

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Steven H. John, Circuit Court Judge

Appellate Case No. 2012-212800
Circuit Court Case No. 2006-GS-26-2998

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SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

LARRY CHESTNUT,

APPELLANT.

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) (06-GS-26-02997)
3) (06-GS-26-02998)
4 STATE)
5 VERSUS) TRANSCRIPT OF RECORD
6)
7 LARRY T. CHESTNUT and) August 13, 14, 15, 16, 17, 2012
8 KENDRICK CHESTNUT) Conway, S. C.
9)

10 B E F O R E:

11 HONORABLE STEVEN H. JOHN, Judge.

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24

25

DIXIE COX EUBANK
CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

VOLUME 1 OF 3
(SEE VOLUME 1 FOR INDEX)

1 **THE COURT:** All right. Very good. As to the statement,
2 the Court has examined what is Court's Exhibit Number 3, heard
3 the testimony of Sergeant Bertang, gone through the written
4 transcript regarding the advisement of rights, the waiver,
5 looked at statements of the Defendant, it does -- it is the
6 voluntary statement of the Defendant, Kendrick Chestnut,
7 though he was in custody, he was properly given his Miranda
8 warnings, it is clear that he understood them, that he
9 voluntarily waived those rights and voluntarily gave a
10 statement to the police authorities regarding this particular
11 matter so I'll allow this statement of the Defendant to be
12 introduced into evidence in this case. Now, this does not
13 resolve the issues about possible redactions or other issues
14 that might come up but in general the statement can come in
15 and be used by the State in this particular matter.

16 ? After that, then, Mr. Long, are there other issues that
17 you want to bring to the Court other than that at this point
18 in time?

19 **MR. LONG:** Not from Kendrick Chestnut, Your Honor.

20 **THE COURT:** All right, very good.

21 All right. Mr. Wilson, I'll be glad to hear from you.
22 I believe now would be the appropriate time for you to bring
23 up any issues you have with the first interview with Kendrick
24 Chestnut and now the -- what was the third interview with
25 Kendrick Chestnut understanding the State is not going to be

1 introducing into evidence the second statement.

2 **MR. WILSON:** Yes, sir. And, Your Honor, actually, I
3 have no objections to the first statement and I don't have any
4 really redactions for the first statement. It's the third
5 statement that I have problems with. The -- and where I'm
6 concerned about the consistency or inconsistency is is that
7 the -- Mr. Kendrick Chestnut mentions Ty Chestnut multiple
8 times in both statements and so that's why -- that's why I was
9 saying earlier that, for me anyway, it'd be simpler if I could
10 have all of the references to Ty Chestnut redacted. But what
11 I have done in light of His Honor's statement on yesterday,
12 I've gone through the third statement and I have selected
13 those portions if you're not going to grant my first request
14 which is that all references to Mr. Chestnut be redacted, that
15 is Mr. Ty Chestnut or Larry Chestnut be redacted from the
16 statement of Kendrick then I'm asking that, that you remove
17 these selective portions that I'm going to ---

18 **THE COURT:** Well, I did not want to grant your motion in
19 general. I don't want you to take it such that if you have --
20 and keeping in mind your argument, there are mentions of your
21 clients -- your client or issues about your client in the
22 first statement that you want me to review, I'm asking you to
23 point that out to me. I just didn't want to grant it in
24 general but ---

25 **MR. WILSON:** I'm fine actually -- as I said, I'm ---

1 **THE COURT:** Well, I just want -- you know, I don't --
2 and I've thought about your issue that you brought to the
3 Court's attention and I want us to -- we may need to explore
4 the issue that if he talks about any kind of issue regarding
5 your client that would impact your arguments on the third
6 statement. So I think we probably need to identify where it
7 is he is mentioned in the first statement to see what it is
8 that might have an impact on the third statement.

9 **MR. WILSON:** In the first statement -- in the first
10 statement, Your Honor, what he does is Mr. Kendrick Chestnut
11 goes through the -- the officer asked him, Officer Mann asked
12 him what happened and he goes through a scenario where he
13 indicates what he says happened. Now, the dilemma for me is
14 that the scenario that he paints in his first statement is
15 favorable to my client, so I'm not necessarily wanting to
16 exclude it.

17 **THE COURT:** Well, I appreciate that but I mean where is
18 it that he talks about your client? I see a lot of his
19 explanation of what happened but there ---

20 **MR. WILSON:** On page -- well, let's see ---

21 **THE COURT:** All right. I mean we go -- let's see -- I
22 think the first reference to him specifically is on -- was on
23 page -- is it on page 8? I don't know that you -- by name and
24 I may be wrong. By name -- I don't know that your client is
25 named.

1 **MR. WILSON:** No, he doesn't refer to him as Ty until we
2 get to page 7 and -- on page 7 at line 119.

3 **THE COURT:** Okay.

4 **MR. WILSON:** He starts referring to ---

5 **THE COURT:** "Who fell to the ground." Okay. Right.
6 Page seven, okay.

7 **MR. WILSON:** And then he starts telling how they were --
8 what was happening and who was fighting and ---

9 **THE COURT:** All right.

10 **MR. WILSON:** But he's saying essentially at that time
11 that they were all jumping on Ty. And so, as I said, I don't
12 have any -- there's nothing in statement one that I'm trying
13 to eliminate.

14 **THE COURT:** But ---

15 **MR. WILSON:** And it might help when I go back, when I --
16 what I've tried to do is go and only ask the Court to delete
17 those things where there is some negative implication
18 regarding my client.

19 **THE COURT:** Okay.

20 **MR. WILSON:** And as I said, in statement one there are
21 no negative implications that I can determine so I am
22 satisfied with statement one.

23 **THE COURT:** Okay.

24 **MR. WILSON:** Now, statement three, I have a lot of
25 problems with and I think that will take us some time to go

1 through.

2 **THE COURT:** All right. Well, let's start with -- let's
3 go ahead and start with statement three.

4 **MR. WILSON:** All right. And we can start on page 6 of
5 the statement, line 92. "Okay, I remember when they were
6 outside, everybody was outside, and I finally got Ty to stop
7 -- off of Joey. I got him off and I was telling him..." I
8 would like for that to be redacted.

9 **THE COURT:** I'm sorry. Tell me the line again on page
10 6.

11 **MR. WILSON:** It's line 92 and 93 and part of 94.

12 **THE COURT:** You're really starting with 93?

13 **MR. WILSON:** Yes, sir.

14 **THE COURT:** Okay.

15 **MR. WILSON:** And goes to "...telling him..." on 94.

16 Then ---

17 **THE COURT:** Okay, well -- all right. And basically what
18 you're trying to get out is, "...I finally got Ty to stop from
19 -- off of Joey -- I got him off of Joey".

20 **MR. WILSON:** That's correct.

21 **THE COURT:** Isn't that what really what you're trying to
22 get out?

23 **MR. WILSON:** Yes, sir.

24 **THE COURT:** Because, you know, "I was telling him, come
25 on, you're bleeding bad, you're bleeding bad." And you tell

1 me -- I -- that's not what you're trying to ---

2 MR. WILSON: No, that's exactly what I'm trying to
3 eliminate.

4 THE COURT: All right. All right, so. "I finally got
5 Ty to stop from -- off of Joey -- I got him off of Joey."
6 That's the part, correct?

7 MR. WILSON: Yes, sir, that's correct.

8 THE COURT: Probably the easiest -- I guess if we -- I
9 was trying to think of what'd be easier, to address them one
10 at the time or have you identify them all and then go back
11 through them but we can probably just address them as go
12 along.

13 MR. WILSON: And Judge, I have -- what I have done is I
14 have gone through that statement and actually highlighted and
15 underlined the portions that I want removed and if we could
16 get a copy for the Court and for the Solicitor, maybe we -- it
17 might make things go faster or I can stand here and go through
18 them one at a time.

19 THE COURT: Well, why don't you just -- why don't we
20 just -- you just tell us where they are and I will -- we'll
21 highlight them and then we'll go back and talk about them.

22 MR. WILSON: Very well. We pick up again at line 96,
23 mid-ways, "He had something in his hand."

24 THE COURT: Okay.

25 MR. WILSON: And it goes down to line 99.

1 **THE COURT:** Okay. All right. Go ahead.

2 **MR. WILSON:** Then we go down to line -- I'm still on
3 page 6, go down to line 107 and through line 114 on that page
4 and over to line 115 on page 7.

5 **THE COURT:** All right. So, starting on 107 with "...and
6 I remember, you know, hearing..."; is that correct?

7 **MR. WILSON:** That's correct; yes, sir.

8 **THE COURT:** All right. And going through where?

9 **MR. WILSON:** Line 115 on page 7, only part of line 15
10 "...in the house with it."

11 **THE COURT:** Okay. Go ahead.

12 **MR. WILSON:** And then we go to line 118, the last
13 portion of line 118 where it starts at "...and I could
14 remember he threw something out of his hand..." which would be
15 line 118 and 119.

16 **THE COURT:** Okay. Go ahead.

17 **MR. WILSON:** And then we go to line 121 "...and it hit
18 the side either the wall or brick or something", and then down
19 to line 122, "You said that you tried to get Ty off of Joey."

20 **THE COURT:** Okay.

21 **MR. WILSON:** And then we skip over to page 9 and we
22 start at line 161, the very end, "Like I said, ...", and then
23 it goes down to 166, "...had been nothing with a big blade."

24 **THE COURT:** Okay.

25 **MR. WILSON:** And line 169, "...you know so whatever Ty

1 had..."

2 THE COURT: And 170?

3 MR. WILSON: And 170 all the way down to 174.

4 THE COURT: All right. Go ahead.

5 MR. WILSON: And then we go to line 181, mid -- about
6 three-quarters of the way across line 181, "I'm pulling him
7 off Joey...", through 183.

8 THE COURT: All right. To the end of 183?

9 MR. WILSON: Yes, sir.

10 THE COURT: Okay. You have 184, the first two words,
11 probably?

12 MR. WILSON: Yes, sir.

13 THE COURT: All right, very good. Okay.

14 MR. WILSON: And then we go to line 186, mid-ways,
15 "...but I can remember Ty...", and then that goes to 188, "I
16 didn't see the knife in Ty's hand."

17 THE COURT: All right, sir.

18 MR. WILSON: Then 190, "I don't know who swung at who
19 first", and I'm not really that concerned about that statement
20 but I'd ask it be omitted.

21 THE COURT: All right, sir.

22 MR. WILSON: And then we go to 194, "...went and -- I
23 don't care, I don't care, and he swung and hit Joey."

24 THE COURT: That started where now?

25 MR. WILSON: At 194, "...went, I don't care."

1 **THE COURT:** Okay.

2 **MR. WILSON:** And just the rest of that sentence to,
3 "...and hit Joey."

4 **THE COURT:** Okay. All right, go ahead.

5 **MR. WILSON:** I think then we go over to page 19 and that
6 would be line 397.

7 **THE COURT:** Page what again, I'm sorry.

8 **MR. WILSON:** Page 19.

9 **THE COURT:** 19, all right, go ahead.

10 **MR. WILSON:** Line 397 and part of 398.

11 **THE COURT:** What part -- what is it that you want to
12 take ---

13 **MR. WILSON:** "Joey was arguing with Ty", and the main
14 part that I want out is that Ty was arguing with Joey.

15 **THE COURT:** All right, so -- all right, so, the 397 at
16 the end, "Joey was arguing with Ty and Ty was arguing with
17 Joey"; is that ---

18 **MR. WILSON:** That is correct, Your Honor.

19 **THE COURT:** All right, very good. Okay.

20 **MR. WILSON:** And then we go over to page 20.

21 **THE COURT:** Yes, sir.

22 **MR. WILSON:** And that would be line 426.

23 **THE COURT:** Okay.

24 **MR. WILSON:** And starting at, "He couldn't have stabbed
25 Joey then", and then going down to line 428 mid-ways, "He was

1 hit like -- hitting back like swinging back, I don't know if
2 he was fighting him or sticking him", which takes us down to
3 430 part of the way.

4 **THE COURT:** All right, go ahead.

5 **MR. WILSON:** Then we go over to page 21 and we start at
6 line 435, "You know well both of them like on the ground and
7 he's like kicking Joey, he, Ty was standing up, Joey is like
8 most on his knees or something, he's punching and kicking and
9 I'm like, stop, stop, stop", and I would like to stop where
10 the period is, "Joey is like almost on his knees or
11 something."

12 **THE COURT:** So, you want to start where?

13 **MR. WILSON:** At the end of the sentence on 435.

14 **THE COURT:** "You know, well, both of them is like on the
15 ground."

16 **MR. WILSON:** "But he's like kicking Joey."

17 **THE COURT:** So you want to start at, "...but he's like
18 kicking Joey"?

19 **MR. WILSON:** That's fine, yes, sir.

20 **THE COURT:** All right. Well, that's what I'm asking.
21 That's where you want to start, "...but he's like kicking
22 Joey?"

23 **MR. WILSON:** Yes, sir, that's -- yes, sir.

24 **THE COURT:** "He, Ty, was standing up, Joey's like almost
25 on his knees or something, punching, kicking and I'm like,

1 stop, stop, stop, man, what are you doing, you're hurt, you
2 need to go."

3 MR. WILSON: That part is fine, you know, "I'm like,
4 stop, stop, stop, man, what are you doing, you're hurt, you
5 need to go"; that's fine.

6 THE COURT: So, through, "He's punching and kicking",
7 that's -- you want to stop right there?

8 MR. WILSON: Yes, sir.

9 THE COURT: Okay. Okay.

10 MR. WILSON: Then we go to 441, line 441, same page,
11 said, "I was holding Ty, you know, he was still swinging and
12 trying to get away from me", and that's 441 and half of 442.

13 THE COURT: All right. So, it starts at the beginning
14 of 441 and ends "...trying to get away from me."

15 MR. WILSON: Yes, sir.

16 THE COURT: Go ahead.

17 MR. WILSON: And then we go to 447, "Once I pulled Ty
18 off of Joey."

19 THE COURT: The whole sentence?

20 MR. WILSON: Yes, sir.

21 THE COURT: All right, very good. All right.

22 MR. WILSON: Then we go down to 453 and start in the
23 middle or actually three-quarters of the way in that sentence,
24 "He threw something against the wall, that wall."

25 THE COURT: Okay.

1 **MR. WILSON:** And then we go down to 456, "...and I don't
2 know what it was, I'm figuring it was whatever he stuck Joey
3 with."

4 **THE COURT:** Okay. Okay.

5 **MR. WILSON:** Then we go over to page 24.

6 **THE COURT:** Okay.

7 **MR. WILSON:** And, Your Honor, this is actually a
8 statement made by the officer to Mr. Chestnut but he's saying,
9 "All right" -- this is at line 519 on page 24, "All right,
10 when you went outside and saw Ty, he was swinging or
11 whatever", and Mr. Chestnut responds, "uh-huh", and so I'm
12 asking 519, 20 and 21 be deleted.

13 **THE COURT:** All right. So, 519 through 521?

14 **MR. WILSON:** That is correct, Your Honor.

15 **THE COURT:** All right. Okay.

16 **MR. WILSON:** And then we go to 525, "...and they was,
17 both of them standing up like squared off like they were
18 punching each other or whatever, you know, and I took my
19 eyes..."

20 **THE COURT:** So, it goes onto the next page.

21 **MR. WILSON:** 525, 526, and then skip over to 528, "I
22 pulled him off Joey."

23 **THE COURT:** So, starting with the beginning of 525.

24 **MR. WILSON:** Yes, sir.

25 **THE COURT:** And going through "I pulled him off Joey."

1 **MR. WILSON:** That is correct, Your Honor.

2 **THE COURT:** Okay.

3 **MR. WILSON:** Then we go to 533, "...and I pulled, I
4 pulled, I pulled him basically off of Joey, like, stop", and
5 so that would take us to 530, the end of 533 and all of 534.

6 **THE COURT:** All right. All right, so, it starts with
7 "...and I...", and it ends with "stop, stop, stop."

8 **MR. WILSON:** That's correct, Your Honor.

9 **THE COURT:** All right, very good.

10 **MR. WILSON:** And then we go to 538, "I thought Ty had
11 the bad end of the deal like I said but he did it, you know --
12 he know he did it, you know, I..."

13 **THE COURT:** Okay. All right, go ahead.

14 **MR. WILSON:** Then we go to 541, "Well, evidently he
15 stabbed Joey to kill him, you know."

16 **THE COURT:** All right.

17 **MR. WILSON:** And then we go to 544 -- I'm sorry -- yeah,
18 544.

19 **THE COURT:** All right. Hold on a second. All right, so
20 -- you wanted to start at the beginning of 540 and end where?

21 **MR. WILSON:** End -- well, it doesn't really end but it
22 ---

23 **THE COURT:** Well, that's what I'm saying, 540 through
24 where, I mean, if you have to go to the next page, I'm saying
25 where do you want to end?

1 MR. WILSON: All the way over to 551.

2 THE COURT: Okay, so 551 where it says, "...over there."
3 and there's a period?

4 MR. WILSON: Yes, sir.

5 THE COURT: And that's where you want to stop?

6 MR. WILSON: That is correct, Your Honor.

7 THE COURT: All right. So you want to start at 540 and
8 end at 551 where it says, "...over there?"

9 MR. WILSON: Well, no, I apologize.

10 THE COURT: Okay.

11 MR. WILSON: 551, the entire sentence, "Whenever he
12 threw ..." ---

13 THE COURT: Okay.

14 MR. WILSON: --- ...that's what he had, you know."

15 THE COURT: All right, through "you know."

16 MR. WILSON: Yes, that is correct.

17 THE COURT: All right. Through "you know." All right.
18 And then it would continue on "...but I didn't -- I didn't do
19 nothing to him."

20 MR. WILSON: That's correct.

21 THE COURT: All right. What is the next page?

22 MR. WILSON: We go now to page 30 -- and Your Honor, on
23 line 644, this is again, one of those statements from the
24 officer. I'm not even sure that I have a true objection to it
25 I just find it a little frustrating -- "What would you say if

1 I said that he's trying to put this off on you?" And the
2 inference is is that somebody did something wrong and that my
3 client is trying to put it on, on the other fellow and so I
4 object to it on that grounds that it ought not be, be in
5 there.

6 **THE COURT:** All right.

7 **MR. WILSON:** In that ---

8 **THE COURT:** Well, it's not really a **Bruton** argument?

9 **MR. WILSON:** It's not. It really is not a **Bruton** issue,
10 it's -- but the problem I'm having is it's actually -- it's
11 testimony by the officer who's un -- who was not under oath
12 and was not -- may not even testify in the trial and he's
13 making allegations saying things that he says my client said
14 which is first of all, not even true.

15 **THE COURT:** Well, I appreciate that but, you correct me
16 if I'm wrong but I don't know of any requirement that says
17 when police interview somebody, they have to tell them the
18 truth.

19 **MR. WILSON:** That's correct.

20 **THE COURT:** All right.

21 **MR. WILSON:** That is correct.

22 **THE COURT:** I mean, they can tell them any kind of story
23 they want to.

24 **MR. WILSON:** That's true. The difference here is is
25 that you have a Co-Defendant who is on trial, the statement

1 was made to Mr. Kendrick Chestnut but it's about this
2 Defendant and they're saying what he said, what he told them
3 which is what I'm having a problem with. If they had said,
4 you know, Joey said it or they said that one of the other
5 witnesses said, I wouldn't have any issue about it but what
6 they are simply -- what they're doing is they're directly
7 referring to him saying that he said it and there's no way for
8 us to combat that because if the officer doesn't take the
9 stand and testify then I can't ask him about it. And so then
10 now there would be testimony in the record that he's saying my
11 client said something that my client really didn't say.

12 **THE COURT:** All right. I'll mark that and we'll just
13 have to talk about that.

14 **MR. WILSON:** All right, sir. I think I'm on page 34 now
15 at the top, line 731. And again, this is one of those
16 statements where the officer comes in and he says, "...but
17 different people are telling me that both you and Ty were
18 beating up on Joey", and the only thing I want out of there is
19 "...Ty were beating up on Joey."

20 **MR. LONG:** Your Honor, if I could pipe on this
21 particular item, I would request if you're gonna exclude just
22 the word Ty there, it's wholly unfair to my client the way
23 that sentence will read if you take Ty out. I would request
24 that you exclude the entire sentence.

25 **THE COURT:** Again now, you know, if I exclude the entire

1 there then I don't see that to be -- I understand what you're
2 saying but again that goes to the point that it's the
3 voluntary statement of your client and the police are under no
4 obligation to tell the person the truth. They can suggest
5 different scenarios. So, if I remove "...and Ty..." -- the
6 police are suggesting a scenario to your client, he's
7 voluntarily giving them a statement and he can answer it or
8 not answer, so I appreciate what you're saying but what I'm
9 gonna do is -- I may be getting ahead of myself because we
10 haven't argued about any of these -- I'm going to remove
11 "...and Ty in that one. In 733, I'm gonna remove "...and
12 Ty..." and 737, the first line, I'd remove the word "...Ty..."
13 Then -- go ahead, Mr. Wilson.

14 **MR. LONG:** Your Honor, how far ---

15 **THE COURT:** 737, I'm not -- I thought about going
16 further but I'm stopping at 737, we're stopping at 737.

17 **MR. LONG:** Okay. And I will have an opportunity to
18 argue about the hearsay problem that I have with 731 later on?

19 **THE COURT:** 731, all right.

20 **MR. LONG:** I don't think we're -- he's not making
21 arguments now, he's just pointing out the sections that he has
22 issues with it but I have a hearsay objection to line 731, if
23 I can't ---

24 **THE COURT:** All right. 731, what part?

25 **MR. LONG:** The whole thing, "Different people are

1 telling me."

2 **THE COURT:** All right. So, if you take that out ---

3 **MR. LONG:** Right.

4 **THE COURT:** "That you were beating up on Joey", the
5 statement is by the officer ---

6 **MR. LONG:** "Different people tell me..."

7 **THE COURT:** No, the statement would be then, to take
8 that out, "...you were beating up on Joey."

9 **MR. LONG:** No, that's part of the sentence, "Different
10 people are telling me that you were beating up on Joey."

11 **THE COURT:** I understand that but if I remove that, the
12 objectionable part, it says then "You were beating up on Joey,
13 no, well, where is everybody else then...me got Joey, where is
14 everybody else, you know, that's not true, I wouldn't do that,
15 not one bit, you wouldn't do what, I wouldn't help beat up
16 Joey, that's their business, if they want to fight, fight it
17 out. I want to let them fight it out as long as they didn't
18 have no weapons or whatever because that's your sister,
19 they're family, they're our family, you know." Okay? So, if
20 we remove that and he's again, making a suggestion, you were
21 beating up on Joey.

22 **MR. LONG:** No, sir. The ---

23 **THE COURT:** It'd be a direct statement like you would
24 make to anybody being accused of -- he's already accused of a
25 crime, he's in custody, you know, you were beating him up.

1 **MR. LONG:** Well, he didn't make that statement. He said
2 different people are telling me that you're beating up on
3 Joey, that's hearsay.

4 **THE COURT:** Well, I understand that but you're objecting
5 to that.

6 **MR. LONG:** That's right.

7 **THE COURT:** All right. And I might very well agree with
8 you but I don't see how that takes out the rest of it. You
9 were beating up on Joey, a statement, and he's saying, no, I
10 wasn't.

11 **MR. LONG:** Judge, I don't see where there's just a
12 statement made by an officer ---

13 **THE COURT:** If you take it out, if you take out that
14 different are telling me that both, and you stop right there,
15 you were beating up on Joey.

16 **MR. LONG:** Well, why would we stop there, the hearsay
17 statement is "Different people are telling me you're beating
18 up on Joey", that's the whole sentence. Why would we take
19 "Different people are telling me" out and leave "...beating up
20 on Joey"? The statement that's being made to this officer by
21 other people is that these two people were beating up on Joey.
22 That's the hearsay; that's the statement that I'm objecting to
23 that's hearsay.

24 **THE COURT:** All right. Let me hear from you, Solicitor.

25 **MS. LIVESAY:** Your Honor, as far as the officer's

1 statement, we're gonna have testimony from witnesses that are
2 going to testify to exactly what the officer is saying. As
3 far as this is concerned, his statement, this is an
4 investigative tactic. He's obviously trying to get
5 information from the Defendant. He's telling the Defendant
6 what he already knows, what other witnesses have already told
7 him in order to encourage him to tell the officer what
8 happened. We'll have witnesses step up that are going to say
9 exactly what this officer is saying so that will already be
10 into evidence and it will just be the officer's statement
11 saying, look, these different people are telling me this.
12 Those people will have already testified to that information
13 so it will already be in the record.

14 **THE COURT:** Well, I'll allow you to raise it again, Mr.
15 Long, at the time the statement is introduced into evidence
16 before the jury but at this point in time, I'm not taking it
17 out other than what I already said.

18 **MR. LONG:** Thank you, Your Honor.

19 **THE COURT:** So, we're stopping at 737, Mr. Wilson.

20 **MR. WILSON:** Yes, sir. Then, Your Honor, we go to page
21 35, line 771, "I finally got Ty to stop."

22 **THE COURT:** All right.

23 **MR. WILSON:** Then I go to page 36, line 786, end of
24 paragraph, end of the sentence, "...when he had Joey down a
25 little bit when he was kicking him and stuff, Ty had the best

1 of Joey, you know, and I was trying to get him off of him."

2 **THE COURT:** All right. So, you're starting at 778?

3 **MR. WILSON:** 786.

4 **THE COURT:** What about 778? I mean, if you're gonna be
5 consistent here.

6 **MR. WILSON:** Yes, that's fine; yes, sir. And 778 in
7 that -- part of 778 ---

8 **THE COURT:** So, you want to go down all the way from 778
9 through 790?

10 **MR. WILSON:** Well, not really, because that ---

11 **THE COURT:** Well, read through it.

12 **MR. WILSON:** That part ---

13 **THE COURT:** Read through it. 778 through 790, read that
14 whole thing.

15 **MR. WILSON:** Yes, sir. And the thing that I think would
16 probably be admissible is this part in here about 781 where
17 he's saying you're trying to get Joey to stop and then ---

18 **THE COURT:** No, I was trying to get Ty to stop,
19 basically is what he's saying?

20 **MR. WILSON:** Right.

21 **THE COURT:** That's what you want in?

22 **MR. WILSON:** No, I don't want that in.

23 **THE COURT:** Well, that's what I'm saying.

24 **MR. WILSON:** The part where ---

25 **THE COURT:** So, you want to stop from -- you want to go

1 from 778 through 790.

2 MR. WILSON: That's fine with me; yes, sir. I mean, I
3 don't have any objection to that.

4 THE COURT: Well, I mean, if you're gonna be consistent
5 ---

6 MR. WILSON: That's fine, I'm -- 778 to 790 is fine.

7 THE COURT: All right. Where do you want to go, Mr.
8 Wilson?

9 MR. WILSON: Then we go -- we go over to page 37 and
10 that's line 8 -- I'm sorry, 799 at the very end, "I can
11 remember seeing him moving and kicking him or whatever but I'm
12 not sure where he kicked him at."

13 THE COURT: What mention is there of your client?

14 MR. WILSON: Well, that's who he's referring to.

15 THE COURT: How do we know that?

16 MR. WILSON: Well, well you have to go all the way back
17 up to 789.

18 THE COURT: Which is out if I rule that way, 789 is out.

19 MR. WILSON: Yeah, but if he's referring to ---

20 THE COURT: They're not gonna hear 778 through 790,
21 they're not gonna hear that.

22 MR. WILSON: I understand.

23 THE COURT: All right, so it's out.

24 MR. WILSON: Yes, sir.

25 THE COURT: So, you take that statement then there's no

1 identification of your client whatsoever there or previously
2 because 789 is out.

3 **MR. WILSON:** That is -- I understand 789 would be out
4 but the problem is is this, the statement implicates somebody
5 kicking him and it's somebody other than the Defendant, the
6 co-defendant and the only other person is my client.

7 **THE COURT:** Well, no, there's lots of people there. He
8 doesn't identify your client. He's not making a specific
9 reference to your client. There's nothing in the statement
10 that gives a description of your client or points to your
11 client in any way. It indicates somebody did something but it
12 doesn't say who and it doesn't indicate in any way that it's
13 your client doing it so I don't see how there's an issue when
14 the other one is -- so, what line is that again now?

15 **MR. WILSON:** That's 799 to 801.

16 **THE COURT:** All right. Let me read through ---

17 **MR. WILSON:** No, 799 to 801.

18 **THE COURT:** All right. I'm not gonna take that out.
19 All right. Go ahead. Continue on.

20 **MR. WILSON:** And, Judge, now and I apologize but if I go
21 back to page 36, line 798, when the officer is asking him,
22 where was he kicking him and then 799 is in response to that.

23 **THE COURT:** Again, where was he kicking him doesn't
24 indicate who in any way. It doesn't identify your client, it
25 doesn't point to your client, it doesn't say it's your client

1 in any way because the sentence that might reference your
2 client is not there. So, I don't see the issue and I'm not
3 gonna take that out.

4 MR. WILSON: All right, sir. Then we go to page 40,
5 line 884 and over to the -- towards the end of that line, "I
6 pulled him off of Joey."

7 THE COURT: I'm sorry, page 40, what line now?

8 MR. WILSON: Page 40, line 884.

9 THE COURT: All right. All right, so, "...and I pulled
10 him off of Joey."

11 MR. WILSON: That is correct, Your Honor.

12 THE COURT: To -- to where? Just "I pulled him off
13 Joey."

14 MR. WILSON: That's satisfactory.

15 THE COURT: That's it? Okay. All right. Very good.
16 Go ahead.

17 MR. WILSON: Then we go over to page 41, line 890, "When
18 you pulled Ty off, how did you have him?" And then down to
19 893, you pulled him off this way?

20 THE COURT: So, basically 893, 895?

21 MR. WILSON: Yes, sir.

22 THE COURT: Okay. All right. Go ahead.

23 MR. WILSON: Then we go over to page 42, line 928, "So
24 Ty and Joey have knives and they're outside, right?"

25 THE COURT: All right. Hold on, one second. I'm sorry.

1 What page now and what line?

2 **MR. WILSON:** I'm on page 42, line 928.

3 **THE COURT:** All right. Go ahead.

4 **MR. WILSON:** "So Ty and Joey have knives and they're
5 outside, right?" That's the officer's question, I assume
6 that's what it's supposed to be. And then 929, 930 and 931.

7 **THE COURT:** So, 928 through 931.

8 **MR. WILSON:** That is correct, Your Honor.

9 **THE COURT:** All right. Go ahead.

10 **MR. WILSON:** Then page 44, line 975, this is Detective
11 Mann, "Ty corroborates a lot of what they're saying."

12 **MS. LIVESAY:** I'm unsure on how that implicates Mr.
13 Wilson's client as far as a **Bruton** issue goes. I'm not sure
14 that implicates him as the guilty party just by her saying Ty
15 corroborates a lot of what they're saying. I don't know how
16 that is a **Bruton** issue.

17 **THE COURT:** All right. I appreciate that.

18 **MS. LIVESAY:** It's not even a Co-Defendant making that
19 statement.

20 **MR. WILSON:** It's worse, it's the officer who is making
21 the statement and he's making it as a statement of fact not as
22 some query to the Defendant.

23 **THE COURT:** I appreciate that. I'm not gonna take out
24 line 975.

25 **MR. WILSON:** Thank you very much, Your Honor.

1 **THE COURT:** All right. Let's go to the next one.

2 **MR. WILSON:** We go to page 49, line 1076, and this again
3 is one of those same situations where the officer, Officer
4 Mann is saying "...and Ty has given us somewhat of a story",
5 and then she goes on and says, "...because what Ty tells me
6 and what that little girl tells me matches up", and I object
7 to that and I think it should be deleted.

8 **THE COURT:** And why is that?

9 **MR. WILSON:** Well, first of all, it's not even true,
10 that's the first part but the second part, Your Honor, is is
11 that is that, you know, the officer is testifying, she's
12 giving testimony against my defendant through this
13 Co-Defendant which is the whole idea I would submit to the
14 Court of **Bruton** is to keep information that might not even be
15 correct from coming in against the co-defendant when he's at
16 trial and what she is suggesting is is that somehow these
17 other witnesses or other people are giving her testimony and
18 evidence which is coming in now against my client and my
19 client is certainly not present. I could certainly understand
20 if it were Mr. Chestnut, Mr. Kendrick Chestnut, who she was
21 referring to but she's actually talking about Ty, he's not
22 there.

23 **THE COURT:** Solicitor, you want to say something about
24 that? Do you want to say something about that, Solicitor?

25 **MS. LIVESAY:** Yes, Your Honor. First of all, this isn't

1 a **Bruton** issue because it's not a Co-Defendant making this
2 statement that implicates Mr. Ralph Wilson's client. Second
3 of all, whether it's true or not, I'm not sure what law he's
4 going on that says this should be redacted. Officers say all
5 the time things that are not true in investigations, it's an
6 investigative tactic in order to try to get information from
7 that particular defendant. That's obviously what she's doing
8 in this case. This -- there's no law that says this statement
9 should be redacted. The only way it could be redacted is if
10 it was **Bruton**. There's no **Bruton** issue here, there's no
11 Co-Defendant statement.

12 **MR. WILSON:** But, Your Honor, I would submit to the
13 Court that this is the Co-Defendant's statement. That's what
14 we're reading, that's what we're going through, we're going
15 through the Co-Defendant's statement and what we are about to
16 do is allow the officer to do something that you're saying
17 that the Co-Defendant can't do but the officer can do it
18 instead and still get around **Bruton** and I don't think that
19 that's correct.

20 **THE COURT:** All right. I guess the question is does
21 this implicate your client in any way. That's the -- whether
22 it directly implicates or by inference implicates your client,
23 that's -- I guess that's the question and that's not really
24 the statement, it's not -- this is not really the statement of
25 the Co-Defendant. I'm getting the nicknames confused here.

1 **MS. LIVESAY:** Your Honor, I ---

2 **THE COURT:** Just a second. Okay? Thank you.

3 All right. So, I got confused there for a second. Your
4 -- nicknames, Mr. Wilson, your client ---

5 **MR. WILSON:** Ty Chestnut.

6 **THE COURT:** Is Ty?

7 **MR. WILSON:** Yes, sir.

8 **THE COURT:** And Mr. Long's client is Mo after Mo Cheeks?

9 **MR. WILSON:** Yes, sir.

10 **THE COURT:** Okay, great, great. All right. I'm
11 concerned that the Supreme Court's decision in State versus
12 Johnson that's found at 703 S.E. 2nd 217, not exactly the same
13 but it's where testimony of police then created an issue when
14 combined with a statement and the Supreme Court overturned the
15 conviction they don't really call it a **Bruton** issue and the
16 dissent calls it a backdoor **Bruton**, but the fact of the matter
17 is the trial got overturned by combining the statement with
18 the testimony of the police. I'm trying to define where the
19 Supreme Court is on this.

20 To be safe more than anything else, what is it you want
21 me to remove? 1076 through what or what? What is it you want
22 me to take out, Mr. Wilson?

23 **MR. WILSON:** I'll have to go back -- what page are we on
24 now, sir?

25 **THE COURT:** 49.

1 **MR. WILSON:** I apologize, I had gone on to ---

2 **THE COURT:** I'm sorry.

3 **MR. WILSON:** I had gone on to another page -- but yes,
4 sir, I'd like 1076, "...and Ty is giving us somewhat of a
5 story? and then 1078, "...cause what Ty tells me and what the
6 little girl tells me matches up," 1079.

7 **THE COURT:** All right, so, 1076, "and what Ty is giving
8 us somewhat of a story."

9 **MR. WILSON:** Yes, sir.

10 **THE COURT:** And "...cause what Ty tells me and what that
11 little girl tells me" -- well, "...cause what Ty tell me".
12 What that little girl tells me matches up" doesn't ---

13 **MR. WILSON:** Yes, sir.

14 **THE COURT:** "...Because what Ty tells me..." ---

15 **MR. WILSON:** That's correct.

16 **THE COURT:** All right. Very good. All right. Go
17 ahead.

18 **MR. WILSON:** Going to page 52, line 1155, "While Ty is
19 getting the best of him", and then line 1156, "When I got back
20 to Ty and he was kicking on Joey, I stopped him."

21 **THE COURT:** All right, so, "I did not say that, when I
22 got back to Ty..." -- basically what you want to take out
23 "...and he was kicking on Joey and I stopped him."

24 **MR. WILSON:** That's correct, Your Honor.

25 **THE COURT:** All right. "...And he was kicking on Joey

1 and I stopped him." All right. What's the next one?

2 **MR. WILSON:** That would be my last one.

3 **THE COURT:** All right. Very good. All right. Let's go
4 through these as briefly as possible.

5 Start with page 6, Solicitor, is there a problem -- it's
6 93 basically 93 and then the part 96 through 99 or parts of
7 it. Do you understand where we are?

8 **MS. LIVESAY:** Yes, sir.

9 **THE COURT:** I'm just gonna mention that and you tell me
10 if you have an objection to it. All right. So, it's
11 basically "I finally got Ty to stop, from off of Joey and I
12 got him off of Joey", that's the part on 93. 96 is, "He had
13 something in his hand" all the way through 99 "...on the side
14 of the door." Do you have an objection to any of that?

15 **MS. LIVESAY:** No, sir.

16 **THE COURT:** Going down the same page, 107, "...and I
17 remember, you know, hearing something hit the wall, I guess he
18 threw it, he threw it, whatever" continues on to the next
19 page, page 7 all the way up to 115, "...in the house with it";
20 do you have an objection with that?

21 **MS. LIVESAY:** No, sir.

22 **THE COURT:** 118 and "I could remember, he threw
23 something out of his hand", 118 and 119; do you have a problem
24 with that? That's on page 7, 118 and "I could remember, he
25 threw something out of his hand."

1 **MS. LIVESAY:** No objection, Your Honor.

2 **THE COURT:** 121, "...and it hit the side, either the
3 wall", and then it goes, "You tried to get Ty off of Joey" ,
4 period, so, that's -- that part of -- all of 121 and part of
5 122.

6 **MS. LIVESAY:** No objection, Your Honor.

7 **THE COURT:** All right. Let's see. The next one I see
8 is page 9.

9 And Mr. Wilson, if I skip over one, now, you tell me.

10 **MR. WILSON:** Yes, sir.

11 **THE COURT:** All right. Page 9, starting 161, starts
12 with -- at the end of 161, "...and like I said", and then it
13 goes to 166, "...had been nothing with a big blade."

14 **MS. LIVESAY:** No objection, Your Honor.

15 **THE COURT:** 169, starting with 169, "...you know, so,
16 whatever Ty had", through the end of 174.

17 **MS. LIVESAY:** No objection.

18 **THE COURT:** All right. All right. Page 9 at the
19 bottom, 181, "...and I'm pulling him off of Joey", and then it
20 goes and continues on to the top of page 10 through "Man,
21 stop", the first two words on 184. So it's basically half of
22 181 through the first two words of 184.

23 **MS. LIVESAY:** Your Honor, to this particular statement,
24 the State does have an objection.

25 **THE COURT:** Okay. Let me read through that, "...pulling

1 him off of Joey, Joey was not" -- Okay. Let me hear from you.
2 Let me hear from you.

3 **MS. LIVESAY:** Your Honor, as to the objection on -- I
4 believe it starts on line 181, it never clearly names Mr.
5 Wilson's client. It obviously indicates that Joey is on the
6 ground with someone but it doesn't implicate Larry Chestnut.
7 I think the law says that a statement has to on its face
8 incriminate the defendant and that's coming from Richardson v.
9 Marsh and I don't believe on that statement which does not
10 name his client on its face implicates the client.

11 **THE COURT:** Okay. I've got to see how -- if you go back
12 -- if you go back to page 8 and if you skim through it, you
13 can see that there is a dispute between Joey and -- and again
14 now, Moke is another nickname of Mo?

15 **MR. LONG:** No, sir. Moke is Richard ---

16 **THE COURT:** A totally different person.

17 **MR. LONG:** Yes, sir. Moke is Richard Day who is another
18 witness in the case.

19 **THE COURT:** Totally different person. All right. Very
20 good. All right.

21 All right, Mr. Wilson, what do you say about that?

22 **MR. WILSON:** Your Honor, the problem for the State is is
23 this, when they elect to use co-defendant statements, they run
24 the risk that they're going to somehow implicate the
25 co-defendant, the non-testifying co-defendant and that's a

1 problem that's in -- that **Bruton** creates for the State and --
2 but when they elect to do it, then they have to suffer the
3 consequences. The problem here and what I'm suggesting is is
4 that not only can -- not only must they not mention the
5 defendant, they must not indicate that he is in any way
6 involved or that there is nothing from this non-testifying
7 co-defendant that in any way shows the -- his existence. And
8 I would cite to the Court, this -- this is an excerpt from a
9 case that I pulled which is State versus Jaleel v. Page, which
10 is a April 3, 2008 South Carolina Court of Appeals case and in
11 this particular case, one of the things that they cite is they
12 say -- and this in the dictum part of it, holding the
13 confrontation clause is not violated by the admission of a
14 non-testifying co-defendant's confession with proper limited
15 instruction. As when here, the confession is redacted to
16 eliminate not only the defendant's name but any reference to
17 his or her existence. And that's the problem that I think
18 that they're having is that, yeah, you can't just take the
19 name out and then say, well, it now passes **Bruton**. That's not
20 enough. It has to also go that extra step and show that, that
21 this Defendant is not being referred to, period.

22 **MS. LIVESAY:** Your Honor, I can appreciate Mr. Wilson's
23 argument but in State v. Evans, it says to require the State
24 to totally redact anything that could be viewed in combination
25 with other evidence as a reference or allusion to the

1 defendant would unduly handcuff the government's ability to
2 introduce admissible confessions and statements against a
3 declarant in a joint trial.

4 **THE COURT:** I think as you read it as a whole, it's
5 gonna be clear. I'm going to remove 181 "...and pulling him
6 off of Joey", through the first two words of 184 as requested
7 by the Defense.

8 So, the next one requested is "I can remember Ty hitting
9 him like swinging back, he was swinging back, Joey would
10 swing, and he would swing, you know, I didn't see the knife in
11 Ty's hand." That's 186, part of 186 to part of 188.

12 What's the State's position? The same?

13 **MS. LIVESAY:** No objection, Your Honor.

14 **THE COURT:** All right. How about 190, the first --
15 let's see, "I don't know who swung at who first."

16 **MS. Von HERRMANN:** Your Honor, beginning at 190 and
17 ending -- I'm sorry -- ending in ---

18 **THE COURT:** It just says, "I don't know who swung at who
19 first", those words, 190, right, the eight words, first eight
20 words.

21 **MS. LIVESAY:** From "I don't know who swung?"

22 **THE COURT:** The first eight words, "I don't know who
23 swung at who first."

24 **MS. LIVESAY:** I've got an objection to that coming out,
25 Your Honor, I do not believe that falls under **Bruton**. That's

1 not clearly implicating Larry Chestnut as the Defendant in
2 this case. I think it's just indicating that he didn't know
3 who swung first. I think that's a far cry from a on-its-face
4 statement incriminating Larry Chestnut.

5 **THE COURT:** What about that, Mr. Wilson?

6 **MR. WILSON:** Judge, the -- the whole idea here is is
7 that the State has accused my client of committing murder
8 which would suggest that they believe he started the fight.
9 And if that's true, then this goes directly to that.

10 **THE COURT:** I'm gonna take it out.

11 All right. The next one is 194, "I don't care, I don't
12 care, he swung and hit Joey."

13 **MS. LIVESAY:** No objection, Your Honor.

14 **THE COURT:** That's 194. All right. What's the next
15 page. I've got 19, "Joey was arguing with Ty, Ty was arguing
16 with Joey." 390, basically -- 397, 398, "Joey was arguing
17 with Ty, Ty was arguing with Joey."

18 **MS. LIVESAY:** Your Honor, I think we do have an
19 objection just because, again, I think there's a difference
20 between on-its-face incriminating Larry Chestnut. I don't
21 believe the statement, 'Joey was arguing with Ty and Ty was
22 arguing with Joey' is on-its-face incriminating to Larry
23 Chestnut.

24 **THE COURT:** What about that, Mr. Wilson?

25 **MR. WILSON:** Your Honor, actually, I will withdraw that.

1 **THE COURT:** All right. Very good. So, that one is
2 withdrawn.

3 All right. Page 20 -- page 20, line 426, "He couldn't
4 have stabbed Joey then. I don't know if he had something in
5 his hand", through the first word of 430. So, it's "He
6 couldn't have", at 426 through the first word of 430, "No."

7 **MS. LIVESAY:** No objection to that, Your Honor.

8 **THE COURT:** Next page, page 21, "...but he's like
9 kicking Joey, he -- Ty was standing up, Joey is lying almost
10 on his knees or something, he's punching and kicking", 436,
11 437.

12 **MS. LIVESAY:** No objection, Your Honor.

13 **THE COURT:** 441, "...and he was -- while I was holding,
14 Ty, you know, he was still swinging and trying to get away
15 from me."

16 **MS. LIVESAY:** Your Honor, I think we've got an objection
17 regarding this statement just because again, I think it's got
18 to be, on its face, implicating Larry Chestnut in the crime of
19 murder and I do not believe this statement reaches that prima
20 facial showing as incriminating Larry Chestnut, on it's face,
21 of the crime he's charged here today which is murder. I think
22 it's indicating there is a altercation but, again, I think
23 that's a far stretch from implicating that he stabbed Joey
24 Hucks to death and that's obviously the crime we've got him
25 charged with today.

1 **THE COURT:** All right. What I'm gonna remove in 441 is
2 "...and he was -- while I was holding Ty, and he was still
3 swinging." So, basically all of 441 except the word
4 "...and...". 447, "Once I pulled Ty off Joey, I never looked
5 back", 447, "Once I pulled Ty off Joey, I never looked back."

6 **MS. LIVESAY:** No, objection to that, Your Honor.

7 **THE COURT:** 453, "He -- he threw something against that
8 wall", 453, 454.

9 **MS. LIVESAY:** Your Honor, we do have an objection to
10 that statement. Again, it's not implicating what he threw,
11 it's not implicating that Larry Chestnut threw something.
12 Again, it's not, on it's face, even telling what was thrown
13 and I think, according to **Bruton** again it's got to be a prima
14 facia showing that, on its face, it does incriminate the
15 Defendant and I don't think that's the case in that particular
16 statement.

17 **THE COURT:** All right. I disagree and I'll just
18 continue it on. Let's -- 453 through the -- where it says
19 453, where it says, "He -- he threw something against that
20 wall", all the way through the end of 457; I'm gonna take that
21 out. So, "He -- he threw something against that wall", all
22 the way through 457; I'm gonna take all that out.

23 All right. Next page, 24, I'm gonna eliminate "...and
24 saw Ty, he was swinging or whatever", I'm gonna take that part
25 out. That's what I'm taking out.

1 **MS. LIVESAY:** Your Honor, again, I believe we do have an
2 objection to this ---

3 **THE COURT:** I appreciate that. I understand your
4 objections now unless there's some really other than you don't
5 believe it's a **Bruton** issue, something else, then please let
6 me know but we need to get with done with this, so I'm gonna
7 just tell you what I'm gonna do.

8 All right. So, 519, "...and saw Ty, he was swinging or
9 whatever", I'm taking that out.

10 Page 24, let's see, line 525, I'm taking out the -- what
11 was requested 525, starting with 525 through 528, "No, I
12 pulled him off Joey" -- "no, I pulled him off Joey", that's
13 where we'll end. Page 25, Line 533, "...and I pulled him, I
14 pulled him, I pulled him basically off Joey, like stop, stop,
15 stop." So, it's the end of 533 and all of 534, "...and I...",
16 all the way through 534, I'm taking that out.

17 **MS. LIVESAY:** No objection, Your Honor.

18 **THE COURT:** All right. Let's see. 538 through 539, "I
19 thought Ty had the bad end of the deal, like I said, but he
20 did it, you know, he did it, you know, I...", and that
21 basically continues all the way through to 551, "Whatever he
22 threw that's what he had, you know", I'm gonna take that out.
23 There's no need to argue about this. 538, "I thought Ty had
24 the bad end of the deal, like I said, but...", you are going
25 to start there and gonna end at 551, "Whatever he threw,

1 that's what he had, you know."

2 All right. The next one -- there was an objection to
3 line 644. I'm not going to take it out.

4 I believe we've dealt with this before but on page 34,
5 line 731 and Ty -- 733, and Ty, 737, Ty, take those words out.

6 Page 35, line 771, "...and after I finally got Ty to
7 stop," we'll take that out. 771 "...after I finally got Ty to
8 stop."

9 Go to page 36, start with Line 778 and end at 790. So,
10 take all that out, 778 through 790, we're taking all that out.
11 Page 40, line 884, "...and I pulled him off Joey", I'm gonna
12 take that out. "And I pulled him off Joey", page 40, line 884.

13 Next page 41 ---

14 **MR. WILSON:** Your Honor, I apologize. Did you cover
15 page 37?

16 **THE COURT:** I didn't have anything marked on page 37.

17 **MR. WILSON:** 799 to 801.

18 **THE COURT:** I don't have it marked, so let me look at
19 it.

20 I'm not gonna remove that.

21 All right, so, we talked about page 40, line 84, "...and
22 I pulled him off Joey", I'm taking that out.

23 Page 41 starting with 890, "All right, when you pulled
24 Ty off...", go through 895, the answer, "Yeah, yeah", take
25 that out.

1 Page 42, 928, "So Ty and Joey have knives and they're
2 outside...", right through 931, "After I saw him throw
3 something against the wall", so page 42, line 928 through 931.

4 Page 49, we're taken out at 1076, "...and Ty is giving
5 us somewhat of a story." So, take that out, page 1078,
6 "...cause what Ty tells me..." So, take out those two parts.

7 Page 52, line 56 -- I'm sorry, line 1156, "...and he was
8 kicking..." on to line 1157, "...Joey, I stopped him." So,
9 "...and he was kicking on Joey and I stopped him", take that
10 out, page 52.

11 Was there anything else, Mr. Wilson?

12 **MR. WILSON:** No, sir. I think that covers it.

13 **THE COURT:** We addressed all the issues that you had
14 with the third interview of Mr. Kendrick Chestnut, it's
15 Court's Exhibit Number 3.

16 **MR. WILSON:** Yes, sir.

17 **THE COURT:** All right. Did you want me to address
18 anything in Court's Exhibit Number 2, that's the first
19 interview with Kendrick Chestnut?

20 **MR. WILSON:** No, sir.

21 **THE COURT:** So, there's nothing in that statement that
22 you want me to remove at all?

23 **MR. WILSON:** Nothing that I -- no, sir.

24 **THE COURT:** All right, very good. I just want to make
25 that clear and, for the record, that's marked as Court's

1 Exhibit Number 2, so we're clear about that. All right.

2 Yes, sir.

3 **MR. WILSON:** I'm sorry, State's Exhibit 3 ---

4 **THE COURT:** Is -- State's 3 is what's labeled third
5 interview of three with Kendrick Chestnut. I understand we've
6 only played two put its labeled 22 May 2006, time 15:01, third
7 interview of three with Kendrick Chestnut. That's Court's 3.

8 **MR. WILSON:** All right.

9 **THE COURT:** Court's 2 is May 21, 2006, time 3:47 A.M.,
10 first interview of three with Kendrick Chestnut.

