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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Greenville County
C. Victor Pyle, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM JOSEPH PHILLIPS,

APPELLANT

Appellate Case No. 2013-001339

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

WILLIAM JOSEPH PHILLIPS,

DEFENDANT.

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume One of Three)

JUNE 10 - 12, 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:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

had a ---

THE COURT: What you've told me so far doesn't comply with the law.

MS. GORTON: It goes to his motive and inclination to act alone versus with the counsel and advice of ---

THE COURT: The facts ---

MS. GORTON: --- my client. Excuse me?

THE COURT: The facts are similar in the other events?

MS. GORTON: Yes, I believe that they were in that he explodes over issues of his father.

THE COURT: Well, we'll cross that bridge when we come to it. I think you're a little ---

MS. GORTON: I ---

THE COURT: --- off track on that. All right. Anything else?

MR. STEINBERG: Yes, sir, very briefly.

MS. GORTON: I did have a second issue on that.

THE COURT: Okay.

MR. STEINBERG: Ms. Gorton.

THE COURT: All right.

MS. GORTON: The second issue, and I think we're about to address it, is that the State's witness had a competency exam because he was charged with murder. And in that exam Mr. Steinberg has agreed not to make any hearsay objections.

So then our issue is how much of that exam report do I

get to get in? Well, it's an expert's opinion. And part of the basis of their opinion in the competency evaluation were those past acts.

So I believe that even if I don't get to get them in based on showing his motive to act alone or his inclination to act alone, I do get to bring them in under the competency exam in that those were specific acts cited by the examiner as a basis for the diagnosis and the resulting issuance of competency. And I do have case law with regard to that.

THE COURT: All right. Mr. Steinberg.

MR. STEINBERG: Your Honor, I -- the State, again, strongly disagrees. This trial is about Jobo Phillips and what occurred. JJ Allen was found to be competent.

I have no objection if counsel wants to say were you found to be antisocial, whatever those things are. I just don't want this to be a very belayed competency evaluation on an unrelated matter. JJ Allen was found to be competent. He can testify.

And to account the cases opposing counsel has, but my case law is that these issues should not be coming in during a trial on a co-defendant. Other cases having addressed the same subject has said courts have great power, the trial court has great power to determine if these issues are irrelevant. They're going to obfuscate the matter. They're going to belay the matter.

THE COURT: All right. What we're going to do, when you come to this, we'll excuse the jury and we'll -- I'll pass on it at that time, okay?

MS. GORTON: All right. Thank you, Judge.

MR. STEINBERG: The next issue also ties in with Jerry Allen. The defense attorney informed me she wishes to go into a matter involving JJ Allen having written an alleged letter where he admits telling two to three other people.

This letter, I don't believe, ever exists. I've asked that counsel provide it to us. It was sent to her client's family. I don't think it exists. If it does, it has not been turned over.

And finally, it is irrelevant. It is a letter where JJ Allen says I've also killed two to three other people unrelated to this matter.

MS. GORTON: Judge, I would think that him killing people on his own would certainly be relevant in this case. I wasn't going to go into it other than to ask him did you write a letter in which you admitted killing two to three other people. He can either admit it or deny it. If he denies it, I believe that I can then introduce ---

THE COURT: That's ---

MS. GORTON: --- evidence.

THE COURT: That's not going to come in now.

MS. GORTON: All right. Thank you.

them back.

(Pause)

THE COURT: All right. We'll take a short recess. I'm going to order lunch for the jury. And it'll take a few minutes to do that. So just be at ease, please.

MR. STEINBERG: Thank you, Your Honor. For the Court, the first witness will probably be one of the longer witnesses. I'm ---

THE COURT: Okay.

MR. STEINBERG: --- not sure before or after lunch.

THE COURT: All right.

(Whereupon court was in recess at 12:01 pm)

(Whereupon court resumed at 12:14 pm)

THE COURT: Okay. Bring the jury.

(Whereupon the jury entered the courtroom at 12:15 pm)

THE COURT: All right, solicitor, brief opening statement.

MR. STEINBERG: Thank you, Your Honor. Good morning, ladies and gentlemen, might be afternoon or this morning. My name is Howard Steinberg. I'm a prosecutor at the Solicitor's Office. That's the same thing as a district attorney or state's attorney.

At the State table is Rita McIntyre. She is my lead investigator. She's essentially a paralegal. Also, Investigator Christopher Hammett. He's with the Sheriff's

Office. He is the lead investigator on this case.

During the course of this trial you're going to meet some people you're unfamiliar with, some circumstances you're unfamiliar with. You're going to meet some witnesses that might be hesitant to testify. I say this only so that you can get some background on this case and you're prepared for this case because Jobo Phillips, the individual in the white shirt at this table, was unwilling to accept a breakup in a relationship, we had a crime.

Christina Gentry, who will testify, had at one time dated, an on and off again relationship with Jobo Phillips. She then broke that relationship off. She moved away to a different house, moved and then started dating another individual named Charlie Roberts.

Jobo could not accept that. Jobo hired a man named JJ Allen to stop that from occurring. JJ Allen will admit to what he did. He killed Charlie Roberts. JJ's also related to him. JJ is a house-mate, I guess, for Jobo Phillips. And JJ's also the adopted brother of Christina Gentry.

JJ will testify that he used Jobo's gun, took Jobo's money and Jobo's drugs and did Jobo's bidding and followed Jobo's advice. When I say Jobo, William Joseph Phillips goes by Jobo. That's how he'll be referred to in the trial.

He then took his money, took his advice, took his gun, got a ride from him and did kill Charlie Roberts. He then

continued -- JJ continued to follow Jobo's advice in getting rid of the body, attempting, and getting rid of, attempting, to get rid of the truck that the victim owned.

He then turned himself in once the body was found because it was hidden very amateurishly. And he wound up turning himself in and doing what essentially -- a false confession. He was lying. Turned himself in, but lied about the circumstances.

THE COURT: Now, you're arguing.

MR. STEINBERG: Yes, sir.

THE COURT: Solicitor, please just move on.

MR. STEINBERG: Thank you, Your Honor. I'm going to ask you to listen to the witnesses, listen to the motives, listen to what the Defendant did beforehand, and said beforehand, and did and said afterwards.

At the end we're going to present you the law in this case. The law in this case is accessory before the fact to a murder. That means that if Jobo Phillips did knowingly assist, or procure, or direct or do anything to assist JJ Allen in the killing of Charlie Roberts, then you would find him guilty. Again, any involvement that is knowingly would lead to a verdict of guilty. Thank you. And we respect your time here. Thank you.

THE COURT: All right, Ms. Gorton.

MS. GORTON: Thank you, Judge. Good afternoon. My

name's Cass Gorton. And Cass is short of Cassandra. I'm a court appointed attorney, which means I'm committed to serving the poor.

And today I'm here representing Joe Phillips. Some people call him Joe. Some call him -- you'll hear a lot about Jobo. That's him. His full name is William Joseph Phillips. He's thirty-three years old. And he's lived in Marietta all of his life.

The case you're here on today is an accessory before the fact. And you are going to hear -- there's many things that the State and I agree on. And in some ways this is a very simple case. Number one, Charlie Roberts is dead.

The State and I agree as to who killed him. It was Jerry Allen. You're going to hear JJ. That's Jerry Allen. We agree as to who killed Charlie Roberts. We also agree how he killed him, when, what date, and what time. We agree on all those things. What we don't agree on is why.

This is the man who killed Charlie Roberts. He's a killer. And you are going to meet him. He's going to sit in that chair right there. And he's going to try to convince you that what he did was not his fault.

THE COURT: Now, that's not in evidence yet, ma'am.

MS. GORTON: All right. Thank you. The Judge doesn't want us to argue our case, but to only tell you what the facts are. And I apologize, Your Honor.

Joe Phillips did help Jerry Allen. He helped him a lot. And he was facing being in a lot of trouble for what he did, but he helped him. You're going to hear that he helped him after JJ did what he did. He was an accessory after the fact, not before. And that case is not before you today. The accessory after the fact is not what you're deciding.

What you're deciding is whether he helped JJ before JJ did what he did. And that's where I'd like for you to keep your focus when you hear the jail calls, when you hear the witness testimony.

Was Jobo Phillips upset that Christine was seeing -- Tina, Christina, Tina, the same person, was seeing Charlie Roberts? Yeah. They had a couple of kids together. Was he willing to have Charlie Roberts killed? No.

There's a saying, what you see is what you believe. And in some ways the way the trial is conducted, the State's version is the one that will be the easiest and most obvious to see. They go first. They present their witnesses first.

And what they're trying to show you will be obvious. It's kind of like looking at this picture. It's a frog. It's obvious it's a frog. But our version is different than the State's. I look at this drawing and I see a horse. Do you see it? No, not yet? The frog's pretty obvious.

But your task is to be fair, impartial jurors and keep

an open mind. You have promised to maintain a presumption of innocence, which means you've promised to keep trying to see that horse I'm telling you is there until this trial is over, to keep believing in Mr. Phillips' innocence as the State adds color and highlight to their case and present witnesses. The picture becomes even more obvious.

But I'll be making some marks of my own. And they might seem random. But I assure you that there's a purpose. This trial, more than others -- you see the horse yet? This trial more than others is a matter of perception. And I'm confident when we're done you'll be able to see what I see, this is a horse and Mr. Phillips is not guilty.

THE COURT: All right. First witness, solicitor.

MR. STEINBERG: The State would call Christina Gentry.

MADAME CLERK: Ms. Gentry, if you'd come forward to be sworn in, please.

Christina Gentry, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MS. GENTRY: Christina Gentry.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Ms. Gentry. How are you today?

A. (Affirmative nod).

Q. I understand. Can I call you Christina?
A. (Affirmative nod).
Q. How old are you, Christina?
A. Twenty-seven.
Q. And where are you from originally?
A. Greenville, from Travelers Rest.
Q. And what's your highest level of education?
A. I have an associate's degree in nursing.
Q. And where do you currently work?
A. Mary Black Hospital System.
Q. And did you ever have a relationship with William Joe Phillips? And if so, please tell us about that.
A. Yes, sir. We were together for six years. We have children together.
Q. How many children do you have together?
A. Two.
Q. Have you ever been married to Jobo Phillips?
A. No, sir.
Q. When did you last live with him? When have you last shared a residence with Mr. Phillips?
A. It was around March, 2011.
Q. During the time before that was it a continuous relationship or had you ever moved out before?
A. Several times, in and out.
Q. Once you moved out in March of 2011 where did you move?

A. To my mom's.
Q. Who did the children stay with?
A. They stayed with me mostly, but he did get 'em some.
Q. Please tell us about your relationship to Jerry Allen.
A. He is my -- he's -- he was my step-brother and then he was adopted. So he was my -- legally my brother.
Q. Were you raised together?
A. Yes.
Q. What name does Jerry go by in the community?
A. JJ.
Q. Have you ever known JJ to have any drug problems?
A. Yes.
Q. How serious were the drug problems?
A. They were pretty bad. He started missing teeth and everything from it.
Q. Did he ever live with you when you resided with Jobo Phillips?
A. Kind of in and out, yes, sir.
Q. Okay. When you moved out did he live in that residence?
A. Yes, sir.
Q. What was the address of that residence?
A. [redacted]
Q. After you moved out did JJ continue to live there?
A. Yes.

Q. What was his relationship like with Jobo Phillips?
A. He said he would do anything for him. He was like his brother.
THE COURT: Will you lean in a little closer to the microphone?
Q. And you can move the microphone also. What role, what functions, what jobs did JJ do at that residence on Long Shoals?
A. He would help with everything. He would drive if Joe needed to go somewhere or help cut grass, clean house.
Q. Did JJ know the victim in this case, Charlie Roberts, to the best of your knowledge?
A. He had seen him, but I don't believe him to know him.
Q. Okay. Have you known of any hostilities between them outside of what happened on July 8th?
A. No, sir.
Q. Let's talk about Charlie Roberts. How long had you known him?
A. I've known him as long as I've known William Phillips.
Q. And do you remember his telephone number?
A. I do. It was 207-6990.
Q. Approximately how tall and how large was Charlie?
A. He was about 5'9, hundred and eighty pounds.
Q. What was your relationship like with Charlie Roberts?
A. It was great.

MR. STEINBERG: Beg the Court's indulgence.

(Pause)

Q. Again, what was the nature of your relationship with Charlie Roberts?

A. It was great.

Q. And when you say great, were you dating at the time?

A. Yes.

Q. I'm not sure it was an official date, but do you recall when you started dating Charlie?

A. It was shortly after I moved out from over there with Jobo.

Q. Did you ever live with Charlie Roberts?

A. No. I ---

Q. Did you ever spend -- go on.

A. I stayed over there a couple of days out of the week.

Q. I don't want to go into too much information about Charlie, but I do want you to say is he the kind of person that would assist another individual?

A. Yeah, always. You can ask anybody that ever knew him. He would just do anything for anybody.

Q. Well, that might be answering this question. Would he have helped you if you had needed assistance?

A. Of course.

Q. Let me ask you a seemingly unrelated question. During the time of Charlie's disappearance did your car have any

vehicular problem, mechanical problems?

A. Yes.

Q. Where did Charlie work?

A. He worked for JPS Glass, the old mill.

Q. And do you remember what shift he worked?

A. Third.

Q. And what does third mean?

A. Night shift. He worked from 12:00 at night until eight in the morning.

Q. Do you know how long he had worked there?

A. Twenty plus years.

Q. I asked you what Jobo's phone number was, I mean, pardon me, Charlie's number. What was Jobo's phone number at the time, if you remember?

A. It was 48 something. It was like 5750.

Q. You said the last part was 5750?

A. Yes, sir.

Q. What was your phone number at the time?

A. It was 434-0045.

Q. Do you remember JoAnn Johnson's?

A. 254-8064.

Q. Did she have a land line as well, if you know?

A. She did. I don't remember the number though.

Q. Okay. And who is JoAnn Johnson?

A. It's Jobo's mom.

Q. How close does the rest of the family live to Jobo's property, residence?
A. There's not even -- it's not even as big as this courtroom, the space between his house and his mom's.
Q. Are they the same plot of land?
A. It's separate plots, but it's -- they're very, very close.
Q. Okay. Did you ever have any discussions with your former boyfriend, Jobo Phillips, about you dating other individuals once you left?
(Pause)
A. I'm sorry. Kind of, yes.
Q. Christina, there is -- there is a water pitcher right there. If you need something, you just stop and let us know.
A. Okay.
Q. Let me ask you -- let me narrow it down to Charlie Roberts. What did Jobo ever say, anything about Charlie Roberts and you having a relationship?
A. He was not happy about it. He would call him names, me names, I was a whore.
Q. And during the course of this trial, I understand we're in a courtroom that has a great decorum, but I want you to use the actual language, if you remember the actual language. If you remember someone saying a certain word, I

want you to say I remember this person saying that particular word. And that would go for the rest of your answers. Do you remember anything in particular Jobo referred to as Charlie?

A. A pussy mother fucker.

Q. Did he ever call Charlie by his name?

A. (Negative nod).

Q. The court reporter has to write down what's being said.

A. No, sir.

Q. Do you remember an incident at Charlie's residence?

A. Yes, sir.

Q. I'd like you to please tell the jury ---

MS. GORTON: Objection.

THE COURT: What's your objection?

MS. GORTON: The incident he's about to go to is too remote in time to be relevant to this case.

MR. STEINBERG: This is June 12th. The death happened July 8th, Your Honor.

MS. GORTON: It's a matter we addressed in pretrial motions, Your Honor.

MR. STEINBERG: Your Honor, counsel said she had no objection to this witness, she had an objection to the deputy.

THE COURT: All right. Go ahead.

MR. STEINBERG: All right.

Q. Please continue on.
A. I was at Charlie's house. And he had already laid down. He was -- he had to go to work that night. And I locked the door behind me and was sitting on the front steps. And Jobo pulled up in the van he was driving. And he was very upset about me being there.
And he had -- he went to the door and started knocking, you know, kind of beating on the door. And he called Charlie is a pussy for not coming out to fight him and stuff. And I told him to let's just go. And we got in the van and we left.
Q. Were you supposed to leave with Jobo? Were you dating him at the time?
A. No. My mom was supposed to come and get me, but when we left we pulled out of Charlie's driveway to the right and my mom's truck was broke down just a little ways down. She had broke down on the way to get me.
Q. As you left with Jobo what, if anything, did he say about you being there and what, if anything, did he say about Charlie?
A. He said he was going to beat his eyeballs out of his sockets. He was very upset about me being there.
Q. Did you see the police respond that night?
A. We ---
MS. GORTON: Objection.

THE COURT: What's your objection?

MS. GORTON: Judge, this is the pretrial motions that we had before you, Your Honor.

MR. STEINBERG: The question is did she see police officers come by.

THE COURT: That's all right. Go ahead.

A. We were at my mom's truck trying to hook the battery cables up. And the police officer stopped and asked us did we need any help, ---

Q. Okay.

A. --- actually.

Q. What road was that on?

A. Lions Park.

Q. Is that where Charlie lived?

A. Yes.

Q. Was anybody else with Jobo during this incident? Anybody in the vehicle when he pulled up?

A. (Negative nod).

Q. After this incident did you ever speak with -- did you ever speak with Jobo about Charlie?

A. Yeah.

Q. Please tell us what was said.

A. He's the pussy that wouldn't come to the door and fight him. He said that -- he said, I guess your boy called the cops on me. He said that he was a pussy for calling the

cops on him.

Q. Did you ever speak with Jobo when he was incarcerated on the jail phone calls?

A. Yes.

Q. Did he make any mention about this incident to the best of your recollection?

A. Not while he was in jail, no, sir.

Q. Okay. Approximately how long before Charlie went missing did this incident happen?

A. Just a couple of weeks.

Q. After this incident do you remember any time when Jobo would try to talk to you about your relationship and restarting or reuniting a relationship with him?

MS. GORTON: Objection. This is getting to be leading.

THE COURT: Overruled. Go ahead.

A. Yes, sir, all the time.

Q. Okay. And when he -- when that conversation would come up did he ever raise Charlie Roberts' involvement?

A. Yes, sir. He would make little comments, like if we were somewhere he'd say -- he actually did tell me one time that I would rather spend time with him than to be with my family.

Q. You ever hear him make -- ever hear Jobo make any threats to or about Charlie Roberts?

A. Yes, sir.

Q. What were those threats, if you can remember some of the dates or times?
A. Like when I was out on the porch ---
Q. Outside of the incident, do you remember any times after that?
A. Yes, sir. He's took my phone from me several times and cussed me for every whore in the book, about Charlie and him, every mother fucker and everything.
Q. What was this incident about taking the phone?
A. We were actually at a friend of ours, this little girls birthday party. And I was texting Charlie. And Joe, actually in front of everybody, took my phone from me.
Q. Did he ever tell you why?
A. Because I was texting Charlie.
Q. Do you recall an incident where your phone was actually stolen, not taken from you, but actually stolen?
A. Yes, sir. I had had some dental work done and I actually fell asleep. And both of our phones, mine and Jobo's phones went missing.
Q. Did you ever accuse anyone of taking that phone?
A. I accused Joe of taking it.
Q. How did he respond at that time?
A. That his was missing, too.
Q. Okay. Did you ever see that telephone again?
A. Not mine. I saw the one of his that went missing

though.

Q. When you were speaking to him on the jail telephone calls did he ever mention that or did you ever mention that to him?

A. Yes, sir. His mom had brought a box of stuff that she thought was mine from his house to where I live now. And the phone of his that had went missing at the time was in there, but mine was not. And I brought it up to him wanting to know where mine was.

Q. And what did Joe have -- Jobo have to say about that?

A. He denied it at first. And then he admitted that it was because he wanted to see if I was talking to Charlie.

Q. I'm going to bring you to July 4th of 2011. Do you remember what you were doing on this day?

A. We had went to the racetrack.

Q. Which racetrack would that be?

A. The one in Travelers Rest, Travelers Rest Speedway.

Q. And who were you with?

A. My kids. And my dad actually was there at one time with his son.

Q. Was Jobo Phillips there?

A. Yes, sir.

Q. Were you there together as a couple?

A. No, sir.

Q. Was Charlie Roberts there?

A. Yes, sir. He came later after the race, but before they started the fireworks.
Q. Was he there with you?
A. No, sir.
Q. I'm going to ask you almost a two-part question. Did Jobo make any statements about Charlie Roberts in particular when you were out there?
A. Yes, sir. He said that he -- he was upset because he thought that I had invited him. And he -- that's when he told me that I would -- that I can't leave him alone long enough to spend time with my own family. And he had said that Roy White was upset with Charlie ---
Q. I'm sorry, who was that?
A. Roy White was upset with ---
MS. GORTON: Objection ---
A. --- Charlie.
MS. GORTON: --- to hearsay.
THE COURT: I sustain the objection to that.
Q. Don't repeat what someone else said with the exception of Jobo Phillips.
A. Right.
Q. I'd like you to -- did he make any comments about Charlie in particular? Jobo make any comments about Charlie in particular?
A. Yeah. He was just mad and he'd cuss him.

Q. Did he describe him at all?
A. Red headed mother fucker.
Q. Let me ask you a question. Was Charlie red headed or could he be looked at as being red headed?
A. He was actually -- he had brown hair, but his facial hair had a really bright red tint to it. So when he had his hat on you could mistake him for a red head.
Q. When did you first notice that Charlie Roberts was no longer returning phone calls or involved?
A. Friday -- that Friday.
Q. Was anything unusual about what caused you to realize he was not answering phones at all?
A. He just -- he always -- he always texted me. He always called me. And I just didn't hear from him.
Q. And were you supposed to see him that night?
A. Yes, sir. He was supposed to come and pick me up, and I was supposed to go to my grandfather's.
Q. Did he ever show up?
A. No.
Q. Who did drive you to your grandfather's?
A. Jobo.
Q. Were your children also there?
A. Yes. I was going to babysit my aunt's children.
Q. Do you remember speaking to officers the next day?
A. Yes, sir.

Q. And did you meet them in person, over the telephone or how was this ---

A. In person. Jobo is actually the one that called me when they found Charlie's truck. He said Leroy had told him. And so I went down there to where the truck had been found. And I went with officers to the detention center.

Q. I'm going to bring you back to July 9th. While you were riding or going with Jobo Phillips did he make any comments about your relationship with Charlie Roberts?

A. I kept checking my phone. And he said, what, you ain't heard from your boy today?

Q. Did Jobo make any comments or send any messages concerning you and him, Jobo and you?

A. Yeah, he asked me out.

Q. Okay. Did he ever send you any texts that night?

A. Yeah, telling me that he loved me.

Q. Did you respond to him, that text?

A. I don't think I responded to that one.

Q. Okay. Move on to Saturday. What did Joe do on Saturday?

A. He called me and told me that they had -- he asked me had I heard from Charlie yet. I told him, no. And he said that they had found his -- he said that Leroy, Charlie's brother, had called him and told him they found his truck up there in River Falls.

Q. Okay. At that point did Joe ever ask you about your relationship with Jobo as opposed to Charlie?
A. No. Whenever I left -- when I left the detention center Joe had called my phone several times while I was in there. And I just -- just let it out. I told him that we had been together, Charlie and I had, and it was -- sorry.
Q. What caused you to have that -- what was his statement or question that caused you to tell him that you were in a relationship with Charlie?
A. I just was upset. I don't know. Sorry.
Q. Did Jobo ever ask you out?
A. Yes, sir.
Q. When did he ask you out?
A. That's when he asked me out is when I told him that me and Charlie were together and I needed to be worrying about that.
Q. How did Mr. Phillips respond when you told him this?
A. He hung up on me.
Q. After that time did Jobo ever ask you out again or talk about your relationship again?
A. Yes, sir, several times.
Q. What did he want you to do?
A. Move back in and be back together.
Q. Do you remember any incident where JJ expressed any animosity or hatred towards Charlie Roberts?

A. No, sir.
Q. Did you have the opportunity to speak to your brother alone during the time period after Charlie went missing?
A. No. Joe would come over to my mom's nearly every day. He'd just show up. And sometimes JJ would come. But when he left, JJ had to go with him. Like, JJ, are you ready? Are you ready? Are you ready?
Q. Did Jobo ever tell you why he didn't let -- he didn't want JJ to be around you?
A. No.
Q. How many times do you think you've spoken to JJ since he's been locked up?
A. I think twice.
Q. This is going to be difficult, but do you recall the day that Charlie's body was recovered?
A. Yes, sir.
Q. Are you familiar with the area where it was recovered?
A. Yes, sir.
Q. Have you ever been there? And if so, tell us the circumstances.
A. Yes, sir, we have. Joe's -- Joe's aunt and her husband at the time, Carl Rider, used to live down there. And we would go down there to go hunt. And I actually would wind up staying with Lisa in the car while he would hunt.
Q. Do you know is there -- is there a residence there now

A. It burned down.

Q. After Jobo was taken into custody and jail and you spoke -- do you remember speaking with him?

A. Yes, sir. I spoke to him several times.

Q. Did you visit him?

A. Yes, sir. I took my kids down there, too.

Q. Did you know that you were having some jail phone calls that were being recorded?

A. Yes, sir.

Q. And how did you know that the phone calls were being recorded?

A. Because there's an automated message on there that says that this call is being recorded and monitored.

Q. Did Jobo ever talk about Charlie?

A. Yes, sir.

Q. Did he ever use Charlie's name?

A. No, sir.

Q. While he was incarcerated did he ask you -- what did Jobo ask concerning your residence, where you were living?

A. What do you mean?

Q. While he was in jail did Jobo ever ask you to move back in with him?

A. Yes.

Q. Did you ever speak with your brother on the jailhouse

telephone calls?

A. Yes, sir.

Q. Did you ever have a meeting with him in the jail?

A. Yes, sir.

Q. And were those -- were those recorded?

A. Yes, sir.

Q. Do not repeat what JJ had to say, but did you ask him any questions concerning this death?

A. I did.

Q. Did he respond?

A. Yes, sir.

Q. Did you listen to any phone calls in this case in the Solicitor's Office in the last couple of weeks?

A. Yes, sir.

MR. STEINBERG: I beg the Court's indulgence.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

MR. STEINBERG: I'd like these disks marked as State's 1 and 2 -- State's 3 and 4.

(Whereupon State's exhibits 3 and 4 were marked for identification)

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

Q. Who are the two voices on that phone?

A. Mine and JJ's.
Q. I'm going to ask you to listen to one more phone call.
(Whereupon the CD was played for the jury)
(Whereupon the CD was ended)
Q. Who were the two voices?
A. Mine and JJ's.
MR. STEINBERG: The State would move disks marked September 3rd, 2011, 19:25 hours on both, number 1 and number 2, into evidence.
THE COURT: All right. They're in evidence.
(Whereupon State's exhibits 3 and 4 were admitted into evidence)
MS. GORTON: Same objections, Your Honor.
Q. Ms. Gentry, after Joe's release on bond did you ever speak to him again after that?
A. Yes, sir.
Q. What did he try to say or do as far as your relationship with him?
A. He tried to be back together.
Q. Did you, in fact, get back together with him after he was released?
A. No, sir.
Q. Thank you, Christina. Please answer any of opposing counsel's questions.
Cross Examination by Ms. Gorton:

Q. Just so we're clear, those two phone calls you listened to, that all occurred on the same day, correct? It was the same phone call?

A. No, ma'am.

Q. Excuse me?

A. I don't -- I don't remember, but I don't think so.

MR. STEINBERG: Your Honor, I'll consent to that. I'll stipulate to that.

MS. GORTON: Please let the record reflect that the State so stipulates that that was during the same phone conversation.

Q. The calls from the jail, those were approximately fifteen minutes apiece, is that correct?

A. Yes, ma'am.

Q. All right. And every time you accepted a call it costs you something, correct?

A. Yes, ma'am.

Q. And you accepted -- that was the first call that you accepted from JJ?

A. No, ma'am.

Q. It wasn't?

A. No, ma'am.

Q. You talked to JJ before then?

A. I think so, yes, ma'am.

Q. During that same conversation did he say you were the

only person I was scared to talk to?

A. The first conversation?

Q. Yes, this conversation.

A. Yes, ma'am.

Q. Okay. Now, didn't he say to you at the beginning, I'm looking at the death penalty?

A. Yes, ma'am. That wasn't actually a phone call. I went to visit him during that.

Q. Okay. Well, let's play it.

(Pause)

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

Q. So did you hear that at the beginning, tried to see you two times? This appears to be your first conversation with JJ, is that correct?

A. Yes, ma'am.

Q. So you hadn't seen him and this conversation occurred during that phone call, is that correct?

A. Yes, ma'am.

Q. Okay. And does he tell you during this conversation, I'm looking at the death penalty?

A. I'm not sure.

Q. Okay.

MS. GORTON: Judge, I'm sorry, I'm on a different computer. And I was trying to stop it before we got to the

part that you ruled on. And I'm going to ---

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

Q. So he says death penalty there, correct?

A. Yes, ma'am.

Q. Did you also say to him during that phone conversation, I don't see you doing it JJ? And he says, you were the only person I was scared to call?

A. Yeah. Yes, ma'am.

Q. Now, you told the solicitor that you had known Charlie as long as you had known -- as long as you'd known Joe, my client, correct?

A. Within a few month's difference, yes, ma'am.

Q. Okay. Did you give a statement on July 9th?

A. Yes, ma'am.

Q. And just to clarify, what do you mean by you say you knew Charlie that long? Were you guys friends that long?

A. No, ma'am.

Q. Okay.

A. I mean, we were all -- we all hung out.

Q. Well, you'd only started talking to Charlie about five and a half months ago, wasn't that correct?

A. Yes, ma'am, in that manner.

Q. What do you mean in that manner?

A. We were actually friends. We spoke and had

conversations instead of just passing, hello, how are you?
Q. So you're saying you and Charlie started getting romantically involved five and a half months prior?
A. No, ma'am.
Q. Okay. Because you did write that you and Charlie had only been dating about a month and a half prior to his disappearance, correct?
A. Yes, ma'am.
Q. Didn't you also tell law enforcement that as of right now I think that Joe thinks Charlie and I are just friends?
A. Yes, ma'am.
Q. So he thought you were just friends?
A. Yes, ma'am.
Q. And, in fact, you also said that Charlie did mention you were going to have to figure out about how you were going to tell Joe about you guys dating?
A. Yes, ma'am.
Q. That this hadn't been done yet?
A. Yes, ma'am.
Q. Now, you and Joe have a couple of children together, right?
A. Yes, ma'am.
Q. All right. You have Bubba?
A. Bubba is my oldest son. He's not Jobo's.
Q. He's not really Jobo's, but has Joe taken him and treat

him as a father?
A. He has.
Q. Is Joe really the only father that Bubba knows?
A. Yes, ma'am.
Q. And how old is Bubba?
A. He'll be ten next month.
Q. All right. And there's Billy?
A. Yes, ma'am.
Q. And how old's Billy?
A. Six.
Q. There's Ben?
A. Yes, ma'am.
Q. How old's Ben?
A. Three.
Q. Now, those aren't Joe's only children, right?
A. No, ma'am.
Q. Who are his other children?
A. Lee P[redacted] and Levi P[redacted].
Q. Okay. Lee P[redacted], who's his mother?
A. Gail Gilbert.
Q. And has she been on again, off again with Joe?
A. Yes and no. I mean, it was before I came along. But, yes.
Q. Okay. Well, who is she married to now?
A. Joe's dad, Ken Gilbert.

Q. So she left Joe and went to his dad?
A. Yes, ma'am.
Q. What about Joe's other child you mentioned, Levi?
A. Yes, ma'am.
Q. And how old is he?
A. He's -- he'll be ten as well. He's close in age with my oldest one.
Q. And who's his mother?
A. Amanda Roberson.
Q. Is she still in Marietta?
A. Yes, ma'am.
Q. And you did mention to the prosecutor that you and Joe had gotten together and broke up several times?
A. Yes, ma'am.
Q. And each of you had boyfriends and girlfriends during those times, correct?
A. No, ma'am, not until this -- the last time that we split up.
Q. Now, you and Joe talked several times while he was in jail, correct?
A. Yes, ma'am.
Q. In fact, you talked to Joe five times in just one day on September 2nd, correct?
A. Yes, ma'am.
Q. And we've already talked about how these calls costs

every time someone calls. And you accepted and spoke with him five times that day, correct?

A. Yes, ma'am. I didn't pay for the phone. His mom would put time on there so he could call me.

Q. All right. And certainly you have the option of just refusing the call?

A. Yes, ma'am.

Q. Did anyone with law enforcement ask you to make these five calls in one day?

A. No, ma'am.

Q. You ---

A. And I didn't make the calls, he had to call me. You can't call the detention center.

Q. Okay. I stand corrected. Anyone in law enforcement tell you to accept his calls when he called?

A. No, ma'am.

Q. You were hiding these calls from your family, though, right?

A. Yes, ma'am.

Q. You were hiding them from your dad?

A. Yes, ma'am.

Q. You didn't want your family to know that you were talking to Joe?

A. No, ma'am.

Q. And you knew that Joe had other women. You knew about

Amanda, right?
A. Yes, ma'am.
Q. And, in fact, you and Joe had an argument on the phone while he was in jail about him being with Amanda, correct?
A. Yes, ma'am.
Q. And you also knew that he'd been with Kendra?
A. Yes, ma'am.
Q. While you guys were split up?
A. Yes, ma'am.
Q. And you and Joe had an argument about him and Kendra being together while you guys were split up?
A. Yes, ma'am.
Q. So Joe had other women?
A. Yes, ma'am.
Q. When Joe was in jail you went to a lawyer's office with his family, correct?
A. Yes, ma'am.
Q. And this is shortly after Charlie's body was discovered?
A. Yes, ma'am.
Q. And you went and spoke with Ernie Hamilton about getting Joe a bond?
A. Yes, ma'am.
Q. And you indicated to him that you were willing for the family to pay money toward Joe's bond rather than going

towards you?

A. I went with his mom, because she couldn't read and write, to the attorney.

Q. That's a good point. His mom is who?

A. JoAnn Johnson.

Q. And do you know what level of education she has?

A. Not past elementary school, surely.

Q. Surely. And what about Joe, how does he do?

A. He can't read and write either.

Q. Can he read texts?

A. Yes, ma'am.

Q. Okay. But reading these notes, could he do that?

A. No, ma'am.

Q. So you went and assisted her because she couldn't read?

A. Yes, ma'am.

Q. Did you make statements to Ernie that you wanted to help get Joe out of jail?

A. I told him that what we were there for. It was a we statement, not an I, yes, ma'am.

Q. Okay. The family referred to you at that time as Joe's girlfriend?

A. Yes, ma'am.

Q. Did you ever correct them?

A. I did.

Q. In front of Ernie?

A. No.
Q. Now ---
A. But I did introduce myself to Ernie as his ex-girlfriend.
Q. You did?
A. Yes, ma'am.
Q. Now, the State asked you something about the calls being recorded. When you talked to Joe and you and he were having this argument about Amanda and Kendra and him being with these other women, ---
A. Um-hum (affirmative).
Q. --- did you tell Joe that the call -- he said to you, the calls are being recorded, and you said to him that they couldn't, that it was illegal? Do you remember saying that?
A. I don't know. I was probably arguing with him and just saying stuff.
Q. Well, I can play it.
(Whereupon the attorneys were conferring off the record)
MS. GORTON: My date is 9/2/11. The time of the call is 18:38.
MR. STEINBERG: 9/2/11?
MS. GORTON: 9/2/11. The time is 18:38. Oh, I'm sorry, 9/2/11. The time is 15:18. It was in an earlier call.

Q. You know what, I've got too wide of a span here. Would you agree that you might have told him that?
A. Sure.
Q. Okay. I don't want to have to play all six minutes.
A. That's fine.
Q. All right. Now you also, besides Charlie, you had another boyfriend, a boyfriend named Carl?
A. Yes, ma'am. That wasn't until later.
Q. And had you had prior boyfriends when you and Joe were broke up?
A. No, ma'am.
Q. So he had other women, but you didn't have other men?
A. No.
Q. And would you agree that you spoke with Joe that September 5th and then on September 3rd you spoke with him again? You had a twenty-seven minute call. And then you had or twenty-seven minute visit ---
A. Um-hum (affirmative).
Q. --- with Joe. So you went and visited him as well?
A. I did.
Q. Okay. So first we're talking September 2nd. And the very next day you have a visit? Yes?
A. Yes, ma'am.
Q. And then you have a call at nine at -- for fifteen minutes, another call for fifteen minutes, one, two, three,

four, five, six calls in the same day, does that sound right?

A. Yes, ma'am, 'cause he wouldn't only just call me, he would call his kids as well.

Q. All right. But it was to your home?

A. Yes, ma'am.

Q. All right. And some of those calls the kids didn't ever get on the phone, correct?

A. Yes, ma'am.

Q. It was you and him talking?

A. Yes, ma'am.

Q. But it's your testimony today that you guys weren't back together?

A. No.

Q. And those calls continued through November? Yes?

A. Yes, ma'am.

Q. Every day?

A. Yes, ma'am.

Q. Several times a day?

A. Yes, ma'am. He's very persistent. You just don't -- if I didn't answer, he'd call back. Or he'd send his mom to my house to see where I was, why I wasn't answering the phone. So I would just answer it and get that over with.

Q. So you were just trying to get these calls over with?

A. Yes, ma'am.

Q. Well, how about we play one of those calls just so we can get a feel for it.

(Whereupon the attorneys were conferring off the record)

MS. GORTON: November 4th. And it's at 20:09, this call.

THE COURT: This might be a good time to take a recess. I understand ---

MS. GORTON: Thank you, Judge.

THE COURT: --- lunch is here. Ladies and gentlemen, we'll recess at this time so that you can have your lunch. And while on recess and having your lunch, do not talk about this case. Take the jury out, please.

(Whereupon the jury exited the courtroom at 1:17 pm)

THE COURT: Okay. You can step down now. All right. You can find that during the recess.

MS. GORTON: I hope so, Judge, yes.

THE COURT: And I want to start back at 2:00.

MR. STEINBERG: Yes, sir. Thank you, Your Honor.

MS. GORTON: Yes, sir. Thank you.

THE COURT: All right.

(Whereupon court was in recess at 1:18 pm)

(Whereupon court resumed at 2:03 pm)

MS. GORTON: Judge, we're having difficulty finding a disk with that call on it. I know it exists.

Gentry. All right. Bring the jury.

(Whereupon the jury entered the courtroom at 2:08 pm)

THE COURT: All right. You may proceed, Ms. Gorton.

MS. GORTON: Thank you, Judge.

Cross Examination by Ms. Gorton Continued:

Q. We were talking about a phone call that you and Joe had after your daily phone calls. And do you recall one where you and him talk about a time you got angry and hit him with a beer mug?

A. Yes, ma'am.

Q. And throughout that call you were laughing with him?

A. Yes, ma'am.

Q. Talking in a soft voice?

A. Yes, ma'am.

Q. And your kids never got on the phone that night?

A. Yes, ma'am.

Q. And when you finished that call you actually said to Joe that you loved him first. Usually it was the other way around. But on that particular call you said I love you first, correct?

A. I don't remember.

Q. Okay. Now, the prosecutor asked you something and I wanted to go back to it for just a minute before I go on. He asked you about Joe asking you to move in while he was in jail?

A. Um-hum (affirmative).
Q. He certainly didn't mean for you to move into the jail with him, right?
A. Right.
Q. Okay. As you had described, his mom's house and his house is closer than this courtroom, correct?
A. Right.
Q. And what he was asking you to do, correct, was to move into the empty house where he no longer was?
A. Yes, ma'am.
Q. Okay. So -- and when he made that suggestion, it's pretty accurate to say you were stressed out?
A. Yes, ma'am.
Q. You were stressed out that he was in jail?
A. Yes, ma'am.
Q. And you were stressed out trying to take care of the kids?
A. Yes, ma'am.
Q. And during that time you were finishing up your associate's degree in nursing, correct?
A. Yes, ma'am.
Q. So you were working full-time or going to school full-time.
A. I was working and going to school full-time.
Q. Right. You were doing both.

A. Right.
Q. Okay. And his solution to you while he was in jail and while JJ was in jail, there's an empty house, why don't you just move back in. Mom will be right there to help you with the kids. Isn't that what he said?
A. Yes, ma'am.
Q. Okay. Going back to you and Jojo -- Jobo. Isn't it fair to say that while -- when Charlie died, the time of his death, you and Joe still spent a great deal of time together, as much as you had anyway. You were going to school, you were working, ---
A. Um-hum (affirmative).
Q. You were seeing Charlie.
A. Um-hum (affirmative).
Q. But you and Joe were still spending a good deal of time together, right?
A. Yes, ma'am. We did a lot of things together, especially with our kids. We went to the river. We'd go to the park or we'd watch a movie or, you know, go to Burger King.
Q. Exactly. And the day Charlie died, actually, you had spent most of that day with Joe?
A. No, ma'am. I woke up and he was there. And then we did run a couple of errands. And then he took me to my grandfather's.

