

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2013-000928
Lower Court Case No. 2011-CP-32-2954

RECEIVED

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S.C. Supreme Court

SAMUEL HARMON, #328335,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

State of South Carolina,)
 PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
Sammy Harmon,)
 DEFENDANT)

May 5-7, 2008
Lexington, South Carolina

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, Judge, and a
jury.

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

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Kathleen Richardson, RPR, CRR
Official Court Reporter

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1 MS. GARRICK: Your Honor, we call indictment
2 2007-GS-32-1442, the State versus Samuel Harmon
3 indicted for murder; indictment 2007-1440, the State
4 versus Samuel Harmon, indicted for possession of a
5 firearm during the commission of a violent crime;
6 indictment 2007-1443, State versus Samuel Harmon,
7 charge is assault with intent to kill; indictment
8 2007-1444, the State versus Samuel Harmon, indicted
9 for assault and battery with intent to kill. Your
10 Honor, he's represented by Mr. Floyd.

11 THE COURT: Ladies and gentlemen of the jury, if
12 you will give me your attention. The State has
13 called the case of the State versus Samuel Harmon.

14 Is there any member of the jury panel connected
15 by blood or marriage or close personal friends or
16 social relations with the defendant in this case,
17 Mr. Samuel Harmon; if so, please stand.

18 Okay. Is there any member of the jury panel
19 connected by blood or marriage or close personal
20 friends with Raymond Brown; if so, please stand. Any
21 member of the jury panel connected by blood or
22 marriage or close personal friends to Denise Boykin;
23 if so, please stand.

24 I'm going to read a list of potential witnesses
25 in this case, and I need -- and it's quite lengthy.

1 It's 64 people.

2 So when I call the name out of a person, if you
3 are related by blood or marriage or close personal
4 friends or social relations with any of these
5 potential witnesses, I need you to stand up at that
6 time.

7 Detective Brian Setree -- I may butcher some of
8 these names, so y'all have to let me know -- Eric
9 Russell, Tracy Barr, James Richardson, Bill
10 Creasman -- I butchered that one -- Troy Crump, John
11 Hatchell, Paige Tucker, Luke Fossum, Ken Correll.
12 Yes, sir.

13 JUROR: Luke Fossum.

14 THE COURT: And are you connected by blood or
15 marriage?

16 JUROR: No.

17 THE COURT: What is your name and number?

18 JUROR: Juror 201, Carole Shealy.

19 THE COURT: How do you know Mr. Fossum?

20 JUROR: Went to church together.

21 THE COURT: Do you currently go to church with
22 him?

23 JUROR: No.

24 THE COURT: The fact that you went to church
25 with him, would that affect your ability to give both

1 the State and this defendant a fair and impartial
2 trial?

3 JUROR: No, sir.

4 THE COURT: Thank you, ma'am. Henry Dukes,
5 Bobby Goss, Olyn Sexton, Cathy Etheredge, Barry
6 Wright, Steve LaRosa, Jeff Weed, Candy Kyzer, Barbara
7 McMullen, Laura Grimes, Mike Phillip -- Phipps, I'm
8 sorry -- Phipps, I'm sorry, Mike Phipps, James
9 Hickman, Michelle McLauren, Robin Walters, Tammy
10 Taylor, Dr. Joel Sexton, David Collins, David Black,
11 John Roberts, Gini Youmans, Tyler Dennisson, Keith
12 Mathis, Dan Jensen, Dennis Tindal, Marco Harper,
13 Jason Harper, Stan Howell, Jonathan Washington,
14 Raymond Trey Brown, Richard Geiger, Tasha Jones,
15 Christine Boykin, Randy Boykin, Leslie Boykin, Alex
16 Haigler, Sherman Davis, Brandon Harmon, George Mack,
17 Jamar Porcher, James Keitt, L Timmons or LT Timmons,
18 Ullanda Boyd, Boyd, Latosha Robinson, Soloman Woods,
19 Christian Robinson, Willy Ann Bynard, Earnest Dean,
20 Sonya Peay, Arnette Taylor.

21 Anybody connected by blood or marriage or close
22 personal friends with any of the potential witnesses;
23 if so, please stand.

24 Any member of the jury panel close personal
25 friends or currently or formerly employed by law

1 enforcement; if so, please stand. Yes, sir. Now,
2 you have answered that you worked for the FBI. Are
3 you retired?

4 JUROR: Yes, sir, I am.

5 THE COURT: And the fact that you're an FBI
6 agent, would that affect your ability to give both
7 the State and this defendant a fair and impartial
8 trial?

9 JUROR: Probably not.

10 THE COURT: All right. Thank you, sir. Yes,
11 sir.

12 JUROR: My brother is a captain--

13 THE COURT: Your brother is captain of what?

14 JUROR: Lexington County Jail.

15 THE COURT: Okay. And what's your name and
16 number?

17 JUROR: 170, James O'Neal.

18 THE COURT: And the fact that your brother is a
19 captain with the jail, would that affect your ability
20 to give the defendant and the State a fair and
21 impartial trial?

22 JUROR: No, sir.

23 THE COURT: Thank you, sir. I'm sorry. Yes.

24 JUROR: My son is deputy sheriff in Dorchester
25 County.

1 THE COURT: Okay. And the fact that your --
2 what was your name and number again, sir?

3 JUROR: James Sutton, 221.

4 THE COURT: All right, sir. And the fact that
5 your son is a deputy sheriff in Dorchester County,
6 would that affect your ability to give both the State
7 and this defendant a fair and impartial trial?

8 JUROR: No, sir.

9 THE COURT: Thank you, sir. Yes, ma'am.

10 JUROR: Sandra Georges, juror number 71, sir.
11 I'm not in law enforcement. However, I do recognize
12 a member from my church.

13 THE COURT: Okay. Some of the witness I read
14 out?

15 JUROR: Yes, sir.

16 THE COURT: Which ones?

17 JUROR: Gini, Gini Youmans.

18 THE COURT: You currently go to church with Gini
19 Youmans?

20 JUROR: Yes, sir.

21 THE COURT: Would that affect your ability to
22 give both the State and this defendant a fair and
23 impartial trial?

24 JUROR: It would not.

25 THE COURT: Okay. And what was your name and

1 number?

2 JUROR: Sandra Georges, juror number 71.

3 THE COURT: Thank you, ma'am. The attorneys
4 representing the parties in this case -- from the
5 Solicitor's office, Solicitor, who all is going to be
6 involved in this trial?

7 MR. MYERS: Mrs. Garrick and I.

8 THE COURT: Okay. Any member of the jury panel
9 connected by blood or marriage or close personal
10 friends with Solicitor Donnie Myers or Ms. Garrick;
11 if so, please stand.

12 And Mr. Floyd, if you will stand. Is any member
13 of the jury panel connected by blood or marriage,
14 close personal friends, or being represented by Mr.
15 Floyd; if so, please stand.

16 Any member of the jury panel or a family member
17 or close personal friend a member of CAVE or any
18 victim advocates group; if so, please stand.

19 Any member of the jury panel close personal
20 friend employed in the field of emergency medical
21 services or fire fighting; if so, please stand.

22 Any member of the jury panel, a family member,
23 or close personal friend been a victim of a violent
24 crime; if so, please stand. All right. Yes, ma'am.
25 Start with you.

1 *JUROR:* Juror number 104, Allyson Jacoby. I was
2 a victim of strong armed robbery with a high and
3 aggravated nature.

4 *THE COURT:* Okay. And is that case over with or
5 is it still pending?

6 *JUROR:* It's over with.

7 *THE COURT:* Would that affect your ability to
8 give both the State and this defendant a fair and
9 impartial trial?

10 *JUROR:* No.

11 *THE COURT:* Thank you, ma'am. Yes, ma'am.

12 *JUROR:* Juror number 100, Bobbie Jo Hunsinger.
13 I was a victim of assault with -- intent.

14 *THE COURT:* Okay. How long ago was that?

15 *JUROR:* That was last year.

16 *THE COURT:* Is it still -- is it criminal
17 charges been brought?

18 *JUROR:* No.

19 *THE COURT:* Okay.

20 *JUROR:* But there was a piece -- brought forth.

21 *THE COURT:* Would that affect your ability to
22 give both the State and this defendant a fair and
23 impartial trial?

24 *JUROR:* Yes, it would.

25 *THE COURT:* All right. Then I'm going to excuse

1 you from service on this case. Thank you. Yes,
2 ma'am.

3 JUROR: My first cousin was murdered six years
4 ago.

5 THE COURT: Okay. Would that affect your
6 ability to give both the State and this defendant a
7 fair and impartial trial?

8 JUROR: No.

9 THE COURT: What was your name and number?

10 JUROR: Juror 235, Brandy Vermillion.

11 THE COURT: Thank you, ma'am. Yes, sir.

12 JUROR: Juror 119, Jeffrey Kerr. I have a
13 brother.

14 THE COURT: You had a brother that was a victim?

15 JUROR: Yes, sir.

16 THE COURT: And is that case still pending?

17 JUROR: No.

18 THE COURT: Would that affect your ability to
19 give both the State and this defendant a fair and
20 impartial trial?

21 JUROR: Yes, sir.

22 THE COURT: Sir?

23 JUROR: Yes, sir.

24 THE COURT: It would?

25 JUROR: Yes, sir.

1 *THE COURT:* All right. Then I will excuse you
2 from service on this case. Now, that doesn't
3 necessarily mean excused for the week, but if you
4 will just -- I won't draw you in this case. You got
5 his name and number, Madam Clerk?

6 *THE CLERK:* You're Jeffrey Kerr, correct?

7 *THE COURT:* Yes, ma'am.

8 *JUROR:* I'm juror number 175, Blair Pate. My
9 brother-in-law was murdered a few years back, robbery
10 and murder.

11 *THE COURT:* Would that affect your ability to
12 give both the State and this defendant a fair and
13 impartial trial?

14 *JUROR:* No, sir.

15 *THE COURT:* Thank you, ma'am. Has any member of
16 the jury panel formed or expressed an opinion about
17 any of the matters involved in this case; if so,
18 please stand.

19 Any member of the jury panel aware of any
20 prejudice or bias either toward the State of South
21 Carolina or this defendant; if so, please stand.

22 Is there any member of the jury panel that
23 served on the Grand Jury that heard the issues
24 involved in this case; if so, please stand.

25 Is there any member of the jury panel due to

1 religious or moral reasons unable to judge your
2 fellow man; if so, please stand.

3 JUROR: Excuse me.

4 THE COURT: Yes.

5 JUROR: Would this be in regards to like death
6 penalty situation or...

7 THE COURT: No, this is not a death penalty
8 situation. This is just simply -- some people
9 view -- their religious beliefs do not feel they can
10 sit on a jury and judge their fellow man. Okay. So
11 that doesn't apply to you; is that correct? All
12 right, sir.

13 Any member of the jury panel know of any reason
14 whatsoever that they can't give both the State and
15 this defendant a fair and impartial trial; if so,
16 please stand. Is there any further question from the
17 State?

18 MS. GARRICK: No, Your Honor.

19 THE COURT: From the defense?

20 MR. FLOYD: No, Your Honor, other than what I
21 stated.

22 THE COURT: All right. Madam Clerk, if you will
23 give us a jury.

24 THE CLERK: We will, Your Honor. Thank you.

25 THE COURT: Five and 10.

1 THE CLERK: Juror number 97 is Melody Howard
2 (white female). What say the State?

3 MS. GARRICK: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. FLOYD: Please present the juror.

6 THE CLERK: Have a seat in the box to my right.
7 Juror 35 is Alisa Chapella (white female). What say
8 for the State?

9 MS. GARRICK: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. FLOYD: Present Mrs. Chapella.

12 THE CLERK: Mrs. Chapella, if you will have a
13 seat in the box to my right. Juror number 178 is
14 Bobby Phillips. (Black male). What say you for the
15 State?

16 MS. GARRICK: Please present the juror.

17 THE CLERK: What say you for the defense?

18 MR. FLOYD: Present Mr. Phillips.

19 THE CLERK: Mr. Phillips, if you will take a
20 seat in the jury box, please. Juror number 104 is
21 Allyson, Jacoby (white female). What say you for the
22 State?

23 MS. GARRICK: Present the juror.

24 THE CLERK: What say you for the defense?

25 MR. FLOYD: Excuse Mrs. Jacoby.

1 THE CLERK: Juror number 188 is Judith Pursley
2 (white female). What say you for the State?

3 MS. GARRICK: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. FLOYD: Excuse Mrs. Pursley, please.

6 THE CLERK: Return to your seat, please ma'am.
7 Juror number 147 is Lawrence Markey (white male).
8 What say you for the State?

9 MS. GARRICK: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. FLOYD: Excuse Mr. Markey, please.

12 THE CLERK: Mr. Markey, you can return to your
13 seat, please. Juror number 103 is William Inabinet
14 (white male). What say you for the State?

15 MS. GARRICK: Please excuse Mr. Inabinet.

16 THE CLERK: Mr. Inabinet, you can return to your
17 seat. Juror 201 is Carole Shealy (white female).
18 What say you for the State?

19 MS. GARRICK: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. FLOYD: Excuse Mrs. Shealy, please.

22 THE CLERK: Mrs. Shealy, you can return to your
23 seat, please ma'am. Juror number 76 is Kareem Golson
24 (black male). What say you for the State? What say
25 you for the State?

1 MS. GARRICK: Please excuse Mr. Golson.

2 THE CLERK: You can return to your seat,
3 Mr. Golson. Thank you very much. Juror 196 is Larry
4 Scott (white male). What say you for the State?

5 MS. GARRICK: Please present the juror.

6 THE CLERK: What say you for the defense?

7 MR. FLOYD: Excuse Mr. Scott, please.

8 THE CLERK: Mr. Scott, you can return to your
9 seat. Juror number 108 is Jim Johnson. What say you
10 for the State?

11 MS. GARRICK: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. FLOYD: Present Mr. Johnson.

14 THE CLERK: Mr. Johnson, you can have a seat to
15 the right in the jury box, please. Juror 185 is
16 William Price (white male). What say you for the
17 State?

18 MS. GARRICK: Please present the juror.

19 THE CLERK: What say you for the defense?

20 MR. FLOYD: Excuse Mr. Price, please.

21 THE CLERK: Mr. Price, you can return to your
22 seat. Juror 173 is Richard Oyler (white male).

23 MR. FLOYD: Your Honor, may we approach?

24 THE COURT: Yes, sir.

25 (Whereupon a bench conference was held.)

1 THE COURT: Mr. Oyler?

2 JUROR: Yes, sir, Your Honor.

3 THE COURT: When I asked you those questions
4 earlier whether you could be fair to both the State
5 and this defendant, you said probably.

6 JUROR: Yes, sir.

7 THE COURT: I need a yes or no with that. Do
8 you -- can you give both this defendant and the State
9 a fair and impartial trial based on the evidence that
10 comes in this record?

11 JUROR: After 36 years in law enforcement,
12 probably not, Your Honor.

13 THE COURT: Thank you, sir. I will excuse you.
14 Thank you for your honesty.

15 THE CLERK: Juror number 10 is Robert Baldwin
16 (white male).

17 JUROR: I'm sorry. He represented me about six
18 years ago in a case. I couldn't hear.

19 THE COURT: Okay. So Mr. Floyd represented you?

20 JUROR: Yes, sir.

21 THE COURT: Is that representation over with?

22 JUROR: Yes, sir.

23 THE COURT: And the fact that he represented
24 you, you tell me you could be fair to both the State
25 and this defendant?

1 JUROR: Yes, sir.

2 THE COURT: All right, sir.

3 MS. GARRICK: Please excuse Mr. Baldwin.

4 THE CLERK: Juror number 251, Angela Wiley
5 (white female). What say you for the state?

6 MS. GARRICK: Please present the juror.

7 THE CLERK: What say you for the defense?

8 MR. FLOYD: Present Mrs. Wiley.

9 THE CLERK: Mrs. Wiley, you can have a seat in
10 the jury box. I apologize for the confusion in your
11 jury number. Juror number 95 is April Hiller (black
12 female). What say you for the State?

13 MS. GARRICK: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. FLOYD: Present Mrs. Hiller.

16 THE CLERK: Mrs. Hiller, you can have a seat in
17 the jury box to your right, please ma'am. Juror
18 number 211 is Thomas Smith (white male). What say
19 you for the State?

20 MS. GARRICK: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. FLOYD: Present Mr. Smith.

23 THE CLERK: Mr. Smith, you can have a seat in
24 the jury box. Juror number 13 is John Baucum (white
25 male). What say you for the State?

1 MS. GARRICK: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MR. FLOYD: Present Mr. Baucum.

4 THE CLERK: Have a seat in the jury box, please.

5 Juror 141, John Maberry (white male). Come on down.

6 What say you for the State?

7 MS. GARRICK: Please present the juror.

8 THE CLERK: What say you for the defense?

9 MR. FLOYD: Excuse Mr. Maberry, please.

10 THE CLERK: Mr. Maberry, you can return to your

11 seat. Juror number 157, Carl Meetze (white male).

12 What say you for the State?

13 MS. GARRICK: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. FLOYD: Excuse Mr. Meetze.

16 THE CLERK: Mr. Meetze, you can return to your

17 seat. Juror number 205 is Ethyl Smith (white

18 female). What say you for the State?

19 MS. GARRICK: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. FLOYD: Present Mrs. Smith.

22 THE CLERK: Mrs. Smith, you can have a seat in

23 the jury box, please ma'am. Juror number 235 is

24 Brandy Vermillion (white female). What say you for

25 the State?

1 MS. GARRICK: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MR. FLOYD: Excuse Mrs. Vermillion.

4 THE CLERK: Mrs. Vermillion, you can return to
5 your seat I think. I can't talk any more. Juror
6 number 191 is Michael Robinson (white male). What
7 say you for the State?

8 MS. GARRICK: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MR. FLOYD: Present Mr. Robinson.

11 THE CLERK: Mr. Robinson, you can have a seat in
12 the jury box. Juror number 227 is Stephanie Thain
13 (white female). What say you for the State?

14 MS. GARRICK: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MR. FLOYD: Present Mrs. Thain.

17 THE CLERK: Mrs. Thain, you can have a seat in
18 the jury box, please. Juror number nine is Robert
19 Baker (white male). What say you for the State?

20 MS. GARRICK: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. FLOYD: Present Mr. Baker.

23 THE CLERK: Mr. Baker, you can have a seat in
24 the jury box. Alternates, Your Honor?

25 THE COURT: Yeah, we'll -- guess we will need

1 two alternates?

2 *THE CLERK:* Two alternates, Your Honor?

3 *THE COURT:* One and two.

4 *THE CLERK:* Juror number 169 is Christy
5 Nicholson (white female). What say you for the
6 State?

7 *MS. GARRICK:* Please present the juror.

8 *THE CLERK:* What say you for the defense?

9 *MR. FLOYD:* Present Mrs. Nicholson.

10 *THE CLERK:* Mrs. Nicholson, you can have a seat
11 in the jury box. Your Honor, we are going for number
12 two? Two alternates? Juror number 238 is Roger
13 Watson (white male). What say you for the State?

14 *MS. GARRICK:* Please present the juror.

15 *THE CLERK:* What say you for the defense?

16 *MR. FLOYD:* Present Mr. Watson.

17 *THE CLERK:* Mr. Watson, you can have a seat in
18 the jury box. Your Honor, that is alternate number
19 two.

20 *THE COURT:* Okay. Thank you. Are there any
21 matters of law concerning the selection of the jury
22 on behalf of the State?

23 *MS. GARRICK:* No, Your Honor.

24 *THE COURT:* On behalf of the defense?

25 *MR. FLOYD:* One matter, Your Honor.

1 *THE COURT:* Okay. Do y'all want to approach a
2 minute or do you need me to send the jury out?

3 *MR. FLOYD:* We can approach, Your Honor.

4 (Whereupon a bench conference was held.)

5 *THE COURT:* Ladies and gentlemen, we are going
6 to take a short break to allow the -- both parties to
7 get everything in the courtroom and get ready to go.
8 And I know y'all have been sitting out there for a
9 while.

10 You don't know anything about this case yet.
11 And I'm going to instruct you throughout the trial
12 every time we take a break and send you back to the
13 jury room you can't discuss the case.

14 You can't read anything in the newspaper about
15 this case. You can't hear anything on TV or radio
16 because you have got to decide this case based on
17 what you hear from this witness stand.

18 And one thing, when I tell you you can't discuss
19 the case, you're going to -- you may think that's
20 strange. After we hear all the testimony, why can't
21 we go back and talk about it.

22 And the reason you can't is if you do, you're
23 going to start expressing an opinion about where you
24 think this case is going. And then later at the end
25 of the case, you may want to defend that opinion that

1 you had early on with other jurors.

2 You may think, well, I have to defend it
3 because I said earlier in this case that this is what
4 I thought, and that would be improper. You can't
5 start forming your opinions until you have heard all
6 of the case as well as the law that I'm going to
7 charge you.

8 So that's why I tell you -- I will tell you
9 every time we take a break, don't talk about the case
10 yet. You can talk about the weather, you can talk
11 about anything else you want to, but you can't talk
12 about the case because I don't want you to start
13 forming any opinions until you have heard the entire
14 case.

15 Having said that, we'll take about a 10 or 15
16 minute break, give you a chance to go back to the
17 jury room, give the parties a chance to get
18 everything lined up, and I will bring you back in and
19 we will start the testimony. They will take you to
20 the jury room.

21 (Jury left the courtroom at 11:25 am).

22 THE COURT: Do you want to put that Batson
23 motion on the record now or you want to do it later?

24 MR. FLOYD: Whatever is convenient for the
25 Court, Your Honor.

1 *THE COURT:* We can do it real quick then. I
2 think you had an issue with juror number 76.

3 *MR. FLOYD:* That's correct, Your Honor, we did
4 at the bench raise a Batson motion in reference to
5 juror number 76, Kareem Golson, who was a black male
6 struck by the State.

7 *THE COURT:* And what was the State's response?

8 *MS. GARRICK:* Your Honor, we struck Mr. Golson
9 for two reasons. One is he had 10 traffic tickets
10 and a shoplifting.

11 And the second reason was Investigator Eric
12 Russell, who is our case agent on this, had some
13 information about the place where he works, the
14 business Rent and Roll.

15 There were some concerns that that business that
16 provided a certain type of tires to gang people in
17 this area. So based on those two reasons we did
18 strike him.

19 I would point out to the Court that we did seat
20 two black -- one black male and one black female on
21 the jury. There is no one else seated on the jury
22 that had the same type of criminal history as
23 Mr. Golson.

24 *THE COURT:* Okay. Thank you.

25 *MR. MYERS:* One further thing, may it please the

1 Court. Over the years we have prosecuted numerous
2 Golsons in this courtroom. Think Mr. Floyd may have
3 represented some of the Golsons.

4 And very seldom we will have a term of court
5 where a Golson is not on the criminal roster to be
6 prosecuted.

7 THE COURT: Thank you, sir. Anything you would
8 like to add?

9 MR. FLOYD: Nothing further on that, Your Honor.

10 THE COURT: I find that the strike is race and
11 gender neutral and that I deny your Batson motion.
12 Thank you, sir. Now we can take 15 minutes and allow
13 y'all to get -- we'll come back. You need longer
14 than that?

15 MR. MYERS: About 15 to 20.

16 THE COURT: All right. Y'all ready, you send
17 word to me, I'll come back out and we'll get started.

18 MR. FLOYD: Your Honor, if I can go ahead and
19 put on the record also.

20 THE COURT: Yes, sir.

21 MR. FLOYD: We passed up to Your Honor ten
22 requested voir dire on the potential jury panel. And
23 Your Honor failed to give number three, number six,
24 number seven, number eight, number nine, and number
25 10.

1 And we would, of course, object to Your Honor's
2 refusal to ask the questions from the voir dire.

3 *THE COURT:* Okay. And I didn't do number three
4 because obviously the -- I don't know what the facts
5 are on this case, but if it's gang related, I didn't
6 want to comment on the facts, and I thought that was
7 too close to me commenting on the facts.

8 Number six and number seven, I will certainly
9 cover in my charge. But I think -- and that's why I
10 didn't ask those as well as number eight.

11 I just didn't think that they were proper
12 questions. That's why I did not. All right?

13 *MR. FLOYD:* Thank you, Your Honor.

14 *THE COURT:* All right. And I didn't do number
15 10 as well because I thought that was a comment on
16 the facts.

17 *MR. FLOYD:* Thank you, Your Honor.

18 *THE COURT:* We will take 15, 20 minutes and
19 y'all let me know.

20 (Whereupon a recess was had.)

21 *THE COURT:* Anything before we bring the jury
22 in?

23 *MS. GARRICK:* Nothing from the State, Your
24 Honor.

25 *THE COURT:* From the defense?

1 MR. FLOYD: Nothing from the defense, Your
2 Honor.

3 THE COURT: Okay. If you will bring us the
4 jury, please sir.

5 (Jury entered the courtroom at 11:55 am.)

6 THE COURT: Madam Clerk, you can swear the jury.

7 (Whereupon the jury was sworn.)

8 THE COURT: Ladies and gentlemen, we are about
9 to begin this -- the trial of the State versus Samuel
10 Harmon. And he's been indicted for the crimes of
11 murder, assault and battery with intent to kill,
12 assault with intent to kill, and possession of a
13 weapon during a violent crime.

14 These indictments or these charges are not
15 evidence. It is simply a formal paper that gets this
16 into court. You are to decide this case solely on
17 the evidence that comes in this courtroom from the
18 sworn testimony from this witness stand as well as
19 any exhibits that may be introduced throughout this
20 trial or any stipulations made by the attorneys.

21 You are to decide this case solely on the
22 evidence that you hear from this courtroom, not from
23 anything that you may hear outside of this courtroom.
24 That will be improper.

25 And I instruct you that what the lawyers say is

1 not evidence in this courtroom. Their questions
2 aren't evidence. It's just the sworn testimony that
3 comes from this witness stand.

4 Your job is to keep an open mind, listen to the
5 testimony in this trial, and determine what the true
6 facts are. My job is to rule upon the admissibility
7 of evidence, to determine under the law what evidence
8 you should and should not hear under our rules.

9 And at the end of the trial I will charge you on
10 the law. My job is to instruct you on the law. You
11 will have to take the law as I give it to you whether
12 you agree with it or not.

13 I cannot and I do not have an opinion about the
14 facts. So throughout this trial don't try to read
15 what opinion I may or may not have. That is solely
16 your job, to determine what the true facts are in the
17 case.

18 My job is simply to be sure that the trial goes
19 according to the rules, that you hear the lawful
20 testimony and the lawful evidence that you're
21 supposed to hear. And your job is simply to
22 determine what the true facts are after you hear all
23 of the testimony.

24 We will start with opening statements. The
25 State has the burden of proving this defendant guilty

1 beyond a reasonable doubt to this indictment. He has
2 pled not guilty and under our laws he is presumed not
3 guilty and will stay that way up and until the State
4 proves to you through evidence of his guilt beyond a
5 reasonable doubt.

6 So the attorneys in a few minutes are going to
7 get up and make an opening statement. The State will
8 go first since they have the burden of proof. The
9 defense then has a right to give an opening statement
10 to you. They don't have to because they don't have
11 to prove anything.

12 The burden lies upon the State of South Carolina
13 to prove each and every element of this indictment
14 beyond a reasonable doubt.

15 Now, later in the trial, at the end of the trial
16 I will explain to you the elements of this indictment
17 when I charge you on the law.

18 I ask that you pay close attention throughout
19 this trial, the testimony, because it's very
20 important that you listen and keep an open mind, you
21 are attentive where you can make a true and just
22 decision in this case.

23 If at any time during this trial you need a
24 break, you're uncomfortable, then I need you simply
25 to raise your hand and let me know and we'll take a

1 break because it is important that you pay attention,
2 and if you are uncomfortable, your mind is wandering
3 and you're not paying attention to what is going on.

4 We will -- it's 12:00 now. We'll do opening
5 statements. And I don't know how long the first
6 witness is. If the first witness is going to be very
7 long, we will probably break and go to lunch and come
8 back. I will ask the Solicitor that.

9 But if you will pay close attention to the
10 opening statements of the attorneys. And they are
11 simply opening statements. They are simply a roadmap
12 to tell you where they think the evidence is going to
13 take you throughout this trial.

14 After you hear all of the evidence in this case,
15 you will hear the closing arguments of the attorneys,
16 and that is truly an argument where they argue to you
17 what they think the evidence shows you in this case,
18 and then I will charge you on the law.

19 And then you will have this case to go back to
20 your jury room to deliberate your verdict and
21 determine what the true facts are in this case. So
22 if you will give the Solicitor your attention, we'll
23 begin opening statements.

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

1 THE COURT: Yes, ma'am.

2 OPENING STATEMENT

3 MS. GARRICK: Good morning, ladies and
4 gentlemen. It was July 5th of 2006 here in Lexington
5 County. Denise Boykin, she was 19 years old, she and
6 her boyfriend Scooter and her brother Randy and a
7 couple of other friends decided that they wanted to
8 go to The US Number One Flea Market.

9 They were just going to do some shopping, walk
10 around, talk to people. Denise Boykin at that time
11 had no idea that would be the last day of her life.

12 When they went to The US Number One Flea Market,
13 Scooter, Denise's boyfriend, saw someone he knew. He
14 saw a man named Brandon Harmon, and he and Brandon
15 Harmon had some heated words, but they had a little
16 verbal confrontation going on.

17 Brandon had two other people with him, but
18 Scooter didn't know these people, and the people with
19 Scooter didn't know any of the people Brandon was
20 talking to -- Scooter was talking to.

21 After this little verbal confrontation, it
22 ended. Everybody walked away and it was over. At
23 least that's what Scooter and Denise and all their
24 friends thought.

25 But it wasn't because Brandon Harmon, when he

1 left with his two friends, he called his brother, the
2 defendant, Sammy Harmon, and he told Sammy Harmon
3 that he'd run into Scooter at The Number One Flea
4 Market, and Sammy said, I'm coming, too, I'll be
5 right there.

6 So Sammy leaves Columbia. He's actually at a
7 barbershop with another guy named Alex. And he and
8 Alex come from Columbia here to Lexington. Brandon
9 and his two friends have left The Number One Flea
10 Market and they went and picked up another person
11 named James Keitt.

12 So now we got six -- six people who are going to
13 the Number One Flea Market, ladies and gentlemen,
14 because they're looking for Scooter and his friends.
15 They're looking for a fight.

16 When they get to The Number One Flea Market,
17 Scooter's gone, Denise is gone, so they leave. But
18 unfortunately, when they went to The Barnyard and
19 they looked there, Sammy Harmon and his five friends
20 found Scooter, Denise and Trey, and all these other
21 people as they were walking out to their car.

22 Denise, the victim, and Scooter her boyfriend
23 had been parked side-by-side. They were at their
24 cars when Sammy Harmon in one car and another
25 carload -- two carloads pull up, and there is a major

1 verbal confrontation there.

2 It never became physical. But then the
3 unimaginable happened. Sammy Harmon -- Sammy Harmon
4 pulled a semiautomatic rifle and he shot it 24 times
5 at Denise into her car.

6 Broad daylight Saturday afternoon at The
7 Barnyard Flea Market, ladies and gentlemen, Sammy
8 Harmon showed complete and total disregard for the
9 sanctity of human life.

10 But luckily there were no other casualties at
11 the time with 24 projectile firing from a
12 semiautomatic rifle that was being held and shot by
13 Sammy Harmon. At the time the gun came out, Scooter
14 was pulling out in his car and Denise was pulling out
15 right behind him, but she was hit, ladies and
16 gentlemen. Denise was shot five times.

17 One of the bullets, the fatal bullet, came from
18 the back of the car and struck her in the back of the
19 head and she slumped over the steering wheel.

20 She had tried to drive away to safety, but then
21 once she was hit and she slumps over, her car slowly
22 traveled across all four lanes of traffic on Number
23 One Highway before it finally crashes into a parked
24 car at the Citgo which is right across the street
25 from the Barnyard.

1 Trey -- Trey Brown, who was sitting in the front
2 seat with Denise, he was also shot multiple times.
3 The people in the back seat of Denise's car, her
4 brother Randy and a friend named Tasha, luckily,
5 thankfully they hunkered down in the floorboard of
6 the car as the bullets were hitting them.

7 They were not hurt. They were -- they were shot
8 at, but they were not hit. Sammy Harmon and his
9 friends, they speed away in two different cars and
10 they go different ways.

11 But you're going to meet a good citizen from
12 Lexington County, a man named Marco Harper, and he'll
13 tell you that he and his brother were in a vehicle --
14 I believe it was a Jeep -- and they heard the
15 commotion and they saw a burgundy Crown Vic speed
16 away from The Barnyard.

17 And they followed this car and they got a tag
18 number and they called it in to law enforcement, and
19 law enforcement had a place to start. They had a tag
20 number. They found the car.

21 And the car they found was registered to George
22 Mack. Law enforcement went to George Mack, spoke
23 with him about the incident, and George Mack related
24 to law enforcement who all had been with him at The
25 Barnyard, who the shooter was, and where the

1 semiautomatic rifle had been thrown out.

2 Law enforcement worked for almost two days
3 straight, ladies and gentlemen. They wanted to get
4 all six people and arrest all six people who had been
5 involved in this shooting, and that's what they did.

6 The fugitive task force from Lexington County
7 Sheriff's Department found Sammy Harmon hiding out in
8 a hotel in Orangeburg. Six defendants arrested. The
9 last defendant was found on that Monday morning. So
10 less than 48 hours later, all six people were in
11 custody.

12 You're going to meet Detective Eric Russell. He
13 is seated here at the table with us. He's from the
14 Sheriff's Department. It's his case. And he will
15 tell you that back in July of 2006 when everyone was
16 arrested, he spoke to the people with Mr. Harmon. He
17 interviewed them.

18 He took written statements, took a taped
19 statement. He talked with them about what had
20 happened. And in July of 2006, the people with
21 Mr. Harmon all said Sammy Harmon is the shooter.
22 He's the triggerman.

23 Even the defendant's own brother, Brandon
24 Harmon, said in July of 2006, Sammy is the shooter.
25 You're going to meet law enforcement officers in this

1 case. You're going to meet people that have been in
2 Denise's car.

3 You're going to meet the pathologist who did the
4 autopsy on Denise. You're going to hear from a SLED
5 firearms expert who analyzed evidence collected by
6 the sheriff's department.

7 The sheriff's department collected evidence from
8 The Barnyard parking lot. They collected evidence
9 from Denise's body. They collected evidence from
10 Denise's car.

11 And when the SLED analyst compared those items
12 to the submitted semiautomatic rifle, he found that
13 the items submitted had been fired from the rifle
14 that law enforcement was able to get late, late that
15 Saturday night of the shooting.

16 Ladies and gentlemen, Mr. Harmon is charged with
17 four indictments as the Judge just told you, and he's
18 presumed innocent. The State must convince each of
19 you beyond any reasonable doubt that he is guilty as
20 charged.

21 But proof beyond any reasonable doubt does not
22 mean you have to be 100 percent convinced. It
23 doesn't mean that you have to be convinced beyond any
24 shadow of a doubt. That would be impossible.

25 But if you use your good common sense and after

1 listening to the witnesses that are going to take the
2 witness stand and after viewing the evidence that
3 will be submitted, if you are firmly convinced that
4 Mr. Harmon is guilty, then based on your jurors'
5 oath, you must convict. You must find him guilty.

6 The four charges he faces is murder, meaning
7 that Samuel Harmon, with malice aforethought, killed
8 Denise Boykin, and he did this by using a firearm
9 causing injuries to her such that she died.

10 And malice aforethought is just a legal term.
11 And the Judge at the end of the case is actually
12 just -- he's going to explain it to you. He's going
13 to tell you what it means.

14 But it's a wickedness. It's an intent to do
15 harm. But you in your good common sense once again
16 use that. You know what murder is. You know what it
17 is.

18 Assault and battery with intent to kill is that
19 with malice Samuel Harmon committed a violent injury
20 to another. He shot Trey Brown five times.

21 Assault with intent to kill is that once again
22 with malice, Samuel Harmon intended to do harm and
23 threatened to do harm and had the present ability to
24 do harm to others. He shot at Randy Boykin and Tasha
25 Jones who were in the back seat of Denise's car.

1 And the last charge is possession of a firearm
2 during the commission of a violent crime, that Samuel
3 Harmon did possess a firearm -- in this case a
4 semiautomatic rifle -- during the commission of a
5 violent crime. The violent crime, murder. The
6 violent crime, assault and battery with intent to
7 kill.

8 So those are the charges that Samuel Harmon
9 faces, ladies and gentlemen. Angry words, angry
10 words being exchanged at The Barnyard Flea Market
11 that Scooter may or may not have said, that Scooter
12 and his friends may or may not have said to
13 Mr. Harmon and his friends, that does not justify
14 that man taking a semiautomatic rifle and firing it
15 24 times in the parking lot of The Barnyard Flea
16 Market.

17 Angry words do not justify the fact that a 19
18 year old is dead and that Trey Brown was hospitalized
19 and seriously wounded. And it's not -- angry words
20 cannot justify Randy and Tasha hiding from bullets
21 that are just going through the car that they're
22 riding in.

23 Ladies and gentlemen, the State with our burden
24 of proof, we will do our job. We'll submit to you
25 proof beyond any reasonable doubt that Mr. Harmon is

1 guilty as charged.

2 And then you will be able to do your job, which
3 is to base your verdict on the evidence and the law,
4 and return a just verdict, a verdict that speaks the
5 truth. Thank you.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: Thank you, Your Honor. Ms. Garrick,
8 Mr. Myers.

9 OPENING STATEMENT

10 MR. FLOYD: Ladies and gentlemen, this young man
11 is Samuel Harmon. Sammy is the defendant in this
12 case.

13 Sammy is a young man who has been charged with
14 the most serious crime we have in our state, that of
15 taking the life of another. This week in this
16 courtroom you'll be asked to make a decision about
17 him that will effect you the rest of your life.

18 Because you will decide whether or not Sammy
19 Harmon should be granted of murder (sic). You know,
20 if you never served on a criminal jury before, well,
21 you almost have to set aside human nature because
22 some of you may have thought crimes -- that because
23 Sammy Harmon has been arrested and because Sammy
24 Harmon has been charged with these terrible crimes
25 and because Sammy Harmon now sits before you to be

1 judged for these horrible crimes, you may have
2 thought, he must be guilty.

3 Well, if you got any of those kind of thoughts,
4 you must erase them. You must put them out of your
5 mind. And as you look at Sammy Harmon seated over
6 here, you must say in your heart and in your mind
7 Sammy Harmon is innocent.

8 Sammy Harmon remains innocent unless the State
9 proves his guilt beyond a reasonable doubt. That's
10 the protection of the jury. Because you see, a
11 person can be charged with a crime simply because
12 somebody says he did it, but they can't be convicted
13 unless 12 members of the community unanimously agree
14 that that evidence proves his guilt beyond a
15 reasonable doubt.

16 Now, in some ways this case, though complicated,
17 is simple. We do not dispute that what happened was
18 a tragedy. We do not dispute that what happened was
19 senseless.

20 We do not dispute that it is a tragedy and
21 someone is dead and should not be dead, that someone
22 is injured that should not have been injured. What
23 we dispute is whether or not Sammy Harmon was the man
24 who fired the gun.

25 But the mere fact that some people may say it

1 doesn't make it so. And want you to listen closely
2 to the evidence. I suggest you're going to hear that
3 the guns that were used in this tragedy came out of
4 that burgundy Crown Vic, and you're going to hear
5 Sammy Harmon was never in that burgundy Crown Vic.

6 Now, the way the system works is the State
7 presents all of their evidence to you first because
8 you see, they have the burden of proof. They must
9 prove to you the guilt of Samuel Harmon beyond a
10 reasonable doubt.

11 All we can ask is that you keep an open mind.
12 Don't make it up until you hear everything that
13 you're going to hear in this case because we think if
14 you will do that, you will conclude that the only
15 fair and just verdict in this case is one of not
16 guilty for Sammy Harmon.

17 Thank you very much for your attention in this
18 matter, and I look forward to speaking with you again
19 in what we call the closing argument in the case.

20 THE COURT: We got a witness we can get up and
21 down?

22 MS. GARRICK: I think we can do it, Your Honor.

23 THE COURT: Okay. Call your first witness.

24 MS. GARRICK: Sherman Davis.

25 SHERMAN DAVIS, after being duly

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. GARRICK:

4 Q What's your name, sir?

5 A Sherman Antonio Davis.

6 Q And spell your last name for the Court Reporter.

7 A Ma'am?

8 Q Can you spell your last name for the Court Reporter?

9 A D-A-V-I-S.

10 Q Mr. Davis, how old are you?

11 A Twenty-one years old.

12 Q And where are you from?

13 A From Columbia, South Carolina.

14 Q Where did you go to high school?

15 A Columbia High.

16 Q And do you know the defendant, Sammy Harmon?

17 A Yes, I do.

18 Q How do you know him?

19 A We was brother -- friends, went to school together
20 with him.

21 Q How long do you think you have known Sammy Harmon?

22 A A good four to five years.

23 Q Back on July 15th of 2006, did you go to The Barnyard
24 Flea Market?

25 A Yes, I did.

1 Q And did there come a time obviously that you were
2 arrested?

3 A Yes.

4 Q And what were you arrested for?

5 A Murder.

6 Q And where did the murder occur that you were arrested
7 for?

8 A Happened at The Barnyard.

9 Q Do you remember what date you were arrested?

10 A Think I was arrested on the 16th.

11 Q And after you were arrested, did you meet a detective
12 at the sheriff's department?

13 A Yes, I did.

14 Q Do you remember his name?

15 A Detective Russell.

16 Q Okay. Is this man right here?

17 A Yes, it is.

18 Q And were you given your rights by the detective?

19 A Yes, I was.

20 Q Did you give Detective Russell a statement about what
21 had happened at The Barnyard?

22 A Yes, I did.

23 Q And do you remember when this statement was given?

24 A Yes, I do.

25 Q When was it given?

1 A On the 19th of July.

2 Q Of July?

3 A Yes.

4 Q What year?

5 A 2006.

6 Q Did you tell him what had happened at The Barnyard?

7 A Yes, I did.

8 Q And at that time did Detective Russell make you any
9 promises about what would happen with your charges?

10 A No, he didn't.

11 Q And in July of 2006 did you know anyone from the
12 Solicitor's office?

13 A No, I didn't.

14 Q On July 15th of 2006, please tell the jurors what you
15 did that day.

16 A Well, start off at my house, was me, George, Brandon
17 Harmon was at my house, went to go pick up my son, said I
18 had to go pick my son up that day, and decided where we
19 were going to go that day, decided to go to The Number One
20 Flea Market.

21 Went to The Number One Flea Market. Got there,
22 bought a couple cd's, walked around for a little while.

23 Q All right. Let me stop you for just a minute. Who
24 drove to The Number One Flea Market?

25 A George.

1 Q And what's George's last name?

2 A Mack, George Mack.

3 Q And what kind of car did he drive?

4 A Crown Victoria.

5 Q Okay. And who all was in that car at that time?

6 A Me, my son, Brandon and George.

7 Q When you say Brandon, Brandon who?

8 A Harmon.

9 Q Is that the defendant's brother?

10 A Yes, it is.

11 Q Okay. After you bought some cd's and stuff at The
12 Number One Flea Market, what happened next?

13 A We proceeded to walk around for a while. We passed
14 by a group of people, seen them, kept on walking. And
15 next thing I know they was behind us. Turned around, they
16 started asking us questions. Well, start asking Brandon
17 questions.

18 Q Did you know any of these people?

19 A No, I didn't.

20 Q Okay. And did you hear a conversation between
21 Brandon and these people?

22 A Yes, I did.

23 Q What type of conversation was it?

24 A Asking was he in a gang.

25 Q Okay. And did you get involved in this conversation?

1 A Not at the time, no.

2 Q Okay. Why is that?

3 A Really I didn't have nothing to do with what was
4 going on at the time.

5 Q Okay. And what happened during this verbal
6 confrontation?

7 A Proceeded to ask was Brandon in a gang, and he told
8 them no. And then they said, so you're not in a gang now?
9 And he said, well, I'm not saying I'm not in a gang
10 because I'm scared and everything, I'm saying it because
11 I'm not in a gang. Might got me mixed up with my brother.
12 He in a gang, but not me.

13 Q And did Brandon have any other brothers that you know
14 of?

15 A Not that I know of.

16 Q All right. What happened during this conversation?

17 A Next thing you know, things got a little heated, was
18 talk about fighting and going -- during that, one of the
19 guys had said, well, anything can happen because I keep
20 mine on me.

21 Q Okay. And what did that mean to you?

22 A That mean kept a weapon on him.

23 Q Okay. Did you see any weapon at that time?

24 A No, I didn't.

25 Q Okay. After that was said, what did y'all do?

1 A Well, that's when I had stepped in the conversation.
2 I said, look here, man, I don't know what y'all got on --
3 got going on, but I got my little son right here. That's
4 when the guy told me, if I didn't want no problem, step my
5 bitch ass to the side.

6 Q Okay. And did you know this person that you were
7 talking to?

8 A No, I didn't.

9 Q And after that, what did y'all do?

10 A We walked away, went to the car.

11 Q Who went to the car?

12 A Me, Brandon and my son and George.

13 Q And George Mack?

14 A Yeah.

15 Q And did y'all make plans at that point what was going
16 to happen next?

17 A Yes, ma'am.

18 Q What did y'all decide to do?

19 A Go back to Broad River, go back to the -- to the --
20 go drop my son off.

21 Q Okay. And why were you going to drop your son off?

22 A Because we was going to come back up there.

23 Q And why were you going to come back to the flea
24 market?

25 A Fight.

1 Q Okay. Did -- in the car on the way to drop your son
2 off, did you have any conversation with Sammy Harmon?
3 A No, I didn't.
4 Q Okay. Are you aware of any conversation that Sammy
5 had?
6 A No. No, ma'am.
7 Q Okay. When you dropped your kid off, where did you
8 go next?
9 A Went to Little James' house, James Keitt.
10 Q Okay. And why did y'all go to Little James' house?
11 A So we can pick him up.
12 Q Okay. And what -- where did y'all go when you left
13 Little James' house?
14 A Went to Number One Flea Market.
15 Q And do you know if Little James had a weapon?
16 A No, ma'am. I didn't see one.
17 Q Did Little James usually have a weapon?
18 A Yes, he does.
19 Q What kind of weapon did he usually have?
20 A A 38 revolver.
21 Q Okay. And when y'all picked up Little James, where
22 did you go next?
23 A Went to The Number One Flea Market.
24 Q And did you see anybody else you know there?
25 A Not -- say we got there?

1 Q Yes. Yes, sir.

2 A Not yet.

3 Q Okay. And did Sammy Harmon come to The US Number One
4 Flea Market?

5 A Yes, he did.

6 Q How did he get there?

7 A Rid a car with Alex.

8 Q Do you know Alex's last name?

9 A Haigler.

10 Q Okay. Do you know what kind of car Alex and Sammy
11 were in?

12 A I know the color, but don't know the make and model.

13 Q Okay. What color was it?

14 A A teal color.

15 Q Okay. And you said y'all got back to US Number One
16 first?

17 A Yes. Well, no, second.

18 Q Second?

19 A Yeah, second.

20 Q And did you see these people y'all wanted to fight?

21 A No, we didn't.

22 Q And what did you do when you realized the people were
23 gone?

24 A We walked around for a while, decided since they
25 weren't there no more, just go ahead and leave, go back

1 back to Broad River.

2 Q Okay. And as y'all were heading back to Broad River,
3 what happened next?

4 A We standing by Barnyard Flea Market and we seen --
5 seen them at the -- in the parking lot of The Barnyard.

6 Q Seen who?

7 A Seen the same people had the confrontation with at
8 Number One earlier that day.

9 Q And so what did y'all do?

10 A We pulled in, drove up, drove up front to The
11 Barnyard.

12 Q Okay. And who -- who was in the front seat?

13 A The driver was George Mack.

14 Q And who was in the front passenger's seat?

15 A Brandon Harmon.

16 Q Okay. And where were you?

17 A Behind the passenger.

18 Q Okay. And what was going on with Alex and Sammy?

19 A They was in the car behind us.

20 Q Okay. And did they pull into The Barnyard Flea
21 Market?

22 A Yes, they did.

23 Q And what happened when y'all all got there?

24 A Proceed, got out the car. Words were said. We was
25 standing out the car and we was saying, like what y'all

1 going to do, whatnot. By then the trunk was opened.

2 Trunk was open--

3 Q The trunk was open on which car?

4 A On the Crown Victoria.

5 Q Okay. And what happened next?

6 A Rifle came out. James Keitt had a rifle in his hand.

7 Q Who is the first person you saw with the rifle?

8 A James Keitt.

9 Q Okay. And at that point had you seen any other guns?

10 A No, I hadn't.

11 Q And when you saw Little James with the rifle, what
12 did you do?

13 A I looked at him and I kept looking back at the people
14 that was in front of me.

15 Q Okay. The people that were in front of you, were
16 they in one car or more than one car?

17 A They was in more than one car.

18 Q And do you know how those people were parked?

19 A Yes, ma'am.

20 Q Were they beside each other or separate from each
21 other?

22 A They were beside each other when I first got there,
23 then they separate.

24 Q Okay. And after Little James had the rifle, what did
25 you see next?

1 A Seen Sam Harmon get out -- out of -- at his car, go
2 over to James Keitt and get the gun out, and then...

3 Q And where was Al's car in relation to George's car?

4 A Was parked behind it, but a few feet away.

5 Q Okay. And when you saw Sammy take the gun from
6 Little James, what happened next?

7 A Start firing.

8 Q How many times did he fire?

9 A I'm not sure.

10 Q Was it more than once?

11 A Yes, ma'am.

12 Q And what was he shooting at?

13 A Shooting at the car.

14 Q Okay. What car was he shooting at?

15 A The black one.

16 Q Okay. And was there any conversation going on that
17 time between you and George Mack and Brandon?

18 A No. No, ma'am.

19 Q And what were the people doing that Sammy was
20 shooting at?

21 A Think they was trying to get away.

22 Q And after -- after the shooting -- well, let me ask
23 you this. How close were you standing to Samuel Harmon
24 when he shot this assault rifle?

25 A Maybe three steps away from him.

1 Q And on what side of him were you standing?

2 A On his right side.

3 Q Okay. And after the shooting, what did Sammy Harmon
4 do with the rifle?

5 A Throw it in the trunk.

6 Q The trunk of what car?

7 A The Crown Victoria.

8 Q And then where did he go?

9 A Got in the car with Alex, teal colored car.

10 Q And where did you go after the shooting?

11 A Hopped back in the Crown Victoria.

12 Q Okay. If I can show you what's been marked for ID
13 only as State's 4. Can you recognize this firearm?

14 A Yes, I do.

15 Q And where do you recognize it from?

16 A From The Barnyard Flea Market.

17 Q When y'all left the parking lot at The Barnyard,
18 where did y'all go?

19 A Went across the street to the gas station.

20 Q What gas station? Do you remember?

21 A No, ma'am.

22 Q Okay. Where was the gas station?

23 A Across the street from The Barnyard Flea Market.

24 Q And as y'all left, where did you go?

25 A On a little road -- don't know the name of it. Went

1 down the road and whatnot.

2 Q Okay. And what was happening as y'all were driving
3 away?

4 A We was talking about what just happened and whatnot,
5 that anybody get hurt, anybody get hit.

6 Q And what did y'all think?

7 A Well, we didn't really know at the time, so...

8 Q When y'all were driving away, where were y'all trying
9 to go?

10 A Trying to get out the vicinity.

11 Q Okay. And what if anything unusual was happening
12 behind you?

13 A Noticed some blue truck following us.

14 Q Okay. And did you try and lose the blue truck?

15 A Yes, we did.

16 Q And were you able to lose the blue truck?

17 A Yes, we did.

18 Q After y'all lost the blue truck, where did y'all --
19 where did y'all go?

20 A Went on an unknown dirt road.

21 Q Okay. And are you -- are you familiar with Lexington
22 County at all?

23 A No, ma'am.

24 Q Do you know street names?

25 A No, ma'am.

1 Q Okay. So you were on a dirt road. And what did
2 y'all decide to do at that point?

3 A Decide to get the gun out of the trunk.

4 Q Okay. And who got the trunk out of the gun (sic)?

5 A James Keitt.

6 Q And what did he do with the gun?

7 A He threw it behind the church.

8 Q Okay. And after y'all got rid of the guns and you
9 said, guns plural -- were there two?

10 A No, just one.

11 Q You don't know anything about Little James --

12 A No, ma'am.

13 Q -- another gun? Okay. After you ditched the rifle,
14 where did y'all go?

15 A Got back -- we got -- kept going down to the dirt
16 road into the wooded area.

17 Q Okay. When you got to the wooded area, what did
18 y'all do?

19 A We jumped out.

20 Q And why did y'all jump out of the car?

21 A We was trying to comm -- knew it was pretty hot,
22 police be looking for us, so we leave and jump out.

23 Q Okay. And what -- how were y'all going to get out of
24 there?

25 A We just kept running through the woods. Got to this

1 construction site where we call a ride.

2 Q Okay. And who did y'all call?

3 A I think Brandon called Sam.

4 Q Okay. And did anybody come pick y'all up from the

5 woods?

6 A Yes, they did.

7 Q Who came to pick you up?

8 A Brandon -- I mean LT and Alex and Sam.

9 Q Okay. And Sam, you mean Sammy Harmon?

10 A Yes, I do.

11 Q And what kind of car were they in when they picked

12 you up?

13 A Blue Tahoe.

14 Q Okay. When y'all left in the blue Tahoe, where did

15 y'all go next?

16 A Went back to Broad River.

17 Q Okay. On the way back to Broad River, was there any

18 kind of conversation going on in the car? Was Sammy

19 Harmon saying anything?

20 A No, not really. I was pretty upset a little bit.

21 Q What were you upset about?

22 A The shooting and everything. And asked what -- what

23 was he was thinking and stuff.

24 Q Y'all asked Sammy what he was thinking?

25 A Yeah.

1 Q And did he have an answer?

2 A No.

3 Q When you went back to Broad River, where did y'all
4 go?

5 A Dropped me off at my house.

6 Q Okay. And did you see Alex and Little James and
7 Brandon and Sammy again that evening?

8 A Yes, I did.

9 Q Where did you see them at?

10 A Apple Valley.

11 Q Okay. And Apple Valley, is that in Columbia?

12 A Yes, ma'am.

13 Q Okay. Whose house were you at in Apple Valley?

14 A LT's girlfriend.

15 Q Okay. And who all was at that house?

16 A Alex, Brandon, LT, myself. That's it.

17 Q Okay. Was Sammy there?

18 A Yeah.

19 Q Okay. How did you find out that someone had been
20 killed?

21 A Brandon had a cellphone. He go on the news, that
22 the -- said someone had got killed at The Barnyard.

23 Q And when y'all went out to Apple Valley, what if
24 anything was Sammy Harmon saying about the situation?

25 A Ma'am?

1 Q When you were at Apple Valley, what was Sammy
2 Harmon -- was there any conversation between you and Sammy
3 Harmon or anyone and Sammy Harmon about what he was going
4 to do?

5 A Yes, ma'am. Try to lay low, all of us to lay low.

6 Q That's what Sammy Harmon said?

7 A Yes, ma'am.

8 Q Did you ever -- who left Apple Valley first, you or
9 Sammy Harmon?

10 A Both us.

11 Q Okay. Did y'all leave together?

12 A Yes, ma'am.

13 Q And where did y'all go?

14 A We went to Hart's Street, some apartments.

15 Q Okay. And was George Mack ever there at Apple
16 Valley?

17 A No, he wasn't.

18 Q And do you know what happened to George Mack's car?

19 A I think he went back to go get it, pick it up.

20 Q Okay. Did you see him again later that night?

21 A No, ma'am.

22 Q When you were with Sammy at these apartments, what
23 happened next?

24 A Stayed over there at the apartment about 15 minutes,
25 and then me and -- guy that went over there, we had left,

1 left Brandon and Sammy there.

2 Q Okay. And was Little James with Brandon and Sammy
3 when you left?

4 A No, he wasn't.

5 Q Okay. And did you ever speak to Sammy Harmon again?

6 A No, I didn't.

7 Q Tell us how -- how did the circumstances of you
8 getting arrested, how did that come up?

9 A Next day I was at my house and Brandon called me,
10 told me that -- asked me did I want to turn myself in with
11 him. I said, man, I don't know yet. And he told me,
12 well, they lock James up and Sam -- Sammy up.

13 So I said, well, give me an hour and you can -- then
14 I tell you. So hour pass by and he called back, and I
15 said, come on, pick me up. Him -- and then his uncle came
16 and picked me up. Rode around a little while before we
17 turned ourselves in. Then we came on to The Lexington
18 County Detention Center and turned ourselves in.

19 Q Okay. And was that when you met Detective Russell?

20 A Yes, that was.

21 Q And you were served warrants?

22 A Yes, I was.

23 Q Do you remember the first time you talked about this
24 case with someone from the Solicitor's office?

25 A No, ma'am.

1 Q Okay. Do you remember the first time you met me?

2 A Yes, ma'am.

3 Q When was that?

4 A Think it was January, something like that.

5 Q Of this year?

6 A Yes, ma'am.

7 Q Okay. Since you have agreed to testify in this
8 trial, do you have any set deal with the Solicitor's
9 office?

10 A Yeah, kind of.

11 Q Okay. What do you mean by kind of?

12 A My murder charge be reduced to accessory after the
13 fact.

14 Q Okay. Have you been told that you will not go to
15 prison?

16 A No, I haven't.

17 Q And in fact, you do have criminal convictions on your
18 record; do you not?

19 A Yes, I do.

20 Q Do you have a conviction for abhan?

21 A Yes, I do.

22 Q Failure to stop for a blue light?

23 A Yes, I do.

24 Q And possession with intent to distribute marijuana?

25 A Yes, I do.

1 MS. GARRICK: If I may approach the witness,
2 Your Honor?

3 THE COURT: Yes, ma'am.

4 BY MS. GARRICK:

5 Q If I can show you what's been marked State's 2, and I
6 believe this is in without objection from Mr. Floyd.

7 THE COURT: Is that correct, Mr. Floyd?

8 MR. FLOYD: Yes, sir.

9 THE COURT: State's number 2 is in evidence
10 without objection.

11 (WHEREUPON, State's Exhibit 2 was admitted into
12 evidence.)