11 **MR. WILSON:** All right, sir.

12 **THE COURT:** And again then Court's 1 is the May 21,
13 2006, military time 21:07, interview with Larry Chestnut at
14 Grand Strand Regional Medical Center, just so we're clear.
15 All right?

16 **MR. WILSON:** Yes, sir.

17 **THE COURT:** All right. Further issues from the State at
18 this point in time before we bring the jury in?

19 **MS. LIVESAY:** No, sir.

20 **THE COURT:** Further issues, Mr. Long?

21 **MR. LONG:** No, sir, not from Kendrick Chestnut.

22 **THE COURT:** All right. And Mr. Wilson?

23 **MR. WILSON:** No issues, Your Honor.

24 **THE COURT:** All right. We'll take a short break of
25 about five minutes and then we'll get started with the opening

1 **THE COURT:** All right. Mr. Wilson?

2 **MR. WILSON:** Defense is ready, Your Honor.

3 **THE COURT:** And Mr. Long?

4 **MR. LONG:** We're ready.

5 **THE COURT:** Very good. Ask the jury to come in, please,
6 ma'am.

7 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
8 **JURY.)**

9 **THE COURT:** All right. Do we have all the pads and the
10 pens in the right hands hopefully. All right.

11 Next witness, Solicitor.

12 **MS. LIVESAY:** Thank you, Your Honor, at this time, the
13 State calls Richard Day to the stand.

14 **THE COURT:** All right. Come around and be sworn, sir.
15 Come right up here and meet the clerk right over here, sir.

16 **RICHARD DAY,** being first duly
17 sworn, testifies as follows:

18 **MR. DAY:** My name is Richard Day, D-A-Y.

19 **THE COURT:** All right, sir, now you need to make sure
20 you're centered right behind the microphone, scoot that chair
21 up. Your voice isn't as loud as the last person, so you keep
22 that voice up so everybody can hear you. All right?

23 **MR. DAY:** Yes, sir.

24 **THE COURT:** Go ahead, Solicitor.

25 **MS. LIVESAY:** Thank you, Your Honor.

DIRECT-EXAMINATION BY MS. LIVESAY:

Q. Tell the jury how old you are, Mr. Day?

A. I'm thirty-two years old.

Q. Okay. And are you currently married?

A. No, sir -- I mean, no, ma'am, engaged to be married.

Q. Okay. And how many kids do you have?

A. Four kids.

Q. Okay. And where are you currently working?

A. I work for my landlord, Cal Clark, for Sand Market,
Oceanside Villas and Townhomes.

Q. And are you currently living in Myrtle Beach?

A. Yes, ma'am.

Q. And how long have you lived in the area?

A. Seventeen years.

Q. Okay. And do you know Larry and Kendrick Chestnut in
this case?

A. Only through Cindy Hucks and Christie Hucks, I met them.

THE COURT: You're gonna have to speak up, sir, just
pull up.

A. I know them from Ms. Christie Hucks.

Q. Okay, great. Tell the jury exactly how you know Larry
Chestnut.

A. I met him through Christie Hucks, I was dating her
sister Cindy Hucks at the time and we'd go over to her house
or whatever and I'd see him over there.

1 Q. Okay, great. And exactly how did you know Kendrick
2 Chestnut?

3 A. I didn't know him at all.

4 Q. Okay. Had you see him around?

5 A. I seen him, yeah, but we -- I mean, might say hey,
6 that's about it.

7 Q. Okay. And where would you normally see him around at?

8 A. At Christie's house.

9 Q. Okay. And the victim in this case, Joey Hucks, how did
10 you know him?

11 A. Well, I dated his sister and I worked for her daddy
12 also. We worked together.

13 Q. Okay. And about how long had you dated Cindy Hucks?

14 A. Like a year or two years.

15 Q. And are you familiar with that apartment that -- on Pine
16 Island Road?

17 A. Yes, ma'am. I helped remodel it.

18 Q. Okay. And had you been there before?

19 A. Yes, ma'am.

20 Q. About how many times had you been there?

21 A. A couple, a few.

22 Q. Were you familiar with the layout?

23 A. Yes, ma'am.

24 Q. Okay. Now, when you would go over there, would you see
25 Larry Chestnut?

1 A. Yes, ma'am.

2 Q. Okay. How about Kendrick Chestnut?

3 A. Most of the time.

4 Q. Okay. Most of the time he was over there too?

5 A. Yes, ma'am.

6 **MS. LIVESAY:** Your Honor, could I approach the witness?

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

8 Q. Mr. Day, do you recognize what I'm showing you that's
9 been marked as State's Exhibit Number 6?

10 A. Yes, ma'am. It's the layout of the house.

11 Q. Okay. And is that a accurate depiction of the layout of
12 the apartment?

13 A. Yes, ma'am.

14 **MS. LIVESAY:** Your Honor, at this time, can I place in
15 State's Exhibit Number 6 into evidence?

16 **THE COURT:** Any objection, Mr. Wilson?

17 **MR. WILSON:** Your Honor, with the exception -- with the
18 understanding that it's not to scale. Is that correct?

19 **MS. LIVESAY:** Right, yes.

20 **THE COURT:** Is that -- why don't you ask the witness so
21 that you ---

22 Q. Is this to scale, Mr. Day?

23 A. What you mean?

24 Q. Is this diagram to scale as to what the apartment^{is} size
25 is?

1 A. Yes, ma'am.

2 Q. Is this the size of the apartment?

3 A. No.

4 Q. Okay. I understand what you're trying to say. Thank
5 you, Mr. Day.

6 THE COURT: All right. So, it's not an exact
7 replication of the rooms and the exact diam -- dimensions of
8 the apartment; is that correct?

9 MS. LIVESAY: Right, yes, sir.

10 THE COURT: Is that your understanding, Mr. Wilson?

11 MR. WILSON: That's my understanding, Your Honor.

12 THE COURT: Mr. Long?

13 MR. LONG: Yes, sir.

14 THE COURT: Is there any objection then?

15 MR. WILSON: No, sir -- none.

16 THE COURT: All right. Very good. Then State's 6 is
17 into evidence without objection.

18 MS. LIVESAY: Thank you, Your Honor.

19 (LARGE DIAGRAM OF HOUSE ADMITTED INTO EVIDENCE AS
20 STATE'S EXHIBIT NUMBER 6.)

21 Q. Mr. Day, do you remember the day of May 21st, 2006?

22 A. Yes, ma'am.

23 Q. And at that time, were you dating Cindy Hucks?

24 A. Yes, ma'am.

25 Q. And at that time, was Christie and Larry Chestnut

1 staying at this apartment?

2 A. Yes, ma'am.

3 Q. Okay. And did you go over to this apartment that day?

4 A. Yes, ma'am.

5 Q. Tell the jury why you went over to that apartment that
6 afternoon?

7 A. We had a cookout, I think it was someone's birthday
8 party. I think it was Ty's birthday party. We went over
9 there and, you know, to say hey or whatever. And we was there
10 for like thirty minutes, maybe, and we left.

11 Q. And who did you go out -- who did you go over to the
12 cookout with?

13 A. Me and Cindy.

14 Q. Okay. And did Cindy have kids at that time?

15 A. Yes, ma'am. Chappell was spending the night there with,
16 I think, Ty's daughter, they was gonna stay the night with
17 her. Me and Cindy went home.

18 Q. Okay. And that day, when you were at the cookout, who
19 else was there that you remember?

20 A. It was Ty, Mo, me, Cindy, Christie ---

21 **THE COURT:** Sir, you're gonna have to either slow down
22 or speak up, one of the two.

23 A. It was me, Cindy, Chappell, Ty's daughter, Ty, Mo and
24 Christie and maybe one other person, I'm not sure who it was.

25 Q. Okay. And when you were at the apartment, were you

1 doing any drugs or alcohol?

2 A. No, ma'am.

3 Q. Had you done any drugs or alcohol that day?

4 A. No, ma'am. I don't drink. I still don't drink.

5 Q. Okay. Now, were you with Cindy that day, Cindy Evans?

6 A. Yes, ma'am.

7 Q. Did you see her doing any drugs or alcohol?

8 A. No, ma'am.

9 Q. And at the time, how old was Cindy's daughter, Chappell?

10 A. I'm gonna say nine years old.

11 Q. Okay. Did you see anybody else at that party engage in

12 any drugs or alcohol?

13 A. No, ma'am.

14 Q. Okay. Do you remember what time you left the apartment

15 that day?

16 A. Not real sure. It's been awhile. It was around three

17 or 4 o'clock in the evening, in the afternoon.

18 Q. Okay. And while you were at the apartment, did you have

19 a disagreement with anybody or a argument?

20 A. No, ma'am.

21 Q. How about Cindy?

22 A. No, ma'am.

23 Q. Okay. Did you see anybody else get in any kind of

24 argument or disagreement?

25 A. No, ma'am, not while I was there.

1 Q. Okay. Now, did you have an occasion to go back to that
2 apartment later on that night?

3 A. Yes, ma'am.

4 Q. Tell the jury about that.

5 A. We was -- I was sitting at home, we as in the bed.
6 Christie called Cindy crying, upset because her boyfriend was
7 out at a strip club or whatever getting drunk and she had
8 found a birthday card ---

9 MR. LONG: Your Honor ---

10 THE COURT: I'm sorry.

11 MR. LONG: I'm having a hard time understanding what
12 he's saying.

13 THE COURT: All right. You've got to -- you need to
14 just slow down; that would probably help, not only speaking up
15 but just slow down.

16 A. All right. Can you hear me now? All right. So, we was
17 in the bed around 2 o'clock, I'd say, we got a phone call from
18 Christie Hucks, she was crying, upset, about her boyfriend,
19 whatever. She was wanting -- wanted him to leave the house
20 and all this. So we went over to her house to comfort her or
21 whatever, make her feel better. And we got there, she was
22 crying because she had a birthday card or something like -- I
23 forgot all exactly what the birthday card said, something
24 about they gonna get even or something but it ain't gonna be
25 today because it's his birthday or whatever but they gonna

1 make something happen, I guess, in the future or whatever.

2 And they started crying and Christie was like, I don't know
3 what I'm gonna do, whatever.

4 Q. Hold on, who -- when you got to the apartment, about
5 what time was it?

6 A. Around 2:15, 2:30.

7 Q. Okay. And who was at the apartment when you got there?

8 A. Christie, Chappell and Ty's daughter, I'm not sure what
9 her name is.

10 Q. Okay. And who went over to the apartment with you?

11 A. Me and Cindy.

12 Q. Okay. So, as far as adults go, once you got there, who
13 all was in that apartment?

14 A. Just Christie Hucks.

15 Q. Okay. And tell us exactly at that time, what were y'all
16 doing, just talking or ---

17 A. Yes, ma'am. We was just sitting there talking and she
18 was like how she's had a bad time in her relationship whatever
19 and she wanted us to stay there and comfort her.

20 **MR. WILSON:** Your Honor, Your Honor, I'm gonna object to
21 -- this is all hearsay.

22 **THE COURT:** Sustained.

23 Q. Mr. Day, you keep saying Ty, who is Ty?

24 A. Larry Chestnut.

25 Q. Okay. Now, I understand that a lot of people have

1 nicknames, what did you know everybody's name to be in this
2 situation?

3 A. I didn't know their full name, I just knowed their
4 nicknames, Ty; and the other guy was named Mo.

5 Q. Who is Mo? What is his real name, do you know?

6 A. I forgot his real name; I'm not sure.

7 Q. Okay. But that's what you refer to Kendrick Chestnut
8 as, Mo?

9 A. Yes, ma'am.

10 Q. Okay. And you referred to Larry Chestnut as Ty?

11 A. As Ty; yes, ma'am.

12 Q. Okay. Did you also have a nickname at that time?

13 A. Yes, ma'am.

14 Q. What was it?

15 A. Moke.

16 Q. Moke, M-O-K-E?

17 A. Yes, ma'am.

18 Q. Okay. And you knew Kendrick Chestnut as Mo, just M-O?

19 A. Yes, ma'am.

20 Q. Okay. So, when you get back to the house, it's just
21 you, Cindy and Christie Hucks.

22 A. Christie.

23 Q. Those were the only adults in the house?

24 A. Yes, ma'am. The kids was upstairs asleep.

25 Q. Okay. And y'all are just sitting there talking?

- 1 A. Yes, ma'am.
- 2 Q. Okay. Now, does anybody show up to that apartment that
3 night while the three of y'all are there?
- 4 A. Yes, ma'am.
- 5 Q. Okay. Who showed up at that apartment?
- 6 A. Ty, Mo and Joey.
- 7 Q. Okay. And that would be Larry Chestnut, Kendrick
8 Chestnut and ---
- 9 A. And Joey Hucks.
- 10 Q. --- Joey Hucks, okay.
- 11 A. Yes, ma'am.
- 12 Q. Do you remember around what time they showed up?
- 13 A. I'd say around 2:30, 3:00, somewhere in there. We
14 wasn't there long before they got there.
- 15 Q. Okay. But it was definitely some time after midnight?
- 16 A. Oh, well after midnight.
- 17 Q. Well after midnight, okay. And the three of them come
18 into the house?
- 19 A. Yes, ma'am.
- 20 Q. Okay. How did Joey Hucks appear when he came into the
21 house?
- 22 A. He was happy.
- 23 Q. Okay. How did Kendrick Chestnut, Mo, appear when he
24 came back in the house?
- 25 A. They was all happy when they got there.

1 Q. Okay.

2 **THE COURT:** I'm sorry, sir, I didn't understand.

3 A. They was all happy when they got there.

4 **THE COURT:** All right. Very good.

5 Q. Now what happened once they got into the house?

6 A. Well, Christie asked Ty to walk into the kitchen because
7 she wanted to talk to him privately and I guess she wanted to
8 tell him ---

9 **MR. WILSON:** Objection, objection to what he guesses and
10 to what somebody told him unless he is saying that the
11 Defendant was present and overheard the conversation.

12 **THE COURT:** Why don't you rephrase your question,
13 Solicitor.

14 **MS. LIVESAY:** Thank you, Your Honor.

15 Q. Once they got into the house, once Larry Chestnut and
16 Kendrick Chestnut and Joey came into the house, where did
17 everybody enter the apartment?

18 A. From the front door -- the back door, you'll say the
19 back door.

20 Q. Okay. Would this diagram help you explain?

21 A. Sure.

22 **MS. LIVESAY:** Can I ask him to step down, Your Honor?

23 **THE COURT:** Yes, ma'am, but make sure he's right in
24 front of that microphone, please, ma'am.

25 **MR. WILSON:** Your Honor, could I move so that I can ---

1 **THE COURT:** Certainly, absolutely; not a problem.

2 A. Everyone came in from this back door.

3 Q. Okay. Now, just so the jury knows, where is the
4 highway?

5 A. This is Highway 15 right here.

6 Q. Okay.

7 A. **(Indicating)** This is ---

8 Q. Okay. So, the layout of this Pine Island apartment is
9 just like this, the living room, there's a hallway that's open
10 and the kitchen?

11 A. Yes, ma'am.

12 Q. You walk out this door and you go out to the highway?

13 A. Yes, ma'am.

14 Q. What's back here, just like a ---

15 A. It's a parking lot.

16 Q. Okay. So, what door did they come in?

17 A. They came in the back door.

18 Q. Okay. And where were y'all at when they came in?

19 A. We were sitting in the living room, right here, right in
20 here somewhere.

21 Q. Okay. And when they came in, where was everybody
22 standing?

23 A. They all came in and started -- they stood right here
24 for a second and we were sitting here and Ty and Christie
25 walked into the kitchen.

1 Q. Okay. Did anybody else leave the living room?

2 A. Not at that moment.

3 Q. Okay. So, just Larry Chestnut, who you are referring to
4 as Ty, and Christie Hucks are in the kitchen?

5 A. Yes, ma'am.

6 Q. Okay. Now, this hallway here, is that a open hallway?

7 A. Yes, ma'am.

8 Q. So, there's no door or ---

9 A. No door or nothing.

10 Q. So after they walk in the kitchen, what happens next?

11 A. Oh, we see a lot of commotion and Ty runs out, somebody
12 lost \$400 or something and this is what the hell I got to come
13 home to. And Christie says -- he goes back and starts choking
14 Christie with both hands up against the wall, choking her ---

15 Q. Okay. Now, where was he at when he was choking
16 Christie?

17 A. They was right in this hallway, they knocked a picture
18 down off the wall, glass busted, everything, in the floor.

19 Q. So he -- there was a picture knocked down right here?

20 A. Yes, ma'am.

21 Q. Okay. Where were you at that time?

22 A. I was still in the living room.

23 Q. Okay. And could you see from the living room over here
24 to this hallway?

25 A. Yes, ma'am.

- 1 Q. Okay. So there was nothing obstructing your view?
- 2 A. No, ma'am.
- 3 Q. Where was Cindy Evans at that time?
- 4 A. I'm not one hundred percent sure.
- 5 Q. Okay. That's fine. Where was Joey Hucks at the time?
- 6 A. He was standing in the living room.
- 7 Q. Okay. And where was Kendrick Chestnut, who you refer to
- 8 as Mo; where was he standing?
- 9 A. He was in the living room also.
- 10 Q. Okay. So you know the three men that were in the house
- 11 were somewhere in the living room and Christie Hucks is being
- 12 choked?
- 13 A. Yes, ma'am.
- 14 Q. Okay. Now at the time, how did -- was Christie Hucks
- 15 pregnant?
- 16 A. Yes, ma'am.
- 17 Q. Okay. Do you know how far along she was?
- 18 A. Like eight months pregnant.
- 19 Q. Okay. What happened once you saw him chocking Christie
- 20 Hucks?
- 21 A. We went and tried to stop it and it was like -- I think
- 22 Cindy went over there and tried to grab him, stop him, get him
- 23 off and then everything ---
- 24 Q. Before you go any further. Before that happened, did
- 25 you see anybody put their hands on Larry Chestnut?

1 A. No, ma'am.

2 Q. Okay.

3 **THE COURT:** Is it still necessary for him to stay, stay
4 right there or can he go back to the witness stand?

5 **MS. LIVESAY:** Actually, yes, sir, it is. I'm sorry.

6 **THE COURT:** All right. Because he needs to speak up.
7 All right?

8 Q. Okay. So what happens next. You see him choking her
9 right there in the hallway.

10 A. Yes, ma'am. We all try to stop him, you know, calm
11 everything down and ---

12 Q. Okay. Now you say we all tried to stop it, who tried to
13 stop it first?

14 A. I think Cindy was the first one there and then ---

15 Q. And when she tried to stop it, what happened?

16 A. It just escalated. Everything just started blowing up
17 and then we came back into the living room. That's when Ty
18 hit Joey and Joey fell down up against the steps.

19 Q. Okay. Where were you when that happened?

20 A. I was standing right in here.

21 Q. Where was Joey at?

22 A. He was standing right here near these steps.

23 Q. Okay. And where was Larry Chestnut?

24 A. Right in front of Joey.

25 Q. Okay. Now, while -- were you present to see Larry

1 Chestnut actually hit Joey?

2 A. Yes, ma'am.

3 Q. Okay. And then Joey -- you're telling me Joey fell to
4 the ground?

5 A. Yes, ma'am.

6 Q. Okay. Did -- before Larry hit Joey Hucks, did Joey ever
7 take a swing at him?

8 A. No, ma'am.

9 Q. Okay. What happened next?

10 A. Joey fell on the ground, he hit his head on the thing.
11 I said -- I looked at Joey and said, are you okay? He had
12 both hands on his head, he was like, man, my head hurts. And
13 Ty run into the kitchen. Then I heard a bunch of commotion in
14 the kitchen so I go and try to run into the kitchen and
15 Kendrick, I guess you say his name, Mo, was trying to stop me
16 from getting into the kitchen.

17 Q. Okay. Hold on now. Who is in the kitchen at this
18 point?

19 A. Ty and Cindy.

20 Q. Ty, who you're referring to as Larry Chestnut.

21 A. Is Larry Chestnut.

22 Q. Is in the kitchen?

23 A. And Cindy.

24 Q. Okay, with Cindy?

25 A. Yes, ma'am.

1 Q. And you hear commotion?

2 A. Yes, ma'am.

3 Q. Okay. You're in the living room?

4 A. Yes, ma'am.

5 Q. Okay. And you try to do what, run to the kitchen?

6 A. I try to get into the kitchen and Mo tries to stop me.
7 I said, man, can't you see a man beating up a woman. He's
8 like, yeah, what the hell you gonna do about it and he was
9 stopping me from getting into the kitchen. Eventually, I get
10 around him and Larry Chestnut has Cindy up against the
11 dishwasher biting on her leg. So, I picked him up and I put
12 him up against the counter, I was like, man, we need to calm
13 down, it needs to stop. And everything was like calm for a
14 second and then it's more fighting goes on in the kitchen.
15 And then so I look around and I couldn't find my girl so I
16 tried to find her running out the door to see if she was okay
17 because I know she was hurt ---

18 Q. What door did you run out of?

19 A. I run out this front door.

20 Q. Okay. And that's closest to the highway?

21 A. To the highway, yes, ma'am.

22 Q. Okay. When you ran out of this door, who was still in
23 the kitchen?

24 A. Joey, Ty and Christie.

25 Q. Okay. But Cindy was definitely not anywhere in this

1 apartment at that time?

2 A. No, ma'am.

3 Q. Okay. So you run out the door?

4 A. Yes, ma'am.

5 Q. Okay. At that time, did you have a cell phone?

6 A. No, ma'am.

7 Q. Okay. So you run outside and what are you doing when
8 you are outside?

9 A. Trying to find some help, trying to find her to make
10 sure she's okay, see if she's hurt, see if she needs to go to
11 the hospital or whatever.

12 Q. Okay. And where are you trying to find help?

13 A. We're knocking on all the doors, we run into the road,
14 try to stop traffic for help and whatever. And then I try to
15 run back inside because I hear a lot of hollering and Joey was
16 coming out the front door stabs -- stab wound in his shoulder
17 here, bleeding. So, I grab him by the arm, say come on, let's
18 take you to the hospital.

19 Q. When he comes out of this door, you say you're, ---

20 A. Yes, ma'am.

21 Q. Who is behind him if anybody?

22 A. Christie is behind him.

23 Q. Okay. Talking about help. I grab Joey and try to take
24 him to his truck to put him in his truck to get him to the
25 hospital and I was like -- I guess I run off from him and then

1 I turned around and I see Ty and Mo standing there kicking
2 them and stabbing him or whatever you should say and I try to
3 get back to him and Mo stops, he's like, I'll kill these
4 mother fuckers, and he reaches in his pants, like I got a gun,
5 I'll shot y'all mother fuckers, let's kill these mother
6 fuckers -- he kept saying kill these mother fuckers, we're
7 gonna kill these mother fuckers, like that. So, I stepped
8 back, you know what I'm saying, I run back in the road to try
9 to get some more help. I think that's when the lady stopped
10 and called 911 in the middle of the road.

11 Q. Okay. Now, so everybody has run out of the kitchen into
12 this ---

13 A. Yes, ma'am. Everyone is outside at this moment.

14 Q. Okay. And is this just like a front yard?

15 A. Yes, ma'am.

16 Q. Okay. How much -- how far would you say it is from like
17 this front yard where everybody is and the road?

18 A. Maybe twenty yards.

19 Q. Okay. Just for the jury, from you to how far would you
20 say it is?

21 A. From here to that back wall to the road.

22 Q. Okay. So, when you first -- you see Joey come out, can
23 you tell he's injured?

24 A. Yes, ma'am.

25 Q. What do you see?

1 A. I see a big stab wound here where it's bleeding from his
2 heart, chest or whatever, his arm -- so I want to take him to
3 the hospital.

4 Q. Okay. How did his face appear?

5 A. I didn't much focus on his face. As soon as I seen his
6 shoulder bleeding, I just tried to run to his truck to try to
7 get him out of there.

8 Q. Did he say anything to you?

9 A. He's like, help, I need to get out of here, I need to go
10 to the hospital.

11 Q. Okay. Did you hear anything else or anybody else say
12 anything while they're exiting the front door or leaving the
13 front door?

14 A. No, ma'am, not that I can relate right now.

15 Q. Okay. At that point, where in here do you ---

16 **THE COURT:** Can he sit down now, ma'am?

17 **MS. LIVESAY:** I'm sorry, Your Honor?

18 **THE COURT:** Can the witness sit down now?

19 **MS. LIVESAY:** Yes, he can.

20 **THE COURT:** Thank you.

21 Q. When you left out that front door and Joey has already
22 come out, where exactly were you trying to go? What car were
23 you trying to go to?

24 A. He drove a black truck and I was trying to get him to
25 his truck.

1 Q. So, you were trying to open the door to his truck?

2 A. Yes, ma'am.

3 Q. Okay. At that time, Joey was not with you; is that what
4 you're saying?

5 A. No, ma'am. I figured he would be right behind me but
6 when I turned around he might've made it five foot out the
7 front door and he -- I guess he got knocked down. I turned
8 around Mo and Ty was both kicking him and Ty was doing like
9 this motion right here (*indicating*), you know what I'm saying.

10 Q. Now at this point, where was Joey?

11 A. He was laying on the ground.

12 Q. Did you see any movement coming from him?

13 A. No, ma'am.

14 Q. Did you hear him saying anything or yelling anything?

15 A. No, ma'am.

16 Q. Okay. Now, and you say you saw Larry Chestnut, who you
17 refer to as Ty, what exactly is he doing, just him; what is he
18 doing?

19 A. He's kicking and doing the stabbing motion.

20 Q. Okay. And is he saying anything?

21 A. No, ma'am. He's just -- Mo was the one that always
22 talking about kill these mother fuckers, we got to kill these
23 mother fuckers and all this stuff.

24 Q. Okay. Now, when you say Larry Chestnut, you're
25 referring to as Ty, he's doing this motion, is Larry standing

1 straight up or how is he standing?

2 A. He's kind of bent over, he's bent over, kicking like
3 this right here (*indicating*).

4 Q. Okay. Now, just Mo, Kendrick Chestnut, what is he doing
5 at this time?

6 A. I was trying to go back to stop them and he stopped me,
7 he's like, then he like points like a gun and he's like we're
8 gonna kill these mother fuckers and he reaches in his pocket
9 like he's gonna get a gun, that's when I run back out into the
10 road and tried to get more help.

11 Q. Okay. When everybody is out in the yard, do you ever
12 see Mo or Kendrick, who you refer to as Kendrick Chestnut, do
13 you ever see him put his hands or feet or anything on Joey
14 Hucks?

15 A. Yes, ma'am.

16 Q. And what do you see him doing?

17 A. He's kicking Joey.

18 Q. Okay. And that's when he's saying those things?

19 A. No, whenever -- they was kicking him. When I turned
20 around from the truck both of them was standing over Joey
21 kicking him and Ty was stabbing him. And as I go to come to
22 them, Mo or -- tries to comes towards me as I go to stop them,
23 you know what I'm saying, that's when he was like, kill these
24 mother -- I try to get around him, I couldn't get around him
25 and then he acts like he's gonna pull out the gun, said I'll

1 shoot these mother -- kill all these mother fuckers and stuff
2 like that.

3 Q. Where was Cindy Evans at this time, who at the time was
4 your girlfriend?

5 A. She's standing in the middle of the road trying to stop
6 traffic.

7 Q. Okay. And where was Christie Hucks at that time?

8 A. She was at the right side of the apartment near the
9 road.

10 Q. Okay. One second, Mr. Day.

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

12 Q. Mr. Day, you -- we talked earlier and you said you refer
13 to Larry Chestnut as Ty; is that right?

14 A. Yes, ma'am.

15 Q. And you know -- do you see Kendrick Chestnut over there?

16 A. Yes, ma'am.

17 Q. Do you recognize him?

18 A. Yes, ma'am.

19 Q. And that's the guy you know as Mo?

20 A. Yes, ma'am.

21 Q. Okay. Do you see Ty or Larry Chestnut over there?

22 A. Yes, ma'am.

23 Q. Okay. Let me ask you this, does Larry Chestnut look
24 like he did on the night of May ---

25 A. No, ma'am.

1 Q. Okay. What -- tell me how he looks different?

2 A. He don't have no dreads. He's a little bit bigger, he's
3 -- he was a skinny fellow with dreads. Now he looks like
4 gained some weight and shaved his head.

5 Q. Okay. When you first came into the courtroom, did you
6 recognize Kendrick Chestnut, Mo?

7 A. Yes, ma'am.

8 Q. Did you recognize Larry Chestnut?

9 A. No, ma'am, not right off the hand, I didn't. Once I
10 seen his face I knew who he was.

11 MR. WILSON: Your Honor, I don't understand the
12 relevance of her issue in this case.

13 MS. LIVESAY: Your Honor, I think that ---

14 THE COURT: Let me see where -- Y'all come up here and
15 talk to me for a minute.

16 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

17 Q. Mr. Day, I'm showing you what's been marked as State's
18 Exhibit Number 7. Do you recognize who that is?

19 A. Yes, ma'am.

20 Q. Who is that?

21 A. That's Ty.

22 Q. Okay.

23 A. Larry Chestnut.

24 Q. Okay. And is that how he looked on May 21st, 2006?

25 A. Yes, ma'am.

1 **MS. LIVESAY:** Your Honor, at this time, the State wishes
2 to place State's Exhibit 7 into evidence and not publish it at
3 this time.

4 **THE COURT:** At this point in time, I'm not going to
5 allow it into evidence. You may renew your offer later in the
6 trial after other testimony. It's for identification only at
7 this point in time.

8 (PHOTO OF DEFENDANT LARRY CHESTNUT MARKED AS STATE'S
9 EXHIBIT NUMBER 7 FOR IDENTIFICATION ONLY.)

10 **THE COURT:** Further questions of this witness?

11 **MS. LIVESAY:** Just one second, Your Honor.

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

13 **MS. LIVESAY:** No further questions from the State, Your
14 Honor.

15 **THE COURT:** All right. Cross-examination, Mr. Wilson?

16 **MR. WILSON:** Thank you very much, Your Honor.

17 **CROSS-EXAMINATION BY MR. WILSON:**

18 Q. Mr. Day ---

19 A. Yes, sir.

20 Q. Now, you say that you don't drink; is that what you
21 said?

22 A. Yes, sir.

23 Q. But were you using drugs that night?

24 A. No, sir.

25 Q. But you do use drugs you just weren't using them that

1 night?

2 A. No, sir.

3 Q. No, sir, you don't use drugs or no, sir, you weren't
4 using them that night?

5 A. You gonna ask two questions, you want two answers.

6 **THE COURT:** Sir, let's just go over the rules. The
7 attorney will ask the question and the witness, this witness,
8 any witness, will answer the question to the best of their
9 ability. If it calls for a yes or no, you answer yes or no
10 and then you may explain your answer. Thank you very much.

11 **MS. LIVESAY:** Your Honor, if I may ---

12 **THE COURT:** Ask your question again, Mr. Wilson.

13 Q. You indicated that you didn't use alcohol and I was
14 asking you whether you use drugs or whether you were using
15 drugs that night.

16 **MS. LIVESAY:** Your Honor, I'd like to object to the
17 question of if he uses drugs. If he has a question about that
18 night, I can see the relevancy of it.

19 **THE COURT:** I appreciate that, I find it to be proper
20 cross-examination based upon the direct testimony of the
21 witness.

22 But if you would, Mr. Wilson ---

23 **MR. WILSON:** Yes, sir.

24 **THE COURT:** --- how about not ask a compound question.

25 **MR. WILSON:** All right, sir.

1 **THE COURT:** Split them up.

2 **MR. WILSON:** I will.

3 Q. Let me ask you this way, do you use drugs?

4 A. Yes, sir.

5 Q. And were you using them on this particular evening?

6 A. No, sir.

7 Q. How long before this night was it that you last used
8 drugs?

9 A. Like a week.

10 Q. Like a week? And what was that drug?

11 A. It was marijuana.

12 Q. Now, you've also had some difficulty with the police,
13 right?

14 A. A few.

15 Q. A few? All right. And would that include lying to the
16 police?

17 A. No, sir.

18 Q. No, sir?

19 **MS. LIVESAY:** Your Honor, I object at this time to the
20 relevancy of this questioning.

21 **THE COURT:** Y'all come over here and talk to me.

22 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)**

23 Q. Now let me ask you, your name is Richard Dewayne Day,
24 correct?

25 A. Yes, sir.

1 Q. And your date of birth, October 7th, 1979?

2 A. Yes, sir.

3 Q. All right. And let me ask you if you were convicted of

4 grand larceny back on March the 7th of 2005?

5 A. Yes, sir.

6 Q. Is that you?

7 A. Yes, sir.

8 Q. All right. Let me ask you if you were convicted of

9 giving false information to law enforcement back on January 8,

10 of 2006?

11 A. I guess I was.

12 Q. Okay. And that's five months before this incident

13 occurred, correct?

14 A. Yes.

15 Q. I'm sorry?

16 A. Yes, sir.

17 Q. Okay. And now let's go back to your statement. How

18 many statements did you give to the police?

19 A. Two or three.

20 Q. Two or three. And those statements changed over a

21 period of time, did they not?

22 A. Yes, sir.

23 Q. Okay. In fact, in the first statement you gave, which

24 was the night this incident occurred, you told the officers

25 you didn't see any stabbing?

1 A. That's cause I was scared for my life at the time.

2 Q. I'm sorry.

3 A. I was scared for my life at the time.

4 Q. You were scared for your life. You were in the police
5 vehicle sitting with them, Mr. Chestnut had left but you were
6 fearful for your life.

7 A. They are out of jail right now, ain't they?

8 Q. Fearful till right now?

9 A. They are out of jail right now, ain't they?

10 Q. So, why -- so you lied to the police that night because
11 you were fearful of your life even though you were sitting in
12 a patrol car with a uniformed officer with a gun?

13 A. If you had seen someone kill somebody, wouldn't you be
14 scared?

15 Q. And let me ask you this, so -- now, which of the three
16 statements that you gave ---

17 A. At the time I gave them it was all true to the best of
18 my knowledge.

19 Q. All of them were true to the best of your knowledge?

20 A. Yes, sir.

21 Q. Okay. In your statement, the first one, and I'm still
22 talking about the first one, now you gave this first statement
23 at 3 -- sometime between 3 o'clock and 3:30 A.M. on the night
24 this incident occurred, within minutes after all this
25 occurred; is that correct?

1 A. Yes, sir.

2 Q. Now, you said in your statement to the Solicitor a
3 minute ago that you saw Joey bleeding from his chest.

4 A. Yes, sir.

5 Q. When he came out of the back door; is that right?

6 A. Yes, sir.

7 Q. Now, that's not what you told the police, is it ---

8 A. Yes, it is.

9 Q. --- in your first statement? You deny that you told the
10 police in your first statement that when Joey came out of the
11 back door, he was cut on his arm and you saw him bleeding on
12 his arm ---

13 A. His arm, his upper arm is what I'm saying, if you -- if
14 you showed the video, I'll show you where the arm is, I
15 grabbed his shoulder cause that's what I say your arm.

16 Q. Where on his arm -- show me where on his arm it was that
17 you say he was bleeding.

18 A. It was between his -- (**indicating**) right here, his arm.

19 Q. So, you're saying this is his arm here?

20 A. His shoulder -- man, this ain't rocket science, it's his
21 shoulder bleeding, it's somewhere right there, it was his arm
22 at the moment is what I...

23 Q. Okay. So, you're saying that this part up here, in his
24 chest was actually his arm and that you were referring to
25 that; is that what you're saying?

1 A. Yes.

2 Q. Even though you used the word, when you were referring
3 to it as being his arm?

4 A. Yes.

5 Q. All right. And then you said that you then -- you ran
6 out the door after Cindy had run out the door?

7 A. Yes.

8 Q. Is that right? And now where is Joey when you and Cindy
9 run out the door?

10 A. He's in the kitchen.

11 Q. He's in the kitchen, doing what?

12 A. I don't know, I'm not in the house.

13 Q. You don't know what he's doing in the kitchen. Well,
14 what was he doing when you immediately left him?

15 A. They was -- he was getting out of -- he was getting up
16 out of the floor in the living room from where he got knocked
17 down.

18 Q. So he was getting up out of the living room floor going
19 into the kitchen; is that what you're saying?

20 A. Yeah, yes.

21 Q. All right. And you were then coming out of the kitchen
22 going outside?

23 A. Yes, sir.

24 Q. That's your story?

25 A. Yeah.

1 Q. All right. Now, so you and Cindy go outside. Is Joey
2 stabbed before you leave to go outside or does he get stabbed
3 after you're outside or do you know?

4 A. Once I'm outside, I guess, because I didn't -- he wasn't
5 stabbed when I was in the house. He had -- he was stabbed
6 while I was outside.

7 Q. Okay. So, you -- you think that he was stabbed while
8 you were outside?

9 A. I don't think, I said I know he was stabbed while I'm
10 outside.

11 Q. Okay. Well, how do you know that?

12 A. Because he wasn't stabbed before I left the house,
13 that's how.

14 Q. Okay. Was he bleeding before you left the house?

15 A. No, sir.

16 Q. He wasn't bleeding? All right. Now, you have a good
17 recollection of what you say happened that night?

18 A. Yes, sir.

19 Q. All right. You remember things that were occurring
20 because you said you weren't on drugs, right?

21 A. Right.

22 Q. And so you remember what occurred that night, right?

23 A. Yes, sir.

24 Q. All right. And so when the Solicitor asked you -- well,
25 let me back up. The Solicitor asked you whether or not --

1 what happened between Ty and -- meaning Mr. Larry Chestnut --
2 and his girlfriend/fiancée Christie, at the time; is that
3 right?

4 A. Yeah.

5 Q. And what did you say happened?

6 A. I'm not sure.

7 Q. You're not sure what you said.

8 A. What I just said. You heard what I said.

9 Q. Well, I'm asking you. Tell us again. You can't
10 remember what you just said?

11 A. I told them exactly what happened.

12 Q. What? Well, that's what I want to know. What was it?

13 A. What part -- what part are you talking about? Be more
14 specific.

15 Q. I want you to tell us -- and I'll repeat the question.
16 What I simply asked you was, tell us what you told the
17 Solicitor happened between Christie and Ty when they went in
18 the kitchen, what you say you saw and heard, that's what I'm
19 asking.

20 A. I saw Ty chocking Christie.

21 Q. Okay. You saw Ty chocking Christie.

22 A. Yes, sir.

23 Q. And now you are where when this is occurring?

24 A. I'm sitting in the living room.

25 Q. You're sitting in the living room?

- 1 A. Yeah, I'm standing in the living room.
- 2 Q. And where -- I'm sorry?
- 3 A. Standing in the living room.
- 4 Q. You're standing in the living room. Where are you
- 5 standing in the living room?
- 6 A. Where I could see into the kitchen.
- 7 Q. Okay. Now, Christie and Ty had gone into the kitchen
- 8 area to talk in private, did they not?
- 9 A. Yes, sir.
- 10 Q. And they left everybody in the front room or the living
- 11 room if you will; is that correct?
- 12 A. Yes, sir.
- 13 Q. And you were in there, correct?
- 14 A. Yes.
- 15 Q. Joey was in there, correct?
- 16 A. Yes, sir.
- 17 Q. And Mr. Chestnut, Kendrick Chestnut, was in the living
- 18 room, right?
- 19 A. Yes, sir.
- 20 Q. Now, when you pointed out there is this little bar area
- 21 here, right? Do you know what I'm talking about?
- 22 A. Inside the kitchen?
- 23 Q. Yes, sir.
- 24 A. Beside the refrigerator, a counter, yeah.
- 25 Q. Isn't there a lot of pictures and all kinds of things on

1 that shelf, right?

2 A. Yes, sir.

3 Q. All right. And so if you're sitting here or even
4 standing in this area here ---

5 A. They was in the doorway.

6 Q. I'm sorry?

7 A. They was in the doorway ---

8 Q. I'm coming to that. I'm just asking a question. Just
9 listen to me and answer my question. If you're sitting here
10 or standing here, you can't see on the other side of this to
11 know what's going on if somebody is in this part of the
12 kitchen, can you?

13 A. Yes, sir, but it didn't happen in that part of the
14 kitchen.

15 Q. I understand. Your story is that it happened right
16 here; isn't that right?

17 A. Yes, sir.

18 Q. Okay. And because if it happened in here, in the
19 kitchen, you couldn't see it, right?

20 A. Yes, sir, but it didn't.

21 Q. Okay. All right. And so Christie and Ty leave y'all's
22 presence in order to go have a quiet time for themselves to
23 talk about what it was they were talking about and what they
24 were talking about in fact was that Christie was upset because
25 some lady had sent a card, a birthday greeting card, to Ty,

1 that's what she was upset about, isn't it?

2 A. Yes.

3 Q. All right. And she called her sister, crying and saying
4 that this girl was saying that she was gonna take Ty from her
5 or something to that effect.

6 A. She said I'm gonna get my revenge but it won't be today
7 but it will be -- but it will be soon.

8 Q. And do you even know who the girl is?

9 A. No, sir.

10 Q. All right. Have you ever seen her?

11 A. No, sir.

12 Q. Was she at the party?

13 A. Not that I know.

14 Q. And so by the time Ty comes back from the club where you
15 -- where he and Joey and Mo had gone, she was already upset,
16 wasn't she?

17 A. Yes, sir, she had her feelings hurt, yeah.

18 Q. Yeah, she had her feelings hurt. And not only did she
19 have her feelings hurt, she was crying when she was talking to
20 her sister on the phone about it, right?

21 A. Yes, sir.

22 Q. All right. And, you know, she -- to her credit, she is
23 eight months pregnant so that's not that unusual is it?

24 A. No.

25 Q. Okay. And when Ty comes home, she's sitting there with

1 y'all and the whole time she's crying, she's upset because she
2 thinks this other girl is making a play for Ty and y'all come
3 -- you come there to comfort her, right?

4 A. Yes, sir.

5 Q. You and Cindy. And when y'all get there, she's upset,
6 y'all talk to her and she says she wants Ty to leave the house
7 that night; is that right?

8 A. Yes, sir.

9 Q. Okay. And Ty and she goes into the kitchen area to have
10 this discussion away from everybody else. Any question about
11 that part?

12 A. No, sir.

13 Q. All right. And at some point, your girlfriend, Cindy,
14 hears your -- her sister crying, right?

15 A. Yes, sir.

16 Q. Is there any question about that?

17 A. No.

18 Q. All right. And when she hears her sister crying, she
19 immediately goes into the kitchen to find out what's going on,
20 right?

21 A. Well, you tell me -- you act like you are sitting right
22 here.

23 Q. Well, I'm asking. Is that how it happened?

24 A. I guess so. I'm not a hundred percent sure because I
25 was trying to talk to Joey some of that time.

1 Q. You're not a hundred percent sure because you were
2 trying to talk to Joey at the time?

3 A. That was six years ago, yeah.

4 Q. Well, what were you talking to Joey about if -- now,
5 we're at ---

6 A. Joey was telling me how good of a fellow I was and how
7 he appreciated how hard I worked; that's what he was talking
8 about.

9 Q. So, Joey was complimenting you and as far as you were
10 concerned, that was more important than what was going on
11 between your girlfriend and her sister and Ty in the kitchen?

12 A. No, because at first, there wasn't no arguing in the
13 kitchen loud at first. Only when they started loud is when
14 they came out of the kitchen and he ran back into the doorway
15 and started choking her, that's when it started happening.

16 Q. Okay.

17 A. And then everybody tried to break it up.

18 Q. So, you're saying that they went into the kitchen and
19 then they come back out of the kitchen and that's when it
20 started.

21 A. Ty came out of the kitchen first and Christie was
22 standing there and Ty said something and then he went back
23 over there and started choking Christie right in the doorway,
24 everybody seen it. It wasn't hiding behind the counter
25 nowhere like you're trying to say, it happened right there in

1 the doorway.

2 Q. Let me ask you this, do you recall Ty coming out of the
3 kitchen calling for his daughter to, let's go? Do you recall
4 that?

5 A. No. No, sir. He starts, talking about, I lot 400 G-D
6 dollars and this is what the "F" I gotta come home to, that's
7 what -- he wasn't saying nothing about let's go girl or
8 nothing.

9 Q. Okay. And now you keep going back to saying that he was
10 choking her. Tell us how it was that he was choking her.

11 A. He had both hands around her next holding her up against
12 the wall.

13 Q. Both hands around her neck, holding her up against the
14 wall?

15 A. Yes, yes.

16 Q. Is that right?

17 A. Yes.

18 Q. All right. And when the police got there, I'm sure that
19 y'all told the police that?

20 A. Yes, sir.

21 Q. All right. And so there are pictures of the bruises on
22 her neck from holding her up by her neck on the wall; is that
23 what you're saying?

24 A. They should be. He was doing it. He was choking her.

25 Q. Okay. So, and you would expect that, wouldn't you, if

1 he was choking her and had her lift up against the wall by her
2 neck that there would be some kind of bruises on her neck?

3 A. So you are trying to tell me I didn't see it, is what
4 you are trying to say?

5 Q. I'm simply asking a question. Would you expect that
6 there are gonna be bruises on her neck?

7 A. Yeah, I mean ---

8 Q. Yeah? And did you see any bruises that night?

9 A. We all got separated. I didn't see her for a while that
10 night.

11 Q. You saw her the next day, right?

12 A. Yeah.

13 Q. See any bruises on her the next day?

14 A. I -- I'm not sure if I saw bruises -- I'm pretty sure
15 there was bruises there.

16 Q. Let me ask you on another subject, about the knife. Let
17 me show you a picture -- just take a look at that for me,
18 please. I don't want you to tell me anything; I just want you
19 to look at it and see if you recognize it. Do you recognize
20 that?

21 A. No, sir.

22 Q. You don't recognize it?

23 A. No, sir.

24 Q. You've never seen it before?

25 A. No, sir. I think I seen one ---

1 Q. Don't tell -- just, have you ever seen that before?

2 A. Well, you asked me the question, do you want me to tell
3 you or not?

4 **THE COURT:** Gentlemen.

5 A. I mean, you should have asked me ---

6 **THE COURT:** Sir. Let's go over the rules again. The
7 attorney asks the question ---

8 ---And Mr. Wilson, you need to back up.

9 **MR. WILSON:** I will.

10 **THE COURT:** You need to ask for permission to approach
11 the witness. All right?

12 **MR. WILSON:** Yes, sir.

13 **THE COURT:** Now, the attorney asks the question, the
14 witness answers the question to their ability. You may
15 explain your answer after you answer the question. All right?

16 And Mr. Wilson, if you want to approach the witness, you
17 need to ask for permission.

18 **MR. WILSON:** Yes, sir.

19 **THE COURT:** All right. Let's continue on then.

20 **MS. LIVESAY:** Your Honor, may I see the picture he's
21 showing the witness.

22 **THE COURT:** Why don't you do that, Mr. Wilson.

23 **MR. WILSON:** Yes, sir.

24 Your Honor, may I approach?

25 **THE COURT:** Absolutely.

1 **MR. WILSON:** Thank you.

2 **Q.** Here, take a look at this. All I want to know is do you
3 recognize that?

4 **A.** Yes.

5 **Q.** All right. And have you seen it before?

6 **A.** I seen it once before.

7 **Q.** Okay. That's all I want to know. All right. Now, let
8 me ask you this.

9 **MR. WILSON:** And, Your Honor, I just ask this be marked
10 for identification purposes only at this time.

11 **THE COURT:** Certainly. For the -- for your particular
12 client?

13 **MR. WILSON:** Yes, sir.

14 **THE COURT:** So, it's just Defendant's for
15 identification.

16 **(PHOTO MARKED AS DEFENDANT LARRY CHESTNUT'S EXHIBIT 1**
17 **FOR IDENTIFICATION ONLY.)**

18 **Q.** Let's go back to the kitchen and let's talk about what
19 happened while we're there. While we're in the kitchen, as I
20 understand it, your girlfriend at the time, Cindy, goes in
21 when she hears the noise, correct?

22 **A.** Yes.

23 **Q.** All right. Is she going in the kitchen or is she going
24 -- because my understanding from you is that the fight is
25 occurring here, this is where he's -- you're saying has her

- 1 choked up against the wall.
- 2 A. Yes, sir. He even knocked the picture off the wall.
- 3 Q. Okay. I'm just asking is that so -- is there where
- 4 Cindy goes and -- she sees them here, she goes here?
- 5 A. She came from the kitchen area.
- 6 Q. Who came from the kitchen area?
- 7 A. Cindy came from the kitchen area.
- 8 Q. Well, I thought all of y'all were in here sitting down?
- 9 A. I said Joey, me was in the kitchen. I never did place
- 10 Cindy at the time, we never did say that.
- 11 Q. So, you're saying Cindy was in the kitchen the whole
- 12 time?
- 13 A. She walked in there somewhere within -- along the time
- 14 they was arguing, she may have walked in there, yes, that's
- 15 what I'm saying.
- 16 Q. All right. Just so I'm clear, Cindy is in the kitchen
- 17 with ---
- 18 A. I think when they -- when Ty begins to walk back in the
- 19 living room, I think that's when Cindy walks into the kitchen
- 20 and starts talking to Christie.
- 21 Q. Well, I thought you said Christie is being jacked up
- 22 right here by ---
- 23 A. Yes. Ty comes out of the kitchen first, that's what I
- 24 said, he comes out and says, well, I lost \$400 and this is
- 25 what the hell I gotta come home to. And then he goes back

1 into the kitchen and Christie walks to the door, that's when
2 he snatches her up and starts choking her.

3 Q. So, Ty walks out of the kitchen, comes into the front
4 room and says, this is what I gotta come home to ---

5 A. And I think that's when Cindy walks into the kitchen and
6 tries to comfort Christie and Christie is standing at the door
7 and that's when Ty goes back and starts choking her.

8 Q. All right. So then, then Christie comes back to where
9 they are here? I'm sorry. Cindy comes back to where Christie
10 and Ty are right here in the hallway?

11 A. You're confusing me. What you say now?

12 Q. I'm simply asking you, you're saying that Cindy is in
13 the kitchen with ---

14 A. As Ty walks out the kitchen, Cindy walks into the
15 kitchen to comfort her sister ---

16 Q. Okay.

17 A. --- and Christie is standing in the door, right there
18 where you got your finger at.

19 Q. She's standing here, Christie is standing here.

20 A. That's when Ty goes back and starts choking her, holding
21 her up against the wall.

22 Q. Ty -- where is Ty? When Cindy is in the kitchen and
23 his, his ---

24 A. Oh, my God, man.

25 Q. When, when Cindy is here, you're saying, in the kitchen.

1 A. I'm not saying she's way over there in the corner.

2 Q. Where was ---

3 A. I said she walked into the kitchen as Ty walked out, she
4 walks into the kitchen.

5 Q. Okay. All right.

6 A. That's not pushing her way over there in the corner
7 where you got your finger trying to tell everybody.

8 Q. Okay. Well, do you know where she is in the kitchen?

9 A. I know her -- she might have walked right there standing
10 right beside her sister at the door, I don't know.

11 Q. Which door? This door?

12 A. Yes.

13 Q. So, you think she's standing right here by her sister?

14 A. Yes.

15 Q. All right. And then Ty comes from back here while she's
16 -- while the two of them are standing here and grabs her and
17 jacks her up against the wall and chokes her?

