problems that are occurring because of these two very
3 serious gunshot wounds that resulted in his death.

4 Q And, Doctor, are you familiar with the term
5 "stippling"?

6 A The term "stippling"?

7 Q Or the idea of stippling?

8 A Yes.

9 Q And could you please explain what stippling is to
10 the jury?

11 A Okay. So when a bullet comes out of the barrel of
12 the gun -- barrel of a gun, it's propelled forward by
13 gunpowder that's burning. So, you know, the bullet is
14 propelled forward by gunpowder that's present and it
15 basically ignited.

16 So when the bullet is propelled forward, some of
17 that gunpowder actually comes out of the barrel of the gun
18 along with the bullet. And gunpowder -- if -- gunpowder
19 doesn't travel that far. Maybe traveling up to two, two
20 and a half feet from the barrel of the gun. So if
21 somebody is shot in close proximity to the barrel of the
22 gun, then we frequently see some of that gunpowder, which
23 leaves, like, what we call stippling. It's basically like
24 particles of gunpowder that impact the skin and cause
25 abrasions. But I don't believe I saw anything in this

1 case.

2 Q So when you say "close proximity," would it be, say,
3 this close?

4 A Yeah. Well, you know, it varies by individual gun,
5 but normally, gunpowder stippling would not be expected to
6 be seen further away than two and a half feet or so, so
7 that's about 30 inches.

8 So it can still be somebody standing nearby -- a gun
9 standing nearby. But I don't see any evidence of
10 close-range fire. I don't see any evidence of either one
11 of these shots having been shot within two and a half
12 feet.

13 Q Okay. So, under your opinion, would these gunshot
14 wounds have been of a distance exceeding two and a half
15 feet?

16 A Yeah, well, I don't actually make that
17 determination. As the pathologist, we can only call it
18 indeterminant range. So if I see stippling, I can say
19 it's within two and a half feet, but if I don't see
20 stippling, I just can't really say what the range is, and
21 I say it's indeterminate range. I don't see any evidence
22 of close range.

23 Q And other than the two gunshot wounds, did you see
24 any other wounds on the victim?

25 A No. He did not have any other injuries.

1 Q Did you see any signs of an altercation on the
2 victim's body?

3 A No, I did not. Yeah, I did not see any evidence of
4 any kind of, you know, bruising or scratches or anything
5 on his hands. That's sometimes what I might see, but I
6 didn't see anything to indicate that there was an
7 altercation.

8 Q So scratches or bruises on the hands would be signs
9 of defensive wounds?

10 A Right, but I didn't see anything like that.

11 Q What about toxicology? Did you-all perform a
12 toxicology analysis on the victim?

13 A Yes. So every individual who has an autopsy that's
14 ordered by one of the coroners -- one of the county
15 coroners in this state -- this is a medical-legal autopsy,
16 it's a forensic autopsy -- and everybody has toxicology
17 performed as part of their autopsy, whether or not it's
18 responsible for death.

19 So, at the autopsy, I drew blood from Joshua
20 McPherson. And I don't perform these tests myself, but
21 they're sent -- you know, the samples are submitted to a
22 professional toxicology laboratory, and then results are
23 then reported to me, and I always include them in my
24 autopsy report.

25 And, in this case, he did not have any evidence

1 of -- he didn't have any drugs or alcohol in his blood.

2 Q So your testimony is that the victim did not have
3 any drugs in his body?

4 A Zero.

5 Q And no alcohol?

6 A No alcohol.

7 Q Okay. And, Doctor, if you will, on your expert
8 opinion, what do you believe the cause of death was to
9 Joshua McPherson?

10 A The cause of death is gunshot wounds to chest.

11 Q And could that have been from any one of the two
12 gunshot wounds?

13 A If I thought only one wound was responsible, I would
14 have said "gunshot wound to chest," but I said "gunshot
15 wounds" because they both played a role.

16 Q So is it fair to say that both were equally deadly?

17 A Well, they both -- either one of them alone would
18 have been respon- -- been able to cause death. So I have
19 two fatal gunshot wounds. I don't -- I say "gunshot
20 wounds to chest" is the cause of death.

21 MR. HARRELSON: Court's indulgence. No further
22 questions.

23 THE COURT: Cross?

24 CROSS-EXAMINATION

25

1 BY MR. WILSON:

2 Q I just have a couple of questions, Doctor.

3 A Sure.

4 Q Let me show you your -- is this a part of your
5 report? Let me show you that.

6 A Yeah, this is the toxicology report.

7 Q All right. And let me show you this page of it. Is
8 that included in the report that you're holding in your
9 hand?

10 A Yes, this is not -- I incorporated the results into
11 my...

12 Q I just need your -- to help me explain.

13 A Do you want me to tell you what that is?

14 Q Not that. This. I need you to just explain what
15 that means.

16 A Okay. So the -- so there were actually
17 cannabinoids, which is a breakdown product of marijuana,
18 in his urine. So if you know anything about urine drug
19 screens, it could have been from weeks earlier. So he had
20 some cannabinoids in his urine. They're not quantitated.
21 We're not measuring them, but he wasn't under the
22 influence of marijuana. There was nothing in the blood to
23 indicate that there was mar- -- but he -- at some point,
24 he was using marijuana previously.

25 Q Let me ask you: You had talked about stippling and

1 you said that, as best you could tell from the two wounds,
2 that you didn't see any stippling on the body itself; is
3 that fair?

4 A That's correct.

5 Q What about the clothing? Did you examine the
6 clothing as well?

7 A He actually was only wearing -- by the time he got
8 to me, he was wearing briefs only.

9 Q Okay.

10 A So I believe he had gone to the hospital first where
11 they tried to resuscitate him, so I didn't receive the
12 clothing.

13 Q And the reason I'm asking you that is, if a person
14 -- say I'm standing here and I have got this jacket on and
15 I'm shot from 24 inches away; it would be less likely that
16 you would find stippling because my clothing would
17 interfere with the stippling being on the wound?

18 A Yes. It frequently -- it may block a significant
19 amount of it. Sometimes, if it's just a T-shirt or
20 something, some of it can get through.

21 Q And no one brought you the clothing?

22 A No.

23 Q So you wouldn't have examined them anyway?

24 A Well, I might have eyeballed them, but I'm not
25 doing, you know, subtle testing for, you know, gunpowder

1 particles, which may or may not be visible to my naked
2 eye. But if something is obvious, I'll mention it, but I
3 don't examine the clothing in this case either.

4 Q And I think my last question to you, Doctor, is that
5 you said that either of those shots or either of those
6 wounds would have been fatal for him?

7 A That's my opinion, yes.

8 Q And is there any way to know which of those were
9 inflicted first?

10 A Honestly, there is no way that I could say with
11 any --

12 Q Is there any way to know the time frame between the
13 infliction of the two wounds?

14 A No.

15 Q Now, have you ever testified as a forensic expert in
16 blood spatters?

17 A No.

18 Q And in judging the manner of death, in judging the
19 position of the body at the time of the infliction of the
20 wounds, if you knew more about the scene where the
21 shooting actually occurred, would that help in your
22 determination as to the position that he may have been in
23 at the time he was shot?

24 A Yes. That -- I would think that may be something
25 that scene investigators could learn from that, but I'm

1 not -- I don't go to the scene. I'm not invited to the
2 scene. I get the body and responsible for examining the
3 body. But it's possible that that may be the case.

4 Q Okay. If I'm -- but you said you're not an expert
5 in blood spatter?

6 A Yeah, I know very little about blood spatter. I
7 have had about three days of blood spatter lecture
8 20 years ago.

9 Q But you do know that there are experts in that
10 field; right?

11 A Yes.

12 Q In that forensic field.

13 And those experts can actually look at the spatters
14 and tell where the positioning of the body was at the time
15 of the infliction?

16 A Yeah, right. That still requires interpretation ---

17 Q I understand.

18 A --- and that's not necessarily, you know, like
19 true -- people can also disagree about that.

20 Q Thank you so much. Appreciate it.

21 A Did you want this back?

22 Q Yes, ma'am. Thank you, ma'am.

23 MR. RIGNEY: I have no questions, Your Honor.

24 THE COURT: Any redirect?

25 MR. HARRELSON: No further questions, Your Honor.

1 THE COURT: Hope you have a good day.

2 THE WITNESS: Thank you.

3 THE COURT: Do you have any more witnesses?

4 MR. HARRELSON: No, Your Honor. At this time, the
5 State rests.

6 THE COURT: Members of the jury, if you would step
7 into the jury room. We're going to have lunch for you,
8 and we're going to take up some matters out here while you
9 eat and finish this trial today.

10 (The jury exited the courtroom at 12:08 p.m.)

11 THE COURT: Any motions?

12 MR. WILSON: Yes, sir. Your Honor.

13 MOTIONS/MATTERS OF LAW

14 MR. WILSON: I have two motions. One, let me start
15 with the motion to ask for a directed verdict as to
16 burglary first degree. There has been no testimony that I
17 have heard where the owner of the facility or the
18 apartment has come in and said, "I never authorized them
19 to come in."

20 The young man Mr. Robinson's testimony was that he
21 didn't know they were coming. That's what he said, that
22 he didn't invite them, but other than that, there is
23 absolutely no testimony about the burglary and -- other
24 than the officer saying, "Well, on the video, it looks
25 like he's getting something out of his sock and he's

1 there's no forced entry. There's no evidence of any
2 forced entry.

3 The permission that was given -- now, Marion would
4 not know that someone else in the apartment had a text
5 sent to him or had agreed to come in or not. So I think
6 that's kind of irrelevant to this. I think everything
7 that we have got points to the fact that this is not a
8 burglary.

9 (Pause in the proceedings while the Court reviews
10 documents.)

11 THE COURT: I'm going to grant the directed verdict
12 in regard to the burglary only.

13 MR. WILSON: Thank you, Your Honor.

14 MR. RIGNEY: Thank you, Your Honor.

15 THE COURT: Any other motions?

16 MR. WILSON: I don't have any other motions at this
17 time. When we get ready to start with arguments and
18 charge, I do have a motion that I would like to take up
19 with the Court at that time.

20 THE COURT: Any motions at this time?

21 MR. RIGNEY: No, Your Honor.

22 THE COURT: Do you want me to question them about
23 their right to remain silent?

24 MR. WILSON: Yes, sir.

25 THE COURT: If both of you would stand up.

1 do you feel confident that you can stand on your murder
2 conviction? I guess that's the way I look at it.