13 BY MS. GARRICK:

14 Q Can you tell the members of the jury what this poster
15 shows? Whose car is this?

16 A It's George Mack's car.

17 Q Okay. And where the seats are listed here, who does
18 it say the driver was?

19 A Driver says George Mack.

20 Q Front passenger?

21 A Brandon Harmon.

22 Q Back left passenger?

23 A James Keitt.

24 Q Back right passenger?

25 A Sherman Davis.

1 Q Is that how y'all were riding when y'all left The
2 Barnyard?

3 A Yes, it is.

4 Q And the teal green Chevy Cavalier, do you know whose
5 car that was?

6 A Yes, that's LT?

7 Q Okay. And is that who Sammy Harmon rode with?

8 A Yes, he did. Yes, it was.

9 Q To and from The Barnyard?

10 A Yeah.

11 Q When y'all were all arrested in July of 2006, do you
12 recall what kind of hair you had then?

13 A I had a short haircut.

14 Q Okay. What about Brandon Harmon?

15 A He had dreds.

16 Q Okay. What about George Mack?

17 A Corn rows.

18 Q And a corn rolls (sic), does that mean like long
19 braids?

20 A Yes.

21 Q Okay. What about Sammy Harmon?

22 A Low haircut.

23 Q Low haircut?

24 A Yes.

25 MS. GARRICK: Your Honor, if I can show him

1 State's 1, I believe this is also in without
2 objection from Mr. Floyd.

3 THE COURT: Is that right, Mr. Floyd?

4 MR. FLOYD: That's correct, Your Honor.

5 THE COURT: State's 1 is in without objection.

6 (WHEREUPON, State's Exhibit 1 was admitted into
7 evidence.)

8 BY MS. GARRICK:

9 Q What does this poster help explain to the jurors?

10 A Well, first top three was the first ones at Number
11 One Flea Market.

12 Q And then the bottom three?

13 A That's ones at -- at The Barnyard Flea Market.

14 Q Were these three at The Number One during the
15 confrontation during the --

16 A Yes.

17 Q -- during the first verbal confrontation?

18 A No, ma'am.

19 Q And do these pictures show how everyone's hair looked
20 then?

21 A Yes, it does.

22 Q So that's how your hair was two years ago?

23 A Yes, it was.

24 Q And that shows Brandon -- I mean Brandon's twists?

25 A Yes, it does.

1 Q That show George's braids?

2 A Yes, it does.

3 MS. GARRICK: Beg the Court's indulgence one
4 moment.

5 THE COURT: Yes, ma'am.

6 MS. GARRICK: Please answer Mr. Floyd's
7 questions.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Mr. Floyd?

10 MR. FINNEY: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. FLOYD:

13 Q Mr. Davis?

14 A Yes, sir.

15 Q When you rode over to the flea market in the burgundy
16 Crown Vic, did you know there was a gun in the trunk?

17 A Yes, I did.

18 Q When did you find out there was a gun in the trunk?

19 A The weekend before that.

20 Q So when you -- actually when you went to The Number
21 One Flea Market, you knew there was a gun in the trunk;
22 didn't you?

23 A Yes, I did, sir.

24 Q What kind of gun was in the trunk that you knew of?

25 A AK47.

1 Q Now when you went over to Number One Flea Market,
2 Sammy Harmon wasn't with you; was he?

3 A No, he wasn't, sir.

4 Q It was George Mack, Brandon Harmon, and you and
5 your--

6 A Yes, it was.

7 Q And your child; is that right?

8 A Yes, it was.

9 Q Now, you had this confrontation at The Number One
10 Flea Market. Now, Sammy Harmon is not involved in that;
11 is he?

12 A No, he wasn't.

13 Q Okay. Y'all decide to leave.

14 A Yes, we did.

15 Q You come back and confront them. Is that right?

16 A Yes, we did.

17 Q And you dropped your child off. You dropped your --
18 you take your children back there; did you?

19 A No, sir.

20 Q But you picked up Little James. Is that correct?

21 A That's correct.

22 Q And you picked up Little James because you knew
23 Little James always carried a gun; didn't you?

24 A Yes, sir.

25 Q So you figured you had the weapon, the rifle, then

1 you had Little James' gun; is that correct?

2 A Not really, sir.

3 Q What kind of gun did Little James usually carry?

4 A A 38 revolver.

5 Q Now, did he put that in the trunk or keep it in his
6 pocket?

7 A Didn't see that.

8 Q You never saw it?

9 A No, sir.

10 Q The whole time you never saw it?

11 A No, sir.

12 Q All right. When y'all drive up to The Barnyard Flea
13 Market, George is driving; is that correct?

14 A That's correct.

15 Q George Mack. Who is in the front passenger's seat?

16 A Brandon Harmon.

17 Q And who is in the rear seat?

18 A I am.

19 Q Where is Little James?

20 A Behind the driver's seat.

21 Q He's behind the driver's seat. So when y'all pull
22 up, do all four of you get out of the car at that time?

23 A Yes, we did.

24 Q And where do y'all stand in relation to the car?

25 A See, George was by the driver door, Brandon was by

1 the passenger door, and I was back behind the passenger
2 door.

3 Q And how far away from the car were you?

4 A I was maybe about -- I proceeded to walk. I was
5 maybe a good seven to eight steps away from the car.

6 Q And how far were you from the other group of people
7 that you had the confrontation with?

8 A Maybe another -- maybe another 15 or so steps, a
9 little--

10 Q Was there anything between you and them?

11 A No, there wasn't.

12 Q Was there anything between you and Little James?

13 A No. A car.

14 Q The car?

15 A Yeah.

16 Q All right. Now, who opened the trunk?

17 A George did.

18 Q George the driver opened the trunk; is that correct?

19 A That's correct.

20 Q Now, at that point in time where was the teal
21 vehicle, the green vehicle, the blue green--

22 A Behind the Crown Vic.

23 Q How far was it behind the Crown Vic?

24 A A few feet away.

25 Q Was it -- was the Crown Vic between the teal car and

1 the group y'all were confronting?

2 A Was it between? No, it wasn't.

3 Q To the side or the front of it? What was the
4 relationship?

5 A It was behind the Crown Victoria.

6 Q All right. So the teal car was behind the Crown
7 Victoria?

8 A Yes, it was.

9 Q All right. So the Crown Victoria was between the
10 teal car and the group that y'all were confronting?

11 A Yes, sir.

12 Q All right. Now, where was -- was -- Little James was
13 on the other side of the car from you?

14 A Yes, sir.

15 Q Who got the gun out of the trunk?

16 A Well, I'm not sure who got it out the trunk. But all
17 I know, I seen Little James with it.

18 Q All right. When you saw Little James with the gun,
19 what was he doing with it?

20 A Flashing it.

21 Q Could you -- demonstrating to the jury what he was
22 doing, please.

23 A Yes, I can.

24 Q Could you?

25 A Yeah. Flashing the gun like this right here.

1 Q Okay. And he's on the other side of the burgundy
2 vehicle from you?

3 A Now he's behind the trunk.

4 Q Oh, he's behind the trunk now.

5 A Yes, he is.

6 Q Are you all the way to the rear of the vehicle now?

7 A Yes, sir.

8 Q How far are you from Little James?

9 A Maybe -- maybe three steps away from him.

10 Q Three steps away. Okay. All right. If I'm Little
11 James flashing the gun and I'm standing here -- excuse
12 me -- if the people we're confronting are in front of
13 me --

14 A Okay.

15 Q -- how far in front of me are they?

16 A How far in front of you? Um --- maybe, it's really
17 hard to explain exactly where I was at.

18 Q Okay. That's what we are trying to...

19 A Okay. You said he was -- repeat the question again,
20 please.

21 Q If I'm Little James, I'm flashing the gun, and the
22 people that were having the confrontation with, they are
23 out in front of me somewhere.

24 A Yes.

25 Q Okay. How far out in front of me are the people that

1 I'm flashing the gun at?

2 A How far you is away?

3 Q Yeah.

4 A Really had to take at least 20 steps to get to him.

5 Q Okay. Twenty yards or so?

6 A Yeah.

7 Q And you're -- on this side of you then?

8 A No, on other side.

9 Q This side?

10 A Yeah.

11 Q And you're how far away from him?

12 A Three or four steps.

13 Q Where is George Mack?

14 A Think he was -- back driver door.

15 Q All right. Would he be on the side with you or the

16 other side?

17 A The other side.

18 Q The other side. Is he all the way past the trunk?

19 A No, he isn't.

20 Q He's back at the door?

21 A Yes.

22 Q Where is Brandon?

23 A Like passenger door.

24 Q Is he past the vehicle or is he back at the door?

25 A He still at the door.

1 Q Then the teal vehicle is some distance behind us.

2 A Yeah.

3 Q Now, when did you see Sammy Harmon?

4 A When he got out the trunk -- I mean got the teal
5 colored car.

6 Q You saw him get out of it?

7 A Yes, I did.

8 Q Were you already up behind the vehicle and was -- was
9 Little James already flashing the gun?

10 A Yes, he was.

11 Q So how far did Sammy Harmon have to travel?

12 A Maybe about -- from the car, I mean, it's -- the teal
13 colored car to the trunk maybe least 10 steps.

14 Q Ten steps. Was he running or walking?

15 A Walking kind of fast.

16 Q So when he got to the back of the vehicle, what did
17 you do to him or anything? Did you do anything?

18 A Say again.

19 Q When he got back to the back of the vehicle, did you
20 do anything?

21 A No, I didn't.

22 Q Did he walk past you?

23 A No, he didn't.

24 Q So which side did he come around?

25 A Came straight to the back, back of the trunk.

- 1 Q Didn't pass any of them?
- 2 A No.
- 3 Q Was Little James between you and him?
- 4 A No, he was -- yeah, he was. Yes, he was.
- 5 Q Little James was between the two of you?
- 6 A Well, no. He wasn't like between because I was away
- 7 on -- like passenger door off to the side a little bit.
- 8 Where I was at, Little -- Sam was coming out of the teal
- 9 colored car to the trunk, grabbed the gun from Little
- 10 James.
- 11 Q All right. Didn't you testify a while ago that you
- 12 were back behind the vehicle next to Little James?
- 13 A No, I said I was on the side.
- 14 Q You were on the side of the vehicle?
- 15 A Yes.
- 16 Q So the vehicle is between you and Little James?
- 17 A I was off a couple of yards from the car.
- 18 Q And your testimony is that Sammy Harmon walked past
- 19 you, got the gun, and started shooting?
- 20 A Walked to the trunk.
- 21 Q Walked to the trunk?
- 22 A Yeah.
- 23 Q Well, where did he get the gun?
- 24 A From Little James.
- 25 Q Did Little James just hand him the gun?

1 A No.

2 Q All right.

3 A He got out Little James' hand.

4 Q Sammy just took it out of his hands? Did they fight
5 over it?

6 A No.

7 Q Now, Sammy Harmon was not involved in the
8 confrontation at The Number One Flea Market; is that
9 correct?

10 A That's correct.

11 Q So Sammy Harmon then was not involved down here at
12 The Barnyard Flea Market when y'all were doing all the
13 talking back and forth; was he?

14 A That's correct.

15 Q That's correct; isn't it?

16 A Yeah.

17 Q Because all that had happened before he got there to
18 as you say grab the gun?

19 A Yeah.

20 Q So Sammy Harmon who had not been in either one of
21 these confrontations according to your testimony just
22 decides to come get the gun and start shooting?

23 A Yeah.

24 Q Is that correct?

25 A That's correct.

1 Q Now, did you see Little James' gun?

2 A No, I didn't.

3 Q So you never saw Little James with a gun other than
4 holding the --

5 A AK.

6 Q -- AK. When you gave this statement to Detective
7 Russell, you didn't say anything about meeting at Apple
8 Valley that night; did you?

9 A No, I didn't.

10 Q Didn't say anything about that?

11 A No, I didn't.

12 Q Were you told that things will go better for you if
13 you cooperated?

14 A No, sir.

15 Q You weren't told that at all?

16 A No, sir.

17 Q So you -- what do you mean, they told you, look,
18 you're going to be charged with murder whether you talk or
19 not?

20 A No. They just told me give a statement.

21 Q And they didn't tell you it would help you out?

22 A No, they didn't.

23 Q Did you think it would help you out?

24 A Yes, I did.

25 Q In fact, you're being allowed to plead to accessory

1 after the fact of murder; is that correct?

2 A Yes, it is.

3 Q And you were charged with murder; is that correct?

4 A Yes, I was.

5 Q Do you know the difference in the punishment between
6 murder and accessory after the fact of murder?

7 A Yes, I do.

8 Q What is it?

9 A Murder carry 30 to life. Accessory carry zero to 15.

10 MR. FLOYD: Your Honor, Court's indulgence
11 please.

12 THE COURT: Yes, sir.

13 (Mr. Floyd speaking with the defendant.)

14 BY MR. FLOYD:

15 Q When the Crown Vic left The Barnyard Flea Market that
16 day, was Sammy Harmon in it?

17 A No, he wasn't.

18 Q Were the guns in the Crown Vic?

19 A Yes, sir, they was.

20 Q When y'all hid the guns -- or do you know whether or
21 not the guns were hidden?

22 A The gun was hidden in the woods.

23 Q Was Sammy Harmon present with you when the guns were
24 hidden?

25 A No, he wasn't.

1 MR. FLOYD: No further questions, Your Honor.

2 THE COURT: Anything further from the State?

3 MS. GARRICK: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. GARRICK:

6 Q Why didn't you tell Detective Russell about going
7 back to Apple Valley?

8 A Because the questions he asked me wasn't with that.
9 The way he asked me the questions, he didn't say that. I
10 just answered the questions he asked me.

11 Q So he never asked you where you went after you
12 separated from Sammy Harmon?

13 A No, ma'am.

14 Q And at the Barnyard, did you know Sammy Harmon was
15 going to grab that gun and start shooting?

16 A No, I didn't.

17 Q That's all.

18 THE COURT: Thank you, sir. You can step down.

19 (Witness left the stand.)

20 THE COURT: Anything else before we break for
21 lunch?

22 MS. GARRICK: No, Your Honor.

23 THE COURT: Okay. 2:30 is when y'all normally
24 come back?

25 MS. GARRICK: That's fine, Your Honor.

1 THE COURT: Ladies and gentlemen, we are going
2 to break for lunch at this time. I need you back in
3 the jury room at 2:30. I will remind you you can't
4 discuss this case at all, and don't allow anybody to
5 discuss it with you.

6 If somebody tries to, simply tell them that
7 you're on the jury and can't. If somebody talks
8 about it at a restaurant, then you need to either get
9 them to be quiet or get up and move.

10 So you're to decide this case solely on the
11 evidence you hear from this courtroom and nothing
12 else. If you will come back to the jury room at
13 2:30, I will get you back out and we can continue on.
14 Thank you.

15 (Jury left the courtroom at 12:57 pm.)

16 THE COURT: Anything before I break for lunch
17 from either side?

18 MS. GARRICK: No, sir, Your Honor.

19 MR. FLOYD: No, sir.

20 THE COURT: All right. We'll be back at 2:30.

21 (Court was in recess for lunch.)

22 THE COURT: I need to put a matter on the
23 record. After I excused the jury for lunch, as they
24 were walking out and walking down the hall, one of
25 the jurors informed one of the bailiffs that after

1 sitting here and looking at the defendant, that her
2 son is the defendant's cousin.

3 That's juror number 95 of your number, April
4 Hiller. And my understanding from the bailiff is
5 that she wasn't kin to him, but her son was. I'm not
6 really sure how that is, but... what is the State and
7 defense's position on this juror?

8 MS. GARRICK: Your Honor, we would ask that you
9 excuse her and seat the alternate because if we had
10 had that information at the time, we would have used
11 one of our strikes, and we had strikes left.

12 THE COURT: Okay. What says the defense?

13 MR. FLOYD: Your Honor, we don't see where that
14 disqualifies her at all. It's not her -- she's not
15 familiar to him.

16 THE COURT: Well, I understand that, but it's --
17 and it -- and I would have to get her out here and
18 question her further as to whether she's disqualified
19 by the Court.

20 But having that knowledge -- certainly if she
21 had stood up and said that, as I instructed her to
22 do, then at least both sides would have been educated
23 as to her connection and could have exercised one of
24 their strikes.

25 And they -- I note for the record that based on

1 my information, the State used three strikes. So
2 they had two more strikes remaining. So I will grant
3 their request and seat one of the alternates.

4 Because, you know, they could have used one of
5 her strikes on her if they -- and since -- because
6 there is some connection with her and the defendant
7 in this case.

8 MR. FLOYD: Well, Your Honor, I think she
9 truthfully answered the question when you asked her.
10 Only after -- that she discovered the connection.

11 THE COURT: Well, the fact that she brought it
12 up afterwards after she got up and may -- and saw him
13 and realized that it was some family connection,
14 because this is something she brought to the Court's
15 attention through the bailiff, so she must have felt
16 that there was some connection between the two since
17 she brought it up.

18 And it may not have disqualified her from the
19 panel, but certainly if the State had known that, it
20 would have exercised its strike and struck her.
21 Since we do have two alternates at this point, I'm
22 going to probably excuse her and seat one of the
23 alternates.

24 MR. FLOYD: Your Honor, we would ask that the
25 Court would inquire as to whether or not her

1 knowledge of this information or awareness of it --
 2 with that knowledge, could she still give both the
 3 State and the defense a fair trial, and if she so
 4 answers...

5 *THE COURT:* I can ask her that. But even if --
 6 no matter what the answer is, she can be fair or not.
 7 But if she says she still can be fair, the State
 8 still could have had a right to strike her at that
 9 point, and the same had been -- if it had been the
 10 other way around.

11 You know, if one of the jurors said, after I got
 12 up here, I recognized the police officer and somehow
 13 we are connected, I knew him, then I certainly would
 14 give you that same right as well.

15 How about bring in just Mrs. Hillon. Let me
 16 talk to her a minute.

17 (Juror April Hiller entered the courtroom.)

18 *THE COURT:* I was informed over the lunch break
 19 while y'all were excused for lunch that you had
 20 recognized that you had some family connection with
 21 the defendant in this case. Is that correct?

22 *JUROR:* Not me personally.

23 *THE COURT:* But your son?

24 *JUROR:* My children, yeah.

25 *THE COURT:* Your children. Okay. And how are

1 your children related?

2 JUROR: They are first cousins.

3 THE COURT: They are first cousins? Okay. And
4 you didn't think to tell me that when you were in
5 qualifications--

6 JUROR: First of all, I didn't know -- I
7 didn't -- hadn't seen him since he was 10 years old,
8 so I didn't recognize him until y'all mentioned when
9 your opening statements that you mentioned Brandon
10 Harmon.

11 That's when I realized that that was a little
12 kid that was 10 years old that I used to know. So
13 it's not my fault that I didn't know right off the
14 bat.

15 THE COURT: I understand. How is -- is your
16 husband related to his side of the family by marriage
17 or are you related to his side of the family?

18 JUROR: No.

19 THE COURT: You say your children are his first
20 cousin--

21 JUROR: Child, one child.

22 THE COURT: Okay. Your child is his first
23 cousin?

24 JUROR: Right. It's not my husband's child. I
25 had another child before I met him.

1 *THE COURT:* Okay. Okay. Then I know -- you
2 don't feel right sitting on this case is what you're
3 telling me?

4 *JUROR:* Yeah.

5 *THE COURT:* Then I'm going to excuse you, and I
6 appreciate you letting me know that.

7 *JUROR:* And I apologize because, I mean, I
8 didn't know until it started, so I can't tell.

9 *THE COURT:* Okay. Well, I'm going to excuse
10 you. I have two alternates. I'm going to put one in
11 your place.

12 *JUROR:* I appreciate it.

13 *THE COURT:* If you will call back after 6:00
14 tonight with the other jurors, we'll tell you whether
15 we need you.

16 *JUROR:* Okay. Thank you.

17 *THE COURT:* Thank you.

18 (Juror Hiller left the courtroom.)

19 *THE COURT:* All right. Madam Clerk, if you will
20 draw -- hang on. I don't need the rest of them yet.
21 Now it's a draw as to the two alternates as to who
22 gets a seat. It's not in order.

23 *THE CLERK:* I will just have to put them on a
24 piece of paper and--

25 *THE COURT:* However you randomly figure out, put

1 names on two pieces of paper, tear them up, then let
2 them be drawn.

3 *THE CLERK:* Take just a second.

4 (Whereupon there was a pause).

5 *THE CLERK:* It's going to be Mr. Watson, Roger
6 Watson.

7 *THE COURT:* Okay. Is the whole jury panel here
8 now?

9 *BAILIFF:* Yes, sir.

10 *THE COURT:* Anything before I bring the rest of
11 the panel in?

12 *MS. GARRICK:* No, Your Honor.

13 *THE COURT:* Anything from the defense?

14 *MR. FLOYD:* Nothing further, Your Honor.

15 *THE COURT:* Okay. Then Mr. Watson will be the
16 alternate that will take the place of Mrs. Hiller.
17 If you'll bring them in and I'll instruct them -- I
18 will tell them when he gets here.

19 (Jury entered the courtroom at 2:36 pm.)

20 *THE COURT:* Mr. Watson? I had excused one of
21 the regular jurors, so I need you to take the place
22 of the regular juror.

23 *JUROR:* All right.

24 *THE COURT:* Thank you. You may call your next
25 witness.

1 MS. GARRICK: Your Honor, the State calls
2 Brandon Harmon.

3 (Witness entered the courtroom.)

4 BRANDON HARMON, after being duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GARRICK:

8 Q Mr. Harmon, how old are you?

9 A Twenty-one.

10 Q Where did you go to high school?

11 A Dutch Fork.

12 Q And are you from this area?

13 A No, ma'am.

14 Q Where are you from?

15 A Columbia.

16 Q Okay. And where are you living now?

17 A 1529 Willow Creek Lane.

18 Q Okay. And where have you been sleeping at night for
19 the last couple months?

20 A Cousin House.

21 Q Okay. No, I'm talking about where were you last
22 night?

23 A Oh, in jail.

24 Q Okay. And how long have you been in jail?

25 A Twenty-one months.

1 Q Okay. Do you know the defendant, Sammy Harmon?

2 A Yes, ma'am.

3 Q How do you know him?

4 A My brother.

5 Q Okay. Is that your full brother?

6 A Yes, ma'am.

7 Q Same mama?

8 A Yes, ma'am.

9 Q Same daddy?

10 A Yes, ma'am.

11 Q Do you know Scooter Geiger?

12 A Yes, ma'am.

13 Q And how long have you known him?

14 A Three -- about three years.

15 Q And where do you know him from?

16 A Dutch Fork.

17 Q Did you see Scooter July 15th of 2006?

18 A Yes, ma'am.

19 Q Where were you when you saw Scooter?

20 A US Number One Flea Market.

21 Q Okay. And who had you gone to The Number One Flea

22 Market with that day?

23 A George Mack, Sherman--

24 Q I need you to speak up.

25 A George Mack and Sherman Davis.

1 Q Okay. Who had driven y'all there?

2 A George Mack.

3 Q And when you saw Scooter there, what if anything

4 happened?

5 A Can you repeat that?

6 Q When you saw Scooter at the flea market, what if

7 anything happened?

8 A What if anything happened?

9 Q Did anything happen between y'all?

10 A Oh, yes, ma'am. Yes, ma'am.

11 Q Okay. What happened?

12 A Start arguing, little dispute.

13 Q Arguing and what?

14 A A dispute, argument.

15 Q Dispute?

16 A Yes.

17 Q Did you know any of the other people that were with

18 Scooter?

19 A No, ma'am.

20 Q And how did the dispute end?

21 A We left.

22 Q And when you left, what did you do?

23 A We left, we went back Broad River.

24 Q Okay. And what happened when you were on the way

25 back to Broad River?

1 A We went to go drop -- drop off Sherman kid.

2 Q Okay. And why did y'all drop off Sherman's kid?

3 A Because he was like, drop his kid off, told us to

4 drop his kid off.

5 Q And what was the plan after you got rid of Sherman's

6 child?

7 A Go to get Little James.

8 Q Okay. Why were you going to get Little James?

9 A Because we were going to fight and we was going to

10 have evening.

11 Q Okay. And what's Little James' last name?

12 A Keitt.

13 Q And where does he live?

14 A Live on Broad River.

15 Q Okay. And did you talk to anybody else about going

16 for the fight?

17 A Yes, ma'am.

18 Q Who did you talk to?

19 A My brother, Sam.

20 Q I'm sorry?

21 A My brother, Sam.

22 Q Okay. And how did you talk with Sammy about that?

23 A I called him to ask him where Little James was, and

24 he told me he was at home. I told him what had happened

25 at the flea market.

1 Q And what did Sammy tell you?

2 A Said he was on his way.

3 Q Okay. And who was Sammy with, if you know?

4 A Al.

5 Q And who -- what is Al's full name?

6 A Alex Haigler.

7 Q Okay. Do you know what kind of car Alex drives?

8 A Like a tealish -- tealish car.

9 Q Teal car? Okay. When y'all picked up Little James,

10 did you tell Little James y'all were going to fight?

11 A No, ma'am.

12 Q Okay. Did he know that something had happened at The

13 Number One Flea Market?

14 A Yes, ma'am.

15 Q So after you got Little James, and Sammy said he was

16 on the way to you, where did you go next?

17 A Go back to -- went back to the flea market.

18 Q Okay. And which flea market did you go to?

19 A US Number One.

20 Q And did anything happen there at the flea market?

21 A No, ma'am.

22 Q Okay. Did you see Scooter there?

23 A No, ma'am.

24 Q When you left there, where did you go?

25 A Barnyard. Ride past -- going back on 20, ride past

1 Barnyard Flea Market.

2 Q And what happened when you rode past The Barnyard
3 Flea Market?

4 A Seen him coming out.

5 Q Saw who coming out?

6 A Saw Scooter and them coming -- coming out leaving.

7 Q Okay. Was Scooter with the same people he had been
8 with at The Number One?

9 A Yes, ma'am.

10 Q And when you saw them coming out, what did y'all do?

11 A Turned in.

12 Q Okay. And was Al and Sammy in front of you or behind
13 you?

14 A Behind us.

15 Q Okay. Did they turn in, too?

16 A Yes, ma'am.

17 Q And did -- when y'all pulled up, where was Scooter?
18 Was he in his car or out of his car?

19 A Out of his car.

20 Q Okay. And was Scooter parked next to the other
21 people or not?

22 A Yes, ma'am.

23 Q Was he close to them?

24 A Yes, ma'am.

25 Q When y'all pulled up, what did you do?

1 A Jumped out the car, hollered and jumped out the car.
 2 Q Okay. And what if anything was being said?
 3 A What if anything was being said?
 4 Q Uh-huh. Was anything being said?
 5 A Yes, ma'am. Yes, ma'am.
 6 Q Okay. What were you saying?
 7 A Everybody was just riled up talking back and forth,
 8 back and forth arguing.
 9 Q Arguing?
 10 A Yes, ma'am.
 11 Q Okay. And after the arguing -- let me ask you this.
 12 Who had pulled up at The Barnyard first, you and George
 13 Mack's car or Al's car?
 14 A George Mack car.
 15 Q Okay. Did you see any weapon there at The Barnyard?
 16 A Did I seen any weapon there?
 17 Q Uh-huh.
 18 A No, ma'am.
 19 Q Did you see any pistol?
 20 A No, ma'am.
 21 Q Did you know if Little James had a gun?
 22 A No, ma'am. Know he carry one, but I didn't know he
 23 had one.
 24 Q I'm sorry?
 25 A I said I know he carry one with him, but I didn't

1 know he had one. I didn't know for sure.

2 Q But Little James usually has a pistol?

3 A Yes, ma'am.

4 Q Do you know what kind of pistol?

5 A Thirty-eight.

6 Q Okay. And when y'all are out of the cars arguing,
7 what's the next thing that caught your attention?

8 A James picked the gun up.

9 Q Okay. Little James picked the gun up. What kind of
10 gun are you talking about?

11 A AK47.

12 Q And where did he -- where did he get the gun from?

13 A Trunk. Trunk of our car.

14 Q Trunk of what?

15 A Trunk of the Crown Vic we was in.

16 Q Okay. Did you see him pick this up?

17 A Yes, ma'am.

18 Q And what was he doing with the assault rifle?

19 A Flashing.

20 Q After you saw him flashing the gun, what happened
21 next?

22 A Try putting the gun down.

23 Q Okay. And he put it -- was going to put it down?

24 A Yes, ma'am, tried to put the gun down.

25 Q Tried to put the gun down.

1 A Yes, ma'am.

2 Q You need to keep your voice up. Sorry.

3 A Put the gun down.

4 Q Okay. But what happened?

5 A Sam picked the gun up.

6 Q Okay. Where did Sammy come from?

7 A Behind me.

8 Q Did he -- what part of the car did Sammy come

9 towards?

10 A The trunk of the car.

11 Q Okay. And --

12 A Side of the trunk.

13 Q -- did he take possession of this rifle?

14 A Yes, ma'am.

15 Q And what did he do when he got the rifle from Little

16 James?

17 A Start shooting.

18 Q Did you see this?

19 A Yes, ma'am.

20 Q Did he shoot one time or many times?

21 A Numerous.

22 Q And what was he shooting at?

23 A Shooting at the car.

24 Q What kind of car?

25 A A Toyota. I can't remember what kind. It's a Toyota

1 I think.

2 Q Okay. Do you remember what color it was?

3 A A darkish color.

4 Q Okay. And could you tell if he was hitting anybody?

5 A No, ma'am.

6 Q Okay. Could you hear if he was hitting metal?

7 A Yes, I hear -- you could hear it, but I ain't...

8 Q What did you do when he was shooting?

9 A Stunned. Stunned. Jumped in the car. All jumped in

10 the car, left.

11 Q Okay. After he -- after Sammy finished shooting,

12 what did he do with the gun, if you know?

13 A Put the gun back in the trunk, Crown Vic.

14 Q And where did Sammy go after that?

15 A Back in the car with Al.

16 Q And who was in your car when y'all left?

17 A Me, Little James, Sherman, George.

18 Q And who drove away?

19 A George.

20 Q Which way did y'all go when y'all left The Barnyard?

21 A We made a left, then we made a right at the traffic

22 light, first traffic light.

23 Q Did you see what happened to the black or the dark

24 car that got hit with the bullets?

25 A No, ma'am.

1 Q You don't know where it went?

2 A No, ma'am.

3 Q What was the plan when y'all got in the car and

4 turned by the station there?

5 A Get away.

6 Q Did you say anything to your brother at that time?

7 A No, ma'am.

8 Q All right. He wasn't in the car; was he?

9 A No, ma'am.

10 Q All right. When y'all were trying to get away, did

11 you notice anything else unusual that happened?

12 A Yes, ma'am. Somebody was following us.

13 Q Okay. Did you know these people?

14 A No, ma'am.

15 Q And did y'all -- were y'all able to get away from

16 these people?

17 A Yes, ma'am.

18 Q What happened when you were able to lose those

19 people? Where did y'all go?

20 A Made a right, then we turned in by church, by a

21 little church, went down a little dirt road.

22 Q Okay. After you went down the dirt road, what did

23 y'all decide to do?

24 A Get the guns out the car.

25 Q Okay. And who got the guns out of the car?

1 A Little James.

2 Q Okay. Did you go with him to do this?

3 A No, we was in the car. Yes, we was--

4 Q In the car? Okay. And Little James went to the

5 trunk?

6 A Yes, ma'am.

7 Q Did you see where he put the guns?

8 A Bushes.

9 Q Did you see his gun at that time?

10 A No, ma'am.

11 Q Did you ever see Little James pull out his gun there

12 at The Barnyard?

13 A No, ma'am.

14 Q Did you ever see anyone else with a weapon at the

15 Barnyard?

16 A No, ma'am.

17 Q After he put the rifle in the woods, where did y'all

18 go?

19 A Went down a dirt road, jumped out.

20 Q So y'all were still in George Mack's car?

21 A Yes. Yes, ma'am.

22 Q Okay. And when you jumped out of the car, why did

23 y'all leave the car?

24 A Because call my brother, get a ride.

25 Q Okay. Why were you going to leave George Mack's car

1 there?

2 A Because the car was noticed -- noticed.

3 Q Okay. And you say you called Sammy?

4 A Yes, ma'am.

5 Q And what did you ask Sammy to do?

6 A Come get us.

7 Q And what was Sammy's answer?

8 A Said, okay, on his way.

9 Q Okay. Did Sammy come back and pick you up?

10 A Yes, ma'am.

11 Q Who was with him then?

12 A LT and Al.

13 Q And whose car were they in?

14 A Tahoe.

15 Q After they picked you up, what was happening when all

16 of y'all were in that Tahoe together?

17 A We was just riled up.

18 Q What does that mean, you were riled up?

19 A Because they knew who I was, basically knew who I was

20 and already knew, you know, when it was -- this wasn't

21 supposed to happen like that.

22 Q What do you mean it wasn't supposed to happen like

23 that?

24 A Supposed to be a fight.

25 Q Did you have any idea Sammy was going to shoot a

1 assault rifle?

2 A No, ma'am.

3 Q When y'all left in the Tahoe, where did y'all go?

4 A We went back to Apple Valley.

5 Q When did you first learn that somebody had been

6 killed and somebody else was -- was shot up?

7 A Looked -- put it on the news.

8 Q And at that time were y'all all still together?

9 A Yes, ma'am.

10 Q Sammy was still with you?

11 A Yes, ma'am.

12 Q And when you knew that someone had been killed, was

13 there any conversation between you and Sammy about what

14 y'all were going to do, what the plans were for Sammy?

15 A Not at the moment, was to lay low, lay low.

16 Q Lay low?

17 A Yeah.

18 Q Okay. And what happened after that?

19 A Little James got dropped off. Little James and

20 Sherman got dropped off.

21 Q Okay. Do you know what happened to George Mack's

22 car?

23 A He went back to go and get his car.

24 Q Okay. Who took him to go get his car?

25 A LT.

1 Q Okay. After Little James got dropped off and Sherman
2 had gotten dropped off, where did you go?

3 A Repeat that.

4 Q After Sherman and Little James had been taken home,
5 where did you go?

6 A I went to my cousin house.

7 Q Okay. And who was with you then?

8 A Brother.

9 Q Sammy?

10 A Yes, ma'am.

11 Q And at that point what was the plan?

12 A Basically to go.

13 Q To go?

14 A Yes, ma'am.

15 Q Okay. And where did Sammy decide to go?

16 A Went to call with somebody -- called somebody and we
17 went to Orangeburg.

18 Q All right. Who took y'all to Orangeburg?

19 A A girl, girl named Christian.

20 Q And you went to Orangeburg, too?

21 A Yes, ma'am.

22 Q You and who?

23 A Me, Little James and my brother.

24 Q Did your brother take any bags with him to
25 Orangeburg?

1 A One bag.

2 Q And did Little James have any luggage with him?

3 A No, ma'am.

4 Q Why did y'all decide to go to Orangeburg?

5 A Because Little James got a brother in Orangeburg.

6 Q And did you stay with your brother in Orangeburg?

7 A No, ma'am.

8 Q What did you do?

9 A Dropped him off in the parking lot, McDonald's

10 parking lot.

11 Q Okay. And where did Sammy go after that?

12 A I'm not sure. Got a room. I'm not sure.

13 Q And after -- after you dropped Sammy off in

14 Orangeburg, where did you go?

15 A Back to Columbia.

16 Q Okay. And how did you get arrested?

17 A Turned myself in.

18 Q When did you turn yourself in?

19 A The next day.

20 Q At that time when you turned yourself in, did you

21 know then that Sammy had already been arrested?

22 A Yes, ma'am.

23 Q And who else turned themselves in with you?

24 A Sherman.

25 Q When you turned yourself in, did you meet Detective

1 Russell?

2 A Yes, ma'am.

3 Q And at that time did you talk to Detective Russell --
4 Detective Russell about what had happened at The Barnyard?

5 A Yes, ma'am.

6 Q Did you tell him who the shooter was?

7 A Yes, ma'am.

8 Q Who did you tell him the shooter was?

9 A Sammy.

10 Q And you told him this when you were arrested?

11 A Yes, ma'am.

12 Q July 16th of 2006?

13 A Yes, ma'am.

14 Q At that time had you met anyone from the Solicitor's
15 Office?

16 A No, ma'am.

17 Q Did you have any kind of deal --

18 A No, ma'am.

19 Q -- about your charges?

20 A No, ma'am.

21 Q You were arrested for murder; isn't that right?

22 A Yes, ma'am.

23 Q Do you remember when the first time you met me was?

24 A Yes, ma'am.

25 Q When was that?

1 A January, February of this year.

2 Q Of this year?

3 A Yes, ma'am.

4 Q And do you have any kind of deal with my office?

5 A No, ma'am.

6 Q Do you expect to get something for testifying today?

7 A No, ma'am.

8 Q After this is over, have you been promised that you
9 will not go to prison?

10 A No, ma'am.

11 Q Mr. Harmon, you have got a record; is that right?

12 A Yes, ma'am.

13 Q You have two convictions?

14 A One.

15 Q Just one?

16 A Yes, ma'am.

17 Q For possession of a stolen pistol; is that right?

18 A Yes, ma'am.

19 MS. GARRICK: Beg the Court's indulgence one
20 moment.

21 THE COURT: Yes, ma'am.

22 (Whereupon there was a pause.)

23 BY MS. GARRICK:

24 Q The number of people you saw firing the assault
25 rifle, how many people did you see actually shoot the

1 assault rifle on that day?

2 A One person.

3 Q And that was who?

4 A Sam.

5 Q Is that Sammy Harmon over there?

6 A Yes, ma'am.

7 Q If I can show you what's been marked State's 3 for

8 ID, do you recognize this gun?

9 A Yes, ma'am.

10 Q Where do you recognize it from?

11 A James--

12 Q I need you to speak up.

13 A Little James' gun.

14 Q Okay. If I can show you what's been marked State's 4

15 for ID, do you recognize this?

16 A Yes, ma'am.

17 Q What is this?

18 A AK47.

19 Q Is this the gun Sammy had?

20 A Yes, ma'am.

21 Q Is this the gun you saw Sammy shoot?

22 A Yes, ma'am.

23 Q Do you remember what kind of hair George Mack had

24 when he was arrested?

25 A Braid. Braids.

- 1 Q And what kind of hair did you have?
- 2 A Twists, dreds.
- 3 Q Dreds like you have now?
- 4 A Yes, ma'am.
- 5 Q But they were shorter?
- 6 A Yes, ma'am.
- 7 Q Okay. What about Sammy's hair at his time of arrest?
- 8 A Low haircut. Low haircut.
- 9 Q Just to make sure we understand who is who. State's
- 10 1. Brandon, if you can look back here, tell us again who
- 11 exactly was at The Number One Flea Market during the first
- 12 verbal altercation.
- 13 A George, Sherman.
- 14 Q And you?
- 15 A And me.
- 16 Q Okay. Were Alex, Sammy, and James, Little James, at
- 17 The Number One during the first fight with Scooter?
- 18 A No, ma'am.
- 19 Q Please answer Mr. Floyd's questions.

CROSS-EXAMINATION

- 21 BY MR. FLOYD:
- 22 Q Mr. Harmon, you have got more than one conviction on
- 23 your record; don't you?
- 24 A One.
- 25 Q Weren't you convicted of an unlawful carrying of a

1 weapon on March 15th of 2005?

2 A Yes, sir.

3 Q Weren't you also on that same day convicted of
4 possession of a -- I mean of a sale or possession of a
5 stolen weapon?

6 A Yes, sir.

7 Q That's two charges there; isn't it?

8 A Yes, sir.

9 Q Also on March 15th of 2005 weren't you convicted of
10 assault of a high and aggravated nature?

11 A Yes, sir.

12 Q So it's more than one charge in all that; isn't it?

13 A Went to court for that all at one time.

14 Q There were three or four different charges at that
15 time; weren't there?

16 A Okay.

17 Q Now, when you turned yourself in and spoke with
18 Detective Russell, weren't you told that things would go
19 better for you if you cooperated?

20 A No, sir.

21 Q You didn't think it would help you at all to go turn
22 yourself in?

23 A I knew it would help me, but...

24 Q Well, you wouldn't have turned yourself in if you
25 didn't think it would help; would you?

1 A I'm saying my mom told me...

2 COURT REPORTER: I'm sorry?

3 THE WITNESS: My mom told me turn myself in.

4 BY MR. FLOYD:

5 Q And you thought that would help you; didn't you?

6 A Yes, sir.

7 Q And in fact, you have been promised something;
8 haven't you?

9 A No, sir.

10 Q Have you been told that you will not be charged with
11 murder?

12 A That's it, but that's not what I'm going to get. I
13 don't know what I'm going to get, but I know I'm not going
14 to be charged with murder.

15 Q But you have been told that the murder charge would
16 be dropped; is that correct?

17 A Yes, sir.

18 Q Have you been told what you are going to be allowed
19 to be charged with --

20 A No, sir.

21 Q -- to plead to?

22 A No, sir.

23 Q Have you been told you'll get the same deal the other
24 guys are going to get?

25 A No, sir.

1 Q So you're saying all you know is you won't be charged
2 with murder?

3 A Yes, sir.

4 Q Now, do you know what the punishment for murder is?

5 A Yes, sir.

6 Q What is it?

7 A Thirty, 30, life.

8 Q And that's day for day 30; isn't it?

9 A Yes, sir.

10 Q So anything else you get you will be able to get good
11 time for; won't you?

12 A Yes, sir.

13 Q So whatever time you get, you might have to do half
14 of it?

15 A Yes, sir.

16 Q So that's a pretty good promise; isn't it?

17 A Repeat that.

18 Q That's a pretty good promise; isn't it?

19 A Not a -- yes. Yes, sir.

20 Q Now, Mr. Harmon, who put the AK47 in the trunk of the
21 burgundy Crown Victoria?

22 A I did.

23 Q Sammy Harmon didn't put it in there; did he?

24 A No, sir.

25 Q When was it put in there?

1 A Day before.

2 Q So that whole day you knew y'all were riding around
3 with a Crown Victoria; didn't you?

4 A Sir?

5 Q The whole day you knew when you were riding around in
6 the Crown Victoria with an AK47 in the trunk?

7 A It didn't get put in. It got put in late, late --
8 late at night, not the whole day.

9 Q Late. But the day you went to the flea market --

10 A Yes, sir.

11 Q -- you knew that the Crown Victoria had an AK47?

12 A Yes, sir. Yes, sir.

13 Q Is that correct? George Mack knew that, too; didn't
14 he?

15 A Yes, sir.

16 Q Sherman Davis knew that, too; didn't he?

17 A Yes, sir.

18 Q And when you had this confrontation with Scooter, you
19 called Sammy Harmon, your brother, and what you called him
20 for was to ask him where Little James was.

21 A Yes, sir.

22 Q Because you wanted Little James because you knew
23 Little James carried a pistol in his pocket; didn't you?

24 A No, sir. I knew he carried a pistol, but that wasn't
25 why I wanted him.

1 Q Why did you want him then?

2 A So we can have even people so we was going to fight.

3 Q So when he got in the car, did you say, Little James,
4 if you got that pistol in your pocket, go put it back in
5 the house?

6 A No, sir.

7 Q In fact, where did he put the pistol?

8 A Sir?

9 Q Did he put the pistol in the trunk or did he have it
10 in his pocket?

11 A I'm not sure. I'm not sure. I didn't know he had a
12 pistol on him.

13 Q You never saw the pistol that day?

14 A I seen it, I -- I seen it, but I didn't see it on him
15 then.

16 Q All right. When you saw the pistol, where was it?

17 A Sir?

18 Q Where was the pistol when you saw it?

19 A It was taking it out the car after the incident
20 happened.

21 Q And where was it in the car?

22 A It was on him.

23 Q On him. Now, there's no question but the people
24 riding in the Crown Victoria was you, George Mack, Sherman
25 Davis, and Little James.

1 A Yes, sir.

2 Q Is that correct? Sammy Harmon wasn't in the Crown
3 Victoria; was he?

4 A No, sir.

5 Q Sammy Harmon only came to the scene after you called
6 him; is that correct?

7 A Yes, sir.

8 Q And he came there with Al Haigler?

9 A Yes, sir.

10 Q In the teal car?

11 A Yes, sir.

12 Q Wasn't any guns in that teal car; were they?

13 A No, sir.

14 Q Now, when y'all got to The Barnyard Flea Market, who
15 opened the trunk of the car?

16 A George Mack.

17 Q Why did he open the trunk of the car?

18 A Because Little James told him to open the trunk.

19 Q Why did you think the trunk was being opened?

20 A I wasn't -- I wasn't asking about the trunk. I
21 thought we was supposed to fight.

22 Q What was in the trunk?

23 A The gun.

24 Q Do you know of any reason to open the trunk other
25 than to get the gun?

1 A No, sir.

2 Q So when you heard George -- Little James tell George
3 Mack to open the trunk of the car, you knew then that guns
4 were about to come into play.

5 A No, sir.

6 Q You didn't?

7 A No, sir.

8 Q Well, why do you think they opened the trunk?

9 A Saying if something would happen, instead of
10 something would have happen, it would have happened at the
11 first flea market because the gun was in the trunk at the
12 first flea market, something then would have happened.

13 Q So why did he open the trunk in the second flea
14 market?

15 A James flashed a gun trying to make them scared, flash
16 the gun, put the gun back down.

17 Q All right. Let's go to The Barnyard Flea Market.
18 The trunk gets opened. Where are you when the trunk is
19 opened?

20 A I'm on the side of the car.

21 Q Which side?

22 A The front of the car, like the side -- side of the
23 car from the car side--

24 Q And where is that car in relation to Scooter and his
25 people?

1 A Right -- like right beside, like down, down from
2 them.

3 Q How far were the four of you from Scooter's people?
4 A Not far.

5 Q Over 10 feet?
6 A Maybe eight, 10. I don't know exactly. Maybe, but
7 we wasn't far.

8 Q As far as I am from you?
9 A Little -- maybe a little -- little further. Right
10 there.

11 Q About this far?
12 A Yeah.

13 Q Was there anything between the four of you and
14 Scooter's people?
15 A Was there anything between us?

16 Q Anything between the four of you and Scooter's
17 people?
18 A No, sir.

19 Q Now, Little James pulls the gun out. Does he point
20 it to them?
21 A No, he just held the gun up like that.

22 Q Held the gun up?
23 A Yes.

24 Q And then what did he do after he held the gun up?
25 A Try to put -- put the gun down.

1 Q Did he turn around and put it back in the trunk?

2 A Yes, sir.

3 Q And what happened then?

4 A Sammy picked the gun up.

5 Q Now, before that, where was Sam?

6 A Where was Sam? He was outside. He was outside the

7 car.

8 Q Behind--

9 A Everybody was outside the car.

10 Q Behind?

11 A Yeah, he was behind me.

12 Q Behind you?

13 A Behind me.

14 Q So your testimony is he just comes up from behind you

15 and takes the gun --

16 A Yes, sir.

17 Q -- and starts shooting?

18 A Yes, sir.

19 Q Well now, Sam hasn't had anything to do with the

20 dispute between you and Scooter; had he?

21 A No, sir.

22 Q And when y'all got to The Barnyard Flea Market, there

23 was another dispute, verbal dispute, going on between the

24 four of you and Scooter's people. Isn't that true?

25 A Just yelling. Just yelling.

1 Q Yeah. And Sam wasn't there in that dispute; was he?

2 A No, sir.

3 Q So your testimony is Sam, who had nothing to do with

4 the dispute at either The Number One market or The

5 Barnyard Flea Market, just all of a sudden takes those for

6 himself to go take the gun out of Little James' hand and

7 starts shooting?

8 A Yes, sir.

9 Q That's what happened?

10 A Yes, sir.

11 Q Now, then where was the gun placed?

12 A Back in our car.

13 Q Back in your car?

14 A The trunk.

15 Q Now, if you didn't have anything to do with it, why

16 did y'all leave then?

17 A If I didn't have anything to do with it?

18 Q You didn't have anything to do with the shooting, why

19 did you leave?

20 A Because they knew who I -- they knew who we -- they

21 knew who I was. They knew who I was. Plus I didn't know

22 it was going to be a shooting, so we left.

23 Q Okay. And Sammy didn't leave in your car; did he?

24 A No, sir.

25 Q The gun left in your car; didn't it?

1 A Yes, sir.

2 Q Little James' gun left in your car; didn't it?

3 A Yes, sir.

4 Q Sam wasn't there when y'all hid the guns; was he?

5 A No, sir.

6 MR. FLOYD: No further questions, Your Honor.

7 THE COURT: Anything further from the State?

8 MS. GARRICK: Nothing else, Your Honor.

9 THE COURT: Okay. Thank you, sir. You can step
10 down.

11 (Witness left the stand.)

12 MS. GARRICK: The State calls Alex Haigler.

13 THE COURT: Okay.

14 (Witness entered the courtroom.)

15 ALEX HAIGLER, after being duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. GARRICK:

19 Q Mr. Haigler, how old are you?

20 A Twenty-seven.

21 Q Where did you go to high school?

22 A Lower Richland.

23 Q You from Columbia?

24 A Yes, ma'am.

25 Q Do you know Sammy Harmon, the defendant?

1 A Yes, ma'am.

2 Q How long have you known him?

3 A Ten month.

4 Q Where are you living now?

5 A In Lexington County Detention Center.

6 Q And how long have you been in jail?

7 A Since July 17th', 06.

8 Q Were you at The Barnyard Flea Market on July 15th of

9 2006?

10 A Yes, ma'am.

11 Q Were you involved with a shooting at The Barnyard

12 Flea Market?

13 A Yes, ma'am.

14 Q And were you arrested for murder --

15 A Yes, ma'am.

16 Q -- from that shooting?

17 A Yes, ma'am.

18 Q After you were arrested, did you meet the detective

19 from the sheriff's department?

20 A Yes, ma'am.

21 Q Do you remember who the detective was?

22 A Yes, ma'am.

23 Q Who was it?

24 A Russell.

25 Q And at the time of your arrest, did you give

1 Detective Russell a statement about what had happened at
2 The Barnyard?

3 A Yes, ma'am.

4 Q Did you tell him who the shooter was?

5 A Yes, ma'am.

6 Q Who did you tell him the shooter was?

7 A Sammy Harmon.

8 Q And when did you give this statement to Detective
9 Russell?

10 A On the 17th -- on July 17th, '06.

11 Q Can you tell us, how did you come from Columbia to
12 Lexington that day? What brought you to Lexington on
13 July 15th of 2006?

14 A Brandon Harmon had called his brother, Sammy Harmon,
15 and told him that he had some problems at the flea market.

16 Q And were you with Sammy when he got the call from
17 Brandon?

18 A Yes, ma'am.

19 Q Where were y'all?

20 A We was at the barber shop.

21 Q And after Sammy had this conversation with his
22 brother, what was the plan?

23 A Nothing. He asked me to take him up there.

24 Q Okay. And what kind of car did you drive?

25 A I drove a teal green Chevrolet Cavalier.

1 Q And what did you know -- I mean, why were you
2 bringing Sammy to Lexington?

3 A Back his brother up. I just thought they was going
4 to fight.

5 Q Okay. And when y'all got to The Number One, did you
6 see Brandon and George Mack and all those others?

7 A No, ma'am, not till later on. They came after we
8 did.

9 Q I'm sorry?

10 A I said not till later on. They came after we got
11 there.

12 Q Okay. And did anything else happen at The Number One
13 Flea Market at that time?

14 A No, ma'am. They just asked me to follow them to The
15 Barnyard Flea Market.

16 Q Okay. And did you follow them to The Barnyard Flea
17 Market?

18 A Yes, ma'am.

19 Q And what happened at The Barnyard Flea Market?

20 A At The Barnyard Flea Market they pulled up with a
21 Crown Vic -- George Mack Crown Vic pulled up first. Then
22 we pulled up second. They were jumping out the car. They
23 was arguing.

24 Q Okay. Who were they arguing with? Did you know
25 those people?

1 A No, ma'am.

2 Q Did you know how many people they were arguing with?

3 A I say approximately five.

4 Q Do you know how many cars the people they were

5 arguing with were in?

6 A Two.

7 Q Okay. Were you involved in the argument?

8 A No, ma'am.

9 Q Did you get out of your car?

10 A Yes, ma'am.

11 Q And when you got out of your car, what was everyone

12 doing?

13 A They was just arguing back and forth.

14 Q Was Brandon out of the car?

15 A Yeah, he had already -- he already got out.

16 Q Was Sherman out of the car?

17 A Yes, ma'am.

18 Q Was Little James out of the car?

19 A Yes, ma'am.

20 Q Was George out of the car?

21 A Yes, ma'am.

22 Q What about Sammy?

23 A Yes, ma'am. He had got out my car, ran down towards

24 that way.

25 Q Okay. What did you see -- or let me back up. Did

1 you see anyone with a weapon at that time?

2 A No, ma'am, not -- not before I pulled up, no, ma'am.

3 Q Okay. Soon as you pulled up, did you see anyone with
4 a weapon?

5 A Yes. George Mack got out the car and went to the
6 back of the trunk and pulled the gun out the car.

7 Q Okay. Had -- what kind of gun did you see him pull
8 out?

9 A It was an old army gun.

10 Q Okay. If I can show you State's 4 for ID. Do you
11 recognize this?

12 A Yes, ma'am.

13 Q Where do you recognize this from?

14 A From the shooting.

15 Q Okay. Is that the gun you saw George Mack holding?

16 A Yes, ma'am.

17 Q Did George Mack fire that gun?

18 A No, ma'am.

19 Q What happened after George Mack held up that gun?

20 A James Keitt took it from him.

21 Q And was this going on in front of the Crown Vic or
22 behind the Crown Vic?

23 A Like to the tail end of it.

24 Q At the trunk?

25 A Yes, ma'am.

1 Q And when Little James took the gun from George Mack,
2 what did he do with it?

3 A He just held the gun.

4 Q Okay. And what did you see next?

5 A Sam -- Sammy Harmon got my car, ran down and took it
6 from him.

7 Q Took it from his hand?

8 A Yes, ma'am.

9 Q Had you seen Little James with a pistol?

10 A No, ma'am.

11 Q Did you see any other weapons there that day?

12 A No, ma'am.

13 Q When Sammy started shooting, did he shoot one time or
14 many times?

15 A Many times.

16 Q And what was he shooting at?

17 A At -- I think it was a Camry.

18 Q Was it light colored?

19 A It was--

20 Q I'm sorry?

21 A It was a Camry car, about a greenish color, forest
22 green, dark colored car.

23 Q Dark color?

24 A Yes, ma'am.

25 Q Did you see if he was hitting anybody?

1 A No, ma'am.

2 Q Could you hear if the bullets were hitting anything?

3 A Yes, ma'am.

4 Q What did they sound like?

5 A I really can't acknowledge that -- how it sound, but
6 I just heard something hit metal.

7 Q Okay. What did you do when Sammy started shooting?

8 A I was stunned. I couldn't move.

9 Q Did you know Sammy was going to shoot anyone?

10 A No, ma'am.

11 Q After Sammy shot the gun, what did you see him do
12 next?

13 A Well, I was getting in my car about to pull off.
14 They had put the gun in the trunk.

15 Q Did you see Sammy put the gun in the trunk?

16 A No, ma'am.

17 Q Okay. And where -- when did you see Sammy again?

18 A When he got into my car, left from The Barnyard Flea
19 Market.

20 Q When he got into your car, did he have that assault
21 rifle with him?

22 A No, ma'am.

23 Q And when y'all took off from The Barnyard Flea
24 Market, which way did you go?

25 A We took a right hand turn from the flea market.

1 Q And what were you -- at that point? What were you
2 planning on doing?

3 A Getting out of there.

4 Q Did you say anything to Sammy when he got in your
5 car?

6 A Only thing I asked him, what was going on.

7 Q And what was his answer?

8 A Nothing.

9 Q And what was your state of mind at that point?

10 A I mean, I was scared. I ain't know what was going
11 on.

12 Q When you left there, where did you and Sammy go?

13 A To Apple Valley.

14 Q And when you got to Apple Valley, did y'all stay
15 there?

16 A For a little while until his brother called and asked
17 him to come get us.

18 Q Brother called who?

19 A Called Sam Harmon.

20 Q Okay. And who is his brother?

21 A Brandon Harmon.

22 Q Y'all call him B?

23 A Yes, ma'am.

24 Q So B called Sammy to come. And what did Sammy say?

25 A He asked my -- he has other friend, LT, to take him

1 up there, said he wouldn't let his brother go down for
2 something that he did.

3 Q And after he told -- did you hear him say that to LT?

4 A Yes, ma'am.

5 Q Did you ride with him?

6 A Yes, ma'am.

7 Q Why did you ride with him to go back -- to come back
8 here to Lexington?

9 A Because I was more familiar with that area than
10 anybody else.

11 Q And where did y'all go?

12 A Over Caughman Meat Market. It's a garbage place over
13 there right beside construction place.

14 Q And who did y'all pick up?

15 A We picked up Brandon Harmon, George Mack, James
16 Keitt, and Sherman Davis.

17 Q And when they got into the Tahoe, did they have any
18 weapons with them?

19 A No, ma'am.

20 Q Do you know what had happened to the assault rifle?

21 A No, ma'am.

22 Q Did you know Little James carried a pistol?

23 A I knew of it, yes, ma'am.

24 Q Had you seen his pistol that day?

25 A No, ma'am.

1 Q When y'all left Lexington County and y'all were all
2 in the Tahoe, what if anything was being said in the
3 Tahoe?

4 A Nothing. Brandon Harmon just asked his brother why
5 he did it.

6 Q And what was Sammy's answer?

7 A Nothing.

8 Q No answer?

9 A No, ma'am.

10 Q When y'all left Lexington County, where did y'all go?

11 A Went back to Apple Valley.

12 Q And do you know what happened to George Mack's car?

13 A No, ma'am. He left it there.

14 Q And did you see George Mack any more that evening?

15 A Well, the last time I seen him when he came back and
16 they took him to go get his car. That was it.

17 Q Who took him to go get his car back?

18 A LT.

19 Q When y'all were at Apple Valley, what did you find
20 out about the shooting at The Barnyard?

21 A That somebody had got killed.

22 Q And at that point what was being said? What was
23 Sammy Harmon saying?

24 A Trying to figure out what everybody was going to do.

25 Q And what was the plan?

1 A Just to leave.

2 Q I'm sorry?

3 A To leave.

4 Q To leave? For Sammy to leave or what?

5 A Yeah, Sammy to leave.

6 Q And where did Sammy go? Do you know?

7 A No, ma'am.

8 Q When is the last time you saw Sammy that evening?

9 A About -- that was the last time I seen him when they

10 left Apple Valley.

11 Q Okay. When he left Apple Valley, who was with him?

12 A Him, Brandon Harmon, and James Keitt.

13 Q When did you get arrested?

14 A I got arrested on 17th, July 17th, too.

15 Q That would have been on what day? Do you remember?

16 A On a Monday.

17 Q And when you were arrested, did you meet the

18 detective on the case?

19 A Yes, ma'am.

20 Q And who was the detective?

21 A Detective Russell.

22 Q And did you talk to him, what had happened at The

23 Barnyard?

24 A Yes, ma'am.

25 Q Did you tell him who the shooter was?

1 A Yes, ma'am.

2 Q Who did you tell him the shooter was?

3 A Sam Harmon.

4 Q And did Detective Russell promise you anything or say

5 he was going to help you with your charges?

