

VOL II OF III

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM SUMTER COUNTY

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William Jeffrey Young, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DANIEL D'ANGELO JACKSON,

APPELLANT

APPELLATE CASE NO. 2011-0199366

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBIT #24 (SNACK WRAPPER), STATE'S EXHIBIT #85
(PHOTOGRAPH), STATE'S EXHIBIT #86 (PHOTOGRAPH)**

A. RUSSELL - CROSS-EXAMINATION BY MR. WILDER

558.

1 Q. And Isaac Boyd, what's the relationship there, family
2 relationship?

3 A. To me?

4 Q. Well ---

5 A. Or to him?

6 Q. Well, how about Angela Boyd. What's your relationship
7 with her?

8 A. That's my sister.

9 Q. Sister?

10 A. Yeah.

11 Q. Is Angela married to Isaac?

12 A. Yes, sir.

13 Q. Okay. So, that would be your brother-in-law? Isaac
14 would be your brother-in-law?

15 A. Yes, sir.

16 Q. Is that right? Now, isn't it true that, that Isaac
17 brought Daniel to your house?

18 A. Yes, sir.

19 Q. Okay, and whenever it was, the day before or two days
20 before or maybe on a Sunday, that's when Daniel got to your
21 house to stay, right?

22 A. Yes, sir.

23 Q. Okay, and Isaac and Daniel showed you that rifle or
24 gun that's in the picture, right?

25 A. Yes, sir.

A. RUSSELL - CROSS-EXAMINATION BY MR. WILDER

559

1 Q. Okay, and so you knew it was in your house at that
2 point in time, right?

3 A. Yes, sir, I did.

4 Q. But you didn't know where it got put though, did you?

5 A. No, sir. I wasn't paying attention to them.

6 Q. So, so, just got put under the couch and then that's
7 where it was when you found it vacuuming?

8 A. Yes, sir.

9 Q. Right? Well, on Thursday I guess it was or whenever
10 the day the police showed up, they just kind of busted in
11 there and looked all around and wanted to know -- what did
12 they want to know?

13 A. That were looking for Daniel.

14 Q. They were looking for Daniel?

15 A. Yes, sir.

16 Q. Okay, and then they looked and then they left, right?

17 A. Yes, sir.

18 Q. Okay, and you figured, well, you better call the
19 police and tell them about the gun after you talked to
20 Angela Boyd?

21 A. Yes, sir.

22 Q. Is that right? So, you did that, and then at some
23 point Daniel came back, and Daniel became aware that the
24 police had been there looking for him, right?

25 A. Yes, sir.

A. RUSSELL - CROSS-EXAMINATION BY MR. WILDER

560

1 Q. Okay, and then he made arrangements for Angela to take
2 him to the Law Enforcement Center here in Sumter and turn
3 himself in, right?

4 A. Yes, sir.

5 Q. Okay. So, after you called the police about the
6 rifle, he comes on down voluntarily to the Sumter Police
7 Department, right?

8 A. Could you state that again?

9 Q. Well, I ---

10 MR. MEADORS: Your Honor, unless she went herself, I'm
11 going to object to that.

12 MR. WILDER: Well, I'll rephrase.

13 THE COURT: Rephrase the question.

14 by MR. WILDER:

15 Q. All right. After you called the police about the
16 rifle, Daniel asked Angela to take him away from your
17 house?

18 A. No, sir. I don't believe it went down like that. I
19 believe that it was that she had -- they came ---

20 MR. MEADORS: Your Honor.

21 A. --- after he had turned himself in.

22 Q. Okay.

23 MR. MEADORS: I'm going to object. That's hearsay.

24 THE COURT: Sustained.

25 MR. WILDER: Well.

A. RUSSELL - CROSS-EXAMINATION BY MR. WILDER

561

1 THE COURT: Don't answer.

2 by MR. WILDER:

3 Q. But you know he turned himself in?

4 A. Yes, sir.

5 Q. Okay, and you know it was after the police came to
6 your house?

7 A. Yeah, but it was before the rifle was found.

8 Q. Before the rifle?

9 A. Yeah. The rifle was found after he had already turned
10 himself in.

11 Q. All right.

12 A. That's what I was trying to say.

13 Q. Okay.

14 A. You were confusing me.

15 Q. I gotcha. I gotcha.

16 A. You know.

17 Q. Was it Angela that came and took him?

18 A. Yes, sir.

19 Q. Okay: Now, it was okay for Daniel to come stay with
20 you, wasn't it, wasn't that?

21 A. I didn't have no problem with that.

22 Q. And you knew -- at that time I believe was -- was he
23 nineteen years old?

24 A. Yes, sir.

25 Q. And you got along fine with him?

A. RUSSELL - CROSS EXAM / I. BOYD - DIRECT EXAM

562

1 A. Yes, sir.

2 Q. No problems or anything?

3 A. I ain't never had no problems out of him.

4 Q. No problems. You had no problems.

5 MR. WILDER: Okay. Thank you.

6 THE COURT: Any redirect?

7 MR. MEADORS: No, sir. Thank you.

8 THE COURT: Thank you. You may step down.

9 Any objection to this witness being excused?

10 MR. DEAS: I have none, Your Honor.

11 MR. WILDER: I have none.

12 THE COURT: Thank you. You may be excused.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Y'all need to see me?

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 THE COURT: All right, state may call its next
17 witness.

18 MR. MEADORS: Isaac Boyd.

19 ISAAC J. BOYD, FIRST BEING DULY

20 SWORN, TESTIFIES AS FOLLOWS:

21 CLERK OF COURT: Please state your full name and spell
22 your last name for the record.

23 WITNESS: Isaac Jerome Boyd, B-O-Y-D.

24 DIRECT EXAMINATION BY MR. MEADORS:

25 Q. Hey, Mr. Boyd. Now, you are under subpoena, aren't

1 you?

2 A. Yes, sir, I believe.

3 Q. Is it fair to say that we have talked on the phone a
4 couple times?

5 A. Uh-huh. Yes.

6 Q. And just briefly down in the office, is that ---

7 A. Yes, sir.

8 Q. --- fair to say? One day last week and I may have
9 said hey to you yesterday?

10 A. Yeah.

11 Q. And you work, don't you?

12 A. Yes, sir.

13 Q. And you need to be working, don't you? I mean, you
14 like to work?

15 A. Yeah. Yes.

16 Q. What do you do?

17 A. I work at a Food Lion Warehouse.

18 Q. All right, and how long have you been there?

19 A. Five years.

20 Q. And what did you do prior to that before?

21 A. I worked at Gold Kist.

22 Q. Gold Kist?

23 A. Yes, sir.

24 Q. And where are you from?

25 A. North Charleston.

I. BOYD - DIRECT EXAMINATION BY MR. MEADORS

564

1 Q. All right, and when did you come to Sumter?

2 A. I never, I never, I never lived in Sumter. I live in
3 Summerton.

4 Q. I apologize. When did you come to Summerton?

5 A. About, like, twelve years ago.

6 Q. All right, and is that when you started working for
7 Gold Kist?

8 A. No.

9 Q. Tell me when -- I'm not trying to -- who did you work
10 for before then?

11 A. The Charles Center in Manning.

12 Q. Okay. After that Gold Kist?

13 A. Yes.

14 Q. Okay. You are Mr. Jackson's uncle?

15 A. Yes.

16 Q. It's difficult for you to be here today, and I know
17 that. On Sunday, January 13th, did you have an occasion to
18 see Mr. Jackson?

19 A. Yes, sir, when he called my wife to come pick him up.

20 Q. And, and when he called your wife, and that's Ms. Boyd
21 obviously?

22 A. Yes.

23 Q. Angela Boyd?

24 A. Uh-huh.

25 Q. Called you in Summerton?

1 A. Yes.

2 Q. And asked her to get you or somebody to come pick him
3 up where?

4 A. From Sumter.

5 Q. And where were you going in Sumter?

6 A. To -- I picked him up at American Inn.

7 Q. American Inn?

8 A. Uh-huh.

9 Q. And when you picked him up, was he by himself?

10 A. Yes.

11 Q. And did you come straight back to Sumter?

12 A. No. We went to St. Paul Road.

13 Q. I'm sorry?

14 A. St. Paul Road.

15 Q. And had he asked you to go to St. Paul Road?

16 A. Yeah. He had to go and pick up something.

17 Q. When you got to St. Paul Road -- and, and what is St.
18 Paul Road? Are there residences there?

19 A. No. It's just the name of the road. I think that's
20 the name of the road. I'm not for sure.

21 Q. That was a bad question. Where, where on St. Paul
22 Road did you go?

23 A. We went to -- by Curtis Wheeler house.

24 Q. Okay, and is, is that a park, trailer park there?

25 A. No. It's just a -- one, one is a friend's house.

I. BOYD - DIRECT EXAMINATION BY MR. MEADORS

566

1 Q. And did you get out of the car?

2 A. No.

3 Q. And did Daniel Jackson go into any house?

4 A. Yeah. He went into Curtis Wheeler trailer.

5 Q. Okay. What trailer did they go into?

6 A. It was an abandoned trailer close to the woods.

7 Q. And then how do you know it was abandoned?

8 A. It was no lights on.

9 Q. Did you go inside?

10 A. No.

11 Q. And, and -- so, you stayed outside?

12 A. Yeah. I stayed in the car.

13 Q. Stayed in the car ---

14 A. Uh-huh.

15 Q. --- while he went inside? And did he tell you why he
16 wanted to go there?

17 A. He said he had to go and pick up his clothes or
18 something like that.

19 Q. And when you got to the trailer, abandoned trailer ---

20 A. Uh-huh.

21 Q. --- he went inside, correct?

22 A. Yes.

23 Q. And how long was he inside?

24 A. Probably about two minutes.

25 Q. And came out of the trailer?

I. BOYD - DIRECT EXAMINATION BY MR. MEADORS

567

1 A. Uh-huh.

2 Q. He did?

3 A. Yeah, he came out.

4 Q. And then did he go get in your car?

5 A. Yes.

6 Q. And what did he have with him?

7 A. I think he had a clothes basket.

8 Q. And, and did he have a rifle with him?

9 A. No, I didn't see it at that time. By the time we got
10 to, got to Sumter, then I saw that he had a rifle.

11 Q. And, and, and where did you go in Sumter?

12 A. We went to my sister-in-law house.

13 Q. Is that near a Pig ---

14 A. Yeah, near, near a Piggly Wiggly.

15 Q. And did you actually go to the Piggly Wiggly and drop
16 him off or did you go ---

17 A. Yeah, yeah. I was going to drop him off at the Piggly
18 Wiggly, but I just went ahead and just took him around
19 just, just to his aunt house.

20 Q. And did -- so, he got out with a, a, you said some
21 clothes?

22 A. Yeah. It was a clothes basket.

23 Q. Okay, and the rifle was in the clothes basket?

24 A. I guess.

25 Q. So, you ---

I. BOYD - DIRECT EXAMINATION BY MR. MEADORS

568

1 A. But I didn't see it, I didn't see it until we, until
2 we got inside the apartment.

3 Q. So, it was kind of like it was hidden in the clothes
4 basket?

5 A. Yes, you can say that.

6 Q. And what -- do you remember when you got back there
7 what time it was or ---

8 A. No.

9 Q. But you know you got back to your ---

10 A. Yeah.

11 Q. Ms. Russell's house?

12 A. Yes.

13 Q. Okay, and from, from St. Paul's to Summerton to Ms.
14 Russell's, it's just you and Mr. Jackson?

15 A. Yes.

16 Q. Now, this was Sunday night, correct?

17 A. Oh, yes.

18 Q. And you gave a statement to the police officers,
19 correct?

20 A. Yes.

21 Q. Did Mr. Jackson ask you to lie and say it was Saturday
22 night when you picked him up?

23 A. Yes.

24 Q. He did?

25 A. Yes.

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

569

1 Q. And you said something about a Mr. Wheeler earlier I
2 think?

3 A. Yeah. Both them went into the trailer together.

4 Q. You had not told law enforcement ---

5 A. No, I didn't, I didn't told him that. At, at the, at
6 the beginnings I was kind of nervous about the whole
7 situation. And, so, a lot of things -- I didn't, I didn't
8 put a lot of things together at that time.

9 Q. So, you did tell them about -- the first time you said
10 he was by himself and went to the trailer, right?

11 A. Oh, yeah.

12 MR. MEADORS: No further questions.

13 THE COURT: Mr. Deas.

14 MR. DEAS: Please the court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION BY MR. DEAS:

17 Q. Mr. Boyd.

18 A. Yes, sir.

19 Q. I'm Garryl Deas. I represent Reginald Canty. You
20 said you were Mr., Mr. Jackson's uncle?

21 A. Uh-huh.

22 Q. So, you are married to ---

23 A. His aunt.

24 Q. Ms. Boyd?

25 A. Yes.

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

570

- 1 Q. Her first name's Angela?
- 2 A. Yes.
- 3 Q. You've got the call from -- who did you get a call
- 4 from to come pick up Mr. Jackson in Sumter?
- 5 A. He called himself and talked to my wife on the phone.
- 6 Q. Talked to Ms. Angela Boyd?
- 7 A. Yes.
- 8 Q. You went to go get him?
- 9 A. Yeah, because she didn't really want to.
- 10 Q. And that would have been on January 13, 2008?
- 11 A. I guess. I just know it was Sunday.
- 12 Q. And were you by yourself when you left home ---
- 13 A. Yes.
- 14 Q. --- to go get him?
- 15 A. Yes, I was by myself.
- 16 Q. And then when you picked him up in Sumter at the
- 17 American Inn -- that's a hotel?
- 18 A. Yes.
- 19 Q. When you picked him up from there, he was by himself?
- 20 A. Yes.
- 21 Q. And then you went on to take him to a house at St.
- 22 Paul Church Road?
- 23 A. Yes, sir.
- 24 Q. Now, at what point -- well, whose house did you take
- 25 him to? That was Curtis Wheeler's house?

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

571

1 A. Yeah, it was right next to Curtis Wheeler house.

2 Q. Okay. Did you actually pull up in Curtis Wheeler's
3 yard?

4 A. Yeah.

5 Q. Curtis Wheeler came out the house?

6 A. Yeah. He was already outside.

7 Q. And where was this abandoned trailer?

8 A. Right across the road from his momma house.

9 Q. So, y'all just walked over there?

10 A. No, I didn't walk nowhere.

11 Q. You drove over?

12 A. Yeah.

13 Q. They got in your car, and y'all drove to ---

14 A. No. The trailer was right across the road from Curtis
15 Wheeler momma house.

16 Q. So, you stayed in your car?

17 A. Yes.

18 Q. And they walked over?

19 A. Yes.

20 Q. And you could see them as they walked over there?

21 A. No, I can't see them, but that's the direction he was
22 walking to.

23 Q. Okay, and then you couldn't see him, see them, how do
24 you know where they went?

25 A. That's the direction that they was walking to.

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

572

1 Q. And how long were they gone before they came back to
2 your car?

3 A. About two minutes.

4 Q. So, you never actually saw them go inside any
5 abandoned trailer?

6 A. They walked, they walked towards the trailer. I
7 didn't go in the trailer with them. So, I can't tell you
8 if they was in there or not.

9 Q. But and there was, there was an abandoned trailer near
10 where ---

11 A. Yeah.

12 Q. --- Wheeler's house?

13 A. It was in the direction they walked to, them two.

14 Q. And then when, when Mr. Daniel and Mr. Wheeler, when
15 Daniel Jackson and Curtis Wheeler came back to your
16 vehicle, Mr. Jackson had a clothes basket with him?

17 A. Yes.

18 Q. Was the clothes in the basket?

19 A. Yeah. There was clothes in there.

20 Q. And initially you didn't ---

21 A. I didn't ---

22 Q. --- know anything about the rifle?

23 A. No, I didn't.

24 Q. And once you got to where you were taking him in
25 Summerton ---

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

573

1 A. Yeah.

2 Q. --- which was your, which was your sister-in-law's
3 house?

4 A. Uh-huh.

5 Q. Ms. Andrea Russell?

6 A. Yes.

7 Q. That's when you saw the rifle for the first time?

8 A. Yes.

9 Q. And Mr. Jackson showed you the rifle?

10 A. Yeah. He told me to hold it.

11 Q. Told you to hold it?

12 A. Yeah, and I walked out. I told him no.

13 Q. Did he say why he wanted you to hold it?

14 A. No.

15 Q. But he asked you to hold it and you told him no?

16 A. Yes, sir.

17 Q. Did you then leave your sister-in-law's house, or you
18 stayed there?

19 A. No. I left.

20 Q. And this all would have happened on, on a Sunday?

21 A. Yeah.

22 Q. Did you have any further contact with Mr. Jackson
23 after that?

24 A. No.

25 Q. Did you have any knowledge of his plans to stay at

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

574

1 his, at Andrea Russell's house?

2 A. No.

3 Q. You just knew that that's where he wanted to be
4 dropped off?

5 A. Yes.

6 Q. Did he actually take the gun inside of Andrea
7 Russell's house?

8 A. Yeah. He had a clothes basket. That's what he put it
9 in.

10 Q. And when he, when he showed you the gun, were y'all
11 inside the house?

12 A. Yes.

13 Q. And you left Mr. -- was Mr. Wheeler with you all ---

14 A. No.

15 Q. --- when you all got there?

16 A. No.

17 Q. Andrea Russell's house?

18 A. No. He was doing something.

19 Q. So, he didn't leave Sumter with you and Mr. Jackson?

20 A. No.

21 Q. And Mr. Jackson came back to the car with the clothes
22 basket and, and the rifle, Mr. Wheeler stayed at home at
23 his house in Sumter?

24 A. Yeah.

25 Q. And the only -- only you and Mr. Jackson drove to

1 Sumter?

2 A. Yes.

3 Q. To Andrea Russell's house?

4 A. Yes.

5 Q. You, you just indicated on direct examination of Mr.
6 Jackson at some point asked you to say that you picked him
7 up on Saturday night and not Sunday?

8 A. Yes, sir.

9 Q. When did he say that to you, sir?

10 A. When I picked him up.

11 Q. Did he tell you why?

12 A. No.

13 Q. He wanted him -- did he tell you why he wanted you to
14 say that?

15 A. No.

16 Q. What was your response to him when he asked you?

17 A. I'm not -- I didn't say nothing.

18 Q. Did you ever tell anyone in law enforcement or anyone
19 else that you picked Mr. Jackson up on Saturday night and
20 not Sunday?

21 A. No.

22 Q. Sir?

23 A. No.

24 Q. Do you, do you recall approximately what time it
25 was ---

I. BOYD - CROSS-EXAMINATION BY MR. DEAS

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1 A. No.

2 Q. --- that you got the phone call about picking him up
3 in Sumter?

4 A. No.

5 Q. Was it, was it morning time, noon ---

6 A. It was at night.

7 Q. Was it nighttime?

8 A. Uh-huh.

9 Q. And, of course, it'd been within nighttime you all
10 arrived at Summerton?

11 A. Yes.

12 Q. And did you -- do you have any -- did you have any
13 dealings or knowledge of the situation that occurred in ---

14 A. No.

15 Q. --- Andrea's house when the police came?

16 A. What situation when they came?

17 Q. Do you have any knowledge about police coming to
18 Andrea Russell's house to look for Daniel Jackson?

19 A. No, because they came to my house, too.

20 Q. Sir?

21 A. I said they came to my house, too.

22 Q. The police came to your house looking for Daniel
23 Jackson?

24 A. Yes.

25 Q. Now, you, you live in Sumter?

I. BOYD - CROSS-EXAMINATION BY MR. DEAS / MR. WILDER

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1 A. No, I live in Summerton.

2 Q. You live in Summerton, too. So, you live in Clarendon
3 County as well?

4 A. Uh-huh.

5 Q. Do you remember what day the police came to your house
6 looking for Daniel Jackson?

7 A. No.

8 Q. But they did come?

9 A. Uh-huh.

10 Q. What did you tell them when they came?

11 A. I wasn't at home. My wife was at home.

12 Q. And you don't know what your wife said?

13 A. No.

14 Q. But Mr. Jackson wasn't there, was he?

15 A. No.

16 MR. DEAS: Court's indulgence.

17 THE COURT: Yes, sir.

18 (A PAUSE.)

19 MR. DEAS: Nothing further, Your Honor.

20 THE COURT: Mr. Wilder.

21 CROSS-EXAMINATION BY MR. WILDER:

22 Q. Mr. Boyd, you're aware that Mr. Jackson was living at
23 4250 Whitney Drive?

24 A. I don't know where exactly he was living at. I don't
25 know the address.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 Q. And, in fact, when the police started looking for him,
2 or at some point they came by and searched that house? Did
3 you know that?

4 A. Which, which house?

5 Q. . . . Do you know that?

6 A. No.

7 Q. Now, the way he was making these phone calls, he had a
8 cell phone and he was calling on the phone, wasn't he?

9 A. Yes.

10 Q. Yes. He had his cell phone and, and so at different
11 times when you were carrying him in the car, he would talk
12 on the phone, right?

13 A. He might have.

14 Q. He might have. And you picked him up at which end?

15 A. American -- I think it's Eagle. It's right, right by
16 the bingo place, where the bingo hall is at.

17 Q. Okay.

18 A. On Broad Street by Shaw Air Force Base.

19 Q. By what?

20 A. Shaw Air Force Base.

21 Q. Shaw Air Force Base?

22 A. Yes.

23 Q. Eagle Inn?

24 A. I guess the Eagle.

25 Q. All right, and where is Whitney Drive? Do you know

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 where that is? You ever been there?

2 A. No.

3 Q. Okay. Now -- okay. You said that you, you took him
4 by Curtis Wheeler's place, right?

5 A. Yes.

6 Q. And you know what Curtis looks like?

7 A. Yes.

8 Q. I'm going to show you a picture and ask you can you
9 identify it.

10 A. Yeah, that's him.

11 MR. DEAS: Objection to relevance.

12 MR. WILDER: I'm going to ask that it be been marked
13 for identification.

14 THE COURT: Overruled.

15 MR. WILDER: Thank you.

16 by MR. WILDER:

17 Q. This is the man that you took Daniel to get that
18 rifle, correct?

19 A. Yes.

20 MR. MEADORS: objection, Your Honor. That's, that is
21 not the testimony. He's trying to testify saying he took
22 him to get that rifle. That wasn't his testimony.

23 MR. WILDER: I'll rephrase it.

24 THE COURT: Rephrase your question.

25 MR. WILDER: Okay.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 by MR. WILDER:

2 Q. This is the man that y'all went to and a rifle was
3 gotten from his place, right?

4 MR. MEADORS: No, sir, that wasn't -- objection.

5 THE COURT: Sustained.

6 by MR. WILDER:

7 Q. Is that the man's place that y'all went to that
8 Sunday?

9 A. It was nearby the place.

10 Q. Nearby the place?

11 A. Yes.

12 Q. And that's Curtis Wheeler?

13 A. Yes.

14 Q. And the way I believe you expressed it when, when Mr.
15 Meadors was asking you about it is you went to Curtis
16 Wheeler's place?

17 A. Yeah. We went right next to it. I was parked right
18 to his momma house, and they got out and went to the
19 trailer.

20 Q. All right, and before that, Daniel didn't have
21 anything in his hands and he didn't have no clothes basket,
22 right?

23 A. Yes.

24 Q. Okay, and after that, he had a clothes basket that
25 evidently had a rifle in it.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 A. Yes.

2 Q. Right?

3 A. Yes.

4 MR. WILDER: I ask that this be marked for
5 identification.

6 (PHOTOGRAPH MARKED AS DEFENDANT-JACKSON'S EXHIBIT
7 NUMBER 14 FOR IDENTIFICATION.)

8 COURT REPORTER: Defendant's 14.

9 THE COURT: All right. Defendant's 14 for I.D. only.

10 BY MR. WILDER:

11 Q. Now, could it have been around 1:00 in the afternoon
12 on Sunday afternoon?

13 A. No.

14 Q. And what time do you think it was?

15 A. It was probably after 8:00.

16 Q. After 8:00 on Sunday?

17 A. Yes, Sunday night.

18 Q. Sunday night. Mr. Boyd, evidently at some point you
19 were driving a car down the road that had a rifle in the
20 trunk, right?

21 A. Yeah.

22 Q. Between the roads of Summerton, Sumter to Summerton,
23 right?

24 A. Yes.

25 Q. And just because you have that rifle in your car

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 didn't mean you shot anybody, did it?

2 A. Huh-uh.

3 Q. Sir?

4 A. No, it didn't mean that I shot anybody.

5 Q. All right. How long had you known Curtis Wheeler?

6 A. I know him probably, probably about a year because he
7 went with Daniel momma. Him and Daniel momma use to go
8 together.

9 Q. Okay. So, Daniel's mom use to go with Curtis Wheeler,
10 right?

11 A. Yes.

12 Q. So, I guess this isn't just somebody you saw one time.
13 That you'd seen many times, right?

14 A. Yes.

15 Q. And the house y'all went to or the trailer is on St.
16 Paul's Church Road?

17 A. Yes.

18 Q. Right? Does that happen to be at St. Mark's Circle?

19 A. I don't know the name of the road. I just know how to
20 get there. That's all I know.

21 Q. Did you take one of the officers, Mr. Burnish, back to
22 where you picked up Daniel?

23 A. Yes.

24 Q. And you showed him exactly where it was?

25 A. Yes.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 Q. All right. So, he would be able to tell us which
2 house you took him to?

3 A. Yes.

4 Q. Is that right? Now, was that house that, where Curtis
5 Wheeler was, was it abandoned?

6 MR. MEADORS: Your Honor, object to relevance.

7 THE COURT: Sustained.

8 by MR. WILDER:

9 Q. How long had Curtis been living there?

10 A. I don't know. I don't hang with him.

11 MR. WILDER: Thank you.

12 THE COURT: Any redirect?

13 MR. MEADORS: Very briefly.

14 REDIRECT EXAMINATION BY MR. MEADORS:

15 Q. So, Mr. Wilder asked you this officer took you to --
16 you took that officer to that house?

17 A. Yes.

18 Q. And why did you take him there?

19 A. Because that's where, that's where, that's where,
20 that's where I went to.

21 Q. Okay. So, you were showing him where Mr. Jackson
22 asked you to go?

23 A. Yeah.

24 Q. In Sumter?

25 A. Uh-huh.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 (STATEMENT-BOYD MARKED AS STATE'S EXHIBIT NUMBER 74
2 FOR IDENTIFICATION.)

3 COURT REPORTER: State's 74 for I.D.

4 THE COURT: All right.

5 BY MR. MEADORS:

6 Q. It's just for identification. You gave a statement to
7 Mr. Burnish on January 22nd, correct?

8 A. Yes.

9 Q. Okay, and in this statement, you didn't put anything
10 about Curtis Wheeler, did you?

11 A. No.

12 Q. Okay, and I, and I don't know which one asked you. I
13 really don't. I think it was Mr. Deas, I'm not sure, but
14 in response to that, you said you hadn't talked to Mr.
15 Jackson again since. That's not quite true. You have
16 talked to him ---

17 A. No, I did.

18 Q. --- hadn't you?

19 A. Yeah, I did talk to him about June, July.

20 Q. Okay, and, and during that conversation, was a
21 conversation -- is that Mr. Wheeler's name came up?

22 A. Yes.

23 Q. And you hadn't said anything about it to Burnish,
24 correct?

25 A. No.

I. BOYD - CROSS-EXAMINATION BY MR. WILDER.

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1 Q. But you talked to Mr. Jackson on the phone?

2 A. Uh-huh.

3 Q. And, and now you're saying you saw Mr. Wheeler, too,
4 correct?

5 A. No, he was there.

6 Q. Okay.

7 A. I just left that off. He was there.

8 MR. MEADORS: That's all I have.

9 THE COURT: Mr. Deas, any recross?

10 MR. DEAS: Nothing, Your Honor.

11 THE COURT: Mr. Wilder, based upon his redirect?

12 MR. WILDER: Based upon his redirect.

13 RECROSS EXAMINATION BY MR. WILDER:

14 Q. Mr. Meadors asked you about Mr. Wheeler. Where is Mr.
15 Wheeler today?

16 A. North Charleston.

17 Q. North Charleston?

18 A. Yes.

19 Q. Did you talk to Mr. Wheeler about the events of that
20 night between 2008 and now?

21 A. No, but he's on Facebook with my wife and their
22 sister. They're best friends.

23 MR. MEADORS: Objection. Hearsay.

24 THE COURT: Hearsay. Sustained.

25 BY MR. WILDER:

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 Q. All right, sir. So, it's kind of like you didn't want
2 to get Mr. Wheeler involved in it, did you?

3 A. Huh? I didn't know ---

4 Q. Is that right?

5 A. Huh?

6 Q. Is that why you didn't tell Mr. Burnish?

7 A. No. It just slipped my mind. Everything was going so
8 fast. Everything was going so fast.

9 Q. Everything was going so fast. So, you're not trying
10 to protect Mr. Wheeler?

11 A. No. I'm not trying to protect anybody.

12 Q. Isn't he known as the O.G.?

13 A. I told you I ---

14 MR. MEADORS: Objection, Your Honor.

15 A. I don't hang with him.

16 THE COURT: Sustained.

17 A. I don't know. I don't hang with him.

18 THE COURT: Sustained. Hearsay.

19 by MR. WILDER:

20 Q. You know him as the O.G.?

21 MR. MEADORS: Objection.

22 A. I don't hang with him.

23 THE COURT: He's answered it.

24 A. No.

25 Q. You afraid of him?

I. BOYD - CROSS-EXAMINATION BY MR. WILDER

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1 A. No.

2 Q. Not afraid of Curtis?

3 A. No.

4 THE COURT: Thank you. You may step down.

5 Do you have any...

6 MR. MEADORS: No, sir.

7 THE COURT: Any objection to this witness being
8 excused?

9 MR. DEAS: No objection, Your Honor.

10 THE COURT: All right. Thank you. You're free to go.

11 (THE WITNESS EXITS THE STAND.)

12 THE COURT: All right, ladies and gentlemen of the
13 jury, I'm trying to keep you in an hour at a time so you
14 don't get too overheated. We'll take a short break, about
15 a ten minute break. Just grab some water and use the
16 restroom at this time. Thank you.

17 Please do not discuss anything about the testimony
18 when you're back there.

19 (THE JURY EXITS AT 3:48 P.M.)

20 THE COURT: All right, court will be in recess for
21 about ten minutes.

22 (OFF THE RECORD.)

23 MR. MEADORS: Judge, could I place one matter on the
24 record?

25 THE COURT: You may.

1 MR. MEADORS: Please the court? It was a -- I'll call
2 it an informal pretrial conference with Mr. Wilder and I.
3 I don't know if you were there or not, Mr. Deas. I think,
4 I think you were with Mr. James. It was regarding
5 discovery that came up last time.

6 One of the items in discovery was a personnel file and
7 other matters of the next witness. Judge James in chambers
8 said he wasn't entitled to it. It's Dominick West is the
9 next witness.

10 Judge, the only reason it just popped in my head. In
11 his opening, Mr. Wilder, I remember saying Dominick West,
12 he's now gone and he just said something like I wonder why
13 or asked why, something. I don't know.

14 I just will ask Your Honor not to -- we're going to
15 object to Mr. Wilder trying to go into any fishing
16 expedition -- not -- I don't think he'd do that. But since
17 that comment in the opening, it reminded me of the
18 conference, and I ask him not to allowed -- or ask you to
19 order him not to go into any ---

20 THE COURT: Does it have anything to do with this
21 case?

22 MR. MEADORS: Oh, no, sir, not at all. It's just a
23 fishing expedition into why Dominick West left the
24 sheriff's department, and I would just ask him not to be
25 allowed to try to imply or infer anything with Dominick

1 West because there's nothing out there, nothing pertinent
2 to this case. And I hope he wouldn't do that, but I just
3 wanted to do it before we got started.

4 THE COURT: Mr. Wilder.

5 MR. WILDER: Your Honor, if he puts the witness on the
6 stand, I believe I'm entitled to cross-examine him as to
7 any issue on credibility. So, I would submit that if he
8 decides to call the man, I should be able to cross-examine
9 him without restriction.

10 THE COURT: Well, I think you should be able to
11 cross-examine him concerning relevant information. You
12 start asking questions about were you fired, were you -- I
13 mean unless you got something to, to show that, then it is,
14 it's pure fishing at that point in time. So, I mean, I'm
15 not going to let you just go up there and say were you
16 fired, why did you leave, under what circumstances. This
17 trial isn't about that. We could spend a day fishing for
18 that. So, I am going to restrict you somewhat.

19 If you've got something credible, that he was fired
20 for something on this case, then, then I may let you go
21 into his credibility. But I'm just not going to let you
22 arbitrarily attack the man when it has nothing to do with
23 this case.

24 MR. WILDER: Your Honor, the only questions I would
25 ask the witness will be concerning his credibility and

1 whether or not he was dismissed from his employment.

2 THE COURT: Does it have anything to do with this
3 case?

4 MR. WILDER: I believe it's got to do with his
5 credibility as a witness, Your Honor, and whether or not
6 he's telling the truth is exactly what that jury is here to
7 determine is his credibility.

8 THE COURT: Well, do you have something specific?

9 MR. WILDER: I don't know until he answers the
10 questions. They did not ---

11 THE COURT: Well, then it's a fishing expedition.

12 MR. WILDER: Your Honor, they did not provide me with
13 his personnel file..

14 MR. MEADORS: Judge James said in conference he wasn't
15 entitled to it.

16 THE COURT: If a judge has already ruled you're not
17 entitled to it, but I'm not going to just let you go out on
18 a fishing expedition. If you've got something that you
19 think is credible and, and you have something, a reason for
20 it, then I'll let you ask him about it. But I'm not just
21 going to let you start casting a thousand half questions.

22 MR. WILDER: Your Honor, here's, here's the problem,
23 and I'll, I'll do whatever you tell me to do. I just want,
24 want the court to know I object to it and will ---

25 THE COURT: That's fine. You objected before and

1 you'll object again I'm sure, and I'll either grant your
2 objection or I won't.

3 MR. WILDER: Right, and I don't intend any disrespect,
4 and I'll certainly do exactly what the court orders me to.
5 That's not the issue.

6 The issue is I got one judge who says okay, you
7 subpoenaed the file. You can't have it, and I got another
8 judge -- now Your Honor -- telling me well, you don't have
9 anything. So, you can't, you can't ask him about it. So,
10 I -- you know, cross-examination is the only opportunity I
11 have to find out things. And so if they decide to call
12 him, I believe I shouldn't be restricted by a preemptive
13 court order from asking questions which relate to his
14 credibility.

15 THE COURT: Because it's irrelevant in this trial to
16 some extent. Unless you have something that you know of in
17 some relation then I'm not, I'm not going to let you just
18 attack his credibility because that becomes the issue in
19 this case, and that's not the issue in this case.

20 MR. WILDER: Your Honor, would you note my objection?

21 THE COURT: Yes, sir.

22 MR. WILDER: All right. Thank you.

23 THE COURT: Your objection is duly noted.

24 MR. WILDER: All right. Thank you.

25 THE COURT: Thank you.

1 MR. WILDER: And, Your Honor, can you articulate
2 exactly what the court's order to me is?

3 THE COURT: The court's order is unless you've got
4 something in his character that is a -- that you can point
5 your finger to that says that he has done something or he
6 was fired for a particular reason, for untruthfulness or
7 something like that, then you can bring it up. But if you
8 don't have anything, I'm not going to let you just start
9 asking questions that have no basis to just ask them.

10 MR. WILDER: Right, and I appreciate that, Your Honor.
11 Can we voir dire him right now with the jury out of the
12 room?

13 THE COURT: That would probably be -- I mean,
14 that's ---.

15 MR. WILDER: Well, let's put him on the stand. I can
16 go ahead and ask him those questions, and we'll posture it
17 for the court so that you can see, and we'll see, all see
18 and no damage done. Then you can rule based on ---.

19 MR. MEADORS: Your Honor.

20 THE COURT: I mean, we can't do that with every
21 witness. I mean, you could ---

22 MR. WILDER: No.

23 THE COURT: Under that theory, you'd do it under every
24 witness.

25 MR. WILDER: But this is the only one they have --

1 I've asked for something and they won't give it to me, and
2 the judge said I can't ---

3 THE COURT: Well, the judge said they don't have to
4 give it to you because it's not relevant to this case.

5 MR. WILDER: I don't know. It may be.

6 THE COURT: Well, this is not time for deposition. I
7 know generally you don't have depositions in criminal
8 court, but I mean, you know.

9 MR. WILDER: Your Honor, suppose they fired him for
10 being untruthful about this case. I don't know. I don't
11 know why they fired him. But unless I can ask him that
12 question, we'll never know and that's, that's -- I don't
13 think that's right to restrict me before he gets on the
14 stand unless we have the opportunity to ask him questions
15 like that.

16 MR. MEADORS: Your Honor, I guess the state's position
17 is, number one, it's not relevant. He clearly in and of
18 itself is going on a fishing expedition. He could say that
19 about any witness if he wanted to that worked there.

20 THE COURT: Well, and I think that ---

21 MR. MEADORS: I have no information at all that he was
22 fired or dismissed at all. I don't know. I have no
23 information, none, to my attention, that he did anything
24 wrong. And I want the record to reflect that all.

25 THE COURT: I will allow him to -- I will allow you to

1 ask him is he not with the office anymore, is this the
2 sheriff's office, and why isn't he there.

3 MR. WILDER: Okay.

4 THE COURT: I'll let you go that far.

5 MR. MEADORS: I've just been informed for the first
6 time he resigned May of 2010, Your Honor. He resigned.

7 THE COURT: So, he was the one that left. Okay. Then
8 you can ask him if he still with the sheriff's office and
9 why he left.

10 MR. WILDER: Okay.

11 THE COURT: Let's bring the jury in. We're not going
12 to go through voir dire on him.

13 (THE JURY ENTERS AT 4:03 P.M.)

14 CLERK OF COURT: Your Honor, all the jurors are
15 present in the courtroom.

16 THE COURT: All right. Thank you.

17 Ladies and gentlemen, welcome back to the hot box. As
18 you hear the testimony and you're sitting there, please
19 remember that I have no fan up here and I'm in this robe.
20 So, whatever degree it is for y'all, it's probably about
21 five more degrees for me. So, I'm not asking you to do
22 something that I wouldn't do myself. So, I don't have a
23 fan and, please, we'll try to give you a break. Thank you.

24 You may call your next witness.

25 MR. MEADORS: May it please the court? The state

D. WEST - DIRECT EXAMINATION BY MR. MEADORS

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1 calls Dominick West.

2 DOMINICK WEST, FIRST BEING DULY
3 SWORN, TESTIFIES AS FOLLOWS:

4 CLERK OF COURT: Please state your full name, and
5 spell your last name for the record.

6 WITNESS: Dominick West. W-E-S-T.

7 DIRECT EXAMINATION BY MR. MEADORS:

8 Q. Good afternoon, Mr. West.

9 A. Good afternoon.

10 Q. Would you tell this jury where you're from?

11 A. I'm from Orangeburg, South Carolina.

12 Q. Born and raised there?

13 A. Yes, sir.

14 Q. Where did you go to school?

15 A. Orangeburg Wilkinson High School.

16 Q. What did you do after that?

17 A. Attended Morris College in Sumter, South Carolina.

18 Q. Okay, and after that, what did you do?

19 A. I began to work for the Sumter County Sheriff Office
20 in 2000.

21 Q. And did you -- were you in different positions or
22 roles?

23 A. At the beginning, I was a patrol deputy. In 2005 I
24 was promoted to an investigator.

25 Q. And you stayed with the Sumter County Sheriff's

D. WEST - DIRECT EXAMINATION BY MR. MEADORS

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1 Department how long?

2 A. Till May 5, 2010.

3 Q. And where are you working now?

4 A. South Carolina Department of Mental Health in Columbia
5 as a public safety officer, law enforcement position.

6 Q. And your job there is, is what?

7 A. Just to maintain peace and order with the subjects,
8 mental health patients.

9 Q. And working through the state?

10 A. Yes, sir.

11 Q. Back in January of 2008, then you were employed as an
12 investigator?

13 A. Yes, I was.

14 Q. We are here, as you know, in the State vs. Jackson and
15 Canty. Were you one of the, one of the investigators
16 involved in this?

17 A. Yes, sir, I was.

18 Q. And do you remember this incident?

19 A. Yes, sir.

20 Q. And, and specifically on January 12th of 2008, did you
21 have an occasion to respond to O.C. Mobile Home Park?

22 A. Yes, sir.

23 Q. In Cherryvale?

24 A. Yes, sir.

25 Q. Okay, and, and describe what you saw when you got

1 there.

2 A. I responded in reference to an incident, possibly
3 someone had got shot. The victim was deceased. I was met
4 by my supervisor. At the time it was Captain Turner, and
5 he just advised of the incident, and we was told to patrol
6 the area and secure the yard, just find out information.

7 Q. So, you're not the chief investigating office?

8 A. No, sir. I was the assistant investigator with
9 Sergeant Burnish.

10 Q. Sergeant Burnish here?

11 A. Yes, sir.

12 Q. And after you had gone to the scene -- so, was it, was
13 it your job to process the scene and gather, gather stuff
14 at the scene?

15 A. No, sir. We have a crime scene investigator that does
16 all that.

17 Q. All right, and that first evening January 12, 2008,
18 after you'd been to the scene, been at the scene, excuse
19 me, did you have occasion to go to the grocery store ---

20 A. Yes, sir.

21 Q. --- Cherryvale?

22 A. Cherryvale Grocery.

23 Q. For what, for what reason?

24 A. We went down there in reference to -- I went with
25 Sergeant Burnish in reference to going -- somebody -- it

D. WEST - DIRECT EXAMINATION BY MR. MEADORS.

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1 was -- subjects was in the store, possible subjects was in
2 the store and -- pertaining to this incident.

3 Q. All right. Did you also have an opportunity to
4 attempt to get some prints off a pay phone?

5 A. Yes, sir. I dusted the phone for fingerprints.

6 Q. And whatever you got, did you turn that over to
7 Mackessy and?

8 A. Yes, sir, I did.

9 Q. And I believe that's already in evidence. Now, on, on
10 February 6th.

11 MR. MEADORS: Beg the court's indulgence.

12 THE COURT: Yes, sir.

13 (A PAUSE.)

14 BY MR. MEADORS:

15 Q. After you'd been to Cherryvale, as a result of that,
16 were there two subjects that had been identified as having
17 been in there earlier?

18 MR. WILDER: Objection to the hearsay.

19 THE COURT: Sustained.

20 BY MR. MEADORS:

21 Q. Did you have an occasion to talk to Reginald Canty?

22 A. Reginald Canty?

23 Q. Yes, sir.

24 A. I spoke with him. What day that was? My first
25 contact with him was possibly the 15th.

D. WEST - DIRECT EXAMINATION BY MR. MEADORS.

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1 Q. That'd be January the 15th?

2 A. Yes, sir.

3 Q. And, and where did you, where did you talk with him?

4 A. I spoke with him at the Law Enforcement Center.

5 Q. Okay, and that is right across the street?

6 A. At 107 East Hampton across the street, yes, sir.

7 Q. 107 East Hampton, okay, and I'm showing you what's
8 marked State's 3, and I'm going to ask you if you recognize
9 this.

10 A. It's a voluntary statement form from the Sumter County
11 Sheriff Office.

12 Q. Now, on January 13th -- Mr. Canty was talked to twice.
13 Were you involved in either one of those?

14 A. No, sir.

15 Q. Okay.

16 MR. DEAS: Your Honor, just note my objection for the
17 record as to admissibility of this, this statement

18 THE COURT: Yes, sir.

19 MR. DEAS: Excuse me, Your Honor?

20 THE COURT: Overruled.

21 BY MR. MEADORS:

22 Q. Now, you said this was a voluntary statement?

23 A. Yes, sir.

24 Q. Okay, and you're at the Law Enforcement Center?

25 A. Yes, sir.

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1 Q. And, and at the top it's got Canty, Reginald, and then
2 his middle name, correct?

3 A. Yes, sir.

4 Q. And what's he got for his age?

5 A. of ' .

6 Q. So, what -- how old was he?

7 A. Sixteen at the time.

8 Q. And there's other information after that on the top.
9 Who provided you that information?

10 A. Mr. Canty.

11 Q. And whose handwriting is this?

12 A. That is my handwriting.

13 Q. When Mr. Canty was providing you that information on
14 January 15th, did you have any trouble understanding him?

15 A. No, sir.

16 Q. Okay. Did it appear to you that he had trouble
17 understanding you in answering your questions?

18 A. No, sir.

19 Q. And were his answers appropriate to your question?

20 A. Yes, it was.

21 Q. Like when's your birth date, did he give you his
22 birthday?

23 A. Yes, sir.

24 Q. And about the middle of the page there's an initial,
25 R.C. Who made that?

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1 A. Mr. Canty.

2 Q. And next to that is: I, Reginald Canty?

3 A. Yes, sir.

4 Q. Okay. Could you read the rest of that?

5 A. I, Reginald Canty, understand I do not have to
6 say anything, and I volunteer the following
7 information of my own free will for whatever
8 purposes it may serve.

9 MR. WILDER: Your Honor, may I ask the court's
10 indulgence to review exactly what it is that's ---

11 THE COURT: Yes, sir.

12 MR. WILDER: That he's got in his hand?

13 THE COURT: You certainly may view it.

14 MR. MEADORS: Beg the court's indulgence.

15 THE COURT: Yes, sir.

16 (A PAUSE.)

17 MR. MEADORS: May we approach?

18 THE COURT: Yes, sir.

19 (OFF-THE-RECORD BENCH CONFERENCE.)

20 THE COURT: Ladies and gentlemen, I'm going to send
21 you back to the jury room for just a few minutes while we
22 take care of a legal matter here. You get a breather.

23 Please don't discuss anything while you're in there.

24 If you want another Coke-Cola, they'll give it to you.

25 (THE JURY EXITS AT 4:13 P.M.)

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1 THE COURT: You may step down.

2 (THE WITNESS EXITS THE STAND.)

3 (OFF THE RECORD.)

4 THE COURT: All right, we got it straight now?

5 MR. MEADORS: Yes, sir. And I think if we could ask
6 Dominick West, and we can go over this on the record and
7 make sure Your Honor, Your Honor's okay with it.

8 THE COURT: Okay.

9 MR. MEADORS: And I, I apologize. Judge, obviously
10 we're talking about State's 3, which is the November --
11 excuse me, January 15th statement; the January 17th oral
12 statement and January 17th written statement, which is
13 State's 5; and then the January 25th statement, Your Honor,
14 which is ---

15 THE COURT: Well, I don't have copies of that.

16 MR. MEADORS: Yes, sir, I was going to hand them to
17 Your Honor.

18 THE COURT: Okay.

19 MR. MEADORS: Which is State's 7. Judge, I will hand
20 you these as I go over them, copies I have with the
21 lawyers, and you can see what we propose.

22 THE COURT: All right.

23 MR. MEADORS: And I don't think it will take but a
24 second. Well, if we'll let -- we'll take as long as we
25 need to for everybody, but we have met.

1 THE COURT: All right.

2 MR. MEADORS: All right. So, Judge, starting on the
3 15th.

4 THE COURT: Right.

5 MR. MEADORS: We have proposed that every time it says
6 Deangelo or a form of Mr. Jackson's name to put: Another
7 person.

8 THE COURT: Yes, sir.

9 MR. MEADORS: So, on that it would be one, two, three,
10 four, five. It would say: On the night of the shooting,
11 another person asked my cousin.

12 THE COURT: Right. Okay.

13 MR. MEADORS: And, Your Honor, then going down to the
14 two lines down, store: Me and another person got out of the
15 car.

16 THE COURT: Okay.

17 MR. MEADORS: And then moving on down to one, two,
18 three, four lines from the bottom: Another person was
19 standing at the door waiting for me.

20 THE COURT: Okay.

21 MR. MEADORS: Two lines down: Another person asked to
22 be dropped off.

23 THE COURT: Okay.

24 MR. MEADORS: Next page, top: Another person left
25 walking.

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1 THE COURT: Right.

2 MR. MEADORS: Two lines down: I saw another person
3 walk by.

4 THE COURT: Okay.

5 MR. MEADORS: One, two, three, four, five, six from
6 the bottom: Another person was standing next to the van
7 looking at the guys wrestle.

8 THE COURT: Okay.

9 MR. MEADORS: And I think that is all on that
10 statement, which is the November 15th statement -- it's
11 January 15th statement.

12 THE COURT: And the 17th statement.

13 MR. MEADORS: Okay. So, then we go to 17th oral, Your
14 Honor, which I don't know if you have a copy of that or
15 not.

16 THE COURT: I don't.

17 (A PAUSE.)

18 THE COURT: Looks like there's about five times in
19 there?

20 MR. MEADORS: Yes, sir, and I have a, a redacted copy.
21 I know I'll find it as soon as I sit down. But, Judge,
22 every place in here -- all right, it goes to: He was at
23 home and Daniel Jackson. So, it would be: And another
24 person approached him.

25 THE COURT: Are you talking about on the oral?

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1 MR. MEADORS: Oral, yes, sir. It's pretty
2 straightforward, I think.

3 THE COURT: You've already gone through.

4 MR. DEAS: Yeah.

5 THE COURT: And redacted this, right, and then: Take
6 him and blank to the store, and then he stated blank made
7 -- another person made the telephone call.

8 MR. MEADORS: Yes, sir.

9 THE COURT: Reginald stated another person brought
10 Debbie ---

11 MR. MEADORS: Yes, sir.

12 THE COURT: --- snack cake and another person walked
13 back to the rear of the mobile home.

14 MR. DEAS: That's right.

15 MR. MEADORS: Yes, sir.

16 THE COURT: All right.

17 MR. DEAS: Okay, and then there's a written, a
18 written ---

19 THE COURT: 17th. Okay. That would be number 5.

20 MR. MEADORS: Yes, I do have that in front of me,
21 Judge. One, two, three, four, it would be a ---

22 THE COURT: Deangelo -- another person and I know him.

23 MR. MEADORS: And, Your Honor, we have agreed, all
24 three of the parties, that when we say I know him as ---.

25 MR. DEAS: By another name.

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1 MR. MEADORS: By another name.

2 THE COURT: Yes.

3 MR. MEADORS: So, we would just say I know him by
4 another name.

5 THE COURT: Okay, and then: Another person bought a
6 Debbie -- he's got to read slowly to make sure he...

7 MR. MEADORS: Right. Another person told me to ask my
8 cousin.

9 THE COURT: Right.

10 MR. MEADORS: And then another person used the pay
11 phone. Another person ordered three large pizzas. Another
12 person brought a Debbie snack cake. Line two: Where
13 another person was. Another person was one of the males,
14 and I don't know who the other two were.

15 THE COURT: All right.

16 MR. MEADORS: And then the 25th, the first line: When
17 we got home, another person went to the back of the trailer
18 and he waited at the back for the pizza. And then three
19 lines down: Trying to take gun from another person. And,
20 Your Honor, then we've all agreed after that: And this
21 person said stop.

22 THE COURT: All right.

23 MR. MEADORS: And then that last line: Another person
24 running away with the other person because we actually had
25 another ---

1 THE COURT: Right.

2 MR. MEADORS: --- another person that was actually
3 already in there. So, another person running away with the
4 other person.

5 THE COURT: Okay.

6 MR. MEADORS: And then that last line will be out.

7 THE COURT: Right.

8 MR. MEADORS: Completely.

9 THE COURT: Okay, be sure to mark them up. All right,
10 that satisfies the requirements of Bruton without ---

11 MR. MEADORS: Your Honor, can I mark this and go make
12 this, just make a copy and make a court copy for everybody
13 so we'll read it? Your Honor, one copy of -- Mr. Deas just
14 wanted to make sure.

15 THE COURT: Sure.

16 MR. WILDER: Your Honor, for the record, there's some
17 places in these statements where Mr. Canty said something
18 like I overheard him say. In addition to objecting for
19 purposes of Bruton, which we do, and also registering our
20 objection that -- so in the trial we wouldn't be having a
21 problem.

22 THE COURT: I understand.

23 MR. WILDER: And, so, so, we respectfully reiterate
24 our objection based on this whole process because fixing
25 some of these things to make them sound like they ought to

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1 satisfy Bruton really doesn't satisfy the problem of, of me
2 being able to confront witnesses on the stand.

3 So, I, you know, I'm trying to cooperate and work out
4 something, but I do object to hearsay that's compounded by
5 the state, as well as the process of redaction. We're
6 still going to lead to inferences every now and then that
7 it might be my client that he's referring to.

8 THE COURT: Well, I think we've made a good attempt to
9 use that, and I overrule your objection.

10 MR. MEADORS: Thank you, Your Honor.

11 MR. WILDER: Can my objection run through out?

12 THE COURT: Run throughout as long as you want it to
13 till the verdict comes back.

14 MR. WILDER: Thank you.

15 MR. MEADORS: As soon as Mr. Miller gets back with the
16 copy, we'll be ready.

17 THE COURT: All right.

18 (A PAUSE.)

19 MR. WILDER: Your Honor, he's just handed me copies.
20 Are we just going to read these and they're not ---

21 THE COURT: Yeah, they're not going into evidence.
22 They're not going in.

23 MR. MEADORS: Your Honor, what we would propose is for
24 the ones that do go into evidence, that we spend overnight
25 and really make them look good.

1 MR. WILDER: Because they don't look real good right
2 now.

3 THE COURT: No, they don't. They're just....

4 MR. WILDER: You can still read through them.

5 THE COURT: Yes. You can kind of read into them.

6 MR. MEADORS: Judge, can I mark this as court's
7 whatever the next exhibit is?

8 THE COURT: Yes.

9 (COLLECTION OF STATEMENTS MARKED INTO EVIDENCE AS
10 COURT'S EXHIBIT NUMBER 9.)

11 SPEAKER5: Court's 9.

12 (THE WITNESS RESUMES THE STAND.)

13 MR. MEADORS: Your Honor, can I approach the witness?

14 THE COURT: You may.

15 BY MR. MEADORS:

16 Q. Do you, do you, do understand?

17 A. Yes, sir.

18 Q. And for every -- from that first page, everywhere
19 we've marked out, say another person?

20 A. By another person.

21 Q. Just say, say another person.

22 A. Another person.

23 Q. Yes, sir. And there are five on the oral statement,
24 and you just read that verbatim as the oral statement is,
25 please, sir, it will make it easier. Just straight down

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1 the oral statement, and just say another person where it's
2 marked out.

3 A. Okay. Yes, sir.

4 Q. And the 17th, first where it has the first blank.

5 A. Another person.

6 Q. And then I know him?

7 A. By another name.

8 Q. And all the other by, all the other?

9 A. Another person.

10 Q. Same on the next page.

11 A. Yes, sir.

12 Q. And then on the last one, next to the last sentence,
13 another person running away with the other person.

14 A. The other person. Another person and this person?

15 Q. Yeah, or another person running away with ---

16 A. Yeah, I got that. I got that. Talking about where it
17 says take the gun from another person and this person?

18 Q. Yeah, say this person. Yeah, trying to take the gun
19 away from another person and this person said stop.

20 A. Okay.

21 THE COURT: All right. Let's bring our jury back in
22 so they can enjoy the heat.

23 (THE JURY ENTERS AT 4:43 P.M.)

24 CLERK OF COURT: Your Honor, all the jurors are back
25 in the courtroom.

1 THE COURT: All right. Thank you.

2 Ladies and gentlemen, I apologize for the delay, but
3 there's something we had to take care of, and so now we're
4 ready to continue with the matters. At least it was cooler
5 in there.

6 MR. MEADORS: May I approach the witness?

7 THE COURT: You may.

8 BY MR. MEADORS:

9 Q. I think I was asking you about State's 3.

10 A. Correct. Yes, sir.

11 Q. And I believe we were at where I was getting you to
12 read: I, Reginald Canty, understand.

13 A. Yes, sir.

14 Q. And, and read that again, please.

15 A. It says:

16 I, Reginald Canty, understand I do not have to
17 say anything, and I volunteer the following
18 information of my own free will for whatever
19 purposes it may serve.

20 It has I can and the word cannot, and the word can is
21 circled: Read and write and completed the seventh grade in
22 school.

23 Q. And, and who circled the: I can read?

24 A. I wrote everything. I circled: I can.

25 Q. Okay. Now, on each, each side it has the of that

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1 sentence it has R.C., correct, R.C. at the top?

2 A. Yes, sir.

3 Q. That stands for who?

4 A. Reginald Canty.

5 Q. And did he sign that?

6 A. Yes, sir.

7 Q. Okay, and please tell the ladies and gentlemen of the
8 jury who was present. Who all was there when you were
9 talking to him?

10 A. It was just myself and Reginald, Mr. Canty.

11 Q. Okay, and, and I think you testified you didn't have
12 any trouble understanding him?

13 A. No, sir.

14 Q. And it appeared from his answers to you he didn't have
15 any trouble, trouble understanding you?

16 A. Yes, sir.

17 Q. Now, was this -- you said a voluntary statement. Was
18 he free to leave?

19 A. Yes, sir.

20 Q. Did you talk to him?

21 A. Yes, sir.

22 Q. Did he appear to be under the influence of alcohol,
23 drugs, or any other intoxicant?

24 A. No, sir.

25 Q. How did it go about you talking to him? Did you ask

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1 him questions, he answered? I know we've got a written
2 statement here, but did you talk first? What's your
3 procedure and what did you do in this case?

4 A. He was a potential witness at that time of talking to
5 him on a certain date. We was just talking in general
6 about what was the -- what was going on, what, what
7 occurred that night.

8 Q. And, and you, did you have an occasion to take a
9 statement from him?

10 A. Yes, sir.

11 Q. Okay, and whose handwriting is this?

12 A. This is my handwriting.

13 Q. Okay, and did he request that you write it?

14 A. I -- it is, it's asked upon. Either you can write it
15 or I can write it.

16 Q. And this was a voluntary statement?

17 A. Yes, sir.

18 Q. And what time was this?

19 A. The interviewed started at 10:35 a.m. on January 15,
20 2008.

21 Q. And that's at the top, correct?

22 A. Yes, sir.

23 Q. All right. Are you taking this down as he giving it
24 to you? How do you do a statement? Are you taking it down
25 as, as the ---

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1 A. It's word. After he said, I write it down. He has to
2 understand I'm, I'm writing as he's saying. So, he has to
3 talk slowly so I can write every word that's said.

4 Q. All right, and this is State's 3, and I think we all
5 have a copy, would you read this statement to the jury?

6 A. Yes, sir. Excuse me.

7 This statement is being written by Investigator
8 D. West by request of Reginald Canty. I am not
9 under the influence of any alcohol or drugs that
10 may ---

11 Q. It say I'm not currently?

12 A. Yes.

13 Q. Okay. I'm sorry.

14 A. I'm not currently under the influence of alcohol
15 or drugs that may make me give any false
16 information in this statement. On the night of
17 the shooting, another person asked my cousin
18 Desmond Canty to take him to Cherryvale Grocery.

19 I went along.

20 Q. And I don't mean, but that's Cherryvale Grocery Store?

21 A. Yes, sir.

22 Q. Okay.

23 A. Cherryvale Grocery Store. I went along because I
24 needed batteries. After arriving at the store,
25 me and another person got out of the car and went

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1 to use the pay phone. So, I stood beside him
2 swing -- beside him swinging my phone and I
3 overheard him stating ---

4 MR. WILDER: Your Honor, at this point I raise an
5 objection as to hearsay contained in the statement, and I
6 would renew that same objection. And I believe Your Honor
7 ruled, but I want to make sure ---

8 THE COURT: Yes, sir.

9 MR. WILDER: --- that the point of it was specified.

10 THE COURT: Yes, sir.

11 MR. WILDER: --- as the testimony.

12 THE COURT: Yes, sir.

13 MR. WILDER: Thank you, Your Honor.

14 BY MR. MEADORS:

15 Q. In context, could you go back to: After arriving at
16 the store, me and another person got out of the car. And
17 take up from there.

18 A. Got out the car and went to use the pay phone.
19 So, I stood beside him swinging my phone, and I
20 overheard him stating he wanted to order three
21 large pizzas: one all pepperoni, one all cheese,
22 and I didn't hear the other one. He told him
23 while on the phone with the order that the
24 address , He got off
25 the phone and we went in the store. I went to

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1 look for some batteries, and the other person
2 brought a snack cake. While I was in the store,
3 the manager approached me and asked me what I
4 took, and I told him nothing, that I had my
5 phone. The other person was standing ---

6 Q. Is that another person? The other -- go ahead.

7 A. The other person was standing to the door waiting
8 for me. After we left the store, we was going
9 back home, and the other person asked to be
10 dropped off at Oaklawn, but we had already passed
11 it. So, we went back to -- we went back home,
12 and the other person left walking. I went inside
13 and then came back outside to sit on the porch.
14 As I came out the house, I saw the other person
15 walk by. I asked where, where were he going, and
16 he said nothing and walked toward the back of the
17 mobile home park. Tonya Rush, who stayed beside
18 me ---

19 Q. Is that Toya or Tonya?

20 A. Toya Rush, who stayed beside me, she told me to
21 watch her house.

22 Q. Is it actually: Toya Rush, who stays beside? Does it
23 say just beside?

24 A. Beside.

25 Q. Okay.

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1 A. Toya Rush, who stayed beside, she told me to
2 watch her house.

3 MR. WILDER: Your Honor, I'm going to object again to
4 hearsay. Ask that that run throughout also.

5 THE COURT: As to that, I would sustain.

6 MR. MEADORS: We have to problem with that.

7 THE COURT: I sustain that.

8 MR. MEADORS: Beg the court's indulgence.

9 (A PAUSE.)

10 BY MR. MEADORS:

11 Q. So, after park, will you start off with: I went?

12 A. I went to the house and got something to drink,
13 sat on the porch, and I saw car lights where lot
14 is. I went -- and I went to my fence. I saw a
15 white man wrestling with a tall black man over a
16 gun. The black man told him to stop, and then I
17 heard a gunshot. The other person was standing
18 next to the van looking at the guys wrestle. The
19 other guy had a handgun that looked like a
20 revolver. After the gunfire, everyone ran. I
21 ran in the house. I told my moms what I saw
22 later on that night. I wasn't truthful to law
23 enforcement at the beginning because I was
24 nervous and scared because I never saw anyone get
25 killed before.

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1 Q. All right, and Mr. Canty had had two prior
2 conversations with law enforcement, but they didn't involve
3 you, correct?

4 A. No, sir.

5 Q. And on the first page of State's 3, at the bottom,
6 after the, the verbiage there that was written in, is there
7 anything written about whether or not he had read each
8 page, and did he initial that, if he did. Would you
9 publish that to the jury?

10 A. Yes, sir. On the first page at the end it says:

11 I have read each page of the statement consisting
12 of two pages, each page which bears my signature
13 and corrections, if any, bears my initials. I
14 certify that the facts contain here -- herein are
15 true and correct.

16 Q. And that's R.C. is before the first and the last?

17 A. Yes, sir.

18 Q. And did you watch him do that?

19 A. Yes, sir.

20 Q. Did you force him to do that?

21 A. No, sir.

22 Q. And underneath that, did he sign Reginald Canty?

23 A. Yes, sir. It's his handwriting on the 15th.

24 Q. And did you sign?

25 A. Yes, sir.

1 Q. And on Page 2 of that, at the top of that, the writing
2 there, is R.C. present?

3 A. Yes, sir.

4 Q. And is R.C. at the bottom?

5 A. Yes, sir, with a big X in the middle so that nobody
6 can mark anymore.

7 Q. Okay, and there's an X next below that? So ---

8 A. Yes, sir.

9 Q. Are R.C. initials there?

10 A. Yes, sir.

11 Q. And below that is his name and your name there?

12 A. Yes, it is.

13 Q. Investigator, why did you have him put R.C. at the
14 beginning and the end?

15 A. After the statement is read, he rereads it and
16 understands it and put his initial at each end saying that
17 he understand what is being written.

18 Q. And if I can take you back to the front of State's 3.
19 Go down eight lines that says: So I. And then it has a
20 scratch through there and R.C. above it. And then it looks
21 like some other initials. It's might be D.W.

22 A. It's my initials.

23 Q. All right. Is that when y'all were going back through
24 it?

25 A. It's obviously right when I was writing it, and it was

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1 something that wasn't need to be there, he initialed it and
2 I initialed it as well.

3 Q. So, y'all initialed there was a change on that
4 particular page?

5 A. Yes, sir.

6 Q. At anytime during the giving of this statement,
7 voluntary statement, did Mr. Canty say I don't want to talk
8 to you?

9 A. No, sir.

10 Q. Say Dominick, just, just leave me alone?

11 A. No, he didn't.

12 Q. Did he ask for an attorney?

13 A. No, sir.

14 Q. Did you threaten or coerce him or hold out any hope of
15 reward or promise?

16 A. No, sir, I didn't.

17 Q. And he left at that, after that statement?

18 A. Yes, sir.

19 MR. MEADORS: And, Your Honor, for the record we offer
20 -- I believe State's 3 is already in evidence.

21 THE COURT: Yes.

22 MR. MEADORS: Or we're offering State's 3, subject to
23 objection. We offer State's 3 for the record.

24 THE COURT: Yes, sir, subject to Mr. Wilder's
25 objections..

1 MR. WILDER: Thank you, Your Honor.

2 (STATEMENT BY CANTY MARKED INTO EVIDENCE AS STATE'S
3 EXHIBIT NUMBER 3.)

4 BY MR. MEADORS:

5 Q. Now, Mr. West, did you have an occasion, on January
6 17th to again talk to Mr. Canty?

7 A. Yes, sir.

8 Q. And specifically on January 17th at 12:34, did you
9 have an occasion to talk to him?

10 A. It was 3:34.

11 Q. I read that wrong. I'm sorry. 3:34.

12 A. 1534, yes, sir.

13 Q. I apologize. 3:34, and where did that take place?

14 A. At the Sumter Law Enforcement Center at 107 East
15 Hampton.

16 Q. Now, he -- how had Mr. Canty gotten there?

17 A. He was dropped off. He was brought there by his aunt,
18 Ms. Glover.

19 Q. Ms. Who?

20 A. Glover.

21 Q. His aunt, aunt, okay, and did you start talking to him
22 right then?

23 A. No, sir.

24 Q. All right, when did you start?

25 A. As soon as his mother arrived.

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1 Q. Okay, and what is his mother's name?

