

 ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

John C. Hayes III, Circuit Court Judge

Case Nos. 2021-GS-46-03888, 2012-GS-46-03889, 2012-GS-46-03890

The State,

Respondent,

v.

Kairon Brenton Maldonado,

Appellant.

Appellate Case No. 2013-000684

RECORD ON APPEAL

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) Court of York
)
) Case No.: 2012-GS-46-03888
) 2012-GS-46-03889
) 2012-GS-46-03890
) 2012-GS-46-03890 (A)
 County of York.)

State of South Carolina.,)
)
 Plaintiff.,)
)
 -vs-) Transcript of Record
)
 Kairon Brenton Maldonado.,)
)
 Defendant.)
 _____)
 March 18-20, 2013
 York, South Carolina

B E F O R E:

Honorable John C. Hayes, III., Judge, and a jury.

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3				
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7	St.3	Disclaimer Form	P.49	P.158
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1 (COURT IN SESSION IN THE MATTER OF STATE V. KAIRON
2 BRENTON MALDONADO, MONDAY, MARCH 18, 2013 AT 02:39 P.M..)

3 THE COURT: Thank you. You may take your seats.

4 SOLICITOR SPRINGS: May it please the court.

5 THE COURT: Yes, sir.

6 SOLICITOR SPRINGS: Your Honor, the next matter for
7 this Honorable Court is the trial of Kairon Brenton
8 Maldonado. I am holding three indictments True Billed by
9 the York County Grand Jury.

10 Your Honor, on the first one there are two counts.
11 The first count is attempted armed robbery; the number is
12 2012-GS-46-3890.

13 The second count is possession of a firearm during a
14 violent crime. I have dismissed, nolle prossed, possession
15 of a firearm during a violent crime. On that indictment
16 you'll see my handwriting on the indictment. I am
17 dismissing just that, the possession of a firearm; we're
18 not proceeding to trial on that, we're proceeding to trial
19 on attempted armed robbery on that indictment.

20 We have a criminal conspiracy on 2012-GS-46-3889 and
21 we have attempted murder on 2012-GS-46-3888. Mr. Kairon
22 Maldonado is present here in the courtroom with his
23 appointed counsel, Mr. Michael Brown.

24 Mr. Brown, how does he plead to those charges, sir?

25 MR. BROWN: Not guilty.

1 SOLICITOR SPRINGS: Your Honor, we met in chambers; I
2 think we agreed we were gonna go ahead and pick the jury
3 and send them back to wait while we do the pretrial.

4 THE COURT: All right. Do we have any voir dire and
5 jury lists from either or both sides?

6 SOLICITOR SPRINGS: Yes, sir.

7 (PAPERWORK RECEIVED UP BY THE COURT.)

8 (SIDE BAR CONFERENCE OFF THE RECORD.)

9 THE COURT: Are you ready for the jury?

10 SOLICITOR SPRINGS: The State's ready.

11 Your Honor, on the attempted armed robbery indictment,
12 will the Court draw an X through possession of a firearm
13 charge just to make sure that none of us refer to it?

14 THE COURT: Okay.

15 (PAUSE.)

16 MR. BROWN: Clarification on the strikes.

17 SOLICITOR SPRINGS: Ten and Five.

18 THE COURT: Five for the State, ten for the defense.

19 (JURY ENTERS COURTROOM AT 02:50 P.M..)

20 THE COURT: Good afternoon. I'm John Hayes and along
21 with Judge Cothran I'm assigned to hold court here this
22 week. I'm a circuit court judge just like Judge Cothran.
23 I'm from here in York County, a Rock Hill native. We are
24 starting the first trial for the week; it is the case of
25 Kairon Maldonado.

1 MADAME COURT REPORTER: Judge, I'm sorry, Judge.

2 THE BAILIFF: We got one more, he's on his way up.

3 THE COURT: Okay.

4 (PAUSE.)

5 THE COURT: As I was saying, I'm John Hayes. I along
6 with Judge Cothran am holding court here this week. We're
7 starting the trial, the first case for trial in this
8 courtroom is the *State versus Kairon, K-a-I-r-o-n, Brenton*
9 *Maldonado*.

10 Mr. Maldonado if you could stand up and let the jury
11 see who you are, turn around and face them.

12 (MR. MALDONADO STOOD)

13 THE COURT: This is Mr. Maldonado, he is represented
14 by Michael Brown.

15 And do you want to introduce who else you have at your
16 table with you?

17 MR. BROWN: This is Sam Lovell my private investigator
18 from York County.

19 (ATTORNEY BROWN AND DEFENDANT SAT DOWN.)

20 THE COURT: All right. And the State is represented
21 by Mr. EB Springs and I'll ask him to introduce who he has
22 at his table with him.

23 SOLICITOR SPRINGS: This is Detective Allen Cantey and
24 every now and then my secretary Amy will sit right back
25 there and help me with this computer because I'm not too

1 good with computers.

2 (SOLICITOR AND HIS STAFF SAT DOWN.)

3 THE COURT: Mr. Maldonado is charged with several
4 offenses. One is attempted armed robbery; criminal
5 conspiracy and attempted murder. This is alleged to have
6 occurred on or about July 25th of 2012, at a discount store
7 at the intersection of West Main and Cherry Road across
8 from - catty cornered from York County Natural Gas is where
9 this allegedly occurred.

10 It's alleged that at that time Mr. Maldonado along
11 with Kadeem Sanders attempted to rob that store, and they
12 did conspire with each other to do so, and during the
13 attempted robbery or - the victim Vipul Patel was shot by a
14 rifle.

15 To this set of charges, Mr. Maldonado has entered
16 pleas of not guilty. His pleas of not guilty is placed on
17 the State the burden of proving his guilt beyond a
18 reasonable doubt.

19 I have some questions to ask you. If you need to
20 respond to them, as I go through them just please stand,
21 and we'll have a dialogue with you from up here.

22 First, are any of you related by blood or marriage, or
23 are you a close personal friend or acquaintance of any of
24 the five individuals to whom you've just been introduced;
25 if so, please stand?

1 alternates will sit in the two seats they are in now.
2 There is no other assigned seating.

3 I'm gong to let you go to the jury room while we
4 take up some legal matters and when you come back I'll have
5 a few more things to talk to you about and then I'll call
6 on the attorneys and let them make opening statements.

7 If you'll go to the jury room at this time.

8 (PETIT JURY EXITS COURTROOM AT 03:30 P.M..)

9 THE COURT: We have a Neal versus Biggers matters and
10 then --

11 SOLICITOR SPRINGS: Yes, I'm gonna do two short
12 Jackson v. Denno's and then I have two short pretrial
13 motions of my own.

14 THE COURT: Okay.

15 SOLICITOR SPRINGS: And, Mr. Vipul Patel, if you'll
16 come on up, sir.

17 MR. BROWN: Your Honor, at this time and through out
18 this trial, and through the motions, I move for
19 sequestration of the witnesses.

20 THE COURT: All right. Motion is granted. It will be
21 reciprocal; witnesses will be sequestered except for the
22 case agent and of course the victim.

23 SOLICITOR SPRINGS: So everybody else that's going to
24 be a witness, and that's everybody out, you need to wait
25 out in the hall; however, there are a couple of rooms out

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-28-

1 there.

2 Come on up here, Mr. Patel, and there is a Bible and
3 you can be sworn on the Bible or you can affirm to tell
4 the truth; whatever your choice.

5 MADAME CLERK: Raise your right hand, put your left
6 hand on the Bible.

7 (WHEREUPON: VIPUL PATEL,
8 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

9 MADAME CLERK: Please have a seat.

10 DIRECT EXAMINATION - IN CAMERA

11 VIPUL PATEL BY SOLICITOR SPRINGS:

12 Q. Mr. Patel, you have a soft voice. I'm going to ask
13 you to speak into the microphone. Tell everyone your name,
14 sir.

15 A. My name is Vipul Chhanalal Patel.

16 Q. And did you and your mother own a convenience store?

17 A. Yes, sir.

18 Q. What's the name of the convenience store?

19 A. Cherry Road Discount Food and Beverage.

20 Q. Okay. And how long have you owned the store?

21 A. It's been sixteen years.

22 Q. On July 25th, the night of July 25th last year, a
23 Wednesday night, did something bad happen to you?

24 A. Yes, sir.

25 Q. Did you get shot?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-29-

1 A. I was shot.

2 Q. Okay. The sixteen years that you've had that store,
3 would you call it a neighborhood store?

4 A. Yeah.

5 Q. A lot of people?

6 A. The same customers I see a lot of times.

7 Q. Okay. And over the sixteen years have you seen young
8 people who are customers who come in and grow and become
9 teenagers or older?

10 A. Yeah they do. I've got a lot of teenagers.

11 Q. Okay. Let's talk about the night of July 25th last
12 year when you got shot. What time was the store going to
13 close that night?

14 A. We close the store at eleven o'clock.

15 Q. Okay. A little before eleven, ten, eight minutes
16 before eleven, did someone enter the store?

17 A. Yeah. Two young kids entered the store.

18 Q. Okay. And did they come in slowly or did they rush
19 in?

20 A. They rush in.

21 Q. Okay. And are you - When you say kids, do you mean
22 toddlers or teenagers?

23 A. No, the teenagers.

24 Q. Okay. And was it unusual for you to have teenagers
25 come into the store?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-30-

1 A. No.

2 Q. And have people run in excitedly into the store
3 before?

4 A. Yeah. I have a lot of young customers.

5 Q. So when these two, you say they are teenagers type
6 age?

7 A. Yeah, teenagers.

8 Q. When they came in quickly, did it frighten you or did
9 you think oh, it's just kids?

10 A. No. It's like a lot of kids come so I didn't think
11 about it.

12 Q. Okay. Tell us where - There were two, did they stay
13 right together or did they separate after they got through
14 the door?

15 A. No. One was near the front door and another came near
16 the counter door.

17 Q. Okay. And as you're standing behind your cash
18 register, the counter door that allows you to enter in
19 behind the cash register, is it to your right or to your
20 left?

21 A. To my left. The counter is on the right and the front
22 door is on the left.

23 Q. It's a swinging door?

24 A. Yeah, a swinging door.

25 Q. Did one come around to that door?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-31-

1 A. Yeah. One came around to the counter door.

2 Q. Okay. And your attention, was your attention focused
3 primarily on the fellow that stayed by the front door
4 or the fellow that came around to your counter door?

5 A. Counter door.

6 Q. Okay. And what did he do when he got around there?

7 A. When he came to the counter door, he told me, "give me
8 the money".

9 Q. Okay. And did that bother you? Concern you?

10 A. Yeah. I thought he - Like I was sitting on the chair
11 and I stood up and told him to move out from the counter
12 door.

13 Q. Okay. Before he told you to give him the money, did
14 he try to come in before --

15 A. Yeah. He was trying to come in the counter door. I
16 thought he might come inside so I just stood up near the
17 counter door.

18 Q. Okay. How close was he to you? I'm going to walk
19 towards you and when I get the distance he was to you, when
20 he was first trying to come in, tell me to stop. Do you
21 understand?

22 A. Yeah.

23 Q. Okay.

24 A. Stop.

25 Q. Okay. Now, do you have good eye sight?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-32-

1 A. Yeah.

2 Q. And did you look at his face?

3 A. Yeah. I can see pretty - almost most of his face.

4 Q. And when you saw his face, did you recognize him?

5 A. Yeah. As a customer.

6 Q. Okay. Had you seen him just one time before or more
7 than one time before?

8 A. No. I've seen him several times.

9 Q. Okay. And his - How much of his face could you see?
10 All of it or half of it, how much?

11 A. Almost the whole face.

12 Q. Okay. All right.

13 A. Because he had a hoodie on at the time so I can see
14 almost that much.

15 Q. Okay. All right. So when he tried to get through the
16 swinging door the first time, did you motion him back or
17 tell him to move back?

18 A. Yeah. I told him to get out and move back and he
19 moved a little bit.

20 Q. Did he come back?

21 A. No. He moved back a little.

22 Q. All right. After he moved back did he come back
23 towards you?

24 A. Yeah. He was doing back and forth.

25 Q. Okay. And when did he say, give me the money?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-33-

1 A. When I was sitting - When I stood up and he came on
2 the counter side. After a few seconds he told me, "give me
3 the money".

4 Q. Okay. Now did you know there was a man standing by
5 the door holding a rifle?

6 A. Mainly my eyes was on the counter side man because,
7 you know, he was trying to come in so I didn't pay
8 attention on the front side.

9 Q. You had not seen the rifle?

10 A. No. I didn't see no rifle.

11 Q. Do you have displays where you have gum and candy and
12 things up around the counter?

13 A. Yeah. It blocked the view too.

14 Q. Okay. All right. And later after, did you get shot?

15 A. Yes.

16 Q. After you got shot, a few days later, six days later,
17 did a detective come talk to you?

18 A. Yes, sir.

19 Q. Did he show you a photographic lineup?

20 A. Yeah.

21 Q. And before he showed you the lineup, did he tell you
22 he was going to show you absolutely no doubt a picture of
23 one of the robbers or did he not? Did he just say look at
24 the pictures?

25 A. He showed me the pictures.

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

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1 Q. Okay. Did he tell you to pick somebody out?

2 A. No.

3 Q. Did you pick somebody out?

4 A. Yeah. I picked one person.

5 Q. Okay. Did you put your initials next to that picture?

6 A. Yeah I did that.

7 Q. And the guy you picked out, how did you recognize him?

8 What did he mean, what was --

9 A. Mainly he is a customer of the store so I knew him.

10 Q. Okay. Was he the guy that was trying to get behind
11 the counter ---

12 A. Yeah, behind the counter.

13 Q. --- that night? Do you see him in this courtroom?

14 A. Yeah.

15 Q. Point him out if you see him in the courtroom.

16 A. Yeah. Right there.

17 SOLICITOR SPRINGS: Let the record show he is pointing
18 to Kairon Maldonado.

19 (WITNESS INDICATED TO DEFENDANT AT DEFENSE TABLE.)

20 Q. Your store had security cameras that night?

21 A. Yes. We got camera system.

22 Q. And they have a number of cameras and they made movies
23 of this man trying to get behind the counter?

24 A. Yeah.

25 Q. And a movie showing you getting shot?

VIPUL PATEL: BY SOLICITOR SPRINGS: IN CAMERA

-35-

1 A. Yes, sir.

2 Q. Okay. And have you seen the movie?

3 A. Yeah I've seen it.

4 Q. And I'm showing you a disk, a movie disk. Is that the
5 security camera video?

6 A. Yes, sir.

7 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE PREMARKED FOR
8 IDENTIFICATION.)

9 Q. Okay. Now, we have a sticker on it now. We're now
10 going to call this disk State's Exhibit One. You've seen
11 the movie. Is it accurate? Is it what was happening in
12 the store that night?

13 A. Yes. It was same one.

14 SOLICITOR SPRINGS: Is it ready to play?

15 Q. Can you see the screen, Mr. Patel?

16 A. Yes.

17 Q. This is the disk, State's Exhibit One. We're gonna
18 play some of the clips. You had numerous cameras in the
19 store; is that right?

20 A. Yes, sir.

21 SOLICITOR SPRINGS: Play the clip for us.

22 (STATE'S EXHIBIT ONE PUBLISHED TO THE JURY.)

23 Q. Is that you?

24 A. Yeah it's me.

25 Q. Is that the two men that came in?

VIPUL PATEL: BY SOLICITOR SPRINGS
BY MR. BROWN

-36-

1 A. Yes, sir.

2 SOLICITOR SPRINGS: Stop that one and play two.

3 Q. Is that you behind the counter?

4 A. Yes, sir.

5 SOLICITOR SPRINGS: And pause it there.

6 Q. Now is that you trying to tell the man to back off?

7 A. Yeah. That's me.

8 Q. Okay. All right. So, Mr. Patel, you said you
9 recognized this man as a customer. Did you ever learn his
10 name or just knew him as a customer?

11 A. No I knew him as a customer.

12 Q. All right.

13 SOLICITOR SPRINGS: Thank you. The defense attorney
14 may want to ask you some questions at this point.

15 CROSS EXAMINATION - IN CAMERA

16 VIPUL PATEL BY MR. BROWN:

17 Q. To your recollection, Mr. Patel, was anybody else in
18 the store at the time they came in?

19 A. Excuse me?

20 Q. Was anyone else in the store at this time?

21 A. Yeah. My cousin was. There was one person. My
22 cousin, he was in the back room.

23 Q. Was there any other customers in the store?

24 A. No customer.

25 Q. No customers. Now this is July of 2012. Correct?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

-37-

1 A. July 25th, 2012.

2 Q. Was it hot then?

3 A. Yeah.

4 Q. As a matter of fact it's the heat dead of summer.

5 Correct?

6 A. Yeah. He shot me.

7 Q. Didn't you find it kind of unusual two guys come
8 running in with bandanas and hoodies on at that time of
9 year?

10 A. I thought I seen a customer coming - I seen customer
11 coming in the hot time doing that same thing.

12 Q. With hoodies and bandanas on?

13 A. I mean hoodies. You know, and all that.

14 Q. In July?

15 A. Mainly my - I didn't see another guy near the door.
16 My eyes was near the counter guy.

17 Q. I noticed in that - Let me ask you this. That whole
18 sequence of events is about five seconds long. Is it not?
19 From the time they came in until he ran out, wasn't it
20 about five seconds?

21 A. Yes. It might be long like five to nine seconds.

22 Q. Five to what?

23 A. Five to nine seconds when they came in and out.

24 MR. BROWN: Could you play back tape Number Three,
25 please.

VIPUL PATEL: BY MR. BROWN - IN CAMERA

-38-

1 A. Clip Three?

2 MR. BROWN: Please.

3 (STATE'S EXHIBIT ONE REPLAYED.)

4 MR. BROWN: Fine, thank you.

5 Q. Seven seconds.

6 A. I don't remember the seconds. What happened and what
7 I saw I told the officer.

8 Q. And you turned your head at one point and looked at
9 the guy with the gun, did you not?

10 A. I don't remember.

11 Q. You don't remember?

12 A. Because it was so fast.

13 Q. Yes, sir, it was, it did happen very fast didn't it?

14 A. Yeah.

15 Q. And when you saw the gun, did that get you scared?

16 A. I didn't see the gun. I was concentrating mainly on
17 the guy on the counter side.

18 Q. You don't turn your head while this is happening and
19 look at the guy with the gun and then go to hit the button?

20 A. I was trying to hit the safety button.

21 Q. After you turned your head and looked in the direction
22 of where the guy with the gun was, did you look in that
23 direction? Yes or no.

24 A. Yeah.

25 Q. Okay. Did you - Did he ever come behind the counter?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. Not behind the counter. He opened the door.

2 Q. Yes, sir. And as the video shows, he ran out.

3 Correct?

4 A. Yeah. I was shot so I --

5 Q. Yes, sir. Yes, sir. I understand. And this
6 gentleman here didn't have anything to do with shooting you
7 did he?

8 A. No. He came to rob - they were together.

9 Q. You know that or you're guessing?

10 A. No. Then I saw the video after that.

11 Q. Okay. But he didn't shoot you did he?

12 A. No. He didn't shot me.

13 Q. The other individual shot you didn't he?

14 A. Yeah the other guy shot me.

15 Q. All right. Now, when the police come to your house on
16 July 25th with this lineup, did you see any other customers
17 in this lineup?

18 A. Can you repeat that please?

19 Q. Well they brought you six pictures didn't they?

20 A. Yeah.

21 Q. And you signed the one you thought was it. Right?

22 A. Uh-huh.

23 Q. Were there any of the other customers in there, in
24 that lineup?

25 A. I don't remember much.

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 MR. BROWN: Well, you got a copy of it, EB?

2 SOLICITOR SPRINGS: This is the original so don't mess
3 it up.

4 MR. BROWN: I won't.

5 Q. I'm showing you - First I ask you if you can identify
6 this. Is that the lineup the officer brought to your house
7 in January - July 25th?

8 A. Yes, sir.

9 Q. Okay. And do you see any of the other customers in
10 that lineup?

11 A. I don't remember much.

12 Q. You don't know whether any of these other five are
13 your customers or not do you?

14 A. No. There are a lot of customer come in.

15 Q. That's my point.

16 A. Yeah, but I knew him because you know he did --

17 Q. I understand. But you don't recognize whether these
18 other five are customers or not do you?

19 A. I remember but you know it's not like I'm pretty sure
20 about it.

21 Q. Yeah, it's not like you and I sitting here having a
22 conversation in court; it happened so fast. It was a
23 stressful situation getting shot. Right?

24 A. Yeah.

25 Q. Okay. In the video as to his face, Mr. Maldonado's

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 face, when he turns he's half covered up is it not?

2 A. Yeah, but he was looking at me too.

3 Q. Okay. For all like three or four seconds. Correct?

4 A. I don't remember. It's been --

5 Q. You don't remember. It's been a long time?

6 A. Yeah. It's been six months.

7 Q. Okay. And did you say or call him by name or
8 anything?

9 A. No.

10 Q. When did you first learn of his name?

11 A. When I saw it in the paper.

12 Q. Oh, you saw it in the paper?

13 A. My cousin had they told me about it. There was
14 another suspect.

15 Q. And the first article was August 3rd, 2012, was it
16 not, sir?

17 I'm going to show you that article and see if you
18 recognize it. Is this the article you saw in the paper,
19 the Herald?

20 A. Yeah.

21 Q. And that article is dated August 3rd, is it not, sir?

22 A. Yes, sir.

23 Q. Now did you do it online or did you actually buy the
24 paper like I do?

25 A. No. The customer told me like it was online too.

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 Q. Okay. So you looked at it online?

2 A. Yeah.

3 Q. And this is the picture you saw. Correct?

4 A. Yeah.

5 Q. Seven days later, did you go down to the police
6 station and meet with somebody from the Rock Hill Police
7 Department and give this statement? Take your time.

8 (WITNESS REVIEWING DOCUMENT.)

9 A. Yes.

10 Q. Okay. And you gave this statement a week after you
11 saw the picture in the newspaper. Correct?

12 A. Yeah.

13 Q. Okay. And in your statement you say, for the first
14 time, that he is a customer but I recognize him from coming
15 in the store; is that correct?

16 A. He was a customer.

17 Q. Yes, sir. But that's the first time you tell anybody
18 That's my point.

19 A. Yeah, but --

20 Q. Yes or no. Is that the first time you've told anybody
21 in law enforcement that he was a customer?

22 A. Yeah.

23 Q. So this happens on July 25th, they come to see you on
24 July 31st; it's in the paper August 3rd and finally on
25 August 10th you say it was a customer. Correct?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. Yeah.

2 Q. I'm not asking these questions to embarrass you. It's
3 part of my job but I need to ask you about some of your
4 background. Where were you born, sir?

5 A. India.

6 Q. Egypt?

7 A. India.

8 Q. India. And did you grow up there?

9 A. Yeah. I go - I went a couple times.

10 Q. Okay. When did you come to the United States of
11 America for good?

12 A. I was a kid. My parents - my father and brother, five
13 for him, and we came here when I was a kid. I went to
14 school and then I went to like one year in college.

15 Q. Okay. So you - Well how old were you when you came to
16 the United States for good?

17 A. Eight, nine, ten.

18 Q. I'm sorry.

19 A. I was nine or ten.

20 Q. Nine or ten. So you - Then you went to one year of
21 college here; is that correct?

22 A. I mean it's like I used to work and I used to go in
23 college so I didn't did too much college.

24 Q. And are there any Afro Americans in India? Or
25 Africans?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. It's Indian people. That's what I know.

2 Q. Right. But there's no Africans there. Right?

3 A. No, sir.

4 Q. So your first exposure to African Americans was when
5 you came to the United States; is that correct?

6 A. Yes, sir.

7 Q. When was the first time you talked to the police about
8 this? And I know you got shot and it was a horrific
9 experience. Was it July 25th when they came to your house?