18 A. Yes, sir.

19 Q. That's what you're saying now?

20 A. Yes.

21 Q. Okay, now -- and then what does Cindy do at that point?

22 A. I'm not real sure at what she did at that time. I was
23 just -- I was trying -- I was trying to get Ty off of
24 Christie.

25 Q. All right. You was trying to get Ty off of Christie.

1 So, at some point, you get into it, too, right?

2 A. Yes. I tried to break everything up.

3 Q. In fact, did you get injured in all this?

4 A. No, sir.

5 Q. You didn't?

6 A. No, sir.

7 Q. Did you give the police a picture that night or the next
8 day showing that you had an injury of some type?

9 A. I don't know.

10 MR. WILSON: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 MS. LIVESAY: Your Honor, can I see what picture, Mr.
13 Wilson is showing?

14 THE COURT: Certainly.

15 Q. Do you know who that person is in that picture?

16 A. That's me.

17 Q. All right. And does that help your memory about what
18 happened that night?

19 A. No, sir.

20 Q. No, sir? So, you don't recall having the police take a
21 picture of you that night showing any injury?

22 A. I mean, I might've got scratched by a tree. I didn't
23 tell the police officer I got injured. He seen it and wanted
24 to take a picture of it.

25 Q. All right. But there ain't no question that's you in

1 the picture?

2 A. I might've got that from around the tree where me and Mo
3 was trying to tangle while I was trying to get back to help
4 Joey. We was ---

5 Q. I'm sorry. Do what now?

6 A. I say I might've got hit by a tree or something when I
7 tried to go back and help Joey when Ty was sitting there
8 stabbing him and kicking him. I wanted to go back and try to
9 help Joey and Mo was stopping me from going back there, that
10 might be what I got injured from.

11 Q. So, you might've got hit by a tree when you were going
12 back to do what?

13 A. To save Joey, to help Joey.

14 Q. To save Joey?

15 A. Yes, because Ty was standing over him stabbing him and
16 kicking him.

17 Q. What tree ---

18 A. There's a tree in the front yard.

19 Q. Yeah, there is one tree in that yard, right?

20 A. Exactly.

21 Q. And that tree is stationary, so how would the tree hit
22 you?

23 A. Oh, my God, you're running around and you're moving and
24 you bump up against the tree. I didn't say the tree jumped
25 out and hit me. Use your head, man, come on now.

1 Q. Okay. All right. So, you think that you might've got
2 hit by a tree and that's what caused it but you didn't tell
3 the police that?

4 A. I wasn't sure what happened at that second, everything
5 happened so fast it was like a big blur.

6 Q. All right. Now, let me ask you this, what were you --
7 what kind of shoes were you wearing that night?

8 A. Nikes probably, Timberlands.

9 Q. You're sure about that?

10 A. That was six years ago, man.

11 Q. Let me show you another photograph.

12 **THE COURT:** Before you do that, did you want to mark
13 that other one for identification?

14 **MR. WILSON:** Yes, sir, please.

15 **COURT REPORTER:** Defendant Larry Chestnut 2 for
16 identification.

17 **MR. WILSON:** Thank you.

18 (PHOTO MARKED AS DEFENDANT LARRY CHESTNUT'S EXHIBIT
19 NUMBER 2 MARKED FOR IDENTIFICATION ONLY.)

20 **THE COURT:** So, that was the previous photograph that
21 you were talking about, correct?

22 **MR. WILSON:** Yes, sir. That is correct, Your Honor.

23 **THE COURT:** So, you want to ---

24 **MR. WILSON:** Your Honor, I want to show this one to the
25 Solicitor.

1 **THE COURT:** All right.

2 Q. Let me ask you again before I approach and ask you if
3 you recall what kind of footwear you were wearing on the night
4 this incident occurred?

5 A. No, sir, I don't remember what kind of shoes I had on.
6 I jumped out of the bed at 2 o'clock in the morning.

7 Q. Okay. You jumped out of bed at 2 o'clock in the
8 morning.

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

10 **THE COURT:** Yes, sir.

11 Q. Take a look at that for me. And looking at those shoes
12 in that photograph, sandals or ---

13 A. Those are not mine.

14 Q. Those are not yours?

15 A. No, sir.

16 Q. You didn't -- you weren't wearing those that night?

17 A. Not that I recall.

18 Q. Not that you recall. Are you sure?

19 A. Yes, sir. I just told you.

20 Q. Okay. All right.

21 **MR. WILSON:** I would just ask this be marked as -- for
22 identification purposes, 3.

23 **COURT REPORTER:** Defendant Larry Chestnut, 3 for
24 identification.

25 **(PHOTO MARKED AS DEFENDANT LARRY CHESTNUT'S EXHIBIT**

1 **NUMBER 3 FOR IDENTIFICATION ONLY.)**

2 **THE COURT:** Go ahead.

3 Q. How many different places in the house did the fight
4 take place?

5 A. Two different places inside the house.

6 Q. What are the two places inside the house?

7 A. One is in the living room and the other one is in the
8 kitchen.

9 Q. Okay. Now, one is in the living room; is that right?

10 A. Yes, sir.

11 Q. And one is in the kitchen. Now, is the one in the
12 living room, that's the one with Christie and Ty?

13 A. No sir. That's where Ty punches Joey and knocks him out
14 up against the steps.

15 Q. Okay. So, that's the third one; is that right?

16 A. That's the first one. That's before he runs into the
17 kitchen. This is after everything comes back into the living
18 room. This is after Cindy -- Christie and Ty was fighting,
19 and they just came back into the living room and Joey was
20 like, you're gonna leave my fucking sisters alone and that's
21 when Ty punches Joey and knocks him up against the bottom of
22 the steps and puts a big ole whole in the bottom of the wall,
23 and Joey gets up holding his head. That's when everything
24 else goes back into the kitchen.

25 Q. Okay. Now, if I understood you earlier, you said that

1 Ty and Cindy -- I'm sorry, Christie were in the kitchen, they
2 come back towards the front room area and that you think your
3 girlfriend Cindy then goes into the kitchen area ---

4 A. Yes, sir.

5 Q. And that Ty then grabs ---

6 A. I didn't say Ty grabbed nothing but she ---

7 Q. But you said Ty ---

8 A. I said he choked her, I didn't say grabbed.

9 Q. That he choked her, pushed her up against the wall and
10 choked her. That's what you said, right?

11 A. Yes, sir.

12 Q. All right. And that Cindy then comes and intervenes?

13 A. Yes, sir. We got it broke up and then everything goes
14 back into like I would say the back door, in fact there was

15 ---

16 Q. Got who broke up?

17 A. We got Ty and Christie broke up where he was choking
18 her, got him off of her.

19 Q. Who got him off of her?

20 A. I guess me and Joey. And then everything goes back into
21 the living room and they're standing there ---

22 Q. Where is Cindy when y'all are getting Ty off of ---

23 A. I don't know where everybody is, man. I know what
24 happened and I know ---

25 Q. Well, let me ask you this ---

1 A. I can't pinpoint everybody.

2 Q. Let me ask you this, Cindy -- is there any question
3 about the fact that Cindy got into the fight with Ty? Is
4 there any question about that?

5 A. Say what now?

6 Q. Is there any question about the fact that your
7 girlfriend Cindy got into an altercation that night at the
8 house with Ty?

9 A. Yes, sir; yes, that did happen.

10 Q. That happened?

11 A. Yes.

12 Q. Is there any question about the fact that you then
13 intervened to try to help Cindy?

14 A. Yes, I did.

15 Q. All right. And now at some point in time, all of y'all,
16 you, Cindy and Joey were in the kitchen on Ty?

17 A. No.

18 Q. How did your girlfriend get bitten?

19 A. Because Ty was biting her leg, that's why I tried to get
20 back into the kitchen. Mo was sitting there stopping me from
21 getting into the kitchen when I finally -- I heard glass and
22 everything break and that's when I said, man, you gonna let
23 some dang gone man beat up a woman. He's like -- he said,
24 what the fuck you gonna do to stop it. And I finally get
25 around him and when I get into the kitchen Ty is laying down

1 on the ground, he's got Cindy up against the dishwasher biting
2 her leg. I snatch him up throw him up against the counter,
3 told him to stop the bullshit, this stuff needs to stop, needs
4 to calm down. That's when she runs out the front door and
5 everything was calmed down for a second and that's when I went
6 out the door after her. Then everything else happened in the
7 house and then ---

8 Q. Okay.

9 A. --- went outside.

10 Q. Now where was Joey when you run in there to get Ty off
11 of ---

12 A. He's still laid up at the foot of the steps holding his
13 head where Ty knocked him down, punched him and knocked him up
14 against the steps.

15 Q. So, at this point, you're saying Ty had already knocked
16 Joey down?

17 A. Yes, sir.

18 Q. And had gone back into the kitchen ---

19 A. Yes sir.

20 Q. ---And while he's back in the kitchen, you and Cindy
21 and Christie are still in the kitchen?

22 A. No, sir. I told you I was at the steps with Joey when
23 Ty knocked Joey down, I told you I was at the steps with him.
24 I said, Joey, you okay? He got up, said my head hurts. And
25 then I heard the girls hollering in the kitchen. So, I go in

1 there and try to stop them and that's when Mo tries to stop me
2 from going into the kitchen.

3 Q. All right. When you go into the kitchen, tell me where
4 everybody is?

5 A. Joey is at the foot of the steps holding his head, Mo is
6 stopping me from getting into the kitchen and Ty is in there
7 beating a woman up.

8 Q. Okay. So, Ty is in there. Where is Christie when this
9 is happening?

10 A. I'm not real sure, I think I hear my girlfriend
11 hollering at the time and I'm trying to get to her and just --
12 this big dude over here is trying to stop me from getting
13 through the door.

14 Q. Your girlfriend actually was on the floor, right?

15 A. Yes, sir. She was sitting up against the dishwasher
16 with Ty on top of her biting her leg.

17 Q. All right. And so Ty was, you say, on top of her and
18 then you came in and you say you got Ty?

19 A. Yes, sir.

20 Q. Was she also fighting with something, some object that
21 she had?

22 A. Not that I seen, the only thing ---

23 Q. You didn't see the monkey that she hit him with, the
24 ceramic monkey?

25 A. No, sir. The only thing I seen was him on top of my old

1 lady hurting her, so I snatched him up and threw him off of
2 her; that's what I seen.

3 Q. All right. And well tell me when it was that you saw
4 Joey and Ty fighting?

5 A. In the front yard.

6 Q. All right. So, you never saw Joey and Ty fight in the
7 kitchen?

8 A. No, sir.

9 Q. You deny that?

10 A. I ain't denying nothing. I didn't see it, I can -- I
11 told you, once I broke Ty off -- got him off my old lady, I
12 threw him up against the counter. She ran out the front door,
13 everything was calm. I went to go find out what was wrong
14 with her, if she was okay.

15 Q. Okay. So, what you're telling me, as I understand it
16 and you correct me if I'm wrong, but that you never saw Ty,
17 Larry Chestnut, and the victim, Joey, fight inside the house?

18 A. Yes, I seen Ty punch Joey at the bottom of the steps.

19 Q. Okay, other than the punch, you say you saw him punch
20 him at the bottom of the steps?

21 A. And then he ran into the kitchen.

22 Q. All right. And what ---

23 A. And that's when I checked on Joey.

24 Q. Why, why was Ty trying to punch Joey? If he's fighting
25 with Christie, his girlfriend, why does he come back ---

1 A. That's because Joey says leave my damn sisters alone and
2 that's, I guess, they stopped at the door right there and I
3 guess men are gonna be men, he's like, leave my damn sisters
4 alone and that's when Ty punches Joey and knocks him up
5 against the steps.

6 Q. When did you see Joey -- when did you see Ty get cut?

7 A. I never did see Ty get cut.

8 Q. You never did see him get cut?

9 A. No, sir.

10 Q. So, you never saw him get cut at all ---

11 A. No, I did not. Okay. I'm tired of repeating myself.

12 Q. Okay. Now, at some point in time, were you on the floor
13 also in the house?

14 A. Yes, sir.

15 Q. All right. Now, you keep saying that they were kicking
16 Joey outside; is that right?

17 A. Yes, sir.

18 Q. Now, you didn't tell the police that the night when you
19 gave your initial statement, did you?

20 A. Yes, sir.

21 Q. That came when you -- where in your first statement did
22 you tell the police that on the night that this happened that
23 Mo and Ty was kicking Joey and he was on his ---

24 A. When we was sitting inside the police car when he
25 recorded it.

1 Q. I'm sorry?

2 A. He recorded it when we was sitting in the police car.

3 Q. He recorded it? So, if he recorded it, you would expect
4 it to be there, right?

5 A. Yeah.

6 Q. All right. If you said that, okay.

7 MR. WILSON: If the Court will bear with me one second,
8 Your Honor, please.

9 THE COURT: Yes, sir.

10 Q. Just a couple of more things then I'll be finished. As
11 I understand it, you said that once you and Cindy left the
12 house, that you went and -- outside and that you turn -- you
13 were trying to flag down somebody or something; is that
14 correct?

15 A. Yes, sir.

16 Q. And that you then got the truck, somebody's truck and
17 you turned to flash -- the lights, the headlights onto Joey?

18 A. No, sir. This is after -- after they had left, I chased
19 those people down because they had Chappell in the car with
20 them so I tried to chase them down but they had like a
21 Chrysler, it outran the Suburban so when I came back into the
22 yard, I pulled the headlights on Joey.

23 Q. Okay. So, now -- so are you telling me, based on
24 everything you said, you never saw anybody with a weapon that
25 night, so you don't know how anybody got cut or stabbed?

1 A. I mean, it's kind of -- I seen him stabbed, I didn't see
2 what was in his hands but I seen him doing the stabbing
3 motion, you know.

4 Q. Doing a stabbing motion?

5 A. Yes, sir.

6 Q. All right. And when you turned the headlights on to the
7 vehicle, what did you do after you got out of the vehicle
8 turning the headlights on?

9 A. I tried to grab Joey to put him in the car to go to the
10 hospital.

11 Q. All right. And is that how you got blood on you?

12 A. Yes, sir.

13 Q. All right. Now, in the kitchen that night, there was
14 water on the floor; is that correct?

15 A. Yes, sir.

16 Q. And the water is from the dishwasher, right, which was
17 broken and was leaking all over the floor, right?

18 A. Yes, sir.

19 Q. And when your girlfriend -- when Cindy was on the floor,
20 you said you went in and then you were going there to try to
21 help her, right?

22 A. Yes. I tried to get in there sooner but Mo was stopping
23 me from getting in there.

24 Q. Did you have a knife or anything?

25 A. No, sir.

1 Q. All right. Did you hit anybody?

2 A. No, sir.

3 Q. Well, you grabbed Ty according to you, right?

4 A. Yeah, I grabbed Ty and moved him off my girl; I didn't
5 hit him. I never said I hit him. I said I picked him up and
6 threw him up against the counter to break everything up and
7 tell everything to calm down.

8 Q. And Kendrick Chestnut tried to keep you from getting
9 involved?

10 A. No. He tried to keep me from saving my girl. He was
11 like, I don't give a damn. I was like, man, can't you see a
12 man beating a woman. He said, I don't give a damn, that's --
13 and when I heard something break, that's when I got -- that's
14 when I got the courage to move the big fellow.

15 Q. What was it that broke?

16 A. I'm not sure what broke. I heard some noise, that's
17 what gave me the adrenaline rush to get around the big fellow
18 because you know a doorframe ain't but four-foot-wide and so
19 was he, you know what I'm saying.

20 Q. Okay. I don't have any other questions. Thank you.

21 **THE COURT:** All right. Mr. Long?

22 **MR. LONG:** Thank you, Your Honor.

23 **CROSS-EXAMINATION BY MR. LONG:**

24 Q. Mr. Day, you say you've given three statements to the
25 police before today; is that right?

1 A. If I'm not mistaken, yes, sir.

2 Q. How many of those statements were -- did you see a
3 recording device or they tell you you were being recorded?

4 A. Every one of them, I believe.

5 Q. And so you believe I should have in my possession three
6 recorded statements of you?

7 A. I'm not sure if they recorded all of them or not. It's
8 like I say, it's six years ago.

9 Q. Okay. You agreed with Mr. Wilson that all three of
10 those statements are different than the other; is that your
11 testimony?

12 A. I'm not saying they're all different. I mean, there
13 might be a few things that you could thought of that I didn't
14 think of right there on the spot, might be ---

15 Q. I know that the first statement that you gave to the
16 police was at 3 o'clock in the morning right after this
17 happened on site in a police car; is that right?

18 A. Yes.

19 Q. Do you know which police officer you gave that statement
20 to?

21 A. No, sir, I'm not a hundred percent sure.

22 Q. What about John Bertang, do you see the good-looking
23 fellow in the courtroom?

24 A. The bald-headed fellow there?

25 Q. Yep.

1 A. Oh, I thought that was him.

2 Q. John Bertang.

3 A. Yes, sir.

4 Q. You gave that statement to him, the first statement,
5 right?

6 A. Yes, sir.

7 Q. And that was you sitting in his car, he was asking you
8 questions and you were telling him what happened; is that
9 right?

10 A. Yes.

11 Q. Did you do your best to tell him everything that
12 happened that night right then and there?

13 A. Everything I could think of. It was all a blur right at
14 that moment, you know how, I mean...

15 Q. Well, do you think that your recollection of things was
16 better at that moment or today?

17 A. Today probably.

18 Q. Six years later you believe your recollection is better
19 ---

20 A. Yeah, cause I can think about what happened. Right at
21 that moment when your adrenaline rush is pumping, you know
22 what I'm saying, it's just everything happening that second
23 and then this man just died and I'm scared to death and ---

24 Q. Do you agree with me that over time, if we have time to
25 think about what's happened sometimes we make some things up

1 as time goes along?

2 A. No, sir.

3 Q. Okay. So, in that statement that you made at 3 o'clock
4 in the morning on the side of the road in a police car to John
5 Bertang, which I have a copy of, you indicated in that
6 statement absolutely nothing about Kendrick Chestnut hitting
7 or kicking anyone; why is that?

8 A. I don't have no idea. Just what I was thinking about at
9 the time is what I told him.

10 Q. Okay. Well, and the only thing you've given us today by
11 way of Kendrick Chestnut is that you said that when you came
12 outside that Joey Hucks was on the ground, that ---

13 A. You said what now, when I came outside?

14 Q. Let me finish the question, that you were outside and
15 you saw Joey Hucks on the ground, you saw Larry Chestnut on
16 top of him with a stabbing motion ---

17 A. Me and Joey -- Joey was coming out the front door as I
18 was walking with him and I was gonna take him to his truck,
19 that's when Ty and Mo came and knocked him back down to the
20 ground and started kicking and stabbing him.

21 Q. Okay. And you say Ty and Mo knocked him to the ground
22 and starting kicking him and stabbing him. That's an awful
23 general statement about two people; let's break it up. Are
24 you saying ---

25 A. Okay. I was walking -- I was going to get Joey's truck.

1 As I turned around Ty and Mo was standing there kicking him
2 and Ty's is doing the stabbing motion. They're both kicking
3 him.

4 Q. All right. But you for some reason -- why did you not
5 tell the police that Kendrick Chestnut kicked Joey Hucks at 3
6 o'clock in the morning and ---

7 A. Well, you witness a murder and you try to think about
8 everything that just happened right that second.

9 Q. I will ---

10 A. Everything happened so fast, you can't even think -- I
11 couldn't even think about how it happened right there in the
12 second.

13 Q. So, the reason that you left that out is you just didn't
14 think of it; is that right?

15 A. Yes.

16 Q. Okay. But just now on cross-examination when Mr. Wilson
17 showed you that photograph of your back, which is marked as
18 Larry Chestnut's Number 2, remember that?

19 **MS. LIVESAY:** Your Honor, if I may, it's not into
20 evidence and now we're showing it to the ---

21 **MR. LONG:** For identification purposes.

22 **THE COURT:** It's marked for identification but it's not
23 for identification -- you can show it to him, not to everyone
24 else.

25 Q. So, when he showed you that photograph of your back,

1 with the injury on your back, the answer to your question of
2 how you might've gotten your back injured was what?

3 A. Trying to save Joey, get back to Joey when Mo was
4 holding me back.

5 Q. Okay. And what was happening to Joey when you were
6 trying to save -- I'm sorry -- yeah, what was happening to
7 Joey when you were trying to save Joey and Mo was holding you
8 back?

9 A. Joey was laying on the ground and Ty was standing over
10 him kicking him and stabbing him.

11 Q. All right. And you say that you must've gotten hit by a
12 tree during that?

13 A. There was a tree standing, I might've brushed up against
14 it or something, I'm not sure how I got the scratch on my
15 back.

16 Q. Okay. Well, show me in this big diagram if you can, in
17 this big diagram, we're talking about you're out here on this
18 front lawn, right?

19 A. Yes.

20 Q. Where's the tree?

21 A. It's out here on the front lawn about middle-ways.

22 Q. Well, like -- how many feet from the front door is the
23 tree?

24 A. I'd say ten feet.

25 Q. Okay. And how many feet from where Joey and Ty were on

1 the ground was the tree?

2 A. Five-foot apart from the ---

3 Q. Okay. Now, this is what I want to try and understand.

4 How can you say that Joey -- I'm sorry, strike that -- how can
5 you say that Ty and Kendrick were both kicking Joey ---

6 A. Because that's what I seen when I turned around -- I was
7 at Joey's truck, this is twenty -- twenty yards from them.

8 When I turned around, they was both kicking him. When I come
9 back, run back over to them, that's when Mo comes towards me
10 and Ty stays there kicking and stabbing and Mo comes to stop
11 me from coming to them.

12 Q. Okay. So, you're saying that Mo came to try and stop
13 you from going to save Joey?

14 A. Yes.

15 Q. And at that point, you must've scratched up against a
16 tree?

17 A. Yes.

18 Q. And at what point during your interview at 3 o'clock in
19 the morning with John Bertang did you tell that story?

20 A. I'm not sure.

21 Q. How about never? You never told that story to John
22 Bertang, did you?

23 A. Because he never asked, like and y'all asked, so...

24 Q. He never asked?

25 A. Not asked how I got the scratch on my back, I wasn't

1 sure. What did I tell him then?

2 Q. Let's get something straight. This is now your fourth
3 statement that you've made in this case, right? Is that
4 right?

5 A. Yes.

6 Q. You would agree with me that the one thing that's
7 consistent about all four of your statements is what? You
8 never said that Kendrick Chestnut stabbed anybody, right?

9 A. I said -- which ---

10 Q. Can you answer that question, please?

11 A. Can I ask a question, please?

12 Q. If you can ---

13 **THE COURT:** Gentlemen...

14 A. Which statement did you give me ---

15 **THE COURT:** Sir, again, okay, I appreciate it. The
16 witness cannot ask questions. If you do not understand the
17 question, you may ask whoever is asking the question to ask it
18 again or rephrase it but you may not ask questions.

19 Ask your question again, Mr. Long.

20 Q. My question is, isn't it true that now the fourth
21 statement that you've made, the one thing that is consistent
22 about all four of those statements is you never said in any of
23 those, including your statement here today, that Kendrick
24 Chestnut stabbed anybody; isn't that true?

25 A. Yes sir.

- 1 Q. In fact, you can assert -- the truth is, Kendrick
2 Chestnut did not stab anyone; is that right?
- 3 A. Yes, sir.
- 4 Q. Kendrick Chestnut never had a weapon in his hand; is
5 that right?
- 6 A. I'm thinking -- I think he had a gun pointed at me.
- 7 Q. You saw a gun pointed at you?
- 8 A. He told me he had a gun, he said, I got a fucking gun,
9 I'll kill all you mother fuckers is what he told me.
- 10 Q. Okay. You think he told you had a gun?
- 11 A. I don't think. I know he told me.
- 12 Q. Okay. You know he told you he had a gun. Did you see a
13 gun?
- 14 A. No, sir.
- 15 Q. Have you ever told the police that you saw a gun?
- 16 A. No, sir.
- 17 Q. If you had seen a gun, would you tell the police that
18 you saw a gun?
- 19 A. Yes. He had some pointed -- he was pointing -- he had
20 his hand pointing towards me like he had a gun talking about,
21 I'll kill all you mother fuckers is what he said. That's when
22 I was scared for my life. That's when I ran back out into the
23 highway to stop more traffic.
- 24 Q. Okay. How far away from you was he pointing his hand at
25 you like he had a gun?

- 1 A. Not exactly sure, ten, fifteen feet.
- 2 Q. Okay.
- 3 A. That's when I started backing up.
- 4 Q. From ten or fifteen feet, when you saw him have his hand
5 like that **(indicating)** about as far from ---
- 6 A. He reached his hand down in his pants 'first talking
7 about, I'll kill all you mother fuckers and then he pulled his
8 hand out like that, that's when I backed the heck up.
- 9 Q. Okay. Was there a gun in that hand?
- 10 A. I wasn't trying to see if there was gun, I was trying to
11 get the hell away.
- 12 Q. Okay. Now, you know that there's been no mention in
13 this case about a gun, don't you?
- 14 A. That's what he said.
- 15 Q. Did you ever tell the police that he had a gun?
- 16 A. I don't think I ever told them he had a gun ---
- 17 Q. Okay.
- 18 A. --- but I did tell them -- well, he had his hands in his
19 pants talking about he's gonna shoot all these mother fuckers,
20 we'll kill all these mother fuckers; I did tell them that.
- 21 Q. Okay. Well, at the time, you didn't know that Joey
22 Hucks had cut Larry Chestnut across the chest, did you?
- 23 A. No, sir.
- 24 Q. You had no idea that ---
- 25 A. I still don't know he did it.

1 **MS. LIVESAY:** Your Honor, I have to object. There's
2 been no testimony about any cut on Larry Chestnut unless
3 either Mr. Wilson or Mr. Russell Long ---

4 **THE COURT:** I appreciate that. It's cross-examination.
5 I'll allow the question. Thank you very much.

6 Q. So, the question is, at the time that you believe that
7 Kendrick Chestnut made a statement about shooting somebody,
8 you did not ---

9 A. He said, I'll kill all you mother fuckers, is what he
10 said.

11 Q. You did not know at that time that Joey Hucks had cut
12 Larry Chestnut?

13 A. I still don't know that.

14 **MS. LIVESAY:** Your Honor, those facts are not into
15 evidence.

16 **THE COURT:** I am allowing him to ask the question. The
17 witness has responded.

18 You may continue, Mr. Long.

19 Q. And at no point in time inside or outside did you see
20 Larry Chestnut bleeding from the chest?

21 A. When I picked him up from the kitchen off my girlfriend,
22 threw him up against the counter, he was not bleeding. If he
23 was bleeding, I would've had his blood on me.

24 Q. Okay. What about out in the yard?

25 A. I didn't get close enough to him, Mo kept me away from

1 him, I never even did get close enough to see him.

2 Q. Okay. So when you say Mo kept me away from him, you're
3 talking about Kendrick Chestnut ---

4 A. Kendrick Chestnut.

5 Q. Kept you away from him the whole time?

6 A. Yes, sir, exactly.

7 Q. So, doesn't that lend us to believe that if you were
8 kept away from Joey Hucks the whole time by Kendrick that
9 Kendrick himself was away from Joey Chestnut [sic] the whole
10 time?

11 A. No because when I came -- when I walked to his truck,
12 they was both kicking and stepping. When I come back, that's
13 when he tried to come towards me and stopped me from getting
14 in there. It's not right...

15 Q. Okay. The, the glass that you say you heard break in
16 the kitchen, that is different than the glass that you say
17 that broke in the hallway or is that the same event?

18 A. I'm not exactly sure what the question is.

19 Q. The question is, I thought your direct-examination
20 indicated that ---

21 A. Yes, sir, he choked her in the hallway and the picture
22 fell down, yes.

23 Q. Picture fell down and some glass broke there but you saw
24 that?

25 A. Yes.

1 Q. And then later on in the kitchen you heard some glass
2 break, right?

3 A. Yes, yes, that's what made me get around Mo or whatever
4 his name is, Mr. Chestnut.

5 Q. Okay. Now, so you say you were trying to get around
6 Kendrick Chestnut, he didn't hit you or anything, did he?

7 A. No, he kept pushing me back trying to keep me from
8 getting to them.

9 Q. Okay. To keep you from getting to his cousin?

10 A. Yeah, that was -- that was fighting my old lady at the
11 time. They was in the kitchen fighting, he was standing in
12 the doorway right where the picture had fell, stopping me from
13 getting in there. When I heard something else break in there,
14 that's when I got the adrenaline rush to get by him.

15 Q. Did Kendrick Chestnut lay a hand on Cindy?

16 A. Not that I seen.

17 Q. Did Kendrick Chestnut lay a hand on Christie?

18 A. Not that I seen.

19 Q. Did Kendrick Chestnut lay a hand on you other than to
20 try and stop you from getting into the fight?

21 A. No, sir. He just kept pushing me away like wouldn't let
22 me help my buddy Joey, wouldn't -- if I could -- if he
23 wouldn't have stopped me from getting to Joey, I probably
24 could have saved his life.

25 MR. LONG: That's all I have. Thank you.

1 **THE COURT:** Redirect.

2 **MS. LIVESAY:** Thank you, Your Honor.

3 Would you mark these for me, please, Ms. Dixie?

4 **COURT REPORTER:** State's Eight, Nine and Ten.

5 (PHOTOS MARKED AS STATE'S EXHIBITS NUMBER 8, 9 AND 10
6 FOR IDENTIFICATION ONLY.)

7 **MS. LIVESAY:** Your Honor, may I approach the witness?

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

9 **MS. LIVESAY:** Thank you.

10 **REDIRECT-EXAMINATION BY MS. LIVESAY:**

11 Q. Now, do you recognize what I'm showing you now, Mr. Day?

12 A. Yes, ma'am.

13 Q. What is that a picture of?

14 A. Christie's house.

15 Q. Okay. And does this picture substantially and
16 accurately depict what it looked like that night?

17 A. Yes, ma'am.

18 **MS. LIVESAY:** Can I -- I want to introduce this into
19 evidence, Your Honor, as State's Exhibit Number 10 and publish
20 it to the jury.

21 **THE COURT:** Any objection to State's 10, Mr. Wilson?

22 **MR. WILSON:** No objection, Your Honor.

23 **THE COURT:** Mr. Long?

24 **MR. LONG:** No, sir.

25 **THE COURT:** All right. State's 10 is in evidence.

1 **MS. LIVESAY:** Thank you.

2 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
3 10.)

4 Q. Do you recognize what I'm showing now that's been marked
5 as State's Exhibit Number 9?

6 A. Yes, ma'am. That's her living room.

7 Q. Okay. And is that a substantial and accurate depiction
8 of it?

9 A. Yes, ma'am.

10 **MS. LIVESAY:** Your Honor, at this time, the State moves
11 State's Exhibit Number 9 into evidence and to publish it to
12 the jury.

13 **THE COURT:** Any objection to State's 9?

14 **MR. WILSON:** No objection, Your Honor.

15 **MR. LONG:** No, sir.

16 **THE COURT:** It's in evidence without objection.

17 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
18 9.)

19 Q. Do you recognize what I'm showing you as State's Exhibit
20 Number 8?

21 A. Yes, ma'am.

22 Q. What is it a picture of?

23 A. The hallway.

24 Q. And does this substantially and accurately depict that
25 night?

1 A. Yes, ma'am.

2 MS. LIVESAY: Your Honor, at this time, the State wishes
3 to move Number -- State's Exhibit Number 8 into evidence and
4 publish it to the jury.

5 THE COURT: Any objection?

6 MR. WILSON: Without objection.

7 MR. LONG: No objection.

8 THE COURT: All right. So State's 8, 9 and 10 are in
9 evidence, you may publish them.

10 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
11 8.)

12 MS. LIVESAY: Thank you, Your Honor. At this time, can
13 I ask the witness to step off the stand?

14 THE COURT: As long as he is right next to a microphone.

15 MS. LIVESAY: He will be, Your Honor.

16 Q. Mr. Day, show us again the hallway in the house, where
17 it's located?

18 A. Right here.

19 Q. Okay. That's the hallway?

20 A. Yes, ma'am.

21 Q. Now, does this picture here accurately depict that
22 hallway?

23 A. Yes, ma'am, right here is the hallway.

24 Q. Okay. And tell the jury what room this is we're looking
25 at with the T.V. and the steps in it.

1 A. This is the living room, this is the hallway into the
2 kitchen, this is the steps upstairs.

3 Q. Okay. So, when we're looking at this picture, we can
4 basically put it right into here?

5 A. Yes, ma'am, like so.

6 Q. Gotcha. Now, there was some discussion earlier when you
7 were talking to Mr. Wilson about you saw Larry Chestnut
8 choking Christie Chestnut.

9 A. Yes, ma'am.

10 Q. Is that what you saw?

11 A. Yes, ma'am.

12 Q. Where was it?

13 A. It was right here.

14 Q. Okay. So, it was in that hallway?

15 A. Yes, ma'am.

16 Q. Okay. And would you say this is -- when you were
17 standing in this living room?

18 A. Yes, ma'am. I was standing right in here somewhere.

19 Q. Okay. And this picture is exactly the way it looked
20 that night; is that right?

21 A. Yes, ma'am.

22 Q. So, there was nothing in this doorway of any kind to
23 obstruct your view of it?

24 A. No, ma'am.

25 Q. Okay. Now earlier, you said a picture broke, do you

1 remember that?

2 A. Yes, ma'am.

3 Q. Okay. Now, is this a picture of that same hallway?

4 I'm showing him State's Evidence 8.

5 A. Yes, ma'am. That's the picture that fell off the wall
6 right there.

7 Q. Okay. And show the jury again exactly where you saw him
8 choking her.

9 A. He was standing right here. He was standing right in
10 this area and had her up against this wall choking her with
11 two hands.

12 Q. Okay. And that's the picture that you heard break that
13 night?

14 A. That fell off the wall; yes, ma'am.

15 Q. Okay. Now, do you recognize what I'm showing now marked
16 as State's Evidence Number 10?

17 A. Yes, ma'am. That's the kitchen view.

18 Q. Okay. And what is this here?

19 A. This is the living room here.

20 Q. And this is the hallway?

21 A. Yes, ma'am.

22 Q. So, you can actually see both ways from the kitchen
23 straight into the living room and vice-versa?

24 A. Yes, ma'am.

25 Q. Okay. What's this here?

1 A. That's the glass, that's the picture that broke off the
2 wall, that fell off the wall.

3 Q. Okay. And is this exactly what it looked like that
4 night?

5 A. Yes, ma'am.

6 Q. Okay. Go ahead and have a seat back -- right up here on
7 the witness stand. Thank you.

8 **THE COURT:** Anything else, Solicitor?

9 **MS. LIVESAY:** Yes, sir, Your Honor, just a couple of
10 more questions.

11 Q. Now, there was some questions that they showed you a
12 picture of an injury that you had.

13 A. Yes, ma'am.

14 Q. Okay. Where was that injury at?

15 A. It was on my back.

16 Q. On your back?

17 A. Yes, ma'am.

18 Q. So, however you got the injury ---

19 A. I don't know.

20 Q. --- you had to be ---

21 A. Yes, ma'am.

22 Q. --- turned to -- your back to whatever or whoever caused
23 the injury?

24 A. Yes, ma'am.

25 Q. Okay. And do you remember on that picture where the

1 injury was on your back?

2 A. Yes, ma'am.

3 Q. Okay. Could you show the jury on me where that injury
4 was; would you point it out on me?

5 A. (Indicating.)

6 Q. Okay. Almost down the middle of your back?

7 A. Yes, ma'am.

8 Q. Did you see any pictures shown to you where there were
9 any injuries on the front of your body?

10 A. No, ma'am.

11 Q. Any injuries on the outside of your hands?

12 A. No, ma'am.

13 Q. No bruises or anything?

14 A. No, ma'am.

15 Q. Okay. Now, Mr. Wilson asked you about pulling the car
16 around so you could put the lights on Joey Hucks, do you
17 remember that?

18 A. Yes, ma'am.

19 Q. Okay. Why initially did you get in that car?

20 A. To chase Ty and Mo down the street because they had
21 Chappell in the car with them.

22 Q. Okay. When you got in that car, who was left in the
23 yard?

24 A. Joey Hucks was laying in the front yard.

25 Q. Who else was there?

- 1 A. Cindy Hucks was in the front yard.
- 2 Q. Okay. Who else was there, if anybody?
- 3 A. Cindy and Christie.
- 4 Q. Okay. Who other than you that had been there that night
- 5 got up and left that apartment? Did anybody get in the car
- 6 with you?
- 7 A. No, ma'am.
- 8 Q. Okay. And you went chasing Mo and ---
- 9 A. And Ty.
- 10 Q. --- Larry Chestnut?
- 11 A. Yes, ma'am.
- 12 Q. Okay. Because they left that apartment?
- 13 A. Yes, they left -- I wouldn't have chased them if they
- 14 hadn't of left with the child but they took the child with
- 15 them.
- 16 Q. Okay. I'm gonna ask you about that too. You said
- 17 earlier there were two kids in the apartment; is that right?
- 18 A. Yes, ma'am.
- 19 Q. One of them was your girlfriend's daughter?
- 20 A. Yes, ma'am.
- 21 Q. Did y'all go back in the house to check on them?
- 22 A. Yes, ma'am.
- 23 Q. Were they there?
- 24 A. No, ma'am.
- 25 Q. Okay. So, at that time, you had no idea where the kids

1 were but you were assuming they were in the vehicle with them?

2 A. Yes, ma'am.

3 Q. Okay. Now, were you there -- when you got back with
4 your car and you shined the lights on Joey, how did he look?

5 A. Very weak, barely breathing.

6 Q. Did you see any blood on him?

7 A. Yes, ma'am. He was bleeding all over, he had blood all
8 over him.

9 Q. Okay. Were you there when the police showed up?

10 A. Yes, ma'am.

11 Q. Okay. Was there a lot of police?

12 A. Yes, ma'am.

13 Q. Was the ambulance there?

14 A. No, not at that time.

15 Q. Okay. When you talked to the police that initial night,
16 how soon after was it from the actual incident taking place?
17 Was it pretty close in time?

18 A. It was about ten, twenty minutes.

19 Q. Okay. And let me ask you this, when you were sitting in
20 the car, was Cindy Evans sitting in the car with you?

21 A. No, ma'am.

22 Q. Nobody was sitting in that car but you?

23 A. Yes, ma'am, me and the officer.

24 Q. Okay. So, when they first got there, the first thing
25 they did was separate you, Cindy and Christie?

1 A. Yes, ma'am.

2 Q. Okay. And when the police first got there, did you know
3 where the kids were at that time?

4 A. Yes, ma'am.

5 Q. Okay. So, y'all had just gotten the kids back at that
6 point?

7 A. I think the police went and got the kids obviously.

8 Q. Okay. So, that short timeframe between when you talked
9 to the police the first time that night, Joey was on the
10 ground bleeding, your girlfriend's daughter was missing and
11 you were separated from your girlfriend at the time?

12 A. Yes, ma'am.

13 Q. Okay. And all you knew was the two people that you saw
14 kicking him and stabbing him had taken off?

15 A. Yes, ma'am.

16 Q. Is what you told the jury here true today?

17 A. Yes, ma'am.

18 **MS. LIVESAY:** No further questions, Your Honor.

19 **THE COURT:** Anything on those questions, Mr. Wilson?

20 **MR. WILSON:** Yes, sir, just on the photographs
21 primarily.

22 **RECROSS-EXAMINATION BY MR. WILSON:**

23 Q. Let me show you what's ---

24 May I approach, Your Honor?

25 **THE COURT:** Yes, sir.

1 **MS. LIVESAY:** Your Honor, can I get a look at any of
2 these pictures ---

3 **THE COURT:** They are the same ones you introduced.

4 **MS. LIVESAY:** Okay.

5 **Q.** This is State's Exhibit 10 that -- if you would, take a
6 look at that for me.

7 **A.** Yes, sir.

8 **Q.** Do you see in that photograph a white piece of paper on
9 the floor?

10 **A.** I see a picture that was in the frame.

11 **Q.** Okay. And do you see blood on it?

12 **A.** I see some dots on it.

13 **Q.** Okay. Do you know what those dots are?

14 **A.** No, sir.

15 **Q.** All right. You didn't see those dots get there that
16 night?

17 **A.** No, sir.

18 **Q.** So nobody was bleeding because you -- was there, that
19 night when you were there -- in a hallway, there was nobody
20 bleeding was there?

21 **A.** No, sir.

22 **Q.** Okay. So, we don't know how the blood got there?

23 **A.** No, sir.

24 **Q.** All right. And your testimony was earlier that -- I'm
25 referring now to State's Exhibit Number 8 -- that Joey -- that

1 Ty hit Joey at the foot of the stairs and knocked him down; is
2 that what you said?

3 A. Yes, sir.

4 **MR. WILSON:** All right. This is State's Exhibit Number
5 8 -- may I approach again, Your Honor?

6 **THE COURT:** Yes, sir.

7 Q. Take a look at State's Exhibit Number 8. Now there is a
8 television there, correct?

9 A. Yes, sir.

10 Q. And it's got flowers on it in a vase with water in it,
11 right?

12 A. Yes.

13 Q. And it's got a little glass thing on there with -- I
14 guess that you put bubble gum in or something and kind of a
15 lot of little decoration things on top of the television right
16 there at the foot of the stairs, right?

17 A. Yes.

18 Q. Is any of that stuff disturbed?

19 A. No, sir.

20 **MR. WILSON:** I don't have any other questions.

21 A. There is flowers knocked down in the back, you see them

22 ---

23 Q. I'm asking you at the foot of the stairs now.

24 A. I can't see the foot of the stairs from this picture.

25 Q. Let me show you Exhibit Number 10. I'm sorry, Number 9;

1 take a look at that. Can you see the foot of the stairs now?

2 A. Not where his head hit, you can't see.

3 Q. Not where his head hit.

4 A. No, sir, because his head hit at the foot of the steps.

5 Q. But you see the T.V. ---

6 A. Yes, sir.

7 Q. --- and you see the flowers. So nothing took place

8 there?

9 A. Yeah, that's where Ty punched Joey and knocked him down.

10 Q. That's where he knocked him down?

11 A. Yeah.

12 Q. Okay. But didn't disturb any of this stuff?

13 A. It happened like (*indicating*).

14 **MR. WILSON:** I don't have any other questions. Thank

15 you.

16 **THE COURT:** Mr. Long?

17 **MR. LONG:** No, sir.

18 **THE COURT:** All right. Very good. You may step down,

19 sir.

20 Do you wish the witness to be excused?

21 **MS. LIVESAY:** Yes, sir, Your Honor.

22 **THE COURT:** Any objection?

23 **MR. WILSON:** I have no objections, Your Honor.

24 **MR. LONG:** No, Your Honor.

25 **THE COURT:** All right, sir, you're released from your

1 subpoena. Thank you very much.

2 All right. Ladies and gentlemen of the jury, we're
3 gonna take a short break. Leave your pads and pens, go to
4 your jury room, and we'll call you back out shortly. Thank you
5 very much.

6 Everyone else remain seated until the jury retires,
7 please.

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JURY.)

10 THE COURT: All right. I'm gonna talk to everybody in
11 the courtroom. Cell phones, the use of them in any way,
12 accidental or otherwise, is prohibited in any courtroom in the
13 State of South Carolina. There's a big sign right on the door
14 when you walk in the door. You can't get through the door
15 without seeing this big sign right in front of you. I'm
16 telling you, the next person their phone goes off is going to
17 jail. Okay. Let's be clear about that.

18 Thank you very much.

19 (THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE
20 THE PRESENCE OF THE JURY.)

21 All right. Solicitor, are you ready to proceed?

22 MS. LIVESAY: Yes, sir.

23 THE COURT: All right. Very good. Mr. Wilson?

24 MR. WILSON: Yes, sir.

25 THE COURT: And Mr. Long?

1 **MR. LONG:** Yes, sir.

2 **THE COURT:** Very good. Ask the jury to come back in.

3 **MS. LIVESAY:** Your Honor, just briefly, can we approach?

4 **THE COURT:** Sure, absolutely.

5 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)**

6 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
7 **JURY.)**

8 **THE COURT:** All right, Solicitor, your next witness,
9 please, ma'am.

10 **MS. LIVESAY:** Thank you, Your Honor. At this time, the
11 State calls Cindy Evans to the stand.

12 **THE COURT:** Please come around and be sworn.

13 **CINDY EVANS,** being first duly
14 sworn, testifies as follows:

15 **MS. EVANS:** Cynthia Evans, E-V-A-N-S, but I go by Cindy.

16 **THE COURT:** Go ahead, Solicitor.

17 **DIRECT-EXAMINATION BY MS. LIVESAY:**

18 Q. Ms. Evans, tell the jury how old you are?

19 A. I'm forty-eight years old.

20 Q. Okay. And do you have any kids?

21 A. I have three kids.

22 Q. Okay. And tell the jury how old they are and what their
23 names are.

24 A. Christian is twenty-two, Chappell is fifteen and
25 Thompson is twelve.

1 Q. And are you currently living in Myrtle Beach?

2 A. Myrtle Beach.

3 Q. How long have you lived in this area?

4 A. Forty-eight years.

5 Q. Now, do you know why we're here today?

6 A. Absolutely.

7 Q. And do you know the Defendants, Larry and Kendrick
8 Chestnut?

9 A. Yes, I do.

10 Q. Okay. Could you please tell the jury how you know Larry
11 Chestnut?

12 A. I knew Larry Chestnut from dating my sister Christie.

13 Q. Okay. And how do you know Kendrick Chestnut?

14 A. He was cousins with Larry, with Ty -- I call him Ty --
15 he was his cousin and he was over there a lot.

16 Q. Okay. Just so everybody is clear, you call Larry
17 Chestnut, Ty?

18 A. Ty, that's what I've always called him, Ty. I call his
19 daddy Larry but I call him Ty.

20 Q. Okay. And you've always known Kendrick Chestnut as Mo?

21 A. Yeah, I never knew his name until this happened.

22 Q. Okay. Do you recognize the guy on the end of the table?

23 A. Yes, I do; that's Mo.

24 Q. Okay. Now, the victim in this case, Joey Hucks, tell
25 the jury ---

1 A. He was my eighteen-year-old brother.

2 THE COURT: I'm sorry, ma'am; I didn't hear you. You
3 need to speak up.

4 A. He was my eighteen-year-old brother; he was a baby.

5 Q. Okay. Do you remember what happened on or around May
6 21st of 2006?

7 A. Yes, I do.

8 Q. Okay. And do you remember being over at Christie Hucks'
9 house that day?

10 A. Yes, I do.

11 Q. Okay. Tell the jury where that house is.

12 A. It's on Highway 15, right off Pine Island Road.

13 Q. Okay.

14 A. I'm not sure of the exact address but 15 ---

15 COURT REPORTER: Excuse me. Pull up to the microphone.

16 A. Highway 15.

17 COURT REPORTER: Just pull your chair up.

18 Q. And who was over at her house with you?

19 A. When I went there was a -- they were having a pool
20 party/cookout. When I went, Mr. Larry, Sr., Ms. Sandra, Ty's
21 mom and dad, they were there. Ty was there; Tynesha, that's
22 his daughter, she was friends with my daughter; Christie was
23 there; and I -- me and my three children and Richard Day,
24 that's the only people I remember being there at that time.

25 Q. Okay.

1 A. I came up early, you know, really before the party kind
2 of started and I stayed less than a hour.

3 Q. Okay. Now, while you were there, were you doing any
4 drugs or alcohol?

5 A. No, absolutely not.

6 Q. Did you see anybody doing any drugs or alcohol?

7 A. Nobody was drinking or no drugs.

8 Q. Okay. And you were there with your boyfriend at the
9 time and your three kids?

10 A. Right.

11 Q. Okay. Now, do you remember when you left that party
12 that day was it still daylight?

13 A. Yes, probably around 3:30, something like that.

14 Q. Okay. And while you were at that party that day, did
15 you have a disagreement with anyone?

16 A. No. It was very nice.

17 Q. Okay. Did you see anybody else have a disagreement or
18 an argument?

19 A. No. The Chestnuts are very nice people. They were
20 cooking, everybody was happy, we were playing, swimming in the
21 pool. It was fun.

22 Q. Okay. Now, did you have an occasion to come back to
23 Christie's house that night?

24 A. Yes, I did.

25 Q. Okay. And who went back to her house with you?

1 A. Richard Day.

2 Q. Okay. Now, at the time, where was your daughter Chaplin
3 [sic]?

4 A. Chappell was there. She was asleep on the couch and
5 Tynesha was asleep on the couch.

6 Q. So you had left her there earlier to spend the night
7 with Larry Chestnut's daughter Tynesha?

8 A. Uh-huh (**indicating positive**); they were friends.

9 Q. So when you got back to the house, Chaplin [sic] was
10 there with Larry's daughter and Christie Hucks?

11 A. Uh-huh (**indicating positive**).

12 Q. Okay. Do you remember about what time it was when you
13 went back over to that house?

14 A. I think she called me around 1:00 but I was laying in
15 bed, kind of being lazy and it probably took me thirty or
16 forty minutes to get -- before I drove over there. So,
17 between 1:30, 2 o'clock.

18 Q. Now, had you had anything to drink or done any drugs
19 between then and when you went back.

20 A. Huh-uh (**indicating negative**), Been at home watching T.V.

21 Q. Okay. When you got to Christie's house that night, was
22 she the only adult there in the house?

23 A. Yes.

24 Q. Okay. What did y'all do once you got there?

25 A. Well, she had -- when she called me she said she'd

1 ordered some pizzas and subs and she was just down and she was
2 explaining to me about a birthday card that had upset her and
3 she -- so I said, well, I'll come over and -- I forgot what
4 the question was.

5 Q. What did y'all do once you got over there?

6 A. Well, we ate some pizza and we were just talking and
7 kind of laughing and she said she didn't really want Ty to
8 come back that night. She said, my feelings are really hurt
9 and I -- and so I said, I'll try to call Joey and tell him
10 just to drop him off at home, you know, he has a room at his
11 parents and just drop him off there. We called Joey a couple
12 of times and he never answered the phone and we just hung out
13 and talked and...

14 Q. Okay. Now, was she pregnant at that time?

15 A. She was eight or eight and a half months pregnant. She
16 was big, big.

17 Q. Okay. And to your knowledge, who was out that night?

18 A. When I first got there, I didn't know that Joey was with
19 them. I thought it was just Mo and Ty. And then she told me
20 that Joey had come and he went with them and I was kind of
21 surprised but -- because he's so young but he went with them,
22 you know, he thought he was gonna have a good time.

23 Q. Okay. Now while you and Richard and Christie were at
24 the apartment did anybody else show up?

25 A. Oh, yeah.

1 Q. Okay. Who came back to the apartment?

2 A. Joey, Ty and Mo.

3 Q. Okay. And how did Joey appear when he got back to the
4 apartment that night?

5 A. When he walked in, me and Richard were sitting down
6 right where you walk in the room and he stood in front of me
7 and he was kind of giddy, happy. I could tell he was drinking
8 but he wasn't like slurring his words or anything. He was
9 just like hey, how you -- my sister, I love you and he was
10 just giddy happy.