2 A. Dorothy Canty.

3 Q. Now, at, at the Sumter County Sheriff's Office, do
4 y'all have what is referred to, referred to as Advice of
5 Rights form?

6 A. Miranda rights, yes, sir.

7 Q. And on this occasion, on January 17th at 3:30,
8 whenever it was, did you have an occasion to read Mr. Canty
9 his Miranda rights?

10 A. Yes, sir, I did.

11 Q. And where specifically were you at the Law Enforcement
12 Center?

13 A. Back in the investigations division, we have an
14 interview room back there.

15 Q. Who was there with you?

16 A. Me, Mr. Canty, and his mother, Dorothy Canty.

17 Q. And Ms. Dorothy Canty was with him?

18 A. Yes, sir.

19 MR. MEADORS: Can I approach?

20 THE COURT: You may.

21 BY MR. MEADORS:

22 Q. I'm going to show you what's marked State's 4. Do you
23 recognize that?

24 A. That's a Miranda form, Waiver of Rights form with the
25 Sumter County Sheriff Office logo on it.

1 Q. And is that what we're talking about right there?

2 A. Yes, sir.

3 Q. All right. Now, at the top it's got Miranda rights.

4 Did you read Mr. Canty his Miranda rights on January 17th?

5 A. Yes, sir, I did.

6 Q. Can you read them now as you read them to him to this
7 jury?

8 A. Yes, sir, it's -- it have the Sumter County Sheriff's
9 Office with Anthony Dennis being the sheriff. It states
10 Miranda warning, Waiver of Rights, 1 through 5. Number 1
11 being said: You have the right to remain silent. It has a
12 line next to silent where we would ask that he place his
13 initials there to say that he understood.

14 Q. Let me ask you this. So, you have the right to remain
15 silent. There's a place for him to put his initials?

16 A. Yes, sir.

17 Q. And what -- he's initialing what?

18 A. That, that he understands that he has the right to
19 remain silent.

20 Q. And are his initials there?

21 A. Yes, sir, it is.

22 Q. Whose initials, sir, to the left, if anybody?

23 A. My initials are right beside the number, numeric, D.W.

24 Q. And why are those there?

25 A. Just to say that he understood what he initialed and

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1 that...

2 Q. And that you read them to him?

3 A. Yes, sir.

4 Q. So, you come in here in court and say here's my
5 initials and I read it to him?

6 A. Yes, sir.

7 Q. Read the next one.

8 A. Number 2 states: Anything you say can and will be used
9 against you in a court of law. And it has, also has his
10 initials next to it.

11 Q. And when you were reading him his rights, did he
12 appear to you to understand what you were saying?

13 A. Yes, sir.

14 Q. Did he indicate that he understood them?

15 A. Yes, sir, with his initials at the end of each.

16 Q. And did he verbally tell you I understand?

17 A. Yes, sir.

18 Q. Go ahead.

19 A. Number 3 states: You have the right to talk to an
20 attorney and have him or her present while you're being
21 asked. Also there's an initials at the end of that one.

22 Q. And your initials also?

23 A. My initials, sir, back of it, beside the number.

24 Number 4, it says: If you cannot afford to hire an
25 attorney, one will be appointed to represent you before any

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1 questioning if you wish. Also his initials is next to
2 that.

3 Q. And he said he understood that?

4 A. Yes, sir.

5 Q. And you understood him when he said he understood it?

6 A. Yes, I did.

7 Q. And during this time frame, during this, were his
8 answers appropriate in the, in the form of timeliness? Did
9 he take time or did he say, respond ---

10 A. No, he under ---

11 Q. --- when you asked him questions?

12 A. Yes, he understood it each time I read him his rights.
13 Number 5 says: You can decide at anytime to exercise these
14 rights and not answer any questions or make any statements.
15 Again, he put an R. there. He didn't put his initials
16 completely. He put an R.

17 Q. Did he tell you that he understood them?

18 A. Yes.

19 Q. Okay, and are your initials out to the left?

20 A. Yes, sir, my initials are next to the number.

21 Q. Underneath is there a statement? Read the statement
22 underneath there for me.

23 A. Underneath there it says:

24 I understand each of these above rights which I
25 have been read and explained by myself and

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1 Investigator D. West of the Sumter County Sheriff
2 Office at 107 East Hampton Avenue at 3:33 p.m.

3 Q. And underneath that it's signed who?

4 A. Underneath there it has two lines. The first line was
5 signed by Mr. Reginald Canty along with his mother, Dorothy
6 Canty, and it was witnessed by myself, Dominick west.

7 Q. You saw them sign that?

8 A. Yes, sir.

9 Q. Did you make him sign it?

10 A. No, sir.

11 Q. His mom signed it and he signed it?

12 A. Yes, she did.

13 Q. Underneath that's the Waiver of Rights. Would you
14 read this to the jury as you read it that day Mr. Canty?

15 A. At the bottom it says:

16 Having been advised of my rights and fully
17 understanding my rights, I do not wish to answer
18 questions at this time, and I do not wish to have
19 an attorney present. My decision to answer
20 questions now without an attorney is made freely
21 and is of my own choice. No one has threatened
22 me in any way or promised me anything.

23 And it has three lines. Mr. Canty signed one. His
24 mother signed one, I signed one, and also the date and
25 time.

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1 Q. And I may have misheard you. Did you say it says I do
2 wish to answer questions?

3 A. Yes.

4 Q. Okay.

5 A. I do wish to answer questions at this time, and I
6 do not wish to have an attorney present.

7 Q. I know you misspoke there. All right, and underneath
8 there he signed it and you signed it?

9 A. Yes, sir. He signed it, his mom signed it, and I
10 signed it.

11 Q. And to the right is ---

12 A. The date and the time that we finished this Miranda
13 form.

14 Q. Mr. West, Investigator West, let me ask you. At any
15 time during the reading of the rights and the statement
16 where he signed I understood my rights and the waiver of
17 rights down here, did he ever say to you I don't want to
18 talk to you?

19 A. No, sir.

20 Q. Did his mother ever say he doesn't want to talk to
21 you, or I don't want to talk to you?

22 A. No, sir.

23 Q. Did you have trouble understanding him?

24 A. No, sir.

25 Q. Based on his responses, did he appear to have trouble

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1 understanding you?

2 A. No, sir.

3 Q. Did he appear to be under the influence of alcohol
4 during the giving of this statement, or during the reading
5 of these rights?

6 A. No, sir.

7 Q. Did you threaten him?

8 A. No, I didn't.

9 Q. Did you coerce him?

10 A. No, sir.

11 Q. Did you hold out any hope or promise of reward?

12 A. No, sir.

13 Q. You were in a room there, and I don't know if he did
14 or not, but if had wanted to use the bathroom or wanted
15 something to eat, would he be allowed to do so?

16 A. Yes, sir.

17 Q. I don't know if he did or not, but you would have made
18 that available?

19 A. Yes, sir.

20 Q. After reading him these rights, did you have an
21 occasion first to take an oral statement?

22 A. Yes, sir. We began just talking casually, and I was
23 telling him his story was inconsistent with the previous
24 conversation that we talked.

25 Q. That's how you started talking with him, saying your

1 stories are inconsistent?

2 A. Yes, sir.

3 Q. And, and did you make notes later of the oral
4 statement?

5 A. Yes. As he was talking, I was making notes, putting
6 down what he was saying and then I read -- I went back and
7 retyped those and ---

8 Q. He signed them?

9 A. He signed it, yes, sir.

10 Q. Was his mother in there during this whole time?

11 A. Yes, sir. His mother was present the whole time
12 because at that time he was being charged.

13 Q. Now, will you take your time, please, and, and read to
14 the jury, tell them this oral statement on -- from January
15 17, 2008?

16 MR. WILDER: Your Honor, please note the same
17 objection.

18 THE COURT: Yes, sir, overruled.

19 MR. DEAS: We join in the objection.

20 THE COURT: Overruled as well.

21 BY MR. MEADORS:

22 Q. If you'll just take your time and read through.

23 A. Yes, sir.

24 On January 17, 2008, at 1634, Reginald Canty was
25 brought to LEC, Law Enforcement Center,

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1 accompanied by his aunt, Ms. Glover. Reggie's
2 mother, Dorothy Canty, arrived at the LEC and the
3 interview began. I started by advising Reginald
4 of his Miranda rights, and he signed the Waiver
5 of Rights form in front of his mother due to the
6 fact that he was being charged at the present
7 time. After reading him his Miranda rights, I
8 then advised Reginald that his story in the past
9 was inconsistent and that he needed to be
10 truthful from here on out. Reginald began
11 telling the story of the events that happened on
12 how he was at home and the other person ---

13 Q. And another person?

14 A. And another person.

15 Q. Okay. Go ahead.

16 A. Approached him and asked him whether he wanted to
17 make any money by robbing a pizza man, and he
18 told him yes. Reginald then stated he asked his
19 cousin Desmond Canty to take him and another
20 person to the store, Cherryvale Grocery, where he
21 stated that another person made a phone -- made a
22 telephone call to Sambino's Pizza Restaurant.
23 Reginald then stated that they went inside the
24 store, and he wanted to buy some batteries, but
25 did not -- they did not have the kind he wanted.

1 Reginald stated that the other person brought a
2 Debbie snack cake and left the store. I then
3 asked what -- I then asked what did they do next.
4 And he stated that they went back to his house,
5 and another person walked back to the rear of the
6 mobile home park, O.C. Mobile Home Park, and
7 watched until the pizza man drove up in the van.

8 Q. Does it say: And he watched until the?

9 A. And he watched until the pizza man drove up in
10 the van. He began to say he stood in his yard by
11 the gate and saw a black male struggling with the
12 pizza man and another black male holding a
13 revolver. I asked him how he knew it was a
14 revolver, and it being dark with no lighting on,
15 and he said there was a glare coming from the
16 gun. He then said -- he then stated it was not
17 supposed to happen like that.

18 Excuse me.

19 And I asked him what did he meant by that, and he
20 said that the pizza man was not supposed to get
21 shot. He stated it was an accident. His mother
22 then asked him ---

23 MR. DEAS: Objection. Objection, Your Honor, as to
24 hearsay with regard to the statements of his mother.

25 THE COURT: Sustained -- overruled. Oh, his mother.

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1 Sustained as to the mother.

2 MR. MEADORS: Let me get the context, Your Honor, just
3 to get him back where he was.

4 Your Honor, I guess at this point our position would
5 be those aren't being asked for the truth of the matter
6 asserted. It's just what his response was.

7 MR. WILDER: I have no objection to that.

8 THE COURT: All right. It's not being asked for the
9 truth of the matter asserted. It's just -- sustained.

10 BY MR. MEADORS:

11 A. He stated it was a accident. His mother then
12 asked him how he knew it was an accident, and you
13 said you weren't there. How you knew it was a
14 revolver and it was dark outside. Reginald then
15 began to cry. He stated that he did not shoot
16 and kill anyone. He kept saying it was a
17 accident, and he kept saying he wasn't there.
18 So, I asked him there is no way you can say it
19 was a accident and you weren't there, and he put
20 his head on the table and continued to cry.
21 Reginald then stated that the suspects ran away
22 and he ran in the house.

23 Q. Take, take yourself back there right now, if you can.
24 Did his body do anything when he started to cry, or when he
25 said it wasn't supposed to happen that way? Can you

1 describe?

2 A. When -- during the interview when we was talking about
3 that, he, he just paused and then just dropped his head to
4 the table and began, you know, shedding tears, crying.

5 Q. And after this oral statement that you documented, did
6 you also, during the same time period, then take a written
7 statement?

8 A. Yes, sir. I told him that, that I was writing down
9 the notes that we was talking about, but also at the same
10 time I could put it on a statement form, and that's what I
11 did. And we went back over what he, we talked about
12 before. But like the first statement, that I told him to
13 say it slower and so I could write it down word for word
14 what he told me.

15 MR. MEADORS: Beg the court's indulgence.

16 (A PAUSE.)

17 Q. Showing you what's marked State's 5..

18 A. Yes, sir.

19 Q. Is this the original statement?

20 A. Yes, it is.

21 Q. I think your rights -- you read the rights you said
22 around 3:30?

23 A. 1534.

24 Q. And what time did this written statement conclude at
25 the bottom?

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1 A. Every -- the whole interview concluded at 1644.

2 Q. What is that?

3 A. 4, 4:44.

4 Q. And again, this is on the voluntary statement form,
5 but you -- had you already read his rights?

6 A. Yes, sir. It was a continuing investigation with the
7 first Miranda form.

8 Q. And again on State's 5, did he, did he fill out
9 background information on the top?

10 A. Yes, sir.

11 Q. Was that provided by him again?

12 A. Yes, sir.

13 Q. Did you have any trouble understanding him?

14 A. No, sir.

15 Q. When you said what's your birthday, was he able to
16 provide that?

17 A. Yes, he was.

18 Q. And you could understand his words?

19 A. Yes, sir.

20 Q. And again, did he sign that? He put initials up ---

21 A. Yes, sir, at the beginning.

22 Q. Where it says I understand and I do not have to say
23 anything and I volunteer this information?

24 A. Yes, sir.

25 Q. Would you please publish State's 5 for the jury, and

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1 is his momma still in the room?

2 A. Yes, sir. You want me to start from the top I,
3 Reginald Canty, or just go into the statement?

4 Q. Read the form, yes, sir.

5 A. The form?

6 MR. DEAS: Same objection as to the, as to the written
7 statement, Your Honor.

8 THE COURT: Overruled.

9 BY MR. MEADORS:

10 A. It says:

11 I, Reginald Canty, I understand I do not have to
12 say anything, and I volunteer the following
13 information of my own free will for whatever
14 purposes it may serve.

15 I can is circled: Read and write and completed the
16 seventh grade in school. It goes into the statement.

17 This statement is being written by ---

18 MR. WILDER: Your Honor, I do want to join that
19 objection.

20 THE COURT: All right.

21 MR. WILDER: Thank you.

22 THE COURT: Overruled.

23 BY MR. MEADORS:

24 A. This statement is being written by myself,
25 Investigator D. West, by the request of Mr.

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1 Reginald Canty in the presence of his mother,
2 Dorothy Canty. I am not currently under the
3 influence of any alcohol or drugs. I was
4 standing by the mailbox of the O.C. Mobile Home
5 Park when another person I know by another name
6 came ---

7 Q. Does it say: I know him by another name?

8 A. I know him by another name. Came up to me and
9 asked whether I wanted to be a part of robbing a
10 pizza man, and I said yes because I didn't want
11 the other guys to laugh and pick at me. Another
12 person told me to ask my cousin to take us to the
13 store. I was going to get the -- I was going to
14 get batteries. My cousin name is Desmond Canty.
15 He told me he was going to call Sambino's and
16 order some pizzas. We went to Cherryvale
17 Grocery. Another person used the pay phone right
18 next to the trash can, green, and called
19 Sambino's. Another person ordered three large
20 pizzas. Pepperoni and cheese is all heard he
21 asked for. We went -- we then went into the
22 store. I looked for the batteries, but they
23 didn't have any. Another person brought a Debbie
24 snack cake donut sticks. We went back to the
25 house and we went into the back where the trash

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1 cans were, and I sat on a blue Caprice next to
2 Toya's house. Toya stays next door to us. Toya
3 asked me to watch her house while she was gone.

4 MR. WILDER: Again, I object and I ask that part be
5 stricken.

6 MR. MEADORS: Judge, this, this is his statement.

7 THE COURT: That would still be ---

8 MR. MEADORS: To law enforcement, but it's a statement
9 against -- Judge, whatever. I'm fine either fine. I can
10 go on. It doesn't matter.

11 THE COURT: As to Toya, I sustain the objection.

12 MR. WILDER: Thank you, Your Honor.

13 BY MR. MEADORS:

14 Q. I guess you take up with: I, I then went to my.

15 A. After it says: Toya left, I then went and sat on my
16 porch?

17 Q: Yes. Yes, sir. Yes, sir. Yes, sir, that's exactly
18 right. Yeah.

19 A. Toya left. I then went and sat on my porch until
20 the pizza man came. I saw a silver in color
21 Chrysler van pulled up, and it pulled up to the
22 back where another person was -- the other person
23 was. The pizza man stayed in his vehicle for
24 approximately three minutes, and he then -- and
25 then -- he

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1 then got out and went to the abandoned residence, lot
2 number , and saw the door open and turn around and went
3 back to his vehicle real fast. The pizza man was met by
4 three males with hoodies. Another person was one of the
5 males, and I didn't -- and I don't know who the other two
6 were. The pizza man was trying to take the gun rifle away
7 from the black male, and the black male told the pizza man
8 to stop, and then the gun fired. After I saw the man got
9 shot, I ran in the house and told my moms I heard a
10 gunshot.

11 Q. Now, was there -- did Reginald Canty initial the
12 bottom of the first page?

13 A. Yes, sir.

14 Q. And also where he said he read the statement and it
15 bears his signature and certifies that the facts inhere are
16 correct?

17 A. Yes, sir.

18 Q. He signed that front page along with you?

19 A. Yes, he did.

20 Q. And on page 2, did he sign the beginning of the
21 writing and the end?

22 A. Yes, sir.

23 Q. He initialed it? I'm sorry.

24 A. Yes, sir, he initialed it.

25 Q. Did you cross out the bottom?

1 A. Yes, sir.

2 Q. And does he have R.C. there?

3 A. Yes, sir.

4 Q. And is that so nobody else can come and add something
5 later ---

6 A. Yes, sir.

7 Q. --- that they don't know about or you don't know
8 about?

9 A. That's correct. Nobody won't be able to add any
10 information.

11 Q. And then did you both sign down there?

12 A. Yes, sir, we did.

13 Q. And then when the -- please look, look at this jury,
14 Mr. West, and tell them. During the taking of that oral
15 statement and/or handwritten statement, at any time during
16 that process did you threaten the defendant?

17 A. I did not threaten Mr. Canty.

18 Q. Did he -- thank you, Mr. Canty, thank you. Did, did,
19 did he ever ask you for a lawyer?

20 A. No attorney was asked for throughout the interview.

21 Q. Did he ever say stop, don't talk to me or I don't want
22 to talk to you?

23 A. No, sir. He never requested the interview be stopped.

24 Q. Did his momma ever do that?

25 A. No, she didn't.

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1 Q. And if they had requested or asked for a lawyer, would
2 you have stopped?

3 A. Yes, sir. That interview would be terminated.

4 MR. MEADORS: And, Your Honor, that's State's 5. It's
5 be I.D., we offer it as State's 5.

6 THE COURT: Over objection.

7 MR. DEAS: Yes, sir.

8 (STATEMENT BY CANTY MARKED INTO EVIDENCE AS STATE'S
9 EXHIBIT NUMBER 5.)

10 MR. MEADORS: Your Honor, I believe I offered the
11 rights form, too, from that day, the 17th. If I didn't, I
12 also offer those, subject to objection.

13 THE COURT: Any, any objection to the rights form?

14 MR. DEAS: No objection, Your Honor.

15 MR. WILDER: No, Your Honor.

16 THE COURT: All right. Those are without objection.

17 The others ones, I note your objection.

18 MR. WILDER: Could I see which ones you're talking
19 about?

20 MR. MEADORS: It was the one on the 17th. State's 4
21 it been marked.

22 MR. WILDER: No objection.

23 MR. DEAS: No objection.

24 THE COURT: Without objection.

25 (MIRANDA WARNING FORM-CANTY MARKED INTO EVIDENCE AS

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1 STATE'S EXHIBIT NUMBER 4.)

2 BY MR. MEADORS:

3 Q. And then was he placed under arrest that evening, Mr.
4 Canty?

5 A. Yes, he was.

6 Q. January the 25th, did you have an occasion to talk to
7 Mr. Canty?

8 A. Yes, sir.

9 Q. And where did that take place?

10 A. The Sumter County Sheriff Office, Law Enforcement
11 Center.

12 Q. I show you what's marked State's 7, what's marked
13 State's 7, and ask you. Do you recognize that?

14 A. It's another statement form.

15 Q. And is the date on here?

16 A. 1/25/08.

17 Q. And where specifically did this take place?

18 A. Sumter Law Enforcement Center in the interview room.

19 Q. Same interview room?

20 A. Yes, sir.

21 Q. And was he, was he given his Miranda rights then?

22 A. Yes, he was.

23 Q. And I show you what's marked as State's 6 and ask you
24 if you recognize that.

25 A. That's another Miranda form.

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1 Q. And were you present or did you -- were you present
2 when these rights were given?

3 A. I wasn't.

4 Q. Okay, and who gave those rights?

5 A. Officer, Sergeant Burnish, who was head investigator
6 with the case.

7 Q. Well, at that same -- were you present when the
8 statement was given?

9 A. Yes, sir.

10 Q. And did you -- were you informed and did you know that
11 his Miranda rights had been given to him previously?

12 A. Yes, sir. That form was signed and dated with him and
13 his mother's signature.

14 Q. His mother was there also?

15 A. Yes, sir.

16 Q. On the 25th. Could you, starting at the top again --
17 so, that information, did you already know it by now, or
18 did he give you that information again? He being Mr.
19 Canty.

20 A. On this form right here, it was filled out by Sergeant
21 Burnish, the top part.

22 Q. Of the written form?

23 A. Yes, sir.

24 Q. And so we get down to the writing here then. Who
25 wrote that?

1 A. The narrative was written by Mr. Canty.

2 Q. Okay, and he wrote it himself?

3 A. Yes, sir.

4 Q. Okay, and at the bottom of that narrative, did you
5 sign that?

6 A. Yes, sir.

7 Q. And was his mother present when you took this
8 statement, when this statement was taken?

9 A. She was there present.

10 Q. Can you start there -- again, does it have:

11 I, Reginald Canty, understand I do not have to
12 say anything, and I volunteer the following
13 information of my own free, of my own free will
14 for whatever purposes it may serve?

15 A. Yes, sir, it does.

16 Q. I can read and write and completed the seventh grade
17 in school, correct?

18 A. Yes, sir.

19 Q. Did you ever have trouble understanding him?

20 A. No, sir, I didn't.

21 Q. Will you publish this to the jury?

22 A. Yes, sir. After him understanding that this was a
23 voluntary statement, that he can read and write, it goes in
24 to say that:

25 When we got home, another person went to the back

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1 of the trailer, and he wait at the back for the
2 pizza man to come. When the pizza man came, they
3 started to rob the man. The pizza man was trying
4 to take the gun from another person, and this
5 person said stop. And after he said stop, he
6 shot the pizza man. It's a -- then he stayed
7 there for a second. Then he ran. It looked like
8 it was another person running away with the other
9 person around the car.

10 Q. And did he initial the top and the -- when it with
11 when and at the car?

12 A. Yes, sir.

13 Q. And did you cross underneath there? Did he put two
14 initials showing that that was the end?

15 A. Yes, he did.

16 Q. And at the bottom does it have 1/25/08, 12:06 p.m.?

17 A. Yes.

18 Q. Is when that concluded?

19 A. Yes, sir.

20 Q. Did Mr. Canty sign it or did you sign?

21 A. Reginald -- Mr. Canty signed and then I signed.

22 MR. MEADORS: And that's State's 7, Your Honor. We'd
23 offer it.

24 THE COURT: Subject to your objection.

25 MR. DEAS: Same objection.

1 MR. WILDER: Same objection.

2 (STATEMENT BY CANTY MARKED INTO EVIDENCE AS STATE'S
3 EXHIBIT NUMBER 7.)

4 THE COURT: All right, ladies and gentlemen, we're
5 going to take about a five minute break here at this time,
6 and then we'll get started.

7 Please caution you do not discuss anything, not the
8 testimony while you're back there. We won't be very long.
9 Thank you.

10 (THE JURY EXITS AT 5:19 P.M.)

11 THE COURT: All right, court will be in recess for
12 five minutes.

13 (OFF THE RECORD.)

14 THE COURT: All right, let's bring our jury back out.

15 (THE JURY ENTERS 5:27 P.M.)

16 CLERK OF COURT: Your Honor, all the jurors are present
17 in the courtroom.

18 THE COURT: All right. Thank you.

19 Mr. Meadors, you may proceed.

20 BY MR. MEADORS:

21 Q. So, on the -- let me ask you this. January 15, 2008,
22 January 17, 2008, for the oral and the written, and January
23 25th for the written, is the person who gave you those
24 statements in the courtroom?

25 A. Yes, he is.

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1 Q. And is the person who told you yes, I agreed to rob
2 the pizza man in the courtroom?

3 A. Yes, he is.

4 Q. And the person that lowered his head and said it
5 wasn't supposed to happen that way, is he in the courtroom?

6 A. Yes, he is.

7 Q. would you please point him out for the jury?

8 A. He's the defendant with Mr. Deas, the defendant.

9 Q. Mr. Deas's client, sitting next to Mr. Deas?

10 A. Yes, sir.

11 Q. Mr. Canty?

12 A. Yes, sir, Reginald Canty.

13 MR. MEADORS: And we'd ask, ask the record to please
14 reflect he's pointed to Mr. Reginald Canty, Your Honor.

15 THE COURT: The record will so ---

16 MR. MEADORS: He's identified Mr. Canty.

17 THE COURT: The record will so reflect.

18 BY MR. MEADORS:

19 Q. Now, did you also -- I show you what's marked State's
20 Number 1 and ask you if you recognize this.

21 A. This is Miranda form for sheriff office, rights form.

22 Q. And whose name is this at the bottom witnessed by?

23 A. Myself.

24 Q. And did you have an occasion to read the Miranda
25 rights to Mr. Daniel Deangelo Jackson?

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1 A. Yes, I did.

2 Q. And in context of this case, when did that take place?

3 Well, let me ask you a different question. Was he being
4 served with warrants?

5 A. Yes, sir.

6 Q. And where were -- where was he when you read him these
7 rights?

8 A. At the Sumter County Law Enforcement Center in
9 investigations interview room.

10 Q. Okay, and was Sergeant Burnish there?

11 A. Yes, he was.

12 Q. And any other offices?

13 A. Captain Turner was there that night, but he wasn't
14 involved in the interview.

15 MR. WILDER: Your Honor, I object, object on the
16 grounds previously raised throughout this.

17 THE COURT: Objection overruled, but noted.

18 MR. WILDER: Thank you, Your Honor.

19 BY MR. MEADORS:

20 Q. Could you please -- did you read the rights to him,
21 Mr. Jackson?

22 A. Yes, I did.

23 Q. Could you read them like you did that day to Mr.
24 Jackson?

25 A. Once again, it's labeled Sumter County Sheriff Office

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- 1 with the -- Mr. Anthony Dennis being as sheriff. States
2 Miranda warning, Waiver of Rights, 1 through 5 five.
3 Number 1 says: You have the right to remain silent. It has
4 a line. On that line it has Mr. Jackson initialed D.J.
5 Right to the left of it it has initials D.W. Number 2:
6 Anything you say can and will be used against you in a
7 court of law. Again, it has D.J. as Mr. Daniel Jackson
8 initials, and to the far left beside the number it has my
9 initials, D.W. Number 3 has the: you have the right to
10 talk to an attorney and have him or her present while you
11 are being questioned. It has D.J., and my initials to the
12 far left, D.W. Number 4: If you cannot afford to hire an
13 attorney, one will be appointed to represent you before any
14 questioning if you wish. Other line has D.J., far left
15 D.W. Number 5: You can decide at any time to exercise
16 these rights and not answer any questions or make any
17 statements. It has D.J.; to the far left, it has D.W.
18 Q. Now, as you were reading those rights, did Mr. Jackson
19 appear to understand them?
20 A. Yes, sir, he did.
21 Q. Did he verbally tell you as well as add his initials?
22 A. Yes, we did.
23 Q. And were his responses prompt, time and content
24 appropriate?
25 A. Yes, sir.

1 Q. Did you understand him when he said I understand?

2 A. Yes, sir.

3 Q. Did he appear to be under the influence of alcohol,
4 drugs, or any other mind-altering substances?

5 A. No, sir.

6 Q. Did you smell anything on him?

7 A. No, sir.

8 Q. And during that time, did you ever promise him,
9 promise him anything?

10 A. No, sir.

11 Q. Threaten him?

12 A. No, sir.

13 Q. Did you hold out any hope of reward or promise?

14 A. No, sir.

15 Q. And underneath -- excuse me. Underneath there is that
16 same thing: I understand each of the above rights which I
17 have been read and explained by Investigator West?

18 A. Yes, sir.

19 Q. And 9:02 p.m.?

20 A. Yes, sir.

21 Q. Is that -- has that got his signature and your
22 signature?

23 A. It does.

24 Q. Did he ever at this point say I don't want to say
25 anything during the reading of the rights?

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1 A. No, sir.

2 Q. Underneath that is there a Waiver of Rights?

3 A. A Waiver of Rights, yes, sir.

4 Q. And if nobody doesn't mind, does it say:

5 Having been advised of my rights and fully
6 understanding my rights, I do, do wish to answer
7 any questions at this time and do wish to have an
8 attorney present -- and do not wish to have an
9 attorney present. My decision to answer
10 questions now without an attorney is made freely
11 and is my own choice. No one has threatened me
12 in any way or promised me anything.

13 So, he actually signed that?

14 A. Yes, sir.

15 Q. It says nobody threatened me or promised me anything,
16 correct?

17 A. Yes, sir.

18 Q. And then your signature?

19 A. Yes, sir.

20 Q. What date's there?

21 A. 1/16/08 at 9:03 p.m.

22 Q. At 9:03. You read his rights, he signed he understood
23 them, and signed a waiver, correct?

24 A. Yes, sir.

25 Q. Did you serve him with the murder warrant and armed

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1 robbery warrant?

2 A. Yes, sir. Yes, we did.

3 Q. For these ---

4 MR. MEADORS: Beg the court's indulgence.

5 (COUNSELORS CONFER.)

6 MR. MEADORS: Sorry, Your Honor.

7 THE COURT: You may proceed.

8 BY MR. MEADORS:

9 Q. Did you serve him with a murder warrant, arrest
10 warrant?

11 A. Yes, I did.

12 Q. And you read his Miranda rights, he said he understood
13 them, and he waived them, right?

14 A. Yes, sir.

15 Q. What did he say?

16 A. After serving the murder warrant and also an arrest.
17 warrant ---

18 MR. WILDER: Your Honor, I'm going to object based on
19 the grounds raised previously at the motion hearing.

20 THE COURT: All right. Overruled.

21 MR. WILDER: Thank you.

22 BY MR. MEADORS:

23 Q. Did he say anything when you served the murder warrant
24 or the armed, armed robbery warrant?

25 A. Yes, he -- after the armed robbery warrant was read to

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1 him, he said how could I be charged with armed robbery if I
2 didn't steal anything from pizza man.

3 Q. And did he say anything about whether or not what he
4 did when law enforcement was at his aunt's house?

5 A. When we went to Summerton, South Carolina, and looked
6 for Mr. Jackson, he said that he saw us coming. He ran out
7 and watched us while we was looking for him.

8 Q. And then the questioning ceased, correct?

9 A. Yes, sir, at 9:20.

10 Q. That's, that's good. Questioning ceased at what time?
11 Let me see if I can get my copy. I believe you right now,
12 but the questioning ceased at 9:25 p.m.?

13 A. Yes.

14 MR. MEADORS: May we approach?

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 MR. MEADORS: Your Honor, we would offer State's 1.

17 THE COURT: Very well.

18 MR. WILDER: Subject, subject to ---

19 THE COURT: Subject to your ---

20 MR. WILDER: --- what we discussed at side bar.

21 THE COURT: Absolutely..

22 MR. WILDER: Thank you.

23 (MIRANDA WARNING FORM-JACKSON MARKED INTO EVIDENCE AS
24 STATE'S EXHIBIT NUMBER 1.)

25 MR. MEADORS: Beg the court's indulgence.

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1 THE COURT: Yes, sir.

2 (A PAUSE.)

3 BY MR. MEADORS:

4 Q. The individual who told you about the aunt's house
5 when y'all came and I ran away, and the individual who told
6 you how can I be charged with armed robbery if I didn't
7 take anything from the pizza man, is that individual in
8 this courtroom?

9 A. Yes, sir.

10 Q. Please point him out for the ladies and gentlemen of
11 this jury.

12 A. It's Mr. Wilder client, Mr. Daniel Jackson.

13 Q. Sitting next to Mr. -- to the right of Mr. Wilder?

14 A. Yes, sir.

15 MR. MEADORS: Your Honor, we'd respectfully ask the
16 record so reflect.

17 THE COURT: The record shall so reflect.

18 MR. MEADORS: Your Honor, I promise I'm almost
19 through. Beg the court's indulgence.

20 (A PAUSE.)

21 MR. MEADORS: Last matter, Your Honor. Beg the
22 court's indulgence.

23 (A PAUSE.)

24 MR. MEADORS: Thank you. That's all.

25 THE COURT: All right, Mr. Deas.

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1 MR. DEAS: Thank you, Your Honor. Please the court?

2 CROSS-EXAMINATION BY MR. DEAS:

3 Q. Mr. West, how you doing?

4 A. Fine. How you doing?

5 Q. Fine. Mr. West, as you know, I represent Reginald
6 Canty. The gentleman that, that that's in -- the gentleman
7 that told you here on the January 17th interview that he
8 did not shoot and kill anyone, is that person in the
9 courtroom, too?

10 A. Yes. That's Mr. Canty, your client.

11 Q. During the oral part of the January 17, 2008,
12 interview, he told you he did not shoot or kill anyone. Is
13 that true?

14 A. Yes, he did.

15 Q. Now, essentially before you had any contact with
16 Reginald Canty so far as interviewing him, he was actually,
17 and you correct me if I'm wrong. He actually had been
18 interviewed twice before by another officer?

19 A. Yes.

20 Q. Is that correct?

21 A. On previous dates.

22 Q. The first time you interviewed him was on January 15th
23 of '08?

24 A. Yes, sir.

25 Q. Now, isn't it true that when you met with him on

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1 January 15th of '08, he did not -- and you were
2 interviewing him, he did not have his mother present, did
3 he?

4 A. No, sir.

5 Q. Now, at the time of this interview back on January 15,
6 2008, Mr. Canty was sixteen years old, correct?

7 A. Yes, he was.

8 Q. And he, according to your information, had a seventh
9 grade education?

10 A. Yes, sir. That's what he said.

11 Q. Now, was there any particular -- at that time, was he
12 being interviewed simply as a witness, or was he a suspect
13 at that time?

14 A. He was a witness at the time.

15 Q. So ---

16 A. If I'm not correct, my interview on the 15th.

17 Q. How, how, how did you become aware -- how did you
18 specifically become aware that Mr. Canty had some knowledge
19 about the incident that happened with Mr. Flexon on January
20 12, 2008?

21 A. With me working with the chief investigator, Sergeant
22 Robert Burnish.

23 Q. Sergeant Burnish advised you ---

24 A. The ---

25 Q. --- that Mr. Canty had some information?

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1 A. Yes, sir. They spoke with him previously on
2 occasions ---

3 Q. And that's why you had a follow-up contact with Mr.
4 Canty?

5 A. Yes, sir.

6 Q. Now, when you met with Mr. Canty on the 15th as you
7 stated, he didn't have his mother present, and he also
8 wasn't represented by an attorney at that time. Is that
9 correct?

10 A. No, sir.

11 Q. During this interview, it's just the two of together,
12 just you and Mr. Canty?

13 A. Yes, sir.

14 Q. Did you tape record the interview?

15 A. No, sir.

16 Q. But you did fill out a voluntary statement form?

17 A. Yes, sir.

18 Q. And I believe you've already read the voluntary
19 statement and it's been admitted into evidence. Is that
20 correct?

21 A. Yes, sir.

22 Q. Now, in the statement that Mr. Canty gave on January
23 15, 2008, he references the fact that he went to Cherryvale
24 Grocery Store, correct?

25 A. Yes, sir.

1 Q. Was it, was it not true that he also states that he
2 did not make a call to Sambino's Pizza?

3 A. Yes, sir. He said the other person.

4 Q. Mr. Canty did not make the phone call ---

5 A. Yes, sir.

6 Q. --- according to his statement?

7 A. That's correct.

8 Q. Also in that January 15th statement, is it true that,
9 according to the statement, once he came back to the
10 Cherryvale Mobile Home Park or the Cherryvale Grocery
11 Store, is it not true that he states that he, he then went
12 home?

13 A. That's correct.

14 Q. And then, according to his, to his statement, he
15 indicates that while at home and on his porch, he saw car
16 lights come up to lot number 7?

17 A. That's correct.

18 Q. And that would have been lot number 7 out at the
19 Cherryvale Mobile Home Park?

20 A. O.C. Mobile Home Park.

21 Q. And according to his statement, he indicates that he
22 saw a black -- he saw a white man wrestling with a tall
23 black man over a gun. Is that correct?

24 A. That's correct.

25 Q. Is that an accurate recitation of his statement?

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1 A. Yes, sir.

2 Q. And then he states that the other guy -- well, he
3 states that the black man told him to stop, and then he
4 heard a gunshot?

5 A. That's correct.

6 Q. Now, according to Mr. Canty's statement, while he's
7 seeing this, he's actually at his home on the, on the
8 porch?

9 A. That's correct.

10 Q. And he states that he, in his, in his statement, he
11 indicates that the gun -- well, he states that the other
12 guy had a handgun that looked like a revolver?

13 A. That's correct.

14 Q. Now, based on this statement, does it appear to you
15 that he's indicated there were two people or at least two
16 people engaging Mr. Flexon?

17 A. By his statement, yes, sir.

18 Q. And then he says after the gun fired, everyone ran.
19 He states he ran in the house. When I say he, I'm talking
20 about Mr. Canty.

21 A. That's correct, by his statement.

22 Q. And that when he got up to the house, he told his mom
23 what he saw that night?

24 A. That's correct, by his statement.

25 Q. Now, also on this January 15th statement, according to

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1 -- and let me just ask you that. This, this, on this
2 statement, this is your handwriting, correct? You have a
3 copy up there?

4 A. That's correct.

5 Q. This is your handwriting, correct?

6 A. That's correct.

7 Q. Mr. Canty didn't write this out?

8 A. The only thing he did was initial and his signature.

9 Q. So, essentially as he talked, you, you took -- you
10 basically wrote this down?

11 A. Yes, sir, I did.

12 Q. Did you take notes first and then copy your notes on
13 to this statement form, or were you writing this actual
14 statement form as he talked?

15 A. I was writing as he talked.

16 Q. Now, at the conclusion of this statement, Mr., Mr.
17 Canty indicates that he wasn't truthful with law
18 enforcement at the beginning because he, he says he was
19 nervous and scared because he never saw anyone get killed
20 before. Is that correct?

21 A. That's what he told me. That's in his statement.

22 Q. That's what he told you?

23 A. Yes, sir.

24 Q. During this January 15th interview?

25 A. Yes, sir.

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1 Q. Now, when he talks about he wasn't truthful to law
2 enforcement before, I would assume, and you tell me what
3 your view is of if this. Would it be your opinion that
4 he's referencing the two, the two statements or occasions
5 where he spoke to Sergeant Burnish?

6 A. I'm guessing two statements and from the first
7 standpoint of they contacted with him to my contact with
8 him on the 15th.

9 Q. Now, you didn't have him -- he didn't sign any type of
10 Waiver of Rights form prior to giving this statement, did
11 he?

12 A. On the 15th?

13 Q. Correct.

14 A. No, sir. He was not under arrest.

15 Q. And -- so, he wasn't Mirandized during and he wasn't
16 told of his Miranda rights?

17 A. No, sir. He was just potential, potential witness at
18 that time.

19 Q. Now, what is it specifically that changed his status
20 from simply a witness to someone that was an actual suspect
21 in the incident that happened on January 12th, 2008, or do
22 you know what changed his status from witness to suspect?

23 A. Potential evidence. Conferring with Sergeant Burnish,
24 potential evidence arrived. Like I say, I'm not -- I
25 wasn't the chief. I was just the assistant investigator.

1 Potential evidence arriving. It went from him being a
2 potential witness to being accessory to this crime.

3 Q. Now, going back a little bit to, to the date of the
4 incident, January 12, 2008, did you respond to, to the
5 scene on January 12, 2008?

6 A. Yes, I did.

7 Q. Did you, you have any specific recollection of talking
8 with anyone in the area that night about the incident?

9 A. Well, we, we scoured that neighborhood, going from
10 door to door making contact with individuals in the mobile
11 home park, or trying to make contact or whatever, going
12 down the road and just asking several occupants of the
13 residence is out there that they heard or saw anything.

14 Q. Do you have any specific recollection of talking to
15 Reginald Canty's mother on the night of January 12, 2008?

16 A. I do not recall.

17 Q. Did you ever have any conversations with her?

18 Obviously at some point you had some conversations with
19 Reginald Canty's mother, correct?

20 A. At that time I, I know I had contact with her at the
21 Law Enforcement Center, but before that time, I do not
22 recall talking with her.

23 Q. Now, when you -- and you met with him on January 15,
24 2008, and, and took this statement. You met and had any
25 contact with his mother at that point?

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1 A. At January 15th?

2 Q. Right.

3 A. No, sir.

4 Q. Leading up to January 15th, you hadn't had any contact
5 with her?

6 A. Not that I recall.

7 Q. You didn't have contact with the mother on January
8 15th and she wasn't there?

9 A. No, sir. He was just a witness at the time.

10 Q. All right. Now, following the January 15th statement,
11 according to you, some evidence had been -- that either you
12 became privy to or the lead investigator became privy to,
13 changed your, your, changed law enforcement's view of Mr.
14 Canty from being a witness to a suspect?

15 A. Yes, sir.

16 Q. Okay, and did you initiate the contact with Mr. Canty
17 that, that you had with him on January 17th?

18 A. Yes, sir. Like I said, he was brought to the Law
19 Enforcement Center by his aunt.

20 Q. Now, is it possible, and you correct me if I'm wrong,
21 that, that actually his aunt didn't bring him to the Law
22 Enforcement Center on January 17th, but that he was
23 actually transported there by Sergeant Burnish and a deputy
24 and his aunt rode with them in, in the police, in the
25 police vehicle?

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1 A. No, sir.

2 Q. That's not, that's now how it happened?

3 A. No, sir.

4 Q. So, his aunt brought him to the Law Enforcement Center
5 in her own vehicle?

6 A. Yes, sir.

7 Q. That's your, that's your recollection?

8 A. Yes, sir.

9 Q. Before any statement was given or before any
10 questioning was done on Mr. Canty on January 17th of '08
11 because he was a suspect at that point, was he, was he
12 informed of his Miranda rights?

13 A. Yes. He wasn't given his Miranda rights until his
14 mother arrived due to the fact of his age was sixteen.

15 Q. And so even though his aunt brought him, you, you
16 waited until his mother came before you even engaged in any
17 questioning?

18 A. Yes, because his mother was his guardian. His aunt
19 was just -- he was just with his aunt that day. So, his
20 mother is his guardian, his caretaker.

21 Q. And once his mother arrived, did you talk to her about
22 why Mr. Canty was being brought down to the Law Enforcement
23 Center?

24 A. When she arrived, she had to wait in the lobby for us
25 to come get her. I possibly told her that, you know, we'd

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1 bring Mr. Canty back up here because some of his
2 recollections was inconsistent in the facts. So, that,
3 that's why he is here and we needed to talk to him.

4 Q. All right, and so at that point, he was advised of his
5 Miranda rights and signed the Waiver of Rights form?

6 A. Yes, sir.

7 Q. And his mother signed it as well?

8 A. Yes.

9 Q. And then that's when you went on to take notes as he
10 gave you an oral statement?

11 A. Yes, sir.

12 Q. In the statement that he gave on January 17, 2008, is
13 it consistent with the January 15, 2008, statement in the
14 sense that he indicated that once they returned from
15 Cherryvale, Cherryvale Grocery Store he went home?

16 A. Yes, it's about the same. He said he went back to his
17 house on the 17th. In the oral statement on the 15th, he
18 stated that he was on the porch at his house.

19 Q. Those two statements are consistent with respect to
20 the fact when he returned, he returned from Cherryvale
21 Grocery Store, in both statements essentially he says he
22 went home?

23 A. Yes, sir.

24 Q. Now, also what's consistent about his statements, and
25 you correct me if I'm wrong, is that in both statements he

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1 says he went to Cherryvale Grocery Store?

2 A. Yes, sir.

3 Q. With another, with another person?

4 A. Yes, sir, along with his cousin.

5 Q. Right, and he says he went to the Cherryvale Grocery
6 Store with another person?

7 A. Yes, sir.

8 Q. And in both statements, he said another person called
9 the Sambino's Pizza?

10 A. Yes, he did.

11 Q. And in both statement, he talks about actually going
12 inside of Cherryvale Grocery Store with another person. Is
13 that correct?

14 A. Yes, he did.

15 Q. And in both statements, again you correct me if I'm
16 wrong, he states that he did not shoot or kill Mr. Flexon.
17 He says he did not shoot or kill anyone in the January 17,
18 '08, oral statement. And he also indicates in the January
19 15th statement that he was not involved in the shooting.

20 A. That's correct.

21 Q. Is that correct?

22 A. Yes, sir.

23 Q. So, essentially it's a difference between the two
24 statements, January 15th and the January 17th statements,
25 with regards to his role in what happened on January 12,

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1 2008, the difference would be with regards to detail as to
2 the other person?

3 A. Yes, sir.

4 Q. Not really with regards to his role there. There
5 really was no difference between the two statements when it
6 came to Mr. Canty's role. Would that be a fair
7 representation? Let me rephrase it.

8 A. Yes. Yes, sir.

9 Q. What I'm asking you is on the January 15th statement,
10 which is the first statement you took from him.

11 A. Yes, sir.

12 Q. And then the January 17, 2008, oral statement that you
13 took from him, I believe it's the only real difference
14 between the two statements is not so much about Mr. Canty's
15 role, but it's clearly about the role of the, of the other
16 person?

17 A. Yes. He told more of what, what took place and gave
18 more detail of ---

19 Q. Of the other person in the January 17th statement?

20 A. Of the other person. Also more emotions.

21 Q. Okay. Now, with regards to both the January 15th --
22 with regards to both the January 15, 2008, statement, and
23 the January 17, 2008 statement, with respect to the, the
24 issue of robbing the pizza man, in both statements he does,
25 and you correct me if I'm wrong. In both statements, he

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1 does say that he was asked about robbing the pizza man, and
2 he went along with that?

3 A. You saying January 15th?

4 Q. Correct.

5 A. In the 15th, it does not state that he was asked about
6 robbing the pizza man. In the 17th, that's when he stated
7 that he was approached by the other person in reference to
8 robbing the pizza man.

9 Q. So, in the 17th statement, that's the first time he
10 indicates that he was asked about robbing the, robbing the
11 pizza man, and those are his words?

12 A. Yes.

13 Q. Now, after you took an oral statement from him on
14 January 17th, then you did basically a written statement as
15 well?

16 A. Yes, sir. The oral statement, it was just
17 conversation wise, and that he was talking. And like I
18 said, I was told him in the past the story was
19 inconsistent, that he needed to be straight up front, and
20 that he was being charged at this present time.

21 Q. Okay, and when you say his story is inconsistent, in a
22 lot of ways it was consistent, but in other details it
23 wasn't?

24 A. Yes, sir.

25 Q. Would that be a fair ---

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1 A. By, by what he could see and what he could -- what he
2 said he saw, and sitting on his porch as, as the events
3 that took place. His porch was facing Cherryvale Drive,
4 and that he could not just turn his head to the side and
5 see what occurred because there was a bush right there
6 beside his house. So, he had to been standing to the
7 fence, or he had to been in close proximity of the incident
8 that happened, and there was no light back there, so.

9 Q. But with regard to the two statements, it was, it was
10 consistent with regard to him going to Cherryvale Grocery?
11 He said that in both statements?

12 A. Yes.

13 Q. It was consistent with regards to him going home once
14 he arrived back there at O.C. Mobile Home Park?

15 A. Yes.

16 Q. And it was consistent with respect to him not being
17 involved in the actual shooting of Mr. Flexon?

18 A. That's what he said. That's what he said.

19 Q. Now, was -- what was the reason why you felt it was
20 necessary to actually prepare the written statement on
21 January 17th even though you had already wrote down what he
22 said during the oral statement?

23 A. Well, from my standpoint that's something I do. If
24 I'm doing an oral interview, I'm writing down my notes.
25 Also at the same time I'm taking down as detailed. If I

1 remember what he said -- I writing down in my statement
2 book as. An investigator, you want to put it on a written
3 form. So, on that written form, we advise them that we're
4 writing every word that you state and each word is said is
5 on the statement form. So, at that time you need to talk
6 slowly and carefully and tell me in detail what occurred on
7 this incident.

8 Q. Now, the written statement, that was taken on the same
9 day you took the oral statement basically about -- it
10 looks like the oral statement began at 3:34 p.m., and the
11 written statement concluded -- well, began at 4:44 p.m. Is
12 that ---

13 A. The whole interview, the, the beginning of the
14 interview started at 3:34. The interview concluded at
15 4:44.

16 Q. So, the -- so, the written statement was prepared ---

17 A. So, it was ---

18 Q. --- and signed by him at 4:44?

19 A. Yes, with being -- we finished everything at 4:44.

20 Q. Within in, within a ---

21 A. Yes.

22 Q. A little over an hour?

23 A. Yes, sir.

24 Q. Now, would it be fair to say that this, that the
25 written statement had some, some details in it that the

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1 oral statement does not?

2 A. It, it does.

3 Q. Now, is that because you stopped the oral statement
4 and then said look, we're going to follow this up with a
5 written statement, so let's stop here, and then I'm going
6 to take a full written statement from you?

7 A. As -- after that statement, after the oral interview,
8 I told him that, hey, I need to put this on a written form,
9 a written statement form. Let's do this while you, while
10 you're talking to us, so.

11 Q. Now, you didn't have him sign another Waiver of Rights
12 form when you did the written statement?

13 A. No, sir. I was looking at that interview time of, of
14 when I first Mirandized him.

15 Q. And you didn't, you didn't Mirandize him again, did
16 you?

17 A. No, sir.

18 Q. All right. So, would it, would it be fair to say then
19 that this, this written statement was simply sort of like a
20 continuation of the oral statement? The only difference is
21 now you're writing down what ---

22 A. Yes, sir.

23 Q. --- it says on an actual voluntary statement form?

24 A. Yes, sir. Everything was continuous where he first
25 Mirandized when he got there in front of his mother, and

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1 oral statement, and then a written statement were ---

2 Q. It really looks like these are two separate
3 statements. It's more like this was the beginning, the
4 oral statement was the beginning of the statement, and this
5 was more so just a continuation of a more detailed
6 recitation of that statement?

7 A. The oral statement is my notes, mostly my notes. The
8 written statement is what goes into that case file. Also,
9 during the oral interview, you'll want to, just in case you
10 go to trial like this, you want to put everything that was
11 told to you during that investigation period.

12 Q. Now, in the, in the written statement, he references
13 the fact that in this written statement on January 17,
14 2008, he, he references the fact, like he does in the oral
15 statement, that another person asked him about robbing the
16 pizza man, correct?

17 A. Yes. Yes, sir.

18 Q. And that he told -- and that he, he agreed to take
19 part in that?

20 A. Yes, he did.

21 Q. All right, and then he also states that he, he took --
22 he said he has taken part in it because he didn't want
23 these other guys to laugh and pick at him?

24 A. That's correct.

25 Q. And then he references the fact that, that he asked

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1 his cousin to take him to the store ---

2 A. That's correct.

3 Q. --- along with this other person?

4 A. That's correct.

5 Q. And then he says in this written statement following
6 the oral statement that he, that he went to Cherryvale
7 Grocery Store and that the other person used, used the pay
8 phone and called Sambino's Pizza?

9 A. That's correct.

10 Q. And like in this statement -- well, like in the oral
11 statement, in this statement he says he's not the person
12 that called Sambino's Pizza?

13 A. That's correct.

14 Q. And he, in the written statement he indicates that he
15 heard the other person order three large pizzas?

16 A. That's correct.

17 Q. And he also states that the other person bought a
18 Little Debbie snack cake?

19 A. That's correct.

20 Q. That's what he says in the written statement?

21 A. Yes, sir.

22 Q. And then he says they went back to his house?

23 A. That's correct.

24 Q. And, and then he indicates that the other person went
25 to the back where the trash cans were, and that he sat on a

1 blue Caprice next to Toya's house?

2 A. Yes.

3 Q. And when I say he, that's referencing Reginald Canty?

4 A. Yes, sir, that's correct.

5 Q. And then he indicates that he saw -- that he went to
6 sit on his porch. Is that correct?

7 A. That's correct.

8 Q. You ever seen Mr. Canty's house?

9 A. Yes, sir.

10 Q. Is there a porch on the front of the house?

11 A. It's on the front of house.

12 Q. It's not -- and is it fenced?

13 A. Yes, it's fenced in.

14 Q. Is the fence locked?

15 A. Yes, sir. It's the first trailer in that mobile home
16 park.

17 Q. Now, I don't want -- well, you may not have been privy
18 to this, but the, the area where this incident happened or
19 where Mr. Canty's house is, it's on a U-shaped cul-de-sac?

20 A. Yes, sir.

21 Q. Would that, would that be a fair representation of it?

22 A. Yes, sir. It's an entrance on the left side of his
23 house and also on the right side of his house because his
24 house is first -- like it's right there in the middle of
25 the U.

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1 Q. That's what I was going to ask you. Essentially, Mr.
2 Canty's house sits in the middle of this U-shaped
3 cul-de-sac?

4 A. That's correct.

5 Q. With trailers on, on all around on each side?

6 A. Yes, sir, that's correct.

7 Q. And the trailers are, are on, on lots, empty lots?

8 A. Yes, sir.

9 Q. Now, in this January 17th statement that he, he then
10 goes on to say that, that once he went to sit on his porch,
11 the pizza man came, and that he saw a silver in color
12 Chrysler van pull up. Is that, that correct?

13 A. That's correct.

14 Q. He indicates, he indicates that the pizza man stayed
15 in his vehicle, and these are his words, for approximately
16 three minutes, and then he got out and went to the
17 abandoned residence at lot 7, and I say he got out is
18 referencing Mr. Flexon?

19 A. Yes, sir, that's correct.

20 Q. Then he indicates in this statement that he, that the,
21 that the pizza man was met by three males with hoodies. Is
22 that correct?

23 A. That's correct.

24 Q. And that one of the males was the other person?

25 A. Yes, sir.

1 Q. And he states he doesn't know who the other two were?

2 A. That's correct.

3 Q. And he states that the pizza man tried to take the
4 rifle away from the black man?

5 A. That's right.

6 Q. He says that the black male told the pizza man to stop
7 and then the gun fired?

8 A. That's correct.

9 Q. And he states that: After I saw the man got shot, I
10 ran in the house and told my mom I heard a gunshot?

11 A. That's correct.

12 Q. Now, essentially being the only difference really
13 between the January 15th statement, either the oral
14 statement or the written statement, is that just the, just
15 the additional detail about the other person?

16 A. Yeah.

17 Q. Telling us specifically, referencing three males,
18 three black males who approached Mr. Flexon?

19 A. Yes, he, he just -- with the time frame, the three
20 males, the -- what, what phone call was made from the pay
21 phone next to the trash can, the, the type of Debbie snack
22 cake, also with the blue Caprice. He didn't talk about
23 that in the oral.

24 Q. Now, he did talk about the Debbie snack cake in the
25 oral?

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1 A. But he didn't name brand. He didn't give a name
2 brand ---

3 Q. Right.

4 A. --- in the oral statement. He gave just a Debbie
5 snack cake. In the written statement, he said donut
6 sticks.

7 Q. Right. So, it seems like even with this statement,
8 the written one, he's giving more detail.

9 A. Somewhat, yes, sir.

10 Q. Okay. Now, after he gave this statement he was
11 actually placed under arrest, correct?

12 A. Yes, sir.

13 Q. And he was charged with what?

14 A. The first initial charge was accessory.

15 Q. Accessory ---

16 A. Accessory ---

17 Q. --- before or after?

18 A. --- before ---

19 Q. Accessory after the fact?

20 A. I cannot remember the correct -- the first. I believe
21 it was accessory before and after the fact, or accessory
22 after the fact.

23 Q. Accessory before or after the fact of what?

24 A. Armed robbery and I believe murder.

25 Q. And that's when he was initially -- that's what you

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1 advised him of when he was placed under arrest on January
2 17th?

3 A. Yes, after Miranda warning or the advisement, the
4 warrants and stuff.

5 Q. Now, was he advised of that before he -- was he
6 advised of the charges before he gave the statement or
7 after?

8 A. Yes, he was told of his charges before, beforehand.

9 Q. Now, at any point during this statement, did you tell
10 Mr. Canty you've got to tell me something, got to give me
11 more details than what you're giving me because you're
12 facing some serious consequences if you don't?

13 A. No. I told him his story was inconsistent.

14 Q. Did you ever tell him anything like you were going to
15 help him out and get him a lower bond if he gave you a
16 statement?

17 A. No. We, as law enforcement officer, we don't, we
18 don't do that because we can't promise you anything
19 because, like I said, we're not the judge or we're not
20 bondsmen. We can, we can, we can talk to the judge and say
21 that he participated and he's trying to help himself with
22 the case, but that input, that only -- that's our, that's
23 our input.

24 We only -- but we don't promise. Well, I do not promise
25 anybody anything.

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1 Q. So, basically what you're telling me and what you're
2 telling the jury today is that during your interviews with
3 Mr. Canty on the 15th and both times on the 17th, there was
4 never any statement made by you to him that if he
5 cooperated by giving a statement, you could help him out in
6 court with his bond? Or, or you could make sure that the
7 consequences of his actions will be minimized in some way?

8 A. On the 15th I, I know I didn't because he was just a
9 witness on the 15th. On the 17th, that's when he was
10 formally charged with a crime. He was a juvenile at that
11 time, so.

12 Q. Now, his mom was present not during the 15th, but she
13 was during the 17th?

14 A. Yes, sir.

15 Q. For, for that oral and written?

16 A. Yes.

17 Q. So, she -- so, she was privy to anything you said to
18 him?

19 A. Yes. She, she was right there from the time it
20 started until the time it ended and when we left.

21 Q. Was there ever any time when you separated him from
22 his mother?

23 A. No, sir. She was there the full time.

24 Q. All right. So, he's arrested, charged with either
25 being an accessory before the fact or after the fact of

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1 both armed robbery and murder?

2 A. Yes, sir.

3 Q. Based upon your recollection?

4 A. Base upon my recollection.

5 Q. And he, he was sixteen at the time, and where was he,
6 what -- where was he taken to?

7 A. He was transported to Columbia to DJJ.

8 Q. DJJ?

9 A. Yes, sir.

10 Q. All right, the Department of Juvenile Justice?

11 A. The Department of Juvenile Justice.

12 Q. Department of Juvenile Justice?

13 A. Yes, sir.

14 Q. Now, at some point you had an opportunity to talk to
15 him again?

16 A. Yes, sir.

17 Q. And that would have been on January 25th of '08?

18 A. That's correct.

19 Q. Now, the January 25th, '08, statement, did you -- he
20 -- you actually -- he was at DJJ. So, you -- someone
21 transported him from DJJ?

22 A. He was transported back from DJJ to the Law
23 Enforcement Center.

24 Q. Law Enforcement Center?

25 A. Yes.

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1 Q. Were you the only person that spoke with him on
2 January 25th of '08?

3 A. No, sir.

4 Q. Who else talked with him?

5 A. Chief Investigator Sergeant Robert Burnish.

6 Q. And is Sergeant Burnish the person that had him fill
7 out the Waiver of Rights form and had him then read his
8 Miranda rights on January 25th, '08?

9 A. That's correct.

10 Q. You weren't the one that did that?

11 A. No, sir.

12 Q. And the, the statement that was given on January 25th,
13 which I know you have a copy of and it's already been
14 admitted into evidence, it's basically about a paragraph,
15 it's about a paragraph long. Is that a fair ---

16 A. That's correct.

17 Q. --- characterization of it?

18 A. That's correct.

19 Q. Obviously this is not a complete and full statement
20 related to the beginning of the incident all the way to the
21 end. Would it be -- it's not the full statement that
22 recites what happened from the beginning of the incident
23 all the way to the end, is it?

24 A. It's not as detailed as the first ones that I took,
25 no, sir.

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1 Q. All right. Would it be fair to say that this
2 statement is simply more or less a continuation of the
3 January 17, 2008, statement, or just adds more details to
4 the January 17, 2008, statement?

5 A. The 25th statement is more of him telling the other
6 person was the trigger person.

7 Q. So, essentially the, the main detail added in the
8 January 25, 2008, statement is he says that the other
9 person was the individual that shot William Flexon?

10 A. That's correct.

11 Q. And then he also states in the January 25, '08,
12 statement that it looked like it was another person running
13 away with the other person around the car. Is that, is
14 that ---

15 A. That's correct. That's what he wrote in his
16 statement.

17 Q. So, basically in here he's giving more detail about
18 the role of the other person?

19 A. That's correct.

20 Q. Now, was it -- were you ever concerned during the time
21 -- you essentially questioned Mr. Canty as a witness only
22 once and as a suspect basically three times, twice -- well,
23 let's say three. Once on the 15th, the 17th of January,
24 and then one on the 25th of January. So, basically three
25 times because on the 17th basically took two statements

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1 from him?

2 A. Yeah, I did two statements. Not, not -- yes, that's
3 correct.

4 Q. All right. At any point during this time, were you
5 concerned as to whether or not he understood his rights or
6 understood the gravity of the situation given the fact that
7 he was only, he was only sixteen and had a seventh grade
8 education?

9 A. Yes, sir. He understood everything that I, that was
10 going on.

11 Q. And, and was -- according, according to the Waiver of
12 Rights form, he was advised of his right to have counsel,
13 correct?

14 A. That's correct.

15 Q. But he did not have an attorney, did he?

16 A. He did not request an attorney.

17 Q. And do you think he knew he could request an attorney?

18 A. He knew because I read it to him, as well as his
19 mother was in there. So, if an attorney was needed, she
20 could ask because they knew what charges he was being
21 charged with.

22 Q. Do you have any knowledge as to when it was Mr. Canty
23 actually was assigned an attorney?

24 A. I do not.

25 Q. But it wasn't at the time you were questioning him?

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1 A. No. He never requested an attorney during that
2 interview on the 17th nor the 25th.

3 Q. If I told you it wasn't until May of 2008 before he
4 had an attorney, would you disagree with that?

5 A. I can't agree or disagree because I don't know.

6 Q. So, really, what it boils down, what it comes down to,
7 Mr., Mr. Canty gave you essentially three statements, each
8 of which added a little more detail to the other?

9 A. That's correct. He gave -- the first initial contact
10 with Sergeant Burnish and then myself and then the 17th ---

11 Q. And, and ---

12 A. --- and then the 25th.

13 Q. And you correct me if I'm wrong. Would it be fair to
14 say that his statements weren't completely diametrically in
15 contrast with one another, were they? In other words, they
16 weren't outlandish type statements that had no correlation
17 with one another whatsoever. They all kind of tied
18 together?

19 A. Yes, sir.

20 Q. Is that a fair statement?

21 A. Yes, sir. They kind of tied in to each other. Just
22 that he left some information out to some extent, being he
23 would come back to another statement and go back and put
24 that information into another statement.

25 Q. Well, have you ever been -- have you ever been inside

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1 Mr. Canty's house?

2 A. Yes, sir.

3 Q. Do you, do you know if there's another door to exit
4 the house other than the front door?

5 A. It's -- they had, they had a car porch attachment to
6 the rear of the residence.

7 Q. And there's also an exit to the side of the house?

8 A. I know it's the front door. I know we went -- when we
9 had a consent to search, we went to the door on the car
10 porch right there where the car porch was.

11 Q. When y'all searched Mr., Mr. Canty's home, didn't find
12 any weapons? No weapons were found, correct?

13 A. No weapons was found.

14 Q. And to your knowledge, you're aware of the fact that
15 fingerprints were lifted from two pizza boxes? Were you
16 aware of that?

17 A. 'Like I say, I wasn't the chief investigator, so.

18 Q. So, you, you don't have any specific knowledge as to
19 what the results were from the fingerprints that were
20 lifted from the pizza boxes?

21 A. No, sir. The chief investigator gets most of that
22 information, and I'm, I'm helping with things that he need
23 me to go here and come to witness, we'll talk to a witness
24 here and there. That's what, that's what my duties are.

25 Q. So, so far as the results of any SLED analysis, DNA

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1 analysis, fingerprint analysis, ballistics analysis, you
2 would not be privy, privy to that information?

3 A. I would be privy to it, but ---

4 Q. As you sit here today, you have no personal knowledge
5 about any of that?

6 A. No, sir.

7 MR. DEAS: Court's indulgence.

8 THE COURT: Yes, sir.

9 (A PAUSE.)

10 MR. DEAS: Nothing further.

11 THE COURT: Before we have the third cross or next
12 cross-examination, if the jurors would like to stand and
13 stretch for just a moment, you may do so. Anyone in the
14 courtroom may do so. You need to stand?

15 (A PAUSE.)

16 THE COURT: All right, in all fairness, if y'all need
17 to go to the bathroom in the jury room, the court reporter
18 needs about five minutes.

19 (OFF THE RECORD.)

20 THE COURT: Mr. Wilder.

21 MR. WILDER: Thank you, Your Honor.

22 CROSS-EXAMINATION BY MR. WILDER:

23 Q. Mr. West, I know the, the hour's late and I'm going to
24 try to be as brief as I know how to be.

25 A. No problem.

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1 Q. Okay. I'm going to show you a consent to search form
2 and ask you if you recognize your signature on it for the
3 record?

