

20138

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Frank R. Addy, Jr., Circuit Court Judge

Case Nos. 2005-GS-24-1003, & -1004

RECEIVED

JAN 09 2013

SC Court of Appeals

State of South Carolina, ...Respondent,

v.

Freddie Edwards, ...Appellant

RECORD ON APPEAL

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INDEX

Transcript of Trial Proceedings

Excerpts of Testimony of Gregory Harrison

Direct Examination.	1
Cross Examination.....	22

Excerpts of Testimony of Clyde Marshall

Direct Examination.	25
Cross Examination.....	28

Excerpts of Testimony of Derek Saxon

Direct Examination.	28
Cross Examination.....	34

Excerpts of Testimony of Ben Smith

Direct Examination.	40
Cross Examination.....	47
Redirect Examination..	51
Recross Examination.	52

Excerpts of Testimony of Mike Martin

Direct Examination.	54
--------------------------	----

Excerpts of Testimony of Travis Clark

Direct Examination.	64
Cross Examination.....	65

Excerpts of Testimony of Joseph Powell

Direct Examination.	67
Cross Examination.....	77

Testimony of Tracy Thrower

Direct Examination.	81
--------------------------	----

Excerpts of Testimony of Dr. Laura Mills

Direct Examination.	88
--------------------------	----

Excerpts of Testimony of Dr. Joel Sexton

Direct Examination.	89
Cross-Examination.....	103
Redirect Examination..	107

Transcript Excerpt

Proceedings re: Directed Verdict Motion.	109
<i>Excerpts of Testimony of Javon Dawson</i>	
Direct Examination.	111
<i>Excerpts of Testimony of Freddie Edwards</i>	
Direct Examination.	113
Cross Examination.....	130
<i>Transcript Excerpt</i>	
Proceeding re: directed verdict and closing argument.....	132
State Closing Argument.....	135A
Defense Closing Argument.	137
State Closing Argument.....	155
<u>Exhibits</u>	
State's Exhibit 14.....	179
State's Exhibit 41.....	199
<u>Charging Documents</u>	
Indictments (2005)-GS-24-1003 and 1004).....	200
<u>Sentencing Sheets</u>	203
<u>Certificate</u>	205

The undersigned hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material



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1 THE COURT: State your name for the record.

2 MR. HARRISON: Gregory Lamont Harrison.

3 By Mr. Hodges:

4 Q Mr. Harrison, where do you work?

5 A At the time I was employed with my brother, George
6 Freeman.

7 Q And where do you work now?

8 A Self-employed for myself.

9 Q What sort of work do you do?

10 A Tree surgeon and barber.

11 Q I am going to turn your attention back to July the
12 16th of 2005 and ask what you were doing that evening?

13 A On the evening of 2005 I had just got off of work and
14 the guys were having a poker game and they invited me over
15 to the poker game.

16 Q When you say the guys were having a poker game, who
17 all was involved in this poker game?

18 A Freddie Edwards, Clyde Marshall, Derek Saxon and Ben
19 Smith.

20 Q And was this kind of a regular group that would get
21 together to play poker?

22 A Yes.

23 Q When did you find out about the particular game that
24 night?

25 A They called me earlier that day.

1 beside Henrietta and whatever you call that street.

2 Q If you were to go into his house where would you
3 park?

4 A Right, like, in front, like the little house right by
5 the fence, closed in fence. Just park straight in when
6 you drive in, just straight in.

7 Q If you are facing his house there on Cokesbury where
8 is the driveway in relation to the house?

9 A On the right side of his house.

10 Q To the right of the house?

11 A Right.

12 Q And this poker game was not actually in the main
13 house, was it?

14 A That's correct.

15 Q Where was the poker game held?

16 A It was in the back of the house, like a entertainment
17 little house.

18 Q Where is this little entertainment house, where is it
19 in relation to the main house?

20 A It is like, you have got the main house and then you
21 got the deck then right behind there is the little house.

22 Q And as you are facing the house, is this
23 entertainment house on the left side or the right side?

24 A If you are facing the house it is on the right side.

25 Q The same side as the driveway?

- 1 A He was not there.
- 2 Q And you say he, what was your brother's name?
- 3 A His name is George Freeman.
- 4 Q And I notice that your last name is Harrison.
- 5 A When he was born, my mother had him and my mother was
- 6 not married yet.
- 7 Q So y'all had the same parents but he took your
- 8 mother's maiden name?
- 9 A That is correct.
- 10 Q Did you know that your brother was planning to come
- 11 to the game?
- 12 A I didn't think he was coming that day because my
- 13 uncle had passed and he was at my uncle's funeral.
- 14 Q Why were you not at the funeral?
- 15 A I had to work that day and I wasn't able to make it.
- 16 Q You say you got there about 6:00 o'clock?
- 17 A Yes.
- 18 Q This is July so I assume it was still light outside?
- 19 A It was still light.
- 20 Q When you got to, how did you get to the residence?
- 21 A I had a friend who gave me a ride there.
- 22 Q Dropped you off?
- 23 A That is correct.
- 24 Q So you didn't actually have a car there at the
- 25 residence?

1 Q Just one room, one big room?

2 A You have got one big room and I think he had a room,
3 a little small room behind there.

4 Q When you go in this little entertainment house how is
5 it layed out, what sort of furniture and stuff?

6 A A regular sofa, a regular leather sofa, a TV, I think
7 he has like a bar, refrigerator and a poker table.

8 Q Where is the bar in relation to the front door?

9 A The bar is right behind the poker table.

10 Q You come in that door and the poker table is right
11 there at the front?

12 A Right. And the bar is directly behind there.

13 Q I assume there were some empty seats at the table
14 when you arrived?

15 A Yes, sir.

16 Q Where did you end up sitting when you came in?

17 A I was sitting with my back facing the door. As soon
18 as you come in my back facing.

19 Q You basically came to the door and sat down right
20 there?

21 A Right.

22 Q Tell us about this new rule that came up.

23 A When I came in and the guys kept folding out of turn
24 and Fred said he was going to put a stop to that for them
25 folding out of turn. So he made a rule, if you fold out

1 so later.

2 Q How long had this group of guys been together to play
3 poker?

4 A Over the years?

5 Q Over the years.

6 A I don't actually know, before I started playing with
7 them. I think I was playing with them maybe two or three
8 years and they were playing before me.

9 Q How old are you?

10 A 37.

11 Q So at the time you were in your early thirties?

12 A Yes, sir.

13 Q What about your brother, is he older or younger?

14 A He was older than me.

15 Q About how old?

16 A He was older than me about three years.

17 Q So both of y'all were early to mid thirties?

18 A Yes, sir.

19 Q What about the rest of these guys?

20 A They were way older than us.

21 Q Kind of an older crowd?

22 A Yes, sir.

23 Q So you and your brother were the youngest?

24 A The youngest two.

25 Q The youngest two and the rest of them, they have been

1 friends for a long time?

2 A Yes, sir.

3 Q And I guess they had been playing poker together
4 before you and your brother got involved with the game?

5 A Yes, sir.

6 Q For your purposes you had been playing for about
7 three years?

8 A Yes, sir.

9 Q How about your brother, how long had he been playing?

10 A The same.

11 Q Had this two dollar rule ever come up before?

12 A No.

13 Q So it was kind a new thing?

14 A It was new.

15 Q And what was his reaction to the rule?

16 A He was, I mean, you know, he was kind of confused
17 about it because they didn't tell him when he first came
18 in, they had plenty enough time to like tell him when he
19 came in the door. And they let it go for maybe thirty
20 minutes before they told him. I think one of the guys
21 folded out of turn and he seen what Fred was telling the
22 other guy to pay the two dollars and he was like, he folds
23 out of turn he ain't going to pay the two dollars.

24 Q What was the defendant's reaction when he said he
25 wasn't going to pay the money?

1 A He got real angry and they was, you know, talking
2 words back and forth. It wasn't any, they wasn't like
3 hitting each other, just got up and had words. And we
4 broke them up and we sat back down and starting playing
5 maybe ten minutes again and then they had words again.

6 Q Now, what were they arguing about, what was being
7 said?

8 A He told me, he said Fred I respect you and your home
9 but I ain't just going to let you talk to me in any kind
10 of way. He said that he just wasn't going to pay the two
11 dollars.

12 Q It wasn't the situation where he had actually folded
13 out of turn and not paid the money, he just said I don't
14 agree with paying the two dollars?

15 A That is correct.

16 Q And how heated did the argument get?

17 A Like I say, he got pretty heated but not so much as
18 they were going to fight. Because Clyde had, Fred and I
19 were in front of my brother so we wouldn't let him do
20 that, you know.

21 Q Both of them were on their feet?

22 A Both of them were on their feet.

23 Q Yelling?

24 A Just yelling and talking, you know.

25 Q They were cussing?

- 1 A Really it wasn't too much cussing.
- 2 Q Basically they were both yelling at each other?
- 3 A That is correct.
- 4 Q Was there any kind of violence during this argument?
- 5 A No.
- 6 Q Did anybody throw any licks or anything like that?
- 7 A No violence, just all verbal.
- 8 Q And you said this argument heated up and then
- 9 everybody got called down and sat down at their places?
- 10 A That is correct.
- 11 Q You say about ten minutes or so?
- 12 A About ten minutes.
- 13 Q Now, was there still kind of this friction or talk or
- 14 whatever occurring during that ten minutes or how did it
- 15 flare back up?
- 16 A Fred told him, looked at him and said, you will pay
- 17 or get out. Like that right there and that is when he
- 18 jumped up again.
- 19 Q Did the argument get heated a second time?
- 20 A It got heated a second time.
- 21 Q Was there any, again, any violence?
- 22 A Was no violence.
- 23 Q Nobody threw any licks?
- 24 A Nobody threw any licks.
- 25 Q Now the second time when they jumped up and was

1 arguing with each other what did the defendant, Mr.
2 Edwards, do?

3 A He hit the table like this and said everybody get out
4 of my house. And he took off out the door, you know, just
5 ran out the door. And I told my brother, I told him, I
6 said, let's go, I think he is going to get a gun. And so
7 my brother got up and we was headed toward the van,
8 walking toward the van and you know how you are just going
9 along and counting your money and trying to grab it and
10 get out of the door. And at that time I seen Freddie run
11 back down the steps real fast with--

12 Q Let me stop you there. You say he pounded the table
13 and tells everybody to get out?

14 A Tells everybody to get out.

15 Q He was the first one out the door?

16 A He was the first one out the door.

17 Q Now, which door does he go out?

18 A He went directly out the front door.

19 Q The one closest to the driveway?

20 A That is correct.

21 Q Did you see where he went from there or did you lose
22 sight of him?

23 A He ran out the back little deck, back steps towards
24 the house.

25 Q You can see him walk up off the deck?

- 1 A That is correct.
- 2 Q And the stairs for the deck are basically lined up
- 3 with that door?
- 4 A That is correct.
- 5 Q Is this a solid door or a glass door?
- 6 A I think it is, I can't remember actually what kind of
- 7 door it is to his house.
- 8 Q I am talking about the one in the little
- 9 entertainment house.
- 10 A The little entertainment house is a regular door.
- 11 Q Is there, how were you able to see through the house
- 12 there?
- 13 A The door is open and the screen door got a glass door
- 14 on it and you just can see right through it.
- 15 Q So you see him go up the steps onto the deck in the
- 16 back of his house?
- 17 A That is correct.
- 18 Q Now, you mentioned a van, what van are you talking
- 19 about?
- 20 A My brother's van was parked right in the middle of
- 21 the driveway.
- 22 Q Is that how your brother arrived at the poker game?
- 23 A That's correct.
- 24 Q He drove up in his van. What kind of van is this?
- 25 A If I am not mistaken I think it is like a little

1 Chevrolet van.

2 Q I am going to show you what has been previously
3 admitted as Defendant's exhibit number 8. Do you
4 recognize that picture?

5 A Yes.

6 Q Is that the van we are talking about?

7 A Yes.

8 Q Where was this van parked in relation to this little
9 entertainment house?

10 A It is kind of parked like the steps, right there to
11 his house, it is I think right in the back of his truck.
12 It goes into this house, in front of his truck goes into
13 the little small house kind of.

14 Q We see like a, it looks like the back end of a red
15 pickup truck maybe. Do you know whose vehicle that is?

16 A That is Freddie's vehicle.

17 Q That is whose?

18 A Freddie's.

19 Q So your brother is parked right in behind him?

20 A That is correct.

21 Q And if you recall where is the car in relation to the
22 house, is it more like front yard or is on the side of the
23 house?

24 A On the side of the house.

25 Q So he pulled up far enough up to be kind of beside

1 the house?

2 A That is correct.

3 Q And then the defendant's truck is parked in front of
4 him?

5 A That is correct.

6 Q And then how far is it do you think from the van up
7 to the little entertainment house?

8 A Right in front of the red truck kind of, half way,
9 you know just right there in front of the red truck.

10 Q When the defendant told everybody to get out did you
11 and your brother start to leave?

12 A We started to leave as soon as he said, I mean, you
13 know when he ran in the house I told my brother, I said
14 let's go, I think he is going to get a gun. And so we
15 walked out.

16 Q Now, you said something about your brother was
17 counting money?

18 A He was counting his money like a normal person would
19 do after a poker game, just counting, walking out of the
20 house, he had it in his hand.

21 Q And he had his money still on the table or something?

22 A He had the money on the table and grabbed it.

23 Q Grabbed the money?

24 A And walked out.

25 Q Okay. And so was he walking and counting, standing

- 1 and counting?
- 2 A Walking and counting.
- 3 Q What direction is he walking?
- 4 A Walking toward the van.
- 5 Q Now, did you walk towards the van as well?
- 6 A Yes, sir.
- 7 Q And what part of the van were you headed towards?
- 8 A Passenger side.
- 9 Q And what part of the van was your brother heading
- 10 towards?
- 11 A He was headed to the drivers side.
- 12 Q What was your intention as far as the van is
- 13 concerned?
- 14 A I was trying to get out of there quick because I know
- 15 he was going to get a gun.
- 16 Q You didn't have a vehicle there, right?
- 17 A I didn't have no vehicle there.
- 18 Q So how were you going to leave?
- 19 A With my brother.
- 20 Q So that is why you were on the passenger side, you
- 21 were fixing to go ride?
- 22 A Yes, sir.
- 23 Q Your brother was driving?
- 24 A Yes, sir.
- 25 Q Now, counting his money as he is walking to the van?

1 A That is correct.

2 Q What did you see then as y'all are headed towards the
3 van?

4 A Freddie came running back downstairs with a gun. I
5 told my brother, I said, I told you he was going to get a
6 gun. That is why my brother tried to get in his car real
7 quick and I guess in his mind he couldn't get in there
8 quick enough and so he ran around the side of the house
9 and I ran wide, like toward the middle of the highway.

10 Q Where was the defendant, Mr. Edwards, when you first
11 saw him with the pistol?

12 A He was running, running down the steps.

13 Q How were you able to see him?

14 A Because there is a light that stays on and you can, I
15 identified, I mean it was him running back with the gun.
16 And he ran, my brother was trying to get away from him and
17 he ran around the corner of his house. And there was a
18 fence around there that is locked.

19 MR. HODGES: Your Honor, can the witness step down.

20 THE COURT: Without objection you can step down, yes
21 sir.

22 Q Stand off to the side so the jury can see you. If
23 you would, first off, this is State's exhibit 13. If you
24 would point to Cokesbury Road up here in the top part
25 first.

- 1 A (The witness points on diagram.)
- 2 Q Where is the driveway?
- 3 A It is right here.
- 4 Q And then the little entertainment house?
- 5 A Here.
- 6 Q And the deck that we have been talking about?
- 7 A It is like right there.
- 8 Q Now, basically where is the van that we are talking
- 9 about.
- 10 A The van was here.
- 11 Q And you said that when y'all saw Mr. Edwards coming
- 12 with the gun y'all both took off running.
- 13 A Yes, sir.
- 14 Q Show me if you would first the path that you took
- 15 when you ran?
- 16 A I took this path. I ran from here, like wide around
- 17 like this.
- 18 Q Out the driveway and then out here actually into the
- 19 road?
- 20 A That is correct.
- 21 Q How far would you say you got into Cokesbury?
- 22 A Got out about right there, just about a foot into the
- 23 road.
- 24 Q Did you stop there or did you keep running?
- 25 A I stopped right there. And then my brother ran this

1 way around the house. And I went back around the house to
2 make sure he was okay, you know.

3 Q Let me stop you there. You are on the passenger side
4 of the van, right?

5 A Yes.

6 Q So you are actually farther over here?

7 A That is correct.

8 Q Your brother is on the drivers side so he is closer
9 to the house?

10 A That is correct.

11 Q So when you are running you are actually starting off
12 out kind of farther away from the house, is that right?

13 A That is correct.

14 Q Did you lose sight of your brother at any point here
15 as he is running around the corner?

16 A He ran around the corner and you could still see
17 because I was like right here. You could still see him
18 running on around this way. Then I lost sight for a
19 minute.

20 Q As he went around that far corner?

21 A Right.

22 Q Did you see the defendant?

23 A Yes, he was right behind him. And then when I got to
24 the other side of the house about here, what happened, he
25 was on top of him.

- 1 Q Before we get to that point go ahead and take your
- 2 seat back. When you say he was following him, was he flat
- 3 out running, was he jogging, was he walking?
- 4 A He was running pretty fast.
- 5 Q Where did he have the gun?
- 6 A In his right hand down by his side.
- 7 Q Did you also lose sight of the defendant, Mr.
- 8 Edwards, when he went around the corner or did he go
- 9 around the corner?
- 10 A He ran around the corner too. I lost sight for a
- 11 minute, a moment.
- 12 Q So you are out there in the road and your brother
- 13 goes around the corner and Mr. Edwards goes around the
- 14 corner and you lose sight of them?
- 15 A That is correct.
- 16 Q What did you do then?
- 17 A Well, you know, you heard them around there. Fred
- 18 was telling him stuff like, I am going to kill you and all
- 19 of that stuff like that. So I went around to try to stop
- 20 him and I told Fred, I said, just leave him alone, you
- 21 know. And my brother told him, please don't kill me, like
- 22 that. And the next thing I know, boom.
- 23 Q When you come around, were you actually up in the
- 24 yard, the street or where were you?
- 25 A I had went in the yard back around where they was.

1 Q You were in the street and came back in the yard?

2 A That is correct.

3 Q And where were you in relation to that little side,
4 was it directly in front of you or were you kind of more
5 the front of the house or where were you standing?

6 A Repeat that.

7 Q When you went into the yard were you in front of the
8 house or were you more kind of down the front of the side
9 yard?

10 A I was on the side yard.

11 Q And where were your brother and the defendant when
12 you caught sight of them?

13 A He was laying on the ground, Fred was straddled on
14 top of him.

15 Q Your brother was on the ground, how was he on the
16 ground?

17 A He was on the ground laying on his back.

18 Q How were they oriented to your view, were you looking
19 like at your brother's feet, or side or his head. How
20 were they turned to your view?

21 A They was like, I am facing you, they were like in the
22 middle like right there. I am facing both of them and
23 they are just like right in the middle.

24 Q What I am asking you is, you see your brother laying
25 in the yard and you said that Edwards is straddling him?

- 1 A Right.
- 2 Q Now, are you looking at them from like the side?
- 3 A From the side.
- 4 Q Or from your brothers feet or the top of your
- 5 brother's head? How are they turned?
- 6 A From the side angle.
- 7 Q Now, you are looking at them from the side. Is your
- 8 brother's head towards the house or the side of the house?
- 9 A Towards the house.
- 10 Q Towards the house?
- 11 A Right.
- 12 Q So you are basically looking at your brother's left
- 13 side?
- 14 A Yes, sir.
- 15 Q And Edwards right side, do I have that right?
- 16 A Yes, sir.
- 17 Q And when you come around and get a view of them again
- 18 what do you see?
- 19 A Fred was on top of him and my brother was telling
- 20 him, he had his money in his hand, this right here. He
- 21 was like, man, he was going like this with his hand with
- 22 the money in it and he was like, man, don't kill me, man.
- 23 And Fred boom and he got up and I was like--
- 24 Q Before we get there, you say he was straddling him.
- 25 Describe that for us if you would.

- 1 A He was on top of him with his knees on him. You know
2 how you can put your knees on somebody so they won't go no
3 where and he was shoving the gun down in him like this.
- 4 Q You could see the gun?
- 5 A Yes, sir.
- 6 Q Where was the gun in relation to his face?
- 7 A In his mouth like he was trying to shoot him in the
8 mouth.
- 9 Q And you say your brother was trying to--
- 10 A Waive it off like he had the money in his left hand
11 and he was like, you know.
- 12 Q What did your brother say?
- 13 A He was begging him, he said don't kill him.
- 14 Q But he shot him?
- 15 A He shot him anyway.
- 16 Q Do you see the person in the courtroom who shot your
17 brother?
- 18 A Yes, sir.
- 19 Q Can you point him out, please.
- 20 A (Witness points at the defendant.)
- 21 Q Describe what he is wearing?
- 22 A A gray suit and with a blue shirt.
- 23 MR. HODGES: Your Honor, let the record reflect that
24 he has identified the defendant.
- 25 THE COURT: The record shall so reflect.

- 1 Q What did he do after he shot your brother?
- 2 A He got up and put his head down like this and was
- 3 shaking his head like this right here saying he messed his
- 4 life up. And I told him, I said, I don't know if I can
- 5 say the words I said or what. I said, motherfucker, you
- 6 killed my brother. And then he pointed at me like this
- 7 and then he put it back down and he kept on going around
- 8 the house with his head down.
- 9 Q What direction did he go?
- 10 A He was going back around the house to the driveway.
- 11 Q Basically back in the direction he came from?
- 12 A Yes, sir.
- 13 Q What did you do?
- 14 A I went up to my brother and he was breathing a little
- 15 bit and--
- 16 Q He was what?
- 17 A He was breathing a little bit and I called 911.
- 18 Q What did you see when you walked up to your brother?
- 19 A The side of his head blowed off.
- 20 Q How did you call 911?
- 21 A I used my telephone to call 911.
- 22 Q Did you have a cell phone?
- 23 A Yes, sir.
- 24 Q Was there another phone that started ringing?
- 25 A (The witness is crying.) His phone was ringing and I

1 A Correct. It was like, uh, like, oh please. Just
2 stuff like that.

3 Q So you just heard some noises?

4 A Right.

5 Q So when you heard the noises then you went around
6 there?

7 A Right.

8 Q Now, when you got around there what you say you saw
9 was Mr. Edwards on top of your brother?

10 A That is correct.

11 Q Leaning forward?

12 A He was straddled on top of him with his knees.

13 Q No, no, he was leaning forward, Mr. Edwards?

14 A You want me to demonstrate?

15 Q Yes. If you can come over here so the jury can see
16 it.

17 A He was like this on top of him, how you hold somebody
18 down to keep them from moving. Knees was on his arms and
19 chest and stuff like that.

20 Q Was he leaning forward?

21 A Yes, he was leaning right on.

22 Q Like that. Okay. Hold on one second. Let me be Mr.
23 Edwards. All right. And get on me the same way that you
24 say that you saw your brother.

25 A You are Mr. Edwards?

1 Q I am your brother and you are Mr. Edwards.
 2 Demonstrate to me what you say happened.
 3 A He was on top of him straddling him this way.
 4 Q Your brother had his left hand up? What about your
 5 brother's right hand?
 6 A It was over here.
 7 Q It was up over here out of the way. And the gun was
 8 where?
 9 A In his right hand.
 10 Q In his right hand. Where was the gun in relation to
 11 your brother's face?
 12 A Right here.
 13 Q Right at him, in the mouth. Where was your brother's
 14 head?
 15 A It was like here.
 16 Q Flat on the ground. Okay. You may go back to your
 17 seat. Now, you never saw how your brother got on the
 18 ground?
 19 A Never saw how he got on the ground.
 20 Q You never saw what caused your brother to get on the
 21 ground?
 22 A No.
 23 Q And when your brother was going in front of the house
 24 while you were standing out there on the street and Mr.
 25 Edwards wasn't pointing the gun at your brother?

1 A Would you rephrase that.

2 Q When your brother was running in front of the house

3 with Mr. Edwards behind him you never saw Mr. Edwards

4 point the gun at your brother?

5 A They was running so fast, like they were running

6 track. He was.

7 Q Down by the side?

8 A Right.

9 Q Is that correct?

10 A Yes.

11 Q And so the gun was right at Mr. Edwards face,

12 correct?

13 A The gun was in Mr. Edwards face?

14 Q In your brother's face, Mr. Freeman?

15 A That is correct.

16 Q And your brother's right hand was off to the side,

17 correct?

18 A That is correct.

19 Q And his left hand was trying to get the gun?

20 A I wouldn't say that because he had money in his hand.

21 He had money in his hand so he couldn't have.

22 Q And it was his left hand because you can see the

23 money in his hand as he was holding his hand up?

24 A He was doing like this with his hand trying to fan

25 him away.

1 A On and off about 10 years.

2 Q Were you involved in a poker game at his house back
3 in July of 2005?

4 A Yes.

5 Q And who all was there that night?

6 A Fred, me and Greg and Sax and Ben.

7 Q Who was the first person to get there?

8 A I was the first person that got there.

9 Q Did everybody else show up as a group or everyone
10 just kind of trickled in?

11 A Trickled in.

12 Q Now, tell me, we hear a little bit about this rule.
13 Tell me about this new rule?

14 A Okay. It is when people throw in and before time and
15 Fred made a rule that said, you know, if you throw in
16 before time then throw the two dollars in the pot and
17 whoever wins the pot wins the two dollars.

18 Q Did anybody have to pay the two dollars?

19 A Yes, Sax paid the two dollars.

20 Q Do you remember if Meat was there?

21 A No, Meat come later.

22 Q Okay. About how long had y'all been playing when
23 Meat showed up?

24 A About an hour.

25 Q When he came in what happened?

1 A Meat come in, Meat sat down, Meat and Greg was going
2 to sit together so they didn't want Meat and Greg sitting
3 together because they are two brothers. And I said, well
4 I will sit between them. And Fred told Meat the rules.
5 Said, Meat, if you throw in before time you have got to
6 put two dollars in the pot. Meat said he wasn't going to
7 do nothing. And they argued and argued and argued. And I
8 said, well, I tell you what I will do. If Meat do it I
9 will throw the two dollars in the pot to keep peace. I
10 said, Meat you need to do how Fred said to do. And so
11 they quiet down.

12 Q You said they argued, argued, argued. Were they
13 sitting down, standing up?

14 A They was sitting down there and they got up, both of
15 them got up so I threw it in and they sat back.

16 Q When they were standing up were there any blows
17 passed?

18 A No, no. Didn't nobody hit nobody, no.

19 Q Did they have their fist balled up, did it look like
20 he was about to attack?

21 A No.

22 Q So you said they argued and then they sat back down.
23 About how long did they sit down?

24 A I don't know. I got up and got me some chicken.

25 When I got up to get me some chicken they started back to

1 arguing again. I went around Fred and went around, who
2 was sitting there, Ben. And I got my chicken, some
3 Kentucky Fried Chicken.

4 Q So were you at the little bar?

5 A Yes.

6 Q And where were they?

7 A They still around the table.

8 Q Were they standing up or sitting down?

9 A They had stood back up.

10 Q They had stood back up?

11 A Yes.

12 Q Were there any licks passed at that time?

13 A No, there wasn't no licks passed.

14 Q What happened after they starting arguing the next
15 time?

16 A Fred said, that is it. So Fred went out the door.

17 So Greg said, Meat, let's go because Fred gone to get a

18 gun. And so both of them went out the door. I was still

19 back there trying to get my chicken and fixing to go. And

20 the next thing I know they said there was shots. Fred

21 done, Greg run back in there and told me that Fred done

22 killed my brother. I said, Fred ain't killed your

23 brother, Fred might have shot him in the leg. And so that

24 is the way it was. I never did go out there.

25 Q So when you were in the house getting the chicken was

1 there anybody else still in there with you or did
2 everybody else leave?

3 A Well Ben done left out. Ben called me and said,
4 Clyde, come move your truck where I can get out. I said,
5 Ben, that ain't my truck, that is Greg's, Meat's truck.
6 That is the way it was because Meat had all of us blocked
7 because he was the last one that come in.

8 Q Okay. So you heard the shot, did you come outside of
9 the little house at any point?

10 A No, I come out and got in my pickup and I left.

11 Q Okay. Did you see Mr. Edwards on your way out?

12 A I can't recall.

13 Q You don't remember whether or not you saw him?

14 A No.

15 Q Mr. Marshall, do you remember testifying in a
16 previous hearing on this case?

17 A Yes, ma'am.

18 Q Okay.

19 MS. WHITE: Your Honor, may I approach?

20 THE COURT: Please.

21 Q I want to get you to read, if you don't mind, lines
22 11 through 15 and see if that refreshes your memory.

23 Okay.

24 A Okay. (The witness reads lines 11 through 15). Yes.

25 Q It does? Okay. Do you remember Mr. Fred, Mr.

1 Edwards saying that?

2 A Yes, he said that, he said that.

3 Q What did he say?

4 A He said, I done messed up my life.

5 Q Okay. Where was Mr. Edwards when he said that?

6 A He was right there at the doorway to go back up the
7 steps on the patio.

8 Q So he was going back up to the deck?

9 A Yes.

10 Q Okay. Please answer any questions Mr. Wise may have
11 for you.

12 CROSS-EXAMINATION

13 By Mr. Wise:

14 Q How long have you known George Freeman?

15 A George Freeman?

16 Q Meat.

17 A Meat. I don't know, I know Fred longer than I know
18 Meat.

19 Q You have known Fred since grammar school?

20 A Yes.

21 Q And you have known Mr. Freeman for several years?

22 A Yes.

23 Q You have played poker before with him?

24 A Right.

25 Q Usually there were no arguments?

1 A No.

2 Q Used to get along okay?

3 A Yes, always have.

4 Q Could you tell that night whether or not he had been
5 drinking?

6 A Who?

7 Q Mr. Freeman, George Freeman?

8 A Yes. He come in there drinking.

9 Q He came in that night drinking?

10 A Yes.

11 Q It appeared that he had been drinking?

12 A Yes, he had been drinking, right.

13 Q Normally when he played poker with y'all does he come
14 in looking like he had been drinking?

15 A Well, I ain't played poker with him but four or five
16 times?

17 Q Four or five times?

18 A Yes.

19 Q Thank you.

20 THE COURT: You can step down. Solicitor, call your
21 next witness.

22 MR. HODGES: The State calls Derek Saxon.

23 DEREK SAXON, being

24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

- 1 By Mr. Hodges:
- 2 Q Mr. Saxon, where do you work?
- 3 A Eaton Corporation.
- 4 Q And you grew up here in Greenwood?
- 5 A Yes.
- 6 Q I want to turn your attention back to the poker game
7 on July the 16th of 2005. Were you involved in that poker
8 game?
- 9 A Yes.
- 10 Q Where were you in terms, did you show up in the
11 beginning or the end?
- 12 A Beginning.
- 13 Q Who all was there when you got there?
- 14 A It was Fred, Clyde and Ben and me.
- 15 Q So Greg and Meat had not shown up yet when you got
16 there?
- 17 A I don't think Greg was there yet.
- 18 Q Just the four of y'all?
- 19 A Right.
- 20 Q Did y'all play for a while before the two of them
21 showed up?
- 22 A Yes.
- 23 Q At some point did you get a telephone call?
- 24 A Yes.
- 25 Q And I guess you had a cell phone on you?