10 A. July 25th I was shot.

11 Q. I'm sorry. I apologize. July 31st when they came to
12 your house?

13 A. I don't remember but, you know, then I came from the
14 hospital ---

15 Q. Yes, sir.

16 A. --- after a couple days they came and talked to me.

17 Q. Would that be the 31st? That statement I read.

18 A. Yeah.

19 Q. I can't find anything else where you talked to them
20 before that so I'm asking you now if there is any --

21 A. Yeah because you know I was not in good condition.
22 It was a lot of pains and all that.

23 Q. Yes, sir. Certainly, certainly. And when they came
24 and talked to you, did they ask you how tall the people
25 were?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. I don't remember.

2 Q. Did they ask you to describe the clothing?

3 A. We spent - They told me like, you know, how we was and
4 I told him like, you know, he had a dark hoodie on him.

5 Q. How tall is he, the best of your guesstimate?

6 A. Round like 5, 5' 5" something.

7 Q. Okay. How much - Did the police ask you any of this
8 information?

9 A. I don't remember because, you know, I was in pain and,
10 you know, I tried my best to give whatever they asked but I
11 don't remember.

12 Q. How long did the police stay there that day?

13 A. They were there until they asked me everything but I
14 was taking so high dose medicine.

15 Q. Let's a talk about that for a second. Not to belittle
16 what happened to you, it was tragic. What kind of
17 medication did they have you on?

18 A. I don't remember the name of the medicine because they
19 gave me a lot of different, different ones.

20 Q. Make you sleep?

21 A. I tried to but I can't. My body didn't work with the
22 medicine so I didn't --

23 Q. Make you groggy?

24 A. Tried to make you groggy but it didn't work on my
25 body. None of the medicine.

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 Q. Well the reason I ask you, you say you were taking
2 medicine and your memory is not that good about what they
3 asked you.

4 A. Yeah, but you know I was scared too because what
5 happened to me it scared me like hell because I never seen
6 in my life like that.

7 Q. Yes, sir. You were stressed at that time.

8 A. Yeah.

9 Q. Okay. Scared?

10 A. Yeah.

11 Q. Affected by the medicine?

12 A. Not much.

13 Q. Well you just testified you couldn't remember because
14 you were on medication.

15 A. Yeah, I was on medication too. They were trying to
16 give me a lot of different ones.

17 Q. Well were you taking them like the doctor said to?

18 A. The doctor told me to take it but it didn't work.
19 That's why we went a couple of times to the hospital back.

20 Q. All right. When was the first time you saw the video?

21 A. Like a month, after a month.

22 Q. Okay.

23 A. Like when I was better feeling.

24 Q. Did the person you identified have glasses on that
25 night?

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. Excuse me?

2 Q. Did he have glasses on?

3 A. Who, me?

4 Q. No. The person you identified.

5 A. Yeah. He was wearing glasses.

6 Q. He was wearing glasses and that's in the video.
7 Right?

8 A. Yeah.

9 Q. Okay. And what color were his pants?

10 A. I didn't remember the pants.

11 Q. Okay. What color were his shoes?

12 A. I didn't watch all that. I was scared. I was
13 watching him, not the shoes and pants.

14 Q. Okay. And the first time you identify him is six days
15 afterwards. Correct?

16 A. Yeah.

17 Q. And you don't know what the police asked you other
18 than showing you a picture. Correct?

19 A. He showed me the picture, told me what happened and I
20 told him the story.

21 Q. And then seven days after his picture is in the paper,
22 you give a statement saying he was a customer. Correct?

23 A. No. I give - I told to the police officer what
24 happened when they came out to the house.

25 Q. Right.

VIPUL PATEL: BY MR. BROWN - IN CAMERA

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1 A. And after that then I went to the police station to
2 make the statement.

3 Q. That's the first time the customer thing comes up.
4 Right?

5 A. No. I told to the officer too.

6 Q. You did?

7 A. I think so. I don't remember.

8 Q. You don't remember?

9 A. No, I don't remember.

10 Q. Now have you talked to anybody in the solicitor's
11 office or law enforcement about your testimony here today?
12 Did they prep you at it?

13 A. I went and saw the prosecutor on Friday.

14 Q. Okay. And did you all discuss about identifying Mr.
15 Maldonado?

16 A. No.

17 Q. It didn't come up at all?

18 A. He told me, you know, and if he is in the courtroom he
19 is going to ask me and I pointed.

20 Q. Of course nobody else was sitting there with me is it?

21 A. No. I knew the customer. I knew what happened. So
22 if it's fifty people, I can point him.

23 MR. BROWN: I have no further questions, Your Honor.

24 THE COURT: Redirect?

25 SOLICITOR SPRINGS: Now so much redirect, Your Honor,

VIPUL PATEL: BY SOLICITOR SPRINGS - IN CAMERA

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1 but I think the court needs to see the lineup. We can take
2 care of that matter.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO PREMARKED FOR
4 IDENTIFICATION.)

5 REDIRECT EXAMINATION - IN CAMERA

6 VIPUL PATEL BY SOLICITOR SPRINGS:

7 Q. Mr. Patel, I'm showing you what has been marked as
8 State's Exhibit Two.

9 A. Okay.

10 Q. Is that the lineup that the police showed you?

11 A. Yes, sir.

12 Q. Is that your initials next to Kairon Maldonado?

13 A. Yes, sir.

14 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE, PREMARKED
15 FOR IDENTIFICATION.)

16 Q. This is a form with your signature on it. Its State's
17 Exhibit Three. It's a disclaimer form about lineups. Do
18 you see your signature there?

19 A. Yes, sir.

20 Q. It looks like that was done on July 31st. Now while
21 you were looking at pictures and so forth, did you talk to
22 the police about the crime?

23 A. Yeah. I told --

24 Q. When they came to see you and showed you the pictures,
25 did you chat with them?

DETECTIVE ALLEN CANTEY: BY SOLICITOR SPRINGS - IN CAMERA

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1 A. I don't remember.

2 Q. Okay. All right.

3 SOLICITOR SPRINGS: That's all, Your Honor, thank you.

4 THE COURT: Anything else, Mr. Brown?

5 MR. BROWN: Beg the court's indulgence on second, Your
6 Honor.

7 THE COURT: Okay.

8 (PAUSE.)

9 MR. BROWN: Not of this witness, Your Honor.

10 THE COURT: All right. You can step down and go back
11 out with the State's attorney.

12 (WITNESS LEAVING WITNESS STAND.)

13 SOLICITOR SPRINGS: Detective Cantey.

14 (WHEREUPON: LEWIS ALLEN CANTEY,
15 JUNIOR, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
16 FOLLOWS:)

17 MR. BROWN: I'm going to ask that sequestration remain
18 in effect.

19 SOLICITOR SPRINGS: He's the victim.

20 THE COURT: Mr. Patel's the victim, he can stay here
21 and the other witnesses --

22 MR. BROWN: Yes, sir. I just put it on the record.

23 DIRECT EXAMINATION - IN CAMERA

24 DETECTIVE ALLEN CANTEY BY SOLICITOR SPRINGS:

25 Q. Tell us your name, sir.

DETECTIVE ALLEN CANTEY: BY SOLICITOR SPRINGS - IN CAMERA

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1 A. Lewis Allen Cantey, Junior.

2 Q. You're a Rock Hill detective?

3 A. I am.

4 Q. And are you the detective that showed Mr. Patel the
5 photo lineup on July 31st, 2012?

6 A. I am.

7 Q. And did you chat with him and ask him about the crime
8 on July 31st, 2012?

9 A. Yes, I did.

10 Q. And did he tell you he recognized the person trying to
11 come around and get behind the counter then?

12 A. Yes, he did.

13 Q. How did he characterize it? How did he say he knew
14 this person, from what circumstances?

15 A. He said he was a customer. If I may read from my
16 summary.

17 Q. Sure.

18 A. "On July 31, 2012, Tuesday afternoon, Officer Cantey
19 met with Vipul Patel at his residence after he was released
20 from CMC. Patel advised that when the men first entered
21 his store, he felt that it was just neighborhood kids
22 playing. Patel stated that as the subject with the hoodie
23 came around the corner and attempted to go behind the
24 counter, he saw the subject's face and realized that he
25 knew him and that he was a frequent customer of Patel's.

DETECTIVE ALLEN CANTEY : BY SOLICITOR SPRINGS - IN CAMERA
BY MR. BROWN - IN CAMERA

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1 Patel stated that the subject was saying to give him the
2 money."

3 Q. All right. Let me stop you there. Thank you very
4 much. And when you showed Mr. Patel the lineup, did you
5 tell him who to pick out or prompt him in any way?

6 A. No, sir. When I showed him the lineup I told him
7 that the person may or may not be in there, and I also
8 asked him to think of what the person from the store that
9 night looked like, and to compare that image to each
10 individual image; not to compare the images on the page.

11 Q. Very good. Thank you.

12 SOLICITOR SPRINGS: Nothing further.

13 THE COURT: Cross?

14 CROSS EXAMINATION - IN CAMERA

15 INVESTIGATOR ALLEN CANTEY BY MR. BROWN:

16 Q. How long were you there that day?

17 A. Probably about fifteen, twenty minutes.

18 Q. Not a very long interview?

19 A. Not very long. No, sir.

20 Q. Okay. Was Mr. Patel like he described in pain,
21 disoriented somewhat?

22 A. He was in pain.

23 Q. You don't know if he was disoriented or not?

24 A. He was not disoriented.

25 Q. Did you ask for a physical description of the alleged

DETECTIVE ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 defendants?

2 A. I don't recall I did.

3 Q. Did anybody give you information, how tall, how much
4 they weighed, what color eyes they were, whether they wore
5 glasses or not? Was there any of that asked?

6 A. Not that day no, sir.

7 Q. Okay. So you just went over there with six pictures
8 and said pick one out?

9 A. I asked him would he pick out the person; if this was
10 anyone in there from the one from the shooting that night.

11 Q. Okay. Is it normal procedure that Rock Hill Police
12 Department doing an investigation of this nature, that you
13 ask for a physical description of the person?

14 A. Yes, sir. Usually on the scene that night.

15 Q. Huh?

16 A. Usually on the scene that night.

17 Q. Okay. Of course obviously you couldn't talk to him
18 that night, EMS was there?

19 A. Oh I tried.

20 Q. I understand that but he had been shot, you wanted to
21 get him to the hospital as soon as possible I would assume.

22 A. Yes, sir.

23 Q. Okay. So you never asked for a physical description
24 other than showing him these six pictures. Correct?

25 A. The purpose of me going over there was to show him the

DETECTIVE ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 lineup.

2 Q. Okay. But you never asked for a physical description
3 is my question.

4 A. No, sir, I did not.

5 Q. To your knowledge did anyone?

6 A. Not to my knowledge.

7 MR. BROWN: I don't have any further questions, Your
8 Honor.

9 SOLICITOR SPRINGS: Nothing further. Thank you.

10 THE COURT: You can step down.

11 INVESTIGATOR CANTEY: Thank you, sir.

12 (WITNESS LEAVING WITNESS STAND.)

13 SOLICITOR SPRINGS: Would you ask Detective Tosha
14 Smith to come in.

15 MR. BROWN: What's this on?

16 SOLICITOR SPRINGS: It's on this issue.

17 MR. BROWN: Okay.

18 SOLICITOR SPRINGS: And this would also take care of
19 one of my two Jackson v. Denno.

20 Detective Smith, step up and be sworn and then take
21 the stand please.

22 MADAME CLERK: Raise your right hand, place your left
23 hand on the Bible.

24 (WHEREUPON: TASHA SMITH, BEING
25 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

1 make a statement or?

2 MR. BROWN: Very briefly, Your Honor.

3 You have some more Jackson v. Denno stuff?

4 SOLICITOR SPRINGS: I do have another witness.

5 THE COURT: This is just on the ID.

6 MR. BROWN: Yes, sir, just on the ID.

7 I beg the Court's indulgence one second.

8 (PAUSE.)

9 MR. BROWN: Your Honor, I move to suppress Mr. Patel's
10 identification from taking into fact the totality of the
11 circumstances as required by the United States Supreme
12 Court in *Neil v. Biggers* which was adopted by this state.
13 The five facts to be considered: One, the opportunity of
14 the witness to view the criminal the time of the crime.
15 That is a max of seven seconds, Your Honor, in a situation
16 where stress and violence has presented itself. A gun was
17 presented by somebody at the door. He's wearing a hood.

18 THE COURT: He says he didn't see the gun.

19 MR. BROWN: Yes, sir. I understand that but I think
20 it's clear from the video is he turns and looks at him and
21 I don't know how he missed it. His head clearly turns when
22 that gun comes out.

23 Two: The witness's degree of attention, seven seconds
24 in most situations, Your Honor.

25 Three: The accuracy of the witness described,

1 description of the criminal. The first time its mentioned
2 is after it comes out in the newspaper in any statement
3 I've been given, Your Honor. And I would assert that's
4 enhancement to his memory at this point in time, Your
5 Honor. Also, all the other factors that go into it, the
6 stress, the lack of clothing, the difference in weight and
7 time. The defendant is 5 foot 10 and not 5 foot 5; I will
8 submit to you it's led to a misidentification.

9 And the approbative value under the rules of evidence
10 in this case the prejudice is far exceeded by any
11 approbative value to this. The film speaks for itself and
12 the jury can decide from that and I would submit the
13 appropriate value is - I mean the prejudicial value is far
14 outweighed by the approbative value. And I also submit
15 it's not the best evidence rule. We have video on it.

16 THE COURT: I'm not sure that - Well let me just start
17 by saying, first, I find that the lineup that was shown to
18 Mr. Patel, looks like on 7-31, is not unduly suggestive.
19 In fact, I find it is not suggestive at all let alone
20 unduly. All these young men or African Americans, short
21 hair, they appear to be very, very similar and I find that
22 the lineup that he was shown was not suggestive at all let
23 alone unduly suggestive, and all of my findings are based
24 on what I consider or what are based on clear and
25 convincing evidence.

1 I find that the in court identification by Mr. Patel
2 of Mr. Maldonado is admissible. It is not the results of
3 the out of court identification procedure. I do not find
4 the out of court identification procedure created a very
5 substantial or any likelihood of irreparable
6 misidentification. I find under the totality of the
7 circumstances based on lighting, proximity of the witness
8 to the defendant; the witness's opportunity to view the
9 perpetrator, here the defendant at the time of the crime.
10 His degree of attention, he was like I said the proximity;
11 they were almost face to face. This was someone he already
12 knew.

13 I find that by - Again I find that by clear and
14 convincing evidence that the witness's identification was
15 reliable and will be allowed to testify before the jury.
16 And that's my finding as to the in court identification of
17 Mr. Maldonado by the victim. All right.

18 SOLICITOR SPRINGS: Thank you, Your Honor. Could I
19 move on to my other Jackson v. Denno?

20 THE COURT: Yes, sir.

21 SOLICITOR SPRINGS: Ask Detective Cedric Stokes to come
22 in please, sir.

23 Detective Stokes, please be sworn in and take the
24 stand.

25 (WHEREUPON: CEDRIC STOKES, BEING

OFFICER LARRY VANDERMOLEN: BY SOLICITOR SPRINGS

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1 she will have you sworn in on the Holy Bible.

2 MADAME CLERK: Please raise your right hand and place
3 your left hand on the Bible.

4 (WHEREUPON: LARRY JASON
5 VANDERMOLEN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED
6 AS FOLLOWS:)

7 DIRECT EXAMINATION

8 OFFICER LARRY VANDERMOLEN BY SOLICITOR SPRINGS:

9 Q. Officer, if you would keep your voice up nice and loud
10 and tell us your name, sir.

11 A. My name is Officer Larry Jason Vandermolen.

12 Q. Who do you work for?

13 A. City of Rock Hill Police Department.

14 Q. Are you a sworn police officer?

15 A. Yes, sir.

16 Q. Were you in uniform and on duty a little bit before
17 eleven o'clock at night on Wednesday night, July 25th of
18 2012?

19 A. Yes, sir, I was.

20 Q. And were you in a police car about eight minutes
21 before eleven o'clock?

22 A. Yes, sir.

23 Q. Who else was in the car with you?

24 A. Officer Eric Sizemore, my partner.

25 Q. And about eight minutes before eleven o'clock,

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 whereabouts in the city of Rock Hill was that police car
2 located?

3 A. We were at the intersection of West Main and South
4 Cherry Road, sir.

5 Q. Okay. And is there a convenience store on that
6 corner?

7 A. There is, sir. It's the Cherry Road Discount Liquor
8 store, sir.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER TEN, PREMARKED,
10 FOR IDENTIFICATION.)

11 Q. I'm showing you what has been marked State's
12 Exhibit Ten. Is that a picture of the store?

13 A. Yes it is, sir.

14 Q. Is it a fair and accurate picture of the store?

15 A. A hundred percent, sir.

16 SOLICITOR SPRINGS: Your Honor, we do offer State's
17 Exhibit Ten into evidence.

18 MR. BROWN: Without objection.

19 THE COURT: In without objection.

20 (WHEREUPON: STATE'S EXHIBIT NUMBER TEN, IDENTIFIED
21 AND MARKED, RECEIVED INTO EVIDENCE.)

22 SOLICITOR SPRINGS: May we publish it to the jury,
23 sir?

24 THE COURT: Yes, sir.

25 (STATE'S EXHIBIT NUMBER TEN PUBLISHED TO THE JURY

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 AT 09:54 A.M..)

2 Q. Officer Vandermolen, that's State's Exhibit Ten that
3 we have on the projector. That's the Discount Store on
4 the corner of South Cherry Road and West Main Street?

5 A. Yes, sir.

6 Q. Is that store inside the city of Rock Hill and in York
7 County?

8 A. Yes, sir.

9 Q. Thank you very much.

10 You can bring the lights back up.

11 (COURTROOM LIGHTS TURNED UP.)

12 Q. As you sat at the light, were you facing the store or
13 some other direction?

14 A. We were facing the direction of the store, sir, down
15 West Main.

16 Q. So about eight minutes before eleven did something
17 catch your attention at the store?

18 A. Yes, sir. My partner, Eric Sizemore, and I were
19 facing West Main and I happened to be looking at the front
20 of the Discount Store and see two black males frantically
21 running out the front entrance.

22 Q. They ran out?

23 A. Yes, sir.

24 Q. Was either one of them carrying anything that caught
25 your attention?

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 A. One of them, sir, was carrying what appeared to be a
2 long rifle. Unable to match the caliber at that time but
3 you could tell it was a long rifle, sir.

4 Q. All right. And as these two men ran out of the store,
5 one carrying a rifle, did that person continue to hold the
6 rifle the whole time he was in your sight or did the other
7 man take possession of it at some point?

8 A. When they ran out of the store, sir, one subject had
9 possession of the rifle. When they ran around the corner,
10 that's when they handed it off to another person, sir.

11 Q. So the two men run out?

12 A. Yes, sir.

13 Q. One has a rifle?

14 A. Uh-huh.

15 Q. And as they cut around the corner of the store, he
16 hands the rifle to his buddy?

17 A. Yes, sir.

18 Q. Okay. What did you think when you saw two men run out
19 of a convenient store at eleven o'clock at night and one is
20 carrying a rifle?

21 A. Based on the hour, sir, and the way that they were
22 leaving that store, it was pretty much a dead sprint that
23 we assumed that it had just got robbed, sir.

24 Q. Okay. So what did you and Sizemore do?

25 A. Officer Sizemore and I activated out light and siren

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 and proceeded through the intersection and gave chase to
2 the subjects as they ran down Pursley Street behind the
3 liquor store, sir.

4 Q. Okay. And is that the Boyd Hill neighborhood?

5 A. Yes, sir.

6 Q. And did these men stay together or did they separate?

7 A. They ran together down Pursley Street North and they
8 ended up cutting between a house and splitting up, sir.

9 Q. Okay. And did you and Officer Sizemore continue to
10 try to find them?

11 A. We did, sir. Once they cut in between the house, we
12 lost visual of them so we began to circulate Boyd Hill to
13 try and locate one of them.

14 Q. Okay. And did you spot either one of these two men?

15 A. We did, sir.

16 Q. Okay. Whereabouts were you when you spotted that
17 person?

18 A. We were cutting the block from Castle Street to Berry
19 Street, sir, coming up behind the Discount Store, and
20 observed a black male subject running from east to west, my
21 left to right, as we were coming down the street sprint
22 across the street and that's when we sped up, stopped
23 behind him and gave chase on foot, sir.

24 Q. Okay. Did you catch up with him?

25 A. Yes, sir.

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 Q. Do you remember what street you caught him on?

2 A. We caught him on Berry Street, sir.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER ELEVEN, PREMARKED
4 FOR IDENTIFICATION.)

5 Q. Officer Vandermolen, I'm showing you what has been
6 marked State's Exhibit Eleven. Take a look at that for a
7 minute and tell us if that is an accurate aerial photo of
8 that Boyd Hill neighborhood area.

9 A. Yes, sir, it is.

10 Q. And does it show the area where you caught the fleeing
11 man?

12 A. Yes, sir, it does. It's indicated by a gold star.

13 Q. All right. Let me get you to step down and bring that
14 photo with you and we're going to put it on this easel
15 so everybody on the jury can see it.

16 (WITNESS LEFT WITNESS STAND.)

17 Q. Now first of all, let's start with the convenience
18 store, the Discount Food and Beverage. Would you point
19 that out for the jury.

20 A. It's right down here, sir.

21 (WITNESS INDICATED ON STATE'S EXHIBIT ELEVEN.)

22 Q. Okay. And trace the path that you took in the patrol
23 car and then after getting out of the patrol car and on
24 foot. Could you do that?

25 A. Yes, sir. We were sitting right down here at the

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 intersection off picture a little bit. When they ran out
2 of the store and they ended up cutting through this open
3 lot going down Pursley right down here that runs behind the
4 convenience store. Office Eric Sizemore and I proceeded
5 through the intersection to this open lot. I ended up
6 going north on Pursley.

7 At about the 300 block, 328 is where they cut in the
8 housing area. We lost sight of them so we ended up coming
9 down Pursley, coming all the way down into Boyd Hill,
10 cutting the block down Castle which is up here, down Berry
11 and basically just trolling five, ten miles an hour to see
12 if we can see anybody or hear anything and that's when we
13 observed a black male subject running from this open field
14 right here from our left to right coming across Berry
15 Street, sir.

16 Q. Okay. And where did you finally catch up with him?

17 A. We caught up with him right here at 328. As soon as
18 he came across the road, that's when Officer Eric Sizemore
19 and I pulled up and stopped and I bailed out of the vehicle
20 and gave chase on foot. And he ended up running right into
21 the backyard of this house, over a fence, and the fence
22 ended up catching him after he fell to the ground and
23 that's how I was able to catch him.

24 Q. Okay. Thank you. Go ahead and retake your seat.

25 A. Yes, sir.

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 (WITNESS RETURNED TO WITNESS STAND.)

2 SOLICITOR SPRINGS: Have I offered this into evidence?

3 MADAME COURT REPORTER: No, sir.

4 SOLICITOR SPRINGS: Your Honor, we offer State's
5 Exhibit Eleven into evidence.

6 MR. BROWN: Without objection.

7 THE COURT: In without objection.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER ELEVEN IDENTIFIED
9 AND MARKED, RECEIVED INTO EVIDENCE.)