4 A. Yes, sir.

5 Q. And whose property were you searching on that
6 occasion?

7 A. Ms. Canty. She resided at that location.

8 Q. All right. That's Dorothy Canty, that's the mother of
9 Reginald Canty over here?

10 A. Yes, it is.

11 Q. And what address is that y'all were searching?

12 A.

13 Q. Okay, and that's right on the corner next to the crime
14 scene here, right?

15 A. Yes, sir.

16 Q. All right, and that's the one y'all are talking about
17 you can't see from the front porch because of a bush,
18 right?

19 A. Yes, sir.

20 Q. Okay. Now, so if somebody says they were sitting on
21 the porch and they were watching this, they couldn't
22 possibly see around the bush, right?

23 A. That's correct.

24 Q. Okay. Now, that consent to search form was signed by
25 Ms. Canty in your presence. Is that what I'm

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1 understanding?

2 A. That's correct.

3 Q. Okay. What were you searching for? What does the
4 form say you were looking for?

5 A. Consent to search the property for any type of
6 handgun.

7 Q. A handgun?

8 A. Yes, sir.

9 Q. Now, down there at the bottom, what does it say you
10 took from the corner property there on that house on the
11 corner? What did y'all take?

12 A. We found a shell casings of a 30-30.

13 Q. 30-30 shell casings? Where did you find the 30-30
14 shell casing in the case?

15 A. Insides Reginald Canty's room.

16 Q. Inside Reginald Canty's room. Okay, and what date was
17 that that y'all looked?

18 A. That was the 22nd ---

19 Q. 22nd?

20 A. --- of January, 2008.

21 Q. 22nd of January. Okay. Now, the shooting, I think,
22 took place on the 12th, right?

23 A. That's correct.

24 Q. So, here we are ten days later, and y'all are out
25 there finding your shell casing under Reginald Canty's bed,

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1 right? All right. Now, I'm going to show you another
2 form, NCIC activity control form. Ask you is that form
3 you've probably seen something similar to that?

4 A. Yes, sir.

5 Q. Y'all use, y'all use those around the Law Enforcement
6 Center?

7 A. That's correct. Once a individual is put into the
8 NCIC.

9 Q. Okay, and what's the date of that one down there at
10 the bottom?

11 A. 1/16 of '08.

12 Q. All right. Now, 1/16 ---
13 MR. MEADORS: Mr. Wilder, can I just see that?

14 MR. WILDER: Sure. Sure. 1/16 of '08.

15 (A PAUSE.)

16 by MR. WILDER:

17 Q. All right, now I want you to tell the ladies and
18 gentlemen of the jury the time on the 1/16/08 that that
19 form refers to.

20 A. 2108 -- 2106.

21 Q. 2106. All right. So, are we talking about 9:06?

22 A. Yes, sir.

23 Q. All right, and what's that in reference to? What is,
24 what is memorialized there?

25 A. This form?

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1 Q. Yeah. What does it say down there on print on the
2 form of what happened at that time?

3 A. The instruction was: The subject turned himself in to
4 law enforcement.

5 Q. Subject turned himself in to law enforcement and who,
6 which specific officer did the subject turn himself in to?

7 A. Robert Reynolds.

8 Q. Okay, and who is the subject that we're talking about?

9 A. Your client.

10 Q. Daniel Jackson turned himself in to Deputy Reynolds,
11 right?

12 A. Investigator Reynolds.

13 Q. Investigator Reynolds. At what time on what date?

14 A. It was clear from dispatch on January 16th, '08, at
15 2106.

16 Q. Okay. Now, now, now.

17 MR. WILDER: Okay. I'd like that marked for
18 identification, Your Honor.

19 THE COURT: All right.

20 (NCIC FORM MARKED AS DEFENDANT-JACKSON'S EXHIBIT
21 NUMBER 15 FOR IDENTIFICATION.)

22 COURT REPORTER: 15 for I.D.

23 THE COURT: Defense 15 marked for identification.

24 MR. WILDER: And back to the consent to search form,
25 I'd like to have this marked also, Your Honor.

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1 THE COURT: All right. That will be 16.

2 (CONSENT TO SEARCH FORM MARKED AS DEFENDANT-JACKSON'S
3 EXHIBIT NUMBER 16 FOR IDENTIFICATION.)

4 BY MR. WILDER:

5 Q. All right, Dominick, the -- this is a copy of the one
6 you signed, right?

7 A. Consent to search?

8 Q. Search.

9 A. Yes, sir.

10 Q. Okay.

11 A. That's the one I witnessed with Sergeant Burnish.

12 Q. Okay, with Sergeant Burnish. All right. Now, I'm
13 going to show another piece of paper and ask you can you
14 identify your signature on this one?

15 A. Yes, sir.

16 Q. All right. What date did you sign that form, and
17 what's it in reference to?

18 A. That's January 18, 2008, at 4:45 p.m.

19 Q. Now, on that occasion, were you not -- I ask you what
20 you -- what he told you, but were you speaking with Henry
21 Parker?

22 A. That's correct.

23 Q. And is Henry Parker the maintenance guy of O.C. Mobile
24 Home Park?

25 A. That's correct, at that time.

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1 Q. At that time he was. And would he have been the one,
2 like, would know whether or not any kind of light was on in
3 that area down there along where lot 17 is?

4 A. That's correct.

5 Q. And did your conversations ---

6 MR. MEADORS: Excuse me. Did you say lot 7 or 17?

7 MR. WILDER: 17, I thought, but was it 7?

8 MR. MEADORS: 7. 7. Sorry.

9 by MR. WILDER:

10 Q. Lot 7?

11 A. Yes, sir.

12 Q. 7 and 8, right?

13 A. That's correct.

14 Q. Okay, and -- thank you, and that's where the light
15 would be if there was one down there, and that light
16 apparently was out, wasn't it?

17 A. That's correct.

18 Q. And you were talking to Henry Parker who was the
19 maintenance guy for the, for O.C., right?

20 A. That's correct.

21 MR. WILDER: Okay. I'd like this marked for
22 identification.

23 THE COURT: All right. Be number 17.

24 (STATEMENT MARKED AS DEFENDANT-JACKSON'S EXHIBIT
25 NUMBER 17 FOR IDENTIFICATION.)

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1 BY MR. WILDER:

2 Q. Now, I'm just guessing, Investigator -- or Mr. West
3 now. I'm just guessing, but would it not be correct that
4 if you were confronting Mr. Canty about how could he see
5 when the light was out, you already knew the light was out
6 when you talked to him, and you knew he was lying about
7 that, right?

8 A. I confronted Mr. Canty on the 17th. That's when he
9 was formally charged. So, that was before the fact.

10 Q. Well, at least as of ---

11 A. The 15th, 17th.

12 Q. --- the 18th of January, you knew the light was out?

13 A. He -- but, yes, I confronted Mr. Canty on the 15th,
14 the 17th, and the 25th of January.

15 Q. So, you already knew the light was out?

16 A. Not before the first conversation. You understand I
17 interviewed Mr. Canty on January 15th ---

18 Q. Right.

19 A. --- and January 17th.

20 Q. Right.

21 A. That's when he was formally charged, January 17th.

22 Q. Correct.

23 A. So, January 18th, after he was charged, we found out
24 through the investigation that the light was out at the
25 time.

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1 Q. Okay, but that was one of the things you knew made him
2 not to be -- probably not telling you the truth, right?

3 MR. DEAS: Objection, Your Honor. That's, that's not
4 what he said. That's not what he testified to.

5 THE COURT: That's not what he testified to. The
6 dates conflict.

7 by MR. WILDER:

8 Q. Okay. Well, you knew the light was out on the 18th.

9 A. I found out ---

10 Q. Did you know before that?

11 A. No, sir.

12 Q. Okay. All right, and let me show you another form and
13 ask you. Can identify your signature?

14 A. That's correct.

15 Q. And what does that form refer to?

16 A. That's a voluntary statement.

17 Q. Given by who?

18 A. Ms. Lashawnda Canty.

19 Q. Lashawnda Canty. All right, and now where does
20 Lashawnda Canty live?

21 A. She resided at that present time at
22 , .

23 Q. All right, and is that where Daniel Jackson was living
24 at that time?

25 A. Possibly.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Wasn't it true you searched that house?

2 A. We searched plenty houses. What do you mean?

3 Q. But that particular house, ?

4 A. Yes, we searched that house and another residence as
5 well.

6 Q. Well, I'm not asking you about another residence. I'm
7 asking you about that one. Didn't you search

8 ?

9 A. That's correct.

10 MR. MEADORS: Your Honor, could he show him the search
11 warrant?

12 THE COURT: Excuse me?

13 MR. WILDER: I'm asking him did he search.

14 THE COURT: Do you have an objection?

15 MR. MEADORS: I just said if he could show him what
16 he's talking about, that might help him. That's all.

17 THE COURT: Can you show him what he's talking about
18 so he doesn't have to guess?

19 MR. WILDER: Your Honor, I don't have the search
20 warrant in my hand at this moment, so.

21 THE COURT: Ask him if he searched.

22 by MR. WILDER:

23 Q. Do you remember searching ?

24 A. Yes. We went there looking for Mr. Canty.

25 Q. All right.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 A. Not Canty, but Mr. Jackson. Sorry about that.

2 Q. And you do remember searching that house?

3 A. Yes.

4 Q. All right, and you talked to Ms. Lashawnda Canty?

5 A. Yes.

6 Q. And she told you where Mr. Daniel ---

7 MR. DEAS: Objection, Your Honor, to anything she
8 said.

9 THE COURT: Sustained.

10 by MR. WILDER:

11 Q. Well, you were -- whatever she told you, you wrote it
12 in that statement, right?

13 A. Whatever she told me, she wrote it in the statement.

14 Q. And you witnessed it?

15 A. Yes, sir.

16 Q. All right.

17 MR. WILDER: I'll ask that be marked for
18 identification.

19 THE COURT: Identification only.

20 (STATEMENT BY L. CANTY MARKED AS DEFENDANT-JACKSON'S
21 EXHIBIT NUMBER 18 FOR IDENTIFICATION.)

22 COURT REPORTER: 18.

23 THE COURT: 18.

24 BY MR. WILDER:

25 Q. Now, now, now, Mr. Deas was asking you about Mr. Canty

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1 changing his statement. And you say, well, it's
2 substantially the same except for, and then he'd add a few
3 more detail. That is what you kind of were subjected to
4 just a minute ago, wasn't it?

5 A. That's correct.

6 Q. All right, but now he gave two prior statements before
7 that, didn't he?

8 A. He gave -- he spoke with Sergeant Burnish on an
9 occasion.

10 Q. On those statements, he was trying to say he didn't
11 know nothing about ---

12 MR. DEAS: Objection, Your Honor.

13 Q. --- anything, wasn't he?

14 MR. DEAS: Objection, Your Honor.

15 THE COURT: Sustained.

16 MR. WILDER: All right.

17 MR. DEAS: Calls for speculation.

18 MR. WILDER: I'll withdraw that.

19 THE COURT: It's sustained. Rephrase your question.

20 BY MR. WILDER:

21 Q. At the time you said Mr. Canty, you were giving
22 inconsistent statements or something to that effect, what
23 was it that you were thinking about in your mind that
24 caused you to say that?

25 A. The statements wasn't adding up of what he's stated on

1 previous occasion and on the 15th when I spoke with him.

2 Q. All right. Now, let me show you consent to search
3 form. You recognize your signature on that?

4 A. My signature? No. I printed my name.

5 Q. You printed your name?

6 A. Yes, sir.

7 Q. Okay.

8 A. Sergeant Burnish, he witnessed it, the signature on
9 it.

10 Q. All right. So, you were there?

11 A. Yes, sir.

12 Q. And that is the search of Whitney Drive residence,
13 right?

14 A. Yes. That's consent to search form.

15 Q. Okay. Now, when you went by there and searched that
16 house, what was it that you took away with you?

17 A. Removed one pair of black jeans, Avirex name brand,
18 one black tank top shirt.

19 Q. That's it?

20 A. That's it.

21 MR. WILDER: Okay. Like to have this marked for
22 identification.

23 (CONSENT TO SEARCH FORM MARKED AS DEFENDANT-JACKSON'S
24 EXHIBIT NUMBER 19 FOR IDENTIFICATION.)

25 COURT REPORTER: 19 for I.D.

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1 THE COURT: 19 for identification.

2 BY MR. WILDER:

3 Q. All right. It came a time on January 23rd when you
4 appeared before Judge Leann Tindall at 10:50 in the morning
5 and swore to something under oath. I'd like to hand you
6 this and ask if you recognize your signature.

7 A. That's correct.

8 Q. And would you read the ladies and gentlemen of the
9 jury what you swore oath, under oath to.

10 A. I was going to get the -- your client's DNA for that I
11 could sample.

12 Q. And what did you swear under oath as the reason why
13 you wanted it?

14 A. You want me to go ahead and read the narrative?

15 Q. Just what you, what you swore under oath.

16 A. Okay:

17 Daniel Deangelo Jackson was arrested and charged
18 with murder in the death of Mr. William Flexon.

19 A struggle ensued with the victim. The suspect,
20 suspect's DNA was extracted from under William
21 Flexon's fingernails, and we was searching for
22 DNA sample comparison.

23 Q. All right. So, under oath you said:

24 Daniel Jackson was arrested and charged with
25 murder in the death of William Flexon. A

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 struggle ensued with the victim, and the
2 suspect's DNA was extracted from under William
3 Flexon's fingernails.

4 A. That's what you have.

5 Q. That's what you swore to under oath?

6 A. That's what the sample for.

7 MR. WILDER: I asked that be marked for
8 identification.

9 (AFFIDAVIT MARKED AS DEFENDANT-JACKSON'S EXHIBIT
10 NUMBER 20 FOR IDENTIFICATION.)

11 THE COURT: Defendant's 20.

12 BY MR. WILDER:

13 Q. All right, do you recognize your signature on this
14 piece of paper?

15 A. Yes, sir.

16 Q. And what is that?

17 A. That's where I obtained a sample of his DNA on the
18 cotton swab.

19 Q. Okay. So, you got the DNA swab, and what did you do
20 with it?

21 A. I put it into evidence where our evidence custodian --
22 crime scene.

23 Q. And is that form the form whereby the swab was
24 transmitted to the evidence custodian?

25 A. No, sir.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Well, what is that form?

2 A. It's an evidence form.

3 Q. Well, what is it? What does it memorialize?

4 A. What does the form memorialize?

5 Q. Yeah. What, what's that purpose?

6 A. Your chain of custody.

7 Q. Chain of custody. Okay, and it's to ensure that the
8 actual swab you got from Mr. Jackson winds up in the
9 evidence room so it can be taken to SLED?

10 A. Yes, sir.

11 Q. Is that the purpose of it?

12 MR. WILDER: Ask that this be marked for
13 identification, Your Honor.

14 (SEARCH WARRANT RETURN MARKED AS DEFENDANT-JACKSON'S
15 EXHIBIT NUMBER 21 FOR IDENTIFICATION.)

16 THE COURT: Number 21 for identification.

17 BY MR. WILDER:

18 Q. Now I'm going to show you a inventory return form on
19 another search form, and can you tell the jury where that
20 search form was conducted?

21 A. That was a Meadowfield Apartment, Summerton.

22 Q. In Summerton. Okay. So, is that Ms. Andrea Russell's
23 house?

24 A. I can't recall the name of the owner or the occupants.

25 Q. But you went over there to look through a house over

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 in Summerton?

2 A. That is correct.

3 Q. And that's the address right there on that form,
4 right?

5 A. That should be correct, yes, sir.

6 Q. Okay, and what does it say you took back with you when
7 you came away on that return?

8 A. Nothing.

9 Q. Nothing.

10 MR. WILDER: Ask that this be marked for
11 identification only.

12 (SEARCH WARRANT RETURN MARKED AS DEFENDANT-JACKSON'S
13 EXHIBIT NUMBER 22 FOR IDENTIFICATION.)

14 THE COURT: Defendant's 22.

15 BY MR. WILDER:

16 Q. Now, on the day that you were talking to my client and
17 advising him of his rights, after he turned himself in, did
18 you already or did law enforcement already have an arrest
19 warrant for him for murder?

20 A. Yes.

21 Q. And y'all have that on the 15th and you got that from
22 Judge Tindall, right?

23 A. Let me see. Yes, sir.

24 Q. Now, that warrant was sitting on the desk while you
25 were talking to Mr. Jackson, correct?

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 A. Sitting on the desk? What you mean?

2 Q. When you were in the interview room talking to Mr.
3 Jackson and you had the warrants sitting on the desk,
4 correct?

5 A. After reading his Miranda rights and serving the
6 warrant, his copy should be sitting on the desk. It was in
7 our stack of paperwork.

8 Q. Well, was it right side up or upside down?

9 A. I don't know what he do with his copy. What we do
10 with our copy, we put it to the side and try to begin the
11 interview.

12 Q. All right. Now, as you were talking to Mr. Jackson,
13 were you making notes about what Mr. Jackson said?

14 A. We were originally -- what -- excuse me. It really
15 wasn't too much said by Mr. Jackson, but ---

16 Q. Were you or were you not making notes?

17 A. It wasn't too much said by him to make any notes.

18 Q. Is the answer you were not making notes?

19 A. No, sir.

20 Q. Is that hard to say?

21 MR. MEADORS: Your Honor, I'd object to that.

22 A. I just said it differently.

23 THE COURT: Sustained.

24 by MR. WILDER:

25 Q. All right. Let me just ask it simple. Were you

1 making notes when you were talking to Mr. Jackson?

2 A. No, sir.

3 Q. Was your interview with Mr. Jackson recorded?

4 A. No, sir.

5 Q. Was your interview with Mr. Jackson videotaped?

6 A. No, sir.

7 Q. Did you see Mr. Burnish making any notes?

8 A. I wasn't paying attention to Sergeant Burnish, no.

9 Q. No?

10 A. No, sir. No, sir.

11 Q. Are you able to tell this jury the exact words that
12 either you said or my client said?

13 A. Your client, he said that how can he be charged with
14 armed robbery when he didn't take anything from the pizza
15 man.

16 Q. Are those his exact words?

17 A. He said it in some -- in similar to that.

18 Q. All right.

19 A. He couldn't be charged with armed robbery.

20 Q. Similar?

21 A. He said that he could not -- how can he be charged
22 with armed robbery if he did not take anything from the
23 pizza man.

24 Q. Are those his exacts words?

25 A. Those somewhat what he said in that similar way.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Similar way. So, the answer is you cannot tell the
2 jury his exact words?

3 A. It wasn't too much that I remember.

4 Q. Is that right?

5 A. It wasn't too much to remember because he didn't say
6 that much. That was the statement that he made towards us.

7 Q. I will repeat. Can you tell the jury the exact words
8 that he said?

9 MR. MEADORS: Your Honor, he's asked and answered it
10 three times.

11 THE COURT: Asked and answered.

12 Q. Repeat exactly what he said, please.

13 MR. MEADORS: Your Honor, he's ---

14 THE COURT: You've asked. It's been asked three times
15 and he's answered three times. Move on, Mr. Wilder.

16 BY MR. WILDER:

17 Q. Which warrant did you serve him with first?

18 A. Probably the murder warrant. I don't, I don't recall.
19 Both warrants were served on him.

20 Q. You don't recall? You said possibly the -- you can't
21 have it both ways, can you?

22 A. Both warrants were served him.

23 Q. Well, I know that, but which one did you serve first?

24 A. Both warrants were served on him. I can't recall
25 which warrant was served first. The statement was made

1 after the murder and the warrants were served on him.

2 Q. Miranda, warrant, statement, warrants?

3 A. That's your words.

4 Q. That what you just said.

5 A. No, sir, I did not.

6 Q. What did you just say?

7 A. Miranda warning, warrants, and then statement.

8 Q. Which one first?

9 MR. MEADORS: Objection.

10 THE COURT: Asked and answered. He said he didn't
11 know.

12 MR. WILDER: Thank you.

13 BY MR. WILDER:

14 Q. Okay. I'm showing you what's been marked Defendant's
15 I.D., Defendant's Exhibit for I.D. 12, and ask you. Can
16 you tell the jury when you arrived at the crime scene?

17 A. 21, 2143. That's what was written on this piece of
18 paper, on the crime scene log.

19 Q. And I believe you told the jury that you fanned out in
20 the area looking for things, right?

21 A. We combed the area, yes, sir, going door to door.

22 Q. I guess because the pizza man had been shot, if you
23 had seen a pizza box somewhere on the road, you could have
24 said that might ought to look at that, correct? Is that,
25 that fair to say?

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 A. What's that? Repeat your question.

2 Q. You found a pizza box on the road, you would say let's
3 look at that because a pizza man was shot?

4 A. Not any pizza, pizza box.

5 Q. All right. You didn't see any pizza box when you
6 fanned the area, right?

7 A. I didn't find any. I can't say what everybody else
8 saw.

9 Q. Did you look across the street on the, on the ground?

10 A. When we, when we left the area, we was talking from
11 neighbor to neighbors, and I wasn't -- I didn't find a
12 pizza box. That's what all I can tell you. I didn't find
13 a pizza box.

14 Q. Can you look at that crime scene log and tell the jury
15 who found the pizza box?

16 A. It's a crime scene log, not the evidence. That, that
17 tells who came to the crime scene.

18 Q. All right, and how many people got to the crime scene
19 before you got there?

20 A. That's twenty including the neighbor, the coroner, and
21 the first responders from the medical to law enforcement to
22 the on-shift supervisor to investigations as well and the
23 crime scene.

24 Q. In your fanning out through the neighborhood, did you
25 a chance to knock on the door of number O.C. Mobile Home

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Park?

2 A. Who stay at number .?

3 Q. I said number . Did you knock on number , door
4 number O.C. Mobile Home Park?

5 A. I don't recall what residence I knocked on. We combed
6 the area.

7 Q. Well, can you tell the jury who lives at number , who
8 lived at number O.C. Mobile Home Park?

9 A. No, sir.

10 MR. MEADORS: Your Honor, I'm sorry, he just asked him
11 who lived at number . I'm sorry.

12 THE COURT: Do you withdraw your objection?

13 MR. MEADORS: Yes, sir.

14 by MR. WILDER:

15 A. No, sir, I don't know who stay at Number .

16 Q. All right. How about number ?

17 A. I do not know who stay at number

18 Q. Well, isn't number right next to number where the
19 pizzas were?

20 A. It should be if that's the location of the mobile home
21 park. I don't have nothing in the case file the note says,
22 states who stayed at number , , or .

23 Q. All right. So, when you got there that night, which
24 house did you go to to knock on the door?

25 A. I do not recall which houses I knocked on that night.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Do you recall the names of anybody you spoke to that
2 night?

3 A. No, sir. I do not recall any houses or residents I
4 spoke with that night. If I spoke with anybody, there's a
5 statement was taken from that person.

6 Q. And I guess you wrote that down, the statement form?

7 A. If a statement was taken, they wrote it word -- wrote
8 their own statement unless they needed me to write the
9 statement.

10 Q. All right, but you know you talked to some people, but
11 you can't tell the jury who?

12 A. I can't recall who I spoke with that night.

13 Q. All right. Now, you no longer work for the Sheriff's
14 Department, correct?

15 A. No, sir.

16 Q. Did you quit and give them notice?

17 A. I resigned.

18 Q. Did they ask you to resign?

19 A. I resigned. I went back to school and received my
20 Master's Degree.

21 Q. How much notice did you give?

22 A. I resigned.

23 Q. You didn't give them any notice?

24 A. I resigned.

25 MR. MEADORS: Your Honor, I think that's asked and

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 answered.

2 THE COURT: Asked and answered.

3 MR. WILDER: No other questions.

4 THE COURT: Redirect?

5 MR. MEADORS: Yes, sir.

6 REDIRECT EXAMINATION BY MR. MEADORS:

7 Q. Mr. Wilder asked you about a consent to search at Mr.
8 Canty's house.

9 A. Yes, sir.

10 Q. You searched. There's a consent to search. Did you
11 go with Officer Burnish there?

12 A. Yes, I did.

13 Q. And I'll show you what's marked...

14 (THREE PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER 75
15 FOR IDENTIFICATION.)

16 COURT REPORTER: 75 for I.D.

17 BY MR. MEADORS:

18 Q. 75. Did you take some pictures there?

19 A. I did.

20 Q. Did you look at these three pictures contained in 75,
21 and ask just if they, they relate to that search and to the
22 questions Mr. Wilder was asking you.

23 A. Yes, sir, It's the inside the room of Mr. Canty.

24 Q. And.

25 (COUNSELORS CONFER.)

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 MR. MEADORS: Your Honor, I believe, without
2 objection, 75.

3 THE COURT: All right. This will be State's Exhibit
4 75 admitted into evidence without objection.

5 (THREE PHOTOGRAPHS MARKED INTO EVIDENCE AS STATE'S
6 EXHIBIT NUMBER 75.)

7 BY MR. MEADORS:

8 Q. Did you take a picture of a casing in Mr. Canty's
9 residence or the residence where Mr. Canty was staying?

10 A. Yes, sir.

11 Q. Now, did -- do you know whose room that was?

12 A. Mr. Canty.

13 Q. And you took that picture?

14 A. I did.

15 Q. And did you actually collect the casing or did
16 Sergeant Burnish?

17 A. Sergeant Burnish.

18 Q. I think Mr. Wilder asked you, but it was a question
19 that Mr. Deas had also. You went to Mr. Canty's residence,
20 and from that front porch could you see over to lot 7, or
21 was there something obstructing the view?

22 A. On, off the front porch ---

23 Q. Yes.

24 A. --- of Mr. Canty's residence? No, you see only
25 Cherryvale Drive. Lot is way in the rear of the park.

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 Q. So, you couldn't even see lot ?

2 A. No, sir, not from the porch.

3 Q. And I believe somebody asked, and I'm not sure, about
4 the difference between the 15th and 17th statement. And
5 Mr. Deas, he asked you were they basically the same. Mr.
6 Wilder had some follow up in direct follow up to that. The
7 difference between the 15th and 17th was he said I agreed
8 to do the robbery, right?

9 A. Yes.

10 Q. Was that the 17th?

11 A. Yes.

12 Q. That wasn't in the 15th?

13 A. No, sir.

14 Q. In Mr. Canty's statement?

15 A. No, sir.

16 Q. Are you a chemist?

17 A. No, sir, I'm not.

18 Q. Are you a forensic DNAist?

19 A. I'm not, no, sir.

20 Q. DNA person?

21 A. No, sir.

22 Q. Mr. Wilder asked you about some -- one for I.D. about
23 searching -- anyway, when you were getting the...

24 (DNA SWAB MARKED AS STATE'S EXHIBIT NUMBER 76 FOR
25 IDENTIFICATION.)

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1 COURT REPORTER: State's 76 for I.D.

2 BY MR. MEADORS:

3 Q. He asked you 20 I.D., I believe, 20 I.D.

4 MR. MEADORS: Can I approach?

5 THE COURT: You may.

6 BY MR. MEADORS:

7 Q. He was asking you about -- and that's your signature,
8 correct?

9 A. Yes, sir.

10 Q. And he asked you about the reason for affiant's belief
11 the property was sought, and this is when you were trying
12 to get the saliva from Mr. Jackson?

13 A. It is.

14 Q. And did you get that?

15 A. I did.

16 MR. MEADORS: Your Honor, 76 I believe without
17 objection.

18 MR. DEAS: Correct.

19 MR. WILDER: No objection.

20 THE COURT: Without objection.

21 (DNA SWAB MARKED INTO EVIDENCE AS STATE'S EXHIBIT
22 NUMBER 76.)

23 BY MR. MEADORS:

24 Q. When you were going to get it, you signed this form,
25 correct?

1 A. I did.

2 Q. Now, is it:

3 Deangelo Jackson was arrested and charged with
4 murder in the death of William Flexon. A
5 struggle ensued with the victim and the subject.

6 And then it's got a parenthesis S?

7 A. Yeah. Yes, sir.

8 Q. Where DNA was extracted from under William
9 Sexon's fingernails, correct?

10 A. Flexon's, yes, sir.

11 Q. Okay. Now, that doesn't say anything about a
12 suspect's DNA being under the fingernail, does it?

13 A. No, sir.

14 Q. But that's the question he asked you. That you asked
15 for it because the suspect's DNA was under the fingernail,
16 wasn't it?

17 A. Yes.

18 Q. But that really, wasn't really what this says, was it?

19 A. It's possible, possible.

20 Q. Ensued with the victim and the suspect,
21 parenthesis S, suspect's DNA was extracted
22 underneath.

23 You don't know what was in that fingernail, do you?

24 A. No, sir.

25 Q. You have no idea if that was a suspect or somebody he

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 just touched previously, do you?

2 A. No, sir, that's correct.

3 Q. Is that a form going through to just try to get, get
4 his sample?

5 MR. WILDER: Objection.

6 THE COURT: Sustained.

7 BY MR. MEADORS:

8 Q. What was that form for?

9 A. Just to get his DNA for DNA comparison.

10 Q. And you're working with the Department of Mental
11 Health now, aren't you?

12 A. Yes, sir. I work for the state.

13 Q. In charge of security?

14 A. As a law enforcement officer, yes, sir.

15 Q. Excuse me.

16 MR. MEADORS: Thank you, sir. That's all.

17 THE COURT: Recross, Mr. Deas?

18 MR. DEAS: None, Your Honor.

19 THE COURT: Mr. Wilder, briefly.

20 MR. WILDER: Recross Related just to what he asked,
21 Your Honor.

22 RE-CROSS-EXAMINATION BY MR. WILDER:

23 Q. Mr. Meadors asked you about the statement from the
24 magistrate you gave, and you said just to get a, a swab,
25 right?

D. WEST - CROSS-EXAMINATION BY MR. WILDER

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1 A. For DNA comparison.

2 Q. Are you saying you would lie to a judge in order just
3 to get a swab?

4 A. No, I didn't say just to get a swab. He probably said
5 that. I said for DNA comparison.

6 Q. So, you're telling the truth to the judge, right?

7 A. The truth as I know it. Everything's the truth.

8 Q. As you know it.

9 MR. WILDER: Thank you. No other questions.

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

11 (THE WITNESS EXITS THE STAND.)

12 THE COURT: Is there any objection to this witness
13 being excused for the balance of this trial from the state?

14 MR. MEADORS: None from the state.

15 MR. DEAS: No, sir.

16 THE COURT: Mr. Wilder?

17 MR. WILDER: Your Honor, during my case, the ones that
18 has his signature in it, I'm going to move into evidence.
19 And if I need him back for that purpose, I don't want to
20 excuse him totally. I just ---

21 THE COURT: All right. Well, he -- you can remain
22 under subpoena and we'll give you notice.

23 MR. WILDER: Thank you, Your Honor.

24 MR. MEADORS: Your Honor, he, he said he'd remain.

25 THE COURT: Okay. That's fine. All right. Well,

T. THROWER - VOIR DIRE EXAMINATION BY MR. MEADORS

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1 MR. MEADORS: Special Agent Tracy Thrower, state
2 calls, if it please the court?

3 THE COURT: Yes, sir.

4 TRACY J. THROWER, BEING DULY
5 SWORN, TESTIFIES AS FOLLOWS:

6 CLERK OF COURT: State your full name. Spell your
7 last name for the record.

8 WITNESS: Tracy J. Thrower, T-H-R-O-W-E-R.

9 VOIR DIRE EXAMINATION BY MR. MEADORS:

10 Q. Morning, Mr. Thrower.

11 A. Morning.

12 Q. Would you please tell the jury about yourself, where
13 you were born, where you were raised, your education, your
14 training, and in particular your training in the field of
15 expertise that I've asked you to testify in today.

16 A. I was born in Maine, raised in Camden, South Carolina.
17 My field of expertise is firearm and toolmark
18 identification. What else did you ask?

19 Q. Just your background, your training, where you went to
20 school, and then your education, and your education
21 particularly in that field.

22 A. Okay. I went to college at Winthrop University, where
23 I received a Bachelor of Science degree with a major in
24 biology. I was then hired by SLED, went through the
25 Criminal Justice Academy. I took or I took the course of

1 instruction on firearm and toolmark identification at SLED,
2 which was about a three, three and a half year course of
3 instruction based on a mentoring type program where
4 court-qualified firearm, firearm examiners taught me, took
5 me under their wing, showed me how to do basically what I
6 do.

7 In this course of instruction, during this course of
8 instruction I had to perform extensive microscopic
9 comparisons. I had to do extensive reading and studying.
10 I was given written tests, oral tests, practical problems,
11 and examinations. I had the opportunity to attend various
12 armor school.

13 An armor school is a school typically put on by the
14 manufacturer of a firearm where they teach you how to
15 disassemble their guns, reassemble their guns, how to
16 identify potential problems or safety issues and how to
17 repair them.

18 I've been through numerous conferences in the field of
19 firearms identification, identification in general. I have
20 completed the course taught by the Federal Bureau of
21 Investigation on specialized techniques in firearm
22 identification. I have completed the course taught by
23 Bruce Murdock and Paul Moran on scientifically defensible
24 criteria for the identification of toolmarks. I have
25 completed the course on serial number restoration, which is

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1 taught by the Bureau of Alcohol, Tobacco, and Firearms.

2 That's, that's in Georgia.

3 Q. And then how long have you been doing this?

4 A. I believe about thirteen years now.

5 Q. Is it fair to say you, you love your job?

6 A. I do enjoy my job, yes.

7 Q. How, how many guns have you examined?

8 A. Thousands.

9 Q. And as a part of your duties, did you get potential
10 evidence, let's just say, for instance, shell casings and
11 you see whether or not a particular shell casing came from
12 a particular gun?

13 A. Yeah, that's typically what, what I do.

14 Q. Have you been offered as an expert in the field of
15 firearms and toolmark identification in the courts of this
16 state before?

17 A. Yes, I have.

18 Q. And have you been accepted as an expert?

19 A. I have.

20 MR. MEADORS: Your Honor, at this time we would offer
21 Special Agent Tracy Thrower as an expert in the field of
22 firearms and toolmark examination.

23 THE COURT: Any objection?

24 MR. DEAS: No objection.

25 THE COURT: Mr. Wilder.

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1 MR. WILDER: Just leave it to your discretion, Your
2 Honor.

3 THE COURT: All right. I am going to deem him as an
4 expert as proposed.

5 Ladies and gentlemen of the jury, you remember
6 yesterday I told you that normally a witness can only
7 testify to what is seen, heard, smelled, tested, or felt.
8 However, when somebody has a certain degree of education or
9 experience, they are allowed to give opinions, and again
10 whether or not you, as jurors, decide that he's got enough
11 information to render that opinion will be up to you. And
12 you will just give it the normal weight that you would any
13 other piece of evidence that has been admitted into the
14 record. Thank you, ladies and gentlemen.

15 You may proceed.

16 MR. MEADORS: Thank you.

17 DIRECT EXAMINATION BY MR. MEADORS:

18 Q. Can you tell us in layman's terms how you do your job?

19 A. Initially, for instance, you start with evidence
20 coming through the door. I would retrieve the evidence
21 from our evidence control department, take it to my office.
22 I would open my computer and print off the evidence packing
23 list so I see what it is the submitting agency is claiming
24 that they submitted. I then open the evidence and see what
25 they actually submitted and compare physically what I have

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1 in front of me to the listing to make sure what is, you
2 know, what they claim is there is actually there.

3 The next thing I do is I, I put gloves on, and I
4 examine the evidence for any sort of trace materials, any
5 sort of, anything I believe to be blood, fibers, anything
6 that looks out of place that it was not put there by the
7 ammunition manufacturer or it was not put there by the gun
8 manufacturer.

9 Close that. Take pictures of the evidence. I take
10 pictures of the packaging, documenting how the evidence was
11 submitted and the condition that it was in.

12 I then get departmental worksheets, and I fill out
13 departmental worksheets documenting numerous aspects of
14 each piece of evidence.

15 If I have a gun, I then take the, the gun. I get
16 similar ammunition to what was used in the, -- at the
17 scene, and I test fire that ammunition into our bullet
18 recovery tank.

19 This bullet recovery tank is literally about a 3-foot
20 diameter piece of stainless steel pipe. It goes down
21 through the floor, and the bottom of it is on the first
22 floor. My department is on the second floor. So, it's a
23 big, long tube.

24 At the bottom of this tube is a funnel. In the bottom
25 of the funnel sits a little cup on a chain, and this big

1 tube is full of water. When I get ready to test fire, I
2 simply point the gun down into the tube and I fire. The
3 water slows the bullet to a safe speed at which the bullet
4 will tumble down that cone and fall into the cup. You
5 simply pull the chain up that's attached to the cup, and
6 you can dump the test specimens in your hand. That's how I
7 retrieve my test specimen.

8 The water does not remove these microscopic scratches
9 and striations that are on the outside of the bullet from
10 the outside. It preserves those for me to examine.

11 Now that I have my test specimens -- bullets and
12 cartridge cases that I know came from this particular gun
13 because I shot the gun -- I have representative samples of
14 how this gun marks. I then take these test specimens to my
15 comparison microscope.

16 A comparison microscope is essentially two microscopes
17 that sit side-by-side. I've got two sets of lenses, two
18 stages. I can mount one bullet on one stage, another
19 bullet on another stage. They're connected by an ocular
20 bridge to one set of eye pieces so that when I'm looking
21 through my eye pieces I can see both, both specimens at the
22 same time with simply a small hairline dividing them so I
23 can place them side-by-side, move them, change lighting,
24 and compare them, and that's the basis behind it.

25 I, I first look at my test specimens. I usually start

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1 on my left, and I try and find some marking that I think
2 stands out that's, that's obvious, easy to spot. And then
3 I keep moving the, the one on the right until I find the
4 same marking. When I find them, I look at all the markings
5 above and below them, on both sides of them, and compare
6 them to see if I find consistency in the pattern that I
7 see. If I do, I rotate them to another portion of the
8 bullet. I look for markings, and I keep doing this until
9 I've covered the entire surface of the bullet.

10 If I find enough consistency in the markings that I
11 see, I can determine that this gun marks consistently, that
12 I believe this gun is identifiable to a, to any other
13 evidence that I may examine. Now that I've done that, I
14 take one test specimen down, I put up a piece of evidence.
15 Now I compare my evidence to my test using the same
16 process.

17 Q. Thank you. Take us through what you did in this case.
18 What, what was the first piece of item -- how did you get
19 involved in this? And for, for the record, do y'all have a
20 SLED lab number that's confined to every case?

21 A. Yes, sir.

22 Q. And is this lab number L08-00816?

23 A. That is the lab number, yes, sir.

24 Q. All right, and did you receive an item of physical
25 evidence from the Sumter Sheriff's Department?

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1 A. Yes, sir. The first piece of evidence that I received
2 was SLED lab or SLED, SLED Item Number 8. It was a fired
3 bullet and a bullet jacket fragment. I also received SLED
4 Item 9, which was a fired bullet jacket, a fired bullet
5 core, a fired copper jacket fragment, a copper fragment,
6 and a lead fragment.

7 Q. All right. I'll show you what's been entered as
8 State's 58, Agent, and can you look at that and tell me if
9 that's one of the items that you were just discussing, or
10 one of the items you had the opportunity to examine?

11 A. Yes, sir, State's Exhibit 8 -- no, that's State's
12 Exhibit 58. This one is the SLED Item Number 8. This
13 larger piece is the fired bullet. The smaller piece down
14 here is the fired bullet jacket fragment. I recognize them
15 because they both bear my case number, item number, and
16 initials where I scribed on them with an electric pencil.

17 Q. And is that so you can come in here in court today and
18 say I know I looked at this?

19 A. Yes, sir.

20 Q. You put your own markings on it?

21 A. I mark it with a permanent marker, permanent mark by
22 scratching it with an electric pencil, and this is SLED
23 Item 9, which is also the fired bullet jacket which is
24 right here, the bullet core. The bullet jacket fragment is
25 stuck to the back of the core right now, copper jacket, or

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1 copper fragment and lead fragment down here. They also
2 bear my case number, item number, and initials.

3 Q. Is this the first, first pieces of evidence you got in
4 this case?

5 A. Yes, sir.

6 Q. All right, and there's been testimony and this was,
7 this was entered through the pathologist that these came
8 from the body of William Flexon. You've got these. What
9 do you do with these, if anything?

10 A. The first thing I will do with these, like I said, I
11 examine them for any sort of trace evidence, document them
12 through photography, and by making notes and by worksheets.
13 For the identifiable fragments, the SLED item, the fired
14 bullet, and a bullet jacket fragment, and the Item 9, the
15 fired bullet jacket, I look at the overall physical
16 characteristics.

17 By this I mean I'm going to measure the diameter of
18 the base, which is the circular end, and see, see how wide
19 it is. I'm going to weigh it. I'm going to look at what
20 the rifling characteristics are of the bullet.

21 By rifling, inside the barrel of a, a typical handgun
22 is what they call rifling. It's a series of spiral and
23 grooves that go down the barrel of the gun. This is placed
24 there by the manufacturer. The reason the manufacturer
25 places this there is they want to cause the bullet to spin

1 as it goes down the barrel, and then once it leaves the
2 barrel, towards the target.

3 The reason you want the bullet to spin is gyroscopic
4 stability. If you've ever seen a football player that's
5 really good at throwing a football, it's got a nice tight
6 spiral to it. When you have gyroscopic stability, it will
7 travel farther and more accurately, and that's why they
8 place this rifling in the barrel. And the good thing it
9 does for me is it scratches the outside of the bullet.

10 Each manufacturer can choose how many lands, which are
11 the raised areas between the grooves, and how many grooves
12 they put in a, in a barrel. They can choose whether they
13 want it to have clockwise twists or counterclockwise twist,
14 what we call left or right twist. They choose how wide
15 each land is and how wide each groove is. They choose how
16 fast it spins or the rate of pitch as it goes down the
17 barrel.

18 I take all these measurements, the diameter, number of
19 lands and grooves, how wide the land is, how wide the
20 groove is, what type of rifling, is it conventional, does
21 each of these lands have a squared off top or polygonal,
22 rounded as it goes around the barrel. I place all this
23 information into a computerized database, which is provided
24 to us by the Federal Bureau of Investigation, and this
25 computerized database searches all the guns that are in it

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1 and provides a list of guns that have similar rifling
2 characteristics.

3 Therefore, when the -- what we do with this is it
4 provides me with a list of guns that I can provide the, the
5 investigator on the street. So, when they're out there
6 doing their investigation, instead of considering every gun
7 that was ever manufactured, they now have a much smaller
8 list to go by to send it for, for further testing.

9 This list is not considered all inclusive. There may
10 be other guns that are out there, but it's the guns that
11 are in this FBI database, and there are a lot of guns in
12 this database. But it is considered an investigative tool.
13 It's something to just help the investigator narrow down
14 what they're looking for.

15 So, I did that; I performed this general rifling
16 characteristic database. I looked at the markings that are
17 left on the bullet to determine if I believed them to be
18 identifiable to a gun. I got a second examiner,
19 independent examination of the evidence and verified my
20 results, and then I wrote a report and provided that to the
21 local agency.

22 Q. Is that your Item 8, correct?

23 A. This is my Item 8, yes, sir.

24 MR. MEADORS: Your Honor, these are both in 58. For
25 clarification purpose, could I make this one 58-A?

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1 THE COURT: That's what I was going to suggest, 58-A
2 and 58-B.

3 MR. MEADORS: So, the record, the record will reflect
4 the entire package, 58, that we're taking SLED Item 8 and
5 making it 58-A and SLED Item 9 and making it 58-B.

6 THE COURT: All right.

7 MR. MEADORS: Thank you.

8 (BULLET FRAGMENT MARKED INTO EVIDENCE AS STATE'S
9 EXHIBIT NUMBER 58-A.)

10 (BULLET FRAGMENT MARKED INTO EVIDENCE AS STATE'S
11 EXHIBIT NUMBER 58-B.)

12 BY MR. MEADORS:

13 Q. Back to 58-A, Item 8, your Item 8, just gone through
14 that database. At this point, that's all you had, wasn't
15 it?

16 A. Yes, sir.

17 Q. That's all the evidence you had. So, after searching
18 the database, were you able to come up with some potential
19 guns that could have fired that?

20 A. Yes, sir.

21 Q. And, and, and can you tell the jury what those were?

22 A. Due to the amount of damage to the bullet, it was
23 missing a portion of the bullet. So, I don't know what the
24 final weight should have been. So, based on the diameter
25 of the, of the bullet, I knew it was a .30 caliber

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1 rifle-style bullet. So, that's what I would do my search
2 on. And from that, it was -- I was able to come up with a,
3 a few calibers that it could have been, and I'll list each
4 caliber and what brand of gun could have been in each
5 caliber.

6 3006 Springfield. The brands are U.S. Military and
7 Winchester, and 30-30 Winchester caliber. It could be a
8 Marlin, a Revelation, Sears, Ted Williams, Thompson Center,
9 and Winchester. In 3008 Winchester caliber, Fabrique,
10 F-A-B-R-I-Q-U-E, National, or also known as F.N. And 7.62
11 by 54 Rushing caliber, it could be a Winchester or in 30
12 carbine, it could be an Iber Johnson, Plainfield Machine
13 Company, Ruger, Universal Arms, or U.S. military. And,
14 once again, these lists are not considered to be all
15 inclusive, but to narrow those, every gun out there to a
16 much smaller list for investigative purposes.

17 Q. Now, 58-B, your Item 9, also got from the autopsy, did
18 you do the same examination and, and try to determine what
19 type of firearm could have fired 58-B?

20 A. Yes, sir. On the fired bullet jacket of 58-B, I came
21 up with two possible calibers. It could be either a .38
22 special, which was an Aminex, A-M-I-N-E-X, Astra, Colt, Dan
23 Westland Arms, Eig, which is E-I-G, Errasti, E-R-R-A-S-T-I,
24 F-I-E, Holland Intratech, Korth, which is K-O-R-T-H,
25 Phillips & Rogers, Quality Firearm, Firearms, Inc.,

1 Republic Arms, Rohm, which is R-O-H-M, and I'm not sure how
2 to pronounce this one, Trocaola, T-R-O-C-A-O-L-A, and .357
3 magnum, Astra, Buffalo Arms, Col, Vanwesson Arms, Eagle
4 Arms, Colton, or Colton Arms, Hawes, H-A-W-E-S, Herbert
5 Schmidt, Herters, High Standard, Mateba, Personal
6 Protection, Phillips & Rogers, Ruger, J.P. Sower, or
7 Thermodynamics.

8 Q. Is, is it fair to say then that the -- after you
9 examined the overall physical characteristics of Item 9 --
10 58-B for court purposes -- your results revealed it was
11 much consistent with bullets loaded in a .38 special or
12 .357 magnum ---

13 A. Yes, sir.

14 Q. --- cartridge? Is that ---

15 A. Yes, sir.

16 Q. Were you able to determine if this, what you looked --
17 when was your report?

18 A. My report was dated January 15th of 2008.

19 Q. At this point in the investigation, were you able,
20 could you tell how many firearms that were involved at this
21 point?

22 A. At this point I, had two different firearms. I had a
23 roughly .30 caliber rifle and I had a .38 or .357 magnum
24 caliber firearm also.

25 Q. So, you did that report and you sent it to the local

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1 authorities ---

2 A. Yes, sir.

3 Q. --- that you assisted, right? ..

4 A. Yes, sir.

5 Q. Did you receive another piece of evidence?

6 A. I did.

7 Q. And what was that?

8 A. On the second submission, Items 58-A and 58-B were
9 resubmitted for further analysis. I also received SLED
10 Item 12, which was a Winchester Model 94 rifle and 30-30
11 Winchester caliber Serial Number 2835601 with one unfired
12 30-30 Winchester, Winchester caliber cartridge. I received
13 Item 13, which was one, one empty twenty-cartridge capacity
14 Styrofoam cartridge holder. I received Items 14 through
15 31, which were eighteen unfired 30-30 Winchester caliber
16 cartridges. And finally I received SLED Item Number 32,
17 which was one fired 30-30 Winchester caliber cartridge
18 case.

19 Q. And let's start with State's 63, and would you look at
20 that and see if that is the, the rifle that you received
21 and then ---

22 A. You want me to open this? It's all taped shut.

23 Q. I think we undid it the other day. We've already
24 opened it.

25 MR. WILDER: Your Honor, subject to our objections.

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1 THE COURT: 403?

2 MR. WILDER: Yes, sir.

3 THE COURT: Sustained. Overruled.

4 BY MR. MEADORS:

5 A. First of all, ladies and gentlemen of the jury, I had
6 checked this firearm both visually and by field. It is not
7 loaded; it is safe for me to handle.

8 Yes, I have seen this item before. It also bears -- I
9 inscribed on it my case number, number ---

10 THE COURT: Get him closer to the microphone. Is
11 there any way for you to get -- or maybe come down if you
12 need to.

13 BY MR. MEADORS:

14 A. Yeah, I do recognize this. It also bears my case
15 number, item number, and initials where I inscribed on it
16 with an electric pencil. This is SLED Item 12.

17 Q. Now, did you also receive these items along with your
18 SLED Item 12?

19 A. Also part as SLED Item 12 is the one unfired
20 cartridge. SLED Item 13 was the Styrofoam cartridge
21 container, twenty-cartridge capacity. SLED Item 14 was an
22 unfired cartridge. SLED Item 15 was an unfired cartridge.
23 SLED Item 16 through 31 should be around sixteen more
24 unfired cartridges, some of which you will notice are now
25 fired because I had to use them for test firing purposes.

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1 Q. And if there is ammunition with a firearm, do you
2 typically, or if it's appropriate, if you have enough
3 extra, do you use that as test firing?

4 A. We try not to use submitted ammunition. We try to use
5 ammunition out of our, own ammunition reference collection
6 first. But if, if we don't have the correct ammunition to
7 use and submitted ammunition is provided, we can use it if
8 we first look at it and make sure there are no, there are
9 no markings from cycling already associated with the gun on
10 it.

11 Q. Now, did you receive another piece of evidence also
12 with this?

13 A. Yes, sir. There should still be one more fired
14 cartridge case.

15 Q. And the SLED number?

16 A. 32.

17 Q. Let me show you what's marked State's 71 at this point
18 for I.D. Could you open that to see if you received that
19 piece of evidence?

20 A. This is SLED Item 32, which is a fired 30-30
21 Winchester caliber cartridge case.

22 Q. And while, while -- just we're at it, I want to show
23 you State's 69. Could you open that and see if you also
24 examined that piece of evidence?

25 A. SLED Item 48, which is a also fired 30-30 Winchester

1 caliber cartridge case.

2 Q. Now, Special Agent Thrower, you've now got this
3 evidence in your lab ---

4 A. Yes, sir.

5 Q. --- your office. Can you tell the jury what you did?

6 A. Like I said before, typically with this, with this
7 evidence, I would have opened it, verified what it was,
8 photographed it, documented it using departmental
9 worksheets. Taking these fired components, the fired
10 bullets, and the fired cartridge cases, I would have test
11 fired the firearm and got my test specimens, compared my
12 test specimens to each other, and then compared each of
13 these fired components using the comparison microscope to
14 the evidence specimens, being the bullet and the two
15 cartridges cases.

16 Q. And now can you tell us the results of your
17 examination?

18 A. State's Exhibit 58-A was the, the fired bullet. I
19 concluded was, in fact, fired by the SLED Item 12
20 Winchester rifle, the 58-A bullet jacket fragment.

21 Q. And tell us. You compared the bullet from the
22 body ---

23 A. Yes, sir.

24 Q. --- of William Flexon to test specimens from this
25 rifle, correct?

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1 A. Yes, sir.

2 Q. And you determined that bullet came from that gun?

3 A. Yes, sir.

4 Q. And, and that was just based on comparison?

5 A. Yes, sir.

6 Q. What you talked about earlier?

7 A. Yes, sir.

8 Q. And you can say, as an expert in the field of firearms
9 and toolmark examination, that this gun fired that bullet
10 into William Flexon?

11 A. Yes, sir. During my examination of the firearm, I did
12 note that the -- inside that barrel had very rough markings
13 in it from manufacturer on the top of the lands, and it
14 also had a lot of rusting or pitting inside the barrel,
15 which makes this gun extremely individual or, you know,
16 identifiable as the, as the gun.

17 Q. Now that helps you in your job?

18 A. Absolutely.

19 Q. Makes it more easy?

20 A. Absolutely.

21 Q. What about Item 9, 58-B, compared to that rifle, and
22 I'm sorry. I keep saying that. Compared to State's 63.

23 A. Let's see. The 58-B, the, the fired bullet jacket,
24 which is this piece of it, was also fired -- no, negative.
25 58-B was not fired by this gun.

1 Simply put, the diameter of this bullet is too large
2 to fit down this barrel. It would be like -- trying to
3 shove this bullet down this gun would be like trying to
4 suck a grape through a straw. It just won't go. It's just
5 too, too large in diameter, too, too big around.

6 Q. You don't need a microscope for that, do you?

7 A. No, sir.

8 Q. You could actually look and tell that bullet didn't
9 come from that gun?

10 A. Absolutely.

11 Q. Now, did you also have an occasion to examine 70 --
12 State's 71 for I.D.? I think you said you did. And did
13 you, if you did, did you have an occasion to compare it and
14 examine it and make a determination of whether or not it
15 had been fired by this firearm, which is State's 63?

16 A. Yes, sir, I did examine -- is it 71?

17 Q. Yes, sir.

18 A. State's Exhibit 71, which is SLED Item Number 32,
19 using, using the same techniques and found that, in my
20 opinion, it was, that State's Exhibit 71 was, in fact,
21 fired by State's Exhibit 63.

22 Q. And, again, Agent Thrower, is that as a result of
23 comparing that cartridge with other cartridges you test
24 fired and then comparing them to see if they matched?

25 A. Yes, sir. By doing the microscopic examination where

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1 I'm, I'm visually comparing this cartridge case to fired
2 cartridge cases from this that I fired side-by-side in my
3 microscope.

4 Q. So, it's your opinion as an expert in the field of
5 firearms and toolmarks examination, is that rifle, 63,
6 fired 71?

7 A. Yes, sir. Yes, sir.

8 Q. And did you also have an occasion to look at what's
9 State's 69? I think you already said you had. But if you
10 did, would you tell the jury what, if anything, you did
11 with that piece of evidence in an attempt to determine
12 what, if any, firearm fired it, please?

13 A. Yes, sir, also State's Exhibit 69, which is the SLED
14 Item Number 48, once again a 30-30 caliber fired cartridge
15 case. Same techniques, same processes. Visually compared
16 this fired cartridge case to the test specimen from State's
17 Exhibit 63, and it is my opinion that State's Exhibit 69
18 was also fired by State's Exhibit 63.

19 Q. Based on your training, expertise, and just looking at
20 it with your own eyes, correct?

21 A. Yes, sir.

22 Q. Now, do you know where this came from?

23 A. I have no personal knowledge.

24 Q. Okay. I mean -- and that's part -- you really don't,
25 do you?

1 A. No, sir.

2 Q. You're not involved in the scene, you're not involved
3 -- this evidence comes to you, correct?

4 A. Yes, sir.

5 Q. And you just try to examine it and see where it came
6 from, right ---

7 A. Yes, sir.

8 Q. --- for firearms?

9 MR. MEADORS: Now, judge, with the court's permission,
10 can I ask him to come down here?

11 THE COURT: You may.

12 BY MR. MEADORS:

13 Q. Special Agent, will you go -- maybe just come right
14 here so she can -- you can talk from here. Okay, face the
15 jury. Can, can you show this jury -- can you examine it
16 and look -- was it in good working order?

17 A. It was not in, it was not in good working order. It
18 would fire as received if you managed the cartridge and
19 loaded into the chambers.

20 Q. I tell you what. Come back over here and maybe face
21 the jury that way and talk a little that way.

22 A. Once again, this gun is safe, but I still am not going
23 to point it at you. Normally this gun you would load
24 through this side port here, and then cycling the magazine
25 would take cartridges that are in this two magazines

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1 beneath the barrel. When you cycle it down, a cartridge
2 will be released into this area, and then pulling the lever
3 causes a lifter or carrier to point it up so that when
4 you're further pulling it, the bolt slides forward and
5 loads the next round into the chamber. Meanwhile, in the
6 hammer is hot so that when you pull the trigger, it will
7 fire.

8 During my analysis, I was not be able to make it
9 function this way. The -- this carrier or lifter was
10 severely bent. Both the front, it was angled up too high
11 so that a cartridge could not be in the magazine. And also
12 the gears at the rear, that pivot on this screw, instead of
13 being straight, were bent in. So, that movement of the
14 lever actually caused it to bind on other internal
15 components so that when you tried to pull the lever fully
16 forward, the bolt, I could not get it to come fully to the
17 rear enough to, to track and eject an unfired cartridge.
18 It didn't want to come out because it was binding so
19 tightly.

20 So, it would function and fire if the cartridge was
21 loaded individually. And after a fired cartridge -- after
22 you fire, because the bullet is no longer sticking out of
23 the end of the cartridge, the cartridge case is shorter.
24 You could extract and eject a fired cartridge case, but
25 once again it is difficult. You had to kind of bang on it

1 to get the handle to go far enough forward to allow the
2 cartridge case to come out.

3 Q. If, if it was in a correct working order.

4 A. Yes, sir.

5 Q. Would the cartridge pop out after it's fired?

6 A. Yes, sir. It would come out the top. It would be
7 ejected through this hole in the top. The side is the
8 loading port, and the top is typically the ejection port
9 where the fired component comes out.

10 Q. So, if you fired that gun and it was in working order,
11 it would just pop out, correct?

12 A. Yes, sir.

13 Q. And if it pops right, right there and you didn't want
14 it on the ground, you could just pick it up, correct?

15 A. Absolutely.

16 Q. Now, when you got it and it was in this condition, you
17 stated, but you could still fire it?

18 A. Yes, sir. It would fire.

19 Q. And you did fire it?

20 A. Yes, sir.

21 Q. Are you're just saying -- how, how did you load -- you
22 had to manually load it?

23 A. I had to manually ---

24 Q. And unload it?

25 A. Yes, sir. I had to manually load each cartridge one

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1 by one, fire it, unload it, put a new cartridge in, fire
2 it, unload it, put a new cartridge in. For, for each
3 cartridge, I had to manually cycle every part of it.

4 Q. So -- and you did? It worked?

5 A. Yes, sir.

6 Q. Now, tell the ladies and gentlemen of the jury. Do
7 you know, do you know how this was damaged?

8 A. No, sir, I, I don't know.

9 Q. Do you know when it was damaged?

10 A. No, sir, I do not know.

11 Q. No way to tell that?

12 A. No, sir.

13 Q. Can you describe how it could have been damaged?

14 A. Based on the markings that I saw on the top of this
15 lifter, which you probably can't see it, but once again,
16 it's piece of metal that just pivots up and down to
17 reposition the cartridges for loading the magazine up into
18 the barrel. It was very bent up here at the front.

19 Q. Could you have hit it and caused it?

20 A. No. There's number of markings like a punch hit the
21 top of this lifter. So, I think there's probably a
22 cartridge that was fed and gotten underneath this lifter.
23 And in trying to -- not understanding how the malfunction
24 occurred, how to it, somebody probably took a punch or
25 screwdriver and hit it with a hammer trying to force it out

1 of the way and that's how it became bent in the front. I
2 really have no idea how the, how the rear gears got bent.
3 Those are big, thick, heavy steel back here, but they were
4 significantly bent also.

5 Q. Just a couple more questions, Tracy. You ever heard
6 the term trigger pull?

7 A. Yes, sir.

8 Q. Describe that trigger pull on that rifle, please.

9 A. Essentially what we do for trigger pull, trigger pull
10 is defined as the amount of pressure that must be placed on
11 the trigger in order to cause it to fire. And what we do
12 is we have some weights, and it's got handle with a little
13 hook on it. You place the hook over on the handle, and
14 then you can add or remove weights down here.

15 You start off with, a predetermined amount, and you
16 simply just try and pick it up and see if it will fire. If
17 it does not fire, you add. You cycle it again, you add
18 more weight, then you pick it up again. And we continue
19 this until we find a weight where it will fire every single
20 time.

21 From that we will back off one quarter pound to try it
22 again. If it fires sporadically -- sometimes it will,
23 sometimes it won't -- then we make note of that. We can
24 back off another quarter pound and try it again. And we
25 back off until we find a weight where it will never fire,

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1 and that is what we call our trigger pull range. We
2 figure out how much pressure it will take to cause this gun
3 to fire.

4 Q. Did you come up with a trigger pull range for that
5 gun? Or can you tell the jury, based on your examination,
6 what it would have been?

7 A. Yes, sir, I did, but I'll need to refer to my notes.

8 Q. Come on. That's fine.

9 A. The trigger pull on State's Exhibit 63 was
10 approximately four and one quarter pounds. So you can kind
11 of understand that, that's about what a half gallon of milk
12 weighs. If you can think about picking one half a gallon
13 of milk up with one finger, that's about enough pressure
14 that you would feel it to shoot a firearm.

15 Q. So, based on your training, experience, and actually
16 looking at State's 63, your opinion as to accidental
17 discharge would be what?

18 A. No, sir. The -- I tested this firearm. I even took
19 -- I went additional, additional step where this lever, I
20 would try and slam the lever closed to try and cause it to,
21 to discharge unintentionally without touching the trigger,
22 and I was not able to make it fire. In order to make this
23 gun fire, you had something -- somebody had to pull the
24 trigger.

25 Q. And I'm about through, Agent Thrower. There was

1 another fired cartridge case that came with the original,
2 correct?

3 A. I ---

4 Q. Single piece of evidence.

5 A. I ---

6 Q. Would have been Item 32?

7 A. Item 32 and Item 48. I did receive two, but they were
8 at separate times.

9 Q. And you testified to both of those, correct?

10 A. Yes, sir.

11 Q. The other, I guess, just general question. All of
12 these, all of these were part of 63. Are they consistent
13 and appropriate for the firearm for that?

14 A. Yes, sir. They were all the appropriate caliber for
15 firing in the Item 63 or State's Exhibit 63 firearm.

16 Q. And what, what is this gun? It's a what?

17 A. It's a lever action rifle.

18 Q. 30-30?

19 A. 30-30 caliber, 30-30 Winchester.

20 Q. And that ended up being one of the guns, when you
21 first tested it, that was in that range of what possibly
22 could have fired this bullet?

23 A. Yes, sir.

24 Q. Did you do anything with the evidence in this case?

25 A. I don't believe so, no, sir.

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

2 THE COURT: Yes, sir.

3 (A PAUSE.)

4 MR. MEADORS: Thank you, sir. That's all.

5 THE COURT: All right. Mr. Deas.

6 MR. DEAS: Thank you, Your Honor. Please the court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION BY MR. DEAS:

9 Q. Good morning, Agent Thrower. How are you doing, sir?

10 A. Good morning, sir. I'm doing good.

11 Q. My name is Garryl Deas. I represent the defendant,
12 Reginald Canty.

13 Agent Thrower, I want to show you a photograph of the
14 weapon that you just described with the 30-30 rifle.

15 MR. DEAS: Your Honor, may I approach?

16 THE COURT: You may.

17 BY MR. DEAS:

18 Q. I believe that photograph, that same photograph was,
19 is already, already in evidence. But does that picture
20 accurately depict the rifle in question and the, and the,
21 and the cartridge of ammunition that you received and
22 ultimately analyzed?

23 A. It appears to, yes, sir, from the best I can tell from
24 the quality of this photograph.

25 Q. And I'm going to hand you what's been marked State's

1 Exhibit Number 64.

2 MR. WILDER: Your Honor, may I approach?

3 THE COURT: You may.

4 BY MR. DEAS:

5 Q. That's a picture I just handed is essentially the
6 same, the same photograph as State's Exhibit Number 64.
7 It's got a picture of the rifle, the cartridge,
8 ammunition?

9 A. Yes, sir.

10 Q. Would that be accurate?

11 A. I believe it to be.

12 Q. Does that appear to be the same ammunition, cartridge,
13 and weapon that you analyzed?

14 A. It is consistent, yes, sir, but it's -- I, I can't see
15 the make, model, serial number detail to truly know.

16 Q. That picture shows a rifle and, and a cartridge?

17 A. Yes, sir.

18 Q. Ammunition?

19 A. That's what ---

20 Q. Let me ask. When you were testifying on direct
21 examination, you indicated that you received not only this
22 weapon at one point, but you also received eight --
23 eighteen unfired, eighteen unfired cartridges. Is that
24 correct? Those were State -- SLED Item 14 through 31.

25 A. Yes, sir, eighteen unfired 30-30 Winchester caliber

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1 A. Correct.

2 Q. That clearly then clarifies what you indicated in your
3 additional report, which was that Mr. Flexon was shot by
4 two separate weapons because the bullet, the bullets that
5 hit his body clearly came from two separate type of
6 weapons. Is that correct?

7 A. Yes, sir.

8 Q. All right.

9 A. Two separate caliber weapons, firearms.

10 Q. Now, at some point you received another fired shell
11 casing?

12 A. Yes, sir.

13 Q. Okay, and you determined that that other, that second
14 fired shell casing that you received also came from that
15 rifle?

16 A. Yes, sir, that the SLED Item Number 48 was also fired
17 by the State's Exhibit 63, the rifle.

18 Q. Now, you, you pretty much concluded through your
19 analysis that Mr. Flexon wasn't shot twice with that rifle
20 even though there were two fired -- there were two shell
21 casings that you received that clearly came from that
22 rifle?

23 A. I do not know how many times he was shot with any
24 firearm. Definitely part of State's Exhibit 58-A, this
25 large jacket fragment for this large fired bullet is

1 definitely one -- being fired once. But I also have this
2 fired jacket fragment that's also consistent with that gun,
3 but it could have been fired by a different gun. I don't
4 know if this was part of this bullet or another bullet.

