

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

APPEAL FROM GREENVILLE COUNTY

JUN 13 2014

C. Victor Pyle, Jr., Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH WALKER

APPELLANT

APPELLATE CASE NO. 2013-000766

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit
Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185
(864) 467-8282

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT (April 1 – 2, 2013)	1
OPENING STATEMENT – MR. MOYER	20
OPENING STATEMENT – MR. SHEEK	24
TESTIMONY OF TYLER MATTRESS	30
TESTIMONY OF TOMEKA DENNIS	80
TESTIMONY OF AMANDA RAY	86
TESTIMONY OF SHARANDA RAY	109
TESTIMONY OF JONATHAN RACKLEY	115
TESTIMONY OF IONA OOTEN	136
TESTIMONY OF TURONNIE LEWIS	151
TESTIMONY OF JARED MANN	160
TESTIMONY OF BEVERLY HENDERSON	163
TESTIMONY OF BOBBY GOLDEN	180
CLOSING ARGUMENT – MR. SHEEK	197
CLOSING ARGUMENT – MR. MOYER	221
VERDICT	244
SENTENCING	245
INDICTMENT SHEET	249
CERTIFICATE OF COUNSEL	251

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 JOSEPH WALKER,)
)
 DEFENDANT.)
 _____)

2011-GS-23-08458 & 08459

TRANSCRIPT OF RECORD

APRIL 1 - 2, 2013
 GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE C. VICTOR PYLE, JR.

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

ATTORNEY FOR PLAINTIFF:

L. MARK MOYER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CHRISTOPHER LANCE SHEEK, ESQUIRE

SUSAN W. HUDGINS
 CIRCUIT COURT REPORTER

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
OPENING STATEMENTS	
MR. MOYER -----	20
MR. SHEEK -----	24
TYLER MATTRESS	
DIRECT BY MR. MOYER -----	30
CROSS BY MR. SHEEK -----	49
REDIRECT BY MR. MOYER -----	71
RECROSS BY MR. SHEEK -----	76
TOMEKA DENNIS	
DIRECT BY MR. MOYER -----	80
CROSS BY MR. SHEEK -----	83
REDIRECT BY MR. MOYER -----	85
AMANDA RAY	
DIRECT BY MR. MOYER -----	86
CROSS BY MR. SHEEK -----	101
SHARANDA RAY	
DIRECT BY MR. MOYER -----	109
CROSS BY MR. SHEEK -----	114
JONATHAN RACKLEY	
DIRECT BY MR. MOYER -----	115
CROSS BY MR. SHEEK -----	123
REDIRECT BY MR. MOYER -----	135

INDEXWITNESSPAGE NO.

IONA OOTEN

DIRECT BY MR. MOYER ----- 136

CROSS BY MR. SHEEK ----- 146

REDIRECT BY MR. MOYER ----- 150

TURONNIE LEWIS

DIRECT BY MR. MOYER ----- 151

CROSS BY MR. SHEEK ----- 159

JARED MANN

DIRECT BY MR. MOYER ----- 160

CROSS BY MR. SHEEK ----- 162

BEVERLY HENDERSON

DIRECT BY MR. MOYER ----- 163

CROSS BY MR. SHEEK ----- 171

BOBBY GOLDEN

DIRECT BY MR. SHEEK ----- 180

CLOSING ARGUMENTS

MR. SHEEK ----- 197

MR. MOYER ----- 221

CHARGE OF THE COURT ----- 236

VERDICT OF THE JURY ----- 244

SENTENCE OF THE COURT ----- 245

CERTIFICATE OF REPORTER ----- 248

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	PHOTO -----	73	73
S-2	PHOTO -----	79	121
S-3	PHOTO -----	79	139
S-4	PHOTO -----	79	139
S-5	PHOTO -----	79	121
S-6	SHELL CASINGS -----	79	143
D-1	PHOTO -----	83	83
C-1	NOTICE OF INTENT TO SEEK ----- LIFE WITHOUT PAROLE	246	

Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Victor C. Pyle Jr. VALUES (Ret)

TRIAL TYPE : Criminal

PANEL ID : PYLE 4/1/13

DESCRIPTION : PYLE 4/1/13

Sorted by: Random Nbr

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
DX 1 Minette, Iris M	108	222884	()	()	()	()	()	WF
DX 2 Frederick, Patricia Jean	49	109097	()	()	()	()	()	WF
✓ 3 Rabb, Willie A	125	261074	()	()	()	()	()	BM
✓ 4 Parsons, Jennifer M	115	245873	()	()	()	()	()	OF
✓ 5 Harrington, Paulette L	64	137164	()	()	()	()	()	WF
SX 6 Wade, Adam B	156	332420	()	()	()	()	()	WM
✓ 7 Vaquier-Luna, Nichelle	92	330895	()	()	()	()	()	BF
SX 8 Rainey, Paul W Jr.	126	261906	()	()	()	()	()	WM
✓ 9 Holmes, Yolanda G (F)	181	151957	()	()	()	()	()	BF
○ 10 Gruenefeld, Lars C	61	129803	()	()	()	()	()	WM
SX 11 Ford, Tamara M	46	105678	()	()	()	()	()	BF
✓ 12 Luther, Ronald G	93	198021	()	()	()	()	()	WM
DX 13 Strawhorn, Kenneth Richa	144	309526	()	()	()	()	()	WM
✓ 14 Gannom, April L	51	113341	()	()	()	()	()	WF
DX 15 Carter, Marvin E Jr.	21	53439	()	()	()	()	()	WM
✓ 16 Marburger, Ted P	95	202313	()	()	()	()	()	WM
DX 17 Allen, Lori	2	4409	()	()	()	()	()	WF
✓ 18 Danley, Traci L	35	76966	()	()	()	()	()	WF
✓ 19 Graef, James H	58	123905	()	()	()	()	()	WM
SX 20 Carver, Steve F JR	22	53853	()	()	()	()	()	WM
✓ 21 Brady, Bobby R	10	33669	()	()	()	()	()	WM
22 Morris, Frances T	187	228193	()	()	()	()	()	
D 23 Keeton, Catherine M	81	174400	()	()	()	()	()	WF
✓ 24 Williams, Robert H (A)	171	348266	()	()	()	()	()	WM
25 Cobin, Matthew S	30	62969	()	()	()	()	()	

Greenville County Courthouse RANDOM STRIKE SHEET

JUDGE NAME : Victor C. Pyle Jr. VALUES (Ret)

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : PYLE 4/1/13

DESCRIPTION : PYLE 4/1/13

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
~~26 Dorsey, Glenn T~~	~~39~~	~~87724~~	~~()~~	~~()~~	~~()~~	~~()~~	~~()~~	~~_____~~
27 Ross, Mary E	135	276745	()	()	()	()	()	_____
28 Harrel, Logan P	63	137003	()	()	()	()	()	_____
29 Lewis, Michael S	88	191882	()	()	()	()	()	_____
30 Ciardi, Kathryn T	27	59851	()	()	()	()	()	_____

Total Number of Jurors:

30

** END OF REPORT **

1 **THE COURT:** All right. What we got?

2 **MR. MOYER:** May it please the Court, Your Honor. The
3 State is ready to proceed with the case against Joseph
4 Walker for attempted murder. The indictment should be
5 before you. It's indictment number 2011-GS-23-8458.

6 **THE COURT:** Mr. Sheek, you got a list of your witnesses
7 you can give to me?

8 **MR. SHEEK:** Your Honor, at this point we don't
9 anticipate ---

10 **THE COURT:** All right.

11 **MR. SHEEK:** --- any witnesses.

12 **THE COURT:** That's fine. Anything before I bring a
13 panel of jurors up?

14 **MR. MOYER:** Not from the State, Your Honor.

15 **THE COURT:** Let's see. We'll need probably thirty-
16 five.

17 **MR. MOYER:** And just so -- to make clear, it's my
18 understanding the strikes are five and five? I was just
19 looking at the statute again this morning.

20 **THE COURT:** So it's not -- it's not five and ten?

21 **MR. SHEEK:** I think it's five and ten, Your Honor, ---

22 **MR. MOYER:** Your Honor, I'm looking at ---

23 **MR. SHEEK:** --- I believe.

24 **MR. MOYER:** --- 14-7-1110, which gives the number of
25 peremptory challenges. That is not on the list of ten

1 strikes.

2 **THE COURT:** There's ten for murder.

3 **MR. MOYER:** I'm sorry, Your Honor.

4 **THE COURT:** It is ten for murder. So why ---

5 **MR. MOYER:** Yes, sir. Well, the statute just says
6 murder, manslaughter, burglary, arson, criminal sexual
7 conduct, armed robbery, grand larceny, breach of trust,
8 perjury and forgery.

9 **MR. SHEEK:** I believe that statute, and I may be wrong,
10 was actually written before the new law that codified
11 attempted murder as a charge.

12 (Pause)

13 **THE COURT:** Mr. Sheek, unless you can come up with some
14 case law or something to show me otherwise, then I think the
15 solicitor's correct, it's five and five.

16 **MR. SHEEK:** Your Honor, I don't have any case law.

17 **THE COURT:** All right. So it's five and five. All
18 right. Thirty will be plenty.

19 (Pause)

20 (Whereupon the jury panel entered the courtroom at
21 11:17 am)

22 **THE COURT:** Ladies and gentlemen, if I can have your
23 attention. At this time we will select a jury in the case
24 of the State against Joseph Christopher Walker. Mr. Walker,
25 would you please stand up and turn around and face the jury

1 panel for me, please. Thank you. You can be seated.

2 Mr. Walker is indicted for attempted murder. The
3 indictment alleges that on or about July 20, 2011 that he
4 unlawfully and with malice aforethought and with the intent
5 to kill attempted to kill Tyler Mattress by means of
6 pointing a gun and firing at him.

7 Now, potential witnesses in this case will be Tyler
8 Mattress, Amanda Ray, Sharanda Ray, Bobby Golden, Turonnie
9 Lewis, Tomeka Dennis and Beverly Henderson and also Jonathan
10 Rackley, Phillip Barham, Mary Ashley Thomas and Jared Mann
11 all with the Greenville Police Department and Iona Ooten
12 with the Greenville County Forensics Department.

13 I would inquire at this time if any member of the jury
14 panel is related by blood or marriage or connected by
15 employment to the Defendant or to any potential witness in
16 this case. Are you sensible or aware of any bias or any
17 prejudice with respect to the Defendant, to the State, or to
18 the subject-matter of the case, that being an alleged
19 attempted murder, or do you know any reason why you could
20 not give this Defendant and the State a fair and impartial
21 trial based on the law and evidence to be presented? If so,
22 would you please stand and give me your name.

23 (No response)

24 **THE COURT:** Do I have any member of the panel who has
25 any connection, family, business, social or otherwise with

1 Walt Wilkins, the Solicitor, or any member of his staff
2 including Mark Moyer, who is handling this case, or with law
3 enforcement, whether that be Federal, State, County or
4 Municipal? If so, would you please stand and give me your
5 name.

6 (No response)

7 **THE COURT:** Lance Sheek represents the Defendant. Do I
8 have any clients now or formerly of Mr. Sheek? If so,
9 please stand and give me your name.

10 (No response)

11 **THE COURT:** Do I have any member of the panel or any
12 member of your family who has been the victim of a crime,
13 including attempted murder or any similar type crime? If
14 so, would you please stand and give me your name.

15 (No response)

16 **THE COURT:** All right. Any other questions I've
17 overlooked, counsel?

18 **MR. MOYER:** Not from the State, Your Honor.

19 **MR. SHEEK:** None from the Defense, Your Honor.

20 **THE COURT:** All right. Strikes five for the State,
21 five for the Defense. Ladies and gentlemen, when your name
22 is called I'll ask that you come forward up front to this
23 podium, turn around, face counsel and await further
24 instructions. Thank you.

25 **MADAME CLERK:** Juror number 108, Iris Minette. Please

1 come forward.

2 (Whereupon Iris Minette, a white female, came forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Ms. Minette.

5 **MADAME CLERK:** What says the Defendant?

6 **MR. SHEEK:** Please excuse Ms. Minette from the trial of
7 this case.

8 **MADAME CLERK:** You may sit down. Juror number 49,
9 Patrick [sic] Jean Frederick.

10 (Whereupon Patricia Frederick, a white female, came
11 forward)

12 **MADAME CLERK:** What says the State?

13 **MR. MOYER:** Please present Ms. Frederick.

14 **MADAME CLERK:** What says the Defendant?

15 **MR. SHEEK:** Please excuse Ms. Frederick from the trial
16 of this case.

17 **MADAME CLERK:** You may have a seat. Juror number 125,
18 Willie Rabb.

19 (Whereupon Willie Rabb, a black male, came forward)

20 **MADAME CLERK:** What says the State?

21 **MR. MOYER:** Please present Mr. Rabb.

22 **MADAME CLERK:** What says the Defendant?

23 **MR. SHEEK:** Please swear Mr. Rabb.

24 **MADAME CLERK:** Mr. Rabb, you may have a seat in the
25 jury box. Juror number 115, Jennifer Parsons.

1 (Whereupon Jennifer Parsons, other female, came
2 forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Ms. Parsons.

5 **MADAME CLERK:** What says the Defendant?

6 **MR. SHEEK:** Please swear Ms. Parsons.

7 **MADAME CLERK:** You may have a seat. Juror number 64,
8 Paulette Harrington.

9 (Whereupon Paulette Harrington, a white female, came
10 forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please present Ms. Harrington.

13 **MADAME CLERK:** What says the Defendant?

14 **MR. SHEEK:** Please swear Ms. Harrington.

15 **MADAME CLERK:** You may have a seat, Ms. Harrington.
16 Juror number 156, Adam Wade.

17 (Whereupon Adam Wade, a white male, came forward)

18 **MADAME CLERK:** What says the State?

19 **MR. MOYER:** Please excuse the juror in this case.

20 **MADAME CLERK:** You're excused from this case. Juror
21 number 92, Nichelle Vaquier-Luna.

22 (Whereupon Nichelle Vaquier-Luna, a black female, came
23 forward)

24 **MADAME CLERK:** What says the State?

25 **MR. MOYER:** Please present Ms. Luna.

1 **MADAME CLERK:** What says the Defendant?

2 **MR. SHEEK:** Please swear Ms. Luna.

3 **MADAME CLERK:** You may take your things and go sit in
4 the jury box. Juror number 126, Paul Rainey.

5 (Whereupon Paul Rainey, a white male, came forward)

6 **MADAME CLERK:** What says the State?

7 **MR. MOYER:** Please excuse the juror in this case.

8 **MADAME CLERK:** Juror number 181, Yolanda Holmes.

9 (Whereupon Yolanda Holmes, a black female, came
10 forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please present Ms. Holmes.

13 **MADAME CLERK:** What says the Defendant?

14 **MR. SHEEK:** Please swear Ms. Holmes.

15 **MADAME CLERK:** You may have a seat in the jury box.
16 Juror number 61, Lars Gruenefeld.

17 (Whereupon Lars Gruenefeld, a white male, came forward)

18 **MADAME CLERK:** What says the State?

19 **MR. MOYER:** Please present Mr. Gruenefeld.

20 **MADAME CLERK:** What says the Defendant?

21 **MR. SHEEK:** Please swear Mr. Gruenefeld.

22 **MADAME CLERK:** You may have a seat in the jury box.
23 Juror number 46, Tamara Ford.

24 (Whereupon Tamara Ford, a black female, came forward)

25 **MADAME CLERK:** What says the State?

1 **MR. MOYER:** Please excuse the juror in this case.

2 **MADAME CLERK:** You may have a seat. Juror number 93,

3 Ronald Luther.

4 (Whereupon Ronald Luther, a white male, came forward)

5 **MADAME CLERK:** What says the State?

6 **MR. MOYER:** Please present Mr. Luther.

7 **MADAME CLERK:** What says the Defendant?

8 **MR. SHEEK:** Please swear Mr. Luther.

9 **MADAME CLERK:** You may have a seat in the jury box.

10 Juror number 144, Kenneth Strawhorn.

11 (Whereupon Kenneth Strawhorn, a white male, came

12 forward)

13 **MADAME CLERK:** What says the State?

14 **MR. MOYER:** Please present Mr. Strawhorn.

15 **MADAME CLERK:** What says the Defendant?

16 **MR. SHEEK:** Please excuse Mr. Strawhorn from the trial

17 of this case.

18 **MADAME CLERK:** You are excused. Juror number 51, April

19 Gannom.

20 (Whereupon April Gannom, a white female, came forward)

21 **MADAME CLERK:** What says the State?

22 **MR. MOYER:** Please present Ms. Gannom.

23 **MADAME CLERK:** What says the Defendant?

24 **MR. SHEEK:** Please swear Ms. Gannom.

25 **MADAME CLERK:** Juror number 21, Marvin Carter.

1 (Whereupon Marvin Carter, a white male, came forward)

2 **MADAME CLERK:** What says the State?

3 **MR. MOYER:** Please present Mr. Carter.

4 **MADAME CLERK:** What says the Defendant?

5 **MR. SHEEK:** Please excuse Mr. Carter from the trial of
6 this case.

7 **MADAME CLERK:** Juror number 95, Ted Marburger.

8 (Whereupon Ted Marburger, a white male, came forward)

9 **MADAME CLERK:** What says the State?

10 **MR. MOYER:** Please present Mr. Marburger.

11 **MADAME CLERK:** What says the Defendant?

12 **MR. SHEEK:** Please swear Mr. Marburger.

13 **MADAME CLERK:** Juror number 2, Lori Allen.

14 (Whereupon Lori Allen, a white female, came forward)

15 **MADAME CLERK:** What says the State?

16 **MR. MOYER:** Please present Ms. Allen.

17 **MADAME CLERK:** What says the Defendant?

18 **MR. SHEEK:** Please excuse Ms. Allen from the trial of
19 this case.

20 **MADAME CLERK:** Juror number 35, Traci Danley.

21 (Whereupon Traci Danley, a white female, came forward)

22 **MADAME CLERK:** What says the State?

23 **MR. MOYER:** Please present Ms. Danley.

24 **MR. SHEEK:** Please swear Ms. Danley.

25 **MADAME CLERK:** You may have a seat in the jury box.

1 Juror number 58, James Graef.

2 (Whereupon James Graef, a white male, came forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Mr. Graef.

5 **MADAME CLERK:** You may have a seat ---

6 **MR. SHEEK:** Please swear Mr. Graef.

7 **MR. GRAEF:** Have a seat?

8 **MADAME CLERK:** Yes, sir. Have a seat in the jury box.

9 Juror number 22, Steve Carver.

10 (Whereupon Steve Carver, a white male, came forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please excuse the juror in this case.

13 **MADAME CLERK:** Juror number 10, Bobby Brady.

14 (Whereupon Bobby Brady, a white male, came forward)

15 **MADAME CLERK:** What says the State?

16 **MR. MOYER:** Please present Mr. Brady.

17 **MR. SHEEK:** Please swear Mr. Brady.

18 **MADAME CLERK:** Mr. Brady, you can have a seat.

19 **THE COURT:** Ms. Holmes, come take this first seat and
20 serve as the foreperson for me, please, ma'am. And give me
21 one alternate. One for the State, two for the Defense.

22 **MADAME CLERK:** Juror number 81, Catherine Keeton.

23 (Whereupon Catherine Keeton, a white female, came
24 forward)

25 **MADAME CLERK:** What says the State?

1 **MR. MOYER:** Please present Ms. Keeton.

2 **MR. SHEEK:** Please let -- excuse Ms. Keeton from the
3 trial of this case.

4 **MADAME CLERK:** Juror number 171, Robert Williams.

5 (Whereupon Robert Williams, a white male, came forward)

6 **MADAME CLERK:** What says the State?

7 **MR. MOYER:** Please present Mr. Williams.

8 **MR. SHEEK:** Please swear Mr. Williams.

9 **MADAME CLERK:** You may have a seat in the jury box.

10 **THE COURT:** Okay. Go on and swear the jury, please.

11 **MADAME CLERK:** Please stand up. The correct response
12 to the oath is I will. Will you raise your right hand. You
13 shall well and truly try the case, 2011-GS-23-8458, the
14 State versus Joseph Christopher Walker, indicted for
15 attempted murder and a true verdict rendered according to
16 the law and the evidence so help you God?

17 **THE JURY:** I will.

18 **MADAME CLERK:** Thank you. Have a seat.

19 **THE COURT:** Ladies and gentlemen, I'll give you a short
20 recess before we start the trial. While on recess do not
21 talk about this case. Take the jury out, please.

22 (Whereupon the jury exited the courtroom at 11:35 am)

23 **THE COURT:** And at this time, ladies and gentlemen, I
24 need the balance of the panel to report back downstairs to
25 the jury assembly room. Thank you.

1 (Whereupon the remaining jurors exited the courtroom)

2 **THE COURT:** All right. Anything before we start?

3 **MR. SHEEK:** Your Honor, the Defense would ask to
4 sequester the witnesses with the exception, of course, of
5 the chief investigating officer ---

6 **THE COURT:** All right.

7 **MR. SHEEK:** --- or the victims.

8 **THE COURT:** That's fine. Now, does anyone need a short
9 recess before we start?

10 **MR. SHEEK:** No, sir. I believe we're ---

11 **THE COURT:** You're ready?

12 **MR. SHEEK:** --- ready to go.

13 **MR. MOYER:** Okay.

14 **THE COURT:** Okay.

15 **MR. SHEEK:** I'm sorry, Judge. Before we bring the jury
16 in.

17 **THE COURT:** Sure.

18 **MR. SHEEK:** The State has provided me with the criminal
19 rap sheets on several of their witnesses. I noted on a
20 couple of the charges it does not show a disposition.

21 **MR. MOYER:** And, Judge, I'm afraid I don't know the
22 answer to his question. There is a charge on one of the rap
23 sheets that doesn't show -- and I just -- I don't know
24 anything further than what's on the rap sheets.

25 **THE COURT:** Well, why do you need that information?

1 **MR. SHEEK:** If there's a conviction, then, Your Honor,
2 it would be subject to be used for impeachment should the
3 witness testify. If it's a non-conviction, then, obviously,
4 I don't want to bring it up.

5 **THE COURT:** I think you can impeach, but the amount of
6 term -- the time of the sentence is not admissible to the
7 jury.

8 **MR. SHEEK:** Well, what I'm saying, Judge, is I'm not
9 sure if they were convicted of it or if they were charged
10 with an offense that would be subject to impeachment ---

11 **THE COURT:** All right.

12 **MR. SHEEK:** --- if convicted or pled guilty.

13 **THE COURT:** Can you find that out, solicitor?

14 **MR. MOYER:** Yes, we can get on it. If I can just find
15 out ---

16 **THE COURT:** Can you get somebody to do it while we --
17 while we start?

18 **MR. MOYER:** I would say ---

19 **THE COURT:** Who is your first witness?

20 **MR. MOYER:** The first witness is Tyler Mattress, who
21 you probably don't need ...

22 (Whereupon the attorneys were conferring off the
23 record)

24 **MR. SHEEK:** Then there's no other issues, Your Honor.

25 **THE COURT:** Okay. All right. Now, you want to make

OPENING STATEMENTS - MR. MOYER

20

1 brief opening statements to the jury.

2 **MR. MOYER:** Yes, sir, Your Honor.

3 **THE COURT:** And no arguing in your opening statement.

4 **MR. MOYER:** Yes, sir.

5 **MR. SHEEK:** Yes, sir.

6 **MR. MOYER:** Just to make sure before we get started, is
7 there anything you need us to check on then for ---

8 **MR. SHEEK:** The only thing I would have is the CDV,
9 third, on Mr. Golden.

10 **MR. MOYER:** Okay.

11 (Whereupon the attorneys were conferring off the
12 record)

13 **THE COURT:** All right. Bring our jury if they're
14 ready.

15 (Whereupon the jury entered the courtroom at 11:41 am)

16 **THE COURT:** All right, solicitor, brief opening
17 statement.

18 **MR. MOYER:** Thank you, Your Honor. May it please the
19 Court. Good morning, ladies and gentlemen.

20 **THE JURY:** Good morning.

21 **MR. MOYER:** My name is Mark Moyer. I'm an assistant
22 solicitor. I work here in Greenville County. I work for
23 the Solicitor, Walt Wilkins. There are about thirty
24 attorneys who work for him. Walt Wilkins is the Solicitor
25 of the Thirteenth Circuit, which is made up of Greenville

OPENING STATEMENTS - MR. MOYER

21

1 and Pickens Counties.

2 We are here today because the Defendant, as you have
3 heard, has been indicted and charged with attempted murder.
4 It's my job as the prosecutor to bring forth the facts from
5 witnesses which will prove this case beyond any reasonable
6 doubt.

7 Now the case you're going to hear about today involves
8 a relationship triangle. You're going to hear it involves a
9 relationship triangle that led to jealousy and rage in a
10 situation where a man very easily could have lost his life.

11 You're going to hear testimony in this case that on
12 July 20th of 2011 this Defendant seated across the room,
13 Tyler Mattress [sic], fired a pistol three times at Tyler
14 Mattress, who's seated right over here. And I misspoke,
15 James Walker is the Defendant who fired three times at Tyler
16 Mattress, who's sitting here on the front row of the case --
17 of the courtroom.

18 You're going to hear testimony in this case that the
19 Defendant used to date a woman by the name of Amanda Ray.
20 In fact, they've had two children. She had two children by
21 him. You're going to hear that they broke up. You're going
22 to hear that she moved on with her life.

23 And you're going to hear that in July of 2011 Amanda
24 Ray was dating Tyler Mattress. And you're going to hear
25 evidence in this case that this Defendant could not take

OPENING STATEMENTS - MR. MOYER

22

1 that. He could not take the fact that she was seeing
2 somebody else, and that it enraged him. And you're going to
3 hear that that reached a boiling point on July the 20th of
4 2011.

5 You're going to hear that on that date Tyler Mattress
6 was over at her house spending the day with her. In the
7 afternoon of that day you're going to hear testimony that
8 this Defendant began calling Amanda Ray, calling her and
9 calling her over and over. You're going to hear that Amanda
10 Ray did not answer the phone because, of course, Tyler
11 Mattress was with her and she didn't want to get in that
12 situation.

13 You're going to hear that this went on about all
14 afternoon until finally close to 7:00 in the afternoon
15 Amanda Ray saw an incoming call from her sister's phone.
16 What she did not realize is that this Defendant was on the
17 other end of that phone.

18 You're going to hear testimony that she answered the
19 phone and that what she found out is that this Defendant had
20 gone to her sister and had used her phone so -- to get her
21 to answer the phone. Well, you're going to hear that an
22 argument ensued.

23 You're going to hear that he wanted to come see Amanda
24 Ray. And you're going to hear testimony that she told him
25 that she did not want to and that he made threats to her.

OPENING STATEMENTS - MR. MOYER

23

1 You're going to hear testimony that Tyler Mattress, who's
2 lying next to her, heard these threats and that he then
3 started exchanging words with this Defendant and he was
4 threatened as well.

5 Well, shortly after that phone call ended Tyler
6 Mattress went outside the apartment complex and was waiting.
7 And as expected, about ten minutes or so later a car pulled
8 up. And you're going to hear testimony that this Defendant
9 stepped out of that car.

10 And you're going to hear that what was not expected is
11 that when he did so he was holding a pistol. You're going
12 to hear that Tyler Mattress saw that pistol and he began to
13 run and that shots were fired at him by this Defendant as he
14 tried to flee from this Defendant, Joseph Walker.

15 Now that is essentially the story that you're going to
16 hear in this case. Now this is going to be a relatively
17 short trial. You're going to hear from somewhere in the
18 vicinity of eight to ten or eleven witnesses who are going
19 to come and testify from this witness stand.

20 This is not the kind of case that is proven by
21 scientific sort of testimony, like, say, a DUI where you
22 would have a data master and a video or, say, a burglary
23 where you would have fingerprints or some kind of sexual
24 assault where you would have DNA testimony. By its very
25 nature, this is the kind of case that is proven by witness

OPENING STATEMENTS - MR. SHEEK

24

1 testimony. And that is what you're going to hear in this
2 case.

3 You're going to see very few exhibits. There will be
4 some shell casings that will be introduced and a handful of
5 photographs. But other than that, you're going to have --
6 you will hear witness testimony.

7 At this point I am going to ask you to reserve
8 judgment. I am going to ask you to listen closely to the
9 witnesses that you hear in this case. At the end of this
10 case I will have a chance to come up before you again and
11 argue to you why the testimony that you heard proves beyond
12 any reasonable doubt why this Defendant is guilty of this
13 charge of attempted murder.

14 But for now all I'm asking is that you listen closely,
15 use your common sense and your good judgment to weigh the
16 testimony that you hear and then at the end of this case do
17 justice. Thank you.

18 **THE COURT:** Mr. Sheek.

19 **MR. SHEEK:** Thank you, Your Honor. May it please the
20 Court. Madame Forelady and ladies and gentlemen of the
21 jury, my name is Lance Sheek. I live just up the road
22 towards Greenwood up 25. I don't work in an office with
23 thirty other attorneys, I work by myself. And today I have
24 the honor to come in here and represent Joe Walker, James or
25 Joseph.

OPENING STATEMENTS - MR. SHEEK

25

1 Joe has been charged with attempted murder. Now the
2 solicitor started his statement off a few minutes ago by
3 saying this case is about a love triangle, this case is
4 about jealousy. I want to go ahead and get that out of your
5 minds right now.

6 This case is about a citizen of Greenville County
7 charged with a crime, who has pled not guilty and is having
8 his day in court. That's what the case is about. Don't get
9 sidetracked by any drama, or emotion or anything else
10 because what we're doing here is a serious, serious
11 business.

12 One thing I like about trying cases in Greenville
13 County is all of you sat downstairs just a few minutes ago
14 and you got to watch a video that told you about your jury
15 service and what to expect. A lot of counties I've been in,
16 you don't have something like that.

17 So you sit here on this bench for the first time having
18 been chosen as a jury wondering what is it we expect you to
19 do. And I like the video that they show you there. And
20 then the judge takes time to talk to you as he goes through
21 the qualifications.

22 But you were told some things I really want you to keep
23 in your mind. Joe Walker, our law says, is presumed
24 innocent. When the solicitor stands up here in opening
25 statement and says we're going to show you why he's guilty,

OPENING STATEMENTS - MR. SHEEK

26

1 why he's guilty, he's presumed innocent. The law says that.
2 And nobody can take that away from him except you, the jury,
3 and then only after the presentation of evidence.

4 The solicitor says his job is to bring forth facts.
5 His job is to present evidence. As that video told you, if
6 y'all remember, who's the only people in this courtroom that
7 are going to determine the facts? It's you people.

8 His Honor is the sole judge of the law. And if I say
9 something about the law that's different from what he tells
10 you, it's his job to tell you what the law is, not me. But,
11 likewise, I can stand up here all day long and tell you what
12 I think the facts are, but you and you alone are going to
13 determine what the facts are because as we come into this
14 courtroom as that video told you, you often have the case of
15 having to determine who's telling you the truth. Because as
16 I said, Joe Walker is presumed innocent.

17 Now, when you presume someone is innocent, then the
18 State has to come in and prove their guilt and prove it
19 beyond a reasonable doubt. But why is that important?
20 Well, if you think about it, how does someone prove a
21 negative? In other words, how do I prove something didn't
22 happen?

23 If I were to, last night, get in an argument with this
24 young man sitting right here, walk outside my house, fire a
25 gun in the air, call the police and say he just drove over

OPENING STATEMENTS - MR. SHEEK

27

1 and tried to kill me, if there's not a witness around, how
2 does he prove it didn't happen? Well, luckily he doesn't
3 have to prove it didn't happen, the State's got to prove it
4 did. And they've got to prove it beyond a reasonable doubt.

5 And that's important, because trust me, allegations are
6 easy to make. Proof is a different ball game. And you and
7 you alone are judged with -- charged with judging
8 credibility for the witnesses that talk to you. And that is
9 their believability.

10 And the video talked to you about several different
11 ways you might want to do that, but most of all you've got
12 your common sense that you brought into this courtroom. You
13 work at jobs. You may have raised a family. You judge
14 credibility of people that talk to you all the time.

15 You look at them, listen to them testify, listen to the
16 extenuating facts around their testimony. Do they have a
17 good track record? Do they have a motivation for telling
18 you a certain story? Those are things you want to look at
19 because that and that alone is where you've got to base your
20 verdict, not on what I tell you or Mr. Moyer tells you, but
21 on the witnesses that sit in that chair right there, swear
22 to tell the truth and then testify to you.

23 Now, when the State brings a charge they also undertake
24 an obligation. What is that obligation? Well, they're
25 going to empanel a jury and as the solicitor just told you,

OPENING STATEMENTS - MR. SHEEK

28

1 he's going to, at the end of this case, ask you to find the
2 Defendant guilty. He's going to tell you the reasons why
3 he's guilty.

4 Well, what do they have to do? They have to equip you
5 with the tools to reach that verdict because verdict
6 literally comes from a word that says to speak the truth.
7 And that's all anybody really wants of you here today.

8 Because in our system of justice, I'll give you just a
9 brief history of how it works here so you can understand
10 how we got to today from July of 2011 to today. The State
11 can bring a charge, that is, they can say something
12 happened, believe something happened and go to a summary
13 court judge, which is a municipal judge or a magistrate and
14 swear a warrant. If the judge finds probable cause, then he
15 signs a warrant.

16 There's no proof beyond a reasonable doubt standard at
17 this point. Nor does the defendant get to participate or
18 have an attorney present, call witnesses or have any kind of
19 a hearing. If that warrant is issued, then it's served on
20 him. He is arrested, he's charged.

21 They'll have a bond hearing in which case a judge only
22 sets the conditions of his release for him to show up at
23 court. It is not a trial to determine guilt. He doesn't
24 get to call witnesses again. That's not the process.

25 The solicitor told you he's then indicted. What

OPENING STATEMENTS - MR. SHEEK

29

1 happens there? Well, there a grand jury is empaneled. The
2 State goes in and presents their evidence for what they
3 believe the person should be indicted.

4 The defendant doesn't get to participate. He doesn't
5 even get to have an attorney present. He doesn't get to
6 call any witnesses. He doesn't get to cross examine anybody
7 because that's not the point of the system that we're at.
8 An indictment's issued.