3 If we charge it and they come back with murder,
4 you're good. If we don't charge it, it possibly could be
5 an issue down the road.

6 With the idea of the guns and the blood and the
7 testimony about the tussle, I wouldn't even think about
8 charging them. It's slim.

9 (Pause in the proceedings while counsel confers.)

10 THE COURT: I think the fact that you're talking
11 about it that much probably tells me it should be charged.
12 Why don't we charge it and see what happens, out of an
13 abundance of caution.

14 MR. HARRELSON: I have no issue.

15 THE COURT: Are y'all ready to close?

16 MR. WILSON: We're ready.

17 MR. RIGNEY: Ready, Your Honor.

18 (The jury entered the courtroom at 2:20 p.m.)

19 THE COURT: All right. State's recognized for your
20 closing statement.

21 MS. LIVESAY: Thank you, Judge.

22 CLOSING ARGUMENT ON BEHALF OF THE STATE

23 MS. LIVESAY: Ladies and gentlemen of the jury, we
24 have been in here now for four days so y'all already know
25 who I am; I'm not going to introduce myself again.

1 Now, we are wrapping it up now. I know you guys are
2 tired. We have been here since Monday, but I ask you to
3 please give me your full attention right here at the end,
4 because this is where we're going to go over everything.
5 And this is important.

6 I think we can all agree that a young man was
7 killed. And this is important. And the truth is, his
8 family -- Ms. McPherson, Joshua's daddy, grandma -- all of
9 this crowd has been waiting for today. Been waiting for
10 today.

11 Joshua was killed that night, but his story is not
12 over. This story is not over. You twelve will get to
13 decide how this story ends.

14 When we look through the evidence, we're trying to
15 figure out who the good guys are and who the bad guys are.

16 Now, Mr. Wilson came in here on Day 1 in the opening
17 and said this young man, talking about the defendant, his
18 life or his fate is in your hands. I don't know if y'all
19 remember that or not. I thought I could throw up in my
20 mouth when I heard that. Right?

21 Micah Pressley and Fanotti Neal decide their fate,
22 and that's true for every one of us. Every one of us in
23 this courtroom, in this world are sowers and reapers. We
24 make our own choices. We make our own decisions. Those
25 choices and decisions decide our fate. We either sow good

1 decisions and we do good things and we reap the benefits,
2 or we sow evil ones, and we have to reap the consequences
3 of that. But that's on us. Whatever decisions we make
4 decide our fate.

5 You know, in this case, I feel like it's everybody's
6 fault but the killer's. You know, I deal with people all
7 the time that don't want to come forward, don't want to be
8 involved.

9 What we saw in the last four days is why. All of a
10 sudden, the guy that comes forward, the eyewitness, he's
11 the bad guy. All of a sudden, the police are liars.
12 Everybody is the bad guy but the guy running around in the
13 middle of the night. That's what Mr. Wilson wants you to
14 believe.

15 Let's look at what happened. And let me say this,
16 Micah Pressley and Fanotti Neal are to be evaluated
17 separately. So in this closing, we are going to look at
18 each one separately. When you go in the back, there will
19 be a not guilty/guilty for Micah Pressley and
20 not guilty/guilty for Fanotti Neal. So let's keep them
21 separate for now.

22 Now, 5:42 Sunday morning. Look what we got. Still
23 nighttime outside.

24 (Video plays.)

25 Stop. This guy here, hoodie, long pants. This guy

1 here, hoodie, long pants. And I want you to check out the
2 body language of these two when they're showing up.

3 (Video plays.)

4 Watch this guy, Micah Pressley.

5 (Video plays.)

6 Look it there. If you want to know what's on that
7 young man's mind, this right here is. 5:42, showing up to
8 the apartment, out there in a black hoodie. He ain't even
9 walked in yet and he's already doing his arm like this.
10 He's already telling you what's on his mind. And he's
11 already telling you why he's there.

12 (Video plays.)

13 We're going to come back to that. Let's just worry
14 about Micah Pressley right now. Now watch him. Look at
15 him digging in his shoe.

16 Hit pause.

17 They came up, Fanotti Neal knocked on the door.

18 They stood around out there probably 30 seconds. Micah
19 Pressley out there walking around, working himself up like
20 we all do before we're getting ready to get into
21 something, doing his arm like this, getting fired up
22 before he gets in there. Nobody ever comes to the door.

23 They drove an hour; right? Drove an hour. Drove
24 all the way here from Florence in the middle of the night.
25 Left at 4:30 in the morning. Had been up all night

1 worried about getting to Conway. So there's no turning
2 back now. Just because, knock-knock, nobody shows up.
3 Plan B. Go right to Plan B. We're not leaving. We drove
4 an hour. We're not leaving until we get in there. We
5 drove all this way. We had to steal a car and drive here
6 in the middle of the night. So we're not leaving. We're
7 not accepting no as an answer.

8 So he's going to dig in his shoe like you saw him
9 and he's going to break in. There ain't no doubt about
10 it. When we saw all those people show up before then,
11 everybody went to the door and used their key. Nobody is
12 sitting around digging in a shoe at any time, walking up
13 to the door.

14 He broke in. Clearly, he broke in. Nobody would
15 let them in, and they were getting into that apartment
16 that night. So you see him break in.

17 (Video plays.)

18 Stop. After he breaks in, he moves to the side.
19 He's done his part as far as right here goes. So he moves
20 to the side. He's broke into the door. And now the other
21 folks are going to follow him.

22 It's 5:43. What's going on in the room? We know
23 what's going on in the room. Fanotti Neal told us and so
24 did Charrel Floyd. The lights are off. The victim is on
25 the couch asleep. Marion Robinson is in the chair asleep.

1 Those two young men are doing everything they're supposed
2 to be doing. They're at home asleep with the lights out,
3 doing nothing wrong. Nothing wrong. When these people
4 show up at a time when they're the most vulnerable. The
5 most vulnerable. They didn't show up at 9:00 when they
6 were all up. They didn't show up at 12:00.

7 Hold right there for me.

8 Our people didn't even get back until 3:30 or 4:00.
9 They didn't show up when our people were moving around,
10 when Joshua McPherson was up, when Jalen was up. They
11 waited until the people were asleep and at their most
12 vulnerable moment.

13 Everybody from Fanotti Neal to Charrel Floyd to
14 Marion Robinson, the one thing everybody agrees on is
15 Joshua McPherson, our victim, was asleep on the couch.
16 Everybody agrees to that: The defendant and the people in
17 the house.

18 Stop it there.

19 5:50. These three people leave. They clearly know
20 something is getting ready to happen. Charrel said,
21 "Look, I left because everybody's in there asleep. Why am
22 I walking around when everybody is in there asleep?"
23 Right?

24 But if you're wondering who the one is with malice
25 and evilness in their heart, it's the one, Micah Pressley

1 and Fanotti Neal -- but we'll get to Fanotti in a minute.
2 They can't walk out of that apartment.

3 Charrel tells you, when she walks out, my victim --
4 our victim, Joshua McPherson, is asleep on the couch.
5 He's still alive. Micah Pressley could have walked out
6 with his friends. These are the three people you came
7 with. When they left, why wouldn't you leave?
8 Everybody's in there asleep. There's nothing left to do.

9 Because there was something left to do for Micah
10 Pressley. He had already got in the car, driven up here,
11 gotten the gun. All of these are choices. All of these
12 take planning. You can't just catch him at any time. You
13 have got to catch him when he's the most vulnerable. This
14 is when this young man was the most vulnerable. He was
15 away from home. He was here to celebrate his brother's
16 birthday. He was asleep, expecting nothing.

17 Choices. Sowing and reaping.

18 Micah Pressley could have walked out right behind
19 Charrel Floyd. If he had of, this woman would still have
20 her son. And we wouldn't be here today. That's all it
21 took. Choices. But that's not the choice he made.

22 Even after he drove all the way from Florence, he
23 could have let it go. He could have let that young man
24 live. He could have. That was his choice. When they
25 left, Joshua McPherson was alive. Micah Pressley could

1 have walked out and left that young man to live a full
2 life. And we wouldn't be here. But he couldn't. He
3 could not do it. Something was in his heart. Malice and
4 evil. And it would not let him leave. He could not leave
5 until he did what he came to do.

6 (Video plays.)

7 Choices. Look how long he's in there. All this
8 time he could have left, walked out. Nobody was there to
9 stop him.

10 (Video continues to play.)

11 Stop. He's standing there a minute. Got all that
12 time. Everybody's asleep. He could have left. Nobody
13 would have known the difference. He couldn't do it. He
14 could not do it. He could not do it until he killed that
15 young man.

16 Now, this gun. Looks just like this one. This gun
17 was found in Micah Pressley's house. And do you know the
18 one thing we know about this gun? The one thing, the only
19 thing in that report that was not inconclusive -- we got
20 one thing out that wasn't inconclusive and that's that,
21 out of every gun submitted, Mr. Wilson wants to talk about
22 these two guns in the victim's house. And we're going to
23 address it. But I want to tell you right now, it couldn't
24 have fired this bullet. This bullet that was collected
25 from her son's spine, the two guns in the apartment could

1 not have fired this bullet. The only gun that could have
2 fired this bullet that was submitted to SLED was the very
3 gun that was found in Micah Pressley's house, that matches
4 the very gun that he's running out with.

5 He brought the gun for a reason: To use it. Now,
6 what else is strikingly strange about this situation?
7 Because it's so weird how little things kind of hit us.
8 And the thing about this is, there was only one shell
9 casing, if you remember, found on the kitchen floor. One
10 shell casing. And, ironically, this gun jams. You shoot
11 it one time, and the shell casing gets stuck.

12 Isn't it strikingly strange that Micah Pressley is
13 running out with a black semiautomatic that looks just
14 like the one found at his house that shot the bullet that
15 killed a young man and, after one shot, the shell casing
16 gets caught? And there's only one casing in the house.

17 I'm sure when that casing got stuck, if he's
18 anything like me, it startles you, because you don't know
19 if the gun is going to blow up, if it's going to go off.
20 At least I do. My guess is, he didn't want to come
21 running out like this. See how he's holding it?

22 But the shell casing was jammed in here and he
23 wasn't going to put it back in his pocket. And he didn't
24 have time to dig that casing out to fire again.

25 So I'm sure, when it got jammed, his first reaction

1 was to look at it and then take off running. But he was
2 not going to put it back in his pocket with that bullet
3 laying up in there with the casing. He wasn't going to do
4 that. He made a good choice there for himself. He wasn't
5 going to make sure anything happened to him.

