

19718

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

Case Nos. 08-GS-40-03948; 08-GS-40-01626; 1627, 1629, 1631, 1632

THE STATE,

RESPONDENT,

v.

JOHNNIE WALKER GASKINS,

APPELLANT.

RECORD ON APPEAL

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State's Exhibit 43 Photograph of Blood

State's Exhibit 44 Photograph of Ladies Bathroom

State's Exhibit 45 Photograph of Item G on Pavement

State's Exhibit 46 Photograph of Item H on Door

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State's Exhibits 22-46 (Photographs) are part of the Record on Appeal and Counsel for Appellant has been requested a Transportation Order to have these photographs transported to the Court of Appeals for viewing.

* Court's Exhibit 6 is indexed in the original Trial Transcript as Statement of Roger Glover. Counsel for Respondent requested Court's Exhibit 6 in its Designation of the Matter. The document marked as Court's Exhibit 6 at trial however, is that of Lindburgh Porterfield, III.

** Exhibits numbers can be read with cross-reference to State's Exhibit 5, which is a detailed list of State's photo exhibits, for more detail concerning subject matter of each individual photograph.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND) 2008-GS-40-1626, 1627, 1629,
1631, 1632, 3948

The State of South Carolina)
vs.) TRANSCRIPT OF RECORD
Johnnie Gaskins)
_____)

October 19, 20, 21, 23, 26
and 27, 2009
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE AND JURY.

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

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Crystal Holmes
Official Court Reporter

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2 E X H I B I T S

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16 S-31 Photograph of Item N and Blood on Floor 663

17 S-32 Photograph of Pool Tables and Blood 589

18 S-33 Photograph 663

19 S-34 Photograph of Items N-P-O 663

20 S-35 Photograph of Item O 663

21 S-36 Photograph of Item P 664

22 S-37 Photograph 664

23 S-38 Photograph 589

24 S-39 Photograph 589

25 S-40 Photograph 589

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2		<u>E X H I B I T S</u>		
3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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22	S-126 Photograph-Processing Blue Chevy Impala	678
23	S-127 Photograph-Processing Blue Chevy Impala	678
24	S-128 Photograph-Processing Blue Chevy Impala	678
25	S-129 Photograph-Processing Blue Chevy Impala	678

1	S-130	Photograph-Processing Blue Chevy Impala	678	
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3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	<u>OCTOBER 20, 2009</u>				
4	Kevin Isenhoward (In Camera)				
5	By Ms. McDuffie	38			
6	By Mr. McCulloch		49		
7	Matthew Ellis (In Camera)				
8	By Ms. McDuffie	69			
9	By Mr. McCulloch		75		
10	Travis Holdorf (In Camera)				
11	By Ms. McDuffie	82			
12	By Mr. McCulloch		89		
13	Christopher Lindler (In Camera)				
14	By Ms. McDuffie	97		107	
15	By Mr. McCulloch		103		
16	Kevin Isenhoward (In Camera)				
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18	By Mr. McCulloch		113		
19	Jury Selection	124			
20	OPENING STATEMENTS				
21	By Mr. Meadors	211			
22	By Ms. Schillaci	226			
23	Erin Hellman				
24	By Mr. Meadors	231/250		275	
25	By Mr. McCulloch		242/266		

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1	<u>I N D E X</u>				
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Tamera Barnett (In Camera)				
4	By Mr. Meadors	279		294	
5	By Ms. Schillaci		286		
6	Roger Glover (In Camera)				
7	By Mr. Meadors	294		314	
8	By Mr. McCulloch		304		
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11	By Ms. McDuffie	333			
12	By Mr. McCulloch		339		
13	Lamont Davis				
14	By Ms. McDuffie	350			
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16	Tamera Barnett				
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25					

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1	Christopher Lyles				
2	By Mr. Meadors	490			
3	By Mr. McCulloch		497		
4	Sydney Williams				
5	By Mr. Meadors	498		522	
6	By Mr. McCulloch		517		531
7	Epsil Palmer (In Camera)				
8	By Ms. McDuffie	534			
9	By Ms. Schillaci		539		
10	Epsil Palmer				
11	By Ms. McDuffie	550		570	
12	By Ms. Schillaci		568		
13	Rosalyn Bradley				
14	By Ms. McDuffie	573			
15	By Mr. McCulloch		575		
16	Deirdre Houston				
17	By Mr. Meadors	576			
18	<u>OCTOBER 23, 2009</u>				
19	Norman Fisher, Jr.				
20	By Ms. McDuffie	603			
21	By Mr. McCulloch		611		
22					
23					
24					
25					

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1	Stanley Richards				
2	By Ms. McDuffie	615/622			
3	By Ms. Schillaci		618/686		
4	Travis Holdorf				
5	By Mr. Meadors	712			
6	By Ms. Schillaci		716		
7	Harold Bouknight				
8	By Ms. McDuffie	719		742	
9	By Mr. McCulloch		727		743
10	Tom Amaro				
11	By Mr. Meadors	745			
12	By Mr. McCulloch		754		
13	Robert Oates				
14	By Ms. McDuffie	756		779	
15	By Mr. McCulloch		770		
16	Dr. Clay Nichols				
17	By Mr. Meadors	781			
18	By Mr. McCulloch		796		
19	<u>OCTOBER 26, 2009</u>				
20	Michael Moskal	802		838	
21	By Ms. McDuffie		822		840
22	By Ms. Schillaci				
23					
24					
25					

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1	David Collins				
2	By Ms. McDuffie	841		878	
3	By Mr. McCulloch		857		
4	Christopher Lindler				
5	By Mr. Meadors	881			
6	By Ms. Schillaci		885		
7	John Barron				
8	By Ms. McDuffie	886			
9	By Ms. Schillaci		895		
10	Kevin Isenhoward				
11	By Mr. Meadors	900		951	
12	By Mr. McCulloch		937		955
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16	By Mr. McCulloch	1009			
17	CHARGE BY THE COURT	1031			
18	VERDICT OF THE JURY	1062			
19	SENTENCE OF THE COURT	1083			
20	CERTIFICATE OF REPORTER	1085			

1 a time. That's the reason for that. And while
2 they're getting Ms. Hellman, Mr. Crumpton, will you
3 step aside just moment.

4 (Complied.)

5 THE COURT: That's good.

6 What I didn't tell you a moment ago I will
7 add. When an objection is made and I say sustained,
8 okay, that means I agree with that objection. If
9 somebody says objection, I say overruled. That means
10 it's okay for the witness to answer that question.

11 Are we on the same page? Now, we're all on
12 the same page. I just wanted to add that. Thank you.

13 Sorry, Mr. Crumpton.

14 (ERIN HELLMAN, having first been duly sworn,
15 testified as follows:)

16 THE CLERK: Please have a seat in the witness
17 stand and state your full name for the record.

18 THE WITNESS: My name the Erin Hellman.

19 DIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q Afternoon, Ms. Hellman?

22 A Good afternoon.

23 THE COURT: I'm sorry, you've got to speak
24 louder than that. Come closer to the microphone. We
25 all need to hear you all over the courtroom.

1 THE WITNESS: Okay. My name is Erin Hellman.

2 THE COURT: That's better.

3 THE WITNESS: okay.

4 Q Ms. Hellman, please tell the ladies and gentlemen
5 of this jury a little bit about Erin Hellman,
6 specifically where are you from?

7 A I'm from Lansing, Michigan. I've lived in
8 Columbia, South Carolina for about 10 years. I
9 did attend U S C and Midland's Tech. I currently
10 work at Stoneycreek Apartments as the property
11 manager.

12 Q So you came here in '97 or so to South Carolina?

13 A Yes, sir.

14 Q About you went to tech first or U S C first?

15 A Midland's Tech first.

16 Q Did you get a degree there?

17 A I did. I have two associates in business.

18 Q All right. Then you went to the University of
19 South Carolina?

20 A Yes, sir.

21 Q And did you get a degree from there?

22 A I did. I have B A in political science.

23 Q And you're currently a property manager?

24 A Yes, sir.

25 Q Just very briefly, did you at a time work at Club

1 360?

2 A Yes.

3 Q And what was your job there?

4 A I started as a bartender. I was promoted to bar
5 manager and then general manager.

6 Q Just one more question for right now, on
7 February 5th of 2007, what was your job there?

8 A I was the bar manager.

9 Q The bar manager, okay.

10 A Okay.

11 THE COURT: Members of the jury, it's one of
12 those times where there's a matter of law I need to
13 take up and the only way I can do that is in your
14 absence. So don't think anything's wrong with the
15 case. Just go to the jury room and just don't talk
16 about it.

17 Thank you very much.

18 (The jury retires from the courtroom at
19 approximately 3:13 p.m.)

20 (Whereupon, State's Exhibit Number 11,
21 Photograph of Bar, was marked for
22 identification.)

23 (Whereupon, State's Exhibit Number 12,
24 Photograph of Bar at Club 360, was marked for
25 identification.)

1 (Whereupon, State's Exhibit Number 15, Outline
2 of Location, was marked for identification.)

3 (Whereupon, State's Exhibit Number 17, Photo
4 Lineup Presented to Erin Hellman, was marked
5 for identification.)

6 (Whereupon, State's Exhibit Number 19, Photo
7 Lineup Presented to Tamera Barnett, was marked
8 for identification.)

9 (Whereupon, State's Exhibit Number 20, Lineup
10 Presented to Lindburgh Porterfield, was marked
11 for identification.)

12 (Whereupon, State's Exhibit Number 21, Photo
13 Lineup Presented to Roger Glover, was marked
14 for identification.)

15 THE COURT: This is the issue raised by the
16 Jackson versus Denno?

17 MR. MCCULLOCH: Well, it's actually Neal
18 versus Biggers.

19 THE COURT: Okay, Biggers, okay. It's one of
20 the lay witnesses. We did the police officers
21 yesterday. Okay, all right.

22 MR. MEADORS: Thank you, Your Honor.

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION (In Camera)

25 BY MR. MEADORS:

1 Q You were working at 360 on February 5th, 2007?

2 A Yes.

3 Q You just testified, as the bar what?

4 A Manager.

5 Q Bar manager, all right. And did that mean you
6 pretty much stayed at the bar this whole night?

7 A Yes.

8 Q Did there come a point in time in the evening when
9 somebody came cussing to you -- cussing at you?

10 A Yes.

11 Q All right. And describe the bar then,
12 specifically the lighting, what it was like then.

13 A It was fairly well lit. There is a neon bar that
14 goes above the actual bar area and there were
15 lights on.

16 Q And let me just show you this right here, what's
17 marked State's 11 for ID at this point. Do you
18 recognize that?

19 A Yes.

20 Q Okay. And is this a part of the bar that you were
21 working behind (indicating)?

22 A Yes.

23 Q And also -- and for the sake of these purposes I
24 want to show State's 15. Do you recognize this
25 drawing?

1 A Yes.

2 Q Does that appear to you reasonably to reflect the
3 Club 360?

4 A Yes.

5 Q All right. Show the Judge what part of the bar
6 -- where the bar is, number one, and then where
7 you were working.

8 MR. MCCULLOCH: I can't see that far, Your
9 Honor.

10 THE COURT: Well, neither can I. You can get
11 closer, Mr. McCulloch. Go on up there.

12 A This is the bar (indicating), this is the front
13 part of the bar, this is the back. This is the
14 area that I was working at that time.

15 Q All right. And what we just introduced -- or
16 offered as State's 11 just for ID only, would
17 represent the first side of the bar?

18 A Yes, sir.

19 Q Okay. Now, can you tell and show the Judge what
20 happened sometime around midnight or later that
21 night involving an individual trying to get some
22 drinks from you and become unruly?

23 A Yes. I was standing in this area (indicating) and
24 a gentleman came up right between probably these
25 two bar stools (indicating) and asked for a

1 Hennesy.

2 Q Did he use another word in front of that.

3 A He did.

4 Q Okay. You don't have to say that now but go
5 ahead.

6 THE COURT: You're not prohibited from saying
7 it, it is what it is.

8 Q Okay. Go ahead and say what he said.

9 A Okay. He told me to give him a fucking Hennesy.
10 And I leaned -- I went over to him and I asked him
11 -- I thought maybe I had forgotten him so I said,
12 excuse me, did I forget about you baby? And he
13 said, I said, give me a fucking Hennesy, bitch.
14 And I backed up and said, perhaps you've had too
15 much, and offered him a food menu.

16 Q And tell the Judge and show him like if I am this
17 person, how close were you to him? You said, did
18 I forget you babe, or something like that?

19 A He would have been standing on this side
20 (indicating) and I kind of leaned to him.

21 Q Okay.

22 A Approximately this close (indicating).

23 Q And I mean this very -- I'm not meaning this bad
24 at all but you're a pretty good bartender, right?

25 A I think so.

1 Q And you tried to get to ---

2 THE COURT: Can I sit down now?

3 MR. MEADORS: Yes, sir.

4 THE COURT: Thank you.

5 Q You try to get to know your customers and look at
6 them.

7 A I do.

8 Q I mean, just to personalize yourself with them?

9 A Yes.

10 Q So was there anything obstructing you between this
11 individual?

12 A No.

13 Q Did you have any -- did you have -- could you see
14 him?

15 A Yes.

16 Q All right. After he said these two expletives,
17 did -- what happened next?

18 A Well, he said that and then he threw money on the
19 bar kind of towards me and walked behind the door
20 through this entrance right here (indicating).

21 Q So he actually came behind the bar?

22 A He did.

23 Q And --- and -- and what happened after that?

24 A Security escorted him out.

25 Q And -- and describe him to the Judge, this person.

1 A He was wearing a hooded jacket. He was very
2 sweaty. His eyes looked very dark. And as he
3 leaned on the bar, he was very unsteady almost as
4 if he couldn't hold his head up.

5 Q Okay. Did you see where this person went, if
6 anywhere, with security?

7 A Out the front door.

8 Q How long after that -- did you hear shots after
9 that?

10 A Yes.

11 Q For these purposes, okay. And were you shown a
12 lineup later on or -- would this have been the
13 early morning hours of February 5th?

14 A Yes.

15 Q Super Bowl was the 4th, goes into the 5th?

16 A Yes, sir.

17 Q Later on that morning or that day, were you shown
18 a lineup?

19 A Yes, sir.

20 Q And where were you shown it?

21 A In my apartment.

22 Q And did an investigator with the Sheriff's
23 Department show it to you?

24 A Yes.

25 Q Show the Judge -- I'm going to put this down like

1 that. Tell the Judge how all that happened? What
2 -- how did he present the lineup to you, what did
3 he say to you if anything and what did you do?

4 A He called me on the telephone and verified that I
5 was in my apartment and I was. He came to my door
6 and had a folder in his hand with a blank piece of
7 paper like this (indicating). And he asked me if I
8 would be able to identify the individual that was
9 escorted out the bar that night. And I told him I
10 would. And he turned the paper over and asked me
11 if I saw the individual on this paper.

12 Q And were you -- and did you indicate to him that
13 you saw somebody?

14 A Yes.

15 Q And which individual did you pick out?

16 A The top middle.

17 Q And did you -- was that circled and your initials
18 are on there? Looks like E ---.

19 A I circled it and my initials E.H., yes, sir.

20 Q E.H., all right. And this was done on February
21 5th?

22 A Yes.

23 Q And it's got your residence where it was shown to
24 you, correct?

25 A Yes, sir.

1 Q And at bottom, this is the man that I cut off from
2 buying alcohol at 360?

3 A Yes.

4 Q Is that what it says?

5 A Yes and was carried out in handcuffs. Yes, sir.

6 Q And how -- you got this close to him (indicating)?

7 A Yes.

8 MR. MEADORS: Your Honor, this is State's 17
9 for ID at this point.

10 Q Is that individual that said those things to you
11 and threw the money at you and came back toward
12 the bar and was then escorted out, is that person
13 in the courtroom?

14 A Yes.

15 Q And would you point him out for His Honor?

16 A He's right there (indicating).

17 Q And you're pointing to Mr. Johnnie Gaskins by Mr.
18 McCulloch?

19 A Yes, sir.

20 MR. MEADORS: All right. We'd ask the record
21 to so reflect. Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 MR. MEADORS: Did -- well, never mind.

25 That's all, thank you.

1 THE COURT: Mr. McCulloch.

2 MR. MCCULLOCH: Thank you, Your Honor.

3 CROSS-EXAMINATION (In Camera)

4 BY MR. MCCULLOCH:

5 Q Ms. Hellman, it was pretty chaotic that night at
6 the bar? I get a sense, this was Super Bowl
7 Sunday, I understand?

8 A Yes.

9 Q And the club holds how many people?

10 A I'm not exactly sure.

11 Q How many people were there that night, several
12 hundred?

13 A Maybe a hundred.

14 Q Just a hundred. They -- did you -- had you seen
15 Mr. Gaskins in the bar on any night prior to this?

16 A No.

17 Q And the first contact you had with the person you
18 now identify as Mr. Gaskins would have been what
19 point in the evening, about what time?

20 A Just after midnight.

21 Q Sorry?

22 A Just after midnight I would think.

23 Q And your encounter with this person lasted how
24 long?

25 A Approximately five minutes.

1 Q So it took five minutes for him to use offensive
2 language and -- or use offensive language and then
3 it took five minutes to get security to act?

4 A No. Just our conversation back and forth. It may
5 not have been five minutes exactly.

6 Q In all likelihood it would have been much shorter
7 than that?

8 A I don't really recall how long it was.

9 Q So you don't know how long it might have been?

10 A That I was speaking to him? No, sir.

11 Q The entire encounter?

12 A No, sir.

13 Q The night of this incident, did you give the
14 police a description of the person that you saw in
15 the bar that night escorted out?

16 A Yes.

17 Q How did you describe him physically?

18 A Wearing the hooded jacket with the fur. Tall,
19 slender, black male, dark eyes and sweaty.

20 Q Was the hood on the jacket up over his head when
21 you encountered him?

22 A Yes.

23 Q Yes?

24 A Yes.

25 Q So you were not able to see his -- were you able

1 to see his features?

2 A Yes.

3 Q Even with a hood. Is there -- the lighting in
4 this place is from the ceiling, isn't it?

5 A The hood stopped here (indicating) and I was very
6 very close to him. As I leaned over the bar I was
7 only inches from his face.

8 Q And so you could see his features?

9 A Yes.

10 Q See his hair?

11 A No, no.

12 Q Did you see other people thrown out that night?

13 A Not particularly. I knew that someone had been but
14 because I stay at the bar I didn't actually see
15 it.

16 Q Okay. So you did not see anyone else thrown out
17 of the bar that day?

18 A I saw the group of people being taken to the door
19 but I didn't see who it was. As you look up you
20 just see a group of people going toward the door.

21 Q And there was no one -- no one identified him in
22 your presence by name or?

23 A No.

24 Q Now, when you were shown this identification, this
25 document that's been introduced by the State and I

1 apologize, I don't know that number ---

2 MR. MEADORS: I think ---

3 MR. MCCULLOCH: 12, I think. Let's just make
4 sure.

5 (Pause.)

6 MR. MCCULLOCH: Well, that could be 12. It
7 looks like 17. All right, 17.

8 MR. MEADORS: 17? Yeah, I read it wrong.

9 MR. MCCULLOCH: You were close. We're not
10 good with numbers.

11 Q The identification process took place at your home
12 and who was present, you and the officer?

13 A Yes.

14 Q And no one else?

15 A My mother was there.

16 Q All right.

17 A And it was two officers.

18 Q So a total of three or ---

19 A Yes.

20 Q --- two and ---

21 A Two officers -- no, a total of two.

22 Q A total of two. The lineup was presented to you
23 and was anything done by the officers to suggest a
24 photograph?

25 A No.

1 Q Did they tell you that the suspect was among these
2 photographs?

3 A No, they asked me if he was.

4 Q Okay. Did they tell you the name of the suspect
5 at that point?

6 A No.

7 Q Now, this was -- the lineup indicates this was
8 done on the 5th of February. So the incident
9 occurred the night before, right?

10 A Yes.

11 Q And this was in the early morning hours?

12 A The incident actually occurred after midnight. So
13 it was still the same ---

14 Q So what time is this ---

15 A --- but, yes.

16 Q --- the next morning ---

17 A Approximately 7.

18 Q A.M.?

19 A Yes, sir.

20 Q Had you been to sleep?

21 A No.

22 Q So you had been up all night?

23 A Yes.

24 Q Now, prior to encountering the person you've
25 identified as Mr. Gaskins, did you have anything

1 to drink?

2 A No.

3 Q This particular -- this night, nothing to drink
4 with alcohol is what I'm talking about?

5 A Right, no, sir. No, sir.

6 Q And I don't know how to ask you this delicately
7 but is it as easy for you to -- do you have
8 trouble with faces?

9 A No, not usually.

10 Q So you remember faces?

11 A Most of the time.

12 Q Does it make a difference whether they are
13 Caucasians or African Americans?

14 A No.

15 Q So you think your ability to identify a person of
16 either race is equally good?

17 A Yes.

18 MR. MCCULLOCH: This is -- I'm just about
19 finished, Your Honor.

20 Q The identification occurred you say about 7 a.m.
21 Had you had occasion -- is that correct, that's
22 what you just ---

23 A Approximately.

24 Q Well, had you watched the news ---

25 A No.

1 Q --- that morning or seen the newspaper?

2 A No.

3 MR. MCCULLOCH: That's all I have.

4 THE COURT: All right.

5 MR. MCCULLOCH: Well, Your Honor, I would --
6 I would move for -- on the basis of case law that talks
7 in terms of the opportunity to see, the distractions,
8 there's no testimony about, were you certain in here. I
9 would argue that there is no -- not a sufficient basis
10 for her to be allowed to identify Mr. Gaskins in the
11 courtroom.

12 THE COURT: All right. Well, considering the
13 biggest factor is the witness's opportunity to view the
14 criminal at the time of the crime, the witness's degree
15 of attention, the accuracy of the witness's prior
16 description of the criminal, the witness's level of
17 certainty at the confrontation and the time between the
18 crime and the confrontation.

19 At a bar, at night, curses her out, give me
20 the drink, so and so. She says she was then 18 inches
21 at least up in the Defendant's face. He came around
22 the bar. He cursed at her as he left. There's nothing
23 unduly suggestive about the procedure the police used
24 in the lineup.

25 Your request and motion are respectfully

1 denied, sir. Considering all the factors, I don't
2 think there was anything unduly suggestive about her
3 identification of Mr. Gaskins.

4 Anything further?

5 MR. MEADORS: No, sir.

6 THE COURT: All right. I'll give you five
7 minutes and then we'll bring the jury in, if anybody
8 needs to go take a little rest. I'll be right back.

9 You step down. You just can't talk to
10 anybody.

11 THE WITNESS: Okay.

12 THE COURT: I mean, you can say hello.

13 (The witness leaves the witness stand.)

14 (The Court was in recess.)

15 THE COURT: Mr. Meadors, Mr. McCulloch, the
16 names of the respective families is for me and security
17 only, not to be shared with anybody else.

18 MR. MEADORS: Thank you.

19 THE COURT: All right.

20 (Pause.)

21 (The witness returns to the witness stand.)

22 THE COURT: You're not from the U-P, are you?

23 THE WITNESS: No, from Lansing.

24 THE COURT: That's the equivalent of being
25 from Pickens County. Am I right, so far?

1 THE WITNESS: Yes.

2 THE COURT: Is everybody ready?

3 MR. MEADORS: State's ready.

4 MR. MCCULLOCH: Defense is ready.

5 THE COURT: Bring them back in, Mr. Crumpton.

6 (The jury returned to the courtroom at
7 approximately 3:37 p.m.)

8 THE BAILIFF: The jury's present, Your Honor.

9 THE COURT: Thank you, Mr. Crumpton.

10 Welcome back, Madam Forelady and members of the
11 jury. Like I was just telling you, there would come a
12 time in this trial when I would have to send you out. But
13 it was one of those times in the very beginning to get
14 used to it. It won't happen that much more throughout the
15 course of this trial, I do not believe.

16 But, Mr. Meadors, you may continue, sir.

17 MR. MEADORS: Thank you, sir. May it please the
18 Court.

19 DIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q I think we were at the point where you started
22 working at Club 360 in roughly 2005?

23 A Yes.

24 Q And the different jobs you've held there are what?

25 A I started as a bartender. I was promoted to bar

1 manager and later to general manager.

2 Q Bartender, bar manager, general manager?

3 A Yes, sir.

4 Q And is Mr. Porterfield the owner of that club?

5 A Yes.

6 Q Lindburgh Porterfield?

7 A Yes.

8 Q Let's get right to it. On February 5th, 2007, then
9 your -- this may be where we ended before the break,
10 you were a bar manager?

11 A Yes, sir.

12 Q And what does that mean?

13 A I was in control of scheduling and hiring the
14 bartenders, to maintaining the liquor supply at the
15 bar, responsible for the nightly deposits, reporting
16 directly to Mr. Porterfield.

17 Q And, you've been to schooling and all. You like
18 bartending, don't you?

19 A Yes.

20 Q Do you like interacting with people?

21 A I do.

22 Q Talking to people?

23 A Yes.

24 Q Get better tips perhaps?

25 A Yes.

1 Q Now, do you remember this day as Super Bowl Sunday,
2 February 5th, 2007?

3 A Yes, sir.

4 Q And were you working that day?

5 A Yes, sir.

6 Q And as the bar manager, were you in charge of
7 stocking the bar and all that stuff, you deal with
8 that?

9 A Yes.

10 Q And do you remember what time you got there?

11 A Approximately 2:00 p.m.

12 Q And did the crowd start coming in and was it crowded
13 as the day wore on?

14 A It was, yes.

15 Q And were there other bartenders working with you?

16 A Yes, sir.

17 Q And specifically, now, I want to show you -- I've
18 shown you this previously but this is State's 15. Do
19 you recognize this ---

20 A Yes.

21 Q --- and does it relate to your testimony?

22 A Yes, sir.

23 MR. MCCULLOCH: We've seen it, Your Honor.

24 THE COURT: All right, without objection.

25 MR. MCCULLOCH: Your Honor, we will stipulate

1 it's a rough drawing of the premises not to scale.

2 THE COURT: If it were to scale, we couldn't fit
3 it in the courtroom.

4 MR. MCCULLOCH: Okay.

5 THE COURT: All right. It's a drawing of the
6 outline of the location.

7 (Whereupon, State's Exhibit Number 15 was moved
8 into evidence.)

9 Q This appear to you to look like the 360?

10 A Yes.

11 Q The inside of it?

12 A Yes, sir.

13 MR. MEADORS: For the record, State's 15.

14 Q And I'm just going to show you, I don't want you to
15 get down.

16 MR. MEADORS: Just one quick question right
17 now, Judge, and I'll come back.

18 Q Just show the -- show the jurors the bar area for
19 right now.

20 A This is the bar ---

21 THE COURT: She can step down if ---

22 MR. MEADORS: I may in a minute.

23 Q So this area right here (indicating)?

24 A Yes.

25 MR. MEADORS: Okay. Thank you.

1 Q And what part of the bar were you working in?

2 A I was on the backside facing the stage area.

3 Q And who was working the other side of the bar?

4 A It was two girls, Amanda and Nikki were on the front.

5 And originally it was Valencio and I on the back.

6 Q Now, later on in that evening, late in the evening
7 maybe early the next morning, did you encounter an
8 individual who said some ugly things to you?

9 A Yes.

10 Q All right. Tell the folks about that.

11 A I was working the back side of the bar by myself.

12 Valencio had left early. And an individual came up
13 to the back side of the bar and said, give me a
14 fucking Hennesy. So I went closer to him thinking
15 that ---

16 Q Did that call your attention, I mean, when he said
17 those words to you?

18 A Yes.

19 Q What did do you after that?

20 A I walked over to him and said, you know, excuse me
21 baby, did I forget about you or did you need
22 something. And he said, I said, give me a fucking
23 Hennesy, bitch. And I said, whoa, maybe you've had a
24 little bit too much to drink. Would you like some
25 food and offered him the food menu.

1 Q And Hennesy is a cognac?

2 A Yes.

3 Q And after you said, baby, did I forget you, and
4 offered him a little food, what -- what was his
5 reaction, what did he do next?

6 A He said, I said, give me the fucking Hennesy. He
7 threw the money at -- towards me at the bar and came
8 behind the bar.

9 MR. MEADORS: Now, at this point, Judge, with
10 your permission, I'd ask her to step down.

11 THE COURT: Yes, sir.

12 (The witness steps down from the witness stand.)

13 Q Ms. Hellman, if ---

14 THE COURT: What's the exhibit number?

15 MR. MEADORS: Your Honor, it's 15.

16 THE COURT: 15, thank you, sir.

17 Q If you would stand up here so the court reporter can
18 see you, please. I'm going to get this pointer so
19 the jurors and Mr. McCulloch can see.

20 All right, referring again to State's 15, show
21 the jury where -- you said you were working the back
22 area of the bar near the stage. Where is that?

23 A Right. So I would have been covering this whole area
24 back here (indicating) with the cash register on each
25 side.

1 Q All right. And the person that came up to you and
2 yelled these unheavenly things, the expletives, where
3 was he?

4 A He would have been standing right in between these
5 two bar stools (indicating).

6 Q Okay. When he yelled at you the first time, did you
7 come over to the bar?

8 A Yes. I was about here (indicating) and I walked over
9 to him right there (indicating).

10 Q And that's where you had the other conversation with
11 him?

12 A Right. I leaned over the bar to see -- I thought
13 perhaps he had placed an order with the other
14 bartender and she had left. So when he initially
15 cursed at me, I came closer to him to find out what
16 he needed. When I got closer to him is when he cursed
17 again.

18 Q All right. And, I mean, how close did you get to
19 him?

20 A I leaned over the bar so probably this close.

21 Q So you're looking at him that close?

22 A Yeah, I was leaning over the bar.

23 Q Anything between you and this person?

24 A No.

25 Q Can describe what the lighting was like to this jury?

1 Did you have any trouble seeing him, Erin?

2 A No, sir. There's that neon light that goes above the
3 bar (indicating), above this and there were also
4 several lights on in the restaurant.

5 Q I'm going to show what I see as marked as 12, State's
6 12. Is that what you're talking about?

7 A Yes, that's the neon lighting.

8 MR. MEADORS: Your Honor, I believe ---

9 A And those are also the lights ---

10 MR. MEADORS: --- without objection, Your Honor.

11 MR. MCCULLOCH: It's in evidence, I think.

12 MR. MEADORS: I had marked it for ID until this.

13 MR. MCCULLOCH: No objection.

14 (Whereupon, State's Exhibit Number 12 was moved
15 into evidence.)

16 Q So you're that close with him. You've had these two
17 conversations with him. What happens after that, if
18 anything?

19 A Yes.

20 Q What happens after that, if anything?

21 A He threw the money on the bar and then he entered
22 through right here (indicating) coming back behind
23 the bar. At that point security came and took him
24 out the front door.

25 Q And where are you still at this point?

1 A I am still right here (indicating). When he started
2 to come back behind the bar, I had to back up a
3 little bit. I was still in this area (indicating).

4 Q Describe him to the jury?

5 A He was a tall slender African American male. He was
6 very very sweaty, very unsteady on his feet. As he
7 leaned on the bar he was having a hard time keeping
8 his head up. His eyes were very very dark.

9 Q Do you remember what he was wearing, if anything?

10 A He was wearing a jacket with a hooded fur hood or
11 lining.

12 (Whereupon, State's Exhibit Number 18, Fur Hooded
13 Jacket, was marked for identification.)

14 MR. MEADORS: Your Honor, this is marked State's
15 -- I think State's 18.

16 Q Do you recognize this?

17 A Yes.

18 Q What is this?

19 A That is the jacket he was wearing.

20 Q The jacket who was wearing?

21 A The individual who yelled at me at the bar.

22 MR. MEADORS: Your Honor, we'd offer that as
23 State's 18.

24 MR. MCCULLOCH: Your Honor, I would object to her
25 testimony that that's the jacket. I don't know how she

1 could say that, Your Honor, maybe like the jacket.

2 THE COURT: I think it's been marked for ID at
3 this time. It looks like the jacket, that's what she
4 recalled so far, okay.

5 Q State's 18 for ID, does that appear to be jacket that
6 you saw that night?

7 A Yes.

8 Q Looks like the jacket?

9 A It does look like ---

10 Q You think it is the jacket?

11 A I think it's the jacket.

12 Q Now, show the jury -- and I've just got a couple
13 more, where did these -- you said they took him out
14 of the bar?

15 A Yes.

16 Q Show them again where it was, where they took him
17 exactly.

18 A He came behind the bar right here (indicating) and
19 they took him out the front door (indicating.)

20 Q And what did you do?

21 A I continued to serve people.

22 Q And -- and sometime after that, did something happen?

23 A Yes. About 20 minutes it felt like, we heard shots
24 fired and immediately grabbed the two bartenders that
25 were remaining with me and laid on the floor right

1 here (indicating) behind the cooler of the bar.

2 Q And who were those folks?

3 A Amanda Thompson and Nikki Elder.

4 Q You hear shots?

5 A Yes.

6 Q No doubt in your mind they were shots?

7 A No doubt in my mind, many shots.

8 Q And you do what? What do you do?

9 A I ran and grabbed the two girls and got to the floor.

10 Q What did you do next, if anything?

11 A I stayed down for a long time, it was a lot of shots
12 fired. And when it stopped I reached up and grabbed
13 my cell phone which was next to the cash register
14 right here (indicating) and then we heard more fires
15 so I got back down and called 911 from the floor
16 while we heard more shots being fired.

17 Q What did do you after that, if anything, and what did
18 you see?

19 A After that I stood up and when I stood up I saw a
20 woman laying right here (indicating) and I went over
21 to her ---

22 THE COURT: I'm sorry. Ms. Hellman, could you
23 speak up just a little bit.

24 THE WITNESS: I'm sorry.

25 THE COURT: All right.

1 A I saw a young lady laying right here and I went over
2 to her briefly and then I heard that someone was
3 injured outside. So I ran along the back side of the
4 bar by the V I P area and went out the side door and
5 that's where I found Mr. Adams on the front.

6 Q That's John Adams?

7 A Yes, sir.

8 Q Did you know this lady who was down here (indicating)?

9 A No.

10 Q And did you know John Adams?

11 A Yes.

12 Q Okay. What was his relationship to the club, John
13 Adams?

14 A He was security at the time.

15 Q And then did you go back into the club?

16 A Yes.

17 Q Okay. And did you talk to law enforcement after
18 that?

19 A Yes.

20 Q Did you talk to them that night?

21 A Yes.

22 Q Did you talk the next day?

23 A Yes.

24 MR. MEADORS: All right. You can have a seat
25 back there, please.

1 (The witness returns to the witness stand.)

2 Q Were there a lot of yelling going on after the shots?

3 A Yes.

4 Q And did you have an occasion -- did you give law
5 enforcement a description of the individual that was
6 cursing at you?

7 A Yes.

8 Q And did you have an occasion to look at the pictures
9 -- and I say the next day but this was actually on
10 February the 5th, we're now into the a.m. of February
11 5th, aren't we?

12 A Yes.

13 Q The Super Bowl was on the 4th?

14 A Yes.

15 Q This thing happens early morning hours of the 5th?

16 A Yes.

17 Q Later on that day of the 5th, did you have an
18 occasion to see an investigator with the Sheriff's
19 Department?

20 A Yes.

21 Q And did he show you a group of pictures?

22 A Yes.

23 Q Tell these folks where that was, where you were when
24 you came in contact with law enforcement later on
25 that morning?

1 A I was at my apartment. I had been there for maybe an
2 hour and they called to verify my residence and said
3 that they were sending an officer in route to do a
4 lineup. Within minutes an investigator was at my
5 door and he had a folder and a blank sheet of paper
6 on it like this (indicating). And he asked me to
7 look at this and to tell me if the individual who
8 yelled at me at the bar was in the picture.

9 Q You had already -- had you already given them a
10 statement earlier?

11 A Yes.

12 Q Okay. And how was that presented to you?

13 A They just turned it over and asked me if I saw the
14 individual that was escorted out of 360 after cursing
15 at me and coming behind the bar.

16 Q And were you able to pick that person out?

17 A Yes.

18 Q How long did it take you?

19 A Not even a second. As soon as he turned the paper
20 over.

21 Q He turned the paper over and you picked out number
22 one?

23 A The second one, number two.

24 Q And how did -- did you mark on there that -- so we
25 can now come show these ladies and gentlemen you did

1 that. Did you mark it?

2 A Yes.

3 Q How?

4 A They asked me to circle it, to initial and date it.

5 Q And that's your initials there?

6 A Yes.

7 Q The date of 2/5/07?

8 A Yes, sir.

9 Q And at the bottom is your signature on there?

10 A Yes, sir.

11 MR. MEADORS: Your Honor, we'd offer this as
12 State's 17.

13 THE COURT: Okay. This number is 17?

14 MR. MEADORS: This is 17, yes, sir.

15 (Whereupon, State's Exhibit Number 17 was moved
16 into evidence.)

17 Q A few other quick questions related to this. Did the
18 investigator try to tell you who to pick out?

19 A No.

20 Q And -- and when it was turned over, did you
21 immediately go to number two?

22 A Yes.

23 Q And is the person who cursed at you and you saw?

24 A Yes.

25 Q And this was later on that day on the 5th?

1 A Yes.

2 Q Do you still work at -- did you know this person
3 before that night?

4 A Which person, this person?

5 Q Number two?

6 A No, sir.

7 Q How long did you -- are you still working at 360?

8 A I occasionally will go back and do special events
9 with him, so, yes.

10 Q Now, based on the time you spent there that night
11 when this person was talking to you and had these
12 exchanges with you and you said you got close to him
13 and looked at him, you said he appeared to be wearing
14 a coat like that?

15 A Yes.

16 Q Based on that time you spent with him that night, is
17 that person that cussed at you and you saw getting
18 taken out of 360, is that individual in this
19 courtroom?

20 A Yes, sir.

21 Q And would you please point him out for the ladies and
22 gentlemen of the jury, if you can?

23 A He is sitting right there in the black suit.

24 Q And that's based on the time you spent with him that
25 night?

1 A Yes, sir.

2 MR. MEADORS: We'd like the record to reflect
3 she's picked out, Mr. Johnnie Gaskins, Your Honor.

4 THE COURT: All right, sir.

5 MR. MEADORS: That's all we have, thank you.

6 THE COURT: All Right, cross-examine.

7 MR. MCCULLOCH: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MCCULLOCH:

10 Q Ms. Hellman, this was February 5th of 2007, right?

11 A Yes.

12 Q And this was Super Bowl Sunday?

13 A Yes, sir.

14 Q And your club that evening was -- well this was a
15 bar, nightclub?

16 A A sports bar, uh-huh.

17 Q Did you have music that night?

18 A After ---

19 Q Live music I should say.

20 A No.

21 Q Did you have TV's on?

22 A Yes.

23 Q And the exhibit that the Solicitor asked you to
24 identify which was 12, that's the -- that's the
25 actual photograph of the interior of the club?

- 1 A Yes, sir.
- 2 Q And of the lighting?
- 3 A Yes.
- 4 Q And so there are ceiling lights and you said neon.
- 5 There are multicolored orange, green and yellow neon
- 6 lights?
- 7 A Yes, sir.
- 8 Q That doesn't really provide a whole lot of good
- 9 lighting, does it?
- 10 A It's adequate.
- 11 Q Adequate. And your position is today it's adequate
- 12 to make the identification?
- 13 A Yes.
- 14 Q Now, the person you saw there that you are persuaded
- 15 was Mr. Gaskins, they had this jacket that you
- 16 referred to, that would be Exhibit 18, right?
- 17 A Yes, sir.
- 18 Q And it had a hood on it?
- 19 A Yes.
- 20 Q And the person you had this brief encounter with,
- 21 was the hood up or down?
- 22 A It was up loosely.
- 23 Q So it was over their head?
- 24 A It was about here (indicating). I could see his
- 25 face.

1 Q To the point you couldn't see hair?

2 A Yes.

3 Q And could only see partial -- part of their or the
4 front of their face -- the face and not much else

5 ---

6 A I saw his whole face.

7 Q Okay.

8 A I was very close to him.

9 Q Now, you've worked at the club at this point in
10 February of 2007 for how long?

11 A Almost two years. I started in 2005.

12 Q You ever had a shooting in the parking lot at the
13 club?

14 A No.

15 Q Ever had trouble in the club?

16 A No.

17 Q Never had anybody thrown out of this club?

18 A Probably, yes.

19 Q Ever had anybody use profanity in the club?

20 A Yes.

21 Q Now, at this point in the evening, it was what time?

22 A A little bit after midnight.

23 Q All right. And this encounter, how long did it take
24 for this person to walk up, demand alcohol and for
25 you to have the interaction with him that you did?

1 A Just a couple of minutes.

2 Q All right. And at this point, how many people were
3 in this club? How many people first does the club
4 hold?

5 A I'm not even sure. I would say there was
6 approximately a hundred people.

7 Q All right. Would it surprise you if others
8 estimated several hundred or a couple of hundred
9 people?

10 A I think it's hard to really know unless you do a
11 head count because people are in and out. I think
12 at a certain time there may have been. Of course,
13 this was after the game so many people had left.

14 Q Was this at closing time?

15 A Yes.

16 Q What time does the club close?

17 A 1:00.

18 Q So this would have been the last call.

19 A Close to it, yes.

20 Q The -- did you have anything to drink that evening?

21 A No, sir.

22 Q And did you see anybody else this particular night
23 get thrown out?

24 A I did see somebody but I don't know who. I just saw
25 the group of people escorting out to the door.

1 Q And have the -- do you allow smoking in the bar?

2 A At that point, yes.

3 Q So, in addition to the lighting as depicted in the
4 exhibit that was passed around, it was smoky?

5 A There's fans that suck the smoke up.

6 Q So it's not smoky?

7 A Not particularly. There's smoke in there.

8 Q Okay. And it's also crowded?

9 A Somewhat, yes.

10 Q There was no one else at the bar demanding a drink
11 right there before closing time?

12 A No, he had my full attention.

13 Q Now, the club that evening did not have a license to
14 sell alcohol, did it?

15 A Yes.

16 Q It did to your knowledge?

17 A It did to my knowledge.

18 Q Would it surprise you that others said it didn't?

19 A No, because that's what someone -- that's what I ---

20 MR. MEADORS: Objection.

21 THE COURT: Relevance, Mr. McCulloch? The
22 objection is the relevance.

23 MR. MCCULLOCH: Well, Your Honor, I'm testing
24 her knowledge and recollection of the club, what goes on
25 there ---

1 THE COURT: Well, how is that relevant to the
2 incidents that are alleged to have occurred?

3 MR. MCCULLOCH: Your Honor, I'll move on.

4 THE COURT: Fine, thank you, sir.

5 Q The -- did you ever tell police that you were
6 originally serving the person?

7 A No.

8 Q You sure?

9 A Yes, because I had not served him.

10 Q So your encounter with this person resulted in your
11 calling for a bouncer, is that correct?

12 A I actually didn't call for them. They saw him come
13 behind the bar.

14 Q Okay. And did you see them put handcuffs on him?

15 A Yes.

16 Q These are security guards or police officers?

17 A Yes, these are security guards, outside contracted
18 by 360.

19 Q Were the security guards armed?

20 A Yes.

21 Q Both of them?

22 A There was only one that came behind the bar.

23 Q So there was only one who came over and took him
24 into custody?

25 A Yes.

1 Q That person that came over, to your knowledge did
2 have a gun?

3 A Yes.

4 Q The other security guards, do you know how many
5 security guards there were?

6 A Maybe four

7 Q That night?

8 A I'm not exactly sure because I do stay behind the
9 bar and the contracted security guards stay on the
10 outside or towards the front door.

11 Q And are they all, to your knowledge, armed, have
12 firearms?

13 A Yes.

14 Q Now, you've testified that they handcuffed the
15 person, Mr. Gaskins, and was he gingerly or politely
16 or roughly escorted out?

17 A He was flailing around kind of so they -- he was
18 holding him and it appeared to be a struggle.

19 Q And they went straight, according to your testimony,
20 from the central bar to the front door is what
21 distance?

22 A Just several feet.

23 Q 10-foot?

24 A It's not real far. Maybe, I'm not a great estimator
25 at distance.

1 Q And they went straight out the front door?

2 A Yes, sir.

3 Q And now you were not able to see what then happened?

4 A No, sir.

5 Q And you're certain that 20 minutes later shots were
6 fired that you heard?

7 A I'm not certain it was 20 minutes. It felt about
8 like 20 minutes. Of course, I wasn't watching the
9 clock.

10 Q I understand but you testified ---

11 A Yes, approximately, uh-huh.

12 Q And the -- after Mr. Gaskins was escorted out, did
13 you see another person being escorted out?

14 A I -- that's when I saw the movement. I didn't
15 actually see somebody escorted out but I did see the
16 crowd of people moving towards the door

17 Q You -- after this incident you later saw Mr.
18 Gaskins' picture in the newspaper, is that correct?

19 A In the newspaper?

20 Q Yeah?

21 A No.

22 Q No. The -- after this point in time you -- that
23 night you talked to police officers?

24 A Yes.

25 Q You talked to other people in the bar, other

1 employees?

2 A They -- Richland County moved us all into the V I P
3 area, everyone who was in the building at that time.
4 And that's when they initially asked for a
5 description.

6 Q And so you then -- what time did you get home?

7 A Approximately 5:30 in the morning.

8 Q A.M.?

9 A 5:30 a.m., yes, sir.

10 Q No chance to sleep between the point in time of this
11 occurrence and when you got home?

12 A No, sir.

13 Q And when you got home, it was what 2 hours more
14 before the police arrived to have the photographic
15 lineup shone?

16 A Probably just over an hour. I had just gotten my
17 daughter up and ready for school.

18 Q And before this incident, you had never seen Mr.
19 Gaskins?

20 A No.

21 Q Is that correct?

22 A Yes, sir.

23 MR. MCCULLOCH: That's all. Thank you, Your
24 Honor.

25 THE COURT: Okay. Anything on redirect?

1 MR. MEADORS: Two very brief.

2 REDIRECT EXAMINATION

3 BY MR. MEADORS:

4 Q Mr. McCulloch asked you about security guards and
5 bouncers. Were there some regular employees that
6 were bouncers?

7 A Yes.

8 Q Then were there some folks that were brought in as
9 security that weren't regular folks?

10 A Yes, they were contracted.

11 Q He asked you about remembering this night and all.
12 I think the question was that had there ever been a
13 killing there before and your answer was ---

14 A No ---

15 MR. MCCULLOCH: That was not the question.

16 A --- it was a shooting.

17 MR. MCCULLOCH: The question was had there ever
18 been a shooting ---

19 MR. MEADORS: I thought you said a murder, the
20 first question.

21 Q Well, had there ever been a murder there before?

22 A No.

23 Q Ever been a shooting there before?

24 A No.

25 Q Ever been a double murder and three A B I K's?

1 A Absolutely not.

2 MR. MEADORS: Thank you.

3 THE COURT: Anything on recross, Mr. McCulloch?

4 MR. MCCULLOCH: No, sir.

5 THE COURT: All right. You may step down, Ms.

6 Hellman.

7 THE WITNESS: Thank you.

8 (The witness leaves the witness stand.)

9 THE COURT: Call your next witness.

10 MR. MEADORS: Your Honor, we'd have to do that

11 same ---

12 THE COURT: Well, let's do it first then. Y'all
13 approach.

14 (WHEREUPON, a bench conference was held off
15 the record, in the presence of the jury, but out
16 of the hearing of the jury.)

17 THE COURT: Members of the jury, you get to go
18 home a little bit early today to pick up your kids. Buy
19 them some ice cream. There's about three other little
20 matters that we have to take up. By the time we do them,
21 it will be about an hour maybe so I'm going to just send
22 you home right now. That will save y'all an hour
23 tomorrow waiting. So y'all can understand why I'm going
24 to do this. This is in conjunction with -- or in
25 agreement with Mr. Meadors and Mr. McCulloch. We'll

1 THE COURT: I'm just asking. You may step down.

2 (The witness leaves the witness stand.)

3 THE COURT: Are you a singer? Do you sing?

4 THE WITNESS: Do I sing?

5 THE COURT: Yes.

6 THE WITNESS: No.

7 THE COURT: All right. Your voice is so strong
8 and confident, I just guessed you were a singer. I'm
9 wrong some time. But Alleghany County, right.

10 THE WITNESS: Yes.

11 THE COURT: All right. Call your next witness.

12 MR. MEADORS: Roger Glover.

13 (ROGER GLOVER, having first been duly sworn,
14 testified as follows:)

15 THE CLERK: Thank you. Please have seat in the
16 witness stand and state your full name for the record.

17 THE WITNESS: Roger Glover.

18 DIRECT EXAMINATION

19 BY MR. MEADORS:

20 Q Hey, Roger, how are you doing?

21 A All right.

22 Q I'm going to question you now primarily about the
23 opportunity you had to see somebody in the club that
24 night, okay?

25 A Okay.

- 1 Q Can you tell the Judge -- just very briefly, where
2 are you from, Roger, Mr. Glover?
- 3 A Swansea, South Carolina.
- 4 Q Swansea?
- 5 A Yes.
- 6 Q Born and raised there?
- 7 A Born and raised.
- 8 Q Went to Swansea High?
- 9 A Yes.
- 10 Q And did there come a time you started working at
11 Club 360?
- 12 A Yeah.
- 13 Q And are you related to the owner?
- 14 A Yes.
- 15 Q And that's Limbaugh (sic)?
- 16 A Lindburgh.
- 17 Q Lindburgh Porterfield?
- 18 A Yes.
- 19 Q All right, Mr. Porterfield. And when did you start
20 working there, Mr. Glover?
- 21 A On and off.
- 22 Q Okay.
- 23 A For a couple of years.
- 24 Q All right. And what's your job there?
- 25 A I was the cook.

1 Q Cook. And on February 5th, 2007, were you the cook?

2 A Yes, sir.

3 Q And for Super Bowl Sunday, what were y'all serving?

4 A Wings.

5 Q Okay.

6 A Cheeseburgers.

7 Q All right. Were you pretty much back in the kitchen
8 most of the day?

9 A Most of the day.

10 Q Did there come a point somewhere in the evening you
11 came out in what I'll call the main area where the
12 pool tables are?

13 A Yes, sir.

14 Q And did something unusual happen then?

15 A Yes.

16 Q Tell the Judge about that?

17 A I heard a disturbance in the kitchen. I told the
18 other cook I was going out to see what was going on.

19 Q Okay.

20 A And when I did, they were putting a few guys out and
21 as I was walking past the pool table, I don't know
22 the young lady's name, I looked back out through the
23 two tinted windows, saw a car pulling around.
24 Didn't pay it any attention, I just kept walking
25 toward my sister. And ---

1 Q Your sister's who?

2 A Melinda Glover.

3 Q She was there that night. Was she working ---

4 A She was working that night.

5 Q Go ahead.

6 A And when I spoke to the young lady I just passed,
7 she -- I just heard shots.

8 Q So you came out of the kitchen?

9 A Yes.

10 Q And seen them taking somebody outside?

11 A Right.

12 Q And then after that, you were talking to this
13 person?

14 A No, I just spoke to them ---

15 MR. MCCULLOCH: Object to leading the witness.

16 THE COURT: To leading, sustained.

17 Q It's real emotional for you to talk about this,
18 isn't it?

19 A Yes.

20 Q You saw the person?

21 A (There was no response.)

22 Q I know you're getting emotional. You did when I
23 talked to you. Just tell the Judge what -- what ---

24 MR. MEADORS: Judge, that's why I was trying to
25 lead a little bit. I apologize.

1 THE COURT: I understand but it's a valid
2 objection. Go ahead, sir, just take your time.

3 A I heard gunshots, glass breaking. I fell to the
4 floor. I looked up, I told my sister to get down.
5 She couldn't. She was froze. She couldn't move.
6 So when I looked back -- when I rolled over and
7 looked back -- (pause) -- I saw the young lady I
8 just spoke to, I wasn't even five feet from her, a
9 bullet hit her in the head.

10 THE COURT: A bullet struck her in the head?

11 THE WITNESS: Yes.

12 THE COURT: All right, sir.

13 A And during that time, I picked that -- the shots
14 stopped and I called 911. The operator asked me
15 where was I calling from, what was my emergency?
16 And I told her. She asked me how many people were
17 hit. I told her I only seen one. But as I got up,
18 I walked through the bar and I told her it was two
19 because I saw blood. I walked around the restroom,
20 that's when I spot another young lady laying on the
21 floor. Some more girls took her to the ladies'
22 restroom.

23 She asked me what race they were. I told them
24 and I walked on through. She said how many other
25 people were hit? I walked to the front door and

1 that's when I was one of our other bouncers was
2 laying down. He was hit. And one of the other
3 armed security guards was shot and she told me to
4 stay on the line until police or the ambulance got
5 there.

6 Q Mr. Glover, let he ask you and I know this has been
7 traumatic on you. Did you see Johnnie Gaskins in
8 the bar that night?

9 A Yes.

10 Q All right. Had you known him before?

11 A I seen him before, I don't know him.

12 Q Okay. But you recognized his face?

13 A Yes.

14 Q All right. Where did you see him in there that
15 night?

16 A He was around the bar area.

17 Q Okay.

18 A The main bar.

19 Q You seen him earlier that night?

20 MR. MCCULLOCH: Your Honor, I'm going to
21 continue to object to leading. You seen him earlier that
22 night ---

23 THE COURT: Well, first of all, this is in
24 camera.

25 MR. MCCULLOCH: I understand.

1 THE COURT: It's not going to affect the jury,
2 it's me.

3 MR. MCCULLOCH: But it is a witness ---

4 THE COURT: I know, let me help you out, Mr.
5 McCulloch. This is a valid objection. Try not to lead.

6 Q When did you see him?

7 A Just earlier during -- like during the game.

8 Q Okay. And when's the last time you saw him, if
9 ever?

10 A He was there almost -- he was there mostly every
11 weekend when I worked.

12 Q And that night in question, when was the last time
13 you saw him, of the stuff you're talking about, man,
14 what's the last time you saw him that night?

15 A When he was riding by.

16 Q When riding by?

17 A Yes.

18 Q In what?

19 A I don't know what kind of car it was.

20 Q So you -- where did you see him in the car?

21 A (There was no response.)

22 Q Where were you when you saw him?

23 A I came out through the front door.

24 MR. MCCULLOCH: I'm sorry, Your Honor, the
25 witness is going to have to speak up. I can't understand

1 ---

2 MR. MEADORS: He said looking out the front
3 door, he was looking out the front door.

4 Q And where did you see Mr. -- you said you saw Mr.
5 Gaskins then?

6 A Yes.

7 Q Where did you see him?

8 A He was in the car riding past the front door.

9 Q Okay. And how -- how many times had you seen him
10 prior to that?

11 A I haven't seen him since.

12 Q And I'm sorry. That's my fault. Prior to that
13 night, how many times had you seen him?

14 A (There was no response.)

15 Q I know you haven't seen him since then. But before
16 that night, how many times had you seen him?

17 A At least three.

18 Q Okay. Where had you seen him prior to that?

19 A Just there.

20 Q Okay. And that night -- the Super Bowl Sunday into
21 the next morning, how many times did you see him?

22 A Not since then.

23 Q Did you have any trouble seeing him on Super Bowl
24 Sunday? Visually, could you -- was anything
25 blocking your view?

1 A No.

2 Q All right. Are you sure it was Johnnie Gaskins you
3 saw on February 5th at 360?

4 A Yes.

5 Q Who was it you saw, if anybody, when you looked out
6 of the front of 360, you saw somebody in a car, who
7 was that?

8 A Mr. Gaskins.

9 Q All right. When were the shots fired?

10 A When I looked out the window and saw him.

11 Q And did the police show you a lineup sometime that
12 day on February 5th, right?

13 A Yes, they have did.

14 Q And prior to showing that lineup, did they try to
15 suggest who -- who for you -- who to pick out or,
16 Mr. Glover, you should pick this out, Mr. Glover,
17 you should pick that out?

18 A No.

19 Q And did you look at the lineout (sic)?

20 A Yes.

21 Q And were able the pick out somebody?

22 A Yes.

23 Q And who did you pick out?

24 A Mr. Gaskins.

25 Q Number five?

1 A Number five.

2 Q You signed that?

3 A Yes..

4 Q Tell the Judge why you picked him out?

5 A Because that's who I saw.

6 Q That's who you saw where, Roger?

7 A In the car when the shooting was going on, that's
8 who I saw.

9 Q Based on that night and the -- and your knowledge
10 and of Mr. Gaskins or your -- based on that night,
11 the person you saw at 360 and the person you say you
12 saw in the car where the shots were fired, is he in
13 this courtroom?

14 A Yes.

15 Q Point him out for the Judge, if you can.

16 A Sitting right there (indicating).

17 MR. MEADORS: Let the record reflect that he's
18 pointed to Johnnie Gaskins next to Mr. Joseph McCulloch.

19 MR. MEADORS: This was State's 21.

20 CROSS-EXAMINATION

21 BY MR. MCCULLOCH:

22 Q Mr. Glover, you were working at the club that night?

23 A Yes.

24 Q Had you had anything to drink that night?

25 A No, sir.

1 Q No alcohol?

2 A No alcohol.

3 Q Now, the ---

4 THE COURT: Beg your pardon?

5 Q Do you recall giving a statement to the police on
6 February 5th, sometime after this incident, the
7 shooting?

8 A Yes.

9 Q Do you remember what time of day that was, how long
10 after the shooting incident it occurred, your giving
11 a statement I mean?

12 A I don't remember a time.

13 Q All right. Do you recall telling the police at the
14 time that you saw the shooter?

15 A Yes.

16 Q All right. Well, let me ask you to look at this
17 statement. I think you may need glasses, if you're
18 like me. I'll lend you mine. There's no statement
19 in there, is there, that you saw the shooter?

20 A No.

21 Q All right. So you did not tell the police when they
22 took the statement that you saw who shot the shots
23 at the club?

24 A They didn't ask me that. They asked me to write a
25 statement because I was a witness.

1 Q Is this is your hand writing or theirs?

2 A That was my handwriting.

3 Q So you held back the information that you actually
4 saw who was shooting?

5 A I picked him out the lineup.

6 Q All right. But my question to you is, you didn't
7 mention to the police after the shooting when they
8 interviewed you about what you knew and what you
9 saw, you did not tell them you were able to see and
10 identify the shooter, did you?

11 A Yes, I did but I just didn't put it in my statement.

12 Q All right. So you told them that and they just
13 didn't write it down?

14 A I didn't write it down.

15 Q All right. Did you tell the officer verbally?

16 A Yes.

17 Q You told the officer -- do you remember the
18 officer's name?

19 A No.

20 Q So you sat down with an investigator. Where did
21 this interview occur?

22 A At 360.

23 Q And you told the officer who -- or you wrote down
24 that you were coming out the kitchen ---

25 MR. MCCULLOCH: Where's that pointer, John?

- 1 MR. MEADORS: Over there by the white board.
- 2 Q Let me hand you this and ask you to point where the
- 3 kitchen is.
- 4 A The kitchen is right here (indicating).
- 5 Q All right. Now, your statement you say, I was
- 6 coming out of the kitchen when I saw three security
- 7 guards taking out a patron from inside the club's
- 8 front double doors. And they are where?
- 9 A The front doors are right here (indicating).
- 10 Q All right. So you were standing over here
- 11 (indicating) when you saw the person being led out?
- 12 A Yes.
- 13 Q All right. And the person that you saw being led
- 14 out, were you able to see that person, who it was?
- 15 A I saw what they had on, I didn't see that person.
- 16 Q And you couldn't see the person?
- 17 A I couldn't see their face but I saw what they had
- 18 on.
- 19 Q All right. And what did that person have on?
- 20 A I remember him having on a red Budweiser jacket.
- 21 Q All right. And in your statement you said that that
- 22 person was wearing a red and black Budweiser racing
- 23 jacket with patches on and it was fur lined?
- 24 A Yes.
- 25 Q Want to see your statement?

