

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SC Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No 2011-CP-10-0571

Michael Dunham, 313860,

Petitioner,

v

State of South Carolina,

Respondent

APPENDIX
VOLUME I of II

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SAW 2004 12 05768

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

CCSO, BOYD

OCA# 20J4027539B

ARREST WARRANT NUMBER

H865891

December 14, 2004

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

NOV - 7 2005

VERDICT

Guilty of Murder

[Signature]

Foreperson of Petit Jury

2-15-06

DOCKET NO 2005 GS 10

8285

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2005

THE STATE

v

MICHAEL BARNEY DUNHAM

Indictment for

MURDER

FILED
2005 NOV - 9 PM 2 12
CLERK OF COURT
1100 NG

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) COURT OF GENERAL SESSIONS
3 No 2005 GS 10 828L

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7) (Partial)
8)
9 MICHAEL BARNEY DUNHAM)
10 Defendant)

Charleston, South Carolina
February 13, 2006

11 B E F O R E

12 HONORABLE ROBERT PATTERSON, Judge, and a Jury

13 A P P E A R A N C E S

14 For the State SCARLETT WILSON, Esq
15 Assistant Solicitor
16 For the Defendant RODNEY DAVIS, Esq
17 Assistant Public Defender
18 Reporter GAYLE BURNS

19
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1 (The within matter came before the Court on February 13,
2 2006)
3 THE COURT Ladies and gentlemen, I'm Judge Patterson,
4 and I'll be with you in Criminal Court this week I look for-
5 ward to that
6 Do we have anything to take up before we select the
7 jury?
8 SOLICITOR Nothing from the State, Your Honor
9 MR DAVIS Your Honor, we would request formal arraign-
10 ment
11 THE COURT He has not been arraigned?
12 MR DAVIS No sir
13 THE COURT What's the State's position?
14 SOLICITOR We have no objection to that
15 THE COURT All right Hand me up the indictment
16 Solicitor
17 SOLICITOR Yes sir
18 THE COURT You are Michael Barne, Dunham?
19 DEFENDANT Yes sir
20 (Whereupon, the Defendart was formally arraigned by the
21 Court and entered a plea of not guilty to the charge of
22 murder)
23 THE COURT How do you wish to be tried?
24 DEFENDANT By God and my Country
25 THE COURT We're going to select a jury for your case

1 Have a seat

2 Ladies and gentlemen, we're going to select a jury where
3 the allegations are murder, and these are simply allegations
4 at this time because the Defendant pleads not guilty

5 Do any of you know Mr Dunham who was standing up here?
6 If any of you know Mr Dunham, would you please stand?

7 (No response from jury panel)

8 If any of you have heard anything about this case, where
9 the allegations are that Anthony Gambrel was murdered, on
10 December 13, 2004 or if any of you have read anything or
11 heard anything about this case, would you please stand?

12 (No response)

13 All right, ladies and gentlemen have any of you been a
14 victim of a violent crime, such as aggravated assault and
15 battery or assault and battery of a high and aggravated nature
16 or robbery or attempted murder, or anything of that nature --
17 assault with intent to kill -- if any of you have been a vic-
18 tim of a violent crime, or any members of your family or
19 close friends have been a victim of a violent crime or if
20 you have been accused of a violent crime and you could not
21 be fair and impartial in the trial of this case, please if
22 you will stand and tell me about that

23 If you have been the victim of a violent crime or been
24 accused of that You will take an oath and you have to
25 follow that oath to give the Defendant and the State a

4

1 fair trial

2 If you could not do that because you have been the vic-
3 tim of a violent crime or accused of a violent crime, you
4 must tell me now

5 (No response from jurors)

6 Do any of you have any friends or relative who work in
7 the Circuit Solicitor's Office, which will be prosecuting this
8 case for the State?

9 Or any friends or relatives who work in the Public De-
10 fender's Office? You are with the Public Defender?

11 MR DAVIS Ye , sir

12 THE COURT Do you have any frierds or relatives who
13 work or have worked for the Circuit Solicitor or the Public
14 Defender? If so, would you please stand

15 (No response from juro s)

16 Ladies and gentlemen, do any of you have any close
17 friends or relatives who work in law enforcement? If so,
18 would you please stand?

19 Yes, maam? Your name, please?

20 JUROR My name is Kaye Davis, and I have a relative who
21 was a police officer in Califo nia, and I have a brother-in-law
22 who worked for the Charleston County Police Department at
23 one time

24 THE COURT When was that?

25 JUROR I'm not sure but it was some time ago

1 THE COURT The fact that you, brother in law worked
2 here some time ago and you have another relative who works in
3 law enforcement, would that prevent you from being a fair
4 and impartial juror in this case?
5 JUROR I don't think so
6 THE COURT Well, you'll have to tell me specifically
7 because you will be taking an oath, and if we cannot count
8 on you to be fair and impartial to both sides in the case
9 we need to know that
10 Could you do that?
11 JUROR Yes, sir
12 THE COURT Yes, maam What is your name?
13 JUROR Carol Jernigan I have an uncle who was a police
14 officer in North Carolina, and he was killed in the line of
15 duty
16 THE COURT Well, the fact that your uncle worked in law
17 enforcement and was killed in the line of duty, would that
18 keep you from being fair and impartial in this case?
19 JUROR Yes, sir
20 THE COURT I'm going to excuse you Just have a seat
21 Thank you so much, maam
22 Yes, your name?
23 CLERK That's Juror Number 21
24 JUROR My sister worked in law enforcement in Charleston
25 County

1 THE COURT Would that fact prevent you from being fair
2 and impartial to the State and to the Defendant in this case?
3 JUROR No, sir
4 THE COURT You can be fair and decide this case only on
5 the evidence and the law?
6 JUROR Yes, sir
7 THE COURT Thank you Yes, maam, your name?
8 JUROR My name is Yolanda Pruitt I don't know if I
9 can do that or not, but my son's father was murdered in July
10 of 2004
11 THE COURT Your son s father?
12 JUROR Yes, sir
13 THE COURT What is your juror number?
14 JUROR It's 256
15 THE COURT Could you be fair and impartial in this
16 trial?
17 JUROR Yes
18 THE COURT The fact that your son's father -- you all
19 were not married?
20 JUROR No
21 THE COURT Did he arrest someone or
22 JUROR It was not on the job that he was killed
23 THE COURT Okay, so you can be fair to the Defendant
24 and fair to the State?
25 JUROR Yes

1 THE COURT If you were chosen as a juror, you could follow
2 your oath?

3 JUROR Yes

4 THE COURT All right Yes, maam?

5 JUROR Karen Woolworth My brother works for an at-
6 torney and

7 THE COURT Do you know whether he has a commission or
8 the power to make arrests?

9 JUROR No, I don't

10 THE COURT Would that affect your ability to be fair and
11 impartial?

12 JUROR No

13 THE COURT Yes maam?

14 JUROR I'm Juror Number zero five, and my brother is
15 a police officer with the New York City Police

16 THE COURT Would that affect your ability to be fair and
17 impartial?

18 JUROR No

19 THE COURT Would you be fair to the State and fair to
20 this Defendant?

21 JUROR Yes, sir

22 THE COURT Your name, maam?

23 JUROR (Name not audible on tape) My brother is with
24 the City Police Department

25 THE COURT The fact that your brother works for the

1 City, could you be fair and impartial to the State and to
2 this Defendant?

3 JUROR Yes, sir

4 THE COURT The fact that your brother works as a police-
5 man would not affect you in this case?

6 JUROR No

7 THE COURT All right These witnesses may or may not
8 testify in this case -- all of these witnesses probahly will
9 not be called, but if you know any of them, I need for you to
10 stand and tell us

11 Julie Jacques, J A C Q U E S

12 Rayshawn Green

13 Patricia Rodriques

14 Vincent Brown

15 Ronnie Royal

16 Robert Curley

17 Chris White

18 James Mitchell

19 Ranie Green

20 Raynell Green

21 Steven Johnson

22 Jean Mitchell

23 Justin Lemon

24 Victoria Martin

25 Shawn Washington

1 Detective Gary Skaggs
2 Investigator Denise Catlett
3 Investigator D H Owen
4 Sergeant Willoughby of the Charleston County Sheriff's
5 Office
6 Anybody know any of those? If you do, please stand
7 up
8 Detective Cuttino
9 Detective B J Boyd
10 Detective Diane Turner
11 Detective Tarichio
12 Detective Mike Anderson
13 Detective Naomi Morris
14 Detective Steve Bunze
15 J E Brinson
16 Deputy Horne
17 Detective David Stanley
18 Investigator Roy
19 Investigator Kinsey, North Charleston Police Department
20 Investigator Al Hallman
21 Bruce Barrus, B A R R U S
22 Casey Payne with SLED
23 Dr Presnell, Medical University
24 Ray Wooten, Coroner
25 Yes, maam Your name?

10

1 JUROR Anita Lane I know the Coroner

2 THE COURT The fact that the Coroner may testify, would
3 that affect your ability to be fair and impartial

4 JUROR No, sir

5 THE COURT Ladies and gentlemen, the attorneys in this
6 case will be Ms Scarlett Wilson and Rodney Davis Would
7 you stand up, please?

8 Do any of you know the lawyer representing the Solicitor's
9 Office and the lawyer for Mr Dunham, Mr Davis?

10 Thank you

11 (No response from jurors)

12 Ladies and gentlemen, we can ask you every conceivable
13 question, but it is very important that we have a jury who
14 can be fair and impartial in a criminal case

15 If you could not be fair and impartial, or if you have
16 any problem with our system of justice, or if you have had any
17 contact with the Court or with law enforcement, lawyers, and
18 if you have a feeling about that where you could not be fair
19 and impartial in the trial we need to know that We need
20 to select a fair and impartial jury

21 If you could not be a fair and impartial juror under our
22 system of justice, if you could not follow your oath, be
23 fact finders, and reach your decision upon the testimony and
24 evidence you hear in this Courtroom -- you have to apply the
25 facts to the law and write a verdict that speaks the truth

1 If you could not do that, please stand
2 (Juror standing)
3 Please come down here
4 (Juror approaching the bench with counsel, for a colloquy
5 with the Court that did not appear on the record)
6 THE COURT I will excuse that lady for cause because
7 she said she cannot serve
8 They tell me there are possibly three other witnesses
9 that I need to ask you about Do any of you know a Kwana
10 Brown? Do you know Dorothy Jones or Lavante Jones?
11 (No response from jurors)
12 All right, I believe the jury is qualified We will
13 select a jury in this case
14 There will be ten challenges for the Defense and five
15 for the State
16 (Whereupon, a jury was selected and struck as follows
17 Juror Number 122, seated
18 Juror Number 184, seated
19 Juror Number 37, excused by Defense
20 Juror Number 23, excused by Defense
21 Juror Number 256, excused by Defense
22 Juror Number 76, seated
23 Juror Number 148, seated
24 Juror Number 24, excused by Defense
25 Juror Number 145, seated
12

1 Juror Number 290, seated
2 Juror Number 47, seated
3 Juror Number 214, excused by the State
4 Juror Number 309 excused by the Defense
5 Juror Number 79, seated
6 Juror Number 251 seated
7 Juror Number 25 seated
8 Juror Number 3, excused by Defense
9 Juror Number 173 excused by State
10 Juror Number 261, excused by Defense
11 Juror Number 149 excused by Defense
12 Juror Number 7, excused by Defense
13 CLERK The Defense has one strike remaining
14 Juror Number 316 seated
15 Juror 205, seated
16 CLERK That makes twelve jurors We ll now strike
17 for the alternate Strikes are two and one
18 Juror Number 59 excused by State
19 Juror Number 212 excused by Defense
20 Juror Number 6 excused by Defense
21 CLERK Defense has exhausted its strikes
22 Juror Number 185 seated
23 CLERK Your Honor the jury has been selected
24 THE COURT Any challenge on the jury, Ms Wilson?
25 SOLICITOR No, sir

1 THE COURT By the Defense?

2 MR DAVIS No, Your Honor Thank you

3 (Conference at the bench between counsel and the Court
4 off the record)

5 (Jurors not drawn for the trial of the within case
6 excused by the Court from the Courtroom)

7 THE COURT Ladies and gentlemen, you are the jury in
8 this case, and from this time forward you may not discuss
9 this case with anyone Do not talk to each other about it

10 Do not discuss this case until it is over and I tell
11 you to begin your deliberations in the jury room We trust
12 you to do that

13 We can t keep you separated We only do that in death
14 penalty cases where we put you in hotel rooms and have the
15 officers look after you

16 We trust you not to talk to anyone about this case If
17 you overhear anyone talking about the case, report the names
18 and we will see what needs to be done

19 Before we start this trial, I'm going to let you step
20 back to the jury room for just a few minutes and let me go
21 over some matters of law that the attorneys may have

22 You know about as much about this case as I do, because
23 I just got down here this morning, in fact You and I will
24 hear this case together

25 I will rule upon matters of law I cannot discuss the

14

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) COURT OF GENERAL SESSIONS
3) No 2005 GS 10 8285
4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7) (Partial)
8 MICHAEL BARNEY DUNHAM)
9 Defendant)
10)
11) Charleston, South Carolina
12) February 13 2006
13 B E F O R E
14 HONORABLE ROBERT PATTERSON, Judge, and a Jur
15 A P P E A R A N C E S
16 For the State SCARLETT WILSON, Esq
17 Assistant Solicitor
18 For the Defendant RODNEY DAVIS, Esq
19 Assistant Public Defender
20 Reporter CAYLE BURNS
21 HARRIET P BENNETT
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24 Ladson, S C
25 29456

1 facts with you You are the sole judges of the facts, the
2 credibility and believability of each and every witness re-
3 gardless of who that witness is

4 You pass upon the credibility and the believability
5 of all the witnesses who testify

6 I'm going to let you step out When you come back in,
7 we will probably have time for the opening statements and
8 then we will break for lunch

9 The jury room is where you will be deliberating and where
10 you will be taking your breaks, so you might as well become
11 familiar with it

12 (Jury excused from Courtroom)

13 THE COURT Okay do we have anything we need to take
14 up before we start?

15 SOLICITOR Your Honor the Defendant has made a motion
16 regarding the identification procedure used for the photo
17 lineup

18 So we need to have a Neal v Biggers hearing

19 THE COURT Okay All right, is that true?

20 MR DAVIS Judge, to be more definite than that, yes,
21 there was a lineup shown and the evidence we have is that
22 the girlfriend of the deceased alternated between my client
23 and picking another person when shown the lineup

24 I am not sure if the State has motioned -- I made a
25 motion to prohibit her from identifying my client since she
15

1 did not identify him prior to now She had an opportunity to
2 do so, but she didn't

3 THE COURT Who is doing the identification? Who is
4 going to make the identification?

5 MR DAVIS Well, at this point no one has, and I guess
6 that is our position

7 THE COURT He says he objects to an in-Court identi-
8 fication

9 SOLICITOR Your Honor, I believe in the cases that I ve
10 handed up to the Court earlier this morning that they hold
11 that an in-Court identification is proper even after the line-
12 up has been shown and even if the person who is shown that
13 lineup is unable to make a positive identification

14 I don't know whether or not the victim in this case
15 will be able to identify him here but if she is able to I
16 think that any objection Mr Davis has as to the identifi-
17 cation would go to the weight Your Honor and not to the
18 admissibility

19 THE COURT Well, I don't know anything about the cir-
20 cumstances surrounding the identification I don't know if
21 there is a real dispute as to whether or not he was at the
22 scene

23 Is there a dispute as to whether he was there or not?

24 MR DAVIS Yes, Your Honor Judge, if I may, I'm not
25 sure if he is in the Courtroom, but since we're having this

16

003

1 discussion obviously now (portion not audible on tape)
2 Judge, if you want me to be heard on the State's case,
3
4 THE COURT You can respond as you want to
5 MR DAVIS Yes, sir
6 THE COURT How would she have seen the Defendant?
7 SOLICITOR Your Honor, she saw the Defendant at the
8 scene She saw -- I believe she will be able to identify
9 him as the shooter at the scene
10 That's the only time she's ever seen him, to my know-
11 ledge
12 (Brief pause in the proceeding)
13 THE COURT All right I will excuse the jury Bring
14 them back in
15 (Jury returned to Courtroom)
16 THE COURT Ladies and gentlemen, it will take a little
17 bit of time -- I'm going to have to hear some testimony in
18 the case before we start the trial, so I'm going to excuse
19 you for a lunch break at this time
20 The bailiff will show you how to get out and how to get
21 back in Be back at two fifteen, back in the jury room
22 (Jury excused from Courtroom)
23 THE COURT Solicitor
24 SOLICITOR The State would call Investigator Denise
25 Catlett
17

004

1 DENISE CATLETT, being
2 duly sworn, testified as follows out of the presence of the
3 jury
4 CLERK Please be seated State your full name for the
5 Court and spell your last
6 WITNESS Denise Catlett, C A T L E T T
7 DIRECT EXAMINATION
8 BY SOLICITOR
9 SOLICITOR Your Honor, for the purposes of this hearing,
10 I will just go straight to the identification issue
11 Q Investigator Catlett, you are employed with the
12 Charleston County Sheriff's Office?
13 A Yes
14 Q And were you involved in the investigation of the mur-
15 der of Anthony Gambrell in December of 2004?
16 A I was
17 Q On the night of December 13th, or the early morning
18 hours of December 14th, did you have occasion to meet with
19 Gina Brown?
20 A I did
21 Q And can you tell the Court where you met with Ms
22 Brown?
23 A Detective Turner and I actually met with her to show
24 her some photo lineups of a suspect in this case
25 Q And where did you all do that?

18

025

1 A I don't remember but I believe it was her aunt's house

2 Q Now, the photo lineups that you were going to present
3 and that you did present to Ms Brown, how did you or other
4 officers develop the suspect to know what to put in the
5 lineup?

6 A

7 Q Or know the characteristics to have in the lineup?

8 A When we develop a suspect, we will call the detention
9 center and tell them who the person is, and they actually do
10 the photo lineups for us

11 Q Okay Had she given you a physical description of the
12 people she had seen at the scene -- had Ms Brown given you
13 a physical description of people she had seen at the scene

14 A Yes, she had

15 Q Okay, and did you look at the lineup to see if the men
16 depicted in the lineup generally met that description?

17 A Yes

18 Q And did they?

19 A They did

20 Q Before you showed Ms Brown each lineup, did you go
21 over the Charleston County Sheriff's Office's photographic
22 lineup information sheet with her?

23 A I did

24 Q I'm going to show you what has been previously marked
25 as State's Exhibit 29 and 30 Do you recognize those?

19

1 A Yes, I do

2 Q Are those the information sheets and the actual photo
3 lineups that you showed to Ms Brown?

4 A Yes

5 Q Now, first of all, with regards to State's Exhibit 29,
6 the information sheet Can you tell the Court what instruc-
7 tions you gave Ms Brown regarding that photographic lineup?

8 A Yes I would have read to Ms Brown that form (Read-
9 ing State's Exhibit 29 to the Court)

10 I read that to her on both of them when we showed them
11 to her

12 Q And in regard to State's Exhibit 29, when you showed
13 Ms Brown that lineup, did she indicate to you that she
14 recognized anybody?

15 A She said this person, this gentleman here

16 Q Is that the bottom center?

17 A It is

18 Q And who did she identify that person as being?

19 A She said that it was the passenger on the bike -- ne
20 was in the back seat of a car but he had actually been on
21 a bike with Anthony

22 Q Anthony was the victim?

23 A Yes

24 Q Did she hesitate before picking him out?

25 A

20

1 MR DAVIS Your Honor, I'm going to object

2 THE COURT I would note your objection

3 BY SOLICITOR

4 Q Did she indicate that that was the person with the
5 shooter?

6 A Correct

7 Q And after showing Ms Brown -- well, let me ask you
8 this

9 Did you encourage or suggest to Ms Brown who she
10 should pick out in these lineups, in either lineup?

11 A Mr Jeter -- she picked him out immediately, and then
12 when we showed her one of Mr Dunham she was torn between
13 the two photos, and we did ask her to sit down

14 She -- when we showed her the photos, she became vis-
15 ibly upset, and she was crying and she couldn't control her
16 breath

17 We had her sit down and I told her to close her eyes
18 and go back to that scene when it had happened, and then
19 she looked at the photos

20 She couldn't choose between number three and number
21 five because one had darker skin So we told her not to
22 look at skin color just to look at the facial features,
23 and she was torn between them just because of the color of
24 the skin in one photo

25 Q Okay So the photos that you showed her were black

21

1 and white?

2 A Yes These are the actual photos that I showed her, or
3 photo lineup

4 Q Now, did you tell her who she should pick out?

5 A No

6 Q Did you tell her the person who did the shooting was
7 definitely in those photos?

8 A No

9 Q When she saw the lineup, how long did it take her to
10 narrow the six photographs down to two photographs?

11 A After she calmed down, it was immediate that she
12 pointed to number three and number five

13 Q Now, she signed off on three?

14 A Correct And she went with number three because
15 of the skin

16 Q Number three?

17 A Yes

18 Q And you wrote in on the information sheet some inform-
19 ation?

20 A I did

21 Q And what did you write?

22 A That she wasn't sure between number three and number
23 five because one had the darker skin but the two looked
24 alike

25 Q And did Ms Brown sign that after you wrote that?

22

1 A She did, yes

2 Q So after you finished with State's Exhibit 30, was it
3 your understanding that you did not have an identification
4 at that point?

5 A I felt -- I guess I don't understand what you mean

6 Q Well, you wrote on this information sheet she wasn't
7 sure between three and five

8 A Right Based on information that we had that led us
9 to show her the photographic lineup, I felt like we had a
10 good identification

11 Just because she did not specifically state number
12 five Mr Dunham I felt like we had the right people

13 Q Okay Did she say absolutely, positively it was number
14 three who committed the shooting?

15 A No, she was torn between number three and five

16 Q Eventually she wrote her name across it?

17 A Yes We asked her to write her name on the one that
18 she thought was closest, and she said number three

19 Q Now, I'm going to show you State s Exhibit 31 Is this
20 a copy of the same lineup as State's Exhibit 30 without the
21 signatures?

22 A Yes, maam

23 Q Now, if you could look at number three and number five
24 - number three and number five that you said Ms Brown was
25 torn between did those two appear similar?

23

-

0 1 0

INV CATLETT IN CAMERA

1 A Yes, they did

2 Q The difference between them would be their complexion?

3 A Yes

4 SOLICITOR Your Honor I would hand State's Exhibits 29
5 and 30 up to the Court

6 (Brief pause in the proceeding)

7 SOLICITOR That s all the questions I have for the
8 witness

9 THE COURT Mr Davis

10 CROSS EXAMINATION, out of the presence of the jury

11 BY MR DAVIS

12 Q Now, this shooting happened on December 13, 2004?

13 A Yes, sir

14 Q And did you get a chance to try to speak to Ms Brown
15 at the hospital?

16 A No, I did not respond to the hospital

17 Q So it wasn't until

18 A I didn't meet her until I showed her the photo lineup
19 That was the first time I met her

20 Q And that was on December 14th at 3 58 in the morning?

21 A

22 Q Is that the approximate time?

23 A Yes

24 Q And you showed her several different lineups?

25 A There were four lineups, yes I don't remember though

24

011

1 if we showed -- I think we showed her those two
2 If I show them, I complete the sheet and I didn't on
3 the other two, so I don't know if I showed them or not
4 Q So how many photo lineups did you have prepared?
5 A There were four
6 Q So, four suspects?
7 A Right
8 Q And you said that the time would be listed on the
9 sheet?
10 A That's right
11 Q So if I show you what's marked as State's Exhibit 30,
12 would it help you remember what time this happened?
13 A It would have been on February 14th, '04, at three fifty-
14 eight A M
15 Q And did you also show Ms Brown Mr Jeter's photo array?
16 A I showed Mr Jeter's first
17 Q Mr Jeter's first Okay and then you showed her the
18 second photo array which would have been the one that in-
19 cludes my client Mr Dunham, and then she visibly became
20 upset?
21 A Yes, sir
22 Q Started crying?
23 A Yes
24 Q Couldn't breathe or couldn't control her breath?
25 A Right
25

1 Q Okay, and is it at that point that you indicate --
2 well, who else was with you then?

3 A Detective Turner was with me

4 Q And any other officers?

5 A No, sir

6 Q Were there present any of Ms Brown's family members?

7 A Yes

8 Q Were they assisting in this investigation?

9 A No, they were not Her son was also there too

10 Q And so it was at that point that she became visibly
11 upset, and you had her sit down and close her eyes and --
12 that's what you told her?

13 A Yes, sir

14 Q You asked her to go back to the time it happened?

15 A Right

16 Q And you asked her not to focus on the skin tones, is
17 that right?

18 A

19 Q And was in response to her saying

20 A At first, it was just, calm down take a breath relax,
21 you know Close your eyes and think about what happened
22 You know, that was just to get her calmed down and
23 then we showed her the photos again and she was looking at
24 it, and she was between three and five, but three -- the
25 skin was darker

26

1 And that's when I said, well, don't look at skin color
2 Look back and think about facial features

3 Q Now, you said -- are you the one who requested the
4 photo lineups?

5 A I did not I was just the detective that showed the
6 photo lineups

7 Q You did review them before you showed them?

8 A We would have reviewed them Right

9 Q And the purpose of that is to make sure that what you
10 are showing to the witness generally fits the description
11 of the suspects?

12 A Right

13 Q And not only that, but that the photos in each set are
14 pretty similar to each other?

15 A Similar as in features, you mean?

16 Q Correct

17 A Right

18 Q You want people with similar features in each six
19 person array you show, and so you reviewed those before
20 showing them to Ms Brown?

21 A Correct

22 Q And in Mr Jeter's, all six were similar?

23 A Yes

24 Q As to Mr Dunham's spread, all six were similar?

25 A Yes

27

- -

014

1 Q And so after she had said -- after you asked her not to
2 focus on skin color but look at facial features, what then
3 happened?

4 A She picked photo number three, and we asked her to go
5 ahead and write her name on that We completed the sheet
6 and she signed the sheet, and then we talked briefly about
7 what had happened that day, and then we left

8 Q When you read what is on this photo lineup information
9 sheet, it indicates that the people in this photo display
10 may not be -- the person who committed the offense may or may
11 not be among these photos?

12 A Right

13 Q But obviously you want them to let you know if they --
14 how do you convey that request to them?

15 A I don't understand what you mean

16 Q Do you say, if you see anyone you recognize then

17 A No I just read the words on the sheet and then I
18 give them the photo lineup to look at

19 Q Okay, and as to Mr Jeter's, she immediately identi-
20 fied his photo?

21 A Right

22 Q And she just signed the

23 A She signs and then we -- it just happened that she
24 said it was the passenger and he was on the bike

25 Q And so then on Mr Dunham's, she wrote her name across

1 number three?

2 A Right, and I put on there what she had said

3 Q So that is your handwriting on the cover sheet?

4 A That is my handwriting, yes

5 Q Just a moment

6 A Okay

7 Q No further questions

8 REDIRECT EXAMINATION out of the presence of the jury

9 BY SOLICITOR

10 Q And in showing photo lineups, do you always give in-
11 structions to people who are viewing the lineups about con-
12 sidering hair and other things that could change?

13 A I never have, no maam

14 Q All right

15 A I usually just read the little scenario, and then I
16 just give them the photo lineup

17 Q Have you had a situation where the suspect's hair had
18 changed between the time of the crime and the photograph in
19 the lineup?

20 A I'm sure that that has happened, like with women who
21 change colors of their hair, but we use black and white
22 photos

23 Q Why is that?

24 A Just because you don't see as much of hair color, you
25 know, or other things in the photo

29

INV CATLETT IN CAMERA

1 Q Does the black and white photo affect the ability to
2 tell about complexions?

3 A

4 MR DAVIS I would object

5 THE COURT I would sustain the objection

6 SOLICITOR That's all I have Your Honor

7 THE COURT Anything else, Mr Davis?

8 MR DAVIS No, Your Honor

9 THE COURT Thank you, maam

10 (Witness excused from stand)

11 (Conference at the bench between counsel and the Court
12 off the record)

13 SOLICITOR Gina Brown

14 GINA BROWN (first name not
15 audible on tape), being duly sworn testified as follows out
16 of the presence of the jury

17 DIRECT EXAMINATION

18 BY SOLICITOR

19 Q Ms Brown you re known as Gina?

20 A Yes

21 Q Before we get into the testimony about the lineup,
22 let me ask you a few questions Okay? Some background?

23 A Yes

24 Q How old are you?

25 A Twenty-seven

30

1 Q And how far did you go in school?

2 A Twelfth

3 Q Did you finish high school?

4 A Yes ma'am

5 Q And do you work?

6 A Yes

7 Q What kind of work do you do?

8 A I'm a server at (Inaudible)

9 Q How long have you been a server?

10 A Four months

11 Q What did you do before that? What kind of work?

12 A McDonald's Manager at McDonald's

13 Q How long were you at McDonald's?

14 A All together it was about nine years

15 Q I'm going to take you back to December 13th, 2004, and
16 not going through all the facts of that day, but just to get
17 to the time where you had an opportunity to see the person
18 who shot your boyfriend Okay?

19 First of all had you been under the influence of drugs
20 or alcohol or anything like that when the shooting happened?

21 A No

22 Q Do you remember approximately what time the shooting
23 occurred?

24 A Around four or four thirty

25 Q And was that December 13, 2004?

31

G BROWN ON DIRECT

1 A Yes, maam

2 Q And at that hour of the day, what was the lighting like
3 outside?

4 A Bright

5 Q And had it -- it wasn't raining or snowing or anything
6 like that?

7 A No maam

8 Q And where had you been in the few minutes before the
9 shooting took place?

10 A I had been to the gas station

11 Q What did you do there?

12 A We went to purchase some cigarettes

13 Q And when you left the gas station where did you pro-
14 ceed to walk?

15 A Down to Briar Street

16 Q And was Anthony with you at that point?

17 A Yes

18 Q And did anything happen on Briar that was significant
19 to you that day?

20 A Yes

21 Q Tell the Judge what happened?

22 A

23 MR DAVIS Your Honor, I'm going to object at this
24 point to the form of the question The Solicitor can ask
25 the witness specific

G BROWN IN CAMERA

1 THE COURT I would overrule the objection

2 SOLICITOR Thank you

3 BY SOLICITOR

4 Q Go ahead and tell about what happened

5 A We were walking down the street, and some young men
6 walked behind us and one young man start talking to
7 Anthony, and one boy swung at Anthony and he swung back like
8 two or three times and he had blood on his mouth and he
9 was like man, you wait right here, and he got on his bike
10 and another one got on and we started to walk on down the
11 street

12 Q Okay and you and Anthony then walked in the opposite
13 direction of the guy he had been in the fight with went?

14 A Yes

15 Q And how about the other guys who had been with the
16 fighter? Where did they go?

17 A They all went -- all four of them went left and we went
18 right

19 Q And what happened next?

20 A We were walking and every now and then I would look back
21 and I saw this car riding up slowly by us

22 Q Was the car coming toward you or from behind you?

23 A From behind

24 Q Okay, and what happened as the car got nearer to you?

25 A I saw the guy shoot like two or three times

33

0 0 0

- 1 Q Back up a little You said he shot two or three times
2 Is that the person you saw shooting?
3 A Yes
4 Q Okay Now, where was the shooter?
5 A Right behind us
6 Q Did you see anybody else?
7 A Yes, the passenger
8 Q Did you recognize the passenger?
9 A Yes
10 Q And how fast in your estimation would you say the car
11 was moving as it went by you and the driver shot?
12 A He went by pretty fast
13 Q So he moved quickly past you?
14 A Yes I'd say twenty or thirty miles an hour
15 Q And how long would you say you were able to look at
16 the driver and the passenger as they passed by you?
17 A I don't know Maybe a minute
18 Q Well, if they're moving twenty to thirty miles an hour
19 do you think you got to see them for a whole minute?
20 A I can't be sure
21 Q Was the car rolling a lot faster than you were walking?
22 A Yes
23 Q A lot faster than you were walking?
24 A I guess
25 Q When you said twenty or thirty miles an hour you don't

G BROWN IN CAMERA

1 think you were walking very fast? You weren't walking any-
2 where near twenty or thirty miles an hour?
3 A No
4 Q Okay, so the car was moving a little faster than you were
5 walking?
6 A Yes
7 Q And did you see where the driver got the gun from?
8 A No I just saw him reach down for it
9 Q And you could tell the shooter was left handed, is that
10 right?
11 A He shot with the left hand
12 Q And as he went by you said you saw the passenger Did
13 you recognize the passenger?
14 A Yes
15 Q Who did you recognize him as?
16 A The one that got on the bike with him
17 Q The driver or the shooter you saw, had you seen him
18 before that day?
19 A No
20 Q When you saw him, did he have the window down or the
21 window up?
22 A It was down
23 Q Okay, and stop me when I'm as close as you were to the
24 car?
25 A
35

022

1 (Solicitor walking toward witness)
2 A There
3 Q Was the lane you were on a two lane road?
4 A Yes
5 Q Okay, so you all were about the width of a car apart,
6 is that right?
7 A Yes
8 Q After all of this happened, you were pretty upset,
9 were you not?
10 A Yes
11 Q At some point did you give a description of the shooter
12 to the police?
13 A Yes
14 Q And do you remember what you told them about the
15 shooter?
16 A Yes A black man with a
17 Q What was that? What did you tell them?
18 A He had on a black tee shirt and I believe a flack jacket
19 Q How about facial hair? Did you see
20 A Yes
21 Q What was that?
22 A He had a mustache
23 Q Okay, and do you remember how long it was after the
24 shooting you gave this description? Or where you were when
25 you gave the description?

36

1 A At the police station

2 Q So it's in your written statement that you gave at
3 the police station?

4 A Yes

5 Q And was that the first time you had given a descrip-
6 tion? Do you remember?

7 A Yes

8 Q Okay Now at some point after you gave your written
9 statement to the police, describing the shooter, were you
10 given an opportunity to look at a photo lineup?

11 A Yes

12 Q And where were you when that happened?

13 A I was at my aunt s house

14 Q Who was with you?

15 A My aunt

16 Q I m going to show you what has been marked State's
17 Exhibits 29 and 30 First of all, 29

18 Do you recognize that?

19 A Yes

20 Q Is that one of the lineups you were shown?

21 A Yes

22 Q State's Exhibit 30, is that the other lineup that you
23 viewed?

24 A Yes

25 Q Now first of all regarding State's Exhibit 29 When
37

1 you were shown this lineup by Detective Catlett, did you
2 recognize anybody in the lineup?
3 A You mean after she showed it to me?
4 Q Yes
5 A Yes
6 Q Did she tell you who to pick out?
7 A No
8 Q Did she tell you not to pick somebody out?
9 A No
10 Q Why did you pick somebody out?
11 A Because I recognized him
12 Q And did you write your signature over his face?
13 A Yes
14 Q Who was that you wrote -- not his name, but
15 A This one
16 Q Did you know him before that date?
17 A No
18 Q So you saw him on the bike and then afterwards in the
19 car?
20 A Yes
21 Q In which seat?
22 A The passenger
23 Q No question at all?
24 A No
25 Q You indicated that to them?
38

1 A Yes

2 Q Now, with regards to State's Exhibit 30, did Detective
3 Catlett tell you that you had to pick somebody out?

4 A No

5 Q Did she tell you who?

6 A No

7 Q When you first saw the lineup, explain to the Judge how
8 you analyzed or viewed those pictures?

9 A

10 Q Did anybody stand out to you?

11 A Yes

12 Q Which ones stood out to you?

13 A Three and five

14 Q And in the order that you were looking at the pictures
15 did number three and five look like each other?

16 A Yes

17 Q And who did you believe number three and number five
18 to look like?

19 A The person who was the shooter

20 Q The person you had seen earlier that day?

21 A Yes

22 Q And what were you -- did you have a hard time between
23 selecting number three and number five?

24 A Yes

25 Q And what was causing you some difficulty in making that
39

1 selection?

2 A They looked alike but the skin color was different

3 Q One was darker?

4 A Yes Number three

5 Q And is that why you selected him?

6 A Yes

7 Q Did you know whether or not for sure number three was
8 actually the shooter?

9 A No

10 Q Did you believe number three and number five looked like the
11 shooter?

12 A Yes

13 Q Number three looked most like the shooter?

14 A Yes Only because of the complexion

15 Q Only because of the complexion Now, when I was asking
16 you questions earlier today or just a few minutes ago, I
17 asked you who you saw in the car, and you pointed to the
18 Defendant

19 A Yes

20 Q Did you recognize him today?

21 A Yes

22 Q As the shooter?

23 A Yes

24 Q What does he have on?

25 A He has on a suit

40

G BROWN IN CAMERA

1 Q What color tie?

2 A It's like yellow

3 SOLICITOR If Your Honor please, let the record re-
4 flect that she identified the Defendant

5 THE COURT All right

6 BY SOLICITOR

7 Q Is it easier for you to tell us what he looks like
8 when you see him in person or you see him

9 MR DAVIS Objection

10 Q in a photograph?

11 A

12 THE COURT I would sustain the objection

13 Q Gina do you have any doubt about who the shooter was?

14 A No

Q Do you have any doubt that it was this Defendant?

15 A No

16 Q And what is the basis for your identification?

17 A He s the one I saw

18 Q The one you saw that day?

19 A Yes, maam

20 Q That's all the questions I have

21 CROSS EXAMINATION out of the presence of the jury

22 BY MR DAVIS

23 Q Ms Brown, are you positive the person sitting here at
24 the table is the shooter?

25 A Yes

41

028

1 Q And you looked at him a second ago and said that's the
2 shooter Right?

3 A Yes

4 Q Other than the two photographic lineups that the State
5 showed to you, were you shown any other photo arrays?

6 A Yeah

7 Q I m sorry, maam

8 A They showed me some others

9 Q Did you recognize anyone in those photographs?

10 A No

11 Q And this was about four in the morning?

12 A Yes

13 Q And had you gotten any sleep that night?

14 A No

15 Q Have you ever been aroud somebody that s gotten shot
16 before?

17 A No

18 Q You ever been the victim of a crime before?

19 A No

20 Q Did you ever see a gun shot before in person?

21 A No

22 Q And where was the residence you were at?

23 A When?

24 Q When you were shown these photographs? Whose resi-
25 dence?

42

G BROWN IN CAMERA

1 A My aunt

2 Q Who all was there with you?

3 A My aunt and Ms Watson

4 Q That's it?

5 A Yes

6 Q Was your son there as well?

7 A Yes, but they were asleep

8 Q And from four thirty P M when the shooting happened
9 until you were shown the pictures, almost twelve hours later,
10 you hadn't had any sleep?

11 A No

12 Q You had been to the hospital, is that right?

13 A

14 Q You found out your boyfriend had died?

15 A Yes

16 Q And you went to your aunt's house?

17 A Yes

18 Q And so on this -- it was a Monday, I believe and how
19 quickly was this car rolling along?

20 A I m not sure

21 Q But faster than you were walking?

22 A Yes

23 Q And you were walking on the edge of the road?

24 A Right

25 Q And that is up near the trailer park, right?

43

000

- 1 A Yes
- 2 Q And you and Mr Gambrell were walking away from the sta-
3 tion?
- 4 A Yes
- 5 Q Side by side?
- 6 A Yes
- 7 Q Toward Summerville?
- 8 A Yes
- 9 Q And the car was driving in that direction as well?
- 10 A Yes
- 11 Q I want to show you what's been marked as Number 29, Ex-
12 hibit 29 Please answer this question for me
- 13 With this document, if you could please tell the Court
14 where on the document is your handwriting?
- 15 A
- 16 Q Tell the Judge where is your handwriting?
- 17 A Where I signed by the person
- 18 Q Anywhere else on this sheet?
- 19 A No
- 20 Q How about the second one?
- 21 A My signature is on -- by the statement and then by that
22 he was sitting in the passenger seat
- 23 Q That is all that is your handwriting, right?
- 24 A Yes
- 25 Q Thank you I want to show you what's been marked as
State's Exhibit Number 30, and tell the Judge where

1 your handwriting is on that form

2 A My signature and it's by number three

3 Q Is it anywhere else on either one of those pages?

4 A No sir

5 Q Do you wear contact lenses? Corrective lenses?

6 A Yes

7 Q Do you wear any type of glasses?

8 A Yes

9 Q In addition to your contacts?

10 A No I just keep one on

11 Q Okay, and do you know what your current vision pre-
12 scription is?

13 A No sir

14 Q Without your glasses or contacts

15 THE COURT Let's break now and come back at two thirty
16 When we come back, we'll finish this thing

17 (Whereupon, the Court took the lunch recess, and the
18 matter then resumed)

19 (Witness resumed witness stand)

20 CROSS EXAMINATION out of the presence of the jury

21 BY MR DAVIS

22 Q Ms Brown, I was asking you about your having to wear
23 contacts?

24 A Yes, sir

25 Q If you aren't wearing your contacts or glasses are

45

1 you near sighted or far sighted?

2 A Near sighted

3 Q Okay So you can't see far away?

4 A Yes

5 Q About how far without your glasses or your contacts
6 can you see clearly?

7 A I'm not sure

8 Q Where the benches are back there?

9 A Yes

10 Q Can you see that?

11 A Yes

12 Q So you can see that far without your contacts or your
13 glasses?

14 A Yes, sir

15 Q All right We have never discussed this case, you
16 and I, before your testimony today?

17 A No

18 Q Have you met with the Solicitor's Office before today?

19 A Yes

20 Q And would that have been with Ms Wilson who is sit-
21 ting here?

22 A Yes

23 Q Who else would have been there?

24 A (Answer not audible)

25 Q Anyone else?

46

1 A I believe Investigator Boyd came
2 Q Okay, and anyone else?
3 A I believe the officer behind him
4 Q Anyone else?
5 A I don't know
6 Q Was there ever an investigator from the Solicitor's Office
7 present?
8 A There may have been one
9 Q So there were multiple people who met with you?
10 A Two at least Two times
11 Q And where would that occur?
12 A Some in the Solicitor's Office
13 Q Do you recall when you met with the Solicitor's Office?
14 A Not exactly
15 Q You testified earlier that you saw the driver reaching
16 down, and then you saw the gun fired?
17 A Yes
18 Q How many shots did you hear?
19 A About two or three
20 Q You had never seen the shooter before that day?
21 A No
22 Q And there had been a fight just minutes before?
23 A Yes
24 Q And then this car is going past you and you are walk-
25 ing and you say it was going a little faster than you were
walking Did you say you got to look at the shooter for
47

1 about a minute?

2 A Yes It seemed -- it may not have been that long

3 Q But that is when you were able to get this descrip-
4 tion?

5 A Yes

6 Q Race, right?

7 A Yes

8 Q And lighter than your complexion?

9 A Yes

10 Q Black tee shirt?

11 A Yes

12 A And a flack jacket?

13 A Yes

14 Q What color?

15 A Blush, I believe A bluish color

16 Q And a mustache?

17 A Yes

18 Q Okay Now you have said you were able to look at
19 the shooter and see all of that Was that the minute when
20 Mr Gambrell shoved you down?

21 A He didn't shove me down

22 Q But did he not try to protect you from the shot?

23 A Yes, but the shooter had already shot

24 Q All right So Mr Gambrell pushed you as he began
25 to fall?

1 A I believe so and I ran across the street
2 Q All right You ran around behind a car Right?
3 A Yes
4 Q All right There had been a fight before this?
5 A Yes
6 Q How long did that altercation last?
7 A I'd say about two or three minutes
8 Q And you said you were aware they were following you
9 from Dorchester and the BP Right?
10 A Yes
11 Q They walked behind you all the way down the street?
12 A Yes
13 Q And you knew they were back there, these four guys?
14 A Yes
15 Q And if the fight lasted two or three minutes, how long
16 were you aware they were there?
17 A I don't know how long it was
18 Q You had seen them a little before the fight?
19 A Yes
20 Q And you had seen them walk away from you down in the
21 other direction?
22 A Yes
23 Q So all together, we re talking about a whole lot more
24 than two or three minutes?
25 A From beginning to end, yes
49

1 Q How long -- would you say fifteen minutes?
2 A Say ten to fifteen minutes
3 Q And you kind of sensed someone walking behind you
4 wanted to fight with Anthony?
5 A No
6 Q Wasn't he saying something to you
7 A When we first got across the street, they weren't on the
8 street then
9 Q But when somebody was trying to talk to Mr Gambrell,
10 they were there?
11 A Yes
12 Q And it wasn't a friendly greeting?
13 A No
14 Q Okay, and you were standing right there watching this
15 fight happen Right?
16 A (no response heard)
17 Q And one got in a fight with Mr Gambrell and said
18 something like wait right here, and then walked off?
19 A Yes
20 Q When they walked off, were you paying attention to them?
21 A Yes
22 Q And did you give the police a description of that per-
23 son as well?
24 A Yes
25 Q Do you remember how you described that person?
50

G BROWN IN CAMERA

1 A Yes

2 Q Tell the Court how you described that person?

3 A Yes, light skinned, kind of chunky, white tee shirt

4 Q Did you say anything about his features or anything?

5 A

6 Q Hair -- did you say anything else about his features?

7 A Just about being light skinned

8 Q And when Ms Catlett showed you the pictures that in-
9 cluded that person, you were certain that was the passenger
10 in the car?

11 A Yes

12 Q And you were sure it's the same guy that was in the
13 fight with Mr Gambrell before that?

14 A Yes

15 Q And again that was about four A M on the morning
16 after the shooting?

17 A Yes

18 Q Now you got here early this morning?

19 A Yes

20 Q And you ve been sitting here since you were able to
21 come in Right?

22 A Yes

23 Q So you saw me talking with the Judge earlier when we
24 were all discussing some things, and I was sitting at this
25 table?

51

038

G BROWN IN CAMERA

1 A Yes

2 Q Did you see Mr Dunham come in through that door?

3 A No

4 Q So as long as he's been in here he's been sitting at
5 this table Right?

6 A Yes

7 Q Do you know the guy at the end of the table?

8 A No

9 Q You haven't seen him before?

10 A No

11 Q Give me one second, please, maam

12 MR DAVIS I have no further questions at this time

13 Judge

14 THE COURT Solicitor?

15 SOLICITOR Thank you Judge

16 REDIRECT EXAMINATION, out of the presence of the jury

17 BY THE SOLICITOR

18 Q Ms Brown, when you were waiting to testify where did
19 you wait?

20 A

21 Q I mean, where were you since you came into this building
22 today?

23 A In a room next door

24 Q In a room next door?

25 A Yes

52

000

1 Q Could you hear what was going on in here?

2 A No

3 Q Did you know whether or not for sure the Defendant
4 would be present in the Courtroom today?

5 A No

6 Q That's all I have

7 THE COURT Anything further Mr Davis?

8 MR DAVIS No, sir

9 THE COURT You can come down maam

10 (Witness excused from stand)

11 THE COURT All right I'll be glad to hear you

12 MR DAVIS If I may, Judge, I d like to just summarize
13 by saying that the identification in this case is the most
14 prejudicial form of identification

15 Ms Brown comes in here and it doesn't take a whole lot
16 for her -- these faces over here are familiar to her, and
17 here is my client over here

18 She testified when questioned that she immediately
19 identified my client at defense table, and she didn't even
20 look this way She didn t even look to see if someone else
21 that matched the general description was here

22 There was an identification on the Exhibit of two indi-
23 viduals, which I submit is highly prejudicial, and the
24 State can't have it both ways

25 She readily identified the Codefendant, who is not

53

0 0

1 here in Court being tried today, but she is uncertain about
2 the shooter

3 In fact, when she is allowed to pick, she picks someone
4 other than my client She says he's the person in here, but
5 when she's asked to pick she picks number three rather than
6 number five as the shooter

7 And she also says -- Judge, I'm going to hand up Number
8 29 and Number 30 On 29 she testified that she signed
9 and she added her own commentary In her own handwriting
10 she added a commentary to her selection

11 On the other one, the investigator added the commentary
12 She didn't, after Ms 'Brown had selected the wrong person,
13 or the person who is not my client

14 What we have on here is the officer's perception that
15 the officer wrote on the sheet, not Ms Brown The officer's
16 perception

17 The officer knows who the suspect is The officer knows
18 who is in custody and who is not The officer has informa-
19 tion on who the police are looking at that Ms Brown doesn't
20 have

21 We have heard testimony from the detective and Ms
22 Brown that she was uncertain It could have been either
23 one but she chose to put her name on number three and she
24 did not identify my client as the shooter

25 That was in just under twelve hours after the shooting

54

1 Give or take The very next morning

2 We are now fourteen months out on this, and we have
3 the photo lineup He's changed some, but she's going to pick
4 him and not look at anyone else because she identified him?
5 No, it s because he is sitting at defense table, and it is
6 unduly prejudicial and should be barred

7 She talked about no sleep the night of and she had
8 never been the victim of a crime before She had never seen
9 anyone shot before

10 She tried her best and when she is shown a photo of
11 my client within twelve hours she doesn t choose him and
12 then she comes in here and immediately identifies him It
13 is unduly prejudicial

14 We would point to State v Snipes, to State v Fort from
15 the South Carolina Court of Appeals Factually different
16 from this case, but quoting from page⁴⁸² (not audible as
17 counsel reads from case)

18 In this case, she had physical contact with the perpe-
19 trator, face to face with him, for fourteen or possibly
20 fifteen minutes, with the perpetrator in that case

21 I never turned my back on him, stared him in t
22 -- this was a sexual assault, a rape case

23 That is not what we have here, and in that case sh
24 was shown a photo lineup and she didn't pick someone else,
25 like this case, but said I d like an in person lineup in this
55

1 case I'd like to look at him in person That was never
2 done That is different from what we have here

3 Here we have an identification of someone else --
4 Ms Brown picked someone else

5 There is a case cited in here Missouri versus Blanchard,
6 and the Solicitor has a copy of it

7 In that case, we have a positive pre-trial identifica-
8 tion and I'm quoting from page three the next day we showed
9 LS -- initials LS -- a photographic array She was unable
10 to identify Blanchard WB -- initials WB -- showed the same
11 photo array a few days later and positively identified
12 Blanchard (Reading from case)

13 There is an ID in that case of the Defendant In this
14 case, we do not

15 Finally, the State relies on State versus Lewis Bas-
16 ically they found the Court erred in not having this hearing,
17 and certainly it is appropriate that this testimony was eli-
18 cited

19 On page 517 -- page five of ten as indicated on the
20 copier but page 517 -- (reading from case) This case was
21 again a sexual assault case where two perpetrators forced the
22 husband to watch them sexually assault his wife for a period
23 of time

24 In that case there is a different factual scenario than
25 what we have here

1 The emphasis is that they did not have this pre-trial
2 hearing because they cross examined and examined at trial

3 Our factual scenario is that Ms Brown viewed him for
4 the time they were driving by, a car width away, and she
5 said she saw them for a minute or so

6 The accuracy of the description that she gave was
7 light skinned black male -- I think he had braids -- flack
8 jacket that was blue or bluish That is a lot of detail but
9 not real specific

10 Number three and five matched her description and
11 there was no certainty How certain was she about Mr Dunham?
12 Not very at all If she was, she would not have picked
13 number three

14 Could he have been? He could have been, she said
15 She was real honest about that, but her certainty is --
16 the picture she signed across was number three, and now
17 fourteen months later, never having seen my client before
18 or after can identify him without looking at anyone else in
19 the Courtroom

20 Now, contrasting that with Mr Jeter's identification
21 which was specific Ms Brown was positive in her selection
22 there

23 Two or three minutes on a bike, ten to fifteen minutes
24 total with his Codefendant Yes, she was paying attention
25 to him before, during and after He said wait right here

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044

1 as they went off and she paid close attention As to the
2 Codefendant who is not being tried here today, she gave
3 various factors of description, and she was one hundred
4 percent certain of him that twelve hours later when she was
5 shown his photo array

6 To allow that testimony is so prejudicial to the Defen-
7 dant s case that we would ask Your Honor to suppress that

8 Thank you

9 THE COURT Well, apparently they didn't arrest them
10 on her identification The photographs that she marked did
11 not lead to his arrest

12 I don't know if it led to Mr Jeter's arrest or not,
13 but that question is not before me

14 But the person they had the fight with, she picked out
15 larly identified that one

16 The other two photograpns she picked two out of the
17 six, one of them being the Defendant in this case and she
18 signed on the other one

19 She did make an identification there but apparently
20 he was not arrested because of that identification, so
21 that was not unduly suggestive

22 There was evidence that at that time she could not
23 choose between the Defendant and one other person out of
24 the six pictures, but she did identify him here today That
25 is true

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1 Based on the totality of the circumstances, I'm going
2 to find that it should be submitted to the jury as to the
3 accuracy of her identification

4 It would be a jury question as to whether or not the
5 State can prove beyond a reasonable doubt that the Defen-
6 dant was the person who did the shooting

7 I would not suppress her identification

8 Anything else?

9 SOLICITOR Your Honor, I believe there is a waiver
10 issue as well

11 MR DAVIS Judge, I'm confused

12 THE COURT Is it something I m going to have to rule
13 on now or something -- come up

14 (Conference at the bench between counsel and the Court
15 off the record)

16 MR DAVIS I would have this marked as a Court Exhibit
17 then

18 THE COURT All right

19 MR DAVIS Judge, I did have my client read and review
20 and sign that The gist of it is this, Your Honor

21 The deceased in this case, Mr Gambrell, prior to the
22 shooting obviously -- eleven months prior to the shooting
23 had been a client of mine -- and Mr Dunham is well aware
24 of it

25 I do want to be clear that there is a procedure in our

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016

1 office to catch conflicts, and since this is in camera, Mr
2 Gambrell was represented by our office at the time that he
3 was shot

4 This case does not require that I investigate about Mr
5 Gambrell This case does not require me to look at his
6 reputation or to use any knowledge I might have had from the
7 time I represented Mr Gambrell This is two years later

8 I have no recollection of that representation

9 THE COURT Okay, Gambrell was the person who was
10 killed?

11 MR DAVIS Yes, Your Honor

12 THE COURT I understand

13 MR DAVIS He is the deceased, but out of an abundance
14 of caution, it was a case that was assigned to me, and
15 we sought advice on this as soon as I was made aware of it

16 We discussed it, and I have no recollection of the
17 case specifically

18 He understands it as evidenced by what we have had
19 marked a Court s Exhibit I would argue that the time frame
20 excludes any conflict, but we would request the Court to
21 inquire concerning it

22 THE COURT Do you recall what you represented Mr
23 Grambrell on?

24 MR DAVIS When it was brought to my attention, Your
25 Honor, I went to our computer system and opened up the first

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1 of a string of warrants, and I saw he pled to a drug charge
2 on January 24th of '04, and I did nothing further

3 THE COURT No other charge?

4 MR DAVIS Right There were several warrants that
5 were listed, and the first one I looked at showed the
6 guilty plea in January of '04 What happened on the other
7 charges or what the other charges were, I don't recall

8 THE COURT Mr Dunham, you have heard that Mr Davis
9 did not recall when he started representing you that he had
10 represented Gambrell on a drug charge or charges in the
11 past

12 That would have nothing to do with this case

13 DEFENDANT Yes Your Honor

14 THE COURT And apparently he had not developed any
15 type of relationship with Mr Gambrell because they represent
16 numbers of people in the Public Defender's Office

17 There was no relationship between Mr Davis and Mr
18 Gambrell as he has indicated that would prejudice in any way
19 against you

20 There is no reason for the Court to believe or find
21 that Mr Davis has any type of conflict All he knows is
22 he pled guilty to a drug charge, and they handle numerous
23 drug charges year in and year out in Charleston County, and
24 I see no reason why there would be a conflict

25 Do you know of any or do you object to him representing

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048

1 you?

2 DEFENDANT No, sir

3 THE COURT I find there to be no conflict All right

4 MR DAVIS Judge, also, for the record I had discussed
5 with Ms Wilson and the Solicitor that while there is a
6 proffer letter pertaining to -- there were three people
7 arrested Two on murder and one misprison of a felony

8 The one charged with misprison of a felony, they have
9 made a proffer It is my understanding that person will be
10 a State's witness

11 THE COURT Is that person going to testify?

12 SOLICITOR Yes, sir

13 MR DAVIS Other than that witness I understand there
14 are no other deals in this case

15 SOLICITOR That's correct

16 MR DAVIS Judge, there is information that Ms Brown,
17 who just testified had indicated through the investigation
18 to one of the officers that she believed she was pregnant
19 with Mr Gambrell s child

20 I have spoken with Ms Wilson and the Solicitor, who
21 have indicated that not only was she pregnant but she was
22 ried at some point

23 I would move to suppress any mention of the pregnancy
24 or the miscarriage during the testimony in this case I
25 don't know if they plan to go into that

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C 49

1 SOLICITOR Judge, I don't believe it is prejudicial
2 I think that is part of our case

3 The day that this happened, she had been down to MUSC
4 and I've told her to just mention that she had an appoint-
5 ment at MUSC if she is asked where she had been earlier
6 that day

7 She came back to the other side of town to the gas
8 station, where all of this sort of began I don't have any
9 reason to get into the fact that she was pregnant but I do
10 not think it is prejudicial if it were to come up in some
11 fashion

12 THE COURT Okay, I will grant that It is not really
13 relevant to this case and I don't -- I would agree with
14 him that it probably should not come in

15 SOLICITOR I don't plan to go into it but out of an
16 abundance of caution

17 THE COURT Mention to her that she should not testify
18 to that

19 MR DAVIS One other motion, Your Honor There are
20 several photographs both from the Coroner's Office and the
21 County Sheriff's Office, and I would move to suppress

22 Mr Gambrell was shot and killed, and those would be
23 prejudicial to the Defendant's case

24 THE COURT I don't know what the photographs show

25 SOLICITOR Your Honor, the only photograph we plan

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010

1 to use from the autopsy is in black and white and just shows
2 location of the bullets, that sort of thing
3 I don't believe it would be too prejudicial It is
4 a black and white
5 THE COURT Okay
6 MR DAVIS We have no objection to that
7 Judge also there is a nine one one phone call that
8 is quite emotional, quite hectic, and someone was on the scene
9 literally five minutes or less after the shooting, so we'd
10 ask that the Solicitor begin there
11 I don't believe it is probative of anything, and the
12 emotion on the tape would certainly be prejudicial I would
13 ask that it be suppressed
14 SOLICITOR I don't agree that it is prejudicial, but
15 I don't intend to offer that in my case in chief If some-
16 how he raises something, then I
17 THE COURT Sure
18 SOLICITOR might offer it but I would let the
19 Court know so that we can take it up
20 THE COURT Okay
21 MR DAVIS Judge, also a motion to suppress -- the
22 was a shotgun retrieved by a search warrant from the resi-
23 dence where my client was staying There is no indication that
24 shotgun was used in this case, and the fact a shotgun was
25 at the residence should be suppressed, on relevancy grounds
64

051

1 and on prejudicial grounds This act is not tied to a shot-
2 gun

3 I don't know if the State intends to offer this

4 SOLICITOR Again, I don't intend to get into it, but
5 I don't perceive it is prejudicial I don't have any intention
6 of producing it

7 THE COURT All right

8 MR DAVIS Lastly, Judge, at the proper time we will
9 have to deal with the records of witnesses who may be called
10 I just wanted to bring it up at this time

11 THE COURT Are they going to testify first? An hour
12 from now, two hours from now?

13 SOLICITOR Our first witness (balance of sentence not
14 audible on tape)

15 THE COURT All right If so that could come in
16 Bring the jury

17 THE COURT Ladies and gentlemen, I'm sorry we were
18 late but the legal questions took longer than I thought
19 they would You should not be concerned about that

20 Please stand and raise your right hands, please, and
21 the Clerk will swear you to try the case

22 Please respond by saying, I will, when you take the oath

23 (Whereupon, the jury members were sworn for the trial
24 of the case)

25 THE COURT Ladies and gentlemen, we are about to begin

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1 the criminal trial of the case of the State against Michael
2 Barney Dunham

3 Now, this case comes to us on this indictment which I
4 hold in my hand, and the allegations are murder in regard
5 to Anthony Gambrell

6 Now to this indictment the Defendant, Mr Dunham, has
7 pled not guilty This plea of not guilty places the burden
8 of proof upon the State of South Carolina to prove Mr Dunham
9 guilty beyond a reasonable doubt

10 Now, no person, regardless of the seriousness of the
11 charges, or what the charges are -- any person charged with
12 a crime is presumed to be innocent of that crime until you,
13 the jury, hear some evidence that satisfies you of his guilt
14 of the crime charged beyond a reasonable doubt

15 Now, the fact that someone has been charged with a crime
16 is not any evidence of their guilt, and you should not con-
17 sider that as evidence in the case You determine this case
18 based on the evidence that is introduced, whether demonstra-
19 tive evidence or otherwise and the testimony

20 You determine the facts of this case, if you can and
21 you apply the facts to the law and find a verdict that
22 speaks the truth

23 You ladies and gentlemen are the sole judges of the
24 facts in this case as to what happened on or about December
25 13 of 2004 in regard to this case

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058

1 As I told you earlier, you cannot discuss this case
2 with anyone during the trial Now, if we have to come back
3 tomorrow do not talk to anyone about the case when you go
4 home You may not talk about the case until the case is
5 over

6 Do not talk to anyone about this case daughters,
7 friends, relatives, or anyone

8 After the case is over, you can talk to anybody you
9 want to about the case You don't have to It is up to
10 you

11 Do not discuss it with anyone until the case is over
12 and you have finished your deliberations

13 Now ladies and gentlemen, do not determine what the
14 verdict should be until you have heard the evidence and tes-
15 timony, and I go over the law with you and these lawyers have
16 had a chance to make their closing statements

17 I know you have to evaluate the case, and you bring in
18 the Courtroom your good judgment, your common sense, and your
19 everyday experiences in life

20 You determine the believability and credibility of all
21 the testimony in the case regardless of who the witness
22 is

23 We will begin this trial with opening statements, if
24 the parties care to make opening statements After that,
25 you would then hear the evidence from which you will determine
 the facts in the case

1 After all the evidence and testimony is in, the lawyers
2 will have an opportunity to make closing statements to you
3 After that, I will go over the law that applies to his case,
4 and you will go back and deliberate and determine the facts,
5 apply the facts to the law, and write a verdict that
6 speaks the truth

7 Whatever verdict you reach must be a unanimous verdict
8 All twelve of you have to agree

9 If there are no objections to anything at this point,
10 we will begin the trial with opening statements, first by
11 the State and then by the Defendant

12 SOLICITOR Thank you, Your Honor

13 THE COURT Yes maam

14 SOLICITOR May it please the Court?

15 On December 13, 2004, Ms. Brown had been downtown to
16 MUSC. She had an appointment. She took a cab back to
17 North Charleston in Charleston County to a gas station on
18 Dorchester. Her boyfriend met her at the station, and they
19 began walking back to the trailer that they shared.

20 When they were walking back, a group of boys came be-
21 hind them, saying things to her boyfriend. Eventually, as
22 they walked down the road, they got into a scuffle.