6 A No, ma'am.

7 Q And have you made any deal with the Solicitor's

8 Office?

9 A No, ma'am.

10 Q When is the first time you met with me?

11 A In January of '08.

12 Q And you have a conviction for aggravated assault and

13 battery; is that right?

14 A Yes, ma'am.

15 Q And possession of crack cocaine?

16 A Yes, ma'am.

17 Q If I can show you -- do you remember what everybody's

18 hair looked like --

19 A Yes, ma'am.

20 Q -- in 2006?

21 A Uh-huh.

22 Q State's 1. Is this a good description of what

23 everyone looked like in July of '06?

24 A Yes, ma'am.

25 Q Did Brandon have those twists?

1 A Yes, ma'am.

2 Q Did George Mack have those braids?

3 A Yes, ma'am.

4 Q Did Sammy Harmon have short hair?

5 A Yes, ma'am.

6 Q And all six of you were at The Barnyard?

7 A Yes, ma'am.

8 Q You had not heard anything -- you had not been

9 involved in a verbal confrontation with those other

10 people; had you?

11 A No, ma'am.

12 Q And State's 2. Do you recognize this car?

13 A Yes, ma'am.

14 Q Whose car is that?

15 A That's George Mack's car.

16 Q And you see how we have got where everybody was

17 riding? Is this right? Driver of the burgundy was George

18 Mack?

19 A Yes, ma'am.

20 Q The front seat passenger was Brandon?

21 A Yes, ma'am.

22 Q Back left was Little James?

23 A Yes, ma'am.

24 Q Back right was Sherman?

25 A Yes, ma'am.

1 Q And then you drove your car?

2 A Yes, ma'am.

3 Q Please answer Mr. Floyd's questions.

4 THE COURT: Mr. Floyd?

5 CROSS-EXAMINATION

6 BY MR. FLOYD:

7 Q Mr. Haigler, when you spoke with the detective, you
8 thought that would help your case; did you not?

9 A Yes, ma'am. I mean yes, sir. Sorry.

10 Q And did you tell him the whole truth?

11 A No, sir.

12 Q You told him your kids were with you; didn't you?

13 A Yes, sir.

14 Q You told him when the shooting started, you jumped in
15 the car and covered up your kids being a brave man, brave
16 daddy?

17 A Yes, sir.

18 Q But your kids weren't with you; were they?

19 A No, sir.

20 Q You lied to him.

21 A Uh-huh. Yes, sir.

22 Q And haven't you been promised some type of a
23 arrangement?

24 A No, sir.

25 Q Have you been told that you will not have to face

1 murder charges?

2 A Yes, sir.

3 Q Have you told -- been told what the charges would be
4 that you'll have to plead to?

5 A No, sir.

6 Q Ever heard the term accessory after the fact of
7 murder?

8 A No, sir.

9 Q You never heard that term? You've just been told
10 that you won't have to face murder? Is that what you are
11 telling us?

12 A Yes, sir.

13 Q What do the murder charges mean to you?

14 A Excuse me?

15 Q What do you face in a murder charge?

16 A What it means to me?

17 Q What do you face with murder charges, if you got
18 convicted of murder charges?

19 A Thirty years in the penitentiary or better or more.

20 Q So 30 years day-for-day; right?

21 A I believe so. I ain't never had -- I never face the
22 charge. I just--

23 Q Pine box life; right?

24 A Uh-huh.

25 Q But you don't have to face that; do you?

- 1 A No, sir.
- 2 Q Now, when you arrived at The Barnyard Flea Market,
- 3 were the other four men in the Crown Vic, were they
- 4 already out of their vehicle?
- 5 A Yes. Yes, sir.
- 6 Q Were they engaged in a verbal altercation, a verbal
- 7 dispute I guess would be a better term?
- 8 A Yes, sir.
- 9 Q Verbal dispute with the other gentlemen?
- 10 A Yes, sir.
- 11 Q And do you know how long that had been going on?
- 12 A A few seconds.
- 13 Q Now, Sammy Harmon wasn't involved in that verbal
- 14 dispute; was he?
- 15 A No, he wasn't.
- 16 Q That was the four men in the -- that was George Mack,
- 17 Brandon Harmon, Little James Keitt, and Sherman Davis?
- 18 A Yes, it was.
- 19 Q Was the trunk open on the Crown Vic when you got
- 20 there?
- 21 A When I pulled up.
- 22 Q Was it open or did you see it open?
- 23 A I didn't see it open. I knew it was open because
- 24 they pull the gun out.
- 25 Q And who pulled the gun out?

1 A George Mack.

2 Q Sammy Harmon didn't pull the gun out; did he?

3 A No, he didn't.

4 Q And then what happened to the gun after George Mack

5 took it out?

6 A Little James took it.

7 Q And George Mack took the gun out, did he point it in

8 the direction of the -- Scooter and his people?

9 A No, he didn't.

10 Q Did he hold it up?

11 A Yes, he did.

12 Q Flashed it I guess you call it?

13 A Yes, sir.

14 Q So he flashed it. Did he hand it to little James or

15 did Little James take it out of his hand?

16 A Little James took it out of his hand.

17 Q What did Little James do with it?

18 A He flashed it, too.

19 Q He flashed it, too?

20 A Yes, sir.

21 Q Then did Little James put it back in the trunk?

22 A No, sir.

23 Q What happened then? You saying Sammy came and got it

24 then?

25 A Yes, sir.

1 Q But now, how far away was Sammy when George took it
2 out of the trunk?

3 A I can't tell you how many parking spaces, but like
4 five or six parking spaces up.

5 Q As far away as I am from you?

6 A Little...

7 Q Closer or further?

8 A Little farther back.

9 Q This far or further?

10 A Further back.

11 Q How much further would you say, to the -- past the
12 people?

13 A Yes, sir.

14 Q Past them?

15 A Uh-huh.

16 Q How many -- how many pews past them?

17 A Can't see the pews, but right -- right there at that
18 next thing on the wall right there.

19 Q Oh, the next column up there?

20 A Yeah, right at the column.

21 Q So Sam was from you to there when George took the gun
22 out?

23 A Yes, sir.

24 Q And you're claiming that he went from there to you
25 without saying anything to Scooter and those people, took

1 the gun out and started shooting?

2 A He took it from hand.

3 Q Took it from Little James.

4 A Yeah, took it from Little James' hand.

5 Q And started shooting?

6 A Yes, sir.

7 Q Okay. Once the shooting was over, did you go get in

8 your car?

9 A Yes, sir. I was standing in my doorway of the car

10 right then.

11 Q How far -- so did you see -- did Sammy come back and

12 get in your car?

13 A Yes, he did.

14 Q Did you tell him he couldn't get in your car because

15 he just shot that gun?

16 A No, I didn't.

17 Q And so you left the scene with him?

18 A Yes, I did.

19 Q Now, there were no guns in your car; were there?

20 A No, there was no guns in my car.

21 Q Sammy didn't bring a gun with him; did he?

22 A No, he didn't.

23 Q And you never saw Little James' gun?

24 A No, I didn't. No, sir.

25 Q Was your vehicle parked in a parking place just like

1 George Mack's vehicle was?

2 A No, it wasn't. No, it wasn't, sir.

3 Q Can you explain to the jury the differences in the
4 way they were parked?

5 A Well, they was in parking spaces. I was parked like
6 in the drive -- the way they drive in and out. They pull
7 through and come around the flea market. I was in that
8 area.

9 Q Okay. If we can somehow visualize it -- was George
10 Mack's vehicle, was it in a parking space?

11 A George Mack vehicle was. Yes, it was.

12 Q Okay. Was it in a parking space that was
13 perpendicular -- you know what I mean by that?

14 A Yes.

15 Q Straight in and out.

16 A Uh-huh.

17 Q Was it in a place like that?

18 A If you go -- wanted to go straight through, you could
19 pull straight through with it. It wasn't one that you
20 could stop in, but it was in perpendiculars (sic).

21 Q Okay. Now, were you in a parking space?

22 A No, sir.

23 Q Were you just parked like on the parking lot
24 somewhere?

25 A Yeah. I was parked in the parking lot somewhere.

1 Q Okay. So if James is -- if George's car is parked
2 like this angle, okay?

3 A Uh-huh.

4 Q Like the picture is.

5 A Okay.

6 Q Would that be correct?

7 A Yeah.

8 Q Except it was -- wasn't something you could drive
9 through rather--

10 A Yeah, it was one that you could drive through instead
11 of one that stops -- stops you from going through.

12 Q Got ya. All right. Were you -- would you have been
13 parked -- assume this is his car like this; okay?

14 A Uh-huh.

15 Q All right. So this is his car?

16 A Okay.

17 Q Now, would your car have been parked the same
18 direction?

19 A It been the same direction but on the other side.

20 Q You talking about on this side of him?

21 A Uh-huh.

22 Q But it would have been -- now we are your car,
23 okay -- like that also?

24 A Uh-huh.

25 Q Were there cars between y'all?

1 A No, it wasn't. It was just one little trailer there,
2 like a trailer that you hitch on the back of a car, that's
3 it.

4 Q And was it about the same distance to the column
5 there like you just told us?

6 A Yes, sir.

7 Q Did they have their back to you?

8 A Yes, sir.

9 Q So you saw the four of them and they were about, you
10 know, that distance away.

11 A Uh-huh.

12 Q And they all had their back to you?

13 A Yes, sir.

14 Q And the trunk was open?

15 A Uh-huh. Yes, sir.

16 Q And was George and Little James, were they behind
17 George's car?

18 A Yes, right at the tail back of it.

19 Q So the car would have been between you and them and
20 the trunk would have been open; is that correct?

21 A Say again.

22 Q The car would have been between you.

23 A Yes.

24 Q Was the car between you?

25 A His car -- excuse me. His car -- I'm in the -- where

1 I'm at, I'm in like the driveway. Their car sitting like
2 this. They was at the back of the car. It was nothing in
3 between where I can -- I can still see them from where I
4 was.

5 Q Okay. And all -- were all four of them at the back
6 of the car?

7 A No, sir.

8 Q Who was at the back of the car?

9 A It was just James Keitt and there was George Mack.

10 Q And you saw him reach -- you saw George reach in and
11 get the weapon?

12 A Yes, sir.

13 Q And you saw James get the weapon.

14 A Yes, sir.

15 Q No further questions.

16 THE COURT: Anything further from the State?

17 MS. GARRICK: Beg the Court's indulgence.

18 (Ms. Garrick was conferring with Mr. Myers.)

19 REDIRECT EXAMINATION

20 BY MS. GARRICK:

21 Q When Little James had the gun, who took the gun from
22 him?

23 A Sam Harmon.

24 Q Who is the last person you saw with the gun?

25 A Sammy Harmon.

1 Q Who is the person you saw shoot the gun?

2 A Sammy Harmon.

3 Q Sammy Harmon here in the courtroom?

4 A Yes, he is.

5 Q Where is he?

6 A Right there.

7 Q This defendant?

8 A Uh-huh.

9 MS. GARRICK: Nothing else, Your Honor.

10 THE COURT: Thank you. You can step down.

11 (Witness left the stand.)

12 MS. GARRICK: Your Honor, may we approach?

13 THE COURT: Yes, ma'am.

14 (Whereupon a bench conference was held.)

15 THE COURT: Ladies and gentlemen, we are going

16 to need a few minutes to get the next witness here.

17 So I promised you a break about every hour and a

18 half, so we are going to take about a 15 minute

19 break. As soon as we get the witness stable, I will

20 bring you back out.

21 I remind you you can't discuss the case yet.

22 You can talk about fishing or hunting or football or

23 anything else, but you can't talk about this case.

24 I'll get you back out as quick as I can.

25 (Jury left the courtroom at 3:30 pm.)

1 (Whereupon there was a brief recess.)

2 (Jury entered the courtroom at 3:46 pm.)

3 THE COURT: Thank you, ladies and gentlemen.

4 Madam Solicitor, you may call your next witness.

5 MS. GARRICK: Thank you, Your Honor. We would
6 call James Keitt.

7 (Witness entered the courtroom.)

8 JAMES KEITT, after being duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. GARRICK:

12 Q Sir, could you spell your name?

13 A James Keitt, last name is K-E-I-T-T.

14 Q And Mr. Keitt, how old are you?

15 A Nineteen.

16 Q And where are you from?

17 A Columbia.

18 Q Where did you go to high school?

19 A Columbia High School.

20 Q And how far did you go in school?

21 A To my senior year.

22 Q And where are you living now?

23 A Off Piney Grove Road.

24 Q Okay. Where did you sleep last night?

25 A Lexington County.

- 1 Q And how long have you been in the jail?
- 2 A About 21 months.
- 3 Q Okay. Do you remember when you were arrested?
- 4 A Yes, ma'am.
- 5 Q What date?
- 6 A July 16th, 2006.
- 7 Q Do you know Sammy Harmon?
- 8 A Yes, ma'am.
- 9 Q How long have you known Sammy?
- 10 A About two years, three years.
- 11 Q Two or three years before this happened?
- 12 A No.
- 13 Q Two years before this happened?
- 14 A (Nodded.)
- 15 Q Sorry?
- 16 A Yes, ma'am.
- 17 Q Okay. So three years total?
- 18 A Yes, ma'am.
- 19 Q Were you at The Barnyard on July 15th of 2006?
- 20 A Yes, ma'am.
- 21 Q Were you involved in a shooting that day at the
- 22 Barnyard?
- 23 A Yes, ma'am.
- 24 Q Were you arrested for murder as a result of that
- 25 shooting?

1 A Yes, ma'am.

2 Q After you were arrested, did you meet Detective
3 Russell?

4 A Yes, ma'am.

5 Q And did you give him a statement?

6 A Yes, ma'am.

7 Q Did you tell him what had happened at The Barnyard?

8 A Yes, ma'am.

9 Q Did you tell him who the shooter was?

10 A Yes, ma'am.

11 Q Who did you tell him the shooter was?

12 A Sammy.

13 Q Sammy Harmon?

14 A Yes, ma'am.

15 Q And when did you tell Detective Russell this?

16 A July 16th, 2006.

17 Q Okay. Did Detective Russell promise you he would
18 help you with your charges if you gave him a statement?

19 A No, ma'am.

20 Q And when was the first time you met me?

21 A About two weeks.

22 Q Two weeks ago?

23 A Yes, ma'am.

24 Q Can you tell us how did you happen to go to The
25 Barnyard Flea Market July 15th of 2006?

1 A When I was at my house, I was asleep, and my sister
2 came to me, she -- she asked me -- she told me that
3 somebody had called me on the phone. It was Brandon. And
4 when I answered the phone, he was like, come me to the
5 flea market. I was like, all right, come pick me up.

6 Q So did Brandon come pick you up?

7 A George was driving.

8 Q Okay. George was driving his car?

9 A Yes, ma'am.

10 Q Do you know what kind of car it was?

11 A A burgundy Crown Victoria.

12 Q And who else was with George and Brandon?

13 A Sherman.

14 Q Okay. And when they picked you up, what did you
15 think y'all were going to go do?

16 A Fight at the flea market.

17 Q And why did you think you were going to go fight at
18 the flea market?

19 A Because Brandon said he had some problems with
20 somebody.

21 Q Did you know the people that Brandon said he was
22 having problems with?

23 A No, ma'am.

24 Q So when you got in the car and you left your house,
25 did you take a weapon with you?

1 A Yes, ma'am.

2 Q What kind of weapon did you have?

3 A A 38 Special.

4 Q And did you always carry a pistol, Mr. Keitt?

5 A Yes, ma'am.

6 Q And does this gun work?

7 A No, ma'am.

8 Q When y'all get in the car and head to The US Number
9 One Flea Market, did you see anybody else you knew at The
10 US Number One Flea Market?

11 A US Number One?

12 Q Yeah.

13 A No, ma'am.

14 Q Did you see Sammy and Alex at Number One Flea Market?

15 A Yes, ma'am.

16 Q Okay. Did you see anyone else you knew?

17 A No, ma'am.

18 Q Did Brandon see the people he wanted to fight with?

19 A No, ma'am.

20 Q When y'all left there, where did you go?

21 A We was driving. We was on the way back to where we
22 live, and then George had seen him at -- at that Barnyard
23 Flea Market.

24 Q Okay. When George saw these people at The Barnyard
25 Flea Market, what did y'all do?

1 A He was like, pull over. And then he drove up in
2 there, and then we -- before we stopped, he had done press
3 his trunk latch.

4 Q Okay. Slow down. You are talking about George Mack?

5 A Yes, sir.

6 Q Okay. When y'all pull up, did you see who George and
7 Brandon had had a problem with?

8 A Yes, ma'am.

9 Q Okay. And you didn't know them?

10 A No, ma'am.

11 Q Do you know how many cars those other people were in?

12 A Two.

13 Q And were those two cars -- were they parked beside
14 each other, near each other?

15 A Yes, ma'am.

16 Q And when George Mack pulled up, how far away did he
17 park from these other peoples' cars?

18 A About two sparking space.

19 Q Okay. Like from me to you or closer or further?

20 A About from me to you.

21 Q Okay. And you said you saw George Mack. Where were
22 you sitting in the burgundy car?

23 A Behind the driver.

24 Q Okay. And when y'all pulled up, what's the very next
25 thing that happened?

1 A When George Mack popped the trunk, he ran to the
2 trunk and then he got the gun out.

3 Q Okay. Slow down. When -- did everyone get out of
4 the car at the same time?

5 A Yes, ma'am.

6 Q Okay. And what kind of gun did George Mack get out
7 of the trunk?

8 A An AK.

9 Q Did you know that gun was in the trunk?

10 A No, ma'am.

11 Q Had you been with the -- these same boys the night
12 before?

13 A No, ma'am. I had been with them on Friday night.

14 Q Okay. And -- but you didn't know that the assault
15 rifle was in the trunk?

16 A No, ma'am.

17 Q When George pulled the gun out of the trunk, what did
18 he do with it?

19 A Flashed it.

20 Q And what was going on between all the people at the
21 two other cars and Brandon and...

22 A Everybody was just arguing.

23 Q Okay. Was there yelling going on?

24 A Yes, ma'am.

25 Q And when he flashed -- George Mack flashed the

1 assault rifle, what did you do?

2 A Grabbed it from him.

3 Q Okay. Why did you grab it from him?

4 A Wasn't thinking.

5 Q And what did you do with it? Did you shoot it?

6 A No, ma'am.

7 Q What did you do with it?

8 A Sammy had grabbed it from me.

9 Q Where did Sammy come from?

10 A Alex car.

11 Q Where was Alex's car in relation to George Mack's

12 car?

13 A About four -- four parking spots up the other way to

14 the left of driver's side.

15 Q Okay. Was -- would have been in front of you or

16 behind you or beside you or where?

17 A On the left side. It would have been behind me.

18 Q On the left side?

19 A Behind me. Well, it was on the left side of the

20 driving car.

21 Q Okay. And when Sammy took the gun from you, what did

22 he do?

23 A Started shooting.

24 Q Did he shoot one time or many times?

25 A Many.

1 Q What was he shooting at or what did he hit?

2 A The car, the car that victims was in.

3 Q Okay. Do you know what kind of car it was?

4 A A -- I think it was a Camry.

5 Q Okay. Was it light colored or dark color?

6 A Dark color.

7 Q And when he did that, when Sammy started shooting,
8 what did you do?

9 A I had pulled out my 38 and pointed in the air.

10 Q Okay. And did you fire it?

11 A I tried, but it didn't shoot.

12 Q Okay. And did you see anybody else with any other
13 weapons there that day?

14 A No, ma'am.

15 Q Were you -- how close to Sammy were you when he was
16 shooting the gun?

17 A Behind him.

18 Q How close to him?

19 A About 2 feet, a feet away, 2 feet.

20 Q Tell me when I get the same distance.

21 A About right there.

22 Q And on what side of him were you standing?

23 A Left.

24 Q If I'm Sammy, where are you?

25 A Behind you on the left.

1 Q Where was George Mack at that time when the shooting
2 started?

3 A I think he ran back to the front of the car.

4 Q And do you know where Brandon was?

5 A No, ma'am.

6 Q Do you know where Sherman was?

7 A No, ma'am. He was on the right side, but I don't
8 know -- I don't remember where he was.

9 Q Did you know if anyone had been hit in the car?

10 A The victim?

11 Q Right.

12 A Not at the moment.

13 Q Okay. Did you think someone had been hurt?

14 A Yes, ma'am.

15 Q Did you see those two cars, the one you saw get hit
16 and the other car, did you see where they went after the
17 shooting?

18 A No, they was just right in front of us to the gas
19 station across the street.

20 Q Okay. Did you see both cars pull out or just the car
21 that was shot?

22 A I seen just the car that was shot.

23 Q And did you follow that car? Were y'all following
24 that car?

25 A We weren't following it, but we went past it.

1 Q Okay.

2 A We cut through the gas station.

3 Q When Sammy finished shooting, what did he do with the
4 gun?

5 A Put it back in the trunk.

6 Q And where did he go?

7 A In Alex car.

8 Q And where did you go?

9 A I got in back seat of George car.

10 Q Did you know Sammy was going to actually fire the
11 assault rifle?

12 A No, ma'am.

13 Q When y'all go through -- near that station and y'all
14 are leaving, what happens when y'all are leaving The
15 Barnyard?

16 A We went to George -- first we was going to left, then
17 we went to his job site.

18 Q Okay.

19 A We went to -- we went to the church. It was a church
20 off of a dirt road. I don't know the name of the dirt
21 road.

22 Q Okay.

23 A Then he stopped the car.

24 Q Are you familiar with the roads here in Lexington and
25 the area?

1 A No, ma'am.

2 Q Okay. Did you know someone was following y'all in
3 the Crown Vic?

4 A Yes, ma'am.

5 Q You knew somebody was following you?

6 A Uh-huh.

7 Q Did y'all try and get away?

8 A Yes, ma'am.

9 Q Were y'all able to get away from those people?

10 A Yes, ma'am.

11 Q And when you went on these dirt roads, what were
12 y'all talking about there in the car, you and Sherman and
13 Brandon and George?

14 A They told me to get out -- to put the guns in the
15 woods.

16 Q Okay. And did you do that?

17 A Yes, ma'am.

18 Q Did you put the rifle in the woods?

19 A Yes, ma'am.

20 Q Did you get rid of your gun?

21 A Yes, ma'am.

22 Q Why did you do this? Why did you do that?

23 A I just wanted to get away.

24 Q If I can show you State's 3. Can you please take a
25 look at this and tell me if you recognize it. Do you

1 recognize this?

2 A (Nodded.)

3 Q What is this?

4 A My gun.

5 Q You need to speak up.

6 A My gun.

7 Q And you recognize -- how do you know it's yours?

8 A Because the same way I had.

9 MS. GARRICK: Your Honor, I'd move State's 3
10 into evidence at this time.

11 THE COURT: What says the defense?

12 MR. FLOYD: Just like to look at it.

13 THE COURT: Okay.

14 (Whereupon there was a pause.)

15 THE COURT: Any objection?

16 MR. FLOYD: No objection. Although I think it's
17 not in the manner in which he last saw it. It's got
18 a trigger guard device on it.

19 MS. GARRICK: It does have a trigger guard on
20 it, Your Honor. Yes, sir.

21 MR. FLOYD: Just make that clear to the jury.

22 THE COURT: Okay. Then it's in without
23 objection.

24 (WHEREUPON, State's Exhibit 3 was admitted into
25 evidence.)

1 BY MS. GARRICK:

2 Q If I can show you what's been marked as State's 4.

3 Do you recognize this?

4 A Yes, ma'am.

5 Q What is this?

6 A The shooting gun.

7 Q Is this a -- is this the gun you saw Sammy shoot?

8 A Yes, ma'am.

9 Q Is this the gun you put in the woods?

10 A Yes, ma'am.

11 MS. GARRICK: Your Honor, I'd move it into
12 evidence as well.

13 THE COURT: What says the defense?

14 MS. GARRICK: State's 4.

15 THE COURT: What says the defense?

16 MR. FLOYD: No objection.

17 THE COURT: State's 4 is in without objection.

18 (WHEREUPON, State's Exhibit 4 was admitted into
19 evidence.)

20 BY MS. GARRICK:

21 Q When you hid the gun in the woods, was the magazine
22 with it?

23 A Yes, ma'am.

24 Q Do you know the name of the church you hid this at?

25 A No, ma'am.

1 Q After you hid the guns in the woods, where did y'all
2 go?

3 A George drove. He drove further down the dirt road,
4 then the car was getting stuck in the mud, so all of us
5 got out and ran through the woods.

6 Q And did -- y'all left the car on purpose there?

7 A Yes, ma'am.

8 Q Okay. When y'all were running through the woods, how
9 did y'all plan to get out of there?

10 A We were just going. And then George said he knew the
11 woods, and we jumped this tall gate and we were at his job
12 site, and then -- because it was running outside and all
13 of us was like ducking down in a tree.

14 Q Okay. And how did y'all get out of there?

15 A Because Brandon had called Sam and the dude named LT
16 to come pick us up in a blue Tahoe.

17 Q And they did come get you?

18 A Yes, ma'am.

19 Q Who else was with Sammy and LT?

20 A Nobody.

21 Q Was Alex with him?

22 A I think so. I don't remember.

23 Q All right. When they picked y'all up, where did
24 y'all go?

25 A We went back to Apple Valley. First we dropped

1 Sherman off at his house, then we went to Apple Valley.

2 Q Okay. What were y'all saying when you were in the
3 Tahoe there altogether?

4 A Everybody just happy to get away from it -- from the
5 flea market.

6 Q Was Sammy saying anything?

7 A No, ma'am.

8 Q Did you ask Sammy why he did that?

9 A Not at the moment.

10 Q Okay. Did you ever ask him why he did that?

11 A Yes, ma'am.

12 Q And what was his answer?

13 A Just -- I don't know, just -- don't know what's going
14 on.

15 Q Did he give you an answer as to why he did it?

16 A No, ma'am.

17 Q When y'all went back to Apple Valley, where did y'all
18 go?

19 A To a friend of our house.

20 Q And when did you find out that somebody had actually
21 been killed and someone else was wounded?

22 A When we looked at the news.

23 Q That same night?

24 A Yes, ma'am.

25 Q And after that happened, what kind of discussions

1 were going on between you and Brandon and Sammy?

2 A Everybody just wanted to go their own separate way.

3 Q Okay. So where did you go?

4 A I went when they dropped me off at my house, then I
5 ain't want nobody to come to my mama house because she had
6 company over there, so I called my friend Soloman to come
7 pick me up, and he took me to Alex's house.

8 Q Okay. And when you were at Alex's house, were Sammy
9 and Brandon there?

10 A No, ma'am.

11 Q When is the next time you saw Brandon and Sammy?

12 A Later on that night.

13 Q Still was late Saturday night?

14 A Yes, ma'am.

15 Q Where did you see them at?

16 A They picked me up at Al Gas Station off of Dukes
17 Street.

18 Q Is that near where Alex lived?

19 A Yes, ma'am.

20 Q And what if anything did Sammy Harmon say at that
21 time when you got with him then? What was being said?

22 A Just at the time when we got in the car when he was
23 just like, let's go to Orangeburg, because I had family up
24 there.

25 Q Who had family up there?

1 A I did.

2 Q Okay. And so when y'all decided to go to Orangeburg,
3 how did y'all get there?

4 A The girl named -- our friend named Christian.

5 Q Okay. And why would you have gone to Orangeburg with
6 Sammy Harmon after he had just shot and killed someone?

7 A Just wanted to get away. I had family there, and I
8 was going to try to help.

9 Q Okay. And so Christian took you to Orangeburg and
10 Sammy to Orangeburg?

11 A Yes, ma'am.

12 Q Did Brandon go with y'all?

13 A Yes, ma'am.

14 Q And what happened when you got to Orangeburg?

15 A Seen somebody -- we told somebody to get us a hotel
16 room.

17 Q Was it someone you knew?

18 A No, ma'am.

19 Q Okay. And did this person -- did y'all pay him to
20 get you a room?

21 A Yes, ma'am.

22 Q Who paid him?

23 A Sam.

24 Q And when you got a room, did Brandon and Christian
25 stay with y'all?

1 A No, ma'am. They went back to Columbia after they
2 found out we had a room.

3 Q Okay. And do you remember the name of the hotel you
4 were in in Orangeburg?

5 A Trumps Inn.

6 Q And when you and Sammy were alone at the Trumps
7 Inn -- had you taken any luggage?

8 A No, ma'am.

9 Q Had you taken a cellphone?

10 A No, ma'am.

11 Q Do you have a cellphone?

12 A No, ma'am.

13 Q Did Sammy Harmon have any luggage?

14 A Yes, ma'am.

15 Q Did he have a cellphone?

16 A Yes, ma'am.

17 Q Do you remember Sammy's cellphone number?

18 A No, ma'am.

19 Q Okay. When y'all are alone there in the hotel
20 together, did you talk to Sammy about the shooting?

21 A No, ma'am.

22 Q Did he say anything about the shooting?

23 A No, ma'am.

24 Q And what happened next?

25 A Then -- because I had went to sleep, and then he woke

1 me up and said the police was at the door. It was around
2 seven that morning.

3 Q Okay. And was the law enforcement at the door?

4 A Yes, ma'am.

5 Q Did they arrest Sammy right then?

6 A Yes, ma'am.

7 Q Were you arrested then?

8 A The investigators asked me did I want to go back to
9 Columbia with them, and I was like, yes, ma'am.

10 Q Okay. So you weren't -- you weren't arrested at that
11 point?

12 A No, ma'am.

13 Q When you got back to Lexington County, did you meet
14 Detective Russell?

15 A Yes, ma'am.

16 Q And were you willing to talk to Detective Russell
17 about what happened at The Barnyard?

18 A Yes, ma'am.

19 Q Did you tell him what happened?

20 A Yes, ma'am.

21 Q Did you tell him who the shooter was?

22 A Yes, ma'am.

23 Q Who did you tell him was the shooter?

24 A Sammy.

25 Q And you told him this on the 16th of July of 2006?

1 A Yes, ma'am.

2 Q Had he promised that he would help you or he wouldn't
3 charge you or anything like that if you gave him a
4 statement?

5 A No, ma'am.

6 Q And were you in fact charged with murder?

7 A Yes, ma'am.

8 Q And other charges, too; isn't that right?

9 A Yes, ma'am.

10 Q Do you remember when is the first time you met with
11 anyone from the Solicitor's office?

12 A I don't remember actual date. It was about two weeks
13 ago.

14 Q And you met with me?

15 A Yes, ma'am.

16 Q And what did I ask you to do in court today?

17 A Tell the truth in court.

18 Q And are you promised anything?

19 A No, ma'am.

20 Q And is this how y'all looked? Show you State's
21 Exhibit 1. Is this how y'all's hair looked in July of
22 2006?

23 A Yes, ma'am.

24 Q Okay. Your hair is a lot longer now; isn't it?

25 Little bit longer? Had you been at The Number One Flea

1 Market when Brandon and George and Sherman had the fight
2 with those people?

3 A No, ma'am.

4 MS. GARRICK: Beg the Court's indulgence one
5 moment.

6 THE COURT: Yes, ma'am.

7 (Whereupon there was a pause.)

8 MS. GARRICK: Beg the Court's indulgence one
9 moment. Please answer Mr. Floyd's questions.

10 THE COURT: Mr. Floyd?

11 CROSS-EXAMINATION

12 BY MR. FLOYD:

13 Q Mr. Keitt, when you spoke with Detective Russell,
14 didn't he tell you things would go better for you if you
15 talked with him?

16 A Yes, ma'am. Yes, sir. Yes, sir.

17 Q Pardon? Did he tell you that? And in fact, you have
18 been offered something now; haven't you?

19 A No, sir.

20 Q Haven't you been told you would not be charged with
21 murder?

22 A Yes, sir. Yes, sir.

23 Q That's true; isn't it? Have you been told that you
24 would only be charged with accessory after the fact of
25 murder?

1 A Yes, sir.

2 Q Okay. So you have been charged -- so you weren't
3 being truthful with the jury. You have been told number
4 one, you wouldn't be charged with murder, and number two,
5 you would only be charged with accessory after the fact of
6 murder; isn't that true?

7 A No, sir.

8 Q That's not true?

9 A Everything I was saying is true.

10 Q Well, didn't you just on my -- at my questions say
11 you have been told now that you would not be charged with
12 murder?

13 A No, sir.

14 Q Didn't you just say when I asked you that you would
15 be charged with accessory after the fact of murder?

16 A Yes, sir.

17 Q Are those two things true?

18 A Yes, sir.

19 Q So when you told the jury you weren't charged with
20 anything, that wasn't true, was it, that you weren't
21 promised anything. That wasn't true; was it?

22 A No, sir. I...

23 Q Now, had you ever seen this gun before?

24 A Once. Once.

25 Q When was that?

1 A I don't remember exact date.

2 Q How soon was it or how close was it to the flea
3 market incident?

4 A Around a couple months.

5 Q Couple months before that?

6 A Yes, sir.

7 Q Is there anything about that gun, any marks on it or
8 anything that -- to make it unique that you would
9 recognize it?

10 A No, sir.

11 Q So you have no way of knowing whether that's the same
12 gun; do you?

13 A Look like the same one.

14 Q Looks like the same one, but you don't know that; do
15 you?

16 A No, sir.

17 Q In fact, you couldn't tell us for sure whether or not
18 that's the same gun; could you?

19 A No, sir.

20 Q You just wanted to tell the Solicitor's Office what
21 they wanted to hear; didn't you?

22 A No, sir.

23 Q Mr. Keitt, you carried the pistol with you that day;
24 didn't you?

25 A Yes, sir.

1 Q No question but that Sammy Harmon was not in the
2 burgundy Crown Vic; was he?

3 A No, sir.

4 Q He never was in that car; was he?

5 A No, sir.

6 Q The two guns were in that car; weren't they?

7 A Yes, sir.

8 Q And Sammy Harmon and Alex Haigler arrived at The
9 Barnyard Flea Market, the four of you were already out of
10 the vehicle; weren't you?

11 A Excuse me? Say again?

12 Q By the time Sammy Harmon and Alex Haigler arrived at
13 The Barnyard Flea Market, you, George, Sherman and
14 Brandon, you were already out of the Crown Vic; weren't
15 you?

16 A Yes, sir.

17 Q And y'all were engaged in some type of verbal
18 argument with the other people; weren't you?

19 A Yes, sir.

20 Q Were you involved in that argument also?

21 A No, sir.

22 Q Well, who was in the argument?

23 A George.

24 Q And who else? That it?

25 A Was George and Sherman.

1 Q George and Sherman? How about Brandon?

2 A I ain't hear -- I don't know for a fact.

3 Q So your testimony is that it was George and Sherman
4 who were having the verbal argument?

5 A Yes, sir.

6 Q With the other people?

7 A Yes, sir.

8 Q Sammy wasn't having a verbal argument; was he?

9 A No, sir.

10 Q Who popped the trunk on the vehicle?

11 A George.

12 Q When he popped the trunk, were you standing outside?

13 A No, sir.

14 Q Did you come outside after he popped the trunk?

15 A Yes, sir.

16 Q Did you look inside the trunk?

17 A No, sir.

18 Q Where was your pistol?

19 A In my pocket.

20 Q Did you see George reach into the trunk and pull out
21 the long gun?

22 A Yes, ma'am. Yes, sir.

23 Q What did he do with the long gun?

24 A I took it from him.

25 Q Well, how long -- how far did he get it out of the

1 trunk before you took it from him?

2 A Got it out for enough to flash it.

3 Q So he got it out. Did he turn toward the other
4 people and flash it?

5 A Yes, sir.

6 Q So what position did he have the long gun in when you
7 took it from him?

8 A Face down. It was face down at the ground.

9 Q Face down -- how do you mean by that?

10 A That it was pointed at the ground.

11 Q Point -- did he have both hands on it?

12 A Yes, sir.

13 Q And you took it from him then?

14 A Yes, sir.

15 Q Did he resist you taking it from him?

16 A No, sir.

17 Q When you took it from him, what did you do with it?

18 A Sammy took it from me. Sammy took it from me.

19 Q So you never flashed it then?

20 A No, sir.

21 Q Well, how long did you have it in your possession?

22 A A couple seconds.

23 Q Just a couple seconds? So you never flashed the gun
24 at all?

25 A I mean, if you count holding it in my hand flash it.

1 Q Well, so how long did you have it in your possession?

2 A A couple seconds.

3 Q And did you have both hands on it?

4 A Yes, sir.

5 Q How were you holding it?

6 A Same way George was. It was pointed down to the
7 ground.

8 Q Now, when you took the gun out of George's hands,
9 where was Sammy?

10 A Behind me.

11 Q How far behind you?

12 A Feet away. Like a feet away.

13 Q 2 feet, 3 feet?

14 A One. One. 1 feet.

15 Q Oh, he was just right behind you?

16 A Yes, sir.

17 Q And so your testimony is that he was 1 foot behind
18 you, you had it for a second or two, and he took it from
19 you?

20 A Yes, sir.

21 Q And then he immediately started shooting?

22 A Yes, sir.

23 Q And so is that when you pulled your pistol out of
24 your pocket?

25 A Yes, sir.

1 Q And did you start shooting your pistol?
2 A I pointed in the air.
3 Q So you were -- so you were pointing in the air?
4 A Yes, sir.
5 Q How many times did you pull the trigger?
6 A Two times.
7 Q Why did you pull your gun out?
8 A Wasn't thinking.
9 Q Why did you pull the trigger?
10 A Wasn't thinking.
11 Q And did the long gun end back up?
12 A Back in the trunk.
13 Q And that's of the Crown Vic?
14 A Yes, sir.
15 Q What did you do with your pistol?
16 A Put it back in the...
17 Q And you and the same four people got back in the
18 Crown Vic?
19 A Yes, sir.
20 Q Left?
21 A Yes, sir.
22 Q And you hid the guns?
23 A Yes, sir.
24 Q Did you hide both the guns?
25 A Yes, sir.

1 Q Sammy didn't have anything to do with hiding those
2 guns; did he?

3 A No, sir.

4 Q Did you tell the police that some other guys started
5 shooting?

6 A At the time I thought.

7 Q Who did you think was shooting?

8 A The victims. The victims.

9 Q And so you told Detective Russell that the victims
10 were shooting back at ya'll?

11 A Yes, sir.

12 Q Is that true?

13 A No, sir.

14 Q So you weren't being truthful with Detective Russell?

15 A No, I just thought. I didn't say for sure. I
16 thought they was.

17 Q Well, do you think it now?

18 A No, sir.

19 Q So what's caused you to change your mind?

20 A Because they -- it wasn't no -- no gun found on them
21 or no bullet wounds in our car.

22 Q How did you know that?

23 A Because they got pictures of the car.

24 Q Well, you were in the car; weren't you? Did you see
25 any bullet wounds to the car?

1 A No. No, sir.

2 Q Well, how did you know that the -- they didn't find
3 any guns on the victims?

4 A Because it's not in my paperwork.

5 Q When they picked you up at your house, didn't you
6 testify that you put the gun in the trunk, your gun?

7 A Yes, sir.

8 Q And when you put that -- your gun in the trunk, did
9 you see the long rifle in it?

10 A I didn't put it in the trunk. Didn't put it in the
11 trunk.

12 Q Did you just say to me that you did put it in the
13 trunk?

14 A I didn't. I didn't.

15 Q Oh, you saying you didn't?

16 A I didn't.

17 Q Is that what you're saying now?

18 A Yes, sir.

19 Q Did you tell Detective Russell that one of the other
20 guys did have a gun?

21 A The victims or somebody else.

22 Q The victims.

23 A I thought.

24 Q You told him, number one, that they had a gun, number
25 two, that you thought they were shooting at you; didn't

1 you?

2 A Yes, sir.

3 Q No further questions.

4 *THE COURT:* Anything further from the State?

5 *MS. GARRICK:* Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. GARRICK:

8 Q At The Barnyard Flea Market, other than your 38 and
9 the long rifle, did you see any other guns there?

10 A No, ma'am.

11 Q Did you see anyone shooting at you?

12 A No, ma'am.

13 Q And as far as any deal you have, I'm confused about
14 that. What kind of deal do you have with my office for
15 testifying today?

16 A Come and tell the truth.

17 Q Okay. And have you been promised what charges you're
18 going to face after this case is over?

19 A No, ma'am.

20 Q So you don't know what charges you're going forward
21 on; is that right?

22 A No, ma'am.

23 *MS. GARRICK:* That's all I have, Your Honor.

24 *THE COURT:* Thank you. You come down.

25 (Witness left the stand.)

1 THE COURT: You can call your next witness.

2 MS. GARRICK: Your Honor, we call Jamar Porcher.

3 (Witness entered the courtroom.)

4 JAMAR PORCHER, after being duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GARRICK:

8 Q Mr. Porcher, how old are you?

9 A Eighteen.

10 Q And how far did you go in high school?

11 A The 11th grade.

12 Q Did you know Denise Boykin?

13 A Yes, I did.

14 Q How did you know her?

15 A Grew up in the same neighborhood together for a long
16 time, you know, my cousin supposed to went out with--

17 Q Your cousin is Scooter? What is Scooter's last name?

18 A Geiger.

19 Q And he was going out with Denise?

20 A Yes, ma'am.

21 Q And you know Denise's family that's here today, too;
22 don't you?

23 A Uh-huh.

24 Q And did you know Randy Boykin?

25 A Yes, ma'am.

1 Q Is he here today? Have you seen him?

2 A Yes, ma'am.

3 Q Okay. Were you with Denise July 15th of 2006?

4 A Yes, ma'am.

5 Q What were y'all doing that day?

6 A Decided to go to the flea market, US Number One

7 first.

8 Q Okay. And who went to The US Number One Flea Market?

9 How many of y'all were there?

10 A There was me, Scooter, John Washington.

11 Q John Washington?

12 A Uh-huh.

13 Q Okay. Keep your voice up for me.

14 A Trey, Denise, Randy, and Tasha.

15 Q Okay. And do you know Trey's last name?

16 A Brown.

17 Q Okay. How many cars were y'all in?

18 A Two.

19 Q What kind of cars?

20 A Mitsubishi Galant and--

21 Q Do you remember what kind of car Denise had?

22 A No, ma'am.

23 Q Do you remember what color it was?

24 A It was black.

25 Q Okay. And when y'all went to The Number One Flea

1 Market, what happened there?

2 A Me and Tasha was walking, and we had stopped to look
3 at something, and Scooter -- Scooter was like, that's the
4 dude that we seen at the club a couple weeks later that we
5 was -- that we had seen him at the club. Scooter's
6 like -- um -- that's the dude seen at the club that night.

7 Q And did this person approach you and Scooter?

8 A Yes, ma'am.

9 Q Okay. And what kind of conversation was going on
10 between these people?

11 A He was saying that that's the boy that we seen at the
12 club that night, then they folks, and they -- then that's
13 all he said, and Scooter was like...

14 Q Who was saying they're folks? Your people or the
15 other people?

16 A The other people.

17 Q Were saying that to y'all?

18 A Uh-huh.

19 Q And what happened when this person called y'all folk?
20 Is folks a gang?

21 A Yes, ma'am.

22 Q Okay.

23 A That's when Scooter was like, this the dude we seen
24 at the club. And he said that -- Scooter's like, he GKB.
25 GKB, and that's the -- that's the blood gang group and...

1 Q Did -- was there a verbal argument going on between
2 Scooter and these people?

3 A Yes, ma'am.

4 Q And did you get involved in this verbal argument?

5 A No, ma'am.

6 Q Did you know any of these people that Scooter was
7 talking to?

8 A Only but one, the -- the guy that we seen at the club
9 that night.

10 Q I mean, did you know his name?

11 A No.

12 Q Okay. And how many people were -- was Scooter
13 arguing with?

14 A One -- one off top, and that's when another dude with
15 tall braids came over, and that's when John Washington had
16 came over, too.

17 Q Okay. The person -- so you saw one person with tall
18 braids that came over to the person Scooter was arguing
19 with?

20 A Uh-huh.

21 Q Can you describe the person Scooter was arguing with?
22 Can you describe his hair?

23 A It was kind of -- kind of long hair and had twists in
24 it.

25 Q Okay. Is twists the same thing as braids or...

1 A No.

2 Q Is it -- is it the same thing as dreds?

3 A Yeah.

4 Q Okay. And you didn't know this person? You didn't

5 know his name?

6 A No, ma'am.

7 Q And did you see anyone else with those people?

8 A Yes, ma'am.

9 Q Okay.

10 A Two other people.

11 Q Did anyone else there -- did any of y'all have

12 children with you?

13 A No, ma'am. They did.

14 Q Okay. Somebody with them had a child?

15 A Uh-huh.

16 Q Okay. And when Jonathan Washington walked up to

17 Scooter, what happened to the conversation? Let me ask

18 you, did it get more heated or did it calm down?

19 A Kind of -- kind of got more -- more heated.

20 Q How did this conversation end?

21 A Trey had came over and was like, come on, let's go to

22 the other flea market.

23 Q So y'all left?

24 A Yes, ma'am.

25 Q Did those people that y'all were arguing with, did

1 they leave, too?

2 A Yes, ma'am.

3 Q Okay. Did you see them leave?

4 A Yes, ma'am.

5 Q And what kind of car were they in?

6 A A burgundy Crown Vic.

7 Q And could you see who the driver was? I know you

8 didn't know him, but could you describe the driver as far

9 as his hair?

10 A He was -- he was kind of -- he was tall, really tall.

11 Q You don't remember anything about his hair?

12 A He had braids.

13 Q Okay. So the people in the Crown Vic, they left

14 before y'all?

15 A They probably got to the car before us because we had

16 walked back to the car.

17 Q Okay. And when you left, did Denise leave?

18 A Yes, ma'am.

19 Q And whose car were you in?

20 A Scooter's.

21 Q Okay. And who else was in Scooter's car?

22 A Me, John -- John and Scooter.

23 Q Okay. And who was in Denise's car?

24 A Denise, Randy, Tasha, and Trey.

25 Q Okay. And where did y'all decide to go when you left

1 The Number One?

2 A To The Barnyard.

3 Q Okay. And what happened when you got to The
4 Barnyard?

5 A We had walked around for a little bit, then got
6 something to drink, then Trey -- Trey had said, let's go
7 to KFC and get something to eat.

8 Q Okay. And then did y'all decide to leave to go get
9 something to eat?

10 A Yes, ma'am.

11 Q And when y'all were leaving, what if anything
12 happened next?

13 A Soon as we got in -- soon as we about to get in the
14 car, the burgundy Crown Vic pull up.

15 Q All right. Let me ask you this. Were Denise's car
16 and Scooter's car parked next to each other or away from
17 each other?

18 A Parked next to each other.

19 Q Okay. And when the Crown Vic pulled in, was the same
20 person driving?

21 A Uh-huh. Tall -- tall guy.

22 Q Okay. And did you see the -- was it the same people
23 that had been at The Number One Flea Market or do you
24 know?

25 A First -- first I only seen the tall guy get out

1 first.

2 Q Okay. And when they pulled up in the Crown Vic, were

3 they close to y'all or far away from y'all?

4 A Close on the other side of the -- Denise car.

5 Q Okay. Were they as close as me to you?

6 A Probably a little bit closer.

7 Q Okay. And when they pulled up, you said you saw that

8 the tall guy -- where did he go or what did he do?

9 A They got out the car and popped the trunk, and he had

10 went to the trunk to get a -- a gun.

11 Q Okay. And was everybody out of the Crown Vic at that

12 time? Did everybody get out at about the same time?

13 A Yes, ma'am.

14 Q And were you still at the car or were you in

15 Scooter's car?

16 A Inside the car.

17 Q You had already gotten in?

18 A Yes, ma'am.

19 Q Was there any talking going back and forth between

20 the two groups of people?

21 A Yes, ma'am.

22 Q Was it a pleasant conversation or an unpleasant

23 conversation?

24 A It was fussing.

25 Q Okay.

1 A They had pulled up, and Trey -- Trey was, you know,
2 telling -- telling Denise to get in the car, get in the
3 car.
4 Q Okay.
5 A And -- um -- Denise was like, they ain't going to do
6 nothing, they ain't going to do nothing.
7 Q Okay.
8 A Trey was just telling her to get in the car.
9 Q When this person, the driver went to the trunk, what
10 did you see next?
11 A He had pull out a gun and cocked it back and put it
12 back.
13 Q Okay. What kind of gun did you see?
14 A It was a long gun. I really don't know the name of
15 it was, but it was long.
16 Q Okay. And when that happened, what did you do next?
17 A Right at -- right at the time, that's when Scooter
18 had drove off and--
19 Q So you were in Scooter's car?
20 A Yes, ma'am.
21 Q And y'all pulled off?
22 A Uh-huh.
23 Q What was Denise doing, if you know?
24 A I guess she was getting in the car about that time.
25 Q Okay. Did you ever see anyone with a pistol?

1 A No, ma'am.

2 Q Did anybody in your car have a pistol that you know
3 of?

4 A No, ma'am.

5 Q When you and Scooter were driving off, what's the
6 next thing that happened?

7 A When we was driving off, we was going towards KFC,
8 and I had looked back and seen -- I seen another dude that
9 had -- had the gun and...

10 Q Okay. You saw somebody else with a long gun?

11 A Yes, ma'am.

12 Q Did you know this person?

13 A Huh-uh.

14 Q Had he been at The Number One Flea Market involved in
15 the argument there?

16 A No, ma'am.

17 Q Okay. And do you know where this person came from?

18 A No, ma'am.

19 Q Did you ever see any other car with the Crown Vic,
20 any other people with the Crown Vic?

21 A All I knew was a turquois-colored car pulled up on the
22 outside.

23 Q Do you know how many people were in that car?

24 A No, ma'am.

25 Q Do you know how many people were in the Crown Vic?

1 A No, ma'am.

2 Q Okay. When you saw this other person that you didn't
3 know that hadn't been at Number One with the assault
4 rifle, what did you do? What were you thinking? What
5 were you saying?

6 A I was -- when I seen -- when I seen them pick the gun
7 up, me and Scooter and John was, you know, gone already.
8 And next thing I knew, he started shooting at Denise car.

9 Q Okay. Did he shoot one time or lots of times?

10 A Lots.

11 Q Did you see where the bullets were going?

12 A No, not really. I just -- I seen the -- seen the
13 back window go out.

14 Q Back window of whose car go out?

15 A Denise.

16 Q Okay. When y'all left and you saw Denise's car was
17 hit, where did y'all go?

18 A We was -- we was like in the entrance of -- coming
19 into Barnyard, but when -- when I was seen -- when I seen
20 Denise car get hit, I seen them start slowing down and
21 went across the intersection.

22 Q The four lane road there?

23 A Yes, ma'am.

24 Q Then what did you do?

25 A That's when me and Johnny got out the car and...

1 Q Y'all got out of Scooter's car?

2 A Yes, ma'am.

3 Q Where did y'all go?

4 A Ran to Denise car.

5 Q Did you see where the shooter went?

6 A No, ma'am.

7 Q Did you see what he did with the gun?

8 A No, ma'am.

9 Q Okay. When you ran to Denise's car, where was

10 Denise's car by the time you got to it?

11 A At the gas station and it hit another car.

12 Q And could you see Denise?

13 A Yes, ma'am.

14 Q Was she injured?

15 A Yes, ma'am.

16 Q Were Randy and Tasha still there?

17 A Yes, ma'am.

18 Q Were they hurt?

19 A I don't know.

20 Q What about Trey? Did you see Trey?

21 A Yes, ma'am.

22 Q When is the next time you saw Trey?

23 A I had seen him come running across the street.

24 Q And was Trey hurt?

25 A Yes, ma'am.

1 MR. FLOYD: No objection to the exhibit if...

2 (WHEREUPON, State's Exhibit 5 was admitted into
3 evidence.)

4 BY MS. GARRICK:

5 Q If I can show you State's Exhibit 5.

6 THE COURT: It's in without objection.

7 BY MS. GARRICK:

8 Q Can you tell me whose car this is?

9 A Denise car.

10 Q Need to speak up for me. I know you're upset.

11 A Denise car.

12 Q Okay. And does this -- is this correct how we have
13 everybody seated in Denise's car? Was Denise the driver?

14 A Yes, ma'am.

15 Q Who was the front passenger?

16 A Trey.

17 Q Who was the back left passenger?

18 A Randy.

19 Q And the back right passenger?

20 A Tasha.

21 Q Is that what you saw break out?

22 A Yes, ma'am.

23 Q Do you recognize the car on the bottom?

24 A Yes, ma'am.

25 Q Whose car is that?

1 A Scooter's.

2 Q Is that the car you were in?

3 A Yes, ma'am.

4 Q And who was the driver?

5 A Scooter.

6 Q And where were you sitting?

7 A Front passenger's side.

8 Q They call you Bubba?

9 A Yes, ma'am.

10 Q Okay. And you have a conviction for strong armed

11 robbery; is that right?

12 A Yes, ma'am.

13 Q And I was the one that prosecuted you?

14 A Yes, ma'am.

15 MS. GARRICK: Your Honor, may we approach?

16 THE COURT: Yes, ma'am.

17 (Whereupon a bench conference was held.)

18 BY MS. GARRICK:

19 Q Please answer Mr. Floyd's questions.

20 CROSS-EXAMINATION

21 BY MR. FLOYD:

22 Q Mr. Porcher, that day you were in the car that

23 Scooter was driving; is that correct?

24 A That's correct.

25 Q Now, the first thing -- when you saw the guy pop the

1 trunk -- did you see him pop the trunk?

2 A Yes, sir.

3 Q Okay. That was the tall dude that was the driver;

4 wasn't it? I don't want to put words in your mouth, but

5 is that what you...

6 A Yes, sir.

7 Q And did you see that gentleman take the gun out of

8 the trunk?

9 A Yes, sir.

10 Q Now, when you saw that happen, where were you?

11 Where -- were y'all already away from the area?

12 A No, we was just getting in the car.

13 Q You were just getting into your car then?

14 A Yes, sir.

15 Q Did you see him point or flash the gun?

16 A He just pulled it out the trunk and cocked it back

17 and put it back.

18 Q And at that point in time, were you, Scooter, and

19 John, were y'all still outside of the Mitsubishi?

20 A No, sir.

21 Q Were you inside of the Mitsubishi?

22 A Yes, sir.

23 Q Were you driving away?

24 A Yes, sir.

25 Q Now, when you drove away, did you have to back out

1 and then go forward or just go forward?

2 A Just go forward.

3 Q Now, at that point in time were Denise, Trey, Randy
4 and Tasha, were they still outside the Camry?

5 A I can't -- can't remember.

6 Q How far away had y'all gotten when you heard the
7 gunshot?

8 A We was -- we was like right -- right -- right trying
9 to -- trying to like get in -- get in the intersection.

10 Q You were to the intersection?

11 A Uh-huh.

12 Q The intersection of what?

13 A The four lane highway.

14 Q Four lane -- in the parking lot or at the -- at the
15 intersection with the light?

16 A At the -- we was at the entrance of The Barnyard.

17 Q Entrance of The Barnyard. So how far away were you
18 at that point in time from the shooting?

19 A Kind of far. Kind of far.

20 Q Kind of far? Further than the doorway?

21 A Probably a little bit further.

22 Q Little bit further? And so you hear the gunshot, and
23 then you turn in your seat, I guess, to look back?

24 A Uh-huh.

25 Q Now, isn't it true that that day you were first shown

1 a line-up of people, photographic line-up?

2 A Yes, sir.

3 Q And didn't you pick out as the shooter Brandon
4 Harmon?

5 A Yes, sir.

6 Q And they didn't like that, did they, the police? And
7 they brought you back another photo line-up later?

8 A Yeah. Yes, sir.

9 Q Thank you. No further questions.

10 MR. FLOYD: Can we approach just a moment?

11 MS. GARRICK: Uh-huh.

12 (Whereupon a bench conference was held.)

13 MR. FLOYD: No further questions.

14 THE COURT: Anything further from the State?

15 MS. GARRICK: Yes, Your Honor. If I could have
16 these marked.

17 (WHEREUPON, State's Exhibits NO. 6, 7, 8 were
18 marked for identification only.)

19 REDIRECT EXAMINATION

20 BY MS. GARRICK:

21 Q When you met Detective Russell, did he show you a
22 photo line-up and ask you if you could pick out the driver
23 of the Crown Vic, the guy with the long braids?

24 A Yes, ma'am.

25 Q And were you able to pick anyone out in the first

1 line-up?

2 A No, ma'am.

3 Q No, ma'am? Okay. If I could show you what's been
4 marked as State's ID 6, do you recognize this document?

5 A Yes, ma'am.

6 Q Is that -- what is that document? Is that the second
7 line-up you saw?

8 A Don't say first...

9 Q Okay. The first one about the shooter.

10 A Yes, ma'am.

11 Q And you circled picture four?

12 A Uh-huh.

13 MS. GARRICK: Your Honor, I'd move in State's 6.

14 THE COURT: What says the defense?

15 MR. FLOYD: No objection, Your Honor.

16 THE COURT: Okay. State's in without objection.
17 State's 6 in without objection.

18 (WHEREUPON, State's Exhibit 6 was admitted into
19 evidence.)

20 BY MS. GARRICK:

21 Q If I can show you State's 7. Do you recognize that?

22 A Yes, ma'am.

23 Q And what document is that?

24 A Um...

25 Q I need you to keep your voice up.

1 A The second one.

2 Q I'm sorry?

3 A The second one.

4 Q Okay. Is that the second line-up you looked at as
5 far as the shooter?

6 A Yes, ma'am.

7 Q And did you pick someone out as the shooter in that?

8 A Yes, ma'am.

9 Q Okay.

10 MS. GARRICK: Your Honor, I'd move State's 7
11 into evidence.

12 THE COURT: What says the defense?

13 MR. FLOYD: No objection, Your Honor.

14 THE COURT: Seven is in without objection.

15 (WHEREUPON, State's Exhibit 7 was admitted into
16 evidence.)

17 BY MS. GARRICK:

18 Q State's 8. Take a minute and review that.

19 A (Complied.)

20 Q Do you recognize that document?

21 A Yes, ma'am.

22 Q Is that a statement you gave Detective Russell?

23 A Yes, ma'am.

24 MS. GARRICK: Your Honor, I'd move State's 8 in.

25 THE COURT: What says the defense?

1 MR. FLOYD: No objection, Your Honor.

2 THE COURT: Eight is in without objection.

3 (WHEREUPON, State's Exhibit 8 was admitted into
4 evidence.)

5 BY MS. GARRICK:

6 Q And would you please read us -- publish to the jury
7 what you wrote in State's 8.

8 THE COURT: Need to keep your voice up, now.

9 A I saw the photo -- saw the photo picture of --
10 picture. I picked number four -- for this man -- this man
11 number four, he had got -- we had got into -- into it
12 with -- we met Number One Flea Market--

13 THE COURT: Can y'all hear him? I can't hear a
14 word he's saying.

15 MS. GARRICK: Your Honor, I could publish it to
16 the jury if that would be okay.

17 THE COURT: Any objection to her publishing it
18 or either -- I can't hear him.

19 MS. GARRICK: That okay?

20 MR. FLOYD: No problem.

21 MS. GARRICK: Says Jamar Porcher's statement. I
22 saw photo of the pictures. I picked number four
23 photo. This man on number four, we had got into it
24 with them at The Number One Flea Market. We had our
25 words, then they walk off.