1 A That's what I said.

2 Q So the Budweiser jacket was fur lined. As they were
3 tossing him out, that's when the shots started to
4 ring out and glass was shattering on me. That's
5 what you told the officer?

6 A Yes.

7 Q Then you said, I looked outside -- and tell me --
8 show where you were at this point when the shots
9 rang out?

10 A I was coming by the pool table (indicating).

11 Q Yeah.

12 A I was right on -- this wall is not quite that long
13 (indicating). Right here toward the front door
14 (indicating).

15 Q Okay. And you say today that you saw the car
16 outside?

17 A I saw the car coming around this here way
18 (indicating) by the double glass window.

19 Q Okay. And those windows are tinted, aren't they?

20 A Slightly, yes.

21 Q Well, it's night and they're tinted?

22 A Yes.

23 Q And in your statement you said, I looked outside and
24 I saw brake lights coming on and the car was going
25 by left to right and out of the parking lot?

- 1 A That was up here (indicating). When I saw the car
2 again, it was going around.
- 3 Q All right. So your description from inside the club
4 from left to right, if you're inside the club,
5 where's your left (indicating)?
- 6 A I might have got confused?
- 7 Q Isn't it over here?
- 8 A Yes. But I might have got confused from what I was
9 saying.
- 10 Q But what your statement says is that the car went
11 from left to right?
- 12 A My mistake (indicating).
- 13 Q All right. You're not testifying today you saw what
14 kind of car it was, are you?
- 15 A No, I did not.
- 16 Q All right. And what would -- the car didn't run
17 through the front of this area?
- 18 A No.
- 19 Q So it was out in the parking lot?
- 20 A Out in the parking lot.
- 21 Q And what distance do you think it was from where you
22 were on the floor to the outside area where this
23 automobile was?
- 24 A Probably 10, 15 feet.
- 25 Q Feet or yards?

1 A Not going in yards. It was probably -- from right
2 here to where I was here (indicating), probably
3 about 15 -- probably about 10, 15 feet, about
4 15 feet.

5 Q How many people were standing between you, your
6 place on the floor, and this automobile? How many
7 people were between you and the vehicle?

8 A None.

9 Q There was nobody in there?

10 A I didn't see anybody.

11 Q All right. So there weren't a bunch of people
12 standing out front?

13 A People -- there was a guy sitting right here
14 (indicating) who was the ID checker. And security
15 guards was on each side. And everybody was mostly
16 over to the side (indicating).

17 Q Well, where was that fellow that was being thrown
18 out by the security?

19 A He was over on this side (indicating).

20 Q Uh-huh. And you were able at the distance, in the
21 nighttime, able to see Mr. Gaskins?

22 A Yes, it's a litted (phonetic) area right here.

23 Q All right.

24 A The front door.

25 Q Yeah.

1 A Plus it's litted on the inside and the parking lot's
2 well litted right there (indicating).

3 Q Really.

4 A Yes.

5 Q But you didn't -- you did tell the police that night
6 that you saw the shooter and could identify him?

7 A Yes, I did.

8 Q You just didn't write that down?

9 A No, I didn't write that down.

10 Q They didn't either?

11 A Evidently.

12 Q And so when you met with the police officer the next
13 day or later that day and made your identification
14 which is State's Exhibit 21, you were identifying
15 the shooter, is that your testimony today?

16 A Yes.

17 Q You were not identifying the person you saw being
18 led out of the bar in the Budweiser ---

19 A No.

20 MR. MCCULLOCH: Just a second, Your Honor.

21 (Pause.)

22 Q Mr. Glover, when you first talked to the police
23 officers who came to the scene to look into this, do
24 you recall telling them that at the time of the
25 shooting you were working in the kitchen?

- 1 A Yes, that's what I told them.
- 2 Q And by that you meant not at the instance of the
- 3 shootings you were working in the kitchen?
- 4 A Prior to.
- 5 Q Prior to. But you did not tell the police that you
- 6 saw the shooter, did you?
- 7 A I said I told them, he didn't write it down and I
- 8 didn't write it down.
- 9 Q After the shooting, how long before the police
- 10 arrived?
- 11 A Couple minutes.
- 12 Q Your sister was there?
- 13 A Yes.
- 14 Q Not injured?
- 15 A Not injured.
- 16 Q Did you talk with her about the incident?
- 17 A Yes.
- 18 Q And did she see the shooter as well?
- 19 A I don't know.
- 20 Q You talked to her?
- 21 A Yes, yes, she ---
- 22 Q Yes, you talked to her?
- 23 A Yes.
- 24 Q But you don't know what you talked about?
- 25 A I know what I talked about.

1 Q Did she tell you that she could identify the shooter
2 as well?

3 MR. MEADORS: Judge, I would object. I don't
4 think that was the -- I don't recall ---

5 THE COURT: Well the question was did -- what
6 was the question again?

7 MR. MCCULLOCH: Your Honor, I'm trying to
8 determine ---

9 THE COURT: What was the question first?

10 MR. MCCULLOCH: The question was did he talk
11 with his sister and did she tell him she had seen and
12 could identify the shooter. And my next question will be
13 did she tell you anything about the shooter.

14 THE COURT: All right. The objection,
15 Mr. Meadors.

16 MR. MEADORS: I didn't hear all that.

17 THE COURT: Okay. Is there any objection?

18 MR. MEADORS: No.

19 THE COURT: All right, go ahead.

20 Q Did you talk to your sister?

21 A Yes.

22 Q Did you -- did she tell you that she saw the
23 shooter, the person who fired the shots as well?

24 A She never told me, no.

25 Q Where was she when the fires -- did she see

1 Mr. Gaskins? Did she know Mr. Gaskins?

2 A Those are questions you would have to ask her, I
3 could not answer that.

4 Q All right. But is any of the information that
5 you're now talking about information you got from
6 your sister, that's really what ---

7 A No.

8 Q No?

9 MR. MCCULLOCH: That's all of this witness, Your
10 Honor.

11 THE COURT: All right, yes, sir.

12 MR. MEADORS: One.

13 REDIRECT EXAMINATION

14 BY MR. MEADORS:

15 Q I couldn't see what you were pointing to, the whole
16 left to right business.

17 A Yes.

18 Q If you're looking at 360, can you show me which way
19 you saw the car leave when you looked out?

20 A Over here (indicating) in the dumpster area.

21 Q Right.

22 A And over here (indicating) is the patio, it was
23 coming this way.

24 Q Okay. So if you're looking at the club, the club
25 would be to the left and ---

1 A Right.

2 Q Go from the left to the right.

3 MR. MEADORS: Thank you, that's all.

4 THE COURT: Anything further?

5 MR. MCCULLOCH: Not of this witness.

6 THE COURT: Any other witnesses this afternoon?

7 MR. MEADORS: Just Lindburgh Porterfield. I
8 don't know if you wanted to have that, Mr. Porterfield
9 does know Mr. Gaskins.

10 THE COURT: I don't know. Well, let's -- you
11 may step down, sir.

12 (The witness leaves the witness stand.)

13 THE COURT: Let's take care of Ms. Barrett (sic)
14 and Mr. Glover right now before we move on. Do you have
15 any motions in regard to Ms. Barrett (sic)? We failed to
16 do so at the end of her testimony.

17 MR. MCCULLOCH: I figured we would do it
18 cumulatively.

19 THE COURT: Okay, that's fine.

20 MR. MCCULLOCH: Your Honor, the very same -- if
21 I may.

22 THE COURT: Yeah.

23 MR. MCCULLOCH: The very same arguments and
24 positions I made earlier with regard to ---

25 THE COURT: Ms. Hellman?

1 THE COURT: Okay.

2 MR. MCCULLOCH: --- of the discriminating Judge.
3 I'll hand them up to, your honor.

4 THE COURT: All right.

5 MR. MCCULLOCH: My objection is -- is first,
6 they really are duplications. I don't object to them on
7 the grounds that they show blood because this is
8 obviously a case that involves blood. Hopefully that it
9 won't get any on anybody. But the fact is that these
10 photographs duplicate each other and there's no point in
11 that.

12 Secondly, they -- they contain, as you can see,
13 markers -- numbers and alphabetical markers that -- and I
14 haven't had time to check the only diagram that we had.
15 But if the position of the State is that they intend
16 somehow to find some materiality and relevance in close-
17 ups of blood patches, I don't follow that. We've not
18 been provided any diagrams of the location of the bodies
19 within the interior.

20 And so we have the diagram of some evidence but
21 I don't know that we have a diagram that shows body
22 placements and so forth. And certainly they can do that
23 with the delightful floor plan done by Mr. Tabor. And
24 those photographs don't illustrate anything other than
25 where blood was. And they do it in multiple and gruesome

1 fashion.

2 But they're excessive and that's my motion.

3 THE COURT: All right. Okay, Mr. Meadors -- or
4 Ms. McDuffie.

5 MS. MCDUFFIE: Your Honor, the markers in the
6 pictures were placed there by crime scene investigator
7 Stan Richards who also provided a report detailing what
8 each one of those markers represents in terms of blood
9 pattern analysis. For example, whether it's transfer,
10 whether it's pooled, drops, smears, and things of that
11 nature, Your Honor. And he does outline that in a report
12 that has been provided to the Defense.

13 Further, Your Honor, the pictures are not
14 duplicative. We have tried to narrow them down. There
15 is a -- of each marker a shot to orient the jury as to
16 where in the club it is and then a close-up of the
17 individual piece of evidence. We have tried very hard
18 not to make them duplicative. There were tons of photos
19 in this case, Your Honor. And those are the only ones we
20 intend to show of the blood in the interior of the club.

21 It goes through Investigator Richards and
22 through, as Mr. Meadors has stated, one of the victims in
23 the case who can orient herself in the club and her --
24 the path she followed after being shot.

25 THE COURT: Yes, sir.

1 MR. MEADORS: Thank you, Judge. May it please
2 the Court. Deirdre Houston who has already gone, one of
3 the victims who was shot in the ear -- what we thought
4 about first was just showing the pictures without the
5 cards in there. Because she can say, this is where I
6 went, this is my blood as I went through. And I think
7 that's important to show the jury. What Ms. McDuffie has
8 done is gone back and got -- so there won't be three sets
9 of them, has used the same pictures that now law
10 enforcement and Ms. Houston can show and we've cut it
11 down, we think, and respectfully ask you to consider as
12 much as we can to cover both of those in the same
13 pictures.

14 THE COURT: All right. Yes, sir.

15 MR. MCCULLOCH: Then I am to understand that
16 these are the only photographs the State will offer of
17 the interior?

18 THE COURT: I don't know.

19 MR. MCCULLOCH: The only bloody photographs of
20 the interior?

21 MS. MCDUFFIE: These are the only photos of the
22 blood in the interior. There are some of the bullet
23 holes of the interior of the club and you can kind see
24 the floor in the distance in some of them, Your Honor.
25 None of the other photographs we intend to introduce will

1 THE COURT: Y'all ready?

2 MS. MCDUFFIE: Your Honor, we have one more in
3 camera -- a Neil v. Biggers hearing we need to take up
4 and that will be our first witness.

5 THE COURT: I thought y'all said yesterday
6 somebody knew somebody and y'all didn't need to do it.

7 MS. MCDUFFIE: This is a different one.

8 THE COURT: This is another one?

9 MR. MCCULLOCH: Different.

10 THE COURT: All right.

11 MR. MCCULLOCH: Your Honor, before we do that,
12 do you want to take up the issue of photographs we were
13 reviewing yesterday?

14 THE COURT: Oh, yeah.

15 MR. MCCULLOCH: It's a pretty quick matter. I
16 provided your clerk with my descriptive itemization of
17 these. And they're grouped, in most instances, with a
18 close-up shot of blood spatters, blood skids, whatever,
19 blood residue. And then I established a shot that is
20 farther back from the close-up showing where in the bar
21 that thing is.

22 I certainly recognize the case law gives you
23 full and complete discretion. My only objection is that
24 the photographs are duplicative and there's no real
25 evidentiary value to a close-up shot of blood. It will

1 be pretty apparent to the jury when they return to the
2 jury room that this is a heinous crime with lots of
3 injuries and deceased people.

4 So I just think there's no real purpose in
5 duplicating photographs with the close-ups ---

6 THE COURT: Do we need to have Mr. Gaskins?
7 Where is he?

8 MR. MCCULLOCH: Oh, we do need to do that.

9 THE COURT: We'll, well back up until he gets
10 here. And while we do that, let me tell the jury I
11 thought we were going to start at 9:30. That we have
12 some preliminary matters we need to take up.

13 (The Court was in recess.)

14 THE COURT: All right. Now Mr. Gaskins is now
15 present. You want to back up a little bit, Mr.
16 McCulloch?

17 MR. MCCULLOCH: Yes, Your Honor.

18 THE COURT: All right. Yes, sir.

19 MR. MCCULLOCH: I had provided -- this is
20 regarding the State's proffer of a series of photographs
21 which Ms. McDuffie has in her hand. She provided us an
22 opportunity to review them last night, Your Honor. And
23 what I have provided the Court and the Solicitor is my
24 rendition of those photographs.

25 You'll note that most of these photographs are

1 grouped in pairs. The photographs in pairs show a close-
2 up of a blood spatter or blood skid or just a close-up of
3 blood. The grouped photos attached to that shows an
4 establishing shot, what I'd call an establishing shot,
5 taken at a distance that shows where in the club that
6 bloodstain was.

7 Certainly, I think this Court has absolute
8 complete discretion to allow evidence in but it has to
9 have some relevance and pertinence and should not
10 normally be duplicative or cumulative.

11 Here I think, Your Honor -- and our objection is
12 simply that acknowledging the case law in this matter,
13 that there's no real purpose served by having close-ups
14 of blood.

15 THE COURT: All right.

16 MR. MCCULLOCH: There is, I think, the relevant,
17 the pertinent value of establishing shots to show there's
18 blood on the pool table but not a close-up, a tile, one
19 tile of blood on it other than to depict to the jury, to
20 inflame and to increase the sympathy level. And there
21 will be plenty of sympathy in this case.

22 THE COURT: All right. I think your position is
23 that the prejudice outweighs the probative value.

24 MR. MCCULLOCH: Yes, sir.

25 THE COURT: Yes, ma'am, Ms. McDuffie.

1 MS. MCDUFFIE: Your Honor, just for the record,
2 it's State's Exhibits 22 through 26 to which Mr.
3 McCulloch is referring.

4 THE COURT: I looked at them yesterday. I still
5 recall them.

6 This is my assessment. I don't know where the
7 particular individuals that were shot or wounded, where
8 it happened, how it happened, what location they were in.
9 I think at least when you look at the locations of pools
10 of blood, I would be like, for example, somebody was shot
11 against the wall you've got splattering and the bedroom
12 or something like that will show where the victim was
13 when they were wounded or shot.

14 I think it might be a close call but I do not
15 believe the prejudice outweighs the probative value.
16 Inasmuch as the jury already knows that two people were
17 killed, three were shot, and at least at this point in
18 time, I think I'll give the State an opportunity to
19 connect the locations where the victims were shot, who
20 was shot, where they were shot, that sort of thing.

21 And at this point in time, Mr. McCulloch, it may
22 be a close call but I think your objection is a little
23 bit premature. If later on something evolves that I
24 think prejudice does outweigh the probative value, I
25 don't make that assessment at this time, I'll revisit it.

1 Q And where are you employed right now?

2 A I'm employed with I S M G which is International
3 Security Management Group.

4 Q And where were you employed in February of 2007?

5 A Elite Protective Security Services.

6 Q And on February 4th and 5th, that Super Bowl Sunday,
7 where were you working?

8 A With Elite Protective Security Services at Bar 360
9 Sports Bar and Grill.

10 Q And is that located on Bush River Road?

11 A Yes, ma'am, right behind the Shell Gas Station.

12 Q I'll show you State's 14, do you recognize that?

13 A That's the top view of the 360 Sports Bar and Grill.
14 I believe that's back entrance and the front
15 entrance.

16 MS. MCDUFFIE: Your Honor, at this time we'd
17 offer State's 14.

18 THE COURT: All right.

19 MR. MCCULLOCH: No ---

20 THE COURT: Can you hear, members of the jury?

21 JURORS: (Affirmative response.)

22 THE COURT: Okay.

23 (Whereupon, State's Exhibit Number 14, Poster-
24 Diagram of 360 Sport Bar, was admitted into
25 evidence.)

1 Q Please tell the jury what you just pointed out.

2 A 360 Sport Bar and Grill. This is the top entrance
3 (indicating). This is the front entrance
4 (indicating) and that's the back area (indicating).

5 Q And parking lot (indicating)?

6 A Yes, ma'am.

7 Q And in February of 2007, how long had you worked for
8 Elite Security?

9 A I worked with Elite Security -- I had been working
10 with that company since November of 2006 -- yeah,
11 2006. I was working at the site of the bar that
12 night. I had been working with -- a couple of times
13 I worked there, three or four times I worked there.

14 Q That was not your first time there?

15 A No, that was not my first night working there.

16 Q And what were your duties that night at 360?

17 A To make sure that the customers was there not
18 getting out of hand, not bothering any patrons and
19 not getting in any fights or anything with other
20 customers.

21 Q And at some point in the night, was there a
22 disturbance inside the bar?

23 A Yes, there was, ma'am.

24 Q Please tell the jury what happened.

25 A Inside the Bar 360 -- I can't recall exactly the

1 time but I know that at the time we were there I saw
2 Quinten Harris escort Mr. Gaskins from behind the
3 bar area.

4 Q And tell the jury who is Quinten Harris.

5 A Quinten Harris is a co-worker of mine that was
6 working with me with Elite Protective Services.

7 Q And he was escorting Mr. Gaskins?

8 A Yes, ma'am. He was escorting Mr. Gaskins from the
9 back part of the bar, right there where the
10 bartenders stand at. So when I seen it, I walked
11 over to Quinten Harris and I said, what's going on
12 with this gentleman? And he -- he -- I heard him
13 said, I'm removing him, but I couldn't hear because
14 the speaker was there and it was playing loud music.
15 So I said, well, let's walk over here a little
16 further away where I can hear you clearly. And he
17 explained to me why he was removing him from the
18 back of the bar area. He told me that he was being
19 very rude to the bartender and he was going back
20 there messing with the bartender. Which customers
21 are not allowed to go back there in the bartender
22 area.

23 So as I was talking to Mr. Gaskins and informing
24 him, you know, you can't do that, he looks at me and
25 -- I don't know if I can curse or swear but ---

1 Q Go ahead and please tell the jury what he said?

2 A He looks at me and he said, just throw me the fuck
3 out then. What the fuck, you want me to leave? And
4 that's when I removed the drink from him. I said,
5 sir, I'm going to have to ask you to step outside.
6 I'm going to have to put you in handcuffs and escort
7 you from outside -- inside of the bar area.

8 I walked Mr. Gaskins outside. As soon as we get
9 -- I mean, as soon as he gets passed the door
10 outside, it's like he sobers up. He was like, okay,
11 I'm going to leave. I'll just leave, sir. I'll
12 just leave.

13 Q And did someone else approach ---

14 A Yes, it was a guy outside come up to me and said,
15 I'll take him home. I'll take him home. I said,
16 are you a friend? And he said, yeah, I know him
17 very much. I know him very -- I'm going to take him
18 home. I said, okay, now. And I warned Mr. Gaskins,
19 I said, the reason I'm letting you go is he's going
20 to take you home. If you come back here, I will
21 have Richland County Sheriff's Department arrest
22 you. And I asked him -- just before I escorted him,
23 I asked him for his ID so I can know his name so he
24 wouldn't be able to come back on the grounds.

25 Q Did he have his ID on him?

1 A Yes, he had his ID on him.

2 Q Where was it?

3 A It was in his back pocket and he showed me it.

4 Q And what is your policy when you handcuff someone
5 and you escort them out, what are you supposed to
6 do?

7 A Unhandcuff them. If they seem like they're not
8 highly intox -- like if they're not intoxicated to
9 where they can't stand up or stagger or cannot talk,
10 I cannot let them leave at that time.

11 Q And what would you have done?

12 A I would have called Richland County Sheriff's
13 Department to have him escorted off the grounds or I
14 would have made sure that he had a relative of
15 someone to get him out of that area, which I let him
16 go to the gentleman that said he knows him.

17 Q And what happened after that?

18 A I let Mr. Gaskins go. As I was turning back to go
19 in, Quinten was escorting another man. I asked
20 Quinten, I said, what did this gentleman do. He
21 said, oh, nothing, he was just arguing with a girl
22 and he said he's leaving. So he walked to the side
23 of the bar area ---

24 (Pause.)

25 Q Take your time.

1 A As I was talking to John Adams, who we call Wolf, me
2 and him was talking about his brother who played
3 football. He was like, yeah, my brother, he's real
4 good. He played for Greenwood football team, out in
5 Greenwood. He's a defensive end. I was like, oh,
6 yeah. He was like, yeah.

7 And so as I went -- I was like, well, I'm going
8 to go inside real quick. As I went to turn and go
9 inside, I heard the first shot. And as I looked --
10 because I heard the car screeching right before the
11 shot rang off.

12 After I heard the car screech, I heard the shot,
13 pow, the first shot. That's when -- that's when I
14 looked out the corner of my eye and then another
15 shot hits the window. The glass falls, I fall
16 through the glass and I just constantly hear shots
17 ringing out, pow, pow, pow. And I looked out the
18 corner of my eye and I see -- I see the vehicle. I
19 see the gentleman sitting right in the back with the
20 window down, looking out the back window, halfway
21 window partially down where I can see from his
22 forehead to the top -- right here to his lip, bottom
23 of his nose. And he's shooting out the front window
24 randomly.

25 As soon as the shots stop, the car spins off.

1 That's when I got up. I seen a young lady laying
2 there.

3 Q Tell the jury what you saw?

4 A I saw the young lady laying on the ground with a
5 hole bleeding from her head, bleeding from her head.
6 And I get up and I go over and I retaliate fire. As
7 I retaliate fire, I get weak. I get weak. Your
8 body finally is not the same. I got weak. I seen
9 -- my body now wasn't the same. I leaned against my
10 car, I seen, I see blood on the vehicle. I said to
11 myself, how is -- where am I bleeding from. I look
12 at my hand, I'm bleeding from my hand because I fell
13 as the glass was breaking. I fell through the
14 glass.

15 And I was walking back to see if anybody was,
16 you know -- besides the young lady that I seen, I
17 was like, is anything more that I can do. As I
18 walked back, I tell Quinten, I said, you know, I
19 feel like I'm burning in my back. It's just like a
20 burn, you know, from my sweat. And he looked and he
21 said, you've been shot, man. He said, you shot
22 three times. He said, I see three holes in your
23 back.

24 I said, right now, let's get these people --
25 let's get these people, they need to go. Let's get

1 these people, they need to go.

2 The Sheriff's Department got there. He was
3 talking and I said, I'm shot too. And he was like,
4 you know, you can't be shot and standing here
5 talking to me like this, man. I said, yeah, man,
6 I'm shot, let's get these people out of here. These
7 people -- tragedy that these people -- they're
8 getting out here, let's get them out of here now.

9 Q You let the ambulance take the other people?

10 A Yes, ma'am. Yes, ma'am, because they tried to get
11 me to lay down on my back on the floor and I said, I
12 can't lay down because when I laid down, I was
13 getting real light headed. I got -- I got up
14 immediately and I told them -- the EMS, I said,
15 ma'am, I can't lay down on my back. Just get these
16 people out of her. She said, no, sir, you need to
17 get out of here too if you're shot. I see it, you
18 need to go too. She said, because when you're hit
19 that can be vital areas. I said, no, ma'am, get
20 these -- get the lady out of here. Get her there.
21 Get her there. Just get them out of here.

22 That's it man. That's it man. That's it. When
23 I got the ambulance with John, he was holding my
24 hands telling me, I can't fill my legs. I told him,
25 you've got to be strong, you've got to be strong.

1 We almost there. And he talked to me.

2 The next thing I know, the investigator told me
3 my buddy is gone, my buddy gone. There's nothing I
4 can do. I said, nothing I can do. I gave -- I let
5 him go. I let him go. Go home, recuperate. You
6 know -- part of your game, you can come and relax.
7 Go home and recuperate. If I knew it was going to
8 be that -- go that distance, I wouldn't -- I
9 wouldn't -- he wouldn't -- no, I wouldn't, I
10 wouldn't.

11 Q Mr. Davis, the individual that you saw shooting at
12 the club, that shot you that night, shot John Adams,
13 shot Shannavia Williams, Deidra Houston and Quinten
14 Harris, do you see him in the courtroom today?

15 A Yes, ma'am. He's sitting right between the two
16 Defendant lawyers.

17 Q Please point him out for the jury.

18 A Right there with the black suit and the hair with
19 braids in it (indicating).

20 Q Do you recall what he was wearing that night?

21 A Yes, ma'am.

22 Q Please tell the jury?

23 A Red and white shirt with stripes around it. A black
24 jacket similar to like mine but smooth with a fur
25 collar hoodie.

1 Q I'm going to show you State's 18. Does this look
2 like the jacket that you saw Mr. Gaskins wearing
3 that ---

4 A It got an orange inside or a black inside?

5 Q (Indicates to the witness.)

6 A That's it.

7 Q And you said that after you had been struck, you
8 returned fire?

9 A Yes, ma'am. I fired -- I fired four shots from a
10 Rossi 38 that I had that night. It only carries
11 five shots.

12 MS. MCDUFFIE: Beg the Court's indulgence.

13 (Pause.)

14 Q I show you State's 47. Do you recognize this?

15 A Yeah, that's it.

16 Q Is this the gun you had that night?

17 A Yes, ma'am, that's it.

18 MS. MCDUFFIE: Your Honor, the State would offer
19 State's 47.

20 THE WITNESS: That's it. It only holds five
21 shots.

22 MR. MCCULLOCH: No objection.

23 THE COURT: All right. That's 47 you said?

24 MS. MCDUFFIE: That's correct, Your Honor.

25 (Whereupon, State's Exhibit Number 47, Gun, was

1 admitted into evidence.)

2 Q This is the gun you had that night?

3 A Yes, ma'am.

4 Q And you returned fire?

5 A Yes, ma'am.

6 Q Do you remember how many times you shot?

7 A Four times. It only holds five shots. I had one
8 live round still in the chamber and I told the
9 officer, I said, it's in my trunk because I'm going
10 to the hospital and I placed it where I know it
11 would be safe. It's in my trunk and you can go
12 remove it from my trunk. It has one live round
13 still in it.

14 Q And do you know whether or not you struck Mr.
15 Gaskins' vehicle that night?

16 A He asked me. I said, I don't know if I struck him
17 or not but I know he made a right when he exited out
18 of that parking lot headed towards I-26.

19 Q And which direction were you shooting in?

20 A I was aiming right. See this exhibit here?

21 Q State's 15?

22 A Yes, ma'am.

23 Q Hold on one second. Let me hand you the exhibit.

24 A This exhibit right here, the gas station was right
25 up in this area (indicating). Right here is Heart

1 Breakers on this -- in here (indicating). The exit
2 -- the entrance and the exit from 360 Sports Bar and
3 Grill is right here (indicating). I was
4 approximately right in this area here (indicating)
5 because my vehicle was parked in the second row of
6 the parking lot towards the end. I went around my
7 vehicle and I retaliated fire at Mr. Gaskins. He
8 sped away and went to the right. I can remember
9 like it happened yesterday. He sped away and went
10 to the right and headed toward I-26 where is the
11 Burlington Coat Factory and the Dutchess (sic)
12 Square Mall area.

13 Q And when he started shooting at the club and when
14 you saw him, please show the jury where you were.

15 A I was standing right here (indicating), exactly
16 right her.

17 Q And where was the vehicle?

18 A The vehicle was right here (indicating). Because
19 this is the drive -- the driveway area (indicating).
20 He was right here (indicating), exactly right here.
21 He was exactly right where the window that was shot
22 out -- the first window he shot out was right here
23 (indicating). Shannavia was sitting right here next
24 to a gumball machine (indicating). Shannavia was
25 sitting there because when I fell through the

1 window, the door window, Shannavia was laying on the
2 ground looking direct in my face. Me and Shannavia
3 was eye to eye.

4 Q Mr. Davis, about how far would you say you were from
5 Mr. Gaskins when you saw ---

6 A From here to that right there to that podium.

7 Q About 10, 12 feet?

8 A Yes, ma'am. I can take you to the parking lot, that
9 parking lot, from the door from where Mr. Gaskins
10 was was from right here to that podium.

11 Q Any question in your mind who you saw shooting that
12 night?

13 A There's no question in my mind because the gentleman
14 that told me -- that told me his name and I didn't
15 even have to ask the gentleman his name, told me he
16 was taking him home. I had him apprehended. I told
17 him to hold him. He left the gentleman there. I
18 said, hold him. He knows this gentleman.

19 Q And you have him detained ---

20 A Yes, ma'am. And he said, yes, I do know him. Yes,
21 I do know him. It was him. He told me before
22 Richland County got there to put out the warrant on
23 Mr. Gaskins that, yes, it was him.

24 Q And after you were released from the hospital for
25 your injuries, did you go down to the Richland

1 County Sheriff's Department?

2 A Yes, ma'am.

3 Q To give a statement?

4 A I went there immediately, as soon as I was released
5 that morning.

6 Q The officers picked you up from the hospital?

7 A Yes, ma'am. I went there. When I got there, I was
8 speaking to the officer. I said, can I have a cup
9 of coffee. I need something to drink. They said,
10 sure, go right over there. When I got there, there
11 was a printer there and it was six photos on a piece
12 of paper, man. Nobody asked me about this
13 gentleman. I showed him. I said, he had braids in
14 this picture but he didn't have no braids when he
15 shot me.

16 Q I'm going to show you State's Exhibit 10. Is this
17 the lineup you saw in the printer at the Sheriff's
18 Department?

19 A Yes, this is the same gentleman. He has braids now
20 but he didn't have braids that night.

21 MS. MCDUFFIE: Your Honor, we'd offer State's
22 10.

23 THE COURT: All right, subject to previous
24 objection.

25 (Whereupon, State's Exhibit Number 10 was moved

1 into evidence.)

2 Q Please tell the jury ---

3 THE COURT: What number is that, I'm sorry?

4 MS. MCDUFFIE: State's 10.

5 THE COURT: Okay.

6 Q Please tell the jury which photo you identified from
7 State's 10.

8 A The first one. No one even asked me who he was.
9 They didn't even -- no one -- no officer even asked
10 me. I showed him immediately and he said, well, how
11 do you know that, sir? I said, man, this is the
12 guy. He has braids in this picture but he didn't
13 have braids when he shot me. This is this guy. No
14 one had to ask me who was he. I -- I knew who he
15 was.

16 Q And you identified photo one?

17 A Yes. And then I -- I can recollect now, now that
18 we're getting into it, went back to 360, when they
19 took me back there, I saw the photo again and showed
20 the other investigator in there. I said, that's the
21 guy who shot me.

22 Q The person that you saw firing from the vehicle, the
23 person that shot you, can you please identify him
24 for the jury?

25 A Once again, this man sitting right between the two

1 Defendant lawyers.

2 MS. MCDUFFIE: Beg the Court's indulgence.

3 (Pause.)

4 MS. MCDUFFIE: Nothing further.

5 THE COURT: All right. Mr. McCulloch.

6 MR. MCCULLOCH: Thank you.

7 CROSS-EXAMINATION

8 BY MR. MCCULLOCH:

9 Q Mr. Davis, this was the Super Bowl night?

10 A Huh?

11 Q This was a Super Bowl night?

12 A Yes, sir. It was Super Bowl, the Chicago Bears
13 versus Indianapolis Colts, Peyton Manning won.

14 Q And you had worked at the 360 Club other evenings I
15 understand?

16 A Yes, sir.

17 Q Was this more crowded than usual?

18 A No, it wasn't over -- it was same amount of crowd,
19 basically the same amount of crowd that normally
20 comes in there and leaves with no problem.

21 Q A couple hundred people, how many?

22 A Offhand I would probably say about 105 people,
23 probably the most.

24 Q And how much security was working that night, how
25 many security ---

1 A We had John Adams who was an armed bouncer, Quinten
2 Harris and Palmer was also working with us who was
3 outside patrolling parking. That -- Palmer was the
4 officer that apprehended the gentleman that told me
5 that he was taking Mr. Gaskins home.

6 Q So it was from that fellow who Palmer apprehended,
7 that was the same person who came over to you?

8 A That's right, sir. And he -- and he also informed
9 me that he was taking Mr. Gaskins home. When I had
10 Palmer to apprehend him, he said, yeah, I know who
11 that is. He said, yeah, the same dude that you just
12 took out of the handcuffs.

13 Q That's the person who -- that's the person who you
14 got the name from ---

15 A That's right.

16 Q Johnnie Gaskins?

17 A That's right.

18 Q The -- you described your encounter with Mr. Gaskins
19 in the bar. Did you immediately arrest him and take
20 him out of the bar?

21 A I did not immediately arrest Mr. Gaskins. I had
22 spoken with Mr. Gaskins and was giving him a verbal
23 warning that if you -- sir, calm down. And that's
24 when he -- when I -- when I removed the drink, I
25 said, sir, calm down. That's when he smacked the

1 drink out of my hand, what you want, me to fucking
2 leave, I'll fucking leave. That's exactly was Mr.
3 Gaskins' words.

4 Q So you and Harris -- you and Mr. Harris, or just you
5 alone, took Mr. Gaskins out of the bar?

6 A I put Mr. Gaskins in handcuffs. Quinten Harris was
7 walking in front of Mr. Gaskins. I was right behind
8 him. And we led him outside the bar. When we got
9 outside, I said, now, since you've calmed down now
10 -- Mr. Gaskins looked right in my face -- he looked
11 right in my face and he told me, yes, sir, I'm
12 calmed down. I'm calm, I'm all right. I said, now,
13 I'm going to let you go. Before I let you go, I'm
14 -- I said, before I let you go, you will not come
15 back on these grounds tonight or I'll have Richland
16 County come and arrest you.

17 Q Now, you looked him in the face and you described in
18 the statement to the police as having a goatee?

19 A Yeah.

20 Q And you've already testified he did not have braids?

21 A He didn't have no braids. He didn't have no braids
22 in his hair at all because the officer, when I
23 showed the Sheriff -- when I showed the Deputy about
24 -- I showed him, he said, you sure this is the guy?
25 I said, yeah, this guy has no hair on his head right

1 now as we talk. His hair is low cut.

2 Q And so after you released him, you turned, as you've
3 testified, consistent with your statements to police
4 earlier, you turned away to talk to Harris?

5 A Well, I turned and I asked Quinten, I said, Quinten,
6 was this gentleman being escorted out of the
7 building. He said, well, he was arguing with his
8 girlfriend, he told me. And the gentleman said, and
9 I'm leaving, I'm going home, man. This is not even
10 called for.

11 Q So there's another person being thrown or being
12 escorted out the bar?

13 A When the shooting -- yes, there was. When the
14 shooting occurred the gentleman was standing on the
15 side as Quinten was coming towards the building
16 trying to get away from the first shots that was
17 fired over there.

18 Q Was there any struggling with that second
19 individual?

20 A No, there was no struggle. The man was walking side
21 to side with Quinten going to his vehicle.

22 Q And it was only after the shots began that you fell
23 through ---

24 A Yeah, yes, yes.

25 Q So from the time that you released Mr. Gaskins until

1 shots rang out, began to ring out, you did not watch
2 Mr. Gaskins, where he went or anything?

3 A When Mr. Gaskins walked off, we were not too far
4 from where he was parked at.

5 Q How do you know where he was parked?

6 A Because where Mr. Gaskins was parked was right here
7 (indicating), sir.

8 Q I ---

9 A Right here (indicating) is where I unhandcuffed Mr.
10 Gaskins. I was probably say from here to the -- the
11 entrance door from where the parking area was. The
12 gentleman who came up to me and said he was taking
13 Mr. Gaskins home, who was to get him off the
14 grounds, I saw them walk right to the vehicle.

15 Q All right. So you watched them walk?

16 A Yeah, walk right to the vehicle. And as they got to
17 the vehicle, I walked away and that's when I noticed
18 Quinten was escorting another gentleman out of the
19 building.

20 Q All right. So you then turned away and then you saw
21 an automobile -- would you point at the spot that
22 you were standing when the automobile ---

23 A When I turned away and I walked back to talk to
24 Quinten, Quinten was right here (indicating), him
25 and the gentleman walked to the side and they went

1 to the gentleman's vehicle. I was standing right
2 here (indicating) talking to John Adams -- me and
3 Mr. Adams was talking about his brother going to
4 college. He was trying -- he told me, I was trying
5 to get him to stay here and play for U S C, he said,
6 but he wants to go to Louisiana -- Louisiana.

7 So as I went to turn to go in, that's when I
8 heard the large screech -- the loud screech, erk
9 (phonetic). And that's when the -- as soon as the
10 screech like come to -- almost to a full halt,
11 that's when the firing just -- pow, pow, pow, pow,
12 pow, pow, pow, pow, pow. That's exactly how they
13 went off.

14 Q The vehicle was ---

15 A Right here in front, right here in the front of the
16 parking lot (indicating).

17 Q That's where the shooting ---

18 A Right here in the front of the door entrance
19 (indicating), that's where the shooting began.

20 Q And the distance you ---

21 A From here to that podium (indicating).

22 Q 12, 15 feet?

23 A Yes.

24 Q Now, where was the vehicle that Mr. Gaskins
25 approached, where was it parked?

1 A One again, the vehicle was parked right here
2 (indicating), sir.

3 Q That's a -- there were in this parking lot two rows
4 of cars?

5 A I parked -- he was actually parked exactly on the
6 fourth row. Right before you start going up the
7 hill, that's where his vehicle was parked at.

8 Q All right. So where -- where front is written on
9 State's Exhibit ---

10 A You see -- this is the entrance to 360 Bar.

11 Q This is State's Exhibit -- I don't have my glasses.
12 18 or 13, sorry about that.

13 A This is the front the 360 Sports Bar (indicating).

14 MR. MCCULLOCH: 15, sorry, Your Honor.

15 A There's a little drive through here, a little
16 driveway through here.

17 Q Right.

18 A Because right here you can't go anywhere because
19 they have like a patio there.

20 Q Yes, sir.

21 A It's a patio there. Right here (indicating) is a
22 drive through where you can go straight out from
23 right there. Then there's lanes where you come out
24 of your parking spot. This is the -- I mean, the
25 Shell Gas Station is right here (indicating). Mr.

1 Gaskins was parked right down that hill, right down
2 that hill (indicating).

3 Q The cars parked in the parking lot park in rows?

4 A That's right, that's right, yeah.

5 Q How many rows were there?

6 A All right. The first row was right here was the row
7 he came between and was shooting at.

8 Q Right.

9 A The second row, I was parked right here
10 (indicating).

11 Q Right.

12 A The third row is another entrance that was on the
13 side where they can exit out. He was parked right
14 there, man. Mr. Gaskins was parked there. It was,
15 I don't know, blue or black vehicle. But I -- from
16 the corner of my eye I believe it was a blue vehicle
17 because I was, you know -- you can't -- the only way
18 you can really know if you shot when you're down on
19 the ground looking back, that was it. That was him
20 because the dude -- the gentleman who I had
21 apprehended, he said, that's who did it.

22 Q And the window in this automobile that the shots
23 were ---

24 A Well, you can see him from -- you can see him from
25 here to here (indicating). You can see him. You can

1 see him. It was him.

2 Q So you could see this much ---

3 A That's right. That's right.

4 Q And you said that that was because -- you couldn't
5 see the lower part of his face because the window
6 was ---

7 A That's right.

8 Q Half up or half down?

9 A That's right, sir.

10 Q And the car on that diagram would have come from ---

11 A It came from this way (indicating). He pulled -- he
12 backed out, he came right around. Because he -- he
13 went past Palmer. Palmer hid behind a car because
14 Palmer didn't have a firearm to retaliate fire. He
15 went past Palmer, spun around and came out. As he
16 was coming down this right here (indicating), I was
17 coming around my vehicle. He got right here and
18 that's when I started firing at him.

19 Q And the person in the car was shooting, you said,
20 out of the front window of the driver's ---

21 A That's right, leaning to the back. Laying back like
22 this (indicating), shooting out the front.

23 Q And shooting randomly?

24 A Yeah, yeah.

25 MR. MCCULLOCH: All right. Thank you.

1 THE COURT: Anything on redirect?

2 MS. MCDUFFIE: No, sir, Your Honor.

3 THE COURT: All right. You may step down, sir.

4 (The witness leaves the witness stand.)

5 MS. MCDUFFIE: We ask that the witness be
6 excused.

7 THE COURT: Any objection?

8 MR. MCCULLOCH: No objection, Your Honor.

9 THE COURT: All right.

10 MR. MEADORS: He has illness in the family.

11 THE COURT: Beg your pardon?

12 MR. MEADORS: He has illness in the family out
13 of state.

14 MR. MCCULLOCH: We have no objection.

15 THE COURT: All right, no objection. Call your
16 next witness.

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

18 (Pause.)

19 MR. MEADORS: Tamera Barnett.

20 (TAMERA BARNETT, having first been duly sworn,
21 testified as follows:)

22 THE CLERK: Thank you. Please have seat in the
23 witness stand and state your full name for the record.

24 THE WITNESS: Tamera S. Barnett.

25 DIRECT EXAMINATION

DIRECT EXAMINATION

1
2 BY MR. MEADORS:

3 Q Quinten Harris?

4 A Yes, sir.

5 Q Are you also known as Q?

6 A Yes, sir.

7 Q As Your Honor said, if you will just speak up in
8 there, Mr. Harris, so everybody can hear you. Tell
9 the ladies and gentlemen of this jury a little bit
10 about Quinten Harris. Where are you from?

11 A From Columbia, South Carolina.

12 Q You were born and raised here?

13 A Yes, sir.

14 Q Did you go to school here?

15 A Yes, sir.

16 Q Where did you go to school, Mr. Harris?

17 A Eau Claire High.

18 Q I'm sorry, say it again?

19 A Eau Claire.

20 Q Eau Claire?

21 A Yes, sir.

22 Q When did you get out of Eau Claire, Mr. Harris?

23 A 2003.

24 Q Did you play ball there?

25 A Yes, sir.

- 1 Q Football?
- 2 A Yes, sir.
- 3 Q What did you do after you graduated from Eau Claire?
- 4 A Well, I went to play semi-pro football in Columbia
5 and North Carolina.
- 6 Q Columbia in North Carolina?
- 7 A Columbia and North Carolina.
- 8 Q And how long did you do that?
- 9 A I still play.
- 10 Q Is there a semi-pro league in the state or in the
11 surrounding area?
- 12 A Yes, yes, sir.
- 13 Q You're still playing?
- 14 A In Lexington.
- 15 Q Sir?
- 16 A It's in Lexington.
- 17 Q Okay. And you're still playing now?
- 18 A Yes, sir.
- 19 Q What other -- what other jobs have you held?
- 20 A This is it, just security.
- 21 Q And did you work at McDonald's and Flying J earlier
22 ---
- 23 A Oh, yes, sir.
- 24 Q Okay. And you said security. How long have you
25 been in security?

1 A I used to -- started out bouncing at 17. Yeah, 17.

2 Q 17?

3 A 17.

4 Q Okay. And let's just get to it. On -- in February
5 of '07, specifically February the 4th?

6 A Yes, sir.

7 Q Do you remember that as being Super Bowl Sunday?

8 A Yes, sir.

9 Q All right. And were you working that day, were you
10 working for a security company?

11 A Yes, sir. I was -- I just had started -- like I
12 started the weekend before that.

13 Q And what was the security company you were working --
14 for?

15 A Elite Security.

16 Q Elite?

17 A Yes, sir.

18 Q Had you ever worked 360 before?

19 A No, that was my first weekend there.

20 Q And tell the ladies and gentlemen of this jury, Mr.
21 Harris, on February 4th of 2007, what was your job
22 as security at 360? What were you supposed to do?

23 A I was supposed to secure the parking lot and I was
24 being trained. I was being trained, my first week
25 with the company, I was being trained. I was in

1 training being pat down and walking the parking lot.

2 Q Pat down and walking the parking lot?

3 A Yes, sir.

4 Q And who was training you?

5 A Lamont -- Lamont -- Mr. Lamont and Palmer.

6 Q Mr. Lamont?

7 A Yes.

8 Q Was that Lamont Davis?

9 A Yeah, Lamont Davis.

10 Q All right. And do you know Mr. Palmer's first name?

11 A No because it was like my first weekend being there.

12 That's all I know about him.

13 Q That's fine.

14 MR. MCCULLOCH: Your Honor, I apologize. Can
15 Mr. Meadors and I approach?

16 THE COURT: Sure.

17 (WHEREUPON, a bench conference was held off
18 the record, in the presence of the jury, but out
19 of the hearing of the jury.)

20 MR. MCCULLOCH: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 MR. MCCULLOCH: Sorry, Mr. Meadors.

23 Q ID, walking the parking lot?

24 A Uh-huh.

25 Q And what time did you get there that day? Do you

1 remember?

2 A It was about 8:30.

3 Q I'm going to show you what's -- State's 14, do you
4 recognize this?

5 A Yes, sir.

6 Q And would this be 360, the parking lot?

7 A Yes, sir.

8 Q All right.

9 MR. MEADORS: Your Honor, this is State's 16. I
10 don't know if it's already in or not. If it isn't, we'd
11 offer it at this time.

12 MR. MCCULLOCH: No objection, Your Honor.

13 THE COURT: Is that the aerial photo?

14 MR. MEADORS: Aerial photo of 360 and the
15 parking lot, Judge.

16 (Whereupon, State's Exhibit Number 16, Aerial
17 Photograph of Club 360 and Parking Lot, were
18 admitted into evidence.)

19 Q So, can you tell us where -- just like when the day
20 started on the 4th and when you got there, where
21 first were you stationed? You can look at this
22 diagram right here if you want to.

23 A When I first got there ---

24 MR. MEADORS: State's 15, Your Honor, he's
25 pointing to.

1 THE COURT: Yes, sir.

2 A When I first got there, my station was the parking
3 lot.

4 Q Okay.

5 A I was here (indicating), walking around to make sure
6 people don't hang out in the parking lot drinking,
7 smoking, keep the parking lot clear so no trouble
8 going down.

9 Q Yes, sir?

10 A And this is where I was stationed, the front parking
11 lot.

12 Q Okay.

13 A Until about 11 and then 11, after the Super Bowl
14 ended ---

15 Q Yes, sir.

16 A --- I was stationed -- I was supposed to be
17 stationed here at the door.

18 Q At the front door?

19 A The front door.

20 Q Okay.

21 A To be trained on being pat down.

22 Q To be what?

23 A Trained.

24 Q On pat down?

25 A Searching -- looking at ID age and pat down.

1 Q So we're at 11:00 at this point. Where were the
2 other security officers? And who were they?

3 A Lamont Davis -- me and Lamont Davis here
4 (indicating) and then Mr. Palmer ---

5 Q All right.

6 MR. MCCULLOCH: Your Honor, can I get
7 Mr. Meadors to move.

8 MR. MEADORS: Sorry.

9 THE COURT: Just -- I think if you ask him, he
10 might do so.

11 MR. MEADORS: I will be happy to. I apologize.
12 I'm not doing it intentionally.

13 MR. MCCULLOCH: No, I know that. All you have
14 to do is move one foot towards the jury.

15 (Complied.)

16 MR. MCCULLOCH: Thank you.

17 MR. MEADORS: Thank you.

18 Q Mr. Palmer, you were saying ---

19 A And Mr. Palmer was in the parking lot is where he
20 was located. I don't know, he was just walking
21 around.

22 Q I see.

23 A And that's where ---

24 Q Was there a fellow named Mr. Adams working there?

25 A Mr. Adams, yeah. He's -- he's located -- he's

1 inside the club. He's the inside bouncer, club
2 staff.

3 Q And did you know him before this night?

4 A Actually, yes. I met him at the Dutch Square Mall
5 one day. He was -- he was at the Footlocker.

6 Q Okay.

7 A And I asked him did he -- have you ever played
8 football? And he was like, yeah. And he was like,
9 I seen you somewhere before.

10 Q Okay. So you'd known him before?

11 A Yeah, I'd known him.

12 Q Okay, that's fine. And roughly 11:00, you're now at
13 the door, pat down?

14 A Yes.

15 Q Later on in the evening, after 12:00, into February
16 the 5th, 2007.

17 A Uh-huh.

18 Q Did you ever go inside and have to deal with a
19 patron at the bar?

20 A Yes. Actually, I was going to -- I was going
21 towards the bathroom. I was in the bathroom and
22 then on my way out, here -- here was the bathroom
23 (indicating) -- I was coming out here (indicating)
24 ---

25 Q Q, at this point, let me ask you, don't say who it

1 was or anything, just explain what happened, okay?

2 A (Affirmative response.)

3 Q Thank you.

4 A I was coming out of the bathroom. And then I got
5 stopped by one of the bartenders. She said, come
6 here, come here, come here. So I came to her.

7 THE COURT: Stop. Could you speak up just a
8 little bit, please, sir?

9 A Oh, she said, come here, come here, come here. So I
10 came to her. I came to her, I was here (indicating).
11 And then by the time I looked -- when I looked at
12 her, she didn't have to say anything too much. I
13 seen what was going on. One of the bouncers, I
14 don't know his name, I never met him, like I never
15 really met him. And he was talking -- he was trying
16 to get the person to come out of the back. So he
17 had stepped in -- he had stepped in between the
18 bartender and the person. And he backed -- he was
19 backing him up.

20 So when I came up ---

21 Q Q, I know that's tough. Let me do this. Just -- I
22 tell you what, come on down here. Maybe that will
23 be easier. Just for this diagram only.

24 (The witness steps down from the witness stand.)

25 Q Mr. Harris, if you'll get over here so the court

1 reporter can see your mouth and just speak up, if
2 you will. And watch your step.

3 A As I was coming from the bathroom, I got stopped
4 here (indicating) by the bartender. She was like,
5 come here, come here, come here for a second, I need
6 you. By the time I got here to her (indicating), I
7 seen what was going on here (indicating). So I came
8 around and came around to see what was going on. I
9 saw one of the bouncer -- club staff was backing the
10 person up from behind the bar. Then that's when I
11 asked him to calm down and come with me. So by the
12 time I got him out and we came around this corner
13 (indicating) ---

14 Q And it's you and who?

15 A Me and don't know the bouncer.

16 Q Another bouncer, all right.

17 A It was another bouncer. We came here (indicating),
18 we walked around -- yeah, we walked around the
19 jukebox right here. And that's when me and Lamont
20 Davis met up. He asked what was going on. At the
21 time, the jukebox was going. So I was like, I'm
22 taking him, I was like, I'm removing him from the
23 club.

24 So Lamont said, I couldn't hear what you were
25 saying, come outside. So by the time we got outside

1 he had -- he had jerked away from me and then that's
2 when Lamont took -- he jerked away from his hand and
3 he slapped -- you know, he said -- he was jerking
4 his hand, he was like, you going to throw me the
5 fuck out, throw me the fuck out. I ain't got to go
6 through this shit today.

7 So that is when ---

8 Q Throw me the fuck out, throw me the fuck out, I
9 ain't got to go through this shit today?

10 A Yeah. So he -- we went to go grab him again and he
11 jerked again. That's when Lamont Davis put the
12 handcuffs on him and walked him out. I walked him
13 out here (indicating). I walked him out here
14 (indicating) and I was like, you know, I was like,
15 go ahead. And he was like, no, I need you. He was
16 like, come outside.

17 So I came outside and he asked me what was going
18 on. I was like, he was harassing the bartender. So
19 by the time I got here (indicating), I had to go
20 back inside.

21 Q So you informed them out there, them being Mr.
22 Davis, what had happened inside and why you were
23 bringing this patron out?

24 A Yeah, I was telling him what was going on. What
25 happened, the reason I removed him. And then I had

1 to turn around and go back inside. There was
2 another disturbance.

3 Q Okay. So you left this patron with -- where did you
4 leave him?

5 A I left him here, I left him here (indicating).

6 Q And what did you do after that?

7 A After I left him here?

8 Q Uh-huh.

9 A I had turned around and went back inside.

10 Q Let me just ask you this now. As you were -- when
11 did you first come in contact with this patron, this
12 person inside the bar?

13 A Here (indicating), behind the bar.

14 Q And as you described, you were going out here this
15 way (indicating).

16 A Uh-huh.

17 Q And were you in close proximity to that person all
18 the way out?

19 A Yes. Yes, I was.

20 Q How close were you? Come close to me as you were to
21 him.

22 A I was like right behind him the whole time.

23 Q Could you see his face?

24 A Yeah.

25 Q Could you -- did you look at his face?

1 A Yeah, I could smell his breath.

2 Q You could smell his breath?

3 A Yes.

4 Q Okay. Was there anything obstructing you looking at
5 him?

6 A No.

7 Q Could you see what he was wearing?

8 A Yes.

9 Q What was he wearing?

10 A He had on a -- he had on a black jacket with a fur
11 hood. And he had -- from the top -- where I seen
12 him from the top it was white.

13 Q And could you see all the way out -- you were with
14 him all the way out the door?

15 A All the way out the door.

16 Q Okay. Have a seat back, please.

17 (The witness returned to the witness stand.)

18 Q You went back, you said, to go inside because
19 another matter came up or something else happened?

20 A Yes, sir.

21 Q Tell the jury about that, what happened?

22 A Well, there was another -- there was another patron
23 who was being hostile. I believe he was jumping up
24 and down on the bar. So I went in. I went to go
25 get him. He gave me a fight. And me and him

1 struggling all the way out the door. Me and him
2 struggling all the way out the door. That is when
3 Mr. John Adams came in. He helped me out. We
4 grabbed him and we picked him up off his feet and he
5 was still fighting us. And we got to the glass door
6 with the glass walkway -- the glass walkway and then
7 ---

8 Q Let me refer you back. You were looking up here to
9 State's 15. Does that help you?

10 A Yeah. We was -- I had grabbed him -- I had grabbed
11 the other guy, the other patron from back here. He
12 was jumping up and down on the bar. So I told him
13 to get down. He didn't, he refused. So I kind of
14 like made him get down. And then me and him was
15 tussling all the way. Me and him -- I had grabbed
16 him and he was struggling to get away from me and we
17 walked -- I was walking him all the way out here
18 (indicating).

19 That's when I met John Adams here (indicating).
20 He was coming from -- he was coming from back here
21 (indicating). He went up, grabbed his legs. We
22 walked here, we walked here (indicating), and we got
23 to here. So I said, I got him, I got him now. So
24 Mr. Adams went back inside. But I didn't -- he
25 didn't go too far back inside.

1 So when I got the patron to the glass door,
2 that's when I believe Lamont or Palmer, I think it
3 was Palmer, he opened the glass door and he got one
4 more jerk so I took him down to the ground.

5 When I got him down to the ground, I had my knee
6 in his back. And he gave me handcuffs and said,
7 handcuff him. By the time I got the handcuffs on
8 him, the -- I guess the suspect, he had pulled up
9 and start opening fire.

10 Q And at that point, how far were you from that
11 suspect?

12 A He wasn't even not even -- I don't even think he was
13 not even six or seven feet away from us.

14 Q Anything obstructing your view of that person?

15 A No, sir. I looked directly at him.

16 Q And had you seen that person earlier that evening?

17 A Yes.

18 Q Where had you seen him earlier?

19 A Inside the club.

20 Q Was this other fellow you were taking out, he didn't
21 shoot a gun, did he?

22 A No.

23 Q This other fellow you took out?

24 A He couldn't move.

25 Q Was he pretty drunk?

1 A Yeah, he was ---

2 MR. MCCULLOCH: Object to the leading, Your
3 Honor.

4 MR. MEADORS: I'm sorry.

5 THE COURT: Sustained for leading.

6 MR. MEADORS: Judge, at this point I ---

7 THE COURT: All right, members of the jury,
8 there's a matter of law I need to take up. Once again,
9 the only way I can do that is in your absence.

10 So please go to the jury room. It won't take
11 long. Just don't talk about this case.

12 (The jury retires from the courtroom at
13 approximately 11:23 a.m.)

14 THE COURT: We need to do this Biggers. And
15 right after Biggers we're going to -- so, we can do the
16 Biggers then move Mr. Gaskins. Let's do Biggers then
17 we'll move Mr. Gaskins after we finish Biggers.

18 MR. MEADORS: Your Honor ---

19 MR. MCCULLOCH: I think we've already done the
20 Solicitor's part of the Biggers.

21 MR. MEADORS: I think I pretty much was trying
22 to do it without ---

23 THE COURT: Yeah.

24 MR. MEADORS: I thank the witness for not
25 mentioning it. But I guess I want the record to reflect

1 his answers and if I could lead him, however you want me
2 to do it for these purposes but ---

3 MR. MCCULLOCH: I'd rather he didn't lead.

4 DIRECT EXAMINATION CONTINUES (In Camera)

5 BY MR. MEADORS:

6 Q You have testified -- you have testified previously
7 that you saw this person in the bar, correct? Going
8 back to the first person you took out?

9 A Uh-huh.

10 Q Okay. Where did you see that person?

11 A He was here (indicating).

12 Q Okay. And a minute ago I asked you how close you
13 got to him and I think your answer was you could
14 smell his what?

15 A I could smell his breath.

16 Q Okay. So you were that close to him, looking at him
17 (indicating). Was anything obstructing your view?

18 A No, it wasn't.

19 Q Did you look at his face?

20 A Yeah.

21 Q His eyes? Okay. And how far were you with him --
22 how long were you with him, excuse me, Mr. Harris,
23 from here to you went outside?

24 A It wasn't even three minutes before we had him out
25 the front.

- 1 Q But you were with him this whole time?
- 2 A I was with him the whole time.
- 3 Q In close proximity?
- 4 A A minute, minute and a half.
- 5 Q No, close -- you were close together?
- 6 A Oh, yeah.
- 7 Q All right. And describe again what he was wearing?
- 8 A He had the black jacket on with the fur around it.
- 9 Q And speak up again, Mr. Harris. I know you ---
- 10 A He had the black jacket on with the fur around it
- 11 and I think the shirt -- all I could see was the top
- 12 of the shirt because I was just looking down at him
- 13 and it was white ----
- 14 Q Okay.
- 15 A --- the part that I seen.
- 16 Q Sorry, didn't mean to interrupt you. And during
- 17 this time y'all had -- you said some words were ---
- 18 A Words were exchanged.
- 19 Q And when you're speaking those words, you're looking
- 20 at him?
- 21 A Yeah.
- 22 Q Was he looking at you when you were talking to him?
- 23 A Yeah.
- 24 Q Was there lighting in there? Did you have any
- 25 trouble seeing him?