23 You will hear from one of the boys who were there, and
24 he will tell you that they got into a little scuffle. We
25 don't know exactly about what

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1 A few licks were exchanged and then they went their
2 separate ways

3 Before they left, one of the guys who was fighting said
4 you all just wait right here, and then he walked off

5 Ms Brown and Mr Gambrell walked on down the street for
6 three four or maybe five more minutes Then they heard a
7 car coming up beside them, and the driver of that car pulled a
8 weapon and shot Mr Gambrell

9 The shooter was this Defendant, Michael Dunham who was
10 one of the guys who had been involved in the fight prior to
11 the shooting, and Ms Brown saw all of this Mr Gambrell
12 died shortly after that

13 (Portion not audible on tape)

14 You will hear evidence and testimony that this Defen-
15 dant and the passenger in the car after the shooting went to
16 some apartments nearby, changed their clothes, and the De-
17 fendant told another friend, Steve Johnson to go park the
18 car at his house Get rid of the car

19 Steve Johnson went and took the car to his house, and
20 it was then that the Defendant told another friend about
21 what he had just done

22 Ladies and gentlemen, the State will be able to
23 prove these things to you beyond a reasonable doubt

24 Now, beyond a reasonable doubt does not mean beyond all
25 doubt It is beyond a reasonable doubt, and I ask you that

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1 -- well, if you were one hundred percent sure about the facts,
2 you would be a witness You would be a witness, if you know
3 one hundred percent what happened

4 What you bring to this process is your good common
5 sense, what you use in your everyday lives You will use that
6 in judging the credibility of the witnesses who testify be-
7 cause the credibility of witnesses is for you to decide
8 It is up to you to decide which witnesses you will believe
9 and which you will not believe That is up to you to figure
10 out

11 When you view the evidence and the testimony, you re-
12 member who these guys were hanging out with They were
13 hanging out with Michael Dunham They were hanging out
14 with Michael Jeter, who was in the car with Michael Dunham

15 Think about that, and think about the differences in their
16 testimony Think about their memories their age, their edu-
17 cation, background

18 You remember what they said and you use all of that to
19 judge their credibility or their believability All
20 those things that you use every day of your lives in making
21 your own decisions That is all we are asking you to do

22 Listen to the testimony and think about what you believe
23 really happened You think about all of that to judge
24 each witness

25 At the end of the case, which will take probably two

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057

1 days or maybe three, we will have proved our case beyond a
2 reasonable doubt You will see that it was this Defendant
3 that did the shooting, that it was his gun that was used,
4 and it was his confession to his other buddies that would
5 bring in your verdict, a verdict of guilt

6 Ladies and gentlemen thank you

7 MR BROWN Ladies and gentlemen of the jury the State
8 of South Carolina has the burden of proving my client guilty
9 of the charge against him

10 It was a tragic thing that occurred to Mr Gambrell
11 but we are asking you to pay particular attention to the
12 descriptions given by the eye-witness Ms Brown which was
13 a very general description of the shooter

14 Now I don't have a whole lot to say to you at this
15 time, but at the end of the case I will make a closing state-
16 ment to you and discuss what the evidence has been

17 (Portion not audible on tape)

18 I would take a minute at this time to remind you of
19 some stuff concerning your obligation as jurors

20 The case is really about perceptions The State wants
21 you to believe that Mr Jeter the other guy, and Mr Dunham
22 had a fight with the deceased, and that Mr Dunham and Mr
23 Jeter came by in the car and that my client shot the de-
24 ceased

25 Remember that you are to determine the truth in the

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1 case, the entire truth from the witnesses who are put on
2 the stand to testify

3 It is your job to determine the truth in this case,
4 and we have waited four hundred and twenty-some days for this
5 day, for that truth

6 (Portion not audible on tape)

7 THE COURT Call your first witness

8 SOLICITOR Rayshawn Green

9 RAYSHAWN GREEN being duly
10 sworn, testified as follows

11 CLERK Please have a seat State your full name and
12 spell your last

13 WITNESS Rayshawn Green, G R E E N

14 DIRECT EXAMINATION

15 BY SOLICITOR

16 Q Payshawn, how old are you?

17 A Twenty-one

18 Q How old?

19 A Twenty-one

20 Q How far did you go in school?

21 A (Answer not audible)

22 Q And are you working? Do you have a job?

23 A Yes, I do

24 Q Tell the jury what kind of work you do

25 A Machine operator

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1 Q And do you have any brothers or sisters?
2 A Two
3 Q Two what? Brothers or sisters?
4 A Brothers
5 Q Okay, and are they older than you or younger?
6 A Younger
7 Q Now, do you know Michael Dunham?
8 A No
9 Q And do you know Michael Jeter?
10 A I didn't before that day
11 Q Tell the jury about the day you met Michael Jeter
12 A That day I woke up
13 Q I'm sorry I can't hear you Speak louder
14 A Sorry
15 Q And I need you to slow down just a little so the Court
16 Reporter can write down everything you're saying
17 A Okay Well, that day I went -- I woke up early that
18 day and my brother called me, and my little brother was pick-
19 ing me up
20 So I walk across the street with my brother, and that's
21 when I saw Michael Jeter
22 Q Well, where were you living back then? Tell the jury
23 on what street you were living?
24 A On West Montague
25 Q West Montague -- you were there when you woke up?
73

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1 A Yes

2 Q And what did you do after that?

3 A I went to meet my little brother

4 Q And where did you go to meet your little brother?

5 A Right down the street from my house

6 Q And how did you get there?

7 A Walked

8 Q Who was at your house then?

9 A Jeter

10 Q Who else? Tell the jury who all was at your house

11 A It was me, my brother and Michael Jeter

12 Q Your other brother wasn't there?

13 A No, he was at school

14 Q What time did he get out of school?

15 A Probably two thirty or a little later

16 Q And after you got up about three or so did anyone go
17 with you to meet your brother?

18 A Yes, all us were together

19 Q And why was Michael Jeter at your house that day

20 A

21 Q Was he a friend of yours?

22 A No, he know my brother

23 Q Okay

24 A I don t know him though

25 Q Which brother is that?

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1 A My little brother
2 Q And what did you all do?
3 A Walked down the street I asked my brother to buy me
4 a cigar
5 Q You asked who?
6 A I asked my brotner to buy me a cigar
7 Q Where did you walk?
8 A To where my brother at at the station
9 Q The Hess station?
10 A Uh hm
11 Q And what happened?
12 A
13 Q Did anything happen on the way to or from the store?
14 A It happen as we come back from the store
15 Q And what nappened on the way back from the store?
16 A Well, they run into Freak I guess he was walking down
17 the road at the same time or something I didn t know him
18 myself
19 Q Did you say Freak?
20 A Yes
21 Q Okay
22 A I didn't know him
23 Q Okay
24 A He was walking down the road and he been having a
25 conversation with my brother, and then Michael Jeter, he
say something you know, and he turn around and slap him
Q Was anvbody with Freak? -

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- 1 A His girlfriend
- 2 Q Okay, and what happened after Michael Jeter slapped Freak?
- 3 A He started fighting with him It didn't last that long
- 4 Q Okay
- 5 A Then his phone ring and picked it up and they walked
- 6 off
- 7 Q Whose phone rang?
- 8 A Freak
- 9 Q Okay, and the fight stopped?
- 10 A It already stopped before the phone ring, and he pick it
- 11 up and walk on
- 12 Q Were they on the ground rolling around?
- 13 A
- 14 Q Tell the jury the type of fight you are describing
- 15 here
- 16 A They was just -- I was bypassing them or trying to ease
- 17 off
- 18 Q Were they standing up?
- 19 A Yeah
- 20 Q And what happened after the phone rang?
- 21 A They just walk off
- 22 Q Did he answer his phone?
- 23 A Yeah
- 24 Q And then what happened after that?
- 25 A What happened after

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R GREEN ON DIRECT

1 Q What did you do and the people you were with?

2 A We were walking back home

3 Q So this is you, your two brothers, and Michael Jeter?

4 A Uh hm

5 Q Did you all walk in the same direction as Freak and
6 his girlfriend at that time?

7 A No

8 Q Where did you all go?

9 A Up the road to go on home and that was it

10 Q And did Michael Jeter say anything to you after the
11 fight was over with?

12 A

13 MR DAVIS Objection to hearsay

14 THE COURT Yes

15 BY SOLICITOR

16 Q What happened after the fight? Did you notice anything
17 about Michael Jeter?

18 A Yeah, (inaudible)

19 Q I m sorry I can't hear you

20 A I walk off to go on home and I left him

21 Q And what happened after that?

22 A He ask me where I going, and I say I was going home,
23 and he ask to use my phone

24 Q Who asked you to use your phone?

25 A Michael Jeter

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084

R GREEN ON DIRECT

- 1 Q And what was your telephone number back then?
- 2 A It was 345 5430
- 3 Q And -- 345 5430 -- and were you able to hear Michael
- 4 Jeter's phone conversation?
- 5 A No, maam
- 6 Q And did you get your telephone back from him?
- 7 A Yes
- 8 Q What happened then?
- 9 A Well, he kept walking and a car pull up and he got
- 10 in
- 11 Q What did the car look like?
- 12 A Grey, or tan
- 13 Q Okay, and who got in when the car pulled up?
- 14 A Jeter
- 15 Q And which side did Jeter get in?
- 16 A The passenger side
- 17 Q What happened after that?
- 18 A They drove off
- 19 Q Anyone else get in the car?
- 20 A
- 21 Q Did you get in?
- 22 A No
- 23 Q Did your brotner get in?
- 24 A No, maam
- 25 Q What direction did Jeter go off in the grey car?

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055

R GREEN ON DIRECT

1 A They keep on going

2 Q Toward which direction?

3 A (Inaudible)

4 Q Tell the jury what happened after that?

5 A I heard three shots and I turn around and see the
6 problem, and my brotner took off running down there and I
7 ran behind him but then I stopped, and I saw this lady cry-
8 ing and saying, and telling them we get even with you

9 Q Who?

10 A The girlfriend

11 Q So the girlfriend said that to who? Get even with
12 who?

13 A Jeter

14 Q And what happened after that?

15 A I walked off

16 Q To where?

17 A I went home

18 Q Did you go on foot?

19 A Yes, I walk on

20 Q Now

21 SOLICITOR May we approach the bench?

22 (Conference at the bench between counsel and the Court
23 off the record)

24 BY SOLICITOR

25 O I show you what's marked for identification as State's

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R GREEN ON DIRECT

1 Exhibit 11 Take a look at that

2 A

3 Q Do you recognize that?

4 A Yes

5 Q What is that?

6 A The car I recognize it as the car

7 Q Where do you recognize the car from?

8 A That day

9 MR DAVIS Your Honor we would like to see it too

10 THE COURT All right

11 BY SOLICITOR

12 Q Let me show you State's Exhibit 10 for ID Are you
13 familiar with that?

14 A Yes, that's it

15 Q Is that the same car?

16 A Yes

17 Q The same car you say Jeter got into the passenger
18 side of?

19 A Yes

20 Q Let me show you State's Exhibit 2 Do you recognize
21 that?

22 A Yes

23 Q What is that? What does that show?

24 A

25 Q Can you see on that photograph where Freak got shot?

80

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R GREEN ON DIRECT

- 1 A I believe he got shot right here (Gesturing)
- 2 Q Okay
- 3 A The store is back here
- 4 Q Now, does that look the same as it did that day?
- 5 A Pretty much, yes
- 6 Q How about the ones of the car? Did it look pretty much
- 7 like that that day?
- 8 A Yes
- 9 SOLICITOR Your Honor, I would move State's 2 and 10
- 10 in evidence
- 11 MR DAVIS No objection
- 12 THE COURT Without objection, they're in evidence
- 13 (Photographs admitted in evidence without objection as
- 14 State's Exhibits 2 and 10)
- 15 B SOLICITOR
- 16 Q Now showing you State's Exhibit 3, I would ask you if
- 17 this is the vehicle, the car, you were referring to?
- 18 A Yes
- 19 Q Do you remember which direction -- did it pull up on the
- 20 driver's side or the passenger side?
- 21 A Passenger side
- 22 Q Okay, and how did Michael Jeter get into the car? Did
- 23 he go around the front or the back?
- 24 A I'm not sure
- 25 Q Showing you State's Exhibit 2, would you look at that
- 8.

058

R GREEN ON DIRECT

1 and tell me what area you saw Mr Gambrell get shot in?

2 A That area there I think it was around here

3 Q Speak up

4 A In this area here

5 Q This area here?

6 A I believe it was

7 Q And which area were you coming from when you were walk-
8 ing down the street?

9 A From down here back home

10 Q Oka

11 A Walking down here

12 Q So you were walking down this direction?

13 A Yes

14 Q And which direction did the car come from?

15 A From here

16 Q From this direction, headed this way?

17 A Yeah, it came from there

18 Q And going in this direction here?

19 A Yeah

20 Q Okay And Freak was walking in this direction?

21 A He was going like this up the street

22 Q Headed in this direction?

23 A Yes

24 Q No further question Thank you Excuse me one more
25 Rayshawn, do you know Steven Johnson?

82

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R GREEN ON DIRECT

1 A No

2 Q Do you know Victoria Martin?

3 A

4 MR DAVIS Your Honor we need him to answer out loud
5 BY SOLICITOR

6 Q Please answer out loud Say yes or no -- do you know
7 Steven Johnson?

8 A No

9 Q Do you know Justin Reynolds?

10 A No

11 Q Do you know Victoria Martin?

12 A No

13 Q Did you call Victoria Martin on that day?

14 A No

15 Q Is there any reason that you would have called her
16 on that day?

17 A No

18 Q Would you have called her at 899 3436?

19 A No

20 Q That's all we have

21 THE COURT All right Mr Davis

22 MR DAVIS Briefly, Your Honor

23 CROSS EXAMINATION

24 BY MR DAVIS

25 Q Mr Green, you say you woke up early, three or four --
that is in the afternoon?

83

000

1 A Yes

2 Q And this encounter between Mr Jeter and Freak was a
3 short fight, right

4 A Yes

5 Q No wrestling around?

6 A No

7 Q Not much to it, right?

8 A Uh hm

9 Q Can you tell me, where did you go after this car drove
10 off? Where did you go?

11 A I went on home

12 Q You went in your house?

13 A No, I was on the way there

14 Q Where did you go is what I'm trying to get at?

15 A We was walking down the road and there's a turn You
16 can see about the whole stretch of the thing and back to the
17 trailer park there

18 Q Well, what was your final destination? Where did you
19 end up?

20 A I was still on the trailer park

21 Q I just wanted to know where you finally stopped Did
22 you go home or where did you go?

23 A I started for home

24 Q Where did you end up that day?

25 A Home

1 Q So you walked in your house?
2 A After this thing here
3 Q Okay
4 A After this thing happen
5 Q Okay, You said - how far did you go in school?
6 A Twelfth
7 Q But you didn't graduate?
8 A Uh hm
9 Q Where did you go?
10 A Huh?
11 Q Was it in the military or
12 A Socahatchee It's a school called Socahatchee
13 Q Okay, did you choose to go there or were you made to
14 go there?
15 A Well, I ran away from home and I go when I come back
16 Q Was that some type of punishment?
17 A Yeah
18 Q Do you know Michael Dunham?
19 A No
20 Q Ever seen this guy before?
21 A No
22 Q Thank you, Mr Green
23 THE COURT Anything further?
24 SOLICITOR Yes, sir
25 REDIRECT EXAMINATION

1		I N D E X	
2		Direct-Redirect	Cross-Recross
3	Arraignment	3	
4	Jury voir dire	4	
5	Jury selection	12	
6	Motions	15	
7	IN CAMERA		
8	1 DENISE CATLETT		
9	By Solicitor	18-29	
10	By Mr Davis		24
11	2 GINA BROWN		
12	By Solicitor	30-52	
13	By Mr Davis		41
14	Ruling	52	
15	Preliminary Charge	60	
16	Opening Statements		
17	By Solicitor	68	
18	By Mr Davis	71	
19	RAYSHAWN GREEN		
20	By Solicitor	72-85	
21	By Mr Davis		
22	PATRICIA RODRIQUES		
23	By Solicitor	85	
24	No Cross		
25			

R GREEN ON REDIRECT

1 Q Who was driving the grey car?

2 A I don't know about that I'm not sure

3 Q Why is that?

4 A I wasn't paying attention until it happened

5 Q That's all I have

6 THE COURT Thank you, sir You can come down

7 (Witness excused from stand)

8 SOLICITOR State calls Patricia Rodrigues

9 PATRICIA RODRIQUES being duly

10 sworn testified as follows

11 CLERK Please be seated and state your full name to

12 the Court

13 WITNESS Patricia Rodrigues, R O D R I Q U E S

14 DIRECT EXAMINATION

15 BY SOLICITOR

16 Q Would you tell us what type of work you do?

17 A I drive a school bus

18 Q And do you have any children?

19 A Boys or girls?

20 A Boys

21 Q What are their ages?

22 A Twenty-nine and eleven

23 Q Eleven years old?

24 A Yes

25 Q Did you have that same job as a bus driver back on

86

073

1 December 13, 2004?

2 A Yes, maam I did

3 Q What had you done that day?

4 A I worked and came home

5 Q About what time did you come home?

6 A I'd say about four fifteen, four thirty

7 Q Where were you living back then?

8 A On West Montague Avenue

9 Q And had you gone anywhere earlier on your way home
10 from work that day?

11 A I stopped by the Piggly Wiggly to pick up a few things

12 Q And did you see anything on your way home?

13 A I passed a man and a young lady walking down the street
14 on the other side

15 Q What happened?

16 A I parked in my parking space, got out of my truck and
17 went to my door, unlocked my door and heard two pops --
18 popping noises and I thought to myself somebody was shooting
19 firecrackers

20 Then I put my key in the door and then I heard a car
21 which made me turn around and look

22 Q Let me just ask you -- when you heard the two popping
23 noises had you made it into your house?

24 A No, I hadn't

25 Q And what happened after you said you turned around?

P PODRIQUE, ON DIRECT

1 A This car speeded off, and I didn't know what was going
2 on at the time Then I heard a young lady screaming and
3 so I walk back out to try to look and see, you know, if some-
4 body needed some help

5 Q How close were they to where your door is?

6 A From here to the table

7 Q This table here?

8 A Yes maam

9 Q And what did you do after that?

10 A

11 Q You heard the lady scream

12 A I heard it and went back out my door I had my hand
13 in the front door, and I walked back out to my truck and I
14 could look and see the young man on the ground and she s
15 screaming

16 So I ran to my telephone to see if I could call nine
17 one one because I didn't know what had happened

18 Q Did you call nine one one?

19 A Not that I can remember I was trying to and trying
20 to help her at the same time

21 Another gentleman made a call

22 Q What did you do after that?

23 A I was trying to comfort her, and someone ask if I could
24 get a towel, and I turned around and someone was standing
25 out there and asked if they could get a towel -- asked me for

88

075

1 one so they could put pressure on wherever he was shot at

2 Q And did you bring one back

3 A Yes, I did, and that was when I helped pull up his shirt
4 and that's when I seen the bullet hole in the middle of his
5 chest

6 Q Where was it?

7 A Right in the middle

8 Q Okay, and what happened after that?

9 A Then a lot of people was around and EMS came up, and
10 they was trying to help him

11 Q Earlier you said you saw a car?

12 A Yes

13 Q Could you describe the car for the jury?

14 A I m not sure if it was grey or silver in color, and I'm
15 not sure what year it was It had a dent on the passenger
16 front door

17 Q I show you -- let me show you what's marked as State s
18 9 and ask you to take a look at it

19 A

20 Q Is that the same car you saw?

21 A Yes

22 SOLICITOR I would move State s 9 in evidence

23 THE COURT Without objection?

24 MR DAVIS Without objection

25 THE COURT Admitted

1 (Photo of car entered in evidence without objection
2 as State's Exhibit 9)

3 BY SOLICITOR

4 Q When you saw that car, where was it?

5 A Coming from the left side of the street, the oncoming
6 traffic side

7 Q The right side of the street?

8 A It would be -- if you're facing west on your left hand
9 side

10 Q And what did the car do?

11 A It -- I didn't see when it approached but there was
12 the pop roise and then it speeded off

13 There is this parking lot where I live at and when it
14 came up I heard the car squalling, and that's what made me
15 look the tires squalling

16 Q Did you see if there was anyone inside the car?

17 A I see two heads just the back of their heads

18 Q But you saw two heads?

19 A I saw two heads

20 Q And did you see that car again?

21 A Later on that evening

22 Q How did that happen?

23 A I was in the detective's car

24 Q Tell the jury how that happened

25 A We was going to the station and the officer got a call

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077

1 saying they found the car, and it's on Bowman Street, and I
2 said, that's on my bus route

3 So we went there and pulled up and I seen the car, and
4 I said, that's the car

5 Q And did you tell anyone that was the same car that you
6 saw?

7 A I told the officer who was in the car with me

8 Q Did you know the woman that was with the man that got
9 shot?

10 A No ma'am

11 Q Did you recognize the man who got shot?

12 A Not at first I didn't

13 Q Did you recognize him later?

14 A I was talking to a friend and I realize that he used
15 to ride my school bus years and years ago

16 Q Now, I want to show you State's Exhibit 2, and ask if
17 you would take a look at that

18 A

19 Q This is my apartment building right here

20 Q If you would point on this photograph to where you
21 were prior to the shooting?

22 A Here

23 Q That V shaped building?

24 A Yes

25 Q And where is your apartment?

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P RODRIQUES ON DIRECT

1 A Right there

2 Q And is your truck in that photograph?

3 A You can see a little of it

4 Q Point to it on this exhibit

5 A (Gesturing)

6 Q Okay

7 A Right near there

8 Q And would you show the jury what area the man was that
9 got shot?

10 A

11 Q First, let me let you take a look at State's 1 Look
12 at State's 5, 4, and 3

13 A

14 Q In one of these would you show the jury where the man
15 was shot?

16 A Here

17 Q And do all of these, Exhibit 1, 5, 4 and 3, show the
18 area where the shooting occurred?

19 A Yes

20 SOLICITOR Your Honor, we would move State's 1, 4 and 5
21 in evidence

22 MR DAVIS No objection

23 THE COURT Very well Without objection, they are
24 admitted

25 (Photos admitted in evidence without objection as State's

P RODRIQUES ON DIRECT

1 Exhibits 1, 4 and 5)

2 BY SOLICITOR

3 Q If you would show the jury where on Exhibit 4 your
4 apartment is

5 A Right there

6 Q And where were the people who --the man who got shot?

7 A About here

8 Q What is that?

9 A A sign for the trailer park, near the edge of the road

10 Q What door were you at when you heard the car?

11 A Here

12 Q On that front side?

13 A Yes

14 Q And is that the vantage point you had?

15 A Well,

16 Q I realize it's opposite in the photograph

17 A Right When I was here, I heard the pop, pop, and

18 I see the car on the street but it was that side of the

19 car, and, like I said, they speeded off They came on the

20 left hand side of the street and I see the back of their heads

21 looking backwards

22 Q Looking at this picture, they continued on?

23 A Yes, toward Dorchester Road

24 Q I'll ask you to take a look at State's Exhibit 22, 23,

25 24

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P RODRIQUES ON DIRECT

1 and 24 Do you recognize that?

2 A The car

3 Q You recognize the picture?

4 A Yes, and the house where the car was parked at

5 Q And you testified earlier you were taken to look at the
6 car?

7 A Yes

8 Q You were familiar with the area?

9 A Yes This is my area for driving the bus

10 Q By the time you saw the car, was it daytime or night?

11 A Turning dark It was just turning dark

12 Q The second time you saw the car?

13 A Yes, the second time

14 SOLICITOR Your Honor, we'll move 22 23, 24 in evi
15 dence

16 MR DAVIS No objection

17 THE COURT Admitted without objection

18 (Photographs admitted in evidence without objection as
19 State's Exhibits 22, 23 and 24)

20 BY SOLICITOR

21 Q Did anyone else identify the car?

22 A Yes there was another gentlemen who was out there be-
23 fore I did

24 Q He identified the car?

25 A Yes

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P RODRIQUES ON DIRECT

1 Q Okay

2 THE COURT She and the detective went out there and what
3 else was it?

4 There was another person out there who -- what did you
5 say?

6 WITNESS Another gentlemen had identify the car

7 THE COURT And you identified the car?

8 WITNESS Yes

9 MR DAVIS Objection

10 THE COURT I would strike what the other fellow did
11 She can testify to what she did

12 BY SOLICITOR

13 Q And at what time did all of this happen? The shooting
14 after you got home?

15 A Oh, my goodness Between four and four thirty

16 Q I don't have anything further

17 THE COURT Mr Davis?

18 MR DAVIS We don't have any questions Thank you

19 THE COURT You can step down Thank you

20 (Witness excused from stand)

21 THE COURT Ladies and gentlemen we're going to

22 take a short recess Please don't discuss the case among
23 yourselves

24 (Jury excused from Courtroom)

25 (The Court stood in recess for a brief time and the

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1 matter was resumed)

2 MR DAVIS May I put something on the record?

3 THE COURT Okay

4 MR DAVIS Your Honor, we approached the bench when I
5 wanted to make an objection The Solicitor had said in ef-
6 fect to the jury that if you're one hundred percent what hap-
7 pened, you would be a witness

8 My concern there was that it was lowering the State's
9 burden, and it was bolstering as well That was our position,
10 and so I made an objection at that time

11 THE COURT Well, I will charge them on the law and
12 that will include credibility of witnesses, and the burden
13 of proof

14 Thank you

15 Bring the jury By the way some jurors said they could
16 not hear, so we need to have everyone speak up

17 (Jury returned to Courtroom)

18 THE COURT All right, Solicitor

19 SOLICITOR State calls Officer Bruce Barrus

20 BRUCE BARRUS, being duly
21 sworn testified as follows

22 CLERK Please have a seat State your full name and spell
23 your last name

24 WITNESS Officer Bruce Barrus, B A R R U S

25 DIRECT EXAMINATION

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1 BY SOLICITOR

2 Q Officer Barrus where are you employed?

3 A North Charleston Police Department

4 Q And what do you do for that Department?

5 A Currently the traffic division

6 Q And are you on light duty because of some injury?

7 A Yes ma'am

8 Q Okay, and back in December -- on December 13, 2004

9 what did you do for the North Charleston Police Department?

10 A I worked patrol in the west end which is up Dorchester

11 Road

12 Q And is that near the West Montague area?

13 A Yes, ma'am

14 Q Okay Will you tell the jury how you got involved in

15 this case?

16 A At the time of the incident, I was patrolling Evanston

17 Plaza just doing a business check and the call went out

18 that there was a report of shots fired and a possible vic-

19 tim on the ground at the Montague Extension

20 So I told dispatch I would take the call, and I responded

21 there When I arrived I noticed that there was a subject

22 on the ground It was in about the forty-six hundred block

23 of West Montague

24 Q And do you recall about what time it was that you got

25 the call on your radio?

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1 A

2 MR DAVIS Objection, Your Honor

3 BY SOLICITOR

4 Q Do you recall the time you got the call?

5 A No, ma'am

6 Q Did you do anything else before you went out to the
7 scene?

8 A

9 Q Did you go anywhere else or make any other stops?

10 A No

11 Q Now, you got to the scene and were any other law en-
12 forcement officers there?

13 A I was the first to respond

14 Q Let me ask you this When someone dials nine one one,
15 how does it get to you working patrol or traffic?

16 How do you get a call to respond to an area?

17 A A nine one one call comes through to the dispatcher, and
18 the dispatcher once she is able to understand what the
19 call is about dispatches the call for an officer at that
20 particular location closest to it

21 Q This particular area of West Montague, is there any
22 confusion about whose jurisdiction is in the area of West
23 Montague?

24 A To a working police officer there most assuredly could
25 be some confusion

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085

OFR BARRUS ON DIRECT

1 Q You responded when you thought it was in North Charleston or
2 because you were close?

3 A We got the call

4 Q All right

5 A When it is in the North Charleston jurisdiction, it comes
6 from our dispatcher, and when it's Charleston County it goes
7 when it's Charleston County's jurisdiction, it goes to
8 Charleston County

9 Q And is that determined by what type of nine one one call
10 comes in?

11 A No, ma'am

12 Q So you responded Was that area actually in North
13 Charleston when you responded?

14 A North Charleston Police has jurisdiction on the road-
15 way all the way through

16 Q Okay

17 A There are certain landmarks to the residential area

18 Q Who was in charge of working this case?

19 A I was the first officer on the scene I set up the
20 crime scene and contacted my sergeant I had questions whe-
21 ther it was in our jurisdiction or not and he advised me that
22 it was not

23 So I asked the dispatcher to contact Charleston County
24 for assistance

25 Q During all of that process, did EMS arrive? The ambulance?

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1 A Yes, maam

2 Q They were in charge of taking care of the victim and
3 that sort of thing?

4 A Yes, maam

5 Q Do you recall there being a woman at the scene with
6 the victim when you arrived?

7 A Yes, maam

8 Q What was her condition?

9 A At the time I got there, she was leaning over and she
10 was pretty hysterical I was not able to communicate well
11 with her

12 Q Were there other people coming around to where the
13 victim and the woman were?

14 A Yes, maam

15 Q And did you have occasion to interview any of them?

16 A I was able to interview probably three or four people
17 immediately, just to ascertain what initially went on, and
18 to try to determine whether the suspects were in a car or what
19 exactly had happened

20 Q And did you ascertain that?

21 A I did

22 Q Did you put out a BOLO for a car?

23 A I did

24 Q And what description did you use for this BOLO?

25 A A description of a grey Marque or Grand Prix They

100

087

1 were not sure at the time what type of vehicle it was but
2 a grey vehicle and having two black males inside

3 Q Okay How about damage to the victim?

4 A They also stated that

5 MR DAVIS Objection

6 THE COURT I'll let him testify as to what was put
7 out

8 BY SOLICITOR

9 Q Tell the jury what you told dispatch to be on the look-
10 out for?

11 A I requested dispatch to be on the lookout for a grey
12 either Marque or Grand Prix, with two or three black males,
13 and maybe a dent on the front and possibly passenger side or
14 driver's side

15 Q You said the woman with the victim was pretty hyster-
16 ical at that time?

17 A Yes, maam

18 Q You had trouble communicating with her?

19 A Yes, maam

20 Q And other people were around?

21 A Yes maam

22 Q Now, at some point after this -- after you responded,
23 did you complete an incident report regarding this matter?

24 A Yes, maam

25 Q Would that refresh your memory as to the time that you

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OFR BARRUS ON DIRECT

1 were dispatched?

2 A Yes, maam

3 Q All right Is this a copy of your incident report?

4 A Yes, maam

5 Q And what time does it say that you -- what time do you
6 recall now being dispatched?

7 A It looks like fifteen O one I don't have my reading
8 glasses

9 MR DAVIS Judge, we are willing to stipulate that it is
10 sixteen O one

11 A Sorry

12 SOLICITOR That's all I have, Your Honor

13 THE COURT Mr Davis?

14 MR DAVIS No questions

15 THE COURT Thank you, sir You may come down

16 (Witness excused from stand)

17 SOLICITOR The State calls Gina Brown

18 GINA BROWN, being duly
19 sworn testified as follows

20 CLERK Have a seat and state your full name to the
21 Court

22 WITNESS (First name not audible) Eugena Brown B R
23 O W N

24 DIRECT EXAMINATION

25 BY SOLICITOR

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G BROWN ON DIRECT

- 1 Q Ms Brown, you go by Gina?
- 2 A Yes
- 3 Q And is it all right if I call you Gina?
- 4 A Yes
- 5 Q Did you -- tell the jury how old you are?
- 6 A Twenty-seven
- 7 Q How far did you go in school?
- 8 A Twelfth
- 9 Q Did you finish high school?
- 10 A Yes
- 11 Q Where did you finish?
- 12 A In Georgia
- 13 Q Do you work?
- 14 A Yes
- 15 Q What kind of work do you do?
- 16 A I m currently a waitress
- 17 Q How long have you been waitressing?
- 18 A Four months
- 19 Q What did you do before that?
- 20 A Manager at McDonald's
- 21 Q How long were you a manager at McDonald's?
- 22 A Nine or ten years
- 23 Q Now Gina did you ever live in the Charleston area?
- 24 A Yes
- 25 Q Where did you live?

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000

G BROWN ON DIRECT

- 1 A West Montague, a trailer park
- 2 Q Did you know Anthony Gambrell?
- 3 A Yes
- 4 Q And did he have a nickname?
- 5 A Yes
- 6 Q What was that?
- 7 A Freak
- 8 Q How long did you know Anthony?
- 9 A We kind of like came up together in Charleston
- 10 Q Did you grow up mainly in Charleston?
- 11 A Yes
- 12 Q You just didn't live here the whole time?
- 13 A No
- 14 Q Back in December of 2004, would you say you and Anthony
- 15 were a couple?
- 16 A Yes
- 17 Q You said the two of you lived where?
- 18 A West Montague, Westmont Trailer Park
- 19 Q Here in Charleston County?
- 20 A Yes
- 21 Q Can you tell the jury a little better and me too,
- 22 about what area of town that is in?
- 23 A
- 24 Q What is it near?
- 25 A North Charleston -- by Dorchester Road

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G BROWN ON DIRECT

1 Q Gina, just for clarification for those of us who are
2 not familiar with the area I m going to show you State's
3 Exhibit 28, and ask you to look at that

4 A

5 Q Can you see Dorchester Road on that?

6 A Yes

7 Q How about West Montague?

8 A Yes

9 SOLICITOR Your Honor, at this time I would ask to
10 publish this to the jury

11 THE COURT All right

12 BY SOLICITOR

13 Q I want you to show the jury where Dorchester Road would
14 be?

15 A Right here

16 Q And what road is this?

17 A West Montague

18 Q Okay, and this road that cuts through between Dorchester
19 and West Montague?

20 A Yes

21 Q And the trailer park you were saying you and Anthony
22 lived in where was that?

23 A Down here

24 Q Over in here?

25 A Yes, ma'am

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-

105

1 Q All right and what was up here at the corner of
2 Scarsdale and (balance of question not audible)

3 A (Not audible)

4 Q Take your seat back on the stand Now, you just men-
5 tioned when you were going over the map a gas station on the
6 map

7 Let s go to the morning of December 13, 2004 Okay?
8 Earlier tnat morning around eleven o'clock, did you have an
9 appointment downtown?

10 A Yes

11 Q At MUSC?

12 A Yes

13 Q So you wake up that morning at your traler?

14 A Yes maam

15 Q How did you get to your appointment at MUSC?

16 A A cab

17 Q And how long were you downtown at MUSC?

18 A Until about three thirty or three forty-five

19 Q And was Anthony with you at MUSC?

20 A No

21 Q Did you speak to him throughout the day?

22 A Yes

23 Q How did you speak to him?

24 A I called him on the house phone

25 Q On your cel?

A Yes

G BROWN ON DIRECT

1 Q Now, when you got finished up at MUSC, how did you get
2 back to the area where you lived?

3 A Cab

4 Q Where did you take a cab to?

5 A The gas station at the corner of Scarsdale and Dor-
6 chester

7 Q The one I just colored in?

8 A Yes

9 Q Why there?

10 A When I called, Anthony had asked me to stop there and
11 get him some cigarettes

12 Q And did you do that?

13 A Yes

14 Q What happened? Did you see anybody when you went into
15 the gas station?

16 A Yes At the gas station when the cab dropped me off, I
17 noticed four guys and the cab driver mentioned something
18 about them

19 Q Okay back up a minute When you and the cab driver
20 were pulling up into the parking lot of the gas station, he
21 mentions the four guys to you?

22 A Yes that they were like blocking the way

23 Q So he commented on that?

24 A Yes

25 Q And did you get out of the cab?

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G BROWN ON DIRECT

1 A Yes

2 Q Were you afraid at all?

3 A No

4 Q You went in the station?

5 A Yes

6 Q What did you do?

7 A Purchased the cigarettes

8 Q Did you see those guys?

9 A Yes

10 Q Were they talking to you?

11 A No They were talking to the man in the store

12 Q After you purchased the cigarettes, what did you do?

13 A I started to leave the store

14 Q Did you know where Anthony was?

15 A No

16 Q Did you see him when you came out?

17 A No

18 Q Where did you set out after you finished at the gas sta-
19 tion?

20 A Went home

21 Q And did you ever see Anthony?

22 A Yes

23 Q Where did you end up seeing Anthony?

24 A When I got out on the street, he was standing across the
25 street

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Q35

- 1 Q And what did the two of you do then?
- 2 A I gave him the cigarettes and we started to walk down
- 3 the street
- 4 Q Were you all holding hands or anything like that?
- 5 A He had his hand around my neck
- 6 Q And at that point, what street are you walking down?
- 7 A (Inaudible)
- 8 Q And looking at State's Exhibit 28 the station is right
- 9 here?
- 10 A Yes
- 11 Q So were you walking down in this direction?
- 12 A Yes
- 13 Q After you started walking down with Anthony, did you see
- 14 the guys?
- 15 A Yes
- 16 Q Tell the jury what happened
- 17 A We were walking and the four guys walk up and one of
- 18 them said something to Anthony and he
- 19 Q Slow down one second Be careful when you say he and
- 20 him because we don't know exactly who you're talking about
- 21 Okay?
- 22 A Okay
- 23 Q One of the boys said something to Anthony?
- 24 A Yes
- 25 Q And what did Anthony say back?
- A He didn't say anything

- 1 Q Did he say anything to you?
- 2 A Yeah, he said he didn't who those little kids were
- 3 Q When he said little kids, how old, if you could guess or
- 4 if you know, were the people you saw coming up?
- 5 A They look like teenagers
- 6 Q And you are
- 7 A Twenty-seven
- 8 Q How old was Anthony?
- 9 A Twenty-seven
- 10 Q Okay So Anthony said to you that he didn't know them?
- 11 A And he said they don't know who they're messing with
- 12 Q They don't know who they're messing with?
- 13 A Yes
- 14 Q Did Anthony do anything?
- 15 A Not at that particular moment
- 16 Q What happened next?
- 17 A By the time we got to the corner, they were right on
- 18 us, and he repeated what he said again
- 19 Q Okay, who repeated it?
- 20 A The young man
- 21 Q Okay he repeated something to Anthony?
- 22 A Yes, and Anthony said something back, and he said, oh,
- 23 I thought you were somebody else and then he swung at Anthony
- 24 and Anthony swung at him, and the young man was running his
- 25 mouth

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(3)

1 Q And how long did this physical part of the alterca-
2 tion take place?

3 A About two or three minutes Anthony had blood on his mouth

4 Q And what were the other three guys who was with the
5 fighter -- what were they doing?

6 A They were just standing there

7 Q Were they heckling you at all?

8 A No

9 Q Did they fight with Anthony at all?

10 A No

11 Q Just one guy?

12 A Yes

13 Q You said Anthony physically had blood on his mouth?

14 A Yes

15 Q Did he look to be hurt badly?

16 A No

17 Q Was he able to walk around?

18 A Yes, and the guy got up

19 Q What was the last thing that he said to Anthony?

20 A He said, you wait right here

21 Q Did you and Anthony wait right there?

22 A No

23 Q What did you do?

24 A We started walking back toward home, and the guy and the
25 other boys went the other way

111

- 1 Q What did you do after that?
- 2 A Continue to walk home, and Anthony made a call
- 3 Q Did you know who Anthony called?
- 4 A No
- 5 Q So the other boys split?
- 6 A Yes
- 7 Q What happened next?
- 8 A We were just walking and a car pulled up from behind
- 9 us I heard two or three shots fired, and Anthony pushed
- 10 me across the street or he pushed me and I ran across the
- 11 street, and this gentleman came running behind me
- 12 Q Can you describe that gentleman?
- 13 A He was like an older guy
- 14 Q Was he coming to help you?
- 15 A Yes
- 16 Q Okay
- 17 A And he asked did I need help, did anybody get hit,
- 18 and Anthony told him he did that he was hit in his chest
- 19 and his leg and Anthony fell on the ground, and I let it screaming,
- 20 and this guy said call nine one one By the time I turned back
- 21 to Anthony I could see all the blood, and I reached and grabbed
- 22 the cell phone
- 23 Q And did you actually call nine one one?
- 24 A Yes
- 25 Q Did you have a chance to listen to that tape?

112

099

1 A Yes

2 Q Did you understand you on that tape?

3 A No

4 Q You were very upset?

5 A Yes

6 Q Let's go back Gina, from the time you heard the car
7 First of all, was the car coming up from behind you, or com-
8 ing up facing you?

9 A No it was coming from behind

10 Q So you told the jury that you and Anthony were walking
11 this way down Montague?

12 A Yes

13 Q Toward your trailer?

14 A Yes

15 Q And the car came this way from that direction?

16 A Yes

17 Q And after the shooting, which way did the car go?

18 A Kept on going

19 Q That direction?

20 A Yes

21 Q Now you and Anthony were on which side of the road?

22 A Here

23 Q This side?

24 A Yes

25 Q When the car pulled up, you were on this side of the

- 1 road, and where was the driver? How far away?
- 2 A A car distance
- 3 Q So about as far as I am from you?
- 4 A Yes
- 5 Q And could you tell whether or not the driver's window
- 6 was up or down?
- 7 A It was down
- 8 Q And were you able to see into the car?
- 9 A Yes
- 10 Q How many people were in the car?
- 11 A Two
- 12 Q Did you recognize anybody that was in the car?
- 13 A Yes the passenger
- 14 Q Where did you recognize the passenger from?
- 15 A From the fight
- 16 Q Was he the guy who got in the fight with Anthony?
- 17 A Yes
- 18 Q How about the driver? Had you seen him before?
- 19 A No
- 20 Q He wasn't with the four guys?
- 21 A No
- 22 Q Did you see who actually fired the gun? Whether it was
- 23 the passenger or the driver?
- 24 A Yes It was the driver
- 25 Q How many times did you say he shot?

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G BROWN ON DIRECT

1 A Two or three times

2 Q And would you tell the jury the kind of gun or what
3 you saw of it?

4 A It had a circle on the side

5 Q Was it like a cowboy gun, a revolver?

6 A Yes

7 Q Were you able to get a good look at the driver?

8 A Yes

9 Q Before we get into more about the driver tell the
10 jury what you did after Anthony went down and a man came,
11 you said to help you?

12 A

13 Q You called nine one one and did the ambulance eventually
14 come?

15 A Yes

16 Q Do you remember seeing Officer Barrus there?

17 A No

18 Q Do you recall any other officers there?

19 A No

20 Q It was kind of a blur at that point?

21 A Yes

22 Q What were you doing at the time?

23 A I was on the ground with Anthony and I was trying to
24 keep people away from him There was people around there
25 that I knew and I was trying to help him

115

G BROWN ON DIRECT

1 Q Did you stay on the scene the rest of the night?

2 A No

3 Q Where did you go?

4 A To the hospital

5 Q And when was it that you realized that Anthony had
6 died?

7 A When they came and told us at the hospital They told
8 us he had died at the scene

9 Q Where did the ambulance take you?

10 A MUSC

11 Q And how long were you all there at MUSC?

12 A Three or four hours

13 Q And after that where did you go?

14 A To the police department

15 Q And at the police department, did you give a written
16 statement?

17 A Yes

18 Q And did you give a description of the person who was
19 driving the car?

20 A Yes

21 Q How about the person who was a passenger in the car?

22 A Yes

23 Q Regarding the driver, the shooter, how did you describe
24 him in your statement to the police?

25 A The driver?

116

G BROWN ON DIRECT

1 Q Yes the driver

2 A It looked like he had braids, a mustache, and it looked
3 like a jacket

4 Q And the passenger, the guy who was fighting with Anthony,
5 did you give a description?

6 A Yes

7 Q What was that description?

8 A Light skin black tee shirt, long hair cut

9 Q Before I go into any more about that, let me ask you
10 something else

11 When Anthony was on the ground there at the scene,
12 did you see the boys who had been with the fighter again?

13 A

14 Q Did they come up to you?

15 A Yeah they were standing there, and one came running up

16 Q Did you react to him?

17 A I was telling one of Anthony's friends that he was one
18 of the ones that was with the one Anthony was fighting with

19 Q Okay You say you gave a description of the guy who
20 having braids is that right?

21 A Yes

22 Q Could you tell how tall he was while he was sitting in
23 the car?

24 A No

25 Q And how did you describe the passenger?

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G BROWN ON DIRECT

1 A Light skin, kind of chunky, black tee shirt

2 Q How about his hair?

3 A Long hair

4 Q Now, at some point, Gina, later that night, did you
5 have an opportunity to meet with Detective Catlett and
6 another female detective at your aunt's house?

7 A Yes

8 Q Okay, and did they show you photo lineups at your
9 aunt's house?

10 A Yes

11 Q First of all, I want to show you what's been marked as
12 State's Exhibit 29 Do you recognize that?

13 A Yes

14 Q What is that?

15 A Photos

16 Q And when Detective Catlett first gave you State s Exhibit
17 29 did she tell you that the passenger was necessarily in
18 this lineup?

19 A

20 MR DAVIS Objection to hearsay

21 THE COURT I'm going to overrule the objection

22 SOLICITOR Thank you

23 BY SOLICITOR

24 Q Did she tell you that you had to pick somebody out?

25 A

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G BROWN ON DIRECT

1 MR DAVIS Objection

2 THE COURT Overrule the objection

3 SOLICITOR Thank you

4 A No, maam

5 BY SOLICITOR

6 Q When you looked at this lineup for the first time,
7 State's Exhibit 29, did you recognize anybody?

8 A Yes

9 Q Who did you recognize?

10 A The guy that Anthony had the fight with

11 Q Did you sign over that picture?

12 A Yes

13 Q And is it your signature on this picture?

14 A Yes

15 Q And did you indicate on that lineup form who it was that
16 you recognized, not by name, but by where you had seen him?

17 A Yes

18 Q What did you write?

19 A In the passenger seat

20 Q Where else?

21 A And he was in the fight

22 SOLICITOR Your Honor, at this time we'd offer State's
23 Exhibit 29 in evidence

24 MR DAVIS Without objection

25 THE COURT All right

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G BROWN ON DIRECT

1 (Photo lineup admitted in evidence without objection
2 as State's Exhibit 29)

3 BY SOLICITOR

4 Q Now, as to State's Exhibit 30 -- you were also shown
5 another lineup, is that right?

6 A Yes

7 Q And did anyone tell you that you had to select somebody
8 in that lineup?

9 A

10 MR DAVIS Objection

11 THE COURT Overrule the objection

12 A No

13 BY SOLICITOR

14 Q When they showed you the second lineup, State's Exhibit
15 30, did you recognize anybody or say that you recognize
16 anybody?

17 A Yes

18 Q Who did you recognize?

19 A Three and five

20 Q How many photographs were on that lineup?

21 A Six

22 Q And tell the jury how you narrowed it down to two photo-
23 graphs out of six?

24 A I thought the two photographs looked alike

25 Q So photographs three and five looked like each other?

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G BROWN ON DIRECT

1 A Yes

2 Q And did those two look like anybody else?

3 A They looked like the guy that shot Anthony

4 Q And was there any difference between the two photographs?

5 A Yes, the skin complexion

6 Q Tell the jury more, please

7 A Um, one skin tone was darker than the other one

8 Q So because of the complexions being different, which
9 photograph did you sign?

10 A Number three

11 Q And did you also sign these Sheriff's Office photo ID
12 information forms?

13 A Yes

14 Q After you selected photograph number three, did you say,
15 you positively identified photo number three as being the
16 driver or the shooter?

17 A No

18 Q Did you think he looked like the driver or shooter?

19 A Yes

20 Q Did you think number five looked like the driver or
21 shooter?

22 A Yes

23 Q So you ended up signing number three?

24 A Yes

25 SOLICITOR Your Honor, at this time we'd offer State's

121

G BROWN ON DIRECT

1 Exhibit 30 in evidence

2 MR DAVIS We would object, Your Honor

3 THE COURT Sustained as to the cover sheet but the photo-
4 graphs can come in

5 (Portion of State s Exhibit 30 admitted which showed
6 photos)

7 SOLICITOR Beg the Court s indulgence

8 (Short break in the process)

9 BY SOLICITOR

10 Q Have you seen the shooter since the day of the shooting?

11 A No

12 Q Do you see him here today?

13 A Yes

14 Q Where is he?

15 A Right there

16 Q Is that the person who shot Anthony?

17 A Yes

18 Q Just a few more questions Back on December 13 of 2004

19 -- what is the difference in his hair today and his hair back
20 on that day?

21 A More braids

22 SOLICITOR Your Honor, we would offer State's Exhibit 31,
23 I believe without objection

24 MR DAVIS That's correct

25 THE COURT Admitted then without objection

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G DAVIS ON DIRECT

1 (Copy of Photo lineup admitted without objection as
2 State's Exhibit 31)

3 BY SOLICITOR

4 Q Gina, is this State's Exhibit 31 the same lineup as you
5 signed off on number three?

6 A Yes

7 Q The same as 30?

8 A Yes

9 SOLICITOR We request permission to show this to the
10 jury

11 THE COURT Okay

12 MR DAVIS May we approach for a moment?

13 THE COURT Yes

14 (Conference at the bench between counsel and the Court off
15 the record)

16 SOLICITOR That's all I have, Your Honor

17 THE COURT How long do you think it will be?

18 MR DAVIS It may be some time

19 THE COURT Ladies and gentlemen, do not discuss the case
20 with anyone and be back at nine o'clock in the morning

21 Thank you

22 We'll do the cross examination of her in the morning

23 Thank you

24 (July excused from Courtroom)

25 THE COURT Okay, nine o'clock in the morning

123

1 MR DAVIS Your Honor, a couple of things I obviously
2 would like to renew my objections to the identification made
3 by this witness, and the objections from the pre-trial hear-
4 ing

5 THE COURT All right

6 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

7
8 NOTE Balance of trial was taken by another reporter

9
10
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25

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

)

COURT OF GENERAL SESSIONS

2005-GS-10-8285

STATE OF SOUTH CAROLINA)

vs)

)

TRANSCRIPT OF RECORD

Michael Barney Dunham,)

February 14, 2006

Defendant)

Florence, South Carolina

B E F O R E

HONORABLE LARRY R PATTERSON, Judge and a jury

A P P E A R A N C E S

SCARLETT WILSON, Chief Deputy Solicitor

JENNIFER BURNEY, Deputy Solicitor

Attorneys for the State

RODNEY DAVIS, Assistant Public Defender

KRISTON NEELY, Assistant Public Defender

Attorney for the Defendant

Keshia Reed

Circuit Court Reporter

1 THE COURT All right, Mr Davis, are you ready?

2 MR DAVIS Thank you, Your Honor First of all,
3 Judge, the State had questioned Ms Brown and it's now our
4 chance to cross We were supplied prior to register for
5 Ms Brown it includes in 2000, March 27th of 2000 from
6 Georgia down Savannah police department convicted for
7 criminal trespass Sentence probation for six months It
8 says in the Caplane County recorders court And then the
9 second one from Savannah police department convicted for
10 the offense of theft by shoplifting and that is 11-22 of
11 2000 Again, from Chaplain County recorders court
12 probation 12 months and fined \$200 Obviously, before Mr
13 Neely would start cross-examination, we ask for a ruling on
14 what part of the record -- my understanding is that s the
15 only record that she has What we'll be able to question
16 on cross

17 THE COURT What is your position on that,
18 Solicitor?

19 MS WILSON Your Honor, I don't believe the
20 criminal trespass would be admissible

21 THE COURT It would not

22 MS WILSON The shoplifting I think would be

23 THE COURT You can ask about the shoplifting, but
24 not about the criminal trespass

25 MR DAVIS Thank you, Your Honor One other

1 matter, Your Honor, and we perhaps in you're in a bit of a
2 bind here because of the new court reporter When we were
3 reviewing the testimony last night, it was my understanding
4 that Ms Brown during direct commented not only did she
5 identify my client in court yesterday But she had seen
6 him previously at the preliminary hearing Judge, that's
7 my recollection when we reviewed our notes That's going
8 to be problematic because during the whole pretrial hearing
9 on the inquiry of identification that was never testified
10 to Now, what I ask for if we could especially with a new
11 court reporter, if we could have brief testimony to that
12 issue only prior to going forward because that now is
13 before the jury ---

14 THE COURT She testified to that There's no
(15) question about it

(16) MR DAVIS Okay Then I not only need to renew my
17 motion I made at the initial when she on the stand in front
18 of the jury identified my client, but to that additional
19 testimony that has a new ring to it we didn't have
(20) previously

(21) MS WILSON Judge, I'm not sure whether or not she
22 meant the preliminary hearing or preliminary hearing
23 meaning when we were having the hearing before the Court I
24 don't know, that was the first that I had heard that term
25 used

1 THE COURT She's on the stand now isn't she?

2 MS WILSON Yes, sir

3 THE COURT Let's put her up there and let us ask
4 her We're outside the presence of the jury

5 We have a new court reporter Would you give her
6 your name please

7 MS BROWN Aldrensa Brown

8 COURT REPORTER I'm sorry I can't hear you

9 MS BROWN Aldrensa Brown

10 COURT REPORTER Spell your first name?

11 MS BROWN A-l-d-r-e-n-s-a

12 THE COURT They got a few questions they're going
13 to ask you before the jury comes in about your testimony
14 yesterday about you seeing him at the preliminary hearing
15 Y'all can ask her some questions about that if you want to

16 MR NEELY Thank you, Your Honor

17 WHEREUPON,

18 Aldrensa,

19 after first having been previously duly sworn, testified as
20 follows

21 CROSS-EXAMINATION IN-CAMERA

22 BY MR DAVIS

23 Q Ms Brown, yesterday during the State's questioning,
24 did you indicate at one point that you had seen my client
25 previously at a preliminary hearing?

(1)

A Yes

2

Q Now, when you talk about this previous time you saw my client, where are you speaking of, where was that?

3

4

A We came -- it was here I'm not sure if it was a preliminary hearing or whatever I didn't talk with anybody else

6

(7)

Q Okay It was here at the courthouse?

8

A Yes

9

Q And do you recall how my client was dressed at the time? Did he have on a grey jump suit?

10

11

A I think it was green

12

Q Okay But some prison -- a prison uniform?

(13)

A Yes

(14)

Q Okay And who were you here with on that date?

15

A Anthony's mother

16

Q I'm sorry can you speak up just a little

17

A Anthony's mother, his sister, his brother and his grandmother

(18)

19

Q Okay Was anyone from the Solicitor's office with you?

20

21

A Not that I know of, no

22

Q You don't recall either Ms Porcel or Ms Mazell being with you?

23

24

A No

(25)

Q Okay Do you recall any of the folks that you meet

1 with in preparation for this trial being with any of the
2 attorneys or investigators?

3 A No

4 Q Okay And do you recall that my client would have
5 come and stood by me similar to this at the podium in front
6 of a judge?

7 A Yes

8 Q Okay And do you recall the purpose of that court
9 appearance? Do you remember what we were dealing with?

10 A I just thought it was the preliminary hearing

11 Q Okay Was there testimony taken?

12 A No

13 Q We just talk to the judge?

14 A Yes

15 Q Okay It was a different judge than this judge,
16 right?

17 A Yes

18 Q Okay Now, that happened sometime before we started
19 this trial yesterday correct?

20 A Yes

21 Q Do you recall how long ago that occurred?

22 A I'm not sure I know it was before September

23 Q Of 2005?

24 A Yes

25 Q Sometime prior to that How do you know it was before

(1) September of 2005?

2 A Because I moved around by September, so I know it was
3 before then

4 Q Would you recall whether it was in front of Judge
5 Cole, C-o-l-e, Cole?

6 A I'm not sure

7 Q Remember ---

8 A I don't remember

9 Q Do you remember if it was a white gentleman kind of
10 blondish hair and mustache? Do you recall that?

11 A I just remember it was white man

12 Q Okay Who was the judge?

(13) A Yes

(14) Q Okay Now, you answered the Solicitor's question
15 saying that you seen my client at that hearing, is it then
16 that you realized that he was shooter?

17 A Before I saw him?

18 Q The date we talked about when you were in front of
19 that other judge and you saw my client come in and stand
20 beside sometime before September of last year?

21 A Uh-huh (affirmative response)

22 Q When you saw him in court, is that when you realized
23 that he was the shooter?

(24) A Yes

(25) Q Okay And who did you tell that to?

- 1 A That particular day?
- 2 Q Anytime after that?
- 3 A His family
- 4 Q Okay Did you tell anyone from the Solicitor's
- 5 office?
- 6 A No, I hadn't spoken to anyone from the Solicitor's
- 7 office
- 8 Q Did you tell anybody from law enforcement?
- 9 A I believe I told Detective Boyd
- 10 Q You think you called the detective and told him that?
- 11 A No
- 12 Q Do you think you saw him in person and told him that?
- 13 A Yes
- 14 Q Would that have been here at court?
- 15 A Yes, we were in a courtroom, yes
- 16 Q Okay Did he ask you to write any statement about
- 17 that or anything?
- 18 A No
- 19 Q Do you know if he completed any report about that or
- 20 anything?
- 21 A No
- 22 Q And other than that telling Detective Boyd back at
- 23 that other time you were here in court and saw my client,
- 24 had you expressed that to anyone else?
- 25 A Not other than family

(1) Q Okay And that would be Mr Gambrell's family?

(2) A And my family, yes

(3) Q And your family Okay And so the very next time you
4 saw my client was yesterday morning seated at this table?

5 A Yes

6 Q When you came in to testify, is that right?

7 A Yes

8 Q And you hadn't seen him before that?

(9) A No

10 MR NEELY Ms Brown, if you could give me just one
11 second please

12 (WHEREUPON, a pause in the proceedings)

(13) Q Ms Brown, after this prior event that we're talking
14 about here in court, were you shown any photos between that
15 time and when you testified yesterday?

16 A Can you repeat that

17 Q Were you shown any photos between that prior court
18 date that you came and watched and before you testified
19 yesterday?

20 A No

21 Q You were not shown any photos?

22 A No

23 Q Not even the photo you had seen way back when?

24 A I meant the -- you talking about with the six
(25) pictures?

1

Q Uh-huh (affirmative response)

2

A Oh, yes, I been shown those

3

Q Okay You were shown those when you went in to be

4

with the Solicitor's office?

5

A Yes

6

Q Okay And I believe that was past this Sunday, right?

7

A Uh-huh (affirmative response)

8

Q And the Sunday before that?

9

A Before that

10

Q Right

11

A Yes

12

Q Two Sundays in a row before we started trial?

13

A Yes

14

Q And other than those six person photos that you were

15

talking about, you weren't shown any other photographs or

16

anything?

17

A It was four different sets of six

18

Q And those were the same ones you were shown back on

19

December 13th 2004 about four in morning by Detective

20

Catlett, right?

21

A Yes

22

Q So they reviewed those same photographs with you?

23

A Recently, it's been done the two -- just the two sets

24

Q Out of the four?

25

A Yes

(1) Q Okay And that would have been when you came down --
2 or they came up and spoke with you at your -- at your
3 place?

4 A Uh-huh (affirmative response)

5 Q You came down here to the Solicitor's office and they
6 spoke with you?

(7) A Yes

(8) Q Okay Just finally, Ms Brown, when you told
9 Detective Boyd back at that other court date, Hey, that's
10 the shooter When you had that discussion with him, was
11 there any discussion about that prior group that you looked
12 at?

13 A No

14 Q Okay There wasn't any discussion about who you
15 picked back then versus pointing out my client on that
16 date?

(17) A No

(18) Q Okay And at that prior date when you come in, did my
19 client would he come sit beside me at the podium similar to
20 this is that right?

21 A Yes

22 Q And it was just me and him standing there, right?

23 A Yes

24 Q I was wearing some type of jacket and tie, is that
(25) right?

(1)

A Yes

2

Q And he was in some type of -- you recognized it to be
3 some type of inmate uniform?

4

A Yes

5

Q You think it was green in color?

6

A Yes

7

Q Okay Nobody else standing around us?

8

A Not that I remember, no

9

Q Okay I mean, there other people in the courtroom as
10 far as standing up here at the podium it was me and my
11 client, right?

(12)

A Yes

13

Q Okay

14

MR DAVIS Ms Brown, thank you very much no other
15 questions

16

REDIRECT EXAMINATION IN-CAMERA

17

BY MS WILSON

(18)

Q Ms Brown, when you saw the defendant in court at that
19 other hearing, did you recognize him immediately?

20

A Yes

21

Q And what did recognize him from?

22

A From the day of the incident

23

Q Okay And from the date of the incident where you saw
24 him doing what?

(25)

A Shooting at Anthony

- (1) Q Did you have any question about it that day?
- (2) A No
- (3) Q Is that why you told the family?
- 4 A Yes
- (5) Q And was your family present with you in court?
- 6 A No
- 7 Q Just Anthony's family?
- 8 A Yes
- 9 Q And when you went back and saw your family, you told
- 10 them as well?
- (11) A Yes
- (12) Q You didn't have any question about that being the
- 13 shooter?
- 14 A No
- 15 Q And you recognized him from December 13th?
- (16) A Yes
- 17 MS WILSON That's all I have, Your Honor
- 18 THE COURT Okay, Mr Davis, apparently, you were
- 19 there -- I don't know who the hearing was before maybe
- 20 Judge Cole or somebody You didn't know she was there?
- 21 MR DAVIS I'm sorry, Your Honor
- 22 THE COURT You didn't know that she was present
- 23 when you had the hearing?
- 24 MR DAVIS I don't have recollection of it, Judge
- (25) Obviously, if it was a bond hearing on Friday morning

1 either to set or reduce bonds, there a number of people in
2 the courtroom family members from both sides And we
3 generally have, you know, at least a handful if not more
4 that are there for that

5 THE COURT I'm familiar with those bond hearings,
6 but apparently -- oh, she was present for some type
7 hearing She doesn't know that type hearing it was Of
8 course, Judge Cole wouldn't have been doing a preliminary
9 hearing I'm sure that's probably who it was But be that
10 as it may, again, I'm still in the dark on the facts
11 Y'all know all the facts or all the evidence and I don't,
12 but apparently, he was not arrested based on her
13 identification I have to make these decisions It
14 appears to me that I would fine that she is -- I've watched
15 the demeanor of this witness She's being honest and
16 forthright And I mentioned answer to every question you
17 ask her I still think that her and would rule that her
18 identification is a question for the jury and I would
19 charge them in regard to the identification And tell them
20 the State's got to prove the identification, of course, of
21 the -- of Mr Dunham beyond a reasonable doubt Now, you
22 can ask her any questions you want to about the
23 identification with the jury present

24 MR DAVIS Judge, may I ask -- I'm just not -- I
25 don't recall the bases of the Court's conclusion that he's

(1) not arrested on the bases of her identification

(2) THE COURT I don't know how he was arrested at this
3 particular point I've only heard the witnesses I've
4 heard And I haven't heard any testimony about how he was
5 arrested and who identified him or how they arrested him or
6 why they arrested him or why he was -- I don't even know
7 why he was in the photographic lineup to be honest with
(8) you

9 MR DAVIS And, Judge, I would argue ---

10 THE COURT I haven't heard any testimony to that
11 effect

(12 MR DAVIS Well, Judge, I would argue that's what
13 makes this even more suspect and more prejudicial is
14 because there's no direct connection She didn't pick my
15 client She picked the other photograph

16 THE COURT I've heard your arguments clearly and I
17 watched her testimony And my ruling is that she did pick
18 him out along with one other person And according to the
19 photographs to me, they do look very much alike So -- but
20 she thought it was one of the two along with all her other
(21) testimony about the -- what happened and everything I
22 know it's critical and it would -- anything that reflects
23 unfavorably on your client is prejudicial I know that, but
24 I believe that in this case and I would rule that the
(25) identification would be a jury issue at this point I've

1 seen this witness testify now this is the second day and
2 I'm gone submit it to the jury

3 MR DAVIS Thank you, Your Honor One other matter
4 and finally based on that ruling, Judge, I feel obliged
5 based on two factors One that testimony came out in front
6 of the jury that was not handled at the pretrial concerning
7 this second viewing First viewing depending on how you
8 look at it What we just had question about Based on
9 that coming out, now we have testimony that an agent of the
10 State was aware that she changed her identification

11 Judge, I need to put on the record a request for a
12 mistrial based on that This information was never
13 disclosed to the defense Even though we been in contact
14 with the Solicitor's office up until Sunday afternoon
15 getting information about this witness about identification
16 issues If I could submit to the Court that testimony came
17 out about prior reviewing to the jury It wasn't talked
18 about in our pretrial hearing You -- we can't unring that
19 bell, the jury's heard about it I understand your ruling
20 We certainly could be able to question her about it, but in
21 preparing for this, there was no prior affirmation by the
22 State there was going to be a positive identification in
23 court The last comment I had from the State was that they
24 hoped she be able to We find out now that agent of the
25 State Detective Boyd was aware of a prior positive

4 4 7
21 22 7

(1) identification We never received any of that in
2 discovery We never received any notice of that
(3) conversation of identification We tried to get access to
4 Ms Brown to speak with her I understand her concerns and
5 the State's concerns When we received discovery, her
6 statement has her address whited out We made attempts
7 through phone calls and e-mails to the State to contact
8 her We were told that on Sunday she be in -- this past
9 Sunday speak with the State and meet with her then When I
10 came in, we were told that she had just left and we just
(11) missed her I had commented at one point perhaps we do it
12 over phone a call And then if Ms Brown told me she
13 didn't want to talk to me, so be it But we've had no
14 access to this witness nor access to the information about
15 this prior positive identification which overturns the
(16) original identification of another suspect

(17) THE COURT I don't know of any rules that prohibit
18 you from talking to this witness before the trial I mean,
19 you don't have to go through the State

20 MR DAVIS We had no other information other than
(21) the name, Your Honor The address was whited out Phone
(22) number whited out

23 THE COURT Well, did you make a motion for the
24 Court to give it to you? I don't know why they would ---

(25) MR DAVIS Well, I continued contact with the state

(1) in hopes we could gain access We worked attentively on
2 this case and we've e-mailed even on weekend I was told
3 she be in on Sunday When we tried to meet with her then,
4 we missed her I had suggested previously perhaps a phone
5 call We done that in a prior case where the State's
6 concerned about a witness' identity and it's not just that
7 though, Judge We have information today that an agent of
8 the State was aware of a positive prior identification and
(9) we just now find out about it on the second date of trial

10 THE COURT Well, if you were present at whatever
11 hearing was there and she was present, she did not identify
12 him in the court Her testimony was that she probably --
13 she may have told the detective about it I didn't hear
14 her say anything about telling the prosecution about it

15 MR DAVIS No, Your Honor, you're right Detective
16 Boyd was the testimony that was given

17 THE COURT But I would note your motion I would
18 not grant a mistrial at this particular point Well, just
(19) have to see how these things go

20 MR DAVIS Thank you, Your Honor

(21) MS WILSON Judge, I need to just for the record
22 because of some things Mr Davis said I feel like for the
23 record I need to address those things regarding the
24 discovery issue Mr Boyd, Detective Boyd is present in
25 the courtroom prepared to testify if necessary, but he

1 doesn't recall being notified as to any identification I
2 believe the witness testified that she thought she did
3 Didn't seem to be unequivocal to me Mr Boyd does not
4 recall that The State certainly was not aware of that

5 THE COURT I think we -- y'all know what we need to
6 make a record of The case probably be appealed It may
7 be it may not be The State can't appeal if you loose
8 And I don't believe -- be that as it may, the defense
9 lawyer was here He was here apparently for a bond hearing
10 and everybody knew it that he was indicted or at least
11 arrested for the crime at the time and whoever was in the
12 courtroom knew about it And they heard the conversations
13 about it with the judge So whoever was here would have to
14 know he was a person that was accused So we gone go
15 forward You ready?

16 MS WILSON Yes, sir

17 MR DAVIS Yes, Your Honor Thank you

18 THE COURT Bring them in

19 (WHEREUPON, the jury returned to the courtroom)

20 THE COURT Ladies and gentlemen of the jury, I
21 apologize This young lady's come in to help us here She
22 was working for judge downstairs and they finished up
23 their hearing so she came up here and set up I believe
24 everybody ought to be responsible for the things that go
25 wrong and I will do -- you and -- everybody was here at

1 another 9 00 except the court reporter I will do
2 everything I can to find out the reason for that and make
3 sure that that problem is addressed, so we want have it
4 anymore Okay We'll go forward You ready to
5 cross-examine this witness?

6 MR. NEELY Yes, sir

7 CROSS-EXAMINATION

8 BY MR. NEELY

9 Q Good morning, Ms. Brown

10 A Good morning

11 Q Is it okay you that?

12 A You can

13 Q You were talking to the jury yesterday and you gave us
14 a synopsis of what took place on December the 13th I
15 sympathize think with you and I'm sure the jury members do,
16 but I do have a few questions I just want to make sure the
17 jury remembers your testimony and that I understand
18 everything that was said earlier Is it true that you were
19 scared that day?