10 Q. The man you caught, when you caught him, ---

11 A. Yes, sir.

12 Q. --- what kind of shirt was he wearing?

13 A. He wasn't wearing a shirt at that time, sir.

14 Q. He was bare chested?

15 A. Yes, sir.

16 Q. What was the name of the man you caught?

17 A. It was Mr. Kadeem Sanders.

18 Q. Did you read his *Miranda* rights to him?

19 A. Yes, sir, I did. Twice.

20 Q. Did he have anything at all to say to you?

21 A. Excuse me, sir?

22 Q. Did he have anything at all to say to you after you
23 read his *Miranda* rights to him?

24 MR. BROWN: Objection, hearsay.

25 SOLICITOR SPRINGS: I just want to know if he talked

OFFICER LARRY VANDERMOLLEN: BY SOLICITOR SPRINGS

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1 to him.

2 THE COURT: Don't tell us what - The question is, did
3 he say anything; not what did he say.

4 A. Yes. He did reply to us some, sir.

5 Q. Okay. All right. Did you take him to jail?

6 A. Yes, sir.

7 (WHEREUPON: STATE'S EXHIBIT NUMBER TWELVE PREMARKED
8 FOR IDENTIFICATION.)

9 Q. I'm showing you what has been marked State's Exhibit
10 Twelve, Officer. What is that a picture of?

11 A. It's the house on Berry Street, sir, that we ended up
12 catching Kadeem Sanders at.

13 Q. Okay. And it had a fence at some place, some part
14 there?

15 A. Yes, sir.

16 Q. Before you show it to everybody let's do this. Is it
17 a fair and accurate picture?

18 A. Yes, sir.

19 Q. All right.

20 SOLICITOR SPRINGS: Your Honor, we do offer into
21 evidence State's Exhibit Twelve.

22 MR. BROWN: Without objection.

23 THE COURT: In without objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER TWELVE, IDENTIFIED
25 AND MARKED, RECEIVED INTO EVIDENCE.)

OFFICER LARRY VANDERMOLEN: BY SOLICITOR SPRINGS
BY MR. BROWN

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1 Q. Now, point out whereabouts the fence was and where you
2 caught him.

3 A. Right above this green trash can right here is; where
4 the chicken wire fence is, sir.

5 Q. Okay. All right. Thank you. If you would answer any
6 questions the defense attorney has for you.

7 A. Yes, sir.

8 CROSS EXAMINATION

9 OFFICER LARRY VANDERMOLEN BY MR. BROWN:

10 Q. You were coming North on Cherry Road. Is that what I
11 understand you to say?

12 A. We were going west down Main Street, sir. We were
13 just leaving the police department.

14 Q. Okay. So you were going towards York?

15 A. Yes, sir.

16 Q. So you were at the intersection and looked straight
17 across at the convenience store. Correct?

18 A. Yes, sir.

19 Q. All right. When you made this pursuit of Mr. Sanders,
20 did you do it by foot or by car?

21 A. It first started by car, sir.

22 Q. All right. So tell me how far you went by car.

23 A. Maybe about estimated half a mile, sir.

24 Q. Show me the route you took on this.

25 (WITNESS VIEWING STATE'S EXHIBIT.)

OFFICER LARRY VANDERMOLLEN: BY MR. BROWN

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1 A. Yes, sir. Right here is the intersection that we were
2 sitting at.

3 Q. All right. You were sitting right here where you
4 were kind of cut off where you would be sitting. Right?

5 A. Yeah. We were facing this way.

6 Q. All right.

7 A. Right there is the Discount store.

8 Q. Right.

9 A. We started right here and once we seen the subjects
10 run out through this open lot, we proceeded through the
11 intersection basically where this eighteen wheeler is,
12 straight across there. Once we seen them round on Pursley,
13 we drove down Pursley, sir.

14 Q. Okay.

15 A. Okay. Once we drove down Pursley and we lost sight of
16 them and they ran in between the houses, right here
17 indicated by the star, we could no longer visually see them
18 so we began what is called a troll. We began to troll the
19 area slow to see if we can see or hear anything. Ended up
20 coming down, sir, coming down Pursley, coming back up off
21 map and basically circulating side streets coming down
22 Berry is when we seen him run out of this open field right
23 here, sir.

24 Q. You saw one run out of the open field. Correct?

25 A. Yes, sir.

OFFICER LARRY VANDERMOLEN: BY MR. BROWN

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1 Q. Just Mr. Sanders?

2 A. Yes, sir.

3 Q. Okay. Did you recover some items of clothing that
4 allegedly dropped off? Or did the other officer do that?

5 A. Say that again, sir.

6 Q. Did you recover some clothing?

7 A. I personally did not no, sir.

8 Q. Did you recover the gun or anything?

9 A. Me personally, no, sir.

10 Q. Okay. So you weren't involved in this; is that
11 correct?

12 A. No, sir. Just the apprehension of Mr. Sanders.

13 Q. You didn't have any interaction with Mr. Maldonado
14 that night did you?

15 A. No, sir. Just Mr. Sanders.

16 MR. BROWN: No further questions.

17 THE COURT: Redirect?

18 SOLICITOR SPRINGS: Nothing further.

19 THE COURT: You can step down and be excused. We
20 appreciate your time.

21 (WITNESS LEAVING WITNESS STAND.)

22 THE COURT: Call your next witness.

23 SOLICITOR SPRINGS: Would you ask Officer Ashley
24 Doster to come in, sir.

25 Officer Doster, step up to the Clerk; she'll swear you

OFFICER ASHLEY DOSTER: BY SOLICITOR SPRINGS:

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1 SOLICITOR SPRINGS: I want One marked as Six.

2 And what I incorrectly marked as Six I'm going to pull
3 that off and we're going to start fresh with it.

4 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE, REMARKED AS
5 STATE'S EXHIBIT NUMBER SIX, RECEIVED INTO EVIDENCE.)

6 DIRECT EXAMINATION

7 OFFICER ASHLEY DOSTER BY SOLICITOR SPRINGS:

8 Q. Officer, tell us your name, please.

9 A. Ashley Doster.

10 Q. And where do you work?

11 A. Rock Hill Police Department.

12 Q. And you are a sworn law enforcement officer?

13 A. Yes.

14 Q. Were you in uniform and on duty the night of July 25th
15 of last year?

16 A. Yes.

17 Q. About five minutes before eleven o'clock that night,
18 did you hear something on your police radio that caused you
19 to go somewhere in a hurry?

20 A. Yes.

21 Q. And because of what you heard on the police radio,
22 where did you go that night a little bit before eleven?

23 A. I went to Cherry Road Discount Store.

24 Q. And did you go quickly?

25 A. Yes.

OFFICER ASHLEY DOSTER: BY SOLICITOR SPRINGS:

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1 Q. All right. And what were you told - Just to explain
2 why you went quickly to the store, what were you told over
3 the radio?

4 A. Well, I heard Officer Vandermolen and Sizemore say
5 they saw a gentleman running with a firearm away from that
6 store.

7 Q. Okay. And how many years experience have you got,
8 Officer Doster?

9 A. Thirteen.

10 Q. With thirteen years experience, were you concerned
11 that something bad was going on when somebody runs out of a
12 convenience store carrying a rifle?

13 A. Yes.

14 Q. All right. So did you go to the store?

15 A. Yes.

16 Q. When you got to the store and walked in the parking
17 lot, who did you see at the front of the store, if anybody?

18 A. I saw a black male that had stepped in the store and
19 he looked back out and he was waiving me in.

20 Q. Okay. And did you get out of your police car and go
21 into the store?

22 A. I did.

23 Q. Had you been alone in your police car that night?

24 A. Yes.

25 Q. When you stepped inside of the store, what did you

OFFICER ASHLEY DOSTER: BY SOLICITOR SPRINGS:

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1 see?

2 A. I saw a male lying on the floor in a pool of blood.

3 Q. Was he alive?

4 A. Yes.

5 Q. Was he badly hurt?

6 A. Yes.

7 Q. Officer Doster, in your years of experience, your
8 thirteen years as a police officer, have you ever come up
9 on somebody before who had been gunshot?

10 A. Yes.

11 Q. And when you saw this man lying on the floor of the
12 Discount Beverage in a pool of blood, what did you think
13 had happened to that man?

14 A. That he had been shot.

15 Q. Did you call an ambulance?

16 A. Yes.

17 Q. And when you got into the store and saw the man lying
18 in a pool of blood, was there anybody else around in the
19 store?

20 A. The two males that had walked in and a gentleman
21 behind the counter aside from the one lying on the floor.

22 Q. The two men that had walked in, one or both of them
23 had waved you in?

24 A. Yes.

25 Q. What did they seem to be, would be customers or store

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 (WHEREUPON: JOHATHAN MORENO,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

3 DIRECT EXAMINATION

4 OFFICER JONATHAN MORENO BY SOLICITOR SPRINGS:

5 Q. Officer Moreno, I'm going to ask you to speak over
6 towards that microphone there on the stalk and let's start
7 out with your name. What is your name, sir?

8 A. My name is Officer Johathan Moreno.

9 Q. And what do you do for a living?

10 A. I'm a law enforcement officer at Rock Hill Police
11 Department.

12 Q. Are you what's called a K 9 officer?

13 A. Yes. I'm also a canine handler.

14 Q. Okay. And have you been qualified in a court of
15 record such as this as an expert tracking dog handler?

16 A. Yes, I have.

17 Q. And you have some experience and training in tracking
18 with a canine?

19 A. Yes, I do.

20 SOLICITOR SPRINGS: Your Honor, we would offer Officer
21 Moreno as an expert in - an expert tracking dog handler.

22 THE COURT: Any voir dire?

23 MR. BROWN: May we approach.

24 THE COURT: Yes.

25 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 OF THE JURY.)

2 THE COURT: You may continue.

3 BY SOLICITOR SPRINGS:

4 Q. And tell us about the training you have had in
5 handling a tracking dog, a canine. Just summarize
6 that training if you would, sir.

7 A. Well I started in 2011. They sent me to handler's
8 school which is a week long in Kings Mountain. We trained
9 with a variety of agencies across the east coast. I also
10 train with my canine sixteen hours a month, which is four
11 hours a week. We also get call outs such as this one in
12 regards to a major incident where we use our canine to
13 apprehend the suspect that is fleeing on foot, but my
14 canine is basically man tracking only.

15 Q. All right. And have you - I assume you have done a
16 number of training exercises with your dog; is that right?

17 A. Yes. Numerous hours a month throughout the year.

18 Q. Okay. Have you done any real life, real crime,
19 tracks with your dog?

20 A. Yes, I have.

21 Q. And were you successful in some cases tracking down a
22 suspect?

23 A. Yes, I was.

24 Q. And in some cases do you find things, items,
25 possessions that suspects discard as they are running away?

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 A. Yes.

2 SOLICITOR SPRINGS: Your Honor, we offer him as an
3 expert tracking dog handler.

4 THE COURT: Any voir dire?

5 MR. BROWN: May I voir dire?

6 THE COURT: Yes.

7 CROSS EXAMINATION

8 OFFICER JONATHAN MORENO BY MR. BROWN:

9 Q. This happened July 2012, the incident we're in court
10 today. Right?

11 A. Yes, sir.

12 Q. At that point in time, how many suspects had you run
13 down prior to that date?

14 A. Two.

15 Q. Two.

16 MR. BROWN: Your Honor, I submit he is not qualified.

17 THE COURT: I find he is. I find he is qualified as a
18 canine handler.

19 SOLICITOR SPRINGS: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 OFFICER JOHATHAN MORENO BY SOLICITOR SPRINGS

22 Q. What's your dog's name?

23 A. Canine Molly.

24 Q. Now has Molly had some training?

25 A. Yes.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 Q. A lot of training?

2 A. A lot more than I have.

3 Q. Tell us about Molly's training.

4 A. Molly was picked up as a puppy when she was two months
5 old. She started out with my Lieutenant and she's
6 currently going to be five years old in July.

7 Q. Okay. Tell us about the kind of training she has been
8 through.

9 A. During the beginning stages of the puppy stage, she is
10 taught just the interest of tracking someone. Playing hide
11 and go seek, making them very playful, basic fundamentals.
12 Once they show that interest, whoever is training her at
13 the time will be continuing the training to make it a
14 little more difficult from fifty yards of hide and go seek
15 to a hundred yards of hide and go seek.

16 As they show more and more ability as they get older
17 closer to that eight month year period, that's when we
18 start training such as in King's Mountain; other training
19 that are on the east coast, and we put them on live
20 scenarios and see how they do from there. If they continue
21 to show that interest, that motivation and that ability to
22 track, then we put them in more difficult scenarios as the
23 training gets more intense. So she's had a few years of
24 training like that and furthered her ability.

25 Q. Has Molly been put through a number of training

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 exercises to see if she is accurate, if she is good, if she
2 can actually track and successfully find a suspect? Has
3 she been through training for that?

4 A. Yes, sir. She goes through that training on a
5 constant basis. That's the scenarios we place her in
6 weekly, monthly, throughout the year, and especially while
7 she is at the canine school.

8 Q. And has she found to be - Has she found to be
9 reliable, in fact extremely reliable?

10 MR. BROWN: Objection, Your Honor.

11 THE COURT: I don't know what extremely reliable means
12 so let's --

13 SOLICITOR SPRINGS: I'll rephrase.

14 Q. Tell us about her reliability.

15 A. Her reliability and accuracy is very well in training.
16 She is not going to be a perfect dog, but she is very
17 reliable in the sense of the scenarios we put her in, a
18 start and end point, and properly identifying a suspect or
19 items found along that track.

20 Q. Okay. All right. Did you bring a picture of Molly?

21 A. Yes I did.

22 Q. May we see it?

23 (PHOTO REVIEWED BY ATTORNEY BROWN.)

24 MR. BROWN: Without objection, Your Honor.

25 THE COURT: In without objection.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 (WHEREUPON: STATE'S EXHIBIT NUMBER FOURTEEN PREMARKED
2 FOR IDENTIFICATION.)

3 Q. State's Exhibit Fourteen, is that Molly?

4 A. Yes, sir, it is.

5 Q. True and accurate picture of Molly?

6 A. Yes.

7 SOLICITOR SPRINGS: Your Honor, we offer State's
8 Exhibit Fourteen into evidence.

9 THE COURT: In without objection.

10 (WHEREUPON: STATE'S EXHIBIT NUMBER FOURTEEN,
11 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

12 SOLICITOR SPRINGS: Would you let the jury pass this
13 around juror to juror until it comes all the way back
14 around to you.

15 May we publish it?

16 THE COURT: Yes, you may.

17 (STATE'S EXHIBIT NUMBER FOURTEEN, PUBLISHED TO THE
18 JURY.)

19 Q. Now, Officer Moreno, about eleven o'clock at night on
20 July 25th of last year, were you and Molly called out?

21 A. Yes, sir, we were.

22 Q. And whereabouts were you sent? Where were you
23 supposed to go with Molly?

24 A. We responded to 348 South Cherry Road.

25 Q. By the time - What was your understanding of what had

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 happened at -

2 MR. BROWN: Objection, Your Honor. Left out what he
3 did.

4 THE COURT: I sustain the objection.

5 BY SOLICITOR SPRINGS:

6 Q. When you got there, you were called out obviously to
7 track somebody, what was your understanding of what you
8 tracking?

9 A. Two suspects fleeing on foot.

10 Q. Okay. And whereabouts were you to start the track?

11 A. Right behind the discount auto store which is located
12 on Main Street and Cherry Road.

13 Q. Discount Beverage Store?

14 A. Yes, sir.

15 Q. And did Molly pick up a scent?

16 A. She did. Before she picked up the scent, what we do
17 is meet with the officers or the victim. Unfortunately at
18 the time we couldn't speak to the victim so we spoke to the
19 officers that were first on scene. I met with Officer
20 Sizemore and Officer Vandermolen which stated they saw two
21 unknown suspects wearing dark clothing, black males,
22 fleeing on foot on Pursley Street heading towards Stadium
23 Street.

24 Q. And you said Molly picked up a track?

25 A. Yes. She picked up a track right behind Pursley

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 Street that led us to 328 Pursley Street.

2 Q. This aerial photo is in evidence as State's Exhibit
3 Eleven, and point out to the jury 328 Pursley Street.

4 A. The star right over here.

5 (WITNESS INDICATED ON EXHIBIT.)

6 Q. Okay. And the significance of that is what? What
7 happened there?

8 A. This is where we began the track and we made a left
9 turn into 328 Pursley Street. When we reached the backyard
10 of the residence, that's where we located a rifle which was
11 brown and black.

12 Q. Let me stop you there. Let's talk a little bit about
13 that rifle.

14 (WHEREUPON: STATE'S EXHIBIT FIFTEEN PREMARKED FOR
15 IDENTIFICATION.)

16 Q. State's Exhibit Fifteen, what does that show?

17 A. The rifle.

18 Q. It looks like there are some bushes there. Were there
19 some bushes around?

20 A. Yes. It was underneath the bushes behind a vehicle
21 that was abandoned in the backyard.

22 Q. Okay. All right. Is State's Exhibit Fifteen a true
23 and accurate photo of the rifle you and Molly found?

24 A. Yes.

25 SOLICITOR SPRINGS: Your Honor, we do offer State's

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 Exhibit Fifteen into evidence.

2 MR. BROWN: Without objection.

3 THE COURT: In without objection.

4 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTEEN IDENTIFIED
5 AND MARKED, RECEIVED INTO EVIDENCE.)

6 Q. So you saw the rifle. You got up close and personal
7 with the rifle?

8 A. Yes.

9 THE COURT: Has the gun been safety --

10 SOLICITOR SPRINGS: Yes. That's what I've been told.

11 THE COURT: Well I'm not gonna ask you to verify. Who
12 told you?

13 SOLICITOR SPRINGS: Detective Cantey. If you want to
14 take a short break I wouldn't mind it and I'll --

15 THE COURT: Let's take a short break. We have certain
16 protocol when weapons are - Just set it down right now and
17 don't point it at anybody and we'll make sure that it's
18 been properly cleared and the required safety equipment on
19 it so we'll take a break at this time.

20 (JURY EXITS COURTROOM AT 10:28 A.M..)

21 THE COURT: We'll go ahead and take about a ten minute
22 break.

23 (COURT IN RECESS AT 10:29 A.M..)

24 (COURT BACK IN SESSION AT 10:42 A.M..)

25 THE COURT: Take your seats.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 Is the State ready to proceed?

2 SOLICITOR SPRINGS: We are.

3 THE COURT: Get Mr. Maldonado in.

4 (DEFENDANT REENTERS COURTROOM.)

5 THE COURT: For the record, the gun was found secure?

6 SOLICITOR SPRINGS: Yes, Your Honor. I had out chief
7 of security, Lieutenant Tim Hager, verify the gun was
8 unloaded and he disabled it with a security device.

9 THE COURT: Bring in the jury.

10 Thank you.

11 (JURY REENTERS COURTROOM AT 10:47 A.M..)

12 THE COURT: You may proceed.

13 The gun has been properly secured as required by the
14 Chief Justice.

15 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTEEN, PREMARKED
16 FOR IDENTIFICATION.)

17 DIRECT EXAMINATION - CON'T

18 OFFICER JONATHAN MORENO BY SOLICITOR SPRINGS:

19 Q. Officer Moreno, I'm showing you what has been marked
20 State's Exhibit Sixteen for identification. Take a look at
21 it and tell us if it's the same rifle that you and Molly
22 found under the bushes that's pictured in State's Exhibit
23 Fifteen.

24 A. Yes it is.

25 Q. Okay.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 SOLICITOR SPRINGS: Your Honor, we do offer State's
2 Exhibit Sixteen into evidence.

3 MR. BROWN: Without objection.

4 THE COURT: In without objection.

5 WHEREUPON: STATE'S EXHIBIT NUMBER SIXTEEN,
6 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR SPRINGS: And it's unloaded and in the bag
8 it came out of.

9 Q. Is a container that has what in it?

10 A. It has ten live rounds.

11 Q. Okay.

12 SOLICITOR SPRINGS: And that's not going into
13 evidence.

14 MR. BROWN: That's what?

15 THE COURT: Ten live rounds.

16 SOLICITOR SPRINGS: Ten live bullets. Live rounds.

17 Q. Now, after you found the rifle did you and Molly
18 continue to track?

19 A. What we did, we waited for forensics to arrive. Once
20 they have the gun secured, then we continued to track.

21 Q. Okay. And did you recover a couple of articles of
22 clothing?

23 A. Yes we did.

24 SOLICITOR SPRINGS: I beg the court's indulgence, Your
25 Honor.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 (SOLICITOR SPRINGS AND ATTORNEY BROWN IN SIDEBAR
2 CONFERENCE OFF THE RECORD.)

3 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTEEN,
4 EIGHTEEN, AND NINETEEN, PREMARKED FOR IDENTIFICATION.)

5 Q. Now, I'm showing you what's been marked State's
6 Exhibit Nineteen for identification, Officer Moreno. Let
7 me open the bag and I'm going to ask you if you've ever
8 seen that. State's Exhibit Nineteen I'm showing you now,
9 look at the contents in the bag and tell us if you have
10 seen that before.

11 A. Yes I have.

12 Q. And where did you see that before?

13 A. This was going to be on Berry Street, we located a
14 black, long-sleeved t-shirt.

15 Q. Okay. And in our aerial photo marked State's Exhibit
16 Eleven, do you remember whereabouts on Berry Street you
17 found it?

18 A. Right here.

19 (WITNESS INDICATED ON STATE'S EXHIBIT ELEVEN.)

20 A. 328 Berry Street.

21 Q. Okay.

22 SOLICITOR SPRINGS: Your Honor, we do offer State's
23 Exhibit Nineteen into evidence.

24 MR. BROWN: Without objection.

25 THE COURT: In without objection.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS

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1 (WHEREUPON: STATE'S EXHIBIT NUMBER NINETEEN
2 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

3 Q. I'm showing you a photograph, State's Exhibit
4 Seventeen. Do you recognize what's in that picture?

5 A. Yes, sir.

6 Q. And what is it?

7 A. It's the t-shirt that's in the bag.

8 Q. Okay. Is that a true and accurate picture of the t-
9 shirt as you and Molly found it?

10 A. Yes, sir. It was found on the steps at the rear of
11 the residence.

12 Q. Okay.

13 SOLICITOR SPRINGS: Your Honor, we do offer State's
14 Exhibit Seventeen into evidence.

15 MR. BROWN: Without objection.

16 THE COURT: In without objection.

17 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTEEN,
18 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 Q. Did you find any other articles of clothing?

20 A. We were also able to find a red bandana inside one of
21 the trash cans on Bynum Avenue.

22 Q. Okay. I'm showing you what has been marked State's
23 Exhibit Eighteen. And go ahead and look inside that bag.
24 Tell us if you recognize what's in there.

25 A. It's the red bandana.

OFFICER JONATHAN MORENO: BY SOLICITOR SPRINGS
BY MR. BROWN

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1 Q. Okay.

2 SOLICITOR SPRINGS: And Your Honor, we do offer
3 State's Exhibit Eighteen into evidence.

4 MR. BROWN: Without objection.

5 THE COURT: In without evidence.

6 (WHEREUPON: STATE'S EXHIBIT NUMBER EIGHTEEN,
7 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

8 Q. And you found the red bandana about where?

9 A. At 333 Bynum Avenue.

10 Q. Okay.

11 MR. BROWN: I'm sorry. Can you spell that again?

12 A. 333 Bynum Avenue.

13 BY SOLICITOR SPRINGS:

14 Q. So you found the bandana first that day?

15 A. No, sir. We found the rifle, then the bandana, then
16 the t-shirt.

17 Q. Gotcha. Did you and Molly locate the other suspect
18 that night, the one you were chasing?

19 A. No we did not.

20 Q. Thank you, sir.

21 SOLICITOR SPRINGS: If you would answer any questions
22 the defense attorney has for you.

23 CROSS EXAMINATION

24 OFFICER JOHATHAN MORENO BY MR. BROWN:

25 Q. You recovered these items of property did you not,

OFFICER JONATHAN MORENO: BY MR. BROWN

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1 Officer?