Q. Okay. Well, let's back up a little bit. You didn't initially tell the detectives that, right?
A. That we had spent the day together?
Q. Yeah. Let me back up. You went -- Charlie's car was found Friday night, correct? Truck was found Friday night?
A. I'm not sure.
Q. Okay. You first learned of it Saturday?
A. Yes, ma'am.
Q. And Joe takes the kids so you can go down and find out what's going on?
A. Yes, ma'am.
Q. Okay. And so you go down to where his truck's been found?
A. (Affirmative nod).
Q. And was it -- which one of Charlie's brothers had already talked to law enforcement?
A. Leroy.
Q. Leroy had already told law enforcement that he had talked to you, correct?
A. I hadn't spoken to Leroy. I did -- I did call right before -- now, I did call right before I got there and asked him where they were, and he told me.
Q. Right. And did you proceed to tell Leroy about you and Charlie?
A. Yeah.

Q. Okay. And then when you got to the scene law enforcement already knew that there was some issue about you and Charlie, correct?
A. Yes, ma'am.
Q. And they start asking you about that?
A. Yes, ma'am.
Q. You didn't have a chance to tell them. They already knew when you got there?
A. Yes, ma'am.
Q. All right. So you -- they asked you to go give a statement, correct?
A. Yes, ma'am.
Q. And the statement you gave, was that with Shawnee Peeples, the female?
A. Yes, ma'am.
Q. All right. And so you gave a statement and you left, correct?
A. Yes, ma'am.
Q. And then they talked to Joe, correct?
A. I'm not sure when they spoke to him. I know they spoke to him that evening.
Q. All right. And after they spoke with him they called you back up, right?
A. Yes, ma'am.
Q. And they said they needed to talk to you again, right?

A. Yes, ma'am.
Q. And the thing that they needed to talk to you about was your statement about where you were and who you were with, correct?
A. Yes, ma'am.
Q. They were upset with you because Joe had told you -- told them that ---
MR. STEINBERG: Objection to ---
Q. --- he was with you, ---
MR. STEINBERG: --- whether counsel ---
Q. --- correct?
MR. STEINBERG: --- thinks ---
THE COURT: Wait. Hold on. What?
MR. STEINBERG: Objection to whether counsel thinks that an officer's upset.
THE COURT: Go ahead.
MS. GORTON: I'll rephrase.
MR. STEINBERG: Mischaracterization.
MS. GORTON: I'll rephrase.
Q. The officer wanted to ask you about what you initially said you were doing that day and what Joe said you were doing that day, correct?
A. They didn't really go into a whole lot of detail about what I was doing that day. They asked me -- as far as I can remember, when I went back the second time they did ask me

where -- where I was the evening before and stuff like that.

Q. Hadn't they asked you that the first time?

A. I would guess so.

Q. And you didn't tell them that you were with Joe?

A. I think they asked me where I was. I -- I really don't remember.

Q. The truth of the matter is is that you were with Joe Friday, July 8th?

A. Um-hum (affirmative).

Q. You did not wake up until noon, correct? Around noon?

A. Yeah, it was a little before then.

Q. Okay.

A. Yes.

Q. And when you woke up Joe was already there at your mother's house, correct?

A. Yes, ma'am.

Q. And he had been sitting on the porch with her?

A. Yes, ma'am.

Q. Any idea how long he'd been there?

A. My mom said he'd been there for a while.

Q. A while, what does that mean?

A. I don't know. I guess all morning.

Q. Your mom's not going to be here today, correct?

A. No. My mom passed away a few weeks ago.

Q. I know. I'm sorry.

(Pause)

Q. So your mom said he'd been there a while?

A. Yes.

Q. And this time-line is really, really important right now. So you think you woke up around noon?

A. Between eleven and twelve, yes.

Q. Okay. And your mom said he'd been there a while?

A. Yes, ma'am.

Q. So when you woke up, then you and he went and ran some errands together?

A. It was a little bit later in the day, yes, ma'am.

Q. He was around the whole time, though, right?

A. Yes, ma'am.

Q. You know he didn't go out and do anything, he stayed on the property, correct?

A. Right.

Q. And you and him went and ran some errands. Went to the park?

A. Yes, ma'am.

Q. And you had some cousins with you?

A. Not that day, no, ma'am.

Q. Didn't you tell Detective Peeples that you had cousins with you, that you went and ran -- got pictures developed with some cousins?

A. No. My cousins were the ones that I was actually

babysitting. And the park that we went to was one that I walk to below my grandpa's.

Q. So you went to the park with the cousins or without, just so I'm clear?

A. With cousins, but it was after I'd already gotten to my grandpa's. The park is actually right across the road from his house.

Q. So if Investigator Peeples wrote that you told her you were with your cousins, is that correct or incorrect?

A. It's correct.

Q. You were with your cousins?

A. Yes, ma'am.

Q. Okay. And Joe?

A. I think he had come down for a little while. Yes, ma'am.

Q. Okay. And who else? Anyone?

A. Our kids.

Q. Okay. And you were around Joe more or less for the whole day up until about six pm, correct?

A. I would say so, yes, ma'am.

Q. All right. Now I'm going to go back to what you did and didn't tell Detective Peeples. You told the detectives you and Joe were not together anymore when Charlie disappeared. Although you've admitted to us that you were hiding that you were talking to Joe after he was arrested,

correct?

MR. STEINBERG: Objection to this characterization ---

THE COURT: Yes. Just ask the questions and let her answer.

MS. GORTON: All right.

Q. You told them in great detail about the calls and texts you and Charlie had shared the night of the 7th, early morning of the 8th, right before he died, correct?

A. Yes, ma'am.

Q. And you have a pretty good memory of what those were?

A. I'd say so.

Q. All right. And you were aware that they subpoenaed your phone records to confirm this, correct?

A. Yes, ma'am.

Q. Now, your phone records also showed that you called Joe as well?

A. Yes, ma'am. He had called me first. And I returned the call.

Q. All right. And you called -- you returned his call not just once, but twice or three times, correct?

A. Yes, ma'am.

Q. At one in the morning?

A. Yes, ma'am.

Q. Now, it's still your testimony today under oath that you and Joe have not been together since Charlie died?

A. Yes, ma'am.
Q. Was there an incident with you kicking in a door?
A. I didn't kick in the door. There was an incident.
Q. An incident involving what?
A. There was a girl there. And I ---
Q. There meaning?
A. At Joe's. They were together. And I did say something, but when I said something it was that I couldn't be happy and move on with my life, but he could, was that incident. That wasn't me kicking in his door. I knocked on the door and he answered it.
Q. And when was that?
A. It was early in the morning one morning. I was about to go on my son's field trip.
Q. I'm sorry. In the context of Charlie being killed, when was it?
A. After.
Q. Since then. And then he has -- we talked before, there was Kendra?
A. Yes, ma'am.
Q. And who else was there?
A. Amanda.
Q. Amanda. And this incident that you're talking about, that was Alicia Durham?
A. Yes, ma'am.

Q. All right. And then there's also been Emily, correct?
A. Yes, ma'am.
Q. And you and Emily, you actually got into a physical altercation with Emily?
A. Yes, ma'am.
Q. And you knocked out her teeth?
A. I didn't knock out her tooth. Her child actually knocked out her tooth.
Q. Busted up her nose?
A. Yes, ma'am.
Q. Were you arrested for that?
A. I was.
Q. And that was pretty recently?
A. Yes, ma'am.

MR. STEINBERG: Your Honor, I'm going to have to object to this prior bad ---

THE COURT: Yeah, I sustain ---

MR. STEINBERG: --- act. This ---

THE COURT: --- the objection. Instruct ---

MR. STEINBERG: --- is all irrelevant.

THE COURT: --- the jury to disregard that last question and answer.

MS. GORTON: Judge, if I may. She's pretty much opened the door by ---

THE COURT: No

MS. GORTON: Okay.

THE COURT: Move on.

Q. And we talked about your mom being deceased. At the time Charlie disappeared Joe was there a fair bit of time, right? It wasn't just this day?

A. Yes, ma'am.

Q. He was there to visit his children?

A. Yes, ma'am, to pick them up. He'd come and stay some. He was -- he would stay and chat with my mom some.

Q. Is it fair to say that transportation is a problem up there? I mean in Marietta.

A. Yes.

Q. Okay. And people are often -- their cars are broke down and they have to rely on each other for rides, is that correct?

A. Yes, ma'am.

Q. All right. Who else was living -- you were living with your mom, correct?

A. Yes, ma'am.

Q. Who else was living there with you?

A. My brother, my older brother.

Q. I wanted to clarify, not JJ?

A. Yes, not JJ.

Q. JJ was still living at Joe's house, correct?

A. Yes, ma'am.

Q. Okay. Your older brother, Chris?
A. Yes, ma'am.
Q. And he's married -- was sort of married, separated at that time from Emily?
A. Yes, ma'am.
Q. And they share children?
A. Yes, ma'am.
Q. Who else lived in that house?
A. And their step-dad.
Q. Okay. Did you and JJ have another sister? Was she living there as well?
A. No, ma'am.
Q. What did ---
A. She come and she had stayed for -- I think she stayed for about seven or eight days. And then my mom told her she had to go. Her name is Lita.
Q. Okay. Did JJ actually stay at your mom's house for a while?
A. He did back a few years ago.
Q. And did he have to leave as well?
A. He did have ---
THE COURT: Now what's the relevance of this, please? Let's move on.
Q. JJ is your younger brother or older?
A. He's younger.

Q. So you're familiar with his background and his history?
A. I am.
Q. Just so that we're clear, when did he start living with Joe? Do you remember?
A. I don't remember specifically, no.
Q. Did it start off as just kind of staying there every now and then and then he basically moved in?
A. It did.
Q. Okay. Can you give us a rough idea in context to let's say when you left? You said you left March of 2011, is that correct?
A. Yes, ma'am.
Q. That's when you left and moved to your mom's house?
A. Yes, ma'am.
Q. In that context, before March 2011, when did JJ move in?
A. At least a year before that.
Q. Okay.
A. But he didn't -- I'm saying he would come and stay, then go, come and stay, then go.
Q. Okay. But at least a year?
A. Yes, ma'am.
Q. Now, during that time did he pay any rent?
A. No, ma'am.
Q. No?

A. (Negative nod).
Q. Did he work?
A. No, ma'am.
Q. Did he do odd jobs?
A. He did occasionally. He would leave -- he'd leave for days and he would come back. And he'd have cigarettes, you know, ---
Q. That's exactly where I was going with this. JJ would leave, disappear, no one would know where he was, correct?
A. Yes, ma'am.
Q. And then he'd come back?
A. Yes, ma'am.
Q. And he had done that right before Charlie died, hadn't he?
A. I wouldn't know.
Q. It was -- was it so common it's hard to keep track?
A. Yes, ma'am.
Q. Okay. So the whole time he was living there that year, he never paid rent?
A. No, ma'am.
THE COURT: That's been asked and answered.
Q. You guys fed him, clothed him?
A. (Affirmative nod).
Q. You did his laundry?
A. He would help around the house. Yes, ma'am.

Q. And what was the relationship between JJ and Joe? Now you talked earlier that JJ worshiped Joe, but wasn't it a two way street?

A. I would guess so. They were friends.

Q. And Joe called him brother?

A. Yeah.

Q. And JJ called his mom, mom, is that correct?

A. No, that is not correct. JJ was not -- he thought the world of JoAnn, that's true, but he didn't call JoAnn mom.

Q. But they did call each other brothers?

A. Yes, ma'am.

Q. And there was a phone call that you and Joe had where he said I'd go to hell and back for JJ, do you know that?

A. Um-hum (affirmative).

Q. He did say that, didn't he?

A. Yes, ma'am.

Q. And he said I love your brother to death, but he's really put me in a bad spot, basically?

A. Yes.

Q. Right?

A. Yes.

Q. I want to talk just a little bit about the Rider property. You talked a little bit about it when the prosecutor was asking you questions. The Rider property is where Charlie's body was found, correct?

A. Yes, ma'am.
Q. And it's where Carl Rider used to live, but then the house burned down, correct?
A. Yes, ma'am.
Q. And when Charlie's body was found, Carl Rider had stayed the night there and that's how Charlie's body was found, right?
A. Yes, ma'am.
Q. Now, you said that Joe used to go there a lot, that you used to go there ---
A. That we, yes, ma'am.
Q. We. So the whole family really went there a lot?
A. Yes, ma'am.
Q. And that includes JJ?
A. JJ had never actually been down there with us together. I know he had been down there before though.
Q. So you did know he had been down there?
A. Yes, ma'am.
Q. All right. Now, do you know anything about JJ dating a girl named Shelly McCall?

MR. STEINBERG: Objection, Your Honor.

THE COURT: I sustain the objection. Move on, please.

Q. Do you know if JJ did odd jobs on Gap Creek Road?
A. I don't know for sure.
Q. Could have, you're not sure?

A. Yes, ma'am.
Q. Do you know if he was friends or dated anyone up off of Gap Creek Road?
A. Yes, ma'am.
Q. He did?
A. Yes, ma'am.
Q. All right. When I'm talking about areas I also need to ask you about the river area where JJ buried the guns. You were familiar with that area, correct?
A. Yes, ma'am.
Q. And what did you all call that? Was it called a special name?
A. Just down in the rock.
Q. The rock?
A. Yes, ma'am.
Q. Okay. And you were aware that JJ was very familiar with that area as well?
A. Yes, ma'am.
Q. Not just Jobo?
A. (Affirmative nod).
Q. We were talking about how JJ would disappear. And this occurred before Charlie died, would occur often throughout that whole year, disappear for days at a time, correct?
A. Yes, ma'am.
Q. I know you were distraught after Charlie disappeared,

but did you have an opportunity to observe JJ's behavior during that time?

A. Not as much as I'd liked to have been.

Q. Do you know if he disappeared again?

A. No, ma'am. I went to stay with my dad when Charlie went missing.

Q. So wouldn't know?

A. Yes, ma'am.

Q. Okay. And the same question about the period of time between when Charlie's body was discovered and when JJ turned himself in, you were at your dad's? You weren't familiar with what JJ was doing or where he was going, correct?

A. That's correct.

Q. Can you tell me what your brother's reputation in the community was for truthfulness?

MR. STEINBERG: Objection, Your Honor. This ---

THE COURT: I sustain the objection. Instruct the jury to disregard that question.

MS. GORTON: Judge, this goes as to statement ---

THE COURT: I sustained ---

MS. GORTON: --- number one.

THE COURT: --- the objection. Move on.

MS. GORTON: No, I was getting ready to ask a question. I'm prefacing that this has to do ---

THE COURT: All right.

MS. GORTON: --- with statement number one.

Q. Has your brother ever made seventy-five thousand dollars a year?

A. No. I mean, I would really have no way to confirm that, but I wouldn't think so, no.

Q. All right. And has he ever owned a motorcycle as nice as Charlie's?

A. He has.

MS. GORTON: Nothing further.

THE COURT: All right. Anything else, solicitor?

MR. STEINBERG: Yes, Your Honor, very, very briefly.

Redirect Examination by Mr. Steinberg:

Q. On this Friday, July 8th, when Charlie went missing, do you know why Jobo came over that day ---

A. No.

Q. --- to your house? Did you invite ---

A. There was no reason.

Q. Did you invite him over?

A. No.

Q. And opposing counsel asked whether you were lying to officers. On July 9th, Saturday, did you ever lie to officers?

A. No, sir.

Q. That's all the questions I have. Thank you.

THE COURT: Step down.

A. Thank you.

MR. STEINBERG: Your Honor, the next witness is down the hall, who is sequestered. Your Honor, the State calls Deputy John Duncan.

MADAME CLERK: Please come forward to be sworn in.

John Duncan, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated.

Direct Examination by Mr. Steinberg:

Q. You have -- your phone is off?

A. Yes, sir.

Q. I don't want the Judge holding me in contempt. I don't want him to hear your phone. Deputy Duncan, can you tell us where you're from originally?

A. The northern part of the County, Travelers Rest, all my life.

Q. And where did you go to high school?

A. Blue Ridge High School.

Q. And in addition to being a deputy do you have any other major jobs you do?

A. I still own a logging business.

Q. How long have you been in law enforcement?

A. Four years.

Q. And what did you do before you were with the Sheriff's

Office?

A. The logging business.

Q. Okay. Did you ever work as a constable for Judge Hudson?

A. I did.

Q. You have any prior military experience?

A. Yes, sir.

Q. What did you do there?

A. I was an Army Ranger Medic.

Q. Are you familiar with Marietta and its citizens?

A. Yes, sir.

Q. Have you lived there or patrolled there?

A. All four years, actually been assigned to there. I've lived there all my life.

Q. Do you recall an incident involving Charlie Roberts on June 12th, 2011?

A. I do.

MS. GORTON: Judge, I'm required to preserve my objection to the pretrial motions at this time. I'd object, for your ruling.

THE COURT: Your objection to what?

MS. GORTON: That this is the June 12th incident. It's too remote in time.

MR. STEINBERG: He's going to confirm what Jobo Phillips had to say on June 12th.

THE COURT: Go ahead.

Q. Do you recall that incident on June 12th, 2011?

A. Yes, sir.

Q. Where did you go and what caused you to go there?

A. I was dispatched to [redacted] to speak with Mr. Charlie Roberts. After arriving on the scene I was advised that he had received some harassing ---

MS. GORTON: Objection.

THE COURT: I sustain the objection.

Q. Do not repeat ---

THE COURT: Instruct the jury to disregard that.

A. Okay.

Q. During the coarse of my questioning do not repeat what Charlie Roberts may or may not have said.

A. Okay. Yes, sir.

Q. How did he appear?

A. I arrived on-scene, Mr. Roberts was -- seemed intimidated and scared.

Q. While you were there did Mr. Roberts receive a telephone call?

A. Mr. Roberts received a telephone call. I had him to put the telephone call onto a speaker. I spoke with the Defendant and asked him was this Jobo. Didn't hear anything for a second.

Advised him this was Deputy Duncan with the Greenville

County Sheriff's Office again and said, Jobo. He acknowledged that it was Jobo. I asked him what the problem was. And he said there was no problem. He mentioned that -- that he didn't want any trouble to come between two friends over a woman.

I advised him not to be riding back in front of the house, up and down the road or to call Mr. Roberts and if the matter was at rest, it would be at rest. He acknowledged that it was and it was over with and he wouldn't bother him anymore.

Q. Did he -- did Jobo Phillips happen to say what this incident was about?

A. Jobo mentioned that it was over a girl, and that he didn't want any trouble to come between two friends.

Q. You may have already answered this. When you told him not to come over anymore how did he respond to that?

A. Just a long silence. And then he agreed that the matter was at rest and that he wouldn't bother Mr. Roberts.

Q. Did you happen to see Jobo Phillips earlier that night?

A. Earlier that night I received a call that there was a suspicious vehicle approximately a half mile down the road from the Roberts' residence at the intersection. And -- it was a suspicious vehicle called in by one of the local residents.

And I got out and noticed that antifreeze or water was

running from under the truck. I was skeptical that they were having trouble, but once I saw that I realized that they were, in fact, having trouble. I assisted them by telling them that they should add coolant to the overflow jug. And they ended up jumping the truck off and leaving.

Q. Who was the male that was there?

A. It was Jobo, Mr. Phillips.

Q. All right. Is Mr. Phillips in the courtroom today?

A. That is.

Q. This gentleman in the white shirt?

A. Yes, sir.

Q. That's all the questions I have. Please answer any ---

THE COURT: All right. Any questions, Ms. Gorton?

Cross Examination by Ms. Gorton:

Q. So, just so we're clear, he told you there was no problem?

A. Excuse me, ma'am?

Q. He told you there was no problem?

A. He -- that's right.

Q. Okay. And the two women that he was with, was -- the one you just passed in the hall, was that one ---

A. That's right.

Q. --- of them? Yeah?

A. Yes, ma'am.

Q. Okay.

MS. GORTON: Nothing further.

THE COURT: Thank you. Step down.

MR. STEINBERG: Your Honor, the State calls Dakota O[redacted] to the stand.

MADAME CLERK: Mr. O[redacted], if you'd come forward to be sworn in. Please raise your right hand.

Dakota O[redacted], being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MR. O[redacted]: Dakota O[redacted].

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Dakota, would you please tell us how old you are and where you currently work?

A. I work at Pizza Inn in Travelers Rest.

Q. And how old are you?

A. I am seventeen years old.

Q. So you're still in school?

A. Yes, sir.

Q. Do you know Jobo Phillips?

A. Yes, sir.

Q. Are you aware of any incidents that occurred where Jobo Phillips made statements concerning Christina or about his girlfriend?

A. Yes, sir.
Q. Let me narrow it down. Do you remember any incident involving a telephone where Jobo Phillips made comments?
A. Yes. I remember he was talking on the phone to somebody. And he kept saying that he was -- he was frustrated. And he kept saying that he had to do something about -- like he asked somebody what they would do if it was their old lady or something like that.
Q. How was he acting? What was his mannerisms at the time?
A. I mean, he was frustrated.
Q. Did he do anything physically?
A. Just stomping around. That was it.
Q. Do you recall any conversation -- do you remember when that incident happened, that telephone call?
A. Not exactly, but I remember.
Q. Okay. Just give us an approximation. How much earlier before July 8th, 2011 did this incident happen?
A. A month, month and a half.
Q. Okay. Do you remember an incident that occurred on Jobo Phillips' porch?
A. Yes, sir.
Q. Please tell us who was present during this conversation.
A. Me, Jobo, JJ and Travis.

Q. What is Travis' last name?
A. Rider.
Q. Do you know where Travis lives now?
A. No, sir.
Q. Do you know what Travis' relationship with Jobo is?
A. I believe he's his cousin.
Q. During this incident when was -- what was Jobo's demeanor during this incident, this conversation?
A. He was frustrated.
Q. Okay. What did Jobo have to say about his -- about any -- about his girlfriend at the time?
A. He just kept saying that he had to do something about this guy seeing his old lady.
Q. How many times did he say that?
A. Just a couple. I didn't stick around too long, me and Travis. I stayed there on the porch and they walked inside for a minute. And then after that I walked in and told them that I wanted to go down to the river. So we left.
Q. I'm trying to write this down. You said he had to do something about this guy seeing his old lady?
A. Yes, sir.
Q. Did he ever say what he was going to do?
A. No, sir.
Q. Did he ever say when he was going to do it?
A. No, sir.

Q. Did he ever say why?
A. No, sir.
Q. What did he say about his concerns concerning Christina Gentry?
A. I mean, I think he just thought that she was talking to another guy or something.
Q. Who was he talking to during this time period?
A. When we were on the porch?
Q. Yes, sir.
A. I believe JJ and Travis. I was kind of out of the conversation, off to the side smoking a cigarette.
Q. They were all on the porch. Was he speaking to one of them over the other?
A. I think it was just more like a group conversation.
Q. Did this statement by Jobo come back to concern you?
A. No, sir. I never really thought anything about it after that.
Q. When Charlie Roberts was missing, did you have a conversation with -- do not repeat it, but did you have a conversation with Travis Rider?
A. Not that I can recall, sir.
Q. Do you remember saying anything at all about ---
MS. GORTON: Objection. Leading.
THE COURT: He said he didn't recall. What's your next question?

Q. Did you ever speak to anybody about -- about this conversation you had with Jobo Phillips?
A. No, sir. I never gave it anymore thought after ...
Q. Okay. Do you remember speaking to Officer Hammett at his -- at your residence?
A. Yes, sir.
Q. Was he more or less upset during the incident on the telephone or on the incident on the porch?
A. He seemed more upset on the phone.
Q. And the incident on the porch, do you remember when that was?
A. Sometime in June.
Q. Thank you. Please answer any of opposing counsel's questions.
A. Yes, sir.

THE COURT: All right. Ms. Gorton.

Cross Examination by Ms. Gorton:

Q. I'm trying to understand the sequence of what he just asked you.
A. Yes, ma'am.
Q. The first incident was about in what?
A. Let's see here.
Q. The first incident was the phone incident, correct? The second incident is the porch incident, is that right?
A. Yes, ma'am.

Q. Okay. And was he more upset on the porch incident or the phone incident?
A. He was more -- he seemed more upset on the phone.
Q. So the first one?
A. Yes, ma'am.
Q. So the closer we get to Charlie's death, dying or disappearing, the less upset he is?
A. Yes, ma'am.
Q. Okay.

MS. GORTON: Nothing further.

THE COURT: Step down.

A. Yes, sir.

MADAME CLERK: Place your left hand on the Bible and raise your right.

Roy White, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MR. WHITE: Roy White.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Mr. White. How are you today?
A. I'm doing all right.
Q. Where are you from originally, Mr. White?
A. Marietta.

Q. And where do you currently live?
A. Jonesville, Virginia.
Q. And are you in the federal prison at that location?
A. Yes, sir.
Q. What's your charge in that federal prison?
A. Counterfeit money.
Q. What's your highest level of education?
A. Eighth grade.
Q. And when you're not in jail what is your primary occupation that you have?
A. I'm a mechanic.
Q. In addition to the current charges do you have prior convictions on your record?
A. Yes.
Q. And when were you transported down to the Greenville County Detention Center?
A. Last Wednesday.
Q. Did you know at that time what you were going to come down here for?
A. No.
Q. When are you scheduled to be released from the federal prison?
A. July the 2nd.
Q. Do you have any deals to testify in this case, any promises?

A. No, sir.
Q. Thank you, sir. Are you willing to testify?
A. Yes, sir.
Q. Do you have any bias against Jobo Phillips?
A. No.
Q. Have you ever lived in Jobo Phillips' house?
A. Yes.
Q. How long have you known Jobo?
A. About fifteen years.
Q. Did you know Charlie Roberts?
A. Yes, I did.
Q. And how did you know Charlie?
A. We went to grammar school together and worked together at Slater.
Q. And how long did he work there at Slater?
A. About twenty-five years.
Q. Before July of 2011 had you seen Charlie recently?
A. Yes.
Q. Okay. And do you know Tammie Timmons?
A. Yes.
Q. And what was she related to you at the time?
A. My girlfriend.
Q. Do you recall an incident at the racetrack in TR?
A. Yes, sir.
Q. If you would, please tell us about that incident.

A. I was standing against the fence. Jobo approached me and said, I'll give you a hundred dollars to knock that red headed mother fucker out. And I told him I couldn't do nothing, I was on probation for the Feds. And that was the extent of the conversation.

Q. How close was Tammie to this conversation?

A. She was pretty close. She probably heard it.

Q. Have you spoken to her recently?

A. No.

Q. Now the statement that you gave, is that accurate? Is that what you recall?

A. Yes.

Q. How well do you recall it?

A. Pretty well. Pretty good.

Q. How much did he offer you?

A. A hundred dollars.

Q. And what was -- what were you supposed to do with it, one hundred dollars?

A. Knock the red headed mother fucker out.

Q. What color of hair did Charlie appear to have?

A. Red.

Q. Was it bright red, dark red?

A. Light red.

Q. Okay. When Charlie first disappeared did you think that this might have something to do with that statement?

A. When I first found out that Charlie was missing, the day they found Charlie, I went to Mr. Phillips' house and asked him was that who he wanted me to knock out.

Q. What did he say?

A. He said, yes, that's who I wanted you to knock out.

Q. Did he say why?

A. He didn't say why.

Q. Did you speak to Officer Joe Whitmire about this case?

A. Yes, sir.

Q. Did you tell him everything you knew?

A. Yes, sir.

Q. Do you remember approximately when that was?

A. It was on the 13th of July.

Q. Did you later give a written statement to officers in this case?

A. Yes, I did.

Q. Did you tell them the same story?

A. Yes, sir.

Q. Did you meet with Investigator Hammett?

A. Yes, sir.

Q. Last week? Did you tell him the same story?

A. Yes, sir.

Q. When Jobo made that statement did he ever tell you about what he wanted you to do to the red headed MF-er? Did he ever say what reason he gave for it?

A. Never gave me a reason.

Q. Thank you. Please answer any of opposing counsel's questions.

THE COURT: Ms. Gorton.

Cross Examination by Ms. Gorton:

Q. What did you take that to mean, knock him out?

A. I just thought he meant to whip his ass.

Q. Exactly, right? That's what you thought. He didn't ask you to kill him?

A. No, sir [sic].

MS. GORTON: Nothing further.

THE COURT: Thank you. Step down.

MADAME CLERK: Ma'am, would you please place your left hand on the Bible and raise your right.

Tammie Timmons, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MS. TIMMONS: Tammie Timmons.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Ms. Timmons. How are you today?

A. Fine.

Q. Where are you from originally?

A. Greenwood.

Q. Have you ever lived in the Marietta community?
A. Yes, I have.
Q. Do you know Jobo Phillips?
A. Yes.
Q. And if so, for how long?
A. For a lot of years, just not real good.
Q. Do you know Charlie Roberts? And if so, how long have you known him?
A. I knowed Charlie. He was a good dude. I hadn't seen him in many years though.
Q. Before July of 2011 had you seen Charlie recently?
A. Just at the racetrack that one time.
Q. Yes, ma'am. If you need some water, there is a ---
A. I've got bronchitis. And I'm not ---
Q. I'm sorry about that. Did you happen to see Charlie Roberts at the racetrack on ---
A. Yes, I did.
Q. Did you also see Roy White at the racetrack?
A. Yes.
Q. Were you with him at the time?
A. Yes.
Q. And did you see Jobo Phillips at the racetrack?
A. Yes.
Q. Who was Jobo with?
A. I'm not really sure. I can't really recall on that,

who all he was with.

Q. Do you recall Jobo walking up to Roy White, your boyfriend at the time, and making any statements?

A. Yes.

Q. I understand this is -- I want you to tell the jury using the words that you heard, what you heard Jobo Phillips say.

A. He just said I'll give you a hundred dollars if you'll knock that red headed MF-er out.

Q. How well do you recall that language?

A. Just vaguely, really.

Q. Okay. But is it accurate?

A. Yes.

Q. Okay. At that time did you know who they were talking about?

A. No. I thought he was talking about Chris Coggins, some red headed person I know.

Q. Does Charlie, in fact, have red hair or red face -- red facial hair?

A. When I seen him he had a hat on.

Q. Okay.

A. And he's always had like a reddish colored beard.

Q. Did you happen to see Charlie that night?

A. Yes.

Q. How did Roy White respond when Charlie made that, I

mean, pardon me, Jobo made that offer?
A. The same way any of us would, like he was just joking around like we all do.
Q. When Charlie Roberts first disappeared did you go to law enforcement?
A. No. I didn't know Charlie was missing until they found him.
Q. Okay. Did you go to law enforcement after that?
A. No, I did not.
Q. Did you cooperate with law enforcement when they came to you?
A. Yes, I did.
Q. Do you recall an incident at Jobo's residence involving questioning of Jobo?
A. No.
Q. Did you ever go up to Jobo's residence on Long Shoals Road with Roy White?
A. Yes.
Q. Please tell us what happened there.
A. We just pulled up because Jobo had bought a car from the race car [sic]. We went to talk to him about it. And Roy got out of the car and they talked. And then we left.
Q. Did you hear any of that conversation?
A. No.
Q. That comment that Jobo made about I'll give you a

hundred dollars, did Joe ever explain why he wanted this done?

A. No. A lot of people have made those comments in Marietta like that.

Q. But you still remember it two years later?

A. Why wouldn't I? I remember making comments like that myself.

Q. And are you friends or have been friends with Jobo's family in the past?

A. I wouldn't say like close friends, but we all live in a small town and we all know each other.

Q. And how close of a town is it? How close did you live to them at the time?

A. Probably about less than a mile.

Q. Okay. Thank you, Ms. Timmons. Please answer any of opposing counsel's questions.

A. Okay.

Cross Examination by Ms. Gorton:

Q. Didn't sound to you like Joe was serious, did it?

A. No.

Q. Okay. And you said a lot of people make comments like that?

A. Yes.

Q. And you said you've made comments like that?

A. Yes.

Q. Okay. There was -- was there anything at all that led you to believe he seriously wanted anyone to beat up Charlie Roberts?

A. No.

Q. All right. Thank you.

THE COURT: Step down.

MADAME CLERK: Would you come forward to be sworn in. Place your left hand on the Bible, raise your right.

T-Bird Starling, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MR. STARLING: T-Bird Starling.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Mr. Starling, where are you from originally?

A. Berea, Greer.

Q. What do you do for a living, sir?

A. I'm a cook.

Q. And where do you cook?

A. Waffle House.

THE COURT: Can you pull in a little closer, please, or pull the microphone to you.

Q. And how long -- and you know Joseph Phillips, Jobo Phillips?

A. I know of him.
Q. And how long have you known him?
A. It's been a while. I mean, a long time. I've met him a few times.
Q. Did you have any prior disputes, or fights or anything with Jobo?
A. No, sir.
Q. Did you know Charlie Roberts?
A. I know of the name. I can't put a face on him. I couldn't tell you if I know him or not, but I heard of the name before somewheres.
Q. Do you remember speaking with Investigator Chris Hammett in this case?
A. Yes, sir.
Q. Did you contact him or he contact you?
A. He contacted me.
Q. And where were you at that time?
A. Greenville County. I was incarcerated for child support.
Q. For what?
A. For child support.
Q. Yes, sir. Did you give a statement and speak to Investigator Hammett?
A. Yes, sir.
Q. And did the officer allow you to read over your

statement before you signed it?
A. Yes, sir.
Q. Okay. Was it a truthful statement?
A. Yes, sir.
Q. Were you offered any promises or any threats at that point?
A. No, sir.
Q. I'm going to bring you back to, I guess, the earlier part of July of 2011. Do you remember any incidents involving Jobo Phillips?
A. No, sir, just other than running into him at the store.
Q. I'd like you to tell us what happened at the store, which store it was and what happened.
A. Me and Roy Barrett stopped at the Spinx, he was working on my truck, and to get a pack of cigarettes. When I come out of the store Jobo pulled up beside us, was talking to us, talking to Roy. And that's the only thing I remember since then. I mean, that's the last time I seen Jobo.
Q. What did Jobo have to say when you were there?
A. The best I recall, everything's kind of blurry that night. I don't remember everything precise, but he mentioned that did I have a gun for sale or if Roy had a gun for sale or me. I don't know which one he was directing it to, but I heard that part. And the conversation was no, didn't have one.

Q. How close in time to Charlie Roberts' disappearance did this conversation happen?
A. I really ain't -- I don't know. A month, two months, somewheres around there.
Q. Let me hand you this statement. Please identify this statement. That's your signature on there?
A. Yes, sir.
Q. I'm going to ask you to read -- first of all, give the date when it was you made this and then say -- start reading with I don't remember.
A. I can't read that. I don't have my glasses. I'm sorry.
Q. Okay. I'm going to read this to you since you don't have your glasses. I don't remember exactly when it was, but it was somewhere around the time that guy was missing and murdered in Marietta. I overheard Jobo trying to buy a gun. Was it a couple of months, or a couple of days or when was it?
A. Months, like a month before or a month after.
Q. You say before, do you remember whether it was before or after?
A. No, sir. That's what I was saying. I don't remember whether it's before or whether it was after. I really don't know. I mean, I don't know what the time -- right now I don't know when the guy got, you know, when that happened.

Q. Are you afraid to testify in this trial, sir?
A. No, sir. I'm just being truthful. I mean, I really don't know. I know it was approximately around a year and a half, two years ago.
Q. Okay. And when Jobo came up, what kind of car was he in? And if so, was anybody else in the vehicle with him?
A. He was in either a station wagon, or a small mini-van, something like that. He had his kids with him, I believe. He was talking about his kids, how they was growing up.
Q. Do you remember the language Mr. Phillips used in saying what kind of gun, what he would want with a gun?
A. No, sir.
Q. Did he ever say why he wanted it?
A. No, sir.
Q. Did you find it curious that he just came into the car and asked to buy a gun?
A. No, sir. I was just actually coming out of the store getting cigarettes. I didn't know what the conversation was going on. I really didn't know, I mean.
Q. Was the conversation with you or with Roy Barrett?
A. That's what I was saying. I don't know whether it was directed towards me or Roy Barrett. I mean, I'd been up all day that day working on my truck, that day and that night and didn't have no sleep. And it's all been a blur.
Q. Well, and again, I have your statement here. If you

need to refresh yourself, just let me know and I'll read parts to you.

A. Okay.

Q. On that same date that Jobo came up to you did you speak to Bobby Sweet?

A. Yes, sir.

Q. And who is Bobby Sweet? And tell us about the conversation you had with Mr. Sweet.

A. Bobby's a friend of Pam and all live up in Marietta. I can't remember the other girl's name that's on that paper. I'm sorry. What is her name?

Q. If you hold your statement up close to you do you think you can read it better?

A. I might be able to. I'm sorry, I just worked ---

Q. That's okay.

A. --- the third shift.

(Pause)

THE COURT: You can read it to him ---

MR. STEINBERG: Yes, Your Honor.

THE COURT: --- if he can't read it.

A. Thank you.

Q. Would you agree that you gave this statement?

A. Yes, sir.

Q. And it's your signature?

A. Yes, sir.

Q. Your signature is in large writing?
A. Yes, sir.
Q. Is it true that you said later on I went to Pam Goff's trailer in Marietta? Bobby Sweet was there. And I overheard Bobby saying he was trying to sell a gun. I never saw the gun or heard what kind of gun.
I told Bobby I had heard Jobo, the long haired guy, was trying to buy a gun earlier. I really don't remember what Bobby said after that. I don't know if Bobby knows Jobo or not. I do not know. Pam Goff was there when I talked to Bobby. She was throwing Bobby out of the trailer at the time.
A. Yes, sir.
Q. That's the same day?
A. Yes, sir.
Q. Did you contact -- did you contact Jobo Phillips that day?
A. No, sir. I seen him at the store.
Q. I'm sorry, after the store, when you were with Bobby Sweet, did you call Jobo Phillips up?
A. No, sir. I didn't call, but I think Bobby did. And one of them was on the phone with him.
Q. Okay. Were you present when that conversation happened?
A. There was so much commotion going on and, yeah, I was

present there, but I don't -- I don't know what the conversation was said. I was worried about Bobby showing out because he was getting throwed out of the place and all that and my truck was still broke down. I was trying to get it straight. And there was all kinds of stuff going on there.

Q. All right. Thank you. Please answer any of opposing counsel's questions.

THE COURT: Any questions, Ms. Gorton?

MS. GORTON: No questions, Your Honor.

MR. STEINBERG: I call Roy Barrett next, Your Honor.

THE COURT: You can step down.

MR. STEINBERG: Your Honor, the State calls Roy Barrett to the stand.

MADAME CLERK: Mr. Barrett, would you come forward to be sworn in.

Roy Barrett, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MR. BARRETT: Roy E. Barrett.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Mr. Barrett. How are you today?

A. Pretty good.

Q. Could you put the microphone a little bit closer to your mouth, please. Mr. Barrett, what do you do for a living?

A. I own a collision repair service, wrecker service.

Q. And how long have you done that?

A. Since 1976.

Q. What's the primary area you do your towing?

A. Well, Travelers Rest, Marietta, Cleveland, Echo Valley, Greenville.

Q. Is that the northern part of the County?

A. Zone 10, what they call zone 10, yeah.

Q. Do you know Jobo Phillips? And if so, how long?

A. Yeah, I know him. Several years, I guess. I'm not really sure.

Q. Have you known him his entire adult life?

A. Not his whole entire adult life, no.

Q. You know his family?

A. Who?

Q. His family?

A. I know his mother. I know who his mother is. I know his -- maybe an uncle or two.

Q. Do you know his dad, Ken Gilbert?

A. Yeah, I know Ken.

Q. Do you know Charlie Roberts?

A. Yeah.

Q. Do you know if Charlie Roberts had any disputes with Jobo Phillips?
A. Not as I know of.
Q. Do you know where Charlie worked?
A. JP Stevens and Slater, I think, is where he was working.
Q. Do you remember an incident where Jobo Phillips contacted you over the telephone?
A. Yes, sir.
Q. Please tell the jury approximately when and approximately what the conversation consisted of.
A. I don't remember dates. It was -- like he called me. I was riding down the road turning into a friend of mines yard. He called me and asked me did I have a pistol for sale. I told him, no, not really. I didn't have none I wanted to sell. He said, well, he was looking for one. He knew I had some pistols that I would sell. But I told him I didn't have nothing that I wanted to sell right then.
Q. What kind of pistol did he say he wanted?
A. Well, he didn't at that -- at that time he didn't say. He just said he wanted -- looking to buy a pistol.
Q. I'm going to hand you a document dated October 11th, 2011. Please tell us if that's your signature on the very bottom of it.
A. Yes, sir.

Q. And how did you describe it to the officers?
A. Well, they've got it written down almost like that. And I just said, yeah. After that we had left my buddy's house, went to Kentucky Fried Chicken in Travelers Rest, got what we was going to eat, stopped back at Spinx in Marietta to get cigarettes and drinks.

And we was sitting there at the ice machine. I was waiting on T-Bird to come out. As he was getting in the truck, I heard some tires, you know, sliding up. And me and T-Bird was about to exit and it was Jobo.