20 A Yes

21 Q And everything kind of happened fast wouldn't you
22 agree?

23 A Yes

24 Q How fast would you say?

25 A I don't -- just swiftly I mean

1 Q Well, let me be specific The incident that involves
2 the car coming up and the shooting and the car leaving, I
3 think you testified earlier that it was about minute, would
4 you agree?

(5) A Yes

6 Q Okay So within that minute -- well, let's go back
7 Prior to that mention that there was a fight between one of
8 the guys that is not on trial today, but one of the other
9 guys that you identified later, is that correct?

10 A Yes

11 Q Okay And how long did that last?

12 A About three to five minutes maybe

13 Q Okay Do you remember about what time that started?

14 A After four

15 Q Okay And then how much time would you say elapsed
16 between that incident and the actual car pulling up?

17 A About three to five minutes

18 Q So about three to five minutes?

19 A Yes

(20) Q Okay So there was a fight, three to five minutes
21 later a car pulls up?

(22) A Yes

(23) Q So you have a car pulling up You said that it was a
24 car distance a part correct?

(25) A Yes

1 Q And you're saying that two you saw two people in the
2 car, is that correct?

3 A Yes

4 Q And you said that you recognized the passenger?

5 A Yes

6 Q So you looked at his face?

7 A Yes

8 Q Okay You also said you heard some shoots, is that
9 correct?

10 A Yes

11 Q How many did you hear?

12 A It look like I saw two or three

13 Q Two shots?

14 A Yes

15 Q Okay So you heard them and you saw them?

16 A Yes

17 Q Okay Now, I think you testified earlier that you
18 actually saw the gun that was pointed, is that correct?

19 A Yes

20 Q And you went into detail you just didn't say you saw
21 the gun, but you said you also saw the handle of the gun?

22 A Yes

23 Q And on the handle what was it that you said was on the
24 handle?

25 A It look like a tan or marble like cover

1 Q Yes, ma'am And I think you testified earlier that it
2 was a circle on there, is that correct?

3 A Yes

4 Q Okay So you saw all of that also?

5 A Yes

6 Q Okay And I think there was also some testimony that
7 you were pushed to the side?

8 A Yes

9 Q So was that before you saw the gun or after you saw
10 the gun?

11 A No, it was after the actual shooting

12 Q Okay So after the bullets had flown and you had seen
13 these other things and then you pushed to the side?

14 A Yes

15 Q Kind of behind the car?

16 A Yes

17 Q So all of that happened within the minute?

18 A Yes

19 Q Okay So you saw all that thing and you observed it
20 everything within that one minute time frame?

21 A Yeah, I mean, maybe it was a little longer than a
22 minute

23 Q Okay But you would say -- how fast was the car going
24 then?

25 A Maybe just a little faster than what we were walking

1 Q Okay So within that time frame, you saw these
2 things This was just a traumatic situation wouldn't you
3 agree?

4 A Yes

5 Q And it's something that you never forget Well, let
6 me ask this, you were shown a photo lineup of some
7 individuals about 12 hours later, isn't that true?

8 A Yes

9 Q Okay And you saw the pictures on there and this was
10 done at your aunt's house I believe is your testimony?

11 A Yes

12 Q And so it was at your aunt's house It wasn't at the
13 police station, correct?

14 A Correct

15 Q And so you were surrounded by some family members and
16 friends?

17 A Yes

18 Q Okay Were there any officers there?

19 A Yes

20 Q How many were there?

21 A Two

22 Q Two officers Were they male or female?

23 A Female

24 Q Okay So you're at your aunt's house family and
25 friends were there You had two female officers accompany

1 you They were there to show you the lineup, is that
2 correct?

3 A Yes

4 Q Okay And you looked at it?

5 A Yes

6 Q And were you required to pick somebody out?

7 A No

8 Q So you could have looked at the spread and said I
9 don't know these people?

10 A Exactly

11 Q Okay How many lineups were you shown?

12 A It was four

13 Q Okay So you were shown four lineups?

14 A Yes

15 Q Let's talk about the first one Do you remember the
16 first one?

17 A Yes, kind of

18 Q Okay You probably got the order a little bit So
19 let me ask you, did you identify anybody in those photos?

20 A I can't remember exactly how it went, but I think on
21 the first one I did The first one was the five that I
22 identified

23 Q So you identified the guy who was in the fight
24 earlier correct?

25 A Yes

1 Q And that's the guy that you said was the passenger in
2 the car?

3 A Yes

4 Q So you got look at them earlier and as the passenger?

5 A Yes

6 Q Okay And at anytime were you shown a photo lineup
7 with my client, Mr. Dunham's picture in it?

8 A Yes

9 Q Okay And I want you to tell the jury about that
10 You ended up picking somebody out of that photo lineup
11 correct?

12 A Yes

13 Q Okay

14 MR. NEELY Approach the witness, Judge?

15 THE COURT Yes

16 Q I'm going to show you State's Exhibit 31 Is this the
17 lineup that you saw?

18 A Yes

19 Q Okay Which client or which person in that lineup did
20 you actually pick?

21 A Number three

22 Q Okay And you actually picked number three and did
23 you sign across number three?

24 A Yes

25 Q Okay I'm going to ask again Were you required to

1 pick anyone out?

2 A No

3 Q So you could have said I don't know anybody?

4 A Correct

5 Q Is number three in courtroom today?

6 A Not that I see him

7 Q Okay Needless to say you were positive that the
8 person at that moment was number three?

9 A No, I wasn't

10 Q But you weren't required pick anybody correct?

11 A Exactly

12 Q And you picked someone?

13 A Yes

14 Q Let's talk for a moment about the photo lineup when
15 you picked the other guy that you said was the passenger
16 and you said that person was the shooter Did you write
17 anything on that lineup?

18 A Repeat that

19 Q You remember you picked out one of the guys and you
20 said he was the passenger and the shooter?

21 A Yes, the passenger and the shooter

22 Q Right Where you picked out the guy you said was the
23 passenger -- I'm sorry the passenger and the fighter Is
24 that the guy you picked out?

25 A Yes

1 Q Okay Now, when you picked that guy out, did you
2 write something on that particular lineup?

3 A Yes, I signed my name

4 Q Okay You signed your name, but did you write
5 anything else?

6 A Yes, I said that the passenger was the fighter

7 Q Okay So you put some detail on that?

8 A Yes

9 Q Okay You said that was the -- I think the prosecutor
10 said earlier that was the little guy in the fight So you
11 made it clear that you remembered this guy from the fight
12 and from being the passenger?

(13 A Yes

14 Q Did you make any notations on the lineup that you
15 signed that contained a picture of my client?

16 A No, I didn't write anything on it just other than my
(17) name

(18) Q Okay Do you have a prior history?

19 A Yes

20 Q Okay You been convicted of shoplifting, correct?

(21) A Yes

(22) Q Okay Just another question You testified earlier
23 that you identified my client at a hearing, is that
24 correct?

25 A Yes

- 1 Q Preliminary hearing or some type of hearing here at
2 the courthouse?
- 3 A Yes
- 4 Q Okay When was that?
- 5 A I don't remember the actually date, but I know it was
6 before I moved from Charleston
- 7 Q And you moved from Charleston about when?
- 8 A Like end of August beginning of September
- 9 Q Okay So about five months ago?
- 10 A When I moved?
- 11 Q Uh-huh (affirmative response)
- 12 A Uh-huh (affirmative response)
- 13 Q And this shooting occurred back in December of '04,
14 correct?
- 15 A Yes
- 16 Q So from December of '04 until September of '05, you
17 were pretty clear on who actually did the shooting,
18 correct?
- 19 A Yes
- 20 Q Okay When you came in here on that day, you did say
21 it was the courthouse, right?
- 22 A Yes, I believe it was Lead's Avenue
- 23 Q You think so?
- 24 A Yes
- 25 Q Were there any other clients there when you were there

(1) any other people inmates?

2 A Not that I remember

3 Q Okay So if I'm correct and I think your testimony
4 earlier was it was actually here in this courtroom, correct
5 or in this courthouse?

6 A That's where I thought it was, yes, sir

7 Q Okay So you were a little confused about where it
8 was, but ultimately, it was a client standing beside an
9 attorney?

10 A Yes

11 Q Okay And just one client, correct?

12 A Yes

13 Q And what was he wearing?

14 A I believe it was green, handcuffs

15 Q Green and he had handcuffs on?

16 A Yes

17 Q It was no question that this was the person who was
18 accused of this charge, correct?

(19) A Yes

(20) Q Okay When you took ID or the photo lineup and you
21 looked at it, you signed your name across the person who
22 sat in slot number three correct?

23 A Yes, sir

24 Q And today some 100 days later, you want this jury to
(25) believe that what you told the police was incorrect?

1 A About the signing?

2 Q Yes

3 A Yes

4 MR NEELY Just a moment Thank you, Ms Brown, I
5 don't have any further questions

6 REDIRECT EXAMINATION

7 BY MS WILSON

8 Q Ms Brown, at the other hearing when you saw the
9 defendant, did you recognize him?

10 A Yes, ma'am

11 Q What did you recognize him from?

12 A From the incident that had happened earlier

13 Q What incident?

14 A The shooting

15 Q And who did you recognize him to be?

16 A The shooter

17 Q Did you have any question about that?

18 A No, ma'am

19 Q Do you have any question about that today?

20 A No, ma'am

21 Q Would you tell them if you did?

22 A Yes, ma'am

23 Q Did you have a problem telling the police back on
24 December 14th that you weren't sure about number three?

25 A No, I didn't have a problem

1 Q You didn't make a positive identification, did you?

2 A No, ma'am

3 Q You told them you weren't sure?

4 A Yes, ma'am

5 Q Now, you mentioned that you were shown two other photo
6 lineups

7 (WHEREUPON, State's Exhibit Numbers 48 and 49 were
8 marked for identification only)

9 Q Ms Brown, I'm going to show you what's been marked
10 State's Exhibits 48 and 49 Do these look like the other
11 two lineups that you were shown by Detective Catlett?

12 A Yes, ma'am

13 Q And did you select anybody out of those two lineups?

14 A No

15 Q You didn't recognize anybody in State's Exhibit 48 and
16 49?

17 A No, ma'am

18 Q Didn't sign your name on either page?

19 A No

20 Q Didn't sign the front information sheet?

21 A No, ma'am

22 Q Because you didn't recognize anybody?

23 A No, ma'am

24 Q You didn't see anybody in State's Exhibits 48 and 49
25 on the day of the shooting?

1 A No, ma'am

2 Q Mr Neely asked you about how fast this all happened
3 You and Anthony were y'all in a hurry to get anywhere?

4 MR DAVIS Object, Your Honor, leading

5 THE COURT I sustain the objection that was
6 leading

7 MS WILSON Could I ask the witness to step down?

(8) Q If you could step down, Ms Brown And if you could
9 just walk at about the speed that you and Anthony were
10 walking that afternoon on the side of the road All right
11 Now, the car that came by you, how much faster then you and
12 Anthony was the car moving?

13 A It was just a little bit faster

14 Q Not zipping by?

(15) A No, ma'am

16 Q You can have a seat Thank you

17 MS WILSON That's all I have, Your Honor

18 RECROSS-EXAMINATION

19 BY MR NEELY

(20) Q Ms Brown, didn't you testify earlier that the car was
21 moving 25 to 30 miles an hour?

22 A Yes, I did

23 Q Okay, let me ask, how quickly did the car arrive after
24 the fight occurred?

(25) A About three to five minutes

1 Q Okay And I think your testimony earlier was that you
2 told Detective Boyd about the identification of our client
3 after the preliminary hearing, correct?

4 A I believe I did

5 Q You're not sure?

6 A I'm not sure

7 Q But you think you did?

8 A I think

9 Q Okay Also, Ms Wilson showed you those photo lineups
10 and she showed that you didn't sign some of them, correct?

11 A Correct

12 Q So you would agree that you were not required to pick
13 any more, correct?

14 A I was not required

15 Q And although you say you weren't sure about which of
16 the two guys you remember seeing that day, you ultimately
17 picked one of them, correct?

18 A Yes

19 MR DAVIS No more questions, Judge

20 THE COURT Very good Thank you, ma'am, you may
21 come down

22 (WHEREUPON, the witness leaves the witness stand)

23 THE COURT Next witness please

24 MS WILSON The State calls Detective Denise
25 Catlett

1 THE CLERK Place your left hand on the Bible and
2 raise your right hand Do you swear or affirm that the
3 testimony you give the Court and the jury in the trial of
4 this case to be the truth, the whole truth and nothing but
5 the truth so help you God?

6 MS CATLETT Yes, ma'am, I do

7 THE CLERK Please be seated and state your full
8 name and spell your last name for the record please?

9 MS CATLETT It's Denise Charlene Catlett
10 C-a-t-l-e-t-t

11 WHEREUPON,

12 Denise Catlett,
13 after first having been duly sworn, testified as follows

14 DIRECT EXAMINATION

15 BY MS WILSON

16 Q Detective Catlett, where are you employed?

17 A With the Charleston County sheriff's office

18 Q And how long have you been employed there?

19 A Since November of 1996

20 Q What do you do for the police department -- for the
21 sheriff's department?

22 A I'm actually in charge of the sex offender registry

23 Q How long have you been doing that?

24 A May of this year will be four years

25 Q Okay So back in December you were also in charge of

1 that?

2 A Yes, ma'am

3 Q Okay Well, how did you become involved if you are in
4 charge of the sex offender registry?

5 A We whenever we have a homicide in Charleston County
6 all of the detectives actually work the homicide So I
7 think Detective Boyd at that was in property crimes, so he
8 would actually work people who are persons in crimes
9 because everybody comes together There's 14 of us, so
10 it's 14 bodies oppose to one or two

11 Q Okay So you're all chasing down leads, doing
12 interviews?

13 A Exactly

14 Q Dividing the duties that need to be done?

15 A Correct

16 Q Did you have an opportunity to on December 13th to
17 meet with witnesses regarding a car that was seen at the
18 shooting?

19 A I did

20 Q Okay Will you tell the jury what you did with
21 regards to those two witnesses?

22 A Detective Horn and I actually -- I worked at Trident
23 Tech part time And I was at Trident and they asked me to
24 come into work So we went to the office and usually I end
25 running like rap sheets or checking people's background

1 when they get names and stuff like that So the lieutenant
2 had called and said that they had two witnesses that needed
3 to be interviewed So Detective Horn and I went to the
4 incident location on West Montague and got two the
5 witnesses

6 Q Was one of those Ms Rodriguez?

7 A It was and the other gentleman I don't remember his
8 name We at that time when we were coming back or getting
9 ready to go back to headquarters to interview them, we were
10 advised that North Charleston had located the vehicle on
11 Ruth Drive So the sergeant lieutenant told us to go ahead
12 and take the two witnesses because they had seen the car
13 and gave the description of the car to Roth Drive and we
14 did so

15 Q Okay And when you arrived at Ruth Drive, did you see
16 -- what did you see there?

17 A There was a North Charleston police officer that was
18 there and there was a -- it was a gray or silver Grand
19 Marquis that was parked in the -- it was like backed in to
20 the driveway

21 Q At Ruth Drive?

22 A At Ruth Drive

23 Q Now, later that night, did you have an opportunity to
24 meet with Gena Brown?

25 A I did

1 Q And tell the jury why you set out to meet with Ms
2 Brown?

3 A We had some photo lineups that they wanted us to show
4 because at that time we had developed some suspects in the
5 case So Detective Turner and I went to -- after we found
6 out where she was, we went to her aunt's house on Gainer
7 Avenue and showed her the photo lineups

8 Q Okay First of all, Detective Catlett, you said that
9 you set out to meet with Ms Brown regarding some lineups?

10 A Right

11 Q And where did you go to do that?

12 A We went to her aunt's house on Gainer Avenue

13 Q And that's also here in Charleston?

14 A Yes, ma'am, in North Charleston

15 Q And who all met with Ms Brown during the showing of
16 these lineups?

17 A Well, Detective Turner and I were the detectives that
18 went there

19 Q Okay Is she -- she's a female also?

20 A Correct

21 Q Okay And how about what other family members did
22 y'all meet with during the showing of the lineup?

23 A Her aunt was there and I remember her son hadn't
24 gotten up while we were there because I was playing with
25 him But that's all that I remember being in the living

1 room when we were in there

2 Q Okay And did you show her State's Exhibit 29?

3 A Yes, ma'am, I did

4 Q Okay And the first page of State's Exhibit 29 what
5 is that?

6 A This is called a photographic lineup information sheet
7 and it just has the information on it that explains what
8 happened the date that we were there And then when they
9 view it we fill out the bottom part here

10 Q Okay And did she view State's Exhibit 29?

11 A She did

12 Q The lineup?

13 A Yes, ma'am

14 Q And can you describe the jury how that process went
15 about?

16 A When we arrived, there's actually a little paragraph
17 right here that just tell us that there are six photos that
18 I'm going to show her and there in no special order That
19 the person that can committed the murder may or may not be
20 among these photos So please disregard any numbers or
21 letters that may appear on this photo And I would have
22 actually had shown her the photographic lineup and she
23 would have looked at

24 Q Okay And did she do that?

25 A She did

① Q Did she make a selection on State's Exhibit 29?

2 A She did

3 Q And which photograph did she select?

4 A He picked this one right here I guess that's bottom
5 center

6 Q Okay Any hesitation on that?

7 A None whatsoever

8 Q Did she tell you who was in that photo not by name,
9 but how she recognized him?

10 A Yes She wrote on there that it was the one that was
11 in the fight with Anthony and that he was in the passenger
12 seat of the car and she wrote that on the top

⑬ Q Okay Now, with regards to the second lineup or the
14 other lineup, I'm going to show you State's Exhibits 30 and
15 30A and ask you if you recognize those?

16 A Yes, ma'am

17 Q What are those?

18 A This would have been the second photographic lineup
19 that I showed Ms Brown that had the defendant, Mr Dunham,
20 in it

21 Q Okay And again, did you explain to her the same
22 thing you had explained to her about State's Exhibit 29?

23 A The same exact thing, yes, ma'am

24 Q And what does introductory paragraph say on State's
25 Exhibit 30?

1 A The same Ms Aldrensa Brown the six photos that I'm
2 about to show you are placed in no special order The
3 person that committed the murder may or may not be among
4 these photos, please disregard any numbers or letters that
5 may appear on these photos

6 Q Okay Was Ms Brown's reaction in seeing the
7 photographs in 30A the same as it was in seeing ---

8 A No

9 Q Tell the jury how it was different?

10 A When I gave her the photo lineup to look at, Mr Jeter
11 she looked through it and immediately picked him out When
12 I handed her this photo lineup, she looked through it and
13 then she started crying She was visibly upset She --
14 her breathing had changed and you can tell that emotionally
15 she was just drained So we calmed her down, asked her to
16 close her eyes and think about being back at the scene and
17 to look through the photographs just to try to get her to
18 calm down to be able to view the photos

19 Q Okay And did she do that?

20 A She did

21 Q Did she get more composed?

22 A Yes

23 Q Okay After she composed herself, did she narrow the
24 lineup down any?

25 A She did She was torn between photo number three and

1 photo number five And she thought the only difference was
2 that photo number three that the skin was a little bit
3 darker I attempted to get her not to look at the skin,
4 but to actually closer her eyes again and look at the
5 facial features and try and picture, you know, the
6 gentleman that's driving the car

7 Q And those photos are black and white photos right?

8 A They are

9 Q Now, eventually did Ms Brown sign off on photograph
10 number three?

11 A She did

12 Q Did she believe that number three ---

13 MR DAVIS Objection, Your Honor, calls for
14 speculation

15 THE COURT I would sustain the objection as to the
16 form of the question

17 Q What did she tell you regarding ---

18 MR DAVIS Objection, Your Honor, hearsay

19 MS WILSON Judge

20 THE COURT I'll overrule the objection

21 MS WILSON Thank you

22 Q Regarding number three and number five?

23 A The comments that I wrote was she wasn't sure between
24 number three and number five because she was looking at the
25 darker skin She thought that they looked alike

1 Q And that was the notation you made on the cover sheet?

(2) A That I made on the cover sheet

3 MS WILSON Your Honor, at this time we offer
4 State's Exhibit 30, which I don't believe has been
5 previously admitted

6 MR DAVIS Judge, we would object on the same
7 grounds

8 THE COURT I'll sustain the objection She
9 testified as to what, but you can't put the statement in
10 She's testified to that

11 (WHEREUPON, State's Exhibit Number 30 was admitted
12 into evidence)

(13 Q Now, you mention that you had other lineups when you
14 went to see Ms Brown, is that correct?

15 A There were two other lineups in the photo or in the
16 file that said photo lineups on it

17 Q Okay That you had with you when you went to see
18 Ms Brown?

19 A Yes

(20) Q Oh, let me ask you this, photograph number three, what
21 was the name of the person in photograph number three?

22 A I have ---

23 MR DAVIS Objection, Your Honor, relevance

(24) THE COURT I will sustain the objection

25 MS WILSON Judge, may we approach?

1 THE COURT Yes

2 (WHEREUPON, a bench conference was held in the
3 presence of the jury, but out of the hearing of the jury)

4 Q Regarding State's Exhibit 48 and 49, these were the --
5 let me show them to you Are those the two lineups you had
6 with you that night with the other two?

7 A Right They were four of them

8 Q Okay You had four total, right?

9 A Correct

10 Q State's Exhibit 30A and State's Exhibit 29?

11 A Correct

12 Q And then also State's Exhibit 48 and 49?

13 A Correct

14 Q Is that right?

15 A Correct

16 Q And the suspect in State's Exhibit 48 -- the suspect
17 that you were trying to determine if Ms Brown recognized
18 was in State's Exhibit 48 Jean Jakes, is that right?

19 MR DAVIS Objection, Your Honor, again relevance

20 THE COURT I don't know which person you're talking
21 about Would you bring that over here?

22 MS WILSON Yes, sir

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury, but out of the hearing of the jury

25 THE COURT I would sustain that objection

1 MS WILSON I do have two other questions

2 Q Since, this event, Detective Catlett, did you have an
3 opportunity measure some distance between the locations
4 that were key in this case?

5 A I did, yes, ma'am

6 Q And did you measure the distance between the scene on
7 Montague Avenue where the shooting occurred and to where
8 some other witnesses were located on Sumner Avenue?

9 A Yes, ma'am

10 Q So you measure from Montague?

11 A Correct

12 Q Okay And can you tell the jury how long it took you
13 get from Montague Avenue to the address at Marshview
14 Apartments?

15 A It was 5 3 miles from the location were west to the
16 apartment on Sumner Avenue And when we drove like three
17 o'clock in the afternoon, it took us nine minutes 50
18 seconds

19 Q Okay Now, did you have on occasion to measure from
20 Marshview Apartments on Sumner Avenue to Ruth Drive where
21 you took the people to look at the car?

22 A Yes

23 Q How far was Marsh Apartments from the Ruth Drive
24 address?

25 A It was 7 1 miles and took us 10 minute 28 seconds just

1 try get across north intersection

2 MS WILSON That's all I have, Your Honor

3 CROSS-EXAMINATION

4 BY MR NEELY

5 Q How are you today?

6 A I am great

7 Q I just have a few questions What time did you arrive
8 on the scene?

9 A It would have been around 4 30 that I had gotten the
10 call And I actually went to headquarters first and then I
11 went to the incident location

12 Q Okay Do you remember what time it was that you
13 actually showed the photo lineup to Ms Brown?

14 A That is on the form It was like 3 58 if I'm guessing
15 correctly

16 Q That sounds good that is correct So that was that
17 morning, correct?

18 A Correct It was February -- December the 14th at 3 58
19 in the a m

20 Q Okay You testified earlier that when she was looking
21 at the photos, she immediately identified the passenger and
22 the guy that was in flight, correct?

23 A Correct Mr Jeter, yes

24 Q And then after that, you showed her a copy of another
25 set of lineups?

- 1 A Correct
- 2 Q Okay And in that lineup, she looked at it and you
- 3 tell them that she started crying?
- 4 A Right She actually looked at the line up and then
- 5 she became visibly upset She was crying She was -- I
- 6 don't know if you want to what call it hyperventilating,
- 7 but, you know, having a hard time breathing She had to
- 8 sit down and compose herself, yes
- 9 Q And she did?
- 10 A She did
- 11 Q You instructed her to kind of regroup look again?
- 12 A Exactly
- 13 Q So you didn't force her to pick anybody, did you?
- 14 A I did not
- 15 Q And in fact, you gave her an out if you can't pick
- 16 anybody it's is okay is that correct?
- 17 A I don't know that those were my words But I read the
- 18 thing on the front of it And she was torn between number
- 19 three and number five And, you know, we tried to get her
- 20 to close her eyes and think about, you know, look at the
- 21 facial features and not -- it was just the color of the
- 22 picture
- 23 Q Let me be clear, based on what -- the thing that the
- 24 paragraph that you read to her, it was evident that she
- 25 didn't have to pick anybody, correct?

1 A Correct

2 Q And she did?

3 A And she did, yes

4 Q You had given us sometimes a few moments ago about
5 driving from Marshview to Sumner Avenue

6 A Correct

7 Q Could you tell us how long did it take you?

8 A How long did it take me from Marshview Apartments to
9 Ruth Drive?

10 Q Yes Did you go from Marshview to Ruth?

11 A We went from the incident location on West Montague
12 Avenue to the Marshview Apartments which is on Sumner
13 Avenue

14 Q Okay

15 A And I had to write it down because I couldn't remember
16 the number it was 5 3 miles And it was 9 minutes and 50
17 seconds, and that was actually at three o'clock in the
18 afternoon

19 Q And that's from when the incident happened to where
20 you found the car?

21 A To the apartments

22 Q To the apartments

23 A No, the car was found on Ruth Drive

24 Q Right I need to know did you ever ride from where
25 the incident happened to where the car was found?

1 A No

2 Q Okay So you didn't time that out?

3 A No, we just went from the incident location to the
4 apartments and then from the apartments to Ruth Drive So
5 I guess 9 minutes and 50 seconds It's right across the
6 street so ten minutes

7 Q What time of day did you do that?

8 A It was three o'clock in the afternoon

9 MR DAVIS No further questions Excuse me

10 Q How many photo arrangements you put together or did
11 you show Ms Brown?

12 A There where four lineups in the folder that says the
13 photographic lineups I only remember showing two

14 Q Okay

15 A You know, but there were four in there You know, I
16 briefly recall the other two, but I honestly don't remember
17 if I showed them or not

18 Q Okay All four of them were suspects?

19 A I would guess I showed them in my photographic
20 lineup I was given the lineups and told to go show them
21 and that's what I did

22 Q Let me ask, who were you given the lineups from?

23 A It would have been one of my supervisors or could have
24 been Detective Boyd that ask me to go and show them

25 Q One last question Are you aware there were five

1 suspects?

2 A I don't honestly have any idea how many suspects there
3 were

4 MR DAVIS Thank you, Judge

5 MS WILSON Judge, may we approach?

6 THE COURT Yes

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the jury)

9 THE COURT Thank you You may come down

10 (WHEREUPON, the witness leaves the witness stand)

11 MR DAVIS Your Honor, could she be subject to
12 recall?

13 THE COURT Yes

14 MR DAVIS Thank you, Your Honor

15 THE COURT Provided, it's something you didn't ask
16 her right now I don't like to keep calling people back
17 and forth

18 MR DAVIS I don't know that we'll need her, Judge,
19 but just in case

20 THE COURT Okay They want you to be available to
21 be called again, ma'am

22 MS WILSON Steven Johnson

23 THE CLERK Place your left hand on the Bible and
24 raise your right hand please Do you swear or affirm that
25 the testimony you shall give the Court and the jury in the

1 trial of this case will be the truth, the whole truth and
2 nothing but the truth so help you God?

3 MR JOHNSON Yes, ma'am

4 THE CLERK Please be seated Get up close to the
5 microphone State your full name and spell your last name?

6 MR JOHNSON Steven Renard Johnson J-o-h-n-s-o-n
7 WHEREUPON,

8 Steven Johnson,
9 after first having been duly sworn, testified as follows

10 DIRECT EXAMINATION

11 BY MS WILSON

12 Q Mr Johnson, I'm going to ask you to make sure you
13 lean forward and speak into that microphone Okay

14 A Yes, ma'am

15 Q And the court reporter has to type out everything
16 you're saying, so try to speak very clearly?

17 A Yes, ma'am

18 Q How are you Steven?

19 A Nineteen

20 Q And how far did you go in school?

21 A Tenth

22 Q You didn't finish high school?

23 A No, ma'am

24 Q Did you drop out?

25 A Yes, ma'am

- 1 Q Are you working?
- 2 A Yes, ma'am
- 3 Q Where do you work?
- 4 A Steel Technology
- 5 Q What is that?
- 6 A We make like make steel coils
- 7 Q Make steel what?
- 8 A Coils
- 9 Q Coils?
- 10 A Yes, ma'am
- 11 Q Okay How long had you been working there?
- 12 A Just started
- 13 Q You just started?
- 14 A Yes, ma'am
- 15 Q How long ago?
- 16 A I been there like for a week now
- 17 Q What did you do before that kind work?
- 18 A I was working at Red Lobster
- 19 Q Which Red Lobster did you work at?
- 20 A Like at Marr Drive, on Marr drive
- 21 Q Do you live on that side of town?
- 22 A No, ma'am, that's the only -- right there off Remount
- 23 Road
- 24 Q Okay What's the name of the street you live?
- 25 A Ruth Drive

1 Q Okay And is that near Sumner Avenue?

2 A It's off of Sumner

3 Q And both of these areas were in North Charleston?

4 A Yes, ma'am

5 Q Who lives there Ruth Drive with you?

6 A My mom and my sister and the mother of my child

7 Q Steven, did you know a guy by the name of Anthony

8 Gambrell or Freak?

9 A No, ma'am

10 Q Did you know Gena Brown?

11 A Ma'am?

12 Q Gena Brown

13 A No, ma'am

14 Q How about the defendant do you know him?

15 A Who?

16 Q Michael Dunham?

17 A Yes, ma'am

18 Q Do you see him here today?

19 A Yes, ma'am

20 Q Where is Michael?

21 A Sitting over there

22 Q In the cream color tie?

23 A Yes, ma'am

24 MS WILSON Your Honor, please let the record

25 reflect he's identified the defendant

1 THE COURT Okay

(2) Q Okay How about Justin Lemon do you know him?

3 A Yes, ma'am

4 Q Jean Jakes?

5 A Ma'am?

6 Q Do you know Jean Jakes?

7 A Yes, ma'am

8 Q Are they all friends of yours?

9 A Yes, ma'am

10 Q How about a guy by the name of Michael Jetter?

11 A No, ma'am

12 Q Do you know who he is?

13 A Now, I do

14 Q Did you know -- did you grow up with him?

(15) A No, ma'am

(16) Q Did you grow up with Michael Dunham?

17 A Yeah, I did know him

18 Q From about the second grade, is that about right?

19 A Yes, the eighth grade too

20 Q Okay So you known Michael Dunham a long time?

(21) A Yes, ma'am

(22) Q How about a girl by the name of Victoria Martin?

23 A No, ma'am

24 Q Don't know her?

(25) A No ma'am

1 Q How about a guy by the name of Rashaan Green?

2 A No, ma'am

3 Q Don't know him Let's go to Monday, December 13th
4 2004, the day that lots of police showed up at your place
5 Do you remember that day?

6 A Yes, ma'am

7 Q What had you done earlier in the day?

8 A I was home sleeping

9 Q Okay And that was on Ruth drive?

10 A Yes, ma'am

11 Q What -- about what time did you wake up?

12 A Well, it was one o'clock TJ came to my house and me
13 and him sat on the porch talk to about 2 30

14 Q Who all was at your house that afternoon when you woke
15 up?

16 A The mother of my child ---

17 Q What's her name?

18 A Shaun Washington

19 Q Okay

20 A And my mom and my sister and my stepdad

21 Q So you think you woke up from sleeping at about what
22 time?

23 A It was one o'clock when he came

24 Q All right What did you do after you said Jean
25 Jaquez, is that how you said his name?

1 A Yes, ma'am

2 Q Okay What did you do after he got there and you woke
3 up?

4 A We sat on the porch and talked for little while until
5 about 2 30

6 Q And then what did you do?

7 A After that I tell him to come back, so I can take my
8 shower and I come outside

9 Q Okay You speaking a little bit quickly If you can
10 just slow it down a little bit

11 A We sat out there and talked about 2 30

12 Q Right

13 A And he was leaving and I tell him to come back, so I
14 can take my shower and get dressed and come outside

15 Q Okay So did he leave?

16 A Yes, ma'am

17 Q And what did you do then after

18 A I went back in the house and laid down

19 Q You laid down?

20 A Yes, ma'am

21 Q Did you stay at the house?

22 A Yes, ma'am

23 Q At some point did you leave?

24 A Yes, ma'am

25 Q Okay And who did you leave with the first time?

- 1 A It was me and my girlfriend
- 2 Q Shaun?
- 3 A Yes, ma'am
- 4 Q Where did you go with her?
- 5 A Down on Garrett Street
- 6 Q How were you going to get to Garrett?
- 7 A We was walking
- 8 Q And why was it that you were walking with her?
- 9 A Ma'am?
- 10 Q Why was it that you walked with your girlfriend?
- 11 A I was walking with her
- 12 Q I understand, but why? Why did you go with her?
- 13 A To take her home
- 14 Q Okay You were walking her home?
- 15 A Yes, ma'am
- 16 Q Did you walk her all the way to her place?
- 17 A No, ma'am
- 18 Q Why not?
- 19 A She just tell me I don't got to walk her all the way
- 20 I just walked her to the top of Garrett Street because the
- 21 apartments right there, so I just walk her to the corner
- 22 Q All right Where did you go after that?
- 23 A I went back home
- 24 Q Walking again?
- 25 A Yes, ma'am

- 1 Q Did you see Jean Jaquez or JJ again?
- 2 A Yes, ma'am
- 3 Q Where did you see him?
- 4 A Me and my girlfriend was walking down Sumner and he
- 5 was on the way coming back in the house
- 6 Q So you saw him out on the street?
- 7 A Yes, ma'am
- 8 Q Where did he walk back home with you?
- 9 A Yes, ma'am
- 10 Q What happened when you got back to your house?
- 11 A I got back in the house and I took my shower And
- 12 left him outside with my stepdad
- 13 Q And who is your stepdad?
- 14 A Chris white
- 15 Q What was he doing?
- 16 A He was outside building a doghouse for me
- 17 Q All right So JJ stayed outside with your stepdad?
- 18 A Yes ma'am
- 19 Q You went inside and did what?
- 20 A Took my shower and got dressed
- 21 Q Do you have any idea about what time it was at this
- 22 point that you're taking a shower?
- 23 A No, ma'am
- 24 Q After you took a shower, what did you do?
- 25 A We sat there for a little while longer and we left

1 Q Who left?
2 A Me and JJ
3 Q How did y'all leave?
4 A We was on a bike
5 Q One bike?
6 A No, two
7 Q Your bike, his bike?
8 A Yes, ma'am
9 Q Did y'all have any plans to go anywhere in particular?
10 A No, ma'am
11 Q Where did y'all end up?
12 A We stopped in Marshview
13 Q What was at Marshview?
14 A Where we hang out at
15 Q When you say we, who hung out there?
16 A Me, JJ, Mr Dunham and Justin Lemon
17 Q Do you know whether or not school was out when y'all
18 got to Marshview?
19 A No, ma'am
20 Q Do you have any idea what time of day it was?
21 A No, ma'am
22 Q What happened when you got to Marshview, who all was
23 there?
24 A It was me, JJ, Mr Dunham, and Justin Lemon
25 Q Okay How about Michael Jetter did you see him?

1 A Yeah, he was there too

2 Q Had you ever meet him before that day?

3 A No, ma'am

4 Q Did you know who he was?

5 A No, ma'am

6 Q Did anybody tell you who he was?

7 A Yes, ma'am

8 Q Who told you?

9 A Mr Dunham They said his little brother went to

10 school with me when I was going (inaudible) high school

11 drama program

12 Q So did Dunham introduce you to Jetter?

13 A Yes, ma'am

14 Q And told you you knew his brother?

15 A Yes, ma'am

16 Q While you were at Marshview, did Mr Dunham ask you to

17 do anything?

18 MR DAVIS Objection, Your Honor, hearsay

19 THE COURT I'll overrule the objection

20 MS WILSON Thank you

21 Q Did the defendant ask you to do anything?

22 A When I got there?

23 Q After you got there

24 A No

25 Q Did you stay at Marshview?

- 1 A For a little while
- 2 Q Okay At some point did you leave?
- 3 A Yes, ma'am
- 4 Q Why did you leave?
- 5 A He ask me to go park the car at the house
- 6 Q Who asked you?
- 7 A Mr Dunham
- 8 Q Asked you to park what car?
- 9 A His car
- 10 Q And what did his car look like?
- 11 A It was a silver Grand Marquis
- 12 Q Did you agree to do that?
- 13 A Yes, ma'am
- 14 Q Why?
- 15 A It wasn't no odd thing to me Like I'm saying we use
- 16 to -- like if we go outside, it's probably be at his house
- 17 or he park there and we walk the streets
- 18 Q Have you driven his car before?
- 19 A One time
- 20 Q Only one time?
- 21 A Yes, ma'am
- 22 Q Had you ever driven his car without him?
- 23 A No, ma'am
- 24 Q The one time that you had driven it in the past where
- 25 had you been?

1 A We went to the fair

2 Q When was that?

3 A In October

4 Q October 2004?

5 A Yes, ma'am

6 Q Other than that, you hadn't driven this car?

7 A No, ma'am

8 Q So he asked you to go take the car to his house?

9 A Yes, ma'am No, my house

10 Q To your house, I'm sorry And how were you going to
11 get back to Marshview?

12 A My bike

13 Q Well, explain to the jury how that worked?

14 A I put my bike in the back of his trunk and I drove to
15 my house And I got my bike out the trunk when I got
16 there My stepdad asked me what I doing in his car and
17 tell him we was outside we walking around He told me to
18 be safe, that's when I got my bike out the trunk And I
19 got on the bike and I ride off on the bike

20 Q And where did you ride back on the bike?

21 A Back to Marshview

22 Q Okay Now, Marshview is not that far from Ruth Drive
23 is it?

24 A No, ma'am

25 Q I believe we had some testimony it was like 7 miles

1 or something like that?

2 A I have no idea

3 Q Does that sound about right?

4 A (No response)

5 Q How long does it take you to ride there on your bike?

6 A I believe it took a couple minutes because I had to
7 get cross the highway It's like the main highway and all
8 the traffic

9 Q Okay But it's just not that far?

10 A No, ma'am

(11) Q Okay When you got back Marshview, was Michael Jetter
12 still there?

13 A No, ma'am

14 Q Was Michael Dunham still there?

15 A Yes, ma'am

16 Q How about Justin Lemon?

17 A Yes, ma'am

18 Q How about JJ?

19 A Yes, ma'am

20 Q At that point, did you have any conversations with
21 Mr Dunham about the car?

22 A Well, when I got back there, they was already talking
23 When I got back, I just sat at the bottom stairs on my bike
24 and smoked a cigarette

25 Q Were you listening to what Mr Dunham was saying?

(1) A Not really

2 Q Did you hear what he said?

3 A Yes, ma'am

4 Q Well, what did he say?

5 A Like they just shot at somebody

6 Q Okay Who said that?

7 A Mr Dunham

8 Q Okay What did he tell you about the car? Did he

9 tell you can drove it?

10 A Ma'am?

11 Q What did he tell you about the car? About driving the

12 car any more?

13 A He said he come to get the car

14 Q Okay Did he tell the car was safe to drive?

15 MR DAVIS Objection, Your Honor, leading

16 THE COURT I'll sustain that objection

17 Q Tell me more about what Mr Dunham said about your

18 driving the car later on?

19 MR DAVIS I object to the hearsay, Your Honor

20 THE COURT I'll overrule the objection Go ahead

21 A Can you repeat that again?

22 THE COURT What did Dunham tell you about the car?

23 A Nothing He just said he'll probably get it from the

24 house later

(25) Q Okay Were you going to drive the car any more that

night?

2 A No, ma'am

3 Q Why not?

4 A He said -- I mean, we was outside

5 Q What did he tell you had happened in the car?

6 A That they shoot at somebody

7 Q Who?

8 A Mr Dunham

9 Q And who else?

10 A Jetter

11 Q Why?

12 A I guess ---

13 Q Not guess What did Dunham tell you was the reason
14 that he shot at somebody?

15 A That Jetter got in a fight with somebody

16 Q And what happened?

17 A That he called him

18 Q Who called who?

19 A That Jetter called Dunham

20 Q For what?

21 A To bring him the gun

22 Q And for what?

23 A I mean, I guess get him back around there

24 Q Okay And did Mr Dunham tell you they went back
25 around there?

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1 A Yes, ma'am

2 Q And what happened when they went back round there?

3 A He said he seen the guy and he let off about two or
4 three shoots

5 Q Who let off two or three shots?

6 A Dunham

7 Q Did he tell you if there was anybody with the guy that
8 he had just shot at?

9 A A female

10 Q Did he tell you what caliber of the gun it was that he
11 had or what kind of gun?

12 A It was -- he said it was a 22

13 Q That's what he told you?

14 A Yes, ma'am

15 Q Did you have a 22?

16 A No, ma'am

17 Q Now, after -- show you some photographs first When
18 you had the car, when you took the car for Marshview to
19 your place on Ruth Drive, did you go over to West Montague?

20 A No, ma'am

21 Q I'm going to show you State's Exhibit 21 ask you if
22 you recognize that?

23 A Yes, ma'am

24 Q What is that?

25 A That's my house and his car

1 Q What car?

2 A Mr Dunham's car

3 Q Is that how you parked it there?

4 A Yes, ma'am

5 Q Is that now you left it there when you rode your bike
6 back to Marshview?

7 A Yes, ma'am

8 MS WILSON Your Honor, at this time, we offer
9 State's Exhibit 21

10 MR DAVIS If we could see it, Judge No
11 objection

12 THE COURT Without objection, it's in evidence

13 (WHEREUPON, State's Exhibit Number 21 was admitted
14 into evidence)

15 Q I'm going to show you State's Exhibit 20 Do you
16 recognize that?

17 A Yes, ma'am

18 Q What is that?

19 A Marshview Apartments

20 Q Okay And is that the area where you and the other
21 guys hung out?

22 A The last building the D building

23 Q The D building?

24 A Yes, ma'am

25 Q And is that how it looked back in December of 2004?

1 A Yes, ma'am

2 MS WILSON Your Honor, at this time, we offer
3 State's Exhibit 20

4 MR DAVIS No objection, Your Honor

5 THE COURT All right Without objection

6 (WHEREUPON State's Exhibit Number 20 was admitted
7 into evidence)

8 Q Now, Steven, after Mr Dunham told you that he had
9 shot at someone in his car, what did you -- where did you
10 go or what did you do? Did you continue to hang out there?

11 A No ma'am

12 Q Where did you go?

13 A I went home

14 Q Back to Rutn Street?

15 A Yes, ma'am

16 Q Okay And why was it that you decided to leave
17 Mr Dunham at that point?

18 A Because he said he just talking about it and I was
19 like his car's at my house And I went back home

20 Q Okay Did you realize the car was hot?

21 A Afterwards

22 Q After what?

23 A He told me that he shot somebody

24 Q And ne shot somebody in from his car?

25 A Yes, ma'am

1 Q And do you remember if when you went home whether or
2 not it had gotten dark yet? When you went back?

3 A Yes, ma'am

4 Q It was already dark?

5 A Yes, ma'am

6 Q Okay When you dropped the car off at your house on
7 Ruth Street, had it gotten dark yet?

8 A It was somewhat

9 Q Starting to get dark?

10 A Yes, ma'am

(11) Q Okay Do you know how long a time it was that you
12 were gone from Ruth Street the second time after dropping
13 off the car?

14 A No, ma'am

15 Q But when you returned, you said Michael Jetter was not
16 there is that correct?

17 A Yes, ma'am

18 Q He had been there earlier?

19 A Yes, ma'am

20 Q Do you know where Michael Jetter went?

21 A No, ma'am

22 Q When there was that is all discussion about the
23 shooting, about Dunham doing the shooting in his car, was
24 Michael Jetter present at that point?

(25) A No, ma'am

(1) Q Who was doing the talking about the shooter?

2 A Mr Dunham

(3) Q And who did Mr Dunham say shot at the guy?

4 A He did

5 Q Did he know whether or not he hit the guy?

6 A No, ma'am

7 Q Did he tell you or any of the other guys anything
8 about watching the news?

9 A No, ma'am

10 Q You don't recall anything about that fact?

(11) A No, ma'am

12 MS WILSON Beg the Court's indulgence That's all
13 I have, Your Honor

14 THE COURT Y'all haven't had a break I'm going to
15 give you about a five or ten minute stretch break and I'll
16 bring you back in and we'll work 'til lunch Y'all can
17 step back to the jury room just for a minute Don't
18 discuss the case at this time

19 (WHEREUPON, the jury retired to the jury room)

20 (WHEREUPON, a break was taken)

(21) MR DAVIS Judge, I'm sorry just one thing I want
22 to say on the record Your Honor, we reviewed and there
23 are no convictions, so we have nothing to impeach and just
24 like to put that on the record Thank you, Judge

(25) THE COURT Okay

1 (WHEREUPON, the jury returned to the courtroom)

2 THE COURT Okay We're ready for cross-examination
3 with Mr Davis

4 MR DAVIS Thank you, Your Honor

5 CROSS-EXAMINATION

6 BY MR DAVIS

7 Q Mr Johnson, you were arrested back on December 13th
8 of 2004 in regards to this incident weren't you?

9 A Yes, sir

10 Q You bonded out the next day, didn't you?

11 A That Wednesday

12 Q Okay So you got arrested on the 13th and bond out on
13 the 15th, two days later?

14 A I think it's that Wednesday

15 Q Okay Now, because of that arrest your on this weeks
16 trial docket aren't you?

17 A Yes, sir

18 Q And your attorney has been back here this whole trial
19 right?

20 A Yes, sir

21 Q And now, you have talk with the solicitor's office
22 before testifying, haven't you?

23 A Yes, sir

24 Q Talk to them several times, haven't you?

25 A Yes, sir

① Q And in fact, you've entered into an agreement with
2 them, haven't you?

3 A Sir

4 Q You've entered into an agreement with them, haven't
5 you?

6 A The (inaudible) yes, sir

7 Q Right And that was signed by your attorney
8 Mr Deaton right?

9 A Yes, sir

10 Q I'm sorry I apologize you signed that, right?

11 A Yes, sir

12 Q Okay With Ms Wilson here the deputy solicitor?

13 A Yes, sir

14 Q And now turns out you're arrested, you're charged with
15 misprision of a felony, right?

16 A Yes, sir

17 Q You know that has a potential of a lot of time in
18 jail?

①⑨ A Yes, sir

20 Q All right I want to talk to you about meeting with
21 the solicitor's office I want you to tell the jury how
22 many times you met with the Solicitor's office?

23 A It was twice

24 Q Twice?

②⑤ A Twice, maybe two or three

- 1 Q Two or three times?
- 2 A Maybe two or three
- 3 Q All right Were you with your attorney each time?
- 4 A Yes, sir
- 5 Q And where would you meet with the Solicitor's office?
- 6 A Sir?
- 7 Q Where would you meet them?
- 8 A At the office
- 9 Q At their office?
- 10 A Yes, sir
- 11 Q And that's here connected to this building?
- 12 A Yes sir
- 13 Q And they've talked to you about your testimony here at
- 14 trial?
- 15 A Yes, sir
- 16 Q And that's when they had you sign this agreement at
- 17 one of those meetings?
- 18 A I believe so
- 19 Q Okay And how long would these meetings last?
- 20 A I don't know
- 21 Q More than a few minutes?
- 22 A Yes, sir
- 23 Q Was it a few hours?
- 24 A It's about an hour
- 25 Q Hour or two That be each of the times -- two or

- three times you met for about an hour or two each time?

2 A Yes, sir

3 Q I'm sorry

4 A Yes, sir

5 Q Okay And they were talking to you based on the
6 information you had provided to the police back after you
7 were taken into custody, right?

8 A Yes, sir

9 Q Way back December of 2004?

10 A Yes, sir

11 Q And when you were taken into custody with the police,
12 you gave them some statements?

13 A Yes, sir

14 Q Okay I just need you to answer out loud so she can
15 record it All right In fact, you gave them two
16 statements didn't you?

17 A Yes, sir

18 Q And where did you give those statements at the
19 sheriff's department?

20 A Yes, sir

21 Q And was that -- how old were you when you gave the
22 statement?

23 A I was 18

24 Q Eighteen at the time And was there two detectives in
25 there with you?

- 1 A Yes, sir
- 2 Q Two detectives or was there more than that coming in
- 3 and out?
- 4 A Yes, sir
- 5 Q There were several detectives coming in and out,
- 6 right?
- 7 A Yes, sir
- 8 Q Did you ever talk to anybody from law enforcement,
- 9 police officers anywhere other than at the sheriff's
- 10 department?
- 11 A No, sir
- 12 Q Okay And this would have been after you went back to
- 13 your house right?
- 14 A Sir
- 15 Q This is -- when they took you into custody, you went
- 16 back to your house the police you took you into custody
- 17 right?
- 18 A Yes, sir
- 19 Q And that was after dark?
- 20 A Yes, sir
- 21 Q And now who was there at the time? Chris White was
- 22 there?
- 23 A Yes, sir
- 24 Q At the house on Ruth Drive?
- 25 A Yes, sir

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- 1 put you in a interrogation room?
- 2 A Yes, sir
- 3 Q And you're in there by yourself no other family
- 4 members?
- 5 A Yes, sir
- 6 Q And you're 18 at the time?
- 7 A Yes, sir
- 8 Q And how long was it that you were there at the
- 9 sheriff's department they were talking to you?
- 10 A (No response)
- 11 Q It went past midnight didn't it?
- 12 A Yes, sir
- 13 Q Okay And when is it -- it wasn't until early the
- 14 next morning they finally took you off to jail, right?
- 15 A It was like I think around four
- 16 Q Four in the morning And you said it was four in the
- 17 morning they took you over and booked you into the jail?
- 18 A Yes, sir
- 19 Q Okay And before that, the whole time you been before
- 20 over at this interrogation room at the sheriff's
- 21 department, right?
- 22 A Yes, sir
- 23 Q And you gave an initial statement to one of the
- 24 detectives, right?
- 25 A (No response)

1 Q Do you recall that giving a real short statement to
2 the detectives?

③ A Oh, yes, sir

④ Q Right Then they got another statement from you
5 didn't they?

6 A Yes, sir

7 Q Because they told you they knew you were lying about
8 stuff, right?

9 A Yes, sir

10 Q And so they came back out and talk to you again wanted
11 you to change your statement, right?

12 A They didn't want me to change it

13 Q But they told you you were lying, right?

14 A Yes, sir

15 Q So they wanted you to keep lying They wanted you to
16 correct your statement?

①⑦ A Correct my statement

①⑧ Q Okay And at some point, they went over a check list
19 of what your rights are, right? You remember that?

20 A Yes, sir

21 Q You do?

22 A No, sir

23 Q You don't recall that You don't recall them reading
24 to you that you didn't have to talk to them?

②⑤ A No, sir

(1) Q Where you didn't have -- and if you get a lawyer, you
2 don't remember that?

3 A No, sir

4 Q Do you remember them telling you at that point they
5 wanted to talk to you about a murder? You remember that?

(6) A Yes, sir

7 Q And then that's when you give this second statement to
8 detectives, right?

9 A Yes, sir

10 Q And that's when and in that second statement is
11 basically what you just told the jury when Ms Wilson was
12 asking you questions right?

(13) A Yes, sir

14 Q Okay Now, during her questioning, you kept referring
15 to my client as Mr Dunham And you know him, right?

16 A Yes, sir

17 Q This Michael right?

18 A Yes, sir

19 Q You hang out with him at Marshview, not just this
20 time, but lots of times, right?

21 A Yes, sir

22 Q And you know he's got a four-door Grand Marquis?

23 A Yes, sir

24 Q It's unusual because it got a bunch of dents in it
25 doesn't it?

- 1 A It just had one dent on the passenger side
- 2 Q A big old dent in the door right?
- 3 A Yes, sir
- 4 Q Can't miss it?
- 5 A No, sir
- 6 Q And you're familiar with the car not because he drives
- 7 it, but you've used it before right?
- 8 A Yes, sir
- 9 Q Other people used that car before, right?
- 10 A I don't know
- 11 Q He's never let -- you've never seen him let other
- 12 people borrow that car a little bit?
- 13 A No, sir, the only time me and him my little sister and
- 14 her family drove to the fair
- 15 Q I understand that that's when you used the car one of
- 16 the times, but you never seen him let other people borrow
- 17 that car?
- 18 A No, sir
- 19 Q And you've only used it that one time?
- 20 A Yes, sir
- 21 Q Now, you were working at Red Lobster on Marr Drive?
- 22 A Yes, sir
- 23 Q Right That's right here just right off I-26, right?
- 24 A Yes, sir
- 25 Q Okay And at the time, were you still -- do you live

1 over there on Ruth Drive, right?

2 A Yes, sir

3 Q Okay That at your mother's house?

4 A Yes, sir

5 Q Now, you have a grandmother that lives up on Ashley
6 Phosphate doesn't she or back at the time she lived up
7 there?

8 A No, sir

9 Q Back in December of 2004, you didn't have a
10 grandmother that lived up ---

11 A My grandmother stay in Walterboro

12 Q So now, you never told Michael that you had a
13 grandmother that lived on Ashley Phosphate?

14 A No, sir

15 Q You didn't ask him to borrow his car?

16 A No, sir

17 Q On December 13th?

18 A No, sir

19 Q Over at Marshview now?

20 A No, sir

21 Q And you didn't tell him you needed a car -- the State
22 asked you you've been walking from your house to your
23 girlfriend's house, right?

24 A Yes, sir

25 Q You don't have a car You didn't have a car right?

1 A No, sir

2 Q So either you rode around on your bike, right?

3 A Yes, sir

4 Q You walked somewhere right?

5 A Yes, sir

6 Q Caught a ride with somebody, right?

7 A Yes, sir

8 Q Or borrowed somebody's vehicle, right?

9 A No, sir

10 Q You never borrowed someone's vehicle?

11 A My oldest sister let me hold her car sometimes

12 Q Okay So that's the ways you were able to get around?

13 A Yes, sir

14 Q Eighteen years old, no car, that's the way you got
 15 around And you didn't tell Michael you needed to borrow
 16 his car to go see grandmother up on Ashley Phospnate?

17 A No, sir

18 Q And you didn't get a call from this guy Michael Jetter
 19 to come pick him up?

20 A No, sir

21 Q And you didn't go pick him up?

22 A No, sir

23 Q You didn't go over to West Montague and pick up
 24 Michael Jetter?

25 A No, sir

- (1) Q In Michael's car?
- 2 A No, sir
- 3 Q And you weren't involved in the shooting?
- 4 A No, sir
- 5 Q You didn't hide the car over at your mother's house?
- 6 A I didn't hide the car
- 7 Q You're pretty scared that night weren't you?
- 8 A Yes, sir
- 9 Q A bunch of police at your house?
- 10 A Yes, sir
- 11 Q Several police cars, right?
- (12) A Yes, sir
- (13) Q And they put you in one and take you to the sheriff's
- 14 department and talk to you right?
- 15 A Yes, sir
- 16 Q They tell you they want to talk to you about the
- 17 murder?
- 18 A Well, they didn't tell me anything then
- 19 Q They didn't tell you that at first right?
- 20 A No, sir
- 21 Q They wanted to talk to you a little bit first, right?
- 22 A Yes, sir
- 23 Q And then they come and back say, now we want to talk
- 24 to you about a murder because you been lying to us since
- 25 the first statement, right?

1

A Yes, sir

2

Q And you were scared because you knew the car was sitting at your house, right?

3

4

A Yes, sir

5

Q And you were scared because you knew they were calling you a liar, right?

6

7

A Yes, sir

8

Q Now, you knew that everything you're telling the police wasn't true didn't you?

9

10

A On the first statement?

11

Q You talk to the police you said from nighttime I suggested maybe eight o'clock 'til four in morning they were talking to you?

12

13

14

A On the visit on that first time, I just tell them what I did all day and where I was at

15

16

Q Okay But you knew that you were telling lies to police, right?

17

18

A Yes, sir

19

Q I mean, the real reason you're scared is because you were involved in this shootings?

20

21

A No, I was not

22

Q The real reason you're scared is because you know that the girl beside the guy that got shot saw you?

23

24

A No, sir

25

Q The real reason you're scared is because you have

1 Mr Jetter in the car with you, didn't you?

2 A No, sir

3 Q In fact, you were so scared that when you got out of
4 the car, you wiped off the steering wheel, didn't you?

5 A No, sir

6 Q Or wiped off your prints from the car?

7 A No, sir

8 Q But you do admit that at some point, you were lying to
9 the police, right?

10 A Yes, sir

11 Q You're lying about some other things too weren't you?

12 A No, sir

13 Q Weren't you lying when you told the police that
14 Michael had asked you to hid the car because he didn't have
15 insurance on it?

16 A I don't recall

17 Q Well, now, wait you don't recall telling the police
18 that or you don't recall Michael telling you that?

19 A I don't recall telling the police that

20 Q Because Michael didn't tell you that, did he?

21 A I don't recall

22 Q And you don't recall talking to the police about that?

23 A No, sir

24 MR DAVIS May I approach the witness, Your Honor?

25 THE COURT Yes, sir

(1) (WHEREUPON, Defendant's Exhibit Number 1 was marked
2 for identification only)

(3) Q Mr Johnson, I'm going to show you a two-page document
4 that has been marked Defendant's Exhibit Number 1 for
5 identification purposes All I want you to do first of all
6 is see if you recognize this? Just yes or no if you
7 recognize his okay Take your time Have you had enough
8 time to look at it?

9 A Yes, sir

10 Q Do you recognize that? Yes or no, do you recognize
11 that?

12 A No, I don't recall

(13 Q Okay Was that your signature there right beside the
14 sticker that says Defendant's Exhibit Number 1?

15 A No, sir

16 Q And just below that again is that your signature?

17 A Yes, sir

18 Q Okay And on the second page the same location bottom
19 right two signatures of you?

20 A No, sir

21 Q Okay But you don't recall this?

22 A No, sir

23 Q Do you recall telling the police at one point that you
24 meet Michael over at his house on North Murray?

(25) A No, sir

1 Q You don't recall that?

2 A No, sir

3 Q Do you remember also though telling them that you meet
4 him -- this on December 13th now that you meet him at
5 Marshview apartments there on Sumner?

6 A Yes, sir

7 Q Now, you don't remember telling them that you meet him
8 at North Murray?

9 A No, sir

10 Q You know that's where he was living then right?

11 A I don't know the name of the street I just know
12 there was across from Hot Spot

13 Q That's on Remount Road, right?

14 A Yes, sir

15 Q And didn't you also lie to the police about whether
16 you talked to your stepdad Chris White or not?

17 A Sir?

18 Q Didn't you also lie to the police about whether you
19 talked to your stepdad Chris White or not?

20 A No, sir

21 Q You don't remember telling them two different stories
22 about when you dropped off the car, whether you spoke with
23 him or not?

24 A No, sir, I didn't tell them two different stories

25 Q Well, did you tell them you spoke with him or not?

- (1) A Yes, I did tell them I spoke to him
- 2 Q You say you know Justin Lemon, right?
- 3 A Yes, sir
- 4 Q You know Jean Jaquez am I saying that, right?
- 5 A Yes, sir, I know
- 6 Q And he goes by JJ, right? I just call him JJ, right?
- 7 A Yes, sir
- 8 Q And then you know Michael Dunham?
- 9 A Yes, sir
- 10 Q And you know Vicky Martin, don't you? Victoria
- 11 Martin?
- 12 A No, sir
- 13 Q You know Dorothy Rollins, don't you?
- 14 A No, sir
- 15 Q Dorothy Jones?
- 16 A No, sir
- 17 Q You don't know Devonte Jones?
- 18 A I know them now
- 19 Q Okay Now, you remember telling the police about how
- 20 you got from pause -- Marshview Apartments that's off of
- 21 Sumner Avenue in North Charleston, right?
- 22 A Yes, sir
- 23 Q You actually got to turn off of Sumner Avenue and
- 24 there's two big buildings there, right?
- (25) A Turn off -- no Sumner's a street

1 Q Right But they're not right there You don't get
2 out of the apartments and walk straight on to Sumner
3 Avenue There's like a little driveway down the
4 apartments, right?

5 A Yes, sir

6 Q Okay And there's two big buildings there connected
7 in the middle by a stairwell on each of them, right?

8 A Yes, sir

9 Q Now, if you come out of that little driveway and turn
10 right on Sumner and go straight down Sumner cross North Red
11 about a half a mile, Ruth Drive's on the left?

12 A Yes, sir

13 Q Okay So Marshview Apartments are on one side of
14 North Red and your house is on the other, right?

15 A I stay cross from there

16 Q Uh-huh You're on the other side of North Red?

17 A Yes, sir

18 Q And the connecting street is Sumner straight shot,
19 right?

20 A See you come out Marshview and when you come out
21 Marshview, you turn to Sumner and go down -- goes to North
22 Red right there highway

23 Q And keep going -- goes right down where your house is?

24 A Yeah, straight across the highway

25 Q Straight shot That's about a half a mile right?

1 A I don't know

2 Q It's close enough to either walk or ride a bike,
3 right?

4 A Sir?

5 Q It's close enough that you either can walk it or a
6 ride bike right?

7 A Up to Marshview?

8 Q Yeah

9 A Yes, sir

10 MR DAVIS Your Honor, may I approach the witness?

11 Q Mr Johnson, I'm going to show you what's been marked
12 as State's Exhibit number 27 Lay it up here and let you
13 take a look at it for just a little bit Take a look at
14 that just a little bit I want to ask you some questions
15 about it Over here is this Ruth Drive right there?

16 A Yes, it look like open lots behind my house

17 COURT REPORTER You have to speak up I didn't
18 hear that

19 A It look like the open lots behind my house

20 Q Does this look like Remount Road up here above ball
21 parks and all?

22 COURT REPORTER I can't hear him He has to s
23 up

24 A I can't recall

25 Q Okay Well, this doesn't look like North Red Avenue

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(1) to you?

2 A Yes, sir

3 Q That does Speak up to the mic there

4 A Yes, sir

5 Q Okay And so the corner North Red and Remount aren't
6 their the West Vaco (sic) park there?

7 A Yes, sir, cross from the Hess gas station

8 Q Right That's where the ballfields are, right?

9 A Yes, sir

10 Q Okay And so down here is Ruth Drive and you said you
11 noticed the lots there The empty lots by your house
12 right?

13 A It's a big open field

14 Q Yeah And so this right here with this purple line,
15 that's Sumner brings you over here to Marshview, doesn't
16 it That's Sumner with the purple line right there isn't
17 it? Brings you over to Marshview?

18 A No

19 Q That's not Sumner Avenue?

20 A No, sir

21 MR DAVIS Judge, I'd ask if he could step down and
22 I want to point a couple things out to the jury

23 THE COURT Okay

24 Q Come around, sir Step right over here All right

(25) Can you point to the jurors about where you see the -- your

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(1) house and the open lots? Okay

2 A Right there

3 Q If you can turn around so everybody can see One more
4 time?

5 A Right there

6 Q Okay So that's Ruth Drive by your house, right?

7 A Yes, sir

8 Q Okay Now, you don't know whether or not this is
9 Remount Road big road up here by the ball field?

10 COURT REPORTER I can't hear him, sorry

11 Q Speak up

12 A That's Remount

(13 Q Okay And you don't know if this is North Red or not
14 the main one that goes up through there?

15 COURT REPORTER I can't hear him I can't hear
16 him

17 A You can't tell because ---

18 COURT REPORTER I didn't hear that I'm sorry

19 A I can't tell because it was on top of everything and
20 can't tell what is what

21 Q You recognize this being Marshview Apartments over
22 here?

23 A Yes, sir

24 Q That's Marshview here, okay?

(25) COURT REPORTER I didn't hear that

(1) Q You need to turn around and tell her

2 A Look like Marshview ---

3 COURT REPORTER Yeah, I'm sorry I didn't
4 understand

5 THE COURT You're going to have to let him come
6 back up to the witness stand, so that we can hear him Let
7 him come back up to the witness stand

8 Q All right Go step up there Go ahead and repeat
9 that please

10 A I said that look like Marshview Apartments from Sumner
11 Creek are like behind each other

12 Q Okay Now, the last thing I ask you and I want to
13 make sure This purple line right here you don't know if
14 that's Sumner or not or is that Sumner? This one right
15 here coming from over near your house is down to where
16 Marshview is that Sumner?

17 A It's the back door behind my house, that's Sumner

18 Q And this back curve is that Lerain?

19 A I believe so

20 Q Okay So Lerain cuts down through here right?

21 A Uh-huh, curves around

22 Q It curves around down by your house?

23 A Yes, that sign because it leaves back to Remount Road

24 Q Okay And so then that purple line we're talked about
(25) runs right down Sumner Road from your house over in

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(1) Q I'm going to show you what's marked as State's
2 Exhibits 21, 22, 23, and 24 Again, same question Take a
3 second and tell me if you recognize those four photos yes
4 or no?

5 A Yes

6 Q That's pictures of how you parked the car at Ruth
7 Drive, isn't it?

8 A Yes, sir As you can see, there other cars in my
9 driveway too

10 MR DAVIS May approach the witness, Your Honor?

11 Q On 21, the car -- the picture shows the car parked
12 towards the back end of what looks like a van?

(13 A My mom's van and there's another car in front of that

14 Q Okay But in this picture, it only shows the van and
15 Michael's car right?

16 A Yes, sir

17 Q And Michael's car is back right?

18 A Yes, sir

19 Q And a friend in -- it's probably about the back tire
20 of your mama's van right?

21 A To the slid door

22 Q Okay The slid door Twenty-two shows again the back
23 part of your mom's van and Michael's car, right?

24 A Yes, sir

(25) Q And here's tree limbs hanging over top of his car

1 isn't it?