2 A. Sir?

3 Q. You recovered the gun, the shirt and the bandana.

4 Correct?

5 A. Yes.

6 Q. And it would be standard procedure to take
7 fingerprints off the gun?

8 A. No. We didn't touch the items.

9 Q. Did you turn them over to somebody in forensics to do
10 that?

11 A. Yes, sir. We waited for forensics to arrive and they
12 secured the items.

13 Q. All right. And let me ask you this. Were you there
14 when Mr. Sanders was arrested?

15 A. No I was not.

16 Q. Okay. Did you see him that night?

17 A. No I did not.

18 Q. Okay. You didn't see Mr. Maldonado that night did
19 you?

20 A. I didn't see either one.

21 Q. Okay. Has Molly ever missed before?

22 A. On a training scenario or on a call out scenario?

23 Q. On an actual case.

24 A. No, she has not.

25 Q. So she is a hundred percent accurate when she pursues

OFFICER JONATHAN MORENO: BY MR. BROWN

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1 somebody. Correct?

2 A. Not a hundred percent accurate in the sense of call
3 outs, it is a hundred percent in the sense of training. We
4 try to correct her when she does make a mistake and in
5 training she does make mistakes.

6 Q. But she has been a hundred percent accurate every time
7 she has been called out is your testimony. Correct?

8 A. Fortunately enough while I've been with her.

9 MR. BROWN: I have no further questions.

10 SOLICITOR SPRINGS: Nothing further.

11 THE COURT: You may step down and be excused. We
12 appreciate your time.

13 (WITNESS LEAVING WITNESS STAND.)

14 SOLICITOR SPRINGS: Mr. Bailiff, would you look in
15 that left hand room and ask Mr. Huey to come in please.

16 MR. BROWN: Your Honor, before this witness testifies,
17 I have a matter of law we need to take up.

18 THE COURT: Let the jury go to the jury room.

19 Just take the jury to the jury room for a minute.

20 (JURY EXITS COURTROOM AT 10:58 A.M..)

21 THE COURT: All right.

22 MR. BROWN: Your Honor, this potential witness in his
23 statement made several hearsay statements that could put
24 culpability on my client. I'm asking that he be instructed
25 beforehand so there's no misunderstanding that he doesn't

ROMAULO HUEY: BY SOLICITOR SPRINGS

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1 (WHEREUPON: ROMAULO HUEY,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

3 MADAME CLERK: Thank you. You can have a seat right
4 up there.

DIRECT EXAMINATION

ROMAULO HUEY BY SOLICITOR SPRINGS:

7 Q. Mr. Huey, you have a very soft voice, I'm going to ask
8 you to sort of lean over a little bit towards that
9 microphone. Tell the jury your name, sir.

10 A. My name is Ramailo Huey.

11 Q. Huey, H-u-e-y?

12 A. Uh-huh.

13 Q. Okay. And you live over in the Boyd Hill area of Rock
14 Hill?

15 A. Yes, sir.

16 Q. And do you know Kairon Maldonado?

17 A. Yes, sir.

18 Q. Look around the room and if you see him point him out,
19 would you please.

20 WITNESS INDICATED TOWARD DEFENSE TABLE.)

21 SOLICITOR SPRINGS: Let the record show he's pointed
22 to the defendant here, Kairon Maldonado.

23 Q. Do you also know a fellow named Kadeem Sanders who
24 sometimes goes by the nickname Buck Sanders?

25 A. I do.

ROMAULO HUEY: BY SOLICITOR SPRINGS

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1 Q. Now when you were growing up in that Boyd Hill area,
2 when you were a little boy, did you ever go in the Discount
3 Food and Beverage there on the corner of Cherry Road and
4 Main Street?

5 A. Yes, sir.

6 Q. Have you been going in that store for some years?

7 A. All my life.

8 Q. Have you bought a lot of stuff there over the years?

9 A. Yes, sir.

10 Q. And do you know if Kadeem Sanders or Kairon Maldonado
11 had been going in the store or not over the years?

12 A. Well, yes because we went in the store plenty of times
13 together.

14 Q. Okay. Now, do you remember the night of July 25th of
15 last year when the store clerk for the Discount Beverage
16 got shot?

17 A. Yes, sir.

18 Q. Did you go up to the store when the police and the
19 ambulance and all the commotion was going on?

20 A. Yes, sir. When I got back from Applebee's.

21 Q. Okay. And so the police were there at the store?

22 A. Yes, sir.

23 Q. Did you talk to two detectives, a black lady detective
24 and a black man detective?

25 A. Yes, sir.

ROMAULO HUEY: BY SOLICITOR SPRINGS

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1 Q. The night before, you were at the store, when the
2 clerk got shot and all the police and the ambulance and all
3 the other that was going on, the night before, that would
4 have been the night of July 24th, did you spend some time
5 with Kairon Maldonado and Kadeem Sanders?

6 A. It was like we was all into pranks the night before
7 and we had went to my house.

8 Q. You were where the night before?

9 A. It was like - yeah, we was all together the night
10 before.

11 Q. And were Kairon Maldonado and Kadeem Sanders talking
12 about some plans they had?

13 A. Yes, sir.

14 Q. What were they planning on doing?

15 A. They were planning on like robbing the store. I tried
16 to talk them out of it but I thought they were going to
17 listen to me. I guess the next day it happened.

18 Q. Which store were they planning and talking about
19 robbing?

20 A. Well, they didn't like really like say a store but
21 they like when I heard it, when I heard that they robbed
22 the store I --

23 MR. BROWN: Objection, Your Honor, to what he heard.

24 THE COURT: Don't go into what you've heard as far as
25 after it happened, what happened. As far as what you heard

ROMAULO HUEY: BY SOLICITOR SPRINGS
BY MR. BROWN

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1 about who - about the events of the night of September I
2 mean --

3 July 25th?

4 SOLICITOR SPRINGS: Yes July 25th.

5 MR. BROWN: I would also ask the jury be instructed
6 to disregard that statement.

7 THE COURT: Yes, disregard what he may have heard
8 after the event, alleged event.

9 BY SOLICITOR SPRINGS:

10 Q. But the night before they were planning a robbery?

11 A. Yes, sir.

12 Q. Thank you, Mr. Huey.

13 SOLICITOR SPRINGS: The defense attorney may have some
14 questions for you.

15 A. Yes.

16 CROSS EXAMINATION

17 ROMAULO HUEY BY MR. BROWN:

18 Q. Sixteen years old and you were convicted of receiving
19 stolen goods weren't you?

20 A. Yes, sir.

21 Q. And you stole something. Right?

22 A. Well, with the receiving stolen goods, it wasn't on
23 me. I didn't take the bike.

24 Q. How did you get it?

25 SOLICITOR SPRINGS: Objection. He has done his

ROMAULO HUEY: BY MR. BROWN

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1 impeachment. He got his --

2 THE COURT: Once he has admitted it, pled guilty or
3 was found guilty then the inquiry ends.

4 Q. Now, you didn't go down to the store that night. You
5 met the police at Teague's Pawn Shop didn't you?

6 A. Well, like when I --

7 Q. Yes or no. You can explain your answer.

8 A. Yes.

9 Q. So you met them at Teague's Pawn Shop. It wasn't at
10 the store like you testified earlier. Correct?

11 A. No, sir.

12 Q. As a matter of fact, you were dressed just like Kadeem
13 Sanders was that night. You didn't have a shirt on when
14 the police got to you.

15 A. I had a shirt. I had a blue shirt with me.

16 Q. You didn't have it on though did you?

17 A. No, sir. But I had it with me.

18 Q. You were dressed just like Kadeem Sanders was when the
19 cops found him weren't you?

20 A. No, sir.

21 Q. He didn't have a shirt on; you didn't have a shirt on.

22 A. I had it like around my neck.

23 Q. Did you go into Applebee's without a shirt on?

24 A. No, sir. I had the shirt with me.

25 Q. How did you get to Applebee's?

ROMAULO HUEY: BY MR. BROWN

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1 A. My momma.

2 Q. And she brought you back down to Teague's Pawn Shop?

3 A. No. Like we was - like where Chicken King is at then
4 I seen like the cars and stuff so I got out the car and I
5 had - I was walking over towards to their stuff then that's
6 when the police was like I can't come on the premises so I
7 walked down towards Teague's Pawn Shop. That's when the
8 police came down the street. He turned around. So I'm
9 walking stead me and my sister. He stopped me and put me
10 in handcuffs had me detained waiting on the dogs to get my
11 scent. They ain't get my scent --

12 MR. BROWN: Objection, Your Honor. I didn't ask him
13 about the dogs.

14 Q. They placed you at detention. Right?

15 A. Yes, sir.

16 Q. Placed you under arrest. And you didn't have a shirt
17 on either. Right?

18 A. I had a shirt on.

19 Q. Okay. Now I'm a little confused. This is like your
20 home store. Right?

21 A. Yes, sir.

22 Q. You like going there. Right?

23 A. Yes, sir.

24 Q. You like the people that run it. Right?

25 A. It's the closet store.

ROMAULO HUEY: BY MR. BROWN

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1 Q. Why didn't you call somebody if this big robbery was
2 being planned? Why didn't you call the police or call Mr.
3 Patel and say, look be careful, these guys may come in here
4 and shoot you.

5 A. Because at that time like at that time I thought they
6 was gonna listen to me, that they weren't gonna go up
7 there. I ain't knowed that they was still going to go
8 because I left --

9 Q. Well you knew about it. You testified you knew about
10 it didn't you?

11 SOLICITOR SPRINGS: Objection. He's cutting the
12 witness off.

13 THE COURT: Let him finish his answer before you ask
14 the next question.

15 Q. Did you tell anybody prior to this that might have
16 saved that man's life?

17 A. No, sir.

18 Q. Why?

19 A. I told the police the day that it happened when they
20 had me, Officer Smith, and that's who I had talked to.

21 Q. Before this happened, before Kadeem Sanders went and
22 shot Mr. Patel, did you call Mr. Patel or anybody at that
23 store or anybody at the Rock Hill Police Department or
24 anybody and say be careful, Kameen Sanders may come in and
25 shoot you tonight?

ROMAULO HUEY: BY MR. BROWN

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1 SOLICITOR SPRINGS: Objection. It's been asked and
2 answered and he is harassing the witness now.

3 THE COURT: Well this is cross.

4 Let's move on once you get the answer.

5 BY MR. BROWN:

6 Q. Yes or no?

7 A. Can you repeat yourself?

8 Q. Did you call Mr. Patel ---

9 A. No, sir.

10 Q. --- or anybody at the Rock Hill Police Department and
11 say, hey, Kadeem Sanders is going to come in with a .22
12 rifle and shoot you tonight? Did you forewarn anybody of
13 that?

14 A. No, sir.

15 Q. You've got two cousins named Marcus and David?

16 A. Marcus?

17 Q. And David.

18 A. I got a cousin named David.

19 Q. Have you got a brother named Marcus too?

20 A. Huh-huh.

21 Q. You don't? You got a friend named Marcus?

22 A. Yes.

23 MR. BROWN: I have no further questions.

24 SOLICITOR SPRINGS: Nothing further.

1 Honor, I received a fax from Mr. Springs to include I
2 assume somebody in your office, I don't know who, had
3 talked to Mr. ---

4 Was that you?

5 -- but basically told him that, and I quote "in his
6 opinion Kadeem Sanders was the one who was pushing doing
7 the robbery."

8 THE COURT: What's your objection?

9 SOLICITOR SPRINGS: No, no, I don't object. I was
10 just gonna follow up and say do you remember when we
11 talked on the phone.

12 THE COURT: All right.

13 MR. BROWN: We can just stipulate he told you. I
14 don't care.

15 SOLICITOR SPRINGS: Either way. Whatever you want to
16 do.

17 THE COURT: Bring the jury back in.

18 (JURY REENTERS COURTROOM AT 11:12 A.M..)

19 SOLICITOR SPRINGS: Your Honor, we stipulate that I
20 spoke on the phone with Mr. Huey a couple of weeks ago. He
21 said in his opinion, Kadeem Sanders was the instigator of
22 this two person to him.

23 THE COURT: That's a stipulation; that is, the parties
24 agree that that is a fact. When you are going through and
25 trying to determine the facts in this case, you can take

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1 that as a fact without having to analyze it, that is, for
2 the purposes of this case that is in fact a fact.

3 All right. You can step down. We appreciate your
4 time. Thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 SOLICITOR SPRINGS: We at this time call Mr. Vipul
7 Patel.

8 THE COURT: Please come up.

9 SOLICITOR SPRINGS: If you'll be sworn in again or
10 affirm; either way.

11 (WHEREUPON: VIPUL PATEL,
12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 MADAME CLERK: Thank you. You can have a seat right
14 up there.

15 DIRECT EXAMINATION

16 VIPUL PATEL BY SOLICITOR SPRINGS:

17 Q. Mr. Patel, you have a soft voice so I'm going to ask
18 you to sort of lean towards that microphone or speak up
19 nice and loud. Tell us your name, sir.

20 A. Vipul Chhanalal Patel.

21 Q. And are you originally from the country of India?

22 A. Yes, sir.

23 Q. Do you own the Cherry Road Discount Beverage store?

24 A. Yes, sir.

25 Q. And how long have you been running the Discount, I'm

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 going to call it the Discount Beverage store, how long have
2 you been running that store?

3 A. Sixteen years.

4 Q. Would you characterize it as a neighborhood store? Do
5 you get a lot of neighborhood customers?

6 A. Yeah.

7 Q. Did something bad happen to you the night of July 25th
8 of last year?

9 A. Yeah I was robbed. They came to rob me and shoot me.

10 Q. So were you working in your store, the Discount
11 Beverage, when you got shot?

12 A. Yeah. I was behind the cash register.

13 Q. How many times did you get shot? How many bullets hit
14 you?

15 A. Two times.

16 Q. Would you point out on your body where the bullets hit
17 you?

18 A. One right here near the neck and one on the left
19 shoulder.

20 (WITNESS INDICATED.)

21 Q. Okay. The one on the right side - you touched your
22 face. Did it hit your face before it hit your shoulder?

23 A. Yeah. It hit my face and went through right from my
24 neck right here.

25 (WITNESS INDICATED.)

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Q. Okay. And the other one was on the other shoulder?

2 A. Yeah. One was on the left hand.

3 Q. After you were shot, were you taken to the hospital?

4 A. Yeah. They took me to the hospital.

5 Q. And did you go to the hospital in an ambulance or a
6 helicopter or both?

7 A. Both.

8 Q. Did you go to the hospital in Rock Hill or in
9 Charlotte?

10 A. Charlotte CMC.

11 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY, PREMARKED
12 FOR IDENTIFICATION.)

13 Q. I'm showing you a picture marked State's Exhibit
14 Twenty. What is that a picture of?

15 A. The front counter.

16 Q. Of your store, the Discount Beverage?

17 A. Yes, sir.

18 Q. Is it a fair and accurate picture of what the front
19 counter looked like back on July 25th last year?

20 A. Yes, sir.

21 SOLICITOR SPRINGS: Your Honor, we offer State's
22 Exhibit Twenty into evidence.

23 THE COURT: Any objection?

24 MR. BROWN: Without objection, Your Honor.

25 THE COURT: In without objection.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY, IDENTIFIED
2 AND MARKED, RECEIVED INTO EVIDENCE.)

3 Q. You say you got shot twice?

4 A. Yes, sir.

5 Q. Does it hurt to get shot?

6 A. Yeah. It's painful.

7 Q. When they took you away in the ambulance and in the
8 helicopter, did they give you something for the pain? Did
9 they treat you?

10 A. Yeah, they treat me.

11 Q. And when you got to the hospital did the doctors take
12 the two bullets out of your body?

13 A. No. They're still in my body.

14 Q. Are those two bullets in your body right now?

15 A. Yes, sir.

16 Q. So the night you got shot, you said it was July 25th
17 of last year, were you working at the check out of your
18 store?

19 A. Yes, sir.

20 Q. What time was the store suppose to close that night?

21 A. Around eleven p.m.

22 Q. Okay. And how many other people were working in the
23 store that night?

24 A. One more. My cousin Manish.

25 Q. Okay. Is he also from India?

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 A. Yeah.

2 Q. He is a Patel as well?

3 A. Yeah. His name is Patel.

4 Q. All right. And I want to ask you what happened right
5 before eleven, maybe about eight minutes before eleven.

6 Were you out in the front part of the store?

7 A. Yeah, I was behind the cash register.

8 Q. And where was your cousin Manish?

9 A. He was in the back room cleaning the bucket.

10 Q. Okay. All right. And about eight minutes 'till
11 eleven, before you got shot, had the last customer left?
12 Was there anybody in the store up front besides you?

13 A. No. It was just me.

14 Q. And by the way, I want to go back and ask, your
15 cousin Manish, does he speak fluent English?

16 A. No. He doesn't speak good English.

17 Q. So about eight minutes 'till eleven you are out front
18 and there is no one else out front; is that correct?

19 A. Yes, sir.

20 Q. Your cousin Manish is in the back running water, or
21 washing a bucket did you say?

22 A. Yeah. Washing the bucket and we go a ice maker back
23 side too.

24 Q. Okay. When you got shot, how many people had entered
25 the store? How many people had entered the store?

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 A. When I was shot?

2 Q. Yes, sir.

3 A. It was me and the two robbers.

4 Q. Okay. Two people came in?

5 A. Yeah. Two people came.

6 Q. Okay. And was it two men or two women or what?

7 A. Two youngster.

8 Q. Men or women?

9 A. Men.

10 Q. Okay. And did they come in quickly or did they come
11 in slowly?

12 A. Quickly.

13 Q. And had you had - You called them youngsters, had you
14 had youngsters run in the store before? Did you get scared
15 if somebody ran in the store?

16 A. No. I've got a lot of young customers so it was
17 nothing different.

18 Q. Okay. The front counter of your store, does it have
19 displays for candy and things to sit on?

20 A. Yeah. I've got displays for the lottery, candy and
21 chips and all that.

22 Q. Okay. I'm going to put State's Exhibit Twenty on this
23 projector.

24 (STATE'S EXHIBIT TWENTY PUBLISHED TO JURY.)

25 Q. And you say that's the front counter of your store?

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 A. Yes, sir.

2 Q. Is this the cash register?

3 A. Yes, sir.

4 Q. Okay. And so you have stuff up here in the front?

5 A. Yes, sir.

6 Q. Okay. And is this the front door over here?

7 A. A little bit further.

8 Q. This way or this way?

9 A. Yeah. Right there.

10 Q. That's the door to the store?

11 A. Yes, sir.

12 Q. So the two men, you said they were youngsters. Are
13 you talking about little toddler youngsters or run type
14 people?

15 A. No. Around like youngster like from fourteen to
16 eighteen years old.

17 Q. Okay. But they came in the front door here and they
18 came in quickly?

19 A. Yes, sir.

20 Q. Okay. And when they got in the store, once they got
21 through the door, did they stay right together or did they
22 separate?

23 A. No, they separated.

24 Q. Okay. And where did one guy stay and where did one
25 guy go? Tell me about that.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 A. One guy stood near the front door and another guy came
2 near the swinging door where you can lead to the counter.

3 Q. Okay. So one guy stayed here near the front door?

4 A. Yes, sir.

5 Q. And you said there is a swing door here?

6 A. Yeah. That's a swinging door.

7 Q. Is that how you get behind the counter to work the
8 cash register?

9 A. Yes, sir.

10 Q. And one guy came around to the swing door?

11 A. Yes, sir.

12 Q. Now, which guy got more of your attention? The guy
13 that stopped and stayed here at the door, front door, or
14 the guy that came around here to where you come in to get
15 behind the cash register?

16 A. Near the cash register. Behind the cash register.

17 Q. This guy?

18 A. Yeah. The swing door.

19 Q. He had your attention much more than the other guy;
20 is that what you're saying?

21 A. Yeah because he was trying to come in so, you know, I
22 stood from the chair and stood in front of him.

23 Q. Okay. I'm going to show you what is already in
24 evidence. This is State's Exhibit Eight and we're going to
25 put it on the big projector up there.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 (STATE'S EXHIBIT EIGHT PUBLISHED TO THE JURY.)

2 Q. Do you recognize that scene?

3 A. Yes, sir.

4 Q. Okay. And, Mr. Patel, can you come on up here with me
5 for just a second.

6 (WITNESS LEFT WITNESS STAND.)

7 Q. Do you recognize the people in that picture?

8 A. Yeah I see the two youngsters.

9 Q. Okay. I'm going to ask you to take this pen of mine
10 and point out down there where you are in the picture.

11 A. Right here.

12 (WITNESS INDICATED.)

13 Q. That's you. And point out the two guys that had come
14 in the store.

15 A. One is right here.

16 Q. Okay.

17 A. And one is right here.

18 (WITNESS INDICATED.)

19 Q. Okay. And the one that got your attention that you
20 were really watching the most, where is he?

21 A. He's right here.

22 (WITNESS INDICATED.)

23 Q. Okay. And show us where the swinging door where you
24 come to get behind the cash register is.

25 A. Right there.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 (WITNESS INDICATED.)

2 Q. So you were watching the guy coming around to the door
3 that comes behind the cash register?

4 A. Yes, sir.

5 Q. I'll get my pen and you go ahead and take your seat.

6 Thank you, Madame Clerk.

7 (WITNESS RETURNED TO WITNESS STAND.)

8 Q. I notice the man you pointed out that was coming
9 behind the cash register, he has a hood up. Did he have a
10 hood up?

11 A. Yes, sir.

12 Q. Okay. Could you see his face?

13 A. Yeah, pretty much.

14 Q. Okay. Did he get all the way to that swinging door?

15 A. Yeah. He tried to open and tried to come in.

16 Q. And what did you think. What did you think, what was
17 in your mind when he first tried to come in and move the
18 swing door to come in?

19 A. I stood up from the chair and ran in front and told
20 him to move back.

21 Q. Okay. Did he move back a little bit or not?

22 A. Yeah. He moved back a little bit.

23 Q. Then what did he do?

24 A. He tried to come back in and then I told him to move
25 out from the store with my hand.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Q. Okay. And did he say anything to you?

2 A. He told me, "give me the money."

3 Q. And when he said, "give me the money" then what was
4 your frame of mind? What were you thinking or feeling at
5 that point?

6 A. I thought - We got a security switch near the
7 counter. I tried to push the switch.

8 Q. Okay. At that point as you go to push the switch -
9 and what does the security switch do? What does it do?

10 A. Mainly what it does if anything is like an emergency
11 in the store like where you cannot call 9-1-1, you can just
12 hit that and police - people know like something is really
13 bad at the store they'd be there right away.

14 Q. Does it notify the police?

15 A. Yeah. It notifies the police right away.

16 Q. So after the man said "give me the money" you reached
17 for the switch. Did you get to touch it? Did you get to
18 it?

19 A. Yeah. I was like you know I was scared. I pushed the
20 switch and when I was trying to push it, the other guy
21 started to shoot me.

22 Q. When the other guy shoots you up, until you were
23 getting hit with two bullets, did you know the other guy
24 had a gun? Had you seen it?

25 A. No. Mainly my eyes were on the counter guy because,

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 you know, he was coming inside which I warn him to be so I
2 was mainly concerned on the counter guy.

3 Q. Okay. All right. So until the bullets hit you, you
4 didn't even know there was a gun?

5 A. No. Mainly I was like, you know, somebody come near
6 you on the counter you get like, you know, why he is
7 trying to come in. I was mainly concerned on him.