He gets out and asked me had I found a pistol yet for sale, that, you know, he needed a throw-away gun. He'd paid a man to do a job and he was going to have to furnish the gun. And I told him, no, ---
Q. What language was that, sir?
A. That he had paid a man to do a job, and the man didn't have a gun, and he was going to have to furnish it. And I told him I wouldn't sell him one for no amount of money, that we had to go. I didn't want to hear no more about it. So we left. That's the last time I talked to Jobo.
Q. Now, this telephone conversation, was that the same day as the in-person conversation?
A. A few hours before, yeah. I'd say a couple of hours.
Q. Now, I showed you your statement. Do you agree that you told the officers that Jobo asked you if you had a

throw-down gun, I mean, throw-away gun?

A. No, not then, he didn't. He didn't ask me that. He just said he needed to buy a pistol.

MR. STEINBERG: In that case, Your Honor, the State would move to introduce this document.

THE COURT: Any objection?

MS. GORTON: Not to the one he's handing me, Your Honor. Thank you.

(Whereupon State's exhibit 5 was marked and admitted into evidence)

Q. So you remember he asked for a gun, but you don't remember the term throw-away gun on the phone?

A. He didn't -- he didn't say that then.

Q. Do you know why -- did he say it later?

A. He said it, yeah, when we was talking there at the Spinx.

Q. Okay. Was that his words or your words, throw-away gun?

A. It was his words.

Q. How soon after that was Charlie found to be missing?

A. As far as I can remember it was -- I think it -- I seen it on the news I thought the next morning. I could be mistaken. But it was on the news that Charlie Roberts, a Marietta man, was missing. And they was -- was looking for him. And ---

Q. So would you agree that the conversation occurred with you -- that you had with Jobo occurred before Charlie was found missing?
A. Yeah.
Q. Okay. Now, at the Spinx, how did Jobo get there?
A. I believe a van.
Q. Was anybody with him?
A. I think a couple of his little boys.
Q. Have you spoken to T-Bird outside of today?
A. Today was the first time I've seen T-Bird in probably six months or so, or eight, maybe -- I don't know. The last time I seen him was when we was working on his truck. And it was that night.
Q. When Jobo made the statement, let me make sure I get the statement correct, he said I need a man to do a job or he said he had a man to do a job?
A. No, he said he had a man, he'd done paid a man to do the job.
Q. Did he say who the man was?
A. No, he didn't.
Q. Did he say what the job was he wanted done with this gun?
A. No, he didn't. Not to me, he didn't.
Q. After Charlie was found to be missing and the news reports came out, did you think about this incident again?

A. I just, you know, I mean, I knew Charlie good. And I didn't -- I just thought to myself, I hope it ain't got anything to do with, you know, Jobo, what me and him had said there to each other at the Spinx that night.

Q. Do you think it maybe did have a connection?

A. That's the way it was looking, but, I mean, I don't know. I can't say because I don't know.

Q. Did you ever go and contact law enforcement to tell them what you knew?

A. I never contacted law enforcement. They contacted me. They came to my shop looking for me.

Q. How many months after Charlie went missing?

A. A few months, three or four. I mean, it's been a while since this thing went down.

Q. You agree you gave a statement on October 11th, 2011?

A. If it's -- if that's what's written on there, I guess I did.

MR. STEINBERG: Madame Court Reporter, has this been introduced or ...

(Pause)

MR. STEINBERG: Your Honor, the State would move to introduce this statement.

MS. GORTON: No objection.

(Whereupon State's exhibit 5 had been previously admitted into evidence)

Q. Were you willing to speak with the officers about this case?
A. Well, when they come in they said they needed to talk to me about something. And they started telling me what was going on and said they'd done took statements from T-Bird and that he was in jail, you know, on child support. And they'd done took his statements and stuff and wanted to know what I knew. And I told them. I said, well, what I knew was right there on that paper.
Q. Why were you willing to speak with the officers?
A. Why was I willing?
Q. Yes, sir.
A. It was either do it or, I guess, go to jail. I mean, they was asking me questions and, I mean, I ain't going to jail.
Q. Did any officers threaten you to go to jail if you didn't write a statement?
A. Uh-uh (negative).
Q. Why did you -- why did you have that belief?
A. Well, I mean, look, we're talking about a small town where a lot of people live in. And everybody knows everybody's business. And a lot of stuff gets said. It don't mean a whole lot, but people like to talk.
And talk gets you in more trouble than you can get out of. I don't need no trouble. I've been doing this junk

for, like I said, since 1976. I hear a lot of bull-crap. I hear stuff from the police. I hear stuff from the County, the State. I hear stuff from everybody. So ...

Q. You don't want to be here today, did you?

A. No, I don't.

Q. Did you try to avoid my service of a subpoena in this case?

A. Yes, I did.

Q. Were you eventually served?

A. Yeah, you and the U.S. Marshal and Greenville County come and got me.

Q. Thank you, sir. Please answer any of opposing counsel's questions.

THE COURT: All right. Any questions, Ms. Gorton?

Cross Examination by Ms. Gorton:

Q. Have you -- have you and Jobo had any business dealings before with a wrecker, him buying a wrecker from you?

A. What do you mean in buying a wrecker?

Q. Had he bought a wrecker from you?

A. He was going to.

Q. He was going to and then something happened and that didn't work out so well, is that right?

A. Yeah.

Q. Okay. We don't need to go into details. It's just you've dealt with him before?

A. I've worked on his motorcycle, towed his truck in for him, sold him parts. I mean, ---

Q. Okay.

A. --- you know, worked on his mother's car, you know.

Q. Okay. And that wrecker, he tried to buy it from you and then you wound up back with it, correct?

A. Well, he tried to buy a wrecker. He went to do a job, then they had paperwork to do. And then the guy comes down there and the man had sold them stuff that didn't belong to him. So the next day Jobo goes to get his wrecker, he's got a radiator gone, battery's gone, tires busted. I don't know what all else.

So they sent my other truck to go pull it into another boy's yard. It sat, and sat, and sat, and sat down there. And so I think Joe was in jail or something, I don't even know, but couldn't get in touch with him. And so I had him to bring it to my lot and sit it there and nothing was ever said anything else about it.

Q. Okay. So basically he was trying to buy the wrecker. He went and got some property. It turned out that the property that he got it from was stolen. The other people that had him haul the property and then it was a big mess.

A. Well, yeah, but he did have the paperwork, legal paperwork. That's what saved him.

Q. Right. Exactly.

A. Yeah.
Q. So -- but it caused a lot of problems for you, right?
A. Well, not that much for me. But, I mean, it did for him. And, well, I mean, you know, I guess being in this business with all the problems could mean a lot of different stuff.
Q. Okay. When the prosecutor first started asking you questions and you were talking about being at the Spinx?
A. Um-hum (affirmative). Yes.
Q. Did I understand you correct that you and T-Bird walked out together?
A. No.
Q. Okay.
A. I was sitting in the truck waiting on T-Bird to go in and get cigarettes and drinks. As he opens the door to get in ---
Q. As who opens the door?
A. T-Bird.
Q. All right.
A. As he opens the door to get in my truck, we were sitting at the -- the ice box was there at the end. I heard some tires slide up, you know, and everything. And it sounded like he was coming in. I'm wanting to get out of the truck. T-Bird's wanting to come across to get out of the truck. And you look around and it's Jobo.

Q. Okay. What I'm trying to get at is T-Bird was with you the whole time you were talking to Jobo at the Spinx, correct?

A. He come out when Jobo come up, yes.

Q. Right.

A. Yeah.

Q. So he was there for the whole conversation?

A. Yeah, well, it wasn't much conversation.

Q. Well, you talk about him saying he needs a throw-away gun.

A. That's about -- he said, hey, man, you found -- you find me a gun yet? I said, man, look, no, you don't need one, you know, I'm out of here, ---

Q. That would certainly get my attention.

A. And he said, hey, yeah, but I need one. I says, I'm out, see ya.

Q. And you said that that was the same conversation where you say Jobo said, I've paid a man to do a job and I need a gun?

A. That's what he said.

Q. And T-Bird was with you when he said that?

A. T-Bird was -- yeah, he was at the truck, getting in the truck, trying to get in the truck. I think I had it in reverse leaving.

Q. Okay. Now, have you talked to the solicitor before

today about your statement? The prosecutor?
A. He asked me about it. And ---
Q. Did he tell you there was a problem with it?
A. What do you mean there's a problem?
Q. Well, in your statement at the very end you say the next day I heard on TV that Charlie Roberts was missing.
A. Well, it could -- well, yeah, I did say that. But you've got to understand something, how long has this been?
Q. Exactly.
A. A long time.
Q. Exactly. So ---
A. So I'm -- I'm answering your questions the best I can with my ability.
Q. Right. And when you wrote this statement, when you said ---
A. I didn't write that statement.
Q. You didn't write this statement? Oh, ---
A. No, ma'am.
Q. When you signed this statement?
A. Right.
Q. Do you read and write okay? I'm not trying to -- I'm not trying to embarrass you.
A. What do you mean can I read and write okay?
Q. No. Can you ---
A. I can read and write college ---

Q. Okay.
A. --- on college level.
Q. I'm not trying to offend you, sir.
A. Well, you ain't offending ---
Q. We're ---
A. Hey, you ain't offending me, lady, 'cause, listen, I own a body shop.
Q. Okay. Did you -- did you read over this before you signed it?
A. I didn't read for word for word. I just scanned it over.
Q. All right. As you point out, you didn't sign this until October 11th, correct?
A. Ever what the date is on there. If the signature's on there, I guess it's true.
Q. Okay. And October 11th would have been a good three months after Charlie went missing?
A. Yeah.
Q. All right.
A. Proximity.
Q. And at that point you say the next day I heard. So let's allow for that mistake.
A. Well, ---
Q. It was around ---
A. --- could be.

Q. --- that time.
A. Could be. I mean, like I said, this has happened a long time, ---
Q. Could it have ---
A. --- all this stuff has went down. You don't understand where we come from.
Q. I probably don't.
THE COURT: All right. Let's move on, please.
Q. Could it have been after Charlie Roberts went missing?
A. That he asked me about the gun? No, ma'am.
Q. But you could be mistaken about it being the next day?
A. Could be.
MS. GORTON: Just a moment.
(Pause)
MS. GORTON: All right. Nothing further.
THE COURT: Step down.
MR. STEINBERG: Your Honor, we ask that Mr. Barrett be excused ---
THE COURT: Any objection? Any objection to excusing this witness?
MS. GORTON: Oh, no, Your Honor.
MR. STEINBERG: Your Honor, the next witness is in jail. He's being brought upstairs as we speak.
THE COURT: All right. We'll take a short recess.
(Whereupon the jury exited the courtroom at 3:18 pm)

(Whereupon court was in recess at 3:18 pm)

(Whereupon court resumed at 3:30 pm)

THE COURT: All right. Would counsel approach just a minute, please.

(Whereupon a bench conference was held off the record)

(Whereupon the bench conference was ended)

THE COURT: Bring them on. And tell them we'll try to stop at five.

(Whereupon the jury entered the courtroom at 3:34 pm)

THE COURT: All right, solicitor.

MR. STEINBERG: Thank you, Your Honor. The State calls Bobby Joe Sweet -- Bobby Gene Sweet.

MADAME CLERK: Mr. Sweet, please come around and be sworn in. Place your hand -- left hand on the Bible and raise your right.

Bobby Sweet, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Could you please state your name for the record.

MR. SWEET: Bobby Sweet.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Thanks for being here, Mr. Sweet. You're obviously incarcerated at this point. Where are you incarcerated and what's the charge?

A. At Kershaw Correctional for grand larceny.
Q. And when are you expecting to be released?
A. In May of 2-15.
Q. And do you -- have you received any benefit or any plea offer in this case related to this matter?
A. No.
Q. Before you were in prison what's your primary form of occupation? What's your job?
A. I was -- brick mason work and remodeled homes.
Q. Thank you, sir. What part of town did you live in before you went to prison?
A. In Marietta, between Marietta and Dacusville, South Carolina.
Q. And do you know Jobo Phillips? And if so, for approximately how long?
A. Yeah, I know him, for a few years.
Q. Did you know Charlie Roberts?
A. No, I never met Charlie.
Q. Had you ever heard of him?
A. Yeah, I've heard of Charlie.
Q. Did you know Christina Gentry?
A. Um-hum (affirmative).
Q. Did you have an opportunity to speak with Christopher Hammett, investigator with the Sheriff's Office back in 2011?

A. Yes, sir.
Q. And where were you when that happened?
A. Transylvania County Sheriff's Department.
Q. When you say Sheriff's Department, you mean in their jail?
A. Yes, sir.
Q. Did you call them or did they just come and see you?
A. They came to see me.
Q. Did you know they were coming?
A. No, sir.
Q. At that time did you give them a statement?
A. Yes, sir.
Q. And did you -- were you offered any promises or rewards to give that statement back in 2011?
A. No, sir.
Q. Did you tell the officers what you had heard?
A. Yes, sir.
Q. What you knew?
A. Um-hum (affirmative).
Q. Do you know T-Bird Starling?
A. Yes, sir.
Q. And approximately how long have you known him?
A. Probably ten years.
Q. I'm going to bring you to early July of 2011. Did you have an opportunity to speak to T-Bird?

A. Yes, sir.
Q. Please tell us where that was and what transpired then.
A. Well, I stopped by Pam Goff's house in Travelers Rest, I mean, Marietta, and T-Bird was there. And he'd asked -- I'd seen him a couple of days earlier, and I had a pistol to sell. And he -- that particular night he asked me if I still had it. And I told him, yeah. And then he said, okay, he'd get rid of it for me.
Q. What happened? How did he get rid of it for you?
A. He got a cell phone from Pam and called Jobo on the phone and put me on the phone with him.
Q. And are you familiar enough with Jobo's voice that you could tell it was Jobo?
A. Yeah.
Q. And what, if anything, did Jobo have to say?
A. Wanted to know if I still had the gun, not to mention his name, and bring it to Castle Gate Trailer Park.
Q. Castle Gate Trailer Park?
A. Yeah.
Q. And what did he say about his name?
A. Not to mention his name on the phone.
Q. Did he tell you to call him anything different?
A. Huh?
Q. Did he tell you to call him any different name?
A. James.

Q. Did he say why he wanted you to call him James?
A. No, sir.
Q. Where in Castle Gate Park did he tell you to come?
A. He told me to come in the first entrance, take the first road to the left and go all the way to the back where his van would be parked and he'd be waiting on me.
Q. What kind of vehicle was it?
A. A van.
Q. Did you, in fact, have a firearm for sale?
A. Yes, sir.
Q. How long have you had that weapon?
A. Probably a week or two.
Q. And why would you want to get rid of it?
A. 'Cause I'm a convicted felon and I didn't -- I wasn't even supposed to have it.
Q. What kind of firearm was it?
A. A .380, Hi-Point .380.
Q. Approximately what color was it?
A. Black.
Q. At the time you sold it did it have any ammunition with it?
A. Um-hum (affirmative).
Q. How many rounds did it have when you last gave it to him?
A. Four or -- four or either five.

Q. Did you see Jobo at Castle Gate and did you, in fact, sell that weapon to him?
A. Yes, sir.
Q. What did he say when he obtained it from you?
A. When I gave it to him he asked me if there was -- if I had any shells for it. I told him the ones that were in it and to be careful with it because it was loaded.
Q. Did anybody come outside with him to speak with you?
A. No, sir.
Q. Did you ever get out of your car?
A. No, sir.
Q. How much did Jobo give you?
A. A hundred and twenty-five dollars.
Q. Did Jobo ever say why he needed this firearm?
A. No, sir.
Q. Did you hear about Charlie Roberts being missing in this case?
A. Yeah, a few days later.
Q. Now, how did you find out about that?
A. There were people at Spinx gas station handing out fliers. And then several other people I knew were talking about Charlie was missing.
Q. Okay. And how much -- how far after you sold the gun did you start seeing these fliers and hearing this conversation?

A. Just a few days.
Q. When you started seeing these fliers did you start thinking about that firearm you sold?
A. Yes, sir, because when I was told that Charlie was missing it was also told that Jobo ---
Q. No, don't repeat what rumors were. I can't go down that road. Did it concern you that maybe this firearm may have been ---
A. Yes, sir.
Q. --- used? At any point after that have you ever seen or spoken with Jobo Phillips?
A. No, sir.
Q. I'm not sure if I asked this question before. Did Jobo ever say what he intended to do with that firearm?
A. No, sir.
Q. Thank you. Please answer any of opposing counsel's questions.

Cross Examination by Ms. Gorton:

Q. You're certain that it had four rounds left, correct?
A. Four or five, yes, ma'am.
Q. Four or five?
A. Um-hum (affirmative).
Q. And you gave this statement on August 3rd, which was before Charlie's body was found, correct?
A. Uh-huh (affirmative).

Q. Right? He was just missing at that point?
A. Yes, ma'am.
Q. All right. So it was approximately not even three weeks after he actually went missing?
A. I guess.
Q. But you don't know how long it was before you learned about it? He could have been missing a week. He could have been missing two weeks when they were passing out fliers at Spinx?
A. Right. Yes, ma'am.
Q. Correct?
A. Correct.
Q. All right. Now, nowhere in your statement do you say anything about him telling me to use the name James, correct?
A. That's correct.
Q. Have you seen your statement?
A. Yes, ma'am.
Q. And at the time you wrote the statement you already knew that they were looking for Jobo and a gun and about Charlie, right?
A. Yes, ma'am.
Q. You didn't say anything about use a different name, did you?
A. I may not have wrote it in the statement.

Q. Yeah, that's new today, isn't it?
A. I don't know. He just told me not to use his name. I think I wrote that in the statement.
Q. You didn't mention that to anyone before?
A. No, ma'am.
Q. Now, again, this is only less than three weeks after Charlie goes missing. And you're saying that you think you sold the gun a week or two prior, right?
A. I said I sold the gun, I heard about Charlie being missing a few days after I sold the gun. I didn't know -- I don't know.
Q. A few days, not a few weeks?
A. A few days, yes, ma'am.
Q. A few days. Do you know -- he asked you how you got a hold of Jobo.
A. Um-hum (affirmative).
Q. And you said you used whose cell phone?
A. T-Bird Starling used Pam Goff's cell phone.
Q. Okay. And did you tell law enforcement that?
A. Huh?
Q. Did you ---
A. Yes, ma'am.
Q. --- tell law enforcement that?
A. Yes, ma'am.
Q. To your knowledge were cell phone records checked to

find out what date that call occurred?

A. I don't know.

Q. Did you know what Pam Goff's phone number was so they could check that record?

A. No.

Q. Do you know if they checked to see what Pam Goff's number was so they could check that record?

A. No, ma'am.

Q. All right. But it definitely was a cell phone?

A. Yeah.

Q. And it definitely called Jobo?

A. Um-hum (affirmative).

Q. So there should be a record of when that call occurred, correct?

A. I suppose.

Q. You suppose so? All right. Thank you.

THE COURT: Thank you. Step down.

MADAME CLERK: Ma'am, please come forward to be sworn in. Place your left hand on the Bible and raise your right.

Sandra Shirley, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MS. SHIRLEY: Sandra Shirley.

MADAME CLERK: Thank you.

MADAME CLERK: Mr. Poole, would you come forward to be sworn in, please. Please place your left hand on the Bible and raise your right.

THE COURT: Raise your right hand.

Jimmy Poole, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MR. POOLE: Jimmy Poole.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Mr. Poole. Thanks for being here today.

A. Yes, sir.

Q. What part of town do you live in?

A. Marietta.

Q. And where do you work, if at all?

A. Sir?

Q. Do you work anyplace now?

A. No, sir, not right now. I'm trying -- I'm getting -- going through getting my disability.

Q. Yes, sir. And where did you -- what's the longest job you've ever had?

A. WR Grace, twenty-two years.

Q. How many years?

A. Twenty-two.
Q. Thank you, sir. Where do you currently live? Who do you live with? Who do you currently live with?
A. My daughter.
Q. Okay. And are you related to Jobo Phillips?
A. Yes, sir.
Q. And how are you related to him?
A. My uncle is his step-dad.
Q. Did you know JJ Allen?
A. Yes.
Q. And what roles or what did JJ do for Jobo?
A. Well, I mean, I stayed around up there a lot. And JJ, he would do chores for, you know, for staying with Jobo, you know what I'm saying? Watching kids, maybe cutting grass, just whatever, you know what I'm saying?
Q. Has he ever done anything for you?
A. Yes, sir. He helped me put a transmission in my truck one time.
Q. All right. And do you know Charlie Roberts?
A. I knew him, but I didn't -- I knew his brother more than I knew him. But I know him through his brother, you know what I'm saying?
Q. Yes, sir.
A. I mean, every time I see him, he would speak and all that, you know.

Q. Did you know if Joe and Christina were dating in 2011 or what the status of their relationship was?
A. Well, it -- they was separated for six or, you know.
Q. Did Charlie make or did Jobo make any statements about Christina, about trying to get her back?
A. Well, I mean, he would, I mean, I know that he was trying to get her back. I mean, he'd go out and try, you know, he'd go out and eat and -- or whatever and get her every once in a while.
Q. Did you ever hear him make any statements about Charlie Roberts or about being jealous of Christina?
A. No, sir.
Q. Did you come forward to law enforcement in this case? Did you ever contact law enforcement in this case?
A. I can't -- I'm hard of hearing.
Q. Yes, sir. I'm sorry. Did you come forward and speak to law enforcement officers in this case?
A. Yes, sir.
Q. Please tell us when that was and why you did this.
A. My daughter and my sister told me that -- I didn't know that Christina was seeing Charlie. But the day that I let Dana LaClair borrow my bike, which was June the 7th, and June the 8th, that morning of June the 8th ---
Q. June or July?
A. The morning of June the 8th or July 8th, JoAnn, which

is Jobo's mom, came and was going to take -- came to take me up to River Falls to check on -- to see if he was at home. Jobo knew where Dana LaClair lives. And so Jobo rode up there with us.

All the way up through there, don't know whether he got a call, whether he got a text, but he told JoAnn that ---

Q. You say ---

A. --- need to go pick Charlie up. Huh?

Q. Who are you referring to when you say he?

A. JJ.

Q. No, who got -- who was in the car with you?

A. Jobo, one of his little sons, and JoAnn and me.

Q. Who was in the front seat?

A. Me and JoAnn.

Q. Okay. Who was driving?

A. JoAnn.

Q. And she gave you a ride up to River Falls area?

A. River Falls area.

Q. Before you got there did anything happen? Did Joe -- did, pardon me, did Jobo ever say anything?

A. Yes, sir. He told JoAnn that JJ was through with that job and we needed to go up there and pick him up.

Q. Did he say why he had to pick up JJ?

A. He was up there working for Kevin.

Q. Did you know this going up there before you were up

there?

A. No, sir.

Q. How'd you feel about that moving away from your desired location finding your motorcycle?

A. Yes, sir. We was going to Old Camp Creek where Dana LeClair lives.

Q. Did you see JJ walking that day?

A. Yes, sir.

Q. What was he doing?

A. Didn't know it at the time, didn't know where Kevin lived at, but when we picked JJ ---

MS. GORTON: Objection.

A. --- up, he was walking ---

MS. GORTON: Objection.

THE COURT: Hold on. What's your objection?

MS. GORTON: He said I didn't know it at the time. So I don't want him to testify to anything that's beyond his personal knowledge or based on ---

THE COURT: All right. He can't testify to anything that he doesn't have knowledge of.

MR. STEINBERG: Yes, sir.

Q. Just testify to what you know, what you saw, what you heard, what ---

A. Right.

Q. --- you did. Did you see JJ?

A. Yes, sir.
Q. And did he get in the car?
A. Yes, sir.
Q. How was Jobo and JJ acting at this time?
A. At that time, I mean, they were, I mean, I didn't hear them speak. I mean, I was in the front. JJ got in the back. But, I mean, everything, you know, to me, I didn't see nothing suspicious, you know?
Q. Okay. Had you ever picked up JJ on this road before?
A. No, sir.
Q. Had you ever been on this road with JJ before?
A. No, sir.
Q. Did JJ make any statements or Jobo make any statements once JJ got back in the car?
A. No, sir, he didn't.
Q. What caused you to come to law enforcement? What made you think that trip ---
A. Well, like I said, I didn't know that Christina was seeing Charlie. I was told she was seeing Becky's brother, ---

MS. GORTON: Objection.

A. --- Jessie.

THE COURT: Yeah, I sustain the objection. Instruct the jury to disregard that.

A. Okay. Anyway, the day that I was up on River Falls and

we went and picked JJ up is when I went looking for my bike, which Dana LaClair had. And me, I figure if I didn't come forward and say something, but I was in the car when we went up there to pick JJ up and that -- that night the truck was found.

Q. So you're saying the same day that you're talking about when you were driving is the same day the truck was found?

A. Yes, sir.

Q. Okay. When you say the truck, you talking about ---

A. Yes, sir.

Q. --- Charlie Roberts?

A. Truck. Charlie's truck.

Q. Did you ever have any conversations with Jobo after this, any conversations about your trip up to River Falls?

A. No, sir.

Q. Do you remember him talking to you on the jail phone calls about this?

A. Yes, sir.

Q. What did he say then?

A. Well, he tried to contradict my story that I went in there and said, you know.

Q. Are you confident ---

A. I can't remember what he was -- he said I didn't -- I can't remember exactly what it was, but I do know he tried to contradict me and said we didn't do it. But I didn't --

he didn't -- do this and I didn't do that, you know what I'm saying?

Q. Thank you, Mr. Poole. Please answer any of opposing counsel's questions.

Cross Examination by Ms. Gorton:

Q. You provided a statement about this on August 29th, 2011, correct?

A. Do what now?

Q. Did you sign ---

A. I'm sorry, I can't hear.

Q. That's okay. I'll try to talk louder.

A. Okay. Thank you.

Q. Is this your signature?

A. Yes, ma'am.

Q. Did you sign this statement?

A. Yes, ma'am.

Q. Is it dated August 29th, 2011?

A. Yes, ma'am.

Q. Can you read what it says here? Or do you need me to read it for you, sir?

A. Yes. Yes, ma'am.

Q. Okay. It says ---

(Whereupon the attorneys were conferring off the record)

Q. It says on Saturday, August 27th, 2011 I was up there

at JoAnna and Moe's house and had a conversation, had come up. And Moe said that he thought about the time when JoAnn took me up to River Falls it was around the same time, the disappearance of Charlie. But I don't remember. Did you say that, that you don't remember when it occurred?

A. I don't remember when it -- when it happened, but I do know the truck was -- I do remember the truck was found that evening that we was up there that morning to pick -- to go look for my bike.

Q. Well, let's approach it this way. What was the time-frame? Did you call JoAnna to ---

A. Yes, ma'am.

Q. You called her?

A. Yeah, I called her to come pick ---

Q. How did ---

A. --- me up.

Q. --- you call her?

A. Ma'am?

Q. How did you call her?

A. On my cell phone.

Q. On your cell phone?

A. Yes, ma'am.

Q. Okay. And what was your cell phone number?

A. If I'm not mistaken, it was 361-5859 or something like that.

Q. You certainly had that information when you gave this statement, right?
A. Yeah. Well, that's been a while. It's been two years. I've had a lot of different cell phones since then.
Q. Right. And you would have remembered your cell phone back then, right? Your cell phone number?
A. Not really.
Q. Okay. Well, you called her on your cell phone and you called her on her cell phone?
A. Yes, ma'am.
Q. Okay. So there would be a record if you ---
A. Yeah, I reckon so.
Q. So all we have to do is look at the cell phone records ---
A. Yes, ma'am.
Q. --- and verify the day that you called JoAnn?
A. Yes, ma'am.
Q. All right. Now, you called JoAnna about what time?
A. Around 7:00.
Q. All right. And then what did you do after you called her?
A. Well, she said that she would come and pick me up and take me up there to see about my bike. And she did. She come down there and picked me up around 7:30.
Q. Came down where to pick you up, sir?

A. At -- there on -- Steve and Crystal Robbins' place. I think it's -- I can't -- Bates (phonetics) Road.

Q. That's where you were staying?

A. That's where I was at all week, that week.

Q. Okay. Crystal Herring?

A. Crystal Robinson.

Q. Do you know Crystal Herring and Steve Chapel? Are you talking about ---

A. That's probably who you talking about. I mean, I don't know their last names, but I do know their first.

Q. All right. Well, and then JoAnn came and picked you up around 7:30 and then what happened?

A. Yes, ma'am.

Q. Then what happened, sir?

A. We continued. Her -- the electric fan on her car had shorted out, wasn't working. So we went back up there. And she told me that she ---

Q. Up where? I've got to interrupt you because I've got to be able to follow your story.

A. Okay. So ---

Q. We heard the electric fan shorted out and you went back up where, sir?

A. We went to -- to her house and they fixed it. I mean, they brung a wire set and one fan.

Q. Who fixed it?

A. Moe and -- Moe fixed it. And I helped a little bit. And I don't know, we just say where's the fan on the car.
Q. Okay. Well, I've never fixed a fan on the car. So how long did that take?
A. We left from there to go up there about a quarter to nine or something.
Q. About a quarter til nine. 8:45 then, right?
A. Yeah. It was about that time, yeah.
Q. And you left there with who and where did you go?
A. We continued to go until you get to 276 and started headed toward Cleveland.
Q. Okay. Well, who?
A. Me, JoAnn, Jobo and his little boy.
Q. And that's about 8:45 you think?
A. Yeah. I'm thinking that's about what time it was, yeah.
Q. Okay. And how did Jobo get involved in this?
A. JoAnn said that -- asked me did I know where Dana lived at. And I said, no. She said Jobo said he knew and he would go out and ride up there with us.
Q. And so how did he wind up in the car?
A. He was around. And we was ready to go and asked him was he ready to go. And he said, yeah.
Q. He was already at his mom's house?
A. He lives next door.

Q. Okay. Well, did you yell or how did you get ---
A. No, he was already out in the yard. I asked -- We asked him was he ready to go.
Q. He was already out in the yard?
A. Yes, ma'am.
Q. And this would have been about 8:45?
A. Yeah.
Q. Did he have his phone with him?
A. Yep.
Q. Okay. And when you got in the car at 8:45 or thereabouts, was there already a plan to pick up JJ or did that come later?
A. No, there wasn't no plan to pick up JJ at all. We started out going up there to see if Dana was at home to pick my bike up.
Q. Okay. So I know from your statement that you guys went to a lot of different places looking for your motorcycle.
A. The night -- the night before, that morning, yes, ma'am.
Q. What do you mean the night before?
A. I mean, I went, I mean, I went to four or five places looking for it that night, but on -- on the phone continuously.
Q. Okay. Let me clarify. What I'm asking you about when I'm asking you to explain is the places that you went when

you left JoAnn's house at 8:45 with Jobo and Billy in the car.

A. When we left from there we was stopped at the Cleveland store. But before we got to the Cleveland store, don't know whether it was a text or phone call, but Jobo was telling his mama that we needed to go on up to River Falls to pick JJ up, that he was through.

Q. Well, hang on just a minute. You said you don't know which it was, a text or a phone call. Were you in the car?

A. Yes, ma'am.

Q. Did you hear him talking to anyone?

A. Like I say, I was busy worrying about my bike. I'm on the phone trying to find out where he was.

Q. Okay. So you don't know whether you heard him having a conversation ---

A. No, ma'am.

Q. Okay.

A. But I do know that he told his mom that we needed to go pick JJ up, that he was through with that job that he was doing for Kevin.

Q. Well, let me ask you this. Why are you so certain it was around 8:45 that you left?

A. I mean, I just gave you a time-frame. I mean, we left about that time. It was early when she came and picked me up. And it was done getting a little late when we started

out.
Q. Okay. Did you ever hear Joe call Charlie that day?
A. Ma'am?
Q. Did you ever hear Joe call Charlie that morning?
A. No.
Q. Okay. And you don't know whether you heard Joe have a conversation with anyone?
A. No. Like I say, I just remember him saying we need to go pick JJ up.
Q. But you're in the car with Joe this whole time?
A. Ma'am?
Q. You're in the car with Joe this whole time?
A. Yes, ma'am.
Q. So if he said anything like, kill him, or hide it behind the hill, ---
A. No, no.
Q. No, nothing like that?
A. (Negative nod).
Q. Anything about parking a car or hiding it behind a hill, hear any of that?
A. No, ma'am. No, ma'am.
Q. Now, did you -- when you picked up JJ did he have anything in his hand?
A. Like I told Harold or -- no, I don't remember seeing nothing that he had with him, one thing. He usually carries

-- he's got a paddle thing that he carries around for sharpening his knife and all that. But I do not remember him having anything with him, you know what I'm saying?

Q. Could he have had a tool bag in his hand? Is there any reason that you'd say, no, that didn't happen?

A. I don't remember seeing -- I remember him getting in the car, he didn't have nothing with him, I mean.

Q. Okay. Is it that you don't recall or that you're pretty sure he didn't?

A. Don't recall.

Q. Because, again, you were distracted. You ---

A. Yes, Yes.

Q. --- were upset about your bike?

A. I was more interested in getting my bike than picking JJ up.

Q. Okay. Now, Mr. Steinberg asked you a couple of questions about whether you had ever picked up JJ up there, whether you'd ever taken -- but was this kind of a different situation where you and JoAnn are up in that area ---

A. Yes, ma'am, ---

Q. --- anyway?

A. --- exactly.

Q. So it could have been that he worked up there all the time, you just wouldn't know?

A. I was -- I went up there enough to know that that'd be

the first time I'd know Kevin, I mean, JJ working for Kevin, you know what I'm saying?

Q. Did anyone say anything about Kevin?

A. Jobo said we needed -- that's where he was doing the job at.

Q. You said that when JJ got in there was nothing suspicious about him?

A. No, ma'am. If there was, I didn't hear it.

Q. There wasn't any odd behavior by my client either?

A. I didn't see none. You know, like I say, I'm -- at that time I was wanting to get my bike. I thought we was going to go there first, you know. And I was all upset about my bike, done spent all night long ---

Q. Okay. Well, I can't let you off the hook just yet about this time-frame. We still have a little bit more to go.

THE COURT: All right. Don't make statements now. Just ---

MS. GORTON: Oh, okay.

THE COURT: --- ask questions.

Q. Were you -- you said you left the house around 8:45, is that right?

A. I'm thinking that'd be about what time, yeah.

Q. And you stopped at the Cleveland store first?

A. Yes, ma'am.

Q. And you think that's about when he got the call from JJ to come pick him up?
A. Like I say, we left -- left his house around 8:45. I'm saying about maybe 9:00 'cause he got the call before we got to the store.
Q. Okay. So ---
A. Or a text, whichever.
Q. --- it'd be before 9:00? All right. And then where did you guys go after Cleveland store? Did you go ---
A. Left -- we left and hit 276, started up to River Falls and went through. I thought we was going to go check on the bike first, but we went to pick JJ up first and then went up to Devil's Fork ---
Q. So using your time-frame, what time do you think you picked JJ up?
A. I'm saying it took about maybe forty minutes from the time we left JoAnn's house, stopped at the store and picked JJ up.
Q. I'm honestly not trying to put words in your mouth, but are you saying that was around 9:30 that you picked ---
A. Yes.
Q. --- JJ up?
A. Yes. It was around 9:30 or so, yeah.
Q. And then after you picked JJ up, Jobo, and JJ, Billy, and you and JoAnn are still going places, correct?

A. Yeah, we're still going to check on my bike. We come back down.

Q. Okay. How -- was there a point where JJ and Jobo got out of the car?

A. No. The only time we got out is when I went back down to Steve and Crystal's. My bike was supposed to have been there, but it wasn't. But my keys was there. And JJ got out with me down there.

Q. Okay. JJ got out there at Steve and Crystal's?

A. Yeah.

Q. Did Jobo?

A. No.

Q. Just JJ?

A. Yeah.

Q. And what did JJ do when he got out?

A. I really -- he talked to Steve.

Q. Okay. Did you wind up leaving him there?

A. No.

Q. How long did he talk to Steve?

A. We was in there about ten minutes or so.

Q. Did he go in the house to talk to Steve --

A. Yes, ma'am.

Q. Do you know what they were doing in there?

A. Yes.

Q. Can you tell me what they were doing? I already know,

but go --

A. Oh, okay. I mean, he -- he scored there, you know what I'm saying? He picked up some -- picked up some dope.

Q. All right. So JJ went in to pick up some dope?

A. Yeah.

Q. And he went in alone?

A. Me and him was together. When we went in -- we went in, I was looking for Dana. He was supposed to have been there, but he wasn't.

Q. All right. So what time are we up to when JJ gets back in the car?

A. I'm saying now we close to maybe 10:30, some to eleven, you know what I mean? Matter of fact, I had my ex-wife -- called her and had her to go up there and sit and make sure that Dana didn't leave with my bike before I got there. And she said it was around her dinner break, you know what I'm saying?

Q. All right. So that's why you're pretty certain at that time?

A. Yeah.

Q. And then what did you do after you left Steve and Crystal's?

A. We went back up there to JoAnn's. And JJ and Jobo and the little boy -- and Jobo's boy got out. And my bike, I had the keys for it. I mean, they was somebody at Steve and

Crystal's that gave me the keys instead of the bike and said it was up on Beaver Dam. So I went back up to Moe's and JoAnn and they got out and Moe rode up to Beaver Dam with us.

Q. All right. So Joe and JJ stayed behind, Moe gets in and then you guys go get your bike?

A. Right.

Q. All right. What time was it that you let JJ and Jobo off at their house?

A. I'm saying it wasn't 12:30. It was a little after twelve or so or something.

Q. Twelve or 12:30?

A. Yeah.

Q. How certain are you that it was sometime after twelve?

A. Like I said, it was my ex-wife's dinner break. She takes a dinner break at 12:00.

Q. Okay. So that leads me back to your certainty of the day. And in this statement you said you don't remember when.

A. I -- like I say, I know my ex-wife was there at dinner. She was up there watching. She said it was -- it was a quarter -- best I remember, she said it was about her dinner break and she'd go ahead and go up there and sit to make sure that -- see, the bike was in mine and her both names. She was responsible for it.

Q. In anywhere in your statement do you tell the officers

-- you do say you're not sure when it was. Do you ever say it's the same day the truck was found? Anywhere in your statement do you say that?

A. I think I did.

Q. Can you show me where?

THE COURT: He can't see it.

MS. GORTON: Oh, do you want me to read the whole thing out loud?

THE COURT: No. Point out or read -- the question asked is the question you just asked.

MS. GORTON: The question I'm asking is anywhere in his statement did he say that this occurred the same day that the truck was found.

THE COURT: All right. Do you know?

A. Yes, I did. I mean, it was ---

Q. It was in this statement?

A. I'm pretty sure I told -- I told the officer that I was up on River Falls the same day I picked JJ up and the truck was found.

THE COURT: Is it in there, solicitor?

MR. STEINBERG: Your Honor, I'm looking for that portion. I cannot tell yet.

A. I remember saying ---

THE COURT: Just a minute.

A. --- that ---

THE COURT: Wait, wait, wait. Is it in there or not, solicitor?

MR. STEINBERG: Your Honor, I believe it is under the same language opposing ---

THE COURT: All right. Read it.

MR. STEINBERG: He said he thought that when JoAnn took me to River Falls it was around the same time around the disappearance of Charlie, but I don't remember -- but I do remember going to River Falls and riding up there with JoAnn and Jobo.

THE COURT: All right.

MR. STEINBERG: States around that time.

THE COURT: All right.

MS. GORTON: Nothing further.

THE COURT: Thank you. Step down.

MR. STEINBERG: Your Honor, the next witness will be Deputy Jimmy Wilson.

MADAME CLERK: Deputy Wilson, will you come forward to be sworn in please. Please place your left hand on the Bible and raise your right.

James Wilson, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

MR. WILSON: Jim Wilson.

Q. Okay. And you said you slept in your daughter's old playhouse?
A. Yes, sir, it was my daughter's playhouse.
Q. And when was the last time you'd actually been on this residence?
A. On that property?
Q. Yes, sir.
A. It was -- December was two years ago til I went up there on the 15th.
Q. What did you do when you woke up on the morning of the 15th, August 15th?
A. I woke up and I finally got in touch with my -- well, my friend, he called me and asked me what I was doing, asked if I needed a ride back to his house. I told him, yeah. And he said he'd send his wife to pick me up in about twenty, thirty minutes.

And I was just walking around smoking a cigarette. And I figured I'd walk down to the creek and look to see if any old bottles had washed up. And I walked down there and was looking for old bottles and that's when I come up on the body.

Q. And in case the jurors are not familiar with this area, why would you look for bottles there? What kind of bottles were you looking for?
A. Well, back when I lived there before, lots of times old

Vernon Spring Coca-Cola bottles would wash up on the creek. They washed up several times. You can get anywheres from twenty-five to forty dollars apiece. And I was just seeing if any had washed up.

Q. And is there an actual junkyard or place that buys antiques right over there?

A. Yes, sir. Right there, right next to where I was at. They's a fellow there, David Bailey. He runs the antique store. He'll buy them. They's a lot of people messes with antiques will buy them.