2 A It is

3 Q You backed up the back end is up close to that tree,
4 right?

5 A No, sir, it is still space

6 Q I'm not saying they're touching, but it's backed up to
7 where the limbs are hanging out over the roof or on the
8 roof of it, right?

9 A Yes, sir

10 Q Then 23 shows from the back end of Michael's car It
11 shows those limbs hanging way out over the roof doesn't
12 it?

13 A Yes, sir

14 Q And it shows the space like you were talking between
15 the trunk of the tree, right?

16 A Yes, sir

17 Q And 24 shows the front of your house and shows all
18 three cars doesn't it?

19 A Yes, sir

20 Q And Michael's is the first one backed in isn't it?

21 A No, sir, right that's my mom's van

22 Q Okay

23 MS WILSON Judge, if I could approach the witness
24 one more time

25 Q Mr Johnson, I'm going to show you State's Exhibits

1 29, let me show you 29 first of all Is your picture in
2 there?

3 A No, sir

4 Q I want to show you State's Exhibit 30A Now, there's
5 some writing on this, but is your picture in there?

6 A No, sir

7 Q You're sure about that?

8 A Yes, sir

9 Q Okay Now, you're sure about the one I just showed
10 you 29 You're not in there?

11 A No, sir

12 Q Okay State's Exhibit 48 is your picture in there?

13 A No, sir

14 Q You're sure about that?

15 A Yes, sir

16 Q State's Exhibit 49 your picture in there?

17 A No, sir

18 Q And you're sure about that?

19 A Yes, sir

20 MR DAVIS No other questions

21 REDIRECT EXAMINATION

22 BY MS WILSON

23 Q Steven, when you got back through the second time, you
24 already taken the car dropped it off, gone to Marshview and
25 gone back to Ruth Were the police at your house?

1 A Yes, ma'am

2 Q Was the -- was Dunham's car still at your house?

3 A No, ma'am

4 Q Do you know where it was at that point?

5 A No, ma'am

6 Q Do you think the police had it at that point?

7 A Yes, ma'am

8 Q Okay So the police were there?

9 A Yes, ma'am

10 Q Do you remember the police doing tests on your hands?

11 A Yes, ma'am

12 MR DAVIS Objection, Your Honor, leading

13 THE COURT Did they do test on his hands

14 Q Did they do any test on your hands?

15 A Yes, ma'am

16 Q They do that on Ruth? While you were still at Ruth
17 Drive?

18 A No, ma'am

19 Q When did they do that?

20 A At the station

21 Q When you got to the station?

22 A Yes, ma'am

23 Q And when you got to the station, Mr Davis asked you
24 about your giving statements to the police Do you recall
25 that just now?

1 A Yes, ma'am

2 Q Did you give statements to the police?

3 A Yes, ma'am

4 Q Okay When you first talked to the police, did you
5 tell them the whole truth?

6 A No, ma'am

7 Q Why not?

8 A I was scared Well, I mean, because I didn't know
9 what happened after I park the car You know, saying after
10 he told me what happened and that made me scared, so I just
11 figure out what I did I just tell them I was in the house
12 all day, that's all I told them

13 Q You skipped what?

14 A The incident what I had heard

15 Q What you heard?

16 A About the shooting

17 Q Okay What you heard from whom?

18 A Mr Dunham

19 Q Okay Before you went and took that car and parked
20 it, before you talked to the police, who was Michael Dunham
21 to you?

22 A My best friend

23 Q He was one of your best friends?

24 A Yes, ma'am

25 Q When you went and talked to the police -- or when they

1 Q Okay And he got a call from whom?

2 A Mr Jetter

3 Q To do what?

4 A To bring him a gun

5 Q Did he do it?

6 A Yes, ma'am

7 Q And what happened when he brought him the gun?

8 A He said he shot somebody

9 Q Who shot?

10 A Mr Dunham

11 (WHEREUPON, State's Exhibit Number 50 is marked for
12 identification only)

13 Q Steven, I'm going to show you what's been marked as
14 State's Exhibit 50 Do you recognize that?

15 A Yes, sir, that's my permit

16 Q That's your driver's permit?

17 A Yes, ma'am

18 Q Does that got a picture of you on it?

19 A Yes, ma'am

20 Q State's Exhibit 32 what is that?

21 A Picture of me

22 Q And when was that picture taken?

23 A On (inaudible)

24 Q When you were arrested?

25 A Yes, ma'am

1 Q Okay On December 14th 2004?

2 A Yes, ma'am

3 Q Is that how you looked on December 13th 2004, too?

4 A Yes, ma'am, a little nappy fro

5 MS WILSON Your Honor, at this time, we offer
6 State's Exhibit 32

7 MR DAVIS No objection, Your Honor

8 THE COURT Okay, without objection

9 (WHEREUPON, State's Exhibit Number 32 was admitted
10 into evidence)

11 Q This is how you looked on the day you were arrested?

12 A Yes ma'am

13 Q This is how you looked on the day you parked Dunham's
14 car at your house?

15 A Yes, ma'am

16 Q You done anything to change your appearance for the
17 jury?

18 A Only thing I got, got my hair cut for a while

19 Q You had it cut a little bit shorter?

20 A No, got more hair now than then

21 Q Did you get a hair cut for court?

22 A I got a hair cut for a while

23 Q Okay You didn't have braids on December 13th 2004
24 didn't you?

25 A No, ma'am

1 Q You had your hair shorter like it is now?

2 A Just like in the picture

3 Q Like it was in that picture?

4 A Yes, ma'am

5 Q No question about that?

6 A No question about it

7 Q Did you go from Marshview Apartments over to West
8 Montague at any time?

9 A No, ma'am

10 Q Did you have any idea there had even been a shooting?

11 A No, ma'am

12 Q And when you went and parked the cars at your house,
13 how were all the other cars parked?

14 A Backed in

15 Q All the other cars were backed in?

16 A Yes, ma'am

17 Q Your mama's car was backed in?

18 A Yes, ma'am

19 Q How about your sister's car?

20 A Yes, ma'am

21 Q And why was it, Steven, that you backed in the car?

22 A Because this right here is the driveway and the roads
23 right there The driveway not about so long, so I park on
24 the other side of the two cars

25 Q Was it unusual for you or the rest of your family to

1 back cars in?

2 A No, we back cars in the yard everytime they park

3 Q State's Exhibit 24 is that how the car was when you
4 left it?

5 A Yes, ma'am

6 Q Okay

7 MS WILSON Your Honor, if I can publish this to
8 the jury

9 Q It was no big deal to you to back the car in?

10 A No, ma'am

11 Q After you went back to Marshview, Mr Dunham told you
12 about the shooting he done in that car where did you go?

13 A I went back home

14 Q Because who was at home?

15 A Well, when I got there, my mom them was already in
16 there, all the officers was there

17 Q You didn't know the officers would be there, did you?

18 A Ma'am

19 Q Who did you know would be there?

20 A My mom and my sister

21 Q Okay

22 MS WILSON That's all I have.

23 MR DAVIS Your Honor, if I may briefly

24 RECROSS-EXAMINATION

25 BY MR DAVIS

1 Q Mr Johnson, after you gave the second statement to
2 the detectives, that's when they arrested you and took you
3 to the jail?

4 A Sir?

5 Q After you gave your second written statement to the
6 detectives, that's when they arrested you and took you to
7 jail?

8 A Yes, sir

9 Q And you think that was about four a m or so?

10 A Yes sir No talking about when they arrested me
11 from the house?

12 Q When did they take you to the jail?

13 A I don't know what time I say a day after like at the
14 station about three or four in the morning

15 Q Okay That's all I'm getting at But from the time
16 that you got to the sheriff's department until you went to
17 the jail at four a m with detectives, I think that
18 Ms Wilson said they continued to talk to you right?

19 A Yes, ma'am Yes, sir

20 Q Multiple detectives in and out talking to you?

21 A Yes, sir

22 Q Your mom's house over there on Ruth Drive, that's the
23 last house on the right as you go up Ruth Drive isn't it?

24 A Yes, sir

25 Q You said there were kind of open lots passed, but

1 there no more houses?

2 A Uh-huh (affirmative response)

3 Q The fact on a little ways down just woods right?

4 A It was just a big open field and you can see Remount
5 Road right there

6 Q Remount and Lerain, right? Where they meet up?

7 A This will be Remount My house right here is the last
8 house on the street is a big open field and the field goes
9 down to Remount Road and Lerain is at the back curve right
10 behind my house Summer Avenue -- around the house

(11 Q When you left the car there -- when you were leaving
12 the car there, you saw police, didn't you?

13 A Sir?

14 Q When you hid the car there and rode off on your bike,
15 you saw police already going up there?

16 A I didn't see the cops

17 Q But you saw police pulling up there? You saw them in
18 the area? You saw them in the area, didn't you?

19 A Yes, sir

20 Q Okay And you parked it there and it was already
21 dark, right?

22 A Somewhat dark

23 Q And you knew if you testified this week, you wouldn't
24 go to trial, right? Yes or no?

(25 A No, sir, I didn't know

1 **SOLICITOR WILSON** JUDGE, BEFORE YOU BRING THEM IN, I
 2 HAVE A WITNESS JEAN JACQUES WHO YOU HEARD ~~SOME~~ TESTIMONY
 3 ABOUT JUST NOW HE KNEW THE DEFENDANT AT DJJ AS WELL AS
 4 ALSO KNEW JUSTIN LEMON WHO WILL TESTIFY LATER TO THAT DAY
 5 AT DJJ IT'S MY POSITION THAT WE NEED TO OFFER THIS
 6 INFORMATION THAT ALL OF THESE GUYS WERE TOGETHER AT DJJ
 7 BEFORE IT CAME OUT BECAUSE IT SHOWS HOW LONG THEY KNEW
 8 EACH OTHER, THAT THEY WERE ALL THERE TOGETHER STEVEN
 9 JOHNSON WAS NOT THERE WITH THEM AND HE DIDN'T KNOW HE
 10 DIDN'T KNOW THESE GUYS I THINK JJ WILL TESTIFY TO THAT
 11 WE DON'T INTEND TO GET INTO ANY SPECIFICS AS TO WHY THE
 12 DEFENDANTS WERE THERE OR IN FACT WHY ANYBODY WAS THERE,
 13 BUT JUST THE FACT THAT THEY WERE THERE I THINK IS
 14 ADMISSIBLE AS A SUBSTANTIVE PART OF OUR CASE

15 **THE COURT** I DON'T THINK THE STATE CAN EVER PUT THE
 16 CHARACTER OF THE DEFENDANT IN EVIDENCE, SO THAT CAN'T
 17 COME IN THAT PUTS HIS CHARACTER IN EVIDENCE SO THAT
 18 JUST CAN'T COME IN THEY CAN TESTIFY THEY KNEW HIM
 19 BEFORE AND HOW LONG THEY KNEW HIM, BUT THEY DON'T HAVE TO
 20 SAY WHERE

21 **SOLICITOR WILSON** I--

22 **THE COURT** THAT'S WHY I UNDERSTAND-- YOU CANNOT EVER
 23 PUT THE DEFENDANT'S CHARACTER IN EVIDENCE UNLESS HE PUTS
 24 IN HE HAS TO PUT IT IN

25 **SOLICITOR WILSON** JUDGE AND AGAIN, WE WOULDN'T BE

1 OFFERING IT FOR THAT I UNDERSTAND THAT THE COURT
2 RULING, IT WOULD BE MY REQUEST AND I WOULD BE ABLE TO
3 LEAD THE WITNESS THROUGH THAT PART OF THE TESTIMONY SO
4 THAT HE DOESN'T VOLUNTEER THAT THIS IS ONE OF THE
5 WITNESSES, I DON'T KNOW IF YOU'VE HAD AN OPPORTUNITY TO
6 READ OUR TRIAL BRIEF, BUT HE IS IDENTIFIED WITH AND
7 ASSOCIATED WITH THE DEFENDANT HE HAS BEEN UNCOOPERATIVE
8 WITH US, AND I JUST DON'T KNOW THAT HE WILL YOU KNOW- I
9 HAVEN T BEEN ABLE TO TALK WITH HIM AND STEER HIM AWAY
10 FROM THAT IN OTHER WORDS, I HAVEN'T BEEN ABLE TO GIVE
11 HIM INSTRUCTIONS I DON'T KNOW IF HE WOULD FOLLOW THEM
12 IF I DID

13 THE COURT YOU WILL HAVE TO TELL HIM NOT TO MENTION
14 THE FACT IF YOU CALL HIM AS A WITNESS, HE'S YOUR
15 WITNESS YOU CANNOT PUT THE DEFENDANT'S CHARACTER IN
16 EVIDENCE I-

17 SOLICITOR WILSON I UNDERSTAND AND I DON'T INTEND
18 TO

19 THE COURT I THINK SINCE WE GOT THIS FAR
20 WOULD BE WISE NOT TO DO THAT

21 SOLICITOR WILSON I GUESS I JUST-

22 THE COURT I UNDERSTAND WHAT YOU'RE SAYING
23 SOLICITOR, I'M JUST TELLING YOU WHAT THE FACTS OF THE
24 RULES OF EVIDENCE ARE SO THERE IS NO NEED FOR US TO
25 DISCUSS IT YOU CANNOT PUT HIS CHARACTER IN EVIDENCE

1 IF YOUR WITNESS DOES IT THEN YOU HAVE TO SUFFER THE
2 CONSEQUENCES SO YOU BETTER TALK TO HIM NOW IF HE DOES
3 IT INTENTIONALLY, I'LL JUST HAVE TO BE THE JUDGE OF THAT

4 **SOLICITOR WILSON** YES SIR THAT INVESTIGATOR I THINK
5 IS INFORMING HIM OF THAT

6 **MR DAVIS** JUDGE MAY I APPROACH FOR A MOMENT?

7 **THE COURT** DO YOU WANT TO IMPEACH THIS GUY?

8 **MR DAVIS** YES SIR JUDGE I RECEIVED A COPY OF THE
9 NEXT WITNESS'S RECORD AGAIN, THESE ARE YOUNG FOLKS AND
10 WE ARE DEALING WITH A JUVENILE RECORD THESE ARE
11 DIFFICULT- WHAT IT LOOKS LIKE, IT LOOKS LIKE FROM AUGUST
12 20, 2002, THERE WAS AN ARREST ON AN ARMED ROBBERY THAT
13 SAME CODE, WAS THE SAME DATE OF THIS IS SEQUENTIALLY
14 THREE IN A ROW THE LAST ONE IS SHOWING IT NOW STRONG
15 ARMED ROBBERY, AND OVER THE COURT ACTIONS IT HAS R&E
16 MY UNDERSTANDING OBVIOUSLY HE WOULD HAVE BEEN GOING TO
17 R&E UNLESS HE WAS CONVICTED OF STRONG ARMED ROBBERY AND
18 THEN SEPTEMBER 23, 2003, IT HAS CRACK, AND THEN OVER TO
19 THE COURT ACTIONS WAS DJJ THOSE WOULD BE THE TWO FROM
20 HIS JUVENILE RECORD, AND AS FOR THE FIRST ONE JUDGE WE
21 WOULD RELY ON TWO CASES AND I GAVE THE COURT COPIES AT
22 BEGINNING OF TRIAL, AND THE STATE COPIES AS WELL THE
23 STATE V AL-AMIN IT'S FOUND AT 353-SC-405 IT'S A 2003
24 CASE, AND ALSO- THAT WILL BE THE ONE YOUR HONOR IT JUST
25 SAYS IT'S ARMED ROBBERY IS A CRIME OF DISHONESTY UNDER

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1 SOUTH CAROLINA RULE 7609A2 AND THAT'S BASING THAT OPINION
2 ON THAT DECISION

3 THE COURT DID Y'ALL TAKE A STATEMENT FROM THIS
4 WITNESS SOLICITOR?

5 SOLICITOR WILSON YES SIR

6 THE COURT HE GAVE THE STATEMENT TO LAW ENFORCEMENT?

7 SOLICITOR WILSON YES SIR

8 THE COURT IS THAT THE REASON YOU ARE CALLING THIS
9 WITNESS?

10 SOLICITOR WILSON I'M CALLING HIM BECAUSE HE HEARD
11 THE DEFENDANT CONFESS

12 THE COURT OK, AND HE'S TESTIFIED AND MADE STATEMENT
13 TO THAT EFFECT?

14 SOLICITOR WILSON YES SIR

15 THE COURT OK' IF HE HEARD IT I DON'T KNOW YOU
16 KNOW, ALL THOSE OTHER BACKGROUND THINGS WHY THEY ARE
17 IMPORTANT EXCEPT HE CAN IMPEACH HIM IF HE WAS CONVICTED
18 OF ROBBERY AND—

19 MR DAVIS HE HAD A CRACK CHARGE

20 THE COURT AND POSSESSION OF CRACK

21 MR DAVIS THANKS

22 SOLICITOR WILSON YOU ARE ALLOWING THE CRACK CHARGE
23 AS WELL? I WASN'T SURE WHETHER THEY WERE ALL UNDER WHAT
24 RULE

25 MR DAVIS WE'RE NOT GOING TO NEED EITHER ONE JUDGE

1 I'VE STOOD UP THERE YEARS AGO AND HAD A JUDGE LOOK AT ME
2 CROSS-EYED AND TELL ME DRUG CHARGES AREN'T A DISHONESTY
3 CRIME, SO I FIRST OF ALL THINK THAT'S- IF NOT THEN I
4 THINK IT FALLS WITHIN THE TIME FRAME

5 **THE COURT** IF HE'S A WITNESS YOU CAN ASK HIM IF HE'S
6 OFTEN CONVICTED OF- OF COURSE YOU DON'T HAVE THE RECORDS
7 OF CONVICTION, I'M NOT SURE THAT YOU DO YOU GOING TO
8 HAVE TO LIVE WITH WHATEVER HIS ANSWER IS

9 **MR DAVIS** YES SIR

10 **THE COURT** NOW IF YOU BRING OUT THE FACT THEY KNEW
11 EACH OTHER OR WHATEVER IT WAS-

12 **MR DAVIS** I UNDERSTAND JUDGE I OPEN THE DOOR I
13 SUFFER THE CONSEQUENCES

14 **THE COURT** BUT NOW IF SHE DOESN T ASK HIM A DIRECT
15 QUESTION OR LEAD HIM IN THAT I DON'T HAVE TO CORRECT IT
16 SOMEWHERE I GUESS

17 **MR DAVIS** YES SIR THANK YOU

18 **THE COURT** ALRIGHT BRING THE JURY IN

19 **JURY IN (2 50 P M)**

20 **THE COURT** ALRIGHT SOLICITOR CALL YOUR NEXT WITNESS

21 **SOLICITOR WILSON** STATE CALLS JEAN JACQUES

22 **THE WITNESS IS SWORN (JEAN JACQUES)**

23 **JEAN JACQUES - EXAMINATION BY SOLICITOR WILSON**

24 Q YOU PRONOUNCE YOUR NAME JACQUES?

25 A YES MA'AM

1 Q MR JACQUES HOW OLD ARE YOU?
2 A EIGHTEEN
3 Q HOW FAR DID YOU GO IN SCHOOL?
4 A NINTH GRADE
5 Q DID YOU DROP OUT?
6 A YES MA'AM
7 Q HAVE YOU BEEN IN TROUBLE SINCE YOU DROPPED OUT?
8 A YES MA'AM
9 Q DID YOU GET IN TROUBLE FOR DRUGS, ROBBERY?
10 A YES MA'AM
11 Q BEEN UP THE ROAD TO DJJ FOR THAT?
12 A YES MA'AM
13 Q DID YOU GROW UP IN THE CHARLESTON AREA?
14 A YES MA AM
15 Q AND DID YOU KNOW THE DEFENDANT MR DUNHAM?
16 A YES
17 Q ARE YOU GOOD FRIENDS WITH HIM?
18 A UH HUH
19 Q WERE YOU GOOD FRIENDS WITH A GUY NAMED MICHAEL
20 JETER?
21 A NO
22 Q WEREN'T GOOD FRIENDS WITH HIM?
23 A NO
24 Q BEFORE ALL THIS HAPPENED, DID YOU KNOW A GUY NAMED
25 STEVEN JOHNSON?

1 A YES MA'AM

2 Q AND DID MR DUNHAM INTRODUCE YOU TO STEVEN?

3 A YES MA'AM

4 Q AND BEFORE ALL THIS HAPPENED YOU HAD KNOWN STEVEN

5 ABOUT TWO MONTHS, IS THAT RIGHT?

6 A YEAH AROUND THAT TIME

7 Q BUT YOU HAD KNOW MR DUNHAM A COUPLE YEARS BEFORE

8 THAT, HADN'T YOU?

9 A ABOUT A YEAR

10 Q OK BUT THE TIME OF DECEMBER, 2004, YOU KNEW THE

11 DEFENDANT FOR ABOUT A YEAR AND YOU HAD KNOWN STEVEN

12 JOHNSON FOR ABOUT TWO MONTHS, IS THAT RIGHT?

13 A YES MA'AM

14 Q LETS GO TO DECEMBER 13, 2004, LET ME ASK YOU THIS,

15 YOU'RE NOT HERE TODAY BECAUSE YOU WANT TO BE ARE

16 YOU?

17 A NO MA'AM

18 Q DID YOU GET A SUBPOENA TO BE HERE?

19 A YES MA'AM

20 Q YOU BEEN WAITING OUTSIDE TO TESTIFY?

21 A YES MA'AM

22 Q DO YOU REMEMBER BACK ON MONDAY, DECEMBER 13, 2004,

23 THE DAY BEFORE THE POLICE INTERVIEWED YOU ABOUT WHAT

24 YOU HAD BEEN DOING THAT DAY, DO YOU REMEMBER IT?

25 A I AIN T SURE EXACTLY

1 Q EXCUSE ME?

2 A YEAH

3 Q I CAN'T UNDERSTAND YOU

4 A YEAH

5 Q YES?

6 **THE COURT** THE JURY HAS GOT TO HEAR WHAT YOU HAVE TO

7 SAY SIR SO YOU NEED TO SPEAK UP

8 A YEAH

9 Q TELL THE JURY WHAT YOU HAD DONE ON THE MORNING THAT

10 ALL OF THIS HAPPENED THE DAY OF THE SHOOTING?

11 A WHAT YOU MEAN WHAT I DID?

12 Q WHAT DID YOU DO WHEN YOU GOT UP, WHERE DID YOU GO?

13 A I WENT DOWN TO STEVEN JOHNSON HOUSE

14 Q WHY DID YOU GO THERE?

15 A TO GO GET HIM I GUESS

16 Q OK WAS HE THERE WHEN YOU GOT THERE?

17 A UM HUH

18 Q WAS HIS GIRLFRIEND THERE?

19 A I THINK SO

20 Q DID YOU STAY THERE THE FIRST TIME YOU WENT BY?

21 A NO

22 Q YOU DIDN'T? WHERE DID YOU GO?

23 A WE LEAVE

24 Q OK DID YOU LEAVE WITH HIM?

25 A YEAH

1 Q WHERE DID Y'ALL GO THE FIRST TIME YOU LEFT?
2 A GO WALK TO HIS GIRLFRIEND'S, I THINK GARRETT STREET
3 Q DID YOU WALK WITH THEM?
4 A YEAH
5 Q WHAT DID YOU DO AFTER YOU DROPPED HER OFF?
A WENT BACK TO HIS HOUSE
7 Q AND WHAT HAPPENED WHEN YOU GOT TO HIS HOUSE?
8 A CHILLED THERE FOR A LITTLE WHILE
9 Q WHO DID YOU TALK TO WHILE YOU WERE CHILLING?
10 A HUH?
11 Q WHO?
12 A STEVEN
13 Q DID YOU SEE HIS STEPDAD?
14 A NO
15 Q DO YOU KNOW THE CRIBBS? DID YOU SEE THEM OUT THERE?
16 A NO
17 Q YOU DIDN'T SEE THEM OUT THERE THE WHOLE DAY?
18 A NO
19 Q DO YOU REMEMBER TELLING THE POLICE THAT YOU SAW HIM?
20 A NO
21 Q ARE YOU SAYING YOU DIDN'T SEE HIM OR--
22 A I DON'T REMEMBER TELLING THE POLICE I SEE HIM
23 Q ARE YOU SAYING NOW THAT YOU DIDN'T SEE HIM OR YOU
24 DON'T REMEMBER SEEING HIM?
25 A I THEN SAY I DIDN'T SEE HIM, NOW I SAY I DON T

1 REMEMBER SEEING HIM

2 Q YOU MAY OR MAY NOT HAVE SEEN HIM?

3 A NO I REMEMBER TELLING THE POLICE I DIDN'T SEE HIM

4 I DON'T REMEMBER TELLING THEM I DID SEE HIM

5 Q OK WHAT I'M ASKING YOU NOW IS DO YOU REMEMBER

6 WHETHER OR NOT YOU SAW HIM?

7 A I KNOW I AIN'T SEEN HIM

8 Q YOU KNOW YOU DIDN'T SEE HIM NOW?

9 A UH HUH

10 Q WHEN YOU WENT BACK TO THE HOUSE AFTER TAKING

11 STEVEN'S GIRLFRIEND TO HER PLACE, AFTER WALKING HER

12 THAT WAY, AND YOU CAME BACK TO STEVEN'S HOUSE, DID

13 HE TAKE A SHOWER?

14 A YEAH

15 Q AND WHAT DID YOU DO WHILE HE WAS TAKING A SHOWER?

16 A I WAS WAITING IN THE HOUSE

17 Q OK WHAT DID Y'ALL DO AFTER HE TOOK A SHOWER?

18 A WENT TO MARSHVIEW

19 Q HOW DID Y'ALL GET TO MARSHVIEW?

20 A WALKED

21 Q YOU DON'T REMEMBER HAVING A BIKE THAT DAY?

22 A YEAH ONE BIKE, I HAD A BIKE

23 Q AND HE HAD A BIKE TOO, DIDN'T HE?

24 A I DON'T REMEMBER I DON'T THINK SO, I DON'T KNOW

25 Q YOU DON'T KNOW WHETHER HE HAD A BIKE OR NOT?

1 A I CAN'T REMEMBER

2 Q WHEN YOU GOT TO MARSHVIEW, DID YOU SEE JUSTIN LEMON

3 THERE?

4 A YES

5 Q DID YOU SEE ANOTHER GUY BRANDON THERE?

6 A NO YEAH, HE BEEN THERE

7 Q AND AFTER YOU GOT THERE DID THE DEFENDANT AND JETER

8 COME DRIVING UP?

9 A YEAH

10 Q WHAT WERE THEY IN?

11 A A GRAY GRAND MARQUIS

12 Q AND WHO DID THAT CAR BELONG TO?

13 A MICHAEL DUNHAM

14 Q WHO WAS DRIVING, DO YOU REMEMBER?

15 A NO

16 Q WHAT HAPPENED AFTER THE DEFENDANT AND MR JETER CAME

17 OUT TO MARSHVIEW?

18 A WE STAYED FOR A LITTLE WHILE, AND STEVEN WANTED TO

19 TAKE THE CAR TO HIS HOUSE

20 Q STEVEN TOOK THE CAR TO HIS HOUSE?

21 A YEAH

22 Q DID HE TAKE ANYTHING WITH HIM?

23 A BIKE

24 Q HOW DID HE GET THE BIKE?

25 A HE PUT IT IN THE TRUNK

1 Q OK HOW LONG WAS STEVEN GONE?
2 A NOT THAT LONG
3 Q HE COME RIGHT BACK?
4 A YEAH
5 Q AT ANY POINT DID YOU HEAR MR DUNHAM TALKING ABOUT
6 WHY HE WANTED STEVEN TO TAKE THE BIKE TO- I MEAN
7 TAKE THE CAR TO HIS HOUSE?
8 A NO
9 Q YOU NEVER HEARD HIM DISCUSS THAT?
10 A UH-UH
11 Q DID YOU EVER HEAR MR DUNHAM TELL ABOUT WHAT HAD
12 HAPPENED EARLIER IN THE DAY REGARDING A SHOOTING?
13 A NO
14 Q YOU NEVER HEARD HIM DISCUSS THAT?
15 A NO
16 Q NOW MR JACQUES YOU RECALL BEING INTERVIEWED BY THE
17 POLICE ON DECEMBER 14 2004, DON'T YOU?
18 A YES MA'AM
19 Q AND I'M GOING TO SHOW YOU A COPY OF STATE'S EXHIBIT
20 51, DO YOU RECOGNIZE THAT? YES OR NO?
21 A YES MA'AM
22 Q AND IS THAT FIRST PAGE YOUR HANDWRITING?
23 A YES MA'AM
24 Q YOU WROTE THAT STATEMENT?
25 A YES MA'AM

1 Q DO YOU REMEMBER TELLING THE POLICE ABOUT WHAT THE
2 DEFENDANT TOLD YOU AT MARSHVIEW?

3 A YES MA'AM

4 Q OK WHAT DID HE TELL YOU ABOUT WHERE THE CAR HAD
5 BEEN AND WHAT HE HAD DONE THAT DAY?

6 A I TELL THE POLICE THAT HE AIN'T TELL ME NOTHING
7 WHICH HE DIDN'T, BUT THEY TOLD ME WHEN I GET THERE
8 THAT SOMEBODY ALREADY TELL THEM THAT HE TOLD ME
9 SOMETHING, AND IF I WAS TO TELL THE OTHERWISE THAT I
10 COULD GET LOCKED UP FOR THIRTEEN OR SOME MUCH YEARS
11 FOR ACCESSORY AFTER THE FACT OR WHATEVER IT WAS, SO
12 I JUST TELL HIM WHAT HE WANTED TO HEAR SO I WOULDN T
13 GET IN NO TROUBLE FOR IT

14 Q OK DO YOU RECALL TELLING THEM THAT MR DUNHAM
15 DIDN'T TELL YOU WHAT HAD HAPPENED EARLIER IN THE
16 DAY, BUT HE HAD TOLD STEVEN JOHNSON WHAT HAD
17 HAPPENED AND YOU OVERHEARD IT?

18 A NO I REMEMBER TELLING THAT BECAUSE THAT WAS WHAT
19 HE WANTED TO HEAR

20 Q SO YOU DON'T DENY TELLING THEM THAT YOU OVERHEARD
21 THIS DEFENDANT TELL STEVEN JOHNSON THAT THE CAR WAS
22 HOT?

23 A NO MA'AM

24 Q YOU TOLD THE POLICE THAT?

25 A YES MA'AM

1 Q YOU DON'T DENY THAT?

2 A NO MA'AM

3 Q OK YOU ALSO TOLD THE POLICE THAT HE ASKED STEVEN

4 JOHNSON TO TAKE THE CAR TO HIS HOUSE, DIDN'T YOU

5 TELL THE POLICE THAT?

6 A YES MA'AM

7 Q AND YOU ALSO TOLD THE POLICE DID YOU NOT, THAT THE

8 DEFENDANT HAD TOLD YOU THAT JETER HAD BEEN IN A

9 FIGHT?

10 A YES MA'AM

11 Q OK YOU DON'T DENY TELLING THE POLICE THAT?

12 A UH UH

13 Q AND THAT JETER ACTUALLY SAID HE GOT THE BETTER OF

14 THE GUY HE BEAT THE GUY UP?

15 A YES MA'AM

16 Q BEAT HIM WITH A BOARD?

17 A NO, I DON'T REMEMBER SAYING THAT

18 Q YOU DON'T REMEMBER SAYING ANYTHING ABOUT THE BOARD?

19 A UH UH

20 Q YOU ALSO TOLD THEM THAT JETER CALLED DUNHAM FOR

21 HELP?

22 A YES MA'AM

23 Q AND THAT JETER CALLED AND ASKED THAT HE BRING A GUN?

24 A NO, I DON'T REMEMBER SAYING THAT NEITHER

25 Q EXCUSE ME?

1 A I DON'T REMEMBER SAYING THAT NEITHER
2 Q ALRIGHT, DO YOU REMEMBER TELLING THEM THAT JETER
3 CALLED DUNHAM TO HELP HIM COME GANG THE GUY?
4 A NO MA'AM
5 Q YOU DON'T REMEMBER SAYING THAT?
6 A THEY HELPED HIM FIGHT
7 Q THEY HELPED FIGHT HIM?
8 A YEAH
9 Q OK, NOT GANG HIM BUT FIGHT HIM?
10 A YEAH
11 Q AND YOU TOLD THE POLICE THAT DUNHAM SAID THAT HE DID
12 THAT, THAT HE DROVE THE CAR OVER THERE AND MET
13 JETER?
14 A YES MA'AM
15 Q AND HE TOLD HIM THAT DUNHAM SHOT?
16 A NO, I—
17 Q THAT DUNHAM FIRED A GUN?
18 A NO MA'AM
19 Q YOU DIDN'T TELL THEM THAT?
20 A UH UH
21 Q YOU DID NOT TELL THEM THAT DO YOU RECALL TELLING
22 THEM THAT ON DECEMBER 14, 2004, OFFICER BOYD AND
23 ANDERSON THAT DUNHAM TOLD Y'ALL TO WATCH THE NEWS
24 THAT IT WOULD BE ON THE NEWS?
25 A NO MA'AM

1 Q YOU DIDN'T TELL THEM THAT?

2 A YEAH, I TELL THEM THAT

3 Q OK BUT DUNHAM TOLD YOU TO WATCH THE NEWS DIDN'T

4 HE?

5 A NO

6 Q HE NEVER TOLD YOU THAT?

7 A NO

8 Q DO YOU REMEMBER MEETING WITH INVESTIGATOR KEITH HARE

9 WITH OUR OFFICE AND ME ON JANUARY 26 OF THIS YEAR?

10 A YES MA'AM

11 Q YOU MET WITH US FOR ABOUT AN HOUR, IS THAT ABOUT

12 RIGHT?

13 A YES

14 Q DO YOU REMEMBER GOING THROUGH YOUR STATEMENT AND

15 TELLING US THAT PARTS OF IT YOU DIDN'T REMEMBER, BUT

16 PARTS OF IT YOU DID?

17 A YES MA'AM

18 Q AND DO YOU REMEMBER US GOING THROUGH THE PARTS THAT

19 WERE ACCURATE AND THE PARTS THAT WEREN'T ACCURATE,

20 DO YOU REMEMBER THAT?

21 A YEAH

22 Q AND DO YOU REMEMBER TELLING US MORE THAN ONE TIME

23 THAT DUNHAM SAID THAT JETER SAID HE HAD BEEN IN A

24 FIGHT, AND THAT JETER BEAT THE GUY UP, BUT THE GUY

25 CAME AFTER HIM WITH A BOARD THAT'S WHAT YOU TOLD

1 KEITH HARE?

2 A YEAH

3 Q THAT DUNHAM SAID?

4 A YEAH

5 Q YOU ALSO TOLD HIM THAT JETER CALLED DUNHAM FOR HELP,

6 AND THAT DUNHAM WENT TO JETER, AND THAT THEY WERE

7 GOING TO FIGHT THE GUY?

8 A UM HUH

9 Q YOU DON'T DENY TELLING US THAT AND YOU TOLD US

10 THAT YOU KNEW SOMETHING HAD HAPPENED WITH THE CAR,

11 AND THAT'S WHY STEVEN WENT TO TAKE IT TO HIS PLACE,

12 ISN'T THAT RIGHT?

13 A UM HUH

14 Q AND DUNHAM TOLD YOU ALL THIS AT MARSHVIEW

15 APARTMENTS?

16 A ALL OF WHAT?

17 Q ALL OF WHAT I JUST SAID

18 A UM HUH

19 Q HE TOLD YOU THAT SO WHEN YOU WERE TALKING WITH

20 INVESTIGATOR HARE ON JANUARY 26, YOU WERE TELLING

21 HIM WHAT DUNHAM TOLD YOU?

22 A UM HUH

23 Q NOT WHAT THE POLICE TOLD YOU?

24 A NO

25 Q OK SO LET'S GET THIS STRAIGHT FORGET ABOUT

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1 ANYTHING THAT THESE POLICE OFFICERS TOLD YOU OK
 2 DUNHAM TOLD YOU THAT JETER HAD GOTTEN IN A FIGHT,
 3 YES OR NO?
 4 A YES
 5 Q DUNHAM TOLD YOU THAT JETER SAID HE GOT THE BEST OF
 6 THE GUY?
 7 A YES
 8 Q DUNHAM TOLD YOU THAT JETER TOLD HIM TO COME HELP HIM
 9 FIGHT THE GUY?
 10 A YES
 11 Q IS THAT TRUE OR FALSE?
 12 A YEAH
 13 Q OK, AND DUNHAM SAID THAT HE DID THAT?
 14 A YEAH
 15 Q DUNHAM TOLD Y'ALL TO WATCH THE NEWS TO SEE WHAT
 16 HAPPENED?
 17 A YEAH
 18 Q DUNHAM ASKED STEVEN TO GO PUT THE CAR AT HIS HOUSE
 19 BECAUSE IT WAS HOT?
 20 A YEAH
 21 Q AND DUNHAM IS YOUR FRIEND ISN T HE?
 22 A YEAH
 23 Q NO FURTHER QUESTIONS YOUR HONOR
 24 CROSS EXAMINATION BY MR DAVIS - JEAN JACQUES
 25 Q MR JACQUES, YOU GO BY JJ RIGHT?

1 A YEAH

2 Q SPEAK UP SO THE JURY CAN HEAR YOU LET'S GET RIGHT

3 TO THE GIST OF IT YOU WENT AROUND AND AROUND THERE

4 WITH THE SOLICITOR ABOUT WHAT YOU SAID AND WHAT YOU

5 DIDN'T SAY AND WHAT WAS TRUE AND WHAT WASN'T TRUE?

6 A YEAH

7 Q SIMPLY THIS, THE STATEMENT YOU GAVE TO POLICE BACK

8 IN DECEMBER 13, 2004, I WANT TO TALK ABOUT THAT

9 STATEMENT WHEN WAS IT THAT THEY TALKED TO YOU, DO

10 YOU REMEMBER WHAT TIME OF DAY IT WAS?

11 A WHEN THE DETECTIVES COME?

12 Q YES

13 A IT HAD TO BE LIKE THREE OR FOUR IN THE MORNING

14 Q THREE OR FOUR IN THE MORNING THAT S ACTUALLY ON

15 THE FOURTEENTH, THE NEXT MORNING, RIGHT?

16 A YEAH

17 Q AND WHERE DID THEY COME AND GET YOU FROM?

18 A MY HOUSE

19 Q AND WHERE IS THAT?

20 A ON ATTAWAY

21 Q ATTAWAY STREET, THAT'S IN NOPTH CHARLESTON, RIGHT?

22 A UH HUH

23 Q WAS THERE ONE COP CAR OR SEVERAL COP CARS?

24 A TWO

25 Q TWO COP CARS THEY COME GET YOU, THEY PUT YOU IN

1 ONE OF THE CARS AND THEY TAKE YOU BACK TO THE
2 SHERIFF'S DEPARTMENT, RIGHT?

3 A YEAH

4 Q WHEN YOU GET BACK TO THE SHERIFF'S DEPARTMENT THEY
5 PUT YOU IN AN INTERROGATION ROOM, DON T THEY?

6 A YEAH

7 Q SMALL LITTLE ROOM?

8 A RIGHT

9 Q AND THERE IS COPS, THERE IS DETECTIVES COMING IN AND
10 OUT OF THERE TALKING TO YOU RIGHT?

11 A YEAH

12 Q AND THEY ARE TRYING TO FIND OUT WHAT YOU KNOW,
13 RIGHT?

14 A YEAH

15 Q AND YOU START TALKING TO THEM AND THEY START TELLING
16 YOU THAT WHAT YOU ARE SAYING ISN'T RIGHT?

17 A UM HUH

18 Q ISN'T THAT RIGHT?

19 A YEAH

20 Q AND THE REASON THEY KNOW YOU ARE LYING IS THEY TELL
21 YOU WHAT OTHER PEOPLE ARE TELLING THEM, RIGHT?

22 A YEAH

23 Q AND SO THEY KEEP SAYING THAT CAN'T BE TRUE BECAUSE
24 WE'VE HEARD FROM SOME OTHER PEOPLE SOMETHING
25 DIFFERENT, RIGHT?

1 A YEAH

2 Q AND THEY TELL YOU WHAT THESE OTHER PEOPLE ARE

3 SAYING?

4 A YEAH

5 Q AND THESE OTHER PEOPLE WERE TELLING THE POLICE THAT

6 MICHAEL HAD DONE THIS, RIGHT?

7 A YEAH

8 Q THEY TOLD YOU THAT, THE POLICE TOLD YOU THAT RIGHT?

9 A YEAH

10 Q AND TOLD YOU THAT OTHER PEOPLE SAID YOU WERE AT

11 MARSHVIEW THAT NIGHT, RIGHT?

12 A DO WHAT?

13 Q OTHER PEOPLE WERE SAYING YOU WERE OUT AT MARSHVIEW?

14 A YEAH YEAH

15 Q AND YOU WERE THERE AND THAT MR JUSTIN LEMON WAS

16 THERE, RIGHT?

17 A YEAH

18 Q AND MR JOHNSON WAS THERE, RIGHT?

19 A YEAH

20 Q AND MR DUNHAM WAS THERE?

21 A YEAH

22 Q AND THEY TOLD YOU MR GENE WAS THERE?

23 A YEAH

24 Q AND THESE OTHER PEOPLE WERE HEARING HIM ADMIT TO

25 THIS, YOU HAD TO HAVE HEARD IT TOO, RIGHT?

- A THAT WAS WHAT THEY WAS SAYING
2 Q THAT'S WHAT THEY TOLD YOU?
3 A YEAH
4 Q DID THEY LET YOU TELL THEM WHAT YOU HAD TO SAY?
5 A NO, BECAUSE THEY SAYING THAT I BEEN LYING AND THAT
6 IF I WAS TO SAY THAT I COULD GET THIRTEEN YEARS
7 THEY SAID THAT'S WHY STEVEN JOHNSON GETTING LOCKED
8 UP FOR NOT BEING HONEST WITH THEM
9 Q YOU REMEMBER THAT?
10 A THAT WHAT HE TELL ME
11 Q HE'S A FRIEND OF YOURS AS WELL?
12 A UM HUH
13 Q AND YOU KNOW --- Y'ALL LIVE BASICALLY NEAR EACH
14 OTHER, RIGHT?
15 A YEAH
16 Q YOU WERE RIDING A BIKE THAT DAY AT SOME POINT?
17 A UM HUH
18 Q DID YOU HAVE A CAR?
19 A NO
20 Q MIKE HAD A CAR, RIGHT?
21 A YEAH
22 Q YOU KNOW WHAT IT LOOKS LIKE, THAT BIG FOUR DOOR
23 SILVER CAR, RIGHT?
24 A UH HUH
25 Q BIG DENT ON THE SIDE?

1 A YEAH

2 Q YES?

3 A YEAH

4 Q HAVE YOU EVER DRIVEN THAT CAR, HE LET YOU USE THAT

5 CAR? HAS HE LET MR JOHNSON USE THE CAR?

6 A I CAN'T REMEMBER I THINK SO

7 Q HOW ABOUT MR LEMON?

8 A UH UH

9 Q HE HAD NOT LET MR LEMON YOU ARE NOT SURE ABOUT

10 MR JOHNSON, WHETHER HE HAD EVER USED IT BEFORE?

11 A NOT SURE

12 Q WELL YOU KNEW HE HAD LET OTHER PEOPLE USE IT BEFORE,

13 YOU KNOW VICKI?

14 A YEAH

15 Q HE LET HER DRIVE THAT CAR BEFORE?

16 A I AIN'T SURE

17 Q YOU'RE NOT SURE BUT THERE HAS BEEN TIMES WHEN

18 PEOPLE COME ASK HIM CAN I BORROW YOUR CAR, AND HE

19 SAYS SURE YOU CAN USE THE CAR, RIGHT?

20 A YEAH

21 Q AND NOW WHEN YOU ARE BEING INTERROGATED AT THREE IN

22 THE MORNING, TAKEN OUT OF YOUR HOUSE DOWN TO THE

23 SHERIFF'S DEPARTMENT, HOW MANY DETECTIVES CAME IN

24 AND TALKED TO YOU, HOW MANY DIFFERENT ONES?

25 A A FEW OF THEM I AIN'T KNOW HOW MUCH EXACTLY, BUT I

1 KNOW A FEW DIFFERENT ONES WAS IN AND OUT
2 Q MORE THAN A COUPLE RIGHT?
3 A YEAH
4 Q A FEW OF THEM COMING IN AND OUT HOW LONG DID THEY
5 KEEP YOU THERE AT THE SHERIFF S DEPARTMENT BEFORE
6 THEY LET YOU GO?
7 A HOUR OR TWO
8 Q OK DURING THAT TIME DID THEY EVER LET YOU GO TO
9 THE BATHROOM, GET A DRINK WATER, OR ANYTHING?
10 A NO- THEY LET ME GET SOME WATER
11 Q THEY LET YOU GET WATER OK WERE YOU TIRED?
12 A YEAH
13 Q HAD YOU BEEN TO SLEEP AT ALL THAT NIGHT?
14 A I HAD JUST WENT TO SLEEP WHEN THEY COME AND WAKE ME
15 UP
16 Q BUT AT SOME POINT THEY FINALLY LET YOU GO HOME,
17 RIGHT? DID THEY DRIVE YOU BACK HOME?
18 A YEAH
19 Q AND THIS WAS AFTER ABOUT AN HOUR OR TWO OF TALKING
20 TO YOU?
21 A UM HUH
22 Q NOW, WAS IT ASKING YOU QUESTIONS OR TELLING YOU WHAT
23 THEY KNEW?
24 A TELLING ME WHAT THEY KNOW
25 Q AND AFTER YOU WROTE THIS STATEMENT WHAT THEY HAD

1 BEEN TELLING YOU, THAT'S WHFN THEY IET YOU GO?

2 A UM HUH

3 Q RIGHT?

4 A YEAH

5 Q AND JUST- I DON'T WANT TO BE UNCERTAIN ABOUT IT,

6 ANYTHING THAT WAS GIVEN IN THAT STATEMENT BACK THEN

7 THAT'S JUST BECAUSE THAT S WHAT YOU WERE HEARING

8 RIGHT, FROM THE POLICE?

9 A UM HUH

10 Q NOT FROM WHAT YOU REMEMBERED?

11 A UM HUH

12 Q NOW, LET'S JUST MENTION WHEN YOU WERE COMING IN

13 GETTING READY TO TESTIFY IN FRONT OF THIS JURY AND

14 YOU WERE WITH THE SOLICITORS HOW MANY TIMES DID

15 YOU COME IN AND MEET WITH THEM?

16 A ONCE

17 Q ONE TIME HOW LONG DID YOU TALK TO THEM?

18 A ABOUT AN HOUR LIKE SHE SAID

19 Q AND WAS THAT DOWN HERE AT THEIR OFFICE?

20 A YEAH

21 Q THEY TAKE YOU BACK AND THEY SWIPE THE CARD AND OPEN

22 UP THE DOOR AND GET BACK IN THE BACK?

23 A YEAH

24 Q AND WAS IT JUST MS WILSON AND MR HARE BACK THERE?

25 A UM HUH

THIRD JUDICIAL CIRCUIT

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1 Q AND THEY WENT OVER YOUR STATEMENT AS WELL?

2 A YEAH

3 Q OK DID YOU TELL THEM THAT PARTS WEREN'T TRUE?

4 A I TRY, YES

5 Q SO THEY WERE SAYING SIMILAR TYPE THINGS, IT CAN'T BE

6 THAT WAY, RIGHT?

7 A YEAH

8 Q AND AFTER YOU WENT THROUGH AND GAVE THEM THAT NOW

9 SOME OF IT IS TRUE, THAT'S WHEN THEY LET YOU BACK

10 OUT, RIGHT?

11 A YEAH

12 Q OK NOW, WHEN YOU WERE AT THE SHERIFF'S DEPARTMENT

13 DID THEY READ YOUR MIRANDA WARNINGS ABOUT YOU DIDN'T

14 HAVE TO TALK TO THEM AND ALL THAT, DID THEY EVER SAY

15 THAT?

16 A NO

17 Q THEY DID NOT?

18 A NO

19 Q DID THEY EVER SWEAR YOU IN UNDER OATH?

20 A NO

21 Q WHAT ABOUT WHEN YOU WENT TO TALK TO THE SOLICITOR S

22 OFFICE, DID THEY EVER READ YOU THOSE WORDS, YOU

23 DIDN'T HAVE TO TALK TO THEM, GET A LAWYER AND THAT

24 STUFF?

25 A UH UH

1 Q DID THEY PUT YOU UNDER OATH?

2 A UH UH

3 Q YOUR UNDER OATH TODAY THOUGH, YOU KNOW THAT?

4 A UM HUH

5 Q YOU DON'T KNOW WHAT HAPPENED ON THAT SHOOTING ON
6 WEST MONTAGUE DO YOU?

7 A UH UH

8 Q OK JUDGE ONE MOMENT MR JACQUES NO OTHER
9 QUESTIONS THANK YOU

10 REDIRECT BY SOLICITOR WILSON - JEAN JACQUES

11 Q MR JACQUES YOU DON'T KNOW WHAT HAPPENED ON MONTAGUE
12 AVENUE DURING THAT SHOOTING DO YOU?

13 A UH UH

14 Q YOU WEREN T ON MONTAGUE AVENUE WERE YOU?

15 A UH UH

16 Q YOU WERE WITH STEVEN JOHNSON ALL THAT AFTERNOON
17 WEREN'T YOU?

18 A UM HUH

19 Q YOU WERE AT HIS HOUSE, WEREN'T YOU?

20 A YEAH

21 Q YOU WALKED WITH HIM TO MARSHVIEW?

22 A YEAH

23 Q AND THEN YOU SAW HIM LEAVE, PUT A BIKE IN HIS TPUNK,
24 GO AWAY FOR JUST A LITTLE WHILE AND COME STRAIGHT
25 BACK?

1 A YEAH

2 Q HE WASN'T GONE FOR JUST FIVE MINUTES WAS HE?

3 A I AIN'T KNOW THE TIME EXACTLY, BUT IT AIN'T BEEN

4 THAT LONG, NO

5 Q AND BEFORE HE LEFT THIS DEFENDANT AND MICHAEL JETER

6 WAS RIDING UP IN THAT CAR DIDN'T THEY?

7 A YEAH

8 Q NO QUESTION ABOUT THAT THE TWO OF THEM WERE

9 TOGETHER, AND IT WAS AFTER THAT POINT THAT THIS

10 DEFENDANT ASKED STEVEN JOHNSON TO TAKE THE CAR HOME?

11 A UM HUH

12 Q AND THAT'S WHAT HE DID?

13 A YEAH

14 Q STEVEN JOHNSON DID THAT? YOU HADN'T BEEN WITH

15 STEVEN JOHNSON OVER AT MONTAGUE?

16 A UH UH

17 Q YOU HADN'T BEEN WITH STEVEN JOHNSON IN THAT CAR?

18 A UH UH

19 Q ALRIGHT, NOW AGAIN, REGARDING WHAT YOU HEARD THIS

20 DEFENDANT TELL STEVEN JOHNSON OR YOU OR JUSTIN LEMON

21 OUT AT MARSHVIEW, LET'S BE CLEAR ON WHAT YOU HEARD,

22 OK? OK?

23 A YEAH

24 Q YOU HEARD HIM SAY THAT JETER HAD BEEN IN A FIGHT?

25 A YEAH

1 Q AND THAT JETER CALLED HIM TO COME PICK HIM UP?

2 A YEAH

3 Q AND THAT JETER ASKED HIM TO COME HELP HIM FIGHT THE

4 GUY?

5 A YEAH

6 Q YOU DIDN'T HEAR HIM SAY ANYTHING ABOUT A GUN?

7 A UH UH

8 Q BUT HE SAID THAT HE WENT TO JETER?

9 A YEAH

10 Q AND THAT AFTER THAT YOU SAID THAT YOU KNEW SOMETHING

11 WAS WRONG WITH THE CAR, SOMETHING WAS HOT WITH THE

12 CAR?

13 A YEAH

14 Q OK THAT S NOT WHAT DETECTIVE BOYD OR ANY OTHER

15 POLICE OFFICER TOLD YOU IS IT?

16 A UH UH

17 Q THAT'S WHAT HE TOLD YOU?

18 A NO, THAT'S WHAT I KNEW MYSELF

19 Q CAUSE YOU HEARD IT ALL HAPPEN?

20 A NO JUST BY THE WAY THEY BEEN ACTING

21 Q OK TELL THE JURY HOW HE WAS ACTING AND HOW MICHAEL

22 JETER WAS ACTING WHEN THEY CAME UP TO MARSHVIEW?

23 A LIKE THEY WAS HIGH OR SOMETHING I GUESS I DON'T

24 KNOW

25 Q WHAT DID THEY DO WITH THEIR CLOTHES?

1 A NOTHING

2 Q DO YOU REMEMBER THE DEFENDANT CHANGING CLOTHES AT

3 ANY POINT?

4 A UH UH

5 Q DO YOU REMEMBER JETER LEAVING AT ANY POINT?

6 A WHEN HE WENT HOME

7 Q OK HOW DID HE GO HOME?

8 A IN A CAB

9 Q SO DUNHAM DIDN'T TAKE HIM HOME IN THE CAR?

10 A UH UH

11 Q AND STEVEN JOHNSON DIDN'T GIVE HIM A RIDE HOME?

12 A UH UH

13 Q A CAB CAME AND GOT HIM THAT'S ALL I HAVE YOUR

14 HONOR

15 MR DAVIS BEG THE COURT'S INDULGENCE

16 RECROSS BY RODNEY DAVIS - JEAN JACQUES

17 Q MR JACQUES WHEN YOU WENT DOWN AT THREE IN THE

18 MORNING TO THE SHERIFF'S DEPARTMENT YOU WERE SCARED

19 ABOUT WHAT WAS GOING ON, WEREN'T YOU?

20 A UM HUH

21 Q WHILE THERE WHEN THEY TOLD YOU COULD BE ARRESTED AND

22 CHARGED JUST LIKE MR JOHNSON HAD BEEN, YOU WERE

23 MORE SCARED WEREN'T YOU?

24 A YEAH

25 Q YOU'RE STILL SCARED IF YOU DON'T SAY THE RIGHT THING

1 YOU ARE GONNA GET IN TROUBLE?

2 A YEAH

3 Q THANK YOU THAT'S ALL I HAVE

4 **THE COURT** THANK YOU YOU MAY COME DOWN MR

5 JACQUES

6 **SOLICITOR WILSON** YOUR HONOR IF HE COULD REMAIN

7 **THE COURT** YOU NEED TO WAIT JUST GO ON AND HAVE A

8 SEAT

9 **SOLICITOR WILSON** STATE CALLS CHRIS WHITE

10 **THE WITNESS IS SWORN - CHRIS WHITE**

11 **EXAMINATION OF CHRIS WHITE BY SOLICITOR WILSON**

12 Q HOW YOU DOING MR WHITE?

13 A HOW YOU DOING?

14 Q I'M ALRIGHT I APPRECIATE YOU BEING HERE

15 A NO PROBLEM

16 Q HOW OLD ARE YOU?

17 A FORTY

18 Q AND HOW FAR DID YOU GO IN SCHOOL MR WHITE?

19 A TWELVETH GRADE

20 Q YOU FINISHED HIGH SCHOOL?

21 A YES

22 Q ARE YOU WORKING NOW?

23 A YES

24 Q WHAT KIND OF WORK DO YOU DO?

25 A BRICK MASON

THIRD JUDICIAL CIRCUIT

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1 Q AND WHO DO YOU DO THAT FOR?

2 A DANNY BROWN

3 Q OK WHERE DO Y'ALL WORK MOSTLY?

4 A RIGHT NOW WE ARE IN

5 Q OK, YOU BEEN DOING THAT FOR A WHILE?

6 A YES BEFORE THAT PIPE WORK BEFORE THAT LAYING
7 PIPE, PIPEWORK

8 Q OK MR WHITE HOW DO YOU KNOW STEVEN JOHNSON?

9 A MY STEPSON

10 Q OK, AND AT ONE POINT DID YOU LIVE IN THE HOUSE WITH
11 HIM ON RUTH DRIVE?

12 A YES I DID

13 Q AND DO YOU RECALL DECEMBER 13, 2004, THE DAY THE
14 POLICE CAME OUT THERE AND SEARCHED THE CAR THE WHOLE
15 DAY?

16 A NEVER FORGET IT

17 Q AND YOU ACTUALLY WERE AT HOME WHEN THE POLICE CAME,
18 WERE YOU NOT?

19 A YES

20 Q IF YOU COULD JUST TELL THE JURY WHAT YOU RECALL
21 ABOUT THAT DAY WHERE YOU HAD BEEN, WHAT YOU DID,
22 THE TIMES YOU REMEMBER

23 A OK AT THE TIME I WAS WORKING FOR LANDMARK
24 CONSTRUCTION WE WAS WORKING IN MT PLEASANT AND I
25 CAME HOME MAYBE ABOUT THREE, MAYBE THREE THIRTY, AND

1 I SEEN MY STEPSON STEVEN AND HIS GIRLFRIEND WALKING
2 UP THE STREET SO WHEN I GOT THERE I DON'T REMEMBER
3 EXACTLY WHO I ASKED ABOUT, WE CALL EACH OTHER
4 LITTLEMAN, I SAY WHERE LITTLEMAN GOING THEY SAY HE
5 GOING TO WALK SHAWN HOME

6 Q WAIT A MINUTE, YOU AND STEVEN CALL EACH OTHER
7 LITTLEMAN?

8 A YEAH, THAT'S WHAT WE CALL EACH OTHER

9 Q OK

10 A SO THEY SAY HE'S GONE TO WALK SHAWN HOME WHICH IS
11 DOWN THE STREET SO I WENT IN THE HOUSE AND GOT
12 SOME TOOLS AND I STAPTED WORKING ON THE DOG HOUSES
13 AND STUFF LIKE THAT, AND ABOUT THAT TIME STEVEN CAME
14 BACK TO THE HOUSE

15 Q FROM WALKING HIS GIRLFRIEND?

16 A YES YES

17 Q OK

18 A AND HE LEFT AGAIN AND HIM AND JJ CAME BACK ON
19 BICYCLES, AND JJ SAID- I MEAN STEVEN SAID HE'S GOING
20 TO TAKE A SHOWER SO JJ HE STAYED OUT THERE WITH ME
21 IN THE BACKYARD, YOU KNOW WE TALKED THEN STEVEN
22 CAME BACK OUT AND THEY GOT ON THE BICYCLES AND WENT
23 UP THE STREET

24 Q DID BOTH OF THEM HAVE BIKES?

25 A YES THAT'S WHAT I SAW SO I WAS WORKING AND

1 MESSING AROUND IN THE YARD AND THE NEXT THING YOU
2 KNOW STEVEN CAME BACK IN MICHAEL'S CAR I BEEN
3 KNOWING HIM COMING DOWN THERE WITH STEVEN, I DIDN'T
4 ANYTHING ELSE ABOUT IT YOU KNOW HE GOT OUT THE
5 CAR, I SAID WHAT'S UP MAN HE SAID MICHAEL TOLD ME
6 TO PARK HIS CAR HERE HE'S GOING TO COME BACK AND GET
7 IT LATER SO I DIDN'T THINK NOTHING ABOUT IT, JUST
8 KEPT DOING WHAT I HAD TO DO AND THEN NEXT THING YOU
9 KNOW, TEN OR FIFTEEN MINUTES LATER, POLICE
10 EVERYWHERE, YOU KNOW, SO

11 Q ALRIGHT LET'S BACK UP A LITTLE BIT NOW YOU SAID
12 YOU GOT OFF WORK AROUND WHAT TIME?

13 A I GUESS IT WAS LIKE THREE OR THREE THIRTY, IT WAS
14 EARLY BECAUSE WE USUALLY WORK TO LIKE FIVE THIRTY
15 THAT DAY WE WAS OFF EARLY

16 Q SO THREE OR THREE THIRTY YOU'RE GETTING OFF WORK,
17 AND AT THAT POINT WHEN YOU ARE GETTING OFF YOU ARE
18 PASSING STEVEN AND HIS GIRLFRIEND?

19 A YES I TURNED OFF OF NORTH RHETT, COMING DOWN TO
20 RUTH DRIVE, TO MY RESIDENCE

21 Q AT SOME POINT LATER HE COMES BACK WITHOUT THE
22 GIRLFRIEND?

23 A YES HE WALKED HER HOME

24 Q HE TAKES A SHOWER?

25 A NO, HE DIDN'T TAKE A SHOWER THEN

1 Q STRAIGHTEN ME OUT THEN
2 A HE LEFT AGAIN AND WENT UP THE STREET
3 Q WITH WHO?
4 A BY HIMSELF
5 Q BY HIMSELF?
6 A YEAH, HIM AND JJ COME BACK
7 Q OK
8 A ON BICYCLES
9 Q ALRIGHT JUST SO WE GOT, FROM THREE TO THREE THIRTY
10 HE COMES HOME FROM WALKING THE GIRLFRIEND, HE LEAVES
11 AGAIN, THAT TIME ON FOOT OR ON HIS BIKE?
12 A I'M NOT SURE, I THINK HE LEFT ON FOOT
13 Q OK HE COMES BACK WITH JJ?
14 A YEAH, IT WAS SO QUICK I THOUGHT HE MET JJ UP THE
15 STREET THEY CAME BACK SO QUICK
16 Q ALRIGHT, SO HE COMES BACK WITH JJ, HE TAKES A
17 SHOWER?
18 A YEAH
19 Q DO THEY TALK WITH YOU?
20 A NO I WAS JUST SITTING IN THE YARD AND JJ WAS
21 TALKING TO ME I WAS LETTING HIM KNOW THAT I'M NOT
22 REALLY A CARPENTER AND STUFF LIKE THAT, BUT YOU KNOW
23 I'M DOING WHAT I CAN DO, AND STUFF LIKE THAT, AND BY
24 THAT TIME STEVEN GOT THROUGH TAKING A SHOWER AND HE
25 CAME OUT THE HOUSE, THEY GOT ON THEIR BICYCLES AND

1 LEFT
2 Q HE AND JJ?
3 A YES
4 Q AND THE NEXT TIME YOU SEE STEVEN HE'S IN MICHAEL'S
5 CAR?
6 A YES
7 Q OK, AND I BELIEVE YOU TOLD THE POLICE IT WAS AROUND
8 FIVE FIFTEEN, FIVE TWENTY, OR SOMETHING LIKE THAT
9 WHEN HE CAME BACK WITH HIS CAR?
10 A I WOULD SAY SO YES
11 Q BUT IT WAS BEFORE DARK?
12 A OH YEAH, IT WAS RIGHT AT DARK YEAH, IT WAS JUST
13 BEFORE DARK, YES
14 Q DID HE SEEM LIKE ANYTHING WAS WRONG AT THAT POINT?
15 A NO HE DIDN'T, LIKE I SAID WHEN HE PULLED UP I LOOKED
16 AT HIM, I SAID WHAT'S UP LITTLEMAN, HE SAID WELL
17 MICHAEL ASKED ME TO PARK HIS CAR HERE HE'S GOING TO
18 COME BACK AND GET IT LATER SO I SAID OK I HOLLERED
19 AND HE LEFT
20 Q WERE THEPE A
21 A THEY CAME OUT THE WOODS LIKE BABE RUTH
22 Q ALRIGHT, AND SO WHEN YOU WERE FEELING LIKE --- DID
23 YOU TELL THEM EVERYTHING YOU JUST TOLD THE JURY?
24 A DID I TELL THEM EVERYTHING, YES
25 Q YOU TOLD THEM THE WHOLE STORY?

1 A YES, I TOLD THEM THE WHOLE STORY

2 Q THE FIRST TIME YOU TALKED TO THEM?

3 A NOT THE FIRST TIME, NO I DIDN'T I WAS SCARED THE
4 FIRST TIME, I GUESS YOU CAN CALL IT PROTECTING LOVED
5 ONES, I DIDN'T KNOW WHAT HE HAD DONE, SO I TOLD THEM
6 A DIFFERENT STORY, YES I DID

7 Q TELL THE JURY WHAT--

8 A I TOLD THEM THAT I DIDN'T KNOW WHOSE CAR IT WAS, AND
9 I WENT TO USE THE BATHROOM AND I CAME OUT THE
10 BATHROOM, I SEEN THREE GUYS GOING DOWN THE ROAD

11 Q WAS THAT TRUE?

12 A NO IT WASN'T IT WASN'T

13 Q WHEN DID YOU TELL THEM THE TRUTH ABOUT WHAT
14 HAPPENED?

15 A LATER ON, AFTER I HAD FOUND OUT, AFTER THE OFFICER
16 HAD TOLD ME, IN THE YARD AND EVERYTHING, WHEN THEY
17 WERE SEARCHING THE HOUSE WHAT HAD HAPPENED

18 Q WHAT DO YOU MEAN WHAT HAD HAPPENED?

19 A THAT THE CAR HAD BEEN INVOLVED IN A DRIVE-BY
20 SHOOTING

21 Q UH HUH

22 A I SAID OH MY GOD THEY CAME BACK AND GOT ME ABOUT
23 ELEVEN O'CLOCK THAT NIGHT, TOOK ME BACK DOWN TO THE
24 STATION AND HE TOLD ME, HE SAID MR WHITE I FELT
25 LIKE WHEN I WAS AT YOUR HOUSE THAT YOU WASN'T GIVING

1 ME THE RIGHT AND TRUE STATEMENT HE SAID I'M
2 LEAVING OUT, I'M GOING TO TALK TO MY SUPERIOR, WHEN
3 I GET BACK I'D LIKE FOR YOU TO GIVE ME A TRUE
4 STATEMENT SO I WROTE DOWN MY STATEMENT AND TOLD
5 THEM EXACTLY WHAT HAPPENED
6 Q YOU WROTE IT IN YOUR HANDWRITING?
7 A YES I DID
8 Q DID ANY ONE OF THE OFFICERS TELL YOU WHAT YOU SHOULD
9 SAY OR WHAT--
10 A NO
11 Q I MEAN OTHER THAN THE TRUTH?
12 A NO
13 Q DID THEY TELL YOU WHAT
14 A NO
15 Q DID THEY GIVE YOU STEVEN'S STATEMENT TO REVIEW OR
16 JJ'S STATEMENT TO REVIEW OR ANYTHING LIKE THAT?
17 A WELL ACTUALLY WHAT HE SAID I WAS IN THE OFFICE AND
18 HE CAME BACK IN AND HE SAID MR WHITE WE HAVE
19 ALREADY TALKED TO STEVEN AND HE HAD TOLD US THE TRUE
20 STATEMENT THAT YOU DID SEE HIM BRING THE CAR HOME,
21 SO YOU KNOW, WE NEED YOU TO TELL
22 Q WHAT HAPPENED?
23 A YES
24 Q DID THE OFFICERS TELL YOU ANYTHING ELSE THAT STEVEN
25 HAD TOLD HIM?