11 Q. Okay.

12 A. And Ty, he said, I want to talk to you Christie and they
13 just went to the kitchen and they were in there, you know, I
14 was still talking to Joey. I don't know what Mo was doing at
15 the time, you know, I don't know if he'd sat down in a chair
16 or nothing, I was still just talking to Joey and Joey was
17 talking to Richard and saying, you're a good worker, you're --
18 they'd been doing some landscaping stuff together and ---

19 Q. Now, how old was Ty at that time, do you know?

20 A. Ty? I have absolutely no idea how old he was.

21 Q. Okay. But Joey was eighteen?

22 A. Joey was eighteen.

23 Q. Okay. But he had been drinking that night?

24 A. Yes.

25 Q. Okay. Was he falling ---

1 A. No, he wasn't like falling down. He was like giddy,
2 kind of like just, you know, hey, like that.

3 Q. Now, when they first got in, where is everybody
4 standing?

5 A. When they first come in, Joey came straight to me and
6 Moke and starting talking to us. Ty went directly to -- he
7 was -- I didn't know he was mad, he was mad but I wasn't aware
8 of that at the time, he just wanted to talk to Christie and
9 they went to the kitchen and apparently, I found out, that
10 he'd been robbed for \$400 and he was telling her I don't know
11 what to do and she was telling him -- confronting him about
12 the card and then he came back into the room while we were in
13 there and he was like -- do I say what he -- he was like, I've
14 been putting up with this fucking shit, take me home, I -- you
15 know, he was like cussing and just mad and then we were like,
16 oh, God. I just figured -- I don't know if he was talking to
17 Joey or Mo; I didn't know who he wanted to take home. But
18 anyway, I got up and went to the kitchen and Christie was
19 still in there and I was talking to her. Joey came in there
20 and we were all three talking and he was like, did I do
21 something wrong, what's wrong. I said, oh, she's just
22 hormonal, don't worry about it. While I'm standing there just
23 still talking to Joey, Christie -- I don't know why her -- she
24 went back -- I don't know if she went into the other room, I'm
25 not sure how but the next thing you know they were right

1 there, right in the kitchen like right -- it's like a -- it's
2 a hallway but not really a hallway, it's just like one room,
3 here's the next room and he had her neck just like this
4 (indicating) and he was holding on to her, pushing up against
5 -- pushing her up against the wall with like all of his might.
6 I mean, he looked like -- he doesn't look like the young man I
7 see before me right now. He looked like a demonic, possessed,
8 crazy and I said, stop, get your hands off my sister, what are
9 you doing?

10 Q. Hold on. Before you go any further, this -- where did
11 he grab her at, in the hallway, in the kitchen?

12 A. In the kitchen. I was standing in the kitchen right in
13 front of the refrigerator talking to my brother, Joey, and
14 then when -- when I did that, as soon as I did that, I mean, I
15 didn't -- I wasn't trying to fight him, I don't know how to
16 fight, I've never been in a fight in my whole life. I was
17 forty-two years old and never been in a fight in my life. As
18 soon as I did that, he punched me and I like flew across the
19 room.

20 Q. Before you even go further from that, did you hear any
21 glass break?

22 A. Not until I hit the floor. At the same time that I hit
23 the floor, I heard glass break. Now, I didn't know if it was
24 me hitting the -- I didn't know what it was but I did hear
25 glass break, yes.

1 Q. Okay. Let me ask you this, before we get too far down
2 there, did you see anybody put their hands on who you're
3 calling as Ty, Larry Chestnut, before he grabbed Christie?

4 A. Absolutely not.

5 Q. And where did he grab her at?

6 A. You mean location-wise?

7 Q. Yes.

8 A. In the kitchen like up against that -- the wall right
9 where the kitchen and the living room divide.

10 MS. LIVESAY: Your Honor, could I ask the witness to
11 step down, please?

12 THE COURT: Yes, ma'am.

13 MR. WILSON: May we ---

14 THE COURT: Yes, sir.

15 MR. WILSON: Thank you.

16 Q. Cindy, do you recognize this diagram as being a diagram
17 of the apartment that's been ---

18 A. No.

19 THE COURT: You need to speak up now, ma'am, please.

20 A. Where's Highway 15 at?

21 Q. Right here (indicating).

22 A. Okay. This is Highway 15, okay, yeah, I recognize it
23 now, yes.

24 Q. Okay. Now, you're telling us that the ---

25 A. I was in here. Me and Joey were standing right towards

1 the refrigerator, me and him were standing here (**indicating**).
2 Ty had already went into the other room, talking to them or
3 whatever. He came back for some reason and I -- I didn't even
4 know they were there. Right here, like right here. I don't
5 know if it's before -- no, right there.

6 Q. Somewhere in this hallway.

7 A. Wherever the picture -- there was a picture on the wall
8 because he had her face -- he had her whole head up against
9 that, the picture that was on the wall and he was holding her
10 like this. And then I just said, stop.

11 Q. Let me show you what's been marked as State's Evidence
12 Number 8. That picture right there, is that the one that was
13 on the wall?

14 A. Okay. Let me -- okay, that's the living room, this is
15 ---

16 **COURT REPORTER:** Ma'am, you have to speak out, please.

17 A. Yes, this is the living room, this would be the kitchen
18 ---

19 **THE COURT:** Come closer to that microphone, please.

20 A. Okay. And this would've been -- yes, what I'm saying is
21 in the kitchen because the kitchen is right here. It's a
22 hallway but it's not -- it's so small it's not really like a
23 long hallway. You can see from both sides. Yes, that's it.

24 Q. So, that's the picture that you're referring to that
25 broke?

1 A. That's the -- I didn't know at the time but yes.

2 Q. But you heard it break?

3 A. As I fell down, I heard the glass break.

4 Q. Okay. And this wall right here is the wall you're
5 telling us you saw him grab her?

6 A. Yeah. He had her up against that wall.

7 Q. Okay. By the neck?

8 A. Uh-huh (**indicating positive**).

9 Q. Okay. Now, and that would be the wall right here on
10 this diagram?

11 A. That's right; that's correct.

12 Q. Okay. And then as he had her by the neck, what did you
13 do?

14 A. I approached him right here and just said, stop, don't
15 touch my sister. And as soon as I did, I mean, I didn't even
16 expect it, he punched me so hard and I just flew in the -- the
17 floor was wet, like they said, there was something wrong with
18 the dishwasher. I flew across the room and hit the -- hit the
19 door and just went down to the floor.

20 Q. Okay. So, you were -- you hit somewhere over here?

21 A. I hit, I hit like right here. I tried to get up and it
22 was wet and I was stumbling and this is the dishwasher ---

23 Q. Right.

24 A. --- and this was the dishwasher I was in front of and he
25 was punching me and I was like down -- you want me to show

1 you, like --, I was like down in the position like this
2 (**indicating**) and he's punching me, just punching me, punching
3 me.

4 Q. Okay. Go ahead and have a seat for right now, so ---

5 A. Okay.

6 Q. Okay. So, he's punching you. Okay. What are you
7 doing?

8 A. Covering my face.

9 Q. Okay.

10 A. That's it; that's the only thing I'm going at that time.
11 I couldn't get my feet -- my shoes were knocked off and the
12 floor was wet and I was just guarding the whole -- trying to
13 guard my face.

14 Q. How did he appear? Did you get a look at him?

15 A. Yeah, he looked -- he didn't look like Ty, he looked
16 crazy, he looked like psychotic, like he was gonna kill me. I
17 mean, I really and truly felt like he could really hurt me if
18 something didn't happen that he was gonna really hurt me.

19 Q. Okay. So, you're on the floor and he's beating you and
20 then what happens?

21 A. Okay. In my memory, I thought Moke came in at that
22 minute and pulled him off of me. I'm not sure but I thought
23 -- somebody pulled him off of me, it could've been Joey; I'm
24 not sure but somebody pulled him off of me. I got up and I
25 stepped back and Ty was like in the middle of the kitchen and

1 he was just like ---

2 Q. Make sure you talk in the microphone but tell the jury.

3 A. He was -- he was in the kitchen and he was like just
4 coming towards me and I had a shoe in my hand and I took my
5 shoe and threw it at his face and then he charged me and I
6 grabbed him by the hair and was holding his head down and all
7 he could do was push me. So he pushed me and I went up
8 against the wall and just slid down to the floor. And when I
9 was on the floor, he bit through -- I had a pair jeans on and
10 he bit through my jeans and bit a hole in my leg. I still
11 have the scars now. And while he was biting me, I reached on
12 the counter and there was a vase and I hit -- I clonked him
13 like three times on top of the head. I mean, I hit him with
14 all the force I had but it didn't stop him because he had
15 thick -- big dreadlocks at the time. It didn't -- I mean it
16 didn't phase him, he just bit harder. But Moke ---

17 Q. Before you go any further from there, Cindy, you see Ty
18 over there now?

19 A. Yes.

20 Q. Okay. And you said you grabbed him by the hair?

21 A. His dreadlock. He had long dreadlocks.

22 Q. Okay. Does he have long dreadlocks today?

23 A. No.

24 Q. Could you have grabbed him by that hair today?

25 A. No.

1 Q. Okay. Your Honor, at this time -- I'm sorry, one more
2 question. You said you hit him on the head with something.

3 A. Yeah, it was a monkey. I know exactly what it was. It
4 was a glass monkey that she had sitting on top of her counter.
5 I was trying to find something, I grabbed that thing and hit
6 him three times.

7 Q. But then it didn't bother him because he had thick
8 dreadlocks.

9 A. He didn't stop. He just bit harder and harder.

10 Q. Okay. So, hitting him with that head of hair would be a
11 lot different than hitting him with the head of hair ---

12 A. It would've busted his head open, yeah. It would've
13 probably broke -- it didn't even break the monkey.

14 Q. Okay. I'm showing her what's been marked as State's
15 Exhibit Number 7. Do you recognize what I'm showing you now?

16 A. Yeah, that's Ty.

17 Q. Okay. Now, let me ask you this, the dreadlocks. Is
18 that the way they looked that night?

19 A. Pretty much, yeah.

20 Q. Okay. Long and thick like that?

21 A. Yeah, long and thick dreadlocks.

22 Q. Is this what his hair looked like that night?

23 A. Uh-huh (indicating positive).

24 MS. LIVESAY: Your Honor, at this time, the State wishes
25 to ---

1 **THE COURT:** Was that a yes or no?

2 A. Yes, sir.

3 **THE COURT:** All right. Thank you.

4 **MS. LIVESAY:** Your Honor, at this time, the State wishes
5 to introduce State's Exhibit Number 7 into evidence and
6 publish it to the jury.

7 **THE COURT:** Any objection, Mr. Wilson?

8 **MR. WILSON:** Yes, sir, Your Honor. My objection is the
9 same as I made earlier. I think -- I don't see the relevance
10 of it. She's testified, it's cumulative and it has absolutely
11 no validity to this charge.

12 **THE COURT:** All right. I appreciate that.

13 Mr. Long, any objection?

14 **MR. LONG:** No, Your Honor.

15 **THE COURT:** All right. Over the Defense's objection and
16 that is the Defendant -- I was gonna say Ty Chestnut but
17 that's Larry Chestnut objection. It's in evidence.

18 That's State's 7; is that correct?

19 **COURT REPORTER:** Yes, sir.

20 (PHOTO OF LARRY CHESTNUT ADMITTED INTO EVIDENCE AS
21 STATE'S EXHIBIT NUMBER 7.)

22 **THE COURT:** All right.

23 **MS. LIVESAY:** Thank you, Your Honor. And at this time,
24 I'm gonna publish it to the jury.

25 **THE COURT:** You may do so.

1 **MS. LIVESAY:** Thank you.

2 Q. Now, this picture here, is that what his dreadlocks
3 looked like?

4 A. Yes, that's a very accurate picture of what he looked
5 like that night.

6 Q. Okay. And these dreadlocks here, is that where you
7 grabbed him?

8 A. Yes.

9 Q. Okay. And you're saying up here when we're looking at
10 this picture, how thick they are ---

11 A. Uh-huh (**indicating positive**), I'm not sure if I hit him
12 on the back of the head -- when he just came at me, I -- you
13 know, I didn't know how to swing or what to do so I just
14 grabbed his hair and I could hold him -- I had no strength to
15 hold his head down but, you know, not enough strength to like
16 fist-fight him.

17 Q. Okay. But you were trying to strike him with the object
18 to get him off?

19 A. After he starting biting my leg.

20 Q. Okay. Did it get him off of you?

21 A. That didn't get him off. Moke got him off.

22 Q. Okay. Then what happened next?

23 A. At -- I played it over in my mind and all I remember is
24 I'm just in the kitchen alone by myself. Nobody else is in
25 there. I don't know if everybody just went to the other room

1 but my leg is hurting so bad, I can hardly stand up. I'm just
2 like sitting there, you know, what do I do next. But from the
3 other room, I hear like really evil and bad things being said.

4 Q. What did you hear? Tell the jury.

5 A. Okay. I heard someone say, you think I'm fucking
6 scared, I'll kill you mother fucker. That was the exact words
7 that they said. You think I'm scared, I will kill you mother
8 fucker and then I heard somebody say -- and I think this was
9 Mo because Ty doesn't have a car, he said, I'll go to my car
10 -- I'll go to the car and get my gun, I'll kill y'all. I just
11 -- the -- just the word kill just kept coming up and I knew it
12 was like escalating into something that, you know, I'm not
13 gonna be able to control. I was gonna have to get help.

14 Q. Now, did you recognize Joey's voice?

15 A. Yes. I heard my brother -- my brother said -- the first
16 voice I heard was, don't touch my sisters, don't -- keep your
17 hand off my sister, in a very -- it was like a scared, he
18 sounded scared. He had a very -- he was very soft-spoken but
19 he sounded scared. It wasn't like, get your hands off my
20 sisters, you know, it was not like that it was like, don't
21 touch my sisters.

22 Q. Okay. And then that's when you heard the other voices?

23 A. Then I heard, yeah, there was a lot of commotion, there
24 was a lot of cussing and it ---

25 Q. And you could recognize Joey's voice?

1 A. I recognized Joey's voice, he has a very discernible
2 voice, very soft-spoken.

3 Q. Okay. And then where did you go?

4 A. I just laid there for a minute and then I thought it
5 would be -- I would try to run out to the gate because there
6 was always people kind of on Highway 15 hanging out, you know,
7 like up around that area. So, there was a gate there so I ran
8 out the back door just to the gate, the gate is from me to
9 you. I ran to the gate and I looked around and I didn't see
10 anyone. So, I turned around to go back in and when I got back
11 inside, I saw Ty at the kitchen drawer and I didn't want him
12 to see me so I turned around and ran back and then that time I
13 ran to the apartments, apartments, apartments and then like
14 three houses down.

15 Q. When you say Ty, Larry Chestnut, in the kitchen going
16 through the drawer, was anybody else in the kitchen?

17 A. No.

18 Q. Did you hear anybody say anything, any screaming,
19 anything?

20 A. I did -- I still heard the kill and all that, I still
21 heard all that that was going on.

22 Q. Okay. So, after you see this, you run back out?

23 A. Yes.

24 Q. Okay. And what are you doing at that point when you run
25 back out?

1 A. Immediately, as soon as I ran out, I ran to Apartment
2 One because I knew the couple that lived there and I knocked
3 on their door. They didn't ever answer. I went to the house
4 directly beside that, beat on that door, nobody answered. As
5 I'm at the door, I see a car come, I run to the street to try
6 to stop them but the cars went around me. So, I went to
7 another house that's back behind that and knocked on that door
8 and no one ever answered.

9 Q. Was there anybody else out there with you trying to get
10 help, flag down traffic?

11 A. No.

12 Q. Okay.

13 A. I don't know where everybody else was at that time. I
14 just ran out by myself. I -- you know, I figured -- they were
15 talking about getting a gun, you know, they're not gonna get
16 out and go get a gun out the car or whatever.

17 Q. Did you have a cell phone at the time?

18 A. When he hit me, my cell phone flew. It was in my bra
19 and it fell under the dryer, the police found it under the
20 dryer.

21 Q. Okay. Now, did you ever return after you -- did you
22 ever flag somebody down, did you ever actually ---

23 A. Yes, I did.

24 Q. Okay. The lady that testified earlier, her sister was
25 in front of her and she slowed down but she didn't stop at me,

1 she just slowed down -- you know, I was in the middle of the
2 road and she slowed down and she went down and past and then I
3 -- you know, Moke was, you know trying to holler at her and
4 talk to her and told her to call 911 and then I came back and
5 Joey was laying in the ground, he had blood on his face from
6 here to there and on the front of his shirt, and just here
7 **(indicating)** and I didn't know he'd been stabbed. But my
8 sister Christie said, Cindy take care of Joey and then she was
9 with -- she was like with like over him and so I got my legs
10 and put underneath his head, cradled his head and he was
11 gurgling blood, he never talked, he never communicated with me
12 at all.

13 Q. Okay. Did you see -- when you got back to that
14 apartment, did you see Larry Chestnut or Kendrick Chestnut?

15 A. I saw their car come flying past as I was outside with
16 Joey on the ground, it took off.

17 Q. Okay. Did anybody take off after them?

18 A. Yeah, Moke went after them.

19 Q. Okay. Did he come back?

20 A. Yeah, he wasn't gone very long maybe five, ten minutes.
21 It didn't seem like he was gone long. He pulled right back in
22 and he was like, let's take Joey to the hospital. I said, no,
23 don't move him, the ambulance -- you know, the ambulance, we
24 need to wait for an ambulance and I don't want to move him.

25 Q. And eventually did the police come?

1 A. The police -- yes, the police were there very fast.

2 Q. Okay. How about the ambulance?

3 A. I think the ambulance was very fast, they were all there
4 -- somebody came up behind me and I think it was an officer
5 and I was holding his arm, he had -- somewhere around here
6 **(indicating)**, like his arms, he had a terrible laceration and
7 I was trying to apply pressure to it the whole time and so
8 they were like just hold on to his arm and then when the
9 ambulance people came, they just, you know, took over and a
10 detective took me to a car right then.

11 Q. Okay. Now, while all this was going on, is your
12 daughter still in the house, Chappell?

13 A. No.

14 Q. Okay. How did you know that?

15 A. I didn't even think about it while I was out there with
16 my brother Joey but as soon -- like after the ambulance come
17 and Christie was like, you know, where's Chappell, where's
18 Chappell? They wouldn't let Christie go back in but I begged
19 them to please let me go back into the scene, I said she might
20 be scared. If I say her name, maybe she'll come out. I went
21 in the house and she wasn't there and ---

22 Q. Did you find out where she was?

23 A. I told them, I said, maybe they took them to Larry's and
24 Ms. Sandra's, you know, because first I was like why would
25 they take her, are they gonna hurt her, what are they gonna

1 do, I was really, really freaking out but then I just, you
2 know, kind of felt like maybe they took them there and left
3 them.

4 Q. Okay. While you were -- when you first got in the house
5 and this started, do you know where Chappell was during that
6 time? Was she in the apartment?

7 A. When we first got there? She was on the couch asleep,
8 her with -- her and Tynesha.

9 Q. Now, looking at this diagram very briefly, when you came
10 in and y'all were all talking, Tynesha and Chappell were
11 actually in this living room?

12 A. Right.

13 Q. Okay. And they didn't leave that apartment until
14 Chappell got in the car with the two defendants.

15 A. Christie took them upstairs. As I was still in the
16 kitchen, she took the kids because she seen them open their
17 eyes and she made them go upstairs.

18 Q. Did you see that?

19 A. No but she told me ---

20 Q. Okay. If you didn't see it or hear it, don't ---

21 A. Okay.

22 Q. Okay.

23 COURT REPORTER: 11 through 16, State.

24 (PHOTOS MARKED AS STATE'S EXHIBIT NUMBER 11 THROUGH 16
25 FOR IDENTIFICATION ONLY.)

1 **MS. LIVESAY:** Thank you, Your Honor. Can I approach the
2 witness?

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

4 Q. Ms. Evans, do you recognize what I'm showing you now?

5 A. Yes.

6 Q. What's it a picture of?

7 A. It's a picture of my face.

8 Q. Okay. And is that a bruise on your face?

9 A. Yeah, that's from Ty hitting me that night.

10 Q. And is this a picture of what happened from that night?

11 A. Yes.

12 Q. This substantially and accurately depicts what you
13 looked like after this incident?

14 A. I forgot but yes, that's correct.

15 Q. And that is indeed you in the picture?

16 A. That is me and it was like three days afterwards that
17 they called me to the police department and wanted to take
18 pictures and that is -- that's the picture.

19 **MS. LIVESAY:** Okay. Your Honor, at this time, the State
20 makes a motion to put in State's Exhibit Number 11 into
21 evidence and publish it to the jury.

22 **THE COURT:** Any objection, Mr. Wilson?

23 **MR. WILSON:** Your Honor, the -- all the pictures that
24 she has, my objection is relevance to this particular case. I
25 don't really understand what the relevance is but other than

1 relevance I don't have an objection. If the Court finds that
2 they are relevant, then I don't have an objection beyond that.

3 **THE COURT:** All right. And Mr. Long?

4 **MR. LONG:** I don't have an objection to the photo.

5 **THE COURT:** All right, sir. Over the objection of the
6 Defendant Larry Chestnut, I'm going to allow State's Exhibit
7 11 in evidence. I find that those to be proper to be
8 introduced.

9 You may continue.

10 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
11 11.)

12 Q. Ms. Evans, do you recognize what I'm showing you now
13 that's been marked as State's Exhibit Number 12?

14 A. Yes, that's my cheek.

15 Q. Okay. And is that you in the picture?

16 A. That's me in the picture.

17 Q. Okay. And does that substantially and accurately depict
18 what you looked like after this incident?

19 A. Right.

20 **MS. LIVESAY:** Okay. Your Honor, at this time, the State
21 makes a motion to put 12 into evidence and publish it to the
22 jury.

23 **THE COURT:** All right. Let me see all of them real
24 quick, please. All of them.

25 **MS. LIVESAY:** Oh, sorry.

1 **THE COURT:** I'm not gonna allow 14 and 15, finding those
2 to be cumulative.

3 **MS. LIVESAY:** Thank you, Your Honor.

4 **THE COURT:** 12 -- I assume the same objection, Mr.
5 Wilson for 12?

6 **MR. WILSON:** That is correct, Your Honor, yes, sir.

7 **THE COURT:** In evidence over the Defendant's objection.

8 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
9 12.)

10 **MS. LIVESAY:** Thank you, Your Honor.

11 Q. I'm showing you now what's been marked as State's
12 Exhibit Number 13. Do you recognize that?

13 A. Yes. That's where he bit me on the leg.

14 Q. Okay. Is that your leg?

15 A. Yes.

16 Q. Did that substantially and accurately depict what your
17 leg looked like then?

18 A. Yeah. And it remains that way to this day.

19 Q. Okay. Do you have a scar on your leg now?

20 A. Yes, I do.

21 **MS. LIVESAY:** Your Honor, at this time, the State wishes
22 to place State's Exhibit Number 13 into evidence?

23 **THE COURT:** Same objection, Mr. Wilson?

24 **MR. WILSON:** Same objection, Your Honor.

25 **THE COURT:** All right. State's 13 is in evidence over

1 the objection of the Defendant Larry Chestnut.

2 Mr. Long, was there any objection to 12 or 13?

3 **MR. LONG:** No, Your Honor.

4 **THE COURT:** Okay, good.

5 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
6 13.)

7 **MS. LIVESAY:** Your Honor, at this time, the State ask
8 that Ms. Evans stand and show the jury what that place looks
9 like now.

10 **THE COURT:** I think the photograph is representative
11 along with her testimony.

12 Q. That's okay, Ms. Evans.

13 **THE COURT:** I don't find it necessary. Thank you.

14 Q. Do you recognize what I'm showing you as State's Exhibit
15 Number 16?

16 A. Yes.

17 Q. Okay. And what is this a picture of?

18 A. My knee.

19 Q. Okay. And is this ---

20 **THE COURT:** You need to speak up, ma'am, or be behind
21 the microphone.

22 A. My knee.

23 **THE COURT:** Thank you.

24 Q. And does this substantially and accurately depict what
25 you looked like after that incident?

1 A. Yes.

2 Q. Okay. Now, you talked earlier in your testimony ---

3 THE COURT: Did you want to introduce that one, ma'am?

4 MS. LIVESAY: Yes, sir, Your Honor.

5 THE COURT: What number is that?

6 MS. LIVESAY: Move that into evidence.

7 THE COURT: Which one is that?

8 MS. LIVESAY: State's 16.

9 THE COURT: Same objection, Mr. Wilson?

10 MR. WILSON: Yes, sir. That is correct, Your Honor.

11 THE COURT: And no objection, Mr. Long?

12 MR. LONG: No objection, Your Honor.

13 THE COURT: All right. State's 16 is in evidence over
14 the objection of the Defendant Larry Chestnut.

15 MS. LIVESAY: Thank you.

16 (PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
17 16.)

18 Q. Now, you were talking earlier about Larry Chestnut, you
19 were down on the ground and he was beating you, is that when
20 you got those bruises?

21 A. Yes.

22 Q. Okay. And you talked earlier, you grabbed him by the
23 dreads?

24 A. Right.

25 Q. And he was biting you?

1 A. Right.

2 Q. Is this the bite mark that came from that?

3 A. Yes.

4 Q. Okay. Now, were you wearing a dress that day?

5 A. I had blue jeans on. He bit through my blue jeans.

6 Q. And the other bruises that have been put into evidence,
7 they also came from that night?

8 A. Yes.

9 Q. Okay. Ms. Evans, just so I'm clear, did anybody put
10 their hands on Larry Chestnut first?

11 A. No.

12 Q. Okay. Tell the jury what you did when you were trying
13 to get him off your eight-month-pregnant sister.

14 A. I said, stop, don't -- don't put your hands on my
15 sister. I didn't hit him, I didn't pinch him, bite him ---

16 Q. Did you push him?

17 A. I may have. I may've just kinda, you know, tried to
18 pull them apart. I'm not really certain because it just -- it
19 shocked me, you know, I was in shock. Normally, I would've
20 just started crying and said what are you doing but I was just
21 in shock and they were right there beside me. I said, whoa,
22 don't -- don't -- what are you doing?

23 Q. And then that's when he jumped on you?

24 A. Yeah. I mean, I didn't even -- I didn't even have time
25 to even know that it was gonna be -- I had no idea, you know,

1 it was gonna be a fight. He just bam, punched me right then.

2 Q. Just so I'm clear, was there ever a time during that
3 altercation that you were on top of Larry Chestnut?

4 A. Oh, no.

5 Q. While you were there and all of this was going on, was
6 there ever a time you saw anybody on top of Larry Chestnut?

7 A. Never, never.

8 Q. When you were on the floor and he was on top of you, how
9 did you -- how were you able to get free?

10 A. I think Moke pulled him off of me. I'm not sure. It was
11 just like all of a sudden everybody was out the room. I don't
12 know. Because I hit him -- I know I hit him on the head as
13 hard as I could and that didn't stop him but somebody pulled
14 him off of me. I'm pretty sure it was Moke.

15 Q. Okay. When this happened, at that point, did you see
16 anybody when he was getting him off of you, hitting Larry
17 Chestnut ---

18 A. No, no, they didn't fight -- they didn't fight, just
19 said stop man, what are you doing, just like that.

20 Q. Okay. So, still even then when you're standing there in
21 the kitchen, you see nobody strike Larry Chestnut?

22 A. I wasn't standing; I was laying on the floor.

23 Q. At any point while all this is going on, did you ever
24 see Larry Chestnut on the ground?

25 A. Never.

1 Q. Just one more point of clarification. When you came
2 back, you testified earlier that you saw Ty or Larry, who is
3 Larry Chestnut, in the kitchen and you did not go back into
4 the house. You were too scared; is that right?

5 A. Right.

6 Q. Did you see what he was doing in the kitchen?

7 A. He was opening up a drawer by the stove.

8 Q. Did you see what he got out of the drawer?

9 A. No, I did not.

10 MS. LIVESAY: No further questions for this witness,
11 Your Honor.

12 THE COURT: All right. Cross-examination, Mr. Wilson.

13 MR. WILSON: Thank you, ma'am.

14 CROSS-EXAMINATION BY MR. WILSON:

15 Q. Ma'am, you said that he was opening up drawers looking
16 for something in the kitchen..

17 A. I didn't say looking ---

18 Q. Is that what you just testified to?

19 A. I didn't say he was looking for something. I just seen
20 him pulling the drawer open.

21 Q. When did you tell the police that story, that version of
22 your story?

23 A. When he was opening up ---

24 Q. Uh-huh (**indicates positive**).

25 A. I think when -- the first interview I had was ten

1 minutes long. So I elaborated and had more detail when I gave
2 the second one two days later.

3 Q. And are you telling us that you told them that in the
4 second statement that you saw him rummaging through a drawer
5 looking for something?

6 A. I didn't see him rummaging, I just seen him standing by
7 the -- like with his hand like this (**indicating**), going ---

8 Q. So, now you're saying he was standing by the drawer?

9 A. Yeah.

10 Q. Did you tell the Solicitor just a minute ago that he was
11 going through the drawer?

12 A. No, I didn't.

13 Q. You didn't say that?

14 A. I don't think so.

15 Q. So, that's not what occurred?

16 A. I didn't see him going through the drawer, I just seen
17 him standing at the drawer.

18 Q. All right. So you -- well, if he's in the kitchen, if
19 he's in the kitchen, the drawers are right there within inches
20 of him if he's standing in the middle of the kitchen; wouldn't
21 you agree to that?

22 A. Well, there was a dishwasher on one side, there's a
23 little teeny drawer and then there's a stove.

24 Q. Ma'am, how wide is this kitchen?

25 A. Not very ---

- 1 Q. Nine feet maybe?
- 2 A. Not very wide.
- 3 Q. All right. Maybe nine feet?
- 4 A. Right.
- 5 Q. And if he's standing in the middle of the kitchen, you
- 6 could reach both sides of it with your hands and if a drawer
- 7 is open it's even closer to it, would it not be?
- 8 A. He wasn't in the middle of the kitchen, he was in front
- 9 of the drawer.
- 10 Q. He was in front which door?
- 11 A. Drawer.
- 12 Q. Which drawer?
- 13 A. I'll show you. There's a drawer right there
- 14 **(indicating)**.
- 15 Q. All right. So he's in ---
- 16 A. There's the kitchen sink, here's the stove,
- 17 refrigerator, there was one drawer right in there.
- 18 Q. He's in the far corner of the kitchen at this point in
- 19 time?
- 20 A. Right. He didn't see me, I don't think.
- 21 Q. Where were you?
- 22 A. I, I was at the back door.
- 23 Q. You were at the back door?
- 24 A. Facing Highway 15 coming -- the front door or what you
- 25 call it from the back, but ---

1 Q. So, this is after your what you say was a fight with you
2 and him.

3 A. Right.

4 Q. This is after that, correct?

5 A. Right.

6 Q. And you leave out and then you come back in and you see
7 him at the kitchen -- in the kitchen near a drawer.

8 A. That's ---

9 Q. That's what your story it?

10 **THE COURT:** Can you come back in front of the
11 microphone, ma'am.

12 A. Yes, and then I turned around and ran.

13 Q. Then you turned around and ran?

14 A. Yes.

15 Q. All right. And now where is Joey when your brother --
16 where is Joey when you see Ty Chestnut standing in the kitchen
17 near the drawer?

18 A. I have no clue.

19 Q. You have no clue?

20 A. No clue. He would be in the living room to the best of
21 my knowledge, he would be in the living room.

22 Q. Well, and which door are you at?

23 A. I'm at the door facing Highway 15. Do you want to call
24 that the front door or do you want to call it the back door?

25 Q. Well, what do y'all call it?

- 1 A. I call it the back door.
- 2 Q. Okay. And is that closest to the kitchen or closest to
3 the living room?
- 4 A. Kitchen.
- 5 Q. All right. So, you can't see in the living room?
- 6 A. No.
- 7 Q. So, you don't know where Joey is ---
- 8 A. No.
- 9 Q. --- at that point?
- 10 A. I really don't.
- 11 Q. Okay. Now, at that point, is there any blood on the
12 floor in the kitchen?
- 13 A. No.
- 14 Q. Okay. Now, you know that when this is all over and said
15 and done, there's blood all over the kitchen floor, isn't
16 there?
- 17 A. That's correct.
- 18 Q. All right. And did you see your brother Joey with the
19 knife?
- 20 A. I did not, sir.
- 21 Q. All right. Did you see him rummaging through any
22 drawers?
- 23 A. My brother?
- 24 Q. Yes, ma'am.
- 25 A. No, I did not, sir.

1 Q. All right. So, when you're in there and you're on the
2 floor as you testified earlier, you're on the floor ---

3 A. Yes.

4 Q. --- because Mr. Chestnut pushes you or knocks you over
5 onto the floor and it's filled with water and you fall down
6 and you're up against the sink or the washing machine or
7 something, right?

8 A. Yes.

9 Q. And your boyfriend then comes in. Now, at this point in
10 time, where is Christie?

11 A. I assume she's in the living room.

12 Q. Okay. Now, when all this is said and done, did you see
13 any bruises on Christie?

14 A. I never looked for bruises on Christie. She never
15 looked for bruises on me.

16 Q. Well, your sister is nine-months-pregnant or
17 eight-and-a-half-months pregnant, this -- she ---

18 A. She got medical help that night, she seeked medical help
19 and I was with her at the hospital.

20 Q. This man comes in and he jacks her up by the throat on
21 the wall and you don't pay attention to see if she's bruised?

22 A. Yes, I tried to just tell him to stop.

23 Q. Did you ever see one picture of Christie's neck or body
24 showing any bruises, any marks, anything -- of any kind?

25 A. No, and I never saw the bruises of me until just now.

- 1 Q. Okay. Now, but you reported your bruises that night to
2 the police, didn't you?
- 3 A. No.
- 4 Q. You didn't report them?
- 5 A. I don't think so.
- 6 Q. Well, you took pictures of them, in fact.
- 7 A. They took pictures of me days later, I think.
- 8 Q. Okay. But you told them about it that night and you
9 also gave them a statement that night, did you not?
- 10 A. Yes, I did.
- 11 Q. All right. Now, all this is going on, you ever see Ty,
12 Mr. Chestnut, with a weapon of any kind?
- 13 A. Did I see him with a weapon?
- 14 Q. Yes, ma'am.
- 15 A. I did not, sir.
- 16 Q. Did not. And did you ever see your brother with a
17 weapon of any type?
- 18 A. I did not, sir.
- 19 Q. Now, how tall is your brother or was your brother?
- 20 A. I would say five-eight, five-nine; I'm not sure.
- 21 Q. Was he taller than you?
- 22 A. He was taller than me.
- 23 Q. Okay. And how tall are you?
- 24 A. I'm five-six.
- 25 Q. Okay. So, he's taller than you. How much did he weigh?

- 1 A. I would say 250. I'm not sure.
- 2 Q. Would you say 308 might be closer?
- 3 A. I have no clue. I don't know how to ---
- 4 Q. You don't know?
- 5 A. I can't gauge people's weight. I'm a tall guesser.
- 6 Q. Now, let's go back because what you're telling us is
- 7 that when you're in this room, in this kitchen that you're on
- 8 the floor, Ty has knocked you on the floor and now he comes
- 9 down and gets down on the floor with you to bite you on the
- 10 leg?
- 11 A. No, I pull him down by his hair.
- 12 Q. All right. So, where -- and where is your sister now at
- 13 this point because ---
- 14 A. I think she went to get the kids and put them upstairs.
- 15 Q. All right. So, your sister is no longer in there and
- 16 you and Ty are down on the floor together, right?
- 17 A. Correct.
- 18 Q. And your boyfriend comes in, right?
- 19 A. Correct.
- 20 Q. All right. And now you are already hitting him and in
- 21 fact didn't you throw your shoe at him first even before you
- 22 got the brass monkey or the whatever kind of monkey it was to
- 23 hit him with?
- 24 A. Yes, I stated that.
- 25 Q. In fact, you threw your shoe at him when you heard your

- 1 sister cry, you threw the shoe at him which is what started
2 everything ---
- 3 A. That's not true.
- 4 Q. And you threw the shoe at him ---
- 5 A. That's not true.
- 6 Q. Is there any -- well, let me ask you this way, is there
7 any question you threw the shoe at him?
- 8 A. I did throw the shoe at him.
- 9 Q. You threw the shoe at him. And he turned around and
10 slapped you, knocked you across the room ---
- 11 A. Not true.
- 12 Q. Then you're on the ground, both of you on the ground,
13 right?
- 14 A. No.
- 15 Q. Or on the floor?
- 16 A. Both who, me and my sister?
- 17 Q. You -- no, you and Ty, that's who we're talking about,
18 that's who you're having the disagreement or the fight with.
19 The two of y'all were on the floor?
- 20 A. I was on the floor for almost the entire time.
- 21 Q. And that's what I'm asking, ma'am, you were on the
22 floor, you got him by the hair, he's down with you because
23 he's biting you, according to you, down here on your leg, so
24 you can't ---
- 25 A. No, that's wrong; that's not where he bit me.

1 Q. Where did he bite you, ma'am?

2 A. Do you want to see it?

3 Q. No, ma'am. I just asked you where?

4 A. He bit me on -- I mean, how ---

5 Q. Where, just tell me where?

6 A. Above my knee.

7 Q. Above your knee?

8 A. About right here (*indicating*).

9 Q. Okay. Above your knee. So, he bit you about your knee.
10 Now, if Ty is five-ten or five-eleven, he can't just bite you
11 on your knee standing up so he'd either have to be bending way
12 down or down on his knees or on the floor.

13 A. That's when I grabbed his hair and he pushed me until I
14 fell and his head was still in my lap and I was holding him by
15 the dreads.

16 Q. Cause he fell down in the water, too, didn't he? Both
17 of y'all were in the water which was on the floor which caused
18 you to fall on the floor?

19 A. No, he just didn't have nowhere else -- nothing else to
20 do, I had his dreads, except for run me into a wall. We
21 weren't in front of the dishwasher then, we were in front of
22 the refrigerator.

23 Q. Your boyfriend comes in and he jumps in the fray and now
24 it's you and Moke and your brother is in the kitchen. Didn't
25 you tell the Solicitor earlier that when you went back into

- 1 the kitchen, it was you and Joey and Christie?
- 2 A. Yes.
- 3 Q. The three of y'all were in that kitchen.
- 4 A. That's correct.
- 5 Q. And when you threw the shoe, all three of y'all were ---
- 6 A. No, I did not say that.
- 7 Q. I'm asking that. All three of y'all weren't there when
- 8 you threw the shoe?
- 9 A. No.
- 10 Q. All right. Where was Joey when you threw the shoe?
- 11 A. Joey must've been in the living room.
- 12 Q. Must've been in the living room.
- 13 A. It was only me -- me and Ty and Richard Day.
- 14 Q. All right. So, you and Ty and Richard Day were there
- 15 and Richard Day is your boyfriend?
- 16 A. Correct.
- 17 Q. All right. So, it was the two of y'all versus Ty?
- 18 A. No, it wasn't versus. They weren't fighting.
- 19 Q. Well, you said that ---
- 20 A. He was just coming after me.
- 21 Q. Well, were you in here when he testified earlier?
- 22 A. Yeah, but they didn't fight. They never swung at each
- 23 other, they -- he just pulled him off me, that was it.
- 24 Q. All right. And he pulls ---
- 25 A. He said stop.

1 Q. All right. So he pulls him off of you. Now, at some
2 point, when was it that Ty told all of y'all, he said, take me
3 home. Isn't this before you and he get into the fight?

4 A. Yes.

5 Q. He was trying his best to leave. Y'all weren't gonna
6 let him leave, were you?

7 A. Well, I don't want him -- I wasn't trying to stop him.
8 I went into the other room.

9 Q. He asked you ---

10 A. He didn't ask me. I think he was talking -- I don't
11 know if he was talking to Moke or Moe or who but he just said,
12 fuck this, he got robbed, I want to get the fuck out of here,
13 take me home.

14 Q. Right. He said, "F" this ---

15 A. Yeah.

16 Q. I want to ---

17 A. That's what he said.

18 Q. And this is -- and he asked to take him home. He goes
19 -- and he comes out ---

20 A. But he didn't leave. He come right back into the
21 kitchen.

22 Q. He comes out to go get his daughter who is upstairs in
23 the house. Is that correct?

24 A. She was on the couch.

25 Q. Well, didn't you say earlier that Cindy had taken them

1 ---

2 A. No, Christie.

3 Q. I'm sorry. Christie had taken them upstairs and put
4 them in the bed?

5 A. After the fight. After he punched him in the living
6 room, after he hit Joey, then she took them upstairs.

7 Q. All right. So, now where -- where were you when he hit
8 Joey?

9 A. I was in the kitchen.

10 Q. All right. Now, if Joey -- so he and Joey are fighting
11 in the front room ---

12 A. Uh-huh (**indicating positive**).

13 Q. --- at the foot of the stairs, right? Is that what your
14 testimony is?

15 A. I'm not sure where they were fighting.

16 Q. Well, then how do you know ---

17 A. But I know they were in there -- they were fighting in
18 the living room.

19 Q. All right.

20 A. I heard my brother say, don't touch my sisters and then
21 Ty said something, what you gonna fucking do, I ain't fucking
22 -- well, I'm not sure if it was Ty's voice. I honestly don't
23 want to -- I can't say whose voice it was but he said, I'm not
24 scared, I'll kill you mother fuckers.

25 Q. So there was some conversation going on ---

1 A. Lots of conversation.
2 Q. --- with Joey and somebody.
3 A. Not -- yeah, I don't know if was just Joey or who all --
4 I don't know who he was talking to.
5 Q. All right. Now, when Joey was in the kitchen and Ty
6 knocked you to the floor, he didn't get involved then?
7 A. I'm not sure. I think he may've pulled him off of me
8 when I was in front of the dishwasher.
9 Q. Well, I thought you said he wasn't in the kitchen?
10 A. I wasn't sure -- I'm not sure. Somebody pulled him off
11 me but I don't know who.
12 Q. Ma'am, the truth ---
13 A. I was like this (**indicating**), I don't know. Somebody
14 stopped him. I got up, that's when I -- the floor was wet, I
15 had my shoes in my hands and then he come like charging at me,
16 I threw my shoe at him.
17 Q. Did you ever see a knife that night?
18 A. I never saw a -- no absolutely not.
19 Q. You never seen any weapon that night?
20 A. I never saw a weapon.
21 Q. You ever see anybody get cut that night?
22 A. No, I did not.
23 Q. In fact, ma'am, the truth of the matter is y'all were
24 all intoxicated.
25 A. I was not drinking.

1 Q. You weren't drinking?

2 A. That's not true.

3 Q. Y'all were all intoxicated and ---

4 A. That's not true.

5 Q. --- and you can't really remember what occurred?

6 A. Sir, that is not true. I was at my home watching T.V.

7 I left the party at 3 o'clock. If there was any drinking

8 going on it was after -- I don't -- Mr. Larry was there, Ms.

9 Sandra, I would never be disrespectful and nobody was drinking

10 at the party. It was a family party.

11 Q. Ma'am ---

12 A. This wasn't -- it wasn't a party, I just went over there

13 to comfort my sister. I was not drinking, there was no

14 alcohol, there was no drugs, there was nothing of that sort.

15 Q. All right.

16 A. Did they not drug test us?

17 Q. Let me ask you this, did -- were you on drugs that

18 night?

19 A. Absolutely not.

20 Q. But you do use drugs, right?

21 A. No, absolutely not.

22 Q. You deny that, ma'am?

23 A. Yes,, I do. I mean, I take -- I'm prescribed drugs, if

24 that's what you mean but do I recreationally take drugs,

25 absolutely not.

1 Q. Now, let me ask you this, once you ran out of the house,
2 once you left the house, when you say you looked in the house
3 and you saw that Mr. Chestnut was in the kitchen and the
4 drawer -- near a drawer or something ---

5 A. Right.

6 Q. Did you ever come back into the house that night before
7 you found out that your brother had been stabbed?

8 A. No, I did not.

9 Q. Did you ever see Mr. Chestnut when he was outside which
10 would've been after you ran out of the house?

11 A. No, I did not.

12 Q. Did you ever see him do anything to your brother outside
13 in the yard?

14 A. No, I did not.

15 Q. And you didn't see him do anything to your brother
16 inside the house either?

17 A. No, I did not.

18 Q. Tell me why it was that when Mr. Ty Chestnut said that
19 he was -- because all this happened after he said I'm leaving,
20 take me home and he goes to get his daughter. Everything
21 happens after that. Why is it that -- why is that?

22 A. I don't understand the question.

23 Q. Wasn't -- when Ty said that he was leaving and that he
24 was going home, your sister got upset about that, didn't she?

25 A. I thought the problem was solved. He was leaving, good

1 night, everything would be fine.

2 Q. I'm sorry.

3 A. I thought he was leaving, good night, everything would
4 be fine.

5 Q. Well, yeah, but your sister wasn't happy about that, was
6 she?

7 A. Yeah, she didn't want him to come there -- she did not
8 want him to come there that night.

9 Q. She was in the kitchen with you earlier when he tried to
10 leave, didn't she follow him out of the kitchen as he tried to
11 go up the stairs to get his daughter?

12 A. His daughter wasn't upstairs and no, I thought that -- I
13 don't remember her following him.

14 Q. Well, how -- you said that she left the kitchen because
15 this incident that you said happened between the two of them
16 ---

17 A. She was standing in the kitchen, I don't know -- if he
18 came back in, I just know that they were standing there. I
19 turned around and I was in shock. I have no clue what brought
20 that on.

21 Q. My point is you indicated earlier that the three of you
22 -- and I don't want to belabor this too much ---

23 A. Okay.

24 Q. --- but you and your brother and your sister were all in
25 the kitchen.

1 A. Correct.

2 Q. Ty says I'm leaving, I'm going home.

3 A. No, no, that's wrong. That's not how I said it. That's
4 not what I said.

5 Q. Okay. Well, what did you say?

6 A. I said I was in the front room, Ty came out of -- him
7 and Christie had been in the kitchen by themselves. I don't
8 know what they were arguing about, I don't know if they were
9 -- I didn't know he was mad, I didn't know he'd been robbed.
10 I didn't know any of these things. I just know he came out
11 around the corner and said I want to get the -- fuck this, I
12 want to -- somebody take me home, I want to get the fuck out
13 of here or something like that.

14 Q. And let me stop you there. At that point -- and that's
15 a good point. At that point, had anything happened, was
16 anybody hurt, was anybody ---

17 A. Yes. He had choked her in the kitchen.

18 Q. So, this is after he choked her, now, is that what
19 you're saying now?

20 A. I didn't know -- I wasn't aware of that at the time but
21 when I went back in there, she told me that he had choked her
22 in the kitchen.

23 Q. So, he choked her twice then because you told us earlier
24 that you saw him choke her ---

25 A. Yes. Oh yeah I saw him choke her but this one I didn't

1 know about. She told me when I was in there talking to her
2 she was like, you know, let him leave, he's -- you know, I'm
3 not putting up with this.

4 Q. Ma'am, you gave three statements to the police. You
5 ever tell them, ever, before this date tell them that he
6 choked your sister twice?

7 A. She told me that -- she told me that that night. I just
8 didn't think about it. I mean, it was not that -- you know
9 what I'm saying I seen him choke her, I didn't -- that wasn't
10 the big deal, I didn't see him choke her. I might tell three
11 more statements and forget to tell them.

12 Q. Yes, ma'am.

13 A. But the one I saw, I told about.

14 Q. Now, let's go to the outside when all of you are on the
15 outside and you're out trying to stop a passerbyer in order to
16 get them to call 911, is that a fair statement?

17 A. Yes, sir.

18 Q. All right. And do you know where your boyfriend Moke is
19 at this point?

20 A. Not really. I think he's in the front yard also trying
21 to stop cars.

22 Q. Okay. And while you're trying to find cars to stop, you
23 don't know where your brother Joey is, right?

24 A. No, I do not.

25 Q. You do not. And you do not know where Christie is?

1 A. No, I do not.

2 Q. And you don't have any visual contact with Moke, your
3 boyfriend?

4 A. Not right then.

5 Q. So you don't know where he is, right?

6 A. Right.

7 Q. All right. And when you saw your brother again, just
8 for clarification, after you stopped the car and get someone
9 to call 911, did you ever see Ty Chestnut after that?

10 A. No, I did not.

11 Q. Okay. And so -- so that would mean that the last time
12 you saw him, he would've been standing in the kitchen near a
13 drawer, according to you?

14 A. That's correct. That's the last time I saw him.

15 Q. And the last time you saw your brother before he was
16 outside on the ground was where?

17 A. When we were talking in the kitchen.

18 Q. Was talking in the kitchen. So, the last time you saw
19 him, he was in the kitchen?

20 A. Right.

21 Q. And Ty was in the kitchen?

22 A. No, Ty wasn't in there. Me, Christie and Joey were in
23 there alone talking.

24 Q. Well, where was Ty when you and Christie and Joey were
25 in there talking?

1 A. Ty had walked into the other room and then he -- he came
2 -- I don't know if Christie went in there or he came back and
3 they were standing in the hall talking and then I turned
4 around and that's when he had her pushed up against the wall.
5 Somebody hollered and said something like, what the hell, you
6 know, I don't know what. And I -- it startled me, I turned
7 around and he's -- I saw him with her up against the wall.

8 Q. Would you agree with me that -- and I'm now referring to
9 what is marked as State's Exhibit Number 6, if you're sitting
10 -- if you're sitting in either of these recliner chairs or
11 this chair here or this sofa, that you can't see what's
12 happening in the kitchen?

13 A. That's correct.

14 Q. All right.

15 A. And that's why I couldn't see what was happening in the
16 other room.

17 Q. All right. And so anybody who was in the front room in
18 one of those chairs could not have seen visually what was
19 taking place in the kitchen?

20 A. Fair statement.

21 **MR. WILSON:** Fair.

22 If the Court could bear with me one second.

23 **THE COURT:** Yes, sir.

24 Q. Ma'am, were you -- did you know whether or not your
25 brother carried a knife?

1 A. I really don't know.

2 Q. You don't know? You don't?

3 A. I don't know.

4 Q. Let me show you what's been marked for identification

5 purpose as Defendant's Exhibit 1.

6 A. That little knife?

7 Q. Have you ever seen it before?

8 A. No, I've never seen it.

9 Q. Never seen it before? Okay.

10 **MR. WILSON:** I don't have any other questions.

11 A. That one -- is that the one you're talking about?

12 Q. I don't have any other questions. Thank you, ma'am.

13 **MR. WILSON:** No other questions, Your Honor.

14 **THE COURT:** All right. Mr. Long?

15 **MR. LONG:** I don't have any questions of this witness,

16 Your Honor.

17 **THE COURT:** Any redirect?

18 **MS. LIVESAY:** Just a couple, Your Honor, very brief.

19 **REDIRECT-EXAMINATION BY MS. LIVESAY:**

20 Q. Mr. Wilson asked you that Larry Chestnut about him

21 trying to leave that night. That's correct, he came out and

22 said what?

23 A. He said, he said, I'm not putting up with this.

24 Something like he ---

25 Q. Make sure you talk into the microphone. I know when

1 you're explaining that you have habit of looking -- I do too.

2 A. Yeah, I'm sorry. I feel like I'm gonna eat it. Okay.

3 He said and I hate to say this but it's what he said, he was
4 like I want to get -- take me fucking home; I want to go home.

5 I can't put up with this fucking shit, bullshit, or something
6 similar to that. It was a lot of profanity and craziness.