8 Q. Now the guy that was trying to get behind the counter,
9 the guy that said "give me the money" --

10 MR. BROWN: Your Honor, I'm gonna object to counsel
11 raising his voice. The witness didn't testify to that.

12 THE COURT: Yeah. Let's keep your voice down.

13 SOLICITOR SPRINGS: Okay.

14 Q. I want to know how close he got to you. I'm going to
15 walk towards and when I get to the point where he was
16 closest to you, would you tell me to stop?

17 A. Which one?

18 Q. The guy that was trying to get behind the counter.

19 A. Okay.

20 (SOLICITOR WALKS TOWARD WITNESS STAND.)

21 A. That's where I told him to stop. He tried to put his
22 hand on the counter.

23 Q. Okay.

24 A. On the door.

25 Q. Okay. So he got this close?

VIPUL PATEL: BY SOLICITOR SPRINGS

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- 1 A. Yes, sir.
- 2 Q. And did you look right into his face?
- 3 A. Yes, sir.
- 4 Q. And did you recognize him?
- 5 A. Yes, sir.
- 6 Q. How did you recognize him? Where had you seen him
- 7 before?
- 8 A. He had been coming in the store.
- 9 Q. Had you seen him in the store more than once?
- 10 A. Yes, sir.
- 11 Q. Did you know his name or just knew him as somebody
- 12 that came into the store?
- 13 A. No. I knew him just like him been coming in the
- 14 store.
- 15 Q. Okay. All right. And after you got shot, did you go
- 16 down to the ground, to the floor?
- 17 A. Yes, sir.
- 18 Q. And the two men that had come in, what did they do
- 19 when you got shot and you went down to the floor?
- 20 A. They left the store.
- 21 Q. Okay. As you went down to the floor, did the man you
- 22 recognized, the man trying to get behind the cash register,
- 23 did he do anything at all to try to help you?
- 24 A. No. He ran right away.
- 25 Q. The bullets that hit you, did they hit anything before

1 they hit your body?

2 A. Yeah. They hit in the cash register then they hit in
3 my body.

4 Q. Did both bullets hit the cash register first?

5 A. Yes, sir.

6 Q. When you ended up on the floor - So the two guys ran
7 out, did they get any money?

8 A. No, sir.

9 Q. And neither one of them actually got into the cash
10 register?

11 A. No, sir.

12 Q. Did one attempt to get into the cash register?

13 A. No. When they shot me, they just left the store.

14 Q. Okay. Now, after you got shot and you ended up on the
15 floor, tell me about your cousin Manish.

16 A. Yeah. I called, I shouted for help. I told Manish
17 come in front. I called him two, three times. Then he
18 heard me and he ran. I told him to call 9-1-1.

19 Q. Since he doesn't speak English, did you have help him
20 call 9-1-1?

21 A. Yeah. When he saw me like with the blood he was
22 scared so he came with the phone but he was - so I dialed
23 the number and you know the police, he told them my brother
24 shot.

25 Q. Okay. When you were shot lying on the floor before

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 the police got there, did any customers come in?

2 A. Yeah. There were one customer came in.

3 Q. Okay. All right. And when he saw you lying on the
4 floor, what did that customer do?

5 A. He was shocked and he tried to call somebody.

6 Q. Okay. And did the police come?

7 A. Yes, sir.

8 Q. Were you able to talk to the police there in the store
9 while you were - before the ambulance took you away or were
10 you not able?

11 A. No. Mainly I was having trouble breathing so you
12 know, I had to from my mouth I was so - so I cannot talk
13 too much.

14 Q. Okay.

15 A. I tried to tell my name in there but that's it.

16 Q. So the ambulance came and they took you to the
17 hospital; is that right?

18 A. No. The ambulance came. They took me to near the
19 stadium and the helicopter flew me to the CMC.

20 Q. Okay. And some days later on July 31st, I guess
21 that would be six days later, did a police detective come
22 talk with you?

23 A. Yes, sir.

24 Q. And did you tell the police detective - At that point
25 when you were able to talk and did you tell them what

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 had happened?

2 A. Yeah. I told them what happened.

3 Q. Okay. And did you tell them that you knew the person
4 that was trying to get behind the counter, one of the
5 robbers?

6 A. I knew him so I told him like, you know, I knew the
7 guy.

8 Q. Okay. And that was on July 31st?

9 A. Yes, sir.

10 Q. Okay. Did the detective show you a photo lineup of
11 some people?

12 A. Yes, sir.

13 Q. And did you look at the photo lineup and recognize one
14 of the people in the photo lineup?

15 A. Yes, sir.

16 Q. Okay. The guy you recognized in the photo lineup --

17 MR. BROWN: Same objection previously made, Your
18 Honor.

19 THE COURT: Overruled.

20 BY SOLICITOR SPRINGS:

21 Q. Did the detective tell you to pick anybody out of the
22 photo lineup?

23 A. No. I picked my own.

24 Q. Okay. And the guy you picked out of the photo lineup,
25 the guy you recognized in the photos, who was he? What

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 was he to you? What was important about him?

2 A. Mainly like you know when he came at the store that
3 night, I remember his face.

4 Q. Okay. Which one of the guys was it?

5 A. Right there.

6 Q. Okay. You pointed to the defendant, Kairon Maldonado.
7 Was he the guy that stood by the front door?

8 A. No. He came near the counter door.

9 Q. I see. Mr. Patel, I'm showing you what's been marked
10 as State's Exhibit Two and State's Exhibit Three.

11 Let's talk about State's Exhibit Two first. Do you
12 recognize those pictures?

13 A. Yes, sir. The detective showed me.

14 Q. Is that the photo lineup that you were shown by the
15 detective on July 31st last year?

16 A. Yes, sir.

17 Q. The guy you recognized and picked out is the guy that
18 was trying to come around the counter and get in, the guy
19 that told you to give him the money. Did you put your
20 initials next to the guy you recognized?

21 A. Yes, sir.

22 Q. Those are your initials next to number four?

23 A. Yes, sir.

24 Q. Okay.

25 SOLICITOR SPRINGS: Your Honor, we do offer State's

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Exhibit Two into evidence.

2 MR. BROWN: Subject to my previous --

3 THE COURT: Subject to my earlier ruling entered ---

4 MR. BROWN: Yes, sir.

5 THE COURT: --- into evidence.

6 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO, IDENTIFIED
7 AND MARKED, RECEIVED INTO EVIDENCE.)

8 BY SOLICITOR SPRINGS:

9 Q. State's Exhibit Three appears to have your signature
10 on it. Does it?

11 A. Yes, sir.

12 Q. And it talks about - It's a form saying you're being
13 shown a photographic lineup; is that correct?

14 A. Yes, sir.

15 Q. And it's also dated July 31st, 2012; is that correct?

16 A. Yes, sir.

17 Q. Okay. So you saw this form and signed it at the same
18 time when you made the identification of the photo lineup?

19 A. Yes, sir.

20 SOLICITOR SPRINGS: Your Honor, we do offer State's
21 Exhibit Three into evidence.

22 MR. BROWN: Subject to my previous objection.

23 THE COURT: In over objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE, IDENTIFIED
25 AND MARKED, RECEIVED INTO EVIDENCE.)

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Q. And, Mr. Patel, we're going to look at State's Exhibit
2 Two, the photo lineup on the over head projector real
3 quick.

4 And while we wait for that to warm up, did another
5 detective come back in August to talk to you some more?

6 Did another police detective come back and talk to
7 you on August 7th? I'm sorry. August 10th.

8 A. Yeah. I went to the police station to make the
9 statement.

10 Q. Oh, okay. You went to the police station. Okay. And
11 I see your initials here by Number Four; is that right?

12 A. Yes, sir.

13 Q. And the guy in picture Number Four, the guy that tried
14 to come behind the counter that night, the guy that asked
15 you, told you to give him the money, do you see him in the
16 courtroom?

17 A. Yes, sir.

18 Q. Point him out one more time, please.

19 A. Right there.

20 SOLICITOR SPRINGS: And let the record show he has
21 pointed to the defendant in this case, Kairon Maldonado.

22 (WITNESS INDICATED TO DEFENDANT.)

23 Q. Did you and - Did you, assisted by some family
24 members, take some pictures of your wounds?

25 (ATTORNEY BROWN REVIEWING PHOTOS.)

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 MR. BROWN: Without objection.

2 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-ONE,
3 TWENTY-TWO, PREMARKED FOR IDENTIFICATION.)

4 Q. I'm showing what's been marked State's Exhibit
5 Twenty-one and Twenty-two for identification. Let's talk
6 about State's Exhibit Twenty-one first.

7 Do you recognize who's in that picture?

8 A. Yeah. It's me.

9 Q. And what are these things on your body? What are
10 those?

11 A. These are the scars where I got - I was shot the
12 bullet went through from here in my body.

13 Q. And is this a true and accurate picture of where one
14 of the bullets hit your body?

15 A. Yes, sir.

16 SOLICITOR SPRINGS: Your Honor, we do offer State's
17 Exhibit Twenty-one into evidence.

18 THE COURT: Any objection?

19 MR. BROWN: Without objection, Your Honor.

20 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-ONE
21 IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

22 Q. State's Exhibit Twenty-two, what does that show, sir?

23 A. That is where I have been shot. That's the bullet.

24 Q. On the other side of your face?

25 A. Yeah. On the left hand.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Q. Okay. Is that a true and accurate picture of the
2 wound to the left side of your body?

3 A. Yes, sir.

4 SOLICITOR SPRINGS: Your Honor, we do offer State's
5 Exhibit Twenty-two into evidence.

6 MR. BROWN: Without objection.

7 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-TWO
8 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

9 Q. Let's look at these on the projector, Mr. Patel.
10 (STATE'S EXHIBIT NUMBER TWENTY-ONE PUBLISHED TO THE
11 JURY.)

12 Q. And we'll look at State's Exhibit Twenty-one first.
13 I think you said earlier the right hand bullet went through
14 your cheek before it hit your shoulder?

15 A. Yes, sir.

16 Q. Is this where it entered your cheek and came out of
17 your cheek before it hit your shoulder?

18 A. Yes, sir.

19 (STATE'S EXHIBIT NUMBER TWENTY-TWO PUBLISHED TO THE
20 JURY.)

21 Q. And State's Exhibit Twenty-two, is that black mark
22 where the bullet hit your left shoulder?

23 A. Yes, sir.

24 Q. And that bullet is still in your body?

25 A. Yes, sir.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Q. Your store I believe has security cameras; is that
2 right?

3 A. Yes, sir.

4 Q. Were they working that night?

5 A. Oh, yeah.

6 Q. Did you see the movies that were made by the security
7 cameras?

8 A. Yes, sir.

9 Q. And the movies you saw, were they true and accurate;
10 nothing phony about them?

11 A. Yes, sir.

12 Q. I'm showing you what is in evidence. It's State's
13 Exhibit Six. Is that the disc that has the movies made by
14 the security camera?

15 A. Yes, sir.

16 Q. All right. We're going to go ahead and take a look at
17 those now. Can you see the screen alright from where you
18 are?

19 A. Yeah.

20 Q. Let me ask you before we start. Is there any sound?
21 These are silent. There is no audio sound is there?

22 A. No. No audio.

23 Q. Okay. Just the movie?

24 A. Just the movie.

25 SOLICITOR SPRINGS: Would you play Clip Five.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Dim the lights.

2 (STATE'S EXHIBIT NUMBER SIX PUBLISHED TO THE JURY AT
3 11:40 A.M..)

4 Q. Who's that behind the counter there?

5 A. Yeah, that's me.

6 Q. That fellow out front there, was he a customer?

7 A. Yeah. He came before the robbers came.

8 Q. Are those the two guys that came in your store to rob
9 you?

10 A. Yes, sir.

11 SOLICITOR SPRINGS: Pause again please.

12 Q. Now, you seem to be reaching for something there.
13 What are you reaching for?

14 A. I was just trying to scare them.

15 Q. As you - I see the rifle held by the man by the door.
16 Had you seen the rifle?

17 A. No. Mainly I was concentrating on the counter door.

18 Q. Did some of those displays and the cash register
19 itself block some of your view?

20 A. Yeah. It blocks the view in the front because, you
21 know, if I stand there it blocks the front view.

22 Q. Okay.

23 SOLICITOR SPRINGS: Go ahead and play it.

24 Q. Is that when he shot you?

25 A. Yes, sir.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 SOLICITOR SPRINGS: If you would please play Clip
2 Eight.

3 Q. Is that the front of your store?

4 A. Yeah.

5 Q. Is that them? Is that the robbers?

6 A. Yeah. There were two.

7 SOLICITOR SPRINGS: Go ahead and play that until it
8 ends by itself if you would. Let's go back and play Eight
9 again.

10 Would you now play Clip Three?

11 Q. And is that you behind the counter before you got
12 shot?

13 A. Yes, sir.

14 SOLICITOR SPRINGS: Go ahead and stop that and play
15 Clip Two.

16 Stop that and play Clip Fifteen please, ma'am.

17 (STATE'S EXHIBIT SIX CONTINUED TO BE PUBLISHED.)

18 Q. Is this after the bullets hit you?

19 A. Yeah, that's me.

20 Q. Is that Manish?

21 A. Yeah. I called him.

22 SOLICITOR SPRINGS: You can go ahead and stop it.

23 Please play Clip Seventeen.

24 (STATE'S EXHIBIT SIX CONTINUED TO BE PUBLISHED.)

25 SOLICITOR SPRINGS: You can stop there.

VIPUL PATEL: BY SOLICITOR SPRINGS

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1 Play Clip Sixteen.

2 (STATE'S EXHIBIT SIX CONTINUED TO BE PUBLISHED.)

3 Q. Now, who is that there in that utility type room?

4 A. My cousin, Manish Patel.

5 Q. And he's running for what reason?

6 A. Yeah, when I shout for help --

7 MR. BROWN: Objection, Your Honor.

8 THE COURT: I sustain the objection.

9 Just disregard that answer.

10 SOLICITOR SPRINGS: You can stop right there.

11 Please play Clip Ten.

12 (STATE'S EXHIBIT SIX CONTINUED TO BE PUBLISHED.)

13 Q. Is that person that just walked in, is that a customer
14 you mentioned?

15 A. Yeah, it's a customer.

16 Q. Is that the lady police officer that just walked in?

17 A. Yeah, that was her.

18 SOLICITOR SPRINGS: You can stop it.

19 Thank you, Mr. Patel. If you would answer any
20 questions the defense attorney may have.

21 MR. BROWN: I need two minutes to step outside with
22 the Court's permission.

23 (PAUSE/ATTORNEY BROWN LEFT COURTROOM.)

24 (ATTORNEY BROWN RETURNED TO COURTROOM.)

25 CROSS EXAMINATION

VIPUL PATEL: BY MR. BROWN

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1 VIPUL PATEL BY MR. BROWN:

2 Q. Mr. Patel, you testified previously, I believe it was
3 yesterday, about what you saw. Did you did not tell me
4 yesterday when I asked you that the individual that was
5 trying to come through the counter had glasses on?

6 A. Yeah.

7 Q. Okay. And you told me he did not have a bandana on
8 his face. Correct?

9 A. No. He didn't have a bandana.

10 Q. And you told me he was about five foot five. Correct?

11 A. Yeah. Because you know my counter is a little bit
12 high ---

13 Q. Yes, sir.

14 A. --- so that's what I guessing because I'm not going to
15 look at the size when somebody come in the store.

16 Q. I'm showing you State's Exhibit Number Nine. Is that
17 the individual that walked over toward where the cash
18 register was?

19 A. Yeah. One here and one there.

20 Q. And doesn't he have a bandana around his face in that
21 picture?

22 A. I cannot see it.

23 Q. Isn't his face covered up down here with the bandana?

24 A. I think it is a hoodie in the front.

25 Q. Do you see that part right there?

VIPUL PATEL: BY MR. BROWN

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1 A. Yeah but I see the - because the checked is two color,
2 white and blue ---

3 Q. Yeah.

4 A. --- so it's a hoodie in the front.

5 Q. And what is that right there, if you remember?

6 A. I don't remember.

7 Q. Okay. You saw this individual for about five to six
8 seconds did you not, sir?

9 A. Yes, sir.

10 Q. Okay. And it was under less than ideal circumstances.
11 Correct?

12 A. Yeah. I seen him before so I recognize him at that
13 time.

14 MR. BROWN: Please key up Number Three.

15 (STATE'S EXHIBIT SIX, CLIP THREE PUBLISHED.)

16 THE COURT: Mr. Brown, I don't think some of the
17 jurors can see if you stand there.

18 MR. BROWN: Stop it right there.

19 Q. Mr. Patel, what are you looking at with that gun
20 pointed --

21 A. I was looking at the two guys.

22 Q. Okay. You didn't see that gun right before --

23 A. No. Not really.

24 Q. How close does that look to you, sir?

25 A. Round like from here to there.

VIPUL PATEL: BY MR. BROWN

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1 Q. Okay. And the gun is being pointed at you. You can
2 see that. Correct, sir?

3 A. I cannot see. I was looking at them.

4 Q. Okay. Which way is your head pointed in that picture?

5 A. Yeah. I was looking in the front because at that time
6 there were two guy came in the front.

7 Q. Okay. Sir, I realize it was a traumatic experience
8 for you. Could you have forgotten about this? Could your
9 memory have faded because the experience of what happened
10 to you, sir?

11 A. See because I don't - At that time I was looking at
12 the --

13 Q. Yes, sir. But your face is clearly looking at the man
14 with the gun.

15 A. Yeah because there were two people in the front when
16 they came in, I just - When anybody come in the store, you
17 just look in the front.

18 Q. My question to you is, sir, because of how traumatic
19 this was, could you have blocked some of this out of your
20 memory?

21 A. Yeah it could block memory.

22 Q. Okay. Thank you, sir.

23 The police first come to you, sir, on July 25th; is
24 that right?

25 A. Yeah. When I was shot?

VIPUL PATEL: BY MR. BROWN

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1 Q. Yes, sir.

2 A. Yeah.

3 Q. And this happened on July the --

4 A. July the 25th on Wednesday 2012.

5 Q. 25th. It was July 31st is when they came to your
6 house; is that right?

7 A. Yes, sir.

8 Q. Okay. And they didn't come and ask you for a
9 description or anything did they?

10 A. No. They came in and asked me what happened. I told
11 him and they showed me the photo line pictures.

12 Q. Okay. And let me ask you this, sir. Do you see any
13 other customers in this lineup that have been in the store
14 before?

15 A. I don't remember.

16 Q. Okay. Do you recognize one, two, three, or five or
17 six, as any customers ever?

18 A. I don't remember.

19 Q. But you knew four was a customer?

20 A. Yeah because you know, he was there at that time.
21 That was in my mind.

22 Q. You gave your statement on August 10th identifying him
23 as a customer. Correct?

24 A. Yes, sir.

25 Q. But the paper ran an article on August 3rd which you

VIPUL PATEL: BY MR. BROWN

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1 admitted to me yesterday that you read identifying my
2 client.

3 A. No. Once I saw him like when they came on 31st I told
4 them what happened and I identify him on the picture and
5 then I saw in the paper.

6 Q. But the first thing I have in discovery saying you
7 identified him as a customer is seven days after it was in
8 the paper.

9 A. I told the officer I knew him.

10 Q. I believe you testified yesterday that you were on
11 medication when you made this identification.

12 A. Yeah. The doctor tried to give me the high -
13 different medication.

14 Q. And this medication were pain killers and so forth.
15 Right?

16 A. Yes, sir.

17 Q. And I believe you testified that you were groggy when
18 they came. Correct?

19 A. They gave me all different ones because it didn't work
20 for my body and still it's not working, no medicine.

21 Q. So you were under medication at the time?

22 A. Yeah, they gave me medication.

23 MR. BROWN: I beg the court's indulgence one moment.

24 (PAUSE.)

25 MR. BROWN: I don't think I have any further

OFFICER KEVIN SULLIVAN: BY SOLICITOR SPRINGS

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1 Mr. Bailiff, out in the hall is a forensics officer
2 named Kevin Sullivan. Please ask him to come in.

3 Mr. Sullivan, step up to the Clerk and she will swear
4 you in, sir.

5 (WHEREUPON: KEVIN SULLIVAN, BEING
6 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 OFFICER KEVIN SULLIVAN BY SOLICITOR SPRINGS:

9 Q. Officer Sullivan, keep your voice up nice and loud.
10 Tell us your name, sir.

11 A. Kevin Sullivan.

12 Q. What do you do for a living?

13 A. I'm a police officer for the Rock Hill Police
14 Department.

15 Q. And how long have you been a police officer? Tell me
16 the number of years in any department and any where.

17 A. Going on seventeen years.

18 Q. Okay. Are you what's called a forensics officer?

19 A. I am.

20 Q. What are some of the things forensics officers do?

21 A. Forensics officers are crime scene investigators. We
22 respond to crime scenes and basically document a crime
23 scene. Process a crime scene for evidence such as
24 fingerprints, trace evidence, swab taking, DNA swabs sent
25 off an analysis. Basically we're just documenting the

OFFICER KEVIN SULLIVAN: BY SOLICITOR SPRINGS

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1 fingerprints on the rifle was?

2 A. That I don't know.

3 Q. Okay. Did some shell casings get recovered from the
4 store that night?

5 A. Yes there were.

6 Q. Do you recall how many?

7 A. Three.

8 Q. Do you recall the caliber?

9 A. .22 caliber.

10 SOLICITOR SPRINGS: Madame Clerk, do you have some
11 scissors?

12 MADAME COURT REPORTER: I do.

13 Q. So you say three .22 caliber shells were found on the
14 floor of the store?

15 A. That's correct.

16 (WHEREUPON: STATE'S EXHIBITS TWENTY-THREE, TWENTY-
17 FOUR AND TWENTY-FIVE, PREMARKED FOR IDENTIFICATION.)

18 Q. Officer, I'm showing you what has been marked State's
19 Exhibit Twenty-five, Twenty-three, Twenty-four. Take a
20 look at those and tell me if each one of those envelopes
21 contains each one of the shells.

22 A. That's correct. They do.

23 Q. One .22 shell per envelope?

24 A. Yes.

25 Q. And these were found on the floor?

OFFICER KEVIN SULLIVAN: BY SOLICITOR SPRINGS

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1 A. Yes.

2 SOLICITOR SPRINGS: Your Honor, we do offer into
3 evidence State's Exhibit Twenty-three, Twenty-four and
4 Twenty-five.

5 MR. BROWN: Without objection.

6 THE COURT: In without objection.

7 (WHEREUPON: STATE'S EXHIBITS TWENTY-THREE, TWENTY-
8 FOUR AND TWENTY-FIVE, IDENTIFIED AND MARKED, RECEIVED INTO
9 EVIDENCE.)

10 Q. And pursuant to your examination of the crime scene,
11 Officer Sullivan, did you determine that bullets had gone
12 through some object in the store?

13 A. Yes. After searching the scene and finding how many
14 shell casings we discovered, we were looking to see if the
15 rounds had struck something prior to striking the victim
16 and I happened to glance at the cash register and saw that
17 the cash register had been struck.

18 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-SIX,
19 TWENTY-SEVEN AND TWENTY-EIGHT PREMARKED FOR
20 IDENTIFICATION.)

21 Q. Officer Sullivan, let's first of all look at what had
22 been marked State's Exhibit Twenty-eight for
23 identification. Do you recognize what that thing is in
24 that picture?

25 A. Yes, sir. It's a picture of the cash register in the

OFFICER KEVIN SULLIVAN: BY SOLICITOR SPRINGS

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1 store that night.