1 A NO HE DIDN'T

2 Q ANY DETAILS ABOUT WHAT HAPPENED AT MARSHVIEW?

3 A NO

4 Q HE JUST TOLD YOU THAT STEVEN ACKNOWLEDGED THAT YOU
5 SAW HIM IN THE CAR?

6 A YES

7 Q AFTER HE TOLD YOU THAT WHAT DID YOU DO?

8 A I WROTE DOWN THE TRUE STATEMENT

9 Q THAT'S ALL I HAVE

10 CROSS EXAMINATION OF CHRIS WHITE BY RODNEY DAVIS

11 Q MR WHITE HOW YOU DOING?

12 A ALRIGHT, HOW YOU DOING?

13 Q I'M ALRIGHT THERE IS NO DOUBT IN YOUR MIND NOW
14 ABOUT WHAT HAPPENED AND WHAT DIDN'T HAPPEN, RIGHT?

15 A YES

16 Q AND YOU'VE TOLD THAT TO THE JURY TODAY?

17 A YES

18 Q WHAT REALLY HAPPENED BUT YOU DID ADMIT JUST A
19 MOMENT AGO THAT ORIGINALLY YOU WEREN'T COMPLETELY
20 FORTHCOMING WITH THE POLICE?

21 A NOT THE FIRST TIME, NO

22 Q OK I'D LIKE TO WALK YOU THROUGH THIS FIRST LET
23 ME GET A FEW THINGS OUT OF THE WAY JUST A LITILL
24 BIT THAT DAY, BEFORE THAT DAY DID YOU KNOW
25 MICHAEL?

1 A YES

2 Q YOU KNEW THAT HE AND YOUR STEPSON STEVEN WERE

3 BUDDIES?

4 A YEAH

5 Q AND THEY HANG AROUND TOGETHER?

6 A YEAH

7 Q AND YOU VE SEEN BOTH OF THEM IN THAT CAR BEFORE?

8 A YEAH

9 Q STEVEN HAS USED THAT CAR BEFORE HASN'T HE?

10 A NO, I HAVEN'T NEVER SEEN HIM DROVE IT

11 Q YOU'VE NEVER SEEN HIM DRIVE IT?

12 A I HAVE NEVER SEEN STEVEN DRIVE IT

13 Q YOU'VE SEEN HIM IN THE CAR AND THEN AFTER YOUR SON

14 DROVE UP THAT DAY AND PARKED MICHAEL'S CAR THERE IN

15 THE FAP SIDE OF YOUR DRIVEWAY IT WAS JUST RIGHT

16 AFTER THAT THAT ALL THOSE POLICE ROLLED UP RIGHT?

17 A NO, THAT WAS BEFORE HE BROUGHT THE CAR THERE BEFORE

18 THE POLICE CAME

19 Q I'M SORRY IF I MISSTATED HE PARKS THE CAR AND SOON

20 THEREAFTER HERE COMES THE POLICE

21 A YES

22 Q HE HAD RIDDEN OFF ON A BIKE?

23 A UM HUH

24 Q AND IT WAS JUST HIM IN THE CAR?

25 A YES

1 Q AND THE POLICE ROLLED UP WITH THEIR GUNS DRAWN?
2 A YEAH
3 Q SEVERAL CARS?
4 A SEVERAL CARS
5 Q OK, IT WAS LIKE BABE RUTH, YOU WAS SCARED YOU DIDN'T
6 KNOW WHAT WAS GOING ON?
7 A YES
8 Q WHEN THEY GOT THERE THAT TIME THEY WERE CONCERNED
9 ABOUT THE CAR?
10 A YES
11 Q AND THEY WANTED TO LOOK IN THE HOUSE AND SEE IF THEY
12 COULD FIND ANYBODY, RIGHT?
13 A NO
14 Q DID THEY LOOK IN THE HOUSE AT THAT POINT?
15 A DID THEY LOOK IN THE HOUSE?
16 Q RIGHT
17 A NO
18 Q THEY WERE JUST CONCERNED ABOUT THE CAR AT THAT
19 POINT, RIGHT?
20 A YES SIR
21 Q AND DO YOU REMEMBER IF IT WAS OFFICER KINSEY OF
22 NORTH CHARLESTON OR MAYBE OFFICER CATLETT, DETECTIVE
23 CATLETT WITH THE SHERIFF'S OFFICE, OR DO YOU RECALL?
24 A MAYBE SO I DON'T KNOW WHO IT WAS
25 Q AND THAT WAS ABOUT FIVE FIFTY-THREE, ABOUT SIX

1 O'CLOCK, A LITTLE BIT AFTER DARK?

2 A WHEN THEY CAME?

3 Q YES, WHEN THE POLICE CAME?

4 A IT WAS GETTING DARK IT WAS GETTING DARK

5 Q OK THAT WOULDN'T SURPRISE YOU, WOULD IT?

6 A I DON'T ACTUALLY KNOW THE TIME, BUT IT WOULDN'T

7 SURPRISE ME IT WAS JUST GETTING DARK, YEAH, WHEN

8 THEY PULLED UP

9 Q THE QUESTION, IT WOULDN'T SURPRISE YOU IF THE POLICE

10 REPORT SAID 5 53 P M ? OK NOW WHEN THEY WERE

11 FIRST TALKING TO YOU OUT THERE AT THE HOUSE ON RUTH

12 DRIVE YOU ORIGINALLY SAID THAT IT WAS YOUR STEPSON

13 MR JOHNSON AND TWO OTHER BLACK MALES WERE IN THE

14 CAR ORIGINALLY?

15 A NOT ME, I DIDN'T SAY THAT

16 Q OK TWO OTHER BLACK MALES- I'M SORRY YOU SAW ON THE

17 SCENE, I DIDN'T- SAW YOUR SON AND SAW TWO OTHER

18 BLACK MALES DOWN THE STREET, IS THAT RIGHT?

19 A NO

20 Q YOU DIDN'T TELL THE OFFICER THAT YOUR STEPSON AND

21 TWO OTHER MALES, ONE WEARING A BLUE HOODED

22 SWEATSHIRT, AND ONE WEARING A RED WINDBREAKER TYPE

23 JACKET, WERE WALKING DOWN THE STREET WHEN YOU SAW

24 THEM?

25 A NO, I DON T REMEMBER SAYING MY STEPSON

1 Q OK THE OTHER PART OF THAT--

2 THE BAILIFF JUDGE I THINK ONE OF THE JURORS IS
3 GETTING ILL

4 THE COURT YOU WANT TO STEP OUTSIDE ALRIGHT THE
5 GIRL IN THE FRONT APPEARS TO BE GETTING SICK OR
SOMETHING I'LL CHECK AND SEE WHAT'S GOING ON

7 JURY OUT (3 31 P M)

8 BACK ON (3 41 P M)

9 THE COURT SHE'S GOING TO BE ABLE TO MAKE IT, SHE
10 SAID

11 JURY IN (3 42 P M)

12 Q ALRIGHT MR WHITE I'M NOT TRYING TO CONFUSE YOU
13 ABOUT THIS, BUT YOU MENTIONED A COUPLE OF PEOPLE
14 WALKING DOWN WHEN YOU WERE FIRST TALKED TO BY POLICE
15 AT YOUR HOUSE HELP ME, WHEN DID YOU MENTION--

16 A THE FIRST STATEMENT THAT I GAVE THAT WAS UNTRUE I
17 TOLD THEM I USED THE BATHROOM I CAME OUT THE HOUSE
18 AND I SEEN THREE GUYS WALKING DOWN THE STREET,
19 THAT'S WHAT I SAID

20 Q OK YOU'RE TALKING ABOUT FIRST STATEMENT, THAT
21 WOULD BE AFTER THE POLICE PICKED YOU UP AND DROVE
22 YOU SOMEWHERE ON RIVERS?

23 A NO THAT WAS ELEVEN O'CLOCK THAT NIGHT

24 Q OK

25 A THAT WAS THE SECOND STATEMENT

THIRD JUDICIAL CIRCUIT

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1 Q SO WE ARE CLEAR, THERE IS ONE STATEMENT THAT YOU
2 GAVE OUT THAT YOU TALKED TO SOMEBODY, RIGHT?
3 A YES
4 Q AND THE OTHER WAS LATER THAT NIGHT YOU WROTE IT
5 DOWN?
6 A YES
7 Q OK ALRIGHT, AND ON THE FIRST ONE THERE AT THE
8 HOUSE THAT WASN'T COMPLETELY RIGHT?
9 A NO
10 Q AND THE SECOND ONE WOULD HAVE BEEN WRITTEN, AND
11 THAT'S THE FIRST TIME AFTER YOU TALKED TO SOME
12 DETECTIVES RIGHT?
13 A YES
14 Q AND ON THAT IT WAS ABOUT ELEVEN O'CLOCK, THEY CAME
15 BACK AND GOT YOU AND TOOK YOU SOMEPLACE ON RIVERS
16 YOU THINK? OK PUT YOU IN A LITTLE ROOM?
17 A UM HUH
18 Q AND WITH YOU AND DETECTIVES COMING IN AND OUT TO
19 TALK WITH YOU?
20 A NO
21 Q JUST THAT ONE HAD A CONVERSATION WITH YOU?
22 A FIRST IT WAS TWO THEN ONE LEFT OUT, AND THEN THE
23 OTHER ONE HE TALKED TO ME AND THEN HE LEFT
24 Q AND THAT'S WHEN HE MADE THE COMMENT THAT WE HAVE
25 ALREADY TALKED TO STEVEN AND HE SAID YOU SAW HIM IN

1 THE CAR?

2 A YES

3 Q THINK ABOUT IT AND I'M GONNA TALK TO SOMEBODY, THEN

4 WE'LL TALK ABOUT WHAT YOU HAVE TO SAY, SOMETHING TO

5 THAT EFFECT, RIGHT?

6 A HE SAID WE ALREADY HAVE TALKED TO STEVEN AND HE HAD

7 CONFESSED THAT YOU SEEN HIM DRIVE THE CAR HE SAID

8 I'M GOING TO TALK TO MY SUPERIOR, WHEN I COME BACK I

9 WOULD LIKE FOR YOU TO THEN WROTE THE TRUE STATEMENT

10 Q SO THE LAST ONE IS WHEN YOU TALKED ABOUT 4 P M

11 STEVEN PULLS UP IN THE CAR, HE WAS THE ONLY PERSON

12 IN THE CAR, RIGHT?

13 A YES

14 Q AND IN THAT ONE YOU ADMIT TO THE POLICE THAT BEFORE

15 YOU HADN'T BEEN TRUTHFUL RIGHT? I NEED YOUR—

16 A EXCUSE ME?

17 Q I NEED YOUR ANSWER OUT LOUD

18 A REPEAT THE QUESTION PLEASE

19 Q IT WAS IN THAT FINAL STATEMENT WHERE YOU TOLD THEM

20 THAT WHAT YOU SAID BEFORE WASN'T RIGHT?

21 A THE FIRST STATEMENT?

22 Q RIGHT

23 A YES

24 Q OK BUT IT TOOK UP UNTIL THAT TALK WITH THE

25 DETECTIVE TO GET ALL THAT STRAIGHTENED UP I THINK

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1 THE DETECTIVE TOLD YOU THAT HE UNDERSTOOD, THAT HE
2 HAD KIDS TOO?
3 A YES
4 Q RIGHT?
5 A UM HUH
6 Q AND YOU SAID MAYBE OVERPROTECTIVE LOVE OR SOMETHING
7 TO THAT EFFECT?
8 A UM HUH
9 Q SO IT WAS AFTER THAT THAT HE CAME BACK IN AND YOU
10 WROTE OUT THAT STATEMENT NOW JUST BEFORE THAT
11 HAPPENED THOUGH, YOU HAD SAID-- YOU WERE A LITTLE
12 MORE DETAILED INCORRECTLY, BUT YOU WERE A LITTLE
13 MORE DETAILED TWO BLACK MALES ABOUT FORTY OR FIFTY
14 AWAY FROM THE STOP SIGN, THAT'S WHAT YOU TOLD THE
15 POLICE AT ONE POINT RIGHT?
16 A I DON'T REMEMBER THAT
17 Q YOU DON'T REMEMBER GIVING THAT DESCRIPTION ALONG
18 WITH THE BLUE HOODIE?
19 A I REMEMBER THAT, BUT I DON'T REMEMBER ABOUT THE
20 FORTY OR FIFTY FEET
21 Q AND DO YOU REMEMBER TELLING ONE HAD A RED
22 WINDBREAKER WITH A HOOD AND JEANS?
23 A YES I REMEMBER THAT
24 Q OK NOW AT SOME POINT THE POLICE DID SEARCH YOUR
25 HOUSE, RIGHT?

1 A OH YES SIR

2 Q LONG TIME, ABOUT FIVE HOURS WASN'T IT?

3 A UM HUH

4 Q IN FACT, THEY HAD TO WAIT AND GO GET A WARRANT TO

5 COME BACK AND SEARCH, ISN'T THAT RIGHT?

6 A YES THEY SEARCHED IT ANYWAY AND GOT A WARRANT

7 THEY COME BACK AND SEARCHED IT AGAIN

8 Q OK SO THEY SEARCHED YOUR HOUSE SOME, THEN THEY

9 STOP, GO GET A WARRANT AND SEARCH- ALL TOGETHER IT'S

10 ABOUT FIVE HOURS IN YOUR HOUSE YOUR FAMILY

11 OUTSIDE?

12 A YES

13 Q YOU NEVER BEEN THOUGH ANYTHING LIKE THIS BEFORE?

14 A OH NO

15 Q DIDN'T KNOW WHAT WAS GOING ON?

16 A NO I DIDN'T

17 Q YOU WERE SCARED AND THE REASON YOU WEREN'T

18 COMPLETELY FORTHCOMING EARLY ON WAS YOU WERE SCARED

19 AND YOU THOUGHT STEVEN HAD DONE SOMETHING?

20 A YES

21 Q DIDN'T KNOW WHAT HE HAD DONE?

22 A YEAH I AIN'T KNOW IF HE HAD DONE SOMETHING C

23 DIDN'T DO NOTHING, I JUST-

24 Q AND HOW LONG WAS IT, YOU SAY, HOW LONG WAS IT THAT

25 YOU WERE OVER THERE AT THAT PLACE ON RIVERS AT THE

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1 POLICE STATION?

2 A I WOULD SAY ABOUT HOUR, MAYBE HOUR AND A HALF
3 SOMETHING LIKE THAT

4 Q AND ONCE YOU FINALLY GAVE THEM THAT STATEMENT THAT
5 YOU TESTIFIED TO THE JURY HERE TODAY THEY LET YOU GO
6 HOME?

7 A YES THEY DID

8 Q ONCE YOU GOT HOME THEY ALREADY DONE WITH ALL THE
9 SEARCHING AND ALL THAT?

10 A YES

11 Q MR WHITE JUST ONE SECOND PLEASE SIR MR WHITE
12 THANK YOU VERY MUCH NO OTHER QUESTIONS

13 REDIRECT BY SOLICITOR WILSON - CHRIS WHITE

14 Q MR WHITE HOW DID YOU KNOW WHAT TO TELL THE POLICE
15 ABOUT SEEING JJ AND ABOUT SEEING STEVEN AND SHANNA?

16 A I DIDN'T KNOW WHAT TO SAY BECAUSE THAT S WHAT
17 HAPPENED THAT'S WHAT I SEEN WHEN I GOT THERE, YES

18 Q OK DID ANYBODY TELL YOU TO SAY THAT?

19 A NO

20 Q DID ANYBODY TELL YOU THAT STEVEN HAD TALKED ABOUT
21 THAT?

22 A NO

23 Q THE ONLY THING THEY TOLD YOU WAS THAT STEVEN HAD
24 ACKNOWLEDGED YOU SAW HIM IN THE CAR?

25 A YES

1 Q AFTER THAT YOU TOLD THEM WHAT YOU KNEW?

2 A YES

3 Q AND WHEN YOU TOLD THEM THAT IT WAS ABOUT FIVE
4 FIFTEEN, FIVE TWENTY OR SO WHEN STEVEN CAME BACK
5 WITH THE CAR, HE HAD ONLY BEEN GONE FOR LIKE TWENTY
6 MINUTES?

7 A YES, IF THAT MUCH

8 Q WHEN HE AND JJ LEFT HE WAS GONE ABOUT TWENTY MINUTES
9 BEFORE HE CAME BACK WITH THE CAR?

10 A YES, I WOULD SAY

11 Q THAT'S ALL I HAVE

12 THE COURT THANK YOU MR WHITE

13 SOLICITOR WILSON DETECTIVE SKAGGS

14 THE WITNESS IS SWORN (DETECTIVE GARY SKAGGS)

15 EXAMINATION BY SOLICITOR WILSON - GARY SKAGGS

16 Q DETECTIVE SKAGGS WHERE ARE YOU EMPLOYED?

17 A I AM CURRENTLY EMPLOYED WITH THE DORCHESTER COUNTY
18 SHERIFF'S OFFICE DETECTIVE DIVISION

19 Q HOW LONG HAVE YOU BEEN WITH DORCHESTER?

20 A APPROXIMATELY SIX MONTHS

21 Q AND WHERE WERE YOU BEFORE YOU WENT TO DORCHESTER?

22 A CHARLESTON COUNTY SHERIFF'S OFFICE DETECTIVE
23 DIVISION

24 Q OK, NOW AT SOME POINT DID YOU BECOME INVOLVED IN THE
25 INVESTIGATION OF THE MURDER OF ANTHONY GAMBRELL

1 WHICH TOOK PLACE OVER ON MONTAGUE?

2 A YES MA'AM I DID

3 Q AND AT SOME POINT ON DECEMBER 13, 2004, DID YOU HAVE

4 OCCASION TO GO OVER TO RUTH DRIVE?

5 A I DID

6 Q AND DID YOU MEET STEVEN JOHNSON THERE?

7 A I DID

8 Q AND AFTER YOU MET HIM THERE WHERE DID YOU TAKE HIM?

9 A WE TOOK HIM BACK TO THE SHERIFF'S OFFICE ON

10 PINEHAVEN DRIVE JUST OFF OF RIVERS AVENUE

11 Q DO YOU RECALL ABOUT WHAT TIME THAT WAS?

12 A NO MA'AM I DON'T I GOT NOTIFIED OF THE HOMICIDE

13 APPROXIMATELY FIVE O'CLOCK

14 Q AND IT WAS SOMETIME--

15 A SOMETIME AFTER THAT

16 Q AN HOUR OR TWO?

17 A AN HOUR TO TWO HOURS AFTER THAT YES MA'AM

18 Q AND YOU TOOK HIM OVER AFTER YOU MET HIM ON RUTH,

19 TOOK HIM WHERE?

20 A BACK TO THE SHERIFF'S OFFICE ON PINEHAVEN DRIVE

21 Q AND WHAT WAS THE PURPOSE OF THAT?

22 A TO INTERVIEW HIM TO GET A STATEMENT ABOUT THE

23 INCIDENT, AND DO A GSR KIT

24 Q OK TELL THE JURY WHAT A GSR KIT IS?

25 A A GSR KIT IS AN ACRONYM THAT WE USE IN THE BUSINESS

- 1 IT'S A GUNSHOT RESIDUE KIT
- 2 Q HOW DO YOU DO THE KIT OR PERFORM THE TEST?
- 3 A WELL IN THE KIT THERE IS SPECIFIC INSTRUCTIONS THAT
- 4 HAVE TO BE FOLLOWED EXACTLY YOU TAKE THE
- 5 INSTRUCTIONS OUT THERE IS PLASTIC GLOVES IN THERE
- 6 THAT HAVE TO BE USED THERE IS VIALS THAT EACH ONE
- 7 HAVE FOR SPECIFIC LOCATIONS ON THE HANDS
- 8 Q WELL TELL THE JURY WHAT YOU ARE EVEN DOING TO THE
- 9 HANDS
- 10 A WELL WHAT I'M DOING TO THE HANDS IS I'M CHECKING FOR
- 11 RESIDUE BECAUSE WHEN YOU FIRE A GUN THE BLOWBACK OR
- 12 THE POWDERS AND FRAGMENTS FROM THE BULLETS WILL COME
- 13 BACK ON YOUR HANDS, AND WHAT WE ARE DOING WITH THE
- 14 GUNSHOT RESIDUE IS TO CHECK AND SEE IF THE HAND HAS
- 15 FIRED A GUN RECENTLY, WITHIN AT LEAST SIX HOURS
- 16 Q SO YOU TAKE BASICALLY SOME SORT OF SWAB FROM—
- 17 A WE TAKE SWABS AND IN THE KIT THERE WAS SOME— THERE
- 18 IS A STICKY SUBSTANCE THAT YOU PULL OUT THE VIAL AND
- 19 YOU PAT THEM ON THE HANDS, ON THE BACK OF THE HANDS,
- 20 ON THE PALM OF THE HANDS
- 21 Q AND THESE GUNSHOT RESIDUE KITS THEY HAVE TO BE— THE
- 22 TESTS HAVE TO BE PERFORMED ON SUSPECTS ON CERTAIN
- 23 TIME DON'T THEY?
- 24 A YES MA'AM WITHIN SIX HOURS
- 25 Q OK, AND THIS TEST ON STEVEN JOHNSON THAT YOU

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1 PERFORMED ON HIM WAS DONE WITHIN THAT SIX HOURS?

2 A YES MA'AM

3 Q I WANT TO SHOW YOU STATE'S EXHIBIT 36 IS THIS THE
4 KIT THAT YOU USED ON STEVEN JOHNSON?

5 A IT IS

6 Q AND AFTER YOU TOOK THOSE SAMPLES FROM STEVEN
7 JOHNSON'S HANDS WHAT DID YOU DO WITH THEM?

8 A I IMMEDIATELY-- THEY WENT INTO EVIDENCE

9 Q DID YOU SEAL THE BACK OF IT?

10 A I DID THIS EVIDENCE SEAL TAPE IS THERE YOU'LL
11 SEE THAT MY INITIALS ARE ON THE TAPE WHERE IT WAS
12 SEALED

13 Q OK, AND DID YOU FILL OUT THE FRONT OF THAT?

14 A I DID I DID

15 Q AND THEN ONCE YOU TAKE THE SAMPLES FROM THE PERSON,
16 IN THIS CASE STEVEN JOHNSON, YOU LOG IT INTO
17 EVIDENCE WHAT HAPPENS IN THE REGULAR COURSE?

18 A IN THE REGULAR COURSE--

19 Q OF AN INVESTIGATION?

20 A OF AN INVESTIGATION-- WE SEND THEM OFF TO SLED FOR
21 THE ANALYSIS

22 Q YOUR HONOR AT THIS TIME WE OFFER STATE'S EXHIBIT 36
23 THAT'S ALL I HAVE

24 CROSS EXAMINATION OF GARY SKAGGS BY MR DAVIS

25 Q DETECTIVE SKAGGS HOW YOU DOING SIR?

1 A FINE

2 Q THAT WASN'T THE ONLY ROLE YOU PLAYED IN THIS

3 INVESTIGATION WAS IT?

4 A NO SIR

5 Q YOU ALSO TOOK THE STATEMENT OF STEVEN JOHNSON,

6 RIGHT?

7 A I DID

8 Q AND HE'S THE ONE THAT ULTIMATELY GETS-- WELL HE'S THE

9 FIRST ONE ARRESTED IN THIS CASE ISN'T HE?

10 A I DON'T KNOW THE SEQUENCE OF EVENTS OF WHO WAS

11 ARRESTED OR THE TIME LINE SIR

12 Q WELL HE WAS INTERVIEWED BY YOU A LITTLE BIT AFTER

13 EIGHT O'CLOCK, IS THAT ABOUT RIGHT?

14 A YES SIR A LITTLE BIT AFTER EIGHT MYSELF AND

15 DETECTIVE ANDERSON

16 Q AND WAS DETECTIVE BUNCE INVOLVED IN THAT AS WELL?

17 A DETECTIVE BUNCE WAS THERE

18 Q WE'VE HEARD THE TESTIMONY IN THIS COURT-- BUNCH OF

19 DETECTIVES ON THIS CASE IT WAS HOMICIDE--

20 A EVERYONE COMES OUT THERE IS NO DIFFERENCE IN THIS

21 DEPARTMENT OR IN OTHER DEPARTMENTS THERE HAS BEEN

22 HOMICIDES IN DORCHESTER COUNTY WHERE THE WHOLE

23 DETECTIVE DIVISION GOES OUT IT S NOT JUST ONE

24 PERSON, IT'S THE WHOLE DIVISION GOES OUT AND IT'S A

25 TEAM EFFORT

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1 Q AND SO THAT INCLUDES ANY INTERROGATION OF WITNESSES
2 AT THE SHERIFF'S DEPARTMENT?

3 A YES SIR

4 Q SO WHILE YOUR SIGNATURE MAY BE ON THE STATEMENT HERE
5 ALONG WITH DETECTIVE ANDERSON'S IT WAS LIKELY THAT
6 DETECTIVE BUNCE AND OTHERS WERE INVOLVED IN THAT AS
7 WELL?

8 A I COULD'VE HAVE VERY WELL HAVE BEEN, BUT MYSELF AND
9 DETECTIVE ANDERSON WERE PROBABLY THE TWO THAT WERE
10 MOST INSTRUMENTAL IN THE INTEPVIEW

11 Q AND MR JOHNSON IS THE FIRST OF THE FIVE SUSPECTS
12 THAT'S INTERVIEWED?

13 A I DON'T REMEMBER THE EXACT TIME LINE OR EXACTLY WHEN
14 THE NUMBER OF PEOPLE WERE IN AND OUT

15 Q OK WELL NOW THERE WAS A BRIEFING AT 9 30 WASN'T
16 THERE ON THE 13TH? WAS IT SIR?

17 A WITH THE DETECTIVES?

18 Q YES SIR

19 A YES SIR THERE WAS SEVERAL, IN FACT I BELIEVE THERE
20 WAS TWO MEETINGS THAT NIGHT

21 Q OK, SO MR JOHNSON IS TAKEN FROM HIS RESIDENCE ON
22 RUTH DRIVE, BROUGHT OVER TO THE SHERIFF'S DEPARTMENT
23 EIGHT O'CLOCK OR A LITTLE BIT AFTER THAT, HE'S
24 INTERROGATED, AND THERE IS A BRIEFING ABOUT NINE
25 THIRTY ABOUT WHAT'S GOING ON?

1 A RIGHT

2 Q OK, SO ISN'T HE THE FIRST ONE THAT'S INTERVIEWED,

3 YOU DON'T RECALL?

4 A I DON'T RECALL SIR

5 Q AND YOU ALSO DON'T RECALL AT THAT POINT WHETHER HE

6 ABOUT AN HOUR LATER WAS THE FIRST ONE ARRESTED?

7 A SIR, IT WAS PROBABLY ABOUT AN HOUR LATER THAT HE WAS

8 ARRESTED FROM THE TIME HE WAS INTERVIEWED FROM THE

9 INITIAL INTERVIEW WITH MYSELF AND DETECTIVE

10 ANDERSON THEN HE HAD A SUBSEQUENT INTERVIEW WHERE

11 YOU HEARD THE SECOND STATEMENT FOR DETECTIVE

12 ANDERSON AND ANOTHER DETECTIVE, BELIEVE IT OR NOT I

13 CAN'T READ HIS SIGNATURE

14 Q I UNDERSTAND NOW, ONE OF THE SUSPECTS THAT WAS

15 ALSO INTERROGATED THERE WAS MY CLIENT MR DUNHAM?

16 A YES SIR

17 Q HE CAME TO THE SHERIFF'S DEPARTMENT?

18 A RIGHT

19 Q WITH HIS MOTHER AND WITH A GUY NAMED BRANDON

20 CUTTINO? OR DO YOU RECALL?

21 A I DON'T RECALL SIR

22 Q YOU DON'T RECALL ANY CRUISER HAVING TO GO PICK HIM

23 UP AND BRING HIM IN?

24 A NO SIR, I DON'T RECALL THAT

25 Q AND HE CAME AROUND ELEVEN O'CLOCK, ELEVEN THIRTY,

1 SOMETHING LIKE THAT?

2 A I DON'T RECALL THAT SIR

3 Q OK

4 A I WASN'T INVOLVED IN THE INTERVIEW WITH MR DUNHAM

5 Q WELL AT THE BRIEFING AT NINE THIRTY WEREN'T YOU TOLD
6 ABOUT ALL THE INFORMATION YOU GUYS HAD GATHERED AT
7 THAT POINT?

8 A YES SIR WE HAD— I MEAN IT WAS A CONGLOMERATION OF
9 ALL THE INFORMATION THAT EVERYONE HAD GATHERED, AND
10 PEOPLE WERE GIVEN SPECIFIC JOBS TO DO AFTER THAT

11 Q I UNDERSTAND AND SO— BUT YOU DO KNOW THAT SOME
12 TIME LATE THAT NIGHT MY CLIENT CAME IN—

13 A YES SIR YES SIR

14 Q HE GAVE A STATEMENT?

15 A YES SIR

16 Q AND HE TOLD YOU OR HE TOLD THE SHERIFF'S DEPARTMENT
17 WHERE HE WAS

18 **SOLICITOR WILSON** OBJECTION

19 A I CAN'T TESTIFY TO THAT

20 **THE COURT** I SUSTAIN THE OBJECTION

21 Q YOU DON'T KNOW WHAT HE SAID?

22 A NO SIR I DON'T

23 Q AFTER HE WAS IN THOUGH, ONE OF THE THINGS YOU DID
24 ABOUT ONE THIRTY IN THE MORNING, YOU WENT SEARCHING
25 FOR A GUY NAMED JJ, IS THAT RIGHT? JAMES JACQUES,

1 YOU REMEMBER LOOKING FOR HIM OVER ON BRANCH AVENUE?

2 A WE DID MYSELF AND SEVERAL OTHER DETECTIVES,

3 DETECTIVE BUNCE DID GO OUT LOOKING FOR FOLKS, WL

4 EVEN WENT OVER TO—

5 Q I DIDN'T ASK YOU ABOUT THAT RIGHT NOW—

6 A YES SIR

7 Q YOU WENT LOOKING AT ONE THIRTY OVER AT BRANCH AVENUE

8 FOR JJ? YOU WERE PERSONALLY INVOLVED IN THAT

9 RIGHT?

10 A YES SIR

11 Q OK THEN ABOUT, A LITTLE BIT AFTER 2 A M YOU WERE

12 PERSONALLY INVOLVED IN LOOKING FOR MR JETER WHO WAS

13 FOUND ON BON AIRE DRIVE, BON AIRE STREET, RIGHT?

14 A YES SIR HE WAS

15 Q AND YOU WERE PERSONALLY INVOLVED IN BRINGING HIM

16 BACK TO THE SHERIFF'S DEPARTMENT?

17 A YES SIR

18 Q DETECTIVE SKAGGS GIVE ME JUST A SECOND PLEASE

19 THAT'S ALL THE QUESTIONS I HAVE

20 **SOLICITOR WILSON** STATE CALLS INVESTIGATOR KJELLMAN

21 **THE WITNESS IS SWORN (INVESTIGATOR K KJELLMAN)**

22 **EXAMINATION OF K KJELLMAN BY SOLICITOR BURNEY**

23 Q INVESTIGATOR KJELLMAN WOULD YOU TELL THE JURY WHERE

24 YOU WORK AND WHAT YOU DO?

25 A I WORK FOR CHARLESTON COUNTY SHERIFF'S OFFICE IN

1 THERE TECHNICAL SERVICES UNIT

2 Q AND TELL THE JURY WHAT A TECHNICAL SERVICES UNIT IS?

3 A WE PROCESS CRIME SCENES WE RESPOND TO CRIME

4 SCENES WE DO THE FINGER PRINTING, COLLECTING OF

5 EVIDENCE, PROCESSING OF EVIDENCE THAT COMES BACK

 FROM THOSE CRIME SCENES

7 Q AND WOULD YOU TELL THE JURY HOW YOU BECAME INVOLVED

8 IN THIS CASE?

9 A I WAS CALLED OUT TO MONTAGUE— WEST MONTAGUE FOR THE

10 INCIDENT ONCE I RESPONDED THERE I HAVE TO RESPOND

11 DOWN TO MUSC TO PHOTOGRAPH THE VICTIM'S INJURIES

12 Q AND WHERE DID YOU GO AT MUSC?

13 A TO THE MORGUE

14 Q AND WHAT DID YOU DO WHILE YOU WERE AT THE MORGUE?

15 A MET WITH DETECTIVE BOYD, GOT A PHOTOGRAPH OF THE

16 VICTIM'S INJURY, PHOTOGRAPHS OF HIS TATTOOS

17 Q DID YOU DO ANYTHING ELSE— YOU MENTIONED ONE OF YOUR

18 JOBS IS COLLECTING EVIDENCE, DID YOU COLLECT

19 ANYTHING ON THAT DAY?

20 A I BELIEVE I COLLECTED THE VICTIM'S CLOTHING

21 Q AND WAS THAT ALSO ON THE THIRTEENTH?

22 A YES

23 Q OK COURT'S INDULGENCE AND DID YOU HAVE OCCASION

24 TO RETURN TO MUSC?

25 A THE FOLLOWING DAY I RETURNED

- 1 Q THAT WAS ON DECEMBER 14?
- 2 A YES
- 3 Q AND WHAT DID YOU DO ON THAT DAY?
- 4 A ATTEND THE AUTOPSY
- 5 Q AND DID YOU COLLECT ANY EVIDENCE ON THAT PARTICULAR
DAY?
- 7 A I COLLECTED A BULLET FRAGMENT, A PROJECTILE
8 FINGERNAIL CLIPPINGS, HAIR CLIPPINGS, AND VIAL OF
9 BLOOD COLLECTED FROM THE VICTIM
- 10 Q I'M GOING TO SHOW YOU WHAT'S MARKED AS STATE'S
11 EXHIBIT 38, FOR IDENTIFICATION 47, DO YOU RECOGNIZE
12 THESE EXHIBITS?
- 13 A YES
- 14 Q AND WHAT IS STATE'S EXHIBIT 38?
- 15 A IT'S A GUNSHOT RESIDUE COLLECTION KIT
- 16 Q AND THAT WAS COLLECTED ON WHO?
- 17 A IT WAS DONE ON THE VICTIM
- 18 Q OK, ANTHONY GAMBRELL, AND DID YOU PERFORM THIS GSR,
19 THIS IS WHAT WE JUST HEARD ABOUT THE GSR KIT, AND
20 DID YOU COLLECT THE EVIDENCE FROM THE VICTIM'S
21 HANDS?
- 22 A NO, I DIDN'T PERFORM THE KIT
- 23 Q OK, WHO PERFORMED THE KIT?
- 24 A DETECTIVE WOOD
- 25 Q AND WERE YOU PRESENT WHEN THAT WAS DONE?

1 A NO I WASN'T

2 Q WHEN WAS THAT DONE?

3 A THAT WAS DONE PRIOR TO MY ARRIVAL AT THE MORGUE

4 Q ON THE THIRTEENTH?

5 A YES

6 Q AND WHEN YOU COLLECTED THAT GSR KIT WAS IT SEALED?

7 A YES

8 Q AND ALL OF IT HAD BEEN FILLED OUT DOES IT LOOK IN

9 THE SAME CONDITION AS IT WAS WHEN YOU RECEIVED IT?

10 A YES

11 Q AND HOW ABOUT STATE'S EXHIBIT 47?

12 A THAT'S THE FRAGMENTS, THE PROJECTILE

13 Q DO YOU RECALL WHAT THEY ARE?

14 A YES, THE PROJECTILE THAT WAS COLLECTED FROM THE

15 VICTIM

16 Q OK, AND DOES THAT HAVE ANY IDENTIFYING MARKINGS ON

17 IT?

18 A JUST MARKINGS I PUT ON THERE LABELING WHERE IT WAS

19 TAKEN FROM THE DATE AND THE VICTIM'S NAME, AND OUR

20 CASE NUMBER

21 Q YOU RECOGNIZE YOUR HANDWRITING ON THAT?

22 A YES I DO

23 Q AND THEN ONCE YOU COLLECTED THAT GSR KIT, WHAT DID

24 YOU DO WITH IT?

25 A THAT GOT TRANSPORTED BACK TO THE EVIDENCE COMPOUND

1 Q OK, AND DID YOU TRANSPORT IT ANY OTHER PLACE?

2 A I DID TRANSPORT IT UP TO SLED

3 Q AND DID YOU TRANSPORT ANY OTHER GSR KITS?

4 A THE OTHER TWO GSR KITS, YES

5 Q LET ME SHOW YOU STATE'S EXHIBIT 37 AND ASK IF YOU
RECOGNIZE THAT?

7 A YES I DO

8 Q AND THEN STATE'S 36

9 A YES I DO

10 Q ARE THOSE THE OTHER TWO GSR KITS THAT YOU
11 TRANSPORTED TO SLED?

12 A YES

13 Q YOUR HONOR AT THIS TIME WE MOVE STATE'S 36, 37, 38,
14 AND 47 IN EVIDENCE

15 MR DAVIS JUDGE I BELIEVE 36 IS ALREADY IN, BUT
16 THAT'S 37, 38, AND 47

17 THE COURT WITHOUT OBJECTION CROSS EXAMINATION

18 CROSS EXAMINATION OF K KJELLMAN BY MR DAVIS

19 Q CAN YOU HELP ME OUT ON THE LAST NAME?

20 A KJELLMAN

21 Q KJELLMAN, OK THANK YOU NOT ONLY DID- YOU'RE PART
22 OF THE CRIME SCENE, RIGHT?

23 A YES

24 Q AND TSU FOR THE SHERIFF'S DEPARTMENT, RIGHT

25 A RIGHT, TECHNICAL SERVICES UNIT

1 Q SAME THING AS CRIME SCENE, RIGHT?

2 A YES

3 Q IN FACT YOU WENT TO THE CRIME SCENE IN THIS CASE

4 WHICH IS WEST MONTAGUE, RIGHT?

5 A YES

6 Q YOU ASSISTED AT THAT SCENE?

7 A NOT VERY- I ARRIVED AND I WAS ASKED TO GO BACK DOWN

8 TO MUSC

9 Q BECAUSE THEY SAID YOU WOULD BE INVOLVED WITH THE

10 AUTOPSY, RIGHT?

11 A SAID THAT NIGHT IT WOULD BE RESPOND TO THE MORGUE

12 AND PHOTOGRAPH THE INJURIES

13 Q GATHER WHAT EVIDENCE YOU COULD?

14 A YES

15 Q AND YOU WOULD'VE HAVE TAKEN PHOTOS?

16 A YES

17 Q NOW, YOU ALSO LATER- LATER I BELIEVE YOU ALSO HAVE

18 PROCESSED THE CAR OF THE DECEASED?

19 A AS FAR AS LIFTING ANY FINGERPRINTS OFF THE CAR, I

20 DIDN'T DO IT

21 Q YOU DID NOT?

22 A NO

23 Q WOULD THAT THEN BE OFFICER ROY WILLOUGHBY THAT WOULD

24 HAVE DONE THAT?

25 A YES, I BELIEVE SO

- 1 Q YOU WERE AWARE THAT THAT WAS DONE, RIGHT?
- 2 A YES
- 3 Q ARE YOU AWARE OF ANY OTHER TYPE OF PROCESSING DONE
- 4 TO THE CAR?
- 5 A TO THE CAR?
- Q YES
- 7 A I KNOW WE DID THE FINGERPRINTS AND PHOTOGRAPHS I
- 8 DON'T RECALL EXACTLY WHAT ELSE WE DID WITH IT
- 9 Q YOU THINK THERE WAS OTHER PROCESSING YOU DID?
- 10 A YES, I'M JUST NOT SURE WHAT IT WAS
- 11 Q THESE OTHER CRIME SCENE TECHNICIANS WOULD KNOW MORE
- 12 WHAT ALL HAPPENED TO THE CAR?
- 13 A YES
- 14 Q THAT PERHAPS WOULD BE OFFICER WILLOUGHBY?
- 15 A YES
- 16 Q YOU GOT A FROM WHEN YOU SENT ITEMS TO SLED, THE
- 17 SOUTH CAROLINA LAW ENFORCEMENT DIVISION, RIGHT?
- 18 A YES
- 19 Q AS EVIDENCE AND THERE IS AN EVIDENCE INVENTORY
- 20 SHEET, RIGHT?
- 21 A YES
- 22 Q IN THIS CASE, AS IT PERTAINS TO GUNSHOT RESIDUE
- 23 KITS, THERE WAS ONLY THREE SENT, RIGHT?
- 24 A YES
- 25 Q ONE, YOU WERE THERE WHEN THEY OBTAINED IT FROM MR

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1 GAMBRELL THE DECEASED?

2 A YES

3 Q ONE FROM STEVEN JOHNSON?

4 A YES

5 Q AND ONE FROM MY CLIENT?

YES

7 Q AND THAT'S THE ONLY GSR KITS THAT WERE SUBMITTED,

8 RIGHT?

9 A YES

10 Q NO OTHER QUESTIONS

11 SOLICITOR BURNEY NO OTHER QUESTIONS YOUR HONOR

12 STATE CALLS HUE TANG

13 THE WITNESS IS SWORN (HUE TANG)

14 EXAMINATION OF HUE TANG BY SOLICITOR BURNEY

15 Q WHERE ARE YOU EMPLOYED?

16 A I AM EMPLOYED BY SOUTH CAROLINA LAW ENFORCEMENT

17 DIVISION

18 Q IS THAT COMMONLY KNOWN AS SLED?

19 A YES MA'AM

20 Q AND WHAT IS YOUR JOB AT SLED?

21 A MY ASSIGNMENT IS FORENSICS DIVISION MY CURRENT

22 POSITION IS CRIMINALIST IN TRACE EVIDENCE SECTION

23 Q AND HOW LONG HAVE YOU BEEN EMPLOYED AT SLED?

24 A THIS APRIL WILL BE MY SIXTEENTH YEAR

25 Q AND WHAT IS FORENSIC TRACE EVIDENCE INVESTIGATION?

1 A WE INVESTIGATE STARTING FROM ARSON, GUNSHOT RESIDUE
2 DUCT TAPE, EXPLOSIVE, GLASS ANALYSIS I THINK I
3 COVERED IT

4 Q WILL YOU TELL THE JURY ABOUT YOUR EDUCATIONAL
5 BACKGROUND?

6 I RECEIVED A BACHELOR OF SCIENCE IN BASIC CHEMISTRY
7 FROM THE UNIVERSITY OF SOUTH CAROLINA

8 Q HAVE YOU HAD ANY SPECIALIZED TRAINING IN THE AREA OF
9 TRACE EVIDENCE?

10 A COMPLETE IN ARSON ANALYSIS I COMPLETED MY TRAINING
11 IN GUNSHOT RESIDUE ANALYSIS, AND OF COURSE,
12 CURRENTLY I'M IN TRAINING FOR PAINT ANALYSIS

13 Q AND ARE YOU A MEMBER OF PROFESSIONAL ORGANIZATIONS
14 RELATING TO THAT FIELD AS WELL?

15 A YES MA'AM I'M A MEMBER OF AMERICAN ACADEMY OF
16 FORENSIC SCIENTISTS

17 Q AND HAVE YOU BEEN PREVIOUSLY BEEN QUALIFIED AS AN
18 EXPERT IN THE FIELD OF TRACE EVIDENCE?

19 A YES MA'AM I HAVE

20 Q AND HAVE BEEN QUALIFIED IN GENERAL SESSIONS COURT?

21 A YES MA'AM I HAVE

22 Q APPROXIMATELY HOW MANY TIMES?

23 A IN TRACE EVIDENCE, AROUND TEN, TEN TIMES

24 Q YOUR HONOR I OFFER AGENT TANG AS AN EXPERT IN THE
25 AREA OF FORENSIC TRACE INVESTIGATION

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1 **THE COURT** ANY QUESTIONS?

2 **MR DAVIS** NO

3 **THE COURT**

4 Q CAN I SHOW YOU WHAT'S IN EVIDENCE AS EXHIBITS 36, 37

5 AND 38, AND ASK YOU IF YOU RECOGNIZE THOSE ITEMS?

6 A YES MA'AM

7 Q AND DID YOU HAVE AN OPPORTUNITY TO EXAMINE THEM?

8 A YES MA'AM I DID

9 Q AND WOULD YOU TELL THE JURY WHAT TESTING YOU

10 CONDUCTED?

11 A I PERFORMED GSR TESTS ON THE KIT FROM ANTHONY

12 GAMBRELL AND STEVEN JOHNSON

13 Q OK, AND LET'S START WITH THE KIT OF ANTHONY

14 GAMBRELL, WHAT CONCLUSIONS DID YOU COME UP WITH?

15 A IN THE SAMPLES SUBMITTED IN THE KIT LABELED ANTHONY

16 GAMBRELL THE QUANTITY OF METALS DETECTED DID NOT

17 INDICATE THE PRESENCE OF GUNSHOT RESIDUE

18 Q AND AS REGARD TO THE KIT FOR STEVEN JOHNSON WHAT WAS

19 YOUR CONCLUSION?

20 A IN THE SAMPLES SUBMITTED IN THE KIT LABELED STEVEN

21 JOHNSON THE QUANTITIES METALS DETECTED DID NOT

22 INDICATE PRESENCE OF GUNSHOT RESIDUE

23 Q AND YOU MENTIONED THAT YOU DID NOT TEST THE KIT THAT

24 WAS LABELED MICHAEL DUNHAM?

25 A THAT S CORRECT

1 Q WHY DID YOU NOT TEST THAT?

2 A BECAUSE IT WAS COLLECTED BEYOND THE SIX-HOUR TIME
3 FRAME

4 Q OUTSIDE OF THAT SIX HOURS?

5 A THAT'S RIGHT

6 Q AND THAT'S NOT RELIABLE AFTER SIX HOURS?

7 A THAT'S CORRECT

8 Q NO FURTHER QUESTIONS

9 CROSS EXAMINATION OF HUE C TANG BY MR DAVIS

10 Q MAY IT PLEASE THE COURT YOUR HONOR AGENT TANG
11 THERE WERE NO OTHER GUNSHOT RESIDUE KITS SUBMITTED
12 IN THIS CASE, WERE THERE?

13 A BESIDES THESE THREE?

14 Q YES SIR

15 A NO SIR

16 Q AND DETERMINING THE PRESENCE OF GUNSHOT RESIDUE
17 REQUIRES SOME SPECIAL EDUCATION AND SOME SPECIAL
18 TOOLS, DOESN'T IT?

19 A I DON'T QUITE UNDERSTAND

20 Q I COULDN'T DO GUNSHOT RESIDUE ANALYSIS BECAUSE I
21 DON'T HAVE YOUR BACKGROUND?

22 A NOT COLLECTING IT PERFORMING THE TEST, YES

23 Q TO COLLECT IT YOU ARE BASICALLY JUST SWABBING AREAS
24 WHERE YOU THINK THE MUZZLE BLAST OR GUNSHOT RESIDUE
25 MIGHT BE, IS THAT RIGHT?

1 A I BELIEVE THE OFFICER TESTIFIED EARLIER IN THE KIT
2 IT HAD FIVE TUBES ALONG WITH THE FOUR STICKY TABS HE
3 MENTIONED THAT'S WHAT HE COLLECTED A STICKY TAB TO
4 REACH IN THE PALM OF THE HAND AND THE BACK OF THE
5 HAND OF EACH ONE THEN YOU PERFORM ON THE TUBE--
6 WHAT YOU DO THEN YOU ADD FIVE PERCENT NITRIC ACIDS
7 AND YOU PERFORM-- FIRST OF ALL YOU COLLECT A BLANK
8 TUBE REACHING FAR AWAY FROM THE HAND, MOST LIKELY
9 THE BACK OF, THEN YOU COLLECT BOTH PALM AND THE BACK
10 OF YOUR HAND
11 Q PRETTY MUCH ANYBODY COULD COLLECT THE EVIDENCE, BUT
12 IT TAKES AN EXPERT TO ANALYZE THE EVIDENCE, IS THAT
13 RIGHT?
14 A YES THAT'S RIGHT
15 Q AND YOU USE SPECIAL MACHINES FOR LACK OF A BETTER
16 TERM UP AT SLED TO DO THE TESTING, IS THAT RIGHT?
17 A YES
18 Q WHAT I UNDERSTAND THESE ARE MICROSCOPIC PARTICLES,
19 IS THAT RIGHT?
20 A YES, THAT'S RIGHT
21 Q YOU CAN'T SEE UNLESS YOU'VE GOT A MICROSCOPE OR SOME
22 OTHER INSTRUMENT TO REVEAL THEM, RIGHT?
23 A ELECTRON MICROSCOPE
24 Q ELECTRON MICROSCOPE, AND THIS IS A PARTICULAR AREA
25 OF EXPERTISE?

1 A YES

2 Q HOW MANY SLED AGENTS ARE ABLE TO TESTIFY ABOUT THAT

3 BESIDES YOU?

4 A CURRENTLY WE HAVE THREE OTHERS

5 Q THREE OTHERS BESIDES YOU?

6 A THAT'S CORRECT

7 Q THIS ISN'T SOMETHING THAT LAYPEOPLE ARE GOING TO BE

8 ABLE TO LOOK AT AND FIGURE OUT NOW ARE THEY?

9 A IF YOU DON'T HAVE ALL THAT BACKGROUND TRAINING IN

10 INSTRUMENTS

11 Q NOW CERTAINLY IF I WERE TO FIRE A GUN AND MY HEART

12 IS BEATING AND I'M SWEATING AND MOVING AROUND SOME

13 OF THE GUNSHOT RESIDUE THAT WOULD GET ON MY HANDS

14 WOULD BE ABSORBED IN MY SKIN, RIGHT?

15 A THROUGH THE SWEAT GLANDS, YES SOME OF IT

16 Q OK, AND SOME OF IT WOULD KIND OF DISSIPATE THAT WAY,

17 GO AWAY THAT WAY?

18 A THAT'S RIGHT

19 Q NOW IF MY HEART HAS STOPPED BEATING, IF I STOPPED

20 PERSPIRING IT'S A LITTLE MORE SLOWLY THAT IT SINKS

21 INTO MY SKIN, IS THAT AN ACCURATE STATEMENT?

22 A YES

23 Q SO IT WOULD STAY ON MY SKIN A LITTLE LONGER, IF MY

24 HEART HAD STOPPED IT WOULD STAY ON THERE A LITTLE

25 LONGER THAN SOMEONE WHO IS RESPIRATING?

1 A YES

2 Q THAT'S NOT THE ONLY WAY THAT IT GOES AWAY THOUGH
3 IF I WANTED TO WASH OFF MY HANDS THAT'S A WAY TO GET
4 RID OF THESE MICROSCOPIC PARTICLES, RIGHT?

5 A YES SIR, THAT'S ONE WAY

6 Q PUTTING MY HANDS IN AND OUT OF MY POCKETS COULD?

7 A THAT'S ANOTHER WAY

8 Q YOU COMMENTED THAT'S A WAY IT COULD HAPPEN, RIGHT?

9 A THAT'S ANOTHER WAY, LIKE YOU TAKE OFF YOUR JACKET
10 YOUR SLEEVE WOULD RUB AGAIN IT WOULD MOVE IT, OR YOU
11 CAN WASH YOUR HAND, OR JUST LIKE YOU MENTIONED
12 EARLIER STICK YOUR HAND IN YOUR POCKET, ANY ACTIVITY
13 THAT WOULD DISTURB THE PARTICLES WITH YOUR HAND THAT
14 WOULD REMOVE IT

15 Q OK YOU'VE ALREADY BEEN QUALIFIED AS AN EXPERT SO I
16 WANT TO GIVE YOU A HYPOTHETICAL QUESTION IN YOUR
17 EXPERT OPINION IS IT POSSIBLE TO FIRE A PISTOL, A
18 REVOLVER, AND LET'S SAY FOUR OR SO HOURS LATER OK-

19 A OK

20 Q FOUR OR SO HOURS LATER SOMEONE SWABS AND DOES THOSE
21 STICKY THINGS AND GETS WHATEVER IS ON MY HANDS, IT'S
22 POSSIBLE THAT IN FOUR HOUR TIME FRAME IT'S POSSIBLE
23 FOR ME TO MOVE AROUND OR OTHERWISE REMOVE THAT SO IT
24 WOULDN'T SHOW UP?

25 A THAT'S CORRECT

1 Q SO WHEN YOU MAKE A FINDING THAT WHAT WAS SUBMITTED
2 TO YOU DOESN'T HAVE METALS SIGNIFICANT ENOUGH TO
3 SHOW THAT THEY FIRED A GUN, WHEN YOU MAKE THAT
4 FINDING, YOU ARE NOT SAYING ABSOLUTELY CERTAINLY
5 THEY DIDN'T?
6 A DIDN'T FIRE THE WEAPON?
7 Q RIGHT
8 A GUNPOWDER WASN'T PRESENT ON THE HAND
9 Q BUT WHAT I'M SAYING IS IF YOU SAY IT WASN'T PRESENT
10 THAT EITHER MEANS THEY DIDN'T FIRE A WEAPON OR THEY
11 COULD HAVE FIRED IT AND REMOVED THE EVIDENCE, ISN'T
12 THAT TRUE?
13 A YES SIR
14 Q OK, AND BECAUSE OF THAT, BECAUSE THIS IS SUCH A
15 SMALL AND EASILY DISTURBED TYPE OF EVIDENCE, LIKE
16 YOU SAID EARLIER, IT'S OUTSIDE THE SIX HOUR SO IT S
17 ACTUALLY TAKEN OFF OF THE HANDS YOU NOT GOING TO
18 FOOL WITH TRYING TO FIGURE OUT WHETHER THEY FIRED A
19 GUN OR NOT?
20 A NOT OUTSIDE THE SIX HOURS, YES THAT'S CORRECT
21 Q BUT IF IT'S INSIDE THE SIX HOURS AND YOU FIND THAT
22 THE QUANTITIES OF METALS DETECTED DID NOT INDICATE
23 THE PRESENCE OF GUNSHOT RESIDUE, OK, YOU CANNOT IN
24 YOUR EXPERT OPINION TELL THESE JURORS THAT THAT
25 PERSON DIDN'T FIRE A GUN?

1 A I CANNOT TESTIFY THE PERSON DISCHARGED A WEAPON OR
2 NOT DUE TO—
3 Q YOU DON'T KNOW, THEY COULD HAVE OR THEY COULD NOT,
4 RIGHT?
5 A THAT'S TRUE
6 Q EITHER WAY OK MR TANG THANK YOU NO OTHER
7 QUESTIONS
8 **SOLICITOR BURNEY** NO OTHER QUESTIONS YOUR HONOR
9 **THE COURT** THANK YOU SIR
10 **SOLICITOR BURNEY** DARREN PRIOETTI
11 **THE WITNESS IS SWORN (DARREN PRIOETTI)**
12 **EXAMINATION OF DARREN PRIOETTI BY SOLICITOR BURNEY**
13 Q GOOD AFTERNOON MR PRIOETTI WHERE ARE YOU
14 EMPLOYED?
15 A SUNCOM WIRELESS
16 Q AND WHERE IS YOUR OFFICE?
17 A BERLIN, PENNSYLVANIA
18 Q DID YOU FLY IN TO CHARLESTON TO BE HERE?
19 A YES
20 Q DUG OUT FROM UNDER THAT
21 A YES
22 Q WHAT IS YOUR JOB AT SUNCOM?
23 A I'M A SENIOR BUSINESS SECURITY ANALYST
24 Q DOES SUNCOM ALSO GO BY THE NAME OF TRICOM PCS
25 A TRICOM PCS WE RECENTLY CHANGED OUR NAME TO SUNCOM

1 WIRELESS, BUT OUR CORPORATE TRADING NAME AT THE TIME
2 WAS TRICOM PCS, BUT OUR BRAND NAME IN THIS AREA WAS
3 SUNCOM

4 Q OK, AND THAT'S BACK IN DECEMBER OF 2004, YOUR
5 CORPORATE NAME WAS TRICOM?

6 A YES, TRICOM, PCS

7 Q AND DID I ASK YOU WHAT YOUR JOB WAS A TRICOM?

8 A SENIOR BUSINESS SECURITY ANALYST

9 Q AND DID YOUR COMPANY RECEIVE A SEARCH WARRANT FOR
10 CERTAIN MOBILE PHONE RECORDS?

11 A YES

12 Q I'M GOING TO SHOW YOU— I'M GOING TO SHOW YOU WHAT'S
13 MARKED AS STATE'S EXHIBIT 2 FOR IDENTIFICATION AND
14 ASK YOU TO TAKE A LOOK AT THAT AND TELL ME IF YOU
15 CAN IDENTIFY THAT

16 A THAT WOULD BE A SCREEN SHOT OF OUR CALL RECORDS

17 Q ARE THOSE PHONE RECORDS MAINTAINED UNDER THE CARE
18 AND CONTROL OF SUNCOM OR TRICOM?

19 A YES THEY ARE

20 Q ARE THEY MADE IN THE REGULAR COURSE OF BUSINESS?

21 A YES

22 Q AND ARE THOSE RECORDS MADE CONTEMPORANEOUSLY WITH
23 THE CALLS BEING MADE RECEIVED?

24 A I'M SORRY?

25 Q ARE THOSE RECORDS THAT YOU HAVE OF CALLS MADE

1 CONTEMPORANEOUS WITH THE CALLS BEING MADE OR
2 RECEIVED? MEANING IF I MADE A CALL TODAY WOULD THAT
3 CALL BE RECORDED IN THE RECORD?

4 A YES, CORRECT

5 Q AND ARE THOSE RECORDS REGULARLY MAINTAINED?

6 A YES

7 Q YOU DIDN T CREATE THOSE SPECIAL FOR US?

8 A NO

9 Q AND WHOSE RECORDS ARE THOSE, WHO IS THE CUSTOMER?

10 A THE CUSTOMER NAME ON THIS IS RAY SHAWN GREEN

11 Q WHAT TELEPHONE NUMBER?

12 A THE TELEPHONE NUMBER LISTED IS 843-345-5430

13 Q AT THIS TIME WE MOVE STATE'S 2 IN EVIDENCE

14 MR DAVIS NO OBJECTION YOUR HONOR

15 SOLICITOR BURNEY NO FURTHER QUESTIONS

16 CROSS EXAMINATION OF DARREN PRIOETTI BY MR DAVIS

17 Q JUST BRIEFLY TELL ME YOUR LAST NAME

18 A PRIOETTI

19 Q THAT'S THE CELL PHONE THE RECORDS FROM THE CELL
20 PHONE, RIGHT?

21 A CORRECT

22 Q MOBILE TELEPHONE CORRECT?

23 A PCS

24 Q PCS, OK AND BASICALLY THAT PRINT SCREEN YOU ARE
25 TALKING ABOUT THAT SHOWS WHO OPENED THAT ACCOUNT?

1 A THAT'S THE SECOND PAGE OUR CUSTOMER SERVICE SCREEN

2 YES

3 Q SO ALL YOU CAN TELL THE JURY IS WHO OPENED THE

4 ACCOUNT NAME THE PHONE NUMBER AND WHEN CALLS CAME IN

5 OR OUT, RIGHT?

6 A YES

7 Q AND WHAT NUMBERS ARE BEING USED?

8 A YES WE HAVE THAT ABILITY, YES

9 Q THAT'S THE EXTENT OF YOUR ABILITY TO GIVE

10 INFORMATION?

11 A FROM WHAT I HAVE IN FRONT OF ME, YES

12 Q YOU COULDN'T BE ABLE TO TELL THE JURY WHETHER I

13 BORROWED THAT PHONE TO MAKE A CALL?

14 A NO

15 Q IT'S NOT GOING TO SAY THAT ON THOSE RECORDS?

16 A NO IT DOESN'T SAY WHO USED THE PHONES, IT JUST

17 SAYS WHO THEY ARE REGISTERED TO

18 Q THANK YOU

19 SOLICITOR BURNEY NO FURTHER QUESTIONS

20 MONTEAU

21 THE WITNESS IS SWORN (MICHELLE MONTEAU)

22 EXAMINATION OF MICHELLE MONTEAU BY SOLICITOR BURNEY

23 Q MS MONTEAU CAN YOU TELL THE JURY WHERE YOU WORK AND

24 WHAT YOU DO?

25 A I WORK FOR THE CINGULAR WIRELESS AT NORTH CHARLSTON

1 STORE I REPRESENT THEM IN CUSTOMER SERVICE
2 Q AND DID YOUR COMPANY RECEIVE A SEARCH WARRANT FOR A
3 MOBILE PHONE RECORD?
4 A CORRECT
5 Q I'LL SHOW YOU STATE'S 53 THAT'S MARKED FOR
6 IDENTIFICATION AND ASK YOU IF YOU RECOGNIZE THAT?
7 A YES
8 Q ARE THOSE RECORDS MAINTAINED UNDER THE CARE,
9 CUSTODY, AND CONTROL OF CINGULAR?
10 A YES MA'AM
11 Q AND ARE THEY MADE IN THE REGULAR COURSE OF BUSINESS?
12 A YES MA'AM
13 Q AND ARE THOSE CALLS RECORDED CONTEMPORANEOUSLY WITH
14 THEM BEING MADE AND RECEIVED?
15 A CORRECT
16 Q AND ARE THOSE RECORDS REGULARLY MAINTAINED?
17 A YES
18 Q AND WHO IS THE-- WELL FIRST I OFFER EXHIBIT 53
19 MR DAVIS NO OBJECTION
20 Q AND I ASK YOU WHO IS THE CUSTOMER FOR THAT ACCOUNT?
21 A VICTORIA MARTIN
22 Q AND CAN YOU READ THE PHONE NUMBER THAT'S ASSIGNED TO
23 VICTORIA MARTIN?
24 A JUST A SECOND IT'S 843-819-3436
25 Q THANK YOU THAT'S ALL

CROSS EXAMINATION OF MICHELLE MONTEAU BY MR. DAVIS

1
2 Q JUST BRIEFLY THAT'S FOR A WIRELESS OR MOBILE
3 PHONE?
4 A CORRECT
5 Q THE RECORDS?
6 A YES SIR
7 Q AND SO AGAIN, I'LL ASK YOU THE SAME QUESTIONS WHAT
8 YOU ARE ABLE TO TELL THIS JURY IS WHO OPENED THE
9 ACCOUNT, CORRECT?
10 A CORRECT
11 Q AND THAT'S VICTORIA MARTIN?
12 A CORRECT
13 Q YOU ARE ABLE TO TELL US WHAT HER NUMBER WAS,
14 CORRECT?
15 A CORRECT
16 Q WHEN CALLS CAME IN AND OUT?
17 A CORRECT
18 Q AND WHAT NUMBERS CORRESPOND WITH THOSE CALLS?
19 A YES SIR
20 Q THIS IS A PREPAID PHONE, ARE YOU ABLE TO TELL THAT
21 BY THE RECORDS, A PREPAID ACCOUNT?
22 A YES SIR YOU MEAN THE BILL?
23 Q YES CAN YOU TELL BY WHAT YOU HAVE WHETHER THIS IS A
24 PREPAID PHONE OR NOT?
25 A NO SIR

1 Q YOU ARE NOT ABLE TO TELL, OK, AND AGAIN YOU ARE NOT
2 ABLE TO TELL BY THOSE RECORDS NOR DO YOU HAVE
3 PERSONAL KNOWLEDGE WHO ACTUALLY USED THE PHONE
4 BELONGING TO VICTORIA MARTIN?

5 A CORRECT

6 Q NO FURTHER QUESTIONS THANK YOU

7 SOLICITOR BURNEY NO QUESTIONS YOUR HONOR MAY I
8 APPROACH?

9 THE COURT WE NEED TO TAKE ABOUT FIVE MINUTES THEN
10 WE'LL COME BACK

11 JURY OUT (4 32 P M)

12 BACK ON (4 42 P M)

13 JURY IN (4 43 P M)

14 SOLICITOR WILSON STATE CALLS INVESTIGATOR DAVID
15 OWEN

16 THE WITNESS IS SWORN (DAVID H OWEN)

17 EXAMINATION OF DAVID H OWEN BY SOLICITOR WILSON

18 Q INVESTIGATOR OWEN WHERE ARE YOU EMPLOYED?

19 A CHARLESTON COUNTY SHERIFF'S OFFICE

20 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
21 OFFICE?

22 A SINCE AUGUST OF 2002

23 Q WHAT DO YOU DO THERE?

24 A I'M IN CRIME SCENE INVESTIGATION

25 THE BAILIFF JUDGE THE JUROR IS SAYING SHE CAN'T

1 HEAR

2 **THE COURT** SHE CAN'T HEAR BECAUSE OF THAT MACHINE

3 **SOLICITOR WILSON** CAN THE JURY HEAR ME? JUST LEAN

4 CLOSE INTO THAT MICROPHONE OK

5 A OK

6 **JUROR** IT'S THE LAWYER I CAN'T HEAR

7 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
8 DEPARTMENT?