5 Additionally, in the packet that has State's Exhibit
6 58-B, this piece of fired jacket fragment that's currently
7 stuck to the bottom of the core, that was also consistent
8 in general rifling characteristics with State's Exhibit 63.
9 It was not consistent with the fired-bullet jacket that's
10 in the, in the bag with it. I do not know where that came
11 from. That could have been part of State's Exhibit 58-A,
12 or it could have been fired, been part of another fired
13 bullet that was not recovered. I did not see the -- I was
14 not present at the autopsy to see how many wounds there
15 were.

16 Q. Okay.

17 A. That I, I don't know.

18 Q. All right, but, but what you do know is, what you
19 testified to earlier is that he was, Mr. Flexon was shot by
20 two separate weapons, correct?

21 A. Yes, sir, I have ---

22 Q. In other words, the -- one of them, as you stated, one
23 of bullets, one of the bullets could not have come from
24 that particular weapon or rifle because it would be, as in
25 your own words, you said it would like pushing a grape

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1 through a straw?

2 A. Yes, sir.

3 Q. Because the bullet was just too big to have come from
4 that weapon?

5 A. Absolutely.

6 Q. Isn't that, isn't that what you said?

7 A. Absolutely.

8 Q. Okay.

9 A. And conversely, the smaller bullet, if fired in a
10 larger gun, would not have good rifling characteristics all
11 the way around it. It would be bouncing down the barrel.
12 It would look completely different. So, there were two
13 guns there.

14 Q. So, there were two guns. And what I'm asking you is
15 if you received two fired shell casings from that, that you
16 said came from that, that rifle ---

17 A. Yes, sir.

18 Q. --- and if Mr. Flexon only, only received one gunshot
19 wound, wound from a rifle, then only one of those shell
20 casings would have been the one connected to the rifle
21 bullet found in Mr. Flexon. That -- would that be fair to
22 say?

23 A. One shell casing, yeah, would be related to -- if
24 there was only one wound from the rifle. Additionally, a
25 second shot could have been fired and missed.

1 Q. Now, could it be, sir, that the other fired shell
2 casing that you ultimately tested and said came from that
3 rifle, that that shell casing could have come from that
4 rifle being fired at any point not necessarily connected to
5 the shooting that occurred on January 12, 2008?

6 A. Absolutely. I have no idea when either of these
7 cartridge cases were fired; I have no scientific way of
8 testing that.

9 Q. Now, do you -- based on your analysis, can you
10 determine from, from the shell casings whether or not they
11 were for specific shell casings of the, of the bullet taken
12 from Mr. Flexon's body? In other words, can you match the
13 shell casing to the bullet?

14 A. No, sir. That is not a, an examination that we
15 perform.

16 Q. But is it, for the most part, what, what you can
17 establish is that Mr. Flexon was shot by that rifle?

18 A. Yes, sir.

19 Q. And someone with a weapon that was either a .38
20 special or a .357 magnum?

21 A. Yes, sir.

22 Q. And at least one of the shell casings that you
23 analyzed or both of the shell casings that you analyzed
24 came from that lot?

25 A. Yes, sir. At some point in time, yes, they were both

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1 fired by State's Exhibit 63.

2 Q. And so far as when those fired shell casings would
3 have come from that weapon, you don't really know that?

4 A. No, sir. I have no personal knowledge of that or a
5 way to test it.

6 MR. DEAS: Court's indulgence.

7 THE COURT: Yes, sir.

8 (A PAUSE.)

9 MR. DEAS: Nothing further.

10 THE COURT: All right, Mr. Wilder.

11 MR. WILDER: Thank you, Your Honor.

12 CROSS-EXAMINATION BY MR. WILDER:

13 Q. Agent Thrower, I'm Arthur Wilder. I represent Daniel
14 Jackson. Good morning.

15 A. Pleased to meet you.

16 Q. I'm going to show you an evidence form, chain of
17 custody form, and on this particular form from Sumter
18 County, it's got a date here where a particular item was
19 sent to SLED for ballistics takes comparison. I, I believe
20 that would be you, your category ---

21 A. Yes, sir.

22 Q. --- that you, that you're testifying in. Let me show
23 it to you and give you a chance to kind of absorb the
24 information on that.

25 Now, what I'm having trouble with, and maybe you can

1 help the jury with. Apparently Sumter County gives their
2 items numbers ---.

3 A. Yes, sir.

4 Q. --- when they take them in, and then when they get
5 over to SLED, SLED separates them out for whatever purposes
6 they're going to do, and you give them another number,
7 right?

8 A. Yes, sir.

9 Q. And then they come back here, and then they get
10 another number in the courtroom for the evidence?

11 A. Yes, sir.

12 Q. Okay. So, in order to keep track of all that, we have
13 to kind of go through the chain of custody to see where
14 something came from and know exactly what you're talking
15 about when you testify?

16 A. Yes, sir.

17 Q. You agree with that?

18 A. I agree with that.

19 Q. Okay. Now, you looked at that and you've seen the
20 date that it was taken to SLED for ballistics comparison.
21 Now, let me show you another form which I believe was the
22 SLED form, and maybe you already have this in your packet
23 somewhere because I'm not seeing the number on that one.
24 But apparently some of the items on that form were, were
25 processed through SLED, given item numbers, and forwarded

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1 on to your department. Would that be a fair statement?

2 A. Yes, sir.

3 Q. Okay. Now, the one that was on the, the Sumter County
4 form that I believe was given a number of 45, which says
5 that it came out of Mr. Canty's bedroom, I wonder if you
6 could help us track that particular cartridge.

7 A. Yes, sir. It was not received in this packet. There
8 was a second packet that came in that listed it. SLED Item
9 Number 32 is Sumter's Item Number 45.

10 Q. All right. So, on your document it would be tracking
11 as Number 32?

12 A. Yes, sir.

13 Q. All right. Now, was 32 handed up to you by Mr.
14 Meadors when you were talking about these particular pieces
15 of evidence?

16 A. Yes, sir.

17 Q. Could you identify that for the jury, please?

18 A. I think it's in one of those envelopes.

19 Q. Over here?

20 A. Yes, sir.

21 Q. I'll hand you everything that I can.

22 A. No, sir, it's neither one of those.

23 MR. MEADORS: Would that be 71 for I.D.?

24 Q. That would be 71 for I.D. There you go.

25 A. SLED Item 32, State's Exhibit 71, Sumter Item 45, I

1 believe.

2 Q. Okay, and that one would have been then the cartridge
3 that, according to all that paperwork, came out of Mr.
4 Canty's bedroom?

5 A. I'm not sure where it came from, sir.

6 Q. According to the paperwork. I'm just talking about
7 what the evidence form states. I'm going to hand it to you
8 and ask if you...

9 A. According to Sumter County Sheriff's Office chain of
10 custody, it says received from underneath the bed from the
11 bedroom of Reginald Canty.

12 Q. Okay. Now, that's your examination, and the results
13 of the examination of that particular cartridge, did you
14 find that cartridge had been fired by that rifle?

15 A. Yes, sir. SLED's Item 32, which is State's Exhibit
16 71, was fired by State's Exhibit 63.

17 Q. So, at some point in time that cartridge had been
18 inside that rifle?

19 A. Inside and fired by it, yes, sir.

20 Q. Inside and fired by it, and they found it under Mr.
21 Canty's bed, right?

22 A. According to the paperwork that you showed me, yes,
23 sir.

24 Q. Okay. Now, the condition that rifle was in when --
25 let's just say just like it is now, the condition the rifle

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1 is in right now, if you were in a running gun battle with
2 somebody, it would be pretty hard to function with that
3 kind of weapon, wouldn't it?

4 A. Unless you had practiced with it, yes, sir, it would
5 be difficult.

6 Q. Because you would have to be digging out the
7 cartridges, get them in there somehow, and getting that out
8 of there, and then picking up another one, and getting it
9 back in there, and setting it up and firing it, correct?

10 A. Oh, yes, sir, but digging it out and turn it upside
11 down, it should fall out.

12 Q. And you ---

13 A. If you were familiar with the gun, it could be done.

14 Q. All right. It can't be done as quickly as it could be
15 as if the weapon was in pristine condition though, right?

16 A. Absolutely.

17 Q. In terms of a weapon to take into a gun battle in this
18 particular condition right now, that wouldn't be your
19 choice, would it?

20 A. It would not be my choice, but you use what you can
21 get your hands on.

22 Q. Now, Mr. Meadors asked you about the trigger, the
23 trigger weight?

24 A. Trigger pull.

25 Q. The trigger pull?

1 A. Yes.

2 Q. 41.1 cutting from pants?

3 A. Yes.

4 Q. 47, oral swab from Daniel Deangelo Jackson?

5 A. Yes, sir.

6 Q. Okay. DNA analysis was performed on these, correct?

7 A. That is correct.

8 Q. And your analysis you provided in here, can you tell
9 us what you do now and tell the jury what you found?

10 A. All right. I'm just going to read straight from my
11 report. No DNA profile was developed -- oh, no DNA profile
12 foreign to the victim was developed from William Flexon for
13 Item 36.

14 Q. Okay. Those -- item 36 is what?

15 A. The fingernail scrapings from William Flexon's left
16 hand.

17 Q. What does it mean no foreign, no profile foreign to
18 the victim was developed from that?

19 A. That it matches the victims.

20 Q. That mean it matches?

21 A. Yeah, the sample provided.

22 Q. All right. Would you further -- what were the further
23 results of your examination, if any?

24 A. The DNA profile for Item 37, which was the fingernail
25 scrapings from William Flexon's right hand, is a mixture of

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1 at least two individuals. The DNA profile is a major
2 contributor to this mixture and is consistent with the DNA
3 profile of William Flexon. The DNA profile of the minor
4 contributor is insufficient for reliable interpretation.

5 Q. What does that mean?

6 A. Sometimes when we get an evidence sample, there can be
7 a mixture of at least two individuals. In this case, the
8 fingernail scrapings had that. However, at times one
9 person can produce more DNA than another, and you can tell
10 that based on our -- the results downgraded.

11 In this case, the major contributor was from the
12 victim, William Flexon, and there was a small minor
13 contributor, a little bit more of a true DNA, which we call
14 a mixture. But there wasn't enough there to make any kind
15 of conclusions from. So, we couldn't, really couldn't
16 interpret it.

17 Q. So, you really couldn't do anything?

18 A. No, sir.

19 Q. If you had everybody's standard in the world, you
20 couldn't do anything with it?

21 A. No, sir.

22 Q. What's next?

23 A. The partial DNA profile developed from Item 38, which
24 was the swab off the hallway floor in trailer number ,
25 it's from an unidentified female individual.

1 Q. All right, and, and that's all you can say about it,
2 correct?

3 A. That's correct.

4 Q. But it definitely was a female?

5 A. Yes, sir.

6 Q. Next.

7 A. The DNA profile developed from Item 39.1, which was
8 the cutting from sweatshirt, is from a second unidentified
9 female individual.

10 Q. Okay. Next.

11 A. The DNA profile developed from Item 41.1, which is
12 cutting from pants, is consistent with the DNA profile of
13 Daniel Deangelo Jackson.

14 MR. MEADORS: And, and for the record, these were,
15 Your Honor, I'll state for the record these were clothes
16 that were given over. They're the defendant's and there's
17 no implication we're trying to draw about that. They were
18 his clothes, and they came from him. I think that's a fair
19 statement both sides will agree with.

20 BY MR. MEADORS:

21 Q. Now, is that it?

22 A. Sure.

23 Q. I don't mean that bad, but there were no other
24 profiles and conclusions that you could come to, correct?

25 A. Not with the evidence submitted, no.

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1 Q. Now, Mr. Canty, you didn't have any, any standard for
2 him, did you?

3 A. No, sir.

4 Q. Would it have mattered, based on what you found?

5 A. No, sir..

6 Q. It really wouldn't have?

7 A. No.

8 Q. And that's because all you found was two ---

9 A. Unidentified ---

10 Q. --- unidentified females?

11 A. Yes.

12 Q. And then the foreign, the minor contributing to Mr.
13 William Flexon's, right, is 37?

14 A. Yes, sir.

15 Q. And you can't interpret that?

16 A. Right, there isn't ---

17 Q. Not identifiable?

18 A. Yes.

19 Q. I mean, it could be anything?

20 A. That's correct.

21 Q. Can I touch you?

22 A. Uh-huh.

23 Q. I mean, could it just be from touching somebody? But
24 is it your opinion you'd never be able to say who, right?

25 A. That is correct. There is not enough there for me to

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1 make any kind of interpretation.

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

3 THE COURT: Yes, sir.

4 (A PAUSE.)

5 BY MR. MEADORS:

6 Q. And as far as Mr. Jackson, just so the record is
7 clear, yours is 41.1. This has already been entered into
8 evidence as State's 73. You just examined some clothes
9 that were identified to you as 41.1, correct?

10 A. That's correct.

11 MR. MEADORS: Judge, that's all we have.

12 THE COURT: Mr. Deas.

13 MR. DEAS: Thank you, Your Honor. May it please the
14 court?

15 CROSS-EXAMINATION BY MR. DEAS:

16 Q. Good afternoon, Ms. Boehm.

17 A. Yes, sir.

18 Q. Ms. Boehm, my name is Garryl Deas. I represent the
19 defendant Reginald Canty.

20 Essentially what you concluded from your analysis is
21 that, with regards to the blood that you analyzed, none of
22 that blood, none of that blood matched Mr. Jackson. Is
23 that correct?

24 A. That is correct.

25 Q. Except for an analysis of some pants which were his

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1 own pants?

2 A. Yes, the bottom of those pants, yes.

3 Q. And essentially the fingernail scrapings that, that
4 were, that you analyzed of the, of the, the left hand of
5 Mr. Flexon and the right hand of Mr. Flexon, those were --
6 of the left-hand fingernail scrapings, it was DNA related
7 to Mr. Flexon?

8 A. That's correct.

9 Q. On the right hand, it was a mixture?

10 A. That's correct.

11 Q. Of which would -- and that included a profile that you
12 couldn't identify, and then one that was one that was
13 consistent with a female?

14 A. No, there -- the major contributor was, matched
15 William Flexon, and the minor contributor I can't make any
16 kind of interpretation. I couldn't do any type of
17 identification for it.

18 Q. So, some of the DNA under his, under Mr. Flexon's
19 right hand you couldn't identify at all?

20 A. Correct.

21 Q. And then -- but some of it was related to Mr. Flexon?

22 A. That's correct.

23 Q. But the DNA found under his fingernails didn't match
24 Mr. Jackson at all?

25 A. The major contributor did not match him and, like I

1 said, the minor contributor was insufficient for any kind
2 of interpretation.

3 Q. Now, Item 38, which was the blood from the hallway
4 floor of trailer number , that is the DNA that was
5 consistent with an unidentified female. Is that correct?

6 A. Yes, unidentified, unidentified female individual.

7 Q. All right, but you don't know the identity of that
8 unidentified female? You would have no way of making that
9 determination?

10 A. The only way I can make it, match statement or exclude
11 someone from it is by the standards. You can be made by
12 comparison.

13 Q. And did you ever receive any, any DNA from law
14 enforcement so that you could compare your findings to the,
15 to the DNA they submitted to you ---

16 A. That's what ---

17 Q. --- with regard to the blood that was found on the
18 hallway?

19 A. No. I just had the two standards from William Flexon
20 and Daniel Jackson.

21 Q. And you had no DNA samples from Mr. Canty at all,
22 correct?

23 A. No, sir.

24 Q. And you indicated the reason why that was because the
25 only DNA source that you found from your analysis were

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1 related to females?

2 A. That's correct.

3 Q. And not to males?

4 A. That's correct.

5 Q. So, then as, as I stated earlier, it wouldn't have
6 been -- it would have been unnecessary or pointless to
7 receive DNA samples from Mr. Canty?

8 A. That's correct.

9 MR. DEAS: Court's indulgence.

10 THE COURT: Yes, sir.

11 (A PAUSE.)

12 MR. DEAS: Nothing further, Your Honor.

13 THE COURT: Mr. Wilder.

14 CROSS-EXAMINATION BY MR. WILDER:

15 Q. Good afternoon, Ms. Boehm.

16 A. Good afternoon.

17 Q. And you received my subpoena?

18 A. I did.

19 Q. Okay. Now, thank you for coming over.

20 A. You're welcome.

21 Q. The test results that your, your report of the data is
22 December 2009. Is that correct?

23 A. That is correct.

24 Q. And it contains therein listing of three suspects.

25 Could you tell the jury what were the three suspects were?

1 A. Daniel Jackson, Jackson, Reginald Canty, Marcus
2 Branch.

3 Q. Marcus Branch. Okay, and you state that you received
4 no samples from Reginald Canty or Marcus Branch, but then
5 at some point the results in your testing said, well, you
6 didn't need those, correct?

7 A. That's correct.

8 Q. But you didn't know that before you started the
9 testing, did you?

10 A. No, sir.

11 Q. Yet you started the testing, you didn't have Canty's
12 and you didn't have Branch, correct?

13 A. That's correct.

14 Q. Okay. Now, attached to that report is a table that
15 contains information from the left-hand column going down
16 the page. You have the different things that you're
17 testing. What is the column across the top of the page?
18 What is that information?

19 A. Those are the locations we test on the DNA that differ
20 between individuals.

21 Q. The locations on DNA that differ between individuals.
22 Okay, and that would be -- is there a name for that, a
23 technical name?

24 A. Loci or locus is the singular.

25 Q. Or loci. Okay. Now, the one that's got the mixture

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1 of two individuals is number which, 36 or 37?

2 A. 37, sir.

3 Q. 37. All right. Now, looking at the different loci in
4 37, do you come across a column that has numbers in it that
5 are not either William Flexon's or the scrapings under the
6 fingernails?

7 A. Will you repeat that question please?

8 Q. Okay. Looking at the line going across 37.

9 A. Uh-huh.

10 Q. Do you come across the loci that has numbers in your
11 chart that are not identified with either the fingernails
12 -- excuse me, the -- Mr. Flexon's or Mr. Jackson's? That's
13 what I mean to ask.

14 A. No. Each location has Mr. Flexon's DNA presently.

15 Q. Well, let's look at D7S820, that loci.

16 A. Okay. Yes.

17 Q. Do you have that column?

18 A. Uh-huh.

19 Q. And 37, isn't there a number 10 in that?

20 A. Right, but the 7/8 is William Flexon, which is in that
21 profile.

22 Q. And what is the 10? What does that represent?

23 A. The 10 is that minor contributor mixture that I said I
24 could not make any kind of identification because there's
25 not much there.

1 Q. All right. In that column by Daniel Jackson, is there
2 an 8 and a 12?

3 A. Yes, sir.

4 Q. And you don't see a 10 there, do you?

5 A. No, I do not.

6 Q. So, you can exclude Mr. Jackson, can't you?

7 A. Based on the profile, it's insufficient for
8 interpretation, meaning I can't make any kind of
9 interpretation.

10 Q. You got a hit on that spot and there's nothing -- it
11 doesn't belong to Mr. Flexon and it doesn't belong to Mr.
12 Jackson. What would cause a 10 in that box?

13 A. That the test results from the DNA could be from
14 anyone. You know, it does not match Daniel Jackson at that
15 location.

16 Q. Do you know Dr. Ronald Astrosky?

17 A. Yes, I do.

18 Q. And he's a DNA expert from North Carolina, isn't he?

19 A. I don't know where he's from actually.

20 Q. Well, have you heard him testify before?

21 A. No, I have not.

22 Q. Okay. Well, let's move on through the chart on Line
23 37, and are there any other ones that contain numbers that
24 are not in Mr. Flexon's column or, or line?

25 A. Like I said before, Mr. Flexon's profiled throughout

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1 this item. So, at D13 and 3/17 he is a 9/12, which is also
2 present in 9/37. There's also a 13 that does not match
3 William Flexon.

4 Q. And do you see a 13 in the line for Daniel Jackson?

5 A. No, I do not.

6 Q. Well, where would that have come from?

7 A. Like I said, I don't know where it came from. It's
8 not enough for me to make any kind of identification.

9 Q. Didn't come from Daniel Jackson, did it? A.

10 No.

11 Q. Come over here. How about T-P-O-X? Do see that one
12 or is that -- am I misreading it because my copy ---

13 A. No, you're fine.

14 Q. --- is bad. Okay. Do you, do you see that?

15 A. Again, the ---

16 Q. All right, and that one's got one parenthesis, 11, and
17 that one done have the number by Mr. Jackson, right?

18 A. That's correct.

19 Q. Okay, and the one right next to it has a 14 in
20 parenthesis. Do you see a 14 in Mr. Jackson?

21 A. No, sir.

22 Q. No. All right, and you say that this is a -- or you
23 can't tell if it's a male or female contributor?

24 A. No, I can not.

25 Q. Would that mean because -- well, tell the jury what

1 that would mean, why you can't tell whether it's a male
2 contributor?

3 A. Because the major contributor is a male. William
4 Flexon is a male and the major contributor from this item
5 is also a male. Therefore, I couldn't tell whether it's
6 female or male because the minor contributor would be
7 contributing a lot less.

8 Q. All right. So, whoever the minor contributor is,
9 though, has some numbers that are not consistent with
10 Daniel Jackson's?

11 A. Yes.

12 Q. At the end of all of this testing, we proved that he
13 was wearing some pants?

14 A. Yes, sir.

15 Q. Okay, and I'm talking about Daniel Jackson.

16 A. Right?

17 Q. Okay. Wasn't any of Mr. Flexon's blood on Daniel
18 Jackson's pants, was it?

19 A. That's correct.

20 Q. Now, in order to establish that to an absolute
21 certainty, I'm going to hand you up a report and ask you.
22 Could you identify that, that type of form?

23 MR. MEADORS: Your Honor, I'll stipulate to that so
24 that, if he doesn't want to go ---

25 MR. WILDER: Well, I want to make sure ---

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1 THE COURT: All right.

2 MR. WILDER: --- I don't need the other witnesses,
3 Your Honor, because the item number ---

4 MR. MEADORS: I said I'll stipulate to it.

5 THE COURT: He'll stipulate to it. All right.

6 MR. WILDER: Okay.

7 THE COURT: All right, ladies and gentlemen, that
8 means that the solicitor agrees to what, what is in that
9 form and can come into evidence as well.

10 MR. WILDER: Thank you, Your Honor.

11 BY MR. WILDER:

12 Q. And who did that report?

13 A. Amy Stephens. This is a log-in receipt.

14 Q. And did Amy come over with you today?

15 A. Yes, she did.

16 Q. And so she's available here in the courthouse?

17 A. Yes, sir.

18 Q. Okay.

19 MR. WILDER: No other questions.

20 THE COURT: Mr. Meadors, any redirect?

21 REDIRECT EXAMINATION BY MR. MEADORS:

22 Q. We can never know who the minor contributor was,
23 right?

24 A. That's correct.

25 Q. Some numbers are consistent, some inconsistent,

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1 MR. WILDER: None.

2 THE COURT: All right. All right. I will deem her to
3 be an expert in finger, fingerprint identification.

4 Ladies and gentlemen, she's just like every other
5 expert that I've told you about several other times. You
6 will take her testimony and weigh it along with all the
7 other testimony. Thank you.

8 DIRECT EXAMINATION BY MR. MEADORS:

9 Q. Did you receive certain items of potential evidence in
10 this case? Were they submitted to you?

11 A. Yes, sir.

12 Q. This is a Sumter County Sheriff's Department case?

13 A. Correct.

14 Q. You work for ---

15 A. I'm actually employed by the City Police Department.

16 But as, as stated prior, we agree to examine fingerprints
17 for not just our agency, but other agencies. It eliminates
18 for a lot of time. Of course, if anything has to be sent
19 to SLED, then it could be months before you get any kind of
20 a, of a report back. So, it's a little bit faster doing it
21 in-house.

22 Q. So, so, fingerprints are -- and, in fact, in this
23 case, some potential prints were sent to SLED also,
24 correct?

25 A. It depends on when they were, were, when they were

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1 done or what the evidence was. If it have to be examined
2 for something else rather than fingerprints, it would go to
3 SLED.

4 Q. Okay. That's a better way to say it. So, if it has
5 to be examined for something else ---

6 A. Right.

7 Q. --- SLED will do the fingerprints?

8 A. Correct.

9 Q. But if it doesn't have to go to SLED, either way,
10 y'all like to keep it home?

11 A. Yes.

12 Q. You've been in law enforcement. Did you receive --
13 and, and you submitted a report, correct ---

14 A. Yes, sir.

15 Q. --- of what you've identified as a latent lift from a
16 pay phone?

17 A. Correct.

18 Q. Latent lift from the victim's vehicle?

19 A. Correct.

20 Q. A latent lift from a pay phone?

21 A. Correct.

22 Q. Two cuttings from pizza boxes?

23 A. Yes.

24 Q. And latent lift from victim's vehicle?

25 A. Yes.

1 Q. Victim's postmortem prints?

2 A. Correct.

3 MR. MEADORS: I think all of those are in evidence
4 with exception to the suspect print. We've agreed that
5 they'll go in, and we've just got to put them in at a later
6 time.

7 THE COURT: Is that y'all's understanding as well?.

8 MR. WILDER: I'm sorry?

9 MR. MEADORS: I said all of these, this information is
10 in evidence except the suspect's prints, and we've agreed
11 those were going. I just haven't submitted them yet.

12 MR. WILDER: I think that's what we said.

13 THE COURT: Okay. I just wanted to be sure.

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

15 (A PAUSE.)

16 BY MR. MEADORS:

17 Q. Okay. You received these items from evidence,
18 correct?

19 A. Yes, sir.

20 Q. Did you have suspect prints?

21 A. Yes.

22 Q. Latent prints?

23 A. Yes.

24 Q. And we may talk about it, but I don't think we've
25 really talked about it. What's, what's a latent print?

1 A. A latent print is a print, fingerprint that you've
2 left behind on something that you can't see with the naked
3 eye. It takes some development of some sort, whether it's
4 powder, whether it's a chemical treatment, to be able to
5 bring it out so that you can see that print. That's what a
6 latent print is.

7 Q. And what's, what's an inked print?

8 A. An inked print is a known print. That's where you
9 actually have the person, and you put the ink on their
10 fingers and you roll the print out, and that's an ink
11 print.

12 Q. So, is the idea to have a latent print and compare it
13 to a known print to see if they match?

14 A. That's the idea if you're doing a one-on-one
15 comparison. AFIS works a little bit differently than that.

16 Q. Okay. Tell us about that.

17 A. The AFIS system, you actually have to photograph the
18 fingerprint into the system, and then you yourself have to
19 go plot the different points.

20 In other words, you have ridges. You can probably see
21 this on your own fingers. You have ridges, and every once
22 in a while there might be a ridge that breaks apart and
23 forms two ridges. We call that a bifurcation. Sometimes
24 there's an ending ridge. Sometimes there's an enclosure.
25 There's just different little things along that ridge line.

1 You have to plot that.

2 The AFIS system is a computer, and like all computers,
3 it's looking more of a -- at the mathematical. It's not
4 seeing those ridges. It's only seeing what you plot in
5 that ridge. That's why you have to have a print that's
6 AFIS quality. You have to have enough points for the
7 computer to be able to compare.

8 Once you get it plotted, then you submit it. It
9 searches that fingerprint, and it's all inked and rolled
10 fingerprints that are in the system, millions of prints,
11 and you ask it to bring back the top fifteen or twenty
12 choices. Then you physically have to compare that print
13 side-by-side, you know, and go down the list until -- to
14 see if you have a match. Sometimes you do and sometimes
15 you don't, and that's how the AFIS system works.

16 So, it's a little bit different. In other words, the
17 AFIS system basically narrows down your suspect pool, so to
18 speak, that gives you a pool to look at if you don't have a
19 suspect, if you have an unknown. If you do obtain a match,
20 it still doesn't give you name. It just gives you number.
21 So, it's sort of like a blind search. You don't even know
22 who you're looking at until you run that number and it
23 determines, you know, who that person is.

24 Q. Okay. Now, and, again, you're, you're not out at the
25 scene. Whoever is at a scene, an investigator, will gather

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1 a print and get back to the lab, to your office for ---

2 A. Right. I know nothing about the crime scene.

3 Q. Can we just go down your report with Item Number 1?

4 A. Yes.

5 Q. Can you tell the ladies and gentlemen of this jury the
6 latent print from the pay phone that you listed as number
7 1.

8 A. Right.

9 Q. Your examination and results, please?

10 A. That was -- yes, a suitable latent image 1.1 was
11 searched through the AFIS system with positive results. I
12 was able to identify that finger with finger number two of
13 a female individual that left that print on the phone.

14 Q. And her name?

15 A. The name is Linda McDuffie. The, the -- once, once I
16 entered the number, which was a state identification number
17 in the computer, then it brings me back the full set of
18 prints, along with that name and individual.

19 Q. And do you know which, what phone that came from?

20 A. No, sir.

21 Q. Okay. Latent -- Item Number 2 is a latent lift from
22 victim's vehicle. Would you tell the jury what, if
23 anything, you were able to do with that?

24 A. Yes, I was able -- that was suitable for search
25 through AFIS system. I did not get any type of match off

1 that print. This print did not meet the criteria for
2 storage. In other words, I can store certain prints in
3 what's called unsolved latent file. But you have to have a
4 good points of identification to be able to store it. So,
5 I wasn't able to store that. We didn't quite have enough.
6 However, it still was identifiable.

7 So, what I do is I can research those prints from time
8 to time to see if I can get a hit. On that particular one,
9 I don't have my notes with me, but I have researched it two
10 other times and still have failed to get an identification
11 off that print.

12 Q. No telling who that print came from?

13 A. No, sir. You can't date a fingerprint. A fingerprint
14 can be left and, and be able to be pulled from that object
15 years later.

16 Q. Could be a victim's neighbor, somebody parked next to
17 you at the grocery store? I mean, you just don't know?

18 A. No, sir, you don't know.

19 Q. Item Number 3, latent image 3.1 from pay phone.

20 A. This was a second lift from the pay, a pay phone.
21 That was also searched through the system with negative
22 results. It also did not meet criteria for storing in
23 unsolved latent filing. It's been searched several times.
24 Also still failed to get any kind of identification from
25 that.

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1 Q. Had you ever used the pay phone?

2 A. Me?

3 Q. Yes.

4 A. Not that I can remember, but I probably did years ago.

5 Q. Okay. Pay phones are usually outside?

6 A. Yes, sir, usually.

7 Q. All right. Accessible by anyone?

8 A. Correct.

9 Q. Item Number 4 would be the two cuttings from pizza
10 boxes.

11 A. The two cuttings from the pizza box, I didn't find any
12 sufficient quality for entry in searching the AFIS system.
13 I believe there was some ridge detail found on there, but
14 it just wasn't enough to get any kind of identification.

15 Q. So, your report says there were no images on the two
16 cuttings from the pizza boxes of sufficient quality ---

17 A. Quality.

18 Q. --- for entry and search of the AFIS system?

19 A. Correct.

20 Q. That kind of relate back to that question I was asking
21 you to start with. Is there -- there's certain latents
22 that, that you just can't put into AFIS, right?

23 A. Correct.

24 Q. Number 5 is the latent lift from victim's vehicle.

25 A. There were also no images of sufficient quality for

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1 entry in the search on the AFIS system on that one.

2 Q. And the last sentence on your report:

3 All entries were compared to the inked prints of
4 the suspects as well as the victim with negative
5 results.

6 A. Yes. I compared all images that I had to the
7 postmortem prints from the victim and also from the suspect
8 prints that I was given and did not make any kind of
9 identification.

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

11 (A PAUSE.)

12 MR. MEADORS: Thank you. That's all.

13 THE COURT: Mr. Deas.

14 MR. DEAS: Thank you, Your Honor. May it please the
15 court?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION BY MR. DEAS:

18 Q. Ms. Hodge, I'm Garryl Deas. I represent the defendant
19 Reginald Canty.

20 Ms. Hodge, can you pull the names of the suspects that
21 you were given? Does your report reflect that?

22 A. No, sir, do not have that notation, no, sir.

23 Q. But you were -- do you know if you were given -- do
24 you know how many suspects' prints you were given? Was it
25 just one suspect?

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1 A. No, sir. I've got written -- the only thing I've got
2 written down was victim's postmortem prints and suspect
3 prints. That would probably be on the chain of custody,
4 which was maintained with the evidence.

5 Q. Okay. Now, based on the fingerprint analysis you did
6 of the pay phone, the latent prints that were lifted off
7 the pay phone, it came back with a match to a Linda
8 McDuffie?

9 A. Correct.

10 Q. But it didn't come back to a match to either of Mr.
11 Canty or Mr. Jackson ---

12 A. No, sir.

13 Q. --- correct? And with regards to the victim's
14 vehicle, Mr. Flexon's vehicle, in your report you indicated
15 that the fingerprints lifted, latent prints lift from the
16 vehicle were searched through AFIS. Is that correct?

17 A. Yes. There was one print that was sufficient for
18 AFIS. It was identifiable and it's been searched several
19 times with no identifications made. And it was also, of
20 course, compared to the victim's postmortem prints and the
21 suspect prints that I had with negative results. So, I did
22 not make an identification.

23 Q. So, the -- no prints of Mr. Canty were found in the
24 vehicle. Is that correct?

25 A. No, sir.

1 Q. And no prints of Mr. Jackson?

2 A. No, sir.

3 Q. An likewise pizza boxes, essentially your pizza boxes,
4 the latent prints off of the pizza boxes were sufficient
5 enough for them to be searched through AFIS?

6 A. They were not. There was not enough detail there to
7 be searched through AFIS or to make an identification with.

8 Q. So, no identification at all was made in regards to
9 that?

10 A. No.

11 Q. Now, with regard to the -- your analysis, essentially
12 what, what all you do is simply analyze that, those
13 particular latent prints that were submitted to you?

14 A. Correct.

15 Q. And what -- based on the prints that were submitted to
16 you, your conclusion today is none of them matched either
17 Mr. Canty or Mr. Jackson. Is that correct?

18 A. I was not able to make an identification on, on those
19 prints to those two individuals, no, sir.

20 Q. All right.

21 MR. DEAS: Court's indulgence.

22 THE COURT: Yes, sir.

23 MR. DEAS: Thank you. Nothing further.

24 THE COURT: Mr. Wilder.

25 MR. MEADORS: Your Honor, may we approach one second?

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1 THE COURT: Yes.

2 (OFF-THE-RECORD BENCH CONFERENCE.)

3 CROSS-EXAMINATION BY MR. WILDER:

4 Q. Good afternoon, Ms. Hodge.

5 A. Hi.

6 Q. We've known each other a long time, haven't we?

7 A. Yes.

8 Q. We got to stop meeting like this. Ms. Hodge, Ray
9 Mackessy is -- was one of the crime scene investigators on
10 the scene.

11 A. Uh-huh.

12 Q. Now, if he said fingerprint was AFIS quality and he
13 issued that report, I would think he knew what he was
14 doing, wouldn't you?

15 A. I don't think he's ever been qualified as an expert in
16 fingerprint identification according to AFIS. Normally
17 before we're able to enter things into the AFIS system, you
18 have to go up to SLED.

19 Q. Correct.

20 A. And take a test.

21 Q. Right.

22 A. To be able to enter things into the AFIS system. So,
23 I don't know if Mr. Mackessy's ever done that or not. I
24 could be wrong.

25 Q. How about look at that signed report by Officer

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1 Mackessy. Do you see a reference down there, result of
2 examination and fingerprint submitted by AFIS?

3 A. Yes.

4 Q. Do you see his signature right there?

5 A. Yes, but he doesn't say it was sufficient. He just
6 says: Latent prints were developed, latent prints were
7 photographed, and two cuttings were submitted to AFIS.

8 Q. Submitted to AFIS?

9 A. Correct.

10 Q. And, and what exhibit is that for I.D.?

11 A. 8.

12 Q. Okay. Now, if I showed you -- Mr. Deas asked you
13 about a evidence sheet. If I showed you an evidence sheet
14 on Marcus Branch which said you got ahold of some
15 fingerprints of Marcus Branch and compared them to the
16 fingerprints in this case ---

17 MR. MEADORS: Object to the relevance.

18 THE COURT: Overruled.

19 MR. WILDER: Thank you.

20 BY MR. WILDER:

21 Q. Would, would you be able to tell us whether or not
22 Marcus Branch was one of the suspect prints you used?

23 A. As I told Mr. Deas, I did not write down the names of
24 the people that -- the prints that I examined. I usually
25 don't deal with names, just with prints. And I suggested

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1 to that him that the names of the persons who were
2 submitted to me should be on the evidence sheet. So, if
3 you've got that ---

4 Q. And these are ---

5 A. --- yes, that's what was submitted.

6 Q. And these are what evidence sheets would look like?

7 A. No, sir. This is a, a request for, for AFIS
8 examination I believe is what it says on the top.

9 Q. You didn't bring the ones with you that pertain to
10 this case?

11 A. No, sir. The evidence is maintained in the evidence
12 room with everything else.

13 Q. And so, who is the evidence custodian in this case?

14 A. Then it would have been Ray Mackessy or Cindy Pierson.

15 Q. All right. Have you seen Cindy Pierson around today?

16 A. No, sir, I haven't seen her.

17 Q. Okay.

18 A. It will say request for AFIS examination and then it
19 will have, I think, the investigator's name up at the top,
20 and then it will have the different case numbers, and then
21 in the middle it will have a listing of what was submitted.

22 Q. Now, let me hand you up a, a chain of custody receipt
23 and see if this will refresh your memory.

24 A. Okay. No, sir, I've not seen this one.

25 Q. And so it's possible that you didn't compare any of

1 the fingerprints in this case with Marcus Branch?

2 A. I don't know without seeing that chain of custody
3 form, though, request for AFIS examination. I don't know.
4 I'm sorry.

5 Q. All right.

6 A. I just know I compared it with the suspects and with
7 the postmortem prints of the victim.

8 Q. So, the fact that he, Marcus Branch, is listed as a
9 suspect on SLED reports ---

10 A. If they submitted his prints to me, then he could --
11 they would have been compared to what I have.

12 Q. But you can't tell us who ---

13 A. No, sir.

14 Q. --- the suspects are, Ms. Hodge?

15 A. No, sir, not unless I see that, that chain of custody
16 of the, on the actual request for examination.

17 Q. Well, I'd love to give it to you, but I don't have it.

18 A. It's just hard to find in all that paperwork.

19 Q. It certainly is. All right. You see if you can
20 identified it now.

21 A. Okay. Now, yes, this is, this has got my signature on
22 it where I received the things from him on the 23rd of
23 January of '08.

24 Q. Okay.

25 A. And it's got -- the first item was the cut-out section

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1 of the pizza box, and then it's got another cutting from
2 the pizza box, and then Item Number 43 was inked
3 fingerprint card of Marcus Branch, and Number 44 was inked
4 fingerprint card of Reginald Canty.

5 MR. WILDER: I'd like that marked for identification.

6 (LATENT PRINT EXAMINATION REPORT MARKED AS
7 DEFENDANT-JACKSON'S EXHIBIT NUMBER 24 FOR IDENTIFICATION.)

8 COURT REPORTER: Defendant's 24 for I.D.

9 THE COURT: 24 for identification only.

10 BY MR. WILDER:

11 Q. All right. So, the results of your examination were
12 you were unable to find the fingerprints of my client, Mr.
13 Jackson, on anything?

14 A. Correct.

15 Q. Or the boxes, phones, nothing?

16 A. Correct.

17 Q. And you would have been the only person doing the
18 fingerprint examination. Over at SLED, they also compare
19 fingerprints with things that are submitted to them, too,
20 don't they?

21 A. They do. I don't know if -- in this case I don't
22 know.

23 Q. All right. Well, let me show you this. Ms. Hodge,
24 let me ask you if you can identify our case number on that
25 report.

1 A. You want me to read the case number?

2 Q. Yes, ma'am.

3 A. 08004893.

4 Q. Does that match your paperwork?

5 A. Yes.

6 Q. It does?

7 A. Yes.

8 Q. All right, and who would have issued that report at
9 SLED?

10 A. This was issued by Jeff Parrott.

11 Q. Jeff Parrott.

12 (COUNSELORS CONFER.)

13 MR. WILDER: Your Honor, I'd ask that be marked for
14 identification.

15 (SLED REPORT MARKED AS DEFENDANT-JACKSON'S EXHIBIT
16 NUMBER 25 FOR IDENTIFICATION.)

17 THE COURT: Defendant's Number 25 for identification.

18 MR. WILDER: Thank you.

19 BY MR. WILDER:

20 Q. So, apparently you weren't the only person examining
21 fingerprints with respect to this case?

22 A. I guess. I didn't read what he took. So, I didn't
23 read it.

24 Q. Well, this is on our case.

25 A. Okay.

M. HODGE - CROSS-EXAMINATION BY MR. WILDER

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1 Q. It is a fingerprint report by Jeff Parrott.

2 A. I was going to say I didn't, I didn't see it. I
3 didn't read, and you asked ---

4 Q. I know you didn't.

5 A. --- me who submitted it.

6 Q. I hadn't, I hadn't showed it to you. Now, so, you're
7 not the only person examining fingerprints, are you?

8 A. I guess not.

9 MR. WILDER: Thank you.

10 THE COURT: Any redirect?

11 MR. MEADORS: Nothing further.

12 THE COURT: Thank you. You may step down.

13 WITNESS: Thank you.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: Any objection to this witness being
16 excused for the balance of the day?

17 MR. MEADORS: No, sir.

18 MR. WILDER: No.

19 MR. DEAS: No.

20 THE COURT: Thank you, Ms. Hodge.

21 MR. MEADORS: Thank you, Ms. Hodge.

22 MR. WILDER: Your Honor, may we approach?

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 THE COURT: All right, ladies and gentlemen, we're
25 going to take a quick break, let y'all cool down a little

J. PARROTT - CROSS-EXAMINATION BY MR. DEAS

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1 doing this, correct? They're sending this evidence to you?

2 A. This, this was submitted to the lab for processing,
3 yes, sir.

4 Q. You didn't go to this scene?

5 A. That's correct, sir.

6 Q. You don't know where this stuff was gathered from?

7 A. That's correct.

8 Q. You don't know whose house it came from or whose
9 apartment, correct?

10 A. That's correct.

11 MR. MEADORS: I think that's all I have. I've give
12 you a copy of that. I'm going to hand these back you for
13 cross.

14 THE COURT: Mr. Deas.

15 MR. DEAS: May it please the court? Thank you, Your
16 Honor.

17 CROSS-EXAMINATION BY MR. DEAS:

18 Q. How you doing?

19 A. Yes, sir.

20 Q. Mr. Parrott, how you doing, sir?

21 A. Doing well. Thank you.

22 Q. My name is Garryl Deas. I represent the defendant
23 Reginald Canty.

24 A. Yes, sir.

25 Q. Mr. Parrott, in a nutshell, would it be accurate to

J. PARROTT - CROSS-EXAMINATION BY MR. DEAS

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1 say that when it comes to the items that you analyzed, none
2 of them had the fingerprints of Mr. Reginald Canty or
3 Daniel Jackson on them? Is that ---

4 A. That is correct.

5 Q. Now, you, you would have received from the sheriff's
6 department a SLED laboratory forensic services request
7 form?

8 A. Yes, sir.

9 Q. And, and do you have yours?

10 A. I did not receive it in my case file.

11 Q. Okay. I want to hand you.

12 MR. DEAS: May I approach, Your Honor?

13 THE COURT: You may.

14 BY MR. DEAS:

15 Q. Two defendants' request forms and you tell me if those
16 are the ones -- are those the typical type of request forms
17 you would receive?

18 A. This is the typical format, yes.

19 Q. Is that, is that this -- is that the form related to
20 this case, and does it have this case number on it?

21 A. It does have this lab number on it, yes, sir.

22 Q. And you had indicated earlier that the, the rifle that
23 you received to perform your fingerprint analysis on, it
24 had a, a, a cartridge lodged in the chamber, did it not?

25 A. That's, that's what I noted, yes, sir.

1 Q. Did you do a fingerprint analysis on the cartridge
2 that was actually lodged in the chamber?

3 A. Yes, sir, I did it along with the rifle itself.

4 Q. And the cartridge lodged in the chamber, when you
5 performed that analysis, you concluded there were no
6 fingerprints that matched either Mr. Canty or Mr. Jackson?

7 A. There was nothing whatsoever of any value; no latents
8 of value were developed.

9 Q. And the eighteen unfired cartridges.

10 A. Yes, sir.

11 Q. You did a fingerprint analysis on each one of them?

12 A. Yes, sir, I did.

13 Q. And no fingerprints of either Mr. Canty or Mr. Jackson
14 on any of those eighteen unfired cartridges, correct?

15 A. That's correct.

16 Q. Do you know how many bullets that, that Styrofoam
17 cartridge holds? Would it be twenty cartridges?

18 A. I believe you have it here, if I'm not mistaken. I
19 can literally count it. I don't know from memory.

20 Q. Okay, but you know it was eighteen of them, it was
21 eighteen unfired bullets in the cartridge when you got it?

22 A. That was the number I had.

23 Q. And you had one in the chamber?

24 A. One in the chamber.

25 Q. Now, it's -- one of your reports, and you correct me

J. PARROTT - CROSS-EXAMINATION BY MR. DEAS

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1 if I'm wrong, is dated January 18, 2008. Is that correct?

2 A. Yes, sir, that's -- I'm sorry. That's State's Exhibit
3 79?

4 Q. That's State's Exhibit 79.

5 A. Yes, sir.

6 MR..DEAS: May I, may I approach, Your Honor?

7 THE COURT: You may.

8 BY MR. DEAS:

9 Q. And pursuant to State's Exhibit 79, again, there was
10 -- after you performed your analysis, your fingerprint
11 analysis, there were no prints that were matching to Mr.
12 Canty or Mr. Jackson. Is that correct?

13 A. That's correct.

14 Q. And then at some point you were submitted, you were
15 submitted a shell casing, a 30-30 shell casing, correct?

16 A. That's correct.

17 Q. And when -- do you -- and I believe you may have
18 already answered this, but do you know when you received
19 it?

20 A. Cross-reference here in my notes. You gave me
21 additional information I did not have. So, I can actually
22 look for that.

23 (A PAUSE.)

24 A. It doesn't appear that I have that submission, that
25 you didn't give me that submission. I can tell you when I,

1 I took possession I processed it, the date.

2 Q. When, when was that? When did you take -- when did
3 you process the, the 30-30 shell casing?

4 A. That would be on SLED Item 48. That was November 26,
5 2008.

6 Q. And there was no -- pursuant to your fingerprint
7 analysis, no match to either Mr. Canty or Mr. Jackson?

8 A. No latent impressions of anybody prior that I
9 developed on that particular item of evidence.

10 Q. And did you at some point receive another 30-30 shell
11 casing for fingerprint analysis, or did you only receive
12 one?

13 A. I would have to go back and look through, but I have
14 nothing to indicate any other separate single submission.

15 Q. So, essentially when it came to the, to the cartridge,
16 the bullets, you, you, you analyzed for fingerprints the
17 bullet that was lodged in the chamber?

18 A. Correct.

19 Q. The eighteen unfired cartridges?

20 A. That were from the, the Styrofoam container.

21 Q. Styrofoam, Styrofoam cartridge ---

22 A. Yes, sir.

23 Q. --- or magazine and then you analyzed the one 30-30
24 shell casing, which was Item, I believe, 48?

25 A. That's what I have written up, yes, sir.

J. PARROTT - CROSS-EXAMINATION BY MR. DEAS

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1 Q. But you, you don't have any knowledge as to, as to
2 receiving a second 30-30 shell casing from, from law
3 enforcement to analyze?

4 A. I don't, I don't have any record and -- that I
5 received another. I think you may be referring to an item
6 looks like here SLED Item 32.

7 Q. Let me, let me -- while you're looking there, let me
8 give you this request form and see if that helps you out.

9 A. Okay.

10 Q. Is that Item 32?

11 A. That's what I was just looking for, yes, sir.

12 Q. And did you ---

13 A. I have nothing in my case file that I received from
14 SLED indicating an Item 32.

15 Q. So, you have nothing in your case file to show that
16 you received that, that you received an Item 32?

17 A. That item, I did not receive it. I see the analysis
18 requested. That item went straight to firearms.

19 Q. Okay.

20 A. I would not have received that item.

21 Q. And it went -- did not go to you for fingerprinting?

22 A. No, sir. It went straight to firearms. I never
23 received that item.

24 Q. Okay.

25 A. That's, that's why I don't have record of it.

J. PARROTT - CROSS-EXAMINATION BY MR. WILDER

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1 Q. I understand. Can I get that back from you?

2 A. Yes, sir. You can take that.

3 Q. Sorry. And, again, based on your analysis on all of
4 the bullet cartridges, the Styrofoam holder itself, the
5 rifle, no fingerprints matching Mr. Canty or Mr. Jackson.
6 Is that correct?

7 A. That's correct.

8 MR. DEAS: Court's indulgence.

9 THE COURT: Yes, sir.

10 (A PAUSE.)

11 MR. DEAS: Nothing further.

12 THE COURT: Mr. Wilder.

13 CROSS-EXAMINATION BY MR. WILDER:

14 Q. Good afternoon, Mr. Parrott..

15 A. How are you?

16 Q. I sent for you with a subpoena.

17 A. Yes, sir.

18 Q. And you're here.

19 A. Yes, sir, that's right.

20 Q. And you live over Irmo these days?

21 A. Yes, sir. I live just north of Columbia.

22 Q. Okay, but at some point you left SLED and now you're
23 in independent business?

24 A. That's correct.

25 Q. Now, I want to -- basically we got three reports here,

J. PARROTT - CROSS-EXAMINATION BY MR. WILDER

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1 right?

2 A. Yes, sir.

3 Q. And they're dated January 12, 2008?

4 A. Should be January 18th.

5 Q. I'm sorry. That's the date ---

6 A. 2008.

7 Q. Okay. January 18, 2008, March 18, 2008, and December
8 2nd, 2008?

9 A. Yes, sir.

10 Q. Okay.

11 A. Yes, sir.

12 Q. And the, the earliest one, January 18, 2008, that's
13 just got the victim, William Flexon, listed there?

14 A. That's correct.

15 Q. And then the next one, March 18, 2008, it's got
16 victim, William Flexon, and it's got two suspects, Daniel
17 Jackson and Reginald Canty, right?

18 A. That's correct.

19 Q. And on that report you say not identified with Daniel
20 Jackson, not identified with Reginald Canty, not -- each
21 thing that you identified where you had prints, they were
22 not identified with the two individuals who are on trial
23 today, right?

24 A. That's correct.

25 Q. However, you go on to say that the latents are not

1 suitable for the AFIS?

2 A. That's correct.

3 Q. But you were still able to exclude them?

4 A. That's correct, because I had their impressions, yes,
5 sir.

6 Q. Okay. Can you explain to the jury how you were able
7 to exclude these two gentlemen even though you didn't have
8 AFIS quality prints?

9 A. Certainly. The -- actually the agency, and I'll give
10 you more information here. The agency actually submitted
11 the fingerprint card to palm print cards for Mr. Jackson
12 and Mr. Canty. I received those inside of a sealed manila
13 envelope from evidence control.

14 Q. And then how were you able to exclude the prints you
15 were examining as a result of receiving those fingerprint
16 cards?

17 A. Certainly. I was actually able to compare it. I had
18 the temporary cards as well as palm print cards. I was
19 actually able to compare those impressions to the latent
20 impressions I developed, and determined that it was not
21 those of either Mr. Jackson or Canty.

22 Q. All right. So, I'm understanding then because AFIS
23 involves a certain number of points that you have to enter
24 into a computer grid, and if it, if you don't have that
25 number of points, you can't put it in AFIS. But you can

J. PARROTT - CROSS-EXAMINATION BY MR. WILDER

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1 still look at the prints and make a decision based on what
2 you're looking at?

3 A. That's correct. As a matter of fact, in South
4 Carolina we're required to do a manual, manual examination
5 of fingerprints. Even if AFIS pops up with a name and
6 number, whatever the case may be, you still have to search
7 that manually, and an examiner has to look at those and
8 make those comparisons.

9 Q. Thank you. So, just because something's not AFIS
10 quality doesn't mean we throw it out. We still can get
11 something out of it if we have something to compare it to
12 possibly?

13 A. That is correct. In this case the -- you'd have to
14 literally submit fingerprint cards and palm prints card of
15 any person you wanted it compared to.

16 Q. All right. Now, let's fast forward to the December 2,
17 2008, report.

18 A. Yes, sir.

19 Q. Which suspects names are listed on that report?

20 A. That would be Daniel Jackson, Reginald Canty, and
21 Marcus Branch.

22 Q. Marcus Branch, and I believe you answered Mr.
23 Meadors's question that, well, you going to put down the
24 names of the victims, you just take away the agency, the
25 submitting agency sends you, and those are the suspects you

1 list on the report. Is that correct?

2 A. That is correct. With each submission they, they have
3 a different suspect named listed on that input sheet and
4 then it's, it's just added to list.

5 Q. All right, but because the suspect name is listed
6 there, in order for you to make a comparison, don't they
7 send you some prints of the suspects for you compare them
8 to?

9 A. In this case, they would have to.

10 Q. They would have to. All right. So, let's flip back,
11 then, going backwards to the March 18, 2008, report. At
12 that time you did not have the prints of Marcus Branch, did
13 you?

14 A. No, sir.

15 Q. And so there was never an exclusion of Marcus Branch
16 from those partial prints that weren't AFIS quality, was
17 there?

18 A. I never did an examination, no, sir.

19 Q. All right. So, when they added the suspect later, you
20 didn't go back and check that suspect's fingerprints
21 against any of the evidence you had previously examined,
22 did you?

23 A. That's correct.

24 Q. All right. So, there's no way for you to tell right
25 now today whether Marcus Branch might not be contained in

J. PARROTT - CROSS-EXAMINATION BY MR. WILDER

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1 this fingerprint that you examined on March 18th or just
2 before you wrote this report, report?

3 A. That's correct.

4 Q. Now, if they had developed other suspects in the case,
5 unless they had sent those suspect prints to SLED, there'd
6 be no way for them to exclude those either?

7 A. That's correct.

8 MR. WILDER: Thank you.

9 WITNESS: Yes, sir.

10 THE COURT: Any redirect, Mr. Meadors?

11 MR. MEADORS: No.

12 THE COURT: Thank you. You may step down.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Any objection to this witness being
15 excused for the balance of the trial?

16 MR. DEAS: No, sir, Your Honor.

17 MR. WILDER: No, sir.

18 MR. MEADORS: No, Your Honor.

19 THE COURT: All right. Thank you.

20 WITNESS: Thank you, sir.

21 MR. WILDER: And if Mr. Parrott sends a bill, Mr.
22 Meadors has got to pay half of it since he called you.

23 MR. MEADORS: No objection, Your Honor.

24 THE COURT: Good luck.

25 (A PAUSE.)

C. GOWDY - DIRECT EXAMINATION BY MR. MEADORS

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1 A. Right at five years.

2 Q. What did you do after that?

3 A. I was employed with FTC, Farmers Telephone Cooperative
4 as their safety and security director.

5 Q. Farmers Telephone Cooperative, their safety ---

6 A. And security director.

7 Q. All right, and you been -- are you doing that now?

8 A. That's correct.

9 Q. Where are your offices?

10 A. In Kingstree in the corporate offices there.

11 Q. On my way into town, there is a -- do you also got an
12 office up not too far from the court house here?

13 A. We do. We have several in Sumter.

14 Q. And as part of your job, are you the custodian of the
15 records of Farmers Telephone company?

16 A. I am.

17 Q. And at law enforcement's request and now at my
18 request, did we ask you to find a, a subscriber for the
19 Sambino's telephone?

20 A. Yes, sir.

21 Q. And is that number (803) 349-9494?

22 A. It is.

23 Q. Now, also at our request, law enforcement's request,
24 request, did you request for a, any incoming calls coming
25 to that number around 8:00 on February 15, 2008?

C. GOWDY - DIRECT EXAMINATION BY MR. MEADORS.

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1 A. We were.

2 Q. And if you can look at -- sorry.

3 (TELEPHONE RECORD MARKED AS STATE'S EXHIBIT NUMBER 81
4 FOR IDENTIFICATION.)

5 (TELEPHONE RECORD MARKED AS STATE'S EXHIBIT NUMBER 82
6 FOR IDENTIFICATION.)

7 COURT REPORTER: 81 I.D.

8 THE COURT: 81 and 82.

9 COURT REPORTER: 82 for I.D.

10 MR. MEADORS: I'm going to offer these, Your Honor.

11 THE COURT: Any objections, Mr. Deas, Mr. Wilder?

12 (COUNSELORS CONFER.)

13 MR. MEADORS: Without objection.

14 THE COURT: All right. Without objection, Mr. Deas?

15 MR. DEAS: Yes, sir.

16 THE COURT: Mr. Wilder?

17 MR. WILDER: Yes, Your Honor.

18 THE COURT: All right, 81 and 82 are admitted without
19 objection.

20 (TELEPHONE RECORD MARKED INTO EVIDENCE AS STATE'S
21 EXHIBIT NUMBER 81.)

22 (TELEPHONE RECORD MARKED INTO EVIDENCE AS STATE'S
23 EXHIBIT NUMBER 82.)

24 MR. MEADORS: May I approach?

25 THE COURT: You may.

C. GOWDY - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 BY MR. MEADORS:

2 Q. Mr. Gowdy, looking on -- and 80, 81 shows the number
3 of Sambino's?

4 A. That's correct.

5 Q. And you're the custodian of that record and that shows
6 (803) 494-9494?

7 A. That's correct.

8 Q. And if you look on State's 82 at approximately
9 8:04:55, do you see an incoming call to 494-9494?

10 A. That's correct.

11 Q. And is that call coming from ?

12 A. That is correct.

13 MR. MEADORS: That's all. Thank you.

14 THE COURT: Mr. Deas.

15 CROSS-EXAMINATION BY MR. DEAS:

16 Q. Mr. Gowdy, good afternoon, sir.

17 A. Good afternoon.

18 Q. I'm Garryl Deas. I represent the defendant, Mr.
19 Canty.

20 State's Exhibit Number 82, that's basically a, a
21 statement showing calls coming in from a certain pay phone.
22 That was your understanding, calls, calls being made from a
23 certain pay phone?

24 A. What I was just testifying to was the inbound call to
25 Sambino's.

C. GOWDY - CROSS-EXAMINATION BY MR. DEAS / MR. WILDER 854

1 Q. To, to the Sambino's Pizza Restaurant?

2 A. Yes, sir.

3 Q. So, these would be -- this, this date would show calls
4 coming in to the restaurant?

5 A. I'd have to take another look at it, but I believe
6 those are some inbound and outbound phone calls.

7 Q. All right. You want to ---

8 MR. DEAS: May I approach?

9 THE COURT: You may.

10 BY MR. DEAS:

11 A. This sheet represents a portion of the inbound and
12 outbound phone calls either terminating or originating from
13 (803)494-9494, which is Sambino's pizza.

14 Q. And according to this statement there was a call then
15 that came from a phone number to
16 (803)494-9494 at 8:04:55 time p.m.?

17 A. I recollect, recollect that it is a 415 area code.
18 I'll have to take a look at it again. That is correct.

19 MR. DEAS: Thank you, sir. Nothing further.

20 THE COURT: Mr. Wilder.

21 CROSS-EXAMINATION BY MR. WILDER:

22 Q. Was a call at the end that says connect, does that
23 reflect the time the conversation started or the connection
24 was made?

25 A. Can I take another look at it? Our, our records have

C. GOWDY - CROSS-EXAMINATION BY MR. WILDER

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1 changed since that time. That does represent the time of
2 connection to the call.

3 Q. And on -- following that line that Mr. Deas asked you
4 about, the 415 number on the Court's Exhibit or the State's
5 Exhibit, following on that line, how long did that
6 conversation last?

7 A. The switch records say that it lasted two minutes and
8 41 seconds.

9 Q. Two minutes and 41 seconds starting at what time?

10 A. 8:04 and 55 seconds.

11 Q. 8:04 and 55 seconds.

12 MR. WILDER: All right. Thank you.

13 MR. MEADORS: We ask that he be excused.

14 THE COURT: All right.

15 MR. WILDER: No objection.

16 MR. DEAS: No objection.

17 THE COURT: All right. Thank you. You are excused
18 for the balance of this trial.

19 (THE WITNESS EXITS THE STAND.)

20 MR. MEADORS: Linda McDuffie.

21 LINDA McDUFFIE, BEING DULY SWORN,
22 TESTIFIES AS FOLLOWS:

23 CLERK OF COURT: State your full name, and spell your
24 last name for the record, please.

25 WITNESS: Linda McDuffie, M-C-D-U-F-F-I-E.

L. McDUFFIE - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. And, and, and generally what area do you live in
2 Sumter?

3 A. They call it Cherryvale.

4 Q. And back in January of 2008, where were you living?

5 A. Where I'm living now, Cherryvale.

6 Q. And, and in January of 2008, did you ever use the pay
7 phones at Cherryvale Grocery?

8 A. Yes, I did.

9 Q. And did you use them every, every now and then or
10 quite frequently or what?

11 A. Every now and then.

12 Q. Your print was discovered on one of those phones.

13 A. Okay.

14 Q. So, you could have used that phone in January of 2008?

15 A. I could, yes.

16 Q. Pay phone?

17 A. Yes.

18 Q. Now, did you know William Flexon?

19 A. No, not by name, no.

20 Q. And did you -- you don't know that person at all?

21 A. Not that I know of, no.

22 Q. Okay. On January -- well, I'll just ask you. On
23 January the 12th of 2008, did you kill William Flexon?

24 A. No.

25 Q. You don't even know who he is?

1 A. No.

2 Q. Have you ever been to the O.C. Mobile Home Park?

3 A. No.

4 Q. Ever been in one of those trailers in there?

5 A. No.

6 Q. Okay. You really haven't, have you?

7 A. No.

8 Q. But you did use the phone at Cherryvale during the
9 month of January 2008?

10 A. Yeah.

11 MR. MEADORS: Thank you. That's all.

12 THE COURT: Mr. Deas.

13 MR. DEAS: No questions.

14 THE COURT: Mr. Wilder.

15 CROSS-EXAMINATION BY MR. WILDER:

16 Q. Ms. McDuffie, do you shop in the Cherryvale Grocery
17 Store?

18 A. Yes, I still do.

19 Q. You ever buy things in there? What kind of things did
20 you buy in there?

21 A. Scratch offs, beer, soda, chips, cigarettes.

22 Q. Pie?

23 A. Maybe.

24 Q. Dunkin' Donuts?

25 A. I don't know that they have Dunkin' Donuts in there,

1 MR. MEADORS: He will use the redacted version for ---

2 THE COURT: Right, because he was there when that one
3 occurred as well.

4 MR. MEADORS: And I've also instructed the sergeant,
5 and I think he does understand without question that any
6 other reference -- because there were some references
7 during the investigation which led to Mr. Jackson because
8 of Mr. Canty. And I think your court's ruling would be we
9 should not say that either.

10 THE COURT: Right.

11 MR. WILDER: And we would object, and that's what we'd
12 hoped you'd say.

13 THE COURT: Right, so I do.

14 MR. WILDER: Thank you.

15 MR. MEADORS: We understand.

16 THE COURT: All right. Thank you.

17 Let's bring our jury in.

18 (THE JURY ENTERS AT 4:33 P.M.)

19 CLERK OF COURT: Your Honor, all the jurors are back
20 in the courtroom.

21 THE COURT: Thank you.

22 Mr. Meadors, you may call your next witness.

23 MR. MEADORS: If it pleases Your Honor? The state
24 would call Robert Burnish, please.

25 ROBERT B. BURNISH, BEING DULY :

R. BURNISH -- DIRECT EXAMINATION BY MR. MEADORS

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1 SWORN, TESTIFIES AS FOLLOWS:

2 CLERK OF COURT: Please state your full name, and
3 spell your last name for the record.

4 WITNESS: Robert Boyd Burnish, B-U-R-N-I-S-H.

5 DIRECT EXAMINATION BY MR. MEADORS:

6 Q. Good afternoon, Sergeant.

7 A. Good afternoon.

8 Q. Would you please tell the ladies and gentlemen of this
9 jury about you? Where were you born?

10 A. Born in Wilmington, North Carolina.

11 Q. And where did you go to high school?

12 A. Sumter High School.

13 Q. What did you do after that?

14 A. I worked for -- I stayed in Sumter obviously and I
15 worked for a small delivery service here in town.

16 Q. Yes, sir.

17 A. I worked for them for approximately eight years, and
18 then I began working with the Sumter Sheriff's Office in
19 1992.

20 Q. And when you started with the Sumter Sheriff's Office
21 in 1992, in what capacity was that?

22 A. Patrol deputy.

23 Q. And did you move on from there?

24 A. Yes, sir, I did. I stayed in patrol division for
25 approximately eight years, and then in April of 2000 I

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 moved over to the Investigations Division.

2 Q. April of 2000?

3 A. Yes, sir.

4 Q. So, were you there when Sheriff Dennis was the
5 sheriff?

6 A. Yes, sir. In fact, he was the one who hired me.

7 Q. And have you been in investigation ever since?

8 A. Yes, since April of 2000.

9 Q. Former Sheriff Dennis, I apologize. In January of
10 2008 what were your duties at the sheriff's department?

11 A. I was still working in the Investigations Division as
12 an investigator.

13 Q. And you were a sergeant?

14 A. Yes, sir.

15 Q. Let's go, take us back -- you go back to the night of
16 January 12th of 2008. Were you working that day?

17 A. No, I was not working that day.

18 Q. All right, but you did get called in?

19 A. Yes, sir, I did.

20 Q. Okay, and as a result of that, did you become the
21 chief investigating officer?

22 A. Yes, sir.

23 Q. And you've been to Cherryvale area before?

24 A. Yes, sir, quite a few times.

25 Q. Are you familiar with O.C. Mobile Home Park?

1 A. Yes, sir.

2 Q. Were you familiar with the Cherryvale Grocery?

3 A. Yes, sir.

4 Q. When you arrived at the scene, tell these ladies and
5 gentlemen what you remember. What were your observations?

6 A. When I arrived at the scene, there were already
7 numerous officers already there, and I believe myself and
8 the crime scene investigator, Mr. Mackessy at the time, he
9 had arrived. I think it was about the same time. I met
10 with Captain Turner, who was in charge of the investigation
11 division at that time, and I was briefed on the situation.
12 And I began to do a canvas of the area to look for anybody
13 who may have seen or heard anything. There were already
14 other investigators that were doing that that night.