Q. Okay. And how close was that to your old homestead?

A. Within walking distance, less than an eighth of a mile.

Q. Okay. You say you found a -- you found a body there?

A. Yes, sir.

Q. What was the condition of the body?

A. It scared me so bad, I ran. The only thing I seen was a pair of blue jeans, and a tenni's shoe, a pair of blue jeans connected to it, and I was gone. I ran and called 911. After I ran probably thirty or forty yards I finally got settled down enough to dial 911.

Q. And did you cooperate with law enforcement when they arrived?

A. I didn't hear you, sir.

Q. Did you cooperate with law enforcement when they arrived?

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

WILLIAM JOSEPH PHILLIPS,

DEFENDANT.

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume Two of Three)

JUNE 10 - 12, 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:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

Tuesday, June 11, 2013 (Volume Two):

(Whereupon State's exhibits 8 - 31 were marked for identification)

(Whereupon court resumed at 9:21 am)

THE COURT: All right. You ready, solicitor?

MR. STEINBERG: Yes, sir, Your Honor.

THE COURT: All right. Bring the jury.

(Whereupon the jury entered the courtroom at 9:22 am)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: All right. Solicitor, you may proceed.

MR. STEINBERG: Thank you, Your Honor. The State calls Officer Caleb Gamble.

MADAME CLERK: Officer Gamble -- I'm sorry. Officer Gamble, if you'd come forward to be sworn in. Place your left hand on the Bible and raise your right.

David Caleb Gamble, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MR. GAMBLE: David Caleb Gamble.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Officer Gamble, what's your highest level of education?

A. Bachelor's degree.

Q. And do you have any experience in law enforcement?
A. Yes, sir, six and a half years.
Q. And how long have you been in -- what's your current position?
A. I'm a crime scene investigator for Greenville County.
Q. And how often -- how long have you been in that position?
A. Four and a half years.
Q. Did you respond to the Marietta part of Greenville County on August 15th?
A. Yes, sir, I did.
Q. And please tell us about the location that you went to, the address and just general description of it.
A. The address that I was dispatched to that day was [redacted] in Travelers Rest. When I pulled up on the scene there were marked deputies, had cordoned off what appeared to be a crime scene. And there was a long driveway leading down into the woods. And there was a big tree over that driveway. And once I was talking to investigators on the scene I was directed down the path to a creek area.
Q. Did the tree block your ability to drive down that road?
A. That is correct.
Q. When you got down to the creek what did you see?
A. As soon as I got to the creek I observed what appeared

to be skeletal remains in the creek.

Q. Did you locate anything else besides the skeletal remains at that location?

A. At that location, it was just the skeletal remains in the creek. Before I got there there were several buildings, barns and what appeared to be a burned down residence before I got to the actual creek in the field.

Q. Did you later, along with other officers, locate any additional items?

A. That is correct. Sergeant Shaw and Investigator Derby with the forensics division located a bag, and a hat, and, I believe, later on a cartridge casing.

Q. Did any additional officers assist you in this case?

A. Sergeant Shaw and Officer John Derby assisted in this investigation at that scene on that day.

MR. STEINBERG: I beg the Court's indulgence.

Q. I'm going to ask you to identify a couple of documents. I'm going to show you State's exhibits numbered 10 through 17. Please just see if you recall seeing those pictures or recall that scene.

A. Yes, sir.

Q. What do these scenes reflect?

MS. GORTON: Excuse me.

(Whereupon Mr. Steinberg presented the exhibits to Ms. Gorton)

A. No, ma'am, I was not.

MS. GORTON: I don't have any further questions.

THE COURT: Thank you. Step down.

A. Yes, sir.

(Whereupon the court reporter spoke with the Court off the record)

THE COURT: Solicitor, call out the numbers of your exhibits for the court reporter. Call out the numbers.

MR. STEINBERG: State's exhibit 10, 11, 8, 9, 12, 13, 14, 15, 16 and 17. And if any of those were not already moved into evidence, I would move those into evidence.

THE COURT: And that's the order in which you showed them, is ---

MR. STEINBERG: Yes, sir.

THE COURT: --- that correct? Okay.

(Whereupon State's exhibit 8 was admitted into evidence)

MADAME CLERK: Sir, would you raise your right hand.

Jonathan Hamilton, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MR. HAMILTON: Sergeant Jonathan Franklin Hamilton.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Okay, Sergeant?
A. Yes, sir.
Q. You got promoted since I last spoke to you, didn't you?
A. About six weeks ago.
Q. Very good. Congratulations. If you would tell the jury how long you've been in law enforcement, sir.
A. Twelve years.
Q. And how long have you been in forensics?
A. Forensics, six.
Q. What was your role in this case, sir?
A. I was contacted to conduct a execution of a search warrant on a Mazda truck as well as go to Mr. Roberts' home to execute another search warrant.
Q. What was your role on -- what did you do on Saturday, July 9, 2011?
A. July 9th I was contacted by Investigator Miller at the time, reference to executing a search warrant on a Mazda truck, which had been towed to our office, the crime scene office.
Q. Did you find anything of possible evidentiary value in the car? Did you seize it?
A. I did collect swabs from possible DNA. I also collected a steering wheel cover from the steering wheel and a Monster can from the bed of the truck, on that date.
Q. Did you see any -- seize any keys or any other items

from inside the vehicle?

A. I did. On the following date the Lieutenant with the Violent Crimes Unit with the Sheriff's Office responded to our office to verify. I always like to get a second -- second opinion, make sure everything is covered.

So the Lieutenant came over at the time and he took a look at the vehicle. We discussed it. And he advised me of some other things he wanted to collect, which was a Burger King receipt and a -- and two sets of keys.

Q. What did you do on Sunday, July the 10th, in addition to that?

A. I responded to -- bear with me just one second.

Q. Yes, sir.

A. I responded to [redacted] in Marietta, South Carolina to execute a search warrant on Mr. Charles Roberts' home.

Q. Did you meet any officers up there?

A. I did. I had -- Investigator Miller was there along with some other units from the Sheriff's Office.

Q. What kind of residence was this?

A. It was a -- a trailer-style home, but it was sectioned off with A being on the left side, B being on the right side. It was like a duplex-style home.

Q. When you got there were the doors locked?

A. Yes, they were, at that time, yes, sir.

Q. Do you know how the officers were able to enter that residence?

A. I was advised that they had prior -- when the missing person came out that they went to the home to see if they could locate Mr. Roberts. And they had came -- gained entry to the kitchen rear window of the home. And they went in, checked the home to see if there was anyone there. And then they locked it back when they left.

On this date, they did the exact same thing. They climbed through the same window, unlocked the door so we could gain entry into the house.

Q. Were there any signs of forced entry?

A. Didn't find any noticeable signs of forced entry. Nothing -- nothing -- no damage except for the raised window from the kitchen.

Q. Did you see any visible signs of a burglary or a robbery at that location?

A. No, I didn't.

Q. Anything unusual about the home?

A. No. Male's home. Had motorcycle paraphernalia, jackets, helmets, that kind of thing. There was just odds and ends there. Didn't look like it had been touched. Nothing of value appeared to be stolen.

Q. Did you see any jewelry there?

A. Yes, we did.

Q. Was there a television there?
A. Yes, it was.
Q. Were there any drugs there?
A. Yes, there were.
Q. You also talked about motorcycle equipment. That was still there?
A. Yes, both in the home itself and the storage building, which is right next to it, but detached from the home.
Q. Let's talk about that building. What kind of building is that and was it secure?
A. It was a storage-shed-style building. Had a door on the front, two windows in the front. And it was shut. And a vehicle was actually pushed up against the door to keep anybody from getting inside of it. Inside it housed motorcycles, motorcycle -- more paraphernalia, figurines, that kind of thing inside of it.
Q. Did you take any photographs in this case?
A. Yes, sir, I did.
Q. I'm going to ask you to look at State's exhibits 29, 30 and 31 just to give an overview of these pictures.
A. Yes, sir.
(Pause)
A. Yes, sir.
Q. Are those the photographs you took in this case?
A. Yes, sir.

MR. STEINBERG: The State would move State's exhibits 29, 30 and 31 into evidence.

THE COURT: Any objection?

MS. GORTON: No objection.

(Whereupon State's exhibits 29 - 31 were admitted into evidence)

Q. Officer Hamilton, what is this picture, State's exhibit number 29?

A. It's the side of the 1997 Mazda truck, which was towed to our office at the crime scene office at 23 Winterberry Court.

Q. What is this little mark right here, this little object right here?

A. Whenever we secure a vehicle to be towed to our office, we always place evidence tape on the doors so that way we can -- whoever executes the search warrant can look at that tape and tell whether it's been breached or not, whether it's been broken open.

Q. Just to give the jury some context, what is -- what does this photograph show and what building was this taken in?

A. This was at [redacted] in Marietta. This is that storage shed I was telling you about next to the house. This is from the doorway looking in.

Q. What is this item back here?

A. Some -- a motorcycle.
Q. Was there another motorcycle in there?
A. Yes. I believe there was another one to the left. And then there's two on the right side.
Q. Okay. Are those motorcycles or mini-bikes right there?
A. They're -- they look like mini-dirt bikes or dirt bikes.
Q. Let me show you State's exhibit number 31.
A. This is going -- this is going to be the front of the home. So if you're standing at the roadway looking at the house, if you can see the truck to the far right, that's going to be the truck that was against the door of the shed. And then you have the shed. And then you have the home. And the front door is at that porch area.
MR. STEINBERG: Turn the lights on, please. Thank you, sir.
Q. Thank you, Sergeant Hamilton. Please answer any of opposing counsel's questions.
A. Yes, sir.
Cross Examination by Ms. Gorton:
Q. You mentioned the keys in the truck. Did you ever determine if the victim's house key was on that key ring?
A. No, ma'am. I just collected the evidence and ---
Q. I correct myself here. You said there were two sets of keys. No house key on either side -- either set?

A. I'm not sure about whether it was house keys or not. It was just two sets of keys that we collected.
Q. All right. Now when you conducted this search of the house, ---
A. Um-hum (affirmative).
Q. -- how many days was that after his truck was found?
A. Unsure when the vehicle was actually towed to our office. All I know is that I received a call from Investigator Miller on the 9th to say I need the vehicle searched.
Q. Okay. The vehicle searched. My question is about the house and the search warrant you executed there. What day did you execute it?
A. The date that I executed the search warrant that I went out to the scene was on 7/10/2011.
Q. Okay. So two days after his truck was found?
A. Yes, ma'am, I ---
Q. Okay. And during that time was the house secured in any way by law enforcement?
A. All I know is that when they initially was trying to find him, they went into the home. And then when they couldn't find him, they locked everything back. That's what I was told. I had no prior knowledge of that.
Q. And you all were able to get in the house the same way they did, correct?

A. Yes, ma'am.
Q. Through the kitchen window?
A. Yes, ma'am.
Q. No screen?
A. I can't remember if there was a screen on the back. I'd have to look and review the picture.
Q. You certainly have no way of knowing if anybody else was gaining entry to the house the same way?
A. There's no way for me to know, no, ma'am.
Q. Okay. Now, the home layout -- I'm showing you what the State has marked exhibit 31.
A. Yes, ma'am.
Q. The home layout, it's a duplex, correct?
A. Duplex-style, yes, ma'am.
Q. And Mr. Roberts' unit was on which side?
A. If you're looking from the roadway up, it'll be the right side.
Q. All right. And was there a street running in front of his property?
A. It's a roadway right in front of it. I think it kind of circled a tad bit. It was right there in front of the home.
Q. Okay. And is there woods across from that roadway?
A. I'd have to -- there again, I'd have to review the case file. I remember it was in a wooded area, that whole area

was, but I can't remember if it was directly across or if there was another street next to it.

Q. Okay. But the property that the house is sitting on, ---

A. Um-hum (affirmative).

Q. --- do you recall if this is a hill here that you're seeing?

A. It's a slight incline, yes, ma'am.

Q. Almost like a grassy knoll?

A. (Affirmative nod).

Q. So a hill that you have to come up to get to the duplex?

A. Yes, ma'am.

Q. And there's a row of bushes in front?

A. Yes, ma'am.

Q. Okay. So certainly if you were at the front looking out, if someone's approaching, you can see it? There's no obstruction between the front door and the roadway?

A. Not from my knowledge, no, ma'am.

Q. Okay. When you did this search you found a number of pill bottles?

A. If you'll give me one second, I'll ---

Q. Well, let me clarify which search I'm talking about. First of all, you did the search of the truck?

A. Yes, ma'am.

Q. And you found two pill bottles there? I believe it's in your report, sir.

(Pause)

A. Yes, ma'am. I do see here I stated that there was two prescription pill bottles in the center -- container of pills was empty. The glove compartment.

Q. And one of those bottles was empty?

A. Yes. One completely empty and one still containing pills.

Q. Do you recall what the prescriptions were for either one, if there were any?

A. No, ma'am.

Q. All right. Now, going to the house, ---

A. Okay.

Q. --- in the search of the house, were there a number of pill bottles located there?

A. I don't have it notated down in my report, a reference to the pill bottles. I ---

Q. Do you ---

A. --- know we were in the bathroom taking photographs. And I believe there may have been some in the bathroom, but, there again, I'd have to look through the whole case file, photographs to make sure.

Q. Okay. And did you make any notations as to those pill -- prescription names and how much was left in which ones?

A. Not in my report, no, ma'am.
Q. Do you know if you did at the time?
A. Ma'am?
Q. Did you do it at the time?
A. No, ma'am. Normally when it comes to prescription drugs, if we take photographs, we'll take photographs of those containers, that kind of thing. But, no, ma'am, I normally don't notate them.
Q. Okay. One last thing to ask you about, guns. Were there a number of guns throughout the house?
A. I -- I do remember seeing two air rifles, pellet guns. And there was a rifle. I don't know the caliber. That was in the closet. And there was some knives. That's what I remember from the weapons.
Q. All right. Do you happen to recall if you saw a 12 gauge, a .410 or a .22?
A. There again, there was a rifle -- I remember the rifle because I placed it on the bed and took photographs of it. Shotgun, I don't remember seeing a shotgun. I'm unsure.

MS. GORTON: Nothing further.

A. Okay.

THE COURT: Thank you. Step down.

MR. STEINBERG: Madame Court Reporter, if I could get you to mark these items.

(Whereupon State's exhibits 32 - 35 were marked for

THE COURT: Thank you. Step down.

MR. STEINBERG: The State calls Lieutenant Ronald Lendway.

MADAME CLERK: Come forward to be sworn, please. Please place your left hand on the Bible and raise your right.

Ronald Lendway, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Sir, would you, please, state your name for the record.

MR. LENDWAY: Ronald David Lendway.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Lieutenant Lendway, please tell the Court what experience you have in law enforcement, how many years.

A. I've been with the Crime Scene Unit for twelve years. Before that I was with the Greer Police Department for five years. Before that I was in the U.S. Coast Guard.

Q. How many officers do you supervise as a lieutenant?

A. Twelve.

Q. What was your title and role on August 19th of 2011?

A. At that time I was a sergeant in the Crime Scene Unit.

Q. Did you go to this location when the body was first found?

A. No, I did not.

Q. When did you go to this location?
A. I went to that location a few days after that on August 19th, 2011.
Q. What did you do on August 19th at that location?
A. Prior to that, Sergeant Shaw had mentioned that he was going to that location to get some -- some measurements. I offered my assistance to help, which he -- which he took. And we both rode out to that location to get some additional measurements that he was wanting to get. On the way there he had contacted one of the investigators to see if there was any information as far as the possible caliber of a weapon.
Q. When you get out to that location, tell us about the description of the location that you searched.
A. Upon pulling up to that location it was a little pull-in spot off of the roadway, and there was a large tree that was downed in front of it where you couldn't pull down into there, although, there was -- it was asphalt once you walked down there past the large tree, the asphalt turned into a dirt road.

And going down to the dirt road there was -- there was almost like a meadow off to the right hand side. And there was a couple of small little outbuildings kind of scattered around in that area. And further down the pathway, it led to a small creek.

(Whereupon State's exhibit 36 was marked for identification)

Q. Lieutenant Lendway, while you were inside this -- the shed did you locate anything or did you search for anything?

A. Yes.

Q. And did you locate anything?

A. Yes, I did.

Q. What did you locate and please describe it.

A. Inside the shed, the shed has a dirt floor. And while searching the area I located a spent .380 casing that had been fired.

Q. What was the condition of the spent .380 shell casing?

A. It was down in the dirt and the mud. It had a film of dirt covering the whole outside of the casing. It was pretty dirty.

Q. I'm going to show you what's been marked as State's exhibit number 36. I'm going to show you what's been marked and it's in a plastic bag. How did you submit this item into evidence?

A. Upon collecting the casing I would put it in a tissue and then into a plastic container, put red evidence tape over it and then put my initials over the red evidence tape and put it into this manilla folder here where, again, I put red evidence tape over this side so that -- and also the back.

What I packed -- this clear plastic was not done by me. When I packaged it, this is the plastic container that I -- the casing, I put it, as I said, into a tissue. I put that tissue with the casing in it into this hard plastic container, sealed with evidence tape.

And here I put the item number, which I labeled this as RL1, RL-1. RL is just my initials. I put the dash and then the number of the evidence, which is number 1 in this case. Put the evidence tape around here, put my initials and then put it into this manilla folder where I -- where, again, I put the red evidence tape around the sides of it and, again, put my initials over that tape.

Q. What is located in RL1?

A. It's the spent casing that I found inside the shed on the dirt floor.

MR. STEINBERG: I move to introduce RL-1.

(Pause)

Q. Have you and I reviewed the drawing in this case?

A. The sketch?

Q. Yes, sir. I'm going to show you State's exhibit ...

MS. GORTON: I think it was 24.

Q. State's 24 where this says RLR, is this the location where you found the .380 shell casing? And if so, why is there a discrepancy between the ---

A. Right. This diagram here, it was done by Sergeant

Shaw. This is the correct location of where the -- where I located the casing inside of the shed. However, Sergeant Shaw had mislabeled the item number where he put RLR-1 where I actually put RL-1.

MR. STEINBERG: The State would ---

MS. GORTON: Judge, I have to preserve an objection.

THE COURT: What's your objection?

MS. GORTON: That -- well, I renew the earlier objection about the diagram.

THE COURT: All right.

MS. GORTON: And . . .

THE COURT: All right. Subject to your objection, put it in.

(Whereupon State's exhibit 36 was admitted into evidence)

Q. On August 25th, 2011 did you also go back into the Marietta portion of Greenville County?

A. Yes, I did.

Q. What was your reason for going up there on that day?

A. I was called up to that location. And it was off of Long Shoals Road in Marietta. And I was given information that there was a -- there was a person that had stated that they had buried some evidence along a creek or along a river. And I was given the location. I was given a description of where they -- the investigators were parked

at.

They -- it was a ten minute walk into the woods along this river. They weren't right there by the -- by their vehicle when I pulled up, but I did see their vehicles. They mentioned that there was a culvert down by the river and if I were to stay to the side of the culvert and just follow the path along the river for approximately ten minutes that there was -- they were seeking some buried evidence along the river.

So at that time I parked there and let them know that I was there and that I would be there shortly. I took my camera bag, all the equipment that I thought that I may need. And I also took a shovel so I could dig up anything that could be retrieved.

Q. Did you meet up with any officers or anybody else?

A. Yes, I did.

Q. In addition to officers, who else was out there?

A. Investigator Chris Miller and Investigator Chris Hammett. There was also -- Mr. Allen was out there. And I believe there was one or two others that were with the investigators. And I'm not sure of their -- their names.

Q. And without repeating anything that Mr. Allen may have said, how cooperative was Mr. Allen?

A. He was very cooperative.

Q. Did you locate any items?

A. Yes, I did.
Q. I'm going to show you what's been marked as State's exhibits number 18, 19, 20 and 21. Please tell me if you had taken those photographs or you were present when they were taken.
A. Yes. These are some of the photographs that I did take.
MR. STEINBERG: The State moves State's exhibits 18, 19, ---
THE COURT: Any objection?
MR. STEINBERG: --- 20 and 21 ---
MS. GORTON: No objection, Your Honor.
MR. STEINBERG: --- into evidence.
THE COURT: Without objection.
(Whereupon State's exhibits 18 - 21 were admitted into evidence)
Q. Lieutenant Lendway, what is this item up here?
A. That is a black t-shirt.
Q. And what connection does that have with this case?
A. When I dug into the sand, I found -- both of those guns right there were inside that black shirt. That brown bag that the guns are laying on, that was my bag that was an unused bag that I had brought with me. I laid that down on the sand, placed both guns that I took out of that black t-shirt and put them on there to take the photograph.

Q. This weapon on top, do you remember which weapon this was?
A. That was the Ruger 9mm.
Q. And this weapon on the bottom?
A. That was the Hi-Point .380.
Q. I'm going to show you State's exhibit number 19. What does this show?
A. This shows the black t-shirt with the handguns inside of it. And as I was digging, this photograph right here was just prior to the one that was just shown.
Q. I'm next going to show you State's exhibit number 20.
A. That's Mr. Allen. This is prior to digging. And he had -- he was pointing to the area right there where I -- where I had dug.
Q. I'm going to show you State's exhibit number 21. Please tell us, generally, what this is.
A. Right. This is the part of the path that leads up to -- if you look further into it, that's where the river is right there. And walking straight ahead towards the river just to the left, there was a sandbar right there. And the photographs where I was -- where I had dug, it was straight ahead and just a few feet to the left is where I had dug on that sandbar. It's just a photograph leading right up to that area.
Q. Thank you.

MR. STEINBERG: Turn the lights on, please.

Q. Let's discuss this firearm.

MR. STEINBERG: Madame Court Reporter, do you have the firearms?

(Whereupon the firearms were handed to Mr. Steinberg)

Q. Let me hand to you State's exhibit number 1. Please take a look at that and tell us how it's marked.

A. You want me to take it out?

Q. That's the 9mm, right?

A. Correct.

Q. No, you just keep that in there.

A. Okay.

Q. Was that one of the firearms that was taken into ---

A. Right. This is a silver handgun that was previously shown on there that I had dug up from the sandbar.

Q. Okay.

A. And this is the box that I had secured it in. And this has all my writing on here with the evidence tape and my initials on it.

Q. I'm going to hand you State's exhibit number 2.

A. This is the black handgun that was in the photograph. It was the Hi-Point .380. And this is the box that I had it packaged in and wrote the information on here, sealed it with evidence tape and put my initials.

Q. Are you able to open that box?

A. (Whereupon the box was opened.)
Q. What is in this box?
A. This is the black Hi-Point .380 handgun and one live round separated in the bag.
Q. Thank you.
MR. STEINBERG: Your Honor, in observance of court rules, this does have a bolt through the ---
THE COURT: All right. Good. Any objection?
MS. GORTON: No objection, Your Honor.
MR. STEINBERG: The State is moving State's exhibit number 2 into evidence.
THE COURT: Without objection.
(Whereupon State's exhibit 2 was admitted into evidence)
Q. Did you check this for fingerprints? And if so, were any fingerprints located?
A. Yes, I did. I checked it for fingerprints. And there was none found.
Q. Did you also check the 9mm for fingerprints?
A. Yes, I did.
Q. Any found?
A. No.
Q. Is it unusual not to find fingerprints on a firearm?
A. It's not that unusual.
Q. Did you check for any blood on the .380?

A. No. I checked for blood on the 9mm.
Q. Okay. Was there any blood on the 9mm?
A. It tested negative, not.
Q. This evidence in here alongside of the -- alongside of the firearm, what is this, and what is the caliber and what is the headstamp on it?
A. This is the live round that was with the .380 handgun that was buried. The headstamp is WIN, which is short for Winchester, .380 auto. On the flat side of the cartridge or cartridge casing is what we call a headstamp. The headstamp is a way we can determine what type of caliber weapon fired this or if -- this ammunition is used for what type of weapon.
Q. And what kind of shell casing did you find at the old shed, the old garage?
A. At the garage it was a spent casing. And it was WIN .380 auto.
Q. Similar to this one?
A. Yes. Same headstamp as this one here.
Q. At the time you did your research in this case and your work in this case were you familiar with all the facts in the case?
A. As I mentioned before, I didn't initially go out to the scene on August 15th. So I wasn't -- I wasn't familiar with everything going on involved with the case, but I did know

-- I do know some things about it.

Q. Okay. Please answer any of opposing counsel's questions.

Cross Examination by Ms. Gorton:

Q. Let me start with the shed. You went out on the 19th?

A. Yes.

Q. Which was four days after the initial search?

A. Right.

Q. And had the area been guarded in any way?

A. I -- to my knowledge, I do not know.

Q. There certainly was no way to lock up the shed, was there?

A. It had open sides.

Q. There was nothing there to lock. There were no doors, correct?

A. There was a door, but, like I said, there was other areas of that larger shed that were open.

Q. Would you agree there was no way to secure that area short of leaving an officer there?

A. I would say that's correct.

Q. All right. And I'm handing you State's exhibit 27, which shows the placard on the dirt floor where you found it.

A. Right.

Q. Would you agree that there's not an excessive amount of

metal objects around there?
A. This picture here, it may not show the overall of the whole floor, but while I was there there were multiple metal parts throughout that property.
Q. Did you move anything from around here?
A. When I was there, no. My ---
Q. Okay.
A. --- search started at -- in a different area.
Q. Okay. So this accurately depicts what this one foot area looked like when you saw the shell casing, correct?
A. When I was there -- now, initially I wasn't there on the 15th. So I'm not ---
Q. I understand that. But when you saw it it was -- this accurately depicts the one area spot around the shell casing? Accurately depicts what it looked like when you saw it, correct?
A. Right.
Q. And this is a photo of the shell casing close up. Pretty obvious, right?
A. Right.
Q. You hadn't removed it or done anything with it at that point, ---
A. Actually, ---
Q. --- correct?
A. --- when I first noticed it I wasn't sure what it was.

I knelt down, I did confirm that it was a shell casing. And then at that time I notified Sergeant Shaw that I had located a fire casing.

Q. Well, you knelt down, but did you dig it out or do anything ---

A. It was ---

Q. --- else?

A. It was partially -- it was partially in the dirt. And I did have to look and make sure -- confirm that it was the spent casing.

Q. Well, where did you remove it from the dirt? Where's the hole that you removed it from?

A. It wasn't all the way down. So there wasn't -- it wasn't a hole. It was almost like a little troff.

Q. Well, you didn't move it, did you?

A. I -- I had to confirm that it was a shell casing.

Q. Okay. Where did you ---

A. And it was right here ---

Q. --- move it from?

A. From right -- it was right where it is.

Q. All right. So did you use any special tools to detect that? Were you wearing any special glasses, or using a metal detector or anything?

A. Using a metal detector in that area would have been useless just because of all the small pieces of metal that

were in and around that area.
Q. Can you show me where the small pieces of metal are right around here?
A. Well, this is a zoomed in, close photograph of just a couple of inches. And ---
Q. Well, can you show me where there's metal anywhere within a foot of that?
A. It's hard to tell with this photograph.
Q. Is there any way of telling how long that shell had been there?
A. No.
Q. And you said that you also went with Officer Hammett and Investigator Miller to meet with JJ to recover these two weapons. What date did that occur?
A. I'm not sure who JJ is.
Q. Mr. Allen.
A. Mr. Allen? Okay.
Q. Do you know what date that occurred?
A. August 25th.
Q. So six days after you find the shell casing?
A. No. Yes, it was six days.
Q. All right. And you actually recovered two firearms, correct?
A. That's right.
Q. And did Mr. Allen make any statements to you, any

admissions to you about why there were two and not one?
A. I didn't ask him any questions.
Q. After you recovered that 9mm weapon did you or anybody that you know of go back to the shed to find out if there were any 9mm shell casings?
A. Not to my knowledge.
Q. When you were at the shed and you found this single shell casing did you keep looking for additional casings?
A. No.
Q. Once you found this one you stopped?
A. We had -- yeah, that's right.
Q. Okay. And to the best of your knowledge, no one ever went back to see if there were any 9mm's?
A. Not to my knowledge.
Q. And Mr. Allen never explained to you why the 9mm was buried?
A. I wasn't there to interrogate Mr. Allen. I was there to dig up some evidence.
Q. Did you hear anyone else ask Mr. Allen that question?
A. Which question?
Q. Why he buried a 9mm as well.
A. I didn't hear any questions like that, no.
Q. Did you run any tests on these shell casings?
A. Did I run any tests?
Q. Yes.

A. I did not run any tests on those.
Q. Did you run any backgrounds on the .380 or the 9mm?
A. On -- as far as an NCIC?
Q. Yeah. What do you do when you check NCIC on a -- on a ---
A. That's not part of what I do.
Q. It's not?
A. No.
Q. Okay. Who would do that?
A. That would be the investigator or an officer.
Q. The shirt that these guns were buried in, did you hear Mr. Allen make any explanation as to that shirt?
A. No.
Q. Do you know what size that shirt was?
A. It was double XL.
Q. Is Mr. Allen a double XL person?
A. Not unless he wears large baggy shirts.
Q. All right.

MS. GORTON: Nothing further.

THE COURT: Thank you. Step down.

MR. STEINBERG: No further questions.

THE COURT: We'll take a short recess. Take the jury out for a recess. You can step down.

(Whereupon the jury exited the courtroom at 10:48 am)

THE COURT: All right. Short recess.

sworn in, please.

Michael Ward, M.D., being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Please state your name for the record.

DR. WARD: Michael Eugene Ward.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Dr. Ward, could you, please, tell us what your title is, who your employer is.

A. I'm the Chief Medical Examiner for Greenville County. I'm employed by Pathology Associates of Greenville, which is a private pathology group here in Greenville. And I'm also employed by the County of Greenville.

Q. And how long have you been the medical examiner?

A. Eighteen years.

Q. Tell us a little bit about your background, both your educational and your medical background.

A. I have a -- received my bachelor's degree in biology from the University of Alabama. I have a master's degree in forensic science from the University of Alabama in Birmingham.

I received my medical degree from the University of South Alabama, which is in Mobile. I did a four year anatomic pathology residency at the Medical University of

South Carolina in Charleston and a one year fellowship in forensic pathology at the University of New Mexico. I'm certified by the American Board of Pathology in anatomic and forensic pathology.

Q. Dr. Ward, have you -- how many autopsies have you performed in your career?

A. Well over five thousand.

Q. Have you ever been qualified as an expert in a criminal trial before?

A. Yes, I have.

MR. STEINBERG: The State would move to qualify Dr. Ward as an expert in the field of forensic pathology.

THE COURT: Any voir dire?

MS. GORTON: No objection.

THE COURT: He's qualified. Proceed.

Q. Did you conduct an autopsy of Charlie Roberts?

A. Yes, I did.

Q. Do you remember when you conducted it?

A. It was over a several day period, but it began on August 16th, 2011.

Q. Due to the condition of the body were you able to determine weight?

A. No, I was not.

Q. Just tell us, generally, what was the condition of the body when you examined it?

A. Mr. Roberts was in a -- what we would call a marked state of decomposition. In fact, he was nearly completely skeletonized. There was -- there was some soft tissue left on the upper and lower extremities, but for the most part Mr. Roberts had become a skeleton.

Q. Were you able to determine a time of death considering the skeletonized remains?

A. No, I was not.

Q. Was the body consistent with a body that had been left out in the open or a semi-open position for over a month?

A. Absolutely, yes.

Q. Did you examine the skull of Mr. Roberts?

A. I did.

Q. And what did you observe?

A. Again, this was a skeletonized skull. There was no soft tissue remaining. There was remote or old trauma, which was present to the bones of the right forehead with evidence of surgical correction.

In fact, that's one of the ways that we were able to make a positive identification of Mr. Roberts was comparing his medical records from his previous accident to the changes that we saw on his skull. Those were old injuries. The more recent injury that we saw was a gunshot wound to the head, which involved the bones of the face as well as one of the cervical vertebra.

Q. Were you able to determine what type of injury that was?
A. Yes.
Q. What type of injury was that?
A. This was a gunshot wound to the head.
Q. Were you able to determine in your medical opinion the direction that this round went?
A. Yes, I was.
Q. Please tell us which way it went and the trajectory.
A. This wound went through Mr. Roberts' right eye. There was fracture of the bones behind the right eye, then passed from his right to his left impacting and damaging one of the bones on the undersurface of the skull through the region of the upper cervical spinal cord and brain stem, which are components of our brain that control vital components of our like heartbeat and respiration.

As it goes through those, it then exited out the back portion of the first cervical vertebrae. The skull actually sits on top of this first cervical vertebrae. So the gunshot wound goes through the right eye, backward, very slightly to the left and downward and would have exited out the back of the neck just below the skull.

Q. How far down -- was it a marked or is it a minor deviation?
A. No, this is not significantly downward. This is just a

downward direction.

Q. So is it your testimony that a round went through the front of the head and exited the back of the head?

A. That is correct.

Q. And was any -- any parts of the projectile found inside the body or did it pass through?

A. We performed x-rays on all of the skeletal components that were recovered. And there was no metallic foreign material present.

Q. Were you able to determine the caliber of the size of this weapon that was used?

A. I was not, no.

Q. Is it unusual not to find a projectile in the body?

A. No. We frequently have both entrances and exit wounds with none of the missile remaining in the body.

Q. Is it unusual for a .380 round, due to its size, to travel through a body, through a skull?

A. It's not unusual. This is a medium caliber weapon. This gunshot wound path is through basically soft tissue until it hits -- the bones behind the right eye are very thin. And until it hit the back portion of the first cervical vertebrae, which again, is a fairly thin bone, it was passing only through soft tissue. So it would not surprise me at all that this missile had exited the body.

Q. With the condition of the body did you notice any burn

marks or gunpowder residue on it?
A. No. There was no indication of range of fire because there was no soft tissue present or around the wound.
Q. Did you examine the clothes in this case?
A. I did.
Q. And was there anything unusual about the shirt, about the location of the shirt?
A. The shirt had been pulled up off of the torso such that it was still on the -- on components on the -- on the arms, but it was -- in the back was pulled up and over the head. So it was only on the front portion of the body.
Q. What could you conclude from that?
A. Well, the clothing had been moved. And it could have been moved immediately after the time of death or it could have been moved as the body was being relocated.
Q. Let me show you some photographs. Dr. Ward, I'm going to show you what's been marked as State's 15, 16 and 17. Please take a look at those in that order, 15, 16 and 17.
A. Yes, sir.
Q. Do you see the hat in that -- the Michelin hat in that case -- in that photograph?
A. I do.
Q. And do you see any animal activity in that photograph? What are the photographs associated with it?
A. Oh, yes, I'm sorry. There is a hat that's -- a close-

up of a hat is in State's exhibit 15, and 16, and 17, which are similar views, just further away. There are what appear as larvae present on the ground adjacent to the hat.

Q. What information, knowing that there's a hat there, what information does that larvae activity that's been referred to as mealworm activity in the past, what does that indicate to you?

A. Well, one indication is that this body had been present at this location, had undergone some degree of decomposition with the gentleman's hat being left there at the scene. There's discoloration of the ground or the dirt around this wound, which would also be consistent with decompositional fluids exuding themselves or coming out of the body as it decomposes. And then these larvae being attracted to this decompositional fluids and other tissues that would be present.

Q. And why would they go to -- what parts of the body would the larvae or the mealworms go to when they're attracted to a deceased body?

A. These animals are going to, I'm sorry, these insects are going to be attracted to blood. They like to consume blood and blood products. And so my guess -- my opinion would be that this area where they are concentrated would be where Mr. Roberts' head would have been. This would have been a great deal of blood coming out of the wound following

his gunshot.

Q. Before we move on, you mentioned earlier prior medical intervention to the head. Did you find any other medical intervention to the body?

A. Yes, I did.

Q. Where was that?

A. Within the region of the right knee. So it's the distal or the far end of the right femur and the upper portion of the right tibia had orthopaedic screws consistent with previous surgical intervention from trauma.

Q. Considering these two injuries to both the skull and to the leg, would these typically result in a need for, perhaps, prescribed pain killers?

A. It's certainly possible that there was chronic pain resulting from these prior injuries, yes.

Q. Were you able to determine within the bounds of reasonable medical certainty what caused the death of Charlie Roberts?

A. Yes, I was.

Q. And what was that?

A. It was a gunshot wound to the head.

Q. And what was the manner of death?

A. The manner of death is most consistent with homicide.

Q. Thank you, Dr. Ward. Please answer any of opposing counsel's questions.

Cross Examination by Ms. Gorton:

Q. Is there any way to tell whether this gunshot wound was caused by a 9mm or a .380?

A. No, ma'am. From examination of the skeletal elements I would not be able to rule out either of those two calibers.

Q. How about a shotgun? Can you eliminate a shotgun as causing it?

A. Yes, I can.

Q. Okay. That causes a different kind of injury, is that correct?

A. That is correct.

Q. All right. So you can definitely rule out a shotgun, but you cannot rule out a 9mm?

A. No, I cannot.

Q. And can you tell me anything about the proximity of which the shooter would have been when this was done based on what you observed?

A. No, ma'am. There is no indication of range of fire on these skeletal remains.

Q. Okay. And you talked about how it was very, very slightly from right to left. Did you make any diagrams or anything to help you indicate that?

A. I have diagrams and I have photos that would demonstrate the right to left deviation. Basically it's from the right eye, which is just to the right of midline to

the midline. So over about six or eight inches it moves an inch and a half.

Q. When you talk about midline you're saying if you draw a line straight down your body?

A. That's correct.

Q. And you're saying that it never at any point crossed the midline?

A. It did not. It exited at the midline.

Q. Okay. So we are talking about a very slight angle?

A. From right to left, that's correct.

Q. Yes. Now, the angle going downward, are you certain about that?

A. Yes, ma'am.

Q. All right. So obviously the angle was downward, whether it was slight or not, it was definitely downward?

A. The orientation of this -- I'm sorry, the determination of this angle downward is given the skull in what we would call the anatomic position, which basically means that my head is level and I'm looking outward this way. So as the -- as I'm looking at the path through the skull, it is going from the level of my eye to the level just below my skull and the back of my neck. That's in the anatomic position.

You can put the head in various different positions such that a gunshot wound path that may or may not have been level can now be going downward through the skull. So if I

lean my head forward, a gunshot wound which is traveling horizontal or parallel to the earth can now be going downward through my skull.

If I look upward like this, then one that is traveling parallel to the earth flat is now going upward through my skull. So I can move my head and vary the direction of fire both up and down.

Q. Is it fair to say that the person would have had to be aiming at the face area to have this entry wound? Whether the person was looking down or up the entry wound was definitely to the face?

A. That's correct. I can't say what the shooter was aiming at, but the impact is to the face, yes.

Q. Certainly wasn't lower?

A. I'm sorry?

Q. Certainly wasn't lower towards the abdomen or anything like that?

A. That's correct.

Q. All right. Did you, in looking at the medical records of Mr. Roberts, did you happen to research anything about his pain medication, his dosage or anything like that?

A. No, ma'am, I did not.

Q. And did you research his height? I know you said you couldn't determine that because of his remains. Did you research his height?

A. I didn't research it. My understanding is that we probably have that somewhere in the file, but I do not recall what it is.

Q. Okay. And can you tell me, my last question, with a reasonable degree of medical certainty that Mr. Roberts was not shot in the back of the head?

A. Mr. Roberts was not shot in the back of the head. That is inconsistent with the findings at autopsy.

Q. Thank you.

THE COURT: Thank you, doctor.

MR. STEINBERG: No further questions.

THE COURT: Can we excuse Dr. Ward?

MR. STEINBERG: Yes, Your Honor.

THE COURT: Thank you, sir.

A. Thank you.

MR. STEINBERG: The State calls Ms. Emily Gentry.

MADAME CLERK: Ms. Gentry, come forward to be sworn in. Please place your left hand on the Bible and raise your right.

Emily Gentry, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you, please, state your name for the record.

MS. GENTRY: Emily Gentry.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Ms. Gentry, approximately how old -- how old are you?
A. I'm twenty-three.
Q. Are you married? Do you have any children?
A. Yes, I am married. And I have four children.
Q. How many children? Four?
A. Um-hum (affirmative).
Q. Do you know Jobo Phillips, the Defendant in this case?
A. Yes, I do.
Q. Approximately how long have you known him?
A. About seven years.
Q. And have you ever been in a relationship with Mr. Phillips?
A. Yes, I have.
Q. And when did that start and when did it stop?
A. It started around August of 2012. And it ended in -- or in May.
Q. Okay.
A. Whenever he was arrested.
Q. All right. In May of 2013?
A. Um-hum (affirmative).
Q. Did you live with him?
A. Yes, I did.
Q. What road does he live on?
A. Long Shoals Road.

Q. And how close are his relatives and his other family members to him?
A. Very close.
Q. Were you ever engaged to Mr. ---
A. We had discussed it and he had bought a ring, but I was never really proposed to. There were no dates or anything like that set.
Q. Were you married at that time?
A. Yes.
Q. Your last name is Gentry. What relationship are you to Christina Gentry?
A. She's my sister-in-law.
Q. And how are you her sister-in-law? How is the connection?
A. Through my husband. It's her brother.
Q. Your husband?
A. My husband is her brother.
Q. Okay.