1 We walk off. Then Richard said, let's go. So
2 then we left. We went to the other one. We stayed
3 there for 10 or 15 minutes. Soon as we go back to
4 the car, that when they stopped the car and got out.

5 One boy went to the trunk and got a gun, but he
6 put it back. Then when the boy on picture four got
7 the gun and started shooting. Once I look at the
8 third line-up I seen that number three was the
9 shooter.

10 And the boy from the second line-up was the guy
11 they got into it with at the flea market. He had
12 twists in his hair, number three. I'm sure number
13 three was the shooter.

14 BY MS. GARRICK:

15 Q When they showed you that second line-up and you
16 picked picture four, did Detective Russell tell you who to
17 pick as the shooter?

18 A No, ma'am.

19 Q Well, why did you identify two different people as
20 the shooter?

21 A Um, because -- um -- well, that day I was kind of
22 nervous when it's -- just had look it -- had look a little
23 bit alike to me. And then I had -- I had noticed that the
24 dude had -- at The Number One Flea Market had twists in
25 his hair, and then dude at The Barnyard had the low

1 haircut.

2 Q Did the shooter have twists in his hair?

3 A No, ma'am.

4 Q Did -- was the shooter at The Number One Flea Market
5 during the verbal fight?

6 A No, ma'am.

7 Q And you're sure that picture three that you circled,
8 that's who you identified the shooter to be?

9 A Yes, ma'am.

10 MS. GARRICK: That's all I have, Your Honor.

11 THE COURT: Okay.

12 MR. FLOYD: Like to follow up.

13 THE COURT: All right, sir.

14 RECROSS-EXAMINATION

15 BY MR. FLOYD:

16 Q Mr. Porcher, they first showed you photograph,
17 photographic line-up, to pick out the driver; is that
18 correct?

19 A Yes, sir.

20 Q And that's the same guy that you saw get out and pop
21 the trunk and get the gun out; is that correct?

22 A Yes, sir.

23 Q You weren't able to identify that person; were you?

24 A I hadn't got to look -- a good look at him, tall guy.

25 Q Now, then they showed you a photo line-up to identify

1 the shooter. That was the second photo line-up; wasn't
2 it?

3 A Yes, sir.

4 Q And you identified Brandon Harmon; didn't you?

5 A Yes, sir.

6 Q Well, there was just one shooter; wasn't it?

7 A Yes, sir.

8 Q When they came back to you because they didn't like
9 the fact that you picked Brandon Harmon and they gave you
10 another photo line-up; isn't that true?

11 A Yes, sir.

12 Q And that's when you picked out Samuel Harmon.

13 A Yes, sir.

14 Q Is that correct? Then they had you write this
15 statement to explain why you picked out Brandon Harmon
16 first; is that correct?

17 A Yes, sir.

18 Q So before the sheriff's department let you know they
19 didn't like you picking out Brandon Harmon, that's who you
20 picked out; wasn't it?

21 A Yes, sir.

22 Q Thank you. No further questions.

23 THE COURT: You can step down. You have
24 somebody you can get up in 10 minutes?

25 MS. GARRICK: No, sir.

1 THE COURT: All right, sir. You can step down.

2 (Witness left the stand.)

3 THE COURT: Ladies and gentlemen, it's 10
4 minutes to five, and I don't -- I promised to try to
5 get y'all out at five or 5:30 each day, and to call
6 another witness, I hate to break up a witness's
7 testimony, but I don't want to go over, so we're
8 going to quit for today, but I'm going to allow you
9 to go home.

10 I remind you you can't discuss this case yet.
11 When you go home, your family's going to want to know
12 what you have been doing here. And they might have
13 an opinion as to what they think you ought to be
14 doing. And it just wouldn't be proper for you to
15 hear that opinion.

16 So -- and I don't know if it will be anything in
17 the news media about this case, but if it is, you
18 can't read it or you can't listen to it because you
19 have got to decide this case based on what happens in
20 the courtroom and not a thing that happens outside.

21 Both the State and this defendant are entitled
22 to that. It's very important for you to make your
23 decision based on what you hear in this courtroom,
24 not anything else.

25 I promise you when this case is over with, you

1 can talk to your family or anybody about anything
2 that happened and -- if you want to. Just please
3 don't talk to anybody yet. Be back in the jury room
4 at 9:30 in the morning. We will continue with the
5 testimony. Thank you.

6 (Jury left the courtroom at 4:52 pm.)

7 *THE COURT:* Anything further before we break for
8 the evening?

9 *MS. GARRICK:* No sir, Your Honor.

10 *THE COURT:* Okay. We'll be back at 9:30 in the
11 morning.

12 (Court in recess for the evening.)

13 ***** May 6, 2008 *****

14 *THE COURT:* We'll go on the record. Ladies and
15 gentlemen, I was informed by the bailiff that one of
16 the jurors overheard a conversation in the hall.
17 Mr. Johnson, am I understanding -- if you would, tell
18 me what you heard and when you heard it.

19 *JUROR:* I was just coming back from lunch. I
20 had my juror's badge on, and I had heard the
21 policeman at the front that, you know, frisks you
22 when you come into the courthouse talking to another
23 tall gentleman in a suit, which I assume was probably
24 an attorney who does a lot of business in here, and I
25 heard the attorney talking to that person saying that

1 they were surprised that this case was even being
2 tried. That's the extent of what I heard.

3 *THE COURT:* Did you have any conversation in the
4 jury room about what you heard?

5 *JUROR:* No, sir.

6 *THE COURT:* So you did not discuss this in any
7 way --

8 *JUROR:* No, sir.

9 *THE COURT:* -- with any other jurors?

10 *JUROR:* No, sir.

11 *THE COURT:* The fact that you heard this
12 conversation in the hall, can you set that aside and
13 decide this case based on the evidence you are
14 hearing from this courtroom?

15 *JUROR:* Yes, sir.

16 *THE COURT:* Okay. So you think you could be
17 fair to both sides?

18 *JUROR:* I do.

19 *THE COURT:* The fact that you heard that would
20 not affect your ability to decide this case based on
21 the evidence?

22 *JUROR:* No, sir.

23 *THE COURT:* Okay. Thank you, sir. Any further
24 questions from the State or the defense would request
25 me to ask him?

1 MS. GARRICK: No, sir.

2 MR. FLOYD: Just if a juror, is that the
3 complete overheard -- that he heard?

4 THE COURT: That's everything you heard?

5 JUROR: Yes, sir.

6 THE COURT: All right, sir. If you will step
7 down in the hall. Let me discuss a couple of things
8 with the lawyers. And then I'll get you back in a
9 minute. All right.

10 (Whereupon the juror left the courtroom.)

11 THE COURT: All right. What's the State's and
12 defense's position on this juror?

13 MS. GARRICK: Your Honor, he answered your
14 questions that he could be fair and impartial and
15 that it wouldn't affect his judgment. We don't even
16 know if he took it that they were discussing about
17 this particular case.

18 I mean, he obviously felt uncomfortable and he
19 wanted the bailiff to know, but he answered your
20 questions, and we can't speculate as to his --
21 anything beyond that.

22 THE COURT: Mr. Floyd, what's your position?

23 MR. FLOYD: Your Honor, although we recognize
24 that the juror has said he can set aside this
25 overheard conversation, it's our position that this

1 conversation could not help but taint his
2 deliberation in this matter.

3 And as we all are aware of, this case is
4 supposed to be decided on what's heard in this
5 courtroom devoid of any outside influence. And for a
6 person -- can say he can set it aside, we don't see a
7 way he can forget that.

8 We recognize that whoever said it was a -- an
9 attorney whom I'm assuming that he was then -- have
10 in his mind idea that it would be some type of
11 employment comment made by that attorney who
12 obviously had some knowledge of the case. Therefore
13 we would move that the juror be disqualified.

14 *THE COURT:* All right. I will take that under
15 advisement for a few minutes and decide whether I'm
16 going to put the alternate in place or not. And
17 we'll start back at 9:30.

18 *BAILIFF:* Your Honor, can we take the juror back
19 in the jury room?

20 *THE COURT:* No. How about -- can you put him
21 somewhere else just for a few minutes?

22 *BAILIFF:* There's a room next to the Law Clerk's
23 office up the hall here. I can put him in there.

24 *THE COURT:* That will be good. And just until I
25 make this decision.

1 (Whereupon there was a pause.)

2 (WHEREUPON, State's Exhibits Nos. 9-12 were
3 marked for identification only.)

4 (WHEREUPON, State's Exhibit No. 13 was marked
5 for identification only.)

6 (Whereupon the juror entered the courtroom.)

7 THE COURT: Mr. Johnson, I appreciate you
8 letting me know that, and I -- I probably -- out of
9 abundance of caution, I will probably dismiss you.
10 You did absolutely nothing wrong.

11 But since I do have an alternate, that way it
12 won't be any question at all whether that will have
13 any influence in your mind later in the
14 deliberations, so I'm going to excuse you from this
15 case.

16 I appreciate you coming forward and letting me
17 know that. So you are free to go. Thank you so
18 much.

19 THE CLERK: Your Honor, he goes back into the
20 panel to call back after six?

21 THE COURT: I guess so. They're going to make
22 you come. I doubt if you are going to have to come
23 back, just call back after six.

24 JUROR: Thank you.

25 THE COURT: You have a nice day.

1 (Juror left the courtroom.)

2 THE COURT: Is there anything before we bring
3 the jury in?

4 MS. GARRICK: No, sir, Your Honor.

5 THE COURT: Okay. Tell them to bring the jury
6 in. If you would bring the jury in, please.

7 (Jury entered the courtroom at 10:00 am).

8 THE COURT: Good morning, ladies and gentlemen.
9 Mrs. Nickson, I have excused Mr. Johnson and so now
10 you're on the regular panel. So we are down to 12,
11 so the rest of y'all got to stay with me this week.
12 Madam Solicitor, you may call your next witness.

13 MS. GARRICK: We call Jonathan Washington.

14 (Witness entered the courtroom.)

15 JONATHAN WASHINGTON, after being
16 duly sworn, testified as follows:

17 BAILIFF: Your Honor, before we get started,
18 could I approach?

19 THE COURT: Yes, sir.

20 (Whereupon a bench conference was held with
21 bailiff.)

22 THE COURT: Ladies and gentlemen, the bailiff
23 informed me that some of y'all want to take notes.
24 And I will allow you to take notes with one caveat.
25 These notes cannot be shared with your fellow jurors.

1 And the reason being is some people are better
2 note-takers than others.

3 Therefore, when you go back to your
4 deliberation, I don't want the whole panel to rely on
5 the notes of one person.

6 You certainly can take notes if you want to,
7 but -- and use those notes to reflect or recollect
8 what you think is important in the trial, but don't
9 share those notes with everyone else.

10 You can use those notes simply for yourself in
11 helping you make a decision because it's got to be a
12 unanimous decision, whatever it is, and all 12 of you
13 have to agree.

14 But you certainly can take notes if you want to,
15 but please don't share those with eachother. Simply
16 when you're going through your deliberation, you can
17 use those notes to refresh your own memory, but don't
18 use them with other people.

19 That way it's a lot fairer because you have got
20 to decide this case based on your own recollection
21 and your own memory. So if you want to take notes, I
22 can provide you with pencils and pads, but please do
23 not share those with anyone else. All right. How
24 many of y'all want pencil and pad? Any of you?

25 (Whereupon there was a pause.)

1 THE COURT: Madam Solicitor, you may proceed.

2 DIRECT EXAMINATION

3 BY MR. MYERS:

4 Q Would you introduce yourself to the jury.

5 A My name is Jonathan Washington.

6 Q You mind if I call you John?

7 A No, sir.

8 Q Where do you live, John?

9 A In Cayce.

10 Q Now, were you out on Highway 1 back in July of 2006
11 when Denise was shot?

12 A Yes, sir.

13 Q And which flea market did you go to first?

14 A Number One.

15 Q Now, who were you with, Jonathan?

16 A Rode up there or...

17 Q Yeah, who did you ride up with -- there with?

18 A I rode with Denise up there.

19 Q You rode with Denise up there. How did you get with
20 Denise that day?

21 A The night before, me and Trey went to a party, and we
22 stayed at Trey house, and Denise came up there the next
23 morning with me and Scooter, Richie. That's how I got--

24 Q Now, who is Trey?

25 A Trey Brown, a friend.

1 Q Okay. Friend of yours?

2 A Yes, sir.

3 Q And a friend of Denise's?

4 A Yes, sir.

5 Q Okay. And you spent the night with Trey?

6 A Yes, sir.

7 Q And Denise met y'all the next morning, that would

8 have been that Saturday?

9 A Yes, sir.

10 Q And whose car were you in?

11 A Excuse me?

12 Q Whose car were y'all riding in?

13 A I rode in Denise car.

14 Q Okay.

15 A And Richard drove his own car.

16 Q Now, who is Richard?

17 A That's Scooter.

18 Q All right. Who is Scooter?

19 A Denise boyfriend.

20 Q All right. How did Scooter get with y'all?

21 A Scooter aunt stayed right across the street from

22 Trey, but we all like...

23 Q Scooter's name is also Richard; right?

24 A Yes, sir.

25 Q Now, you and Trey and Denise, y'all rode to The

1 Number One Flea Market?

2 A Yes, sir.

3 Q Was anybody else in the car with you?

4 A Randy.

5 Q Randy. Now, who is Randy?

6 A Denise brother.

7 Q Denise's brother. Anybody else in the car?

8 A No, sir.

9 Q You, Trey Brown, Denise, and Randy, who is Denise's
10 brother, in the car?

11 A Yes, sir.

12 Q Okay. Now, was there a second car that also went
13 with y'all up there?

14 A Yes, sir.

15 Q Who was in that second car?

16 A Richard, Jamal, and Tasha.

17 Q Okay. Richard who is also known as Scooter?

18 A Yes, sir.

19 Q That was Denise's boyfriend?

20 A Yes, sir.

21 Q And Jamar, Jamar Porcher. Is that right?

22 A Yes, sir.

23 Q And then who was the third one?

24 A Tasha.

25 Q Tasha. Who is Tasha?

1 A I guess like Denise best friend or something.

2 Q Okay. Why did y'all go up to The Number One Flea
3 Market, John?

4 A Went to Number One -- me and Trey went to get shoes
5 and clothes, and we just caught them around while they
6 were going out there.

7 Q Okay. Now, the car that Denise was driving, what
8 kind of car was that? The one that you were riding in
9 with Denise, what kind of car was that?

10 A A black Toyota.

11 Q Now, the other car that her boyfriend Scooter was
12 driving, what kind of car was that?

13 A A gray Mitsubishi.

14 Q A gray Mitsubishi?

15 A Yeah.

16 Q Now, the two cars, y'all went up to Number One Flea
17 Market?

18 A Yes, sir.

19 Q And while you were there, were all of y'all together
20 or was -- y'all kind of spread out looking for stuff?
21 Tell us what happened.

22 A We was together, but when the altercation happened,
23 we -- we wasn't -- we had -- just had separated.

24 Q When what happened?

25 A The altercation.

1 Q What do you mean by, the altercation? Tell us what
2 happened.

3 A Like I was back on the other side. Like there was a
4 mantle in the main row. I back on the other side of the
5 table getting shoes. And I can hear yelling and stuff.
6 So I just happened like come around the table, see what it
7 was, and I could tell that it was a crowd that I came with
8 and other people arguing.

9 Q You kind of came in late?

10 A Yes, sir.

11 Q Now, the folks with you, who were some of them with
12 you that were yelling back and forth?

13 A It was mostly like Richard and Jamal.

14 Q All right. Now Richard, that's Scooter?

15 A Yes, sir.

16 Q His name is also Scooter. And Jamal? Anybody else?

17 A No, that arguing, those.

18 Q Now, who were they arguing with, do you know?

19 A No, I -- I didn't know them, but you know, I can't
20 really tell you who they were personally.

21 Q Okay. Can you describe them for me?

22 A Yeah, I can describe them.

23 Q You didn't know them, but you can describe them?

24 A Yes, sir.

25 Q First of all, do you know how -- how many was it that

1 they were arguing with?

2 A It was three.

3 Q Three? Male or female?

4 A Males.

5 Q Three males?

6 A Yes, sir.

7 Q Those three, do you know how they got to The Number
8 One Flea Market, what they were riding in?

9 A Yeah, they was driving a burgundy Crown Vic.

10 Q A burgundy Crown Vic?

11 A Yes, sir.

12 Q Did you see them get there or did you see them leave?
13 Did you see who the driver was?

14 A Yeah, I seen them leave.

15 Q And what did the driver look like?

16 A He was tall, like medium brown complexion, long hair,
17 braids.

18 Q Okay. Now, what about the second one, like I say,
19 what did the second one look like?

20 A He was short, had a little -- little stocky, little
21 dreds. And the other one, he was holding a baby. He had
22 short hair. He was short, too.

23 Q Third one had a baby with him?

24 A Yes, sir.

25 Q Okay. Were all three of those, were they arguing

1 back and forth with Scooter and Jamal or...

2 A It was two of them. And the man with the baby, I
3 guess after he figure out -- when me and Trey walk up, he
4 figure out, you know, it was a lot more people with him
5 than he expected, and he was like, he calling peace, we
6 were walking up.

7 And it was like, he had a baby, he didn't want to do
8 that right then, stuff like that. And I tell him that --
9 I was like, that's the best thing. He was like -- they
10 turned around and left.

11 Q Were any -- was there any fist-fighting going on out
12 there?

13 A No, sir.

14 Q Did anybody ever push each other or anything like
15 that?

16 A Not to my knowledge.

17 Q Anybody have any weapons that you saw at The Number
18 One Flea Market?

19 A No, sir.

20 Q Now, after these three males left in that burgundy
21 Crown Vic, what did you as the -- what did y'all do?

22 A They didn't immediately leave then. Like--

23 Q Pardon?

24 A We ran into them again.

25 Q And--

1 A Like we was at -- we was in the middle aisle. They
2 came and parked like directly in front of the table we was
3 at.

4 Q Where is this?

5 A Still at The Number One. They came back to us before
6 they left, but they came in a car.

7 Q Okay.

8 A And pull up in front of the table we was at, like sat
9 there, you know, then till when our attention like turned
10 towards them, and then back up and drove off.

11 Q Okay. So they eventually drove off from The Number
12 One Flea Market?

13 A Yes, sir.

14 Q Now, what did y'all do when that Crown Vic left?

15 A We walk around. And shortly later, we left, went to
16 The Barnyard.

17 Q Okay. Now, when you went to The Barnyard, who did
18 you ride with?

19 A Then I switch cars.

20 Q You switched cars then?

21 A Yes, sir.

22 Q All right. Who did you ride from Number One Flea
23 Market up to The Barnyard Flea Market, who did you ride
24 with?

25 A Richard.

- 1 Q Richard also known as Scooter?
- 2 A Yes, sir.
- 3 Q And who else was in the car with you and Scooter?
- 4 A Just Jamal.
- 5 Q Just Jamal. So three of you in that car?
- 6 A Yes, sir.
- 7 Q And what kind of car did Scooter have?
- 8 A A gray Mitsubishi.
- 9 Q Gray Mitsubishi?
- 10 A Yes, sir.
- 11 Q Now, who was in Denise's car?
- 12 A Tasha -- me and Tasha traded seats, Tasha left in
- 13 Denise car--
- 14 Q Tasha gets in Denise's car?
- 15 A Yes, sir.
- 16 Q And it's Tasha and who else with Denise?
- 17 A Denise, Trey, and Randy.
- 18 Q Okay. Four of them in there?
- 19 A Yes, sir.
- 20 Q Randy, Denise's brother?
- 21 A Yes, sir.
- 22 Q Trey, who you spent the night with?
- 23 A Yes, sir.
- 24 Q Tasha. And now, did both of your cars -- did both of
- 25 you go up to The Barnyard Flea Market?

1 A Yes, sir.

2 Q When y'all got out to the Barnyard, what did y'all do
3 then?

4 A We got out, walked around. We went looking for
5 something we didn't find, so our time period there was
6 short. We left. It was about to rain, so we made it
7 short. We were coming out to leave.

8 Q So you were in -- did you go inside those little
9 stalls?

10 A Yes, sir.

11 Q About to rain, and y'all came out and y'all were
12 about to leave?

13 A Yes, sir.

14 Q What did you notice when you came out of where the
15 stalls were?

16 A We was like, you know, cutting fool, acting around
17 like, you know, regular friends do. Then I just happened
18 to look up and I seen the Crown Vic speeding out the
19 parking lot, so, you know, I made sure that I made Scooter
20 and them was aware of the car coming up.

21 Q How did you make Scooter and them aware of the car?

22 A I telling them -- I was like, your friends back. I
23 telling them about the Crown Vic. I ain't know that it
24 was as serious as it had gotten, but you know, I was
25 cutting joke about them coming out the parking lot.

1 Q Where did that Crown Vic go? Did it go to some other
2 area of the flea market or there where y'all were?

3 A It came right to us.

4 Q Okay. What happened when the Crown Vic pulled into
5 The Barnyard Flea Market?

6 A He came a good bit of speed, you know. I could tell
7 as he was coming up to us slowly when he was slowing down,
8 the trunk pop open.

9 Q The trunk popped open?

10 A Yes, sir.

11 Q Okay.

12 A And when the trunk pop open, we was in two parks
13 side-by-side.

14 Q Who was?

15 A Richard, Denise car, and...

16 Q Denise's car and Scooter's car, the car you were
17 in --

18 A Yes, sir.

19 Q -- side-by-side, right?

20 A Then he turned. In fact, he came at an angle.

21 Q Who is he?

22 A The driver of the Crown Vic. The Crown Vic came at
23 an angle.

24 Q Uh-huh.

25 A Like you know, he was like -- his trunk be like more

1 closer to us than anything, and he came at an angle. And
2 he jump out and ran to the trunk.

3 Q Now, the fellow jumped out, did he jump out the
4 passenger's side or the driver's side?

5 A The driver jump out first.

6 Q The driver jumped out first?

7 A Yes, sir.

8 Q What did the driver do?

9 A He went to the back of the trunk.

10 Q Uh-huh.

11 A Pull out a rifle.

12 Q Do what?

13 A He pulled out a rifle.

14 Q Pulled out a rifle?

15 A Yes, sir. And he hold it up, and he was like -- he
16 was talking, he was like, so what -- what is it now, what
17 it is now? And I told him, you know, you wanted this.
18 You know, we call it peace. And he's like, that's what I
19 thought.

20 Q Do what now?

21 A I told -- me and him talked.

22 Q Uh-huh.

23 A The driver.

24 Q Yeah.

25 A And he was like, what is this? What is this? I was

1 like, man, you know, y'all want it, y'all want it. He's
2 like, that's what I thought. Then I seen him put the gun
3 back up.

4 Q Okay.

5 A So when he put the gun up, I turn around, try to rush
6 everybody into the car.

7 Q When you say you tried to rush everybody in the car,
8 who were you trying to rush into which car?

9 A We was riding back like we had came. But you know, I
10 was trying to speed the process up.

11 Q All right. Now, you were in Scooter's car?

12 A Yes, sir.

13 Q And where was Scooter? Was he in his car or outside
14 his car?

15 A When I was yelling, we were all getting in. But you
16 know, as I turned, I -- Trey wasn't in the car. But you
17 know, I'm yelling, Trey, get in the car, but I never knew
18 the door wasn't lock.

19 Then when Trey door -- when somebody finally unlock
20 Trey door, Denise got out the car. And we yelling at
21 Denise to get in the car, and she yelling back at us
22 telling us, they not going to do nothing. So like when we
23 finally got her in the car, we proceed to drive off.

24 Q All right. Let me stop you right there. Everybody
25 gets in two cars that you were in?

1 A Yes, sir.

2 Q The car you were in, who was driving?

3 A Richard.

4 Q Also known as what?

5 A Scooter.

6 Q All right. Scooter is driving?

7 A Yes, sir.

8 Q Who is in the front passenger's seat?

9 A Jamal.

10 Q Jamal?

11 A Yes, sir.

12 Q Who is in the back seat?

13 A I was.

14 Q All right. Y'all are heading out of the flea market?

15 A Yes, sir.

16 Q All right. Now, who is in Denise's car?

17 A Denise, Trey, Randy, and Tasha still.

18 Q Okay. Randy, her brother, Denise, Trey, and Tasha?

19 A Yes, sir.

20 Q Now, as y'all are pulling out The Barnyard Flea

21 Market, are y'all side-by-side or is one car in front and

22 the other one behind?

23 A One car in front. The other one behind.

24 Q Who is in the front?

25 A Richard car was.

1 Q The car you were in?

2 A Yes, sir.

3 Q Then Denise would have been behind you?

4 A Yes, sir.

5 Q Jonathan, we have shown you this areal photograph
6 before?

7 MR. MYERS: State's number 11, Your Honor.

8 THE COURT: Okay.

9 BY MR. MYERS:

10 Q Jonathan, if you would, you step down right here,
11 please sir? I want you to talk up real loud right here.
12 These ladies have to hear you. Stand right over here if
13 you would.

14 Back in here, what is all this back in there?

15 A The Barnyard Flea Market.

16 Q Talk a little louder.

17 A The Barnyard Flea Market.

18 Q Had y'all gone in there?

19 A Yes, sir.

20 Q Okay. And when you say you were coming out, which
21 area did you come out when you saw that Crown Vic pulling
22 in?

23 A The front entrance.

24 Q Show me.

25 A Right here, coming out like right in the little side

1 right here.

2 Q Okay. Now, you said that the car you were in, you
3 and Scooter and Jamal, that y'all were heading out first;
4 is that right?

5 A Yes, sir.

6 Q Then Denise, the car she was in with Trey, Randy, and
7 Tasha, they were behind you?

8 A Yes, sir.

9 Q And which area were you heading out? Show the jury
10 were you were heading.

11 A We was coming down this middle aisle right here out.

12 Q Uh-huh.

13 A But it's like me and Scooter were on this side.
14 Denise was like right here.

15 Q Uh-huh.

16 A As we was coming out.

17 Q And where were you -- where were you going to go when
18 you got out there, you and the car you were in with
19 Scooter, where were y'all going to go?

20 A We never specifically had a specific place to go.

21 Q Uh-huh.

22 A We was just leaving out.

23 Q Were you going to take a right toward Lexington or
24 were you going to take a left and go back towards West
25 Columbia?

1 A Most likely going to take a left to go back towards
2 West Columbia.

3 Q Okay. Now, when you were here, you were in the back
4 seat --

5 A Yes, sir.

6 Q -- Scooter's car? Did you ever turn around and look
7 back there at Denise?

8 A Yes, sir.

9 Q What did you see?

10 A Fact, when we start coming out, I seen the car come
11 out.

12 Q You saw what car come out?

13 A Denise's car.

14 Q Uh-huh.

15 A And I stare, was like paying attention to the other
16 fellows, too, and--

17 Q Other fellows in what?

18 A The Crown Vic.

19 Q Uh-huh.

20 A And so I was paying attention to them. Then I -- I
21 look behind the car, and it's another fellow with a gun, a
22 different person from who had it the first time.

23 Q Uh-huh.

24 A And so when I looked -- like I looked down to see
25 what he was doing because there was like a different area,

1 you got to look around Denise car to see him.

2 Q Uh-huh.

3 A So then I see the gun starts to shoot.

4 Q What kind of gun did you see?

5 A The rifle, like SK or AK.

6 Q You could see the fellow with the -- with the AK
7 shooting?

8 A Yes, sir.

9 Q That fellow wasn't the first fellow that took the gun
10 out of the trunk?

11 A No, sir.

12 Q Did the fellow with the AK, where was he shooting?

13 A From?

14 Q Where was he shooting at?

15 A Oh, he started on the ground and came up to the car,
16 like he beside the car, then you could see he started
17 tagging the back, then I heard and seen the back
18 windshield come out.

19 Q Of whose car?

20 A Denise's car.

21 Q Okay.

22 A And so, you know, I was yelling to Scooter that they
23 were shooting, you know. Scooter real was -- had a good
24 bit of volume up, but we still could hear it. And so
25 Scooter turned around to his attention to Denise's car.

1 And so as we were coming down, we were coming down here.

2 Q Uh-huh.

3 A I happened to turn around because everybody -- we --
4 me and Scooter turned around, we -- you know, he's yelling
5 and screaming because the car was being shot at, so he
6 comes down at a good bit of speed not paying attention.

7 So I yelling out, Scooter, you know, because, look at
8 his car, so he got about right here as we came down. And
9 by him stopping at a good speed, you know, the car turned
10 an angle and it slide --

11 Q Right.

12 A -- at an angle, so we facing back toward back up
13 coming this way.

14 Q Towards Lexington?

15 A Yes, sir, going towards Lexington.

16 Q Back that way.

17 A Yes, sir. And I see Denise car, it was coming out
18 with a good bit of speed at first, then it starts to slow
19 down, then I see it angle off through here.

20 Q And where did it go?

21 A Into the gas station.

22 Q All right. Now, it came out of the flea market?

23 A Out of the flea market into the gas station.

24 Q Across the four lanes of Highway One?

25 A Yes, sir.

1 Q And ended where that gas station is right there?

2 A Yes, sir.

3 Q How did you see that, Jonathan?

4 A Because we was at a complete stop.

5 Q Right.

6 A We was at a complete stop. And the back still faces
7 Denise.

8 Q Uh-huh.

9 A So I'm still looking out, I could see everything. So
10 it took us perhaps like 30 seconds to come out because
11 traffic had done got packed from that little bit of time
12 period.

13 Q Right.

14 A Like everything going slow at first, then we turn
15 around facing the front, everything just like sped up.

16 Q Right.

17 A And so we had to wait. So by the time we got about
18 right here, I got out the car right here.

19 Q You got what now?

20 A Out the car.

21 Q You got out the car?

22 A Yeah, and ran through the -- the grass to the gas
23 station, me and Jamal did.

24 Q Uh-huh.

25 A And as we was coming through -- and we seen the Crown

1 Vic fly -- Crown Vic came out right behind -- right behind
2 us, like I got -- I was not out of the dirt yet, and I
3 seen him, he come through the gas station, come through,
4 go across the track, and he was out of my sight then.

5 Q All right. Now, that Crown Vic that came out of
6 there and went through the parking lot of that gas
7 station?

8 A Parking lot of the gas station.

9 Q It didn't come down to the stoplight and take a
10 right?

11 A No, sir.

12 Q And it went through the parking lot of the gas
13 station to this road here and across the railroad tracks?

14 A Yes, sir.

15 Q Could you -- could you see how many people were in
16 that Crown Vic there?

17 A No, sir. I couldn't tell you.

18 Q All right. The fellow who had that gun and was
19 shooting, was he one of the three that had been up at The
20 Number One earlier?

21 A No, sir.

22 Q He was a different guy?

23 A Yes, sir.

24 Q Now, after that Crown Vic came out and left, what did
25 you do around the gas station there, Jonathan?

1 A I immediately went to Denise's car.

2 Q And what kind of condition was Denise's car in?

3 A It was -- it was in bad condition.

4 Q What do you mean?

5 A It had bullet holes everywhere and it had done hit a

6 car.

7 Q Her car hit a car?

8 A Hit a parked car.

9 Q Did you see Denise in there?

10 A Yes, sir.

11 Q What was her condition?

12 A Me and Jamal ran up to her first, and I could see

13 blood everywhere. And I talked to her, and like she

14 responded not in -- like in motion. She never talked to

15 me. She responded in motion.

16 Q Moved a little bit, but she didn't talk?

17 A Yes, sir. And...

18 Q Where was she?

19 A In the -- in the driver's seat.

20 Q And was she sitting straight up?

21 A No, sir. Like she had -- she was leaning against the

22 door when I was talking to her.

23 Q Uh-huh.

24 A And like when -- Jamal was in the back, I was in the

25 front door. So I -- first thing came to mind was the

1 first question you ask anybody that's been hurt, are you
2 all right.

3 Q Uh-huh.

4 A And she moved, she -- she shake her head, yeah. I
5 was like, you know, you not all right, I go get help. So
6 as I come around the car, I see Denise laying -- I mean
7 Tasha laying down.

8 Q Where?

9 A On the side of the car out of the back door like --
10 not close to it, but just a little bit away, which someone
11 was -- like Randy had sat down by the back tire, and so I
12 had came around them.

13 Q Uh-huh.

14 A And I ran into Trey. I ran into Trey. He's like --
15 he's coming through the parking lot. When he was coming
16 to me, an officer was coming, too.

17 Q There was a police officer around?

18 A Yes, sir, at that time period, yes, sir. He got --
19 pulled a gun on us, told us to get down on the ground. So
20 we was down for a little while. Trey was -- Trey happened
21 to turn around and tell me he was -- his back was hurting.

22 So, you know, I took his shirt off. Then when I took
23 his shirt off, blood just started coming out.

24 Q Coming out what?

25 A Out his back. So I took my shirt off and put on Trey

1 back.

2 Q What could you tell about his back?

3 A I couldn't really tell too much, you know, because it
4 was like one main in the -- almost to the top. Mean, his
5 whole back just started bleeding, so I couldn't really
6 see.

7 Q Right.

8 A And so I was just trying to help him out. And the
9 officer was saying -- we were telling him there was a lady
10 in the car hurt. And he was like, just stay down, just
11 stay down. Then the -- he lost control of everybody. I
12 just got up. I told him I couldn't sit down.

13 Q Uh-huh.

14 A And so I got up any way. So when he discovered that
15 we wasn't the ones, then by that time period I had went
16 back to control Scooter.

17 Q What do you mean, control Scooter?

18 A Scooter had done -- when he came to the car asking me
19 and Jamal -- when we was on the ground, he was on the
20 phone. He was away from us at his car. Then by that time
21 he had came. He was about right in here, parked in this
22 little--

23 Q You know what Scooter was doing on the phone?

24 A He was on the phone with the police.

25 Q Calling 911?

1 A Yes, sir, because he gave the police officer his
2 phone, and then he told them he had it under control and
3 hung up.

4 Q Okay. Some more police officers come up there
5 shortly after that?

6 A Yes, sir.

7 Q Okay. First they didn't know whether y'all were the
8 shooters or the victims; is that right?

9 A Yes, sir.

10 Q Now, what happened with Trey over there? You said
11 something about taking his shirt off. What happened to
12 Trey?

13 A Trey was shot. And you couldn't tell how many times
14 or nothing, but I could see like two holes -- as my --
15 time period, I just saw two holes, and those were the two
16 that were bleeding like at the most.

17 So I'm sitting right here. I just had to try and
18 make that stop. Then the officer made me get -- leave
19 Trey alone. And so Trey just laid down on top of the
20 shirt I guess to put pressure on his back or something. I
21 can't particularly tell you.

22 Q Uh-huh.

23 A But that's all I could do with Trey.

24 Q Did later on some EMS people, some ambulances come
25 there --

1 A Yes, sir.

2 Q -- to try to offer assistance to anybody?

3 A Yeah, just for Trey. They wouldn't ever specifically

4 listen to us in particular about the woman in -- about

5 Denise. So they telling, they can do what they can do at

6 one time. So then that still leave Denise standing while

7 they working with Trey.

8 Q When did you realize Denise was dead?

9 A When?

10 Q Yes, sir.

11 A A little after it started raining because it started

12 raining.

13 Q Started raining?

14 A When I was with Trey, you know. Then when everybody

15 got up, that's when the officer lost control of everybody,

16 everybody got up. Went back to the car, and Denise was

17 more over to the steering wheel then, you know.

18 Then Richard was out of control, so I was trying to

19 stop him. So when I turn around, the officer had done

20 went to the car.

21 Q What do you mean Richard was out of control?

22 A He was mad, hot, you know. And so I was trying to

23 hold him, tell him to calm down.

24 Q That was Denise's brother?

25 A Boyfriend.

1 Q Scooter I'm talking about.

2 A Yes, sir.

3 Q Excuse me.

4 A And I'm sitting right here, you know. I had him.

5 Like he was right against like to the front. The officer
6 made us leave the car. So he was to the front by a
7 propane tank.

8 And so I was right there with him, you know, trying
9 to keep him in control. And the officer -- when I seen
10 the officer went to the car, he put his head down because
11 I'm just -- I knew there was no chance no more.

12 Q Now, let me ask you this, Jonathan. Back over here,
13 your car, the one you were in with Richard, Scooter came
14 out first, Denise was behind it. You saw a burgundy Crown
15 Victoria --

16 A Yes, sir.

17 Q -- with a gun came out of it?

18 A Yes, sir.

19 Q Did you ever see a teal or green car around there
20 anywhere?

21 A I -- I saw it, but I never knew that was like into it
22 together.

23 Q Uh-huh.

24 A You know. It was like -- it was more up to this --
25 it was more up here --

1 Q Uh-huh.

2 A -- than right here to the parking lot because we were
3 inside the park. Here -- the car was more up here.

4 Q Okay. Do you know how many people were around that
5 teal car or that Crown Victoria?

6 A Yeah, it was about five around the Crown Vic that
7 I -- that I really eyeball. I never sit there and count
8 the people --

9 Q Right.

10 A -- but I could tell you five off the top I seen.

11 Q Could have been more?

12 A Could have been more, yes.

13 Q Now, that day you talked with this officer here, the
14 Detective Eric Russell?

15 A Yes, sir.

16 Q And you tried to tell him the best you could what you
17 saw and everything, gave him a statement?

18 A Yes, sir.

19 Q All right. Now, with all this going on, Jonathan,
20 you could still see the man with the gun doing the
21 shooting? You could see him?

22 A With the -- what you mean about, when all this was
23 going on?

24 Q When all what we have talked about was going on
25 there, cars moving and you in front, Denise behind with

1 the Crown Victoria, you looking back, the fellow with that
2 rifle doing the shooting, you could see him?

3 A No, sir. I took my eyes off.

4 Q Pardon?

5 A I took my eyes off.

6 Q But you could see him when he was shooting?

7 A Oh, I could see when he was shooting, yes, sir.

8 Q But you didn't look in his eyes the whole time?

9 A No, sir.

10 Q But that guy with the gun doing the shooting, was he
11 or was he not one of the three up at The Number One?

12 A He wasn't.

13 Q He wasn't one of the three?

14 A Yes, sir. I could tell he wasn't one of the three,
15 but as in describing him right then, I couldn't do that.

16 Q Thank you, Jonathan. Answer any questions they have.

17 CROSS-EXAMINATION

18 BY MR. FLOYD:

19 Q Mr. Washington, you saw the driver get out of the
20 car, the driver of the Crown Vic get out of the car first;
21 did you not?

22 A Yes, sir.

23 Q And the truck -- the trunk was popped as they were
24 coming to a stop?

25 A Yes, sir.

1 Q And then you saw the driver take the weapon out of
2 the trunk; is that correct?

3 A Yes, sir.

4 Q Where were you when that was going on?

5 A At Scooter's back door, passenger side.

6 Q Did y'all immediately leave at that point?

7 A No, not immediately. We didn't have no altercation
8 or nothing, but we was -- we couldn't immediately leave
9 because everybody wasn't in the cars.

10 Q Did you see that individual place the gun back?

11 A Yes, sir, I seen that.

12 Q Had you left by then? Had you left by then?

13 A When the driver put it in the trunk? No, sir.

14 Q And you saw one other person with a gun?

15 A Yes, sir, just one other person.

16 Q Okay. So you saw the driver with the gun and you saw
17 one other person with the gun; is that correct?

18 A Yes, sir.

19 Q And the second person with the gun was the one who
20 did the shooting?

21 A The second person I seen, yes, sir.

22 Q Did you -- when you left, were you looking back, just
23 keeping your eye on 'em?

24 A Yes, sir.

25 Q So would you say that from the time you first saw the

1 driver with the weapon --

2 A Uh-huh.

3 Q -- did you pretty much keep your eye out for those
4 group of guys from then on?

5 A No. When he put the gun in the trunk --

6 Q Uh-huh.

7 A -- then I took my eyes off of him. You know, I
8 figured it was over. And then so I went to rush -- I
9 turned my back to him. Then me and him specifically, we
10 talked, me and the driver, and--

11 Q You exchanged words with the driver?

12 A Yes, sir.

13 Q Okay.

14 A Then I basically, you know, I pleaded for my life.
15 And I guess he granted mine and put the gun up. And so
16 then when I seen him put the gun in the trunk, then I
17 turned around and tell that we need to go. And so from
18 any time anybody else -- I couldn't tell you.

19 Q How much time would it have been from then until you
20 turned around and saw the shooter?

21 A Probably a little -- about a little more than a
22 minute.

23 Q No question you saw two people with the gun; is that
24 correct?

25 A I just seen two.

1 Q Thank you. No further questions.

2 REDIRECT EXAMINATION

3 BY MR. MYERS:

4 Q When you saw that driver get the gun out --

5 A Yes, sir.

6 Q -- had he been at The Number One Flea Market earlier?

7 A Yes, sir.

8 Q And then when you pled for your life and he put the
9 gun back in the trunk, you turned around and you don't
10 know what happened with the gun?

11 A No, sir. I don't know what happened.

12 Q Somebody else could have touched it.

13 A Could have.

14 Q But when you later on turned around, then the shooter
15 had the gun then?

16 A When I later on turned around, we was in the car
17 then.

18 Q By then you had gotten in the car --

19 A Yes, sir.

20 Q -- gotten everybody in there?

21 A Yeah. I was more concerned about my friends getting
22 in the car.

23 Q Right.

24 A Because I seen him put the gun up.

25 Q Right. And that fellow doing the shooting had not

1 been at Number One earlier?

2 A No, sir.

3 Q Thank you.

4 *THE COURT:* Thank you, sir. You can come down.

5 (Witness left the stand.)

6 *THE COURT:* May call your next witness.

7 *MS. GARRICK:* Your Honor, the State calls
8 Richard Geiger.

9 RICHARD GEIGER, after being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. GARRICK:

13 Q Richard, is it okay if I call you Scooter?

14 A Yes, ma'am.

15 Q How old are you?

16 A Twenty-two.

17 Q Where did you go to high school?

18 A Dutch Fork.

19 Q And are you from this area?

20 A From this area? No, ma'am.

21 Q Okay. Where are you from?

22 A Irmo.

23 Q And you still live over in --

24 A Yes, ma'am.

25 Q -- Irmo? Tell us, how did you know Denise Boykin?

1 A She was my girlfriend and we grew up together.

2 Q Okay. Where did y'all grow up together at?

3 A Well, like at a lot of time when I seen her, I would
4 see her at her sister's house.

5 Q And what's her sister's name?

6 A Leslie.

7 Q Is Leslie here today?

8 A Yes, ma'am.

9 Q And how long did you know Denise growing up?

10 A I'm not really sure, but I want to say more than 10
11 years.

12 Q Where did you meet Denise at?

13 A I'm not really sure, but I -- I met her like in my
14 aunt house, and I seen her again after some years passed
15 by at church.

16 Q Okay. What church was that?

17 A Mount Pleasant Baptist in West Columbia.

18 Q In West Columbia?

19 A Yes, ma'am.

20 Q And is that -- is that about the time you and Denise
21 started going out?

22 A No, ma'am.

23 Q Okay. Y'all were just friends?

24 A Yes, ma'am.

25 Q How long did you date Denise?

1 A For about four years.

2 Q Did Denise -- where did she live?

3 A In Red Bank.

4 Q And what was Denise doing with her life? Was she
5 going to school or was she working?

6 A Yeah, she was going to Midlands Tech and she was
7 working at Sonic. She want to go to school for nursing.

8 Q Did you know Denise's brother, Randy?

9 A Yes, ma'am.

10 Q Okay. And did Denise have any other brothers and
11 sisters?

12 A Yes, ma'am.

13 Q Who else does she have?

14 A Leslie.

15 Q So she had Leslie and Randy?

16 A And Randy.

17 Q Okay. Scooter, let's talk about July 15th of 2006.
18 Where were you on that -- that Saturday afternoon?

19 A We went to the flea market.

20 Q Okay. When you -- what flea market did you go to?

21 A Number One.

22 Q Okay. And who all went to the flea market?

23 A Me, Randy, Trey, Tasha, Jamar, Denise and Shaun
24 (sic).

25 Q Okay. Y'all were in how many cars?

1 A Two.

2 Q And what kind of car did you drive?

3 A A Mitsubishi Galant.

4 Q And what was -- what kind of car did Denise drive?

5 A A Toyota Camry.

6 Q Okay. What were y'all going to do at The US Number

7 One Flea Market?

8 A Go to the -- I was going to the flea market to get

9 a -- find a big pot because my cousin's going to cook crab

10 legs that night.

11 Q So y'all were going to cook crab legs?

12 A Yes, ma'am.

13 Q Okay. And when you got to The Number One Flea

14 Market, how long were y'all there?

15 A Be honest with you, I am not really sure.

16 Q And what happened at The US Flea Market? Did you get

17 your shopping done?

18 A I tried to. I didn't ever find a pot.

19 Q Okay. And did you see anybody else you knew at The

20 US Number One Flea Market?

21 A Yes, ma'am.

22 Q Who did you see?

23 A Brandon and George.

24 Q Okay. And when you say Brandon, did you know

25 Brandon's last name?

- 1 A Yes, ma'am, Brandon Harmon.
- 2 Q And how did you know Brandon Harmon?
- 3 A We was in a class together at Dutch Fork.
- 4 Q So y'all had gone to school together?
- 5 A Yes, ma'am.
- 6 Q And you said you knew who? Who else?
- 7 A I didn't really know him, but I knew him as George.
- 8 Q Okay. And where did you know him from?
- 9 A A lot of Irmo High School football games.
- 10 Q Okay. And what kind of hair did George have?
- 11 A Braids.
- 12 Q Okay. And was he tall or was he short?
- 13 A Tall.
- 14 Q When you saw Brandon and George, did they have
- 15 anybody else with them?
- 16 A Yes, ma'am, a small guy.
- 17 Q Okay.
- 18 A Brown-skinned.
- 19 Q I'm sorry?
- 20 A A small, brown-skinned guy.
- 21 Q Okay. And did you know him?
- 22 A No, ma'am.
- 23 Q Were there any children?
- 24 A Yes, ma'am. He had a little kid with him.
- 25 Q And did you talk to Brandon first or did Brandon talk

1 to you first?

2 A I talked to Brandon.

3 Q Okay. What did you say to Brandon?

4 A I walked up to him because when they -- when they
5 first walked past me, George was looking at me like he
6 want to say something. So I walked up to him. I was
7 like, y'all got -- you got a problem? And he was like,
8 what?

9 And I was like, from what I'm hearing, you and your
10 click got a problem with my family or whatever. And he
11 was like, well -- he was like, that ain't me, I ain't
12 G-pan, that my brother.

13 Q And when he said, that's my brother, who was he
14 talking about?

15 A His brother, Sam.

16 Q And did you know Sammy Harmon?

17 A Yeah, I knew Sam, too.

18 Q How did you know him?

19 A Dutch Fork.

20 Q Okay. So Brandon said, that's my brother that's in
21 G-pan?

22 A Yes, ma'am.

23 Q What did you say?

24 A I said okay -- no, after that he said, I'm Broad
25 River.

1 Q And what does that mean, I'm Broad River?

2 A I guess he's from Broad River.

3 Q Broad River Road?

4 A Yes, ma'am. So I said, well, do you and dude -- do
5 and -- ride have a problem with my family? And he was
6 like, no. So when he said, no, I said, okay, well, if you
7 ain't got no problem, then you going to do you, I'm going
8 to do me.

9 Q What does that mean when you say, you're going to do
10 you and I'm going to--

11 A You're going to do your thing and I'm going to do my
12 thing. We ain't going to worry about it no more.

13 Q What was Brandon's reaction?

14 A That's what it is, and he walked off.

15 Q Okay. What -- was George doing anything during this
16 time?

17 A No, he was just standing there.

18 Q Okay. Did Jamar -- where were Jamar and Jonathan
19 when you were having this conversation with Brandon?

20 A Jamar was standing beside me, and John had just
21 walking up.

22 Q Where was Trey?

23 A Off looking at something.

24 Q Where were Tasha and Denise?

25 A They were standing right there, too, and Randy.

1 Q I'm sorry?

2 A And Randy, too, was standing right there when I was

3 talking to the guy.

4 Q Okay. Was this an argument?

5 A Not really an argument, but it was more like a

6 conversation.

7 Q And when y'all said, you go your way, I'll go mine,

8 did y'all separate?

9 A Yeah, we walked off. Me and my cousin, we walked

10 off, and him and his other two guys, they walked off.

11 Q Okay. And did you see them again at The Number One

12 Flea Market?

13 A No, ma'am, not at Number One Flea Market one.

14 Q Did you see them leave The Number One Flea Market?

15 A No, not -- I didn't.

16 Q Okay. And what did you do after they left when y'all

17 were at The Number One Flea Market?

18 A We continued to shop, continued to look for stuff.

19 Q Okay. And when did y'all decide to leave?

20 A We might have left maybe -- I want to say 15, 20

21 minutes later.

22 Q And where did y'all decide to go?

23 A To The Barnyard.

24 Q And when you went to The Barnyard, who was in your

25 car?

1 A Jamar and Jonathan.

2 Q Okay. Was everybody else -- who did they ride with?

3 A Everybody else rode in Denise car.

4 Q Okay. And who got to The Barnyard first?

5 A I did.

6 Q And where -- where did Denise park?

7 A She parked beside my car.

8 Q Okay. Was there any room between y'all's cars?

9 A No, ma'am. It wasn't no space. Well, she parked in

10 one -- one parking space, and I parked in the next one

11 beside her.

12 Q Okay. And what did y'all do at The Barnyard?

13 A Same thing I was doing, looking for a pot. But it

14 had looked like it was starting to rain -- starting to

15 rain, so we decided we were going to go get something to

16 eat.

17 Q Okay. And when y'all came out, what happened next?

18 A We -- well, when we came out, nothing really happened

19 until we got to our cars. When we got to our cars, I seen

20 the burgundy car pull back up.

21 Q Okay. And had you seen the burgundy car before?

22 A No, ma'am.

23 Q All right. When you saw the burgundy car, why did

24 that catch your attention?

25 A Because I seen the driver of the car.

1 Q Who was the driver of the car?

2 A George was.

3 Q Could you tell how many people were in the Crown Vic?

4 A Not at the time I couldn't.

5 Q Okay. When you saw the driver, was the guy George?

6 A Uh-huh.

7 Q Where did that Crown Vic go in regards to your car?

8 A My car was facing this way. Denise car facing this

9 way. It came across the front of us and kind of parked

10 kind of caticorner from Denise car.

11 Q Was it closer? Was the Crown Vic closer to your car

12 or closer to Denise's car?

13 A Denise car.

14 Q Okay. And were you already at your car?

15 A Yes, ma'am.

16 Q You inside or outside?

17 A I was outside my car.

18 Q Where was Trey?

19 A He was about to get into Denise's car.

20 Q And where -- was Denise in her car?

21 A No, ma'am.

22 Q Where were Randy and Tasha?

23 A They were about to get in the car also.

24 Q Was Jonathan -- where was Jonathan?

25 A At the back, the back door to my car.

1 Q Okay. And when the Crown Vic pulled up, what did you
2 notice next?

3 A When the Crown Vic pulled up, that's when I noticed
4 four guys jumped out of the car. Four guys got out of the
5 car, and George came to the car, came to the trunk and
6 pulled out the AK.

7 Q Okay.

8 A And when he pulled out the AK, I told everybody, get
9 in the car, get in the car, get in the car.

10 Q And did you get in your car then?

11 A Yes, ma'am.

12 Q Were y'all having words, talking back and forth to
13 these people?

14 A No.

15 Q Could you--

16 A I wasn't.

17 Q Okay. Did you hear Jonathan or anybody else talking
18 to these guys?

19 A I heard John saying something, but I don't really
20 know what he was saying.

21 Q And was the guy that you called George, was he saying
22 anything?

23 A At the time I really didn't know because I was trying
24 to get in my car because I seen he had the -- pull out
25 that gun.

1 Q Okay. Did you see what he did with that gun?

2 A Yes, ma'am. He pointed it like he went to shoot it,
3 and then he put the gun back in the car.

4 Q And when you say he put it back in the car, where did
5 you see him put the gun?

6 A He put the gun back in the trunk.

7 Q Okay. And what happened next?

8 A Then after he put the gun in the trunk, I seen
9 another little guy, little dark-skinned dude run to the
10 trunk, and he pulled the gun up. And at that -- when I
11 seen him grab the gun out the trunk and pull it up, that's
12 when I drove off.

13 Q Okay. This little -- what did you say, little
14 dark-skinned guy?

15 A Yeah.

16 Q When he got the gun out the trunk, did you recognize
17 this man?

18 A No.

19 Q Okay. Had he been at The Number One Flea Market --

20 A No, ma'am.

21 Q -- with -- with George and Brandon?

22 A No, ma'am.

23 Q Okay. And did you see him actually pull the trigger?

24 A No, ma'am, I didn't.

25 Q Where did that guy come from, if you remember?

1 A The burgundy car.

2 Q Did you see any other car with people in it that were
3 involved in this?

4 A No, ma'am.

5 Q You never saw the green car?

6 A No, ma'am.

7 Q And did you ever see Brandon -- Sammy Harmon?

8 A No, ma'am, I didn't.

9 Q When you saw the little dark-skinned dude with the
10 gun, you said you turned around and you did what?

11 A When I seen the dark-skinned dude with the gun, by
12 that time I was already in my car. When I seen the little
13 dark-skinned dude with the gun, I started driving off.

14 Q Okay. And was Jamar in your car?

15 A Yes, ma'am, Jamar and Jonathan.

16 Q All right. Could you see what was going on behind
17 you with Denise and the people in her car?

18 A No, ma'am, not really I didn't.

19 Q And when you started driving off, what's the next
20 thing that happened?

21 A I could hear shots.

22 Q A lot of shots?

23 A Yes, ma'am.

24 Q Could you hear what they were hitting, if anything?

25 A Sounded like it was hitting metal.

1 Q Did you ever turn back and look and see who was
2 actually shooting the gun?

3 A No, ma'am.

4 Q What was -- what were you -- what was your attention
5 focused on?

6 A Denise's car.

7 Q Did -- where did Denise's car go? As you were
8 pulling out, what was she doing?

9 A She was getting in her car.

10 Q Okay.

11 A And then after the shots, I turned my car around
12 because I was going out like going toward KFC, and John
13 and Bubba was like, they hit Denise car, they hit Denise
14 car, and that's when I started screaming and I turned the
15 car around.

16 And right as I turned the car around, I seen her car
17 rolling through the parking lot of the flea market.

18 Q Okay. And were you already out of the parking lot?

19 A Yes, ma'am.

20 Q And can you show us on this diagram where you first
21 saw Denise's car rolling?

22 A I came out about -- about right here, turned around.
23 When I turned around, my car was about right here and it
24 rolled from here to over here.

25 Q Okay. And did it cross all four lanes of traffic on

1 Number One?

2 A Yes, ma'am, it did.

3 Q Did you see anybody get out of Denise's car?

4 A At the time, no, not until after -- a little after it
5 stopped.

6 Q All right. When -- where did Denise's car finally
7 come to a stop?

8 A As it hit another car in the parking lot of the gas
9 station.

10 Q This is at the gas station across from The Barnyard?

11 A Yes, ma'am.

12 Q Did you see it crash into that car?

13 A Yes, ma'am.

14 Q So when you turned around, you followed Denise's car?

15 A Yes, ma'am. Well, I was -- before I could get to her
16 car, I was stuck in a little bit of traffic. And her car
17 had cut across the four-way, and the burgundy car followed
18 behind it.

19 Q Okay. You saw that burgundy car again?

20 A Yes, ma'am.

21 Q Do you know how many people were in the burgundy car
22 then?

23 A No, ma'am, because I was behind a couple of cars.

24 Q And where did you see the burgundy car go?

25 A The burgundy car went in after the Denise car at the

1 gas station, and they kind of slowed down and then drove
2 off.

3 Q Okay. And which way did they go?

4 A To the left.

5 Q Okay. And you never saw that car again?

6 A No, ma'am.

7 Q Where did you stop your car at?

8 A A little -- a little -- a little ways away from
9 Denise's car.

10 Q What were Jamar and John doing as you were pulling
11 into the gas station?

12 A They jumped out before I pulled into the gas station.

13 Q Where did you see them go?

14 A To Denise's car.

15 Q And when you got to the gas station and stopped, what
16 did you do?

17 A I ran to Denise car and I seen that she was hit.

18 Q Okay. And what was her condition? What was her
19 condition in her car?

20 A When I seen her, she was like slumped over the
21 steering wheel, I mean, blood all over the car and holes
22 all in the car.

23 Q Did you see where Randy was?

24 A I really wasn't paying attention.

25 Q Did you see where Tasha was?

1 A Yeah, I seen her. She was on the ground.

2 Q Okay. Did you see Trey at that time?

3 A No, ma'am.

4 Q When is the next time you saw Trey?

5 A When the officer told me to get on the ground, I was
6 on the phone with the officer, with the police dude
7 whatever.

8 Q Uh-huh.

9 A And when he told me to get on the ground, that's when
10 I looked and seen Trey coming across the street.

11 Q Okay. And you said you were on the phone with the
12 officers?

13 A Yes, ma'am.

14 Q Who did you call?

15 A 911.

16 MS. GARRICK: Your Honor, at this time State's
17 Exhibit 10 which is in without objection from
18 Mr. Floyd.

19 THE COURT: Is that correct, Mr. Floyd?

20 MR. FLOYD: That's correct.

21 THE COURT: Okay.

22 (WHEREUPON, State's Exhibit 10 was admitted into
23 evidence.)

24 BY MS. GARRICK:

25 Q Do you recognize this tape?

1 A Yes, ma'am.

2 Q Have you heard this tape before?

3 A Yes, ma'am.

4 Q What does it have on here?

5 A It have on there me calling the police that day.

6 MS. GARRICK: Your Honor, I move to publish this
7 tape at this time.

8 THE COURT: Yes, ma'am.

9 (State's Exhibit 10 played for jury.)

10 BY MS. GARRICK:

11 Q Scooter, was that your 911 call?

12 A Yes, ma'am.

13 Q Please answer Mr. Floyd's questions.

14 CROSS-EXAMINATION

15 BY MR. FLOYD:

16 Q Mr. Geiger, you knew Sammy Harmon; didn't you?

17 A Yes, sir.

18 Q From high school? And that day you never saw Sammy
19 Harmon; did you?

20 A No, sir.

21 Q You saw one guy with a gun; didn't you?

22 A No, sir, I seen two.

23 Q You never saw anybody with -- two?

24 A I seen two, seen two guys.

25 Q You saw two guys with the gun?

1 A Yeah.

2 Q And -- but you never saw Sammy Harmon with the gun?

3 A I never seen him that day.

4 Q Thank you.

5 REDIRECT EXAMINATION

6 BY MS. GARRICK:

7 Q Did you actually see anyone pull the trigger of the
8 assault rifle?

9 A No, ma'am, I drove off.

10 Q You were driving off?

11 A Yes, ma'am.

12 Q Nothing further.

13 THE COURT: Thank you, sir. You can step down.

14 (Witness left the stand.)