9 The first time Joe Walker gets to have someone stand up
10 on his behalf and test this evidence, question what the
11 State is saying, is today, April 1st, 2013. Now why is that
12 important? Well, writers of Proverb wrote something in the
13 eighteenth chapter. He said, he who tells the story first
14 seems right until another comes along to question you. Paul
15 Harvey used to call it the rest of the story.

16 The State has made claims of what they're going to
17 prove, but listen carefully. Wait til that evidence is
18 tested, til another comes along to question it. And you
19 keep an open mind until it comes time for you to deliberate
20 your verdict.

21 That's all I'm going to ask of you at this point. I'm
22 not going to tell you what the testimony is or isn't going
23 to be. We're going to hear it together from that witness
24 stand. But when they tell their story, you wait until
25 another comes along to question it.

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

30

1 Another thing the State has at their disposal, the
2 police department. He talks about forensic evidence. This
3 isn't something that's tested by scientific means or proven
4 by scientific means. But you think about what was available
5 to them as they did this investigation, and more
6 importantly, what they did not do when they charged a
7 citizen of Greenville County with a very serious crime that
8 they knew eventually would have to come to court.

9 And you ask yourself, why was it not done? Well,
10 ladies and gentlemen, this ain't the first rodeo for
11 Greenwood [sic] Police Department -- Greenwood? Greenville
12 City Police Department. Listen to the evidence. What is
13 there and what isn't there? You keep an open mind until the
14 end of this trial. Thank you.

15 **THE COURT:** All right, solicitor.

16 **MR. MOYER:** Your Honor, may it please the Court. The
17 State calls Tyler Mattress to the stand.

18 **MADAME CLERK:** Come forward and place your hand on the
19 -- raise your right hand and put your left hand on the
20 Bible.

21 **Tyler Mattress,** being
22 duly sworn testified as follows:

23 **MADAME CLERK:** You can have a seat. Can you state your
24 name for the record?

25 **MR. MATTRESS:** Tyler Mattress.

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

31

1 Direct Examination by Mr. Moyer:

2 Q. All right, Mr. Mattress. I'm going to ask you to make
3 sure you speak into that microphone that's right in front of
4 you there so we all can hear you. I'm going to stand back
5 here so if I can hear you, I believe all these jurors will
6 be able to also, okay?

7 A. Yes, sir.

8 Q. Okay. That was good. Start off by telling us your
9 full name.

10 A. Tyler DeMarco Mattress.

11 Q. Okay. How old are you, Mr. Mattress?

12 A. Thirty.

13 Q. Okay. Now we have to get one thing out of the way
14 before we get started further. And that is the fact that
15 you actually have been convicted of some crimes, haven't
16 you?

17 A. Yes, sir.

18 Q. Okay. Back in 2000 you were convicted of an armed
19 robbery.

20 A. Yes, sir.

21 Q. And about ten burglaries?

22 A. Yes, sir.

23 Q. And grand larceny?

24 A. Yes, sir.

25 Q. I think five grand larcenies, is that right?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

32

1 A. Yes, sir.

2 Q. And attempted burglary. And that all -- that was back
3 in 1999 and 2000, is that right?

4 A. Yes, sir.

5 Q. Okay. Now, let me ask you this. You're not married
6 now, is that correct?

7 A. No, sir.

8 Q. Okay. Do you have any children?

9 A. One.

10 Q. How old is your child?

11 A. One.

12 Q. One years old. Okay. Are you working?

13 A. Yes, sir.

14 Q. Where do you work?

15 A. At Key Electrical in Spartanburg.

16 Q. Okay. What kind of business is that?

17 A. Electric -- electrical engineering company.

18 Q. Okay. And what do you do for them?

19 A. Pull wires, rewire commercial and residential business.

20 Q. Okay. How long have you been doing this now?

21 A. For about three years now.

22 Q. Now, let's talk first off about how you know some of
23 the people in this case. Do you know Amanda Ray?

24 A. Yes, sir.

25 Q. Okay. When did you first meet her?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

33

- 1 A. I met her in 2010, like August.
- 2 Q. Okay. And you started dating her?
- 3 A. Yes, sir.
- 4 Q. And y'all were dating back in July of 2011 when this
- 5 incident happened?
- 6 A. Yes, sir.
- 7 Q. How long had you been dating at that time?
- 8 A. Since August 2010.
- 9 Q. Okay. So about a year, not quite a year?
- 10 A. Yes, sir.
- 11 Q. Now, are y'all still dating now?
- 12 A. No, sir.
- 13 Q. Now, --
- 14 A. On and off.
- 15 Q. I'm sorry?
- 16 A. On and off a little bit.
- 17 Q. On and off a little bit still?
- 18 A. Yes, sir.
- 19 Q. Okay. But now did you get to know this Defendant
- 20 through her?
- 21 A. Yes, sir.
- 22 Q. And what was his relationship to Amanda Ray?
- 23 A. She had two kids by him.
- 24 Q. Okay. And how old were her -- do you know how old her
- 25 kids are, her children?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

34

1 A. One just turned eight yesterday and one is six.

2 Q. Okay. All right. Now, had you met him before you knew
3 Amanda?

4 A. No, sir.

5 Q. Now, before this incident happened in July of 2011 had
6 you met him, or talked to him or seen him before that --
7 this incident happened?

8 A. Yes, sir.

9 Q. Can you tell us roughly how many times you think you
10 had run into him, or seen him, or ...

11 A. Probably about three or four.

12 Q. About three or four times? Okay. So you knew what he
13 looked like?

14 A. Yes, sir.

15 Q. And did you know what kind of car that he used to drive
16 around in?

17 A. Yes, sir.

18 Q. What kind of car would you see him in?

19 A. I'd seen him in like old '70 model Camaro, or Trans Am,
20 and it was a gray Honda Accord, a 2000.

21 Q. Okay. You've seen him in a gray Honda Accord also?

22 A. Yes, sir.

23 Q. And do you know who that car belonged to?

24 A. The girl that he was staying with, Tomeka Dennis.

25 Q. Tomeka Dennis. That was her car?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

35

1 A. Yes, sir.

2 Q. You've seen him in her car -- did you know her, Tomeka
3 Dennis?

4 A. Yes, sir.

5 Q. So you had seen him in that car before this incident
6 that happened in July of 2011?

7 A. Yes, sir.

8 Q. All right. Now, let me take you to July of 2011 and
9 ask you about that date. So you were dating Amanda Ray.
10 Did you used to go over there and visit her sometimes?

11 A. Yes, sir.

12 Q. Now on these -- where did she live?

13 A. Mallard Cove.

14 Q. Mallard Cove. What is Mallard Cove?

15 A. Apartment complex.

16 Q. Okay. And is that in Greenville City here?

17 A. Yes, sir, off of Villa Road, apartment

18 Q. That's where Amanda stayed, in

19 A. Yes, sir.

20 Q. Okay. And where is -- that's kind of off Pleasantburg
21 Drive over there, isn't it?

22 A. Yes, sir, off the frontage road. As soon as you turn
23 off of Pleasantburg, turn right and take the first left.

24 Q. Okay. There used to be people from Greenville -- there
25 used to be a Steak and Ale right there in the front? Did

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

36

1 you know about that?

2 A. Yes, sir.

3 Q. I think it's closed now?

4 A. Yes, sir.

5 Q. Okay. So it's kind of back behind there. Okay. So
6 you used to go over there. Did you go over there and visit
7 her frequently at this time?

8 A. Every day. I was spending the night and everything.

9 Q. Okay. Let me take you to July 20th, 2011. Were you
10 there on the date this incident happened? Were you ---

11 A. Yes, sir.

12 Q. --- there that day? Do you remember -- do you remember
13 what time it was that you went over there that day?

14 A. I went over there earlier in the daytime. And I was
15 staying over there all day.

16 Q. Okay. Now at some point do you remember a phone call
17 to Amanda Ray that got your attention?

18 A. Yes, sir.

19 Q. Where were you when that phone call ---

20 A. Me and her -- I had arrived earlier in the day. We was
21 laying in the bed all day. And then a phone call had done
22 been coming, several. She never answered the phone. Her --
23 there was a phone call came from her sister. She picked up
24 the phone. And then I heard him, Joseph Walker, arguing on
25 the phone with her about wanting to come over there and get

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

37

1 the kids and come to see her.

2 And then she told him that the kids would be over at
3 his -- over at her parents' house, that she would have to
4 get them over there. And she told him that. Then he
5 started cussing at her.

6 And then I grabbed the phone, I said, man, you always
7 trying to come over here and jump on this girl. Since you
8 want to fight a girl, come fight me. And then he ---

9 Q. Okay. Now, let me stop you for just a second now.
10 Now, you knew it was Joseph Walker on the phone?

11 A. Yes, sir. He's called my phone several times. I done
12 met him at his mother's house, personally, about this
13 incident before 'cause he would come looking for me and
14 everything.

15 Q. So you recognized his voice?

16 A. Yes, sir.

17 Q. Okay.

18 A. I recognized the phone -- the phone number from the
19 sister, his voice over the phone. And then he was talking
20 to her and arguing with me, the same arguments that I've had
21 with him before in the past.

22 Q. Okay. And did he like the fact that you were seeing
23 Amanda Ray?

24 A. No, sir, because he's called my phone several times,
25 he's come asking her who I was, asking her who I was. So I

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

38

1 went to his mother's house off of Sullivan Street, and I
2 talked to him about the incident then.

3 Q. That was before this ---

4 A. Before this incident, yes, sir.

5 Q. Okay. So you had had some arguments with him over the
6 fact that you were seeing Amanda Ray?

7 A. Yes, sir.

8 Q. So was he happy or unhappy that you were seeing her?

9 A. He was unhappy 'cause he always called my phone
10 constantly telling me about I'm disrespecting these kids,
11 his kids said this or he can't see the kids because of this
12 reason or different issues.

13 Q. Okay.

14 A. He always called my phone about -- he always telling my
15 brother everything about ---

16 Q. Okay. Well, let's ---

17 A. --- this incident.

18 Q. Okay. Let's get back to this phone call on July the
19 20th, 2011. So you said you spoke to him then on the phone?

20 A. Yes, sir.

21 Q. And what did he tell you at that time? What was your
22 exchange of conversation?

23 A. He was -- he was arguing with her. And I was laying
24 right here beside her on the bed. I snatched the phone ---

25 Q. Um-hum (affirmative).

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

39

1 A. --- from him -- from her and I told her since you, I
2 mean, I told him on the phone, on her phone, since you
3 always want to keep on calling her like you want to jump on
4 a girl or something, coming up here trying to jump on her,
5 you want to fight a girl, fight me.

6 Q. Okay. And what was his response to that?

7 A. He said, don't worry about it, I'll be over there in a
8 minute, I'm gonna do something to ya'. And I walked
9 outside.

10 Q. Okay. So that was how the phone call ended then?

11 A. Yes, sir.

12 Q. He said I'm going to do something?

13 A. He said I'm going to do something to ya'. He hung up
14 the phone. And I -- he said -- he said, don't worry about
15 it, I'm gonna do something to ya', I'll be over there, and
16 then hung up the phone. And I walked outside.

17 Q. Okay. So you went outside. What happened when -- how
18 much time went by before something happened?

19 A. Probably about ten or fifteen minutes because he was
20 over at her mother's house in Nicholtown. And he drove from
21 her mother's ---

22 Q. Okay.

23 A. --- house over to where we was at in Mallard Cove
24 Apartments.

25 Q. All right. So you were waiting outside. Tell us what

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

40

1 happened while you were waiting there.

2 A. I went outside and I knocked on my home-boy, Bobby
3 Golden's door, and I told him this dude's trying to come and
4 get me, I just need you to watch out for me because I'm
5 fixin' to fight him.

6 Q. Okay. Now, did you have any -- did you have any
7 weapons on you?

8 A. When I went in Bobby Golden's house, I grabbed a knife.

9 Q. Okay. And what did you do with that knife?

10 A. I put it in my pocket.

11 Q. Did you ever take that knife out of your pocket?

12 A. No, sir.

13 Q. And we'll get to that in just a minute, but during this
14 whole incident did you ever waive that knife, or show that
15 knife or ---

16 A. No, sir, I didn't have a chance to.

17 Q. Okay. All right. So you were waiting outside. And
18 tell us what happened.

19 A. As I was waiting outside Bobby Golden was standing
20 right there with me. A gray Honda Accord pulled up, four
21 door, tinted windows. And I had done seen him previously in
22 that car. I told my home-boy, Bobby Golden, I said, there
23 he go right there, man, just step back and watch.

24 Q. Okay. Let me stop you for just a minute. Tell us a
25 little bit more about that car that you saw. Can you

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

41

1 describe -- describe that car ---

2 A. It was a gray, four door, Honda Accord with tinted
3 windows.

4 Q. Okay. And that's the car you had seen him in before?

5 A. Yes, sir.

6 Q. That belonged to Tomeka Dennis?

7 A. Yes, sir.

8 Q. Now when the car -- did the car pull up and stop?

9 A. It pulled in diagonally and like in front of apartment
10 260.

11 Q. Okay.

12 A. He got out of the driver's side. I was ---

13 Q. What did you do when he got out of the driver's side?

14 A. When he got out of the driver's side I was facing
15 toward his passenger door ---

16 Q. Okay.

17 A. --- 'cause he was -- he drove in diagonally. I got off
18 the sidewalk, I walked up to him -- towards him. As he came
19 around the trunk area of the car, I seen he had a gun in his
20 hand. By the time he was getting ready to raise the gun, I
21 took off running up the apartment complex and around the
22 building.

23 Q. Okay. And what happened when -- what ---

24 A. As I -- as he raised up the gun, I seen the gun, he
25 raised up the gun and shot a numerous amount of times. I

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

42

1 can't remember how many because it was in the midst of the
2 heat of the moment, and I was taking off running.

3 But I heard several gunshots ---

4 Q. Okay.

5 A. --- as I stepped off the apartment complex, and I seen
6 him walking around the trunk area. And I seen visible a
7 gun. I didn't have a chance to pull out the knife.

8 I was fixin' to get ready to walk up on him to fight
9 him, but I seen the gun, and I know I didn't have enough
10 time to get to him. So I took off running, and he shot at
11 me.

12 Q. Okay. So the knife never came out of your pocket?

13 A. No, sir.

14 Q. Did -- were there any exchange of words between the two
15 of y'all?

16 A. When he pulled up and he was walking around, I said,
17 you want to fight a girl, fight me. And then as he came
18 around the trunk I seen the gun. And then he shot. And
19 then as I was running off I heard him say, shit real. And
20 then I kept on running around the apartment complex. When I
21 came out from around the apartment complex I ran to my home-
22 boy, Bobby Golden's apartment.

23 Q. Okay. Now, tell the jury what this gun looked like to
24 the best of your recollection.

25 A. It was chrome at the top and it was black on the

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

43

1 bottom.

2 Q. Okay.

3 A. A semi-automatic handgun.

4 Q. Okay. How close did you get to him? Now, I know you
5 don't know the exact distance ---

6 A. If this is the sidewalk -- if this is the sidewalk,
7 what I was standing on, it was probably from -- to that
8 table right there where you're in front of ---

9 Q. How about this, I'm going to start walking towards you
10 and you stop me when you see how, roughly, how close he was
11 to you, okay?

12 A. Right there.

13 Q. Somewhere around right here? So what do you think that
14 is, maybe ten or ---

15 A. About ten feet.

16 Q. Ten to twelve ---

17 A. Ten, twelve, ---

18 Q. --- feet?

19 A. --- fifteen feet, yes, sir.

20 Q. Okay. And so that's when you saw him with the gun?

21 A. Yes, sir, at the back of the trunk area right there.

22 Q. Okay. And you remember which hand it was in?

23 A. It was in his right hand.

24 Q. Okay. Was he holding it up or was he holding it down
25 by his side?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

44

1 A. When he came out from around the trunk he had it -- he
2 had it in his -- by his side. And then when I -- when I
3 said, you want to fight a girl, fight me, he raised it up
4 and I took off running.

5 Q. And when he -- tell us how he raised it up. Did he
6 point it ---

7 A. He ---

8 Q. --- in any direction?

9 A. Yeah, I just seen it like that. And as I seen it like
10 this, it was raising up, I turned off.

11 Q. You saw it raising up towards you?

12 A. Yes, sir.

13 Q. Okay. And then you turned ---

14 A. And I turned and took off running, I heard multiple
15 gunshots.

16 Q. That's when you heard the shots, okay. How far did you
17 -- how far did you run?

18 A. I ran all the way as far as I could to the top of the
19 apartment complex. And as I was running I heard him say
20 shit real. And then I ran around the apartment complex.

21 And I steered into a apartment -- off of a apartment
22 balcony. I was trying to get into the other lady's door.
23 She wouldn't let me in. I took off running out from her
24 balcony and ran into another balcony, and I called the
25 police.

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

45

1 And then I asked -- and then I called the police and I
2 told what happened, I need the police out there. And then I
3 called my home-boy, Bobby Golden, and I asked him where he
4 was at. And then he said that the man had done drove off.

5 And then I ran back around into his apartment building.
6 By that time the police came out there. And I walked out
7 there and told them what happened.

8 Q. Okay. So you -- so when you went back around the
9 apartment that was right before the police got there?

10 A. Yes, sir. I ran into my home-boy, Bobby Golden's
11 apartment, and asked him what happened.

12 Q. Okay.

13 A. I mean, what was -- I asked him where was he at before
14 I got in there. And then I ran around to the apartment.
15 And he said the dude's gone. So I ran back into the -- I
16 ran in his apartment. And then the police came out there.
17 And I came out there and told the police what the story was.

18 Q. Okay. Now, let's talk about something that happened a
19 couple of weeks later, okay? You went to a court hearing
20 for a charge that was related to this, right?

21 A. Pointing and presenting a -- discharging a firearm in
22 the city limits against Joseph Walker.

23 Q. That was in the Municipal Court? In the ---

24 A. Yes, sir.

25 Q. --- smaller court? Okay. Now, that was October the

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

46

1 5th, 2011? Does that sound right?

2 A. Yes, sir.

3 Q. Okay. Now, when you went to that hearing you were
4 called as a witness?

5 A. Yes, sir.

6 Q. And what did you say when you were called as a witness
7 to testify on that date? What happened?

8 A. The day when he was being released out of jail ---

9 Q. We'll get to that in a minute. First let's start off
10 with what you said. When you got called to testify to the
11 judge ---

12 A. In Judge Holly's office.

13 Q. Uh-huh (affirmative).

14 A. I told him I do not remember what happened.

15 Q. You said you didn't remember what happened?

16 A. Yes, sir.

17 Q. Okay. And you told ---

18 A. Judge Holly that.

19 Q. Okay. Now, tell the -- and so tell the jury why you
20 said that.

21 A. Because on the day when he got out of incarcerated, as
22 a victim they called me and told me that he was being
23 released. So I called the probation office, I called
24 different people trying to see could they hold him in jail.

25 So they told -- I went to Judge Edwards ---

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

47

1 **MR. SHEEK:** Objection to what anybody told him, Your
2 Honor.

3 **THE COURT:** Yes.

4 Q. Let's go to what happened at the courthouse that day.

5 A. I was approached by Joseph Walker and another
6 individual that was with him. And he was telling, there go
7 the nigga right there, man, why he show up, would you leave,
8 why you -- if you get locked up, I'm going to pay all fees
9 or whatever, why you showing up, why you coming up here like
10 that, man, what you going to do, man, I'm fixin' to go to
11 jail for this right here and all this extra stuff and what
12 he going to do to me if he go to jail.

13 Q. Okay.

14 A. So I went to the officer to try to get the officer to
15 tell him on this date what was happening because I had a
16 restraining order, and we was not supposed to be that close
17 together in the first place.

18 Q. So you ---

19 A. My ---

20 Q. --- got a restraining order?

21 A. My life is on the line. And I'm going to say all this
22 right here. Y'all didn't try to protect me in coming in
23 here ---

24 Q. Hold on, hold on. Slow down. And so this was all said
25 to you while you were waiting before that hearing?

TYLER MATTRESS - DIRECT EXAMINATION BY MR. MOYER

48

1 A. Yes, sir, in the hallway of the courtroom.

2 Q. And how did it make you feel when you ---

3 A. I was intimidated because I don't know who this other
4 guy was who was with him and I don't know what's going on.

5 If I leave out this door, I don't -- I'm saying I don't know
6 if he's going to follow me or whatever, I don't know what
7 the situation may be.

8 Q. Okay. So then you got called as a witness right after
9 that?

10 A. And then -- yes, sir.

11 Q. That's when you refused to testify?

12 A. Yes, sir. I told them that I didn't remember what
13 happened at the time because I didn't know the proper code
14 of ethnics [sic] of the courtroom to say at the time. So I
15 just say I didn't remember what happened.

16 Q. And then what happened to you when you said that?

17 A. When I -- when I said I didn't remember what happened,
18 the judge say, what, you don't remember what happened? Sit
19 down right there. I sat down. He charged me with contempt
20 of court for perjury.

21 Q. Okay.

22 A. And then I was incarcerated. And then the officer told
23 me, you stupid, you going to sit up ---

24 Q. Okay.

25 A. --- here and be the victim and let -- and let this man

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

49

1 go, and you going to jail ---

2 **MR. SHEEK:** Objection to what someone else said ---

3 **THE COURT:** Yes, sir, don't tell me what anyone told
4 you.

5 Q. Now, what -- so you actually went to jail for that?

6 A. Yes, sir.

7 Q. How long did you sit in jail?

8 A. Six days.

9 Q. Six days. Okay. All right. I'm going to ask you
10 this. This person that you just testified about who shot at
11 you on July the 20th of 2011, is he here in this courtroom
12 today?

13 A. Right there.

14 (Whereupon the witness pointed to the Defendant)

15 Q. Pointing to the Defendant, Joseph Walker?

16 A. Yes, sir.

17 Q. All right. Please answer any questions that the
18 defense attorney may have.

19 **THE COURT:** Mr. Sheek.

20 **MR. SHEEK:** Thank you, Your Honor.

21 **Cross Examination by Mr. Sheek:**

22 Q. Mr. Mattress, you said that you and Ms. Ray are still
23 on and off?

24 A. Yes, sir.

25 Q. Were you at her house last night?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

50

1 A. Yes, sir. I seen you outside.

2 Q. That's right. What were y'all doing there, just
3 spending time together?

4 A. Yes, sir.

5 Q. Okay. So you're on as of last night, right?

6 A. Yes, sir.

7 Q. Well, why wouldn't you just tell the jury I'm dating
8 her, I'm seeing her? Why say I'm not seeing her, well,
9 we're still on and off?

10 A. Because, I mean, you know how it be, attitudes get to
11 changing and certain things like that. And sometimes she
12 say, I don't want to deal with you no more because you
13 dealing with different issues and whatever.

14 Q. So you're saying you were wording it that way because
15 you didn't want to upset Ms. Ray?

16 A. I was what?

17 Q. You were wording it that way because you didn't want to
18 upset Ms. Ray?

19 A. I'm telling you that way because it's the truth. Me
20 and her date on and off sometimes. When we be together,
21 sometimes she's mad at me, sometimes I'm mad at her.

22 Q. Okay. When you get mad at people what kind of things
23 do you do?

24 A. Don't talk to them.

25 Q. Okay. Sounds ---

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

51

1 A. Don't be around.

2 Q. --- like you don't like Joe Walker. You don't like
3 him, do you?

4 A. I have no problem with him.

5 Q. You have no problem with the man that you say shot ---

6 A. Not before ---

7 Q. --- at you?

8 A. Not before this incident.

9 Q. Well, you went to his mama's house to have it out with
10 him because he was always upset with you, you testified to.

11 A. No, ---

12 Q. Isn't that right?

13 A. --- because he was calling my phone, always looking for
14 me, telling me what he going to do to me.

15 Q. Okay. So you got a man that's always calling your
16 phone telling you what you're going to do to you -- what
17 he's going to do to you. So you go to his mother's house to
18 confront him, but you've got no problem with him. That's
19 what you're telling this jury?

20 A. No, I didn't -- I had a problem up until that day when
21 I went to his house, when the incident happened.

22 Q. What day was that that you went to his mama's house?

23 A. About a month before the incident happened.

24 Q. Okay. So you went to his mama's house, not because you
25 were scared of him, were you?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

52

1 A. No.

2 Q. You went to confront him, didn't you?

3 A. If I was scared of him, I would have fought him -- I
4 wouldn't have been trying to fight him that day.

5 Q. Wasn't trying to fight him what day?

6 A. The day when he shot at me.

7 Q. Okay. So your intention that day was to go outside and
8 wait on him to fight him?

9 A. Yeah.

10 Q. Now you called the police, right?

11 A. Yes, sir.

12 Q. At the time you called the police you were hiding
13 behind apartment , correct?

14 A. It was -- I can't recall. It was behind somebody's
15 apartment.

16 Q. Okay. Well, so the jury understands, let's say that
17 wall behind is a row of apartments where Ms. Dennis lives.
18 She lives in apartment correct?

19 A. Ms. Dennis don't stay in ---

20 Q. I'm sorry, Ms. Ray. Lives in apartment right?

21 A. Yes, sir.

22 Q. Okay. And is roughly in the middle of this row of
23 apartments, isn't it?

24 A. About the third breeze-way down.

25 Q. Okay. How many breeze-ways are there?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

53

1 A. I don't recall.

2 Q. You don't recall?

3 A. I don't count them every day. I just know the
4 apartment crease is right there. Her breeze-way is the
5 third breeze-way from the crease. I don't know ---

6 Q. Now, when ---

7 A. --- about no ---

8 Q. --- you say a breeze-way, is that a way to go through
9 to the back of the apartment?

10 A. No, sir. It's a walkway where you walk up the wood
11 steps and get to two doors.

12 Q. Okay. Because the only way you can get to the back of
13 the apartments is go around one end of this row of
14 buildings, correct?

15 A. Yes, sir.

16 Q. And would you agree with me if I were to say that row
17 of buildings is forty-four apartments long? Does that sound
18 about right?

19 A. I don't know. I can't recall. It's somewhere
20 probably.

21 Q. Well, ---

22 A. I mean, it's several car lengths.

23 Q. All right. When you walked out of that apartment to
24 wait on Mr. Walker, as you've testified to, where were you
25 standing?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

54

1 A. I was standing at the point where you was -- where I
2 seen you last night.

3 Q. You were out in the parking lot or were you standing
4 ---

5 A. I was standing on the breeze-way, on the sidewalk.

6 Q. Okay. You were on the sidewalk. Were you standing in
7 front of apartment

8 A. No, sir. I was standing probably around .

9 Q. Okay. And why had you walked down there?

10 A. 'Cause I walked to my home-boy, Bobby Golden's house.
11 He stays in . I went and got him.

12 Q. Okay.

13 A. And as we was standing on the sidewalk talking, telling
14 that the dude fixin' to come out here, that I need you to
15 watch me fight this dude.

16 Q. Okay. Why did you need him to watch you?

17 A. I mean, because I didn't know who he was going to have
18 with him or what.

19 Q. That's the reason you went armed with a weapon?

20 A. I had a knife out of his apartment.

21 Q. Okay. Well, a knife is a weapon, wouldn't you agree?

22 A. Yes, sir.

23 Q. And you took it out there with you to fight Mr. Walker?

24 A. Yes, sir.

25 Q. All right. So you're standing on the sidewalk roughly

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

55

1 in front of apartment ?

2 A. Yes, sir.

3 Q. Okay. And the parking places there are numbered,
4 correct?

5 A. Yes, sir.

6 Q. Now, when you say you saw this gray Honda Accord come
7 in, which direction did it come from, your right or your
8 left?

9 A. If I'm standing on the apartment -- and her apartment
10 is behind me, ---

11 Q. Uh-huh (affirmative).

12 A. --- and I'm on the breeze-way, ---

13 Q. Yes, sir.

14 A. --- he came from the left.

15 Q. Okay.

16 A. Towards the entrance, coming around the curve, going
17 over the speed bumps. Then he pulled in diagonally.

18 Q. Okay. And pulled in diagonally where?

19 A. In front of apartment .

20 Q. Okay.

21 A. In between and .

22 Q. Okay. When he gets out of the car are you standing in
23 front of him, to the right of him, to the left of him?

24 Where were you standing?

25 A. When he gets out of the car, the car was like right

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

56

1 there in this area. He walks around -- get out the driver
2 side door, ---

3 Q. Uh-huh (affirmative).

4 A. --- when he gets to the trunk, I'm standing like a
5 diagonal angle, ---

6 Q. Diagonally ---

7 A. --- in front of another car. A gray car is right
8 behind me.

9 Q. Okay. Now, were you to his left diagonally, I mean,
10 his right diagonally or to his left diagonally?

11 A. To his -- if me and you -- you are him, ---

12 Q. Direct me which way to go.

13 A. That way.

14 Q. Okay. So when he comes out he's standing shooting at
15 you at a diagonal ---

16 A. No. I'm over -- he's over there. I'm over this way.

17 Q. Okay.

18 A. He gets out of the car this way, walks around the
19 trunk, ---

20 Q. Okay. So you're standing there, apartments are behind
21 you?

22 A. Yes.

23 Q. Okay.

24 A. And he -- and you are him.

25 Q. And you said this is about the right distance when you

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

57

1 were demonstrating with ---

2 A. A little farther up, right there around the edge of
3 that table.

4 Q. Okay. Is this about the right angle?

5 A. Yes, sir.

6 Q. Okay. And when he pulls the weapon out how far do you
7 run before he fires the first shot?

8 A. I didn't run towards him. When I seen the -- when I
9 seen the gun, I ran off, away from him.

10 Q. I understand that. How far did you run before he fires
11 the first shot?

12 A. Wasn't nothing but a couple of steps.

13 Q. Okay.

14 A. As soon as I turn I hear a couple -- as soon as I turn
15 I hear pow, pow, pow, pow.

16 Q. Now these apartments that are behind you are two
17 levels, right?

18 A. Yes, sir. Three if you count the one that's up under
19 the ground.

20 Q. Okay. I'll hand you a series of photographs that was
21 provided to me by the Greenville forensics. Is that a --
22 look like a copy of photographs of the ---

23 A. Yes, sir.

24 Q. Okay. I tell you what, let me hand you a better
25 photograph the solicitor's provided me. Does that look like

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

58

1 an accurate description of this parking lot at these
2 apartment buildings?

3 A. Yes, sir.

4 Q. And so Mr. Walker's standing roughly at this angle.
5 Your back's to the apartments, correct?

6 A. Yes, sir.

7 Q. He fires how many shots to your recollection?

8 A. It was multiple amounts. I don't remember how many
9 exactly because I was running for my life.

10 Q. Okay. Was he pointing the gun in your direction?

11 A. Yes, sir. I seen him when he -- as he raised up -- I
12 don't know which way he was pointing the gun, I just seen --
13 as he raised it -- I'm not trying to see if he's going to
14 shoot me in the face, I just turned and ran.

15 Q. Okay. So he would have been shooting directly towards
16 these apartment buildings?

17 A. A car was behind me. He would have shot one of them
18 cars, or the apartment buildings, or something, something
19 like that. Kids was on the porch up there.

20 Q. And, Mr. Mattress, you just told us you were standing
21 on the sidewalk.

22 A. I walked off the sidewalk when I walked towards him.
23 And as I -- as he got to the trunk I seen the gun and I seen
24 him fixin' to raise the gun up, and I took off running.

25 Q. You got to the trunk of what when you saw ---

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

59

1 A. I said he got out his driver side door of the gray
2 Honda Accord.

3 Q. Okay.

4 A. He was walking towards the trunk of his car. I got off
5 the sidewalk and I was walking towards him. As he got
6 towards the trunk I seen him raising up the gun when I seen
7 his -- half of his body visible.

8 Q. Okay. How far did you make it towards him before ---

9 A. Probably ---

10 Q. --- the shots ---

11 A. --- two or three steps. And then I turned and ran.

12 Q. If you made it two or three steps and you were standing
13 on the sidewalk you could not have been more than a step or
14 two off onto the pavement, correct?

15 A. Yeah.

16 Q. All right. So he would have been shooting towards the
17 apartment complex?

18 A. I said that, and cars and whatever.

19 Q. Now, that's a gray Mitsubishi Gallant parked ---

20 A. That's the car -- when he pulled in right there, that
21 car was not right there. He pulled in right there. And I
22 was on the sidewalk. And then as he got off -- as he got
23 out the car, I came off the sidewalk. When I seen half this
24 area visible, which is when he got to his trunk area, when
25 he was walking around the trunk, I took off running. And I

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

60

1 ran in between these cars and ran up the sidewalk and ran
2 all the way up this way and around the apartment building.

3 Q. Okay. That's my question. You ran to the right?

4 A. Yeah, I ran up towards his -- yes, sir, and around the
5 apartment building. I came back at Bobby Golden's
6 apartment, which is on the other end.

7 Q. So you would have -- the apartment you were hiding
8 behind, though, is on the left hand, right?

9 A. What you mean?

10 Q. 243. You were at the mailboxes behind apartment ,
11 isn't that correct?

12 A. I ain't never said I was at no mailboxes behind no .

13 Q. Where were you when you were hiding on ---

14 A. I was at somebody's breeze-way. I was running for my
15 life. I didn't know if this guy was chasing after me. I
16 stopped and called the police and I called my home-boy,
17 Bobby Golden. And I asked him where was the guy? He said
18 the guy had just done left, to ---

19 Q. Listen to my ---

20 A. --- come on.

21 Q. --- questions. Mr. Mattress, listen to my questions.
22 When you were on this breeze-way, where was it? Was it
23 towards the center complex? Was it on the end?

24 A. On what breeze-way?

25 Q. When you were hiding behind the apartments.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

61

1 A. It was like in the -- in the -- I ran behind the
2 apartment building. I tried to run into this lady's door.
3 I don't know which -- in front of which apartment it was.
4 It couldn't have been no 2 -- I don't know about no . I
5 don't know which one it was. I was running for my life. It
6 was in the back. It ain't no number right there on the
7 door. If I'm running for my life, I'm not looking on
8 nobody's door trying to see what number they in. I'm in
9 Mallard Cove, ---

10 Q. Mr. Mattress, ---

11 A. --- come and ---

12 Q. --- listen to my question.

13 A. I done been shot at by a guy named Joseph Walker is
14 what I told the officer.

15 Q. And you're adamant about that, right?

16 A. What?

17 Q. You're adamant about that?

18 A. No, I'm just telling you what happened. I'm not
19 looking for the details and people's apartment buildings and
20 how many steps ---

21 Q. That's fine, ---

22 A. --- that I took when I'm running for my life.

23 Q. --- Mr. Mattress.

24 **THE COURT:** All right. Slow down. Slow down.