6 He didn't mind killing a 17-year-old young man, but
7 he weren't going to put this gun back in his pocket when
8 it jammed up.

9 Now, what else was found in his house? Say it ain't
10 so. The exact sweatshirt he was wearing the night of the
11 murder. Exact sweatshirt. And that's kind of his go-to
12 sweatshirt because I'm showing you State's Evidence 51 and
13 52. Here he is a month before the shooting wearing the
14 same sweatshirt.

15 So he runs out with a black gun, wearing a hoodie
16 sweatshirt, and those very items are found at his house
17 two days later. There's no doubt this defendant shot
18 Joshua McPherson. There's no doubt. He got in there. He
19 couldn't let it go, and he killed him.

20 Now, Mr. Wilson has come and tried to tell you,
21 "Well, how about there were two guns in the victim's
22 house?" Two guns in the victim's house. How about them?
23 How about them? Lord, if they find me dead in my house, I
24 am screwed because there's more than two guns in there. I
25 can assure you of that.

1 And this young man must not be like me, because I
2 keep one right under my pillow. Keep one there, beside
3 me. Because of this. This is what we're all afraid of.
4 This is our worst nightmare, to be somewhere where we're
5 comfortable, where we feel safe and have this happen.

6 There's two guns in the house of the victim's.
7 There's no doubt about it. And it's awful, it's sickening
8 that, now, somehow this has gotten twisted that the young
9 man asleep on the couch has done something wrong.

10 And let me tell you something, folks, if the young
11 man had fired a shot, he would have been in his well right
12 to fire one. And I'm telling you, if somebody breaks into
13 your house, go on and pull the trigger, because I can
14 assure you, if they're breaking in in the middle of the
15 night, this is what their intentions are. You cannot have
16 good intentions when you break into an occupied residence
17 at this hour. You cannot.

18 So this idea that there's two guns in the victim's
19 house, what if there is? Does that make this less guilty,
20 less wrong, okay? No. And we know this gun, without a
21 doubt, fired one of the shots. Could not have been the
22 gun from inside the house. Could not have been.

23 Now, if Mr. Wilson didn't persuade you with that,
24 when we were up here and the last lady that testified was
25 Dr. Riemer, something along that line, she was the

1 pathologist. She was up here telling you that the man was
2 shot twice. Two different bullets. Don't forget that.

3 The SLED guy came in here and said, without a doubt,
4 two different guns were used. One gun could not have
5 fired two bullets. So we know we have two shooters and
6 we've got two guns. And we know we pulled two out of the
7 victim so we know both hit him.

8 She was up here telling us how one of the bullets
9 went through his heart and his lung. That's rough. That
10 is a rough wound for a 17-year-old to have, to go through
11 the heart and the lung.

12 The other one went through his diaphragm. That's
13 what helps us breathe. And it hit his spine. When a
14 bullet hits your spine, you lose all feeling everywhere
15 down. The injuries he suffered to the diaphragm, the
16 heart, and the spine left him unable to breathe and unable
17 to walk.

18 After we heard that -- and she told us he had no
19 drugs in his system -- no drugs or alcohol -- Mr. Wilson
20 got up here and said, "Hey, how about this marijuana?"
21 You see this on the drug scan, the drug toxicology? She
22 said that doesn't mean he was smoking marijuana at the
23 time. It means he had he smoked it sometime previously.

24 So I guess if it doesn't matter that there are two
25 guns in the house, I guess he's hoping to you folks his

1 life is less valuable since he had that marijuana.
2 Somehow now this murder, the fact that he was shot, man
3 couldn't breathe, couldn't walk, couldn't move his legs,
4 what's important to him is that he had some marijuana in
5 his system.

6 It's hard to even listen to that kind of absolute
7 trash. This young man died a horrible death, and the fact
8 that he had marijuana metabolite means nothing. Nothing.

9 Now, if you're wondering if it's Micah Pressley, let
10 me go ahead and tell you, the first go-to move is it's not
11 him, but if it is him, he ain't the shooter, and if he is
12 the shooter, he did it self-defense. I promise you, it's
13 going to be everything under the sun.

14 There was no doubt, when you look at the evidence on
15 Micah Pressley, that he broke in and killed the young man.
16 The gun and all the clothes were at his house.

17 Now, let's talk briefly about Fanotti Neal because
18 we know -- we know Micah Pressley did it.

19 (Video plays.)

20 Can you just start it over for me? Thank you. I
21 apologize.

22 (Video plays.)

23 Now, look at him when he comes up to the door,
24 Fanotti Neal. Watch him. Look at him go up to the door.
25 Pop, pop, pop. He's ready. He's worked up. It's 5:30 in

1 the morning, and he's walking around like that, trying to
2 get in, worried about getting in.

3 Can you fast forward it just a tad? Thank you. Hit
4 pause.

5 Say it ain't so. Look right here in his waistband.
6 It ain't a black gun. When you look --

7 Can you hit the light for me just a little bit,
8 please, ma'am? Thank you. I appreciate you.

9 Look right here. Right where you would carry a gun.
10 And it's not black. It looks a lot like this color.
11 Isn't it strikingly strange he's popping on the door, got
12 something clearly tan in his waistband -- not black, not
13 orange, not red, something this color when he's knocking
14 on the door.

15 And you know what's strikingly strange about that?
16 SLED told you this could be one of the guns that fired the
17 bullet, the other bullet that shot the victim.

18 Isn't it strikingly strange that the two guns found
19 in Micah Pressley's house, one without a doubt fired the
20 gun, and this one he told you could have fired one.

21 My guess is Micah Pressley fired, the gun jammed.
22 Fanotti Neal fired, and the boy went down.

23 (Video plays.)

24 Fast forward it just a touch. Just take me to where
25 they were running out, please.

1 He ain't in there for about a minute. And look at
2 him. Pulling his face mask down. Can you pause it?

3 This. This right here is like a killer's kit right
4 here that Fanotti had. Now, both of them ran out. And do
5 we everyone need to question if that's Fanotti Neal?
6 Fanotti Neal said it was Fanotti. The girlfriend said it
7 was Fanotti. Marion Robinson said it was Fanotti.
8 Charrel Floyd said it was Fanotti. Is there any doubt
9 that that is Fanotti Neal? And, clearly, they're the only
10 two out of the five that are sprinting out.

11 Now, what did they leave behind?

12 Can you hit pause and go back just a hair and hit
13 pause? Hit pause.

14 Marion Robinson told us, when the young man was
15 shot, he was trying to get up off the couch. How do we
16 know -- how do we know if what Marion told us is true?
17 Because we know Fanotti Neal himself said he was there,
18 and we know from the video that the guy in the black
19 hoodie was there.

20 He says he felt somebody run out. Do we know that's
21 true? The video shows him running out. We know he was
22 telling the truth.

23 Now, he says he's getting off the couch. The victim
24 is trying to get off the couch. What does the evidence
25 show? Look at this young man. Right there at the couch

1 where Marion said. The two bullets -- and I don't know if
2 y'all caught this, but the two bullets had a downward
3 trajectory, which means the gun is at a higher level, and
4 the victim is kind of leaning over. Either way, it's a
5 downward trajectory.

6 Neither shot was in the arm or in the leg. Both
7 shots were kill shots. Both shots were right at this
8 young man's chest.

9 Now, Fanotti goes home. This young man, he's laying
10 here. They're sprinting out, trying to get away. Going
11 back to Florence. Pop, pop, pop, going back to Florence,
12 go right back to Florence. Fanotti changes his clothes.
13 Still got to keep the ski mask. Changes his clothes, does
14 all that, be-bopping around town. When he's stopped, he's
15 in the car with his girlfriend. Nothing bothering him.
16 And all the while, he just left this.

17 Now, the judge is going to read you murder. All it
18 is, is a killing of another with malice aforethought. Do
19 we have a killing of another? Look at him. Is there
20 malice? You see Micah Pressley out there doing like that.
21 That's malice. You see Fanotti Neal out there looking
22 around, bobbing around, trying to get in that door?
23 Malice.

24 But even then the real malice is when the three
25 people leave and they won't leave. Sow and reap. They

1 sowed the decision to stay behind and to kill that young
2 man. Today -- today is the time to reap.

3 Now, this young man has lost his life. The judge is
4 going to read murder, and he's going to read voluntarily
5 manslaughter. We indicted him for murder. I'm telling
6 you it's murder, but the Judge is going to read you
7 another option: Voluntary manslaughter.

8 What is voluntary manslaughter? It's heat of
9 passion. That's what it is. I come home, I see my
10 husband in bed with another woman, and I shoot him.
11 Voluntary manslaughter. Heat of passion. It's in that
12 moment of anger. I'm so angry, I can't even control
13 myself. This is not voluntary manslaughter. We can't
14 accept that. This is a cold-blooded killing.

15 These people didn't take one thing from that
16 apartment. They didn't steal anything. When you look
17 through the scene pictures, the young man's shoes and
18 everything is still there. The one they wanted was his
19 life. That's what they came to take, and they took it.
20 And they weren't leaving until they got it.

21 Now, you're going to hear a lot from the defense
22 attorneys about those other two guns. I'm telling you
23 folks, there ain't nothing to it. The two killers are
24 right there. The idea that his brother or somebody else
25 in that apartment killed him is beyond any kind of realm

1 of possibility. And there's no evidence of it. Everybody
2 in there is trying to help the young man. There's no bad
3 actors in the apartment.

4 The bad actors are the ones running out of their
5 home, putting their mask on, trying to unjam the gun.
6 Nobody in the apartment is doing anything wrong so don't
7 be fooled by that. Don't be fooled by that.

8 This whole trial has been nothing but trying to
9 tarnish everybody that's come in here to try to tell what
10 they know. Everybody is a horrible person according to
11 the defense but the killer. Everybody but them. We can't
12 accept that. Not in here.

13 When you go back in that room, you will decide how
14 this ends for Joshua McPherson and his family. We all
15 know right from wrong. We have all read enough books to
16 know that we want the story to end right. We want the
17 good guys to win and we want the bad guys to be punished.
18 That's how all of us grew up. Even in fairytale stories
19 for kids, it's also about sowing and reaping.

20 I'm asking the twelve of you to give this story of
21 Joshua McPherson the right ending. And there's only one
22 way to give it the right ending, and that's to come back
23 with a guilty verdict for murder. Sowing and reaping.

24 Mr. Pressley and Mr. Neal made their own decisions.
25 They didn't have to kill anybody. And damn if they didn't

1 work hard to kill this young man. And the determination
2 was relentless. So I'm asking you-all to come back with a
3 guilty plea. Thank you for your time.