15 MS. GARRICK: State calls Tasha Jones.

16 TASHA JONES, after being duly
17 sworn, testified as follows:

18 THE WITNESS: My name is Tasha Jones, J-O-N-E-S.

19 DIRECT EXAMINATION

20 BY MS. GARRICK:

21 Q Tasha, how old are you now?

22 A Sixteen.

23 Q And do you go to school?

24 A Yes, ma'am.

25 Q Where do you go to school?

1 A Brookland Cayce High School.

2 Q Did you know Denise Boykin?

3 A Yes, ma'am.

4 Q How did you know Denise?

5 A I was her -- her niece's best friend.

6 Q Her niece's best friend? How long had you known
7 Denise?

8 A For about three years.

9 Q Did you know what Denise was studying in school?

10 A No, ma'am.

11 Q Were you with Denise on July 15th of 2006?

12 A Yes, ma'am.

13 Q How did you end up getting with Denise that day?

14 A She called me and said she was going to the flea
15 market, and I told her that I wanted to go with her.

16 Q Did she pick you up or...

17 A Yes, ma'am.

18 Q Okay. When she picked you up, did she have anybody
19 else with her?

20 A No, ma'am.

21 Q Okay. Did y'all pick anybody else up?

22 A Yes, ma'am. We went to -- down the street and we
23 picked up -- well, Scooter and John and all of them were
24 at the house.

25 Q And did everybody end up going to Number One?

1 A Yes, ma'am.

2 Q Did y'all go in one car or two cars?

3 A Two.

4 Q All right. When y'all got to The Number One Flea
5 Market, what happened then?

6 A We were just looking around at first, and then
7 Scooter saw some dudes that he knew.

8 Q I'm sorry -- Scooter saw what?

9 A Some guys that he knew.

10 Q Okay. And did you know these guys?

11 A No, ma'am.

12 Q Did you know -- how many of them were there Scooter
13 was talking to?

14 A Three.

15 Q And could you describe them for us?

16 A One was tall with braids and another one -- he was
17 kind of tall, like he had like some little twists in his
18 hair, and another one, he was kind of short. I don't
19 remember how his hair was. I think it was low haircut,
20 though.

21 Q Okay. And did that -- did that man have a baby with
22 him?

23 A Uh-huh.

24 Q Could you hear really what they were talking about,
25 what Scooter and Brandon and the others were talking

1 about?

2 A No.

3 Q Okay. And did you go over up to them where they were
4 talking?

5 A No, ma'am.

6 Q And did you hear how that conversation ended?

7 A Yeah. They was like, um, it was no beef or
8 something.

9 Q No beef?

10 A Uh-huh.

11 Q Okay. What does that mean?

12 A Like they had no problems with each other.

13 Q Okay. And did the two -- the two groups split up?

14 A Uh-huh.

15 Q And what did your people do, your group?

16 A We went one way and they went the other day -- other
17 way.

18 Q Okay. And did you see those people again there at
19 The Number One Flea Market?

20 A When me and Jamar were looking at some -- I seen them
21 ride and like they stopped, and I looked, and then they
22 pulled off.

23 Q Okay. What kind of car were they in?

24 A In a burgundy Crown Victoria.

25 Q Okay. And was it the same people you had seen

1 talking to Scooter?

2 A Yes, ma'am.

3 Q So it was how many people in that Crown Vic?

4 A Three.

5 Q Okay. And do you -- did you recognize which one was
6 the driver?

7 A The one with the -- that was tall with the braids.

8 Q Okay. And you saw them leave?

9 A Uh-huh.

10 Q And then what did y'all do?

11 A We left and we went to The Barnyard.

12 Q Okay. What were y'all going to do at The Barnyard?

13 A Nothing. We were just looking around at the --
14 like -- we were doing there.

15 Q Okay. How long do you think you were at The
16 Barnyard?

17 A Maybe 10 minutes, and it got real windy, so we were
18 about to leave.

19 Q Okay. When you went to leave, where did y'all go?

20 A On -- we were walking to the car.

21 Q Okay. And had Denise and Scooter parked near each
22 other?

23 A Yeah, they parked right next to each other.

24 Q Okay. And when you got to the car, what if anything
25 happened next?

1 A Scooter and them were getting in the cars, and then
2 the burgundy car that we had seen earlier pulled up.

3 Q Okay. Who was getting in whose car?

4 A Scooter, John, and Jamar.

5 Q Okay. And where were you?

6 A I was getting in Denise's car.

7 Q And who -- was there anybody else in Denise's car?

8 A Yeah, it was me, Denise, Trey, and Randy.

9 Q Okay. When you saw the Crown Vic pull up, where did
10 it come? Did it come closer to Denise's car or closer to
11 Scooter's car?

12 A Closer to Denise's.

13 Q Okay. And when it pulled up, do you know how many
14 people were in it?

15 A Three I guess since it was three when I seen it
16 earlier.

17 Q Okay. Did you see who was driving the Crown Vic at
18 that time?

19 A The guy with the braids.

20 Q Okay. And when you saw this Crown Vic pull up, what
21 happened?

22 A The trunk was popped and the guy that was driving the
23 car pulled out a gun.

24 Q Okay. What kind of gun did he pull out?

25 A I'm not sure what kind. It was real long, though,

1 real long.

2 Q When he did that, what did you do?

3 A I got in -- I was getting -- I was already in the car
4 sitting in the back seat, and I was looking like towards
5 him, and then I looked back towards Denise because she
6 wasn't in the car yet.

7 Q Okay. And were you telling Denise anything?

8 A Yeah, we were telling her to get in the car because
9 they had a gun.

10 Q Did anybody in your car have any weapons?

11 A Not that I know of, no, ma'am.

12 Q Did you see any pistols?

13 A No, ma'am.

14 Q When y'all were telling Denise to go, could you see
15 what Scooter and them -- people in Scooter's car were
16 doing?

17 A Scooter was pulling off.

18 Q Scooter was already pulling off? Okay. Did you ever
19 look back, back to the Crown Vic?

20 A Yes, ma'am. After the guy with the braids put the
21 gun back in the trunk, I turned around and I was telling
22 Denise to get in the car, and then next thing you know,
23 she had got in the car, and I turned back around and
24 somebody else had the gun.

25 Q Okay. This somebody else that had the gun, did you

1 know him?

2 A No, ma'am.

3 Q Do you know where he came from?

4 A No, ma'am.

5 Q Do you know what car he came from?

6 A No, ma'am.

7 Q Had this person been at The Number One Flea Market?

8 A No, ma'am. He was different.

9 Q Okay. And when you saw this person with the gun,
10 what happened next?

11 A They started shooting.

12 Q Okay. What were they shooting at?

13 A The car.

14 Q Whose car?

15 A Denise's.

16 Q And what did you do?

17 A I ducked down in the car.

18 Q And what was Randy doing?

19 A He was right next to me and he was down in the seat
20 with me.

21 Q How many -- how many -- did any shots hit Denise's
22 car?

23 A Yes, ma'am.

24 Q Okay. What was Trey doing in the car? He was in the
25 front?

1 A Uh-huh.

2 Q What was he doing?

3 A He was saying he got shot. He was saying, I'm shot,

4 I'm shot.

5 Q And what was Denise doing?

6 A She wasn't saying anything.

7 Q Was your car or that car, was it going? Was it

8 rolling? Was it moving?

9 A Yes, ma'am, it was rolling.

10 Q Okay. And where did Denise's car go?

11 A Across the street into a gas station.

12 Q Okay. When you mean across the street, did it cross

13 Number One Highway?

14 A Yes, ma'am.

15 Q Four lanes of traffic?

16 A Yes, ma'am.

17 Q Could you see where Scooter had gone?

18 A No, ma'am.

19 Q Okay. When it rolled across the four lanes of

20 traffic, what did Trey do?

21 A Trey jumped out of the car.

22 Q Okay. And when it was -- the car went into the

23 Citgo, what did you do?

24 A I jumped out because I didn't know how hard it was

25 going to hit the car that it was going to run into.

1 Q And after you got out, what happened next?

2 A Everybody was looking at Denise because she was shot
3 and she wasn't moving, and Trey was running from across
4 the street somewhere and--

5 Q Was Trey hurt?

6 A Yes, ma'am, he had got shot.

7 Q And you said Denise wasn't moving. Was she -- how
8 was she sitting in the car?

9 A She was slumped over like the steering wheel.

10 Q And what was Randy doing?

11 A He was yelling, they shot my sister, and crying and
12 stuff.

13 Q Had you seen where the shooter went?

14 A No, ma'am.

15 Q Did you see what the shooter did with the long gun?

16 A No, ma'am.

17 Q Did law enforcement come to Citgo pretty quick?

18 A Yes, ma'am.

19 Q When was the next time you saw Scooter?

20 A I saw Scooter after Jamar and John had came, and they
21 were asking us if we were okay, and then Scooter pulled up
22 in the car.

23 Q Please answer Mr. Floyd's questions.

24 THE COURT: Mr. Floyd?

25 MR. FLOYD: No questions, Your Honor.

1 THE COURT: Thank you, ma'am. You may step
2 down.

3 (Witness left the stand.)

4 MR. MYERS: Trey Brown.

5 TREY BROWN, after being duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION.

8 BY MR. MYERS:

9 Q Raymond. They sometimes refer to you as Trey?

10 A Yes, they do.

11 Q Why is that?

12 A Because I'm my daddy's first son, I'm the third, so
13 Trey also means three.

14 Q All right. Now, your name has been mentioned a good
15 bit here, Trey.

16 A Yes, sir.

17 Q You are the one that was also shot down at the
18 Barnyard?

19 A Yes, sir. I was sitting in the passenger side of the
20 car.

21 Q Now, you were with everybody up at Number One?

22 A Yes, sir.

23 Q Did you know any of these three guys that came up in
24 the Crown Victoria?

25 A No, sir. I never seen them before a day in my life.

1 Q You didn't know them at all?

2 A No, sir.

3 Q Did you talk with them?

4 A No, sir, I didn't see any point in me talking to them
5 because what I was doing at Number One Flea Market.

6 Q And who with you and your group, who talked with
7 them?

8 A Well, at first it was just like Scooter was talking
9 to them, and then that's when I seen everybody else go up
10 toward them and start having a conversation, so I
11 continued doing what I was doing at the flea market.

12 Q Do what now?

13 A I continued to do what I was doing. I was talking to
14 a dude about buying a grill because they were selling
15 grill at the flea market that day.

16 Q So you were just interested in buying a grill. You
17 weren't involved at all with the other stuff?

18 A No, sir.

19 Q Now, things calmed down at Highway One; is that
20 right?

21 A It -- the way it calmed down, seemed like everybody
22 was cool and being friends again from what was said.

23 Q Who left first, y'all or the people in the Crown Vic?

24 A They did. They didn't initially like walk around the
25 regular path at the flea market. They kind of cut

1 straight through and looked like they were actually about
2 to go to their car.

3 Q Looked like what?

4 A You could tell they was getting ready to leave,
5 actually really go to their car because the way they was
6 leaving.

7 Q Okay. Did you see them any more at The Number One
8 Flea Market?

9 A Yes, I did.

10 Q Where?

11 A We had walked around to another part of the flea
12 market. And as we sat down, we were talking, they started
13 backing their car up. And I was like -- I was like, who
14 they backing that Crown Vic' up?

15 And that's when we seen the brown skin guy with
16 braids, he was driving it, and I hollered back in the car.
17 So all of us start watching him because they backed up,
18 hit the brakes, and backed up a lot faster, then they
19 stopped.

20 Then they looked our way, and then after they seen
21 that we were looking, the guy that was there, he looked
22 back. He said -- who was that? And then that -- the
23 brown skin guy with braids roll his window down a little
24 bit, then they went ahead and drove off.

25 Q Okay. Now, when y'all left Number One and then y'all

1 went up to The Barnyard?

2 A Yes, sir, we did.

3 Q And which car were you in going up to The Barnyard?

4 A I rode in Denise's black Toyota Camry.

5 Q Who was driving?

6 A Denise was.

7 Q And who was in the passenger seat?

8 A At the time it was -- I don't think John was riding
9 in the car. It was me, John, and Denise, Tasha riding in
10 Denise car then.

11 Q When you get up to The Barnyard -- why did y'all go
12 up to The Barnyard, Trey?

13 A Well, that night before the -- right before we left
14 to go to the flea market, John and I were cleaning up my
15 trailer because I want to have a party that night. So we
16 were talking about going to buy some clothes to wear that
17 night.

18 So since I was -- bought a shirt from Number One Flea
19 Market, I was going to try to find some long pants to
20 wear, so we went to The Barnyard to try to purchase stuff
21 I wanted to find.

22 Q When you got up to The Barnyard, did you stay out
23 around the car or did you go shopping around?

24 A No, we went in. We went shopping. We walked around,
25 conversate and laughed a little bit, and just continued to

1 shop.

2 Q Did you ever see that burgundy Crown Victoria at the
3 Barnyard?

4 A Yes, sir, right as we were leaving.

5 Q What do you mean as you were leaving?

6 A Well, as we walked out The Barnyard Flea Market, I
7 remember I didn't eat that day, and I was like, come on,
8 y'all, let's go to KFC. And since I was hungry, they
9 thought I was a joke, they was like, no, we don't feel
10 like going to get anything to eat right now.

11 Then Scooter was like, yeah, not supposed to go to --
12 any way. So then as Scooter walk, open his car door, I
13 remember John hollered, shotgun. He ran -- he ran to the
14 passenger side door--

15 Q What do you mean John called the shotgun? What do
16 you mean?

17 A That's what they call -- expression that who was
18 going to get the first -- passenger seat in the front.

19 Q Passenger seat in the front of the car?

20 A Yes, sir.

21 Q Okay. And what happened?

22 A So Bubba had to ride in the back. So Randy went
23 ahead and he rode with us at the -- John ride with us, and
24 so Tasha got in behind me, and Randy was getting in -- was
25 getting ready to sit behind Denise, and Denise wouldn't

1 open the door.

2 So after I went to try to pull the knob on Denise's
3 door, I noticed -- I remembered that it didn't open up
4 right, so I--

5 Q Whoa. Whoa. Whoa. What do you mean the door didn't
6 open up right?

7 A The hinge was not connected to the -- to open the
8 door, so you had to open from inside the car.

9 Q Couldn't open what?

10 A You had to open the door from the inside of the car.

11 Q On the passenger's side?

12 A Yes, sir.

13 Q So you couldn't just open to get in. You had to open
14 from the inside?

15 A Yes, sir. So I as I reached down to open the door,
16 that's when I looked up and I seen the burglary Crown Vic
17 pulling up, and -- but right before I seen that, Denise
18 like, them little boys pulling back up again.

19 So after we had noticed -- looked up, they sped up a
20 little bit, they went ahead and parked, and everybody
21 jumped out the car.

22 Q You know how many got out of the Crown Victoria?

23 A It was four people jumped out, sir.

24 Q It was now four in there?

25 A Yes, sir.

1 Q Okay. Did you know any of them?

2 A No, sir, but I remember seeing the other three at The
3 Number One Flea Market.

4 Q Do what now?

5 A I remember seeing the other one -- the other three at
6 The Number One Flea Market.

7 Q So four people are now in the Crown Vic. Three of
8 them had been at Number One.

9 A Yes, sir.

10 Q And there was another one in there that had not been
11 to The Number One?

12 A Yes, sir. So then that's when John talk about the
13 car, he like Denise, need to get in the car, get in the
14 car. So I was like, roll the window down, so I open the
15 door, get in the car.

16 So then I seen the trunk lift open, and I turned
17 around, looked, more people out there. But I--

18 Q What you mean more people out there?

19 A It was like -- I remember seeing three at Number One
20 Flea Market, but four people jump out the car. But then I
21 seen a taller light-skinned guy that was out there I
22 didn't see before, and I seen another guy that jumped up
23 and down, and that's when he -- I -- they start screaming
24 and stuff, and I was like, all these people out here, and
25 I remember, it was like only five of the boys out there,

1 and it was like six of them.

2 We had females with us. So I was like, we need to --
3 we need to leave and get out of here. And that's when I
4 turned back around, I seen the gun. About the time when I
5 seen the gun, Denise had rolled the window down a little
6 more, and I opened the door and I sat down in the car.

7 Q Now, this person that had a gun, what kind of gun did
8 you see?

9 A It was like a Russian model AK47.

10 Q Did -- that fellow that had the gun, had he been up
11 at The Number One earlier or not?

12 A As I turned -- by the time I turned around, I seen
13 the person I seen with the gun after talking with Denise.
14 The one I seen with the gun when I turn my head, he wasn't
15 at The Number One Flea Market.

16 Q All right. Now, run that by me again. You lost me.

17 A As I turned and I was telling Denise, get in the car,
18 I was trying to actually talk to her for a minute because
19 I look at myself as being a pastor sometime. I like to
20 like calm everybody down. I was like, let's go, because I
21 don't want us to get in any trouble out here.

22 So I talked to her for minute, then I turned around
23 and that's when I seen the guy with the gun. So I sat
24 down in the car and I remember looking saying, that's a
25 big old gun.

1 Q And the guy with the gun, had he been up at The
2 Number One previously or not?

3 A No, sir.

4 Q Now, you're in the car. What about Tasha and Randy?
5 Are they in the back seat yet?

6 A Yes, sir. They'd gotten in the car by now, and then
7 Denise got in the car. And I seen when the gun was put
8 up, and after the gun was put up, after a couple of
9 seconds--

10 Q Whoa. Whoa. Whoa. What you to mean, the gun was
11 put up?

12 A They never close the trunk when they put the gun back
13 in the car.

14 Q So the gun was put back in the car?

15 A Yes, sir.

16 Q Where in the car?

17 A Right up in the trunk.

18 Q Was Denise getting in the car then?

19 A Yes, sir. She was in the car by then. And when
20 Scooter seen Denise had got in the car, he went ahead and
21 drove off.

22 Q So Scooter leaves.

23 A Yes, sir.

24 Q What are y'all doing?

25 A We were still -- we are telling Denise to drive off.

1 At the same time we still hear them, they're screaming and
2 hollering and all the other stuff. And that's when I
3 remember the short dude with the low haircut, he had on
4 sandals.

5 He was like, man -- he like F them niggers, F them
6 niggers. He like, shoot -- he like, kill the nigger, kill
7 the nigger, kill the nigger. That's when I really heard
8 Tasha like, Denise, just drive off, drive off.

9 Randy was like, man, she was -- Randy was like,
10 Denise, listen to Trey, drive off, drive off.

11 Q Did she start to drive off?

12 A She attempted to. I remember when she put the car in
13 drive and she led -- the steering wheel.

14 Q And what happened--

15 JUROR: I'm sorry, Your Honor. I really need a
16 bathroom break.

17 THE COURT: All right.

18 JUROR: I apologize.

19 THE COURT: No problem. We'll take a few
20 minutes break. We will take 10 or 15. I was
21 supposed to give you one, but I didn't, so...

22 JUROR: Excuse me.

23 THE COURT: The rest of y'all can go as well.

24 JUROR: I'm sorry.

25 THE COURT: That's okay.

1 (Jury left the courtroom at 11:23 pm.)

2 THE COURT: You can step down. You just can't
3 discuss your testimony with anyone. We'll be in
4 recess. We will break for 15.

5 (Witness left the stand.)

6 (Whereupon a brief recess was had.)

7 THE COURT: All right. My understanding is the
8 jury is ready. Mr. Brown, if you will return to the
9 witness stand, please sir.

10 (Witness resumed the stand.)

11 THE COURT: All right, sir. You can bring us
12 the jury.

13 (Jury entered the courtroom at 11:36 am.)

14 THE COURT: Mr. Solicitor, you may proceed.

15 BY MR. MYERS:

16 Q Now Trey, I think we were at the point that you said
17 that Scooter and them had pulled off in their car.

18 A Yes, sir.

19 Q And then the car you were in Denise was driving,
20 y'all were getting ready to pull off; is that right?

21 A Yes, because you could feel the car moving just a
22 little bit.

23 Q And then what happened, please?

24 A So as we were still telling Denise to drive off, I
25 looked at -- I remember making eye contact with Randy in

1 the back seat, and I turned -- I turned over my other
2 shoulder and looked at Tasha, and so I was blocking
3 everything everybody was saying from talking to Denise,
4 and then Denise turned to me, she was like, oh no, she was
5 like, I don't think they are going to shoot.

6 So as I turned to look back, I remember seeing the
7 dark-skinned guy with braids, him have a gun again now.
8 So my heart dropped because the way he was looking, and
9 how -- he wasn't saying anything. He was holding the gun.

10 So that was when I turned, I looked at the tall
11 light-skinned guy, the tall light-skinned guy. I remember
12 smile on his face, he bouncing around up and down. And so
13 I turned back, and I was like, man, just drive off, take
14 me home. And that's when I heard the first gunshot go
15 off.

16 And I turned to look again and I seen that dirt flew
17 up. So I turned, looked at Denise again, and I turned
18 real quick to get ready to look, and that's when it was
19 like slow motion, I seen the bullet come through the door
20 hit me in my knee.

21 So after that hit my knee, I turned a little bit, and
22 I kind of turned my body to the window because I was
23 attempting to try to cover -- cover Denise so she could
24 drive off.

25 That's when I felt like my whole back was sprayed

1 down, the whole side of -- down my back on one side.
2 That's when I start screaming, I'm hit. And then Randy
3 tucked -- Randy grabbed Tasha and pulled her down. They
4 ducked down in the seat.

5 Q They were in the back?

6 A Yes, sir.

7 Q Randy and Tasha were in the back seat?

8 A And you just hear rapid fire just hitting the car.
9 And the little glances I seen, I seen bullets flying
10 everywhere. And I seen Denise ducking down, and I seen
11 when she -- she attempt to put her hand over her head, so
12 I thought she ducked down in the car.

13 So I remember when it's blood coming out of my mouth,
14 and I was thinking about, oh, I'm about to die in the car,
15 about to die in the car. So Randy and Tasha duck down in
16 the back seat.

17 I remember hearing Denise screaming and Tasha
18 screaming, and Randy was like, Tasha, stay down, Tasha
19 stay down. I so lean back up, my head went back, and I
20 called -- I was trying to catch the blood in my mouth, so
21 I saw her coughing it up, and I said -- I look at Denise,
22 I seen blood on her shirt, I thought it was mine, so I was
23 like, Denise, Denise--

24 Q You looked at Denise and you saw what?

25 A Blood on her back.

1 Q Blood on her back?

2 A Yes, sir.

3 Q And what position was Denise in at that time?

4 A She was still crouched down. At the time I was
5 thinking she was crouched down because the gunshots so
6 loud, you couldn't really hear anything. Only thing -- it
7 left a ring in your ear.

8 So still look like everything was in slow motion. I
9 looked up and I looked at Number One, and it was like the
10 car were fast but slow at the same time, and traffic was
11 so full, so I was like, Denise, Denise hit the brake, hit
12 the brake.

13 I couldn't move because my body was just like locking
14 up. So only thing I could do was just hold myself. I'm
15 like, please Denise, get up, hit the brake, we about to
16 run into traffic.

17 So then about the time then Tasha sitting -- Randy
18 still had Tasha down, and Randy lift up, he like, Denise,
19 hit the brake, and he's like, oh, my God, he like, my
20 sister hit, my sister hurt, my sister hurt.

21 So then I look back at Randy, I see Randy was okay.
22 Tasha peeked up. So then I was like -- I was on the
23 passenger side, and then -- the way traffic going this
24 way, the road was empty, so I knew the car was back from
25 there, but traffic was coming fast and like the line up

1 going down. I was like, my side the car going to get hit.

2 Q You were talking about going across Highway One?

3 A Yes, sir, and I was like -- my whole right side
4 was -- is damaged, I -- if I get hit by this car, I know
5 I'm going to die, and I was like, I can't let myself die.

6 So I opened the door and I rolled out the car. So
7 when I roll out the car, landed on my chest, and I looked
8 up, and I seen the burdundy Crown Vic coming towards me.
9 So at first thought was lay there, my body was tired,
10 hurt. I felt all -- I couldn't move, but I was like, by
11 the mercy of God I jumped up and I just took off running.

12 So as I was running, I could still -- they were still
13 screaming stuff out the window, and you could hear how
14 when they hit the gas 35 -- so I kept on running and I ran
15 to the--

16 Q Let me stop you right there. Denise's car is heading
17 towards Highway One.

18 A Yes, sir.

19 Q And you said somebody yelled for her to hit the
20 brakes?

21 A Yes, sir.

22 Q Did she hit the brakes?

23 A No, sir.

24 Q Okay. You say you bailed out of the car?

25 A Yes, sir.

1 Q Was it after you crossed Highway One or before you
2 crossed?

3 A Before we crossed Highway One.

4 Q When you bailed out of the car, y'all were still on
5 the Barnyard side of--

6 A Yes, sir. The car was -- the car was in motion. It
7 was rolling.

8 Q Once you got out of the car, what happened to
9 Denise's car? Did it stop or did it keep on going?

10 A It kept rolling because I was thinking to myself,
11 Denise was too hurt to hit the brake, because I know if I
12 got hit in my leg, she probably hit in her leg also, so
13 she can't hit the brake also, so I was like, I need to get
14 out the car.

15 Q You said you saw that Crown Victoria after you bailed
16 out of the car?

17 A Yes, sir.

18 Q Did it pass you?

19 A I didn't look up for it to pass me. Only thing I
20 know -- more than likely it did pass me, but I looked up
21 to see the Crown Vic, so I turned, I took off running.

22 Q And where did you run?

23 A I ran to -- it's a car lot, like it's in the same
24 like little area as The Barnyard Flea Market.

25 Q Okay. Referring to the areal photograph, State's

1 Number 11, now there's Barnyard Flea Market there?

2 A Yes, sir.

3 Q And you said her car was heading towards Highway One.

4 A Yes, sir, but we wasn't actually on the road part.

5 It was like -- more like on the dirt and gravel part.

6 Q Right in here?

7 A Yes, sir.

8 Q And is that where you bailed out?

9 A Yes, sir. That's where I fell out the car at.

10 Q And you said -- now, you ran over to kind of like a
11 car lot place?

12 A Yes, sir.

13 Q Where is that car lot place?

14 A Right next to where the gravel part is. I went down
15 around--

16 Q Right here?

17 A Yes, sir.

18 Q Okay. Did you go in the front of that car lot
19 building or did you go into the back?

20 A I ran to the back.

21 Q Was anybody inside?

22 A Yes, sir. It was a short spanish lady I think.

23 MR. MYERS: Referring to State's Exhibit number
24 13, Your Honor.

25 THE COURT: Okay.

1 BY MR. MYERS:

2 Q Can you see this right up here?

3 A Yes, sir.

4 Q There is the -- part of the flea market back there?

5 A Yes, sir.

6 Q And this building right here looking at it, that's
7 the same building that's on this areal photograph right
8 here?

9 A Yes, sir.

10 Q Did you go in it to the front side of it or back
11 side?

12 A To the back side.

13 Q Okay. And when you went inside, was there anyone in
14 there?

15 A Yes, sir.

16 Q And why did you go in there, Trey?

17 A Because I knew it was a car lot, and I seen cars out
18 there. Someone went in there -- someone would have heard
19 what happened, and I knew they'd call help.

20 Q Call help from who?

21 A 911, get emergency room out there because whatever --
22 get an ambulance to come out there because I knew I was
23 really hurt.

24 Q Was anyone in there?

25 A Yes, sir.

1 Q And did -- were you able to talk to that person?

2 A I tried to talk with that person.

3 Q And what happened?

4 A She started screaming, took off running.

5 Q Were you bleeding?

6 A Yes, sir, real bad.

7 Q Were you standing up when you went in or what?

8 A Soon as I walked inside the building, it's like my
9 leg gave out. My whole body just -- I just fell on the
10 ground. So I thought I hit the ground hard enough, and I
11 was trying to scream help at the same time so somebody
12 could probably come help me, so I just laid there.

13 So as I laid there I was thinking to myself, get up,
14 get up because I can't -- knew I was going to die right
15 here. So I started spitting up some my blood so I would
16 breathe better.

17 So that's when I went to the front, and I went to her
18 office, and I was like, help, I've been shot. I was like,
19 please call the ambulance, and that's when she screamed
20 and took off.

21 Q Did you stay inside of that building there, Trey, or
22 what?

23 A Well, I was -- I was tempted to. I wanted to try to
24 find a phone and try to call my cellphone because I left
25 my cellphone in the car. So when I seen she took out

1 through the front door, I was like, let me go out the
2 front door to try to find her.

3 And soon as I went out, I look across the street to
4 the gas station and I seen the officer with the gun out in
5 front of Richard telling Richard to get down.

6 Q Now, you came out the front of this building on this
7 areal diagram right here, you came out the front this
8 time?

9 A Yes, sir.

10 Q And then you looked across at the Citgo Gas Station?

11 A Yes, sir.

12 Q Then where did you see Denise's car there?

13 A I seen from -- when I seen, I thought it was in the
14 parking spot, so I thought she was able to get up and
15 steer the car.

16 Q Did you go over there?

17 A Yes, sir.

18 Q And -- go ahead.

19 A I tried to scream. I was trying to scream out
20 Scooter name for him to come help me because I didn't
21 think I would be able to make it across the road. But
22 then when I seen the officer in front of him, I knew he
23 wasn't going to let Scooter go past him plus I couldn't
24 scream as loud because my lung had been damaged. So I
25 just went ahead and just tried to walk across the street.

1 Q What happened when you got across the street over
2 there at the Citgo Gas Station?

3 A Well, I started to stumble a little bit because my
4 body was getting weak, and then the first person I seen
5 was my cousin Jamar, and he was like, oh, Trey, there you
6 go.

7 I was like -- I was like, cousin, help me, I been
8 hit, I been hit. And he was like, where you been hit at?
9 I was like, I feel it in my back. And so after he got
10 ready to walk up to me, I try to take a deep breath
11 because it's like my breathing -- I was about to lose all
12 my breath.

13 Then as I took a deep breath and held it, it was like
14 blood squirted out all out my back, then got -- cousin
15 Jamar started crying.

16 Q Did you see Jonathan over there?

17 A Yes, sir. He was standing over attempting to walk to
18 me.

19 Q And did he try to help you in any way?

20 A At first he tried till the officer told both us to
21 get on the ground. I was like, I can't because I don't
22 want on the ground. Then he pulled a gun out, and I been
23 like, no, I been hit. And John was like, stop, he like,
24 stop, stop, he said, he been shot.

25 So then the officer was like, well, calm down and

1 just get on the ground. I was like, I'm not about to get
2 on the ground. And so he was like, if you get on the
3 ground and wait the ambulance, that might help you a lot
4 more, because I was headed to the ground.

5 So I just -- I calmed down a little bit and I was
6 thinking about myself because I was like, if I let the
7 blood sit in my lung, I could drown. So I started
8 coughing it up.

9 And I was like, somebody take -- somebody take their
10 shirt off and hand it to me. And Richard was on the
11 phone, and he was like -- he was very emotional, so he
12 couldn't help me.

13 Q That's Scooter?

14 A Yes, sir.

15 Q Go ahead.

16 A And they wouldn't let Jamar -- they also wouldn't let
17 Jamar get up. Jamar was like, man, I'm about to help you.
18 So he took his shirt off, and I was like -- I held my own,
19 I said press against my back bone so stop the bleeding.

20 So when the officer seen him put the shirt against my
21 back, the officer told him to get away from me. So I
22 like, don't worry about it, just let me hold the shirt.
23 So I tried to get my other arm to reach it, but my body
24 was so in pain, I just laid the shirt on the ground.

25 I tried to lay on the ground on top of the shirt to

1 stop the bleeding, but I start feeling dizzy and the pain
2 was so tremendous, I didn't want -- I thought if I passed
3 out, I was going to die.

4 So I was like, I need to stand back up. So I got
5 back up so I wouldn't pass out. So then I kneeled down
6 for a little bit, and then that's when I thought -- I was
7 like, where is Denise at?

8 So then I look in the car and I seen her. She was
9 still slumped over. And I thought, oh my gosh. Then
10 Scooter was going crazy. And I wanted to get up and try
11 to walk again, but then that's when my left knee started
12 hurting too bad, and that's when it started raining.

13 Q Later on was an ambulance -- some EMS people come up
14 and treat you a little bit?

15 A Yes, sir. They pulled up. I was trying to tell
16 them, I was like, get the girl first, get the girl first,
17 but then they put the Oxygen mask on my face, just like
18 laid me straight on the ground, put me in a stretcher.

19 Q After they got you on a stretcher and everything
20 else, later on did they take you to a hospital somewhere?

21 A Yes, sir, Richland Memorial.

22 Q How long were you in the hospital?

23 A To me I think I should have been there longer, but I
24 stayed in there for I think five days.

25 Q How come -- where all were you shot, Trey?

1 A As I was in the hospital, the first one they only
2 really seen was three, two in my back and one in my knee.
3 But as they clean up the blood as days pass by, it's like
4 certain parts of my body that they didn't look at.

5 So like I said, it was only been three. But then as
6 I was sitting in the room with the nurse, the nurse
7 noticed, like, why is blood just come from under your arm?
8 Because I had a chest tube in my rib. They thought that
9 it was coming from there.

10 So I took my other arm, lift my arm up, let my mother
11 see, and she's like, oh my God, you got one over the arm.

12 Q Let me ask you this. Now, you said something about a
13 chest tube in your ribs. What do you mean?

14 A Like since my lung had collapsed and I was hit on
15 that side, they went ahead and just open it up and they
16 put -- they pushed the chest tube in where the rib was
17 broke out to suck the blood out of my lung that collapsed.

18 Q They had to suck the blood out because your lung
19 collapsed?

20 A Yes, sir.

21 Q Was your rib injured in any way?

22 A Yes, sir.

23 Q How was that?

24 A Sir?

25 Q How?

1 A From when the bullet had went through on this side.

2 Q Now, how many shots did you receive in the back? Did
3 you know?

4 A Three shots.

5 Q Three in the back?

6 A Yes, sir.

7 Q And then you said something about your arms or your
8 ribs?

9 A Yes, sir. And it's also two under my arm. After a
10 while they noticed it was one on the back of my arm and
11 kind of on my rib, but then the one in my kneecap.

12 Q So the back, your arms, your ribs, and your kneecaps?

13 A Yes, sir.

14 Q Were they able to take any of those bullets out?

15 A No, sir. They left all of them inside of me.

16 Q So you still have those bullets inside?

17 A Yes, sir.

18 Q Could you come down here? Come here. That has been
19 nearly two years ago?

20 A Yes, sir.

21 Q Show them on your back where you got shot.

22 A (complied).

23 Q Can you show your arm, where you had your arm...

24 A My -- right in there my arm.

25 Q And is it one still on your knee?

1 A Yes, sir. (Complied).

2 Q Now Trey, you said that you were in the hospital five
3 days. They had you in the trauma unit to begin with?

4 A Yes, sir.

5 Q You said you felt like you should have stayed. Why
6 did you leave the hospital after five days?

7 A Because the night when I was in the trauma center, my
8 mother came in, and I was like please -- I was like, let
9 me talk to whoever my doctor is because if I'm not in a
10 room beside Denise, I want to be in the same trauma room
11 as Denise was, and my mama just shook her head and she
12 walked off and started crying.

13 So I waited there for a second, I went back to sleep,
14 then she walked back in the room. I was like, was you
15 able to talk to the doctor? She was like, no. I was
16 like, why not?

17 She was like, because Denise didn't make it. And I
18 was like, what are you talking about? She's like, Denise
19 died at the scene. So I sat there and I didn't believe it
20 because -- I was like, she couldn't have because she
21 steered the car into the parking lot.

22 So the next day my mother told me that they had
23 funeral arrangements, and I wanted to make it to her
24 funeral because me and Denise, we were very close. She
25 was like -- she was like one of my best friends, and I

1 don't -- I don't try to keep many friends around me.

2 And like when I needed somebody to talk to, I was
3 able to call her and talk to her. She didn't really talk
4 much about much things, but she was the person I had that
5 I knew that would listen.

6 Q They had the funeral for her on Thursday?

7 A Yes, sir.

8 Q And is that why you got out of the hospital, to go to
9 the funeral?

10 A Yes, sir. I got out that Wednesday.

11 Q Trey, answer any questions they may have for you.

12 A Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. FLOYD:

15 Q Good morning, Mr. Brown.

16 A How you doing?

17 Q Mr. Brown, you spoke to the -- someone from the
18 sheriff's department that day; didn't you?

19 A Yes, sir. I attempted to try to, but I was unable.

20 Q And you gave them a statement, did you not, about
21 what you saw about the shooting?

22 A I more or less tried to really give a statement, but
23 I really couldn't, and I couldn't write it either, so --
24 they tried to take from what I tried to word, and they
25 wrote up a statement on their -- on their own.

1 Q And didn't you tell them that you saw them get -- the
2 dudes get out of the car, the trunk popped open,
3 brown-skinned dude with braids pulled out an old-looking
4 AK47?

5 A Yes, sir.

6 Q And then you told them about the guy who was yelling
7 the obscenities and...

8 A Repeat that again, sir.

9 Q Did you tell them about the guy then that was the
10 little dude with the pop eyes yelling, F that, kill them?

11 A Yes, sir, I told them that also.

12 Q And then shoot, shoot? Did you tell them --

13 A Yes, sir.

14 Q -- small guy with the pop eyes said that. And then
15 you told them then the dude with the gun the first time
16 picked it back up and started shooting.

17 A At the time I told them the guy picked the gun back
18 up. They missed everything I said between then because
19 they were all talking to each other and my mother, so they
20 didn't get everything that I said.

21 Q But that's what's in your statement; isn't it?

22 A Yes, sir, that's what they wrote down, so I never
23 really signed the statement after that, after I heard him
24 repeat it to me.

25 Q And so you saw the dude with the braids get the guns.

1 A Yes, sir.

2 Q And then you saw that dude pick it back up and shoot?

3 A I saw him pick it back -- pick the gun back up.

4 Q Pardon?

5 A I saw him pick the gun back up.

6 Q And then didn't you tell them you saw the shooting
7 then?

8 A I didn't tell them I saw them shoot. I said I saw
9 him pick the gun back up. From what -- from what I talked
10 about it, they took the assumption and said that he was
11 the one that shot also. And also, if you look on my
12 statement, you won't see my signature because I didn't
13 sign it.

14 Q But that's what's in your statement; isn't it?

15 A Yes, sir.

16 Q No further questions.

17 THE COURT: Mr. Solicitor?

18 REDIRECT EXAMINATION

19 BY MR. MYERS:

20 Q You didn't sign it because there's some incorrect
21 information in there that the officers put in there?

22 A That and that my right side was shot up and I
23 couldn't move my arm.

24 Q Thank you. No further questions.

25 THE COURT: Thank you, sir. You can come down.

1 Oh, you got another question?

2 RE CROSS-EXAMINATION

3 BY MR. FLOYD:

4 Q What's incorrect in there?

5 A Sir?

6 Q What's incorrect?

7 A It's actually a couple things that's incorrect
8 from -- she mostly worded everything in her words, not
9 exactly anything that I said. And as I -- as I recovered
10 and I read over it, I was like, as I talked once, I was
11 like, most of this stuff ain't even the way I talked.

12 Q Did you re-write another statement?

13 A No, sir.

14 Q Thank you. No further questions.

15 THE COURT: Thank you. You can come down.

16 MR. MYERS: Thank you. Marco Harper.

17 MARCO HARPER, after being duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MYERS:

21 Q Mr. Harper, where do you live?

22 A Here in Columbia.

23 Q Do you live in Richland County or Lexington County?

24 A Richland.

25 Q And are you familiar with the roads out by Highway

1 One, Barnyard Flea Market, and that vicinity?

2 A Yes, sir.

3 Q How are you familiar with those roads?

4 A I work for a glass company, Binswanger Glass, and
5 drive those roads all the time.

6 Q Okay. Now, on a Saturday, the date of the shooting
7 in 2006, in July, The Barnyard Flea Market, were you
8 anywhere in that vicinity?

9 A Yes, sir. I was stopped at a red light behind maybe
10 three or four cars.

11 Q Now, where was the red light you were stopped at?

12 A St. Davids Church Road and Number One.

13 Q Okay. This is Number One right here. Is that right?

14 A Yes, sir.

15 Q And this is St. Davids Road -- Church?

16 A Yes, sir.

17 Q And which way were you headed when you stopped right
18 there at that stoplight?

19 A Towards Lexington.

20 Q So you were going towards Lexington?

21 A Yes, sir.

22 Q Was anyone in your vehicle with you?

23 A My brother, Jason.

24 Q Okay. Now, is he familiar with those roads?

25 A No, sir. He lives in Myrtle Beach, so he was just

1 down for the weekend. We were going to a barbeque.

2 Q Who was driving?

3 A I was.

4 Q And what type of vehicle were you in?

5 A In a Jeep Wrangler, light blue car, light blue

6 Wrangler.

7 Q Blue Wrangler?

8 A Yes, sir.

9 Q Now, when y'all pulled up to this stoplight, were you

10 in the right lane or the left lane at that time?

11 A We were in the left lane next to the turning lane

12 that actually turns on to St. Davids Church Road.

13 Q So you had been in the lane that would have taken a

14 left on St. Davids Church?

15 A No, we were actually going straight. I was next to

16 the lane -- next to the turning lane.

17 Q I got ya.

18 A So I was basically in the middle lane.

19 Q Now, what if anything attracted your attention over

20 around the flea market here?

21 A I heard numerous shots, what I thought was about 15,

22 20 shots, something like that.

23 Q Okay. And what happened after you heard those shots?

24 A I was looking around to see where they were coming

25 from, and I looked over to the flea market and saw a

1 burgundy Crown Vic and somebody -- a male put something in
2 the trunk, close it really quick, and get into the car.

3 Q All right. Now, let me ask you this. When you saw
4 that car -- and you can stand up here if you would, please
5 sir.

6 A Sure.

7 Q Use this pointer. Tell us what direction that car
8 went in after it left the parking lot of The Barnyard Flea
9 Market.

10 A We were sitting right around here. And when I looked
11 over, the vehicle was facing this way, so he was parked
12 somewhere right around here. And they put the -- whatever
13 it was in the trunk. I didn't see exactly what it was.
14 And they drove off.

15 And they came through here and went through the Citgo
16 Gas Station parking lot really fast, and I knew something
17 was not right and decided to follow them.

18 Q When they went through that parking lot at the Citgo,
19 Citgo Gas Station, where did they go?

20 A They went through the parking lot and went on to St.
21 Davids Church Road.

22 Q Across the railroad track?

23 A Yes, sir, across the railroad tracks. When they
24 started coming through here, I decided to get into this,
25 into the turning lane, and follow them down.

1 Q Okay. Now, that red Crown Vic, it didn't come down
2 to the stoplight and then take a right?

3 A No, sir. It went through the -- through the parking
4 lot.

5 Q You were driving?

6 A Yes, sir.

7 Q Okay. And when it went across the railroad tracks on
8 down St. Davids Church Road, did you follow it?

9 A Yes, sir.

10 Q Tell you what. Hold on to that for just a minute,
11 Might be a little easier. Referring to State's Exhibit
12 number nine, this is The Barnyard right here?

13 A Uh-huh.

14 Q That's the Citgo station?

15 A Yes, sir.

16 Q Highway One?

17 A Yes, sir.

18 Q And this is St. Davids Church Road?

19 A Yes, sir.

20 Q Railroad track is right there? Tell the jury, as you
21 followed that car where it went.

22 A Okay. After going through the parking lot, they
23 turned left on to St. Davids Church Road. I followed --
24 got right behind them and followed them down. There was
25 a -- probably about five or six cars ahead of me. Once we

1 got to Kittiwake, they took a left.

2 Q This is Kittiwake right here?

3 A Yes, sir.

4 Q Okay.

5 A I continued to follow them down. And when they got
6 to the intersection of Emmanuel Church Road and Kittiwake,
7 they took a right. As they were taking a right, that's
8 when they -- I don't remember which one, but one of them
9 had looked back and saw us.

10 I'm sure they seen -- they knew we were behind them
11 from the beginning, but I think at that point they
12 realized we were following them.

13 Q And could you tell how many people were inside the
14 burgundy Crown Vic?

15 A Four, four males.

16 Q Four males?

17 A Yes, sir.

18 Q Black or white?

19 A Black.

20 Q Okay. The driving from St. Davids down to Kittiwake,
21 then Kittiwake on to Emmanuel Church Road, how was that
22 car being driven?

23 A Very casually. They were not speeding or anything
24 like that.

25 Q But up here when they got out here, they really took

1 off --

2 A Yes, sir.

3 Q -- out of there?

4 A After they got out of the -- they got -- like I said,
5 they got behind maybe four, five, six cars. I really
6 don't remember how many cars were in front ahead of them,
7 but they couldn't really go any faster.

8 Q Okay. Later on, did they try to outrun you?

9 A Yes, sir. When they -- when they took Emmanuel
10 Church Road, they took a right. After they took that
11 right, they -- they took off, and I tried to stay behind
12 them as close as I could.

13 After they took that right, they tried to lose us and
14 went down Foxhill Place, and -- which is a deadend.

15 Q What did you do when they went down Foxhill?

16 A I pulled across the road where Ringo Road is, and
17 just stopped and waited for them to come out.

18 Q Did they ever come back out?

19 A Yes, sir. They came out.

20 Q And what happened then?

21 A When they came out, they took a right. There was
22 another car coming, and they pulled out in front of that
23 car and just took off -- and I had no choice but to wait
24 for that car to pass, and that's when I lost them.

25 Q Now, you can have a seat. Now, while you were

1 chasing this car, what did you or your brother do to try
2 to call?

3 A We called 911.

4 Q Okay. And who was talking with 911?

5 A My brother was as I was driving.

6 Q And who was giving your brother directions about
7 where you were and the location of the road and things?

8 A I was trying to -- to tell them what roads we were on
9 and where they were turning and things like that.

10 Q Because your brother wasn't familiar with these
11 roads.

12 A No, sir.

13 Q And while you were following that vehicle, did you
14 get a license tag number?

15 A Yes, sir.

16 Q Do you remember the license tag number?

17 A 708 -- I -- it's been almost two years ago.

18 Q I understand. You gave the officers a statement
19 later; didn't you?

20 A Yes, sir.

21 Q And also, you gave this license tag out on the 911
22 tape.

23 A Yes, sir, my brother did.

24 Q And you saw the license tag?

25 A Yes.

1 Q And on your statement here on July 15, 2006, what's
2 the license tag number?

3 A 708VHB.

4 Q 708VHB; is that correct? And that same tag was given
5 out on the 911 tape?

6 A It should have been, yes, sir.

7 Q So you have heard that tape.

8 A Yes, sir.

9 Q Is that the tape that you were giving information
10 from your brother for your brother to tell the police on
11 911?

12 A Correct.

13 MR. MYERS: Your Honor, we'd like to play this
14 at this time. It's State's Number 12.

15 THE COURT: What says the defense?

16 MR. FLOYD: No objection, Your Honor.

17 THE COURT: Okay. State's Exhibit 12 is in
18 without objection.

19 (WHEREUPON, State's Exhibit 12 was admitted into
20 evidence.)

21 (Whereupon State's Exhibit 12 was played.)

22 BY MR. MYERS:

23 Q Mr. Harper, you said that they went into Foxhill
24 Place here, that was said on the tape, that was the
25 dead-end road?

1 A Yes, sir.

2 Q And you backed into -- across the street at Ringo
3 Road?

4 A We were on the -- on the side. We were on the side
5 of Emanuel Church Road. We were still on Emanuel Church
6 Road, just on the other side of Foxhill.

7 Q And when they came out, then they headed this way,
8 and that's when that car got in between you?

9 A Yes, sir.

10 Q And you said something about heading towards Two
11 Notch Road. This is Two Notch Road that comes in right
12 back up here?

13 A Yes, sir.

14 Q But you lost them before you got to Two Notch Road?

15 A Yes, sir. There's -- where the two bodies of water
16 are, there's a big hill right there, and it goes around
17 that curve, and you couldn't see them any more after that.

18 Q Okay. And in your statement and on the tape the
19 license tag was 708VHB?

20 A Yes, sir.

21 Q And is that what it says right here?

22 A Yes, sir.

23 MR. MYERS: We offer this in evidence, Your
24 Honor.

25 THE COURT: Any objection?

1 MR. FLOYD: No objection, Your Honor.

2 (WHEREUPON, State's Exhibit 19 was admitted into
3 evidence.)

4 THE COURT: State's Exhibit 19 is in without
5 objection.

6 BY MR. MYERS:

7 Q Thank you, Mr. Harper. Answer any questions...

8 CROSS-EXAMINATION

9 BY MR. FLOYD:

10 Q Mr. Harper, you saw -- you heard the shots and you
11 saw -- looked over and saw the Crown Vic?

12 A Yes, sir.

13 Q You saw someone put something in the trunk?

14 A Yes, sir.

15 Q The person put something in the trunk, what did that
16 person do then? Did they get in the Crown Vic?

17 A Yes, sir.

18 Q Did you see whether they got in the front or the
19 back?

20 A I don't really remember. I believe they got in the
21 back seat.

22 Q Okay. But you saw him put something in the trunk and
23 then get in the back seat --

24 A Yes, sir.

25 Q -- of the Crown Vic?

1 A Yes, sir.

2 Q Thank you. No further questions.

3 MR. MYERS: Nothing further.

4 THE COURT: You can come down. Thank you.

5 (Witness left the stand.)

6 MS. GARRICK: The State calls Steve Larosa.

7 STEVE LAROSA, after being duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. GARRICK:

11 Q Officer LaRosa, where are you employed?

12 A Lexington County Sheriff's Department.

13 Q And how long have you been with the sheriff's
14 department?

15 A Three years.

16 Q Were you working July 15th of 2006?

17 A Yes, I was.

18 Q Were you on the road as they call it?

19 A Yes.

20 Q Okay. And what does that mean?

21 A Call-answering deputy.

22 Q And were you called or dispatched to a call on that
23 afternoon?

24 A Yes. Yes, I was.

25 Q Where were you dispatched to?

1 A To The Barnyard after an officer stated that there
2 were shots fired in the area.

3 Q And where did you go?

4 A I went to the Citgo. I seen an officer there with
5 several males out on the ground, so I went there to assist
6 him.

7 Q And were you the second officer there?

8 A Yes, I was.

9 Q And that Citgo there, where is it located?

10 A In Lexington County. It's right across the street
11 from The Barnyard.

12 Q Okay. And when you got there, what did you do there?

13 A Well, after I'd seen the officer, he had his weapon
14 pointed at other males, I -- I didn't know if the actual
15 shooter was still there, so I assisted him.

16 Then we assessed the scene, seen that people were
17 injured. We called EMS. I had roped off the crime scene,
18 began passing out witness statements, and had EMS come in,
19 and that's when Chief Tyndall was also there--

20 Q Chief Tyndall -- let me interrupt you. Where is he
21 from?

22 A West Columbia Police Department.

23 Q He approached you there?

24 A Yes. He assisted and he went to -- across the street
25 to The Barnyard to secure that area.

1 Q Okay. I can show you what's been marked State's 16,
2 17, and 18, which are in evidence without objection.

3 MR. FLOYD: That's correct, Your Honor.

4 THE COURT: Okay.

5 (WHEREUPON, State's Exhibits 16, 17 and 18 were
6 admitted into evidence.)

7 BY MS. GARRICK:

8 Q What is this -- State's 16, what does this show?

9 A What does that show?

10 Q Yes, sir.

11 A That shows one of the victims' car.

12 Q State's 17?

13 A Shows both the victims' cars, the black Toyota and
14 the gray one.

15 Q What is this yellow marking around there?

16 A That is the crime scene tape I put up.

17 Q You put that up?

18 A Yes, I did.

19 Q And this is how it looked on that afternoon?

20 A Yes.

21 Q State's 18?

22 A That's the same.

23 Q Do you know what car that is?

24 A That's the second vehicle of the -- other one that
25 was involved.

1 Q Second vehicle of the victims?

2 A Yes, of the victims.

3 Q Did you have any other duties there?

4 A Other than just securing the crime scene, I observed
5 the crime scene alone, that was it, made sure nobody came
6 in or out.

7 Q And were you there when EMS got there?

8 A Yes, I was.

9 Q Did you know the condition of the two patients?

10 A I knew that one had multiple gunshots to the back,
11 and it appeared to me that the female victim had passed.

12 Q Thank you. Please answer any questions Mr. Floyd
13 would have.

14 MR. FLOYD: No questions, Your Honor.

15 THE COURT: Thank you, sir. You can step down.

16 (Whereupon the witness left the stand.)

17 MS. GARRICK: Your Honor, the State calls Tyler
18 Dennison.

19 TYLER DENNISON, after being duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. GARRICK:

23 Q Mr. Dennison, where are you employed?

24 A For the Lexington County Fire Service.

25 Q And so you're a fireman?

1 A That's correct. I'm the Fire Prevention Officer for
2 the county.

3 Q Okay. Do you have any other certifications?

4 A I do. I'm a certified South Carolina State
5 Paramedic.

6 Q And how long have you been a paramedic?

7 A Since 2000.

8 Q Were you dispatched to the Citgo on July 15th of
9 2006?

10 A Yes. I was dispatched to -- working out of Oak Grove
11 Fire Station we were dispatched.

12 Q Did you know at the time what kind of call you were
13 going on?

14 A For some reason I remember it being a first duty
15 dispatch as a motor vehicle accident. Then later while
16 going in route, we found out that it was a gunshot.

17 Q And when you got to the Citgo, what did you observe?

18 A We found a car that apparently had wrecked into
19 another car. And the officers there -- I believe Officer
20 Hatchell was there directing here -- patients here, so we
21 got out of the fire truck, and he let me know that there
22 was a patient that was still inside the car, so that was
23 where I made my first -- I went over there first.

24 Q Right. When you approached that car, where was the
25 female patient?

1 A She was slumped over the steering wheel in the
2 driver's seat.

3 Q And what was her condition?

4 A At that time I didn't know because I had to be able
5 to assess the patient. And of course, by doing that, I
6 have to open the airway first to see if somebody is
7 breathing.

8 So I opened the door, pulled her head back to open
9 her airway to check to see if she was breathing. There
10 wasn't any breathing. Felt for a pulse and didn't feel a
11 pulse.

12 Before I did that, I noticed that she had a fairly
13 large hole in the back of her head with a apparent brain
14 matter to me is what it looked like around the hole.

15 Q Around the hole?

16 A Yes.

17 Q And when you checked for a pulse, you didn't find
18 one?

19 A No, ma'am. She wasn't breathing and did not have a
20 pulse.

21 Q And what did you conclude at that time?

22 A That her injuries were obviously incompatible with
23 life. She had a hole in her head with brain matter, and
24 she wasn't breathing, didn't have a pulse. At that point
25 I realized there was nothing that I could do for her as

1 a -- you know, to help save her, so I declared that she
2 was dead.

3 Q Did you call anyone else to actually do that
4 paperwork?

5 A Yeah, the -- what we have to do is -- of course, when
6 I figure out that there is nothing I can do for a person,
7 we have to notify the coroner, the coroner comes out and
8 does his part.

9 Q Did you treat any other patients that were there?

10 A I think I assisted in helping packaging another male
11 victim that was there. My time was pretty much consumed
12 with her. As soon as their initial assessment was done,
13 it was a very short time after we got there initially that
14 the ambulance came, and their crew was there and we had
15 several volunteers and whatnot.

16 Q Someone else was helping--

17 A Right. They took care of mostly the other patient.
18 Yeah, there was no other patients --

19 Q Thank you.

20 A -- at that time.

21 Q Thank you. Please answer Mr. Floyd's questions.

22 MR. FLOYD: No questions, Your Honor.

23 THE COURT: Thank you, sir. You can step down.

24 (Witness left the stand.)

25 MR. MYERS: Gini Youmans.

1 GINI YOUMANS, after being duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MYERS:

5 Q Mrs. Youmans, what is your occupation?

6 A I'm a paramedic with Lexington County EMS.

7 Q Were you on duty back in July of 2006 out around
8 Highway One at The Barnyard Flea Market?

9 A Yes, sir.

10 Q And did you respond to a gas station out there with
11 some injuries to certain folks?

12 A Yes, sir.

13 Q And who did you go to? Who were you primarily
14 concerned with?

15 A When we got on scene, again, Tyler Dennison was a
16 paramedic. And we got on scene, he stated that the female
17 victim in the car was already dead on the scene. And we
18 approached a male victim sitting in the parking lot.

19 Q Okay. And that male victim, what type of wounds did
20 you find out he had there at the scene initially?

21 A Initially when we got there, I believe we had to cut
22 his shirt off. And when we cut his shirt off, I believe
23 we found three wounds on his back.

24 Q What were you most concerned about him when you first
25 examined him?

1 A If memory serves correctly, where the wounds were in
2 his back was -- could possibly cause lung damage, and we
3 immediately assessed him, covered the wounds, tried to get
4 him in the ambulance.

5 We put him in a neck collar, on a hard board because
6 we had no idea where the bullets may have gone, and we
7 were concerned with possible spinal injury and lung injury
8 and his breathing.

9 Q And what about bleeding? Was he bleeding a lot or
10 little bit or...

11 A At that very point in time when we arrived on scene,
12 it was raining very hard, and he did still have some blood
13 coming out. We used vaseline-type dressings and put them
14 directly over the wounds, and then we put him on a spine
15 board, got him in the unit, and the bleeding seemed to be
16 somewhat controlled.

17 Q Okay. Did y'all transport him anywhere?

18 A Yes, sir, Richland Hospital Trauma Center.

19 Q And between leaving Lexington County and Highway One
20 and that area going over to Richland, to the hospital, did
21 you notice any more wounds that you hadn't initially seen?

22 A Yes, sir. At that point in time we had to uncover
23 the patient fully, cover them back up with blankets to
24 check for any more injuries, and we noticed more blood
25 coming out.

1 And after further examination, he did have a wound on
2 his right side and then a wound going into back side of
3 his right arm. And at that point in time I know that we
4 covered up the right rib area wound. I'm not sure if we
5 dressed the arm simply because we were worried about that
6 side.

7 Q Did you notice or did you discover anything about his
8 knee, a wound there?

9 A I honestly do not recall.

10 Q On the way to the hospital, did y'all give him
11 something to assist him in breathing?

12 A We put him on 15 liters on a oma breather (phonetic)
13 pure oxygen mask. That's the highest we are able to give
14 a patient. We also assessed his lung sounds all the way
15 there just to make sure because a lung can collapse,
16 breathing can be impaired, and we assessed that every five
17 minutes on the way there.