2 Q. Okay. The way it looked when you got there on the
3 scene?

4 A. That's correct.

5 Q. Is it a true and accurate picture of the cash
6 register?

7 A. Yes, it is.

8 SOLICITOR SPRINGS: Your Honor, we do at this time
9 offer into evidence State's Exhibit Twenty-eight.

10 MR. BROWN: Without objection.

11 THE COURT: In without objection.

12 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-EIGHT,
13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 BY SOLICITOR SPRINGS:

15 Q. The two holes in the cash register, do you know what
16 made those?

17 A. I believe they were caused by a projectile fired from
18 a firearm.

19 Q. Okay. And were dowels, rods, put through the cash
20 register to show visually how the bullets traveled?

21 A. Yes, they were.

22 Q. State's Exhibit Twenty-six and Twenty-seven, what do
23 those photos show, sir?

24 A. Twenty-six shows the front of the register with the
25 dowel rods struck through the register to show trajectory

OFFICER KEVIN SULLIVAN: BY SOLICITOR SPRINGS

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1 to show the trajectory of the bullets?

2 A. Yes, sir.

3 Q. I'm showing you State's Exhibit Twenty-seven.

4 (STATE'S EXHIBIT NUMBER TWENTY-SEVEN PUBLISHED TO THE
5 JURY.)

6 Q. So the dowel rods are red I take it; is that right?

7 A. Actually they are like a neon orange to show up better
8 in photographs.

9 Q. And State's Exhibit Twenty-six.

10 (STATE'S EXHIBIT NUMBER TWENTY-SIX PUBLISHED TO THE
11 JURY.)

12 Q. The same dowel rods just from a different angle?

13 A. Yes, sir, they are.

14 Q. Now I see two rods here coming out, and I see three on
15 the customer's side, so there were three bullets going in
16 but only two coming out?

17 A. Yes, sir. That's what the holes suggested.

18 SOLICITOR SPRINGS: Would you bring the lights back up
19 for just a second.

20 (COURTROOM LIGHTS TURNED UP.)

21 Q. And do you recall if you took a picture of what the
22 scene looked like when you arrived?

23 A. I did.

24 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING
25 OF THE JURY AT 01:52 P.M..)

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1 (WHEREUPON: KADEEM SANDERS,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

3 THE BAILIFF: Watch your step going up.

4 DIRECT EXAMINATION

5 KADEEM SANDERS BY SOLICITOR SPRINGS:

6 Q. Mr. Sanders, will you tell the jury your name, sir?

7 A. Kadeem Sanders.

8 Q. And you know Kairon Maldonado?

9 A. Yes, sir.

10 Q. Please point him out for the jury.

11 (WITNESS INDICATED TOWARD DEFENSE TABLE.)

12 SOLICITOR SPRINGS: Let the record show he is pointing
13 to the defendant, Kairon Maldonado.

14 Q. I want to ask you about the night of July 25th of last
15 year, 2012. Did you get arrested that night a little bit
16 after eleven o'clock?

17 A. Yes, sir.

18 Q. And before you got arrested a little bit before eleven
19 o'clock that night, had you been inside the Discount Food
20 and Beverage store on West Main Street at the corner of
21 Cherry Road?

22 A. Yes, sir.

23 Q. And who went into the Discount Food and Beverage store
24 with you that night a little bit before eleven o'clock?

25 A. Kairon.

KADEEM SANDERS: BY SOLICITOR SPRINGS

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1 Q. Who was it?

2 A. Kairon Maldonado.

3 Q. Kairon Maldonado?

4 A. Yes, sir.

5 Q. Okay. Did you shoot the clerk with the rifle while
6 you were in the store?

7 A. Yes, sir.

8 MR. BROWN: Your Honor, I'm gonna ask that he speak
9 closer to the microphone. I'm having a hard time hearing
10 him.

11 A. Yes, sir.

12 MR. BROWN: Thank you.

13 BY SOLICITOR SPRINGS:

14 Q. I'm showing you what has been marked State's Exhibit
15 Sixteen. Is that your rifle that you shot the clerk with?

16 A. Yes, sir.

17 Q. So that night did you and Kairon Maldonado go into the
18 store planning and agreeing before you ever went in that
19 you were going to try to rob the store?

20 A. Yes, sir.

21 Q. You say no, you didn't?

22 A. Huh?

23 Q. Did you say no?

24 A. Yes, sir.

25 THE COURT: Answer the question again. I'm not sure

KADEEM SANDERS: BY SOLICITOR SPRINGS

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1 what the answer is.

2 Q. Let me rephrase it. On the night of July 25th 2012,

3 ---

4 A. Yes.

5 Q. --- the night you got arrested, did you and Kairon

6 Maldonado agree that you two were going -

7 A. Yes, sir.

8 Q. --- to go into the store, the Discount Beverage store,

9 to rob the cash register of money?

10 A. Yes, sir.

11 Q. You did agree that with Maldonado that's what you were

12 gonna do before you ever went in?

13 A. Yes, sir.

14 Q. So did you and Kairon Maldonado actually enter the

15 Discount Beverage store that night to rob it?

16 A. Yes, sir.

17 Q. And you meant to rob it before you entered the store?

18 A. Yes, sir.

19 Q. After the store clerk, Mr. Patel, --

20 Stand up, Mr. Patel, let him see you.

21 (VICTIM, VIPUL PATEL, STOOD.)

22 Q. After the store clerk was shot by you, did you run out

23 of the store, you and Kairon Maldonado together?

24 A. Yes, sir.

25 THE COURT: You can sit back down.

KADEEM SANDERS: BY SOLICITOR SPRINGS

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1 SOLICITOR SPRINGS: Oh yeah, please sit back down.

2 (VICTIM, VIPUL PATEL, RESEATED HIMSELF.)

3 Q. In a minute the defense attorney is going to ask you
4 some questions. He's gonna ask you about what you pled
5 guilty because you have pled guilty to some things haven't
6 you?

7 A. Yes, sir.

8 Q. You've pled guilty to attempted armed robbery; is that
9 right?

10 A. Yes, sir.

11 Q. Okay. And you could have gotten twenty years for
12 that. Do you know that?

13 A. Yes, sir.

14 Q. You pled guilty to attempted murder. You could have
15 gotten thirty years for that; is that right?

16 A. Yes, sir.

17 Q. And you pled guilty to possessing this firearm, this
18 rifle, when you committed those violent crime and you could
19 have gotten another five for that; is that right?

20 A. Yes, sir.

21 Q. And you pled guilty to planning in advance, conspiring
22 with Mr. Maldonado to do this crime, and you could have
23 gotten five years for that; is that right?

24 A. Yes, sir.

25 Q. So theoretically you could have gotten sixty years if

KADEEM SANDERS: BY SOLICITOR SPRINGS

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1 you add them all up, and believe me I did that math and
2 that's right; is that right?

3 A. Yes, sir.

4 Q. But you and I made a deal did we not?

5 A. Yes, sir.

6 Q. Do you want to tell the jury what the deal is?

7 A. By me getting up here and being truthful.

8 Q. Okay. You have to testify truthful. Are you being
9 truthful?

10 A. Yes, sir.

11 Q. And if you testify truthfully and you plead guilty,
12 and you have pled guilty, what's your sentence going to end
13 up being?

14 A. Fourteen to seventeen.

15 Q. Between fourteen and seventeen years?

16 A. Yes, sir.

17 Q. That's no parole years?

18 A. Yes, sir.

19 Q. Have you been truthful?

20 A. Yes, sir.

21 Q. Thank you.

22 SOLICITOR SPRINGS: That's all I have.

23 THE COURT: Mr. Brown.

24 CROSS EXAMINATION

25 KADEEM SANDERS BY MR. BROWN:

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1 Q. The night before you did this, you shot Mr. Patel, did
2 you talk to anybody about what you were gonna do?

3 A. I don't remember. We was high.

4 Q. Who?

5 A. I said I truly don't remember. I was high.

6 Q. You were high. So you don't remember talking to
7 anybody about what you intended to do?

8 A. I probably did.

9 Q. You don't remember or you don't know?

10 A. No.

11 Q. And then the night it happened, what did you have on
12 when you went to the store?

13 A. Black jeans, black shirt.

14 Q. I'm going to ask you to speak in that so --

15 A. Black jeans and black shirt and red flag.

16 Q. Did you have a bandana around your face like this?

17 (ATTORNEY BROWN DEMONSTRATED.)

18 A. Yes, sir.

19 Q. Did the other guy that went in there with you have one
20 around his face like that?

21 A. No, sir.

22 Q. You sure about that?

23 A. No.

24 Q. Okay. And when you went in there, you shot him?

25 A. Yes, sir.

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1 Q. Okay. And within ten minutes you got caught. Right?

2 A. I don't know.

3 Q. Well, did the police catch you laying down in
4 somebody's backyard within ten minutes after this?

5 A. Yes, sir. I just don't know how long it was.

6 Q. When the police told you that the guy was shot and he
7 may die, isn't it true that you ask the cop for a
8 cigarette?

9 A. I don't know.

10 Q. You don't know?

11 A. I don't know.

12 Q. And when the cops asked you to tell them what
13 happened, you told them you didn't know anything about it
14 then didn't you?

15 A. Yes, sir. Probably. I don't --

16 Q. Okay. So the first time you had interaction with law
17 enforcement, you lied?

18 A. Yes, sir.

19 Q. Okay. And that's the first story you told about this
20 incident. Correct?

21 A. Yes, sir.

22 Q. "I don't know what happened. I didn't do the
23 shooting. Can I have a cigarette."

24 A. Uh.

25 Q. After they arrested you, the police came and talked to

KADEEM SANDERS: BY MR. BROWN

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1 you again didn't they?

2 A. Yes, sir.

3 Q. And again you told them you didn't have anything to do
4 with it and didn't know anything about it. Correct?

5 A. No, sir. That ain't what I said.

6 Q. What did you tell them this time then?

7 A. You really want the truth?

8 Q. No I want you to lie. Of course I want the truth.

9 A. I told one, I said you a alien and I told the other
10 one he was a dog and I started making noises and they sent
11 me out.

12 Q. You said what now?

13 A. I told one of the police officers that he was a dog
14 and I told the other one was an alien and made noises and
15 they sent me out.

16 Q. What's that got to do with what happened in the
17 store?

18 A. That's what happened. You said did I say --

19 Q. A dog made noises?

20 A. That's what I had told them. They sent me out.

21 Q. The dog made noises - help me out here. The dog made
22 noises, so what happened at the store?

23 A. It ain't had nothing to do with the store. They ain't
24 never asked me about the store.

25 Q. Okay. But you tell them you weren't there. Right?

KADEEM SANDERS: BY MR. BROWN

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1 The second time they interviewed you in jail.

2 A. No. The first time.

3 Q. The first time? I'm talking about when you were on
4 the ground behind somebody's house. I'm talking about the
5 first time in jail. The second time you talked to them
6 about this.

7 A. I just told you what I said the second time.

8 Q. That the dogs smelled you out?

9 A. No. I told them - When they brought me in the room I
10 didn't say nothing to them. I told one of them he was a
11 dog. I told the girl she was a alien, man, so they send me
12 out.

13 Q. Okay.

14 A. But the never ask me --

15 Q. But you didn't tell them what happened did you?

16 A. They didn't never ask me.

17 Q. They didn't ask you what happened at the store?

18 A. No, sir. They just got mad and sent me off.

19 Q. Okay. And then the third time, at least I have on
20 record that you talked about this, is when you entered the
21 plea agreement; is that correct?

22 A. Yes, sir.

23 Q. You were the trigger man. No question about that.
24 Right?

25 A. Yes, sir.

KADEEM SANDERS: BY MR. BROWN

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1 Q. That's you on tape shooting Mr. Patel. Correct?

2 A. Yes, sir.

3 Q. And they cut a deal with you for fourteen to seventeen
4 years after you nearly killed somebody; is that correct?

5 A. Yes, sir.

6 Q. Okay. And then when you come up, and you get a deal
7 where you don't have to spend sixty years without parole
8 in jail, you get fourteen to seventeen so you can come out
9 and have a life again; you come up with this story, your
10 third story. And question four, after you entered the
11 store Kairon Maldonado attempted to get to the cash
12 register next to the store clerk and you say I don't know.

13 A. I don't.

14 Q. Okay. That's your third story. Correct? That's your
15 third time you talked to people about this. Correct?

16 A. No. That's the second time.

17 Q. Well, I'm counting it as the third for this purpose.
18 And then last Thursday, March 14th, 2013, you had a meeting
19 with Mr. Springs, your lawyer, Ms. Dawson there. Correct?

20 A. Yes, sir.

21 Q. And when they called you up to ask you what happened
22 this time, didn't you tell them you went there to discuss
23 some problems you were having with Mr. Patel; that you
24 didn't go in there to rob him and Mr. Maldonado didn't go
25 in there to rob him?

KADEEM SANDERS: BY MR. BROWN

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1 A. Yes, sir.

2 Q. That's your fourth story. Right?

3 A. Yes, sir.

4 Q. You thought about those sixty years when you changed
5 your story back again didn't you?

6 A. No, I was just going through some things.

7 Q. You were what?

8 A. I was going through some things.

9 Q. Going through some things? What kind of things were
10 you going through?

11 A. Family problems.

12 Q. Hum. Okay. Did family problems cause you to lie?
13 You admit that's a lie. Correct?

14 A. What's a lie?

15 Q. Three of them has got to be a lie.

16 A. You talking about what, the third or fourth one?

17 Q. Excuse me?

18 A. You talking about the fourth one? Look man, I ain't -
19 The fourth time, I mean when I said yeah I was going
20 through some things but when they told me that he was going
21 to trial, I didn't want to see my little dude go down. I
22 ain't gonna lie.

23 Q. You don't care about anybody else. You're up here to
24 save your own butt. Tell the truth for once.

25 A. If that's how you feel --

KADEEM SANDERS: BY MR. BROWN

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1 Q. For once tell the truth.

2 THE COURT: When you ask him a question give him a
3 chance to answer.

4 A. If that's how you feel about it , that's how you feel,
5 dude.

6 Q. How would you feel about it if somebody told you three
7 different stories about what happened?

8 A. I can't -

9 SOLICITOR SPRINGS: Objection. That's argumentative.
10 Wait a minute.

11 MR. BROWN: I withdraw the question.

12 Q. You admit you told three different stories. Correct?
13 As of last Thursday -

14 SOLICITOR SPRINGS: Objection. He won't let him
15 answer.

16 Let him answer.

17 THE COURT: Yeah, let him answer the question.

18 A. The first time I did not tell no story.

19 Q. The first time you said you weren't involved with it.
20 The night the police got you --

21 A. I'm talking about with the police.

22 Q. Okay. And the second time you didn't tell them
23 anything that involved you did you?

24 A. Say what?

25 Q. The second time when they interviewed you in jail, you

KADEEM SANDERS: BY MR. BROWN

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1 didn't tell them anything about what happened, did you,
2 like you are telling today?

3 A. You talking about with the police?

4 Q. Yes, sir.

5 A. The police didn't ask me no questions.

6 Q. Okay. Clarify that later. The third time you come in
7 this court and tell the story about you went in there and
8 shot him and robbed him and you cut a deal to save
9 yourself.

10 A. No. I cut a deal because they was offering both of us
11 fourteen to twenty-one so if I give myself up they had to
12 drop his charges down because he truly didn't believe - he
13 didn't believe to me in my eye he didn't really do nothing.

14 Q. Oh. You were doing it to help him?

15 A. I just told you this happened in front of me, man.

16 Q. Okay. And then last Thursday you told a completely
17 different story. You went and told those people that you
18 went in there to clarify a problem with Mr. Patel. That
19 you didn't go in there to rob him and you thought he was
20 reaching for a gun and that's why you shot him. Isn't that
21 what you told these people?

22 A. I truly did thought he was reaching for a gun.

23 Q. Because you had family problems?

24 A. I told you. Look at it how you want to.

25 Q. You were not on any hallucinogenic drugs that day

KADEEM SANDERS: BY MR. BROWN

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1 were you?

2 A. No, sir.

3 Q. And while you were in jail?

4 A. No. I thought you was talking about --

5 Q. I'm talking about last Thursday when you went up and
6 told a completely different story than you're telling these
7 fourteen jurors today.

8 A. No.

9 Q. How old are you?

10 A. Twenty-one.

11 Q. How far did you go in school?

12 A. Tenth.

13 Q. I'm sorry?

14 A. Tenth.

15 Q. Tenth grade?

16 A. Yeah.

17 Q. Okay. And you've been getting in trouble since you
18 quit school haven't you?

19 SOLICITOR SPRINGS: Objection. That's argumentive.

20 A. No.

21 SOLICITOR SPRINGS: Objection.

22 THE COURT: Be a little more precise. I sustain --

23 BY MR. BROWN:

24 Q. It's not your first brush --

25 THE COURT: Wait, wait.

KADEEM SANDERS: BY MR. BROWN

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1 MR. BROWN: Sorry.

2 THE COURT: I sustain the objection to that question.

3 MR. BROWN: Yes, sir.

4 Q. This is not your first brush with the law is it? Were
5 you not convicted of threatening the life of a public or
6 family official back on December 14th, 2011?

7 A. Yeah, but that don't mean I been getting in trouble
8 since I got out of school. I was in DSS. What you talking
9 about?

10 Q. I'm sorry. Will you slow down and repeat that.

11 A. I said, yes, but that's not mean I was getting in
12 trouble since I got out of school. I was in DSS.

13 Q. That was what?

14 A. I was in DSS. I wasn't getting in no trouble with no
15 law.

16 Q. You were in DSS?

17 A. Yeah. I don't hold down jobs and all. I don't get in
18 no trouble. I don't play like a husband.

19 Q. This was your idea wasn't it?

20 A. Yes, sir.

21 Q. Where did you get the gun from?

22 A. The streets.

23 Q. Did you find it laying in the street?

24 A. No.

25 Q. Well, where did you get it?

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1 A. I bought it.

2 Q. Excuse me?

3 A. I bought it.

4 Q. From who?

5 A. Somebody.

6 Q. Somebody got a name?

7 A. I don't know his name.

8 Q. You don't know his name. You just walked up and said,
9 "hey, let me buy this .22 you got."

10 SOLICITOR SPRINGS: I'm going to object. It's
11 becoming irrelevant now, Your Honor.

12 THE COURT: Well, I'll let him go a little while but
13 let's don't go too far down that road.

14 A. I don't see what that's got to do with the story.

15 SOLICITOR SPRINGS: May we approach one second?

16 THE COURT: Yes.

17 MR. BROWN: You can put it on the record later.

18 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING
19 OF THE JURY AT 02:33 P.M..)

20 THE COURT: I'll give some leeway in that line of
21 questioning.

22 BY MR. BROWN:

23 Q. When did you get the gun?

24 A. I don't remember.

25 Q. You don't remember. A month ago? A month before

KADEEM SANDERS: BY MR. BROWN

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1 this?

2 A. I don't know.

3 Q. A week?

4 A. I told you I don't remember.

5 Q. Who did you buy it from?

6 A. That's somebody from the street.

7 Q. That's what?

8 A. Somebody from the street.

9 Q. Well how did this conversation take place and
10 transaction take place from the streets?

11 A. Dude had a gun and we get it.

12 Q. How did you know he had a gun?

13 A. Because he was selling it.

14 Q. The guy's name was Kevin wasn't it?

15 A. Don't know no Kevin.

16 Q. You don't know no Kevin. Are you sure about that?

17 A. I'm sure.

18 Q. All right. So on the streets some guy you don't know.
19 How did the conversation start? Did he come up and say you
20 want to buy a gun or what?

21 SOLICITOR SPRINGS: I object. This is becoming very
22 irrelevant.

23 MR. BROWN: Your Honor.

24 THE COURT: I'll allow him to go a little further. I
25 told him I'd give him some leeway.

KADEEM SANDERS: BY MR. BROWN

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1 But go ahead.

2 A. Yes, sir. If his name is Kevin I don't know him. I
3 don't know Kevin. Like I said I bought it from somebody in
4 the street.

5 Q. How much did you pay for it?

6 A. Wasn't but thirty.

7 Q. How much?

8 A. Thirty.

9 Q. Thirty dollars?

10 A. Yeah.

11 Q. And you don't remember when this was? You're friends
12 with a guy name Kevin aren't you?

13 A. No.

14 MR. BROWN: Beg the court's indulgence one second.

15 (PAUSE.)

16 Q. Do you know a guy named Kendal?

17 A. Yeah.

18 Q. Did he and Kevin sell you that gun together?

19 A. Say what?

20 Q. Did Kendal sell you the gun?

21 A. If you say that.

22 Q. I'm asking you, sir.

23 A. Yeah.

24 Q. And you all are buddies. Right?

25 A. No.

KADEEM SANDERS: BY MR. BROWN

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1 Q. Did you write some letters while you were in jail?

2 A. Yeah.

3 Q. Did you write this?

4 A. Yeah.

5 Q. Tell me if I'm reading this right.

6 SOLICITOR SPRINGS: I'm going to object. If he's gonna
7 published this I'd ask that he put it into evidence, Your
8 Honor.

9 THE COURT: It needs to be put into evidence.

10 MR. BROWN: I move to admit.

11 SOLICITOR SPRINGS: No objection. After she -

12 MR. BROWN: You've got it, don't you?

13 I beg the court's indulgence one second.

14 (SOLICITOR SPRINGS REVIEWING DOCUMENT.)

15 SOLICITOR SPRINGS: I've never seen this but no
16 objection.

17 THE COURT: All right. In without objection.

18 (WHEREUPON: DEFENDANT'S EXHIBIT NUMBER ONE IDENTIFIED
19 AND MARKED, RECEIVED INTO EVIDENCE.)

20 MR. BROWN: I'm referring to Defendant's Exhibit One.

21 Q. Did you write to Mr. Maldonado, "hey bro, take it how
22 you want but they told me they was going to drop your shit
23 if I gave myself up so I told them I made you go in the
24 store and got you high and drunk on four locals and coke so
25 you should be good." Is that correct?

KADEEM SANDERS: BY MR. BROWN

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1 A. Yeah.

2 Q. That's the fifth version of this story you've told is
3 it not?

4 A. No.

5 (PAUSE.)

6 Q. You shot Mr. Patel didn't you?

7 A. Yes, sir.

8 MR. BROWN: I have no further questions, Your Honor.

9 THE COURT: Redirect?

10 SOLICITOR SPRINGS: None.

11 THE COURT: You can be taken back in the holding cell.

12 (WITNESS ESCORTED OUT OF COURTROOM TO HOLDING CELL.)

13 THE COURT: Call your next witness.

14 SOLICITOR SPRINGS: Mr. Sheriff, ask them to keep him
15 up here.

16 Your Honor, we do rest our case.

17 THE COURT: All right. Members of the jury panel, the
18 State is telling us they have presented their evidence so
19 we have to take up some matters of law outside your
20 presence at this time, even though we just took a break.
21 Once we take care of some legal matters, I'll send for you
22 and we'll do whatever comes next.

23 (JURY EXITS COURTROOM AT 02:40 P.M..)

24 THE COURT: Anything from the State?

25 SOLICITOR SPRINGS: I just want to say I'd like to

OFFICER ALLEN CANTEY: BY MR. BROWN

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1 MR. BROWN: I think it would even be probably a little
2 past four, Your Honor.

3 THE COURT: All right.

4 MR. BROWN: And I don't know how much he's got for
5 my witnesses.

6 How much cross you got?

7 SOLICITOR SPRINGS: Probably none.

8 THE COURT: You hadn't heard the direct yet.

9 He might be satisfied. He might say there's no need
10 to ask any questions.

11 SOLICITOR SPRINGS: I've done it before.

12 (JURY REENTERS COURTROOM AT 03:02 P.M..)