7 Q. Okay. At that time, did anybody put their hands on him
8 to keep him from leaving?

9 A. No absolutely not.

10 Q. Why didn't he leave the house?

11 A. I don't know why he didn't leave. He just kind of like
12 -- he paced into the room and then after he did, I went into
13 the kitchen and then Joey came into the kitchen.

14 Q. What did Ty do, Larry Chestnut, next?

15 A. He was just like pacing around in the living room then
16 -- I don't know what triggered him to come back to the
17 kitchen, I don't know what happened.

18 Q. Okay. But something brought him back into that room?

19 A. Yeah, he came back.

20 Q. Okay. But it wasn't because anybody was ---

21 A. Nobody said stop, don't go, please, nothing like that.
22 Christie wanted ---

23 Q. Did she say that?

24 A. No, Christie wanted him to go home that night. She had
25 already said, she said, it'd be better if he just go home

1 tonight and stay the night. Go home and stay at home tonight.

2 Q. Okay. So, when he tried to leave the apartment, nobody

3 asked him to stay?

4 A. No.

5 Q. And nobody put their hands on him?

6 A. No.

7 Q. Okay. He just says that and walks out and starts pacing

8 up and down in the ---

9 A. Yeah, I thought it was over at that point, you know,

10 that he's gonna leave and everything is gonna be ---

11 Q. Okay. Where was his daughter at that point?

12 A. She was still sleeping.

13 Q. Okay. She was sleeping where?

14 A. On the couch.

15 Q. Okay. Show the jury real quick on this diagram where

16 she was sleeping.

17 A. Like right where you come in, this is the front door ---

18 Q. This is the door.

19 A. This is the front door and there was a sofa right there.

20 Q. Okay. So, she was here and he could've exited out that

21 door?

22 A. Yes.

23 Q. Okay. So when he walked out and said, I'm gonna leave,

24 he could've just grabbed ---

25 A. He could have grabbed her ---

1 Q. So he could've just grabbed her up right here ---

2 THE COURT: They can't hear you, ma'am, I'm sorry.

3 A. He could have easily picked her up off the couch and
4 walked out the door and Mo, his cousin, probably would've been
5 willing to give him a ride home.

6 Q. Okay.

7 A. Nobody was stopping him.

8 Q. But he didn't leave out the door? He didn't go out the
9 door?

10 A. No, he did not leave out the door. He turned around and
11 came back.

12 Q. Did he ever attempt to put his hand on that door?

13 A. I didn't see him do that.

14 Q. Okay. Now, there's something else that Mr. Wilson was
15 talking to you about. It was about this altercation in the
16 kitchen. And he couldn't have bit you unless he was down ---

17 A. Right.

18 Q. --- by your thigh.

19 A. That's correct.

20 Q. Is that right?

21 A. Yes.

22 Q. Okay. I'm gonna show you what's been marked as State's
23 Evidence Number 12, do you recognize that?

24 A. That's just when he was hitting me in my face.

25 Q. Okay. And that's a bruise that they're trying to show?

1 A. Yeah.

2 Q. Okay. And that's from that incident?

3 A. Yes.

4 Q. Okay. So he was definitely able to get a lick in on
5 your face?

6 A. More than one, several times. I mean, he -- he was like
7 -- I mean, that's nothing, my brother is dead, you know, I
8 mean, I hate to think of ---

9 Q. Okay. Now, I'm showing you now what's been marked as
10 State's Evidence Number 11; is that you?

11 A. Yes.

12 Q. Is that a bruise on your face?

13 A. Yes, it is.

14 Q. So, at some point, even if you had him down, he was
15 definitely able to get to your face?

16 A. I couldn't fight him, you know.

17 Q. Now, how old were you at the time?

18 A. Forty-two.

19 Q. Okay. Now, were you the same size you are now?

20 A. I think I was thinner, probably a little thinner.

21 Q. Okay. About the same size?

22 A. Yeah, not much difference.

23 Q. Okay. How tall would you say you were?

24 A. Five-six.

25 Q. Okay. How tall would you say Larry Chestnut was?

1 A. Five-eight, five-nine, I don't know.

2 Q. Okay. Now, there was one more thing I wanted to clear
3 up. Mr. Wilson told you that you had been drinking, you were
4 intoxicated ---

5 A. That was a lie.

6 Q. Do you remember that?

7 A. That's a lie.

8 Q. Okay. Let me ask you this, did you make any stops
9 between the time you left your house and when you got to
10 Christie's house? Did you ever stop to get gas or do
11 anything?

12 A. Actually, the -- after she called me, I laid in the bed
13 and was kinda being lazy as I go -- getting up and going and
14 someone called me and told me they'd ran out of gas and I had
15 just filled my mower tank up, gas tank up. So, I went and met
16 them, they were just like a mile from my house and so we went
17 on over to Christie's and since we were up and going to take
18 gasoline to somebody, I said let's just go on over to
19 Christie's and talk to her.

20 Q. How far is it from your house to that gas station?

21 A. I didn't have to go a gas station, I just had to go meet
22 -- they were broke down on the side of the road, I already had
23 gas on my porch because I was -- for my mower, you know, I had
24 a gas can.

25 Q. Okay. So how far was it from your house to the person

1 you were taking the gas to?

2 A. About a mile and a half.

3 Q. Okay. And how far was it from there to Christie's
4 house?

5 A. I don't know about miles, five miles, I don't know.
6 It's not very far.

7 Q. Okay. Do you remember who you took gas to?

8 A. Yeah, Billy Alford.

9 Q. Okay. And at any point did he say you're too drunk to
10 drive?

11 A. No. I wasn't drinking.

12 Q. Okay. Did he ever say anything about your drinking?

13 A. Absolutely not.

14 Q. Okay.

15 A. I was not drinking.

16 Q. Okay. So before you got to this house, you actually got
17 up, packed the gas up, took it to somebody, that person didn't
18 say anything about you drinking, don't drive, anything.

19 A. No.

20 Q. And you were able to give them the gas, do what needed
21 to be done.

22 A. I had my son, when I left the party, I don't know if I
23 -- but I have an autistic son. We went -- we went home and I
24 was there watching T.V. with him and when I left, I left him
25 with my then sixteen-year-old daughter and -- to go. She

1 didn't want me to go but I said, let me just go and I'll be
2 back. I was gonna check on Christie and I'm gonna go take gas
3 to Billy. And at no point was I ever drinking or smoking
4 cigarettes or smoking weed or smoking anything. That was a
5 lie, straight up.

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

7 THE COURT: Anything on those questions, Mr. Wilson?

8 MR. WILSON: No, sir.

9 THE COURT: All right. You may step down, ma'am. Do
10 you wish this witness to be excused?

11 MS. LIVESAY: Yes, sir, Your Honor.

12 THE COURT: Any objection?

13 MR. WILSON: I have no objection.

14 THE COURT: All right. You are released from your
15 subpoena.

16 All right. Ladies and gentlemen, we are going to stop
17 for the evening at this point in time. I'm gonna ask that you
18 be back -- I'd ask that you be back in your jury room by 9:15.
19 Be back in the jury room by 9:15.

20 Madame Clerk, y'all will have something -- okay. So,
21 maybe if y'all want to get here by 9 o'clock and they'll
22 escort you upstairs. Other than that, I'm gonna try and start
23 tomorrow morning at 9:15. So, see you back.

24 Now, when you go home, you're not supposed to be talking
25 about this case among yourselves. If you see your husband,

1 boyfriend, your wife, person down the street, you can't talk
2 about this case. Unintentionally, they'll give you their
3 opinion about the case. You're not supposed to have one so
4 you shouldn't be hearing anybody else's opinion about this
5 particular case.

6 Again, you're not investigators, you can't go and do any
7 research on your own. You can't go look up anything on the
8 internet. You have to and you must decide this case solely
9 and completely on the facts and evidence you hear in the
10 courtroom and from no other source. With that, I'll see you
11 back tomorrow morning at 9:15.

12 Leave your pads and your pens in your chair, please.

13 Everybody else remain seated.

14 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
15 JURY.)

16 **THE COURT:** Anything further from the State at this
17 point in time?

18 **MS. LIVESAY:** No, sir.

19 **THE COURT:** Anything further, Mr. Wilson?

20 **MR. WILSON:** No, sir, Your Honor.

21 **THE COURT:** And Mr. Long?

22 **MR. LONG:** No, sir.

23 **THE COURT:** All right. We'll resume tomorrow morning, 9
24 o'clock.

25 Mr. Kendrick Chestnut, Mr. Larry Chestnut, again, I'm

JURY OUT/ON RECORD

1 letting you stay out on bond under the same terms and
2 conditions we discussed earlier.

3 **MR. WILSON:** Thank you, Your Honor.

4 **THE COURT:** See y'all back tomorrow morning at nine
5 o'clock. Thank you very much.

6 **MR. WILSON:** Thank you.

7 (End Day.)

8 **(THE FOLLOWING TAKES PLACE ON AUGUST 15, 2012, OUTSIDE**
9 **THE PRESENCE OF THE JURY.)**

10 **THE COURT:** All right. Counsel, I had signed that
11 Order that y'all had set forth, the Stipulation and Order
12 regarding, I think, the chain of custody, chain of documents,
13 and we will mark it as Court's Exhibit 5. Give it to the
14 Court Reporter for -- as part of this case.

15 **MS. LIVESAY:** Thank you, Your Honor.

16 **(STIPULATION AND ORDER MARKED AS COURT'S EXHIBIT NUMBER**
17 **5.)**

18 **THE COURT:** All right. Is the State ready for the --
19 for the jury to come in?

20 **MS. LIVESAY:** Yes sir, Your Honor.

21 **THE COURT:** Mr. Wilson?

22 **MR. WILSON:** We're ready, Your Honor.

23 **THE COURT:** Mr. Long?

24 **MR. LONG:** Yes sir.

25 **THE COURT:** Ask the jury to come in, please Ma'am.

CHRISTIE HUCKS - DIRECT BY LIVESAY

1 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
2 **JURY.)**

3 **THE COURT:** All right. Solicitor, your next witness,
4 please Ma'am.

5 **MS. LIVESAY:** Thank you, Your Honor.

6 At this time the State calls Christie Hucks to the
7 stand.

8 **THE COURT:** Please come around to be sworn, Ma'am,
9 right up here.

10 **CHRISTIE HUCKS,** being first duly sworn, testifies
11 as follows:

12 **DIRECT-EXAMINATION BY MS. LIVESAY:**

13 Q. Ms. Hucks, are you currently married?

14 A. No Ma'am.

15 Q. Do you have any children?

16 A. I do have a daughter.

17 Q. How old is she?

18 A. She's six years old.

19 Q. And are you currently living in Myrtle Beach?

20 A. I am.

21 Q. Okay. And how long have you lived in this area?

22 A. I've lived here my whole life. I was born and raised
23 here.

24 **THE COURT:** Can you scoot up a little bit closer to the
25 microphone.

1 Q. How long have you been living in the area?

2 A. In Myrtle Beach, my whole life, born and raised.

3 Q. And do you have any brothers or sisters?

4 A. Yes, I have eight.

5 Q. Okay. Tell the jury what their names are.

6 A. Everyone?

7 Q. Uh huh **(indicating positive)**..

8 A. Tommy, Susie, Lee Ann, Sandra, Joey, Beth, Martha, and
9 me, and Lisi.

10 **THE REPORTER:** Please pull up to the microphone and
11 speak up, please.

12 A. Okay. And Martha, and me, and Joey are the eight.

13 Q. Okay. And are you currently working?

14 A. I'm unemployed. I do stuff for our state. Our hotel
15 closed down. I was working at our hotel, and it closed, so I
16 kind of do stuff, work at day cleaning, and landscaping,
17 whatever they needed to do.

18 Q. Okay. And do you know why we're here today, ---

19 A. Yes Ma'am.

20 Q. --- for an incident?

21 A. Yes Ma'am.

22 Q. And do you know the Defendants in this case?

23 A. I do.

24 Q. Could you please tell the jury how you know Larry
25 Chestnut.

1 A. Larry Chestnut was the father of my child.

2 Q. Okay. And what did you call him or ---

3 A. Ty.

4 Q. And do you know Kendrick Chestnut?

5 A. Yes Ma'am.

6 Q. And how do you know him?

7 A. He was friends with Ty. He was his cousin.

8 Q. Okay. And did you know Kendrick Chestnut in any other

9 way?

10 A. Not before, not until, you know, I dated Ty. I had

11 never seen him before.

12 Q. Okay. And you said that y'all have a child in common,

13 is that right?

14 A. Yes Ma'am.

15 Q. And if you don't mind, tell the jury what your

16 situation was with Larry Chestnut on or around May 21st of

17 2006.

18 A. Well, we were living together, I mean, on, you know --

19 my mom and dad had just given me an apartment on Highway 15.

20 I was pregnant. He was living with his parents, and we had

21 to evict someone at the apartment, and my mom and dad just

22 let us go and stay there.

23 Q. Okay. And how far ---

24 A. We had just moved in together.

25 Q. How far along were you at that time?

1 A. Seven and a half months pregnant.

2 Q. Okay. And where was that apartment at that y'all were
3 living at?

4 A. Highway 15.

5 Q. Okay. Now, as far as the apartment goes, who had a
6 key to that apartment? Did you always have a key to that
7 apartment?

8 A. I had the key.

9 Q. Okay. Did Larry Chestnut always have a key to that
10 apartment?

11 A. I let him have it, you know, have it. If we argued or
12 something, I'd take the key back. I don't know.

13 Q. Okay. Was he in any position to take your key?

14 A. No.

15 Q. Okay. Now, about how long had y'all been in that
16 apartment?

17 A. I'd say prob- -- I don't remember, maybe two months,
18 three months. I'm not sure.

19 Q. Was it any more than six months?

20 A. I don't -- no, I don't think so.

21 Q. Okay. Did Kendrick Chestnut ever come over to that
22 apartment?

23 A. Every day, every day.

24 Q. Okay. And during that time was Larry Chestnut
25 working?

1 A. He worked with Mo. He had a pressure-washing
2 business, and they would go most mornings and I guess they
3 did the car detailing. I'm not sure exactly what the
4 business was.

5 Q. Okay. When you say Mo, just so we're all clear, when
6 you say Mo, you mean Kendrick Chestnut?

7 A. Kendrick Chestnut, yeah.

8 Q. And you called him Mo at the time?

9 A. Mo. I didn't know his name was Kendrick Chestnut. He
10 might have told me, but I don't remember. I've just always
11 known him as Mo.

12 Q. Okay. And tell the jury, so we're clear, how you knew
13 Joey Hucks, the victim in this case.

14 A. Joey was my baby brother.

15 Q. Okay. Now, do you remember what happened the day of
16 May 21st, 2006?

17 A. Yes. (Witness is crying.)

18 Q. Okay. Tell the jury what was going on during that
19 day.

20 A. It was a good -- yeah, it was a good day. We woke up
21 happy. Ty was happy. He never -- he never really had a
22 birthday party, like I loved so much, and like I met him, and
23 like he never really -- his family never really had a chance
24 to have parties or anything for him, so we went on this great
25 birthday party because my birthday was the next day, and it

1 was just, in fact, all of our friends over. I had a pool
2 party. Mr. Larry came, and I had a cook-out.

3 Q. Okay. And who all was at that birthday party?

4 A. Family and friends, my friends, and he didn't -- had
5 high school mates that came that I knew.

6 Q. Okay. And was Cindy Evans at the birthday party?

7 A. Yes, Cindy was there.

8 Q. Was her boyfriend, Richard Day, at the party?

9 A. Yes, he was.

10 Q. Okay. While this party was going on, were you
11 drinking or engaging in any kind of ---

12 A. No, not at all.

13 Q. Okay. And because at the time you were pregnant?

14 A. Yeah, really big.

15 Q. Did you see anybody else drinking or engaging in any
16 kind of --

17 A. It wasn't out of control. I bought a keg. I did. I
18 went and bought one of those around one o'clock. There
19 wasn't any liquor. I didn't buy any liquor because that
20 wasn't appropriate at the time with kids. I just had a big
21 pool, and I just had the keg, and that was it, but nobody was
22 out of control. You know, it was kind of the basic back yard
23 barbecue kind of thing. Drinking, wasn't nothing out of
24 control.

25 Q. Okay. During this party, was anybody drunk or out of

CHRISTIE HUCKS - DIRECT BY LIVESAY

1 hand?

2 A. No, not ever.

3 Q. Was there any disagreement at this party?

4 A. None.

5 Q. Okay. About what time did the party start winding
6 down and people started leaving?

7 A. It never really wound down. It was kind of like
8 certain people would come in spurts. You know, they'd come
9 and go and through the night, you know, like my brother,
10 Tommy, was still there. It never really kind of stopped
11 until Joey came and it started raining, and that's when I
12 took the last people home, and my brother, Tommy, was there
13 and his girlfriend, and he wanted a ride home, ---

14 Q. Okay.

15 A. --- but around eleven o'clock was when it kind of
16 really wound down, like there wasn't any more people hanging
17 out in the house.

18 Q. Okay. And is that the first time Joey had been to the
19 house that day?

20 A. Yes. He came that evening and stopped by.

21 Q. Okay. And what happened once Joey got to the house.
22 Who was at the house at that time?

23 A. My brother, Tommy, and his friend; Chapell, Tynesha,
24 me, Ty. Mo was there; I believe Mo was there. I don't
25 really remember who -- I was in the house with Tommy and I'm

1 kind of hanging out. I don't remember who -- there might
2 have been some people in the yard still kind of hanging out.
3 I don't know. I was just in the house with the kids at this
4 point because it was probably like ten o'clock.

5 Q. Okay. What happened next? Did anybody leave the
6 house?

7 A. Yeah. Joey wanted to -- kind of like I told you, Joey
8 kind of wanted to go out and Ty and Mo. They were like, hey,
9 we'll take him out. You know, I can get him in, you know,
10 but oh, no, it's your birthday. Yeah, that would be awesome.
11 Go with them. You'll have a good time.

12 Q. Okay. Was Joey twenty-one at the time?

13 A. No.

14 Q. How old was he?

15 A. He was eighteen.

16 Q. Okay. How old was Larry Chestnut turning?

17 A. I don't remember now. He was -- let's see, I really
18 don't remember now.

19 Q. Was he over twenty-one?

20 A. Yeah.

21 Q. Okay. Was Kendrick Chestnut over twenty-one?

22 A. Yeah. Oh, yeah.

23 Q. So you can tell Joey wants to go out, and you tell him
24 it's your birthday, go ahead and go out?

25 A. Yeah.

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1 Q. Okay. Did they leave?

2 A. They did.

3 Q. Okay. And what car did they take?

4 A. They ended up taking my Volkswagen, because my brother
5 was leaving. Tommy was leaving. In fact, there were a piece
6 of metal in his (Witness is crying) -- and so Joey offered
7 for me to just keep the truck and take Tommy to Lee Ann's
8 house, and I had a brand new Volkswagen at the time. I said
9 y'all take my car and have a good time. You know, if they
10 take the Volkswagen, I'm fine, and I'll just take -- Tommy
11 could have the kids, and I'll take him to Socastee and drop
12 him off, so my Volkswagen, they took, the convertible.

13 Q. So after you took your brother home and came back, who
14 was at the apartment?

15 A. When I came back, it was me, and Chapell, and Tynesha.

16 Q. Okay. Where was Chapell and Tynesha at the time?

17 A. They were downstairs. I think I had the Disney
18 channel on. They were watching T.V. and I asked them if they
19 wanted a pizza. I ordered some food from Pizza Shack, so
20 when Joey and all them got back, there would be a pizza, and
21 some subs and stuff for them to eat if they wanted to, but
22 they fell asleep before they got there.

23 Q. Who, to your knowledge, got into that Volkswagen and
24 went out that night with Joey?

25 A. Ty, and Mo, and Joey.

1 Q. Okay. So you get back to the house just with the two
2 girls there, Tynesha and Chapell?

3 A. Uh huh **(indicating positive)**.

4 Q. What happened once you're at the house and you ---

5 A. I'm in the house, and the girls are sleeping. We had
6 a party earlier that day. Tynesha came to the party and she
7 had some birthday cards. I never really thought anything of
8 it, but one of them was from her mom, and I was like, okay,
9 you know what, that's sweet. Okay, I never looked at the
10 card and really cared. I was like, you know, but eventually
11 I'm going to get through. I got through, and like, you know,
12 I'm going to read this card because Ty had a birthday that
13 she sent it, but it was real nice. You know, I'm assuming it
14 would be nice.

15 I was assuming it was a sweet little, you know, happy
16 birthday. When I opened it, it was a picture of her and him
17 in it, and it was like I'm so glad the man I've made you, and
18 I don't want to start any drama today. I love you. Happy
19 Birthday, or something. I was like, what? Like I'm like,
20 what? Well, like I lost it. I was like ---

21 Q. So what did you do after reading this card?

22 A. I was so upset, I was like he's been cheating on me or
23 something. Obviously for someone to send something like
24 this, that they are still in contact with somebody or
25 something, I was just like, wow, you know, I'm pregnant. I

1 don't know. I was really upset. I think I waited a minute.
2 I was crying.

3 I called Cindy and was like, Cindy, I have this card,
4 you know. I've waited all day, because she's like -- I call
5 her for everything, and she goes -- she comfort me, and look,
6 it's okay, and I'm like, you know, I'm going to be okay. I'm
7 going to lay down, and if you want to come by, you can come
8 by, but if not, I'm just going to go lay down, but I really
9 don't want him here tonight.

10 And I just remember being upstairs on my bed and laying
11 down. I talked to Cindy and that's all. I don't remember
12 anything else.

13 Q. Did Cindy come over that night?

14 A. Cindy did. She showed up, and she called my phone and
15 I didn't answer, and then I heard like a knock on the door
16 and I still wasn't going to answer the door.

17 Q. Who did she show up with?

18 A. With Richard Day.

19 Q. Okay. So about what time did she get there? Was it
20 after twelve?

21 A. Yeah. It was like one-thirty, two o'clock, somewhere
22 in that time. It was kind of late.

23 Q. Okay. When she showed up, did she or Richard Day
24 appear to be under the influence of alcohol or ---

25 A. No, not at all, nothing like real -- hey, let me in, I

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1 smell pizza, I smell pizza, you know. He wasn't drunk or
2 anything.

3 Q. Okay. What did y'all do once they got there?

4 A. I started talking to Cindy, and I got the pizza, and
5 Moke hurried to the kitchen, and he was eating some pizza,
6 and I was just talking to Cindy. I showed Cindy the card,
7 and she was like, you know, that's not -- that's really not
8 good. I was like, I mean, am I crazy, or this is really bad,
9 and I like -- yeah, and that's when I told Cindy I just don't
10 think that he needs to come back here tonight. I'm mad, and
11 this is not good, and that's when she -- I think she said
12 she'll call Joey, and I think I tried to call Ty, and neither
13 one of them answered.

14 Q. Okay. While y'all were sitting there talking, did
15 y'all engage in any drugs or alcohol?

16 A. No.

17 Q. Did eventually Joey, Larry Chestnut, and Kendrick
18 Chestnut, come back to the apartment?

19 A. Yes, they did.

20 Q. Okay. And when they came back, was it still you,
21 Cindy, and her boyfriend, Richard Evans (sic)?

22 A. Yes.

23 Q. And the two little girls?

24 A. Uh huh **(indicating positive)**.

25 Q. Where were the two little girls at?

1 A. They were -- they were laying down on the couch in the
2 living room.

3 Q. Downstairs?

4 A. Uh huh **(indicating positive)**.

5 Q. So they're still downstairs, I'm assuming, asleep
6 or ---

7 A. Yeah. They were downstairs on the couch.

8 Q. Okay.

9 A. It was kind of dark in the living room. We moved to
10 the kitchen, me, and Cindy, and Moke. The pizza was in the
11 kitchen. We were in there. We left the living room T.V. on.
12 It was kind of dim, but they were still asleep.

13 Q. Right. So the two little girls were kind of sleeping
14 and ---

15 A. On the couch.

16 Q. Okay.

17 A. I don't think they heard Cindy come in, you know.
18 They were asleep.

19 Q. Okay. So eventually the three guys, Joey, Larry, and
20 Kendrick all come back to the house?

21 A. Uh huh **(indicating positive)**.

22 Q. It's after twelve?

23 A. Uh huh **(indicating positive)**.

24 Q. Well after twelve at this time?

25 A. Uh huh **(indicating positive)**.

1 Q. Okay. How did they appear when they came in?

2 A. Happy. When they came in -- well, Ty was a little
3 upset. I remember Moke went -- I don't know why Moke was
4 going to go out the door, but he went over to the door and Ty
5 comes in at the same time. He was, oh, you know, who's in
6 the house, and it was Moke.

7 And then he was like Christie, I just need to talk to
8 you about something. My money has been stole. I lost Four
9 Hundred Dollars, and I was like I got to talk to you, too,
10 and me and him just walked straight to the kitchen. I didn't
11 worry about where anybody else was. Just me and him had to
12 go to the kitchen.

13 Q. Was there anybody else in the kitchen at that time
14 when you and ---

15 A. No, no one was in the kitchen.

16 Q. Okay. Let me show you the diagram. I'm showing you
17 now what's been marked as State's evidence Number 6. This is
18 the highway. First of all, ---

19 **MR. WILSON:** Your Honor, can I ---

20 **THE COURT:** Certainly.

21 Q. This is the after-picture of what the apartment looked
22 like, the living room here, and the hallway, and the
23 kitchen, ---

24 A. Uh huh **(indicating positive)**.

25 Q. --- and going out to the highway?

1 A. Yes Ma'am.

2 Q. Okay. And there's another door here you come
3 into ---

4 A. Yeah. I have two doors that you can see from each
5 end. My back door and my front door, if you're standing at
6 either one, you can see the little hallway at each end. You
7 can see door to door through the house.

8 Q. Okay. So this is definitely an accurate picture of
9 your apartment that you were living in at the time?

10 A. Yes.

11 Q. Okay. Great. Do you feel comfortable using this
12 diagram?

13 A. Yeah.

14 Q. I know sometimes diagrams are hard to use. They came
15 in what door that night?

16 A. They came in -- do you want me to stand up?

17 **THE COURT:** You can, but you've got to make sure that
18 you are ---

19 A. Okay, like this?

20 **THE COURT:** Yes Ma'am.

21 A. Okay. They came in through the back -- the back door
22 to me is where you pull around the back of the apartment.
23 The front door in this -- in my terms was like on Highway 15,
24 the highway, so ---

25 Q. So this is Highway 15?

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1 A. Okay, yes. So that's the front door to me. They came
2 through the back door, because you can pull in -- it's a huge
3 -- it's like five acres of land behind my house. It has
4 nothing to do with the apartment. That's my dad's.

5 Q. Okay.

6 A. The people that knew about it would pull back there.
7 Anything else would just park in the little park in the
8 front.

9 Q. Okay.

10 A. So my car, they pulled around back and came right
11 through that door right there.

12 Q. And where were the two girls ---

13 A. On the couch.

14 Q. Okay. Tynesha and Chapell?

15 A. Uh huh **(indicating positive)**.

16 Q. Okay. So they come in, and where do you and Larry
17 Chestnut go?

18 A. Like he walks in through the door, and me and him walk
19 straight directly to the kitchen, actually over here like
20 where -- we walked into the kitchen, but we ended up being by
21 the stove area.

22 Q. All right. Anybody else in the kitchen with you at
23 that time?

24 A. No Ma'am.

25 Q. Okay. If you don't mind, tell the jury what went on

1 while you were in the kitchen.

2 A. We were in the kitchen, and I remember Ty was like I'm
3 mad -- Four Hundred -- I lost Four Hundred Dollars, and I
4 think that Mo might have had something to do with my money
5 being gone. I'm like, what? Like why would he think that?
6 Because I had Fifty Dollars that my dad folded for me in a
7 certain way, and I think he had the Fifty Dollars, and I was
8 like, well, I'm not worried about your money.

9 You know, I got this card, and here's the picture, and
10 she sent this picture, and how could you dare do this to me,
11 and he was like -- I remember he kind of pushed me up against
12 the refrigerator. He talked about something, so, you know,
13 I love you, whatever. He goes my money has been stolen. My
14 money has been stolen.

15 I said I think you need to leave in some sort of terms
16 like that, and he just kind of got mad, and he -- like he was
17 leaving, and he walked. I think he was like I'm leaving.
18 I'm going to go get Tynesha and I'm going to leave then if
19 you want me to leave.

20 Q. Okay. Before you go any further, you say at that time
21 in the kitchen, where did he grab you?

22 A. He just kind of pushed me back. It wasn't real, real
23 hard, but he pushed me back, and I was like -- like are we
24 doing this right now, like really, like no, we're not pushing
25 or fighting right now. That's not necessary for this to

1 happen right now.

2 Q. Right. So then you're telling me he walked out this
3 hallway?

4 A. Yeah. He walked -- cause I'm leaving. The only
5 reason -- I'll leave then, and he walked towards the living
6 room.

7 Q. And then what happened?

8 A. He walked towards the living room, and then I remember
9 Cindy -- I think I stayed in the kitchen because I was
10 startled. He was leaving, and I was like -- I think I
11 actually -- not think. I was kind of crying and too ashamed
12 to kind of really go in there, because my brother was in
13 there.

14 I could hear them kind of having fun, you know. Joey --
15 I didn't want Joey or anybody to know that like he did that.
16 Nobody knew that that had happened, so I think I stood in the
17 kitchen for a minute.

18 And then I remember Cindy came in and Joey came in, and
19 Cindy was like, you know, what's wrong? He just kind of
20 pushed me, and I -- I don't really want him here. He needed
21 to go. And Joey was like are you all right? And he's like
22 did I do anything? Did I do anything? I mean, no, Joey, you
23 didn't do anything. Everything is okay, Joey. And I went to
24 walk through the hall, like I was in the kitchen, and Joey
25 and Cindy were in there. I walked kind of towards the

1 hallway.

2 Q. Okay. At this point is Joey mad or upset or ---

3 A. No, no, no, no, no. He was like -- you know, because
4 nobody knew anything in the kitchen had happened. They were
5 just kind of -- I guess they assumed -- they seen Ty go into
6 the living room and said where's Christie, ---

7 Q. Right.

8 A. --- so Cindy and Joey come walking in the kitchen like
9 where's, you know, Christie? Hey. They still didn't know
10 anything happened. Nobody did, ---

11 Q. Okay.

12 A. --- you know, and I kind of told Cindy, I went, Cindy,
13 you know, he kind of -- he pushed me, and Joey was like
14 everything okay? Joey didn't hear that.

15 Q. Right.

16 A. Cindy did. I mean, Joey kind of came in behind her,
17 and I was like, you know, I'm like this is not -- I don't
18 like this. This isn't good. He needs to go home.

19 Q. So then you walked out of the kitchen?

20 A. I walked towards to go to the living room.

21 Q. Okay.

22 A. And that's when -- I guess he seen me. I don't know
23 why he was coming back to the kitchen. I'm not sure. I
24 don't believe I said anything to him, and I just remember he
25 did -- kind of he grabbed me and kind of pushed me up against

1 the wall, and then turned, like you really want me to leave,
2 and you really want me to leave? And I was like, yeah, I
3 want you to leave. And I think once he grabbed me, that's
4 when Cindy -- everything happened so fast. After that,
5 everything just happened so fast. I don't -- I just remember
6 bits and pieces of everything then.

7 Q. Where did he grab you at that second time? Was it
8 along in here? Was it ---

9 A. He grabbed me right in the middle of -- like if you
10 walk out the kitchen, there's this little hallway right here.
11 It's really small, and he just pushed me up against the wall.
12 I had a little picture thing there and I remember it like
13 kind of -- I was so big that my neck was the only thing
14 really he could grab, because, I mean, I was three hundred
15 pounds, overweight, so pregnant, and he just kind of pushed
16 me up against the wall, like are you kidding, ---

17 Q. Right.

18 A. --- and ---

19 Q. Was there a picture on this hallway?

20 A. There was a little glass picture thing I had there.
21 It was.

22 Q. Was that knocked off during the complication?

23 A. I'm -- I don't remem- -- I remember hearing it fall.
24 I don't know if my head knocked it off or when him and Cindy
25 got in a scuffle. I remember it falling and breaking. I was

1 like, oh, my star picture. I loved that.

2 Q. Okay. So he walked down here, and it's you, Joey, and
3 Cindy out here?

4 A. Uh huh (**indicating positive**).

5 Q. Okay. So it was Richard Day ---

6 A. I don't even know where Mo or Richard Day and them --
7 at this point, I didn't even see them, because I never made
8 it even to the living room. I can't say that I seen them in
9 the living room.

10 Q. Okay. But you know it was you, Cindy, and ---

11 A. And Joey for a minute in the kitchen.

12 Q. So you know for a fact none of y'all were trying to
13 stop him from leaving?

14 A. I didn't -- no, I didn't want -- I wasn't going to
15 stop him. If he wanted to go, I mean, you know, I was
16 letting him go.

17 Q. Okay. Did you hear anything going on in the living
18 room while you were in ---

19 A. I didn't. I didn't.

20 Q. Okay. And this is the front door, right, or the back
21 door that you ---

22 A. Uh huh (**indicating positive**).

23 Q. So when he walked through here, during that time Cindy
24 and Joey walked into this kitchen and were talking to you?

25 A. Uh huh (**indicating positive**).

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1 Q. Okay. So he could have just walked out the side door,
2 is that right?

3 A. I -- yeah, I assume.

4 Q. Okay. There was definitely no physical ---

5 A. He -- he could have. He could have just left ---

6 Q. Okay.

7 A. --- if he wanted to.

8 Q. Okay. But he walked back around?

9 A. Yeah.

10 Q. That's when the altercation happened here?

11 A. Yes Ma'am.

12 Q. Okay. Then you're telling me once he grabbed you,
13 that was when Cindy said something, is that right?

14 A. Yeah. I think she was like don't mess with my sister.
15 I don't remember. She kind of like -- because she was
16 startled, because Cindy had never really seen that, and I --
17 she was just like -- I mean, I don't even know how Joey got
18 to the living room. It was just Cindy, and me, and him at
19 that point.

20 I don't know if -- but she just kind of touched him, and
21 I've never seen anything like it, because this is not the
22 person that I know. He just hit her, and I remember looking
23 and my sister flew across the room, and she hit the door, and
24 I was like Cin- -- like Cindy, and her shoes, I think, came
25 off.

1 And I remember seeing her cell phone fly under the
2 dryer. I said Cindy, are you trying to get your phone? And
3 she was startled, and I don't remember if that's when -- I
4 think she might have threw the shoe, and I think that's when
5 he was like -- and she -- it scared me to death. I was like,
6 oh, my God, because she went a long distance.

7 Q. Okay. After she flew back here, what did Larry
8 Chestnut do?

9 A. I think that after he hit her, I think she had the
10 shoe or something, and they were -- she -- they said
11 something, and she -- he went for her, and I don't remember
12 -- I don't remember -- I just remember them kind of fighting,
13 and I just remember like somebody help, and I remem- ---

14 Q. So you do remember them fighting in the kitchen?

15 A. Oh, they were fighting, yeah.

16 Q. And who was on top ---

17 A. And I couldn't stop it. You know, I'm ---

18 Q. Right. Who was on top of who in the kitchen when they
19 were fighting?

20 A. He was after her.

21 Q. Okay. After she flew back here, did you ever see her
22 get up, stand up and start charging him?

23 A. I don't -- I don't remember. I don't -- I think I was
24 looking. I was like somebody, you know, take care of this.

25 Q. Okay. What did you do next after you saw him ---

1 A. I remember seeing them fighting, and I remember
2 looking over, and I was like -- and Mo was standing -- and at
3 this point, I'm like right here, and Mo is standing in the
4 entranceway. I'm like somebody stop this, and nobody did
5 anything.

6 I remember Moke just came in out of nowhere and like
7 dived on him, like tried to pull him off, and then the next
8 thing I remember, I just remember being in the living room
9 and standing next to Joey like.

10 Q. Okay. That's fine. What do you remember happening
11 next in the living room?

12 A. After Moke got through, I don't know what I -- or how
13 -- what happened. I just remember going to the living room,
14 and the next thing I remember is when I was in the living
15 room my little -- my brother was there, and somehow Ty had
16 walked in to there. I don't know how the fight got broken
17 up.

18 I remember Ty being -- my brother had a little, teeny
19 pocket knife. He was scared to death, standing at the door
20 like -- so he -- you know what I'm saying, this had gotten
21 out of control with Cindy being -- you know, it's not a slap.
22 It was kind of -- it was scary, you know, to a brother that's
23 never seen that, and I remember he had a little, teeny,
24 little pocket knife, and he was standing there and he was
25 like don't mess with my sisters, man.

1 **MS. LIVESAY:** If you don't mind, Judge, I'm going to
2 ask her to step down because she can show the jury how he was
3 standing that night.

4 **THE COURT:** All right. You may do so.

5 Come right over here if you will, please Ma'am.

6 Solicitor, have her come right -- right over there next
7 to the microphone.

8 Q. Show the jury real quick how ---

9 A. I had walked into the living room, and my -- my little
10 brother was standing here, and I was standing next to him,
11 and Ty had walked in, and I don't know if he was leaving or
12 what he was doing, and Joey was standing there and he was
13 like scared to death, and he had a little teeny pocket knife
14 that my sister gave him for Christmas, and he was like
15 holding it like, whoa, like there's a stance, but don't mess
16 with my sisters, man, like in -- not in a screaming way, but
17 like please, like don't -- let's just stop this.

18 And then Ty goes or what, and he swung at him, and
19 that's -- when he swung at him, Joey went like that, and he
20 fell down, and that's -- I was like -- everything -- that's
21 when everything just really -- it happened so quick, and then
22 I remember seeing Tynesha and Chapell's little eyes, they
23 wake up, and I got -- saw the girls, and I went I've got to
24 take the babies upstairs.

25 Q. Okay. When you saw -- Larry said or what, is that ---

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1 A. Joey was standing there like -- he was like don't mess
2 with my sisters, man, and Ty -- I just remember him being
3 like or what, and when Cindy ---

4 Q. Is that when he hit ---

5 A. Yes, he hit Joey like, and Joey was had that little
6 thing, and he went like -- I remember he was going like that,
7 and I was like I couldn't believe that it happened, and I
8 remember Ty was like, oh, my God, I'm cut. And I didn't see
9 much at first, and then he took his shirt off, and like your
10 brother cut me. He really cut me, and I said -- and then to
11 seeing Tynesha and Chapell.

12 Q. Where was Joey? Did he hit the floor?

13 A. I think he hit the floor. I was -- it happened so
14 quick. I mean, he went like that, and he went down. I
15 believe he went down, and I just -- I -- it happened so
16 quick. I just remember seeing Tynesha and Chapell, and the
17 cut, and all this happened, and I was like I had to get them
18 upstairs before anything else happened, the kids get hurt or
19 anything. I was like this is out of control.

20 Q. Okay. Go ahead and take a seat back there.

21 After you saw -- after Ty says I've been cut, I've
22 been cut, what does he do next? Did you see?

23 A. He was really upset, and I remember he went look what
24 your brother did, look what your brother did. He took his
25 shirt off, and then I don't really remember what he -- what

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1 he did. I just remember I did see him in the kitchen.

2 Q. Okay. And at this time is when you saw Chapell and
3 Tynesha?

4 A. I seen Chapell and Tynesha, and I took them upstairs.

5 Q. Okay.

6 A. When I came back downstairs, there wasn't anybody in
7 the living room. I seen -- because you can see from one door
8 to the next door, I seen my brother in the kitchen with his
9 hands by like the -- the dishwasher, so that's where I
10 headed. I was like, okay, let me get in there in the
11 kitchen ---

12 Q. If you don't mind, show us on this diagram where is
13 the dishwasher. This is State's Exhibit Number 6.

14 A. Here's the kitchen. Here's the dishwasher. It is
15 literally at the door.

16 Q. Okay. And that's ---

17 A. Like it's hooked to the wall to go out the door.

18 Q. Okay. And this is where you saw your brother stand?

19 A. Uh huh **(indicating positive)**, because I could see him
20 from the stairs. From those stairs to there, I could see
21 him. When I came down the stairs, I looked straight ahead
22 and my brother was right there.

23 Q. Where did you see or did you see Kendrick Chestnut and
24 Larry Chestnut in the kitchen?

25 A. When I walked to the kitchen. I couldn't see them

1 from where I was standing. I only saw Joey. I couldn't -- I
2 didn't know where anybody was. I didn't. I just knew they
3 weren't in the living room, and I seen Joey, and that's where
4 I walked, to him.

5 Q. Is it direct eyesight from here through here? You can
6 see this area?

7 A. Yeah.

8 Q. Okay. So you walked in. You see Joey standing here,
9 and the dishwasher is ---

10 A. Yeah. The dishwasher is kind of like right here, but
11 the side of the dishwasher is at the door, so it wasn't
12 really in front of the dishwasher. It was the side part of
13 the dishwasher, and that would be right here, which is door
14 to door.

15 Q. Okay. When you came in the kitchen, did you see Larry
16 and Kendrick Chestnut ---

17 A. When I walked in there, I did.

18 Q. Where were they standing?

19 A. I saw Ty standing in one corner.

20 Q. Which corner? Can you show me on this diagram?

21 A. Ty -- Joey was here. I seen Ty right here in the
22 corner, over in the -- where the -- kind of the stove is
23 here. He's like in the corner here, and I seen Mo over kind
24 of over by the refrigerator.

25 Q. When you said Ty, you mean Larry Chestnut?

1 A. Larry Chestnut, yes.

2 Q. And Mo is Kendrick Chestnut, and they're standing --
3 Larry Chestnut is standing here, and you say Kendrick
4 Chestnut is ---

5 A. Yeah. He was kind of -- he was over by the
6 refrigerator. They weren't standing completely together.

7 Q. Okay. But there's one standing here, Kendrick, and
8 Larry is standing here?

9 A. Yeah.

10 Q. And Joey is over here by the door?

11 A. Yeah.

12 Q. Okay. When you walked back in that kitchen, did you
13 see anything in Joey Hucks' hand?

14 A. I don't remember. I remember his hands being on the
15 dishwasher, and he had like some blood on his face, I thought
16 from being hit, so I was like -- so we've got to get out of
17 here.

18 Q. So you saw the blood on his face?

19 A. Uh huh **(indicating positive)**.

20 Q. Okay. When you looked over and you saw Kendrick
21 Chestnut, did you see anything in his hand?

22 A. I didn't.

23 Q. Did you see his face bleeding anywhere?

24 A. No.

25 Q. Okay. When you looked over at Larry Chestnut, did you

1 see anything in his hand?

2 A. He had like -- it looked like kitchen scissors or
3 something, and he was just standing in the corner. I didn't
4 see blood on him or I didn't see any like fighting or
5 anything. I just remember seeing them and Joey standing at
6 the door.

7 Q. Okay. Did you see any blood on Kendrick Chestnut's
8 face or Larry Chestnut's face?

9 A. No. I wasn't really looking. When I went to the
10 kitchen, I wasn't hanging out. I just saw Joey and kind of
11 saw him briefly, and Joey looked horrified, and I walked
12 outside. I just remember seeing Mo or Kendrick Chestnut,
13 where I seen him, and Ty standing in one corner. They were
14 -- no one was like in contact with each other.

15 Q. Okay.

16 A. That's why I never knew that my brother was hurt.
17 When I later found out, he had already been stabbed ten times
18 or however many times, I had no clue because he -- he didn't
19 say nothing to me. He never said a word, I've been stabbed,
20 I've been hurt. He was being -- he was like at the time to
21 go, like let's just go, and I was like Joey, we're going
22 outside because he started -- you know, you're bleeding a
23 lot, then on his face. There wasn't blood anywhere. I don't
24 remember seeing blood on him anywhere.

25 Q. But you saw blood coming out of his face?

1 A. Yeah. It was like -- but I assumed that it was
2 because he was -- he got punched in the face in the living
3 room. You know, his nose is broke or something, you know,
4 like let me go -- let me get him out of here and get this --
5 we need to get out of her period, you know what I'm saying.

6 Q. But let me make sure I'm clear. There were three
7 people in the kitchen?

8 A. Uh huh **(indicating positive)**.

9 Q. Did you see anything in Larry Chestnut's hand?

10 A. I did see something in his hand.

11 Q. What did you see?

12 A. It looked like a kitchen kni- -- I had kitchen shears
13 that I kept, that I used them to cutting flowers or -- I had
14 just moved to the apartment. I didn't have any like knives,
15 and spoons, and forks really. I think I bought one little
16 set at Wal-Mart, because I had just moved in there. I didn't
17 have a lot of money to buy -- I never had like anything else.
18 I remember I had kitchen shears I just used for everything.

19 Q. Which are scissors, in other words, the shears?

20 A. Yes.

21 Q. Okay. So you saw kitchen scissors in his hand?

22 A. He had -- yeah, I assume that's what it was that was
23 in his hand.

24 Q. Okay. And you saw Joey just standing by the door?

25 A. He had his -- he just had his hands -- he was standing

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1 there like, I don't know.

2 Q. Okay. You said you had just basically moved into the
3 house, is that right?

4 A. Uh huh **(indicating positive)**.

5 Q. Okay. So you didn't have a lot of knives in the
6 kitchen or anything like that?

7 A. I didn't have any -- I mean, if it came in the little
8 set.

9 Q. Okay. Like with a butter knife and ---

10 A. Yeah. That's all I had. We had actually went to Wal-
11 Mart and bought like a bunch of stuff, and we bought one
12 little set of dish things. I remember we bought some dishes,
13 and we bought like a little spoons and fork set thing you
14 buy.

15 Q. Okay. So when you come into the kitchen, you look at
16 Joey. You see the blood. You say come on, we got to get out
17 of here?

18 A. Yeah.

19 Q. Okay. Who walked out of the apartment ---

20 A. I -- I touched his arm. I was like, Joey, go, and we
21 walked out the door, and as you walk out the door, I have
22 like a little gate. We went through the gate, and there's
23 some bushes. I have bushes all along the front, and I think
24 we ran around the bushes, and I remember seeing a fist, and I
25 looked and it was Mo, had punched my brother right dead in

1 the center of his head and he just went down.

2 And I remember going down with him, and when I looked
3 back, I was like -- I was like -- I said what's going on? It
4 was Air Force One's. That's all I remember. It was white
5 Air Force One's. I don't remember how many or what was going
6 on, but I don't know if the both of them were -- but they
7 were kicking, and kicking, and kicking, and I was like stop,
8 like what? This is unnecessary, you know, and I was just
9 like please, please.

10 And I just remember someone -- I don't know who was like
11 I'm going to get my gun, I'm going to get my gun, I'm going
12 to get my gun. And I remember sitting there, kneeling down,
13 like if somebody goes and gets a gun right now, seriously
14 like ---

15 Q. Where was -- where was Cindy and Richard Day? Did you
16 know ---

17 A. I don't remember ever seeing Moke until later. I seen
18 a blue Suburban pull out through the yard, and I was like, oh
19 my God, there's Moke. And I remember Cindy was kind of at
20 the highway looking -- at this point I was like get help. I
21 was like we need help now, because, you know, I think after
22 that, I think Joey's arm was cut, and I was like oh, shit,
23 now my brother is like -- oh, excuse me.

24 I'm like he's been stabbed, because I didn't really -- I
25 mean, the blood on his face and once he had been laying

1 there, I think his arm was like there was blood gushing, and
2 I was like Cindy, get help. My sister was in nursing school
3 at the time. I was like Cindy, you come and help fix this,
4 and I'll walk down to Miss -- we had -- only two of the
5 apartments at the time people were living there, but like
6 I'll run down to Tammy's house, and I yelled, Tammy, Tammy,
7 and Jack, and they never came.

8 I just remember like there was nobody. It was so weird,
9 because I always have a cell phone, and I left my cell phone
10 upstairs, and when Cindy came, I left it on the bed to go get
11 the door. I mean, I wasn't going to even let them in really.
12 I was like -- and then I just never made it back upstairs,
13 and Cindy's phone went underneath the dryer, so what are the
14 odds? You know, we never had a phone.

15 Nobody was around. There wasn't any help. Nobody was
16 answering their doors, and finally then he got -- I can
17 remember finally there being like a police car showing up.

18 Q. Okay. Did you remember seeing where Larry and
19 Kendrick Chestnut went?

20 A. I don't. I don't remember ever seeing them leave. I
21 just remember after the kicking, I never seen any- -- I never
22 seen them again. I don't -- I assume they went in the house
23 because it didn't -- I don't remember seeing them in the
24 yard.

25 Q. Okay. When you and Joey were walking outside, is

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1 there a light around that area?

2 A. I might have had on a porch light. I'm sure my porch
3 light was on because I could see, like I could see you right
4 now. I could see good.

5 Q. There was enough light where you could see ---

6 A. Yeah, there was enough light for me.

7 Q. Okay.

8 A. I could see.

9 Q. Okay.

10 A. We actually had -- I think there's a light -- there's
11 a light at the corner of our -- both corners of the apartment
12 buildings, because there's another apartment building beside
13 us and there's a house beside us, so there's lights there.

14 Q. Okay. When you came out and you saw Joey's face, do
15 you remember where the blood was coming from, or do you just
16 remember seeing a lot of blood ---

17 A. In the kitchen, it was like on his nose, but once he
18 was laying on the ground, it was sort of coming out of his
19 mouth, and that's when I was like something's wrong, and then
20 his arm was really bleeding like that. It was just like
21 (witness is making gurgling sounds). I remember it was just
22 like pouring out.

23 Q. So when y'all came out of the house, there would have
24 been blood ---

25 A. But I wasn't really looking. I just -- I remember him

1 standing there. I seen like -- I seen blood on his face, you
2 know what I'm saying? I seen blood on his face, and we
3 walked out nonchalantly. I was like Joey, let's go, and when
4 we went out, he was hit and he went down, and he never got up
5 again.

6 He was just laying there, and all this blood just
7 started bubbling out of his mouth, and I was like why would
8 blood be bubbling out of his mouth if his nose is broke, and
9 then Cindy -- I was like Cindy, help him. I was like please,
10 and then -- but she seen the cut because I seen a little bit
11 of blood, and she's like, oh, my God, he's really -- and she
12 like was putting pressure, and she's like he shouldn't be
13 bubbling out of the mouth.

14 And we couldn't figure out anywhere where he was
15 bleeding, because he was so big, and Cindy pulled his shirt
16 up, and I didn't see cuts. I was like, well, how is he
17 bleeding right there, but later they pull it up, up, you
18 know, and they said that he had a puncture wound, but I
19 didn't -- I didn't see it. I didn't see a cut. I just know
20 he was bubbling. I was like ---

21 Q. Okay.

22 A. --- something's wrong.

23 Q. When you were running to look for Tammy, ---

24 A. Uh huh (**indicating positive**).

25 Q. --- your other neighbor, or whoever, that's when Cindy

1 was with him, trying to help him?

2 A. That -- the only time I left Joey -- I mean, Cindy had
3 the arm under control, because that freaked me -- I didn't
4 know anything about it. I'm like, Cindy, please fix this,
5 you know. She's a nurse and she's so comforting. I'm like,
6 just please, Cindy, because I don't know what to do, and she
7 was like putting pressure on his arm. I couldn't help then,
8 you know, because I can't do that. I don't know anything
9 about this and fixing, and, I was please, fix him. (Witness
10 is crying.)