MADAME COURT REPORTER: Let me get you to pull up to the microphone, please.

Q. Did you know Charlie Roberts?
A. I did. Not that well, but I knew him.
Q. Did you ever hear Jobo Phillips ever make any statements concerning Charlie Roberts or Charlie and Christina's relationship?

A. Like before?
Q. Yes, before Charlie died did you ever hear ---
A. Before Charlie died I just knew that he was upset because Christina was seeing someone. And he -- he asked me several times if I knew and that he had -- I'd met him on White Horse Road at the Spinx.
Q. Right.
A. And he was with Gerald Childs. And he asked me if I knew who she was seeing because he was really upset about it. And after about ten, fifteen minutes going back and forth, I finally told him that, you know, everyone knew who Christina was seeing, that he just needed to leave her alone. And he just wanted to know who it was. And I told him it was Charlie. And he knew that. And then ---
Q. You said he seemed upset. Give us an example. What was he doing?
A. He was sitting in the car. He wouldn't really -- he didn't get out. He just -- he was really upset. You could tell that it was really bothering him.
Q. Did you see his eyes?
A. Um-hum (affirmative).
Q. Was there anything unusual about his eyes?
A. You could see how mad he was.
Q. Okay.
A. That's about it. He just -- other than that he was

just kind of blank.
Q. After you -- after you told him that it was Charlie, how did he react?
A. He just balled his fist up and put it on his -- like rested his chin on it. He just sat there. He didn't really say anything else.
Q. Do you remember approximately when this date was, this time period?
A. It was around early -- early June.
Q. Of 2011?
A. Of 2011.
Q. Did Jobo ever make any specific comments about an incident that occurred at Charlie's own house?
A. Yes.
Q. Please tell us about that.
A. When I went with Joe to his lawyer's office we ---
MS. GORTON: Objection.
THE COURT: Hold on.
Q. Yes. I'm going to ask you about what you were told by Jobo, not about any ---
A. Okay. Just that when they had gotten into a fuss at his house he had just said that the pussy faggot wouldn't come outside. That was about it about that part.
Q. Did he tell you why he went to Charlie's house that night?

A. Well, I knew that Christina was there. And I believe that -- he had told me that Carolyn Long had told him that Christina was there, and he showed up over there.

Q. You said he shot up over there?

A. Showed up.

Q. Showed up over there?

A. Um-hum (affirmative).

Q. Who was Carolyn Lollis and is she still alive?

A. No, Carolyn's passed away. It's Christina's mother.

Q. After Charlie Roberts' body was found did Jobo make any statements about Charlie and Charlie's [sic] relationship with Christina?

A. Yes.

Q. Please tell the jury about those statements.

A. Statements were made when they would fuss and fight and they would scream and argue over the phone. And Joe would say all the time that he would call Charlie pussies and faggots. And he would say that Charlie got what he deserved and stuff like that.

Q. Did he make any specific statements about the relationship with Christina and whatever terminology he used for Christina?

A. He would call Christina a bitch all the time. I mean, then he would say that the pussy shouldn't have been fucking his old lady.

Q. Was that your -- was that your word or his word, old lady?

A. His.

Q. Until May of this year were you willing to speak with law enforcement?

A. Yes.

Q. What condition did you want? Did you want Jobo to know about it?

A. No.

Q. Did you, in fact, speak to Investigator Hammett with myself present at your house?

A. Yes.

Q. Had you spoken to law enforcement about this case at all until May of 2013?

A. No.

Q. Did you call us up or did we call you up?

A. You called me.

Q. In fact, weren't you served with a subpoena to testify for the defense?

A. Yes.

Q. How long ago?

A. April, I believe. May. I think it was in April. April 8th, I think.

Q. Do not repeat what was said, but did you meet with the defense attorney in preparation for this trial?

A. Yes.

Q. Thank you, Ms. Gentry. Please answer any of Ms. Gorton's questions.

Cross Examination by Ms. Gorton:

Q. When I asked you if you were aware of anything that Joe had said or knew about Charlie, did you tell me that you were not aware of anything?

A. Yes.

Q. And it's only been since you and Joe broke up that you've decided that you are now saying that you did know of something?

A. Um-hum (affirmative). Yes, ma'am.

Q. Now, you're related to Jerry Allen by marriage as well, correct?

A. Yes, ma'am.

Q. Chris Gentry is who to JJ?

A. His brother.

Q. And how long have you been married and in the family?

A. Me and Chris got married in 2006. And we've been together since 2004.

Q. At the time Charlie disappeared was Joe around Carolyn's house a lot?

A. Yes.

Q. You had previously told me about it -- what happened the morning Charlie was found. Is that -- are you still

going to testify ---

A. The morning he was found or the morning that he went missing?

Q. The morning he went missing, I'm sorry.

A. Yes.

Q. And he was killed.

A. Um-hum (affirmative).

Q. Okay. Now, first of all, where did Carolyn Lollis live at that time?

A. She lived off of [redacted] in a trailer park called [redacted].

Q. Where was that in relation to [redacted] where Joe lived?

A. Long Shoals Road is the next street up.

Q. Okay. Is it fair to say that when you get to Joe's house, after you turn off Geer Highway and you go down Long Shoals Road, how far would you say that is?

A. Maybe a mile, mile and a half.

Q. All right. And so Carolyn's house, when you come out of [redacted] you're going to turn just slightly to the South, is that right?

A. Whenever you pull off of Long Shoals Road you'll take a left and it's more North.

Q. Okay. Slightly to the North?

A. Yes.

Q. So when we look at [redacted] we see [redacted]

A. If you pull out of [redacted] and take a left, Carolyn's house, you could pretty much see from the end of [redacted].

Q. Okay. Great. Later on we'll be looking at maps and we need to know where that is. I want to talk about that time-frame of the morning Charlie was discovered to be missing.

A. Yes, ma'am.

Q. Okay. Are you talking Friday morning?

A. I believe so.

Q. They found his truck later that night?

A. Yes.

Q. Where were you that day?

A. I was in Berea.

Q. What were you doing there?

A. Me and my husband had split up. And I was living in Berea.

Q. Where were your children?

A. At Carolyn's house.

Q. All right. And what, if anything, did you do when you woke up?

A. I got up. I overslept. I was supposed to pick the kids up around 8:00 that morning because my husband was working. Carolyn was watching them. She had something to

do. So I called and couldn't get anyone else to answer the phone. And I figured Joe would be around. So I called his phone.

Q. Who did you call before you called Joe?

A. I called Carolyn.

Q. And who else?

A. And I called Lita, which is Christina's sister.

Q. And did ---

A. I called her.

Q. --- any of them answer?

A. No, ma'am.

Q. When you called Joe why did you think he was going to be at the house?

A. Because Christina was there. He was ---

Q. Was he often ---

A. --- always there.

Q. --- at the house?

A. Yes, ma'am.

Q. When you say always at the house, what do you mean by that?

A. Every day.

Q. Every day, all day?

A. All day, every day. If Christina was there, he was there until she was going to bed.

Q. All right. And so when did she have a chance to see

Charlie?

A. I'm sorry? What?

Q. When did she have a chance to see Charlie?

A. She seen him when she would go to school. When she would get out early she would go see him and stuff like that. He would pick her up.

Q. What time was it that you called Joe that morning?

A. About 9:38.

Q. All right. And that's reflected in the cell phone records?

A. Yes, ma'am.

Q. And so you're certain ---

MR. STEINBERG: Objection. Counsel doesn't know if it's reflected in cell phone records.

Q. Would that be reflected in the cell phone records?

A. Yes, ma'am.

Q. You used your cell phone?

A. Yes, ma'am.

Q. You called his cell phone?

A. Yes, ma'am.

Q. And is that why you're so certain of the time?

A. Yes, ma'am. I knew it was around 9:30-ish, 9:45.

Q. And when you called him was he at Carolyn's?

A. Yes, ma'am.

Q. And ---

MR. STEINBERG: Objection. How does he -- how is she going to know where the person was located at that time?

A. He told me that's where he was.

THE COURT: Go on.

MR. STEINBERG: So he told you this?

A. Um-hum (affirmative).

THE COURT: Go ahead.

Q. So then what conversation did you have with him?

A. I asked him if he was around my kids, if he was around Carolyn's house and if my kids were okay and to tell Carolyn that I was on my way to pick them up.

Q. All right. And did you go there?

A. Yes, ma'am.

Q. And was he there when you arrived?

A. Yes, ma'am.

Q. Approximately what time would that have been?

A. I was in Berea. I left maybe fifteen minutes later, if that. And it doesn't take but about twenty minutes to get there.

Q. Okay. So you would have got there around ten or 10:15?

A. I got there about 10:15, 10:20.

Q. All right. Did you stay?

A. Yes, ma'am.

Q. And did Joe stay?

A. Yes, ma'am.

Q. Do you know where he was from then until noon?
A. Yes, ma'am.
Q. Where?
A. He was at Carolyn's. We had -- my kids were there and his were there. Christina was asleep. And the only time me and him left were -- we went to the Mountain Gift Shop. I drove him down there. And we got the kids some drinks and stuff like that and we come back.
Q. All right. At any point did Joe go off by himself?
A. No, ma'am.
Q. And then Christina woke up?
A. Yes, ma'am.
Q. And then did they go anywhere?
A. Yes, ma'am. I knew they were leaving together.
Q. And do you know about what time Joe left that night or that day?
A. I left when they left. They left around twelve, I'm going to say between 11:30, 12:00, they left.
Q. To go on their errands?
A. Yes. And I left.
Q. Do you know where they went after that? If you ---
A. They ---
Q. --- don't, that's ---
A. No, she said something about they had to run to Travelers Rest. That's all I knew, ---

Q. Okay.
A. --- then.
Q. Do you know what time they got back from that?
A. No, ma'am.
Q. Okay. If you don't know the answer, please don't try to guess. Now, was Tina and Joe ever back together after Charlie disappeared that you are aware of? If you don't have knowledge, then don't guess.
A. What do you mean back together? They didn't live together.
Q. Did they ever get back romantically?
A. Yes, ma'am.
Q. And how were you aware of that?
A. Because I would go to his house where she would be before because she would go to school in the mornings and then in the evening she would go back to her school to work at the library.
Q. And just so I'm clear and so that you're clear, this is after Charlie disappeared?
A. Um-hum (affirmative).
Q. And what made you think that they were together? You saw them together or maybe he was just there for the kids.
A. No, I seen ---
Q. What did you observe?
A. --- them together. She told me that they were still

sleeping together and stuff like that, but they just couldn't live together.

Q. All right. Did that cause a problem for you and Joe once you guys got together?

A. Yes, ma'am.

Q. Did it continue to cause a problem?

A. Yes, ma'am.

Q. Why?

A. Because we were together and they were still talking to each other.

Q. I'm going to talk a little bit about JJ. How well do you know JJ?

A. Very well.

Q. How do you know him so well?

A. Because I married into the family. And I met JJ in November of 2004. And I'm not sure exactly how long after that. I know it was after me and my husband got married. It was in 2007 JJ moved up here, I believe. And -- 'cause I had my daughter. And he lived with me and Chris a few times.

Q. He lived with you and Chris a few times?

A. Yeah, for months at a time.

Q. Okay. And did he pay any rent while he lived with you?

A. No, ma'am. No. He watched my daughter while I worked and while Chris worked. Chris' aunt also stayed there. So

she helped.

Q. Are you aware of the time-frame where JJ lived with Joe?

A. Yes, ma'am.

Q. What time-frame was that?

A. It was after -- I know it was after we kicked him out, which was around -- the last time he lived with us, I know for sure, was -- I'm going to say June-ish, maybe, of 2009, a little after.

Q. Why did you kick him out?

A. Because I went to work and when I come in ---

MR. STEINBERG: Your Honor, I have to object to ---

THE COURT: I sustain the objection.

MS. GORTON: Okay.

Q. June 2009 and then he went to go live with Joe?

A. Um-hum (affirmative).

Q. Was Christine and Joe together then?

A. Yes, ma'am.

Q. And he lived there from June 2009 onward?

A. As far as I know, yes, ma'am. I didn't really see him or talk to him that much then.

Q. Were there any episodes where he disappeared and y'all were looking for him?

A. Yes, ma'am.

Q. How often did that happen?

A. Quite a few times. He would just leave and go on about his business and doing whatever it is that he did for a couple of days at a time.

Q. When was the last time that occurred in relation to when Charlie disappeared?

A. Right before. Yeah, I'm going to say a week or two before he had left.

Q. Okay. Now, I'm going to also ask you, and we haven't discussed this, but the time between Charlie disappearing and Charlie's body being found did -- do you recall if JJ disappeared at any time during that time?

A. Not that I'm aware of, no.

Q. The time that -- from the time period between when Charlie's body was found and the next day when he turned himself in do you know where JJ was that night?

A. No, I don't.

MS. GORTON: Just a moment.

(Pause)

MS. GORTON: Nothing further.

MR. STEINBERG: Very briefly.

THE COURT: All right.

Redirect Examination by Mr. Steinberg:

Q. You answered a couple of questions. I want to make sure we can determine your knowledge of these. When you said where Jobo was at certain times, when Joe was not in

your sight do you know where he was?

A. No.

Q. Okay. Thank you, ma'am.

THE COURT: Thank you. Step down.

MS. GORTON: Redirect [sic].

THE COURT: Hold on.

Recross Examination by Ms. Gorton:

Q. Was he in your sight from the time you arrived at 10:20 until around noon-time?

A. Yes, ma'am, except for, you know, he might -- he might have went out to his van a couple of times, to his car, but other than that he was there with me.

Q. Okay. And I don't believe I did ask you this, but what is your cell phone number?

A. Mine?

Q. At that time what was your cell phone number, if you recall?

A. 43 -- it's on the records. I'm not exactly sure what ---

Q. If I ---

A. --- it was.

Q. --- showed you the record, would it ---

A. Um-hum (affirmative).

Q. --- refresh your recollection?

A. It is -- I know what time it was.

Q. Here you go. There's the highlight going across. And then it goes to ---

MADAME COURT REPORTER: You've got to keep your voices up.

MS. GORTON: Sorry.

A. Yeah, that one's it.

Q. What ---

A. 434-2167.

MS. GORTON: Nothing further.

THE COURT: Thank you. You can step down.

MR. STEINBERG: Your Honor, the State's next witness will be Investigator Joe Whitmire.

MADAME CLERK: Sir, would you, please, come forward to be sworn in. Please place your left hand on the Bible and raise your right.

Joseph Whitmire, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated.

(Whereupon State's exhibit 43 was marked for identification)

Direct Examination by Mr. Steinberg:

Q. Investigator Whitmire, would you tell us about your educational background and highest level of education.

A. I have a bachelor's degree from Clemson University.

Q. Do you have any military experience?

A. Yes, sir, eight years in the Marine Corp.
Q. And how many years in law enforcement do you have?
A. Ten years, about ten years.
Q. What's your primary investigative area, geographically?
A. Well, I'm a property crimes investigator. At this current point in time I'm assigned to trailer thefts throughout the County.
Q. Okay. Let's start with what's your primary investigative area?
A. It was what we call area 10, which goes from Highway 25 By-pass north to the State line and from Highway 25 west to the Pickens County line.
Q. Are you familiar with the Long Shoals Road, Lions Park Road area?
A. Yes, sir.
Q. During the missing persons portion of this case, before Charlie was found, what was your role?
A. I assisted the investigators from CID in locating, identifying people that they wanted to talk to.
Q. Did you have an opportunity to interview Roy White?
A. Yes, sir.
Q. Where's Roy currently a resident?
A. I believe he's in federal prison.
Q. Okay. And where did you interview Mr. White? What are the circumstances about that conversation?

A. I was assisting the Pickens County Sheriff's Office in trying to locate a vehicle. And the subject said it possibly stolen some items out of Pickens County. I'd gone to Army Source Scrap Yard over on Sulphur Springs Road earlier in the day. And then I got a call from the manager that the truck that fit that description was currently there. I responded over to the scrap yard and met Mr. White there.

Q. Was Mr. White driving this stolen vehicle?

A. It was not a stolen vehicle. It was some kind of a stolen farm implement that had been -- he had allegedly taken over there.

Q. Was he charged, Mr. White ---

MS. GORTON: Objection. I'm having a hard time understanding where ---

THE COURT: I sustain. Move on, please, sir.

Q. Did you speak with Mr. White?

A. Yes, sir.

Q. Did he give you any -- do not repeat what he said. Did he give you any statements in this case?

MS. GORTON: Objection, cumulative. We've heard from Mr. White.

THE COURT: He can answer that question. Did he give you a statement?

A. He spoke to me, yes, sir.

Q. Okay. Did you later speak with Tammie Timmons?
A. Yes, sir.
Q. Where did you interview her and was she cooperative at that time?
A. Yes, sir. I interviewed her about three months ago in my office.
Q. Did you have to give her any benefit or any reward to get her to speak with you?
A. No, sir.
Q. Have you listened to some cell phone conversations? I'm showing you State's exhibits 40 and 41. Did you hear the voice of JoAnn Phillips Johnson on that?
A. I've listened to some phone calls, yes, sir.
Q. And are you familiar with JoAnn Johnson's voice?
A. Yes, sir.
Q. Was her voice on there?
A. Yes, sir.
Q. Okay. Did you review any cell phones in this case, ---
A. I ---
Q. --- cell phone records?
A. Yes, sir, I did.
Q. Have you reviewed cell phones in prior cases?
A. Yes, sir, I have.
Q. Were you able to determine who the phone numbers belonged to?

A. That information was provided to me. Yes, sir, I had that information.

Q. I'm going to show you these records that have been marked from Verizon. That's State's exhibit number 42. Have you had the opportunity to review records in this case?

A. Yes, sir, I have.

Q. Did you review records back in the, I guess, the Summer of 2011?

A. It was in October of 2011.

Q. Okay. And did you review those records that were provided through digital means last week?

A. Yes, sir.

Q. Did you look at any particular dates and times when you were doing your analysis of this?

A. I looked at the phone records from two different numbers, primarily for July 8th of 2011.

Q. What was your reason for looking at July 8th, 2011?

A. That was the day that Mr. Roberts was reported missing and his truck found.

Q. Did you prepare or have other officers help you prepare a map in this case?

A. I prepared the data and turned it over to our Technical Services Unit that plotted the data on the map.

Q. Were you able to determine tower location?

A. Yes, sir.

Q. Were you able to determine location of other items such as the victim's truck and the victim's residence?
A. Yes, sir. We visited each one of those locations.
Q. How about where the body was found?
A. Yes, sir.
Q. How about where Jobo Phillips lives?
A. Yes, sir.
Q. Would it assist you in explaining this to the jury if you use that aerial photograph?
A. I think it'd be easy -- easier.

MR. STEINBERG: Thank you, Your Honor. The State's going to show opposing counsel, then move to introduce State's exhibit number 43.

THE COURT: Any objection?

MS. GORTON: No objection, Your Honor.

(Whereupon State's exhibit 43 was admitted into evidence)

Q. If you could, step around, please.

(Whereupon the witness left the witness stand)

Q. Investigator Whitmire, if you'd orient the jury to this. Where is North Carolina on this map?
A. North Carolina is in the area above this green line up here.
Q. And could you, please, tell us basically where Marietta or the center of what you knew Marietta to be?

A. Marietta is basically down here near the intersection of 288 and 276.
Q. Where is the Defendant's residence?
A. On [redacted], which is off of 276, right here.
Q. You have something else next to that. It says trail and to gun recovery. How close is that? Does it seem to be overlapping?
A. To -- how close is it to Phillips' residence?
Q. Yes, sir.
A. Within a hundred and fifty yards.
Q. And where is the victim's residence?
A. Right here on [redacted].
Q. And it says incident location, [redacted]. When you say incident location, what do you mean?
A. Well, that's the location where Mr. Roberts' remains were located.
Q. Okay. What's another name for Geer Highway for people that aren't familiar with northern Greenville?
A. It's U.S. Highway 276. It's the one that runs above -- runs over Caesar's Head into North Carolina.
Q. By reviewing cell phone records are you able to determine how many times and at what time Jobo Phillips' telephone call -- telephone called Charlie Roberts' cell phone?
A. Yes, sir.

Q. When was that and how many times?
A. It started at 9:22 on the 8th of July. And the last phone call ---
Q. Let me stop you right there. What was -- was that phone call from Jobo Phillips' phone number to Charlie Roberts' phone number?
A. Yes, sir, from Phillips' phone to Roberts' phone.
Q. Do we have any other phone calls form Jobo Phillips' phone to Charlie Roberts' phone?
A. No, sir.
Q. So that's the first and last phone call?
A. The only phone -- phone call between 9:22 and approximately 11:15.
Q. And where was that phone call made and how were you able to determine that?
A. Based on the Verizon records that identified the target or the tower which handled that cell phone call, which was identified as cell tower number 132 at this location here.
Q. To be accurate -- to explain this to the jury, this is a cell phone tower location, correct?
A. Yes, sir.
Q. You were not able to determine from Verizon's records where the actual phone was located?
A. No, sir.
Q. And that was at 9:22. What other phone numbers were

called from Charlie Roberts' phone number at that point?
A. After 9:22?
Q. Yes, sir.
A. I believe the only phone number -- the only phone numbers that were called that actually connected were to the -- Mr. Phillips' phone.
Q. Well, what times were those?
A. Starting at 10:05, 10:14, 10:17 and 10:49.
Q. Okay. Let's look at this. This cell phone tower carried the 9:22. Which cell phone tower carried the 10:05 and 10:06 phone calls?
A. From which phone?
Q. For Charlie's phone calling Jobo's phone.
A. For Charlie's phone, tower number 45 down here. At 10:05 Roberts' phone called Phillips' phone.
Q. How close is that to the incident location where the body was found?
A. I really haven't measured it, but this is where the body was found. And this is the cell -- cell tower location.
Q. Is that the closest cell phone tower?
A. Yes, sir.
Q. And when was the next time Charlie Roberts' cell phone was used to call Jobo Phillips?
A. The next time was at 10:06 also from this same tower

location. Although, I don't think the phone call connected because I have no reciprocal phone here.

Q. Okay.

A. There was no received phone at 10:06. And then there was another phone call at 10:14 to Phillips' phone. And that still came from tower 45.

Q. What was the next cell phone call from Charlie's phone to Jobo's phone?

A. I believe it was 10:17 off of Phillips' phone. It was working off of tower 518.

Q. And where was Charlie Roberts' phone operating off of at 10:17? I'd ask you to look under -- on the aerial photograph.

A. It was tower 132.

Q. What was the next telephone call from Charlie Roberts' cell phone to Jobo Phillips' cell phone?

A. 10:49, I believe, if I've got that in sequence.

Q. Where is this 10:49? Where is this located?

A. This is tower 644. It's located just across the North Carolina State line or South Carolina State line. The City name is Zirconia, North Carolina.

Q. Is that the closest tower to where the victim's truck was located?

A. Yes, sir, it is.

Q. After 9:22 -- I've already asked you that. After

eleven pm or thereabouts did Jobo Phillips ever call Charlie Roberts' phone number again?

MS. GORTON: Objection as to the form of the question.

Q. Did Jobo Phillips' phone ever dial Charlie Roberts' phone again?

A. Not after 9:22.

Q. Did other people -- other numbers dial Charlie Roberts' phone?

A. Between ---

Q. After 9:22 or that ---

A. 9:22 -- not that I'm aware of.

Q. How about after -- in the afternoon on that day?

A. Yes, sir. After -- the afternoon, there were a number of phone calls to Mr. Roberts' phone.

Q. How many phone calls total did Jobo Phillips' phone receive from Charlie Roberts' phone?

A. One, two, three, four -- I'm showing four.

Q. Okay. And looking at your map at least two of these phone calls were 10:17 and the 10:49 were made north of the Defendant's and victim's respective residences, is that correct?

A. Yes, sir.

Q. Did Jobo Phillips receive any telephone calls utilizing this 644 number?

A. I'm not aware of any phone calls he received. He did

call his voicemail ---

Q. Okay.

A. --- four times. And it came off of this tower, 644.

Q. Tell us about the terrain in that area.

A. It's mountainous and hilly. If you're familiar with the area, Jones Gap State Park is back here. This area is called Gap Creek Road. This area is called River Falls. Caesar's Head is basically up here. So it's hilly and ...

Q. Could you check to see if whether Mr. Phillips' phone had been either called or received any phone calls in this area or utilizing this cell phone tower after that?

A. After -- after the phone calls up here?

Q. No, before. Between these times of 10:00 ---

A. 9:22 and ---

Q. --- and 10:49.

A. Yes, he did receive other phone calls.

Q. And where was that -- those phone calls being made?

A. These phone calls came through -- they're not displayed on the map. Tower -- one of them came from tower 518. The number that called Phillips' phone was 254-8064.

Q. Do you know whose number that is?

A. I believe it's JoAnn Johnson.

Q. Okay. And could you tell where Jobo received that phone call? Which tower he received that phone call?

A. I believe it was at 518. I don't have the records for

Ms. Johnson.

Q. Let's move on to -- from this information what could you tell about Charlie's phone -- not Charlie necessarily, but Charlie's phone's movement?

A. Charlie's phone movement came from, I believe, the first phone call was here at tower 518. The next phone call was down here from tower 45. And then the phone traveled north up to this location here at approximately 10:49 to 10:51.

Q. Any phone calls made at all from Charlie's phone after 10:49?

A. No, sir.

Q. What is this number right here, 10:51? What is this?

A. I understand that to be a router number that Verizon uses, that if you make a phone call it goes to a router number. I'm not an expert on the cell system, but it's an internal cell phone number or a cell system number.

Q. What could you determine from looking at this cell phone and the map about Jobo Phillips' movements, Joe Phillips' phone movements?

A. His phone?

Q. Yes, sir.

A. From 9:22 it moved south from Marietta down to about the area of tower 45. He made one phone call. It came off of that tower there. And then his phone moved back up north

up to using this tower located in Zirconia.

Q. Did you examine any text messages in this case?

A. Yes, sir, I did.

Q. And did Jobo Phillips send any text messages to Christina Gentry on the date in question? And at what time was that phone call made?

A. I'd have to -- it's going to take me a minute to go through these.

Q. I'm going to direct you to the 23:05 phone call.

A. 23:05?

Q. Yes, on July 8th.

MS. GORTON: Objection as to relevance of this 23:05 on the 8th.

MR. STEINBERG: Yes. Its relevance will become apparent ---

THE COURT: Go ahead.

(Pause)

THE COURT: I understand lunch for the jury is here. So I'm going to go ahead and recess. That'll give him time to ---

MR. STEINBERG: Yes, sir, Your Honor.

THE COURT: --- find what he's looking for.

MR. STEINBERG: Thank you, Your Honor.

THE COURT: All right. Ladies and gentlemen, we're going to take a recess at this time. Please, during this

MR. STEINBERG: Thank you, Your Honor.

Direct Examination by Mr. Steinberg Continued:

Q. Mr. Whitmire -- Investigator Whitmire, you were looking, when we broke, for a message at the 23:05 mark on July 8th. Did you find that?

A. Yes, sir.

Q. And what was that message, and who was it from and who was it to?

A. The originating dial number was Mr. Phillips' phone. The terminating dial number was 864-434-0045. The text message read, I love you very, very much, Joe.

Q. Okay. I'm going to ask you to walk back over here very briefly.

(Whereupon the witness left the witness stand)

Q. Stand over here so the court reporter can hear you. I'll try not to block the view. Have you looked at telephone call seizure times or call -- how long the calls were?

A. Yes, sir.

Q. How long was the 9:22 phone call from Jobo Phillips' phone to Charlie Roberts' phone?

A. Six hundred and ninety-seven seconds.

Q. And how long was the phone call at the 10:49 mark from Charlie Roberts' phone to Jobo Phillips' phone?

A. Two hundred and forty-eight seconds.

Q. Thank you. Please have a seat over here.

(Whereupon the witness returned to the witness stand)

Q. Investigator Whitmire, did you go out to the location of the -- a body on August 15th?

A. Yes, sir.

Q. Did you speak with Carl Rider out there?

A. Yes, sir.

Q. Did you know Carl Rider?

A. Yes, sir.

Q. And can you confirm that Carl Rider, in fact, once lived out there before it burned down?

A. Yes, sir, I can.

Q. Are you familiar with the -- the actual property that's out there?

A. Yes, sir.

Q. I'm going to show you what's been marked as State's exhibit number 9 that's already been introduced.

MS. GORTON: Yes.

Q. Have you seen this before?

A. Yes, sir. That's the remains of Mr. Rider's residence.

Q. This might not appear relevant at first, but I'd ask you to take a look at an item on this map. Did you go out to this location with myself last year?

A. Either last year or earlier this year, yes, sir.

Q. What is this tall item right here?

A. That's the chimney to the house.

Q. Do you remember seeing any other item right over here?

A. Yes, sir.

Q. What is that item?

A. That's the well head.

Q. And ---

THE COURT: Wait just a ---

MR. STEINBERG: I'm good. Just turn the lights back on.

THE COURT: All right.

Q. You said that's a well?

A. Yes, sir.

Q. And at that time did you know any relevance of that at that particular time?

A. No, sir, I did not.

Q. Okay. That's all the questions I have. Please answer any questions that opposing counsel might have.

Cross Examination by Ms. Gorton:

Q. First of all, ---

MS. GORTON: The map, where'd it go?

THE COURT: You need to put it back up?

MS. GORTON: Yes.

Q. Would you come on down here?

A. Yes, ma'am.

(Whereupon the witness left the witness stand)

Q. And I know that you said you're familiar with this area. Could you show us on this map -- are you familiar with Castle Gate Trailer Park?

A. Yes, ma'am.

Q. And it's no longer there, correct?

A. Well, they are rebuilding it. There are some structures there now.

Q. In 2011 it was one set of structures that was removed and now they're rebuilding, is that correct?

A. Yes, ma'am.

Q. Okay. Can you show us where it's located?

A. Approximately right there.

Q. Okay. So a little bit to the east and north of my client's house?

A. Yes, ma'am.

Q. All right. And did you know whether Carolyn Lollis lived there in Castle Gate?

A. Not at that time.

Q. Okay. Now, you talked a lot about -- this is labeled Defendant's residence, correct?

A. Yes, ma'am.

Q. Was JJ Allen living at that same residence?

A. I have no personal knowledge of that at that time.

Q. All right.

THE COURT: All right. Now can he sit back down now or

you need him?

MS. GORTON: I might be referencing it. So I can set it aside, Judge.

(Whereupon the witness returned to the witness stand)

Q. Now, you said that you reviewed the days and the times contained in those records. Who restricted those days and times?

A. I -- the records were requested on July 10th by another investigator.

Q. Okay. And did you have the opportunity to request additional records if you so needed?

A. No, ma'am, I did not request any.

Q. All right. Did you take a statement from Jimmy Poole?

A. No. I believe that was Investigator Miller. I believe.

Q. All right. So you had ---

A. I did -- I did meet with Jimmy Poole ---

Q. So you were the one who initially met with Jimmy Poole?

A. He called me, came to my office, told me what he wanted to talk about. And I drove him down to CID.

Q. Okay. So Jimmy Poole basically told you he thought he may have been with Joe that day, is that correct?

MR. STEINBERG: Objection. Mr. Poole's already testified.

MS. GORTON: It's laying the foundation for my next

question.

THE COURT: Go ahead.

Q. He told you that he may or may not have been with Joe that day, that there was a day where he went and looked for his motorcycle and Joe was with him --?

A. He told -- he told me he went to look for his motorcycle with Mr. Phillips. And during that trip they picked up Jerry Allen.

Q. Okay. I've got a couple of questions to ask you about that. First of all, did you request any additional records to verify whether Jimmy Poole had called JoAnn Johnson to do that?

A. No, ma'am.

Q. Do you know if anyone else requested those additional phone records to confirm the day that that occurred?

A. No, I'm not aware of any.

Q. All right. And Jimmy Poole's testimony was was that or his statement to you was that he was in the car with JoAnn and with Joe, correct?

A. Yes, ma'am.

Q. Now, you've had an opportunity to review these records of my client, correct?

A. The phone records?

Q. Yes.

A. Yes, ma'am.

Q. And as you have already testified, somebody made a call from his phone to Charlie Roberts at 9:22, correct?
A. Yes, ma'am.
Q. Okay. And could you review these records and look at a phone call occurring on 9:38?
A. On Mr. Phillips' phone?
Q. Yes, sir.
A. Yes, ma'am.
Q. And that number was coming into Mr. Phillips' phone?
A. Yes, ma'am. It was a phone call from 434-2167.
Q. Who does that phone number belong to?
A. I don't know.
Q. You made a chart of phone calls -- of phone numbers, didn't you?
A. That chart?
Q. Did you make a list of phone numbers? Did you investigate who that phone number belonged to?
A. No, ma'am, I did not.
Q. Do you see a series of phone numbers beginning at -- phone calls, I mean, beginning at 10:03, I believe?
A. Yes, ma'am.
Q. And those calls appear to be involving what phone number?
A. 254-8064.
Q. Who does that phone number belong to?

A. I believe that's Ms. Johnson's phone number.
Q. Okay. So you're saying that Joe's phone called JoAnn Johnson's phone?
A. At 10:03 JoAnn Johnson called Mr. Phillips' phone.
Q. And then what happened? Were there three phone calls?
A. Yes, ma'am. I'm showing at 10:03 in twenty-nine seconds there was a phone call from JoAnn Johnson to Phillips. At 10:03 and fifty-two seconds there was a phone call from Phillips' phone to JoAnn Johnson's phone.
Q. That would be a bit unusual if they were in a car together, wouldn't it?
A. Of -- if they were in a car together?
Q. Yes, sir.
A. I wouldn't know why they would do that.
Q. I wouldn't know either. At 11:05, forgive me if I am wrong on these times. We've got two sheets we're trying to line up. At 11:05 there's another phone call to Mr. Phillips from 395-6975, is that correct?
A. Yes, ma'am.
Q. And do you know who that number belongs to?
A. Not right off-hand.
Q. Could it belong to Carolyn Lollis?
THE COURT: He said he didn't know now.
Q. I'm also going to direct you to your text message -- the text messages that you were referring to earlier.

A. Yes, ma'am.
Q. And as we discussed earlier, I'm going to be directing you to those text messages. Time, 7:08 or date 7/8, which is the morning of Friday, July 8th. And I believe the times were at one am. Do you have that paper we discussed in front of you?
A. I have it in front of me. I have a message starting on 7/8 starting at 00:47.
Q. And what does that message say, sir?
A. Your phone is out of minutes, Gentry.
Q. Okay. How about this message? Can you state the date and the time and what the message says?
A. On July 8th, 2011 at 00:47:59 the message says you have insufficient funds to send message.
Q. Who does that appear to be from?
A. Appears to be from the cell phone carrier.
Q. Okay. Next message.
A. July 8th, 2011 at 1:09:19, you had an incoming call or attempted to make a call, but your account has insufficient funds. Please add money to your balance.
Q. Who is that message from?
A. It appears to be from the cell phone carrier.
Q. And I have one more.
A. It's July 8th, 2011 at 1:11:50. Attention, your balance has reached zero. Refill and save any minutes

remaining and extend your expiration date.
Q. In reviewing these records do you see anything that indicates any calls coming in, going out, text messages, any activity on the phone whatsoever between that last message going out at what time?
A. The message received on Mr. Phillips' phone was at 1:11:50 am on June -- July 8th.
Q. 1:11 am and 9:22 am, is there any activity in any form involving Mr. Phillips' phone?
(Pause)
A. I have to take these apart to lay them side by side. What was that first time, ma'am?
Q. I believe you said it was 1:11 am.
A. Yes, ma'am. At -- according to these records at 47 minutes after midnight there was an outgoing to 434-0045 ---
Q. That's before 1:11.
A. Yes, ma'am.
Q. I didn't mean to interrupt you, but the time between 1:11 am and 9:22 am is the area I'm looking for, whether there's any activity ---
A. Yes, ma'am, there is. At 1:12:49 am there was contact with 434-0045. There was contact back at 1:38. There were two calls at 1:38 and 1:39. There was additional phone calls at 1:43. I apologize, it's hard to line these up.
Q. It is.

A. There were phone calls -- looks like most of the phone calls were between Mr. Phillips' phone and 434-0045.
Q. I understand that. I'm asking about times. I'm trying to ---
A. Yes, ma'am. The last call made was at two am.
Q. Okay. So -- now let me ask a question now. Between two am and 9:22 am was there any activity whatsoever in any form with Mr. Phillips' phone?
A. I'm not seeing any here.
Q. Okay. So if somebody said they called Mr. Phillips on that phone at five am, that is not correct?
A. It's not showing on this.
Q. It couldn't have happened?
A. It's not showing in the records.
Q. All right. Now, when you were up there testifying about the cell phone calls and the cell phone, it's a little bit confusing, but did I understand you to say that when these calls start going from the victim's phone to Mr. Phillips' phone, the phone is moving northward?
A. From the victim's phone to Mr. Phillips' phone?
Q. Yes.
A. Yes.
Q. It is already moving northward?
A. Yes, ma'am.
Q. Okay. So is it safe to say that the victim was already

dead when these calls were being made?
A. I would -- given the totality of the circumstances, I would make that assumption, yes, ma'am.
Q. Okay. And as to the 9:22 call, is there any way now for you to determine who actually made that call? If we assume, since you said you didn't know, if we assume that Mr. Phillips and Mr. Allen shared the same house, is there any way to determine who made that call at 9:22?
A. No, ma'am.
Q. Is there any way now to recreate what that phone conversation was?
A. No, ma'am.
Q. I asked you whether you researched phone records or requested phone records or whether you knew anyone who requested phone records to verify the date that Jimmy Poole described as far as this motorcycle hunt, correct?
A. Yes, ma'am.
Q. And you said that, no. I'm going to ask you the same question about records indicating a sale of a gun. Now, whether you know about a sale of a gun, I just need you to answer did you ---
A. I'm not aware of any records related to the sale of a gun.
Q. And you certainly didn't request any, did you?
A. I did not, no, ma'am.

MS. GORTON: Just a moment.

(Pause)

MS. GORTON: Nothing further.

MR. STEINBERG: Briefly.

Redirect Examination by Mr. Steinberg:

Q. Make sure I've got these times down correctly. The phone call between Jobo's phone and Jobo's mother's phone, that is the early phone calls around 10:00 or so? Might be in your records. It's not on here.

A. Yes, sir.

Q. And the phone calls from Jobo's phone to Jobo's voicemail were made at 11:08 to 11:13?

A. Yes, sir.

Q. Thank you.

THE COURT: Step down.

A. Thank you, sir.

MR. STEINBERG: The State's next witness will be Investigator Christopher Miller.

MADAME CLERK: Investigator Miller, come forward to be sworn in, please. Please place your left hand on the Bible and raise your right.

Christopher Miller, being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you please state your name for the record.

MR. MILLER: Christopher Todd Miller.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Investigator Miller, what is your current title and current job?

A. I'm a sergeant in the Criminal Investigations Division, supervisor of the Auto Theft Division, Juvenile Division and victim witness advocates.

Q. What was your job in August, pardon me, July and August of 2011?

A. I was a homicide investigator at that time.

Q. How long do you have in law enforcement? How many years?

A. Eighteen total years. And I've been with the Greenville County Sheriff's Office since 1999.

Q. How were you personally involved with this case? How were you first notified of this incident?

A. I was on call for homicide for that week. And I got a call from then Lieutenant Jones, who just wanted to advise me that there was a missing persons call, and that the vehicle had been found off the roadway, and the keys had been left in it, and the windows were down and it looked suspicious.

Q. Who handled this case on the night of Friday, July 8th?

A. Uniform patrol handled the case at that point.

Q. On Saturday, July 9th what did you do?
A. At that -- on Saturday the 9th I decided to come in and start working on the case myself. And I contacted another investigator, which was Shawnee Peeples.
Q. What made you think it was not a -- just a missing person, a guy wandered off in the woods?
A. Well, I've been doing this for a long time and just the circumstances of the vehicle being left, the keys being left in it, the windows down. It just didn't sound right.
Q. Did you speak with Christina Gentry, the victim's girlfriend?
A. Yes. We spoke with her and her family members when we started calling people down to the Law Enforcement Center and began taking statements.
Q. How cooperative was Ms. Gentry, Christina Gentry?
A. She was very cooperative. She answered all the questions, gave a statement to Investigator Peeples and continually called us while we were conducting our investigation.
Q. Where did you go next after that?
A. Next after that Investigator Peeples and I went to Mr. Phillips' house and met with him at the door.
Q. And did you speak with Mr. Phillips?
A. We did.
Q. And did you speak with him there or elsewhere?

A. The initial contact was there at the house. And we advised him why we were there and that we would like to talk to him. And we asked him would he go to the Northern Area Command with us or he could get his own ride.