9 A SINCE AUGUST OF 2002

10 Q AND YOU ARE IN THE TECHNICAL SERVICES UNIT?

11 A YES MA'AM

12 Q AND TELL THE JURY WHAT KIND OF WORK YOU DO WITH THAT
13 UNIT?

14 A I'M A CRIME SCENE INVESTIGATOR

15 Q AND ON DECEMBER 13 2004, IS THAT THE WORK THAT YOU
16 WERE DOING?

17 A YES MA'AM

18 Q AND AT SOME POINT DID YOU GET CALLED OUT TO BE
19 INVOLVED IN THE CASE WE ARE HERE ABOUT THIS WEEK?

20 A YES MA'AM

21 Q WERE YOU A FIRST- WHAT'S CALLED A FIRST RESPONDER TO
22 THE SCENE?

23 A NO MA'AM NOT TECHNICALLY THE FIRST RESPONDER I
24 WAS THE FIRST CRIME SCENE INVESTIGATOR ON THE SCENE

25 Q AND HAD THERE BEEN OTHER PEOPLE AT THE CRIME SCENE

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1 BEFORE YOU GOT THERE OUT ON MONTAGUE?

2 A YES MA'AM

3 Q IN FACT WHEN YOU ARRIVED THE VICTIM WAS NO LONGER

4 THERE, IS THAT CORRECT?

5 A THAT'S CORRECT

6 Q AND THIS AREA WHERE THE SHOOTING-- WHERE THE VICTIM

7 HAD BEEN SHOT THAT WAS IN CHARLESTON COUNTY?

8 A THAT'S CORRECT

9 Q ALRIGHT NOW, WHEN YOU GOT TO THE SCENE ALONG WITH

10 THE OFFICERS WHAT DID YOU AND THE OTHER OFFICERS DO

11 IN ORDER TO SECURE THE SCENE IN ORDER TO TRY TO

12 OBTAIN EVIDENCE?

13 A EXCUSE ME WHEN I FIRST ARRIVED ON THE SCENE I

14 NOTICED THAT CRIME SCENE BARRIER TAPE, YELLOW TAPE,

15 HAD CLOSED OFF A SECTION OF THE ROAD SO I KNEW THAT

16 THE POTENTIAL CRIME HAD ALREADY BEEN PROTECTED I

17 WALKED AROUND AND SPOKE WITH THE FIRST RESPONDING

18 DEPUTIES ON THE SCENE TO TRY TO GET A BRIEF

19 DESCRIPTION OF WHAT HAD TAKEN PLACE AND SEE IF T ...

20 HAD LOCATED ANY EVIDENCE ON THE OUTSIDE OF THE CRIME

21 SCENE

22 Q DID YOU RECOVER ANY EVIDENCE OUTSIDE?

23 A FROM OUTSIDE THE CRIME SCENE, NO

24 Q AND DID YOU AND THE OTHER OFFICERS SET OUT TO LOOK

25 FOR ANYTHING THAT WOULD HAVE BEEN RELATED TO THE

1 SHOOTING?

2 A YES MA'AM WE WERE TOLD THERE WAS A SHOOTING SO WE
3 NORMALLY LOOK FOR ANY, LIKE A HANDGUN THAT MAYBE AT
4 THE SCENE, SHELL CASINGS, PROJECTILES, ANY OTHER
5 POTENTIAL EVIDENCE

6 Q TELL THE JURY WHAT YOU MEAN WHEN YOU SAY SHELL
7 CASING VERSUS PROJECTILES

8 A A SHELL CASING IS THE CASING ON A SEMI-AUTOMATIC GUN
9 THAT'S EJECTED FROM THE GUN IN A REVOLVER IT WOULD
10 STILL BE IN THE WHEEL CYLINDER A PROJECTILE IS THE
11 ACTUAL OBJECT THAT IS PROJECTED DOWN THE BARREL AND
12 AWAY FROM THE GUN INTO THE POTENTIAL TARGET

13 Q NOW IN THIS CASE YOU AND THE OTHER OFFICERS LOOKED
14 FOR SHELL CASINGS?

15 A THAT'S CORRECT THERE WAS A SECTION ON WEST
16 MONTAGUE THAT HAD BEEN INDICATED, THE SHOULDER OF
17 THE ROADWAY AS WELL AS THE ROADWAY WAS A POINT OF
18 ENTRY SO WE DID A LINE SEARCH WHICH IS WALKING UP
19 AND DOWN LOOKING WITH FLASHLIGHTS AS WELL AS METAL
20 DETECTORS

21 Q OK, AND WERE YOU ABLE TO FIND ANY SHELL CASINGS AT
22 THAT SCENE?

23 A NO MA'AM WE WERE NOT

24 Q AND USING METAL DETECTORS?

25 A THAT'S CORRECT

1 Q AND YOU MENTIONED WHEN A SEMI-AUTOMATIC IS FIRED
2 SHELL CASINGS ARE SPIT OUT FOR LACK OF A BETTER
3 WORD?

4 A THAT'S CORRECT

5 Q AND WITH A REVOLVER LIKE GUN WHAT HAPPENS TO THE
SHELL CASINGS?

7 A THE SHELL CASINGS STAY WITHIN THE WHEEL CYLINDER
8 UNTIL THE PERSON HAVING THE GUN WOULD OPEN THE WHEEL
9 CYLINDER AND EJECT THE CASINGS

10 Q BUT YOU FOUND NO SHELL CASINGS ON THE SCENE ON WEST
11 MONTAGUE?

12 A NO SHELL CASINGS

13 Q HOW ABOUT PROJECTILES OR TARGETS THAT HAD BEEN HIT
14 OUT THERE ON THE SCENE?

15 A WE FOUND NO PROJECTILES WE CHECKED SOME OF THE
16 RESIDENCES THAT WERE CLOSE, IN CLOSE PROXIMITY, AND
17 DID NOT FIND ANY--

18 Q NOW WHY WOULD YOU CHECK THE RESIDENCES?

19 A BECAUSE PROJECTILES ARE KNOWN TO GO A GREAT
20 DISTANCE

21 Q YOU MEAN LIKE IF SOMEBODY FIRED A BULLET TWENTY OR
22 THIRTY YARDS AWAY MY IT MIGHT LODGE IN A HOME OR
23 SOMETHING LIKE THAT?

24 A THAT'S CORRECT

25 Q SO Y'ALL LOOKED ON THE EXTERIOR OF BUILDINGS OR--

1 A BUILDINGS, TREES SIGNS, ANYTHING THAT A PROJECTILE
2 MAY BE LODGED IN WE WERE NOT ABLE TO FIND ANY
3 Q DIDN'T FIND ANY?
4 A NO MA'AM
5 Q FOUND NO WEAPON THERE?
6 A NO MA'AM
7 Q OK ALRIGHT, I'M GOING TO SHOW YOU EXHIBITS 6 AND 7
8 AND ASK YOU IF YOU RECOGNIZE THOSE PHOTOGRAPHS?
9 A YES MA AM I DO
10 Q WHAT ARE THOSE?
11 A EXHIBIT 6 IS A PICTURE OF THE ROADWAY, THE SIGN OF
12 LANES MOBILE HOME PARK INDICATING THE ADDRESS 4635
13 WEST MONTAGUE TO INCLUDE SHOWING THE ROAD STATE'S
14 EXHIBIT 7 SHOWS THE MULTI- WHITE TOWEL WITH MULTI-
15 COLOR STRIPES ON IT LAYING CLOSE TO THE SIGN
16 INDICATING 4635 WEST MONTAGUE
17 Q WHY WAS THAT TOWEL OF SIGNIFICANCE WHY DID YOU TAKE
18 A PICTURE OF THAT?
19 A WE WERE TOLD THAT THE TOWEL WAS USED ON THE VICTIM
20 Q DID THAT ALSO HELP YOU MARK THE GENERAL AREA OF
21 WHERE THE SHOOTING HAD TAKEN PLACE?
22 A YES MA'AM
23 Q AT THIS TIME WE OFFER STATE S 6 AND 7
24 **MR DAVIS** NO OBJECTION
25 **THE COURT** WITHOUT OBJECTION

1 Q I'M GOING TO SHOW THESE TO THE JURY YOUR HONOR
 2 STATE'S EXHIBIT 6, IF YOU COULD USE THAT POINTER THE
 3 SIGN THAT YOU WERE SAYING THAT INDICATED THE MOBILE
 4 HOME PARK
 5 A THE SIGN IS RIGHT HERE, THE WHITE SQUARE WITH THE
 6 BLACK LETTER WRITING
 7 Q AND HOW ABOUT- WHAT IS THAT BELOW IT?
 8 A THIS IS THE WHITE TOWEL THAT'S ON THE SHOULDER OF
 9 THE ROAD
 10 Q I'M GOING TO SHOW YOU NOW WHAT'S BEEN PREVIOUSLY
 11 INTRODUCED AS STATE'S EXHIBIT 1, IF YOU COULD- IF
 12 YOU NEED TO STEP DOWN THAT'S FINE CAN YOU SHOW THE
 13 JURY WITH THE POINTER ON STATE'S EXHIBIT ONE WHERE
 14 THAT SAME SIGN THAT YOU SAW IN STATE'S EXHIBIT 6
 15 WOULD BE?
 16 A IT S AT THE TOP CENTER OF THE SCREEN
 17 Q AND THAT B-SHAPED BUILDING TO THE LEFT?
 18 A TOWN HOMES OR CONDOS
 19 Q AND IN STATE'S EXHIBIT 4, AGAIN THE WHITE SIGN?
 20 A THIS IS THE WHITE SIGN
 21 Q OK
 22 A THIS IS WEST MONTAGUE AND THE BOTTOM OF THE SCREEN
 23 ARE THE SAME APARTMENTS OR CONDOS
 24 Q AND THAT CORNER IS KIND OF THAT RED TRUCK?
 25 A YES MA'AM

1 Q NOW YOU DID NOT ATTEND THE AUTOPSY, IS THAT
2 CORRECT?

3 A NO I DID NOT

4 Q BUT YOU HAD AN OPPORTUNITY TO VIEW OR SEE THE
5 PROJECTILE THAT WAS RECOVERED FROM THE VICTIM'S
6 BODY, HAVE YOU NOT?

7 A YES MA'AM

8 Q AND WHAT CALIBER BULLET WAS THAT?

9 A IT APPEARED TO BE A 22 CALIBER

10 Q OK, AND WAS THAT KEPT IN EVIDENCE AT CHARLESTON
11 COUNTY?

12 A YES MA'AM

13 Q AND YOU MENTIONED THAT THERE WAS NO WEAPON RECOVERED
14 AT THE SCENE, DID YOU OR THE OTHER OFFICERS RECOVER
15 A WEAPON ANYWHERE RELATED TO THIS SHOOTING?

16 A LATER THE NEXT DAY ON THE 14TH—

17 Q JUST REGARDING THE SHOOTING ITSELF?

18 A NO NO WE DID NOT

19 Q ALRIGHT, SO YOU HAD NOTHING TO COMPARE THE 22
20 CALIBER BULLET TO SEE IF IT MATCHED OR ANYTHING LIKE
21 THAT?

22 A NO WE DID NOT

23 Q NOW, LATER ON THE NIGHT OF THE 13TH DID YOU HAVE AN
24 OPPORTUNITY TO GO BACK TO RUTH DRIVE?

25 A YES MA'AM I DID

1 Q AND WHY WAS IT YOU WERE OUT THERE?

2 A I WAS ADVISED THAT THE VEHICLE THAT WAS THOUGHT AS

3 THE POSSIBLE SUSPECT VEHICLE HAD BEEN LOCATED AT THE

4 ADDRESS ON RUTH DRIVE

5 Q OK, WHAT DID YOU SEE WHEN YOU ARRIVED THERE?

6 A WHEN I ARRIVED ON RUTH DRIVE I DID IN FACT FIND THE

7 LATE MODEL GRAY OR SILVER COLOR GRAND MARQUIS

8 Q AND AT THAT TIME, LET ME SHOW YOU EXHIBIT 24 DO

9 YOU SEE THE GRAY MARQUIS THAT YOU SAW ON RUTH DRIVE?

10 A YES MA'AM IT'S TO THE LEFT OF THE PICTURE

11 Q AND TO THE RIGHT IS THAT THE HOME ON RUTH DRIVE?

12 A YES MA'AM IT IS

13 Q DID YOU AND OTHER OFFICERS SEARCH THAT HOME?

14 A LATER THAT EVENING A SEARCH WARRANT WAS OBTAINED AND

15 I SEARCHED THE RESIDENCE

16 Q AND DID YOU FIND ANYTHING OF EVIDENIRY VALUE IN THE

17 HOME?

18 A INSIDE THE HOME, NO MA'AM

19 Q AND THAT WAS STEVEN JOHNSON'S HOME, CORRECT?

20 A YES MA'AM

21 Q LET ME SHOW YOU STATE'S EXHIBIT 25 AND 26 ASK YOU

22 IF YOU CAN IDENTIFY ANYTHING OUT OF THOSE

23 A YES MA'AM

24 Q WHAT ARE THEY?

25 A THEY'RE AERIAL PHOTOGRAPHS OF RUTH DRIVE, AND THE

1 HOUSE IN QUESTION WHERE THE GRAND MARQUIS WAS FOUND

2 Q OK, AND ARE THOSE THERE AN ACCURATE DEPICTION OF THE
3 AREA AROUND RUTH DRIVE?

4 A YES MA'AM

5 Q YOUR HONOR AT THIS TIME WE OFFER STATE'S 25 AND 26
6 WITHOUT OBJECTION

7 **THE COURT** OK, WITHOUT OBJECTION

8 Q NOW, HOW WAS IT THAT THESE AERIAL PHOTOGRAPHS CAME
9 TO BE TAKEN?

10 A ANOTHER ONE OF OUR INVESTIGATORS, INVESTIGATOR ROY,
11 WAS GOING FLYING IN THE COUNTY HELICOPTER ON ANOTHER
12 MISSION A FEW DAYS AFTER THAT AND I ASKED THEM TO
13 OBTAIN THOSE PHOTOGRAPHS FOR ME WHILE HE WAS UP
14 THERE

15 Q OK, DID YOU TELL ANYBODY YOU WERE SENDING A
16 HELICOPTER UP TO HAVE THESE PICTURES TAKEN?

17 A NO MA'AM

18 Q YOU JUST ASKED HIM TO GO TAKE SOME PICTURES AT RUTH
19 DRIVE AND HE DID THAT?

20 A YES MA'AM

21 Q STATE'S EXHIBIT 25, AGAIN RUTH DRIVE WHERE STEVE
22 JOHNSON LIVES, DO YOU SEE THE HOME THERE ON RUTH
23 DRIVE?

24 A YES MA'AM I DO

25 Q AND DO YOU SEE ANY CARS THERE?

1 A YES MA'AM THERE IS A SMALL LIGHT COLORED, I
2 BELIEVE IT'S A SEDAN, AND THE SAME BURGUNDY AND
3 MAROON PONTIAC MINIVAN THAT WAS THERE THAT NIGHT ON
4 THE 13TH
5 Q AND HOW WERE THOSE CARS PARKED?
6 A THEY WERE BACKED INTO THE DRIVEWAY
7 Q AND THIS PHOTOGRAPH WAS JUST TAKEN ON A RANDOM DAY
8 SOMETIME AFTER?
9 A THAT'S CORRECT
10 Q NOW WHILE AT THE SCENE ON WEST MONTAGUE DID YOU AND
11 THE OTHER OFFICERS VIDEO THE AREA?
12 A YES MA'AM AS I PHOTOGRAPHED THE SCENE I HAD
13 INVESTIGATOR WHITE WALK BESIDE AND VIDEO TAPE THE
14 SCENE
15 Q SO YOU HAVE A VIDEO AND PHOTOGRAPHS?
16 A THAT'S CORRECT
17 Q BUT NOTHING OF EVIDENTRY VALUE WAS OBTAINED THERE?
18 A NO MA'AM
19 Q THE PHOTOGRAPHS WOULD SHOW BASICALLY WHAT'S ON THE
20 PHOTOS?
21 A YES MA'AM
22 Q NOW YOU MENTIONED THAT Y'ALL SEARCHED RUTH DRIVE
23 WHAT DID YOU DO WITH THE GRAND MARQUIS THAT YOU
24 FOUND THERE THAT NIGHT?
25 A CALLED FOR A TOW TRUCK, I BELIEVE IT WAS JAMES

1 THAT ARRIVED I INSTRUCTED HIM THAT HE NEEDED TO WEAR
 2 GLOVES WHEN HE SECURED THE VEHICLE ONTO THE TRUCK AND
 3 TOUCH IT AT LEAST AS POSSIBLE AFTER I PHOTOGRAPHED IT
 4 THE TOW TRUCK ARRIVED, AND I ASKED FOR IT BE A TOW TRUCK
 5 AND THE GRAND MARQUIS BACK TO OUR EVIDENCE COMPOUND
 6 Q OK, AND WERE YOU INVOLVED IN THE PROCESSING OF THE
 7 CAR?
 8 A NO MA'AM I WAS NOT
 9 Q WHO DID THAT?
 10 A SGT WILLOUGHBY
 11 Q ALRIGHT, NOW WERE YOU INVOLVED IN OTHER SEARCH
 12 WARRANTS RELATED TO THIS CASE?
 13 A YES MA'AM I WAS
 14 Q WERE YOU INVOLVED IN A SEARCH OF A TRAILER ON NORTH
 15 MURRAY BOULEVARD?
 16 A YES MA'AM I WAS
 17 Q AND WHO WAS THAT TRAILER RELATED TO?
 18 A TO THE DEFENDANT, MICHAEL DUNHAM
 19 Q THAT'S WHERE HE LIVED?
 20 A YES
 21 Q AND THEN ALSO WERE YOU INVOLVED IN A SEARCH ON BON
 22 AIRE BOULEVARD OVER NEAR WEST MONTAGUE?
 23 A YES MA'AM I WAS
 24 Q AND WHO WAS THE RESIDENCE ON BON AIRE ASSOCIATED
 25 WITH?

1 A THE CO-DEFENDANT MICHAEL JETER

2 Q AND THEN HOW ABOUT THE SEARCH ON SUMNER AVENUE AT
3 THE MARSHVIEW APARTMENTS?

4 A I DON'T BELIEVE ANY OF THE DEFENDANTS RESIDED IN
5 THAT AREA IT WAS TOLD TO ME THAT THEY HUNG OUT
6 THERE AND POSSIBLY WENT THERE AFTER THE INCIDENT

7 Q AND WAS AN APARTMENT SEARCHED THERE ON SUMNER
8 AVENUE?

9 A YES MA AM

10 Q DID YOU FIND ANYTHING OF EVIDENTRY VALUE IN ANY OF
11 THOSE SEARCHES?

12 A NO MA'AM I DID NOT

13 Q THAT'S ALL THE QUESTIONS I HAVE FOR THIS WITNESS
14 YOUR HONOR

15 CROSS EXAMINATION OF DAVID OWEN BY MR DAVIS

16 Q INVESTIGATOR OWEN YOU ARE ONE OF THE TECHNICAL
17 SERVICE UNIT DEPUTIES?

18 A THAT'S CORRECT

19 Q AND AGAIN TSU IS CRIME SCENE?

20 A YES SIR

21 Q THE JURY MAY BE MORE FAMILIAR WITH CRIME SCENE
22 TECHNICIANS?

23 A THAT'S CORRECT

24 Q GO OUT AND COLLECT EVIDENCE FROM WHERE EVER IT'S
25 LOCATED?

1 A THAT'S CORRECT

2 Q ANALYZE, PRESERVE, AND COME AND TESTIFY ABOUT IT?

3 A YES SIR

4 Q YOU'RE ONE OF THE ENTIRE TEAM?

5 A YES SIR THERE IS A TOTAL OF FIVE OF US INCLUDING

6 THE SUPERVISOR

7 Q AND MOST OF THAT GROUP WAS CALLED OUT ON THIS NIGHT

8 WEREN'T THEY?

9 A ALL EXCEPT ONE

10 Q I THINK ONE OF THE OTHER DEPUTIES SAID IT WAS A TEAM

11 EFFORT, RIGHT?

12 A YES SIR

13 Q OK AMONG THE SEVERAL THINGS YOU DID, THE SOLICITOR

14 JUST MENTIONED THE SEARCH OF THREE DIFFERENT

15 RESIDENCES?

16 A YES SIR

17 Q IS THAT RIGHT?

18 A YES SIR

19 Q YOU WERE INVOLVED WITH THE ONE ON BON AIRE

20 BOULEVARD, RIGHT?

21 A YES SIR

22 Q THAT'S OVER NEAR WHERE THE SHOOTING HAPPENED RIGHT?

23 A YES SIR, IT'S KINDA ON THE CORNER OF BON AIRE AND

24 WEST MONTAGUE

25 Q AND THAT'S MR JETER'S, THE DEFENDANT THAT IS NOT ON

1 TRIAL TODAY, HIS RESIDENCE?

2 A YES SIR

3 Q THEN YOU ALSO SEARCHED, YOU HELPED WITH TEAM

4 SEARCHING AT MURRAY DRIVE, IS THAT RIGHT?

5 A NORTH MURRAY, YES

6 Q NORTH MURRAY DRIVE THAT'S WHERE MICHAEL DUNHAM WAS

7 LIVING, ISN T IT?

8 A YES SIR

9 Q OK, AND YOU ALSO HELPED WITH TEAM SEARCH AT SUMNER

10 AVENUE, RIGHT?

11 A YES

12 Q THAT'S MARSHVIEW APARTMENTS WE'VE HEARD ABOUT

13 PREVIOUSLY?

14 A YES SIR

15 Q AND I THINK YOUR QUOTE WAS NOTHING OF EVIDENTRY

16 VALUE WAS FOUND AT ANY OF THOSE RESIDENCES?

17 A NO SIR

18 Q NO GUN WAS EVER FOUND?

19 A NOT MATCHING THE 22 CALIBER PROJECTILE THAT WAS

20 RECOVERED

21 Q CERTAINLY ANY TESTIMONY THAT A PISTOL WAS USED,

22 RIGHT?

23 A WHAT--

24 Q ANY TESTIMONY THAT A PISTOL WAS USED TO KILL MR

25 GAMBRELL?

1 A YES SIR

2 Q THERE WERE NO PISTOLS AT ALL?

3 A NO SIR

4 Q ANOTHER THING YOU ACTUALLY DID, DIDN'T YOU REQUEST

5 THE GUNSHOT RESIDUE TO BE TAKEN FROM MR GAMBRELL

6 THE DECEASED?

7 A YES SIR

8 Q THAT WAS BY YOUR REQUEST?

9 A YES SIR

10 Q WERE YOU INVOLVED IN WHAT'S CALLED MAJOR CASE

11 PRINTS?

12 A I DID NOT- I MAY HAVE RECEIVED THEM IF THEY BROUGHT

13 THEM TO THE EVIDENCE COMPOUND

14 Q YOU DIDN'T TAKE MAJOR CASE PRINTS?

15 A NO SIR, I DID NOT

16 Q VERY QUICKLY SO THE JURY CAN UNDERSTAND MAJOR CASE

17 PRINTS IS A FULL PRINTING OF SOMEONE'S PALM AND

18 FINGERPRINTS, IS THAT ACCURATE?

19 A YES SIR

20 Q AND MAJOR CASE PRINTS, WHEN YOU REFER TO THEM THAT'S

21 JUST WHAT IT MEANS IT'S THE PRINTS THAT YOU TAKE

22 WHEN THE CASE IS A VERY SERIOUS CASE?

23 A NOT NECESSARILY

24 Q YOU DO THAT ALL THE TIME WHEN YOU TAKE FINGERPRINTS?

25 A IF ANY OF THE INVESTIGATORS FIND WHAT'S BELIEVED TO

1 BE A PARTIAL PRINT AND THINK THAT IT MAY BE COMPARED
2 TO A MAJOR CASE PRINT, IF THEY HAVE A SUSPECT, AND
3 GET MAJOR CASE PRINTS FROM THERE TO BE COMPARED THAT
4 WAY LIKE IF WE HAVE A PALM IMPRESSION
5 Q LET ME BACK UP A BIT SO IF YOU HAD A PALM
6 IMPRESSION, NORMALLY THAT'S NOT SOMETHING WOULD BE
7 ON FILE YOU COULD GET THEM
8 A THAT'S RIGHT WE HAVE TO GET MAJOR CASE PRINTS DONE
9 Q IF YOU HAVE FINGERPRINTS LEFT ON SOME PIECE OF
10 EVIDENCE, GENERALLY YOU'RE JUST GONNA COMPARE THOSE
11 TO OTHER FINGERPRINTS?
12 A YES SIR
13 Q AND IF A SERIOUS CASE AND YOU JUST HAVE FINGERPRINTS
14 YOU WOULD GO AHEAD AND GET THE PALMS THE FULL THING
15 SO YOU HAVE TO MAKE GOOD COMPARISONS, IS THAT RIGHT?
16 A THAT'S CORRECT
17 Q YOU WEREN'T INVOLVED IN DOING THAT IN THIS CASE BUT
18 YOU WERE AWARE THAT IT WAS DONE?
19 A YES SIR
20 Q YOU WERE AWARE THAT IT WAS DONE ON MR JETER,
21 CORRECT?
22 A YES
23 Q YOU WERE AWARE IT WAS DONE ON MR DUNHAM, CORRECT?
24 A CORRECT
25 Q THOSE ARE THE ONLY TWO PEOPLE THAT HAD MAJOR CASE

1 PRINTS DONE, CORRECT?

2 A TO MY KNOWLEDGE, CORRECT

3 Q WELL WOULD YOU HAVE BEEN THE ONE TO HAVE RECEIVED

4 ANY MAJOR CASE PRINTS, I THINK YOU MENTIONED THAT

5 EARLIER?

6 A ONE OF FIVE WITHIN THE UNIT, YES

7 Q YOU ARE NOT AWARE THAT THE UNIT TEAM GOT ANY MAJOR

8 CASE PRINTS FROM ANYBODY OTHER THAN MR JETER?

9 A THAT'S CORRECT

10 Q AND MR DUNHAM? OK DID THE TEAM GO TO TWO

11 DIFFERENT APARTMENTS OVER IN MARSHVIEW?

12 A I'M ONLY AWARE OF ONE APARTMENT

13 Q OK, AND DO YOU RECALL WHICH PARTICULAR APARTMENT YOU

14 HELPED DO ANY SEARCH?

15 A IT WAS APARTMENT C AS IN CHARLES 4

16 Q OK YOU EVER HAD ANY DIFFICULTY FIGURING OUT WHICH

17 APARTMENTS THAT WAS?

18 A I THINK THAT HAD BEEN DETERMINED BY THE TIME I GOT

19 THERE, BUT THERE WAS DIFFICULTY IN DETERMINING

20 DECEMBER 13TH AND 14TH IT WAS NEAR CHRISTMAS TIME AND

21 THE APARTMENT I SEARCHED THE DOOR WAS WRAPPED WITH

22 WRAPPING PAPER COVERING UP THE APARTMENTS

23 NUMERICALLY

24 Q THERE WERE TWO BUILDINGS ATTACHED BY A STAIRWELL,

25 RIGHT?

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1 A YES SIR

2 Q AND IN EACH THE BUILDING THE APARTMENTS ARE NUMBERED

3 1, 2, AND ON UP, I MEAN THERE IS AN APARTMENT NUMBER

4 1 ON BOTH SIDES, ISN'T THERE?

5 A I—

6 Q DO YOU RECALL?

7 A NO SIR I JUST CONCENTRATED ON THE ONE APARTMENT

8 Q OK I'D LIKE TO SHOW YOU SOME ITEMS THAT ARE

9 ALREADY IN EVIDENCE FIRST OF ALL I'D LIKE TO SHOW

10 YOU— AND I THINK WE SAW THIS A MOMENT AGO, I THINK

11 IT'S NUMBER 21, YOU RECOGNIZE THAT?

12 A YES SIR THAT IS THE GRAND MARQUIS PARKED AT RUTH

13 DRIVE

14 Q AND THAT S WHERE IT WAS WHEN YOU FOUND IT?

15 A THAT'S CORRECT

16 Q AND THERE IS A VAN?

17 A YES SIR

18 Q IS THAT THE SAME ONE YOU POINTED OUT IN THE AERIAL

19 PHOTOGRAPH?

20 A YES SIR

21 Q OK, AND THE GRAND MARQUIS THE FRONT OF IT IS ABOUT

22 TO THE— THE PASSENGER SIDE THE REAR WHEEL WELL, IS

23 THAT APPROXIMATELY?

24 A APPROXIMATELY, YES SIR

25 Q IS THAT BASICALLY WHAT YOU WERE TOLD WHEN YOU WERE

1 OUT THERE?

2 A YES

3 Q OK, I WANT TO SHOW YOU NUMBER 23 IS THAT ANOTHER

4 PHOTO OF THE SAME VEHICLE?

5 A YES SIR

6 Q SO WHEN IT'S BACKED IN THERE THAT TREE LIMB WAS

7 HANGING OVER IT PRETTY GOOD, WASN'T IT?

8 A YES SIR

9 Q NOW THAT'S AT RUTH DRIVE, CORRECT?

10 A YES SIR

11 Q AND IF I REMEMBER YOU STARTED OUT AT THE SCENE OF

12 THE SHOOTING, RIGHT?

13 A YES SIR, ON WEST MONTAGUE

14 Q THAT'S OVER WEST MONTAGUE EXTENSION, RIGHT?

15 A YES SIR

16 Q AND THAT'S OVER THERE WHERE DORCHESTER ROAD AND WEST

17 MONTAGUE KINDA WRAPS AROUND A BIT?

18 A YES SIR

19 Q MAY I APPROACH THE WITNESS YOUR HONOR I'M GOING TO

20 SHOW YOU EXHIBIT 28 DO YOU RECOGNIZE THAT AERIAL

21 PHOTOGRAPH?

22 A YES I DO

23 Q OK, AND DOES THAT DEPICT THE GENERAL AREA WE ARE

24 TALKING ABOUT?

25 A YES SIR

1 Q AND WOULD YOU BE ABLE IN THIS PHOTOGRAPH TO POINT TO
2 WHERE YOU CREATED A CRIME SCENE?

3 A YES SIR

4 Q YOUR HONOR WILL HE BE ABLE TO STEP DOWN? NOW WE
5 NEED TO SPEAK UP AS WE TALK TO THE JURY CAN YOU
6 JUST POINT TO THE JURY ROUGHLY WHERE THE CRIME SCENE
7 WAS ESTABLISHED?

8 A THIS IS WEST MONTAGUE THESE ARE THE APARTMENTS OR
9 TOWN HOMES I POINTED OUT EARLIER THE WHITE SIGN
10 STATING LANE'S MOBILE HOME PARK IS ACTUALLY COVERED
11 BY THIS GREEN LINE, BUT IT WOULD BE IN THIS GENERAL
12 AREA WE HAD ROPED OFF TWO OR THREE HOUSES

13 Q WHILE ON THE SCENE LOOKING FOR ANY EVIDENCE AT WEST
14 MONTAGUE YOU WERE- YOU GOT INFORMATION THE CAR WAS
15 FOUND ON RUTH DRIVE, RIGHT?

16 A YES SIR

17 Q SO YOU WENT FROM THAT LOCATION- YOU WENT TO THE
18 OTHER SIDE OF NORTH CHARLESTON ON RUTH DRIVE, RIGHT?

19 A YES SIR

20 Q DO YOU REMEMBER WHEN YOU- WHAT TIME YOU DID THAT?

21 A I LEFT THE SCENE AT WEST MONTAGUE AT APPROXIMATELY
22 1823 WHICH IS 6 23 IN THE EVENING AND PROCEEDED TO
23 RUTH DRIVE

24 Q WELL NOW HELP ME OUT, DO YOU RECALL WHAT TIME YOU
25 LEFT WEST MONTAGUE?

1 A YES, I LEFT WEST MONTAGUE AT APPROXIMATELY 1823
2 WHICH IS 6 23 IN THE EVENING

3 Q DO YOU RECALL WHAT TIME YOU GOT TO RUTH?

4 A I DON'T REMEMBER THE EXACT TIME, I BELIEVE IT WAS
5 ABOUT 20 TO 25 MINUTES TO GET TO THE SCENE

6 Q OK, AND WHEN YOU ARE ON THE SCENE YOU ARE IN SOME
7 TYPE OF POLICE UNIFORM, CORRECT?

8 A THAT IS CORRECT

9 Q AND YOU ARE IN SOME TYPE OF POLICE VEHICLE, CORRECT?

10 A YES SIR A MARKED VEHICLE

11 Q AND THAT SAME VEHICLE WAS TAKEN FROM WEST MONTAGUE
12 OVER TO RUTH DRIVE?

13 A THAT'S CORRECT

14 Q ABOUT 20 OR 25 MINUTES?

15 A YES

16 Q AND THAT WAS ABOUT SIX O CLOCK AT NIGHT?

17 A YES SIR

18 Q SIX THIRTY?

19 A IN NORTH CHARLESTON

20 Q OK GIVE ME ONE SECOND PLEASE NO OTHER QUESTIONS
21 THANK YOU

22 REDIRECT BY SOLICITOR WILSON - DAVID OWEN

23 Q MR DAVIS WAS ASKING YOU ABOUT NORTH MURRAY
24 BOULEVARD, THE DEFENDANT'S HOME LET ME SHOW YOU
25 STATE'S EXHIBIT 27 AND ASK YOU IF YOU COULD CIRCLE

1 WHERE THE TRAILER WAS ON NORTH MURRAY WHERE YOU
2 SEARCHED, AND COULD YOU ALSO CIRCLE ON STATE'S
3 EXHIBIT 27 WHERE MARSHVIEW APARTMENTS IS, AND THEN
4 AGAIN RUTH DRIVE YOUR HONOR AT THIS TIME WE OFFER
5 STATE'S EXHIBIT 27

6 **MR DAVIS** NO OBJECTION YOUR HONOR

7 Q IF YOU COULD JUST STEP DOWN TO THE JURY AND SHOW
8 THEM THESE LOCATIONS FIRST OF ALL NORTH MURRAY
9 DRIVE THE DEFENDANT'S RESIDENCE RIGHT HERE

10 A YES MA'AM

11 Q AND WHICH HIGHWAY IS THIS?

12 A THIS IS REMOUNT ROAD

13 Q AND THEN NORTH MURRAY- I'M SORRY MARSHVIEW
14 APARTMENTS OFF SUMNER THAT WE'VE BEEN DISCUSSING

15 A THERE IS SUMNER RIGHT THERE MARSHVIEW APARTMENTS

16 Q AND THEN RUTH DRIVE WHERE STEVEN JOHNSON LIVES

17 A SUMNER ACROSS NORTH RHETT AND DOWN TO RUTH DRIVE

18 Q THAT'S ALL I HAVE

19 **SOLICITOR WILSON** INVESTIGATOR DAVID WILLOUGHBY

20 **THE WITNESS IS SWORN (INVESTIGATOR DAVID WILLOUGHBY)**

21 **EXAMINATION OF INVESTIGATOR WILLOUGHBY BY SOL WILSON**

22 Q SGT WILLOUGHBY WHERE ARE YOU EMPLOYED?

23 A CHARLESTON COUNTY SHERIFF'S OFFICE

24 Q AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

25 A SINCE 1988

1 Q WHAT DO YOU DO THERE?

2 A I'M CURRENTLY ASSIGNED TO INVESTIGATIONS UNIT I'M

3 A DETECTIVE SERGEANT

4 Q NOW BEFORE THAT BACK IN DECEMBER OF 2004, WHERE WERE

5 YOU WORKING AT THE SHERIFF'S DEPARTMENT?

6 A I WAS THE SUPERVISOR OF THE TECHNICAL SERVICES UNIT

7 Q AND DID YOU BECOME INVOLVED IN COLLECTING AND

8 PROCESSING EVIDENCE WITH REGARD TO THIS CASE?

9 A YES MA'AM I DID

10 Q AND DID YOU HAVE OCCASION ON DECEMBER 13, 2004, TO

11 SEARCH A SILVER GRAND MARQUIS?

12 A YES MA'AM

13 Q AND WHERE DID YOU DO THAT?

14 A WE DID IT AT THE EVIDENCE COMPOUND AT 355 PINEHAVEN

15 DRIVE WHICH IS IN NORTH CHARLESTON

16 Q OK, AND WHY WOULDN'T YOU JUST DO THAT OUT ON RUTH

17 DRIVE WHERE THE CAR WAS FOUND?

18 A WELL YOU WANT TO GO TO AN AREA WHERE IT IS BETTER

19 CONTROLLED, YOU HAVE LIGHTING, BETTER TOOL

20 EQUIPMENT IT'S EASIER TO BRING THE VEHICLE TO THE

21 TECHNICAL SERVICES UNIT AS OPPOSED TO TRYING TO

22 BRING ALL THE EQUIPMENT OVER THERE BECAUSE YOU DON'T

23 KNOW WHAT YOU ARE GOING TO FIND WHEN YOU BEGIN THE

24 SEARCH AND YOU WANT TO HAVE YOUR TOOLS READILY

25 AVAILABLE TO PROCEED WITH WHAT YOU FIND WHEN YOU

1 FIND IT

2 Q WHEN YOU SEARCHED THAT CAR WERE YOU LOOKING FOR

3 SHELL CASINGS?

4 A YES MA'AM, WE WERE LOOKING FOR ANY ITEMS THAT WOULD

5 LEAD TOWARDS THE VEHICLE BEING TIED TO THE DRIVE-BY

6 SHOOTING

7 Q DID YOU FIND ANY SHELL CASINGS IN THE VEHICLE?

8 A NO MA'AM NO MA'AM WE DID NOT

9 Q DID YOU FIND ANY BULLETS OR LIVE ROUNDS IN THE

10 VEHICLE?

11 A NO MA'AM WE DID NOT

12 Q DID YOU FIND A WEAPON IN THE VEHICLE?

13 A NO MA'AM WE DID NOT

14 Q ALRIGHT DID YOU SEARCH THE VEHICLE FOR LATENT

15 FINGERPRINTS?

16 A YES MA AM MYSELF AND INVESTIGATOR ROY

17 Q OK, WOULD YOU EXPLAIN TO THE JURY WHAT A LATENT

18 FINGERPRINT IS?

19 A A LATENT FINGERPRINT IS A FINGERPRINT THAT IS NOT

20 VISIBLE BY THE NAKED EYE THERE IS LATENT, PATENT,

21 AND PLASTIC FINGERPRINTS PATENT AND PRESSURE IS

22 WHAT YOU CAN SEE VISIBLY LIKE WHAT YOU'D HAVE IF YOU

23 HAD MUD ON YOUR HANDS AND YOU TOUCH SOMETHING

24 LATENT IS WHEN THEY ARE INVISIBLE TO THE NAKED EYE

25 WITHOUT BEING ENHANCED, AND THEN PLASTIC WOULD BE IF

1 THEY WERE IN SOMETHING LIKE SILLY PUTTY OR SOMETHING
2 TO THAT EFFECT WOULD BE A PLASTIC PRINT

3 Q AND TELL THE JURY HOW YOU GO ABOUT THE SEARCH FOR
4 PRINTS THAT YOU CAN'T SEE WITH THE NAKED EYE, LATENT
5 PRINTS?

6 A THE MOST COMMON METHOD OF DOING IT, ESPECIALLY ON
7 THE EXTERIOR OF A VEHICLE WOULD BE THROWING POWDER,
8 AND WE DUST AN AREA OF POWDER AND YOU HAVE A LITTLE
9 BRUSH JUST LIKE A FEATHER DUSTER BUT ITS SMALLER,
10 AND YOU DUST THE ENTIRE OUTSIDE OF THE CAR, AND AS
11 YOU ARE DUSTING YOU LOOK FOR PRINTS COMING TO YOU,
12 WHICH MEANS DEVELOPING AND YOU WANT TO KEEP WORKING
13 THEM UNTIL YOU THINK THAT THEY ARE CLEAR, AND THEN
14 YOU GO AROUND THE CAR AND MARK THE ENTIRE CAR ONCE
15 THAT IS DONE YOU COME BACK WITH A DRY ERASER IS WHAT
16 WE USE ON AN EXTERIOR OF A CAR A DRY ERASER IS THE
17 SAME THING A TEACHER WOULD USE ON A SCHOOL BOARD AND
18 I LOOK AT THE PRINTS YOU KNOW, IDEALLY YOU'D WANT
19 TO HAVE ONE PRINT PER CARD BUT THAT'S NOT COULD HAPPEN
20 HAPPEN SO WHAT YOU DO IS YOU MARK THE AREA WITH
21 AS FEW PRINTS AS YOU THINK YOU CAN GET ON A CAR
22 WITHOUT DESTROYING OTHER PRINTS AND YOU MARK THEM 1,
23 2, 3, 4, 5, AND IT'S IN MY HANDWRITING IF I'M DOING
24 THE PRINTS THEN YOU PHOTOGRAPH EACH ONE OF THOSE
25 NUMBERS, AND YOU COME BACK WITH TAPE, CLEAR TAPE,

1 AND YOU TAPE OVER THE PRINT WHEN YOU LIFT THE TAPE
2 THE FINGERPRINT COMES UP WITH THE TAPE AS WELL AS
3 DRY ERASER MARK NOW YOU HAVE TO DO THAT WHILE THE
4 MARK IS STILL WET IF YOU WAIT AND IT'S A HUNDRED
5 DEGREES OUTSIDE AND IT DRIES ITS HARDER TO LIFT IF
6 IT'S COLD OUTSIDE IT'S HARDER TO LIFT SO WOULDN'T BE
7 AS CLEAR AS IF YOU GET IT REAL MOIST, OK YOU PUT
8 THE CARD BACK DOWN ON THE SAME MARK AND YOU
9 PHOTOGRAPH IT AGAIN THEN WHAT YOU HAVE IS YOU HAVE
10 MY HAND WRITTEN NUMBER ON A CARD, A PICTURE SHOWING
11 EXACTLY WHERE THAT HANDWRITTEN NUMBER CAME FROM OFF
12 OF THAT CAR SO IT IDENTIFIES EXACTLY WHERE THAT
13 FINGERPRINT CAME FROM THE SCENE

14 Q AND SGT WILLOUGHBY DID YOU RECEIVE TRAINING IN
15 ORDER TO BE ABLE TO DO THESE LATENT PRINT
16 COLLECTIONS?

17 A YES MA'AM I RECEIVED TRAINING AT THE CRIMINAL
18 JUSTICE ACADEMY IN COLUMBIA, AND THEN ON THE JOB
19 TRAINING

20 Q HOW MANY CRIME SCENES OR ITEMS OF EVIDENCE WOULD YOU
21 SAY YOU HAVE PROCESSED AND ANALYZED FOR LATENT
22 PRINTS?

23 A THOUSANDS I WOULD ASSUME

24 Q AND HAVE YOU TESTIFIED A NUMBER TIMES IN COURT
25 REGARDING HAVING FOUND LATENT PRINTS?

1 A YES MA'AM

2 Q YOUR HONOR AT THIS TIME WE OFFER SGT WILLOUGHBY AS
3 AN EXPERT IN THE COLLECTION OF LATENT PRINTS,
4 FINGERPRINTS

5 **THE COURT** WITHOUT OBJECTION

6 Q OK, SO IN THIS SITUATION YOU PROCESSED THE CAR FOR
7 LATENT PRINTS?

8 A YES MA'AM

9 Q DID YOU PROCESS THE INSIDE OF THE CAR AND THE
10 OUTSIDE OF THE CAR?

11 A YES WE DID INSIDE AND OUTSIDE

12 Q OK, AND TELL THE JURY WHAT KIND OF SURFACES ARE BEST
13 FOR PRESERVING PRINTS SO THAT YOU CAN SOMETIME LATER
14 COME BACK AND TRY TO COLLECT IT?

15 A THE SMOOTHER THE SURFACE, THE DRYER THE SURFACE THE
16 BETTER IT IS TO COLLECT A PRINT THEY MAKE
17 AUTOMOBILES NOW WITH EXTERIORS, REAL SHINY EXTERIORS
18 SO THE EXTERIOR IS SMOOTH THE DASHBOARD AND
19 EVERYTHING HAS A TEXTURED FEEL TO IT IF YOU CAN
20 RECALL BACK WHEN— WELL WHEN I WAS A CHILD WE USED TO
21 HAVE ICEBOXES THAT WERE REAL SMOOTH AND MY MOMMA
22 USED TO FUSS AT ME ALL THE TIME BECAUSE WE WOULD GET
23 FINGERPRINTS ALL OVER THOSE ICEBOXES AND I'M SURE
24 Y'ALL CAN REMEMBER BACK TO THAT TOO, AND NOW THEY'VE
25 COME UP WITH TEXTURED ICEBOXES, AND THAT TEXTURED

1 ICEBOXES, THE IDEA BEHIND IT WAS TO HIDE THE
2 FINGERPRINTS, AND SO THE SAME THING HAS HAPPENED ON
3 THE DASHBOARD OF A CAR IT'S TEXTURED NOW SO IT'S
4 HARDER TO PICK UP THE FINGERPRINTS OFF OF IT THERE
5 IS A FABRIC INSIDE YOU ARE NOT GOING TO BE ABLE TO
6 THROW POWDER AND COLLECT PRINTS OFF OF THAT FABRIC
7 SO THAT'S SOME OF THE STUFF THAT HINDERS YOU ON THE
8 INTERIOR OF A CAR OF COURSE, YOU DO HAVE SOME
9 SMOOTH AREAS, LIKE THE GEAR SELECTOR, THE INSIDE
10 WINDOWS, THOSE KIND OF AREAS ARE STILL SIMILAR TO
11 THE OUTSIDE OF THE VEHICLE, YOU WOULD BE ABLE TO
12 COLLECT IT WITH POWDER

13 Q NOW, I'M GOING TO SHOW YOU STATE'S EXHIBIT 9, WHICH
14 IS ALREADY IN EVIDENCE IS THAT THE CAR THAT YOU
15 PROCESSED?

16 A YES MA'AM

17 Q AND THIS PHOTOGRAPH WAS TAKEN AT THE EVIDENCE
18 COMPOUND?

19 A YES MA'AM

20 Q THE DENT IN THE SIDE OF THE CAR, THAT WAS THERE
21 BEFORE YOU PROCESSED IT?

22 A THAT'S HOW IT ARRIVED AT THE COMPOUND, YES MA'AM

23 Q AND THEN STATE'S EXHIBIT 10, THE DRIVER'S SIDE OF
24 THE CAR, THE SAME THING?

25 A AS IT ARRIVED

1 Q THE DENT IN THE FRONT QUARTER PANEL THAT WAS THERE?

2 A YES MA'AM

3 Q NOW, LET ME SHOW YOU STATE'S EXHIBITS 12, 13, 14,

4 15, 17, AND 18, AND ASK YOU IF YOU RECOGNIZE THESE?

5 A THESE ARE PHOTOGRAPHS OF THE PROCESS I JUST SPOKE TO

6 YOU ABOUT ON HOW WE COLLECTED THE FINGERPRINTS IT

7 ALSO SHOWS THE INTERIOR OF THE TRUNK, SHOWING WE

8 SEARCHED THE INTERIOR OF THE TRUNK AND INTERIOR OF

9 THE DRIVER'S COMPARTMENT ON THE VEHICLE THE

10 PICTURES THAT YOU CAN SEE, I'M GOING TO START WITH

11 THIS ONE, I DON'T KNOW WHETHER YOU CAN SEE IT OR NOT

12 FROM HERE, BUT YOU CAN SEE THERE IS MY NUMBERS 1, 2,

13 3 AND, OF COURSE, I TRY TO GET AS FEW A PRINTS AS I

14 CAN IN THE CAR—

15 **THE COURT** YOU'VE GOT TO PUT THAT IN EVIDENCE

16 Q BEFORE YOU START THAT—

17 A I'M SORRY

18 Q THOSE ARE THE PHOTOGRAPHS YOU TOOK OF THE CAR?

19 A INVESTIGATOR ROY TOOK THIS AS I WAS OVERWATCH—

20 HE WAS IN TRAINING

21 Q OK, AND ARE THOSE PHOTOGRAPHS FAIR AND ACCURATE

22 DEPICTIONS OF THE CAR AS YOU WERE PROCESSING IT?

23 A YES MA'AM

24 Q YOUR HONOR AT THIS TIME WE OFFER STATE'S 12, 13 14

25 15, 17, 18, AND 16 INTO EVIDENCE

1 **THE COURT** WITHOUT OBJECTION THEY ARE IN EVIDENCE

2 Q SGT WILLOUGHBY I WANT TO FIRST SHOW STATE'S EXHIBIT

3 18 THE INTERIOR OF THE CAR WHEN YOU PROCESSED THE

4 INTERIOR OF THE CAR DID YOU HAVE ANY LUCK FINDING

5 ANY LATENT PRINTS?

6 A WE DISCOVERED ONE LATENT FINGERPRINT AND THAT'S OFF

7 OF THE, NUMBER 28, IT'S OFF THE GEAR SELECTOR

8 Q OK HOW ABOUT THE STEERING WHEEL OR THE DASH?

9 A NO MA'AM

10 Q WOULD THAT SURPRISE YOU?

11 A NO, BECAUSE OF THE TEXTURES AND THE WEATHER OUTSIDE

12 IT WAS JUST COOL OUT THERE SO IT WAS LESS CHANCE OF

13 SWEATING AND TRANSFERRING THOSE TYPE OF FLUIDS

14 Q OK SO YOU JUST GOT ONE PRINT INSIDE OF THE CAR?

15 A YES MA'AM

16 Q NOW, STATE'S EXHIBIT 12 EXPLAIN TO THE JURY WHAT

17 THAT IS A PHOTOGRAPH OF?

18 A THAT'S A PHOTOGRAPH OF WHERE I HAD THROWN POWDER

19 DOWN TO ENHANCE THE PRINTS, THE LATENT FINGER F

20 THEN I MARKED THEM 1, 2, 3 WITH THE DRY ERASER, AND

21 AS YOU CAN SEE IT'S IN HAND SCRIPT, IT'S NOT A

22 FACTORY MADE NUMBER, AND WHAT I'M TRYING TO DO IS

23 I'M TRYING TO GET A FEW A PRINTS AS I CAN ON ONE

24 CARD NOW WHEN I LIFT LATENT PRINTS I HAVE TO HAVE

25 TAPE BEFORE THE FINGERPRINT AND I HAVE TO HAVE TAPE

1 AFTER THE FINGERPRINT SO IN ORDER TO ACCOMMODATE
2 SOMETIMES YOU ARE GOING TO GET 2 OR 20 OR HOWEVER
3 MANY YOU ARE GOING TO BE ABLE TO GET TO GO PAST THE
4 PRINT AND GO FOR THE PRINT SO LIKE I SAID IDEALLY
5 YOU WOULD WANT TO HAVE ONE PRINT PER CARD, BUT
6 THAT'S NOT GOING TO HAPPEN VERY OFTEN

7 Q AND IN FACT I M GOING TO SHOW THE JURY STATE'S
8 EXHIBIT 13, WHAT IS THAT?

9 A THAT S WHERE I ALREADY LIFTED THE PRINT AND I PLACED
10 IT- I DON'T TAKE THE TAPE COMPLETELY OFF THE CAR AND
11 HINGE IT OFF, BUT ONCE I HINGE IT OFF I LAY THE CARD
12 ON THE TAPE AND THEY LAY IT BACK ON THE CARD AND
13 THAT SHOWS 1, 2 AND, OF COURSE, 2 IS OVERLAPPED
14 UNDERNEATH NUMBER 1, AND THEN NUMBER 3 IS WHERE
15 PRINTS WERE LAYING ONE OVER ANOTHER AND IT WASN'T A
16 PLACE FOR ME TO STOP IT UNTIL I GOT TO THE TOP OF
17 THE CARD SO WHEN I DID I BUTTED THE CARDS UP
18 LENGTHWISE, AND I THINK IT IS THREE CARDS THAT ARE
19 ACTUALLY NUMBER 3 THE 3 CARDS ARE LINKED ON ONE
20 PIECE OF PAPER

21 Q AND THEN- BUT THESE ARE STATE'S 12 AND 13 ARE BEFORE
22 AND AFTER PICTURES IN A WAY?

23 A YES MA'AM

24 Q BEFORE THE CARD WAS PUT ON WITH THE TAPE AND THEN
25 AFTER THE CARD?

- 1 A YES MA'AM
- 2 Q AND ON STATE'S EXHIBIT 14, WHAT IS THAT?
- 3 A THAT'S FROM WHAT I CAN SEE HERE BY THE DOOR KNOB,
- 4 THERE IS NUMBER 4, THERE IS NUMBER 5 BY THE BACK
- 5 WINDOW, AND I THINK THAT'S NUMBER 6 ON THE FENDER
- 6 BACK THERE, I CAN'T LOOK AT IT FROM THIS DISTANCE,
- 7 BUT I BELIEVE THAT'S NUMBER 6, AND THAT'S WHERE WE
- 8 ARE SHOWING A GROUPING OF THEM WHICH GIVES YOU A
- 9 BETTER IDEA OF WHERE THESE THINGS ARE WHAT I LIKE
- 10 TO REFER TO IT AS WHEN YOU ARE TAKING PICTURES OF AN
- 11 AREA, YOU WANT TO TAKE THE PICTURE OF THE PLATE THE
- 12 TABLE AND THE ROOM, AND THEN YOU IF YOU JUST HAVE
- 13 PLATE PICTURES YOU CAN'T TELL WHERE THAT PLATE IS IN
- 14 THE ROOM SO IF YOU EXPAND OUT THAT S HOW YOU
- 15 FINALLY TAKE A PICTURE OF THE PLATE WHICH IS THE
- 16 FINGERPRINT WHICH WE SHOWED EARLIER, AND YOU WOULD
- 17 TAKE A PICTURE OF THE TAPE WHICH IS THIS QUARTER OF
- 18 THE ROOM HERE, AND THEN YOU GO BACK TO ROOM, IT
- 19 COULD BE THE WHOLE SIDE OF THE CAR AND IT GIVES YOU
- 20 A BETTER IDEA ACTUALLY OF WHERE NUMBER 2, NUMBER 5,
- 21 NUMBER 4, AND NUMBER 6 IS LOCATED DOWN ON THAT
- 22 TARGET
- 23 Q AND THEN AGAIN THE ACTUAL PICTURE STATE'S EXHIBIT
- 24 15, WHAT IS THAT?
- 25 A THAT'S WHEN WE HAD HINGED THE TAPE UP AND PLACED THE

1 CARD UNDERNEATH AND IT SHOWS THE EXACT SAME NUMBER,
2 WRITTEN EXACTLY THE SAME WAY IS PICKED UP BY THAT
3 TAPE ALONG WITH THE FINGERPRINTS THAT WERE
4 PHOTOGRAPHED AT THAT SAME PLACE AND ALL PLACED ON
5 THAT CARD

6 Q AND Y'ALL COLLECTED A NUMBER OF LATENT PRINTS DID
7 YOU NOT?

8 A TWENTY-EIGHT TWENTY-EIGHT CARDS, NOW I DON'T KNOW
9 HOW MANY LATENT PRINTS, ACTUAL PRINTS WE GOT, BUT
10 THERE WERE TWENTY-EIGHT LIFTS

11 Q WHY WOULD THERE BE A DIFFERENCE BETWEEN THE NUMBER
12 OF CARDS AND THE ACTUAL NUMBER OF PRINTS THAT YOU
13 GOT?

14 A LIKE ON NUMBER 3, IT MAY HAVE BEEN ON THE DOOR POST
15 THERE THERE MAY HAVE BEEN 10, 15, PRINTS ON THAT
16 ONE CARD BUT ITS ONE LIFT BECAUSE ITS ONE NUMBER,
17 ITS ONE PIECE OF PAPER, SO THAT'S ONE LIFT

18 Q LET ME SHOW YOU STATE'S EXHIBIT 42, 43, 44, 45 AND
19 46 IF YOU COULD TELL THE JURY WHAT THOSE ARE?

20 A NUMBER 46 IS LIFT NUMBER 3, WANT ME TO SHOW THE
21 NUMBER?

22 Q NOT YET, JUST TELL ME WHAT THEY ARE

23 A FORTY-FIVE IS LIFT NUMBER 1, 44 IS LIFT NUMBER 7 43
24 IS LIFT NUMBER 24, 42 IS LIFT NUMBER 25

25 Q AGAIN Y'ALL DID NUMBERS 1 TO 28 PUTTING THE TAPE,

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1 PEELING IT OFF ON THE CARD?

2 A THAT'S CORRECT

3 Q AND THOSE THE LIFTS THAT YOU OBTAINED FROM THAT
4 SILVER MERCURY GRAND PRIX?

5 A YES MA'AM THEY ARE

6 Q YOUR HONOR AT THIS TIME WE OFFER STATE'S EXHIBIT 42,
7 43, 44, 45, AND 46 IN EVIDENCE

8 **THE COURT** WITHOUT OBJECTION

9 Q AND AGAIN DETECTIVE WILLOUGHBY NUMBER 46 THAT'S THAT
10 LONG ONE NUMBER 3 THAT--

11 A THAT'S CORRECT

12 Q YOU PROBABLY GOT A NUMBER OF PRINTS ON THAT ONE?

13 A YES THERE IS QUITE A FEW ON THERE, AND THAT'S WHY
14 THE CARD IS SO LONG BECAUSE THERE WASN'T STOPPING
15 POINT WHERE I COULD PUT THE TAPE DOWN WITHOUT LOSING
16 ANY

17 Q AND NUMBER 25 IS SHORT AND STATE'S EXHIBIT 42--

18 A I THINK IT'S JUST 2 ON THERE

19 Q STATE'S EXHIBIT 45

20 A THAT ONE IS MOVED UP BECAUSE I WAS TRYING TO PROTECT
21 NUMBEP 2, I BELIEVE NUMBER 2 IS RIGHT UNDERNEATH IT
22 I ACTUALLY LIFTED NUMBER 2 BEFORE I LIFTED NUMBER 1,
23 BECAUSE IF I LIFTED THEM THE OTHER WAY I WOULD HAVE
24 LOST NUMBER 1

25 Q AND THEN NUMBER 6, EXHIBIT 44 AND 43 ARE NUMBER 7

1 AND NUMBER 24?

2 A YES MA'AM

3 Q NOW ONCE THESE LATENT PRINTS ARE COLLECTED, YOU
4 DON'T ACTUALLY ATTEMPT TO MATCH THEM TO A PERSON
5 YOURSELF?

6 A NO MA'AM I DON'T

7 Q IN THIS CASE WHAT DID YOU DO WITH ALL OF THE LATENT
8 CARDS YOU HAD COLLECTED FROM THE MERCURY?

9 A THEY WERE COMPILED, THEY WERE PUT IN THE ENVELOPE,
10 THEY WERE HANDLED BY INVESTIGATOR OWENS, HE WAS THE
11 ONE RUNNING THE RETURN ON IT, AND THOSE LATENTS WERE
12 TRANSPORTED TO THE NORTH CHARLESTON POLICE
13 DEPARTMENT BY INVESTIGATOR OWENS

14 Q OK, AND WAS THAT FOR THEIR EXPERT TO SEE IF HE COULD
15 MAKE ANY MATCHES WITH THOSE FINGERPRINTS?

16 A THAT'S CORRECT

17 Q NOW, BASED ON YOUR EXPERIENCE AND YOUR TRAINING CAN
18 YOU DATE, IN OTHER WORDS CAN YOU PUT A TIME STAMP ON
19 A FINGERPRINT?

20 A NO MA'AM

21 Q SO EVEN THOUGH YOU KNOW YOU COLLECTED THOSE ON
22 DECEMBER 13, YOU DON'T KNOW THAT THEY WERE PUT
23 THERE?

24 A NO MA'AM I DON'T FINGERPRINTS ARE SUBJECT TO THE
25 ELEMENTS IF YOU HAD A BLACK CAR, OBVIOUSLY THE

THIRD JUDICIAL CIRCUIT

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1 FINGERPRINTS AREN'T GOING TO LAST AS LONG, THEY ARE
2 GOING TO COOK OFF EVERYBODY HAS TOUCHED A BLACK
3 CAR IN AUGUST THEY JUST COOK OFF, AND THEN THE
4 SAME THING IN WINTERTIME IN WINTERTIME THEY ARE
5 NOT GOING TO LAST AS LONG EITHER BECAUSE THE COLD
6 AIR IS GOING TO DRY THEM OFF TO BE ABLE TO SAY A
7 FINGERPRINT IS GOING TO LAST 100 WEEKS, OR 10
8 MINUTES, OR AN HOUR, I WOULDN'T BE ABLE TO DO THAT,
9 I DON'T THINK ANYBODY COULD

10 Q SO THERE IS NO TELLING WHETHER OR NOT THE
11 FINGERPRINTS HAD BEEN THERE FOR DAYS OR WEEKS OR
12 MONTHS?

13 A NO MA'AM

14 Q OK BEG THE COURT'S INDULGENCE THAT'S ALL I HAVE
15 YOUR HONOR

16 CROSS EXAMINATION OF DAVID WILLOUGHBY BY MR NEELEY

17 Q ST WILLOUGHBY DID YOU FIND ANY PRINTS ON THE
18 STEERING WHEEL?

19 A NO SIR

20 Q AND DID YOU FIND ANY ON THE DASH?

21 A NO SIR

22 Q WHAT ABOUT INSIDE BY THE CAR HANDLE?

23 A NO SIR, NOT ON THE INTERIOR BY THE DOOR HANDLES

24 Q OK, BUT YOU DID GET ONE FROM THE GEAR SELECTOR IS
25 THAT RIGHT?

1 A THE GEAR SELECTOR

2 Q DID YOU TRY ANY OF THE OTHER SPACES?

3 A YES SIR, WE DID IF WE GET A PPINT IF IT IS CLLAR
4 OR NOT, IF WE PULL A PRINT, IF IT IS AN ACCEPTABLE
5 LIFT OR NOT, WE KEEP THE CARD

6 Q ARE YOU AWARE OF ANY PROCESSING DONE ON THE CAR
7 EXCEPT THE FINGERPRINTS?

8 A WE RAN A BLACK LIGHT ACROSS THE INTERIOR OF IT

9 Q WHAT IS THE PURPOSE OF A BLACK LIGHT?

10 A THE BLACK LIGHT, IT WOULD SHOW THE CONTRAST ON IT IF
11 YOU HAD SOME FLUIDS, BODY FLUIDS, OR OTHER FLUIDS IN
12 THERE, IT WOULD SHOW JUST TO GIVE US A BETTER
13 FEELING OF WHAT WE WERE WORKING AT

14 Q DID YOU MAKE A REPORT OR ANYTHING ABOUT THAT?

15 A NO, THERE WAS NOTHING FOUND

16 Q OK THANK YOU SIR NO FURTHER QUESTIONS

17 REDIRECT BY SOLICITOR WILSON - DAVID WILLOUGHBY

18 Q YOU EVEN SEARCHED THE BACK SEAT AREA?

19 A YES MA'AM

20 Q AND THE INSIDE BACK DOORS FOR PRINTS?

21 A YES MA'AM WE DO THAT FOR LATENTS AS WELL AND WE
22 LIFT THE BACK SEAT UP TO CHECK FOR ANY ITEMS IN THAT
23 AREA AND PULL ANYTHING OUT OF THE TRUNK EVERYTHING
24 THAT CAN BE REMOVED FROM THE VEHICLE WITHOUT
25 DAMAGING THE VEHICLE IS REMOVED

1 Q SO NOTHING IN THE BACK SEAT?

2 A NO MA AM

3 **THE COURT** THANK YOU SIR LADIES AND GENTLEMEN OF
4 THE JURY THE COURT REPORTER CAME DOWN FROM SUMTER TODAY
5 AND SHE DIDN'T BRING ANYTHING SHE IS GOING TO BE WITH
6 US TOMORROW, AND I BORROWED A COURT REPORTER FROM ANOTHER
7 JUDGE SO WE COULD WORK UNTIL SHE GOT HERE SINCE SHE IS
8 GOING TO BE ABLE TO COME BACK WE'LL START AT 9 30 TO GIVE
9 HER TIME TO GET HERE NINE THIRTY SEE Y'ALL THEN DO
10 NOT DISCUSS THE CASE WE'LL FINISH TOMORROW

11 **RECESS (5 36 P M)**

12 **THE COURT** BRING THE JURY IN PLEASE

13 **JURY IN (9 44 A M)**

14 **SOLICITOR BURNEY** AL HALLMAN

15 **THE WITNESS IS SWORN (INVESTIGATOR AL HALLMAN)**

16 **EXAMINATION OF AL HALLMAN BY SOLICITOR BURNEY**

17 Q WHERE ARE YOU EMPLOYED?

18 A WITH THE CITY OF NORTH CHARLESTON POLICE DEPARTMENT

19 Q AND WHAT DO YOU DO FOR NORTH CHARLESTON POLICE
20 DEPARTMENT?

21 A I AM CURRENTLY ASSIGNED TO THE FORENSIC
22 INVESTIGATIONS UNIT

23 Q AND THAT'S AS WE'VE LEARNED IS COMMONLY REFERRED TO
24 AS CRIME SCENE?

25 A YES MA'AM

1 Q AND WHAT'S YOUR POSITION THERE WITH CRIME SCENE
2 WHAT TYPE OF DUTIES DO YOU HAVE?

3 A I RESPOND TO VARIOUS CRIME SCENES TO PROCESS THE
4 SCENES WE DOCUMENT THEM WITH PHOTOGRAPHS, WE
5 COLLECT EVIDENCE AND PROCESS EVIDENCE, AND I'M ALSO
6 ONE OF THE SENIOR LATENT PRINT EXAMINERS IN THE
7 DIVISION

8 Q SO PART OF YOUR JOB IS TO EXAMINE FINGERPRINTS?

9 A YES MA'AM

10 Q WILL YOU TELL THE JURY ABOUT WHETHER YOU HAD ANY
11 TRAINING IN THE FIELD OF EXAMINING FINGERPRINTS?

12 A YES MA'AM I'VE RECEIVED NUMEROUS TRAINING SEMINARS
13 AND TRAINING COURSES IN THE FIELDS OF RIDGEOLOGY AND
14 FINGERPRINT COMPARISONS AND IDENTIFICATION, AND I'VE
15 ALSO GOT A CERTIFICATION THROUGH THE IAI OR THE
16 INTERNATIONAL ASSOCIATION FOR IDENTIFICATION AS A
17 CERTIFIED LATENT FINGERPRINT EXAMINER

18 Q AND A PART OF YOUR JOB DUTIES HAVE YOU HAD OCCASION
19 TO EXAMINE LATENT PRINTS WHICH WE LEARNED ABOUT
20 YESTERDAY TO A INK PRINT?