18 Q Once you get him over to the hospital in Richland,
19 what unit do ya'll deliver him to?

20 A Initially we called Richland. They tell us which
21 trauma bay to go into. They have two specific trauma
22 rooms set up. And I don't remember if it was trauma bay
23 one or two.

24 But upon arrival at Richland, we took him directly
25 into one of the trauma rooms and gave a report to the

1 trauma team.

2 Q Turned it over to the folks at the hospital?

3 A Yes, sir.

4 Q All right. If you would, answer any questions they
5 have, please ma'am.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: No questions, Your Honor.

8 THE COURT: Thank you, ma'am. You may step
9 down.

10 (Whereupon the witness left the stand.)

11 MR. MYERS: Call Chief Dennis Tyndall.

12 DENNIS TYNDALL, after being duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. MYERS:

16 Q What is your occupation?

17 A Police Chief for the City of West Columbia.

18 Q And how long have you been with West Columbia?

19 A Twenty-four years.

20 Q Now Chief, this area, Highway One and The Barnyard,
21 that's in Lexington County, not in the city limits of West
22 Columbia; correct?

23 A That's correct.

24 Q But did you happen to be in that location on July the
25 15th of 2006 concerning a shooting at The Barnyard Flea

1 Market?

2 A Yes, sir, I was.

3 Q And what were you doing in the vicinity?

4 A I was at an auto parts store next to the McDonalds
5 there in front of the Piggly Wiggly right next door to the
6 flea market getting a part for a trailer that I was
7 working on. I was off duty.

8 Q And what, if anything, attracted your attention in
9 the vicinity of the Barnyard?

10 A Well, while I was in auto parts store, I heard a
11 rapid fire -- sound like rapid fire shooting, probably 10,
12 12 shots sounded like. Didn't know where it come from.
13 It sounded like coming from a semi-automatic weapon to me,
14 but somebody in the store thought it might have been the
15 flag whipping out front because the wind was really
16 strong, a storm was coming up.

17 So any way, as I was leaving, I was heading back
18 toward the house and I noticed a Lexington County
19 sheriff's deputy on the side of the road at the Citgo
20 station with his weapon drawn and had several people --
21 some -- one on the ground, a couple of them running around
22 car, and looked like he was having a hard time getting
23 control of the situation, so I pulled in to assist him.

24 Q Now, that was on the Citgo side of Highway One?

25 A That's correct.

1 Q Referring to the areal photograph number 11, you are
2 talking about over here at the Citgo station, right in
3 there?

4 A That's correct.

5 Q And where was the auto parts place that you were at?

6 A I believe this would be it. That would be
7 McDonald's. Be right over here, right here.

8 Q Now, after helping with the officer here at the
9 Citgo, did you have an occasion to go back over in the
10 parking lot area of The Barnyard Flea Market?

11 A I did. Once the deputy had another deputy arrive and
12 help him out there, they got that secured, I offered any
13 assistance that I might could do, and he asked me if I
14 would go across the street to the flea market and see if I
15 could locate the crime scene.

16 Q Okay. And were any other officers over in the
17 parking lot area of The Barnyard for that crime scene at
18 that time?

19 A When I first arrived, no, sir, there was not.

20 Q Okay. And what were the weather conditions like that
21 day?

22 A As I said, the wind was coming through real strong.
23 It was a -- was a heavy front. It was just beginning to
24 rain when I went next door, so I grabbed the tarp from my
25 truck and took it with me across the street.

1 And shortly after getting there, it started raining
2 pretty heavy.

3 Q And what, if anything, did you do with that tarp that
4 you had gotten out of your truck?

5 A I located where the shooting took place and shell
6 casings were lying on the ground in the parking lot. I
7 took my tarp along with the assistance of a couple other
8 stand-by -- people standing by and draped it over the
9 shell casings to try to preserve any evidence.

10 Q I'm going to hand you what's been marked as State's
11 Exhibit 14 and 15 without objection. Can you identify
12 those two?

13 A Put on my glasses. Yes, sir. That's the area where
14 the crime scene took place.

15 Q Now, referring to number 14 up here -- well, first of
16 all, what is this yellow stuff around here?

17 A Be crime scene tape. The deputies circled the area
18 with it when they arrive.

19 Q Okay. And this table here and this blue cover, what
20 is that?

21 A That's the tarp that I retrieved from my truck to
22 place over the top of the shell casings that I -- that
23 were in close proximity there in that one area.

24 Q And number 15 is a close-up. That shows more of that
25 table and your tarp, that's the one you took out your

1 truck?

2 A Yes, sir. The wind, like I said, was blowing real
3 strong, and put the table on top to keep it from blowing
4 away.

5 Q And what did you put that tarp on?

6 A Over bullet casings, several bullet casings on the
7 ground.

8 Q And were you able to find one of the bullet casings
9 out in that vicinity that you took in your possession?

10 A I did.

11 Q And where did you find that one?

12 A There was -- one of the bullet casings was the --
13 fell underneath the car, just underneath the car and it
14 was beside that table.

15 Q And here's the two cars right here. Looks like one
16 here and one there. Any of those cars that you were
17 talking...

18 A I can't promise you which car it was. I mean, that's
19 probably the silver one because it was close proximity to
20 where the -- where the tarp was.

21 Q And why did you take that shell casing?

22 A That shell casing was under the car, and I noticed
23 it -- it had not rained on that shell casing, wasn't any
24 water on it, so I got a piece of plastic and picked it up
25 with that piece of plastic and turned it over to Deputy

1 Barr when she arrived at the scene.

2 Q And somebody with the Lexington Sheriff's Department,
3 Deputy Barr, that'd be Traci Barr?

4 A That's correct, sir.

5 Q You turned that shell casing over to her?

6 A I did.

7 Q And you said you wrapped it in something. What did
8 you say you wrapped it in?

9 A A piece of plastic.

10 Q Okay. And how does that casing compare with the one
11 that you picked up at the scene?

12 A Best my recollection, it's similar to the one that I
13 picked up.

14 Q And you turned that shell casing over to Detective
15 Traci Barr with the Lexington County Sheriff's Department?

16 A Yes, sir, I did.

17 MR. MYERS: We'd like this marked for
18 identification purposes at this time, Your Honor.

19 THE COURT: Okay.

20 (WHEREUPON, State's Exhibit No. 20 was marked
21 for identification only.)

22 BY MR. MYERS:

23 Q After deputies from the sheriff's department arrived,
24 did you continue to assist them or more or less turn it
25 over to them?

1 A I turned the crime scene part over to them. I did go
2 and try to find a couple of folks that might have seen
3 anything so they can talk to them.

4 Q Yeah. Thank you, Chief. Answer any questions they
5 have.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: No questions, Your Honor.

8 THE COURT: Okay. Thank you, Chief. You can
9 step down.

10 THE WITNESS: Thank you, sir.

11 (Witness left the stand.)

12 MS. GARRICK: Your Honor, we call Detective
13 Traci Barr.

14 TRACI BARR, after being duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. GARRICK:

18 Q Detective Barr, where are you employed?

19 A The Lexington Sheriff's Department.

20 Q And what is your title?

21 A I'm a detective there.

22 Q Okay. How long have you been with the Lexington
23 County Sheriff's Department?

24 A I have been with the sheriff's department almost
25 eight years.

1 Q Were you working July 15th of 2006?

2 A Yes, I was.

3 Q And were you dispatched to The Barnyard?

4 A I was -- when I was notified of the call, I was at
5 headquarters, and Master Deputy Rivera advised me there
6 was a shooting, so I immediately began to respond to The
7 Barnyard Flea Market at that time.

8 Q When you got to The Barnyard Flea Market, who else
9 was there from law enforcement?

10 A When I arrived on scene, I pulled into The Barnyard
11 Flea Market because I noticed the deputies had already
12 secured the Citgo area. I was immediately flagged down by
13 Chief Dennis Tyndall and knew him as a law enforcement
14 officer.

15 He advised me that the crime scene occurred in the
16 front area right near where I pulled in. And at that time
17 that's when he advised me there was also some witnesses in
18 the area, so we attempted to separate them.

19 Q When you got to The Barnyard and spoke with Chief
20 Tyndall, did you observe any -- the blue tarp?

21 A Yes, I did.

22 Q If I can show you State's 15. Is that what it looked
23 like when you got there?

24 A Yes, it -- it was storming real bad once I arrived,
25 and rain, and the tarp was blowing, so I don't

1 specifically remember that table exactly where it is...

2 Q And after you spoke with Chief Tyndall, did he give
3 you anything?

4 A He did. He said he located a shell casing from the
5 crime scene that he was attempting to preserve. He placed
6 it in plastic and turned it over to me. I then secured it
7 in a plastic -- in a paper bag and placed it in the
8 Lexington County evidence later in the evening--

9 Q Later that same evening?

10 A Yes.

11 Q If I can show you State's 20. Do you recognize that
12 item?

13 A Yes, I do.

14 Q And what is that?

15 A This is our chain of custody for the Lexington County
16 Sheriff's Department evidence that we log. This is the
17 brown paper bag I had in my car that I placed the shell
18 casing in.

19 Q And when did you turn this in to the evidence
20 custodian?

21 A Covered up on here. I placed this in at 2100 hours
22 on the 15th of July.

23 Q 2006?

24 A 2006.

25 Q What is 2100?

1 A 2100 will be 9:00. Sorry.

2 Q And did you tamper with it in any way or mess with
3 it?

4 A No, I didn't.

5 Q Did you yourself pass out witness statements to
6 people that were there?

7 A Yes, I did. Once we -- there were so many people
8 there when I attempted to separate, and Chief Tyndall had
9 also separated witnesses, I passed out -- I believe I met
10 with a few people. I can't specifically remember how
11 many.

12 Q Did you have any other duties in regards to this
13 case?

14 A Yes, I did.

15 Q And what else were you involved in?

16 A I assisted Detective Russell. He was lead and I was
17 just there for any assistance he needed in speaking with,
18 you know, other victims and investigative duties.

19 Q Please answer any questions Mr. Floyd may have.

20 A Okay.

21 MR. FLOYD: No questions of this witness, Your
22 Honor.

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

25 THE WITNESS: Thank you.

1 (Witness left the stand.)

2 MS. GARRICK: Your Honor, I think the next
3 witness might be a little bit long.

4 THE COURT: Okay. So you think we need to break
5 for lunch?

6 MS. GARRICK: If you don't mind.

7 THE COURT: Okay. Can y'all make it back by
8 two, 2:15? Will that work? 2:15? All right. We
9 will break for lunch. And if you will return to the
10 jury room at 2:15.

11 I will remind you, please do not discuss this
12 case among yourselves, allow anybody to discuss it
13 with you.

14 (Jury left the courtroom at 12:40 pm.)

15 THE COURT: Anything before we break for lunch?

16 MS. GARRICK: No, sir, Your Honor.

17 THE COURT: We will be in recess until 2:15.

18 (Court was in recess for lunch.)

19 THE COURT: Bring us the jury.

20 (WHEREUPON, State's Exhibits 21-41 were admitted
21 into evidence.)

22 (Jury entered the courtroom at 2:20 pm.)

23 (WHEREUPON, State's Exhibits Nos. 42 and 43 were
24 marked for identification only.)

25 THE COURT: May call your next witness.

1 MS. GARRICK: Your Honor, we call Troy Crump.

2 TROY CRUMP, after being duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GARRICK:

6 Q Investigator Crump, where are you employed?

7 A Lexington County Sheriff's Department.

8 Q And how long have you been working for the sheriff's
9 department?

10 A I have been with Lexington County for 10 years now.

11 Q And what's your title?

12 A I'm a senior crime scene investigator.

13 Q And tell us about what type of duties you perform.

14 A We respond to scenes to help with the collection of
15 evidence, documentation of the crime scene, and
16 reconstruction.

17 Q Have you had specialized training in evidence
18 collection?

19 A I have.

20 Q Where did you receive this training?

21 A I have done a six week internship with State Law
22 Enforcement Division with their crime scene unit. I have
23 had numerous photography classes, DNA classes, video
24 enhancement.

25 Q Were you called to work a crime scene on July 15th of

1 2006?

2 A Yes.

3 Q And was it one crime scene or multiple crime scenes?

4 A It was multiple crime scenes.

5 Q Okay. Where did you respond first?

6 A I responded to the Citgo station first.

7 Q Okay. And when you were at the Citgo, what did you
8 observe?

9 A Two vehicles kind of not parked side-by-side, but at
10 different angles. One of them had multiple gunshot to the
11 vehicle itself.

12 Q And did you photograph these vehicles?

13 A Yes, I did.

14 Q If I can show you what's already in evidence as
15 State's 17. Do you recognize this?

16 A Yes. That's the scene.

17 Q Did you take this photograph?

18 A I did.

19 Q And picture 16 as well?

20 A Yes.

21 Q Picture 18, what car is that on the right?

22 A The vehicle to the right was a -- another vehicle
23 that was -- that was with the victim whenever the shooting
24 occurred.

25 Q And did you search that vehicle?

1 A I did.

2 Q And did you find anything of any evidentiary value in
3 that vehicle?

4 A No, I did not.

5 Q Did you collect any firearms out of that car?

6 A No, I did not.

7 Q And was that car towed?

8 A No, it was released.

9 Q After you finished at the Citgo, where did you go
10 next?

11 A I went across the street to The Barnyard Flea Market.

12 Q And what was your reasoning for going there?

13 A There was shell casings over there that needed to be
14 collected.

15 Q Okay. If I can show you what's already in as State's
16 15, do you recall that area at The Barnyard?

17 A Yes.

18 Q Is this a photograph you took?

19 A Yes.

20 Q And why -- do you know why the tarp was out there?

21 A It had the -- it was raining that day or had rained
22 right after the incident occurred, and they were trying to
23 cover up some of the shell casings that were found on the
24 ground.

25 Q Were you present when the tarp was removed?

1 A Yes, I was.

2 Q And did you photograph what was underneath the tarp?

3 A I did.

4 Q Did you do anything else with the items that were
5 underneath the tarp?

6 A After they were photographed, I collected them,
7 packaged them.

8 Q Let me back up just one minute.

9 A Okay.

10 Q State's 21 that's in without objection, what is that
11 area?

12 A That's the area where the shell casings were
13 including two more that were up under that gray vehicle to
14 the left hand side.

15 Q Okay. Did you remove the tarp?

16 A Yes.

17 Q Before you collected anything, did you mark them in
18 any manner?

19 A They were marked with my evidence number placards.

20 Q Okay. I can show you what's been entered as State's
21 Exhibit 22 without objection. What does this show?

22 A That right there is 21. There's a picture right
23 there. That one is 21. Shell casings were found right in
24 that area.

25 Q And you saw -- explain to the jury what that means.

1 What are those yellow markings?

2 A Each placard is an individual casing that was located
3 on the ground.

4 Q And you took this photograph before or after you
5 collected them?

6 A That photograph was taken before the -- the casings
7 were collected.

8 Q If I tighten up, you can see the numbers; is that
9 correct?

10 A Yes.

11 Q And there's 21 yellow placards in this picture?

12 A In that picture right there, yes.

13 Q If I can show you what's been marked as State's 23
14 that's in without objection. What is different about this
15 picture from the previous picture?

16 A The two that were up under the gray vehicle, the
17 cruiser right there, there's one--

18 Q Right here?

19 A Yes. There's one under that tire and then there's
20 one on the opposite -- the other rear tire also.

21 Q So how many shell casings does this picture document?

22 A Total right there is 23.

23 Q And after you photographed the casings with the
24 placards, what did you do next?

25 A They were collected, packaged individually.

1 MS. GARRICK: Your Honor, State's 44 is in I
2 believe without objection from Mr. Floyd.

3 THE COURT: What number?

4 MS. GARRICK: State's 44.

5 THE COURT: Is that correct, Mr. Floyd?

6 MR. FLOYD: Correct, Your Honor.

7 (WHEREUPON, State's Exhibit 44 was admitted into
8 evidence.)

9 BY MS. GARRICK:

10 Q Could you tell us what is in that package?

11 A The casings that were collected from that parking
12 lot.

13 Q And how many were collected?

14 A Twenty-three.

15 Q Were they packaged separate or apart from each other?

16 A They were each packaged in individual -- brown paper
17 bag.

18 Q And you put numbers on them?

19 A Yes.

20 Q And what was done with those items?

21 A They were placed into the property room.

22 Q After you left The Barnyard, did you photograph
23 anything else in that area?

24 A No.

25 Q Did you go to the car lot that was next door?

1 A Oh, yes. I'm sorry. Went inside there was...

2 Q State's 13?

3 A Some blood was photographed from that area.

4 Q Okay. After you left The Barnyard crime scene, where
5 did you go next?

6 A After that, I responded to -- I went to Two Notch
7 Road to a church, 30 -- I'm sorry -- 472 Two Notch Road.

8 MS. GARRICK: State's 24 is in without
9 objection, Your Honor.

10 (WHEREUPON, State's Exhibit 24 was admitted into
11 evidence.)

12 THE COURT: Okay.

13 BY MS. GARRICK:

14 Q What does this show?

15 A That's the church sign located at that same address.

16 Q You took all these photographs; is that right?

17 A Yes.

18 Q And what was your purpose -- excuse me -- in
19 responding to that church in that wooded area?

20 A Investigator Russell had called me and told me that
21 it was possible that there were some firearms that were
22 located in the woods back behind the church.

23 Q And was Detective Russell -- did he meet you there?

24 A Yes.

25 Q Was anyone else with y'all?

- 1 A Sergeant Creasman was there and a defendant of --
2 George Mack was there also.
- 3 Q George Mack?
- 4 A Yes.
- 5 Q If I can show you State's 25. What does this show?
- 6 A That is a revolver, handgun.
- 7 Q State's 26.
- 8 A Same picture with a number placard in it.
- 9 Q State's 27.
- 10 A That's the firearm after I pulled it out of the woods
11 and brought it back to my vehicle and was photographed
12 before I pulled the ammunition -- the bullets out of it.
- 13 Q Did you open that cartridge --
- 14 A Yes.
- 15 Q -- cylinder there? State's three that's already in
16 evidence, do you recognize this?
- 17 A That's the firearm.
- 18 Q That's the firearm you collected from the woods?
- 19 A Yes.
- 20 Q What was done with the firearm and the five -- five
21 bullets from it?
- 22 A It was packaged and placed in the property room.
- 23 Q Of Lexington County Sheriff's Department?
- 24 A Yes.
- 25 Q If I can show you State's 28 that's in evidence.

1 What does this show?

2 A That's a high-powered rifle that was found in the
3 woods back behind the church.

4 Q And State's 29.

5 A That is the same rifle from the previous picture with
6 the magazine pulled out.

7 Q State's four that's already in evidence, can you see
8 it from there?

9 A Yes.

10 Q And is this what you collected from the woods?

11 A Yes.

12 Q And was the magazine, when you found it, still
13 attached?

14 A Yes.

15 Q And what were done with these items?

16 A Five rounds collected out of the magazine, one was
17 still in the chamber. It was cleared and packaged and
18 then placed into the property room.

19 Q At the Lexington County Sheriff's Department?

20 A Yes.

21 Q After you collected that evidence that night, did you
22 have any other duties?

23 A Not that night, no.

24 Q Okay. What did you do the next day, if anything?

25 A The next day I went to Newberry Hospital for the

1 autopsy.

2 Q And where was the autopsy performed?

3 A At Newberry Medical Center.

4 MS. GARRICK: Your Honor, I enter State's 45
5 without objection.

6 THE COURT: Okay. Is that correct, Mr. Floyd?

7 MR. FLOYD: No objection, Your Honor.

8 (WHEREUPON, State's Exhibit 45 was admitted into
9 evidence.)

10 BY MS. GARRICK:

11 Q Can you identify what is within those packings?

12 A They are bullet fragments.

13 Q And where did you receive them from?

14 A From the hospital, from Dr. Sexton.

15 Q From the autopsy?

16 A Yes, from the autopsy.

17 Q And how many -- how were they packaged when you
18 received them?

19 A In the bottles sealed.

20 Q And how many bottles?

21 A Three.

22 Q And what did you do with the three sealed bottles?

23 A They were taken back to the sheriff's department and
24 placed in the property room.

25 Q Do you know what was done with the victim's car after

1 it left the Citgo? Was it impounded by the sheriff's
2 department?

3 A Yes.

4 Q And did you have occasion to conduct more tests on
5 her car?

6 A We did that. The next day we searched the vehicle
7 for more projectiles, bullet fragments and--

8 Q Okay. Within her vehicle, did you find any firearms?

9 A No.

10 Q If I can show you what's shown as State's Exhibit 30.
11 What does this document--

12 A That is a bullet fragment that was found in the trunk
13 of the vehicle.

14 Q And that placard, what does that mean?

15 A That's my number placard for the evidence, and I
16 believe that is actually...

17 Q Does it have a Lexington County number now?

18 A Yes, number 48.

19 Q And when you collected that fragment, how did you
20 package it?

21 A It was packaged in a brown paper bag -- or I'm
22 sorry -- a plastic bag.

23 MR. FLOYD: No objection.

24 (WHEREUPON, State's Exhibit 46 was admitted into
25 evidence.)

1 BY MS. GARRICK:

2 Q State's 46. Do you recognize this?

3 A Yes.

4 Q Is that what you took from the trunk of the car?

5 A Yes.

6 Q State's 31. What does this show?

7 A That is a bullet fragment that was found in the
8 passengers -- the front passenger's side floorboard, and
9 that is the sheriff's department evidence number 44.

10 MR. FLOYD: No objection.

11 (WHEREUPON, State's Exhibit No. 47 was marked
12 for identification only.)

13 BY MS. GARRICK:

14 Q State's Exhibit 47. Is that the item you collected?

15 A Yes.

16 Q State's Exhibit 32 that's in without objection.

17 A Again, that's the bullet fragment that was located in
18 the floor of the driver's side, the front driver's side,
19 and it was in the firewall area where your feet go or
20 where your feet are.

21 MR. FLOYD: No objection.

22 (WHEREUPON, State's Exhibit 48 was admitted into
23 evidence.)

24 BY MS. GARRICK:

25 Q Now, State's Exhibit 48. Do you recognize this and

1 the property receipt on it?

2 A Yes.

3 Q Is that item collected from that photograph there?

4 A It is.

5 Q All of these items that you collected from her car
6 were then taken to the sheriff's department --

7 A Yes.

8 Q -- evidence room? Did you conduct any other
9 photographing of the victim's car?

10 A We did trajectory rods in the vehicle to determine
11 path and angle. Some of the projectiles that were fired
12 towards the vehicle.

13 MS. GARRICK: Your Honor, the next -- we have
14 State's Exhibits 33 through 41 that are in without
15 objection.

16 THE COURT: Thirty-three through 41?

17 MS. GARRICK: That's correct, Your Honor.

18 THE COURT: In without objection, Mr. Floyd?

19 MR. FLOYD: That's correct, Your Honor.

20 THE COURT: They're in without objection.

21 (WHEREUPON, State's Exhibit 33-41 were admitted
22 into evidence.)

23 BY MS. GARRICK:

24 Q State's 33. Can you tell the jury what those rods
25 are and what they signify?

1 A Those are projectiles that were fired at the bullet
2 that penetrated through the passenger's side front door,
3 and just shows the angle.

4 Q That's the right side of Denise's car; is that
5 correct?

6 A Yes.

7 Q State's 34, what does this show?

8 A Same picture, just different view of the trajectory
9 rods.

10 Q And what is this here? Is that a trajectory rod?

11 A Yes.

12 Q Is there one up here as well?

13 A Yes.

14 Q What are those white marks on the driver's door
15 there?

16 A Possible ricochet.

17 Q Bullet ricochet?

18 A Yes, bullet ricochet.

19 Q State's 35, what area is that?

20 A That is the passenger -- the front passenger's side
21 door. It shows the path of the bullet coming through the
22 door and into the seat.

23 Q Front right passenger?

24 A Yes.

25 Q State's 36?

1 A That shows the angle that one of the projectiles went
2 in through the back windshield and into the headrest of
3 the front passenger.

4 Q Said the front seat passenger's side?

5 A Yes.

6 Q State's 36.

7 A That is the headrest from the last picture, and it
8 shows where the -- the projectile hit that piece of metal,
9 and that's what stopped it from entering--

10 Q Here?

11 A Yes.

12 Q And what is this?

13 A That's the bullet fragment that was removed from it.

14 Q So the met -- any significance of that metal there?

15 A It stops someone else from being struck by a bullet
16 at the scene.

17 Q State's 38.

18 A That is the driver's side seat.

19 Q What is the green rod?

20 A That's a trajectory rod that went completely through
21 the headrest.

22 Q What are those two white dots, circles here?

23 A Bullet fragments.

24 Q Did those bullet fragments penetrate all the way
25 through the driver's headrest?

1 A Yes.

2 Q State's 39.

3 A That's the front of the driver's side seat showing
4 the -- again, the path of the projectile and then where
5 the fragments came through the...

6 Q The circled areas are what part?

7 A That's the same circled areas from the other side.

8 Q State's 40.

9 A That is the rear left seat, and you see the
10 trajectory rod at the bottom.

11 Q Here?

12 A Yes. And the bullet strike was to the -- where the
13 bullets struck the back of the seat is right there where
14 your pen is to the right hand side.

15 Q So this is the back seat left side?

16 A Yes. It's the back exterior part of the seat that
17 faces into the trunk area.

18 Q State's 41.

19 A That's the same seat, just a closer...

20 Q Is this the area or is this?

21 A That's the area -- yes.

22 Q So that metal stopped that bullet from going through
23 that seat?

24 A Yes.

25 MS. GARRICK: Beg the Court's indulgence one

1 moment.

2 (Whereupon there was a pause.)

3 BY MS. GARRICK:

4 Q What was the condition of the back windshield of the
5 the car when you saw it at the Citgo and then again at --
6 when you analyzed it at the sheriff's department?

7 A The majority of the back windshield had been busted
8 out except for that one area where you saw the projectile
9 in the picture -- I mean the trajectory rod.

10 Q Okay. That's in State's 16?

11 A Yes.

12 Q And that was the condition of the car when you first
13 saw it?

14 A Yes.

15 Q Could you tell from -- let's go back just one moment
16 to picture -- State's Exhibit 33. Is there any way to
17 tell from these rods how many times the car was struck?
18 Is there any way you can give us a number of times, or is
19 that not something you do?

20 A From that side -- I mean, we could count how many
21 trajectory--

22 Q You just count the rods; is that correct?

23 A Yes.

24 Q Each rod is one shot.

25 A Path of the bullet, yes.

1 Q One path of the bullet. Please answer Mr. Floyd's
2 questions.

3 CROSS-EXAMINATION

4 BY MR. FLOYD:

5 Q Deputy Crump, State's Exhibit -- I believe she called
6 it number four, the gun, the long gun?

7 A Yes, sir.

8 Q Sheriff's department secured it, they have had it in
9 their possession; right?

10 A Yes, sir.

11 Q And was it analyzed for fingerprints?

12 A Yes, sir, it was.

13 Q Was it analyzed for DNA?

14 A Yes, sir, it was.

15 Q Thank you. No further questions.

16 REDIRECT EXAMINATION

17 BY MS. GARRICK:

18 Q Do you know the results of the fingerprint analysis?

19 A I believe fingerprints were negative.

20 MS. GARRICK: That's all we have, Your Honor.

21 THE COURT: Thank you. You step down.

22 RECROSS-EXAMINATION

23 BY MR. FLOYD:

24 Q Did you do the fingerprint analysis?

25 A No, I did not.

1 Q Okay.

2 THE COURT: Thank you. You can step down.

3 (Witness left the stand.)

4 MS. GARRICK: Your Honor, we call Luke Fossum.

5 LUKE FOSSUM, after being duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. GARRICK:

9 Q Investigator Fossum, where are you employed?

10 A With the Lexington County Sheriff's Office.

11 Q And how long have you been the law enforcement?

12 A Approximately 10 years.

13 Q And what is your rank at the sheriff's department?

14 A I am currently a Sergeant -- Detective Sergeant and I
15 supervise the Criminal Intelligence Unit there.

16 Q What is the Criminal Intelligence Unit?

17 A Well, we provide investigative support to
18 investigators, crime analysis, that type of thing. 60 to
19 70 percent of what I do involves specifically the
20 analysis, telecommunication record to assist in the
21 apprehending of fugitives or investigative support.

22 Q And have you had specialized training to be able to
23 do that with telecommunications?

24 A I have. I have had basic advanced courses offered by
25 Pen-link, which is an analysis software. Additionally,

1 through my own research I have presented in state level
2 intelligence conferences to federal, state, local
3 jurisdictions analysts instructing them how to do the same
4 thing essentially.

5 Q So you taught other people how to do what you do?

6 A I have.

7 Q Did you have an occasion to work -- do some work on
8 this on, The Barnyard case?

9 A I did.

10 Q And when were you called out?

11 A I was contacted around midnight the 15th of July of
12 2006 into the early morning hours of July 16th, 2006.

13 Q And who contacted you and what were you asked to do?

14 A Detective Russell contacted me. Through our
15 conversation I learned that there had been a shooting
16 several hours earlier at The Barnyard Flea Market while it
17 was still open for business, that a subject had fired at
18 least 20 rounds from a high-powered rifle into a moving
19 vehicle resulting in the death of the driver and injuries
20 to at least two other people, that they had an individual
21 by the name of George Mack in custody, and that they had
22 arrest warrants for Sammy Harmon as the shooter of that
23 rifle and--

24 MR. FLOYD: Judge, I'd object to this hearsay.

25 Move that it be stricken.

1 THE COURT: Okay. Do you want to be heard on
2 that?

3 MS. GARRICK: Sure. Yes, Your Honor.

4 THE COURT: All right. You want...

5 MS. GARRICK: It doesn't matter. Under State
6 versus Kirby think there's an exception. At least
7 I'm not offering it for the truth of the matter in
8 that he's offering it to explain course of the
9 investigation and why he did what he did.

10 THE COURT: Do you want to respond to that any
11 further, Mr. Floyd? She claims it's not offered for
12 truth of the matter asserted, therefore it's not
13 hearsay.

14 MR. FLOYD: Well, I don't know how you get
15 around the hearsay nature of it in this case, but I
16 understand where she is coming from.

17 THE COURT: Well...

18 MS. GARRICK: We can move forward, Your Honor.

19 BY MS. GARRICK:

20 Q You had warrants -- you knew there were warrants for
21 Sammy Harmon; is that correct?

22 A That's correct. And I was provided with a mobile
23 phone number that was believed to be used by Sammy Harmon,
24 and I was specifically requested to assist in locating
25 Sammy Harmon with that mobile number.

1 Q And how would you do this?

2 A Well, the first thing I did was I researched the
3 number to determine that it was -- that the carrier for
4 the number was Sprint Nextel, specifically was a Nextel
5 phone.

6 Due to the facts and circumstances of the case, I
7 contacted Sprint Nextel Emergency Operation Center. This
8 was the early morning hours of the 16th. I completed the
9 necessary paperwork, and requested that they attempt to
10 locate the phone in their service area.

11 Q And were you provided information back from Sprint
12 Nextel?

13 A Yes, I was. They were able to tell me the latitude
14 and longitude of the phone, where it was at at
15 approximately 2:30 am the morning of July 16th.

16 Q And based on the information that you received from
17 Sprint Nextel, what did you do with that information?

18 A I was able to plot that information into a Google
19 earth map to show an areal which we mapped that location
20 to what appeared to be a motel off of Five Chop Road
21 (phonetic) in the Orangeburg County area.

22 Q Okay. If I could stop you there and show you what's
23 been marked State's Exhibit 42. Do you recognize this?

24 A Yes. That's one of two areal images that I was able
25 to produce with the latitude and longitude that was

1 provided to me. That is that what Google Earth gave as
2 the location for that latitude and longitude.

3 Q And State's 43 that's in evidence?

4 A That's the -- the same location, just farther out so
5 you could see more of the area around it.

6 Q And you said this area was located in what county?

7 A In Orangeburg County.

8 Q And what did you do with this information?

9 A I exported those areal images and I transmitted them
10 electronically to our Fugitive Task Force which was
11 already actively looking for the subjects.

12 Q So let me see if I get this -- got this correctly.
13 Because you had a phone number, through your investigation
14 you were able to provide your detectives in the field an
15 area where that phone should be?

16 A Where it was at 2:30 in the morning of the 16th,
17 that's correct.

18 Q Do you have the phone number of the phone that you
19 did this analysis on?

20 A That number I believe was 803-234-0604.

21 MS. GARRICK: Have this marked for
22 identification only.

23 (WHEREUPON, State's Exhibit No. 49 was marked
24 for identification only.)

25 BY MS. GARRICK:

1 Q State's 49 ID only, could you examine that phone
2 there?

3 A (Complied).

4 Q What is the sim card?

5 A The sim card is a -- is a card that's -- it's not
6 necessarily in all phones, but in Nextel phones they have
7 them. And they -- basically it's a subscriber identity
8 model that is unique to the -- to the user of that phone
9 and phone number.

10 Q And did you check the sim card for that item there?

11 A I did.

12 Q And what did you learn?

13 A I was able to match the serial number for the sim
14 card to the serial number on the subscriber information
15 connected to that 803-234-0604 number.

16 Q And that's the number you have been given?

17 A Correct.

18 Q To activate the precision locator on it?

19 A Correct.

20 MS. GARRICK: That's all I have, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. FLOYD:

23 Q So basically you were told George Mack was in
24 custody, and you were trying to find Sammy Harmon through
25 the phone; is that--

1 A Correct. There were arrest warrants for him,
2 correct.

3 Q Arrest warrants for other people?

4 A For his brother, Brandon.

5 Q And other people also?

6 A At that time, I -- I don't know.

7 Q Don't remember James Keitt -- Keitt?

8 A That name, James Keitt, at that time was not
9 specifically known.

10 Q Sherman Davis?

11 A I don't know.

12 Q Alex Haigler?

13 A At that point in time I don't know.

14 Q No further questions.

15 MR. MYERS: Call Paige Tucker.

16 THE COURT: Thank you, sir. You can step down.

17 (Whereupon the witness left the stand.)

18 PAIGE TUCKER, after being duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. MYERS:

22 Q Paige, you're with the sheriff's department?

23 A Yes, sir.

24 Q And what do you do -- unit are you assigned to in the
25 Lexington County Sheriff's Department?

1 A The Fugitive Task Force.

2 Q And did you have an occasion to work on this case in
3 trying to locate the defendant, Sammy Harmon?

4 A I did.

5 Q Was any information provided to you by Luke Fossum
6 who just testified?

7 A Yes, sir. He sent us an e-mail. We have a laptop
8 computer that -- then we also have wireless too, and he
9 sent us an e-mail of the GPS coordinates of where the
10 phone was located as well as a Google Earth photo.

11 Q And based on that information, where did you and
12 other deputies go?

13 A We ended up at the Trump Inn in Orangeburg County.

14 Q Now, how do you get to the Trump Inn from here?

15 A Off 301.

16 Q Okay. You go down 26?

17 A Yes, sir.

18 Q And you get off on what exit?

19 A 301. I'm not exactly sure of the exhibit.

20 Q Okay.

21 A I know it's Highway 301.

22 Q It's in Orangeburg County?

23 A Yes, sir.

24 Q Is it located right near the interstate or on a road
25 to the interstate?

1 A It's probably a couple miles from the interstate.

2 Q Okay. And why did you go to that -- what was it --
3 Trump Inn?

4 A The Trump Inn.

5 Q What did you do there?

6 A Because that's -- we put in the latitude and
7 longitude into our streets and trips in our computer, and
8 it led us directly to that location.

9 Q And what did you do when you got down to the Trump
10 Inn?

11 A We actually conducted several hours of surveillance
12 of the hotel. I went inside and spoke to the Clerk at the
13 hotel, looked at any names on the register, did not notice
14 or recognize any names on the register at that time.

15 We backed up. We looked behind the hotel of the
16 exact coordinates of where the hotel -- of where the phone
17 was supposed to be. We looked in the trash cans, that
18 kind of stuff, and we were unable to locate the phone. We
19 waited on Orangeburg County to assist us at that time.

20 Q Orangeburg County deputies?

21 A Yes, sir.

22 Q And then what occurred?

23 A We began knocking on the doors at the hotel because
24 we knew that's where the phone was. And in room 11,
25 that's where Sammy Harmon and James Keitt was located as

1 well as the phone.

2 Q Now, when did you locate them?

3 A At approximately 7:30 in the morning.

4 Q What morning?

5 A The morning after the shooting.

6 Q Sunday morning?

7 A Yes, sir.

8 Q That would have been on the 16th?

9 A Yes, sir.

10 Q And was anyone else in the room other than the
11 defendant, Sammy Harmon?

12 A James Keitt.

13 Q James Keitt?

14 A Yes, sir.

15 Q Did y'all have any warrants for James Keitt at the
16 time?

17 A No, sir.

18 Q Did you have warrants for Sammy Harmon?

19 A Yes, sir.

20 Q Now, what if anything did you take from the room
21 other than Sammy Harmon and James Keitt?

22 A A red duffle bag. It was like a gym bag, and it had
23 clothes in it, a bag of potato chips and some snack food,
24 and a silver cellphone that was located on the bed -- on
25 the nightstand beside the bed.

1 Q Okay. That telephone, do you recognize that?

2 A Yes, sir. That's the phone.

3 Q It was in the motel?

4 A Yes, sir.

5 Q And did anyone claim that phone in the motel?

6 A Sammy Harmon.

7 Q The defendant claimed it was his?

8 A Yes, sir.

9 Q And now, you had arrest warrants for the defendant,
10 Sammy Harmon. You didn't have warrants for James Keitt.

11 A Correct.

12 Q What was done with James Keitt?

13 A We asked him if he wanted to ride back to Lexington
14 County, and he said yes, so we gave him a ride back.

15 Q And the defendant, Sammy Harmon, he was taken into
16 custody?

17 A Yes, sir.

18 Q And where did you transport him?

19 A To the Lexington County Detention Center, 521 Gibson
20 Road.

21 Q Over here at the jail at the sheriff's department?

22 A Yes, sir.

23 Q And to whom did you turn the bag that you had taken
24 from the room and that phone, who did you turn that over
25 to?

1 A Sergeant Kent Correll.

2 Q And the defendant was turned over to officers there
3 at the sheriff's department as well?

4 A Yes, sir.

5 MR. MYERS: Your Honor, we would offer the phone
6 into evidence at this time.

7 THE COURT: What says the defense?

8 MR. FLOYD: No objection, Your Honor.

9 THE COURT: State's Exhibit 49 in without
10 objection.

11 (WHEREUPON, State's Exhibit 49 was admitted into
12 evidence.)

13 MR. MYERS: Thank you, ma'am. Answer any
14 questions they have.

15 MR. FLOYD: No questions, Your Honor.

16 (Whereupon the witness left the stand.)

17 MR. MYERS: Call Kent Correll to the stand.

18 KENT CORRELL, after being duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. MYERS:

22 Q Ken, what position do you hold with the sheriff's
23 department?

24 A Sergeant in Major Crimes.

25 Q And on Sunday, July the 16th, 2006, was any items

1 turned over to you by another deputy with the sheriff's
2 department?

3 A Yes, sir, they were.

4 Q And what was turned over to you?

5 A A red gym bag and a silver cellular phone.

6 Q Who turned that over to you?

7 A Investigator Paige Tucker.

8 Q Who just testified?

9 A Yes, sir.

10 Q And where did you receive those items?

11 A At the back of the sheriff's office as I was walking
12 out with Mr. Harmon.

13 Q How did you get with Mr. Harmon?

14 A Detective Russell contacted me and asked if I would
15 escort him from the sheriff's interview room to the
16 detention center.

17 Q Okay. And when you had that silver telephone -- I
18 think Exhibit 49 --

19 A Yes, sir.

20 Q -- did the defendant Sammy Harmon see you with that
21 phone?

22 A He did.

23 Q Did he say anything to you about the phone?

24 A Yes, sir. When we were in the booking area, he asked
25 could he have the phone. And I asked him if it was his

1 telephone, and he said it was. And I advised him that
2 we'd have to place that in the evidence.

3 Q Was the phone placed in evidence?

4 A Yes, sir.

5 Q You didn't give it back to him?

6 A No, sir.

7 Q But he said it was his?

8 A Yes, sir.

9 Q Thank you. Please answer any questions they have.

10 MR. FLOYD: No questions, Your Honor.

11 THE COURT: Thank you.

12 MR. MYERS: Call David Collins.

13 DAVID COLLINS, after being duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MYERS:

17 Q Mr. Collins, by whom are you employed?

18 A I'm employed by the Richland County Sheriff's
19 Department.

20 Q And how long have you been in law enforcement?

21 A I have been in law enforcement since 1990.

22 Q And what are your duties with the Richland County
23 Sheriff's Department?

24 A At the Richland County Sheriff's Department I am
25 employed in the Forensic Services Laboratory as a firearms

1 and toolmarks examiner.

2 Q And how long have you been a firearms examiner?

3 A I initially became a firearms examiner at the State
4 Law Enforcement Division commonly known as SLED in 1990,
5 and then moved to Richland County Sheriff's Department in
6 September of 2002.

7 Q And do you continue to work in the field of examining
8 firearms?

9 A Yes, I do.

10 Q And have you been accepted as an expert before in the
11 field of firearms analysis?

12 A Yes, I have.

13 Q And approximately how many occasions?

14 A In the State Courts of South Carolina in excess of
15 200 trials, and I have also testified in -- as an expert
16 in firearms and toolmarks identification in the Federal
17 Court System, the Military Court System, and in the State
18 systems of North Carolina and Georgia.

19 MR. MYERS: Your Honor, we would offer him as an
20 expert in the field of firearms analysis.

21 THE COURT: What says the defense?

22 MR. FLOYD: We have no questions on that point,
23 Your Honor. No objection.

24 THE COURT: I find that he's an expert in the
25 field of firearm analysis.

1 BY MR. MYERS:

2 Q Now, State's Exhibit number three -- I'm going to
3 hand it to you first here -- this revolver. Did you have
4 an occasion to assist the Lexington County Sheriff's
5 Department by examining that revolver?

6 A Yes, I did.

7 Q And what are you looking for?

8 A In this particular case I had no fired items of
9 evidence to compare with this particular gun. One of our
10 most commonly requested examinations is to look at fired
11 bullets or fired cartridge cases and to attempt to
12 identify if they were fired by a specific firearm.

13 In this case, I received this firearm with some
14 unfired and misfired cartridges, and I was asked to
15 determine the functioning characteristics of this firearm
16 and to obtain test standards from it for possible future
17 comparisons.

18 Q When you received that revolver, did it have any
19 ammunition associated with it?

20 A There were some unfired cartridges I received with
21 this firearm, yes.

22 Q Approximately how many?

23 A I received -- in one package there were five, and
24 then there was an additional one cartridge submitted
25 separately.

1 Q All right, sir. And as far as that weapon, what
2 conclusion did you reach about the operation of that
3 revolver?

4 A The first thing that I do when I receive a firearm in
5 the laboratory is I take notes as to its condition, and I
6 noted that it was missing a screw in the side plate on one
7 side, and then attempted to test fire the gun so that I
8 could obtain test standards that I could use for possible
9 future comparisons.

10 During the course of this testing, I determined that
11 the firearm would not reliably fire. There is a stop
12 mechanism on a revolver that is intended to stop the
13 cylinder with the chamber properly in line with the barrel
14 so that it could be fired.

15 This particular case, that stop mechanism did not
16 function properly. And when the trigger was pulled, the
17 cylinder would rotate to a random position, and the hammer
18 may not strike the primer of the cartridge.

19 In order to obtain test standards, I had to cock the
20 gun and then manually align the cylinder with the barrel
21 and fire the gun.

22 After obtaining some test standards in that manner, I
23 then loaded the firearm with primed cartridge cases --
24 that is the cartridges that would fire but did not have
25 bullets associated with them so that I could just

1 determine if the gun would function in any way.

2 I then attempted to fire those cartridge cases by
3 repeatedly pulling the trigger to determine how many times
4 it would take for me to pull the trigger to get the gun to
5 fire, and it did fire on the 31st attempt.

6 Q You had to pull the trigger 31 times before it would
7 actually shoot a projectile out the end of the barrel?

8 A In this particular case, yes. As you pull the
9 trigger, the cylinder would spin to a random location and
10 it may not align properly with the firing mechanism, and
11 so--

12 Q Any way you can come down and show the jury what you
13 mean by showing them that pistol? Would that help any or
14 not?

15 A Basically. In order to fire effectively, the chamber
16 and the cylinder -- there are five different -- you can
17 load a total of five cartridges in this particular gun.

18 One of these chambers must be -- fall in line with
19 the barrel or the bullet separately on the cartridge will
20 not be aligned with the firing pin which has to strike
21 from the rear.

22 Attempting to fire, the bolt stop, which is located
23 here in the bottom, would not rise to lock the cylinder in
24 the proper location. So you can pull the trigger, the
25 mechanism would spin the cylinder, but then it would just

1 stop in some random locations.

2 A good way of thinking about it is like a roulette
3 wheel. You don't know where it's going to stop when it
4 finally stops.

5 In order to fire, the primer of the cartridge must be
6 located relatively centered under the firing pin of the
7 handle. If that doesn't happen, it doesn't -- it's not
8 going to fire.

9 In this particular case, it was something -- the
10 firing pin would strike the cartridge in many instances,
11 but it would be off-center, be off-center from the primer
12 and therefore it would not fire.

13 As I stated, it took 31 attempts for me to get one.
14 It just happened to align right that one time I pulled the
15 trigger. All of these tests were performed with what we
16 call double-action firing pin. That is, I'm pulling the
17 trigger all the way through, which is doing two things,
18 it's turning the cylinder and also cocking the hammer, and
19 then firing the gun.

20 An alternative method to fire the gun would be to
21 full cock the hammer in which case the same situation
22 would occur, the hammer -- the cylinder stop would not
23 rise under those circumstances.

24 Q Now, you said you received five unfired shell casings
25 along with that?

1 A Unfired, misfired. If I can get my glasses.

2 Q Sure. Go ahead.

3 A Yes. These are the cartridges that I examined in
4 this case. They bear markings I placed on them.

5 Q How do you know those are the ones you--

6 A I marked each one of them with an item number that
7 corresponds with the item number.

8 MR. MYERS: We'd offer these in evidence, Your
9 Honor.

10 THE COURT: What says the defense?

11 MR. FLOYD: No objection.

12 THE COURT: What number are they? Have they
13 been marked yet? State's 50 is in without objection.

14 (WHEREUPON, State's Exhibit 50 was admitted into
15 evidence.)

16 BY MR. MYERS:

17 Q That would be looking and referring to State's
18 photograph 27. That would be the pistol with the cylinder
19 open and it loaded; is that correct?

20 A Yes, sir.

21 Q Now, you said when you were trying to fire that
22 thing, you had to pull 31 times before it would actually
23 fire. Would the firing pin ever hit those cartridges when
24 they wouldn't shoot?

25 A Well, yes, it would, sir. And if you -- you can see

1 actually a firing pin impression on the cartridge case
2 primer that's in approximately the 10:30 position on the
3 cylinder. See an impression there the--

4 Q Right over here?

5 A Yes, sir. Right there at your end of your fingertip,
6 it's a firing pin impression on the corner of the primer
7 and this one at the top also has one, has an impression
8 there in the bottom of the cartridge.

9 Q And the five -- these five shells you received, could
10 you tell where those shells had actually been hit by the
11 firing pin but misfired, did not fire?

12 A Of the five cartridges that I received, the total of
13 three of them had visible firing pin impressions on them
14 showing that an attempt had been made at some time to fire
15 those cartridges. And some of them had more than one
16 firing pin impression indicating that there had been
17 repeated attempts.

18 Q Can you just show one or two of these shells on
19 State's Exhibit number 50 where it was struck but didn't
20 fire?

21 A Take them out the bag?

22 Q If you'd like to, sure.

23 A This particular cartridge case has very visible
24 firing pin impression on it -- on the edge of the primer.
25 As I said, two of the -- three of the five had visible

1 indications of having attempts to be fired. Two of them
2 did not have any, which is -- appears to be a small dent
3 in the silver disk in the middle.

4 Q Okay. Looking at the shells separately, the ones
5 that were struck but misfired and didn't go off.

6 A Yes, sir.

7 Q Did you make any determination of whether that gun
8 actually struck those -- those shells or not?

9 A As a part of my examination, the one thing I'm going
10 to attempt to determine is whether the markings left on
11 cartridge cases or cartridges were created by that
12 particular firearm.

13 It's the same principle that I would use if I was
14 attempting to match a fired bullet or cartridge case back
15 to a specific gun. There might be microscopic defects on
16 parts of that firearm, but are going to mark a cartridge
17 case or a projectile in a unique fashion when it's -- when
18 those parts of the firearm come into contact with it.

19 A good example is the firing pin or striker. There
20 are often microscopic defects that are going to be stamped
21 on to the surface of the primer by that item when it is
22 fired or when an attempt to fire is made.

23 In this particular case, microscopic examination of
24 these firing pin impressions revealed that there simply
25 was not enough microscopic information there. There were

1 not enough defects there for me to be able to conclude
2 whether or not they had been fired in this gun.

3 So my results -- the results of that comparison were
4 inconclusive.

5 Q Could have been, could not have been, you just
6 couldn't make a determination?

7 A That's correct.

8 Q Answer any questions they have, please.

9 CROSS-EXAMINATION

10 BY MR. FLOYD:

11 Q Detective Collins, may I see your items? Not the
12 gun.

13 A Cartridge cases?

14 Q Didn't you also receive a bullet to examine?

15 A There was one unfired 38 Special caliber cartridge I
16 received in this case as well.

17 Q Is that in with these?

18 A Excuse me, sir?

19 Q Is that in with these?

20 A No, sir. It was in a separate container.

21 Q Wasn't there a fired bullet you received also?

22 A No, sir. I did not receive a fired projectile to
23 examine from Lexington County in this case.

24 Q Okay. You just received these?

25 A Yes, sir.

1 Q Ask if you can identify that.

2 A This is a report that I issued to the Richland County
3 Sheriff's Department in regards to a case that they had.
4 This is a Richland County case. It shows the results of a
5 comparison of a fired bullet.

6 MR. MYERS: May we approach, Your Honor? That's
7 irrelevant. He's talking about another case.

8 THE COURT: Okay.

9 (Whereupon a bench conference was held.)

10 MR. FLOYD: Thank you, Your Honor. If I could
11 put something on the record at the appropriate time.
12 No further questions, Your Honor.

13 THE COURT: Anything further?

14 MR. MYERS: Nothing further.

15 THE COURT: Thank you. Mr. Collins, you can
16 step down.

17 (Whereupon the witness left the stand.)

18 MS. GARRICK: Your Honor, we'd call Agent David
19 Black.

20 DAVID BLACK, after being duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. GARRICK:

24 Q Agent Black, what kind of formal education do you
25 have?

1 A I have an Associate of Arts degree in Criminal
2 Justice from Florence Darlington Technical College. I
3 transferred to the University of South Carolina in
4 Columbia where I received a Bachelor of Science degree in
5 Criminal Justice with a minor in Sociology.

6 Q And what type of professional work experience do you
7 have?

8 A I have 23 years of law enforcement experience, seven
9 years with the Richland County Sheriff's Department, and
10 16 years are with the South Carolina State Law Enforcement
11 division better known as SLED.

12 Q Where are you currently employed?

13 A I'm currently employed with SLED.

14 Q And what type of specialized training do you have?

15 A Well, I'm a firearms and toolmark examiner assigned
16 to the Firearms Department at SLED Forensic Services
17 Laboratory. I started out in my forensic career as a
18 latent print examiner and crime scene investigator, which
19 I spent 14 years.

20 During that 14 years as a latent print examiner,
21 crime scene investigator, while processing crime scenes
22 and processing evidence for prints, I became familiar with
23 many numerous firearms and types of firearms and how those
24 firearms operated and functioned.

25 I also became familiar with various types of

1 ammunition, ammunition components. And also as a latent
2 print examiner, while examining fingerprints, footwear,
3 and tire impressions, I became involved in the examination
4 and comparison of evidence for the unknown to the known or
5 test specimens.

6 Upon transitioning to the SLED Firearms Department,
7 transferring there, I began a three year intensive
8 training program. During this three year program, most of
9 the time was spent in microscopic comparisons while I was
10 actually comparing the test standards to evidence
11 standards.

12 Also during this training time there were different
13 subject matters broken up into in the quadrants, if you
14 will. And each subject matter that I trained in, which
15 there were over 20, I would have written tests, practical
16 exams, and oral tests.

17 And at the end of the three year period, I had a
18 cumulative test of everything that I have been trained in
19 by court-qualified tenured firearm examiners. And these
20 tests were written tests, practical exams, and oral
21 reviews.

22 Also I have been to many schools, in armorer schools
23 with Glock, Smith and Wesson and Highpoint firearms. I
24 have also been to various factories to see how bullets are
25 made and see how firearms are made and how tools are made.

1 I have been to different training seminars and
2 programs in the area of firearm and toolmark
3 identification.

4 Q What is firearms identification?

5 A Firearms identification is a discipline of forensic
6 science that is primarily concerned to determine if fired
7 ammunition components, such as bullets and cartridge
8 cases, were fired from a particular firearm.

9 Firearms identification is primarily concerned with
10 the examination and comparison of the markings left on the
11 bullets and cartridge cases that were made while in
12 contact with particular areas of the firearm.

13 Firearms identification is based on the principle
14 that the markings left on the bullets, cartridge cases,
15 and ammunition components while in contact with the
16 firearm are unique to a particular firearm.

17 These markings can be evaluated, examined, and
18 compared. And through this examination process, it can be
19 determined and concluded whether a bullet or cartridge
20 case was or was not fired by a particular firearm.

21 Also in a case where you don't have a firearm and you
22 only have a fired bullet or cartridge case, they can be
23 compared to each other, bullets to bullets, cartridge
24 cases to cartridge cases to determine if they were fired
25 by one firearm or multiple firearms.

1 Q Agent Black, have you testified in other courts of
2 record as an expert in firearms identification?

3 A Yes, ma'am, I have.

4 MS. GARRICK: Your Honor, we would offer him as
5 an expert in that area.

6 THE COURT: What says the defense?

7 MR. FLOYD: No objection, Your Honor.

8 THE COURT: I so find that he's an expert in
9 firearms identification.

10 BY MS. GARRICK:

11 Q In regards to this case, Agent Black, did you receive
12 certain items of evidence from the Lexington County
13 Sheriff's Department?

14 A Yes, ma'am, I did.

15 MS. GARRICK: May I approach the witness, Your
16 Honor, and get my exhibits?

17 THE COURT: Yes, ma'am.

18 BY MS. GARRICK:

19 Q If I can show you what's been marked -- beg The
20 Court's indulgence just one moment. State's Exhibit 20,
21 did you receive that?

22 A Yes, ma'am, I did.

23 Q And what item number is that for you?

24 A State's Exhibit 20 in my SLED firearms report is
25 indicated as item nine.

1 Q State's Exhibit four, did you receive that?

2 A Yes, ma'am. I -- Can I pull this out?

3 Q Absolutely.

4 A State's Exhibit four?

5 Q Uh-huh.

6 A Yes, ma'am. State's Exhibit four, which is the SLED
7 item 10, is the Romar model WS WASR-10 semiautomatic
8 rifle, and also the detachable box magazine which is item
9 11 in the SLED report.

10 Q Did you mark these items yourself?

11 A Yes, ma'am. All the items that were received, not
12 only did I mark the bags, I also scribed each item with
13 the SLED lab number, item number, and my initials, DWB.

14 Q Okay. And when you received not just these three
15 items that we have talked about from -- but all items you
16 received from the Lexington County Sheriff's Department,
17 how are they packaged when you received them?

18 A They were -- they were received in a -- in the case
19 of the magazine and the rifle, State's Exhibit four, they
20 were received in this sealed box. All the other
21 ammunition components, the fired cartridge cases, bullet
22 jackets, fragments, steel cores, and unfired cartridges
23 were received in a sealed cardboard box.

24 Q If I could show you State's 44. Did you receive
25 this? Do you need to open that bag?

1 A Yes, ma'am, if that's okay.

2 Q Are you the one who sealed that bag?

3 A Yes, ma'am, I am.

4 Q Okay.

5 A Yes, ma'am. State's Exhibit 44, which is SLED's item
6 13, contains 23 fired cartridge cases.

7 Q And you marked each one of those?

8 A Yes, ma'am. Not only is the individual package
9 marked that they're in, that I heat-sealed them in, but
10 also the cartridge case itself is marked as I described
11 earlier.

12 Q If I can show you State's Exhibit 48. Do you
13 recognize that?

14 A Yes, ma'am. State's Exhibit 48, which is SLED item
15 17, is a fired bullet jacket, and also it contains a fired
16 bullet core -- steel core.

17 Q Does it have your markings on it?

18 A Yes, ma'am, it does, as I described earlier.

19 Q State's 47.

20 A Yes, ma'am. State's 47 is a -- also a fired bullet
21 jacket, and it's the SLED item 19.

22 Q State's 46.

23 A Yes, ma'am. State's 46 is a SLED item 23, a fired
24 bullet jacket.

25 Q State's 45.

1 A Yes, ma'am. State's 45 is a -- the SLED item 28
2 which are the bullet components received from the victim
3 at autopsy.

4 Q Agent Black, what were you asked to do in this case?

5 A I was asked to conduct a firearm examination in this
6 particular case. I received multiple fired ammunition
7 components, cartridge cases, bullet jackets, bullet
8 fragments, steel cores.

9 And with that process, to determine if they were
10 fired or not fired by this particular semiautomatic rifle,
11 State's four.

12 Q And did you do that in this case?

13 A Yes, ma'am, I did.

14 Q Tell us how this testing procedure is conducted and
15 what types of tools you use.

16 A When I first receive the case, I confirm the
17 inventory of all the items that I receive. I then
18 document the items through photography and also through a
19 worksheet. It lists their conditions, describes the
20 evidence, what it is, and that sort of thing.

21 After doing that process, I then will check any of
22 the firearms submitted, determine their working condition.
23 In this case, State's four was functioning properly. I
24 actually test-fired State's four with the magazine that
25 was submitted.

1 The State's four magazine is a correct magazine for
2 this rifle. When I received it, it was out of the
3 firearm. We have what is known as the bullet recovery
4 room.

5 In this we have a -- literally a galvanized steel
6 water tank that takes up two floors of the SLED forensic
7 laboratory. And we have vents to suck out the gases and
8 we have water that's oscillated.

9 And while I held the rifle and insert the loaded
10 magazine, cocked the rifle, made sure the safety was off
11 at 90-degrees, which the rifle straight down firing into
12 the tank, I fired several shots from the rifle.

13 Now, in this tank, at the bottom of it there's a cup,
14 and this cup recovers the fired bullets. The reason why
15 that we're firing through water, water that's being
16 oscillated, is being disturbed, it helps to prevent damage
17 to the bullets or to any other fired components.