1 A Right.

2 Q Did you take a phone call inside the building or in
3 the entertainment house?

4 A No, I went outside.

5 Q You went outside. And what happened while you were
6 outside talking on the telephone?

7 A I don't know what was happening in the house, I am
8 outside at the time.

9 Q Had Greg and Meat gotten there when you got the call?

10 A Yes.

11 Q They were both there?

12 A Yes.

13 Q When you got back in to the entertainment house, when
14 you were taking the phone call what was going on when you
15 got back in?

16 A They were playing cards.

17 Q Had there been any conversations about this new rule?

18 A No.

19 Q How did it come up that this new rule got explained
20 to Meat?

21 A I told Fred he needed, he needs to tell Meat about
22 the rules and then Fred said, oh. Then he told him.

23 Q When you came back in from your phone call you kind
24 of reminded, hey, did you tell him about the rule?

25 A Right.

- 1 Q And did he tell him about it?
- 2 A Yes, they told him.
- 3 Q What was the reaction?
- 4 A Well, Meat said he ain't going to pay no two dollars.
- 5 Q And did they get in an argument?
- 6 A Fred said, well you are not going to play then.
- 7 Q Did they get into an argument over it?
- 8 A And then Meat jumped up and said, Fred, what is your
- 9 fucking problem. And Fred said, what is your problem.
- 10 Q Did they argue back and forth?
- 11 A Right.
- 12 Q Did ever come to blows?
- 13 A No.
- 14 Q Now did it calm down at some point?
- 15 A When he said the game is over. When both of them
- 16 standed up, it was Greg and me stand up and Fred, all of
- 17 us standing up. And then he just said, game over. And
- 18 then he jumped up and went in the house.
- 19 Q Now, was that right during the argument he said game
- 20 over?
- 21 A Right.
- 22 Q So both of them standing up and arguing and he said
- 23 game over?
- 24 A Yes.
- 25 Q What was the defendant's demeanor when he said that?

- 1 A Excuse me?
- 2 Q What was his demeanor, the defendant, what was his
3 demeanor when he said that?
- 4 A Everybody leave I reckon.
- 5 Q How was he acting when he said that?
- 6 A He was upset.
- 7 Q Basically told everybody to get out?
- 8 A Yes.
- 9 Q And when he said everybody get out did folks start to
10 get out?
- 11 A We started leaving. I mean, Clyde, he was eating
12 food or something. And me and Greg and Meat was standing
13 there. I know Greg said, let's go Meat, I believe he is
14 going to get his gun. And Meat said, well, I will get my
15 gun.
- 16 Q Now, when he said that was Fred already gone?
- 17 A Yes, Fred was already gone.
- 18 Q He wouldn't have heard it?
- 19 A No.
- 20 Q Did you ever see Meat with a gun?
- 21 A No.
- 22 Q Never did?
- 23 A No.
- 24 Q What happened next?
- 25 A Fred went in the house for about five minutes. And

1 we stayed at the door. I seen Fred come out with a gun on
2 the side. And Greg and Meat seen it too. So they started
3 running. Fred started jogging right behind them.

4 Q Did you see what direction they started going?

5 A Greg went to the left in the road, to the left side.
6 Meat ran in the front of the house.

7 Q Where were you when you saw Fred take off earlier?

8 A I was coming out the door, the little house in the
9 back. I was coming out the door.

10 Q So you were up kind of by the deck?

11 A Yes, after Fred had passed me.

12 Q So he went passed you after--

13 A No, Fred, Meat and Greg went first. And then Fred
14 behind them and I was behind Fred. That is when I came
15 out of the house then.

16 Q So was that Fred that went right past you?

17 A No, Fred was in front of me. I came behind Fred.

18 Q Where were you?

19 A In the house, the little small house in the doorway.

20 Q So you were standing in the doorway when he came out
21 with the gun?

22 A Yes.

23 Q You saw Fred going out with the gun, what did you do?

24 A I started walking towards the road. I just stopped
25 like beside of the front porch light.

- 1 Q Where is that light?
- 2 A It is like, the front porch on the side of the house
- 3 like.
- 4 Q So you kind of went out of the corner of the house?
- 5 A Right.
- 6 Q And what did you see from there?
- 7 A I didn't see anything.
- 8 Q You couldn't see where they went?
- 9 A I seen Greg ran down the road.
- 10 Q But you couldn't see--
- 11 A Meat and Fred, no, couldn't see them.
- 12 Q All right. Then what happened?
- 13 A Then I heard a gunshot.
- 14 Q Could you tell kind of what direction it came from?
- 15 A The side of the house.
- 16 Q Not the side of the house you were on?
- 17 A No, the other side.
- 18 Q The other side?
- 19 A Yes.
- 20 Q Then what happened after you heard the gunshot?
- 21 A Fred came back around the house with the gun on his
- 22 side and said, the gun, the damn gun went off and it
- 23 fucked my life up.
- 24 Q Where did he have the gun at?
- 25 A On his side, holding on his side, down toward the

- 1 A Yes, right there.
- 2 Q He was on the sidewalk, I mean on the concrete?
- 3 A Yes, like by that fence right there. He parked on
- 4 the grass like under a tree.
- 5 Q About half way on it. And then Fred's truck was here
- 6 and then Fred had some other cars down there below it?
- 7 A Yes.
- 8 Q Do you remember what he had down there?
- 9 A No.
- 10 Q That is basically the way the cars were lined up?
- 11 A Yes.
- 12 Q Now, when you left, when Fred came out of the house,
- 13 what door, do you recall what door Fred went in the house?
- 14 A When he went in the house or coming out?
- 15 Q When he left the, when he went in the house the first
- 16 time or when he came out, either one.
- 17 A Right here.
- 18 Q Across the deck?
- 19 A Yes.
- 20 Q Did he go in this door here on the far right?
- 21 A Yes.
- 22 Q And you say he was in there for about five minutes?
- 23 A About five minutes.
- 24 Q What was George Freeman and his brother doing while
- 25 Mr. Edwards was in the house?

- 1 A In there counting his money.
- 2 Q They didn't leave the house when Mr. Edwards did?
- 3 A No.
- 4 Q How long, so they stayed in there just about the
- 5 whole time?
- 6 A Yes, until Fred came out that door there and they
- 7 seen him.
- 8 Q Where were they when he came out the door?
- 9 A Right over here, they were in the doorway.
- 10 Q Near where you were?
- 11 A Yes.
- 12 Q When they saw him what did they do?
- 13 A Both of them left.
- 14 Q They didn't leave when he first left?
- 15 A No, they didn't leave then.
- 16 Q So they were standing there talking and counting the
- 17 money for a good four or five minutes?
- 18 A Yes.
- 19 Q Then when they left, point out the route, first of
- 20 all, that Greg Harrison took?
- 21 A Greg went here.
- 22 Q And you went out to the road to the left?
- 23 A Yes.
- 24 Q If you would put this little dot about where you say
- 25 Greg was?

- 1 A When he ran?
- 2 Q Yes.
- 3 A He went out by the road.
- 4 Q So he is out there to the left in the road?
- 5 A Yes.
- 6 Q So Greg was up there in the road about like that?
- 7 A Yes.
- 8 Q Where was he when you hear the shotgun fire?
- 9 A Right about along here.
- 10 Q When did he move from here to this point?
- 11 A When, from here to this point?
- 12 Q Right. When did he--
- 13 A He kept walking the road and walking down the road.
- 14 Q And then you heard a gunshot?
- 15 A There was a gunshot then, then he ran up and said,
- 16 Fred, you done shot my brother.
- 17 Q So he was basically to the right of the driveway in
- 18 the road when you heard the gunshot?
- 19 A Yes.
- 20 Q Where were you standing during this?
- 21 A I was right along in here.
- 22 Q All right. So you are standing right there?
- 23 A Yes, right here.
- 24 Q Did you have a good view of him?
- 25 A Greg?

1 Q Right.

2 A Yes.

3 Q And when Greg, let me hand you defendant's exhibit 2,
4 would Greg, can you point out about where Greg was in that
5 picture?

6 A Greg was right along in here.

7 Q Right in front of the house?

8 A Yes.

9 Q To that side of the house.

10 THE COURT: If you could, Mr. Wise, have him just
11 sort of hold it and point with the pointer because some of
12 the jurors are being blocked by his torso.

13 Q Let's do this. On the chart up here let's put a blue
14 one where you say Greg was when you heard the gunshot go
15 off.

16 A About here.

17 Q About here, still in the road?

18 A Yes, he is in the road.

19 Q Okay. In that lane of traffic, about right there?

20 A Yes.

21 Q Now, you can go back and have a seat. So, Greg was
22 in the road the whole time you saw him?

23 A Yes.

24 Q And he was in the road when you heard the shot go
25 off?

- 1 A Yes.
- 2 Q Have you played with Mr. Freeman before?
- 3 A Yes.
- 4 Q Played poker?
- 5 A Yes.
- 6 Q When he came in that night could you tell anything
- 7 different about his demeanor or about the way he looked or
- 8 acted?
- 9 A He was intoxicated.
- 10 Q Did he give you the impression he had been drinking?
- 11 A Yes.
- 12 Q All right. And had you, does he normally drink
- 13 before he comes to these poker games?
- 14 A I haven't played with him that much.
- 15 Q You hadn't played with him that much?
- 16 A No.
- 17 Q Normally is he argumentative at these poker games,
- 18 the times you have played with him?
- 19 A No.
- 20 Q Was this unusual for him?
- 21 A At the time I played with him, yes.
- 22 Q Okay. From the times you have played with him this
- 23 was different?
- 24 A Yes.
- 25 Q And you say when Fred came back, when Mr. Edwards

- 1 came back he came by you and you were standing in the
2 driveway?
- 3 A No, we came back, you mean when I heard the gunshot?
- 4 Q Right.
- 5 A Yes.
- 6 Q You were in the driveway?
- 7 A Yes.
- 8 Q And as he passed you he said the damn gun went off?
- 9 A And I fucked my life up.
- 10 Q And that was spontaneous, wasn't it?
- 11 A Yes.
- 12 Q He didn't say I killed him?
- 13 A No.
- 14 Q He didn't say I shot him?
- 15 A No.
- 16 Q He said the gun went off?
- 17 A Yes.
- 18 Q Did you talk to Fred at all after that?
- 19 A No.
- 20 Q Did he appear to be upset?
- 21 A Yes.
- 22 Q Very upset?
- 23 A Yes?
- 24 Q Distraught type?
- 25 A Kind of, yeah.

- 1 A I really don't know, maybe an hour.
- 2 Q Where were you sitting in the room?
- 3 A Sitting there, I was next to Freddie I think.
- 4 Q So you kind of had your back to the bar?
- 5 A Right, to the bar, facing the door.
- 6 Q Tell us about this new rule, what is this rule about?
- 7 A Well, they would bid out of turn and then some of
- 8 them throwing in ahead of time and it kind of gives the
- 9 players behind you a hint that, you know, I need to call
- 10 or whatever. And it just kind of messed the game up
- 11 somewhat.
- 12 Q And who actually made up the rule?
- 13 A I don't know, all of us probably, probably most of
- 14 them that play all the time probably, I don't know.
- 15 Q Now, at some point did Greg show up?
- 16 A I think Greg come afterwards I think.
- 17 Q The four of y'all are playing and then Greg shows up?
- 18 A I think so.
- 19 Q And who was the last one that came in?
- 20 A Meat was the last one that came in.
- 21 Q And at some point did the defendant, Mr. Edwards
- 22 explain his new rule to Meat?
- 23 A I think he had started playing already before he
- 24 explained it.
- 25 Q How long had the victim played before he explained it

- 1 to him?
- 2 A I really couldn't say, it wasn't very long I don't
3 think.
- 4 Q What was his reaction when he learned about it?
- 5 A He didn't like it, he didn't want to pay up.
- 6 Q Did an argument start?
- 7 A Well, yes, after that I think.
- 8 Q Tell us about the argument, what was he saying?
- 9 A He didn't want to pay up and said he wasn't really
10 going to pay it.
- 11 Q What was he saying, it was Meat and Fred arguing?
- 12 A Well, those two at the time, yes.
- 13 Q What do you mean at the time?
- 14 A Well, they were the one arguing about it, you know.
15 It was Fred's house and he wanted him to play by the
16 rules. And he said he wasn't going to pay. You know, pay
17 or get out.
- 18 Q What are you saying about Fred's house?
- 19 A It was Fred's house he was playing in.
- 20 Q What does that mean?
- 21 A We were playing at Fred's home.
- 22 Q Right. What is significant about being at Fred's
23 house?
- 24 A That is where the game was at.
- 25 Q I mean, the person that owns the house gets to set

- 1 the rules or what?
- 2 A Oh, I am not speaking of the rules. The rules, it
- 3 was already made and he didn't want to abide by the rules.
- 4 Q So basically Fred was saying play by the rule or get
- 5 out?
- 6 A Right.
- 7 Q And the argument got heated enough that they were
- 8 both on their feet arguing?
- 9 A After a while they both stood up.
- 10 Q So they were arguing while sitting down?
- 11 A Well, they passed some words before they got up.
- 12 Q They what?
- 13 A They passed some words before they got up.
- 14 Q Then they got up?
- 15 A Right.
- 16 Q Anybody throw any blows?
- 17 A No.
- 18 Q So it was all words?
- 19 A Right.
- 20 Q Then what happened?
- 21 A When they got up and got to arguing a little bit I
- 22 think Clyde and Greg got between them and separated them,
- 23 you know, there wasn't no blows passed.
- 24 Q So Clyde and Greg were trying to calm the situation
- 25 down?

- 1 A Right, yes.
- 2 Q And were they able to get it calmed down?
- 3 A Well, yes. The game broke up after that.
- 4 Q How did the game break up?
- 5 A Fred said the game was over with.
- 6 Q What was his demeanor like, Fred's?
- 7 A I didn't hear you.
- 8 Q What was Fred's demeanor, how was he acting?
- 9 A Well, he was upset because Meat was upset, you know.
- 10 And it really had gotten out of control somewhat so he
- 11 wanted everybody to leave.
- 12 Q Was he angry?
- 13 A Well both of them was angry.
- 14 Q So when Fred said the game was over did folks start
- 15 to leave?
- 16 A I did.
- 17 Q You did?
- 18 A Yes?
- 19 Q What made you want to get out of there?
- 20 A Because it got out of control and they weren't really
- 21 going to play anymore I didn't think so it was time to go.
- 22 Q Were you able to get out?
- 23 A No.
- 24 Q Why were you not able to get out?
- 25 A I had a car in front of me and one behind me.

- 1 Q So you were blocked in?
- 2 A Blocked in.
- 3 Q Did you see where Fred went after he told everyone to
- 4 get out?
- 5 A He went into his house, up the ramp, towards his
- 6 house to the backdoor.
- 7 Q Is it a ramp?
- 8 A No, he went up his ramp on the back of his house.
- 9 Q Is there a ramp?
- 10 A Well, he has got a stairway on his deck.
- 11 Q So he went up the stairs across the deck?
- 12 A Right.
- 13 Q Where were you when you saw that?
- 14 A Well, I was beside my car. When I come out I got
- 15 beside my car and tried to get them to move so I could get
- 16 out.
- 17 Q Did you get out of the door before he did or Fred
- 18 did?
- 19 A I don't remember exactly, I think I did.
- 20 Q Did you stay over by your car or did you move?
- 21 A No, I stayed beside my car.
- 22 Q What were you able to see from where you were parked?
- 23 A I could see Freddie when he come beside his house
- 24 going around toward the front.
- 25 Q Where did you see him go?

1 A Coming off the back deck coming down the side of the
2 van or whatever it was there.

3 Q Were you able to see if he had anything in his hands?

4 A It appeared he had something in his hand but I
5 couldn't, really couldn't tell what it was, you know.

6 Q Did you have several cars between you and the house?

7 A Right. I think the van was parked in the driveway
8 between his house and me.

9 Q Where were Greg and Meat?

10 A I could hear Greg talking up at the edge of the road
11 like, out towards Cokesbury Street somewhat. But I never
12 did see Meat anymore after, you know, that.

13 Q So at the point when you saw Fred come down off the
14 deck that is when you could hear Greg talking?

15 A Well, when he got up close to the front, you know, I
16 could hear Greg saying a few words.

17 Q All right. When Fred came off of the deck with his
18 gun could you tell where Gregory had gone?

19 A I didn't see Meat at all after that.

20 Q What about Greg?

21 A I could hear Greg talking up ahead of, by the street.

22 Q So they weren't up by the little poker house?

23 A No.

24 Q They had, they were already leaving?

25 A Yes, when I got back there.

1 Q After you see Fred coming off the deck with the gun
2 what happened next?

3 A He went on out toward the house and the next thing I
4 heard a shot.

5 Q Then what happened?

6 A That is about it really. I am still trying to get
7 out of there. I think Sax or somebody finally backed
8 their car up so I could get out and I left.

9 Q Did you ever see Mr. Edwards again after you heard
10 the shot?

11 A He come around back down the side of the house
12 heading back toward his deck.

13 Q Did you hear him say anything?

14 A What I understood him say, the SOB have done F'd my
15 life up. That is the way I understood it.

16 Q And did he say that to you or somebody else?

17 A No, he was just walking with his head down talking,
18 you know, upset.

19 Q Sort of saying it to himself?

20 A Yes.

21 Q And when you say upset, what do you define as upset?

22 A Well he appeared to me to be upset, I don't know what
23 your terminology but he was upset to me he had done killed
24 a man, I guess.

25 Q Please answer any questions Mr. Wise may have.

1 CROSS-EXAMINATION

2 By Mr. Wise:

3 Q Mr. Smith, how long have you been playing poker with
4 Mr. Freeman?

5 A Maybe about three or four times, not very many times.

6 Q Was he his normal self this time?

7 A I don't believe so.

8 Q Did he appear to you to have been drinking?

9 A Yes, he was pretty high when he come in I think.

10 Q Now, when you saw Fred leave to go into the house
11 after he said the game is over, do you remember that?

12 A Well, he said the game is over and he left out the
13 door, you know.

14 Q Left out the door?

15 A The next time I saw him he was coming back between
16 the van.

17 Q Across the deck?

18 A Right.

19 Q How long did he stay in the house?

20 A It wasn't very long I don't think.

21 Q A few minutes?

22 A Probably not that long.

23 Q Come down if you would, please. You recognize that
24 as a diagram of Fred's house, that is Defendant's exhibit

25 1?

- 1 A Yes.
- 2 Q Where was your car parked?
- 3 A It should have been there.
- 4 Q Your car was parked down here about right here where
- 5 this--
- 6 A Clyde Marshall was parked in front of mine. I think
- 7 I was second car behind, I believe.
- 8 Q Or was Fred's car in front of you, one of Fred's
- 9 cars?
- 10 A No. I think Clyde's. Clyde had me blocked in.
- 11 Q So you were blocked in?
- 12 A Yes. I don't know if anything was in front of Clyde
- 13 or not. But his car was in front of mine.
- 14 Q And this was the van that Mr. Freeman came in?
- 15 A Yes.
- 16 Q And Fred's truck was in front of it?
- 17 A I am not sure about that one.
- 18 Q Okay. When you were, where were you when you heard a
- 19 shot?
- 20 A I was on the side of my car, that is my car right
- 21 here.
- 22 Q You were in that area?
- 23 A Yes.
- 24 Q And where did you hear Greg talking?
- 25 A He was up at the edge of the street up in this area

- 1 up here.
- 2 Q Up in that area?
- 3 A Yes.
- 4 Q Did you ever hear him talking from any other place
- 5 than up there?
- 6 A No.
- 7 Q You can go back and sit down. Now, what was Greg
- 8 saying when he was out there on the edge of the road?
- 9 A Well, the only thing I really remember is he said if
- 10 you kill my brother I am going to kill you.
- 11 Q If you kill my brother I am going to kill you, do you
- 12 remember that?
- 13 A He might have said if you shoot my brother I am going
- 14 to shoot you, one or the other.
- 15 Q Excuse me?
- 16 A He might of said if you shoot my brother I am going
- 17 to shoot you, one or the other.
- 18 Q Something along that line?
- 19 A Yes.
- 20 Q But that was said up there by the edge of the road?
- 21 A I could hear him saying that.
- 22 Q Near the end of the driveway, is that correct?
- 23 A Yes.
- 24 Q Now when Fred came back by did you have a chance to
- 25 look at him?

1 A Maybe not.

2 Q And in fact in your recorded statement also didn't
3 you say towards the end that you actually saw Greg on the
4 edge of the road down there?

5 A Maybe I did. I know I could hear voices.

6 Q Well, you want to listen to that portion. See if
7 this refreshes your memory. Please listen right here.

8 (Whereupon, a recording was played of Mr. Smith's
9 interview.)

10 Q Okay. So when you were interviewed by the police you
11 mentioned that you saw Greg over by the side of the road,
12 didn't you?

13 A I might have said that, it has been five years or six
14 years ago.

15 Q But you just listened to the recording, didn't you?

16 A Right.

17 Q And in the recording you said I saw him by the side
18 of the road?

19 A Now, Clyde Marshall's truck covered ahead of me and
20 he was up at the edge of the road up there. I probably
21 saw him, he was up there. I did hear that statement.

22 Q Mr. Smith, I know it has been a while and memories
23 come and go, not come and go but memories aren't as good
24 as they were. You will admit though that shortly after
25 this incident you told the police officer you had seen Mr.

1 Harrison up by the side of the road?

2 A Okay.

3 Q Am I correct?

4 A All right.

5 Q Thank you.

6 A Okay.

7 Q That is all I have.

8 REDIRECT EXAMINATION

9 By Mr. Hodges:

10 Q Mr. Smith, between the time you saw Fred go up on the
11 deck in the back of the house, at the time you saw him
12 coming back downstairs with a gun in his hand, how long of
13 a time would you say passed?

14 A It wasn't very long, maybe a minute or so.

15 Q Sixty seconds?

16 A Probably yes, that is a minute.

17 Q Pretty quick?

18 A Right.

19 Q That is the time he said everybody get out, went up
20 the deck and back towards his house and come back with the
21 gun and come out?

22 A About a minute.

23 Q Now, when he told, Fred told everybody to get out,
24 were people getting out?

25 A Everybody started leaving.

1 Q Was there anybody that stayed back and said I am not
2 leaving, I am not going?

3 A No, didn't nobody say that, no.

4 Q They were all heading out?

5 A Yes.

6 Q Did you ever see Meat with a weapon?

7 A No.

8 Q What about Greg?

9 A No.

10 Q So Greg was trying to help calm things down?

11 A Right, he was.

12 Q Meat wasn't trying to--

13 MR. WISE: Objection, he is leading the witness.

14 THE COURT: Rephrase.

15 Q Did you ever see Meat trying to get into his house,
16 kick in his door?

17 A No.

18 Q What about Greg?

19 A No.

20 Q That is all I have.

21 RECROSS-EXAMINATION

22 By Mr. Wise:

23 Q Mr. Smith, no one was blocking Mr. Freeman's van, was
24 it?

25 A I think he drove in.

- 1 Q And he wouldn't move it?
- 2 A I think somebody was behind him too but he could have
- 3 maybe backed up a little bit maybe anyway.
- 4 Q So basically had no one had you blocked in you could
- 5 have left with no problem before Fred came, before Mr.
- 6 Freeman came up, before Mr. Edwards came back out?
- 7 A I would have been gone already.
- 8 Q You would have been gone already?
- 9 A Yes.
- 10 Q If you would of had a clear avenue out from the time
- 11 Mr. Edwards left the game room to the time he came back
- 12 out you would have been gone?
- 13 A Right.
- 14 Q You had time to get in your car?
- 15 A Right.
- 16 Q You had time to crank it up?
- 17 A Right.
- 18 Q If you hadn't of been blocked you would have had time
- 19 to back out of the driveway?
- 20 A Yes.
- 21 Q Is that correct?
- 22 A Yes, I always drive in to be headed out.
- 23 Q At that time you could just pull out of the driveway?
- 24 A Yes.
- 25 Q And the only thing that prevented you from leaving

1 noticed a gentleman, my tactical mindset are people,
2 people who can cause any harm and do anything else. I
3 first noticed him and a scan of the house I also noticed
4 someone lying in the yard on the south end of the house
5 which to me facing the front of the house was to the left.

6 Q I want to show you several photographs and sort of
7 orient where you are talking about. First I will show you
8 State's exhibit 28. Describe for us, if you would, what
9 is in this photograph?

10 A That is a photograph of 707 Cokesbury and I guess
11 that is from an angle actually just North so that angle is
12 facing I guess Southwest towards the house.

13 Q Where was your patrol vehicle situated when you
14 pulled up there the house?

15 A If you can see the front door of that house I think
16 you can see a white storm door, it is white on the bottom
17 and glass on top. I would be directly in front of that
18 nose facing it.

19 Q Right here to the left of the picture?

20 A Yes, sir.

21 Q And your patrol vehicle is--

22 A Yes sir, right in that area of your finger.

23 Q Did you actually pull up into the grass?

24 A No sir, there is a fairly large curb in there. I
25 just nosed right up to it.

1 Q Now, you indicated you saw an individual standing?

2 A Yes, sir.

3 Q Where was he standing?

4 A There is a sidewalk that you see leading from the
5 driveway right in the center of the picture back towards
6 that front door. He was actually standing on that
7 sidewalk.

8 Q And you also indicated that you saw something laying?

9 A You can't see the area of the yard but if you look at
10 the left hand side of the home or the two, I think where
11 the circular windows are, just to the left to that in that
12 side yard there was a person lying in the yard.

13 Q I am going to show you State's exhibit 30 which is
14 from a different angle. Can you see in this photograph
15 where the body was lying or is that again--

16 A It is sort of, what you can see, you can see the
17 brick wall is actually the nextdoor neighbor's yard. You
18 then see a chain link fence, it is kind of difficult to
19 tell. It is deceiving in this picture. But the yard of
20 that house is a little bit lower and so but it is in there
21 in between that chain link fence and that home.

22 Q I am going to show you State's 31 and see if that
23 helps to orient you.

24 A Yes, sir. That shows, you can see the height
25 difference that was hidden in the previous picture. And

1 that yard, yes sir.

2 Q So the body that you see lying, is it in this side
3 yard?

4 A It is in that side yard, yes sir.

5 Q And do you see the sidewalk that you were talking
6 about?

7 A You could see just the corner.

8 Q Right here?

9 A Yes, sir.

10 Q Okay. Did you get out of your vehicle?

11 A Yes sir, I did.

12 Q What did you do when you got out of your vehicle?

13 A The initial thing I did was approach the gentleman
14 standing on the sidewalk.

15 Q Were you able to determine who that was?

16 A I was. I was able to determine that was Mr. Dawson
17 who I believe is Mr. Edwards son or stepson.

18 Q Did you have any kind of interaction with him?

19 A I did. I found upon approaching him that he had an
20 object in his hand. I found out he was holding a portable
21 telephone. I was able to determine he was one of the
22 people who had called us. And I asked him where is he at,
23 meaning the person who did the shooting and he told me he
24 was around back.

25 Q Did you go around back?

1 A Yes, sir. I left that side which was the driveway
2 side of the house on the right hand side and actually I
3 believe in the first picture you showed you could see an
4 outbuilding behind in the very end of that driveway and
5 around that corner you could see into that building.

6 Q I am going to show you State's exhibit 34. Is this
7 the outbuilding that you are talking about?

8 A Yes, sir. That is kind of an angle taken from the
9 same direction that that very first picture that was taken
10 was. As I rounded from the house to the left of that
11 photograph I could see directly into that door.

12 Q That glass door, you can see through it?

13 A Yes, sir. It is hard to tell from that picture from
14 this angle but I believe there is a glass door, there is a
15 storm door and then there is an interior door that is
16 open, the storm door was closed.

17 Q What if anything did you notice about the building?

18 A Again it was in that status, there was an interior
19 door open, a solid door open and then a glass door closed.
20 I could see an individual seated in a recliner type of
21 chair just inside of that.

22 Q What did you do then?

23 A The first thing I did was begin giving demands.
24 Again, I was close to that house in a law enforcement
25 tactical situation, you don't know what is going on still.

1 MR. HODGES: Your Honor, let the record reflect that
2 he has identified the defendant.

3 THE COURT: The record shall so reflect.

4 Q What if anything did you notice about his demeanor at
5 that point?

6 A When he came out, again he complied with my request
7 to show his hands, he came out. He was visibly upset, he
8 was short of breath, crying. At that time I just simply
9 said, what happened. At that time he was the first person
10 other than the gentleman on the steps who I asked where is
11 he at, we are trying to determine an ongoing situation,
12 his demeanor. He seemed upset.