And the reason we picked that area was because it was a lot closer than to the Law Enforcement Center. It's over there by Furman in case you don't know where it's at. So we would be a lot closer to Travelers Rest.

Q. And you said Northern Area Command. Is that a Sheriff's Office facility?

A. It's a satellite office of the Sheriff's Office.

Q. Was he in custody?

A. No, he was not. He was told that it was completely voluntary.

MR. STEINBERG: Madame Court Reporter, if I could have this marked for identification at this point.

(Whereupon State's exhibit 46 was marked for identification)

Q. Officer Miller, I'm going to show you a document and have you identify this document. Have you ever seen it before?

A. Yes, sir, I have.

Q. State's exhibit number 46, whose signature is on the bottom?

A. On the bottom is my signature, Investigator Peeples,

William J. Phillips, Frank Eppes. And it's signed attorney for Jobo Phillips.

Q. Okay. That brings up my next question. When you were at the Northern Command interviewing Mr. Phillips after you've complied with Miranda Rights did anybody show up?

A. Mr. Eppes, Frank Eppes, who I knew as a local attorney, showed up at the door at the Northern Area Command.

Q. And what was he in relation to Jobo Phillips?

A. He stated that he was his attorney.

Q. Did Jobo continue to answer questions?

A. He did.

Q. Did he give a written statement?

A. He did.

Q. Who typed it up?

A. I typed it up.

Q. Does it accurately reflect what Jobo Phillips told you?

A. Yes. And his attorney went over it after it was typed.

Q. In fact, who read it back to Mr. Phillips?

A. Mr. Eppes did.

Q. Were you aware of Mr. Phillips' literacy issues?

A. He advised us of that, yes.

Q. I'm going to ask that you read this statement.

THE COURT: Is it in evidence?

MR. STEINBERG: Your Honor, ---

MS. GORTON: I wouldn't object.

THE COURT: All right. It's into evidence.

(Whereupon State's exhibit 46 was admitted into evidence)

MR. STEINBERG: Thank you.

Q. The State would ask you to read State's exhibit number 46. Just skip down to the part where it says my attorney, Frank Eppes, read the statement to me.

MS. GORTON: Judge, just so that I'm clear, I'm objecting to his reading it, not that it's in evidence. I'm objecting to the officer reading the statement that's in evidence. It is in evidence. And I would suggest ---

THE COURT: What's your objection to him reading it?

MS. GORTON: It's cumulative and that it gives the appearance of cooperation.

THE COURT: All right. Overruled.

MS. GORTON: Thank you.

THE COURT: Go ahead.

Q. Please read Mr. Phillips' statement.

A. My attorney, Frank Eppes, has read this statement to me. I am currently taking pain medication for a bad back. The last time I took the medication was this morning. I am coherent and understand what I'm being asked.

Me and Christina Gentry have two kids together. And we have lived together for five years off and on. We share joint custody of the children. We have been separated for

two months now.

I did not know that Christina and Charlie Roberts were seeing each other. The last time I talked to Charlie Roberts was either Thursday or Friday on the phone. He called me about going to the race tonight. I talked to him earlier in the week on Monday when he asked if I was going to the race. I told him that I was already at the race. He wanted to know if I wanted to drink a beer with him. I could not drink with him because I had my kids.

I have known Charlie for about two years. I have never had a problem with Charlie. But I would not like it if Charlie and Christina were dating because he is my friend and she is my ex-girlfriend. But she is free to date whoever she wants.

I last saw Christina last night when I dropped Christina off at her grandpa's house. I spent most of the day with Christina and the kids from around twelve pm til eight pm. We also picked up our cousins, John John and Corey. They went to Walgreens with us to get some pictures developed.

After that I left there and went to my mother's house. I stayed there until about twelve am when me and my father and step-mother went to Blue Ridge Bar and Grill. We stayed there about an hour or so.

I left there and then went back home. I did not leave

the house again until this morning when I went to Christina's grandpa's house to pick up the kids. End of statement.

Q. In that statement the suspect said that he was not aware that Charlie and Christina were seeing each other?

A. That's in the statement, yes, sir.

Q. Did he inform you about an incident that happened at Charlie Roberts' residence on June 12th?

A. No, sir.

Q. At that time were you aware of that incident?

A. I was not aware at that time.

Q. Did you later become aware of that?

A. Yes. In fact, it was later that evening.

Q. What happened later that evening?

A. That was -- Investigator Peeples made me aware of that later that evening.

Q. At that point had you told Jobo Phillips what you knew about this case?

A. No, I did not.

Q. Had you told him what Christina Gentry had already told you?

A. I purposely did not let him know that I'd spoken with Christina Gentry.

Q. What's your reasoning for that?

A. Well, we want to be able to corroborate someone's

statements. So we don't tell the person we're taking the statement from who we took a statement from before because we want their statement to be accurate.

Q. Did you request that officers obtain cell phone records on both Jobo Phillips and Charlie Roberts?

A. Actually, that was a combination of myself and Lieutenant Jones.

Q. Okay. Let's talk about the search for Charlie Roberts. You said it was suspicious earlier?

A. Yes.

Q. What did you do to attempt to locate Mr. Roberts?

A. We contacted our K-9 units, our uniform patrol deputies, our community patrol deputies who were very familiar with the area. We also had the helicopter flying above to see if they could locate anything. We also called the K-9 search and rescue people. They're a volunteer place out of Mauldin. And they have a cadaver dog.

Q. Now what part of Greenville did they search?

A. The northern area of Greenville. We were able to determine that's where Mr. Roberts mainly was most of the time.

Q. Did you bring them to or did they go to where the vehicle -- his truck was located?

A. Yes, that's where it started.

Q. Did you also participate in the search of Charlie

Roberts' house?

A. I did.

Q. And what was the purpose of that?

A. The purpose of that was to try to find any evidence that we could try to relate to him being missing because at this point in time we still don't know why he's missing.

Q. When you got to the house did anything seem unusual about the location? Did it appear to be broken into or anything?

A. No. There was no signs of forced entry. There was -- the house wasn't tossed. There wasn't, you know, broken furniture or drawers pulled out and clothes on the floor. It appeared to be in a normal state.

Q. Did you speak with witnesses in that area, residents of that area?

A. I attempted to, but no one was home at the time.

Q. Did you speak with other witnesses or potential witnesses in this case to try to follow up on Charlie Roberts' whereabouts?

A. I did.

Q. What are some other things that you did to help locate or assist in locating Charlie Roberts?

A. We followed up on the leads. And we then continued to search the areas that we thought he may be.

Q. What did you do to get the word out to the

neighborhood, the word out to Marietta of Charlie Roberts' disappearance?

A. We had brochures printed up ---

Q. Okay.

A. --- and placed them around the area.

Q. And did you speak with any other agencies?

A. Yes. We spoke with, of course, Pickens County, Henderson County, which is not too far from, you know, where the Cliffs at Glassy are. And that's not too far from where the truck was found in that area. And the local hospitals and the hospitals up in Henderson County.

Q. In July of 2011 did you have to go out on medical leave for any reason?

A. I did. I left right after the search of the victim's house. A couple of days after that I had to leave on medical leave.

Q. And who took over your case after that?

A. Investigator Chris Hammett.

Q. I'm going to bring you to August 15th of 2011. What was your role that day?

A. That day I was -- I believe that was the day I was contacted by Attorney Frank Eppes. Or correction, that was the day I was contacted by Sergeant Richard Lane from uniform patrol.

Q. And where did you go and what was your reason?

A. I went to 1503 B, as in boy, Geer Highway in Travelers Rest. And I was advised by Sergeant Lane that there were what appeared to be human skeletal remains.

Q. We've already gone over this, so I'm going to make this kind of quick. Were there other structures out there?

A. There were. There were some buildings, what I call -- it was kind of like a garage or a barn. There was remnants of a house that had burned down.

Q. Did you locate anything in any of these buildings?

A. I was looking through the garage and I happened to notice a hat lying on the ground.

Q. What was near the hat?

A. There was a pile of mealworms.

MS. GORTON: Objection. This is cumulative.

MR. STEINBERG: He's the officer that found it, Your Honor.

THE COURT: Go ahead.

Q. I'm going to skip over some of these things, but what are some of the things that you located in that barn? Did you see any other items there?

A. There was a -- a bag, like a -- like you would think -- it looked like what grass seed or maybe some rice would come in. It was lying there near where the hat was found and what I recognized to be bodily fluid on the ground.

Q. And what type of hat was this, if you recall?

A. It was a -- like a baseball cap. And it had the Michelin emblem.

Q. And had you spoken to any of the victim's family by that time?

A. I had spoken to the victim's family, yes.

Q. And did that Michelin hat concern you?

A. It did. And I verified through Investigator Peeples 'cause we were both working together. And I confirmed that he wore a Michelin hat because that's what I remembered.

Q. Did you assist in searching or did you see officers searching that barn for additional evidence?

A. Yes.

Q. And did they find anything else outside of the hat, the hair and the bag?

A. Not on that day.

Q. Okay. Did they later go back?

A. Yes, they did.

Q. In your experience has forensics ever gone back later on to check on locations?

A. It's routine.

Q. The day after the body was found, August 16th, did you get a call from anyone?

A. I got a call from Attorney Frank Eppes.

Q. The same attorney ---

A. The same attorney that showed up at Northern Command.

Q. Following that phone call where did you go?
A. I responded to Judge Cagle's office, which is on White Horse Road.
Q. Were there any other attorneys there with Mr. Eppes?
A. A gentleman -- he told me his name was Chuck Marchbanks. And he said he was an attorney.
Q. An attorney?
A. Um-hum (affirmative).
Q. Did you meet JJ Allen there?
A. I did. He was introduced as JJ Allen by Mr. Eppes.
Q. And had you ever spoken to Mr. Allen by this time?
A. No, I had not.
Q. Did you know who he was, what his relationship to the families were?
A. I knew that he was Christina's brother. I knew that name.
Q. Did you know where he lived?
A. Yes, I did.
Q. Had he been a suspect up to this point?
A. No, he had not.
Q. Did you speak with JJ Allen about this case?
A. I did, in the presence of both attorneys.
Q. Did either of the attorneys attempt to stop you from speaking to JJ?
A. No, they did not.

Q. After speaking with JJ Allen did you take him into custody?
A. I did.
Q. And what was the charge?
A. The charge was murder.
Q. How willing was Mr. Allen to answer your questions?
A. He was very cooperative.
Q. Did you then bring him back to the Law Enforcement Center?
A. I did. I advised the attorneys that we would need to take a written statement at the office.
Q. And had he been Mirandized?
A. Yes.
Q. How did JJ Allen describe his relationship with Jobo Phillips?
A. He described himself in his words as his watch-dog.
Q. You answered the next question. You're confident that's his word, not your word?
A. That's not my words, that's his word.
Q. What did JJ say he did after he parked the truck on -- near Gap Creek?
A. He said that he -- it took him about four, four and a half hours to walk home or walk back to Mr. Phillips' house where he was residing.
Q. We'll have Mr. Allen here. So I'm not going to ask you

some of the rest of these questions, I'll ask Mr. Allen. Let me ask you a question that only you can answer. Before getting his statement had you told JJ Allen about all the evidence you had in this case?

A. No, I had not.

Q. About the witnesses you'd spoken to?

A. No.

Q. About the cell phone information?

A. I did not.

Q. And what was your reason for that?

A. Again, we want to be able to corroborate what the witness is telling us. We don't want them to give us, you know, a statement that's not his.

Q. Did you speak -- did you offer Mr. Allen any benefit, any offer, any reward, any promise to give you a statement?

A. Nothing at all.

Q. Were you empowered or authorized to give somebody an offer?

A. No, absolutely not.

Q. Did you interivew Mr. Allen again on the 25th?

A. I did.

Q. The same questions, any offers, any promises?

A. No.

Q. How did that go about? How did the interview on the 25th come about?

A. He -- I believe he sent message to us that he wanted to talk to us from detention.

Q. Did he give you a written statement on the -- on the 16th?

A. I'm pretty sure he did.

Q. How about on the 25th, did he give you a statement that day as well?

A. Yes. Well, I know he did on -- I'm sorry, the 25th, I'm pretty sure he did.

Q. On that same day of the 25th did he also accompany you to Marietta?

A. He did.

Q. And -- are all these addresses that you see on this map over here on the State's exhibit, are all those in Greenville County?

A. Yes, sir.

Q. Okay. And when JJ accompanied you, who else was with you on the 25th?

A. Investigator Hammett, I believe, Investigator Campbell may have been with us, too.

Q. Okay. And what did JJ Allen show you on the 25th?

A. He took us to a location right near Mr. Phillips' house near a river. And we walked along the banks of the river. And he brought us to a sandy place and showed us where he buried some guns.

Q. Were you present when Investigator Lendway took those guns out?
A. Yes.
Q. Did you go anyplace else that day with Mr. Allen?
A. We went back to the location where Mr. Roberts was found. And Mr. Allen demonstrated what happened when Mr. Roberts was killed.
Q. Where did he demonstrate what happened?
A. Inside the barn.
Q. That same barn where you found the hat?
A. The same place.
Q. Were you present for a third interview on the 29th?
A. Yes.
Q. By that time who was the lead investigator on this case?
A. Investigator Hammett.
Q. Thank you. Please answer any of opposing counsel's questions.

Cross Examination by Ms. Gorton:

Q. Before I get into the series of questions, are you familiar with the north end? This area?
A. Pretty familiar.
Q. Okay. Could you show the jury where the Mountain View Store is? You can come up and show them.
A. I'm not sure on the map where the Mountain View Store

is.

Q. Well, do you know what the address is? This is 276, correct?

A. That's correct.

Q. Okay. Well, in relation to 276 and this is the Defendant's residence, correct?

A. Yes.

Q. Okay. Well, in relation to the Defendant's residence which direction would the Mountain View Store be?

A. I've never been to the Mountain View Store.

Q. You don't know where it's located?

A. No, ma'am.

THE COURT: He said he doesn't know.

Q. All right. You first -- let's go to when Charlie's truck was found. You said you interviewed Emily first? You were with Emily during her first interview?

A. No, ma'am.

Q. You didn't say that you interviewed -- I'm sorry, Christina.

A. I was there in the office when Investigator Peeples was interviewing her.

Q. And so she was interviewed before Joe?

A. Yes.

Q. And did you or Detective Peeples ask her where she had been?

A. I did not myself.
Q. Did you hear Detective Peeples ask her that?
A. I cannot recall that.
Q. Okay. Would that normally be asked?
A. It would -- it normally would be.
Q. Okay. Did Emily say anything about being with Joe during that first statement?
A. Emily -- you're referring to Christina?
Q. Yes. I'm sorry. I keep saying Emily. I mean Christina. They're both Gentry.
A. Could you repeat the question, please?
Q. Did Christina say anything about being with Joe during that first statement?
A. During this time or ...
Q. During her first statement.
A. No, I mean, as far as being with him and having children with him?
Q. No. I meant in the proximity to Charlie's disappearance. For example, Friday the 8th, did she say anything about being with Joe on Friday the 8th?
A. I don't have that statement in front of me. She did talk to us about that he kept her children. That's all I remember.
Q. Okay. Well, you did talk to Joe after you talked to Christina the first time, correct?

A. Yes.
Q. And Joe's statement, as we've already heard, indicated that he was with Christine from around noon that day until eight pm, correct?
A. He did.
Q. And you were with Peeples when she called Emily [sic] back to give a second statement, correct?
A. I was -- we actually left from Northern Command and went to her mother's house. So we ---
Q. But you were present?
A. --- I was -- yeah, I was present.
Q. And when you arrived at her mother's house what was her mother's demeanor? You can refer to your report if you need to.
A. She was cooperative.
Q. Her mother was?
A. Yes. She was -- from what I remember, a little intoxicated.

MS. GORTON: I'll need just a minute, Your Honor, to find a report.

(Pause)

Q. You don't recall her acting suspicious, refusing to open the door, holding the door shut, being nervous, repeatedly looking in the trailer? You don't recall any of that?

A. No, ma'am.
Q. And who were you with?
A. Investigator Peeples.
Q. Okay. As the investigator in this case have you had the opportunity to review reports by other investigators?
A. Yes, ma'am.
Q. Have you had the opportunity ...
MR. STEINBERG: Your Honor, I'm going to have to object if she's going into any hearsay of any other ---
THE COURT: Yes. She's not going to do that.
MS. GORTON: I was just going to ask if reviewing Officer Peeples report would refresh his recollection ---
THE COURT: No.
MS. GORTON: --- as to what occurred.
THE COURT: No, ma'am.
Q. You went to her mother's trailer to interview Christina. Did Christina basically verify what Joe had told you about where he was from noon to eight pm?
MR. STEINBERG: Your Honor, I have to object. We've already had Christina Gentry testify. So now it'll be hearsay.
THE COURT: What's the question?
MS. GORTON: He's been testifying ---
THE COURT: Just tell me what the question is.
MS. GORTON: Asking him if he heard Christina say --

verify that Joe had been with her from noon until eight pm.

THE COURT: All right. I'll allow that. Go ahead.

A. Yes.

Q. And were you also present when Peeples explained to her that she needed to have told you that the first time?

A. Yes.

Q. So when you say you were talking -- when the prosecutor was asking you these questions you said that you don't give people a lot of information because you want to be able to corroborate what they said, correct?

A. That's correct.

Q. And when you talked to Joe, what he had to say didn't really match up with what Christina had initially told you, correct?

A. Yes, that's correct.

Q. And then when you talked to Christina the second time she was able to corroborate what Joe had told you, correct? As far as where he was and who he was with, she corroborated that when you talked to her the second time, correct?

A. At that point, yes.

Q. When was the first media release about Charlie being missing? His truck was found seven pm, eight pm, maybe later on Friday, July 8th. When was the first media released?

A. It would have probably been that next day or maybe that

Monday morning.
Q. Okay. So either Saturday, Sunday or Monday?
A. Yes. I don't have that information in front of me.
Q. Who would have that information, do you know?
A. That would be our public information officers.
Q. Okay. So it's nowhere in your file as lead investigator?
A. No. And I don't have my whole file here.
Q. You don't have your whole file there?
A. No.
Q. When you took JJ into custody did he appear to be under the influence of anything?
A. He -- I don't remember. I would have notated it on his statement, but I don't have his statement in front of me.
Q. Well, would looking at his statement refresh your recollection?
A. Yes, ma'am. That's the waiver. I'm talking about his actual written statement.
(Pause)
A. I didn't note it on his statement.
Q. And you would have if he were visibly under the influence or if you had knowledge of him being under the influence, wouldn't you?
A. That's correct.
Q. Okay. The prosecutor asked you questions about JJ's

statement on that day. And I believe he said that he called himself -- well, on that first statement, was he essentially saying that he acted alone?

A. He did.

Q. And was he essentially saying that he'd gone to sell Charlie some pills?

MR. STEINBERG: Your Honor, this is hearsay. We're going to have that witness come up next.

MS. GORTON: The door was opened. The prosecutor ---

THE COURT: Go ahead.

MS. GORTON: All right.

Q. Did he essentially say that he had gone to sell Charlie some pills?

A. He did.

Q. And did he say that he talked to Charlie about going down to the Rider property to show him his deer feeders and deer stand?

A. He talked about taking him to show him a deer stand, yeah.

Q. Down at the Rider property?

A. Yes.

Q. And did he say that they started having a discussion about what Jerry calls his past life where he made seventy-five thousand dollars a year and had nice motorcycles?

A. Yes.

Q. And that Charlie didn't believe him, is that correct?
A. That's correct.
Q. And JJ explained to you that he got mad at Charlie for not believing him and then he swore on his daddy's grave, correct?
A. Yes, that's what he said.
Q. And that he said that whenever he swears on his daddy's grave he's telling the truth, correct?
A. Correct.
Q. And what did he say that he did when Charlie still didn't believe him when he swore on his daddy's grave?
A. He said that he started to flip out.
Q. And do what?
A. He said that before he knew it he blanked out.
Q. And did what?
A. And he said, I don't remember doing it, but I must have shot him.
Q. Did he say where?
A. In the back of the head.
Q. You now know that to not be true?
A. As far as what?
Q. That he wasn't shot in the back of the head?
A. I'm aware of Dr. Ward's opinion.
Q. And then he said he did what?
A. He said he freaked out and got in the truck and left.

Q. Did he say he came back to move the body?
A. Yes. I believe he said it was about a week later.
Q. And did he say he did that alone?
A. Yes.
Q. And did he tell you that he had acted alone and that Joe had nothing to do with it?
A. That's what he said.
Q. Okay. Did he indicate that he took pills after he did both of these acts?
A. Yes.
Q. Did he also explain to you that he had got these pills to sell Charlie for having an abscess in his back, he had a prescription?
A. He did say he had a prescription.
Q. Did you ever do anything to verify whether or not JJ had that prescription and had access to those pills?
A. I did not at the time when I was the lead investigator, no.
Q. Okay. And are you aware of anybody doing that?
A. I'm not sure.
Q. And he also said they were laughing and getting along and talking when this occurred?
A. Yes.
Q. And he just snapped?
A. That's what he said.

Q. And he indicated that he snaps -- has snapped before whenever he swears on his daddy's grave and someone doesn't believe him, is that correct?

A. That's in his statement.

Q. That was his statement to you?

A. Yes.

Q. Was this statement under oath?

A. It was.

Q. The prosecutor asked you about his second statement taken on August 25th.

A. I believe that's correct.

Q. Is that the statement you weren't sure if it was in writing or not?

A. Yes.

Q. Would looking at this document refresh your recollection as to whether you obtained a written statement?

A. This -- this was written by or typed by Investigator Hammett. So that's why I was not sure.

Q. Okay. Did Jerry Allen sign that statement?

A. He did.

Q. Were you present when you -- when he gave it?

A. I was.

Q. And the prosecutor was asking you questions about this statement. Is this the statement where he says, it was all Jobo's doing?

A. Yes.
Q. Jobo was the trigger-man?
A. That's what he said.
Q. Did you later learn that wasn't true?
A. Yes.
Q. In this statement he says that -- he also says that Joe arranged the buying of the pistol in this statement, yes? The .380?
A. Yes.
Q. And this is the first he mentions that, is in this statement?
A. That's the first he mentioned of it.
Q. And he says that Joe told him to use this .380. This is the first he mentions that as well, right?
A. I don't have that statement in front of me.
(Pause)
A. Yes.
Q. And this is the first statement that he talks about Joe paying him to be quiet, correct?
A. I believe that's correct.
Q. And then he says that Joe makes him move the body, correct?
A. Yes.
Q. And that also you later learned is a lie, is that correct?

A. Yes. He said that ---
Q. Okay. Now ---
A. --- he moved it.
Q. --- this statement is obviously a hundred and eighty degrees different than the first statement?
A. Yes.
Q. Did you go over with him the first statement line by line to figure out which was the truth and which was the lie?
A. Yes, Investigator Hammett and I both did.
Q. Line by line over this first statement?
A. I don't know if it was exactly line by line, but to key points of the statement we were -- we went over it with him.
Q. So there's nothing in his second statement, obviously, about whether or not he flips out when he swears on his daddy's grave if someone doesn't believe him?
A. Not that I just read.
Q. Did y'all question him about that, whether that part was true?
A. I'm sure we did.
Q. You don't remember the answer?
A. I don't remember exactly what we spoke to him about other than the fact that why was his statement different than it was the first time.
Q. Okay. In the second statement that we now know to be

untrue -- well, the first statement we now know -- well, you're saying is untrue, he said that he got a phone call to meet him up at River Falls, correct? JJ is saying that he got a phone call from Jobo to meet him up at River Falls, correct?

A. I don't have that information in front of me.

Q. And in this second statement that you now know to be untrue, that is where he says Jobo gave me close to five hundred dollars in cash over a period of time, is that right?

A. I do remember him saying that.

Q. Now, in this second statement doesn't he also talk about three shotguns, a 12 gauge, a .410 bolt and a .22 rifle? Keep that one. I'll see if I've got a copy.

A. He does speak of three different rifles, sorry, long guns.

Q. What does he say about those shotguns?

A. He said one of the shotguns was sawed off.

Q. And what does he say that he did with those?

A. He said he hid them behind Mr. Phillips' house.

Q. So he's saying this was all Mr. Phillips, but he hid these shotguns behind Mr. Phillips' house?

A. That's correct.

Q. Now, I want to back up on this particular statement, second full paragraph where he's talking about the .380.

The time-frame he gave during that second statement was -- he kept hearing Jobo talk about having Charlie killed. A couple of weeks went by and that's when I noticed Jobo had bought a .380 pistol. He showed me the pistol. It was black. Another week goes by. So we're up to two weeks, right?

A. Yes.

Q. And then that's when I started seeing Jobo act kind of weird. The next week went by and Jobo told me, come on, we're going to get Charlie. So we're up to three weeks, correct?

A. Correct.

Q. So certainly not within a day or two of Charlie disappearing according to JJ's statement, correct?

A. Correct.

Q. And at the time you got this statement from JJ, people had already spoke with Bobby Sweet, correct?

A. That I'm not aware of because I was not part of that investigation.

Q. You weren't the detective in charge at that time?

A. No.

Q. I want to back up just a minute to the first statement. I missed something here. In the first statement that he gave you did he tell you -- right there. Did he tell you that he had gotten into an argument with Charlie before?

A. Yes. He said it was a petty argument.
Q. Okay. But that he had gotten into it with Charlie before?
A. Yes, that's what he said.
Q. When you got his statement, the second statement, on the 25th you were testifying with the prosecutor -- this is actually two pages, you were testifying with the prosecutor that that's when you took JJ out to look at the guns?
A. Yes.
Q. And so on this 25th date you were aware that two guns were buried?
A. Yes.
Q. A 9mm and the .380?
A. Correct.
Q. Okay. Did you have any way of verifying other than JJ's say-so that that .380 was the murder weapon?
A. At that point, no.
Q. Did you receive any explanation as to why the 9mm was buried as well?
A. I cannot recall what his explanation was.
Q. Is it this second statement that he explains that the shirt that he buried the guns in was the same shirt he was wearing when he killed Charlie Roberts?
A. That's correct.
Q. Did he offer any explanation -- well, let me back up.

Did he also say he burned the pants and the boots he was wearing when he shot Charlie Roberts?

A. I believe so.

Q. Did he offer any explanation as to why he would burn the pants and boots, but keep the shirt?

A. Not that I recall.

Q. Did he have any explanation as to why he kept the shirt and deliberately used the same shirt that he shot Charlie Roberts in to bury both of these guns?

A. I don't recall.

Q. You also said that he demonstrated to you how this occurred on the 25th?

A. Yes.

Q. And you later learned that was false, is that correct? Did he demonstrate to you how Joe shot Charlie?

A. Yes, he did.

Q. Was that later learned to be false?

A. According to Dr. Ward's opinion he was shot in the front of the head. So ...

Q. Well, hasn't it also been determined that Joe wasn't there at all?

A. That's -- yeah.

Q. Okay. So his re-enactment that he showed you didn't really happen?

A. That was his version of it.

Q. At that time?
A. Yes.
Q. And then you confront him four days later. Who confronts him?
A. I believe that was Investigator Hammett.
Q. Were you with Investigator Hammett?
A. Yes.
Q. And y'all confront him with the evidence that what he told you in statement number two was a lie, correct?
A. That's correct.
Q. And the prosecutor asked you about conversations regarding deals that he was making after each of these statements or prior to each of these statements. Were there any promises to help him out or work with him?
A. No.
Q. Was there any change in what was indicated as far as promising or helping him out between statement one and statement two?
A. No.
Q. Was there any change or indication of promises between statement two and statement three?
A. There was no promises ever made.
Q. Were there any consequences for lying twice?
A. No, I mean, the charge stayed as it was. No further -- no other charges were placed on him.

Q. Could you have placed charges on him?
A. It wasn't my investigation at that time.
Q. Was it possible? Did he qualify for a charge?
A. Yes.
Q. So then he gave statement number three. Is that correct?
A. Yes.
Q. And on each of these statements he swore under oath it was the truth?
A. He did.
Q. And on at least two of these statements it wasn't?
A. According to Mr. Allen, yes.
Q. In statement number one does he use the language, I volunteered myself to shoot Charlie?
(Pause)
Q. Statement number three. You need help?
A. Yeah.
Q. That's where we're going to start. Okay. Statement number three actually had the date 25th. You crossed it out and put in 29th, correct?
A. Yes, it was changed.
Q. Or somebody did.
A. Somebody did.
Q. Okay. So I'm going to start with the part where he says I volunteered myself to -- I volunteered myself to

shoot Charlie.

A. Yes.

Q. Well, whether he volunteered or not, it was -- does he then go on to describe this plan that he and Joe have for getting Charlie and going to Charlie's house about five am in the morning?

A. Yes.

Q. And that he was going to break in the window. Is that correct?

A. Yes.

Q. And he says Jobo drove him over there where Charlie lived, let him out. He went down and got between the building and the house and waited. And he was going to be in the house and waiting for Charlie when he got home. Did he say that in this statement?

A. Yes.

Q. And then he said he was going to take something out, can't really read what it is, and wrap it around his neck after I held him at gunpoint and break his neck. This is their plan, correct, according to Mr. Allen?

(Pause)

Q. I'm in the same section, sir. I'm just going sequentially. Right here.

A. Oh, okay.

Q. So he said he was -- the plan was he was going to break

in the window, correct?

A. That's correct.

Q. And y'all already knew that the window had been opened, correct?

A. Correct.

Q. And so he knows about the open window. Joe drives him over to the end of the road where Charlie lived and let me out. And I went down and got between the building and the house and waited. Does he say that?

A. Yes.

Q. And he says he was going to wait in the house and wait for Charlie. And then he was going to take something and wrap it around his neck while he held him at gunpoint and break his neck. Is that what he told you? That was the plan?

A. That was the -- that's what he said.

Q. And that after that ---

MR. STEINBERG: Your Honor, I'm going to have to object. Unless she introduces this document, we have a witness here that would testify to this. He cannot testify ---

THE COURT: All right.

MS. GORTON: He opened the door when he started ---

THE COURT: Go ahead.

MS. GORTON: Okay.

Q. So then he choked and he ran back up to the end of the road. And he says he called JJ -- he called Jobo to pick him up on the little AT&T prepaid phone he had. Did he say that?

A. Yes.

Q. Okay. And then he runs all the way back. And he waits there for Jobo to pick him up, correct? This is his statement.

A. Correct.

Q. And he says then that Jobo picked him up. They wait for light to come, correct?

A. Yes.

Q. So somewhere on July 8th between five am and sunrise he's saying he called Joe, correct?

A. Yes.

Q. Do you now know that to not be true?

THE COURT: Now, that -- I'm not going to allow ---

MS. GORTON: I'm just asking ---

THE COURT: --- that question.

MS. GORTON: --- if he knows.

THE COURT: I'm not going to allow that question.

MS. GORTON: Okay.

Q. And then he talks about a second attempt, part of the same plan, where he hides in the woods and is going to ambush Charlie as he pulls up, correct?

A. Yes.
Q. And he says he choked again?
A. Yes.
Q. And then he says that he walks back and through all this he also, while he was in the woods, saw Charlie get home because he was hiding in the woods. Does he say that?
A. Yes.
Q. But he also says that after he sees Charlie get home he walks all the way back to Jobo's house and confesses he's choked up again?
A. Yeah.
Q. He tells you that they're in the shed telling -- and he's telling Charlie that he's looking for an alternator?
(Pause)
Q. We're in the second page.
A. Yes.
Q. Okay. And he also says that -- he says in this statement as well that he shot Charlie in the back of the head, correct?
A. Correct.
Q. He basically says that he was pressured into doing this, he didn't want to do it, he chickened out twice and then when he finally does do it he shoots him in the back of the head, correct?
A. That's correct.

Q. That's the general gist of it, correct?
A. Yes.
Q. He also says he mentions taking the keys out of the pocket and the cell phone, too? Yes?
A. Yes.
Q. And he tells you that he got that cell phone at Joe's request so Joe could check cell phones? The cell phone ---
A. Yeah.
Q. --- for a message.
A. That's correct.
Q. And you might have some memory of this independently. Does he tell you that Joe -- he watches Joe bury that cell phone?
A. That, I don't recall.
Q. Do you recall if he ever showed you where Joe allegedly buried that cell phone?
A. Not that I recall.
Q. Did he ever show you where these shotguns that he says Joe had him hide at his house were?
A. No. He just told us where they were at.
Q. Now, if you had obtained the victim's cell phone would you have been able to ask for it to be forensically examined to see when it was last accessed?
A. Yes.
Q. So had you been able to obtain the victim's cell phone

you would have known once and for all whether Joe accessed those messages, correct?

A. It's possible.

Q. Now, when you talked to JJ on this third statement, part of the reason you went to him was because you'd already received the statement from Jimmy Phillips or Jimmy Poole, correct? About this motorcycle hunt?

A. I had nothing to do with that.

Q. Were you aware of it?

A. No.

Q. Did you hear anyone discuss or mention Jimmy Poole's name to JJ prior to him giving this third statement?

A. No.

Q. Did JJ admit to you that he told the people in the car that he was doing electrical work at River Falls?

A. He may have said, but I don't recall.

Q. He gives a statement about moving the body about a week after, is that correct?

A. That's correct.

Q. And you weren't able to recover any of the items that he said that he was wearing at that property, is that correct?

A. The items that who was wearing?

Q. Forgive me for my language. Says I grabbed him by his pants legs at his feet and drug him. I covered the body up

with yellow round shovel. And I was wearing red and black gloves and a long sleeved shirt. All that shit's back in the woods about two hundred yards. Is that what he said?

A. Yes. And we -- we did an article search for those items and didn't locate them.

Q. You weren't able to locate them?

A. No.

Q. And he says that after he did this he walked back -- he then stopped at Ingles, which is right there by the death scene, correct?

A. There is an Ingles right there.

Q. Right across the street basically, right?

A. Right.

Q. But he says in this statement he walked back to Spinx to call Joe.

A. Yes.

Q. Did you ever get anything from Spinx, video, anything to indicate whether that occurred or not?

A. I didn't personally.

Q. Do you know if anyone did?

A. I'm not sure.

Q. Did you check Joe's phone records to see if he'd received a call from Spinx?

A. I didn't personally.

Q. Know anyone that did?

A. I'm not sure if any other investigator did, but I did not.

Q. Now, it's interesting language that's in here. It says Jobo paid me around five hundred dollars in all to kill Charlie. And then the next sentence says Jobo gave me money over time to go buy dope and pills or whatever I wanted to satisfy me. Jobo also paid me money to confess to killing Charlie -- to killing Charlie to keep him out. Jobo put me up to killing Charlie. Did you ask him what period of time Joe made these payments?

A. No, I didn't.

Q. Did you ask him if -- that he meant anymore than what he'd given him in the past?

A. My understanding was that he gave him five hundred dollars for this.

Q. A lump-sum or over time?

A. My understanding was he gave him five hundred dollars. And it wasn't all in -- no, it was not all in one lump-sum. It was a little bit here and a little bit there.

Q. Well, did he describe what agreement they had as far as how much money would be paid when and for what?

A. No.

Q. Is there anything different about the oath he took in giving this third statement that was different than the oath he took in giving the first statement?

A. No, It's the same language at the beginning of the statement.

Q. Same question as to this second statement, anything different?

A. No.

MS. GORTON: Nothing further.

MR. STEINBERG: Very briefly.

Redirect Examination by Mr. Steinberg:

Q. Do you agree that JJ Allen lied in his first two statements?

A. Yes.

Q. And did JJ ever say why he used Frank Eppes, who was Jobo's attorney, to turn himself in?

A. He was familiar with him is all I remember.

Q. Did he say why he wanted to turn himself in on August 16th, what his reasoning was?

A. He said it'd been weighing on him. He felt like he needed to do the right thing.

Q. And on that statement where -- the first statement where he says there were two calls to Charlie, were there, in fact, two calls to Charlie from Jobo's phone that morning or just one?

A. I don't have the records in front of me. So I don't recall.

Q. Do you recall how adamant or how persistent Mr. Allen

was that Jobo Phillips was not involved on August 16th?
A. He was adamant on the 16th.
Q. That story he told about using a cutting torch to cut the weapons, was that true?
A. No.
Q. How about walking back four hours from Gap Creek, was that true?
A. No.
MS. GORTON: Objection. No way of knowing whether that's true or not.
THE COURT: Overruled.
Q. That's all the questions I have. Thank you very much, sir.
THE COURT: Thank you. Step down.
MS. GORTON: Redirect, please. Or recross. I can make it brief.

Recross Examination by Ms. Gorton:

Q. Do you have any way of knowing whether that walk was true or false?
A. My knowledge of that area, it would take considerably longer than four and a half hours.
Q. But you don't have any hard evidence, phone records, anything like that that indicates that statement was false?
A. No.
Q. And other than this story about the guns, is there

anything that indicates to you that the first statement was the false one ---

THE COURT: Now, you're going beyond ---

Q. --- versus the third?

THE COURT: You're going beyond the redirect. Anything else?

MS. GORTON: Judge, I would respectfully submit that the record reflects he asked about the third -- the first statement being false. That's an ---

THE COURT: All right.

MS. GORTON: --- improper characterization.

THE COURT: Overruled. Anything else?

MS. GORTON: No, Your Honor.

THE COURT: Thank you. Step down. Take the jury out for a recess.

(Whereupon the jury exited the courtroom at 2:38 pm)

THE COURT: All right. One of our jurors on the back row, a fellow with the glasses and the green shirt on, he's been doing a little sleeping. You want me to address that with him or ---

MS. GORTON: I have no wish to embarrass him in front of everyone else, Your Honor.

MR. STEINBERG: However Your Honor wishes to handle it.

THE COURT: All right.

MS. GORTON: Can we quietly excuse him without other

people knowing or ...

MR. STEINBERG: Well, I mean, I think if he can excuse him, he has to.

THE COURT: No, maybe he'll wake up. We'll give him some water in there.

MS. GORTON: Judge, I would ask that he be excused if he's been sleeping through part of the trial. We've got two alternates. We're close.

(Whereupon court was in recess at 2:39 pm)

(Whereupon court resumed at 2:51 pm)

THE COURT: Okay. Bring the jury.

(Whereupon the jury entered the courtroom at 2:55 pm)

THE COURT: Okay, solicitor.

MR. STEINBERG: Thank you, Your Honor. The State's next witness is Lead Investigator Chris Hammett.

MADAME CLERK: Please come forward to be sworn in.

Henry Christopher Hammett,

being duly sworn testified as follows:

MADAME CLERK: Thank you. You may be seated. Would you, please, state your name for the record.

MR. HAMMETT: Henry Christopher Hammett.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Investigator Hammett, where are you from originally?

A. Greenville.

Q. And where did you go to high school?
A. Berea High School.
Q. And how long have you been in law enforcement?
A. Fifteen years.
Q. What was your role on July -- the time period around July 8th through July 10th of 2011?
A. As far as regarding this case, ---
Q. Yes, sir.
A. --- I was assisting the investigation of the missing person case that Investigator Miller had started over that weekend.
Q. Were you, yourself, an investigator in that division?
A. Yes, sir.
Q. How long total have you been an investigator with the Sheriff's Office?
A. About ten years now.
Q. Did you assist in obtaining phone records in this case?
A. I did.
Q. Did you ask for assistance of other officers to include Investigator Whitmire in plotting and planning this?
A. Yes, sir, I did.
Q. Were you able to get any GPS information concerning the phones? Not the phone towers, but the phones?
A. No, sir, not from the phones themselves.
Q. Okay. Did you attempt?

A. Yes.
Q. Did you attempt to obtain any bank records for Charlie Roberts? And if so, what was your reasoning for that?
A. Typically missing persons case we want to see if there's been any withdrawals or anything that would indicate this person has left or anything suspicious with their bank accounts. So we did obtain a court order for his bank records, which revealed nothing suspicious or out of the ordinary.
Q. Did you speak with family members of Charlie Roberts as well as employers?
A. Yes, we did.
Q. And what was the reasoning for that?
A. To try to find out any reason that Mr. Roberts would have had for leaving unexpectedly or any issues he was having with anyone who may have had a grudge against him for any reason.
Q. Did you speak to Christina Gentry?
A. Yes, I did.
Q. And was she cooperative?
A. Yes, sir, she was.
Q. Were you later assigned as the lead investigator once the body was located?
A. Actually, it was prior to the body being located. I believe it was July the 11th when Investigator Miller had a

medical reason he had to leave. Our lieutenant asked me if I would assume the lead role in trying to locate the body or find wherever Mr. Roberts had gone to.

Q. Were you part of the initial arrest of JJ Allen?

A. No, sir, I was not.

Q. When did you first interview Mr. JJ Allen?

A. The first time I spoke with Mr. Allen was on August 25th, 2011.

Q. Is that the same date as counsel referred to as the second statement?

A. Yes, sir. That's correct.

Q. How did that come about?

A. Basically, I was -- if I remember correctly, I was at the Detention Center and an inmate there named Aleeki (phonetics) Jefferson approached me as he was in the transport area as I walked by and happened to just -- coincidentally it was me he stopped to talk to and said that Jerry Allen, or JJ, I think is what he said, wanted to talk with law enforcement again.