13 THE COURT: As I told you the State has rested and the
14 defense now can present witnesses as they desire.

15 MR. BROWN: We call to the stand Officer Allen Cantey.

16 THE COURT: Mr. Cantey, please come up and be sworn.

17 (WHEREUPON: LEWIS ALLEN CANTEY,
18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

19 MADAME CLERK: Thank you. You can have a seat.

20 DIRECT EXAMINATION

21 ALLEN CANTEY BY MR. BROWN

22 Q. State your name and rank, please, sir.

23 A. Lewis Allen Cantey, Junior.

24 Q. And you work for the Rock Hill Police Department, sir?

25 A. I do.

OFFICER ALLEN CANTEY: BY MR. BROWN

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1 Q. And what's your rank or title there?

2 A. I'm a detective with the Rock Hill Police Department.

3 Q. And the case, you heard testimony about it, you're
4 the lead investigator in charge of the whole shooting match
5 on this case. Correct?

6 A. That's correct.

7 Q. And you got it that night these events occurred.
8 Correct?

9 A. That's correct.

10 Q. Would it not be standard operating procedure when the
11 call first went off to try to seal off -

12 SOLICITOR SPRINGS: I'm going to object to leading.

13 BY MR. BROWN:

14 Q. Let me ask you this. When a call, two suspects in a
15 certain area, what do you do?

16 A. Well the patrol division at that time tried to set up
17 a perimeter to call a K 9 for it.

18 Q. Okay. And when you say perimeter, do you mean try to
19 seal off the area?

20 A. As best as possible. Yes, sir.

21 Q. Okay. And was that done this night?

22 A. I believe it was.

23 Q. To the best of your knowledge?

24 A. To the best of my knowledge it was.

25 Q. The only other person in the perimeter that night that

OFFICER ALLEN CANTEY: BY MR. BROWN

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1 didn't have a shirt on was Huey; is that correct?

2 SOLICITOR SPRINGS: I'm going to object to the
3 leading, Your Honor.

4 THE COURT: Yeah. Just rephrase your question.

5 MR. BROWN: Okay.

6 Q. Who was the only other person without a shirt on that
7 night that the police found?

8 A. I cannot even advise is Huey had a shirt on or not.

9 Q. Okay.

10 A. I stayed on the scene the whole time.

11 Q. If he didn't have one on, would that be -- Do you know
12 of any others that didn't have shirts on the police found?

13 A. None were brought to my attention.

14 Q. Okay. You talked to Mr. Maldonado a short time after
15 this did you not?

16 A. No. I talked to him a few days after his -- I believe
17 it was the day after his arrest.

18 Q. August 2nd or 3rd?

19 A. I believe it was. Yes, sir.

20 Q. And subsequent of the news he's maintained the same
21 story --

22 SOLICITOR SPRINGS: Objection. That's hearsay, Your
23 Honor.

24 MR. BROWN: It's an admission by the defendant.

25 THE COURT: Let me let the jury go to the jury room

OFFICER ALLEN CANTEY: BY MR. BROWN

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1 just a minute.

2 (JURY EXITS COURTROOM AT 03:04 P.M..)

3 THE COURT: Why is that not a admission by the party
4 opponent? He is certainly a part of your defense.

5 SOLICITOR SPRINGS: I believe he said Mr. Maldonado
6 didn't he. I thought that's what you said.

7 MR. BROWN: Yeah.

8 SOLICITOR SPRINGS: Mr. Maldonado is. He's not his
9 party opponent. He's himself. I can get what he said in
10 because he's my party opponent. He can't be his own part
11 opponent.

12 THE COURT: I follow you.

13 MR. BROWN: There is no case that I've researched or
14 there is no rule out there that prohibits me from asking
15 him about admission by a party of opponent. The key words
16 being party or opponent. He is a party to this action. It
17 doesn't say party and opponent. It says party opponent
18 slash. There is not a case out there that I'm aware of,
19 Your Honor, that prohibits me from asking about his
20 admissions to this officer.

21 SOLICITOR SPRINGS: I'll be glad to go get some case
22 law on self serving hearsay by the defendant. He can't do
23 that.

24 THE COURT: Maldonado stated against the interest, it
25 doesn't sound like - You can make a proffer but it sounds

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 like you want to get in - It won't be a statement against
2 interest. Why don't you go ahead and make a proffer and
3 then we'll go from there.

4 MR. BROWN: I'm sorry, Your Honor. Make a proffer?

5 THE COURT: Yeah.

6 MR. BROWN: Yes, sir.

7 DIRECT EXAMINATION - IN CAMERA

8 OFFICER ALLEN CANTEY BY MR. BROWN

9 Q. He told you he wasn't there that night. Correct, sir?

10 A. I'm sorry. I misunderstood you.

11 MR. BROWN: I'm gonna lead for the purposes of this
12 hearing, if that's okay?

13 SOLICITOR SPRINGS: Yeah, you can make a proffer.

14 A. He told me what?

15 Q. When you interviewed Mr. Maldonado shortly after this
16 occurred, he told you he was not there. Correct? At the
17 store.

18 A. I interviewed Mr. Maldonado after his arrest and he
19 told me that he was not there the night of the shooting.

20 Q. Okay. He told you he was in the Innsbrook Apartments.
21 Correct?

22 A. In the playground there. Yes, sir.

23 Q. Yes, sir. And told you he were there with two guys
24 named Marcus and --

25 A. I think it was David.

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 Q. Marcus and David?

2 A. Yes, sir.

3 Q. Okay. And as a matter of fact he firmly maintained
4 that story with a subsequent interview with another
5 detective. Correct?

6 A. Yes, sir.

7 Q. Okay.

8 MR. BROWN: That's my proffer, Your Honor.

9 THE COURT: All right. We'll take a short break and
10 look up the law.

11 SOLICITOR SPRINGS: I'm gonna go get a couple of cases
12 because I am looking at 801(d)(2). It's party opponent;
13 it's -

14 MR. BROWN: What page you on?

15 SOLICITOR SPRINGS: Nine. It's offered against -

16 THE COURT: This is offered against Mr. Maldonado.
17 It's being offered for.

18 SOLICITOR SPRINGS: Right.

19 THE COURT: So it doesn't fall under 801(d)(2).

20 SOLICITOR SPRINGS: He has no hearsay exception that
21 allows him to get his own self serving hearsay in and his
22 own alibi in through somebody else. Let me go pull a
23 couple of cases. I'll be right back.

24 (SOLICITOR SPRINGS LEFT THE COURTROOM.)

25 (COURT AT EASE AT 03:09 P.M..)

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 (SOLICITOR SPRINGS REENTERED THE COURTROOM.)

2 (COURT BACK IN SESSION AT 03:12 P.M..)

3 THE COURT: Let her get back on the record.

4 SOLICITOR SPRINGS: I passed up some citation of law
5 to the court and copied it to Attorney Brown, *State v*
6 *Terry*, which is a South Carolina Supreme Court case, says
7 "a defendant seeking to testify and making exculpatory
8 statements must testify and face cross examination."
9 That's a basic rule of our adversary system. To hold
10 otherwise would permit the criminally accused to set out
11 all the facts which fall in his favor without laying
12 himself open to cross examination. And I believe I have a
13 copy of the *Terry* case here somewhere.

14 THE COURT: The statement from *State versus Atchison*
15 seemed to be pertinent also.

16 SOLICITOR SPRINGS: Yes, sir.

17 THE COURT: He wishes to introduce in his defense his
18 own statement made to others.

19 SOLICITOR SPRINGS: I pass up to the Court *Terry* and
20 *Atchison*. *Terry* is at 529 S.E.2d 274 and *Atchison* is at
21 235 S.E.2d 294 and I believe I can lay my hands on a set
22 for Mr. Brown.

23 MR. BROWN: Your Honor, I would call and I don't have
24 a copy of it but it's in the book, Courts attention to
25 *State v. Sims*. Mr. Springs has chosen to go forward on the

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 conspiracy charge and it will be an indicted and unindicted
2 potentially co-conspirators in this matter. The statement
3 made by a co-conspirator to or over heard by a third party
4 who is not a member of the conspiracy may be admissible
5 under co-conspirator hearsay exception provided the
6 statements made during the course of in furtherance of the
7 conspiracy.

8 THE COURT: Well that would be a co-conspirator to
9 him. Not him himself. He can't say I'm a co-conspirator;
10 he's the co-conspirator in the broader sense of the word,
11 but I think that case deals with someone other than the
12 person in a trial as being a co-conspirator. You can go
13 pull the case if you want to but --

14 MR. BROWN: I understand.

15 THE COURT: Okay.

16 SOLICITOR SPRINGS: I've given Mr. Brown a copy of
17 *Terry and Atchison*.

18 (PAUSE.)

19 THE COURT: I'm going to sustain the objection. *Terry*
20 is not exactly on point but *State versus Atchison* appears
21 to be more on point. Any further proffer you want to make,
22 Mr. Brown, you can do that while the jury is out otherwise
23 we'll get the jury in and proceed but I sustain the
24 objection.

25 MR. BROWN: I'm sorry, Your Honor.

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 THE COURT: I sustain the objection. I said is there
2 anything else you want from this witness before the jury
3 comes back in?

4 MR. BROWN: Yes, sir. Can I ask the witness has he -

5 THE COURT: This is proffer. He's not here, you can
6 ask him anything you want and make sure you preserve the
7 record.

8 MR. BROWN: Yes, sir. I understand but the Court
9 tells me I can't ask this question I'm not gonna do it
10 obviously. I would like to ask him has his statements been
11 consistent that he has given to the police department.

12 THE COURT: You can ask him.

13 A. I thought you were asking the Judge.

14 MR. BROWN: I'm asking the judge if I can ask him
15 in front of the jury I guess is what I'm asking.

16 THE COURT: Oh, you can ask him in front of the jury.
17 Well ask him and see what he says now.

18 MR. BROWN: Okay.

19 Q. Have his statements been consistent?

20 A. To the best of my knowledge.

21 Q. Okay.

22 MR. BROWN: Can I ask that without going into the
23 substance of it?

24 SOLICITOR SPRINGS: I object.

25 THE COURT: Yeah. If we don't know what his

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 statements are whether they're consistent or inconsistent
2 you've got to have something to compare it to. It's not
3 apples and oranges. It's just an apple.

4 MR. BROWN: Yes, sir.

5 THE COURT: You're not even comparing it to anything.

6 SOLICITOR SPRINGS: At least object to it's awfully
7 confusing to the jury.

8 THE COURT: That's his job.

9 MR. BROWN: Thank you, sir.

10 I think in this particular case, Your Honor, I want to
11 put this on the record. We have a situation where the
12 co-conspirator or co-defendant has given - depending on
13 what the jury believes, my assumption would be or my
14 proposition would be given five different versions of what
15 happened that night. He is the main eye witness against my
16 client. My client has been consistent in his stories to
17 the police the whole time.

18 THE COURT: What has that story been? You're still
19 trying to get in at least the back door because you say
20 it's consistent obviously you want the jury to believe they
21 are consistently exculpatory.

22 MR. BROWN: I submit it would go to the credibility of
23 the co-conspirator in this matter.

24 THE COURT: We still don't know what the statement
25 is though.

OFFICER ALLEN CANTEY: BY MR. BROWN - IN CAMERA

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1 MR. BROWN: Yes, sir. I'm just asking him if both of
2 them was consistent. You tell me now and I'll understand.

3 THE COURT: Do you object?

4 SOLICITOR SPRINGS: I still --

5 THE COURT: Well do you object?

6 SOLICITOR SPRINGS: I objection.

7 THE COURT: I sustain the objection.

8 SOLICITOR SPRINGS: Thank you.

9 THE COURT: All right. Bring in the jury.

10 MR. BROWN: I'm gonna ask one more thing on proffer,
11 Judge, before they come back in.

12 DIRECT EXAMINATION - IN CAMERA

13 OFFICER ALLEN CANTEY BY MR. BROWN:

14 Q. Where did Mr. Maldonado say he was that night?

15 A. In the playground of Innsbrook Commons.

16 Q. I ask that already.

17 THE COURT: You did?

18 MR. BROWN: Yeah. I thought I did.

19 SOLICITOR SPRINGS: I'm sorry, I missed it.

20 MR. BROWN: You're getting older or I might be senile
21 here.

22 SOLICITOR SPRINGS: I'm getting older alright.

23 MADAME COURT REPORTER: I'm probably older than both
24 of you and I'm not.

25 MR. BROWN: I don't know. Allen Bundy could be

OFFICER ALLEN CANTEY: BY MR. BROWN

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1 sitting here as far as I'm concerned. You can put that on
2 the record.

3 (JURY REENTERS COURTROOM AT 03:22 P.M..)

4 THE COURT: Mr. Brown, you may proceed.

5 DIRECT EXAMINATION - CON'T

6 OFFICER ALLEN CANTEY BY MR. BROWN:

7 Q. As Officer Sullivan testified to, you were the lead
8 investigator. There's not one forensics piece of evidence
9 tying Mr. Maldonado to this crime is it, sir?

10 A. That's correct.

11 Q. Okay.

12 MR. BROWN: I have no further questions.

13 SOLICITOR SPRINGS: Nothing.

14 Thank you, sir.

15 THE COURT: You can step down. Appreciate your time.
16 You can be excused.

17 (WITNESS LEAVING WITNESS STAND.)

18 THE COURT: Call your next witness.

19 MR. BROWN: I'd like to call to the stand Doctor Van
20 Wallendorf.

21 THE COURT: Doctor Van Wallendorf, please come
22 forward.

23 (WHEREUPON: LORI VAN

24 WALLENDORF BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
25 FOLLOWS:)

DOCTOR LORI WALLENDORF: BY MR. BROWN

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1 MADAME CLERK: Thank you. You can have a seat right
2 up there.

3 DIRECT EXAMINATION

4 DOCTOR LORI VAN WALLENDORF BY MR. BROWN

5 Q. State your full name for the record, please?

6 A. Lori Van Wallendorf.

7 Q. Where are you employed, ma'am?

8 A. At the University of North Carolina at Charlotte.

9 Q. And in your capacity what do you do there?

10 A. I'm an associate professor of psychology.

11 Q. And how long have you held that position?

12 A. About twenty-six years now.

13 Q. What formal education do you have post high school?

14 A. I have a Bachelor's degree in psychology and English
15 from McMurray College in Central Illinois. And a Master's
16 and a Ph.D., in experimental psychology from Northwestern
17 University.

18 Q. Do you have many specific areas of study in psychology
19 when you obtained the masters and doctorate degrees?

20 A. Yes. My master and doctorate are in what we call
21 cognitive psychology which has to do with thinking and
22 memory. And my work as a graduate student had to do with
23 human decision making and human memory.

24 Q. Could you explain to the jury what that field is
25 briefly.

DOCTOR LORI WALLENDORF: BY MR. BROWN

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1 A. Sure. Basically we do research usually laboratory
2 experiments involving the kinds of factors that make it
3 easier or harder for people to remember things; so as an
4 instructor I may look at what kinds of presentation in a
5 classroom are easier to remember. And then as a more
6 applied researcher I also tend to look at what factors make
7 things memorable in real world situations like an eye
8 witness situation.

9 Q. Have you received any honors or awards in your work?

10 A. I have been a finalist for UNC Charlotte teaching
11 award a few years back. As a graduate student I had
12 graduate fellowships that basically allowed me to conduct
13 my education and my research.

14 Q. And what studies or tests have you done in memory
15 cognition recognition?

16 A. I have done experiments on different types of
17 lineups and how they effect recognition accuracy. I've
18 done research on cross racial facial recognition. I've
19 done research on people's certainty in their
20 identifications and also worked on voice recognition.

21 Q. Have you ever been certified as an expert to testify
22 in any court in North or South Carolina, or what is your
23 experience in testifying and certifications as an expert in
24 eye witness identification?

25 A. I have been certified as an eye witness expert in

DOCTOR LORI WALLENDORF: BY SOLICITOR SPRINGS

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1 North and South Carolina, West Virginia, Georgia, Kentucky
2 and Texas.

3 Q. About how many times approximately have you testified
4 in court to the best of your knowledge?

5 A. Approximately twenty.

6 Q. And these all involved eye witness identifications in
7 criminal cases. Correct?

8 A. Yes.

9 Q. And that also involved lineup identifications?

10 A. Yes.

11 MR. BROWN: Your Honor, I move to certify Doctor Van
12 Wallendorf as an expert.

13 SOLICITOR SPRINGS: A brief voir dire?

14 THE COURT: Yeah, I'm gonna let you do that but let's-
15 What's her expertise?

16 MR. BROWN: Eye witness identification.

17 THE COURT: All right. Voir dire?

18 CROSS EXAMINATION

19 DOCTOR LORI VAN WALLENDORF BY SOLICITOR SPRINGS:

20 Q. Now the studies you conducted, did you conduct those
21 yourself?

22 A. Yes.

23 Q. And how old are your studies?

24 A. My studies published probably in the realm of the last
25 ten years or so. Most recently, probably, I think the

DOCTOR LORI WALLENDORF: BY SOLICITOR SPRINGS

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1 last publication was maybe two years ago.

2 Q. Did you enter all studies with an open mind as to the
3 outcome?

4 A. Yes.

5 Q. And you said you'd testified as an expert in eye
6 witness identification about twenty times?

7 A. Yes.

8 Q. Were they all for criminal defendants? Have you done
9 any for the State?

10 A. No. They have all been for a defense.

11 SOLICITOR SPRINGS: Your Honor, I concede she knows
12 more than the average person about memory and such things
13 so she's fine.

14 THE COURT: I find Doctor Van Wallendorf is qualified
15 in the area of eye witness identification.

16 Members of the jury panel, usually an individual can
17 testify to something they have seen or heard or smelled or
18 tasted or touched. However were certain individuals have
19 skills, training, knowledge, education and experience in a
20 particular area, that person can take facts and from those
21 facts render opinions. We call them expert witnesses.
22 Those opinions are allowed into evidence to assist you;
23 they are not binding on you. And if you look at the
24 testimony of the expert witness - You might not recall but
25 yesterday I told you the things to look for such as

VERDICT

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1 MR. BROWN: Yes, sir.

2 THE COURT: All right. Bring in the jury.

3 (JURY REENTERS COURTROOM AT 04:09 P.M..)

4 THE COURT: Mr. Foreman, I understand the jury has
5 reached verdicts.

6 MR. FOREMAN: Yes, sir.

7 THE COURT: If you'll hand them to the bailiff he'll
8 hand them up to me.

9 (VERDICTS RECEIVED UP BY THE COURT.)

10 THE COURT: Madame Clerk.

11 MADAME CLERK: Indictment 2012-GS-46-3890 the State
12 versus Kairon Maldonado, we find the defendant guilty of
13 attempted armed robbery. Signed by the foreperson dated
14 today's date.

15 Indictment 2012-GS-46-3888 the State of State versus
16 Kairon Maldonado, we find the defendant not guilty of
17 attempted murder. Signed by the foreperson dated today's
18 date.

19 Indictment 2012-GS-46-3889 the State versus Kairon
20 Maldonado, we find the defendant guilty of criminal
21 conspiracy. Signed by the foreperson dated today's date.

22 Ladies and gentlemen of the jury, if that be your
23 verdict so say you all by raising your right hand.

24 Let the record show all jurors affirmed this verdict.

25 (ALL JURORS AFFIRMED.)

1 THE COURT: Anything from the State before the jury is
2 dismissed?

3 SOLICITOR SPRINGS: No, sir.

4 THE COURT: Anything from the Defense?

5 MR. BROWN: No, sir.

6 THE COURT: All right. Members of the jury panel, we
7 appreciate your help.

8 Mr. Foreman, the Clerk's gonna get you to sign the
9 verdicts also on the original indictments. You can just
10 step across, she'll help you do that.

11 And the rest of you, I'm going to allow you to leave
12 for the week. Thank you for your help. You can - I don't
13 require juries to stay during the sentencing process which
14 is the next stage of this, but if any of you want to see
15 what happens next, if you'll go around the back they will
16 clear out the back a couple of rows and you can sit on the
17 back a couple of rows and see what next transpires. And
18 I'll give you a few minutes to do that if you want to but
19 I'm not going to require you to stay. And I'm not going to
20 require you to call back tonight. A good three days of
21 work and we've already started another trial and I think
22 that will take us to the end of the week. So thank you.

23 You will be mailed a check and we'll get the foreman
24 to sign these and you may leave. Thank you.

25 (JURY DISMISSED AT 04:12 P.M..)

SENTENCING

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1 THE COURT: Anything from the State? In a moment I'll
2 be glad to hear about sentencing.

3 SOLICITOR SPRINGS: I have nothing. I was gonna ask
4 the Clerk if I could borrow some white out.

5 Nothing until sentencing.

6 THE COURT: All right. Anything on behalf of the
7 Defendant?

8 MR. BROWN: Your Honor, if we could have a five minute
9 delay in sentencing, his mother is on her way back here
10 right now. I think she would like to address the court.

11 May I step outside, Your Honor?

12 MADAME CLERK: Wait a minute, Judge. I can't hear
13 him.

14 (JURY FOREMAN DISMISSED.)

15 THE COURT: Thank you.

16 MR. BROWN: She's in the parking lot, Your Honor.

17 Can we go ahead and start?

18 THE COURT: Yeah. Let me hear - I will not sentence
19 until she is here. She was in the parking lot, I will wait
20 an amount of time but while we're waiting on her I'll hear
21 from the State in regard to Mr. Maldonado.

22 Mr. Maldonado, if you'll come up for sentencing.

23 (DEFENDANT AND ATTORNEY BROWN APPROACHES THE BENCH.)

24 THE COURT: And I'll hear first from the State as to
25 their position on sentencing and including that of course

SENTENCING

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1 if there is any prior record.

2 SOLICITOR SPRINGS: Yes, sir.

3 THE COURT: Mr. Maldonado, do you know how many days
4 you've already been in jail?

5 MR. MALDONADO: Your Honor, I been here since August
6 5th. If I recall correctly.

7 MR. BROWN: Since August 2nd, 2012.

8 THE COURT: Also whenever you're ready, Mr. Springs,
9 I'll be glad to hear from you and also from Mr. Patel if he
10 has anything he wishes to say.

11 SOLICITOR SPRINGS: Mr. Patel is not going to speak.

12 THE COURT: I notice some of the jurors are here so
13 you might speak up so they can hear. I told them they
14 could come in and see what we do.

15 SOLICITOR SPRINGS: As far as Mr. Maldonado's prior
16 record, he's been convicted of disorderly conduct. He's
17 been arrested as a juvenile but that was arbitrated so I
18 don't think I should speak about that. That's his prior
19 record. As far as sentencing, Your Honor, this was a
20 horrible, horrible senseless situation. As I said they
21 jeopardized and almost killed somebody over a few dollars.
22 His co-defendant was offered a deal and as the court knows
23 we get several thousand defendant's through here every year
24 and we have to offer plea bargains which are less than
25 justice. We have to hold our nose and offer less than

SENTENCING

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1 justice to plea bargain ninety-six percent of these cases
2 through here otherwise the whole system would come to a
3 stop.

4 So his co-defendant, Mr. Sanders, got better than he
5 deserved. Mr. Maldonado was offered a deal which he turned
6 down. His deal was better than he deserved and at this
7 point, Your Honor, I think he deserves twenty-five years.

8 THE COURT: Mr. Brown.

9 MR. BROWN: Your Honor, I certainly understand and
10 respect what Mr. Springs said. However, I would like to
11 add that his previous counsel in my humble opinion did not
12 properly evaluate this case and give him proper advice. I
13 would have gladly pled him to these two charges if it had
14 been offered and I certainly understand where he's coming
15 from and the deal was off the table by the time I got the
16 case and I just got it six weeks ago, Your Honor.