25 Q. Listen to me now. We are looking for details here.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

62

1 You understand that?

2 A. Well, you asking me for details that I can't give you
3 while I'm running for my life.

4 Q. That's fine. If you -- if you don't know, then tell us
5 you don't know.

6 A. I done told you several amount of times.

7 Q. Well, you haven't listened to the question yet. You
8 want to hear the question before you answer it?

9 A. (No response).

10 **THE COURT:** All right. Ask him the question again.

11 Q. Do you recall, yes or no, where in the back of these
12 apartment complexes you were hiding?

13 A. I ran into several like I told you before.

14 Q. Did the police give you an opportunity to give a
15 written statement?

16 A. Yes, sir.

17 Q. And did you give them a written statement?

18 A. Yes, sir.

19 Q. I'm going to hand you a copy of that and ask you is
20 that the written statement that you gave the police?

21 A. Yes, sir.

22 Q. Okay. Can you please reference on there where it says
23 that Mr. Walker called you and said I got something for you,
24 I'm going to come do something to you or whatever -- however
25 you put it to the jury? Direct me to that part there.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

63

1 A. It ain't on this statement where he said ---

2 Q. Why?

3 A. Huh?

4 Q. Why?

5 A. Because she wrote that part or whatever, I guess. They
6 asked me who shot at me.

7 Q. Well, I'm sure they ---

8 A. They asked me -- they said that I was shooting. They
9 asked me who shot at me. I had on a number 5 jersey. And
10 then they said somebody who was running around the back of a
11 number 5 jersey must have been a suspect or the shooter.

12 And then they came -- as soon as I came out of Bobby
13 Golden's apartment, they got me. They didn't ask me about
14 what did the guy shoot at me over. They asked -- I told
15 them, I'm the one that called them because Joseph Walker
16 shot at me out here. It wasn't about no -- a phone call or
17 none of that. I didn't tell them ---

18 Q. Didn't talk about that?

19 A. --- that at the point. I didn't -- I told them that
20 Joseph Walker shot at me in Mallard Cove in front of Amanda
21 Ray's apartment. That's what I told them.

22 Q. Okay. And you told them nothing else?

23 A. No, not til they got there because I was running for my
24 life. And I called Bobby Golden as soon as I got off the
25 phone.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

64

1 Q. Well, Mr. Mattress, you didn't give the written
2 statement until after the police were there ---

3 A. Yeah.

4 Q. Okay. And nowhere in the written statement did you put
5 anything about phone calls from Joseph Walker or him making
6 any threats to you anywhere in there, is there?

7 A. No.

8 Q. And that's because you didn't tell the police that,
9 isn't it?

10 A. No, it wasn't serious, I mean, it wasn't about no
11 threats. He came over there and he shot at me 'cause I told
12 him that I'd be right here.

13 Q. Okay. Well, tell me in there where you said I told him
14 I'll be right here.

15 A. He knew where I was at. I was laying in the bed with
16 the phone number where he called. He knew where I was at.

17 Q. It's not in there, is it?

18 A. It didn't have to be there. It was on the phone. He
19 ---

20 **THE COURT:** All right.

21 A. --- called directly to her ---

22 **THE COURT:** Hold ---

23 A. --- house phone number.

24 **THE COURT:** Hold on, hold on, hold on. Let's move on
25 to something else now, Mr. Sheek.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

65

1 **MR. SHEEK:** Okay.

2 **THE COURT:** He's answered.

3 Q. Now you've described this gun. Describe it for me to
4 the best of your ability, everything you can remember about
5 it.

6 A. It was black and it was silver at the top.

7 Q. Okay. You're sure of that?

8 A. Yep.

9 Q. Okay. Describe the car that Joseph Walker, you say,
10 was driving ---

11 A. It was a gray, four door, Honda Accord.

12 Q. Okay. Dark gray, light gray?

13 A. Light gray, smoke gray. I mean, light gray with black
14 tint.

15 Q. Okay. Four door?

16 A. Yes, sir.

17 Q. You're sure of that?

18 A. Yes, sir.

19 Q. Now, have you ever been shown a photo line-up? That
20 is, a series of pictures where you're asked to pick out
21 which individual shot at you?

22 A. The day of the incident when they called me to the car
23 showing me several pictures and asked me which one -- which
24 one is the guy.

25 Q. So it's your testimony you were shown more than one

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

66

1 photograph?

2 A. I was showed the photo when I was in front of the car
3 after it happened.

4 Q. How many photographs -- how many different individuals
5 were you shown pictures of?

6 A. I don't recall the exact amount. It was a couple of
7 different photos.

8 Q. Okay. And they were different individuals?

9 A. Yes, sir.

10 Q. And you were asked to pick out ---

11 A. Which one was him.

12 Q. Okay. Who did that?

13 A. The officer that was -- I don't know which officer it
14 was, but it was several different officers. One took my
15 statement, one called me to the car. It was another woman
16 that was out there. They called me to the car and they
17 asked me which one of these is him. They flipped through
18 different photos. And it didn't have no name or nothing.
19 It was just a picture. And then when they got to it, I said
20 that one right there.

21 Q. Okay. And of that you're positive?

22 A. Sir?

23 Q. And of that you are positive?

24 A. Yes, sir.

25 Q. Now, you were currently charged, as you said to Mr.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

67

1 Moyer, with perjury relating to this event, correct?

2 A. Yes, sir.

3 Q. And you said the judge charged you. I want to hand you
4 a copy of your warrant.

5 **MR. MOYER:** I would object to this warrant. I mean,
6 it's out there that he's been charged with perjury. I don't
7 think there's anymore relevance to any further details ---

8 A. Officer Rackley charged me ---

9 **THE COURT:** Hold on. Take the jury out, please.

10 (Whereupon the jury exited the courtroom at 12:26 pm)

11 **THE COURT:** All right. Now, what's the relevance of
12 the warrant?

13 **MR. SHEEK:** Your Honor, his testimony to the jury was
14 that the jar -- the judge, excuse me, had him charged with
15 perjury. And I just want to clarify he was charged with
16 perjury by the Greenville City Police Department.

17 A. Officer Rackley.

18 **THE COURT:** Hold on.

19 **MR. SHEEK:** It was not a judicial action because it was
20 an action of the police department.

21 **MR. MOYER:** Well, Judge, -- I'm sorry, I didn't mean to
22 cut you off.

23 **MR. SHEEK:** No, no, no.

24 **MR. MOYER:** I wanted to say that, I mean, that officer
25 is going to, you know, would testify according to his

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

68

1 reports that Judge Holly looked at that and said -- charge
2 like that with perjury. So while, yes, I mean, only an
3 officer can take out a warrant, Judge Holly, ---

4 **THE COURT:** Well, and what do you want to do with this
5 witness?

6 **MR. SHEEK:** I'm going to follow up with is the charge
7 still pending? And does his testimony here today ---

8 **THE COURT:** Well, I mean, why do you need the paper
9 warrant?

10 **MR. SHEEK:** I was simply going to clarify for the jury
11 the judge didn't charge him with anything. He was charged
12 by the police department.

13 **THE COURT:** Well, ---

14 **MR. MOYER:** I mean, I think that's a distinction
15 clearly, I mean, I'm not sure what the relevancy of that is.

16 **THE COURT:** Well, and, of course, that would not be
17 something that he would necessarily know. So we're not
18 going to use the warrant, okay?

19 **MR. SHEEK:** That's fine.

20 **THE COURT:** All right. Bring the jury.

21 (Whereupon the jury entered the courtroom at 12:30 pm)

22 **THE COURT:** All right. You may continue, Mr. Sheek.

23 **MR. SHEEK:** Thank you, Your Honor.

24 **Cross Examination by Mr. Sheek Continued:**

25 Q. Mr. Mattress, so that I'm clear, this happened about

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

69

- 1 7:00, is that correct?
- 2 A. Somewhere right in there, yes, sir.
- 3 Q. Daylight outside?
- 4 A. (Affirmative nod).
- 5 Q. Is that a yes?
- 6 A. Yes, sir.
- 7 Q. Plenty of visibility?
- 8 A. Yes, sir.
- 9 Q. Now the solicitor asked you about a number of prior
- 10 convictions. I just want to make sure I've got it right.
- 11 Did you say ten burglaries?
- 12 A. Something like that. I don't know.
- 13 Q. You don't remember how many burglary convictions you
- 14 have?
- 15 A. (Negative nod).
- 16 Q. Five grand larcenies?
- 17 A. (Affirmative nod).
- 18 Q. Does that sound about right?
- 19 A. Yes, sir.
- 20 Q. Is that what you said yes to when he asked you?
- 21 A. Yes, sir.
- 22 Q. Okay. Malicious injury to property?
- 23 A. Yes, sir. Armed robbery.
- 24 Q. And you're currently indicted for perjury wherein the
- 25 State alleges that you lied under oath about this incident

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

70

1 involving Mr. Walker, correct?

2 A. Yes, sir.

3 Q. Has that charge been disposed of?

4 A. No, sir.

5 Q. Still pending?

6 A. Yes, sir.

7 Q. And how does your testimony here today affect that
8 charge?

9 A. It doesn't.

10 Q. It doesn't?

11 A. (No response).

12 Q. When's the last time you talked with the solicitor
13 about what you were going to testify to?

14 A. I ain't talked to him until out here.

15 Q. You talked to him ---

16 A. Out here when they subpoenaed me to come to court and I
17 came here today.

18 Q. Okay. And that's the first time you've talked to
19 anybody about your testimony?

20 A. My lawyer.

21 Q. Your lawyer. Is that relating to the perjury charge?

22 A. Yes, sir.

23 Q. Y'all trying to get something worked out on that?

24 A. Ain't no trying to get -- whatever he going to do,
25 however he going to do it. I don't know.

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

71

1 Q. Okay. And are you telling this jury you don't expect
2 your testimony here today to help you out on your pending
3 perjury charge?

4 A. No.

5 Q. You don't expect it to help you out?

6 A. Uh-uh (negative).

7 Q. When you told that judge in October of 2011 that you
8 didn't remember anything, were you lying?

9 A. Yes, sir.

10 Q. And you were lying under oath?

11 A. Yes, sir.

12 Q. Well, why didn't you just plead guilty to it?

13 A. Why didn't I just plead guilty to it?

14 Q. I mean, why is it still pending?

15 A. I don't have no -- I have no jurisdiction to when they
16 call me to court.

17 Q. Okay. But you were charged in October of 2011, right?

18 A. Yes, sir.

19 MR. SHEEK: I've got no further questions.

20 THE COURT: Any redirect?

21 MR. MOYER: I do have a few questions, Your Honor.

22 **Redirect Examination by Mr. Moyer:**

23 Q. First off, Mr. Mattress, to make sure we're clear on
24 one thing, now you've met with me several times, right,
25 before court?

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

72

1 A. The other day, I mean, this morning.

2 Q. Okay. You've met with me a few times in the past few
3 months?

4 A. October, November, something like that ---

5 Q. In my office?

6 A. Something -- November, something, one of them days.

7 Q. Okay. And about a week ago or so we met and talked
8 about ---

9 A. Yes, sir.

10 Q. At any point did I or any of these officers tell you
11 what to say?

12 A. Nobody has never told me what to say, coerced me what
13 to say, or promised me anything about no perjury charge ---

14 Q. Okay.

15 A. --- or how if I say something about this today that it
16 would affect the outcome of that.

17 Q. Did anyone insinuate ---

18 A. No, sir.

19 Q. --- in any way to you what to say?

20 A. No, sir.

21 Q. Did we kind of ask you to tell us what happened, is
22 that right?

23 A. I'm telling what happened, the truth.

24 Q. Okay. There was a few -- you were questioned quite a
25 bit on where you were standing and where this happened. I

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

73

1 want to go over that just a little bit more with you just to
2 make sure we're clear on that.

3 (Whereupon State's exhibit 1 was marked for
4 identification)

5 Q. So to do so let me ask you to take a look -- take a
6 look at State's exhibit number 1. Do you recognize what's
7 shown in that photograph?

8 A. Yes, sir.

9 Q. Is that the apartments out there at Mallard Cove?

10 A. Yes, sir.

11 Q. Is that a true and accurate representation of the way
12 things looked the day this incident happened?

13 A. Yes, sir, except for that car wasn't right there.

14 Q. Okay.

15 **MR. MOYER:** Your Honor, at this time I'd move to have
16 State's exhibit 1 entered into evidence.

17 **THE COURT:** Any ---

18 **MR. SHEEK:** No objection.

19 **THE COURT:** --- objection? Without objection.

20 (Whereupon State's exhibit 1 was admitted into
21 evidence)

22 Q. Okay. I'm going to ask you -- we're going to show this
23 behind you. Let me ask you to step around over here, okay?
24 Can you step off the witness stand?

25 (Whereupon the witness left the witness stand)

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

74

1 Q. I'm not sure I can reach that screen, but I'm going to
2 try. Maybe step around to where that microphone is in front
3 of the Court. All right, Mr. Mattress. This is State's
4 exhibit number 1 being shown on the screen. And let's take
5 just a minute here to show the jury what we're looking at.

6 Here, I'm going to ask you to take this pen. See that
7 button on top, that's a laser pointer, okay? Can you start
8 off by showing us where Amanda Ray's apartment was?

9 A. Right there.

10 Q. Right where those people are standing?

11 A. That's me.

12 Q. Okay. And, in fact, that's you right there. Okay.

13 Now, can you show us where Joseph Walker's car parked when
14 he pulled up?

15 A. Right here in this area.

16 Q. Right in that area there. Okay. Now, can ---

17 A. I was on the sidewalk right up there.

18 Q. Kind of behind that car?

19 A. That car wasn't there.

20 Q. So that car wasn't there when the shooting happened?

21 A. No, sir.

22 Q. How about that car behind it, was that car there?

23 A. That car was there.

24 Q. Okay. And so when he parked where did you walk?

25 A. I was standing right there when he came out from around

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

75

1 the car this way right til he got to the trunk area and I
2 seen him visible, had the gun. And I ran off -- I got off
3 the -- came off the sidewalk while he was walking around to
4 that. And then by the time I got right around to this area
5 I noticed he was coming around the car and the trunk ---

6 Q. Okay.

7 A. --- area and raised the gun up.

8 Q. So kind of show us -- you've got to show us where you
9 were when you saw him raise the gun and you turned around to
10 run away.

11 A. Right around this area.

12 Q. Right around where the back end of that car is?
13 Somewhere in that area?

14 A. Uh-huh (affirmative).

15 Q. Show us where you ran. Use that laser pointer.

16 A. I ran -- I was right there. I ran around that car
17 right there and ran up this way right there all the way
18 around the apartment complex ---

19 Q. And then that's where you ---

20 A. --- to the back.

21 Q. --- started hiding in people's breeze-ways ---

22 A. When I got around to the back.

23 Q. Okay. Okay. You can have a seat again, please. Thank
24 you.

25 (Whereupon the witness returned to the witness stand)

TYLER MATTRESS - RECROSS EXAMINATION BY MR. SHEEK

76

1 Q. So there was plenty of light out there when this
2 happened? You didn't have any trouble seeing him?

3 A. No, sir.

4 Q. Is there any question in your mind that the person you
5 saw shooting at you was this Defendant, Joseph Walker?

6 A. No, sir.

7 Q. Okay.

8 **MR. MOYER:** Nothing further.

9 **MR. SHEEK:** Brief on recross.

10 **Recross Examination by Mr. Sheek:**

11 Q. Mr. Mattress, you told me, and I asked you if you were
12 sure, that you hadn't talked to anybody from the Solicitor's
13 Office from the day this happened until this morning when
14 you got to court. Isn't that what you told me?

15 A. Just after I got a card from him yesterday, talked to
16 him the other day.

17 Q. All right. And when he got up on redirect he said now
18 you've talked to me several times over the last few months,
19 right?

20 A. It ain't been over no few months. It was November or
21 something.

22 Q. Okay.

23 A. The last time I talked to him. And I talked to him the
24 other day.

25 Q. Okay. So you have talked to him several times?

TYLER MATTRESS - RECROSS EXAMINATION BY MR. SHEEK

77

1 A. Yes, sir.

2 Q. Okay. So when you told me you hadn't, why did you tell
3 me that?

4 A. Because you asked me was it concerning something that
5 got to do with that case, perjury case.

6 Q. No, sir. I asked you when the last time you met with
7 the solicitor was, didn't I?

8 A. You asked me did it have something to do with that
9 perjury case and do it affect the perjury case. That's what
10 you asked me.

11 Q. Really ---

12 A. Have I met with him concerning this perjury case and
13 the effects -- have I been promised -- do anything to affect
14 this perjury case.

15 Q. Okay.

16 (Pause)

17 **THE COURT:** All right. Anything else?

18 **MR. SHEEK:** No, sir. That's fine.

19 **THE COURT:** Thank you. Step down. All right. Ladies
20 and gentlemen, at this time we'll suspend for lunch and
21 we'll pick back up after lunch.

22 Before I let you go I want to read to you an order
23 issued by the Chief Justice of our Supreme Court concerning
24 your duty as a juror on this case. So if you would please
25 give me your attention.

1 The use of personal communication devices has continued
2 to increase dramatically. Accordingly, I find it necessary
3 to supplement my order of August 25, 2000 related to the use
4 of pagers, cell phones and other personal communication
5 devices in courtrooms to include the following direction to
6 the court.

7 The court shall instruct jurors selected to serve on a
8 jury that until their jury service is concluded they shall
9 not (A) Discuss the case with others, including other jurors
10 except as otherwise authorized by the court. (B) Read or
11 listen to any news reports about the case. (C) Use a
12 computer, cellular phone or other electronic device with
13 communication capabilities while in attendance at trial or
14 during deliberation. These devices may be used during lunch
15 breaks, but may not be used to obtain or disclose
16 information prohibited in subsection (D) below.

17 And subsection (D) below reads, use a computer,
18 cellular phone or other electronic device with communication
19 capabilities or any other method to obtain or disclose
20 information about the case when they're not in court.
21 Information about the case includes, but is not limited to
22 the following; information about a party, witness, attorney
23 or court officer, news accounts about the case, information
24 collected through juror research on any topics raised or
25 testimony offered by any witness and, finally, information

1 collected through juror research on any other topic the
2 juror might think would be helpful in deciding the case.
3 Notice of the contents of this order shall be given to
4 jurors.

5 Now, with that, we'll recess for lunch. During the
6 recess do not talk to this case [sic] among yourselves or
7 with anyone else. If anybody contacts you and tries to talk
8 to you about the case, get their names and addresses and
9 report that to me.

10 Please keep your badges on during the lunch recess. I
11 ask that you do that so that everyone involved with this
12 case will know that you are a juror and it would be highly
13 improper for them to talk about or discuss this case in your
14 presence. So please keep your badges on during recess.

15 I'll ask that you be back in your juror room where
16 you've been on recess at 2:15, 2:15. Thank you. See you
17 back then.

18 (Whereupon the jury exited the courtroom at 12:42 pm)

19 **THE COURT:** All right. See you back at 2:15.

20 (Whereupon court was in recess at 12:42 pm)

21 (Whereupon State's exhibits 2 - 6 were marked for
22 identification)

23 (Whereupon court resumed at 2:19 pm)

24 **THE COURT:** Be seated. Be seated. All right.

25 Gentlemen, anything before I bring the jury?

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

80

1 **MR. MOYER:** Judge, I'm not sure if the witnesses are
2 back yet. They weren't as of a minute ago. Let me go out
3 and see what's going on.

4 **THE COURT:** Well, how about check and see.

5 MR. MOYER: I will.

6 (Pause)

7 **MR. MOYER:** Judge, I'm told they're coming up the
8 elevator now.

9 (Pause)

10 **MR. MOYER:** We're ready to go, Judge.

11 **THE COURT:** All right. Bring our jury, please.

12 (Whereupon the jury entered the courtroom at 2:24 pm)

13 **THE COURT:** Okay. Solicitor, you may proceed.

14 **MR. MOYER:** Thank you, Your Honor. May it please the
15 Court. The State calls Tomeka Dennis to the stand.

16 **MADAME CLERK:** Put your left hand on the Bible and
17 raise your right.

18 **Tomeka Dennis**, being duly
19 sworn testified as follows:

20 **MADAME CLERK:** Please have a seat. And state your full
21 name for the record.

22 MS. DENNIS: Tomeka Shontay Dennis.

23 Direct Examination by Mr. Moyer:

24 Q. All right, Ms. Dennis, how old are you?

25 A. Thirty-one.

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

81

1 Q. Thirty-one years old. Now you have how many children?

2 A. I have a total of three.

3 Q. Okay. And do you know this Defendant seated over here,
4 Joseph Walker?

5 A. Yes.

6 Q. Okay. How do you know him?

7 A. We have kids together.

8 Q. You have two children together, right?

9 A. Yes.

10 Q. How old are your two children with him?

11 A. They're twelve months.

12 Q. Okay. So how long -- so you -- do you still -- well,
13 how long ago were you dating Joseph Walker?

14 A. We've been dating for quite some time on and off.

15 Q. Okay. What do you mean by quite some time?

16 A. Probably since '99.

17 Q. Okay. So over ten years?

18 A. Um-hum (affirmative).

19 Q. Now, in fact, you still see him about once a week. You
20 take the children ---

21 A. Yes.

22 Q. --- and you still see him, is ---

23 A. Yes, I do.

24 Q. --- that right? Okay. Now, what kind of car do you
25 have?

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

82

1 A. A 2004 Honda Accord.

2 Q. What color is it and how many doors?

3 A. It's a four door, silver.

4 Q. Okay. Silver. And how long have you had that car?

5 A. Maybe two years, three years.

6 Q. Okay. You had it back in July of 2011?

7 A. Yes, sir.

8 Q. Okay, when this incident happened. And Joseph Walker,

9 did he used to stay with you?

10 A. No. He used to visit.

11 Q. He used to visit?

12 A. Yes.

13 Q. But he used to use your car a lot, isn't that right?

14 A. No. He used to use it from time to time, not a lot.

15 Q. Okay. You would allow him to use it?

16 A. Yes.

17 Q. Okay. And did -- and he would use it -- well, you know

18 who Amanda Ray is, don't you?

19 A. I do.

20 Q. Okay. And you know he has two children with Amanda

21 Ray?

22 A. I do.

23 Q. And he used to go get the children, wouldn't he?

24 A. Yes.

25 Q. And he used to use your car to go get the children over

TOMEKA DENNIS - CROSS EXAMINATION BY MR. SHEEK

83

1 there?

2 A. Yes.

3 Q. Okay. Okay.

4 **MR. MOYER:** Nothing further for this witness.

5 **Cross Examination by Mr. Sheek:**

6 Q. Ms. Dennis, let me hand you a copy of a photo, 2004
7 silver Honda Accord. Does that look like your car? I'm not
8 saying is it your car, but does that ---

9 A. It's similar, but the wheels are different.

10 Q. Okay. So other than the wheels, that's the year and
11 make, model ---

12 A. Yes.

13 Q. --- of your car?

14 A. Um-hum (affirmative).

15 **MR. SHEEK:** I'd move to mark that into evidence as
16 Defense 1.

17 **MR. MOYER:** Okay. I have no objection.

18 **THE COURT:** Without objection.

19 (Whereupon Defendant's exhibit 1 was marked and
20 admitted into evidence)

21 Q. Ms. Dennis, did the police come and talk to you about
22 this incident?

23 A. Never.

24 Q. Do you recall them coming and talking to you in March
25 of 2013?

TOMEKA DENNIS - CROSS EXAMINATION BY MR. SHEEK

84

1 A. Yes.

2 Q. Is that the first time they approached you and talked
3 to you?

4 A. It was.

5 Q. Have they ever come out and asked to look at your car,
6 take pictures, take a statement or anything prior to talking
7 to you in March of this year?

8 A. No, sir, never.

9 Q. When the police talked to you did they put pressure on
10 you to give a statement or anything of that nature?

11 A. When the Detective Thomas came out she kept stating
12 that she just needed a statement from me stating that I
13 wasn't in the car. But as I stated to her, I never recalled
14 this incident until Joseph was arrested from my house.

15 Q. Do you recall any incidents where Joseph left your
16 house angry or upset in your car?

17 A. No, sir.

18 Q. Do you recall him coming home agitated, upset or angry?

19 A. No, sir.

20 Q. So the first you know about it is when he got arrested?

21 A. Correct.

22 Q. Thank you.

23 **MR. SHEEK:** That's all I have.

24 **THE COURT:** Step down.

25 **MR. MOYER:** Your Honor, just a follow-up question.

TOMEKA DENNIS - REDIRECT EXAMINATION BY MR. MOYER

85

1 **THE COURT:** Okay.

2 **Redirect Examination by Mr. Moyer:**

3 Q. Just to make sure we're clear on this. This photograph
4 that's been entered, that's not actually your car, ---

5 A. Correct.

6 Q. --- right?

7 A. No.

8 Q. Okay. So this is just the same year, make?

9 A. Right.

10 Q. Okay. And it's kind of a black and white photograph.

11 So we can't even tell if it's the same color, right?

12 A. I mean, it is -- it looks silver from the photo.

13 Q. It looks similar to that?

14 A. Yeah, I mean, the same make and model.

15 Q. Same make and model?

16 A. Um-hum (affirmative).

17 Q. Same year?

18 A. Right.

19 Q. But just -- that's not your car? I just want to make
20 sure we're clear on that.

21 A. (Affirmative nod).

22 Q. Is that true?

23 A. I mean, I can't tell if it's my car because ---

24 Q. Okay.

25 A. --- I don't see the tag number or anything. I mean, it

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

86

1 could be. I'm not sure. I can't even determine ---

2 Q. Okay.

3 A. But, no, I don't think it is.

4 Q. Okay. And there's no question you were not with Joseph
5 Walker over at Mallard Cove on July 20th of 2011?

6 A. No.

7 Q. You were not in the car with him?

8 A. I can't even recall this day, sir. So I can't say that
9 he even had -- this incident occurred or if he was in my
10 car.

11 Q. Okay. Thank you.

12 **MR. MOYER:** Nothing else. The State calls Amanda Ray.

13 **MADAME CLERK:** Ms. Ray, if you'd come forward. If
14 you'd put your left hand on the Bible and raise your right.

15 **Amanda Ray,** being duly
16 sworn testified as follows:

17 **MADAME CLERK:** Will you, please, come around and have a
18 seat and state your full name for the record.

19 **MS. RAY:** Amanda Latonya Francella Ray.

20 **Direct Examination by Mr. Moyer:**

21 Q. Okay, Ms. Ray, I'm going to ask you questions from over
22 here. And I want to make sure that when you answer the
23 question don't just do a nod, yes or no. Make sure you
24 answer -- answer yes or no. And you can speak into the
25 microphone so everybody can hear you, okay?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

87

- 1 A. Um-hum (affirmative).
- 2 Q. Okay. All right. Now, how old are you?
- 3 A. I'll be thirty-three in August.
- 4 Q. Okay. Let me ask you to move up a little bit closer to
- 5 that microphone. You'll be thirty-three in August?
- 6 A. Um-hum (affirmative).
- 7 Q. Okay. That was a yeah. Just like I said a minute ago,
- 8 you have to say -- you can't just nod because the court
- 9 reporter has to take down everything you say. So you have
- 10 to answer yes or no.
- 11 A. Okay.
- 12 Q. Okay. So tell us your age once more.
- 13 A. Thirty-two.
- 14 Q. Thirty-two years old. Okay. And you went to JL Mann
- 15 High School, ---
- 16 A. Um-hum (affirmative).
- 17 Q. --- is that right?
- 18 A. Um-hum (affirmative). Yes.
- 19 Q. Okay. Thank you. And you graduated?
- 20 A. No.
- 21 Q. Okay. How far did you go in school?
- 22 A. Eleventh grade.
- 23 Q. Okay. And you are single, isn't that right?
- 24 A. Um-hum (affirmative).
- 25 Q. And how many children do you have?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

88

1 A. Two.

2 Q. And, actually, before I get to that, looks like you --
3 did you just hurt your finger over the weekend? I noticed
4 you're in a ---

5 A. Yeah, last night.

6 Q. Last night?

7 A. Um-hum (affirmative).

8 Q. Is it affecting -- are you on any pain medication or
9 anything ---

10 A. Yeah.

11 Q. Okay. Is it a -- are you okay? You understand ---

12 A. Yes.

13 Q. You have a clear -- clear mind? You can answer
14 questions?

15 A. Um-hum (affirmative).

16 Q. Okay.

17 A. Yes.

18 Q. Now, who is the father of your children?

19 A. Joseph Walker.

20 Q. Okay. The Defendant seated here today?

21 A. Um-hum (affirmative). Yes.

22 Q. How old are your children?

23 A. One just turned eight yesterday. And I have a five
24 year old.

25 Q. Okay. How long have you known Joseph Walker?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

89

1 A. Like almost ten years, ten years.

2 Q. Okay. And he was your boyfriend for a while, is that
3 right?

4 A. Yes.

5 Q. When did y'all -- when were y'all boyfriend/girlfriend?

6 A. I couldn't -- it's been off and on.

7 Q. Okay. When did it -- did it start right around the
8 time y'all had the children, your child? Or was it before
9 then?

10 A. It was before my daughter, yeah.

11 Q. Okay. So at least eight years then?

12 A. Yeah, at least.

13 Q. Okay. Now, did y'all ever live together?

14 A. Yes.

15 Q. And when did y'all live together?

16 A. From the time my son was born until, what, I don't --
17 until he went to jail.

18 Q. Okay. So just ---

19 A. Off and on, ---

20 Q. Five years ---

21 A. --- off and on.

22 Q. Okay. So off and on. Now, -- okay. Now, he -- before
23 this incident happened that we're here to talk about today
24 did he used to come over and see the children?

25 A. Yes.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

90

1 Q. And he would sometimes take the children?

2 A. Um-hum (affirmative).

3 Q. How often would he come over there?

4 A. I don't know. He's their -- he's their daddy.

5 Q. Pretty regularly? Like once a week? Once a month?

6 A. I couldn't -- I don't even know.

7 Q. Okay. But fairly regularly, is that right?

8 A. Yeah.

9 Q. Okay. And what kind of vehicle would he come over in?

10 A. Different cars.

11 Q. Different cars? Now, do you know Tomeka Dennis?

12 A. Yeah, she went to school with me.

13 Q. Okay. And did you know he was dating her around the
14 time this happened?

15 A. I heard, yeah.

16 Q. Okay. Have you ever seen her car?

17 A. I mean, nobody's ever said this is her car, but ---

18 Q. Okay. Well, have you ever seen him in a car that
19 looked -- I'm going to show you State's exhibit number 1.

20 Ever see him in a car that looked sort of that like?

21 A. Um-hum (affirmative).

22 Q. Okay. And this is Defendant's exhibit number 1, a
23 Honda Accord?

24 A. Yeah, I -- yeah.

25 Q. So he used to come over and get the children in a car

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

91

1 like that sometimes?

2 A. He has came to my mom's house and got in -- got the
3 kids in that car before.

4 Q. Okay. Now, so sometimes he would go to your mom's
5 house?

6 A. Um-hum (affirmative).

7 Q. And why was that?

8 A. 'Cause that's where they'd be at.

9 Q. So the children would sometimes be where your -- with
10 your mother?

11 A. Um-hum (affirmative).

12 Q. Okay. And sometimes they'd be with you?

13 A. Yes.

14 Q. All right. Now, where did you live?

15 A. Mallard Cove.

16 Q. Okay. And that's here in Greenville?

17 A. Um-hum (affirmative). Yes.

18 Q. What apartment did you live in?

19 A.

20 Q. Now back in July of 2011 were you seeing -- were you
21 dating this gentleman seated right here, Tyler Mattress?

22 A. Yes.

23 Q. And did the Defendant, Joseph Walker, know that you
24 were dating him at that time?

25 A. Yeah.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

92

1 Q. He'd seen y'all together or he knew about it?

2 A. He had never seen -- I don't know if he seen us
3 together, but he knew about it.

4 Q. Okay. And what did he think of you seeing Tyler or any
5 other guy for that matter?

6 A. I don't think he really cared, but, you know, except
7 for the children.

8 Q. Okay. But did he give you a hard time about it
9 sometimes?

10 A. Just about the kids, making sure nothing happened to
11 the kids because he didn't know him.

12 Q. But he gave you a hard time about seeing other guys,
13 about having other guys ---

14 **MR. SHEEK:** Objection ---

15 Q. --- around?

16 **MR. SHEEK:** --- to the leading, Your Honor.

17 **THE COURT:** All right. Don't lead.

18 **MR. MOYER:** Okay.

19 Q. Well, would he give you a hard time about having other
20 guy friends?

21 A. I mean, of course he would if -- if we're dating, yeah.

22 Q. Okay. So he would. And, in fact, did he -- you
23 considered him jealous, isn't that right?

24 **MR. SHEEK:** Again, Your Honor, objection to the
25 leading.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

93

1 **THE COURT:** Yeah, ---

2 **MR. MOYER:** I'll rephrase the question.

3 Q. Would you consider him jealous back then?

4 A. Maybe a little bit, a little bit.

5 Q. Okay. Well, let me -- you remember you gave a

6 statement the day this incident happened?

7 A. Yes.

8 Q. Okay. And do you remember in your statement saying

9 that he's real jealous?

10 A. I don't -- that was ---

11 Q. Would you like to take a ---

12 A. --- a while ago.

13 Q. Would you like to look at your statement again?

14 A. I can.

15 Q. Okay. Take a look at that. Is that your statement?

16 A. Yeah. I mean, I didn't -- I was shook up at the time.

17 Q. Okay.

18 A. I didn't even write this. Somebody, you know, the --

19 the detective wrote it for me because I was shook up.

20 Q. Okay. And you were telling the detective what to write

21 then ---

22 A. Yeah, me and the detective were having a conversation.

23 So she was writing as I was talking.

24 Q. And then at the end you signed the statement ---

25 A. Um-hum (affirmative).

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

94

1 Q. --- saying it was your statement?

2 A. Yeah.

3 Q. Well, now by taking a look at your statement, about the
4 fourth line down, does -- will you -- just take a look at
5 that for a moment.