1 A Yes. It's a big spot light as soon as you walk in
2 the door.

3 Q All right. You go outside, leave him with whoever?

4 A Uh-huh.

5 Q Come back inside you said, right?

6 A Uh-huh.

7 Q And brought this other patron out?

8 A Uh-huh.

9 Q When you got back outside, you said you looked and
10 you saw this vehicle?

11 A Uh-huh.

12 Q And how far was that vehicle?

13 A Right, like I said -- right there ---

14 Q From here to here?

15 A Yeah.

16 Q 10 feet or so?

17 A Not even -- not even 10 feet.

18 Q Okay. And was anything obstructing your view from
19 where you were -- where were you in the club?

20 A I was outside.

21 Q Anything obstructing your view from the vehicle.

22 A No, sir.

23 Q Were you able to see in the vehicle?

24 A No, not -- it was dark.

25 Q Could you see the person in the vehicle?

1 A Yes.

2 Q What did you see the person in the vehicle doing?

3 A I seen him -- it was real fast. When I seen him,
4 also, it was just his face.

5 Q Okay.

6 A His face and it was like the back window and you
7 could see him doing this number like this
8 (indicating). And as soon as I seen him, as soon as
9 I looked in his eyes he just started pointing and
10 pulling the trigger.

11 Q So you saw the face?

12 A Yeah.

13 Q And the hand with the trigger pulling?

14 A Yes.

15 Q Had you seen that face before?

16 A Yes.

17 Q Who was that?

18 A (There was no response.)

19 Q Where had you seen that face before?

20 A Oh, inside the club.

21 Q All right. Where inside the club?

22 A By the bar.

23 Q Was that the fellow you brought out?

24 A Yes.

25 Q And based on the time you spent with that fellow,

1 that patron from the bar to the outside ---

2 A Uh-huh.

3 Q --- the time you looked, you said, less than 10 feet

4 ---

5 A Uh-huh.

6 Q --- at a person shooting a gun, in his face, is that
7 person in this courtroom today?

8 A Yes, he is.

9 Q Based on when you saw him at the club on February
10 5th, 2007, your observations then, that person is in
11 this courtroom?

12 A Yes.

13 Q Would you point him out for Judge Manning?

14 A He's right there (indicating).

15 Q Defendant John Gaskins?

16 A Yes.

17 Q Any doubt in your mind?

18 A No, that's him.

19 MR. MEADORS: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. MEADORS: That's all we have.

23 THE COURT: Mr. McCulloch.

24 MR. MCCULLOCH: Thank you, Your Honor.

25 CROSS-EXAMINATION (In Camera)

1 BY MR. MCCULLOCH:

2 Q Mr. Harris, you indicated the police -- do you
3 recall giving a statement to the police -- gosh,
4 let's see. Well, I can't tell who you gave it to
5 but a police officer took a statement from you, is
6 that correct, do you remember?

7 A Yes.

8 Q Is this in your handwriting or the officer's?

9 A It's the officer's handwriting.

10 Q Okay. And that statement -- as you testified today,
11 you testified that you were escorting a -- that you
12 escorted Mr. Gaskins out to the front glassed in
13 area.

14 A Uh-huh.

15 Q And essentially turned him over to -- Lamont Davis
16 came and joined you ---

17 A Yes.

18 Q --- that person? And you turned him over to Lamont
19 or someone outside? Is that correct?

20 A Yes.

21 Q And then you went back inside and got involved with
22 a second person?

23 A Yes.

24 Q Now, you said today you were not sure who helped you
25 with that second person?

1 A The second person?

2 Q Yeah.

3 A Yes.

4 Q You said in your statement to the police that, me
5 and Lamont went and got the other guy?

6 A No.

7 Q Do you remember that?

8 A No, Lamont was still outside.

9 Q All right. But do you remember telling the police
10 officer on this date that ---

11 MR. MEADORS: Your Honor, I don't know if this
12 goes to the Neil and Biggers ID.

13 MR. MCCULLOCH: Well, Your Honor, I think it
14 goes to ---

15 THE COURT: Give him copy of the statement so he
16 can follow along.

17 MR. MCCULLOCH: I've got it here. I've got it
18 here, Your Honor.

19 THE COURT: All right.

20 Q The part I'm talking about is specifically here: I
21 started to go back in the club because there was
22 some other guy or another guy ---

23 THE COURT: What page are we reading from, Mr.
24 McCulloch?

25 MR. MCCULLOCH: Your Honor, we are reading --

1 the pages are not numbered. I think that would be page
2 two.

3 THE COURT: All right.

4 Q Page one is there. And I'll be happy for you to
5 read the whole thing. It's just hard to read
6 because it's in handwriting. What's your
7 preference?

8 A Oh.

9 Q No, you've got to speak up so everybody can hear
10 you.

11 A Oh, no.

12 Q You want to read the whole thing or ---

13 A No.

14 Q All right. Well, on this page which would in all
15 probability be page two, it says: Me and -- is that
16 not Lamont -- went and got the other guy?

17 A I don't know whose name is that?

18 Q Huh?

19 A That is Lamont.

20 Q All right. That is Lamont. So that is what you
21 said then, February the 7th ---

22 MS. MCDUFFIE: Your Honor, Investigator
23 Isenhoward indicated that says Lamar (phonetic) ---

24 THE COURT: I can't hear you.

25 MS. MCDUFFIE: It says Lamar. This is his

1 handwriting that Mr. McCulloch can't read.

2 MR. MCCULLOCH: Well, gosh, I would be happy for
3 Mr. Isenhoward to testify to that.

4 Q Whatever it says, it doesn't say Adams, does it?

5 A No.

6 Q All right. Now, can you read the next sentence?

7 A We got him to -- I can't even read that.

8 THE COURT: Please speak up, sir.

9 THE WITNESS: I said I can't read it.

10 THE COURT: That's fine.

11 A We got him to the door and -- I don't know what it
12 says.

13 Q We got him to door and the guy struggled?

14 A Yes.

15 Q So we fell to the ground. Does that refresh -- I
16 looked up and saw John and a blue car with the gun.
17 I pushed Lamar and that's when he started shooting.

18 A Right.

19 Q So, essentially on February the 7th, two days after
20 this incident, you were telling a police officer,
21 apparently Mr. Isenhoward, that -- that Lamar or
22 Lamont is who helped you subdue the second person,
23 is that correct?

24 A Yeah. He gave me -- he gave me the handcuffs to
25 handcuff him.

1 Q But in your statement then you said that -- that we
2 fell to the ground. We got him to the door,
3 referring to you and Lamont and ---

4 A Like I said, Lamont met me -- Lamont met me at the
5 glass door. Me and Lamont -- he met me at the glass
6 door.

7 Q Right.

8 A That's when he gave us -- that's who opened the
9 door.

10 Q Okay. But that ---

11 MR. MEADORS: Your Honor, objection now this is

12 ---

13 THE COURT: It's beyond the scope of Biggers.

14 Let's get the Biggers ---

15 MR. MCCULLOCH: Well, Your Honor, his
16 recollections of the event then and his testimony which
17 differs from it now all go to reliability.

18 THE COURT: It goes to the admissibility. The
19 weight, not the admissibility. So, I mean, let's get the
20 Biggers factored out of the way here. That's why we sent
21 the jury out. I mean, we've got cross-examination. You
22 can slice him up, dice him up, whatever but let's get the
23 Biggers evidentiary problem out of the way.

24 Q All right. Do you remember being asked the
25 question, did you see a picture of the man we are

1 looking for on the news?

2 A Oh, no.

3 Q Sorry?

4 A Oh, no.

5 Q Do you remember that question being asked of you on
6 February the 7th?

7 A On the 7th?

8 THE COURT: Show him the statement so he can
9 look at it, please.

10 A Oh, no, yeah, he came on the 7th.

11 Q Yeah.

12 A And had I seen a picture of him on the news.

13 Q And you said?

14 A Yes, I seen a picture of him on the news.

15 Q And you saw that in the paper or on television?

16 A It was on the news.

17 Q All right.

18 A It was like that -- that evening, that night. Right
19 before the investigator came to my house and asked
20 me for the photo.

21 Q And that was a photograph of Mr. Gaskins being
22 featured as the suspect?

23 A Uh-huh.

24 Q All right.

25 MR. MCCULLOCH: So, Your Honor, I would argue

1 that this ---

2 MR. MEADORS: Can I have one final ---

3 MR. MCCULLOCH: Sure you can.

4 MR. MEADORS: To follow the lineup on that on
5 page two, he said, yeah, that's John. That's the guy who
6 was shooting. Okay, that's all.

7 THE COURT: All right, Mr. McCulloch.

8 MR. MCCULLOCH: So, Your Honor, again the issue
9 is whether there is an improper suggestion and the
10 photograph appearing in the news, circulated by the
11 police department in an effort to announce who the
12 suspect is and to show that face all over the place. And
13 I would argue that is suggestive, improperly suggestive
14 process ---

15 THE COURT: The witness testified that he could
16 smell his breath. He was within 12 inches of his face.
17 He had ample opportunity to see who he was in the
18 circumstances then and there existing. His degree of
19 attention, he could smell his breath, the accuracy of the
20 description. There's a level of certainty in the
21 confrontation and the time between the crime and the
22 confrontation. Considering the totality of the
23 circumstances, the fact that he subsequently saw a
24 picture of the Defendant on the news after he had in very
25 descriptive detail identified Mr. Gaskins, makes this

1 identification valid and proper and I'm going to admit
2 it.

3 MR. MCCULLOCH: You Honor, I respectfully for
4 the purpose to have a record, I want to make a note that
5 the statement on February the 7th and the questions that
6 I was asking him about the struggle and the fact that he
7 said then that he and Lamont fell to the floor, and that
8 is the perspective as they were struggling with another
9 suspect, that's the place, the perspective that he had
10 and I would argue ---

11 THE COURT: Mr. McCulloch, that's your
12 impression, that's your argument, that's your position.
13 The facts will be left up to the jury to decide.

14 Anything further?

15 (There was no response.)

16 THE COURT: All right. Let's move Mr. Gaskins
17 over now before we bring the jury back in.

18 Does anybody need to take a little short break?
19 You're good?

20 MR. MEADORS: I can be back in 10 seconds.

21 THE COURT: That's real quick. I'll give y'all
22 about two minutes, just a few minutes. We'll be at ease.
23 And in the meantime -- oh yeah, you got Mr. Gaskins over
24 there.

25 (The Court was in recess.)

1 THE COURT: Mr. Bowen, bring them in.

2 (The jury returned to the courtroom at
3 approximately 11:40 a.m.)

4 THE BAILIFF: Jurors are present, Your Honor.

5 THE COURT: Welcome back, Madam Forelady and
6 members of the jury. And like I said, I told you the
7 other day, we'll probably go until about 1:00 before I
8 let you go. Y'all can survive another hour, can't
9 you?

10 JURORS: (Affirmative response.)

11 THE COURT: And maybe not steak and potatoes
12 from Ruth's Chris but I'll give y'all a surprise one day
13 next week, how's that?

14 With that in mind, I'm going to invite Mr.
15 Meadors to continue with his direct examination of Mr.
16 Harris.

17 MR. MEADORS: If it pleases Your Honor.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION CONTINUES

20 BY MR. MEADORS:

21 Q Mr. Harris, let me briefly look back for a second.

22 The patron you -- the first patron that you said you
23 helped leave the bar, you saw that individual where?

24 A Here at the bar (indicating).

25 Q And you said you got so close to him you could what?

1 A Smell his breath.

2 Q And you stayed with that individual until how far?

3 A Till...

4 Q How far out the club?

5 A How far out the club?

6 Q Yeah.

7 A Right here (indicating).

8 Q Okay. And after that -- and during that time you
9 said you could see his face?

10 A Uh-huh.

11 Q Was anything obstructing ---

12 MR. MCCULLOCH: Your Honor, we'd object to the
13 leading.

14 MR. MEADORS: I was just trying to get us back
15 to where we were to acclimate. That's fine.

16 Q Could you see his face?

17 A Yes.

18 Q Okay. And was anything obstructing your view?

19 A No.

20 Q And I think you said -- or did you say what kind of
21 coat he was wearing?

22 A Yes.

23 Q Have I already shown that to you?

24 A No.

25 Q And you described it as what?

1 A Black with a fur -- it was black with fur trim.

2 Q And is that the jacket? Does it look like the
3 jacket?

4 A Yes.

5 Q When you got this person out of the club, what did
6 you do after that?

7 A I went back inside.

8 Q Okay. And when you came out, where did you come out
9 with this other person you brought out?

10 A I came out here (indicating).

11 Q Okay. Now, at this point, what happened? What if
12 anything did you observe?

13 A What happened when I came back out?

14 Q Yes, sir.

15 A When I came back out, he started -- shots was fired.

16 Q Okay. When you were out -- brought this other
17 patron outside, did you struggle with him, if any?

18 A Yes.

19 Q Okay. And what happened after that?

20 A After I got -- after -- when I was struggling with
21 him?

22 Q Yes, sir.

23 A Then I saw a car pull up. It wasn't even a complete
24 stop and just fires shot.

25 Q Okay. And maybe where we left off, how far were

1 from that car?

2 A Not even -- not even eight feet. It wasn't even
3 eight feet.

4 Q Eight feet, it wasn't even eight feet. You weren't
5 far?

6 A It wasn't far.

7 Q Where were you in relationship to the entrance of
8 the club?

9 A I was exactly in front of the door.

10 Q Point to State's 15, please, and show the jury where
11 you were, approximately?

12 A Right here (indicating).

13 Q Was there anything blocking your view of this
14 vehicle you said that just kind of stopped or just
15 didn't even really -- just kind of stopped, whatever
16 you said?

17 A No.

18 Q Could you see the car?

19 A Yes.

20 Q Could you see the person in the car?

21 A Yes.

22 Q Could you see the person's face in the car?

23 A Yes.

24 Q Was there anything in the person's hand?

25 A Yes.

1 Q What was it?

2 A It was a gun.

3 Q Did see the gun?

4 A Yeah.

5 Q With your own eyes?

6 A Yeah.

7 Q Any question it was gun?

8 A No.

9 Q And where were the shots coming from?

10 A Out of the car.

11 Q What did you do?

12 A Well, first I pushed -- well, first I threw my arm
13 out and pushed Lamont. And then I ---

14 Q Pushed Lamont?

15 A Yeah, Lamont Davis. I pushed Lamont Davis. He went
16 toward -- he went -- I don't recall which direction
17 he went ---

18 THE COURT: Sorry, I'm going to ask you to speak
19 through the microphone.

20 A I pushed Lamont Davis.

21 Q Yes, sir.

22 A I don't know which direction he went in. I pushed
23 him and I went to the -- I went to the right. The
24 guy I had -- the guy we was putting in custody, he
25 was still -- he was still there on the ground. We

1 went to the left, I looked back up. I came up, I
2 seen him leaving and Lamont was retrieving (sic)
3 fire.

4 Q When you say you see him leaving, who were you
5 talking about?

6 A Mr. Gaskins.

7 Q Okay. And what happened to that fellow you brought
8 out, the second fellow, if you know?

9 A He was still -- he was still on the ground trying to
10 get up.

11 Q Did he have a gun?

12 A No.

13 Q Did he shoot a gun?

14 A No.

15 Q Did you have a gun with you?

16 A No. I was unarmed. I was in the process -- I was
17 in the process of being trained. I was in the
18 process of my certification.

19 Q Based on the time that you spent at the bar area in
20 State's 15 and was described to this jury and the
21 time that you spent taking out this first patron ---

22 A Uh-huh.

23 Q --- and the opportunity you had to see that person
24 then ---

25 A Uh-huh.

1 Q --- and the opportunity you had to see the person
2 that you saw in the car with the gun.

3 A Uh-huh.

4 Q Is that person, based on what you saw in that 360
5 that night, in this courtroom?

6 A Yes.

7 Q Could you tell us who it is and point him out for
8 us?

9 A Mr. Johnnie Gaskins.

10 Q Mr. Gaskins back here by Mr. McCulloch?

11 A Yes.

12 MR. MEADORS: We'd like the record to reflect he
13 has picked Johnnie Walker Gaskins, Your Honor.

14 THE COURT: All right, sir.

15 Q What did do you after that -- after shots were
16 fired?

17 A I got up. I ran inside, dialed 911. On my way on
18 the inside, I saw a young lady on the floor with a
19 gunshot wound to the head. Then I ran inside
20 screaming, call 911, call 911. Then on the way
21 going across the stage screaming, call 911.

22 Q Speak up a little bit, please.

23 A While I was screaming, dial 911, I saw another young
24 lady on my way to the bathroom to -- in the bathroom
25 stuck between the door. She was bleeding from the

1 head too.

2 Q And Q, I'm going to show you State's 13. And just
3 let me know if you recognize this picture and does
4 it relate to your testimony right now?

5 A Yes.

6 Q All right. And what is that?

7 A That's the front door of 360 Sports Bar and Grill.

8 MR. MEADORS: Your Honor, State's 13 ---

9 MR. MCCULLOCH: No objection.

10 MR. MEADORS: --- without objection.

11 (Whereupon, State's Exhibit Number 13,
12 Photograph of Front of Club 360, was admitted
13 into evidence.)

14 Q That's the front of 360?

15 A Yes.

16 MR. MEADORS: Your Honor, at this time we would
17 offer State's 48 with the stipulation we said earlier
18 that the individual that collected from the establishment
19 will be here in the morning to complete the chain.

20 THE COURT: Is that your understanding, Mr.
21 McCulloch?

22 MR. MCCULLOCH: It is, Your Honor, subject to
23 that agreement.

24 THE COURT: All right, sir.

25 MR. MEADORS: State's 48.

1 BY MR. MEADORS:

2 Q Mr. Harris, I'm going to ask you to come down.

3 (The witness steps down from the witness stand.)

4 Q Mr. Harris, before playing this, have you had the
5 opportunity to review this video with either Ms.
6 McDuffie and Mr. Tabor and/or perhaps me?

7 A Yes.

8 Q Does it reflect what happened that night?

9 A No.

10 Q On the screen, does it show what happened, on the
11 screen, that night outside?

12 A Yes.

13 Q Okay. I believe you misunderstand my question. Is
14 that what -- that's the picture of the club that
15 night?

16 A Yes.

17 Q Okay. Get over here please, sir (indicating). And
18 again, you'll -- before you start, is -- what is
19 this building?

20 A That's the 360 Sports Bar and Grill.

21 Q What's this out front (indicating)?

22 A This is the parking lot (indicating).

23 (Whereupon, the video was played for the jury and
24 witness.)

25 Q Do you know who that is?

1 A Yes.

2 Q Who is that?

3 A That is Palmer.

4 Q Who?

5 A That's Officer Palmer

6 Q Officer Palmer.

7 A Yes.

8 THE COURT: I'm sorry, I think she's having
9 trouble seeing through you.

10 MR. MEADORS: I'll get over here too. I
11 apologize.

12 Q You said Officer Palmer?

13 A Yes.

14 Q Now I want you to tell us when if ever you see
15 yourself on here?

16 A There we are coming out the door.

17 Q Pause, please. You say, there we are coming out the
18 door.

19 A Yeah.

20 Q Who are you talking about?

21 A This me and the other -- this ---

22 Q Use this pointer, if you will.

23 A Right here (indicating) is the second guy that was
24 brought out the club, the struggle I was telling you
25 about. I was struggling coming out the door with

1 the other guy. This when Palmer opens the door and
2 let -- and Palmer comes to open the door -- Lamont
3 was standing in the inside.

4 We came out the door. I struggled with him. We
5 got -- I got him down to the ground and then this is
6 when Mr. -- Mr. Johnnie Gaskins comes around
7 (indicating) and start opening fire. You see, I
8 pushes Lamont this way (indicating) and I came
9 across to the right (indicating).

10 This is Lamont ---

11 Q Speak up, please.

12 A This is Lamont (indicating), right, this is Palmer
13 (indicating).

14 Q Officer Palmer?

15 A Yes, Officer Palmer. We're coming outside struggling
16 with him -- struggling with him in the inside
17 (indicating).

18 Q Back up just a little bit. I'm sorry.

19 MR. MCCULLOCH: That's better.

20 A You see me struggling -- you see Mr. Johnnie Gaskins
21 still in the car. This is him right here
22 (indicating) opening fire.

23 Q And what does it appear if anything that people are
24 doing after the car goes by?

25 A Everybody -- well, everybody's getting up.

1 Everybody's coming up from ducking. And you see Mr.
2 John Adams, he got hit. Lamont got hit. I got hit
3 and that's it ---

4 Q Is there -- could you play it over?

5 (Pause.)

6 Q And before this gets started, is this also the Club
7 360, just from the closer view?

8 A Yes, it is.

9 (Pause.)

10 Q Now you -- Oh, I'm sorry. You say stop when you see
11 you -- you.

12 (Tape continues to play.)

13 Q Stop right there, please. This is -- with you --
14 who is this fellow?

15 A That's Mr. Palmer.

16 Q Officer Palmer?

17 A Yes.

18 Q All right.

19 (Tape continues to play.)

20 Q Where are you, Q?

21 A I was there, right there, stop. We're right here
22 (indicating), struggling with the second guy.

23 Q And do you know -- if I asked this before, I
24 apologize to everybody. Do you know his name?

25 A No.

1 Q Did you see him after that?

2 A I didn't.

3 Q Do you know where he went?

4 A I really don't know.

5 (The tape continues to play.)

6 Q Stop. This is where I looked up and I seen Mr.

7 Gaskins. This is where I seen Mr. Gaskins lean

8 forward and present firearm and shot just that

9 quick.

10 Q And how far were you from the vehicle?

11 A I wasn't even -- right here to here (indicating).

12 It wasn't even ---

13 Q Is there any doubt in your mind who was in that

14 vehicle who fired the shots?

15 A I know exactly who it was.

16 Q Who was it?

17 A Mr. Gaskins.

18 Q After the shots were fired, can you see what if

19 anything the people were doing inside after the car

20 goes by?

21 A After the car goes by could I see what was going on

22 inside?

23 Q Yeah. These people right here, they were standing

24 up. Did they do something else?

25 A Oh, that -- that was all of us. That's all three --

1 all four, me, Mr. Palmer -- Officer Palmer, Mr. --
2 Lamont and John Adams. That's all of us right here
3 in this area. When the shots were fired -- when the
4 shots were fired, I pushed Lamont and I grabbed Mr.
5 Adams. The bullets was flying across -- over our
6 heads and between us. The one that -- one bullet
7 missed me and hit Mr. Adams in the lower abdomen.
8 Mr. Lamont took three -- I think two or three in the
9 back.

10 Q When the car goes out, do y'all stand up or are you
11 going down?

12 A I stood up and I went on the inside. That's when I
13 seen one of the young ladies on the inside right
14 here (indicating) with a gunshot to the head.

15 Q And do you know where the car goes after that?

16 A It was -- around, come to around -- not this parking
17 lot, not this section right here (indicating), but
18 the next section, it came out then over the top --
19 out the top. He went out the entrance.

20 Q Okay.

21 A Which direction he went, I don't know.

22 Q Can you back that up, please?

23 (Pause.)

24 MR. MEADORS: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

1 (Pause.)

2 MR. MEADORS: I think that's all at this time.

3 You can take the -- I'm not through questioning him but
4 as far as this -- for right now, I've just got a few more
5 questions but that's it for ---

6 THE COURT: And of course, Mr. McCulloch may
7 want to go back through it with his cross.

8 (Pause.)

9 MR. MEADORS: Can I touch -- can I approach this
10 witness?

11 THE COURT: Yes, sir.

12 Q Now, can I touch you?

13 A Yes..

14 Q Okay... Show the jury -- did you get hit?

15 A Yes.

16 Q All right. And just stand up right here if you
17 would.

18 A Uh-huh.

19 (Complied..)

20 Q Please, show the jury where you got hit?

21 A I got hit in the knuckle.

22 Q Is the scar still there?

23 A Yeah, it's dark, a place there (indicating).

24 Q And was that from the bullet?

25 A Yes, from the bullet, yes.

1 Q And did you know where the bullet went after that?

2 A Where it went after that?

3 Q Yes.

4 A This one I don't know about. This one hits me in my
5 knuckle and my hand's kind of messed up. It hits me
6 in the knuckle and it stuck -- it went through the
7 window. It hit me in the knuckle and then went
8 through the window. That's the -- I believe that's
9 the one that shattered that window and hit the young
10 lady by the pool table.

11 Q You don't know that?

12 A No.

13 Q But you think that, okay. And now did you get hit
14 anywhere else?

15 A I later found out -- at 7:00 that night I later
16 found out I had one in my lower back.

17 Q Your lower back?

18 A Yeah.

19 MR. MEADORS: All right, you may have a seat.

20 (The witness returns to the witness stand.)

21 MR. MEADORS: Thank you for being here. That's
22 all I have.

23 THE COURT: Mr. McCulloch.

24 CROSS-EXAMINATION

25 BY MR. MCCULLOCH:

1 Q Mr. Harris, you said that you did not know -- had
2 you worked at the 360 Club before February the 5th?

3 A (Negative response.)

4 Q So you never -- I'm sorry, but you're going ---

5 A Oh, no, no.

6 THE COURT: Thank you, sir.

7 Q And you've testified you had never seen Mr. Gaskins
8 before this ---

9 A No, sir.

10 Q --- night? Your encounter with him was what, two
11 minutes?

12 A Yeah, it was real brief.

13 Q The -- in your description of what happens, you go
14 to that front glass area, glassed in area at the
15 front of the club. When you step beyond that
16 glassed in area, you're essentially in the parking
17 lot at that point?

18 A Yeah.

19 Q And that's where you turned Mr. Gaskins over to
20 someone else?

21 A (Affirmative response.)

22 Q And then you turned back to go get involved with
23 this second person?

24 A Yes, sir.

25 Q And that person was struggling, I think you said?

1 A Yes, sir.

2 Q And Mr. Davis -- Lamont Davis -- I think as you said
3 in your statement to the police that you and Lamont
4 Davis struggled with that second person and fell to
5 the ground. Is that while struggling with the
6 second suspect?

7 A Well, Lamont Davis was in the inside of the door
8 with him when I -- he and Palmer are the ones that
9 opened the doors.

10 Q All right.

11 A And you saw in the video, they opened the doors.

12 Q Sure and I'll be happy to hand you the statement so
13 that you can look at it, the statement you made to
14 the police. In that you said that you and Lamont
15 Davis were struggling with the second suspect and
16 fell to the floor?

17 A Yeah. On the way coming out -- on the way coming
18 out of the glass doors ---

19 Q Right.

20 A When they opened the doors, I was struggling with
21 him coming out. He grabbed the door, Lamont grabbed
22 his arm and then that's when I took him down to the
23 ground. That's why I said, we.

24 Q And so all three of you are on the floor now?

25 A Yes, me, Mr. Davis and ---

1 Q When -- when you -- when the car pulled around?

2 A Yes.

3 Q And so your opportunity to see this automobile which
4 you described then as a black or a blue car ---

5 A Uh-huh.

6 Q --- pulled up and from your vantage point on the
7 ground with Mr. Davis and this other suspect, you
8 had an opportunity to see who was shooting?

9 A Yes. When I was on the ground with the -- with the
10 first -- with the second guy, I had my knee in his
11 back. When the car -- when I heard the car speed
12 and it was a slight screech, I looked up. I looked
13 up and then that's when it started -- that's when
14 the gunfire -- the gun shoot -- fire started.

15 Q And the -- your -- your view of the person doing the
16 shooting from that vehicle which -- this car had two
17 windows?

18 A Uh-huh.

19 Q Separated by, you know, a post -- when I say a post
20 that -- it's that thing that supports the roof of
21 the vehicle.

22 A Uh-huh.

23 Q Was there a post on this automobile?

24 A You mean to separate the windows?

25 Q Yeah.

- 1 A Yes.
- 2 Q All right.
- 3 A Yes, it was.
- 4 Q And the gun was being fired out of which window?
- 5 A The driver's front window.
- 6 Q The front window.
- 7 A Uh-huh.
- 8 Q And the person's face ---
- 9 A Driver's side window.
- 10 Q --- to the extent you could see it?
- 11 A Yeah.
- 12 Q Now, you said that you had a full view of the face?
- 13 A Yeah.
- 14 Q How about the window being rolled up?
- 15 A The -- which, the window -- the front window?
- 16 Q No, the back window.
- 17 A Oh, I wasn't paying attention on the back window.
- 18 Q All right. Well, that's where the face was, wasn't
- 19 it?
- 20 A No, it was in the front driver's window.
- 21 Q So the face was in the front driver's window?
- 22 A Yeah.
- 23 Q And there was no obstruction whatsoever?
- 24 A None.
- 25 Q A few days -- within a day or two after the incident

1 at the 360 Club, you told the police you saw a news
2 article in which Mr. Gaskins was a suspect. His
3 photograph was in the paper?

4 A That wasn't on the paper, it was in the -- it was on
5 the news.

6 Q All right, on the news as a suspect. But it was Mr.
7 Gaskins' photograph?

8 A Yeah, when they was looking for him, yeah.

9 Q Okay. And in addition to the -- this, would you say
10 your opportunity to -- to get a look at this person
11 shooting was a second, three seconds?

12 A Yeah, it was real brief.

13 Q And at this point, were you shot in the finger or
14 the knuckles?

15 A Yeah, in the knuckles.

16 Q Back inside, you -- you said in your statement that
17 you grabbed Mr. Gaskins when he went behind the bar?

18 A Uh-huh.

19 Q And Mr. Gaskins told you that the lady had his
20 money?

21 A Well, I didn't know at that point what was going on.
22 I didn't know what happened between him and her.
23 All I know is when -- when I approached -- when I
24 came around to him, I grabbed him up under the waist
25 -- up under the arms and I kind of like guided him

1 back.

2 Q All right. But do you recall saying -- do you recall
3 if that person said to you, she's got my money?

4 A No, I don't remember that part.

5 Q All right.

6 (Pause.)

7 Q We may have difficulty reading this again but the
8 statement that was given to the police was about
9 February the 7th -- yeah, February the 7th, two days
10 after. Does that sound about right?

11 A Yes.

12 Q Let me direct you to this part of the statement, and
13 told. Can you read that?

14 A And told ---

15 Q You've got to speak up though.

16 A Oh, yeah, that's what he said.

17 Q Okay. So tell us, now that you're refreshed, you
18 told the police then that the person that you were
19 -- had grabbed told you that the girl had his money,
20 referring to the bartender?

21 A If it's in there, I said it.

22 Q Okay. And he was unhappy about that?

23 A I guess so. I would be too if somebody stole my
24 money.

25 Q And then you felt it necessary to handcuff and lead

1 him out?

2 A I didn't handcuff him. All I did was just guided
3 him towards the door and then that's when Lamont --
4 Mr. Lamont Davis handcuffed him.

5 MR. MCCULLOCH: All right. Thank you, sir.

6 THE COURT: Anything on redirect?

7 MR. MEADORS: Beg the Court's indulgence.

8 (Pause.)

9 MR. MEADORS: Just very briefly.

10 REDIRECT EXAMINATION

11 BY MR. MEADORS:

12 Q Mr. McCulloch was asking you about the statement.
13 When you gave that statement on February -- you got
14 a copy of it?

15 MR. MCCULLOCH: You can use this one.

16 MR. MEADORS: It doesn't matter.

17 Q You gave this statement on February 7th of 2007?

18 A Yes.

19 Q Two days after it happened?

20 A Yes.

21 Q Is that your signature?

22 A Yes.

23 Q And Mr. McCulloch asked you about whether or not the
24 -- you remembered the money. Do you remember that?
25 Just yes or no, that's all.

1 A No but if it was in there, I said it.

2 Q But I mean, you remember he asked you that, that's
3 all?

4 A Yeah.

5 Q All right. But that was in here, correct?

6 A Yes.

7 Q And did you put in your statement on February 7th,
8 2007, that John was the one you saw shooting. You
9 put that in there, didn't you?

10 A Yes.

11 MR. MEADORS: Thank you, that's all.

12 THE COURT: Anything on recross?

13 MR. MCCULLOCH: I don't think so.

14 RECROSS-EXAMINATION

15 BY MR. MCCULLOCH:

16 Q Before this incident, you've already testified, that
17 you did not know Johnnie Gaskins?

18 A No, I don't know him.

19 MR. MCULLOCH: That's all.

20 THE COURT: All right. Anything further of the
21 witness?

22 MR. MEADORS: No, sir. Just we'll get this
23 stuff out of the way.

24 THE COURT: All right. Members of the jury, I
25 want to see y'all get up and down and get some exercise.

DIRECT EXAMINATION

2 BY MR. MEADORS:

3 Q Good afternoon, Mr. Porterfield.

4 A Yes, sir.

5 Q Tell these jurors a little -- just a little bit
6 about your background, sir. Where were you born and
7 raised?

8 A Swansea, South Carolina.

9 Q Swansea?

10 A Yes, sir.

11 Q And did you go to school there?

12 A Yeah, I went to Swansea High School.

13 Q When did you get out of Swansea High School?

14 A 1988, sir.

15 Q '88?

16 A Yes, sir.

17 Q And after that, Mr. Porterfield, what did you do?

18 A I went to college at Voorhees College in Denmark.

19 Q In Denmark?

20 A Yes, sir.

21 Q What did you do work-wise after that?

22 A Worked with telecommunications and I'm a wireless
23 engineer right now.

24 Q Wireless engineer?

25 A Yeah, network engineer.

1 Q Did you also at some point in your career, in your
2 life, get involved in restaurants or pubs?

3 A Yes, sir.

4 Q Okay. Tell the jury how that came about.

5 A That came about when I was in college. I did a lot
6 of parties for my fraternity.

7 Q Yes, sir.

8 A And when I got home people started asking why I
9 didn't do some parties at home, so I started doing
10 parties. And then elevated from there, I went to
11 open some clubs and then I started doing -- and did
12 some clubs and then I did a sports bar.

13 Q Okay. And so right now do you own 360?

14 A Yes, sir.

15 Q All right. And have you got another establishment?

16 A Yes, sir, I've got an oyster bar, BaWa Oyster
17 Company.

18 Q BaWa Oyster Company?

19 A Yes, sir.

20 Q Okay. And in addition to that, you're still doing
21 tech?

22 A Sir?

23 Q You're still doing your technologies or?

24 A Yes, sir, I still do contract work whenever needed.
25 I've been gone last year for about a year. I work

1 for all the wireless carriers.

2 Q With the wireless carriers?

3 A Yes, sir.

4 Q Okay. Let's move right to, please, sir, to February
5 the 4th of 2007.

6 A Yes, sir.

7 Q And on that day do you own 360 or did you own 360?

8 A Yes, sir.

9 Q And tell these folks, these ladies and gentlemen of
10 this jury, what is 360?

11 A It's a sports bar, a place for fun and games. We
12 have karaoke and stuff like that.

13 Q Open to everybody?

14 A Yes, sir, it's open to the public

15 Q And it's in Richland County obviously?

16 A Yes, sir.

17 Q Do you remember Super Bowl Sunday, February 4th,
18 2007?

19 A Yes, sir.

20 Q The Jets were playing the Bears.

21 A Yes, sir. I think ---

22 Q The Colts were playing the Bears.

23 A The Colts won the game.

24 Q And did you plan or did you advertise a party that
25 day, a Super Bowl party?

1 A Yes, sir. We advertised on the radio, it was a --
2 just a Super Bowl party like everybody else does to
3 celebrate the game.

4 Q And what time would y'all have opened that day?

5 A We opened a little early because the game was an
6 early game. So I'm saying we started -- I'm saying
7 like 3:00 in the afternoon we started getting
8 people. I think it was a 7:00 game, I'm thinking.

9 Q And what type of crowd did you or did your club have
10 that night, Mr. Porterfield?

11 A Well, it was pretty crowded. I mean, we had good
12 numbers of people there that night.

13 Q Now I want to specifically ask you a couple of
14 questions about some of your employees. Do you
15 employ regular bouncers that are there pretty much
16 all the time?

17 A Yes, sir.

18 Q And is that the right term to use?

19 A Yeah, they contract, the bouncers.

20 Q Contract?

21 A Yeah, to come in, the bouncers.

22 Q Do you have some folks that work just for you or
23 360?

24 A Yes, sir.

25 Q If you had a party like this or you have a party

1 like this, do you bring in outside folks to help you
2 maintain order?

3 A Yes, sir. In the parking lot, usually, you know,
4 you get a lot of people that drive up, they don't
5 know where to park, they never been there before.
6 So we usually required some more security outside.
7 And I think that night I got an extra three or four
8 outside, I think.

9 Q And do you remember the security company you got
10 them from?

11 A I want to say Elite Security.

12 Q Elite Security?

13 A Yes, sir.

14 Q And do your employees that I have called bouncers
15 ---

16 A Yeah.

17 Q Your employees, did they have weapons?

18 A No, sir.

19 Q And some of the security officers that you hired,
20 they did have weapons, correct?

21 A Yeah, the security. That's why I hired out because
22 I couldn't.

23 Q And can you tell us just where would the -- the
24 security folks that were hired just for the
25 particular party in this case, the Super Bowl party

1 ---

2 A They usually ---

3 Q What was their job? Where were they supposed to
4 be?

5 A Outside until something -- if something happened
6 major, they would, you know, escort somebody. Once
7 they got to the door, they would handle, you know,
8 any legal -- because they had the right to put
9 handcuffs and stuff like that on the cust -- on a
10 customer if they gave any problems or something like
11 that.

12 Q Now, you know the Defendant Johnnie Gaskins, don't
13 you?

14 A Yeah, I know him -- that's his name. I mean, I
15 known him as Black.

16 Q As Black?

17 A I didn't know his real name. I just know it was
18 Black at the time.

19 Q Okay. But is it fair to say, you knew him and know
20 him by name and sight?

21 A Yeah, I know him by name.

22 Q By that name and sight?

23 A By Black, yes, sir.

24 Q And on February 4th of 2007, was he at your club?

25 A Yes, sir.

1 Q There's no doubt about that, is there?

2 A No, sir.

3 Q And did you see him throughout the day?

4 A Yeah, I seen him earlier. He came in a little
5 earlier than -- like -- like early with the other
6 customers.

7 Q At some point -- at some point, Mr. Porterfield, was
8 the Defendant Johnnie Gaskins taken out of your
9 club?

10 A Yeah, yes, sir.

11 Q And where were you when that happened?

12 A I was somewhere in the bar area. I remember
13 telling, I think Lamont, one of the guys that -- I
14 think Q had gone to the bar and I seen him having a
15 little thing with -- with Mr. -- with Black and I
16 told Lamont to go over there and help him because,
17 you know -- wanted to go -- wanted to talk to him
18 and I told -- I told Lamont to go talk to Black.

19 Q And was -- I think you referred to him as Black, Mr.
20 Gaskins, was he taken out of the club?

21 A Yes, sir.

22 Q Did you go out of the club then?

23 A No, I didn't go out at that time.

24 Q You stayed inside?

25 A Yes, sir.

1 Q What was the next thing you remember?

2 A I remember -- I remember -- I remember picking up a
3 phone earlier that night?

4 Q Okay. And I forgot about that, thank you. But
5 where did you pick up this phone?

6 A It was on the floor ---

7 MR. MEADORS: Judge, if I can approach?

8 Q This is State's 15. Would this help you in your
9 testimony?

10 A Yeah.

11 Q And this is a diagram by Mr. Billy Tabor, correct?

12 A It was on the floor in this side (indicating). I
13 found the phone like earlier in the night and I took
14 it to the DJ and tell him to announce that somebody
15 had lost their phone in there.

16 Q And is that what you do as the owner? If you see
17 something lost you ---

18 A Yeah, just take it to -- I want to get it to the
19 right owner so that's what I do.

20 Q And that happened sometime earlier in the day?

21 A Yes, sir.

22 Q Or evening or whatever.

23 MR. MEADORS: Beg the Court's indulgence.

24 (Pause.)

25 Q I'm going to show you what's marked State's 49, Mr.

1 Porterfield, and ask you if you recognize that and
2 does that relate to what you were just talking
3 about?

4 A Yes, sir. Yes, sir.

5 Q Okay.

6 A That's the cell phone.

7 Q Is that the phone?

8 A Yes, sir.

9 Q Okay.

10 A I remember it having it, the clip on it and
11 everything.

12 Q You remember it having a clip on it?

13 A Yes, sir.

14 Q And is this the phone you got, collected from your
15 bar ---

16 A Yes, sir.

17 Q --- February 4th?

18 A Yes, sir.

19 MR. MEADORS: Your Honor, State's 49.

20 MR. MCCULLOCH: No objection.

21 THE COURT: Without objection.

22 (Whereupon, State's Exhibit Number 49, Cell
23 Phone, was admitted into evidence.)

24 Q Defendant Johnnie Gaskins is now out of your bar,
25 you testified?

1 A Yes, sir.

2 Q What do you remember happening after that?

3 A Later, about maybe 15 or 20 minutes after him going
4 out, I just heard a lot of shot fired -- a lot of
5 shot fired.

6 Q Where were you, Mr. Porterfield?

7 A I was actually coming back from the bar -- I mean,
8 not from the bar, from the ---

9 Q Use that if you...

10 A I was actually coming back from -- the DJ was up
11 here (indicating). I was actually coming back
12 around here again, back on this area (indicating),
13 about right in here.

14 Q Shots fired?

15 A Yes, sir.

16 Q What does Lindburgh Porterfield do when you hear the
17 shots?

18 A I goes immediately to the front, to the front of the
19 -- walk up to the front here (indicating), trying to
20 get out and see what -- because all this was shot
21 out, all this area here (indicating).

22 Q Your club was shot up?

23 A Yes, sir. All this glass, I mean, I just -- just a
24 lot of the glass was out of the front of the
25 building. And I just see bodies, people on the

1 floor and stuff and I just remember walking over
2 people trying to get to the front.

3 Q And what did you do when you got to the front,
4 Lindburgh?

5 (Pause.)

6 A I was talking -- talking to Wolf. He was ---
7 (Crying.)

8 A One of my bouncers, Wolf, on the ground shot.

9 Q You started talking to Wolf?

10 A Yeah. I thought he was going to be all right
11 because he was talking to me the whole time.

12 Q And had Wolf -- that's Mr. Adams?

13 A Yeah.

14 Q Had he been shot?

15 A Yes, he'd been shot. Was the first person I seen
16 -- I did see a lot of other people running too but
17 that was the first person I noticed that I know.

18 Q But you were able to communicate with him ---

19 A Yeah, I talked to him the whole time.

20 Q What did he say?

21 A He was like, the guy that we put out, shot me, was
22 shooting.

23 MR. MCCULLOCH: Your Honor, I ---

24 THE COURT: It's an exception to the hearsay --
25 go ahead.

1 MR. MCCULLOCH: May we approach?

2 THE COURT: Yes, sure.

3 (WHEREUPON, a bench conference was held off
4 the record, in the presence of the jury, but out
5 of the hearing of the jury.)

6 Q What did you do after you talked to Mr. Wolf -- Mr.
7 Adams?

8 A Just -- I just tried to stay there with him to the
9 paramedics got there. I mostly just -- I wanted to
10 put him in my car but everybody said not to put him
11 in the car.

12 Q Slow down, Mr. Porterfield. You said you wanted to
13 what?

14 A I wanted to drive him to the hospital but they said
15 not to, not to touch him, not to move him.

16 Q What did you do after that?

17 A I just stayed and tried to, you know, calm a lot of
18 people down. Everybody was just running and, you
19 know, moving around a whole lot.

20 Q There was an individual there, a lady named
21 Shannavia -- Shannavia Williams who was shot. Did
22 you know her?

23 A No, sir.

24 Q Do you know whether or not she had ever been to your
25 bar before?

1 A I'm thinking I heard that she's been there. I think
2 I've seen her there before with some of her
3 girlfriends.

4 Q You didn't know her by name and sight or?

5 A No, sir.

6 Q And a Ms. Deirdre Houston?

7 A I've seen her there too but I didn't really know
8 her.

9 Q You didn't know her like...

10 A No, sir.

11 Q And Mr. Lamont Adams (sic) was one of the security
12 you hired for that day?

13 A Yes, sir.

14 Q And Mr. Quinten Harris known as Q. Did you know
15 them before that day?

16 A I've seen Q out a few times but I know Lamont
17 because he had been working there for a few -- a few
18 weeks.

19 Q How long had John Adams been working for you?

20 A He's been there, I want to say three -- maybe three
21 or four months. But they always came, him and Tanya
22 (phonetic), they were always coming for the karaoke
23 on Thursday and singing and what not.

24 Q He and who?

25 A His girlfriend, his ---

1 Q Okay, I'm sorry. I just couldn't hear you. Did
2 there a come a point when the police got there?

3 A Sir?

4 Q The police arrived ---

5 A Yes, yes, sir.

6 Q And did you talk to either Isenhoward or some other
7 investigator?

8 A Yes, sir.

9 Q You testified earlier you found this phone?

10 A Yes, sir. That's when that -- about the time when
11 they got there, that phone started ringing.

12 Q All right. The phone started ringing and did you
13 answer it?

14 A Yes, sir.

15 Q All right.

16 MR. MCCULLOCH: And, Your Honor, of course we're
17 going to object to anything that would not be proper ---

18 THE COURT: What's your objection right now?

19 MR. MCCULLOCH: My objection is to hearsay.

20 THE COURT: It's anticipatory, is that correct?

21 MR. MCCULLOCH: It is anticipatory, Your Honor.

22 THE COURT: All right. Let's cross that river
23 when we get to it. Right now, I'll note it but nothing
24 has happened yet.

25 MR. MEADORS: We're not offering this for the

1 truth of the matter asserted ---

2 THE COURT: All right.

3 MR. MEADORS: Oh.

4 Q When you get a phone call, you answer it?

5 A Yeah, I got two phone -- two phone calls from two
6 ladies.

7 Q All right. What -- who if anyone -- what did the
8 phone call say?

9 A Well, as soon as I answered the phone, I was trying
10 to disguise my voice because it wasn't my phone. I
11 didn't know who it was. I was like, hello. And
12 they was like, Blackie (phonetic), was that you out
13 there shooting? I then, I was like, what, you know.

14 Q Did someone say the name Black?

15 A Yeah.

16 Q Was it male or female?

17 MR. MCCULLOCH: Your Honor, may we approach?

18 A Female.

19 THE COURT: Sure. Stop, wait a minute, hold
20 on.

21 (WHEREUPON, a bench conference was held off
22 the record, in the presence of the jury, but out
23 of the hearing of the jury.)

24 THE COURT: Go to the jury room. Please don't
25 talk about this case.

1 (The jury retires from the courtroom at
2 approximately 12:24 p.m.) .

3 THE COURT: Now, y'all take a minute. Look and
4 see whether it's in the statement or not in the
5 statement, whether you've been provided with it. I'll be
6 right back. Just relax.

7 (The Court was in recess.)

8 THE COURT: Were y'all able to sort it out or?

9 MR. MEADORS: Judge, can I mark this for you so
10 you can just -- might help right now.

11 THE COURT: Yeah, yeah. Well, we'll mark it as
12 a Court exhibit, ID or something. Yeah, these things
13 happen, gentlemen. Y'all know that. What have we got?

14 MR. MCCULLOCH: Well, they keep happening.

15 MR. MEADORS: Judge ---

16 MR. MCCULLOCH: Well, if I can make my motion,
17 Your Honor.

18 THE COURT: Go ahead.

19 MR. MCCULLOCH: Your Honor, one is we're going
20 to move for a mistrial because what we have is cumulative
21 surprises. We first were surprised when Mr. Glover
22 testified, out of the presence of the jury, to an
23 identification that was never provided. We were led to
24 believe by the information provided that his
25 identification was only of a person in the bar and not of

1 Q (sic).

2 Secondly, we were surprised when Mr. Lindburgh
3 (sic) testified to what the Court referred to as perhaps
4 a dying declaration which has never been provided to us
5 before.

6 And thirdly, we are now surprised by his
7 statement, which I think the reporter needs to play it
8 back, Mr. Porterfield's testimony just a moment ago was
9 essentially, Black was shooting up the place, which is
10 really an affirmative statement of a witness apparently,
11 or perhaps speculation by some unknown person. But
12 clearly it is -- you know, to say that that's offered not
13 for the truth of the matter asserted in a trial like this
14 is -- I think the Court finds that it has an evidentiary
15 value for the truth of the matter asserted because it is
16 a affirmative statement of this Defendant doing exactly
17 what he's accused of doing which makes it way out -- I
18 mean, it is hearsay and it is affirmatively about the
19 point of this trial.

20 Now, that is just a motion against the
21 highlighted part of Mr. Porterfield's statement which is
22 -- was provided to us, which doesn't say that at all. In
23 fact, it questions -- I mean, there are a number of ways
24 you can read it. But the fairest reading is at least
25 that it questions whether he's there and does not accuse

1 him of doing the shooting.

2 So, Your Honor, my motion for mistrial is
3 because these are violations under Brady and in violation
4 of Rule 5. We are entitled to be provided with
5 information. The things keep continue to accumulate and
6 while these things do happen, the problem is that there
7 is a duty and diligence under Rule 5 that is imposed upon
8 the prosecution to know these things, to provide these
9 things and not to surprise at trial.

10 THE COURT: All right. Thank you, sir.

11 MR. MEADORS: If it pleases Your Honor. Taking
12 these in the order he brought them up.

13 MR. MCCULLOCH: And, Your Honor, I would only
14 note we obviously -- we think there is obvious prejudice,
15 that's another ---

16 THE COURT: All right. Thank you, sir.

17 MR. MEADORS: Respectfully, may it please the
18 Court. In the order he brought those up, Mr. Glover --
19 and I told him and I know Mr. McCulloch believes me,
20 that's not for the Court, but I'm sure he does, let the
21 record reflect that. I did not know that testimony until
22 he did it and we both talked about it. There's no
23 prejudice to anybody on that because he hasn't testified
24 in front of the jury. And I'm not sure if I'm going to
25 call him so that's really a moot issue.

1 THE COURT: So two of the three things Mr.
2 McCulloch mentioned the jury has not heard is what you're
3 saying?

4 MR. MEADORS: Well, getting to the next one,
5 Your Honor, just taking them in order, the dying -- that
6 declaration that Mr. Porterfield just said, I've never
7 heard that before. I anticipated his testimony's going
8 to be, I'm dying, Dog (phonetic). I'm dying, Dog,
9 something like that, is what I thought. So for the
10 record again, I didn't know that. We weren't told and
11 there's nothing you can know everything somebody's going
12 to say all the time. We weren't planning on that coming
13 out. I'm not that conniving or smart. I couldn't do
14 that. I hope that's off the record.

15 But anyway, so that -- it surprised all of us,
16 Judge, on that. It may have happened. That's the first
17 time I've heard it.

18 As far as this last thing, Judge, I'd like you
19 to look. I think it says exactly -- I don't know ---

20 (Pause.)

21 MR. MEADORS: Mr. McCulloch and I listened to
22 it. Basically, Black, was that you out there shooting?
23 If you look at the statement, page 3 of the Court -- of
24 the record I gave Your Honor which has been in discovery
25 for years. I kept receiving phone calls on the Verizon

1 cell phone from women asking for Black, and he was at the
2 place where you shooting at, 360. I think that's close
3 to what he said. And I -- and that's just the way he
4 talks. I don't mean that bad but I think he's expressing
5 what he expressed in the statement.

6 And, Judge, there is a case right on point.
7 I've actually got a little law, Rhodes v. State, 561
8 S.E.2d 606, repeatedly made clear that the information
9 this friend was heard -- was from the street or rumor.
10 It was not offered for its truth but to explain one
11 victim's identification, and so forth and so on. I think
12 it's rather important, Judge.

13 And I think he said what was in the statement.
14 I mean, I think that's essentially what he says so it's
15 not in violation of discovery, not something he hadn't
16 had. He's had it for years.

17 THE COURT: Yes, sir.

18 MR. MCCULLOCH: If the court reporter -- I would
19 ask the reporter to play exactly what ---

20 THE COURT: Well, I don't need it. This is for
21 me. I don't need to hear this again. Just make your
22 motion, sir.

23 MR. MCCULLOCH: Your Honor, my motion is for a
24 mistrial or for an instruction and a redaction from the
25 jury's memory that -- and that Mr. Porterfield not be

1 allowed to testify what people say on the phone, at least
2 in this instance. I don't know what else is coming out.
3 But I will make the point, Your Honor, Mr. -- Mr. Meadors
4 says he didn't know this stuff. I agree. I believe
5 that.

6 THE COURT: I understand.

7 MR. MCCULLOCH: But the problem is that Rule
8 5 imposes a diligent -- duty of diligence to learn about
9 your case and make that information available to the
10 Defense. They've had two years to learn this. I have no
11 idea what the police officers involved in this case knew
12 it, failed to tell the -- you know, in fact, the first --
13 Mr. Glover said he told the police that he could identify
14 the shooter.

15 THE COURT: Now, that's the part that the jury
16 never heard, Mr. Glover, and may not hear it so.

17 MR. MCCULLOCH: I offer that only for the purpose
18 of showing a problematic pattern ---

19 THE COURT: Well, at best it's maybe -- at best
20 it maybe three instances that I can recall -- maybe at
21 best, okay. So only two -- go ahead.

22 MR. MCCULLOCH: Mr. Meadors says that, you know,
23 what's in the statement and has been provided to us two
24 years ago was close enough. But I think if you'll listen
25 to what she has on -- on the tape, essentially what ---

1 THE COURT: Well -- stop. I was here like
2 everybody else. I heard it. I don't need to go back and
3 hear it for purposes of this motion.

4 MR. MCCULLOCH: I would submit that it doesn't
5 fall under the realm of admissible hearsay. It is
6 inadmissible hearsay. I would ask first for a mistrial.
7 If that is not granted, I would ask for an instruction to
8 the jury ---

9 THE COURT: All right. Your motion for a
10 mistrial is respectfully denied. I will be happy to tell
11 the jury they need to disregard the remark where the
12 witness, Mr. Porterfield, said that Mr. Adams said, it
13 was the Defendant that shot ---

14 MR. MEADORS: The guy I threw out of the bar, I
15 think is what he said.

16 THE COURT: All right. If that's what you want,
17 I will be happy to give it to you.

18 MR. MCCULLOCH: Your Honor, I would prefer it if
19 you would instruct the jury to disregard the statement
20 contributed to Mr. Adams, the victim, Mr. Adams,
21 testified to by Mr. Porterfield.

22 THE COURT: All right.

23 MR. MCCULLOCH: Rather than reiterate it. And I
24 would also ask for Mr. Porterfield not be allowed to
25 testify about the conversation that he now has already

1 testified about because I don't think it's within the
2 realm of ---

3 THE COURT: All right, stop. Let me take it one
4 at a time.

5 As a curative instruction, you asked me to
6 inform the jury that they should disregard the remark
7 from Mr. Porterfield -- the remark made by Mr. Adams to
8 Mr. Porterfield about who shot him.

9 MR. MCCULLOCH: At least the remark testified to
10 earlier by Mr. Porterfield that he attributed to Mr.
11 Adams.

12 THE COURT: All right, relax. I'm going to help
13 you out. But I want to get it straight. But I'm not
14 going to give you a mistrial. I don't think anything has
15 risen to the level of some sort of egregious
16 constitutional deprivation against Mr. Gaskins.

17 Yes, sir.

18 MR. MEADORS: Just for the record, also in
19 Investigator Amaro's follow-up report, he's the one that
20 talked to Mr. Porterfield. He puts in his notes, the
21 phone began to ring and they asked for a Black and also
22 talked about a shooting. It's just another -- this was
23 -- it was in the discovery. That's all.

24 Judge, the final -- just so we won't have to go
25 back here again, I wished we'd broken for lunch, my

1 fault. But Gaskins calls after this and identifies
2 himself as Black and says, have you got my phone ---

3 THE COURT: All right. Let me make it easier
4 for everybody. Bring the jury back out.

5 MR. MEADORS: And that's it.

6 THE COURT: Just -- no, just bring the jury back
7 out. I'm going to send them to lunch and we can -- we
8 can -- bring the jury back out, Mr. Bowen. I'm going to
9 send them to lunch and tell them -- just relax and then
10 we'll have plenty of time to sort this out.

11 And, Mr. McCulloch, you're just doing your job.
12 I know that. Mr. Meadors also knows that. Trials are to
13 be fair not necessarily perfect. We all do the best we
14 can. We struggle and we'll do the best we can here and
15 now.

16 (The jury returned to the courtroom at
17 approximately 12:40 p.m.)

18 THE BAILIFF: The jury's all present, Your
19 Honor.

20 THE COURT: Welcome back, Madam Forelady and
21 members of the jury. What's today, Wednesday? Okay,
22 thank you. Actually it was on yesterday, Tuesday, when I
23 gave you my preliminary instructions. I told you there
24 would be times during the course of this trial where
25 sometimes we can resolve matters up here and sometimes I

1 will have to send you back to your jury room because
2 there are certain arguments on the law, the only way I
3 can hear them is in your absence. And we've run into a
4 couple of those.

5 Now I remind you that it has nothing to do with
6 the merits of this case. The purpose of this trial is to
7 see whether or not the State can prove Mr. Gaskins guilty
8 beyond a reasonable doubt. But on the way you'll wonder,
9 in the end you'll know.

10 So once again, I've got to ask for your patience
11 and understanding. Don't hold an objection against
12 anybody involved. Don't hold it against the State, don't
13 hold it against Mr. McCulloch or anybody else. This is
14 just a process that we use to try to ensure that both
15 sides receive a fair trial. And that's what this up and
16 down and in and out has been all about, to ensure that
17 the information you receive is what you receive under the
18 rules.

19 Well, with that in mind, we're so close to 1:00
20 that I'm going to give you a few extra minutes. Now,
21 y'all still want 90 minutes or you want an hour? How do
22 you feel? Do you want me to give you an hour and a half
23 still? An hour is good enough? Okay.

24 So I'll give you an hour and 12 minutes or 10
25 minutes. I think that clock is a little bit off. But

1 let's say be back in the jury room at 2:00, okay. And
2 once again, I know some of y'all have been to some fine
3 places to dine nearby. I hope you find one and hope you
4 have a pleasant lunch and we'll see you back in the jury
5 room at 2:00.

6 Thank you all so very much. Just remember, don't
7 talk about the case. Keep you badges on during the lunch
8 hour.

9 (The jury retires from the courtroom at
10 approximately 12:44 p.m.).

11 THE COURT: This morning's been a little bit
12 frayed for everybody. Let's go to lunch right now.
13 We'll come back a little bit early and revisit all this,
14 put it on the record. Make sure you're covered, Mr.
15 McCulloch, on behalf of Mr. Gaskins and give you an
16 opportunity. We'll just sum it all up real quickly.
17 We'll revisit what we just did.

18 Thank you all so very much.

19 Mr. Porterfield, I've got to remind you, as Mr.
20 Meadors will tell you, you can't talk to anybody about
21 your testimony at this point. You can talk about the
22 weather or the Yankees last night but not about your
23 testimony, sir.

24 (The witness leaves the witness stand.)

25 We'll see y'all back at 2:00.

1 (The Court was in recess.)

2 (The witness returns to the witness stand.)

3 THE COURT: Sit down, Mr. McCulloch. Thank you.

4 There were some objections to, quote, a dying
5 declaration by Mr. Adams that Mr. McCulloch said he had
6 not been provided with, and of course the Solicitor said
7 they were unaware of. And things like this happen. That
8 was the basis of his motion for a mistrial.

9 And additionally, there was some reference by
10 Mr. Porterfield about somebody called and said it was
11 Black or something like that that -- am I right so far?

12 MR. MEADORS: Well, the first thing I think, we
13 never quite got to that, there was somebody called and
14 said -- it was a female asking for Black and something
15 about a shooting. Which he put in his statement and he
16 may have changed a word or two on the stand ---

17 THE COURT: That's the one -- all right, that's
18 the one that was so close that I thought was innocuous
19 but I told Mr. McCulloch I would give this instruction
20 anyway, even if it's over your objection.