4 THE COURT: Thank you.

5 Mr. Wilson?

6 MR. WILSON: Can we move this?

7 CLOSING ARGUMENT ON BEHALF OF DEFENDANT PRESSLEY

8 MR. WILSON: Mr. Foreman and ladies and gentlemen,
9 if there is probably any part of a trial that is useless,
10 it's probably this part where the lawyers get up to tell
11 you their opinion or their views on what you saw. The
12 truth of the matter is, you're a lot more capable, the
13 twelve of you, in making a decision about what you saw and
14 heard than any of us, because normally when something is
15 going on in the courtroom, I'm either trying to take notes
16 or trying to pay attention to who the next witness is or
17 I'm trying to listen to something the judge might be
18 saying and I miss things. But your sole job here today
19 and this week has been to listen. That's it. You don't
20 have any other responsibility.

21 And when we talked earlier, I said to you if you did
22 that, if you listened, if you paid attention, at the end
23 of that process, you're going to be in a position to
24 render a verdict that speaks the truth. That's all that
25 can be asked of you. You have no friends to reward. You

1 have no enemies to punish. Your job is not to have
2 sympathy. It's to find the truth.

3 And having said that, always understand that the
4 burden of proof is upon the State. The defendant -- I
5 don't care how serious the charge might be, no defendant
6 ever has the burden of proving himself innocent. Because
7 most of the time, that would be impossible. If I'm home
8 in my bed at 3:00 in the morning and the police knock on
9 my door and said, "There was a bank robbery down the
10 street, Mr. Wilson, and we think you're the guy who did
11 it," how am I going to defend myself? I was home by
12 myself.

13 "Well, somebody says that they saw you down there."

14 "Well, it wasn't me. I was home by myself."

15 "Well, do you have any proof that you were home by
16 yourself?"

17 "No, I was home by myself."

18 So it's impossible sometimes to prove that you did
19 not do something. That's why the State has the burden of
20 proof. They have to prove beyond a reasonable doubt that
21 you and no one else did the crime. Not that you're
22 suspicious. Not that, "Well, you know, it doesn't look
23 good." Not that "Well, you know, it's kind of funny."
24 No. That's not evidence.

25 Not one witness -- not one witness has come into

1 this courtroom and said to you I saw either of these young
2 men shoot anybody. The closest thing you got to that is
3 you have got Marion Robinson. So let's talk about Marion
4 Robinson for a minute.

5 Marion Robinson's story is that he was asleep and
6 that a person, is what he says -- one -- came to him, and
7 he said that was Mr. Fanotti, and he dapped him, meaning,
8 "Hey, what's going on," that kind of thing. And that he
9 then goes back under his covers and goes to sleep.

10 That he later says he hears some tussling, according
11 to him. He then hears a shot. And then he takes the
12 covers down and looks, and he sees a man with a black
13 hoodie on running out of the room.

14 Now, the question was: When did he come up with
15 that story about the man in the black hoodie? Because if
16 you'll remember, I asked him on the stand about the man in
17 the black hoodie and the fact that he hadn't told that
18 story until January of 2023, when this happened in May of
19 2022. The first time that he ever tells that story.

20 And he says, "Oh, no, no, no, I told the police that
21 night."

22 So then the police officer gets up. Right?
23 Remember that? He gets up and he testifies, "Oh, yes,
24 yes, he told me that." I said, "Okay, fine. Show me a
25 report where you put that in there that he told you that."

1 Have you heard a report yet where the police officer
2 got back up and says, "Oh, yeah, here's the report where
3 he told me that." Not one word. Because it didn't
4 happen. He never told the police about this until
5 January. And let me tell you why. Because they were on a
6 hunt for a particular person; that being Micah Pressley.

7 And he says -- that is, Mr. Robinson -- says that he
8 had met Mr. Pressley, I think, a month or two earlier at
9 some kind of a function, and he had on a blue hoodie like
10 this. This is not from the video of the people leaving
11 the apartment. This is from the video that they had some
12 months ago prior to this incident. This is State's
13 Exhibit 51. You'll have it back there. It is not from
14 the video.

15 And the other thing I want to tell you is look at
16 the video. When you get in the jury room, look at that
17 video. The man that opens the door that they claim is to
18 be Micah Pressley is not wearing this hoodie. The hoodie
19 that he has on is either gray or tan. Look at it when
20 he's coming down the hallway. Stop the video. Look at
21 it. It is not black.

22 The only reason they thought it was black was when
23 the man walks into the shadows, then it looks black. Look
24 at it when he gets to the light of the door. You will see
25 that that hoodie is not black. It's not black. It's a

1 fabrication.

2 Let me tell you this, talking about Mr. Robinson
3 again. Mr. Robinson -- and you think about this, how
4 incredible his story is. He says from this witness stand
5 -- and you heard it -- he says that he's sitting there,
6 that he heard some tussling, he heard a shot; that he
7 looked and saw a man walking out of the door with a black
8 hoodie on or something. And then I asked him, I said,
9 "Well, then what did you do?" He said nothing.

10 I said, "Well, did you go see him."

11 He said, "Well..."

12 "Did you go check on Mr. McPherson?"

13 He said, "Well, four or five minutes."

14 And I remember asking him, "Four or five minutes?"
15 I said, "Isn't that a long time? Why would you sit there
16 four or five minutes when you know your friend has been
17 shot? A friend you're in the house with, that you're on
18 the couch next to?"

19 Wait four or five minutes before he knocks on the
20 door of Mr. McPherson's brother. Why? Why? Is that
21 where that other gun comes from? Is that where it was? I
22 don't know. And you know the reason that we don't know?
23 Because they didn't tell us. That ain't my job.

24 Let me say this to you, too, folks: You know,
25 because the solicitor says she like to threw up when she

1 heard me say something. Well, I like to throw up when the
2 police go to a house and they find two weapons in the
3 house with blood on it in a murder and they do nothing.
4 If that don't make you throw up, I don't know what will.

5 And then, when the State tries to hide it from
6 you -- when they try to hide it from you, when they refuse
7 to bring it in here and show it to you and tell you about
8 it, what do you think they're trying to hide? This is not
9 a game.

10 The McPhersons lost their son. You've got two men
11 on trial for their life. And we're playing some kind of a
12 game, let's hide the evidence.

13 What if tomorrow or next week we find out that the
14 blood on the gun belongs to Mr. Robinson and the victim?
15 Then what? What do we do then? Say, "Oops, too late
16 now?" No.

17 The State has failed to prove their case. They have
18 to prove to you beyond a reasonable doubt what took place
19 in that room. And they have failed miserably to do that.

20 You shouldn't have to guess. You shouldn't have to
21 surmise. Let's -- for instance, let's talk about the guns
22 for a minute. The solicitor has been parading it around
23 forever. "Oh, well, you know, this gun here looks just
24 like the one that we saw on the video." Well, I tell you
25 what: I got two just like it. So come to my house

1 because you'll get these too. Just identical to it.

2 And you heard the guy from SLED. He said there are
3 thousands if not hundreds of thousands of these. There
4 are more guns in Horry County than people. But I guess
5 everybody's like me; they got four or five of them.

6 You know what else is interesting in this case?
7 They go to Micah Pressley's house, they say, but now, have
8 you heard anybody say who lived at that house, other than
9 the police officer? Does his mama live there? His cousin
10 live there? His brother live there? Who lived in that
11 house? And who did those guns belong to, if anybody?

12 Did you hear anybody come up here and tell you, "Oh,
13 well, yeah, we found that gun was registered to Micah
14 Pressley?" No. Because they don't know. Because they
15 didn't do their jobs.

16 And let me say this, when the State -- because see,
17 the difference between what I do as a defense lawyer, my
18 job -- I have the one job. My job is to defend my client
19 within the law to the best of my ability. That's the only
20 job I have.

21 The State has a different job. Their job is to be
22 fair both to the defendant and to the public, because
23 their job is to do justice. Mine is simply to defend my
24 client. That is the difference in what we do. They take
25 an oath to do just that.

1 Let me say, folks, that on the night -- well, let me
2 back up because I want to talk for a minute about
3 Ms. Charrel Floyd, I think was her name. Because that's
4 the other person they brought in here to try to say, "Oh,
5 yeah, the person with me was Micah Pressley. That's who
6 it was that was with me."

7 She's been in jail how long? A year and a half.
8 Year and a half. And I kept asking her about the story
9 she told. And you can tell she's lying. She brought up
10 stuff that we know she's lying about. Her sister came in
11 here, got on the witness stand, and said, "No, I didn't
12 give her permission to bring my car to Myrtle Beach."

13 And what did she tell you? A bald-faced lie. "Oh,
14 yeah, my sister said I could bring it right down to Myrtle
15 Beach. She had no problem with that."

16 If she'll lie to you about something that minor, you
17 think that she won't lie on who was with her if it means
18 that she's going to get out of jail sooner? Of course she
19 will.

20 And not only that, think about this: She didn't
21 come up with this story, folks, until when? A year and a
22 half later. And after how many meetings she had with the
23 solicitor? At least three. At least three. And not only
24 did she have meetings with them, what did they do? They
25 go over the video. "Do you know who this guy is right

1 here, the one with the black hoodie on?" even though it
2 ain't black. "Do you know who it is?"

3 "Yeah, that's -- that's..."

4 Because she knows -- she think about it. You think
5 she doesn't know whose been arrested and charged? You
6 think she doesn't know? You think Mr. Marion Robinson
7 didn't know? Of course they knew. Everybody goes on
8 social media these days. Anybody gets arrested, everybody
9 knows about it the next day, sometimes the same day
10 because your face is plastered all over social media.

11 So what happens? What happens? Ms. Floyd comes in
12 here, tells a lie about her sister. Says, "Oh, no, that
13 ain't true. And I didn't steal my sister's car. And I
14 didn't lie to the police." And then a little later on,
15 she says, "Well, yeah, I didn't tell them."

16 But she was honest about one thing when I asked her
17 whether or not she was doing this so she could get a
18 better deal. She said, "Yeah, yeah. I want to get me a
19 deal." And can you blame her? I mean, if you're locked
20 up and you're facing life in prison and you get a chance
21 to say something that might help the State and get you a
22 deal, you're not going to do it? Of course you are.

23 And I asked her, "How many visits have you had with
24 them? Three? Four?" And "How many times did they show
25 you the video and have you point out?" And I specifically

1 asked her this question: "Did they show you this guy and
2 ask you could you identify this particular guy?"