6 (Pause)

7 A. Um-hum (affirmative).

8 Q. Does that refresh your memory about what you said about
9 him being jealous?

10 A. Yeah.

11 Q. And what did you say about him at that time?

12 A. I said that he was real jealous.

13 Q. Okay. Now, let me take you back to July the 20th of
14 2011, the date of this incident. And you were living in
15 Mallard Cove at that time?

16 A. Yes.

17 Q. And did you see Tyler Mattress on that day?

18 A. Um-hum (affirmative). Yeah.

19 Q. He came over to your apartment?

20 A. Yes.

21 Q. Now, did Joseph Walker try to talk to you on that day,
22 during the day?

23 A. Um-hum (affirmative).

24 Q. Okay. And ---

25 A. Yes.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

95

- 1 Q. --- how was he trying to talk to you?
- 2 A. By phone.
- 3 Q. And what -- you recognized his phone number?
- 4 A. Yes.
- 5 Q. Did you answer the phone?
- 6 A. No, I didn't.
- 7 Q. And why was that? Because you and Tyler were over
- 8 there?
- 9 A. Um-hum (affirmative). Yes.
- 10 Q. And was he calling -- did he call for a good -- a good
- 11 while that day?
- 12 A. Yeah, he called, I mean, I wasn't looking at the clock,
- 13 but, yeah, he called a few times.
- 14 Q. Okay. Throughout the afternoon, is that right?
- 15 A. Um-hum (affirmative). Yes.
- 16 Q. Okay. So you ignored his phone calls, but at some
- 17 point did you speak to him on the telephone that day?
- 18 A. I did.
- 19 Q. And why did you answer the phone that time?
- 20 A. Because my sister called. My sister called me.
- 21 Q. It was your sister's phone?
- 22 A. Um-hum (affirmative).
- 23 Q. So your -- and when you answered the phone who was on
- 24 the phone?
- 25 A. She was.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

96

1 Q. Okay. Did you talk to this Defendant?

2 A. Um-hum (affirmative).

3 Q. Okay. And tell us about that conversation. Where were
4 you when you answered the phone?

5 A. At home.

6 Q. Okay. And you were with Tyler. He was next to you,
7 right?

8 A. Yeah, Tyler was there.

9 Q. Okay. Now what did -- tell us about that conversation
10 that you had with Joseph Walker at that time.

11 A. I think he had told my son that he was coming -- he
12 wanted to come and get them to take them to shoot basketball
13 or something, but he told my son. So he didn't -- I didn't
14 know anything about it.

15 Q. Okay. Well, I'm just -- I'm just asking about the
16 conversation he had with you.

17 A. Yeah. He told me that he was -- he wanted to take the
18 kids, my son to play basketball and that's why he had been
19 calling. And he was asking me why I wasn't answering the
20 phone. And I told him that because I wasn't at home.

21 Q. Okay. And the conversation got heated, didn't it?

22 A. Um-hum (affirmative).

23 Q. Okay. And he started threatening you?

24 A. Yeah.

25 Q. Do you remember what he said?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

97

1 A. That he'd do something to me. I don't remember exactly
2 what it was.

3 Q. Well, once again, maybe you can refresh your memory if
4 you had a chance to take a look at your statement again.

5 A. I didn't -- I didn't look at ---

6 Q. Okay. Once again, I'm going to hand you your statement
7 and ask you to look down near the bottom of the statement
8 and see if that refreshes your memory about what he said to
9 you.

10 (Pause)

11 A. Oh, that he'd crack my skull.

12 Q. Crack your skull and what else?

13 A. That's all it says.

14 Q. It says ---

15 A. And other things.

16 Q. And other bad things, right?

17 A. Yeah, but we do that all the time. It's just somebody
18 else was involved this time.

19 Q. Okay. So he threatened to crack your skull and do
20 other things like that. Now, Tyler was close enough to hear
21 that conversation?

22 A. Yes.

23 Q. And then what did he do?

24 A. He got the phone and said something to Joseph.

25 Q. And so they exchanged words back and forth?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

98

1 A. I don't -- he said what he had to say and ...

2 Q. Okay. I'm not asking you what they said. You heard
3 them have a conversation?

4 A. I don't know what Mr. Walker said. I don't know ---

5 Q. Right.

6 A. --- what Joseph was saying.

7 Q. Okay. But you heard Tyler having a conversation on the
8 phone with him, right?

9 A. Yes.

10 Q. Now what did you do after that phone call?

11 A. I don't -- I called my sister. I called my sister
12 back.

13 Q. Okay. Asked her why she -- well, what did you -- why
14 did you call your sister?

15 A. Because she had called me for him.

16 Q. Okay. Well, then what did Tyler do after that
17 conversation?

18 A. He went outside.

19 Q. Okay. And you stayed inside?

20 A. Um-hum (affirmative).

21 Q. And then what happened after that?

22 (Pause)

23 Q. What do you remember hearing or seeing after Tyler went
24 outside?

25 A. I heard gunshots.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

99

- 1 Q. Okay. More than one?
- 2 A. Yeah.
- 3 Q. And what did you do when you heard the gunshots?
- 4 A. I made sure my kids were in the house.
- 5 Q. Okay.
- 6 A. And I locked the front door.
- 7 Q. Okay. And did you stay inside the house?
- 8 A. Um-hum (affirmative).
- 9 Q. And did you try to call anybody?
- 10 A. I don't know -- my sister called -- my sister called
- 11 the police.
- 12 Q. Okay. Do you remember trying to call Tyler?
- 13 A. Did I? I don't know. I think so. I think I did.
- 14 Q. Okay.
- 15 A. 'Cause he was outside where the gunshots were.
- 16 Q. And you wanted -- you ---
- 17 A. Make sure he was all right.
- 18 Q. Make sure he was okay. All right. And did you stay
- 19 inside the apartment until the police got there or did you
- 20 stay outside -- inside?
- 21 A. No, I was in the house.
- 22 Q. Okay. And when the officers showed up, you -- did you
- 23 go outside or talk to the officer?
- 24 A. Yeah, the detective.
- 25 Q. Was it this detective right here?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

100

1 A. Um-hum (affirmative).

2 Q. Okay. And you gave -- that's when you gave your
3 statement, right?

4 A. Yeah. I got in the car with her and we rode around the
5 corner. And, yeah.

6 Q. Okay. You actually left Mallard Cove, didn't you, to
7 give a statement?

8 A. No, we didn't leave Mallard Cove.

9 Q. But you went out to like a closed business or you drove
10 away a little bit?

11 A. I don't know -- I don't remember if we went -- 'cause
12 there's a parking lot right in front of the building. I
13 don't think -- I don't know if we were in the other parking
14 lot or in Mallard Cove.

15 Q. Okay. But you left from ---

16 A. But I left from in front of my apartment, yeah.

17 Q. Okay. Why did you want to leave the apartment?

18 A. I don't know. She just asked me would I feel
19 comfortable riding around the corner.

20 Q. And you would feel more comfortable leaving right there
21 then to give a statement?

22 A. I guess at the time it didn't matter.

23 Q. Okay. All right. And once again, you actually didn't
24 write the statement, did you?

25 A. No.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

101

1 Q. You -- 'cause you were so shook up -- shaken up?

2 A. Yeah. My hands and stuff were shaking.

3 Q. So you asked her to write it for you as you told her
4 what happened?

5 A. She just -- yeah, she told me she would write it for me
6 since she -- she could see that I was shook up.

7 Q. Okay. All right. Please answer any questions Defense
8 has.

9 **Cross Examination by Mr. Sheek:**

10 Q. Ma'am, is it true that you told the detective that day
11 that you knew Mr. Walker had been driving off and on a
12 silver Honda Accord for about three months?

13 A. Yeah, he had -- yeah.

14 Q. Okay.

15 A. I guess. I don't even -- I don't remember how long he
16 had been driving the car. I know I've seen it before.

17 Q. Okay. Well, and again, I'll let you hold a copy of
18 your written statement if you want to. But when you look at
19 that does it indicate that you told the police officer that
20 you knew he'd been driving a silver Honda Accord for about
21 three months?

22 A. I don't even see that, but okay.

23 Q. Well, you can ---

24 A. Let's see.

25 Q. --- take as much time as you want to, Ms. Ray, ---

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

102

1 A. Let's say I did.

2 Q. Okay.

3 A. Yeah. Okay.

4 Q. That was information you had at the time, correct?

5 A. Yeah. I guess. I don't remember.

6 Q. And Mr. Mattress knew that, didn't he?

7 A. Knew what?

8 Q. What kind of car Mr. ---

9 **MR. MOYER:** Objection. I would object to her getting
10 into the state of mind of another witness.

11 **THE COURT:** Well, what -- finish your question you
12 started.

13 Q. Do you know whether or not Mr. Mattress was aware that
14 Mr. Walker would drive that silver Honda Accord?

15 **THE COURT:** That's all right.

16 A. Yeah, I'm sure he was.

17 Q. Now, where in the apartment were you when you had this
18 telephone conversation with Mr. Walker on June -- July the
19 11th -- 20th?

20 A. I don't know. I think I was in my room.

21 Q. Okay. Do you recall how long Mr. Mattress had been
22 with you that day?

23 A. No. I don't -- all day, I think.

24 Q. Do you recall what y'all were doing?

25 A. No, I can't recall.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

103

1 Q. When Mr. Mattress got on the phone did he ask you for
2 the phone, did you hand it to him, how did he get the phone
3 to talk to Mr. Walker?

4 A. He just took it out of the hand.

5 Q. Okay. And then how long did he talk with Mr. Walker?

6 A. Not long.

7 Q. What do you recall Mr. Mattress saying?

8 A. I -- I think he said come and crack my skull or
9 whatever replying to whatever he had heard Mr. Walker
10 saying.

11 Q. Was it immediately after that phone call that Mr.
12 Mattress went outside?

13 A. I think so.

14 Q. Did he indicate to you where he was going or what he
15 was going to do?

16 A. No. He's grown.

17 Q. Well, you said when you heard the gunshots, the first
18 thing you did is check on your children.

19 A. Um-hum (affirmative).

20 Q. And they were inside?

21 A. They were.

22 Q. Where were they?

23 A. They were in my son's room.

24 Q. Okay. Is that upstairs in your apartment?

25 A. It is.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

104

1 Q. Okay. Was it after that you went and checked this
2 front door?

3 A. Yeah, after that.

4 Q. When you went down to check the front door was it
5 locked or unlocked?

6 A. I don't even -- I can't -- it was unlocked. It was
7 unlocked.

8 Q. How long did it take you from the time you heard the
9 gunshots to go check on your children and then go downstairs
10 to check on this front door?

11 A. Immediately after I went and checked on the children, I
12 went and locked my door.

13 Q. Okay. Do you ever recall ---

14 A. Now my kids were upstairs at the time, but I -- I think
15 I was downstairs. I had to go up there and check on them
16 because they had been outside playing. I didn't even know
17 if they were in the house or not.

18 Q. Okay. And then you came back down and checked on the
19 door?

20 A. Yes.

21 Q. Okay. Do you ever recall Mr. Mattress trying to come
22 in the door?

23 A. Uh-uh (negative).

24 Q. Ever knocking on it, asking you to let him in, anything
25 of that nature?

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

105

- 1 A. No, somebody else knocked on the door.
- 2 Q. Okay. But it wasn't Mr. Mattress?
- 3 A. Uh-uh (negative).
- 4 Q. All right. And when someone else knocked on the door
- 5 did you go to see who it was? I'm not asking you who it
- 6 was, but did you go see who it was?
- 7 A. Um-hum (affirmative).
- 8 Q. Okay. And when the police came did they knock on your
- 9 door?
- 10 A. I don't -- I might have been standing in the door and I
- 11 saw the detective and she motioned for me to come on out. I
- 12 don't -- I don't -- I don't even remember.
- 13 Q. Okay. Well, is there any reason why you would have
- 14 been uncomfortable letting the detective come in your
- 15 apartment and giving the statement?
- 16 A. Uh-uh (negative).
- 17 Q. Okay. So that would have been fine. There would have
- 18 been no reason for you to ask to leave the apartment to give
- 19 a statement, would there?
- 20 A. No.
- 21 Q. Had you talked to Mr. Mattress before the police got
- 22 there?
- 23 A. He was at my house.
- 24 Q. Okay. Was he at the house when the police arrived?
- 25 A. Uh-uh (negative). What do -- what do you mean?

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

106

- 1 Q. Well, ---
- 2 A. Like after the shots, did I talk to him before -- no.
- 3 Q. Okay. So you don't know where he was between the time
- 4 you heard the shots and the time the police got there?
- 5 A. Sir, you have to -- I mean, I do apologize, but this
- 6 was a while ago.
- 7 Q. Well, ---
- 8 A. So I don't ---
- 9 Q. --- I understand.
- 10 A. --- remember exactly what happened.
- 11 Q. Okay. Can you give us an idea of how long it took the
- 12 police to get there and when you saw them arrive? From the
- 13 time you heard the gunshots, that is.
- 14 A. It wasn't long, but, no, I can't tell you an exact
- 15 time.
- 16 Q. Had other people gathered out in this parking area?
- 17 A. Um-hum (affirmative).
- 18 Q. How many people do you think were gathered out there
- 19 before the police arrived?
- 20 A. It was a lot of people outside by the time I got out
- 21 there.
- 22 Q. Were your lights ---
- 23 A. Time the police got there.
- 24 Q. I didn't mean to cut you off. Go ahead.
- 25 A. By the time the police got there there was plenty of

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

107

1 people outside.

2 Q. Okay. 'Cause it's July, which means it's still
3 daylight at 7:20, right?

4 A. Um-hum (affirmative).

5 Q. Warm weather?

6 A. Um-hum (affirmative).

7 Q. A lot of people off work at 5:00. So it was -- would
8 you say one of the most active times for that parking area?

9 A. I don't know -- by the time I got outside there were
10 plenty of people out there.

11 Q. Okay. When you got outside and you saw there was
12 plenty of people, was Mr. Mattress one of them?

13 A. I think he got -- he came -- he came back around, I
14 guess, when the police got there.

15 Q. Do you know where he came back around from?

16 A. No. I guess the -- I think it was the lady at the --
17 somebody told me he had ran around the block, the girl that
18 knocked on my door ---.

19 Q. Okay.

20 A. --- told me that he ran. So when I went outside, yeah,
21 he was -- I think he was out there with the police.

22 Q. Okay. What about Mr. Golden, was he out there?

23 A. I couldn't even -- I wasn't paying attention to Mr.
24 Golden.

25 Q. All right. Do you recall him coming and talking to you

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

108

1 prior to the police getting there?

2 A. Uh-uh (negative).

3 Q. Okay. Do you know Bobby Golden?

4 A. Yeah, he lives down the street from me.

5 Q. Okay. He and Mr. Mattress friends?

6 A. Yeah.

7 Q. Did you hear anything in this conversation that
8 indicated that Mr. Mattress was upset with Mr. Walker?

9 A. What conversation?

10 Q. The phone conversation when Mr. Mattress took the phone
11 from you and talked to Mr. Walker. Did you hear anything
12 that'd make you think that he was upset?

13 A. I mean, he was probably upset from what he heard Mr.
14 Walker say. But other than that, no.

15 Q. Okay. Did he ever indicate to you I'm going to go out
16 and fight him, I'm going to go ---

17 A. No. Uh-uh (negative).

18 Q. --- get a weapon, a knife to keep with me and I'm going
19 to go out and wait on him? Anything like that?

20 A. Uh-uh (negative).

21 Q. I mean, up until today has he ever told you that that's
22 what he did, that he went and got a weapon and waited so
23 that he could fight Mr. Walker?

24 A. No.

25 Q. Would that surprise you for him to do something like

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

109

1 that?

2 A. To do something like what?

3 Q. To go out, get a weapon and wait on Mr. Walker to
4 arrive.

5 A. Would that surprise me?

6 Q. Yes, sir. Yes, ma'am. Would that surprise you?

7 A. Yeah. I've never seen either one of them with a
8 weapon.

9 Q. Thank you.

10 **MR. SHEEK:** I've got no further questions.

11 **MR. MOYER:** Nothing else for this witness.

12 **THE COURT:** Thank you. You can step down.

13 **MR. MOYER:** The State calls Sharanda Ray.

14 **MADAME CLERK:** Ms. Ray, would you come forward and put
15 your left hand on the Bible and raise your right.

16 Sharanda Ray, being duly
17 sworn testified as follows:

18 **MADAME CLERK:** And come have a seat. And please state
19 your full name for the record.

20 **MS. RAY:** My name is Sharanda Ray.

21 Direct Examination by Mr. Moyer:

22 Q. Hi, Ms. Ray. I'm going to be asking you questions from
23 over here. I want to make sure you speak into the
24 microphone so that everybody can hear you real well, okay?
25 How old are you?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

110

- 1 A. Twenty-five.
- 2 Q. Okay. And are you married or single?
- 3 A. Single.
- 4 Q. Where do you work?
- 5 A. At Gannett.
- 6 Q. Okay.
- 7 A. Greenville News building downtown.
- 8 Q. How long have you been working there?
- 9 A. Six months.
- 10 Q. And you are related to Amanda Ray?
- 11 A. That's my older sister.
- 12 Q. Okay. Now you know this Defendant, Joseph Walker,
- 13 seated over here?
- 14 A. Yes.
- 15 Q. How long have you known him?
- 16 A. For about nine years, eight years.
- 17 Q. Okay. And how -- you got to know him because Amanda
- 18 was seeing him?
- 19 A. Yes.
- 20 Q. So that -- the way you got to know -- to know him?
- 21 A. Yes.
- 22 Q. Where did you live back in July of 2011?
- 23 A. At 110 Maco Street.
- 24 Q. Who did you live with?
- 25 A. My parents.

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

111

1 Q. Okay. You know Tyler Mattress, this gentleman seated
2 right here in the front row?

3 A. Yes.

4 Q. And how did you get to know him?

5 A. Because my sister has dated him.

6 Q. Okay. Your sister was dating him?

7 A. Um-hum (affirmative).

8 Q. Okay. Now, let me take you to July 20th of 2011. Were
9 you staying with your mother back ---

10 A. Yes.

11 Q. --- during that time? Now did you see the Defendant,
12 Joseph Walker, on that day?

13 A. Yes.

14 Q. Where did you see him?

15 A. At my mom's house, at 110 Maco Street.

16 Q. Now before he showed up did you know he was coming over
17 to your house?

18 A. No.

19 Q. Okay. What happened when he -- what did he say, what
20 did he do when he got over there?

21 A. When he got there and asked -- well, he got there and I
22 heard -- I heard a car pull up. So I went to the door
23 before he knocked at the door and he asked was the kids
24 here. And I said, no. And he said, ---

25 Q. And whose kids was he asking about?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

112

- 1 A. His kids, Amanda's kids.
- 2 Q. Amanda's kids. Would they sometimes be there -- be
- 3 there with you and your mother?
- 4 A. Yes, all the time.
- 5 Q. Okay. So he asked if they were there.
- 6 A. Um-hum (affirmative).
- 7 Q. What did you say?
- 8 A. No, they're not.
- 9 Q. What did he do then?
- 10 A. He asked to use my phone.
- 11 Q. Okay.
- 12 A. To call my sister.
- 13 Q. To call your sister?
- 14 A. Um-hum (affirmative).
- 15 Q. Did that seem odd to you? Did he have a telephone?
- 16 A. I didn't see it. I wouldn't suppose he did if he asked
- 17 to use mine.
- 18 Q. Okay. So back at that time did you ever used to have
- 19 telephone conversations with him that you recall?
- 20 A. No.
- 21 Q. So you don't remember if you did or not?
- 22 A. No.
- 23 Q. Okay. So he asked to use your phone.
- 24 A. Um-hum (affirmative).
- 25 Q. Did you give him his -- did you give him your phone?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

113

- 1 A. Yes.
- 2 Q. And so he told you he was going to call your sister?
- 3 A. Well, I dialed the number and then I went in the house.
- 4 Q. Okay. You dialed your sister's number?
- 5 A. Um-hum (affirmative).
- 6 Q. Okay. Then you went inside the house?
- 7 A. Yes.
- 8 Q. Did you hear the conversation that he had on your cell
- 9 phone ---
- 10 A. I didn't.
- 11 Q. You did or did not?
- 12 A. I did not.
- 13 Q. Okay. And then you got the phone back later?
- 14 A. Yes. He knocked at the door and gave me the phone
- 15 back.
- 16 Q. Okay. And then he left?
- 17 A. Yes.
- 18 Q. Now later did you go over to Amanda Ray's apartment?
- 19 A. Yes.
- 20 Q. Was that that same day?
- 21 A. Yes, I did.
- 22 Q. What led you to go over there?
- 23 A. Because my -- Miranda, which is my other sister, had
- 24 called and said that someone was shooting in the
- 25 neighborhood.

SHARANDA RAY - CROSS EXAMINATION BY MR. SHEEK

114

1 Q. Okay. So you were concerned about your sister?

2 A. Yes.

3 Q. What was going on when you got over there?

4 A. It was a lot of police and, I mean, I really didn't
5 know what was going on until I got in the house.

6 Q. Okay. Okay. Please answer any questions the Defense
7 might have.

8 **THE COURT:** All right. Mr. Sheek.

9 **MR. SHEEK:** Thank you, Your Honor.

10 **Cross Examination by Mr. Sheek:**

11 Q. How long was Mr. Walker on the phone?

12 A. Not long. Maybe like two or three minutes.

13 Q. Okay. And was it a heated conversation?

14 A. I don't remember 'cause I went in the house. I didn't
15 stay outside on the porch.

16 Q. Okay.

17 A. But he wasn't mad or anything.

18 Q. When he gave you the phone back was he mad or upset?

19 A. No.

20 Q. Anything out of the ordinary whatsoever?

21 A. No.

22 Q. And he left from your residence or your mom's residence
23 after that?

24 A. Yes.

25 Q. Okay.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

115

1 **MR. SHEEK:** That's all I have.

2 **THE COURT:** Thank you. Step down.

3 MR. MOYER: The State calls Jonathan Rackley.

4 **MADAME CLERK:** Put your left hand on the Bible and
5 raise your right.

6 Jonathan Rackley, being
7 duly sworn testified as follows:

8 **MADAME CLERK:** Please take a seat. And then state your
9 full name for the record.

10 **MR. RACKLEY:** Jonathan Heath Rackley.

11 Direct Examination by Mr. Moyer:

12 Q. Okay. Where are you employed?

13 A. Greenville City Police Department.

14 Q. How long have you been in law enforcement?

15 A. Five years.

16 Q. Has it all been with the Greenville City Police
17 Department?

18 A. Yes, sir.

19 Q. What is your position now with the City Police
20 Department?

21 A. Uniform patrol.

22 Q. Okay. What are your duties as a uniform patrol
23 officer?

24 A. I'm just considered a beat officer. Just answering
25 calls for service, just a wide range of things.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

116

1 Q. Okay. So y'all are usually the first responders then
2 when incidents break out?

3 A. Yes, sir.

4 Q. For example, the one that we're talking about here
5 today?

6 A. Yes, sir.

7 Q. Okay. Now were you working on July the 20th, 2011?

8 A. Yes, sir.

9 Q. Did you get a call for the -- for this case?

10 A. Yes.

11 Q. And what time did the call go out?

12 A. 7:15 in the evening.

13 Q. Okay. What was the nature of the call?

14 A. Shots fired call.

15 Q. Okay. And for what location?

16 A. Mallard Cove -- Cove apartments, 15 Villa Road.

17 Q. Okay. And are those apartments in the City of
18 Greenville?

19 A. Yes, sir.

20 Q. And just to give us an idea of where that is, it's off
21 of Pleasantburg Drive?

22 A. Yes, near 385.

23 Q. All right.

24 A. Off Pleasantburg, behind the old Steak and Ale.

25 Q. Okay. Now what time did you arrive?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

117

- 1 A. 7:25. About ten minutes later after the call went out.
- 2 Q. Okay. And what did you find upon your arrival there?
- 3 A. I was training another officer. We just -- we'd came
- 4 up to the incident location and Mr. Mattress, the victim,
- 5 came towards us in the car. And we got out and started
- 6 speaking with him.
- 7 Q. Okay. You talking about Mr. Mattress here?
- 8 A. Yes.
- 9 Q. And how was he acting when you saw him?
- 10 A. Very distraught, kind of very excited. We kind of
- 11 jumped out because we didn't know what was going on ---
- 12 Q. Um-hum (affirmative).
- 13 A. --- at the time. But, yeah, he approached us.
- 14 Q. Okay.
- 15 A. That's when we got kind of his story and everything.
- 16 Q. Okay. And what was his story? What did he tell you
- 17 had taken place?
- 18 A. He said pretty much that he was over at his
- 19 girlfriend's house, they'd been there for a while. At that
- 20 point I believe -- he just said he was -- they were on the
- 21 phone, him and his girlfriend, or his girlfriend was on the
- 22 phone with Mr. Walker, they were arguing back and forth.
- 23 And then -- I'm trying to remember ---
- 24 Q. Okay.
- 25 A. --- all ---

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

118

1 Q. And would it refresh your memory if you had a chance to
2 take a look at your report?

3 A. Yeah.

4 Q. Okay. I'm going to hand you these documents. Is that
5 -- is that your report that you made ---

6 A. Yes, sir.

7 Q. --- at the time? Okay. Just refer to your report and
8 tell us what he -- what Tyler Mattress told you about what
9 had taken place.

10 A. He told us that Amanda Ray had had several unanswered
11 phone calls. She finally began to talk to him. Mattress
12 overheard some statements loud enough for -- let's see. He
13 -- Mr. Mattress said some statements loud enough for Walker
14 to hear. And then he made threatening comments back, he was
15 coming over to the apartments.

16 And that's when Mattress just told us that he went
17 outside and Amanda stayed inside. And then he said that a
18 Honda drove up with Joseph Walker in it. He jumped out
19 saying what's up -- what's up, niggas?

20 And then he fired three shots. And then he said, this
21 shit is real. And then that's when he -- both Golden and
22 Mattress ran in separate directions.

23 Q. Okay. So he told you that he overheard the
24 conversation between Amanda Ray and Joseph Walker ---

25 A. Yes.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

119

1 Q. --- on the telephone? Okay. Now, you said he seemed
2 pretty shaken up when you were -- when you were talking ---

3 A. Yeah, he couldn't sit still. I remember we had to
4 bring him over to get his statement and everything and calm
5 him down a little bit.

6 Q. Okay. Now, did you call for a forensics officer to
7 come out there to ---

8 A. Yes.

9 Q. --- the location?

10 A. Yes, sir.

11 Q. Now while -- before the forensics officer came out
12 there did y'all look around for any -- for any evidence or
13 any signs of what may have taken place?

14 A. Yeah, we looked around and we found the shell casings
15 of the 9mm shell casings and kind of just marked them with a
16 piece of paper until the forensics unit came to do her part
17 of that.

18 Q. Okay. So did you move those shell casings before she
19 got there?

20 A. No, sir.

21 Q. How many shell casings were there?

22 A. Three.

23 Q. Okay. And so you just kind of marked them and left
24 them there for the forensics ---

25 A. Yeah.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

120

1 Q. --- officer to get? Okay. When the forensics officer
2 came out there did you point out those shell casings to her?

3 A. Yes, sir.

4 Q. Okay. And did she collect them?

5 A. Yes. She photographed, collected them, all that kind
6 of ...

7 Q. Were they moved or disturbed before she did so?

8 A. No, sir.

9 Q. Okay. I'm going to ask you to take a look at State's
10 exhibits numbers 2 and 5 and just tell us do you recognize
11 what is shown in those two photographs?

12 A. Yes.

13 Q. Okay. And what is shown in those photographs?

14 A. That's the incident location where we pulled up.
15 That's my car right there.

16 Q. Okay.

17 A. Where we started.

18 Q. So is that the location where you went after this
19 shooting happened at Mallard Cove?

20 A. Yes, sir.

21 Q. Both those pictures, are they true and accurate
22 representations of the way that area looked that day?

23 A. Yes, sir.

24 Q. Do they show the shell casings that you were talking
25 about?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

121

1 A. Yes, sir. You can see the three white pieces of paper
2 that we marked them with.

3 Q. Okay.

4 **MR. MOYER:** Your Honor, at this time we'd move to have
5 State's exhibits 2 and 5 entered into evidence.

6 **MR. SHEEK:** No objection.

7 **THE COURT:** Without objection.

8 (Whereupon State's exhibits 2 and 5 were admitted into
9 evidence)

10 Q. Okay. Officer Rackley, I'm going to ask you, if you
11 would, to step down here for just a minute so we can show
12 these photographs behind you.

13 (Whereupon the witness left the witness stand)

14 Q. I'm going to hand you a laser pointer. This button
15 right here activates it. Okay. Let's start with State's
16 exhibit number 5. And using the laser pointer can you point
17 out the shell casings that you were talking about?

18 A. Right there, I believe right there and right there.

19 Q. Okay.

20 **MR. MOYER:** Can you turn on one of the lights, please?
21 Yeah, that looks a little bit better.

22 Q. Okay. And you say your car is shown in that
23 photograph?

24 A. Yes, sir.

25 Q. Where is that?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

122

1 A. It's right there.

2 Q. Okay. I'm going to show you State's exhibit number 2
3 now. A little closer photograph of that same area, is that
4 correct?

5 A. Yes, sir.

6 Q. And would you, once again, just sort of point out to
7 the jury where they are?

8 A. (Whereupon the witness pointed on the photograph).

9 Q. Okay. Okay. Thank you very much. You may have a
10 seat.

11 (Whereupon the witness returned to the witness stand)

12 Q. Now did you get a suspect's name while you were out
13 there?

14 A. Yes, sir.

15 Q. And from whom did you get that name?

16 A. Mr. Mattress told us first.

17 Q. And when you got that name did you do anything to make
18 sure you had the right person?

19 A. Yeah. We kind of got -- got the name from him and, I
20 believe, other officers talked to Amanda Ray about it, too.
21 And we kind of got the identity, pulled it up on the DMV
22 database and just got a positive ID just to confirm the ID.

23 Q. You mean the Department of Motor Vehicles?

24 A. Yes.

25 Q. So you got a photograph of him?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

123

1 A. Yes.

2 Q. Did you pull up a photograph of him?

3 A. Yes.

4 Q. Y'all have in-car computers, right?

5 A. Yes, sir.

6 Q. And that's what you were able to pull that up on?

7 A. Yes, sir.

8 Q. And did you show it to Mr. Mattress?

9 A. Yeah, I pulled it up, enhanced the -- made it larger,
10 the picture of the Defendant and just -- where he could just
11 see his face. And he said, yeah, that -- just confirmed the
12 ID.

13 Q. And he did confirm that's who it was?

14 A. Yes.

15 Q. Okay. All right. Please answer any questions the
16 Defense might have.

17 **Cross Examination by Mr. Sheek:**

18 Q. Officer, what other photos did you show Mr. Mattress
19 that day, other individuals?

20 A. No other ones.

21 Q. None?

22 A. None.

23 Q. Okay. So the only photo you showed him was one of
24 Joseph Walker and that's the one you pulled up on the DMV
25 database?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

124

1 A. Yes, sir.

2 Q. And where was Mr. Mattress when you pulled this up on
3 the database?

4 A. He was nearby. I'm not sure exactly where he was, but
5 he was close by where I -- I believe I had my computer out
6 of the car.

7 Q. Okay.

8 A. Probably on my hood, I think.

9 Q. And was he standing there when you pulled it up?

10 A. No, he wasn't there when I got it -- I was in my car
11 when I pulled it up to get -- and then I zoomed in on it.

12 Q. Okay.

13 A. But there was no writing around it and just showed it
14 to him.

15 Q. Why did you not want any writing around it?

16 A. Because I wanted him to positively identify the
17 suspect. He already knew his name. So we were just
18 confirming it.

19 Q. Well, have you ever seen a process where police will
20 use a photo line-up?

21 A. Yes, sir.

22 Q. Usually of six or eight different individuals?

23 A. Yes, sir.

24 Q. And you ask the suspect [sic] which one and see if they
25 can identify the person that you believe is the suspect?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

125

1 Did you do that in this case?

2 A. No, sir, 'cause he already knew the suspect by name.

3 Q. Okay. Well, if he already knew him, then showing him a
4 DMV photo didn't break any new ground, did it?

5 A. No, he had already identified him. We just wanted to
6 confirm the -- make sure we had the right person.

7 Q. Okay. And the solicitor asked you to read from your
8 incident report.

9 A. Yes, sir.

10 Q. Which is a two-page incident report. Did you actually
11 prepare that incident report?

12 A. Yes.

13 Q. And I noticed that the last paragraph says that you
14 reported to a local judge and warrants were issued for Mr.
15 Walker's arrest.

16 A. Yes, sir.

17 Q. Okay. Did you do that?

18 A. Yes, sir.

19 Q. Okay. When did you do that?

20 A. I believe it was probably a couple of hours after we
21 left the scene from out there after we took, you know,
22 waited for forensics and everything. And then we probably
23 went from -- immediately from there to the judge's office.

24 Q. Okay. So basically then within a couple of hours the
25 complete investigation on this case was finished?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

126

1 A. I would say close to it.

2 Q. Okay. From your conversation and investigation where
3 approximately -- I tell you what, this might make it easier.

4 A. You want me to come back down there?

5 Q. Bear with me, officer, I'm new to this technology.

6 (Whereupon the witness left the witness stand)

7 Q. Okay. Looking at what's been marked as Defendant's
8 exhibit number 1 -- I'm sorry, State's exhibit number 1,
9 where did Mr. Mattress indicate to you he was standing at
10 the time of the shooting? Do you need the pointer again?

11 A. Yeah. I believe it was somewhere right in this area
12 right here.

13 Q. Okay. And ---

14 A. Between that area there. I'm not sure exactly where.

15 Q. Well, did he indicate where the shooter was standing?

16 A. If I remember right, I believe he pulled up somewhere
17 right in here. And he didn't -- I don't know exactly where
18 he was standing, near the cars.

19 Q. Well, to try to judge the trajectory of the shells and
20 see if they struck an apartment or something like that it'd
21 be important to know where each participant was standing,
22 right?