13 Q Was he under arrest at this point for anything?

14 A No, sir.

15 Q Did you really know what you had?

16 A I had no idea, other than what I had been told via
17 radio, that is all I knew.

18 Q And you said what happened, what is going on?

19 A Basically I said, tell me what happened.

20 Q And what did you get from him when you said, what
21 happened?

22 A Initially again, he was crying, he said he had an
23 argument, Meat grabbed the gun and it went off.

24 Q All right. Then what happened?

25 A At that time again, he was visibly upset, he was

1 crying, he would stop and then catch his breath and then
2 start to catch and then he would start again. At that
3 time I began directing other officers to find out what is
4 going on and begin protecting the crime scene. I had
5 other officers of mine arriving on the scene and I began
6 directing them what to do. And I asked Mr. Edwards to
7 turn, there was another picture outside of some steps
8 right outside of that door leading onto the porch. I
9 simply, he was short of breath, crying, upset. I asked
10 him to sit down on those steps.

11 Q I am showing you State's 34, you talked about the
12 steps there on the deck?

13 A Yes, sir. It is tough to see in that because of the
14 railings. But what you have is the air conditioning,
15 pointing directly in front of that air conditioning unit
16 is, you know, a small platform and steps leading down onto
17 the driveway. And they would actually lead, if you came
18 down those steps you would walk directly into that door of
19 that outbuilding. And if you came out and up you would
20 lead onto a deck at the rear portion of the house.

21 Q It is kind of hard to see but it looks like there is
22 an angled railing?

23 A Yes, sir. Where you can see that angled railing,
24 right in the center of the picture angling down is the
25 steps.

1 simply turned to Mr. Edwards and said, tell me what
2 happened.

3 Q And did he tell a more detailed?

4 A At that time he was able to tell me that there had
5 been a poker game and that the victim who he described to
6 me and he called Meat which was a nickname, had gotten mad
7 about a rule that was made in the game over placing two
8 dollars into a pot if someone, I believe if it was either
9 they folded out of turn or bet out of turn in the game and
10 that this rule that was made in the game upset him and it
11 caused an argument. He said they argued about it, it got
12 heated, he said he left that room where the poker table
13 was, went in the house and retrieved his gun. He said he
14 came back out of the house onto the porch, onto that rear
15 deck area and saw Meat in the driveway. He said at that
16 time he told me, he said I ran him around the house and he
17 asked me, don't shoot me Freddie, don't shoot me. And Mr.
18 Edwards then said Meat grabbed the gun and it went off.

19 Q Where did he indicate that Meat was when he came out
20 of the house?

21 A He said that they had argued obviously at the poker
22 table. He said he left and went in the house and he said
23 when he came out of the house Meat was standing in the
24 driveway.

25 Q Did you ever have an opportunity to see the firearm,

1 his head but like I said the recorder can't pick up head
2 motions so I had him verbally acknowledge whether he
3 understood each warning or not.

4 Q And you actually ended up going over those rights
5 twice, didn't you?

6 A I did.

7 Q The second time you went over with him I noticed they
8 were initialed and signed, is that where he actually
9 signed the warnings?

10 A He did. And the reason we went over them again, we
11 kind of went through what had happened. Mr. Edwards broke
12 down, he was crying uncontrollably. I stopped the
13 questioning and I gave him a minute to regain his
14 composure and then at that time I went back over his
15 rights again using this form. It just has some
16 biographical information on him, location, we then did the
17 form again as I read him each Miranda warning. Again I
18 had him initial beside it and there is a paragraph down
19 here and then he signs that he understood.

20 Q And did he ever ask for a lawyer at any point?

21 A No, ma'am.

22 Q Did he ever convey that he wanted to stop questioning
23 or anything?

24 A No, ma'am.

25 Q You said that he kind of told you his version of what

1 happened that night. Can you generally describe what he
2 told you?

3 A There was a card game and Mr. Edwards has a small
4 building that was out behind his house. They were
5 apparently involved in a card game. A dispute had arose
6 between Mr. Edwards and Mr. Freeman over putting money
7 into the pot over a rule or something like that. The
8 argument escalated and Mr. Edwards left, he come back.
9 When he came back out Mr. Freeman and his brother were
10 going up the driveway, Mr. Edwards followed them. Mr.
11 Freeman's brother went to the, walking away from Mr.
12 Edwards' house, Mr. Freeman's brother went to the left
13 going down Cokesbury Road. At that time it was the Villās
14 Apartments, I think now it is called University Commons.
15 Mr. Freeman went to the right which would be going up
16 towards Durst Avenue but he cut through the yard. Mr.
17 Edwards followed him, Mr. Freeman went to cut back, cut
18 back by the house but there was a fence that went from Mr.
19 Edwards house to the adjoining, the fence, the property
20 behind the fence and it was locked preventing him from
21 going any further so he turned back around, came back.
22 Mr. Edwards says he clotheslined him and he demonstrated
23 that he clotheslined him and then at some point, he
24 prefers to him as Meat which was Mr. Freeman's nickname,
25 that Meat grabbed the gun or at the gun and the gun

1 discharged.

2 Q And where did he say Meat and his brother went when
3 he came out of the house?

4 A When he came back out of the house Meat, Mr. Freeman,
5 his brother were going up the driveway and then we saw Mr.
6 Edwards coming they kind of split, I think. Meat's
7 brother went to the left and Meat went to the right.

8 Q Okay. I want to show you State's exhibit 44. Can
9 you tell me what this is?

10 A That is a very crude drawing done by me with the aid
11 of Mr. Edwards. As we are talking to help clarify the
12 directions people are going, it is kind of a very crude
13 drawing to help both he and I to fully understand that
14 question and the answering part of what took place.

15 Q And did Mr. Edwards sign that?

16 A He did.

17 Q Now, I am just going to kind of point at various
18 places and get you tell me what is going on there. What
19 is this back here?

20 A The little box at the back is the house where they
21 were playing cards. The bigger square is Mr. Edwards
22 residence. You will see the lines coming towards, where
23 it says Cokesbury Road and one veers off and that would be
24 the direction of his brother and the longer line would be
25 the direction traveled by Mr. Freeman.

1 The door as you see there is the exterior door that leads
2 out the back at the base. At the bottom of the picture
3 there is the shoulder holster.

4 Q Did you collect that shoulder holster?

5 A I did.

6 Q I am going to show you State's 10. What is that
7 item?

8 A This is the shoulder holster that I collected from
9 707 Cokesbury Road.

10 Q Once you made that pass of that particular utility
11 room, I guess, what other rooms became significant in your
12 process?

13 A The next room as you pass through there is the
14 bedroom and the bedroom is where Lieutenant Murdock and
15 Lieutenant Gray found a dresser in which there was several
16 items thrown out like somebody had hastily gone through
17 the dresser looking for something. There was also a box
18 of ammunition that was found in this bedroom.

19 Q What was the, was the house tidy?

20 A We did go through the house, all the house and the
21 house was very neat and tidy, very organized. The bedroom
22 itself was also very neat and organized with the exception
23 of this one single dresser where the items were seemed to
24 be hastily pulled out and thrown on the floor.

25 Q Did it stand out of contrast with the rest of the

1 ask what direction this is oriented from?

2 A This is my back towards the back yard. The house is
3 to my left. The fence on the side of the yard is to my
4 right and the road is directly in front of me.

5 Q Finally State's exhibit number 41.

6 A This is with my back to, at the fence and facing
7 towards the house. The back yard fence is to my left.

8 Q So when you say your back is to the fence you are
9 facing the fence on the side of the property?

10 A Yes sir, the fence that is on the side of the
11 property.

12 Q It appears in his left hand is there at his waist,
13 what is that clutched in his left hand?

14 A He was clutching a large sum of money and his hand
15 was gripped very tightly around the money. Later on,
16 shortly after taking his photograph I did collect the
17 money and found there was \$187.00 dollars.

18 Q In terms of processing the body did you do a gunshot
19 residue test on his hands?

20 A I did.

21 Q Describe for us if you would what a gunshot residue
22 test is?

23 A A gunshot residue test is several capsules. Each of
24 these capsules is marked with the left, the four
25 categories are left palm, left back, right palm and right

1 Q And that was the struggle over a gun, you knew that?

2 A I was never told there was a struggle over the gun.

3 Q Well, you were told that Mr. Freeman had grabbed the
4 gun?

5 A I was never told that Mr. Freeman had grabbed the
6 gun, no sir.

7 Q You weren't told all the facts that Mr. Edwards had
8 told Mr. Martin or Mr. Murdock?

9 A I briefly spoke to, I did not speak to Lieutenant
10 Murdock until later on. But I believe Captain Martin told
11 me the basis of it but I don't remember him stating that,
12 at the time that anybody grabbed a gun other than Mr.
13 Edwards.

14 Q Mr. Edwards, okay. Did you determine this was what
15 is called a through and through wound that night?

16 A I did not determine that. That is something that is
17 done at the autopsy. It looked to me as it was but I
18 don't, not able to make those determinations, I don't have
19 that.

20 Q Did you make any effort to find any bullet on the
21 ground in that area?

22 A We checked every where. The side of the house is
23 siding and we checked every where in that area to try to
24 find it. We also looked on the ground, it is normally
25 when a bullet goes into the ground you see some sort of

1 divot in the ground or a rise in the ground. We did not
2 see anything like that.

3 Q You looked in the vicinity of where the, of where Mr.
4 Freeman was lying to look for that bullet?

5 A We looked at the entire area because at the time we
6 felt we had some statements as to say what exactly had
7 happened. We had to take into consideration of what we
8 were being told may not be exactly what happened. So we
9 looked for everything, possibility for any type of
10 evidence that could support or contradict any statements
11 that we had.

12 Q And in the vicinity of where Mr. Freeman was you
13 found no evidence of any bullet entering the ground
14 whatsoever. If they had of found one you would have tried
15 to dig it out?

16 A Yes sir, we had something, yes sir.

17 Q And you never took any GSR on Mr. Freeman's forearm,
18 did you?

19 A No, sir. The GSR is specifically for the hands.

20 Q It can only be used on the hands?

21 A I think you possibly could use it but it would be
22 hard to come up with a process to, based on our GSR kits,
23 it would be hard to process to doing that.

24 Q You just get a GSR kit and say forearm, right foreman
25 on it, couldn't you?

1 What I took actually was a .22 caliber at that time was
2 the smallest weapon that you could buy that used this type
3 of reaction process. And I was able to establish that it
4 did have, as I expected, the lowest level that would be on
5 someone's hands. Using it as a standard and it is still
6 the standard used today, we use that as what we call a
7 threshold. When we swab someone's hands and we run these
8 samples we look to see if the levels of metals on those
9 swabs reach those thresholds. If they do not then someone
10 is called, there is no material there. If it does reach
11 it now we have an indication or we call it metals
12 consistent with gunshot residue. We then take, we later
13 add it to the process where we add the particle lifts
14 which are used to be able to confirm the gunshot residue
15 using our electro microscope. We are actually able to
16 look at the particles and say we do have gunshot residue
17 here, we met the threshold and are able to make the call
18 that there is gunshot residue.

19 Q All right. So when you are analyzing a sample what
20 will you be able to tell from a sample?

21 A Sometimes very little, sometimes a lot. If I am
22 looking at a sample, the swabs, and the levels on the
23 swabs are not, vary outside the norm there is very little
24 I can tell from that. It just says that they have been in
25 the presence of gunshot residue. Gunshot residue can come

1 from many different ways. One could be from firing a
2 weapon. When you fire a weapon the smoke that comes out
3 of that weapon will come out and envelope around it and
4 get on your hands, your clothing, your face. If you are
5 standing in front of the weapon you will also get covered
6 with the material also. Again the materials on the levels
7 of the hands give us indication sometimes if you are in
8 front of the weapon because the levels are so high you
9 could have received it from just firing a weapon. It is
10 just they are 10, 15, 20 times higher than you can ever
11 get just from firing a weapon.

12 Q So obviously if you are looking at these samples you
13 are looking for presence of the gunshot residue?

14 A Yes sir, that is correct.

15 Q And do I understand that also to determine the
16 quantity of that material present?

17 A Yes, we actually do a quantitation with those swabs
18 to determine how much of the material is there.

19 Q And that can be significant in terms of where someone
20 was in relation to the firearm?

21 A If there is excessively high levels, yes. If they
22 are not we can't make any conclusion about it.

23 MR. HODGES: May we approach, Your Honor?

24 THE COURT: Yes.

25

1 grab the weapon and not fire it you can have gunshot
2 residue only on the palm of your hands because sometimes
3 you have residual material from the previous firing that
4 you can pick up. If you have both hands together you can
5 have the residue on all four areas of the hand. So we can
6 use the materials to give us some indication of where or
7 what someone is doing with their hands as far as a weapon
8 is concerned. It is not an exact science because
9 unfortunately we are dealing with a process whereafter you
10 fire a weapon you can lose this material because you can
11 wash your hands or you can wipe your hands on your
12 clothing and of course that can remove a lot of materials.
13 So we can actually have an area that will come up negative
14 that had residue on them to begin with but because of
15 something that someone did it removed that material.

16 Q Let's start with samples on Mr. Edwards. You tell us
17 first did you determine if there was gunshot residue
18 present on either or both of Mr. Edwards hands?

19 A When I ran the sample that was listed as Freddie
20 Edwards I found one round led particle on the palm and
21 back of the right hand. Round led particle is one of the
22 components found in gunshot residue. I also found round
23 led particles, many particles on the palm and back of the
24 left hand. Again this indicates that we had on both hands
25 particles that are found in gunshot residue and they, the

1 fact that they are round means that they had to be formed
2 by a molten process and that is why we call it part of the
3 gunshot residue. Both hands had particles. We had more
4 particles on the palm and back of the left than we did on
5 the right hand indicating that the left hand had received
6 more exposure to the cloud coming out of the weapon on the
7 right hand.

8 Q From a forensic standpoint are you able to explain
9 where his hands faced in relation to the firing?

10 A Both of the hands would have been near the weapon
11 when it was discharged because both had particles. The
12 right hand, excuse me, the left hand would have been
13 closer. Now, it could very well be, that if you hold the
14 weapon with your right hand, you take your left and you
15 cover that the left hand will get the majority of the
16 particles. So this could have been a position, it could
17 have been a position where one hand was holding the weapon
18 and the left hand was near it when it went off. Both of
19 those are possible.

20 Q Why have you got a left covering the right, why is
21 that consistent with what you found?

22 A Because the left hand is going to protect the right
23 hand so that the particles, the particles will attach to
24 the first thing they hit. So if your left hand is exposed
25 completely the right hand is covered or balled into that

1 left hand you will get very little surface area for those
2 particles to deposit themselves. So thus the left hand
3 would have more particles than the right.

4 Q So if Mr. Edwards had been holding a firearm in this
5 sort of a position when it discharged would that be
6 consistent with what you found with regard to the gunshot
7 residue?

8 A Yes, sir. If you had your hands cupped together with
9 the left hand over the right, that would be consistent
10 that I have.

11 Q And also would you indicate that it is consistent if
12 the left hand is near the right hand at the time it was
13 discharged?

14 A Yes. If you take your right hand and you are holding
15 the weapon and you had your left hand somewhere in the
16 vicinity, somewhere near to either in an automatic or a
17 revolver from the revolver cylinder itself you can pick up
18 more particles just having your hands near that.

19 Q Okay. Now, let me give you another hypothetical
20 scenario. Let's say that the gun is held at the side like
21 this and it is pulled with only one hand on the firearm.
22 Would that be consistent?

23 A No, sir. What you are describing there is holding
24 the gun with your right hand. Your left hand is actually
25 to your side, you are not going to get the residue on your

1 left hand because the cloud is going to contain itself
2 within about six inches around the hand that is holding
3 it. So you would only get the contamination on the right
4 hand. You could contaminate the left hand if you reached
5 over and grabbed the weapon afterwards and reached and
6 just held the weapon itself, you could pick up some
7 particles from it. But as far as firing it, no sir, the
8 left hand would have nothing on it.

9 Q And you indicated that you could tell because of the
10 high quantities whether someone's hand is in front or
11 behind you with a firearm?

12 A Yes, sir. The majority of the material that comes
13 when you discharge a weapon comes out the end of the
14 barrel or from maybe the vents. But the majority of it
15 would come out the end of the barrel. If you are standing
16 in front of the weapon in a fairly close place and your
17 hands are here your hands can become blackened with this
18 material, you can visually see it. So the levels that are
19 there are so high you cannot receive those levels by
20 firing it. Your hands are protected when you are firing
21 them so you don't hurt yourself and be burned by the gases
22 coming out of the weapon. So if I have levels that are
23 extremely high, way to high for the firing then it has to
24 be in front of the weapon to be able to get those high
25 levels.

1 Q And in regard to the levels on Mr. Edwards is that
2 quantity more consistent with, from the weapon or firing
3 the firearm?

4 A Mr. Edwards, the material he has is consistent with
5 just a normal amount of materials that you get from firing
6 a weapon. I have no indication that he was in the
7 defensive posture.

8 Q Let's talk about the gunshot residue you did on Mr.
9 Freeman. If you could tell us what your results were on
10 those tests.

11 A On the kit labeled George Freeman, metals consistent
12 with gunshot residue were found on the back of the right
13 hand. The quantities of the metal detected on the back of
14 the left hand may be associated with gunshot residue.
15 That is saying that on his samples the palms were
16 negative. There was nothing on either palm. But on the
17 back of the right hand was a very, very high level of
18 material. On the back of the left was a moderate or lower
19 amount of material.

20 Q Let's go through a couple of scenarios in regard to
21 the levels on his hands. First of all if a person has got
22 money clutched in their left hand explain how that would
23 be consistent with the levels that you found on the
24 decedent's left hand?

25 A If you are being shot at, I assume this is the

1 scenario you were describing, and you have something in
2 your left hand clutching and you mentioned money. You are
3 now sealing off the hand or the palm. There is nothing
4 where you can get into where the palm is at. But the back
5 of the hand is still exposed. You are in front of the
6 weapon and you are fairly close you are going to
7 contaminate the back of your hands but your palms will
8 come up as negative.

9 Q What if the decedent had a drink bottle in his right
10 hand?

11 A It would be the same effect. It is just like holding
12 the money or holding a bottle. Anything you will have in
13 your hands will seal off that area so that it will not be
14 contaminated.

15 Q Okay. Let's assume that a decedent grabbed ahold of
16 the wrist of the shooter behind the firearm, grabbed
17 ahold. Would that be consistent with levels of gunshot
18 residue found on the decedent's hands?

19 A If you grab someone's wrist the weapon is now
20 projected beyond the hands. You are going to actually
21 have it is towards the wrist or even to the forearm. The
22 fire coming out, the debris coming out from the weapon
23 would burn the forearm. You would actually have some
24 deposit on the forearm but the material coming out of the
25 barrel is going to go into the chest area. It is not

1 going to be deposited except on the back of heavy levels.

2 You get a light dusting, yes. It would be the same as if
3 you fired the weapon because your hands are in that same
4 vicinity. So you get a light dusting but you will not get
5 a heavy coating.

6 Q Let's move then a little forward on the gun and would
7 it be consistent with the decedent grabbing the firearm at
8 the cylinder?

9 A If you grab a weapon at the cylinder?

10 Q I am talking about right here at the cylinder. The
11 gun is grabbed there.

12 A Yes, sir. At the cylinder, at the cylinder gap if
13 you will, this is where gases are allowed to come out.
14 Your palms of your hands will actually be scared or
15 tattooed with the debris coming out. It will be a
16 blackened burn mark usually a second or maybe a third
17 degree burn that will occur because of it. Also because
18 of the energy there will be some tearing possibly.
19 However it will actually contain the material to the
20 palms. It doesn't have the chance to spread out. You
21 could still get a light dusting of a material coming out
22 from the barrel. But the majority of it is going to be
23 burnt into the palm of your hands.

24 Q And there was no significant gunshot residue on the
25 palm?

1 A No sir. There was none on the palms so that would
2 not be consistent with the data that I have.

3 Q What about moving even farther forward and grabbing
4 the barrel of gun?

5 A If you are between the cylinder and the end of the
6 barrel now you have the metal and there you could get a
7 cloud debris that could come around but again the material
8 coming out of the weapon is going to go forward and hit
9 the person and so the majority of it would go on the
10 person. It could in theory wrap around, I don't think it
11 would warp around as what I saw on these numbers but it
12 could.

13 Q What if you are, let's say that the gun is in the
14 mouth and a hand is somewhere near the mouth? Would that
15 be consistent?

16 A It could because once you have introduced the mouth
17 you introduce a new variable. The material coming out of
18 the weapon, if you have it inside of your mouth, depending
19 upon if your mouth is open or closed will contain the
20 debris coming out of the weapon, it stays within the mouth
21 cavity. So you don't get very much material coming out
22 there but if someone has their hands near that cylinder
23 gap they could now pick up the debris from that. So it
24 all depends upon what someone is doing. Again, this isn't
25 in exact science. We can't reproduce what someone does

1 that exact moment. We can give you what we have on the
2 hands and draw general conclusions.

3 Q But the levels on Mr. Freeman, is it consistent with
4 him having his hands on the gun?

5 A No sir, because there is nothing on the palms. If
6 there had been materials on the palm I would not be able
7 to say this. But because there is nothing on the palms
8 and all the material we found was on the back of the hands
9 that is more consistent with the back of the hands being
10 exposed some, either to the cylinder gap or to the end of
11 the barrel not with someone holding on or grabbing the
12 gun.

13 Q Please answer any questions that Mr. Wise may have.

14 CROSS-EXAMINATION

15 By Mr. Wise:

16 Q Mr. Powell, one of the problems with gunshot residue
17 is that it rubs off?

18 A Yes, sir. It is actually very, if I may describe it.

19 Q Sure.

20 A It is very similar to flour. If you have ever made
21 biscuits, I know that may be a dieing art but used to be
22 people that would make biscuits at home and they would get
23 flour on their hands. And it is very much like flour in
24 its composition. So if you put your hands underneath the
25 sink and you wash the flour off you can get the very same

1 thing when it comes to gunshot residue. Just like when
2 you rub, like I am rubbing my jacket. We do the same
3 thing to take it off the palm of the hands.

4 Q And it also transfers?

5 A It does transfer but not at a one to one. What I
6 mean by that, if I have one-hundred particles on my palm
7 of my hands and I shake your hand only about ten of those
8 will transfer to your hands. So it is not a direct one on
9 one.

10 Q But it will transfer?

11 A There will be some transfer.

12 Q And if a person is handcuffed seated in the backseat
13 of a police car with his hands behind him some stuff is
14 going to rub off there?

15 A Yes, sir.

16 Q And that can distort the reading?

17 A Yes, sir. That has to be stated that anything that
18 is happening depending upon and we do take these kits as
19 soon as possible because every minute that passes will
20 begin to change what we are looking at.

21 Q The best thing to do is to bag the hands before they
22 are handcuffed?

23 A That could help diminish brushoff, yes. But
24 unfortunately our bodies will actually begin to dissolve
25 it because of perspiration. So it won't keep it there.

1 Q But certainly it speeds up when someone is sitting in
2 the backseat of a car with their hands handcuffed behind
3 them?

4 A Yes, sir. If they are rubbing their hands you are
5 looking at just like rubbing a towel.

6 Q And you have problems there with rubbing off and
7 transfer?

8 A Yes, sir.

9 Q And that will distort to some extent what the
10 readings you had on Mr. Edwards if he was transferred in
11 the backseat of a patrol car with his hands cuffed?

12 A It could.

13 Q Now, on Mr. Freeman's hands, there was none on the
14 palm of his right hand?

15 A Or his left.

16 Q Or his left. The palm had to have been protected in
17 some way then?

18 A Yes sir or not in the line of fire. Either one could
19 be a possible answer.

20 Q Now, you mentioned that if this were a contact shot
21 on the face the chances of much gunpowder residue getting
22 to the hands is simply not going to be very much?

23 A From the end of the barrel that is true. Now let me
24 explain. When I say contact, the contact, there is
25 different understanding from different people. There is

1 is what, we will see very high levels on the palms of
2 someone who is in a defensive posture because their hands
3 are there to be able to stop the bullet or stop what is
4 going to be happening.

5 Q So all you can say in this is that based upon the
6 reading on Mr. Freeman's right hand that his hand was very
7 close to the firearm when it was fired?

8 A Yes, sir. The back of his hand was very close, it
9 would be the back of the, the right hand was very close to
10 the weapon when it was fired. The left back was someone
11 in the neighborhood but we don't know exactly where.

12 Q And if, if you will grab it and pull on it. And if
13 the gun were to fire as his hand came off would that be
14 consistent with what you saw?

15 A If it fired as the hands come off, no sir because it
16 had nothing on the palms.

17 Q Correct. If he fired and his hand closed as it came
18 off that would protect the palm, wouldn't it?

19 A If the weapon is fired first and it is coming off it
20 is going to contaminate that palm.

21 Q Well, let me rephrase it. If it is, as soon as the
22 hand comes off it fires then his--

23 A If his hands come off and then close and it fired
24 then that would be different.

25 Q If a person had a hold of the barrel and pulled on it

1 they would normally, when they pull on it keep their hand
2 closed, correct?

3 A Right.

4 Q And as soon as it cleared the barrel, if it went off,
5 then you would get a high reading on the back of the hand?

6 A Yes, sir.

7 Q But none on the palm?

8 A If the hands, once it came off it has to be closed
9 and it has to be nothing on the weapon. That is correct.

10 Q And that would explain no residue on the palm?

11 A No residue on the palm if the hands are closed and
12 the other hand would have to be somewhere too also in a
13 closed position.

14 Q Certainly inconsistent with this?

15 A No sir, this did not happen because there is nothing
16 on the palms of the hands so that, he did not throw his
17 hands up like this.

18 Q You could say that was not true?

19 A That didn't happen.

20 Q And you can also say, you can say to some degree of
21 certainty if you will hold the firearm again. That if his
22 hand were in this area that he would have it on his palm
23 too?

24 A Yes. If you turn your hands, if you have here where
25 the palm is towards the weapon, yes you would get the

1 residue come out of the cylinder. If you were striking
2 back like we, with the back of your hand you would get it
3 on the back of your hands.

4 Q So the only way and if his hands were just open in
5 this area you would expect some to get on the palm also?

6 A If it was just open I would, yes.

7 Q Okay. So the only way you are going to get no
8 residue on the palm is for the palm to be closed when that
9 weapon is fired?

10 A Yes, it would be either closed or something closed
11 onto something but it would have to be protected in some
12 form or fashion.

13 Q Now, on Mr. Freeman you found a small amount of
14 gunshot residue on the left hand?

15 A On the back of the left hand, yes sir.

16 Q And that I believe, are you aware that is the hand
17 the money was in?

18 A I don't know which hand the money was in.

19 Q And you found a much higher amount on his right hand?

20 A Yes, sir.

21 Q And so that told you that the right hand was
22 certainly much closer to the gun when it was fired than
23 the left hand?

24 A Yes, sir. That is correct.

25 Q And when you, the amounts on the left hand were so

1 will have gloves on it, I don't talk over the evidence. I
2 look for anything that looks out of place. Do I see
3 anything that may be potential blood, potential tissue.
4 Do I see any fibers, do I see paint where the object may
5 have come into contact with a wall, you know, sheetrock.
6 Is there anything that I see on the gun that I do not
7 believe was put there by the manufacturer, any sort of
8 trace evidence.

9 Q And in examining State's exhibit number 1, did you
10 locate any trace evidence?

11 A Yes sir, I did.

12 Q What did you locate?

13 A On the right side of the barrel near the muzzle area
14 I located what I believed was consistent in appearance
15 with tissue, with skin type material.

16 Q Did you collect that?

17 A I did.

18 Q What did you do with it?

19 A I placed it in a container with a pair of tweezers
20 and labeled that container as being debris from this
21 firearm, State's exhibit 1. And packaged that sample for
22 return with the firearm to the submitter.

23 Q What is the inspection to see if there is any matter
24 on the firearm, what is your next step?

25 A I compare the evidence submission form which list

1 drilling into a solid surface, a material that is being
2 removed, some of that material can actually build up on
3 the cutting edge of that drill bit and cause it to drag
4 around causing, that material can cause scratches on the
5 inside of the gun. Okay. There are numerous processes
6 that cause all of these individual marks to be made that
7 the manufacturer cannot reproduce. And that is what
8 causes these guns to become individual and that is just
9 manufacturer. Post manufacturer, how well a person cleans
10 their gun, you know, if they don't clean it you can have
11 buildup of residues and materials inside. That can
12 potentially etch or eat away at the inside of the gun. If
13 the gun is exposed to moisture you can get rust. If the
14 person uses an improper for cleaning a gun such as a
15 stainless steel brush it can scratch the inside of a gun.
16 If a person tries to purposefully change the gun by
17 putting a screwdriver or some other tool down the barrel
18 of a gun, that can change it. There is just a lot of
19 things out there that can cause a gun to become more and
20 more individual over time.

21 Q Because of these and characteristics were you able to
22 prepare any evidence that was submitted to you with the
23 test fired bullet?

24 A Yes, sir. I compared State's exhibit 3 which is a
25 fired a .44 Remington Magnum caliber cartridge case to

1 State's exhibit 1, the revolver.

2 Q In your opinion what was the result of that
3 comparison?

4 A In my opinion State's exhibit 3 was fired by State's
5 exhibit 1.

6 Q Now, as part of your examination did you also check
7 the firearm to see if it was functioning properly?

8 A I did.

9 Q Tell us about that?

10 A One of the things that I will do when examining the
11 firearm is I will close the cylinder, I will check and
12 make sure that the cylinder is good and tight and it
13 cannot rotate very much, make sure it has good barrel
14 cylinder alignment. I will check any available, if there
15 are any safeties on the gun, make sure that they function
16 properly. This firearm does not have any external
17 safeties. There are no external buttons or levers that I
18 can push to cause the gun to be either, to become on safe
19 or not on safe. However this firearm has two internal
20 automatic safeties. One is called a hammer block. You
21 probably can't see it from there but down in this area
22 right here there is a little piece of metal that moves up
23 and down. Okay. As you pull the trigger the piece of
24 metal moves down out of the way. So if the trigger is
25 held to the rear when it is pulled the full cycle, the

1 hammer can fall forward without this piece of metal
2 blocking its movement which is the name, hammer block.
3 Which if it can all the way forward it can fire. If the
4 trigger does not get pulled all the way to the rear for
5 instance, if it gets pulled part of the way and then
6 released this lever moves back up and gets in the way, it
7 will not let the trigger go all the way forward.
8 Basically there is a piece of metal that blocks the
9 trigger so it can't get that last quarter of an inch or
10 so. It is a very sturdy safety, okay. I checked the
11 hammer block safety on this gun. It did in fact fire, it
12 did function properly, it blocked the hammer. There is
13 another safety that is actually located in this area. It
14 is a spring loaded bar on the inside that has got a hump
15 on it. The bottom of this hammer also has a hump on it.
16 When you pull the trigger the trigger pushes this spring
17 loaded bar backwards and moves the hump out of the way so
18 that when the trigger is fully rearward the hammer can go
19 all the way forward. However, as you start letting go of
20 the trigger this spring loaded bar under spring tension
21 forward and pushes the hump on this bar underneath the
22 corresponding hump on the bottom of the hammer which once
23 again will not allow the trigger or the hammer to go all
24 the way forward preventing firing. Just so you can see
25 it, the trigger is going forward. I will let the hammer

1 all the way down and if you watch the hammer right here
2 you will see it move backwards ever so slightly. You see
3 it move?