21 A YES MA'AM

22 Q CAN YOU APPROXIMATE HOW MANY TIMES YOU'VE DONE THAT?

23 A NO MA'AM I CANNOT THOUSANDS OF THOUSANDS OF PRINTS
24 I'VE LOOK AT OVER THE YEARS

25 Q AND HAVE YOU BEEN QUALIFIED IN GENERAL SESSIONS

1 COURT IN THE FIELD, AN EXPERT IN THE FIELD OF
2 FINGERPRINT ANALYSIS?

3 A YES MA'AM

4 Q AND CAN YOU APPROXIMATE HOW MANY TIMES THAT HAS
5 HAPPENED?

6 A OVER 25

7 Q OK AT THIS TIME YOUR HONOR WE WOULD OFFER SGT
8 HALLMAN AS AN EXPERT IN THE FIELD OF FINGERPRINT
9 ANALYSIS NOW, YESTERDAY THE JURY LEARNED ABOUT
10 LATENT PRINTS THAT ARE PRINTS THAT ARE UNSEEN TO THE
11 NAKED EYE AND THEN PATENT PRINTS WHICH THE EXAMPLE
12 THAT WAS GIVEN IS IF A CHILD TOUCHES A REFRIGERATOR
13 WERE YOU HERE FOR THAT?

14 A YES MA'AM

15 Q SO WE ALSO HEARD THE DISCUSSION ABOUT MAJOR CASE
16 PRINTS WOULD YOU TELL THE COURT WHAT A MAJOR CASE
17 PRINT IS?

18 A YES MA'AM THE TERM MAJOR CASE PRINTS IN MY AREA OF
19 EXPERTISE DEALS WITH OUR TERMINOLOGY TO DESCRIBE IN
20 IMPRESSIONS OF A PERSON'S ENTIRE PALM PRINT,
21 FINGERPRINTS, AND THE SECOND AND THIRD JOINT OF EACH
22 FINGER BASICALLY IT COVERS FROM THE WRIST TO THE
23 TIPS OF THE FINGERS, THE SIDES OF THE HANDS AND THE
24 FINGERTIPS WE CLASSIFY- WE CALL THOSE MAJOR CASE
25 PRINTS MERELY BECAUSE WE ARE GETTING MORE THAN JUST

1 YOUR STANDARD TEN PRINT FINGERPRINT CARDS

2 Q SO THAT WOULD BE THE WHOLE HAND PRINT AND THEN THE
3 ROLL OF EACH FINGER?

4 A YES

5 Q ALL OF THAT WOULD BE PUT IT HAS NOTHING TO DO WITH
6 THE TYPE OF CASES INVOLVED, IT'S THE SET OF PRINTS?

7 A RIGHT, IT'S JUST TERMINOLOGY, CORRECT

8 Q NOW IS IT POSSIBLE FOR SOMEONE TO TOUCH A SURFACE
9 AND NOT LEAVE A PRINT?

10 A YES IT IS

11 Q IS IT POSSIBLE TO BE AT A LOCATION AND NOT LEAVE A
12 PRINT?

13 A YES IT IS

14 Q EXPLAIN TO THE JURY HOW THAT COULD OCCUR

15 A AN EXAMPLE I GIVE FOR THAT IS IF WE WERE TO BRING A
16 CRIME SCENE INVESTIGATOR IN HERE TODAY AND HAVE THEM
17 PROCESS THIS FENCE RIGHT HERE THEY WOULD NOT FIND MY
18 FINGERPRINTS BECAUSE I HAVE NOT TOUCHED IT, BUT THAT
19 DOES NOT MEAN I'M NOT SITTING HERE IF A PERSON IS
20 IN A GIVEN AREA AND DOES NOT TOUCH A SURFACE THEN
21 NATURALLY HE'S NOT GONNA LEAVE ANY IMPRESSIONS
22 WHATSOEVER, AND IF HE'S GOT GLOVES ON OR IF HE'S GOT
23 ANY KIND OF SUBSTANCE BETWEEN HIS HANDS AND THE
24 SUBSTANCE HE'S TOUCHING, AGAIN NATURALLY HE'S NOT
25 GOING TO LEAVE AN IMPRESSION

1 Q DID YOU EXAMINE ANY ITEMS RELATED TO THIS CASE?

2 A YES I DID

3 Q AND WHEN DID YOU MAKE THOSE EXAMINATIONS?

4 A MY FIRST EXAMINATIONS IN THIS CASE WERE ON DECEMBER
5 13, 2004

6 Q AND MAY I APPROACH YOUR HONOR LET ME SHOW YOU
7 STATE'S EXHIBITS 42 THROUGH 46 WHICH ARE ALREADY IN
8 EVIDENCE

9 A YES THESE ARE LATENT FINGERPRINT CARDS THAT WERE
10 SUBMITTED TO MY OFFICE BY CHARLESTON COUNTY
11 SHERIFF'S OFFICE FOR PRINT ANALYSIS

12 Q LET ME BACK UP WHEN YOU WERE TALKING ABOUT WHETHER
13 A PERSON CAN BE AT A LOCATION AND NOT LEAVE PRINTS,
14 I ALSO ASK YOU IF IT IS POSSIBLE FOR A PERSON TO
15 TOUCH A SURFACE AND NOT LEAVE A PRINT AND YOU SAID
16 THAT WAS POSSIBLE, WOULD YOU EXPLAIN TO THE JURY HOW
17 THAT COULD OCCUR?

18 A YEAH I DID IF YOU ARE WEARING GLOVES LIKE I SAID
19 OR IF THERE IS A SUBSTANCE OR MATERIAL BETWEEN A
20 PERSON'S ACTUAL HANDS AND THE SURFACE HE'S TOUCHING
21 THEN THEY ARE NOT GOING TO LEAVE AN IMPRESSION
22 WHATSOEVER

23 Q HOW ABOUT THAT EXAMPLE WE GOT OF THE TEXTURED
24 REFRIGERATOR OR DASHBOARD OR THINGS LIKE THAT?

25 A SURE, THE SURFACES THAT ARE CONDUCIVE TO

1 FINGERPRINTS VARY THERE ARE SURFACES THAT ARE VERY
2 CONDUCTIVE SUCH AS GLASS OR SHINY METAL, AND THERE
3 ARE SURFACES THAT ARE NOT CONDUCTIVE AS WAS STATED
4 YESTERDAY SUCH AS CLOTH OR VINYL WITH A TEXTURE OR
5 TEXTURED REFRIGERATORS FOR EXAMPLE THERE ARE A LOT
6 OF DIFFERENT MATERIALS THAT MAY APPEAR SLICK THAT
7 ARE REALLY NOT CONDUCTIVE TO HOLDING A FINGERPRINT
8 SUCH AS WOOD FOR EXAMPLE

9 Q AND YOU SAID YOU MADE AN EXAMINATION ON DECEMBER 13,
10 2004?

11 A YES I DID

12 Q OK, AND WHAT WERE THE RESULTS OF YOUR EXAMINATION?

13 A I RECEIVED 28 LATENT PRINT CARDS OR BASICALLY WHITE
14 CARDS BEARING LATENT PRINTS FROM THE CHARLESTON
15 COUNTY SHERIFF'S OFFICE THAT HAD BEEN SUBMITTED TO
16 MY OFFICE FOR ANALYSIS I ENTERED SEVERAL OF THESE
17 PRINTS INTO OUR COMPUTER SYSTEM AND WAS ABLE TO
18 IDENTIFY TWO INDIVIDUALS

19 Q AND WHAT INDIVIDUALS DID YOU IDENTIFY?

20 A LATENT NUMBER 1 1 ON CARD NUMBER 1 WAS IDENTIFIED TO
21 MICHAEL JETER LATENT NUMBER 3 1 ON CARD NUMBER 3
22 WAS IDENTIFIED TO MICHAEL JETER LATENT NUMBER 5 1
23 ON CARD NUMBER 5 WAS IDENTIFIED TO MICHAEL DUNHAM,
24 AND LATENT NUMBER 6 1 ON CARD NUMBER 6 WAS
25 IDENTIFIED TO MICHAEL DUNHAM, WHICH IS A BLACK MALE

1 WITH A DATE OF BIRTH OF 9/5/1986

2 Q OK AND YOU SAID THERE WERE 28 CARDS, WHAT WERE THE
3 RESULTS OF EXAMINATION OF CARD 7 THROUGH 28?

4 A ON THAT DATE CARD 7 THROUGH 28 DID NOT CONTAIN
5 SUFFICIENT RIDGE DETAIL FOR ENTRY INTO OUR COMPUTER
6 SYSTEM

7 Q AND THEN DID YOU COMPARE-- ONCE YOU MADE THOSE
8 COMPARISONS DID YOU MAKE ANY NOTATIONS?

9 A YES I DOCUMENTED THEM WITH MY REPORT AND THEN I
10 CONTACTED THE CHARLESTON COUNTY SHERIFF'S OFFICE AND
11 ADVISED THEM OF OUR FINDINGS AND REQUESTED MAJOR
12 CASE PRINTS ON A MICHAEL JETER AND A MICHAEL DURHAM
13 AT THE TIME, I HAD THE NAME DURHAM, AS IT WAS GOTTEN
14 OR IT WAS RECEIVED THROUGH OUR COMPUTER SYSTEM

15 Q RIGHT, AND IS THAT ON THOSE SAME CARDS WE HEARD SGT
16 WILLOUGHBY TESTIFY HE LAID DOWN WITH A STRIP OF TAPE
17 AND LIFTED THOSE PRINTS UP?

18 A YES MA'AM

19 Q YOU MADE NOTATIONS ON THOSE SAME CARDS?

20 A YES I DID

21 Q AND AFTER YOU MADE YOUR ANALYSIS AND YOU GOT THE
22 MAJOR CASE PRINTS, THE WHOLE HAND PRINT AND THE
23 ROLLED FINGERPRINTS ON THIS ARREST, DID YOU COMPARE
24 THOSE AGAINST THOSE CARDS AS WELL?

25 A YES MA'AM I COMPARED-- I DID FURTHER COMPARISONS ON

1 DECEMBER 23, 2004, AND SUBSEQUENTLY I IDENTIFIED
 2 THREE ADDITIONAL FINGERPRINTS TO ONE MICHAEL JETER
 3 Q OK, AND WHICH ONES ARE THOSE?
 4 A THAT WAS LATENT NUMBER 1 2, LATENT NUMBER 1 3, AND
 5 LATENT 4 1 WERE ALL IDENTIFIED TO MICHAEL JETER
 6 Q AND AGAIN DID YOU MAKE A SUBSEQUENT EXAMINATION OF
 7 THE MAJOR CASE PRINTS AGAINST THOSE?
 8 A YES EVERY LATENT PRINT THAT WAS UNIDENTIFIED IN
 9 THE CASE WAS COMPARED TO THE MAJOR CASE PRINTS OF
 10 JETER AND DUNHAM AND NO FURTHER IDENTIFICATIONS WERE
 11 MADE
 12 Q AND DOESN'T MEAN THAT- WELL LET ME ASK YOU THIS
 13 THE ONES YOU DID MAKE AN IDENTIFICATION WAS IT
 14 BECAUSE THE PRINTS WERE ACTUAL PRINTS THAT DID
 15 COMPARE AGAINST THE MAJOR CASE CARD FOR MR DUNHAM
 16 AND MR JETER, OR WHETHER THAT WAS SMUDGED AND POOR
 17 QUALITY PRINTS?
 18 A IT WAS A LITTLE OF BOTH THERE WERE SEVERAL CARDS
 19 THAT WERE IDENTIFIABLE, CONTAINED IDENTIFIABLE
 20 CHARACTERISTICS THAT JUST WERE NOT POSITIVE TO
 21 EITHER ONE OF THE SUBJECTS THAT I HAD PRINTS ON, AND
 22 THEN THERE WERE SEVERAL PRINTS THAT WERE
 23 UNIDENTIFIABLE AS WELL
 24 Q NO FURTHER QUESTIONS
 25 CROSS EXAMINATION OF AL HALLMAN BY MR DAVIS

1 Q LET'S START RIGHT THERE YOU SAID OF THESE 28 PRINT
2 CARDS USED THERE WAS 7 THOUGH 28 I BELIEVE COULDN'T
3 BE COMPARED TO THE COMPUTER?
4 A THAT COULD NOT BE ENTERED INTO THE COMPUTER, YES
5 SIR
6 Q BUT WHEN THE STATE ASKED YOU THEY MIGHT BE SMUDGED
7 BUT THEY DIDN T MATCH UP TO NEITHER MR JETER NOR
8 MR DUNHAM?
9 A THAT'S CORRECT
10 Q YOU ASKED FOR MAJOR CASE PRINTS FROM MR JETER AND
11 MR DUNHAM, CORRECT?
12 A THAT IS CORRECT
13 Q BECAUSE ON THE INITIAL RUN THROUGH THE COMPUTER
14 THOSE WERE THE ONLY TWO THAT GOT IDENTIFIED?
15 A THAT IS CORRECT
16 Q YOU DIDN'T REQUEST ANY OTHER MAJOR CASE PRINTS?
17 A NO BECAUSE I HAD NO INFORMATION ON ANY OTHER
18 INDIVIDUALS
19 Q YOU ARE NORTH CHARLESTON POLICE DEPARTMENT, RIGHT?
20 A YES SIR
21 Q YOU WEREN'T INVOLVED IN THIS CRIME SCENE OVER ON
22 WEST MONTAGUE?
23 A NO SIR, NOT AT ALL
24 Q YOU WERE JUST SENT THESE WHITE CARDS THE JURY HAS
25 ALREADY SEEN AND SAID YOU'RE AN EXPERT, SEE IF THESE

1 MATCH UP TO ANYBODY?

2 A THAT'S CORRECT

3 Q YOU WEREN'T AWARE THAT THERE WERE FIVE SUSPECTS IN

4 THE CASE?

5 A NO I WAS NOT

6 Q YOU WEREN'T EVEN AWARE UNTIL THE PRINTS MATCHED OF

7 MR DUNHAM S NAME OR MR JETER'S NAME?

8 A THAT IS CORRECT

9 Q THERE WERE FROM 7 THROUGH 28, THERE WERE SOME PRINTS

10 THAT YOU MIGHT HAVE BEEN ABLE TO MAKE A MATCH ON HAD

11 YOU HAD OTHER PRINTS TO COMPARE THEM WITH?

12 A YES SIR

13 Q I'M GOING TO CIRCLE BACK A LITTLE BIT JUST SO THE

14 JURY WILL UNDERSTAND TWENTY-EIGHT CARDS, YOU GAVE

15 THE EXAMPLE THERE AFTER YOU GOT THE MAJOR CASE

16 PRINTS, A CARD CAN HAVE MORE THAN ONE PRINT, RIGHT?

17 A ABSOLUTELY

18 Q SO FOR EXAMPLE, IN ONE REPORT YOU HAVE 1 1 AND

19 THAT'S A PRINT OFF OF CARD NUMBER 1?

20 A THAT'S CORRECT

21 Q AND THAT MATCHED UP TO MICHAEL JETER?

22 A JETER, CORRECT

23 Q OK, NOW IN THE SECOND REPORT YOU HAD 1 2, THAT MEANS

24 IT WOULD HAVE BEEN THE SECOND PRINT OFF THAT SAME

25 CARD?

1 A SAME CARD

2 Q AND THAT ALSO BELONGED TO MICHAEL JETER?

3 A YES SIR

4 Q SO WE ARE TALKING 28 CARDS, IT COULD BE A WHOLE LOT

5 MORE THAN 28 PRINTS?

6 A ABSOLUTELY

7 Q SO WHEN YOU ARE SAYING CARDS 7 THROUGH 28, 21 CARDS,

8 RIGHT?

9 A I THINK THAT WAS RIGHT

10 Q THERE COULD HAVE BEEN MORE THAN 21 PRINTS ON THOSE

11 CARDS?

12 A ABSOLUTELY

13 Q AND YOU'VE ALREADY SAID THERE WERE ONES ON THERE

14 THAT COULD HAVE BEEN COMPARED, BUT YOU JUST WEREN'T

15 GIVEN THE OPPORTUNITY?

16 A I WAS NOT GIVEN KNOWN IMPRESSIONS OF OTHER SUBJECTS,

17 YES

18 Q NOW, YOU ALSO TALKED TO THE SOLICITOR ABOUT HOW IT'S

19 POSSIBLE ABOUT SOMEONE BEING THERE AND THE PRINTS

20 NOT BEING THERE?

21 A CORRECT

22 Q THE SURFACE, WHETHER IT CAN RETAIN THE PRINT OR NOT,

23 RIGHT?

24 A YES

25 Q PART OF IT IS THE INTENT OF THE PERSON, THEY CAN

1 WIPE IT DOWN?

2 A ABSOLUTELY

3 Q THEY CAN CLEAN IT OFF?

4 A YES SIR

5 Q GIVE ME JUST A MINUTE

6 A SURE

7 Q NO OTHER QUESTIONS

8 **SOLICITOR BURNEY** NO OTHER QUESTIONS

9 **THE COURT** THANK YOU SIR

10 **SOLICITOR WILSON** JUSTIN LEMON

11 **THE WITNESS IS SWORN (JUSTIN LEMON)**

12 **EXAMINATION OF JUSTIN LEMON BY SOLICITOR WILSON**

13 Q MR LEMON IF YOU WILL LEAN INTO THAT MICROPHONE JUST

14 LIKE YOU JUST DID THE COURT REPORTER HAS TO TAKE

15 DOWN, AND THE JURY NEEDS TO BE ABLE TO HEAR YOU AS

16 WELL

17 A YES MA'AM

18 Q MR LEMON HOW OLD ARE YOU?

19 A SEVENTEEN

20 Q AND HOW FAR DID YOU GO IN SCHOOL?

21 A NINTH GRADE

22 Q DID YOU QUIT SCHOOL?

23 A YES MA'AM

24 Q AND YOU GOT IN SOME TROUBLE AT SOME POINT, DIDN'T

25 YOU?

1 A YES MA'AM

2 Q DID YOU GET A POSSESSION CHARGE?

3 A YES MA'AM

4 Q WAS THAT POSSESSION OF MARIJUANA?

5 A YES MA'AM

6 Q YOU WERE AT THE DJJ NOW, AREN'T YOU?

7 A YES MA'AM

8 Q DOES THAT MEAN YOU VIOLATED YOUR PROBATION FOR THAT

9 POSSESSION CHARGE?

10 A YES MA'AM

11 Q HOW LONG HAVE YOU BEEN UP IN COLUMBIA?

12 A ABOUT FOUR MONTHS

13 Q DO YOU KNOW HOW MUCH LONGER YOU'VE GOT TO BE UP

14 THERE?

15 A UNTIL MAY

16 Q FOR VIOLATING ON A SIMPLE POSSESSION CHARGE?

17 A YES MA'AM

18 Q BEFORE YOU GOT SHIPPED UP TO COLUMBIA, WHERE DID YOU

19 LIVE?

20 A REMOUNT ROAD

21 Q HERE IN NORTH CHARLESTON?

22 A YES MA'AM

23 Q AND HOW LONG HAVE YOU LIVED IN THE CHARLESTON AREA

24 JUSTIN?

25 A SINCE I WAS THREE

1 Q SINCE YOU WERE ABOUT THREE YEARS OLD, OK IS THE
2 AREA THAT YOU LIVED AT NEAR MONTAGUE APARTMENTS?
3 A YES MA'AM
4 Q ABOUT HOW FAR DO YOU KNOW?
5 A RIGHT DOWN THE STREET
6 Q RIGHT DOWN THE STREET WALKING DISTANCE?
7 A YES MA'AM
8 Q JUSTIN DID YOU KNOW A GUY BY THE NAME OF ANTHONY
9 GAMBRELL, THE VICTIM IN THIS CASE?
10 A NO MA'AM
11 Q HOW ABOUT HIS GIRLFRIEND GINA BROWN?
12 A NO MA'AM
13 Q DID YOU KNOW A GUY BY THE NAME OF RAYSHAWN GREEN?
14 A NO MA'AM
15 Q HOW ABOUT STEVEN JOHNSON, DID YOU KNOW HIM?
16 A YES MA'AM
17 Q HOW LONG DID YOU KNOW STEVEN?
18 A THREE YEARS
19 Q HOW ABOUT JEAN JACQUES OR JJ, DID YOU KNOW HIM?
20 A YES MA'AM
21 Q HOW LONG HAVE YOU KNOWN HIM?
22 A TWO YEARS
23 Q AND THE DEFENDANT MICHAEL DUNHAM, DID YOU KNOW HIM?
24 A YES MA'AM
25 Q ABOUT HOW LONG HAVE YOU KNOWN HIM?

1 A FOUR OR FIVE YEARS

2 Q OK MICHAEL JETER HOW LONG DID YOU KNOW HIM?

3 A SIX MONTHS

4 Q YOU KNOWN HIM ABOUT SIX MONTHS

5 THE COURT LET'S TAKE A BREAK

6 BACK ON 10 18 A M

7 JURY IN 10 19 A M

8 THE COURT READY TO PROCEED

9 Q JUSTIN YOU SAID YOU HAD KNOWN MICHAEL JETER FOR
10 ABOUT SIX MONTHS?

11 A YES MA'AM

12 Q AND YOU ALSO TESTIFIED THAT YOU KNEW VICTORIA
13 MARTIN?

14 A YES MA'AM

15 Q AND YOU HAD BOUGHT A CELL PHONE FROM VICTORIA MARTIN
16 BACK AT THE TIME THIS OCCURRED, IS THAT RIGHT?

17 A YES MA'AM

18 Q HOW MUCH DID YOU PAY VICTORIA FOR THAT CELL PHONE?

19 A SEVENTY DOLLARS

20 Q AND THAT NUMBER WAS 819-3436?

21 MR DAVIS OBJECTION YOUR HONOR TO LEADING

22 Q DO YOU REMEMBER WHAT THE NUMBER IS?

23 A NO MA'AM

24 Q WOULD IT REFRESH YOUR RECOLLECTION IF YOU SAW
25 RECORDS REGARDING THAT NUMBER AS TO WHAT THE NUMBER

1 WAS?

2 A YES MA'AM

3 Q I'M GOING TO SHOW YOU WHAT'S ALREADY BEEN INTRODUCED

4 AS STATE'S EXHIBIT 53 AND ASK YOU TO TAKE A LOOK AT

5 THAT DOES THAT REFRESH YOUR MEMORY AS TO WHAT THE

6 PHONE NUMBER YOU BOUGHT FROM VICTORIA WAS?

7 A YES MA'AM

8 Q AND WHAT WAS THAT NUMBER?

9 A 819-3436

10 Q AND AFTER YOU BOUGHT THE CELL FROM- OR WHEN WAS IT

11 YOU BOUGHT THE CELL PHONE FROM VICTORIA, DO YOU

12 REMEMBER?

13 A IN NOVEMBER

14 C NOVEMBER OF 2004?

15 A UH HUH

16 Q AND DID YOU HANG ON TO THAT CELL PHONE?

17 A NO MA'AM

18 Q WHAT DID YOU DO WITH IT?

19 A SELL IT

20 Q WHO DID YOU SELL IT TO?

21 A DUNHAM

22 Q THE DEFENDANT, AND DO YOU SEE HIM HERE TODAY?

23 A YES MA'AM

24 Q WHERE IS HE?

25 A OVER THERE

1 Q WHICH ONE?

2 A IN THE MIDDLE

3 Q IN THE MIDDLE IN THE BURGUNDY TIE?

4 A YES MA'AM

5 Q YOUR HONOR PLEASE LET REFLECT HE IDENTIFIED THE

6 DEFENDANT SO YOU SOLD THE PHONE TO DUNHAM HOW

7 MUCH DID YOU SELL IT TO HIM FOR?

8 A THIRTY DOLLARS

9 Q AND DO YOU REMEMBER WHEN IT WAS YOU SOLD IT TO HIM?

10 A NO MA'AM

11 Q NOW, JUSTIN YOU TESTIFIED THAT YOU KNEW THE

12 DEFENDANT MICHAEL JETER AND STEVEN JOHNSON BEFORE

13 DECEMBER 13 OF 2004, DO YOU RECALL BEING INTERVIEWED

14 BY THE POLICE ABOUT KNOWING THEM?

15 A YES MA'AM

16 Q AND WERE YOU INTERVIEWED SHORTLY AFTER THE SHOOTING

17 OCCURRED?

18 A YES MA'AM

19 Q AND WHEN YOU FIRST MET WITH THE POLICE DID YOU TELL

20 THEM EVERYTHING YOU KNEW ABOUT WHAT HAPPENED AT

21 MARSHVIEW APARTMENTS ON THE LATE AFTERNOON OF

22 DECEMBER 13, 2004?

23 A NO MA'AM

24 Q YOU DIDN'T TELL THEM EVERYTHING AT FIRST?

25 A NO MA'AM

1 Q DID THEY BELIEVE YOU WHEN YOU FIRST JUST KINDA OF
2 SKIMMED OVER THINGS?
3 A NO MA'AM
4 Q DID YOU EVENTUALLY TELL THEM WHAT HAPPENED OUT AT
5 MARSHVIEW THAT AFTERNOON?
6 A YES MA'AM
7 Q AND DID YOU WRITE ALL THAT OUT?
8 A YES MA'AM
9 Q WHEN- LET'S GO THROUGH THAT DAY DECEMBER 13TH WERE
10 YOU IN SCHOOL AT THE TIME?
11 A YES MA'AM
12 Q WHERE WERE YOU GOING TO SCHOOL?
13 A YOUTHFIELD
14 Q AND WHAT IS YOUTHFIELD?
15 A A SCHOOL WHERE YOU GET YOUR TRADE
16 Q WHAT KIND OF TRADES WERE YOU LEARNING ABOUT?
17 A CONSTRUCTION
18 Q CONSTRUCTION AND WHAT TIME DID SCHOOL GET OUT FOR
19 YOU?
20 A THREE O'CLOCK
21 Q AND YOU WERE IN SCHOOL ON THAT MONDAY, DECEMBER 13TH?
22 A YES MA'AM
23 Q DID YOU STAY THE WHOLE DAY?
24 A NO MA'AM
25 Q HOW WAS IT THAT YOU WERE GOING TO LEAVE EARLY?

1 A DUNHAM WAS GOING TO PICK ME UP
2 Q AND WHO ELSE DID HE PICK UP?
3 A A BOY NAMED TONY
4 Q WHAT DID HE PICK YOU UP IN?
5 A HIS CAR
6 Q AND WHAT KIND OF CAR DID HE HAVE?
7 A A GRAY CAR
8 Q HAD YOU RIDDEN IN THAT CAR BEFORE?
9 A YES MA'AM
10 Q LET ME SHOW YOU STATE'S EXHIBIT 22, DOES THAT LOOK
11 LIKE THE CAR THAT DUNHAM PICKED YOU UP IN?
12 A YES MA'AM
13 Q WHERE WAS YOUTHFIELD, THE SCHOOL, LOCATED?
14 A ASHLEY PHOSPHATE ROAD
15 Q AND HE PICKED YOU AND TONY UP AT WHAT TIME?
16 A TWO OR TWO THIRTY
17 Q WHERE DID HE TAKE YOU?
18 A HE TOOK TONY HOME
19 Q WHERE DID TONY LIVE?
20 A SHELDON
21 Q SHELDON WHERE IS THAT?
22 A BY
23 Q OK IS THAT NORTH CHAP'ESTON SOMEWHERE
24 A ON REMOUNT
25 Q PEMOUNT OK, HE TAKES TONY HOME FIRST, THEN WHERE

1 DID HE TAKE YOU?
2 A HE TAKE ME BY MY HOUSE
3 Q AND DID YOU GO INSIDE YOUR HOUSE?
4 A NO I CALLED MY MOM BECAUSE I DIDN'T HAVE A KEY SHE
5 SAY SHE WAS AT THE MALL
6 Q SHE SAID SHE WAS WHEPE?
7 A AT THE MALL
8 Q OK, AND SO WHAT DID YOU DO?
9 A WENT TO MARSHVIEW
10 Q DID YOU RIDE TO MARSHVIEW?
11 A YES MA'AM
12 Q WITH WHOM?
13 A DUNHAM
14 Q AND WHAT HAPPENED AFTER YOU GOT TO MARSHVIEW, DID
15 MICHAEL HANG AROUND?
16 A NO MA'AM HE LEFT
17 Q DO YOU KNOW WHERE HE WENT?
18 A UH UH
19 Q TWO OR THREE HOURS
20 A TWO OR THREE HOURS OK, SO IF YOU GOT OUT OF SCHOOL
21 AROUND TWO OR TWO THIRTY YOU THINK YOU WERE AT
22 MARSHVIEW BY THREE O'CLOCK OR SO?
23 **MR DAVIS** OBJECTION YOUR HONOR LEADING
24 Q DO YOU KNOW WHAT TIME YOU WERE AT MARSHVIEW?
25 A THREE OR THREE THIRTY

1 Q THREE OR THREE THIRTY, AND YOU DIDN T SEE MICHAEL
2 DUNHAM AGAIN FOR ABOUT HOW LONG?
3 A TWO OR THREE HOURS
4 Q DID YOU SEE STEVEN JOHNSON THAT DAY?
5 A YES MA'AM
6 Q AND WHERE DID YOU SEE HIM?
7 A AT MARSHVIEW
8 Q DO YOU KNOW HOW HE GOT TO MARSHVIEW?
9 A BIKE
10 Q DID YOU SEE ANYBODY WITH HIM?
11 A YEAH, JEAN AND BRANDON
12 Q OK, DO YOU KNOW WHETHER OR NOT THEY WERE ON BIKES?
13 A NO MA'AM
14 Q YOU DON'T KNOW OK SO YOU WERE ALREADY AT
15 MARSHVIEW WHEN STEVEN GOT THERE?
16 A UH HUH
17 Q AND HE GETS THERE WITH A BIKE?
18 A UH HUH
19 Q WHAT DID Y'ALL DO OUT AT THOSE APARTMENTS?
20 A WE WENT TO DOROTHY JONES' HOUSE TO WATCH MOVIES?
21 Q ALRIGHT, WHEN YOU SAY HER HOUSE, WAS THAT HER
22 APARTMENT?
23 A YEAH, APARTMENT
24 Q AND THAT WAS RIGHT THERE AT MARSHVIEW?
25 A YES MA'AM

1 Q DID ALL OF Y'ALL GO INSIDE AND WATCH MOVIES?
2 A YES MA'AM
3 Q DID YOU STAY INSIDE THE ENTIRE TIME?
4 A YES MA'AM
5 Q HOW ABOUT STEVEN JOHNSON, DID HE STAY INSIDE THE
6 ENTIRE TIME?
7 A YES MA'AM
8 Q HOW ABOUT JJ?
9 A YES MA'AM
10 Q OK, SO Y'ALL WERE INSIDE AT SOME POINT YOU SAID
11 THAT YOU SAW THE DEFENDANT AGAIN AFTER HE DROPPED
12 YOU OFF?
13 A HE CAME BACK
14 Q OK, WHO DID HE COME BACK WITH?
15 A JETER
16 Q DO YOU KNOW HOW THEY CAME BACK?
17 A IN THE CAR
18 Q WHOSE CAR?
19 A DUNHAM'S
20 Q NOW HOW DO YOU KNOW IF THEY WERE IN DUNHAM'S CAR IF
21 YOU WERE INSIDE THE APARTMENT?
22 A BECAUSE HE CAME AND KNOCKED ON THE DOOR AND TELL US
23 TO COME OUTSIDE
24 Q OK, WHO CAME OUTSIDE?
25 A ALL OF US

1 Q ALRIGHT, WHO IS ALL OF US?
2 A ME, JJ, AND STEVEN AND FRANK
3 Q DID YOU NOTICE ANYTHING ABOUT THE WAY HE WAS ACTING
4 OR THE WAY JETER WAS ACTING?
5 A YEAH, LIKE JETER BEEN ACTING
6 Q AND HOW ABOUT DUNHAM?
7 A YES MA'AM
8 Q HOW WAS HE ACTING?
9 A HE WAS JUST MOVING AROUND A LOT AND I SEE JETER WENT
10 TO THE TRUNK TO GET A SHIRT
11 Q AND DO WHAT WITH THAT SHIRT?
12 A CHANGE HIS SHIRT
13 Q DID DUNHAM KEEP ON THE SAME CLOTHES HE HAD ON?
14 A NO
15 Q HOW DID HE CHANGE OR WHERE?
16 A HE HAD TELL STEVEN TO TAKE THE CAR
17 Q WHAT WAS THAT?
18 A HE HAD TOLD STEVEN TO TAKE THE CAR FIRST
19 MR DAVIS OBJECTION
20 THE COURT WHAT WAS THE QUESTION?
21 Q HE WAS TELLING WHAT DUNHAM TOLD STEVEN JOHNSON, THE
22 DEFENDANT SAID
23 THE COURT OVERRULED
24 Q OK, WHAT DID DUNHAM TELL STEVEN?
25 A TAKE THE CAR TO HIS HOUSE

1 Q OK, AND DID STEVEN DO THAT?
2 A YES MA'AM
3 Q AND WHAT HAPPENED WITH STEVEN'S BIKE?
4 A HE PUT IT IN THE TRUNK
5 Q AND THEN DID STEVEN LEAVE?
6 A YES MA'AM
7 Q OK WELL HOW ABOUT DUNHAM, DID HE HANG AROUND?
8 A YEAH, UNTIL STEVEN GET BACK
9 Q DID HE EVER LEAVE?
10 A YEAH
11 Q HOW DID HE LEAVE?
12 A STEVEN'S BIKE
13 Q HOW LONG WAS HE GONE FOR WHEN HE LEFT?
14 A FIVE MINUTES
15 Q DO YOU KNOW WHETHER OR NOT OR HOW FAR DUNHAM LIVED
16 FROM MARSHVIEW WHERE Y'ALL HANG OUT?
17 A UP THE STREET
18 Q COULD YOU WALK THERE?
19 A YES MA'AM
20 Q COULD YOU RIDE A BIKE THERE?
21 A YES MA'AM
22 Q WHEN DUNHAM GOT BACK DID HE LOOK THE SAME AS HE
23 LOOKED BEFORE HE LEFT?
24 A NO MA AM
25 Q WHAT WAS DIFFERENT?

1 A THE CLOTHES

2 Q ALRIGHT, AND YOU SAID THAT STEVEN HAD TAKEN HIS CAR--

3 DUNHAM'S CAR AND COME BACK?

4 A YES MA'AM

5 Q AND HE WAS GONE FOR HOW LONG?

6 A WHO STEVEN?

7 Q YES

8 A ABOUT TEN MINUTES BECAUSE HE HAD TO RIDE THE BIKE

9 BACK

10 Q ALRIGHT SO HE TOOK DUNHAM'S CAR AND RODE HIS BIKE

11 BACK?

12 A ALRIGHT NOW JUSTIN WHILE YOU WERE OUT AT MARSHVIEW

13 AND ALL OF THIS WAS GOING ON WITH THE CAR, DID YOU

14 HEAR DUNHAM TALKING TO STEVEN ABOUT WHY HE WANTED

15 HIM TO TAKE THE CAR?

16 **MR DAVIS** SAME OBJECTION

17 **THE COURT** OVERRULED

18 Q DID YOU HEAR HIM TELLING STEVEN WHY HE WANTED HIM TO

19 TAKE THE CAR?

20 A YEAH

21 Q WHAT DID DUNHAM TELL STEVEN?

22 A TAKE THE CAR WE BEEN SHOOTING AT SOMEBODY

23 Q DID HE TELL YOU WHO HE WAS SHOOTING AT?

24 A NO MA'AM

25 Q DID HE TELL YOU WHETHER OR NOT HE HIT THEM?

1 A NO MA'AM

2 Q DID HE SAY WHETHER OR NOT HE KNEW IF HE HIT THE

3 PERSON?

4 A HE SAID HE THINK HE DID

5 Q BUT HE DIDN'T KNOW FOR SURE?

6 A NO MA'AM

7 Q WHAT DID DUNHAM SAY WAS THE REASON HE SHOT SOMEBODY?

8 A HE DIDN'T SAY

9 Q DID DUNHAM TELL YOU OR DID YOU HEAR HIM TELL STEVEN

10 AT ANY POINT WHY HE WENT TO GO SHOOT SOMEBODY?

11 A UH UH

12 Q DID YOU HEAR HIM TELL STEVEN ANYTHING ABOUT HOW HE

13 AND JETER GOT TOGETHER—

14 **MR DAVIS** OBJECTION YOUR HONOR TO LEADING

15 **THE COURT** I'M GOING TO SUSTAIN THE OBJECTION

16 Q THANK YOU YOUR HONOR JUSTIN DID YOU HEAR THE

17 DEFENDANT TELL ANYTHING ABOUT HOW HE AND JETER CAME

18 TO BE TOGETHER?

19 A NO MA'AM

20 Q SO YOU DON'T KNOW?

21 A NO MA'AM

22 Q BEG THE COURT'S INDULGENCE THIS PHONE THAT YOU HAD

23 OF VICTORIA'S, DO YOU KNOW ABOUT WHEN IT WAS THAT

24 YOU SOLD IT?

25 **MR DAVIS** THAT'S BEEN ASKED AND ANSWERED

1 Q I'M NOT SURE WHAT THE ANSWER IS
2 THE COURT I DON'T KNOW IF HE TESTIFIED AS TO THE
3 DATE, SO GO AHEAD AND ANSWER IT
4 A I DON'T KNOW
5 Q DO YOU KNOW IF IT WAS BEFORE THE SHOOTING OCCUPRED
6 MR DAVIS OBJECTION YOUR HONOR JUST ASKED AND
7 ANSWERED
8 THE COURT I'M GOING TO OVERRULE THE OBJECTION YOU
9 CAN ANSWER
10 Q WAS IT BEFORE OR AFTER YOU WERE INTERVIEWED BY THE
11 POLICE?
12 A BEFORE
13 Q THAT'S ALL I HAVE
14 CROSS EXAMINATION OF JUSTIN LEMON BY MR DAVIS
15 Q SO YOU HAVE NO IDEA WHEN IT WAS BEFORE THE POLICE
16 INTERVIEWED YOU THAT YOU SOLD THE PHONE TO MICHAEL
17 FOR THIRTY DOLLARS?
18 A NO SIR
19 Q YOU GOT IT IN NOVEMBER, WAS IT BEFORE DECEMBER, WAS
20 IT SOMETIME IN NOVEMBER?
21 A PROBABLY
22 Q PROBABLY PROBABLY IN NOVEMBER SOMETIME NOW, IS
23 IT TRUE THAT YOU THREW THAT PHONE AWAY?
24 A NO, I HAD LIED
25 Q YOU LIED DO YOU REMEMBER TALKING TO MYSELF AND IT

1 GINN AN INVESTIGATOR FROM THAT OFFICE, DO YOU
 2 REMEMBER TALKING TO US?
 3 A YEAH
 4 Q YOU REMEMBER TELLING US THOUGH, RIGHT?
 5 A YES SIR
 6 Q WE ASKED YOU ABOUT THIS PHONE AND YOU SAID YOU HAD
 7 THROWN IT AWAY, IS THAT RIGHT? I NEED YOUR ANSWER
 8 OUT LOUD
 9 A YES SIR
 10 Q AND THAT WASN'T TRUE YOU APE TELLING THE JURORS
 11 THAT YOU LIED TO US ABOUT THAT?
 12 A YEAH THE ONLY REASON I LIED BECAUSE YOU BEEN
 13 TRYING TO MAKE IT SEEM LIKE I WOULD GET IN TROUBLE
 14 FOR THE PHONE BECAUSE YOU KEEP--
 15 Q YOU KNOW THAT I WORKED FOR MICHAEL, RIGHT? RIGHT?
 16 A YES SIR
 17 Q YOU KNOW I'M HIS LAWYER, RIGHT?
 18 A YES SIR
 19 Q THAT I'M NOT CONNECTED TO THE POLICE, RIGHT? I NEED
 20 YOUR ANSWER OUT LOUD
 21 A YES SIR
 22 Q I DON'T WORK WITH THE POLICE RIGHT?
 23 A YES SIR
 24 Q HE S AN INVESTIGATOR FOR THE PUBLIC DEFENDER'S
 25 OFFICE, RIGHT?

1 A YES SIR

2 Q WE TOLD YOU THAT RIGHT? RIGHT?

3 A YES SIR

4 Q BUT YOU DID LIE TO US ABOUT THAT RIGHT?

5 A YES SIR

6 Q NOW, YOU ALSO TALKED TO POLICE BACK ON DECEMBER 14,

7 2004, RIGHT?

8 A YES SIR

9 Q AND THAT WAS ABOUT SIX O'CLOCK IN THE EVENING?

10 A YES SIR

11 Q ON DECEMBER 14TH RIGHT?

12 A YES SIR

13 Q THEY CAME AND GOT YOU, IS THAT RIGHT? THEY GOT YOU—

14 A NO, I WENT WHEN MOM TAKE ME

15 Q YOU KNEW THEY HAD BEEN LOOKING FOR YOU?

16 A YES, SHE HAD CALLED MY COUSIN'S HOUSE AND TELL ME

17 THEY WAS SEARCHING THE HOUSE AND STUFF

18 Q THEY WERE SEARCHING YOUR HOUSE?

19 A YEAH

20 Q THEY WERE LOOKINC FOR YOU SO YOU WENT DOWN TO THE

21 SHERIFF'S DEPARTMENT, RIGHT?

22 A NO THEY WAS SEARCHING MY HOUSE FOR A GUN, FOR A CUN

23 THEY SAID

24 Q WHAT I M SAYING IS WHEN YOU FOUND OUT THEY WERE

25 LOOKING FOR YOU AND SEARCHING YOUR HOUSE FOR A GUN

1 YOU WENT DOWN TO THE SHERIFF'S DEPARTMENT, RIGHT?

2 A YES SIR

3 Q NOW ABOUT SIX O'CLOCK ON TUESDAY EVENING THE 14TH,

4 RIGHT?

5 A YES SIR

6 Q AND YOUR MOM WENT WITH YOU?

7 A YES SIR

8 Q BUT SHE DIDN'T GO BACK IN THE BACK WITH YOU, DID

9 SHE?

10 A NO SIR

11 Q YOU WENT BACK IN THE BACK BY YOURSELF, AND YOU ARE

12 SEVENTEEN NOW?

13 A YEAH, I WAS SIXTEEN AT THE TIME

14 Q AND THEY PUT YOU IN AN INTERROGATION ROOM, DIDN'T

15 THEY?

16 A YES SIR

17 Q A LITTLE ROOM, RIGHT?

18 A YES SIR

19 Q AND YOU TALKED TO— DO YOU REMEMBER DETECTIVE BUNCE

20 DO YOU REMEMBER THAT DETECTIVE?

21 A I DON'T REMEMBER THEY NAME

22 Q DO YOU REMEMBER DETECTIVE SKAGGS?

23 A I DON'T REMEMBER NOBODY NAME

24 Q THERE WERE SEVERAL DETECTIVES CAME IN AND OUT

25 TALKING TO YOU, RIGHT?

1 A NO, ONLY TWO

2 Q JUST TWO OK, AND YOU WERE IN THERE ABOUT AN HOUR

3 AND A HALF WITH THEM?

4 A YES SIR

5 Q AND, NOW I WANT TO BE CLEAR ABOUT THIS, WHEN MR

6 GINN AND MYSELF TALKED WITH YOU WE NEVER MENTIONED

7 ANYTHING ABOUT YOU BEING CHARGED WITH ANYTHING ON

8 THIS DID WE?

9 A YES SIR

10 Q WE DID?

11 A NO, Y'ALL MENTIONED ABOUT PAPER IN HIS HAND TALK

12 ABOUT THAT PIECE OF PAPER

13 Q PIECE OF PAPER THAT'S WHAT THE POLICE HAD SHOWN

14 YOU, RIGHT?

15 A YEAH

16 Q NOW I WANT TO BE CLEAR ABOUT THIS ME AND MR GINN,

17 WE NEVER TALK TO YOU ABOUT BEING CHARGED WITH

18 ANYTHING, I MEAN THAT WE WOULD CHARGE YOU FOR

19 ANYTHING DID WE? WE JUST TALKED ABOUT THIS PIECE OF

20 PAPER DIDN'T WE?

21 A NO, Y'ALL WHY YOU HAVE TO KEEP TELLING ME ABOUT THE

22 PAPER

23 Q I NEED YOU TO SAY THAT AGAIN

24 A YOU SAY WHY HE KEEP TELLING ME ABOUT THE PAPER

25 Q YOU WERE TALKING ABOUT THE PAPER, AND THIS IS

1 SOMETHING THE POLICE HAD SHOWN YOU, RIGHT? WAY BACK
2 THEN, DECEMBER 14 WHEN YOU WENT IN THERE AND TALKED
3 TO THEM, RIGHT?

4 A YEAH

5 Q AND FROM THAT PAPER THEY WANTED TO TALK TO YOU ABOUT
6 MISPPISION OF A FELONY, RIGHT?

7 A YEAH

8 Q SO MR GINN AND I WERE TALKING TO YOU ABOUT THIS
9 PAPER THE POLICE HAD SHOWN YOU RIGHT?

10 A YES SIR

11 Q AND WE JUST ASKED YOU IF THE POLICE TOLD YOU WHAT
12 THAT WAS, RIGHT?

13 A YES SIR

14 Q YOU DIDN'T KNOW WHAT MISPRISION OF FELONY WAS, DID
15 YOU?

16 A NO SIR

17 Q BUT YOU KNEW WHEN THE POLICE TALKED TO YOU ABOUT IT
18 DECEMBER '04 YOU KNEW THERE WAS SOME TYPE OF CRIME?

19 A YES SIR

20 Q AND YOU KNEW THAT THEY TOLD YOU THAT?

21 A YES SIR

22 Q AND THAT'S WHAT MR GINN AND I WERE ASKING YOU
23 ABOUT RIGHT?

24 A YES SIR

25 Q SO TO BE CLEAR, IT WAS THE HOUR AND A HALF IN THE

1 SHERIFF'S DEPARTMENT INTERROGATION WHERE THE POLICE
 2 TALKED TO YOU ABOUT THIS CRIME CALLED MISPRISION OF
 3 FELONY, RIGHT?
 4 A YES SIR
 5 Q AND TOLD YOU THAT IF ANYONE WAS GUILTY OF THAT THEY
 6 COULD FACE JAIL TIME, RIGHT?
 7 A YES SIR
 8 Q AND THEY WARNED YOU ABOUT THAT, RIGHT?
 9 A YEAH, AFTER I DONE TELL THEM
 10 Q OK, LET S TALK ABOUT THAT YOU HAD ALREADY TALKED
 11 TO THEM AT SOME POINT AND WRITTEN DOWN A STATEMENT,
 12 RIGHT?
 13 A YES SIR
 14 Q OK, AND THAT WAS WITH DETECTIVE BUNCE AND WITH- YOU
 15 DON T REMEMBER THOSE TWO?
 16 A NO SIR
 17 Q THE TWO DETECTIVES RIGHT? AND SO YOU WROTE DOWN A
 18 STATEMENT, RIGHT?
 19 A YES SIR
 20 Q AND THAT'S WHEN THEY THEN TALKED TO YOU ABOUT THAT
 21 CRIME OF MISPRISION OF A FELONY, RIGHT?
 22 A NO, THE SECOND- I WRITE TWO OF THEM AFTER I WRITE
 23 THE SECOND ONE
 24 Q OK, YOU WRITE TWO STATEMENTS AND AFTER THE SECOND
 25 STATEMENT THEY WARN YOU ABOUT THIS CRIME THAT YOU

1 COULD BE CHARGED WITH RIG-T?

2 A YES, SIR

3 Q AFTER THAT SECOND STATEMENT THEY LET YOU GO, RIGHT?

4 A NO THEY TALK TO ME ABOUT THAT PAPER FIRST

5 Q OK, AND THEN THEY LET YOU GO?

6 A YEAH

7 Q YOU WENT HOME WITH YOUR MOM?

8 A YEAH

9 Q OK THE REASON YOU WROTE OUT THE STATEMENT IS YOU

10 KNEW SOMETHING MORE THAN WHAT YOU WERE TELLING,

11 RIGHT?

12 A HUH?

13 Q THE REASON YOU WROTE THE SECOND STATEMENT IS THE

14 POLICE TOLD YOU KNEW MORE THAN WHAT YOU WERE

15 TELLING, RIG-T?

16 A NO, THEY BEEN LIKE WE KNOW YOU DIDN'T HAVE NOTHING

17 TO DO WITH IT, BUT WE THINK YOU GOT SOME INFORMATION

18 THAT YOU GOT TO TELL

19 Q YOU HAVE MORE INFORMATION THAT WHAT YOU ARE TELLING,

20 THAT'S WHAT THEY TOLD YOU, RIGHT?

21 A YEAH

22 Q OK THAT'S ALL I M GETTING AT NOW, YOU WERE

23 MOSTLY IN DOROTHY'S APARTMENT ON THE 13TH WEREN'T

24 YOU?

25 A YES SIR

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1 Q UP THERE WATCHING MOVIES, RIGHT?

2 A YES SIR

3 Q WATCHING THEM SCARY MOVIES, RIGHT? THE ONES WITH

4 DAWN OF THE DEAD OR SOMETHING LIKE THAT?

5 A NO

6 Q IT WASN'T SCARY MOVIES?

7 A NO, IT WAS MATIDA

8 Q EXCUSE ME?

9 A MATIDA

10 Q I CAN'T UNDERSTAND YOU

11 A THE ONE WE CALL MATIDA

12 Q OK, JUST ONE MOVIE?

13 A NO TWO

14 Q TWO MOVIES BUNCH OF YOU WERE UP THERE WATCHING YOU

15 WERE UP THERE WATCHING MOVIES, RIGHT?

16 A TWO

17 Q AND DOROTHY'S APARTMENT IS ON THE SECOND FLOOR,

18 RIGHT?

19 A YES SIR

20 Q AND IT'S ON THE BACK OF THE BUILDING, RIGHT?

21 A YES SIR

22 Q IT DOESN'T FACE THE PARKING LOT, DOES IT?

23 A YEAH YOU CAN SEE THE CARS IN THE PARKING LOT FROM

24 THE BANNISTER, I MEAN FROM THE—

25 Q IF YOU COME OUTSIDE THE APARTMENT, RIGHT?

1 A YEAH

2 Q IF YOU ARE LOOKING OUT THE WINDOWS, NONE OF THE

3 WINDOWS LOOKED OUT AT THE PARKING LOT, DID THEY?

4 A NO

5 Q AND SHE'S GOT THOSE GREEN BLINDS, DOESN'T SHE?

6 A I DON'T KNOW NOW

7 Q YOU DON'T REMEMBER THE GREEN BLINDS? YOU WERE UP AT

8 DOROTHY'S A LOT AREN'T YOU?

9 A YEAH, BUT I AIN'T BEEN LOOKING AT HER BLINDS

10 Q OK, SO YOU WERE INSIDE WATCHING A MOVIE YOU WEREN'T

11 LOOKING OUTSIDE?

12 A NO, WE CAN'T SEE OUTSIDE

13 Q OK THANK YOU NOW, YOU BUY A PHONE FOR SEVENTY

14 DOLLARS FROM VICKI, RIGHT?

15 A UM HUH

16 Q AND YOU SELL IT TO MICHAEL FOR THIRTY?

17 A YES SIR

18 Q DIDN'T HE HAVE HIS OWN TELEPHONE?

19 A NO HE HAD LOST IT

20 Q HE DIDN'T HAVE HIS OWN TELEPHONE?

21 A HE DID BUT HE HAD LOST IT

22 Q YOU DIDN'T TELL MR GINN AND I THAT HE HAD HIS OWN

23 PHONE?

24 A YEAH

25 Q OK, WERE YOU LYING AGAIN?

1 A HE DID HAVE A PHONE, BUT HE LOST IT

2 Q I WAS ASKING YOU THIS, WERE YOU LYING AGAIN?

3 A ABOUT WHAT?

4 Q WHEN YOU TOLD US ABOUT THE PHONE SITUATION, WERE YOU

5 LYING AGAIN TO US?

6 A ABOUT HIM HAVING A PHONE?

7 Q YEAH

8 A HE DID HAVE A PHONE

9 Q ALRIGHT YOU'RE WEARING A GREEN JAIL JUMPSUIT

10 TODAY, IS THAT RIGHT?

11 A YES SIR

12 Q THEY BROUGHT YOU DOWN HERE, THE SHERIFF'S DEPARTMENT

13 BROUGHT YOU DOWN HERE IN A VAN TODAY?

14 A YES SIR

15 Q WHO IS THIS TONY GUY WHY DON'T YOU TELL THE JURY

16 THE LAST NAME OF THIS TONY GUY THAT RODE ALONG WITH

17 YOU AND MICHAEL?

18 A I DON'T KNOW HIS LAST NAME HE JUST GOES TO SCHOOL

19 Q YOU DON'T KNOW HIS LAST NAME?

20 A UH UH

21 Q YOU DROPPED OUT AFTER THE NINTH GRADE, RIGHT?

22 A YES SIR

23 Q THAT'S WHEN YOU GOT IN SOME TROUBLE?

24 A NO, I GOT ON PROBATION

25 Q AND THAT'S WHY YOU ARE IN JAIL TODAY RIGHT?

1 A YES SIR

2 Q BEG THE COURT'S INDULGENCE MR LEMON I'VE GOT A

3 FEW MORE QUESTIONS BACK AROUND THE END OF 2004,

4 YOU EVER WEAR YOUR HAIR IN ROWS?

5 A CORN ROWS?

6 Q YEAH

7 A YEAH

8 Q YOU EVER WEAR IT IN BRAIDS?

9 A THAT S THE SAME THING

10 Q OK YOU WERE AT MARSHVIEW ON DECEMBER 13TH AROUND

11 THREE OR THREE THIRTY YOU SAY?

12 A YES SIR

13 Q ONCE YOU GOT THERE THREE OR THPEE THIPTY YOU NEVER

14 LEFT?

15 A NO SIR YEAH I LEFT LIKE AT NIGHTTIME

16 Q LATE THAT NIGHT?

17 A NO, AROUND LIKE SEVEN OR EIGHT

18 Q YOU DIDN'T GO TO WEST MONTACUE?

19 A NO SIR

20 Q YOU WEREN'T IN MICHAEL'S CAR?

21 A NO SIR

22 Q YOU DIDN T GET A CALL FROM MR JETER TO GO PICK HIM

23 UP?

24 A NO SIR I AIN T HAD NO PHONE

25 Q YOU DIDN'T GO OVER THERE AND SHOOT SOMEBODY?

1 A NO SIR

2 Q YOU DIDN'T ASK MR JOHNSON ABOUT THAT CAR?

3 A NO SIR

4 Q YOU DIDN'T TAKE THE CAR TO RUTH DRIVE AND PARK IT?

5 A NO SIR

6 Q YOU STAYED AT MARSHVIEW, YOU THINK YOU GOT THERE

7 AROUND THREE OR THREE THIRTY AT MARSHVIEW AND LEFT

8 AROUND SEVEN?

9 A OR EIGHT

10 Q SEVEN OR EIGHT SO NOW YOU LYING TO US NOW LIKE YOU

11 LIED TO ME AND MR GINN BEFORE?

12 A NO SIR

13 Q YOU ARE TELLING THE TRUTH NOW, RIGHT?

14 A YES SIR

15 Q WELL, DID YOU TELL THE TRUTH TO THE DETECTIVES WHEN

16 THEY WERE TALKING TO YOU?

17 A NOT AT FIRST

18 Q YOU LIED TO THEM NOW ONCE YOU GAVE THAT SECOND

19 STATEMENT AND THEN THEY TOLD YOU NOW YOU CAN BE

20 CHARGED WITH SOMETHING IF YOU ARE LYING, THAT'S WHEN

21 THEY LET YOU GO, RIGHT?

22 A YES SIR

23 Q NO OTHER QUESTION

24 REDIRECT BY MS WILSON - JUSTIN LEMON

25 Q JUSTIN DID MR DAVIS AND MR GINN TELL YOU WHY THE

1 CELL PHONE WAS SO IMPORTANT?

2 A NO SIR-- NO MA'AM THEY JUST ASKED ME ABOUT THE

3 NUMBER, WHOSE NUMBER THESE IS

4 Q YOU DON'T KNOW WHY IT WAS IMPORTANT?

5 A NO MA'AM

6 Q EVERYBODY HAD JUST BEEN ASKING YOU ABOUT IT?

7 A YES MA'AM

8 Q AND WHEN THE POLICE CAME TO YOU I BELIEVE YOU TOLD

9 MR DAVIS THAT THEY CAME TO YOU AFTER YOU GAVE THE

10 FIRST STATEMENT AND THEY SAID TO YOU, WE KNOW YOU

11 DIDN'T HAVE ANYTHING TO DO WITH IT, BUT WE THINK YOU

12 KNOW A LITTLE MORE?

13 A YES MA'AM

14 Q DID YOU KNOW A LITTLE MORE?

15 A YEAH, I WRITE MY SECOND STATEMENT

16 Q YOU HAD MORE INFORMATION, DIDN'T YOU?

17 A YES MA'AM

18 Q AND AFTER THEY CONFRONTED YOU WITH THEIR SUSPICIONS

19 THAT YOU KNEW MORE, DID YOU TELL THEM THE REST OF

20 THE STORY?

21 A YES MA'AM

22 Q AND YOU DON'T WANT TO BE HERE TODAY, DO YOU?

23 A NO MA'AM

24 Q HOW DID YOU GET HERE?

25 A THE SHERIFF

1 Q THEY HAULED YOU DOWN HERE?

2 A YES MA'AM

3 Q IT WOULD SUIT YOU IF YOU HADN'T BEEN HERE, WOULDN'T

4 IT?

5 A MA'AM?

6 Q IT WOULD SUIT YOU IF YOU HADN'T BEEN HERE TODAY,

7 WOULDN'T IT?

8 A YES MA'AM

9 Q YOU DON'T HAVE A DEAL FOR COMING HERE, DID YOU?

10 A NO MA'AM

11 RECROSS BY MR DAVIS - JUSTIN LEMON

12 Q JUST BRIEFLY, YOUR HONOR SHERIFF'S DEPUTIES

13 BROUGHT YOU DOWN HERE TODAY, RIGHT?

14 A YES SIR

15 Q YOU ARE SERVING TIME NOW AND YOU ARE TESTIFYING FOR

16 THE STATE, RIGHT?

17 A YES SIR

18 Q YOU DON'T EXPECT SOME BENEFIT FROM THAT?

19 A NO SIR

20 Q YOU DON'T EXPECT THEM TO HELP YOU OUT WITH THE TIME

21 YOU ARE SERVING RIGHT NOW FOR GIVING THIS TESTIMONY?

22 A NO SIR I AIN'T GOT THAT MUCH TIME, I ONLY GOT SIX

23 MONTHS

24 Q THANK YOU MR LEMON

25 THE COURT THANK YOU YOU CAN COME DOWN

1 SOLICITOR WILSON BEG THE COURT'S INDULGENCE SUSAN
 2 PRESNELL
 3 THE WITNESS IS SWORN (SUSAN A PRESNELL, MUSC)
 4 EXAMINATION BY SOLICITOR BURNEY - SUSAN A PRESNELL
 5 Q GOOD MORNING WOULD YOU TELL THE JURY WHERE YOU
 6 WORK AND WHAT YOU DO?
 7 A I'M A FORENSIC PATHOLOGIST I WORK DOWN AT THE
 8 MEDICAL UNIVERSITY, UNIVERSITY OF SOUTH CAROLINA
 9 RIGHT DOWN THE STREET
 10 Q HOW LONG HAVE YOU BEEN EMPLOYED?
 11 A I STARTED ON AS A FORENSIC PATHOLOGIST IN '99
 12 Q AND AS A PATHOLOGIST DO YOU PERFORM AUTOPSIES?
 13 A YES ACTUALLY FORENSIC PATHOLOGY IS A SUB-SPECIALTY
 14 OF PATHOLOGY AND MOST PEOPLE ARE FAMILIAR WITH
 15 FORENSIC ANALYSIS, CSI AND ALL THE SHOWS ON TV, BUT
 16 PATHOLOGY IN GENERAL IS A BROADER FIELD MOST
 17 PATHOLOGISTS, AND PATHOLOGY MEANS THE STUDY OF
 18 DISEASE MOST PATHOLOGISTS WILL EXAMINE TISSUE
 19 BIOPSIES OR ANYTHING ANOTHER PHYSICIAN WILL REMOVE
 20 FROM THEIR PATIENT LIKE AN ORGAN RESECTION FOR
 21 CANCER THEY WILL LOOK AT THAT UNDER THE MICROSCOPE
 22 AND THEY COME UP WITH A DIAGNOSIS SUCH AS CANCER OR
 23 INFECTION FORENSIC PATHOLOGY IS ACTUALLY A SUB-
 24 SPECIALITY OF THAT WHERE WE DON'T JUST LOOK AT
 25 TISSUE BIOPSY OR ORGAN, WE REVIEW THE ENTIRE PERSON

1 AND CO THROUGH THE PROCESS OF AN AUTOPSY, AND WE'RE
2 NOT JUST LOOKING AT DISEASE WHICH WE DO EVALUATE
3 PATIENTS WITH THAT, BUT WE ARE ALSO LOOKING AT
4 TRAUMA AND THROUGH THAT COMING UP WITH THE CAUSE
5 DEATH THAT'S MY MAIN ROLE AT THE UNIVERSITY

6 Q AND YOU'VE BEEN EDUCATED AS A DOCTOR AND TRAINED IN
7 FORENSIC PATHOLOGY AS WELL?

8 A YES GO COLLEGE AND MEDICAL SCHOOL AND THEN YOU DO
9 TRAINING FOR SEVEN YEARS IN GENERAL PATHOLOGY AND
10 THEN AFTER THAT YOU ARE A SUB-SPECIALTY IN FORENSIC
11 PATHOLOGY AND I'VE TAKEN MY NATIONAL BOARDS FOR BOTH
12 PATHOLOGY AND FORENSIC PATHOLOGY AND BOARDED IN THIS
13 PARTICULAR AREA

14 Q HAVE YOU BEEN QUALIFIED AS AN EXPERT IN GENERAL
15 SESSIONS COURT IN THE AREA OF FORENSIC PATHOLOGY?

16 A YES I HAVE

17 Q YOUR HONOR WE OFFER DR PRESNELL AS AN EXPERT IN THE
18 AREA OF FORENSIC PATHOLOGY

19 **THE COURT** ALRIGHT

20 Q YOU'VE ALREADY EXPLAINED TO THE JURY WHAT FORENSIC
21 PATHOLOGY IS AND THAT YOU PERFORM AUTOPSIES, CAN YOU
22 GIVE THE JURY THE NUMBER OF AUTOPSIES YOU PERFORM
23 A YEAR?

24 A WE PROBABLY DO ABOUT 200 EACH, 200 TO 250

25 Q AND DID YOU PERFORM AN AUTOPSY ON ANTHONY GAMBRELL?

1 A YES I DID ON DECEMBER 14, 2004

2 Q AND DID THAT AUTOPSY TAKE PLACE AT MUSC?

3 A YES IT DID

4 Q AND BASED ON THE AUTOPSY YOU PERFORMED— FIRST OF ALL

5 LET ME ASK YOU THIS DO YOU FORM EXPERT OPINIONS AS

6 TO THE CAUSES OF DEATH?

7 A WELL WHAT WE ARE DOING IS WE ARE LOOKING AT WOUNDS

8 AND WE ARE EVALUATING THAT INJURY AND DECIDING WHICH

9 ONE WOULD BE RESPONSIBLE FOR DEATH, IF THAT'S THE

10 QUESTION, AND GIVE AN EXPERT OPINION

11 Q AND WHAT ARE THE POSSIBLE CAUSES OF DEATH?

12 A WELL THERE IS A ZILLION POSSIBLE CAUSES OF DEATH

13 THERE ARE FOUR SEPARATE MANNERS OF DEATH WHERE YOU

14 CLASSIFY THE DEATH AS EITHER A NATURAL DEATH, A

15 SUICIDE, AN ACCIDENT, OR AN HOMICIDE, AND SOMETIMES

16 IF WE CAN'T DETERMINE ONE THEN WE'LL CALL IT

17 UNDETERMINED

18 Q AND WHAT IS YOUR EXPERT OPINION CONCERNING THE

19 MANNER OF DEATH OF ANTHONY GAMBRELL?

20 A WE CLASSIFIED THE FINDINGS AS A HOMICIDE

21 Q SHARE WITH THE JURY YOUR FINDINGS

22 A AT THE AUTOPSY WE DETERMINED THAT HE HAD TWO GUNSHOT

23 WOUNDS ONE OF THEM ENTERED THE BACK OF HIS LEFT

24 LEG AND EXITED THE LEFT SIDE OF HIS LEFT LEG THAT

25 JUST WE THROUGH SKIN, SKELETAL MUSCLE, EXITED THE

1 BULLET DID NOT REMAIN IN THE BODY ANOTHER GUNSHOT
2 WOUND, THE OTHER GUNSHOT WOUND WAS BASICALLY TO THE
3 CENTER OF HIS CHEST IT ENTERED HIS HEART, WENT
4 INTO HIS LEFT LUNG WENT THROUGH HIS RIBCAGE INTO
5 THE SOFT TISSUE IN THE BACK, THE BACK AREA, AND THE
6 BULLET REMAINED THERE, AND BECAUSE OF THE INJURY THE
7 BULLET GOINC THROUGH THE HEART AND THE LUNGS AND THE
8 BLEEDING SUSTAINED FROM THAT, WE CLASSIFIED THIS AS
9 THE CAUSE OF DEATH GUNSHOT WOUND TO THE CHEST WAS
10 THE CAUSE OF DEATH

11 Q AND WERE PHOTOS TAKEN AND X-RAYS TAKEN DURING THE
12 COURSE OF THE AUTOPSY?

13 A YES THEY WERE

14 Q I'LL SHOW YOU WHAT'S MARKED AS STATE'S 39, 40, 41
15 DID YOU PROVIDE US COPIES OF PHOTOGRAPHS THAT WERE
16 TAKEN DURING THE AUTOPSY?