11 Q. Okay. Did the police eventually come?

12 A. Yes.

13 Q. When was the next time you went into the house to
14 check on the kids?

15 A. I never got to go back in the house.

16 Q. Did you know where the kids were by then?

17 A. No. I remember being -- Cindy got help, and I
18 remember being like, Cindy, oh, my God, where is Chapell and
19 Tynesha, the kids? I was like, oh, my God, and Cindy was
20 like -- like everything happened so quick, like how could we
21 forget about the kids, and they wouldn't let me go in, so I
22 guess because it was Cindy's daughter, they let her go in.

23 I'm like please go check on Chapell and Tynesha, you
24 know. I wanted to make sure the girls are okay, and Cindy
25 went in, and she's like there's -- there's no kids in the

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1 house. We don't know where the kids are, and they don't
2 remember how it escalated to getting to Mr. Larry's house,
3 but the kids were safe and they were at Mr. Larry's house,
4 thank God.

5 Q. Okay. When you were -- I just want to go back real
6 quick and make sure we've got this -- everything clear.
7 Before Larry put his hands on you and Cindy came to try to
8 help you out, ---

9 A. Yes Ma'am.

10 Q. --- had anybody in that apartment put their hands on
11 Larry Chestnut?

12 A. No. I didn't want to hurt him. I loved him at the
13 time, you know.

14 Q. Had anybody said anything to him to even threaten him
15 at that time?

16 A. Never. I never ---

17 Q. Okay. And even after he had his hands on your neck,
18 Cindy Evans at that time tried to push him off and help you?

19 A. (Witness nods in the affirmative.)

20 Q. Okay. But even then, neither Richard Day or Joey
21 Hucks got involved?

22 A. No.

23 Q. Okay.

24 A. They couldn't really get through. I don't think they
25 knew what was going on. It was like -- like we just came in

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1 and everything is fine, and then now these girls are getting
2 beat up. Like it is too far out. I say what, and ---

3 Q. Okay.

4 A. --- it didn't make any sense. I don't even think they
5 realized -- that it registered. I don't think anybody ever
6 registered what was going on.

7 Q. So the next person that got struck after you was Cindy
8 Evans?

9 A. Yes Ma'am.

10 Q. Okay. And even then right there in the kitchen, you
11 don't see Joey Hucks or Richard Day get involved?

12 A. No.

13 Q. Okay. The next thing you know is you see Richard
14 Day ---

15 A. Pushing through to get through the hallway,
16 because I was wondering -- I ---

17 Q. Who was he pushing through?

18 A. Mo was standing in the entranceway. I have a little
19 entranceway, and he was standing there, and I was -- I was
20 like, well, somebody do something because, I mean, I'm -- I
21 was so big and I was like I can't -- I mean, it was really
22 bad. I was like what just happened, and I just remember Moke
23 just in there. I just know Moke was on the floor doing
24 whatever ---

25 Q. When you say Moke, you mean Richard Day?

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1 A. Richard Day, yeah. He went in.
2 Q. Okay.
3 A. He went in there.
4 Q. Okay. He was pushing through until he finally got in?
5 A. Yeah. He must have got cut off because I remember I
6 was in the -- I made it to the living room, and I was by
7 Joey, and then Ty had came in there.
8 Q. Okay. Did you ever at any point see Kendrick Chestnut
9 pull Larry Chestnut off anybody, off you, ---
10 A. Not ever.
11 Q. --- or Cindy Evans, off anybody?
12 A. Not anybody. He did nothing.
13 Q. Okay. Let me show you the diagram real quick. So
14 while Cindy Evans and Larry Chestnut are right here, they're
15 fighting, and this is when he got her down on the ground.
16 Where is Kendrick Chestnut standing?
17 A. He was -- well, first, let's see, Ty and Cindy were
18 here, and he had -- she was right up here to my back door,
19 and she slid against that, and if you're -- if someone is
20 standing there, you're blocking it. There's no enter way.
21 You're not moving.
22 If someone is standing there, just stand there, and
23 you're not -- unless you force your way through, you're not
24 get- -- it's not room for two. He was standing right there
25 in that entranceway kind of just looking at what was going

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1 on.

2 Q. Okay. Was -- was there anybody blocking Kendrick
3 Chestnut from getting into the kitchen?

4 A. No. There was nobody else in the kitchen but Cindy
5 and Ty at the time, ---

6 Q. Was there anything obstruct- ---

7 A.. --- and me. I was in there.

8 Q. Okay. Was there anything obstructing his view to see
9 what was going on?

10 A. No, not at all.

11 Q. He could see what was going on in there?

12 A. Yes Ma'am.

13 Q. Did he ever at any point try to grab ---

14 A. He didn't try to do anything.

15 Q. Okay.

16 A. That's why I was like somebody do something.

17 Q. So he's just standing here as Richard Day is trying to
18 get through?

19 A. Yeah. He pushed through, Moke coming through, and
20 Moke jumped on down pulling -- getting Ty off of Cindy.

21 Q. Okay. When you were outside, once Joey finally makes
22 it out and you're behind him, you're saying at that point his
23 nose is already bleeding?

24 A. His face was bleeding.

25 Q. Okay.

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1 A. It seemed like it came from the nose. It was coming
2 out -- I mean, I didn't know what -- there was blood in this
3 area here, all in this area.

4 Q. At that point, y'all are going out to the ---

5 A. I remember seeing him and I walked to the kitchen. I
6 just remember seeing Ty and Mo, and Joey looked like -- like
7 basically like out the door.

8 Q. Okay. Who came up behind y'all while y'all were
9 trying to leave the house?

10 A. I don't remember anybody ever being directly behind me
11 until I went around the bush, and I remember seeing a fist,
12 and I looked and it was Mo, and he hit Joey like this, like I
13 remember it was right in the face, and Joey was just -- he
14 was going down. I was like, oh, my God, and I went down.

15 I was like Joey, and we went -- and I just remember
16 seeing feet kicking, kick white Air Force One's. I remember
17 the little Nike check, just kicking, and kicking, and
18 kicking, and I was like stop, and I just heard, I'm going to
19 go get my gun, I'm to go get my gun, and ---

20 Q. Who was saying that?

21 A. I assume it was Mo because Ty didn't have one, and he
22 didn't have a car or anything to put it -- I don't -- I can't
23 for sure say, but it -- it sounded like Mo.

24 Q. Okay.

25 A. But me and -- Ty didn't have a gun, so if he did, it

1 was new to me. I had no clue.

2 Q. Okay. Now, as you're -- you eventually get up, you

3 say, and you're looking for help, but you can't -- there's

4 nobody around?

5 A. I went to Tammy and Jack's house.

6 Q. Right, but somebody -- the police finally come?

7 Somebody has called the police?

8 A. Yes Ma'am.

9 Q. Okay. Now, -- and you say you see a blue Suburban

10 driving through the yard?

11 A. I see Moke in the car driving through the yard. I

12 think something is really bad. Now something is wrong

13 because here goes Moke driving through the yard. I'm like

14 what has happened, ---

15 Q. Did he come ---

16 A. --- still not thinking the kinds are gone or

17 anything ---

18 Q. Right.

19 A. --- about the kids, just something had to have

20 happened, or they got in a fight in the back yard, or maybe

21 there was a gun, I don't know, and he's hauling them for some

22 reason. I didn't know.

23 Q. Okay. Did Richard Day, who you are calling Moke, did

24 he come back to the apartment that night?

25 A. He did come back.

1 Q. And did he pull in such a way where the lights were
2 shining on Joey?

3 A. Yeah, he was in the yard, but it didn't matter. You
4 could see Joey, you know what I'm saying. You could see him
5 and everything fine, you know, because there's a light that
6 shines on our little sidewalk that goes really when you walk
7 out of this little gate, there's bushes that go all along the
8 front of my apartment, but there's a sidewalk in front of
9 that.

10 On that sidewalk, all the time, day or night, there's
11 light on that sidewalk. The City made it somehow that
12 there's light on that sidewalk in the front of those
13 apartments. You can see anything on that sidewalk.

14 Q. When -- when Joey is being kicked, and even when he is
15 walking out of the house, is he yelling help? Is he ---

16 A. I never -- that's -- Joey never said one word to me,
17 and I don't know if that's why today I'm even still --
18 because I think that if he would have ever been stabbed or
19 been hurt, Christie, please, he never said -- he never said
20 one word. I never heard him say one word to me, ---

21 Q. Okay.

22 A. --- not -- not enough that he -- I don't ---

23 Q. Is that when he was on the ground?

24 A. No, he never said one word. From the time I went
25 through the kitchen, Joey never said one word to me, not --

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1 not one.

2 Q. Okay.

3 A. I didn't know he was hurt like that. I really didn't
4 know that he was hurt.

5 Q. It's okay. So even when he's down on the ground and
6 you see him being kicked, kicked, kicked, is he saying help
7 me then?

8 A. He didn't say nothing. He looked really unconscious.
9 I'm like, God, he looks pretty unconscious for somebody
10 that's like -- just got hit. I mean, I know if you get hit
11 in the face or something, you kind of -- you know, you'd be a
12 little unconscious, but I'm like he's like really
13 disoriented, and he wasn't phasing, and then that's when the
14 blood started to come out. I'm like this isn't good, like
15 he's more than hit in the face. I was like this isn't good.

16 Q. And that's in the yard when he ---

17 A. Yeah. He went down. I just remember he was too
18 disoriented. I was like, okay, I mean, when you get punched
19 in the face, you might see stars or whatever, but he wasn't
20 responding, like his eyes -- he laid there and his eyes was
21 just like looking. He never -- he never rolled them. He
22 just was looking straight up, and that was when I was like
23 Joey, and he wasn't really responding.

24 But I didn't think he was dead or anything, you know,
25 and then just blood just started coming out. I was like

1 Cindy, help him. And then she saw the cuts. She said, oh,
2 my God, he's been cut. I didn't know he'd been stabbed.
3 Okay, so call 9- -- we need 911. Okay, that's the worst
4 that's wrong, his arm, you know, oh, God, and then I was just
5 like -- I just remember I told Cindy to save him.

6 Q. Okay. It's okay. So you didn't know that night in
7 the yard that he was wounded to that extent?

8 A. I had no clue. I was going to ride -- I wanted to
9 ride in the -- the ambulance, and like they knew more than I
10 knew, and I was like, no, I'm going to ride in the ambulance
11 with my brother. You have to let -- let me just ride with
12 him. He needs somebody to go with him, and now I know why
13 they wouldn't let me go. I guess obviously they knew there
14 was like some kind of puncture wound, but I never -- I never
15 seen that. I didn't know. I'd just seen his arm and his
16 face was like bleeding.

17 Q. Okay. And then eventually the police came. Did you
18 talk to the police?

19 A. Yes Ma'am.

20 Q. Okay. Did you give a recorded statement?

21 A. Yes Ma'am.

22 Q. Okay. And the information you gave them, I know you
23 wrote the statement that night. Is that the same information
24 you're trying to give us ---

25 A. To the best of my ability, it is.

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1 Q. I know. Did you talk to them again after that night?

2 A. Yeah. They called me, and I had to come to some place
3 at the Air Base, ---

4 Q. Okay.

5 A. --- the little place out there in the Market Commons
6 is where I went, not too much longer after that. I don't
7 remember.

8 Q. Did you give a statement then?

9 A. Yeah. I talked to someone in a room.

10 Q. And the information you gave them then, is that the
11 same information you're trying to give us now?

12 A. Yes Ma'am.

13 Q. Okay. I know it's upsetting. At any time did you try
14 to not tell them some information they would need or anything
15 like that?

16 A. No. I mean, even -- I'm in a really tough predicament
17 because, you know, I loved Ty and I loved my brother, and I
18 still can't take up for someone if something happened, you
19 know what I'm saying, like I have -- I can't lie because of
20 that, you know what I'm saying. Like I have to -- it hurt me
21 for -- to have to deal with this, ---

22 Q. Okay.

23 A. --- but I'm not -- I can't lie for what things I
24 actually have seen. I cannot lie about it. I can't do that,
25 you know, and I'm not going to do that.

1 Q. Okay. But at the time, you were eight months
2 pregnant, or seven or eight months pregnant with Larry
3 Chestnut's daughter?

4 A. Yes Ma'am.

5 Q. Okay. Did you come in contact again with Larry
6 Chestnut ---

7 A. I did. I did.

8 Q. Tell the jury how that ---

9 A. I did. Everything was just so surreal and I never --
10 I found out my brother had died. I still didn't know how --
11 like I knew how, but I didn't know who did it.. I never seen
12 him stab anybody or -- you know what I'm saying? He just --
13 he just was dead, and I was pregnant. I loved Ty so much,
14 and I just remember like I wanted to know what happened,
15 what's wrong, like please tell me something because I can't
16 shut love off, you know.

17 I mean, I was in love with this guy, and I needed
18 answers and closure, and like was he sorry, was he not, did
19 Mo do it, who did it, what happened, what led to this, what
20 did you do that night, and I was going to see him and ---

21 Q. Okay.

22 A. And we never -- he never really -- he just always said
23 I don't know, and he was -- he felt remorseful that he -- you
24 know, my brother died, and he just never wanted to talk about
25 it, and I just dropped it, you know. I just had to just

1 erase it out of my head as much as I could because I was
2 thinking about it.

3 Q. And where would you go and see him at?

4 A. At J. Reuben Long.

5 Q. Okay. Now, you know Mr. Wilson who is sitting beside
6 Larry Chestnut?

7 A. Yes, I do know Mr. Wilson.

8 Q. Okay. How do you know Ralph Wilson?

9 A. I helped pay for him because his father -- they wanted
10 -- they needed -- Ty needed a lawyer and I wanted to help
11 them out because I still -- you know, I loved Ty. I wanted
12 -- I wanted answers. I needed to know what happened. I
13 still wanted to hear him talk about what happened that night,
14 you know, so I -- I loaned him the money to get a lawyer to
15 help him, because I felt like I needed to -- I needed
16 closure. I needed answers.

17 Q. Okay. Now, even now y'all still have ---

18 A. I have -- I mean, I don't have any problems with --
19 with Ty. I don't feel harmful for my life seeing him, but I
20 don't -- I'm not in contact with him in any way. Now, my
21 daughter goes to Mr. Larry's house and Ms. Sandra, and they
22 take really good care of him -- of her. I mean they're
23 really good people to her. She loves them very much.

24 Q. So even after this incident, you haven't withheld the
25 child from seeing ---

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1 A. No, ---

2 Q. Okay.

3 A. --- because my brother said it's like a freak
4 accident. The whole thing is just so -- you could just be
5 sitting there with somebody and the next -- with someone you
6 love, and the next thing you know like somebody is dead, and
7 it's just too surreal, and I was with him for so long, and I
8 was pregnant, and I'm like confused, and what's going on,
9 and ---

10 Q. Do you ---

11 A. I can't -- I can't explain it. It sounds so crazy. I
12 can't explain it.

13 Q. It's okay. But you still let him see your child
14 and ---

15 A. Yeah. I didn't ---

16 Q. --- his parents see the child that y'all have in
17 common?

18 A. Yes. He never had her by himself. He was always with
19 Ms. Sandra and Mr. Larry.

20 Q. Okay. What you told this jury today, is that what you
21 told that night?

22 A. Yeah.

23 Q. Okay. And is that the information you gave the
24 police?

25 A. I -- to my ability. I mean, I don't think it's

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CROSS BY WILSON

1 changed. I -- I haven't changed. I know things I remember.
2 I was completely -- I remember certain things, and whatever I
3 said today is what I know to be true.

4 Q. Okay. Is it difficult for you to be here today?

5 A. Yes. Oh, it's real difficult, because it's hard to
6 explain my situation, because like how do you still talk to
7 someone after your brother like died, and I can't explain it.
8 I can't explain it. I mean, I just -- I didn't hate him. I
9 just hated what happened. I miss my brother, and I hated all
10 the stuff that -- the alcohol, the -- it's just -- it's
11 really hard. I can't explain it.

12 **MS. LIVESAY:** No further questions for this witness,
13 Your Honor.

14 **THE COURT:** Cross-examination, Mr. Wilson.

15 **MR. WILSON:** Thank you very much, Your Honor.

16 **CROSS-EXAMINATION BY MR. WILSON:**

17 Q. Ma'am, do you need a minute to gather yourself before
18 we ---

19 A. Please. I'm sorry.

20 **MR. WILSON:** Your Honor, could I get her some water?

21 **THE COURT:** The bailiff can.

22 A. I'll just -- I'll be okay.

23 **THE COURT:** Pour her some water.

24 A. I think I'm going to be okay. I just needed to
25 breathe.

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1 **THE COURT:** You may proceed, Mr. Wilson.

2 **MR. WILSON:** Thank you very much, Your Honor.

3 Q. Now, Ma'am, you and Mr. Chestnut had been having a
4 relationship for about a year prior to this incident
5 occurring, ---

6 A. Yes sir.

7 Q. --- is that correct?

8 And as a result of that, you were pregnant and about
9 seven and a half months at this time?

10 A. Yes sir.

11 Q. And as I understand it, sometimes after the incident,
12 the two of you broke up, and you're not seeing each other any
13 more?

14 A. Or the time for us to break up. He -- he went to jail
15 and, I mean, it wasn't ---

16 Q. Well, he got out of jail, but even after he got out of
17 jail, the two of you didn't continue your relationship,
18 right?

19 A. Not really.

20 Q. All right. Did you continue it for a short while and
21 then ---

22 A. For a short while. I mean, I would -- you know, I
23 would go and see him and we would hang out some, and I -- I
24 still loved him, but I can't explain it. I just -- but at
25 the same time in the back in my mind, like, you know, my

1 brother has passed away, and this is -- it's just torn mixed
2 feelings. I know we have a child. He loves Pebbles, and I
3 didn't want to ever -- I never want her to know about it, and
4 I just would let her go over there and see -- see his family,
5 and I just didn't want that to ever be brought up to her.

6 Q. Did these issues with you and Ty and your brother's
7 death come between you and the other members of your family?

8 A. I'm sorry, what ---

9 Q. Did this issue ---

10 A. Yes sir.

11 Q. --- between you and Ty ---

12 A. Uh huh **(indicating positive)**.

13 Q. --- and your brother's death come between you and the
14 other members of your family?

15 A. Not really. I mean, they didn't -- I don't know if I
16 know the question. I'm sorry. My head is like spinning
17 right now. My relationship with Ty, did it change with my
18 family, too, or -- is that what you're saying?

19 Q. What I'm asking you is did that cause problems with
20 you and your family?

21 A. Oh, yeah, of course. Yes, of course.

22 Q. And after -- well, let me ask you this way. At some
23 point in time did you meet with the Solicitor here?

24 A. I did meet with the Solicitors.

25 Q. All right. And on how many occasions did you meet

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1 with them?

2 A. Not very many.

3 Q. Okay. And when was the last time that you met with
4 them before today?

5 A. A couple of weeks ago, I think.

6 Q. And what was the purpose of that meeting?

7 A. For them to play the tapes and to hear back everything
8 that happened the night of -- of the murder.

9 Q. Okay. And were there concerns about your story versus
10 the stories of your other siblings or the other people who
11 were there?

12 A. Not really. They -- they would just ask us what we
13 knew and whatever -- everything I said, it was the same, and
14 then she would play -- everything I said that I remember,
15 she'd ask me questions, and then she's like, well, I'm going
16 to play these tapes and see if you remember, and everything
17 that I said was the same things from the recordings from that
18 time.

19 Q. And did she play for you the statements of the other
20 siblings and what they allegedly said?

21 A. Yes, she did.

22 Q. Okay. And she was then comparing your statements to
23 what their statements were to get them consistent, isn't that
24 true?

25 A. But they were already consistent anyway before she

1 even -- you know what I'm saying. Everything that we said
2 and that she asked was never changed from the tapes. What I
3 said and what Cindy said, or what anybody else said, was the
4 exact same thing that was on the tapes. Nothing had ever
5 really altered.

6 Q. Ma'am, let me ask you if you recall giving a statement
7 to the police on May 26th, which would have been five days
8 after this incident occurred? Do you recall that?

9 A. We went to a room at the Air Base and I had to talk to
10 somebody. I did.

11 Q. When you say we, who are you referring to?

12 A. I -- I think everyone had to go there. We went into a
13 room by ourselves with a man and -- and I remember it was a
14 man and a woman in there, and we had to sit in there and talk
15 to someone.

16 Q. Okay.

17 A. We -- I don't know if they were the police officers, a
18 detective -- I'm assuming they were detectives, I guess.
19 They were asking about everything that happened and they were
20 recording it.

21 Q. All right. Do you see those officers in the courtroom
22 today?

23 A. I know for a fact I remember this -- this man.

24 Q. Okay.

25 A. And I know the guy behind her. I just don't remember

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1 if he -- where or when I seen him. I'm not sure.

2 Q. So you gave them the statement on May 26th, which
3 would have been several days after this incident occurred?
4 Is that a fair statement?

5 A. Yeah, it could be a fair statement.

6 Q. Okay. And do you recall telling them that night that
7 the only time that he actually touched you was in the
8 kitchen, he pushed you against the stove?

9 A. Not that night.

10 Q. You don't recall telling them that on May 26th in your
11 tape-recorded statement to them?

12 A. I'm not sure. I'm not aware. I know what happened.
13 I think I might have just been scared to -- I don't think I
14 was scared to tell them. I know that he had pushed me -- I
15 didn't really want to let that out too much of what had
16 happened between us.

17 Q. You didn't want to let it out to who? You were
18 talking to the police about your brother's death, and you
19 don't want -- what is it that you're trying not to let out,
20 but you're telling them that he assaulted you in the kitchen
21 and pushed you against the ---

22 A. I'm sure I told them that he pushed me in the hallway.
23 I don't ---

24 Q. In fact, Ma'am, you never ever in that May 26th, 2006,
25 statement told them of any incident that happened in this

1 hallway?

2 A. Well, if I didn't tell them, then it's just probably
3 because I was thinking about so many other things that had
4 happened. They -- they were asking about so much stuff, and
5 my brother, and told me that my brother had been stabbed ten
6 times, and I'm not really remembering one thing from the
7 next.

8 Q. Well, now, this is five days later. This is not the
9 night of the incident. This is five days later that they're
10 having this conversation with you. In fact, ---

11 A. Okay.

12 Q. In fact, Ma'am, did you not also tell them at that
13 time that at that moment when he pushed you against the stove
14 and you're in the kitchen, that Cindy, your sister, comes in
15 and hits him with a shoe?

16 A. No.

17 Q. You didn't tell them that?

18 A. Not -- they didn't -- I mean, if I said that, it was
19 just speaking. I talk so fast, and so a lot of things is
20 jumbled up. That's not how it happened. Me and Ty were in
21 the kitchen together and we were having a conflict, and he
22 kind of pushed me up against the stove. No one had seen
23 that. Cindy didn't see that. No one seen that.

24 Q. That's right, because if you're in the kitchen, if
25 you're in the kitchen when this altercation takes place,

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1 nobody who's in the living room can see it?

2 A. Correct.

3 Q. So it's important now that it be in the hallway, that
4 there be a second incident in the hallway because then
5 somebody could possibly see it, because if it happened in the
6 kitchen, as you testified to ---

7 A. I didn't want anybody to see anybody ever hit me. Why
8 would I ever want to cause something for some grown man to
9 hit me? Why -- I'm eight months pregnant. Why would I want
10 a grown man to come and hit me?

11 Q. We're coming to that. Let -- let ---

12 A. But why would I want to do that?

13 Q. Just let me ask you this: At some point in time, you
14 told the police on your -- on your May 26th statement that Ty
15 says I'm not taking any of this -- and you used an expletive,
16 and you said he said this word, and I'm leaving, isn't that
17 correct?

18 A. I just remember him walking in there, and I'm leaving.
19 I'm going to get Tynesha, and he walked out the door. He
20 never had to turn around and come back.

21 Q. He walked -- he was walking out the door to leave, to
22 go get his daughter who was on the couch in the living room
23 asleep at that point in time, ---

24 A. Okay.

25 Q. --- isn't that correct?

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1 A. Yes sir.

2 Q. All right. And, now, you are still in the kitchen at
3 this point crying, is that correct?

4 A. Yes sir.

5 Q. And your sister comes in because she hears you crying?

6 A. It wasn't because she heard me crying. I think they
7 were wondering where I was. Like Ty had already gone to the
8 living room, and I remember her and Joey -- because she
9 didn't -- they didn't know I was crying, because Joey didn't
10 say, oh, my God, why -- Christie, why are you crying? He
11 didn't even -- wasn't even aware of it, and he was just was
12 walking in and, I mean, I don't know what they were thinking
13 at the time.

14 Cindy came in and I had told her. Cindy didn't know
15 anything until I mentioned to her that -- I don't know if I
16 -- you know, Ty had just -- I don't know exactly the words
17 whatever I told to her, but I know she didn't come in there
18 because she heard me crying. They were looking for me, I'm
19 sure.

20 Q. In your May 26th statement to the police, to these
21 officers, did you tell them that after he pushed you against
22 the stove, Cindy hit Ty, then saw her sister hit the floor?

23 A. That's what happened, but not like that. She came in
24 there and we were talking, and then Ty -- I was heading
25 towards the living -- Cindy and Joey started talking. I was

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1 fine. Joey was like did I do something wrong? I'm like no,
2 Joey, and I was walking towards the living room, and that's
3 when Ty kind of -- me and him somehow met right there in the
4 center.

5 Q. Let me show you this -- let me show you what's been
6 marked as Defendant's -- I guess this is State's Exhibit
7 Number 10. Take a look at that.

8 A. Okay.

9 Q. Now, that's a photograph of your hallway in your
10 house, is that correct?

11 A. Yes sir.

12 Q. The hallway that leads to the kitchen and which is
13 where you're saying that the second alleged assault of you
14 took place, right?

15 A. Yes sir.

16 Q. And, now, in that picture, if ---

17 **MR. WILSON:** May I approach the witness?

18 **THE COURT:** Yes sir.

19 **MR. WILSON:** I apologize, Your Honor.

20 **THE COURT:** It's all right.

21 Q. Just on this picture, show me where the dishwasher
22 would be.

23 A. The dishwasher is back this way.

24 Q. Back this way. How many feet would you say?

25 A. I mean, the kitchen isn't very, very big, but it's --

1 it's a good little distance this way, though.

2 Q. Okay, a good little distance, and if -- if y'all are
3 in the hallway having this second assault and your sister
4 gets punched, what your testimony is, is that she got punched
5 all the way from this area all the way to the back of the
6 kitchen where you say -- show me on here where your
7 dishwasher is.

8 A. Let me see it.

9 Q. Wouldn't it be over here? Wouldn't your dishwasher be
10 right in here somewhere?

11 A. No. The dishwasher is right here. Here is the door.
12 The dishwasher is like right -- this is the -- the dishwasher
13 is a little thing right behind the door. When you open up my
14 door, there's a dishwasher here. There's a washing machine
15 and dryer here.

16 Q. Okay.

17 A. Cindy was there. She went ---

18 Q. All right. So he knocked her from here, from right in
19 here, ---

20 A. There's the door. The door ---

21 Q. --- to -- past this door, past the second door ---

22 A. There's not a second door. There's only one bathroom
23 door. There's the hallway. There's a bathroom door, and
24 there's my laundry room little section, and then the kitchen
25 door. There's not a door -- multiple doors.

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1 Q. All right. Now, my understanding is ---

2 A. I'm confused. Like on the pic- -- like if I can show
3 you like on ---

4 Q. This is State's Exhibit 10 that you're referring to.

5 A. Okay. This is the hallway thing right here. There's
6 only one door. That's my bathroom door. She went from like
7 right here all the way past this -- there's a bathroom -- a
8 wall, there's a bathroom, and then there's a little cut-out
9 that I had painted where my washing machine and dryer is, and
10 a little bird is up in it. It's kind of long, and then
11 there's the door. Like she went past the door and a laundry
12 room.

13 Q. Okay. And -- and -- but that's not what you told the
14 police on May 26th when you had your conversation with them?
15 You told them ---

16 A. Well, I know I told the police she got hit and she was
17 flung across the room. That's -- that's for sure.

18 Q. You told them that she fell -- that he -- that she
19 came in, she hit Ty -- well, let me ask you about that first.
20 Did she hit Ty with something?

21 A. I remember seeing a shoe, ---

22 Q. All right.

23 A. --- and a little -- I remember looking back and Ty was
24 on the floor, and she did have my little monkey thing from
25 Barbados.

1 Q. All right. And before we go any further, let me ask
2 you this because the Solicitor never asked you this.

3 A. Okay.

4 Q. Did you have one single bruise on you that night, one,
5 that you showed to the police?

6 A. I'm not sure.

7 Q. Did you tell the police about any bruises?

8 A. No.

9 Q. No. And did they take any pictures of any alleged
10 bruises on you?

11 A. They -- I think they did take pictures. They made me
12 change clothes, and they -- I remember they wouldn't let me
13 in the house to go get clothes, and they made me take off my
14 clothes, and they were doing -- I don't know what they were
15 doing.

16 Q. They made you take off your clothes because they
17 wanted to examine you to determine if you had any injuries
18 whatsoever, didn't they?

19 A. Uh huh **(indicating positive)**, I'm sure.

20 Q. And not one single bruise anywhere on you that night?

21 A. It wasn't about the bruises. It was about the fact
22 that someone shouldn't ever grab you and do any kind of
23 touching to someone pregnant, not pregnant, man or woman.
24 You just -- you don't do that anyway. Bruise or not, it
25 wasn't about the bruise. It was about the disrespect in my

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1 home and -- it's not about a bruise.

2 I can hit somebody right now and they'd fall to the
3 floor. They might not have one bruise, or somebody could
4 barely hit me right now on my leg and I could have the
5 biggest bruise in town and it would look like someone
6 literally slaughtered me to death, ---

7 Q. Well, what ---

8 A. --- and it could be so simple, you know what I'm
9 saying. I could stump my toe right now and it would look
10 like somebody has just killed me to death.

11 Q. Now, Ma'am, that night you were upset with Ty, no
12 question about that?

13 A. Uh huh **(indicating positive)**.

14 Q. You were upset, and ---

15 **THE COURT:** You need to say yes or no, Ma'am.

16 A. Oh, oh, yes sir.

17 Q. And so when he -- in fact, when he -- that night you
18 were so upset after you saw the card, and he didn't write the
19 card, did he?

20 A. No sir.

21 Q. All right. And, in fact, he didn't make any big deal
22 about the card whatsoever and actually allowed you to see it,
23 didn't he?

24 A. I'm sure no man wouldn't.

25 Q. But you was freaking out about it, and you were upset

1 about it, and when he left to go to the club with your
2 brother and his friend, the more you sat there, the more
3 upset you got?

4 A. No. Actually I didn't even see the card then. I had
5 ordered food, and then I was just sitting there like, oh, I'm
6 curious. I'm going to read this card, and then that's when I
7 opened it. I didn't even -- I really am not the snooping
8 type. I trusted him, and I didn't think there was going to
9 be anything, and when I opened it, I was like it's a whole
10 'nother can of worms. It was like how naive am I, kind of.
11 I mean, why would someone send this?

12 Q. Ma'am, didn't you tell the Solicitor earlier that you
13 were so upset that you called your sister ---

14 A. I did call Cindy.

15 Q. --- and told her about it, and then had her come over
16 to your house because you were so upset, and that she and her
17 boyfriend came over to the house and y'all -- that's what
18 y'all were discussing for that whole half hour, or forty-five
19 minutes, or hour, or whatever it was between the time they
20 got there and the time Ty came back from the club, y'all were
21 discussing whether or not to kick him out of the house that
22 night?

23 A. That wasn't an option. He was going to have to leave,
24 and we talked about other stuff.

25 Q. That's what I'm saying. Y'all were -- y'all were

1 planning that when he was gone and ---

2 A. I was planning that.

3 Q. --- and you, and your sister and her boyfriend, and
4 you wanted them there to make sure that you could get him out
5 of the house? That was what the plan was, wasn't it?

6 A. Not really to make sure to get him out of the house.
7 If I wanted him to leave, he would have to leave period, but,
8 I mean, they just so happened -- I never called Cindy to come
9 over and say hey, you know, I need help getting my boyfriend
10 out of the house. I don't need help to get him out of the
11 house. My brother would have been there, and Mo was there.
12 I didn't need any sister or anybody to come and help me do
13 anything.

14 Q. Do you deny ---

15 A. She -- she was there, and they just so happened to be
16 there when Ty and them came there. Cindy could have left
17 five minutes earlier and missed them, and then they wouldn't
18 have been able to do anything. You know, she just so
19 happened to be there.

20 Q. Do you deny that you told the detectives that you
21 called your sister ---

22 A. I did call Cindy.

23 Q. Let me finish my question -- that you called your
24 sister because you wanted her there to make sure that he left
25 the house?

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1 A. Not really in the terms like that. I was just was
2 hoping she would come over and hang out with me, and see me,
3 and just make sure that it didn't -- anything would happen or
4 he was going to be mean to me or anything and ---

5 Q. And so she came, and that -- you said y'all ordered --
6 you had already ordered pizza or something?

7 A. Yes sir.

8 Q. And y'all were sitting down, and y'all were discussing
9 -- you were telling her how upset you were about ---

10 A. The card. Look at it. I mean, if you seen it, you
11 would be ---

12 Q. And she was encouraging you to get him out of the
13 house? She wanted him gone, too?

14 A. Cindy -- she wasn't encouraging me to do anything.
15 She was like, you know, I'll call Joey. You know, maybe Joey
16 can just -- we was trying to do -- I don't try to encourage
17 anybody else to hurt anybody. I want to do everything in the
18 nicest possible way.

19 Let's call Joey and see if Joey will just take him on
20 and drop him on off, maybe by his daddy's house, or dropped
21 him off at a car, you know what I'm saying, and let them --
22 them off tonight, let them do whatever, let me have my night
23 to think about what's going on and make it very easy. I
24 never planned on somebody coming and, oh, let's just get him
25 out of the house. It wasn't even like that.

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1 Q. You -- you wanted him out of the house that night
2 because you were upset, and you had your sister there to try
3 to help you get that accomplished. When Ty came in, you were
4 already ready to jump him about the card and about putting
5 him out of the house?

6 A. I was going to speak to him about it, not jump on him
7 about it. It was like, Ty, hey, we've got to talk about the
8 card, but he was already upset about the card -- not the
9 card, but he was upset about money being gone, so it kind of
10 made the situation worse, but I was just going to simply talk
11 to him, and he was -- if I asked him to leave, he was going
12 to have to -- he would leave, ---

13 Q. All right.

14 A. --- and he didn't.

15 Q. And would you agree with me that -- that your memory
16 about all this stuff would have been better on May 26th than
17 it is six years later about what happened?

18 A. I don't think it's any better. I, you know, -- I
19 remember certain things then, and when I look back now, I
20 kind of think about things differently. I mean, I was
21 pregnant. I ---

22 Q. And, Ma'am, there's no question that you would not
23 have intentionally lied or misled the police when they were
24 talking to you about your brother's death back on May 26th,
25 would you?

1 A. No. Why would I?

2 Q. All right. And so anything you told them in that
3 statement would be true, right?

4 A. I'm sure.

5 Q. Okay. And if that conflicts with what you're saying
6 now, which version do you think is the correct one?

7 A. Whatever one I -- what I remember. I know certain
8 things I remember.

9 Q. Now, is there -- let's be clear. Is there any
10 question in your mind that Cindy, your sister, who testified
11 in this trial, hit Ty with some object before he struck her?
12 Is there any question about that?

13 A. Before he struck her?

14 Q. Yes, before ---

15 A. No, she didn't hit him. She -- she might have touched
16 him, like, you know, hey, in a startled way, but it was never
17 like bash anybody. I mean, we -- I don't even -- she never
18 tried to hit anybody with glass, like, get off of her, like
19 we -- I don't even have rage like that.

20 Q. Do you deny that you told the police on May 26th that
21 she hit him and that he knocked her down?

22 A. I don't know. I think she did eventually hit him, but
23 not first, I mean, not like any crazy way.

24 Q. It was before she got knocked to the ground, that's
25 what I'm asking you?

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1 A. She didn't hit him like go get something and like bash
2 his head in and hit him. She just like simply touched him.
3 Cindy ain't able to sit there and like punch people. She
4 ain't going to do that.

5 Q. She didn't have a baseball bat or a knife, which
6 she ---

7 A. She didn't have anything that was going to harm
8 anybody that severe, you know what I'm saying, like a grown
9 man can -- wasn't going to hurt him.

10 Q. And you weren't harmed? Ain't no question about that,
11 is there? You were not harmed that night, were you?

12 A. Thank God.

13 Q. Okay. And, now, let me ask you another question. Is
14 there any question, any question, that your brother, Joey,
15 was the first person to have a weapon that night, any
16 question about that in your mind?

17 A. It wasn't about a weapon. He didn't keep a weapon.

18 Q. That's not what I asked you.

19 A. It was a gif- -- it was about the rage and the
20 violence that was going on in the house.

21 Q. And ---

22 A. It wasn't ---

23 **THE COURT:** Mr. Wilson.

24 **MR. WILSON:** Yes sir.

25 **THE COURT:** You let the witness answer. Then you can

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1 ask another question.

2 **MR. WILSON:** Yes sir.

3 **THE COURT:** Thank you.

4 Answer your question, please.

5 A. What is it? Well, I don't know if your two -- two
6 dukes include a weapon, too, because everybody had them, too.

7 Q. My question was, any point in time that night, was
8 there anybody in that house with a weapon before Joey, your
9 brother, pulled that knife?

10 A. What do you consider a weapon? Do you consider the
11 hands and that a weapon? I mean, vio- -- is that considered
12 a weapon, or are you talking about like an object?

13 Q. Let me show you ---

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

15 **THE COURT:** Yes sir.

16 Q. Let me show you this -- take a look at that.

17 A. Okay. Yes.

18 Q. Do you recognize that?

19 A. I mean, I didn't at the time. It was something that
20 was given my brother for a Christmas present.

21 Q. Okay. Who gave it to your brother?

22 A. My sister.

23 Q. Which sister?

24 A. I'm -- I think Beth or -- or Martha. I'm not sure.

25 Q. Okay. And that would have been Christmas prior to

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1 this incident, which would have been six months earlier?

2 A. Probably, yes.

3 Q. Okay. And what is that object that she gave him?

4 A. It's a little pocket knife.

5 Q. A pocket knife. Now, let me ask you this: Were you
6 present when Ty was stabbed or cut with this little pocket
7 knife that you've described?

8 A. Yes sir, I was.

9 Q. And at that time, was Ty -- did Ty have any weapon
10 whatsoever in his possession when your brother stabbed or cut
11 him with that little pocket knife that you've described?

12 A. He -- he didn't have anything.

13 Q. He didn't have anything. And there is no question
14 that during this altercation, your sister, Cindy, your
15 brother, Joey, Cindy's boyfriend, Moke, they were all in the
16 kitchen on the floor at some point in time when this was
17 going on, true?

18 A. I'm sorry. I don't know -- what did you say?

19 Q. My question was ---

20 A. I know that I was in the living -- I was -- I remember
21 Moke getting through Mo, and the only other thing I remember
22 is being in the living room and I remember I was standing by
23 Joey, and he looked really scared, and I remember Ty just
24 came in there and he was moving really quickly, and he was
25 like don't mess with my sisters, man, like really

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1 nonchalantly, and Ty goes or what, and that's just -- and
2 that's all I heard. And Tynesha and Chapell were -- I've got
3 to get them upstairs.

4 Q. Let me ask you about this, Ma'am. I understand this
5 is your brother and he's your younger brother, and this is
6 obviously an awful tragedy. Your brother that night had been
7 drinking, too, had he not?

8 A. I can't say he'd been drinking. He was a little
9 bubbly, but I can't a hundred percent say -- he didn't drink
10 any alcohol in front of me. Now, whatever they -- if they
11 did drink, only them two would know if he did drink because
12 he didn't drink any alcohol at my house.

13 Q. So you don't ---

14 A. The keg was tapped. There wasn't anything at my
15 house.

16 Q. So you don't know whether or not your brother had been
17 drinking?

18 A. I can't say for a fact. He was bubbly, but I don't
19 know if it was because -- if he was just happy because he had
20 went to the strip club or if he was drinking. I don't know.

21 Q. Well, but you do know that your brother, and Ty, and
22 Mo had gone out to the clubs, hadn't they?

23 A. Uh huh **(indicating positive)**.

24 **THE COURT:** You need to say yes or no, Ma'am.

25 A. Yes sir.

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- 1 Q. All right. And what you're saying, though, is you
2 don't know if he had any alcohol, and if so, how much?
- 3 A. No, I don't know. I mean, I'm sure, you know, he'd
4 like to try, but, I mean, if he did, he did. If he
5 didn't ---
- 6 Q. Well, did he act like he had?
- 7 A. He was with Ty at the time.
- 8 Q. Did he act like he had been drinking to you?
- 9 A. I didn't really notice -- it wasn't like, oh, like --
10 probably not. He just came in and he was real- -- he was
11 just really happy, but that's how Joey always is. It wasn't
12 really that much of a difference, you know what I'm saying.
13 I could tell that Ty and Mo had been drinking, but Joey is
14 always kind of giddy. I mean, I'm sure he probably had a
15 beer or two, but he wasn't drinking like heavy liquor, and
16 like falling over. He was perfectly fine to me.
- 17 Q. Okay. Now, at some point in time I think you told the
18 Solicitor that you saw Larry Chestnut, that is Ty, with what
19 you believed to be a pair of scissors, is that correct?
- 20 A. Yes sir.
- 21 Q. All right. And that you believed that those scissors
22 were scissors that you kept for cutting purposes in the
23 house, around the house?
- 24 A. Yes sir.
- 25 Q. And that you believed that those scissors were

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1 normally either in the kitchen area, either in one of the
2 drawers or on the counter somewhere, ---

3 A. Yes sir.

4 Q. --- is that fair?

5 A. Yes sir.

6 Q. And, now, tell us at what point in time -- is this
7 after Ty had already been cut or was this before he was cut?

8 A. It was after.

9 Q. It was after, so he had already been cut. Now, when
10 he was cut, did you see Joey cut him?

11 A. Yeah, but Joey didn't -- Joey wasn't trying to cut
12 him. Joey didn't even want to hit Larry. He was scared to
13 death. He was like don't mess with my sisters, man. He
14 didn't want to use it. Just when he went back, he went like
15 he went back, because he was going backwards, so he was
16 flying back. Larry just punched him, and Joey was like going
17 like that.

18 Joey didn't like stab him or like -- you know, like it
19 wasn't even like that. Joey, he was so -- he was like don't
20 mess with my sisters, man, because I was like standing there
21 the same -- you know, just -- he was just trying to ward him
22 off, like, hey, man, like leave, because they -- you know, he
23 was good friends with Ty. You know, he didn't -- you know,
24 he just was simply -- he was just going to walk out the door,
25 and Ty just said or what on him, and he -- he went to punch

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1 Joey, and it was just like a natural reaction, like uh, and
2 he went back like that, and Ty's shirt was cut, and I
3 remember seeing the shirt cut first, and then Joey -- your
4 brother cut me, and he took his shirt off, and he was
5 bleeding on the chest.

6 Q. And Ty ---

7 A. And Joey was -- I'm sorry.

8 Q. That's all right. Go ahead.

9 A. That's it.

10 Q. And Ty -- after Ty was cut, you were standing there.
11 How close were you to your brother and to Ty ---

12 A. I was right there with them. I was standing directly
13 beside my brother. Ty was like -- when he came from the
14 kitchen, just like he was facing -- you know, like he was
15 going to go -- like heading towards the door, but he was
16 facing in front of him, at me and Joey.

17 Q. Yes Ma'am. Just -- just let me finish my question.
18 What I was simply going to ask you was at the time Joey cut
19 Ty with the knife, how close were you to Joey (sic) and your
20 brother?

21 A. Pretty close. I was right beside Joey.

22 Q. Where? Where in the house did this happen?

23 A. I remember being in the living room and I saw Joey ---

24 Q. Show me on ---

25 A. --- standing near the stairs. I remember standing by

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1 the stairs, and I was standing next to Joey, and he had a
2 little teeny pocket knife in his hand, and Ty came in and he
3 was -- and Joey was like don't mess with my sisters, man,
4 because it was a -- it was a rage, like it was enough that
5 somebody would -- I'm surprised at this point it wasn't even
6 -- even stopped.

7 I can't believe that Mo and Moke never even dragged his
8 ass from out of the kitchen and took him out in the back
9 yard, you know what I'm saying, and got him on out of the
10 house. How he even still was losing -- or even still went to
11 the living room, I don't even know how he even still was --
12 loose, like how -- how was this even possible? I didn't
13 think anything -- he was going to do anything, and the next
14 thing I know, he's just like what, man, and just bam, and
15 Joey's having a reaction, because he went back and went like
16 that.

17 Q. Well, do you know how many times Joey cut or stabbed
18 Ty?

19 A. I just seen one.

20 Q. Do you know it was three?

21 A. I had no clue. I didn't -- I just -- I seen the one.
22 That was -- it was like he was just ---

23 Q. Show me if you would, please, Ma'am. Now, just if you
24 would, Ma'am, show me where it was that you, Joey, and Ty
25 were all standing when Joey cut Ty the time that you saw it.

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1 A. We were in -- I remember we were in the liv- -- not by
2 the highway. We were in my living room, like where's the
3 front door -- it would be this -- we were -- I guess I need
4 to stand up.

5 Q. All right.

6 A. Okay. Like there's the back door. Our stairs, here
7 they go down, and we were just right over here in this area.
8 I remember Joey was just standing.

9 I don't remember if -- I know he was over by the stairs,
10 and we were -- he was standing there, and I remember just
11 stopping by him, because Joey was fairly big and I couldn't
12 -- I didn't go any other way. I just kind of walked -- and
13 once I walked through this little hallway thing, Joey was
14 just kind of in this area. He was standing there, and Ty
15 came in front of him, and Joey was just like don't mess with
16 my sisters, man, and da-da, and it just -- as soon as he was
17 saying it, just the punch was out at the same time.

18 Q. So you're saying that when Ty was cut, that Ty was cut
19 in the living room?

20 A. He was cut in the living room.

21 Q. Not in the kitchen?

22 A. I don't know whether he ever got cut in the kitchen.
23 I know that when I was in the living room, he got cut in that
24 living room.

25 Q. Okay. So ---

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1 A. Him and Joey got in a brawl. They were -- they were
2 arguing right there in the living room.

3 Q. So if they got -- if they had the argument and the
4 fight in the living room, when was it that Ty gets into the
5 kitchen ---

6 A. I don't know how Ty got to the kitchen. At this point
7 after he took his shirt off and was cut, I remember seeing --
8 looking -- because where Ty was standing, Tynesha and Chapell
9 -- the couch was there. They were sitting there. I mean,
10 they were so teeny then, and they were looking at me, and I
11 was like I got to get the girls upstairs, and I grabbed the
12 girls and I took them upstairs.

13 I never stopped to see anything else that happened, like
14 if I assumed it wasn't going to escalate to anything else,
15 and when I come back downstairs, there wasn't anybody in the
16 living room. I don't -- to that point, I don't know what
17 happened or how Ty got to the kitchen. I just remember when
18 I came back downstairs and I seen Joey, he was in the
19 kitchen.

20 Q. Did anybody ever say to your brother, Joey, even after
21 he cut Ty for the first time, put down the knife, Joey?

22 A. No. There wasn't anybody else in there. I don't
23 know. I didn't remember -- I didn't wait to see. I just
24 assumed Ty was going to leave. I don't -- I just got Tynesha
25 and Chapell. I was scared to death for them, and I took them

1 upstairs.

2 Q. But there's no question, there is no question, that
3 you knew, you knew that your brother had cut Ty?

4 A. Yes.

5 Q. And even at that point, you don't say to your brother,
6 hey, stop, put that knife down?

7 A. Because he was on the floor.

8 Q. And Ty takes off his shirt and he's holding his chest
9 because he's bleeding profusely, isn't that true?

10 A. I don't know if I'd say that bad. I mean, he was cut,
11 and I remember he just said his chest was cut. He was like
12 your brother cut me. I don't remember it ever being like
13 that -- that gruesome at the time, you know.

14 Q. Well, now, you know that Ty went to the hospital,
15 don't you?

16 A. Yes sir.

17 Q. And you know he stayed in the hospital for how many
18 days?

19 A. I don't remember. I mean, I know he was there for a
20 while.

21 Q. For a long time, wasn't he?

22 A. At the time, I didn't know -- oh, okay, you've got
23 internal injuries, and you're hurt, and you've been stabbed.
24 Like, I didn't know that. I mean, I knew he got sliced. I
25 mean, I'm never thinking that this is -- us lay people are

1 divert -- like I'm assuming like let it be over, like go -- I
2 didn't know -- I didn't even knew that it was like some kind
3 of like everybody is going to the hospital type thing. I'm
4 not thinking that. I'm hoping that he's got a little slice
5 or whatever, and he's -- it's got stopped, and he had to go.

6 Q. Ma'am, if I could, please, that night, you said that
7 at some point in time when you came back into the kitchen,
8 your brother was in the kitchen standing near the door. Ty
9 was in the kitchen standing kind of in the middle, and then
10 Mo was on the far end of the kitchen, but the three of them
11 were in the kitchen. There was nothing going on at that
12 time. This would have been after Ty had been cut, is that
13 correct?

14 A. Yeah, when I walked in the kitchen. I don't remember
15 them all -- I think they were like yelling and -- they were
16 arguing, but I don't remember seeing anybody hitting each
17 other.

18 Q. Okay. Nobody is hitting anybody, and at that point,
19 you get your brother to go outside?

20 A. Yeah. He was standing right at the door.

21 **MR. WILSON:** Your Honor?

22 **THE COURT:** I'm sorry. All right.

23 You have a note? All right, sir.

24 Bailiff, come over here and get it.

25 Thank you, Ma'am.

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1 All right. We'll take a break for five minutes.

2 Everybody else remain seated.

3 Five minutes.

4 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
5 JURY.)

6 THE COURT: We'll be at ease for five minutes.

7 Ma'am, you may step down, and you may not talk to the
8 Prosecutor.

9 Thank you very much.

10 (THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE
11 PRESENCE OF THE JURY.)

12 THE COURT: Is the State ready for the jury?

13 MS. LIVESAY: Yes sir, Your Honor.

14 THE COURT: Mr. Wilson?

15 MR. WILSON: Yes sir, Your Honor.

16 THE COURT: And where is Mr. Long?

17 MR. WILSON: I think he went to the men's room.

18 THE COURT: Well, that's why we took the break.

19 Are you ready for the jury, Mr. Long?

20 MR. LONG: Yes sir.

21 THE COURT: Ask the jury to come in.

22 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
23 JURY.)

24 THE COURT: All right. Mr. Wilson, you may continue,
25 sir.

1 **MR. WILSON:** Thank you, Your Honor.

2 **CONTINUING CROSS-EXAMINATION BY MR. WILSON:**

3 Q. Now, Ma'am, we were -- when we left, we were talking
4 about the fact that you said that you were present when you
5 saw your brother actually cut or stab Ty ---

6 A. Yes sir.

7 Q. --- that night?

8 A. Yes sir.

9 Q. And once that stabbing occurred, Ty then takes off his
10 shirt, correct?

11 A. Yeah -- yes sir.

12 Q. And he has no weapon in his possession at that point
13 in time, is that ---

14 A. No, but he had punched my brother in the face. Joey
15 didn't just slice him. Joey had his hand down, and Ty -- Ty
16 hit him, and that was like -- it wasn't -- because Joey just
17 -- he was standing there and I'm just going to cut you,
18 because, you know, it wasn't -- it didn't happen like that.
19 He hit Joey in the face. If that's considered a weapon, I'm
20 not sure, but it was -- Joey didn't just cut him and Ty is
21 standing there and he's just bleeding because no incident had
22 happened. Something happened for that to happen.