Q. And did you, in fact, speak with Mr. Allen?

A. Yes, sir. Myself and Investigator Miller went back to the Detention Center and escorted him to the Law Enforcement Center.

Q. Did you Mirandize him?

A. Yes, sir.

Q. Did Mr. Allen want an attorney?
A. No, sir, he did not.
Q. In fact, what did Mr. Allen tell you about his prior attorney, Mr. Eppes?
A. He said that Mr. Eppes was ---
MS. GORTON: Objection as to characterization. Mr. Eppes never represented Mr. Allen.
THE COURT: Overruled. Go ahead.
A. I'm sorry?
Q. What did Mr. Eppes -- what did Mr. Allen say about Mr. Eppes?
A. He said that he was not his attorney and was not representing him.
Q. Okay. Did JJ give you a statement?
A. Yes, sir, he did.
Q. Was it a typed statement?
A. Yes, sir.
Q. In preparation after this case have you reviewed discovery with the State?
A. Yes.
Q. And have you turned over three statements that JJ Allen gave?
A. That is correct. Yes, sir.
Q. After JJ gave a statement on the 25th did you go to Long Shoals Road area?

A. Yes, sir, we did.
Q. How cooperative was Mr. Allen?
A. He was extremely cooperative.
Q. Up to this point had you spoken to Jimmy Poole on the 25th?
A. No, sir, I had not.
Q. Let's discuss this firearm. Opposing counsel's asking questions about gun checks. Have you checked this weapon to see if it's stolen?
A. Yes, sir, I did.
Q. Please tell the jury what type of checks you used on this weapon.
A. Basically, we run it through NCIC, which is the National Crime Information Center or Criminal Information Center. It's a computerized system that will -- if a gun's stolen in Greenville and it's entered on that system, you could check it nationwide, and if it's stolen it will show up. It's basically how everything that is stolen, if you have a serial number for it, is registered.
Q. Are records of gun ownership kept in the United States?
A. No, sir, not to my -- there's no database to my knowledge that you can have all the gun ownership in.
Q. Did JJ ever accompany you to Carl Rider's old property?
A. Yes, he did.
Q. And what did he do there?

A. There, when we arrived, he showed us basically the property where he was standing, where the victim was standing at the time that this -- the murder occurred.

Q. Did he try to show you anything else or attempt to find anything else at that location?

A. Yes, sir. He said that he had dropped some gloves and I believe it was a shovel from when he had gone back the second time to move the body. And he attempted to take us to those items, but it's a large vast heavily wooded area. And we walked through it probably a mile or so in different directions with the Forensics Unit, too, and were unable to locate those items.

Q. Did JJ Allen demonstrate for you inside of this barn that we've discussed how this killing occurred?

A. Yes, sir, he did.

Q. Had you already told him about where the .380 had been located?

A. The weapon or the shell casing?

Q. The .380 shell casing.

A. No, sir.

Q. What was your reasoning for that?

A. We typically don't reveal the things that we know to people who we are going to interview. Again, as Investigator Miller said, we want to be able to corroborate that information independently so we know that they're not

just regurgitating what we've told them.

Q. Had you told Mr. Allen about the cell phone tower information?

A. No, sir.

Q. Following this interview on August 26th did you obtain a warrant for murder for Jobo Phillips?

A. I'm sorry, you said following?

Q. Yes.

A. Yes.

Q. What were the -- what was the basis of the arrest warrant for Jobo Phillips?

A. It was based on several things, the statement, obviously, from Mr. Allen as well as the locating of the weapons to corroborate what he had told us as well as other statements that were -- had been obtained.

Q. Had you already obtained a statement from Bobby Sweet?

A. Yes.

Q. How about from Christina Gentry?

A. Yes.

Q. On August 29th of 2011 did you speak to JJ Allen at the Detention Center?

A. Yes, sir, I did.

Q. What was your reason for speaking to him this third time?

A. Additional information had been received via

Investigator Whitmire about a gentleman who claimed to have picked up Mr. Allen, which proved some of the things he had told us in his statement were not accurate.

Q. How cooperative was JJ Allen during this third meeting?

A. He was, again, extremely cooperative, very talkative, did not want an attorney present and basically said he wanted us to -- to tell us the truth and get the story right.

Q. Did you promise him anything as part of the case?

A. No, sir.

Q. What language do officers use when they speak to somebody about promises, and benefits or rewards?

A. Basically, we advise them that we don't have the authority to promise them anything as far as giving a statement or even cooperating with us or talking to us. We don't have the authority to do that. And then we make that known that we can't do that.

Q. Did you speak with Roy White, a federal prisoner?

A. Yes, sir, I did.

Q. Actually, let me correct myself. Was he a federal prisoner when you spoke with him?

A. No, sir, he was not at that time.

Q. And where did you interview him?

A. At a residence in Marietta. I don't recall the exact address, but it was his residence in Marietta.

Q. Did he give a written statement?
A. Yes, sir, he did.
Q. Was he promised anything?
A. No, sir, he was not.
Q. What did you do to confirm Roy White's statement?
A. We followed up by speaking with Tammie Timmons was Mr. White -- at that time was Mr. White's girlfriend who he claimed had been present when he had spoken to the Defendant at the racetrack.
Q. And at that time did Tammie Timmons cooperate?
A. Yes, sir.
Q. How about Bobby Sweet, where did you interview him?
A. Initially, the first time we interviewed Mr. Sweet was -- I believe it's Transylvania, North Carolina in the jail facility there at the Sheriff's Office.
Q. And who was with you?
A. It was myself and Investigator Peeples.
Q. How cooperative was he?
A. He was very cooperative.
Q. Prior to going to Transylvania did you tell him that you were going to come and meet him?
A. No, sir.
Q. Tell us how that -- tell us how that contact occurred.
A. We had information that a female who was arrested had possibly some knowledge about this. And when we spoke with

her she provided us Mr. Sweet's name and that -- and some additional information that we went to follow up on. And he had just been arrested that day and transported to Transylvania.

Q. Did he give a statement in this matter?

A. Yes, sir, he did.

Q. Did he have an opportunity to review his statement?

A. He did.

Q. Prior to giving that statement did you tell him the make or the caliber of the weapon used in this case?

A. No, sir, we did not.

Q. And what was your reason for that?

A. I don't believe we knew it at that time.

Q. Did you interview -- did you interview T-Bird Starling?

A. Yes, sir, we did.

Q. Where was he and what was he there for?

A. Mr. Starling was an inmate at the Greenville County Detention Center. And he was in there for -- I believe it was a child support warrant.

Q. Were you able to determine his demeanor when you spoke with him at the Detention Center?

A. He was cooperative, but somewhat hesitant. Appeared to be kind of nervous and afraid. Basically just talked to us.

Q. Did he give you information?

A. Yes, sir, he did.

Q. How did you come to speak to T-Bird? What caused you to go speak to T-Bird Starling?
A. Based on Mr. Sweet's information, the statement we obtained from him.
Q. Let's move on to -- did you do anything to confirm Mr. Starling's statement to you?
A. Yes, sir. We located Mr. Barrett, whose name had been provided by Mr. Starling.
Q. Okay. In addition to Mr. Barrett did you ever interview a Pam Goff or Sherry Holcombe?
A. Yes, sir, we did.
Q. Did you speak with them and were they cooperative?
A. Yes, sir. Well, Ms. Holcombe was not initially. We -- she wouldn't come forward initially 'cause she had some active warrants, but we did eventually locate her.
Q. From T-Bird Starling you said you spoke with Roy Barrett. Where did you speak to Roy Barrett?
A. We spoke with Mr. Barrett at his residence and place of business in Marietta.
Q. Did you tell Mr. Barrett you were coming to see him?
A. No, sir.
Q. Did you tell him why you wanted to see him?
A. Once we arrived there, yes, sir.
Q. How cooperative was he at that time?
A. He was also very cooperative, was willing to speak with

us.

Q. What was his demeanor like then as compared to when he was here yesterday?

A. Totally different when we initially spoke.

Q. Did he give a statement?

A. Yes, sir, he did.

Q. Was he in trouble? Did he have any reason to get a benefit or reward from the State?

A. No, sir, not to my knowledge.

Q. Did you interview Dakota O[redacted]?

A. You referring to O[redacted], Dakota O[redacted]?

Q. I'm sorry, Dakota O[redacted].

A. Yes, sir, we did.

Q. And was he cooperative?

A. Yes, sir.

Q. Did you attempt to interview Travis Rider?

A. Yes, sir, we did attempt to locate him. However, he was not staying at one permanent address, was staying at several different locations. And we were never able to locate him.

Q. More recently, were you able to interview Emily Gentry?

A. Yes, sir, I did.

Q. Had you been able to interview her prior to this?

A. No, sir.

Q. How cooperative was she when you finally interviewed

her?

A. She was very cooperative also.

Q. Were Jobo's relatives around during this conversation?

A. No, sir, just her and her -- I believe it was her son -- or daughter.

Q. I'm going to show you some documents that were premarked as -- let me ask you some questions about jailhouse phone calls. Are jail phone calls monitored in Greenville County?

A. Yes, sir.

Q. What do you mean by monitored? How do you explain that?

A. They're basically recorded. All phone calls from the Detention Center are recorded.

Q. Can people call into the jail to speak to an inmate?

A. No, sir. It has to be an outgoing call from the inmate to whoever they call.

Q. Do you know how long the phone calls are kept?

A. For a year. On, I believe, from my understanding, it's on a separate server, but it is kept for a year.

Q. Have you made any audiotapes of jail recordings in this case or disks of audio recordings?

A. Yes, sir, I have.

Q. Have you provided the defense attorney with copies of JJ Allen's phone calls?

A. Through the Solicitor's Office, yes, sir.
Q. And how about Jobo Phillips' phone calls?
A. Yes, sir, the same, through the Solicitor's Office, we did.
Q. Are the numbers that were dialed related to the numbers that Jobo Phillips had in his family?
A. Yes, sir.
Q. Are you familiar with the voices?
A. Some, yes, sir.
Q. Okay. Except for the ones that have already been discussed by Investigator Whitmire, 40 and 41, do these accurately reflect Jobo's voice?
A. The disks there?
Q. Yes, sir.
A. Yes, sir.
Q. And Courtney Hollingsworth, do they reflect Courtney Hollingsworth's voice?
A. Yes, sir.
Q. Are you familiar with her voice?
A. Yes, sir.
Q. Are you familiar with Jobo Phillips' voice?
A. Yes, sir, I am.
Q. In fact, do they make mention of some of the people involved in this case?
A. As far as ---

Q. Do they talk about this case at all?
A. Yes.
Q. Are the people who are being recorded, are they told they're being recorded?
A. Yes, sir. There's an automated prompt prior to being able to speak to each other that will inform you you're being recorded, the person calling as well as the inmate, I believe.
Q. Have you made selective phone calls or listened to selective phone calls in this case?
A. Yes, sir, I have.

MR. STEINBERG: Your Honor, the State would move to introduce State's exhibits, I'll put it in order, 37, 38, 39, 40 and 41 into evidence.

THE COURT: Any objection?

MS. GORTON: Yes, Your Honor. I have to renew my objection as to the September 3rd call citing rule 106. That is the -- my request to play the call in its entirety. You ruled yesterday, Your Honor, ---

THE COURT: Yeah, ---

MS. GORTON: --- and I'm simply ---

THE COURT: I understand.

MS. GORTON: --- preserving the record.

THE COURT: All right. Subject to that.

MS. GORTON: Thank you.

(Whereupon State's exhibits 37 - 41 were admitted into evidence)

Q. And I'm not sure I've asked this question already. Did you provide the entirety of phone calls to the Solicitor's Office or the defense attorney?

A. Yes.

Q. Did you hold anything out?

A. No, sir.

Q. Okay. Before I play these, have you listened to phone calls, both these and others?

A. Yes, sir.

Q. Does Jobo Phillips ever confess to this crime?

A. No, sir, he doesn't.

Q. I'm playing State's exhibit number 39. Before this plays, who is JoAnn Johnson?

A. It's Mr. Phillips' mother.

Q. Well, what is Courtney Hollingsworth's relationship?

A. I believe it's his step-sister or referred to as half sister sometimes.

(Whereupon the CD was played for the jury)

(Whereupon the CD ended)

Q. Whose voice was that?

A. The male voice was the Defendant, Mr. Phillips. And the female was Ms. Hollingsworth, Courtney Hollingsworth.

MR. STEINBERG: I'm going to play State's exhibit

number 40, September 3rd, 2011.

(Whereupon the CD was played for the jury)

MR. STEINBERG: Skipping to the 3:16 mark on this disk.

(Whereupon the CD was ended)

Q. Again, whose voice was that along beside Jobo?

A. I'm sorry?

Q. Whose voice was that alongside Jobo?

A. Courtney Hollingsworth.

MR. STEINBERG: Putting in State's exhibit number 38, dated September 4th, 2011.

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

MR. STEINBERG: Placing in State's exhibit number 37, September 9th, 2011.

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

MR. STEINBERG: Putting in the final disk, State's exhibit number 41, dated September 11th, 2011.

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

Q. Investigator Hammett, were there other calls of similar nature?

A. Yes, sir.

Q. Before Jobo was arrested did he speak to JJ Allen when JJ Allen was in jail?

A. Yes, sir.
Q. Have you provided those tapes to the State as well?
A. Yes, sir.
Q. In fact, who was the very first person that JJ Allen called when he was arrested?
A. The Defendant, Mr. Phillips.
Q. When Jobo Phillips was arrested did he make any phone calls to Christina Gentry?
A. Yes, sir.
Q. What was the nature of those calls? What was he attempting to do with those phone calls?
A. To get her to move back with him or, well, back to his house.
Q. Did she agree?
A. No, sir.
Q. The two individuals, Courtney and JoAnn, do those voices later on pass along messages to JJ Allen?
A. Yes, sir.
Q. How often?
A. Frequently. I don't know exactly how often.
Q. Those are all the questions I have. Please answer any questions that Ms. Gorton might have.

Cross Examination by Ms. Gorton:

Q. In listening to those phone calls between my client and JJ do you recall JJ telling him, I appreciate everything

you're doing, when I get out I'll get a job, and I'll pay you back?

A. Honestly, I don't remember that.

Q. Would it refresh your recollection if we played that?

A. Sure.

THE COURT: Do you have a transcript of it?

MS. GORTON: Huh?

THE COURT: Do you have a transcript of it?

MS. GORTON: I don't. I have the recording, Your Honor.

THE COURT: Okay.

MS. GORTON: There were no transcripts for all these calls.

MR. STEINBERG: Your Honor, if counsel's going to play an audiotape, it's obvious it's going to have to be admitted.

MS. GORTON: Under 610 I'm using it to refresh his recollection.

THE COURT: You're going to run it down to the very question you've asked him he said he didn't know?

MS. GORTON: I said, do you recall? And he said, I'm not sure. I don't recall. I said, would listening to it refresh your recollection? He said, yes.

THE COURT: All right.

MR. STEINBERG: Your Honor, if I may, this would

broadcast it to the jury. I think if we broadcast it to the jury, it's published -- if it's published it has to be introduced.

MS. GORTON: We ---

THE COURT: All right. Take the jury out. Take the jury out.

(Whereupon the jury exited the courtroom at 3:35 pm)

THE COURT: All right. Go ahead and play that out of the presence of the jury.

(Whereupon the CD was played)

MS. GORTON: It's going to play just a little bit, Judge. We only have thirty second increments.

(Whereupon the CD was ended)

MR. STEINBERG: Your Honor, if that's the amount, certainly that's not used to refresh your memory.

THE COURT: Let me back up here now. What was the question you asked the witness?

MS. GORTON: The first question was do you recall if my client said or if JJ said to my client when you -- when I get out I will get a job and pay -- pay you back.

THE COURT: And you're saying does he remember saying that to the ---

MS. GORTON: Does he ---

THE COURT: --- the detective?

MS. GORTON: --- remember because he's reviewed all the

calls. And he said he doesn't recall. And I said would listening to the recording refresh your recollection?

THE COURT: And this is what JJ told him?

MS. GORTON: As to what JJ said on these tapes that he's listening to.

THE COURT: No, no, no, no, no. I'm not going -- no, no, no. I thought you -- was on the conversation with this witness.

MS. GORTON: No. The solicitor was asking questions about what he heard said on these tapes. So I was also asking what he heard said on this tape. And so I was following up with what he said he heard with what else was also on there. And that is JJ saying when I get a job -- when I get out I'll get a job and pay you back.

MR. STEINBERG: Your Honor, first of all, I don't think Investigator Hammett said he listened to all the phone calls. In fact, I don't believe he has listened to all the phone calls. So he can't refresh -- this is totally an attempt to publish to the jury. I'd ask that ---

THE COURT: No, I'm not going ---

MS. GORTON: I'm not going to publish ---

THE COURT: I'm not going to publish it to the jury. I thought she had it in there and that she was going to ask him if that would help refresh his memory.

MS. GORTON: Refresh his recollection under 612, yes,

Your Honor.

THE COURT: All right. Please go ahead and find that and play it so he can hear it and then see whether or not he can answer the question.

Q. Did what I just play refresh your recollection?

A. I can't specifically say. I'm sorry. I just -- I don't know that I specifically listened to that or took ---

THE COURT: All right. So he doesn't know. All right. Do you have any other similar type -- similar questions that you're going to ask that we can do out of the presence of the jury while they're out?

MS. GORTON: I'm going to ask him -- yes, Judge. I'm going to ask him if he ever heard JJ say that he still swears on his daddy's grave that he is the only one who did this?

THE COURT: Can you answer that?

A. No, sir. I'm sorry. I don't ---

THE COURT: Okay.

A. I really -- I don't remember.

MS. GORTON: Okay. That's not in the first phone call that he already said he listened to between JJ and Joe. So I'll save it for Jerry Allen.

THE COURT: All right. So you're through with the tape now?

MS. GORTON: I think so.

THE COURT: All right. Bring the jury.

(Whereupon the jury entered the courtroom at 3:41 pm)

THE COURT: All right. You may continue.

Cross Examination by Ms. Gorton Continued:

Q. I'll ask the question for you to answer. Do you recall if JJ said to Jobo when I get out, I'll get a job and pay you back?

A. No, ma'am, I don't specifically remember that.

Q. Okay. Could have happened, you just don't recall?

A. Correct.

Q. Okay. Now, on those recordings that we listened to, some of them were hard to understand. Have you had the opportunity to play them several times to understand what was being ---

A. Yes, ma'am.

Q. And what Joe is saying is he has a plan to get JJ out of this mess, correct?

A. Yes.

Q. And that it might take pushing it off on someone else, but that he just needs to keep his mouth shut, ---

A. Correct.

Q. --- he's got a plan, correct?

A. Yes.

Q. There's no mention of payment or anything like that?

A. No, ma'am.

Q. Okay. And the gist of those calls isn't he's got a plan to get himself out, he's got a plan to get JJ out of trouble?

A. I think he at one point says that when I can get us both out of this.

Q. Most of this conversation's about JJ, correct?

A. Correct.

Q. And I believe we listened to the one call between the two of them, is that correct, where they call each other brother?

A. Yes, I believe.

Q. Okay. Now, I'm going to leave the jail calls for a minute and go back to some other things. Do you know where the Mountain View Store is on that map?

A. Can I step ---

Q. Sure.

A. --- down here?

Q. Sure.

(Whereupon the witness left the witness stand)

A. I don't know if I can ...

Q. I was using the Defendant's residence ---

A. I would say it's right where the bottom part of Long Shoals Road comes into -- I would say, maybe, right here.

Q. Okay.

A. But I'm -- that's kind of a rough guess.

Q. Now, ---
A. I'm not sure.
Q. --- you've heard me review the testimony of both Joe and Christine giving testimony that between noon and eight pm on the 8th they took some cousins to a park?
A. Yes, ma'am.
Q. Do you know which park that was?
A. I do not, no.
Q. Do you know if it was up there?
A. (Negative nod).
Q. You don't know?
A. I -- honestly, I do not know which park she was referring to.
Q. You don't know if it was Pleasant Ridge?
A. I don't know. Sorry.
Q. There are parks up there, right?
A. Yes.
Q. Okay.
(Whereupon the witness returned to the witness stand)
Q. And you are aware that both of them verified that, correct?
A. Yes, ma'am.
Q. Now, you explained to the solicitor what you did with the .380 and the background search that you conducted on that, ---

A. Correct.
Q. --- and the NCIC search?
A. Yes, ma'am.
Q. What search did you do on the 9mm?
A. The same.
Q. And did you find anything different with that?
A. No, ma'am.
Q. No records on that?
A. No, ma'am.
Q. Did you ever get an explanation as to why both guns were buried together?
A. Mr. Allen said that the Defendant had told him to bury both of them because he was afraid that the police were going to come to his house, and he didn't want the gun at his house, the 9mm also.
Q. Which of his three statements did he give that ---
A. I believe he told us that when we were -- when he took us out there to the actual location and where he pointed out where the guns were buried.
Q. So that was right after statement number two?
A. Yes.
Q. So not during statement number three?
A. No, ma'am.
Q. And during statement number two, of course, he's saying that my client is the trigger-man and he's responsible for

everything?

(Pause)

A. Yes.

Q. Okay.

A. Sorry.

Q. So no other explanations other than ---

A. No, ma'am.

Q. --- the statement we know to be false?

A. Correct.

Q. Okay. Now, were you ever able to determine whether both those guns did, in fact, belong to my client?

A. No, ma'am.

Q. You were able to determine that Mr. Allen and my client shared the same residence?

A. Correct. Yes.

Q. And so Mr. Allen would have had equal access to his guns?

A. Correct.

Q. And also equal access to Mr. Phillips' phone?

A. Correct.

Q. And also during this same demonstration, which is after statement number two, before statement number three, the prosecutor was asking you about this re-enactment that Mr. Allen did for you?

A. Um-hum (affirmative).

Q. And whether that was consistent with where you found the shell casing?
A. Correct.
Q. Only in that re-enactment he stood where we now know he was standing ---
A. Yes, ma'am.
Q. --- and claiming it was Joe standing there?
A. Correct.
Q. So Mr. Allen knew, of course, where he was standing?
A. Correct.
Q. Okay. Was there any -- at some point after JJ gives this second statement, y'all realize he lied to you? Right?
A. Yes, ma'am.
Q. In that period of time was there any un-arrest of Mr. Phillips?
A. No, ma'am.
Q. Did you ever release him?
A. No, ma'am, I did not.
Q. Did you ever ask to have him released or suggest that he be released now that you know that statement number two is false?
A. No, ma'am.
Q. Did you do anything other than go back to the same person who had already lied to you and get a third statement?

A. I don't believe so. I think it was -- once Mr. Poole came forward, then we went back and re-interviewed Mr. Allen.

Q. Have you reviewed Mr. Allen's first statement?

A. Yes, ma'am.

Q. Is there anything about that statement that you can definitively point to as being a lie except for the part where he says he destroyed the guns?

A. I'd have to review it again just to be sure. If I could read through it again, I'll ---

Q. Please do.

A. Sure. Now you said you're referring to the first statement?

Q. Yes, sir, the one on the 16th.

(Pause)

A. And I'm sorry, can you ask the question one more time.

Q. Sure. Is there anything about statement number one that you can definitively say is false other than the part about how he destroyed the guns?

A. No.

Q. He was in custody the whole time for statement number one, correct, until statement number two and statement number three?

A. Mr. Allen?

Q. Yes.

A. Yes.
Q. So ---
A. I believe so.
Q. When he told you that he destroyed those guns, you now know that he knew where they were the whole time they were actually buried? They were already buried when he gave you that statement, right?
A. Yes. Yeah.
Q. It would have had to ---
A. Yeah.
Q. --- have been ---
A. Yes. Correct. I'm sorry.
Q. So the only thing that you can definitely say he lied about is where those guns went?
A. Yes, ma'am.

MS. GORTON: Nothing further.

MR. STEINBERG: Very briefly.

THE COURT: All right.

Redirect Examination by Mr. Steinberg:

Q. Counsel asked you how well you heard those recordings we played and whether it only referred to Jobo trying to help out JJ. Did Jobo Phillips' voice say, I am going down the river if Jobo -- if JJ speaks on ---
A. I think he said going down the road, I believe.
Q. I'm sorry. Did he ever say don't talk about me, Jobo?

A. Yes.
Q. Did he ever say, I hope he sticks with the story he first told or the first -- the first version?
A. Yes, sir.
Q. Opposing counsel asked you whether there was -- why you didn't release Mr. Phillips following JJ's false statement. Did you see anything at that time or anything now why you should have released him in this case?
A. No, sir.
Q. The statement you just read, asked you if anything was false, is anything in that first statement truthful? Outside of the obvious death of Charlie Roberts.
A. Not to my knowledge.
Q. Thank you.

MS. GORTON: Recross.

Recross Examination by Ms. Gorton:

Q. As far as going down the road, is there such a charge as accessory after the fact?
A. As far as is there a legal charge for accessory after the fact?
Q. Yes.
A. Yes, ma'am.
Q. And what is the penalty for accessory ---
A. I ---
Q. --- after ---

THE COURT: No, no.

A. --- don't ---

THE COURT: No, no.

A. I'm sorry, I don't know.

Q. Let me ask you, is it a felony offense?

MR. STEINBERG: Your Honor, I'm going to have to ---

THE COURT: No, no. I won't allow that.

Q. Third question, would you go down the road if you were convicted of accessory after the fact?

MR. STEINBERG: Your Honor, ---

THE COURT: I sustain ---

MR. STEINBERG: --- I have to object. This is ---

THE COURT: --- the objection. I sustain the objection. Instruct the jury to disregard those questions.

MS. GORTON: Nothing further.

THE COURT: Step down.

A. Thank you, Your Honor.

MR. STEINBERG: Your Honor, the State's next witness will be the co-defendant, JJ Allen.

THE COURT: All right.

MADAME CLERK: Mr. Allen, please come around to be sworn.

THE COURT: The other one. Put your other hand ...

MADAME CLERK: Raise your right hand, please.

Jerry Allen, being duly

sworn testified as follows:

MADAME CLERK: Thank you. You can have a seat. Sir, would you, please, state your name for the record.

MR. ALLEN: My name is Jerry Leonard Allen, Jr.

MADAME CLERK: Thank you.

THE COURT: Pull in a little closer, please.

MR. ALLEN: My name is Jerry Leonard Allen, Jr.

MADAME CLERK: Thank you.

Direct Examination by Mr. Steinberg:

Q. Good afternoon, Mr. Allen. How are you today?

A. I'm all right. How about you?

Q. Thank you, sir. Tell us a little bit about yourself. How old are you?

A. I'm twenty-six.

Q. And where are you from originally?

A. I'm from Georgia.

Q. How old were you in July of 2011?

A. Twenty-four.

Q. How long have you lived in Greenville?

A. About six years.

Q. Did you acquire jobs in your adult life?

A. Yeah.

Q. What kind of jobs, sir?

A. I was an electrician.

Q. Are you married?

A. I'm divorced.
Q. Do you have any children?
A. I got two.
Q. Do you know what we're here for today, Mr. Allen?
A. Yes, sir.
Q. And have you pled guilty in this case?
A. Yes, sir.
Q. What have you pled guilty to?
A. Thirty to life.
Q. Okay. What's the name of the charge?
A. Murder.
Q. And do you know what you face?
A. Thirty to life.
Q. Is there any chance of parole?
A. No, sir.
Q. Who makes the decision as to your sentence?
A. The judge.
Q. Do you understand that the State is going to make a recommendation and it's only a recommendation?
A. Yes, sir.
Q. And what's the recommendation going to be?
A. Thirty years.
Q. Prior to your arrest where did you live, Mr. Allen?
A. Jobo's house.
Q. And what was the address, if you recall?

A. [redacted].

Q. Could you lean a little forward? I'm going to try to get this -- you're a little bit soft spoken.

A. [redacted].

Q. And who else lived at that house?

A. Jobo.

Q. Did any of his children live there?

A. Off and on, yes, sir.

Q. And had Christina Gentry ever lived there?

A. She's lived there before, yes.

Q. And to refresh the jury's memory, what is Christina Gentry's relationship to you?

A. It's my sister.

Q. Who lived next to Jobo?

A. JoAnn.

Q. Any other family members?

A. Moe, Snuffy, Courtney.

Q. Moe. What was the second one?

A. Moe Johnson.

Q. What was the second one?

A. Snuffy and Courtney.

Q. Do you remember when -- when your sister moved out?

A. Yes, sir.

Q. Approximately when was that? How many -- how long before this incident involving Charlie Roberts, how long did

that occur?
A. About a month, month and a half.
Q. Have you been sent down for a mental exam?
A. Yes, I have.
Q. Have you been found to be competent?
A. Yes, I have.
Q. How good is your clarity now? How well do you recall this incident?
A. Pretty well.
Q. Are you taking the appropriate medication ---
A. Yes, I am.
Q. --- prescribed by a doctor?
A. Yes, I am.
Q. Let's talk to you about your relationship with Jobo Phillips in 2011. How did you look upon him?
A. As a mentor.
Q. Why did you look upon him as a mentor?
A. Because he helped bond me out of jail, and he helped me when I needed to be helped.
Q. How did Jobo act around or about Christina Gentry?
A. Infatuated.
Q. Please explain what you mean by infatuated.
A. Everything that happens revolves around her.
Q. Approximately when did you live with Jobo?
A. About a year before the incident happened.

Q. Do you remember when you moved out?
A. I never moved out.
Q. Okay. Did you live there on the day you were arrested?
A. Yes.
Q. Did you have a drug problem in 2011?
A. Yes.
Q. What was your drug problem?
A. Meth and pills.
Q. What kind of pills were they?
A. Lortabs, Roxies and Xanaxes.
Q. When you say meth, you talking about methamphetamine?
A. Yes, sir.
Q. Who gave you those drugs?
A. Jobo.
Q. How often would he give you those drugs?
A. Very often.
Q. How did you act towards -- in your words, in your language, how would you -- how did you act towards Jobo?
A. I really -- I looked up to him.
Q. Did you do any services or perform any functions for Jobo?
A. Yes.
Q. What did you do?
A. I did remodeling, I'd watch the kids.
Q. After Christina moved out who did the cooking?

A. Usually JoAnn did.
Q. Who did the cleaning?
A. I did.
Q. Did you ever do any other jobs or services for Jobo?
A. Just be the watch-dog.
Q. What word?
A. Watch-dog.
Q. What does that mean?
A. I did everything that he needed me to do while he was gone.
Q. Did he put a roof over your head?
A. Yes, he did.
Q. Did you ever do any automotive work for him?
A. Yes, I have.
Q. What type automotive work?
A. Transmission.
Q. Want to go back to this methamphetamine. What effect does methamphetamine have on you for people who aren't familiar with it?
A. It makes you very persistent.
Q. What does that -- what do you mean by that? Can you give me an example?
A. Makes you not want to give up on what you're doing.
Q. What effects did the pill use have on you at the time?
A. The pill use made me want to clean or made me -- made

me more active than just focusing on one thing with meth.
Q. Did you know the victim in this case, Charlie Roberts?
A. No, I didn't.
Q. Had you ever met him before?
A. I met him before one time at the end of the driveway.
Q. And tell us about that conversation. What was that about?
A. That was just about Jobo and Christina. It was a friendly conversation.
Q. Had you ever had any prior fights with him?
A. No, I haven't.
Q. Had prior arguments with him?
A. No, I haven't.
Q. Have any prior business deals?
A. No, I haven't.
Q. You ever have any prior drug deals of any sort?
A. No, I haven't.
Q. With Charlie? Did you ever tell officers that you'd had ---
A. No.
Q. --- a drug deal?
A. Oh, yes, I have.
Q. Was that a truthful statement?
A. No, it wasn't.
Q. Why did you tell an untruthful statement to the

officers?

A. Because I was told to say that.

Q. By who?

A. Jobo.

Q. I don't know how to ask this, but do you do what Jobo says?

A. I did.

Q. Did you ever have any discussions with Jobo Phillips about Charlie Roberts?

A. Yes, I have.

Q. When was the first time Jobo found out about Charlie Roberts seeing Christina?

A. When Christina got dropped off at a Texaco in Travelers Rest and some people saw her getting picked up on a motorcycle. And Jobo found out about it through the people at the store.

Q. Were you there when Jobo found out about it?

A. I was at home, yes.

Q. You were what?

A. I was at home, yes.

Q. Okay. What did Jobo do when he found out? What did he say?

A. He got furious. He made threats.

Q. What kind of threats?

A. First he was threatening to fight, but ...

Q. You said -- I think you said but?
A. Yeah.
Q. What --
A. Threatened to fight.
Q. Any other threats?
A. Yes. There was one threat to kill over the phone.
Q. How long was this after Christina had moved out?
A. Not long.
Q. After she moved out how often did Jobo bring up Christina and Christina having a relationship?
A. Pretty often.
Q. Did you ever drive Jobo past Charlie's house?
A. Yes, I have.
Q. What was the reason for that?
A. To see if Christina was there.
Q. What time of day or night was that, would that be?
A. Most of the time it was at night.
Q. You say most of the time, how often did that happen?
A. How often did it happen?
Q. Yes, sir.
A. About -- I'd probably say very often.
Q. What would Jobo Phillips say when you were driving him past Charlie Roberts' house?
A. Christina better not be there.
Q. Did he say anything else?

A. He said if Christina was there then -- well, there was going to be a fight.
Q. Did you ever have any discussions or present when Jobo had any discussions concerning an incident at Charlie's house in June of 2012?
A. Yes, sir.
Q. Please tell us what Jobo said.
A. He wanted me to go and break in Charlie's house first thing in the morning.
Q. Let me bring you back to June of 2012. Do you remember an incident where Jobo, himself, went over to Charlie's house?
A. Jobo, hisself?
Q. Yeah.
A. Yes, sir. That was when the police officer talked to him over the phone.
Q. Okay. Were you present with Jobo when the police officers called?
A. Yes, sir, I was.
Q. Okay. How did Jobo act during that conversation?
A. He was furious.
Q. What did Jobo do after he hung up the phone? What did he say?
A. He just made threats.
Q. Threats to who?

A. Made threats about Charlie.

Q. When Jobo would talk about Christina how would he react? How would -- physically, how would he be?

A. How would he react?

Q. Yes, sir.

A. He would just -- he'd just act outrageous and infatuated.

Q. After the incident where the deputy got involved do you remember if Jobo and Charlie had ever spoken together after that?

A. Yes, they have.

Q. Please tell us about that.

A. They'd spoken at a race and over the phone.

Q. Okay. Was it a hostile or was it a friendly conversation?

A. The last conversation I heard was it was friendly.

Q. And did Jobo ever discuss why he was acting in a friendly way?

A. To put on a front.

Q. Do you recall an incident on a porch on [redacted] where Jobo made any statements?

A. Yes, I do.

Q. Who is Travis Rider and what is his nickname in the community?

A. Grover.

Q. What's Grover's relationship with ---
A. Jobo's cousin.
Q. Was Dakota O[redacted] there?
A. Yes, sir.
Q. What did Jobo say?
A. He wanted to kill Charlie or have somebody kill Charlie.
Q. Who was he talking to?
A. He was talking to me.
Q. At that time did you accept?
A. No.
Q. How old were Travis and Dakota?
A. About fifteen.
Q. Did Jobo ever follow up on that request? Did he ever ask you again?
A. Later on.
Q. And did he ever offer you anything in exchange for this?
A. Money and -- money and drugs.
Q. How much money?
A. Two hundred dollars, five hundred dollars.
Q. And what kind of drugs? Did he say what type of drugs?
A. It was just whatever I wanted.
Q. What words would he say when you -- when he would ask you for that?

A. Words he said to me?
Q. Yeah. What would he say? Did he ever talk to you about why you should do this?
A. No, sir.
Q. Did he ever make any plans to kill Charlie Roberts?
A. Yes, sir.
Q. Did he offer you anything what he'll do after you committed the crime? Did he ever say anything?
A. Yes, sir.
Q. What was that?
A. That I wouldn't have to have anything to worry about, that my kids would have child support and everything paid for.
Q. Did you have your own house at the time or did you only live at Jobo's house?
A. I lived at Jobo's house.
Q. Did Jobo make any statements about his house?
A. Yes, sir. He said ---
Q. What did he say?
A. --- that his house is my house.
Q. Did he ever discuss a lawyer or paying for a lawyer?
A. Yes, sir.
Q. What did he say?
A. He said that he would pay for me to have a lawyer for me to make bond.

Q. Did you have enough money for an attorney?
A. No.
Q. Did Jobo have enough money for an attorney?
A. Yes.
Q. Let's talk about the day of July 8th, 2011. What triggered this day for you to get involved in this matter?
A. Jobo didn't want to wait any longer.
Q. Were you under the influence of any drugs at this time?
A. Yes, I was.
Q. What did Jobo tell you to do?
A. Go to Charlie's house, break in through the window, hold him at gunpoint when he come in and wrap a tie around his neck and break his neck.
Q. Did he give you a gun?
A. Yes, he did.
Q. Do you remember what kind of gun it was?
A. A .380 Hi-Point pistol.
Q. Do you remember how many bullets it had in it at the time you ---
A. Two.
Q. --- received it? How many?
A. Two bullets.
Q. Had you ever seen this particular gun before?
A. No, sir.
Q. Specifically, what did -- did you go over to Charlie

Roberts' house on this day, July 8th?

A. Yes, I did.

Q. Approximately what time was this?

A. The first time was 5:00 in the morning.

Q. Did you, in fact, go through with this plan?

A. No, I didn't.

Q. Why didn't you go through with this?

A. Because I thought it was stupid.

Q. Why did you think it was stupid?

A. Because there's a bunch of trailers around.

Q. Did you speak to Jobo later that morning?

A. Yes, I did.

Q. Did you give the gun back or did you keep it?

A. I kept the gun.

Q. Did Jobo say anything to you about not going through with this act?

A. He was mad.

Q. Did you make a second attempt?

A. Yes, I did.

Q. What day?

A. The same day it happened.

Q. Okay. And what was the plan this time?

A. To wait across in the woods and catch him when he come home from work and walk across the street, hold him at gunpoint and kill him in his house.

Q. Did you think -- did you go through with this plan?
A. No, I didn't.
Q. What did you think about this plan?
A. Well, I didn't think very much because walking out in the open in daylight is kind of crazy.
Q. Did you then go back to Jobo's house?
A. Yes, I did.
Q. And did you talk to Jobo about this?
A. Yes, I did.
Q. Did he change the plan at all?
A. Yes, he did.
Q. I'm going to bring you to Friday morning, July 8th, 2011. What was the plan now?
A. Get Charlie to take me over to Carl Rider's old property and act like I'm looking for an alternator and shoot him.
Q. Did -- what was the reason for getting an alternator at Carl Rider's property?
A. That was the place that -- would have found a place to actually follow through.
Q. What was the reason for getting the alternator?
A. To fake like we needed it to fix the van.
Q. Whose van?
A. Jobo's van.
Q. Well, what kind of van did Jobo have and what kind of

van did Christina have?
A. Dodge Grand Caravan.
Q. And what kind of car did Christina have?
A. Dodge Grand Caravan.
Q. What did Jobo say to Charlie, if you heard the -- heard the conversation?
A. What he said to Charlie?
Q. Yes, sir.
A. He told Charlie, he said he needed somebody -- he needed to see if he'd take his old lady's brother to go get an alternator for the van, said the van was tore up. When he agreed he said he'll be over there in a little bit walking.
MR. STEINBERG: I beg the Court's indulgence.
(Pause)
Q. Which color was the van that Christina drove?
A. It was red.
Q. Which color was the van that Charlie -- that Jobo drove?
A. Gray.
Q. On any of your reports did you ever say that this was for Christina's van?
A. Yes.
Q. What reason did Jobo give for him not getting the alternator himself?

A. Because he couldn't be seen with Charlie.
Q. Okay. What reason -- what reason did he tell Charlie?
A. What reason did he tell Charlie? He told Charlie that -- that he's got to watch the kids.
Q. What specific offer or demand did Jobo make for you at that time? What specifically did he tell you?
A. He told me he'd give me money and whatever else I needed.
Q. Did he give you any drugs at that point?
A. Yes.
Q. What drugs?
A. Pills.
Q. Any methamphetamine?
A. Yes.
Q. What kind of methamphetamine?
A. Methamphetamines is -- it's ice.
Q. Well, did you smoke it, shoot it, snort it? What do you do?
A. I shot it.
Q. What effect does shooting methamphetamine have on you?
A. It just -- it's -- it has more of an effect than smoking it and snorting it, way more.
Q. And where were you supposed to go with Charlie?
A. To Carl Rider's old place off Geer Highway.
Q. How did you get down to Charlie's house?