4 Q Tell us what is the significance of these?

5 A That unless this trigger is held to the rear at the
6 time of firing this gun cannot fire. Also during my
7 testing I want to see if there is any way I can make these
8 fire unintentionally without pulling the trigger.
9 Something else that I will do is with the hammer cocked to
10 the rear I will tap the trigger and that is how I test
11 these two safeties to see if this spring, the springs that
12 operate these two systems are strong enough and fast
13 enough to be quicker than the fall of the hammer. So I
14 will cock it and I will tap the trigger causing it to
15 release without any pressure on the trigger. They worked.
16 Something else I will do is I will cock the hammer to the
17 rear and I will take a non-marring, typically a rubber
18 mallet and I will start tapping the gun in various places
19 to see if I can jar it lose. And on this gun I was able
20 to do so. Okay. By tapping it on the rear of this back
21 strap or on the rear of this hammer I was able to cause
22 this hammer to fall. Okay. However, these two internal
23 safeties that I have been talking about were fast enough
24 that every time I did it they prevented this gun from
25 firing. The only way I could get this gun to fire was to

1 actually hold the trigger to the rear.

2 MR. WISE: Your Honor, I would like for the witness
3 to unlock the demonstration.

4 THE COURT: No objection?

5 MR. WISE: No objection.

6 THE COURT: All right. Ladies and gentlemen, the
7 witness is going to remove the trigger lock, the gun is of
8 course not loaded, it has been certified that it is not
9 loaded and of course the gun is not going to be pointed at
10 anyone during the course of this demonstration. You don't
11 need to worry about that.

12 Q Will you explain the difference between double action
13 and single action?

14 A Okay. With this type of firearm there are two ways
15 to fire, it has two modes of fire. The most simple form
16 is called single action. Single action means the trigger
17 has one responsibility and one responsibility only. To
18 release the hammer so that it can fall and cause the
19 firing pin and hammer to strike the cartridge, the way
20 that this works is you first must cock the firearm and in
21 this case it is simply pulling the hammer back. The
22 trigger now has one responsibility simply to let go and
23 cause the hammer to fall, that is all it does. Something
24 else that you will notice in single action, watch the
25 trigger what it does when I cock it. It pretensions the

1 trigger for the majority of the pull. So the actual
2 firing of the trigger or the firing of the gun requires a
3 very small movement of the trigger. Okay, that is single
4 action. It does one thing and it releases the hammer. In
5 double action the trigger performs two things. The first
6 thing it does, as you pull it and notice the length to
7 this trigger pull it is very long. As you pull the
8 trigger it cocks the hammer, it rotates the cylinder but
9 it cocks the hammer and when the trigger gets all the way
10 to the rear it will then release it. So that is the two
11 functions of double action. It cocks the hammer and
12 releases. Double action is typically a heavy trigger pull.
13 With a very long motion. Single action is a very short
14 trigger pull and it is considerably lighter.

15 Q And what do you mean by longer and heavier and
16 shorter and lighter, explain that?

17 A Long trigger pull, double action, the trigger must go
18 the full distance from start all the way back to finish.
19 Okay. And in this gun I tested this, the amount of force
20 that had to be placed on this trigger during this long
21 heavy trigger pull. It was around twelve and a half
22 pounds.

23 Q Can you equate that to anything that to the force it
24 takes to pull that trigger?

25 A A gallon of milk weighs about eight pounds so think

1 A That would be my item number 18.1. I did not have
2 any blood indicating meaning my presumptive test for blood
3 on this particular swab was negative but because that
4 there was an indication that it could possibly be tissue
5 or some sort of bodily substance I went ahead and
6 proceeded with the DNA analysis. And on item 18.1 I was
7 able to develop a DNA profile and that also matched the
8 DNA profile of George Freeman.

9 Q Were you able to identify any other blood or possible
10 items containing DNA from the rest of the items submitted?

11 A Yes. On item 18.2 which was a swab from the muzzle
12 there was no blood indicated so I did not proceed further
13 with DNA analysis on this item. On item 18.3 which was
14 the swab from the right side barrel at the frame there was
15 an indication of blood and so I proceeded with DNA
16 analysis. And this item I also developed a mixture
17 meaning there was two individuals present in this mixture.
18 The DNA profile developed from the major contributor to
19 this mixture also matches the DNA profile of George
20 Freeman.

21 Q Please answer any questions Mr. Wise may have for
22 you.

23 CROSS-EXAMINATION

24 By Mr. Wise:

25 Q Doctor, 18.1 was, it looked like the small piece of

1 training after finishing my MD Degree. Then stayed on at
2 the Medical University and taught in the field of
3 pathology and was the person in charge of the forensic
4 section of the department of pathology. And we received
5 cases from all over the state during the time of 1972 to
6 '83 when I was a staff member at the Medical University.

7 Q What did you do after 1983?

8 A In 1983 I moved to Newberry, South Carolina where I
9 became the Director of the pathology department there and
10 the laboratory and continued to do forensic autopsies.
11 The person in charge of the Medical University at that
12 time, Dr. Gordon R. Henninger, (phonetic), called the
13 coroners in the upper part of the state to let them know
14 they didn't have to go all the way to Charleston, they
15 could send a body to us there in Newberry. So I started
16 out only doing a couple of 100 that first year compared to
17 the 600 we were doing at the Medical University a year.
18 But it soon grew to 4 or 500 and I had to get an associate
19 in '96 and then later a third individual as we were
20 getting up to 800 cases a year in consults for the
21 coroners in the upper part of the state.

22 Q Have you testified previously at the circuit courts
23 of this state as an expert in forensic pathology?

24 A Yes, I have.

25 MR. HODGES: Your Honor, the State would offer Dr.

1 Sexton as an expert in the field of pathology.

2 THE COURT: Any objection or voir dire?

3 MR. WISE: No objection.

4 THE COURT: Without objection. Ladies and gentlemen
5 of the jury, Dr. Sexton has been qualified as an expert in
6 the field of forensic pathology. That means he may give
7 his opinion as to certain matters that relate to this area
8 of expertise. It does not mean, of course, that you must
9 accept this testimony but it is evidence for you to use in
10 whatever way you see fit and give it whatever credibility
11 you believe it deserves. Mr. Hodges, you may continue.

12 Q In addition to your expertise in forensic pathology
13 do you also have a history of knowledge in firearms?

14 A I have had an interest in firearms. When I first
15 attended the University of Virginia where I received my
16 undergraduate degree in chemistry I was a naval
17 scholarship student. And in the department there was a
18 range where people were shooting so I started shooting at
19 that time competitively and had continued to do that and
20 still hold a few records in my age group, internationally
21 competition and coach a pistol team at the Citadel and
22 have coached it for 38 years.

23 Q This knowledge of firearms in any way directly relate
24 to the field of forensic pathology when it comes to
25 determining the cause about injuries?

1 A It does in several ways. In addition to my interest
2 I have also participated in a course, Dr. Richard Petty in
3 Dallas, Texas many years ago back in the '60's, it was 69
4 I went there but I was still in residency training, had a
5 course in understanding wound ballistics plus we are
6 taught that through our textbooks and our experience in
7 examining bodies. There is effects on gunshot wounds on a
8 individual's body. So both of those experiences have been
9 very beneficial since many of our homicides in this state
10 have been gunshot wounds.

11 Q You had mentioned several times about autopsy. Can
12 you explain to us what autopsy is and the purpose of it
13 is?

14 A We basically ask that the body be brought to us just
15 as it is at the time death is pronounced. Without moving
16 anything from the body or adding anything to it so that we
17 can, with the help generally of an investigator that comes
18 with the body, collect any evidence on the surface of the
19 clothing, whatever, the outer portion of that person. And
20 also collect that clothing if it is present and
21 appropriately bag it and tag it so that it can be
22 processed by SLED as well as looking externally on the
23 surface of the body for injuries. In this case the only
24 injury was a gunshot wound to the face and documenting
25 those injuries before and after cleaning up the body and

1 before and after undressing the body with photographs and
2 diagrams so that we can later testify, if there need be,
3 to the findings at autopsy. The autopsy includes an
4 internal examination of each of the organs to see first if
5 it is a disease or healthy organ and secondly to see if
6 there is any injury sustained in that particular part of
7 the body. So we do a complete autopsy, we document with
8 diagrams, with photographs and with a dictation and with
9 dictation that is sent to the coroner and with homicide
10 cases sent to the Solicitor in that county.

11 Q Did you perform an autopsy on the body of George
12 Freeman on July the 17th of 2005?

13 A Yes, we did.

14 Q You mentioned that the first step I guess in the
15 autopsy is an external examination?

16 A Yes, that is correct.

17 Q And what were the results of your external
18 examination?

19 A He was clothed in a t-shirt with a t-shirt under the
20 other t-shirt, so two t-shirts and a pair of blue jean
21 shorts, socks and black tennis shoes, athletic shoes. He
22 had a lot of blood on the left side of his face, he had,
23 when we examined it more carefully a gunshot wound of the
24 left side of the face that entered, well there was injury
25 at the corner of the mouth on the left side which consist

1 of tearing of the flesh at that location. There were also
2 some tears on the inside of the, not the eye itself but
3 the tissue around the eye between the eye and the nose.
4 And there was a devastating fracture of the upper jaw
5 which we refer to as the maxilla. And a gunshot wound
6 that passed through his brain and out the back of his head
7 on the right side above and slightly behind the ear.

8 Q Did you note any injuries to his body other than this
9 gunshot wound?

10 A The only other injuries were old injuries, there were
11 scars on the front of his legs from injuries in the past
12 that had healed. And as best I recall there was one on
13 his outside of one of his arms that was healing. But
14 nothing acute other than the gunshot wound.

15 Q How closely do you examine the exterior of the body?

16 A Like I say, we photograph it on both sides, we take a
17 video of each side of the body and the back of the body.
18 We undress the body and we repeat that, take a video and
19 take photographs on both sides of the body. Clean the
20 body and then examine the whole body, the back, front and
21 the hands, inside the mouth because in this case there was
22 a gunshot wound. So we do a complete examination of the
23 external surface of the body.

24 Q Did you notice any injuries whatsoever to the hands?

25 A No, there were none, no acute injuries, nothing fresh

1 on the hands and I don't recall seeing nothing in my notes
2 about any scars or anything on the hands.

3 Q So no abrasions, scratches or cuts or missing flesh
4 or anything like that on the hands?

5 A Correct. No injuries to the palms or the backs of
6 the hands.

7 Q Let's talk more specifically about the gunshot wound.
8 What sort of things are you looking for in the eyes of a
9 forensic pathologist, what are you looking for on a
10 gunshot wound?

11 A Some of you may have seen high speed photography of a
12 gun firing. In fact a lot of the TV shows now like to
13 show you the bullet coming at you. But when you look at a
14 high speed photograph of a gun fired from the side you see
15 a puff of smoke coming out with flames. The flames, if
16 you see a gun fired at night, may go a few inches. In a
17 case with a shotgun a lot of inches because there is a lot
18 more powder in a shotgun shell. The flames come out, some
19 burned powder in the form of a gas comes out. The burn
20 powder goes a little further than the flames. Some of the
21 powder that is still burning are not burned will carry
22 even further similar to a water hose when you have a
23 nozzle on it the spray will come out narrow and then get
24 larger. The spread of that powder does the same. The
25 usefulness of that is that, if a gun is fired very close

1 Q What is the significance of that?

2 A That means the gun was either right against the skin
3 or as I mentioned earlier since it was the corner of the
4 mouth, just inside of the mouth or at a distance far
5 enough away that the powder could not reach the skin. And
6 in this particular gun's case it could be a foot and a
7 half, it could be two and a half feet.

8 Q But it couldn't have been from just slightly away
9 from the skin out to that foot and a half?

10 A Correct. I would expect to see tattooing and
11 stippling in a range at least if it were this close, say
12 about a foot and a half. I would expect to see some of
13 that present. In this case because it is a .44 Magnum
14 which is one of the largest pistol calibers that people
15 normally use it could be even further away that the
16 stippling and tattooing will occur. But the minimum
17 distance I would say are at least a foot and a half, it
18 has got to be at least a foot and a half or more away or
19 it has got to be touching to produce the findings that we
20 saw or that I saw at autopsy.

21 Q All right. You indicated you had taken some
22 photographs during the autopsy. I am going to show you a
23 couple of photographs. Let's talk about State's exhibit
24 number 46. Tell us if you would, what is significant
25 about the wound there?

1 A Do you have one that is a little further away that we
2 can show first so people can orient themselves.

3 Q State's exhibit number 45.

4 A You can see the mouth and you can see a label at the
5 bottom indicating which case it is. You can see there is
6 some abrasion on the lips across the lower lip and at the
7 corner of the mouth on his left which is your right, there
8 is some torn skin. And the other photograph shows that
9 closer view of that corner of the mouth.

10 Q And that is State's exhibit 46.

11 A And here you can see that there are actually three
12 splits in the skin. The larger one is at the top, it goes
13 from the lip upward and to the left, towards the left ear.
14 One is right at the corner of the mouth that is shorter,
15 then another one goes downward towards the label. So
16 there are three tears in the skin and none of these show
17 any indication that there is a muzzle imprint or anything
18 to indicate the muzzle was further back than touching or
19 just inside of that area. Like I say, either could do it.
20 If it is touching that area just barely or if it is inside
21 then the gases inside will blow back and split the skin.

22 Q And you also mentioned the path of the bullet, what
23 was the path of the bullet?

24 A The path of the bullet is from the corner of the
25 mouth on the left side up to the right and to the rear

1 coming out above and behind the right ear where I am
2 pointing at this location. So it is going upward to the
3 rear and to the right.

4 Q And did you do a diagram of that?

5 A I did.

6 Q I want to show you what has been introduced as
7 State's 47. Explain to us what is in this diagram.

8 A This is a copy of the diagram that I did and it shows
9 four views of the head. The upper left view is from the
10 front and you can see the tears at the corner of the mouth
11 and a dotted line going up across the right eye although
12 it didn't actually go through the right eye as you will
13 see on the other diagram. But in that path and comes out
14 above and behind the right ear. The exit wound drawn is a
15 little star, the entrance wound we don't really see which
16 makes it either just inside the mouth or at a distance and
17 hitting just inside the edge of the lip. The lower right
18 photograph shows the same path but it shows from the right
19 side and you can see that it is going up through the upper
20 part of the jaw or the mouth, the maxilla, through the
21 skull and out the top of the right side of the head above
22 the right ear and slightly behind it.

23 Q Now, looking at the diagram as it is drawn that way
24 it sort of looks like the bullet is going up?

25 A It is.

1 sorry, the decedent was clotheslined and usually what that
2 means if it is a true clotheslining, is your feet go out
3 from under you because your head and upper body stop and
4 so you immediately go to the ground. And as y'all saw his
5 right hand was on the other side of the person with the
6 gun, away from the gun so I think it would be nearly
7 impossible to reach over and get that gun if he is
8 actually falling as he is being clotheslined.

9 Q The fact that he has got the money in his left, what
10 complicates that type of situation?

11 A Well, you wouldn't expect him to be able to open his
12 hand, grip something with his left hand and not lose that
13 money sometime in that process. And so I doubt if he
14 would be able to reach it with his left hand as well
15 because he still had money in that hand when he was found.

16 Q The fact that when he was found with money found
17 clasped in his left hand can we discount that hand in
18 terms of a grabbing motion?

19 A I would think so. That doesn't mean he couldn't use
20 the hand to try to fend something off while he has it
21 clenched but I would not expect him to be able to grab
22 with it and keep the money in his hand.

23 Q The second scenario. Let's assume again that the
24 defendant clotheslines the victim and he is down on his
25 back as he is now. That the defendant is standing over

1 him and then he reaches up with both hands and grabs the
2 wrist and pulls it towards his face.

3 A Well, for one thing I wouldn't expect anybody to pull
4 a gun toward them, they might try to push it away if they
5 grabbed at it. I wouldn't expect them to pull it toward
6 them.

7 Q Explain that.

8 A It is human nature that if somebody has got a gun
9 pointed at you you are going to try to bat it away or move
10 it to one side or push it away from you rather than pull
11 it towards you. If they were falling then the weight of
12 the person with the gun might push it towards the
13 individual. But I wouldn't expect it to be pulled toward
14 the individual who was then shot. Plus you would expect
15 in that scenario, unless it touches the mouth at the time
16 it goes off you would expect to see the powder tattooing
17 and stippling.

18 Q Are there any of these scenarios, if the gun is going
19 off away from the body that is going to fit the injury, am
20 I understanding that correctly?

21 A Well, if it is in that foot and a half distance would
22 you expect to see some powder stippling and some tattooing
23 may be even further away but certainly in that short
24 distance and there is none present.

25 Q Let's assume then that the defendant clotheslines the

1 victim, he is on his back as he is now and the defendant
2 gets down on top of him and puts his knees down on him,
3 both knees on him, both hands on the gun and shoves the
4 gun in his mouth and actually gets it in his mouth.

5 THE COURT: Ladies and gentlemen of the jury, if
6 y'all need to move around to see, I see some of y'all
7 craning your neck but if you need to move about in order
8 to see what is being demonstrated feel free.

9 A That would fit with the path of the bullet and the
10 wound. He would have to have his head a little straighter
11 up, about like that for it to come out where it does.
12 And you would expect to get some blow black onto the back
13 of his hand, whether he is grabbing at the gun or whether
14 he has his hand just there. As I mentioned, the gun may
15 be in his mouth, that is one thing that fits with what I
16 see on the body. And the gases is coming back out of his
17 mouth which can split the skin as well as the gun being
18 against it. Those gases could put a lot of residue on
19 his, the back of his right hand. The left hand is far
20 enough way, I don't know whether it would, you would
21 expect some to come out of the cylinder of the gun to get
22 on his left hand if it is like it is there. But if it is
23 down further to the side you wouldn't expect too much, if
24 any.

25 Q And can those gases vent out of the mouth and

1 actually get on the back of that right hand?

2 A Well that can come out of the mouth, they can also
3 come out of the front of the cylinder. I didn't mention
4 earlier when I was drawing that some of the gases that
5 come out the front, the volatile ones also come out the
6 front of the rotating cylinder because there is a gap
7 there. There has to be gap so it can rotate and so there
8 is enough pressure that some comes out the front of that
9 cylinder and that could get on the back of his hand as
10 well.

11 Q And the fact that the shooter has both hands on the
12 firearm is that consistent with the gunshot residue as it
13 is placed on Mr. Edwards hands?

14 A It would be consistent with getting it on both hands
15 because it is coming out of the front of the gun, it is
16 coming out of the cylinder and it is making a cloud and
17 that cloud with a Magnum like that could be a couple of
18 feet in diameter. And so it certainly could get on the
19 shooter's hands.

20 Q All right. Y'all can get up.

21 (Whereupon, the demonstration with the investigators
22 is completed.)

23 Q Now, if Mr. Freeman had grabbed a hold of the
24 cylinder of the gun would you have expected to see any
25 burns on his hands?

1 A Well, it is consistent with any scenario where the
2 two are close enough together and this type of injury
3 occurs.

4 Q Please answer any questions that Mr. Wise may have.

5 CROSS-EXAMINATION

6 By Mr. Wise:

7 Q Dr. Sexton, as part of your report did you also
8 obtain a blood alcohol reading on Mr. Freeman?

9 A Yes sir, that is correct.

10 Q And that blood alcohol reading I believe is about
11 186?

12 A Yes sir, that is correct. The blood alcohol was 186
13 milligrams percent or .186 grams.

14 Q And that is above the level for driving an automobile
15 in South Carolina?

16 A It is almost two and a half times the legal limit for
17 driving under the influence.

18 Q As part of your training and forensic pathology you
19 also study the affects of alcohol on a person?

20 A Yes sir, that is correct.

21 Q And a person at .186 blood alcohol, this is actually
22 testing the blood itself, wasn't it. This was actually
23 testing the blood, this wasn't done through any breath
24 testing device?

25 A That is correct. SLED actually analyzed the blood

1 Q And as you say and one of the problems with it is is
2 that it affects your judgment?

3 A That is correct.

4 Q It affects many times your attitude?

5 A Yes, sir.

6 Q It affects your agility, obviously, your ability to
7 maneuver and so forth?

8 A Correct.

9 Q Now, let's talk about the things that you said and
10 what we can establish beyond a reasonable doubt. First of
11 all, you can say beyond a reasonable doubt this gunshot
12 wound was either a contact wound or further away than six
13 inches?

14 A Further away than a foot and a half or more.

15 Q You can say beyond a reasonable doubt that it is
16 further away than six inches?

17 A Yes, sir.

18 Q No question about that?

19 A Yes, sir.

20 Q And you would say at a foot, is definitely further
21 away than a foot because you would see the tattooing that
22 you were talking about?

23 A Yes sir, that is correct.

24 Q You would say beyond a reasonable doubt it would
25 probably, well, beyond a reasonable doubt further away

1 when the bullet is fired it literally freezes everything
2 at that point?

3 A Yes, sir.

4 Q And the scenario exactly where people were when that
5 bullet was fired you really can't say beyond a reasonable
6 doubt?

7 A That is correct. There are multiple possibilities.
8 I can only say which ones you might give me are
9 reasonable.

10 Q Now, if the person was on the ground as described
11 here there would have been a bullet hole in the ground?

12 A It depended on how much energy the bullet had after
13 it came out but yes there could be a bullet actually in
14 the ground.

15 Q Or a bullet on the ground?

16 A Or on the ground or it could have hit something and
17 ricocheted off of the rock or something and it would be
18 eight or ten feet away or longer.

19 Q But if people searched the area and didn't find it
20 that is something that they can, considerations as to what
21 scenario works?

22 A That is correct. If there was a bullet found under
23 where the head was that would put him on the ground. The
24 absence of a bullet found there doesn't say yay or nay.

25 Q It doesn't say what, I mean just don't know again?

1 see anything that looks like soot or powder particles. We
2 swab sometimes the outside but I don't recall that being
3 done.

4 Q You don't recall soot being there?

5 A There was no soot there so if there was soot it was
6 washed away inside because I didn't see any inside. But
7 recognize if it is inside the mouth and actually just
8 about touching say the upper jaw then almost all of that
9 can go into the skull itself.

10 Q You also expected the gun of this caliber that if it
11 is a contact wound, that the exit wound would be larger?

12 A You normally do if in fact there is no way for that
13 gas to escape. And looking at this earlier I had the
14 impression that it couldn't be in the mouth because there
15 was no damage to the skull the way we normally see which
16 is like a hardball egg that has been cracked and has
17 multiple fractures. But the inside of the mouth, barely
18 inside that gas can be vented out through the mouth
19 instead of having to be compressed inside the skull and
20 ruptured the skull. There was a missile track through the
21 skull but it wasn't ruptured the way you would normally
22 see with a .44 Magnum.

23 Q But normally when you have two people fighting over a
24 weapon you very seldom see a contact wound?

25 A I have never seen one, contact where they were

1 fighting.

2 Q Fighting over a weapon?

3 A Right.

4 Q And that is just because it is just not likely to
5 stay there long enough to fire. It would be a freaky
6 thing if it happened that way?

7 A I agree, very unlikely.

8 Q And that is one of the things that also tends to make
9 you think it could have been a foot and a half or more
10 away?

11 A Well, we are just going based on the, I am just
12 basing on the findings at autopsy and then seeing if those
13 compare with scenarios that you might get. And a distance
14 like you are describing is one scenario that fits.

15 Q It is just that based upon your experience you don't
16 see many contact wounds except really in suicides?

17 A Correct.

18 Q Now, the only thing you can literally say beyond a
19 reasonable doubt is, of course the bullet killed Mr.
20 Freeman?

21 A Correct.

22 Q That it was either a contact wound from a distance
23 greater than a foot and a half?

24 A Correct.

25 Q And that the bullet followed the trajectory through

1 the head?

2 A That is correct.

3 Q Where the people were at the time the bullet was
4 fired you can't say beyond a reasonable doubt?

5 A That is correct. There are multiple positions they
6 could be in.

7 Q Thank you.

8 REDIRECT EXAMINATION

9 By Mr. Hodges:

10 Q Mr. Wise asked you about whether it was unusual for
11 there to be a contact wound in a fight over a gun?

12 A Correct.

13 Q In the last scenario we gave, the individual on top,
14 he has got both hands on the gun and is much stronger--

15 MR. WISE: Objection, Your Honor, there was no
16 testimony from any of these parties assuming, it has not
17 been established by anybody in this case except by the
18 fact that Mr. Freeman was much younger than Mr. Edwards.

19 Q Let me ask you this. Does the fact that the decedent
20 in the case is intoxicated reduce his ability to defend
21 himself?

22 A It may because of the inhibitions that the person has
23 as they may not recognize something as dangerous as
24 quickly, they may not react as quickly or perhaps not even
25 with much strength. But on the other hand it may not, it

1 depends on their being accustomed to drinking that much
2 alcohol and how they behave when they have that much in
3 their system.

4 Q Would a contact wound, to a reasonable degree of
5 medical certainty, would a contact wound be consistent
6 where someone put both hands on a gun and is shoving it
7 into someone's mouth stronger than they are able to defend
8 that off?

9 A That would fit with a contact wound. The difference
10 between a struggle is everything is transpiring at that
11 time and there is nothing stationary. If one person is on
12 the ground and the other is on top who has little more
13 ability to push a little harder then they could hold it
14 against the skin in the mouth long enough to fire the gun.
15 It is just when people are flailing around we have not
16 found, forensic pathologist who communicate with each
17 other across the country have not found a scenario that
18 fits with it being a contact wound where it is against the
19 skin long enough to leave a clear imprint of the barrel
20 and that sort of thing. But to be in this scenario like
21 you are describing that is not so much a fight as a, as
22 much as the end of a fight.

23 Q There really is not a struggle?

24 A There could be a situation where there would not be
25 much of a struggle at that point.

1 the case to resume Thursday, June 23, 2011.)

2 THE COURT: Let the record reflect that the jury is
3 out. Let's go ahead and address motions if we could. The
4 State has rested. Mr. Wise, motions, sir.

5 MR. WISE: Your Honor, we would move for a directed
6 verdict on the grounds of taking the evidence from the
7 light most favorable to the State there is no showing of
8 malice aforethought in this case to justify a murder
9 conviction. I think when you listen to the audio tape it
10 is quite obvious that there was anything but malice
11 aforethought in this case. And without having that, of
12 course, the State has not met its burden of proof.

13 THE COURT: Mr. Hodges, Ms. White. What do you say
14 as to the issue of malice?

15 MR. HODGES: Your Honor, it would be the State's
16 position that in the light most favorable to the State
17 there is evidence of malice. I know there is not any, no
18 longer a jury instruction in regard to arming yourself
19 with a firearm. I think the State will argue going and
20 getting a firearm, chasing this man down, clotheslining
21 him, you take the testimony of the pathologist there are
22 scenarios where this was an intentional act. I believe in
23 the light most favorable to the State there is evidence of
24 malice.

25 THE COURT: I would agree in the light most favorable

1 to the State there is evidence from which a reasonable
2 finder of fact may conclude that malice was present
3 thereby justifying a conviction on the indicted charge.
4 So I would deny your motion on that, Mr. Wise. If we
5 could, Mr. Wise, I realize that the other Judge likely
6 went over these same rights with your client but just so
7 the record is clean I would like to review with your
8 client the exact same thing the Judge in the previous
9 trial discussed with him. So I assume that you have
10 already advised as to his Fifth Amendment rights?

11 MR. WISE: I have, Your Honor.

12 THE COURT: And you have discussed at length his
13 right to testify and whether or not he should testify?

14 MR. WISE: We have, Your Honor.

15 THE COURT: Sir, if you would just raise your right
16 hand. I just have to ask you a couple of quick questions.

17 FREDDIE EDWARDS, being
18 first duly sworn, testified as follows:

19 THE COURT: Sir, you are in fact Freddie Edwards, is
20 that correct, sir?

21 MR. EDWARDS: Yes, sir.

22 THE COURT: Mr. Edwards, at this time I am going to
23 explain to you certain rights that you have. If you don't
24 understand anything that I am telling you just let me
25 know. If you need me to explain them in more detail or if

- 1 Q How long have you lived there with Freddie Edwards?
- 2 A Approximately 12 years.
- 3 Q You were living there on the night of this incident?
- 4 A Yes.
- 5 Q Were you outside or inside?
- 6 A Inside.
- 7 Q When did you first realize something had happened?
- 8 A I had just gotten out of the shower and I seen him
- 9 walking through the house.
- 10 Q And you saw who walking?
- 11 A Freddie.
- 12 Q Walking where?
- 13 A Past the bathroom.
- 14 Q And what happened then?
- 15 A He informed me that an accident had happened. Also
- 16 that I needed to call 911.
- 17 Q What did he say specifically..
- 18 MR. HODGES: Objection, Your Honor, hearsay.
- 19 MR. WISE: I think it is an excited utterance, Your
- 20 Honor, this is like thirty seconds of the incident.
- 21 THE COURT: If you will perhaps lay a foundation for
- 22 how he appeared.
- 23 Q Was this after this particular incident?
- 24 A Yes.
- 25 Q How did Mr. Edwards appear to you?