23 A. Yes, sir. And I know other officers in the area -- we
24 looked around to see if any other rounds had hit any other
25 -- any other ---

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

127

1 Q. Did anybody ever make a diagram of the scene to say to
2 Mr. Mattress, now, tell us where you were standing, tell us
3 where the shooter was, anything of that nature?

4 A. No, sir.

5 Q. Were there ever any places discovered that it appeared
6 a bullet had struck? Well, first let me ask you this
7 question. That was a wide open question. Did you ever find
8 any bullet holes in any of the apartments?

9 A. Not that I know of because we were kind of -- me and --
10 the officer that I was training, we were just dealing with
11 Mr. Mattress on that side -- on that side of it.

12 Q. When you pulled up is that where you initially parked
13 your car and got out?

14 A. Yes, sir.

15 Q. Where did Mr. Mattress approach you from?

16 A. I believe he was coming in between one of those, I
17 believe, somewhere in there. He was coming in between those
18 cars over there.

19 Q. Okay. So he was somewhere in the neighborhood ---

20 A. Yeah, he told us he ran -- ran back that way.

21 Q. Okay. Did he tell you where he had run to after he ran
22 that direction?

23 A. I believe he just said he ran that way just to get
24 away.

25 Q. Okay. Did he ever indicate whether or not he tried to

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

128

1 go back into the apartment that he was staying in, apartment

2

3 A. Not that I can remember.

4 Q. Now, you also said you called forensics out.

5 A. Yes, sir.

6 Q. You can go ahead and have a seat.

7 (Whereupon the witness returned to the witness stand)

8 Q. Now, the forensics department with the Greenville City

9 Police Department, what kind of capabilities do they have?

10 For instance, do they have the capability to check for

11 fingerprints?

12 A. I believe so.

13 Q. Do they have the capability to check for gunshot

14 residue?

15 A. I think so, yes, sir.

16 Q. And are you familiar with what a gunshot residue test

17 is?

18 A. I mean, I've seen it used, but I don't know the details

19 of it. You'd have to ask a forensics specialist.

20 Q. Well, to your knowledge and based on your training --

21 how long have you been with the police department?

22 A. Five years.

23 Q. Based on your training and knowledge are you aware that

24 gunshot residue tests are used to determine whether or not

25 someone may have fired a gun ---

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

129

1 A. Yeah.

2 Q. --- recently? And it's a test where they swab the
3 hands to see if there is what we call gunshot residue.

4 A. Yeah.

5 Q. Basically the leftovers from the primer and the
6 propellant, right?

7 A. Right.

8 Q. Okay. And that is something commonly used, as I said,
9 to see if someone may have fired a gun because if someone
10 fires a gun and then that propellant is expelled from the
11 gun and onto the hands and the clothing, correct?

12 A. Yes, sir.

13 Q. Now when the police first arrived y'all thought that
14 Mr. Mattress had done the shooting, right?

15 A. No, he had -- right when he approached us he had -- he
16 kind of identified himself as the victim.

17 Q. Okay. So no one ever thought he had done the shooting?

18 A. Not that I know of, no.

19 Q. Well, did you ever ask for a gunshot residue test on
20 Mr. Mattress or Mr. Golden to determine whether or not
21 either one of them had fired a gun?

22 A. No, sir.

23 Q. And why not?

24 A. The shots fired call came out, and it just was pretty
25 cut and dry that the suspect had came and shot and then left

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

130

1 the area in the Honda.

2 Q. Now you say that was cut and dry. What made it cut and
3 dry in your mind?

4 A. Just the way the call came out.

5 Q. Okay. So if I walked out the back of the courthouse,
6 fired a gun and called the police and said someone just shot
7 at me, it's pretty cut and dry that someone shot at me,
8 right?

9 A. No, I mean, not necessarily. I'm just saying that when
10 he approached me he told me what had happened. He came --
11 he came to us saying -- giving us a quick statement ---

12 Q. Okay.

13 A. --- and saying what went on.

14 Q. So based on your acceptance of the veracity of his
15 statement you did no further tests to ---

16 A. No, I didn't.

17 Q. --- check up on him?

18 A. No, I didn't. No.

19 Q. Do you know if any other officers did?

20 A. Not that I know of.

21 Q. Who is the chief investigating officer on this case?
22 Who was in charge of investigating this case?

23 A. I would have been at the first because I was the first
24 one there.

25 Q. So ultimately the decision on whether or not to do a

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

131

1 gunshot residue test was yours?

2 A. Yes, sir.

3 Q. Okay. Now, the shell cases that you found on the
4 scene, were they checked for fingerprints?

5 A. I believe so. But I believe Officer Ooten would have
6 done that.

7 Q. Okay. Were any fingerprints identified on them?

8 A. I don't know. I don't know what her ---

9 Q. Okay.

10 A. --- her investigation revealed.

11 Q. Did the victim indicate to you that it -- the gun was a
12 semi-automatic?

13 A. I believe he told us it was a Glock handgun.

14 Q. Okay. That it was actually -- he knew the brand.

15 A. Yeah, that's what he -- he told us.

16 Q. Okay. Did he say what color it might have been?

17 A. Not that -- I don't remember he said a color.

18 Q. Did you take the statement from Mr. Golden or did
19 someone else?

20 A. I believe I did.

21 Q. Now, when someone loads a semi-automatic they have to
22 actually put the shells into a magazine, correct?

23 A. Yes.

24 Q. And, as a matter of fact, I think your service weapon
25 is a Glock, is it not?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

132

1 A. It's a Sig.

2 Q. It's a Sig?

3 A. Yes.

4 Q. Okay. Did y'all change from Glocks recently or did you
5 have Sigs the whole time?

6 A. I think we -- we've had them ever since I've been here.

7 Q. Okay. And to load that magazine you actually have to
8 press the shells in one at a time, right?

9 A. Yes, sir.

10 Q. So you're going to leave a fingerprint on it unless
11 you're wearing gloves or something of that nature, right?

12 A. I -- I don't know the scientific part of it, but I
13 would think you would, yes.

14 Q. And when someone is charged with attempted murder don't
15 you think it would be important to get every single piece of
16 available evidence to bring to the jury?

17 A. Not when we had a positive ID and someone's name. I
18 didn't -- I thought once we had a positive ID from Mr.
19 Mattress, he knew the suspect by name and pointed him out,
20 at that point that was the -- that's what I needed ---

21 Q. Okay.

22 A. --- from him.

23 Q. So in your mind all you need was Mr. Mattress'
24 statement?

25 A. I wouldn't say that's all I need, but I knew I had the

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

133

1 casings and other evidence, too.

2 Q. When you were deciding that it was cut and dry based on
3 what Mr. Mattress told you were you aware he had ten
4 burglary convictions?

5 A. No, sir.

6 **MR. MOYER:** Objection, ---

7 Q. Five ---

8 **MR. MOYER:** --- Your Honor.

9 Q. --- grand larcenies?

10 **MR. MOYER:** There's no relevancy for this.

11 **THE COURT:** I sustain the objection.

12 Q. You will agree with me, however, that there was no
13 forensic investigation done whatsoever on the scene, was
14 there?

15 A. Officer Ooten came out and did her investigation with
16 the shell casings, and pictures and photographs.

17 Q. Okay. What's his name? Full name? I'm sorry.

18 A. Oh, Officer Ooten? I'm not sure of her first name.

19 It's a woman.

20 Q. It's a woman?

21 A. Yes, sir.

22 Q. Okay. Now, the car that they -- the victim said Mr.
23 Walker drove up in, can you show me the pictures you took of
24 that car?

25 A. That he drove up in? Mr. Walker?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

134

1 Q. Yes.

2 A. Oh, no. It was -- it wasn't there anymore. It had
3 left the scene.

4 Q. Well, I'm assuming that someone must have told you he
5 was driving a car that belonged to his girlfriend, right?

6 A. Um ---

7 Q. We've heard testimony to that effect.

8 A. I believe so. I just know he said it was a gray Honda
9 Accord pulled up in front of the apartment. That's what he
10 told us.

11 Q. Okay. Did you ever go to Ms. Dennis and ask to see the
12 car?

13 A. No, sir.

14 Q. Did you ever ask to interview Ms. Dennis?

15 A. No, sir.

16 Q. Check the Honda Accord for gunshot residue or anything
17 of this nature?

18 A. No, sir.

19 Q. Even find out what year, make or model Honda she had?

20 A. No, sir.

21 Q. If hypothetically you had gotten two different
22 descriptions of this car would you have then went to check
23 and done the things I just asked you about?

24 A. Not necessarily. When he told us it was Joseph Walker
25 that did this, my investigation just went to who is Joseph

JONATHAN RACKLEY - REDIRECT EXAMINATION BY MR. MOYER

135

1 Walker kind of and went to just that -- just to try to
2 positively ID -- identify him.

3 Q. So basically then it'd be fair to sum it up to say you
4 were told there were gunshots, Tyler Mattress said Joseph
5 Walker did it and from there on you're just looking for
6 Joseph Walker?

7 A. Well, yeah, at that point I was -- yes, ---

8 Q. Okay.

9 A. --- because he was telling me who actually shot at him
10 and everything.

11 Q. Well, was there someone else doing some other
12 investigation that we don't know about?

13 A. Not that I know of.

14 Q. Okay. Thank you.

15 **MR. SHEEK:** I have no further questions.

16 **MR. MOYER:** Just a couple of follow-up questions.

17 **Redirect Examination by Mr. Moyer:**

18 Q. Now, you're not a forensics officer, right?

19 A. No, sir.

20 Q. Okay. You've not been trained in forensics?

21 A. No, sir.

22 Q. And that's not something that y'all do on the scene?

23 A. No, sir. We call the forensic specialist out.

24 Q. Someone -- a forensic specialist, someone who's been
25 trained, and they come out and handle all of that ---

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

136

1 A. Right.

2 Q. --- for you, is that right?

3 A. Yes, sir.

4 Q. Okay. Thank you.

5 MR. MOYER: Nothing else.

6 THE COURT: Thank you. Step down.

7 MR. MOYER: Iona Ooten.

8 MADAME CLERK: Will you come forward and place your
9 left hand on the Bible and raise your right.

10 Iona Ooten, being duly
11 sworn testified as follows:

12 MADAME CLERK: Please have a seat. And then state your
13 full name for the record.

14 MS. OOTEN: My name is Iona, I-o-n-a, Ooten, O-o-t-e-n.

15 **Direct Examination by Mr. Moyer:**

16 Q. Okay. And where do you -- where are you employed?

17 A. I'm employed with Greenville County Department of
18 Public Safety's forensic division.

19 Q. Okay. And what is that? What is that department and
20 what do you do as part of that department?

21 A. I'm part of the crime scene unit where primarily we
22 respond out to a crime scene after it's occurred. Our
23 purpose is to go out and to examine the area, collect any
24 evidence that may pertain to that case.

25 Q. Okay. You process scenes as well?

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

137

1 A. Yes.

2 Q. And what does that mean?

3 A. Typically we'll go out and either photograph it, we'll
4 process it for any form of latent prints, we'll look for
5 evidence, any type of footwear impressions, casings,
6 whatever the situation might call for, whatever the scene
7 is. We can process things there such as homes, residences
8 of that set case. If there's items that we have to collect
9 we will bag them, take them back to our office and process
10 them in our lab.

11 Q. Okay. How long have you worked for the forensics
12 division?

13 A. I've been there six years.

14 Q. And this is under what department? You said Department
15 of Public Safety?

16 A. The Department of Public Safety, forensic division,
17 yes.

18 Q. And so what agencies do you support?

19 A. We work with all the law enforcement agencies in
20 Greenville County, be the Sheriff's Office, Greenville City,
21 Simpsonville, all of the law enforcement departments. We
22 also work with the federal departments such as FBI, ATF,
23 DEA, any of them that call us out to assist them.

24 Q. Okay. So you're not employed by Greenville Police
25 Department or Greenville County Sheriff's ---

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

138

1 A. No, I'm not.

2 Q. It's a separate agency?

3 A. Correct.

4 Q. Okay. And -- all right. Well, let me take you back to
5 July the 20th of 2011.

6 A. Okay.

7 Q. Were you called -- called out to a scene on that
8 particular day?

9 A. I was.

10 Q. And what was the location?

11 A. May I look at my report to ---

12 Q. Yes.

13 A. It was 15 Villa Road in Greenville.

14 Q. Okay. And what time did you get the call?

15 A. I got the call at 19:40 hours, which is roughly 7:40
16 pm.

17 Q. Okay. And when did you arrive?

18 A. I arrived on-scene at 19:47.

19 Q. So it was still light out?

20 A. It was.

21 Q. Did you take photographs?

22 A. I did.

23 Q. So the photographs that have been introduced -- and you
24 haven't had a chance to see them, but these photographs that
25 we have seen that are being used in this case, these are

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

139

1 photographs that you took?

2 A. They are.

3 Q. Okay. And I'm going to hand you State's exhibits
4 numbers 3 and 4, which have not been entered into evidence
5 yet, but let me ask you if you could take a look at those
6 and see if you recognize what is displayed in those
7 photographs?

8 A. Yes. This is the parking lot of the apartment complex.
9 And I have them placard -- of what is placard are the
10 casings that were -- came from the firearm.

11 Q. Okay. And are they true and accurate representations
12 of what you just described as you saw it on July 20th ---

13 A. They are.

14 Q. --- of 2011?

15 A. They are.

16 **MR. MOYER:** Your Honor, I move to have State's exhibits
17 3 and 4 entered into evidence.

18 **THE COURT:** Any objection?

19 **MR. SHEEK:** No objection, Your Honor.

20 (Whereupon State's exhibits 3 and 4 were admitted into
21 evidence)

22 Q. Okay. So you mentioned that you saw some shell
23 casings. These were pointed out to you by the officers?

24 A. The officer that was on-scene, yes.

25 Q. Okay. And what did you do with regard to those

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

140

1 casings?

2 A. After I photographed them I then collected them in
3 separate envelopes each, labeling them with my initials. I
4 then took them back to our office where I placed them in a
5 -- do you want me to go ahead and describe how we process
6 them ---

7 Q. No, we'll ---

8 A. Okay.

9 Q. --- get to that in a minute. But you ended up taking
10 them back to your office?

11 A. I did. I collected them, sealed them on-scene and then
12 took them back to the office and put them in a secured
13 locker there.

14 Q. Okay. Now, let me ask you, if you would, just to step
15 down. We're going to show these photographs on this behind
16 you.

17 (Whereupon the witness left the witness stand)

18 Q. And if I could ask you to maybe step over here and use
19 this laser pointer.

20 A. All right.

21 Q. Let's start off with State's exhibit number -- the one
22 that's up there, State's exhibit number 1. Can you point
23 out to the jury where the shell casings were as you found
24 them?

25 A. Right here in front of -- in front of this empty

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER.

141

1 parking space. I was told that the casings were located
2 around this vicinity. I went over and searched it. Here
3 would be the first one that I found. This is number two.
4 This is number three.

5 Q. Okay. And then you took close-up photographs of those
6 as well? Let's start with State's exhibit number 3.

7 A. I did.

8 Q. And, once again, that's the three shell casings that
9 you saw?

10 A. Right there is one, two, three.

11 Q. And, finally, State's exhibit number 4. Is this just
12 another closer shot of those?

13 A. You know, we take photographs in an overview range, in
14 a mid-range and then close up. And this is just basically
15 zoning in on the area of where the shell casings were
16 located.

17 Q. Okay.

18 A. Located in the parking lot according to the building.

19 Q. Okay. When you zoom in can you actually see the shell
20 casing there?

21 A. Yeah, you can see it right in that area, you know.

22 Q. If I can find it.

23 A. Yeah.

24 Q. Okay.

25 A. And then there's the other casing.

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

142

1 Q. Okay. And then the final one, number three?

2 A. Three is right there.

3 Q. Okay. You can have a seat again, please.

4 (Whereupon the witness returned to the witness stand)

5 Q. Now, you say you collected those photographs, I mean,
6 those shell casings?

7 A. Yes.

8 Q. Can you tell us what caliber and any other identifying
9 features about those shell casings?

10 A. They all three were 9mm Rugers. They all had the same
11 headstamp, FC 9mm Ruger.

12 Q. Okay. I'm going to hand you State's exhibit number 6
13 ---

14 A. Okay.

15 Q. --- and ask you, if you would, take a look at that
16 envelope and the contents and see if you can identify what
17 that is.

18 A. These are the three casings I collected from the scene.

19 Q. And how are you able to recognize those?

20 A. They're sealed on the back with my initials, and I made
21 the bar code for the label.

22 Q. Okay. You did that all by yourself?

23 A. I did.

24 Q. And then you ended up putting them into the property
25 and evidence room?

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

143

1 A. Correct.

2 Q. What is the property and evidence room?

3 A. Property and evidence is where all the evidence is
4 stored after the -- after it's been collected from the scene
5 or processed. It's also where deputies, if they respond to
6 a scene, they can collect the evidence themselves and place
7 it in there. And then we also can respond to property and
8 evidence, which we call P&E to pull out and examine in our
9 office. So it's just where all the evidence is eventually
10 stored.

11 Q. Okay. And it's a secure location, ---

12 A. Yes.

13 Q. No person can just walk up and ---

14 A. No.

15 Q. Okay.

16 **MR. MOYER:** Your Honor, at this time I move to have
17 State's exhibit 6 added into evidence.

18 **THE COURT:** Any objection?

19 **MR. SHEEK:** No objection, Your Honor.

20 (Whereupon State's exhibit 6 was admitted into
21 evidence)

22 Q. Okay. Let me ask you, if you would, -- okay. Are you
23 able to open those envelopes?

24 A. Yes.

25 Q. Okay. If you would.

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

144

1 A. Open all three?

2 Q. Yes, please. Are the shell casings in each of those?

3 A. Yes, they are.

4 Q. In fact, would you just take one out. And can you hold
5 it up for the jury to see.

6 (Whereupon the exhibit was shown to the jury)

7 Q. Okay. Thank you. I'd ask you to put it back in the

8 ---

9 A. Okay.

10 Q. --- envelope. Okay. Now, -- now you've said that you
11 brought them back to your office for further processing.

12 Tell us about that, what you did with them.

13 A. Typically when we're processing evidence in our lab we
14 have a fuming chamber where we use cyanoacrylate. And that
15 is just a nice fancy word for glue. The item is placed in
16 the fuming chamber and the machine's turned on and the glue
17 adheres to, if there was any form of a latent print on, and
18 that being a fingerprint, on the casing to show anyone who
19 had touched it. But, unfortunately, there were no prints to
20 come back on the casings.

21 Q. Okay. So you weren't able to lift any fingerprints on
22 those ---

23 A. No.

24 Q. --- casings? Is that common or uncommon for shell
25 casings?

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

145

1 A. It's very common for a shell casing because when a
2 bullet is fired through a gun, the chemical process and how
3 it twirls through the barrel pretty much burns anything off
4 of that casing. Sometimes the casings will have a print on
5 it if someone has touched it afterwards. Or if there is a
6 small amount of ridge detail on it we try and get whatever
7 we can, but it's very common for it to not be there.

8 Q. So it's very uncommon to find a fingerprint on those
9 ---

10 A. Correct.

11 Q. --- shell casings, is that correct? But you try?

12 A. Yes.

13 Q. Okay. All right. Let me ask you, if you would, put
14 those back in the -- Okay. Thank you. Now, so you took the
15 photographs out there at the scene, you collected these
16 shell casings. Was there anything else for you to do out
17 there at the scene on July 20th, 2011?

18 A. No. Through my -- my process of searching the area I
19 did try to locate any form of projectiles or gunshot holes
20 to the building or any other surrounding surfaces, but there
21 was nothing else I could locate.

22 Q. Okay. And you didn't have any -- were you given any
23 information about anything to process for fingerprints or
24 any other kind of evidence?

25 A. No. The information I was given was strictly that the

IONA OOTEN - CROSS EXAMINATION BY MR. SHEEK

146

1 incident occurred in the parking lot and that there was no
2 other surfaces touched or anybody was around anything that
3 would require a latent processing.

4 Q. Okay. Please answer any questions the Defense has.

5 A. Okay.

6 **Cross Examination by Mr. Sheek:**

7 Q. Now, ma'am, in your forensics lab what capabilities do
8 you have other than latent fingerprint testing?

9 A. We also do swabbing for DNA. We do any type of -- we
10 try to list any form of trace evidence, if there's any form
11 of hair or anything of that nature.

12 Q. What about GSR?

13 A. That is something that we do on someone who has fired a
14 weapon.

15 Q. Okay. So if you were trying to determine if someone
16 fired a weapon what would you do?

17 A. If we were -- if we were trying to determine that, we
18 would use a GSR kit, which is a gunshot residue kit. And
19 that would be applied to the suspected shooters hands or
20 whoever would be in question to obtain any type of GSR from
21 their hands so that it could be sent off to another agency.

22 Q. Okay.

23 A. We do not do the actual GSR results in our lab.

24 Q. But you -- you do the collection of the ---

25 A. Correct.

IONA OOTEN - CROSS EXAMINATION BY MR. SHEEK

147

1 Q. Okay. And did you have those kind of kits available to
2 you on that day?

3 A. I did.

4 Q. Did anybody ever ask you to GSR test anyone?

5 A. No.

6 Q. And you weren't doing any investigation, you were only
7 doing what you were directed to do?

8 A. Correct. Well, I do not work for them. I have to go
9 out and I work my -- I get debriefing, as you will, from
10 them, advised what the scene was, but I was not made aware
11 of the victim or anyone else in the area who could have been
12 involved with a firearm.

13 Q. Okay. If you had of been made aware of it would you
14 have tested them for GSR?

15 A. Yes.

16 Q. Okay. Is that something that should be done in these
17 type of cases?

18 A. That is something that's typically requested by the
19 investigator. Usually we don't just do them on our own. We
20 have them on us, on our kits, but that's typically something
21 passed down by an investigator.

22 Q. When -- is part of your job investigations?

23 A. Yes.

24 Q. You've done that? Would you say it's good
25 investigation techniques to keep your mind open to

IONA OOTEN - CROSS EXAMINATION BY MR. SHEEK

148

1 possibilities when investigating an allegation?

2 A. Well, it's good to be thorough, yes.

3 Q. So if a gun has been fired and you were trying to
4 determine who fired it, you would GSR all of them?

5 A. Typically, yes.

6 Q. Okay. Now, in the projectiles that the solicitor asked
7 you about, the three that were gathered, you said that it's
8 typical not to find fingerprints, one, because the
9 projectile goes down the barrel, twisting as it's fired.

10 A. Well, just for correction, it's a casing.

11 Q. Well, that's right. Those don't go down the barrel, do
12 they?

13 A. Yes.

14 Q. They do?

15 A. Well, I'm sorry. The projectile goes down the barrel.
16 The casing shoots out the side of the gun.

17 Q. So the casing is actually ejected out ---

18 A. Correct.

19 Q. --- of the ejection port? It doesn't go twisting down
20 the barrel at all, does it?

21 A. No. I was just describing the heat impact in the gun
22 when it is being shot through the barrel of the gun. And
23 the heat and the force that's involved in it typically burns
24 any type of latent print off of a casing.

25 Q. Okay. So you don't typically find fingerprints, then,

IONA OOTEN - CROSS EXAMINATION BY MR. SHEEK

149

1 on shell casings?

2 A. It's not common.

3 Q. Okay. What is touch DNA?

4 A. Touch DNA is a procedure where the casing can be sent
5 to the DNA lab for it to be swabbed to see if any kind of
6 pressure would have been put on the case, the cartridge or
7 bullet when it was being loaded into the magazine to see if
8 any DNA would be left there.

9 Q. And the reason we call it touch DNA is because we are
10 all constantly giving off dead skin cells, aren't we?

11 A. Correct.

12 Q. And a single skin cell contains our complete DNA code,
13 doesn't it?

14 A. You might need a DNA expert on that. I'm not as up to
15 being able to answer that, I'm afraid.

16 Q. Well, were any of these shell casings checked for touch
17 DNA?

18 A. No. They can only be checked for one or the other. If
19 you process them for latents, you're pretty much going to
20 ruin any other type of evidence on it such as the DNA. If
21 you check it for DNA, you could possibly damage a latent.
22 It's really a 50/50 situation.

23 Q. Well, if you believe that it is very uncommon to find
24 fingerprints, why not go ahead and check for the touch DNA?

25 A. That, once again, is something that's requested by the

IONA OOTEN - REDIRECT EXAMINATION BY MR. MOYER

150

1 investigator. But, as I was saying, it's also an iffy
2 situation just the same as a latent.

3 Q. Were you ever asked to check or examine any vehicles?

4 A. No. I examine vehicles on my own looking for any type
5 of a gunshot hole to them, but I didn't locate any at the
6 time.

7 Q. And no gunshot holes in any of these apartment
8 buildings?

9 A. Not that I could see.

10 Q. Or any fresh strike marks on the pavement where it
11 appears a gun -- a bullet had hit and bounced off the
12 pavement?

13 A. Not that I could locate.

14 Q. Okay. So indications from the forensics were these
15 bullets were all fired in the direction they didn't strike
16 anything?

17 A. Correct.

18 **MR. SHEEK:** I've got no further questions, Your Honor.

19 **MR. MOYER:** Just a couple of follow-up, Your Honor.

20 **THE COURT:** All right.

21 **Redirect Examination by Mr. Moyer:**

22 Q. So as far as the gunshot residue test goes, were you
23 given any indication that anybody -- that there was any
24 evidence that anybody else out there had had a weapon?

25 A. No.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

151

1 Q. Okay.

2 A. There was no indication made at all.

3 Q. So that's the reason there wasn't any gunshot ---

4 A. Correct.

5 Q. --- residue test? Okay. And as far as what you said

6 about the touch DNA, testing for DNA or testing for

7 fingerprints, you said you could only do one or the other?

8 A. Correct.

9 Q. And is it uncommon to find DNA off shell casings also?

10 A. It's -- it's almost as catchy as it is with latent

11 prints. It's -- I haven't really heard the results coming

12 back as more positive ---

13 Q. Okay.

14 A. --- than latents.

15 Q. So you pretty much have to do one or the other?

16 A. Correct.

17 Q. In this case y'all -- the decision was made to do

18 fingerprints?

19 A. Correct.

20 Q. Okay. Okay. Thank you.

21 **THE COURT:** Thank you. Step down.

22 **MR. MOYER:** The State calls Turonnie Lewis.

23 **MADAME CLERK:** Mr. Lewis, would you come forward, put

24 your left hand on the Bible and raise your right.

25 **Turonnie Lewis, being**

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

152

1 duly sworn testified as follows:

2 **MADAME CLERK:** Please come and take a seat and then
3 state your full name for the record.

4 **Direct Examination by Mr. Moyer:**

5 Q. Okay. Mr. Lewis, I'm going to be asking you questions
6 from over here. Would you please state your full name.

7 A. Turonnie Javon Lewis.

8 Q. Okay. Yeah, make sure you speak into that microphone
9 so we can all -- all hear you pretty well. How old are you,
10 Mr. Lewis?

11 A. Thirty-three.

12 Q. And you -- where did you live back in July of 2011?

13 A. I stayed like apartment next to -- I stayed in .

14 Q. ---

15 A. Um-hum (affirmative).

16 Q. --- in what apartment complex?

17 A. Mallard Cove Apartments.

18 Q. Mallard Cove Apartments. Now you don't live there now,
19 right?

20 A. No.

21 Q. You moved a little while ago?

22 A. Um-hum (affirmative).

23 Q. You lived there then. And did you live near Amanda
24 Ray?

25 A. Yeah. She stayed like right next door to me.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

153

- 1 Q. Okay. So you lived next door to her?
- 2 A. Um-hum (affirmative).
- 3 Q. How long did you live there?
- 4 A. Approximately two years, ---
- 5 Q. Okay.
- 6 A. --- I want to say.
- 7 Q. So you'd been there for a little while in July of 2011?
- 8 A. Um-hum (affirmative).
- 9 Q. How long had you been living there in July of 2011?
- 10 A. Oh, how long, I'm sorry.
- 11 (Pause)
- 12 Q. And just roughly. I'm not asking for specific dates.
- 13 Six months? A year?
- 14 A. About a year.
- 15 Q. About a year ---
- 16 A. Yeah.
- 17 Q. --- at that time? Okay. Now, did you -- do you
- 18 remember when the shooting incident happened in July of
- 19 2011?
- 20 A. Correct.
- 21 Q. Okay. On July 20th of 2011, you remember that
- 22 incident. Did you see it?
- 23 A. No, I didn't see it.
- 24 Q. Where were you when it happened?
- 25 A. I was actually in the house in the shower.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

154

1 Q. Okay. Did you even hear the gunshots?

2 A. No, I didn't.

3 Q. How did you find out something had happened?

4 A. Well, I had came outside. I was getting ready to leave
5 actually. And my brother told me, you may need to check
6 your car because some guy was out here shooting and it might
7 have put a bullet hole in your car because they put a bullet
8 hole in somebody else's car.

9 Q. Okay. Well, did you -- did you look around?

10 A. I did at the time. I browsed right through it,
11 rushing, because I was leaving.

12 Q. So you were kind of in a rush at that time?

13 A. Yeah.

14 Q. All right. Did you see anything at that time?

15 A. Not at that time.

16 Q. Now were the police still there when you looked?

17 A. They was.

18 Q. Okay. And then you -- you left in your car. What kind
19 of car did you have?

20 A. Mitsubishi Gallant.

21 Q. Do you still have that car?

22 A. I don't.

23 Q. Okay. Now, after the shooting, the day after this
24 shooting did you notice anything different with your car?

25 A. Yeah, I did. I had got off work and then as I was

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

155

1 walking towards my car I seen a little hole in my car and I
2 noticed it. So I went and I looked at it. And I got on my
3 knees and I looked like where the little bumper, the front
4 of the bumper and I seen like a little bullet hole had
5 grazed right through it and hit right there where my
6 condenser at.

7 Q. Where your what was at?

8 A. Condenser.

9 Q. Condenser?

10 A. Um-hum (affirmative).

11 Q. That's something for your?

12 A. Air conditioner.

13 Q. Air conditioner?

14 A. Um-hum (affirmative).

15 Q. Was there any damage to your air conditioner?

16 A. There was. It had a little hole right there where it
17 was leaking at.

18 Q. Okay. So you saw a hole in your car?

19 A. Um-hum (affirmative).

20 Q. Where in your car was the hole?

21 A. It was like ---

22 Q. Well, we'll show -- we'll look at a picture in just a
23 minute, but can you give us a general location ---

24 A. Okay, like the tire is right here.

25 Q. Um-hum (affirmative).

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

156

1 A. And the front bumper, it was like right here like in
2 the center piece.

3 Q. Right next to the tire, right ---

4 A. Yeah, right -- like right before the tire.

5 Q. The left front, left rear, right front, right rear?

6 A. Right front.

7 Q. Right front?

8 A. Um-hum (affirmative).

9 Q. Okay. And then you said behind the hole you could see
10 ---

11 A. Yeah, you could see like where it had hit and hit the
12 air conditioning condenser.

13 Q. Okay.

14 A. Right there at the bottom.

15 Q. Now, what did you do when you saw -- when you noticed
16 that?

17 A. Well, when I noticed it I had came home and I seen one
18 of my neighbors and they told me ---

19 **MR. SHEEK:** Objection to what someone else said, ---

20 **THE COURT:** Yeah, don't ---

21 **MR. SHEEK:** --- Your Honor.

22 **THE COURT:** --- tell us what they said.

23 A. Oh, I'm sorry.

24 Q. Yeah, don't tell us what somebody else said. But ---

25 A. I called the police.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

157

1 Q. You called the police?

2 A. Yeah. And they came out and ...

3 Q. They just came out and took a report?

4 A. Um-hum (affirmative).

5 Q. Okay. Now, I know you just got comfortable there in
6 that seat, but let me ask you, if you would, to come around.
7 We're going to show some photographs here behind you, okay?

8 (Whereupon the witness left the witness stand)

9 Q. If you could stand right over here. And we've got a
10 laser pointer with a button there. I'm going to ask you to
11 hold that. Just step over here. Okay. Let's start off
12 with -- I'm going to start off showing you State's exhibit
13 number 5. Can you use that laser pointer and point out your
14 vehicle?

15 A. Right there.

16 Q. And where did you live? Do you remember?

17 A. Right -- I actually stayed right here.

18 Q. Right here.

19 A. Where this guy -- this lady's right here.

20 Q. Okay. And so that's the way your car was parked there
21 that day when this incident happened?

22 A. Yes, sir.

23 Q. Okay. Let's look now at State's exhibit number 2.

24 This is another -- is that -- let's pull this screen down.

25 All right. Once again, would you just point out your car

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

158

- 1 again.
- 2 A. Right there.
- 3 Q. Okay. We're going to look at one more that shows a
- 4 little bit of a closer view of it, State's exhibit number 3.
- 5 A. Um-hum (affirmative).
- 6 Q. Now, using that laser pointer can you kind of point out
- 7 where it is you noticed this hole in the car.
- 8 A. Actually about right about here.
- 9 Q. Right about there?
- 10 A. Um-hum (affirmative).
- 11 Q. And this was the next day when you saw it, ---
- 12 A. Right.
- 13 Q. --- it wasn't the day of the incident. And how big or
- 14 small was that hole?
- 15 A. It was a pretty small hole. It's not very noticeable.
- 16 Q. Okay.
- 17 A. Unless you just walk up to it and you can see it.
- 18 Q. Okay. And you -- that hole wasn't there before July
- 19 20th of 2011?
- 20 A. No.
- 21 Q. Okay. Have a seat please. Thank you.
- 22 (Whereupon the witness returned to the witness stand)
- 23 Q. So you've been living there for somewhere maybe up to a
- 24 year before this happened?
- 25 A. Right.

TURONNIE LEWIS - CROSS EXAMINATION BY MR. SHEEK

159

1 Q. Had you ever seen this Defendant, Joseph Walker?

2 A. I've seen him a couple of times.

3 Q. And where would you see him?

4 A. Actually next door.

5 Q. Next door at Amanda Ray's house?

6 A. Yes, sir.

7 Q. And did you see what he was doing over there?

8 A. No, I didn't -- I didn't pay attention because I don't
9 stay outside.

10 Q. Okay. You would just see him come over there?

11 A. (Affirmative nod).

12 Q. Okay. More than one time?

13 A. Yeah, just twice. I know he got kids over there. So
14 -- 'cause when my kids come over they all play out together.