3 "Yeah. Yeah, they wanted to know who he was."

4 What are we doing, folks? What are we doing?

5 But they want you -- now, think about this for a
6 second because what the solicitor said doesn't make sense.
7 She wants you to believe that, okay, well, you ought to
8 convict -- you ought to convict Micah Pressley if you
9 believe that he was the person in that video because he
10 came out of there with that gun.

11 Now, remember, the SLED person testified that one of
12 the guns in the house was also one of the guns that fired
13 one of those shots or could have fired one of those shots.
14 But she says, "Well, everything is inconclusive, so I
15 really don't know."

16 And she says it's inconclusive about this gun.
17 Solicitor would have you believe -- she kept saying it
18 over and over again. I guess she thinks, if you say it
19 long enough to somebody, it will rub off on you.

20 Saying, "Oh, well, you know, that was the only gun."
21 The only gun. Not true at all. The SLED person testified
22 it was inconclusive. It was the only one that was
23 submitted that could possibly have done it, but -- and I
24 specifically asked, "Are you saying that this gun fired
25 that shot?"

1 "No."

2 Because she can't say because she didn't know.

3 So you -- they want you, based on innuendo and
4 suspicion, to send somebody to prison and it's wrong.

5 Let me ask you this: We have two guns. Now -- at
6 the house. Why do you think that the State didn't bring
7 either of those guns here? Why? Why do you think that
8 they didn't tell you about the blood on the guns? Why?
9 Why? I mean, if they're all innocent, test the guns, find
10 out whose blood it is on those guns. Come in here and
11 say, "Look, that blood was from a deer that he shot with
12 this pistol two years ago." Yeah, they don't want to know
13 the answer to that because it will mess up their case.

14 It's wrong, folks. It's wrong. And the solicitor
15 will say, "Well, you know, we want to know who the good
16 guys are and who the bad guys are." And I agree with that
17 wholeheartedly. We should always know who the good guys
18 are and who the bad guys are.

19 And when law enforcement and the solicitor's office
20 start hiding evidence and keeping it from you, then
21 they're not the good guys anymore. And when they refuse
22 to have weapons tested so that you can know who handled
23 those weapons, then they're not the good guys anymore.

24 I want to say this to you: I grew up in Horry
25 County right here in Conway. And my mom worked at an

1 insurance agency just down the street where Vanity Fair is
2 now, that hair salon. And I was a little boy, and at that
3 time, the old courthouse was here, and I would walk with
4 her down to the insurance office to clean up. And every
5 time I would pass this courthouse, every time, I would
6 just get chills because I always thought, "Man, that's
7 where justice is. That's where fairness is. That's a
8 courthouse. That's where we go to get justice and
9 fairness."

10 But then I grew up and I went to law school and I
11 came back. And I realized that it's not in the building.
12 It's not in the bricks and mortar of this building or the
13 old courthouse building, no matter how majestic they might
14 be. It's in the hearts and the minds of you, each of you
15 as you sit here today. Because if there is no justice in
16 your hearts, then it doesn't exist. It doesn't exist in
17 Horry County. It does not exist in this case on this day.
18 You're it. You're justice.

19 The other thing I tell people all the time is, when
20 we come to trial, you're not trying the defendants.
21 You're trying the State. You're trying to determine if
22 the State can satisfy you beyond a reasonable doubt that
23 they have a good case. That's what you're trying to do.

24 So in that sense, they're actually on trial. So the
25 question is: Are they guilty of not providing you with

1 what you need to make your decision? Because, understand,
2 when a jury speaks, the judge can't change what you do, I
3 can't change what you do, the solicitor can't change what
4 you do, because you're the sole judges of the facts in
5 this case and every case.

6 These defendants, this is their day in court. This
7 is their time to be heard. This is their time for you to
8 deliver justice to them.

9 And, see, justice is the same whether it's for the
10 victim or for the defendant. It don't matter. It's the
11 same. Justice is the same. It doesn't change. It
12 doesn't change. What's right is right and what's fair is
13 fair, and if they fail to prove to your satisfaction
14 beyond a reasonable doubt then you must acquit. Because
15 that is your duty, and you took an oath to do just that.
16 To do just that.

17 I want to say, before I sit down, that I thank you
18 very much for your attention. I will say that, for the
19 last four days, I have noticed that you have paid great
20 attention throughout this trial, and the only thing that I
21 ask is that you find Micah Pressley not guilty of this
22 charge. I thank you.

23 THE COURT: Mr. Rigney?

24 CLOSING ARGUMENT ON BEHALF OF DEFENDANT NEAL

25 MR. RIGNEY: Good afternoon. Thank you for staying

1 with us and for paying attention, and as Mr. Wilson just
2 said, I have been noticing that you-all have paid
3 attention throughout this, whether it was watching a video
4 or listening to witnesses. I have been watching you. And
5 I thank you. I know you're attentive -- very attentive to
6 everything.

7 There's no argument that what happened was tragic.
8 It's a terrible loss, a terrible loss of life, but we
9 cannot cure that by convicting someone who is not guilty.
10 Your job is to weigh that and determine what happened.

11 You get to decide what the facts are, and you get to
12 decide whether these young men are guilty or not, and that
13 is what you're here for. The burden is on the State,
14 always. They have to prove beyond a reasonable doubt
15 everything they have alleged. We believe they have failed
16 to do that for a number of reasons.

17 This case is based on speculation. They didn't do
18 all the things they should have done to investigate.
19 Speculation, incomplete investigation. The facts are
20 very, very weak. They can't tie things together.

21 You heard the testimony. You have heard all the
22 things. You have seen the evidence. You watched the
23 videos. It's nice that you get to see the videos because
24 you can see some of the things that are being alleged that
25 are absolutely wrong. They're just not what your eyes are

1 telling you you're seeing.

2 Now, let me remind you of this upfront, a couple of
3 items that I think are important. No one has ever alleged
4 that Fanotti Neal was wearing a hoodie. I don't think we
5 have any evidence of that at all. And in spite of what
6 the solicitor said, there wasn't any burglary. There
7 wasn't anybody -- you saw the video. There's nobody
8 breaking in and tearing things up and getting into the
9 place to cause damage and wreak havoc on the inside of the
10 place which, of course, didn't happen.

11 Now, the State's got the burden of proving in this
12 case murder, and in the murder, they need to show that our
13 clients, one or both, had engaged in an activity that
14 caused someone to die. And there's specific instructions
15 the judge will give to you to tell you what you have to
16 find in order to convict someone of murder.

17 The State in this case has failed to present you
18 with any evidence that Fanotti Neal, my client with the
19 white shirt, has acted together with anyone to cause the
20 death of anyone. The evidence is just not here. You've
21 been listening. You know they have not presented it.

22 When you go into looking at the way things started,
23 when Fanotti went into the apartment -- no doubt about
24 that -- but he didn't go in with guns blazing. He went in
25 and found someone he knew, woke him up, said hello, dap,

1 greeting. Is that the conduct of someone who is in there
2 to do harm, to go in and tell someone, "Here I am, take a
3 good look at me, because I'm going to mess this place up,
4 and I want to make sure you can identify me later"? It
5 just doesn't make sense. It defies common sense to think
6 about things like that.

7 And I know Mr. Wilson told you at the beginning of
8 this trial, bring your common sense with you and keep it
9 each and every day, because that is one of the most
10 important things that you have in the case and any other
11 that you might be a juror for.

12 Again, the case is based, in my opinion and as you
13 have seen, on speculation by the State.

14 What happened at that apartment? There were six
15 people inside. Early in the morning. And some other
16 people, five other people went in. Now, while they were
17 there, as I just told you, Mr. Fanotti Neal woke one of
18 the people up, greeted him; and then that guy went back to
19 sleep. The other people in the apartment didn't come out
20 of their bedrooms, no one came out. According to
21 Ms. Charrel Floyd, there's no -- nothing going on in
22 there. There's no fights. There's no one having any
23 arguments. There's nothing wrong.

24 And so, in the course of being in there, they had --
25 at some point, the three girls -- the two girls and one

1 guy left, and then there's only two people remaining.

2 Now, what Marion said -- Marion Robinson, you heard
3 him say that it was certainly not Fanotti Neal that shot
4 anyone. He gave you that assurance, it was not Fanotti
5 Neal.

6 Marion also told you that Fanotti Neal had no reason
7 to have a problem with anyone there. He knows him. They
8 have been together. He knows that they don't have any
9 problems with each other. Fanotti Neal knew the victim,
10 the victim's brother. Marion -- he actually worked with
11 Marion and the victim's brother previously. Nothing to
12 raise any alarms as to why Fanotti Neal would want to harm
13 anyone in there. Nothing in the past.

14 I'm convinced that you could not see Fanotti Neal
15 with a gun. You may have seen a belt buckle. There's
16 some glare from the light, but the detective was unable to
17 say conclusively that he saw a gun when he was watching
18 the video. And I think you have seen the video too, and
19 you can see what was in there.

20 You can tell by what you saw that you could not
21 determine with any kind of certainty that that was a gun.
22 And, again, it's a belt buckle perhaps. There's only one
23 person that comes out of the apartment with a gun that you
24 can actually see, and that was not Fanotti Neal.

25 Ms. Charrel Floyd and Marion Robinson have both told

1 us that, while Fanotti Neal was in the apartment, no one
2 was upset that he's there. No one is concerned, including
3 both of those -- both of them -- Marion and Ms. Charrel
4 Floyd. She wasn't upset that he's there. She wasn't
5 afraid of him. Marion, obviously, wasn't afraid of him;
6 he greeted him and went back to sleep.

7 So what they told us is that he was just there. He
8 wasn't there, that they could determine, to cause any harm
9 to anyone. He was, as you may have heard me say in the
10 questioning, he was merely present. And that's what she
11 agreed with. Marion and Ms. Floyd both agreed Fanotti
12 Neal was merely present in that apartment.

13 Now, no one knows really what happened there that
14 day, and that's part of the problem. We don't have video
15 evidence inside the apartment. We don't have any evidence
16 from a cellphone that can tell us what happened inside
17 that apartment. You have to rely on your common sense.

18 Now, the solicitor wants you to believe that the
19 story she's telling is what happened in there, but there's
20 no basis in fact for that. You have heard the testimony.
21 You know where this is.