23 Q. Did Ty ever strike your brother before your brother
24 pulled out the knife at him?

25 A. No, but Joey didn't have the knife at him. He wasn't

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1 pointing it at him. He had it down by his leg. He wasn't
2 holding like a knife out like I'm going to -- you know, don't
3 hurt my -- it was down below his leg.

4 You couldn't even -- I didn't even honestly see it until
5 it kind of like just happened. I was like -- it was surreal,
6 and Joey is so big, and his hands are so big. The knife is
7 as big as his hands, you know what I'm saying. His hands --
8 he's big.

9 Q. Joey is big. In fact, Joey was what, six foot tall,
10 three hundred pounds?

11 A. Yeah, ---

12 Q. Okay.

13 A. --- five-nine or ---

14 Q. And Ty was what, five ten, a hundred and fifty pounds?

15 A. You could say that.

16 Q. Yeah. And Joey is standing there with a knife. You
17 see the knife. Where is your sister, Cindy, at that point?

18 A. I don't remember seeing Cindy.

19 Q. Where is her boyfriend, Richard Day, standing?

20 A. I don't remember seeing Richard Day or Mo. Mo, Moke,
21 or Cindy, I don't remember seeing them. I just remember
22 seeing Joey, and I was beside him, and Ty had walked into the
23 living room.

24 Q. Where is Mo at that point?

25 A. I don't know.

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1 Q. So there's nobody there except the two of -- the three
2 of y'all, and your brother has got a knife, your boyfriend
3 gets cut, and even after your boyfriend gets cut, you don't
4 try to get the knife from your brother?

5 A. No. Joey was like on the floor. I don't know -- I
6 mean, Joey -- I didn't have to worry about getting the knife
7 from Joey. He isn't out to stab or hurt -- he ain't going to
8 hurt anybody. I don't have to worry if he's going to get up
9 and start stabbing or hurting anybody. He's on the floor,
10 and Ty is choked. He was just standing there. I just
11 remember seeing Tynesha and Chapell, and I just -- main -- my
12 main thing is these are two grown men. I had to get these
13 kids upstairs.

14 Q. Okay.

15 A. It didn't seem that serious, I mean, like -- to me. I
16 -- the kids was the main -- my main concern, is getting the
17 two children upstairs.

18 Q. Okay. Now, you're saying that Joey is on the floor?
19 Is that what you're saying?

20 A. He fell back. I don't -- I don't know like -- I mean,
21 I just remember he just fell backwards when he got hit in the
22 face.

23 Q. After he cut your boyfriend, then he falls back?

24 A. He was falling back in the process of, you know what
25 I'm saying. As he's being hit in the face, he's falling back

1 and the knife went like this. He -- Joey was standing like
2 this is how it -- Joey was like don't mess with my sisters,
3 man, and Ty goes or what, and Joey, as he's going back, he
4 just went -- I don't know, he went like that. As he's
5 falling back, his arm kind of just went like that.

6 Q. Okay. Now, the children, the two kids, are on the
7 couch, right?

8 A. Yes sir.

9 Q. In the same living room where the fight is going on?

10 A. Yes sir.

11 Q. And after Ty is cut and you say your brother is on the
12 floor, you get the children and take them upstairs?

13 A. Yeah. I just remember seeing Tynesha and Chapell, and
14 there's that -- I remember looking over and Ty had his chest,
15 and I remember seeing Tynesha and Chapell and their little
16 eyes just looking at me, and like I didn't want them to see
17 any -- I didn't know what was going on. I just needed to
18 take them upstairs.

19 Q. All right. Now, Ma'am, when you took them upstairs,
20 you had to go -- walk across your brother, who is on the
21 floor in front of the stairs, because you told us earlier
22 that he was on the floor. You get the children and you're
23 taking them upstairs. How did you get upstairs without going
24 across your brother?

25 A. That's -- I don't remember. I just remember him going

1 back and -- I think maybe he hit the wall. I don't even
2 think he was in the floor at the time. I think he just flip-
3 -- he went backwards. I think his body hit the wall or
4 something because I don't really ever remember seeing Joey
5 actually in the floor. It was like I'm going -- hit -- going
6 backwards and hitting the wall, like he was kind of -- I
7 think he went back towards the wall, and I just seen Tynesha
8 and Chapell, and like let's get upstairs.

9 Q. Ma'am, the truth is once Joey cut your brother,
10 Joey ---

11 A. I know his face was -- his nose was bleeding. I
12 remember he was hit so hard, I remember seeing blood like --
13 and I remember I -- and I just -- I didn't think anything was
14 going to escalate or anything else. I'm like this is insane,
15 and I -- just let me get the kids upstairs and I'll come back
16 downstairs and we'll get this figured out. I don't know.
17 I ---

18 Q. When you took the kids upstairs, are you telling me
19 that you don't know exactly where Joey was at that point ---

20 A. He was -- he didn't never go too far from beside me,
21 because he was beside me, and he got hit in the face. He
22 didn't walk off anywhere. He went backwards.

23 Q. Well, you had to leave his side because you said you
24 took the kids upstairs?

25 A. I went -- I guess I went around, and then it happened

1 so quick. I just -- I just remember the kids standing there,
2 and Joey got hit, and Ty was cut, and I just remember seeing
3 the kids and going upstairs. I don't really remem- -- I know
4 Joey didn't go too far. He was right there.

5 Q. Well, were you stunned about the fact that you knew at
6 this point that Ty was cut and bleeding? I mean, were you
7 concerned about him at all?

8 A. I mean, I seen the cut. It didn't look like it was
9 anything to -- that could definitely matter. I mean, Joey
10 just got hit in the face. He was like -- he -- he just
11 punched my brother and he got stabbed or cut in the chest.
12 It wasn't really -- it wasn't stabbing. It was like a --
13 like a -- kind of a cut like that. It didn't -- I wasn't
14 that concerned.

15 I didn't think it was going to -- I'd never seen
16 fighting like this. I don't wait to see if anything is going
17 to get worse. I'm hoping it's getting better and they need
18 to resolve it. They were friends. I didn't think it was
19 ever going to get any worse. I'm like, okay, like you two
20 pull it together and let me get these kids out of here, and
21 let's get out of here.

22 He needs to go home, and Joey needs to be seen about,
23 and Ty needs to be seen about, but I was hoping that the
24 other guys or somebody is going to come in here and take care
25 of the situation until I get from the kids. I don't know.

1 Q. Did you ever say to Ty, honey, you're cut? Let's try
2 to get you to a doctor; or get you to a hospital, or find out
3 what's going on with you ---

4 A. No.

5 Q. --- because of the cut that you got?

6 A. No.

7 Q. And you saw the open wound because he took his shirt
8 off?

9 A. But my brother got punched in the face, and if you
10 knew my brother, he's the type of person that like -- because
11 he's not the fighting type. He's my little brother, you
12 know, and he was there. He was punched in the face. I'm
13 like my little brother. Like I'm thinking about Joey because
14 he -- he's been hit. He doesn't ever fight anybody. I'd
15 never seen anybody punch him in his face before.

16 I was like I hated to say it. I wasn't really worried
17 about Ty, because he -- he was already going to -- fighting
18 on, you know. They were fighting. I didn't think that it
19 would be any worse. I mean, when you seen your little
20 brother there, though, being punched in the face, I was
21 really -- honestly, I hate -- I'm sorry that I was more
22 consumed with Joey. Like I was like ---

23 Q. Right.

24 A. --- but then I seen the kids. I was just like Joey,
25 and then I -- I gotta go upstairs. I didn't think he even --

1 I assumed he'd be okay, but, I mean, he got punched in the
2 face. I was like he's going to be okay, and Ty, I mean, he's
3 got a nick. It wasn't like a stab, where you are stabbing.
4 It wasn't like a stab, like death where you stab. It was a
5 little cut, you know what I'm saying? It wasn't nothing that
6 -- that he was being a baby, that it wasn't that bad it
7 seemed at the time.

8 Q. Did you go to the hospital to see Ty when he was in
9 the hospital?

10 A. I did a couple of days later.

11 Q. And did you discuss with him his injuries at that
12 time?

13 A. He had -- he didn't really know that Ty -- Ty didn't
14 really know. He's just like I've been cut. My side hurts.
15 I never knew about his side. After this, I didn't really
16 remember -- I didn't see Ty for a while until he was in the
17 hospital. I didn't know -- he told me then what -- like what
18 had happened, ---

19 Q. Yeah.

20 A. --- and my brother, at the same time -- I mean, when
21 he's in there, I know that he got cut, and my brother is
22 dead, being -- getting planted -- he's getting buried, so ---

23 Q. Did he tell you that ---

24 A. --- to me, a little -- you know, that isn't really --
25 a cut to me in the chest isn't as bad as like your brother

1 being dead. We didn't even talk about it because it was like
2 if there's no relevance there, you know what I'm saying? He
3 -- he didn't sit there, oh, God, look at this wound. This is
4 just so bad.

5 He was like he didn't know what to say, you know what
6 I'm saying? What do you say to me? He's not sitting there
7 bragging about, oh, I've been stabbed. He didn't know what
8 to say to me. What do you say to somebody? You ain't going
9 to sit there and brag about, oh, my chest got hit.

10 Q. Did he tell you how many times he had been cut or
11 stabbed when you went to see him in the hospital?

12 A. I don't -- I don't remember, maybe like the chest and
13 maybe something on the side, I think.

14 Q. So he was stabbed in the side and in the chest?

15 A. We never really talked -- or he never talked -- wanted
16 to talk about it. It wasn't about him at that time. He
17 never was like, oh, God, look what Joey did. See what he did
18 to me. It wasn't ever even like that.

19 Q. No, he wasn't complaining about it, was he? He never
20 did, did he?

21 A. Who, Ty?

22 Q. Ty.

23 A. I guess not. I remember seeing a thing on his chest.

24 Q. And, Ma'am, let's go back to when you were going up
25 the stairs because we never really went through that. You

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1 get the two girls and you're taking them upstairs to get them
2 out of the way of what's going on, is that correct?

3 A. Yes sir.

4 Q. All right. Now, when you get upstairs, you put them
5 in the bed or in the bedroom?

6 A. I -- I really don't -- it's been so long, I don't
7 remember. I just knew that I had to get the girls upstairs.
8 At the time, I had a baby room. I don't think I would have
9 put them in there. I think I put them in my bedroom and they
10 might have -- I might have -- I had a really tall bed at the
11 time. I think I might have put them on up in the bed and I
12 came back downstairs.

13 Q. At that point in time ---

14 A. I don't remember if I stayed up or not. I don't
15 remember. I just know I took them upstairs.

16 Q. At that point in time, did you think to call 911?

17 A. I didn't. I just wanted to get the girls upstairs and
18 go -- I didn't think that it was nothing to call 911 over,
19 you know. Joey -- okay, we're going to go -- this is going
20 to be resolved.

21 Q. This is going to be resolved?

22 A. It didn't seem like anybody was -- it was like -- I
23 mean, 911, why wasn't everybody else calling 911? Why did it
24 have to be on me to call 911? Where were the men that are
25 downstairs when all this is happening and everybody is cut,

1 and everybody is so hurt, and all this, why aren't they call-
2 -- why isn't 911 already there? By the time I got the kids
3 upstairs, why didn't all these people call 911? Why has it
4 got to be up to me to worry about the kids, and worry about
5 whether he's stabbed, and my brother?

6 I mean, I've got so much on my mind. I'm three hundred
7 pounds. I'm trying to get up and down the stairs. Why isn't
8 everybody else calling 911? Just where -- you know, where
9 were they? Why didn't they do it? Why does everything have
10 to leave on me to call 911, and worry about who is so hurt,
11 and who is not hurt? I just was worried about my brother.
12 Ty was standing -- if he would have fell on the ground and
13 like was going to die, I would have been really concerned,
14 but he had a nick on his chest. I'm like okay, he's a big
15 boy. He's going to be okay.

16 You know, I'm standing right there, and we're going to
17 get him to the hospital eventually. He's going to be fine.
18 I've got to worry about my brother, and I've got to worry
19 about these two six year olds sitting on the couch seeing
20 this, and getting them upstairs, and I'm not thinking about
21 911 or anything else. I'm worried about getting the kids
22 safe somewhere else. 911, they will have to call 911 if it's
23 that serious. They -- why didn't he call 911? I don't know
24 when they called, 911.

25 Q. Now, your sister, Cindy, was concerned about you, and

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1 she came to your rescue initially, correct?

2 A. She didn't really come to my rescue. Cindy just
3 stopped by. She saw me. I showed her the card. She felt my
4 remorse. She wasn't to my rescue. Cindy felt my pain. She
5 was just like anybody else. I was like, hang, like girl, you
6 know -- I didn't dwell on that. You know, we looked at the
7 card. I was upset about it.

8 I knew that she was like -- Cindy's words were -- Cindy
9 is so simple. Let's just call Joey, you know. Let's just
10 get him to go and drop Ty off, you know. Coming from the
11 club, we'll just go and drop him off, and everything will be
12 simple, you know what I'm saying? I like simple. Okay, that
13 sounds good.

14 We'll just call Joey, and it will be real simple. So he
15 didn't answer. Well, I'll call Ty. I hate to upset him
16 right now, but I'm not calling him, and just tell him, you
17 know what, just don't come home tonight, or get -- or get Mo
18 and Joey, y'all just get dropped off and -- just -- I didn't
19 want him there. I just didn't want to argue with him, and I
20 just didn't think it was appropriate at the time.

21 Q. What I'm referring to, Ma'am, is in the kitchen or in
22 the hallway, whichever it is that this occurred, that -- but
23 when Joey has the knife, she's not there?

24 A. Cindy?

25 Q. Yes.

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1 A. I don't remember seeing Cindy.

2 Q. All right. And ---

3 A. Cindy had just been -- they were fighting in the
4 kitch- -- I remember Moke went in there to go get Cindy. I
5 don't remember how Ty even got into the living room so quick.
6 I know that when he came to the living room, he was already
7 -- had been fighting Cindy, and that was over. He never went
8 back in there and was fighting her again.

9 Q. Now, let me just -- let's change the subject a little
10 bit and talk about you and Ty's relationship.

11 A. Yes sir.

12 Q. Y'all had been together for close to a year at this
13 point in time?

14 A. Yes sir.

15 Q. And at your house, this apartment belonged to your
16 father, correct, the building?

17 A. My father and mother, yes, sir.

18 Q. Okay, your parents. All right. And they gave you the
19 apartment?

20 A. They didn't give it to me. They -- they let me stay
21 there until the next per- -- we evicted someone. Ty was in
22 my life. He came in. My mom -- my dad didn't -- my mom said
23 you come in, we'll fix it up. You paint it. You can stay
24 there until we get someone else or until you can ---

25 Q. Okay. So they knew ---

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- 1 A. --- get yourself together.
- 2 Q. --- that y'all were living there, you and Ty?
- 3 A. Staying.
- 4 Q. Staying, which -- whatever word you'd like to use,
- 5 staying there, but the two of you were occupying that
- 6 apartment?
- 7 A. Yes sir.
- 8 Q. And Ty's clothes were there?
- 9 A. Some.
- 10 Q. Some of his clothes?
- 11 A. Yeah.
- 12 Q. And when he came home in the evening, that was where
- 13 he came?
- 14 A. Most nights.
- 15 Q. And that's where the two of y'all were -- I'm sorry?
- 16 A. Most nights.
- 17 Q. Yeah, unless the two of y'all were having difficulty,
- 18 and then he'd go to his parents' house?
- 19 A. Yes sir.
- 20 Q. Okay. And that continued up until the night that we
- 21 are discussing?
- 22 A. Yes sir. .
- 23 Q. Okay. And is there any question about that now? Is
- 24 there any question about the fact that he was living there
- 25 with you primarily up until the night that this happened? Is

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1 there any question in your mind about that?

2 A. We stay- -- we were -- we were together. I mean, if
3 we had an argument or if he stayed out, he would go to his
4 mom and dad's, but basically we lived together. I considered
5 it somewhat living together and ---

6 Q. All right. And, now, let's ---

7 A. All of his -- all of his belongings weren't at my
8 house. The things that were at his house were the things
9 that I had bought. It wasn't -- he had -- he had a room at
10 his mom and dad's house, too, that he had a lot of things at,
11 too. He kind of had like two homes really, mine, and if me
12 and him got upset, or if he felt like there was somewhere he
13 needed to go or he wanted to see Tynesha, he could go to his
14 mom and dad's house, and that was his home, too.

15 Q. You told -- when you were discussing with the
16 Solicitor, you indicated to her that you retained me to
17 represent Ty?

18 A. Mr. Larry suggested that he -- he -- he would like to
19 have you, and I was like -- and I had a credit card at the
20 time, and I was like I'll get it, and then we were going to
21 make like a payment plan that I would get paid back, and you
22 can make the payments on it, but if I get it, the lawyer,
23 that y'all would, you know, pay me back.

24 Q. And you did, did you not?

25 A. What?

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1 Q. Retain me?

2 A. Yes sir, I did. Yes sir, I did.

3 Q. All right. And ---

4 A. I want- -- Mr. Larry needed my help, and I wanted to

5 help him, and ---

6 Q. Did you also tell the Solicitor that you came to my

7 office on July the 12th ---

8 A. I did.

9 Q. --- and you had a conversation with me ---

10 A. I did.

11 Q. --- at that time?

12 A. I did.

13 Q. Did you tell her what you told me during that

14 conversation?

15 A. Everything was basically accurate. If I forgot a few

16 things, the Solicitors went back and played the tapes, and

17 then my brain registered with some of the things that when I

18 said the thing, I would close my eyes. I went back and then

19 I could really remember what happened that night ---

20 Q. Okay.

21 A. --- to the best of my ability.

22 Q. But I want to make sure that you agree with me that

23 what you told the police on May 12th -- I'm sorry, on May

24 26th of 2006, you stand by whatever you told them in that

25 statement, do you?

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1 A. I stand by what I remember. I mean, I assume that --
2 what I remember is what I remember, and that everything that
3 they've ever played or ever seen pretty much was the same. I
4 don't know how much -- drastic that could have changed.

5 Q. Okay. And -- and at that time on May 26th when you
6 gave that statement, you were clear on what occurred, right?

7 A. Yes sir.

8 Q. And you understood that the police were investigating
9 this case and that they were trying to make decisions about
10 what to do and how to handle the case?

11 A. Yes sir.

12 Q. And that the information that you were going to
13 provide to them on May 26th, five days after this incident
14 occurred, was going to be extremely, extremely important?

15 A. It would be the truth.

16 Q. It would be the truth. And -- and if you're saying
17 something different today than you said then, then that's
18 something new that you've added since May 26th, right?

19 A. Yes sir.

20 Q. All right. And that's something that you got from
21 where?

22 A. I'm not really influenced by what other people say. I
23 mean, people were like don't lie, don't lie. Like they don't
24 even have to tell me that because I already am not going to
25 -- I mean, what -- I'm -- I'm in the worst situation in the

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1 world. I'm not going to lie for Ty. I loved Ty, I did. I
2 loved him, and I helped him get a lawyer. I did. I loved
3 him. I have nothing to -- am not ashamed about it, but at
4 the same time, I know things that I saw. I know what
5 happened. It's not like you -- you know, I can't lie about
6 it.

7 It was a really bad situation that happened at my house
8 and, I mean, I can't -- just because I loved him doesn't -- I
9 never seen anybody stab anybody. I -- I -- like that. I
10 never seen any of that. Like as I said, my brother ended up
11 -- when they -- when I got to the hospital, they said he had
12 died, and I looked -- died? You know, like -- they said he
13 was stabbed ten times. I'm like what? Because I never seen
14 that, and how could that even happen? When I seen Joey at
15 the door, he wasn't -- he didn't say anything. I didn't even
16 think he was hurt like that. I'm like how could that even
17 happen.

18 Q. Now, Ma'am, let's go to the point where when you come
19 back downstairs after putting the girls upstairs and you say
20 you come in and you see your brother, Ty, and Mo in the
21 kitchen, correct?

22 A. Who? My brother wasn't in the kitchen with Ty and ---

23 Q. I thought he was ---

24 A. Oh, oh, okay, yeah, when I came from taking the kids
25 upstairs?

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1 Q. Yes Ma'am.

2 A. Yes sir.

3 Q. All right. And your brother was nearest to the door?

4 A. Yes sir.

5 Q. Ty was in the middle, and then Mo was at the far end?

6 A. Mo was kind of at the refrigerator.

7 Q. And when you come in, what do you do at that point?

8 Now, Ty has already been cut? Is there any question about
9 that at that point?

10 A. No. He had been cut.

11 Q. All right. And is he -- his shirt is still off?

12 A. Yeah. I remember -- yeah, I think his shirt was off,
13 and I remember he was holding the kitchen scissors. He
14 wasn't doing anything with them, and I didn't think anything
15 of it. I just seen Joey at the door, and I'm like Joey,
16 let's go outside.

17 He had -- he had blood on his face, and I'm like let's
18 get out of here, and we went out the door, and we went around
19 the corner, and then I remember I assumed it was over. We
20 were walking to Joey's car, and then I just remember seeing a
21 fist, and I looked over and it was Mo, and he hit Joey right
22 up side the head, and Joey just went (witness makes a sound).
23 It was so hard, he didn't -- he just -- he went down.

24 Q. What I'm going to ask you, Ma'am, is do you recall
25 telling the police on May 26th of 2006, that after you took

1 your brother outside the door, that you never saw Ty come
2 outside? Do you recall ---

3 A. I don't remember seeing Ty. I don't remember -- I
4 didn't even remember anybody behind me. I don't know how --
5 I just remember going out the door with Joey, and the next
6 thing I know he is just hit in the head. I'm like what, and
7 I never -- I remember -- I think that -- I don't remember --
8 I remember seeing Mo, and I could- -- there was two pairs of
9 feet kicking.

10 I assumed it had to have been Ty, because I don't think
11 it would have been Moke, and I just -- I didn't really look.
12 I just was looking down because I had -- Joey had already
13 went down. Joey fell, and when I went down, I just remember
14 seeing feet, and then the next thing I know, there was nobody
15 around. They weren't there. I don't know where they went.

16 Q. Do you recall telling the police on May 26th in your
17 statement that Mo punched Joey and he fell and never got up,
18 saw Mo kicking her brother with white Air Force tennis shoes,
19 never saw Ty come outside?

20 A. I don't -- I don't remember if I seen him. I know --
21 I don't want to say that I -- I know for a fact I seen Mo. I
22 know Mo was there and he had -- I remember as clear as day, I
23 was like -- like just bam, and Joey went down, and I remember
24 the shoes kicking, because I was like looking down and there
25 was feet. I was like still -- this is like still going on.

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1 I was like how could this still be going on?

2 Q. Well, on May 26th, you were real certain that they
3 were white Air Force sneakers, I think, is how you refer to
4 them?

5 A. I've been real short on -- in the beginning it was
6 white Air Force One's, but I know what they look like. I own
7 a pair. I know they was white Air Force One's. I remember
8 seeing them.

9 Q. And so has your story changed now? Did you see Ty
10 come outside now in your new ---

11 A. I don't -- I -- I can't say for a fact that I saw Ty.
12 I can say for a fact I saw Mo, for a fact, because he's not
13 hard to miss, you know what I'm saying. I mean, I can't say
14 for a fact. It seems like I seen two pairs of shoes, but it
15 could have just been him -- I don't know.

16 Someone else -- I don't know if Moke or -- where Moke
17 was at the time. Moke might have just even been behind and
18 that's where I seen another pair of shoes. I seen -- it
19 seemed like two feet, but I know one -- the ones were -- the
20 white Air Force One's were kicking Joey.

21 Q. Ma'am, did you ever tell the police on May 26th, 2006,
22 that you saw two pair of feet kicking your brother?

23 A. I -- I don't remember if I did or not.

24 Q. Did you tell them anything other than I saw a pair of
25 white Air Force One sneakers kicking my brother?

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1 A. I'm not sure. I know that I seen a pair -- I seen the
2 white shoes.

3 Q. Do you admit, at least, that you told them that you
4 never saw Ty come outside after you took your brother
5 outside?

6 A. I believe so. I don't really remember seeing him,
7 because I never looked back again. I just remember me and
8 Joey were walking to the car, and a fist come and hit Joey
9 and I -- I mean, obviously I looked and I just remember
10 seeing Mo's face, and I'm like -- and Joey went down. I
11 never looked back again. I wasn't looking back.

12 Joey went down, and I kind of went down with Jo- -- I
13 didn't fall down, but Joey was a big boy. He went down, and
14 I went and squatted down with him, and I -- I just seen
15 kicking, and it was white tennis shoes kicking my brother
16 over and over again. I'm like ---

17 Q. Was there ever a time outside after you took your
18 brother and went outside when he fell to the ground where Ty
19 was leaning over your brother?

20 A. I don't remember seeing that.

21 Q. Well, didn't you tell the Solicitor that when you went
22 outside, that you said Mo came up and hit your brother and he
23 fell, and you put your arms under your brother to lift him
24 up, and that you were with him until Moke turned the lights
25 on and until somebody came, that you were trying to ---

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1 A. I was sitting there with him. He looked a little
2 disoriented, and they were kicking for a minute, and then
3 everybody was just gone. I mean, I don't remember if I put
4 my hands directly under his head.

5 Q. All right.

6 A. I was just like Joey -- I just remember just talking
7 to him. I was like this is crazy, and then that's when I
8 started seeing like blood like come out, and that's when I
9 was really -- Cindy -- and that's when Cindy kind of came up
10 at that point. I don't remember ever seeing her. She just
11 -- Cindy just showed up.

12 Q. The truth is, of the matter is, Ma'am, from the time
13 you took your brother outside until the time the EMS or
14 ambulance, or whoever it was, you were with him, were you
15 not?

16 A. Pretty -- I never left the yard. I never went -- I
17 mean, if I left his side, it was to go to Tammy and Jack's
18 house, and I do believe I went to the road at one time, and I
19 think I did see a younger boy, or a Mexican guy, and I said
20 call 911, that I ran back, because I think at that time Cindy
21 -- Cindy was kind of -- I think Moke might have came back and
22 Cindy was over there with him and talking to the lady, and I
23 just stayed with Joey. I never left. I just kneeled down,
24 and I was just there.

25 Q. Okay.

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1 A. At this point, I knew he was bleeding really bad.

2 Q. And that's what I'm asking. Once you say he was on
3 the ground, you never left him, did you?

4 A. No.

5 Q. And there would have been absolutely no way for Jo- --
6 for Ty to be over him making any kind of motions against him
7 at that point in time because you were there with him, over
8 him, at that point?

9 A. I don't know. I mean, I don't know is how they could
10 have done it. If he did, I'm not sure. I don't know.

11 Q. Well, if you're kneeling there ---

12 A. I can't say that I seen anything I didn't see. I
13 didn't see any of that. I don't know. I just know that I
14 seen Mo hit Joey in the face and Joey went down, and I never
15 looked back -- I just seen feet. I didn't feel stabbing or
16 -- I think if I'd ever felt that, I was like, oh, my God.
17 Like I didn't see that or any kind of stabbing. I didn't see
18 that.

19 Q. I understand, Ma'am. I'm simply asking ---

20 **MS. LIVESAY:** Your Honor, if I may, I think he's
21 already asked it and she just answered it.

22 **THE COURT:** I appreciate it.

23 I'm going to allow it one more time, Mr. Wilson.

24 **MR. WILSON:** All right, sir. And if I -- I apologize
25 if I'm belaboring it, but I just need to be clear because I

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1 think ---

2 **THE COURT:** You don't need to explain. Just ask your
3 question, sir.

4 **MR. WILSON:** Thank you, Your Honor.

5 Q. Just so I'm clear, when your brother fell, you were
6 there when he was hit, you were there when he fell, and you
7 stayed with him?

8 A. Yes sir.

9 Q. Any question about that?

10 A. Not -- no.

11 Q. Now, when you are in the yard, does Cindy or Moke,
12 which is Cindy's boyfriend, do either of them come to you?

13 A. I don't remember seeing Moke at first. I really
14 didn't. I remember -- it seemed like I was the first one --
15 I don't know. If Moke was, he might have been over by the
16 cars. I wasn't -- I just know that by the time I got
17 outside, Joey had already been hit and he went down, and I
18 never really was looking around to where -- I was just like
19 Cindy, get help, and that was it. I don't -- I don't know,
20 but Cindy just appeared. I don't know, but Cindy just showed
21 up.

22 Q. Let me ask you, how much time elapsed between the time
23 that your brother cut Ty and the time that we're -- you're
24 outside on the ground and you're with him? How much time ---

25 A. I really can't say because it happened -- it seemed

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1 like it happened so quick, but I think it happened slower. I
2 feel like I was in the twilight zone, like I really -- I
3 don't -- I don't know if it was slow, or quick, or fast. I
4 just know it happened, and it was just so surreal. I really
5 -- if I had to think in a nut shell, ten minutes.

6 Q. Okay.

7 A. I don't -- I don't know.

8 Q. Okay. Now, did anybody discuss -- and when I say
9 anybody, did anybody in the house that night discuss calling
10 911 before Ty got cut?

11 A. No.

12 Q. Did anyone discuss it after Ty got cut, but before you
13 found out Joey was injured?

14 A. I don't think so. I mean, I don't know. I don't
15 remember seeing Cindy or Moke. I don't know if they ever
16 were calling 911. I don't know who was calling who. I took
17 the kids upstairs, and I don't -- I didn't know whoever -- I
18 figured if somebody is really hurt, they're going to call the
19 police. They're going to call 911.

20 I wasn't -- I just was watching the kids, taking them
21 upstairs, and if Ty, or Moke, or Mo, or Cindy, or any of
22 them, however hurt they are, because I knew that Cindy got in
23 a fight, but I couldn't -- Cindy, maybe go find a phone. If
24 it's that's serious, they're going to call 911. Somebody is
25 going to call 911. That's not my job right now because I'm

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1 not cut. I mean, I will if it escalat- -- then it escalated
2 to calling 911, you know what I'm saying. I didn't realize
3 that. You know, I figured if Ty was so cut or why didn't Mo
4 call 911, or if he seen Ty cut, call 911.

5 **MR. WILSON:** Your Honor, would you bear with me just
6 one second, please?

7 **THE COURT:** Yes sir.

8 **MR. WILSON:** I think that's all I have.

9 Let me ask you just one last thing.

10 Q. When -- when you -- when your brother was on the
11 ground and you were with him, what position were you in?

12 A. Okay, I'm walking out of the apartment, and you
13 immediately turn to those bushes. You have to immediately
14 turn, and I would have been -- my back towards everybody. I
15 wouldn't have seen -- my back was toward -- I was -- went
16 like this, and me and Joey had walked out, and I just
17 remember seeing -- because once you get through the things,
18 many people can go around you if they want to. As they're
19 walking through the whole thing, it's one person after
20 another, and then I just remember just a hand and I remember
21 looking over, and I just remember seeing Mo's face, and Joey
22 just (Witness makes a sound) to the ground.

23 Q. Yes, but what I'm asking you is what position, what
24 position ---

25 A. I would have been, my back towards -- my side towards

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1 the road. I was looking this way. The apartment -- people
2 or whoever else was behind me, but I didn't remember who else
3 was on me. I just remember seeing his face and Joey going
4 down, and I remember seeing feet. I never looked back.

5 Q. What I'm -- what I'm asking, Ma'am, is physically
6 what ---

7 A. I got on my han- -- knees, I guess. I'd say I got
8 down to my knees.

9 Q. Yes Ma'am. You got down to your knees, and Joey was
10 down, so you were on both knees or one knee, or do you know?

11 A. I don't know. I don't know.

12 Q. All right.

13 A. I ended up being on both knees, I believe.

14 Q. All right. So you were on both knees bending over
15 him ---

16 A. Uh huh (**indicating positive**).

17 Q. --- at that point, is that right? Let me show you --
18 I was trying to see ---

19 A. I don't know if I was bending over him. I know I was
20 down. When he went down, I just kind of went down, too.

21 **MS. LIVESAY:** Your Honor, can I get a look at that
22 picture Mr. Wilson is showing?

23 **MR. WILSON:** Sure.

24 May I approach, Your Honor?

25 **THE COURT:** Yes sir.

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1 Q. Please take a look at that for me.

2 A. Okay.

3 Q. Do you recognize what that is?

4 A. Yes sir.

5 Q. All right.

6 MR. WILSON: And let me ask that it be marked for
7 identification.

8 (PHOTO MARKED AS DEFENDANT'S (LARRY CHESTNUT) EXHIBIT
9 NUMBER 4 FOR IDENTIFICATION ONLY.)

10 Q. Now, let's talk for a minute about your yard. When
11 you come out of the house, there are hedges on the side of
12 the ---

13 A. All along the whole -- it covers ---

14 Q. Along the wall of the house, but the door is free,
15 right? There are no hedges in front of the door?

16 A. No. Well, on -- in front of the little gate, none,
17 and then on either side.

18 Q. Okay. And so if you're coming out of the door, the
19 back door, you have to run into the hedges to get out of the
20 yard? You would have to ---

21 A. Some people do. Some people (Witness makes a sound)
22 hit the hedges. I mean, they walk -- you could run into the
23 hedges, you could, because they're big and they're kind of --
24 I don't keep them trimmed. They're hedges. I mean, they're
25 pretty big hedges, but, I mean, I have gone and kind of

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1 walked past, you know, and then go to the sidewalk, but
2 they've overgrown the sidewalk. I mean, you could angle --
3 but you can't hit the hedges, you know what I'm saying.
4 Somebody -- my boyfriend hit the hedge -- went right into the
5 hedge. You shouldn't hit the hedge, but you can.

6 Q. Okay. But there are hedges ---

7 A. They're overgrown.

8 Q. Ok. But there are hedges to the side of the -- as you
9 come out the door, on both sides there are hedges to the
10 side, ---

11 A. Yes sir.

12 Q. --- right up against the door?

13 A. Yes sir.

14 Q. All right. And so if you're coming out, then you come
15 out through the little walk, is that correct?

16 A. Uh huh (**indicating positive**).

17 Q. And then you've got a yard, and the yard is maybe
18 what, twenty feet, thirty feet?

19 A. A half acre yard. I don't know how big that yard is.

20 Q. All right. And you and your brother, when he fell,
21 was out in the yard area?

22 A. He turned -- we went around the hedge, and we were
23 going -- I remember seeing his car. We were going -- going
24 on the sidewalk. I still never knew he was hurt. He never
25 said anything to me, and the next thing I know, it's just

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1 bam, and I just remember looking back, and I seen Mo's face,
2 and hitting Joey, and Joey went down.

3 Q. Okay. And that's what I'm asking. He went down in
4 the yard, in the grass?

5 A. I don't -- I don't -- it happened so -- I don't know.
6 I don't know if he -- I don't remember him hitting the
7 concrete. Seem like he went down into the grass.

8 Q. Okay. And you kneeled down, knelt down with him in
9 the grass, ---

10 A. Yes sir.

11 Q. --- in the grassy part?

12 And -- and you stayed with him until ---

13 A. I think I got up once, because I went to Jack and
14 Tammy's house, but I don't -- immediately I didn't run off.

15 Q. All right.

16 A. I was with him.

17 Q. So you say you left him at some point?

18 A. I mean, I didn't leave the yard. I think -- I
19 remember like Cindy was looking for 911, and I think I was
20 like yelling for Jack and Tammy, who lived like a few over,
21 just at Jack and Tammy's, but I didn't leave him immediately.

22 Q. So Jack and Tammy live in the same building?

23 A. Yeah. They're at the very end.

24 Q. This is an apartment building, and they ---

25 A. Uh huh (**indicating positive**), and Joey was right at

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CROSS BY LONG

1 about apartment -- I was -- there's Apartment 1, is what we
2 came out of. He was half-way to Apartment 2, and Apartment 4
3 is just right there, I mean.

4 Q. So how far would Apartment 4 be, maybe to the back of
5 that courtroom?

6 A. I don't know if the apartments are that long, but
7 obviously I guess they are, or could be. It seem -- I mean,
8 I can ---

9 Q. Okay.

10 A. I don't even know if it's that far, really, maybe from
11 this corner -- that back there. It's not a very, very long
12 sidewalk.

13 Q. And you -- did you knock on their door?

14 A. I remember yelling for Tammy and them. I think Cindy
15 is like, oh, they're not answering. I remember just
16 screaming. I don't remember like -- I was just going
17 somebody get help, because that's when I seen the blood, and
18 then actually I think that's when I went to Tammy and Jack's.

19 Q. And after that, you came directly back to ---

20 A. I stayed with Joey pretty much the whole time.

21 **MR. WILSON:** Thank you so much.

22 **THE COURT:** All right.

23 Mr. Long.

24 **MR. LONG:** Thank you, Your Honor.

25 **CROSS-EXAMINATION BY MR. LONG:**

CHRISTIE HUCKS - CROSS BY LONG

1. Q. Ma'am, you -- you and Ty, you say, had been together
2 for about a year, is that right?

3 A. Yes sir.

4 Q. And you were pregnant with his child and about to be
5 -- and you were eight or nine months pregnant, that far
6 along?

7 A. Yes sir.

8 Q. And y'all were living together at this location, is
9 that right?

10 A. Yes sir.

11 Q. How many bedrooms were in this apartment?

12 A. Two bedrooms upstairs.

13 Q. Two bedrooms upstairs?

14 A. Uh huh **(indicating positive)**.

15 Q. A typical apartment layout, when you go up the stairs,
16 there's like one bathroom in the middle and a bedroom on each
17 side?

18 A. Yes sir.

19 Q. Okay. And Tynesha, then a six year old, was Ty's
20 little girl, right?

21 A. Yes sir.

22 Q. Ty's little girl from a prior relationship, ---

23 A. Uh huh **(indicating positive)**.

24 Q. --- right?

25 What's ---

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1 A. His first daughter. I mean, it's from his -- I don't
2 even remember her name. She went to school -- and I don't
3 know Tynesha's mom. I don't remember. I didn't -- I think I
4 was a freshman and she was a senior. It wasn't relevant to
5 me. I kind of -- I mean, I knew her. I was nice to her, you
6 know what I'm saying? I mean, he's my new boyfriend. We
7 have a -- are fixing to have a kid. Any kid that he has, I
8 welcome in, you know. I don't remember what her name was. I
9 didn't even know her like that.

10 Q. Okay. At the time that -- at this particular time in
11 2006 when you were living with Ty and you were pregnant with
12 Ty's child, how many children -- other children did he have?

13 A. I think two.

14 Q. Okay. And what were their -- there was Tynesha and
15 who else?

16 A. He had Tynesha and -- oh, God, I forgot what the
17 little girl's name is. My mind is blank right now -- a
18 pretty little girl. She lives with her mom in Baltimore. I
19 don't remember what her name is -- still hangs out with her
20 -- she likes her pretty good.

21 Q. Is she older or younger than Tynesha?

22 A. I think she was younger than Tynesha.

23 Q. Okay. And how long did -- so -- so the younger
24 daughter lived in Baltimore?

25 A. Yeah. She would come down sometimes. Like we would

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1 get her when she came down to visit the grandmother.

2 Q. Okay. And but Tynesha lived in Myrtle Beach?

3 A. Yes.

4 Q. And how often did Tynesha come to see y'all or stay
5 with y'all, a visitation type thing?

6 A. She didn't ever stay because I had just got -- you
7 know, I lived with my mom and dad, and Ty lived with his mom
8 and dad, and if I seen Tynesha, it would be at Mr. Larry and
9 Sandra's house.

10 Q. Okay.

11 A. I think this honestly was the first time in my life
12 that she ever stayed with me at the apartment. I don't think
13 she stayed too many times when -- but I did watch her a few
14 times when I lived with a friend of mine in North Myrtle
15 Beach. She did come visit.

16 Q. Okay.

17 A. When I had a place to live, I would let her come. It
18 wasn't very, very many times.

19 Q. Right. So Tynesha was the only child that either you
20 or Larry had that lived in Myrtle Beach?

21 A. That I know of. I mean, I don't know.

22 Q. And so did the two bedrooms upstairs, was one of them
23 was your bedroom, yours and Ty's together, and the other
24 bedroom was set up for Tynesha?

25 A. It was my nursery. I don't -- I didn't even have -- I

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1 don't think I even had a bed in there yet. I didn't have a
2 crib. I painted it yellow with little -- it was just stuff
3 in there. There wasn't -- I don't remember if there was a
4 bed in there. The kids -- I think that's why the kids were
5 on the couch. I didn't have any more beds. I had my bed
6 upstairs, and that was going to be the baby's nursery, and, I
7 mean, it was -- they could play. They could play in it, but
8 there wasn't a bed in there.

9 Q. Okay. So there was no bed for Tynesha upstairs?

10 A. No.

11 Q. All right. And then so when Tynesha came to the party
12 earlier on in the day, the one where Larry, Sr. had been
13 invited to that and you had bought a keg, she -- is she -- is
14 that the daughter that brought the card, ---

15 A. Yeah.

16 Q. --- the birthday card?

17 A. Yes sir.

18 Q. So Tynesha brought a birthday card to her father?

19 A. Uh huh **(indicating positive)**.

20 Q. And do you remember what it looked like?

21 A. I don't remember. It was in a regular card -- I don't
22 remember if it was white, or yellow, or purple. I'm not
23 sure. It was just a birthday card.

24 Q. Okay. And was it sealed up?

25 A. I don't remember. I don't remember. I just remember

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1 Tynesha had a birthday card. I didn't even know it was from
2 her at the time until later on I seen -- I don't know what
3 made me open it up. I don't remember if her name was on it
4 or not. I just know something -- I was like okay. Well, I
5 think what it was, when Tynesha came up, she goes this is
6 from mom, I think is what she said. I don't think it had any
7 certain -- any -- her name on it.

8 I don't think she put her name on the front. Her name
9 was signed inside, but I think Tynesha -- I was standing
10 there when Tynesha came in, and she was just like -- she
11 might have had two cards. I think one was from her, and
12 another one, I think she said this is from mama, or mom, or
13 something.

14 Q. When and where was that when she came and brought the
15 card?

16 A. She came. I was in the front yard, and I had a pool,
17 and she -- I don't even know who honestly dropped her off. I
18 don't know if she -- I don't remember if she came with Mr.
19 Larry. I'm not sure. I don't remember her being there and
20 she could have came with Mr. Larry. I don't remember.

21 Q. What time of day was that?

22 A. Oh, it was daytime. I don't know.

23 Q. So she handed the card to her dad, ---

24 A. Uh huh **(indicating positive)**.

25 Q. --- right, and you indicated earlier that you and Ty

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1 lived there and stayed together, and Ty had a lot of his
2 belongings there, but from time to time y'all would fight and
3 argue and he wouldn't stay there, is that right?

4 A. Uh huh **(indicating positive)**.

5 Q. How often ---

6 **THE COURT:** You need to answer yes or no, Ma'am.

7 A. Yes sir.

8 Q. How often did you actually fight and argue and he had
9 to go stay somewhere else?

10 A. Not too much, but we -- we had just moved in there,
11 and before then, I would stay at his mom and dad's house. I
12 stayed at his mom and dad's some. We just kind of went from
13 place to place together as a young couple would until we kind
14 of got settled.

15 Q. I'm trying to find out about your earlier testimony
16 where you said whenever you would fight and argue, he would
17 go stay elsewhere, and I'm trying to find out how often ---

18 A. If we got in a disagreement or if he got mad, I mean,
19 I don't know. I can't go back and say how many times he did
20 it. It wasn't all the time, but I'm saying if we -- if I
21 would get annoyed, or he would get upset, or he wanted to go
22 out, and if he stayed past what I thought he should stay
23 past, I would -- you know, he would go to his mom and dad's
24 house.

25 That was another home. He had the option to go

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1 somewhere else if he wanted to. That is another home for
2 him, and my house wasn't his sole home. He did have another
3 home.

4 Q. It sounds like that to me, is that correct, that this
5 was your house, your rules?

6 A. It's mine and his, but we're not married and you're
7 not going to disrespect me in my home either, so if I feel
8 like if you're going to come in there and you think you're
9 just going to come rolling in at three in the morning or
10 you're going to have people -- guests in my house that I
11 don't feel like I want in my house, I do have the say-so --
12 that he could have argued about it, but I have the say-so to
13 say you need to leave, because it wasn't neither mine or his,
14 but I wanted to respect something that my mom and dad gave me
15 and him and ---

16 Q. You had the say-so because it belonged to your
17 parents, right?

18 A. Yes. Yes sir.

19 Q. Did you have the right to disrespect Ty in your
20 parents' house?

21 A. I don't feel like I shouldn't -- I don't never want to
22 disrespect anybody, ---

23 Q. Okay.

24 A. --- but if I'm being disrespected, then I'm going to
25 say something about it. I don't ever just want to come

1 across and disrespect nobody in this world.

2 Q. Okay.

3 A. I don't -- I just don't do that.

4 Q. How long had you lived in this house again?

5 A. I don't know, maybe two months or so, three months.
6 I'm not sure.

7 Q. Okay. So during that two or three months, you at
8 least had some arguments enough that you mentioned it on
9 direct-examination. You had some arguments enough to where
10 he had to go stay somewhere else, right?

11 A. Yeah, or if he chose to. Some nights he was just like
12 I want -- you know, I'm going to my mom and dad's house, like
13 he was that night. I'm going to go get Tynesha, you know,
14 and then I'm going home. If he got upset, he could go
15 wherever else he wanted to go. If he didn't want to be with
16 me, he could have somewhere else he could go.

17 Q. Okay. When was the first time, time of day, that you
18 actually opened that birthday card and read it?

19 A. You know what, I don't rem- -- I don't think I -- I
20 don't remember -- I don't think I -- I think I was upset that
21 she might have sent a card, but I don't remember reading it
22 until that night, because I think that's when I would have
23 read -- I know for a fact I didn't read it that day because I
24 would have been upset with him that day and I would have
25 never -- all this wouldn't have accumulat- -- it would have

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1 accumulated a lot earlier.

2 Q. Okay. You said you know that you were upset that she
3 sent a card before you even read it. Why?

4 A. I just didn't think it was appropriate. I mean, if
5 she isn't going to have the balls to come to the party, why
6 are you going to send a birthday card through your child.
7 Show up, bring your child, be a woman. Hey, you know, I'm
8 with my child. Don't just be sending cards. Oh, this is
9 from my mama. I mean, who does that? Show up. Bring your
10 daughter to the party. I'm a woman enough for you to come to
11 the party and, you know what I'm saying, and talk to me and
12 let -- you know what I'm saying. You -- if you don't want
13 your kid to spend the night at my house, I would think you
14 should have -- unless there's a mother to show up and talk to
15 me.

16 Q. So that angered you?

17 A. It didn't anger -- I wasn't angry. I'm just saying
18 don't -- it was inappropriate.

19 Q. Inappropriate to send a birthday card by the daughter
20 to a birthday party?

21 A. I wasn't mad about it. Honestly, I wasn't really mad
22 about it. As I say, she sent the card or whatever. It
23 wasn't until later on when I read what was in the card is
24 what I was -- I'm talking about.

25 Q. What was in the card? What made you so mad? What was

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1 written in that card that made you ---

2 A. Because I just thought that Ty -- me and Ty -- I loved
3 him so much, and I was like okay, so what if she sends a
4 birthday card. All right. So what if a mama is going to
5 send a birthday card. Okay, so what. Okay, because I'm
6 going to have to deal with this with a mama, you know, saying
7 you've got someone else, other people's kids. You've got to
8 deal with that for the rest of your life. Okay, Christie, so
9 what.

10 But when I opened the card and there was a picture of
11 them two in the card and it said I'm not going to start any
12 drama today. Happy birthday to the man that I have made, or
13 something of the sort, something like -- but that's really
14 inappropriate now. The only difference, if she'd just sent
15 it, I honestly would have never been so mad if there's wasn't
16 pic- -- pictures of them together in the card, and it -- what
17 she wrote in it was really -- she should have just signed it
18 happy birthday, love, Tynesha and -- I forgot what her name
19 was, and left it at that.

20 And I really honestly -- it would have never came to
21 nothing. The picture and stuff was what -- I said, well,
22 maybe she -- why would she send this? Obviously he's having
23 contact with her or something, because who would send that
24 with her kid to a birthday party?

25 Q. What about what was written in that card that made you

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1 think he was having contact with her?

2 A. Because she sent a picture of them together and a
3 picture of them -- it was a picture of them from high
4 school ---

5 Q. Okay, from high school?

6 A. Yeah.

7 Q. It wasn't a picture of them together in May of 2006,
8 was it?

9 A. No, and she wrote in the card I don't want to start
10 any drama today, and that's what I thought was even weirder,
11 like where would there be drama, you know what I'm saying,
12 why would there ever be any drama, like ---

13 Q. Well, it did start drama, didn't it?

14 A. --- you're sending your kid to my house to a birthday
15 party, and you're obviously sending a card with a picture of
16 you two in it, obviously you've got some drama because I
17 don't have any, and she should have came to the party.

18 Q. Well, ---

19 A. I never didn't invite her, you know what I'm saying.
20 I don't know this lady. She's more than welcome to come just
21 like anybody else was welcome to come to a party.

22 Q. Got'cha. So can you -- and I asked you earlier what
23 exactly did it say, and you kind of went off -- you ---

24 A. I mean, I can't say word for word what the card said.
25 I know for a fact it had a picture of them together. It said

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1 I don't want to start any drama today, and it said something
2 -- I love the man that I have made you become.

3 Q. I love the man that I have made you become?

4 A. Yeah, and it was like she -- she made him in such a
5 good, good man, and she loved that she did that or something.

6 Q. Okay.

7 A. I don't know what in -- I was like ---

8 Q. So that when you read that card, it was when ---

9 A. It hurt my feelings.

10 Q. Okay. And it was when Ty, and your brother, and
11 Kendrick Chestnut were out, right?

12 A. Yeah. They were -- I actually picked the card up
13 because I think he had it sitting in the living room or
14 something, and I remember sitting there. I just picked it up
15 and said I'm going to read the card. I'm going to be nosy.
16 I'm going to do it, and that was when the picture popped out,
17 and I'm like ---

18 Q. Do you believe -- do you believe Ty had read the card
19 at that point?

20 A. Yeah.

21 Q. Okay. And he wasn't trying to hide the card?

22 A. I didn't open it. No, he wasn't trying to hide it.

23 Q. So ---

24 A. But I wasn't going to -- I didn't want to be nosy
25 either, you know what I'm saying. She's sending us his

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1 birthday card. I mean, I should have been nosy and read it
2 earlier. Honestly I probably should have read it earlier,
3 but I don't know -- I just didn't. I was like that's his
4 card. If he wants to show me the card, he will. He should
5 have showed it to me at the party.

6 Q. Okay.

7 A. Why didn't he show it to me then. I was just like,
8 you know what, he didn't. I'm just going to read it.

9 Q. So you opened the card. You read what the card said,
10 and it hurt your feelings?

11 A. Yes sir.

12 Q. And it made you mad?

13 A. Hurt my feelings more.

14 Q. And you made the decision then that you didn't want Ty
15 to come back and stay at the house with you that night,
16 right?