- 1 A He appeared, he was in a state of shock basically.
- 2 Q Was this, how long after this incident was he in the
- 3 house?
- 4 A How long was he inside of the house?
- 5 Q When you saw him, how long after the incident was it
- 6 when you saw him?
- 7 A I am assuming five minutes.
- 8 Q What did he specifically say?
- 9 A He told me, he said that you need to call 911 because
- 10 somebody had accidentally been shot.
- 11 Q Okay. He never said I shot him?
- 12 A No.
- 13 Q Did you call 911?
- 14 A Yes, I did.
- 15 MR. WISE: I would like to play the 911 tape.
- 16 THE COURT: Very good. I believe it is defense 10.
- 17 (Whereupon, a 911 tape was played for the jury
- 18 starting at 9:15 a.m. and ended at 9:19 a.m.)
- 19 Q And that was you on that call?
- 20 A Yes, it was.
- 21 Q Who instructed you to make that call?
- 22 A Freddie.
- 23 Q Thank you. And what was supposed to have happened?
- 24 A He told me a man had accidentally been shot.
- 25 Q Now, how long were you there with Mr. Edwards?

- 1 Q Are you married?
- 2 A No.
- 3 Q Do you have any children?
- 4 A Yes, sir.
- 5 Q How many?
- 6 A Five.
- 7 Q All of them alive?
- 8 A Yes, sir.
- 9 Q Didn't you have two children to die?
- 10 A Yes sir, two twins.
- 11 Q How long ago was that?
- 12 A One passed in '91 and the other one passed in '93.
- 13 Q Did you have a habit, did you occasionally have poker
- 14 games at your house?
- 15 A Yes, sir.
- 16 Q And where would you play to have the poker games?
- 17 A I call it the little house.
- 18 Q The little house?
- 19 A Yes.
- 20 Q And where is that located?
- 21 A Back of my residence.
- 22 Q And what is in that little house?
- 23 A It has a bar, TV, poker table, refrigerator, couch
- 24 and a lounge chair.
- 25 Q Did you have an office in that building?

1 and then he stood up and throwed the card down. And he
2 said I be darn if I am playing this rule. And then he got
3 up behind me.

4 Q What did you tell him when he said he wasn't going to
5 play with that rule?

6 A I told him, I said, Meat, you ain't got to play.

7 Q And when you said you ain't got to play did you tell
8 him to leave?

9 A Not then.

10 Q What were you telling him to do?

11 A He can watch if he wanted. But I just told him he
12 didn't have to play.

13 Q Did some people just watch poker being played?

14 A Right.

15 Q So what was his reaction when you told him he didn't
16 have to play?

17 A He got angry.

18 Q Did he eventually calm down at that time?

19 A No. He got up behind me.

20 Q Then what happened?

21 A And he started jumping up and down with his fist
22 balled up.

23 Q Back up one second. When you first told him of the
24 rule did he play any cards after, play any hands after you
25 first told him the rule?

1 A No, he didn't play no more, like I said.

2 Q Okay, go ahead. Then what happened?

3 A He got up behind me with his fist balled up starting

4 to jump up and down.

5 Q What did you do?

6 A At that moment I didn't do nothing because I wanted

7 to play poker.

8 Q All right.

9 A Then he said, Freddie, I am not playing. I am

10 serious if you get two dollars out of me. You will have

11 to get it out of my ass. That is when I kind of looked

12 around.

13 Q How was Meat that night compared to how he normally

14 was?

15 A I ain't never seen Meat like that.

16 Q How is he normally when he plays?

17 A Funny, I mean he is a lot of fun.

18 Q Do you get along with him?

19 A Yeah.

20 Q Did he ever cause any disagreements before?

21 A No, sir.

22 Q Was his attitude and demeanor different that night?

23 A Yeah. What made me look around, he normally called

24 me Mr. Edwards. And like I said, me and him used to talk

25 about my boys he went to school with after some games and

1 stuff.

2 Q And prior to that night he would always call you

3 what?

4 A Mr. Edwards.

5 Q And that particular night he was calling you--

6 A He told me, Freddie, I am serious.

7 Q Is that unusual to you?

8 A It kind of scared me. I looked around and that is

9 when I got up and told him he needed to leave.

10 Q When you told him to leave what did he do?

11 A He said he wasn't going no where.

12 Q What did you do then?

13 A I said two or three more times because I was up in

14 his face and I just said you need to leave. That is when

15 Clyde got up.

16 Q All right. And then what did you do?

17 A I ain't do nothing. We just kept talking, I just,

18 you know, you need to leave, you need to leave, you need

19 to leave. And Clyde saw that me and him was still arguing

20 and Clyde just said I am going to get me some chicken. He

21 uses crazy words and he says, fuck it, I am going to get

22 me some chicken.

23 Q So he went to get some chicken?

24 A Right.

25 Q What did you do then?

1 A We still was passing words and that is when Greg got
2 up.

3 Q What was Greg trying to do?

4 A Greg was trying to calm me down but he didn't go
5 exactly where Meat was. He kind of, they kind of jammed
6 me in.

7 Q Where was Greg--

8 A -- where was Greg?

9 Q Let me finish. Greg stood up?

10 A Right.

11 Q What did you do?

12 A When Meat stood up?

13 Q Right.

14 A I was still at the table.

15 Q What did you do after he stood up and came behind
16 you?

17 A Like I say, I was kind of still at the table and he
18 was bouncing around with his fist balled up.

19 Q All right. After you, you were sitting at the table?

20 A I didn't get up until he called me Freddie.

21 Q Then what did you do?

22 A I went up and told him he needed to leave.

23 Q You stood up?

24 A Yeah.

25 Q And you were facing him?

- 1 A Right.
- 2 Q Where was the table in relation to where you were
- 3 after you were facing Mr. Freeman?
- 4 A The table was behind me.
- 5 Q Behind you. Where was Greg Harrison?
- 6 A Greg was still sitting down.
- 7 Q What did Mr. Harrison eventually do?
- 8 A What who?
- 9 Q What did Mr. Harrison do after you and Mr. Freeman
- 10 were confronting each other?
- 11 A What he did?
- 12 Q Right.
- 13 A Greg--
- 14 Q Greg Harrison?
- 15 A Oh, Greg, Greg got up after Clyde had went and got
- 16 some chicken.
- 17 Q And where was Greg then in relation to where you were
- 18 and Mr. Freeman?
- 19 A After Greg got up?
- 20 Q Yes.
- 21 A Like I said, Greg came over the back of me.
- 22 Q So you were facing Mr. Freeman?
- 23 A Yes, sir.
- 24 Q And where was Greg Harrison?
- 25 A Greg come and stood up behind me.

- 1 Q What was he doing behind you?
- 2 A I am facing Meat and Greg was jamming me in the back.
- 3 He was talking to Meat but he was brushing up against me
- 4 at the same time.
- 5 Q Reaching over your shoulder?
- 6 A Yeah.
- 7 Q Then what did you do?
- 8 A I kind of eased around and I looked at him, he was
- 9 looking at me funny. He was saying come on and Meat but
- 10 he was looking at me saying that.
- 11 Q So what did you do then?
- 12 A I left and went in the house.
- 13 Q Come down here if you would, please. All right.
- 14 Stand over that side right there and with this pointer
- 15 point out, first of all where the little house is where
- 16 the poker game was.
- 17 A Right here.
- 18 Q And where did you go when you left the poker game,
- 19 what room did you go into in your house, what door?
- 20 A I left and came up and went through the backdoor.
- 21 Q Where did you go to?
- 22 A To the bedroom.
- 23 Q You are going to have to speak up a little bit.
- 24 A My bedroom.
- 25 Q And where is your bedroom located?

- 1 A Right here.
- 2 Q In the front part of the house?
- 3 A Right.
- 4 Q What did you do there in the bedroom?
- 5 A I started throwing clothes out of the drawer looking
- 6 for my gun.
- 7 Q All right. Did you know where that gun was?
- 8 A No, sir.
- 9 Q Had you, when was the last time you had seen it
- 10 before that night?
- 11 A The last time I had seen it is when I put it there.
- 12 Q And how long ago was that?
- 13 A About 15 years ago.
- 14 Q Did you ever fire that gun?
- 15 A No, sir.
- 16 Q When you first opened the drawer did you find the gun
- 17 the first time you opened the drawer?
- 18 A No, sir.
- 19 Q How many drawers did you have to open to find it?
- 20 A About three or four.
- 21 Q And then you found it?
- 22 A Yes, sir.
- 23 Q And what route did you take going back out?
- 24 A I come back out the same way I went in.
- 25 Q About how long do you think it took you to go in

1. there and find that gun?
- 2 A About four or five minutes.
- 3 Q You can go back and sit down.
- 4 Q When you came back on the deck where was Mr. Freeman
- 5 and Mr. Harrison?
- 6 A Meat was on the drivers side in the back of the van
- 7 and Greg was on the other side in the back past the door.
- 8 Q And what were they doing when you walked out on the
- 9 deck?
- 10 A Meat was just kind of walking on and mumbling
- 11 something.
- 12 Q All right. Did he eventually see you?
- 13 A I can't say not right then but Greg told Meat, he
- 14 said come on Meat, come on.
- 15 Q And what did you do?
- 16 A I kept walking towards them.
- 17 Q Walking across the deck?
- 18 A Across the deck, yeah.
- 19 Q What happened, what did Mr. Freeman do as you walked
- 20 across the deck?
- 21 A Like I said, Meat, Greg told Meat, come on and Greg
- 22 took off.
- 23 Q Took off?
- 24 A And then Meat took off.
- 25 Q What did you do?

- 1 A I took off behind Meat.
- 2 Q And what direction did Mr. Harrison go, you need to
- 3 come back down, I am sorry. The van that Mr. Freeman was
- 4 in, which one is that?
- 5 A That is it here.
- 6 Q The dark blue van?
- 7 A Right.
- 8 Q That is on the defendant's exhibit 2?
- 9 A Yes.
- 10 Q And what direction did Greg Harrison go?
- 11 A Greg was already standing behind the van. Greg took
- 12 off and went down the street.
- 13 Q Took off and went to the left?
- 14 A To the left.
- 15 Q What did Mr. Freeman do?
- 16 A Meat came and went this way, he come around the
- 17 house.
- 18 Q In your front yard?
- 19 A Right.
- 20 Q What did you do?
- 21 A I kind of, I was fast walking. I saw Meat when he
- 22 turned the corner.
- 23 Q What did you see when you turned that corner, did you
- 24 see him again?
- 25 A No, I didn't see him. I didn't see him until I got

- 1 around to this corner.
- 2 Q All right. So you took a right in front of your
- 3 house?
- 4 A Right.
- 5 Q You saw Mr. Freeman take that right?
- 6 A Right.
- 7 Q When you took that right did you see him in your
- 8 sight, when you first took the right?
- 9 A Okay. When I first got down the steps I saw him make
- 10 the first right. When he had turned the other corner I
- 11 didn't see him, I didn't know which way he went.
- 12 Q So when you turned the corner at your house right
- 13 here?
- 14 A I didn't see him.
- 15 Q You didn't see him?
- 16 A No.
- 17 Q Did you see him up the road?
- 18 A No.
- 19 Q Did you see him in the front yard?
- 20 A No.
- 21 Q Did you know where he went?
- 22 A No.
- 23 Q Were you curious as to where he was going, had gone?
- 24 A In a way, yes sir.
- 25 Q So what did you do?

1 A I come on around here.

2 Q And what did you see then?

3 A I stopped right here.

4 Q Hold on one second. I am going to show you now

5 defendant's exhibit 6. And can you point out about where

6 you stopped in that picture?

7 A I stopped right along here.

8 Q Were you even with the edge of your house?

9 A No, I was about two or three feet in.

10 Q So when you say two or three feet in going over here

11 will be about where?

12 A About right along here.

13 Q Right there. Before that bush there and just past

14 that bush?

15 A Yeah, I was out there in the middle kind of.

16 Q Now, what did you see when you got there?

17 A I saw Meat, he was up, the gate was closed then and

18 Meat was up on the gate trying to get over the gate.

19 Q And I hand you defendant's exhibit 7 and is that the

20 fence you are talking about except the gate was closed?

21 A Right.

22 Q And so what did he appear to be trying to do, to you?

23 A He was trying to climb over it.

24 Q What did you do?

25 A I didn't do nothing.

- 1 Q Did you just stand there?
- 2 A I just stood there and I said--
- 3 Q Where was the gun at that time?
- 4 A It was down, I never pointed the gun all night long.
- 5 And I said to myself, I thought you wasn't going to run.
- 6 And I just stood there and thought he was going over the
- 7 fence.
- 8 Q Did he go over the fence?
- 9 A No, he didn't go over.
- 10 Q You can sit back down. What happened next?
- 11 A All of a sudden he jumped back down off the fence and
- 12 came charging at me.
- 13 Q Came charging at you?
- 14 A Yes.
- 15 Q What was your thought when you saw that?
- 16 A I said, oh lord, what am I going to do, that is what
- 17 my thought was. But when he came directly at me I just
- 18 took a step to the right.
- 19 Q What was your fear as he was coming right at you?
- 20 A I don't know, I wasn't going to shoot at him. It was
- 21 a possibility he might of would have took the gun off of
- 22 me.
- 23 Q He might what?
- 24 A He might would have took the gun.
- 25 Q He might have taken the gun from you?

1 A Right.

2 Q Was there room for him to go down to the edge of the
3 fence and get past you?

4 A Yeah, there was plenty of room.

5 Q Was there any need for him to run straight at you?

6 A No, sir.

7 Q But he did?

8 A Yes, sir.

9 Q And what did you do as he ran straight at you?

10 A I kind of stepped to my right and throwed my arm out.

11 Q And what happened when you threw your arm out?

12 A I clotheslined him.

13 Q Did he go down?

14 A Yes.

15 Q Did you go down?

16 A Yeah, on one knee.

17 Q When you were down what happened then?

18 A When I was down I was getting up and he got up on his
19 buttocks and said, doing something like this. And he
20 said, Freddie, don't shoot me. By the time he said shoot
21 he went for the gun.

22 Q Did he reach for it with one hand or two hands?

23 A He reached for it with both hands with the money in
24 it.

25 Q Let me see if I can find something I need here. Put

1 these two pieces of paper in your left hand. He was
2 holding some money in his left hand?

3 A Right.

4 Q Come over here a little bit. So he was down, if you
5 can get down on the floor like he was. What did he do and
6 you were down on which knee?

7 A I think that one.

8 Q Your left knee. All right. So you are down, is this
9 about right?

10 A Right.

11 Q And what did you start doing then?

12 A He jumped up.

13 Q What did you do?

14 A I eased up.

15 Q You eased up and what did he do then?

16 A What did he do?

17 Q Right.

18 A He said, Freddie, don't shoot me.

19 Q And he grabbed your gun?

20 A He grabbed the gun and I pulled back.

21 Q Did he have money in his left hand?

22 A Yeah.

23 Q Did he ever let go of the money?

24 A No.

25 Q All right. You can get up. When he grabbed your

1 hand with the gun what did you do then?

2 A It happened so fast, like I said, he scared me. I

3 pulled back.

4 Q And what happened when you pulled back?

5 A Boom.

6 Q Did the gun go off? Mr. Edwards, did you ever--

7 COURT REPORTER: I did not hear his response.

8 Q What did you do when the gun went off?

9 A I looked at him. I said, Meat, I think I might of

10 used a curse word. What are you doing, Meat.

11 Q Let me back up one second. From the time you picked

12 the gun up out of the house to the time you were standing

13 around watching him fall off the fence do you ever

14 remember putting your finger on the trigger?

15 A I don't remember.

16 Q The gun went off didn't it, obviously?

17 A Yes.

18 Q Did you ever intentionally pull the trigger?

19 A No, sir.

20 Q Did you ever intentionally fire that weapon?

21 A No, sir.

22 Q Did your finger though happen to be on the trigger?

23 A I don't know how it got there but it had to be.

24 Q It had to be. All right. Did you have any intent to

25 harm George Freeman in any manner?

- 1 A No, sir.
- 2 Q Did you have any desire to harm him?
- 3 A No, sir.
- 4 Q After the shooting what did you do?
- 5 A After the shooting I walked back around the front and
- 6 came down my sidewalk and I saw Greg across the street. I
- 7 think at that time I said, I have done messed up my damn
- 8 life or something, something like that. And then I
- 9 hollered out to Greg, I said, Greg, I didn't shoot Meat.
- 10 I said the gun went off. So I made a step heading,
- 11 telling and he made a step back. And then I still, I
- 12 wanted him to know that I didn't shoot Meat but he wasn't
- 13 listening, he was jumping up and down.
- 14 Q Come down. Right after the shooting, I need the
- 15 stick again. Thank you. Right after the shooting point
- 16 out where you saw, let me move this out of the way, where
- 17 you saw Mr. Harrison.
- 18 A It was really over here by a light pole.
- 19 Q You saw him down the road?
- 20 A Right.
- 21 Q And I will hand you defendant's 4 and does that point
- 22 out about where he was?
- 23 A Yes, he was over here.
- 24 Q In the road?
- 25 A Yeah. He was kind of off the road, he was over here

- 1 Q The one that we listened to?
- 2 A Yeah.
- 3 Q Okay. Now, you told Detective Murdock it happened as
- 4 he was falling. Do you remember telling him that?
- 5 A I might of said that. It didn't happen, it happened
- 6 when he was falling back after he jerked the gun. That is
- 7 what I was talking about.
- 8 Q He asked, you said he pulled the gun and me. And he
- 9 said, as he was falling. And you said, I don't know, it
- 10 happened so fast. Okay. But as he was falling, it had to
- 11 be as he was falling because it happened too fast. That
- 12 is what you told the police that night, right?
- 13 A After he had jumped up and begged me not to shoot and
- 14 that is when he went for the gun he was falling back. I
- 15 might of said that.
- 16 Q But that wasn't the truth?
- 17 A No, sir. I told it like it happened just now.
- 18 Q Let's go back to your testimony in the previous
- 19 hearing. Do you remember testifying that he grabbed both
- 20 of your wrists?
- 21 A I don't remember that.
- 22 Q This is on, Mr. Wise, page, read right here. You
- 23 testified then that he grabbed your wrists. Is that
- 24 right?
- 25 A Yeah.

- 1 Q But now you are saying that he grabbed the gun?
- 2 A He started at my wrist when I jumped back.
- 3 Q You indicated that you were down and had the gun in
- 4 your right hand?
- 5 A Yes, sir.
- 6 Q You indicate that is how he grabbed it?
- 7 A Right.
- 8 Q Okay. With the gun in your right hand he grabs it?
- 9 A On my side.
- 10 Q He grabs it?
- 11 A On my side, the gun was on my side.
- 12 Q With both hands?
- 13 A Yeah.
- 14 Q Does he grab the gun or grab the wrist?
- 15 A He started at my wrist and he had the gun and that is
- 16 when, like I said it happened so fast. It wasn't like
- 17 slow motion. When he grabbed it and that is why I said he
- 18 grabbed the gun, it happened so fast.
- 19 Q Did he pull the gun right into his mouth?
- 20 A No. When I pulled back, when I pulled back it said,
- 21 pow and that is when I saw him lay down. The gun didn't
- 22 go off until I pulled back.
- 23 Q Would you agree it was a mistake to go into your
- 24 house and get the gun that night?
- 25 A Yes, sir.

1 another matter but it cannot be avoided. What I am going
2 to do is go ahead and allow you to take your lunch break
3 at this moment. I would ask that you be back in the jury
4 room at 1:30. We will resume with the trial of this case.
5 You have received all of the evidence and all of the
6 testimony that you will receive in this case. You however
7 have not heard the arguments of counsel and you have not
8 received my charge of the law that applies in this case.
9 Don't discuss the case with anyone. We will see you back
10 in the jury room at 1:30.

11 (Whereupon, the jury is excused from open court for a
12 lunch break.)

13 THE COURT: We will resume this case at 1:30. Thank
14 you.

15 (Whereupon, the case will resume at 1:30 p.m.)

16 THE COURT: I need to put on the record, of course I
17 have been in discussions since we broke from the Masterson
18 thing with the lawyers in chambers and Mr. Wise, you
19 wanted to, first of all regarding the pending motion I
20 took under advisement concerning the possession of a
21 weapon charge, the defendant's motion is denied. That
22 will go to the jury, your objection is noted for the
23 record. You wanted to move requesting last argument and I
24 am happy to hear from you on that.

25 MR. WISE: Your Honor, first of all we want to move

1 for a directed verdict on the grounds after all the
2 testimony taking the evidence in the light most favorable
3 to the State and understanding under Jackson versus
4 Virginia there has to be substantial evidence that goes to
5 the jury, not just some evidence. As a civil standard I
6 think there is no substantial evidence by which the jury
7 could convict Mr. Edwards of murder or involuntary
8 manslaughter.

9 THE COURT: Again your motion is denied. I do find
10 that there is substantial evidence from which a jury could
11 find that the defendant is in fact guilty of murder in
12 this case. So your motion is denied on that ground.

13 MR. WISE: And then I would also like to move to
14 require the State to openly fully on the law and the facts
15 in this case. I would refer to the case of the South
16 Carolina case the State versus Atterberry which is an old
17 South Carolina case. It says that is reversible error not
18 to do that. Atterberry referred to the civil rule which
19 was in existence back then but is required the plaintiff
20 in a case to open fully on the law of the facts. That
21 civil rule was later changed where they were not required
22 to do it and then the South Carolina Supreme Court adopted
23 the same rule in criminal cases. We now have gone back to
24 the old rule in civil cases that require the plaintiff to
25 open fully on the law and the facts. And I think the

1 procedure in criminal court should also follow that. I
2 think it is a denial of due process to not allow the, not
3 require the State to open fully. It is in violation of
4 the Fourteenth Amendment of the U.S. Constitution and due
5 process clause of the State Constitution. And the reason
6 for it being under the procedure that we are getting ready
7 to undergo the State will hear my entire theory of the
8 case before they ever have to utter the first word about
9 their theory of the case. They will have ample
10 opportunity to refute any theory that I put out there. I
11 will never have an opportunity to refute their theory. If
12 they are to require to open fully on the law and the facts
13 then I can refute their theory and then they come in and
14 refute my theory and I think it is a much fairer process
15 for the jury to hear arguing in that order.

16 THE COURT: Mr. Hodges, what do you say with respect
17 to that motion?

18 MR. HODGES: Your Honor, it is my experience in 15
19 years of practicing law if the defense does not report any
20 evidence then they get the last argument. If the
21 defendant reports evidence then the State moves on the law
22 and the defense argues in full, the prosecution responds
23 with the facts. The defense obviously put quite a few
24 exhibits into evidence and had several witnesses. And it
25 would be the State's position that it is appropriate for

1 the State to open on the law, Mr. Wise can argue and then
2 we can respond.

3 THE COURT: Mr. Wise, I do appreciate your position
4 on that and I understand fully the argument that you make
5 and certainly the argument is very well reasoned and
6 certainly at some future point and time perhaps higher
7 authorities shall instruct the courts in this State that
8 that is how we are to proceed. But until that time comes
9 I am going to stick with tradition as I understand it to
10 be and the rules as I understand it to be subject of
11 course to your exception and your objection.

12 MR. WISE: I would like to note for the record
13 because I think I am required to do this. Some time after
14 they argue I think I want to put on the record some
15 arguments I would have made to refute their arguments to
16 show any prejudice down the road and I would just note
17 that I would do that at the end of the jury charge and
18 that will be fine.

19 THE COURT: Very good. I will be more than happy to
20 allow you to have full access to the record once the jury
21 has retired to consider this matter. Any other motions
22 from the defense at this point?

23 MR. WISE: None, Your Honor.

24 THE COURT: From the State?

25 MR. HODGES: Not from the State, Your Honor.

1 you the facts are you need to go with your recollection as
2 opposed to their recollection. Although argument is not
3 evidence in this case it certainly is the parties
4 intention as to what the evidence as proven or has failed
5 to prove in this particular case so I would invite you to
6 give your close attention to the argument of counsel. The
7 way we will proceed is the State will have an opportunity
8 to open first on the law that applies in this case. This
9 is not the instruction on the law that I will give at the
10 end of the trial but they will have an opportunity to
11 briefly open on the law. Mr. Wise will then proceed with
12 his argument to be followed by the final argument from the
13 State. So with that, Mr. Hodges, you are recognized.

14 MR. HODGES: Thank you, Your Honor. Ladies and
15 gentlemen of the jury, as the Judge said he will fully
16 charge you on the law at the end of these arguments. And
17 certainly if anything that he says differs from what I say
18 he is the Judge of the law so he is the one you should
19 follow. But I just want to point out a couple of the laws
20 that I think are important to you because what he is going
21 to tell you is going to be pretty lengthy and I just want
22 to highlight a couple. You know, there is not a real
23 mystery here about who killed George Freeman. What I
24 think the choice is going to come down to is the defendant
25 guilty of manslaughter or is he guilty of murder and those

1 are the two laws that I want to talk to you briefly.
2 Manslaughter and I am paraphrasing here is basically an
3 unintentional killing without malice. All right,
4 unintentional killing without malice. One of the things
5 that the Judge is going to tell you about is that if the
6 defendant was engaged in a dangerous felony when the
7 killing occurred and that cuts against manslaughter. He
8 is going to charge you on the law of pointing or
9 presenting a firearm. He is going to tell you that if you
10 point a firearm at someone or present a firearm in a
11 threatening manner that is a felony, pointing or
12 presenting a firearm. I submit to you that that happened
13 in this case and that cuts against manslaughter. And what
14 I really want to focus on is murder. And I told you at
15 the beginning of this case that murder is the killing of
16 another person with malice aforethought. And the Judge
17 will tell you that malice is hostility, anger, ill will
18 against the other person. Mr. Wise kind of intimated in
19 his opening statement the State has to prove that the
20 defendant is a bad person or a wicked person. That is not
21 true, that is not the case. What we have to prove is that
22 he had that hostility, that anger, that ill will against
23 the victim before the fatal shot aforethought. And as I
24 mentioned to you that hostility and ill will had to form
25 moments before the fatal shot. Again, I talked about in

1 fact that he clotheslined him with his arm. That is
2 evidence of hostility. The fact that he shot him in the
3 mouth. All of that are actions taken by the defendant on
4 the night of July the 16th of 2005 that show hostility and
5 ill will towards the victim in this case and that is
6 evidence of malice. And those are the sort of things you
7 need to look at in deciding whether or not there is malice
8 present in this case and therefore whether or not this is
9 murder. Now Mr. Wise is going to get up and talk to you
10 about the facts in the case. When he concludes I will get
11 back up and share with you some of the thoughts that I
12 have got about the evidence in this case and how it bears
13 upon the facts. Thank you.

14 THE COURT: Mr. Wise.

15 MR. WISE: Madam Forelady and ladies and gentlemen of
16 the jury, you can go into the jury room and you say to
17 yourselves and among yourselves, you know, Freddie Edwards
18 is probably guilty, he probably murdered George Freeman.
19 What should your verdict be. Your verdict should be not
20 guilty because in this courtroom we don't talk about what
21 probably happened out there, what could have happened,
22 what might have happened or what possibly happened. Proof
23 beyond a reasonable doubt is the highest standard known to
24 man short of an absolute certainty. It is that thing we
25 brag most about when we talk about our judicial system.

1 We talk about the standard of proof on the burden on the
2 State to prove their case beyond a reasonable doubt.
3 People have said that this is for the benefit of the
4 defendant. Well, in part it is true but it is also for
5 the benefit of the jury. Because the State has come in
6 here and ask you to make some tough decisions. And if you
7 can sit there and say to, a guilty verdict, that the
8 State's evidence is so clear and so certain and so
9 definite that that standard of proof beyond a reasonable
10 doubt has been met then when that verdict is rendered you
11 can sleep at night. You don't come back the next day, the
12 next week or the next month and say did I make the right
13 decision. And that is what we are talking about when we
14 talk about proof beyond a reasonable doubt. There are
15 standards of proof in civil cases in which if you want to
16 punish someone with punitive damages because standard of
17 proof is clear and convincing. Proof beyond a reasonable
18 doubt is higher than clear and convincing. So if you
19 punish someone in a civil case by coming back with
20 punitive damages you can't do that until the plaintiff in
21 that case has proven their case by clear and convincing
22 evidence. Well this standard is higher, it is a step
23 above that, it is proof beyond a reasonable doubt and it
24 is that standard by which you must judge and filter all of
25 the evidence in this case.

1 Now, it seems to me and I have got to discuss all of
2 the possible verdicts because the Judge is going to give
3 them to you. It seems to me that based upon what we have
4 seen in the courtroom over the last three days that this
5 is not a murder case, this is not a case with someone with
6 a depraved heart, a heart devoid of social duty killed
7 somebody intentionally and intending to kill them. It is
8 not that case. Surely the State has not proven that
9 Freddie Edwards was so depraved with wickedness, he had a
10 wicked heart, a depraved heart as the Judge would charge
11 you on this particular day. There was some bad judgments
12 made, yes. But it is not that, guilty of malice
13 aforethought for murder requires more than to simply say
14 he was negligent or grossly negligent or reckless. Those
15 don't rise to the level of murder except under very, very
16 rare circumstances which I will discuss with you too. But
17 basically what we are talking about here is, you have had
18 a chance to view Mr. Edwards, you have had a chance to
19 listen to his testimony, you had a chance to listen to his
20 statements the night of the incident on two different
21 occasions. And you have to determine that the man with a
22 heart that is devoid of social duty on that particular
23 night. What did Mr. Edwards say as soon as this tragedy
24 happened. The gun went off. Everybody there that night
25 concedes that is the first words out of his mouth, the gun

1 went off. Not I killed him, not I shot him, not oh no,
2 why did I shoot him, the gun went off. And that is a big
3 difference between that spontaneous comment and someone
4 saying I shot him or I killed him. The gun went off and
5 that is what he described to you happened.

6 Now, let's look at the testimony in this case. There
7 was a poker game that which unfortunately Mr. Freeman got
8 a little belligerent, mouthy, whatever you want to call it
9 and as a result which Mr. Edwards asked him to leave.
10 Everybody kind of agrees with that, that he was mouthing
11 and being disruptive and Freddie finally told him to just
12 leave. Now, hindsight doesn't make someone guilty of
13 murder. Granted in hindsight, as Freddie said he should
14 have gone into the house, stayed in there until everybody
15 left but he didn't. That doesn't make him guilty of
16 murder. He went into the house, he had to leave here, go
17 all the way to the bedroom here and go through several
18 drawers before he was able to locate a weapon that he
19 hadn't seen in years and years and years. Remember the
20 testimony was that one gentleman who was blocked in, had
21 his car here blocked in with another car here said that he
22 had not been blocked in from the time Mr. Edwards left the
23 office, the parking area, until the time he came back out
24 he would have had plenty of time to leave and be gone. So
25 he was in there for some time. But for some reason Mr.