21 MR. MEADORS: I understand.

22 THE COURT: Okay, out of an abundance of
23 caution. So let me ready it so Matthew McCulloch will be
24 -- and you're doing your job. I'm just kidding you a
25 little bit.

1 Request for instruction 1: Members of the jury,
2 I instruct you to disregard that portion of Mr.
3 Porterfield's testimony that was made -- that made
4 reference to anything attributed to Mr. Adams, any
5 statements I probably should add.

6 And second request: I instruct you further to
7 disregard the testimony of Mr. Porterfield that was made
8 -- that made reference to a statement made by an unknown
9 person in a telephone call received on the phone in
10 evidence.

11 MR. MEADORS: And for the record, while we're
12 here, the only other thing that I think Mr. -- that's
13 also included in the statement that Mr. Porterfield did,
14 I was going to ask him, in relation to that phone, did
15 you receive another phone call? And his testimony would
16 be ---

17 THE COURT: I did receive another phone call,
18 that's it.

19 MR. MEADORS: There was a person asking, is this
20 my phone, whatever is exactly in the statement. Let me
21 get it and see.

22 THE COURT: All right, that's fine.

23 MR. MEADORS: And not say who it was.

24 MR. MCCULLOCH: Your Honor, the statement says
25 that somebody called asking for their phone essentially.

1 And, you know, I think that is not -- you know, I guess
2 you could argue that's admissible hearsay but it's not --
3 I'm agreeable if they stick to something like that.

4 THE COURT: All right. Just stick to the
5 statement that you were aware of since you received your
6 discovery. That was the sticking point.

7 This is what's happened. The evidentiary
8 objection was based on Brady and Rule 5 more so than ---

9 MR. MCCULLOCH: Well, Your Honor, the objection
10 was based upon the cumulative ---

11 THE COURT: Okay.

12 MR. MCCULLOCH: -- failures of diligence under
13 Rule 5 and I didn't think it was simply admissible
14 hearsay. I think it goes beyond -- I think it's
15 incriminating hearsay. But I respect your ruling as to a
16 mistrial ---

17 THE COURT: Well, I appreciate that.

18 MR. MCCULLOCH: I waive that objection and I
19 appreciate the instructions which I prepared and you ---

20 THE COURT: All right, let's sit down. That's
21 enough.

22 MR. MEADORS: And we worked through ---

23 THE COURT: Okay.

24 MR. MEADORS: --- but anyway, for the record, I
25 got a call from a guy who asked could he come and get the

1 phone. That is what he put in his statement two and a
2 half years ago.

3 THE COURT: All Right.

4 MR. MEADORS: He's telling me now that he said
5 his name, Black. I understand ---

6 THE COURT: Don't say that, just say, he got a
7 call, somebody wanted their phone. And circumstantially,
8 I mean, they'll be able to put that -- do you have them?

9 THE CLERK: We have them, yes, sir.

10 THE COURT: All right. Is everybody ready?

11 MR. MEADORS: Yes, sir.

12 THE COURT: All right. You may invite them in,
13 Mr. Bowen.

14 (Whereupon, Court's Exhibit Number 7,
15 Defendant's Request for Instruction, was marked
16 for identification.)

17 (The jury returned to the courtroom at
18 approximately 2:10 p.m.)

19 THE BAILIFF: Jury's all present, Your Honor.

20 THE COURT: All right. Thank you, Mr. Bowen.

21 Welcome back, Madam Forelady, members of the
22 jury. Now, you recall just before you went to lunch, I
23 sent you back to your jury room a couple of times. And
24 the reason for that, I said in the beginning, there are
25 certain legal issues that have to be worked out sometimes

1 and the only way we can do that is in your presence
2 (sic). I've said that about four or five times already.

3 But as a result of some of that legal-resolution
4 of these issues that cropped up, I need to instruct you
5 as follows.

6 Madam Forelady and members of the jury, I
7 instruct you to disregard that portion of Mr.
8 Porterfield's testimony that made reference to any
9 statements that were attributable to Mr. Adams. Mr.
10 Adams was the gentleman that was a victim and is now
11 deceased.

12 I further instruct you to further disregard the
13 testimony of Mr. Porterfield that was made that made
14 reference to statements made by an unknown person and a
15 telephone call received on the phone that's been admitted
16 into evidence.

17 Y'all understand what I just said?

18 JURORS: (Affirmative response.)

19 THE COURT: And when I tell you to disregard it,
20 what you must do is erase it from your mind and when you
21 go back to the jury room finally at the end of this trial
22 to deliberate, you cannot let these two things I told you
23 to disregard enter your discussions at all. It would be
24 unfair for you to do so.

25 With that in mind, I'll ask whether or not there

1 are any exceptions or additions to those ---

2 MR. MEADORS: Other than previously stated, no,
3 sir.

4 THE COURT: All right.

5 MR. MCCULLOCH: Thank you, Your Honor.

6 THE COURT: All right. You may continue with
7 your direct examination of Mr. Lindburgh Porterfield.

8 MR. MEADORS: If it pleases Your Honor.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION CONTINUES

11 BY MR. MEADORS:

12 Q Mr. Porterfield, if you'll listen to my question
13 very carefully, please.

14 A Yes, sir.

15 Q Still relating to this phone, State's 49. Did you
16 get a call from a guy who asked to come -- who asked
17 if he could come and get the phone?

18 A Yes, sir, I did.

19 Q Now, I believe you testified this beforehand but you
20 said you know the Defendant Johnnie Gaskins by name
21 and sight (indicating)?

22 A Yes, sir.

23 (Pause.)

24 Q Sorry about that. Let me show you what's marked
25 State's 20. You testified you knew him by name and

1 sight but did you also -- did the police officer
2 show you a lineup?

3 Q Yes, sir?

4 A And further ask you, can you recognize the person
5 you saw in your establishment that night?

6 A Yes, sir.

7 Q And were you able to pick out a person?

8 A Yes, sir.

9 Q And who did you pick out?

10 A Photo number six right there.

11 Q And is that a photo of Johnnie Gaskins?

12 A Yes, sir.

13 Q And did you sign saying that?

14 A Yes, sir, I did.

15 Q Is Mr. Gaskins the person sitting right here by Mr.
16 McCulloch (indicating)?

17 A Yes, sir.

18 Q Just a few other questions. Are ---

19 THE COURT: Have you moved to introduce that
20 yet?

21 MR. MEADORS: I thought -- if I didn't, I
22 apologize. I move to introduce it and I apologize.

23 THE COURT: Subject to your previous objection
24 on Biggers?

25 MR. MCCULLOCH: Yes, sir.

1 THE COURT: All right, very well. So admitted.

2 MR. MCCULLOCH: Well, Your Honor, actually he
3 did show him those ---

4 THE COURT: Okay, so there is no objection?

5 MR. MCCULLOCH: No objection.

6 THE COURT: Okay, I'm sorry. Number 20, without
7 objection.

8 (Whereupon, State's Exhibit Number 20, Lineup
9 Presented to Lindburgh Porterfield, was admitted
10 into evidence.)

11 Q Just a few more questions, Mr. Porterfield.

12 A Yes, sir.

13 Q Are there still bullet holes in your establishment?

14 A Yes, sir.

15 Q From this night? And let me ask you about --
16 there's some video the jury has seen.

17 A Yes, sir.

18 Q Was that video coming from -- I mean, were those
19 your cameras?

20 A No, sir.

21 Q Okay. And those cameras were where?

22 A My neighbor in business next door, Heart Breakers, I
23 think.

24 Q They just happened to shine on your business and
25 your parking lot?

1 A Yes, sir.

2 Q Okay. And do you have any cameras -- or the
3 question, on February the 4th, 2007, that night and
4 the morning hours of February 5th, 2007 -- February
5 5th, 2007.

6 A Yes, sir.

7 Q Were there any cameras in your establishment?

8 A Yes, sir. We do have cameras but they didn't catch
9 any video of it.

10 Q So you had no video that night ---

11 A Yes, sir.

12 Q --- in your establishment?

13 A No.

14 Q So the only video we had was from the place next
15 door?

16 A Yes, sir.

17 Q And your video -- there's a something in the --
18 where you walk in that looks like a little video
19 camera. That was not working that night, is that
20 correct?

21 A It -- no, sir, it wasn't.

22 Q It just wasn't working?

23 A It wasn't working.

24 MR. MEADORS: That's all.

25 THE COURT: All right. Mr. McCulloch.

1 MR. MCCULLOCH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MCCULLOCH:

4 Q Mr. Porterfield, you saw Mr. Gaskins earlier that
5 evening?

6 A Yes, sir, I did.

7 Q Did you speak to him, did he see you?

8 A I think it was just like ---

9 Q Nodded at each other?

10 A Nodded, yeah.

11 Q And do you know what time that was, do you know?

12 A I think it was earlier in the night, I want to say
13 about the time we opened up. I want to say 3 or 4,
14 early, it was real early.

15 Q Now, how long have you been associated with this
16 club?

17 A The bar? Since it opened. It's been five years --
18 four years.

19 Q Are you an owner or manager?

20 A I'm one of the owners.

21 Q A part owner?

22 a Yeah, part owner, yeah.

23 Q Okay. You all had -- ever had to call the police to
24 come there before?

25 A Not major, no.

- 1 Q Sorry?
- 2 A No, not major.
- 3 Q Well, what is not major mean? Not a shooting?
- 4 A No shooting.
- 5 Q Okay.
- 6 A I mean, we ---
- 7 Q You called the police before?
- 8 A Yeah, of course, it's a bar. Yeah, we have.
- 9 Q Had to throw people out of the bar before?
- 10 A We put them out and if they don't want to leave on
- 11 their own, then we call -- most of the time by the
- 12 time the cops get there, they're gone. Because if
- 13 we threaten that we're going to call the cops, they
- 14 leave.
- 15 Q Ever found people with guns on the premises before?
- 16 A Not that I know of, no, sir.
- 17 Q On this particular night, I think you mentioned that
- 18 -- you employed bouncers regularly, every night you
- 19 had bouncers of your own, is that right?
- 20 A Not every night. That's only when we have a big
- 21 event sometimes we have them. And then like we had
- 22 one or two of them.
- 23 Q If I understood your testimony, bouncers that worked
- 24 for you as employees are not armed?
- 25 A No, they're not.

- 1 Q And the contract bouncers?
- 2 A They're armed.
- 3 Q Some folks that are permitted to be armed?
- 4 A Yes, sir, from my understanding.
- 5 Q You know they're armed?
- 6 A Yeah, I know the ones that I contract, they're
- 7 armed.
- 8 Q On this night, the -- you were inside at the time of
- 9 the shooting?
- 10 A Yes, sir.
- 11 Q Do you know how many shots you heard?
- 12 A I'm -- I can't recollect how many but it was more
- 13 than -- maybe more than five or six.
- 14 Q Different sounds of the shots, some shots one way,
- 15 some shots another way?
- 16 A No, I just heard just one shot, a gunshot, that's
- 17 all. A whole number of gunshots.
- 18 Q But I mean, did they have a different tint or a
- 19 different sound?
- 20 A No, sir, not that I can remember.
- 21 Q Where did they sound like they were coming from?
- 22 A Apparently outside.
- 23 Q Outside to the front?
- 24 A Outside to the front of the building, yes, sir.
- 25 Q You mentioned there were bullet holes in your

1 premises. Has your business ever been shot at
2 before this particular evening?

3 A No, sir.

4 Q Do you know how many people got thrown out that
5 night?

6 A I -- from my understanding, it was only two.

7 Q The cell phone you found, you found at around
8 midnight or earlier in the evening?

9 A I can't remember when I found it. I know I found it
10 earlier in the night, early like -- earlier in the
11 day. I'm saying like before -- during the game time
12 because I had the DJ to announce ---

13 Q So you -- excuse me, I don't want to interrupt you.
14 You found it well before the incident ---

15 A Yeah. Yeah, I found it way before the incident
16 happened.

17 MR. MCCULLOCH: Okay. That's all I have, thank
18 you.

19 THE COURT: All right. Anything on redirect?

20 MR. MEADORS: No, sir. Thank you.

21 THE COURT: You my step down, Mr. Porterfield.

22 (The witness leaves the witness stand.)

23 MR. MEADORS: Christopher Lyles.

24 (CHRISTOPHER LYLES, having first been duly
25 sworn, testified as follows:)

1 THE CLERK: Thank you. Please have a seat in
2 the witness stand and state your full name for the
3 record.

4 THE WITNESS: Christopher Lyles.

5 DIRECT EXAMINATION

6 BY MR. MEADORS:

7 Q Good afternoon, Mr. Lyles?

8 A Good afternoon.

9 Q All I ask of you, please, sir, if you'll just speak
10 loud enough for these ladies and gentlemen can hear
11 you and His Honor and the court reporter. Speak in
12 that mike if you need to, sir.

13 Mr. Lyles, as I do with every one of my
14 witnesses, will you please tell them where you're
15 from?

16 A Blair, South Carolina.

17 Q Blair?

18 A (Affirmative response.)

19 Q You were born and raised there?

20 A Yes, sir.

21 Q Where did you go to high school?

22 A Fairfield Central.

23 Q When did you get out of Fairfield Central?

24 A 1995.

25 Q What did you do after that, Mr. Lyles?

1 A Started working as a mechanic.

2 Q And is that still what you're doing today?

3 A Yes.

4 Q And then you've got a shop or work in a shop up off
5 -- between Winnsboro and Highway 213?

6 A Yes, on Reservoir (phonetic) Road, yes.

7 Q New Reservoir Road or Reservoir?

8 A Reservoir Road.

9 Q All right. And the name of that company is -- or
10 business is what?

11 A Southside.

12 Q Southside?

13 A Yes.

14 Q Please, sir. I want to take you back to the Super
15 Bowl on February 4th of 2007.

16 A (Affirmative response.)

17 Q Did you have an occasion to go to Club 360 on Bush
18 River Road over here in Columbia?

19 A Yes.

20 Q And who did you go with?

21 A My girlfriend.

22 Q And please don't take this the wrong way because I'm
23 no angel, but did you start drinking?

24 A Yes.

25 Q All right. And was it fair to say you had a lot to

1 drink?

2 A Yes.

3 Q Had a lot to drink?

4 A Yes.

5 Q All right.

6 A I was intoxicated.

7 Q Sir?

8 A I was intoxicated.

9 Q Well, I didn't want to lead you there to it but you
10 were intoxicated?

11 A Yes.

12 Q And did you and your girlfriend -- again I'm not
13 casting stones, but did y'all get in a little
14 argument?

15 A Yes.

16 Q All right. And as result of that, did they take you
17 out of the bar?

18 A Yes.

19 Q All right. And when you came out of the bar, did
20 they put anything on your hands or arms?

21 A Yes, they put handcuffs on me.

22 Q And when you got out of the bar or taken out of the
23 bar, what if anything do you remember happening
24 after that?

25 A I was intoxicated. I can't really remember what

1 happened. I don't even remember them taking me out
2 the bar.

3 Q All right.

4 A Actually.

5 Q Did you end up leaving?

6 A Yes.

7 Q The 360?

8 A Yes.

9 Q Did you have a gun with you when you were in 360?

10 A No.

11 Q Did you -- well if you didn't have a gun, you
12 couldn't have shot a gun, correct?

13 A No.

14 Q And how did you get from 360 to wherever you went?

15 A My girlfriend.

16 Q And what's her name?

17 A Takesha Ford (phonetic).

18 Q And whose car were you in?

19 A Her car.

20 Q Okay. And where did you go -- y'all go?

21 A To my mother's house in Blair.

22 Q And that's where?

23 A Blair, South Carolina.

24 Q Blair, South Carolina. And ---

25 THE COURT: You said Blair?.

1 MR. MEADORS: Blair, I'm sorry.

2 THE COURT: That's all right.

3 Q Did she drop you off there?

4 A Yes.

5 Q All right. Did you try to get her to stop and get
6 you something to drink on the way home?

7 A Yes.

8 Q Did she?

9 A Yes -- no. No, she didn't.

10 Q All right. Did -- you wanted something to drink?

11 A Yes.

12 Q All right. She dropped you at your house?

13 A Yes.

14 Q What did you do after that?

15 A I got in another vehicle.

16 Q Why?

17 A Came back to go get another drink.

18 Q All right.

19 A Got stopped by the police and got a DUI.

20 Q She dropped you off in Blair and you left to go get
21 another drink?

22 A Yeah.

23 Q And you got stopped and pulled for DUI?

24 A Yes.

25 Q All right. And whose car were you in?

1 A My mother's car.

2 Q And in that car, did you have a gun?

3 A Yes.

4 Q All right. That wasn't your mamma's gun?

5 A No.

6 Q Was that your gun?

7 A Yes.

8 Q Was that gun at anywhere near 360?

9 A No.

10 Q So when you came back to your house in Blair, you
11 got in the car and then you went ---

12 MR. MCCULLOCH: Object to leading, Your Honor.

13 MR. MEADORS: I was just trying ---

14 MR. MCCULLOCH: I understand.

15 Q But you got pulled for DUI?

16 A Yes.

17 Q Arrested for DUI?

18 A Yes.

19 THE COURT: Sustained.

20 Q Did they take the gun?

21 A Yes.

22 Q I'm showing you what's marked and I believe we've
23 shown this to Mr. McCulloch.

24 MR. MCCULLOCH: I've seen it.

25 Q State's 50, do you recognize that?

1 A Yes.

2 Q Is that your gun?

3 A Yes.

4 Q Was it or was it not taken off you when you got
5 arrested for DUI?

6 A Yes.

7 MR. MEADORS: State's 50, I believe without
8 objection.

9 (Whereupon, State's Exhibit Number 50, Gun of
10 Christopher Lyles, was admitted into evidence.)

11 Q Do you know what caliber this is?

12 A 38.

13 Q Do you know Johnnie Gaskins?

14 A No.

15 Q Do know Lamont Davis?

16 A No.

17 Q Do you know Deirdre Houston?

18 A No.

19 Q Q, do you know a fellow named Q?

20 A No.

21 Q You'd just had too much to drink that night, didn't
22 you?

23 A Yes.

24 Q You and your girlfriend still together?

25 A Yes.

1 MR. MEADORS: Okay, thank you.

2 CROSS EXAMINATION

3 BY MR. MCCULLOCH:

4 Q Mr. Lyles?

5 A Yes.

6 Q How long have you had that particular hair style?

7 A Well, I've been growing braids for quite a while,
8 sir.

9 Q Now, this night, you had -- what were you drinking?

10 A Just a number of shots from the bar, Grey Goose, all
11 kind of drinks and stuff?

12 Q Do you know why you were thrown out of the club?

13 A Me and my girlfriend got a little dispute about me
14 drinking so much and they throwed me out.

15 Q You remember that or that's what she told you?

16 A That's what she told me. I don't even remember.

17 Q So you don't remember much about this. Do you
18 remember being stopped by the police much --
19 sometime later with a gun in the car?

20 A Well, after they locked me up, yes.

21 Q Okay. And you don't know what happened -- what's
22 the last thing you remember, being at the club?

23 A Yes, sir.

24 Q Having a shot?

25 A Being at the club.

1 Q And the next thing you woke up the next morning in
2 jail?

3 A Yes, sir.

4 Q Does that gun belong to you?

5 A No, sir -- well -- well, it -- it's not registered
6 to me.

7 Q You had access to it? You know where it was kept?

8 A Yes.

9 MR. MCCULLOCH: Thank you.

10 THE COURT: Anything further?

11 MR. MEADORS: No, sir.

12 THE COURT: You may step down, Mr. Lyles.

13 (The witness leaves the witness stand.)

14 MR. MEADORS: Sydney Williams.

15 (SYDNEY P. WILLIAMS, having first been duly
16 sworn, testified as follows:)

17 THE CLERK: Thank you. Please have a seat in
18 the witness stand and state your full name for the
19 record.

20 THE WITNESS: Sydney Patrell Williams.

21 DIRECT EXAMINATION

22 BY MR. MEADORS:

23 Q Mr. Williams, what was your middle name?

24 A Patrell.

25 Q I appreciate you speaking -- if you'd just get close

1 but not too close to the microphone so the court
2 reporter can hear you and the ladies and gentlemen
3 of this jury.

4 Mr. Williams, I do this with every witness, will
5 you just tell them a little about yourself, where
6 you were born and raised?

7 A I was born in Sumter, South Carolina. Went to
8 Midland Tech in '97 and I studied respiratory
9 therapist and computer repair.

10 Q And what did do you after that?

11 A I had a brain surgery in '04 and I didn't go back to
12 school. After that I started -- I got another job.
13 I just started working somewhere else, that's about
14 it.

15 Q You've got kind of lucky catching that in time,
16 didn't you?

17 A Yeah.

18 Q And fully recovered from it?

19 A (Affirmative response.)

20 Q And what job or what did go you into after that?

21 A I started working at The Courtyard Marriott and just
22 doing little odd jobs like that.

23 Q And what are you doing now?

24 A I work at McDonald's now.

25 Q That's over on Harbison?

1 A Yeah.

2 Q Now, Mr. Williams, you know Johnnie Gaskins, don't
3 you?

4 A Yeah.

5 Q And how long have you known him?

6 A I've known him for quite a while.

7 Q And I want to take you to February 4th of 2007,
8 which would be the Super Bowl Sunday, the Colts
9 versus the Bears. Do you remember that Sunday?

10 A Yeah.

11 Q And did you have an occasion to go to a Club 360
12 that day?

13 A Yeah, I was at 360.

14 Q Had you been there before?

15 A Yeah.

16 Q Who did you go with?

17 A My girlfriend, Kim.

18 THE COURT: I'm sorry, you said February the
19 4th. I know you meant February the 5th.

20 THE WITNESS: 5th.

21 THE COURT: Okay, that's all right.

22 MR. MEADORS: I think the Super Bowl actually
23 was on the 4th then it went into the 5th. I apologize,
24 that Sunday was the 4th and this happened on the 5th.
25 I'm sorry.

1 MR. MCCULLOCH: I heard it as well. I'm not
2 sure what -- where ---

3 THE COURT: Whenever the Super Bowl was, that's
4 the day they got together. Okay, that's good.

5 MR. MEADORS: Just for the record, I apologize.
6 The Super Bowl was that Sunday the 4th and the shooting
7 actually happened the early morning hours of the 5th.

8 THE COURT: Okay, well, good.

9 MR. MEADORS: I apologize ---

10 THE COURT: No, no. That explains it for
11 everybody including the jurors, I hope, right?

12 JURORS: (Affirmative response.)

13 THE COURT: Okay, good.

14 MR. MEADORS: My bad, I'm sorry.

15 THE COURT: No, no, there's no bad. Go ahead.

16 Q That Super Bowl Sunday, you were at 360?

17 A Right.

18 Q Okay. And you went, I think, with Ms. Kim -- and
19 her last name's Jeter?

20 A Right.

21 Q And do you remember what time you got there?

22 A I'm not sure.

23 Q Okay. When you got there, you were watching the
24 game and eating, I guess?

25 A Uh-huh.

- 1 Q Do you remember what time you left?
- 2 A I'm not quite sure what time I left either?
- 3 Q Okay. And some time during the day before the
- 4 evening, did you have an occasion to see Mr.
- 5 Gaskins, the Defendant, there?
- 6 A No.
- 7 Q Prior to the evening?
- 8 A (Negative response.)
- 9 Q So when was the first time you saw him?
- 10 A When I entered the club.
- 11 Q I'm sorry?
- 12 A When I entered the club.
- 13 Q And, I mean, I'm not -- I'm messing up right now.
- 14 That's what I meant earlier. I meant when you were
- 15 in the club not ---
- 16 A Yeah.
- 17 Q So when you got inside the club, did you have an
- 18 occasion to see Mr. Gaskins?
- 19 A Yeah, I seen him.
- 20 Q Okay. And no doubt that was him? You've known him
- 21 for a long time and...
- 22 A (Affirmative response.)
- 23 Q Okay. And did y'all talk or converse when you were
- 24 in the club?
- 25 A Yeah.

1 Q Okay. Later on that evening of the 4th or into the
2 early morning hours the 5th, did you see the
3 Defendant, Mr. Gaskins (indicating), involved with
4 some employees of the 360?

5 A No.

6 Q Okay. Did you see him leaving 360?

7 A Yeah, I seen him when he was getting kicked out.

8 Q And that's -- that's what I was asking, okay. And
9 where were you when that happened?

10 A I was on the other side of the bar and I kind of
11 just seen them when they was kicking him out

12 Q Okay. And when you say kicked him out, were they
13 literally taking him out of the club?

14 A Yeah, they was walking him out.

15 Q And what did you do after that, after you saw him
16 being taken out of the club?

17 A I went to see what was going on.

18 Q And what did you -- how did you do that?

19 A I just seen him getting kicked out of the club so I
20 walked up behind and asked what was going on. And
21 they said they was kicking him out the club for
22 disorderly conduct and so forth and so on. And I
23 was like, you know, he's drunk. Y'all need to let
24 him go, let him go, he's drunk, you know, he's
25 drunk. You know what I'm saying, he's about to go

1 home.

2 And the security guard -- well, he got -- he got
3 a little upset and the security guard put him in
4 cuffs. And then I asked the security guard -- they
5 called him New York now. I was like, yo, please let
6 him go, you know, what I'm saying, he's drunk. He
7 had a lot to drink, he's gonna go home, he's gonna
8 go home.

9 And so they let him out the cuffs and sat him
10 down by the car and got his ID and told him that he
11 wasn't -- he wasn't to come back out -- out there
12 anymore. If he came back out there, he would get
13 locked up.

14 And then he ordered me to walk him to his car
15 and make sure he went home. And that's what I did.

16 Q And you walked him toward his car?

17 A Uh-huh.

18 Q And do remember what kind of car he was in?

19 A Impala.

20 Q Impala?

21 A (Affirmative response.)

22 Q So we're out in the parking lot now, Mr. Williams,
23 and you're with Mr. Gaskins. Are you close to him?

24 A (Affirmative response.)

25 Q Was he upset?

1 A Yeah, he was kind of upset. He felt like -- like --
2 like the security guards was, you know -- he felt
3 like he was being played.

4 Q And -- and did he -- you kept him from getting
5 arrested basically, correct?

6 A Yeah.

7 MR. MCCULLOCH: Objection, leading, Your Honor.

8 Q Did you keep him from getting arrested?

9 A I talked the cuffs off of him, so, yeah, I guess I
10 did.

11 THE COURT: Okay.

12 MR. MCCULLOCH: Same objection.

13 THE COURT: All right.

14 Q Did you remind him of that?

15 A Yeah.

16 Q What was his response if any to that?

17 A His response was, I feel like, you know, they trying
18 to play me, they're trying to play. That was his
19 response, you know, he felt like he was being
20 played. Like, you know, he really didn't understand
21 that I got the cuffs off of him, you know. He was
22 intoxicated.

23 Q Did he curse any?

24 A Yeah.

25 Q I mean, what did he saw?

1 A Like, fuck that, fuck that, you know.

2 Q And did you see him go to his car?

3 A Yeah, I walked him to the car.

4 Q And what happened after that? You know, what did he
5 do, Mr. Gaskins?

6 A He got in the car and he was like, he felt like he
7 was being played. And he gonna do this, he gonna do
8 that. I'm like, yo, don't do nothing like that, you
9 know. Saying, my baby mamma in the club or
10 whatever. And he was like, you know, fuck that.
11 And he rolled off and I heard gunshots.

12 Q And when he rolled off, were you still in the
13 parking lot?

14 A Yeah.

15 Q And did you watch his car -- where did his car go?

16 A In the front the club.

17 Q And where did the shots come from?

18 A I guess his car. By that time, you know, when he
19 drove off and stopped, I heard gunshots so I got on
20 the ground.

21 Q And the time length from him saying fuck that, fuck
22 that and driving off and the shots, you were all
23 there in that time period?

24 A (Affirmative response.)

25 Q And was it his car that stopped in front of the

1 club?

2 A The car he was driving.

3 Q And is that the car the gunshots came from?

4 A You know, I guess -- I mean, I heard the gunshots.
5 That's when I, you know (indicating)...

6 Q This isn't easy for you to be here today, is it?

7 A No.

8 Q You're under subpoena, right?

9 A (Affirmative response).

10 Q You've known him for a long time?

11 A Yeah.

12 Q But you knew you had to be here today, didn't you?

13 A (Affirmative response.)

14 (Pause.)

15 Q When you took the Defendant, Mr. Gaskins, to his --
16 or walked with him to his car, was it just the two
17 of y'all?

18 MR. MCCULLOCH: I object to the leading, Your
19 Honor, again.

20 MR. MEADORS: Is that leading?

21 MR. MCCULLOCH: Was it just the two of you?

22 MR. MEADORS: Did I say it was just the two of
23 you, was it?

24 Q Who else was there besides ---

25 THE COURT: I don't think that's leading..

1 Overruled.

2 Q Was there anybody out there at the car besides you
3 two?

4 THE COURT: Who was there?

5 A It was us at the car but there was also a security
6 guard that walked around the car to make sure that I
7 was doing ---

8 Q Okay.

9 A --- what they told me to do.

10 Q Did anybody else get in the car besides Mr. Gaskins?

11 A No, he was in the car by himself.

12 Q What did you do after that?

13 A After?

14 Q After the shots and what did do you?

15 A I hit the ground and I got up. Security guards was
16 shooting towards the car and one of the security
17 guards came and put me in cuffs and told me I knew
18 who the guy was. You know, you came out here with
19 him. That, you know, I was like, nah, I came out
20 here with my girl. And I thought that was it.

21 Q Did you eventually give them a statement telling
22 them it was Mr. Gaskins?

23 A No, I told -- they put the cuffs on me and I had to
24 go down to Richland County and talk to Isenhoward.

25 Q And at that point did you tell him who was in the

1 car?

2 A I told him that -- yeah, that I walked Mr. Gaskins
3 to the car and that he was out in the car.

4 Q I think we can do this right here in front, just
5 briefly show this video. It won't take but a
6 second.

7 THE COURT: What -- which video?

8 MR. MEADORS: The same one.

9 THE COURT: Oh.

10 MR. MEADORS: Just to identify -- very briefly,
11 Your Honor.

12 THE COURT: All right.

13 MR. MEADORS: Please.

14 THE COURT: Sure, sure. Any objection, Mr.
15 McCulloch?

16 MR. MCCULLOCH: I love a movie.

17 (Pause.)

18 MR. MEADORS: Mr. Williams, do you mind coming
19 down here for a second, with the Court's permission?

20 (The witness steps down from the witness stand.)

21 MR. MEADORS: Please, sir, just come right over
22 here where she can see your face, please, sir.

23 (Complied.)

24 (Whereupon, the video was played for the jury and
25 witness.)

1 Q Do you recognize this as 360 in the parking lot?

2 THE COURT: Mr. Meadors, you're blocking some
3 of the jury's view.

4 MR. MEADORS: I'm sorry.

5 Q Do you -- when you see yourself on here or you think
6 you are, will you please say stop?

7 A (Affirmative response.)

8 Q Please.

9 (Video continues.)

10 A That's me. I think that was me right there
11 (indicating). I don't know.

12 Q Let me stop it real quick.

13 (Video is stopped.)

14 Q When you came out of the club, after -- you
15 testified Mr. Gaskins was taken out?

16 A Uh-huh.

17 Q Where did you go?

18 A When I came out of the club?

19 A Yes, sir.

20 A When Mr. -- when they was taking him out?

21 Q Yes, sir. Yes, sir?

22 A I was right behind him (indicating).

23 Q Okay.

24 A They was like over here (indicating).

25 Q All right.

1 A I talked to them and stuff.

2 Q And which direction -- where did y'all go? Where
3 was his car parked?

4 A Right there (indicating).

5 Q It's not there now, correct?

6 A Right. No, it's right here (indicating).

7 Q I'm sorry, I can't see. All right. So that's where
8 you walked him to?

9 A Uh-huh.

10 Q Or walked with him?

11 A Right.

12 Q Okay. After you left him at that car, where did you
13 go?

14 A I kind of just like wandered off a little bit after
15 he pulled off. I kind of like wandered off. I
16 think that was me back here (indicating), somewhere,
17 and then they started shooting and I hit the ground.

18 MR. MEADORS: Go ahead and play it.

19 (Video continues.)

20 Q Now, you said that somebody came and got you and
21 said, you know who it was?

22 A (Affirmative response.)

23 Q Can you show on here where that was?

24 A That's me (indicating).

25 MR. MEADORS: All right. Stop right here.

1 (Video is stopped.)

2 Q Who is this up here (indicating)?

3 A That's somebody -- well that's the security guards
4 and I believe they're about to start shooting back
5 and stuff toward the car (indicating).

6 MR. MEADORS: Let's go to the other video.

7 (Video continues.)

8 MR. MEADORS: Stop right there.

9 (Video is stopped.)

10 Q Did -- did a security guard come out with y'all ---

11 MR. MCCULLOCH: Your Honor, I'm going to object
12 to leading because the Solicitor is pointing things out.

13 THE COURT: Sustained.

14 MR. MCCULLOCH: Thank you.

15 Q Who besides you and Mr. Gaskins went out in the
16 parking lot?

17 A That guy right there (indicating).

18 Q Do you know who he was?

19 A I don't know but I know what he look like.

20 Q Okay. Did you know what position if any he was
21 performing at 360 that night?

22 A Just security guard.

23 Q Okay. And where is Mr. Gaskins' car, if anywhere?

24 A (Indicating).

25 Q What did the security guard do to you if anything

1 when you came in contact with him after the car
2 drove off?

3 A He came around and he said, you know, who he is, you
4 came out here with him, and put me in handcuffs. I
5 said, I don't know who he is and I ain't come out
6 here with him.

7 Q He put you in handcuffs?

8 A Uh-huh.

9 Q And right her (indicating) ---

10 MR. MEADORS: Freeze it, please.

11 (Complied.)

12 MR. MEADORS: Thank you.

13 Q Do you know who this person is? Do you know where
14 he put you in handcuffs, let me ask you that?

15 MR. MCCULLOCH: Well, Your Honor, I object to
16 that as leading, stopping the video and then suggesting a
17 leading question about pointing out a specific individual
18 and that is leading ---

19 THE COURT: Then he questioned, who is this in
20 the photo.

21 MR. MCCULLOCH: Then he said ---

22 THE COURT: Stop.

23 MR. MEADORS: Judge, that's all.

24 THE COURT: That's all right.

25 THE COURT: That's all right, it's okay. He's

1 got a right to objection. What was the objection again,
2 he pointed to?

3 MR. MCCULLOCH: He then points -- the Solicitor
4 points to somebody and says something about this is the
5 person who handcuffed him. So that just seems to be
6 leading. I object to that. He's asking ---

7 THE COURT: Relax. Y'all both know what you're
8 doing. Just take your time. Don't lead him anymore.

9 All right, continue.

10 Q Do you know who this is?

11 A This guy right here?

12 Q Yes.

13 A That's the security guard that walked around us to
14 make sure that I was taking him to his car.

15 Q All right. And do you know his name?

16 A No.

17 Q And did you see him after the shooting?

18 A After the shooting?

19 Q Yes.

20 A Yes -- the security guard?

21 Q Yes, sir.

22 A He put me -- the cuffs on me.

23 Q That's what I was asking you.

24 A Oh.

25 Q Okay. You can have a seat.

1 (The witness returns to the witness stand.)

2 MR. MEADORS: Thank you.

3 THE COURT: You going to want that, Mr.
4 McCulloch, back up later?

5 (There was no response.)

6 THE COURT: Maybe? Okay. Mr. McCulloch.

7 MR. MEADORS: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 (Pause.)

10 Q Thank you for being here today.

11 A (Affirmative response.)

12 Q If you take the stand there are certain things
13 they're allowed to ask about you and I have to ask
14 you about this. Take no offense at it.

15 Did you have a 2000 P W I D cocaine times two
16 conviction, in 2000?

17 A (Affirmative response.)

18 THE COURT: Your need to answer yes or no, sir.

19 A Yes. Yes.

20 THE COURT: Thank you.

21 Q I apologize asking, possession of cocaine for a
22 year?

23 A Yeah.

24 Q And in 2004, possession cocaine?

25 A Yes, sir.

1 Q You kicked all that by the way, right?

2 A Right.

3 MR. MCCULLOCH: I'm sorry, what?

4 MR. MEADORS: I said, he's kicked -- you've
5 kicked that, haven't you?

6 MR. MCCULLOCH: Kicked that?

7 Q Are you off drugs?

8 THE COURT: Stopped using the drug I think is
9 what he means.

10 Q That's all I was asking.

11 A Yes, sir.

12 THE COURT: He had two convictions for drug
13 offenses. He stopped using the drug, I think is the
14 substance of the testimony. You get a chance to ask him.

15 You may cross-examine, Mr. McCulloch.

16 MR. Meadors: Your Honor, I've got ---

17 THE COURT: Okay, I'm sorry. After Mr. Meadors
18 has concluded his direct examination.

19 Q The person you saw get in the car, that you walked
20 out to the car with?

21 A Uh-huh.

22 Q And that car that went to the front of the 360?

23 A (Affirmative response.)

24 Q And you then heard shots?

25 A (Affirmative response.)

1 Q Was the person that was in that car in this
2 courtroom?

3 A The person that did it?

4 Q Yes, sir?

5 A Yes, sir.

6 Q Can you tell us who it was?

7 A The person that I walked to the car?

8 Q Yes, sir?

9 A Mr. Gaskins (indicating).

10 MR. MEADORS: Thank you, that's it.

11 CROSS-EXAMINATION

12 BY MR. MCCULLOCH:

13 Q Mr. Lyles (sic), you don't use drugs anymore, do
14 you?

15 A No, sir.

16 Q As the Solicitor asked you, you previously, I think
17 as you testified, you were asked about PWID. Well,
18 that's possession with intent to distribute, right?

19 A That's right.

20 Q And there was the sale of drugs as well?

21 A Uh-huh.

22 THE COURT: Speak up, sir. Thank you.

23 (Pause.)

24 Q Now, in the video you just watched you ---

25 MR. MCCULLOCH: We've lost our pointer.

1 Q If I understand your testimony correctly, the
2 vehicle you say Mr. Gaskins got in was somewhere
3 over here (indicating)?

4 A Right.

5 Q And based on your testimony, when the shooting --
6 and it was parked in a double line of automobiles?
7 When I mean double line I mean, you know, one car
8 and a car behind it and then -- cars in two rows?

9 A Right.

10 Q And when the shooting actually occurred, you were
11 somewhere down here (indicating) because you've
12 testified you wandered in this direction?

13 A Uh-huh.

14 Q So when the shooting occurred, as I think you
15 testified, you didn't really see who did the
16 shooting, did you?

17 A No.

18 Q Because you would have been looking through a lot of
19 cars?

20 A Right.

21 Q There were a lot of other cars moving around in the
22 parking lot and people?

23 A Not that much people and not that many cars either.

24 Q What about people?

25 A No.

1 Q Well, did you see people around in the video?

2 A Yeah the ones that was about to get kicked -- being
3 kicked out the club. That basically was the only
4 people in the parking lot and they wasn't in the
5 parking lot yet.

6 (Pause.)

7 Q Now, you've testified that -- that you and your
8 girlfriend went to the club together?

9 A Correct.

10 Q That's not exactly true is it? You saw Mr. Gaskins
11 there and when your girlfriend -- her name's Kim,
12 right?

13 A Uh-huh.

14 Q She needed a ride over and you had talked Mr.
15 Gaskins into taking you to get her, isn't that ---

16 A Uh-huh.

17 Q So the part of your statement in which you said that
18 you went to club with your girlfriend, that's not
19 true?

20 A It is true. I arrived at the club with my
21 girlfriend.

22 Q Okay.

23 A And me and Johnnie left and went and got my
24 girlfriend and came back.

25 Q Okay.

1 A And that's when ---

2 Q How many girlfriends have you got?

3 A I've got one girlfriend.

4 Q Okay. Now, that part of your statement says, I went
5 to Club 360 with my girlfriend, that's not true, is
6 it?

7 A It is true. I initially went to Club 360 with my
8 girlfriend. I seen Johnnie and we went back to one
9 of our friend's house in Hunter's Ridge and went and
10 got my girlfriend. We rode back with Johnnie to the
11 club. And that's when we got out of the car and went
12 on in the club together.

13 Q All right. Were you using drugs February 5th, 2007?

14 A No.

15 Q Drinking.

16 A No.

17 Q Because you don't drink?

18 A No.

19 Q The -- so you were in his automobile that night.

20 A Yeah.

21 Q Didn't tell the police that?

22 A No.

23 Q The -- when you saw Johnnie Gaskins being kicked
24 out, he was handcuffed?

25 A Not when he was getting -- when he was getting out

1 of the club he was not handcuffed.

2 Q They were treating him rough, weren't they?

3 A Not really.

4 Q Not really?

5 A No.

6 Q You ever see him handcuffed?

7 A Did I see him handcuffed?

8 Q (Affirmative response.)

9 A Yeah.

10 Q Did they put him down on the ground?

11 A No, they put him on a car. When they put the cuffs
12 on him, they had him on the car. They leaned him up
13 against the car and put the cuffs on him and told
14 him, you know, you're about to go to jail for
15 disorderly conduct. Then they walked him back
16 toward the club, sat him down beside the door of the
17 club with the cuffs on him, told Mr. Gaskins to let
18 them see the ID and he gave them the ID. And they
19 told Mr. Gaskins that he wasn't to come back out
20 there anymore. And told me to walk Mr. Gaskins to
21 the car and make sure he gets in his car and leave.
22 Q And I think you said in your statement he was drunk?
23 A Yeah.
24 Q So the shooting happened sometime after that and you
25 were some distance away, as we've established. Did

1 you go to the ground when the shooting started?

2 A Yeah.

3 Q So you didn't see any cars go by you?

4 A No.

5 Q Now, as you were asked by the Solicitor about --
6 about your criminal record, I just want to ask you
7 -- he missed one. In 2000 you were convicted of the
8 sale of a pistol, is that correct?

9 A In 2000?

10 Q Yes.

11 A Yes, I've got a pistol charge.

12 MR. MCCULLOCH: All right. That's all, thank
13 you.

14 THE COURT: Okay. Anything on redirect?

15 MR. MEADORS: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. MEADORS:

18 Q Mr. McCulloch asked about your statement. I want to
19 show you this briefly and tell me if you recognize
20 it? Sydney Patrell Williams?

21 A Yeah.

22 Q Is that your signature?

23 A Yes.

24 Q And did you put in there, I went to Club 360 with my
25 girlfriend, correct?

- 1 A Yes.
- 2 Q And that's true?
- 3 A (Affirmative response.)
- 4 Q And -- and he asked you about where you were in the
5 parking lot, I think, after Mr. Gaskins was at his
6 car. Did you see where his car went after it went
7 out of the space, parking space?
- 8 A Yes.
- 9 Q And where did it go?
- 10 A It went in front of the club.
- 11 Q Can you point that out to the jury?
- 12 A This is the club door right here (indicating),
13 right?
- 14 Q Yes, sir.
- 15 A And that's out in the parking lot (indicating).
16 Stopped right there and kept it moving.
- 17 Q And what kind of car was it?
- 18 A A Impala.
- 19 Q And what if anything happened when the car stopped
20 right there (indicating)?
- 21 A What happened?
- 22 Q Yes, sir.
- 23 A When the car stopped here (indicating)?
- 24 Q Yes, sir?
- 25 A I heard a gunshot.

1 Q You heard gunshot?

2 A Yeah.

3 Q Now, Mr. Williams, did you see a gun?

4 A I ain't seen no gun that night. I didn't see the
5 gun that night.

6 Q Mr. McCulloch asked you about your statement. Did
7 you put in your statement previously that ---

8 MR. MCCULLOCH: Objection, Your Honor. That's
9 not proper, that's leading, did you put in your
10 statement, whatever ---

11 Q What if anything did you put in your statement ---

12 MR. MCCULLOCH: Classic leading ---

13 THE COURT: Stop, both of you, relax. Back up a
14 little bit. Dissect the question if you have to.

15 Q Can you review your statement?

16 MR. MEADORS: I guess I need to mark this as a
17 -- for identification.

18 THE COURT: All right. I just told my law
19 clerk, all the statements have been referred to, we're
20 going to make them a Court's ID if nothing else, to
21 preserve them for the record.

22 Is that good enough for everybody?

23 (Whereupon, Court's Exhibit Numbers 8, Statement
24 of Sydney P. Williams, was marked for
25 identification.)

1 THE COURT: You can call them ID for purposes
2 here but I'm going to make sure they're all in the
3 record, preservation. All right.

4 MR. MEADORS: This is ID, Court's ID 8.

5 THE COURT: Okay, that's good. That's good.

6 Q Just review this please?

7 A I've got one right here.

8 Q You've got one with you?

9 A Yeah.

10 Q Can you just take your time and review the first
11 page.

12 (Pause.)

13 A Okay.

14 Q On February 5th, 2007, did you tell Investigator
15 Isenhoward ---

16 MR. MCCULLOCH: Yes, Your Honor, again ---

17 THE COURT: All right.

18 MR. MCCULLOCH: Improper cross-examination (sic)

19 ---

20 THE COURT: All right. No run-on arguments.
21 Objection -- specifically what the objection is and I'll
22 rule on it. But don't argue when you object. What did
23 he say back on such and such date?

24 MR. MEADORS: Under 609, I thought that was the
25 proper way to address it.

1 THE COURT: Do it with the magic words so there
2 won't be any longer any objections. Relax. I'll give
3 you a chance to amplify later on. Continue.

4 Q What if anything did you mention to Investigator
5 Isenhoward about whether or not you saw the
6 Defendant with a gun, on page 1?

7 A On page, 1? I said, when he went -- he went back --
8 I mean, he went to his car, to a car beside his. He
9 drives a blue car. He got in it. I started walking
10 back toward the club ---

11 Q No, no, you skipped -- you skipped ---

12 MR. MCCULLOCH: Your Honor, let's let him read

13 ---

14 THE COURT: Stop. Go to the jury room, ladies
15 and gentlemen. Don't talk about this case.

16 (The jury retires from the courtroom at
17 approximately 3:05 p.m.)

18 THE COURT: Both of you relax. No run-on
19 objections. Objection, basis, that's the way to do it,
20 Mr. McCulloch. Don't argue your objection ---

21 MR. MCCULLOCH: All right.

22 THE COURT: You relax. Let me finish. Just
23 specify what it is. I know this is all tedious for all
24 of us. Now let's calm down a little bit and do it the
25 right way. Go ahead and place your objection on the

1 record.

2 MR. MCCULLOCH: My objection was starting with
3 the leading nature of the question. But now, asking him
4 to look over his statement, then the Solicitor would like
5 -- to read to him the part of the statement he wants to
6 say, oh, yes, I remember that. That's not proper.

7 This is redirect. It is outside the scope of
8 proper redirect, secondly.

9 Thirdly, under 613, this is a prior statement of
10 the witness that he himself now wants to impeach him
11 because his answers on the stand, in his questions, are
12 different than what the Solicitor would like him to have
13 testified with the statement.

14 THE COURT: All right. Anything further?

15 MR. MCCULLOCH: That's it.

16 THE COURT: All right. I disagree. You can
17 impeach with your own witness, I think, under the rules
18 in this day and time.

19 MR. MEADORS: 610.

20 THE COURT: It used to be the old rule but he
21 can, for the sake of convenience, saving time, he can
22 point, would you please read line 1 on page 2 of your
23 statement or something.

24 Let's take a little break. And y'all got to
25 learn to be nice to each other, okay. Let's take a

1 break. It's tedious. I'll give you a chance to refresh
2 yourselves. We'll come back and resume

3 MR. MEADORS: Thank you.

4 (The Court was in recess.)

5 THE COURT: Emphatically, I walked into the jury
6 room and in essence what I said is like, you know, it's
7 important matters and people intend to get up on their
8 heels -- high heels a little bit and sometimes it's my
9 job to kind of bring you down a little bit. But I wasn't
10 angry or mad.

11 Somebody said, well, you scared me. I said,
12 that's all right, so. It's easy for us but, you know, a
13 little bit difficult for them. So I told them, relax,
14 and I'll say the same thing when they come out for the
15 benefit of everybody.

16 MR. MCCULLOCH: Tell them it was theater.

17 THE COURT: Beg your pardon?

18 MR. MCCULLOCH: Tell them it was theater --
19 theater.

20 THE COURT: Oh, no, no, no. Are we all ready?

21 MR. MCCULLOCH: We are.

22 MR. MEADORS: Ready, Your Honor.

23 THE COURT: Okay. Bring them in.

24 (The jury returned to the courtroom at
25 approximately 3:22 p.m.)

1 THE BAILIFF: The jury's present, Your Honor.

2 THE COURT: Thank you, Mr. Bowen. And, members
3 of the jury, I stuck my head in the door and sort of
4 reminded y'all that this as an adversarial proceeding and
5 both sides tend to get up on their high heels a little
6 bit sometimes and it's my job to sort of control the
7 civility in the courtroom. If I yell, it's nothing
8 personal. I'm not mad at anybody but it's my job to sort
9 of keep us on an even keel.

10 And that's all the latest example was. It has
11 nothing to do with the merits of this case, nothing to do
12 with whether or not objection you should hold against
13 anybody or how I react. And my interest, I have no
14 interest. Just to try to keep us at an even keel and
15 make sure everybody receives a fair trial.

16 With that in mind, I will invite Mr. Meadors to
17 continue.

18 MR. MEADORS: If it pleases Your Honor.

19 THE COURT: This is redirect, is it not, yeah.

20 MR. MEADORS: Can I approach, Judge? Can I
21 approach the witness?

22 THE COURT: Yes, sir.

23 REDIRECT EXAMINATION CONTINUES

24 BY MR. MEADORS:

25 Q You said that was your name on Court's Exhibit.

1 Number 8?

2 A Uh-huh.

3 Q Okay. And if you don't mind, just say yes or no.

4 A Yes, sir.

5 Q Sorry. You don't have to say sir, but yes, that's
6 fine.

7 And this -- what date was this given on?

8 A Umm?

9 Q Is this a date up there?

10 A The 5th.

11 Q And does it say what time?

12 A What's that, 2:30?

13 Q Yes, sir. All right. And just where it's there in
14 pencil ---

15 A Uh-huh.

16 Q He -- would you read from, he to off? And take your
17 time.

18 A (Reading) He got in his car. I started walking
19 back toward the club. Johnnie pulled up fast,
20 stopped in front of the door of the club, started
21 shooting from inside the car. He shot several times
22 and drove off.

23 Q And that's your signature at the bottom?

24 A Yeah.

25 MR. MEADORS: All right. That's all.

1 THE COURT: Recross

2 RECROSS-EXAMINATION

3 BY MR. MCCULLOCH:

4 Q Mr. Lyles (sic), that's not what you said today
5 under oath, is it?

6 MR. MEADORS: Objection, he said Mr. Lyles.

7 MR. MCCULLOCH: I'm sorry ---

8 THE COURT: Williams.

9 MR. MCCULLOCH: Williams.

10 Q That's not what you said today, Mr. Williams?
11 That's not what you testified to 20 minutes ago?

12 A What did I say?

13 Q Didn't you testify to this jury that you couldn't
14 see the shoot -- who was firing the shots because
15 you had two rows of cars between you?

16 A And I also said when the car pulled off from me and
17 it stopped in the door of the club, I heard
18 gunshots. He was the only person in the car.

19 Q Mr. Williams, the windows of this car are tinted,
20 right?

21 A Yeah, but I walked this guy to the car.

22 Q Right. And then you turned your back and walked
23 away from him and apparently away from the club as
24 you've testified to earlier, right?

25 A Uh-huh.

1 Q You next heard shots. You didn't see shooting, you
2 heard shots?

3 A Right.

4 Q And you were immediately placed in handcuffs and you
5 were accused by the guards, weren't you?

6 A Right. I was accused by the guards of me knowing
7 who the person was and I came out there with him.

8 Q Well, they were putting the heat on you, weren't
9 they?

10 A Yeah.

11 Q All right. They had you handcuffed and you were
12 surrounded by security?

13 A Uh-huh.

14 Q You -- was there -- there was a problem between you
15 and Johnnie that night over one of these girls,
16 wasn't there

17 A No.

18 Q No?

19 A No.

20 Q You didn't just jazz up what you said then?

21 A No.

22 Q Which wasn't the truth?

23 A I ain't got to jazz up nothing.

24 MR. MCCULLOCH: I don't have anything further.

25 THE COURT: Anything further of Mr. Williams?

1 (No response.)

2 THE COURT: All right. You may step down, sir.

3 (The witness leaves the witness stand.)

4 (WHEREUPON, a bench conference was held off
5 the record, in the presence of the jury, but out
6 of the hearing of the jury.)

7 THE COURT: There's a matter of law I need to
8 take up and the only way I can do that, once again, is in
9 your absence. Please don't talk about the case. It
10 shouldn't take long. And the good news is that you're
11 going to go home earlier today than I anticipated, okay?
12 Is that good news?

13 JURORS: (Affirmative response.)

14 THE COURT: Just don't talk about the case.
15 We'll bring you back out as soon as I complete this
16 matter.

17 (The jury retires from the courtroom at
18 approximately 3:28 p.m.)

19 THE COURT: In the meantime, while we get ready
20 for that, I need to go take two Excedrin. Yes, sir. I
21 do, I mean, really.

22 MR. MEADORS: I misspoke, I didn't mean to.
23 There are three but the last one is a very short short
24 witness. So we can do them all today.

25 THE COURT: Mr. Meadors, that's fine. Relax,

1 I'll be right back.

2 MR. MEADORS: Yes, sir.

3 THE COURT: All right.

4 (The Court was in recess.)

5 THE COURT: We're ready. My law clerk can go
6 get him. Y'all ready to proceed with this Biggers?

7 (Affirmative response.)

8 THE COURT: All right.

9 (EPSIL PALMER, having first been duly sworn,
10 testified as follows:)

11 THE CLERK: Thank you. Please have a seat in the
12 witness stand and state your full name for the record.

13 (Pause.)

14 THE CLERK: State your name, sir.

15 THE WITNESS: Epsil Palmer.

16 THE COURT: What is it?

17 THE WITNESS: Epsil Palmer.

18 THE CLERK: Spell your first name.

19 THE WITNESS: E-p-s-i-l.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION (In Camera)

22 BY MR. MCDUFFIE:

23 Q Mr. Palmer, where are you currently employed?

24 A I work as a cab driver.

25 Q And where were you employed in February of 2007?

1 have a keen understanding as to why you're in and out and
2 it takes a while, that's the reason.

3 Any exceptions or additions?

4 MS. MCDUFFIE: No, sir.

5 MR. MEADORS: No, sir.

6 MR. MCCULLOCH: No, Your Honor.

7 THE COURT: You may call your next witness.

8 MS. MCDUFFIE: The State calls Epsil Palmer.

9 (EPSIL PALMER, having first been duly sworn,
10 testified as follows:)

11 THE CLERK: Thank you. Please have a seat in
12 the witness stand and state your full name for the
13 record.

14 THE WITNESS: Epsil Palmer.

15 DIRECT EXAMINATION

16 BY MS. MCDUFFIE:

17 Q Mr. Palmer, where do you currently live?

18 A I live in Myrtle Beach.

19 Q And in February of 2007, where did you live?

20 A In Columbia.

21 Q And who were you working for?

22 A Elite Security.

23 Q And what were your duties with Elite Security?

24 A I was an armed security guard.

25 Q And would you -- where would you work for them?

1 A At various clubs and stores.

2 Q And on February 4th into the early morning hours of
3 February 5th of 2007, where were you working?

4 A I was working at 360 Sports Bar.

5 Q On Bush River Road?

6 A Yes.

7 Q Had you ever worked there before?

8 A No.

9 Q This was your first time?

10 A Yes, ma'am.

11 Q And what were your duties at Club 360 that day?

12 A I was the pat down man, the one -- I searched people
13 as they were coming in.

14 Q And where were you were stationed?

15 A At the front door.

16 Q I'm going to refer you to State's Exhibit 15 which
17 is right behind you. Can you show the jury where
18 you were?

19 (The witness steps down from the witness stand.)

20 A Standing right here (indicating).

21 Q You were standing by that window right there?

22 A Is this the front door over here?

23 Q Uh-huh, that is.

24 A Okay. I was standing at the front door.

25 Q And were you also in that little area between the

1 two sets of doors?

2 A Right here (indicating)?

3 Q Yes, sir?

4 A Yes, I was moving around from here to here.

5 Q And your duties were to pat people down and -- you
6 can have a seat.

7 (The witness returns to the witness stand.)

8 Q And check for weapons, things of that nature?

9 A Yes.

10 Q And at some point later in the night was there a
11 disturbance in the club?

12 A Yes, ma'am.

13 Q Please tell the jury about that.

14 A Around 1:15, 1:20, I observed the two security
15 officers and the bouncer, John Adams, escort Mr.
16 Gaskins out of the club. And seemed like he was --
17 he was upset at whatever happened inside the club.

18 Q And are you aware of what happened inside the club?

19 A I was not aware.

20 Q And so you were stationed at the door?

21 A I was at the door.

22 Q And they were throwing him out?

23 A Uh-huh.

24 Q And when was the first time you encountered Mr.
25 Gaskins?

1 A I encountered him about 15 or 20 minutes earlier as
2 I walked into trade places with Officer Quinten
3 Harris. He wanted to come in, I mean, go out, and I
4 went in and patrolled the inside.

5 He was on -- seemed like he was harassing one of
6 the servers or the bartenders. And she handled it
7 so I didn't want to get into it. He seemed like he
8 was, to me, harassing her. And she told him, I'm
9 working and she kept walking. That's when I first
10 seen him.

11 Q Then you went back and started working the door
12 again?

13 A About 15 -- 10 or 15 minutes later.

14 Q And then did you encounter Mr. Gaskins again?

15 A Yes.

16 Q Please tell the jury about that.

17 A They were bringing him out about 15, 20 minutes
18 after that. I was at the door and I seen Quinten --
19 Quinten Harris, Lamont Davis and John Adams bringing
20 him out.

21 Q And tell the jury what happened after that?

22 A He was upset and he told us, he said as he walking
23 out -- they wasn't touching him, they were walking
24 behind him. And they were saying -- he was saying
25 -- we had on all black, all the security. He was

1 saying, y'all think y'all gangsta in that black.

2 And he said, I'm going to show y'all gangsta.

3 Q So he told you, I'm going to show you gangsta?

4 A Yes, he did.

5 Q How did you take that?

6 A A serious threat.

7 Q And what did you then do?

8 A Me and Officer Lamont Davis handcuffed him.

9 Q And this was outside of the Club 360?

10 A Yes, ma'am.

11 Q And what happened after that?

12 A After that, they walked him -- well, we walked him
13 to the front door and we sat down -- we sat him down
14 at the door and I went back to my post. And left
15 all the people sitting down with him handcuffed.
16 And I'm thinking that, you know, Richland County's
17 coming to pick him up. And I turned around and
18 looked, Officer Lamont Davis was taking him out of
19 the cuffs.

20 Q And did you see someone else talking with Lamont?

21 A Other than the security?

22 Q (Affirmative response.)

23 A There was -- there were a girl and Sydney, I want to
24 say Williams, he was there. There was a girl and
25 Sydney, they were trying to talk -- right before and

1 they was trying to talk Lamont Davis out of -- into
2 letting him go. And they said they were going to
3 make sure he got home and take care of, you know,
4 the situation.