22 Now, there's a lot of problems with the
23 investigation too, and the evidence that we have because a
24 lot of it wasn't tested, including the guns we don't have
25 with us today, and what we discovered is that there's

1 DNA, fingerprints, there were no tests to see about
2 gunshot residue.

3 Now, there's some testimony about it doesn't do any
4 good to do that because it disappears so quickly. But we
5 also heard that, if you can do it instantly, you can get
6 something out of it. And so when the police arrive at
7 that apartment, right after that event took place, they
8 had the opportunity to test everyone who was still there,
9 and if they had done that, perhaps they could have
10 excluded everyone in that apartment as having done
11 anything wrong in this case. But they didn't do that.
12 They just let people walk away. They didn't do a good job
13 of investigating what was going on there. That's the
14 police's job, the investigation. I don't get to
15 participate in that, nor does a defendant.

16 Now, when we have these arrests, what they did is
17 they write warrants, they arrest people, take them in,
18 take them out. With Fanotti Neal, no gun was found on him
19 at his arrest. No gun was found on Micah Pressley either.
20 No gun on either of them. Now, there were some guns found
21 at what the State's alleging is the home of Micah Pressley
22 but nothing on Fanotti Neal. No search warrants were even
23 issued for a search for Fanotti Neal's home. Absolutely
24 none. And nothing was found as a result of that.

25 So when you get back into the investigation, what

1 are we missing? We're missing the collection of DNA,
2 gunshot residue, and fingerprints from everyone in that
3 apartment that could have helped us solve the question
4 about what happened there perhaps. We have got no gun
5 found in the possession of Fanotti Neal or in any
6 residence that he was or any other automobile, nothing to
7 connect him. His DNA -- his fingerprints are not on
8 anything that was used in this crime. Nothing.
9 Absolutely nothing. No connection with him. There's
10 nothing on a weapon, on a shell casing. No fingerprints,
11 no DNA.

12 It seems like we can draw the conclusion there that
13 there's nothing that the State has presented to connect
14 Fanotti Neal to this crime because, in order to shoot
15 someone, it's impossible to do it without a gun. They
16 have not told us anything that he had. We don't see him
17 with a gun. He doesn't have any evidence -- there's no
18 evidence of a gun with Fanotti Neal. Absolutely.

19 The only thing we have got is speculation.
20 Speculation. Now, speculation doesn't get you very far
21 when you're faced with trying to figure out something
22 beyond a reasonable doubt. It doesn't help you out much.
23 You have got to do more than speculate. Let's offer some
24 evidence that you can use. And we got some evidence about
25 weapons. We know that there were -- there was a shell

1 casing and two bullets found in the victim.

2 Now, the weapons that were tested -- and there were
3 four. Even though we only see two here today, there were
4 four weapons tested. Not a single one of those was
5 determined to be with any certainty the one that did any
6 shot.

7 So you remember the firearms guy said there's four
8 possible outcomes. One is, yes, this is the gun. The
9 second one is, what we're testing is unsuitable for some
10 reason. It may have been deteriorated or whatever it may
11 be. The third one is inconclusive. And the last is no,
12 this is not the weapon that fired this shot.

13 Now, we have one weapon that was determined to be a
14 no. We have three that were inconclusive. Two of those
15 found at the home -- the alleged home of Micah Pressley.
16 The other was found in the apartment the same day that
17 this crime took place.

18 You heard throughout the last four days occasionally
19 some comments about this weapon was consistent with the
20 bullet that was fired. This weapon is the only one that
21 could have done it. None of that's right. It is
22 absolutely incorrect. Because, as the firearms guy
23 testified -- and you heard it -- nothing was above the
24 level of inconsistent or inconclusive. That's as far as
25 we go. Inconclusive means we don't know.

1 He also said that it could have been -- in each
2 case, every one of them, even when it was inconclusive, it
3 could have been another weapon of similar -- with similar
4 characteristics.

5 Just briefly about the investigation. We had
6 actually heard some testimony from an officer of the law
7 who was asked to identify one of the defendants who he
8 arrested. And you will remember that he couldn't do it.

9 We have had officers who were asked questions about
10 items in their reports. They couldn't remember them.
11 They couldn't find them. They weren't there. It must
12 have been a mistake.

13 We're dealing with the lives of two young men here,
14 and we deserve a better investigation than this. You
15 deserve that to help you decide what happened here. You
16 are the judges. You get to decide whether this evidence
17 is going to convict any of these -- either of those young
18 men beyond a reasonable doubt. And with the lack of a
19 proper investigation, you're kind of hamstrung on that.
20 You can't do a good job of it yet.

21 So beyond a reasonable doubt means that you need to
22 be really convinced of what's going on. If you don't have
23 evidence to help you be convinced, it's difficult to
24 overcome.

25 Now, I told you a couple of times that Fanotti Neal

1 was merely present in the room, and I believe you'll hear
2 the instructions from the judge that being merely present
3 is not a crime. When people are at a place and something
4 bad happens, not everybody is going to be guilty. If
5 someone came in here today and started shooting it up, you
6 would not be guilty because you're just here. You're
7 merely present.

8 This concept has been around for a long time. In
9 Genesis, Chapters 18 and 19 of the King James Version of
10 the Bible, there's a story about Sodom and Gomorrah, two
11 cities that were so horribly full of sin that God decided
12 he had to destroy them. Abraham went to God and said,
13 "This is not good. How about if I find you 50 righteous
14 people? Would you not destroy those cities?" And God
15 said yes. And Abraham couldn't find them, so he went
16 back. 45? "Yes," God said. He kept negotiating and got
17 all the way down to 10, and, apparently, God could not
18 find 10 righteous people in those cities. However, he
19 sent his angels to the house of a man named Lot and his
20 wife, and he had two daughters, and God instructed his
21 angels to tell Lot, "Get out of there, I'm destroying
22 those places where you live, those cities because they are
23 so sinful that we can't tolerate it anymore. I can't
24 tolerate it anymore." Lot and his wife and his daughters
25 were spared by God because they were merely present in

1 amongst a bunch of people who were sinners beyond belief.
2 So the concept of merely present has been around for
3 literally thousands of years.

4 And that's what I'm asking you to do today, to keep
5 in mind when you're thinking about Fanotti Neal. You
6 heard the testimony that he was just there. That's it.
7 He was there. He was merely present.

8 What would his motive have been to do anything like
9 this? Marion -- Marion Robinson told us that Fanotti Neal
10 didn't have any problems with the victim or the victim's
11 brother or with Marion. Ms. Floyd also said that he
12 didn't have any problems with her at the place and the
13 time. She was in there with him in that apartment. She
14 didn't see anything going on.

15 So what I'm going to ask you to do is to listen
16 carefully to the judge's instructions, and I believe that
17 Mr. Fanotti Neal -- when you listen to the Judge's
18 instructions, consider the evidence, and take into account
19 your good common sense and think about the reasonable
20 doubt, I'm going to ask you to find Mr. Fanotti Neal not
21 guilty. And I thank you for your attention.

22 Thank you, Your Honor.

23 THE COURT: Thank you.

24 JURY CHARGE

25 THE COURT: Members of the jury, it is now my duty

1 to instruct you on the law applicable to this case, and it
2 is your duty as jurors to accept and apply the law as I
3 now state it to you.

4 Furthermore, it is your exclusive duty to decide all
5 the issues of fact in this case and to determine the
6 effect and value and weight of the evidence presented.

7 Both the State and the defendant have the right to
8 expect that you will carefully consider and evaluate the
9 evidence and apply the law of this case to it so that, in
10 the end, both the State of South Carolina and these
11 defendants will have received a fair and impartial trial.

12 I want you to understand that when I use the word
13 "defendants," I am referring to Fanotti Neal and Micah
14 Pressley.

15 In this case, the State of South Carolina charges
16 the defendants with murder. To these charges, the
17 defendants have entered a plea of not guilty. These pleas
18 of not guilty places the burden of proof on the State to
19 prove the guilt of the defendant to you beyond a
20 reasonable doubt.

21 It is vital to understand that the defendant is
22 presumed under the law to be innocent of the charges. It
23 is the fundamental rule of our law that a defendant,
24 regardless of the seriousness of the charge against him,
25 is always presumed innocent of the crimes for he is

1 charged unless and until his guilt has been proven by
2 evidence that satisfies you beyond a reasonable doubt.

3 A presumption of innocence is not a mere legal
4 theory or legal phrase. A presumption of innocence is
5 very important, and you need to understand that this
6 presumption accompanies the defendant from the time of his
7 arrest and appearance in this court and continues with the
8 defendant even after you retire to the jury room to
9 deliberate.

10 In other words, the defendant receives the benefit
11 of the presumption of innocence until the very end of this
12 trial when you, the jury, will deliberate upon the
13 evidence and decide whether the State has proved his guilt
14 beyond a reasonable doubt.

15 Proof beyond a reasonable doubt is proof that leaves
16 you firmly convinced of the defendant's guilt. There are
17 few things in this world that we know with absolute
18 certainty, so even in criminal cases, the law does not
19 require proof that overcomes every possible doubt;
20 however, if, based on your consideration of the evidence,
21 you are firmly convinced that the defendant is guilty of
22 the crimes charged, you must find him guilty.

23 If, on the other hand, you think there's a real
24 possibility that he is not guilty, you must give him the
25 benefit of the doubt and find him not guilty.

1 Please understand that reasonable doubt may arise
2 from the evidence which has presented in this case or from
3 the lack of evidence in this case. It is your
4 responsibility to determine whether or not reasonable
5 doubt exists as to the guilt of this defendant -- these
6 defendants.

7 I charge you that the defendants are entitled to
8 every reasonable doubt arising in the whole case. If,
9 upon any offense -- upon any issue of fact essential to
10 conviction or a verdict of guilty, you have a reasonable
11 doubt as to how that issue would be resolved, it would be
12 your duty to resolve that reasonable doubt in favor of the
13 defendants.

14 Thus, in summary, it is important to understand that
15 the defendants are not required to prove their innocence.
16 Instead, the State is required by law to prove every
17 essential element of the charges against the defendants by
18 evidence which satisfies you of their guilt beyond a
19 reasonable doubt. Only then can you convict the
20 defendants and find them guilty.

21 During this trial, you and I have separate duties to
22 perform. As the trial judge, it is my responsibility to
23 preside over this trial. Therefore, I have the duty to
24 rule upon the admissibility of evidence offered during the
25 trial. In that regard, you are to consider only the

1 testimony which has been presented from this witness stand
2 together with any exhibits admitted into the record of
3 this.