15 Q. Okay. Okay. Please answer any questions Defense might
16 have.

17 **THE COURT:** Mr. Sheek.

18 **Cross Examination by Mr. Sheek:**

19 Q. Sir, the pictures the solicitor showed you, is that
20 where your car was parked on that day?

21 A. Yes, sir.

22 Q. You had to have moved it prior to the police coming and
23 taking pictures that ---

24 A. I couldn't move because they had me blocked in.

25 Q. Okay. And so it didn't move until after the police

JARED MANN - DIRECT EXAMINATION BY MR. MOYER

160

1 were completely finished?

2 A. Yes, sir.

3 Q. All right. Thank you.

4 **MR. SHEEK:** That's all the questions I have.

5 **THE COURT:** Thank you. You can step down.

6 **MR. MOYER:** The State calls Jared Mann.

7 **MADAME CLERK:** Please step forward and put your left
8 hand on the Bible and raise your right.

9 **Jared Mann,** being duly
10 sworn testified as follows:

11 **MADAME CLERK:** Please come and have a seat and state
12 your full name for the record.

13 **MR. MANN:** My name is Jared Keith Mann.

14 **Direct Examination by Mr. Moyer:**

15 Q. And where are you employed, sir?

16 A. Greenville City Police Department.

17 Q. How long have you been with the City Police Department?

18 A. A little more than three years now.

19 Q. Okay. What is your position?

20 A. Uniform patrol officer.

21 Q. All right. Let me ask you if you responded to a call
22 at Mallard Cove Apartments in July of 2011?

23 A. I did.

24 Q. What was the date that you ---

25 A. I don't recall off the top of my head.

JARED MANN - DIRECT EXAMINATION BY MR. MOYER

161

1 Q. Okay. If you had a chance to look at your report would
2 that refresh your memory?

3 A. Yes, sir, it would. Thank you. The date was July
4 21st.

5 Q. Okay. Of 2011?

6 A. Yes, sir.

7 Q. And where did you respond at Mallard Cove Apartments?

8 A. I responded to apartment at Mallard Cove
9 Apartments. That was where the complaint -- the person who
10 called resided.

11 Q. And who was the person that you met with?

12 A. Mr. Turonnie -- Mr. Lewis Turonnie.

13 Q. Okay. Was it the gentleman that just walked out of the
14 courtroom?

15 A. Yes, sir.

16 Q. Now what was your reason for responding out there?

17 A. Mr. Turonnie had called and stated that during that day
18 he had located what appeared to be a bullet hole in his car.

19 Q. Okay. And did you look at the car?

20 A. I did.

21 Q. And did you see anything?

22 A. I did see a small round hole at the front right or the
23 front passenger's side of the car, just above the tire.

24 Q. Okay. Let me show you State's exhibit number 5. And
25 do you recognize the car in that photograph?

JARED MANN - CROSS EXAMINATION BY MR. SHEEK

162

1 A. I do.

2 Q. Okay. And was it -- you said it was near the front
3 right tire is where you saw the hole?

4 A. Yes.

5 Q. Okay. And did you notice anything -- you saw a hole in
6 the -- in the exterior of the car itself. Did you look any
7 closer and did you see anything else?

8 A. When I looked closer at the car I remember seeing where
9 it looked like something had passed through the exterior of
10 the car and hit just inside the wheel well of the car. I'm
11 not familiar, you know, with the terms of the car, but ---

12 Q. Okay. You just know it's another ---

13 A. An indentation -- it looked like to be an indentation.

14 Q. Okay. And about what time of day was it that you went
15 out there?

16 A. I believe the call came in for me to go out there at
17 approximately -- actually, I'm not even sure. It was during
18 the middle of the day, if I remember correctly.

19 Q. Okay. All right.

20 A. I remember it being daylight out.

21 Q. Okay. If you would, please answer any questions
22 Defense may have.

23 **Cross Examination by Mr. Sheek:**

24 Q. Officer, were you out there on the scene the day before
25 when this alleged shooting occurred?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

163

1 A. No, sir, I was not.

2 Q. Okay. So you had no involvement in this case other
3 than going and identifying a hole in this Mitsubishi?

4 A. Yes, sir, the next day.

5 Q. Okay. Thank you.

6 **MR. SHEEK:** That's all I have.

7 **THE COURT:** Thank you. Step down.

8 **MR. MOYER:** The State would call Beverly Henderson.

9 **MADAME CLERK:** Ms. Henderson, would you come forward
10 and put your left hand on the Bible and raise your right.

11 **Beverly Henderson,** being
12 duly sworn testified as follows:

13 **MADAME CLERK:** You can have a seat. And please state
14 your full name for the record.

15 **MS. HENDERSON:** Beverly Henderson.

16 **Direct Examination by Mr. Moyer:**

17 Q. Okay. Ms. Henderson, I'm going to ask you to make sure
18 you lean forward and speak into that microphone so we can
19 hear you.

20 A. All right.

21 Q. Okay. Now, how old are you, ma'am?

22 A. Fifty-four.

23 Q. Okay. And are you married?

24 A. Separated.

25 Q. You're separated. Okay. You have any children?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

164

- 1 A. One.
- 2 Q. And where do you live?
- 3 A. Villa Road, Apartment , I mean, .
- 4 Q. Okay.
- 5 A. Mallard Cove.
- 6 Q. Mallard Cove Apartments?
- 7 A. Yes.
- 8 Q. And do you know Amanda Ray, the lady who was here
- 9 earlier today?
- 10 A. Yes.
- 11 Q. Okay. And do you live near her?
- 12 A. Yes.
- 13 Q. How close to her do you live?
- 14 A. Up the steps.
- 15 Q. Up the steps?
- 16 A. Yes.
- 17 Q. So she's above you or you ---
- 18 A. She's like -- I'm here -- I'm here. She's like
- 19 upstairs.
- 20 Q. Okay. So there's like two levels of ---
- 21 A. Yeah.
- 22 Q. --- apartments?
- 23 A. It's two levels. It's two levels on both sides.
- 24 Q. And so you're down -- if you walked up, you have to go
- 25 down the steps to your apartment?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

165

- 1 A. Yes.
- 2 Q. And you'd have to go up some steps to her apartment?
- 3 A. Yes.
- 4 Q. Okay. Now, how long did you -- do you remember when
- 5 you moved into Mallard Cove Apartments?
- 6 A. Yes. I've been there two years now.
- 7 Q. Okay. So were you there in July of 2011?
- 8 A. Yes.
- 9 Q. Do you remember about how long you'd been living there
- 10 at that time?
- 11 A. Not quite a year.
- 12 Q. Okay. Now do you know this gentleman, Tyler Mattress?
- 13 A. Yes.
- 14 Q. Would you have seen him over there?
- 15 A. Yes.
- 16 Q. And where would you see him over there?
- 17 A. Getting the kids off the bus.
- 18 Q. Okay. And would you see him with Amanda?
- 19 A. Yes.
- 20 Q. Okay. You'd see him there at her apartment sometimes?
- 21 A. Yes.
- 22 Q. Okay. Now, do you remember a shooting that took place
- 23 on July 20th of 2011?
- 24 A. Yes.
- 25 Q. Where were -- were you home?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

166

- 1 A. Yes.
- 2 Q. Where were you when that took place?
- 3 A. Sitting on the steps. Sitting on the sidewalk, not the
- 4 steps, the sidewalk.
- 5 Q. You were sitting on the sidewalk?
- 6 A. Yes, sir.
- 7 Q. Okay. And do you remember -- did you see this shooting
- 8 take place?
- 9 A. Yes, sir.
- 10 Q. Okay. And what did you see?
- 11 A. I seen Tyler come from the left.
- 12 Q. You talking about this ---
- 13 A. Mr. Tyler come from the left.
- 14 Q. Come from your left?
- 15 A. Yes.
- 16 Q. So you're seated with the apartments behind you?
- 17 A. Yes.
- 18 Q. And Tyler came walking from the left?
- 19 A. Yeah.
- 20 Q. Okay. Then what did you see?
- 21 A. And then I seen that gentleman right there come around
- 22 and approach Tyler.
- 23 Q. This Defendant right here, Joseph ---
- 24 A. Yes.
- 25 Q. --- Walker? Okay. And then what happened?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

167

1 A. And then after Tyler, Mr. Tyler realized that he had a
2 gun, he had a gun, then he ran. And the gentleman over
3 there ran. And then he started shooting. And that's when I
4 covered up the kids.

5 Q. Okay. What do you mean you covered up the kids?

6 A. 'Cause kids was out there.

7 Q. There were some children outside?

8 A. Yes, sir.

9 Q. And so when you say covered them up, what do you mean
10 by covered them up?

11 A. It was either three or four shots.

12 Q. Okay.

13 A. The three shots -- the shots that he had with him, that
14 he -- that he did, he could have shot Mr. Tyler, but I don't
15 know what happened. I think some of them ricocheted.

16 Q. Okay. Well, let me talk about the children first.

17 A. It was about three or four kids out.

18 Q. Okay. And you went -- after the shooting you went over
19 ---

20 A. The kids was sitting right there beside me.

21 Q. Okay.

22 A. Because the kids live right there beside me up the
23 steps.

24 Q. Okay. So you took them somewhere?

25 A. No. I just covered them up.

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

168

- 1 Q. You covered them up?
- 2 A. Yes.
- 3 Q. Okay. And so did you ever see the gun?
- 4 A. No, sir.
- 5 Q. But you ---
- 6 A. I just heard the shots.
- 7 Q. You heard the shots?
- 8 A. Yes, sir.
- 9 Q. Did you see any movement with the man?
- 10 A. Yeah, I seen him -- the gentleman right there, I seen
- 11 him take off running.
- 12 Q. Okay.
- 13 A. And then so did Tyler.
- 14 Q. After or before the shots?
- 15 A. After.
- 16 Q. After the shots?
- 17 A. Yes, sir.
- 18 Q. So could you see who shot who?
- 19 A. Yeah. The gentleman right here was shooting at Mr.
- 20 Tyler.
- 21 Q. Okay. And could you see where he was aiming, where he
- 22 was pointing? Was he pointing at Mr. Tyler?
- 23 A. Yes.
- 24 Q. Okay. And was Mr. Tyler close to him when the shooting
- 25 happened?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

169

- 1 A. Yes, sir.
- 2 Q. How close would you say? And use me because I know
- 3 it's been a while.
- 4 A. Okay. So ---
- 5 Q. But use me ---
- 6 A. --- you want me to get up to show you?
- 7 Q. Well, just say -- use me as an example.
- 8 A. You've got to come up ---
- 9 Q. You said even closer than this?
- 10 A. Yes, sir.
- 11 Q. Okay.
- 12 A. Because he had -- Tyler went around the -- went around
- 13 the curve to approach him, which I -- I can't say -- I don't
- 14 guess I can say that.
- 15 Q. Well, you can say what you saw.
- 16 A. Okay.
- 17 Q. You saw him walking ---
- 18 A. I think -- I thought they was getting ready to fight.
- 19 Q. Um-hum (affirmative).
- 20 A. But once he pulled out the gun, that's when Tyler took
- 21 off.
- 22 Q. Okay. Now did you hear either one of them say
- 23 anything?
- 24 A. Yes, sir.
- 25 Q. What -- who did you hear say what?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

170

- 1 A. The gentleman right there.
- 2 Q. What did you hear him say?
- 3 A. He said I finally caught up with you.
- 4 Q. Okay. And he said that before he shot?
- 5 A. Yeah.
- 6 Q. Okay.
- 7 A. When he was coming around the curve. He was coming
- 8 around my right, Tyler was coming around my left.
- 9 Q. Okay.
- 10 A. And that's when he told him.
- 11 Q. And it was more than one shot?
- 12 A. Yes, sir.
- 13 Q. And you saw Mr. Tyler take off running?
- 14 A. Yes, sir.
- 15 Q. Had you ever met this man before?
- 16 A. No, sir.
- 17 Q. Did you know him before that day?
- 18 A. No, sir.
- 19 Q. But do you recognize him today?
- 20 A. Yes, sir.
- 21 Q. Is there any doubt in your mind he's the man you saw
- 22 shooting?
- 23 A. No, sir.
- 24 Q. Okay. Please answer any questions Defense has.
- 25 **THE COURT:** All right, sir.

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

171

1 **MR. SHEEK:** Please the Court.

2 **Cross Examination by Mr. Sheek:**

3 Q. Ma'am, if you'll bear with me a second, I want to show
4 you a photograph, maybe, and see if you can tell me now
5 where you were sitting so we can understand what you're
6 telling us. Okay. If you want to, ma'am, you can get up
7 and walk around here.

8 (Whereupon the witness left the witness stand)

9 Q. Come right over this way so you're not in front -- now,
10 you lived in apartment, you said, ?

11 A. Yes, sir.

12 Q. Now, if I'm facing the apartments right here at
13 are you on the right hand side or ---

14 A. I'm right here.

15 Q. --- or the left hand side? Okay. Here, you want to
16 use the pointer, ma'am?

17 A. Yeah, I can.

18 Q. Sure. Just press this button right there and it makes
19 that red light. You point out where you live.

20 A. Right there right beside the white car.

21 Q. Okay. And you were sitting where?

22 A. Right there beside the white car.

23 Q. Okay. You were sitting right beside where ---

24 A. Yes.

25 Q. --- that car is now parked? And you were on the

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

172

1 sidewalk?

2 A. Yes, sir.

3 Q. And you said Tyler came from your left?

4 A. Yes.

5 Q. Okay. Were you with your back to the apartments or
6 facing the apartments?

7 A. My back was to the apartments.

8 Q. Okay. So he came from the left hand side, ---

9 A. Um-hum (affirmative).

10 Q. How far down was it?

11 A. It's not that far because he's going to come right
12 there where I'm at.

13 Q. Okay. And when he was approaching Mr. Walker, that you
14 say was out there, Mr. Walker was on your right hand side?

15 A. Uh-huh (affirmative). That's the way -- where I was
16 sitting at, looking to my left and my right.

17 Q. So let me see the pointer one second. So if you're
18 sitting right where this white car is, ---

19 A. Um-hum (affirmative).

20 Q. --- Mr. Walker's on this side, ---

21 A. Um-hum (affirmative).

22 Q. --- and Mr. Tyler ---

23 **MR. MOYER:** I object, Your Honor. That's the exact
24 opposite of what she just testified to.

25 Q. Mr. Walker came from which side, right or left?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

173

1 A. Mr. Tyler come from my left. He came from my right.

2 Q. Okay. So when you're sitting with your back to that
3 apartment, ---

4 A. Yes.

5 Q. Okay. Then Mr. Walker's over here?

6 A. The apartment where the people at, that's the way Ms.
7 What's her name live at.

8 Q. That's fine.

9 A. Okay.

10 Q. And Mr. Tyler was up here.

11 A. No.

12 Q. Mr. Tyler was on the right side also?

13 A. No, I didn't say that. I said Mr. Tyler was on my
14 left.

15 Q. All right.

16 A. He was on my right.

17 Q. Okay. So when you're sitting with your back to the
18 apartment at the white car, Mr. Tyler Mattress ---

19 A. The cars ---

20 Q. --- was up here.

21 A. The cars wasn't out there then.

22 Q. I understand that. But according to your testimony,
23 Mr. Tyler Mattress is up here.

24 A. Um-hum (affirmative).

25 Q. Right?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

174

1 A. Um-hum (affirmative).

2 Q. Okay. Not at apartment , which would have been way
3 down this way?

4 A. When Mr. Tyler passed by me with the kids all sitting
5 right there, when he got up to him, which would be, I don't
6 know his name, when he got to him, that's when this -- that
7 happened. He said that I finally caught up with you.

8 Q. Okay. Was that car there parked there that day?

9 A. That car right there?

10 Q. Yes.

11 A. No. It was parked across the street 'cause that's my
12 parking space right there.

13 Q. Okay. So that car wouldn't have been parked there ---

14 A. Uh-uh (negative).

15 Q. --- because you would ---

16 A. Because -- yes.

17 Q. Okay. That's fine. I'm not trying to trick you. I
18 just want you to understand. Use that pointer again, ma'am.

19 Were there any cars in those parking places between the
20 white car and the one on the far end down here?

21 A. No, sir.

22 Q. Okay. When Mr. Walker come in what was he driving?

23 A. I don't know that.

24 Q. Okay. Do you remember if it was a car, a truck ---

25 A. I don't know. He -- all -- both of them was walking.

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

175

1 Q. Okay.

2 A. I don't know what they came in.

3 Q. I mean, if he had of pulled in and parked ---

4 A. If he'd pulled in -- if he would have pulled in and

5 parked, then he had to park on the other side of the

6 building.

7 Q. That's right because sitting there -- if he'd parked

8 right there, you ---

9 A. I would have ---

10 Q. --- would have clearly seen that?

11 A. --- seen him, yes.

12 Q. Okay. You can have a seat.

13 (Whereupon the witness returned to the witness stand)

14 Q. Now, how far did Mr. Tyler Mattress walk towards Mr.

15 Walker? How far did he walk before he saw a gun, ---

16 A. They was ---

17 Q. --- as you said?

18 A. They was right up on each other.

19 Q. Okay.

20 A. If you go to walk down the sidewalk, you going to pass

21 people.

22 Q. Okay.

23 A. And then you going to be right there up on them.

24 Q. Okay. So you saw Mr. Walker walking one way and Mr.

25 Mattress walking another?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

176

- 1 A. Yeah.
- 2 Q. When they got in close proximity you said ---
- 3 A. And he said that I finally caught up with you.
- 4 Q. Did you hear anything else said?
- 5 A. No. All I heard after that was gunshots.
- 6 Q. Okay. And you said you covered up her kids. Her who?
- 7 A. I didn't say her.
- 8 Q. Okay. Who ---
- 9 A. I said I covered up kids.
- 10 Q. Whose kids were they?
- 11 A. The kids from upstairs.
- 12 Q. Okay. Were they Ms. Ray's kids?
- 13 A. No, they wasn't.
- 14 Q. Okay.
- 15 A. These are all the kids -- most of all the kids from
- 16 Mallard Cove comes to my house.
- 17 Q. Okay. How long had you been out there that day?
- 18 A. Probably about five or six hours.
- 19 Q. Okay. And in that one spot?
- 20 A. Yes, because I have -- I have five chihuahuas. And I
- 21 take them out walking.
- 22 Q. Okay. How long had Mr. Mattress been out there?
- 23 A. I have no idea.
- 24 Q. Did you see him come out of Ms. Ray's apartment at any
- 25 time?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

177

- 1 A. I have no idea.
- 2 Q. Okay. But you were sitting where you could have seen
- 3 that ---
- 4 A. Yeah.
- 5 Q. --- if it had happened?
- 6 A. Yeah. With my back turned. With my back turned. If
- 7 he come down the stairs I could see him.
- 8 Q. Okay. But he wasn't standing around there for any
- 9 length of time?
- 10 A. No.
- 11 Q. All right. Now, ma'am, since you were out there when
- 12 the shooting happened did you see the police arrive?
- 13 A. Yes.
- 14 Q. Did you talk to them?
- 15 A. Yes.
- 16 Q. Did you give them a statement?
- 17 A. Yes.
- 18 Q. Did you give them a written statement?
- 19 A. They just took my name and telephone number.
- 20 Q. So you've never given anybody a written statement
- 21 regarding this incident?
- 22 A. Nobody never got in touch with me.
- 23 Q. Did you tell them the story that you've told us today?
- 24 A. Yes.
- 25 **MR. SHEEK:** I've got no further questions, Your Honor.

1 **THE COURT:** Step ---

2 **MR. MOYER:** Nothing ---

3 **THE COURT:** --- down.

4 **MR. MOYER:** --- further, Your Honor. Your Honor, may
5 we approach?

6 **THE COURT:** Sure.

7 (Whereupon a bench conference was held off the record
8 in the presence of the jury, but out of their hearing)

9 **THE COURT:** All right. Take the jury out.

10 (Whereupon the jury exited the courtroom at 4:02 pm)

11 **THE COURT:** All right. Solicitor.

12 **MR. MOYER:** Your Honor, I just wanted to ask if we
13 could take a break now. We've been going for close to two
14 hours.

15 **THE COURT:** All right.

16 **MR. MOYER:** And I think we're going to rest, but I just
17 want a minute to ---

18 **THE COURT:** All right. We'll take a very short ...

19 (Whereupon the attorneys were conferring off the
20 record)

21 **THE COURT:** All right. Take about a five minute break.

22 **MR. MOYER:** Thank you, Judge.

23 (Whereupon court was in recess at 4:04 pm)

24 (Whereupon court resumed at 4:11 pm)

25 **THE COURT:** All right, solicitor.

1 **MR. MOYER:** Yeah, the State's going to rest, Your
2 Honor.

3 **THE COURT:** All right. Do you have any motions, Mr.
4 Sheek? Any motions?

5 **MR. SHEEK:** Your Honor, for the record I'll make a
6 motion for directed verdict, but understanding in the light
7 most favorable to the State, the burden you have there. But
8 I would argue that no reasonable jury could find beyond a
9 reasonable doubt that he committed an intent to kill based
10 on the testimony that they've heard.

11 **THE COURT:** And I'd have to deny your motion.

12 **MR. SHEEK:** I understand.

13 **THE COURT:** Now, will you have some testimony?

14 **MR. SHEEK:** I was just talking with my client about
15 that. Yes, sir, we will intend to call -- the solicitor's
16 agreed to hold Mr. Bobby Golden under subpoena so that I
17 won't have to serve him with our own, but we would intend to
18 call Mr. Golden as a witness.

19 **THE COURT:** All right.

20 **MR. SHEEK:** At this point I don't anticipate Mr. Walker
21 testifying, ---

22 **THE COURT:** Okay.

23 **MR. SHEEK:** --- but that final decision has not been
24 made.

25 **THE COURT:** That's fine.

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

180

1 **MR. MOYER:** The only thing I would add is if he does
2 choose to call Mr. Walker as a witness we'd like to talk
3 about what on his record is ---

4 **THE COURT:** So we could do that, if he calls him?

5 **MR. MOYER:** Yes, sir.

6 **THE COURT:** So you've got Mr. Golden ready to go?

7 **MR. MOYER:** I believe he should still be outside.

8 **THE COURT:** All right. Okay. Bring the jury.

9 (Whereupon the jury entered the courtroom at 4:14 pm)

10 **THE COURT:** All right. Solicitor.

11 **MR. MOYER:** Your Honor, at this time the State rests.

12 **THE COURT:** All right. Mr. Sheek.

13 **MR. SHEEK:** Thank you, Your Honor. The Defense would
14 call Bobby Golden to the stand.

15 **THE COURT:** All right.

16 **MADAME CLERK:** Mr. Golden, would you come and put your
17 left hand on the Bible and raise your right.

18 **Bobby Golden,** being duly
19 sworn testified as follows:

20 **MADAME CLERK:** Will you please have and seat and then
21 state your full name for the record.

22 **MR. GOLDEN:** Bobby Cornelius Maurice Golden.

23 **Direct Examination by Mr. Sheek:**

24 Q. Mr. Golden, how old are you, sir?

25 A. Thirty-eight.

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

181

1 Q. And prior to coming up here and sitting on the stand
2 just now have you and I ever spoken?

3 A. No, sir.

4 Q. Where do you live, sir?

5 A. Cobb Road.

6 Q. Okay. And in July of 2011 where did you live?

7 A. Villa Road, Mallard Cove Apartment .

8 Q. And were you living alone at apartment or ---

9 A. No, I wasn't.

10 Q. --- were you living with somebody?

11 A. No, sir.

12 Q. And do you know this gentleman seated right here on the
13 front row, Mr. Tyler Mattress?

14 A. Yes, sir.

15 Q. Do you remember him coming to your apartment on July
16 20th of 2011?

17 A. Yes, sir.

18 Q. Okay. When did he come down to your apartment,
19 roughly?

20 A. What do you mean when? Can you be more specific?

21 Q. Yeah. Did he come down in the afternoon, in the
22 evening?

23 A. In the evening.

24 Q. Okay. Do you recall what time, roughly?

25 A. It had to be -- it was before 6:00. Between -- I would

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

182

1 say between four and six, somewhere around in there.

2 Q. Okay. And what did he want when he came down to your
3 apartment?

4 A. He was telling me that someone -- he had been arguing
5 with someone on the phone and someone was coming down there,
6 they was about to fight or whatever. But I was telling him,
7 you know, just go ahead and go, but, unfortunately, he
8 didn't have time to leave.

9 Q. Okay. Now, what do you mean by unfortunately he didn't
10 have time to leave? What happened?

11 A. Because as we was leaving the apartment, walking down
12 the sidewalk, that's when Joseph pulled up in the Honda,
13 four door, gray Honda.

14 Q. Okay. Now, you gave a written statement to the police
15 on July the 20th of 2011, didn't you?

16 A. Yes, sir.

17 Q. Let me hand you a copy of this and ask you does that
18 look like the written statement you gave the police?

19 A. That's it.

20 Q. And is that your signature at the bottom?

21 A. Yes, sir.

22 Q. And were you telling them the truth when you talked to
23 them?

24 A. Yes, sir.

25 Q. Okay. And what kind of car did you tell the police

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

183

- 1 pulled up?
- 2 A. A gray Honda.
- 3 Q. Read from your statement. What did you say it was?
- 4 A. It doesn't say what kind of car it was.
- 5 Q. Okay. Let me help you out here.
- 6 A. No, that -- it just says -- it just states he got out
- 7 of a car.
- 8 Q. Okay. Look at the second line where it starts when a
- 9 gray Honda ---
- 10 A. Oh, okay. When a gray Honda, two door, pulled up and
- 11 parked.
- 12 Q. Okay. The gray Honda, two door?
- 13 A. Um-hum (affirmative).
- 14 Q. That's what you told the police, right?
- 15 A. Yeah.
- 16 Q. Okay. I'm going to hand you a picture of a 2004, two
- 17 door Honda Accord. Does that look like the car?
- 18 A. No, uh-uh (negative).
- 19 Q. What's different about it?
- 20 A. What's different? This is a -- this is a coupe. And
- 21 this must be a later model.
- 22 Q. Now you did say it was a two door, right?
- 23 A. Yeah.
- 24 Q. Okay. And you put that in your written statement in
- 25 parentheses, two door, right?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

184

1 A. Two door, yes.

2 Q. And you remembered that specifically, didn't you?

3 A. From what I could remember, yes.

4 Q. Now just now when you testified you said four door.

5 Why the difference?

6 A. Yeah. Well, I must have meant to say two.

7 Q. When the car pulled up where were you standing?

8 A. On the sidewalk.

9 Q. Okay. Let me show you a picture. If you would, sir,
10 if you'll stand up and come down here with me.

11 (Whereupon the witness left the witness stand)

12 Q. All right. Come this way, Mr. Golden, if you wouldn't
13 mind, sir. Now, do you remember the day that the shooting
14 happened?

15 A. Yes.

16 Q. Okay. You remember that car being parked there?

17 A. Um-hum (affirmative).

18 Q. And is that Amanda Ray's apartment there?

19 A. I don't know. I can't see the number on it.

20 Q. Okay. Well, if that is apartment let's just
21 assume it is, is your apartment ---

22 A. My apartment is up from there.

23 Q. Is it to the left this way or up that way?

24 A. To the left.

25 Q. Okay. So it's up this way?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

185

1 A. Yeah.

2 Q. Okay. And if she's in you said your apartment was
3 number what?

4 A. .

5 Q. Okay. So you're down close to the end of the
6 apartments?

7 A. Exactly.

8 Q. All right. When you and Mr. Mattress came out of the
9 apartment was Mr. Walker already pulling up or did you walk
10 for some distance? What happened?

11 A. No, he was -- he wasn't already out there. We walked
12 about ten feet and that's when he was coming up -- coming
13 into Mallard Cove.

14 Q. Okay. So y'all would have been down -- you'd have been
15 down to this side a good bit when he pulled up?

16 A. No, we wasn't. We just about two or three apartments
17 down from mine.

18 Q. Okay. Well, ---

19 A. 'Cause we was walking real slow. We wasn't walking
20 that fast.

21 Q. Right. But this is How far down ---

22 A. We didn't get ---

23 Q. --- is your apartment?

24 A. We didn't get nowhere near

25 Q. That's right. You were down this way, ---

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

186

1 A. Exactly.

2 Q. --- aren't you?

3 A. Exactly.

4 Q. All right. When the car pulled up -- go ahead, you can
5 have a seat.

6 (Whereupon the witness returned to the witness stand)

7 Q. What does Mr. Walker do when the car pulls up?

8 A. What does he do?

9 Q. Yes, sir.

10 A. Well he drove up and jumped out of the car.

11 Q. Okay. Describe in detail the best you can remember
12 everything that happened.

13 A. Okay. Me and Tyler was standing there talking. By
14 that time Joseph pulled up and parked at an angle, jumps out
15 of the car. Tyler walks around the car like he about to
16 fight him. But at that time, simultaneously, as he was
17 raising the gun, he turned around and took off running.
18 That's when he got to shooting.

19 So he took off. He jumped back in the car. And I --
20 that's when I -- that's when I went back in the house, got
21 to calling Tyler to see if he was all right. So I jumped in
22 my car and rolled around. He was like, is that guy still
23 out there? I was like, no.

24 So he -- I told him to go to my apartment. So he went
25 to my apartment. When I came back, that's when he was

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

187

1 there.

2 Q. Where was Tyler when you asked -- when he asked you if
3 the guy was still out there?

4 A. Oh, I don't know. He was running. I don't know. He
5 was in the back.

6 Q. Okay.

7 A. He had ran to the back. He had run to the back. I was
8 calling him.

9 Q. Okay. Now, you say that Mr. Walker got out. Did he
10 say something to someone?

11 A. No, uh-uh (negative). Wasn't nothing said.

12 Q. Did he say something after he shot?

13 A. Yeah.

14 Q. What did he say?

15 A. He said, this shit real, nigga.

16 Q. Okay. And that's all that was said?

17 A. That's all that was said.

18 Q. And can you describe the gun that he had?

19 A. It was a black gun.

20 Q. Okay. Now, when you told the police that did you tell
21 them it was a black Glock?

22 A. Yeah, I told them that.

23 Q. Okay. How did you know that?

24 A. 'Cause I know what a Glock looks like.

25 Q. Okay. Solid black?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

188

1 A. Yes.

2 Q. Okay. How many times did he shoot?

3 A. I would say three times. I heard three shots.

4 Q. Okay. How close was Mr. Walker to Mr. Mattress when he
5 shot?

6 A. I'd say you Mr. Walker and Tyler was about right there
7 where the jury thing starts there where the wood at right
8 there.

9 Q. Over in this corner?

10 A. No, right where you at right there. Go a little
11 further right there where the table at.

12 Q. Okay. Right here?

13 A. (Affirmative nod).

14 Q. So he was -- he was real close?

15 A. Yeah.

16 Q. All right. Now where was Tyler standing? Was he on
17 the sidewalk, in the parking lot?

18 A. No, he had walked -- he was already hitting the parking
19 lot.

20 Q. Okay. Now if I'm facing the apartment complex was
21 Tyler in front of Mr. Walker, to his right or to his left?

22 A. To his right 'cause he went around. He had to go
23 around the car.

24 Q. So when Mr. Walker pulled in which direction did he
25 come from?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

189

1 A. He come from the top of Mallard Cove, like -- but in
2 the front. He came from the top.

3 Q. So when he pulled in and parked he parked right in
4 front of y'all?

5 A. No. He parked -- he parked at an angle.

6 Q. Right.

7 A. But, yeah, he pulled in front of us and parked at an
8 angle, yeah.

9 Q. Right in front of where y'all were standing?

10 A. Exactly.

11 Q. Okay. And you say Tyler went around the car? Did he
12 go around the front or around the back?

13 A. Around the front, went around that side.

14 Q. Okay. And did Mr. Walker get out and go around towards
15 the back ---

16 A. Yeah.

17 Q. --- or did he come towards ---

18 A. No, he came around towards the back, like towards --
19 and stood at the back of the car.

20 Q. Okay. So he was going the opposite way from Tyler
21 Mattress?

22 A. No. They was coming around like this. If you -- if he
23 gets out of the car and comes around the back side and
24 Tyler's in the front coming around to the side, they met up
25 right there.

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

190

1 Q. At the front?

2 A. No, at the back, on the side of the car. 'Cause ---

3 Q. So Tyler was going ---

4 A. --- he was at the back of the car ---

5 Q. --- around the back of the car?

6 A. No, Tyler was going around the front of the car.

7 Q. So they met up at the back?

8 A. If the car's at an angle -- if this is the car at an

9 angle, he jumped -- Mr. Walker jumps out of the car and

10 Tyler's standing right here, he comes around the back, Tyler

11 comes around here. Joseph was right here behind the car.

12 Tyler was right here on the side. That's when he pulled out

13 the gun and Tyler turned around simultaneously and took off

14 running.

15 Q. Okay. So what you're saying is when Mr. Walker got

16 out, Tyler was in front of the car?

17 A. No, Tyler was walking around.

18 Q. Okay. So he's going the opposite direction. And are

19 you sure about that?

20 A. Yes, I'm positive.

21 Q. About all the facts you just testified to the jury

22 about?

23 A. (Affirmative nod).

24 Q. No doubt in your mind?

25 A. No doubt in my mind.

1 **MR. SHEEK:** I've got no further questions.

2 **THE COURT:** All right. Solicitor.

3 **MR. MOYER:** I have no questions, Your Honor.

4 **THE COURT:** Thank you. Step down. All right. Take
5 the jury out just a minute, please.

6 (Whereupon the jury exited the courtroom at 4:24 pm)

7 **MR. SHEEK:** Your Honor, if we could go over what the
8 State would intend to impeach my client with so that he
9 could make a decision on whether or not to testify.

10 **THE COURT:** Sure.

11 **MR. MOYER:** Your Honor, I would -- in 2002 he has
12 convictions for distribution of crack cocaine. He had
13 another jail time -- so that even though if that's beyond
14 ten years, he served enough jail time so that it's within
15 the ten year period.

16 **THE COURT:** Okay.

17 **MR. SHEEK:** I agree.

18 **MR. MOYER:** In 2008, assault with intent to kill and
19 two counts of distribution of crack cocaine and two counts
20 of distribution of crack cocaine within proximity of a
21 school or park.