1 Freeman didn't leave and although his brother testified he
2 tried to get him to leave but he wasn't leaving. So he
3 came out. So when he comes out and of course we all know
4 the chase pursued, the following, whatever you want to
5 call it pursued. Had Mr. Freeman been seen running up
6 Cokesbury we wouldn't be here today because nothing
7 further would have happened. Had Mr. Freeman went with
8 his brother and gone down Cokesbury we wouldn't be here
9 today, nothing would have happened. We know that when Mr.
10 Edwards gets to the front yard Mr. Freeman is not there.
11 Finally he sees him on the side of the house trying to get
12 over the fence. Now, if this were a man who was bent on
13 committing a crime of murder, who was so angry at George
14 Freeman that he wanted to tell him surely he had plenty of
15 opportunity to walk down beside the house, toward the gate
16 and shoot him. He had an opportunity to point the gun at
17 him and shoot him. There was not a scintilla of testimony
18 that the whole, the time that Mr. Edwards was following
19 Mr. Freeman around there that he so much as raised the gun
20 in his direction. Not a scintilla of evidence that he
21 ever raised that gun in his direction of doing that. And
22 unfortunately Mr. Edwards was standing there, Mr. Freeman
23 turned around. He didn't say, Mr. Edwards, I am leaving,
24 I am leaving, just let me leave. He didn't say stay there
25 and do nothing, he just stood there, he didn't do that.

1 For some reason unknown to anybody he comes running not
2 along the fence line to get away but comes running
3 straight at Mr. Edwards. And then Mr. Edwards has to make
4 a decision, what am I going to do. He is not running
5 straight at him. I think to come up and say he is sorry he
6 caused a disagreement at the poker game and he was
7 leaving. I think that is a fair assumption. Mr. Edwards
8 had a right to act on appearances and he comes straight at
9 him. And all of a sudden the gun that Mr. Edwards had to
10 try to help get Mr. Freeman to leave the property becomes
11 a problem because he didn't point that gun at him and run
12 down and shoot him because he had no intention to shoot
13 him. If he had intended to shoot him it would have been
14 very easy as he ran toward him he could just pick the gun
15 up and shoot him, very easy, he didn't do that. He kept
16 the gun down by his side and then clotheslined him.
17 Should he have clotheslined him, we will never know. What
18 would have happened if he hadn't of clotheslined him, we
19 will never know. Would there had still been a struggle
20 over the gun, we will never know unfortunately. But he
21 did clothesline him. And in the process of clotheslining
22 him Mr. Freeman went to the ground, Mr. Edwards went down
23 basically on one knee. And at that point Mr. Edwards
24 said, Mr. Freeman said, don't shoot me and grabbed the
25 gun. The gun has about a twelve pound trigger pull that

1 you have heard testimony about. So what happens. Mr.
2 Edwards is pulling back, Mr. Freeman is pulling back and
3 all of a sudden the gun goes off, probably as it left Mr.
4 Freeman's hands as Mr. Edwards hand is on the trigger and
5 the pull, all of a sudden coming lose he pulls the trigger
6 and it goes off. Not an intentional act, not an
7 intentional act. Arguably not even a direct or careless
8 act, certainly not an intentional act. For it to be
9 guilty of murder that has to be an intentional act.

10 Now, the State has produced a lot of forensic people,
11 testimony about what happened there that night none of
12 which conclusively proves beyond a reasonable doubt that
13 this is a murder case. I will give you a prime example.
14 Mr. Joseph Powell testified, he was the man who does the
15 firearm stuff. He testified that due to the amount of
16 gunshot residue on the back of the hand of Mr. Freeman
17 that he thinks that this was a distance shot. And the
18 reason he thinks it is a distance shot was, if it had of
19 been a contact wound there would not have been near as
20 much gunpowder residue coming out of the muzzle of the
21 weapon. And the amount of gunpowder residue on the back
22 of Mr. Freeman's hand was consistent with a lot of
23 gunpowder coming out of the muzzle of the weapon. The
24 testimony was from Mr. Powell, I believe, something like
25 90, 95 percent of the gunpowder residue will come out of

1 the muzzle. And so the amount of the gunpowder residue on
2 the back of Mr. Freeman's hand indicated to him it was a
3 distant shot. His hand was near the muzzle of the gun
4 when it went off. Now that is wholly and inconsistent
5 with the demonstration they gave here, wholly. Mr. Sexton
6 might have had a slightly different twist. He said it was
7 either a contact wound or it was a distant wound of a foot
8 and a half or two feet. He would not say either was more
9 probable. I don't recall him saying either was more
10 probable than the other. There was some evidence pointed
11 one way and some evidence pointed the other way. One of
12 the ways that pointed against the contact wound is very,
13 very seldom has he ever seen in his 30 or 40 years of
14 doing forensic pathology a contact wound where two people
15 are fighting over a gun. It just doesn't make sense, it
16 just doesn't seem logical. Second or thirdly, if it were
17 a contact wound and if it was done like Mr. Harrison
18 described with Mr. Edwards down on him, a little different
19 angle according to Mr. Harrison, what you would have had
20 was a bullet in the ground right below the head. And
21 Travis Clark examined the scene. He was looking for that,
22 it wasn't that he was just looking for something, he was
23 looking for that because he knew that if he were shot on
24 the ground I can get the bullet out of the ground. He
25 looked for a bullet hole, he was one of the crime scene

1 investigators, he looked for a bullet hole, he found none,
2 he found no bullet hole in the ground which makes it very
3 unlikely if not impossible that it occurred the way they
4 described it with Mr. Freeman's head on the ground and a
5 gun in his mouth because the bullet would have been in the
6 ground. Now the State is going to say, well, it could
7 have hit a rock. What size rock are you going to have out
8 there first of all. And then secondly, secondly how can
9 someone be convicted of murder because a bullet might have
10 hit a rock. How can someone be convicted of murder on the
11 premise that the bullet might have hit a rock. There is
12 an old Latin saying, I wish I knew the Latin of English
13 translation and it goes like this. That which is not
14 proven and that which does not exist are the same. And in
15 this court of law that is true. That which is not proven
16 and that which does not exist are the same. So if it is
17 not proof enough of a bullet hole in the ground and it is
18 not proven that the bullet hit a rock because you have got
19 a splattered rock there then that fact doesn't exist. And
20 you have to treat that fact as if it didn't exist in
21 arriving at a decision in this case. Because you are not
22 allowed to make a conviction based upon speculation,
23 conjecture and surmise. You are not allowed to do it, it
24 doesn't work that way. You are not allowed to do it, it
25 doesn't work that way. You have to do it with hard

1 evidence that is before you from this witness stand. Mr.
2 Sexton said a scenario that someone being on the ground is
3 one theory by which this could have happened. And as he
4 actually pointed out it could have happened by many
5 different theories, as many positions as there are with
6 people engaged in a struggle over a gun. It could have
7 happened in any myriad of ways. One is no more probable
8 than the other, one is no more likely than the other. In
9 fact, Dr. Sexton said the only three things that he can
10 say beyond a reasonable doubt, the only three things he
11 can say beyond a reasonable doubt is the bullet
12 unfortunately killed Mr. Freeman. Two, the bullet was at
13 a distance and or the gun was either a contact wound or in
14 a distance of 18 inches or more. And three, of course the
15 bullet followed the trajectory. Beyond that he cannot say
16 where anybody was at any time when that firearm went off.
17 He can't say it, he can speculate, he can't tell you, he
18 can't tell you if this is the most probable even, the
19 mostly likely. He can only say that it is possible along
20 with a bunch of other possibilities. And then the
21 government can only give you one possibility among
22 several. That is not proof beyond a reasonable doubt.

23 As the Judge is going to charge you also the crime of
24 involuntary manslaughter. Involuntary manslaughter is
25 basically, let me back up one second. The Judge will also

1 charge you that under some circumstances a reckless
2 disregard can be so gross and so great that it would be
3 the equivalent of murder. It is not what happened there
4 that night. What that basically means is that someone at
5 2:00 o'clock in the afternoon gets in their automobile and
6 drives down Main Street in Greenwood at 100 miles an hour
7 and hits somebody, they can be convicted of murder.
8 Because that is such a reckless disregard for human beings
9 and safety of human beings that you could conclude that
10 that person has the wicked and depraved heart void of
11 social duty. And it would be a logical conclusion. And
12 that is the type of reckless conduct we talked about that
13 rise to the level of murder. When someone can go out at a
14 Barbecue Festival here and look at a crowd and fire a gun
15 at the crowd without intending to hit anybody. That is
16 such a reckless and stupid act that it would be indicated
17 a heart devoid of social duty and to the equation of
18 murder. That is when we talk about recklessness arising
19 to the level of murder, that is the type of reckless
20 murder we are talking about. You have another choice in
21 this case in which it is involuntary manslaughter.
22 Involuntary manslaughter is not that complicated. It is
23 basically when you do an unlawful act in such a grossly
24 negligent manner and you cause the death of another when
25 you were not intending to cause the death of another and

1 as a result the person died and you can be convicted of
2 involuntary manslaughter. It is no intent to kill is
3 involuntary manslaughter. There is however a requirement
4 that there be some grossly negligence or reckless conduct.
5 Not so reckless as we are talking about earlier where you
6 are driving down the highway at 90 miles, 100 miles an
7 hour in downtown Greenwood. But it is a reckless conduct,
8 that your common sense applies recklessness. You can also
9 have involuntary manslaughter when you are doing an
10 unlawful act and you do it negligently causing an unlawful
11 act is not one that is by which you kill somebody. But
12 you do it negligently and the result is someone dies.
13 Again, no intent to kill, no intent to harm but because of
14 the negligence of doing that act someone dies then you are
15 guilty of involuntary manslaughter. If anything, if
16 anything that is a possibility that Mr. Edwards was
17 grossly negligent. But again we are not talking about
18 whether it is possible that he was grossly negligent, the
19 question is has it been proven beyond a reasonable doubt,
20 beyond any and all reasonable doubt that he was grossly
21 negligent in acting that day.

22 The Judge is going to charge you several principles
23 of law that I want you to pay careful attention to. And
24 generally what he will say is that first of all a person
25 has the right to arm himself on their own property. So he

1 has that right to go into the house, in his own house and
2 get a gun and come back outside with it, that is a
3 perfectly legal right. But it is perfectly a legal right,
4 that is not illegal. You also have the right to evict
5 people who will not leave the premises. If someone is at
6 your house and they won't leave and you told them to leave
7 you have the legal right to go in your house, get a gun,
8 come out and say leave. The question then becomes for the
9 jury in a case where someone dies on that whether or not a
10 person used extreme means of getting the person to leave,
11 extreme means of getting the person to leave. I think
12 here all you will find is is that Freddie Edwards got the
13 pistol for the purpose of making George Freeman leave.
14 And then it was, unfortunately the weapon was grabbed and
15 it went off and it ultimately caused the death of George
16 Freeman. So he was lawful in going and coming out with
17 the gun and he is lawful going to the front yard with it
18 and he was lawful going inside. That is all lawful
19 conduct on behalf of Mr. Edwards. You cannot convict him
20 of either involuntary manslaughter or murder if you have
21 any belief that his obtaining the pistol and carrying it
22 outside was unlawful, that was lawful. The State will
23 also charge you that the crime of presenting and pointing
24 a firearm and part of that theory is relates directly to
25 involuntary manslaughter. If a person presents and points

1 a firearm at somebody and does it in such a careless
2 manner that it goes off then that would rise to the level
3 of involuntary manslaughter because that would be doing an
4 unlawful act in a negligent manner which is one of the
5 definitions of involuntary manslaughter. That is really
6 not what happened here. The testimony has been clear that
7 Mr. Edwards, that when Mr. Freeman went down he had not
8 pointed the gun at him, had not intended to point the gun
9 at him until Mr. Freeman grabbed it. And if Mr. Freeman
10 is grabbing the gun of course it is going to be pointed at
11 him then then that is not a voluntary act on Mr. Edwards
12 part and he would not be guilty of presenting and pointing
13 a firearm. That is not a basis to find him guilty of
14 involuntary manslaughter. The Judge will also charge you
15 accident and an accident is basically what it says it is.
16 And as unfortunate and as tragic as this case is I think
17 that is what this case comes down to, an accident, no
18 intent to kill anybody. Mr. Freeman grabs the gun for
19 whatever reason, blood alcohol is .18, judgment impaired,
20 not thinking clearly. If he hadn't of had .18 there
21 probably would have never been an argument that night,
22 none of this would have happened. But that is not the
23 facts and that is not the facts we are dealing with. So
24 there is no presenting and pointing a firearm.

25 Now, the only direct eyewitness or semi-witness was

1 George Harrison. And Mr. Harrison claims that he was in
2 the front yard of Mr. Edwards house discussing or seeing
3 what happened. He did not see what caused George Freeman
4 to get on the ground. Every other State's witnesses, two
5 of the State's witnesses knew where George Harrison was,
6 says that he never came beyond about here in the street
7 and at that point he is not able to see around the corner
8 as to what happened. He initially took a left turn and
9 went here, Mr. Edwards put him over here but two of the
10 State's witnesses say he took a left turn in this
11 direction. And then moved down here after his brother had
12 run this way. And he was never in a position to see it.
13 Simply was never in a position to see it. And one of the
14 reasons we know that is he emphatically remembers,
15 emphatically remembers that the left hand was up in the
16 air and the right hand was down by his side, the left hand
17 was up in the air where he had the money in. And yet the
18 result of that from the forensic people, they tell you the
19 left hand had the least amount of gunshot residue of the
20 two hands. The right hand had a lot. He said very
21 emphatically he remembered seeing the money. He was very
22 emphatic that it was the left hand with the money in it
23 near the gun and the right hand was not and yet we know
24 forensically that is not correct, that is not correct.
25 The right hand, it had more of the gunpowder residue on it

1 than the left hand, we know that. The State will make
2 some arguments I am sure about Mr. Edwards hand, the left
3 hand overlapping the right hand and all of that. Well
4 that is interesting but it is a theory, it is a theory and
5 it is not reliable for this particular reason. Mr. Powell
6 testified that once you handcuff someone without bags over
7 their hands, put them in the backseat of a patrol car,
8 gunshot residue is going to rub off of one hand, may even
9 rub off from the other. So you have a considerable period
10 of time that Mr. Edwards is in the back of the patrol car,
11 handcuffed behind his back, rubbing against the backseat
12 of the patrol car transferring gunshot residue from his
13 hand to the seat, to the backseat, probably back to his
14 hands so that the readings on his hand, the only thing we
15 can say is he fired a firearm. And that fact has never
16 been in dispute. It cannot tell you based upon the fact
17 that the gunshot residue is going to rub off of him, which
18 hand had the most on it and which hand had the least.
19 Their experts testified it will rub off. He rubs his
20 hands together like this it is going to transfer one to
21 the other. And therefore readings don't mean that much.
22 It would be more of someone with their hands never
23 touching each other, the hands have been bagged right
24 after a shooting. As distraught as he was you can only
25 imagine what he did to his hands. You had a chance to see

1 what I saw or listen to what I thought was an emotional
2 statement by Freddie Edwards when he was interviewed by
3 Officer Murdock that night. A man who was broken down,
4 crying constantly, very upset as he testified and he
5 wanted to tell the police what happened that night so they
6 could understand. And that is not someone who can commit
7 or did commit murder. That is a man who was extremely
8 upset because he had basically had someone die at his
9 hands. Whether he was legally responsible or not he felt
10 morally responsible that someone did die at his hands as
11 he said, I should never have come outside.

12 You have also had in this case character witnesses.
13 Mr. Treeter and Mr. Forrest. Character witnesses are
14 important because they tell you the character. The Judge
15 will charge you that even without any other evidence the
16 fact that a person has a good reputation for truth and
17 voracity and has a good reputation for peacefulness in the
18 community is sufficient in and of itself to find a
19 defendant not guilty. Because many times that is all a
20 person can bring into the courtroom is how they have lived
21 their lives over the last 50 years. And Freddie Edwards
22 brought you one. He is a man who does not have a
23 reputation for fighting, mean, all of this. He is a man
24 with a reputation of being truthful, hardworking man who
25 had been working 30 plus years laying brick. This is a

1 tragic case, no question about it. I am going to guess if
2 you look back in hindsight a lot of people made some bad
3 decisions. Freddie Edwards did not make a decision that
4 is so bad that he is guilty of murder. He never made an
5 attempt to kill George Freeman. I don't think you can
6 find him even reckless and certainly not guilty of
7 involuntary manslaughter. As tragic as this case is the
8 government has not proven beyond a reasonable doubt of
9 murder or involuntary manslaughter, your obligation is to
10 come back with a verdict of not guilty. A verdict is not
11 blaming, the verdict is not Mr. Edwards blameless, the
12 verdict is the facts of the case do not fit the legal
13 requirement of the two crimes that the State would charge
14 him with, that is all it means. Mr. Edwards has to live
15 with the consequences of that. I will sit down in a
16 minute and the State will have a chance to come back up
17 and make an argument. I will not have a chance to come up
18 after that. He did allow that and I am sure Mr. Hodges
19 and I will be here until well into the night trying to
20 figure out who is going to get the last word in. The
21 rules are, he gives a brief opening on the law, I get my
22 argument and he gets his argument and that is it. To the
23 extent that I have answered your questions I have made a
24 good statement here. To the extent I haven't, I know your
25 comments you have raised questions that may have answered

1 or may not have answered. To the same to Mr. Hodges,
2 raise the same questions that you think I would have
3 raised had I had an opportunity to come back and make a
4 reply to you. I think when you analyze the facts in this
5 case, this tragic case and there is no question about that
6 it is not a murder case. It is not the actions of a man
7 whose heart springs from wickedness, depravity or it is
8 devoid of social duty. Without malice there is no murder.
9 Without an intent to inflict harm to Mr. Freeman there is
10 no murder. The proper verdict in this case should be not
11 guilty. Thank you.

12 THE COURT: Mr. Hodges.

13 MR. HODGES: Thank you, Your Honor. Let's start back
14 with the argument in the little house or whatever you want
15 to call it. You remember the defendant's testimony. When
16 did he say he stood up. He stood when he called him
17 Freddie, he usually called him Mr. Edwards, that night he
18 called him Freddie and that is when he stood up. That is
19 when he started getting angry. He has got this young guy
20 in his house, he is challenging the rules, he is the house
21 man, his house and he makes the rules. He has got this
22 young man there challenging him and calling him Freddie in
23 front of his poker buddies and he starts to get mad. They
24 get into a verbal altercation. You heard all of the
25 witnesses testify, there were no blows exchanged. This

1 was a heated argument. The defendant himself admitted
2 there was no reason for him to go inside and get his gun.
3 Mr. Wise talks about going to protect his property, run
4 him off. The defendant himself testified that he went
5 into that house and got that gun and there was no need for
6 him to get that gun. When he comes back out the defendant
7 sees George Freeman and Greg Harrison and they have gotten
8 clear down by their van. Everybody, I think Clyde, he
9 hadn't left the little house, he was still in there
10 getting chicken. Everybody else, as the defendant had
11 instructed, had left. You heard, I think it was Ben Smith
12 say that the defendant had been gone maybe sixty seconds
13 when he came back with that gun. And you know he was in a
14 hurry when he got in there, he was angry and hostile and
15 in there slinging clothes and grabbed the gun and throwing
16 the holster down in the utility room and come down that
17 backdoor. That didn't take him five minutes to go in
18 there and get that gun. How much opportunity did George
19 Freeman and Greg Harrison have to get out of there. They
20 had left the building and was down there by their vehicle.
21 They were getting ready to leave. When you have got
22 somebody coming after you with this are you going to be
23 fumbling around trying to get your keys in your car door
24 or are you going to take off running in whatever direction
25 you can go. And that is exactly what the victim in this

1 case did. Mr. Wise talks about, well, it is reckless to
2 drive through town at 100 miles an hour and kill somebody,
3 that is murder. Well, is it not a reckless disregard for
4 the safety of others to take a loaded .44 Magnum pistol
5 with your finger on the trigger and clothesline him. Is
6 that not a reckless disregard for the safety of others.
7 Is not just as reckless as driving at 100 miles an hour
8 into town. I submit to you that it is. He also wants to
9 talk about the remorse of his statements, the fact that he
10 is crying. And I don't remember what he said, the first
11 words out of the defendant's mouth were but as I recall
12 his first words is that people heard him say is I have
13 messed up my life. Messed up my life, not have just taken
14 a life but I have messed up my life. And what does he say
15 when he is talking to the police. Why did this have to
16 happen to me, not why did this have to happen to George
17 Freeman. Why did this have to happen to me. I submit to
18 you that the tears and the remorse is for Freddie Edwards,
19 not for George Freeman. He lost his cool, he got mad in
20 that poker room that this kid was disrespecting him, he
21 got angry, he went to his house and he got his gun, he
22 lost it. But, I mean it is hard to imagine that after you
23 shoot somebody in the mouth and see the blood and see what
24 you have done it is hard to imagine what that does. I
25 would think that that is what kind of snapped you out of

1 whatever kind of out of control mood you are in. You are
2 going to suddenly realize, oh my god, what have I done. I
3 have messed up my life, I just killed a man. That has got
4 to snap you out especially when you go around and sit down
5 and start thinking about it, thinking about the police is
6 coming to get you, what am I going to tell them. What in
7 the world am I going to tell the police. What does he
8 tell them. It was an accident, I didn't, I was scared of
9 this big guy. I didn't mean to kill him. What else are
10 you going to tell the police. The guy, I chased him down
11 and killed him. You are going to tell them it was an
12 accident. But the problem with that is you have got to
13 come up with a scenario then that fits. And I told you at
14 the beginning of this trial when I stood up in front of
15 you that the defendant's version of events was not
16 supported by the forensic evidence. Now you have heard a
17 couple of different versions. One version was that as he
18 was clotheslining him and he was falling that somewhere
19 this happened. And we did a little demonstration when Dr.
20 Sexton was on the stand. If you remember our two
21 investigators up here kind of doing that, it doesn't
22 really work out for it to have happened while they were
23 falling. If he has got the gun down here at his right
24 side as he says, he is clotheslining him with his left arm
25 in the throat how is he going to reach across with his

1 right hand and get ahold of this gun and end up with that
2 shot as it is falling, it doesn't add up. So that doesn't
3 work. So then his next version is, well, he was down on
4 the ground and I was down on one knee or maybe it was the
5 other knee. He changed that. When he was on the stand I
6 think he said he was on his left knee but then when I was
7 down here on the floor with him suddenly it was his right
8 knee. Well, that doesn't matter. He didn't know what
9 knee he was on. And then he says, well, I stood clear
10 back up. All right, I want you to think about this. He
11 is saying, when I was down here on the floor with him he
12 is saying he had the gun down here at his right side and
13 that the victim sat up and pulled the gun down. All
14 right, grabbed ahold and then pulled the gun down. Now
15 what is the angle of that barrel. He has got the gun like
16 this and he says he pulled the gun down, what is the angle
17 of that barrel. All right. You know the bullet went in
18 right here, right. He is sitting up and pulling that gun
19 down, that bullet is going to go down, it is going down
20 through his throat, down into his shoulder blade, it is
21 not coming out way up here above his right ear. That
22 makes absolutely no sense. It does not fit the forensic
23 evidence. What else about this doesn't fit the forensic
24 evidence. Well you heard Joseph Powell testify that the
25 gunshot residue on the defendant's left hand was a higher

1 quantity than that on his right hand. That he had a left
2 hand and this is how you hold a firearm, a big heavy
3 firearm like this. You got your left hand cuffed over
4 your right hand protecting that right hand to some extent
5 so you are going to get more gunshot residue on the left
6 hand. All right. Well if he is holding it at his side
7 and it gets pulled forward it doesn't make as much sense,
8 does it. That left hand has got to be in there on the
9 gun. What else about the defendant's version doesn't make
10 sense. Remember Dr. Sexton said that a contact wound is
11 consistent with a struggle. And the reason for that and
12 the other thing he said it is unnatural for a person to
13 pull a gun to themselves. You are not going to grab a gun
14 and pull it to your mouth to a contact wound. I don't
15 know if y'all saw it but when the defendant was down here
16 with Mr. Wise and they were kind of doing a little
17 demonstration and he was showing how it was and he pulled
18 on the gun did y'all notice how he pulled it. He didn't
19 pull it towards him, he pulled it down towards the ground.
20 That is the natural reaction if you are going to pull on
21 something like that. You are not going to pull it at your
22 face, you are going to bat it away, pull it down, slap it
23 away trying to get it away from your face. Not pull it up
24 against your face. So again that is inconsistent with the
25 defendant's story. Also I remember what Dr. Sexton said

1 about his examination of the victim's hands. Remember he
2 said they do a complete external examination during the
3 autopsy. Absolutely no defensive wounds on the victim's
4 hands, not a scratch, not a scratch. If you are fighting
5 for your life, struggling over a gun and it is ripped out
6 of your hands do you not think you are going to have some
7 abrasions, some scratches on your hand when you get this
8 big thing ripped out of your hand. He is really fighting
9 for his life with a gun in his face. All right. You are
10 going to have some defensive wounds on your hand. You
11 know, there was some questions during the trial and Mr.
12 Wise was kind of getting at, well maybe that piece of meat
13 that was on the barrel, maybe that came from his hands
14 slipping off, there was some question kind of to that
15 effect. We didn't hear anything more about that after we
16 found out there was nothing wrong with his hands. It is
17 inconsistent. A couple of other things to think about.
18 Let's say you are running full till and you get
19 clotheslined in the throat and it lays you out, you are
20 going to be kind of knocked kilter for a second there.
21 That has kind of stunned you if you go off of your feet
22 and land flat on your back like that. It might knock the
23 breath out of you, it is going to knock you for a loop.
24 Plus you got something, a high blood alcohol content which
25 Dr. Sexton told you it is going to reduce their motor

1 skills, it is going to reduce their ability to defend
2 themselves. Another thing that is inconsistent about the
3 defendant's version of what happened. And again there are
4 kind of several different moving targets on this. One of
5 his versions was grab ahold of his wrists. And if you
6 remember, when I asked Joe Powell, the gunshot residue
7 expert, I asked him about that specifically, what if he
8 grabbed you by the wrist, does that fit with the evidence
9 that you found and he said no. And the reason he said,
10 number one and Dr. Sexton said this too, he has got money
11 clasped in his left hand. You can discount the left hand
12 in terms of grabbing. Because if he had of been grabbing
13 with it he would of dropped the money. So you discount
14 that anyway. But even assuming that fact is out, if he
15 grabs him up there at the wrist his hands are behind the
16 firearm. And remember Joe Powell talked about this cloud
17 of smoke and powder that comes out the back and that is
18 what was depositing over Freddie Edwards hands back here
19 behind the firearm. Well if George Freeman's hands are
20 back here on his wrist he is going to get a similar lower
21 level of gunpowder residue on his hands. But remember Joe
22 Powell said that the back of George Freeman's hand had a
23 extremely high level of gunpowder residue which means that
24 it was not behind the firearm. He said it means he was
25 not grabbing the firearm. Joe Powell specifically

1 testified that the level of gunpowder residue on his hands
2 was inconsistent with him grabbing the firearm. Remember
3 also that, I asked, put my hand, when we were doing this
4 demonstration, put my hands where his hands were. And he
5 was talking about it was up here. Remember the testimony
6 about the fire that comes out the side of this cylinder.
7 I think he was talking about a .50 caliber could amputate
8 your fingers it is so powerful, that he would have had
9 burns in his palms if he was grabbing the gun. Again,
10 there is nothing wrong with the victim's hands. No wounds
11 whatsoever. You know he wouldn't grab here. The
12 defendant says he wasn't grabbing out here and again
13 anything in this vicinity Joe Powell testified would not
14 account for the high level of gunshot residue on the back
15 of his hand. He said it has got to be where all of this
16 stuff is coming out of the barrel. How do we reconcile
17 all of that evidence. The State did a demonstration right
18 here on the floor, our two investigators, Investigator
19 Miller and Investigator Strickland. This demonstration
20 supported what you heard from the victim's brother, that
21 the defendant was down on top of him, on his knees pinning
22 him down with the gun in his face. Let me explain to you
23 all of the ways that forensic evidence supports that
24 version of events. You have got, can you imagine the
25 defendant on his knees, leaning forward, he has got his

1 hands cuffed around the gun like this, that is consistent
2 with the gunpowder residue that is found on the
3 defendant's hands. He has got down on his knees, he has
4 got inside of the mouth of the victim. All right. That
5 is consistent with the three splits in his mouth.
6 Remember Dr. Sexton said that you have got all of that
7 pressure and gas and it has got to come out somewhere.
8 Well, that is where those three splits in his mouth came
9 from, is that gun being in his mouth and all of that shot
10 splitting the mouth. He also said that the mouth can act
11 like a vent, that a lot of that material can bend out of
12 the mouth which can reduce the fact that the head is going
13 to explode. Normally the skull is not going to be able to
14 withstand that shock and it is going to rupture. But he
15 said that in the mouth shot like that you can have a lot
16 of that material coming out of the mouth. So how is that
17 consistent with the other evidence. Well you have got a
18 piece of material, that piece of flesh on the barrel can
19 be coming out of the mouth and splattering onto the gun.
20 You have got the victim's blood on the defendant's
21 t-shirt, he is down there over it and the shot goes off
22 and it is splattered up onto his shirt. You have got his
23 money clasped in his left hand and it gets the dusting of
24 the gunpowder residue. And if he has got his hand up here
25 like this trying to defend himself the shot goes in the

1 corner of his mouth and all that material comes venting
2 out. Think about the angle of the wound. When I had my
3 two investigators down here and I kept trying to get him
4 to put the gun in his mouth, he didn't want the barrel of
5 that gun in his mouth, did he. And what was he doing. He
6 was tipping his head back trying to get away from it, that
7 is a natural reaction. Freddie Edwards was down there
8 with that gun in his mouth, he is trying to tip away from
9 it, that matches the angle of that bullet going into the
10 corner of his mouth and out above his right ear. And Dr.
11 Sexton was standing right there watching this
12 demonstration and said that all of that was consistent
13 with the forensic evidence. What is not consistent with
14 the forensic evidence or the different versions that the
15 defense has given, you know, think again, when I was down
16 here that angle, it just doesn't fit. The defense version
17 of what happened does not fit. This is a tragic case,
18 ladies and gentlemen, the defendant in this case lost his
19 cool, he went charging into his house, got his revolver
20 and with a reckless disregard and hostility in his heart
21 he ran George Freeman down, he clotheslined him, got down
22 on top of him and stuck that .44 Magnum in his mouth and
23 pulled the trigger. This is murder and nothing less. And
24 after your deliberation, ladies and gentlemen, I ask that
25 you return a verdict of guilty of the defense of murder.