5 Q And did you observe him being -- did you observe him
6 being taken out of handcuffs?

7 A I seen it through the glass, yes.

8 Q And what happened after that?

9 A I walked out to Lamont Davis and I asked him what --
10 what was he doing and do you have his ID because I
11 didn't really trust him, Mr. Gawkins (sic).

12 Q And then what happened after that?

13 A Lamont Davis, Quinten Harris and John Adams went
14 inside the club, back inside the club. And Sydney
15 and Mr. Gawkins (sic) went toward the car.

16 Q So Mr. Gaskins, they went toward the car.

17 A Sorry, Gaskins.

18 Q And what if anything did you observe Mr. Gaskins
19 doing?

20 A He was jumping up and down, rowdy, like he was
21 upset.

22 Q And what did you do, based on that?

23 A I walked up closer to him and I asked him what the
24 problem was.

25 Q And what did he say to you?

- 1 A He went from like night to day. He was rowdy and
2 when I went to him he all of a sudden calmed down.
3 And he said, I can't find my car, Dog. And then --
4 then he went to a gray dark colored car.
- 5 Q And what if anything did you observe him do?
- 6 A When he went to the car, I observed him jiggling
7 keys into a kind of noticeably or in a hurry.
- 8 Q And did you see his friend with him at that time?
- 9 A His friend was standing right next to him.
- 10 Q And what if anything happened after that?
- 11 A Because the windows were tinted and the way he was
12 jiggling the keys, because it was tinted, I moved
13 away from the car.
- 14 Q And why did you do that?
- 15 A Because in our training with cars -- when they get
16 in the car, move away from the car because that's
17 when they normally...
- 18 Q And that's for your own safety?
- 19 A Yeah, for our officers just to move back. And the
20 windows were tinted so I couldn't see what he was
21 doing inside the car.
- 22 Q And where did you go when you went back to the club?
- 23 A I went back to the my post at the front door.
- 24 Q So you went back towards the front doors of the
25 club?

- 1 A Uh-huh.
- 2 Q And what if anything did you observe after that?
- 3 A I was still observing him and I went to the door. I
- 4 was still watching him because he was parked real --
- 5 the car was parked real close to the curb -- club.
- 6 Q And what was Mr. Gaskins wearing?
- 7 A He was wearing a black bomber with a hood, with a
- 8 fur hood and I think black pants.
- 9 Q I'm going to show you State's Exhibit 18. Do you
- 10 recognize this jacket?
- 11 A Yes.
- 12 Q And tell the jury what this is.
- 13 A This is a black bomber.
- 14 Q And is this like what you saw the -- Mr. Gaskins
- 15 wearing that evening?
- 16 A Yes.
- 17 Q And after you walked back to the front door of the
- 18 club, what if anything did you then observe?
- 19 A Excuse me?
- 20 Q What did you observe when you got back to the front
- 21 door of the club?
- 22 A When I got back to the front of the club, as I was
- 23 watching him, that's when I seen him jiggling the
- 24 keys like he was in a hurry to get in that car.
- 25 That's when everybody came from the second glass

1 door -- I mean the first glass door.

2 Q Tell the jury about what happened.

3 A As I was watching him, like two seconds when I got
4 back to the door, Quinten Harris, Lamont Davis and
5 John Adams came through the door like wildly with an
6 unruly patron. And they busted through the first
7 glass door, you know, going into the club. And I
8 was on the other glass door that's on the outside.

9 They bust through that door and they jammed me
10 -- jammed me in the door trying to get the unruly
11 patron out the door. And my arm was -- my arm was
12 like getting twisted. They was trying to get him
13 out the door. And it got loose and I fell and I
14 think two or three people fell on the ground.
15 Everybody just kind of fell over us really.

16 Q And when you were on the ground, what if anything
17 happened next?

18 A When I hit the ground -- I didn't actually, you know
19 hit the ground but I was spun around. And I
20 remember kneeling trying to help them handcuff the
21 patron. And that's when I heard the first
22 gunshots.

23 Q And where were those gunshots, where were they
24 coming from?

25 A They were coming from what I could hear, because my

1 back was turned, they were real close.

2 Q From behind you or in front of you?

3 A From behind me.

4 Q And what if anything did you feel or observe?

5 A I felt the wind from the bullets go by as I dove
6 toward the black Magnum.

7 Q And you said you dove toward the black Magnum.

8 Where was that?

9 A The black Magnum was parked right by -- right by the
10 front door..

11 Q And what if anything happened after that?

12 A After I dove toward the Magnum, when I dove toward
13 the Magnum I kind of rolled because I didn't know --
14 because the bullets -- I mean the bullet sound was
15 so close I thought that the person was standing over
16 us shooting. That's how close it was.

17 Q And did you observe anything after that?

18 A I rolled over and I got up and I reached for my
19 pistol. And when I got up, Officer Lamont Davis was
20 -- the vehicle that I seen parked over there, the
21 same vehicle that he jigglng the keys to, I seen
22 that same vehicle pulling off.

23 Q And was the spot where he was at the vehicle
24 jigglng the keys, was there a car parked in that
25 spot anymore?

1 A There was no car parked there and Sydney Williams
2 was standing at the spot.

3 Q And did you try and return fire on the Defendant's
4 vehicle?

5 A Yes.

6 Q And what if anything happened?

7 A The gun jammed.

8 Q And what kind of gun did you have?

9 A It was a 9 millimeter.

10 Q And what happened after that?

11 A After -- after I rolled over, Lamont Adams (sic) was
12 shooting at him. And he had done came around and he
13 was toward the front. And he was -- he was shooting
14 -- he was still shooting. He had stopped and when
15 he got toward the front, he shot about two or three
16 more times.

17 Q Lamont Davis?

18 A Mr. Gaskins.

19 Q Mr. Johnnie Gaskins did?

20 A Yes.

21 Q And what happened after that?

22 A After that I seen Sydney Rogers (sic).

23 Q Sydney Williams?

24 A Sydney Williams, I seen him running from the spot
25 where the car was at.

- 1 Q And what direction was he running?
- 2 A He was running towards the front.
- 3 Q And what if anything did you do?
- 4 A I grabbed Sydney Williams and handcuffed him.
- 5 Q And why did you do that?
- 6 A Because he was -- he was the last one that was
7 standing by the Defendant.
- 8 Q And you put handcuffs on Mr. Williams?
- 9 A Yes.
- 10 Q And how long did you detain him?
- 11 A I detained him -- I don't know, about 10 minutes,
12 10, 15 minutes.
- 13 Q Who did you turn him over to?
- 14 A Richland County.
- 15 Q And did you give the police officer your information
16 that night?
- 17 A Yes.
- 18 Q And did it take a couple of days for you to catch up
19 with him?
- 20 A Yes.
- 21 Q And did you go down to headquarters and give a
22 statement?
- 23 A Yes.
- 24 Q And did they also show you a photographic lineup?
- 25 A Yes.

1 Q I show you State's Exhibit 9. Do you recognize that?

2 A Yes, ma'am.

3 Q And please tell the jury ---

4 MS. SCHILLACI: Per our earlier objection, Your
5 Honor.

6 THE COURT: Yes, ma'am.

7 Q Please tell the jury what they did when they showed
8 you that lineup?

9 A They asked me did I recognize anybody that was
10 driving -- that I seen go to that car.

11 Q And what if anything did you tell them?

12 A I told them I recognized number four, Mr. Gaskins.

13 Q And did they suggest to you who to pick out in any
14 way?

15 A No, ma'am.

16 Q Had you seen this on the TV or the news in the days
17 after it?

18 A Yes.

19 Q And did that influence who you picked at all?

20 A No, ma'am.

21 Q And you indicated you picked number four?

22 A Yes, ma'am.

23 Q And why did you pick number four?

24 A Because he was the same guy that I seen harassing
25 the girl. I had never saw him before, he was the

1 same guy. The same guy I seen them bring him out.
2 I recognized him. I'll recognize him forever. I'll
3 put it like that.

4 Q The same guy you saw jiggling the keys?

5 A The same guy I saw jiggling the keys.

6 Q The same guy that told you, I'm going to show you
7 gangsta?

8 A The same guy that threatened all the security out
9 there.

10 MS. MCDUFFIE: Your Honor, we'd offer State's 9
11 into evidence.

12 MS. SCHILLACI: Our recurring objection.

13 THE COURT: Okay.

14 (Whereupon, State's Exhibit Number 9 was moved
15 into evidence.)

16 MS. MCDUFFIE: Your Honor, if I may have the
17 witness step down so we can show him the video.

18 THE COURT: Your objection is noted as to Number
19 9.

20 MS. SCHILLACI: Thank you, Your Honor.

21 (The witness steps down from the witness stand.)

22 THE COURT: Is this ID 48 or 49?

23 MS. MCDUFFIE: Yeah, if could stand on this
24 side, Mr. Palmer.

25 MR. MEADORS: 48, Your Honor.

1 THE COURT: All right, thank you.

2 MR. MEADORS: Thank you.

3 (Whereupon, the video was played for the jury and
4 witness.)

5 Q Tell the jury what you see.

6 A That's me walking away from the car (indicating).

7 That's when he was jiggling the keys. That's me
8 walking to the door (indicating).

9 Q And which car was it?

10 A That car there (indicating). That's the same car I
11 seen him jiggling the keys to.

12 Q And that was you seen walking away from it?

13 A That was me. And right there (indicating) is the
14 car coming up, everybody jumping and falling down
15 after the car pulls up.

16 Q And which car -- you aid you hid behind a car?

17 A When that car there, right there, came up and
18 started shooting, I jumped behind this Magnum
19 (indicating). When he came up -- as soon as that
20 car came up, everybody fell out the door right
21 before it came. As he -- I guess as he was coming,
22 they were coming through the door.

23 MS. MCDUFFIE: If you can pause it right there.

24 (Video is stopped.)

25 A You seen everybody on the ground. I guess that when

1 they came -- he came up and started firing. They
2 were struggling with the other guy.

3 Q And you hid behind the Magnum?

4 A When I heard the shots, when I heard the first
5 shots, I dove behind the Magnum. Bullets was flying
6 by me. I was right there -- I was right there
7 (indicating). Officer John Adams was right here
8 (indicating).

9 MS. MCDUFFIE: If could back I up just a little.

10 (Complied.)

11 (Video continues.)

12 A That's me jumping -- I jumped.

13 Q And who's this individual over here in this area
14 (indicating)?

15 A Running, that's Sydney Williams.

16 Q And who else is with him?

17 A Is that -- can you back it up a little?

18 (Complied.)

19 A That's me right there.

20 Q And what are you doing?

21 A I'm grabbing Sydney Williams and handcuffing him and
22 taking him with me.

23 MS. MCDUFFIE: And if we could switch to the
24 other one.

25 (Complied.)

1 Q And again, why did you handcuff him and take him
2 back in?

3 A Because I knew he had -- he knew who the shooter was
4 because he was just standing right by the car and I
5 knew he could give information and I didn't want him
6 -- because I didn't know who he was. I knew he knew
7 him.

8 Q And was anyone else by the two of them? Was anyone
9 else when you saw Mr. Gaskins jiggling the keys?

10 A The girl, I think she went back inside but it was
11 just those two out -- out at the car.

12 Q Please tell the jury if you see yourself on this --
13 or when you see yourself on this video.

14 (Video continues.)

15 A That's me right there walking from the car
16 (indicating). I turned around and I looked ---

17 Q And why did you turn around and look back at the
18 car?

19 A Because I didn't trust him. I didn't trust walking
20 and turning my back to him. I'm at the door
21 watching him right here (indicating). Still at the
22 door and when everybody comes out the door, start
23 fighting, thought I was going to fall out the door.
24 That same car pulls up and that's when everybody's
25 shot. That's when the shooting occurred, as soon as

1 that car went out, I was just standing there. As
2 soon as that car moved, that's when I heard
3 gunshots.

4 Q And tell the jury when you see yourself again on the
5 video, please.

6 (Video continues.)

7 A That's me right there (indicating).

8 Q And what are you doing?

9 A I seen Sydney Williams running from where the car
10 was at and I handcuffed him.

11 Q And that's you handcuffing him?

12 A That's me handcuffing him and walking him inside --
13 inside the club because I heard a bunch of screams
14 coming from the club.

15 (Video stopped.)

16 MS. MCDUFFIE: You can go ahead and have a seat.

17 (The witness returns to the witness stand.)

18 Q And, Mr. Palmer, the person who said, I'm going to
19 show you gangsta and was jiggling the keys at the
20 vehicle, do you see him in the courtroom?

21 A Yes, ma'am.

22 Q And please point him out for the jury.

23 A Right there in the black suit (indicating).

24 MS. MCDUFFIE: Thank you, Your Honor.

25 THE COURT: Ms. Schillaci.

CROSS-EXAMINATION

2 BY MS. SCHILLACI:

3 Q Just a few questions, Mr. Palmer?

4 A Uh-huh.

5 Q Now, you testified that you were working the door
6 patting people down, correct?

7 A Yes, ma'am.

8 Q And this club needs a pat down man because people
9 bring weapons into the club?

10 A Yes, ma'am.

11 MS. MCDUFFIE: Objection, Your Honor.

12 THE COURT: Sustained.

13 Q Now, your observation of Mr. Gaskins inside was
14 what, 15, 20 seconds?

15 A Yes, ma'am.

16 Q Now, the security guards, Mr. Davis, Mr. Adams, Mr.
17 Harris, they were all wrestling with another patron,
18 in fact, I believe you said busting out the door,
19 when the shots were fired, correct?

20 A Yes, ma'am.

21 Q So you were all pretty busy with this second patron?

22 A Well, they were busy. They were busy and they
23 distracted me off of him.

24 Q And your back was turned when the shots were fired?

25 A Yes, ma'am.

1 Q I believe you testified. Now, I believe you also
2 testified that you tried to shoot back?

3 A Yes, ma'am.

4 Q And what happened to that gun?

5 A It wouldn't fire.

6 Q It wouldn't fire?

7 A Yes, ma'am.

8 Q And the police, did they ever ask you to check that
9 gun?

10 A No, ma'am.

11 Q They didn't, did they?

12 A Huh-uh.

13 Q So the police never asked you to go get your gun?

14 A No, ma'am.

15 Q Now, Mr. Palmer, you never actually saw Mr. Gaskins
16 get into a vehicle, did you?

17 A No, ma'am.

18 Q And you did not see who the shooter was, did you?

19 A No, ma'am.

20 Q And when you did the identification for the officer,
21 you were merely pointing out to him the man that you
22 had seen in the club as Mr. Gaskins, correct?

23 A Umm, I was identifying the man that I seen go to
24 that car.

25 Q But you never saw Mr. Gaskins get into a vehicle?

1 A Into the vehicle that came by and was shooting at me
2 and everybody?

3 Q You never saw him get into the vehicle is what you
4 just testified to, correct?

5 A Yes, ma'am. I never saw him physically get into the
6 vehicle.

7 Q And I believe in an earlier proceeding, that you
8 testified that you believed that Mr. Gaskins had
9 dreads or braids that evening?

10 A I said it appeared to be. The hood -- the hood was
11 kind of high. It wasn't covering his face, it was
12 covering maybe the top of his head.

13 Q The hood was high but he appeared to have dreads or
14 braids.

15 A I seen his face clearly.

16 MS. SCHILLACI: Court's indulgence, Your Honor.
17 (Pause.)

18 MS. SCHILLACI: We have no further questions,
19 thank you.

20 REDIRECT EXAMINATION

21 BY MS. MCDUFFIE:

22 Q Mr. Palmer, how many people were standing by the car
23 when you saw him jiggling the keys?

24 A There was two people.

25 Q And when the car pulled off, how many people were

1 standing in that area?

2 A One person.

3 Q And the person that was standing in that area, was
4 that Mr. Gaskins?

5 A When the car was gone?

6 Q (Affirmative response.)

7 A It was Sydney Williams.

8 Q And the person who said, I'm going to show you
9 gangsta, any doubt in your mind who that was?

10 A That was Mr. Gaskins.

11 Q And the person who said -- who then went to the car
12 and jiggled the keys, any doubt in your mind who
13 that was?

14 A That was Mr. Gaskins.

15 Q And the vehicle that he was jiggling the keys to,
16 when was the next time you saw that vehicle?

17 A I seen the vehicle pull off after -- after he was
18 shooting -- it shot up -- it shot up at the club,
19 the same vehicle. I seen -- I did see that vehicle
20 when it was coming out, that same vehicle, like
21 flashes coming out that same vehicle.

22 Q As it was pulling away?

23 A As it was far off, it pulled on out of the corner,
24 it was the same car but I did see the gunfire. It
25 was too far to see who was actually shooting the

1 gun.

2 Q And any doubt in your mind who the person was that
3 said, I'm going to show you gangsta?

4 THE COURT: I guess not. That's four times.
5 Anything further?

6 MS. MCDUFFIE: No, sir, Your Honor.

7 THE COURT: All right, thank you. Anything
8 further?

9 MS. SCHILLACI: No, Your Honor.

10 THE COURT: All right, you may step down, sir.

11 (The witness leaves the witness stand.)

12 THE COURT: You may call your next witness.

13 MS. MCDUFFIE: The State calls Rosalyn Bradley
14 Sykes.

15 (WHEREUPON, a bench conference was held off
16 the record, in the presence of the jury, but out
17 of the hearing of the jury.)

18 (ROSALYN R. BRADLEY, having first been duly
19 sworn, testified as follows:)

20 THE CLERK: Thank you. Please have a seat in the
21 witness stand and state your full name for the record.

22 THE WITNESS: Rosalyn Renee Bradley.

23 THE COURT: I'm sorry, what's your name, please?

24 THE WITNESS: Rosalyn Renee Bradley.

25 THE COURT: Not Rosalyn Bradley Sykes?

1 THE WITNESS: That's -- I dropped that last name
2 but that was it.

3 THE COURT: Okay. Thank you, ma'am.

4 DIRECT EXAMINATION

5 BY MS. MCDUFFIE:

6 Q Ms. Bradley, do you know the Defendant Johnnie
7 Gaskins?

8 A Yes.

9 Q And how do you know him?

10 A He was my boyfriend.

11 Q And when did you two date?

12 A In '07.

13 Q In February of '07, were you dating?

14 A Yes.

15 Q And Super Bowl Sunday, that weekend, do you recall
16 where you were in '07?

17 A Miami?

18 Q And what were you doing in Miami?

19 A The Super Bowl.

20 Q With someone?

21 A Yes, me and my cousin. We left on the 31st.

22 Q And in February of 2007, what kind of a car did you
23 have?

24 A A '05 Chevy Impala.

25 Q And what color was it?

- 1 A Blue.
- 2 Q And do you recall when you left to go to Miami?
- 3 A Yes.
- 4 Q When was it?
- 5 A On the 31st.
- 6 Q Of January?
- 7 A January, yes.
- 8 Q And what if anything did you do with your vehicle
- 9 while you were gone?
- 10 A I left it with Mr. Gaskins.
- 11 Q And you would let him drive your vehicle?
- 12 A Uh-huh.
- 13 Q And you left on Thursday -- you left on the 31st?
- 14 A Uh-huh.
- 15 Q And did you talk to Mr. Gaskins on Sunday, February
- 16 the 4th of 2007?
- 17 A Yes.
- 18 Q Around 9 or 10 p.m.?
- 19 A Yes.
- 20 Q And what if anything did he say to you in that phone
- 21 call?
- 22 A That he was at 360.
- 23 Q And you had let him use your vehicle?
- 24 A Uh-huh.
- 25 Q And did he also have access to your house?

1 A Yes.

2 Q And who was at your house while you were out of
3 town?

4 A My niece. She was keeping my kids.

5 Q And he told you that he was at Club 360 that
6 evening?

7 A Uh-huh.

8 MS. MCDUFFIE: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 (Pause.)

11 Q And, Ms. Bradley, who is that vehicle registered to,
12 the blue Chevy Impala.

13 A My mother, Callie Mae Bradley.

14 MS. MCDUFFIE: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 (Pause.)

17 MS. MCDUFFIE: That's it, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MCCULLOCH:

20 Q Ms. Bradley, just a couple of questions. That
21 automobile had been in your possession and use for
22 some time, had it not?

23 A Yes.

24 Q You let Mr. Gaskins take it ---

25 A Yes.

1 Q --- sometime?

2 A Yes.

3 Q He had been in and out of that automobile on other
4 occasions?

5 A Yes.

6 MR. MCCULLOCH: That's all, thank you?

7 THE COURT: Anything further of Ms. Bradley?

8 MS. MCDUFFIE: No, Your Honor.

9 THE COURT: You may step down, ma'am.

10 (The witness leaves the witness stand.)

11 THE COURT: Call your next witness.

12 MR. MEADORS: If it pleases Your Honor, the
13 State would call Deirdre Houston.

14 (DEIRDRE S. HOUSTON, having first been duly
15 sworn, testified as follows:)

16 THE CLERK: Thank you. Please have a seat in
17 the witness stand and state your full name for the
18 record.

19 THE WITNESS: Deirdre S. Houston.

20 DIRECT EXAMINATION

21 BY MR. MEADORS:

22 Q Good afternoon, Ms. Houston.

23 A Good afternoon.

24 Q Where were you born?

25 A Where?

- 1 Q Yes, ma'am.
- 2 A In Chester, South Carolina.
- 3 Q And did you go the school there?
- 4 A Yes, sir.
- 5 Q And where did you go to high school?
- 6 A I graduated from Columbia high.
- 7 Q When -- and when did you move to Columbia?
- 8 A In 2005.
- 9 Q I know you're young. And what year did you graduate
10 from Columbia High?
- 11 A 2006.
- 12 Q What did do you after that?
- 13 A I started working at the Pizza Hut on Broad River
14 Road. And I later became a shift manager there and
15 that was my little job for then.
- 16 Q What was that last part, I'm sorry?
- 17 A I said that was just my job for then. And right now
18 I'm working at Cracker Barrel and the Waffle House.
- 19 Q Okay. And did you work at a couple of different
20 Pizza Huts?
- 21 A Yeah, a few different Pizza Huts, Broad River, Bush
22 River, St. Andrews, Two Notch.
- 23 Q And right now you work at Cracker Barrel?
- 24 A Uh-huh.
- 25 Q And somewhere else?

- 1 A And Waffle House.
- 2 Q Okay. Please go back with me in time to
- 3 February 4th of 2007. Do you remember that to be
- 4 Super Bowl Sunday?
- 5 A 2004, yes, sir.
- 6 Q February 4th of 2007?
- 7 A 4th, 2007.
- 8 Q And can you tell these ladies and gentlemen of this
- 9 jury, did you have an occasion to go to Club 360 on
- 10 Bush River Road?
- 11 A Yes, sir, I did.
- 12 Q All right. And who did you go there with?
- 13 A Me, Shannavia Williams -- well, we didn't initially
- 14 go there together but we met up there later. Me,
- 15 Shanelle Whack, Shawna Williams ---
- 16 Q Shanelle Whack?
- 17 A Shanelle Whack.
- 18 Q Okay.
- 19 A Shawna Williams and Shannavia Williams.
- 20 Q And I think you said a minute ago, not everybody
- 21 went over there initially. Did somebody come later?
- 22 A Shannavia -- we later went and got Shannavia when
- 23 she got off from work.
- 24 Q Okay. And who went and got her later?
- 25 A Me and Shanelle Whack.

1 Q And Shawanda (sic) Williams stayed there?

2 A Uh-huh, Shawna Williams stayed at 360. She was
3 shooting pool at the time, so.

4 Q Do you remember what time it was that you went to
5 get Shannavia Williams?

6 A We left 360 -- I think she might have got off at
7 like 9:30 -- 9:30, 10:00'ish. So we went to get her
8 after work. She went home and got dressed and we
9 went to pick her up from home.

10 Q Okay. Where was she living?

11 A She was living off of Long Creek.

12 Q Okay. And how did you meet -- how did you get to
13 know Shannavia Williams?

14 A She was my co-worker at Pizza Hut.

15 (Pause.)

16 A She was my co-worker.

17 Q Are you okay to go on?

18 A Yeah, I'm fine.

19 Q And the other two ladies you were with that night,
20 just for the sake of this purpose, where did you
21 meet them?

22 A Shanelle Whack was also my co-worker and Shawna
23 Williams was my roommate.

24 Q You got Shannavia Williams up from her apartment and
25 went back to Club 360?

1 A Yes, sir.

2 Q What happened if anything -- or just you're back at
3 Club 360 now? What -- what happened next?

4 A We sat around and we shot pool for awhile -- well,
5 they shot pool for awhile, watching the game. And
6 after everybody was done shooting pool, we went to
7 the dance floor. The game was over. Everybody had
8 drinks and all.

9 After that, well, when we initially made it to
10 the club, we gave John Adams our jackets but we
11 called him Wolf. We knew him outside of 360. So
12 when we go there, we gave him our jackets. So we
13 were about to leave. We decided we were going to
14 Club Rockaway after we left 360.

15 Q Club Rockaway?

16 A Uh-huh.

17 Q That's not on Rosewood?

18 A Off of Two Notch Road.

19 Q Two Notch Road, okay.

20 A So we got ready to look for Wolf to get us out
21 jackets. He put them up for us so we wouldn't have
22 to carry them around. And we kind of split up. Me
23 -- me, Shannavia and Shawna Williams, we ---

24 Q And that's Shannavia Williams.

25 A Shannavia Williams, Shawna Williams.

1 Q Were they related?

2 A No.

3 Q Okay.

4 A No relation. But went up front. We waited on Wolf
5 to bring us our jackets. We was by the front door.
6 And Shawna walked away from us to go find Shanelle.
7 Me and Shannavia we stood there. She had a drink in
8 her hand. She had sat it down on a little banister
9 something like this (indicating). We was standing
10 there and she knocked it over. She said, Deirdre,
11 I'll be right back, I'm going to get some napkins.
12 I said, okay. She walked away from me, from here to
13 where you're standing (indicating).

14 MR. MEADORS: 10 feet or so, Your Honor.

15 (Pause).

16 Q Did she make it back to the counter?

17 A She never made it back to me. I didn't see her
18 walking back towards me. And when she walked off, I
19 felt something hot hit the side of my face. I
20 didn't know what it was. I just heard a ringing in
21 my ear. And I touched my face and I seen blood.
22 Then I heard boom and I hit the floor and she never
23 made it back to me.

24 Q What happened to your body? I mean, did you stay
25 standing or?

1 A At this time I got on the floor and I -- I was
2 crawling around on the floor. I had my head down.
3 So I had a lot of blood in my eyes so I really
4 couldn't see. I was just crawling just trying to
5 get out of the way. And I felt some doors and I'm
6 pretty familiar with 360 so I knew that was the
7 kitchen and I could see the gold by the pool tables
8 to the right and ---

9 Q How were you getting there?

10 A I was crawling around on the floor proceeding to get
11 to the pool tables and the shooting stopped. So I
12 pulled myself up on the pool table and I said,
13 somebody help me, somebody help me.

14 And they started again. And somebody pulled me
15 down and they drug me to the bathroom. And I stood
16 up and got a glimpse of myself in the mirror. And
17 from there I could just hear everything around me.
18 I couldn't see, I couldn't move. I could just -- I
19 could hear -- I could hear everybody around me. I
20 just heard people screaming. That's all I remember,
21 I hit the cold air -- I hit the cold air and I could
22 -- I couldn't see. But with my eyes closed I could
23 see the flashing lights and I could hear people
24 screaming. And woke up two days later in the
25 hospital and they told me that Shannavia was dead.

1 I never knew she was shot. I never knew.

2 (Crying.)

3 Q When you left 360 that night, did you know anybody
4 else had been shot?

5 A No. No, I didn't.

6 MR. MEADORS: Judge, for expedience sake
7 we have -- as Your Honor knows, we have some
8 pictures we have on a disk and think that might
9 be the easiest way to go through.

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

13 MR. MEADORS: Just a second until that...

14 THE COURT: Okay. Take your time, take your
15 time.

16 (Pause.)

17 THE COURT: Can I see y'all one more time before
18 we go forward?

19 (WHEREUPON, a bench conference was held off
20 the record, in the presence of the jury, but out
21 of the hearing of the jury.)

22 THE COURT: Members of the jury, we're at
23 another point in this trial, I need to send you out for
24 some evidentiary screening, I guess is the best way to
25 put it.

1 Please don't talk about this case. It won't be
2 much longer, I can promise you that, okay.

3 (The jury retires from the courtroom at
4 approximately 4:34 p.m.)

5 THE COURT: Now, this is --we're renewing
6 actually a previous objection made yesterday when -- or
7 two days ago on some photos of the scene that shows some
8 location of blood pools, spatterings and what have you.
9 And I think right now the prosecution is prepared to have
10 this witness identify certain locations where she was and
11 how she crawled to the bathroom or whatever, something
12 along those lines. I would prefer we get through it on a
13 dry run first to see how she reacts, I mean. Everybody
14 said something about that also.

15 So with that in mind, we'll ---

16 MR. MCCULLOCH: Your Honor, I apologize for
17 interrupting but all I want to make certain is that this
18 young lady, if she can authenticate the photographs,
19 you've overruled my prior objection and ---

20 THE COURT: Yeah.

21 MR. MCCULLOCH: -- and -- but I want ---

22 THE COURT: No ---

23 MR. MCCULLOCH: I want to make sure that we
24 don't unduly punish her with ---

25 THE COURT: This is not easy on anybody, let

1 alone her who is a victim and everybody else who had been
2 there that night. But life is hard.

3 Go ahead, Solicitor...

4 MR. MEADORS: Thank you, Mr. McCulloch, for
5 being concerned about my victim. I also had that
6 concern.

7 THE COURT: Yeah, we all -- well, go ahead. Are
8 you ready, Ms. Hinson?

9 THE WITNESS: I'm ready.

10 THE COURT: Take your time.

11 DIRECT EXAMINATION CONTINUES IN CAMERA

12 BY MR. MEADORS:

13 Q This is State's 15 which is a diagram of 360. Do
14 you recognize that as a diagram of 360?

15 A (Affirmative response.) Uh-huh.

16 Q I'm sorry, Ms. Hinson, you have to say, yes or no.

17 A Yes.

18 Q All right. And you've given testimony that after
19 you were hit or felt a stinging, you went down and
20 started crawling?

21 A Yes.

22 Q Do you remember crawling through 360?

23 A Yes.

24 Q Do you remember crawling from the first room into
25 the pool tables?

1 A Yes.

2 Q And then do you remember crawling from there to the
3 bathroom?

4 A Drug from there to the bathroom, yes.

5 Q Drug from there to the bathroom. I'm going to show
6 you these pictures one by one. And you know I'm not
7 trying to upset you, don't you?

8 A Uh-huh, yes, sir.

9 Q And we've looked at some of these before, right?

10 A Yes, sir.

11 Q And State's 25, do you recognize that?

12 A Yes.

13 Q And does it relate to what you just testified to
14 about?

15 A Yes, sir.

16 Q And is that ---

17 MR. MCCULLOCH: I think that's sufficient ---

18 MR. MEADORS: Okay.

19 THE COURT: If you have an objection, you've got
20 to make it, Mr. McCulloch.

21 MR. MCCULLOCH: Your Honor, I'm essentially
22 conceding that that's a proper foundation.

23 THE COURT: Oh, it's sufficient for purpose of
24 foundation?

25 MR. MCCULLOCH: Right.

1 THE COURT: Okay. All right.

2 MR. MCCULLOCH: I'm not ---

3 THE COURT: Okay.

4 MR. MCCULLOCH: I'm trying to speed it up and
5 save her a little wear and tear.

6 THE COURT: Okay. So let her look at all of
7 them.

8 MR. MEADORS: For the record -- well, since we
9 took them out of ---

10 THE COURT: Go ahead ---

11 Q State's 28 ---

12 THE COURT: At the end of the day ---

13 Q --- do you recognize that and does it relates to
14 your testimony?

15 A Yes, sir.

16 Q And State's 32, do you recognize that and does it
17 relate to your testimony?

18 A Yes.

19 Q And 38 -- State's 38?

20 A Yes, sir, that's my blood.

21 Q Okay. And 39, do you recognize it and does it
22 relate to your testimony?

23 Yes, sir.

24 Q Thank you. And 40, do you recognize that and does
25 that relate to your testimony?

1 A Yes, sir.

2 Q Okay. And finally 43, do you recognize that and
3 does it relate to your testimony?

4 A Yes.

5 MR. MEADORS: Your Honor, for the record, those
6 were 25, 28, 32, 38, 39, 40 and 43.

7 THE COURT: All right.

8 MR. MEADORS: And Judge, for the sake of --
9 since we all have the same concern, I'll go through these
10 very briefly and do like that and just say ---

11 THE COURT: Well, they're already in for
12 purposes of this -- over your objection.

13 MR. MCCULLOCH: Your Honor, I will concede
14 foundation.

15 THE COURT: Okay.

16 MR. MCCULLOCH: In view of her testimony. I
17 would like to approach with one thing.

18 THE COURT: Yeah.

19 (WHEREUPON, a bench conference was held off
20 the record.)

21 (Whereupon, State's Exhibit Number 25,
22 Photograph of Pool Table, was admitted into
23 evidence.)

24 (Whereupon, State's Exhibit Number 28,
25 Photograph of Items K-L-M, was admitted into

1 evidence.)

2 (Whereupon, State's Exhibit Number 32,
3 Photograph of Pool Tables and Blood, was
4 admitted into evidence.)

5 (Whereupon, State's Exhibit Number 38,
6 Photograph, was admitted into evidence.)

7 Whereupon, State's Exhibit Number 39,
8 Photograph, was admitted into evidence.)

9 Whereupon, State's Exhibit Number 40,
10 Photograph, was admitted into evidence.)

11 Whereupon, State's Exhibit Number 43, Photograph
12 of Blood, was admitted into evidence.)

13 THE COURT: Ladies and gentlemen of the audience
14 and those that are concerned about this case, whether you
15 are victims or for the Defendant, now trials are tough,
16 you know, we don't try cases because they're easy, we
17 usually try them because they're hard. And emotions run
18 high. Yet at the same time, I have to make sure that
19 nobody's improperly influenced. And there's been a
20 couple of outbursts earlier by members of the victim's
21 family. Trust me, I do understand exactly how you feel.

22 If you have difficulty controlling your
23 emotions, I have to ask you sort of to go out because it
24 might have an impermissible effect on the jury and how
25 they may view things and how -- they view things based on

1 MR. MEADORS: Thank you, sir. May it please the
2 Court.

3 DIRECT EXAMINATION CONTINUES

4 BY MR. MEADORS:

5 MR. MEADORS: If I may approach?

6 THE COURT: Yes, sir.

7 Q You described earlier a route or a path you took
8 after you were shot?

9 A Uh-huh.

10 Q Can you just use this and show the jury for us ---

11 THE COURT: I need to ask you to speak up,
12 please, Ms. Houston.

13 Q And then I'll just show you a few pictures after
14 that.

15 A We was standing here (indicating), this is the front
16 door. Another set of doors like to the side. We
17 was standing at this railing right here
18 (indicating).

19 And the path, well, after I went down on the
20 floor, I crawled here (indicating) and I touched the
21 doors here (indicating), the kitchen. And I
22 proceeded to go this way toward the pool tables
23 (indicating). And I got here (indicating), the
24 shots stopped so I pulled myself up on this pool
25 table right here (indicating). And ---

1 THE COURT: Can y'all hear, members of the jury?

2 JURORS: (Affirmative response.)

3 THE COURT: All right.

4 A And I started to -- well, I pulled myself up on this
5 table and the shots started again. Somebody pulled
6 me back down on the floor. And it was an entrance
7 right here (indicating). I don't know whether it's
8 here anymore but it's an entrance that takes you
9 back to -- to the bathrooms. And I struggled into
10 the ladies' bathroom.

11 Q Okay.

12 A And like I say, I -- I don't know?

13 Q After that you don't know?

14 A I don't know.

15 Q And I'm just going to stay up here. I'm not going
16 to ask you to come down. You have identified these
17 -- said you recognized these pictures earlier. And
18 this is 25.

19 Q And this is 25?

20 A Uh-huh.

21 Q And what do you recognize that as?

22 A The pool table behind us where we was standing.

23 Q That's when you initially got hit, correct?

24 A Initially got hit.

25 Q Okay.

1 A The pool table was behind us.

2 Q State's 25 and would that be this pool table
3 (indicating)?

4 A Yes, sir.

5 MR. MCCULLOCH: Could you have her point out so
6 I can see?

7 Q All right. Just use that pointer.

8 A The pool table right here (indicating).

9 MR. MCCULLOCH: All right thank you.

10 Q And that's what's depicted in 25, correct?

11 A Yes, sir.

12 Q Okay. And just going to go through these. State's
13 28, do you recognize that?

14 A Yes, sir.

15 Q State's 28?

16 A That's in this area (indicating).

17 Q Okay.

18 A Some benches right here and booths. They were
19 booths, I don't know ---

20 Q They were booths at the time?

21 A Yeah, they were booths at the time.

22 Q Okay. And do you see those in that picture?

23 A Yes.

24 Q Okay. And how did you get from here to here?

25 A I crawled from here to here (indicating).

1 Q Okay. And looking into -- looking at State's 32,
2 Ms. Houston, you said you recognized that?

3 A Yes.

4 Q What does that depict?

5 A Farther along here (indicating), by the pool table
6 where I pulled myself up on. The pool table here
7 (indicating).

8 Q And who's blood is that?

9 A That's my blood.

10 Q 38?

11 A That's also my blood. This was the area going
12 towards the bathroom, it was an opening here once
13 upon a time (indicating), something like that. So,
14 yeah.

15 MR. MEADROS: Can you hear her?

16 COURT REPORTER: (Affirmative response.)

17 Q And just a couple of more, 39?

18 A It's the corner that you turn in this hallway right
19 here (indicating) before you get to the ladies'
20 restroom.

21 Q And then just two more, 40?

22 A 40 is the entrance inside the ladies' restroom.

23 Q And finally, Ms. Houston, 43?

24 A Inside the ladies' restroom in front of the mirror
25 and the sink and all that good stuff.

1 Q And who's blood is that?

2 A That's mine.

3 Q You can have seat back down, please, ma'am.

4 (Complied.)

5 Q Just got a couple more questions. You said you got
6 hit -- and bear with me, please, ma'am.

7 A Uh-huh.

8 Q You said you got hit -- if you don't mind sitting
9 up. You got hit where, if anywhere?

10 A At first I didn't know where I was hit. I heard
11 people screaming saying that I was hit in the head.
12 But I was actually hit in my right ear.

13 Q In your right ear?

14 A Yes, sir.

15 Q And you said after the bathroom you didn't really
16 remember anything. How long -- when was the next
17 time you remembered something?

18 A When I hit the cold air, I guess I was on the
19 stretcher. I hit the cold air and I could just see
20 the blinking lights and hear people screaming and
21 after that I don't remember anything until two days
22 later, I wake up in the hospital.

23 Q That was my -- two days after that you remembered?

24 A Yes, sir.

25 Q And describe your -- what are the injuries to your

1 ear? What did that result in?

2 A I'm deaf in my right ear and had nerve damage to the
3 right side of my face.

4 Q Now, were you wearing a hat or a toboggan that
5 night?

6 A Yes, sir.

7 Q And just -- I'm not going to pull it out. Will you
8 just take a look and tell me if you recognize that.

9 MR. MEADORS: I don't believe there's any
10 objection to State's 52.

11 Q Does that appear to be ---

12 THE COURT: What number?

13 MR. MEADORS: 52, I'm sorry, Judge.

14 Q Does that appear to be the toboggan that you were
15 wearing?

16 A Yes, sir.

17 MR. MEADORS: According to Co-Counsel, I think
18 it's already done but these are in evidence. I
19 apologize, I think these pictures are already in
20 evidence.

21 THE COURT: They are. Objection is noted, yes,
22 sir.

23 MR. MEADORS: Thank you.

24 THE COURT: And the Exhibit 52 without
25 objection?

1 MR. MCCULLOCH: Correct.

2 MR. MEADORS: Yes, sir.

3 (Whereupon, State's Exhibit Number 52, Black
4 Knit Cap, was admitted into evidence.)

5 Q And finally, did you know Johnnie Gaskins?

6 A No, sir.

7 Q You ever seen him before?

8 A No.

9 Q Have any bad blood with him?

10 A No.

11 MR. MEADORS: Thank you.

12 MR. MCCULLOCH: I have no questions.

13 THE COURT: All right. You my step down, Ms.
14 Houston.

15 (The witness leaves the witness stand.)

16 THE COURT: Now, members of the jury, that's all
17 the evidence you shall hear today. I need to remind you
18 that tomorrow, with the activities I have, there will be
19 no Court tomorrow for the reasons I stated to you
20 earlier.

21 Now, the whole day somebody from WIS-TV was here
22 taping most of this. And I've got to caution you, try to
23 avoid watching WIS, okay. I mean, the decision you make
24 in this case must be made based on what you hear in this
25 courtroom. I remind you that under your oath you've got

1 I think they established the foundation, no objection.

2 THE COURT: All right.

3 (Whereupon, State's Exhibit Number 48 was moved
4 into evidence.)

5 THE COURT: You may step down, sir.

6 THE WITNESS: Thank you.

7 (The witness leaves the witness stand.)

8 MS. MCDUFFIE: State would call Stan Richards.

9 THE COURT: Stan Richards.

10 (STANLEY RICHARDS, having first been duly sworn,
11 testified as follows:)

12 THE COURT: Please take a seat. Tell us your
13 full name and spell your last name for the record.

14 THE WITNESS: Ivan Stanley Richards, R-i-c-h-a-
15 r-d-s.

16 DIRECT EXAMINATION

17 BY MS. MCDUFFIE:

18 Q Good morning, Investigator Richards.

19 A Good morning?

20 Q Where are you employed?

21 A I'm currently employed with the Richland County
22 Sheriff's Department, Crime Scene Unit.

23 Q And what are your duties with the Richland County
24 Sheriff's Department?

25 A I'm currently the Sergeant with a unit. I oversee

1 12 individuals and our responsibility is to respond
2 to any type of incident and if that is a particular
3 crime scene, what we would do is identify and we
4 would preserve and collect any type of physical
5 evidence at that scene. We would also try to use
6 that evidence, whenever possible, to reconstruct
7 that scene.

8 Q And were those your duties in February of 2007?

9 A They were.

10 Q And please tell the jury a little bit about your
11 education and training in the field of crime scene
12 analysis.

13 A I attended in 1971 to '73 Gainesville College in
14 Georgia and St. Leo University from 1980 to '82 in
15 Gainesville -- also in St. Leo, Florida in the area
16 of criminal justice for undergraduate studies.

17 I also attended Wayland Baptist University which
18 is in Fairbanks, Alaska in an army program for a
19 graduate degree process in sociology.

20 Q And please tell the jury a little bit about your
21 training in crime scene analysis.

22 A I have been trained in some -- some of the areas
23 I've been trained in is as follows. I've been
24 trained in blood pattern analysis, latent print
25 processing and latent print verification, ridgeology

1 which is a discipline under latent print
2 verification, shoe and tire track impressions, crime
3 scene reconstruction, drug analysis, crime scene
4 photography, crime scene techniques for
5 investigators, forensic questioned documents,
6 forensic shooting reconstruction, comparison,
7 examination of footwear, D N A procedures, complex
8 latent prints processing and examination, advanced
9 blood pattern analysis, forensics anthropology and
10 archeology, and forensic pathology seminars.

11 I am also certified as a Crime scene
12 investigator and Footwear Examiner through the
13 International Association for Identification.

14 Q And have you testified as an expert in courts of
15 record of this state?

16 A I have.

17 Q And approximately how many times?

18 A 20 times.

19 MS. MCDUFFIE: Your Honor, at this time we would
20 offer Investigator Stan Richards as an expert in crime
21 scene to include blood pattern analysis, shooting
22 reconstruction and footwear examination and comparison.

23 (Pause.)

24 MR. MCCULLOCH: If I understand correctly, we're
25 offering him as a shooting reconstruction expert, blood

1 spatter expert and what else -- footwear impression ---

2 THE COURT: Beg your pardon?

3 MR. MCCULLOCH: Footwear impression and
4 comparison?

5 MS. MCDUFFIE: We ask that he be qualified as an
6 expert in crime scene analysis to include blood pattern
7 analysis, shooting reconstruction and footwear
8 examination and comparison.

9 MR. MCCULLOCH: Your Honor, I think, what's a
10 little quick brief voir dire.

11 THE COURT: Go ahead, voir dire. He's been
12 offered as a?

13 MS. MCDUFFIE: As an expert in crime scene
14 analysis, blood pattern analysis, shooting reconstruction
15 and footwear examination and comparison.

16 THE COURT: All right.

17 VOIR DIRE

18 BY MS. SCHILLACI:

19 Q Sergeant Richards, let me just ask you quickly. On
20 blood pattern, when -- when did you receive that
21 education?

22 A My first course in blood stain pattern analysis was
23 received in 2001.

24 Q And where did you receive that training?

25 A Here in -- locally in Richland County by a external

1 source of a Mr. Jerry Finley (phonetic).

2 Q I'm sorry, by an external source?

3 A Mr. Jerry Finley.

4 Q Finley?

5 A Yes, ma'am.

6 Q And what did that training consist of?

7 A It consisted of the actual looking at and making
8 blood stain pattern examinations from blood stains
9 on walls, floors, doing trajectory analysis of blood
10 stains and being able to differentiate between
11 directionality.

12 Q And was this a day course that you took or a few
13 hours.

14 A A 40 week course, ma'am, that one.

15 Q Sir?

16 A The first one was a 40 week course -- I'm sorry, 40
17 hour course, excuse me.

18 Q 40 hour course?

19 A Yes, ma'am.

20 Q And it involved only this blood stain pattern
21 recognition?

22 A That's correct.

23 Q Okay. And in terms of the footwear, you said that
24 you were an expert in what involving footwear?

25 A Footwear examiner -- examination.

1 Q And what would that be for the jury? What's footwear
2 examination?

3 A That would be taking known print and comparing it to
4 an unknown print to try to identify one to the
5 other. That's the certification that I have. I
6 have been trained in the -- also in the actual
7 impression and developing of footwear at crime
8 scenes.

9 Q Okay. And the footwear examination, you said you
10 have a certification. When did you receive that?

11 A That certification was received in -- this year.

12 Q This year, okay. And what -- did you have to go
13 through a course in order to get that certification?

14 A No, I had to have training. I had to have
15 background training like I have -- like I told you
16 in the comparison and the development of footwear
17 itself. After those are shown, I have to take a
18 stringent test through the I A I. And then I had to
19 do comparisons through them also.

20 Q And let me ask you quickly, how much training did
21 you receive before being certified in this footwear
22 examination?

23 A In footwear examination, I had two courses of 40
24 hours each. And that's not to include the internal
25 training that we have in our department.

1 Q Okay. And in terms of the shooting reconstruction,
2 when did you receive that training?

3 A My first -- the shooting reconstruction actually
4 occurred through the crime scene and investigator
5 courses I had. I was -- I went through a crime
6 scene reconstruction in '07, forensic shooting in
7 '07, crime scene techniques in '03 and those -- in
8 all of the crime scene courses that I've had a
9 portion of those were shooting reconstruction.

10 Q And how many hours would you say that you've had of
11 shooting reconstruction?

12 A I had an advanced course of shooting reconstruction
13 in '07 which was a 40 hour course. Each of the
14 others was a 40 hour course that probably involved
15 at least 16 to 24 hours of shooting reconstruction.

16 Q And does that also include you spending a lot of
17 time on the firing range?

18 A I'm sorry?

19 Q Do you -- did that also include you yourself
20 spending a lot of time on the firing range?

21 A I spend time on the firing range, yes, ma'am.

22 MS. SCHILLACI: With that, Your Honor, we have
23 no objection to the qualification.

24 THE COURT: All right, let me make sure I
25 understand. Say it one more time.

1 MS. MCDUFFIE: We would offer ---

2 THE COURT: Offered as?

3 MS. MCDUFFIE: --- crime scene ---

4 THE COURT: Wait, slow down. I'm sorry.

5 MS. MCDUFFIE: Crime scene to include blood
6 pattern analysis ---

7 THE COURT: Wait, I can't write that fast.
8 Crime scene including what?

9 MS. MCDUFFIE: Blood pattern analysis. Shooting
10 reconstruction ---

11 THE COURT: Slow down. Shooting reconstruction,
12 what else?

13 MS. MCDUFFIE: And footwear examination and ---

14 THE COURT: Footwear examination.

15 MS. MCDUFFIE: Yes, sir.

16 THE COURT: And after your voir dire, there's no
17 objection to his testifying based on what he saw?

18 MS. SCHILLACI: Without objection.

19 THE COURT: From rendering an opinion?

20 MS. SCHILLACI: That's correct.

21 THE COURT: Very well, so admitted.

22 DIRECT EXAMINATION CONTINUES

23 BY MS. MCDUFFIE:

24 Q And Investigator Richards, how long have you been
25 with the Sheriff's Department?

1 A I was employed with the Sheriff's Department in 1994
2 after retiring from the military. I've been with
3 the Crime Scene Unit for almost nine years.

4 Q And on February the 5th of 2007, did you respond to
5 826 Bush River Road?

6 A I did.

7 Q What was that in reference to?

8 A I received a call that evening somewhere around 1:00
9 in the morning from Investigator Bill Allen. He had
10 responded to 826 Bush River Road, as he told me, to
11 a shooting incident there. He told me that there
12 was a large amount of people there, hundreds was his
13 words. He was trying to secure the scene the best
14 he could but he needed help so I responded.

15 Q And Investigator Allen, is he currently with the
16 Sheriff's Department?

17 A No, he isn't.

18 Q And where is he?

19 A He's in Iraq.

20 Q And please describe for the jury what you observed
21 when you arrived at Bush River Road, Club 360?

22 A When I first arrived there, of course I got with
23 Investigator Allen and he escorted me through the
24 scene at that time. Once I arrived, it had been
25 secured. It had crime scene tape up around the

1 front of this particular business establishment.

2 Investigator Allen -- Investigator Allen showed
3 me through the front parking lot, where he indicated
4 he had marked three fired cartridge casings in the
5 front parking lot in front of the entranceway to the
6 business. Also he had marked a projectile found
7 also on the pavement in front of the business and
8 entrance.

9 We walked into the business. I took a look at
10 what I saw mostly was a lot of possible blood that I
11 found at that time, a lot of stains on the floor to
12 the left around the pool tables, all the way from
13 the front to the back. I could see at that point
14 that these stains on the floor, the directionality
15 was in a multitude of directions. So I assumed at
16 that time that there had been a lot of foot traffic
17 in that general area.

18 Q And when you first arrived at a crime scene, ideally
19 what would you like to do first?

20 A Well, after doing that I would try to gather all the
21 information that I possibly could, and I did that.
22 I got, like I said, with Investigator Allen. I also
23 got with investigators that were on the scene that
24 night.

25 The information that I gathered at that time was

1 that there had been some type of confrontation
2 inside the business establishment. A individual had
3 been escorted out at some point. After that had
4 happened, it was believed at that time an individual
5 comes by the front of the business establishment,
6 stopping maybe somewhere in front of the
7 entranceway, and fired numerous rounds into the
8 business establishment. What I did find out at that
9 time, they had been -- there had been five victims
10 injured at that time, three of them possibly
11 critical.

12 Q And when you are analyzing or processing a crime
13 scene, which area would you do first typically?
14 Would you focus on the exterior or the interior of
15 the business?

16 A Well, it just depends. We would -- actually we
17 would start photographing first and the photographs
18 would actually go from out -- in -- outside,
19 exterior, to the interior.

20 Q And in this particular crime scene, what was it that
21 you and Investigator Allen did first?

22 A Investigator Allen and I decided that the best thing
23 to do at that particular time was to try to collect
24 and preserve any physical evidence that was found at
25 the scene at that time. And that's what we did.

1 The three fired casings that he had marked and
2 he had marked those as ---

3 Q Let me get you to stop right there.

4 A Sure.

5 Q And flip through State's Exhibits 53 to 62 and ask
6 you if you recognize those and would they relate to
7 your testimony?

8 MR. MCCULLOCH: Joanna, can we approach for a
9 second while he's doing that?

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

13 Q Do you recognize those photographs and would they
14 relate to your testimony?

15 A I do.

16 MS. MCDUFFIE: Your Honor, 53 to 62. I believe
17 it's without objection.

18 MS. SCHILLACI: Without objection, Your Honor.

19 THE COURT: 53 to?

20 MS. MCDUFFIE: 62.

21 THE COURT: And what do they consist of?

22 MS. MCDUFFIE: Photos of the exterior of Club
23 360.

24 THE COURT: All right, thank you.

25 (Whereupon, State's Exhibit Number 53,

1 Photograph of Items B-C-D, was admitted into
2 evidence.)
3 (Whereupon, State's Exhibit Number 54,
4 Photograph of Shell A, was admitted into
5 evidence.)
6 (Whereupon, State's Exhibit Number 55,
7 Photograph of Item B, was admitted into
8 evidence.)
9 (Whereupon, State's Exhibit Number 56,
10 Photograph of Shell C, was admitted into
11 evidence.)
12 (Whereupon, State's Exhibit Number 57,
13 Photograph of Shell D, was admitted into
14 evidence.)
15 (Whereupon, State's Exhibit Number 58,
16 Photograph of Items C-D, was admitted into
17 evidence.)
18 (Whereupon, State's Exhibit Number 59,
19 Photograph of Item F, was admitted into
20 evidence.)
21 (Whereupon, State's Exhibit Number 60,
22 Photograph of Item F Close-up, was admitted into
23 evidence.)
24 (Whereupon, State's Exhibit Number 61,
25 Photograph, was admitted into evidence.)

1 (Whereupon, State's Exhibit Number 62,
2 Photograph, was admitted into evidence.)

3 MS. MCDUFFIE: Your Honor, may the witness step
4 down?.

5 THE COURT: Yes, ma'am.

6 Q Investigator Richards, if you could step down.
7 (The witness steps down from the witness stand.)

8 Q Please describe for the jury what's depicted in
9 State's 53.

10 A This is an angle view of the front entrance and the
11 parking area of the business, 360 Club, with a
12 marker -- three markers as a matter of fact, B, C
13 and D. And those were the ones that I discussed
14 that Investigator Allen had marked prior to my
15 arrival and we went through them looking at those.

16 B ---

17 Q Leave those right there. So Investigator Allen
18 marked these. But this is what you observed ---

19 A It is.

20 Q --- when you arrived on the scene?

21 A It is.

22 Q And he had not collected anything or moved anything
23 from the location which was marked?

24 A He had not.

25 Q And then we'll start going through. State's 54,

1 please tell the jury what that is?

2 A That is a fired cartridge casing that Investigator
3 Allen had marked as evidence A.

4 Q And this is what you observed when you arrived?

5 A It is.

6 Q State's 55?

7 A This is a projectile that was on -- in the parking
8 lot that he had marked as B and this is what I
9 observed when I arrived.

10 Q And what appears to be around that projectile?

11 A There is a redish-brown stain, possibly blood, in
12 and around that -- that projectile.

13 Q State's Exhibit 56?

14 A This is a fired cartridge casing also and it is
15 marked C by Investigator Allen which I observed when
16 I got there.

17 Q State's 57?

18 A A fired cartridge casing marked D by Investigator
19 Allen, also in the parking lot in front of the
20 entrance of 360 Club that I observed when I got
21 there.

22 Q And State's Exhibit 58?

23 A This shows markers D and C in relationship to the
24 front entrance of the club.

25 Q And is that what you observed when you arrived on

1 the scene?

2 A It is.

3 Q You can have a seat.

4 (The witness returns to the witness stand.)

5 Q And after these pictures were taken by yourself and
6 Investigator Allen, what was done with the evidence
7 after that?

8 A That evidence at that time was collected under my
9 supervision by Investigator Allen and secured in his
10 vehicle until we could complete the process that we
11 had begun that morning.

12 Q And describe for the jury how you collect evidence.

13 A We put -- we collect the evidence. We try -- there
14 is a possibility that every piece of evidence can be
15 processed for one reason or another. If that's so,
16 we try to be very very careful in not disturbing
17 anything, trace evidence that might be on it. We
18 are careful in picking up those pieces of evidence,
19 placing them into a paper bag in order to be
20 packaged later and sealed and submitted to our
21 evidence room for further analysis.

22 Q And I'm going to show you State's 94, 95, 96 and 97.
23 Do you recognize those?

24 (Pause.)

25 A Yes. These -- these have the evidence markers on

1 them also from Investigator Allen. Also there are
2 some initials on there from the Lieutenant Zane
3 Padgett who was with the unit at the same time. So
4 these would be the three cartridge casings and the
5 one projectile.

6 Q That you observed and you oversaw the collection of
7 at the scene?

8 A That's correct.

9 Q And you said that after these items were collected
10 at the scene, they were placed where?

11 A They would have been -- they were placed in
12 Investigator Allen's vehicle and secured there until
13 we finished processing.

14 Q And then you went back to the Sheriff's Department
15 after you finished processing?

16 A Yes, he and I together along with some other
17 evidence.

18 Q And then where is this evidence placed when you
19 return back to the Sheriff's Department?

20 A Investigator Allen placed that in his locker and
21 secured it with a lock that he had the key to.

22 Q And was it later removed from his locker?

23 A As I understand it, later Lieutenant Padgett removed
24 it, which he has access to that being a supervisor,
25 and packaged it and submitted it into evidence.

1 Q And that's evidence at Richland County Sheriff's
2 Department?

3 A That's correct.

4 MS. MCDUFFIE: Your Honor, at this time we'd
5 offer 94, 95, 96 and 97 into evidence.

6 MS. SCHILLACI: One moment, Your Honor.

7 THE COURT: Yes, ma'am.

8 (Pause.)

9 MS. SCHILLACI: Just one moment, Your Honor.
10 Can we approach?

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

14 Q And he's still currently employed by the Sheriff's
15 Department?

16 A He is.

17 Q And he is available for testimony?

18 A He is.

19 MS. MCDUFFIE: Your Honor, at this time we'd
20 offer State's 94, 95, 96 and 97.

21 MS. SCHILLACI: Without objection, Your Honor.

22 THE COURT: All right, without objection.

23 (Whereupon, State's Exhibit Number 94, A-.40
24 Fired Casing Parking Lot, was admitted into
25 evidence.)

1 (Whereupon, State's Exhibit Number 95, B-
2 Projectile Parking Lot, was admitted into
3 evidence.)

4 (Whereupon, State's Exhibit Number 96, Casing
5 Parking Lot, was admitted into evidence.)

6 (Whereupon, State's Exhibit Number 97,
7 Projectile, was admitted into evidence.)

8 Q Investigator Richards, if I could get you to open
9 one of these shell casings and the projectile and
10 show it to the jury please. And if you would just
11 tell them which marker and which evidence number it
12 is.

13 A This evidence bag is marked with B, that's the
14 marker B that was -- that Investigator Allen put in
15 the parking lot that night. It is the marker that
16 was beside the projectile that was in the parking
17 lot in front of the entrance.

18 This is the projectile that was inside.

19 The remaining three are the same. They are fired
20 cartridge cases. I will open C which was marked by
21 Investigator Allen as C in the parking lot in front
22 of the entrance to the club that night.

23 This is a fired cartridge casing, as you can see
24 without the projectile, 40 caliber.

25 The two remaining B and A would be the same type

1 cartridge casings.

2 Q And Investigator Richards, did you collect any other
3 evidence that evening at Club 360?

4 A Yes. As we were going through looking at different
5 aspects of the event, Investigator Allen had marked
6 two impact points on the left side of the entrance
7 to the club, on the wall, exterior wall. At one of
8 these he had put a marker E. At that ---

9 Q And I want to show you -- I'm sorry, I'll get you to
10 pause for a second. State's Exhibit 100, do you
11 recognize that?