22 He has other charges that carry less than a year that I
23 would not seek to impeach him on. But those are the ones
24 that I would seek to impeach him on.

25 **THE COURT:** All right. Those would be ...

1 **MR. SHEEK:** And that is, based on my review of the rap
2 sheet, I agree with the solicitor that the release on the
3 first charge was within the ten years even though the
4 sentence was ---

5 **THE COURT:** Okay.

6 **MR. SHEEK:** --- outside it. I would ask, Judge, if you
7 would go over ---

8 **THE COURT:** Sure. All right. Put him under oath,
9 please. Stand up just a minute and let her swear you.

10 **MADAME CLERK:** Raise your right hand. Do you swear or
11 affirm to tell the truth, the whole truth and nothing but
12 the truth so help you God?

13 **MR. WALKER:** I do.

14 **THE COURT:** All right. Now you can sit down now. All
15 right. Now, Mr. Walker, we've reached a point in your trial
16 where you will have to make a decision as to whether you,
17 yourself, will take the stand and testify, okay? You
18 understand that?

19 **MR. WALKER:** Yes, sir.

20 **THE COURT:** Now, I tell you that you don't have to take
21 the stand and testify in your defense. And that's because
22 that's your constitutional right. You have absolutely no
23 burden in this case. You don't have to take the stand and
24 testify because, as I said, that is your constitutional
25 right and because the burden is always on the State to prove

1 you guilty beyond a reasonable doubt. Do you understand
2 that?

3 **MR. WALKER:** Yes, sir.

4 **THE COURT:** And if you chose not to take the stand and
5 testify, I would tell the jury that they in no way could
6 hold that against you. You understand that?

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

8 **THE COURT:** With that understanding I tell you that you
9 have a perfect right -- you have a perfect right to take the
10 stand and testify and tell the jury your side of the story,
11 all right?

12 **MR. WALKER:** All right.

13 **THE COURT:** If you do that, then you become like any
14 other witness in the case subject to being cross examined by
15 the solicitor. You understand that?

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

17 **THE COURT:** And you've heard the criminal record for
18 which the solicitor says he will use that to impeach you.
19 You understand that?

20 **MR. WALKER:** Yes, sir.

21 **THE COURT:** Now, are you under the influence of any
22 alcohol, drug or any other substance right at this moment?

23 **MR. WALKER:** Not at all, sir.

24 **THE COURT:** You sober?

25 **MR. WALKER:** Yes, sir.

1 **THE COURT:** You know what you're doing?

2 **MR. WALKER:** Yes, sir.

3 **THE COURT:** And you will make a decision as to whether
4 or not to testify. Now, has your lawyer put any pressure on
5 you to take the stand, or to testify or not to take the
6 stand and testify?

7 **MR. WALKER:** Not at all, sir.

8 **THE COURT:** All right. Have you made a decision?

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

10 **THE COURT:** And what is that?

11 **MR. WALKER:** I ain't going to take the stand, sir.

12 **THE COURT:** All right. And as I say, your lawyer's not
13 put any pressure on you to not testify, is that correct?

14 **MR. WALKER:** That's correct.

15 **THE COURT:** All right. Anything in reply, solicitor?

16 **MR. MOYER:** No, Your Honor.

17 **THE COURT:** All right. We'll argue and charge in the
18 morning.

19 **MR. MOYER:** Yes, sir.

20 **THE COURT:** All right. Bring the jury.

21 (Whereupon the jury entered the courtroom at 4:30 pm)

22 **THE COURT:** Ladies and gentlemen, in the trial of a
23 criminal case a defendant has absolutely no burden. A
24 defendant does not have to take the stand and testify or
25 present evidence. And that's because that's a defendant's

1 constitutional right.

2 The burden is always on the State to prove a defendant
3 in a case guilty beyond a reasonable doubt. I will more
4 fully explain that right to you when I charge -- give you my
5 charge.

6 The Defendant in this case has exercised his
7 constitutional right not to take the stand and testify in
8 his defense. So the testimony in this case is complete.
9 What we have remaining is the final arguments by the
10 attorneys and then my charge on the law. We'll do that in
11 the morning.

12 So we are concluded for today. We'll start back
13 tomorrow morning at 9:00. Now please remember the
14 admonition that I read to you from the order of the Chief
15 Justice. If anybody contacts you and tries to talk to you
16 about this case, get their names and addresses and report
17 that to me.

18 Please keep your badges on. Have them on when you come
19 back tomorrow morning. Again, I ask that you do that so
20 that everyone involved with this case will know that you are
21 a juror. And it would be highly improper for them to
22 discuss or talk about the case in your presence. So with
23 those admonitions, I'll see you back at 9:00 in the morning.
24 Thank you.

25 (Whereupon the jury exited the courtroom at 4:32 pm)

1 **THE COURT:** All right. See you back in the morning.

2 **MR. MOYER:** Thank you.

3 (Whereupon court was in recess at 4:33 pm)

CLOSING ARGUMENTS - MR. SHEEK

197

1 **Tuesday, April 2, 2013:**

2 (Whereupon court resumed at 9:35 am)

3 **THE COURT:** All right. Solicitor, you waive opening
4 argument?

5 **MR. MOYER:** I do, Your Honor.

6 **THE COURT:** You ready to talk to the jury, Mr. Sheek?

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

8 **THE COURT:** All right. Bring them on.

9 **MR. MOYER:** Could I have one minute to make this ---

10 **THE COURT:** Hold ---

11 **MR. MOYER:** --- equipment go on?

12 (Pause)

13 **MR. MOYER:** Thank you, Judge. We're ready now.

14 **THE COURT:** All right. Bring the jury.

15 (Whereupon the jury entered the courtroom at 9:38 am)

16 **THE COURT:** Good morning.

17 **THE JURY:** Good morning.

18 **THE COURT:** Okay. Ladies and gentlemen, at this time
19 we'll have the concluding arguments by the attorneys. When
20 they have concluded, then I'll give you the law on this
21 case. All right, Mr. Sheek.

22 **MR. SHEEK:** Thank you, Your Honor. May it please this
23 Court. Madame Forelady, ladies and gentlemen of the jury,
24 good morning.

25 **THE JURY:** Good morning.

CLOSING ARGUMENTS - MR. SHEEK

198

1 **MR. SHEEK:** You have heard all the evidence that you're
2 going to have to do the job that you've been asked to do in
3 this case. You watched the video, like I said yesterday.
4 You've heard us talk to you. We're going to ask you to now
5 do the hardest job in this courtroom because we all have
6 different roles to play.

7 But we're going to ask you to find the facts and to
8 speak justice. And I understand that, I've been doing this
9 for twenty-one years, that that is by far the hardest job
10 any of us have to do.

11 And I appreciate you being here. I mean, I know you've
12 got other things to do. You've got lives. You've got jobs.
13 You've got families. And your time here takes away from
14 that.

15 But just as you heard yesterday, what you're doing is
16 so very important because Judge Miller talked to you after
17 the video and he said this is your system of justice. And
18 it is. And the reason we have this system of justice is so
19 that a panel of unbiased citizens will sit and listen to the
20 testimony and the evidence.

21 Because, as I told you, Joe Walker sits here in this
22 seat charged with a crime. He's been indicted. And that's
23 a scary prospect when you read that indictment, the State of
24 South Carolina versus, and there you see your name. And you
25 wonder what it would be like to sit in that seat. I've

CLOSING ARGUMENTS - MR. SHEEK

199

1 often wondered that as I've represented these individuals.

2 And I was thinking last night as I drove home and as I
3 came back this morning and thought about that, that seat,
4 you know, they told you yesterday, I think, last year
5 Greenville County handled over thirteen thousand warrants.

6 That's a lot of cases. That seat is sat in by many people.

7 One thing I told you was, though, that the State has to
8 prove and prove it beyond a reasonable doubt. Now, His
9 Honor is going to charge you in the law in a few minutes.
10 After I talk to you, after Mr. Moyer talks to you, he's
11 actually going to read you the law that you have to apply to
12 this case.

13 And he's going to give you a definition of reasonable
14 doubt. I think most of us probably know what a reasonable
15 doubt is. I've heard a couple of definitions that our court
16 has come up with. One that's a reasonable doubt is the kind
17 of doubt that would cause a reasonable person to hesitate to
18 act.

19 Another one is the kind -- beyond a reasonable doubt is
20 evidence that leaves you firmly convinced of the existence
21 or non-existence of a fact. And that's the standard that
22 the State is shooting for here. And it's much like climbing
23 a staircase, with that upper step being beyond a reasonable
24 doubt.

25 The best way I heard it put when I was a young lawyer

CLOSING ARGUMENTS - MR. SHEEK

200

1 when I was trying a case and the other attorney got up and
2 told the jury if you go back there and you listen to all
3 this evidence and you talk about it and you decide, you know
4 what, Joe Walker probably did this, then it's clear your
5 verdict is not guilty because probably never gets you to
6 where you have to be.

7 Now why is that important? The Judge told you Joe
8 Walker's been charged with a crime to which he's pled not
9 guilty. If somebody accuses you of something of which
10 you're not guilty how do you prove it didn't happen? Well,
11 it would be great if you could come in with, you know, that
12 receipt that shows you were at a restaurant, you know, in
13 another county or something like that.

14 But let's say you don't have that. You don't have
15 that. Because let's face it, the simple fact is I could
16 create the same evidence the State has brought to you in
17 thirty seconds if I wanted to, if I wanted to.

18 If I was the kind of person that wanted to set up
19 someone who wasn't guilty -- this young man sitting here
20 that I used as an example yesterday is actually my son.
21 Let's say he and I had somebody we were upset with, and we
22 were the kind of people that didn't worry about truth, or
23 honesty, or justice, or anything else and we went last night
24 and said, all right, we know how to do this. Go get my gun
25 out of the counter, go outside, fire four shots off, go

CLOSING ARGUMENTS - MR. SHEEK

201

1 inside, call 911 and say John Doe just came over here and
2 shot at me. There's the shell casings. They're laying
3 right there on the ground.

4 Now, let's assume that happened. And then the police
5 show up and say who did it? Well, John Doe -- John Doe did
6 it. And the police say, well, that's good enough for me.
7 All right. My investigation's done. Let me go get a
8 warrant. Then that seat is now occupied with John Doe. And
9 I've just created the exact same evidence that the State has
10 brought to you here today.

11 Now why is that important? The video talked to you
12 about and I talked to you about judging the credibility of
13 the people who talk to you. Because most of us come in here
14 and think, well, yeah, that could happen, Mr. Sheek. But
15 let's face it, we don't do that kind of stuff. Who's going
16 to set somebody up like that?

17 Well, the case the State has brought to you stands and
18 falls on Tyler Mattress. Right? That's what the State told
19 you. That's what the officer who investigated the case told
20 you. I came in and I talked to Tyler Mattress. Once he
21 said it was Joe Walker, I was done.

22 Well, Tyler Mattress, is he the kind of person that
23 would do that? Because you've got to judge his credibility
24 as he testified to you. Now what he told you when the State
25 questioned him was, yeah, I've got ten burglaries, five

CLOSING ARGUMENTS - MR. SHEEK

202

1 larcenies, a malicious injury to personal property and an
2 armed robbery. You remember when I cross examined him I
3 forgot that and he corrected me, and armed robbery, Mr.
4 Sheek. And I'm indicted now for perjury related to this
5 case.

6 So the State has brought a charge that I have lied
7 under oath in a courtroom setting about this. That's the
8 State's witness, they, themselves, say is a liar and will
9 lie under oath.

10 Now, ladies and gentlemen, I told you yesterday you
11 bring in here your common sense. Now do you think for a
12 second that man indicted in this courthouse for perjury
13 related to this case got up here and sat on that stand while
14 that charge is still pending, hadn't been taken care of,
15 even though he says, yeah, I lied that day, I did it, but he
16 hasn't come in here and pled guilty to it, that charge is
17 still pending, but he's up here to testify.

18 Now, you know and I know why he's doing that. When
19 that testimony is bought and paid for, we've just got to
20 sign the check when we do the deal on the perjury later.

21 Would he be the kind of person that would lie or set
22 someone up? Well, I don't know. He's the kind of person
23 that would commit armed robbery. He's the kind of person
24 that would commit ten burglaries. He's the kind of person
25 that would commit five petty -- not petty larcenies, five

CLOSING ARGUMENTS - MR. SHEEK

203

1 larcenies.

2 Larceny's just a fancy word that means stealing. He's
3 the kind of person that would commit perjury. So I know
4 he's a liar, an armed robber, a burglar and a thief. I know
5 that. He admitted that to you. It's not a big step to lie
6 about something else. It just isn't.

7 Now he said something here on the stand, look at the
8 common sense part of his testimony, oh, I didn't have a
9 problem with Joe Walker. I didn't have a problem with Joe
10 Walker.

11 Oh, yeah, I went over to his mama's house and
12 confronted him because of what he had said to me. Yeah, I
13 went and got a knife at Bobby Golden's house and got Bobby
14 to watch my back because I was going to fight him. I didn't
15 have a problem with him.

16 Of course you had a problem with him. You don't go arm
17 yourself and go out and wait for somebody that you don't
18 have a problem with. You just don't.

19 Then you've got to look at the consistency of the
20 stories of the people that talked to you. It was
21 interesting. I told you we were going to learn about this
22 case together.

23 Other than the documents that the State has that they
24 showed me before we come to trial, I don't talk to these
25 witnesses. They don't have to come talk to me. I can't

CLOSING ARGUMENTS - MR. SHEEK

204

1 make them come to my office or give a deposition. That's
2 just not the way our criminal system works. So as we heard
3 the testimony, I heard it with you for the first time.

4 I heard what Tyler Mattress said. One thing I've
5 learned in twenty-one years of doing this thing is one
6 thing, you sequester the witnesses. That's why you see the
7 witnesses weren't all in the room while other people were
8 testifying.

9 Why do we do that? So that they don't hear what
10 someone else says so they can match their story. And then
11 when you get on that stand, you ask them for the details.
12 You ask them for the details. Because I can get the main
13 story straight. He came over, he was driving a Honda, he
14 shot at me. I can get that straight.

15 But then I ask for the details. Well, where was he
16 standing? And we're going to talk about all this in a
17 minute. But where was he standing? What angle was it? You
18 know, what did he say? What was he driving?

19 Because you've got to look at who the State talked to.
20 They took two written statements from -- let me rephrase
21 that. They took a written statement from Tyler Mattress, a
22 written statement from Bobby Golden. They were the two
23 people supposedly standing there together when Joe Walker
24 was shooting according to their story, right?

25 They took a statement from Amanda Ray. Now, Amanda Ray

CLOSING ARGUMENTS - MR. SHEEK

205

1 wasn't outside. It's interesting when Amanda Ray says this
2 conversation comes in and Tyler takes the phone and has this
3 conversation. Was it angry? Was it threatening? What did
4 she say?

5 And I'm going to tell you now, if I misquote what
6 anybody said, you ignore me and you rely on your memory or
7 if you want to in your deliberations to hear testimony, you
8 can ask to hear it again. So I don't want to misquote
9 anything. But what did she say?

10 Now, Tyler's supposedly laying there in the bed with
11 her and he can hear what Joe Walker is saying when Amanda's
12 talking to him, but Amanda doesn't hear what Joe Walker's
13 saying when Tyler's talking to him. That's their story. So
14 Tyler leaves. Doesn't say what he's going to do.

15 You've got Tyler saying he comes over in a silver, four
16 door, Honda Accord. Now, how would he know about that if he
17 didn't actually see it?

18 Well, we see it in Amanda Ray's statement. She tells
19 the police, I know he's been driving a silver, Honda Accord
20 for about three months.. She wasn't outside. She didn't see
21 him. She knew that car from beforehand. And Tyler knew
22 that car from beforehand and he said that.

23 Well, what did Bobby Golden say he arrived in? Bobby
24 wanted to say to you on the stand, oh, it was a four door,
25 Honda, silver, Accord. But when I gave him the written

CLOSING ARGUMENTS - MR. SHEEK

206

1 statement that he actually gave on the same day it was a two
2 door, gray, Honda Accord. Two doors specifically put in
3 parentheses. It was a point that he remembered. And he
4 said to me, I'm positive about that. Sure about it. Okay.

5 He comes over there 7:00 in the evening in July.
6 Amanda tells you there was a lot of people around out there.
7 But you know what they don't have? Other than Bobby Golden,
8 and other than Tyler Mattress, they don't have anybody that
9 saw a Honda Accord pulling in, parking at an angle, somebody
10 shooting at someone or getting out except for one witness
11 that interestingly police never took a written statement
12 from.

13 But she came in and testified. And that was probably,
14 to me, one of the most interesting witnesses. And that was
15 Ms. Beverly Henderson.

16 Ms. Beverly Henderson, who lived in apartment says
17 that she was sitting out there and had been out there for
18 some time, didn't she? But she saw Joe Walker walking from,
19 let me get this right, from her left and Tyler coming from
20 her right and that they met, exchanged words and shots were
21 fired at a fairly close range, much closer than what Mr.
22 Mattress said.

23 She didn't see anybody come in and park. And I said,
24 well, you would have seen that because you were sitting
25 outside. Absolutely, I would have seen that. But according

CLOSING ARGUMENTS - MR. SHEEK

207

1 to her, nobody came in and parked.

2 Now why is her story that different? And I don't mean
3 a little bit different, I mean that different. I understand
4 that after three years, three witnesses that do witness
5 something may have little differences. Was it 7:20, was it
6 7:30? Did he park at an angle? Did he park at less of an
7 angle? But when you're talking about people with completely
8 different stories, that's where you've got a problem.

9 Now why do I say completely different stories? Let's
10 see. You remember in the cross examination I asked him, is
11 this one row of apartments? It is. Are there any ways you
12 can cut through without going around the end of the
13 building? There's not. And I said would you agree with me
14 that these are forty-four apartments long? This whole row
15 of buildings from off this side of the picture to off that
16 side of the picture.

17 Now the police told us that when he pulled up, this is
18 the cars that were parked there. None of them moved while
19 they did their investigation, right?

20 The gentleman that owns this car and lives in the
21 apartment next door agreed, yeah, that's my car. It was
22 parked there. I couldn't leave until after the police left.
23 He's the one that said I had a hole in my front bumper here.
24 Okay?

25 Ms. Henderson said none of those cars were parked

CLOSING ARGUMENTS - MR. SHEEK

208

1 there. I was sitting at That was her apartment,
2 remember? She was sitting right in front of it. That's
3 just two doors from Ms. Ray's. And she's sitting on that
4 sidewalk and none of those cars were parked there. Well, of
5 course, we know they were, but she says they weren't.

6 Now, where were they standing when these shots were
7 fired? Now there's a reason I was asking that. There was a
8 reason I was asking that. According to Mr. Mattress they
9 were standing -- if he were standing on the sidewalk, it was
10 roughly this angle that Mr. Walker got out of the car,
11 right? His back to the apartments, roughly this angle, he
12 fires the shots at him.

13 Ladies and gentlemen, if he parks in this area, gets
14 out, Mr. Mattress is standing there, and he fires four --
15 three or four shots at him, what's it going to hit? It
16 doesn't hit Mr. Mattress. What's it going to hit? Look at
17 the height of those apartments. It goes all the way down
18 this way to apartment , all the way up off the screen
19 that way. How do you miss that? Mr. Mattress is what,
20 6'0", 6'1", somewhere in that area? How do you miss that?

21 So that's the reason I was asking for the details.
22 Because let's face it, if you park in this area and shot and
23 hit that car there, like they're going to have to say he did
24 to make their story make sense, he's not shooting at anybody
25 standing over here. Just can't be. Who fired those shots?

CLOSING ARGUMENTS - MR. SHEEK

209

1 Mr. Mattress also said something else that was very
2 interesting when he testified. What did he say, when the
3 police got there who did they think had done the shooting?
4 They thought I had done the shooting, he said, because
5 somebody had seen me running and hiding.

6 So let me get this straight. According to Mr.
7 Mattress' testimony, as soon as he sees the gun coming up,
8 what's he do? As soon as I see the gun coming up, I take
9 off running, right? That's what he said. And that he's
10 running while the shots are fired.

11 So this witness that tells the police that they thought
12 it was Mattress shooting, because they saw him running,
13 would have had to have been looking at the same time that
14 Joe Walker's car was parked there and Joe was standing there
15 firing that gun if Mr. Mattress' story's true. Had to be.
16 If you see Mattress running, you see Joe standing there. No
17 other way around it.

18 But apparently that witness was never interviewed by
19 anybody. No statement taken from that witness. And we
20 don't know who said that, but Mattress was very adamant
21 about it.

22 So if the police showed up and thought he might have
23 been shooting, what do you do? How do you check that?
24 Because the State had told you at the beginning of this
25 case, this is not a scientific case. Well, you know what,

CLOSING ARGUMENTS - MR. SHEEK

210

1 it's not, but it should have been.

2 Because if you've got a statement that Mattress may
3 have shot the gun, do a GSR test. It's real simple. Cotton
4 swabs, drop it in the bag, send it to the lab. And what
5 they're checking for is residue from gunshot residue, which
6 is not lead as a lot of people think, but it's the residue
7 from the primer and the propellant.

8 If you fire a gun it expels not only out of the barrel,
9 it expels out of the ejection port and it usually ends up on
10 the hand of the person that shoots. That's what the
11 forensic person told you. That's why I asked her that. If
12 you fire a gun do you expect to find it? Oh, yeah. And
13 would good investigation techniques be to check the people?
14 Absolutely.

15 So why didn't we check? If you got there and the first
16 indication you got was that Tyler Mattress might have been
17 shooting, why didn't you gunshot residue his hand? Real
18 simple. It's real quick. But they didn't.

19 Now, Joe Walker has a problem because Joe doesn't have
20 the opportunity to be there at that scene conducting this
21 investigation. He doesn't even know about it until the
22 police show up to arrest him. When he comes and hires me, I
23 don't have the forensics labs and the personnel that they
24 have. I simply don't.

25 But I also don't have the obligation to come and prove

CLOSING ARGUMENTS - MR. SHEEK

211

1 to you beyond a reasonable doubt what he's been charged
2 with. Plus, after -- they're going to tell you after six or
3 ten hours they don't do a gunshot residue test anyway. So
4 it wouldn't have mattered three or four days or four months
5 later.

6 And you know the reason they didn't check? Because
7 Tyler said Joe did it. That was what they told you.
8 Because Tyler said Joe did it. The term the officer used
9 was cut and dry. Cut and dry. Because the statement of a
10 man with ten burglaries, five grand larcenies, malicious
11 injury and an armed robbery, good enough for me. That's
12 what the State's telling you.

13 So when we pressed at other people for details, this is
14 the reason I pressed for details. Because let's face it, if
15 you asked me what I was doing on July 20th of 2011, I
16 couldn't begin to tell you. I don't remember.

17 But I know back about fifteen years ago my house was
18 burglarized. I can remember everything from when I got home
19 and found that house was burglarized when I walked in to
20 find that mess, can remember every detail of it. And you
21 know why? Because it was important. It was shocking. It
22 was traumatizing. I could tell you where I went, when I
23 made a call, who I talked to, what I did after that. A lot
24 of you if you think back to September 11th, 2001 can
25 remember exactly where you were when you found out what had

CLOSING ARGUMENTS - MR. SHEEK

212

1 happened to the World Trade Centers, twelve years ago,
2 because it was important.

3 When a man pulls a gun out and shoots at you, it's
4 important. When you go out with your friend, as Bobby
5 Golden says he did, to watch his back and you get shot at
6 because Bobby was standing there too, it's important. When
7 Ms. Beverly sits there and watched this shooting, it's
8 important. You remember things. You don't get the details
9 of this wrong.

10 Tyler Mattress says he was standing right down here a
11 little ways because was the apartment he was staying in.
12 He said he was down around apartment 260, right, standing
13 there waiting. He had went and got Bobby, got a knife, went
14 out and they were waiting.

15 Tyler says Joe pulls up. He doesn't make it a couple
16 of steps, he says, when he sees a gun coming up and he takes
17 off running and the shots happen. Bobby Golden says, well,
18 I live down in apartment, I believe he said Y'all
19 remember what he said. It was in the s. So he's -- he
20 said a good bit down here.

21 They had come out of his apartment and only made it a
22 little ways. At one point he said about ten feet. Another
23 time he said maybe three or four. But you're talking from
24 to a long ways.

25 He says we had just made it a little ways when the car

CLOSING ARGUMENTS - MR. SHEEK

213

1 pulls up. Joe pulls out the gun. Now he says the car
2 pulled up right in front of them. Well, ladies and
3 gentlemen, this area right here where these shell casing's
4 found are not in front of , or anything else. We're
5 talking on down here. He says that's when the shooting
6 happened.

7 Now he puts the distance of the shooting roughly like
8 this, okay? So let's assume that Joe pulls out a gun and
9 shoots and, again, is a bad shot. But again, you're
10 shooting at somebody this close. Those apartments are right
11 there. And there's not a single bullet hole in any part of
12 it. But there is one up here.

13 So where did it happen and how did it happen? Bobby
14 Golden and Tyler Mattress disagree on the color of the car,
15 the type of the car, where the shooting occurred, the gun
16 that was used because Bobby Golden was positive it was a
17 solid black Glock. I said, are you sure? I'm sure.

18 Tyler Mattress was just as sure that it had silver
19 chrome on top. He, of course, didn't know what kind of a
20 gun it was, just chrome on top with a black handle. Tyler
21 Mattress -- Bobby Golden was just as sure it was a black
22 Glock. He knows that because he knows what a Glock looks
23 like. It was a Glock.

24 So you've got -- and then, of course, poor Ms.
25 Henderson says, well, none of these cars were here and the

CLOSING ARGUMENTS - MR. SHEEK

214

1 shooting actually happened over here. Joe Walker comes
2 walking from this way. Tyler Mattress comes walking from
3 this way. There was no car pulling in. They met up and
4 that's where the shooting happened. That's your three
5 State's witnesses.

6 Now, they can bring in the forensic person. They can
7 bring in the arresting officer and try to make up for
8 quantity what they don't have in quality. And that's
9 something we see from time to time when a case just doesn't
10 have quality, we'll bring in a lot of witnesses.

11 But it really boils down to one question. And don't
12 mistake what this is about. Did Joe Walker pull up there
13 and attempt to murder Tyler Mattress? That's the only
14 question in this case.

15 The State will try to argue to you there was motive.
16 Oh, Joe was jealous. You know, Joe was jealous and angry at
17 Tyler and he comes over to settle the score. Well,
18 interestingly, when you talk to Amanda Ray, what did she
19 say? What did she say?

20 She said, well, we talked about -- they were talking
21 specifically about a statement, I'll crack your skull, bust
22 your skull or something like that. And she said, we did
23 that all the time. She said, I guess he didn't like Tyler.
24 I mean, you know, I'm seeing somebody else. I guess he
25 doesn't like that.

CLOSING ARGUMENTS - MR. SHEEK

215

1 But what did they not have? They don't have a history
2 of any problems between Joe Walker and Tyler Mattress even
3 though Tyler says he'd been seeing the woman for about a
4 year.

5 What was Joe doing that day according to Sharanda?
6 When he come over to make a call from her house, who was he
7 looking for? Was he looking for Tyler Mattress? Was he
8 angry? Was he trying to find out if Amanda Ray was with
9 somebody else? No. He was looking for his kids.

10 Amanda Ray even said that. When he called he wanted to
11 come and take the kids to play basketball. We're not
12 talking about a man that made a call to come over there and
13 fight somebody because he's mad that someone's with his ex-
14 girlfriend. We're talking about a man who is looking to
15 spend time with his kids. Ms. Ray tells you that. Sharanda
16 tells you that. But from there he supposedly went into this
17 enraged killer coming over here and shooting at somebody.

18 You know, I submit to you, yeah, there was a problem
19 between Tyler Mattress and Joe Walker. I think Tyler's
20 telling you the truth there. But you've got to decide for
21 yourself what really happened. Who fired those shots? And
22 if Joe Walker parked that car right there in broad daylight
23 in July with the people standing around that were apparently
24 there at that time and fired those gunshots, why do we have
25 these three witnesses and why do we have three different

CLOSING ARGUMENTS - MR. SHEEK

216

1 stories?

2 Now the State is going to have to ask you to convict
3 and to do so beyond a reasonable doubt. To do that they owe
4 you an explanation of a couple of things. One, how do you
5 fit those stories together between Tyler Mattress, Beverly
6 Henderson and Bobby Golden? How do you even come close to
7 doing that?

8 Two, why did the Defense have to call Bobby Golden to
9 the stand? If he was an eyewitness standing out there with
10 Tyler Mattress, the closest one to him when it went on, why
11 did the State not call him up there? Why did the Defense
12 have to call that witness?

13 I mean, I understand it, and I think you probably do,
14 too. Because he was the one that gave a written statement
15 saying it was a different kind of car, a different color of
16 gun. He says the shooting happened in a different place.
17 So if you're wanting to win a case, you don't call him.

18 Let me tell you something, ladies and gentlemen, the
19 State has an obligation. When these witnesses came up and
20 put their hand on that Bible and raised their right hand,
21 what did they swear? They swear to tell the truth, the
22 whole truth and nothing but the truth.

23 The State's obligation is to give you the facts, give
24 you the facts. He told you that, my job is to bring to you
25 the facts. Well, then bring to me all of them. All of

CLOSING ARGUMENTS - MR. SHEEK

217

1 them. Don't hide a witness outside because he says
2 something that doesn't fit with what everybody else says.

3 Don't fail to interview these other witnesses who were
4 standing out -- not a single one other statement given?
5 This person that says Tyler Mattress was doing the shooting?
6 You didn't even go look for him? They didn't. Didn't even
7 go look for him.

8 Not one statement from anybody because I asked this
9 guy. I mean, he was the first responder. So I said, well,
10 are you the chief investigating officer? Because I want to
11 know who did the investigation. Because I want to know when
12 you knocked on these other doors and you asked these other
13 people what did you see, what did you hear, what happened?
14 But we don't know that because nobody other than that
15 uniform patrol officer got on that stand to tell you they
16 did anything, did they?

17 Now, they talked about the other detective that came
18 out and took a statement because they took it from Amanda
19 Ray. Remember that? Amanda said she was a female officer.
20 And they had to drive off-scene to do this statement.

21 Now, that didn't make any sense to me, but whatever.
22 She wanted to go off-scene to give the statement. Just stay
23 in the house even though Amanda Ray said I'd been happy to
24 do it in my house didn't matter. But for some reason the
25 police took her away to give this statement.

CLOSING ARGUMENTS - MR. SHEEK

218

1 So I thought, well, at some point then we're going to
2 hear from this detective and they're going to tell us what
3 they did as far as canvassing and talking to other people.
4 Or maybe they're the ones who took the statement from
5 somebody that saw Tyler Mattress run and hide.

6 They're the ones that said Tyler Mattress was doing the
7 shooting. Nobody. Never called. Never put up there. Now
8 why is that? The same reason Bobby Golden wasn't put up
9 there? That's a question you've got to ask yourself.

10 But more importantly, you've got to ask this question.
11 When Mr. Moyer gets up here in a few minutes he's going to
12 get a chance to respond to everything I've said. I don't
13 get a chance to get up and explain what he says. It's just
14 the way our system works. And I'm sure when I sit down I'll
15 think of something I should have said that I didn't.

16 When Mr. Moyer gets up here to respond to everything I
17 said and tell you why it really doesn't matter, he owes you
18 an explanation. Why didn't they call Bobby Golden? Where
19 are the other witnesses? What other investigation was done?

20 Because let me tell you something, this is Joseph
21 Walker. He was introduced to you at the beginning of the
22 case. He's sat here beside me the whole time. And he's
23 just Joseph Walker. If he were Dr. Walker, if Joe was an
24 actor, if Joe was Senator Walker or Legislator Walker, do
25 you think that investigation would have been done? Bet it

CLOSING ARGUMENTS - MR. SHEEK

219

1 would. But he's just Joe.

2 Ten minutes of investigation and we're ready to sign a
3 warrant on him, bring him to trial, sit him in front of you
4 people, ask you to convict him of attempted murder based on
5 an inconsistent statement of a man with a criminal record
6 that you've heard about that they've charged with perjury.

7 The statement of Beverly Henderson, who tells a
8 completely different story, and the statement of Bobby
9 Golden, that they didn't bring up here, who tells a third
10 story, and based on that and based on a conjecture of
11 jealousy that they have no evidence of, they're going to
12 tell you in just a few minutes, I want you to go back, I
13 want you to find this man guilty, I want you to convict him.
14 That's what they're going to do.

15 What I'm going to ask you to do, though, is to follow
16 your oaths. Your oaths were to truly find this case based
17 solely on the evidence. I would have loved for this to have
18 been like Law and Order where we can bring in the surprise
19 witnesses that have the video and show what happened, but
20 it's simply not that way.

21 Joe Walker pled not guilty to this case. There's not
22 much more than that he can do. If you ask me to produce
23 evidence about the Jodi Arias trial in Florida, there ain't
24 a thing I can help you with 'cause I wasn't there. Joe
25 can't tell you about what he wasn't there for or call

CLOSING ARGUMENTS - MR. SHEEK

220

1 witnesses about it, but then he didn't have the obligation,
2 he didn't have the opportunity. The police were there.
3 They did the investigation. They have the obligation.

4 Reasonable doubt, the kind of doubt that would cause a
5 reasonable person to hesitate to act. I think one of the
6 best examples I ever heard of that was say you went to a
7 doctor and the doctor examined you and said, I think you
8 need to have this surgical procedure. It's a pretty
9 important thing. You have to decide whether or not to do
10 it.

11 And the reason the doctor gave you for those -- for you
12 to have that procedure was like the evidence the State has
13 brought to you today. We've got three opinions, they're all
14 different. The main one was given to you by a liar, that we
15 say is a liar, who's lied about this, who's got a criminal
16 record of ten burglaries and all the thefts.

17 So here's what I want you to do, the doctor says, based
18 on the testimony of a liar, a thief, a cheat and an armed
19 robber, had some inconsistent testimony from his friend, and
20 no other physical tests whatsoever, I think you need to have
21 the surgery. Do you go say schedule it? Or do you say I
22 want a second opinion? If you want a second opinion, you've
23 got reasonable doubt.