1 felony in this State for a person to point or present a
2 loaded or unloaded firearm at another person. To present
3 a firearm means to offer, to view it in a threatening
4 manner or to show in a threatening manner without just
5 cause or excuse. Additionally, ladies and gentlemen, I
6 charge you that in the State of South Carolina a person
7 has the right to possess a weapon or a firearm on their
8 own property.

9 Now in this case, ladies and gentlemen, the defendant
10 has raised the defense of accident. An act may be excused
11 on the grounds of accident if it is shown that the act was
12 unintentional, that the defendant was acting lawfully and
13 that reasonable care was used by the defendant in the
14 handling of the weapon. For example, if a person is
15 lawfully armed in self-defense and the gun accidentally
16 discharges the defense of accident would apply. The
17 burden is on the State to prove beyond a reasonable doubt
18 that act, beyond a reasonable doubt that act was not an
19 accident but was caused by the negligence or carelessness
20 on the part of the defendant in handling of the firearm.

21 Ladies and gentlemen, in this case I also have to
22 charge you that an occupant may allow another to enter his
23 property through expressed or implied invitation. An
24 invitee, this is what it is called, an invitee, an invitee
25 cannot be lawfully ejected by the use of violence until

1 the occupant has requested that he leave. Once the
2 invitee refuses the occupant must use only such force as
3 necessary to accomplish the ejectment. No one has the
4 right to kill an invitee guest without any notice to
5 leave. If a trespass has occurred the property owners
6 chosen means of ejectment must be reasonable under the
7 circumstances. The right of an occupant to expel a
8 trespasser and to use such force as may be necessary is
9 limited to the place of his habitation and perhaps his
10 curtilage. The defense of habitation does not exist at
11 the place of a homicide that is away from the habitation
12 and away from the curtilage. Ladies and gentlemen,
13 curtilage is simply defined as the land or the yard that
14 adjoins or surrounds a house.

15 Ladies and gentlemen, in this case there are two
16 possible or there are several possible verdicts and you
17 are to gather nothing by which, by the order in which I
18 state these verdicts. I have written these out on a
19 verdict form and the first option for you, ladies and
20 gentlemen, states we the jury in the above captioned case
21 on the charge of murder unanimously find Freddie Edwards
22 and then there is a blank here for either guilty or not
23 guilty. If based upon your evaluation of the evidence
24 that the State has presented you find that the State has
25 met its burden of proving the defendant guilty of murder

1 beyond a reasonable doubt you would then initial here next
2 to guilty, Madam Foreperson, knock on the door, well
3 initial here and then you will proceed to number, the
4 second question. If on the other hand you find that the
5 State has failed to meet its burden of proving the
6 defendant guilty of murder beyond a reasonable doubt you
7 would initial not guilty and then proceed down to the
8 third question. Okay. If you do find the defendant
9 guilty of murder the second option for you to consider and
10 you can only consider this if you do find the defendant
11 guilty of murder but the second option for you to consider
12 is whether the defendant is guilty of the offense of
13 possession of a firearm during the commission of a violent
14 crime. If based upon your evaluation of the evidence
15 offered by the State you find that the State has met its
16 burden of proving the defendant's guilt beyond a
17 reasonable doubt for that offense you would then initial
18 guilty for that offense. If however the State has failed
19 to meet its burden of proof beyond a reasonable doubt you
20 would initial not guilty. Now, ladies and gentlemen, if
21 you find that the State has failed to meet its burden of
22 proving the defendant guilty of murder as I have
23 instructed you on that then you would have the option of
24 considering the third possible scenario and that is the
25 charge of involuntary manslaughter. That question reads,

1 3:54 p.m.)

2 THE COURT: If we can confirm that the correct
3 exhibits are going back. We will keep the ammunition out
4 here, I will send back the verdict form and in a moment,
5 Mr. Wise, I will let you make a record concerning the
6 prejudice that you have suffered by not being able to make
7 a final argument after Mr. Hodges.

8 (Whereupon, the jury starts deliberations at
9 approximately 4:00 p.m.)

10 (Whereupon, the alternate of the jury is dismissed
11 from the trial of this case.)

12 THE COURT: We are back on the record, Mr. Wise, of
13 the matters that you would have brought to the jury's
14 attention in reply to Mr. Hodges final summation.

15 MR. WISE: When Mr. Hodges argued that he was mad
16 when he stood up and called him Freddie. I would argue
17 that that was a concern by Mr. Edwards because he normally
18 didn't call him Freddie and that showed he was, that Mr.
19 Freeman was acting unnormally. When Mr. Hodges argued no
20 reason to go get a gun I would have argued going to get a
21 gun was not illegal. When he said that Freddie being mad
22 when he left the house I would have pointed that Mr.
23 Edwards never said anything as he came out of the house
24 with the gun. Never made any threats against Mr. Freeman
25 and never pointed the firearm at Mr. Freeman. When he

1 said the carrying of the pistol is reckless disregard I
2 would have pointed out that that would mean that anyone
3 who walked upon their premises with a firearm could be
4 guilty of murder for they would be in reckless disregard.
5 When he was talking about, thinking about I am going to
6 tell the police I would have argued that due to the
7 emotion on the tape that wasn't true and if someone is so
8 coldhearted as be able to murder somebody and then sit
9 down and act like he did then they probably are really
10 coldhearted. The defendant said a couple of different
11 versions, I would have pointed out that in the statement
12 he gave the police that night the really only version he
13 gave them was that Mr. Freeman was on the ground first
14 before the gun was grabbed. When he argued about the
15 angle of the bullet I would have pointed out that if the
16 head was tilted back a little bit the bullet would have
17 been at the same angle as shown on the diagram and was
18 testified to by Dr. Sexton. I would have argued that when
19 the gun, when he pointed out that the gun was pulled away
20 from Mr. Freeman I would have argued that when the gun was
21 pulled back that a reflex action easily could have pointed
22 the gun directly at Mr. Freeman. He said grabbing the
23 hand with money was not possible. I would have pointed
24 out that we demonstrated through Mr. Edwards grabbing the
25 paper that it was possible to grab the gun with the money

1 in your hand. And when he argued that GSR was
2 inconsistent with grabbing we would argue that GSR was
3 consistent with the gun being fired immediately upon Mr.
4 Freeman's hand slipping off of it. And when he says,
5 talking about the blood on the t-shirt, I would have
6 pointed out that Dr. Sexton testified the blood on the
7 t-shirt could have been splattered on him and that had the
8 gun occurred at contact range there should have been more
9 blood on the t-shirt. And when he said the different
10 versions of the defendant are not consistent with the
11 forensic evidence. I would have testified that Dr. Sexton
12 clearly said that there were a myriad of versions that
13 could have created the same bullet path and everything.
14 And those are the things that I would have argued had he
15 been required to open fully on the facts of the case.

16 THE COURT: Thank you, Mr. Wise. I do believe that
17 the record is protected and of course again am merely
18 following the rules as I understand them to be. If there
19 is a Fourteenth Amendment violation or other similar
20 violation to your client's rights I am quite certain that
21 the appellate courts will address it in due course. But
22 obviously somebody has to go first and somebody has to go
23 last and I am merely trying to follow the rules in this
24 particular case as I understand them to be. Very good,
25 anything else before we take a brief break?

1 involved in this case, they have done an outstanding job
2 of the presentation and I do not want that jury berated or
3 otherwise criticized for whatever result that they may end
4 up making. It is a very difficult call, it is a very
5 difficult decision. They are here because we have drafted
6 them to be here and it is not appropriate for us in any
7 way to criticize what they ultimately decide with respect
8 to this case. With that said understand that I can put
9 somebody in prison for up to six months without a jury
10 trial for direct contempt of my court. I have not had
11 lunch today so I am in the mood to do exactly that. I
12 would suggest you not challenge me on that particular
13 issue. With that we will be at ease until the jury
14 reaches a verdict unless you have other matters for the
15 Court.

16 (Whereupon, a break was taken until the verdict is
17 reached.)

18 THE COURT: All right, we have a communication from
19 the jury. They have sent a note out saying and I quote,
20 "We need to hear the definition of involuntary
21 manslaughter." What I will be inclined to do is simply
22 recharge them on involuntary manslaughter. I am going to
23 admit that portion of the charge that I read a moment ago
24 dealing with more than one proximate cause. It is part of
25 the standard charge but I don't think that it really

1 applies in this case and then I will again talk--

2 MR. WISE: It doesn't and in the interest of time it
3 has really no bearing on this case.

4 THE COURT: I will charge them again about the
5 pointing and presenting since that is part of the basis
6 for the involuntary charge subject to Mr. Wise's
7 objections. Let's have them back out, please.

8 (Whereupon, the jury came into open court at
9 approximately 4:35 p.m.)

10 THE COURT: The record should reflect that the jury
11 is back. Madam Foreperson, ladies and gentlemen of the
12 jury, I received your note whereby you are requesting that
13 I give you the definition of involuntary manslaughter
14 again. What I am going to do is simply read that portion
15 of the charge that dealt with involuntary manslaughter. I
16 will read that to you again. Of course you need to follow
17 the charge that I gave you a moment ago as a whole without
18 any undue emphasis on any one part of the charge. But at
19 the same time if there is any way I can help you out with
20 definitions I am more than happy to do that. As I said a
21 moment ago, ladies and gentlemen, if you find that the
22 State has failed to prove beyond a reasonable doubt that
23 the defendant committed the offense of murder you may then
24 consider whether the State has proven beyond a reasonable
25 doubt that the defendant committed the offense of

1 involuntary manslaughter. Now to prove involuntary
2 manslaughter the State must prove beyond a reasonable
3 doubt that the defendant unintentionally killed the victim
4 without malice but while engaged in an unlawful activity
5 not naturally tending to cause death or great bodily harm
6 or that the defendant unintentionally killed the victim
7 without malice while engaged in a lawful activity with
8 reckless disregard for the safety of others. Again,
9 unintentional means that the defendant did not intend for
10 anyone to be killed or seriously injured. Reckless
11 disregard for the safety of others is more than mere
12 legal, I am sorry, it is more than mere negligence or
13 carelessness. Mere negligence or carelessness is the
14 failure to use the care that a person of ordinary reason
15 would use under the same circumstances. Recklessness is a
16 conscious failure to use ordinary care. Reckless
17 disregard for the safety of others means that you are not
18 interested in the consequences of your acts or the rights
19 and safeties of others. If a person who knows or should
20 know that ordinary care requires certain precautions be
21 taken for the safety of others when using a dangerous
22 instrumentality such as a gun but that person fails to use
23 those precautions without concern the person's actions are
24 considered reckless. The State must also prove beyond a
25 reasonable doubt that the defendant's act was the

1 Edwards. Indictment number 2005-GS-24-1003 and 1004. We,
2 the jury, in the above captioned case on the charge of
3 murder unanimously find Freddie Edwards guilty. We, the
4 jury, in the above captioned case on the charge of
5 possession of a firearm during the commission of a violent
6 crime unanimously find Freddie Edwards guilty. Signed
7 Foreperson, Tessa Moore. Ladies and gentlemen of the
8 jury, if this is your verdict will you please raise your
9 right hand.

10 (Whereupon, all jurors raised their hand.)

11 THE COURT: Let the record reflect that all jurors
12 have raised their right hands. Anything before the
13 discharge of the jury from the State?

14 MR. HODGES: Not from the State, Your Honor.

15 MR. WISE: We wish for the jury to be polled.

16 THE COURT: Madam Clerk, if you will please poll the
17 jury. Ladies and gentlemen, in a moment the Clerk will
18 read out your names and she will have two questions of
19 you. You simply need to answer the questions as
20 appropriate. Okay. Madam Clerk, you can proceed.

21 THE CLERK: Tessa Moore, is this your verdict?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: Terrance Thompson, is this your verdict?

1 don't want to talk to them and they continue to persist
2 report them to me. Call the clerk of court's office, I
3 will deal with it ASAP, I promise you that. Ladies and
4 gentlemen, it is very late in the day. I will tell you
5 that you do get paid for jury service, it is not a great
6 deal of money. You will receive the check sometime next
7 week. Thank you very much for you attention and thank you
8 very much for you service. You are free to stay, you are
9 free to leave. If you choose to stay I would ask that you
10 go back outside and then come in the main courtroom
11 entrance and you can sit over to the side. At this point
12 and time we will take up issues of sentencing. But if you
13 don't want to stay that is perfectly fine, y'all are free
14 to go. Thank you very much for your service. I will see
15 y'all around.

16 (Whereupon, the jury was excused from the courtroom
17 at 5:10 p.m.)

18 THE COURT: All right. Motions from the defense, Mr.
19 Wise?

20 MR. WISE: Your Honor, we would move for a new trial
21 on the grounds in taking the evidence in the light most
22 favorable to the State that this verdict should not be
23 allowed to stand. I don't think there is any substantial
24 evidence to convict Mr. Edwards of murder in this case.
25 And then also for the errors concerning the order of the

1 charge, the argument to the jury. I think that was unduly
2 prejudicial in this particular case because I was not able
3 to refute many of the arguments of the State which I
4 thought improperly mistaken the jury.

5 THE COURT: Any comment on that, Solicitor?

6 MR. HODGES: No comment, Your Honor.

7 THE COURT: Very good. Mr. Wise, your motion for a
8 new trial is denied. Obviously you understand any
9 opportunity that you would have to appeal and the
10 timeframes involved for that. So I would invite you to
11 file the appropriate notice at the appropriate time.
12 Anything before we proceed to sentencing from the State?

13 MR. HODGES: No, Your Honor.

14 THE COURT: From the defense?

15 MR. WISE: None, Your Honor.

16 THE COURT: Very good. If we may, Solicitor, do you
17 have a sentencing sheet. Before we proceed to mitigation,
18 Mr. Wise, I will be happy to entertain anything that the,
19 I assume this is the victim's family, Mr. Hodges?

20 MR. HODGES: That is correct, Your Honor.

21 THE COURT: Certainly anything that they want to
22 relay to me or anything that the victim's advocate wants
23 to say I will be happy to hear from them at this point and
24 time. I would just ask that you give me your names before
25 you start talking, please, Ma'am.

1 sentence that was previously imposed is appropriate. Sir,
2 I wish you luck in whatever future endeavors you may
3 engage in. The sentence of the Court, sir, is that you be
4 committed to the Department of Corrections for 30 years.
5 This sentence is concurrent with that on the weapons
6 charge. The sentence on that is that you be committed to
7 the Department of Corrections for 5 years, it is
8 concurrent with the 30 murder sentence. You are to
9 receive credit for time that you previously served before
10 the conviction was reversed and any, of course, time in
11 pretrial confinement. I don't know how much that is. I
12 am sure they can figure that out. I wish you luck, sir.
13 We will be at ease on this case. This case is actually
14 concluded. I would ask at this point and time, perhaps it
15 would be best if the family of the victim were to exit the
16 courtroom. I don't know if you need to take them
17 somewhere to debrief them, Solicitor. But obviously if we
18 can prevent anyone from hanging around the court house. I
19 will give a few moments for them to leave and then I will
20 dismiss the family of the defendant.

21 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

22

23

24

25

STATE OF SOUTH CAROLINA

-V-

FREDDIE EDWARDS

TRANSCRIPT OF INTERVIEW

OF

FREDDIE EDWARDS

BY

LIEUTENANT MIKE MURDOCK

ON

JULY 16, 2005

1 LIEUTENANT MURDOCK: TODAY'S DATE IS JULY 16, 2005, TIME NOW,
2 2330 HOURS OR 11:30 P.M.

3 Q. ALL RIGHT. MR. EDWARDS, I'M LIEUTENANT MURDOCK WITH THE POLICE
4 DEPARTMENT. I UNDERSTAND --- I REALIZE IT'S A TRAUMATIC MATTER AND I
5 HATE TO KEEP ON REHASHING THINGS AGAIN AND I DO APOLOGIZE FOR THAT,
6 MR. EDWARDS, BUT I DO NEED TO KIND OF GET THE GIST OF WHAT HAPPENED.
7 OKAY? YOU FEEL UP TO TELLING ME ABOUT IT?

8 A. (INAUDIBLE)

9 Q. SIR?

10 A. (INAUDIBLE) BELIEVE (INAUDIBLE)

11 Q. YES, SIR. WE WANT TO BELIEVE YOU. OKAY? BEFORE YOU TELL ME
12 WHAT HAPPENED, LET ME JUST KIND OF COVER SOME THINGS WITH YOU.
13 OKAY? YOU UNDERSTAND THAT RIGHT NOW YOU ARE IN CUSTODY?

14 A. (INAUDIBLE)

15 Q. OKAY. ALL RIGHT. YOU UNDERSTAND THAT YOU HAVE THE RIGHT TO
16 REMAIN SILENT --- MEANS YOU DON'T HAVE TO SAY OR ANSWER ANY
17 QUESTIONS. YOU UNDERSTAND THAT?

18 A. (INAUDIBLE)

19 Q. SIR?

20 A. I UNDERSTAND.

21 Q. OKAY. YOU UNDERSTAND ANYTHING YOU SAY CAN BE USED AGAINST
22 YOU. YOU UNDERSTAND THAT?

23 A. (INAUDIBLE)

24 Q. SIR?

25 A. I UNDERSTAND.

1 Q. OKAY. I'M SORRY, I JUST CAN'T PICK UP HEAD MOTIONS. OKAY? I KNOW.
2 I UNDERSTAND. YOU GOT A RIGHT TO TALK TO A LAWYER AND HAVE A
3 LAWYER WITH YOU (INAUDIBLE) AND HELP YOU DURING QUESTIONING. YOU
4 UNDERSTAND THAT ONE?
5 A. (INAUDIBLE)
6 Q. SIR?
7 A. YES, SIR.
8 Q. OKAY. IF YOU WANT TO HAVE A LAWYER WITH YOU DURING
9 QUESTIONING BUT NOT --- CAN'T AFFORD TO PAY A LAWYER, ONE WILL BE
10 PROVIDED TO YOU AT NO COST BEFORE YOU'RE QUESTIONED. YOU
11 UNDERSTAND THAT ONE?
12 A. YES, SIR.
13 Q. OKAY. IF YOU DECIDE TO ANSWER QUESTIONS NOW, WITHOUT A
14 LAWYER HERE, YOU STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS
15 WHENEVER YOU WANT TO. YOU UNDERSTAND THAT ONE?
16 A. YES, SIR.
17 Q. OKAY. AND YOU ALSO HAVE THE RIGHT TO STOP ANSWERING
18 QUESTIONS 'TIL YOU TALK TO A LAWYER. DO YOU UNDERSTAND THAT ONE?
19 A. YES, SIR.
20 Q. OKAY. MR. EDWARDS, DO YOU FEEL LIKE TELLING ME WHAT HAPPENED
21 TONIGHT, THE EVENTS OF THIS EVENING?
22 A. (INAUDIBLE) PLAYING POKER --- BEEN PLAYING POKER THIRTY-
23 SOMETHING YEARS.
24 Q. WHO WAS PLAYING POKER? WHO ALL WAS THERE? DO YOU REMEMBER?
25 A. LORD HAVE MERCY.

1 Q. OKAY. WELL, JUST TELL ME WHAT KIND OF HAPPENED, THEN, AT THE
2 POKER GAME.

3 A. WE WAS PLAYING POKER, I MEAN --- (INAUDIBLE) PLAYING POKER. I
4 BEEN PLAYING POKER 36 YEARS, BUT I HAVEN'T BEEN PLAYING LIKE --- BEEN
5 PLAYING LATELY. AND MEAT BET OUT OF TURN,

6 Q. WHO BET OUT OF TURN?

7 A. MEAT BET OUT OF TURN (INAUDIBLE) GOT A RULE, WHEN YOU BET OUT
8 OF TURN IT'S GONNA COST YOU \$2.00. YOU KNOW, (INAUDIBLE) CARDS.
9 (INAUDIBLE) GONNA BE \$2.00 --- JUST HAVING FUN.

10 Q. UH HUH.

11 A. AND THEN MEAT ALL I KNOW HIS NAME IS MEAT HE CAME AROUND LAST,
12 AND SO WE TOLD HIM THE RULES AND HE SAID, 'FREDDIE, I'LL BE DAMNED IF
13 I'M GONNA PAY YOU \$2.00 IF I BET OUT OF TURN.' I SAID, 'OKAY MEAT JUST
14 GET OUT.' (INAUDIBLE) PAY \$2.00, JUST GET OUT.' AND THEN WE PLAYED
15 ANOTHER HAND AND HE KEPT SAYING (INAUDIBLE)

16 Q. THAT'S MEAT SAYING THAT?

17 A. MEAT.

18 Q. YOU KNOW MEAT'S LAST NAME?

19 A. I DON'T KNOW HIS LAST NAME.

20 Q. OKAY.

21 A. AND HE JUMPED UP ON THE NEXT HAND AND SAID, 'I MEAN WHAT I SAID, I
22 AIN'T GONNA BET --- PAY NO \$2.00.' I SAID, MEAT, WHAT'S WRONG? AND HE
23 STARTED JUMPING UP, 'WHAT YOU GONNA DO?' SO HIS BROTHER WAS THERE,
24 --- SO YOU'LL FIND OUT WHO HIS BROTHER WAS. HE WAS THERE AND HE CAME
25 UP BEHIND US AND TOLD MEAT TO STOP, AND HE GOT WORSE, SO I WENT IN

1 THE HOUSE AND --- I HATE I FOUND MY GUN --- THEN HE WAS TRYING TO GET
2 ~~MEAT TO GO AND THEN MEAT RAN AROUND THE HOUSE AND MY GATE WAS~~
3 ~~LOCKED. HE COULDN'T GO OVER THE FENCE SO HE CAME BACK MY WAY, AND I~~
4 ~~PUT MY ARM OUT AND I CLOTHESLINED HIM AND HE FELL DOWN. BUT I HAD~~
5 MY GUN --- HE PULLED THE GUN AND SAID, 'DON'T SHOOT ME.' AND THE GUN
6 WENT OFF WHEN HE PULLED IT. I WASN'T GONNA SHOOT HIM. THE GUN WENT
7 OFF. HE PULLED THE GUN DOWN.

8 Q. OKAY.

9 A. AIN'T NO MONEY, NOBODY'S LIFE GONNA (INAUDIBLE) NO DOLLAR. OR
10 TWO ----

11 Q. YES, SIR.

12 A. I WAS GONNA SCARE HIM WITH THE GUN, THOUGH. BUT HE PULLED THE
13 GUN DOWN AND THE GUN WENT OFF.

14 Q. WHAT KIND OF GUN WAS IT?

15 A. IT WAS A .45, I THINK.

16 Q. .45?

17 A. YES, SIR.

18 Q. ALL RIGHT. OFFICERS TOLD ME AT THE SCENE THERE WAS A GUN LYING
19 ON A TABLE ---

20 A. YES, SIR.

21 Q. --- IN LIKE, YOUR BACK YARD. IS THAT THE GUN?

22 A. UH HUH.

23 Q. OKAY. (INAUDIBLE)

24 A. I WOULDN'T HAVE SHOT MEAT ABOUT NO POKER GAME. I BEEN PLAYING
25 POKER MOST ALL MY LIFE.

1 Q. OKAY. AND YOU SAID, ALL RIGHT, HE WENT INTO YOUR HOUSE, I MEAN,
2 YOU WENT IN THE MAIN HOUSE?
3 A. RIGHT.
4 Q. ALL RIGHT. JUST --- THERE'S LIKE A LITTLE GARAGE AREA AT THE BACK
5 OF YOUR HOUSE ---
6 A. RIGHT.
7 Q. --- THAT YOU'VE CONVERTED INTO LIKE A LITTLE --- I GUESS ---
8 A. THAT'S MY OFFICE.
9 Q. --- YOUR OFFICE?
10 A. OFFICE, AND WE PLAY POKER THERE.
11 Q. THAT'S WHERE YOU PLAY POKER AT?
12 A. RIGHT.
13 Q. OKAY. SO, WHEN MEAT GOT UP AND GOT --- SAYING HE WASN'T GONNA
14 PAY THE \$2.00, YOU WENT INTO THE MAIN HOUSE TO GET YOUR GUN?
15 A. HE ASKED ME WHAT I WANT TO DO AND I TOLD HIM, 'I DON'T WANT TO
16 DO NOTHING, MEAT, JUST GET OUT AND GO.
17 Q. UM HUM.
18 A. AND HE KEPT BOUNCING AROUND. 'COURSE I SHOULD HAVE HIT HIM BUT
19 I COULDN'T 'CAUSE HIS BROTHER WAS THERE.
20 Q. OKAY.
21 A. SO I WENT IN THE HOUSE TO SCARE HIM.
22 Q. OKAY.
23 A. SO HE RAN AROUND THE HOUSE AND WHEN HE RAN AROUND THE HOUSE,
24 THE GATE WAS LOCKED. AND THEN HE CAME BACK MY WAY --- IF I WAS
25 GONNA SHOOT THE MAN, I'D HAVE SHOT HIM IN THE BACK AND SHOT HIM, BUT

1 HE CAME BACK AND I CLOTHESLINE HIM --- I WAS JUST GONNA TALK TO HIM

2 BUT HE PULLED THE GUN DOWN ON HIM.

3 Q. UM HUM.

4 A. AIN'T NO WAY IN THE HELL I COULD SHOOT NOBODY IN THE HEAD

5 (INAUDIBLE)

6 Q. OKAY. WHERE WAS THE GUN AT IN THE HOUSE, MR. EDWARDS?

7 A. IT WAS IN A DRAWER (INAUDIBLE) CLOTHES OUT THE DRESSER ---

8 Q. IN YOUR BEDROOM?

9 A. YES, SIR. IN MY BEDROOM.

10 Q. OKAY. DID YOU COME OUT THE FRONT DOOR OR GO BACK OUT THE

11 BACK?

12 A. I WENT OUT THE BACK DOOR.

13 Q. AND MEAT WAS AROUND FRONT?

14 A. HE RAN AROUND OUT FRONT. HE CAME OUT AFTER (INAUDIBLE)

15 Q. (INAUDIBLE)

16 A. HIM AND HIS BROTHER CAME OUT THE HOUSE. AND HIS CAR WAS

17 PARKED RIGHT HERE. (INAUDIBLE) I WOULDN'T HAVE SHOT NOBODY. HE

18 PULLED THE GUN DOWN ON HIM.

19 Q. OKAY. YOU SAID YOU CLOTHESLINED HIM?

20 A. YEAH.

21 Q. OKAY. ARE YOU LEFT-HANDED OR RIGHT-HANDED?

22 A. I'M RIGHT --- I'M RIGHT-HANDED. I HAD THE GUN IN MY RIGHT HAND.

23 Q. YOU HAD THE GUN IN YOUR RIGHT HAND?

24 A. WHEN HE CAME BY, I CLOTHESLINED HIM AND I (INAUDIBLE)

25 Q. OKAY. YOU CLOTHESLINED HIM WITH YOUR LEFT FOREARM?

1 HE CAME BACK AND I CLOTHESLINE HIM --- I WAS JUST GONNA TALK TO HIM
2 BUT HE ~~PULLED THE GUN DOWN ON HIM.~~

3 Q. UM HUM.

4 A. ~~AIN'T NO WAY IN THE HELL I COULD SHOOT NOBODY IN THE HEAD~~
5 (INAUDIBLE)

6 Q. OKAY. WHERE WAS THE GUN AT IN THE HOUSE, MR. EDWARDS?

7 A. IT WAS IN A DRAWER (INAUDIBLE) CLOTHES OUT THE DRESSER ---

8 Q. IN YOUR BEDROOM?

9 A. YES, SIR. IN MY BEDROOM.

10 Q. OKAY. DID YOU COME OUT THE FRONT DOOR OR GO BACK OUT THE
11 BACK?

12 A. I WENT OUT THE BACK DOOR.

13 Q. AND MEAT WAS AROUND FRONT?

14 A. HE RAN AROUND OUT FRONT. HE CAME OUT AFTER (INAUDIBLE)

15 Q. (INAUDIBLE)

16 A. HIM AND HIS BROTHER CAME OUT THE HOUSE. AND HIS CAR WAS
17 PARKED RIGHT HERE. (INAUDIBLE) I WOULDN'T HAVE SHOT NOBODY. HE
18 PULLED THE GUN DOWN ON HIM.

19 Q. OKAY. YOU SAID YOU CLOTHESLINED HIM?

20 A. YEAH.

21 Q. OKAY. ARE YOU LEFT-HANDED OR RIGHT-HANDED?

22 A. I'M RIGHT --- I'M RIGHT-HANDED. I HAD THE GUN IN MY RIGHT HAND.

23 Q. YOU HAD THE GUN IN YOUR RIGHT HAND?

24 A. WHEN HE CAME BY, I CLOTHESLINED HIM AND I (INAUDIBLE)

25 Q. OKAY. YOU CLOTHESLINED HIM WITH YOUR LEFT FOREARM?

1 A. YES.

2 Q. AND THE GUN WAS IN YOUR RIGHT HAND?

3 A. AND HE GRABBED IT.

4 Q. SO YOU'RE SAYING AS HE WAS FALLING HE GRABBED YOUR GUN?

5 A. HE WENT DOWN, GRABBED IT AND SAID, 'FREDDIE, DON'T SHOOT ME.'

6 AND POW! I SAID, 'OH LORD, MEAT.' AND I SAW THE BLOOD.

7 Q. OKAY.

8 A. I SHOULDN'T HAVE NEVER GRABBED THE GUN.

9 Q. WAS THE GUN ALREADY LOADED?

10 A. IT WAS LOADED.

11 Q. IT WAS?

12 A. IT WAS LOADED. IT'S MY FAULT. I TOOK A MAN'S LIFE, BUT HE PULLED

13 THE GUN. I WOULDN'T HAVE SHOT NOBODY. I WOULDN'T HAVE SHOT

14 NOBODY. BUT HE PULLED THE GUN.

15 Q. OKAY. WHEN YOU WAS HOLDING THE GUN IN YOUR HAND, WAS YOUR

16 FINGER ON THE TRIGGER, MR. EDWARDS?

17 A. YES, SIR. I HAD MY FINGER ---

18 Q. OKAY. SO YOUR FINGER WAS ON THE TRIGGER?

19 A. YES, IT WAS.

20 Q. WHEN YOU SAID HE GRABBED THE GUN, DID HE GRAB THE GUN, GRAB

21 YOUR ARM OR WHAT?

22 A. HE GRABBED THE GUN. HE GRABBED THE GUN.

23 Q. OKAY. DID HE GRAB THE GUN BY --- LIKE, YOUR HAND? DID HE GRAB

24 THE --- DID ---

1 A. IT HAPPENED SO FAST. HE GRABBED THE GUN AND IT WENT OFF. I AIN'T
2 SHOT NOBODY 'BOUT NO POKER GAME.

3 Q. OKAY. I UNDERSTAND. TAKE YOUR TIME, MR. EDWARDS.

4 A. (INAUDIBLE) OH, GOD, WHY'D THIS HAPPEN TO ME? WHY? I'M GOOD TO
5 EVERYBODY. OH, LORD I DONE KILLED SOMEBODY. I WOULDN'T HAVE SHOT
6 HIM. HE PULLED THE GUN. I'M SORRY.