15 Q. What time of night was it?

16 A. It was, it was after 8:00. I don't remember the exact
17 time when I got there.

18 Q. And from your observations or anybody else's that
19 night, did you find -- did you see the pizza boxes that
20 night?

21 A. No, sir, we did not see the pizza boxes that night.

22 Q. You were at O.C. Mobile Home Trailer Park, correct?

23 A. That's correct.

24 Q. And this -- was Mr. Flexon's body near lot number ?

25 A. Yes, sir, it was.

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1 Q. Was that a vacant trailer?

2 A. Yes, sir, it was.

3 Q. And we've seen pictures. Was that his van that was
4 identified on there?

5 A. Yes, sir, it was.

6 Q. Did you know Tanya Knudson?

7 A. Yes, sir, I do.

8 Q. Dealt with her in another matter where she was a
9 victim?

10 A. Yes, sir.

11 Q. While you were there at the mobile, at O.C. Mobile
12 Home Park, did you have an occasion to see Ms. Knudson?

13 A. Briefly.

14 Q. Okay. As a result of that, did you go to Cherryvale
15 Grocery?

16 A. Yes, sir.

17 Q. Okay, and did Investigator West go?

18 A. Yes, he did.

19 Q. And did you go to Cherryvale that night?

20 A. Cherryvale Grocery?

21 Q. That night. I'm sorry. The grocery store, yes, sir.

22 A. Yes, sir, I did.

23 Q. And did you have an occasion to talk to a Eugene
24 Mackovitch?

25 A. I did, yes.

1 Q. Okay, and as a result of that, did you request a
2 certain time period on the, on the video?

3 A. Yes, sir, I did.

4 Q. And is Mr. Mackovitch -- did you do the video that
5 night?

6 A. No, could not get the video that night.

7 Q. And do you know a fellow named John Baldwin?

8 A. Yes, I do.

9 Q. And, and did you arrange for Mr. Baldwin to meet you
10 at Cherryvale Grocery the next day?

11 A. Yes, sir.

12 Q. When you at Cherryvale Grocery now on January 30th of
13 2008, and did you have an opportunity to look at the video
14 as a result of what Mr. Mackovitch said?

15 A. Yes, I did.

16 Q. The night before?

17 A. Yes, sir.

18 Q. And did you give him a time period?

19 A. Yes.

20 Q. And did you have -- do you wear a watch?

21 A. Yes, I do.

22 Q. Is your habit to wear your watch?

23 A. Yes.

24 Q. You get up in the morning and you put your watch on?

25 A. Yes, sir.

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1 Q. Okay, and when you were at Cherryvale Grocery on
2 January 13, 2008, and looking at that video, was the video
3 off?

4 A. Yes, it was.

5 Q. And, and was it basically an hour ahead?

6 A. Yes, sir.

7 Q. Somebody forgot to fall back?

8 A. Yes, sir.

9 Q. During that time period?

10 A. Right. That's correct.

11 Q. And did you observe that from your own eyes and your
12 own clock in looking at that video that it was off?

13 A. Yes, sir. After Mr. Baldwin brought it to my
14 attention that the time was off, I observed that it was
15 off. He was right; it was off.

16 Q. Any question it was off?

17 A. No, no question.

18 Q. Now, it's, it's already in evidence, the video.
19 That's what you asked Mr. Baldwin to download?

20 A. Yes, sir, I did.

21 Q. Okay. Put on a VHS and given to law enforcement to
22 you, right?

23 A. That's correct.

24 Q. As you're looking at the video in the store on January
25 13th, was there an employee named Anitta Shannon there?

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1 A. Yes, sir.

2 Q. I don't know if she was working that day or not, but
3 was she in the store?

4 A. She was in the store that day, yes.

5 Q. And could she identify anybody on that video?

6 A. Yes, sir.

7 Q. And what did she say?

8 MR. WILDER: Your Honor, object to the hearsay. I
9 know she's already testified, but I still object because I
10 don't know what he's got to say.

11 MR. MEADORS: Your Honor.

12 THE COURT: She's already testified. I'm going to
13 overrule.

14 MR. MEADORS: She testified ---

15 MR. WILDER: As long as ---

16 MR. MEADORS: And was subject to cross-examination,
17 and it's going to be the same answer.

18 THE COURT: It needs to be.

19 MR. MEADORS: It will be I think, Your Honor.

20 Mr. Meadors:

21 Q. Did she identify one of the subjects?

22 A. Not by name. She, she says she knew the person
23 because he dated a relative of hers.

24 Q. And, and as result of that, did you get Mr. Jackson's
25 name?

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1 A. Yes, I did.

2 Q. She said she knew him?

3 A. Yes, sir.

4 Q. So, you got a video from the time period. You'd
5 already talked to Ms. Knudson?

6 A. Yes, sir.

7 Q. As a result of that, did you learn that somebody had
8 ordered a pizza from Sambino's?

9 A. Yes, sir.

10 Q. And did you learn that they had asked it be delivered
11 at lot 7?

12 A. Yes, sir.

13 Q. Now, I believe this is in evidence, but did Ms.
14 Knudson tell you or did you learn that she had reported at
15 the time that some call came in?

16 A. Yes, sir.

17 Q. I think that was gotten later, correct?

18 A. That's correct, yes, sir.

19 Q. And did you look at that, that video? I mean, did you
20 look at that video that night, that day and see it
21 yourself?

22 A. Yes, sir.

23 Q. And did you take a statement of Mr. Mackovitch?

24 A. Yes, I did.

25 Q. Now, at some point were the pizza boxes located?

1 A. Two of the pizza boxes were located, yes, sir.

2 Q. Tell the ladies and gentlemen about that.

3 A. On the, the day that I received the video from the
4 Cherryvale Grocery, which was the following day, I received
5 word from Lieutenant Tony Horton. He was employed with the
6 sheriff's department at that time. He was on duty, and he
7 contacted me while I was at the store and said two of the
8 pizza boxes were located. Of course I told him don't touch
9 them; leave them alone.

10 I went to the location where he said they were located
11 at, and then Ms. Knudson and her husband, they also came.
12 They identified the, the two pizza boxes as being from
13 their store. And at that time I contacted Raymond Mackessy
14 to photograph and seize the pizza boxes for further
15 processing.

16 Q. And he took pictures of them?

17 A. Yes, he did.

18 Q. All right. You're at the store. You've got the
19 video. Is it fair to say the investigator, the chief
20 investigator, when you got a homicide in a certain area,
21 are you canvassing the area?

22 A. Yes, sir, we are.

23 Q. Are you talking to, talking to folks?

24 A. Yes, sir.

25 Q. Trying to find information?

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 A. That's correct.

2 Q. And that night it happened when you were out there,
3 did you, did you try or did you talk to anybody in the
4 trailers that were around there?

5 A. Yes, sir.

6 Q. Can you tell us now were there some vacant trailers
7 there?

8 A. The majority of those trailers in that little park
9 were vacant. I think there were maybe two or three at that
10 time that were occupied.

11 Q. And after you left Cherryvale Grocery, did you have an
12 occasion to see you, Mr. Canty?

13 A. Yes, I did.

14 Q. Where did you see him?

15 A. On Babette Drive.

16 Q. Okay, and, and was he, was he walking?

17 A. Yes, he was by himself.

18 Q. All right, and did you have occasion to talk to him?

19 A. Yes, I did.

20 Q. Shortly after that, did his mother come?

21 A. Yes, she showed up shortly after that.

22 Q. And did -- nothing hostile between you and Ms. Canty
23 or Mr. Canty?

24 A. No, nothing hostile. She was very polite.

25 Q. In fact, did one or both of them agree to talk to you,

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1 and they just didn't want to do it in that area?

2 A. That's correct, yes.

3 Q. And did you end up talking to Mr. Canty, Canty on
4 January the 13th?

5 A. Yes, I did.

6 Q. Okay. Tell the ladies and gentlemen about that.
7 Where was that? What did that take place?

8 A. We -- at that time, the sheriff's department had an
9 office, community oriented policing office at the Central
10 Carolina Tech campus, Shaw campus on 441, which is located
11 at 441 at Edgehill Road right there on the corner.

12 Lieutenant Horton was with me at the time, and we
13 asked if it would be okay for them to meet us there, which
14 would be away from the Cherryvale area, and they felt
15 comfortable with that. So, that's where we went and met
16 them. And Ms. Canty took Mr. Canty to the, to that
17 location. He was not in a police car.

18 Q. Okay.

19 A. He was not in a police car.

20 Q. And that's Peach Orchard in here that's referred to?

21 A. Peach Orchard is also Highway 441.

22 MR. MEADORS: May I approach?

23 THE COURT: You may.

24 BY MR. MEADORS:

25 Q. And we'll both speak so the court reporter can hear

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1 us. I'm showing you what's marked as State's 8. Do you
2 recognize that?

3 A. Yes, I do.

4 Q. Does it have your signature?

5 A. Yes, it does.

6 Q. Does it have Mr. Canty's signature?

7 A. Yes, sir, it does.

8 MR. MEADORS: Without objection, Number 8, Your Honor.

9 THE COURT: Without objection?.

10 MR. DEAS: Well, subject to the previous objections.

11 THE COURT: Right. Right. Overruled.

12 (STATEMENT BY CANTY MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 8.)

14 BY MR. MEADORS:

15 Q. What is 8?

16 A. This is a, a voluntary witness statement that was
17 given by Mr. Canty in reference to what he saw that night.

18 Q. And at the top it has Reginald Canty?

19 A. Yes, sir, it does.

20 Q. Who filled in the top?

21 A. I did.

22 Q. And it has he's sixteen and lives at ?

23 A. Yes, sir,

24 Q. And did he give you that information?

25 A. Yes, sir, he did.

1 Q. Did he have any trouble giving it to you when you said
2 what's your address? Did he respond and say it's ?

3 A. Yes, sir.

4 Q. Did you have any trouble understanding him?

5 A. No, not at all.

6 Q. And it, next it says I can circled, read and write,
7 and completed seventh grade?

8 A. Yes, sir, it does.

9 Q. And when you asked him for his name, date of birth,
10 did, did he give it right off?

11 A. Yes, sir, he did.

12 Q. Now, this was a voluntary statement, correct?

13 A. That's correct.

14 Q. And at the bottom it says:

15 I've read each page of this statement consisting

16 of one page, each page of which bears my

17 initials, and I certify the facts contained

18 herein are true and correct, and received a copy.

19 Correct?

20 A. That's correct.

21 Q. And there's a line right here in the middle with R.C.
22 Did he sign that?

23 A. Yes, he did.

24 Q. And, again, is that so nobody can could back and
25 change it later?

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1 A. Right. We make it a practice that if there's any
2 blank, blank lines on the -- not used on this form, we draw
3 a line so there can with no accusations of, of somebody
4 coming behind them after their signature and adding more,
5 something else to it.

6 Q. And actually at the top does it say I'm:

7 I, Reginald Canty, am not under arrest and not,
8 nor am being, being, am I being detained for any
9 criminal offense concerning the events I'm about
10 to make known to Sergeant Burnish. I understand
11 I'm free to walk away without saying anything,
12 and I volunteer the following information of my
13 free will for whatever purpose it may serve.

14 A. That's correct.

15 Q. And y'all went over that?

16 A. Yes, we did.

17 Q. And you both signed this?

18 A. Yes, sir.

19 Q. Will you -- was his mother there for this?

20 A. She was in the building, and I don't believe she was
21 in the room for that.

22 Q. Will you publish that to the jury, please?

23 A. Yes, sir.

24 Q. And whose writing is this in?

25 A. The, the narrative is in Mr. Canty's writing. The

1 information that, that's printed at the top is in my
2 writing. Do you just want the narrative published or?

3 Q. Yes, sir. Just, you can start there.

4 A. The narrative starts that:

5 I leave Toya's house, and she asked me to watch
6 her house when she leave. So, I went and sat on
7 my step and I seen lights. So, I went to see
8 what it was, and then that's when I see two
9 people fighting, and I hear somebody say no,
10 stop. I hear the gunfire. So, I went into the
11 house and told my mother. The gun looked like a
12 rifle and the person that was holding the gun had
13 a hoodie, but I couldn't see his face.

14 Q. Now, on here, on here it's got a little place that's
15 scratched out. It's got a little place, R.C., little place
16 R.C., little place R.C.?

17 A. Yes, sir.

18 Q. Did y'all go over this together?

19 A. Yes, sir. I asked him if any marks that he made, add
20 that. Like those scratches out, where he made a mistake
21 and scratched it out to place his initials there because he
22 was the one who scratched them out.

23 Q. I leave Toya's house and she asked me to watch
24 her house. When she leaves, I went and sat on my
25 step and I seen light. So, I went to see who it

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1 was, and then that's when I see two people
2 fighting, and I hear somebody said no, stop.
3 Then I hear the gunfire. So, I went in the house
4 and told my mother it looked like a rifle, and
5 the person that was holding the gun had a hoodie,
6 but I couldn't see for sure.

7 And, and he signed this as the truth and nothing but
8 the truth, correct?

9 A. That's right.

10 Q. He said this is what happened?

11 A. Yes, sir.

12 THE COURT: State's Exhibit 8?

13 MR. MEADORS: That's 8.

14 THE COURT: 8?.

15 MR. MEADORS: Yes, sir, Your Honor.

16 BY MR. MEADORS:

17 Q. Did you have an occasion to talk with Mr. Canty again
18 that day?

19 A. Yes, sir, I did.

20 Q. And that's what's marked State's 9.

21 (COUNSELORS CONFER.)

22 MR. MEADORS: Subject, we're offering ---

23 THE COURT: Subject to the previous object, which I
24 have overruled.

25 (STATEMENT BY CANTY MARKED INTO EVIDENCE AS STATE'S

1 EXHIBIT NUMBER 9.)

2 BY MR. MEADORS:

3 Q. Is the top part again, is this the same type statement
4 -- I mean, it's the same form?

5 A. Yes, it is.

6 Q. And, again, the top part is filled out?

7 A. Yes, sir.

8 Q. By you?

9 A. Yes, sir.

10 Q. Did Mr. Canty write the middle part?

11 A. Yes, sir, he did.

12 Q. And you're now -- this is several hours later?

13 A. I think it's maybe an hour and a half or ---

14 Q. 4:45 on the first statement?

15 A. Yes, sir.

16 Q. Completed?

17 A. Yes, sir.

18 Q. And this is now 6:00?

19 A. Yes, sir.

20 Q. With, with -- had you gone and come back and met with
21 him again?

22 A. No, sir. We were still there when he gave this second
23 statement. We never -- we didn't leave the building.

24 Q. All right, and read that. Publish that to the jury,
25 please.

1 A. Yes, sir.

2 I leave Toya house and she ask me to watch her
3 house when she leave. So, I went and sit on my
4 step and I seen a light. So, I went to the end
5 of my gate, and I seen the two people fighting,
6 and I hear the gunfire, and I see the man fell on
7 the ground, fell down.

8 Sorry. Fell down.

9 And the bad guy ran. He looked like he could be
10 James or J-Boy because he had a black hoodie with
11 a dragon on the back with short pants with blue
12 designs on the pockets, and the front of the
13 hoodie looked like it zips up with a black
14 bandana on his face. I think it got to be J-Boy
15 because he was out there around 3 p.m. that day.
16 He shot the man with a long rifle and then ran
17 around the car. Then I hear more than one
18 footsteps running.

19 Q. Now, did you have trouble talking with him either of
20 these two statements?

21 A. No, both of us talked to him.

22 Q. Any trouble understanding him?

23 A. No.

24 Q. Did he have any trouble understanding you based on his
25 responses to you?

1 A. No, sir.

2 Q. You could tell what he was saying? He could tell what
3 you were saying?

4 A. Yes, sir.

5 Q. Did he appear to be under -- I know what he -- I know
6 he wasn't under arrest and he was allowed to leave,
7 correct?

8 A. That's right.

9 Q. But, but did he appear to you to be under the
10 influence of any alcohol or any other substance,
11 mind-altering substance?

12 A. No, sir.

13 Q. Smell anything on him?

14 A. No, sir.

15 Q. Threaten him, coerce him?

16 A. No, sir.

17 Q. Actually let him leave, right?

18 A. Yes, sir.

19 Q. These first two statements, does he say anything about
20 another person asked him if he wants to rob the pizza man
21 and saying yes?

22 A. No, sir, not in these two statements.

23 Q. Didn't say it on the first one?

24 A. No, sir.

25 Q. Didn't say it on the second?

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1 A. No, sir.

2 Q. All right, and he left with his mother?

3 A. That's right, yes, sir.

4 Q. And you and his mother, I guess -- I'm not asking you
5 what y'all said, but y'all talked?

6 A. Yes, we did.

7 Q. And there wasn't any animosity there?

8 A. No, sir.

9 Q. Now, I think at some point Mr. Flexon was taken to the
10 autopsy?

11 A. Yes, sir.

12 Q. Did you get any evidence from there? Bullets came out
13 of his body, fluids, gunshot residue kit, and that's taken
14 to SLED, correct?

15 A. That's correct.

16 Q. Did you learn anything -- Dr. Sexton and Dr. Ross did
17 the autopsy. Did you learn anything -- I think that was on
18 the 14th -- at that point about the type or number of
19 weapons that might have been involved?

20 A. That it appeared to be two different weapons that were
21 involved.

22 Q. And they can tell that from the autopsy?

23 A. Yes, sir.

24 Q. What did you do next in your investigation? Do you
25 know a fellow named Gowdy?

1 A. Yes, sir, I do. I sent, I sent Mr. Gowdy three
2 subpoenas for phone information, for phone records as well.
3 The first one being for Sambino's pizza and then the other
4 two for pay phones at Cherryvale Grocery...

5 Q. And did he provide some documents to you?

6 A. Yes, sir, he did.

7 Q. In fact, he testified earlier today to that, correct?

8 A. That's right.

9 Q. Now, you reviewed the video previously of the two
10 individuals, right?

11 A. Yes, I did.

12 Q. One of them had been identified by Mr. Canty?

13 A. Right.

14 Q. You've now seen Mr. Canty, I believe you testified,
15 correct?

16 A. Yes.

17 Q. Talked to him twice?

18 A. Yes, I did.

19 Q. Had you looked at the video again?

20 A. Actually, I had some still photos developed from the
21 video, and I was studying the still photos, and I noticed
22 that the second person with Mr. Jackson was Mr. Canty.

23 Q. Did you realize that's the man you had talked to
24 earlier?

25 A. Yes, sir.

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1 Q. And what, what day are we on now?

2 A. I believe that was on January the 14th.

3 Q. And on the 15th, did you have an occasion or did
4 Dominick, you and/or Dominick West sitting back there have
5 an occasion to talk to Mr. Canty?

6 A. Yes, sir. We went to his residence and we picked him
7 up and brought him to the Law Enforcement Center where he
8 was questioned again.

9 Q. And, and who was with him then, if anybody?

10 A. I believe it was his mother that was with him.

11 Q. You sure she was there that day at that time?

12 A. I'm not a hundred percent.

13 Q. Okay, and ---

14 A. We talked to him so many times.

15 MR. WILDER: Objection, Your Honor. Object to that
16 last comment.

17 MR. MEADORS: I don't think it has any real -- we'll
18 withdraw it.

19 BY MR. MEADORS:

20 Q. I want to show you what's marked State's 5. Did you
21 take part in the -- when Mr. West talked with Mr. Canty on
22 the 15th?

23 A. 15th, I do not believe I did, no.

24 Q. Okay.

25 A. Do not believe I did.

1 Q. You were not there when Mr. Canty gave a statement on
2 the 15th?

3 A. I was in the building; I was not present for that
4 statement.

5 Q. Now, what happened and what did you do next in your
6 investigation?

7 A. Based on the information that was received on that
8 date is when we issued warrants for the arrest of Mr.
9 Jackson.

10 Q. Now, did you go look for Mr. Jackson?

11 A. Yes, we did.

12 Q. Tell the jury State's Exhibit -- tell the jury about
13 that.

14 A. We received an anonymous call that Mr. Jackson was
15 possibly at his parent's apartment in, which is in
16 Summerton. It was identified to us as Meadowfield
17 Apartments. Contacted Investigator Lynn Hammett with the
18 Clarendon County Sheriff's Office since Summerton is in
19 Clarendon County and asked for their assistance in helping
20 us serve these warrants and locating Mr. Jackson.

21 And then from there we went and met with Investigator
22 Hammett and several of their patrol officers in marked
23 vehicles, and I briefed them on the situation while we were
24 there, and we went to Meadowfield Apartments.

25 Q. And you yourself went there with the Investigator

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1 Hammett?

2 A. Yes, sir.

3 Q. And is that, is that, is that what y'all do in law
4 enforcement? Going somewhere in another county, you local
5 law enforcement to join you? You just don't go in somebody
6 else's county unless you get somebody else with you?

7 A. That's right.

8 Q. And did you have an occasion to talk with Ms. Russell?

9 A. Yes, I did.

10 Q. And did she let you in the house?

11 A. Yes, she did.

12 Q. Did y'all go in without permission?

13 A. No, we did not.

14 Q. And did you search for Mr. Jackson?

15 A. Yes, we did.

16 Q. And what day was this?

17 A. This was on January the 16th.

18 Q. And when you say you searched, did you look in the
19 apartment?

20 A. Yes, sir, we did.

21 Q. Was he there?

22 A. No, sir, he was not.

23 Q. Did you leave?

24 A. Yes, we did.

25 Q. What happened after that?

1 A. We left. Investigator West and I left, came back to
2 Sumter County. I received a phone call from Investigator
3 Lynn Hammett that they were returning back to Ms. Russell's
4 apartment because of a weapon being found underneath her
5 couch, and she said it wasn't hers.

6 Q. And I think we heard yesterday. Investigator Kipp
7 Coker was also with Investigator Hammett?

8 A. Yes, sir.

9 Q. As a result of that, did you meet with Kipp Coker and
10 get some items, some potential evidence?

11 A. Yes, sir, I did. I met with him at the Clarendon
12 County Sheriff's Office and I received the, the rifle and
13 the eighteen unfired bullets and the video disk of two
14 photographs that they took where the, the gun was
15 photographed at the apartment.

16 Q. So, you took that in your position at that point from
17 Investigator Coker who got it from Ms. Russell?

18 A. That's correct.

19 Q. And that was put into evidence?

20 A. Yes, sir.

21 Q. Was here until it was shipped to SLED for comparison?

22 A. Right. I contacted Investigator Mackessy that night
23 on the way back, had him meet me at the Law Enforcement
24 Center, and I turned it over to him that night.

25 Q. Now, on -- what date was that?

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1 A. January the 16th:

2 Q. Had you heard anything from SLED at this point as far
3 as the bullets from Mr. Flexon?

4 A. Yes, sir. We heard, we heard a -- the day before on
5 January the 15th that the, the bullets that were removed
6 from Mr. Flexon and what they were identified as being
7 could have been fired from.

8 Q. Like, like he testified to?

9 A. Right. Yes, sir.

10 Q. Well, what do you do next? What did you do next?

11 A. Well, when we received the -- having that information
12 about what type of firearms, when we received the
13 information about what was found in Mr. Russell's
14 apartment, of course, you know, I ---

15 Q. Had you already were looking for Mr. Jackson, correct?

16 A. That's correct.

17 Q. And you were looking for him, tried to place him under
18 arrest, right?

19 A. Right.

20 Q. And how did that come about? Where did you encounter
21 Mr. Jackson, place him under arrest?

22 A. After I turned over the firearm to -- after I turned
23 over the firearm to Investigator Mackessy, I received a
24 phone call from the investigator for Sumter Sheriff's
25 Office that was on duty at the time that Mr. Jackson was

1 being brought to Sumter to our Law Enforcement Center to
2 turn over to law enforcement.

3 Q. So, you had been to Ms. Russell's?

4 A. That's correct.

5 Q. Left?

6 A. Yes, sir.

7 Q. Ms. Russell called Clarendon?

8 A. That's correct.

9 Q. They picked up this bullet?

10 A. Yes, sir.

11 Q. After that, did they know -- did Ms. Russell -- did
12 they know there was a warrant out for him?

13 A. Yes, sir.

14 Q. And after that, did you have occasion to see the
15 defendant Deangelo Jackson at the Law Enforcement Center?

16 A. Yes, sir. Yes, sir, I did.

17 Q. Now, now, take us there right now. Who all was --
18 specifically where were you at the Law Enforcement Center?

19 A. We were in our investigation division in, in our
20 interview room, which is just a small room with a table and
21 three or four chairs.

22 Q. And who's present?

23 A. Myself, Investigator West, and our supervisor, Captain
24 James Turner.

25 Q. And did you have an occasion to be present when Mr.

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1 Jackson was read his Miranda warnings?

2 A. Yes, sir, I was.

3 Q. And could you hear Dominick read him his rights?

4 A. Yes, I did.

5 Q. Could you hear Mr. Jackson's responses?

6 A. Yes, sir.

7 Q. I mean -- and could, could you see them do their
8 initials?

9 A. Yes, sir.

10 Q. And I want to just ask you a few questions about Mr.
11 Jackson. Did you observe him and listen to him when he was
12 responding to Dominick West?

13 A. Yes, sir, I did.

14 Q. And did it appear to you, based on your training,
15 experience and just presence right there, did Mr. Jackson
16 seem understand what Mr. West was telling him as he was
17 read his rights?

18 A. Yes, sir.

19 Q. Was he responding timely?

20 A. Yes, sir.

21 Q. Did he appear to you, you to be under the influence of
22 any alcohol or drugs?

23 A. No, sir.

24 Q. Fair to say, without going through all of them, he was
25 read his rights, and in your opinion, he understood them?

1 A. Yes, sir.

2 Q. And he said he did and signed it?

3 A. Yes, sir.

4 Q. Did y'all threaten, coerce, hold out any hope or
5 promise of a reward to Mr. Jackson?

6 A. No, sir.

7 Q. As you were reading ---

8 MR. WILDER: Your Honor, at this point I'd ask that
9 the court note an objection that we raised previously and
10 ask that it run throughout.

11 THE COURT: Your objection is noted, overruled, but
12 will continue as a continuing objection.

13 MR. WILDER: Thank you.

14 BY MR. MEADORS:

15 Q. As you were reading the murder and armed robbery
16 warrant, I assume you did that to Mr. Jackson?

17 A. Yes, sir, I did.

18 Q. What, if anything, did he say?

19 A. He made the comment about seeing us come to the
20 apartment complex and that he ran out, away. And then
21 after the warrants were served on him, were read, he asked
22 the question how can he be charged with armed robbery if he
23 did not take any money from the pizza man.

24 Q. And you heard that?

25 A. I did, yes.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. And did you convey that to then Assistant Solicitor
2 Catherine Fant?

3 A. I did, yes, sir.

4 Q. And how can I be charged with armed robbery if I
5 didn't take any money from the pizza man?

6 A. Yes, sir.

7 Q. And did y'all explain how? Without saying what you
8 did, did you explain how?

9 A. Yes, sir, we did.

10 Q. And I'm going to lead you on this. The interview
11 ceased at 9:25, correct?

12 A. That's correct.

13 Q. And, and, and was it, was it really an interview, or
14 he just kind of asked those questions?

15 A. He asked those questions.

16 Q. And so you didn't put anything in writing?

17 A. No, sir, we did not.

18 Q. But you remember those words?

19 A. Yes, sir, I do.

20 Q. And you told Ms. Fant that?

21 A. Yes, I did.

22 Q. Now, at this point, Mr. Canty I believe you talked to
23 twice?

24 A. That's correct.

25 Q. Dominick -- excuse me, Investigator West had talked to

1 him once?

2 A. Yes, sir.

3 Q. And did you have an occasion after that to be with, or
4 did you talk to Mr. Canty on the 17th?

5 A. I did not.

6 Q. Did you have an occasion to talk to Mr. Canty on the
7 25th?

8 A. Yes, I did.

9 Q. Okay, and why were you talking to Mr. Canty on the --
10 no, I'm sorry. For the record, January 25th of 2008, did
11 you have occasion to also talk with him?

12 A. We were talking to him again because of an item that
13 we found in his bedroom.

14 Q. Well, you can say it.

15 A. A shell casing.

16 Q. When did you find that?

17 A. We found that on -- give me just one minute, please.

18 It was prior to the 25th. It was on the 22nd of January,
19 2008.

20 Q. And I jumped ahead. Let's go back and give you your
21 report as a guide. On a -- after you served the arrest
22 warrant, the arrest warrant on Mr. Jackson, did you have an
23 occasion on January 17th to talk to Lashawnda Canty,
24 correct?

25 A. That's correct, yes, sir.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. Without saying what she said, you had a chance to do
2 that?

3 A. Yes, sir.

4 Q. And that was Mr. -- that's his girlfriend?

5 A. Yes, sir.

6 Q. On what was reported to you?

7 A. That's correct.

8 Q. You talked to the maintenance man, correct?

9 A. For the mobile home park, yes, sir.

10 Q. And I think through Mr. Wilder we've gotten out the
11 result of that, the light was out on ---

12 MR. DEAS: Objection, Your Honor.

13 THE COURT: Overruled. It's already been testified
14 to.

15 BY MR. MEADORS:

16 Q. That the light was out there. He was the maintenance
17 man?

18 A. Right, the street light in the mobile home park was
19 out that night.

20 Q. When you went to Mr. -- or when you got -- strike
21 that. I apologize, and I'll stay here. When you went to
22 Ms. Russell's house, did you obtain some item of clothing?

23 A. Yes, sir, we did.

24 Q. From -- that she said were Mr. Jackson's?

25 A. Yes, sir.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. And that's what was sent to SLED, and DNA was found on
2 there just saying that those, Mr. Jackson's DNA was found
3 on his own clothes?

4 A. That's right, yes, sir.

5 Q. Did you have an occasion to talk to Isaac Boy?

6 A. Yes, sir, I did.

7 Q. Who -- what relation is he to Mr. Jackson?

8 A. His uncle.

9 Q. Tell the ladies and gentlemen of the jury what, what,
10 if anything, did you do with Mr. Boyd?

11 A. We got a statement from him in reference to -- it was
12 --- a written statement taken from his residence in
13 reference to him receiving a phone call to pick up Mr.
14 Jackson and bring him back to Summerton.

15 Q. And did you ask him to show you where he had taken
16 him?

17 A. Yes, sir, from when he came to Sumter to pick him up,
18 yes, sir.

19 Q. And did he physically get with you and ride with you
20 and show you where he had taken Mr. Jackson after he called
21 and asked to come pick him up?

22 A. Yes, sir. He showed Investigator West and I.

23 Q. And where did he take him?

24 A. To this little vacant -- he picked him up from
25 America's Inn, but they stopped at a vacant mobile home,

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 single-wide vacant mobile home on St. Mark's Circle, which
2 is off of St. Paul's Church Road.

3 Q. And Mr. Boyd took you and showed you where he had
4 taken Mr. Jackson?

5 A. Yes, sir.

6 Q. He gave you a statement?

7 A. Yes, he did.

8 Q. Cooperated?

9 A. Yes, sir.

10 Q. And I think now maybe I'm back on track. Was it --
11 you went and searched Mr. Canty's house, correct?

12 A. That's correct.

13 Q. Did Ms. Canty give you consent?

14 A. Yes, sir, written consent.

15 Q. I don't think this is in yet. If it is, I apologize.
16 This is State's 71. I know it's been identified through by
17 pictures by Dominick West, but I don't know.

18 (COUNSELORS CONFER.)

19 THE COURT: Any objection?

20 MR. WILDER: None.

21 MR. DEAS: No objection.

22 THE COURT: It's State's Exhibit 71.

23 (CONSENT FORM/SPENT SHELL CASING MARKED INTO EVIDENCE
24 AS STATE'S EXHIBIT NUMBER 71.)

25 BY MR. MEADORS:

1 Q. State's 71, did you, yourself, get that and what is
2 it?

3 A. Yes, sir. This is a 30-30 shell casing, shell casing
4 -- that was it right there -- that I received from
5 underneath Mr. Canty's bed in his bedroom.

6 Q. And this was sent to SLED, correct?

7 A. Yes, sir, it was.

8 Q. What did you do next?

9 A. After receiving that, we sent that shell casing to
10 SLED and received information that that shell casing was
11 fired from this firearm, and then warrants were issued for
12 Mr. Canty ---

13 Q. Did he ---

14 A. --- for these same charges.

15 Q. He had other charges. Were they upgraded?

16 A. Yes, sir. He was originally charged with accessory
17 after the fact.

18 Q. Now, is that where we move into -- if I'm, if I'm off,
19 tell me -- but is that where we move into our -- your
20 conversation with Mr. Canty on the 225th?

21 A. That's correct.

22 Q. Okay, and where did that take place?

23 A. That took place at the Law Enforcement Center.

24 Q. And is this the same interview room?

25 A. Yes, sir, same interview room at the sheriff's office.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. And, and do you have Court's Exhibit 9 up there?

2 A. I do not, no.

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

4 THE COURT: Yes, sir.

5 MR. WILDER: Subject to our objection, Your Honor.

6 THE COURT: Subject to your objection and overruled.

7 BY MR. MEADORS:

8 Q. State's 7 and I'm showing you what's marked -- this is
9 State's 7, in effect, okay, that we're ---

10 A. Yes, sir.

11 Q. Reginald Canty? What's his middle name, Rashard?

12 A. Rashard, yes, sir.

13 Q. Sixteen, date of birth , and again was this
14 information provided by him?

15 A. Yes, it was.

16 Q. Okay. Sheriff's Department, Burnish. Now, on the
17 line here:

18 I, Reginald Canty, understand I do not have to
19 say anything, and I volunteer the following
20 information of my own free for whatever purposes
21 it may serve. I can read and write and completed
22 the seventh grade.

23 You read that to him. Did you also read his Miranda
24 rights to him?

25 A. Yes, we did.

1 Q. And, and you were present?

2 A. Yes, I was.

3 Q. Who else was present?

4 A. His mother.

5 Q. Let me show you what's marked State's 6. Do you
6 recognize that?

7 A. Yes, sir. That's the Miranda warning Waiver of Rights
8 form.

9 Q. And I want, want you to go through it, but who, who
10 actually read his rights?

11 A. I did.

12 Q. Now, I'll try not to take too long, but I want you to
13 take your time.

14 A. Yes, sir.

15 Q. You're in the room at the Law Enforcement Center with
16 whom?

17 A. In the Law Enforcement Center or in ---

18 Q. The interview room. I'm sorry.

19 A. Interview room. Myself, Mr. Canty, and his mother.

20 Q. Okay, and did you read: You have right to remain
21 silent?

22 A. Yes, I did.

23 Q. Did he sign and initial that?

24 A. He initialed. He put his initials beside it.

25 Q. Did he appear to understand it?

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 A. Yes, he did.

2 Q. Anything you say can and will be used against you in a
3 court of law?

4 A. Yes, sir, he initialed that as well.

5 Q. And did he verbally tell you he understood it?

6 A. Yes, he did.

7 Q. You have the right to talk to an attorney with
8 him or her present with you while you are being
9 questioned?

10 A. Again, he initialed that as well.

11 Q. Did he appear to understand it?

12 A. Yes, sir.

13 Q. He said he did?

14 A. Yes, sir.

15 Q. If you can not afford to hire an attorney, one
16 will be appointed to represent you before any
17 questioning if you wish.

18 A. That's correct, and he initialed.

19 Q. And said I understand it?

20 A. Yes, sir.

21 Q. And: You can decide at any time to exercise these
22 rights and not answer any questions or make any
23 statements.

24 A. That's correct, and he initialed that as well.

25 Q. And did you say do you understand that?

1 A. Yes, sir.

2 Q. Is his mother in the room?

3 A. Yes, sir.

4 Q. Okay. During the reading of this rights, did he ever
5 say I don't want to talk to you?

6 A. No, he never said that.

7 Q. Did his mother say that?

8 A. No, sir.

9 Q. If his mother or he had said it, would you have
10 stopped?

11 A. Yes, we would have.

12 Q. Did you threaten or coerce him?

13 A. No, sir.

14 Q. Promise him anything?

15 A. No, sir.

16 Q. He appear to be under the influence of anything?

17 A. No, sir.

18 Q. Understand each of these above rights which I
19 have been read and explained by Sergeant Robert
20 Burnish of the Sumter County Sheriff's Department
21 at 103 Hampton Avenue at 10:40 a.m.

22 Did he sign that or his mother sign it?

23 A. Mother signed, yes, sir.

24 Q. And, and his mother actually signed as a witness for
25 him?

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 A. That's correct.

2 Q. And puts momma -- his mother signed it?

3 A. That's right.

4 Q. You didn't make them sign it?

5 A. No, sir.

6 Q. And then the waiver, Waiver of Rights, correct?

7 A. That's correct.

8 Q. Having been advised of my rights and fully
9 understanding my rights, I do wish to answer
10 questions at this time, and I do wish to have an
11 attorney present. My decision to answer
12 questions now without an attorney is made freely
13 and is my own choice. No one has threatened me
14 in any way or promised me anything. Reggie
15 Canty, Dorothy Canty, mother?

16 A. That's correct.

17 Q. And the time down here of 10:42?

18 A. That's correct.

19 MR. MEADORS: Your Honor, we'd offer State's 6.

20 THE COURT: Yes?

21 MR. DEAS: Subject to the same objection.

22 THE COURT: Subject to previous objections.

23 (COUNSELORS CONFER.)

24 MR. MEADORS: No objection from Mr. Wilder.

25 (MIRANDA WARNING FORM-CANTY MARKED INTO EVIDENCE AS

1 STATE'S EXHIBIT NUMBER 6.)

2 THE COURT: Let me see the attorneys for one quick
3 second.

4 (OFF-THE-RECORD BENCH CONFERENCE.)

5 THE COURT: You may proceed.

6 MR. MEADORS: Thank you, sir. If I may approach?

7 BY MR. MEADORS:

8 Q. After the introductory stuff, information, does Mr.
9 Canty put his initials at the beginning of this paragraph
10 and at the end?

11 A. Yes, sir, he does.

12 Q. And, and then at one point right here it looks like
13 something was scratched out and he put R.C., correct?

14 A. That's correct.

15 Q. And is that when y'all were reading over that he just
16 made a correction?

17 A. Yes, sir.

18 Q. And underneath it's X with two R.C.'s, correct?

19 A. That's correct.

20 Q. Could you please publish that and, and -- okay.

21 A. Yes, sir. It starts with:

22 When we got home, the other person went to the
23 back of the trailers, and he waited at the back
24 for the pizza man to come. When the pizza man
25 came, they started to rob the man. The pizza man

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 was trying to make the -- trying to take the gun
2 from the other person, and this person said stop,
3 and after he -- after he said stop, he shot the
4 pizza man. Then he stayed there for a second,
5 and then he ran. It looked like it was another
6 person running away with the other person around
7 the car.

8 Q. As the chief investigating officer at this point, did
9 you know have two statements you took from the 13th,
10 correct?

11 A. Yes, sir, I did.

12 Q. Denying any knowledge?

13 A. That's correct.

14 Q. The statement of the 15th said a little bit more?

15 A. That's correct.

16 Q. The statement of the 17th where he was asked by
17 another person to -- if he wanted to rob the pizza man, he
18 said yes?

19 A. That's correct.

20 Q. The oral statement, then, when he was -- on the 17th
21 when he was asked by his mother and Mr. West that how could
22 you tell if it was a revolver if you were on the porch?

23 A. That's correct, yes, sir.

24 Q. And dropped his head?

25 A. Right, yes, sir.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. And now this statement on the 25th, correct?

2 A. Yes, sir.

3 Q. And, and I think it's been asked, but it hadn't been
4 asked of you. Did you go to the front porch of Mr. Canty
5 and determine whether or not he would have been able to see
6 lot ?

7 A. I did, yes, sir.

8 Q. Well, could you see from there?

9 A. No, sir, I could not.

10 (COUNSELORS CONFER.)

11 (ENLARGED PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER
12 84 FOR IDENTIFICATION.)

13 COURT REPORTER: 84 for I.D.

14 MR. MEADORS: This is without, without objection, Your
15 Honor.

16 THE COURT: Without objection, it's admitted.

17 (ENLARGED PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S
18 EXHIBIT NUMBER 84.)

19 MR. MEADORS: It's two aerials of the area. If I
20 could ask the defense attorneys to join me up here, Your
21 Honor, and allow to witness to come down

22 THE COURT: Yes. You may step down.

23 WITNESS: Thank you.

24 BY MR. MEADORS:

25 Q. Sergeant, I -- you're going to have to -- I don't mean

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 this bad, but if you would, please speak up.

2 A. Okay.

3 Q. Let's move down here a little bit.

4 (A PAUSE.)

5 Q. Now, this is what's marked as State's 84. Do you
6 recognize it?

7 A. Yes, sir, I do.

8 Q. And, and fair to say -- what street is this?

9 A. That is Cherryvale Drive.

10 Q. What is this?

11 THE COURT: Y'all got to speak up. I'm, I'm a little
12 bit further away and it's hard for me to hear.

13 BY MR. MEADORS:

14 A. This is O.C. Drive.

15 Q. Speak up please, sir. I'm sorry.

16 A. This is the trailer, trailer park where the incident
17 occurred.

18 Q. Here?

19 A. Yes, sir.

20 Q. Fair to say that's number ?

21 A. Yes, sir.

22 Q. Mr. Flexon's body was somewhere in here?

23 A. Yes, sir, that's right.

24 Q. Did you search these trailers that night?

25 A. Yes, sir, we did.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. Can you tell us now which one you searched and which
2 ones were vacant and which ones weren't?

3 A. This one was lived in. I did not talk to the
4 individuals in here. This one possibly was looked in, and
5 the others were not.

6 COURT REPORTER: I'm having trouble hearing them. I'm
7 sorry.

8 THE COURT: She can't hear.

9 BY MR. MEADORS:

10 A. Except this one here on the corner. It appeared to be
11 lived in, but I was unable to get anyone to come to the
12 door each time I went to the house.

13 Q. Okay, and, and can you show us on here where the pizza
14 boxes were found?

15 A. They were found down here. This would be the Cableb
16 Mobile Home Park right here.

17 Q. That's the one pizza box.

18 A. Right.

19 Q. Where were the two pizza boxes that were found the
20 next day?

21 A. One of them was here.

22 Q. Okay.

23 A. And the other I don't, I'm not exactly sure. It
24 doesn't show if it was on here, but it was around this
25 area.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. Who, if anybody, lived here?

2 A. This would be Ms. Canty's residence.

3 Q. Looking over at State's 74, and keeping our voices up,
4 please, do you also recognize State's 84 from this side as
5 an aerial view of the Cherryvale area with this being the
6 O.C. Mobile Home Park?

7 A. Yes, sir.

8 Q. And would you dispute with me that that is the
9 Cherryvale Grocery?

10 A. I would not dispute that. That is Cherryvale Grocery,
11 yes, sir.

12 Q. That's all I have for that.

13 Is the person in the courtroom who, when you served
14 the murder and arrest, armed robbery warrant on them and
15 they said I ran or I left when y'all came to my house, my
16 aunt's house, and that how can you charge me with armed
17 robbery if I didn't take any money from the pizza man, is
18 that person in here?

19 A. Yes, sir, he is.

20 Q. Would you please point him out?

21 A. He is standing over -- or sitting over there next to
22 Mr. Wilder in the white shirt.

23 MR. MEADORS: The record will reflect he pointed to
24 Mr. Jackson.

25 THE COURT: The record will so reflect.

R. BURNISH - DIRECT EXAMINATION BY MR. MEADORS

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1 BY MR. MEADORS:

2 Q. And January 13th, twice, at least the 25th, you had
3 the occasion talk to Mr. Canty?

4 A. Yes, sir.

5 Q. Is he in the courtroom?

6 A. Yes, sir, he is.

7 Q. Is that the individual seated next to Mr. Deas?

8 A. Yes, sir, he is.

9 Q. Same person you talked to?

10 A. That's correct.

11 MR. MEADORS: We'd ask the record so reflect.

12 THE COURT: The record will so reflect.

13 MR. MEADORS: Beg the court's indulgence.

14 (A PAUSE.)

15 MR. MEADORS: Thank you, Your Honor.

16 BY MR. MEADORS:

17 Q. Now, there was some cell phones out there?

18 A. Yes, sir.

19 Q. Did you have an occasion to examine them?

20 A. One we could not examine.

21 Q. Why?

22 A. It was broken; it was broken in several different
23 pieces. We attempted to put them back together. We were
24 not able to do it successfully, and the other cell phone
25 was from the victim.

R. BURNISH - CROSS-EXAMINATION BY MR. DEAS

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1 Q. But you tried to look -- is that the Virgin phone?

2 A. Yes, sir, it is a2 Thank you. That's all, Your Honor.

3 THE COURT: Mr. Deas.

4 MR. DEAS: Thank you, Your Honor. May it please the
5 court?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION BY MR. DEAS:

8 Q. Good afternoon, Sergeant Burnish.

9 A. Mr. Deas.

10 Q. Sergeant Burnish, did Mr. Canty, in any of his, of
11 his, any of the statements that you took for him, from him
12 or that you were present for, did he in any of those
13 statements state that he shot Mr. Flexon?

14 A. No, sir, he did not.

15 Q. Did in any of the statements that either you took from
16 him or that you were present for, did he indicate that he
17 was present within, within very close proximity with Mr.
18 Flexon when the armed, when the alleged armed robbery was
19 committed?

20 A. He said he saw it.

21 Q. Did he ever say he participated in robbing Mr. Flexon,
22 in actively robbing Mr. Flexon?

23 A. He was asked. He stated that he was asked and he
24 volunteered to, yes.

25 Q. Okay. What, what, if anything, did Mr. Canty say that

R. BURNISH - CROSS-EXAMINATION BY MR. DEAS

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1 he did to complete the robbery other than simply saying
2 yes, I'll go along with it?

3 A. No.

4 Q. So, he never indicated in any of his statements that
5 either you took from him or you were present for, that he,
6 that he engaged in any actual conduct to actually complete
7 the robbery?

8 A. No, sir, he did not.

9 Q. So in short, the only thing with respect to robbery
10 that he admitted to in his statements was that he was asked
11 to participate in a robbery and he verbally agreed to
12 participate?

13 A. That's right. That's correct.

14 Q. Okay.

15 A. That's right. That's correct.

16 Q. But, so far as actually taking steps to complete it,
17 to carry out the crime, he never admitted to engaging in
18 those type of steps, did he?

19 A. That's correct. He never admitted.

20 Q. Now, you actually met with Mr. Canty on, on January
21 13th, but you actually took two statements from him. One,
22 one at 4:55 p.m. and one at 6:00 p.m. Is that correct?

23 A. That's correct, yes, sir.

24 Q. Now, was his mother present for both of these
25 statements?

R. BURNISH - CROSS-EXAMINATION BY MR. DEAS

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1 A. She was not in the room for those statements. She
2 knew what we were doing, and she said it was okay. But she
3 was in the building, and she also brought him to the area
4 where we were talking to him.

5 Q. So, when you spoke with Mr., with Mr. Canty on January
6 13th, you were aware at the time he was only sixteen years
7 of age?

8 A. Yes, sir.

9 Q. Did you know he only had a seventh grade education?

10 A. Yes, sir.

11 Q. Okay, and even though his mother was present and
12 available, you chose to interview him without her being
13 present?

14 A. Yes, sir, and she agreed to it.

15 Q. Is there any particular reason why you did not, you
16 did not insist that his mother be present?

17 A. Based on my experience, nineteen years law
18 enforcement, we often find that our children would be more
19 easily -- maybe give out more information without our
20 parents being present. There are some things that we don't
21 want our parents to know.

22 Q. Is it, is it possible that he may have been more
23 willing to give full information with the -- with having
24 his mother present?

25 MR. MEADORS: I object to that statement.

1 THE COURT: Sustained.

2 BY MR. DEAS:

3 Q. Now, let's, let's go back a little bit to I guess when
4 you initially responded to the incident back on January 12,
5 2008. You were, you were the lead investigator, correct?

6 A. Yes, sir.

7 Q. And you were not one of the first responders?

8 A. That's correct.

9 Q. All right. Can you look at this crime scene log?.

10 MR. DEAS: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MR. DEAS:

13 Q. And tell me approximately or when it was when it was
14 you came to the scene?

15 A. It shows that I, I arrive at the scene at 2141, which
16 would be 9:41 p.m. that night.

17 Q. Thank you. And you, you arrived about 9:41 p.m. that
18 night?

19 A. That's correct.

20 Q. And when you arrived on the scene, there were, were
21 there -- obviously there were already law enforcement
22 officers present, correct?

23 A. Yes, sir.

24 Q. And had the scene been secured and taped off?

25 A. Yes, sir.

R. BURNISH - CROSS-EXAMINATION BY MR. DEAS

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1 Q. Were there bystanders, neighbors?

2 A. Yes, sir.

3 Q. People standing around in the area where the incident
4 happened?

5 A. Yes, sir.

6 Q. Were they, were they inside the secured area?

7 A. No, sir.

8 Q. Did you have an opportunity that evening of January
9 12, 2008, to talk with any of the bystanders or neighbors
10 or citizens in the area?

11 A. I did not, no. I attempted to locate some to talk to,
12 but I was not successful.

13 Q. Did you ever talk to Mr. Canty or his mother that
14 evening of January 12th?

15 A. No, sir, I did not.

16 Q. Now, you stated on direct you did talk to Mr. Canty
17 the next day on January 13th. Is that correct?

18 A. That's correct, yes, sir.

19 Q. And how did you end up encountering Mr. Canty on
20 January 13th?

21 A. After the pizza boxes were located and, and taken in
22 as evidence, myself and Lieutenant Horton, we decided to do
23 another canvas of the area. We located -- and we were, we
24 were canvassing the area for anybody that was walking
25 around or out in the yard to see if we could stop and talk

1 to and see if they heard anything, or they knew, or had any
2 information regarding this case.

3 Mr. Canty was walking on Babette Drive from Whitney
4 Drive, up Babette Drive towards Oaklawn Mobile Home Park,
5 and he was by himself.

6 Q. And you just by chance happened to stop him?

7 A. Yes, sir.

8 Q. Was there anything about him that, that, at that time
9 would make you feel he was someone that might have some
10 information about this incident?

11 A. No, sir, not at that time. We just stopped and talked
12 to him as we would of anybody we just come across.

13 Q. And did he seem apprehensive or what was his, what was
14 his demeanor at the time that you stopped him and talked
15 with him?

16 A. He was very polite to us. It was a very great
17 conversation before his mother arrived.

18 Q. But he was -- he didn't, he didn't seem apprehensive
19 or resistant to talk to you?

20 A. No, sir.

21 Q. Okay. Now, the pizza boxes that you just mentioned,
22 they were -- do you know who found the pizza boxes?

23 A. I did not know. The information was given to me by
24 Lieutenant Horton that they were located.

25 Q. And do you know when they were located?

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1 A. It was some time Sunday morning.

2 Q. So, that would have been ---

3 A. The 13th.

4 Q. --- on the 13th?

5 A. Yes, sir.

6 Q. And, and there were actually three pizza boxes found.

7 I know they're in evidence already. Was that after there
8 were three pizza boxes found?

9 A. Yes, three were found, yes, sir.

10 Q. And one was found at the trailer at St. Mark's Circle?

11 A. That's correct.

12 Q. And that's the one that actually has some pizza left
13 in it?

14 A. That's correct, yes, sir.

15 Q. And then there were the two empty boxes that were
16 found near the scene?

17 A. That's correct, yes.

18 Q. And none of the pizza boxes ended up having any
19 fingerprints that would connect either Mr. Canty or Mr.
20 Jackson. Is that correct?

21 A. That's correct.

22 Q. Now, initially when you stopped, just randomly stopped
23 Mr. Canty and talked to him to see, to ask him questions,
24 where did this conversation with Mr. Canty take place once
25 you actually started to talk to him? Was it at his -- once

1 his mom arrived, was it at his home or right there in the
2 street?

3 A. Right there on the side of the road on Babette Drive.

4 Q. All right, and where did you take him to actually take
5 that statement that he gave on January 13th at 4:55 p.m.?

6 A. I didn't take him. His mother took him at our request
7 to the Central Carolina Technical College, Shaw Campus,
8 which is located on 441 and Edgehill Road.

9 Q. And once -- and you all were in a room like a
10 conference room?

11 A. Yes, sir.

12 Q. And where was his mom while you and Mr. Canty were in
13 this conference? I know she was at -- in the building, but
14 was she just right outside the conference room?

15 A. Yes, sir.

16 Q. Okay, and who was with you when you spoke, when you
17 were interviewing Mr. Canty?

18 A. Lieutenant Horton.

19 Q. And at that time he was not a suspect, correct?

20 A. That's correct.

21 Q. Just as a witness?

22 A. Correct.

23 Q. Now, the two statements he gave that day, one at 4:55,
24 one at 6:00, would you agree with me that these two
25 statements are, are different in the sense that one just

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1 gives a little more detail than the other?

2 A. Yes, sir.

3 Q. These two statements are not such that they are
4 completely out of correlation with one another?

5 A. That's correct.

6 Q. In fact, in the first statement, he essentially says
7 he sees the incident?

8 A. Yes, sir.

9 Q. And, and you correct me if I'm wrong. In both
10 statements, he says that he heard gunfire and that the
11 weapon looked like a rifle?

12 A. Yes, sir.

13 Q. Now, in the second statement, the one at 6:00, one of
14 the things that is different in the two -- and again, you
15 correct me if I'm wrong based on your, your recollect of
16 the statement. In the first one at 4:55, he says he was --
17 he sat on his step and he saw a light, and that he went to
18 see what it was and that's when he saw the people fighting?

19 A. Yes, sir.

20 Q. He said that the first time?

21 A. Yes, sir, that's right.

22 Q. In the second statement he says I sat on my step, I
23 saw a light. So, then I went to the end of my gate and I
24 saw two people fighting.

25 A. Yes, sir.

1 Q. The first statement, he doesn't mention going to the
2 end of his gate. The second statement he does.

3 A. Yes, sir.

4 Q. Now, you're familiar with Mr. Canty, where Mr. Canty's
5 house is in relation with where the crime scene is?

6 A. Yes, sir.

7 Q. And basically in this U-shaped -- this cul-de-sac is
8 essentially like a U-shaped cul-de-sac?

9 A. That's correct.

10 Q. And Mr. Canty's house, and I don't know if you can see
11 this.

12 MR. DEAS: Your Honor, do you mind if he comes down?.

13 THE COURT: He may step down.

14 BY MR. DEAS:

15 Q. Mr. Canty's house sits right in middle of this
16 U-shaped cul-de-sac. Is that correct?

17 A. Yes, sir, that's correct.

18 Q. And it's gated, it's a gated property, isn't it?

19 A. Yes, sir. The gate is along the road, though.

20 Q. Okay. So, it's -- this is Cherryvale Drive?

21 A. Yes, sir.

22 Q. And the gate is right after you pass the roadway?

23 A. Yes. It runs on the roadway, on the property line.

24 Q. Now, correct if I'm, if I'm, if I'm wrong, but if
25 indeed he came out of his front door and, and walked then

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1 to the end of this gate or walked towards the end of this
2 gate, would he not be able to see what's going on at lot
3 number ?

4 A. It's possible.

5 Q. So, basically one of the main differences in the two
6 statements is one he talks about -- the first one doesn't
7 mention going to the end of his gate. The second one he
8 does. And, and the -- is that right?

9 A. That's right, yes, sir.

10 Q. Okay, and then the other difference is that he named
11 someone in the second statement that he thinks might be the
12 person who was involved in the robbery and shooting. He
13 mentioned J-Boy.

14 A. That's correct, and he also gave a specific clothing
15 description in that statement.

16 Q. And in that second statement, the one that was given
17 at 6:00, he also mentions that he heard more than one
18 footsteps running away from the scene?

19 A. Yes, sir.

20 Q. Now, do you recall, do you recall, at any point during
21 the evening of the January 12th incident any radio
22 communication from dispatch which indicated that three male
23 subjects were seen running away from the scene and into the
24 woods?

25 A. I did not hear that on the radio dispatch, no, sir.

1 Q. All right. I'm going to show you what's been marked
2 as, it looks like Defendant's Exhibit Number 1. That,
3 that's a dispatch report basically?

4 A. Yes, sir.

5 Q. And does it, does it not indicate that on the night of
6 the incident there was a, there would have been
7 communication over the dispatch radio that someone saw
8 three male subjects running away from the scene into the
9 wooded area?

10 A. Yes, sir, it's this line right here.

11 MR. MEADORS: Your Honor, I think that's already in
12 evidence.

13 THE COURT: Yes, I think it is. It's Defense Exhibit
14 Number 1.

15 BY MR. DEAS:

16 Q. But you weren't, you weren't privy -- you didn't know
17 that?

18 A. I didn't hear that transmission. I was advised of it
19 later.

20 Q. And you're, you're the lead investigator on this case,
21 right?

22 A. Yes, sir.

23 Q. And you were at the time?

24 A. Yes, sir.

25 Q. And you don't have any recollection of anyone telling

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1 you that someone saw three male subjects running from the
2 very scene where this, where this shooting occurred and
3 robbery occurred?

4 A. As I stated, I did not hear that radio transmission,
5 but I was advised of that later that night.

6 Q. All right. So, once you were advised of the fact that
7 there were possibly three male subjects who were spotted
8 running from the scene of this area where the incident
9 happened, did you approach it at that -- did you approach
10 your investigation at that point that there may have been
11 three individuals involved?

12 A. Yes, sir.

13 Q. Now, you indicated on direct that initially Mr. Canty
14 was not charged with murder or armed robbery. He was
15 charged with accessory after the fact initially, I think
16 you said. Is that correct?

17 A. Yes, sir, that's correct.

18 Q. He was charged with accessory after the fact of what?

19 A. Armed robbery and murder.

20 Q. Of armed robbery and murder?

21 A. Yes, sir.

22 Q. Now, you've just stated a little bit ago that, that
23 other than saying yes to the, to the question of will you
24 help me rob the pizza man, other than saying yes to that
25 question, he really never engaged in any conduct that

1 actually would complete the carrying out of that crime
2 according to him?

3 A. Yes.

4 Q. According to his statement, right?

5 A. That's correct. That's what he said.

6 Q. Now, the pay phone that was used to call Sambino's
7 Restaurant.

8 A. Yes, sir.

9 Q. No fingerprints of Mr. Canty found on that pay phone?

10 A. That's correct.

11 Q. In fact, no fingerprints of Mr. Jackson either,
12 correct?

13 A. That's correct.

14 Q. No way to tie Mr. Canty to -- there is no way to
15 establish that Mr. Canty made that phone call from
16 Cherryvale Grocery Store to Sambino's Restaurant, is there?

17 A. No, sir.

18 Q. If he had -- if there was evidence to establish that,
19 and if indeed Mr. Canty did make the phone call to
20 Sambino's Restaurant ordering the pizzas that were
21 delivered by Mr. Flexon, that would be an example of a
22 factual, that would be, that would be an example of actual
23 conduct that would further the completion of the armed
24 robbery, wouldn't it?

25 A. Yes, sir.

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1 Q. But there is no such evidence when it comes to Mr.
2 Canty with respect to making phone calls?

3 A. Not with making a phone call, no, sir.

4 Q. Now, also on direct you indicated that Mr. Canty was
5 charged after you all found the shell casing under his bed?

6 A. Yes, sir.

7 Q. That what your -- wasn't that your statement?

8 A. Yes, sir.

9 Q. Now, according to the, the consent to search form, the
10 -- is it not true that the shell casing was found under his
11 bed on January 22nd, '08?

12 A. Yes, sir.

13 Q. So -- but, but isn't it then true that he was charged
14 even before, before January 22nd, '08, because he was
15 actually charged after he gave this January 17th statement?

16 A. At that time he was charged with accessory.

17 Q. Okay.

18 A. The accessory charges.

19 Q. All right. So, he was -- so, when, when you said he
20 wasn't charged with just with -- I guess you were really
21 meaning he wasn't charged with murder and armed robbery
22 until the shell casing was found ---

23 A. That's correct.

24 Q. --- on January 22nd, '08?

25 A. That's correct.

1 Q. But he was actually already charged as an accessory
2 after the fact for the murder and armed robbery on January
3 17th?

4 A. Yes, sir.

5 Q. Now, the shell casing that was found under his bed,
6 you all found that when his mother consented to the search
7 of the home, right?

8 A. Yes, sir.

9 Q. It was found in there?

10 A. Yes, sir.

11 Q. Now, that's the same shell casing that, according to
12 the expert witness previously, it was no way to determine
13 if that shell casing came from either one of the bullets
14 that were found inside Mr. Flexon.

15 A. That's correct.

16 Q. That's correct?

17 A. Yes, sir.

18 Q. All right. Now, also according to the expert, there's
19 no way to determine when that shell casing came out of that
20 gun. There's no way to know that, whether -- there's no
21 way to determine when it was fired, when that gun was fired
22 to produce that shell casing?

23 A. That's correct.

24 Q. That shell casing could have, could have came out of
25 that gun a month ago, a month prior to the incident?

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1 A. Yes, sir.

2 Q. Months, several months prior to the incident?

3 A. It's possible.

4 Q. Correct? All right. Now, also the shell casing found
5 under his bed was tested for fingerprints, correct?

6 A. Yes, sir.

7 Q. No fingerprints of Mr. Canty on the shell casing?

8 A. No.

9 Q. Yes, sir. Now, Mr. Flexon was shot by, according to
10 your investigation, based on the information, information
11 that you are aware of, it's clear that Mr. Flexon was shot
12 by two separate weapons, weapons, correct?

13 A. That's correct.

14 Q. And one being a rifle, a 30-30 caliber Winchester
15 rifle?

16 A. Yes, sir.

17 Q. And one being either a .38 Special or a .357 magnum?

18 A. That's correct.

19 Q. According to the experts?

20 A. That's correct, yes, sir.

21 Q. And the two bullets that were found in Mr. Flexon, it
22 is, according to the experts, clear which bullet came from
23 the rifle and which bullet came from the .38 special or the
24 .357 magnum?

25 A. That's correct, yes, sir.

1 Q. No .38 Special or .357 magnum was ever recovered
2 throughout your, throughout this investigation, correct?

3 A. That's correct.

4 Q. No, no .38 special or .357 magnum was found at the
5 home of Mr. Canty?

6 A. That's correct.

7 Q. Or Mr. Jackson?

8 A. That's correct.

9 Q. Now, that rifle was found at Mr. Jackson's aunt's
10 house, right?

11 A. Yes, that's correct.

12 Q. That's Ms. Andrea Russell?

13 A. That's right, yes, sir.

14 Q. Can you tell me when that rifle was found? When at
15 Andrea Russell's house?

16 A. I cannot give you an exact time. I was not present.

17 Q. Was it found after he was arrested, Mr. Jackson was
18 arrested or before Mr. Jackson was arrested?

19 A. Before.

20 Q. And the rifle was found along with a cartridge in the
21 chamber?

22 A. Yes, sir.

23 Q. And these eighteen unfired cartridges?

24 A. That's right.

25 Q. Right?

1 A. Yes, sir.

2 Q. All right, and these cartridges hold twenty bullets,
3 right?

4 A. Yes, sir.

5 Q. Okay, and then there's -- so, there's one in the
6 chamber?

7 A. Yes, sir.

8 Q. There's eighteen in this cartridge?

9 A. Yes, sir.

10 Q. And then you find a shell casing from a cartridge also
11 at Andrea Russell's house?

12 A. Yes, sir.

13 Q. That would be twenty bullets, right?

14 A. Yes, sir.

15 Q. The shell casing that was found in the peanut butter
16 jar at Andrea Russell's house, it was, it was a spent shell
17 casing?

18 A. That's correct, yes, sir.

19 Q. So, would you, what would be your view?.

20 MR. DEAS: Well, strike that, Your Honor.

21 Q. Would you say then that the shell casing from Mr.
22 Canty's, that was found in Mr. Canty's bed, didn't come
23 from this twenty-cartridge ---

24 MR. MEADORS: Your Honor, I'm going to ---

25 Q. --- magazine?

1 MR. MEADORS: Your Honor, I would object.

2 THE COURT: What's your objection?

3 MR. MEADORS: I don't know how he can answer that.

4 THE COURT: It requires speculation. Sustained.

5 MR. DEAS: I'll withdraw, I'll withdraw the question.

6 BY MR. DEAS:

7 Q. But you don't dispute, do you, that this cartridge
8 holds twenty, twenty, twenty cartridges? This magazine,
9 Styrofoam magazine holds twenty cartridges?

10 A. That's right.

11 Q. The cell phone that was found at the scene, the Virgin
12 cell phone.

13 A. Yes, sir.

14 Q. I think it's -- in evidence.

15 A. Yes, sir.

16 Q. Was there -- you, you stated on direct that it was
17 broken?

18 A. Yes, sir.

19 Q. And I think just from viewing it, that's, that's
20 pretty easy to conclude?

21 A. Yes, sir.

22 Q. Did you talk with anyone or interview anyone during
23 your investigation of this crime who made any reference to
24 losing a cell phone in that area?

25 A. No, sir.

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1 Q. You don't have -- do you have any recollection of
2 talking with someone by the name of Marcus Branch about a
3 cell phone?

4 A. I don't recall about a cell phone. I probably did,
5 but I don't recall that right now.

6 Q. All right.

7 MR. DEAS: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MR. DEAS:

10 Q. Looking, having you take a look just for the purposes
11 of refreshing your recollection. Take a moment and review
12 that, and then I'll, I'll ask you a question again.

13 (A PAUSE.)

14 A. Okay, sir.

15 MR. DEAS: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. DEAS:

18 Q. Now that you've had an opportunity to take a look at
19 this, do you now recall talking with someone who possibly
20 had a, lost a cell phone in that area?