17 Your Honor, as Mr. Springs said he was seventeen years
18 old when this happened, and it is a stupid horrendous
19 crime. But the simple facts are, I might orate to the
20 court again, he didn't pull the trigger. I know he went in
21 there and I know this jury has spoken that he was part of a
22 conspiracy to go in there and arm rob the store. I just
23 think to give him the same thing the co-defendant is
24 getting would not be justice and I would ask the Court to
25 take these factors into consideration when sentencing Mr.

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1 Maldonado.

2 His mother and step-father I assume is here and I
3 think they would like to speak to the court.

4 THE COURT: Certainly.

5 MR. BROWN: One at a time.

6 THE COURT: Yes, ma'am.

7 A. I'm Carolyn Elizabeth Maldonado.

8 Good afternoon, Your Honor.

9 THE COURT: Good afternoon.

10 MS. MALDONADO: I just want to apologize first that
11 we're meeting under these circumstances. Secondly, this is
12 my only child. My only child. I've tried, you know, he's
13 my miracle child. When I got pregnant with him I went into
14 kidney failure. They told me that I would loose my baby
15 and or myself. They got - He ended up making it. I got
16 into kidney dialysis because of that birth, you know,
17 carrying him. He also has kidney disease. He's sick right
18 now but, you know, I'm really concerned that he gets the
19 proper medical attention that he needs with his kidney
20 disease because I started dialysis when I was about twenty
21 years old, that was with my kidney failure. I actually had
22 a transplant and got back on dialysis so this is really a
23 serious condition my son has so I'm asking for the mercy of
24 the court to give him the lightest sentence possible, you
25 know, because I don't know how long I'm gonna live.

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1 I would just like to see my son be productive in his
2 life time. And you know given the chance to become
3 productive. I don't know honestly if my son really did
4 this act even though the jury has found him guilty of the
5 acts. And I apologize if he did do the act. You know, I
6 really don't know what to say so I ask for the court's
7 mercy because he's my only child.

8 THE COURT: Thank you, ma'am.

9 A. Good afternoon, Your Honor. My name is William
10 Russell and I'm Kairon Maldonado's father. Other people
11 may consider it a step father but I consider him as my son.
12 Kairon is very very respectful and we did everything we
13 possibly could to bring him in this world and be
14 productive. And I'm so sorry that this issue here has
15 transpired and I'm so sorry for what took place with the
16 person who has got shot in this case, whatever, and this
17 whole ordeal that took place.

18 I know that they have rendered the verdict. I wasn't
19 here to hear about that but I just was told about it and I
20 hop you see to it that you do whatever it takes for him to
21 be productive in this world and allow him to, you know, get
22 a second chance. He's never been in trouble until this.
23 He's never had issues as far as being a troubled kid until
24 this point. So I ask you please to show some mercy on him.

25 THE COURT: Thank you.

SENTENCING

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1 MR. BROWN: One last thing, Your Honor, and I know the
2 court heard this but I think it's clear Mr. Sanders would
3 not mitigate that he did, but Mr. Sanders was the
4 instigator of this horrific act.

5 THE COURT: I'm not sure I know that he was the
6 instigator or not. He was the one that was armed.

7 Did Mr. Maldonado finish high school? Did he finish
8 high school?

9 MR. MALDONADO: I was still enrolled when I got --

10 MR. BROWN: He was seventeen when this happened.

11 THE COURT: All right. Mr. Maldonado, I'll be glad to
12 hear from you. Anything you want to say?

13 MR. MALDONADO: No, sir.

14 THE COURT: Well you and your friend did - Mr. Patel
15 was simply trying to make a living; trying to serve the
16 community that needs to have various sundries available in
17 the neighborhood and doing nothing more than trying to make
18 a living ends up being shot in an attempted robbery. It
19 doesn't get much more horrendous than that.

20 Sentence on the attempted armed robbery is twenty
21 years. Five years on the conspiracy. They are to run
22 concurrent. I'll give you credit for August 12th 2012.

23 Thank you. All right. We'll be at ease for about
24 five minutes while we get the other lawyers back up in the
25 other trial.

WITNESSES
PD / Smith

ARREST WARRANT NUMBER
COUNT ONE: 2012A4620300145
COUNT TWO: 2012A4620300140

160 ACTION OF GRAND JURY

TRUE BILL

Person of Grand Jury

VERDICT

Person of Petit Jury

DOCKET NO. 2012-GS-46-03890
2012-GS-46-03890A

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

November 15, Term 2012

THE STATE

vs.

KAIRON BRENTON MALDONADO

Indictment for

COUNT ONE: ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330(B)

CDR Code: 0028

COUNT TWO: POSSESSION OF A FIREARM
DURING A VIOLENT CRIME

SC Code: 16-23-490

CDR Code: 649

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2012, the Grand Jurors of York County present upon their oath:

COUNT ONE: ATTEMPTED ARMED ROBBERY

The Defendant, Kairon Brenton Maldonado while acting in concert with Kadeem Sanders, did in York County, South Carolina, on or about July 25, 2012, while armed with a deadly weapon, to wit: a rifle, or while aiding, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously attempted to take and carry away personal property belonging to Cherry Road Discount Food and Beverage, attempting to take it from the person of or in the presence of Vipul Patel, an employee of Cherry Road Discount Food and Beverage. The Defendant, acting in concert with Kadeem Sanders, did by means of force or intimidation put Vipul Patel in fear and attempted to take goods or monies belonging to Cherry Road Discount Food and Beverage from Mr. Patel. All in violation of §16-11-330(B), Code of Laws of South Carolina, (1976, as amended).

COUNT TWO: POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

The Defendant, Kairon Brenton Maldonado, while acting in concert with and while aiding and abetting Kadeem Sanders, did in York County on or about July 25, 2012, while committing the crime of Attempted Armed Robbery, a violent crime, have in his possession a firearm or visibly displays what appears to be a firearm, to wit: a rifle, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

E. B. Spencer
 ASSISTANT SOLICITOR

WITNESSES

RHPD / Smith

adm

ARREST WARRANT NUMBER

2012A4820300184

62

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11/15/14

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-48- 03009

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 15, Term 2012

THE STATE

VS.

KAIRON BRENTON MALDONADO

Indictment for

CRIMINAL CONSPIRACY

SC Code: 16-17-410

CDR Code: 049

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2012, the Grand Jurors of York County present upon their oath:

CRIMINAL CONSPIRACY

The Defendant, Karon Brenton Maldonado, did in York County, South Carolina, on or about July 25, 2012, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have tacit understanding with Ka leem Sanders, for the purpose of committing the crime of Armed Robbery. All in violation of Section 16-17-410, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

E B Sanders
 ASSISTANT SOLICITOR

WITNESSES
RHPD / Smith

ARREST WARRANT NUMBER

2012010500000000

16
ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11/15/12

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-46-03888

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 15, Term 2012

THE STATE

VS.

KAIRON BRENTON MALDONADO

Indictment for
ATTEMPTED MURDER

SC Code: 16-3-20
CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

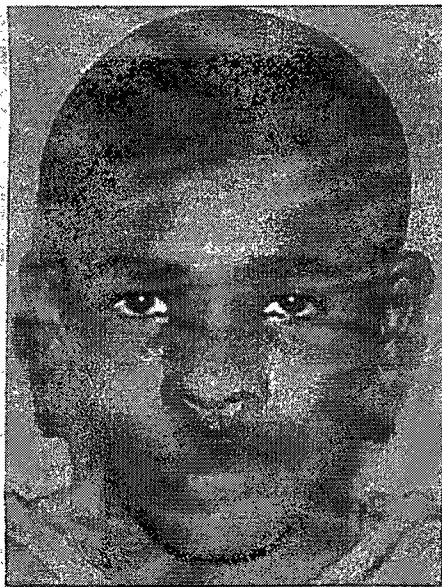
At a Court of General Sessions, convened on November 15, 2012, the Grand Jurors of York County present upon their oath:

ATTEMPTED MURDER

The Defendant, Kaiton Brenton Maldonado, while acting in concert with Kadeem Sanders, did in York County, South Carolina on or about July 25, 2012, with malice aforethought, either express or implied, attempt to the kill the victim, Vipul C. Patel, by shooting at Mr. Patel multiple times with a rifle and hitting Mr. Patel twice with bullets, all with the intent to kill said victim. All in violation of Section 16-3-29 of the Code of Laws of South Carolina, (1976, 2010 as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

E B SPRINGS IV
 ASSISTANT SOLICITOR



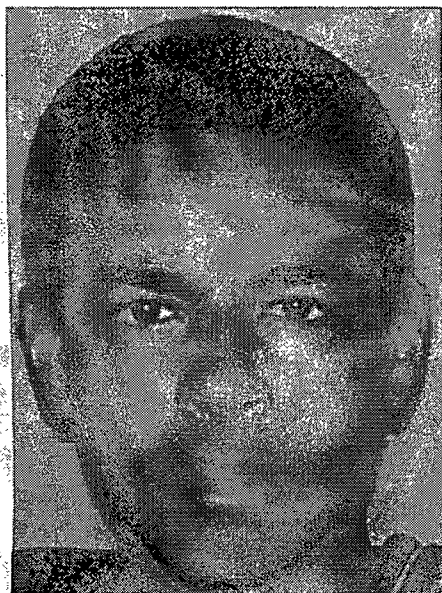
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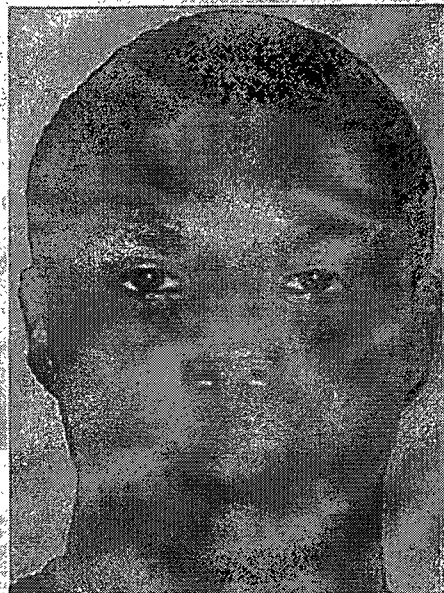
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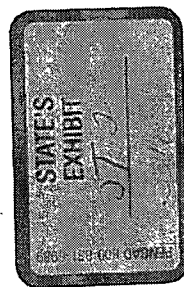


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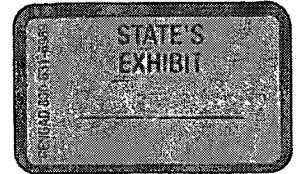


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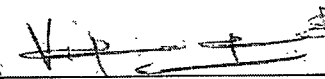
2-17-77



ROCK HILL POLICE DETECTIVE DIVISION PHOTOGRAPHIC LINE-UP

VIEWER: You will be asked to look at a group of photographs. The fact that photos are shown to you should not influence your judgment in any way. You should not conclude nor guess that the photographs contain the picture of the person who committed the crime. You do not have to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Keep in mind that hair styles, beards and moustaches are easily changed. Please do not indicate to other witnesses that you have or have not made an identification.

I have freely and voluntarily, without threats or promises, viewed a photographic line-up as shown by the officer listed below. The officer in no way suggested any particular photograph, and I was advised the line up may not contain the responsible party. I am positive, without a doubt, that the person I picked is the responsible party. I have initialed the attached photographic line-up.

Witness: X  X Vipul Patel
Signature Print Name

Officer: _____
Signature Print Name

After viewing the photographic line-up, I was unable to positively identify any particular photo as being the person responsible for the crime committed. I have initialed the attached photographic line-up documenting my review for possible responsible parties.

Witness: _____
Signature Print Name

Officer: _____
Signature Print Name

Case Number: 1207251275

Date: 7/31/2012

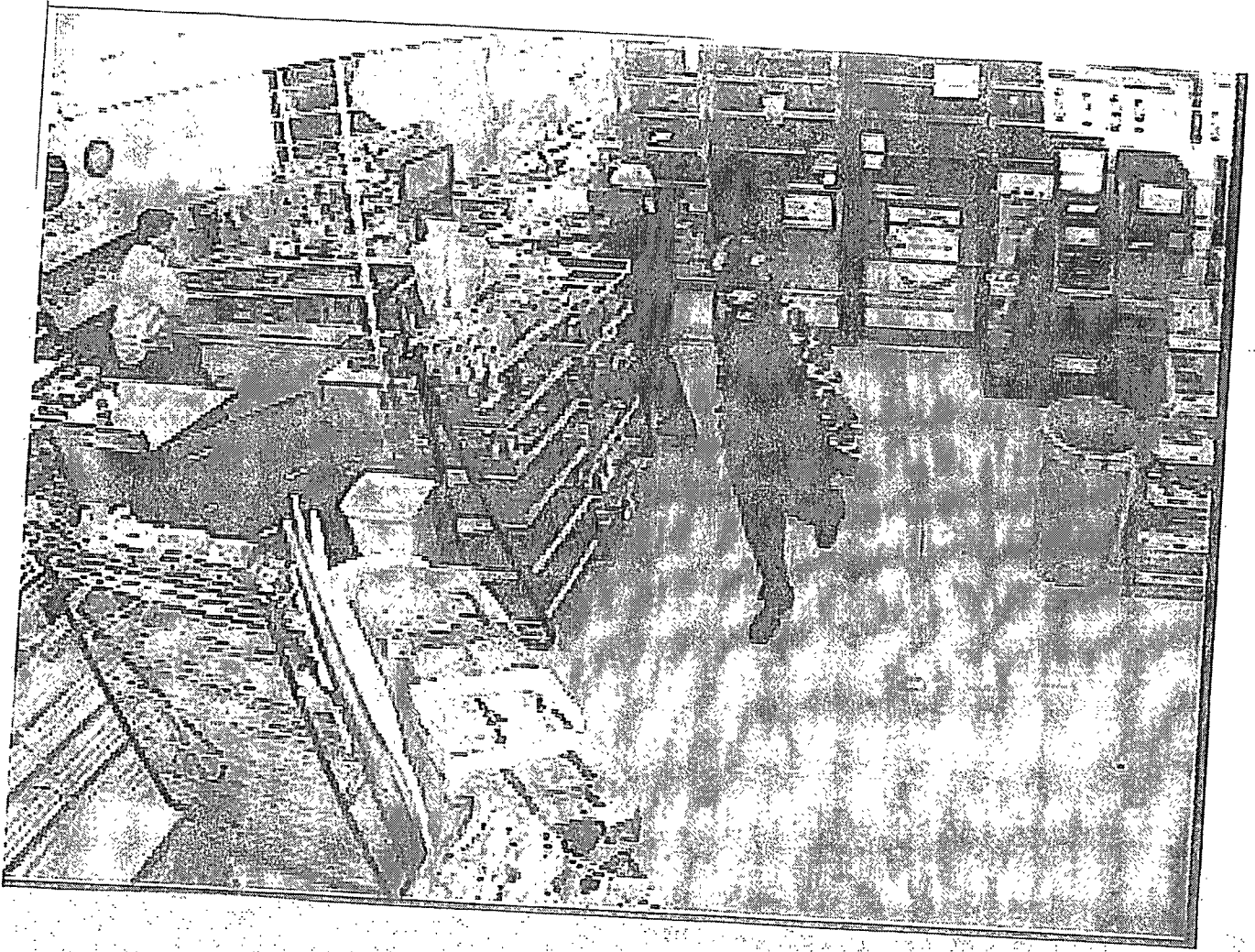
Time: 12:25pm



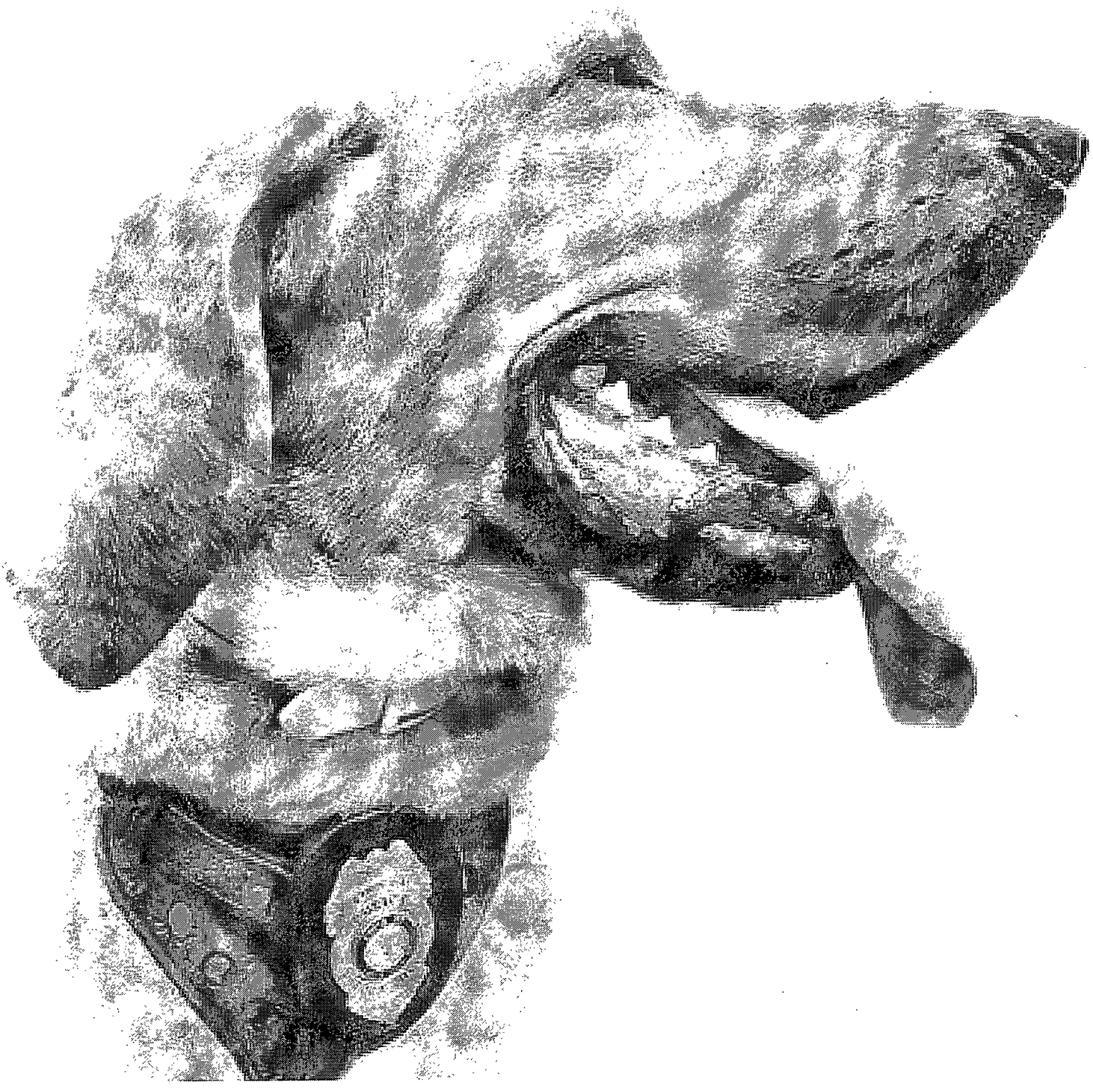
S 7

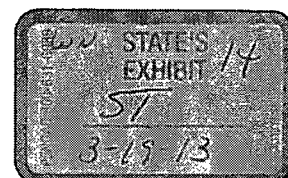


S 8

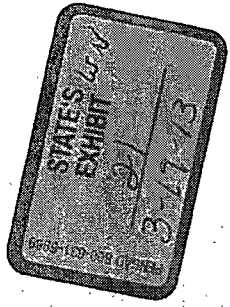


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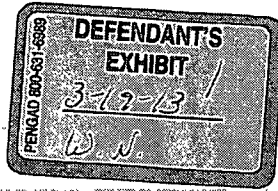












~~no~~ a hba. I said:

how you ever got it.

they told me they

was gone, disappeared

still if I gave you all

up so I told them it

made you go with the state and get a trial

and then you can be a lawyer

and then you can

To make it

and by

circles + happy new

my year

Kio

Dec. 22

What's up nigga, but shit going! Lol
to be honest, the hood Ain't even the same
cause you know you use to go around
stalking shit with everybody, but couldn't
fight! Lol Remember when we was playing in
the kitchen + you ran into the cabinet!

Bababa I told you to leave me alone!

Remember we use to do "I'm crazy, crazy,
crazy, my nigga I'm crazy," Good times

I miss you nigga on some real nigga shit,
on some real nigga shit! Lol Even though
we use to fight + fuss, but we got so
close then just left, but it's a

good thought. *Not this good here nigga

What day I write I miss you! Now nigga

you got? Heard's wanna know!

Heard's heard of you!

I'll see you soon. Heard's said

to write her

*Heard'sa Duncanson

2002 Fargo St.

You bet

I miss you

Heard's

Heard's

NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE
COURT OF GENERAL SESSIONS

ORIGINAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
John C. Hayes, Circuit Court Judge

Case No.: 2012A4620300140; 2012A4620300183
2012A4620300184; 2012A4620300185

State of South Carolina,

Respondent,

v.

Kairon B. Maldonado,

Appellant.

NOTICE OF APPEAL

Kairon B. Maldonado, Appellant, hereby appeals his conviction and sentence in this case. The sentence was imposed by the Honorable John C. Hayes on March 20, 2013.

DATED this 21st day of March, 2013.


MICHAEL L. BROWN, JR.
Law Offices of Michael L. Brown, Jr.
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Rock Hill, South Carolina 29731
(803) 328.8822
(803) 328.0523 (via facsimile)

Other Counsel of Record:
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Assistant Solicitor
York County Solicitor's Office
Moss Justice Center
1675 York Highway
York, South Carolina 29745

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APR 01 2013
SC Court of Appeals

NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE
COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
John C. Hayes, Circuit Court Judge

Case No.: 2012A4620300140; 2012A4620300183
2012A4620300184; 2012A4620300185

State of South Carolina,

Respondent,

v.

Kairon B. Maldonado,

Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby acknowledges that a true and correct copy of the
NOTICE OF APPEAL was hereby forwarded via regular mail, postage prepaid,
addressed to the following:

Tanya Gee
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211



LORRI M. RODGERS, Paralegal
Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, South Carolina 29731
(803) 328.8822
(803) 328.0523 (via facsimile)

March 26, 2013

CERTIFICATE OF COUNSEL FOR APPELLANT

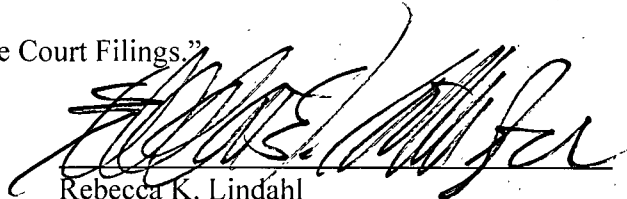
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the August 13, 2007 order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Identifiers and Other Sensitive Information in Appellate Court Filings."

April 21, 2014

RECEIVED

APR 21 2014

SC Court of Appeals



Rebecca K. Lindahl

S.C. Bar No. 78495

KATTEN MUCHIN ROSENMAN LLP

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Robert M. Dudek, Esq.

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Attorneys for Appellant

 ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APR 21 2014

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

SC Court of Appeals

John C. Hayes III, Circuit Court Judge

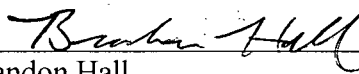
Case Nos. 2021-GS-46-03888, 2012-GS-46-03889, 2012-GS-46-03890

The State, Respondent,
v.
Kairon Brenton Maldonado, Appellant.

Appellate Case No. 2013-000684

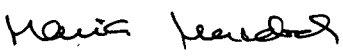
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Amie L. Clifford Esquire, at PO Box 11549, Columbia SC, this 21st day of April, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 21st day of April, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.