12 A Yes, this -- this comes from marker E. This is my
13 handwriting..

14 Q And you collected that piece of evidence?

15 A I did.

16 Q And then what else was collected that evening?

17 A That evening I was also asked to go into the trunk
18 area of a vehicle that was in the parking lot, of a
19 Crown Victoria on verbal consent of one Lamont Davis
20 and collect, if possible, any weapons inside the
21 trunk area.

22 Q I'm show you what's already in evidence, 61 and 62.
23 Is this the vehicle you entered to remove ---

24 A It is.

25 Q And this would be the vehicle of Lamont Davis?

1 A It was.

2 Q And what did you remove from the trunk of that
3 vehicle?

4 A I removed a Inter Arms 38 Special in the trunk. In
5 the 38 Special was four fired 38 cartridges and one
6 unfired 38 cartridge.

7 Q I show you State's 101. Is this what you removed
8 from the vehicle that night?

9 A Yes. This is the one unfired 38 round and the four
10 fired 38 cartridges that I removed from the weapon
11 that night.

12 MS. MCDUFFIE: Your Honor, we'd offer State's
13 101.

14 MS. SCHILLACI: Without objection, Your Honor.

15 THE COURT: All right. Those are casings?

16 MS. MCDUFFIE: Four casings and one live round,
17 Your Honor.

18 (Whereupon, State's Exhibit Number 101,
19 Cartridges, admitted into evidence.)

20 Q And you were talking about the projectiles you
21 removed from the wall that evening?

22 A Yes.

23 Q And that would be projectile E?

24 A That is a partial -- a fragment that was removed
25 from E, yes.

1 MS. MCDUFFIE: State's 100, we'd offer that,
2 Your Honor.

3 MS. SCHILLACI: Without objection, Your Honor.

4 THE COURT: And once again, for my own purposes,
5 100 is?

6 MS. MCDUFFIE: A partial projectile, Your Honor.
7 (Whereupon, State's Exhibit Number 100, Partial
8 Projectile, was admitted into evidence.)

9 Q And did Investigator Allen also collect a fragment
10 from wall inside -- or at the club?

11 A Yes, he did.

12 Q And please tell the jury about that.

13 A As we were -- like I said, as we were going through
14 the club, what we were doing it trying to find any
15 impact points that we could at that time, also while
16 we were looking for any other physical evidence that
17 could be collected.

18 Investigator Allen found an impact point all the
19 way to the rear of the club almost in the footing
20 below -- at the base of the wall that was in line
21 with the front entrance of the club. At that point
22 he found a projectile imbedded in the impact point.

23 Q And I'm going to show you State's 98. Do you
24 recognize that?

25 A Yes, I do.

1 Q And was that collected in the same manner we
2 previously went over?

3 A It was. ...

4 Q Under your supervision?

5 A It was.

6 Q And turned into evidence by Lieutenant Zane Padgett?

7 A Yes.

8 MS. MCDUFFIE: Your Honor, we'd offer State's
9 98.

10 MS. SCHILLACI: Without objection, Your Honor.

11 THE COURT: That's a spent?

12 MS. MCDUFFIE: It's a partial projectile.

13 (Whereupon, State's Exhibit Number 98, Partial
14 Projectile, was admitted into evidence.)

15 Q And finally, did you find any further evidence at
16 the club that evening?

17 A Not at that time, no.

18 Q And did you return and find a live round in the
19 parking lot?

20 A Oh, I'm -- excuse me, yes. Before we left,
21 Investigator Allen and I had discussed that we were
22 going to go back to headquarters and take the
23 physical evidence that we had secured in our
24 vehicles and secure it at headquarters so I could
25 proceed with any other processing that I deemed

1 necessary.

2 At that point, before we left, I walked the
3 parking lot outside of where the crime scene tape
4 was which was a pretty large parking lot.

5 Q And why do you do that?

6 A Well, just in case there might be some type of
7 evidence fired -- cartridge casings out there,
8 projectiles or anything of that nature, anything
9 that you deem necessary to collect that could
10 possibly be involved in the incident. And that's
11 what I did.

12 Q And what did you find?

13 A I fired -- I found a 45 round in the parking lot. I
14 marked it also as F, photographed it and collected
15 it.

16 Q And is that what's in State's 99 and depicted in
17 State's 59 and 60?

18 A It is.

19 Q And you collected that?

20 A I did.

21 Q And turned it into Richland County evidence?

22 A I did.

23 MS. MCDUFFIE: Your Honor, at this time we'd
24 offer State's 99.

25 MS. SCHILLACI: Without objection, Your Honor.

1 THE COURT: All right. Once again 99 is?

2 MS. MCDUFFIE: It's a live round in the parking
3 lot area.

4 (Whereupon, State's Exhibit Number 99, Item F -
5 45 Caliber Live Round, was admitted into
6 evidence.)

7 Q You then returned to the Sheriff's Department?

8 A I'm sorry, ma'am?

9 Q You then returned with the evidence to the Sheriff's
10 Department?

11 A Yes, ma'am.

12 Q And that same day, on February the 5th, 2007, at 8
13 in the morning, did you return back to Club 360?

14 A I did. After I secured my evidence in my locker, it
15 was secured by me, I returned back to Club 360 to
16 continue processing.

17 Q And I'm going to show you State's 63 to 93 and ask
18 you if you've had a chance to previously view those
19 and if you -- if those relate to your testimony?

20 A I have reviewed these, yes, and they do relate to my
21 testimony.

22 MS. MCDUFFIE: Your Honor, at this time we'd
23 offer State's Exhibits 63 through 93.

24 MS. SCHILLACI: And, Your Honor, without
25 objection.

1 THE COURT: Photos?

2 MS. MCDUFFIE: Photos of impact points in the
3 club, Your Honor.

4 THE COURT: Impact?

5 MS. MCDUFFIE: Impact points from projectiles.

6 THE COURT: Okay.

7 (Whereupon, State's Exhibit Number 63,
8 Photograph of Entrance, was admitted into
9 evidence.)

10 (Whereupon, State's Exhibit Number 64,
11 Photograph of Entrance-Markers 1 and 2, was
12 admitted into evidence.)

13 (Whereupon, State's Exhibit Number 65,
14 Photograph of Close-up of Door, was admitted
15 into evidence.)

16 (Whereupon, State's Exhibit Number 66,
17 Photograph, was admitted into evidence.)

18 (Whereupon, State's Exhibit Number 67,
19 Photograph of Hole in Glass, was admitted into
20 evidence.)

21 (Whereupon, State's Exhibit Number 68,
22 Photograph of Hole in Side of Wall, was admitted
23 into evidence.)

24 (Whereupon, State's Exhibit Number 69,
25 Photograph, was admitted into evidence.)

1 (Whereupon, State's Exhibit Number 70,
2 Photograph, was admitted into evidence.)

3 (Whereupon, State's Exhibit Number 71,
4 Photograph, was admitted into evidence.)

5 (Whereupon, State's Exhibit Number 72,
6 Photograph of Item 5-Hole in Glass, was admitted
7 into evidence.)

8 (Whereupon, State's Exhibit Number 73,
9 Photograph of Item 5-Window with Hole, was
10 admitted into evidence.)

11 (Whereupon, State's Exhibit Number 74,
12 Photograph, was admitted into evidence.)

13 (Whereupon, State's Exhibit Number 75,
14 Photograph, was admitted into evidence.)

15 (Whereupon, State's Exhibit Number 76,
16 Photograph of Hole in Wall, was admitted into
17 evidence.)

18 (Whereupon, State's Exhibit Number 77,
19 Photograph of Item 8, was admitted into
20 evidence.)

21 (Whereupon, State's Exhibit Number 78,
22 Photograph of Item 9, was admitted into
23 evidence.)

24 (Whereupon, State's Exhibit Number 79,
25 Photograph, was admitted into evidence.)

1 (Whereupon, State's Exhibit Number 80,
2 Photograph of Remnant of Exit Sign, was admitted
3 into evidence.)

4 (Whereupon, State's Exhibit Number 81,
5 Photograph of Ceiling, was admitted into
6 evidence.)

7 (Whereupon, State's Exhibit Number 82,
8 Photograph of Items 10 and 11, was admitted into
9 evidence.)

10 (Whereupon, State's Exhibit Number 83,
11 Photograph, was admitted into evidence.)

12 (Whereupon, State's Exhibit Number 84,
13 Photograph of Hole in Glass, was admitted into
14 evidence.)

15 (Whereupon, State's Exhibit Number 85,
16 Photograph, was admitted into evidence.)

17 (Whereupon, State's Exhibit Number 86,
18 Photograph, was admitted into evidence.)

19 (Whereupon, State's Exhibit Number 87,
20 Photograph of Hole in Sign, was admitted into
21 evidence.)

22 (Whereupon, State's Exhibit Number 88,
23 Photograph of Game Area, was admitted into
24 evidence.)

25 (Whereupon, State's Exhibit Number 89,

1 Photograph of Item 14, was admitted into
2 evidence.)

3 (Whereupon, State's Exhibit Number 90,
4 Photograph of Game and Pool Area, was admitted
5 into evidence.)

6 (Whereupon, State's Exhibit Number 91,
7 Photograph, was admitted into evidence.)

8 (Whereupon, State's Exhibit Number 92,
9 Photograph, was admitted into evidence.)

10 (Whereupon, State's Exhibit Number 93,
11 Photograph, was admitted into evidence.)

12 MS. MCDUFFIE: Your Honor, if I could have
13 Investigator Richards step down.

14 THE COURT: Yes.

15 (The witness steps down from the witness stand.)

16 Q Now, I'm going to let you stand on this side so the
17 court reporter can see you, and using State's 15 as
18 well.

19 If you could show the jury the photos and call
20 out the exhibit number and explain to them what
21 they're seeing.

22 A As I went back to the scene I took a look -- a
23 second look again at the inside of the scene to try
24 to determine what process I was going to use in
25 determining what might have happened here.

1 I took another look at the stains that were on
2 the floor. And like I said before, I saw different
3 directionalities, a lot of smearing which is not
4 going to tell me a whole lot.

5 So I decided that I would take a look at impact
6 points that we had found previously that morning to
7 see if there was anymore and see if that would help
8 to tell me some type or help me in some type of a
9 shooting reconstruction.

10 And in order to go through this there's -- there
11 are -- I marked -- that morning, I started all over
12 again. I discounted what was marked and
13 photographed prior to that by Investigator Allen and
14 I started my own process of marking impact points.
15 Impact points are areas that I deemed plausible
16 where a projectile could possibly have hit. And I
17 have to determine impact points on -- unless I find
18 a projectile imbedded in that point, there is a
19 projectile inside the area.

20 During a trajectory -- there's a thing called
21 trajectory analysis. That becomes important in some
22 aspects. During trajectory analysis there's three
23 components to that. I'm telling you this so you'll
24 know what I'm talking about as I go through these 16
25 points.

1 Trajectory analysis has three components. Number
2 one is the measurements where the holes are. Number
3 two is to try and determine the vertical angle from
4 a point, the impact point that you have found, the
5 vertical angle being up or down. It's also trying
6 to determine an azimuth (phonetic) angle which is a
7 horizontal angle in this direction (indicating) left
8 to right. Those three things are critical in
9 determining an accurate trajectory analysis. Now
10 if you don't have all three of those things, it's
11 very very difficult.

12 Actually, trajectory analysis is a misnomer.
13 What that suggests is trajectory is the rise and
14 fall of a projectile in flight which I don't do.
15 It's a universal term they've used in discussions.
16 What it actually tells is directional analysis and
17 that is what I do.

18 So as we go through this I'll tell you what I
19 could and could not do based on the impact points
20 and why it becomes important, since the vertical
21 angle is usually the most important because it can
22 suggest distance determination at some point. But
23 at this point I'm going to show what I could or
24 could not do and we'll talk about the azimuth angle.

25 I started like I said at the very beginning at

1 the outside of the club. This is the entrance to
2 the club and the doors of course, looks like they're
3 swinging up (indicating). Both of these doors were
4 glass and they were shattered. I want to show you
5 State's Exhibit 63. You can see both the entrance
6 doors were shatters. Now what's important about
7 this is number one, I can't tell from this
8 photograph or at the scene that night, this is the
9 way I found it in my photograph, if a impact from
10 inside or outside. It's totally shattered. It
11 probably would take about six months to try to piece
12 all this stuff back together to see if I could find
13 a hole but I doubt if I could.

14 But another thing that's important, if I mark
15 this as number 1 and number 2, the left and right
16 door, you can see the glass down at the bottom. It
17 is on the outside. Now I do not know and cannot
18 tell you how these doors were open at the time of
19 that -- the incident took place, at the time of
20 impact took place. So I don't know if the doors
21 were open partially or all the way, I don't know
22 anything about it. I do not know if the impact to
23 the doors happened and the glass stayed in place for
24 a period of time and then the glass was maybe pushed
25 or forced by someone or something and it fell out.

1 I do not know. So I cannot determine anything about
2 this except there was some type of impact at number
3 1.

4 Q And that's State's Exhibit 63?

5 A State's Exhibit 63.

6 Q And if you could mark that on State's 15, please.

7 A (Complied.)

8 Q And State's 66, please tell the jury about that.

9 A Thank you. This was marked at number 3. This is
10 the right side door frame itself. As you can see
11 there's an indentation there. I looked at that
12 indentation and saw that there was no rusting on the
13 inside and scratch marks that were there so I had to
14 assume at that point that this impact was very
15 fresh. So I had to use that and I marked it as
16 number 3.

17 Now, you might ask, what can you do with that?
18 Not a whole lot. What you use in determining
19 directional analysis is we have three things that we
20 use. We use a stick or a rod and we call it a dowel
21 rod. You can use string and you can use a laser.
22 What you do is try to put this rod into an impact
23 point to determine some type of trajectoral analysis
24 or directional analysis. In order to do that you
25 have to have two reference points. You have to have

1 where the impact started, where it ended or the
2 impact of that so you can balance the rod or the
3 string or laser and get an accurate analysis of
4 that. If you only have one impact point, you can't
5 do that either way vertically or horizontally.

6 So on an indentation such as this, what you know
7 is that it came from the outside (indicating).

8 Q And in State's Exhibit 67, if you could explain that
9 for the jury, please.

10 A Where on 67?

11 Q Impact point 4?

12 A 4, okay. Next impact point 4 was on the left side
13 of the entrance way to the club, also made of glass.
14 It was about in this area (indicating),
15 approximately, notice the 4.

16 Now, this impact point in the glass is a little
17 bit different. You have three types of glass. You
18 have laminated glass and the type of glass that are
19 used in cars, that type. And this is a little bit
20 different. This is plate glass, plate glass
21 shatters a little bit differently. If you have an
22 impact point, the entrance to an impact point in
23 plate glass usually, usually shows you some type of
24 coning (phonetic) in the back side which is the exit
25 side. Sometimes you can see but you can really feel

1 it with your finger.

2 Also on the entrance side of the plate glass
3 you're usually going to see some type of fracturing.
4 That's called radial fracturing (phonetic). It goes
5 out, it looks like a spider web. Those are the
6 types of things that you can look at and tell the
7 entrance from the exit.

8 On number 4, however, number 4 is -- I looked at
9 it. You have a small amount of coning on the
10 exterior side and you had a small amount of coning
11 on the interior side. And the radial fractures that
12 went all the way through so I could not tell if they
13 started on the interior or on the exterior side. So
14 what I can say about this is an impact point. I
15 cannot tell you if it originated on the interior of
16 the business or the exterior of the business.

17 In order to get a directional analysis of this
18 point, in glass when there's a large hole like this
19 you have to have that second reference point where
20 it impacted so I'd have something to go on.
21 Otherwise, you're just putting something through the
22 middle and you have a lot of variances you have to
23 work with there. You can't get an accurate reading.

24 So this is an impact point undetermined.

25 Q And impact point number 5 in -- depicted in State's

1 Exhibit 72?

2 A Impact point number 5 was found about here
3 (indicating) also in the glass. And there was a --
4 at that time an air conditioning at that point.
5 Looking at this impact point in glass (indicating),
6 I could really see a cone shape on the interior side
7 of the glass. Also the radial fractures on the
8 outside. So it was evident to me at this point that
9 number 5 was an impact point that originated outside
10 to inside.

11 Q Impact point 6 and 7 that are depicted on State's
12 74?

13 A Yes... I'm marking it and then I will talk about
14 those. 6 and 7 impact points to the outside of the
15 business in the wall. I took a close look at those
16 two and looked at the surrounding areas of the
17 impact points to see if there was any discoloration
18 whatsoever and on the inside where it got a little
19 dusty, I looked to see if there was any
20 discoloration as there was some dust area and there
21 was. So I marked these as direct impact points.

22 Now, as we get on into the presentation with
23 you, you will see that impact point number 6 went
24 through and through. So I have an impact point on
25 the outside and an impact point on the inside. They

1 are consistent with each other. Number 7 did not go
2 through and through. We have an impact point just
3 at that point.

4 Q And number 6, you talk about going through and
5 through, depicted in State's 85 and 86?

6 A Yes, that's the one. It was marked as number 12
7 when you get around to that area. I'm going to go
8 ahead and mark it now. 7 and 6 is around on the
9 outside. 12 is consistent with 6 and went through
10 the wall at this point here (indicating).

11 Q And on State's Exhibit 77, can you describe impact
12 point 8?

13 A Yes. Impact point number 8 is on the left inner
14 doorframe, it is also a glass door, that went in the
15 outer doors, glass doors, inner glass doors and
16 number 8 was on the doorframe itself. Also, was an
17 indentation -- no, number 8 was the glass door
18 itself, I'm sorry, and it was shattered. And I
19 marked that as number 8, no indentation.

20 Q And State's Exhibit 78, impact point number 9,
21 describe this for the jury, please.

22 A Number 9 was right above the inner entrance at the
23 overhead joint frame. That was an impact point that
24 went through and through to the inner side, going
25 through, I believe an exit sign on the inside.

1 Q And is that depicted in State's Exhibit 80?

2 A It is.

3 Q Which is in the interior of the club?

4 A Yes, it is.

5 Q And please tell the jury what's depicted in State's
6 81?

7 A Okay. When I looked at number 9, it had a slight
8 variation of trajectory in it. It was from the
9 outside to the inside in an upper elevation. So
10 when I looked at the ceiling on the inside and found
11 this had ricocheted. You're not going to be able to
12 see it but the ricochet began at the closest to the
13 entrance of the club and went on the wall toward the
14 back of the club.

15 Now, what's important about this is that you
16 will see that -- well, you can't see now but I saw,
17 I observed that the entrance or the lead-in to the
18 ricochet itself was all tore up and that's because
19 the bullet was tumbling as it comes through the
20 substration it hit and this is the up and down
21 motion of the bullet itself. Once it flattens out
22 in a ricochet, it's kind of like a launching pad.
23 It pushes -- propels it on out and what that does,
24 you get a angle that is at least consistent with the
25 entrance angle or larger.

1 So I determined that this is the projectile that
2 was lodged in the back of the club that was
3 collected at number F by Investigator Allen at the
4 foot of the wall.

5 Q And is this that impact point?

6 A It is. It was marked by me as number 14 ---

7 Q And that's on State's 89?

8 A Yes.

9 Q And if you could mark that on the side.

10 A What number is that?

11 Q 14.

12 A Mark that 14.

13 Q And State's 88 -- State's 88 just orients you to 14?

14 A Yes, it does. And you can see -- and it's just an
15 overview of the shot back to the back wall. It was
16 a little bit different from what we're showing today
17 but it landed at the base of the wall and was in
18 place imbedded in the -- the impact wall.

19 Q So impact point 9 was fired from the outside?

20 A Yes, it was. It came from the outside, it went
21 through the upper wall atop the inner entrance. It
22 went through the wall itself, came out the side and
23 busted the exit sign. It hit the ceiling,
24 ricocheted and went back here (indicating) and was
25 lodged in the back wall.

1 Q And please describe for the jury impact points 10
2 and 11 in State's Exhibit 82.

3 A 10 and 11 was also -- let's go with number 10 first.

4 Q On State's 83?

5 A Yeah. 10 -- 10 is the -- as you can see right here,
6 it's in the corner of the outer entrance which is
7 surrounded by glass but this metal portion of the
8 corner itself, there was an indentation there. I
9 also looked at it. There was no rusting to that
10 indentation, some scratch marks. It seemed fairly
11 new to me. I had to mark that as an impact at that
12 time. It was marked as number 10.

13 Q And impact point 11?

14 A Point 11 was in the back side of the glass, going
15 through the glass. It was consistent with -- if you
16 can remember number 5 that was beside the air
17 conditioner on the outside, coming through that and
18 possibly going through the inner glass at that time
19 and there was a sign, a seating sign ---

20 Q And that's through State's Exhibit 87?

21 A Yeah and I marked that as number 13 about this
22 portion -- that area there. That sign could have
23 been moved around at any time. However, if I may?
24 I looked closely at the impact point on this sign on
25 the left side you can see that there is what we call

1 a lead-in. That lead-in means that there was some
2 type of an angle shot or angle impact to this sign.
3 So it's a possibility that the impact points 5, 11
4 led into number 13 somewhere in this point here.
5 And I did search this point up here and did not find
6 any projectiles.

7 Q And finally, impact points 15 and 16, if you could
8 describe those for the jury. And that's in State's
9 91.

10 A 15 and 16, as you enter the club, you'll come to
11 left and we had the pool tables at that area. We
12 had some seating area and another area of pool
13 tables here (indicating), three separate areas to
14 the back wall. I found two impact points at that
15 back wall in this area (indicating), 15, 16. They
16 did not go through the wall and into the other side.
17 I won't go into -- number 15, I could not tell any
18 type of relationship into angle of impact on that
19 one. But I did look at both, like I said, for the
20 rest of them. I did not see any discolorization
21 like it had been there for a long period of time. I
22 did see a lot of white and dust around the front and
23 so I assumed at that point that they were fairly
24 fresh and I marked those also.
25 Q If I can get you to have a seat.

1 (Witness returns to the witness stand.)

2 Q Based on your observations, please tell the jury
3 what the -- how many shots you think were fired or a
4 minimum how many shots were fired to create these
5 impacts point in the club?

6 A Okay. Not being up there to show you, let me talk
7 you through this a little bit. I went around the
8 front perimeter of the business. That's the
9 enclosed -- that is the enclosed area of glass
10 (indicating). I had an impact point at 7 and 6, at
11 9 -- I believe that was 9, 4, 2, 1 and 3. That was
12 at 5. That's 1, 2, 3, 4, 5, 6 and 7. Around the
13 perimeter of this area right here (indicating),
14 seven impact points. Three of those I could not
15 determine which direction that the impact came. 7
16 and 6 was most definitely from the outside-in. That
17 means from the parking lot towards the business
18 itself.

19 Number 5 was absolutely from the outside in. And
20 it was kind of at an angle you can see here
21 (indicating). Number 4, as I said, I wasn't able to
22 determine that because of the coning effect on both
23 sides of the glass itself. 2 and 1 is obviously
24 impact because there was shattered glass. So I
25 could not tell either way where it come from inside

1 or outside but they were impact points. And number
2 3 was in indentation on the frame of the door itself
3 that was fairly stressed that I determined and that
4 is impact point, that makes seven.

5 So out of the seven of the perimeter itself,
6 four I could determine came from outside-in. The
7 other three I could not.

8 Now, that still leaves number 9 which went --
9 the one that went -- that ricocheted off the ceiling
10 and impacted at number 14 in the back of the
11 business. I can't determine the sequence of that.
12 I don't know if that impact happened before or after
13 the glass was shattered, if that may have been a
14 portion of the glass being shattered, so I can't
15 count that but it actually definitely happened. And
16 that came from the front entrance itself as well.

17 Number 5 and 11, which came at an angle, could
18 possibly have went through that seating sign because
19 it was consistent with the trajectory or the
20 directionality of that. And it came at an angle and
21 that was definitely from outside-in.

22 The two, 15 and 16. What I had to determine
23 from this is -- and all this was based on azimuth or
24 the horizontal angle because most of the impacts,
25 which I only had three, but I could use the

1 trajectional -- trajectory analysis on, I could not
2 get a vertical angle because it was thrown out on
3 the back side. So this is based on the horizontal
4 angle.

5 15, I could not determine because I just could
6 not see enough in there, that I only had one point,
7 I didn't have two reference points."

8 However, 16, there was an -- a larger area on
9 the left side than there was on the right side. The
10 -- the material that was inside the wall itself was
11 pushed back on the left side more than it was on the
12 right side. So if you slid a rod in there it kind
13 of fit and the directionality came from this
14 direction. That's not scientific, I'm just throwing
15 that out because if you go from this side to this
16 side, this is where everything that I found began,
17 this is where it ended (indicating). I could not
18 account for the angle of impact for 5 and 11 because
19 it came in this direction somewhat.

20 So it started in this area, ended in this area
21 (indicating). These two were not impacted from
22 anything over here. It was -- they were not
23 impacted from anything over here nor to the right
24 side of the glass on the outer entrance. It had to
25 come from this direction in here somewhere

1 (indicating).

2 THE COURT: Let the record reflect that the
3 witness is testifying from Exhibit Number 15.

4 MS. MCDUFFIE: Correct, Your Honor.

5 MS. MCDUFFIE: Your Honor, if we may approach
6 for a second?

7 THE COURT: Beg your pardon?

8 MS. MCDUFFIE: May we approach?

9 THE COURT: You've got to wait for somebody else
10 to come up here.

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

14 THE COURT: Members of the jury, I'm going to
15 give you a break. Just don't talk about the case and I
16 will give you chance to refresh yourselves, so take your
17 time.

18 (The jury retires from the courtroom at
19 approximately 10:45 a.m.)

20 THE COURT: You may step down, sir. Just don't
21 discuss your testimony with Mr. Joe McCulloch or John
22 Meadors.

23 THE WITNESS: Yes, sir.

24 (The witness leaves the witness stand.)

25 (The Court was in recess.)

1 MR. MEADORS: One second, Your Honor.

2 THE COURT: Yes, sir. For the record there's no
3 such thing as a two minute break, okay.

4 MS. MCDUFFIE: 20, Your Honor.

5 MR. MCCULLOCH: Okay, we're ready.

6 THE COURT: Probably lunch from 1 to 1:30, I'm
7 guessing, something like that.

8 MR. MEADORS: Judge, I think we could -- after
9 this witness we have three others out there, relatively
10 short. And then we have one or two after lunch. One
11 will be the pathologists.

12 THE COURT: Okay. Well, you know, I warned
13 everybody, let's take 30 minute lunch so we can stop no
14 later than 4 today. If it's before 4, I don't care.
15 But, you know.

16 MR. MCCULLOCH: I think given their schedule, we
17 may be able to have a little bit longer lunch and still
18 finish right before 4.

19 THE COURT: Are you hungry?

20 MR. MCCULLOCH: No but, you know, I actually
21 study this stuff, I might like more than 30 minutes to
22 consider ---

23 THE COURT: Well, you know, that's fine with me
24 but I ---

25 MR. MEADORS: I think he's correct, I think

1 we'll be ---

2 THE COURT: That's good.

3 MR. MEADORS: --- well before 4.

4 THE COURT: It's a beautiful day. Maybe they
5 can leave and take a little walk or something.

6 MR. MCCULLOCH: I don't want unhappy jurors
7 either.

8 THE COURT: Nobody does, you know. I can get
9 mad but you don't want them to -- everything should
10 benefit the jury first and foremost and we all understand
11 that.

12 All right, bring them in.

13 (The witness returns to the witness stand.)

14 (The jury returned to the courtroom at
15 approximately 11:13 a.m.)

16 THE BAILIFF: The jury's all present, Your
17 Honor.

18 THE COURT: All right. Welcome back, Madam
19 Forelady, members of the jury.

20 Ms. McDuffie, you may continue.

21 MS. MCDUFFIE: Thank you, Your Honor.

22 DIRECT EXAMINATION CONTINUES

23 BY MS. MCDUFFIE:

24 Q If I could have you step down.

25 (The witness steps down from the witness stand.)

1 Q Using State's 15, you also, on the morning of
2 February the 5th, 2007, examined the blood patterns
3 or the blood in the club, is that correct?

4 A I looked at the blood stains throughout the club,
5 yes.

6 MS. MCDUFFIE: Your Honor ---

7 Q Have you had a chance to review the pictures in
8 State's 22 to 46?

9 A I have.

10 Q And do these relate to your testimony?

11 A They do.

12 MS. MCDUFFIE: Your Honor, we'd offer 22 to 46.

13 MS. SCHILLACI: Without objection, Your Honor.

14 THE COURT: 22 and 46?

15 MS. MCDUFFIE: Through 46. There are some that
16 are already in.

17 THE COURT: Any objection?

18 MS. SCHILLACI: No, Your Honor.

19 (Whereupon, State's Exhibit Number 22,
20 Photograph of Doorway, was admitted into
21 evidence.)

22 (Whereupon, State's Exhibit Number 23,
23 Photograph of Item I, was admitted into
24 evidence.)

25 (Whereupon, State's Exhibit Number 24,

1 Photograph of Item J and Blood, was admitted
2 into evidence.)

3 (Whereupon, State's Exhibit Number 26,
4 Photograph of Items J-K, was admitted into
5 evidence.)

6 (Whereupon, State's Exhibit Number 27,
7 Photograph of Item K, was admitted into
8 evidence.)

9 (Whereupon, State's Exhibit Number 29,
10 Photograph of Item L and Blood, was admitted
11 into evidence.)

12 (Whereupon, State's Exhibit Number 30,
13 Photograph of Item M and Blood, was admitted
14 into evidence.)

15 (Whereupon, State's Exhibit Number 31,
16 Photograph of Item N and Blood on Floor, was
17 admitted into evidence.)

18 (Whereupon, State's Exhibit Number 33,
19 Photograph, was admitted into evidence.)

20 (Whereupon, State's Exhibit Number 34,
21 Photograph of Items N-P-O, was admitted into
22 evidence.)

23 (Whereupon, State's Exhibit Number 35,
24 Photograph of Item O, was admitted into
25 evidence.)

1 (Whereupon, State's Exhibit Number 36,
2 Photograph of Item P, was admitted into
3 evidence.)

4 (Whereupon, State's Exhibit Number 37,
5 Photograph, was admitted into evidence.)

6 (Whereupon, State's Exhibit Number 41,
7 Photograph, was admitted into evidence.)

8 (Whereupon, State's Exhibit Number 42,
9 Photograph, was admitted into evidence.)

10 (Whereupon, State's Exhibit Number 44,
11 Photograph of Ladies Bathroom, was admitted into
12 evidence.)

13 (Whereupon, State's Exhibit Number 45,
14 Photograph of Item G on Pavement, was admitted
15 into evidence.)

16 (Whereupon, State's Exhibit Number 46,
17 Photograph of Item H at Door, was admitted into
18 evidence.)

19 Q Showing the jury State's 45 to you, describe to them
20 what that is.

21 A This is a possible bloodstain pattern that was found
22 in the parking lot outside of the entrance to the
23 club. It was approximately there (indicating) at G.

24 Q State's 46?

25 A H was marked on the -- looking at the club, on the

1 right side of the door, glass door on the inside.
2 You see the stains at this point here (indicating).
3 It was not clear what type of stains that was.
4 There was no identification of any type of ridge
5 detail, so I marked those as H.

6 Q And then so the jury can see what you're going to be
7 describing, I'll have you stand on this side.

8 (Complied.)

9 Q State's 22, please describe that for the jury.

10 THE BAILIFF: Excuse me, you need to move your
11 board.

12 A I'm not going to take this and go through every
13 little thing that -- where I marked. It's just to
14 show you that you're going to get an idea as we're
15 going through these frames what I marked and what
16 they were and I'll explain them to you a little bit.

17 What you're all going to see is a whole lot of
18 smears. Smears can be subdivided into wipes and
19 swipes and we're not even going into that. Smears
20 can be located in -- and directionality seen through
21 those type of stains on the floor. What I'm trying
22 to tell you is this is every which a way, all kinds
23 of direction. There's a lot of people in there, a
24 lot of transfer stains going throughout this area.
25 So this is what you're going to see.

1 This is marked -- this is the entrance to the
2 inner door itself. You can see somewhat of a
3 pattern of a shoe. This was not enough to do -- for
4 me to do anything with in a footwear examination but
5 it was marked and photographed as I.

6 Q State's 23?

7 A There it is again. As you can see, I will go into
8 this now since we're looking at a footwear pattern.
9 In order to do anything with footwear, you have to
10 have certain things. There are two types of
11 identification identifying marks on footwear and
12 that's called a characteristic and that's class
13 characteristic and identifying marks.

14 Class characteristics are the outline of a sole,
15 the size that it is, the manufacturer, things of
16 that nature. Identifying characteristics in the
17 footwear are those little marks that you might find
18 in somebody's shoes that's just to them because they
19 cut it somewhere or cutting on something somewhere
20 and it's not going to be found in any other shoe
21 anywhere.

22 With blood, possible blood, when you step into
23 that and you have stepped on a substrate and you've
24 caused a contact transfer like this is, the blood
25 separates underneath the shoe. If there's anything

1 there it usually runs into those cracks and crevices
2 and you couldn't tell any type of identifying marks
3 anyway.

4 However, you could do some class characteristics
5 about what the outsole looks like, that's the
6 pattern underneath your shoe. However, those
7 patterns are manufactured, thousands just alike,
8 everyday. And so without having all the hundreds of
9 shoes from people that had been there in this
10 incident that night, there's nothing I could have
11 done with that. The participants, that means the
12 four victims and a person of interest, had been
13 placed in this place, in the business to begin with.
14 So there was nothing I had to compare with in order
15 to try to put someone in a certain area inside the
16 business, nor did I have the shoes to start with.
17 But I just point this out to you. This is I. That
18 night there's nothing I do have done with that.

19 Q State's 24?

20 A This is J. As you turn into the left side of the
21 business itself, after you come through the entrance
22 you're going to see the pool table here
23 (indicating), J and K runs along the back side of
24 the pool table. There's another entrance back here
25 if you go around the backside, it comes into the

1 center portion, if you can remember on the sketch
2 that we had.

3 J shows you pooling of blood. That's blood into
4 blood where -- there has been bloodletting by
5 someone at that point. All of these smears, they --
6 if you look at them closely, you've got
7 directionality going this way, this way, some back
8 here going in this direction, this direction
9 (indicating). You can tell that by feathering
10 (phonetic) and the lessening of the blood that is
11 smeared across the substrate. That's where you get
12 your directionality.

13 So this shows you the myriad of the directions
14 that something or someone had been lateral --
15 laterally moving in motion across the substrate at
16 some point in time, J and K.

17 Q And that's State's 24?

18 A This is J again. It's showing you an imprint of a
19 heel and it goes back to the same thing we just
20 discussed.

21 Q State's 26?

22 A Another picture of J and K, disregard C. This is
23 all of my markers that were placed up there we got
24 in the photograph.

25 Q And keep going.

1 A K is just a better shot of what was found in the
2 backside of that first section. You can see some --
3 this is a blood trail. This is a 90 degree drop to
4 the substrate or the floor the item above. And it's
5 a linear and it shows motion in a direct certain
6 direction and it's just a dripping of blood.

7 Q State's 27?

8 A J and K -- and that's K again. You can see a better
9 photograph of this linear blood trail that's going
10 to go in this direction (indicating). You can see
11 also some swipes and wipes or blood smears coming in
12 this direction and going out this direction
13 (indicating). You can see because here you've got a
14 lot of blood, a lessening of the blood, the
15 feathering of it going in this direction but also
16 have some coming in this direction (indicating). So
17 you've got individuals or items that are being drug
18 across in a lateral motion on the floor going both
19 directions.

20 Q State's 28?

21 A L is the backside of the left side of the club that
22 comes around the left side into the center portion
23 of the area that we were discussing. And you can
24 just continue to see the smears that are on the
25 floor. You have a little bit of blood dripping,

1 some stopping of motion at certain points were
2 there's a little more blood but there's
3 directionality that's back and forth. And this is
4 generally going in this direction you'll see in a
5 minute, around towards the restroom.

6 Q And so this would be consistent with something being
7 drug this way and back around ---

8 A Yes, it come this way, it come around the front as
9 we just saw J and K, and then it comes around this
10 way to L (indicating). This is the backside, it goes
11 into the back area into a restroom area.

12 This is just a closer view of L which is the
13 center point of this middle section on the left side
14 that we just saw. It just gives us a little better
15 description of the feathering and directionality
16 that you see in the smears that were on the floor.

17 Q State's 30?

18 A M is beginning to turn into the backside, all the
19 way to the back wall, the third section where the
20 pool tables are. There's going to be blood in and
21 around that area also. As we turn into that area, I
22 marked with M a large quantity of blood pooling
23 here. It looks as if it's the blood of someone
24 that's stationary at this point for a period of time
25 because you have secondary spatter all around. You

1 have somewhat an impression of a shoe in this area
2 also (indicating). It's just another general shot
3 showing you the directionality of where the blood
4 was and all the surrounding area of the left side of
5 the club.

6 Q State's 31?

7 A- This would have been a continuation. It's not
8 marked but it's a continuation on that backside of
9 the area between the pool tables.

10 Q And in this area (indicating), if you can describe
11 what's going on here for the jury?

12 A Well, this is -- this is a footwear impression
13 though very very faded in general. You can tell the
14 heel and the front. It just shows directionality in
15 this direction (indicating).

16 Q State's 32?

17 A Okay. This is N. As you come around -- we were
18 still working in the third section back in the back
19 area against the wall. And as you come around here
20 (indicating), we're going around between the pool
21 tables, in between with the blood pooling, the
22 stopping of the motion in certain points where you
23 get pooling. The dripping from one to the other
24 (indicating) and the smearing on the floor and
25 directionality is around back behind the pool tables

1 (indicating).

2 Q Now the larger amounts of pooling compared to the
3 smaller amounts, what would that be consistent with?

4 A That would be consistent with someone either in a
5 different direction or stamped where blood had been
6 pumping harder and coming out, if it's a person, and
7 the -- it could also be consistent with someone
8 being in that area a longer length of time than some
9 -- another place.

10 This is the backside going around between the
11 two pool tables in that third section. Here again,
12 and you can tell that it's a footwear and the
13 footwear impression is coming around the same way.
14 And you've got back here (indicating). It's
15 consistent with going around this pool table and
16 you've got the drops and the swipes. It's
17 consistent and the same all the way from the front
18 to the back, these areas around the pool tables
19 (indicating).

20 Q State's 34.

21 A N and P again. That's just showing a larger view or
22 an overview of the same area going between the two
23 pool tables. You've also got -- O is marked on top
24 of the pool table. You've got some swipes -- it's a
25 -- it's like a wipe. It's a pooling on top of the

1 pool table and something has been drug laterally
2 through it which indicates a wipe at some point.
3 And then you have the blood that's dripped on top of
4 the pool table also.

5 So at some point, in this area (indicating), the
6 blood is closer to this pool table. Someone
7 probably stopped in this area for a period of time,
8 they were bleeding, and blood pooled on the floor
9 substrate. Also blood may have been dropped over,
10 pooled on the top of the pool table and drips of
11 that nature.

12 Q State's 35?

13 A This the closer view of O which is on top of the
14 pool table. You can see the drips, see the drops,
15 smaller drops and larger drops doesn't mean a whole
16 lot of things, it depends on the height and how much
17 blood is in a drop per se. But as they hit the top
18 of the pool table, they spread out and were
19 saturated. So these probably are drops on this side
20 which is basically a drop on the side of the pool
21 table that you can see not so well here
22 (indicating). But had been there for a period of
23 time once I arrived and come back to do this
24 processing because it's beginning to dry on the
25 outside and pooling of blood or drops of blood dries

1 from the inside out.

2 Q State's 36?

3 A This is P. P is not -- hopefully we'll show you
4 here shortly but it's just a bigger view of the
5 drops that are on the backside of the pool table.
6 Now, we're going around the backside of the pool
7 table and we're going to be going out and into the
8 restroom area.

9 Q State's 37?

10 A Here it is again, going around the backside of the
11 second pool table and out in this area and then into
12 here (indicating) on the backside is where the
13 entrance to the restrooms area.

14 Q State's 38?

15 A This is Q, as we go around the corner. And you can
16 also see the same thing. These are drops now, not
17 so much pooling so much, but they are drops that are
18 going in this direction, not back here or here
19 (indicating), but around through this area. You see
20 some swipes along this area as well as going into
21 and towards the restrooms area.

22 Q State's 39?

23 A This is a better view around the corner going to the
24 restroom area. There are a lot of smears in this
25 area here (indicating), consistent with someone

1 getting to that point, up -- back and forth motion,
2 maybe opening the door.

3 Q State's 40?

4 A This is an overview, a better view of the back and
5 forth motion here, especially with the footwear
6 impressions in this area smeared from this point all
7 going towards this area.

8 Q And what's on the wall?

9 A On the wall here there's also a smear too. This
10 would be a swipe, a swipe being consistent with a
11 bloody object making a lateral motion across a non-
12 bloodied item. And that could be somebody up
13 against it putting their hands -- wiping their hand
14 across there as they're trying to make their way in
15 this direction. And this directionality is toward
16 the restroom area.

17 Q State's 41?

18 A This is the same thing it's all just a larger view
19 of what was found at the entrance to those
20 restrooms. Going into the ladies' restroom, which
21 is right at the end of the blood letting smears
22 throughout.

23 Q State's 42?

24 A As you're going into the restroom, you start seeing
25 S and this is a larger view and showing the markers,

1 if we can get to the next one.

2 Q And finally State's 43.

3 A Larger view on the inside of the restroom area. As
4 you can see, there's a lot of blood letting at this
5 point (indicating). Blood into blood here
6 (indicating), a lot of smearing, moving around,
7 directionality both this way and this way
8 (indicating), blood drops. Someone came to this
9 point (indicating), we've got an object here, a
10 paper towel or a piece of cloth, someone trying --
11 probably trying to stop bleeding at that point.

12 Q And if I could have you to have a seat.

13 (The witness returned to the witness stand.)

14 Q Investigator Richards, using State's Exhibit 15, if
15 you could just sketch out the pattern you just
16 described for the jury?

17 A I'll start at the beginning at the very entrance. I
18 came through. This was -- this was an open area,
19 more of an open area at that time. The pattern came
20 in this direction and around through here
21 (indicating), making its way this way, around the
22 tables here, back out this way also, (indicating).
23 This branched off and came this way (indicating),
24 into the restroom.

25 That's the pattern that I found that has just

1 been pointed out to you. It makes it a little bit
2 clearer.

3 Q Investigator Richards, did you also attend the
4 autopsy of Shannavia Williams?

5 A I did.

6 Q And when was that?

7 A I'm sorry?

8 Q And when did the autopsy ---

9 A On the 7th of February, 2007, at approximately 13:00
10 or 13:10 hours.

11 Q And ---

12 A 1:10 in the afternoon.

13 Q --- did you recover any projectiles from the body of
14 Shannavia Williams?

15 A I did -- I did not recover. It was recovered by Dr.
16 Nichols. It was given to me and I placed that into
17 our evidence room for further analysis.

18 Q And is that what's in State's 102?

19 A It is.

20 MS. MCDUFFIE: Your Honor, at this time we'd
21 offer State's 102.

22 MS. SCHILLACI: Without objection, Your Honor.

23 THE COURT: All right.

24 (Whereupon, State's Exhibit Number 102,
25 Projectile, was admitted into evidence.)

1 Q Finally, Investigator Richards, did you have a
2 chance to participate in the processing of a 2005
3 blue Chevy Impala?

4 A I did. I assisted Investigator Oates and
5 Investigator Bouknight in the processing of this
6 vehicle.

7 Q I'm going to show you State's Exhibits 108 through
8 132 and ask you if you have seen these pictures and
9 do they relate to your testimony?

10 (Witnesses reviewed photographs.)

11 A Yes, that's the vehicle that I assisted in
12 processing.

13 MS. MCDUFFIE: Your Honor, at this time we'd
14 offer State's 108 through 132.

15 THE COURT: That pictures of the blue car?

16 MS. MCDUFFIE: Yes, sir, Your Honor.

17 THE COURT: Pictures of the blue car, 108 to
18 132.

19 MS. SCHALLICI: Without objection.

20 THE COURT: All right, without objection.

21 (Whereupon, State's Exhibit Number 108 through
22 132, Photographs-Processing Blue Chevy Impala,
23 were admitted into evidence.)

24 Q Investigator Richards, what's the first thing that
25 was done in processing the vehicle?

1 A The first thing that's always done is photographs
2 are taken, ma'am.

3 Q And what did you do you after the photographs were
4 taken?

5 A Before anything else was done, I processed the front
6 left driver side for possible G S R and that's
7 gunshot residue.

8 Q And explain to the jury how you process a vehicle
9 for gunshot residue.

10 A To explain gunshot residue somewhat, when a weapon
11 is fired, the firing pin strikes the base of a
12 cartridge that's on the inside. At that time it
13 ignites primer. The primer and the gunpowder explode
14 and propels the projectile from the weapon, in
15 simplified terms.

16 As that happens, there's things, microscopic
17 particles, primer particles, that go into the air
18 from the weapon itself. And these particles are
19 things like lead, antimony an barium. They go into
20 the air in the form of an aerosol. Of course,
21 aerosol comes down, it sticks or lands on whatever
22 is surrounding where the weapon happened to be
23 fired. My job -- if that is seen to have or may
24 have happened, my job is to try to process that and
25 collect any of those particles that I possibly can.

1 But like I said, they're microscopic.

2 Q And so how do you collect them or how do you process
3 a vehicle for gunshot residue?

4 A I use what we call sticky tabs. And that's a
5 particle lift. These come in a packet that we buy
6 from the distributor and from the manufacturer. The
7 packet actually comes with instructions on how to
8 process an individual's hands for gunshot residue.
9 It comes with a sticky tab. It also comes with
10 cotton swabs. You can use both or either one.
11 That's why they're in there. I prefer, and I do
12 use, only the sticky tabs for particle lifts for
13 possible gunshot residue in vehicles.

14 Q Now I'm going to show you State's 103. Is this the
15 G S R kit you collected from the 2005 blue Chevy
16 Impala?

17 A It is.

18 Q Investigator Richards, when you collected this kit,
19 where was the vehicle located?

20 A In our forensic garage, secured forensic garage at
21 headquarters.

22 Q And when was the vehicle logged into your forensic
23 garage?

24 A I believe it was logged in on the -- February --
25 February the 5th, 2007, at 2:30 in the afternoon.

1 Q And is this like an impound lot or -- describe the
2 facility for me.

3 A No, it's an enclosed garage that is secured. The
4 only entrance into it and out of it is the crime
5 scene investigators themselves and that's where we
6 process our vehicles. But we have to have a secure
7 facility in order to do that.

8 Q And was any other vehicle in this garage while this
9 vehicle was in there?

10 A No, there was not.

11 MS. MCDUFFIE: Your Honor, at this time we'd
12 offer State's 103.

13 MS. SCHILLACI: Without objection

14 THE COURT: All right, 103. That's the ---

15 MS. MCDUFFIE: Gunshot residue kit from the
16 vehicle.

17 THE COURT: Okay.

18 (Whereupon, State's Exhibit Number 103, Gunshot
19 Residue Kit from 2005 Blue Chevy Impala, was
20 admitted into evidence.)

21 Q And you said that you processed the vehicle with
22 sticky tabs. Is this one of the sticky tabs you
23 processed?

24 A It is.

25 Q And is the actually sticky tab?

- 1 A It is.
- 2 Q And explain to the jury what you do with this.
- 3 A I run that over a substrate or the piece of item
4 that I'm trying to process where there may be found
5 some gunshot residue. What this does, it is a
6 particle lift. The sticky part of the tab itself
7 will lift those particles, the three that I named to
8 you, off of there, if there is any, and hopefully it
9 can be analyzed by an analyst and those three
10 particles can be found.
- 11 Q And do you just dab it once or how do you...
- 12 A No, it's done in a section in an overall view ---
- 13 Q So ---
- 14 A --- in a linear type way all the way down. If
15 you've got a rectangular type place that you want to
16 do, the whole thing is tabbed.
- 17 Q And the one that we are using for this purpose, what
18 did you label this as?
- 19 A Interior driver's side upper window frame.
- 20 Q And if you pulled this label off, it would have
21 another label under it?
- 22 A Yeah, most probably, if I did not pull that first
23 label off.
- 24 Q Because these are packed for hands?
- 25 A They are.

1 Q And you relabeled them for the purpose of processing
2 the vehicle?

3 A I do.

4 Q And please tell the jury what areas of the 2005 blue
5 Chevy Impala you processed.

6 A Based on information I had and gathered and where we
7 felt the most probability of gunshot residue, if a
8 weapon had been fired in that vehicle, I processed
9 the front driver's side, upper ceiling. That's
10 where he sat, up above. I processed it in two
11 different places. I marked it as number 1 and
12 number 2 because it's such a large area.

13 Q And is that what's depicted in State's 129?

14 A It is.

15 Q And please continue.

16 A I processed the front driver's side is number 2, as
17 I said, the front driver's side steering wheel. I
18 processed the front driver's side upper window
19 frame. That means the interior door and window at
20 the driver's side, the frame that goes across the
21 top, that's -- the interior side of that was
22 processed and sticky tabs were done for that.

23 Q The front driver's side doorframe. That means at the
24 base of the window, that door -- that frame that
25 comes across at the top right at the base, I did

1 that there also as well. The front driver's side
2 gearshift, I processed that. The front driver's
3 side door panel. Now, I went further down on the
4 driver's side interior door and did the panel from
5 the top all the way to the -- to just below the
6 handle. And the front driver's side rear driver's
7 seat. That may be a little misleading to you but
8 what that is, if a driver's sitting in his seat, the
9 backside, back here (indicating), this was what was
10 processed with a sticky tab.

11 Those are the areas that I processed.

12 Q And each of those was done with a separate sticky
13 tab?

14 A Yes.

15 Q And which are all contained in State's 103?

16 A Yes.

17 Q And do y'all process these at Richland County?

18 A The tabs there? No, those are sent to SLED for
19 analysis.

20 Q And was that done in this case?

21 A Yes, it was.

22 Q And did Joy Delatorre of the Sheriff's Department
23 take this to SLED?

24 A As marked on there, yes. What she would have done,
25 yes.

1 Q And, Investigator Richards, did you do any further
2 processing of the vehicle in this case?

3 A Yes, I did. After the gunshot residue processing
4 was done, then we could continue with other
5 processing. Now, I processed the outside and inside
6 -- the exterior and interior of the left side of the
7 car. That would mean the front and back door as
8 well as the windows there. The steering wheel,
9 gearshift again, the rear -- and the rearview
10 mirror.

11 I developed a latent from the outside front left
12 door window. I developed a latent from the outside
13 left rear door window and a latent from the rearview
14 mirror and these was turned over to our latent print
15 section.

16 Q And when you say latent, what are speaking of?

17 A That means fingerprint. If you touch something --
18 let's talk about maybe the rearview mirror. If you
19 touch a rearview mirror with your print (sic) you
20 may not -- with your hand or thumb, you may not --
21 may or may not be able to see the impression there.
22 What that leaves is an impression of your ridges
23 that everybody has on their fingers. If you can't
24 see those, we enhance certain areas that we feel we
25 might get a print off of with say powder,

1 fingerprint powder. This adheres to the oil that
2 are on the ridges of a person's fingerprints, it
3 makes them visible. Hence the term latent when --
4 means invisible. We then lift those with
5 fingerprint tape and we submit them to our latent
6 print section for analysis.

7 Q And after you lifted these latent prints, did you
8 send those off to someone else to examine?

9 A Our latent print section.

10 Q In the Richland County Sheriff's Department?

11 A Yes.

12 Q And were there other investigators processing the
13 vehicle with you?

14 A Yes, there was Investigator Bouknight and
15 Investigator Oates.

16 Q And did they continue to process the vehicle?

17 A They did. That was the extent of my involvement in
18 that car.

19 MS. MCDUFFIE: Thank you, Investigator Richards.

20 No further questions.

21 THE COURT: Ms. Schillaci.

22 (Pause.)

23 CROSS-EXAMINATION

24 BY MS. SCHILLACI:

25 Q Investigator Richards, good morning.

1 A Good morning.

2 Q I'm going to ask you...

3 (Pause.)

4 MS. SCHILLACI: May we approach, Your Honor?

5 THE COURT: Sure.

6 (WHEREUPON, a bench conference was held off
7 the record, in the presence of the jury, but out
8 of the hearing of the jury.)

9 Q Investigator Richards, I'm just going to ask you
10 have you seen this before?

11 A Yes.

12 Q And can you tell the jury what it is?

13 A That is a field sketch that was -- that was done by
14 Investigator Allen the morning that we were out
15 there.

16 Q Okay. So the prosecution has had you looking at
17 State's Exhibit Number 15. This was not done at the
18 scene?

19 A No.

20 Q Okay. But was something that you've seen that would
21 have been marked as identification only, this was
22 done at the scene?

23 A Yes, Investigator Allen did that at the scene.

24 Q Investigator Allen?

25 A Yes.

1 Q And I'm going to have you, if you don't mind, come
2 down.

3 A Sure.

4 (The witness steps down from the witness stand.)

5 THE COURT: Let's go ahead and mark it Defense
6 ID only -- what is it ---

7 -COURT REPORTER: Two.

8 THE COURT: For ID.

9 (Whereupon, Defendant's Exhibit Number 2,
10 Poster, was marked for identification.)

11 Q And if you can tell the jury, looking at this that
12 was done at the scene, talk about this A, B, C and
13 D. And just tell us what they are, just identify
14 them, if you would.

15 A A is a fired cartridge casing that was found in the
16 parking area in front of the entrance to the
17 building. B is a projectile that was found ---

18 THE COURT: Can you hear?

19 COURT REPORTER: I can't ---

20 THE COURT: Will you face the other side and
21 talk back toward the court reporter. She's having
22 difficulty hearing.

23 (Complied.)

24 THE COURT: That's good.

25 THE WITNESS: I'm sorry. I have a cold also.

1 THE COURT: That's all right.

2 Q A is fired cartridge casing that was found in the
3 parking area near the front of the business, the
4 entrance of the business. B is a projectile that was
5 found in the parking area at the front of the
6 entrance to the business. C and D are also
7 cartridge casings that were found in the parking
8 area at the front entrance to the business.

9 Q And there are no measurements on this diagram, is
10 that correct?

11 A No. There are none.

12 Q So there were no measurements to tell the distances
13 of A, B, C and D from the standpoint of ---

14 A There was no measurement done.

15 Q Okay. And let me also ask you this, 1, 2, 3, 4, 5,
16 6, what are those?

17 A Those are the impact points that Investigator Allen
18 pointed out that night and he put in his field
19 sketch. And, of course, I went back the next day
20 and redid the whole thing. But this is going to be
21 an impact point, 1 and 2 is. 3 and 5 were impact
22 points in the glass. 4 and H are impact points to
23 the glass here (indicating). 6 is an impact point
24 that was above the inner door. F is an impact point
25 all the way to the back wall where a projectile was

1 found.

2 THE COURT: Can y'all see, members of the jury?
3 I'm going to ask you to step back a little bit so they
4 can see the exhibit.

5 THE WITNESS: Okay.

6 (Complied.)

7 THE COURT: Thank you, sir.

8 THE WITNESS: I'm sorry.

9 A All right, beginning again. A is the cartridge
10 casing that was found there by Investigator Allen
11 that night. C and D are also cartridge casings,
12 fired cartridge casings. B was a projectile. All
13 these are in the parking area in front of the
14 entrance to the business.

15 Investigator Allen also marked that night on the
16 rough field sketch an impact point at 1 and 2. That
17 is to the wall at the left side of the glass
18 enclosure entrance. He marked 3 and 5 which was
19 impact points to the glass going -- this point and
20 this point (indicating). Impact to the glass on the
21 left also at 4 and what he has an H. An impact
22 point at number 6 which was overhead area of the
23 inner entrance to the club itself. Impact point at
24 F was to the rear of the business where a projectile
25 was found imbedded in that impact point, the impact

1 points G and I which was in the wall behind -- in
2 the back wall behind all the pool tables.

3 Q Okay. And was it your understanding that
4 Investigator Allen was one of the first ones to the
5 scene?

6 A He was the first C S I to the scene.

7 Q Okay, first C S I to the scene?

8 A Yes.

9 Q And can you explain to the jury what is meant by C S
10 I?

11 A Crime scene investigator.

12 Q And again, he noted six impact points?

13 A At that time, yes.

14 Q Okay. All right, thank you. You may go take your
15 seat.

16 (The witness returned to the witness stand.)

17 Q Now, Investigator Richards, one of the first rules
18 of crime scene reconstruction is to be able to secure
19 the scene?

20 A That's correct.

21 Q Correct?

22 A Yes.

23 Q And you want to do that because you want to preserve
24 the evidence?

25 A That's correct.

1 Q Now, this scene was already -- and let me ask you
2 first, what time did you get there?

3 A I have that I arrived -- if you'll give me just a
4 second, please -- about 2:00 in the morning.

5 Q And do you have an understanding as to when the
6 incident occurred?

7 A Prior to that -- I do not know. I got the call
8 around 1:30 and I arrived about 2:00.

9 Q So was it your understanding that the incident had
10 occurred several hours before or?

11 A Not several hours, no, because when Investigator
12 Allen called me, he was in the process of trying to
13 help secure the scene.

14 Q Well, in terms of crime scene reconstruction, this
15 scene was already spoiled by foot traffic and auto
16 traffic, people trying to flee the scene by the time
17 you got there, correct?

18 A I would say that the blood pattern analysis that I
19 did was definitely -- the only thing I could show is
20 what I showed to the jury. Because of the transfer
21 of possible blood in several different directions of
22 people going in and out, I could not tell anything.
23 I could not put a person at a certain place in time
24 at a certain point inside that club based on blood.

25 Q But -- but again, I believe we had one picture is

1 even a shoe. Do you recall seeing that?

2 A Blood pattern shoe?

3 Q No, it was out -- outside, outside of the club. Do
4 you recall seeing that?

5 A No. There was one as you were going into. You're
6 still speaking of the blood pattern, right?

7 Q Uh-huh.

8 A There was one as you were just going into or just
9 coming out of.

10 Q Okay. And did you -- do you recall seeing a shoe
11 there, outside?

12 A I don't recall that, no, ma'am.

13 Q Are you the one that took the photos at the scene?

14 A I took some photos. And when I went back the
15 following day, I took all of the -- the following --
16 the second visit that morning. Investigator Allen
17 had already taken photographs before I got there and
18 I took a few more, yes.

19 Q But it was your understanding that this scene, in
20 terms of crime scene reconstruction, was not
21 pristine because people had been coming and going,
22 both individuals and automobiles, correct?

23 A It's under my -- it was my understanding and after I
24 make a walkthrough of the crime scene itself, that
25 it was not pristine in certain disciplines.

1 Q Now, in reference to the photos that we were able to
2 see of the casings, the bullets, even the impact
3 points, now, you couldn't date those, could you?
4 You can't date bullets or casings, correct?

5 A No, I -- I cannot, no, you cannot.

6 Q And you cannot date impact?

7 A No.

8 Q Holes?

9 A The only thing I can do is show where the
10 possibility of weathered impact points may have or
11 may not have been.

12 Q And I believe that you were testifying about rust
13 but aluminum does not rust ---

14 A Well ---

15 Q --- does it?

16 A --- the scratches back there seemed to be fresh to
17 me but you're right about that.

18 (Pause.)