21 A. Yes, sir.

22 Q. Okay, and the fact that the phone is broken, was that,
23 would that preclude any efforts or prevent or prohibit law
24 enforcement from tracking this phone back to who it belongs
25 to?

1 A. It makes it harder.

2 Q. But it doesn't make it impossible, does it?

3 A. No, it wouldn't be impossible. There was certain
4 technologies that we do not have then that we do now as far
5 as tracking cell phone. Q. Well, so that -- when did you
6 get your technology to track cell phones?

7 A. Within the last couple of years.

8 Q. That would have been during the pendency of this case?

9 A. Yes, sir.

10 Q. Okay. So, during the pendency of this case, you all
11 acquired the technology to track cell phones to the owner?

12 A. Yes, sir.

13 Q. Okay, and that wasn't done?

14 A. No, sir.

15 Q. All right, and you talked to someone, now that you
16 refreshed your recollection, who mentioned losing a cell
17 phone in that area?

18 A. No, sir. He didn't say he lost a cell phone. He said
19 he went to his friend's house to get his cell phone.

20 Q. Okay.

21 A. And when he -- then I put in that he said he got his
22 cell phone.

23 Q. Do you know if he really -- you don't know whether he
24 got his, got his cell phone or not, do you?

25 A. No, sir.

R. BURNISH - CROSS-EXAMINATION BY MR. DEAS

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1 Q. That cell phone was found -- well, let me ask you. Do
2 you know where that cell phone was found, in, in the area
3 of the crime scene?

4 A. Best of my recollection, it was found in front of your
5 client's residence.

6 Q. So, that would have been -- since my client lives
7 right there near lot , that would that mean -- would that
8 meant -- that means this cell phone was found relatively
9 close to the, to the, to the crime scene area?

10 A. Yes, sir.

11 Q. You're pretty familiar with the statements given by
12 Mr. Canty?

13 A. Yes, sir.

14 Q. And matter of fact, you can count -- he gave you two,
15 he gave you two statements to you on January 13th.

16 A. Yes, sir.

17 Q. He gave a statement to Mr., to Mr. West on January, on
18 January 15th?

19 A. Yes, sir.

20 Q. 2008.

21 MR. DEAS: Sorry, Your Honor.

22 Q. He gave an oral statement to Mr. West on January 17,
23 2008?

24 A. Yes, sir.

25 Q. And he gave a, a, basically a, a written statement

1 that gave more detail than the oral statement on January
2 17, 2008?

3 A... Yes, sir.

4 Q. So -- and then he gave, gave more -- a statement on
5 January 25th of 2000?

6 A. Yes, sir.

7 Q. So, that would be what, I believe six statements?

8 A. Six.

9 Q. Two, two on the 13th of '08, one on the 15th of '08,
10 an oral statement on 17th of '08, a written statement on
11 the 17th of '08, and the January 25th statement?

12 A. Yes, sir.

13 Q. Okay. Out of all -- in any of those statements, does
14 Mr. Canty say anything about shooting Mr. Flexon, he shot
15 Mr. Flexon?

16 A. No, sir.

17 Q. If fact, you can correct me if I'm wrong. In, in all
18 of those statements he doesn't make any reference to him
19 actually participating actively in carrying out the armed
20 robbery, does he?

21 A. Actively, no.

22 Q. Other than just agreeing to, to the, to -- other than
23 just saying yes to the question of will you help me rob a
24 pizza man?

25 A. That's correct.

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1 Q. Wouldn't you agree, would you concur with me that with
2 respect to the fact that in order to carry out a crime or
3 participate in a crime, you have to do more than just
4 saying yes to the question of would you help me commit the
5 crime?

6 A. Yes.

7 Q. You have actually to do something active to carry out,
8 to complete the crime, don't you?

9 A. Yes, sir.

10 Q. Would you also agree with me that any -- that with
11 regards to Mr. Canty's statements, the difference between
12 them really isn't so much about what his role is. It just
13 gives more detail about who the parties were that actually
14 engaged and have direct interaction with Mr., with Mr.
15 Flexon, the victim?

16 A. That's correct.

17 Q. And, in fact, in his last statement he makes reference
18 to who he saw actually rob and shoot Mr. Flexon?

19 A. Yes, sir.

20 Q. Now, seeing a crime happen but not participating in it
21 doesn't make you a part of the crime, does it?

22 A. No, sir.

23 Q. Have you ever had an occasion to go inside of Mr.
24 Canty's house?

25 A. Yes, sir.

1 Q. There's more than one way to exit his home, isn't it?

2 A. Yes, sir.

3 Q. There's a front door, and then there's a door that you
4 exit out from the side of the home, correct?

5 A. I believe that's right, yes, sir.

6 Q. How many feet would you say it is from Mr. Canty's
7 house and where this incident happened?

8 A. I'm not really sure.

9 Q. Would you say it's as far away from where you are to
10 the back of this courtroom or further or closer?

11 A. It would be about that general distance.

12 Q. From where you are to the back of the courtroom?

13 A. Yes, sir.

14 Q. Can you see the back of the courtroom from where you
15 are?

16 A. This wall right here? Yes, sir. I can see it.

17 MR. DEAS: Court's indulgence.

18 (A PAUSE.)

19 MR. DEAS: Court's indulgence.

20 THE COURT: Yes, sir.

21 (A PAUSE.)

22 MR. DEAS: Nothing further.

23 THE COURT: Why don't we take a five minute break
24 before we continue with final cross-examination, which
25 could take a while.

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1 Ladies and gentlemen, please do not discuss anything
2 while you're back there. Let's just take a quick break.
3 We won't bring refreshments, but you can use the restroom
4 and stretch.

5 (THE JURY EXITS AT 6:00 P.M.)

6 THE COURT: All right, court's in recess for
7 approximately five minutes.

8 (OFF THE RECORD.)

9 THE COURT: All right, let's bring our jury in.

10 (THE JURY ENTERS AT 6:08 P.M.)

11 CLERK OF COURT: All the jurors are present in the
12 courtroom.

13 THE COURT: Thank you.

14 All right, Mr. Wilder, you may proceed with your
15 cross-examination.

16 MR. WILDER: Thank you, Your Honor.

17 CROSS-EXAMINATION BY MR. WILDER:

18 Q. Is it Sergeant Burgess, Burnish?

19 A. Yes, sir.

20 Q. Burnish. Sergeant Burnish, on January 14th of 2008 at
21 1611, did you have occasion to interview Marcus Branch?

22 A. I possibly did, yes, sir.

23 Q. And I'm going to show you a statement and ask you.
24 Can you identify your signature on it?

25 MR. MEADORS: Did he say the 14th or the 13th?

1 THE COURT: What's the date?

2 WITNESS: The 14th.

3 MR. WILDER: January 14th.

4 BY MR. WILDER:

5 Q. Is that your signature, Sergeant Burnish?

6 A. Down here at the bottom?

7 Q. Well, let's look up at the top where it ---

8 A. Up here at the top, yes, it is.

9 Q. Okay. So, and it says interviewing agent or officer?

10 A. Sergeant Robert Burnish.

11 Q. Okay. So, you did take a statement from Marcus Branch
12 concerning a cell phone?

13 A. Yes, sir.

14 Q. Now, do you know an individual named Chops referred to
15 in the statement?

16 A. Referred to Chops, yes, in this statement. His real
17 name we do not know.

18 MR. MEADORS: Your Honor, objection to ---

19 A. I do not.

20 MR. MEADORS: --- relevance in this case to Chops.
21 There's no relevance whatsoever.

22 MR. WILDER: Well, that's one thing I'm trying to
23 determine.

24 Q. You don't know the real name ---

25 THE COURT: I'll let him ---

R. BURNISH - CROSS-EXAMINATION BY MR. WILDER

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1 Q. --- of the guy Chops?

2 A. No, sir, I don't.

3 Q. So, whoever Marcus Branch might call Chops, you don't
4 know who that is?

5 A. No, sir, I don't.

6 Q. But that's where he says he left his cell phone?

7 A. That's correct.

8 MR. MEADORS: Your Honor, this is irrelevant.

9 THE COURT: I'm going to give him a little leeway, but
10 tie it up.

11 MR. WILDER: Okay.

12 BY MR. WILDER:

13 Q. Who lives in the trailer right over here on Cherryvale
14 Drive next to Ms. Canty's house coming on down to
15 Cherryvale right there on the end corner?

16 A. Sir, if I had the reports, I'd be able to tell you.

17 MR. WILDER: Okay, who has the reports? He said if he
18 had the reports, he could tell us who lives on the end
19 house there at O.C.

20 Your Honor, may he step down and find what he needs to
21 answer the question?

22 THE COURT: If he has them available.

23 MR. MEADORS: May he step down?

24 THE COURT: Yeah, he can step down.

25 (A PAUSE.)

1 BY MR. WILDER:

2 Q. All right, Sergeant Burnish, is the answer you can't
3 answer that question, you don't know who lives on the
4 corner lot?

5 A. Not at that lot, no, sir.

6 Q. All right. That night when you went out there, the
7 night that Mr. Flexon was shot, you said somebody lived in
8 that trailer, didn't you?

9 A. Yes, sir.

10 Q. And you're telling the jury you talked to the people
11 in that trailer?

12 A. I did not talk to the people in that trailer.

13 Q. Can you tell the ladies and gentlemen of the jury if
14 any law enforcement officer talked to people who lived in
15 that trailer?

16 A. I cannot tell them because I don't know.

17 Q. So, you're telling them that no statement was taken
18 from anybody that lived in that particular mobile home?

19 A. Not to the best of my knowledge, no, sir.

20 Q. And that's number O.C. Mobile Home Park, right?

21 A. Yes, sir.

22 Q. Did anybody take a statement from anybody that lived
23 in number O.C. Mobile Home Park?

24 A. That trailer was vacant, sir.

25 Q. Okay, and was where the blood was found and the

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1 footprints and the DNA that belonged to mystery females,
2 but it was vacant?

3 A. Yes, sir, that's correct.

4 Q. Was occupied?

5 A. Yes, sir, it was.

6 Q. Tell the ladies and gentlemen of the jury who lives in

7 .

8 A. I believe their last names were Dickey.

9 Q. All right. The rest of the incident report that we
10 heard about earlier being testified to by Deputy Griffin,
11 now Thomas I believe?

12 A. Yes, sir.

13 Q. Correct? And she is the reporting officer on the
14 incident report. And I will just like for you to tell the
15 ladies and gentlemen of the jury who the witnesses she put
16 down on the incident report were.

17 A. All the witnesses?

18 Q. The witnesses.

19 A. All the names together? Complainant's name, she has
20 Mr. Ray Dickey. That's

21 Q. All right. Excuse me. I'm going to stop you right
22 there. Where's his statement?

23 A. I don't have that.

24 MR. MEADORS: Your Honor, these are not witnesses to
25 the incident.

1 THE COURT: This is -- I think I -- let me see y'all
2 over here.

3 (OFF-THE-RECORD BENCH CONFERENCE.)

4 THE COURT: You may proceed as directed.

5 MR. WILDER: Thank you, Your Honor.

6 BY MR. WILDER:

7 Q. All right. Now, you were reading the complainant's
8 name on the incident report that pertains to this case
9 number, correct?

10 A. That's correct.

11 Q. All right, and the witness's name, compliant number
12 one, is who?

13 A. Ray Dickey.

14 Q. And where is the statement that Mr. Dickey gave?

15 A. I do not have a statement from Mr. Ray Dickey. His --
16 what he told law enforcement is in this report.

17 Q. Can you find the section of the report that refers to
18 Mr. Dickey's statement?

19 A. To what he told law enforcement?

20 Q. Just that portion of it.

21 A. Yes, sir, it's right here in the first paragraph.

22 Q. Can you read it?

23 A. Yes, sir: Ray ---

24 MR. MEADORS: It's hearsay, but I have no objection to
25 it.

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1 THE COURT: It is hearsay. Do you have no objection?

2 MR. MEADORS: Well, there's other matters of hearsay.
3 that I'm going to be offering, too, in a minute in response
4 to this as long as he doesn't have any objection.

5 THE COURT: All right. You're opening the door then.

6 MR. WILDER: Well, I'll withdraw it then.

7 THE COURT: Okay.

8 MR. WILDER: I won't do it that way.

9 BY MR. WILDER:

10 Q. Do you have a statement that was signed by Mr. Dickey?

11 A. No, sir, I do not.

12 Q. All right. So, apparently you did not conduct an
13 interview with him where he signed a statement?

14 A. That's correct. I did not.

15 Q. Did anybody else, to your knowledge, conduct an
16 interview with him where he signed the statement?

17 A. Not to my knowledge, no, sir.

18 Q. All right. Complainant number two.

19 A. Jennifer Dickey.

20 Q. Did anybody conduct an interview where Jennifer
21 Dickey, where Jennifer Dickey signed a statement?

22 A. No, sir.

23 Q. Complainant number three?

24 A. Regina Patterson.

25 Q. Did anybody conduct an interview with Regina Patterson

1 where Regina Patterson signed a statement?

2 A. No, sir.

3 Q. Complainant number four?

4 A. Linda Canty.

5 Q. Did anybody conduct an interview with Linda Canty
6 where Ms. Canty signed a statement?

7 A. No, sir.

8 Q. Okay. Would you agree with me that Mr. Jackson turned
9 himself in to Sumter County Law Enforcement Center?

10 A. That's not the information that I was given.

11 Q. So, earlier when you say he was transported here, you
12 were meaning, you were really meaning to imply that you
13 didn't think he turned himself in? Is that what you're
14 saying?

15 A. As I said, that's not the information I was given that
16 he was turning himself in.

17 Q. The activity report, have you seen that, that says he
18 turned himself in?

19 A. I've seen it before. I don't know if I recall what it
20 says right now.

21 Q. I'm going to ask you if you recognize the officer's
22 name on here, if I can find it. Right here. Defendant's
23 Exhibit for I.D. Number 15.

24 A. Yes, sir, I know the investigator's name here.

25 Q. And what does that report say regarding Mr. Daniel

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1 Jackson?

2 A. Subject turned himself in to law enforcement to
3 India-10 Reynolds.

4 Q. And that's not you, right?

5 A. That's correct. That's not me.

6 Q. Who is that?

7 A. Investigator -- at the time he was Investigator Robert
8 Reynolds.

9 Q. All right, and what your testimony is now is you
10 don't, you didn't think that that's what happened at the
11 time? Is that what you're saying?

12 A. This is not what was advised to me at that time,
13 that's correct.

14 Q. Okay. Now, let me direct your attention to an
15 interview that was then conducted of Mr. Daniel Jackson.
16 Did you write down in your notes right then what he said?

17 A. No, sir, I did not.

18 Q. Did you record it?

19 A. No, sir.

20 Q. Did you videotape it?

21 A. No, sir, it was not videotaped.

22 Q. Was there any kind of contemporaneous memorization of
23 it, written; recorded, or otherwise?

24 A. No, sir.

25 Q. So, everybody's just kind of going on their memory as

1 to what he said?

2 A. Yes, sir.

3 Q. All right. I'm going to show you an affidavit on a
4 search warrant and ask you if you recognize your signature.

5 A. Yes, sir.

6 Q. Would you repeat the reason why or did you -- you
7 signed that under oath in front of the magistrate, right?

8 A. Yes, sir, I did.

9 Q. And you swore to what's in there as the truth?

10 A. Yes, sir.

11 Q. Would you read what you said on January -- is it
12 January 23rd?

13 A. 16th.

14 Q. 16th. Read what you said on January 16th.

15 A. I apologize. You are correct. It's January 23rd. I
16 see it at the bottom.

17 Q. All right. I'm sorry. On January -- read what you
18 said on January 23rd.

19 A. On January 16th of 2008, investigators with the
20 Clarendon County Sheriff's Office and the Sumter
21 County Sheriff's Office received information that
22 the suspect, Daniel Deangelo Jackson, was at the
23 said residence with his aunt, Andrea Russell.
24 After turning himself in, Daniel Jackson admitted
25 to law enforcement verbally that he was in the

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1 said residence and fled when he saw law
2 enforcement arrive. After law enforcement left
3 the scene, Andrea Russell called Clarendon County
4 officers to return because she found a 30-30
5 Winchester rifle underneath her couch that did
6 not belong to her. A ballistics check through
7 SLED has proven that the rifle found at the said
8 residence is one of the weapons used to kill
9 William Flexon.

10 Q. In that statement, you make no reference to anything
11 that Daniel Jackson said, do you, except running away?

12 A. That's correct.

13 Q. And you also swear under oath that he turned himself
14 in?

15 A. Yes, sir, on that document I did.

16 Q. In your words?

17 A. Yes, sir.

18 Q. So, today you're saying that at that time, you didn't
19 realize he turned himself in, I guess? Is that what you're
20 saying?

21 A. That night it was told to me differently. That it was
22 not -- it wasn't said that he was turning himself in.

23 Q. But you did tell the truth to the magistrate that he
24 turned himself in?

25 A. Yes, sir.

1 Q. Now, we know that you viewed the tape at the
2 Cherryvale Grocery.

3 A. Yes, sir.

4 Q. You agree with the other witnesses that it was one
5 hour off?

6 A. Yes, sir.

7 Q. Did you check that against your watch?

8 A. Yes, sir, I did.

9 Q. And you agree that it was one hour off?

10 A. Yes, sir.

11 Q. Precisely?

12 A. Yes, sir.

13 Q. And you conclude that's because of Daylight Savings
14 Time possibly?

15 A. That's possible, yes.

16 Q. Possible. Okay, but one hour off, you're sure of
17 that?

18 A. That's correct.

19 Q. I show you a statement and ask you if you recognize
20 your signature.

21 A. Yes, sir.

22 Q. Who did you take that statement from?

23 A. Mr. Larry Archie.

24 Q. Where does Mr. Larry Archie live?

25 A. At the time of this statement, he gave us his address

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1 of

2 MR. WILDER: I'd ask that that be marked for
3 identification, Your Honor.

4 THE COURT: 27?

5 COURT REPORTER: 26.

6 THE COURT: 26.

7 (STATEMENT BY ARCHIE MARKED AS DEFENDANT-JACKSON'S
8 EXHIBIT NUMBER 26 FOR IDENTIFICATION.)

9 MR. WILDER: And I'd ask that the affidavit for the
10 search warrant be marked, Your Honor for identification.

11 THE COURT: 27.

12 (AFFIDAVIT MARKED AS DEFENDANT-JACKSON'S EXHIBIT
13 NUMBER 27 FOR IDENTIFICATION.)

14 COURT REPORTER: 27, I.D.

15 BY MR. WILDER:

16 Q. I believe you mentioned to Mr. Meadors that you talked
17 to somebody down at the O.C. Mobile Home Park down in the
18 corner down here, correct?

19 A. No, sir, I intended to. I could not get anybody to
20 come to the door.

21 Q. But this trailer was occupied?

22 A. It appeared to me that it was occupied.

23 Q. Do you know who lives there?

24 A. No, sir, I do not.

25 Q. Did you take a statement from them?

1 A. No, sir, I do not.

2 Q. The night that Mr. Flexon was shot, you were not the
3 first responder to the scene, were you?

4 A. No, sir, I wasn't.

5 Q. How many people arrived at the scene before you got
6 there?

7 A. I cannot remember how many were there. I would have
8 to look at the log to see.

9 Q. Could you tell the ladies and gentlemen of the jury
10 how many people responded to the scene before you got
11 there?

12 A. Eighteen.

13 Q. Eighteen. Now, was the crime scene tape put across a
14 certain area out on this manner?

15 A. Yes, sir.

16 Q. Could you show the jury which area was secured off,
17 please?

18 A. Yes, sir.

19 MR. WILDER: Permission for him to step down, Your
20 Honor?

21 THE COURT: Yes, sir.

22 A. All this right here blocking the entrances and exits.

23 COURT REPORTER: I can't hear him at all. I'm sorry.

24 WITNESS: I'm sorry.

25 THE COURT: Okay, you need to speak up. Yes, make it

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1 so she can...

2 BY MR. WILDER:

3 A. Along the road, along the entrances here for the
4 mobile home park, we blocked the entrance and exits going
5 in and out.

6 Q. Okay, and so anything along the road wasn't secured.
7 Is that correct?

8 A. No.

9 Q. You can return to the stand. And you agree that the
10 wrapper that's been marked State's Exhibit Number 24 was in
11 the road?

12 A. No, sir, I do not.

13 Q. Can you show the ladies and gentlemen of the jury
14 where it was?

15 A. I can show approximately. I can't show exactly.

16 Q. Please show them, please.

17 A. It would have been this area here.

18 Q. So, you're putting it inside the O.C. Mobile Home
19 Park?

20 A. Yes, sir.

21 Q. And not 137 feet away?

22 A. No, sir.

23 Q. Who found it?

24 A. I do not know.

25 Q. How do you know where it was found?

1 A. Because I saw it after it was found.

2 Q. Did you take a picture of it?

3 A. I did not, no, sir.

4 Q. And whose car was it next to?

5 A. I do not know.

6 Q. You have no information as to whether anybody arrived
7 on the scene before you did reported it to you?

8 A. No, sir.

9 Q. But we all agree it didn't have any fingerprints on
10 it, correct?

11 A. Yes, sir, we can agree with that.

12 Q. And we don't know for sure which store it came from,
13 do we?

14 A. Not for sure, no, sir.

15 Q. Okay. Now, let's go to the videotape for just a
16 minute. You watched the videotape?

17 A. Yes, sir.

18 Q. And you asked somebody to identify anybody on the tape
19 they might recognize, correct?

20 A. That's correct.

21 Q. All right. I'm directing your attention now to the
22 guy who came to the store a few minutes before Mr. Jackson
23 did. Remember a guy in a black hoodie?

24 A. Vaguely. I don't, I don't recall too much about that
25 part.

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1 Q. Well, did you ask for anybody's help in identifying
2 who that was?

3 A. Yes, sir. When the state -- the tape was started, I
4 asked them to view it, and if they recognized anybody, to
5 let us know.

6 Q. Did anybody identify the guy in the black hoodie?

7 A. No, sir.

8 Q. Did anybody identify the guy in the white cap?

9 A. No, sir.

10 Q. Did anybody identify the dancing man who had the pie
11 in his hand?

12 A. The pie in his hand?

13 Q. Yes, sir.

14 A. Which one is that?

15 Q. The guy who danced in at about the time Mr. Canty
16 comes in the store.

17 A. I don't recall any guy dancing.

18 Q. Are you saying that you didn't identify anybody else
19 other than Mr. Canty?

20 A. As I said, I asked the clerks that were there who had
21 worked that store and are familiar with the people that
22 come in and out of that store if they recognize anybody, to
23 stop it and tell me who it is.

24 Q. Did they tell you that they recognized Junior?

25 A. Junior was already in the store.

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1 Q. Did Mack say he knew who Junior was?

2 MR. MEADORS: Your Honor, Junior works there.

3 THE COURT: You're asking him to pit what another
4 person says.

5 MR. WILDER: All right, I'll, I'll ---

6 THE COURT: Rephrase your question.

7 BY MR. WILDER:

8 Q. All right, you're the lead investigator?

9 A. Yes, sir.

10 Q. Did you receive a report from anybody identifying
11 anybody else on the tape?

12 A. No, sir.

13 Q. Did you make any attempt to identify anybody else on
14 the tape?

15 A. Yes, sir. As I stated, I asked them for their help.

16 If they recognized anybody on this tape, to let me know who
17 they are.

18 Q. And that was it?

19 A. That was it and they did.

20 Q. So, we don't know who the hoodie guy is?

21 A. No, sir.

22 Q. Now, is there not a pay phone in a gas station on
23 Cherryvale Drive right as you turn in?

24 A. On Cherryvale Drive?

25 Q. A gas station.

R. BURNISH - REDIRECT EXAMINATION BY MR. MEADORS

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1 A. Are you referring to Cherryvale Grocery or the one at
2 Cherryvale and 378?

3 Q. The one at Cherryvale and 378.

4 A. There's possibly one, yes. I don't know.

5 MR. WILDER: Thank you. No other questions.

6 THE COURT: Redirect?

7 MR. MEADORS: May it please the court?

8 REDIRECT EXAMINATION BY MR. MEADORS:

9 Q. Let's start with, start with Mr. Deas, and when he
10 asked you do you know who called from Cherryvale Grocery
11 and Sambino's was his question. Do you have a time on the
12 video when the two individuals left and went out the door?

13 A. Yes, sir.

14 Q. Do you have a time when a call was received by Tanya?

15 A. Yes, sir.

16 Q. And as to his questions, would that be evidence that
17 potentially one of those two made that phone call?

18 A. Yes, sir.

19 Q. You don't know which one?

20 A. No, sir.

21 Q. And he asked you about the difference in the
22 statements, that there was really no difference from the
23 first statements. He just kept adding about another
24 person, but not really his role. Do you remember those
25 questions?

1 A. Yes, sir.

2 Q. Now, the first two questions he just denied any
3 involvement or anything, correct?

4 A. That's right, yes, sir.

5 Q. And then goes to the next statement, I believe the
6 15th, correct?

7 A. Yes, sir.

8 Q. And mentions the robbery, correct?

9 A. That's correct.

10 Q. Mentions some other people, correct?

11 A. Yes, sir.

12 Q. Then we go to the 17th and he mentions, yeah, I agree
13 to help with it, correct?

14 A. That's right.

15 Q. And then he mentions another person, right?

16 A. Yes, sir.

17 Q. As the shooter?

18 A. Yes, sir.

19 Q. Didn't say anything about that in the first statement,
20 second statement, correct?

21 A. That's right.

22 Q. The third statement?

23 A. That's correct.

24 Q. Has this person again in the fourth statement,
25 correct?

R. BURNISH - REDIRECT EXAMINATION BY MR. MEADORS

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1 A. That's correct.

2 Q. And then the fifth statement again says about there's
3 another shooter?

4 A. That's right.

5 Q. Another person, right?

6 A. Yes, sir.

7 Q. He mentions that person again?

8 A. Yes, sir.

9 Q. There's a lot of difference in those statements, isn't
10 there?

11 A. Yes, sir.

12 Q. And do you have, or have you had or do you have where
13 defendants play different roles in criminal activity?

14 A. Yes, sir.

15 Q. And it's for the jury to decide what role, if any,
16 they play, correct?

17 A. That's correct, yes.

18 Q. Based on the evidence?

19 A. Yes, sir.

20 Q. Mr. Wilder asked you about some complainants versus
21 witnesses. These were not witnesses, witnesses to the
22 crime, were they?

23 A. No, sir, they were not.

24 Q. And were these people he asked you about -- Ray
25 Dickey, Jennifer Dickey, Regina Patterson -- were they

1 individuals that Deputy Griffin, now Deputy Thomas, talked
2 to that night?

3 A. Yes, sir.

4 Q. And isn't it true and fair to say that they were
5 coming back to the park where they saw two to three
6 individuals running?

7 A. Yes, sir.

8 MR. WILDER: Your Honor, I didn't open the door to
9 hearsay, and now I object to him doing it.

10 THE COURT: Overruled. That's been in testimony
11 several times.

12 MR. MEADORS: I'll let him read now, if you want to,
13 what you want him to read.

14 MR. WILDER: No objection.

15 THE COURT: All right.

16 BY MR. MEADORS:

17 A. You want me to read this?

18 Q. Yes, sir.

19 A. Ray said him, Jennifer, and Regina left lot
20 number at O.C. Mobile Home Park, went to
21 Cherryvale Grocery, and was on the way back to
22 lot number when they saw three unknown subjects
23 running through the woods near the 1100 block of
24 Cherryvale going towards Babette Drive. Ray said
25 when they turned into the O.C. Mobile Home Park,

1 they saw Flexon lying on the ground with what
2 appeared to be a gunshot wound to the chest.

3 Q. So, they saw some individuals leaving, correct?

4 A. That's correct.

5 Q. And then I think Ray tells you later it was at least
6 two, right?

7 A. Yes, sir.

8 Q. Or tells Dominick at least two?

9 A. Yes, sir.

10 Q. Okay.

11 MR. DEAS: Objection. I move to strike that. That's
12 not in evidence. That's not -- that person isn't here to
13 testify. That's not on that statement right there. I
14 object.

15 MR. MEADORS: It's later ---

16 MR. DEAS: I move ---

17 MR. MEADORS: --- on in the investigation.

18 MR. DEAS: I object. I move to strike.

19 THE COURT: Hold on. Hold on. Is it in the
20 statement?

21 MR. MEADORS: Your Honor, it is a follow up to Mr.
22 Ray's. It's not in this statement. It's a statement --
23 Mr. Ray later said there were at least two. First they
24 said three. Then they said at least two.

25 MR. DEAS: Your Honor, it's not in that statement. He

1 can't bring it up for evidence for ---

2 THE COURT: I'm going to ask it be stricken.

3 BY MR. MEADORS:

4 Q. Can I ask? Did Mr. Ray give you a statement later?

5 A. Later, yes, sir.

6 Q. I understand.

7 THE COURT: The jury will disregard that prior
8 statement.

9 BY MR. MEADORS:

10 Q. But this first does say three?

11 A. Yes, sir, it does.

12 Q. Now, I'm n -- Mr. Wilder was asking, and I'm not sure
13 really, but can't say what it was, but were you advised
14 later he didn't turn himself in? I think that came through
15 on his question to you, correct?

16 A. I'm sorry. What's your question?

17 Q. Were you advised later that he didn't turn himself in?

18 A. That's correct.

19 Q. But at the time you did that search warrant, you told
20 what you thought was the truth and you put it down there,
21 correct?

22 A. That's correct.

23 Q. He, he came into the place, the place, didn't he?

24 A. That's correct, yes, sir.

25 Q. There's no dispute about that?

R. BURNISH - REDIRECT EXAMINATION BY MR. MEADORS

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1 A. That's right.

2 Q. And the fact that you didn't put money on that search
3 warrant, do you put everything that a person said on a
4 search warrant?

5 A. No, sir.

6 Q. Is that something the magistrate would have needed to
7 know as an affiant's reason?

8 A. No, sir.

9 Q. And I don't mean to use lingo. Affiant being you, the
10 person who's swearing to take an oath before a magistrate
11 as to why you want to go somewhere with a search warrant,
12 correct?

13 A. That's correct, yes, sir.

14 Q. I can't remember. I think one of them asked you about
15 in response to that, about a telephone. I think it was Mr.
16 Deas. That Virgin mobile is a prepaid that you can't
17 track, isn't it?

18 A. That's correct. It is.

19 Q. I mean, you can't track it.

20 A. That's right.

21 Q. And finally I think the video I think Mr. Wilder was
22 asking you about.

23 MR. MEADORS: This is directly related to that, Judge.

24 Q. Without saying what he said, had Mack, Mackovitch,
25 said there was some sort of incident that night around that

1 time period? That's why you were looking at that time
2 period?

3 A. Yes, sir.

4 Q. An encounter he had had with some folks?

5 A. Yes, sir.

6 Q. And that, was that around the same time period that
7 Tanya got that phone call?

8 A. Yes, sir, it was.

9 Q. I didn't ask you this, but it's in response to the
10 search warrant. You actually got the shell casing
11 yourself, didn't you, from the peanut butter jar?

12 A. It was given to me, yes, sir.

13 Q. That's what I meant. It came into law enforcement's
14 possession from you?

15 MR. WILDER: Object to the leading, Your Honor.

16 That's not in evidence.

17 MR. MEADORS: Yes, it is.

18 THE COURT: Overruled.

19 MR. MEADORS: Your Honor, that has been admitted into
20 evidence.

21 MR. WILDER: Well, I'm talking about the statement
22 where...

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 BY MR. MEADORS:

25 Q. Jackson.

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1 A. Sir?

2 Q. Did you receive a shell that -- and I'm -- I do think
3 I was asking the right question. Did you receive a shell
4 casing that came from a peanut butter jar from Ms.
5 Russell's house?

6 A. That's correct, yes, sir.

7 Q. And that was related to Mr. Jackson?

8 A. Yes, sir.

9 Q. And you, you yourself got it?

10 MR. WILDER: And that objection is that he doesn't
11 know where it came from if he got it from ---

12 THE COURT: He's just asking if it came from the
13 police officers from Clarendon County.

14 MR. MEADORS: That, that's all I'm asking.

15 BY MR. MEADORS:

16 Q. It came into your possession?

17 A. It came into our possession, yes.

18 MR. WILDER: And so ---

19 MR. MEADORS: Judge, can we approach if he's going
20 to...

21 THE COURT: Yes, sir.

22 (OFF-THE-RECORD BENCH CONFERENCE.)

23 THE COURT: Overrule the objection.

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

25 (A PAUSE.)

1 MR. MEADORS: That's it. Thank you.

2 THE COURT: Any recross based upon his redirect?

3 MR. DEAS: None, Your Honor.

4 THE COURT: Mr. Wilder, any recross based upon his
5 redirect?

6 RECROSS EXAMINATION BY MR. WILDER:

7 Q. So, now we're back to he turned himself in, right?

8 A. Yes, sir.

9 MR. WILDER: Thank you.

10 THE COURT: Thank you. You may step down.

11 WITNESS: Thank you, Judge.

12 (THE WITNESS EXITS THE STAND.)

13 THE COURT: All right, Ladies and gentlemen, that is
14 all the testimony that we are going to have for today.

15 Let me forewarn you that it appears that the state has
16 yet to finish their case. I have plans for this weekend
17 that I am going to have to postpone because there's a high
18 probability that we will be here on Saturday. There is a
19 possibility that we will be here on Sunday. We will do all
20 that we can to move this case along, but I don't want to
21 give you this case at a time when you're tired and you feel
22 rushed to come to a decision.

23 A lot of important things going on in our lives, and I
24 recognize that. Ladies and gentlemen of the jury, there is
25 nothing more important going on right now in Sumter County

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 start to become weary, but we must keep, keep our energy
2 and keep our interest up because this is very important.

3 Is the state ready to proceed with its next witness?

4 MR. MEADORS: We are, Your Honor.

5 THE COURT: You may call your next witness.

6 MR. MEADORS: If it please the court, Sergeant Mike
7 Bean.

8 MICHAEL D. BEAN, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 CLERK OF COURT: Please state your full name. Spell
11 your last name for the record.

12 WITNESS: Michael Douglas Bean, B-E-A-N.

13 DIRECT EXAMINATION BY MR. MEADORS:

14 Q. Good morning, Sergeant Bean.

15 A. Yes, sir.

16 Q. Please tell this jury about Sergeant Mike Bean. Where
17 you're from, where you were raised, and your background and
18 training, and specifically in law enforcement.

19 A. Born in Georgia. Lived there about a month. Father
20 was military. Went to North Africa. Lived there through a
21 lot of my youth. Came back to the States. Lived on the
22 coast with the Cajuns for about eight to nine years,
23 Biloxi, Mississippi. Came back. Went to the Philippines.
24 Lived there four years. Came back to Sumter in '69, I
25 believe it was. Been here basically ever since.

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 Worked for a company called Westinghouse. That was
2 purchased by Cutler Handler, then was purchased by Eaton
3 Corporation. I worked for Eaton Corporation for
4 twenty-five years and retired, and became a state constable
5 before I retired. Liked law enforcement. Met Sheriff Mims
6 there. Made me an officer I couldn't refuse. I came to
7 work with the sheriff's office after I retired.

8 Q. When was that?

9 A. That would have been in '04. I think it was '04.

10 Q. And your ---

11 A. Mid-year.

12 Q. And your duties when you started working for the
13 sheriff's department?

14 A. I was a patrol officer about a year and a half. They
15 felt I would be more valuable in the Crime Scene Unit.
16 Moved me into there. I went to the University of North
17 Florida for a little training for while. Went to other
18 classes, blood spatter analysis, things like that. And
19 eventually Ray Mackessy retired about two years ago, two
20 and a half years ago, and I took his place in the, in the
21 unit.

22 Q. You now work with this sheriff?

23 A. Yes, sir, and I work with Anthony Dennis.

24 Q. Let's get right to it. On January 12th of 2008, did
25 you have an occasion to go to O.C. Mobile Home Park and

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 Cherryvale Drive?

2 A. Yes, sir.

3 Q. And what unit or what division were you in at the time
4 with the sheriff's department?

5 A. I was in the Crime Scene Unit.

6 Q. And Ray Mackessy's already testified. Was he also
7 there?

8 A. Yes, sir.

9 Q. Is it fair to say that you took the pictures that
10 night at the crime scene?

11 A. Yes, sir.

12 Q. And can you describe the scene briefly to these ladies
13 and gentlemen, please?

14 A. When we arrived, it was a body in front of a van. It
15 was Mr. Flexon. There were a few other officers,
16 investigators on the scene. The coroner was on scene by
17 the body. It was dark.

18 Q. There's been some testimony about a Little Debbie
19 snack cake.

20 A. Yes, sir.

21 Q. You know what I'm talking about?

22 A. Yes, sir.

23 Q. And did you have an occasion to take a picture of it?

24 A. I did.

25 Q. And I'm going to show you what's marked as State's 24.

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 Do you recognize that?

2 A. Yes, sir. That's the snack cake wrapper, and
3 obviously that's the cardboard that's in the wrapper.

4 Q. And you actually took the picture of that?

5 A. Yes, sir.

6 Q. And then it was gathered, I believe, by Mackessy,
7 correct?

8 A. Yes, sir. I believe so.

9 Q. Sergeant, you're going to have to do me a favor. Will
10 you please speak up and come down here just for a second?

11 A. Certainly.

12 THE COURT: You may.

13 MR. WILDER: Thank you.

14 MR. MEADORS: I didn't ask your permission. Is it
15 okay for him to come down?

16 THE COURT: That's fine.

17 MR. MEADORS: I apologize, Judge.

18 BY MR. MEADORS:

19 Q. Now, this is State's 84. Do you recognize this as an
20 overview of O.C. Mobile Home Park?

21 A. Yes, sir.

22 Q. You do?

23 A. Yes, sir.

24 Q. Okay, and is this it here?

25 A. Yes, sir.

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. Now, where did you go when you first got there?

2 A. Obviously several cars in the road. I couldn't get; I
3 couldn't get to the scene with the vehicle. So, I parked
4 on the road and walked down.

5 Q. Come on around. How's that?

6 A. So, I parked further up the road and walked to the
7 scene.

8 Q. And then where was Mr. Flexon's body?

9 A. Approximately this area.

10 Q. And is that his van there?

11 A. Yes, sir.

12 Q. We've got pictures, but where was his van?

13 A. It would have been very close where the red vehicle
14 is. A little further down more center.

15 Q. And there's been some testimony about crime scene
16 tape. Was there crime scene tape there that night?

17 A. Yes, sir.

18 Q. And where was it?

19 A. It was in this area further up here off of a fence.

20 Q. So, it was up here?

21 A. Yes, sir.

22 Q. Now, and I'm going to ask you to look at some pictures
23 in a minute, but as far as you remember, where was the
24 Little Debbie snack cake wrapper?

25 A. Approximately this area.

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 Q. How do you remember that?

2 A. There was a vehicle parked going out back toward
3 Cherryvale Drive, and the snack cake was -- package was
4 right at the tire, pretty close to the tire.

5 Q. And have you got ---

6 A. Of that vehicle.

7 Q. --- some picture that would help show that?

8 A. The snack cake itself or?

9 Q. The car or the snack cake, however you ---

10 A. Yeah. Here's ---

11 MR. MEADORS: Your Honor, for the record, this is
12 State's 85.

13 THE COURT: All right.

14 BY MR. MEADORS:

15 A. This is the victim's vehicle, and you can see
16 taillights ahead of this vehicle. This is where the snack
17 cake was, the tire of that vehicle which was parked very
18 close to that first unit.

19 Q. Speak up, too. I'm sorry.

20 A. Very, very close to this first unit. I believe that'd
21 be 9. So, it 9, unit 9 on this side of the road. Much
22 like this vehicle, but further up by that, that unit.

23 Q. That was the other vehicle where the Little Debbie
24 snack cake was found?

25 A. Yes, sir. That's the one with the picture of the

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 snack cake.

2 Q. Could you show it again?

3 A. This is the vehicle, the victim's vehicle, and the
4 taillights you see forward are the vehicle with the Little
5 Debbie in the photo. That's the vehicle.

6 Q. What -- can you see the crime scene tape in there?

7 A. You can. It's, it's hard to see in a small view, but
8 it's -- comes right through here and in front of the
9 vehicle.

10 Q. So, it's actually in front of the vehicle?

11 A. Yes, sir.

12 Q. So, this vehicle would be out of the crime scene?

13 A. This vehicle or the front vehicle?

14 Q. The front vehicle.

15 A. The front vehicle.

16 Q. Out at the crime scene?

17 A. Yes, sir. That's the ---

18 Q. This is the victim's ?

19 A. Right.

20 Q. That other vehicle you referred to is out of the, out
21 of the tape , out of the tape , crime ---

22 A. Yes, sir.

23 Q. You can have a seat back.

24 Do you have another picture that you took depicting
25 that or the snack...

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 A. The, the -- I have a picture of the, the, the Little
2 Debbie by the tire. Is that what you're ---

3 Q. It may already be in, but let me check.

4 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 86 FOR
5 IDENTIFICATION.)

6 COURT REPORTER: 86 for I.D.

7 THE COURT: All right, 86 for I.D. Any objections?

8 MR. WILDER: All right, Your Honor.

9 MR. MEADORS: Can we approach?

10 (OFF-THE-RECORD BENCH CONFERENCE.)

11 THE COURT: Overruled.

12 MR. WILDER: Your Honor, we would object for the
13 record on grounds that it's outside the crime scene, Your
14 Honor.

15 THE COURT: Right.

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 86.)

18 BY MR. MEADORS:

19 Q. Showing you what's been marked and entered now State's
20 86. What is that?

21 A. That's a Little Debbie cake wrapper near a vehicle
22 tire.

23 MR. MEADORS: Just so I'm clear, State's 85 which we
24 now offer, Your Honor, I believe ---

25 MR. WILDER: Same objection.

M. BEAN - DIRECT EXAMINATION BY MR. MEADORS

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1 THE COURT: Same objection.

2 MR. WILDER: It's my understanding Mr. Bean took the
3 picture, so that portion of the objection is waived. But
4 the portion relevant to it being outside of the crime
5 scene, Your Honor.

6 THE COURT: That's right, and it's overruled.

7 MR. MEADORS: Thank you.

8 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
9 NUMBER 85.)

10 BY MR. MEADORS:

11 Q. Is this vehicle in 86, can you see it in 85?

12 A. Yes, sir, the taillights that you see in 85.

13 MR. MEADORS: And, Judge, with that, I think now we've
14 had the person that collected, took the picture, we'd offer
15 the 24.

16 THE COURT: All right. Subject to the objection ---

17 MR. WILDER: Same, same objection, Your Honor.

18 THE COURT: Subject to their objection.

19 (SNACK WRAPPER MARKED INTO EVIDENCE AS STATE'S EXHIBIT
20 NUMBER 24.)

21 MR. MEADORS: Beg the court's indulgence.

22 THE COURT: Yes, sir.

23 (A PAUSE.)

24 MR. MEADORS: Beg the court's indulgence. Thank you.

25 WITNESS: Yes, sir.

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 THE COURT: Mr. Deas.

2 MR. DEAS: No questions, Your Honor.

3 MR. WILDER: Mr. Wilder.

4 MR. WILDER: Thank you, Your Honor.

5 CROSS-EXAMINATION BY MR. WILDER:

6 Q. Good morning.

7 A. Good morning, sir.

8 Q. Investigator Bean, did you get a subpoena from me?

9 A. I did, sir.

10 Q. All right. Thank you for being here. Let me show you
11 a photo log if can you identify.

12 MR. WILDER: Permission to approach, Your Honor?

13 THE COURT: Certainly.

14 MR. WILDER: Thank you.

15 BY MR. WILDER:

16 Q. Can you identify that?

17 A. I believe this is Sergeant Mackessy's photo log of the
18 events that, that -- of all the photos.

19 Q. All right. Now, would it be uncommon for you to have
20 taken photographs and actually Officer Mackessy kept the
21 log?

22 A. Would it have been common?

23 Q. Was that, was that your practice?

24 A. Yeah, we -- yes, sir. We would do that sometime.

25 Q. Okay, because, because y'all are working together, and

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 y'all were a team, right?

2 A. Yes, sir.

3 Q. Is that right?

4 A. Yes, sir.

5 Q. In fact, I believe, wasn't the idea he was going to
6 retire and you coming on board, and wanted there to be two
7 of you in case Mr. Mackessy wasn't around one day, right?

8 A. Yes, sir.

9 Q. Okay, and it'd fair to say as you took the pictures,
10 maybe Mackessy was taking notes and vice versa?

11 A. Yes, sir. That would be a fair statement.

12 Q. Okay. All right. Now, can you look at that list?

13 Well, first of all, it's Defense I.D. Number what? What
14 are we looking at?

15 A. 5.

16 Q. Number 5, okay, Defense for I.D. Number 5. Now, can
17 you look at that list and tell the jury when it was the
18 picture of the Little Debbie cake wrapper was taken? Is it
19 on the list? That's the first ---

20 A. Oh, is it on the list?

21 Q. Is it on the list?

22 A. Yes, sir.

23 Q. Okay. Second page?

24 A. On the second page, yes, sir.

25 Q. And about how many pictures were in front of it?

1 A. Thirty-three.

2 Q. Okay. So, you got them listed in numbers there?

3 A. Yes, sir.

4 Q. And that's picture number thirty-three.

5 A. The little Debbie is thirty-four and thirty-five.

6 Q. Okay. Thirty-four and thirty-five are pictures of the
7 snack wrapper, wrapper, whatever it is. Okay. Now, tell
8 the ladies and gentlemen of the jury what car it was that
9 that was next to.

10 A. The car near unit number 9.

11 Q. Unit 9?

12 A. Yes, sir.

13 Q. Whose car was it?

14 A. No idea.

15 Q. Well, do you have a picture of the licence of that car
16 so we can ---

17 A. No, sir.

18 Q. --- run that license number?

19 A. No, sir.

20 Q. Did you write down whose car it was, the license
21 number of who is was?

22 A. No, sir.

23 Q. But Mr. Flexon's car was parked right behind it,
24 wasn't it?

25 A. Yes, sir.

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Do you -- did you interview whoever was driving that
2 car?

3 A. No, sir.

4 Q. Was it on the passenger's side or the driver's side of
5 the car that the Little Debbie snack cake wrapper was?

6 A. Driver's side.

7 Q. Driver's side. It was right next to the door where
8 somebody might get out and drop the wrapper?

9 A. Actually, it was by the rear tire.

10 Q. Rear tire. So, when somebody gets out of the driver's
11 side door, it's right behind where they would have gotten
12 out, right?

13 A. Yes, sir.

14 Q. Can you tell the jury whether that car door was
15 four-door or two-door?

16 A. No, sir. I cannot.

17 Q. So, we don't even know it if might be right next to
18 the rear door of that car, whoever or whatever is was,
19 right?

20 A. Could have been the rear door, yes, sir.

21 Q. Do you have a picture on your crime-scene log of the
22 front of the car?

23 A. No, sir.

24 Q. You testified that the, that the little Debbie wrapper
25 was on the other side of the tape that was put there,

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 correct?

2 A. Yes, sir.

3 Q. Do you know when that car at lot 9 arrived there ---

4 A. No, sir.

5 Q. --- that evening?

6 A. I do not.

7 Q. But you do know it was there before you got there?

8 A. I, I can't say that. I don't know.

9 Q. It's in the picture you took.

10 A. It's in the picture with the, the ---

11 Q. Well, it got there some time.

12 A. It could have been after I arrived, and so as you
13 pointed out, it was picture thirty-four. There was a lot
14 that went on.

15 Q. You think somebody backed that car up in front of lot
16 number 9 before you got there?

17 MR. MEADORS: Your Honor, he can't, he can't answer
18 that.

19 THE COURT: Sustained.

20 WITNESS: I'd speculate.

21 THE COURT: Speculation. Don't answer it.

22 (A PAUSE.)

23 BY MR. WILDER:

24 Q. Let me show you Defense for Identification Number what
25 is it?

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 A. 12.

2 Q. 12. Find your name on that list, please.

3 A. Okay. I have it.

4 Q. All right. Can you identify that as the crime-scene
5 log of people arriving?

6 A. Yes, sir. It's the crime-scene log of the scene.

7 Q. All right. Now, you found your name on it?

8 A. Yes, sir.

9 Q. How many names are in front of yours?

10 A. I believe it's sixteen.

11 Q. What time did you arrive at the crime scene according
12 to that log?

13 A. 2138.

14 Q. And is Deputy Griffin's name down at the bottom of it?
15 Did she, did she sign that?

16 A. Yes, sir. I believe that's her signature.

17 Q. Okay. Now, so do you -- does that kind of comport
18 with your memory as to what time you got there?

19 A. Yes, sir.

20 Q. Were you the one that spread the yellow tape, or did
21 somebody else spread it?

22 A. Somebody else put it out.

23 Q. Now, are you -- did I understand you have military in
24 your background?

25 A. As a dependent, yes, sir.

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

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1 Q. Okay. So, in military, y'all are comfortable with
2 twenty-four hour clocks, right?

3 A. Yes, sir.

4 Q. When somebody says 2100 hours, what does that mean?

5 A. 21 would be 11. It's 12 and 8.

6 Q. 2000 hours would be what?

7 A. 2000 hours?

8 Q. Yeah?

9 A. That would be 10.

10 Q. And 1900 hours would be what?

11 A. 9. 12. 20. No, I'm sorry.

12 Q. All right.

13 A. Dependent, remember.

14 Q. What does the twenty-four hour clock say? What time
15 did you arrive on that log, Mr. Bean?

16 A. 21, 2138.

17 Q. All right. How long were you in the military?

18 A. I was not in the military.

19 Q. You were not. Well, you admit, would you not, if
20 you're not in the military -- you haven't been comfortable
21 with twenty-four hour clocks -- it's kind of hard to figure
22 what time is it, isn't it?

23 A. It can be, yes.

24 Q. Okay, but now in law enforcement, do y'all use the
25 twenty-four hour clock also?

M. BEAN - CROSS-EXAMINATION BY MR. WILDER

1009

1 A. Some do, some don't.

2 Q. Okay, but on that log, is it a twenty-four clock?

3 A. It is.

4 Q. How many total pictures did y'all take, according to
5 the photo log?

6 A. 110.

7 MR. MEADORS: Your Honor, we'll offer them all in if
8 he's wants to.

9 THE COURT: Well, he hadn't ---

10 MR. WILDER: All these?

11 THE COURT: He hadn't asked.

12 MR. MEADORS: Well, I'll put the pictures and the log,
13 everything in if he wants to.

14 MR. WILDER: Well, Your Honor, I can't move anything
15 into evidence at this point, but -- well, we'll address
16 that at the appropriate point.

17 BY MR. WILDER:

18 Q. Now, did you take a picture of lot ?

19 A. No, sir.

20 Q. Did you take a picture of lot , mobile home park?

21 A. I did.

22 Q. Did y'all take pictures of the interior of lot ?

23 A. There were a few, yes, sir.

24 Q. Were you called out to the St. Paul's Church Road, I
25 believe St. Mark's Circle, to take some pictures of the

M. BEAN - REDIRECT EXAMINATION BY MR. MEADORS

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1 trailer out there?

2 A. No, sir.

3 Q. Would you look at your log and see if there's any
4 reference to pictures of St. Mark's Circle?

5 A. Item 95, item 95.

6 Q. Oh. So, maybe you did take some pictures at St.
7 Mark's Circle?

8 A. No, sir.

9 Q. Would that mean Mr. Mackessy took those pictures?

10 A. Yes, sir.

11 MR. WILDER: Answer any more questions Mr. Meadors may
12 have for you.

13 THE COURT: Mr. Meadors, any redirect?

14 MR. MEADORS: Beg the court's indulgence.

15 REDIRECT EXAMINATION BY MR. MEADORS:

16 Q. I think I've asked this before. That mobile home
17 park's in Sumter County, isn't it? It's in Sumter County?

18 A. O.C., yes, sir.

19 MR. MEADORS: That's all. Thank you.

20 THE COURT: Thank you. You may step down.

21 WITNESS: Thank you.

22 MR. MEADORS: Your Honor, give me a moment to confer
23 with co-counsel?

24 THE COURT: Yes, sir.

25 (THE WITNESS EXITS THE STAND.)

1 (A PAUSE.)

2 MR. MEADORS: State of South Carolina rests, Your
3 Honor.

4 THE COURT: All right, ladies and gentlemen, the state
5 has now rested their case in chief. We have some matters
6 of law that we will need to take up outside of your
7 presence. So, I'm going to send you back to your jury room
8 to eat another donut at this time if you would like. Make
9 yourself comfortable, and we will be in here for a just a
10 minute. Thank you.

11 Please do not discuss anything about the case while
12 you're back there.

13 (THE JURY EXITS AT 10:03 A.M.)

14 THE COURT: All right, are there any motions to be
15 made at this time?

16 MR. WILDER: Yes, Your Honor.

17 MR. DEAS: Yes, sir.

18 THE COURT: Mr. Deas.

19 MR. DEAS: Thank you, Your Honor. May it please the
20 court? Your Honor, at this time I would move on behalf of
21 Reginald County for a dismissal, for a directed verdict of
22 not guilty as to the charge of both murder and armed
23 robbery.

24 What's been established through the state's evidence
25 at this point, now that they have rested, is that indeed

1 Mr. Canty gave about six statements. But in each of those
2 statements, he denies having any involvement in the
3 shooting of Mr. Flexon. What he does admit to in the --
4 starting with the third statement on January 13th and then
5 going through to the sixth statement on January 25th of '08
6 is that he tacitly agreed verbally to participate in the
7 robbery of the pizza man.

8 Verbally agreeing to do that but not taking any
9 affirmative steps to further the completion of the crime
10 does not establish his involvement under the accomplice
11 liability theory. In order for him to be an accomplice to
12 the crime or a co-conspirator in the crime, he would have
13 to do more than just simply verbally say yes, I'm going to
14 take part in it. He would have to take some affirmative
15 action, some actual, engage in some actual criminal conduct
16 to accomplish the crime or to assist in the accomplishment
17 of the crime. There is absolutely no evidence in the
18 record to establish that.

19 There are several lines of cases, one of being *State*
20 *vs. Mouzon*, that establish that conspiracy, liability under
21 conspiracy theory or an accomplice -- or accomplice
22 criminal liability theory must include some action on the
23 part of the co-conspirator to further the completion of the
24 crime. At this point, the record is devoid of any such
25 evidence, certainly with respect to the murder and also

1 with respect to the armed robbery.

2 As the court knows, mere presence or witnessing a
3 crime take place does not establish your involvement or
4 your participation in the crime. What's been established
5 through testimony and evidence is based on Mr. Canty's own
6 statements. He was -- he saw the crime take place or saw
7 some portions of the crime take place.

8 And even if you were to conclude that he was not in
9 his yard at his gate when he saw it, even if you conclude
10 that he was there within very close proximity to the crime,
11 if he was just there but did not engage in the robbing or
12 the shooting of the victim, and there's no evidence to
13 suggest that he did, then, Your Honor we're -- it's our
14 position that this matter is certainly one where a directed
15 verdict of not guilty should be granted.

16 There was no testimony from any of the investigating
17 officers to establish any link between Mr. Canty and the
18 murder of the robbery. There's no fingerprint evidence;
19 there's no DNA evidence; there's no eyewitness evidence.

20 There's absolutely just no evidence to link him to
21 this crime other than his own statements, which are
22 consistent in this respect. He said yes to participating
23 in a robbery, but he essentially withdrew from the fight
24 because when they arrived back at the mobile home park from
25 Cherryvale Grocery, he went home. And there's no evidence

1 to the contrary to that. The only evidence is he saw it,
2 or some portions of it, but he didn't participate in that.

3 Based on that, Your Honor, we would ask the court to
4 grant our motion for a directed verdict of not guilty.

5 THE COURT: All right, thank you.

6 Mr. Meadors.

7 MR. MEADORS: If it pleases the court? Your Honor,
8 there is direct and circumstantial evidence for the jury to
9 consider in this case.

10 First, his own words: yes, I will do the robbery.
11 Going out of the store with the co-defendant, Jackson, to
12 the phone, phone booth and saying there was a phone call
13 was made. We don't know which one made the phone call. We
14 don't.

15 We know from the time frame from that 8:04 to that
16 phone, I think we can argue they made that phone call. I
17 don't know which one, but they made the phone call to
18 deliver to lot , Your Honor, together there both of them.

19 Judge: It wasn't supposed to happen that way. If
20 that's not circumstantial evidence, I don't know. He's
21 saying he saw the revolver, and his mother and Dominick say
22 how could you see the revolver where you were at the porch.
23 You couldn't see it, and he drops his head and said it
24 wasn't supposed to happen today. I think that, that put
25 him right at the scene, Your Honor, when it's happening

1 after he's already said yes, I want to agree to the
2 robbery.

3 And finally, Judge, said nothing linking to him.
4 There's a casing in his room that comes from the gun that
5 killed William Flexon. I think if you consider all those
6 direct and circumstantial, there is enough evidence to,
7 respectfully, to go forward to the jury. And the jury has
8 got to decide the credibility of his statements, if any,
9 Your Honor.

10 THE COURT: All right, thank you. In a criminal case
11 for a directed verdict motion is always to be taken in
12 light most favorable to the non-moving party. This is a
13 circumstantial evidence case, and I find that whether -- I
14 don't know whether the jury will convict or not. But I do
15 find there, for Mr. Canty, there is sufficient evidence.
16 That it will move forward to the jury. So, your motion is
17 respectfully denied.

18 Yes, Mr. Wilder.

19 MR. WILDER: Thank you, Your Honor. At this time, we
20 would move for a directed verdict of not guilty as to the
21 defendant Daniel Jackson. Or in the alternative, Your
22 Honor, we would move for a mistrial, and here's the grounds
23 for our motion for directed verdict.

24 The only way that even the statement another person
25 did thus and so in this case has been established is as

1 non-testifying party, and that being Mr. Canty. He did not
2 testify. His statements were used by the state over our
3 objection and redacted.

4 The law as I understand it under *Bruton* is in any
5 identifying information must be redacted from any statement
6 of a non-testifying co-defendant. All right, if they
7 properly redacted the statement, there is no identifying
8 information pertaining to Daniel Jackson as to any
9 participation in a robbery or a shooting whatsoever. So,
10 either one of two things have happened. Either the
11 statements have been improperly redacted in order to get
12 some circumstantial evidence or any evidence against Mr.
13 Jackson. Or there is no evidence in the record pertaining
14 to Mr. Jackson.

15 Your Honor, the evidence is no fingerprints of Mr.
16 Jackson were identified anywhere near the scene, or even on
17 the murder weapon, or on the car, or any candy wrapper that
18 may or may not have been associated with this, with this
19 situation. No DNA is under the fingerprints that the state
20 was able to say belonged to Mr. Jackson. In fact, I
21 believe we've established in the record that there's loci
22 that don't belong to Mr. Jackson, that were inconsistent
23 with Mr. Jackson's DNA that were under the fingernails of
24 Mr. Flexon. If there was a struggle, there is some
25 contributing DNA from another party there. It does not

1 match Mr. Jackson. There's no evidence to link him to this
2 crime that way.

3 The footprint the tape shows that's in evidence that
4 he was wearing Timberland boots, they took a photograph of
5 a footprint. They say, they say they can't match that with
6 anybody. It was just, they couldn't get anything out of
7 it. But I submit it doesn't link up to it a Timberland
8 boot if -- even if you could try to get anything out of it.
9 It's just not -- there's no evidence linking this crime to
10 Mr. Jackson.

11 Your Honor, as to the alleged statement he made: How
12 could I be guilty of armed robbery. We don't even know
13 what order they served him with these warrants. They made
14 no recording of the statement. That is not inculpatory
15 necessarily. You put the right spin on it, it actually is
16 exculpatory. It's kind of like I can't believe I'm being
17 charged with this. So, that's not evidence that he
18 committed any robbery.

19 In fact, what we got there is he agreed to cooperate
20 with them. He waived his rights. They prove that by their
21 statement, Your Honor, the one they put in, the one that
22 they referred to that he waived his right to counsel. He
23 turned himself in. There is no evidence to establish that
24 Daniel Jackson committed this crime.

25 Further, Your Honor, the video that's in evidence, it

1 shows two guys going into a store. We submit that the
2 video is inconsistent with the state's theory of the case.
3 And that that's actually exculpatory, and we believe
4 there's no evidence that that would establish that he
5 either called the Sambino's pizza place that evening. In
6 fact, I think it proves that both of them didn't, as a
7 matter of fact. So, no, no, no evidence from that tape
8 that inculpates Daniel Jackson or Mr. Canty in this crime.

9 And if there is a statement of the co-defendant, the
10 non-testifying statement is supposed to be evidence against
11 him. If that's what we're trying to base it on, then that
12 would give rise to, I believe, a mistrial because it's
13 supposed to be redacted. And it's not supposed to be used
14 against him.

15 So, all of that, moving forward now to that
16 afterwards, he came into possession of rifle. Now, that's
17 what I got to address. I understand that; I have to
18 address that. But the state's own witness Isaac Boyd
19 testified that he got the rifle the next day.

20 Now, that is the only evidence that puts Mr. Jackson
21 in proximity or connection with a weapon that admittedly
22 likely was used to shoot that bullet that was in Mr.
23 Flexon. But there's no evidence Daniel Jackson was in
24 proximity or connected with that rifle at any time before
25 the next day, and that came in through the testimony of

1 Isaac Boyd.

2 Your Honor, I believe not only is there no direct
3 evidence to say Daniel Jackson was not involved, there is
4 plenty of circumstantial evidence to say he was not
5 involved because of the lack of fingerprints, footprints,
6 and DNA. And furthermore that there is no circumstantial
7 evidence -- the one -- the circumstantial that does exist
8 actually goes in the other direction.

9 So, I move it be dismissed for lack of any evidence,
10 any evidence that would prove murder or armed robbery
11 against Daniel Jackson. Or, in the alternative, or a
12 mistrial. Thank you.

13 THE COURT: Thank you.

14 Mr. Meadors.

15 MR. MEADORS: If it pleases Your Honor? In the light
16 most favorable to the state, the non-moving party, Your
17 Honor, Mr. Jackson was identified by Anitta Shannon on the
18 video from Cherryvale Grocery leaving out the door
19 approximately the same time the phone call was made to
20 Sambino's that Tanya Knudson gets and receives. And the
21 pizza is ordered to lot of the mobile home park.

22 Judge, his statement, obviously you could take that
23 both ways. That's why it's a jury issue. Those are jury
24 arguments I think he was making. How could I be charged
25 with armed robbery if I didn't take anything from the pizza

1 man, we obviously think that's a statement against his
2 interest.

3 Again, Judge, Isaac Boyd, he directs Isaac Boyd to the
4 murder weapon, get the murder weapon. He left out the fact
5 about the casing that was found in a peanut butter jar in
6 his aunt's house shortly after he left. Obviously, we
7 think that is direct and circumstanced evidence of guilt,
8 Your Honor. And he told Mr. Boyd lie about it. Tell them
9 you picked me up the day before.

10 So, Your Honor, considering all of those, we think
11 there is enough evidence, and respectfully ask Your Honor
12 to deny the motion.

13 THE COURT: All right. Examining the evidence in the
14 light most favorable to the non-moving party, I find there
15 is sufficient evidence to take it to the jury. And,
16 therefore, the motion for directed verdict is respectfully
17 denied, Mr. Wilder. Any other motions?

18 MR. WILDER: And the mistrial motion?

19 THE COURT: Motion for mistrial is also denied.

20 MR. WILDER: Also denied. Your Honor, that would be
21 our motions, and thank you for hearing us.

22 THE COURT: All right, let me go ahead and put each
23 defendant under oath, and I will question them concerning
24 their right to testify.

25 Mr. Canty.

1 MR. DEAS: Your Honor, Your Honor.

2 THE COURT: Yes, sir.

3 MR. DEAS: Before we do that.

4 THE COURT: Do y'all want to talk to them for a few
5 minutes?

6 MR. DEAS: Yes, sir. Yes, sir, Your Honor.

7 THE COURT: All right, I'll give y'all ten minutes to
8 talk to your clients, and then I'll go through the
9 questions.

10 MR. DEAS: Yes, sir. Thank you very much.

11 THE COURT: All right, court will be in recess for ten
12 minutes.

13 MR. MEADORS: Thank you, Your Honor.

14 (OFF THE RECORD.)

15 THE COURT: All right, we'll do Mr. Canty first.

16 Please stand, Mr. Canty.

17 Please place him under oath.

18 (WHEREUPON, REGINALD CANTY IS DULY SWORN.)

19 THE COURT: Reginald Candy, at this time I'm going to
20 explain to you certain of your rights. If you do not
21 understand anything that I say now, please let me know.
22 And if you want me to explain in greater detail, please let
23 me go -- let me know. Do you understand?

24 MR. CANTY: Uh-huh.

25 THE COURT: All right. We've now reached the stage of

1 your trial where you may present your defense. You have a
2 right to claim the -- you have the right to claim the
3 protections granted to you by the Fifth Amendment of the
4 United States constitution, which in part says that no
5 person shall be compelled in any criminal case to be a
6 witness against himself.. This means that you cannot be
7 required to testify in this case, and -- but you have a
8 right to testify on your own behalf. However, no one can
9 make you testify. This is a personal right, and no one can
10 waive this right except for you.

11 Now, if you decide to testify, you will be subject to
12 the same rules as any other witness, and you may be
13 examined and cross-examined on any relevant issues in this
14 case.

15 In addition, if you have any convictions which involve
16 dishonesty or false statements, or for crimes punishable by
17 imprisonment of more than one year, and I determine that
18 the probative value of introducing those into evidence
19 outweighs the prejudicial effect on you, then the solicitor
20 will be able to introduce the record to attack your
21 credibility.