4 In this trial, you are the sole and exclusive judge
5 of the facts, and I am the judge of the law. Do not infer
6 that I have any opinion about the facts in this case from
7 anything I have said during the course of this trial. In
8 this regard, the law simply does not permit me to have an
9 opinion about the facts.

10 As jurors, it is your duty alone to determine the
11 effect, the value, and the weight of the evidence
12 presented during the course of this trial.

13 Furthermore, it is your job as jurors to determine
14 the credibility and believability of the witnesses who
15 have testified in this case. You must evaluate the
16 evidence and determine which evidence convinces you.

17 In determining the believability of witnesses who
18 have testified in this trial, you may believe one witness
19 over many or many over one. You may believe a part of the
20 testimony of a witness and reject the remaining part. You
21 may believe the testimony of a witness in its entirety or
22 reject it in full. You may consider whether the witness
23 has an interest in the result of the trial, whether the
24 witness is prejudiced toward either party, the opportunity
25 for the witness to have seen the matters and things about

1 which the witness may testify, and the way the witness
2 acts on the witness stand.

3 Furthermore, there are two types of evidence which
4 are generally presented during trial: direct evidence and
5 circumstantial evidence. Direct evidence directly proves
6 the existence of a fact and does not require deduction.
7 Circumstantial evidence is proof of a chain of facts and
8 circumstances indicating the existence of a fact.

9 Crimes may be proven by circumstantial evidence.
10 The law makes no distinction between the weight or value
11 to be given to either direct or circumstantial evidence.
12 However, to the extent the State relies on circumstantial
13 evidence, all the circumstances must be consistent with
14 each other and, when taken together, point conclusively to
15 the guilt of the accused beyond a reasonable doubt.

16 If these circumstances merely portray the
17 defendant's behavior as suspicious, the proof has failed.
18 The State has the burden of proving the defendants guilty
19 beyond a reasonable doubt. This burden rests with the
20 State regardless of whether the State relies on direct
21 evidence, circumstantial evidence, or some combination of
22 the two.

23 I further instruct you the fact that the defendant
24 in this trial did not testify on his own behalf is not a
25 factor to be considered by you in any way in your

1 deliberations or in your consideration on the question of
2 guilt or innocence. In this regard, the defendants have
3 the constitutional right to remain silent. Any exercise
4 of this right must not be considered by you in your
5 deliberations. The fact that the defendants did not
6 testify should not even be discussed in the jury room.

7 A statement alleged to have been made by the
8 defendant has been admitted into evidence in this case.
9 While the Court has determined that the statement is
10 admissible, I instruct you that you make the ultimate
11 decision of whether or not the defendant made the
12 statement.

13 If the defendant did make the statement, you must
14 determine whether the statement was made by the defendant
15 voluntarily and of his own free will. This means that the
16 statement was not caused by pressure, force, fear, threat,
17 coercion, or intimidation or by hope or promise of
18 leniency or a reward of any kind.

19 In determining whether or not the statement was
20 voluntary, you should consider both the characteristics of
21 the defendant and the details of the question. Some of
22 the factors you must consider are the ages of the
23 defendants, the defendants' education or lack of
24 education, the defendants' mental ability or capacity, the
25 defendants' IQ or intelligence, the defendants' background

1 and environment, the place and length of the detention,
2 and the nature of questioning. You must carefully
3 consider all the surrounding circumstances before you give
4 any weight to the alleged statement.

5 The defendant is charged with murder. The State
6 must prove beyond a reasonable doubt that the defendants
7 killed another person with malice aforethought. Malice is
8 hatred, ill will, or hostility towards another person. It
9 is the intentional doing of a wrongful act without just
10 cause or excuse and with the intent to inflict an injury
11 or under circumstances that the law would infer an evil
12 intent.

13 Malice aforethought does not require that malice
14 exists for any particular time before the act is committed
15 but malice must exist in the mind of the defendant just
16 before and at the time the act is committed. Therefore,
17 there must be a combination of the previous evil intent
18 and the act.

19 Malice aforethought may be expressed or implied.
20 These terms "expressed" and "implied" do not mean
21 different kinds of malice but merely the manner in which
22 malice may be shown to exist; that is either by direct
23 evidence or by inference from the facts and circumstances
24 which are proved.

25 Expressed malice is shown when a person speaks words

1 which express hatred or ill will for another or when the
2 person prepared beforehand to do the act which was later
3 accomplished. For example, lying in wait for a person or
4 any other acts of preparation going to show that the deed
5 was in the defendants' mind would be expressed malice.

6 Malice may be implied from the conduct showing a
7 total disregard for human life. If you find that the
8 State has failed to prove beyond a reasonable doubt that
9 the defendant committed murder, you may consider whether
10 the State has proved beyond a reasonable doubt that the
11 defendant committed voluntarily manslaughter.

12 To prove voluntary manslaughter, the State must
13 prove beyond a reasonable doubt that the defendant took
14 the life of another in the sudden heat of passion based on
15 sufficient legal provocation. Both heat of passion and
16 sufficient legal provocation must be present at the time
17 of the killing to constitute voluntary manslaughter.

18 Sudden heat of passion may, for a time, effect a
19 person's self-control and temporarily disturb a person's
20 reasoning. The sudden heat of passion must be the type
21 that would make an ordinary person unable to coolly reflect
22 on his actions and would produce an uncontrollable
23 influence to do violence.

24 Sufficient legal provocation must be the type that
25 would make a person of ordinary reason and caution to

1 become enraged and to lose control temporarily. The
2 provocation needed for voluntary manslaughter must come
3 from some act of or related to the victim.

4 Words alone, however, or insulting are not enough to
5 be legal provocation. Where death is caused by the use of
6 a deadly weapon, the words must be accompanied by some
7 overt threatening act which could have produced the heat
8 of passion.

9 The exercise of a legal right, no matter how
10 offensive it is to another, is never sufficient legal
11 provocation for voluntarily manslaughter. If the heat of
12 passion had cooled or if there was enough time between the
13 provocation, if any, and the killing for the passion of a
14 reasonable person were to cool, the killing would not be
15 voluntarily manslaughter.

16 In deciding whether a reasonable person would have
17 had enough time to cool off, you should consider all the
18 circumstances surrounding the killing. You may consider
19 the nature of the provocation, if any; the defendants'
20 mental and physical state; and the circumstances and
21 relationships between the parties.

22 If a crime is committed by two or more persons who
23 are acting together in committing a crime, the act of one
24 is the act of all. A person who joins with another to
25 accomplish an illegal purpose is criminally responsible

1 for everything done by the other person which occurs as a
2 natural consequence of the acts done in carrying out the
3 common plan or purpose.

4 For example, two persons -- two people can be guilty
5 of killing another person when only one of the two had a
6 gun, there was only one bullet, and only one of the two
7 fired the shot that caused the death. If two or more
8 people are together, acting together, assisting each other
9 in committing the offense, the act of one is the act of
10 all, or as it is sometimes said, the hand of one is the
11 hand of all.

12 Prior knowledge that a crime is going to be
13 committed without more is not sufficient to make a person
14 guilty of that crime. Mere knowledge that another person
15 is going to commit a crime, even if the defendant is
16 present when the crime is committed, is not sufficient to
17 convict the defendant as a principle.

18 Guilt as a principle is shown by actual or
19 constructive presence at the scene as a result of a prior
20 arrangement; therefore, a finding of a prior arranged plan
21 or common scheme is necessary for a finding of guilt as a
22 principle. The State must prove beyond a reasonable doubt
23 by competent evidence that the theory of the hand of one
24 is the hand of all.

25 A principal in a crime is the one who either

1 actually commits the crime or is present, aiding,
2 abetting, or assisting in committing the crime.

3 When a person does an act in the presence of and
4 with the assistance of another, the act is done by both.
5 Where two or more acting with a common plan or intent are
6 present at the commission of a crime, it does not matter
7 who actually committed the crime; all are guilty. The
8 hand of one is the hand of all.

9 Present at the commission of a crime means to be
10 sufficiently near to, aid and abet, and assist the
11 commission of the crime. However, mere presence at the
12 scene of the crime is not sufficient to convict one as a
13 principle on the theory of aiding and abetting. Intent is
14 also a necessary element, where there must have been a
15 common design or intent to commit the crime, and the crime
16 must have been committed pursuant thereto with the person
17 aiding and abetting by some overt act.

18 Intent means intending the result which actually
19 occurs, not accidentally or involuntarily. Intent may be
20 shown by acts and conduct of the defendant and other
21 circumstances from which you may naturally and reasonably
22 infer intent. The State must prove these elements beyond
23 a reasonable doubt.

24 Ladies and gentlemen, I'm now drawing near the end
25 of my charge, and I want you to clearly understand that

1 you are not partisans or advocates for the State or the
2 defendant. You do not serve as jurors to reward your
3 friends or your punish your enemies. In this regard, you
4 have been selected by both the State and the defendant to
5 be fair and impartial jurors. It is your duty by your
6 joint deliberations to determine the facts in this case,
7 giving the defendant the benefit of every reasonable doubt
8 on each and every issue.

9 Then, to the facts which you determine to be
10 correct, you should take and apply the law which has been
11 given to you by this Court and thus arrive at a verdict.
12 Thus, when you have accomplished these responsibilities,
13 you will have satisfied your oath as jurors and you will
14 have discharged your duty to this court.

15 Madam Clerk, if you would hand the foreman the
16 verdict form.

17 Now, Mr. Foreman, I've handed you the verdict forms.
18 When you arrive at the verdict in this case, you'll write
19 your verdict on each form for the charge. If the State
20 has failed to prove the guilt of the defendant beyond a
21 reasonable doubt, your verdict would be two words: not
22 guilty.

23 However, should the State have proved their case
24 against the defendants beyond a reasonable doubt, then, of
25 course, your word -- your verdict will be one word:

1 guilty.

2 Mr. Foreperson, once a decision has been made, just
3 check whichever is your verdict on each verdict form and
4 sign it.

5 Also, please understand that the verdict that you
6 render in this case must be the verdict of each and every
7 juror. It must be your unanimous verdict. All twelve
8 jurors must agree on the verdict which you authorize the
9 foreperson to write for the jury.

10 Mr. Foreperson and members of the jury, I want you
11 to further understand that the order in which the choices
12 of verdict appear on the verdict form are not suggestive
13 of any verdict on the part of this Court. The verdict in
14 this case is to be determined by you and not the Court.

15 Furthermore, ladies and gentlemen, please understand
16 that, even though I have given the verdict form to the
17 foreman, it is not his verdict alone. It is the verdict
18 of all twelve of you, and I emphasis again: It must be
19 unanimous.