17 A. Yeah, pretty much.

18 Q. I mean, why? Ty didn't do anything, did he? He got a
19 card from a -- the mother of his daughter on his birthday.
20 What did Ty do that made you so upset?

21 A. It's kind of what he didn't do. You know, he should
22 have -- he should have ---

23 Q. He -- he could have stopped her from sending a card?

24 A. No. He should have shown me the card and say, you
25 know, hey, look, she sent me this. I want you to see this.

1 You know, I think this is really inappropriate. Instead it's
2 like you're out at the strip club now still. Like, you know,
3 I didn't mind him going to the club. Then it's like I get
4 this card with that, and I'm already thinking something like
5 it's got to be happening, and -- and you're at the strip club
6 tonight.

7 Q. So upset and so mad that you pick up the phone and got
8 your sister and her boyfriend out of bed ---

9 A. No. I just called Cindy to talk to me. I didn't ever
10 tell her really -- Cindy didn't have to come if she didn't
11 want to come. Nobody has to come. I didn't even really say
12 to come. I was like, Cindy, I just -- I needed someone to
13 talk to, to rationalize my brain before I rush off and --
14 this is okay. It's okay for him to -- because I'm really
15 naive.

16 It's okay for him to be at the strip -- it's okay that I
17 get this card. I should just sit here and be pregnant, and
18 not worry about it and deal with it. I should just deal with
19 this, and so I called Cindy for ---

20 Q. What time of night did you make that call?

21 A. I don't know, maybe between eleven and twelve-thirty,
22 one, I don't know.

23 Q. Okay.

24 A. I remember calling. I had opened the card. I
25 remember they had already left for the club, and I was seeing

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1 the envelope there. I opened it up, and then I remember
2 being upset about it. The food already came. I was so upset
3 about it, I couldn't even eat. I was like, oh, it's not ---

4 Q. When did you order the food?

5 A. I ordered it that night right before -- I ordered it
6 because I knew by the time they get back, they would be
7 hungry and there would be food. I don't remember saying
8 things -- as soon as they left, about an hour later, I think
9 I ordered it, because I assumed they would be home within an
10 hour after that.

11 Q. So you ---

12 A. The kids were hungry, but then they fell asleep.

13 Q. You make the decision that you were so mad that you
14 don't want Ty to stay there that night, but you thought about
15 him enough to think that he might be hungry when he gets home
16 from the strip club?

17 A. No, this was before. I ordered the food before I ever
18 read the card. I was still thinking like, oh, yeah, they
19 went to the club. Okay, everything is great. The kids were
20 hungry. I was like, you know, I'll go ahead and order some
21 super-subs, too. I got two footlong super-subs and a large
22 cheese pizza, because the kids wanted a pizza, and I was like
23 I knew Ty loved super-subs, so I was like I'll get two of
24 them because Mo will be hungry, and my brother will, too, and
25 I just might want a bite, too.

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1 I don't know, but I know that's what I ordered, and I
2 was like -- that's what I thought, that the food will be
3 there when he gets home, you know. He's out with my brother.
4 Everything's fine. There was something to eat, and
5 everything is going to be fine.

6 Q. Okay.

7 A. And then I had already ordered the food, and I don't
8 remember if the food had made it there or not, and then I
9 just remember being -- the kids were kind of asleep. The
10 lights are off, and I was like, um, like what -- you know,
11 what am I going to do? I don't want to wake them up, and I
12 just wanted to see the card. It triggered me. It was
13 sitting there somewhere, and I remember, I'm going to read
14 the card.

15 Q. All right. Now, they come home, and you're -- he's --
16 Ty's upset about the fact that he's lost some money or gotten
17 some money stolen from him. He lost some money ---

18 A. Yes sir.

19 Q. --- at the strip club, and you're upset because you've
20 read this card that his ex had sent him, and y'all have got
21 to have a talk, and get in the kitchen and talk about it,
22 right?

23 A. Yeah.

24 Q. And that's what y'all did? Y'all went in the kitchen,
25 and it wasn't a talk, was it? It was you arguing with him

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1 and raising your voice at him ---

2 A. I was not arguing. He -- he was upset. He told me he
3 thought Mo took his money at the club or something. I was
4 like -- I was like what do you want me' to do about that? I
5 was like -- and I -- and he said, well, what are you mad
6 about? And I was like the card, and I was like and the
7 picture was there, and he goes what are you worried about
8 that for?

9 You know what -- and he kind of pushed me back up
10 against the stove, like in reference -- like what I was
11 saying really didn't matter. I mean, he didn't care about
12 the card. It didn't make any relevance to him, that his
13 money was gone and that's what's important.

14 Q. Okay. And then at that point you -- and you're in the
15 kitchen and everybody else is in the living room, right?

16 A. Me and him are in the kitchen. They had just
17 literally walked through the door, you know what I'm saying,
18 and I -- I was in the living room, and before they came in,
19 Moke was getting ready to walk out to door to do something,
20 and at the same time, it was like Moke and Ty -- Ty was
21 opening the door and coming in.

22 And I remember Ty was kind of upset, and I remember like
23 I want -- and he goes I've got something to talk to you
24 about, and I was like me, too. And I don't know if Joey and
25 them -- or Cindy -- they're all happy to see each other, and

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1 me and Ty just walked straight to the kitchen.

2 Q. Okay. Now, back out at the front of the -- I guess
3 it's the back door, or the front of the house, where the
4 living room is and the stairs are, ---

5 A. Yes sir.

6 Q. --- that's where you were standing right beside your
7 brother and right beside Ty, is that right?

8 A. Uh huh (**indicating positive**).

9 Q. And that's when Ty was trying to get his daughter and
10 leave the house, is that right?

11 A. I wasn't standing beside Ty in the living room when he
12 was trying to get his daughter. I was still in the kitchen.

13 Q. Okay.

14 A. I remember standing there and I don't know whether
15 Cindy -- I was kind of still upset about what happened in the
16 kitchen. Cindy came in, and Joey, and I think -- I don't
17 know if I was kind of cry- -- I didn't want Joey to know that
18 I was upset at all, and Cindy and -- Joey had kind of came
19 in, I think, a little after Cindy, because I remember telling
20 Cindy, I was like I'm upset, you know. He pushed me up
21 against the stove, and -- and then Joey almost heard it
22 because I remember Joey being like is everything okay? And I
23 remember Cindy saying yes.

24 I was like, Joey, everything is fine, because I didn't
25 want to go there. I assumed that after what happened, he's

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1 just going to go. I don't want to get everybody involved
2 with anything else. I'm -- we're just going to end this.
3 I'm going to keep my mouth shut and deal with it.

4 And then as I was walking towards the -- the living
5 room, I don't know why he came back. I don't -- I don't
6 know. I was in the -- I don't know why, because then I just
7 walked -- I don't know why. You know, I was just walking
8 towards the living room, ---

9 Q. Okay. Who was in front of -- who was in front of
10 whom ---

11 A. --- and he was there, and we kind of -- we kind of
12 just connected right there.

13 Q. Was he in front of you leaving the kitchen going to
14 the living room ---

15 A. Yeah, he was. He walked out.

16 Q. --- or were you in front of him leaving the kitchen
17 and going to the living room?

18 A. No, I think he -- he just walked out. I mean, he
19 wanted to go, you know.

20 Q. And he walked out of the kitchen towards the living
21 room, and you walked out of the kitchen towards the living
22 room behind him, and your brother, Joey, was standing up near
23 the door by the ---

24 A. I think I stayed by the stove. I never really -- I
25 didn't follow him. I was really upset and I was just let- --

1 I was letting him go. I wasn't chasing him out the door.
2 You know, I'm not chasing -- I remember standing there, and I
3 think -- I don't know if -- I never asked Joey. I never got
4 a chance.

5 I don't know why Cindy and them came in. Were -- were
6 they walking in there because was Ty being loud? I don't
7 know. Did they come in there because they were wondering
8 where I am? I don't know. I just remember I think I stayed
9 in the kitchen for a minute because I didn't -- I felt kind
10 of ashamed. I didn't want to go back in there right that
11 second, you know what I'm saying. Everybody seemed -- really
12 was having fun, and I don't want to go in there, you know,
13 and just ---

14 Q. Okay. You end up going into the kitchen, and your
15 brother, Joey, is standing near the front door of the house.
16 That is where the stairs are in the living room, right?

17 A. When? Okay, when Joey is in -- are you talking about
18 later on or ---

19 Q. Later on, yes.

20 A. Okay. What time later on?

21 Q. Well, at the time where Joey pulled a knife out and --
22 with the blade out and had it ---

23 A. He had it down by his legs, like this.

24 Q. Right, with the blade out, right?

25 A. And I remember him being so startled and, I mean, I

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1 think because after everything that had happened, you know,
2 Joey was just like, you know, I really want to calm down Ty,
3 you know, because Joey didn't want to fight Ty, you know.
4 They -- they had just went out.

5 You know, it was kind of -- it was just like a little
6 like please let this just go, like maybe this will scare this
7 guy that was in there fighting, because obviously nobody is
8 stopping this. It's still escalating, and he had it down
9 just along the side, I remember, and just saying don't mess
10 with my sisters, man.

11 Q. Was the blade out?

12 A. I guess it was. I don't know for a fact that it was
13 out. I just know he had something in his hand, like a little
14 ol' something. I can't be sure that the blade was out. I
15 just know he had it by his side.

16 Q. If I -- assuming that fists are not weapons, did
17 anyone else have a weapon that you saw?

18 A. No sir, not that I know of.

19 Q. --- other than your brother's knife ---

20 A. Not that I know of.

21 Q. Okay. And then you find yourself right beside your
22 brother and Ty at the point where your brother sliced ---

23 A. He didn't slice him like that. I remember Ty being
24 like -- Joey was like don't mess with my sisters, man, and Ty
25 was like or what, and I mean just swinging. As he was saying

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1 it, he was just swinging, like he was so mad or something,
2 and I don't know if he was getting mad at me and just went
3 off on Joey. I don't know, and as he punched and Joey went
4 back, he went like that.

5 It was like he went back. It wasn't like ---

6 Q. Did ---

7 A. --- sliced. When you say sli- -- don't make that pic-
8 -- paint that picture of it, happened -- it didn't happen like
9 that.

10 Q. 'Ma'am, I used your words from your earlier
11 testimony ---

12 A. Okay.

13 Q. --- when you said sliced.

14 A. Okay. Well, I mean, like I don't -- it wasn't like he
15 just sliced somebody. You know, to me it wasn't like a
16 slicing. It was just he went like that.

17 Q. Okay. Well, if I use the word ---

18 A. Or if his chest was sliced. Joey didn't slice him. I
19 mean, Ty might have -- I don't know how to -- but it
20 wasn't ---

21 Q. If I use the word cut, can we -- can we carry on?

22 A. Cut, yes.

23 Q. All right. I'm going to use the word cut. Where were
24 you standing when your brother cut Larry Chestnut?

25 A. I walked into the living room and Joey was standing

1 there, and all I know is Joey had a little -- a little pocket
2 knife in his hand, and it was right by his waist down here.
3 It wasn't up in the air. It was right by his waist, and he
4 said don't mess with my -- I remember him going don't mess
5 with my sisters, man. It really shook him, kind of like, but
6 okay, and I just remember Ty being or what, and he punched
7 him and he just went like that. It wasn't ---

8 Q. Why do you ---

9 A. It's kind of like -- it's kind of like it just
10 happened like that. I don't know. I can't ---

11 Q. Why do you continue to refer to it as a little knife
12 and why do you continue to ---

13 A. Because when you think of knives, in like kitchen
14 knives, I'm thinking Jason and a knife. If I go cut an onion
15 right now, I'm not going to go find a pocket knife to cut an
16 onion with. I'm going to get a knife that you use to cut. A
17 pocket knife to me is something you do your fingernails with
18 or ---

19 Q. What kind of knife would you use to ---

20 A. --- slice a peach, or cut a fishing rod, I don't know,
21 a pocket knife that you use to do daily things with, not ---

22 Q. Or ---

23 A. --- keep in your pocket for bad people, I wouldn't
24 think.

25 Q. You wouldn't think that?

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1 A. He wouldn't do that.

2 Q. Okay. Was Joey cutting an onion when he pulled the
3 knife out on Ty in the living room?

4 A. No. He was trying to keep people -- anything else
5 happening. My sister had just got beat up in the kitchen.
6 He seen me up against the wall. He didn't -- you know what
7 I'm saying, what should a brother do, stand there? Nobody
8 else that's in the house is doing anything.

9 Q. When your brother cut ---

10 A. Nobody is really, really -- why wouldn't anybody else
11 call 911, you know what I'm saying. Why didn't Mo -- why did
12 Mo and Moke even let Ty back into the living room? They're
13 all in there, you know what I'm saying. Why didn't they just
14 pull him and get him out of the house to begin with? There's
15 a houseful of grown men.

16 I don't think it should be against a woman to have to
17 sit there and worry about being battered to death and worry
18 about, oh, well, he's getting sliced, and everything else.
19 Where are all these men at? What are these men supposed to
20 be doing the whole time, you know what I'm saying.

21 Q. When your brother pulled the knife out, did you think
22 that was going to calm things down?

23 A. No, he wasn't -- not calm it down. I just figured Ty
24 would just keep walking out the door. He just had it out,
25 not like he wanted to hurt somebody. It was never -- Joey

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1 wasn't like that. He didn't want to hurt anybody. He just
2 assumed he was just -- okay, let's cool it, you know. If you
3 see something like that, okay, let's just cool this because
4 it's getting out of control.

5 Q. All right. Now, back to my original question.

6 A. He didn't want to hurt Ty. Joey didn't want to hurt
7 anybody.

8 Q. Back to my original question. How close were you to
9 Joey when he pulled his knife out?

10 A. I was right next to him. It was like we were right
11 there.

12 Q. Right beside him, and how close were you to Ty when
13 Joey pulled his knife out?

14 A. Right across from him. He was across from Joey. I
15 mean, it's kind of like a little triangle like.

16 Q. All right.

17 A. I'm here. Joey and Ty was right here.

18 Q. And Joey is a big fellow?

19 A. Pretty big.

20 Q. And they went and -- and somehow they went at each
21 other, a punch and a knife together right there in the front
22 foyer, near the front steps of the apartment, right?

23 A. Yes sir.

24 Q. And as that happened, you believe Joey fell back
25 against the wall or fell on the ground, we're not sure, ---

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- 1 A. He went backward.
- 2 Q. Okay. And then what did Ty do?
- 3 A. He went oh, oh. I remember him going like this, and
- 4 he had a shirt on, just a couture shirt I had bought him, and
- 5 he pulled it off. And at first I didn't think anything, but
- 6 he was bleeding. He was look what your brother did. Look
- 7 what your brother did, and I'm like -- and then I just
- 8 remember seeing Tynesha and Chapell, and I'm like let me get
- 9 Tynesha and Chapell upstairs, and then we'll see what Joey
- 10 did and what's wrong with Jo- -- I mean, I didn't think about
- 11 it like that. I don't ---
- 12 Q. You said when you got back downstairs from taking the
- 13 girls upstairs, you came into the kitchen. There was not a
- 14 fight going on in the kitchen. They were just standing
- 15 there?
- 16 A. I didn't really see a fight.
- 17 Q. Okay.
- 18 A. I didn't see any stabbing.
- 19 Q. So you never saw any more fighting other than your
- 20 brother cut Ty in the chest, and Ty hit your brother in the
- 21 nose up near the front steps? That's the only body you saw
- 22 in the living room, is that right?
- 23 A. Yeah, and there's a ---
- 24 Q. You saw no fighting in the kitchen after you got back
- 25 down? You saw your brother in the kitchen with a knife in

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1 his hand ---

2 A. I didn't see Joey with a knife in his hand. I don't
3 -- Joey -- Joey's hand -- I don't think he -- I don't
4 remember if anything was in his hands or on -- but he was
5 holding on to the dishwasher. He was standing there like his
6 hands was ---

7 Q. Did he have blood on his hands?

8 A. I didn't -- I don't remember looking. Joey is so big,
9 I didn't see his hands. I just remember looking at his face,
10 and like trying to get out the door, and I remember I seen
11 blood on his face. I didn't see the bubbling, but his nose
12 was real -- bleeding. I'm like Joey, let's just get out of
13 here. Then we walked out the door.

14 Q. Okay. And in that kitchen where you saw no fighting
15 going on, you saw Ty standing ---

16 A. I mean, they were arguing, but there wasn't like -- I
17 didn't see like fighting, fighting. I mean, I don't know if
18 they argued. I don't know.

19 Q. Okay. You saw Kendrick Chestnut standing all the way
20 across in the opposite corner you described ---

21 A. I remember seeing him by the refrigerator.

22 Q. Okay. And you left ---

23 A. Ty was -- Ty was in one corner and Mo was like by the
24 refrigerator, standing there.

25 Q. And you haven't described any weapons in his hand,

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1 right?

2 A. Uh uh **(indicating negative)**.

3 Q. Do you recall during that May 26th ---

4 A. I don't know why 911 wasn't called in. Where was 911
5 then?

6 Q. Do you recall during that May 26th interview the
7 statement Mr. Wilson was asking you about where you described
8 what was going on between Ty and your brother as like a cat
9 fight? Do you remember that?

10 A. Yeah. Well, ---

11 Q. Do you remember telling them that your brother had a
12 knife in his hand, and that Ty ended up with the scissors,
13 and they were going at each other like a cat fight? Remember
14 using those words?

15 A. Yes sir.

16 Q. Okay. And do you remember ---

17 A. Because at the time, it's jumbled all together, like
18 Joey -- like Ty had gotten cut, and I remember the scissors.
19 It was like kind of a cat fight. I didn't know what they --
20 what was going on, you know what I'm saying, after, you know,
21 Ty and Joey's argument, and then in the kitchen he had
22 scissors out. Like what Ty -- I don't know. I don't
23 remember seeing anybody stabbing anybody.

24 Q. All right. And do you remember when you told the
25 police about that cat fight where -- where your brother had a

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1 knife in his hand and when Ty had scissors in his hand, and
2 they were going at ---

3 A. I was referring to Joey ---

4 Q. --- each other like a cat ---

5 A. --- had the knife in his hand in the living room. I
6 don't ever recall -- remember seeing Joey with the knife in
7 the kitchen. I don't remember that.

8 Q. Okay. Can you -- I'm sorry. Just let -- if you can
9 let me finish my question.

10 A. Oh, yes. I'm sorry. I'm sorry.

11 Q. All right. Do you remember when this cat fight was
12 going on, when you told the police about that cat fight, and
13 they asked you about what Kendrick Chestnut was doing, and
14 you said -- you said nothing, is that right? He was still
15 standing off to the side?

16 A. There was nothing about any fighting or arguing,
17 whatever had happened in that house, or anything, was he
18 never stopped anything, called anything, did anything, ---

19 Q. Never did ---

20 A. --- just let it be. Whatever was happening was
21 happening, and he ain't going to -- don't care if anybody
22 gets hit, if anybody has been bad, or if anybody gobbed it
23 up. Why didn't he stop anybody from grabbing anything, doing
24 anything?

25 Q. So you're saying that the whole time that this knife

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- 1 fight was going on, Kendrick Chestnut did nothing?
- 2 A. Did nothing.
- 3 Q. Nothing.
- 4 A. Because why didn't he have any marks on him?
- 5 Q. Exactly.
- 6 A. He didn't try to fi- -- or stop anybody from doing
- 7 anything.
- 8 Q. Thank you. Okay. So you say as you were leaving the
- 9 back door of the house, ---
- 10 A. Yes sir.
- 11 Q. --- which faces Highway 15, which goes out the kitchen
- 12 area of the house, that you looked back and you saw a fist
- 13 hit your brother in the back of the head, is that right?
- 14 A. No, the side of his face, because we were already
- 15 going out. We went out the door, and as we were turning, it
- 16 just went bam on the side, and I was -- and I looked and I
- 17 remember seeing Mo's face and his fist, ---
- 18 Q. All right.
- 19 A. --- and I was like -- and Joey went down.
- 20 Q. Did you see that knife still in your brother's hand
- 21 when that happened?
- 22 A. I don't remember seeing a knife in Joey's hand.
- 23 Q. Did you see that knife in your brother's hand when you
- 24 went down on the ground to check on him and ---
- 25 A. I don't ever remember seeing that. I don't know if

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1 after he got hit it like went -- like it flew out of his hand
2 if he had anything. I don't know. I don't -- the only time
3 I know for a fact I saw a knife in my brother's hand was when
4 he was in the living room and he had it by his leg like this.
5 He was like don't mess with my sisters. I don't remember
6 seeing a knife in Joey's hand.

7 Q. Did you just say that maybe after he got hit in the
8 head ---

9 A. I'm saying if that's what you're saying ---

10 Q. --- the knife flew out of his hand?

11 A. --- happened. I mean if he had a knife somewhere
12 else, that's the only thing I could think could have
13 happened ---

14 Q. Let me ask ---

15 A. --- because I didn't see anything in his hand.

16 Q. Okay. Let me ask you a question.

17 A. Okay.

18 Q. Did you just say that maybe when he got hit in the
19 face in the yard by Kendrick Chestnut, maybe the knife flew
20 out of his hand? Is that what you just said?

21 A. That could be a scenar- -- I'm thinking of a scenario
22 of how it could have been in the yard. I don't know. I
23 never knew that it was in the yard. I never seen Joey with a
24 knife in his hand in the kitchen. I seen it in his hand in
25 the living room, though.

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1 Q. You've had six years to probably have nightmares about
2 this, right? You've thought about it a lot?

3 A. I've blocked it out a lot. I didn't want to -- I
4 didn't want to think -- I didn't want to think about it.
5 It's horrible.

6 Q. Have you not thought about it a lot?

7 A. I mean, you can't help but not think about it.

8 Q. Okay. You've thought about what could be, or what
9 would be, and if things had gone differently, that sort of
10 thing, a normal human response, right?

11 A. Yeah, definitely.

12 Q. You've thought about it that way?

13 A. Yeah.

14 Q. Have you ever thought about what life would be like
15 today if your brother hadn't have pulled a knife out in your
16 apartment that night?

17 A. He -- he pulled it out for self-defense on the sub- --
18 he didn't pull it -- he would have never pulled a knife out
19 on anybody if -- if there wasn't something that escalated to
20 something so big that he would have had to pull it. Nobody
21 is just going to pull out a knife and do anything to hurt
22 anybody unless something is escalating them to a point to do
23 it.

24 Q. Okay. What was done to Joey, I haven't heard anything
25 in any of the testimony in this case, especially your

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1 testimony in this case, that indicated that anybody did
2 anything to Joey Hucks before he pulled that knife out. You
3 said something about self-defense ---

4 A. Nobody did anything to him ---

5 Q. --- and I'm going to ask you about it.

6 A. --- but my sister had just gotten beaten up in the
7 kitchen. It wasn't like just a little slap, which that isn't
8 even appropriate, but slung across the house. They're
9 fighting. They're beating each other with the monkeys, and
10 fighting. That, to me, isn't just a little ol' something.
11 That, to me, is a -- fighting.

12 Q. These are the photos that depict your -- how bad of a
13 beating your sister took, is that right?

14 A. Would you like your sister to get punched in the face,
15 thrown across the wall, and you just stand there and say,
16 well, just a little bruise right here, just a little bruise,
17 sis, or would you jump in and try to pull the man that
18 battered your sister right in the jaw, wouldn't you go and
19 run after him and beat his ass?

20 Q. Who did that?

21 A. I hope you would.

22 Q. Who did that in this case?

23 A. I hope you would.

24 Q. Who did that in this case?

25 A. Not that ain't -- that ain't good. There's not a --

1 there's not a man that you should be -- I mean, any woman
2 that gets beat in the face that's flying across the room and
3 you're a grown man and you'rē standing in that room and you
4 can't stop that? You can't stop two grown-ass women from
5 getting beat and you got a house full of grown men, there's
6 something wrong with y'all, ---

7 Q. Did anybody ---

8 A. --- something real wrong.

9 Q. --- do that in this case?

10 A. Cindy got thrown across the room. I don't know if it
11 was all -- but she got hit pretty good. Her and Ty were in a
12 pretty good fight together. I mean, it wasn't just no little
13 old slap, you know. They fought. This was a brawl. Like it
14 wasn't no -- just little ol' slap and leave. They were
15 fighting, woman versus man, and this -- it wasn't just no
16 simple little fight.

17 Nothing is a simple fight when it comes to men and women
18 fighting anyway, but I -- you know, you -- sometimes you --
19 you might get a little grab here and there, you know, and
20 settle down, just settle down, you know, but this was bam,
21 fighting, punching, beating each other up, like -- so what do
22 you expect, and especially your baby brother standing there
23 and two other grown men in the house. Why didn't they stop
24 it? I don't know.

25 That's like sit back and -- and that's what I think

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1 about. Why wasn't all this ever stopped. It wasn't like it
2 was just me, and Cindy, and Ty in the house. Where were
3 these other grown men in the house that just were so
4 wonderful, just love everybody and everything. Still where
5 were they at whenever they was getting beat up? Why didn't
6 they stop anything? Why didn't they stop it? You've got two
7 or three hundred pound men. They couldn't stop one man
8 beating a girl? They couldn't stop that? They didn't want
9 to stop it.

10 Sometimes people don't want to get involved because they
11 want to see it. They don't -- they don't mind it, and they
12 don't want to get them and leave and go and have a real good
13 time, and then leave. There's no sense in anybody that
14 night getting beat, hurt, especially -- it would be
15 different, and it ain't different, if two grown men was
16 fighting. It wasn't two grown fighting. It was women versus
17 men, and the men were big men, and they never stopped.
18 Nobody ever stopped nothing, and they want to blame my
19 brother and whatever else.

20 Ty didn't want to get -- I don't know how all this
21 happened. Ty was a good guy. Alcohol, whatever else, it's
22 pure alcohol, that I just say the men in the house should
23 have stopped it. You would. And even if I don't know you
24 right now, I see somebody getting knocked to the ground, I
25 ain't going to let -- see anybody right now get battered

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REDIRECT BY LIVESAY

1 across the room and there's grown men in the room that ain't
2 going to stop it, there's something really wrong with that
3 picture to me, ---

4 Q. Okay.

5 A. --- but I was raised that way.

6 Q. Are you done?

7 A. Yes sir.

8 **THE COURT:** Redirect, Solicitor.

9 **MS. LIVESAY:** Just a few questions, Your Honor.

10 **REDIRECT-EXAMINATION BY MS. LIVESAY:**

11 Q. Now, Christie, there was some questions asked about Ty
12 leaving that night. The first time he told you I'm leaving,
13 that was when you were in the kitchen, is that right?

14 A. Yes Ma'am.

15 Q. Where did he tell you he was going? Did he say?

16 A. He said he was going home. I think he was going to
17 get Tynesha out of the living room, and I don't -- I don't
18 remember if I ---

19 Q. He said he was going home?

20 A. Yes Ma'am.

21 Q. Where was home to him?

22 A. If it wasn't with me, staying wherever I was staying
23 -- it didn't matter, wherever I was staying, it would be with
24 his mother and father.

25 Q. Okay. And did he have any furniture in that

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1 apartment?

2 A. No furniture.

3 Q. Okay. Did he bring anything from his mama and daddy's
4 house into that apartment?

5 A. Not much, a few clothes, not that much stuff.

6 Q. Just a few clothes?

7 A. Uh huh **(indicating positive)**.

8 Q. Okay. Whose furniture was in that house?

9 A. My furniture.

10 Q. Okay. Now, who paid the bills in that house?

11 A. My mom and dad, and I -- I would -- I had a cleaning
12 business. Sometimes he would -- he would give me some money.
13 If he was working with Mo, he would give me some money, but
14 who paid the bills, my mom and dad did.

15 Q. Okay.

16 A. He didn't really pay them.

17 Q. Was there any mistake where he was going when he told
18 you he was going home?

19 A. No. I knew it was Mr. Larry and Ms. Sandra's house.

20 Q. And that's whenever he was talking ---

21 A. If he said he was going home, that's -- that's to Mr.
22 Larry's house.

23 Q. Okay. And he just had a few clothes at your house,
24 and they were the clothes you bought him?

25 A. A lot of the stuff I bought.

CHRISTIE HUCKS - REDIRECT BY LIVESAY

- 1 Q. Okay. But ---
- 2 A. He may have had some of his other clothes there, but
- 3 it wasn't much. The majority of the things that were in the
- 4 house were things that I had bought or he had bought when he
- 5 was in my house. It wasn't stuff that he brought from their
- 6 house over. It was just the new things accumulating being
- 7 with me.
- 8 Q. Okay. And his staying there was at your discretion?
- 9 A. Yes Ma'am.
- 10 Q. Okay. When you wanted him there, you would let him
- 11 stay there, and when you didn't want him there, get out?
- 12 A. Yes Ma'am.
- 13 Q. It was at your discretion?
- 14 A. Yes Ma'am.
- 15 Q. Okay. Was there any mistake who was living in that
- 16 house as far as who had the key, who had the authority to
- 17 say who was there and who had to leave? Who was -- who was
- 18 that?
- 19 A. I did pretty much, I mean.
- 20 Q. Okay. So that was definitely your house?
- 21 A. I wanted it to be mine and his, but you know what I'm
- 22 saying, sometimes it just escalated where it's like you're
- 23 not coming in and I'm going to keep the key, like ---
- 24 Q. Okay. And there was never a point where he could tell
- 25 you to get out, could he?

1 A. No.

2 Q. Okay. Now, that night, there's this issue about him
3 leaving, him leaving, when he left. When he told you the
4 first time, I'm going home, did anybody put their hands on
5 him to keep him there?

6 A. Not that I saw, but I didn't see him -- he was in the
7 living room. I can't say that I seen anybody touch him
8 because I wasn't in there. I was in the kitchen and I
9 remained in the kitchen until we met again in the hallway. I
10 can't say that anybody did. I assume they didn't because he
11 came back and he wasn't arguing with anybody in there, so
12 that's my answer to that.

13 Q. But you never kept him from leaving?

14 A. No, I didn't. He was going to leave. He was going to
15 -- he wanted to leave.

16 Q. But for some reason he didn't, is that right?

17 A. Yes Ma'am.

18 Q. Okay. And he had a ride, didn't he?

19 A. He could have rode with Mo. I assume he had a car
20 there. I don't remember if Mo had a car there or not. I
21 don't know.

22 Q. Okay. And at that point, did Kendrick Chestnut
23 leave?

24 A. Uh uh **(indicating negative)**.

25 Q. Okay.

1 **THE COURT:** Was that a yes or no?

2 A. I'm sorry. No sir. No Ma'am.

3 **THE COURT:** All right.

4 Q. Now, the second time when all this was going on, he
5 had already grabbed you by the neck? He had already beaten
6 Cindy up on the floor? He gets up, walks in, and Joey is
7 holding a knife right here?

8 A. Yeah. I don't know if he was leaving or what he was
9 he doing. I just remember ---

10 Q. Joey hadn't left at that point?

11 A. Yeah.

12 Q. Okay. And when Joey -- when all this happening, it
13 was happening where, along here?

14 A. Yeah. Joey was in the -- Joey was in the living room,
15 and I know Joey was like what's going on? I was like they're
16 fighting, and, you know, and Joey heard them. I guess he
17 wasn't really getting involved, but he was wanting to stop
18 it, if anything. Everything stopped.

19 And I walked into the living room and I was standing
20 with him, and that's when he had the little thing there, and
21 Ty came in, and it was just like don't mess with my sisters,
22 man. I don't know if Ty said anything to Joey. I don't
23 remember. But for some reason, Joey said don't mess with my
24 sisters, man, but not in a yelling way, and Ty just said or
25 what.

CHRISTIE HUCKS - REDIRECT BY LIVESAY

1 Q. Okay. But he never said you ain't leaving to Ty?

2 Joey never ---

3 A. Nobody ever told anybody they couldn't leave.

4 Q. Okay. And, in fact, there was a door right here that
5 he could have gotten out of?

6 A. Yeah.

7 Q. Or he could have walked back through and got out that
8 door, is that right?

9 A. Uh huh **(indicating positive)**.

10 Q. Okay. So he didn't walk out the door then either, did
11 he?

12 A. No.

13 Q. When Joey pulled out that pocket knife and had it down
14 here, did Larry Chestnut look like he was afraid?

15 A. Not really. I don't even remember feeling -- he
16 didn't look afraid. I don't think he was afraid of anything
17 at this point, because Ty was really drunk.

18 Q. Okay.

19 A. I don't think he was scared of -- he was calm, you
20 know what I'm saying? He wasn't scared of anything.

21 Q. So Ty wasn't going -- like backing up away from him?

22 A. No.

23 Q. When he pulled out that knife, did Ty ever back up and
24 say, man, let's just quit this?

25 A. No; no.

1 Q. Okay. What did Larry Chestnut say to Joey when he
2 pulled out that knife?

3 A. Joey just had it down by his leg. It was like don't
4 mess with my sisters, man. I just remember Ty being like or
5 what, and as he was saying it, he was kind of swinging.

6 Q. So he actually moved towards Joey?

7 A. Yes.

8 Q. Okay. And it wasn't until he moved towards Joey that
9 Joey swung his arm?

10 A. Yes Ma'am.

11 Q. Okay. Well, if Ty had backed up, would Joey have ever
12 even nicked ---

13 A. I wouldn't -- Joey wouldn't have hit anybody.

14 Q. Okay. Now, there was some questions asked about did
15 anybody put their hands on Joey before the knife was brought
16 out.

17 A. No.

18 Q. At that point, who was being beat up in the house?

19 A. Cindy -- Cindy had just was -- and Moke were the only
20 ones I know of that were ever -- but I didn't -- I didn't
21 even look back to see if Moke, and Ty, and all them were
22 fighting. I didn't -- I didn't know. I just know Cindy was
23 getting beat up, and Moke went and got -- tried to get around
24 -- he got around Kendrick Chestnut. He got around, and I
25 just remember seeing Moke on top of Ty and pulling him off,

CHRISTIE HUCKS - REDIRECT BY LIVESAY

1 and I then thought everything was okay, it was over.

2 Q. So you remember Ty being on top of Cindy and then
3 Richard Day pulling him off?

4 A. Cin- -- I just remember Ty was on the floor, and I
5 remember seeing Moke on the floor, and Cindy was up against
6 the dishwasher. I remember seeing Cindy up against the
7 dishwasher, and Ty was in the floor and Moke was in the
8 floor.

9 Q. Okay. But at this time, the only people that had been
10 struck, hit, were you and Cindy Evans?

11 A. And Ty. We're all, you know, fighting.

12 Q. Right. Who took -- let me ask you this question: Who
13 took the first swing between Ty and Cindy Evans?

14 A. Like a swing, Ty hit her first. I don't know if Cindy
15 touched her (sic), but still, I mean, they're going man
16 versus woman, and when you're not really ---

17 Q. Okay. Well, let me ask you this: Between you and
18 Larry Chestnut, who grabbed who first?

19 A. He grabbed me first.

20 Q. Okay. Did Cindy Evans ever make any kind of effort to
21 put her hands on Ty until he grabbed you?

22 A. No.

23 Q. Okay.

24 A. Nobody was wanting to argue. We -- I thought
25 everything would honestly be okay.

CHRISTIE HUCKS - REDIRECT BY LIVESAY

- 1 Q. Okay. So he never made any ef- -- she never made any
2 effort to touch ---
- 3 A. No.
- 4 Q. --- Ty until he grabbed you?
- 5 A. Cindy wouldn't ever do it anyway, even if it's already
6 -- he battered me to death.
- 7 Q. Did he ever ---
- 8 A. She would have never done it, you know what I'm
9 saying.
- 10 Q. Okay.
- 11 A. She's just going to comfort me and be my sister and
12 let me make the decision that I feel like I was going to make
13 in my life, whether to stay or go.
- 14 Q. Okay.
- 15 A. And that's all she could do.
- 16 Q. So just yes or no, did she get involved ---
- 17 A. No Ma'am.
- 18 Q. --- until he put his hands on you?
- 19 A. Yes.
- 20 Q. Is that correct?
- 21 A. Yes.
- 22 Q. Okay. Did Joey get involved before he put his hands
23 on you and then put his hands on Cindy?
- 24 A. No.
- 25 Q. Okay. So he didn't get involved until Larry Chestnut

CHRISTIE HUCKS - REDIRECT BY LIVESAY

1 had gotten into some physical altercation with you and Cindy
2 Evans?

3 A. Yes Ma'am.

4 Q. Okay. Now, going back to -- we've already
5 established he didn't leave when he said I'm going home. For
6 whatever reason, he didn't leave. When Joey pulled out the
7 knife at that point, he's by the door. He could have left.
8 He did not leave then. When you're down there and Joey --
9 the blood is coming out of his mouth, did you see Larry
10 Chestnut then?

11 A. Outside?

12 Q. Yes, anywhere?

13 A. I don't remember seeing Ty.

14 Q. Okay. You didn't see him then?

15 A. Uh uh **(indicating negative)**.

16 Q. Okay. When the police came, was Larry Chestnut there?

17 A. No Ma'am.

18 Q. Okay. So amazingly enough, once Joey was down on the
19 ground, the blood was coming out, then Larry Chestnut could
20 find a way out of that apartment?

21 A. I don't remember seeing anybody. I don't remember
22 seeing him leaving. I just remember seeing Moke -- I never
23 saw anybody else. I never seen Moke. I seen the blue
24 Suburban just flying through the yard, and I thought are they
25 going to hit me or Joey? I was like whoa, like it just flew

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1 in like a Dukes of Hazzard thing, and I was like what is
2 going on.

3 Q. Well, let me ask you this question: When he is down
4 and the police are on their way, or what not is going on, did
5 you see Larry Chestnut?

6 A. No Ma'am.

7 Q. Okay. So he definitely wasn't there at that point?

8 A. Not with me in the yard, or Joey.

9 Q. When you went inside to check on Tynesha and Chapell,
10 was Larry Chestnut ---

11 A. I never got to go inside. They never would let me.
12 They let Cindy.

13 Q. Okay. Cindy went inside?

14 A. Uh huh **(indicating positive)**.

15 Q. So while all of this is going on, is Larry Chestnut
16 there?

17 A. I found out he wasn't there. I can't say that he
18 wasn't there. I never went in the house. I don't know where
19 they were. I know they weren't in the yard with me
20 anywhere.

21 Q. Okay. But you saw him when you were in the kitchen?

22 A. Yeah.

23 Q. Did you see him when you were in the living room at
24 that point ---

25 A. I never seen them again after I left out of the house.

CHRISTIE HUCKS - REDIRECT BY LIVESAY

1 I don't remember ever seeing him again.

2 Q. All right. You don't remember seeing him again once
3 Joey is on the ground and the blood is coming out of his
4 mouth, ---

5 A. Yeah. I don't -- yeah, I don't ever remember seeing
6 him.

7 Q. --- is that right?

8 A. Yes Ma'am.

9 Q. Okay. When the police showed up, was Larry Chestnut
10 around then?

11 A. No Ma'am.

12 Q. Okay. So by that point he had somehow found a way to
13 leave the area or to leave that apartment?

14 A. Yes Ma'am.

15 Q. Okay. Now, Kendrick Chestnut, was he there at
16 and ---

17 A. No, I didn't see him either. I didn't see either one
18 of them.

19 Q. Okay. You didn't see either one of them then once
20 Joey was on the ground and the blood coming out of his
21 mouth?

22 A. Yeah. I saw -- I didn't see either one of them.

23 Q. Okay. So then both of them finally found a way to get
24 in their car and leave the apartment?

25 A. I assume.

CHRISTIE HUCKS - REDIRECT BY LIVESAY

1 Q. Okay.

2 A. You know, I never seen them. I never looked back. I
3 don't know ever where they went.

4 Q. Okay. Now, you made a big point about how many men
5 were in -- in the house. There were actually three men --
6 four men in the house, is that right? It was Larry, Kendrick
7 Chestnut, Richard Day, and Joey Hucks?

8 A. Yes Ma'am.

9 Q. Okay. They were all in there?

10 A. Uh huh (**indicating positive**).

11 Q. Okay. When Larry Chestnut and Cindy Evans are in
12 there fighting in the kitchen, who is standing in the
13 doorway?

14 A. I remember Mo -- I just remember looking back like I
15 need help, and Mo is standing there and didn't kind of come
16 forward, and then Moke just came in, and that's all I
17 remember. That was it. Moke just barged through, like came
18 through. That's all I know.

19 Q. Okay. But it was Kendrick Chestnut standing in the
20 doorway?

21 A. Yeah, like through the little hallway thing. I
22 remember seeing -- he was standing -- I was looking back and
23 I was like I need help -- they need help. I mean, they was
24 real -- they wasn't like, hey, you cannot see this? I mean,
25 it's like hello. I'm three hundred pounds, and I'm eight

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1 months pregnant, and I can't -- I don't know what I'm
2 supposed to really be doing right now except for screaming
3 and hollering, and somebody help. Do something. I mean, ---

4 Q. Okay. But you do agree ---

5 A. I don't know what I'm supposed to be doing.

6 Q. But you do agree that the reason that fight between
7 Cindy Evans and Larry Chestnut finally got broken up was
8 because Richard Day was finally able to get past Kendrick
9 Chestnut and ---

10 A. Yes. He came in and got Ty off.

11 Q. Okay. So it made a big difference when he finally got
12 through Kendrick Chestnut ---

13 A. Yes.

14 Q. --- to get in there to get her some help?

15 A. Yes.

16 Q. Okay.

17 A. It wasn't stopping at all, like there wasn't -- it
18 wasn't -- no one was stopping it.

19 Q. Well, let me ask you this: That fight between Larry
20 Chestnut and Cindy Evans was going a lot different until
21 Richard Day came into the picture?

22 A. Yeah.

23 Q. Just one more real quick question, Christie. Ralph
24 Wilson asked you if you had met with me and how many times,
25 is that right?

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RE CROSS BY WILSON

1 A. Yes Ma'am.

2 Q. And you've met with me, isn't that right?

3 A. Yes Ma'am.

4 Q. Okay. Have I told you to tell anything to this jury
5 other than the truth?

6 A. Absolutely not.

7 Q. Okay. Now, let me ask you this: Did you ever meet
8 with Ralph Wilson?

9 A. Yes Ma'am, I did.

10 Q. Where did you meet with him at?

11 A. At his office.

12 Q. Okay.

13 **MS. LIVESAY:** No further questions, Your Honor.

14 **THE COURT:** Mr. Wilson.

15 **MR. WILSON:** Yes sir.

16 **RE CROSS-EXAMINATION BY MR. WILSON:**

17 Q. And the story that you told me at my office is
18 different than the story ---

19 **MS. LIVESAY:** Your Honor, may I ---

20 **THE COURT:** Y'all come over and talk to me right now.

21 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)**

22 Q. Let me ask you this, Ma'am: When this all occurred,
23 you said that Ty was really, really drunk. That's what you
24 just told the Solicitor, right?

25 A. He was -- yeah, he was drunk that night.

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1 Q. But nobody else was drunk but Ty? The only person
2 there that was ---

3 A. Well, I was pregnant. Cindy had just showed up. I
4 mean, I don't know if Mo was drunk or not. I don't know if
5 he was. I'm not sure. I know that Ty was. I didn't really
6 -- I don't know if anybody else was. Joey wasn't
7 belligerent. I just know that Ty was pretty drunk.

8 Q. Joey wasn't drunk ---

9 A. I know him, you know what I'm saying. I don't really
10 know anybody -- I know how Ty is if he was drinking liquor.

11 Q. Joey was not drunk? Is there ---

12 A. Not drunk.

13 Q. --- any question about that in your mind? Joey was
14 not drunk?

15 A. Was not drunk.

16 Q. And not drunk, he still pulled out that knife? No
17 question about that, is there?

18 A. No, no question about that.

19 Q. And which hand did he have that knife in?

20 A. In his left hand to the side of his leg.

21 Q. Is he right or left-handed?

22 A. Right-handed.

23 Q. All right. He's right-handed, but he pulls a knife
24 out and he's holding it in his left hand?

25 A. I guess that means he didn't want to have to use it.

1 Q. Now, when did you ever say before this very moment
2 that Ty -- that Joey had the knife in his left hand? When
3 did you ever say that, Ma'am?

4 A. No one ever asked me where -- what hand he had the
5 knife in. I know that when I walked into the living room,
6 Joey was standing -- like if I'm looking at you, Joey is
7 standing there and I'm standing right here, he had it down by
8 his left leg. I don't think anybody ever asked me. I don't
9 remember if anybody asked me. If they did, I know from now,
10 the pictures, that he had it in his left hand.

11 Q. He had the knife in his left hand, and when he swung
12 and cut Ty, he cut him then with his left hand, is that what
13 you're saying?

14 A. Like -- like that, I guess. I don't know. He went
15 back and I remember him going like that, because ---

16 Q. You had blood all over you, did you not?

17 A. Yeah. That was from -- after being in the yard.

18 Q. Well, did you have any blood on you from in the house,
19 when the fight was going on in the house?

20 A. I -- not that I know of.

21 Q. Did you have blood splatters on you?

22 A. I could have had it on me when Joey got hit, if blood
23 went on me or if Ty -- if any of Ty's blood got on me. I
24 don't know. I don't remember seeing blood all over me,
25 though.

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1 Q. When Ty was ---

2 A. Ty had blood on him.

3 Q. When Ty got cut in the house, did you get blood on you
4 from that?

5 A. I don't know. I mean, at that particular time?

6 Q. Yes Ma'am.

7 A. Like when -- as soon as he got -- I don't remember if
8 I did. I don't -- I don't know. I was hurrying up and
9 getting Tynesha and Chapell. I could have brushed across
10 him. It could have gotten on me. I don't know. I wasn't
11 looking.

12 I didn't see blood in a hand or on me like physically,
13 like, oh, God, there's blood everywhere, right? No, if
14 that's what you're asking. Now, if it kind of got on me, it
15 could have. I don't know. It wasn't something that I
16 noticed.

17 Q. When you were talking with the Solicitor, you said
18 that after the altercation between Ty and Cindy in the
19 kitchen, that Ty gets up and Ty is getting out towards the
20 door, is he not? When he ---

21 A. When Ty and Cindy are arguing, or fighting, or
22 whatever, I never looked. I don't know. I just remember
23 being -- I don't -- I remember going back to the living --
24 getting through. Moke came in there. I remember going in
25 and seeing my brother. I don't know. I was standing in

1 there with Joey because Joey was asking me kind of what was
2 going on, and I was like, oh, they're arguing, fighting, and
3 then seeing Moke on the floor.

4 Q. The fight between Joey -- the fight between Cindy and
5 Ty occurred in the kitchen, is that -- is that true?

6 A. It kind of started in the hallway thing, though, you
7 know what I'm saying. She was in the kitchen when -- when he
8 was in there.

9 Q. It started in the hallway, went to the kitchen area?

10 A. Basically the kitchen, though. It was like the wall
11 that's in the kitchen, the hallway, is like a little, teeny
12 space dividing between the living room and the kitchen.

13 Q. Okay. My point is after the fight ended, you said
14 Moke came in and helped to separate them, and the fight was
15 over then between Cindy and ---

16 A. I assumed. I didn't know what they were still doing.
17 I didn't know if Moke was going to get -- I thought later
18 on, God, Moke didn't get hit? I thought maybe -- maybe,
19 thank God, that Ty didn't hit anybody else and it would be
20 fine. Nobody else -- I just -- I don't remember what else
21 happened.

22 I remember seeing Moke go in there, and that's all I
23 worry about, and then I went to go see what Joey was doing,
24 and I seen Joey in there. I don't really -- the next thing I
25 remember is seeing Ty come into the living room. I don't

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1 remember how -- anything else in there.

2 Q. Well, obviously if Ty is in the living room, he's not
3 in the kitchen ---

4 A. They had already -- that's what I'm saying. They had
5 -- I walked in to go see Joey in the living room after Moke
6 had went in there and was getting them off. Everything is
7 okay in there. I'm going to go into the living room now and
8 go see what Joey, and Tynesha -- and I don't even remember if
9 I remember Tynesha and Chapell being there at the time.

10 I just wanted to see what Joey was doing for a minute
11 and get out of the kitchen, and I then don't know how -- the
12 fight must have broke up, and Ty came along to the living
13 room. I was in the living room after the fight broke up, and
14 he came in. He came into the living room from out of the
15 kitchen. The fight got broke up and he came into the kitchen
16 -- I mean to the living room where I was.

17 Q. Ty comes into the living room. The fight between he
18 and Cindy is obviously over because he comes out of the
19 kitchen into the living room?

20 A. Yes sir.

21 Q. That's when he is confronted by your brother with the
22 knife, isn't that correct?

23 A. He didn't confront him with the knife, though. It
24 wasn't like confronting him with the knife, like look, I've
25 got a knife. You back up or else. It was -- Joey was like

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1 don't mess with my sisters, man, and had it like that, and Ty
2 was like or what, and just went at him, you know what I'm
3 saying. It wasn't really like -- anything like that. I
4 don't know what you're saying.

5 Q. Ty comes out of the kitchen, walks through the house,
6 and at this point, he's trying to get his daughter because
7 his daughter is still there, to leave. Your brother
8 confronts him with the knife at that point. He can't leave
9 because your brother is standing there with a knife at him.
10 How is he going to leave?

11 A. Keep walking.

12 Q. And get cut in the back?

13 A. Who's to say Joey was going to cut anybody?

14 Q. Maybe he wouldn't have. We just ---

15 A. Maybe he wouldn't have. That's what I'm saying.
16 Maybe nobody -- maybe nothing would have ever happened if
17 people would have just kept going -- minding their business.
18 I don't know. I can't say what would have ever happened, but
19 maybe -- you know, I don't know.

20 Q. The Solicitor asked you about whether or not ---

21 A. Joey didn't have the knife -- let me put it this way.
22 Joey didn't have the knife up like he wanted to cut somebody.
23 Joey had it down by his side, like Joey said hey, like if
24 something like happens in here like it did in there, I'll be
25 able to get away, or protect my sisters, or something. It

1 was never in the sort of let me just try to harm this guy
2 that hurt my sisters.

3 Joey still wasn't even -- didn't even want to harm
4 anybody even after that. He just wanted it to stop. He
5 didn't want to come in between -- you know what I'm saying.
6 That -- I'm pregnant, and he lov- -- you know, he's my
7 boyfriend or friend, they ain't trying to hurt each other.
8 Ty didn't want to hurt him, you know. Ty didn't want to hurt
9 -- you know, they were good friends.

10 Q. Joey ---

11 A. It wasn't about hurting or stabbing people in the
12 back. It wasn't about that. I don't know how it --it was
13 self-defense, and shit, a fight was going on and that's all I
14 -- that's the way it seemed to me.

15 Q. Joey was twice the size of your boyfriend and he had a
16 knife, and he was eighteen years old and three hundred
17 pounds. How in the world was Ty supposed to get past him
18 with the knife?

19 A. How to make sure it was a fight, I don't know. He's
20 not a little man. I mean, I really don't know. I mean, he
21 could have ran. I mean, there are so many things you can do.
22 It wasn't like it was a butcher knife and chasing behind you
23 and you're like let's get away. It's a little, teeny pocket
24 -- it's a teeny little thing.

25 Q. And there's no ---