24 Reasonable doubt, ladies and gentlemen, is something
25 that you've got to look at carefully. This case is not

CLOSING ARGUMENTS - MR. MOYER

221

1 fraught with just reasonable doubt. I don't know this case
2 rises to the level of probable cause. And that's the lowest
3 standard.

4 Joe sits in that chair right now. And, I guess, if my
5 ex-wife, who I have two children with, were to hook up with
6 someone like Tyler Mattress, if they wanted to get me in
7 trouble for whatever reason, I could be sitting in that
8 chair based on the exact type of situation. I hope to
9 goodness, though, before I ever sit in that chair that I can
10 rely on the State when they're investigating it to do the
11 job properly.

12 Please listen carefully and keep an open mind. You
13 look at this evidence when you go back in your room to
14 deliberate. If you want to hear the testimony, you hear it.
15 You look at these pictures, and you look at these
16 photographs and what they don't have and what didn't happen.
17 And you ask yourself, am I convinced beyond a reasonable
18 doubt that Joe Walker attempted to kill Tyler Mattress?
19 Thank you.

20 **THE COURT:** Solicitor.

21 **MR. MOYER:** Thank you, Your Honor. May it please the
22 Court? Good morning, ladies and gentlemen. I appreciate
23 also your interest in this case, and your diligence that
24 you've given to this, and your degree of attention that
25 you've paid. We've watched you throughout the trial. And

CLOSING ARGUMENTS - MR. MOYER

222

1 we've seen how closely you've watched it, and you've
2 listened and observed. And we want to thank you for that as
3 well.

4 My remarks here are going to be short. As I told you
5 at the beginning of this case, when I have my last
6 opportunity to talk to you, I'm going to ask you to find
7 this Defendant guilty. I'm going to appeal to you, I'm
8 going to argue to you why the evidence shows beyond any
9 reasonable doubt whatsoever that this Defendant is guilty of
10 this charge.

11 The first thing I want to mention to you, as His Honor
12 has instructed to you, the evidence phase of this case is
13 over. You can't hear anymore witnesses. You can't get any
14 statements or police reports.

15 Sometimes we have jurors come back with a question
16 while they're deliberating saying we'd like to see so and
17 so's report or we'd like to look at a statement. Except in
18 very rare situations police reports and witness statements
19 are not admissible into court. And what they say on the
20 stand is what is admissible and what you are to take with
21 you as you go back there to take -- to make -- do your
22 deliberations.

23 Now, I want to comment on something that you heard a
24 lot about so far from the Defense and you'll hear His Honor
25 instruct you on as well, and that is the burden of proof.

CLOSING ARGUMENTS - MR. MOYER

223

1 You've heard a number of times, and as I said, you're going
2 to hear some more, that the Defendant comes into this
3 courtroom innocent. He comes in cloaked in the presumption
4 of innocence. You've heard that the Defendant cannot be
5 convicted unless the evidence proves him guilty beyond a
6 reasonable doubt.

7 And I want to say this right off the bat before I start
8 my remarks is that we agree with that one hundred percent.
9 The State gladly accepts that burden. The police officers
10 and I, we understand that it is a fundamental concept of
11 American Law and we embrace that burden.

12 But I want you to remember this, every criminal
13 defendant who has ever been convicted, who has ever been
14 held responsible for what he or she did, for that crime, has
15 started off presumed innocent. In every case from the most
16 seemingly insignificant to the most seemingly significant
17 case, that burden is the same.

18 And in South Carolina you could have a jury trial for
19 speeding. A lot of people don't know that. Maybe I --
20 maybe I shouldn't plant that seed. But you would have a
21 jury convened. There would be six instead of twelve. And
22 before you could be found guilty of speeding, that jury
23 would have to be convinced beyond a reasonable doubt that
24 you were speeding.

25 If we were to have a capital murder case, that burden

CLOSING ARGUMENTS - MR. MOYER

224

1 is just the same. So for all cases, both extremes and for
2 all in between, if a person is convicted, that means a group
3 of citizens like you here today have found that person
4 guilty beyond a reasonable doubt.

5 If the government could never overcome the presumption
6 of this burden of proof, there would be no convictions.
7 There would be no consequences to criminal wrongdoing and no
8 one would be convicted. So keep that in mind.

9 Keep in mind also, ladies and gentlemen, that it is a
10 reasonable doubt. It is not beyond all doubt. It is not
11 beyond a -- every doubt or what I heard someone say once, a
12 shadow of a doubt, whatever that is. I'm not sure. There
13 are very few things in this world, if any, that you can know
14 beyond any doubt. And our criminal justice system does not
15 require that as well. It's a reasonable doubt.

16 Now, in analyzing this case I would suggest to you that
17 you will probably have to look at it in two -- in a two-step
18 sort of way. First off, did the crime happen? Secondly, is
19 this person, Joseph Walker, the one who committed that
20 crime.

21 So let's talk first just very briefly about what
22 attempted murder is. His Honor is going to instruct you
23 about the law in this case. What murder is, the killing of
24 a person with malice aforethought, either express or
25 implied. That's what murder is. So attempted murder would

CLOSING ARGUMENTS - MR. MOYER

225

1 be the attempted killing of a person with malice
2 aforethought, either express or implied.

3 So the key concept to this crime is this term -- this
4 idea of malice. What is malice? Under the law there's a
5 legal definition of that. It's a term of art that means --
6 has a connotation of ill-will or hatred. It's a term of art
7 importing wickedness and excluding a just cause or excuse.
8 And a better way of understanding that is it's the
9 intentional doing of a wrongful act without just cause or
10 excuse. That's what malice is.

11 And we have two kinds of malice. And we have express
12 malice and we have inferred malice. It has to be either
13 express or implied. Express malice means there's actual
14 direct evidence of ill-will, that that person did not like
15 or that person was out to get another person. And in rare
16 situations we have that.

17 The other kind of malice is inferred. And what the law
18 says regarding that is you don't have to try to get inside
19 the mind of a person. You can infer from the circumstances
20 that there was malice.

21 Now, ladies and gentlemen, I would argue to you that in
22 this case we have both. This is one of the rare situations
23 where we have both express malice and implied malice.

24 There's express malice -- and this Defendant, Joseph
25 Walker, made it very clear that he was out to get Tyler

CLOSING ARGUMENTS - MR. MOYER

226

1 Mattress. We know there was a history there. This
2 Defendant did not like the fact that Tyler Mattress was
3 spending time with Amanda Ray and those two children. He
4 did not want another man around his children.

5 You heard Tyler Mattress say how he had received phone
6 calls from him saying that you're disrespecting me in front
7 of my children. He did not like that. And they had words
8 about it. They had words several times on the telephone, at
9 his mother's house. There was a history.

10 And on the day of this incident, on that telephone,
11 there's no getting around it, the Defendant called over, and
12 over, and over trying to get in touch with Amanda Ray. And
13 he finally went to such extremes that he went to Sharanda's
14 house and got her phone so she would answer it.

15 And when he got her on the phone he was angry.
16 Remember the phrase he used, he said, I'm going to crack
17 your skull. He said that to Amanda. Now the Defense tried
18 to just brush over that aspect of it.

19 And, Amanda, you could tell when she testified, she was
20 a reluctant witness, wasn't she? You could tell she didn't
21 want to be here. And it's understandable. Who are we
22 talking about? We're talking about, despite the problems
23 that they had, we're talking about the father of her two
24 children. She had been put in the position of being part of
25 the prosecution of putting her father's [sic] children in

CLOSING ARGUMENTS - MR. MOYER

227

1 jail.

2 So, of course she's reluctant. And they'd had a
3 relationship. What did she say, for ten to twelve years?
4 They were together for a long time. So, of course she was
5 reluctant.

6 And I had to spend a little bit of time pulling this
7 information out of her. I had to show her her statement.
8 She said, yeah, he was a little jealous. Well, wait a
9 minute, let's talk about that. Let's look at your
10 statement. What did you say? Okay. I said he was real
11 jealous when other men were around. He didn't like that.

12 Well, did he threaten you? Well, yeah, he sort of --
13 well, what did he say? Oh, I don't -- let's look at your
14 statement. He said he was going to crack my skull. Crack
15 my skull. Now, let's not brush over the severity -- the
16 severity of that statement. He was going to come over and
17 crack her skull.

18 So what does Tyler Mattress do? He finally took the
19 phone and said, all right, you're going to go -- you're not
20 going to go crack the skull of some woman this time. You
21 want to fight, come and pick me, come and pick me.

22 And the Defendant said, all right, I'm going to do
23 that. I'm on the way and I've got something for you. So
24 there was express malice. He -- he was angry, he was
25 threatening, and he came over there for that reason.

CLOSING ARGUMENTS - MR. MOYER

228

1 But there was also inferred malice. And I would say by
2 the use of a deadly weapon, by the use of a gun in this
3 situation, that's malice.

4 Think through the steps of what had to happen for him
5 to go over to that apartment that day. Get in that car,
6 before he got in that car he had to go pick up a gun, a gun
7 to take with him to go over where his children are. He had
8 to put that gun in the car. He had to drive over there with
9 that gun. And when he got -- when he parked and he got out
10 of that car he had to step outside of that car holding that
11 gun.

12 He didn't go get that gun when he saw Tyler Mattress
13 coming around towards him. He stepped out of the car with
14 that gun. Ladies and gentlemen, all of that is malice.

15 Now, another way of analyzing this, the law of whether
16 or not -- of attempted murder, whether or not he's guilty of
17 attempted murder is this way. If he had killed Tyler
18 Mattress would this be a murder case? And, of course, it
19 would be. There's no excuse. There's no excuse. There's
20 no justification. This isn't a self-defense case. This
21 isn't a defense of others case.

22 I can't think of another defense that could possible
23 apply. It's not accident. It's not mistake. If he had hit
24 Tyler Mattress and that bullet had killed Tyler Mattress,
25 we'd be in here on a murder case. And if that's the case,

CLOSING ARGUMENTS - MR. MOYER

229

1 then shooting at the man is attempted murder.

2 But did he shoot at him? Was he shooting at him? And
3 there's been a lot of time spent by the Defense talking
4 about that, about whether or not that shot was fired in his
5 direction or not and where possible bullets could be and
6 that sort of thing.

7 And I want you -- I want you to think back with me
8 about the testimony that we've heard regarding where people
9 were standing, where people were. And keep in mind, this is
10 a year and nine months ago or a year and eight months ago
11 when this happened. People are trying to remember back.

12 Someone is firing shots. People are ducking and
13 running. Trying to piece back exactly where you were is
14 difficult. But both Bobby Golden and Tyler Mattress were
15 absolutely clear on where he was.

16 As you recall, he said -- they both testified that this
17 Defendant came driving up in that Honda and parked on a
18 diagonal right here, facing this way. Joseph Walker gets
19 out of the driver's side and starts walking around to the
20 back of the car. Tyler Mattress, who had been somewhere
21 around here, steps off the curb and he comes around this
22 side of the car. He comes around the passenger's side of
23 the car.

24 And they -- they meet somewhere -- well, they don't
25 meet. They're getting ready to meet, but getting close

CLOSING ARGUMENTS - MR. MOYER

230

1 together somewhere around the back of the car, because they
2 were going to fight. In Tyler's mind, they were going to
3 fight. So he's coming around this way.

4 He said he was somewhere around here when the shots
5 were fired. Tyler Mattress or Joseph Walker is somewhere
6 around here. And it fits with the evidence. It fits
7 absolutely because we know that a bullet hole hit this car
8 right here as Tyler is running away from Joseph Walker to go
9 get away, he's going that way, the bullet is fired there.

10 Now where are the other two bullets? I mean, who
11 knows. They could be anywhere. You saw how Mr. Lewis, he
12 didn't even notice that bullet hole in his car until the
13 next day. It was a small little hole.

14 Did it ricochet and fly on down the road? Actually,
15 you may remember one little comment Mr. Lewis mentioned is
16 that he'd heard someone else's car had been hit that day.
17 So maybe someone else's car had been hit and they just
18 didn't bother telling the police or whatever.

19 Bullets could have hit in the shrubs, could have hit
20 into a -- there's no telling where -- what happened to it.
21 It's a red herring. We know at least one of these shots hit
22 that car, which is in the direction where Tyler was.

23 All the witnesses stated that Joseph Walker pointed the
24 gun at Tyler before he shot. Tyler said as he was walking
25 around the back of the car, Joseph Walker was raising that

CLOSING ARGUMENTS - MR. MOYER

231

1 pistol, pointing it at him. And he turned and ran.

2 Bobby Golden testified that this Defendant pulled that
3 pistol up and he pointed it at him. Beverly Henderson, God
4 bless her, who couldn't remember a lot of the details, she
5 remembered one thing, and that's very important, is that she
6 remembers that this Defendant's the one who fired and she
7 remembered that he was pointing it at Tyler Mattress.

8 Now, Ms. Henderson, let me make just one comment about
9 her. She's an -- she's the one along with possibly Bobby
10 Golden, unbiased witness in this case. She doesn't have a
11 stake in the outcome of this case.

12 Now, she may not have seen the car pull up. We know
13 she was sitting on the curb. She probably, I mean, why
14 would she be paying attention up until that point, until she
15 saw shots fired? I mean, we don't know. We know how
16 people's memories are. She didn't remember that part. But
17 she remembers he shot at -- and she has no reason to lie
18 about it.

19 In fact, I would argue to you, ladies and gentlemen,
20 that she came in and she just parroted everything Tyler
21 said. Then you might have to stop and think, well, wait a
22 minute, why does she remember these details so clearly? Why
23 does she know every single detail? Maybe they did get
24 together and conspire.

25 But, no, she came in and testified as she remembered

CLOSING ARGUMENTS - MR. MOYER

232

1 it. And it's unequivocal that this Defendant shot at him.
2 Now -- so the evidence points to it, the witness testimony
3 points to this -- the Defendant shooting at Tyler Mattress,
4 trying to kill him.

5 This is probably a good time to mention -- to just talk
6 about the scientific evidence that the Defense tried to tell
7 you is so important in this case. As I stated in my
8 opening, this is not the kind of case that is solved by
9 scientific evidence. It's just simply not..

10 If this were one of those cop or forensic shows on TV,
11 of course, we would have, you know, some kind of fancy
12 scientific evidence, and videos and whatnot coming in here
13 to prove the case. But the truth of the matter is, you
14 can't pull DNA out of the air. You can't pull fingerprints
15 out of the air. It's just not the way it is.

16 This isn't a burglary. This isn't the kind of case
17 where you leave some kind of evidence behind of what
18 happened. It comes down to witness testimony.

19 And you heard the forensic officer testify. She did
20 all she could. She even took those little shell casings
21 back to her office, put them in that chamber to try to see
22 if she could pull a fingerprint off of it, and she could
23 not.

24 Now the Defense wants you to say, oh, they should have
25 gone around and started doing gunshot residue tests on

CLOSING ARGUMENTS - MR. MOYER

233

1 everybody. I contend to you, ladies and gentlemen, I don't
2 care what these police officers would have done in this
3 case, the Defense is going to -- the Defense attorney is
4 going to have a way to spin that around and say, well, they
5 should have done something different, they should have done
6 this or that. It's an endless cycle. It's an endless
7 argument no matter what they do.

8 Ladies and gentlemen, as Forensics Officer Ooten told
9 you, there's no reason to check to test for gunshot residue
10 when you don't have any reason to believe somebody had a
11 gun. There was no reason to think -- there was no reason at
12 the time this happened on July 20th or after listening to a
13 day of testimony yesterday, there was no reason to even
14 speculate that Tyler, or Bobby or anybody else had a pistol.

15 Now, yeah, okay, the officers when they pulled up, when
16 they first saw Bobby, I mean, Tyler, they didn't know what
17 was going on. All they knew was, hey, somebody had been
18 firing shots out here.

19 They pull up and here comes some guy coming at them.
20 So is this the guy? Is this the guy who has the gun? So
21 they didn't know. They started talking to him. They find
22 out there's absolutely no reason to suspect that he fired a
23 gun.

24 And let's say the officers had done a gunshot residue
25 test on him. Then what would we hear from the Defense?

CLOSING ARGUMENTS - MR. MOYER

234

1 Well, why are they doing gunshot residue tests on him?
2 Police mustn't have believed him, mustn't they? He told
3 them one thing, now they're -- they don't believe him.
4 Wanted to double check. They're going -- they're going back
5 on him. So no matter what these officers had done it would
6 have been spun around.

7 The bottom line is Tyler and Bobby stayed there on the
8 scene. That's what innocent people do. This Defendant
9 fled. They couldn't test his gunshot residue. That's what
10 the guilty do.

11 Now, we had several -- we had Tyler Mattress testify.
12 The Defense, I believe, it seemed like the majority of the
13 closing argument from the Defense seemed to focus on Mr.
14 Mattress' past, because once again, just like the gunshot
15 residue, they want to focus you away from the evidence to
16 something else.

17 Tyler was open and up-front with you. That was the
18 very first thing we asked him when he took the stand. Yes,
19 he has a past. Back in 1999 he was convicted of these
20 crimes.

21 But you know what? He's moved on. He has a job. He
22 has a one year old child. He's been working for three
23 years, he testified to you. He's moved on. And, ladies and
24 gentlemen, I would implore you not to take that step, which
25 I believe is being inferred to you, to not take this case

CLOSING ARGUMENTS - MR. MOYER

235

1 seriously because of Mr. Mattress' past.

2 If it were not for some good fortune, Mr. Mattress
3 could have been killed that day. If it were not for some
4 fortune, a child could have been hit. There's no telling
5 where those bullets could have gone when they were flying
6 around in that parking lot.

7 Now, the Defendant has a motive, in closing. He has a
8 motive. There was nobody else brought up in this case who
9 would have motive to be out there to shoot at Tyler
10 Mattress. This Defendant was angry. Amanda said he was
11 jealous. He was real jealous. He didn't want other men to
12 be with her, with Amanda Ray, this Defendant did not.

13 When he got in touch with her on July 20th, 2011 on the
14 phone, he said he's going to crack her skull. When Tyler
15 had heard enough of that conversation and he took the phone,
16 he said don't -- don't go after a girl, come after me. And
17 the Defendant decided he was going to do that. He has
18 motive to do it. And he was observed by three witnesses
19 doing it.

20 I told you at the outset of this case that at the end I
21 would ask you to do justice. The Defense has demonstrated
22 how important of a day this is for Joseph Walker, but this
23 is as equally an important day for the State.

24 The State, the people of Greenville County have an
25 interest that people who commit crimes like this are brought

CHARGE OF THE COURT

236

1 to justice. As I stated a minute ago, Tyler Mattress is not
2 the only person who was put in danger that day, but there
3 was a whole apartment complex full of people who were put in
4 danger as well.

5 The evidence shows beyond any reasonable doubt that
6 this Defendant fired a pistol at Tyler Mattress out of sheer
7 anger and jealousy on that day. That is attempted murder,
8 ladies and gentlemen. And I ask you, I implore you that
9 justice demands holding him responsible for that crime and
10 finding him guilty. Thank you.

11 **THE COURT:** Now, Madame Foreman, ladies and gentlemen
12 of the jury, as you know, this Defendant is charged with and
13 has been indicted for attempted murder. This is a statutory
14 offense. And section 16-3-29 of our code of laws reads in
15 part as follows; a person who with the intent to kill
16 attempts to kill another person with malice aforethought,
17 either express or implied, commits the offense of attempted
18 murder.

19 Now in order for you to understand this charge it is
20 first necessary for me to define murder for you. And murder
21 also is a statutory offense. And section 16-3-10 of our
22 code reads murder is the killing of any person with malice
23 aforethought, either express or implied. Of course, I don't
24 need to define for you the killing of another.

25 So the second element of murder is that it is done with

CHARGE OF THE COURT

237

1 malice aforethought, express or implied. Malice
2 aforethought, ladies and gentlemen, is a legal -- malice is
3 a legal term of art which implies wickedness and excludes a
4 just cause or excuse. It means a condition of the mind or
5 heart which prompts one to take the life of another without
6 just cause or excuse. Now, our Supreme Court has defined
7 malice by saying it springs from a heart devoid of social
8 duty or obligation and is one fatally and deliberately bent
9 on mischief.

10 Now, to prove malice it is not necessary for the State
11 to prove the Defendant had a feeling of hatred or ill-will
12 toward the person killed. The statute says that malice must
13 be a forethought. A forethought simply means deliberate or
14 planned.

15 In other words, a forethought means that malice must be
16 in the mind a sufficient length of time to have produced the
17 act that caused the death. Now, no long period of time must
18 have existed. If it was there long enough to bring on the
19 act that caused the death, it would be sufficient in point
20 of time.

21 The statute, as I read to you, says that malice may be
22 express or it may be implied. Express malice means there is
23 some direct proof of malice as, for example, where a person
24 by word of mouth states his hatred or ill-will for another
25 or where there is evidence of previous threats of lying in

CHARGE OF THE COURT

238

1 wait or making plans to take human life. That is express
2 malice.

3 Implied malice, on the other hand, may be shown from
4 the facts and circumstances surrounding an event. Implied
5 malice exists where there is no actual intent to kill any
6 person, but death is caused by conduct which the law regards
7 as showing such an abandoned state of mind as to be the
8 equivalent to an actual intent to kill.

9 Stated somewhat differently, ladies and gentlemen,
10 murder is the malicious taking of human life. It is nothing
11 more or less than the evil, wicked intent to take human
12 life. It may be expressed by the evil expression of the
13 human lips indicating the intent on the part of the human
14 heart or it may be implied where the killing takes place
15 under such circumstances as indicate that it first had been
16 prompted by a wicked, evil, depraved heart devoid of social
17 duty and fatally bent on mischief. That, ladies and
18 gentlemen, is murder.

19 Now, the Defendant in this case is charged with
20 attempted murder. Ladies and gentlemen, attempt in criminal
21 law is an endeavor to accomplish a crime carried beyond mere
22 preparation, but falling short of execution or completion of
23 the ultimate design. In other words, an attempt includes an
24 intent to do a particular criminal thing combined with an
25 act falling short of the thing intended.

CHARGE OF THE COURT

239

1 Now, an attempt has two elements. First of all, it
2 must have been a specific intent to commit a particular
3 crime, in this case, murder. And, secondly, -- and,
4 secondly, a direct ineffectual act towards its completion.
5 That, ladies and gentlemen, is the law with respect to
6 attempted murder.

7 Now, as jurors in this case you have a function or a
8 responsibility that is entirely separate and distinct from
9 my function in the case as the trial judge. I am the judge
10 of the law, but you are the judges of the facts.

11 And the Constitution of our State does not allow me to
12 charge you on the facts of this case or to discuss the facts
13 with you or in any way or manner let you know what my
14 personal feelings, if any, are about this case. That's
15 because you and you alone are the judges of the facts.
16 Therefore, if during the course of this trial or if during
17 the course of my charge you have a feeling or you have been
18 left with the impression that I have a personal feeling
19 about this case one way or another, then you disregard that
20 feeling or that impression.

21 Now, it's your duty and your duty alone to weigh the
22 testimony and evidence in this case and to pass upon the
23 credibility or the believability of the witnesses you heard
24 testify. In this connection you have the right to believe
25 all that a witness told you or you can disbelieve all a

CHARGE OF THE COURT

240

1 witness told you. You can believe part of what a witness
2 told you and disbelieve a part of what a witness told you.

3 You can believe one witness as against several or you
4 can believe several as against one. You also have the right
5 to take into consideration any bias, or prejudice or
6 interest you feel a witness in the case might have.

7 Now, I told you that I am the judge of the law in this
8 case. And it is my duty to charge you the law that applies
9 to the facts. It's not a question of what you feel the law
10 might be or what it should be. It is not necessarily what
11 the laws may have told you it is because under your oath you
12 are required to take the law as I give it to you, apply that
13 law to the facts as you determine those facts to be and to
14 write your verdict accordingly.

15 Now, in this case as in all criminal cases this
16 Defendant comes into this courtroom presumed to be innocent.
17 And this presumption continues and carries through the
18 entire trial until and unless it is removed by evidence that
19 satisfies you of his guilt beyond a reasonable doubt. The
20 burden is on the State in this case to prove this Defendant
21 guilty and to prove each and every element of the offense
22 with which he is charged beyond a reasonable doubt.

23 Now, some of you may have in the past served as jurors
24 on civil cases. And if so you were most likely told that it
25 was only necessary that a fact was more likely true than not

CHARGE OF THE COURT

241

1 true. But in criminal cases the State's proof must be more
2 powerful. As I told you, it must be beyond a reasonable
3 doubt.

4 Now, proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of this Defendant's guilt.
6 There are very few things in this world that we know with
7 absolute certainty. And in criminal cases our law does not
8 require proof that overcomes every possible doubt.

9 If, based on your consideration of the testimony and
10 evidence in this case, you are firmly convinced that this
11 Defendant is guilty, then you must find him guilty. If, on
12 the other hand, you think there is a real possibility that
13 he's not guilty, then you must give him the benefit of that
14 doubt and find him not guilty.

15 Ladies and gentlemen, under the oath you took in this
16 case you swore to try this case based only and solely on the
17 testimony presented in this courtroom. I tell you that it
18 is your duty to lay aside all outside opinions, bias,
19 prejudice or sympathy you may have in reaching your verdict.

20 The word verdict is taken from the Latin word *veredicto*
21 that means to speak the truth. You have no enemies to
22 punish or friends to reward. I charge you to abide by your
23 oath and return a verdict that speaks the truth.

24 You'll have in the jury room with you the indictment in
25 this case. This indictment does not constitute evidence.

CHARGE OF THE COURT

242

1 It simply sets forth the allegations by the State. This
2 indictment is the legal document that brings the case into
3 the courtroom and presents it to you for your
4 determinations.

5 There are one of two verdicts in this case, guilty or
6 not guilty. And whatever that verdict is it must be
7 unanimous. That is all twelve of you must agree.

8 Madame Foreman, you'll see on the back of this jury
9 [sic] where the word verdict is printed. Whatever the
10 unanimous verdict of the jury is, guilty or not guilty,
11 please write it out in that space and sign your name on the
12 line where it says Foreperson of the petit jury.

13 At this time I'm required to suspend and go over my
14 charge with the lawyers. I need for you to go back into
15 your jury room, but do not begin deliberating until I send
16 word in for you to do so. Thank you.

17 (Whereupon the jury exited the courtroom at 10:43 am)

18 **THE COURT:** All right. Anything further from the
19 State?

20 **MR. MOYER:** No, Your Honor.

21 **THE COURT:** Anything further from the Defense?

22 **MR. SHEEK:** No, sir.

23 **THE COURT:** All right. Tell them to deliberate. And
24 bring the alternate, Mr. Williams, back in.

25 (Whereupon the jury began deliberating at 10:43 am)

1 (Whereupon the alternate entered the courtroom at 10:43
2 am)

3 **THE COURT:** Mr. Williams, since our twelve jurors have
4 made it through this case, this will conclude your service
5 on this case.

6 **MR. WILLIAMS:** All right.

7 **THE COURT:** I'm not sure what the balance of the day
8 holds for you. But what I need you to do is to report back
9 downstairs to the jury assembly room, and Judy will let you
10 know what to do.

11 **MR. WILLIAMS:** All right. Thank you.

12 **THE COURT:** Thank you very much. Appreciate it.

13 **MR. WILLIAMS:** Thank you.

14 **THE COURT:** All right. Gentlemen, don't leave the
15 courthouse. Stay close.

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

17 **MR. MOYER:** Yes, sir.

18 **THE COURT:** I'm sure we'll probably be having some
19 questions.

20 (Whereupon court was in recess at 10:45 am)

21 (Whereupon court resumed at 12:01 pm)

22 **THE COURT:** All right. Anything before I bring the
23 jury, gentlemen?

24 **MR. MOYER:** No, Your Honor.

25 **MR. SHEEK:** No, sir.

VERDICT OF THE JURY

244

1 **THE COURT:** Bring them on.

2 (Pause)

3 **THE COURT:** I've overlooked telling the ladies and
4 gentlemen that regardless of this verdict that I will not
5 permit or condone any displays of emotion of any kind. And
6 should there be any, that'll constitute contempt of court,
7 and I will punish accordingly. Okay?

8 (Pause)

9 **THE COURT:** All right. Bring them on.

10 (Whereupon the jury entered the courtroom at 12:03 pm).

11 **THE COURT:** Madame Foreman, if you've reached a
12 verdict, would you hand it to the bailiff, please, ma'am.

13 (Pause)

14 **THE COURT:** All right. Would you please publish the
15 verdict.

16 **MADAME CLERK:** Your Honor, this is case 2011-GS-23-
17 8458, The State versus Joseph Christopher Walker, indicted
18 for attempted murder. And the verdict is guilty.

19 **THE COURT:** Anything further from the jury, counsel?

20 **MR. MOYER:** No, Your Honor.

21 **THE COURT:** Anything further?

22 **MR. SHEEK:** Nothing from the Defense, Your Honor.

23 **THE COURT:** Thank you, ladies and gentlemen, for your
24 service on this case. We can let you go for the rest of
25 today. And what I need you to do is tomorrow morning at

SENTENCE OF THE COURT

245

1 11:00, call in. Call in the number that was given to you
2 yesterday morning, and we'll let you know when to come back,
3 okay? So call in at eleven tomorrow morning. Thank you.

4 (Whereupon the jury exited the courtroom at 12:05 pm)

5 **THE COURT:** All right. Any motions, Mr. Sheek?

6 **MR. SHEEK:** At this time, no, sir. I would reserve the
7 right to make a post trial motion within ten days?

8 **THE COURT:** No, sir, you need to go ahead and get them
9 in the record now, Mr. Sheek. I'm sorry.

10 **MR. SHEEK:** Well, we would renew our verdict -- our
11 motion for a directed verdict, Your Honor.

12 **THE COURT:** And I would have to deny that motion.

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

14 **MR. MOYER:** If it please the Court, as for sentencing,
15 he has been served with our notice of life -- intent to seek
16 life without parole. I have some documents I would like to
17 pass up to the Court.

18 **THE COURT:** All right.

19 **MR. MOYER:** I'd like to make this a Court's exhibit.
20 It's our notice of intent to seek life without parole along
21 with a certificate of mailing to the Defense counsel, an
22 affidavit of service on the Defendant.

23 **THE COURT:** All right. Mr. Sheek, any comment with
24 respect to this?

25 **MR. SHEEK:** No, sir.

SENTENCE OF THE COURT

246

1 **THE COURT:** All right. Come around, please.

2 **MR. SHEEK:** Just so my client understands, your
3 question with regard to did I have any questions regarding
4 the documents, was whether or not we had been served as the
5 solicitor stated, is that correct?

6 **THE COURT:** Yes.

7 **MR. SHEEK:** And we have been served with those
8 documents.

9 **THE COURT:** Okay. All right. Mr. Walker, you elected
10 not to take the stand and testify in your defense. At this
11 time you have a right to address the Court with respect to
12 sentence. I have no discretion with respect to that based
13 on the information submitted to me by the solicitor. Do you
14 have anything that you would like to address at this time?

15 **MR. WALKER:** No, sir.

16 **THE COURT:** Anything further, solicitor?

17 **MR. MOYER:** No, Your Honor. Since there's no
18 discretion I don't think there's any reason to go into his
19 criminal record or anything like that.

20 **THE COURT:** All right. And this notice of intent to
21 seek life without parole will be made a part of the record.

22 (Whereupon Court's exhibit 1 was marked)

23 **MR. SHEEK:** At this point, Your Honor, I would note my
24 client is obviously wondering why I'm not putting up some
25 facts in mitigation in arguing for the sentence to be lower

SENTENCE OF THE COURT

1 than life without parole. I understand legally it's out of
2 your discretion.

3 THE COURT: Exactly.

4 **MR. SHEEK:** And I want him to understand that's the
5 reason at this point I'm not putting up any mitigating
6 circumstances..

7 **THE COURT:** I understand that. I accept that.

8 MR. SHEEK: Yes, sir.

9 **THE COURT:** All right. Mr. Walker, the sentence of the
10 Court is you be committed to the Department of Corrections
11 for a period of life. That is without parole.

12 (Hearing ended at 12:10 pm)

13 (End of requested transcript of record)

1

Certificate of Reporter

2 I, the undersigned, Susan W. Hudgins, Official Court
3 Reporter for the Thirteenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all the
6 proceedings had and evidence introduced in the trial/hearing
7 of the captioned case, relative to appeal, in the Circuit
8 Court for Greenville County, South Carolina, on the 1st and
9 2nd day of April 2013.

10 I do further certify that I am neither of kin, counsel,
11 nor interest to any party hereto.

12

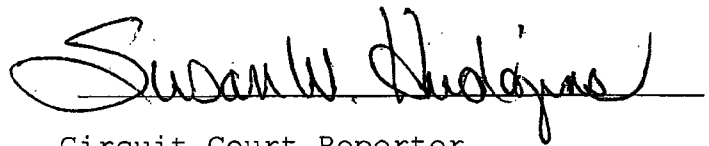
November 6, 2013

13

14

15

16

A handwritten signature in cursive script, reading "Susan W. Hudgins", written over a horizontal line.

Circuit Court Reporter

WITNESSES

J H Rackley

(GSD)

Greenville Police Department

9/3/2011

ARREST WARRANT NUMBER

M802025

ACTION OF GRAND JURY

TRUE BILL

Billy L. Damm

Foreperson of Grand Jury

VERDICT

Guilty

Nelanda Holmes

Foreperson of Petit Jury

Date: *April 2, 2013*

DOCKET NO. 2011-GS-23-

LMM

008459

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2011

THE STATE

vs.

JOSEPH CHRISTOPHER WALKER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

NOV 02 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on
County present upon their oath:

DEC 20 2011

the Grand Jurors of Greenville

That JOSEPH CHRISTOPHER WALKER did in Greenville County, on or about the 20th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Tyler Mattress by means of pointing a gun and firing at the victim. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

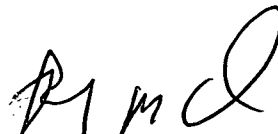
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 13th, 2014.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

C. Victor Pyle, Jr., Circuit Court Judge

RECEIVED

JUN 13 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH WALKER

APPELLANT

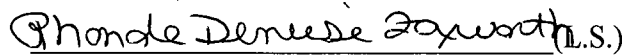
APPELLATE CASE NO. 2013-000766

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and upon Mr. Joseph Walker, #285497, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669 this 13th day of June, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 13th day of June, 2014..

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 17, 2021.