22 Now, if you decide to testify, the decision on your
23 part must be freely, voluntarily, and intelligently made
24 with the knowledge of the protections given to you by the
25 Fifth Amendment and the consequences of the decision to

1 testify.

2 If you decide not to testify in this case, I will
3 instruct the jurors that they cannot give the fact that you
4 did not testify any consideration whatsoever. And there is
5 to be absolutely no prejudice to you because you did not
6 testify.

7 The decision is entirely left up to you as to whether
8 or not you want to testify. You may talk to your attorney,
9 your family, your friends. I've already given you time to
10 speak with your mother in private. And do you understand
11 everything that I've explained to you?

12 MR. CANTY: Yes, sir.

13 THE COURT: And do you have any questions about what
14 I've explained to you?

15 MR. CANTY: No, sir.

16 THE COURT: Have you discussed with your lawyer
17 whether or not you want to testify?

18 MR. CANTY: I, I discussed with him.

19 THE COURT: Okay, and do you need any more time to
20 speak to your attorney?

21 MR. CANTY: No, sir.

22 THE COURT: Do you wish to testify?

23 MR. CANTY: No, sir.

24 THE COURT: Thank you. You may be seated.

25 MR. DEAS: And, Your Honor, for the record, I wanted,

1 wanted to put on the record that during our discussions, I
2 advised Mr. Canty to testify. He indicated to me that
3 despite that advice, it was his choice not to testify.

4 THE COURT: You understand that, Mr. Canty? Your
5 attorney has advised you to testify. Do you understand
6 that?

7 MR. CANTY: Yes, sir.

8 THE COURT: And you still wish not to testify?

9 MR. CANTY: Yes, sir.

10 THE COURT: All right. Thank you.

11 All right, Mr. Daniel Deangelo Jackson, please stand.

12 (WHEREUPON, DANIEL DEANGELO JACKSON IS DULY SWORN.)

13 THE COURT: Mr. Jackson, at this time I'm going to
14 explain to you certain of your rights, just like I did with
15 Mr. Canty. If you do not understand anything that I say,
16 please let me know. If you want me to explain anything in
17 more detail, please let me know. Do you understand?

18 MR. JACKSON: Yes, sir.

19 THE COURT: We've now reached the stage of your trial
20 where you may present your defense. You have the right to
21 claim the protections granted to you by the Fifth Amendment
22 of the United States constitution, which states in part
23 that no person shall be compelled in any criminal case to
24 be a witness against himself. That means that you cannot
25 be required to testify in this case. You'd have the right

1 to testify on your own behalf; however, no one can make you
2 testify. This is a personal right, and no one can waive
3 this right except for you.

4 If you decide to testify, you will be subjected to the
5 same rules that govern other witness in this case, and you
6 may be examined and cross-examined on any relevant issue in
7 this case.

8 In addition, if you have any convictions involving
9 dishonesty or false statements, or for crimes punishable by
10 imprisonment of more than one year, and I determine that
11 the probative value of admitting this evidence outweighs
12 the prejudicial effect on you, the solicitor will be able
13 to introduce and attack your record to attack credibility.

14 If you decide to testify, the decision on your part
15 must be freely, voluntarily, and intelligently made with
16 the knowledge of the protections given to you by the Fifth
17 Amendment, and the consequences of your decision to
18 testify.

19 If you decide not to testify, I will instruct the
20 jurors that they cannot give the fact that you did not
21 testify any consideration whatsoever. And that there is to
22 be absolutely no prejudice to you because you did not
23 testify.

24 It is left entirely up to you whether or not you want
25 to testify. You may talk to Mr. Wilder, your attorney,

1 your family, your friends, or anyone else. But the final
2 decision will be left entirely up to you.

3 Do you understand what I've explained to you?

4 MR. JACKSON: Yes, sir.

5 THE COURT: Do you have any questions about what I've
6 explained to you?

7 MR. JACKSON: No, sir.

8 THE COURT: Have you had an opportunity to discuss
9 this with your lawyer?

10 MR. JACKSON: Yes, I have.

11 THE COURT: And do you wish to talk to your lawyer any
12 more at this time?

13 MR. JACKSON: No, sir.

14 THE COURT: Do you wish to testify?

15 MR. WILDER: Your Honor, until we know what Mr. Deas
16 is going to do, I can't even advise him on that aspect. I
17 think he does not want to testify.

18 THE COURT: Okay. I'm not going to hold him to it if
19 he changes his mind, but right now the question, he does
20 not want to testify.

21 MR. WILDER: Thank you.

22 THE COURT: He has a right to change his mind, just
23 like Mr. Deas's client would also have that right.

24 MR. WILDER: May I talk to him just one second?

25 THE COURT: Yes.

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 state your full name and spell your last name for the
2 record.

3 WITNESS: Dorothy Canty, C-A-N-T-Y.

4 THE COURT: You may proceed.

5 MR. DEAS: Thank you, Your Honor. May it please the
6 court?

7 DIRECT EXAMINATION BY MR. DEAS:

8 Q. Ms. Canty, could you state your name again for the
9 court, please?

10 A. Dorothy Canty.

11 Q. And, Ms. Canty, where do you live, ma'am?

12 A. Now or?

13 Q. Now.

14 A. I live at in Pinewood.

15 Q. Okay. Now, back on January 12th of 2008, where were
16 you living?

17 A. , I think,

18 Q. Okay. You were living in in the O.C. Mobile Home
19 Park?

20 A. Yes, sir.

21 Q. And who did you live there with?

22 A. Reginald Canty and my nephew, Desmond Canty.

23 Q. And, Ms. Canty, how long have you lived here in Sumter
24 County?

25 A. For about ten years.

1 Q. And where, where did you grow up?

2 A. In Rimini, Pinewood area.

3 Q. Now, where are you currently working?

4 A. Universe.

5 Q. Universe?

6 A. Yes.

7 Q. Is that like a uniform company?

8 A. Yes.

9 Q. Now how many children do you have, Ms. Canty?

10 A. Five.

11 Q. And could you name them all?

12 A. Queen Canty, Lashawnda Canty, Shequilla Canty, Susan
13 Canty, Reginald Canty.

14 Q. And Reginald Canty seated here to my left, that's your
15 son?

16 A. Yes.

17 Q. Now, the house that you lived in back on January 12,
18 2008, that was in O.C. Mobile Home Park. Is it like in a
19 U-shaped cul-de-sac?

20 A. Yes. Yes.

21 Q. Okay. I'm going to show you this photograph here.
22 You see that, this area here?

23 A. Yes.

24 Q. Is that the U-shaped, U-shaped cul-de-sac where you
25 lived?

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 A. Yes.

2 Q. And is your house the one that's in the middle here?

3 A. The one in the first -- it's middle of all that go
4 around the circle.

5 Q. Okay. That's your house there?

6 A. Yes.

7 Q. Okay. Now, is there a fence around your yard?

8 A. Yes.

9 Q. Does the fence go all the way around the perimeter of
10 the house?

11 A. Yes.

12 Q. It's a chain-link fence?

13 A. Yes.

14 Q. How many, how many exits do you have at your house?

15 A. I have one that come from off of Cherryvale Drive, one
16 under the car porch, and one come out the driveway.

17 Q. Okay. There's a, there's -- you can exit the house
18 from the front of the house?

19 A. Yes.

20 Q. And that would lead you to Cherryvale Drive?

21 A. Yes.

22 Q. And then there's, is there an exit to the side of the
23 house?

24 A. Yes.

25 Q. And is there an exit to the rear of the house?

1 A. Yes.

2 Q. Any other exits?

3 A. No.

4 Q. Going back to January 12, 2008, can you tell me,
5 ma'am, what you remember that evening so far as where
6 Reginald was around that evening? What's your memory of
7 where he was and what he was doing?

8 A. Well, he left out of the house and say he was going to
9 Latoya house. And he was out, and I'm assuming that's
10 where he was at. And then he back in, and he said I'll be
11 out in the front, and he went out. I'm assuming that's
12 where he was. I didn't got up and go check, sir.

13 Q. So, at some point he told you during that evening he
14 was going to go over to Toya's house?

15 A. Yes.

16 Q. Did he say -- and Latoya, what's her last name?

17 A. Rush.

18 Q. Okay. Did he say why he was going to Latoya's?

19 MR. WILDER: Your Honor, I'm going to object to what
20 he said because it's hearsay.

21 THE COURT: He's a defendant. It's not hearsay.

22 MR. WILDER: May we approach, Your Honor?

23 THE COURT: You may.

24 (OFF-THE-RECORD BENCH CONFERENCE.)

25 THE COURT: Objection sustained.

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 BY MR. DEAS:

2 Q. Ms. Canty, at some point he indicated to you he was
3 going to Toya's house?

4 A. Yes, sir.

5 Q. And did -- he left the house?

6 A. Yes.

7 Q. Do you remember approximately what time of the evening
8 that was? I know it was three years ago.

9 A. No, sir. I do not.

10 Q. Okay, but it was night. Was it nighttime?

11 A. Yes.

12 Q. And this would have been January of 2008, so it had
13 gotten dark early?

14 A. Yes.

15 Q. Now, at some point did he come back to the house, to
16 your house?

17 A. Yes.

18 Q. And what, if anything, did he do after he came back
19 home from Toya's house?

20 A. He came in, got something to eat, and went back out.

21 Q. Okay, and do you know about what time it was? Did he
22 say, did he say where he was going when he went back out
23 the second time?

24 A. No.

25 Q. Do you, do you know approximately what time it was?

1 A. No.

2 Q. Can you -- do you have any impression as to how much
3 time passed from when he was -- left the house to go to
4 Toya's, and when he came back to get something to eat?

5 A. I don't remember, sir, exactly.

6 Q. But he did come back?

7 A. Yes.

8 Q. To the house?

9 A. Yes.

10 Q. He ate?

11 A. Yes.

12 Q. Is that correct?

13 A. Yes.

14 Q. And then left?

15 A. Yes.

16 Q. All right. At some point during that evening, do you
17 recall hearing gunshots?

18 A. Yes.

19 Q. Do you know approximately what time it was when you
20 heard gunshots?

21 A. No, sir.

22 Q. But you did hear some?

23 A. Yes.

24 Q. Shortly after you heard the gunshots, what, what did,
25 what happened? Or what do you remember happening after you

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 heard the gunshots?

2 A. I went to the back door to look out the door. I
3 didn't saw nothing, so I went back in the house. When I
4 coming out, going back from the back door, Reggie was
5 coming in through the front door. And he asked me did
6 I ---

7 MR. WILDER: Objection.

8 A. --- heard.

9 THE COURT: Sustained.

10 BY MR. DEAS:

11 Q. So, he was coming into the front door as you were
12 coming from the back of the home?

13 A. Yes.

14 Q. What, what, if anything, did you do at that point?

15 A. He came in, and then we -- he went, we went back
16 outside, but I didn't see nothing, so.

17 Q. Did -- when you all went back outside, was it you and
18 Reggie together, you and Reginald together?

19 A. Yes.

20 Q. And what did you observe when you and Reginald walked
21 outside? What was going on outside?

22 A. Shortly after we got outside, then there was the
23 police.

24 Q. Do you recall if any law enforcement officers spoke
25 with you that evening?

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 A. Yes.

2 Q. And do you remember who it was?

3 A. Mr. Dominick West had came to speak to me.

4 Q. Did he come inside your house?

5 A. Yes.

6 Q. Okay, and did he talk to you?

7 A. He talked to me, and he talked to Reginald.

8 Q. Okay. So, he talked to both you and Reginald the very
9 night of the incident?

10 A. Yes.

11 Q. On January 12, 2008?

12 A. Yes.

13 Q. And did any other law enforcement officer talk to you
14 that evening?

15 A. It's another one, but I don't know, remember their
16 name, sir.

17 Q. Did you tell -- what did you tell the officer?

18 A. That I heard shots. I couldn't, I didn't see. He
19 asked me if I see anything, and I did not see anybody
20 because I didn't see. I just heard.

21 Q. Did you tell them about Reginald going over to Toya's
22 house?

23 A. No, sir.

24 Q. Did you tell him about Reginald coming back in at some
25 point after he went to Toya's house and getting something

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 to eat?

2 A. They didn't ask me that.

3 Q. At any point that evening, do you have any
4 recollection or any, any knowledge as to whether Reginald
5 went to Cherryvale Grocery Store?

6 A. Yes.

7 Q. Okay. How do you know that?

8 A. Because my nephew took him.

9 Q. Okay, and what's your, what's your nephew's name?

10 A. Desmond Canty.

11 Q. And so were you -- do you remember when your, when
12 your nephew, Desmond Canty, brought Reginald back from
13 Cherryvale Grocery Store?

14 A. Yes.

15 Q. Okay. Do you remember about what time that was?

16 A. No, sir.

17 Q. Do you know why Reginald went to Cherryvale Grocery
18 Store?

19 A. No, I did not.

20 Q. The -- do you know where lot number is in your
21 neighborhood?

22 A. Yes.

23 Q. Okay. Are you familiar with the fact that that's the
24 area where the incident, where the shooting incident took
25 place?

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 A. Yes.

2 Q. Is there a light in that area?

3 A. There's a light in my yard right there at the corner.
4 It's where the big tree -- and it's a light right there.

5 Q. I'm going to have you step down, if you don't mind.

6 MR. DEAS: Your Honor, may she step ---

7 THE COURT: Certainly.

8 BY MR. DEAS:

9 Q. Take care. Okay, we're already established that your
10 house is the one that sits here in the middle, and let me
11 get you to come over here near this microphone, Ms. Canty,
12 because you're going to have to speak into it while you
13 also illustrate what's on this photograph. Kind of stand
14 right there, and I'll hold it up.

15 All right, show me where the light is. First, show me
16 where lot is.

17 A. It's hard to see which way this ---

18 MR. WILDER: May it please the court?

19 THE COURT: Yes. You may certainly move over.

20 BY MR. DEAS:

21 Q. That's Cherryvale Drive here, right?

22 A. That's, that's lot, that's number . , should be
23 right on through there.

24 Q. Okay, and where is lot number ?

25 A. Lot is at the end of the road right there.

D. CANTY - DIRECT EXAMINATION BY MR. DEAS

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1 Q. And who lives in lot number , or who lived in lot
2 number then?

3 A. Latoya Rush.

4 Q. Okay,, and show me where the gate, the gate that goes,
5 that goes around your property, show me where that gate
6 would be.

7 A. The gate would be right, and there's a big tree right
8 there. I used to hang my clothes down there. There's a
9 light that goes right off of there.

10 Q. Okay. So, there's a light right here in this area?

11 A. Yes.

12 Q. All right. Is there -- does the gate run in front of
13 the house, too?

14 A. It's a gate running in front of the house, too.

15 Q. If you come out of your house to the front, if you
16 come out of your house from the front entrance and exit,
17 can you walk around through the gate?

18 A. You can walk around through the gate, or you can walk
19 around the corner of the house and still see ---

20 Q. Okay.

21 A. --- lot number .

22 Q. Okay. Now, if you come out of your house out the
23 front and walk off the porch and come over to, come over to
24 the right side of the gate, can you see lot number from
25 there?

1 A. Yes.

2 Q. Do you have any recollection as to whether that light
3 you described that's near where you hung clothes, do you
4 have any recollection as to whether that light was
5 operating on January 12, 2008?

6 A. Yes. Yes.

7 Q. It was?

8 A. It was.

9 Q. Okay. Do you know anything about any other lights in
10 this area being, being out that night or not functioning?

11 A. Well, it's a light was on number -- at, right at the
12 corner, number 5. I can't tell you whether it was working
13 or not. I don't know.

14 Q. You don't, you don't recall?

15 A. I don't.

16 Q. But the light that's here right behind your home near
17 where you hung clothes, that light worked?

18 A. Yes.

19 Q. Okay. On any given night in your neighborhood, are
20 there lights on in these trailers here?

21 A. Yes.

22 Q. And lights in other homes and in other areas in the
23 neighborhood?

24 A. Yes.

25 Q. Is it, at nighttime, is it pitch black in your

D. CANTY - CROSS-EXAMINATION BY MR. MEADORS

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1 neighborhood where you can't see anything?

2 A. No.

3 Q. All right, thank you, ma'am. You can have a seat.

4 MR. DEAS: Court's indulgence.

5 THE COURT: Yes sir.

6 (A PAUSE.)

7 MR. DEAS: Thank you, Ms. Canty. I have no further
8 questions.

9 THE COURT: Mr. Meadors, or whichever order you want
10 to go in.

11 MR. MEADORS: It doesn't matter to me.

12 CROSS-EXAMINATION BY MR. MEADORS:

13 Q. Good afternoon, Ms. Canty.

14 A. All right.

15 Q. Just a couple quick questions. So, after the
16 gunshots, you went to the back?

17 A. Yes.

18 Q. And when you came back in, Mr. Canty, your son, was
19 coming in the front?

20 A. Yes.

21 Q. And then he went back out?

22 A. Yes.

23 MR. MEADORS: That's all. Thank you.

24 THE COURT: Mr. Wilder.

25 CROSS-EXAMINATION BY MR. WILDER:

D. CANTY - CROSS-EXAM BY MR. WILDER / L. RUSH - DIRECT EXAM BY MR. DEAS 1041

1 Q. Ms. Canty, did he come in and out by himself?

2 A. Yes.

3 MR. WILDER: Thank you.

4 THE COURT: Any redirect?

5 MR. DEAS: No, Your Honor.

6 THE COURT: All right, thank you. You may step down.

7 (THE WITNESS EXITS THE STAND.)

8 MR. DEAS: Your Honor, at this time we call Ms. Latoya
9 Rush.

10 THE COURT: All right.

11 MR. MEADORS: May we approach a second? Not about
12 this witness, but a separate matter.

13 (OFF-THE-RECORD BENCH CONFERENCE.)

14 LATOYA RUSH, BEING DULY SWORN,
15 TESTIFIES AS FOLLOWS:

16 CLERK OF COURT: Please state your full name. Spell
17 your last name for the record.

18 WITNESS: Latoya Rush, R-U-S-H.

19 MR. DEAS: May it please the court?

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION BY MR. DEAS:

22 Q. How are you doing, Ms. Rush?

23 A. Fine.

24 Q. My name is Garryl Deas; I represent the defendant Mr.
25 Reginald Canty. Ms. Rush, could you just state your full

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1042

1 name for the court, please?

2 A. Latoya Rush.

3 Q. I'm sorry?

4 A. Latoya Rush.

5 Q. Ms. Rush, where do you live?

6 A. Columbia.

7 Q. Columbia, South Carolina?

8 A. Uh-huh.

9 Q. And how long have you lived in Columbia?

10 A. For a few months.

11 Q. And where were you, where were you raised?

12 A. Huh?

13 Q. Where were you born and raised?

14 A. Sumter.

15 Q. Here in Sumter?

16 A. Uh-huh.

17 Q. And you lived in Sumter your whole life until you just
18 recently moved to Columbia?

19 A. Pretty much, yeah.

20 Q. Where do you work, Ms. rush?

21 A. Taco Bell.

22 Q. You work at a Taco Bell in Columbia?

23 A. Uh-huh.

24 Q. Ms. Rush, do you know Reginald Canty?

25 A. Uh-huh.

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1043

1 Q. And at some point, did you used to live in the O.C.
2 Mobile Home Park on Cherryvale Drive?

3 A. Yes, sir.

4 Q. All right.. Did you live there back on January 12,
5 2008?

6 A. Yes, sir.

7 Q. And do you have recollection as to the events that
8 occurred back on January 12, 2008, out at the O.C. Mobile
9 Home Park?

10 A. Yes, sir.

11 Q. Now, you live -- do you live close to where Reginald
12 Canty lives?

13 A. Yes, sir.

14 Q. And you're pretty familiar with the, that U-shaped
15 cul-de-sac where your house is and where Mr. Canty's house
16 is?

17 A. Yes.

18 Q. Who do you, who do you live with at -- well, let me
19 get you to step down first.

20 MR. DEAS: Your Honor, can she step down?

21 THE COURT: She may step down, certainly.

22 BY MR. DEAS:

23 Q. Is this, is this the U-shaped cul-de-sac where you,
24 where you lived back on January 12, 2008?

25 A. Yes.

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1044

1 Q. Okay. Can you point out where your house is? And
2 this is Cherryvale Drive running straight, Cherryvale Drive
3 running across.

4 THE COURT: Can all the jurors see it? Can y'all?

5 A. This here.

6 Q. This ---

7 A. Right here.

8 Q. This is Mr. Canty's house.

9 THE COURT: Just speak up, ma'am. You got to speak up
10 so everyone can hear.

11 Q. Speak right there in that microphone.

12 A. Right here.

13 Q. And which lot is that?

14 A. 9.

15 Q. All right. Would this be Mr. Canty's house here in
16 the middle?

17 A. Yes.

18 Q. Okay. Now, are you familiar with where the incident
19 that happened on January 12, 2008, took place?

20 A. Uh-huh.

21 Q. And where would that be?

22 A. Right here.

23 Q. Is that, that lot number 72?

24 A. Uh-huh.

25 Q. And who all lived with you at lot number ?

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1045

1 A. Me, my brother, and my cousin.

2 Q. Okay, and what's your brother's name?

3 A. Anthony Rush.

4 Q. And what's your, what's your cousin's name?

5 A. Donovan Shields.

6 MR. WILDER: If Your Honor please, could she speak in
7 the microphone?

8 THE COURT: Please, please speak in the microphone.

9 MR. WILDER: I think that would help.

10 THE COURT: We want to hear what you have to say.

11 MR. WILDER: And could we repeat that last question?

12 BY MR. DEAS:

13 Q. Who, who lived in the house at lot number which you
14 back on January 12, 2008? Speak up.

15 A. Me and my brother, Anthony Rush, and my cousin,
16 Donovan Shields.

17 Q. Okay, and the house where Mr. Canty lived, is there,
18 is there a fence around the house?

19 A. Yes.

20 Q. It's a chain, a chain-link fence?

21 A. Uh-huh.

22 Q. And can you tell me if there is -- if there was a
23 light in the area of lot number back on January 12, 2008,
24 if you know?

25 A. I don't know.

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1046

1 Q. Were there, were there lights around the neighborhood?

2 A. Mm-hmm.

3 Q. And you got to speak up.

4 A. Yes.

5 Q. Okay. Now, if -- at night, can you see in the
6 neighborhood?

7 A. Probably closer to the front. I don't think in the
8 back area.

9 Q. Okay. If ---

10 A. The street lights up front.

11 Q. All right. At night, is it pitch black where you just
12 can't see anything?

13 A. No.

14 Q. Okay. Now, okay, thank you, ma'am. You can have a
15 seat.

16 Going back to January 12, 2008, at some point did you
17 have any communication with the Reginald Canty on January
18 12, 2008?

19 A. Yes.

20 Q. And what, what was the extent of that conversation?

21 MR. WILDER: Your Honor, again ---

22 THE COURT: Sustained.

23 BY MR. DEAS:

24 Q. Did you talk to Reginald Canty that day?

25 A. Yes.

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1047

1 Q. Did you tell him anything?

2 A. Yes.

3 Q. What did you tell him?

4 A. I told him me and my boyfriend was going to McDonald's
5 and to keep a eye on my house because I didn't want to lock
6 my door.

7 Q. So, you told, you asked Reginald Canty to keep an eye
8 on your house?

9 A. Yes.

10 Q. And why did you ask him that?

11 A. Because I didn't want to lock my door.

12 Q. And where were you going?

13 A. To McDonald's down the road off of 41.

14 Q. With who?

15 A. My boyfriend.

16 Q. And what's his name?

17 A. Leon Smoot.

18 Q. And did Reginald keep an eye on your house?

19 A. Yes.

20 MR. WILDER: Your Honor, that calls for speculation.

21 She was down the road at McDonald's.

22 MR. MEADORS: I would join in that.

23 THE COURT: Sustained.

24 MR. DEAS: Your Honor, she saw him go to her house.

25 THE COURT: She can testify to that, but as to when

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1048

1 she wasn't there, she can't testify to anything when she
2 wasn't there.

3 BY MR. DEAS:

4 Q. After you asked Reginald to, to look out for your
5 house, did he go to your house?

6 A. I don't know.

7 Q. You don't?

8 A. I saw him as I was leaving. I spoke to him in the
9 yard.

10 Q. Okay.

11 A. So, when I got back to the house, I didn't go back to
12 my house. I stayed outside.

13 Q. Whose yard where you all in? Whose yard was he in
14 when you asked him to keep ---

15 A. His yard.

16 Q. --- to keep a lookout on your house?

17 A. His yard.

18 Q. And then you left?

19 A. Yes.

20 Q. All right. How long -- do you know about what time it
21 was when you left the neighborhood to go to McDonald's?

22 A. I really don't remember. It was dark, I know that.
23 Nighttime.

24 Q. And how long were you gone?

25 A. Probably really no more than ten minutes.

1 Q. And then you came back with the food?

2 A. Mm-hmm.

3 Q. Both you and your boyfriend?

4 A. Yes.

5 Q. By the time y'all were coming back, was the -- were
6 you observing that there was some activity in the
7 neighborhood?

8 A. Yes.

9 Q. What was going on as you came back from McDonald's?

10 A. While I was at McDonald's, I was getting my food
11 there, I just seen the ambulance and the police and stuff,
12 and so I was telling my boyfriend, okay, I really have a
13 bad feeling. So, I was going, and I see they turned down
14 Cherryvale, so I say oh lord. And then when they stopped
15 where I was living, then I just got out and I see I guess
16 the man was dead because they had him covered up or
17 whatever, so.

18 Q. So, you actually saw victim laying on the ground?

19 A. I didn't see him. I just seen someone covered up with
20 a sheet. That's all.

21 Q. And from the time you asked Reginald to watch your
22 house, from, from that time to you're going to McDonald's
23 and coming back was only about ten minutes?

24 A. Yeah. Probably no more than ten minutes.

25 Q. Did you see Reginald when you got back from

L. RUSH - DIRECT EXAMINATION BY MR. DEAS

1050

1 McDonald's?

2 A. I don't really remember. I was at, I was at the
3 house, his mom's house probably. I don't remember.

4 Q. Okay. So, when you came back from McDonald's, you
5 went in, you went in Reginald's house?

6 A. Yes. His mom was outside, so I was with her for the
7 rest of the night, yeah.

8 Q. Were you in her yard or in the house?

9 A. In her yard, in her house, both?

10 Q. Did Reginald at some point come back to the house?

11 A. Yeah. He was -- yeah.

12 Q. He did?

13 A. Yeah.

14 Q. Okay, and was he around in the house or in the yard
15 when the police were around?

16 A. I don't know. I wasn't outside with the police, so I
17 don't know.

18 Q. Okay. Did any police ever talk to you?

19 A. I remember I was in the house with his mom, and she
20 said the police outside want to ask you a question. But I
21 think all he asked me was anybody over there or something.
22 I was, like, no. My cousin at work right now, so.

23 Q. They were asking you if anybody was at your house?

24 A. Yes.

25 Q. And you told them no?

L. RUSH - CROSS-EXAMINATION BY MR. WILDER

1051

1 A. Yes.

2 Q. So, on the, on the day of January 12, 2008, at some
3 point that evening before you left to go to McDonald's, you
4 asked Reginald to watch your house because you were going
5 to McDonald's with your ---

6 A. Yes.

7 Q. You weren't around when the incident took place,
8 correct?

9 A. No, sir.

10 Q. And when you got back, you went to Reginald's house?

11 A. Yes. I, I saw his mom outside and talked to her.

12 MR. DEAS: Court's indulgence.

13 (A PAUSE.)

14 MR. DEAS: Thank you, Your Honor. No further
15 questions.

16 THE COURT: Mr. Wilder.

17 MR. WILDER: Thank you, Your Honor.

18 CROSS-EXAMINATION BY MR. WILDER:

19 Q. So, would you state your name again?

20 A. Latoya Rush.

21 Q. Latoya, okay. Latoya, you said Donovan Shields and
22 Anthony Rush lived there with you?

23 A. Yes.

24 Q. At that time?

25 A. Yes.

L. RUSH - CROSS-EXAMINATION BY MR. WILDER

1052

1 Q. Are you married to Anthony? Is that where ---

2 A. No.

3 Q. --- the last name?

4 A. No. Uh-uh.

5 Q. No? Would you tell the jury how old Anthony Rush and
6 Donovan Shields were back then?

7 A. I don't know how old my cousin is, so I wouldn't know
8 that. My brother, maybe around twenty.

9 Q. Twenty. Would it be fair to say both of them were
10 kind of, were kind of young teenagers at that time?

11 A. My brother and my cousin?

12 Q. Yes.

13 A. Yeah.

14 Q. All right, and Donovan Shields and Anthony Rush had
15 been living there at lot number 9 for some time, right?

16 A. Right.

17 Q. Okay. Now, do you also know Anthony as Chops?

18 A. Yes.

19 Q. That's his nickname?

20 A. Right.

21 Q. Do you know Marcus Branch?

22 A. Yes.

23 Q. And did Marcus Branch happen to be over at your house
24 that night?

25 A. I don't remember.

L. RUSH - CROSS-EXAMINATION BY MR. WILDER

1053

1 Q. You don't know, or you don't remember?

2 A. I don't remember. I'm not sure. I always had people
3 at my house, so.

4 Q. Well, isn't it true that Marcus Branch lost his cell
5 phone over there that night?

6 A. I don't know.

7 Q. And he was coming by Chop's house the next day, to
8 pick it up the next day?

9 A. I don't know. When my friends -- my brother's friends
10 over, I'm not with my brother's friend, so I don't
11 remember.

12 Q. Now, when the police got there, did Anthony Rush talk
13 to the police? Did you see him talking to the police?

14 A. No, sir.

15 Q. When the police got there, did Donovan Shields talk to
16 the police?

17 A. No, sir.

18 Q. Anthony owns a car, doesn't he?

19 A. No, sir.

20 Q. Well, back then he had a car he was driving, didn't
21 he?

22 A. Yes, sir.

23 Q. And sometimes it would be parked right there at the
24 lot next to lot number 9 right there in the cul-de-sac,
25 right?

L. RUSH - CROSS-EXAMINATION BY MR. WILDER

1054

1 A. If it was a blue car, yeah, but I had -- I remember my
2 car was always parked there, the black Mazda.

3 Q. Okay, let's see here if I can find the picture. Now,
4 I know the whole car isn't here. Can you identify that
5 hubcap?

6 A. No. That looks like my car, though.

7 Q. It looks like the hubcap to your car, right?

8 A. Yes. Yes.

9 Q. And if the hubcap on a tire like that is parked right
10 outside of lot number , is that hub -- if that's a picture
11 of a car parked right next to lot number back in January
12 of 2008, like as not that's your hubcap, right?

13 A. Right.

14 Q. Did Anthony Rush drive your car?

15 A. Yes.

16 Q. Did Marcus Branch drive your car?

17 A. No.

18 Q. Marcus was a little younger than Anthony, wasn't he?

19 A. Right.

20 Q. What age was Marcus about then, if you can remember?

21 A. I don't know how old he is.

22 Q. Well, if you had to say how many years younger than
23 Anthony he was, then could you give us a guess on that?

24 A. I don't know how old he is. I don't know how many
25 years younger he is than all of them.

L. RUSH - CROSS-EXAMINATION BY MR. WILDER

1055

1 Q. But it's fair to say he was kind of a teenager?

2 A. He's younger than my brother, yes.

3 Q. Younger than your brother, and he's a teenager in
4 2008, right?

5 A. Right.

6 Q. And Marcus nor Anthony nor Donovan were there to talk
7 to the police after you got back?

8 MR. MEADORS: Your Honor, she's testified she didn't
9 know where ---

10 THE COURT: Asked and answered.

11 BY MR. WILDER:

12 Q. Now, when you got back, did you see any pizza boxes
13 along the road?

14 A. No. I wasn't looking. I wasn't looking for pizza
15 boxes.

16 Q. Okay, but you did come down Cherryvale Drive, right?

17 A. I did.

18 Q. Ma'am?

19 A. I did.

20 Q. You did? Okay. Now, would you agree that lot was a
21 vacant trailer at that time?

22 A. Yes.

23 Q. How about lot ? Who lived in lot ?

24 A. I don't know. I know a lady used to live there with a
25 green car, but I'm not sure if she moved out by that time.

L. RUSH - CROSS-EXAMINATION BY MR. MEADORS

1056

1 So, I don't know.

2 MR. WILDER: No other questions.

3 THE COURT: Mr. Meadors.

4 MR. MEADORS: If it pleases Your Honor?

5 CROSS-EXAMINATION BY MR. MEADORS:

6 Q. Good morning, Ms. Rush.

7 A. Hi.

8 Q. You remember Mr. Branch coming over there about 11:30
9 or 12 that morning and getting his phone that he'd left
10 there?

11 A. I don't remember; I really don't.

12 Q. And I was just writing this down. I've just got a few
13 questions.

14 A. Uh-huh.

15 Q. You asked Mr. Canty to keep an eye on your house, but
16 when you left, he was -- do you know if he really kept an
17 eye on it when you were gone?

18 A. When I left, he was standing out in the yard. So, I
19 just said keep an eye on the house. I didn't want to lock
20 my door. And when I came back, I didn't go back over
21 there, so.

22 Q. And after the shooting, you were over at Ms. Canty's
23 house?

24 A. Yes. She was outside when I came home, so I just
25 stayed outside out there and talked to her.

L. RUSH - CROSS-EXAMINATION BY MR. MEADORS

1057

1 Q. And you didn't know if Reginald Canty was there or
2 not, I think you testified?

3 A. Right.

4 Q. Do you know Daniel Deangelo Jackson?

5 A. Yes.

6 Q. Did you see him there that night?

7 A. When I left the house to go to McDonald's?

8 Q. Yes, ma'am.

9 A. No, sir.

10 Q. Did you see him at any time that night?

11 A. Yes, sir.

12 Q. Where did you see him?

13 A. At my house.

14 Q. What was that about?

15 A. My brother and his friends, they all was, all was in
16 the house, so...

17 Q. Did he, did he ask you for anything?

18 A. Yes.

19 Q. What did he ask you for?

20 A. He asked me for -- did I have any socks or gloves.

21 Q. Any socks or gloves?

22 A. Yes.

23 Q. And that was on the evening of January 12th?

24 A. Yes.

25 Q. Did you give him any socks or gloves?

L. RUSH - RECROSS-EXAMINATION BY MR. WILDER

1058

1 A. No.

2 Q. How long have you known Daniel Deangelo Jackson?

3 A. I haven't known him that long.

4 Q. But is that the person right there that asked you for
5 socks or gloves sitting by Mr. Wilder on the night of
6 January 12, 2008?

7 A. Yes.

8 MR. MEADORS: We'd like the record to so reflect..

9 THE COURT: All right, the record will so reflect that
10 she has identified the defendant Daniel Jackson.

11 MR. MEADORS: Beg the court's indulgence. Thank you.

12 THE COURT: Mr. Deas, any direct or redirect for you?

13 MR. DEAS: No, sir, Your Honor.

14 THE COURT: Recross, Mr. Wilder?

15 MR. WILDER: Yes, sir.

16 RECROSS-EXAMINATION BY MR. WILDER:

17 Q. Ms. Canty, when's the first time you told anybody
18 Deangelo Jackson asked for socks and gloves?

19 A. Well, the police never talked to me, so I didn't tell
20 the police.

21 Q. You never told anybody that until this week? Is
22 that ---

23 A. Yes.

24 Q. --- what you're saying?

25 A. Right.

1 Q. So, here three years later is the first time you've
2 told anybody, right?

3 A. Right.

4 Q. Now, this is -- what relationship is Reginald Canty to
5 you?

6 A. That's my best friend's little brother.

7 Q. Friend's little brother?

8 A. Uh-huh.

9 Q. And Anthony is your cousin?

10 A. My brother.

11 Q. Your brother?

12 A. Right.

13 Q. Now, at this moment that you say he was asking for
14 gloves or something, that was over at Ms. Canty's house,
15 you say?

16 A. My house.

17 Q. Your house?

18 A. Right.

19 Q. Is there any other witness here today who heard that?

20 A. No.

21 Q. And you never told the police, right?

22 A. Correct.

23 Q. And nobody else saw Daniel there except you, right?

24 A. I, I guess. No one was there with us, no.

25 Q. And when you first told that to somebody, you were

L. RUSH - RECROSS-EXAMINATION BY MR. MEADORS

1060

1 trying to say that it was Mr. Jackson who asked you to
2 watch the house?

3 A. No. I didn't say that. I never asked him to watch my
4 house.

5 Q. You never asked Mr. Canty to watch your house?

6 A. I asked him, not Mr. Jackson.

7 Q. All right, what time did Mr. Jackson arrive at your
8 house?

9 A. I don't exactly remember what time, but it was a
10 little while before I left to go to McDonald's.

11 Q. Okay. At like maybe 8:00?

12 A. I don't know.

13 Q. How, how long? You said you were at McDonald's ten
14 minutes.

15 A. Not no longer than ten, right.

16 MR. WILDER: No other questions.

17 THE COURT: Any recross based upon Mr. Wilder's
18 questions?

19 RECROSS-EXAMINATION BY MR. MEADORS:

20 Q. I've never talked to you before today, have I?

21 A. Right.

22 Q. And the police never talked to you?

23 A. Right.

24 Q. Never asked you what you saw or heard that night?

25 A. Right.

L. RUSH - FURTHER RECROSS-EXAMINATION BY MR. WILDER

1061

1 MR. MEADORS: Thank you.

2 MR. WILDER: One follow up to that?

3 THE COURT: Yes, sir.

4 FURTHER RECROSS-EXAMINATION BY MR. WILDER:

5 Q. Did Mr. Deas talk to you?

6 A. Huh?

7 Q. Did Mr. Deas talk to you?

8 A. Yeah, I talked to him.

9 MR. WILDER: Thank you.

10 THE COURT: All right, thank you. You may step down.

11 (THE WITNESS EXITS THE STAND.)

12 MR. DEAS: Your Honor, the defendant Reginald Canty
13 rests.

14 THE COURT: All right. Thank you.

15 Mr. Wilder.

16 MR. WILDER: Your Honor, for the record, we renew the
17 motions made previously.

18 THE COURT: Yes, sir.

19 MR. WILDER: My turn now?

20 THE COURT: Yes, sir.

21 MR. WILDER: Thank you. Can I step outside and call a
22 witness?

23 THE COURT: You may.

24 MR. WILDER: Thank you.

25 (A PAUSE.)

L. CANTY - DIRECT EXAMINATION BY MR. WILDER

1062

1 LASHAWNDA CANTY, BEING DULY SWORN,
2 TESTIFIES AS FOLLOWS:

3 CLERK OF COURT: State your full name for the record.

4 WITNESS: Lashawnda Canty, C-A-N-T-Y.

5 DIRECT EXAMINATION BY MR. WILDER:

6 Q. Lashawnda, would you tell us your full name and where
7 you live, or where you were living back in January 28 --
8 January 2008?

9 A. Lashawnda Canty. I was staying on Whitney Drive.

10 Q. Here in Sumter County?

11 A. Yes.

12 Q. All right. Are you from Sumter?

13 A. No.

14 Q. Where are you from originally?

15 A. Rimini.

16 Q. Where?

17 A. Pinewood. Rimini.

18 Q. Pinewood. Rimini?

19 A. Yes.

20 Q. All right. I want to ask you to lean forward a little
21 bit. You speak right into that mic so that everybody can
22 get the testimony down, okay?

23 A. Okay.

24 Q. All right, and how long had you been living there on
25 Whitney Drive back in 2008?

L. CANTY - DIRECT EXAMINATION BY MR. WILDER

1063

1 A. Probably a year. I don't know. Probably that long.

2 Q. Okay.

3 A. I'm not sure.

4 Q. And did Daniel Jackson stay with you during that time?

5 A. Yes, he stayed there.

6 Q. Okay. Does Daniel have a relative also in Summerton
7 that he would stay with from time to time?

8 A. I'm not sure where he was when he wasn't at my house.

9 Q. Okay, but you know, you know who Andrea Russell is?

10 A. No.

11 Q. And you don't know whether she might be related to
12 Daniel also?

13 A. No.

14 Q. All right. How about Angela Boyd?

15 A. No.

16 Q. Don't know her?

17 A. No.

18 Q. Okay. Now, I'm going to show you a statement marked
19 Defense for Identification Number 18. You recognize your
20 statement on there, or your signature?

21 A. Yes.

22 Q. And did you have occasion to talk Dominick West, this
23 gentleman right here, and give him a statement?

24 A. Yes.

25 Q. Okay, and did you write that down and sign it, or did

L. CANTY - DIRECT EXAMINATION BY MR. WILDER

1064

1 he write it down and sign it?

2 A. I wrote it.

3 Q. You wrote it and signed it? Okay.

4 A. Yeah.

5 Q. And can you look at that and refresh your memory as to
6 the date that you talked with Dominick West?

7 A. The date?

8 Q. Yeah. When did you talk to him?

9 A. I'm not, I'm not sure the date.

10 Q. Okay, but you -- there's no question in your mind that
11 you wrote all that down?

12 A. Yeah.

13 Q. And you signed it?

14 A. I wrote this, yes.

15 Q. All right, and Dominick was asking you about Daniel
16 Jackson, right?

17 A. Yes.

18 Q. And did he stay with you and that sort of thing,
19 right?

20 A. Yes.

21 Q. Okay, and you tell him yeah, he stayed with you,
22 right?

23 A. Yes.

24 Q. And did Mr. West then ask for permission to search
25 your house?

L. CANTY - DIRECT EXAMINATION BY MR. WILDER

1065

1 A. Yes. They came at, at a later date, though.

2 Q. And so some later date, they came back and search your
3 house?

4 A. Yes.

5 Q. All right, and that was fine?

6 A. Yes.

7 Q. You let them do that?

8 A. Yes.

9 Q. Right, okay, and the time that you were talking to him
10 about Daniel, what did tell him about where Daniel was on
11 January 12, 2008?

12 A. The -- where he was?

13 Q. Yeah.

14 A. I didn't know where he was.

15 Q. Well, what did you tell him? Where did he tell him
16 Daniel was?

17 A. From this right here?

18 Q. Well, whatever you told him.

19 A. Oh. I mean, I didn't know where he was earlier, but I
20 know when he came to my house at some point.

21 Q. All right, and what did you tell him -- did, on
22 January 12th, did you tell him that Daniel had come to your
23 house?

24 A. Yes.

25 Q. All right, and tell the jury what you told Dominick

L. CANTY -- DIRECT EXAMINATION BY MR. WILDER

1066

1 West.

2 A. Oh. Okay. I just said he, he was at my house. Well,
3 he came to my house. He got in bed. He was texting, and
4 then the next morning, we ate and he left.

5 Q. Okay. What time did he leave your house the next
6 morning?

7 A. Around 1 in the afternoon.

8 Q. 1 in the afternoon?

9 A. Yes.

10 Q. All right. So, he had come to your house the night of
11 January 12th, right?

12 A. Yes.

13 Q. All right, and he was, you said he was texting on his
14 cell phone, right?

15 MR. MEADORS: I'm going to object to leading.

16 A. Yes.

17 THE COURT: Sustained.

18 MR. WILDER: All right. Your Honor, I'd ask that this
19 statement be admitted into evidence.

20 MR. MEADORS: We have no objection.

21 THE COURT: Without objection.

22 Mr. Deas?

23 MR. DEAS: No objection.

24 THE COURT: No objection with Mr. Deas, Defendant's
25 Exhibit Number 2. Is that correct?

L. CANTY - DIRECT EXAMINATION BY MR. WILDER

1067

1 COURT REPORTER: 18.

2 THE COURT: 18?

3 COURT REPORTER: 18.

4 (STATEMENT MARKED INTO EVIDENCE AS DEFENDANT JACKSON'S
5 EXHIBIT NUMBER 18.)

6 BY MR. WILDER:

7 Q. So, he just got into bed, started texting on his
8 phone. Then he went to sleep. That's what you told
9 Dominick West?

10 A. Yes.

11 Q. And I believe the statement's dated January 17, '08.
12 Is that right?

13 A. Yes.

14 Q. Down at the bottom. Did you see what it was the
15 police carried away when they searched your house?

16 A. I think it was a -- some jeans and a shirt of
17 something.

18 Q. Okay. So, they took some jeans and a shirt?

19 A. Yeah.

20 Q. Now, when Daniel came to your house, did he have any
21 kind of rifle with him?

22 A. No. I didn't see anything.

23 Q. Did he have any kind of gun that you saw?

24 A. No.

25 Q. You don't like those kind of things, do you?

L. CANTY - CROSS-EXAMINATION BY MR. DEAS / MR. MEADORS

1068

1 A. No.

2 Q. Would you let them in your house if you saw them
3 coming with them?

4 A. No.

5 MR. WILDER: Okay. Answer any questions that Mr.
6 Meadors may have.

7 THE COURT: Mr. Deas.

8 MR. DEAS: Thank you, Your Honor.

9 CROSS-EXAMINATION BY MR. DEAS:

10 Q. Ms. Canty, according to your statement, what time was
11 it when Mr. Jackson came to your house?

12 A. I think it was, like, 3 in the morning.

13 Q. 3 a.m.?

14 A. Yes.

15 MR. DEAS: Court's indulgence.

16 Q. And that would have been on January 12, 2008?

17 A. Yes.

18 Q. According to your statement?

19 A. Yes.

20 MR. DEAS: Nothing further.

21 THE COURT: Mr. Meadors.

22 MR. MEADORS: Please the court?

23 CROSS-EXAMINATION BY MR. MEADORS:

24 Q. Hey, Ms. Canty.

25 A. Hey.

L. CANTY - CROSS-EXAMINATION BY MR. MEADORS

1069

1 Q. Just got a few questions.

2 MR. MEADORS: Do you mind if I -- Judge, can I
3 approach?

4 THE COURT: You may.

5 BY MR. MEADORS:

6 Q. Do you mind if I approach? So, State -- Defendant's,
7 excuse me -- what number is this?

8 THE COURT: 18.

9 Q. 18, this is your statement down here? I mean, that's
10 your signature? I'm sorry.

11 A. Yes.

12 Q. All right, and they crossed through here right here
13 and put L.C.?

14 A. I did, yeah.

15 Q. Was that so nobody else could ---

16 A. Write anything.

17 Q. --- add on to it?

18 A. Yeah.

19 Q. And you remember Dominick West taking it?

20 A. Yes.

21 Q. All right. You didn't have any trouble with him or
22 talking to him?

23 A. No.

24 Q. Okay. I mean, it was a good conversation?

25 A. Yeah.

L. CANTY - CROSS-EXAMINATION BY MR. MEADORS.

1070

1 Q. And I believe you talked to Mr. Wilder, and you're not
2 sure where he was before he got there, correct?

3 A. Correct.

4 Q. I mean, you don't, you don't know where he went. Do
5 you live on Whitney?

6 A. Whitney drive, yeah.

7 Q. How far is that from O.C. Mobile Home Park?

8 A. Probably, like, five minutes.

9 Q. You can walk there?

10 A. I could, but it would probably take longer than five
11 minutes.

12 Q. Okay, but it's close?

13 A. Yes.

14 Q. And then on Defendant's 12, you said that:

15 On January 12th, Jackson and I were at my house.

16 Then he left and didn't return until 3:00 a.m.

17 A. Yeah.

18 Q. I'm not trying -- I'm just reading straight off it. I
19 promise you.

20 A. Okay.

21 Q. Didn't return until 3 a.m.?

22 A. Yeah.

23 Q. And you said he didn't leave until 1:00 the next day
24 when his uncle picked him up?

25 A. Yes.

1 Q. Do you know his uncle?

2 A. No.

3 Q. Now, you don't like guns in your house?

4 A. No.

5 Q. Has a gun ever been in there?

6 A. No.

7 Q. And so if he had this gun, he couldn't bring it home.
8 He'd have to put it somewhere else, wouldn't he?

9 A. Yes.

10 MR. MEADORS: Beg the court's indulgence.

11 THE COURT: Yes.

12 (A PAUSE.)

13 MR. MEADORS: Thank you. That's all.

14 THE COURT: Mr. Wilder, you have any redirect?

15 REDIRECT EXAMINATION BY MR. WILDER:

16 Q. But he didn't have a gun, did he?

17 A. No.

18 MR. WILDER: Thank you.

19 RECROSS-EXAMINATION BY MR. MEADORS:

20 Q. Were you awake when he came in?

21 A. Yeah.

22 MR. MEADORS: Thank you.

23 THE COURT: Mr. Deas?

24 MR. DEAS: Nothing further.

25 THE COURT: Thank you. You may step down.

A. BOYD - DIRECT EXAMINATION BY MR. WILDER

1072

1 (THE WITNESS EXITS THE STAND.)

2 MR. WILDER: Our next witness is also outside.

3 THE COURT: All right.

4 MR. WILDER: May she be excused, Your Honor?

5 THE COURT: Any objection to her being excused?

6 MR. MEADORS: None from the state.

7 THE COURT: All right. Thank you. You're excused,
8 ma'am.

9 MR. DEAS: No objection.

10 ANGELA M. BOYD, BEING DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 CLERK OF COURT: Please state your full name. Spell
13 your last name for the record.

14 WITNESS: Angela Maria Boyd, B-O-Y-D.

15 THE COURT: Mr. Wilder, you may proceed.

16 MR. WILDER: Thank you.

17 DIRECT EXAMINATION BY MR. WILDER:

18 Q. Angela, I want you to lean into the microphone a
19 little bit so we can all hear what you got to say.

20 A. Okay.

21 Q. Please give me your name and where you live.

22 A. My name is Angela Boyd. I live at
23 , South Carolina.

24 Q. Okay. Do you know Andrea Russell?

25 A. Yes. That's my sister.

A. BOYD - DIRECT EXAMINATION BY MR. WILDER

1073

1 Q. Sister, okay, and do you know Daniel Jackson?

2 A. Uh-huh. Yes. That's my nephew.

3 Q. Nephew, okay, and did Daniel ask you to provide
4 him ---

5 MR. MEADORS: Objection to any hearsay.

6 THE COURT: Sustained.

7 MR. WILDER: Well, this is Daniel. Okay.

8 BY MR. WILDER:

9 Q. Did you give Daniel a ride to Sumter when he was
10 turning himself in to the police?

11 A. Yes, sir. I did.

12 Q. Okay. Now, did he go with you willingly? Did he
13 voluntarily go with you?

14 A. Yes. He asked me to take him.

15 Q. He asked you to take him?

16 A. He asked me to take him.

17 Q. Okay. Now, did you pick him up from Andrea's house?

18 A. Yes, I did.

19 Q. Okay, and was Isaac around at that time?

20 A. No.

21 Q. What's your relationship to Isaac?

22 A. Isaac is my husband.

23 Q. Oh, okay. When Daniel got to the Law Enforcement
24 Center, did you come inside with him?

25 A. Yes, sir, I did.

A. BOYD - DIRECT EXAMINATION BY MR. WILDER

1074

1 Q. All right. Did you get to talk to the police?

2 A. I talked to an officer -- I didn't remember his name
3 -- who was in the lobby when I got in there.

4 Q. Okay.

5 A. I can point him out; he's in here.

6 Q. All right, and did you get to go in where they were
7 asking Daniel questions?

8 A. No, sir.

9 Q. They didn't let you in the room?

10 A. No, sir. I -- it -- when I came in, it wasn't even
11 two seconds after I sat in a chair when an officer informed
12 me that I didn't have to stay there because he was going to
13 be there a long time. And I said you mean like until the
14 morning, and he said no. We're not planning on ---

15 MR. MEADORS: Objection to ---

16 A. --- letting him go.

17 MR. MEADORS: --- hearsay, Your Honor.

18 THE COURT: Sustained.

19 Q. Okay, but they didn't let ---

20 THE COURT: Jury will disregard the last statement.

21 BY MR. WILDER:

22 Q. So, they didn't let you go with him where he was being
23 talked to?

24 A. No, sir. They didn't.

25 Q. Okay. Now, did there come a time when you turned over

A. BOYD - DIRECT EXAMINATION BY MR. WILDER

1075

1 some more things to law enforcement?

2 A. Yes, sir. There was.

3 Q. Tell the jury about that. Where did you find them and
4 what did you do?

5 A. I, I had received a call from my sister, Andrea, in
6 reference to a gun what was left at -- in her house, and
7 she told me what ---

8 Q. As a result of receiving the phone call.

9 MR. WILDER: Except she testified.

10 THE COURT: She's already testified.

11 BY MR. WILDER:

12 Q. All right, what did she tell you?

13 A. She asked me what am I supposed to do with this gun.
14 I said Andrea, you need to call the people who came out
15 looking for Daniel and tell them to come and get it.

16 Q. Okay. Now, did you, did you have occasion to turn
17 over anything to law enforcement?

18 A. I had, yeah, an opportunity after Andrea called me
19 again and said she'd found a bullet.

20 Q. A bullet?

21 A. Uh-huh.

22 Q. And did you go get a bullet?

23 A. No, I did not. What happened was I told her to call
24 the police and the same people that came out to get the gun
25 to come out and get the bullet.

A. BOYD - DIRECT EXAMINATION BY MR. WILDER

1076

1 Q. All right, let, let me try to get this straight. How
2 long after you took Daniel to the Law Enforcement Center
3 was that?

4 A. I can't be specific, but it was a long time. At least
5 a week or two.

6 Q. At least a week or two. All right, so a week or two
7 later, you get a call from Andrea about ---

8 A. No, it wasn't a week ---

9 Q. No?

10 A. --- or two later. It was a week or two later that I
11 received the bullet.

12 Q. That you received the bullet?

13 A. Yes, sir.

14 Q. Okay, and you got it from Andrea?

15 A. No, I did not.

16 Q. Where did you get it?

17 A. Andrea had had a mental breakdown. Then she ended up
18 getting arrested as a result. And she was asked to leave
19 the premises at Meadowfield, at which point I went over
20 there to remove her property from the residence.

21 As I was getting there, I seen a warrant on the door.
22 The landlord approached me and had told me that she let
23 offers in to check for a third time that they had come out
24 there. And she informed me that they didn't leave with
25 anything. And I said, well, okay. So, I just had to get

1 all this stuff out of the house and bring it to my house.

2 When I got it to my house, I just let it, you know,
3 stay in one room. It was a while before I actually got the
4 stuff and got through it and organized everything.

5 There was a box I removed from her kitchen I dumped in
6 my kitchen. I'm going through the papers to make sure
7 there's no important papers when I found a baggie with a
8 bullet in it. And I knew what it was because Andrea had
9 talked to me about it before.

10 Q. Okay.

11 A. And that's when I called someone. I can't remember
12 the name of a card I had around that time to come out and
13 get it. And they took a couple of days to come out and get
14 it.

15 I'm running my errands, going on with everything in my
16 life. And then actually my fourteen year old at the time,
17 my fourteen-year-old daughter, Anne Boyd, was the one who
18 gave the bullet to the officer when they came to my house.
19 I wasn't home that day.

20 Q. So, you didn't even give whatever was in the little
21 packet to them, right?

22 A. No, sir. I didn't.

23 Q. Do you have any idea what the history on that thing
24 might have been before you found it in a box?

25 A. No, sir. I didn't.

A. BOYD - CROSS-EXAMINATION BY MR. MEADORS

1078

1 Q. Okay. Now, would it be fair to say that you were
2 doing everything in your power to cooperate with the
3 police?

4 A. Yes, sir. It was me and my family members.

5 Q. No, nobody was doing anything to force you to
6 cooperate with them, right?

7 A. No, sir. It's the way we've been raised.

8 (A PAUSE.)

9 MR. WILDER: Thank you.

10 WITNESS: You're welcome.

11 THE COURT: Mr. Deas.

12 MR. DEAS: No questions, Your Honor.

13 THE COURT: Mr. Meadors.

14 MR. MEADORS: Just a few.

15 CROSS-EXAMINATION BY MR. MEADORS:

16 Q. Good morning, Ms. Boyd.

17 A. Good morning.

18 Q. I've just got a few questions. You and Andrea are
19 sisters?

20 A. Yes, sir.

21 Q. And when Andrea called you about the rifle and all,
22 she tell you she'd been vacuuming in the house?

23 A. Excuse me?

24 Q. Do you remember, did she tell you she'd been vacuuming
25 and had found it or?

A. BOYD - CROSS-EXAMINATION BY MR. MEADORS

1079

1 A. No.

2 Q. Did she tell you how ---

3 A. I don't remember.

4 Q. All right, but she tell you she's found a rifle and
5 some other shell casing or bullets, right?

6 A. She told me she'd found a rifle and a box of bullets.

7 Q. And I'm not trying to be -- I'm just -- it's what
8 you've already testified.

9 THE COURT: You're objecting, sir?

10 MR. WILDER: No, Your Honor. I'm okay with that. I
11 should have asked my client before I stopped asking
12 questions. So, what I'd like to do is if I could ask one
13 or two more?

14 MR. MEADORS: Your Honor, he can't.

15 THE COURT: No, sir. I mean, he's started his
16 questioning. You'll get re -- you're get redirect.

17 MR. WILDER: All right. Thank you, Your Honor.

18 BY MR. MEADORS:

19 Q. Is it fair to say your sister called you? She'd found
20 a gun or rifle or something and some bullets and whatever
21 they were in, and you told her call law enforcement?

22 A. Right. There were two different phone calls on that.

23 Q. And I was just asking about the first one. You did do
24 that, and she did call?

25 A. Yes, sir.

A. BOYD - CROSS-EXAMINATION BY MR. MEADORS

1080

1 Q. And then she called you again a little later and said
2 I've found a shell casing in peanut butter?

3 A. And this was a couple days later.

4 Q. She called you about finding a shell casing in peanut
5 butter?

6 A. Yes, sir.

7 Q. No question about that, and you told her turn that
8 over to law enforcement?

9 A. Right.

10 Q. And she's already testified. Said she gave that to
11 you?

12 A. She just doesn't remember with everything she's been
13 through.

14 Q. And then -- but she did tell you about the rifle?

15 A. Yes.

16 Q. She did tell you about the shell casing in the peanut
17 butter, and you did tell her to turn those in, right?

18 A. Yeah.

19 Q. And you found them in a little bag or something,
20 didn't you? She said she gave them to you, and you said
21 you found them?

22 A. Well, I ---

23 Q. Did they ---

24 A. They were in her property that I removed from her
25 house.

A. BOYD - CROSS-EXAMINATION BY MR. MEADORS

1081

1 Q. And who turned it over to the police?

2 A. My daughter, Anne Boyd.

3 Q. Anne, okay. Well, this -- are you Angela Boyd?

4 A. Yes, sir.

5 Q. Okay. Does this document say it was received from you
6 from law enforcement, Angela Boyd?

7 A. Where?

8 Q. Right here, and I, can I come close?

9 A. Yeah, you can.

10 MR. MEADORS: All right, Judge?

11 A. Right up here.

12 Q. Is that you, Angela?

13 A. Yeah. My name is Angela Boyd.

14 Q. Does that say: Received from Angela?

15 A. It says it, yeah.

16 Q. Okay.

17 A. But I didn't sign it.

18 MR. MEADORS: Beg the court's indulgence.

19 THE COURT: Yes, sir.

20 (A PAUSE.)

21 MR. MEADORS: That all, Ms. Boyd. Thank you.

22 THE COURT: Mr. Wilder, redirect based upon his
23 cross-examination.

24 MR. WILDER: All right.

25 REDIRECT EXAMINATION BY MR. WILDER:

A. BOYD - REDIRECT EXAMINATION BY MR. WILDER

1082

1 Q. Do you know Curtis Wheeler?

2 A. Yes, sir, I do.

3 MR. MEADORS: Objection. That's not proper.

4 THE COURT: Sustained.

5 MR. MEADORS: Judge, for the record, he...

6 BY MR. WILDER:

7 Q. Mr. Meadors asked you about receiving a ---

8 MR. MEADORS: Judge, may we approach?

9 THE COURT: You may.

10 Q. --- a rifle.

11 (OFF-THE-RECORD BENCH CONFERENCE.)

12 THE COURT: You may ---

13 Q. All right. So, Ms. Russell ---

14 THE COURT: --- proceed with redirect.

15 MR. WILDER: Thank you.

16 BY MR. WILDER:

17 Q. So, Ms. Russell had a mental breakdown?

18 A. Yes, she did.

19 MR. MEADORS: Your Honor, objection. That's not
20 proper.

21 MR. WILDER: Well, he asked her that. She responded.
22 That was responsive to one of his questions.

23 THE COURT: It did -- it was talked about.

24 MR. MEADORS: I didn't know she had responded to me.
25 I didn't ask her about a breakdown or not. If she did,

A. BOYD - REDIRECT EXAMINATION. BY MR. WILDER

1083

1 I ---

2 WITNESS: I did say it.

3 MR. MEADORS: --- the record will reflect it.

4 THE COURT: She did.

5 MR. MEADORS: That's fine.

6 THE COURT: It was stated in one of her -- testimony.

7 MR. MEADORS: I apologize.

8 BY MR. WILDER:

9 Q. All right. So, during that period of time, Andrea was
10 having mental problems, right?

11 A. Yes, sir.

12 Q. Okay, and there came a time when she was kicked out of
13 Meadowfield Apartments?

14 A. Yes, sir.

15 Q. Okay, and you went to get a box?

16 A. I went, I had to clean the whole apartment out.

17 Q. Her whole apartment?

18 A. Whole apartment.

19 Q. All right. So, and when -- we know at some point in
20 time, the rifle had gotten there and you received a call
21 about that?

22 A. Yes, sir.

23 Q. And your advice to her was call law enforcement?

24 A. That's right.

25 MR. WILDER: Okay. All right. Thank you, and

1 she's secure, and then have the deputy available out of
2 earshot but within presence.

3 MR. WILDER: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 MR. WILDER: And what else? Are they just going
6 through the exhibits?

7 THE COURT: I think just to see what...

8 (OFF THE RECORD.)

9 MR. WILDER: All right, Your Honor, is it okay to go
10 back on the record?

11 THE COURT: Yes, sir.

12 MR. WILDER: All right, Your Honor, my client has had
13 an opportunity to speak with his aunt. And he advises me
14 that he does not wish to testify.

15 THE COURT: And he had told me that earlier.

16 MR. WILDER: That is correct.

17 THE COURT: But I gave him an opportunity to change
18 his mind. Apparently he has not changed his mind.

19 MR. WILDER: He has not changed his mind, Your Honor.
20 Thank you.

21 THE COURT: Do you have any other witnesses, Mr.
22 Wilder?

23 THE COURT: Your Honor, I would ask that you inquire
24 of my client to make sure that he hadn't changed his mind.

25 THE COURT: All right, Mr. Jackson, would you please

1 stand?

2 MR. JACKSON: Yes, sir.

3 THE COURT: You're still under oath from a little
4 while ago.

5 Mr. Jackson, you've now had an opportunity to speak to
6 Mr. Wilder again. You've had an opportunity to speak
7 privately with your aunt, Ms. Boyd. Is that correct?

8 MR. JACKSON: Yes, sir.

9 THE COURT: Okay. A little while ago, you told me
10 when I went through the whole litany of questions that you
11 did not want to testify. Is that correct?

12 MR. JACKSON: Yes, sir.

13 THE COURT: After talking with Mr. Wilder and Ms.
14 Boyd, do you still wish to not testify?

15 MR. JACKSON: I don't want to testify.

16 THE COURT: Very good. Thank you.

17 MR. WILDER: Thank you, Judge.

18 (A PAUSE.)

19 THE COURT: Are we ready to proceed?

20 MR. WILDER: Your Honor, I've talked it over with my
21 client. We wish to close our case, and we're ready to
22 proceed if you'd like for me to do that in front of the
23 jury.

24 THE COURT: Yes. We will need to do that in front of
25 the jury.

1 MR. WILDER: Your Honor, the motions that I asked to
2 be renewed were the motions for directed verdict of not
3 guilty, for mistrial. I'd ask the court observe for the
4 record that our motion for mistrial be composed of the
5 various things that I asked to be moved into evidence that
6 were not moved into, allowed to be moved into evidence, the
7 things that I've proffered that were not into evidence.

8 And, Your Honor, the fact that we had a severance
9 motion and that was denied, and that we now are in a
10 situation where redacted testimony has got to be produced
11 to the jury. It's always an uncomfortable position for a
12 case to be in.

13 And, Your Honor, the various objections of things that
14 the state made that were sustained, we would respectfully
15 ask for a mistrial on grounds -- on all those grounds. And
16 those would be our motions.

17 In addition to the -- now we feel at the close of all
18 the evidence, the state has now shut down. It's, it's
19 not going to offer any reply. Now we know that either
20 the redaction wasn't successful, or we believe that there
21 has been no evidence at all Daniel Jackson has been proved
22 to ---

23 THE COURT: What do you mean the redaction wasn't
24 successful?

25 MR. WILDER: Oh, either ---

1 THE COURT: When we haven't completely -- we've got to
2 go back and change things.

3 MR. WILDER: Right. What I mean by that, Your Honor,
4 either the redaction is not successful and somehow evidence
5 slipped in from Mr. Canty against my client is what I'm
6 trying to say. Or that the -- we're stuck with the
7 evidence we got, which I don't believe proved him guilty at
8 all of a murder or an armed robbery. Daniel Jackson, that
9 is.

10 THE COURT: All right, Mr. Meadors.

11 MR. MEADORS: Your Honor, I stand on my previous
12 arguments.

13 THE COURT: All right, and I'm going to, having heard
14 the previous arguments and heard your argument, I am going
15 to respectfully deny your motion for directed verdict.

16 Do you need to make a motion as well?

17 MR. DEAS: No, sir, other than the fact that I renew
18 my same motion from before for directed verdict of not
19 guilty.

20 THE COURT: All right. Very well. That is as well
21 denied.

22 MR. MEADORS: Your Honor asked me to get a case. It's
23 *State vs. Johnson*, 512 S.E. 2d. 795. If you don't have a
24 copy of it, I'll get it to the court, but that's the cite.

25 THE COURT: All right, and I thought about that over

1 lunch as well. Normally your way of resolving any
2 perceived untruthfulness in a search warrant would be
3 through a motion to suppress. That the search was illegal
4 because of that, not bringing it up in court. So, I'm
5 satisfied with my ruling on that.