19 Q So you cannot tell whether or not the bullets or the
20 holes are related to this incident -- let me make it
21 simple. You cannot testify as to whether or not
22 those impact points that you saw relate to this
23 incident?

24 A The only thing I can tell you are the two areas
25 where there was a -- a fragment or a projectile

1 pulled from the impact points itself. Everything
2 else was marked, photographed and looked at with the
3 -- in the basis of a shooting reconstruction and I
4 have to mark everything and look at it.

5 Q And you cannot testify as to whether or not those
6 impact points are made by the same weapon?

7 A I cannot, no.

8 Q And I believe you testified that in terms of the
9 broken glass, you cannot tell if that was coming
10 from the inside or the outside?

11 A That was one impact point. That was number 4 that
12 was on the left side of the enclosed glass area. I
13 could not tell based on the coning effect which we
14 had a little on each side, the exterior and the
15 interior side. However, number 5 which was down
16 below it or further close -- closer to the wall
17 itself was definitely from outside-in, yes.

18 Q But again in terms of the broken glass, you could
19 not tell if that was ---

20 A Not number 4. Not number 4, no, ma'am.

21 Q And all this business about trajectory, some of that
22 really is unscientific, isn't it?

23 A Trajectory analysis?

24 Q (Affirmative response.)

25 A No. It has been experimented with throughout. It

1 has been written about and it is being taught now.

2 Q Well, isn't that why we're still trying to figure
3 out with the J F K assassination for decades, trying
4 to figure out trajectories?

5 A I wouldn't have the slightest clue. I wasn't
6 involved in that.

7 Q And let me ask you, at the scene, did you yourself
8 search for projectiles, casings or did you leave
9 that to other people?

10 A No, I searched myself also. Yes, ma'am

11 Q And what area did you search?

12 A Inside and outside.

13 Q And when you talk about searching outside, did you
14 cover the entire parking lot?

15 A I did before I left that morning to go back to
16 secure my evidence at headquarters I did. I walked
17 the entire parking lot in the front.

18 Q And if we take a look at ---

19 MS. SCHILLACI: If I may approach.

20 Q State's Exhibit Number 16, can you take the pointer
21 and show where you searched?

22 (The witness steps down from the witness stand.)

23 A Well, I'm assuming that we're talking about the club
24 being here (indicating) and this was the secured
25 area around in here (indicating) that was searched

1 by both Investigator Allen and I. I extended the
2 search before I left for the first time to the area
3 in here (indicating).

4 Q Okay. And the last search that you did, when did
5 that occur?

6 A Right before I left. It was just after light.

7 Q Okay. But -- on the 5th?

8 A Yes. Yes.

9 Q Take your seat.

10 (The witness returned to the witness stand.)

11 Q And when you arrived on the scene, the markers that
12 we saw, A, B, C, D, were those already set there by
13 Investigator Allen?

14 A They were.

15 Q Okay. So it's not something that you placed?

16 A No.

17 Q And I believe you also testified that at the scene
18 you collected a firearm?

19 A Yes, ma'am.

20 Q Correct?

21 A Yes, ma'am.

22 Q And that would have been the one belonging to one of
23 the security guards?

24 A Yes, ma'am.

25 Q You also collected a 45 caliber cartridge from the

1 parking lot?

2 A Unfired. Unfired cartridge, yes.

3 Q Were you surprised to see that?

4 A I'm not surprised at anything, ma'am.

5 Q And looking again at State's Exhibit 14, can you
6 show where the 45 unfired shell was found?

7 A I can give you an approximate. It was approximately
8 in this area right here (indicating).

9 Q So you were retrieved -- you retrieved one of the
10 security guards firearms?

11 A Yes, ma'am.

12 Q You retrieved a 45 caliber cartridge from the
13 parking lot?

14 A Yes, ma'am.

15 Q And these casings that were marked A, B, C, D, again
16 those were already labeled by Investigator Allen
17 before you arrived at the scene?

18 A They were labeled but they were still laying there
19 by the labels, yes.

20 Q And you indicated at one point that you left the
21 scene and then returned.

22 A That's correct.

23 Q How long were you on the scene?

24 A The first time?

25 Q The first time.

1 A I arrived there about 2 and I was on the scene until
2 about 6, I think. And then we left and came back
3 and then when I came back myself I arrived back
4 there around 7:00. So I was back and put my
5 evidence in my locker and then I returned
6 immediately.

7 Q Okay. So you returned at 7 p.m. the next day or 7
8 a.m.?

9 A 7 a.m., ma'am.

10 Q Okay. And the Solicitor was asking you about
11 gunshot residue.

12 A Uh-huh.

13 Q And you explained a little bit about that. Gunshot
14 residue, in theory, remains on an individual how
15 long?

16 A On an individual who is still alive, we are only
17 allowed to process for gunshot residue within six
18 hours of the time of the incident.

19 Q And that's your department's protocol?

20 A That's SLED's protocol.

21 Q And you were at the scene at 2 a.m., correct, when
22 you first arrived?

23 A Yes, ma'am.

24 Q And your investigation led you to believe that at
25 least one of the other security guards had a weapon,

1 correct?

2 A Yes.

3 Q And did your investigation lead you to understand
4 that another security guard also had a weapon?

5 A I would assume security guards probably had weapons,
6 yes, ma'am.

7 Q Were you asked to perform any other gunshot residue
8 testing on anyone else at the scene?

9 A No. If I was, it would have been done.

10 Q So you were not asked to perform any gunshot residue
11 on any security guard?

12 A I don't know that -- there was none there when I
13 arrived, when I was processing.

14 Q Now, in this particular case, who made the decision
15 of what to test at the scene, in terms of gunshot
16 residue? Would that have been a decision that you
17 would have made or someone else?

18 A It could have been either/or or both. I make those
19 decisions, investigators ask for those to be done,
20 they make those decisions. Whoever decides that
21 it's a possibility, they can request that to be done
22 and then I do it.

23 Q But you personally did not request any other gunshot
24 residue to be performed on anyone at the scene?

25 A I did not, no.

1 Q Okay.

2 MS. SCHILLACI: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 (Pause.)

5 Q And Investigator Richards, I want to move now to the
6 garage where you did the, I guess what you called
7 the processing?

8 A Yes, ma'am.

9 Q The car?

10 A Yes, ma'am.

11 Q And in terms of processing, what do you mean by
12 that? Was it you take photographs, you did some D N
13 A testing, correct, or one of the investigators did?

14 A At one point, yes.

15 Q Gunshot residue testing?

16 A Yes.

17 Q And the processing was done in the garage?

18 A It was.

19 Q And is that the Sheriff's Department's garage?

20 A It belongs to the Sheriff's Department, yes, ma'am,
21 Forensics Division.

22 Q And I believe that you had talked about the order of
23 how the vehicle was processed. You began with the
24 photographs?

25 A Yes, ma'am.

- 1 Q And who did the photographing?
- 2 A I believe Investigator Oates photographed it.
- 3 Q Investigator Oates?
- 4 A Yes, ma'am.
- 5 Q And after the photographing, what came next?
- 6 A The G S R processing.
- 7 Q And G S R being short for ---
- 8 A Gunshot residue, yes, ma'am.
- 9 Q And I believe you testified that you had used sticky
- 10 tabs, correct?
- 11 A That's correct.
- 12 Q So you didn't do any cotton-swabbing ---
- 13 A I did not, not for gunshot residue, no.
- 14 Q You did not. And then what happened after the
- 15 gunshot residue?
- 16 A It was processed for latent prints.
- 17 Q For latent prints ---
- 18 A Yes.
- 19 Q --- for fingerprints?
- 20 A Yes, ma'am.
- 21 Q And were you involved in the fingerprinting?
- 22 A Yes, ma'am, I testified that I processed the left
- 23 side of the vehicle.
- 24 Q And was another officer also involved in
- 25 fingerprinting?

1 A Yeah, it would have either been Investigator Oates
2 or Investigator Bouknight. I believe it was
3 Investigator Bouknight.

4 Q And was it your understanding that they were doing
5 the other parts of the car?

6 A Yes.

7 Q And then what happened after the fingerprinting?

8 A After fingerprinting, then it would come D N A swabs
9 if that was appropriate for the processing of that
10 particular car?

11 Q So it was three of you, Investigator Oates,
12 Bouknight and yourself, were in and out of the
13 vehicle processing it?

14 A Not until after I did the G S R, no.

15 Q Okay. And you said it was Investigator Oates that
16 was doing the photographing?

17 A Yes.

18 Q And he did take some photographing from inside the
19 vehicle?

20 A He took photographs with the doors open of the
21 inside of the vehicle.

22 Q And the doors open, that would have been passenger
23 side and the driver's side?

24 A Sure, yes.

25 Q Now, in terms of the -- well, let me ask you. When

1 you first went into the vehicle, you testified that
2 -- I guess you've been admitted as an expert in like
3 blood spattering and blood smears. Did you see any
4 blood in the vehicle?

5 A No, if I had of it would have been documented.

6 Q Okay. Did you see a bloody tissue?

7 A I did not. I was concentrating on other things. I
8 did not participate in the search which came after
9 the processing. That was Investigator Oates and
10 Bouknight who completed the search and the
11 processing of the vehicle.

12 Q So if there was a bloody tissue in the front of the
13 vehicle, you would not have seen that?

14 A I'm not saying I would not have. I didn't say I did
15 -- I said it was not documented by me.

16 (Pause.)

17 Q If there was blood in the car, do you believe that
18 that should have been brought to your attention,
19 given that you do blood spattering?

20 A We all do blood spattering, ma'am. We're all
21 capable of doing those -- those things, that
22 discipline.

23 Q Okay. So you ---

24 A Particularly Investigator Bouknight, yes.

25 Q So if there was blood in the vehicle, you believe

1 that that should have been brought to your
2 attention?

3 A It should have been?

4 Q (Affirmative response.)

5 A I'm not necessarily saying that it should have been
6 since I had another qualified investigator
7 processing the vehicle as well.

8 Q And that other qualified investigator would be
9 Investigator Oates?

10 A Bouknight.

11 Q Bouknight?

12 A Yes.

13 Q Okay. Now, in terms of fingerprinting, are you --
14 you're not looking for visible prints, that's why we
15 call it latent, correct?

16 A Well, you're looking for both. Sometimes you can
17 see them but the majority of the time you can't see
18 a latent print and that's what it would be
19 enhancement processes.

20 Q And in this case you didn't see any visible prints?

21 A No, I did not.

22 Q And you don't lift a print unless you believe it's
23 of sufficient evidentiary value, correct?

24 A Well, sometimes it's difficult to tell if it's of
25 sufficient evidentiary value. So sometimes if they

1 have a large -- a number of ridge detail access to
2 them, then I will go ahead and lift them. It may
3 turn out that they're not identifiable. But they
4 can be lifted, yes.

5 Q So if a print had no value, what would that mean?

6 A It means it could not be identified.

7 Q And -- and -- excuse me. In this case did you find
8 prints that were identifiable?

9 A I turned the prints that I had enhanced and
10 developed and collected into our latent prints
11 section. I did not do the comparison process for
12 those prints.

13 (Pause.)

14 Q And Investigator Richards, are you aware that there
15 was no fingerprints in that vehicle of Johnnie
16 Gaskins?

17 A Yes, I'm aware of that.

18 Q You are aware of that?

19 A Yes.

20 Q But there were other prints found that were
21 identified?

22 A If you're talking about the ones that I submitted
23 ---

24 Q That's correct.

25 A --- yes. I -- yes.

1 Q And I'm going to ask you briefly about the D N A.

2 Did you take the D N A samples ---

3 A No, I did not.

4 Q Okay. And would that have been Investigator Oates
5 or Bouknight that ---

6 A It could have been either one.

7 Q But you know which?

8 A No, I do not.

9 Q And were you present while they were testing for D N
10 A?

11 A I may not have been. I may have finished what I was
12 doing and had to move on to something else or called
13 away.

14 (Pause.)

15 Q Investigator Richards, I'm going to ask you a few
16 questions about the gunshot residue. The gunshot
17 residue was done after the photographing?

18 A Yes.

19 Q And were you the only one involved taking those
20 samples?

21 A Yes.

22 Q And I believe you testified that you used sticky
23 tabs, did not use a cotton swab?

24 A That's correct.

25 Q And for gunshot residue, you're looking for three

1 components, is that your understanding?

2 A There's three components there, yes, microscopic
3 particles of ---

4 Q Lead, barium and antimony?

5 A That's correct.

6 Q And in your training, you understand that the
7 presence of lead, for instance, can be caused by
8 other things other than gunshot residue?

9 A Sure. Sure.

10 Q And after taking the samples, they were submitted to
11 SLED?

12 A Yes, ma'am.

13 Q And when you submitted the samples, did you include
14 photographs or the incident report?

15 A The incident report, yes, ma'am.

16 Q And that was all put in a sealed envelope?

17 A Yes, ma'am.

18 Q And the actual analysis was not done by you, it
19 would have been done by SLED?

20 A Yes, ma'am.

21 Q And did you know who at SLED -- and I'm only asking
22 you who at SLED would have performed the analysis?

23 A I do not know.

24 Q So you did not speak with the person who performed
25 the analysis on G S R?

1 A No, I did not. I received a report.

2 Q Okay. And do you know what's meant by secondary
3 transfer when we're talking about gunshot residue?

4 A Yes, ma'am.

5 Q And can you tell the jury what that is?

6 A It's transfer of possible gunshot residue by another
7 source other than the weapon being fired.

8 Q So for example, if someone had been at the firing
9 range or they'd been involved with -- somehow with
10 guns that had been fired and they were to then go
11 and touch a doorknob, would you likely find gunshot
12 residue on the doorknob?

13 A It's a possibility that you would, yes.

14 Q And would that be an example of secondary transfer?

15 A Yes.

16 Q Now, were you involved in doing G S R testing on any
17 other objects recovered in this case, for example a
18 jacket?

19 A I was requested to submit the -- a jacket that was
20 already in evidence, do the paperwork, submit the
21 jacket to SLED for analysis for gunshot residue,
22 yes, which I did.

23 Q Now I'm going to show you State's Exhibit 18. Does
24 this appear to be the jacket?

25 A I need to see the box with the evidence item.

1 (Presented to the witness.)

2 A Yes.

3 Q Was that submitted for gunshot residue testing?

4 A Yes, ma'am.

5 Q And are you the one who decided to have the jacket
6 tested?

7 A No, ma'am.

8 Q Do you know who would have made that decision?

9 A Yeah, I was requested to do that by Captain Smith
10 during a case review of this incident.

11 Q And based on your training and experience, why would
12 you test a jacket or a piece of clothing for gunshot
13 residue?

14 A If that piece of clothing had been worn or possibly
15 been worn at the time of discharge of a weapon.

16 Q And you certainly would not test a piece of evidence
17 for gunshot residue unless you had a reasonable
18 belief that it may contain gunshot residue, correct?

19 A I wouldn't. I can't speak for Captain Smith.

20 MS. SCHILLACI: Beg the Court's indulgence.

21 (Pause.)

22 A And Investigator Richards, let me just clarify, the
23 jacket that was marked as State's Exhibit Number 18,
24 that was not found in the car, correct?

25 A Not by me, no.

1 MS. SCHILLACI: All right. That's all we have,
2 thank you.

3 THE COURT: Anything on redirect?

4 MS. MCDUFFIE: No, sir, Your Honor.

5 THE COURT: All right, you may step down, sir.

6 (The witness leaves the witness stand.)

7 MR. MEADORS: Pat Travis Holdorf.

8 THE COURT: All right, call your next witness.
9 As they come down, I need to step outside. Don't go
10 anywhere -- don't do anything.

11 (The jury retires from the courtroom at
12 approximately 12:20 p.m.)

13 (The Court was in recess.)

14 THE COURT: Thank you. You all ready?

15 MR. MEADORS: State's ready.

16 THE COURT: All right. Bring the jury in

17 (The jury returned to the courtroom at
18 approximately 12:30 p.m.)

19 THE BAILIFF: The jury's all present, Your
20 Honor.

21 THE COURT: Thank you, sir. You may call your
22 next witness.

23 MR. MEADORS: If it pleases Your Honor,
24 Investigator Travis Holdorf.

25 THE COURT: Holdorf?

1 THE COURT: Schillaci -- for your patience and
2 understanding. And I promise to take you all to the fair
3 next year.

4 (Laughter.)

5 THE COURT: And take you on all the rides.
6 Mr. Meadors, you may call your next witness.

7 MR. MEADORS: Please the Court.

8 THE COURT: Yes, sir.

9 MS. MCDUFFIE: The State would call Investigator
10 Harold Bouknight.

11 (HAROLD BOUKNIGHT, having first been duly sworn,
12 testified as follows:)

13 THE CLERK: Thank you. Please have a seat in the
14 witness stand and state your full name for the record and
15 please spell your last name.

16 THE WITNESS: Investigator Harold Bouknight, B-
17 o-u-k-n-i-g-h-t.

18 DIRECT EXAMINATION

19 BY MS. MCDUFFIE:

20 Q Investigator Bouknight, where are you currently
21 employed?

22 A At the Richland County Sheriff's Department Crime
23 Scene Unit.

24 Q And what are your duties with the Crime Scene Unit?

25 A I'm a senior crime scene analyst. That means I take

1 supervisor on call. I assist other investigators on
2 the road. I respond to scenes to locate, document,
3 preserve, process and collect evidence.

4 Q And how long have you been with the Sheriff's
5 Department?

6 A I've been with Richland County for seven years and a
7 crime scene investigator for a little over four
8 years.

9 Q And please tell the jury a little bit about your
10 education and training in the field of crime scene
11 investigation?

12 A In 1995, I received an associate's degree in criminal
13 justice from Midland's Technical College. And since
14 joining the Crime Scene Unit, I've completed in-
15 house training which took approximately a year and a
16 half which included reading and testing, both
17 written and proficiency testing in fingerprint
18 comparison and examination, footwear examination and
19 comparison, blood stain pattern analysis, latent
20 print processing and crime scene security. I've
21 also attended courses in crime scene reconstruction,
22 a 40 hour course in blood stain pattern analysis, a
23 40 hour course in fundamentals of crime scene
24 investigation and evidence collection, an eight hour
25 course in advanced blood stain analysis, a 40 hour

1 course in advanced blood stain pattern analysis, a
2 40 hour course in complex latent print examination
3 and in 2008 I was certified as a crime scene
4 investigator by the International Association for
5 Identification.

6 MS. MCDUFFIE: Your Honor, at this time we would
7 offer Investigator Bouknight as an expert in crime scene
8 investigation.

9 MR. MCCULLOCH: No objection.

10 THE COURT: All right, without objection. Are
11 you going to solicit a fact or an opinion from him?
12 Both?

13 MS. MCDUFFIE: Yes, sir, Your Honor.

14 THE COURT: All right. Go ahead.

15 Q Investigator Bouknight, please tell the jury what
16 your duties were on February the 5th of 2007.

17 A On February 5th, 2007, I was a regular crime scene
18 analyst and not a supervisor at that time. And I --
19 at that time I would just respond to scenes and
20 process evidence and photograph and collect it there
21 and also process any other vehicles or anything that
22 may be involved in a crime.

23 Q And did you respond to 826 Bush River Road on
24 February the 5th of 2007?

25 A Yes, ma'am, I did.

1 Q And what was that in reference to?

2 A It was to follow up to photograph and collect some
3 evidence that had been located at the scene.

4 Q And was this evidence located by yourself?

5 A It had been located and placed on a stand by
6 employees at the scene that were cleaning up,
7 employees of the location. There was a black knit
8 cap, a jacket from a bullet fragment, a cellular
9 phone and a flattened projectile that was stuck to
10 the side of the black knit cap.

11 MR. MCCULLOCH: No objection to the photograph,
12 Your Honor.

13 THE COURT: All right.

14 MS. MCDUFFIE: Your Honor, we'd offer State's
15 106 and 107.

16 THE COURT: Without objection.

17 (Whereupon, State's Exhibit Number 106,
18 Photograph of Interior of Club and Items
19 Collected, was admitted into evidence.)

20 (Whereupon, State's Exhibit Number 107,
21 Photograph Black Knit Cap and Items Collected,
22 was admitted into evidence.)

23 Q Investigator Bouknight, if you could please show
24 those photographs to the jury and describe to them
25 what they depict.

1 A Yes, ma'am, this is a photograph -- start with this
2 one. This is the black knit cap that I told you
3 about earlier.

4 THE COURT: The exhibit number?

5 THE WITNESS: This is 107.

6 THE COURT: All right. Thank you, sir.

7 A It's -- and the flattened projectile on the side.
8 And then the jacket fragment here and then part of
9 the phone. And you can see here (indicating), this
10 is just a photograph of the interior and there is
11 the black knit cap there next to a bench.

12 Q And you said you found a flattened projectile in the
13 black knit cap?

14 A It was stuck to the side of it.

15 Q I want to show you State's 104. Do you recognize
16 that?

17 A Yes, ma'am.

18 MS. MCDUFFIE: Your Honor, at this time we'd
19 offer State's 104.

20 THE WITNESS: It's a flattened projectile.

21 THE COURT: Any objection?

22 MR. MCCULLOCH: No objection.

23 THE COURT: All right, without objection.

24 (Whereupon, State's Exhibit Number 104,
25 Flattened Projectile from Knit Cap, was admitted

1 into evidence.)

2 Q And if you could please take that out of the
3 packaging and show it to the jury?

4 (Complied.)

5 A That's the flattened projectile and that was the
6 side that was stuck to the knit cap. You can still
7 see the weave of the fabric in the lead of the
8 projectile.

9 Q And when we're talking about a projectile, what are
10 we talking about?

11 A That's the part of a cartridge. You have your
12 primer casing, propellant and then the projectile or
13 the bullet. The bullet is what leaves the barrel of
14 the weapon.

15 Q And that's what was on this knit cap?

16 A Stuck to the side of it, yes, ma'am.

17 Q And you also said copper jacket?

18 A A piece of a jacket fragment, yes, ma'am.

19 Q State's 105, that's what else you found?

20 A It appears to be, yes, ma'am.

21 MS. MCDUFFIE: Your Honor, I'd offer State's
22 105.

23 MR. MCCULLOCH: No objection.

24 THE COURT: And 105 is what again?

25 MS. MCDUFFIE: The copper jacket.

1 (Whereupon, State's Exhibit Number 105, Copper
2 Jacket Fragment, was admitted into evidence.)

3 Q Please explain to the jury what that is?

4 A In the manufacturing process for projectiles, a lot
5 of different manufacturers use different things.
6 They start with a plain lead base and then they coat
7 the lead projectile with -- sometimes they use
8 brass, mostly they use copper. They will coat it to
9 make it more durable. Sometimes they're hollow
10 points where the end of that copper base or copper
11 jacket is removed to allow greater expansion.

12 Q And that was all found at Club 360 on February
13 the 5th of 2007?

14 A Yes, ma'am.

15 Q And did you -- on February 6th, 2007, did you
16 participate in the processing of a 2005 blue Chevy
17 Impala?

18 A Yes, ma'am, I did.

19 Q And please describe for the jury what your
20 involvement was in processing that vehicle.

21 A My involvement was I -- I assisted Investigator
22 Oates and Sergeant Richards -- or he was just
23 Investigator, Investigator Richards in processing
24 the vehicle. I -- I processed the exterior of the
25 front and rear passenger doors and the interior with

1 black powder. I lifted one print from the front
2 passenger door. And I located a fired shell casing
3 in the rear pocket of the passenger seat. And that
4 was turned over to Investigator Oates.

5 Q I'm going to show you what's already in evidence,
6 State's 130. Please describe for the jury what's
7 depicted in that photograph.

8 A That's looking through the rear passenger door of
9 the Impala, that's the rear seat pocket.

10 Q And State's 131?

11 A That's -- right there is the shell casing that's
12 located in that seat pocket.

13 Q And State's 132?

14 A And that's the shell casing outside of the seat
15 pocket.

16 Q And these were found in which seat of the Impala or
17 where in the Impala?

18 A It's in the seat pocket of the passenger seat.

19 Q And did you -- after you found this shell casing,
20 what did you do with it?

21 A I turned it over to Investigator Oates.

22 Q And he collected it and placed it in evidence?

23 A Yes, ma'am.

24 Q And did you enter any further processing on the
25 vehicle?

1 Q No, ma'am.

2 MS. MCDUFFIE: Beg the Court's indulgence.

3 (Pause.)

4 MS. MCDUFFIE: No further question, Your Honor.

5 THE COURT: Cross-examine.

6 CROSS-EXAMINATION

7 BY MR. MCCULLOCH:

8 Q Mr. Bouknight, how are you today?

9 A Doing good, sir.

10 Q Now, the processing of the scene took place when?

11 A Whenever I was there?

12 Q Yeah.

13 A I was there at 10:12 in the morning of February 5th.

14 Q On the 5th, okay. So the morning after the
15 incident?

16 A Yes, sir.

17 Q The knit cap and the, I think you said it was a
18 projectile, and I don't recall the exhibit number,
19 the things we were just talking about, you were
20 talking about with the prosecution. Those were
21 pointed out to you by somebody?

22 A They were on a ledge whenever I got to the scene.

23 Q So they had been found by somebody else?

24 A Yes, sir.

25 Q All right. So all you did was secure them or take

1 them?

2 A I photographed them and collected them, yes, sir.

3 Q Okay. Do you know why police officers did not do
4 that the night before?

5 A No, sir.

6 Q But they had been there for some time, you don't
7 know anything else about them or how they got there
8 other than the fact -- and you weren't there when
9 they were discovered and placed on the ledge?

10 A Correct.

11 Q All right. Now, tell me about the processing of the
12 vehicle. It was in an indoor garage, is that right?

13 A Yes, sir.

14 Q And the -- when you arrived there -- I think there
15 are a bunch of photographs of all of that.

16 (Pause.)

17 Q There were three of you there for the processing,
18 Mr. Richards, Investigator Oates ---

19 A Oates and myself.

20 Q --- and yourself? Is there one of you who is in
21 charge of the process or do you all just kind of
22 dive on in?

23 A Investigator Richards was Senior Analyst at that
24 time.

25 Q All right.

- 1 A And had -- was more familiar with the case. So we
2 would tend to ---
- 3 Q Defer to him?
- 4 A To -- we -- I was assisting him and Investigator
5 Oates.
- 6 Q And ---
- 7 A So whatever they needed help with.
- 8 Q And the purpose of this process was what? This was
9 believed to be the suspect shooter's vehicle or the
10 vehicle from which the shots were fired?
- 11 A I believe so, sir. Yes, sir.
- 12 Q Well, that's what you were told at that time and
13 that's why you were there, right?
- 14 A Well, we had a search warrant for the vehicle to
15 look for any evidence in it?
- 16 Q What evidence were you looking for?
- 17 A Any fired shell casings and then any fingerprints or
18 anything like that.
- 19 Q Okay. Why would you expect to find fired shell
20 casings in the vehicle?
- 21 A Because I believe it was involved in this incident.
- 22 Q Okay. Other shell casings were found in the parking
23 lot, you already knew that, right?
- 24 A Yes, sir.
- 25 Q So when you arrived there at the police garage, did

1 you all three arrive at the same time or had
2 somebody already started when you got there?

3 A I believe they had already begun taking photographs
4 when I arrived out there.

5 Q And in your training as an officer, what you -- do
6 you put on gloves and booties and ---

7 A We put ---

8 Q --- space suits or what?

9 A We -- it depends on the situation as to whether or
10 not we -- what type of protective gear. If it's a
11 very bloody scene, then we may put on protective
12 booties and a Tyvek suit to keep ourselves from
13 becoming contaminated with any biological fluids.
14 For normal fingerprint processing, just a pair a
15 gloves is usually all that's needed.

16 Q But you also don't want to taint the scene with hair
17 follicles of your own or fingerprints of your own?

18 A Yes, sir.

19 Q You don't want to spoil -- that's an evidence site
20 or a potential evidence site, right?

21 A Yes, sir.

22 Q And so the -- you think the first thing -- the first
23 process was to photograph the vehicle?

24 A Yes, sir.

25 Q All right. Well, in order to do that you have to

1 get in the car and there are a number of photos that
2 have little numbers on them, like State's Exhibit
3 117 which shows a -- I guess that's the door latch
4 on one of the doors in the number 1?

5 A Yes, sir, it could be.

6 Q Was that tagging already done by the time you
7 arrived?

8 A I don't remember.

9 Q And that's kind of standard procedure, to mark
10 things that may be of some importance?

11 A Yes, sir. Standard procedure is to photograph
12 whatever scene you're at, whether it's a vehicle or
13 an actual crime scene or anything else. You
14 photograph it first as it is without any scales or
15 markers of any type. And then you go back through
16 and you photograph it after you've marked any items
17 that may be significant or you find any items that
18 may be significant as you search, then you
19 photograph those also.

20 Q All right. Tell me what you were looking for as you
21 -- do you know whether these officers had already
22 gotten into the vehicle, had been through it by the
23 time you arrived there?

24 A No, sir, they had not been through it.

25 Q All right. So in the sequencing, you would have

1 expected there to be photographs that wouldn't have
2 any of these little markers at possible points of
3 interest in the car and then somebody would have to
4 get in and put points of interest markers and
5 photograph those?

6 A Yes, sir.

7 Q So there were no markers to your knowledge when you
8 arrived there?

9 A I don't recall ---

10 Q Okay.

11 A --- if they had marked the door handle or not.

12 Q Did you assist in the marking of potential things?

13 A No, sir.

14 Q Who was that done by?

15 A I don't know.

16 Q You know that was done because obviously we have
17 photos of that?

18 A Yes, sir.

19 Q All right. And in order to mark things on the
20 interior of the vehicle, somebody has to get into
21 the vehicle, right?

22 A Yes, sir.

23 Q Did you have a gun on your -- in the holster when
24 you were working in the car?

25 A Yes, sir.

1 Q Do you know whether the other two officers had guns
2 on their hips when they were working in the car?

3 A I don't remember.

4 Q Did you yourself get in -- tell me what you were
5 looking for in terms of evidence in this vehicle.

6 A What I was looking for, as I said earlier, was any
7 ammunition or fired ammunition and fingerprints.
8 That's why I processed the front rear passenger door
9 with black powder and with one lift from the front
10 passenger door. And then I searched the very -- the
11 rear passenger area where the shell casing was
12 found.

13 Q Okay. And do you recall finding blood on the
14 interior of the vehicle?

15 A No, sir.

16 Q Do you recall a bloody tissue?

17 A No, sir. My search was focused right there in that
18 one area.

19 Q Now the inventory, when you search something, based
20 on a search warrant, the law requires that you file
21 a return, correct?

22 A Yes, sir.

23 Q And you, since your name is on the return -- I mean,
24 I'm telling you your name is on the return, you
25 agree with that, right?

- 1 A If I could see it, I would agree with it.
- 2 Q Sure, absolutely.
- 3 A Yes, sir.
- 4 Q And the return indicates -- well, we've cut the
5 numbers off somehow but it indicates one blood stain
6 used piece of tissue sitting atop front passenger
7 seat. Remember that?
- 8 A Yes, sir.
- 9 Q Was it pointed out to you?
- 10 A No, sir.
- 11 Q Are you also a blood expert?
- 12 A Yes, sir.
- 13 Q Nobody mentioned that to you?
- 14 A No, sir.
- 15 Q How about State's 121, do you know that that's
16 marked because of a blood spatter on the -- what is
17 that, the gearshift knob?
- 18 A It appears to be the gearshift and, no, sir, I don't
19 know why it was marked.
- 20 Q Well why wouldn't that be mentioned to you as a
21 blood expert?
- 22 A Because all of us are trained in blood stain
23 analysis.
- 24 Q Would that have been of interest to you to know
25 there was blood found in the vehicle?

1 A It doesn't -- didn't matter to me one way or
2 another, sir. I -- like I said, my search was
3 focused in the rear passenger area.

4 Q So you were assigned to the backseat and they were
5 assigned to the front seat?

6 A Well, I took the backseat and they took the front.

7 Q Who was in charge of blood?

8 A No one, sir.

9 Q Well, I mean, if blood's found in the car, you would
10 surmise that somebody bled, right?

11 A Yes, sir.

12 Q And usually people bleed from injury, don't they?

13 A Yes, sir.

14 Q But nobody mentioned that to you?

15 A No, sir.

16 Q The -- you don't know when that photo -- or when the
17 blood was discovered or what was done with the
18 evidence, do you?

19 A No, sir.

20 Q You know whether it was sent to the -- that would go
21 to what, the D N A lab?

22 A Yes, sir.

23 Q You know whether that was done?

24 A I do not know.

25 Q Now, did you take D N A samples yourself or was that

1 not what you were doing that day?

2 A I did not take any D N A samples.

3 Q Who do you think did the D N A samples?

4 A I don't know.

5 Q How long did this entire process take, now, bearing
6 in mind that when you arrived the other two
7 gentlemen were there from the Sheriff's Department?

8 A I don't know, sir.

9 Q Well, how long were you there doing whatever you
10 did?

11 A The total time I was there was two hours and 25
12 minutes.

13 Q Okay. There are the couple of other -- State's 126,
14 State's 127, what are those?

15 A Well, 126 appears to be a balled up piece of paper
16 and then next to it is what appears to be a Hemident
17 presumptive test kit. And then on 127, it's a
18 balled up piece of paper with some reddish stain on
19 it.

20 Q Like blood?

21 A It could be possibly blood. All I can say it's a
22 reddish brown stain.

23 Q Well the hemo kit that you mentioned ---

24 A The Hemident.

25 Q Hema what?

1 A Hemident.

2 Q Hemident kit is for testing for blood, right?

3 A Yes.

4 Q Testing for blood?

5 A It's a presumptive test, yes, sir.

6 Q All right. And that's laying on the tissue with the
7 red stuff on it that looks a lot like blood?

8 A Yes, sir.

9 Q 127. And that's nothing that was brought to your
10 attention so you don't know anything else about
11 that, right?

12 A I'm sorry?

13 Q You don't know anything else about that other than
14 what you so far testified to?

15 A Correct.

16 Q Now, the -- you testified that in your examination
17 of the backseat, what did you find?

18 A A shell casing in the rear seat pocket, in the seat
19 pocket of the passenger seat.

20 Q And that would be the seat pocket in State's 115?

21 A Yes, sir.

22 Q And it would be also the seat -- was that the
23 condition of the seat pocket when you examined it?
24 And I'm referring again, drawing your attention to
25 State's 1 -- 115.

- 1 A No, sir, I don't believe so.
- 2 Q All right. What was different?
- 3 A That looks like the rear seat's been removed.
- 4 Q Well, I'm -- okay, I see what you meant. But I
- 5 don't much care about that unless you know where the
- 6 rear seat went and why it was removed.
- 7 A No, sir, I don't.
- 8 Q All right. But that's not where you found the shell
- 9 casing, right?
- 10 A No, it was in the rear seat pocket.
- 11 Q And that's?
- 12 A As far as I can tell, the seat pocket is intact.
- 13 Q All right.
- 14 A Much the same as it was when I found the shell
- 15 casing.
- 16 Q All right. Well, the seat pocket -- I mean, you
- 17 would agree with me that the seat pockets in cars
- 18 have some kind of elastic band in them that pull
- 19 them up against the seat back?
- 20 A Well, they have some type of reinforcement.
- 21 Q Well, you have to pull it out to reach -- to look
- 22 down in it, right?
- 23 A Yes, sir. I had to open it up a little bit.
- 24 Q Well, how would a shell get in there unless somebody
- 25 put it in there?

1 A I don't know, sir. It could have bounced in there
2 or somebody could have put it in there.

3 Q Now this is the seat back -- the pocket on the back
4 of the -- of the front passenger side seat, right?

5 A Yes, sir.

6 Q And it's -- it's a pocket as you can see on that
7 exhibit. It's somewhat tight? I mean, it wasn't
8 bulging open, it wasn't stretched out, pulled and
9 broken?

10 A Well, it's not stretched out. It appears to be open
11 a little.

12 Q You got bench notes about those observations?

13 A No, sir.

14 Q And so you found the shell casing down in the bottom
15 of that?

16 A It was inside of it.

17 Q Are you aware that a witness has said that the
18 person who did the shooting supposedly from this
19 automobile was shooting -- leaning back in the seat
20 as depicted in one of those photographs, but holding
21 the firearm out of the front window, the driver's
22 front window and looking out of the rear window?

23 Are you aware of that?

24 A No, sir.

25 Q All right. Tell me -- speculate how a shell casing,

1 the jacket from a pistol, would make its way up over
2 a seat back and then, since all seats are somewhat
3 reclining, if not reclined, how it would then find
4 its way into a pocket on the back of the seat.

5 A I don't speculate on things like that, sir.

6 Q Well, it would have to defy gravity, wouldn't it?

7 A I wouldn't know, sir. All I can tell you is where I
8 found the shell casing.

9 Q Or either put there by someone?

10 A Could be.

11 Q Now, there was some kind of jacket found in this
12 automobile, wasn't it, in the back seat?

13 A I don't know, sir.

14 Q Do you have notes there in front of you?

15 A I didn't find one, no, sir.

16 Q I'm sorry?

17 A I didn't find one.

18 Q You didn't notice one?

19 A I didn't find one, notice one or collect one.

20 Q How about this -- this is 130. Is that your arm?

21 A Yes, sir.

22 Q And that's your arm pulling the seat pocket out so
23 you can take a picture?

24 A Yes, sir.

25 Q So obviously it wouldn't have been possible to take

1 the picture into the seat back without your pulling
2 on it?

3 A Yes, sir.

4 Q And there's a jacket on the -- on the seat, isn't
5 there. That must have been taken before the seat
6 back was removed -- the seat was removed?

7 A Yes, sir.

8 Q And that's a black jacket?

9 A Yes, sir.

10 Q Only it's got patches on it, as you can see in the
11 photo, right?

12 A It's got something on it. I can't tell what it is.

13 Q Was that not something you picked up and inspected?

14 A I don't remember.

15 (Pause.)

16 Q Okay. Now, was part of your job to try to pull
17 fingerprints?

18 A Yes, sir.

19 Q And you were asked to compare or you pulled
20 fingerprints -- or are you aware that fingerprint
21 comparisons were made to somebody named Ausha Allen
22 or ---

23 A No, sir.

24 Q --- were you aware of that?

25 MR. MCCULLOCH: Okay. I think that's all, Your

1 Honor, thank you.

2 MS. MCDUFFIE: May it please ---

3 THE COURT: Can I see y'all for just one second.

4 (WHEREUPON, a bench conference was held off
5 the record, in the presence of the jury, but out
6 of the hearing of the jury.)

7 THE COURT: Okay, redirect.

8 REDIRECT EXAMINATION

9 BY MS. MCDUFFIE:

10 Q Investigator Richards (sic), briefly, you were not
11 the primary on searching this vehicle? I'm sorry,
12 Investigator Bouknight, you were not the primary on
13 searching this vehicle?

14 A No, ma'am.

15 Q And what were your duties, again?

16 A To search for evidence in the rear area and process
17 for fingerprints.

18 Q And did you participate in the removal of items with
19 the exception of the shell casing from the vehicle?

20 A No, ma'am.

21 Q And whose responsibility was that?

22 A It would be Investigator Oates or Investigator
23 Richards.

24 Q State's 110, this is the vehicle before it was
25 searched?

1 A Yes, ma'am, it appears to be.

2 Q And in that rear -- in the front passenger seat, in
3 the rear of the seat, the pocket, does it seem to be
4 opened or closed?

5 A Opened.

6 Q And what else is in that rear seat pocket that you
7 can tell from that picture?

8 A A manila or yellow envelope and ---

9 Q And this was before you searched it?

10 A Yes, ma'am.

11 Q And State's 130, would that be the same manila
12 envelope sitting there?

13 MR. MCCULLOCH: I'm going to object to leading,
14 Your Honor.

15 THE COURT: Beg your pardon?

16 MR. MCCULLOCH: Object to the leading.

17 Q Please tell the jury what's in State's 130?

18 A That's a yellow envelope and a Netflix startup
19 package.

20 Q And where did that come from?

21 A The rear seat pocket.

22 Q And that seat pocket was again open or closed?

23 A Slightly opened.

24 MS. MCDUFFIE: No further questions.

25 RECROSS-EXAMINATION

1 BY MR. MCCULLOCH:

2 Q Investigator, you honestly don't know what condition
3 the car was in before you arrived since there were
4 already two folks working on the car when you
5 arrived, correct?

6 A I'm sorry. Can you repeat the question?

7 Q When you arrived, your two fellow officers were
8 already -- were already there, they were already
9 working on the car, correct?

10 A They had begun photographing.

11 Q All right. So you don't know what they did prior to
12 your arrival, you can't know?

13 A Correct.

14 MR. MCCULLOCH: All right. That's it.

15 THE COURT: Anything further of this witness?

16 MS. MCDUFFIE: No, sir, Your Honor.

17 THE COURT: All right, you may step down, sir.

18 (The witness leaves the witness stand.)

19 THE COURT: Call your next witness.

20 MR. MEADORS: Tom Amaro.

21 THE COURT: Who?

22 MR. MEADORS: Tom -- Thomas -- Tom Amaro, A-m-a-
23 r-o.

24 (THOMAS N. AMARO, JR., having first been duly
25 sworn, testified as follows:)

1 Q And your phone number was 803-518-5172?

2 A That is correct.

3 Q Is it fair to say you took some statements from some
4 individuals after that?

5 A Yes, sir.

6 Q Okay. Without going into what they were, did you
7 have an occasion to take a statement from a Tamera
8 Barnett? Or Tamera Barnett, I apologize.

9 A Tamera Barnett? I believe so, sir. Yes, sir.

10 Q And Investigator, did y'all receive some information
11 that a blue Chevrolet Impala was at 52 Riverview
12 Court?

13 A Yes, sir, through our investigation we did.

14 Q All right. And what did you do once you received
15 that information?

16 A Several of us from the Richland County Sheriff's
17 Department responded to that location. And upon our
18 arrival, did determine there was vehicle matching
19 that description at that location.

20 Q You're at that location right now, Tom -- or
21 Investigator Amaro, what -- what if anything did
22 y'all, you and the Sheriff's Department, do with the
23 vehicle right then?

24 A We secured the vehicle, obtained the tag number and
25 V I N number to that particular vehicle.

- 1 Q And what was that?
- 2 A The tag number was 2-3-3 V as in Victor, M as in
3 Mary, Y as in Yankee, along with the V I N number,
4 2-G-1, whiskey, foxtrot, 5-2, echo, 0-5-9-2-9-3-9-5-
5 3.
- 6 Q Did you go into the vehicle at that point?
- 7 A No, sir.
- 8 Q Did anybody go in the vehicle?
- 9 A No, sir, we secured it at that point.
- 10 Q Now, there was a residence right near there, 52
11 Riverview Court?
- 12 A Yes, sir, it was.
- 13 Q Excuse me, I'm sorry. Did you say, yes, you did?
- 14 A Yes.
- 15 Q So a search warrant was executed on 52 Riverview
16 Court?
- 17 A Yes, sir, it was.
- 18 Q Did you actually go in there?
- 19 A Yes, sir, I did.
- 20 Q And tell the jury what you did when you went in
21 there.
- 22 A Went through different various portions of the
23 house. In one of the back bedrooms in the house, on
24 top of the dresser I noticed a receipt, a Verizon
25 receipt, on top of the dresser, which also had the

1 phone number of area code 803-807-8368 on the bill.

2 Q And where had you seen that phone number before?

3 A The cell phone number that was recovered at the 360.

4 Q And that's State's 49 which has already been
5 entered, correct?

6 A That is correct.

7 Q And I'm going to show you what's marked State's 51.
8 Does this appear to be the receipt for the Verizon
9 phone that you just described that you found at 52
10 Riverview?

11 A Yes, sir.

12 Q All right. Did it have a name in here of who -- who
13 the service was going to?

14 A If I recall, I think the first name was Rosalyn.

15 Q Rosalyn?

16 A Yes, sir.

17 MR. MEADORS: Your Honor, we'd offer State's 51.

18 (Pause.)

19 MR. MCCULLOCH: No objection, Your Honor.

20 THE COURT: All right, without objection.

21 MR. MCCULLOCH: Subject -- subject to the
22 earlier discussions we had with respect to the search.

23 THE COURT: Oh, sure.

24 MR. MCCULLOCH: The continuing objection.

25 THE COURT: Yes, sir, 51.

1 MR. MEADORS: Thank you. For the record, this is
2 a 7, Your Honor, not a 4.

3 MR. MCCULLOCH: It's a French ---

4 MR. MEADORS: State's 51.

5 (Whereupon, State's Exhibit Number 51, Verizon
6 Cell Phone Receipt, was admitted into evidence.)

7 Q If you would refer to your notes and see if you had
8 the lady's last name?

9 A No, sir. On the notes I have right here I don't
10 have it.

11 Q But Rosalyn ---

12 A But Rosalyn, I do remember the name Rosalyn, yes.

13 Q What happened to the car, the Chevrolet Impala.

14 A After we conducted the search of the home and got
15 any further evidence from the home, myself, I did
16 follow the tow truck back to our evidence shed at
17 the Richland County Sheriff's Department that's
18 located at 5623 Two Notch Road.

19 Q And while -- while the search of the residence was
20 going on, did anybody go in the Impala, at the scene
21 there?

22 A As far as what I knew when I was there, no, sir.

23 Q I show you what's marked State's 3. Do you
24 recognize this, the tow truck -- a tow receipt?

25 A Yes, sir. It was filled out by Isenhoward,

1 Honor.

2 (The jury returned to the courtroom at
3 approximately 3:13 p.m.)

4 THE COURT: Call your next witness.

5 MR. MEADORS: Dr. Nichols.

6 THE COURT: Come around, Dr. Nichols.

7 (DR. CLAY L. NICHOLS, having first been duly
8 sworn, testified as follows:)

9 THE CLERK: Thank you. Please have a seat in
10 the witness stand and state your full name for the
11 record.

12 THE WITNESS: Dr. Clay L. Nichols, N-i-c-h-o-l-
13 s.

14 DIRECT EXAMINATION

15 BY MR. MEADORS:

16 Q Good afternoon, Dr. Nichols.

17 A How you doing today, sir?

18 A Doing fine, sir. Would you please tell the jury a
19 little bit about Dr. Clay Nichols, specifically your
20 background, your education, your training, and in
21 particular your training in the field of expertise
22 I've asked you to testify about today.

23 A Okay. My name is Clay Nichols. I'm the Chief
24 Medical Examiner for Richland County. And a medical
25 examiner is essentially the person who performs:

1 autopsies who die suspicious or unnatural deaths.

2 I received my bachelor of science degree from
3 the University of Oklahoma, 1981, my MD degree in
4 1985. After that I entered a residence program in
5 both anatomic and forensic pathology at MUSC,
6 completing that in 1989. From '89 to 2000, I was on
7 the faculty at MUSC where I was an associate
8 professor. Following that I entered private
9 practice here in Columbia. I'm also ---

10 MR. MCCULLOCH: Your Honor, I don't want to
11 steal Dr. Nichols' thunder, but I've known him for many
12 years and we certainly will stipulate to his
13 qualifications and his ---

14 THE COURT: That's nice. But if you want to add
15 some more, you can.

16 MR. MEADORS: We so thank Mr. McCulloch and
17 we'll accept that stipulation, Your Honor.

18 THE COURT: All right, sir.

19 MR. MEADORS: It's convenient for everyone,
20 Judge.

21 Q Can you summarize quickly if you've been offered and
22 accepted as an expert in the field of forensic
23 pathology is what we're offering. Very briefly,
24 what's the difference between pathology and forensic
25 pathology?

1 A Pathology is the study of diseases of tissues. We
2 are physicians but rather than seeing patients as
3 our practice, we see parts of patients. And that's
4 not being cute, it's anytime like an appendix is
5 taking out or your tonsils or you have a mole taken
6 off, it's sent to a pathologist for evaluation
7 looking for the presence or absence of disease.

8 They also get experience in doing autopsies
9 which is the dissection of a person after they die.
10 A forensic pathologist has additional training after
11 that basic training in order to determine the
12 differences between natural and unnatural deaths.

13 Q And how many autopsies have you performed?

14 A Thousands.

15 Q And where is your office, so to speak, where you
16 perform this?

17 A Richland Memorial Hospital.

18 Q In the morgue?

19 A Yes.

20 Q And let's -- I guess, let's get right to it, Doctor.
21 Did you have the occasion to perform an autopsy on a
22 one John Adams, if we can start with Mr. Adams
23 first? And if so, could you please tell the ladies
24 and gentlemen of the jury when you did -- and can
25 you kind of go through with them kind of what you do

1 on autopsies and specifically what you did on this
2 case with the body of Mr. John Adams?

3 A Sure, I did the autopsy on Mr. John Adams on
4 February 5th 2007 at 1:30 p.m. An autopsy begins
5 with a phone call, usually from the Coroner's office
6 that there's been a death and arrangement is made to
7 have the appropriate personnel from the Coroner's
8 office and the Sheriff's office available at the
9 time of autopsy so evidence can be collected if
10 necessary, photographs taken if necessary and any
11 information that's available at the time exchanged
12 back and forth between the available agencies.

13 The first thing that happens is that we examine
14 the body with the clothes on, if they have clothes,
15 then the clothes are removed then the body is
16 reexamined again looking for any evidence of injury
17 or cause of death or anything else that's pertinent.

18 After that a dissection is performed where all
19 major organs systems are removed, their weight.
20 They're further dissected down and small pieces of
21 tissue are removed at that time for subsequent
22 microscopic examination.

23 Also during the course of the autopsy, fluids
24 are often collected such as blood or urine for
25 subsequent toxicologic evaluation and that was

1 performed in this case for Mr. Adams.

2 Q Now, starting with your clinical summary, he was 29
3 years old?

4 A Yes, sir.

5 Q Doctor, so as far as your autopsy with your external
6 description, the evidence, the trauma, if you would
7 just tell the jury what you did and your comments,
8 please.

9 A You want the external description described also?

10 Q Briefly.

11 A Briefly. Mr. Adams was a rather large man. He was
12 6 foot tall at 72 inches, weighed 350 pounds and he
13 underwent surgical procedures before he died trying
14 to stop the bleeding, that we'll discuss later, as a
15 result of the gunshot wound that he received.

16 The evidence of trauma, there is a distant
17 perforating gunshot wound to the left lateral
18 abdomen which was around the beltline at a distance
19 of 31 inches from the top of the head and nine
20 inches to the left of midline. The wound is
21 elliptical measuring 0.4 by 0.2 inch. There is a
22 0.1 inch abrasion border from the 2 to 6 o'clock
23 position.

24 The bullet found entered the abdomen at this
25 site traveling to the right virtually 90 degrees,

1 which means it's going pretty much left to right,
2 and slightly upwards. Along its course, the bullet
3 lacerates the inferior vena cava as well as the
4 right iliac vein. The iliac vein is the major vein
5 that drains the blood from the right leg. The vena
6 cava collects the body -- the blood from the lower
7 part of the body and sends it to the liver to the
8 heart, a major vein.

9 There is an associated retroperitoneal and
10 intra-abdominal hemorrhage. The bullet exits the
11 right lateral abdomen at a distance of 28 inches
12 from the top of the head and nine inches to the
13 right of midline. The exit wound is elliptical
14 measuring 0.2 by 0.5 inch. The bullet exits and is
15 not recovered.

16 MR. MEADORS: If I can approach.

17 THE COURT: Yes, sir.

18 MR. MEADORS: Thank you.

19 Q I'm going to show you what's marked 145 and 146 and
20 could you tell me do you recognize these and do they
21 relate to what just came out of your mouth, what you
22 just testified to?

23 A Yes, they do.

24 MR. MEADORS: Your Honor, we'd offer 145 and 146
25 ---

1 MR. MCCULLOCH: No objection.

2 MR. MEADORS: --- without objection.

3 THE COURT: All right, without objection.

4 (Whereupon, State's Exhibit Number 145, John
5 Adams' Autopsy Photograph of Entrance Wound, was
6 admitted into evidence.)

7 (Whereupon, State's Exhibit Number 146, John
8 Adams' Autopsy Photograph of Exit Wound, was
9 admitted into evidence.)

10 Q State's 145 -- and how do these relate to your
11 testimony?

12 A State's 145 is a close-up photograph of the entrance
13 wound to Mr. Adams.

14 Q And you describe this as a distant?

15 A That's correct.

16 Q What does that mean?

17 A Distant means that the muzzle of the gun, the part
18 that's up here at the front, was far enough away
19 from the victim that when the trigger was pulled,
20 anything else other than the bullet dissipated
21 before the bullet hit the skin.

22 Other things come out of the barrel when the
23 trigger is pulled. You have unburned gunpowder, you
24 have soot, you might have grease or dirt. And at a
25 close range, that will all be deposited on the skin

1 and that can be photographed and analyzed for
2 physical evidence. At some point that, which is
3 individual to that gun being used and that
4 ammunition, when the trigger is pulled, anything
5 that comes out of the barrel is now dissipated and
6 the only thing that strikes the victim is the bullet
7 itself.

8 Q And do you have a range based on your education and
9 training that you have testified to before?

10 A A standard hand gun will get to that range at about
11 18 to 24 inches, some closer and maybe some further
12 away, but as a rough estimate, approximately a foot
13 and a half to two feet.

14 Q So your testimony then based on your education,
15 training and experience and looking at this body,
16 was -- it was greater than that?

17 A Yes.

18 Q And you can't tell us how far?

19 A No. The maximum range is the maximum firing range
20 of that particular weapon.

21 Q 146, what's that document?

22 A State's 146 is a close-up view of the deceased's
23 exit wound.

24 Q Now, Doctor, just without getting up, can you show
25 me here roughly where this bullet went in Mr. Adams?

1 (Pause.)

2 Q If you want to get up, I didn't mean that.

3 THE WITNESS: Your Honor, may I?

4 THE COURT: Yeah, sure. Yes, sir.

5 THE WITNESS: Thank you..

6 (The witness leaves the witness stand.)

7 A Roughly, the entrance is here (indicating), the exit
8 is here (indicating). And this virtually went
9 straight across, to the right and slightly upwards.
10 That's a terrible straight line but.

11 Q That's fine.

12 A That's what it did.

13 (The witness returns to the witness stand.)

14 MR. MEADORS: And for the record, this is 147,
15 without objection, Your Honor.

16 MR. MCCULLOCH: (Affirmative response.)

17 THE COURT: All right.

18 (Whereupon, State's Exhibit Number 147, Poster
19 of Human Body, was admitted into evidence.)

20 Q There's been some testimony, Doctor, Mr. Adams was
21 talking some after he received this bullet, saying,
22 go ahead and help somebody else, and saying other
23 things. Would that be unusual, that he would be
24 able to talk for awhile?

25 A Oh, he'd be able to talk for awhile, yes. The chest

1 cavity where the lungs are, that was not breached.
2 So as long as he could breath and have air in his
3 lungs, he could utter words and talk.

4 Q Do you have an opinion to a reasonable degree of
5 medical certainty as to the proximate cause of the
6 death of one John Adams? If you do, would you
7 please tell the jury?

8 A Mr. John Adams died as the result of a cardiac
9 arrest due to complications of internal hemorrhage
10 due to a gunshot wound to his abdomen. And what
11 that means is that Mr. Adams bled to death in his
12 abdomen as a direct result of the gunshot wound he
13 received.

14 Q If we could turn to body number two, the body of one
15 Shannavia Williams. Did you also have the occasion
16 to inspect Shannavia's body?

17 A Yes, I did.

18 Q And when did you do that?

19 A I did that on February the 7th, 2007 at 1:30 p.m.

20 Q All right. You said February the 7th. That's a
21 little later. Were you aware that there was some
22 organ donation ---

23 A That's correct, yes.

24 Q And is that why this was later?

25 A That's correct.

1 Q Tell the jury again, if you will -- and I'll try not
2 to interrupt you. But if you could tell them what
3 you found when you viewed the body of -- and she was
4 26 years old?

5 A Yes, sir.

6 Q Would you please, however you'd like to, with the
7 external description ---

8 A Okay.

9 Q --- going to the evidence of trauma, please, Doctor.

10 A Okay. Ms. Williams was 5 foot 7, 67 inches. Her
11 weight was estimated at 185 pounds. There was a
12 gunshot wound to the left side of the head in the
13 distance of 2.5 inches from the top of the head and
14 3 inches to the left of midline. The wound is
15 somewhat irregular with lacerated edges. It's
16 located at the junction of the left upper ear and
17 face, approximately here (indicating).

18 No soot of powder stippling is identified. The
19 entrance wound is 0.7 by 0.4 inch in greatest
20 diameters. The bullet is found to enter the skull
21 at this site traveling for 30 degrees to the right
22 60 degrees and no significant deviation from upper
23 or down plane. Along its course, the bullet carves
24 a significant cerebral laceration which means the
25 brain tissue is torn. And laceration of the

1 subarachnoid and subdural hemorrhage.

2 There are also associated skull fractures
3 including the calvarium which is the top of the head
4 (indicating) and the right orbital plate
5 (indicating) which forms the top of your eye socket.

6 The bullet is recovered from the -- right above
7 the right orbital plate. The recovered projectile
8 is a lead medium caliber projectile. It is severely
9 distorted. The number 36 and the initial C.N. are
10 inscribed on the base of the bullet by myself.

11 Q That C.N. would be Clay Nichols.

12 A That's correct.

13 Q And is that so you can later come in and identify it
14 to people this -- ladies and gentlemen like this?

15 A Yes.

16 Q Doctor, you kind of -- you were reading that off but
17 are you taking this information down as you're
18 examining the bodies?

19 A Yes.

20 Q Okay. And that's so you can come back here and tell
21 these folks, this is what I saw and observed like
22 you're doing now?

23 A Yes.

24 Q Okay. And just a few more questions. State's 141,
25 can you put on here, just for purposes, where the

1 bullet would have entered Ms. Williams?

2 A Her ear would have been approximately here
3 (indicating) and the gunshot wound have been in this
4 area (indicating).

5 Q As far as affecting her thinking and breathing, how
6 long would she have -- when would she have died
7 after she received this injury? How long in your
8 opinion based on your background, experience and
9 your expert field?

10 A This could have been immediately fatal. She lived
11 for some time and then her organs were kept alive
12 for transplantation purposes after brain death was
13 declared.

14 Q And I've got just two pictures to show you here. Do
15 you recognize these and do they relate to what you
16 just testified to?

17 A Yes.

18 MR. MEADORS: Your Honor, we'd offer now
19 State's 144 and 143, without objection?

20 MR. MCCULLOCH: No objection.

21 THE COURT: All right.

22 (Whereupon, State's Exhibit Number 144,
23 Shannavia Williams' Autopsy Photograph of
24 Entrance Wound, was admitted into evidence.)

25 (Whereupon, State's Exhibit Number 143,

1 Shannavia Williams' Autopsy Photograph of
2 Recovered Bullet, was admitted into evidence.)

3 Q State's 144 is what, Doctor?

4 A State's 144 shows the head of Ms. Williams and it
5 demonstrates the entrance wound to the left side of
6 her head at the junction of her ear.

7 Q State's 144. And, Doctor, I believe in your -- the
8 evidence of trauma, you described this as a distant
9 shot also?

10 A That's correct.

11 Q Would that be the same, greater than 18 inches?

12 A The same criteria, yes, sir.

13 Q And also I think you said there are no evidence of
14 soot or powder burns.

15 A Right.

16 Q What does that mean?

17 A That means, once again, that would be additional
18 material that would come out of the muzzle of the
19 gun when the trigger was pulled. So once again,
20 this is a distant gunshot wound.