18 I collect the fired bullets, the fired cartridge
19 cases. I mark those with information, and then I actually
20 compare the test-fired bullets and cartridge cases to the
21 evidence that was submitted.

22 I have a comparison microscope which is basically two
23 microscopes connected by an optical bridge. I have two
24 optics or eye pieces that I can look through and
25 simultaneously look at the evidence specimen to the

1 test-fired specimen.

2 And as I'm looking at these items, I'm trying to see
3 if I find any areas that match. I'm looking at the
4 patterns, the striations, the marks that are present that
5 are created by the firearm.

6 Once I find an area that will line up, I will phase
7 mark it, and from that point I will just literally rotate
8 those specimens and I will photograph some of those
9 exemplars to have up -- for my notes.

10 Q Is that what you did in this case?

11 A Yes, ma'am, I did.

12 Q And is this testing procedure, is it always the same
13 testing procedure?

14 A Yes, ma'am.

15 Q And are your test results and your testing
16 procedures, are they peer reviewed?

17 A Yes, ma'am, they are.

18 Q Can you tell the jury what peer review means?

19 A Yes, ma'am. Every case that is worked, every case
20 that I work is completely microscopically examined,
21 technically examined, reviewed, and administratively
22 examined, reviewed by another court-qualified firearms
23 examiner.

24 They will independently go through, look at my
25 results, the fired components, and verify my results.

1 They will also look at my bench notes and my case file to
2 ensure that it's following in the proper scientific
3 methods.

4 Q And was your testing procedure of this evidence here,
5 was it peer reviewed?

6 A Yes, ma'am, it was.

7 Q Did you prepare a written report of your findings of
8 this case?

9 A Yes, ma'am, I did.

10 (WHEREUPON, State's Exhibit No. 51 was marked
11 for identification only.)

12 BY MS. GARRICK:

13 Q If I can show you what's been marked State's Exhibit
14 51 for ID. Do you recognize that?

15 A Yes, ma'am, I do.

16 Q What is that?

17 A This is a copy of my report that I issued in regards
18 to the firearms examination in this case.

19 MS. GARRICK: Your honor, we would move it into
20 evidence.

21 THE COURT: What says the defense?

22 MR. FLOYD: Your Honor, may we approach a
23 minute?

24 THE COURT: Yes, sir.

25 MR. FLOYD: Objection.

1 (Whereupon a bench conference was held.)

2 THE COURT: Ladies and gentlemen, I need to deal
3 with a matter of law. And it's time for the
4 afternoon break anyway, so we're going to take about
5 a 15 minute break, give you a chance to relax.

6 I will try to get you back in 15 minutes, but I
7 can't control that time. At least have 15 minutes,
8 maybe a little longer. And I will get you back as
9 quick as I can. Don't discuss this case yet.

10 JUROR: I have a 4:00 tee time.

11 (Jury left the courtroom at 3:39 pm.)

12 THE COURT: Okay. Mr. Floyd, you have a -- does
13 he need to go to the restroom?

14 MR. FLOYD: Yeah.

15 THE COURT: Do you want to wait till he comes
16 back to argue this?

17 MR. FLOYD: I guess so.

18 THE COURT: Okay. Okay. We'll all take a five
19 minute recess then. We'll come back and argue this.

20 (Whereupon a brief recess was had.)

21 THE COURT: Okay. Are we at a point -- you
22 ready to proceed?

23 MR. FLOYD: Your Honor, let me go ahead and
24 cover one matter we had an objection to earlier --

25 THE COURT: Okay.

1 MR. FLOYD: -- or that we -- was subject to an
2 objection.

3 THE COURT: Right.

4 MR. FLOYD: Your Honor, may I also have this
5 made a Court's Exhibit? And it's the... What I
6 have -- I would like to have this marked as a Court's
7 Exhibit.

8 THE COURT: All right.

9 MR. FLOYD: It's a forensic examination report
10 dated July 25th of 2006 by David Collins who was on
11 the stand at the time, Your Honor.

12 (WHEREUPON, Court's Exhibit 1 was admitted into
13 evidence.)

14 MR. FLOYD: And Your Honor, at that time I tried
15 to examine Detective Collins, Investigator Collins,
16 about this examination report.

17 And it's an examination report which identifies
18 a bullet that was taken from the scene of a different
19 case, Richland County, that matched this weapon in
20 question, the 38 revolver.

21 THE COURT: Okay.

22 MR. FLOYD: And I would pass that up. And Your
23 Honor, of course, at that time the Solicitor was
24 objecting to that as being irrelevant, and Your Honor
25 sustained that objection.

1 And now for the record -- I place it on the
2 record what exactly I was trying to put in asking
3 Your Honor to reconsider the ruling that it was
4 irrelevant.

5 *THE COURT:* My recollection of the testimony I
6 think Mr. Keitt was he claimed that he's the one that
7 had the revolver, that he attempted to fire it at
8 least twice in the air and admitted it would not
9 fire.

10 The testimony from Collins was that because the
11 defect, the chamber revolver not necessarily line up,
12 and he had to attempt to shoot it 31 times before it
13 would shoot.

14 Now he -- he didn't testify it wouldn't shoot.
15 It just -- it just -- it was just haphazard when it
16 fell in line.

17 But I don't see any evidence in this case that
18 makes this -- that this Richland County case makes it
19 relevant to this case.

20 *MR. FLOYD:* Well, Your Honor, it shows that that
21 weapon was used in a -- another criminal case.

22 *THE COURT:* I understand that, but how is
23 that -- how is that going to be admissible in this
24 case simply because it was used in another criminal
25 case? Unless there's some tie between that case and

1 this case, I don't see how it's relevant at all.

2 If the State was trying to introduce it, I
3 wouldn't let them do it either because I don't see
4 how it's relevant, you know, especially the facts
5 that I have heard so far.

6 Now, if you bring out something or something
7 comes out later in this case that may make it
8 relevant, I will reconsider that.

9 MR. FLOYD: Well, Your Honor, it would be our
10 position that the testimony of -- from several
11 witnesses, is that Mr. Keitt always carried that gun.
12 And the fact that it's also been used in another
13 shooting at another time, we would argue makes it
14 more likely that he's the shooter in this case.

15 THE COURT: Well, I -- that's stretching it.
16 You certainly can argue to the jury that there was
17 another gun present that day. Mr. Keitt had -- he
18 had he attempted to fire it.

19 But I don't -- I don't think the fact that it
20 was used in another crime somewhere else is going to
21 make it relevant. I respectfully deny your motion.

22 MR. FLOYD: Thank you, Your Honor.

23 THE COURT: Now, what about your situation with
24 this report?

25 MR. FLOYD: Your Honor, the portion of the

1 report that we object to is in item 28 in which the
2 report attempts to compare or does compare certain
3 fragments, portions of bullet, that were obtained
4 from the autopsy, and basically the report is
5 inconclusive on several of the items.

6 Does make a -- a positive identification on one
7 of the bullet jacket fragments. And it's our
8 position that this would not be placed into evidence
9 until such time as the pathologist is here to say
10 where these come from in the autopsy.

11 *THE COURT:* My understanding from the record
12 that these bullet fragments have already been
13 introduced in evidence, that they are in evidence at
14 this time.

15 And you know, therefore they were not in
16 evidence, then you were claiming that the pathologist
17 was somehow involved in the chain. But it's my
18 understanding that they are in evidence already.

19 And so he's testifying about something that's
20 already in evidence and then the comparison that he
21 did. So I certainly think he could testify as to
22 what his results were, whether they were -- whether
23 he -- and I haven't seen the report, so I don't know.

24 But whether he -- he can certainly testify that
25 the bullets that were recovered from the autopsy

1 match or don't match this firearm that's in evidence.

2 MR. FLOYD: Well, I agree, Your Honor. There's
3 no evidence as to, you know, where they were
4 recovered from the autopsy, from the body, from the
5 road or just...

6 THE COURT: Well, certainly at this point the
7 jury doesn't know whether they were recovered -- I
8 assume that the State's going to have Dr. Sexton or
9 somebody say where they were recovered from.

10 But at this point all he's saying is that he
11 received the bullets from an autopsy and that those
12 fragments were fired from this gun. I guess that's
13 what -- or those -- he couldn't tell whether they
14 were fired from this gun or not.

15 But he's not saying that they were actually --
16 were the fragments that caused this woman's death.
17 He's just saying this fragment was fired from this
18 gun. I guess that's what the report says.

19 MR. FLOYD: That's what it says.

20 THE COURT: Okay. And I certainly think he can
21 testify to that. Now, whether that actually caused
22 her death or not will be up to the pathologist.

23 MR. FLOYD: Thank you, Your Honor.

24 THE COURT: All right. Anything else?

25 MS. GARRICK: No, Your Honor.

1 THE COURT: Okay. Has it been 15 minutes,
2 Kathy? The jury -- anything before I bring the jury
3 back?

4 MS. GARRICK: No, sir.

5 THE COURT: If the jury is ready to come back,
6 you can bring them back. If they need a little more
7 time, that's fine, too.

8 MS. GARRICK: Your Honor, we'd like today to
9 finish Mr. Black, Agent Black, and do Detective
10 Russell today if possible.

11 THE COURT: Okay. We ought to be able.

12 MS. GARRICK: I think we should.

13 (Jury entered the courtroom at 3:54 pm.)

14 THE COURT: Thank you, ladies and gentlemen.
15 You may proceed.

16 BY MS. GARRICK:

17 Q I believe the question to you was did you prepare a
18 written report of your findings in this testing procedure?

19 A Yes, ma'am, I did.

20 MS. GARRICK: Your Honor, we would move his
21 report into evidence as State's 51.

22 THE COURT: Okay. It is in subject to
23 objection.

24 (WHEREUPON, State's Exhibit 51 was admitted into
25 evidence.)

1 BY MS. GARRICK:

2 Q Using your report, Agent Black, were any items that
3 were submitted to you, could you find any items had been
4 fired by the submitted firearm?

5 A Yes, ma'am, I did.

6 Q And using your report, could you tell us which items
7 were fired from the semiautomatic rifle that had been
8 submitted as well?

9 A Yes, ma'am. State's Exhibit 20, which is SLED's item
10 nine, which is a fired cartridge case, was fired by
11 State's Exhibit four, the semiautomatic rifle. State's
12 Exhibit 13, which contained 23 fired cartridge cases, 21
13 of those 23 cartridge cases were fired by State's four
14 rifle.

15 State's Exhibit 48, which is SLED item 17, the fired
16 cartridge bullet jacket -- pardon me -- the steel bullet
17 jacket was fired by State's Exhibit four rifle.

18 State's Exhibit 47 which is the SLED item 19 which is
19 also another bullet jacket fragment was fired by State's
20 four rifle. State's Exhibit 46 which is SLED's item 23,
21 another bullet jacket was fired by the State's Exhibit 4
22 rifle.

23 State's Exhibit 45 which is the SLED item 28.3 which
24 is a bullet jacket fragment was fired by State's four
25 rifle.

1 Q Agent Black, were any items submitted that you were
2 unable to say had been fired by the semiautomatic rifle?

3 A Yes, ma'am. There were two of the fired cartridge
4 cases that it was inconclusive whether or not they were
5 fired by the rifle. This is based on -- it could be the
6 fact there were some damage and -- or also just how the
7 firing pin was striking the primer, it just did not
8 reproduce those markings, they weren't of sufficient
9 quality, so it's inconclusive whether it was fired by this
10 rifle or another rifle like it.

11 Also there were other bullet jackets, jacket
12 fragments and steel cores that were either inconclusive
13 because the damage, whether they were fired by this rifle,
14 or they were unsuitable for identification because the --
15 because the damage, there were no marks of value to
16 compare to.

17 Now, with the steel cores, which is the center of the
18 bullet, these particular like bullets are actually a steel
19 jacketed bullet, and inside the steel jacketed bullet is a
20 steel core.

21 Because the core is projected (sic) by the jacket,
22 the rifling which is inside the barrel does not come in
23 contact with the core. It does not mark the core. So
24 there would be no marks there.

25 However, there were six unfired cartridges, six live

1 rounds that came with this. I pulled one of the bullets
2 from one of those cartridges, sectioned the bullet, pulled
3 the steel core out, measured and weighed it, and based on
4 that, it was consistent with the steel cores that were
5 fired -- recovered from the scene.

6 Q Can you tell us how many rounds that semiautomatic
7 rifle holds?

8 A Well, the rifle itself will only hold one in the
9 chamber.

10 Q Right.

11 A However, this particular magazine, which I actually
12 checked the capacity by loading and unloading the
13 magazine, holds 30 cartridges. So total, this rifle will
14 hold 31 cartridges or 31 rounds, one in the chamber, 30 in
15 the magazine.

16 Q Please answer any questions Mr. Floyd may have.

17 CROSS-EXAMINATION

18 BY MR. FLOYD:

19 Q Mr. Black, you started with item nine; is that
20 correct?

21 A Yes, sir.

22 Q And did you do something with items one through
23 eight?

24 A Those items -- items one through eight were not
25 submitted for firearms examination.

1 Q That would be items submitted in this case to other
2 parts of SLED?

3 A Yes, sir. Item one was submitted for DNA analysis,
4 and items two through eight were submitted for toxicology
5 analysis.

6 Q And were there other items submitted above item 28,
7 29, 30 and so forth?

8 A Yes, sir. Based on the log-in sheets that I have,
9 items 28 through 36 -- correction, pardon me -- item 29
10 through 36 were also submitted to the evidence processing
11 trace evidence department.

12 Also an item 35 was submitted to -- for DNA analysis.
13 And item 36 was submitted for trace evidence only.

14 Q Would that be the total through 36?

15 A From my file that I have, yes, sir.

16 Q Now, you mentioned the steel cores. There is no
17 unique markings on those, right?

18 A That is correct.

19 Q Because they're protected by some type of a -- a
20 shell?

21 A Yes, sir. They're protected by the jacket. That is
22 correct.

23 Q And so you come up with a -- a comparison of those by
24 simply weighing the core?

25 A No, sir. What I -- I actually -- I actually

1 microscopically examine those steel cores, but there were
2 no marks present on the cores that you expect to find as
3 a -- the bullet is marked or engraved by the rifling.

4 But that can be explained because the core is
5 protected by the jacket and it has no contact with the
6 rifling. So it was unsuitable for identification. There
7 were no marks of value, there were no marks present on the
8 steel cores.

9 What I simply said earlier about steel cores -- to
10 see if the steel cores that I have were consistent with
11 the ammunition submitted, I sectioned a bullet, removed
12 that steel core and actually measured and weighed the
13 cores, and they were consistent with each other. They
14 shared the same physical characteristics.

15 Q As would any other -- lots of ammunition; correct?

16 A Oh, yes, sir. Absolutely. Correct.

17 Q So basically that just means it's the same
18 ammunition -- manufactured by the same company?

19 A It's consistent ammunition, yes, sir.

20 Q And are your fragments and all, are they in these --
21 these bags?

22 A Yes, sir. Everything is up here, fragments here,
23 cartridge cases.

24 Q Where is 28 3?

25 A This is 28 3 right there, sir.

1 Q So basically, for example, here is a -- this is a
2 bullet fragment here; is that correct?

3 A If you don't mind me asking.

4 Q Sure.

5 A Actually State's Exhibit 47, SLED item 19, is
6 actually a -- is a bullet jacket fragment, yes, sir.

7 Q Okay. Would that be the same as this one 28.3?

8 A Yes, sir, it is, which is State's Exhibit 45. It is
9 also a jacket fragment, yes, sir.

10 Q Okay. And you examined these fragments. And what
11 are you looking for?

12 A What I'm looking for are the marks, the striations
13 that are present on them. These marks are unique. These
14 are characteristics are basically when the rifle barrel is
15 manufacturing, manufactured, and the rifling is either cut
16 or impressed into the barrel, the tools will leave marks
17 on the rifling.

18 The raised portion of the rifling is known as lands,
19 and the depressed area between the lands are known as
20 grooves. These lands and grooves would mark the bullet
21 and will literally -- they look like scratches. It
22 engraves them.

23 And what I simply do is compare those scratches,
24 those marks to eachother. I see if they are similar, you
25 know, width-wise, the lands and grooves. I see if the

1 marks, you know, are similar in their -- their length,
2 their width, the patterns that they make.

3 Q Well, most weapons of the same type will have similar
4 land and grooves; won't they?

5 A You're correct. The lands and grooves, which are
6 class characteristics -- in this particular rifle, if I
7 may -- this particular model of rifle which is a variant
8 of the AK47 or AKM assault rifle, most of those barrels
9 have a class characteristic of what's known as four lands
10 and grooves right hand twist.

11 That means there are four lands and grooves and they
12 have a right hand twist or they go clockwise in that
13 direction. That is a class characteristic. It is a
14 grouping.

15 However, what I'm looking at in particular with the
16 lands are the actual marks that are on the individual
17 lands that are placed there by the tool that cut or
18 impressed those mark -- those -- the land impressions.

19 And those tools are changing each time. And each
20 time that tool is used, those marks become unique and
21 specific to that particular barrel to that particular
22 firearm.

23 Q They all would have similarities and some uniqueness?

24 A There may be some class similarities as a group, but
25 each rifle barrel is unique to that firearm to itself

1 based on the manufacturing process.

2 Q Thank you.

3 MR. FLOYD: No further questions, Your Honor.

4 THE COURT: Anything?

5 MS. GARRICK: Nothing further.

6 THE COURT: Thank you, sir. You can step down.

7 THE WITNESS: Thank you, Your Honor.

8 (Whereupon the witness left the stand.)

9 MS. GARRICK: Your Honor, we'd call Detective
10 Eric Russell.

11 ERIC RUSSELL, after being duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. GARRICK:

15 Q Detective Russell, where are you employed?

16 A Lexington County Sheriff's Office.

17 Q And how long have you been in law enforcement?

18 A About 16 years.

19 Q And how long have you been with the Lexington County
20 Sheriff's Department?

21 A That whole 16 years.

22 Q And what type of duties do you conduct?

23 A I am a major crimes investigator, investigate crimes
24 against people to include assaults, rapes, homicides, that
25 type.

1 Q And were you called to work the case at The Barnyard
2 on July 15th of 2006?

3 A Yes, ma'am, I was.

4 Q And what did you do on that afternoon?

5 A I first responded to the actual Barnyard Flea Market
6 and began interviewing people that had been standing
7 around when this incident took place, taking statements
8 from those people.

9 Q And did you go to the Citgo after you left Barnyard?

10 A Yes, ma'am, I did. I went to the Citgo and confirmed
11 that all the other officers that were there working.

12 Q And did you meet any of the people that had been in
13 Denise's car there at the Citgo?

14 A Yes, ma'am. I did an interview with Jonathan
15 Washington while there at the Citgo.

16 Q And how was the suspect first identified in this
17 case?

18 A The first suspect was identified by the tag number
19 that we had gotten from the people that had followed the
20 Crown Victoria out of the parking lot of The Barnyard. We
21 ran that tag number. It came back to a George Mack.

22 (WHEREUPON, State's Exhibit 52 was admitted into
23 evidence.)

24 BY MS. GARRICK:

25 Q If I can show you what's been marked State's Exhibit

1 52 without objection by Mr. Floyd. Do you recognize that
2 document?

3 A Yes, ma'am.

4 Q What is that?

5 A That is a certified copy of the tag number 708VHB
6 that I actually got from the Department of Motor Vehicles.

7 Q And who -- it's registered to whom?

8 A It's registered to George V Mack, the third.

9 Q Okay. And does it give you an address?

10 A Yes, ma'am. 1416 Height (phonetic) Street in
11 Columbia.

12 Q And did you respond to that address?

13 A No, ma'am, I personally did not respond.

14 Q Okay. What did you do after you had the name George
15 Mack?

16 A While there at the Citgo, we got the name George Mack
17 from the tag, and the name Brandon Harmon had also come up
18 several times. So after talking with my boss and Sergeant
19 Correll and Lieutenant Fryar, I went back to the sheriff's
20 office to see if I could come up with pictures of these
21 people to create photo line-ups of them.

22 Q Okay.

23 MS. GARRICK: Beg the Court's indulgence one
24 moment.

25 (Whereupon there was a pause.)

1 BY MS. GARRICK:

2 Q So after you prepared line-ups with George Mack and
3 Brandon Harmon in these line-ups, who did you ask to look
4 at them?

5 A I called back and asked for anybody or -- at the
6 scene, to the officers that were still at the scene, to
7 send some people down they thought could identify the
8 people that had been involved, and the suspects in the
9 case.

10 Let's see. Jamar Porcher, John Washington, and
11 Richard Scooter Geiger then came to the sheriff's
12 department to look at the line-ups that we had made.

13 Q Okay. And were any of them able to identify George
14 Mack?

15 A Yes, ma'am. Richard Geiger and Jonathan Washington
16 were both able to identify George Mack.

17 Q Okay. Did you show them the line-up with Brandon
18 Harmon?

19 A I did. Richard Geiger was able to identify Brandon
20 Harmon as being there, and Jamar Porcher was able to
21 identify Brandon Harmon as being there, and he said at
22 that time he thought he had been the shooter.

23 Q Okay. Did you show Jamar Porcher a third line-up?

24 A Yes, ma'am. While all these showing of the line-ups
25 was going on, there was further investigation going on,

1 another detective was speaking with George Mack.

2 And through that interview we got to the idea that
3 Sammy Harmon had been the shooter, so another line-up was
4 prepared and showed to all three at the sheriff's office,
5 Richard Geiger, George Mack -- excuse me -- Richard
6 Geiger, Jonathan Washington, and Jamar Porcher.

7 Q After you showed this line-up to Jamar Porcher, what
8 did he say? What did he do?

9 A He said that -- when I showed him the line-up with
10 Sammy Harmon in it, he said -- that he originally picked
11 Brandon as the shooter, but he said, no, that wasn't
12 right, Sammy Harmon had been the shooter.

13 So at that point I asked him he could pick somebody
14 from the line-up, circle person you picking. Then asked
15 him to write a statement explaining how he had made a
16 mistake to start with.

17 Q And did you tell him that you had information from
18 another source that Sammy Harmon was the shooter?

19 A No, ma'am. I said I had another set of pictures for
20 him to look at to see if anybody in these set of pictures
21 were involved in this.

22 Q Did you tell him what to write in his statement when
23 he explained how he changed who he picked?

24 A No, ma'am.

25 Q State's Exhibit eight, is this the statement you're

1 talking about?

2 A Yes, ma'am. That's the statement that Jamar gave me.

3 Q So Jamar told you he made a mistake?

4 A That's correct.

5 Q After you were doing these photo line-ups, did you
6 have to go to another scene that same evening?

7 A Yes, ma'am, I did. Again, we got a call, as I said,
8 just got to be a big investigation when there was things
9 going on at different places. I got a call from another
10 detective saying that George Mack, who was in custody at
11 that time, had agreed to show us where the firearms
12 involved in this were.

13 So myself, Detective Barr and Detective Sexton left
14 the sheriff's office to go meet with George Mack and
15 Sergeant Creasman. Sergeant Creasman was bringing George
16 Mack from the Irmo area back towards us.

17 We also notified ID or CSI Crump to come with us. We
18 went and met with them near Dooley Road.

19 Q Okay. And do you remember the name of the church?

20 A We met with them on Dooley Road and then followed
21 Sergeant Creasman and George Mack to the church.

22 Q If I can show you what's in evidence, State's Exhibit
23 24.

24 A Nazarene Pentecostal Holiness Church.

25 Q And what road is that?

1 A It's on Two Notch Road, 400 block I believe of Two
2 Notch Road.

3 Q And who was there at the church scene there?

4 A It was myself, Detective Tracy Barr, Detective Olin
5 Sexton, Sergeant Creasman, CSI Crump, and George Mack was
6 in custody at that time.

7 Q What were the weather conditions out there that
8 evening?

9 A At that time it had already cleared up. Between the
10 time we found those guns and between -- and the time that
11 this actual incident had happened, a large thunderstorm
12 had moved in. It had poured down rain in between those
13 two times.

14 Q And was that cause for concern?

15 A Yes, ma'am. It was cause -- evidence may be lost.

16 Q Were you present when the guns were recovered?

17 A Yes, ma'am, I was.

18 Q State's three.

19 A Yes, ma'am.

20 Q And I believe behind you is State's nine?

21 A That's correct.

22 Q After you recovered the weapons, what's the next
23 thing you did in this investigation?

24 A I conduct -- we took George Mack back to the
25 sheriff's office and conducted an interview with him.

1 Q And after you had this interview with him, what did
2 you do next? Did you get warrants?

3 A From that interview we -- we determined that Brandon
4 Harmon and Sammy Harmon were involved. Sammy Harmon was
5 to be the shooter, so we obtained warrants on him at that
6 time.

7 Q And what did you do with that information?

8 A We also received a cellphone that Sammy Harmon was
9 supposed to have had on him.

10 Q You received a cellphone or--

11 A Cellphone number. I'm sorry.

12 Q Okay.

13 A I gave that cellphone number to Sergeant Fossum.

14 Q Is that Luke Fossum?

15 A Luke Fossum -- to do his -- and I can't explain how
16 it works, but I know he does cellphone tracking. And he
17 was able to locate that cellphone in Orangeburg.

18 Q Okay. Were you aware of what the Fugitive Task Force
19 members were doing?

20 A Right. They were out hunting these people at that
21 time.

22 Q And did you become -- were you notified that
23 Detective Tucker had Sammy Harmon in custody?

24 A Yes, ma'am. I believe it was Sunday morning at about
25 8:00 in the morning I was notified that he was in custody.

1 Q Okay. And warrants were served on him at some point;
2 is that correct?

3 A That's correct.

4 Q When he was in custody with y'all, did you ask that a
5 gunshot residue test be performed on his hands or arms?

6 A No, ma'am. This was past what we considered the
7 normal window of opportunity for that to be done. It's
8 about six hours. Anything past that is considered a
9 useless test.

10 Q So you didn't -- didn't perform that test?

11 A No, ma'am.

12 Q Okay. After Sammy Harmon was in custody, who did you
13 speak to next?

14 A Next I interviewed James Keitt.

15 Q Okay. And when you interviewed James Keitt, was he
16 already under arrest?

17 A Not at the beginning of the interview. But before
18 the interview was over, he was.

19 Q Okay. And did you make him any promises to get him
20 to give you a written statement?

21 A No, ma'am. No deals, no promises were made.

22 Q Do you actually have authority to make deals --

23 A Absolutely not, no.

24 Q -- with defendants? And was there anybody from the
25 Solicitor's Office there with you when you met with Little

1 James?

2 A No, ma'am. It was not.

3 Q And did he in fact give you a statement?

4 A He did.

5 Q Did he indicate who the shooter was?

6 A He indicated Sammy Harmon was the shooter.

7 Q And what date was that that he told you?

8 A That would have been...

9 Q Or the day.

10 A July the 16th, the day after the incident.

11 Q When did you meet Brandon Harmon? What day?

12 A I believe it was Monday the -- it would have been the
13 17th, I believe.

14 Q And did you meet Sherman?

15 A We actually met Brandon the evening of the 16th. I
16 apologize.

17 Q Okay. And did you interview Brandon the next day?

18 A I did.

19 Q And did -- at that time, was he willing to give you
20 an oral statement?

21 A He gave me an oral statement, yes, ma'am.

22 Q Did he give you a taped statement?

23 A Yes, ma'am.

24 Q And before he gave you those statements, did you
25 promise him what was going to happen with his charges?

1 A No, ma'am, I did not.

2 Q And did he indicate who the shooter was at that time?

3 A He indicated Sammy Harmon was the shooter.

4 Q When did you meet Sherman Davis?

5 A The same time I met Brandon Harmon, the 16th.

6 Q Okay. Did you interview these two people together or
7 separate?

8 A Separate.

9 Q When you met with Sherman Davis, did he give you a
10 written statement?

11 A Originally he gave me a verbal statement. The next
12 day he gave me a written statement.

13 Q Okay. And during his verbal and written statement,
14 did you make him any promises as to what's going to happen
15 with his charges?

16 A No, ma'am, I did not.

17 Q Did you threaten him in any manner?

18 A No, ma'am, I did not.

19 Q Did you tell any of these people who you thought the
20 shooter was?

21 A No, ma'am, I did not.

22 Q And what did Sherman Davis indicate as far as who the
23 shooter was?

24 A He as well indicated that it was Sammy Harmon had
25 done the shooting.

1 Q Okay. And this was in July of '06; is that correct?

2 A That's correct. That's correct.

3 Q Beg the Court's indulgence one moment.

4 (Ms. Garrick conferring with Solicitor Myers.)

5 BY MS. GARRICK:

6 Q When did you meet Alex Haigler?

7 A The 18th of July. I believe it was a Tuesday.

8 Q Okay. And did he give you a written statement?

9 A He did.

10 Q Same question. Did you make him any promise as to
11 what would happen?

12 A No, ma'am. There were no promises, no deals made
13 with him.

14 Q Okay. And who did he name the shooter to be?

15 A He named Sammy Harmon to be the shooter also.

16 Q Please answer any questions Mr. Floyd has.

17 CROSS-EXAMINATION

18 BY MR. FLOYD:

19 Q Detective Russell, so George Mack was the one that
20 first gave the name Sammy Harmon as the shooter?

21 A That's correct.

22 Q And did he voluntarily come in on his own?

23 A George Mack?

24 Q George Mack.

25 A I think he was placed under arrest at his residence.

1 Q Did he ever call and say his vehicle was stolen or
2 anything like that?

3 A He did make a phonecall to the sheriff's office, yes,
4 sir, about his vehicle being taken.

5 Q So he contacted the sheriff's office because he knew
6 he was -- probably in trouble; right?

7 A That would be my opinion, yes, sir.

8 Q So he comes in and he tells you that it's Sammy
9 Harmon?

10 A That's correct.

11 Q Was the shooter; is that correct? Now, before that
12 time you had shown a photographic line-up to Jamar
13 Porcher, one of the victims, and he had picked out Brandon
14 Harmon as the shooter.

15 A Yes, sir. That's correct.

16 Q Because Brandon was one of the names that was given
17 to you that had been recognized by some of the people
18 there.

19 A That is correct also.

20 Q All right. So then you meet with George Mack and he
21 points the finger at Sammy, so you do another photo
22 line-up with Jamar; is that correct?

23 A I didn't do it with just Jamar. I did do another
24 photo line-up.

25 Q I understand. But whatever you did it with was with

1 Jamar.

2 A That's correct.

3 Q And Jamar then changes it and says, well, yes, it's
4 Sammy, I guess.

5 A That's correct.

6 Q And showed that same line-up to Jonathan Washington
7 and Scooter; did you not?

8 A That's correct.

9 Q They did not identify Sammy; did they?

10 A That's correct.

11 Q Okay. But these were photo line-ups that had Sammy's
12 picture in them; did they not?

13 A It was all -- well, copies of the same items.

14 Q Now, when you interview suspects, particularly in a
15 big case, don't you tell them that it would be better for
16 them if they cooperated?

17 A I tell them that telling the truth is the best thing
18 as is always.

19 Q You certainly don't emphasize to them that
20 cooperating will hurt; do you?

21 A No, sir.

22 Q And all of these people, were they charged with
23 murder?

24 A Yes, sir.

25 Q Who all was charged with the murder in this case?

1 A I'm sorry. I couldn't hear you.

2 Q I'm sorry. Who all was charged with murder in this
3 case?

4 A George Mack, Brandon Harmon, Sammy Harmon, Sherman
5 Davis, Alex Haigler, and -- I'm missing one -- James
6 Keitt, that's right.

7 Q Now, the only one going to trial for murder is Sammy
8 Harmon; is that right?

9 A That's who is being tried right now, yes, sir.

10 Q Well, you don't plan to try any of the others for
11 murder; do you?

12 A That's up to the Solicitor's Office.

13 Q You don't think it would be more efficient to try
14 them at the same time if they were going to try them?

15 A I don't know.

16 Q And is it your opinion that item number four, which
17 is -- yeah -- is that -- is it your opinion that's the,
18 quote, murder weapon?

19 A Yes, sir.

20 Q And was it tested for Sammy Harmon's fingerprints?

21 A It was tested to see if there was latent prints
22 available on that. None were found.

23 Q Sammy Harmon's weren't found?

24 A That's correct. None were.

25 Q Was any of Sammy Harmon's DNA found on that weapon?

1 A No, sir.

2 Q And did you do a gunshot residue test of Sammy
3 Harmon?

4 A No, sir.

5 Q So would you agree with me that there is no forensic
6 evidence linking Sammy Harmon to this shooting?

7 A Yeah, I agree with you.

8 Q That basically all you have is the other people who
9 were charged with murder are saying it's Sammy for
10 whatever deals they are going to get.

11 A And one of the victims picked him out.

12 Q You're talking about the second photo line-up --

13 A That's correct.

14 Q -- of Jamar, after he picked out Brandon.

15 A His brother, yes, sir.

16 Q Thank you. No further questions.

17 THE COURT: Anything further from the State?

18 MS. GARRICK: No, Your Honor.

19 THE COURT: Okay. Thank you, sir. You can step
20 down.

21 (Whereupon the witness left the stand.)

22 MS. GARRICK: Your Honor, our next witness is
23 under subpoena in a different court testifying. He
24 cannot be here until in the morning.

25 THE COURT: So you are telling me we are done

1 for the day?

2 MS. GARRICK: Yes, sir.

3 THE COURT: Okay. 9:30 in the morning?

4 MS. GARRICK: Yes, sir.

5 THE COURT: All right. Ladies and gentlemen,
6 you have heard all of the testimony we will be able
7 to hear today. I ask you to be back in the jury room
8 at 9:30 in the morning.

9 I will remind you, please do not start
10 discussing this case yet. Don't discuss it at home.
11 Don't read anything in the newspaper or listen to
12 anything on the TV or radio because you have got to
13 decide this based on what you have heard in the
14 courtroom. Thank you. You have a nice evening.

15 (Jury left the courtroom at 4:28 pm.)

16 MS. GARRICK: That's all, Your Honor.

17 THE COURT: Anything else before we...

18 MR. MYERS: No, sir. We'll probably rest by
19 11:00 tomorrow.

20 THE COURT: Okay. Thank you. That will give me
21 some idea, at least give you an idea...

22 MR. FLOYD: Yes, sir. Appreciate you letting me
23 know that.

24 THE COURT: Okay. And I guess -- do you want me
25 to put on the record your client's right regarding

1 testifying or not?

2 MR. FLOYD: I'm going to meet with him some this
3 evening to -- for the final decision on that point.

4 THE COURT: All right. That will be good. Then
5 court will be in recess until 9:30 in the morning.

6 (Whereupon court was in recess for the evening.)

7 ***** May 7, 2008 *****

8 (WHEREUPON, State's Exhibits 53-57 were admitted
9 into evidence.)

10 THE COURT: Anything before we bring the jury in
11 from the State?

12 MS. GARRICK: No, Your Honor.

13 THE COURT: From the defense?

14 MR. FLOYD: No, Your Honor.

15 THE COURT: Okay. If you would get us the jury.

16 (Jury entered the courtroom at 9:32 am.)

17 THE COURT: Good morning, ladies and gentlemen.
18 The State may call its next witness.

19 MS. GARRICK: Thank you, Your Honor. The State
20 calls Dr. Joel Sexton.

21 DR. JOEL SEXTON, after being duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. GARRICK:

25 Q Dr. Sexton, what is your educational background?

1 A Graduated from the University of Virginia in 1958 and
2 was a naval line officer for three years because I was on
3 a Navy scholarship. Then I attended the then Medical
4 College of South Carolina in Charleston in the department
5 of Chemistry and received a Master's in chemistry from
6 their analytical chemistry department.

7 Then I went on to the medical school finishing in
8 medical school in 1968. And further trained in the field
9 of pathology doing an internship and residency finishing
10 that in 1972 and becoming licensed in the State in '68 to
11 practice medicine, and becoming nationally board certified
12 in anatomic pathology, clinical pathology, and forensic
13 pathology in 1972 and '73.

14 I then taught at the Medical University from '72 till
15 '83 when I moved to Newberry where I am employed now as
16 the Director of Pathology of Newberry County Memorial
17 Hospital.

18 While I was in Charleston I was appointed as the
19 Charleston County Medical Examiner. And in that
20 responsibility I was responsible for evaluating any death
21 that occurred either from violence or where a doctor was
22 not willing to sign the death certificate either in the
23 hospital or outside of the hospital.

24 And then when I moved to Newberry, approximately half
25 of the county coroners, about 25, continued to send cases

1 to us in Newberry, and we do over 700 autopsies a year
2 there for the coroners in this end of the State.

3 Q And primarily what do your duties consist of when
4 you're in Newberry at the office there?

5 A Since I'm the Director of Pathology there, we are
6 responsible for examining tissue removed at surgery to see
7 if there's cancer present or some other condition to help
8 your physician, in that case your surgeon, understand what
9 condition you have and how best to treat it.

10 We also supervise the laboratory where tests are run
11 on various body fluids like urine, blood, and spinal fluid
12 to help make sure those are run properly and the results
13 are accurate and to help your physician interpret those
14 results.

15 In addition, in the area of forensic pathology and
16 for that matter hospital pathology, we do autopsies. In
17 the case of hospital pathology we're there authorized by
18 the family, we're trying to find out more about that
19 illness or disease to help your physician understand the
20 course of the illness or disease and how best to treat
21 that in the future.

22 In the area of forensics, we do the autopsies
23 authorized by the coroner that are sent to us to learn not
24 only the cause of death but as much as possible about the
25 circumstances surrounding that death which helps determine

1 the manner of death which has to do with either violence
2 or natural death or some accidental death.

3 Q Can you please tell us the approximate number of
4 autopsies you have performed throughout your career?

5 A I have done well over 8000 in the 35 years I have
6 been doing this, and supervised that number or more in
7 Charleston when I was in charge of the forensic section of
8 the Department of Pathology. And there were three of us
9 doing autopsies.

10 And in Newberry we have had three on some occasions.
11 Currently there are two of us doing autopsies.

12 Q Can you tell us an approximate number of times --
13 well, let me ask you this. Have you ever been qualified
14 as an expert in forensic pathology in courts of record
15 before?

16 A Yes, I have.

17 Q Can you give us an approximate number of times you
18 have been so qualified?

19 A Over 700 times.

20 MS. GARRICK: Your Honor, we would offer him as
21 an expert in forensic pathology.

22 THE COURT: What says the defense?

23 MR. FLOYD: No objection, Your Honor.

24 THE COURT: I find that Dr. Sexton is an expert
25 in the field of forensic pathology.

1 BY MS. GARRICK:

2 Q Dr. Sexton, when you conduct an autopsy, is there a
3 set procedure that you use? Do you do it the same way
4 every time?

5 A Yes, we do. We do a complete examination examining
6 all the internal tissues after first examining the body
7 externally and documenting whatever we find externally.

8 Q And in regards to this case, were you asked to
9 perform an autopsy of Denise Boykin?

10 A Yes. That was on the 16th of July of 2006.

11 Q And did anyone else attend this autopsy from the
12 Lexington County Sheriff's Department?

13 A Yes, they were. There was an officer, Don Crump,
14 from the sheriff's department, and Ashley -- Wright I
15 think is the name of the coroners's deputy -- Ashley Hicks
16 was the coroner's deputy that came to the autopsy. Dr.
17 Ross -- I'm sorry -- so those are the two that attended
18 from other jurisdictions.

19 Q Okay. And what was the first thing you did when you
20 started your autopsy on Denise?

21 A As I mentioned, we first photograph the body
22 externally and look for any evidence. We did find some
23 evidence that was loose on the surface in the hair, so we
24 removed that at that time so it wouldn't get lost in
25 unclothing the body.

1 But we photographed the body externally, then we
2 looked for evidence, then we removed clothing if there's
3 some present, continued to look for evidence and
4 collecting that or documenting it, then we cleansed the
5 body after we have looked at any injuries to see if these
6 injuries have findings that might be significant before we
7 cleanse the body.

8 And then we re-photograph the body taking close-up
9 photographs of any injuries that may be present. Then we
10 do a complete internal examination collecting various
11 fluids and examining tissues as well as collecting any
12 foreign material.

13 And after we have done all of that, then it's
14 documented with diagrams and charts as well as a typed
15 summary of what we found.

16 Q Did you take any x-rays of Denise?

17 A Yes, we did.

18 Q If I can show you what's been marked as State's
19 Exhibit 53 that is in without objection from the defense.
20 Can you recognize this document?

21 A Yes. This is an x-ray of the head of Denise Boykin.

22 Q And what does it show, if anything?

23 A It shows the steel core of a high-power rifle bullet
24 that's embedded in the left frontal lobe. What you're
25 doing is looking at the front of a person's x-ray. In

1 other words, this is an x-ray of the head from the front.
2 And the bullet is in the left side near the front of the
3 head.

4 Q State's Exhibit 54 that's also in evidence.

5 A This shows the same head of Denise Boykin and shows
6 from a lateral view from the side, and you will see that
7 steel core again there toward the front and on the left
8 side.

9 Q State's 55 that is also in evidence.

10 A The decedent also had a wound to her right ankle, and
11 this shows the little fragments of lead that came off as
12 that bullet went through the right ankle area and just
13 barely nicked the bone.

14 Q State's 56 that's in evidence.

15 A This shows a diagram -- and I might give you a brief
16 summary. The only significant findings were that she had
17 a single fatal high-power rifle wound as well as four
18 superficial high-power rifle wounds.

19 As you see here, the left view is from the back of
20 the head, and you can see that instead of a round hole,
21 there is an elongated hole consistent with a bullet going
22 in sideways so that you see the outline of the side of the
23 bullet.

24 And it goes in to the front and to the left, so it's
25 coming slightly from the person's right and from the rear.

1 And in addition to the steel core, there is a little
2 squiggly line there just to the left of the oval, and that
3 represents the copper jacket that is around the steel core
4 so as to not damage the lands and grooves as the bullet
5 passes through the barrel.

6 And that portion of copper jacket was just under the
7 skin where the core did injure the brain. Just below that
8 is another wound with just a copper jacket in place. All
9 of these bullets gave me the opinion based on my
10 experience with this that instead of having the speed that
11 a high-power rifle bullet normally has which would carry
12 through the body, these had been slowed by going through
13 some part of the vehicle.

14 And you can see that that bullet is tumbling when it
15 hits, so it's already gone through a part of the vehicle
16 and part of the outer copper jacket has been stripped
17 away, but some of it penetrates the skin.

18 The wound just below it is probably more of that same
19 jacket, but it may be part of another because further down
20 her back was a small hole that was only a little more than
21 a quarter of an inch deep where the bullet had come in,
22 but the steel core had come in and penetrated, but then
23 fallen out. And we were told that was found in the seat
24 at the scene. It was not with the body.

25 There was also the injury across her right lower leg,

1 there's down near the ankle that you saw the x-ray of
2 earlier, and then there was another that entered her left
3 foot which may have been the one that went across the
4 ankle or may have been a separate one.

5 Q Okay.

6 MS. GARRICK: Your Honor, if I could ask him to
7 come down for a moment, please.

8 THE COURT: Okay.

9 (Whereupon the witness complied.)

10 BY MS. GARRICK:

11 Q Could you demonstrate on me where her wounds were and
12 then draw...

13 A Sure. If you will turn around first. They start
14 here in the back of the head, point here to the occipital
15 region which is the back of the head. A little bit to the
16 right of the midline as you see on the diagram up there,
17 that's where the fatal bullet entered and passed to the
18 front and to the left.

19 The jacket entered a little below that which is
20 either the jacket from that fatal bullet or a separate
21 bullet. Further down to the back and about this region is
22 the upper right back, a bullet ended up going in just less
23 than an inch, then falling out, just the lead core.

24 Then on the front of your body, your right ankle down
25 in this region, there's a bullet that comes across the

1 ankle going from right to left and going slightly
2 downward, and then in the left foot is one that goes in
3 the top of the left foot and go toward -- goes toward the
4 little toe that is found in the sock.

5 Q That also right to left?

6 A All of these are from right to left, even the ones in
7 the back, going in the back of the head but going off to
8 the left side in the head.

9 Q Could you draw this for us, please.

10 A (Complied). What I have drawn is -- here on the head
11 as you see there on the diagram, the bullet enters just to
12 the right of the midline going to the left, to the front,
13 and slightly upward, and then the jacket between the hole
14 and the left core.

15 There is another irregular wound just below that with
16 just a portion of jacket in the scalp because it didn't
17 break the skull. This is the wound on the back that
18 enters her less than an inch, and then the steel core fell
19 out at the scene.

20 Here on the front of the right ankle is a large
21 elongated wound with another smaller one. And these
22 communicate. The bullet entered from the right and went
23 to the left.

24 Here in the top of the right -- I'm sorry, top of the
25 left foot is another irregular wound that went through the

1 shoe, through the sock, and into the foot, with the lead
2 core being found just outside of the left side of the left
3 foot in the sock.

4 Q Thank you, doctor. Take your seat.

5 A (Complied.)

6 MS. GARRICK: Your Honor, we would move this
7 into evidence.

8 MR. FLOYD: No objection.

9 (WHEREUPON, State's Exhibit 58 was admitted into
10 evidence.)

11 MS. GARRICK: Fifty-eight, Your Honor.

12 BY MS. GARRICK:

13 Q Could you tell us the approximate number of times --
14 number of times Denise was shot?

15 A We recovered two lead or two steel cores, one in the
16 head, and a jacket in addition to that in the back of the
17 head. And we found at least one fatal wound, one to the
18 head, and four superficial wounds.

19 The small lead core wound in the back of the head,
20 the wound in the back, one across the ankle, and one to
21 the left foot. All of these were superficial and would
22 not have been fatal. May have incapacitated some if she
23 had survived the shot to the head. The only fatal shot
24 was the one to the back of the head.

25 Q Are the injuries and what you saw consistent or

1 inconsistent with her being shot with a high-powered
2 rifle?

3 A In my opinion within reasonable medical certainty
4 there are all consistent with being shot with a
5 high-powered rifle with the bullets first having gone
6 through an intermediate target.

7 Q During the course of the autopsy, did you collect any
8 physical evidence that you removed from her body and from
9 her clothing?

10 A We did. We collected the bullet from the head with
11 the portion of jacket, the separate portion of jacket in
12 the back of the head, and the bullet from the left foot.

13 Q If I can show you what's in evidence as State's
14 Exhibit 45. Could you take a look at those items and tell
15 us if you recognize them?

16 A State's Exhibit 45 consists of the plastic bag with
17 our label and my initials and date that had in it three
18 vials, and these are the three vials that are
19 appropriately labeled with Denise Boykin's name, her
20 autopsy number, and what was in the vials.

21 They're arbitrarily numbered starting with the wound
22 to the back of the head because I do not know which order
23 they occurred in. The one labeled number one has a steel
24 core and a portion of jacket that has been removed from
25 the vial.

1 It bears my mark and it matches the photographs that
2 I took. Because the bullets get deformed as they go
3 through the body, by taking photographs from three
4 different angles, I can look at it and you will be able to
5 see, if you look at this later, the indentation on the
6 nose of the steel core and the shape of the portion of
7 jacket that's present. These matched bullet number one
8 which was the fatal bullet that killed Denise Boykin.

9 Number two is the copper jacket that came from the
10 back of the head. It was just in the scalp. It has been
11 fragmented from the time I saw it, but the fragments match
12 the photograph I took and it bears my mark.

13 So this is the lead -- I'm sorry -- is the copper
14 jacket removed from the back of the head of Denise Boykin
15 which I had labeled number two arbitrarily, just counting
16 from the top down.

17 This is one that arbitrarily is State's number five.
18 Again it bears my mark, matches my photographs, the vial
19 it was in, has my label on it and initials. And all of
20 these were in the plastic zip-lock that we put them in at
21 the time of transfer. So these are the two steel cores
22 and two jackets that were removed from Denise Boykin.

23 Q What did you do with those items that you removed
24 from her body?

25 A They were transferred to Troy Crump from the

1 Lexington County Sheriff's Department.

2 Q Doctor, as part of your job, do you determine the
3 manner of death?

4 A Yes, we do.

5 Q And do you document these findings in a written
6 report?

7 A Yes.

8 Q And did you do that in this case?

9 A We did.

10 Q If I can show you what's in evidence as State's
11 Exhibit 57 without objection from the defense. Do you
12 recognize that document?

13 A Yes. This is a six page document documenting the
14 findings at the autopsy of Denise Boykin.

15 Q And what did you--

16 A It's labeled Exhibit 57.

17 Q Thank you. And what did you determine her manner of
18 death?

19 A We determined the manner of death as homicide.
20 Recognized that homicide simply means at the hands of
21 another person, has nothing to do with intent which the
22 courts decide.

23 Suicide would be at the hands of the individual
24 themselves. Natural death would be from some disease or
25 illness. Accidental death would be an act of God, usually

1 like drowning or hit by lightning or a fall or something
2 of that sort.

3 And sometimes we have undetermined deaths where we
4 don't have enough information through the skeletons to
5 determine, you know, the cause much less the manner of
6 death.

7 Q Thank you, doctor. Please answer any questions
8 Mr. Floyd may have.

9 CROSS-EXAMINATION

10 BY MR. FLOYD:

11 Q Dr. Sexton, your examination can't tell us who fired
12 the shot that killed--

13 A That's correct. There was nothing found at autopsy
14 to indicate who in fact fired the shot. The only thing
15 found that might point to a firearm would be the copper
16 jackets. But nothing at autopsy indicated who caused the
17 death of Denise Boykin.

18 Q Thank you. No further questions.

19 MS. GARRICK: Your Honor, that's all. We'd ask
20 that this witness be excused.

21 THE COURT: Any objection to the doctor being
22 excused?

23 MR. FLOYD: No, Your Honor.

24 THE COURT: Thank you, Dr. Sexton. You can be
25 excused.

1 THE WITNESS: Thank you, Your Honor.

2 (Whereupon the witness left the stand.)

3 MS. GARRICK: Your Honor, I believe all of the
4 exhibits are in except possibly two maps that we
5 forgot to actually move into evidence, but it was
6 without objection. So the State has one through 58
7 that are all in evidence. The State rests.

8 (WHEREUPON, all State's exhibits 1-58 were
9 admitted into evidence.)

10 THE COURT: Okay. Some of them were moved in,
11 some of them weren't, but -- that your records agree
12 with one through 58. All right. Ladies and
13 gentlemen, we need to take up certain matters of law
14 outside of your presence.

15 I will ask you to go to the jury room a few
16 minutes and I will get you back out just as quick as
17 I can. I will remind you you can't discuss this case
18 yet.

19 (Jury left the courtroom at 9:56 am.)

20 THE COURT: Okay. Yes, sir.

21 MR. FLOYD: Your Honor, at this time the defense
22 would both renew our motions that we made concerning
23 the -- Your Honor's refusal to request certain voir
24 dire questions of the jury panel, renew all motions
25 and objections to evidence made during the State's

1 presentation, and move for a directed verdict of
2 acquittal.

3 It's our position that the evidence even taken
4 in the light most favorable to the State as you must
5 to the State to the proceeding fails to establish
6 that the defendant is in fact guilty of these crimes.

7 *THE COURT:* Okay. And I will respectfully deny
8 your motions. I think there is sufficient evidence
9 in this record that the jury could reach a verdict of
10 guilty in this case in the light most favorable to
11 the State, so I respectfully deny as well as the
12 other motions you made as far as the voir dire
13 questions and the rulings I have made. Thank you,
14 sir. Have you gone over your client's rights as far
15 as...

16 *MR. FLOYD:* Yes, I have, Your Honor.

17 *THE COURT:* Okay. Do you want me to question
18 him or not?

19 *MR. FLOYD:* I guess it -- maybe it would be best
20 if you could question him also.

21 *THE COURT:* All right. Mr. Harmon, if you would
22 stand up, please sir. You can raise your right hand.

23 SAMUEL HARMON, after being duly
24 sworn, testified as follows:

25 *THE COURT:* You understand we have reached the

1 point in trial -- you can put your hand down now.

2 Thank you, sir.

3 We have reached the point in the trial where you
4 have a right to put up evidence if you want to. You
5 do not have to. You also have a right to testify in
6 this trial. But you also can exercise your Fifth
7 Amendment right under the Constitution and not
8 testify.

9 If you decide not to testify, I will instruct
10 the jury that they cannot consider that in any way.
11 They can't even discuss it in the jury room. They
12 cannot hold that against you in any way.

13 If you decide you do want to testify, then you
14 will be treated as any other witness. You will be
15 subject to cross-examination by the State. If you
16 have any criminal record, if -- certain parts of that
17 may be admissible in this trial and you could be
18 questioned on any relevant evidence. Do you
19 understand that?

20 *THE DEFENDANT:* Yes, sir, I do.

21 *THE COURT:* Okay. But you had an opportunity to
22 discuss with your attorney as well as you want to
23 testify or not?

24 *THE DEFENDANT:* Yes, sir.

25 *THE COURT:* Do you need to talk to him any

1 further?

2 *THE DEFENDANT:* No, sir, Your Honor.

3 *THE COURT:* You have a right to talk to him or
4 family members and all concerning this decision, but
5 you understand it's ultimately your decision and you
6 alone can waive that. Do you understand that?

7 *THE DEFENDANT:* Yes, sir.

8 *THE COURT:* All right, sir. Do you have any
9 questions you want to ask the Court?

10 *THE DEFENDANT:* No, sir.

11 *THE COURT:* All right. Anything further you'd
12 like for me to question him on, Mr. Floyd?

13 *MR. FLOYD:* No, Your Honor. I think you covered
14 it all.

15 *THE COURT:* Okay. All right. And do you -- are
16 you planning on putting up a defense?

17 *MR. FLOYD:* Yes, Your Honor, we will be putting
18 up some defense.

19 *THE COURT:* Okay. Anything else? I guess
20 this -- hasn't been in very long. Y'all need a break
21 or are you ready to start?

22 *MR. FLOYD:* I would just like a little courtesy
23 break.

24 *THE COURT:* Okay. Sure. We'll take about a 10
25 minute break and you can begin the defense. Can you

1 give me just an idea about how long you think -- I
2 mean, how many days of testimony you're going to
3 have?

4 MR. FLOYD: Your Honor, my guess would be a
5 couple hours, two to three hours.

6 THE COURT: Okay. Thank you, sir. We will take
7 a 10 minute break.

8 (Whereupon a recess was had.)

9 THE COURT: Anything before we bring in the
10 jury?

11 MS. GARRICK: No, sir, Your Honor.

12 MR. FLOYD: No, sir, Your Honor.

13 THE COURT: Bring the jury in if they are ready
14 to go.

15 (Jury entered the courtroom at 10:10 am.)

16 THE COURT: Mr. Floyd?

17 MR. FLOYD: Thank you, Your Honor. Your Honor,
18 the defense calls Deputy Cathy Etheredge.

19 THE COURT: Okay.

20 CATHY ETHEREDGE, after being duly
21 sworn, testified as follows:

22 THE WITNESS: My name is Cathy Etheredge,
23 E-T-H-E-R-E-D-G-E.

24 DIRECT EXAMINATION

25 BY MR. FLOYD:

1 Q And Mrs. Etheredge, where are you currently employed?

2 A Lexington County Sheriff's Department.

3 Q And how long have you been employed with the
4 sheriff's department?

5 A Five years.

6 Q And were you so employed back in the year 2006?

7 A Yes, sir.

8 Q And Mrs. Etheredge, were you called to assist in the
9 investigation of a shooting at The Barnyard Flea Market?

10 A In my job capacity I was called as a Victim
11 Assistance Officer to go over and to make contact with the
12 victim.

13 Q Okay. And in connection with those duties, did you
14 speak with a gentleman by the name of Raymond Trey Brown?

15 A Yes, sir.

16 Q And did you in fact take a statement from Mr. Brown?

17 A Yes, sir.

18 Q All right. I'm going to -- show you a document and
19 ask you if you can identify that document.

20 A This is one of our voluntary statements that I had
21 written out for Mr. Brown.

22 Q Okay. And is that the statement that you took the
23 day of the incident?

24 A No, sir.

25 Q What -- when did you take that statement?

1 A This was on the Monday right after the incident.

2 Q Okay. The Monday following?

3 A Yes, sir.

4 Q So was Mr. Brown in the hospital at that time?

5 A Yes.

6 Q Okay.

7 MR. FLOYD: Your Honor, we'd like to have this
8 marked as Defendant's Exhibit.

9 THE COURT: What says the State?

10 MS. GARRICK: No objection, Your Honor.

11 THE COURT: Okay. It's Defense Exhibit 1.

12 (WHEREUPON, Defendant's Exhibit 1 was admitted
13 into evidence.)

14 BY MR. FLOYD:

15 Q Deputy Etheredge, in that statement did Mr. Brown
16 identify or describe or discuss individuals he saw with a
17 gun?

18 A Yes.

19 Q Okay. And did he -- did he not say on the first page
20 the trunk popped open. As they got around to the trunk,
21 the brown-skinned dude with braids pulled out a older
22 looking AK47?

23 A Yes.

24 Q Then on the second page did he say that that's when
25 the dude with the gun the first time picked it back up and

1 started shooting?

2 A Yes.

3 Q Now, who wrote the statement? Who actually
4 physically wrote the statement?

5 A I did.

6 Q And did your writing accurately reflect what he told
7 you?

8 A To my -- to the best of my knowledge, yes.

9 Q Thank you.

10 MR. FLOYD: Your Honor, we'd like to offer this
11 in evidence as Defendant's Exhibit.

12 THE COURT: I think you have already offered in.
13 It's in without objection.

14 MR. FLOYD: Okay. Thank you, Mrs. Etheredge.
15 No further questions.

16 THE COURT: Does the State have any questions?

17 MS. GARRICK: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. GARRICK:

20 Q Deputy Etheredge, when you were meeting with Trey
21 Brown, were you asking him questions in an interview-type
22 situation?

23 A No. No, ma'am.

24 Q Did you ask him how many people he had seen with the
25 long gun?

1 A No.

2 Q Did you ask him if he had known any of the people?

3 A I didn't ask him -- all I asked him to do was just
4 give me a statement on -- just tell me what happened.

5 Q And let's talk about the circumstances of the
6 interview. This was in his hospital room?

7 A Yes, ma'am.

8 Q And was he in a room there by himself?

9 A No, ma'am. He was in a semi-private room. There was
10 someone else in that room at the time we went in.

11 Q Was his family there as well?

12 A His mother.

13 Q And when you were speaking with Mr. Brown, was his
14 mother also involved in this conversation?

15 A Yes, ma'am.

16 Q And was she also providing what information she knew
17 to you?

18 A Yes, ma'am.

19 Q And were the nurses coming in and out during this
20 time?

21 A They were.

22 Q And to your knowledge was -- was Trey on medication?

23 A Definitely, yes, ma'am.

24 Q And was he hooked up to several different medical
25 equipment machines?

1 A Yes, he was.

2 Q When you first got there, what was his actual
3 demeanor?

4 A You could tell that he was on medication because he
5 had asked me and my partner if he could have some macaroni
6 and cheese.