17 A YES, WE PROVIDED A CD

18 Q THIRTY NINE IS AN X-RAY OF THE DECEDENT'S LEG
19 EXHIBIT 40 IS X-RAY OF THE LOWER CHEST AND ABDOMEN,
20 AND EXHIBIT 41 IS A PHCTOGRAPH OF THE BULLET WE
21 RECOVERED FROM MR GAMBRELL

22 A YOUR HONOR THE STATE OFFERS 39, 40 AND 41

23 **THE COURT** NO OBJECTION

24 Q LET ME SHOW YOU STATE S 39, AND IF YOU WOULD--

25 A THAT'S AN X-RAY OF THE LEG WE ACTUALLY HAVE TWO X-

1 RAYS, ONE IS A LITTLE BIT HIGHER AND THEN THIS X-RAY
2 HAVING THE WHOLE LEG, AND THIS IS THE KNEE JOINT
3 RIGHT IN THIS AREA, AND YOU CAN SEE LITTLE FRAGMENTS
4 OF WHITE MATERIAL, THAT'S THE FRAGMENTS OF THE
5 BULLET, IT'S NOT THE BULLET JUST LITTLE FRAGMENTS
6 THAT ARE LEFT BEHIND

7 Q YOU DESCRIBED A BULLET ENTERING THE LEG AND EXITING
8 THE LEG?

9 A YES, THIS IS A PERFORATING GUNSHOT WOUND MEANING
10 THAT BULLET ENTERED THE BODY AND LEFT THE BODY

11 Q CAN YOU EXPLAIN THIS TO THE JURY FOR ME

12 A AGAIN WE HAD TWO X-RAYS IN THE CHEST AREA THIS IS
13 ACTUALLY THE LOWER CHEST, RIGHT HERE, LOWER CHEST
14 AND THE ABDOMEN, AND THERE IS THE AREA RIGHT THERE
15 YOU CAN SEE THE RIBS, THE LOWER RIBS THERE, AND THAT
16 WHITE PROJECTILE, THAT WHITE MARKING THERE IS THE
17 BULLET THAT WE RECOVERED

18 Q SO THAT'S THE LOWER PART OF THE RIBS?

19 A WELL THE WHOLE PICTURE RIGHT HERE IS YOU PUT THE
20 FILM RIGHT BELOW BREAST AREA AND WE TOOK THE PICTURE
21 AND THAT WOULD BE THERE DOWN TO RIGHT THERE

22 Q AND THEN STATE S 41?

23 A THAT'S THE BULLET THAT WE RECOVERED

24 Q AND WHEN YOU RECOVERED THAT DID YOU GIVE THAT TO THE
25 OFFICER?

1 A WE TRANSFERRED THAT TO THE SHERIFF'S OFFICE

2 Q I HAVE NO FURTHER QUESTIONS

3 MR DAVIS WE DON'T HAVE ANY QUESTIONS OF THE
4 WITNESS

5 THE COURT THANK YOU MA'AM YOU CAN BE EXCUSED

6 SOLICITOR BURNERY YOUR HONOR AT THIS TIME WE OFFER
7 STATE'S EXHIBIT 8, 11, AND 19 PHOTO OF THE CAR

8 THE COURT WITHOUT OBJECTION

9 SOLICITOR BURNERY AT THIS TIME THE STATE RESTS

10 THE COURT LADIES AND GENTLEMEN THAT'S ALL THE
11 EVIDENCE AND TESTIMONY FROM THE STATE WE'RE GOING TO
12 TAKE A BREAK AND TAKE UP SOME LEGAL MATTERS THEN I'LL
13 BRING YOU BACK OUT IF Y'ALL WOULD STEP OUT FOR JUST A
14 FEW MINUTES DO NOT DISCUSS THE CASE

15 JURY OUT 11 03 A M

16 THE COURT MR DAVIS I ASSUME THAT YOU HAVE
17 DISCUSSED FULLY WITH YOUR CLIENT MR DUNHAM WHETHER OR
18 NOT HE WILL TESTIFY?

19 MR DAVIS WE HAVE DISCUSSED THAT YOUR HONOR YOUR
20 HONOR IF I MAY A COUPLE OF THINGS I WOULD LIKE A BRIEF
21 AMOUNT OF TIME TO DISCUSS THAT WITH HIM AT THIS TIME
22 PUT A MOTION FOR THE RECORD?

23 THE COURT ALRIGHT

24 MR DAVIS JUDGE OBVIOUSLY I RENEW THE PRETRIAL
25 MOTION OF IMPROPER IDENTIFICATION THAT I MADE ALSO

1 BRING THE TESTIMONY IN FRONT OF THE JURY TO RENEW THAT
 2 MOTION I RENEW THE SUBSEQUENT MOTION FOR MISTRIAL, AND
 3 AT THIS POINT I MUST MAKE A MOTION FOR A DIRECTED
 4 VERDICT WE WOULD ARGUE THAT THE EVIDENCE PRESENTED AT
 5 THIS POINT EVEN IN THE LIGHT MOST FAVORABLE TO THE STATE
 6 ONLY CASTS SUSPICION ON MY CLIENT AS BEING INVOLVED IN
 7 THIS HOMICIDE THERE IS NOT SUFFICIENT EVIDENCE THAT
 8 WOULD ALLOW THIS TO GO TO THE JURY THE EVIDENCE SO FAR
 9 IS MERE SUSPICION, MERE CONJECTURE, LACKING SUFFICIENT
 10 PROBATIVE VALUE TO CONTINUE THIS CASE FORWARD

11 **THE COURT** OK I WOULD HAVE TO DENY THE MOTION, AND
 12 DENY THE MOTION FOR MISTRIAL

13 **MR DAVIS** JUDGE I'LL JUST ASK FOR A BRIEF PERIOD OF
 14 TIME, FIVE MINUTES

15 **THE COURT** ALRIGHT SIR DOES HE HAVE ANY
 16 CONVICTIONS YOU INTEND TO IMPEACH HIM ON?

17 **SOLICITOR WILSON** YES SIR YOUR HONOR HE HAS—

18 **THE COURT** IF HE TAKES THE STAND

19 **SOLICITOR WILSON** YES SIR HE HAS A CONVICTION FOR
 20 BURGLARY AND A CONVICTION FOR POSSESSION OF A STOLEN
 21 MOTOR VEHICLE, AND GRAND LARCENY WE BELIEVE THE THREE
 22 OF THOSE WOULD BE ADMISSIBLE UNDER 609

23 **THE COURT** ALRIGHT THERE IS A GOOD POSSIBILITY THAT
 24 SHE MIGHT BE ABLE TO IMPEACH YOU WITH THOSE BUT, OF
 25 COURSE, YOU WILL TELL HIM THAT I WILL CLEARLY INSTRUCT

1 THE JURY IF HE TESTIFIES THOSE WOULD NOT COME IN BECAUSE
2 THEY WOULD BEAR ON HIS GUILT OR INNOCENCE IN THIS CASE
3 ONLY IF IT MAY BEAR UPON CREDIBILITY OR BELIEVABILITY, IF
4 IT WOULD BEAR AT ALL

5 MR DAVIS YES SIR, IF I MAY--

6 THE COURT AND I'LL GO OVER IT WITH HIM IN DETAIL
7 AFTER YOU TALK

8 MR DAVIS WE ASK THE COURT TO CONSIDER THE RULES ON
9 THAT ONCE I DISCUSS THAT WITH HIM WE WOULD ARGUE OF
10 COURSE THAT THE BURGLARY CHARGE IS NOT A CRIME OF
11 DISHONESTY AND, THEREFORE, ALL THREE WOULD FALL UNDER THE
12 609, THE BALANCE TEST OBVIOUSLY IF IT'S DISHONESTY THEY
13 GET THEIR RIGHT TO IMPEACH, BUT IF IT'S NOT A CRIME OF
14 DISHONESTY WE WOULD ARGUE THAT BURGLARY IS NOT, BUT THEN
15 IT'S UP TO THE COURT TO DO A BALANCING TEST, AND I AM
16 SURE THAT THE COURT IS AWARE THAT UNDER 609A1 IT'S THE
17 OPPOSITE OF 403 NORMALLY ANY TYPE OF EVIDENCE THAT'S
18 GONNA COME IN 403 IS A RULE INCLUDED IT'S GOING TO BE
19 UNLESS PREJUDICIAL EFFECT IS SHOWN TO SUBSTANTIALLY
20 OUTWEIGH THE PROBATIVE VALUE 609 WHEN IT IS THE ACCUSED
21 IS EXACTLY THE OPPOSITE EVIDENCE THAT THE ACCUSED MAY
22 BE CONVICTED OF SUCH A CRIME OTHER THAN ONE OF DISHONESTY
23 SHALL BE ADMITTED IF THE COURT DETERMINES THAT THE
24 PROBATIVE VALUE OF ADMITTING THIS EVIDENCE OUTWEIGHS ITS
25 PREJUDICIAL EFFECT TO THE ACCUSED WE KNOW THAT ITS

1 GOING TO BE PREJUDICIAL, AND I UNDERSTAND THE COURT THAT
2 THE JURY WILL BE INSTRUCTED THAT ITS ONLY FOR CREDIBILITY
3 THAT ANY MENTION AGAINST THE ACCUSED IS OBVIOUSLY
4 PREJUDICIAL IT'S TO THE STATE TO SHOW THAT THE
5 PROBATIVE VALUE IN ADMITTING IT OUTWEIGHS THE PREJUDICIAL
6 EFFECT, AND I WILL ARGUE THAT THESE BEING JUVENILE
7 RECORDS FIRST OF ALL, NOT CRIMES OF DISHONESTY, AND IT IS
8 ABSOLUTELY PREJUDICIAL THE PROBATIVE VALUE IS SO
9 MINUSCULE COMPARED TO THE ADVERSE EFFECT TO MY CLIENT THE
10 STATE SHOULD BE BARRED FROM COMMENTING ON ANY OF IT AND
11 JUDGE GIVE ME ONE SECOND I'LL GIVE YOU THE CASE, AND I
12 HANDED IT UP AND I GAVE A COPY TO THE STATE JUDGE, I
13 ACTUALLY MENTIONED IT PREVIOUSLY, STATE V SHAW WHICH IS
14 A COURT OF APPEALS DECISION FROM 1997, 328SC454 AND
15 JUDGE I DON'T HAVE TIME TO GO THROUGH ALL OF IT, BUT I
16 WOULD SUBMIT TO THE COURT THAT THAT CASE IS THAT 609A2,
17 LIMITING THE DISHONESTY OF FALSE STATEMENT LANGUAGE TO
18 THOSE CRIMES INVOLVING SOME MISREPRESENTATION TO LIE AND
19 EXCLUDED THOSE CRIMES WHICH DO NOT CARRY WITH THEM
20 FALSIFICATION CRIMES SUCH AS PERJURY OR OF PERJURY,
21 FALSE STATEMENT, FRAUD, EMBEZZLEMENT, FALSE PRETENSE OR
22 ANY OTHER EVENTS IN THE NATURE OF THOSE, WE WOULD ARGUE
23 THAT THESE THREE DON'T FALL IN THAT DEFINITION,
24 THEREFORE, IT REQUIRES A BALANCING IT WOULD BE FAIRLY
25 PREJUDICIAL AND PROBATIVE VALUE THANK YOU

1 **SOLICITOR WILSON** YOUR HONOR I DON T BELIEVE THE
2 FACT THAT THEY ARE A JUVENILE HAS ANY RELEVANCE AT ALL
3 UNDER THE RULES IF IT WERE AN IMPEACHABLE OFFENSE AS AN
4 ADULT IT WOULD BE AN IMPEACHABLE OFFENSE AS A JUVENILE
5 I THINK IT-

6 **THE COURT** HOW OLD IS HE NOW?

7 **MR DAVIS** NINETEEN

8 **SOLICITOR WILSON** I THINK THAT S A GOOD QUESTION
9 YOUR HONOR BECAUSE IT HASN'T BEEN THAT LONG SINCE HE WAS
10 A JUVENILE I THINK ITS CLEAR THAT GRAND LARCENY IS A
11 CRIME OF DISHONESTY POSSESSION OF A STOLEN VEHICLE IS
12 CLEARLY A CRIME OF DISHONESTY, AND I THINK WE'RE ARGUING
13 ABOUT THOSE TWO THINGS ACTUALLY YOUR HONOR I THINK ITS
14 CERTAINLY MORE A CRIME OF DISHONESTY THAN A POSSESSION OF
15 CRACK CHARGE WOULD BE GOING INTO SOMEONE'S HOME OR
16 BUSINESS WITHOUT THEIR CONSENT IN ORDER TO COMMIT A
17 CRIME

18 **THE COURT** YOU'RE ARGUING PRIOR EVIDENCE, YOU CAN'T
19 DO THAT

20 **SOLICITOR WILSON** I APOLOGIZE YOUR HONOR, BUT
21 CERTAINLY ON IT'S FACE WITHOUT COMPARING IT WITH ANY
22 OTHER CRIME, ON ITS FACE GOING INTO SOMEONE S
23 ESTABLISHMENT, WHETHER IT BE A HOME OR A BUSINESS WITHOUT
24 THEIR CONSENT AND TRYING TO COMMIT A CRIME INSIDE IS
25 CERTAINLY A CRIME OF DISHONESTY IN ANY EVENT, EVEN IF

1 YOU WERE TO DO THE BALANCING TEST, I THINK THAT UNDER THE
2 BALANCING TEST IT IS PROBATIVE AS TO HIS TRUTHFULNESS, AS
3 TO HIS CREDIBILITY OF WHETHER OR NOT WE CAN TRUST WHAT HE
4 IS SAYING, THE FACT THAT HE HAS THESE CONVICTIONS, AND I
5 THINK UNDER A BALANCING TEST THE PROBATIVE VALUE IS
6 IMPORTANT AND DOES OUTWEIGH ANY PREJUDICIAL EFFECT YOU
7 ARE GOING TO INSTRUCT THE JURY OR YOU WOULD INSTRUCT THE
8 JURY THAT THEY CAN'T USE THAT AGAINST HIM AS TO WHETHER
9 OR NOT HE IS GUILTY OF THIS CRIME AND THAT WOULD CORRECT
10 ANY UNDUE PREJUDICE

11 **THE COURT** OK, I'LL MAKE ON THE RECORD THE REASON
12 FOR MY RULING IN THIS REGARD AN ISSUE IN THIS CASE IF
13 MR DUNHAM TAKES THE WITNESS STAND, AND I'M NOT
14 INDICATING THAT HE SHOULD NOT TAKE THE WITNESS STAND, AND
15 I'M NOT INDICATING HE SHOULD EITHER WAY, BUT THAT IS A
16 DECISION HE WILL HAVE TO MAKE AFTER LISTENING TO HIS
17 ATTORNEY HE WILL HAVE TO MAKE THAT DECISION AS TO WHETHER
18 TO TAKE THE WITNESS IN FRONT OF THE JURY OR NOT TO
19 TESTIFY AS I HEARD THIS CASE, IF MR DUNHAM TAKES THE
20 WITNESS STAND, AND I'M JUST SPECULATING NOW AS TO WHAT HE
21 MAY OR MAY NOT DO, I'M JUST SAYING IF HE DID I HAVE NO
22 IDEA WHAT HE'S GOING TO DO AND WHAT HIS DECISION IS AND I
23 AM SURE MR DAVIS HAS FULLY DISCUSSED IT WITH HIM AND
24 HE S GOING TO DISCUSS IT WITH HIM AGAIN IN JUST A FEW
25 MINUTES, AND I ASSUME HIS FAMILY IS HERE IS THERE

1 SOMEBODY?

2 **MR. DAVIS** YES YOUR HONOR YES YOUR HONOR

3 **THE COURT** THE TESTIMONY IN THIS CASE IN REGARD TO

4 HIS THREE FRIENDS, I BELIEVE IT WAS THREE THAT TESTIFIED

5 THE LAST ONE, THE OTHER GUY THAT TOOK THE CAR THEIR

6 CREDIBILITY HAS BEEN ATTACKED THE DEFENSE THIS MORNING

7 BROUGHT IT OUT TO THE JURY WHATEVER WEIGHT IT MAY CARRY

8 WITH THEM THE INCONSISTENCIES IN THEIR STATEMENTS SO A

9 KEY ISSUE IN THIS CASE IN REGARD TO ALL WITNESSES AND A

10 KEY ISSUE IF MR. DUNHAM TAKES THE WITNESS STAND, WOULD BE

11 THE CREDIBILITY AND THE BELIEVABILITY OF ANY WITNESS WHO

12 TESTIFIES ALL OF THEM THE THREE PEOPLE, HIS FRIENDS WHO

13 WERE THERE AND MR. DUNHAM ALL THEIR TESTIMONY IT'S

14 BEEN POINTED OUT THAT THEY MADE INCONSISTENT STATEMENTS

15 BEFORE THAT SO THE CREDIBILITY OF EACH AND EVERY

16 WITNESS IS VERY IMPORTANT TO THE DECISION OF THE JURY IN

17 THIS CASE THE CREDIBILITY OF THE DEFENDANT IF HE TOOK

18 THE WITNESS STAND WOULD BE VERY IMPORTANT IN DETERMINING

19 THIS CASE AND BALANCING THE PREJUDICIAL EFFECT AND

20 PROBATIVE VALUE AND CONSIDERING AS MR. DAVIS HAS SAID,

21 READING FROM THE RULE, THE TWO CRIMES CLEARLY- WELL I

22 WOULD THINK THAT MY RULING WOULD BE THE STATE COULD

23 IMPEACH HIM ON ALL THREE OF THE OFFENSES IF HE COMMITTED

24 THOSE CRIMES ADDITIONALLY, THE CRIME OF BURGLARY IS

25 NORMALLY TO GO IN AND TAKE SOMETHING FROM SOMEONE'S

1 RESIDENCE, BUSINESS, OR HOUSE IT'S WITH THE INTENT TO
2 COMMIT A CRIME INSIDE OF THAT RESIDENCE SO USUALLY IT'S
3 TAKING SOMETHING OUT OF THE RESIDENCE SO I WOULD LET
4 THE IMPEACHMENT IN REGARD TO ALL THREE IF HE HAS
5 COMMITTED THOSE CRIMES I'LL GIVE Y'ALL ABOUT TEN OR
6 FIFTEEN MINUTES AND THEN WE'LL BE READY TO START DO
7 YOU, REGARDLESS OF WHAT MR DUNHAM DECIDES, DO YOU INTEND
8 TO PRESENT ANY TESTIMONY OR ARE YOU READY TO- I JUST
9 NEED TO KNOW ABOUT BRINGING THE JURY IN

10 MR DAVIS YES SIR ONCE I'M DONE SPEAKING WITH HIM
11 I'LL KNOW, AND IF AT ALL IT WOULD BE BRIEF

12 THE COURT OK

13 MR DAVIS IF HIS DECISION IS TO TESTIFY IT WOULD BE
14 A LONGER DEFENSE IF HE DOES NOT, AT MOST WE MAY STILL
15 NEED WITNESSES BUT IT WOULD BE VERY QUICK

16 THE COURT OK

17 MR DAVIS THAT'S THE BEST I CAN TELL YOU RIGHT NOW
18 JUDGE JUDGE YOUR RULING THEN IS ALL THREE CRIMES ARE
19 DISHONESTY SO THEY WOULD COME IN THAT WAY

20 THE COURT IN MOST CASES IT IS A CRIME OF
21 DISHONESTY NOW I DON'T KNOW THE CIRCUMSTANCES AROUND
22 THIS CRIME IF HE WENT IN AND STOLE SOMETHING IT WOULD
23 BE A CRIME OF DISHONESTY, IF NOT IN THE BALANCING TEST
24 OTHERWISE THE CREDIBILITY OF ALL THE WITNESSES ARE SO
25 IMPORTANT IN THIS CASE THAT I THINK THAT EVIDENCE THAT

1 WOULD REFLECT ON CREDIBILITY SHOULD BE ADMITTED

2 MR DAVIS THANK YOU YOUR HONOR

3 SOLICITOR WILSON YOUR HONOR, ASSUMING WE HAVE A
4 SHORT DEFENSE CASE, WOULD YOU HAVE US CLOSE BEFORE LUNCH?

5 THE COURT YES USUALLY IF ITS NOT MORE THAN 30
6 MINUTES THE JURY TUNES YOU OUT, BUT THERE WAS A LAWYER
7 WHO SAID I ARGUED FOR TWO HOURS IN EVERY CASE AND SAID I
8 NEVER LOST A CASE LAWYER GREENWOOD HE ARGUED FOR TWO
9 HOURS BUT HE LOST THAT ONE THE FIRST ONE HE LOST, BUT
10 YOU'VE GOT A TWO HOUR LIMIT, BUT USUALLY LAWYERS DON'T
11 ARGUE MORE THAN 30 OR 45 MINUTES OR 50 MINUTES I'M NOT
12 GOING TO STOP YOU AND I'M NOT GOING TO PUT A TIME LIMIT
13 ON YOU BECAUSE YOU CAN'T REALLY DO A GOOD JOB LOOKING AT
14 YOUR WATCH, BUT ALL OF YOU HAVE DONE IT ENOUGH AND SEEN
15 IT DONE ENOUGH TO KNOW THAT YOU DON T WANT TO GET TOO FAR
16 OUT OF LINE

17 MR DAVIS AND JUDGE I DON'T BELIEVE I WANT TO SPEAK
18 FOR MS WILSON, BUT I DON'T BELIEVE IT'S THE LENGTH OF
19 THE ARGUMENTS AS MUCH AS IT IS PREPARING TO SET UP TO
20 GIVE THE ARGUMENTS IS MORE OF A CONCERN BOTH WITH THE
21 EXHIBITS, THE PROJECTIONS WE HAVE JUST PREPARING STUFF
22 I DON'T BELIEVE THE CLOSINGS WILL BE LONG BUT I THINK
23 IT'S JUST A LITTLE TIME, PREP TIME

24 THE COURT TO ME THAT JURY IS AN INTELLIGENT GROUP
25 OF PEOPLE, SOME OF THEM ARE BUT I KNOW I'VE SPOKEN TO

1 TWO OR THREE WALKING UP AND DOWN THE PALL THE SAID
 2 HELLO AND GOOD MORNING THEY SAID IT INTELLIGENTLY I
 3 DON'T THINK WE GONNA NEED TO SEE A LOT OF THAT STUFF
 4 BECAUSE I CAN SEE IT AND I CAN REMEMBER IT, AND I DON'T
 5 KNOW THE ISSUE IS AROUND THE WAY IT HAPPENED IN REGARD TO
 6 SHOWING THE OVERHEAD OF NORTH CHARLESTON SO MANY TIMES
 7 I DON'T KNOW WHAT THAT BEARS ON I DON'T THINK T-ERE IS
 8 ANY- IT SEEMS TO BE UNDISPUTED THEY FOUND THE CAR AT THE
 9 BOY'S HOUSE THEY FOUND CAR THERE AND NONE OF YOU ARE
 10 GOING TO ARGUE AGAINST THAT, WHERE EVER IT WAS THAT'S
 11 WHERE THEY FOUND THE CAR YOU MIGHT WANT TO SHOW IT TO
 12 SHOW THE TREES, MAYBE HE WAS TRYING TO CONCEAL IT
 13 SOMEHOW I DON'T KNOW BUT WHATEVER Y'ALL WANT TO DO YOU
 14 CAN DO IT, BUT SOME OF THESE OTHERS YOU PROBABLY DON'T
 15 NEED TO SHOW AGAIN, BUT THAT'S UP TO Y'ALL, WHAT EVER YOU
 16 WANT TO DO IF YOU WANT TO GO AN HOUR A PIECE LET ME
 17 KNOW

18 **SOLICITOR WILSON** I THINK WE'RE JUST BOTH HEADING
 19 FOR JUST AFTER THE BREAK, I DON'T KNOW I THINK I'LL BE
 20 TWENTY MINUTES BUT I'D RATHER HAVE A BREAK BEFORE LUNCH,
 21 COME BACK ARGUE, CONSTRUCT DURING THE BREAK INSTEAD OF
 22 HAVING TO INTERRUPT-

23 **THE COURT** SINCE THE JURORS DIDN'T COME IN UNTIL
 24 NINE THIRTY THEY PROBABLY HAD A LATE BREAKFAST THEY
 25 PROBABLY-

1 SOLICITOR WILSON I KNOW YOU ARE GOING TO KEEP IT
2 ROLLING, THAT'S FINE

3 BREAK (11 21 A M)

4 THE COURT MR DAVIS HAVE YOU DISCUSSED IT WITH YOUR
5 CLIENT?

MR DAVIS I HAVE YOUR HONOR HE WISHES NOT TO
7 TESTIFY

8 THE COURT ARE YOU GOING TO PRESENT ANY TESTIMONY?

9 MR DAVIS JUDGE WE WOULD LIKE TO, AND HE AND I
10 DISCUSSED IT OBVIOUSLY PREVIOUSLY AND BASED ON THAT IT'S
11 A DECISION ON OUR PART THE ONLY WITNESSES WE WOULD CALL
12 WOULD BE THREE OFFICERS IN TRYING TO COORDINATE WHEN
13 THE STATE WOULD FINISH SO I WOULD HAVE THE OFFICERS HERE,
14 I'M INFORMED BY MY INVESTICATOR THAT THE THREE OFFICERS,
15 TWO OF WHICH ARE ON THE WAY AND ONE WILL BE HERE IN 11
16 MINUTES I JUST NOW WAS HANDED A NOTE THAT THE SECOND
17 OFFICER WILL BE HERE AT ONE, AND THEN ONE OFFICER I DON'T
18 HAVE --- AND I DO NOT INTEND TO DELAY THE COURT, WE
19 DIDN'T KNOW HOW MANY MORE WITNESSES THE STATE HAD THERE
20 ARE SOME LAYWITNESSES WHICH NOW WE ARE DECIDING WE WILL
21 NOT CALL THERE IS A COUPLE OF ISSUES REAL BRIEFLY ON
22 TWO OF THE OFFICERS, BUT ONE IS IF THE STATE STIPULATE WE
23 CAN HANDLE IT THAT WAY, BUT I JUST WANT AVAIL THE COURT
24 THE INFORMATION I HAD AND TRY TO FIGURE OUT

25 THE COURT MR DUNHAM MANY PEOPLE SAY THE MOST

1 IMPORTANT DECISION THAT A DEFENDANT HAS TO MAKE IN A
2 CRIMINAL CASE IS WHETHER OR NOT TO TAKE THIS WITNESS
3 STAND AND TESTIFY UNDER OATH IN THE PRESENCE OF THIS
4 JURY, AND TESTIFY IN REGARD TO WHATEVER YOU WANT TO
5 TESTIFY TO IN REGARDS TO THE EVIDENCE AND TESTIMONY IN
6 CASE NOW, YOU HAVE A CONSTITUTIONAL RIGHT TO
7 EITHER TESTIFY OR TO REMAIN SILENT, AND THE BURDEN OF
8 PROOF IS ALWAYS UPON THE STATE TO PROVE YOU GUILTY BEYOND
9 A REASONABLE DOUBT YOU DO NOT HAVE TO PROVE YOURSELF
10 INNOCENT YOU CAN EXERCISE YOUR CONSTITUTIONAL RIGHT TO
11 TESTIFY OR NOT TO TESTIFY OR TO REMAIN SILENT THE FACT
12 THAT YOU DO NOT TAKE THE WITNESS STAND I WILL TELL THE
13 JURY CANNOT CREATE ANY PRESUMPTION AGAINST YOU, AND I
14 WILL TELL THEM THAT THEY CANNOT LET THAT FACT ENTER IN
15 THE SLIGHTEST DEGREE AGAINST YOU, AND THEY COULDN'T EVEN
16 BRING THAT UP IN THEIR DISCUSSIONS OR DELIBERATIONS IN
17 THE JURY ROOM UNDER THE CONSTITUTION OF SOUTH CAROLINA
18 AND THE CONSTITUTION OF THE UNITED STATES IT IS YOUR
19 PREROGATIVE, YOUR DECISION, TO EITHER TESTIFY OR REMAIN
20 SILENT, AND THE BURDEN OF PROOF IS ALWAYS UPON THE STATE
21 OF SOUTH CAROLINA TO PROVE YOUR GUILT BY COMPETENT
22 TESTIMONY BEYOND A REASONABLE DOUBT THE FACT THAT YOU
23 DO NOT TESTIFY CANNOT AND MUST BE CONSIDERED AGAINST YOU,
24 AND I'M NOT INDICATING AGAIN WHAT YOU SHOULD DO THAT S
25 A VERY IMPORTANT DECISION YOU SHOULD MAKE IN REGARD TO

1 THIS CASE AFTER DISCUSSING IT FULLY WITH YOUR LAWYER
2 NOW, I WILL INSTRUCT THE JURY IN REGARD TO ANY CRIMES YOU
3 MAY HAVE COMMITTED, IF ANY, AND IF YOU WERE ASKED ABOUT
4 THOSE CRIMES THAT YOU MAY OR MAY NOT HAVE COMMITTED, THAT
5 EVIDENCE IS ADMITTED FOR A LIMITED PURPOSE IT WOULD NOT
6 COME IN AND COULD NOT COME IN TO BEAR ON YOUR GUILT OR
7 INNOCENCE IN THESE ALLEGATIONS OF MURDER ANY PRIOR
8 CONVICTIONS YOU ARE ASKED ABOUT WOULD ONLY BE ADMITTED
9 FOR A LIMITED PURPOSE AS TO HOW IT WOULD BEAR ON YOUR
10 CREDIBILITY OR BELIEVABILITY OF YOUR TESTIMONY IN THIS
11 CASE IF IT WOULD BEAR OR NOT, THAT WOULD BE UP TO THE
12 JURY THEY CANNOT AND MUST NOT CONSIDER A PRIOR RECORD
13 AS ANY EVIDENCE OF YOUR GUILT OF THE CHARGES FOR WHICH
14 YOU ARE BEING TRIED IN THIS COURTROOM NOW, DO YOU
15 UNDERSTAND YOUR RIGHT TO TESTIFY OR YOUR CONSTITUTIONAL
16 RIGHT TO REMAIN SILENT, AND ANY PRIOR RECORD YOU MAY HAVE
17 AND HOW THEY WOULD BE USED IN THE COURTROOM, DO YOU FULLY
18 UNDERSTAND THAT MR DUNHAM?

19 MR DUNHAM YES SIR

20 THE COURT HAVE YOU FULLY DISCUSSED WITH YOUR
21 ATTORNEY BEFORE TODAY AND TODAY DURING THIS BREAK WHETHER
22 OR NOT YOU WANT TO TESTIFY OR NOT?

23 MR DUNHAM YES SIR

24 THE COURT HAVE YOU PERSONALLY MADE A DECISION IN
25 THIS CASE?

1 **MR DUNHAM** YES SIR

2 **THE COURT** WHAT IS YOUR DECISION?

3 **MR DUNHAM** I WON'T TESTIFY

4 **THE COURT** YOU ARE NOT GOING TO TESTIFY

5 **MR DUNHAM** YES SIR

6 **THE COURT** OK THANK YOU WE DON'T HAVE AN OFFICER
7 HERE NOW DO WE?

8 **MR DAVIS** IF I CAN JUST CALL MY INVESTIGATOR BACK
9 IN THE COURTROOM JUDGE EVIDENTLY DETECTIVE BUNCE IS NOW
10 WORKING AT A HIGH SCHOOL AND HE'LL DRIVE AS QUICKLY AS HE
11 CAN ABOUT SIX MINUTES BEFORE NOON THE OFFICER WAS
12 INSTRUCTED TO COME TO THIS COURTROOM I HAVE NOT SEEN
13 THE OFFICER YET, AND OFFICER KINSEY, WE ARE TRYING TO
14 MAKE CONTACT NOW

15 **THE COURT** WELL I CAN GIVE THE JURY A BREAK NOW I
16 DON'T KNOW HOW LONG IT TAKES HIM, SOME OF THEM WERE LATE
17 COMING BACK YESTERDAY I CAN GIVE THEM ABOUT 20 MINUTES
18 OR 30 MINUTES WE'LL START BACK AT 1 30 WE'LL BE
19 FINISHED BY THE TIME WE DRAW THE JURY AT 2 00 FOR THAT
20 NEXT CASE

21 **SOLICITOR WILSON** WILL WE CLOSE AFTER YOU DRAW YOUR
22 OTHER JURY?

23 **THE COURT** WE COULD DO THAT WOULD THAT SUIT YOU?

24 **SOLICITOR WILSON** SURE

25 **THE COURT** ARE THEY GOING TO DRAW THE JURY IN THE

1 OTHER CASE?

2 SOLICITOR WILSON AS FAR AS I KNOW THEY ARE IF NOT
3 I HOPE WE CAN DRAW OUR OTHER JURY

4 THE COURT WE HAVE A PANEL COMING IN AT TWO O'CLOCK
5 WHAT I'LL DO THEN IS BRING THE JURY BACK 1 30 TO FINISH
6 AND THEN WE'LL TAKE THE TESTIMONY AFTER THAT I WILL
7 SELECT THE JURY IN THE OTHER CASE

8 JURY IN (11 59 A M)

9 THE COURT LADIES AND GENTLEMEN IT APPEARS THAT WE
10 MOVED A LITTLE FASTER THAN ANTICIPATED, AND WE'VE GOT
11 THREE MORE OFFICERS OR FOUR MORE OFFICERS THAT MAY
12 TESTIFY SO I'M GOING TO LET Y'ALL GO AHEAD AND COME
13 BACK AT ONE THIRTY TO MAKE SURE THEY ARE HERE, AND I
14 TALKED TO BOTH SIDES AND I DON'T THINK THAT IT WILL BE
15 VERY LONG AND WE'LL GET THE TESTIMONY IN, CLOSING
16 ARGUMENTS, AND CONCLUDE THIS MATTER TODAY SO IF Y'ALL
17 WILL BE BACK AT ONE THIRTY DO NOT DISCUSS THE CASE WITH
18 ANYONE THANK YOU SO MUCH

19 JURY BREAK (12 01 P M)

20 THE COURT WE WILL BE IN RECESS UNTIL 1 30

21 BACK ON (1 43 P M)

22 MR DAVIS JUDGE WE'VE GOT A NEW DEVELOPMENT I
23 TALKED WITH TWO OF THE OFFICERS ALREADY DURING THE BREAK
24 AND WE TALKED TO MY CLIENT AGAIN BASED ON THE KIND OF
25 TESTIMONY THAT WE HAD WE DECIDED NOT TO PRESENT A CASE

1 SO WE WILL NOT BE PRESENTING A CASE

2 DEFENSE RESTS (1 48 P M)

3 THE COURT ALRIGHT Y'ALL READY TO PRESENT CLOSING
4 ARGUMENTS?

5 SOLICITOR WILSON YES SIR

6 THE COURT YOU NEED TO DO ANYTHING BEFORE WE START?

7 SOLICITOR WILSON I GOT IT ALL DONE I'M READY

8 THE COURT OK YOU GO FIRST AND HE GOES LAST ANNE
9 SUMNER IS THE FOREPERSON THE FORM FOR THE VERDICT WOULD
10 BE GUILTY OF MURDER OR NOT GUILTY

11 THE BAILIFF JURORS ARE ALL PRESENT YOUR HONOR

12 THE COURT LADIES AND GENTLEMEN THE ATTORNEYS HAVE
13 INFORMED ME THEY ARE PEADY TO MAKE THEIR CLOSING
14 ARGUMENTS

15 SOLICITOR WILSON YOU KNOW THIS IS THE STATE V
16 MICHAEL DUNHAM THIS IS NOT THE STATE V MICHAEL JETER
17 TODAY IS NOT MICHAEL JETER'S DAY IT'S THE DEFENDANT'S
18 DAY, MICHAEL DUNHAM'S DAY YOU SHOULDN'T CONCEPN
19 YOURSELF ABOUT THE EVIDENCE AGAINST MICHAEL JETER
20 CERTAINLY THERE HAS BEEN A LOT OF TESTIMONY ABOUT HIM
21 WHAT YOU ARE CONCERNED ABOUT IS THE EVIDENCE IN THIS
22 CASE YOU ARE CONCERNED ABOUT WHAT HAPPENED ON DECEMBER
23 13, 2004 YOU ARE THE FINDERS OF THE FACTS, YOU ARE THE
24 JURORS OF THE FACTS THE JUDGE IS GOING TO GIVE YOU LAW
25 HE'S GOING TO TELL YOU ABOUT THE ELEMENTS OF THE CRIME



**CHARLESTON COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATIONS DIVISION**

PHOTOGRAPHIC LINEUP INFORMATION SHEET

Date 12-04-04 OCA # 2004-027539-B
Victim Anthony Gambrell Offense Murder
Suspect Jeter

Mr Mrs Ms Aldrensa Brown, the 6 photos that I am
about to show you are placed in no special order The person (s) that committed
the murder may or may not be among these photos
Please disregard any numbers or letters that may appear on these photos

Comments by person viewing the photos

Signature of person viewing photos

Signature of Detective

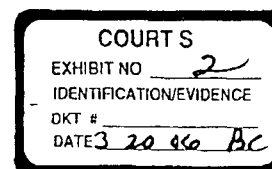
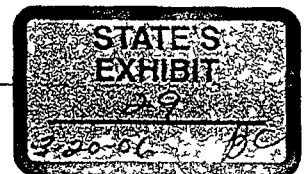
Date 12-14-04

Time

Location photos were viewed

I have received a copy of this photo line-up identification sheet

Signature of Viewer



396

413

LineUp ID idone413

Date time 12/14/2004

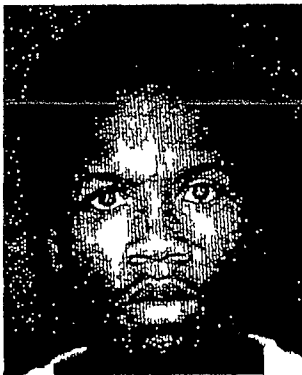
Officer LPALMER

Subject ID 0001094433

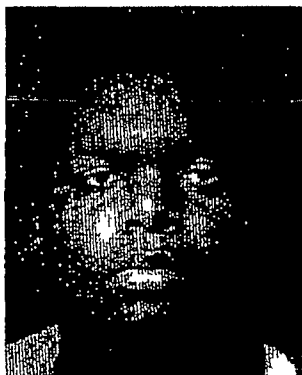
Requested By

Subject Name JETER,

*Passenger seat
had fight with*



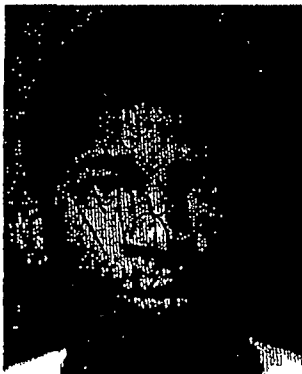
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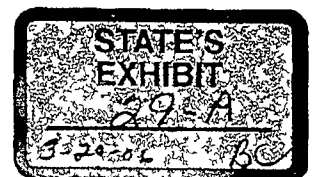
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0001170471



397





CHARLESTON COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATIONS DIVISION

PHOTOGRAPHIC LINEUP INFORMATION SHEET

Date 12-14-04 OCA # 2004-027539-B
Victim Anthony Gambrell Offense Murder
Suspect Dunham

Mr Mrs (Ms) Aldersa Brown, the 6 photos that I am
about to show you are placed in no special order The person (s) that Committed
the murder may or may not be among these photos
Please disregard any numbers or letters that may appear on these photos

Comments by person viewing the photos

She wasn't sure between #3 & #5
because she was looking at the darker
skin She thought they looked alike.

Signature of person viewing photos

Signature of Detective

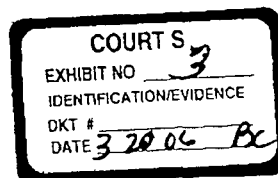
Date 12-14-04

Time 358 AM

Location photos were viewed 4724 Gaynor Avenue

I have received a copy of this photo line-up identification sheet

Signature of Viewer



398

LineUp ID idone414

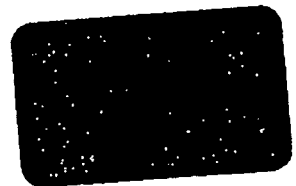
Date time 12/14/2004

Officer LPALMER

Subject ID 0001211611

Requested By

Subject Name DUNHAM,



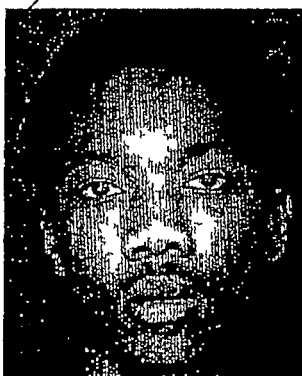
0001058822



0001071267



0000615400



LineUp ID idone414

Date time 12/14/2004

Officer LPALMER

Subject ID 0001211611

Requested By

Subject Name DUNHAM,



COURT S	
EXHIBIT NO	4
IDENTIFICATION/EVIDENCE	
DKT #	
DATE	3-20-06 BC



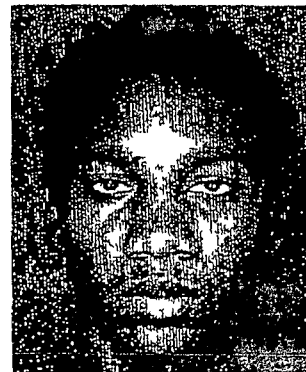
0001058822



0001071267



0000615400



400

417



**CHARLESTON COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATIONS DIVISION**

PHOTOGRAPHIC LINEUP INFORMATION SHEET

Date 12-14-04 OCA # 2004-027539-B
Victim Anthony Gambrell Offense Murder
Suspect Jacques

Mr Mrs Ms _____, the 6 photos that I am
about to show you are placed in no special order The person (s) that committed
the murder may or may not be among these photos
Please disregard any numbers or letters that may appear on these photos

Comments by person viewing the photos

Signature of person viewing photos _____

Signature of Detective _____

Date _____ Time _____

Location photos were viewed _____

I have received a copy of this photo line-up identification sheet

Signature of Viewer

401



LineUp ID idone416

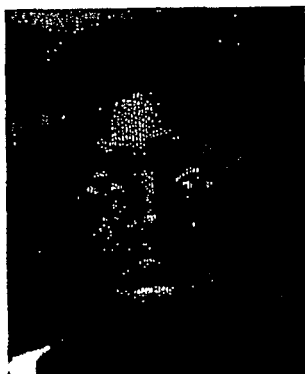
Date time 12/14/2004

Officer LPALMER

Subject ID 0001179410

Requested By

Subject Name JACQUES,



0001175733



0001175658



0001114328



0001179410



0000885245



0001096281

Date _____ Time _____

Location photos were viewed _____

I have received a copy of this photo line-up identification sheet

Signature of Viewer

402



HR 48 2-14-06



**CHARLESTON COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATIONS DIVISION**

PHOTOGRAPHIC LINEUP INFORMATION SHEET

Date 12-04-04 OCA # 2004-027539-B
Victim Anthony Gambrell Offense Murder
Suspect Lennon

Mr Mrs Ms _____, the 6 photos that I am
about to show you are placed in no special order The person (s) that committed
the murder may or may not be among these photos
Please disregard any numbers or letters that may appear on these photos

Comments by person viewing the photos

Signature of person viewing photos _____

Signature of Detective _____

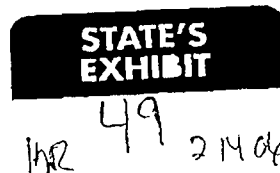
Date _____ Time _____

Location photos were viewed _____

I have received a copy of this photo line-up identification sheet

Signature of Viewer

403



LineUp ID idone415

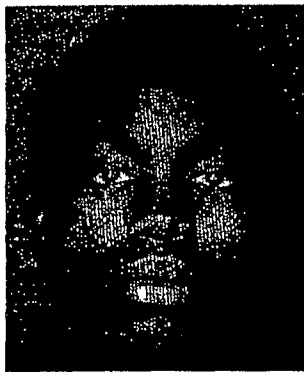
Date time 12/14/2004

Officer LPALMER

Subject ID 0001153688

Requested By

Subject Name LEMON,



0001198596



0001121960



0001057819



0001161732



0001153688



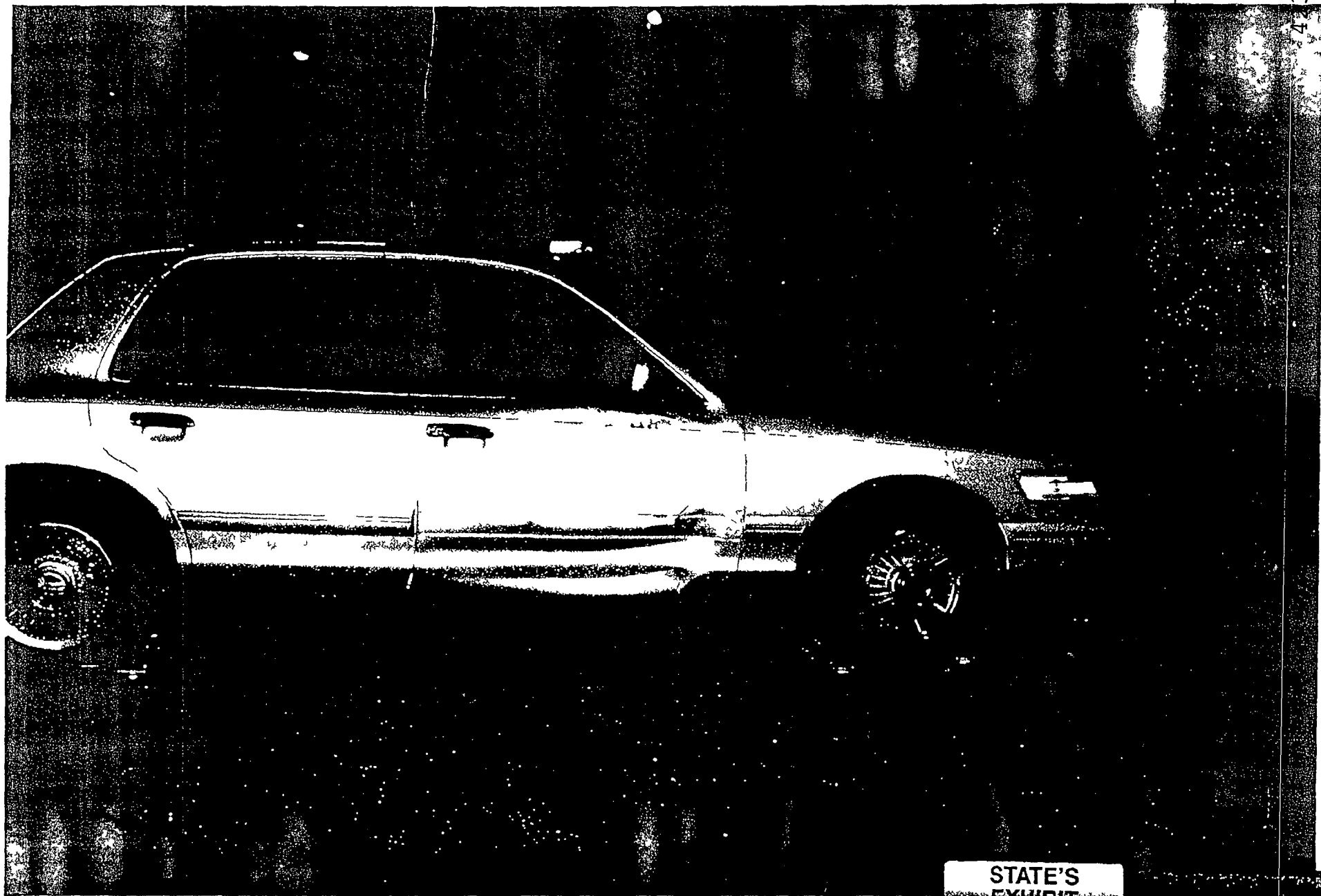
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404

421



STATE'S
EXHIBIT
349 1BC

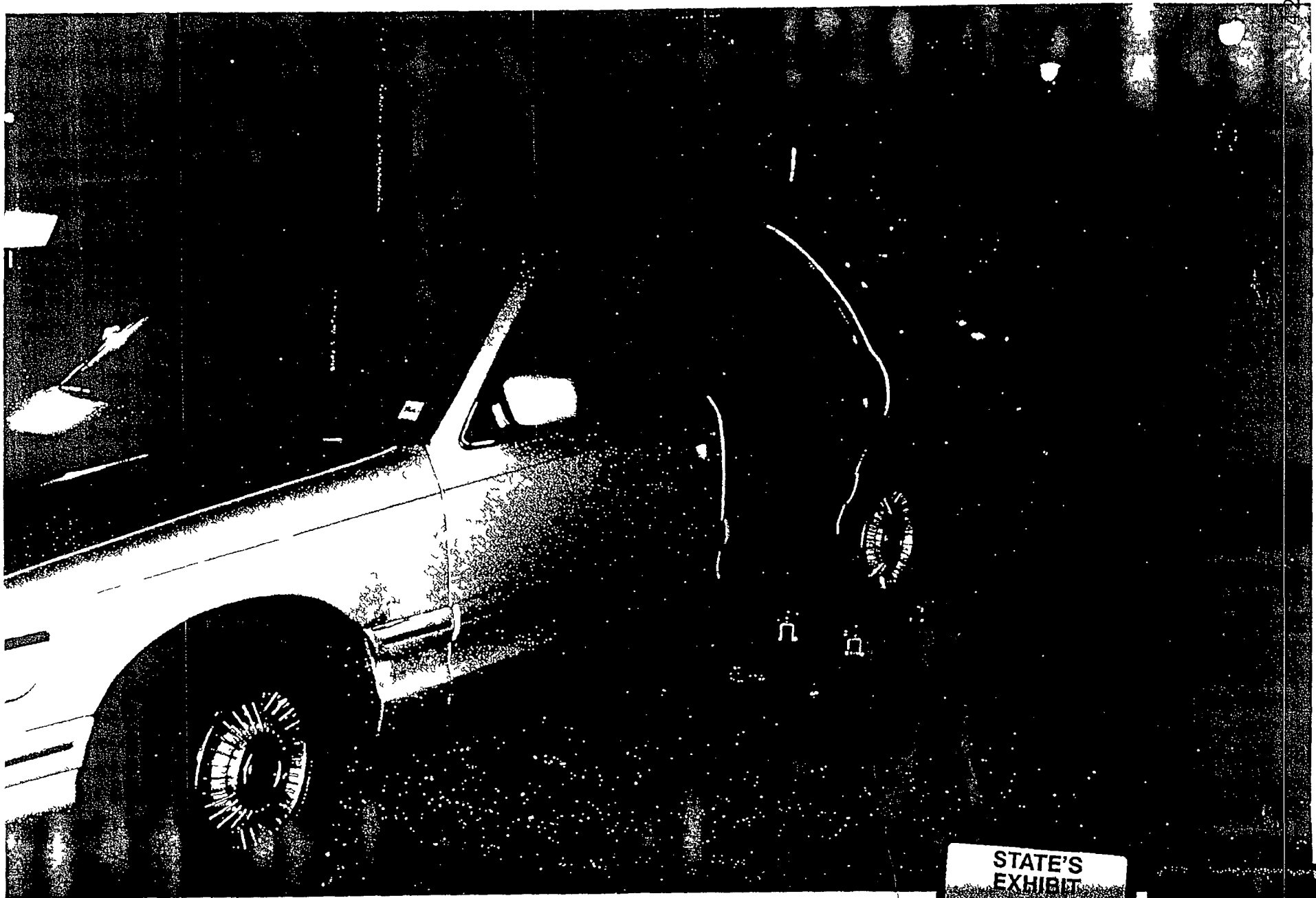


STATE'S
EXHIBIT
9
5-20-66 JPL

107



STATE'S
EXHIBIT
1/1



STATE'S
EXHIBIT

406

5

Fraud Manager for Telecommunications

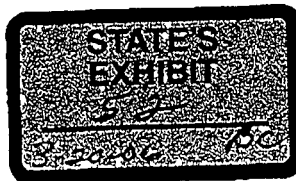
Call Detail Records

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1	mr bch	M014 -0100	8433455430	7064499131	8433455430	Dec 14 2004 10 46 47 AM	Dec 14 2004 10 47 36 AM	0 82
2	mr bch	M014 0100	8435758903			Dec 14 2004 10 44 19 AM	Dec 14 2004 10 44 50 AM	0 52
3	mr bch	M014 -0100	8432142199			Dec 14 2004 8 11 08 AM	Dec 14 2004 8 11 34 AM	0 43
4	mr bch	M028 0100	8433712717			Dec 14 2004 12 44 32 AM	Dec 14 2004 12 44 48 AM	0 27
5	mr bch	M028 -0100	8433455430	7064499131	8433455430	Dec 14 2004 12 04 56 AM	Dec 14 2004 12 05 18 AM	0 37
6	mr bch	M028 -0100	8433455430	8432071662	8432071662	Dec 14 2004 12 04 24 AM	Dec 14 2004 12 04 46 AM	0 37
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16	mr bch	M014 -0100	8433455430	8438175540	8438175540	Dec 13 2004 6 12 02 PM	Dec 13 2004 6 27 31 PM	15 48
17	mr bch	M014 -0100	8433455430	8434996335	8434426026	Dec 13 2004 6 05 37 PM	Dec 13 2004 6 09 45 PM	4 13
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27	mr bch	M014 -0100	8433455430	8438221746	8438221746	Dec 13 2004 4 49 54 PM	Dec 13 2004 4 50 03 PM	0 15
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29	mr bch	M014 0100	8433455430	8438193436	8438193436	Dec 13 2004 4 35 42 PM	Dec 13 2004 4 35 56 PM	0 23
30	mr bch	M014 0100	8433455430	8438193436	8438193436	Dec 13 2004 4 33 10 PM	Dec 13 2004 4 33 20 PM	0 17
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Page 1 (1) Total 33

Created by dide @ Dec 21 2004 10 45 21 AM

RULE 5



2/14/06 52 Mew

0239

409

Subsc | ns Active | Expired 0

Acct Nbr	Effective	Expiration	Name
1043145-5430	06/17/2004		RAYSHAWN GREEN

Personal Information

Account | Mailing | Taxing | Auth User | Subscrip

Customer RAYSHAWN GREEN
 4059 W MONTAGUE AVE LOT 20
 NORTH CHARLESTON SC 29418 5655
 Credit Class L3
 SSN 110-68 5252

Contact information

HOME (843) 207 1662
 WORK (843) 557 9060

Account 1003390104



CSA CHRLSTN_SA Cycle 7

Status ACTIVE

Established 06/17/2004

Type INDIVIDUAL ACCT

Billing Information

Last Payment
 12/17/2004 \$86 00

Receivables

Current bal \$48 98

Description Information

CSA CHRLSTN_SA Type INDIVIDUAL ACCT
 Acct Nbr (843) 345 5430 Channel Type PCS
 Activation 06/17/2004 Contract Info
 ESN 03807091493 Contract length 24 MONTH
 Sales 2100T Anniversary 6/17/2006
 Protected

Configured Services

☒ Current ☐ Expired ☐ All [Configure Services](#)

+ PCS UNPLAN RR2YR ACT (06/17/2004)
 24 MONTH CONTRACT (06/17/2004)
 DEPOSIT (06/17/2004)
 NO DETAIL BILLING (06/17/2004)
 3WAY CALLING (06/17/2004)
 CALLER ID DISPLAY (06/17/2004)
 CALLWAITING (06/17/2004)
 ENHANCED VM (06/17/2004)
 SMS MOBILE TERM (06/17/2004)
 ACTIVATION FEE (06/17/2004)

CCT

TicketID	Actionable	NonActionable	Reason Code	Diagn
00000059943631		Payment	Cash Payment	12/17/2004 10 28 14 AM payment id Custom

Activation | Account Maint | Subscrip Maint | Invoice | Customer Search |

410 0240

427

RULE 5

Company Name

Attention

Billing VICTORIA MARTIN
1251 SUMNER AVE

NORTH CHARLESTON
SC 294063863

Alternate VICTORIA MARTIN
1251 SUMNER AVE

NORTH CHARLESTON
SC 294063863

Contact Name VICTORIA MARTIN
Home Phone (843) 529-1581
Work Phone (843) 529-1581 Ext

Responsibility SSN 250-75-0335
D O B 09/19/1979 9-19 88
Drivers License 222222222222222
Drivers License State SC

Balance Current Due 0 00
Past Due 0 00
Total Due 0 00
Bypass Months 0
Late Payment Waiver No
Automatic Credit Refund No

Bill Bill Media P - PAPER ONLY
Number of Bills 1
Mail Bill No

Agent Agent Code 1441
Retail Code 1441
Sales Rep P46630
Major Account Rep

Account Account Rate Plan
Bill Cycle 03
Credit Class P
Treatment Code Z
Customer Class
Account Discount
Account Type Prepaid cellular service
National Account
Common Account
Language Preference English
Current Status New

RULE 5



2/14/00 53 maw

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FROM CINCULAR WIRELESS COURT ORDERS

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PPU Address Use- VICTORIA MARTIN
 1251 SUMNER AVE
 NORTH CHARLESTON
 SC 294063863

Agent Agent Code 1441
 Retail Code 1441
 Sales Rep P46630

Deposit Group Amount Received 0 00
 Date Received 10/02/2004
 Amount Returned 0 00
 Date Returned

Status Group Status Active
 Transfer Date
 In Service Date 10/02/2004
 Active Date
 Active Date Reason
 Inactive Date
 Inactive Date Reason

Recycle Date
 Reserved Date
 Reserved Reason

Contact Group SSN 250-75-0335
 Phone (843) 529-1581
 D O B 09/19/1979
 Drivers License 2222222222222222
 Drivers License State SC

Service Group Service Type Cellular
 Lock Code
 Owner Type Purchase

Long Distance Carrier CINGULAR LD-5475

Phone Group Manufacturer
 Model T237
 Phone Type Mobile
 Rental Flag No
 Rental Return Date

Miscellaneous Group Misc 1
 Misc 2
 Corporate Code
 Language Preference 10/02/2004
 Application Date

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FROM CINGULAR WIRELESS COURT ORDERS

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Call and Service History Reporter

MSISDN	18438193436	Master MSISDN	18438193436
Sort By	Call Date/Time	Home City	South Carolina Undefined Undefined
From Date	12/13/04	To Date	12/13/04
		Status	Active

Number of Calls 64

Call and Service Detail History

#	Call Type	Service Type	Call Date/Time Time Zone	Call Location	Serving Area	City Called	State	Calling Number	Number Called	Serving Carrier	Call Duration	Volume	# of Event	MA Balance Before	DA Balance Before	Total Cost/ MA Balance After	DA Balance After / Dedicated Account #	MSISDN	IMSI	II
1	MT	LD	2004 12 13 19 00 32 05 00	CA USA	0		SC	18438144988			7	0	0	0 30		0 30 / 0 00	/	18438193436	Unknown	Unkn
2	MT	LD	2004 12 13 18 41 20 -05 00	CA USA	0		SC	18432077980			5	0	0	0 60		0 30 / 0 30	/	18438193436	Unknown	Unkn
3	MO	LD	2004 12 13 17 49 20 -05 00	CA USA	0		SC		18437290396		57	0	0	0 90		0 30 / 0 60	/	18438193436	Unknown	Unkn
4	MT	LD	2004 12 13 17 06 08 05 00	CA USA	0		SC	18435575012			9	0	0	1 20		0 30 / 0 90	/	18438193436	Unknown	Unkn
5	CF	LD	2004-12 13 17 02 43 05 00	Home	0		NC	18438144988	17044518989		9	0	0	1 20		0 00 / 1 20	/	18438193436	Unknown	Unkn
6	MT	LD	2004 12 13 17 02 37 -05 00	CA USA	0		SC	18438144988			0	0	0	1 20		0 00 / 1 20	/	18438193436	Unknown	Unkn
7	MT	LD	2004 12 13 16 58 00 05 00	CA USA	0		SC	18438144988			20	0	0	1 50		0 30 / 1 20	/	18438193436	Unknown	Unkn
8	MO	LD	2004 12 13	CA USA	0		SC		18433455430		40	0	0	1 80		0 30 /	/	18438193436	Unknown	Unkn

FROM CINGULAR WIRELESS COURT ORDERS
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FROM CINGULAR WIRELESS COURT ORDERS

(WED) 1 12 05 20 34/ST 19 39/NO 4863780787 P 9

38	MT	LD	2004 12 13 13 45 04 05 00	CA USA	0		SC	18434781859			0	0	0	7 50		0 00 / 7 20	/	18438193436	Unknown	Unk
39	MT	LD	2004 12 13 13 44 39 05 00	CA USA	0		SC	18437290396			10	0	0	7 50		0 30 / 7 20	/	18438193436	Unknown	Unk
40	MT	LD	2004 12 13 13 28 19 05 00	CA USA	0		SC	18432095871			54	0	0	7 80		0 30 / 7 50	/	18438193436	Unknown	Unk
41	MT	LD	2004 12 13 13 09 39 05 00	CA USA	0		SC	18437290396			95	0	0	8 40		0 60 / 7 80	/	18438193436	Unknown	Unk
42	CF	LD	2004 12 13 12 55 26 -05 00	Home	0		NC	18435575012	17044518989		10	0	0	8 40		0 00 / 8 40	/	18438193436	Unknown	Unk
43	MT	LD	2004 12 13 12 55 04 05 00	CA USA	0		SC	18435575012			0	0	0	8 40		0 00 / 8 40	/	18438193436	Unknown	Unk
44	CF	LD	2004 12 13 12 04 33 05 00	Home	0		NC	18432255727	17044518989		15	0	0	8 40		0 00 / 8 40	/	18438193436	Unknown	Unk
45	MT	LD	2004 12 13 12 04 27 05 00	CA USA	0		SC	18432255727			0	0	0	8 40		0 00 / 8 40	/	18438193436	Unknown	Unk
46	MT	LD	2004 12 13 11 35 38 -05 00	CA USA	0		SC	18435543993			11	0	0	8 70		0 30 / 8 40	/	18438193436	Unknown	Unk
47	CF	LD	2004 12 13 10 04 46 05 00	Home	0		NC	18435575012	17044518989		8	0	0	8 70		0 00 / 8 70	/	18438193436	Unknown	Unk
48	MT	LD	2004 12 13 10 04 13 -05 00	CA USA	0		SC	18435575012			0	0	0	8 70		0 00 / 8 70	/	18438193436	Unknown	Unk
49	CF	LD	2004-12 13 03 06 27 -05 00	Home	0		NC	18438193436	17044518989		57	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk
50	MT	LD	2004 12 13 03 06 27 05 00	CA USA	0		SC	18438193436			0	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk
51	MO	LD	2004 12 13 03 06 24 05 00	CA USA	0		SC		18438193436		61	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk

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FROM CINGULAR WIRELESS COURT ORDERS

01 P 07 20 35/ST 19 39/NO 48693780787

52	MT	LD	2004 12 13 03 03 48 05 00	CA USA	0		SC	18438193 36			0	0	0	9 70		0 00 / 9 70	/	184 81 13		
53	CF	ID	2004 12 13 03 03 47 -05 00	Home	0		NC	18438193436	17044518989		155	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk
54	MO	LD	2004 12 13 03 03 44 05 00	CA USA	0		SC		18438193436		159	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk
55	CF	LD	2004 12 13 03 02 56 05 00	Home	0		NC	18438193436	17044518989		36	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unk
56	MT	LD	2004-12 13 03 02 56 05 00	CA USA	0		SC	18438193436			0	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkr
57	MO	LD	2004 12 13 03 02 53 -05 00	CA USA	0		SC		18438193436		40	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
58	MO	LD	2004 12 13 02 50 17 -05 00	CA USA	0		SC		18432146781		33	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
59	MO	LD	2004 12 13 01 52 46 05 00	CA USA	0		SC		18438198443		130	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
60	CF	LD	2004 12 13 01 17 30 -05 00	Home	0		NC	18435575012	17044518989		131	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
61	MT	LD	2004 12 13 01 17 21 05 00	CA USA	0		SC	18435575012			0	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
62	MT	LD	2004 12 13 01 07 53 -05 00	CA USA	0		SC	18435579576			199	0	0	9 70		0 00 / 9 70	/	18438193436	Unknown	Unkn
63	CF	LD	2004 12 13 00 13 03 05 00	Home	0		NC	18438196139	17044518989		13	0	0	9 75		0 00 / 9 75	/	18438193436	Unknown	Unkn
64	MT	LD	2004 12 13 00 12 47 05 00	CA USA	0		SC	18438196139			0	0	0	9 75		0 00 / 9 75	/	18438193436	Unknown	Unkn