21 Q None of that on her?

22 A No.

23 Q And State's 143 is what, Doctor?

24 A This is a somewhat close-up view of the recovered
25 bullet from Ms. Williams' head.

1 Q And finally, you actually yourself recovered that
2 bullet?

3 A That's correct.

4 Q State's 102, do you recognize that and is that the
5 bullet, Doctor?

6 A Yes, it is.

7 Q After you collected this, what did you do with it,
8 Doctor?

9 A This is transferred to law enforcement for
10 subsequent analysis.

11 Q And was there -- again, did you find a bullet in Mr.
12 Adams?

13 A No, there was no bullet.

14 MR. MEADORS: Your Honor, I believe this is
15 already in, 102. I thought I -- if I did not, State's
16 141 without objection.

17 THE COURT: All right, yes.

18 (Whereupon, State's Exhibit Number 141, Head
19 Form, was admitted into evidence.)

20 Q Doctor, I want to thank you for being here today.
21 And my final question is, do you have an opinion to
22 a reasonable degree of medical certainty, based on
23 the examination of Shannavia Williams' body, as to
24 the probable cause her death? And if you do, sir,
25 would you please tell these ladies and gentlemen of

1 this jury?

2 A Yes, I do. Shannavia Williams died as a result of
3 cerebral laceration due to a distant comma
4 penetrating gunshot wound to her head.

5 MR. MEADORS: Judge, that's it.

6 THE COURT: All right.

7 CROSS-EXAMINATION

8 BY MR. MCCULLOCH:

9 Q Dr. Nichols, you -- from your examination of both of
10 these, you're not able to determine the caliber of
11 the bullet that killed them, are you?

12 A No, I'm not. In fact, I think I listed the caliber
13 as a medium caliber, meaning it's medium size. And
14 a firearms examiner would be necessary to figure out
15 the exact caliber.

16 Q And that's not something you can tell?

17 A Sometimes I can but I usually let it go to the
18 firearms examiner.

19 Q But in this situation, I assume that's not the case?

20 A That's correct.

21 MR. MCCULLOCH: That's all we have, thank you.

22 THE COURT: Have you covered everything, both
23 sides?

24 MR. MEADORS: Yes, sir. Thank you, Doctor, for
25 being here, that's all.

1 MR. MCCULLOCH: Yes, sir.

2 THE COURT: Thank you so much, Dr. Nichols.

3 THE WITNESS: Thank you, Judge Manning. It's a
4 pleasure to be in your court.

5 THE COURT: Good to see you again, sir.

6 (The witness leaves the witness stand.)

7 MR. MEADORS: It's 3:27, Judge.

8 THE COURT: Members of the jury, I take this
9 opportunity, before I send you home for the weekend, to
10 thank you sincerely on behalf of everybody involved in
11 this trial for your patience and attention this week.

12 9:30 Monday? What time would y'all like to
13 start? Let me ask the jury. What time would y'all like
14 to be here Monday morning? Monday is always kind of
15 crazy. I think, regardless of whether we start at 9:30
16 or 10, we'll be able to finish all the testimony by the
17 end of the day. Am I right so far?

18 MR. MEADORS: As far as I'm concerned, yes, sir.

19 THE COURT: Okay.

20 MR. MEADORS: Without a question.

21 THE COURT: And I anticipate giving this matter
22 for you to -- giving this case to you to resolve sometime
23 Tuesday morning, that's what we're looking at. Is
24 everybody on the same page now?

25 (Affirmative response.)

1 something that can randomly be on people for reasons
2 that don't have anything to do with firing a weapon.
3 Antimony is a fire retardant and so by itself it too
4 can be on somebody's person other than firing a
5 weapon. But if we can find those round particles
6 with all three elements, that is unique to gunshot
7 residue.

8 Q And now let's just focus on round lead particles.
9 What else can produce round lead particles?

10 A Round lead particles you can get from fishing
11 weights or from smolting (sic) or from the Christmas
12 lights.

13 Q So with the exception of fishing, smolting (sic) or
14 Christmas lights, if you found round lead particles
15 in a vehicle, what would be the other thing that it
16 would be consistent with?

17 A It's consistent with coming from a weapon that was
18 fired.

19 Q So those are the four things that would produce
20 round lead particles?

21 A To my knowledge, yes, ma'am.

22 Q Please tell the jury your findings when you analyzed
23 the gunshot residue kit for the 2005 Chevy Impala.

24 A Can I back up and add one other thing?

25 Q Sure.

1 A I apologize. Also from brake dust. You can get some
2 round particles of the lead from brake dust as well.

3 Q Let me ask you a question about that. The round
4 lead particles that you would get from brake dust or
5 from fishing weights, would they be the same size as
6 what you would get from gunshot residue?

7 A No, ma'am. The ones that you're going to get from
8 fishing weights or from smelting or from brake dust
9 are going to be larger particles. The particles
10 that come out of gunshot residue are generally in
11 the range of one to 10 micro -- micrometers.

12 Q And how big is that?

13 A A micrometer is in scientific notation one times 10
14 to the negative nine. So if you put a zero, a
15 decimal place, you would go out nine digits to the
16 right and it's that fraction of a meter. So it's
17 very very tiny stuff.

18 Q And, Agent Moskal, if you'll please tell the jury
19 what your findings were with the G S R kit submitted
20 from the 2005 Chevy Impala.

21 A May I refer to my notes?

22 Q Please.

23 A From the 2005 Chevy Impala, I found several types of
24 materials that I could report. May I read the
25 report so that it's all there or?

1 Q Let's start with the upper ceiling marked number 1.
2 Please tell the jury what were your findings for
3 that.

4 A In the upper ceiling that was labeled number 1, I
5 found round lead particles.

6 Q And please tell the jury what your -- if any, your
7 conclusions are based on that.

8 A Round lead particles, again, are something that can
9 come out of a weapon when it's fired. So this does
10 lead to a weapon being fired in that vicinity,
11 especially being on the ceiling.

12 Q And the size of these particles, was that also more
13 consistent with gunshot residue than the other
14 things you described earlier?

15 A Yes, ma'am. They're in that roughly one to 10
16 micrometers size range.

17 Q And you also tested samples labeled upper driver's
18 side, upper window frame and interior driver's side
19 door frame and upper back portion of driver's seat.
20 Please tell the jury your findings as to the test
21 you ran with those areas.

22 A Okay. With the interior driver's side upper window
23 frame, the interior driver's side door frame and the
24 upper back portion of the driver's seat, I found one
25 round lead particle.

1 Q Did you find anything else in those areas as well?

2 A Yes, ma'am, I did. In order for us to report on
3 finding any component of gunshot residue, we have to
4 have two particles or a minimum of two particles,
5 positive particles, in order to report it. So while
6 the report says one round particle, I also had my
7 supported particle which was a non-round three
8 component particle.

9 Q And please tell the jury what three component
10 particle is.

11 A I'm sorry. A three component particle means that it
12 contains those three elements that I mentioned,
13 lead, barium and antimony.

14 Q And so because you found the round lead particle and
15 the three component particles, please tell the jury
16 your findings as to those areas.

17 A With those three areas and also in conjunction with
18 the other things in this vehicle, that is consistent
19 with a weapon being fired in that area.

20 Q Did you also test samples labeled interior driver's
21 side door panel?

22 A Yes, ma'am, I did.

23 Q And please tell the jury your findings as to that?

24 A In that section, the interior driver's side door
25 panel handle, I found non-round particles containing

1 the three elements, lead, barium and antimony.

2 Q And please tell the jury whether or not it is
3 significant that they were non-round particles.

4 A The non-round portion, again, goes back to the area
5 that it could possible come from things other than
6 gunshot residue. And so that's why it's reported
7 out as a non-round particle and not as gunshot
8 residue.

9 Q And do you have any conclusions based on those
10 findings, as to those findings?

11 A Yes, ma'am. Again, with everything in this case, I
12 looked at all of them in the entirety and it all
13 appears to me to be consistent with coming from a
14 weapon that was fired.

15 Q And did you also test samples that were labeled
16 gearshift, steering wheel and upper ceiling 2?

17 A Yes, ma'am, I did.

18 Q Please tell the jury your findings as to those
19 areas.

20 A In the gearshift, steering wheel and upper ceiling
21 number 2, I did not find any gunshot residue or any
22 other round components.

23 Q And so your conclusion as to those areas would be?

24 A Those are negative areas. But negative areas in
25 those three sections doesn't necessarily mean that a

1 weapon was not fired.

2 Q And as to the vehicle as a whole, the gunshot
3 residue kit that you examined as a whole for the
4 vehicle, please tell the jury your conclusions.

5 A Again, when I looked at the whole section or the
6 whole completeness of that G S R kit in those areas,
7 it's consistent with a weapon having been fired in
8 that area.

9 Q Can you date or time gunshot residue?

10 A No, ma'am.

11 Q Please tell the jury a little bit about the nature
12 of gunshot residue.

13 A Okay. Gunshot residue, when it deposits on a living
14 person, is a very fragile type of material. Our
15 body naturally absorbs that material through --
16 through the skin. And it's also something that the
17 more you move and the more you rub your hands and
18 brush your hands across things, it begins to
19 disappear. We typically describe it as like baking
20 flour. If you're cooking in the kitchen you had
21 baking flour on your hand, everything you touch, you
22 begin to move that flour onto that material. And
23 what we find is that after a period of six hours,
24 there will be no more of that gunshot residue from
25 that initial shooting left on your hands.

1 THE CLERK: Thank you. Please have a seat in
2 the witness stand and state your full name for the
3 record.

4 THE WITNESS: David J. Collins.

5 DIRECT EXAMINATION

6 BY MS. MCDUFFIE:

7 Q Investigator Collins, where are you employed?

8 A I'm -- currently I am on a period of separation due
9 to retirement from the Richland County Sheriff's
10 Department. At the time of this activity, I was
11 employed by the Sheriff's Department and I will be
12 again on November 9th.

13 Q And you are taking a brief separation from the
14 Sheriff's Department?

15 A Yes. When you retire and then go back to the same
16 agency from which you retire, you're required by law
17 to take a 15 day separation.

18 Q And that's what you're currently doing?

19 A That's what I'm currently doing.

20 Q And back in February of 2007, you were employed at
21 the Sheriff's Department?

22 A Yes, I was.

23 Q Please tell the jury your duties with the Sheriff's
24 Department.

25 A I am employed by the Sheriff's Department in the

1 Forensics Services Laboratory where I am a firearms
2 tool marks examiner.

3 Q And please tell the jury what firearms and tool
4 marks examination is.

5 A Part of the tool marks examination is the study of
6 firearms or firearms related evidence as it pertains
7 to any sort of specialized forensics examination.
8 This could involve the comparison of fired specimens
9 to firearms to determine what their origin is. It
10 could also be beyond firearms into the realm of tool
11 marks which would be any examination of marks left
12 by tools on surfaces in an attempt to identify if a
13 specific tool made that mark.

14 Q And please tell the jury a little bit about your
15 education and training in the field of firearms and
16 tool marks examination.

17 A Regarding my education, I have a bachelors degree
18 from the Citadel which I obtained in 1984. After I
19 became employed by the State Law Enforcement
20 Division or SLED, I entered an on the job training
21 program in firearms and tool marks examination.
22 That training began in 1990.

23 I completed that training program and was
24 certified by SLED as a firearms and tool marks
25 examiner in early 1993. The training lasts for at

1 least two to three years and it's all basically on
2 the job training. It's like an apprenticeship.
3 There are no schools that you can go to to learn
4 everything there is to learn about being a firearms
5 examiner although there are some that are -- some
6 schools that you will participate in in addition to
7 your regular training that will assist you.

8 After becoming satisfactorily qualified by SLED
9 as a firearms examiner, I began doing casework on my
10 own and joined our professional association which is
11 the Association of Firearms and Tool Marks
12 Examiners. Through that association and through
13 other courses that I have attended, I have
14 maintained continuing education and training in my
15 field over the years.

16 Q And have you ever been called as an expert in
17 firearms and tool marks examination in the courts of
18 record with this state?

19 A Yes. I have testified as a firearms and tool marks
20 examiner as an expert in South Carolina General
21 Sessions Courts in excess of 200 times. I've also
22 been qualified as an expert in the federal and
23 military court systems and in the States of North
24 Carolina and South -- North Carolina and Georgia.

25 MS. MCDUFFIE: Your Honor, at this time we would

1 offer Investigator David Collins as an expert in firearms
2 and tool marks identification.

3 MR. MCCULLOCH: No objection.

4 THE COURT: All right, without objection.

5 Q Investigator Collins, can you please explain to the
6 jury a little bit about how you perform firearms and
7 tool marks examination?

8 A The first thing that we do when we receive any type
9 of evidence in the laboratory is we take notes as to
10 its condition and its description, its physical
11 characteristics. In the case of a firearm, for
12 instance, we'll take notes as to what make and model
13 and caliber it is, what type of firearm. We'll
14 examine it for any sort of damage or defects or any
15 type of trace material or small hairs, fibers and
16 what not that might be attached to it.

17 We will also do that with fired projectiles and
18 cartridge cases. We'll examine them to determine
19 what caliber they are. In the case of projectiles,
20 this may be difficult due to damage they might
21 sustain when they hit things.

22 The -- additionally we will try to determine
23 what the rifling characteristics are of the firearm
24 that fired them just through a visual examination.
25 We will also -- we typically will take lots of notes

1 about everything that we receive and then we will
2 move on to a phase of more detailed examination.
3 With a firearm that will involve test firing the
4 gun. The reason that we test fire a gun is two-
5 fold. One, we're trying to determine if the firearm
6 functions properly. We're also trying to obtain
7 test standards, bullets and cartridge cases from
8 that gun that we'll microscopically compare with
9 evidence items to try to determine if they have the
10 same origin, if those items were fired by that gun.

11 The way that we can do this is that when a
12 firearm is manufactured, there are various machining
13 processes that leave behind microscopic defects on
14 certain surfaces of the firearm. One of the areas
15 that we're particularly interested in is the inside
16 of the barrel. In many firearms, handguns and
17 rifles, there are spiraling grooves called rifling
18 placed in the barrel that serve to cause the bullet
19 to spin when it leaves the barrel. It serves to
20 stabilize the bullet in flight much the same way
21 that a quarterback tries to throw a spiraling pass.

22 When the bullet passes through the barrel, it is
23 scratched by those imperfections that were left by
24 the manufacturing process and those scratch marks
25 leave a pattern on the surface of the bullet that

1 may be used to identify that particular firearm back
2 to that particular projectile, in much the same way
3 that a fingerprint can be used to identify a person.

4 If we don't have a firearm submitted, what will
5 do is intercompare the evidence items with each
6 other. We will take a -- for instance, two fired
7 bullets from a scene or two fired cartridge cases
8 from a scene and put them under what we call a
9 comparison microscopic and examine them side by side
10 and look for areas where these microscopic details
11 or these pattern of marks match. If we find
12 sufficient matching characteristics, we can conclude
13 that those two items were fired by the same gun.

14 Q I'm going to show you what's already in evidence as
15 State's 94, 96 and 97, three fired shell casings
16 found at the scene. Would you by chance have
17 examined those?

18 (Pause.)

19 A Yes, I -- I can confirm by markings either on the
20 packages or the items themselves that these are the
21 three fired -- three fired cartridge casings that I
22 did examine in this case.

23 Q And what caliber are those cartridge casings?

24 A Would you like for me to open all of them?

25 Q Please.

1 (Complied.)

2 A Three Smith and Wesson caliber fired cartridge
3 cases.

4 Q And what conclusions if any did you draw as to those
5 three cartridge cases?

6 A After taking my notes as to their condition, as I
7 mentioned before, I microscopically compared these
8 three items with each other because I did not have a
9 40 caliber firearm submitted to me at that time. My
10 comparison results revealed sufficient matching
11 individual characteristics for me to be able to
12 conclude that all three of those had been fired by
13 one gun.

14 Q So all three cartridge casings found in the parking
15 lot were fired by one gun?

16 A That is correct.

17 Q Let me show you State's 136, the shell casing
18 removed from a 2005 Chevy Impala. Did you also
19 examine that?

20 (Pause.)

21 A Yes, I -- this is also another fired 40 Smith and
22 Wesson caliber cartridge casing I examined.

23 Q And what if any conclusions did you draw from your
24 examination of the shell casing found in a 2005
25 Chevy Impala?

1 A That item was microscopically compared by myself
2 against the other three cartridge cases that were
3 submitted and I was also able to conclude that this
4 cartridge case had been fired by the same gun that
5 fired the other three.

6 Q So the three shell casings found in the parking lot
7 and the one found in the 2005 Chevy Impala were
8 fired by the same gun?

9 A That is correct.

10 Q Would it -- the three shell casings found in the
11 parking lot, if a car had run over them or they had
12 been kicked around, would those things replicate the
13 marks that you would be looking for?

14 A No.

15 Q Is there any way to duplicate these marks on a shell
16 casing without firing it from -- by the weapon --
17 from a weapon?

18 A Not that I know of, no.

19 Q And specifically what are you looking for again,
20 please tell the jury?

21 A In the particular -- in the case of these cartridge
22 cases, what I am examining are marks that are left
23 by the slide mechanism of a semi-automatic pistol on
24 the cartridge case. The cartridge cases don't pass
25 down the barrel like a bullet does, be marked by

1 that part of the gun. However, it is marked by
2 other parts of the firearm when the firing takes
3 place. And those microscopic defects are stamped on
4 the surface of the cartridge case in a way that is
5 unique to that particular firearm.

6 Q And you said that these cartridge casings were not
7 traveled down the barrel?

8 A They don't travel down the barrel itself and exit
9 the gun. They would be ejected from the gun at the
10 point of firing. This type of ammunition is
11 consistent with what is commonly found in a semi-
12 automatic pistol. And a semi-automatic pistol is
13 designed to fire one shot each time the trigger is
14 pulled. And when the firing takes place, the fired
15 cartridge case is automatically ejected from the
16 firearm. There's an ejection point on a semi-
17 automatic pistol or a semi-automatic rifle for that
18 matter that would be the -- an aperture in the gun
19 or a hole in the gun that it would be ejected from.

20 Q And please explain how a cartridge case is -- is
21 ejected from a semi-automatic pistol.

22 A When you fire the gun and the bullet exits the
23 muzzle of the gun, almost immediately thereafter the
24 slide of the gun or the bullet will come to the
25 rear. As it comes to the rear, it is pulling the

1 cartridge case from the chamber of the firearm and
2 then when it comes far enough back, there is a
3 mechanism that will kick it from the firearm. It's
4 called an ejector. All this happens very quickly,
5 virtually in the blink of an eye. And it is not
6 done by the shooter, it's actually part of the
7 mechanical process of the gun that happens
8 automatically.

9 Once the cartridge case is ejected from the gun,
10 the slide or the bolt will then return forward under
11 spring tension, picking up the next cartridge from
12 the magazine and loading it into the gun and making
13 it ready to fire again.

14 Q And is there any way to tell an ejection pattern
15 from a weapon, how a specific gun would eject a
16 cartridge case?

17 A You can determine, if you have a firearm, what
18 general direction it will eject a cartridge casing.
19 Most semi-automatic pistols are designed to eject to
20 the right as most shooters statistically are right
21 handed and they make most firearms to eject to the
22 right. A left handed shooter firing some -- a gun
23 that ejects to the right in some instances could be
24 struck by cartridge cases which is not necessarily a
25 dangerous thing it's just annoying. So they tend to

1 place the ejection port so that it ejects to the
2 right for right handed shooters. Only there are
3 some guns that are specially made to eject to the
4 left for left-handed shooters. The vast majority of
5 semi-automatic pistols that we see have the ejection
6 port on the right side of the gun to eject them to
7 the right.

8 Q And how quickly are these cartridge casings ejected
9 from the weapon?

10 A They're -- they come out very quickly. They don't
11 come out with a tremendous amount of force but they
12 come out virtually as soon as the gun is fired,
13 you'll hear the discharge of the firearm and you'll
14 see the cartridge case being ejected.

15 Q And is there any way for you to predict or tell
16 which way a cartridge case will go once it is
17 ejected from the weapon?

18 A Other than the general direction that it would
19 mechanical be tending to eject -- when you talk
20 about the ejection pattern of the gun, you're
21 talking about the ejection direction, that is all
22 hinging upon how the shooter is holding the gun.
23 The correct method to hold a gun is vertically,
24 upright, with the pistol grip in your hand. If you
25 change the angle of the firearm, you are potentially

1 changing the direction in which it will eject. If
2 you're holding it in the natural position, it should
3 eject in a general rightward direction. How far it
4 ejects and exactly what angle from the gun it ejects
5 would be something that you would need to determine
6 through actual testing.

7 Q And again, the three cartridge casings found at the
8 scene and the one cartridge casing found in the 2005
9 Impala, your results were what?

10 A They were all fired by one gun.

11 Q Did you also have a chance to examine two 38 caliber
12 revolvers in this case?

13 A Over time, yes.

14 Q State's Exhibits 47 and 50?

15 (Pause.)

16 A Yes, these are two 38 caliber revolvers I examined.

17 Q And based on your examination of these two firearms,
18 could these have fired the shell casings at the
19 scene and the one found in the 2005 Impala?

20 A No, there's no way that those two revolvers could
21 have fired any of those cartridge cases.

22 Q Could you put 40 caliber ammunition in either one of
23 these revolvers?

24 A No, it simply will not fit.

25 Q And, Investigator Collins, did you have a chance to

1 examine State's 95, a spent projectile that was
2 found at the scene?

3 (Pause.)

4 A Yes, I examined this projectile.

5 Q And please tell the jury what your findings were as
6 to that projectile.

7 A This projectile; based on its physical
8 characteristics and weight, were -- was consistent
9 with being one that would be found in a 40 caliber
10 or 10 millimeter caliber ammunition. It was not --
11 based on the physical characteristics, it could not
12 have been fired from either of the two 38 caliber
13 revolvers.

14 Q And did you also have a chance to examine the
15 projectile removed from Shannavia Williams, State's
16 Exhibit 102?

17 (Pause.)

18 A Yes, I examined this projectile.

19 Q And please tell the jury what if any conclusion you
20 could draw from your examination of that projectile.

21 A This particular item was badly damaged. It is
22 consistent with being the core from a fired bullet.
23 When I talk about a core, in many cases you have a
24 jacketed projectile which is what we normally find
25 in semi-automatic ammunition, semi-automatic pistol

1 ammunition. It has a lead core surrounded by some
2 sort of jacketing material, usually a copper based
3 material. It is not uncommon when a bullet strikes
4 something for the two parts to become separated.
5 The jacket will strip away from the core and you're
6 left with just the lead core and then the separate
7 jacket.

8 When this occurs, you're not able to determine
9 what firearm actually fired the core. The core
10 being protected inside of the jacket never came into
11 contact with the barrel of the gun and thus was
12 never marked in a way that is unique to that
13 particular firearm. What you can sometimes tell is
14 what possible caliber or at least a minimum caliber
15 that could have fired that particular item.

16 In this particular case, while this projectile
17 was not suitable for any type of comparison efforts,
18 I was able to determine that it was, based on its
19 physical characteristics, not -- not suitable for
20 having been -- it was not fired by either of the two
21 38 caliber revolvers.

22 Q So the projectile from Shannavia Williams was not
23 fired by either one of these guns, State's 47 or
24 State's 50?

25 A Yes.

1 Q And there were multiple other fragments you examined
2 in this case, within some walls and whatnot?

3 A There were other items submitted to me, yes?

4 Q And were you able to draw any conclusions based on
5 those bullet fragments?

6 A Yes, I was.

7 Q Please tell the jury what those conclusions were.

8 A There were additionally two bullet jackets or bullet
9 frag -- bullet core fragments that were submitted
10 that were also -- I compared with the 40 caliber
11 bullet that I submitted before.

12 Q That would be what was marked as B at the scene in
13 State's Exhibit 95?

14 A Yes. And those two items when I compared them they
15 were un -- inconclusive. I wasn't able to determine
16 if they were fired by the same gun that fired this
17 particular item. But they were -- they bore similar
18 rifling characteristics. I wasn't -- I just simply
19 wasn't able to determine if they were fired by that
20 same gun that fired this particular projectile.

21 Q And did you do any further analysis as to the items
22 ---

23 A Those -- if I could refer to my notes for just a
24 moment.

25 (Pause.)

1 A The rifling characteristics that were present on all
2 of them were sufficient for me to determine that
3 they were not fired by either of the 38 caliber
4 revolvers that were submitted.

5 Q And I think law enforcement provided you with a --
6 at some point a 40 caliber weapon to test in this
7 case? .

8 A Yes, they did.

9 Q And what were your results as to that weapon?

10 A I was able to determine that the -- based on
11 differences in the individual characteristics that
12 that firearm produced, that it did not fire any of
13 the fired cartridge casings from the scene.

14 Q And are you aware of where that weapon was
15 obtained?

16 A It was obtained by the Perry Police Department
17 pursuant to some law enforcement action that they
18 had in their jurisdiction.

19 Q In Perry, South Carolina?

20 A Yes.

21 Q And that did not match any of the evidence you were
22 given in this case?

23 A It did not match any of the fired cartridge cases.
24 I did compare it with the fired bullet fragments and
25 the fired bullet that were submitted in this case

1 and I was -- my results on those comparisons were
2 inconclusive simply due to the damaged condition of
3 those.

4 Q But it did not fire the casings found at the scene?

5 A It did not fire those casings.

6 Q And again, the casings found at the scene and the
7 one found in the 2005 Chevy Impala, please tell the
8 jury your conclusions as to those items.

9 A All four of those fired cartridge cases, the three
10 that were found at the scene and the one that was
11 found in the vehicle were fired by one gun.

12 Q And the item, State's 95, Item B, the projectile
13 found at the scene, was that fired by either State's
14 47 or 50?

15 A No.

16 Q And the bullet found from Shannavia -- from the body
17 of Shannavia Williams, State's 102, was that fired
18 by either State's 47 or State's 50?

19 A No.

20 MS. MCDUFFIE: Beg the Court's indulgence.
21 Nothing further, Your Honor.

22 THE COURT: All right, Mr. McCulloch.

23 MR. MCCULLOCH: Your Honor, this may be
24 difficult because we have several numbers.

25 CROSS-EXAMINATION

1 BY MR. MCCULLOCH:

2 Q Mr. Collins, the exhibit numbers that the
3 Solicitor's been using with you do not correspond to
4 the numbers in your reports, correct?

5 A They do not.

6 Q So we've got that difficulty. We may want to take a
7 moment for me to try to organize some questions that
8 way or I can try to do it during the examination.
9 But the difficulty here is there are a lot of
10 numbers flying around and it may be confusing.

11 THE COURT: I'll give you a shot. Go ahead.

12 Take your time, Mr. McCulloch.

13 Q Mr. Collins, let's start with -- you mentioned that
14 you examined, in addition, the two 38 caliber
15 pistols which are in evidence as State's 47 and
16 State's 50, these two 38 caliber pistols. Those
17 were given to you in the course of this
18 investigation?

19 A Yes, I did.

20 Q And one of those was from Mr. Davis?

21 A I'm not sure who it was recovered from. There were
22 -- one was recovered, according to the notes in my
23 report, from the security guard. The other one was
24 recovered pursuant to, I believe, a traffic incident
25 that occurred in Fairfield County.

1 Q And it was recovered from Mr. Lyles?

2 A I don't know who it was recovered from.

3 Q But you know that you were also provided a 40
4 caliber weapon later, what I'll call an FN gun,
5 Fabrique Nationale. They're manufactured here in --
6 right out on Two Notch.

7 A Many of them are, yes.

8 Q And that was obtained from two people who had been
9 at the 360 club?

10 A That was my understanding, yes.

11 Q Now, as to these casings, there were four casings,
12 shell casings, provided you. Do you have those
13 numbers or the record?

14 A The State's exhibit?

15 Q The exhibit numbers.

16 A No, sir, I don't have the exhibit numbers in front
17 of me. All have in front of me are my item numbers
18 from my report.

19 Q All right, are these little baggies marked, you
20 think, in a way ---

21 A Those are projectiles.

22 (Pause.)

23 Q Well, let's see, we've got State's 97 which is a
24 casing in the parking lot.

25 A That's correct.

1 Q So that's one of them. And we've got State's
2 Exhibit 136...

3 A This is the fourth one. This is the one that I
4 examined that's indicated on the package as being
5 recovered from suspect's vehicle.

6 Q All right. And this is State's 96 which is another
7 parking lot casing?

8 A That is correct.

9 Q Well, there's another bag somewhere with another
10 casing, right?

11 A That is correct.

12 Q Now in your examination of casings, you testified
13 that you do this with a microscope?

14 A Yes, I do.

15 Q So you look through a microscope?

16 A That is correct.

17 Q Do you take microscopic photographs?

18 A At times I do take photographs of my comparisons.
19 We don't base our opinion on the photograph. We
20 base our opinion on what we actually observed in a
21 microscope. We do take photographs at times to
22 document what we see so that we can be reminded
23 later when we're preparing for Court of what we were
24 looking at.

25 Q You also take photographs so you can show the jury.

1 You have these photographs that you can put side by
2 side so the jury can make their own evaluation of
3 the similarity of something?

4 A Typically we don't show those to the jury because
5 sometimes the information there is so minute and
6 quite frankly you wouldn't expect a jury to be able
7 to accurately and adequately determine what we were
8 looking at.

9 Q So you can't trust the jury to look at something ---

10 MS. MCDUFFIE: Objection, Your Honor.

11 MR. MCCULLOCH: Well, Your Honor, I'm on cross

12 ---

13 THE COURT: Just rephrase it.

14 Q So a jury cannot be relied upon to look at the same
15 thing and see the same similarities that you're
16 talking about?

17 A I would think that -- not without the level of
18 training that I have had in this field.

19 Q And there are not the comparative photographs here
20 to give the jury an illustration about?

21 A I don't have any with me, no.

22 Q And there's not any diagram that you've got to show
23 the jury about these characteristics that you
24 noticed as you looked at it, at these several shell
25 casings that you found that were similar?

1 A No, sir, I don't have a diagram.

2 Q In your eyeballing, you're looking at this after
3 your training, is -- it really is eyeballing, isn't
4 it?

5 A It's all visual examination, yes.

6 Q And there's not any way of taking measurements or do
7 this objectively, so to speak? In a sense, there's
8 no -- you don't take out a tape measure and measure
9 a mark and determine its distance or anything like
10 that?

11 A It's all a -- it's all a form of pattern recognition
12 in much the same way a fingerprint examination is
13 done based on a pattern of fingerprint
14 characteristics. However ---

15 Q And absolutely subjective?

16 A It's based on subjective, based on the examiner's
17 training and experience?

18 Q So it's your opinion.

19 A Yes, it's my opinion, yes.

20 Q As to the casings contained in a -- in a weapon,
21 weapons have a tendency to heat up, don't they?

22 A They do.

23 Q I mean, when they're fired successively?

24 A The more you fire, the faster that you fire a semi-
25 automatic pistol or any type of hand -- firearm, it

1 will build up heat, yes.

2 Q And the shell casings are made of some type of
3 metallic substance?

4 A Yes. In this particular case, they're made of a
5 brass alloy type material.

6 Q And in your experience, if things heat up it leads
7 to some deformation, some minute changes in maybe
8 these rifling characteristics you're looking for?

9 A I have seen some deformation and distortion present
10 on some items from impact damage but I've never
11 noted any from heat distortion or what could be
12 attributed to heat distortion.

13 Q Now, this expertise that you have, it's not like D N
14 A, there's no million to one chance, is there? You
15 don't quantify ---

16 A We don't quantify in the basis of statistics, no.

17 Q So it's really all kind of your opinion?

18 A It's my opinion.

19 Q Now, the -- the examinations that you conducted, you
20 actually conducted three examinations, first on
21 February the 7th of 2007, shortly after the
22 shooting?

23 A That's correct.

24 Q Later another examination in June of 2007 when
25 another weapon was provided?

1 A That is correct.

2 Q And then again in what, 2009, February or March of
3 2009?

4 A That was actually October of 2009.

5 Q October ---

6 A This month.

7 Q That was when still another firearm was provided?

8 A That was -- it had already been submitted in
9 evidence and I was not notified as to its presence
10 there. And so I -- when I became aware of the
11 presence of the revolver in evidence, this was the
12 one that was recovered pursuant to the traffic
13 incident in Fairfield County, I then performed that
14 examination.

15 Q So the Sheriff's Department didn't -- they had taken
16 a weapon in that was a 40 caliber weapon ---

17 A This is a 38 caliber firearm.

18 Q A 38, I'm sorry.

19 A Yes.

20 Q The 40 caliber was examined by you when?

21 A The 40 caliber firearm was examined to me in --
22 examined by me in June of 2007.

23 Q And was that sent to you by the Sheriff's Department
24 or was that something you asked for?

25 A That was something that was sent to me by -- it was

1 sent to the Sheriff's Department by the Perry Police
2 Department and submitted to one of our investigators
3 who then logged it into our evidence. And then he
4 let me know that it was there.

5 Q The -- you -- your report indicted -- let's see now.
6 In your February 7th report there was a -- you spent
7 some time analyzing a projectile found in the
8 parking lot.

9 (Pause.)

10 Q Have you seen photos of the scene?

11 A I don't recall that I've seen photos of the scene.

12 Q Have you seen in any form or fashion State's Exhibit
13 52? That's a photograph of the projectile?

14 A Yes, that's the -- appears to be visually consistent
15 with this projectile here ---

16 Q That would be State's Exhibit 95?

17 A State's Exhibit 95. And also, the mark -- there's a
18 B on this package which matches the number which is
19 on this evidence marker.

20 Q So that's B in State's 55?

21 A Yes, sir.

22 Q Now that was found at the scene and it was found by
23 you to be, I think your reports said, most
24 consistent with a 40 caliber or a 10 millimeter
25 weapon?

1 A 10 millimeter -- it's most consistent with bullets
2 found loaded in 40 -- in some 40 Smith and Wesson or
3 10 millimeter auto caliber cartridges.

4 Q And in your report you listed -- after saying
5 including but not limited to, you listed several
6 weapons?

7 A- Yes. What we often do in the laboratory is we'll --
8 examining the rifling characteristics and their
9 measurements and we will put all that information
10 into a data base and it will provide for us a list
11 of possible brands or sources of firearms that could
12 have fired that item. That's what I did in this
13 case. And I did produce a list of, in this case,
14 four 40 caliber Smith and Wesson caliber firearms
15 and three 10 millimeter auto caliber firearms,
16 possible sources.

17 Q But as your reports says, that's not an exhausted --
18 exhausted list ---

19 A No, it's not.

20 Q You say it's including but not limited to?

21 A That is correct. The information in the data base
22 is merely as good as what has gone into it. And the
23 information that's in that data base is provided to
24 the FBI by other laboratories. So it's quite
25 possible that there are other brands or sources of

1 firearms that simply haven't been submitted yet that
2 would -- that would match those characteristics.

3 Q So the exhibit projectile we're now referring to
4 could be consistent with other calibers, not just 40
5 caliber or 10 millimeter.

6 A Not so much other calibers, perhaps other brands
7 that are not listed on this particular list of
8 firearms. There are very few other possible calibers
9 of firearms that it could have been -- it's most
10 consistent with a 40 or 10 millimeter auto. There
11 are some other calibers of firearms that shoot a --
12 a similar dimension projectile but they're so
13 statistically seldom encountered that we didn't list
14 them in this case. However, that is why I did use
15 the term, most consistent.

16 Q We do know from your June '07 report that this
17 projectile found in the parking lot could have been
18 fired from that 40 caliber Fabrique Nationale weapon
19 that you examined?

20 A I was not able to exclude it as a possible source.

21 Q And you also looked at several bullets or bullet
22 fragments removed from the wall, on your report
23 number 10, item 10 and item 18. Those also likewise
24 weren't able to be excluded as having been fired by
25 this Fabrique Nationale 40 caliber weapon?

1 A That's correct.

2 Q Number 5 is what, another bullet fragment taken from
3 the wall?

4 A Item 5 is listed as being one fired bullet core from
5 an envelope labeled F at wall -- on wall.

6 Q And if, like these others we've just mentioned,
7 could have been fired from the Fabrique Nationale?

8 A My physical examination of that -- of that core
9 indicated that it was also consistent with a 40
10 caliber size or larger projectile so I cannot
11 exclude that possibility. It was not fired by
12 either of the 38 caliber based on its design but it
13 could have been fired from -- it was consistent with
14 possibly being fired by a 40 caliber or larger
15 firearm.

16 Q And according to that report it was also possibly
17 fired from the 38?

18 A I don't see -- I actually don't find reference to
19 that item in my report. It was listed as an item
20 submitted but I don't see it listed in my report.
21 I'm going by my notes.

22 Q On your February 8th report, Item 5 is one of those
23 items, correct?

24 A Yes, it is, those that were submitted to me.

25 Q And under your result category, it is not one of the

1 items excluded from being fired by the 38 which is
2 referred to as Item 6 there. That's the only 38 in
3 your possession ---

4 A At that time, it was the only 38 caliber firearm in
5 my possession. I don't see it mentioned under Item
6 5 in the report itself.

7 (Pause.)

8 A I believe that was an omission on my part and I'm
9 not sure exactly why that occurred but I do have
10 sufficient data in my notes to say that it wasn't
11 fired from the 38.

12 Q So you now think it wasn't fired from the 38?

13 A I never said that it was fired by the 38.

14 Q The -- you also had, let's see, Item 10 which was a
15 bullet removed from a wall, is that correct?

16 A It is from an envelope labeled outside wall.

17 Q That item could have been fired from this Fabrique
18 Nationale 40 caliber?

19 A It is possible. I could not exclude that item.

20 Q And Item 17, which is in your February '07 report,
21 which is a bullet fragment in a knit cap, also could
22 have been fired from the 40 caliber Fabrique
23 Nationale?

24 A There -- based on the fact that it was unsuitable
25 for any type of examination as far as microscopic

1 comparison, I cannot exclude that. But if I could
2 refer to my notes for a moment ---

3 Q Sure.

4 A --- to get some additional information?

5 (Pause.)

6 A I was simply unable to determine what caliber of
7 firearm that was fired from.

8 Q And the same is true about Items 18 and 57, Item 57
9 removed from one of the victim's bodies and 18 a
10 copper fragment?

11 A Item 18, the copper fragment, I was unable to
12 determine -- my notes indicate it's most consistent
13 with 40 caliber ---

14 Q And 57 ---

15 A --- but I can put ---

16 Q I'm sorry.

17 A And Item 57 was -- I'm referring to my notes again
18 -- as stated before, there's a large number of items
19 here that were examined.

20 Q Now, your expertise with guns does not include
21 determining the caliber of the -- from an injury
22 wound ---

23 A No, it does not. Back to your original question,
24 the -- Item 18 and Item 57, Item 57 was a core and
25 my notes indicate that it's most consistent with 40

1 caliber or 10 millimeter. And, again, but it was
2 also unsuitable for identification with a specific
3 firearm. Item 18 ---

4 THE COURT: Stop. I'll let you finish later on.
5 I'm going to give you a break. Obviously someone needs
6 one. I was going to try to ask Mr. McCulloch whether
7 it's long or short. Now it's time to give you one.

8 Just don't talk about the case. Take your time,
9 refresh yourselves. We'll bring you back out and
10 continue with this -- with Mr. Collins -- Deputy Collins,
11 retired, whatever.

12 (The jury retires from the courtroom at
13 approximately 11:40 a.m.)

14 (The witness leaves the witness stand.)

15 THE COURT: I was trying to get your attention,
16 long or short? You've probably got another 10 or 15 ---

17 MR. MCCULLOCH: 10 ---

18 THE COURT: 10, oh.

19 MR. MCCULLOCH: --- less.

20 THE COURT: Okay. Well, it was close. It was
21 close enough. And I'm sure you could use a break too.
22 How old are you now, 58?

23 MR. MCCULLOCH: Old, 50-old.

24 THE COURT: All right, we'll be at ease.

25 (The Court was in recess.)

1 (The witness returns to the witness stand.)

2 THE COURT: All right, bring the jury in.

3 (The jury returned to the courtroom at
4 approximately 12:02 p.m.)

5 THE COURT: I was told somebody could kill
6 hogs in here. We'll try to elevate the heat.

7 All right. Welcome back, members of the jury.

8 Mr. McCulloch, you may continue with your cross-
9 examination of Deputy Collins -- retired Deputy Collins?

10 All right.

11 CROSS-EXAMINATION CONTINUES

12 BY MR. MCCULLOCH:

13 Q So, Mr. Collins, let me kind of rewind the tape, I
14 suppose, back to where we were. I was talking or
15 asking you about, I suppose, your June '07
16 examination of a 40 caliber Fabrique Nationale
17 weapon.

18 A That's correct.

19 Q I think we established that that was past to the
20 Sheriff's Department by the Perry Police Department,
21 taken from some people who had been at the 360 Club?

22 A That was my understanding, yes.

23 Q And the casings that we talked about or that you
24 earlier testified about, could not have been fired
25 from this 40 caliber Fabrique Nationale?

1 A That was my opinion, yes.

2 Q And in your report of June '07, there were -- and
3 I'll just read them to you because I expect you've
4 got your report there, is the easiest way to do it.

5 Item 4 which was the projectile which we earlier
6 made reference to, it's in evidence, was found in
7 the parking lot?

8 A Correct.

9 Q That was State's Exhibit 55, remember that? I've
10 got it right here, I'm waving it at you.

11 A Oh, yes, sir.

12 Q Item Number 10 which was found, according to the
13 first report, the February report, was labeled
14 outside wall?

15 A Correct.

16 Q Then there was Item 18 which was a copper jacket
17 fragment. And that was found inside? Or does your
18 report from February indicate where it was found?

19 A It doesn't indicate where it was found.

20 Q And then there was Item 5, going back to the June
21 report, found in a wall?

22 A Yes.

23 Q Bullet fragment out of the wall. Item 17 which was
24 a bullet frag -- or a piece of a bullet found in or
25 near a knit cap?

1 A Yes.

2 Q And then 57 which is a bullet or a bullet fragment
3 removed from one of the victims?

4 A Yes.

5 Q And based on your June evaluation of this 40 caliber
6 Fabrique Nationale, the -- none of these items could
7 be excluded by you from having been fired from that
8 weapon, could they?

9 A That is correct.

10 Q Now, were you ever provided a firearm belonging to a
11 gentleman named Epsil Palmer?

12 A Not to the best of knowledge. However, I do not
13 have any precise information as to who these
14 firearms were recovered from or submitted to me
15 from.

16 Q Now you testified a little bit earlier about the --
17 what happens when shell casings are actually
18 ignited, being fired in a weapon. In 40 caliber
19 bullets, are they only fired from automatic weapons?

20 A They only firearms that I am familiar with that we
21 have seen them fired from would be fired from a
22 semi-automatic firearm. However, there conceivably
23 could be single shot pistols or some other strange
24 type firearms that may be also chambered for a 40
25 Smith and Wesson caliber cartridge, it's possible.

1 However, virtually all that we see are fired
2 from semi-automatic pistols.

3 Q And when I say automatic, I guess I'm thinking, what
4 I want to get across to the jury, is that when we
5 talk about semi-automatic, we're talking about
6 ejection type weapons?

7 A That is correct.

8 Q Or weapons that when you pull the trigger and the
9 bullet is ignited, the shell is ejected by the
10 mechanism?

11 A That is correct.

12 Q And if I were sitting in an automobile pointing a
13 gun out of a window at you and I fired (indicating),
14 where would you expect the shell to go consistent
15 with your earlier testimony?

16 A It -- based on what we normally see, that most semi-
17 automatic pistols are going to eject in a rightward
18 direction, I would expect from that perspective that
19 you're showing me there, that they would eject in
20 this direction (indicating).

21 Q So this direction being forward. So if you take my
22 position as I'm demonstrating now (indicating),
23 pointing out of the driver's side window, assuming
24 I'm driving the motor vehicle, the shell casing
25 would go towards the front windshield?

1 A A couple things about ejection patterns. It depends
2 also how far out the window you have the firearm.
3 And that particular firearm, as I stated before, as
4 far as the exact angle to the rear, to the front,
5 those types of characteristics, you would have to
6 test the specific firearm to get those more or less
7 established. There are a lot of variables at work
8 there.

9 The second thing about an ejection pattern is
10 that once a cartridge is ejected, yes it may intend
11 to eject towards the front of the vehicle but it may
12 also bounce or strike some surface in the fire -- in
13 the vehicle and end up somewhere else.

14 So it's very hard to look at the final location
15 of a cartridge case and use that as a means of
16 establishing where the firearm was when it was
17 fired. The variables that could play on that,
18 first, in an outdoor scene if it lands on a paved
19 parking lot, they may not be where they initially
20 came to rest. They could be bouncing around, they
21 could be stepped on, kicked by people as they move
22 into the parking lot.

23 Inside a vehicle, I've seen them bounce to
24 various locations inside the vehicle. It's very
25 difficult to use that type of ejection pattern.

1 testing to place a firearm. Typically we do not do
2 it unless we have a lot of the variables nailed down
3 specifically so that we can use that information.
4 more precisely.

5 Q Well, you weren't asked to do anything in this case,
6 were you?

7 A No, sir.

8 Q And I think your original answer was that when you
9 fire something, the shell casing goes to the right
10 which in this instance would be towards the front of
11 the vehicle?

12 A Under the situation that you described to me, yes,
13 if the firearm truly does eject to the right as most
14 would.

15 Q And you said that almost there was only what, one or
16 two weapons that eject in a different direction, to
17 the left? None of them eject up, do they?

18 A Sometimes it's up and to the right. But it's not
19 typically straight up. Usually it would be still
20 some rightward dimension because you're trying to
21 get it away from the gun. You don't want it to
22 eject up and then come straight back down. You're
23 trying to get it clear of the firearm and clear of
24 the shooter. So in order to do that, most of them
25 eject to the right. It could be out level or up and

1 to the right. Actually most of them do have a
2 little bit of an upward angle to them. But that
3 would vary depending on the firearm design.

4 Q No matter what, shell casings don't defy gravity, do
5 they, don't have special properties in defying
6 gravity?

7 A That's invariably. Once they are ejected, they are
8 subject to all the rules of physics.

9 MR. MCULLOCH: That's all, Your Honor. Thank
10 you.

11 THE COURT: Anything on redirect?

12 MS. MCDUFFIE: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MCDUFFIE:

15 Q Investigator Collins, the question Mr. McCulloch was
16 just asking about, ejection pattern and all of that,
17 he was asking if you were shooting a gun like this,
18 correct?

19 A Yes.

20 Q What if you were leaning back in the seat and the
21 gun was at an angle, would that change what you just
22 said to Mr. McCulloch?

23 A It still would tend to eject to the right.
24 Depending on the relative -- right, relative to the
25 gun in its normal position. So wherever you place,

1 the gun, by doing whatever positioning you want to
2 do, the gun is going to want to eject to the right
3 from that position.

4 Q And what if you fired the gun like this (indicating)
5 instead of like this (indicating)?

6 A If you turn the gun on its side, it's going to tend
7 to eject more upwards.

8 Q And do you -- once it ejects upwards or to the
9 right, do you have any idea where it could go?

10 A It depends on what it hits along its path.

11 Q So depending upon what it hits, it could depend on
12 where it lands, or change where it might would land?

13 A Yes, that's why we don't typically examine ejection
14 patterns because of all those variables that -- that
15 you described.

16 Q And were you submitted a gun that matched the shell
17 casings in this case?

18 A No, I was not.

19 Q The 40 from the Perry Police Department, did that
20 match the shell casings?

21 A No, it did not.

22 Q And you talked about the different fragments, that
23 they were unsuitable for comparison?

24 A Yes.

25 Q And what does that mean again?

1 A They're unsuitable to determine whether or not they
2 -- they were so badly damaged, either from impact or
3 by virtue of the fact that they were cores of
4 bullets that never came into contact with the
5 barrel, that even if I had the gun that fired them,
6 there was not enough information on those evidence
7 items for me to compare to determine if they were
8 fired by that gun. I would never be able to match
9 them with any gun.

10 Q So you can't exclude them from a gun but you also
11 cannot match them to any gun?

12 A Those that were unsuitable I could not -- I would
13 never be able to match to any gun.

14 Q And ---

15 A But I cannot exclude certain guns.

16 Q And State's 102, the bullet taken from Shannavia
17 Williams' body.

18 A Yes.

19 Q You could exclude that from State's 47 and State's
20 50?

21 A I'm making sure I get my item numbers correct. That
22 is correct. That projectile was not fired by either
23 submitted revolvers.

24 Q And the three shell casings found at the scene and
25 the one found in the 2005 Chevy Impala, your

1 conclusions as the them?

2 A Those all were fired by one gun

3 Q And were those fired by the gun that was submitted
4 to you by the Perry Police Department?

5 A No, they were not.

6 THE COURT: Anything on recross?

7 MR. MCCULLOCH: Beg the Court's indulgence.

8 (Pause).

9 MS. MCDUFFIE: Nothing further.

10 THE COURT: Anything on recross?

11 MR. MCCULLOCH: Nothing further.

12 THE COURT: You may step down sir.

13 (The witness leaves the witness stand.)

14 THE COURT: Call you next witness.

15 MR. MEADORS: Investigator Lindler.

16 (CHRISTOPHER LINDLER, having first been duly
17 sworn, testified as follows:)

18 THE CLERK: Thank you. Please have a seat in
19 the witness stand and state your full name for the
20 record.

21 THE WITNESS: Chris Lindler.

22 DIRECT EXAMINATION

23 BY MR. MEADORS:

24 Q Good afternoon, Investigator.

25 A Good afternoon.

1 all we have.

2 THE COURT: Anything further of this witness?

3 MR. MEADORS: We ask he be excused, please,
4 thank you.

5 THE COURT: Without objection, I assume.

6 (The witness leaves the witness stand.)

7 MS. MCDUFFIE: The State would call Investigator
8 John Barron.

9 (JOHN BARRON, having first been duly sworn,
10 testified as follows:)

11 THE CLERK: Thank you. Please have a seat in
12 the witness stand and state your full name for the
13 record.

14 THE WITNESS: My name is John Barron, B-a-r-r-o-
15 n.

16 DIRECT EXAMINATION

17 BY MS. MCDUFFIE:

18 Q Investigator Barron, where are you currently
19 employed?

20 A Richland County Sheriff's Department.

21 Q And what are your duties with the Sheriff's
22 Department?

23 A I'm a D N A analyst.

24 Q And please explain for the jury what you do.

25 A A D N A analyst is a scientist who receives evidence

1 from crime scenes and we basically process that
2 evidence to develop D N A profiles for comparison to
3 individuals involved in cases.

4 Q And please tell the jury a little bit about your
5 education and training in the field of D N A.

6 A Okay. I have a bachelor of science degree in
7 microbiology from Clemson University. I started
8 work at SLED in the 1980's. And at first D N A was
9 not available at that time but I was a scientist
10 working in the forensic science laboratory.

11 In 1999, D N A technology -- or the present D N
12 A technology came online and I transferred into the
13 D N A section and received training at SLED in their
14 training program. The training programs lasted a
15 year and I took qualifying tests to prove that I
16 could do the analysis and interpret the results.

17 Since 2000, I have been a D N A analyst at SLED
18 and in 2004, transferred to the Richland County
19 Sheriff's Department, myself and another analyst
20 from SLED, and set up the D N A laboratory at the
21 Richland County Sheriff's Department.

22 Q And have you been qualified as an expert in court's
23 in this state in the field of D N A?

24 A Yes, I have.

25 Q And approximately how many times?

1 A Approximately 35 times.

2 MS. MCDUFFIE: Your Honor, at this time we would
3 offer Investigator Barron as an expert in D N A.

4 MS. SCHILLACI: Without objection.

5 THE COURT: All right, without objection.

6 Q Investigator Barron, did you receive items of
7 evidence in this case?

8 A Yes, I did.

9 Q Please tell the jury what items were submitted to
10 you for analysis?

11 A I received swabs from a vehicle that included
12 exterior driver door handles, interior driver door
13 handles, steering wheel swabs, gearshift swabs,
14 exterior passenger and interior passenger door
15 handles, swabs from a 40 caliber spent cartridge
16 casing, a swab from a silver and blue cell phone and
17 a known buccal swab from Johnnie B. Gaskins. A
18 buccal swab is simply a swab from the inside of your
19 mouth to give us your known profile. It's a way
20 other than drawing blood which is a little more
21 painful.

22 Q I'm going to show you State's 138. Is that the swab
23 that you examined in this case?

24 A Yes, it is.

25 Q Please tell the jury how you do your analysis.

1 A Well, it's a lot of wet chemistry in a laboratory,
2 but the swabs come in. We cut up the swabs in a
3 sterile environment to make sure there's no
4 contamination. They're put inside of tubes. They're
5 extracted with the proper reagents so that the D N A
6 from the cells that can be pulled out. And then the
7 D N A is purified in a robotic system. The system
8 basically wash -- purifies the D N A by washing away
9 all the extraneous material that's been extracted,
10 cellular debris, trash and dirt and everything else
11 that's present on the swab.

12 The purified D N A is then examined to see how
13 much human D N A is present. Of course, swabbing
14 anything in the environment, you're going to pick up
15 bacteria and D N A but we're only interested in
16 human D N A.

17 So the human D N A then is quantified. If there
18 is enough D N A present, then we proceed to develop
19 a profile. Basically we target the D N A molecule at
20 15 particular points plus the sex gene to determine
21 human identification. If those points match up to
22 an individual, then it is positive identification
23 for that person.

24 Q And Investigator Barron, let's start with your
25 analysis on the spent 40 caliber Winchester shell

1 casing.

2 A Okay.

3 Q Did you extract any D N A from that item?

4 A I attempted to but I did not extract any D N A on
5 that item.

6 Q And the exterior passenger (sic) front door handle,
7 were you able to extract D N A from that item?

8 A Yes, I was.

9 Q And what were your results as to that item?

10 A Well, as expected on a door handle, we got D N A,
11 human D N A and it was a mixture of at least three
12 people. It could have been more than three people.
13 But I did -- was able to say that the D N A from
14 Johnnie Gaskins could have been included in that
15 mixture.

16 Q And that was on the exterior front door handle?

17 A Exterior driver's door handle, is that what we're
18 talking about?

19 Q Yes, I'm sorry, your Item Number 44?

20 A Correct.

21 Q And so there was a mixture and Johnnie Gaskins was
22 included as being a part of that mixture?

23 A Yes.

24 Q And your Item 45, swab from interior driver door
25 handle, please tell the jury your results.

1 A Yes, the results of that was also a mixture. In
2 this case -- in mixtures, we can have what we call
3 equal contribution or fairly equal contribution
4 which we include or exclude people. There are some
5 mixtures what we have what we call a major
6 contributor. In other words, there is a major
7 dominant D N A profile in that mixture that we can
8 discern and compare to an individual. And then we
9 have minor components of it where we know someone
10 else was there but it is really not a whole lot to
11 deal with.

12 In this case, there was a major contributor and
13 it did match Johnnie Gaskins.

14 Q So the major contributor for the swab from the in
15 interior driver's door handle matched Johnnie
16 Gaskins?

17 A That's correct.

18 Q Please tell the jury your results as to your Item
19 46, the swab from the steering wheel of the blue
20 Chevy Impala.

21 A The swab from the steering wheel was a -- we -- I
22 developed a D N A profile that was a single source,
23 not a mixture, that matched Johnnie Gaskins.

24 Q So it was only Johnnie Gaskins' D N A on the
25 steering wheel?

1 A That's correct.

2 Q Please tell the jury your results for Item 47, the
3 swab from the gearshift.

4 A The swab from the gearshift was another mixture.
5 This time a major contributor again was Johnnie
6 Gaskins and there were some other minor
7 contributions from other individuals present as
8 well.

9 Q And please tell the jury your conclusions for your
10 Item 48, swab from exterior passenger front door
11 handle.

12 A Yes. There was a very small amount of human D N A
13 present. I attempted to develop a profile, that was
14 too weak. There was a few D N A fragments present
15 but it was not enough to really do anything with.

16 Q So you were not able to draw a conclusion as to that
17 item of evidence?

18 A That's correct.

19 Q Please tell the jury your conclusions as to your
20 Item 49, swab from interior passenger front door
21 handle.

22 A That swab had a lot of D N A present from many
23 individuals, at least four, could be more. I could
24 not exclude Gaskins as being one of those
25 contributors as well.

1 Q And please tell the jury your conclusions as to your
2 Item 69, the swab from a silver and blue cell phone.

3 A The swab from the cell phone, again, we got good
4 extractions. As expected, a cell phone, you've got
5 your mouth up to it. That was a mixture of two
6 people. The major contributor was -- matches
7 Johnnie Gaskins and there was a minor contributor
8 that I don't know who it belonged to.

9 Q And are you able to come up with any percentages as
10 to the probability that this is Mr. Gaskins' D N A
11 on that cell phone?

12 A Yes. The -- the science of D N A matching is a
13 statistically analysis. When the statistics are so
14 extreme, then it's pretty much an identity. So in
15 this case, those probabilities are those frequencies
16 we see in this profile in the population, we break
17 it down into two population groups, Caucasian and
18 African-American. In the Caucasian population, it's
19 extremely rare, 110 sextillion which is a very rare
20 number, you've probably never heard of it. That's
21 how large it is. It's -- it's 1 followed like 21
22 zeros, so it's a pretty big number.

23 So -- and in the African-American population,
24 it's almost as rare, one in 16 sextillion. So ---

25 Q So, 1 with 21 zeros behind it?

1 A Exactly.

2 Q And how many people are there on earth?

3 A A little over six and a half billion. Which -- like

4 I said, when you -- when you see those kinds of

5 frequencies, it is so rare that in my -- in my

6 scientific opinion, that is that person's D N A.

7 Q And again, you found D N A from Mr. Gaskins on the

8 exterior driver door handle, interior driver door

9 handle, steering wheel, the gearshift, the interior

10 passenger door handle and on the cell phone?

11 A Yes. Some of those were a definite match and some

12 of those were like he could be included in mixtures.

13 Q So you have there was more than one person's D N A

14 present ---

15 A That's right and because the mixture contribution

16 was fairly equal. So, like I said, when there's two

17 or three people contributing to a mixture and it's

18 fairly equal, then it's more difficult to pick one

19 out of -- you know, pick one or two people out of

20 it. But you can say, he's included in that mixture

21 or not included in that mixture.

22 So, in those types of mixtures, he's included.

23 And in some of these mixtures where he's the major

24 contributor, he's definitely involved in that

25 sample.

1 Q Such as on the cell phone?

2 A Correct.

3 MS. MCDUFFIE: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 (Pause.)

6 MS. MCDUFFIE: Nothing further, Your Honor.

7 THE COURT: Ms. Schillaci.

8 MS. SCHILLACI: Just a few questions, Your
9 Honor.

10 CROSS-EXAMINATION

11 BY MS. SCHILLACI:

12 Q Good afternoon, Investigator Barron.

13 A Good afternoon.

14 Q If Mr. Gaskins had just used the car with his
15 girlfriend, you'd expect his D N A inside, wouldn't
16 you?.

17 A Yes. If someone has access to a vehicle and if it's
18 their vehicle, like your vehicle probably has your D
19 N A on the steering wheel and the door handles and
20 the gearshift knobs.

21 Q Okay. And you were not there when the samples were
22 collected, were you?

23 A No, I was not.

24 Q Okay. And for example, when a sample is taken of
25 the exterior driver's door handle, that doesn't mean