7 Q. I UNDERSTAND, MR. EDWARDS. TAKE YOUR TIME. I UNDERSTAND.

8 A. I WOULDN'T HAVE SHOT HIM 'BOUT NO POKER GAME. HE PULLED THE
9 GUN DOWN AND --- WON'T NOBODY BELIEVE ME. (INAUDIBLE) OH, LORD
10 (INAUDIBLE)

11 Q. ALL RIGHT. MR. EDWARDS, I JUST NEED TO GET A ---

12 A. (INAUDIBLE)

13 Q. --- I JUST NEED TO GET A KIND OF A BETTER PICTURE IN MY MIND. OKAY?
14 AND I APOLOGIZE.

15 A. OKAY.

16 Q. I SEEN THE GENTLEMAN, HE'S LYING --- AS YOU'RE FACING YOUR HOUSE
17 ON COKESBURY, HE'S TO THE LEFT OF YOUR RESIDENCE (INAUDIBLE) IS THERE
18 A FENCE IN YOUR FRONT YARD?

19 A. A FENCE BETWEEN MY HOUSE ---

20 Q. AND THE NEXT HOUSE?

21 A. HE WAS GONNA --- HE TRIED TO RUN BACK AROUND BACK.

22 Q. HE WAS GOING --- SO HE CAME AROUND FROM THE SHOP AREA? I MEAN,
23 YOUR BUSINESS OFFICE --- FRONT OF THE HOUSE AND WAS GONNA GO BACK
24 AROUND TO THE BACK OF THE HOUSE?

25 A. I CAN DRAW A PICTURE.

1 Q. OKAY. ALL RIGHT.

2 A. (INAUDIBLE) HOUSE (INAUDIBLE)

3 Q. YES, SIR.

4 A. THIS IS MY HOUSE (INAUDIBLE) WHEN HE CAME OUT, I CAME OFF OF MY

5 DECK (INAUDIBLE) BROTHER WAS RUNNING. ONE WENT THAT WAY AND I RUN

6 FOR HIM. HE COULDN'T GET THROUGH, HE CAME BACK AND I MET HIM. AND

7 WHEN I MET HIM, I CLOTHESLINED HIM. AND I HAD THE GUN AND HE PULLED

8 THE GUN. IF HE HADN'T BEEN --- IF HE HADN'T PULLED THE GUN AND,

9 (INAUDIBLE) I WAS GONNA SAY, 'MEAT WHAT'S WRONG WITH YOU, BOY?' HE

10 PULLED THE GUN. HE PULLED THE GUN. HE PULLED THE GUN. MEAT, I'M

11 SORRY. YOU CAN'T HEAR ME, BUT LORD HELP ME (INAUDIBLE) I SHOULDN'T

12 HAVE GOT A GUN. I SHOULDN'T HAVE GOT A GUN. YA'LL GONNA LOCK ME UP

13 (INAUDIBLE) I'M SORRY MEAT (INAUDIBLE)

14 Q. YOU KNOW HOW OLD MEAT IS?

15 A. NO, SIR.

16 Q. YOU DON'T KNOW HIS LAST NAME?

17 A. NO, SIR.

18 Q. YOU KNOW HIS BROTHER?

19 A. HIS NAME'S GREG. I (INAUDIBLE) HIS NAME'S GREG.

20 Q. HIS NAME IS GREG?

21 A. YES, SIR. I'M SORRY (INAUDIBLE)

22 Q. OKAY. MR. EDWARDS, AT THE BEGINNING OF THIS TAPE, I ADVISED YOU

23 OF YOUR MIRANDA RIGHTS, AND YOU STATED YOU UNDERSTOOD THEM THEN.

24 AND DO YOU STILL UNDERSTAND THEM AT THIS TIME?

25 A. YES, SIR.

1 Q. OKAY.

2 A. I JUST WANT TO TELL THE TRUTH (INAUDIBLE)

3 Q. OKAY.

4 A. (INAUDIBLE) I WOULDN'T HAVE SHOT HIM. I WOULDN'T HAVE SHOT HIM.

5 HE SHOULDN'T HAVE PULLED THE GUN (INAUDIBLE) OH (INAUDIBLE) I LOVE

6 YOU, BABY. I LOVE YOU.

7 Q. HAD Y'ALL BEEN DRINKING TONIGHT?

8 A. (INAUDIBLE) BUT I HAD DRUNK A BEER.

9 Q. YOU HAD?

10 A. YES, SIR.

11 Q. OKAY. BUT YOU'RE NOT INTOXICATED NOW?

12 A. NO, SIR. HE JUMPED UP LIKE HE WANTED TO FIGHT FOR NOTHING.

13 Q. OKAY.

14 A. OH, LORD, WHY'D THIS HAVE TO HAPPEN TO ME? (INAUDIBLE)

15 Q. WHAT GRADE DID YOU FINISH IN SCHOOL, MR. EDWARDS?

16 A. I FINISHED THE TWELFTH.

17 Q. I'M NOT BEING FUNNY ON THIS QUESTION. YOU CAN READ, CORRECT?

18 A. (INAUDIBLE)

19 Q. I'M NOT BEING FUNNY. SOME PEOPLE CAN'T.

20 A. I CAN MAKE SOME WORDS OUT.

21 Q. ALL RIGHT, MR. EDWARDS. I'M GONNA GO OVER THIS WITH YOU ONE

22 MORE TIME. OKAY? I KNOW IT'S TRAUMATIC AND FORGIVE ME FOR DOING IT.

23 OKAY? LET ME GO OVER THIS WITH YOU AGAIN. YOU REMEMBER YOUR

24 MIRANDA WARNINGS I ADVISED YOU IN THE BEGINNING?

25 A. YES, SIR.

1 Q. OKAY. I'M GONNA READ THEM AGAIN. IT SAYS YOU HAVE THE RIGHT TO
2 REMAIN SILENT --- MEANS YOU DON'T HAVE TO SAY OR ANSWER ANY
3 QUESTIONS. ANYTHING YOU SAY CAN BE USED AGAINST YOU. YOU HAVE THE
4 RIGHT TO TALK TO A LAWYER AND HAVE A LAWYER HERE WITH YOU NOW TO
5 ADVISE YOU DURING QUESTIONING. IF YOU WANT TO HAVE A LAWYER WITH
6 YOU DURING QUESTIONING, BUT CAN'T AFFORD TO PAY ONE, ONE WILL BE
7 PROVIDED FOR YOU AT NO COST BEFORE YOU'RE QUESTIONED. IF YOU DECIDE
8 TO ANSWER QUESTIONS NOW, WITHOUT A LAWYER HERE, YOU STILL HAVE THE
9 RIGHT TO STOP ANSWERING QUESTIONS WHENEVER YOU WANT TO. YOU ALSO
10 HAVE THE RIGHT TO STOP ANSWERING QUESTIONS 'TIL YOU TALK TO A
11 LAWYER. YOU UNDERSTAND ALL OF THOSE?

12 A. (INAUDIBLE)

13 Q. INITIAL RIGHT HERE FOR ME, PLEASE. (INAUDIBLE) RIGHT HERE ON THE
14 LINE. OKAY. (INAUDIBLE) I'M NOT --- I KNOW THIS IS A TRAUMATIC TIME, MR.
15 EDWARDS, AND I APOLOGIZE FOR HAVING TO GO THROUGH ALL THIS, BUT
16 WE'RE TRYING TO MAKE SENSE OF WHAT HAPPENED. (INAUDIBLE) SIGN YOUR
17 NAME RIGHT THERE. THAT'S THE PICTURE THAT YOU DREWED (INAUDIBLE)
18 UNDERSTAND WHAT HAPPENED THERE. ALL RIGHT. (INAUDIBLE) GO BACK
19 OVER IT (INAUDIBLE) MY UNDERSTANDING AND YOU CORRECT ME IF I'M
20 WRONG. OKAY? ALL RIGHT. YOU WERE AT YOUR OFFICE, WHICH IS LOCATED
21 BEHIND YOUR HOUSE.

22 Q. RIGHT.

23 A. OKAY. Y'ALL WERE HAVING A POKER GAME. MEAT COME IN KIND OF
24 LATE AND YOU ADVISED HIM OF THE RULES ABOUT THE POKER GAME, THAT IF
25 YOU BID OUT OF TURN IT'S A \$2.00 PENALTY.

1 A. \$2.00 PENALTY.

2 Q. OKAY. HE STATED THAT HE WASN'T GONNA PAY THE \$2.00. AM I RIGHT?

3 A. RIGHT.

4 Q. OKAY. Y'ALL STARTED EXCHANGING WORDS. HE GOT ---

5 A. (INAUDIBLE) I TOLD HIM, I SAID, 'MEAT YOU DON'T HAVE TO PAY IT.

6 YOU'LL JUST HAVE TO GET OUT IF YOU IF YOU PLAY OUT OF TURN.' SO, THEM

7 OTHER --- THE OTHER FELLOWS HAD TOLD ME TO MAKE THE RULES

8 (INAUDIBLE) MADE THEM AND TOLD HIM (INAUDIBLE) GOING BY THE RULES. I

9 SAID, 'WELL YOU AIN'T GOT TO PLAY THEN, JUST (INAUDIBLE) PLAY OUT OF

10 TURN. YOU DON'T PAY, YOU JUST DON'T PLAY NO MORE. (INAUDIBLE) AND HE

11 JUMPED --- AND HE JUST KEPT SAYING, 'FREDDIE, I'LL BE DAMNED. IF I PLAY

12 OUT OF TURN I'M NOT GONNA PAY YOU NO \$2.00.' AND THEN ABOUT THAT

13 TIME HE JUST JUMPED UP AND JUST WENT OFF.

14 Q. UM HUM.

15 A. STARTED MOUTHING OFF --- 'WHAT YOU WANT TO DO?' (INAUDIBLE)

16 BROTHER TRIED TO COOL HIM DOWN. AND THAT'S WHEN I WENT IN THE HOUSE.

17 'CAUSE I DIDN'T KNOW WHETHER HIM AND HIS BROTHER GONNA DOUBLE

18 TEAM OR WHAT.

19 Q. UM HUM.

20 A. SO I WENT I THE HOUSE. (INAUDIBLE) HE WENT ONE WAY AND GREG

21 WENT THE OTHER WAY (INAUDIBLE)

22 Q. OKAY.

23 A. (INAUDIBLE) THAT'S WHAT HAPPENED. THAT'S WHAT HAPPENED.

24 (INAUDIBLE)

25 Q. HAD YOU HAD THE GUN A WHILE?

1 A. I HAD THE GUN --- IT WAS --- I HAD THAT GUN AND I AIN'T TOUCHED IT ---
2 I HAD THAT GUN 15 --- GOING ON 16 YEARS.

3 Q. OKAY. AND YOU KEEP IT IN THE MAIN HOUSE?

4 A. IN THE DRESSER:

5 Q. IN YOU BEDROOM?

6 A. YEAH.

7 Q. MASTER BEDROOM?

8 A. I THREW STUFF OUT THE DRAWER TRYING TO FIND IT (INAUDIBLE)
9 STILL ON THE FLOOR --- MY SOCKS AND STUFF. I WISH I HADN'T OF FOUND IT.

10 Q. OKAY. AND YOU ALWAYS KEEP IT LOADED?

11 A. YES.

12 Q. OKAY. AND THEN YOU WENT BACK OUT TO THE BACK OF THE HOUSE,
13 BACK TO THE FRONT ---

14 A. I WENT OUT THE BACK DOOR TO --- THAT'S WHEN THEY WAS RUNNING
15 OUT THE OFFICE, COMING OUT THE OFFICE, (INAUDIBLE) WENT DOWN
16 COKESBURY AND WHEN MEAT WENT AROUND THE HOUSE AND COULDN'T GET
17 OVER --- GET BACK THROUGH THE BACK. AND I WASN'T GONNA SHOOT HIM.
18 LIKE I SAID, HE HAD COME BACK TOWARD ME RUNNING AND I CLOTHESLINED
19 HIM. HE'S JUST LOOKING FOR SOMETHING TO HAPPEN 'CAUSE I SURE
20 (INAUDIBLE) I WAS RIGHT BEHIND HIM. I COULD HAVE SHOT HIM. I WASN'T
21 GONNA SHOOT HIM.

22 Q. IF HE WAS --- LET ME ASK YOU THIS. IF HE WAS LEAVING (INAUDIBLE)
23 WAS GOING, WHY'D YOU GO AROUND THE FRONT OF THE HOUSE, IF HE WAS
24 LEAVING?

1 Q. HE WASN'T LEAVING --- WELL, HE CAME OUT RUNNING --- HE CAME OUT
2 THE BACK DOOR RUNNING AND I THOUGHT (INAUDIBLE) I WENT AROUND THE
3 HOUSE, BEING STUPID.
4 Q. WAS YOU CHASING HIM?
5 A. CHASING HIM --- BEING STUPID.
6 Q. WERE YOU SAYING ANYTHING TO HIM?
7 A. NO.
8 Q. OKAY. SO HIS BROTHER WENT DOWN COKESBURY, WHICH IS ABOUT LIKE
9 --- BACK TOWARD THE ROAD?
10 A. RIGHT.
11 Q. OKAY. AND MEAT RAN ---
12 A. AROUND THE HOUSE.
13 Q. --- TO YOUR FRONT YARD?
14 A. RIGHT.
15 Q. BUT HE COULDN'T GET --- BECAUSE THERE'S A FENCE THERE?
16 A. FENCE --- RIGHT.
17 Q. SO, THEN HE TURNED AROUND AND TRIED TO RUN BACK?
18 A. RIGHT.
19 Q. ALL RIGHT. AND THAT'S --- AND YOU CLOTHESLINED HIM?
20 A. YES.
21 Q. OKAY. ALL RIGHT. SO WHAT--- CAN YOU TELL ME WHAT YOU WERE
22 THINKING WHEN YOU SAW HIM RUNNING AND YOU STARTED TO GIVE CHASE
23 AROUND THE FRONT OF YOUR HOUSE?
24 A. I DON'T KNOW. I JUST WISH HE HAD (INAUDIBLE) I WOULDN'T HAVE
25 SHOT. I WANTED THE POLICE TO COME. I'M IN A GOOD NEIGHBORHOOD. I JUST

1 HATE --- LIKE I SAY, WOULDN'T HAVE BEEN NO SHOT. HE PULLED THE GUN
2 DOWN ON HIM. AND THAT'S WHAT HAPPENED.

Q. 3 OKAY.

4 A. I WOULDN'T HAVE KILLED NOBODY OVER A DARN POKER GAME.

5 Q. YOU EVER THINK ABOUT CALLING THE POLICE WHILE YOU WERE IN THE
6 HOUSE GETTING YOUR GUN?

7 A. NO. NO. NO.

8 Q. OKAY.

9 A. I SHOULD HAVE WENT --- I SHOULD HAVE TOLD THEM, 'Y'ALL PLAY. I
10 QUIT.' THAT'S WHAT I SHOULD HAVE DID. BUT IT'S TOO LATE, SIR. IT'S TOO
11 LATE. I WISH I HADN'T EVER PLAYED.

12 Q. OKAY. ABOUT HOW LONG AFTER YOU CLOTHESLINED HIM UNTIL THE
13 GUN--- THE GUN WENT OFF? DO YOU KNOW?

14 A. I CLOTHESLINED HIM --- IT HAPPENED SO FAST. HE PULLED THE GUN
15 DOWN ON HIM --- PULLED ME AND THE GUN DOWN.

16 Q. WAS HE ALREADY LAYING ON THE GROUND WHEN HE GRABBED IT?

17 A. SOON AS I CLOTHESLINED HIM.

18 Q. UM HUM.

19 A. NEXT THING I KNOW HE PULLED THE GUN AND ME.

20 Q. AS HE WAS FALLING?

21 A. I DON'T KNOW, IT HAPPENED SO FAST.

22 Q. OKAY.

23 A. BUT, AS HE WAS FALLING --- IT HAD TO BE AS HE WAS FALLING 'CAUSE IT
24 HAPPENED TOO FAST.

25 Q. AND HE WAS SAYING --- WELL, WHAT'D HE SAY? DID HE SAY ANYTHING?

1 A. HE SAID, 'FREDDIE, DON'T SHOOT ME.' AND I SAID, 'MEAT (INAUDIBLE)
2 AND HE JUST GRABBED MY ARM AND THE GUN WENT OFF. _____

3 Q. ALL RIGHT.

4 A. I SAID, 'OH LORD, WHAT I'M GONNA DO NOW?' (INAUDIBLE)

5 Q. DID YOU CALL THE POLICE?

6 A. YEAH.

7 Q. YOU RUN BACK IN THE HOUSE AND CALL THE POLICE?

8 A. MY SON CALLED.

9 Q. WAS YOUR SON THERE?

10 A. (INAUDIBLE)

11 Q. OKAY. HOW MANY --- DO YOU REMEMBER HOW MANY GUYS WAS THERE?

12 A. IT WAS FIVE.

13 Q. FIVE GUYS?

14 A. YEAH.

15 Q. SO IT WAS YOU, YOUR SON --- WAS YOUR SON THERE?

16 A. HE WASN'T PLAYING.

17 Q. HE WASN'T PLAYING? SO MEAT, MEAT'S BROTHER, WHICH IS GREG.

18 RIGHT?

19 A. (INAUDIBLE)

20 Q. WHO ELSE?

21 A. I DON'T WANT TO CALL NO NAMES RIGHT NOW. (INAUDIBLE) THERE

22 WASN'T NOBODY AROUND THERE (INAUDIBLE) MEAT PULLED THE GUN DOWN

23 ON HIM.

24 Q. DID MEAT'S BROTHER COME BACK WHEN HE HEARD THE SHOT?

25 A. (INAUDIBLE) I SAID, 'GREG, I DIDN'T MEAN TO SHOOT YOUR BROTHER.'

1 Q. (INAUDIBLE)

2 A. (INAUDIBLE)

3 Q. OKAY.

4 A. (INAUDIBLE) PULLED THE GUN DOWN ON HIM (INAUDIBLE) SHOT A MAN

5 'BOUT A POKER GAME. EVERYBODY KNOWS ME (INAUDIBLE) GETTING THE

6 MAN OUT OF MY HOUSE (INAUDIBLE) MY HOUSE (INAUDIBLE)

7 Q. ALL RIGHT. AND YOU DON'T REMEMBER ANY OTHER GUYS THAT WERE

8 THERE?

9 A. (INAUDIBLE)

10 Q. OKAY. TIME NOW, 2355 HOURS, OR 11:55 P.M. LIEUTENANT MIKE

11 MURDOCK --- INTERVIEW WAS CONDUCTED IN THE GREENWOOD CITY POLICE

12 DEPARTMENT CAPTAIN'S OFFICE. THIS CONCLUDES THE INTERVIEW.

13

14

-----END OF TRANSCRIPT -----

CERTIFICATE

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THE JULY 16, 2005,
INTERVIEW OF FREDDIE EDWARDS, BY LIEUTENANT MIKE MURDOCK,
REGARDING STATE V. FREDDIE EDWARDS.

I DO FURTHER CERTIFY THAT I AM NOT OF KIN, COUNSEL, OR INTEREST
TO ANY PARTY HERETO.

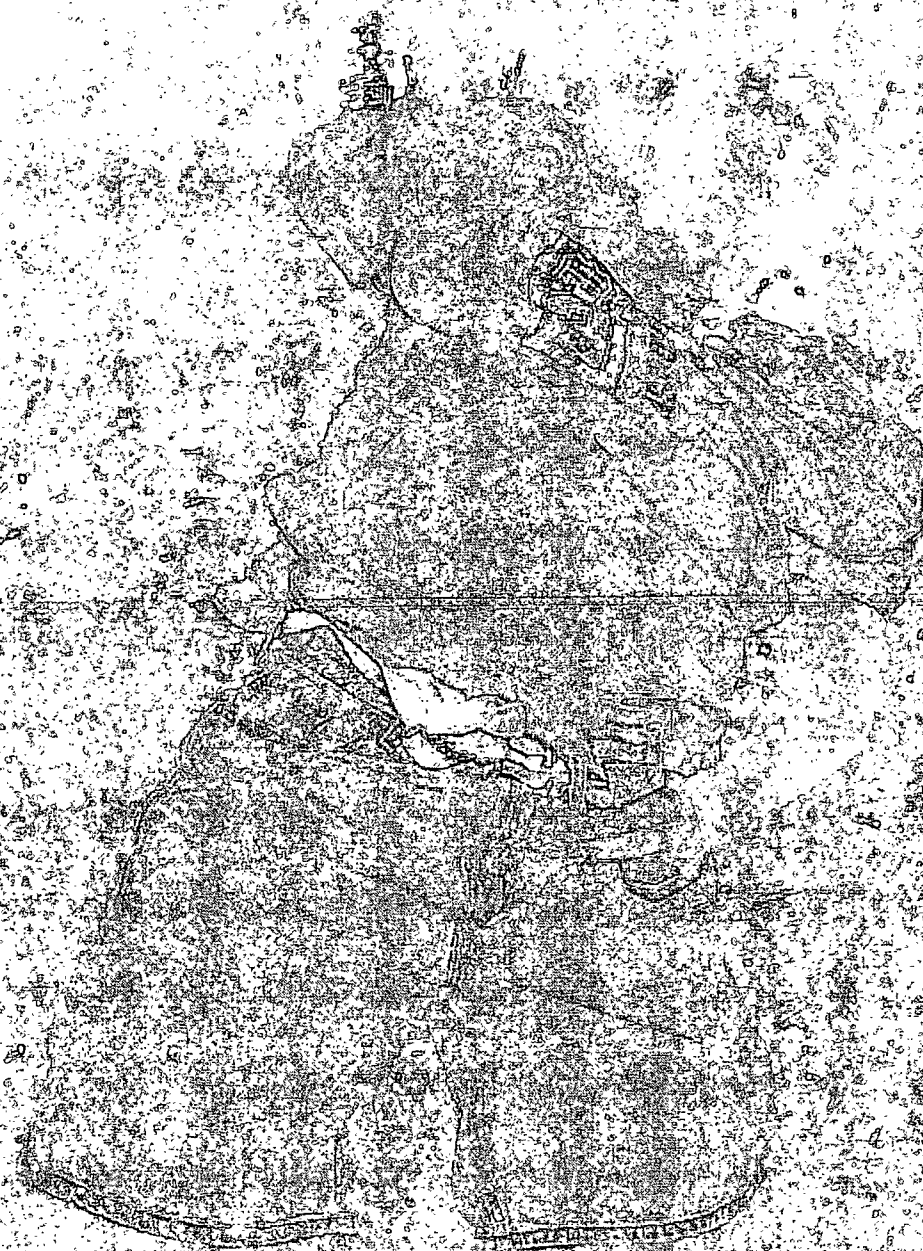
AUGUST 24, 2006

Pat Simpson
PAT SIMPSON

SWORN TO BEFORE ME THIS

24TH DAY OF AUGUST, 2006

Janice Banister
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 12-21-10



THE STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

INDICTMENT FOR

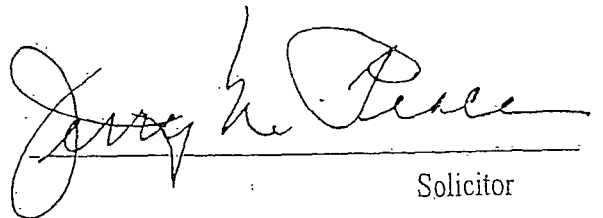
MURDER

At a Court of General Sessions, convened on the 12th day of August, 2005, the Grand Jurors of Greenwood County present upon their oath:

COUNT ONE

That FREDDIE EDWARDS, did in Greenwood County, state aforesaid, on or about the 16th day of July, 2005, wilfully, feloniously, and with malice aforethought kill one George Freeman by means of shooting and that the said George Freeman did die in Greenwood County as a proximate result thereof on or about the 16th day of July, 2005, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Solicitor

WITNESSES

Travis Clark

WARRANT NUMBERS

H-939957

Richard W. Thomas True Bill

Foreman of the Grand Jury

Date: 8-12-05

VERDICT

Guilty

Freddie Edwards

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2005

Indictment # 05GS24- 1004

THE STATE

VS.

FREDDIE EDWARDS

INDICTMENT FOR

POSSESSION OF A FIREARM OR KNIFE DURING
THE COMMISSION OF A VIOLENT CRIME

ATTEST A TRUE COPY

Ingram Moon

INGRAM MOON
CCCP AND GS
GREENWOOD COUNTY
S.C.

I, FREDDIE EDWARDS, THE DEFENDANT, IN MY
BAR OF THIS COURT, WAIVE GRAND JURY ACT.
PLEAD _____ GUILTY TO THE CHARGE

THIS _____ DAY OF _____

A

DEFENDANT'S SIGNATURE

C

THE STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

INDICTMENT FOR

POSSESSION OF A FIREARM OR KNIFE DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on the 12th day of August, 2005, the Grand Jurors of
Greenwood County present upon their oath:

COUNT ONE

That FREDDIE EDWARDS, did in Greenwood County, state aforesaid, on or about the 16th day of July, 2005, possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense; to wit: Murder, or any lesser included violent offense, said offense being defined as a violent offense in Section 16-1-60 of the 1976 Code of Laws of South Carolina, as amended, and the said defendant(s) was/were convicted of committing or attempting to commit the said violent crime, Murder, or any lesser included violent offense, in violation of Section 16-23-490 of the South Carolina Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Greenwood

INDICTMENT/CASE#:

05-GS-24-1003

AKA:

Freddie VS. Edwards

A/W#:

14939956

Race:

B

Sex:

M

Age:

Date of Offense:

7-16-05

DOB:

3-3-48

SS#:

S.C. Code §

16-3-10

CDR Code #:

0116

Address:

Colmesbury rd.

City, State, Zip:

Greenwood, SC

DL#

SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO:

Murder

in violation of §

16-3-10

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 Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

11713

Solicitor

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or under the ☐ Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-24-1004☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

ATTEST A TRUE COPY

☐ set by SCDPPPS _____Attend Voc. Rehab. or Job Corp. Ingram Moon

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

INGRAM MOON
CCCP AND GS
GREENWOOD COUNTY
S.C.

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A) (1) (Conv. Surcharge)	\$100	\$
\$14-1-211 (A) (2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (A) (2) (DUI Assessment)	\$12	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942 (J) (Vehicle Assessment)	\$40/ea	\$
3% to Country (If paid in installments)	\$50	\$
\$90.11 TP (SCCJA Surcharge)	\$5	\$
TOTAL	\$	

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ paid to the Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP☐ Requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

PRESIDING JUDGE

Ingram Moon
2' 1' 4" 7"
6-23-11

Court Reporter:

J. Halston

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEGreenwoodINDICTMENT/CASE#: 2005 -GS- 24 - 1004VS.
Freddie EdwardsA/W#: H 939957

AKA:

Date of Offense: 7-16-05Race: BSex: M

Age:

S.C. Code § 16-23-690DOB: 3/3/48

CC#:

CDR Code #: 0549Address: Wakesburg, KYCity, State, Zip: Greenwood, SC

DL#

SID#

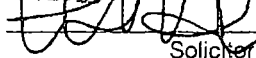
SENTENCE SHEET

in disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Poss. Weapon during Commission of Violent Crimein violation of § 16-23-690 of the S.C. Code of Laws, bearing CDR Code # 0549☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

11713

Solicitor

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or under the ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: Murder Sentence☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered ☐ PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ set by SCDPPPS: _____Attend Voc. Rehab. or Job Corp. Ingram Moon

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A) (1) (Conv. Surcharge) \$100 \$ _____

§14-1-211 (A) (2) (DUI Surcharge) \$100 \$ _____

§56-5-2995 (A) (2) (DUI Assessment) \$12 \$ _____

§35.13 (Public Def/Prob) \$500 \$ _____

§73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

§33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942 (J) (Vehicle Assessment) \$40/ea \$ _____

3% to Country (If paid in installments) \$50 \$ _____

§90.11 TP (SCCJA Surcharge) \$5 \$ _____

TOTAL \$ _____

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ paid to the Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP☐ Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE Freddie Edwards, Jr.Judge Code: 2' 1' 4' 7Sentence Date: 6-23-11Court Reporter: J. Walston

Clerk of Court/Deputy Clerk

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Case Nos. 2005-GS-24-1003
2005-GS-24-1004

The State,.....Respondent,

vs.

Freddie Edwards,.....Appellant.

PROOF OF SERVICE

I, T. Micah Leddy, attorney for appellant, certify that I have served the *Final Brief of Appellant*, *Record on Appeal* and the accompanying *Index* on Respondent by depositing one copy of the same in the United States mail, postage prepaid, to the following address:

Melody J. Brown, Esq.
Senior Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

January 8, 2013



T. Micah Leddy, Esq.
Leddy Law Firm, LLC
2008 Lincoln Street
Columbia, S.C. 29201
(803) 779-9966
ATTORNEY FOR APPELLANT