7 Q And after y'all spoke with him and you wrote
8 everything you wrote, did Trey sign the statement
9 verifying its accuracy?

10 A No, ma'am.

11 Q After you met with Trey, did you yourself do a report
12 where you documented what you remember from the interview?

13 A Yes, I did.

14 MS. GARRICK: State's 59 that's in without
15 objection.

16 (WHEREUPON, State's Exhibit 59 was admitted into
17 evidence.)

18 BY MS. GARRICK:

19 Q Do you recognize this?

20 A Yes, ma'am. This is a statement that -- well, that
21 I'd written.

22 Q Okay. Could you publish that to the jury, please.

23 A On July 17th, 2006, I responded to Palmetto Richland
24 Hospital to speak with the victim, Raymond Trey Brown the
25 third. After entering victim's room, I asked if he was

1 comfortable with talking with me about the incident.

2 Trey advised that he was up to talking, that he was
3 going to talk. Trey stated that Tasha Jones, Randy
4 Boykin, Richard Geiger, Denise Boykin, John Washington and
5 Jamar Porcher had been at The US Number One Metro Flea
6 Market earlier on Saturday July 15th, 2006, and while he
7 was looking at items, he heard John Washington, Scooter,
8 Richard Geiger and Randy Boykin arguing.

9 He heard one of the subjects say, I got my baby, I
10 ain't got time for all this. Suspects left the area and
11 Trey stated they kept looking at different tables and
12 later saw the suspects again but they were riding in a
13 burgundy Ford Crown Victoria.

14 The car slowed down and the suspects just stared at
15 the victims, but they drove off. Later -- victims later
16 left The US Number One Flea Market and went to The
17 Barnyard Flea Market.

18 They looked around for about 30 minutes. And when
19 they thought a thunderstorm was coming, they decided to
20 leave. As they were getting into their car, Trey said he
21 saw that car again, making reference to the burgundy Ford
22 Crown Victoria.

23 Trey was having problems getting Denise to open the
24 door, so he reached his hand through the window and opened
25 the door himself. Trey said as he got into the car, he

1 noticed the trunk open on the Crown Vic and the suspects
2 got out of the car and one of them picked up the AK47.

3 Trey remembered saying, that's a big gun. One of the
4 suspects started yelling, get out of the car now, get out
5 of the car, y'all scared. The suspect then placed the gun
6 back in the trunk but didn't close it.

7 And Denise started saying, y'all scared, y'all ain't
8 going to shoot nobody, y'all scared. Trey said the little
9 dude with pop eyes yelled, fuck that, kill them niggers,
10 kill them niggers, shoot, shoot.

11 Trey said he yelled to Denise to drive, but she had
12 been shot and the car was rolling towards the roadway, so
13 he jumped out of the car and ran to the car lot at the
14 corner for someone to call the police.

15 Trey said that -- Trey said the woman there at the
16 car lot could not speak English. Then he saw the police
17 across the street with his gun drawn, so he ran over to
18 let him know that he had been shot.

19 Q Thank you, deputy.

20 THE COURT: Anything further?

21 MR. FLOYD: Nothing further, Your Honor.

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

24 (Whereupon the witness left the stand.)

25 MR. FLOYD: Your Honor, we'd call Deputy

1 McLaurin.

2 MICHELLE MCLAURIN, after being
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FLOYD:

6 Q Now Deputy McLauren, where are you employed?

7 A Lexington County Sheriff's Department.

8 Q And what is your position with them?

9 A I'm a school resource officer.

10 Q And how long have you been employed with Lexington
11 County?

12 A Almost 18 years.

13 Q And in connection with your duties as a Lexington
14 County deputy, did you assist in any way in the
15 investigation of The Barnyard Flea Market shooting?

16 A Yes, sir.

17 Q As one of the things you did, did you witness a
18 statement given by Raymond Trey Brown?

19 A Yes, sir.

20 Q And do you recognize Defendant's Exhibit Number one?

21 A Yes, sir.

22 Q Is that the statement that was taken from Mr. Brown
23 in the hospital?

24 A Yes, sir, it is.

25 Q And did you in fact sign as a witness to the

1 statement?

2 A Yes, sir.

3 Q So were you present when the statement was taken?

4 A Yes, sir.

5 Q And in your opinion does it accurately reflect what
6 he said at that time?

7 A The best of my knowledge, yes, sir.

8 Q Thank you. No further questions.

9 THE COURT: Anything from the State?

10 CROSS-EXAMINATION

11 BY MS. GARRICK:

12 Q Deputy, were you yourself making notes when Trey
13 Brown was speaking?

14 A No, ma'am.

15 Q And as the other deputy was writing it down, were you
16 reading what she wrote to see if it matched what Trey
17 said?

18 A No, ma'am.

19 Q And when you signed that as a witness, were you
20 verifying what was written in the statement or were you
21 verifying that in fact a statement was taken from Trey
22 Brown on that day?

23 A I was verifying a statement was taken from Mr. Brown.

24 Q And what did you -- or do you have any recollection
25 as to his physical well being on that day?

1 A You could definitely tell he was on some medication.

2 Q And lots of people in and out of the room?

3 A Yes, ma'am.

4 Q Lots of confusion in the room?

5 A Yes, ma'am.

6 Q And in fact, you -- y'all got some information from
7 his mom; is that right?

8 A Right.

9 Q And is it possible some of that information ended up
10 in the written statement?

11 A It's possible, yes.

12 Q That's all I have.

13 THE COURT: Mr. Floyd?

14 MR. FLOYD: Nothing further, Your Honor.

15 THE COURT: Thank you, ma'am. You may step
16 down.

17 (Whereupon the witness left the stand.)

18 MR. FLOYD: Your Honor, may we approach just one
19 moment?

20 THE COURT: Yes, sir.

21 (Whereupon a bench conference was held.)

22 (Mr. Floyd conferring with defendant.)

23 MR. FLOYD: Your Honor, the defense calls
24 Mr. Samuel Harmon.

25 THE COURT: Okay.

1 SAMUEL HARMON, after being duly
2 sworn, testified as follows:

3 THE WITNESS: My name is Sammy Harmon,
4 H-a-r-m-o-n.

5 DIRECT EXAMINATION

6 BY MR. FLOYD:

7 Q Sammy, where did you grow up?

8 A I grew up on Broad River Road.

9 Q How old are you?

10 A Nineteen.

11 Q Where did you go to school?

12 A Last school I went to is Christian Academy.

13 Q Did you graduate?

14 A Yes, sir.

15 Q When did you graduate?

16 A 2005.

17 Q What other schools did you attend?

18 A Columbia High and Dutch Fork.

19 Q Did you work after you got out of school?

20 A Yes, sir.

21 Q And where did you work?

22 A At two jobs. One was at Bilo on Broad River Road,
23 and I had a second job after I start working at Bilo, I
24 worked at -- for a contract packer.

25 Q And how long did you work at Bilo?

1 A Six -- six months to a year.

2 Q And what were your duties at Bilo?

3 A I worked I was stocker and I also worked in produce.

4 Q And what was the second place that you worked?

5 A I worked for a contract packer.

6 Q When you say contract packer, would you tell the jury
7 what that job involved?

8 A Say they might -- we might -- they might need to call
9 the packing house, work through a company called United
10 Van Lines, and our job was to pack the house on some jobs.
11 Sometime I try to put the job on the older truck.

12 Q Were you still working at that job at the time this
13 incident occurred at The Barnyard Flea Market?

14 A Yes, sir.

15 Q And how long had you worked there?

16 A At that -- that's my old job? I don't know, eight
17 months to a year.

18 Q What hours were you working that job?

19 A Sometime I work the whole week Monday through Friday.
20 Might depend upon what the job call for. We out of town,
21 we might work from Monday to Friday till we come back to
22 Columbia.

23 Q Did you work on a Friday before The Barnyard Flea
24 Market incident?

25 A Yes, sir.

- 1 Q And what time did you get off work that day?
- 2 A I'm not sure of the time. I know I got back to
- 3 Columbia around 8:00, nine -- eight to 10 at night.
- 4 Q When you got back in town, where did you go?
- 5 A Apple Valley, I was at home.
- 6 Q How long did you stay there at the home?
- 7 A I don't know, couple hours.
- 8 Q From there where did you go?
- 9 A Went over to James Keitt house.
- 10 Q Who?
- 11 A James Keitt, Little James.
- 12 Q And what did you do at James' house?
- 13 A Sit around, watch TV. I stay the night there.
- 14 Q What time did you get up Saturday morning?
- 15 A I don't know, 11, 11, 12:00.
- 16 Q What did you do when you first got up?
- 17 A Little James' mom want us to help him clean up, so we
- 18 was helping her clean up or whatever, sat outside on the
- 19 patio and all.
- 20 Q And what time did you leave Little James' house?
- 21 A Early that day I called LG, tell him I need to go to
- 22 the barber shop, so I need him to take me to the barber
- 23 shop. He was going to come pick me up. I was waiting on
- 24 him to come.
- 25 Q Is that Al Haigler?

1 A Yes.

2 Q And what time did Al eventually come pick you up?

3 A It was in the afternoon sometime, I say two, 3:00.

4 Q And where did y'all go at that time?

5 A At first -- well, he had his kids with him and had

6 his girlfriend, so we had to drop his kids off first. We

7 dropped his kids off at his girlfriend's sister house.

8 Q And then where did the two of you go?

9 A Oh, we dropped his wife off at work and his

10 girlfriend at work, and she works in some....

11 Q And from there, where did you go?

12 A North Main to the barber shop.

13 Q While you were at the barber shop, did you get a

14 telephone call?

15 A Yes.

16 Q And who was that call from?

17 A I got a call from my brother.

18 Q What's your brother's name?

19 A Brandon Harmon.

20 Q And what did Brandon want with you?

21 A He was asking me where was James, where was Little

22 James.

23 Q Did you tell him where Little James was?

24 A Yes, I tell him -- I tell him, I just left, he was at

25 home.

1 Q And what else did -- were you told at that time?

2 A Well, at the time he tell me that he seen -- Scooter
3 Geiger at the flea market and got into a little word, had
4 a small altercation.

5 Q And so what did you decide to do?

6 A I tell him -- tell me about it. He was about to go
7 back down there, so I told him I was going to meet him.

8 Q And so what did you and Al do at that point?

9 A We left. We left the -- we left the barber shop, but
10 I had a white shoulder -- I mess my shoulder up in Al car,
11 so we stopped by his house on the way, he stay off Duke
12 around by North Main, so I stop by there to change my
13 shirt. From there we went to Number One Flea Market.

14 Q And what were you traveling in?

15 A A green Cavalier.

16 Q And who drove?

17 A Al.

18 Q Where did you sit?

19 A Passenger's seat.

20 Q Were there any other people in the vehicle?

21 A No, sir.

22 Q So what happened when you got -- where did you first
23 go?

24 A We went to Number One Flea Market. Me and Al, we got
25 there first, so we were just walking around. We walked

1 around long enough to get on the last -- on the last --
 2 say the last aisle where have all the -- where the --
 3 where they be set up at, the table be set up on the last
 4 aisle.

5 Q And did you see somebody--

6 A Then my brother -- my brother Sherman, Little James,
 7 and George, we seen -- they was calling me, like they was
 8 calling me, see was I there. I tell them we was walking
 9 around.

10 So seen -- finally seen them on the last aisle. They
 11 said they ain't seen -- they-done walk through the flea
 12 market, too. They didn't see Scooter either. So they
 13 were like, let's go, we about to ride off, let's go to the
 14 next one.

15 Q Now, so who was -- what were they traveling in?

16 A They was driving with George, so they was in his
 17 vehicle, a burgundy Crown Victoria.

18 Q What kind of vehicle is that?

19 A A burgundy Crown Victoria.

20 Q Okay. And who all was in that vehicle?

21 A George was driving, my brother was in the passenger's
 22 seat, I'm not sure the side, but I know Sherman, Little
 23 James been in the back.

24 Q And what happened after y'all drove away from The
 25 Number One?

1 A They were -- we was following them, so me and Al was
2 behind them. We rode -- we was going to The Barnyard. So
3 they turned in Barnyard, seen George speed up a little.
4 We was following them still. We was riding behind them.
5 So when the car was coming to a stop, I seen that George
6 had popped the trunk.

7 Q Okay. All right. Hold on just a second here.
8 Sammy, can you step down here a moment? Do you recognize
9 this?

10 A Yes, sir, flea market.

11 Q And this is State's Exhibit number 11.

12 A Uh-huh.

13 Q Now, when you saw George and his car pull in, can you
14 show the jury about where he parked his vehicle?

15 A I'm not mistaken, it was somewhere like about over--

16 COURT REPORTER: I'm sorry.

17 THE COURT: You need to keep your voice up,
18 please.

19 THE WITNESS: All right.

20 BY MR. FLOYD:

21 Q Why don't you stand this way with the...

22 A All right. If I'm not mistaken, it was somewhere in
23 like -- it was -- I want to say it was in the parking
24 spot, but it was diagonal towards --

25 Q All right.

1 A -- the parking spot.

2 Q Now, somewhere in the parking area?

3 A Yeah, right there.

4 Q Now, did you see their vehicles stop?

5 A Who.

6 Q George's. Did you--

7 A Yeah, it stopped. When it stopped -- the trunk was

8 popped already when they stopped the car.

9 Q And at that point in time, where were you and Al in

10 the green car?

11 A We was still pulling in. Alex park somewhere like

12 close to the building. There was -- somewhere around this

13 way.

14 Q So he parked up there close and not down there in the

15 parking area?

16 A He didn't park in the parking area.

17 Q Now, when he stopped, did you get out?

18 A Yes, sir.

19 Q Now, all right. Step on back.

20 A (Complied.)

21 Q Sammy?

22 A Yes, sir.

23 Q How far was the green car parked from the burgundy

24 car?

25 A It was a little distance.

1 Q Was it as far away as the length of the courtroom?

2 A I say a little -- just a little farther.

3 Q Little further than that?

4 A Yes, sir.

5 Q Now, you say when your car stopped you saw the trunk
6 pop?

7 A Uh-huh. Yes, sir.

8 Q All right.

9 A Parked before it stopped.

10 Q Pardon?

11 A It was already popped before it stopped, when they
12 was coming to a stop.

13 Q Now, as you got out of your vehicle --

14 A Uh-huh.

15 Q -- tell the jury what you saw.

16 A All right. When I got out of the vehicle, I seen
17 Mack, George -- when he was already out of the car. He
18 was going towards the trunk. Picked up -- he picked up
19 the rifle and flashed it. I ain't think nothing of it.
20 He put it back down.

21 I was still going. I seen my brother over by the --
22 like by the passenger door you can say the right where the
23 passenger fender or whatever, I was headed in that
24 direction going around the front of the car.

25 The last person when I was going around -- still at

1 that Mack, he put the gun down. Seen Little James grab
2 it. And I ain't -- I took my -- I took my eyes off of
3 him. So I kept going. I was going towards my brother.

4 I said, I got close to -- like I say, just almost to
5 the driver door just -- just by the passenger like the --
6 not the passenger, but the driver fender, and I heard -- I
7 heard gunshots. I hit the ground. I can't say I seen who
8 shot, but I heard the gunshots, so I hit the ground.

9 Q How long did the gunshots last?

10 A I don't know. Happened pretty fast. I can say
11 anywhere from 10, 30 seconds. It happened pretty fast.

12 Q And what's the next thing that happened?

13 A When the gunshot stop, I heard -- I heard -- I heard
14 a slam. I heard -- basically I was already getting up. I
15 seen people moving, people moving. So I turned around and
16 ran back to the -- to Al car. Al was already in the car.
17 When I hopped in, Al, he drove off, he was gone.

18 Q Okay. Now Sammy, when you were -- went over to The
19 Barnyard Flea Market that day --

20 A Uh-huh.

21 Q -- did you know that George and them had a long gun
22 in that vehicle?

23 A No, sir.

24 Q Did you ever touch that weapon that day?

25 A No, sir.

1 Q Did you ever fire that weapon?

2 A No, sir.

3 Q Now, when you got back in the car with Al, where did
4 y'all go?

5 A All right. If I'm not mistaken, we made a right. We
6 was going toward the interstate, which I believe to be,
7 what, 20. We were going -- we was headed towards Broad
8 River Road going back to Apple Valley.

9 Q And where did you end up?

10 A Well, we end up -- we was in Apple Valley. We went
11 to LT house.

12 Q And you know LT's full name?

13 A No, I just know LT.

14 Q Now, at that point in time when -- who was at LT's
15 house?

16 A Think it was just him if I'm not mistaken.

17 Q And at that point in time did you know whether or not
18 anybody had been hit with any bullets?

19 A No, sir.

20 Q So what happened while you were there at LT's?

21 A Well, as I said, I was at LT house. Then I got
22 another phonecall. It was from my brother. He was
23 telling me how they was talking, they were breathing or
24 whatever.

25 He was like -- basically like he was running or

1 whatever. So he tell me that they had to ditch the --
 2 they had to ditch the Crown Victoria. They hop over the
 3 fence, done ditch the Crown Victoria. They need a ride
 4 basically what he saying. Needed somebody to pick them
 5 up.

6 Q And so did y'all go pick them up?

7 A Yes, sir.

8 Q And what vehicle did you go?

9 A We drove a Tahoe.

10 Q And who all went?

11 A Me, LT, and Al.

12 Q How did you know where to go?

13 A Al, he's familiar with the area over there, so we
 14 came along, too. They was trying to give us directions,
 15 but we still was getting lost. Al finally came up with it
 16 that they were close to a meat market.

17 Q And were you talking to Brandon on the phone?

18 A Back and forth. We might hang up. He will call me
 19 back, ask where I was, I tell -- explain.

20 Q And where did y'all eventually pick him up?

21 A Well, I didn't know at the time, but later on it was
 22 at -- it was -- I guess it was George's job they came. It
 23 was like a dirt road and some rocks and everything, they
 24 came running from behind the building.

25 Q And are you familiar with that area over there?

1 A No, sir.

2 Q Now, once you picked him up, where did everybody go?

3 A We went back to -- we went back to Broad River Road.
4 We dropped off Sherman.

5 Q And then where did y'all go?

6 A Apple Valley.

7 Q And whose house?

8 A LT.

9 Q And how long did you stay there?

10 A I don't know. Well, I stayed there longer, but we
11 probably stayed there 30 minutes to -- 30 minutes to an
12 hour, then Little James got dropped off home.

13 Q And did you eventually hear anything about The
14 Barnyard Flea Market incident?

15 A Yeah. Yes, sir.

16 Q What was that?

17 A That -- I was watching the news and I seen that
18 somebody died.

19 Q And was that the first time you knew somebody had
20 been hurt there?

21 A Yes, sir.

22 Q Did you hear anything else?

23 A About the -- about what, the shooting or...

24 Q Yeah, or about police or anything like that?

25 A Not at that moment. See, George still there. He was

1 complaining about his car, so he wanted to go get his car,
2 so LT took him to go to get his car.

3 Q Did you go with him for that?

4 A No, sir.

5 Q Did you eventually leave LT's house?

6 A Yes, sir.

7 Q What caused you to leave LT's house?

8 A Because like, as it was established, basically we was
9 going to lay low. It was just -- it basically too hot to
10 sit around, so I went to my cousin's house.

11 Q And when you got to your cousin's house, what
12 happened there?

13 A Nothing. I was just laying around. And then I got
14 a -- I was watching news or whatever. That's when I found
15 out about -- about George, that he was arrested.

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

17 A First I was just -- I just laying around first, but
18 the same time I was nervous and I -- I -- like a couple
19 minutes like around that time I got a call from Little
20 James.

21 I was telling him about -- about what happened or
22 whatever. Then it was established that, you know, he had
23 family in Orangeburg, so we was going to chill there for a
24 little while.

25 Q Were you scared?

1 A Yes, sir.

2 Q And did you go with Little James to Orangeburg?

3 A Yes, sir. First we had to pick him up.

4 Q And who -- who drove?

5 A It was a girl. I don't know her name, you know, I...

6 Q And who all rode in the car to Orangeburg?

7 A Me, my brother, Little James, and the girl.

8 Q And when you got to Orangeburg, what did you do?

9 A We got -- we actually got dropped off. Found we was

10 going to get a hotel room or whatever. So found somebody

11 walking. I don't have no ID or nothing, so I just pay him

12 to get a room for me.

13 Q And did you stay in that room that night?

14 A Yes, sir.

15 Q And then what's the next thing that happened?

16 A Well, it was early, and I heard a knock on the door,

17 so I got up, I looked out the window. And when I looked

18 out the window, I seen close to the door like a little --

19 like a little tactical vest or whatever. I knew it was

20 the police, so I woke up Little James and I tell Little

21 James, police at the door.

22 Q And did you open the door and let them in?

23 A Yeah, I let them in. I -- I said -- yeah, I let them

24 in. It was like nowhere to go so -- the hotel we was in,

25 one door to the thing, so I opened the door.

1 Q And were you arrested at that time?

2 A Yes, sir.

3 Q Now Sammy --

4 A Yes, sir.

5 Q -- did you take any type of weapon to The Barnyard
6 Flea Market?

7 A No, sir.

8 Q And to your knowledge were there any weapons in the
9 green Cavalier?

10 A No, sir.

11 Q And did you know that there was a long gun in that
12 burgundy Chevrolet?

13 A No, sir.

14 Q Now, want you to look the jury in the eye. Did you
15 shoot that gun?

16 A No, sir.

17 Q Are you sure of that?

18 A Yes, sir.

19 Q Thank you, Sammy. Answer any questions the Solicitor
20 may have.

21 CROSS-EXAMINATION

22 BY MS. GARRICK:

23 Q Sammy, how long have you known George Mack?

24 A I knew of. My brother went to school with George
25 Mack. I knew of him. I never knew who he was until --

1 well, I knew of him. He actually never was around me or
2 nothing like that until I say...

3 Q You didn't hang out with him some when you were with
4 your brother?

5 A No. Like I say, two weeks to -- two weeks to a month
6 he probably was around me before I got here.

7 Q Well, wasn't he there with y'all that Friday night at
8 Apple Valley?

9 A Uh-huh.

10 Q So you saw him the Friday night before the shooting?

11 A Yeah, when I came back from work.

12 Q Okay. And Brandon is your older brother?

13 A Yes, ma'am.

14 Q Y'all grew up together. You have known him forever?

15 A Yes, ma'am.

16 Q Your whole life. How long have you known Sherman?
17 Y'all are pretty close; around you?

18 A I won't say that. I knew Sherman -- I knew Sherman
19 through my brother. We went to middle school, he was at
20 the same school as me, but I didn't know who he was. My
21 brother knew him. So he knew -- he knew my brother. He
22 knew I was the little brother. That's how I knew who he
23 was.

24 Q You weren't -- he wasn't closer to you than he was to
25 Brandon?

1 A No.

2 Q What about Alex Haigler? How long did you know him?

3 A Well, I knew him on the street before I got here I
4 say -- I don't know, 10 months to a year.

5 Q Did he work at the same Bilo that you worked at?

6 A (Nodded).

7 Q So y'all worked together, too?

8 A No. I worked there before he did. I actually -- I
9 stop working there before he got the job there. He got
10 transferred. Then later on he was working down St.
11 Andrews Road Bilo.

12 Q Okay. How long have you known James Keitt?

13 A Knew James Keitt for, I don't know, a couple years.

14 Q And you're from the Broad River Road side --

15 A Yes, ma'am.

16 Q -- of town; right?

17 A I grew up there most of my life, yes, ma'am.

18 Q Okay. And you said on that Friday night, who was all
19 at Apple Valley? You, George Mack, Brandon. Who else?

20 A It was me, George, Sherman, Little James, and
21 off-hand that's what I can remember right now.

22 Q And you seen this assault rifle that we have had in
23 the courtroom all week; right?

24 A Yes, ma'am.

25 Q And did you see it Friday night?

1 A No, ma'am.

2 Q And you didn't have anything to do with taking that
3 gun out of another car and putting it on the trunk of
4 George Mack's car?

5 A No, ma'am.

6 Q That wasn't you?

7 A No, ma'am.

8 Q And on the Saturday when you got the call from
9 Brandon, you knew y'all were going to go fight; right?

10 A Yes, ma'am.

11 Q And that's what you intended to do?

12 A Yes, ma'am.

13 Q And you were involved in that?

14 A Yes, ma'am.

15 Q And y'all were searching for Scooter and his people;
16 isn't that right?

17 A Yes, ma'am.

18 Q And you said during the shooting you were at the
19 front of George Mack's car?

20 A Not all the way to the front. I was -- I was headed
21 that way because I seen my brother over by the passenger's
22 side.

23 Q And the last person you saw with the gun is Little
24 James?

25 A Yeah, I saw Little James with it.

1 Q Okay. Are you telling the jury that Little James is
2 the one that pulled the trigger?

3 A I can't say -- I can't say he pulled the trigger.
4 I'm saying that that was the last person I seen with the
5 gun.

6 Q Okay. So you didn't go over to Little James and
7 snatch it from him?

8 A (Shook head).

9 Q And you weren't the one that shot at the ground and
10 then shot bullets all in Denise's car?

11 A No, ma'am.

12 Q That wasn't you?

13 A No, ma'am.

14 Q And you weren't trying to impress your older friends?

15 A No, ma'am.

16 Q Or get some kind of rank in your gang?

17 A I'm not in a gang, no, ma'am.

18 Q You're not in GPan?

19 A Yes, I'm in Gpan, but it's not a gang.

20 Q Okay. You're not in Broad River?

21 A Broad River is a road, is not a gang.

22 Q Okay. You said you were nervous when you heard that
23 someone had been killed.

24 A Uh-huh.

25 Q If you weren't involved in this, why were you

1 nervous?

2 A Because I was there.

3 Q Didn't you say you were scared? You were scared, you
4 wanted to get out of town. Why is that? If you weren't
5 involved in this, why would you want to run and hide?

6 A As I stated, I was scared. I seen -- seen somebody
7 die. And I was there, I ain't know what to do.

8 Q You didn't know what to do?

9 A No, ma'am.

10 Q Okay. You didn't -- if you thought Little James was
11 the shooter, why would you want to run out of town and be
12 with him and be with the shooter?

13 A I never thought about that. I was just trying to
14 tell -- like I said, I was scared. I was just trying to
15 leave.

16 Q You were trying to get away because you're the one
17 who did it; isn't that right?

18 A No, ma'am.

19 Q Okay. When you got to Orangeburg, you saw just some
20 random stranger and you asked him to get you a room?

21 A Yes, ma'am.

22 Q And you paid him money to get you a room.

23 A Yes, ma'am.

24 Q That's how desperate you were.

25 A Yes, ma'am.

1 Q You said that the first you knew somebody had died
2 was on the news; is that right?

3 A Yes, ma'am.

4 Q But then you said just a couple minutes ago that the
5 reason you were scared and nervous and you wanted to get
6 away was because you had seen someone die. You saw
7 someone die at The Barnyard Flea Market, right, because
8 you were shooting in the car.

9 A I didn't see no one die.

10 Q Okay.

11 A I heard was a shooting at the flea market.

12 Q Well, I thought just a minute ago you said that, that
13 you had seen someone die and that's why you were scared --

14 A No, ma'am.

15 Q -- that's why you wanted to hide.

16 A No, ma'am.

17 MS. GARRICK: That's all I have, Your Honor.

18 THE COURT: Anything further?

19 MR. FLOYD: Just one thing, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. FLOYD:

22 Q You need an ID to get a motel room; don't you?

23 A Yes, sir.

24 Q Did you have an ID?

25 A No, sir.

1 Q I'm going to ask if you can identify this.

2 A It's a CD cover.

3 Q And it's put out by who?

4 A Gpan Entertainment.

5 Q Is that what Gpan is?

6 A Yes, sir.

7 Q It's not a gang?

8 A No, sir.

9 MR. FLOYD: Your Honor, I'd like to have this
10 marked as a Defendant's Exhibit and introduce it into
11 evidence.

12 THE COURT: What says the State?

13 MS. GARRICK: No objection.

14 THE COURT: Okay.

15 (WHEREUPON, Defendant's Exhibit 2 was admitted
16 into evidence.)

17 THE COURT: Defendant's Exhibit two in without
18 objection.

19 MR. FLOYD: No further questions, Your Honor.

20 THE COURT: Okay. You step down.

21 (Whereupon the witness left the stand.)

22 MR. FLOYD: Your Honor, we'd call Sonya Peak.

23 SONYA PEAK, after being duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. FLOYD:

2 Q And Mrs. Peak, where do you live?

3 A In Columbia.

4 Q And what type of work do you do?

5 A I'm a contract packer with Hildred Moving and
6 Storage, United Van Line agent.

7 Q And as a contract packer, can you explain to the jury
8 what that involves?

9 A We go in the house and get the house ready for the
10 driver to come and take it to the location where it's
11 going. We pack up all the contents of the house.

12 Q Do you know Mr. Sammy Harmon?

13 A Yes, he was a -- he was employed with me.

14 Q And how long had he worked with you?

15 A About a year, maybe a little longer.

16 Q And what type of work would he do?

17 A He did excellent work. He was -- basically became my
18 right hand man, you know. Anything I needed him to do, he
19 did it or he did it before I asked.

20 Q Okay. And he had been with you for about a year did
21 you say?

22 A Yes. Yes.

23 Q Now, are you -- during that time did you become
24 familiar with his reputation for truthfulness?

25 A Very much so, because I have to pick my employees,

1 you know, because I have to take them in people house and,
2 you know, I have to, you know, rely on them, trust them,
3 you know.

4 Q And was his reputation for truthfulness good?

5 A Very much so.

6 Q Thank you, Mrs. Peak. Answer any questions the
7 Solicitor may have for you.

8 CROSS-EXAMINATION

9 BY MS. GARRICK:

10 Q Mrs. Peak, are you related to the person we heard of,
11 LT?

12 A No.

13 Q Do you live next to him?

14 A I used to.

15 Q Okay. You lived in the -- next door or in the same
16 house as LT and his grandmother?

17 A No, two houses over.

18 Q Two houses down. So you knew -- you know all of
19 these boys.

20 A Yes.

21 Q Okay. And you don't know anything about what Sammy
22 Harmon was doing July 15th of 2006; do you?

23 A No, ma'am.

24 Q And you -- you yourself have had some trouble with
25 law enforcement; isn't that correct?

1 A I have?

2 Q Were you convicted of something out of Virginia
3 for -- in 2004?

4 A I was with a -- one of the drivers I was riding
5 with--

6 Q Right. But you were convicted for petty larceny, for
7 stealing.

8 A I was with him.

9 Q And you were convicted of that.

10 A Because I was with him.

11 Q Okay.

12 MS. GARRICK: That's all I have, Your Honor.

13 MR. FLOYD: Your honor, I object. May we
14 approach the bench?

15 THE COURT: Yes.

16 (Whereupon a bench conference was held.)

17 MR. FLOYD: Thank you, Your Honor. No further
18 questions. Thank you, Mrs. Peak.

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

21 (Whereupon the witness left the stand.)

22 MR. FLOYD: Your Honor, other than the other
23 witness that we have got the issue with...

24 THE COURT: So we need to take up a matter of
25 law concerning that?

1 MS. GARRICK: Yes, sir.

2 THE COURT: All right. Ladies and gentlemen, I
3 have got to send you back to the jury room. I will
4 get you back out just as quick as I can. I don't
5 know how long this is going to take, but I'll --
6 you'll just go to the jury room, I will remind you
7 you can't start to discuss this case yet.

8 (Jury left the courtroom at 10:58 am.)

9 THE COURT: Yes, sir.

10 MR. FLOYD: Thank you, Your Honor. Your Honor,
11 the next witness that we would like to call is a
12 representative from the Clerk of Court's Office.
13 Pursuant to a subpoena duces tecum they have to
14 produce certain documents.

15 And these documents are as follows. First of
16 all, they concern George Mack who was the driver of
17 the burgundy car that we have heard, who has not
18 testified.

19 And first is an indictment that was true billed
20 and a sentencing sheet, an order modifying sentence
21 to show that he -- he pled guilty to accessory
22 after -- after the fact, and that's in connection
23 with this incident.

24 THE COURT: Okay. What says the State?

25 MR. FLOYD: Then -- then, Your Honor--

1 THE COURT: Oh, I'm sorry.

2 MR. FLOYD: That's all right. Then, Your Honor,
3 there are the documents showing that all other
4 charges were dismissed since he pled to this charge
5 to include murder, possession of a firearm, knife --
6 violent crime, assault with intent to kill, assault
7 with intent to kill, assault and battery with intent
8 to kill, and criminal conspiracy.

9 So it is our position that we should be allowed
10 to introduce these documents into evidence.

11 THE COURT: What says the State?

12 MS. GARRICK: Thank you, Your Honor. Your
13 Honor, I don't know under what rule he thinks they
14 would be admissible. I don't see how they're
15 relevant.

16 George Mack has not been a witness in this case.
17 If he had been a witness, he would have been subject
18 to cross-examination. And what he was allowed to
19 plead to probably would have come in at that time,
20 but he -- he's not a witness in this case.

21 I don't see how under the rules those records
22 would be admissible. They are not relevant. He
23 hasn't been a witness. There's no reason to put
24 those records in for any impeachment value because he
25 hasn't testified.

1 THE COURT: Okay. What say you to that,
2 Mr. Floyd?

3 MR. FLOYD: Well, Your Honor, of course they are
4 relevant. What we have argued all along is that all
5 these witnesses that are pointing to Sammy Harmon had
6 pointed to him because of the deal they have been
7 offered.

8 They all tried to kind of shimmy around as to
9 exactly what the deal is, but here we have it. They
10 can't avoid us bringing out the deal by not calling
11 him as a witness.

12 And so it's certainly relevant to our case and
13 therefore they are admissible in connection with our
14 defense.

15 THE COURT: Okay. I'm going to let it in under
16 803 8 which is public records of the courts. It is
17 in the Clerk's office. It is a public record at this
18 point.

19 There has been testimony throughout this trial
20 through all the other witnesses who were IE
21 co-defendants that they had been offered accessory
22 after the fact of murder and in fact there has been
23 testimony that George Mack was present, so I'm going
24 to allow it -- for you to put it in.

25 MR. MYERS: Then we will have to bring George

1 Mack over to testify, Your Honor, or either introduce
2 his statement if he's going to get into hearsay with
3 nothing to support what's going on with a fellow who
4 hasn't testified.

5 THE COURT: I understand that. But he just
6 wants to put the Clerk in just to put the public
7 records in.

8 MR. MYERS: For what? I mean, he can put in
9 other cases, too. This guy hasn't testified.
10 Neither side has called him. So now we will have to
11 bring him as witness to explain. That's just
12 speculation.

13 THE COURT: But he's -- the problem is
14 throughout this trial there has been testimony that
15 he was present.

16 MR. MYERS: Yes, sir.

17 THE COURT: He was one of the witnesses present
18 in this trial. How is this not admissible under 803
19 8?

20 MR. MYERS: Well, public record doesn't make
21 something relevant or material to a case --

22 THE COURT: I understand that.

23 MR. MYERS: -- unless there's testimony about
24 it --

25 THE COURT: Well--

1 MR. MYERS: -- it's public record part of it or
2 business record, that's doesn't connect up or dot the
3 I's as to what is needed. Someone has to testify
4 what it means, and that would have to be George Mack..

5 THE COURT: Well, as far as the relevant issue
6 is concerned, it is my understanding from what I was
7 told that it is a guilty plea as a result of this
8 incident and that George Mack was present and I guess
9 the driver of the vehicle.

10 And it was -- so it's relevant to this incident
11 because he was present. If it -- if it would have
12 been another record he had of some other crime, I
13 agree with you, it's not relevant at all and not
14 admissible.

15 MR. MYERS: Then can I ask what the defense
16 submits is the relevance and how it's connected in by
17 them offering it?

18 THE COURT: What do you say about that,
19 Mr. Floyd?

20 MR. FLOYD: Your Honor, I think I have already
21 expressed that. It's relevant because our defense
22 has always been that these people who were pointing
23 the finger at Sammy Harmon are doing so simply not
24 because it's true but because they have been offered
25 deals to testify against him.

1 And this is evidence of the deal offered to
2 Mr. George Mack who they -- who they have already put
3 into evidence as saying he's the guy that first came
4 in, he's the guy that gave us Sammy Harmon's name.

5 MR. MYERS: I fully agree with you. But I have
6 not seen George Mack point the finger from that stand
7 at the defendant. And he would have testified, I'd
8 had no objection, but he hasn't testified.

9 And I can't cross-examine a document. Even if
10 it is public record. And he hasn't testified.

11 MR. FLOYD: Your Honor, Deputy Russell said that
12 his name--

13 MR. MYERS: Well, he brought that out. We
14 didn't. So if he wants to open his own door and do
15 this -- now, if George Mack testifies, I have no
16 objection to this. Then we can ask George Mack some
17 questions about it.

18 But for the defense to offer a record and argue
19 to their opinion and their testimony without being
20 able to cross-examine anybody, we don't think that's
21 admissible.

22 There's a death penalty case, even though it's
23 not relevant here, that says what one co-defendant,
24 gets as punishment is not admissible when we are
25 trying the other one. That's State versus Cooper, I

1 believe.

2 *THE COURT:* Okay. State versus Cooper?

3 *MR. MYERS:* I think it's Cooper. It's either
4 Cooper or Charping. May be Charping.

5 *THE COURT:* We will take a quick recess and I
6 will read that case. Do you have a copy of that
7 case, Mr. Solicitor?

8 *MR. MYERS:* I can get you one.

9 *THE COURT:* Okay.

10 (Whereupon there was a recess.)

11 *MR. FLOYD:* Relevant to this case because of
12 what everybody has been promised to testify against
13 him. That's a whole different thing.

14 *THE COURT:* I see. But of course, certainly the
15 Solicitor's point is he wasn't called as a witness.
16 If he had been called as a witness, he certainly
17 could have asked him that.

18 But the fact that he's not a witness, has not
19 been a witness in this case -- and this case is
20 handed to me that -- how is that relevant to your
21 defendant?

22 *MR. FLOYD:* Your Honor, because he was one of
23 the people there and he was one of the ones charged
24 as all of them were. He was the first one to give
25 them the name of Sammy Harmon.

1 They have already put all of that into evidence.
2 That's into evidence. George Mack is the first one
3 to talk. George Mack gave them Sammy Harmon. It was
4 then that they went in and got the new photo line-up
5 because what George Mack told them to Jamar Porcher.

6 Everybody has testified that, yeah, they --
7 they -- there's been some vague talk about they're
8 going to get some help, they are all denying exactly
9 what it is except some of them did admit it was --
10 might amount to accessory after the fact.

11 This is evidence to show that this evidence
12 makes our argument more likely than not, which is the
13 standard of relevance. It is a public record, so
14 it's not excluded from -- neither document, hearsay,
15 and so it would certainly be admissible.

16 MR. MYERS: Then based on his argument, we would
17 not object to that coming in if we can put in George
18 Mack's written statement. He's saying George Mack
19 said all of this stuff to the officers when he was
20 arrested.

21 So if we can put in George Mack's statement,
22 we'd have no objection to him putting in George
23 Mack's--

24 THE COURT: What do you say about that,
25 Mr. Floyd?

1 MR. MYERS: He's basing the admissibility on the
2 charge to which George Mack pled. And whatever
3 sentence George Mack got, that's certainly
4 inadmissible.

5 That's due to the case he pled to -- that he has
6 offered that based on what George Mack told the
7 police that we should be able to put in George Mack's
8 statement because that's basis of which he's offering
9 this.

10 THE COURT: So if they want to offer George's
11 statement -- they are telling me they withdraw their
12 objection if on reply testimony they can put in the
13 statement of George Mack. What's your position on
14 that?

15 MR. FLOYD: Your Honor, it's our position that
16 we should not be required to do that.

17 MR. MYERS: No, sir, we'll do it. We are
18 offering it.

19 THE COURT: All right. They will offer that in
20 in reply. They'd offer his statement in reply.
21 What--

22 MR. MYERS: We would put the officer up and let
23 him testify there was no promises made, here's the
24 statement.

25 THE COURT: What's your -- and what's your

1 position on that, Mr. Floyd?

2 MR. FLOYD: Well, Your Honor, I think generally
3 they've got a right to call the officer in reply to
4 say, you know, they didn't promise him anything, put
5 it in. I haven't reviewed the statement here to see
6 what...

7 THE COURT: All right. You want a minute to
8 review the statement? All right, sir.

9 MR. FLOYD: Your Honor, if um --

10 THE COURT: Okay.

11 (Mr. Floyd was conferring with defendant.)

12 MR. FLOYD: Your Honor, if the only way that the
13 Court will allow us to get this in is with the
14 statement coming in also, we are not...

15 THE COURT: I'm not saying that at this point.
16 I haven't ruled.

17 MR. FLOYD: We will offer that if that's the
18 only option we have.

19 THE COURT: Well, I'm not saying that's the only
20 option you have. That's the proposal the Solicitor
21 put up. And I just wanted to know what your position
22 was.

23 He's handed up this case. My Law Clerk is
24 researching. You don't think there's cases of law --
25 you think it's admissible, if you give me another

1 case, my other option is give me some more time to
2 research it or if you want to, you know, if y'all
3 want to work out a stipulation, then we can move
4 forward. But if not, I need some time.

5 MR. FLOYD: We will go with it, Your Honor.

6 THE COURT: So you will go with the Solicitor --
7 allow the Solicitor to put it?

8 MR. FLOYD: (Nodded.)

9 THE COURT: Okay. All right. Anything else
10 before I bring the jury back from either...

11 MS. GARRICK: Yes, sir, Your Honor. Can we have
12 one minute?

13 THE COURT: Sure.

14 (Solicitors conferring.)

15 MR. MYERS: We are ready.

16 THE COURT: Y'all ready?

17 MS. GARRICK: Yes, sir.

18 THE COURT: Okay. From a time -- just where I
19 won't be bringing the jury in, in and out, in and
20 out, in and out, is -- will that be your last
21 witness?

22 MR. FLOYD: That's correct, Your Honor. We will
23 rest after that.

24 THE COURT: And as far as reply testimony is
25 concerned, will you have -- how many reply witnesses

1 do you anticipate?

2 MR. MYERS: We will have one with the officer on
3 the statement for sure, maybe one more. No more than
4 two.

5 THE COURT: Do you think we can finish? My
6 proposal is maybe then to try to finish the
7 testimony, and whenever that happens, break for
8 lunch, come back and do the closing arguments and
9 charge.

10 MR. MYERS: Fine with the State.

11 THE COURT: Mr. Floyd?

12 MR. FLOYD: Fine with us, sir.

13 THE COURT: Fine. Bring us the jury, please.

14 (Jury entered the courtroom at 11:30 am.)

15 THE COURT: Thank you, ladies and gentlemen.

16 Mr. Floyd?

17 MR. FLOYD: Thank you, Your Honor. We call
18 Mrs. Hope Frick.

19 HOPE FRICK, after being duly
20 sworn, testified as follows:

21 THE WITNESS: Joyce Hope Frick.

22 DIRECT EXAMINATION

23 BY MR. FLOYD:

24 Q Mrs. Frick, where are you employed?

25 A Lexington County Clerk of Court's office.

1 Q And what is your position?

2 A I am the supervisor of the criminal division.

3 Q And have you been served with a subpoena to produce
4 certain records --

5 A Yes, sir.

6 Q -- in this case. And I'm going to ask if you can
7 identify these documents.

8 A These are certified true copies that were made a
9 little bit earlier this morning.

10 Q Okay. And are they certified true copies of the
11 original records which you have there with you?

12 A Yes, sir.

13 Q And are these the type of records that y'all keep in
14 the ordinary course of your business?

15 A Yes, sir.

16 Q Can you --

17 MR. FLOYD: Your Honor, we'd like to have these
18 documents marked as a Defendant's Exhibit.

19 THE COURT: Okay.

20 MR. MYERS: We'd like to see them, Your Honor.
21 I haven't seen them.

22 THE COURT: Okay.

23 (Whereupon there was a pause.)

24 MR. MYERS: No objection.

25 THE COURT: Okay.

(WHEREUPON, Defendant's Exhibit 3 was admitted into evidence.)

BY MR. FLOYD:

Q And Mrs. Frick, will you tell the jury what these documents are?

A The first set of documents is the indictment that was true billed by the Lexington County Grand Jury in April of '07. The second page to it is the sentence sheet where the defendant, George Mack, pled guilty.

Q What did he plead guilty to?

A He pled guilty to accessory after the fact of a class A, B, C or murder felony.

Q And is the sentencing sheet in there with that?

A Yes, sir.

Q And what was he sentenced?

A He was sentenced to seven years, given credit originally for 549 days, but that was amended per a court order from Judge Goode to 472 days.

Q And what are the other documents that you have?

A The other documents I have is a disposition sheet which has six warrants for George Mack, and it is signed off as being marked dismissed. And it has the letters PGOOC, that's our abbreviation pled guilty to other charge. And it is signed off by the Assistant Solicitor October 30th of '07.

1 Q And what were the other charges that were dismissed?

2 A The other charges that were dismissed was a warrant
3 for murder, warrant for assault with intent to kill,
4 another count of assault with intent to kill, assault and
5 battery with intent to kill, and criminal conspiracy.

6 Q Thank you, Mrs. Frick. No further questions. I
7 don't know whether the Solicitor has any for you or not.

8 CROSS-EXAMINATION

9 BY MR. MYERS:

10 Q Hope, this disposition sheet right here.

11 A Yes, sir.

12 Q It's got a one, two, three, four, five, six
13 warrants --

14 A Yes, sir.

15 Q -- attached to it.

16 A Yes, sir.

17 Q Is that right? And those warrants, were they issued
18 by the Grand Jury or a magistrate?

19 A Magistrate?

20 Q Can I try somebody in this court based on a
21 magistrate's warrant?

22 A No, sir.

23 Q Has to go to the Grand Jury?

24 A Yes, sir. The Grand Jury has to act on it for trial.

25 Q And this right here is what?

1 A That's the indictment that is presented by law
2 enforcement to the Grand Jury, and at least 12 of the 18
3 grand jurors have to vote to go forward.

4 Q And did the Grand Jury vote on this indictment?

5 A Yes, sir. They true billed it.

6 Q And it was signature down here. Whose signature
7 would that be on the -- on the indictment?

8 A That is the Grand Jury's. That is the foreman of our
9 Grand Jury.

10 Q And do they have to sign it --

11 A Yes, sir.

12 Q -- to issue?

13 A The foreman does. The foreman or vice-foreman will
14 have to sign it.

15 Q And true bill means we can come into court and
16 prosecute it?

17 A Yes, sir.

18 Q Now, there are six numbers on that indictment.

19 A Yes, sir.

20 Q See right above, true bill?

21 A Yes, sir.

22 Q What do those six numbers mean?

23 A Those -- this is marked as being a straight
24 indictment. And then right below it it says RE which
25 means referencing those six warrants that were dismissed,

1 but the indictment is per those six warrants.

2 Q So those six warrants really were submitted to the
3 Grand Jury on this indictment -- excuse me --

4 A Yes, as a straight indictment.

5 Q -- provided--

6 MR. FLOYD: She wasn't present at the Grand
7 Jury.

8 MR. MYERS: Nobody can be present in the Grand
9 Jury. This is just a document that shows what
10 happened for the record she keeps.

11 Cross-examination.

12 THE COURT: I will allow the question.

13 BY MR. MYERS:

14 Q So those six warrants are listed on the indictment
15 that the Grand Jury returned.

16 A Yes, sir.

17 Q And the Grand Jury indicted George Mack for accessory
18 after the fact of murder, felony?

19 A Yes, sir.

20 Q And I can't try anybody unless the Grand Jury indicts
21 them for a crime; can I?

22 A Correct. It has to be true billed by the Grand
23 Jury--

24 Q And the Grand Jury never issued a murder indictment
25 for George Mack; did they?

1 A No, sir.

2 Q Now, on the second page, that sentencing sheet.

3 A Yes, sir.

4 Q That's got up there that George Mack pled guilty as
5 indicted by the Grand Jury; didn't he?

6 A Yes, sir.

7 Q And it's got on there the State didn't make any
8 negotiations or recommendations.

9 A That is correct.

10 Q It was solely up to the Judge whether to give him
11 zero to 15 years.

12 A Yes, sir.

13 Q So the State didn't make any promises to George Mack.

14 A Not that -- nothing negotiated on here.

15 Q And this is signed by the Judge.

16 A Yes, sir.

17 Q So we didn't have anything to do with the sentencing.

18 A No, sir.

19 Q The Judge did.

20 A No, sir.

21 Q And George Mack went to prison.

22 A Yes, sir, for seven years.

23 Q Thank you, ma'am.

24 MR. MYERS: That's all we have, Your Honor.

25 MR. FLOYD: Just one question.

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REDIRECT EXAMINATION

BY MR. FLOYD:

Q Mrs. Frick, how many cases would you say are presented to the Grand Jury every year?

A Every year?

MR. MYERS: That's irrelevant. Other cases that have nothing to do with it.

THE COURT: How is that relevant?

MR. FLOYD: Your Honor, because I think they're implying that the Grand Jury only decided that that's all he was guilty of, and I think they need to know how the process works.

MR. MYERS: Grand Jury doesn't decide anyone's guilt. We can't try a case unless the Grand Jury returns an indictment.

MR. FLOYD: And the Grand Jury can't return it unless they present the case to them, Judge, and that's what I need to ask her about.

MR. MYERS: No, sir. That's not right. He brought it up. We didn't. And we have to explain on what we can do and what warrants were issued makes no difference. It's what the Grand Jury presents back into the Court.

MR. FLOYD: Your Honor, we all know that the Grand Jury indicts anybody you put in front of them.

1 MR. MYERS: No, that's not true. No bills cases
2 all the time. And not only that, their work is
3 secret. I can't go in there.

4 MR. FLOYD: Well, let me ask them about the no
5 bills.

6 MR. MYERS: Well, other cases, what's that got
7 to do--

8 THE COURT: I don't know how that's relevant in
9 this case.

10 MR. FLOYD: All right. Well, Your Honor, I
11 think the State's trying to mislead the jury.

12 MR. MYERS: Now, wait -- wait a minute. I --
13 I'm offended at that, Your Honor. I'm responding to
14 stuff that he put in, and I take offense to that.

15 THE COURT: I sustain his objection. I don't
16 think it's a proper line of questioning. Move on.

17 MR. FLOYD: Thank you, Your Honor. I'd like to
18 proffer her and ask her.

19 THE COURT: Okay.

20 MR. FLOYD: Want me to do it in front of the
21 jury or...

22 THE COURT: No. We'll do it at the first break.
23 All right.

24 MR. FLOYD: Other than that, no further
25 questions.

1 THE COURT: Any further questions of this
2 witness?

3 MR. MYERS: No, sir. Not from her.

4 THE COURT: Yes, sir. You may call your next
5 witness.

6 MR. FLOYD: Your Honor, the defense rests other
7 than proffering what we want to proffer.

8 THE COURT: All right. Solicitor?

9 MR. MYERS: Yes, sir.

10 MS. GARRICK: Your Honor, we'd call Eric Russell
11 in reply.

12 ERIC RUSSELL, after being duly
13 reminded of oath, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. GARRICK:

16 Q Detective Russell, when was the first time you met
17 George Mack?

18 A Roughly about 9:00 on the evening of Saturday, July
19 the 15th, 2006.

20 Q And where were you when you met him?

21 A I was in the -- at the church where the guns were
22 found.

23 Q And at that time was George Mack already in custody?

24 A Yes, ma'am, he was.

25 Q And he -- had he already been given his Miranda

1 warnings?

2 A Yes, ma'am, he had.

3 Q And at that time, did you have an oral conversation
4 with Mr. Mack?

5 A Yes, ma'am, I did.

6 Q And what did Mr. Mack relay as far as who the shooter
7 was?

8 A At that time he related to me that Sammy Harmon was
9 the shooter.

10 Q And at -- had you promised Mr. Mack anything when
11 y'all were there in the woods collecting evidence?

12 A No, ma'am. I didn't, just asked him what happened.

13 Q And did you later have a more formal interview with
14 Mr. Mack?

15 A Yes, ma'am. After we got the guns collected, we went
16 back to the sheriff's office to an interview room to do a
17 formal interview with Mr. Mack.

18 Q And did you get -- get a written statement from
19 Mr. Mack?

20 A Yes, ma'am, I did.

21 (WHEREUPON, State's Exhibit 60 was admitted into
22 evidence.)

23 BY MS. GARRICK:

24 Q If I can show you State's Exhibit 60. Do you
25 recognize this?

1 A Yes, ma'am. That's the statement that I took from
2 George Mack in the interview room.

3 MS. GARRICK: Your Honor, we'd offer this into
4 evidence at this time.

5 THE COURT: What says the defense?

6 MR. FLOYD: Just subject to our earlier
7 objection.

8 BY MS. GARRICK:

9 Q Could you please publish -- read to the jury the
10 statement George Mack gave you on July 15th, 2006.

11 A Friday night me, Brandon Harmon, Sherman, Sammy
12 Harmon, Little James, and a bunch of other guys were at
13 the Duriel's house in Apple Valley. This is a bad
14 neighborhood and people there all have guns.

15 Sammy lives with Duriel and has a blue Crown Vic
16 there. While we were all outside, Brandon got a long gun
17 from under the hood of the blue Crown and put it on the
18 trunk of my car.

19 When we got ready to leave, me, Sherman and Brandon,
20 Brandon put the gun in the trunk of my car. Us three went
21 to Sherman's house and spent the night. This was at about
22 four am.

23 After we got up on Saturday, me, Sherman, and Brandon
24 went and picked up Sherman's baby at his baby's mama's
25 house in New Friarsgate. We were all in my car. We then

1 went to Number One Flea Market. We shopped around for a
2 while and bought some cd's.

3 After a little while, we ran into Scooter Geiger. He
4 and Brandon knew each other. They went to school together
5 at Dutch Fork and have had problems before. Brandon and
6 Scooter exchanged words about if Brandon was Gpan and if
7 Scooter was a blood.

8 Sherman then said, we don't need to -- we don't need
9 to do this because my baby is here. Me, Brandon, Sherman,
10 and his baby then left and took Sherman baby back to
11 Sherman's house and dropped him off with Sherman's mama.

12 While going there, Brandon called his brother Sammy
13 Harmon on his cell and told him what had happened with
14 Scooter. Brandon told Sammy to meet us at The Barnyard
15 and he saw Scooter, they were going to bam it out.

16 Brandon says he and Scooter were going to bam it out
17 one-on-one. We met up with Sammy and Al in a green
18 Cavalier at the light in front of Barnyard. I left out
19 that we had picked up Little James from his house after we
20 dropped off Sherman's baby.

21 After we all met at the light, we pulled into The
22 Barnyard on Highway One. Once we pulled into the parking
23 lot, we saw Scooter and his friends. We pulled up close
24 to them, couple parking spots away, and Brandon jumped
25 out.

1 He and Scooter started cussing each other out.

2 Little James kept telling me to pop the trunk, but I told
3 him, no, then bam it out or talk it out. Little James
4 then came around to my side of the car and hit the trunk
5 button.

6 Little James then went to the trunk and got the gun
7 and cocked it. I couldn't see him, but I heard him cock
8 the gun. Little James then walked from the trunk to the
9 passenger's side of my car without the gun.

10 Sammy then threw his cigarette down, said, fuck this,
11 and ran to the trunk and got the gun out. Sammy then
12 started shooting towards Scooter and his friends. Sammy
13 shot a bunch of times and then threw the gun in the trunk
14 of my car.

15 Sammy and Al turned left in the green car. Me,
16 Brandon, Little James, and Sherman went in my car. I
17 don't know which way Sammy and Al went. When we went left
18 out of The Barnyard and then right at a gas station, we
19 rode around for a few minutes, then Little James said,
20 stop, and we could hide the guns.

21 I pulled into a dirt road and stopped and popped the
22 trunk. Little James got out, hid the gun. This is where
23 I took the police and showed them where the gun was. I
24 didn't know anything about the pistol until the police
25 found it.

1 After Little James hid the guns and got back in the
2 car, I drove them and Brandon and Sherman back to Broad
3 River Road, dropped them off near Sherman's house, then I
4 went home and called the police.

5 When Brandon and Scooter met at Number One Flea
6 Market, Scooter was saying Brandon was Gpan and a blood.
7 Brandon wasn't saying Scooter was a blood. This statement
8 written by Detective Russell for George Mack the third.

9 Q Did George Mack sign that statement?

10 A Yes, ma'am. He did.

11 Q And when George Mack gave you that statement, was
12 there anybody from the Solicitor's Office there?

13 A No, ma'am, there was not, just myself.

14 Q And did you promise him what would happen with his
15 charges if he gave you a written statement naming Sammy
16 Harmon as the shooter?

17 A No, ma'am. There were no promises made at all.

18 Q That's all I have.

19 THE COURT: Mr. Floyd?

20 CROSS-EXAMINATION

21 BY MR. FLOYD:

22 Q So he was charged with murder and all these other
23 charges --

24 A That's correct.

25 Q -- at that time; is that correct? And eventually got

1 to plead to seven years; didn't he?

2 A Yes, sir.

3 Q Nonviolent?

4 A I'm sorry?

5 Q Nonviolent crime; right?

6 A I take your word for it. I'm not -- I don't know.

7 Q Okay. And have to do half of that, right, 50 percent
8 of it?

9 A I honestly don't know.

10 Q You recognize that document?

11 A Yes, sir.

12 Q What is that document?

13 A That's a statement that he began to give to Detective
14 Richardson at his house.

15 Q Was that written by Mr. Mack?

16 A I don't know. I wasn't there when that one was
17 taken.

18 Q Pardon?

19 A I said, I don't know. I wasn't there when that one
20 was done.

21 Q Who was there?

22 A Detective Richardson.

23 Q Does it look like Detective Richardson's writing?

24 A I can't answer that. I don't know.

25 Q Well, would you read it and tell me if you think it

1 was written by someone with Detective Richardson's
2 education and training?

3 A Read it out loud?

4 Q Go ahead.

5 A Me and Brandon, Sherman, and his kids was at Metro
6 Number One. Brandon and a dude named Scooter had problems
7 with one another. They had some words. And we left
8 because Sherman had his baby boy with him.

9 So we left Metro and dropped the baby off because the
10 baby was nervous, was bad. Baby's nerves was bad --
11 excuse me. So we went to The Barnyard to do some
12 shopping.

13 Brandon brother was over there at The Barnyarn and
14 Brandon and Sammy are brothers and Sam seen Scooter and
15 Sam came around with a big gun and started shooting.

16 Q That's what he wrote?

17 A I don't know who wrote that. I can't tell you.

18 Q Can't tell us who wrote that?

19 MR. FLOYD: Your Honor, we'd like to have this
20 marked as an Exhibit.

21 MS. GARRICK: No objection.

22 (WHEREUPON, Defendant's Exhibit 4 was admitted
23 into evidence.)

24 THE COURT: Is that without objection?

25 MS. GARRICK: Yes, sir.