6 Have y'all had an opportunity to review the proposed
7 charge?

8 MR. MEADORS: Quite honestly I haven't, but I'm sure
9 it's fine. I'll say ---

10 THE COURT: Well, I mean, no. I mean, I'm just trying
11 to give y'all something because, I mean, if we can give it
12 to the jury today, that would be nice to do. If it's going
13 to take a while to get the case ready to start giving it to
14 the jury, then I would rather make sure they have plenty of
15 time.

16 Of course, I'm going to ask them if they want to
17 proceed today. Are y'all ready to proceed today if we ---

18 MR. DEAS: Well, Your Honor, I did have some request
19 for charges that could be some charges that aren't included
20 in your charges that you prepared.

21 THE COURT: Why don't we go back to my office, take a
22 few minutes and go back there and see where we're at?

23 Court will be in recess until the call of the court.

24 (OFF THE RECORD.)

25 MR. MEADORS: Your Honor, for the record, the defense

1 attorneys, with the aid of Investigator Mims, have copied
2 the originals, whited out the originals in evidence being
3 3, 4 -- 3, 5, and 7.

4 THE COURT: You actually copied them and then whited
5 out the copies, correct?

6 MR. DEAS: That is correct.

7 THE COURT: Because there's got to be the originals.
8 It's always goes to ---

9 MR. MEADORS: Copied them. Whited out the copy.
10 Copied them.

11 THE COURT: Right.

12 MR. MEADORS: And then inserted either another person
13 or other person, exact language that was read into the
14 record. Is that correct?

15 THE COURT: In a pen that's similar?

16 MR. MEADORS: And in an honorable person's pen, we put
17 it in, Your Honor.

18 THE COURT: Oh, thank you. Thank you.

19 MR. MEADORS: In similar ink, yes, sir.

20 THE COURT: Right.

21 MR. MEADORS: I think all parties have looked at them
22 and agree. It is the judge's pen.

23 THE COURT: Although you may object -- I understand
24 your objection runs -- at least in such a fashion that it
25 looks like was mine.

1 MR. MEADORS: Judge, now we come to -- the court
2 reporter had asked, so we have two 3, 5s, and 7s, two sets
3 of them. The original set and the redacted set.

4 THE COURT: Right, and they just need to be marked as
5 such for appeal purposes.

6 MR. WILDER: And, Your Honor, for the record, our
7 objection to doing it this way runs throughout.

8 THE COURT: Yes, sir.

9 MR. WILDER: Thank you.

10 THE COURT: Now, how about the other things that I had
11 said should go in with the Marcus? Did y'all work that
12 out? The three ---

13 MR. MEADORS: I'll be honest with you. We didn't, but
14 I -- can I just ---

15 THE COURT: Well, just make sure that gets taken care
16 of just like the others.

17 MR. MEADORS: Before the jury.

18 THE COURT: Before it goes to the jury.

19 MR. MEADORS: Just the ones that are already in
20 evidence? It won't take me two seconds.

21 THE COURT: It was just three documents.

22 MR. MEADORS: Right. I was going to look at the other
23 ones.

24 (OFF THE RECORD.)

25 THE COURT: How about let me -- the court reporter

1 suggested this. That the originals, I'm going to turn into
2 court exhibits. That way, they're still part of the
3 record, but there's no chance that they will end up going
4 back to the jury.

5 MR. DEAS: That's, that's fine.

6 MR. WILDER: I think that's good.

7 MR. DEAS: Definitely.

8 MR. MEADORS: Thank you.

9 COURT REPORTER: 10, 11, and 12.

10 THE COURT: Okay.

11 (VOLUNTARY STATEMENT [ORIGINALLY STATE'S EXHIBIT
12 NUMBER 3] MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER
13 10.)

14 (VOLUNTARY STATEMENT [ORIGINALLY STATE'S EXHIBIT
15 NUMBER 5] MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER
16 11.)

17 (VOLUNTARY STATEMENT [ORIGINALLY STATE'S EXHIBIT
18 NUMBER 7] MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER
19 12.)

20 MR. MEADORS: Judge, we'll just do the same procedure
21 on the others and white out Branch's name.

22 THE COURT: All right.

23 MR. MEADORS: That will probably just be easier.

24 THE COURT: Anything further before we bring the jury
25 back in?

1 (OFF-THE-RECORD BENCH CONFERENCE.)

2 MR. MEADORS: May it please the court?

3 THE COURT: Yes, sir.

4 MR. MEADORS: I am putting in Mr. Wilder's evidence, I
5 want the record to reflect, so this should be ---

6 MR. WILDER: He kept me from keeping -- putting in a
7 lot of it. I appreciate him doing one of them for me.

8 MR. MEADORS: This was Defendant's 28, SLED laboratory
9 forensic services lab request. This was the cartridges,
10 Judge.

11 THE COURT: Right, and it now does not have Marcus
12 Branch's name on it?

13 MR. MEADORS: That's correct, sir.

14 MR. WILDER: And that would be in evidence.

15 THE COURT: That's in evidence.

16 (SLED REPORT MARKED INTO EVIDENCE AS DEFENDANT
17 JACKSON'S EXHIBIT NUMBER 28.)

18 MR. MEADORS: Defendant's 30, which is SLED forensic
19 services lab request to have the one cartridge casing which
20 does have Branch's name on it.

21 THE COURT: And that will be redacted to remove his
22 name.

23 (SLED REPORT MARKED INTO EVIDENCE AS DEFENDANT
24 JACKSON'S EXHIBIT NUMBER 30.)

25 MR. MEADORS: With the consent of everybody, we're

1 going to give it to Sheriff Mims while we're arguing.

2 MR. WILDER: All right, Your Honor, when we say
3 consent, I would want the whole thing in there, but I
4 understand the court's ruling to redact the ---

5 THE COURT: All right, I've already ruled ---

6 MR. WILDER: You've ruled on that.

7 THE COURT: Right.

8 MR. WILDER: And so ---

9 MR. MEADORS: That's what I meant.

10 MR. WILDER: I'm not trying to ---

11 MR. MEADORS: It's consent that Mr. Mims ---

12 THE COURT: Consent that Mr. Mims will do it.

13 MR. WILDER: Right.

14 THE COURT: Okay.

15 MR. MEADORS: And ---

16 MR. WILDER: I'm more than happy with Mr. Mims taking
17 care of that.

18 MR. MEADORS: 29 is ---

19 MR. WILDER: He'll do a good job.

20 MR. MEADORS: Looks like the stuff from the autopsy.

21 29 does have Marcus Branch on it. Into evidence.

22 (SLED REPORT MARKED INTO EVIDENCE AS DEFENDANT
23 JACKSON'S EXHIBIT NUMBER 29.)

24 THE COURT: And I think I had further instructions
25 that since Marcus Branch's name is not on there, Mr. Wilder

1 would not be able to reference those forms concerning
2 Marcus Branch.

3 MR. WILDER: As to those forms, yes, Your Honor. I
4 understand that instruction.

5 THE COURT: And I have further instruction that as far
6 as you were able to go on the other testimony was that you
7 were able to say that Marcus Branch went and got a phone.

8 MR. WILDER: Sir?

9 THE COURT: That he went and picked up his phone. I
10 think that's my earlier ruling.

11 MR. WILDER: I can, I can go into that part of it.

12 THE COURT: Yeah, that he went over there to get a
13 phone.

14 MR. WILDER: Right.

15 MR. MEADORS: Judge, talking to co-counsel here, we're
16 just going to leave them. Since there are already some in
17 there, I'm just going to leave them. It may cause it worse
18 if we tried to change it.

19 THE COURT: All right.

20 MR. MEADORS: It is what it is. We'll withdraw the...

21 THE COURT: Sure.

22 MR. WILDER: All right, so those four things are now
23 in evidence.

24 THE COURT: They are now in evidence.

25 MR. MEADORS: And I did not move -- Mr. Wilder was on

1 THE COURT: Absolutely. Yes, sir.

2 MR. DEAS: --- instruction.

3 (JURY CHARGE FOR DEFENDANT CANTY MARKED INTO EVIDENCE
4 AS COURT'S EXHIBIT NUMBER 13.)

5 COURT REPORTER: Court's 13.

6 MR. WILDER: And, Your Honor, I had asked for a charge
7 of accident, and also a charge on accessory after the fact.

8 THE COURT: Yes, sir, and Mr. Meadors wanted to be
9 heard on that.

10 MR. MEADORS: Judge.

11 THE COURT: There's no -- well, I ruled in chambers.
12 There's no evidence of the accident. I don't think you can
13 bring a gun to -- be accused of bringing a gun to an armed
14 robbery and then say it didn't go the way it should have,
15 and it was an accidental killing. I'm not going to give
16 you that charge.

17 And the other one was concerning accessory after.

18 MR. MEADORS: Accessory.

19 THE COURT: There's no evidence of that in the record.
20 I deny both requests for charge.

21 MR. WILDER: Thank you, Judge.

22 MR. MEADORS: Judge, I had moved to, just for sheer
23 expedience sake, to waive opening. I'm willing to do that
24 to speed this process up this afternoon.

25 THE COURT: Do y'all object to that?

1 MR. DEAS: I think that has, that has to be stipulated
2 to by defense. I disagree with that.

3 THE COURT: Okay.

4 MR. MEADORS: You're going to make me?

5 MR. DEAS: Yeah.

6 MR. MEADORS: Okay.

7 THE COURT: All right, to the extent that you, to the
8 extent that you want to go into it, you don't actually have
9 to go into it.

10 All right, let's bring the jury in.

11 (THE JURY ENTERS AT 3:39 P.M.)

12 THE COURT: All right, ladies and gentlemen, thank you
13 for your patience while you were back there. I did have
14 Mr. Bradley inquire as to whether y'all wanted to wait and
15 start tomorrow morning, but it's my understanding that
16 y'all want to go ahead and proceed with it tonight. And we
17 understand that you will need to be here until a verdict is
18 reached or alternative. And if necessary, supper will be
19 provided.

20 Ladies and gentlemen, we have reached the point in the
21 trial where all the testimony that you're going to hear in
22 this case has now been presented from this witness stand or
23 from other exhibits. Now is the time where the attorneys
24 will give you their closing arguments. After that, I will
25 charge you the law, and then I will send you to the jury

1 room to begin your deliberations.

2 Is the state ready to begin?

3 MR. MEADORS: Ready.

4 THE COURT: Is defense ready?

5 MR. WILDER: Yes. Yes, sir.

6 THE COURT: Mr. Meadors.

7 MR. MEADORS: If it pleases Your Honor?

8 Good afternoon. This part of the trial is called
9 closing agreements. We're not allowed actually to argue
10 with you back and forth. Perhaps we all wish we could talk
11 back and forth. But it's a chance for us to give you, the
12 attorneys and myself, to give you our views on the evidence
13 and the reasonable inferences from that evidence.

14 You as the finder of fact have decide what the truth
15 is here today. Thank you for being here. It's been hot;
16 it's been cold. Thank you for being here and paying
17 attention, and I mean that. Thank you.

18 I'm going to be very brief at this point. This is
19 called opening on the law. The state is required to open
20 on the law. Since we have the burden of proof, I will be
21 allowed to come back after both defense have gone and argue
22 what I believe the reasonable inferences are in this case.
23 I'll be very brief.

24 His Honor is going to charge -- and again to remind
25 you, His Honor is the law in this. He's the law; he really

1 is. What he says is the law, and he will tell you that
2 when we get through. And you will decide the facts, what's
3 credible, what's believable, apply His Honor's law, and
4 come up with a verdict.

5 Murder: the unlawful killing of another person with
6 malice aforethought. Meanness, evilness, wickedness. We
7 think we've shown that. I'll argue later, but I believe
8 the malice is, too. The use of one firearm, two firearms.
9 Meanness, evilness, no just, no just cause. You just did
10 it. It's mean... We believe that's been shown here.

11 Unlawful killing of another living human being,
12 intentional killing without just cause or excuse, and that
13 the person died as a result thereof, as a result thereof.
14 That's what Dr. Ross came and told you: as a result of
15 those two gunshots is why Bill Flexon is not here.

16 Armed robbery: take something away that's not yours by
17 means of force or intimidation. In this case, with the use
18 of a firearm. Those pizzas were taken from Bill Flexon,
19 property of him and/or Sambino's. That's the armed
20 robbery. You know what armed robbery is.

21 Murder and armed robbery, the burden of proof on the
22 state in this case; and His Honor will tell you, beyond a
23 reasonable doubt. It's not beyond all doubt. You've got
24 to be firmly convinced of the defendant's guilt. The state
25 doesn't have to prove it beyond every and all, each and all

1 doubt. The judge will tell you that. After considering
2 all the evidence, if you are firmly convinced the
3 defendants are guilty, then that oath that Mr. Bradley gave
4 you requires you to come back with a verdict of guilty.

5 The types of evidence His Honor will give, we'll go
6 over with you: direct and circumstantial evidence. You
7 know what direct is now. You see it. You hear it. You
8 touch it. Circumstantial evidence, proof of a fact,
9 another fact leads to the conclusion of another fact.

10 This case has got direct and circumstantial evidence.
11 Those shell casings, cartridge casings came from that
12 rifle. That's a circumstantial fact that's proved through
13 Tracy Thrower. Guy loves, he loves his job, and he came
14 and explained in detail how he compared, testified,
15 compared it to the shell casings. And yes, in my opinion
16 -- he is an expert in the field of firearms and tool mark
17 examination -- that rifle fired those shell casings.
18 Direct and circumstantial evidence.

19 Another body of law that His Honor will charge you on
20 is the hand of one is the hand of all. The act of one is
21 the act of all. If two or more defendants get together and
22 decide they're going to commit a crime, then they're both
23 responsible for any natural consequences that result from
24 that. If me and two other fellows wanted to go rob a
25 convenience store, I stayed outside driving the car, they

1 went out -- inside and killed the clerk, I'm guilty of
2 murder as much as they are. The hand of one is the hand of
3 all at. It's a natural consequence. You go to commit an
4 armed robbery, if something else happened, the law says
5 you're all equally guilty. The hand of one is the hand of
6 all. The judge will charge you on that.

7 Credibility, believability, you bring it in here with
8 you to evaluate people. That's what you gathered your
9 whole life. You don't go to school to be a juror, but you
10 come in here with that good old common sense that you have.
11 And that's what you use when you evaluate testimony, when
12 you listen to testimony.

13 His Honor will instruct you on expert witnesses. You
14 can consider their background and training, and that
15 training and what they've learned and acquired and consider
16 that and what they testified to. You had several experts
17 here in this case. Joe Powell, Joe Powell, an expert on
18 that residue, that spoke volumes. I'll talk about that
19 later in my closing. But expert testimony, consider their
20 background, their training when you consider their
21 testimony, if you so find.

22 Ladies and gentlemen, I don't know how long, but
23 shortly from now I'll be allowed to come back and tell what
24 I believe the facts are. All I ask you now -- and that's
25 the shortest open on the law I've ever given, but you'll

1 hear the law later. All I ask you now is listen to Mr.
2 Deas. Listen to him. Listen to Mr. Wilder. And then
3 please listen to me when I come back, and what we're
4 looking for here today, what we're all looking for here
5 today is justice and fairness. And we're asking you at the
6 end of the case, that I believe justice and what's right in
7 this case is a guilty verdict. Thank you.

8 THE COURT: Thank you, Mr. Meadors.

9 MR. MEADORS: Thank you.

10 THE COURT: Mr. Deas.

11 MR. DEAS: Thank you, Your Honor. May it please the
12 court?

13 THE COURT: Yes, sir.

14 MR. DEAS: Mr. Meadors, Mr. Foreman, ladies and
15 gentlemen of the jury, it's been a long week. Been a long
16 quest for the truth that we've all been on since Monday.
17 First of all, I'm going to say thank you for your time,
18 your dedication you've displayed over this week, the
19 commitment you've shown to try to help us find the truth
20 with regard to what happened back on January 12, 2008, at
21 the O.C. Mobile Home Park on Cherryvale Drive.

22 Don't think we could have picked thirteen better
23 people to help us do that. You all have given up your
24 lives for this week just like many of other jurors, juries
25 have done all across this nation. And that's what makes

1 our jury system the envy of the world is people, regular
2 people, everyday people just like you give up their time,
3 give up their lives for a short period of time to help us
4 dispense justice. I want to thank you.

5 Now, you're going to have an opportunity in a little
6 bit to go back to your jury room to deliberate to try to
7 determine the truth and try to find justice, and that's
8 what we all should be here about, try to dispense justice.
9 Not just for the defense, but also William Flexon. He's
10 not here due to a senseless, heinous crime.

11 As I said previously earlier this week, if you've got
12 red blood running through your veins and a beating heart,
13 you have to feel for the pain that his family has endured
14 through the loss of their loved one. My heart and prayers
15 go out. My heart goes out to them; my prayers go out to
16 them.

17 Like I also said. There's no question that was a
18 tragedy that happened on January 12, 2008. What would also
19 be a tragedy is if we don't hold the state to its burden of
20 proving their case against these two defendants. Not just
21 proving their case, but proving, proving it beyond a
22 reasonable doubt as to the charge of murder and as to the
23 charge of armed robbery with regards to my client, Reginald
24 Canty.

25 As Mr. Meadors just indicated, murder is the killing

1 of another person, the intentional killing of another.
2 person with malice aforethought. Malice aforethought is to
3 intentionally kill someone knowing it's wrong without any
4 just, legal cause to do so. It's, it's to, it's to --
5 malice aforethought means to do so with wickedness in your
6 heart, a certain evilness.

7 Armed robbery is the unlawful taking of the property
8 of another, and to take said property from that person or
9 in that person's immediate presence and do so through
10 violence or intimidation. And you do so through the use of
11 a, of a, of a weapon, a deadly weapon like a gun, a knife,
12 a razor.

13 What the state has to prove, and this is the law of
14 the land, ladies and gentlemen. This is not just me saying
15 it. His Honor will charge you accordingly at the
16 appropriate time, but the law of the land is the state must
17 prove each and every element of those two crimes as to Mr.
18 Canty in order for you to find him guilty of murder and
19 armed robbery. They have to prove beyond a reasonable
20 doubt each and every element as to both of those crimes.
21 If they fail in that burden, if they fail to prove each and
22 every element of that crime beyond a reasonable doubt, it
23 is your legal obligation to return a verdict of not guilty.

24 What is reasonable doubt? His Honor is going to
25 charge you on that in just a few moments. But I'll tell

1 you have a bit about my view of reasonable doubt.. I don't
2 drink coffee, never really have, but I usually will, I
3 sometimes will drink tea in the morning before I come in to
4 work. Sometimes as I'm leaving the house, I'll get to the
5 end of my driveway, and I'll hesitate for a moment, and
6 I'll try to remember if I turned the stove off from where I
7 had the teakettle on. That hesitation to act, where I stop
8 at the end of my driveway, I can sometimes pull back in to
9 the driveway, get out of my car, go back inside, and see if
10 I really turned, turned the stove off.

11 If you have that type of hesitation to act with
12 regards to you finding Reginald Canty guilty of murder,
13 it's your legal obligation to return a verdict of not
14 guilty because you have a hesitation to act due to the fact
15 that you have reasonable doubt.

16 Likewise, if you have that type of hesitation to act
17 with regards to whether the state met its burden as to the
18 charge of armed robbery, it is your legal obligation to
19 return a verdict of not guilty on the charge of armed
20 robbery as to Reginald Canty.

21 Now, let's look at the facts. We know certain things
22 with regard to this case. Certain things not disputed. We
23 know it happened on January 12, 2008. We know it happened
24 at O.C. Mobile Home Park. We know it happened on lot
25 number .. We know Mr. Canty's house was near where the

1 incident happened. We know he lives in that U-shaped
2 subdivision. We know his house is the middle of that
3 U-shaped subdivision. Those are some things we can all
4 agree on.

5 We know Mr. Flexon was shot twice, one bullet entering
6 his chest from a rifle. The ballistics expert testified to
7 that. One bullet entered his arm, then exited his arm
8 through the elbow and reentered in his chest. The
9 pathologist testified to that. We know he was shot by two
10 different types of weapons. Ballistics expert testified to
11 that. We know that one of the bullets came from 30-30
12 Winchester rifle. We know that the other bullet, according
13 to the expert that was called by the state, came from
14 either a .38 special or a .357 Magnum. We know that. At
15 least that's what was conveyed by the expert.

16 What we also is that my client Mr. Reginald Canty's
17 fingerprints were not found on the weapon. Weren't found
18 on any of those shell casings. Weren't found, were not
19 found at the shell casing that was taken from Daniel
20 Jackson's aunt's house, Ms. Angela Boyd -- or, I'm sorry,
21 Andrea Russell. His fingerprints weren't even found in the
22 shell casing that was taken from under his bed.

23 We know that my client's fingerprints were not found
24 in Mr. Flexon's vehicle. We know his fingerprints were not
25 found on the pizza boxes that was found in the area.

1 caller I.D. when the call -- after this incident happened.
2 The police came out and talked with her. When she came out
3 to the scene, she said she ultimately took a picture. She
4 came back to the store and took a picture of her caller
5 I.D. and said it's 8:04. That's when the time -- that's
6 when the call came in.

7 You'll have an opportunity to look at this yourself.
8 It's in evidence. The video's in evidence; you can look at
9 it. If they're in the store at 8:04, 2104, which is really
10 9:04 -- you convert military time to standard time --
11 that's 9:04. They said it was an hour, about an hour fast.
12 You go 8:04. If they're in the store at 8:04 and that
13 call's coming in at 8:04, you can't be two places at one
14 time. They can't be in the store and making the call.

15 The pay phone, she dusted for fingerprints. It had
16 fingerprints on it, but it wasn't Mr. Canty and Mr.
17 Jackson's. It was of a lady named Linda McDuffie. No
18 fingerprints on the pay phone for Mr. Canty or Mr. Jackson.

19 Everywhere law enforcement turned to try to establish
20 or link Mr. Canty to this, to these crimes came up with
21 nothing. Fingerprints, no DNA evidence, no blood on Mr.
22 Canty linking in any way this crime. No blood of Mr.
23 Flexon linked to Mr. Canty in any way, shape, form, or
24 fashion. No fingerprints of Mr. Canty on pizza boxes, on
25 the gun, on shell casings, on the plastic donut wrapper,

1 nothing.

2 Mr. Canty, according to Sergeant Burnish, just a day
3 after the incident walking right near his home on Inabinet
4 Drive, Mr. Burnish out of his -- in his own words said that
5 he approached Mr. Canty. He was polite and cooperative.
6 Does that sound like the demeanor of somebody who just
7 committed a murder and an armed robbery? He willing talked
8 to him.

9 Now, your question is going to be, and it should be,
10 why did Mr. Canty not just simply tell all that he knew
11 right from the start? Now let me tell you. We know Mr.
12 Canty was sixteen years old when this incident happened
13 back on January 12, 2008. We know he had a seventh grade
14 education. That was testified to. Young man sees
15 something that probably and hope we none of us would ever
16 have to actually see with our own two eyes in our lives.

17 He says it in his statements, and you'll get to read
18 them. His statements are in evidence. He says he saw the
19 shooting. He also says when he's being interviewed by Mr.
20 West on January 17th that he didn't shoot and kill anyone,
21 but that he saw what happened.

22 Now, if you're sixteen years old and you hail from
23 where Mr. Canty grew up and lived, one of the golden rules,
24 the code, is if you see something, you zip your lip. Mum's
25 the word. You don't tell on your boys. You don't tell on

1 your friends. You don't snitch. That's the rule; that's
2 the code. That's what he knows. Keep your mouth shut.

3 He saw it. He was near enough to see it. When he was
4 asked about it, he was vague. He didn't say, oh, I didn't
5 see nothing. He didn't say, well, I was in Columbia, or I
6 was in Manning, South Carolina. Or I don't know what
7 you're talking about. He just was vague.

8 You'll get a chance, ladies and gentlemen, to take a
9 look at that, and it's in evidence. He doesn't come up
10 with some outlandish recitation or rendition about what his
11 whereabouts were, or what he was doing. He just was vague
12 about specifically what he saw because he not want to tell
13 anybody. That's the rule; that's the code.

14 What he says in the very first statement is
15 essentially consistent throughout the other statements he
16 gave. He says he left -- he says Toya asked him to watch
17 his house -- watch her house. Latoya Rush came and
18 testified and confirmed that. And in his very statement,
19 he says: I leave Toya's house. She asked me to watch his
20 house.

21 And I'm reading his words.

22 When she leave. So, I went and sat on my step,
23 and I saw a light. I want to see who it was, and
24 that's when I see two people fighting. I hear
25 somebody said no. Stop. Then I hear the

1 gunfire. I went into the house and told my
2 mother. The gun looked like a rifle, and the
3 person that was holding the gun had a hoodie, but
4 I couldn't see his face.

5 He didn't say he was somewhere else, or I don't know
6 what you're talking about. He could have. This was on
7 January the 13th. They were saying he wasn't even a
8 suspect then; he was just a witness. How did he become a
9 witness? Because his mother told law enforcement when they
10 talked to her on January 12th, the very night of the
11 incident, well my son came in the house and told me he saw
12 something. That's why they were back at -- that's why they
13 were talking to Mr., Mr., Mr. Canty. His own mother told
14 the police that her son came in the house that night, said
15 he saw something. And when they talked to him, he told
16 them. Just didn't give them the details as to who he saw
17 because he didn't want to tell on his friends.

18 Is that wrong? Is that a mistake? That is. Should
19 he have said it all initially? He should have, but does
20 that make him guilty of murder? No. Does that make him
21 guilty of armed robbery? No. What it makes him is a
22 scared, nervous sixteen year old with a seventh grade
23 education who's trying to do what he was taught growing up
24 in his neighborhood: keep your mouth shut. Don't tell on
25 your friends. That's what it makes you.

1 Now, they're going to want to make you think, I'm sure
2 the state's going to try to say that you can't believe
3 anything Mr. Canty says. He's told all these different
4 statements. He's trying to cover for himself. None of
5 what he's saying can be believed. Perhaps even Mr. Wilder
6 might say that with regards to Mr. Jackson. I don't know,
7 but if you think about it and you look at these statements,
8 you'll decide for yourself what the consistencies are and
9 what the inconsistencies, what the inconsistencies are.

10 I would submit to you, ladies and gentlemen, you will
11 find more consistencies in these statements than
12 inconsistency. You will find that they are more alike than
13 they are different.

14 The only difference, and I asked Mr. -- I asked
15 Sergeant Burnish on the stand. Are these statements just
16 outlandishly out of correlation with one another? Or do
17 they essentially just add more detail, specifically with
18 regards to the role of the other person? He agreed with
19 me. He agreed with me right on that witness stand.

20 I also asked Sergeant Burnish, if you remember his
21 testimony, if a person agrees or says yes in response to a
22 question of will you help me commit a crime, will you help
23 me rob the pizza place and if a person says yes, but if
24 they don't take any -- if they don't make any specific act
25 after that, they don't engage in any specific act after

1 that to further the completion of the crime, are they
2 guilty of the crime? He said no.

3 If all a person does, ladies and gentlemen, is tacitly
4 agree to participate in a crime by saying yes, I will, but
5 then they don't ever take any specific steps to participate
6 in the crime, they never follow up that agreement by saying
7 yes with some action to truly further the completion of the
8 crime, then, ladies and gentlemen, they cannot be liable
9 for the crime under this accomplice liability theory.

10 This conspiracy theory that if you, if you say yes,
11 I'll help you commit the crime but you don't do anything to
12 actually help to further the completion of the crime,
13 ladies and gentlemen, you are not guilty under the
14 accomplice criminal liability theory. You have to take --
15 you have to engage in some affirmative action that, that,
16 that, that furthers the completion of the crime, that helps
17 to accomplish the crime.

18 What did Mr. Canty do? What's the evidence says that
19 he did? And that's what you to have to base your verdict
20 on, the evidence. What does the evidence say he did?

21 He rode to the store, to Cherryvale Grocery Store with
22 -- he was driven there by his cousin Desmond Canty,
23 according to the testimony of his mom. He went in the
24 store with Daniel Jackson. We know that from the video.
25 He left the store with Daniel Jackson.

1 In the video, Mr. Canty is the one that's holding the
2 -- isn't the one that bought the Little Debbie cake. He
3 walks out of the store with Mr. Jackson. They go to the
4 right. There's nothing on the video that shows him using a
5 phone or calling.

6 So, if Mr. Canty agreed to take part in robbing the
7 pizza man and robbing Mr. Flexon, what did he do to make
8 good on that agreement? What did he do to further the
9 completion of the crime?

10 He went to Cherryvale Grocery Store and then went
11 home. And when he got back to his home, when he got back
12 to O.C. Mobile Home Park, he went home. He -- his mother
13 told you that. He went home and initially told his mother
14 I'm going to go watch Latoya's house. So, other than
15 driving to Cherryvale Grocery Store and then -- well,
16 riding to Cherryvale Grocery Store and then coming home,
17 Mr. Canty did not engage in any actual action to further
18 the completion of either the, of either the armed robbery
19 or the murder.

20 Now, if he would have come back to O.C. Mobile Home
21 Park and went in his house and got a gun, or went with
22 Daniel, Daniel Jackson or anybody else, and waited on the
23 pizza delivery. If he had served as a lookout somehow to
24 make sure nobody was coming around when this robbery took
25 place. If he had engaged in some type of conduct that

1 helped to accomplish the crime, that somehow aided and
2 abetted the crime, then yes, he could be found guilty under
3 the accomplice liability theory.

4 But I ask, ladies and gentlemen. Look at the
5 evidence. Remember the testimony. You tell me. What did
6 he do other than say I'll participate in the crime? But
7 ask yourself. What did he actually do to truly participate
8 in the crime, to help carry it out? Did he call the pizza
9 place? No. Was there ever any gun found, found in his
10 home? No. Were his fingerprints found anywhere? No. Was
11 blood evidence found that was connected to him? No. Was
12 there any evidence that he served, that he served as a
13 lookout that night while the other people robbed the pizza
14 man? No.

15 His mother actually said that he initially told her
16 when Toya was going off with her boyfriend to McDonald's.
17 She testified to that, that he actually told her, Latoya
18 told me to watch her house. He comes. He goes out. He
19 comes back. He eats and leaves again. She said shortly
20 after that, she heard gunshots. He comes back in.

21 Then the police are all around. The police actually
22 talk to him and his momma that night. He didn't go running
23 off anywhere to somebody else's house or try to -- he
24 didn't go somewhere, some -- to some other neighborhood to
25 sleep. He slept there at home that night, right at home

1 with his mother. Now, folk, that sound like the actions of
2 a guilty person?

3 Now, the shell casing that they found under his bed,
4 that's the shell casing that they say came from this 30-30
5 rifle. All right, now, remember, and this is also in
6 evidence. Here's that cartridge; here's that Styrofoam
7 cartridge. It holds twenty bullets, twenty bullets. All
8 right, let's think about this. They found eighteen
9 cartridges at Andrea Russell's home. They were still in
10 there. One bullet was lodged in the chamber of the gun,
11 the same gun that was found at Daniel Jackson's house.
12 That's nineteen now. They found a spent shell casing at
13 Andrea Russell's house, Daniel Jackson's aunt. That's
14 twenty bullets. Eighteen here unfired, one in the chamber,
15 one in Andrea Russell's house in a peanut butter jar that
16 was found. Ballistics expert said that, based on their
17 analysis, one of those bullets found in Mr. Flexon came
18 from that 30-30 rifle. Twenty bullets in this cartridge,
19 one in the chamber, eighteen found at Andrea Russell's
20 house, and another fired shell found at Andrea Russell's
21 house in a peanut butter jar. That's twenty bullets.

22 They found a shell casing under his bed. That would
23 be twenty-one, one more than this holds. What does that
24 mean, ladies and gentlemen? What did the ballistics expert
25 say? Just -- you can't tell from the shell casing when it

1 was fired from the gun. That shell casing could have been
2 in that neighborhood months before this incident and picked
3 up by Mr. Canty or anybody.

4 What do kids do when guns are around? They get
5 curious. They shoot. They shoot trees. They shoot at
6 targets. That's what they do. They see a shell casing.
7 They pick it up. Next thing you know, it's home with you.
8 It's under your bed.

9 You can't tell. The ballistics expert said it. I
10 asked him. Can you, from your analysis, say that that
11 shell casing came, matched the rifle bullet that was in Mr.
12 Flexon? No. Can't do that. That shell, that shell casing
13 could have been fired from that gun months before this
14 incident. No way to establish it.

15 And it obviously came from another set of ammunition
16 because only twenty was in here. Eighteen were unfired and
17 still in here. One was in the chamber, and one was in a
18 peanut butter jar that was fired.

19 That shell casing found under his bed doesn't
20 establish anything. It certainly doesn't establish that
21 that shell casing came from a bullet that was fired on
22 January 12, 2008. That shell casing could have been
23 produced from that weapon at any point.

24 Mr. Jackson, Mr. Canty, they live in that area. Mr.
25 Jackson lives with Mr. Canty's -- or at some point lived

1 with Mr. Canty's sister. It's obvious that Mr. Jackson had
2 been around that gun before. It's in evidence that he, the
3 day after the incident, called his uncle to come pick him
4 up, Mr. Isaac Boyd.

5 You heard from him. Mr. Isaac Boyd goes and gets him.
6 Takes him to Andrea Russell's house. He says that Mr., Mr.
7 Jackson comes out. That on their way to Andrea Russell's
8 house, they stop by this abandoned trailer. This is a day
9 after the incident. They stop by an abandoned trailer, and
10 he comes out with a basket of clothes. And lo and behold
11 in that basket is a rifle. He goes on to Andrea Russell's
12 house, and he shows the gun to everybody. Mr. Jackson,
13 police, police come looking for him; he runs away. That's
14 the testimony. That's the facts before you.

15 While he's running away, Ms. Russell finds the, finds
16 the gun under her couch. Same gun he brought from that
17 abandoned trailer. She calls her sister, Angela Boyd, and
18 says what do I do? She tells her you call the police, the
19 same people looking for Daniel. You call the police, tell
20 them you found a gun or a rifle under your couch that he
21 brought to your house.

22 She does. The police come and get it. Later on when
23 Ms. Russell obviously somehow gets displaced from her, from
24 her home and her sister goes to clean out from there and
25 move all her stuff out, she finds the peanut butter jar

1 with a bullet in it that her sister had already told her
2 about.

3 You tell me, ladies and gentlemen, what sounds like
4 the actions of somebody that was involved and what sounds
5 like the actions that -- of what somebody maybe saw but
6 wasn't actually involved. You tell me. Mr. Canty willing
7 to talk. Not willing initially to give it all, to tell it
8 all, but he was willing to cooperate and tell that he saw
9 something.

10 Ultimately, as you see in these statements, he gives
11 all -- he gives every -- he tells them everything he knows.
12 Certainly didn't have to do that, but he did.

13 Now, the issue in this, in this case, as I said, is
14 that it's not about just necessarily making a rush to
15 judgment: because two people are charged and are sitting
16 over there at the defendant's table, they must have done
17 it. It's not about a rush to judgment. It's about
18 withholding your judgement until you've heard it all
19 because that's what, that's the exact mistake I made with
20 my daughter I told you about on Monday. I accused her,
21 tried her, convicted her, punished her, only to find out I
22 was wrong as the day is long. I could remedy that with a
23 heartfelt I'm sorry. In the criminal, in the criminal
24 judicial system, when you make, when you make -- when that
25 kind of wrong is committed, I'm sorry don't erase it.

1 Often times you just have to deal with the consequences.

2 Now, Mr. Canty made some mistakes. There's no
3 question. He should have told the whole thing from the
4 start. But at sixteen years old, a seventh grade
5 education, coming from where he comes from and where he
6 hails from, he didn't. His instincts kicked in, and he
7 just, he zipped his lip to a certain degree. He didn't
8 tell it all. He should have, but ultimately -- but the
9 fact that he didn't name specifically who he saw shoot Mr.
10 Flexon and rob him, that doesn't make him guilty of murder.
11 Doesn't make him guilty of armed robbery, ladies and
12 gentlemen.

13 In the end, I ask you to do this, and as I said
14 earlier. There is no role in this courtroom today that's
15 as important as yours. Us lawyers, we're going to give you
16 our spin on things. The judge's role is to tell what the
17 law is, the law to apply to the facts of the case. You're
18 the finders of the facts. You're the ones who search for
19 the truth and speak the truth through your verdict.

20 All I ask you to do, ladies and gentlemen, is don't
21 base your verdict on any prejudice, bias, preconceived
22 disposition, or notions. Base you verdict on the evidence,
23 the evidence: no fingerprints matching Mr. Canty, no blood
24 evidence linking Mr. Canty to the crime, no fingerprints on
25 the gun, on the shell casings, on the plastic donut

1 wrapped, in Mr. Flexon's car. Footprints that were at the
2 scene don't match his. Blood stains in the abandoned lot 7
3 don't match him at all. No DNA evidence, no fingerprints,
4 no evidence linking him to the crime. No evidence should
5 equal a no on guilty and a yes on not guilty as to both
6 murder and armed robbery.

7 I ask you again, ladies and gentlemen, that your
8 verdict speak the truth. And that the truth is that the
9 state has not proven its case beyond a reasonable doubt as
10 to murder and armed robbery with regard to Reginald Canty.
11 And I ask you to adhere to your legal obligation and return
12 a verdict of not guilty. Thank you.

13 THE COURT: Thank you, Mr. Deas.

14 Mr. Wilder for Mr. Jackson.

15 MR. WILDER: Your Honor, I'd ask permission to set up
16 and show the video that's in evidence.

17 THE COURT: You may.

18 MR. WILDER: Thank you.

19 (A PAUSE.)

20 MR. MEADORS: Could we ask, could he pull it back a
21 little bit so we could see it also?

22 MR. WILDER: All right. Be glad to.

23 THE COURT: We'll dim the lights at the appropriate
24 time.

25 (A PAUSE.)

1 MR. WILDER: May it please the court?

2 THE COURT: Yes, sir.

3 MR. WILDER: Thank you.

4 All right, ladies and gentlemen of the jury, I thank
5 you for your attention to the evidence that's been
6 presented in the trial. And I'm now going to talk to you a
7 little bit about what, on behalf of Mr. Jackson, that I
8 think the evidence will show.

9 I have positioned the video here at 2101, okay, and
10 this is the state's evidence that's in before you. And I'm
11 going to start the tape rolling here, 2101. Let's see if
12 it will go. Yeah, that's 2116. Now I'm going to stop it
13 right there if I can get to it fast enough. Let's see if I
14 can. There we go.

15 You see a gentleman in the black hood right there?
16 And you have the -- you'll have this tape in evidence, so
17 you can play it when you get in the jury room if you want.
18 But I ask you to note the time date stamped 21:01:19, okay?
19 Now, remember it's an hour off, so we take away the hour,
20 and we're now at 20:01:19.

21 And I challenged all the witnesses. I said are you
22 sure it's an hour off, just an hour, exactly an hour? Did
23 you check it by your clock? No, I -- oh, yeah, it's an
24 hour. We know it was an hour. I, I, believe we had many
25 witnesses, Mackessy that testified an hour off, all that.

1 Okay, so it's an hour. It's an hour.

2 Okay, so 21:01:19, guy in black hood goes in
3 Cherryvale Grocery. Now, I asked all the witnesses when
4 they were testifying. What attempts did you make to
5 identify these people who are on the video? Oh, we don't
6 need to that because Ms. Shannon said that she recognized
7 Daniel Jackson in there. So, you know, they would just go
8 get Daniel Jackson. Okay, but who is this guy? And
9 there's a reason I'm asking that. So, let me let it run
10 some more here.

11 And now 22. Okay, 21:02:11, running. Yes, I believe.
12 Okay, I'm going to let it go fast forward now. I'm moving
13 fast forward, okay. All, now, okay, let's stop it right
14 there. Okay, this is now at date time stamp 21:01:50. Guy
15 in black hood leaves, right, 21:01:50.

16 Now, you remember later on we have references to
17 people in black hoods, okay? Now, all right, bear that in
18 mind, 21:01:50. All right, I'm going to move to another
19 portion of the video now.

20 This is 21:02:34. Now, here is where Mr. Jackson and
21 Mr. -- has been identified as coming in the store, and
22 there is Mr. Canty right next to him. They are now in the
23 store, and it is 21, 21:02:39. Okay, 8:02:39, please
24 remember that because the phone call to Sambino's came in
25 at 8:04.

1 Now, there is no way that anybody who just arrived at
2 this store could have made a phone call that arrives at
3 Sambino's before these two guys come in the store because
4 at 8:04 is when the call comes in. These guys are in the
5 store now at 8:02, all right?

6 In fact, let me, to emphasize that point, let me find
7 one of the state's evidence cards here, if I can locate it.
8 Remember the lady from Sambino's testified she took a
9 picture of the call that came in and what time it came in?
10 That is the call that was made to Sambino's to set up the
11 robbery and the shooting of Mr. Sexon -- Sexton -- Flexon,
12 Flexon, January 12th, 8:04 p.m. And to confirm that, you
13 heard Curt Gowdy testify to that when he testified, too,
14 about the call lasted two minutes and forty-one seconds.
15 And it's in the evidence that you have. That's what I was
16 just showing you is State's Exhibit Number 11 of the call.

17 Let me, let me say something else about that while I'm
18 on it because this exhibit here, State's Exhibit Number 12,
19 is also important when it comes down to that. This is the
20 slip, the order slip that came in from Sambino's for the
21 pizza that was delivered. And what's interesting about
22 that is it lists the time as 8:06 that the call came in.
23 But when the picture was given to Mr. Meadors just two
24 months ago, it actually turns out that the actual call was
25 made at 8:04, okay? And now they say they're still on the

1 phone at 8:06, and the testimony of the other lady at the
2 pizza place there has written 8:06 because she'd gone to
3 ask her husband was it okay to deliver pizza in this area.
4 So, she writes down 8:06.

5 Now, why is this important? Because for two and a
6 half, three years now, the police have been thinking the
7 call was made at 8:06.

8 MR. MEADORS: Objection, Your Honor.

9 MR. WILDER: Well, that's when they got this. They
10 got this, they got this early on. They didn't get this
11 evidence until last month. So, now we know the call was
12 actually made at 8:04, and then we got the records from
13 Curt Gowdy that confirm that. Call was made at 8:04, and
14 it lasted two minutes and forty-one seconds, all right?
15 So, if you're looking for guilt based on what happened over
16 here at the store, we don't have that.

17 Now let's let this run a minute because remember
18 Mackessy testified about a fellow named Junior, I believe
19 was the name he gave, but you were here. You've heard the
20 evidence. Now, did the police talk to this guy? I don't
21 know; we just don't know. What would he have said about
22 who was at the store? And I called him dancing, the guy
23 dancing because you watch him. He's going to be dancing
24 now. He's dancing all around. I don't know why. Look
25 what he's got in his hand: he's got a little cake in his

1 hand. I don't know that's got anything at all to do with
2 this, but there he is, and he's got a little cake in his
3 hand. Is it a Dunkin' Donut cake? I do not know, but
4 you're going to see him go out the door with it in just a
5 minute.

6 Remember black hoodie? The guy in the black hood goes
7 out before him, and now he's going to go out. He's gotten
8 him a cake, and somebody outside is making that call right
9 now while we're watching that video go. Somebody outside
10 is using the pay phone right now at this moment to call the
11 pizza place.

12 And we can't see it because it's off camera, but guess
13 what? It's not Reginald Canty and it's not Daniel Jackson.
14 So, if in consequence of any of those statements you hear
15 that Mr. Canty gave that I saw somebody, or I was with
16 somebody who made the call, couldn't have happened. Did
17 not happen because the two of them were in the store.

18 And this is the state's evidence. They gathered this,
19 and they got it the next day from Mr. Baldwin, who
20 testified about what went on there. And they began to
21 focus on the event that happened at the door as -- now
22 we're going to fast forward to that part of it, but here we
23 are at 2104, okay? Call being made right now. Look it
24 there. There's Mack talking to Reginald Canty at 2104,
25 8:04. Remember the time that was on the evidence here.

1 8:04 right down there, 2104 adjusted for an hour. There's
2 my client right there, and over here is Reginald Canty
3 inside the store, both talking to Mack.

4 You couldn't ask for more perfect proof of the fact
5 that these guys, these guys were not the ones that called
6 any Sambino's Restaurant and set up an armed robbery. That
7 is proof positive, ladies and gentlemen, that they did not
8 do this crime.

9 Now, not only do they not have that going for them.
10 They don't have fingerprints, they don't have footprints,
11 they don't have DNA, and I had to go through bringing all
12 these people over here to show that. And we did. You
13 know, the defendant in a criminal case has no burden of
14 proof; we don't have an obligation. The obligation is on
15 the state to prove guilt beyond a reasonable doubt.

16 We find ourselves carrying this burden of proof before
17 the court, not because we have to, but because we want to.
18 We want you to see this because this is the kind of
19 evidence that creates the reason for a doubt.

20 All right, 21:02:36. Let's see, are we repeating it
21 now? Yeah, okay, let me go to the part of it where they
22 come out of the store so you can see the exact last moment
23 that we can see them. All right, stop. Okay, now,
24 21:04:34 is, I believe, the last moment when they, they go
25 out the door. Okay, you see the door is shutting behind

1 them. I think that's -- I'm going to back it up just a
2 little bit, make sure I got that right. Okay, there they
3 go. There, there is Mr. Jackson on his way out. Okay,
4 still got his foot in the door 21:04:31. Mr. Canty is
5 moving toward the door. Mr. Canty goes to the door
6 21:04:33. Canty goes out last 21:04:35.

7 Now here's a bizarre part. If I got my time figured
8 out right, this, this lasted two minutes and forty-one
9 seconds. If I got my time figured out right, but you do
10 the math on it, figure it out yourself. They pass by
11 somebody who's already on the phone. Now, it would've been
12 possible, I think, for Canty to have overheard somebody
13 ordering pizza. That's how close these ships pass, but I
14 believe they were passing in the night. No connection
15 being proved by the state to anything in the way of a phone
16 call. And, in fact, what the evidence shows, I believe, is
17 that they are not guilty.

18 Now let's fast forward here to the actual crime scene
19 where the shots were fired.

20 If it's all right, I'm going to disconnect this.

21 THE COURT: Yes, sir.

22 MR. WILDER: I'm done with it, Your Honor. All right,
23 cut it off. Set it back a little bit maybe. Don't want to
24 trip.

25 First witnesses who was on the crime scene that

1 testified was Deputy Griffith, now Ms. Thomas. I believe I
2 saw her come in earlier. She might be -- might have gone
3 on out, but Ms. Thomas, she wasn't the first person on the
4 scene. She took, wrote down dutifully like you should do.
5 She took her notes, and she wrote down the people that were
6 already there before she arrived. And with deference to
7 Mr. Meadors, okay, maybe they weren't witnesses, but they
8 were there when she got there, okay?

9 So, I asked about complainants. Tell us who was there
10 when you got there. Okay, Ray Dickey, Jennifer Dickey,
11 Regina Patterson, and Linda Canty is what she said. If you
12 will think, you heard not a one of them. Nobody did the
13 state call to testify what those people saw. Did they take
14 statements? If they did, they aren't in evidence, okay?

15 So, what would they have said? What did they know?
16 Were there two people? Were there three people? Was it a
17 tussle? Was it a fight? We don't know because the state
18 didn't prove it.

19 Now, that's the, that's the thing about a criminal
20 case. The burden on -- is on them. If you go back in that
21 jury room and you don't have a sure, convincing -- your
22 mind isn't made up because you've got a question. You've
23 got a question what, question what would the people have
24 said if they were on the stand testifying. If you can't
25 answer those questions, then you may not convict because

1 that's a reason for a doubt. It's a reason to hesitate to
2 act, to hesitate to convict anybody.

3 They had this information for years. Where are these
4 people? Where are this -- where are these witnesses?
5 Where are the statements? What happened out here? We all
6 want to know what happened. We want to do the right thing.
7 They haven't proved what happened. You can't convict based
8 on speculation.

9 Next, when they get there and they begin to process
10 the crime scene, the testimony is, according to Ms. Thomas,
11 Deputy Griffin, now Thomas, that myself, Corporal Williams,
12 Reserve Figer, Corporal Hice, Sergeant Horton, Sergeant
13 Dukes, EMS, Captain Bradford, Captain Turner, Investigator
14 Barron, Reynolds, Boland, Garden -- Garner, Burnish,
15 Skinner, West, Coroner Vernon Moore, EMS, crime scene
16 people, Mackessy, and Bean. Finally arrive after all of
17 that, and we can't even get them to tell us for sure where
18 the little Debbie wrapper was on the scene. And why are we
19 interested? For this reason.

20 If they find pizza boxes across the street the next
21 day, and they got fingerprints off somebody who stole the
22 pizza on them, we want to know because the fingerprints of
23 whoever stole the pizzas might be likely on the box, as
24 there were fingerprints on the box. And we might likely
25 want to know who those fingerprints belong to. And was the

1 pizza boxes there that night, or did they get thrown down
2 the next day?

3 We don't know because the way the crime scene was
4 processed and the way the information came in to us in this
5 courtroom is all those people were there before anybody
6 took the first picture, and they could have moved anything.
7 Why do you put a piece of tape out there? So many people
8 coming and going, but we don't know whether or not that
9 crime scene was secure or not.

10 All right, the DNA. Mr. West testified that -- he
11 swore under oath that there was some kind of struggle, and
12 that that's why he was looking for DNA to compare with
13 fingernail scrapings under Mr. Flexon's fingernails. So,
14 we call a DNA expert witness and put her on the stand, and
15 she testified, yeah, there was a contributor to the DNA
16 under the fingernails. The loci of the DNA test revealed
17 that they're inconsistent with Daniel Jackson. Not Daniel
18 Jackson, along with no fingerprints, no footprints that
19 belonged to him. No blood on his clothes that belonged to
20 Mr. Flexon.

21 At the end of all of that, she testified yeah, after
22 all that testing, all we proved was that Daniel Jackson had
23 his own pants on at one point in time. And those pants
24 were taken from, we find out, Whitney Drive. And I think
25 if you look at the video, you can find those pants don't

1 even match the ones that are on that videotape. So,
2 they're not even the ones he was wearing that night.

3 If the state, whatever they took into evidence, don't
4 have the Timberland boots that he was wearing that night,
5 and they say that the footprints that were on the scene --
6 they couldn't get anything out of them.

7 AFIS fingerprints, let's talk about that for a minute.
8 You will have in evidence where they requested the
9 fingerprints of one to be compared with the palm print on
10 the door of Mr. Flexon's car. And you heard testimony that
11 they ruled out Mr. Flexon's palm print on there. Now,
12 there is the palm print of somebody who probably committed
13 this crime. It may not be AFIS quality fingerprints, but
14 it is a fingerprints that they can use to exclude people,
15 and specifically who did they exclude? Reginald Canty and
16 Daniel Jackson.

17 And I'm going to show you, let's look at State's 31.
18 That's where a pizza box was found, but it's the next day.
19 All I want to know is was it there that night because we
20 don't know who found it the next day. All we know is they
21 got a call about it. When did it get there?

22 Folks left with a pizza box. This pizza box had a
23 fingerprint on it. I submit it's the one that they can't
24 identify, and so far they apparently have not arrested the
25 person that did this because if they did, they'd be able to

1 tell you who that fingerprint belonged to.

2 Let's talk about blood in number 7 of O.C. Mobile Home
3 Park for a minute. Two identified females have left blood
4 in there. That's the testimony from the DNA expert. Who
5 were they? Well, you know, DNA is like this. They
6 sometimes call it a DNA fingerprint, but what they're
7 talking about is when you got it matched up, you can tell
8 it's them to them exclusion of one 1 in 6 million people,
9 maybe even 6 quadrillion. The numbers are staggering.
10 When they've got it right, they've got it right. They
11 don't have anybody's DNA that they've matched up yet.

12 All right, let me show you another picture. I hate,
13 hate to be showing this, but 49, there is Mr. Flexon's
14 body. I'm sorry about that, and my prayers are also with
15 the family, his family because nobody deserves to have to
16 be shot like that.

17 But I want to show it to you because there isn't
18 anything next to the van over here. But you remember they
19 testified that there was a cell phone on the ground just a
20 few feet away? Isn't it awful curious that Marcus Branch
21 shows up the next day looking for his missing, missing cell
22 phone at the O.C. Mobile Home Park number at the
23 residence of Anthony Rush, where the lady who testified
24 yeah, yeah, yeah. I heard Daniel Jackson say -- three
25 years later now -- yeah, he was looking for some gloves or

1 socks that night earlier, you know. We know that's a lie,
2 too, because at the time she says that happened, they're on
3 the video over that the Cherryvale Grocery.

4 Didn't happen. Who's she covering up for? I submit
5 she's covering up for either Anthony or that other guy that
6 lives over there in her, in her apartment or in her
7 trailer, or lived over there at that time. She's related
8 to both of them.

9 Well, look at this. This is the footprint, State's
10 Exhibit Number 46. Looks to me like you could match that
11 up with a shoe if you had one. Well, we tried to lift a
12 cast on it. Listen. Look at the bottom of the shoe and
13 see if it matches that. You know why they can't identify
14 it with anybody? I submit it's because it don't match
15 nobody in this case, so now they're embarrassed about it.

16 Look at this, and I asked Ms. Rush, who testified.
17 Exhibit 44, that's not Mr. Flexon's hubcap that that
18 Dunkin' Donuts wrapper is next to. It has no fingerprints
19 on it. You can't tell where it came from. It might not be
20 Cherryvale Grocery at all. And there's going to be
21 different testimony about what was bought there. Cake, pie
22 donuts? I don't know, but it's next to somebody's car, and
23 guess what? That's Ms. Rush's car it's next to, not by Mr.
24 Flexon's. And Ms. Rush's car is parked right in front of
25 Mr. Flexon's vehicle where it stopped.

1 Think about this for a minute. If you were going to
2 order pizza and then ambush the pizza man, what you'd need
3 is a place where you can kind of hide and look out, see who
4 was going to be coming. Happens all the time. We have,
5 we've had lots of pizza thefts and robberies here in Sumter
6 County. And I submit that's the way a person would do it.
7 You'd hide in a house and you'd look out and see if the
8 pizza guy came alone, unarmed. What it looks like, and
9 then you'd go running out and then rob him. So, but you
10 wouldn't want to bring him to your house. You'd want to
11 bring him to somewhere right down the street where they
12 couldn't connect it with you like number 9.

13 Here's the inside of Mr. Flexon's vehicle. You see
14 the pizza. No fingerprints on those. Can't tell where
15 that is.

16 All right these, this here is the delivery slip. This
17 is number 39. You'll see that was clipped to Mr. Flexon's
18 car window when he came in there.

19 And then let's go to these right here. The trailer
20 where -- State's Exhibit 37, 38, 35, 36. There, that is a
21 mobile home on St. Mark's Circle where one of the pizza
22 boxes winds up after the shooting, after the robbery, okay?
23 Now, the next day, Daniel Jackson did get a call on his
24 cell phone. We know that the testimony is that he's, he
25 was over at Whitney Drive that -- later that night. He

1 checked in with Lashawnda, and he went to bed.

2 MR. MEADORS: Your Honor, I'm going to object.

3 There's nothing in evidence to that.

4 MR. WILDER: Well, he went to Lashawnda's house. I
5 think it was ---

6 THE COURT: Well, he said he was texting her..

7 MR. WILDER: --- confirmed by Canty.

8 THE COURT: There's nothing about a phone call.

9 MR. MEADORS: He's talking about a phone call. I
10 object.

11 THE COURT: There's nothing about a phone call.

12 MR. WILDER: Well, let me, let me ---

13 THE COURT: So, he texted when he came home.

14 MR. WILDER: He texted, that's right.

15 THE COURT: Texted her at 3:00 in the morning. That
16 was all that was in evidence.

17 MR. WILDER: Okay, texted. I stand corrected.

18 THE COURT: Jury will disregard the prior statement.

19 MR. WILDER: All right, but to text, you need your
20 cell phone, okay? So, Daniel Jackson still had a cell
21 phone at that time the next day, and he talked to -- he
22 called his uncle for a ride, and he got a ride. So, we
23 know that he had that ability. And the point is he -- the
24 cell phone, if there was one at the scene, didn't belong to
25 Daniel Jackson, okay?

1 Now, State's Exhibit Number 52, 51 show the position
2 of the pizza box relative to the victim, and they were
3 drawn by Sergeant Mackessy the next day. And, okay, maybe
4 the Dunkin' sticks wrapper wasn't 130 feet away like Ray
5 Mackessy said, but that was his job to tell you accurately
6 where it was because he was the investigator for the state.
7 And you know what? It's not on this diagram. So, whatever
8 it was found, which I submit this picture is more accurate
9 than any drawing, probably next to the vehicle that was
10 driven by Ms. Rush.

11 All right, let's talk about again St. Mark's Circle,
12 the trip to get -- the ride the next day. Isaac Boyd went
13 over probably -- although they didn't prove it, I don't
14 think, but probably by -- to State's Exhibit 36, this
15 mobile home. He was in there two minutes, if he went in,
16 two minutes. I don't know whether testimony reveals that
17 he went in or just went there, and Curtis Wheeler gave him
18 this gun. That's the next day. That is the first time
19 that Daniel Jackson ---

20 MR. MEADORS: Your Honor, I object. I don't think
21 there's testimony that Curtis Wheeler gave him ---

22 THE COURT: There was no testimony. Said they went
23 in, and then they came out with the gun. Didn't say who,
24 who he got it from.

25 MR. WILDER: Then wasn't the testimony two, two

1 minutes?

2 THE COURT: He went in and came out. Didn't say who
3 gave it to him.

4 MR. WILDER: Didn't he testify, Your Honor, that
5 Curtis Wheeler was there?

6 THE COURT: Curtis Wheeler was with him, but he didn't
7 say Curtis Wheeler gave it to him.

8 MR. WILDER: Okay. So, but that's who the gun --
9 where he, where he was when he got the gun, and Curtis
10 Wheeler was there.

11 Now, I'm not trying to suggest that you substitute
12 what I'm telling you for what you heard on this witness
13 stand. In fact, I'd much prefer that you use your own
14 memory, your own recollection as to what you heard. But
15 the facts show that Daniel Jackson didn't have that rifle
16 until he went to this location and he met Curtis Wheeler.
17 And at that location, we know that there were some uneaten
18 pizzas or uneaten, an uneaten, uneaten pizza and a pizza
19 box.

20 Again, no fingerprints of Mr. Jackson on any pizza,
21 pizza box, but doesn't that kind of sound like whoever did
22 commit this robbery went there with the pizza box the night
23 before? And so if Mr. Curtis Wheeler was there, as I
24 submit the evidence proves, that maybe Mr. Curtis Wheeler
25 had something to do with it.

1 MR. MEADORS: Your Honor, objection.

2 THE COURT: Sustained. Mr. Wilder, stick to what is
3 in evidence, please.

4 MR. WILDER: All right, let's turn to the reports that
5 are in evidence. State's Exhibit Number 58, Jeff's
6 Parrott's testimony. Now, this report dated December 2,
7 2008, which is all the way almost to the end of 2008.
8 Remember this is January 12th, the beginning of 2008 the
9 beginning, beginning of the year. Now we're toward the end
10 of the year. And we see that over at SLED, they're
11 processing a Winchester 30-30 shell casing which has come
12 in to them. And here is the listing of those people that
13 are on there as a victim and suspects, and now listed as
14 suspect is Marcus Branch.

15 Back at the beginning of the year, January 18, 2008,
16 we have a similar latent print report in evidence from Mr.
17 Parrot. And he says that these partial prints and whatnot,
18 no value for identification, but guess what? He's asking
19 that in order to further process some of the prints they
20 have taken, he wants them to give them more fingerprints.
21 Send us some more: Please submit complete fingerprints and
22 palm prints for further examination. Well, I don't know if
23 and when they did that, but we find out that when he issues
24 his next report, that the latent prints say:

25 Latent impression represented on Styrofoam

1 cartridge holder containing Winchester 30-30
2 cartridges not identified with Daniel Jackson.
3 They are not identified with Reginald Canty.
4 Latent impression represented on one unfired
5 30-30 cartridge from the Styrofoam holder not
6 identified with Daniel Jackson. Not identified
7 with Reginald Canty.

8 Now, this is what I want to ask you. Since this is
9 all evidence in this case, how are you going to feel when
10 they do identify who that print belongs to?

11 MR. MEADORS: Objection, Your Honor.

12 THE COURT: Sustained.

13 MR. WILDER: Or how will we, how will ---

14 THE COURT: Let me have a sidebar over here.

15 MR. MEADORS: Your Honor.

16 (OFF-THE-RECORD BENCH CONFERENCE.)

17 THE COURT: Jury will disregard the last statement in
18 its entirety.

19 Mr. Wilder, you may proceed as directed by this court
20 specifically.

21 MR. WILDER: Yes, Your Honor.

22 All right, so State's Exhibit Number 77 not identified
23 with Mr. Canty, not identified with Mr. Jackson.

24 All right, State's Exhibit 83, GSS -- SR kit was
25 William John Flexon. What I want to say about that is you

1 heard testimony from the witness stand that Mr. Flexon had
2 gunshot residue on the back of his right hand. Now, that
3 -- although there's different opinions about what might
4 cause that gunshot residue, one of the opinions about what
5 might cause it would be if Mr. Flexon had a gun in his
6 right hand and fired it. Now, I'm not here to tell you
7 that it happened, but I'm here to tell you that that's what
8 the GSR residue shows. And so you have to decide what you
9 think that ought to mean back in the jury room.

10 Did that mean that he was -- that he had a gun and
11 shot it in self-defense, or he had a gun and shot at
12 somebody? You know, I don't know; I just don't know what
13 it means. But remember they've got the burden of proof.

14 (A PAUSE AS DISTRAUGHT MEMBER OF THE VICTIM'S FAMILY
15 EXITS THE COURTROOM.)

16 MR. WILDER: May I proceed, Your Honor?

17 THE COURT: You may proceed.

18 MR. WILDER: Thank you, and that's one of the sad
19 things about what we do up here because when you have
20 evidence and it shows something, you just have to present
21 it like it is. That's SLED's report.

22 All right, let's move on to State's Exhibit Number 6.
23 Mr. Canty told so many different stories, and that's one
24 thing I do agree with Mr. Deas on when he said, well,
25 somebody might say you tell so many different stories that

1 you don't know when he's telling the truth or when he's
2 not. What I want to say about that is you decide from what
3 he said whether you think he was ever telling the truth to
4 law enforcement.

5 But doesn't it sound like, and I ask this question for
6 you to consider. This is rhetorical; I'm not looking for
7 an answer. But when you get in the jury room, kind of ask
8 yourself this question. Doesn't it sound like a sixteen
9 year old who's just trying to cooperate with the police,
10 who starts telling them anything he thinks they want to
11 hear? Because that, I believe, is kind of what it sounds
12 like.

13 We know that Mr. Jackson went in the store that night.
14 We know he was in there when the call was placed from the
15 outside cell phone. We know that he went out the door
16 approximately the same time Mr. Canty did. We do not know
17 anything else about where he went that evening from the
18 record. There is not one bit of evidence that would
19 establish whether he went left or right after he went out
20 of that door. There's not one bit of evidence that would
21 establish whether he went anywhere back to the Cherryvale
22 O.C. Mobile Home Park, or whether he went home to Whitney
23 Drive, or whenever he got there. There's just not one bit
24 of evidence to establish any of that. Not from Mr. Canty's
25 statements, not from the state, not from anybody who was

1 out there that night. There is simply no evidence in the
2 record.

3 The burden is never on the defendant to show what
4 happened. It is on the state. The state has not shown
5 that he was connected with this offense in any way, shape,
6 or form. Therefore, I must ask you to return a verdict of
7 not guilty for Daniel Jackson.

8 I don't believe you have any choice in the matter if
9 you follow the law that the judge will give you. There is
10 just not one bit of evidence, I submit, that would
11 establish that he had anything to do with this shooting.

12 Now, did he pick up a rifle from that mobile home
13 where Curtis Wheeler was? Yes. Did he take it over to
14 Summerton? Yes. They say, well, he ran away when the
15 police came. I remind you that there is no evidence that
16 Daniel Jackson knew the police were coming to talk to him
17 specifically. He just knew that they were police, and he
18 left. No evidence to show that they knew he was the one
19 they wanted to talk to.

20 But later when he talked to Ms. Andrea Russell, why
21 were they here? They're looking for you, Daniel. Okay.
22 I'm going to call my aunt, Angela Boyd, get a ride, and I'm
23 going to Sumter. I'm going to turn myself in. And he came
24 here and he turned himself in.

25 And how did I have to fight with Mr. Burnish over

1 there to get that simple fact? They don't want to say it
2 that. Oh, he wasn't there. Run, run, run. That's what
3 they want you to think, but no. He turned himself in.

4 And then as they're talking to him, they advise him he
5 has a right to an attorney, and they say no, I'll talk to
6 you. Talk to you. He waives his right to an attorney, and
7 he agrees to talk to them. And then they, then they won't
8 take any notes. They didn't take any notes. No notes.
9 Compare that to Reginald Canty, who they seem to be writing
10 down everything he said.

11 Did they record it? No. Did they videotape it? No.
12 And then I asked him, well, what order did you serve him
13 with the warrants in? Well, that's important because if
14 they served him with the armed robbery warrant and he said,
15 well, how can I be guilty of armed robbery? I didn't, I
16 didn't steal anything from the pizza guy. And then they
17 say and you're also charged with, with murder, and then
18 they terminate the interview.

19 MR. MEADORS: Your Honor, objection. Can we approach?

20 THE COURT: You may.

21 (OFF-THE-RECORD BENCH CONFERENCE.)

22 THE COURT: The objection is sustained. Mr. Wilder
23 will rephrase his statement.

24 MR. WILDER: I want to be accurate and find the form
25 that this information is on.