20 Now, you will retire to the jury room; however, I
21 would ask that you do not begin your deliberations at this
22 time. The law requires that I consult with the attorneys
23 first. After I have done so, the bailiff will bring in
24 the items of evidence and then instruct you to begin your
25 deliberations at that time.

1 Also, should you have any questions during your
2 deliberations, you must put them in writing and send them
3 to me by way of the bailiff. The court bailiff will be
4 placed immediately outside the jury room door to provide
5 security and assistance for you during your deliberations.

6 Once you have reached your verdict, please knock on
7 the jury room door and ask the bailiff to advise the Court
8 that you have reached the verdict, and we will return you
9 to the courtroom as promptly as possible thereafter.

10 Thank you. You may retire to the jury room but do
11 not begin your deliberations until told to do so.

12 (The jury exited the courtroom at 4:07 p.m.)

13 THE COURT: Any objections from the State?

14 MR. HARRELSON: No objections, Your Honor.

15 THE COURT: Any objections from the defense?

16 MR. WILSON: No objections, Your Honor.

17 MR. RIGNEY: No objection, no.

18 THE COURT: Check all the matters into evidence.
19 Make sure they're in order, and we'll send them back.

20 (A recess was taken from 4:07 p.m. to 4:18 p.m.)

21 THE COURT: Ma'am, I want to let you know you've
22 completed your job. You know how a football team has
23 twelve people on the field? And if someone gets hurt,
24 they've got to send in somebody on the sideline. You were
25 on the sideline, and luckily, nobody got hurt. So that

1 jury is ready to work, and they're going to start playing
2 ball, and you're welcome to go. Thank you for being here.

3 ALTERNATE JUROR: You're welcome.

4 THE COURT: I hope you have a nice afternoon.

5 And tell them to begin.

6 (Jury deliberations began at 4:18 p.m.)

7 (The trial recommenced at 5:17 p.m.)

VERDICT

8
9 THE COURT: Everybody have a seat.

10 (Pause in the proceedings.)

11 THE COURT: All right. Let's go ahead and bring in
12 the jury.

13 (The jury entered the courtroom at 5:26 p.m.)

14 THE COURT: Madam Clerk, if you'll get the verdict
15 form.

16 (The clerk retrieved the verdict form and handed it
17 to the Court.)

18 THE COURT: I find the verdict forms are in order.
19 If the clerk would publish, please.

20 THE CLERK: The State of South Carolina, County of
21 Horry, versus Micah Pressley, as to the charge of murder,
22 we, the jury, unanimously find the defendant guilty.

23 Foreperson Brett Johnson, signed November 9th, 2023.

24 State of South Carolina, County of Horry, versus
25 Fanotti Neal, as to the charge of murder, we, the jury,

1 unanimously find the defendant guilty.

2 Signed by Foreperson Brett Johnson, November 9th,
3 2023.

4 THE COURT: Need for further polling from the
5 defense?

6 MR. WILSON: Nothing from the defense.

7 THE COURT: Mr. Rigney?

8 MR. RIGNEY: Nothing, Your Honor.

9 THE COURT: Members of the jury, I want to thank you
10 for your work. You have worked hard. You have been here
11 every day. You've been attentive and you've done your
12 job. And I cannot put into words how I appreciate you for
13 what you have done. You're excused.

14 You have earned a three-exemption by being here.
15 You'll get a little bit of money but it will, by no means,
16 pay you for the work you've put in here this week. But if
17 you don't like how much you got, tell that lady right
18 there, and she said she'd make up the difference.

19 I hope y'all have a good rest of the week and a good
20 weekend. Thank you for being here.

21 (The jury exited the courtroom at 5:28 p.m.)

22 MOTION/MATTER OF LAW

23 THE COURT: Any motions from the defense?

24 MR. WILSON: Yes, sir. Judge, I would ask for a
25 judgment of acquittal notwithstanding the verdict. I

1 believe that the evidence in this case does not support a
2 verdict of guilty of murder, and so I would ask the Court
3 to grant us a judgment of acquittal or, in the
4 alternative, to grant us a new trial.

5 THE COURT: Would you like to respond to that,
6 either one of the solicitors? Would you like to respond
7 to his motion?

8 MR. HARRELSON: Your Honor, I believe that the
9 evidence was appropriate and that it was adequate, and
10 there is no grounds for an acquittal. Evidently, the jury
11 had come back with a ruling, and I think it's suitable.

12 THE COURT: I'm going to deny the motion.

13 MR. WILSON: Thank you, Your Honor.

14 THE COURT: Mr. Rigney?

15 MR. RIGNEY: Your Honor, I would also request that
16 you give us a judgment notwithstanding the verdict, a
17 judgment of acquittal, and I do not believe that the
18 evidence supports this verdict, and in the alternative,
19 we'd request a new trial.

20 THE COURT: I think there was plenty of evidence to
21 support it, and I'm going to respectfully deny the motion.

22 Are you ready with the sentencing sheets?

23 MR. HARRELSON: Yes, Your Honor. We're currently
24 printing those out. However, due to Micah Pressley's age,
25 I believe the factors of Adkins may be appropriate. Just

1 what happened here. Of course this was a tragedy, and I
2 can't apologize or bring anything back because of that,
3 but I would ask the Court to take into consideration his
4 age and his adjustments in life that he was making and ask
5 for whatsoever leniency Your Honor may have. Thank you.

6 THE COURT: All right. In reference to Fanotti
7 Neal, the sentence of the Court is that the defendant is
8 committed to the State Department of Corrections for a
9 term of 40 years.

10 In reference to Micah Pressley ---

11 DEFENDANT NEAL: What the fuck?

12 THE COURT: --- the sentence of the Court is he is
13 committed to the State Department of Corrections for a
14 term of 40 years.

15 MR. WILSON: Thank you, Your Honor.

16 MR. RIGNEY: Thank y'all.

17 (The trial adjourned at 5:50 p.m.)
18
19
20
21
22
23
24
25

WITNESSES

Allan Huggins Conway Police Department

Date

V

ARREST WARRANT NUMBER

2022A2620400501

CDR: 0116 16-03-0010, 0020

DOA: 5/31/2022

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury JAN 25 2023
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2023GS2600416

The State of South Carolina

County of Horry

Nancy Livesay

22H02621

COURT OF GENERAL SESSIONS

January, 2023 TERM

THE STATE

vs.

Fanoffi Nacier Neal
B/ M
200 Bentree Ln Apt A1
Florence, SC 29501-4053
DOB: 2002-12-09
SSN: 089928119

ATTORNEY: David E. Rigney

Indictment for

Murder

Jimmy A. Richardson, II, Solicitor

 **ORIGINAL**

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

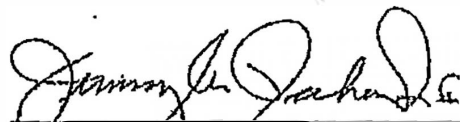
At a Court of General Sessions, convened on January 25, 2023, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Fanotti Nacier Neal did in Horry County, on or about May 29, 2022, willfully, feloniously, and intentionally acted with co-defendants to kill the victim, Joshua McPherson, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof on or about May 29, 2022 in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Allan Huggins Conway Police Department

me

ARREST WARRANT NUMBER

2022A2620400499

CDR: 0079 16-11-0311

DOA: 5/31/2022

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: **JAN 25 2023**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2023GS2600414

The State of South Carolina

County of Horry

Nancy Livesay

22H02621

COURT OF GENERAL SESSIONS

January, 2023 TERM

THE STATE

vs.

Fanotti Nacier Neal
B/ M
200 Bentree Ln Apt A1
Florence, SC 29501-4053
DOB: 2002-12-09
SSN: 089928119

ATTORNEY: David E. Rigney

Indictment for

BURGLARY, FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

 **ORIGINAL**

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

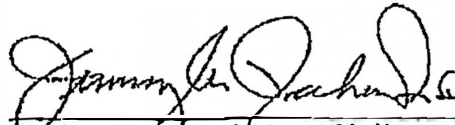
At a Court of General Sessions, convened on January 25, 2023, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Fanotti Nacier Neal did in Horry County on or about May 29, 2022, enter the dwelling where Joshua McPherson was located at Highway 544, without consent and with the intent to commit a crime therein and the defendant did so in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Horry

STATE

VS.

Fanotti Nacier Neal

AKA:

Race: BLACK Sex: M Age: 20DOB: 12-09-2002 SS#: 089-92-8119Address: 200 Bentree Ln Apt A1City, State, Zip: Florence, SC 29501-4053DL#: 104890932 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023GS2600416AW#: 2022A2620400501Date of Offense: 5/29/2022S.C. Code §: 16-03-0010.0020CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

SCB75159

SCB08529

Livesay, Nancy

SC Bar #

Defendant

Rigney, David E.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 40 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are Incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

_____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

FILED
HORRY COUNTY
2023 NOV - 9 P 5:08
RENEE N. ELMS
CLERK OF COURT
HORRY COUNTY, SC

STATE VS. Fanotti Nacier Neal INDICTMENT/CASE#: 2023GS2600416

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. or Job Corp. ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 Beginning 12/9/2023

§14-1-206 (Assessments 107.5 %)	\$	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:

Renee Elvis
Robbi Fisher

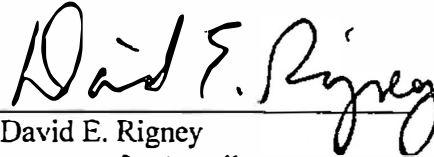
Presiding Judge:
Judge Code:
Sentence Date:

2157
Nov 9, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Second Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellant Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, reading "David E. Rigney". The signature is written in a cursive, flowing style. The first name "David" is written with a large, looped 'D'. The last name "Rigney" is written with a large, looped 'R' and a trailing flourish.

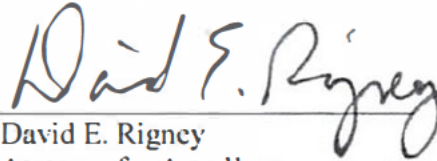
David E. Rigney
Attorney for Appellant
1500 Highway 17 North, Suite 212
Surfside Beach SC 29575

May 13, 2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Second Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellant Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, reading "David E. Rigney". The signature is written in a cursive style with a horizontal line underneath the name.

David E. Rigney
Attorney for Appellant
1500 Highway 17 North, Suite 212
Surfside Beach SC 29575

May 13, 2025

RECEIVED

JUL 10 2026

SC Court of Appeals