A. Jobo drove me and dropped me off at the end of the driveway.

Q. Did he drive you all the way up to Jobo's [sic] house?

A. No, he dropped me off on Chestnut.

Q. What is Chestnut? Is that a road nearby?

A. The road right up from Lions Park Road.

Q. Do you know why Jobo chose that particular location?

A. Because that was the easiest spot to get anything really done.

Q. Had you ever been there with Jobo before?

A. Yes.

Q. What were you supposed to do with Charlie Roberts once you got down there?

A. Shoot him.

Q. Did you still have the gun with you?

A. Did I -- yes, sir, I still had the gun with me.

Q. Is there a well on this property?

A. Yes, sir, there is.

Q. Did Jobo ever instruct you what to do with Charlie once he got -- once you got him down there?

A. Shoot him and then pick him up and put him in the well.

Q. How high is that well?

A. Three -- three feet.

Q. Did Jobo ever tell you to do anything with Charlie's property, that is, the stuff he had with him?

A. To take his phone, and take his keys, take his wallet.
Q. Did he say why he wanted the phone?
A. To see if Christina and Charlie were having sex.
Q. What were you supposed to do with the car keys?
A. Take them with me, throw them in the woods.
Q. Did you ever -- did you ever go up to Gap Creek?
A. Yes, I did.
Q. Okay. Why did you go up to Gap Creek?
A. To drop the truck off.
Q. And who told you to do that?
A. Jobo.
Q. Did he tell you any particular place?
A. He told me there was a place in the woods that you could take it and run it off -- run the truck off the side of the hill into a ravine.
Q. And then what were you supposed to do?
A. Wipe the truck down.
Q. And then what were you supposed to do after you wiped the truck down?
A. Actually get it in the ravine.
Q. How were you supposed to get it back to -- how were you supposed to get back down to Marietta?
A. I told Jobo to pick me up.
Q. So that's what your plans were. Let's talk about what you actually did. You got down to Charlie's house. Did you

speak to Charlie?

A. Yes.

Q. Was it a hostile conversation?

A. No, it was a friendly conversation.

Q. Did he give you a ride?

A. Yes, he did.

Q. Did he seem willing to cooperate?

A. Yes, he did.

Q. Do you recall anything about the conversation you had with him?

A. We were talking about fishing and hunting.

Q. Were you still under the influence at this time?

A. Yes, I was.

Q. Did you go all the way down Carl Rider's driveway?

A. No, we parked at the end.

Q. Why did you park at the end instead of driving all the way down?

A. Because there was a big tree down.

Q. A what?

A. A big tree down.

Q. Blocking the driveway?

A. Yes.

Q. Once you went down there did Charlie accompany you down there?

A. Yes, he did.

Q. Did y'all look for any alternator?
A. Yes, we did.
Q. Was, in fact, there an alternator down there?
A. No, there wasn't.
Q. You agree that was a falsehood you told?
A. Yes.
Q. And did you ever meet up with Charlie at any of the sheds, or barns, or garages out there?
A. Yes, I did.
Q. What was he doing?
A. He was -- he was actually looking for something that wasn't there. And then he actually turned his head, and that's, you know, that's when I shot him.
Q. Approximately how far were you standing from him?
A. About twenty-five to thirty feet.
Q. Okay. Was he inside or outside of this garage building?
A. Inside.
Q. Did you go over to the body?
A. Yes, I did.
Q. Did you check his pulse?
A. Yes, I did.
Q. Okay. In your report I think you said you shot Charlie in the back of the head.
A. Yes, I did.

Q. Is that correct?
A. Yes.
Q. How confident are you that you shot him in the back of the head instead of the front?
A. One hundred.
Q. What?
A. One hundred percent.
Q. One hundred. And what was Charlie wearing at the time, if you recall?
A. Pants, shirt and a hat. He was wearing jeans, shirt and a hat.
Q. In your statement did you say you believe you shot him in the -- in the back of the head when you saw blood coming out of his eye?
A. Yes.
Q. Did you make any phone calls after that?
A. Yes, I did.
Q. On whose phone?
A. Charlie's.
Q. And who did you call?
A. Jobo.
Q. Why would you call Jobo?
A. To tell him that I did it.
Q. How did Jobo respond?
A. He got sick to his stomach and started crying.

Q. Did you keep the phone?
A. Yes, I did.
Q. Did you go back up to the truck?
A. Yes, I did.
Q. Did you have to go back to the body that day?
A. Yes.
Q. Return to the body that day?
A. Yes, I did.
Q. What was your reasoning?
A. For getting the keys out of his pocket.
Q. When you went back there did you see any -- I call it a government surplus bag, but a large fabric type bag?
A. Yes, sir.
Q. And did you do anything with that?
A. Not until after I moved the body.
Q. Did you move the body that day or a different day?
A. It was a week later.
Q. Okay. Do you remember exactly when or approximately when you spoke to Jobo using Charlie's phone?
A. It was about -- it was about ten, 9:30, 10:00.
Q. Did you drive anyplace in Charlie's truck?
A. Yes, I did.
Q. Where did you go?
A. To Gap Creek Road.
Q. Do you remember which road you took to get to Gap

Creek? Highway 25 or Highway 276?

A. Highway 276, Geer Highway.

Q. How close did you get rid of the truck to the North Carolina border?

A. Not very far.

Q. Did Charlie have a wallet? And if so, what did you do with it?

A. Yes, he did. I threw it in the -- I threw it in the creek.

Q. Do you know where in the creek you threw it?

A. No, sir, I don't. I threw it while I was driving.

Q. Who was supposed to pick you up?

A. Jobo.

Q. And was anybody else supposed to be with him?

A. No, there wasn't.

Q. As far as you know did anybody else know about this?

A. Not at that time.

Q. Did -- as far as you know did Jimmy Poole or JoAnn Johnson know anything about this?

A. No.

Q. Did you call Jobo?

A. Yes, I did.

Q. And where did you call him from?

A. Charlie's phone up on Gap Creek Road.

Q. How long did you speak to him for?

A. For about a minute.
Q. What did you tell him?
A. To come and pick me up, be by yourself.
Q. Did he, in fact, come and pick you up?
A. Yes, he did.
Q. Who was with him?
A. His mama, his uncle, and his son, Billy.
Q. His son, Billy, was that a minor or a small child?
A. Yes.
Q. Did you expect them?
A. No, I didn't.
Q. Did you say anything in the car about the killing? Did you mention it?
A. No, sir. I made a motion.
Q. Why did you make a motion instead of saying anything?
A. Because I didn't think his mama and them knew anything about it.
Q. And what was the motion?
A. I brought my fingers across my neck.
Q. How did Jobo respond?
A. He looked at me and just shook his head.
Q. Where did you go after that?
A. Where did I go after that? I went to Steve and Crystal's house to get some dope.
Q. And who gave you the money for the dope?

A. Yes.
Q. Who gave you the money ---
A. Oh.
Q. --- for the dope?
A. Jobo.
Q. Did you have the money outside of Jobo to get that dope?
A. No.
Q. Remember how much money Jobo gave you?
A. Not at the time.
Q. What did you do with the cell phone?
A. What did I do with the cell phone? I gave it to Jobo.
Q. Did he ask you to do anything with the cell phone?
A. He asked me to read the messages to him.
Q. This has already been gone over. Is Jobo able to text?
A. He can text minor words.
Q. All right. Did you read him the texts that were in the -- in the phone?
A. Yes, I did.
Q. And how did he react?
A. He was -- there wasn't none in there about the sex parts.
Q. What did he do with the phone?
A. Broke it in half and buried it.
Q. Did you ever see that phone again after that?

A. No.
Q. What did you do with the gun, this .380 pistol?
A. I kept it on me.
Q. And why did you keep it on you?
A. I kept it on me for protection.
Q. Did Jobo ever give you another gun?
A. No, he didn't.
Q. Did Jobo ever ask you to get rid of another gun?
A. Yes, he did.
Q. What kind of gun was it?
A. It was a 9mm Smith & Wesson.
Q. Did Jobo say why he had that gun?
A. Yes.
Q. Why?
A. Because Leroy Roberts always made a threat to Jobo. And Leroy always carried a .38 in his pocket.
Q. Who is Leroy?
A. Leroy Roberts is Charlie Roberts' brother.
Q. Did Jobo say why he wanted it buried?
A. Yes.
Q. Why?
A. To get it off the property.
Q. Why did he say he wanted it off the property?
A. Because he knew he couldn't have guns.
Q. Okay. Did he tell you where to hide it?

A. Yes, he did.
Q. And did -- and how close was that to Jobo's trailer?
A. It was a good ways off. It was ....
Q. What did you bury it in?
A. I buried it in a large ET shirt that was ripped.
Q. Okay. You say ripped?
A. It was ripped.
Q. Okay. And was that an extra large shirt?
A. Yes, it was.
Q. And whose shirt was that?
A. That was Jobo's shirt.
Q. Jobo is here. Is he larger than you?
A. Yes.
Q. Would you call him a large person, though?
A. No.
Q. Compared to me?
A. No.
Q. Did you know who wore that shirt normally or if anybody wore that shirt?
A. Nobody wore that shirt.
Q. Did you once tell officers that you had worn that shirt before?
A. No. I told them I kept my knives wrapped up in it.
Q. Okay. Did you ever go back to the murder scene at Carl Rider's house again?

A. Yes, I did.
Q. And why did you go back to this location?
A. To move the body.
Q. How did you feel about going back to this location?
A. I felt paranoid and, you know, just awful.
Q. What did Jobo tell you?
A. He told me -- told me to take the body and put it in the well.
Q. Why didn't you put it in the well the first time?
A. Because I couldn't pick it up.
Q. Okay.
A. Because it was -- for one, it was dead. And I didn't want to touch a dead body.
Q. Were you still using drugs at this time?
A. Yes, I was.
Q. Which drugs?
A. Meth and Xanaxes.
Q. Who gave you the drugs?
A. Jobo.
Q. What did Jobo say about you not putting the body in the well the first time?
A. He was mad about it.
Q. How about the second time, did you put the body in the well the second time?
A. No. The second time is when I drug the body to the

creek bed.

Q. When you dropped it in the creek bed did you put it -- did you do anything else to hide it?

A. I threw some limbs on top of it and threw some dirt on top of it.

Q. Was there -- was a lot of water in the stream when you were ---

A. No.

Q. Did you think that had covered it up?

A. No.

Q. Okay. And did you -- how did you get it down there? How did you get it down to the creek?

A. I drug it myself. I grabbed him by his pants legs and dragged him.

Q. Why did you drag him by the pants legs?

A. Because I didn't want to touch his body.

Q. Was there anything unusual about the body? Was it ---

A. It was bloated.

Q. What's the word?

A. It was bloated, had bees, yellow jackets flying around it.

Q. I'm sorry, the second one was bees?

A. Yes.

Q. Did anyone else go to this location?

A. Nobody.

Q. Who?
A. Nobody.
Q. And how did you get down there?
A. I got dropped off by Jobo in his mama's car.
Q. How far away from the property did you get dropped off?
A. I got dropped off right down actually below the property.
Q. Were you able to move this body down -- down the hill?
A. Yes, I was.
Q. How were you able to move it down the hill, but not up into the well?
A. 'Cause I was persistent.
Q. Does the meth make you stronger or anything?
A. No, it don't.
Q. What does it do?
A. It makes you persistent.
Q. Okay. Were you using any other drugs at the time?
A. Yes.
Q. What is a totem pole?
A. A totem pole is a Xanax.
Q. Any particular form of Xanax?
A. It's a stronger version.
Q. After getting rid of the -- moving the body did you do anything else at that location?
A. After I got rid -- no, I didn't.

Q. Did you go back to your home or to Jobo's home?
A. Yes, sir.
Q. Did Jobo ask you what happened?
A. Yes.
Q. What did he say?
A. He asked me if I buried the body. And I said, yes.
Q. I'm going to bring you back to July 9th, Saturday, the day after Charlie was killed. Did officers come up to Jobo's property?
A. Yes, they did.
Q. Were you there?
A. I was there, but I went up to his mama's house with the kids.
Q. Did Jobo say anything to you when the officers came up?
A. He told me to take the kids and go up to his mama's house.
Q. Did he tell you why?
A. No, he didn't tell me why.
Q. Where were you when you found out about Charlie's body being recovered?
A. Where was I?
Q. Yes, sir.
A. I was with Jobo.
Q. And what caused Jobo to be aware of this?
A. Carl Rider.

Q. And how did Jobo react?
A. He was white as a ghost. He was scared.
Q. Did -- what were you doing? Were you at his house, in the car, where were you?
A. I was in the car. I was driving in a van.
Q. Who was driving?
A. I was.
Q. What did Jobo tell you?
A. Man, I can't -- I thought you got rid of the body. I can't believe it. I thought you got rid of the body.
Q. Did he make anymore comments about you leaving the body out in the open?
A. Yeah, he was mad. He was -- he just ...
Q. At that time who were you living with?
A. Jobo.
Q. Did Jobo own that house?
A. He had two more payments left on it.
Q. How many? Two more payments?
A. Yes.
Q. Did you decide to turn yourself in to law enforcement?
A. No.
Q. Did you, in fact, turn yourself in to law ---
A. Yes, I did.
Q. Who made the decision to turn yourself in to law enforcement?

A. Jobo.
Q. And to which attorney?
A. Frank Eppes.
Q. Who chose that attorney?
A. Jobo.
Q. Please tell the jury why you turned yourself in if you had not even been interviewed by officers yet?
A. I turned myself in so that way when Jobo asked me -- he told me, I got five kids. I can't go down for something. I can't go down for it. So he told me to turn myself in.
Q. Did he offer you anything?
A. He told me that my kids would never have anything to worry about 'cause child support would be paid and that I would have money on my canteen.
Q. Do you believe you were thinking clearly when you made this decision?
A. No, I wasn't.
Q. Did you turn yourself in that day, August 15th?
A. I turned myself in the next day.
Q. And who did you meet and where were you?
A. I met Frank Eppes over at Judge Cagle's office.
Q. Okay. Was there another attorney there?
A. Yeah. Yes, sir. He had another attorney.
Q. Who drove you down there?
A. JoAnn.

Q. Was Jobo in the car with you?
A. No.
Q. On August 16th, 2011 did you tell the officers the truth about why you killed Charlie Roberts?
A. No.
Q. Do you agree that you killed Charlie Roberts?
A. Yes.
Q. Do you agree that you're the one that actually pulled the trigger?
A. Yes.
Q. Do you agree that the reasons you gave on August 16th were false?
A. Yes.
Q. And why did you tell the officers falsehoods on August 16th?
A. Because I was told to say it.
Q. By who?
A. Jobo.
Q. On that first statement did you give officers -- what was the general description of what you did per the August 16th statement?
A. I said me and Charlie got into an argument talking about motorcycles and I got mad and shot him.
Q. Was that truthful?
A. No.

Q. In your statement did you say more than one time Jobo had nothing to do with this, I just -- I did this by myself?
A. Yes.
Q. Why did you make those statements more than once?
A. To try to cover up for Jobo.
Q. Did you ever call yourself a watch-dog in a statement?
A. Yes, I did.
Q. Did you give another statement -- pardon me, were you under the influence of drugs when you gave that August 16th statement?
A. Yes, I was.
Q. Who provided those drugs?
A. Jobo.
Q. While you were in jail on August 25th did you give another statement?
A. Yes, I did.
Q. Why did you give that statement?
A. Because I was mad because I figured out that I was going to be left in jail to rot without any kind of money on my books or my kids being taken care of.
Q. Does Jobo call you brother when you're out in the streets?
A. Not really. He called me his old lazy brother.
Q. When you were in jail does he refer to you as my brother?

A. Yes.
Q. Do you know why he changed the language he used?
A. To -- to bribe me and make me feel like it's -- everything's good and close.
Q. You said earlier, I just want to explain this to the jury, you said you looked at him as a mentor?
A. Yes.
Q. Please explain that. What do you mean by a mentor? Why did you look up to Jobo?
A. I looked up to Jobo because he put a roof over my head and he bonded me out of jail.
Q. On August 25th what was your statement, the second statement you gave, the second written statement you gave?
A. The second statement I gave, that was the one where I lied and said Jobo was the trigger-man. And instead -- instead it was me -- it was him in my place.
Q. You said him in my place, was the general statement you gave on August 25th correct?
A. No.
Q. What part was false?
A. The part about Jobo pulling the trigger.
Q. In fact, you're the one that pulled the trigger?
A. Yes.
Q. Was Jobo even present at Carl Rider's property on this day?

A. No.
Q. What was your reason for changing your story?
A. The reason for changing my story is because I was mad. And I knew I wasn't going to have what I needed or what I wanted like money on my canteen or my kids being taken care of. I figured it out after a while.
Q. Did you feel like you'd been played for a fool?
A. Yes, I do.
Q. I'm going to bring you to August 29th. Did you speak to officers on August 29th?
A. Yes, I did.
Q. And did you give the officers a written statement on that date?
A. Yes, I did.
Q. In that second statement, the statement where you said that Jobo was the trigger-man, did you mention Jimmy Poole?
A. No, I didn't.
Q. Did you know the officers had spoken to Jimmy Poole after that?
A. No.
Q. When officers came to speak to you were you willing to speak to them?
A. Yes.
Q. Why were you willing to speak to them on August 29th?
A. To tell them the actual truth.

Q. Had you been promised anything?
A. No, I didn't.
Q. Did they offer you any lower sentence or anything?
A. No, they didn't.
Q. Did they threaten you in any way?
A. No, they didn't.
Q. On some of the jail calls you said you'd gotten better deals or you were going to get a better deal in the future?
A. Because I was listening to the words people were talking about, the other inmates.
Q. Do you know if they knew what they were talking about?
A. (Negative nod).
Q. Did you have an attorney at the time?
A. No, I didn't.
Q. Did you later get an attorney?
A. Yes, I did.
Q. Did your attorney ever relate to you a plea offer in this case from me, the solicitor?
A. She told me that the plea offer would be thirty years.
Q. And how -- when was that? How long after you first got arrested when the offer was first made?
A. It was well over a year or over a year.
Q. Outside of that have you gotten any other offer other than the thirty year recommendation subject to a judge's decision?

A. No.
Q. This last statement was taken about ten days after your arrest. Were you still using any illegal drugs?
A. No, I wasn't.
Q. Were you thinking a little bit more clear headed at this point?
A. Yes, I was.
Q. I'm not sure if you've read the statement recently, but is this statement generally correct, the third statement, August 29th statement?
A. Yes. It's one hundred percent correct.
Q. Okay.

MR. STEINBERG: I'd like to have the August 29th statement marked.

MS. GORTON: No objection.

MR. STEINBERG: Handing up August 29th statement.

(Whereupon State's exhibit 47 was marked for identification)

MR. STEINBERG: State's exhibit number 47.

Q. Have you read this statement? When it was first made, first typed, obviously, you were in jail, you didn't have a typewriter or a computer. Did you read over it?
A. I read over it one time.
Q. All right. Was it substantially accurate?
A. Yes.

MR. STEINBERG: The State would introduce State's exhibit number 47.

THE COURT: Is that ---

MS. GORTON: No objection.

THE COURT: --- without objection?

(Whereupon State's exhibit 47 was admitted into evidence)

Q. After this incident did you have any conversations with Courtney Hollingsworth and JoAnn Johnson?

A. Yes.

Q. What did they relate to you? What did they say?

A. They were giving me little hints to keep my mouth shut, to not say nothing to, you know, not to crack. They were actually, you know, calling me his brother or ...

Q. Mr. Allen, are you easily misled when using drugs?

A. Yes, I am.

Q. I hate to ask the question, do you make very poor decisions when using drugs?

A. Yes.

Q. Who was the first person you called from jail, if you recall?

A. Jobo.

Q. Do you recall that pretty well?

A. Yes, I do.

Q. Why did you call him?

A. Because I was scared that I wasn't going to be able to get ahold of nobody and wasn't going to have nobody to come and see me.

Q. Did you know that the phone calls were being recorded?

A. Yes, I did.

MR. STEINBERG: Your Honor, the State would move to introduce State's exhibits number 44 and 45 and play it for the jury.

THE COURT: Any objection?

(Whereupon the attorneys were conferring off the record)

MS. GORTON: Judge, I have to make the objection as to ---

THE COURT: All right. Take the jury out, please.

(Whereupon the jury exited the courtroom at 4:43 pm)

MS. GORTON: I was going to have to ask for a break anyway.

THE COURT: Now, tell me first what it is that you want to do, solicitor.

MR. STEINBERG: Thank you, Your Honor. The State would like to play these two conversations of JJ Allen speaking to the actual Defendant while in jail. This was some of the first phone calls made when he was arrested. JJ's in jail and Jobo's out in the street.

THE COURT: All right. And you object to that?

MS. GORTON: I object to it because he's got partial calls on there. And there's no polygraph discussion that I know of on either one of these calls. I believe under rule 106, the recorded oral statement, I'm entitled to have the entire -- the entire conversation.

THE COURT: About a polygraph?

MS. GORTON: There should be no mention of a polygraph in there.

MR. STEINBERG: Rule 106 only requires including the entire thing, there's a fifteen minute or a thirty minute call, if there's something out of context. I am not doing anything out of context unless counsel can correct me on that.

MS. GORTON: Well, I don't know what parts he's planning on playing or not playing, but certainly I think the whole call is relevant. On 13:00 JJ says I appreciate everything. I thought you were ignoring my calls. Can't put Christine on visitation.

They talk about what's real family and what real family does. They talk about references to being family. And Joe says to him we love you. And JJ again says I appreciate everything. I appreciate everything you're doing.

That's a whole different tone than murder for hire, the other direction. I think the context and the tone of the entire conversation certainly as to this 8/19 call has to

come in.

MR. STEINBERG: Judge, if the entire call wants to come in, counsel is allowed to do that. Your Honor has a right to exclude irrelevant things, duplicative things. I made these calls so that it's only the relevant. I've ignored the irrelevant. If counsel disagrees she should be able to put something in on her own.

THE COURT: All right. Tell me what you want played.

MS. GORTON: I want the entire call played, Your Honor. Under 106 it's not my duty to introduce the whole thing, it's his duty. An adverse party may require the introduction at that time of any other part or any other writing or recorded statement, which ought in fairness be considered contemporaneously with it.

MR. STEINBERG: This also includes ---

MS. GORTON: 106.

MR. STEINBERG: --- reference to mental -- mental hearings, which Your Honor's already excluded. I'd also point out that last part -- the last part of that sentence clearly says if it ought to be included. Just because counsel wants it doesn't mean it ought to be included.

Is it contextual? If I take something out of context I should be stopped from playing -- playing something out of context. Just because I'm not playing the portion she wants to, which might be unrelated to this, the State's not

responsible for that, Judge.

THE COURT: All right. I'm not going to allow the whole thing. I will allow you parts of things that are important to rebut what he's bringing out. So ---

MS. GORTON: Then what I would specifically request is from 11:40 onward to include 13:00 and 15:28, which is the conclusion of the call. Those conversations from 11:40 forward are talking about family, I appreciate everything. When we're talking about a murder for hire case, him saying I appreciate everything, in all fairness, ought to be considered.

THE COURT: All right. Okay.

MR. STEINBERG: Judge, the State's already made its copy. I can't go back and re-edit it.

THE COURT: Well, you can do it by tomorrow morning, can't you?

MR. STEINBERG: Yes, sir, I can do that, if that's what you wish.

THE COURT: Okay.

MR. STEINBERG: Okay. August 24th ---

THE COURT: All right. How much more do you have now?

MR. STEINBERG: Judge, I do have a little bit more.

THE COURT: All right. So we can go ahead and finish you on direct. Y'all can resolve the tape after we adjourn. And then you can cross examine tomorrow morning.

MS. GORTON: Yes. He's going to play the tape as part of his case, though, right?

MR. STEINBERG: Yes.

MS. GORTON: I'm not ---

THE COURT: Did you have other questions you can ask and then play that last?

MS. GORTON: You can play mine and just start it at this time.

MR. STEINBERG: Do you have the tape all ready?

MS. GORTON: Yeah, I have a JJ tape.

MR. STEINBERG: Okay.

MS. GORTON: And how I did it was by minutes.

MR. STEINBERG: Okay.

MS. GORTON: You did it by percentage.

MR. STEINBERG: You have that. We'll try to introduce that.

(Whereupon the attorneys were conferring off the record)

MR. STEINBERG: Sorry for the delay, Judge. We thought we had these things worked out.

(Whereupon the attorneys were conferring off the record)

MR. STEINBERG: Your Honor, I've got to object to the -- the last portion of this just talks about prior bad acts. This talks about ---

THE COURT: I'm not going to allow any prior bad acts.

(Whereupon the attorneys were conferring off the record)

MS. GORTON: I don't see anything in here that I can specifically cite other than the rule whereas the other one that were specific passages that I felt were appropriate. I didn't make any note of it.

THE COURT: So what are you going to do?

MR. STEINBERG: August 24th, I guess, we'll just play my edited version. August 19th, we're going to play the full -- absent the last five seconds or so involving mental health treatment.

MS. GORTON: I'd like the record to reflect my objection as to the 24th and then to reflect your ruling.

THE COURT: Okay. All right. So we're going to do that now?

MR. STEINBERG: Yes, sir. And we're going to, I guess, leave the record open for me to play the entire or the edited version on the 19th tomorrow?

THE COURT: Okay.

MS. GORTON: I thought you were going to use mine.

(Whereupon the attorneys were conferring off the record)

THE COURT: All right. We're going to take a -- we're going to take a recess.

MS. GORTON: Thank you.

THE COURT: Y'all get together and resolve it. And then we'll do it when we come back.

MS. GORTON: I have to spend just a couple of minutes down the hallway.

THE COURT: Okay. I understand.

MR. STEINBERG: Thank you, Judge.

THE COURT: All right. Short recess. You can step down.

(Whereupon court was in recess at 4:51 pm)

(Whereupon court resumed at 5:01 pm)

MS. GORTON: Judge, there's a part in there -- first of all, I can see that we need to move it up to, was it thirteen minutes even, not the 11:40 to get in the part that I was talking about. So we start at 13:00.

There's a part at about 14:30 where JJ starts talking about the mental hospitals he's been in, Patrick B. Harris and Marshall Pickens. Now, he's already testified that he had a competency exam. We're going to be able to get into that, I believe, under the case law and under the rules anyway. That ---

THE COURT: Well, what does he say?

MR. STEINBERG: He says, Jobo asks him, where have you been? His response is, I've been in Marshall Pickens two times and Patrick B. Harris. And then it's asked again.

THE COURT: So what -- in the view of what's been testified to, what's wrong with that?

MR. STEINBERG: He's only been sent to a competency evaluation. I don't want to go into delayed mental health problems and mental health incidences.

THE COURT: No, I'm going to allow that.

MR. STEINBERG: Will you allow -- so we won't have to send the jury out again, how much farther are you going to allow in other than letting in the Marshall Pickens?

MS. GORTON: I'm -- well, when we get to my cross my intent is is to try to introduce anything that was relied upon by the competency examiner, which includes ---

THE COURT: No, I'm not going to allow that.

MS. GORTON: Okay.

THE COURT: I'll let in the part she ---

MS. GORTON: I believe that we agreed that diagnosis would come in. He's got a diagnosis of borderline personality, antisocial personality disorder ---

THE COURT: All right. I'll allow that.

MS. GORTON: --- and polysubstance. And then tomorrow when I do my cross I'm going to have to make a record of trying to get in there and the proffer of why ---

THE COURT: Sure.

MS. GORTON: --- I think it's relevant ---

THE COURT: That's fine.

MS. GORTON: --- in this particular case.

THE COURT: That's fine.

MS. GORTON: Okay.

MR. STEINBERG: And, Judge, I guess we're going to put on the record that the -- this disk that we're playing has -- we're going to have an isolated portion. There's probably a hundred phone calls on here, more phone calls. That's not going to be left for the jury. There's going to be things about Defendant's prior criminal record that, obviously, I know is improper.

THE COURT: So . . .

MR. STEINBERG: That phone call has -- that disk has probably a hundred phone calls on it.

MS. GORTON: We're not going to let the jury have that. We agree on that.

THE COURT: Okay.

MR. STEINBERG: And I'm going to read into the record what portion I'm starting -- what portion I'm starting in case we have to come back again ---

THE COURT: That's fine.

MR. STEINBERG: --- to replay it.

THE COURT: All right. Are you prepared to do that now?

MR. STEINBERG: Yes, sir.

THE COURT: And then how much longer you think you'll

need?

MR. STEINBERG: Just a few -- just a few minutes.

THE COURT: Okay.

MR. STEINBERG: I have one disk that's going to be played, a small portion.

THE COURT: Okay.

MR. STEINBERG: And then this longer one.

THE COURT: All right. Bring the jury.

(Whereupon the jury entered the courtroom at 5:04 pm)

Direct Examination by Mr. Steinberg Continued:

THE COURT: All right. Are you going to tell us now what ---

MR. STEINBERG: Thank you, Your Honor. The State is going -- Your Honor, the State is going to play, with counsel's agreeance, an August 19th, 2011 phone call at 19:42 hours, and we'll start playing at the thirty-nine percent mark.

THE COURT: Okay.

(Whereupon the CD was played for the jury)

MR. STEINBERG: Stopping it at the fifty percent mark. And starting it at the eighty-three percent mark.

(Whereupon the CD was played for the jury)

MR. STEINBERG: Stopping at the ninety-seven percent mark. I'm playing August 24th. Ms. Gorton, I'm playing the August 24th ---

MS. GORTON: Yes, sir. Subject to objection.

MR. STEINBERG: Playing State's exhibit number 45, August 24th, 2011 call.

(Whereupon the CD was played for the jury)

(Whereupon the CD was ended)

MR. STEINBERG: While counsel's doing this, I'm going to hand up State's exhibit number 44.

THE COURT: All right.

MR. STEINBERG: State's exhibit 24 -- State's exhibit number 45, has that been moved into evidence?

THE COURT: Okay. And that's ---

MS. GORTON: That's the one we discussed that you're receiving.

THE COURT: All right. And that's for the record. All right.

(Whereupon State's exhibit 45 was admitted into evidence)

(Whereupon State's exhibit 48 was marked for identification)

Q. All right. Mr. Allen, a couple of questions. You heard the recordings there. Marshall Pickens and Patrick Harris, what are they?

A. Those are mental institutions.

Q. And have you been in those mental institutions prior to this incident, prior to this incident involving Charlie?

A. Before, yes.
Q. In addition to those two phone calls did Jobo ever make any other statements to you on the phone?
(Pause)
Q. Or did he make similar statements to you over the phone?
A. Yeah.
Q. And did you speak with Jobo's family members? Courtney and JoAnn?
A. Yes.
Q. Did they also tell you to keep your mouth shut? You're shaking your head. You have to say yes or no.
A. Yes.
Q. Thank you, sir. Did JoAnn Phillips ever put any money on your canteen?
A. Yes.
Q. Who put the most money in your canteen?
A. JoAnn and Jobo.
Q. Did your own family put any money on your canteen as far as you could tell?
A. Not until later on, no.
Q. Did you speak with your sister in jail, while you were in jail?
A. Yes.
Q. Are you close to your sister?

A. Yes, sir.
Q. How do you look at your sister? Christina is the sister I'm talking about.
A. I look at her like a mama figure.
Q. Did she ask you what happened?
A. Yes.
Q. Did you tell Christina what happened?
A. Yes.
Q. Did you ever lie to Christina about what happened?
A. No.
Q. Thank you, Mr. Allen. I'm going to ask you to answer any questions that Ms. Gorton might have either today or tomorrow.

THE COURT: Okay. Now, ladies and gentlemen, I think the Defendant's cross examination will be lengthy. And so we'll go ahead and suspend for today. And we'll pick back up tomorrow morning at 9:00 at which time she will cross examine this witness.

Please remember when you leave do not talk about this case among yourselves or with anyone else, including members of your own family. If anybody contacts you, keep -- please advise me of that fact. Keep your badges on. And have them on when you come back in the morning.

And with that I'll ask that you be back at 9:00 in the morning, promptly at nine. Thank you so much.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

WILLIAM JOSEPH PHILLIPS;

DEFENDANT.

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume Three of Three)

JUNE 10 - 12, 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:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

THE COURT: Ladies and gentlemen, it's come to my attention that sometime during last night a witness, Emily Gentry, who testified in this case yesterday, I think, that she allegedly posted on her Facebook account her experience in this court in this case as a witness. And I need to inquire if any member of the jury panel looked at Facebook last night? If so, did you see any posting by Emily Gentry about her experience during this trial? Would anyone respond? If so, raise your hand if they saw it.

(No response)

THE COURT: All right. You may continue now, counsel.

MS. GORTON: Thank you, Judge.

Cross Examination by Ms. Gorton:

Q. Mr. Allen, when we ended yesterday the solicitor played a couple of jail calls to you. Was your voice the stronger of the two voices in the first call you made to Joe?

A. Yes, ma'am.

Q. So that was your voice calling him brother?

A. Yes, ma'am.

Q. Not once, but twice?

A. Yes, ma'am.

Q. That was your voice saying I really appreciate everything you've done for me?

A. Yes, ma'am.

Q. Was it your voice telling him that you were going to

get a job and pay him back?
A. Yes, ma'am.
Q. You were going to pay Joe back?
A. Yes, ma'am.
Q. That same day, and I'm talking about that first call made on August 18th, this was three days after your arrest?
A. Yes, ma'am.
Q. So you've been in jail the whole time?
A. Yes, ma'am.
Q. Hadn't had any drugs except the medication ---
A. Yes, ma'am.
Q. --- the jail gave you?
A. Yes, ma'am.
Q. How much medication was the jail giving you at that time?
A. Not much at all.
Q. Really? Did you tell Snuffy that you were taking eleven different medications?
A. Yes, ma'am, but I lied about that, though.
Q. Were you put in the shoe immediately after your arrest?
A. No, ma'am.
Q. You were not put in the shoe?
A. I was kept in isolation for a couple of days.
Q. What's the difference between the isolation and the shoe?

A. Well, isolation is because I had staph in my leg. I had staph at the time.
Q. So you were in medical isolation?
A. Yes, ma'am.
Q. What does that mean when you're in isolation?
A. It means you're isolated from everybody that -- there's something wrong and that you could be watched all the time.
Q. Okay. What about yard time? Do you get any yard time?
A. Ma'am?
Q. Do you get any yard time?
A. What do you mean?
Q. Do you get let out of your cell?
A. To go and take a shower.
Q. How much time out of every twenty-four hours do you get let out?
A. Maybe not even an hour.
Q. Not even an hour. Do you get to make phone calls?
A. Yes, ma'am.
Q. Did you make any phone calls during those three ---
A. Yes, ma'am.
Q. Before the 18th you made phone calls?
A. No, ma'am.
Q. So you didn't make any phone calls for those three days?
A. The first phone call I made was to Jobo.

Q. On the 18th?
A. Yes, ma'am.
Q. Three days after your arrest?
A. Yes, ma'am.
Q. After you got out of medical isolation?
A. Yes, ma'am.
Q. So during medical isolation you didn't make any phone calls?
A. No, ma'am.
Q. Can you get canteen while you're in isolation?
A. No, ma'am.
Q. Why is canteen a big deal?
A. 'Cause it's food. It's just all there is, it's food.
Q. Okay. Canteen has other items, correct?
A. Yes, ma'am. They have hygiene items and stuff like that.
Q. Is it correct to say that in your many phone calls to JoAnn and Joe and other people you talked an awful lot about canteen?
A. Yes, ma'am.
Q. About soups?
A. Yes, ma'am.
Q. That's a big deal when you're in jail?
A. Yes, ma'am.
Q. Now when Courtney answers during that 8/18 call she

tells you that Jobo hasn't been staying there, right?
A. Yes, ma'am.
Q. And when she says he hasn't been staying there, she means the house that you and Joe shared together, correct?
A. Yes, ma'am.
Q. The house that's right next door to JoAnn Johnson, his mother's?
A. Yes, ma'am.
Q. And she -- and you tell Courtney that you're worried about Joe, is that right?
A. Yes, ma'am.
Q. You're worried about him?
A. Yes, ma'am.
Q. And you tell her, he's not used to me being -- not being around, that you guys are real close. You tell her that, don't you?
A. Yeah. Yes, ma'am.
Q. And you say, I know she hurts him. Do you remember saying that?
A. Yes, ma'am.
Q. Who were you talking about?
A. I was talking about my sister at the time.
Q. You were talking about Christina?
A. At the time, yes, ma'am.
Q. Hurting Joe?

A. Yes, ma'am.
Q. Why did that bother you?
A. I don't know. It was because me and Joe were close at the time.
Q. You know about hurt, don't you?
A. Yes, ma'am.
Q. You call JoAnn mom?
A. A mother figure.
Q. What about your own mom? And I'm sorry, I know she recently died. I'm not trying to hurt you. But why was JoAnn a mother figure to you?
A. She acted just like my mama did.
Q. Did your mama treat you well?
A. Yes, ma'am.
Q. Had you made statements about being abused?
A. Yes, ma'am.
Q. By whom?
A. By my biological mother.
Q. To what extent were you abused?
A. I was kicked around and grabbed by the hair and thrown on the floor when I was three years old.
Q. What else?
A. I was molested.
Q. What else?
A. That's it.

Q. Did you tell someone that you were kept in a dog cage?
A. No, ma'am.
Q. You never told anyone that?
A. No, ma'am.
Q. Do you remember -- I believe the solicitor asked you about getting a mental exam ---
A. Yes, ma'am.
Q. --- while you were in the jail.
A. Yes, ma'am.
Q. Have you had a chance to review that exam?
A. Not entirely.
Q. You went over it with your lawyer, didn't you?
A. She told me what -- what's going on with it. And all I remember is that they said that I had ...
Q. Antisocial personality ---
A. Yes, ma'am.
Q. --- disorder?
A. Yes, ma'am.
Q. Do you remember how they explained what that was?
A. Yes, ma'am.
Q. What did they explain that ---

MR. STEINBERG: Your Honor, ---

Q. --- was?

MR. STEINBERG: --- I'm going to have to ---

THE COURT: I sustain the objection. Instruct the jury

to disregard that question.

MS. GORTON: Judge, I don't want to stop now, but I'd like to make the proffer later.

THE COURT: All right.

MS. GORTON: Would that be all right?

THE COURT: All right.

MS. GORTON: The record would reflect I'm not waiving, correct?

THE COURT: All right.

MR. STEINBERG: The State stipulates that.

MS. GORTON: All right. Thank you.

Q. Did you refuse to put Christine on your visiting list?

A. Yes, ma'am, at first.

Q. And you refused to call her until that first call on 9/3/11?

A. Yes, ma'am.

Q. She knows you pretty well?

A. Yes, ma'am.

Q. And during that call did she tell you she didn't believe you?

A. Yes, ma'am.

Q. And that was the call you were telling her basically the same statement as your third statement?

A. Yes, ma'am.

Q. Yesterday the solicitor asked you about the

understanding of your plea and sentence and what he will recommend. Was there any discussion of perjury charges?

A. No, ma'am.

Q. Now, in one of your phone calls you talk about getting charges for writing false statements, don't you?

A. Yes, ma'am, but that was a lie.

Q. So you were aware that was possible?

A. Yes, ma'am.

Q. You were aware that was possible when you gave your second statement?

A. Yes, ma'am.

Q. And you were aware that was possible when you gave your third?

A. Yes, ma'am.

Q. Now, you've not actually been sentenced yet, have you?

A. No, ma'am.

Q. Your sentence depends on how your testimony at this trial goes, is that correct?

A. Not entirely.

Q. What do you mean not entirely?

A. That I wasn't promised anything about how this trial goes.

Q. Your sentence was deferred, correct?

A. Yes, ma'am.

Q. Meaning postponed, put off?

A. Yes, ma'am.
Q. What were they waiting to see happen?
A. Oh, the trial.
Q. Your testimony?
A. I guess, yes, ma'am.
Q. Were you required to testify consistently with your third statement?
A. Yes, ma'am.
Q. So that's a requirement?
A. Yes, ma'am.
Q. For their recommendation?
A. Yes, ma'am. Because the last statement was true.
Q. Yesterday, in fact, you said it was one hundred percent accurate, is that right?
A. Yes, ma'am.
Q. Nothing to change?
A. Nothing to change.
Q. Nothing to amend?
A. Nothing to amend.
Q. When did you last review that statement?
A. Here about almost two weeks ago.
Q. And you went over that with your lawyer?
A. Yes, ma'am.
Q. Was Mr. Steinberg also there?
A. Yes, ma'am.

Q. Did you go over it line by line?
A. Yes, ma'am.
Q. And you are a hundred percent sure it's a hundred percent accurate?
A. Yes, ma'am.
Q. Was there any discussion of allowing you to withdraw your plea after this trial?
A. No, ma'am.
Q. After you provided that third statement you called your aunt Pam on 9/8/2011 at 1:20 in the afternoon -- did you call your aunt Pam on September 8th at one in the afternoon and tell her you were going to work with the detectives to get leniency?
A. Yes, ma'am, I told her that, but that was a lie. I told her what she wanted to hear.
MR. STEINBERG: Could counselor repeat that date, please?
MS. GORTON: 9/8.
MR. STEINBERG: Thank you.
Q. You told her what she wanted to hear?
A. Yes, ma'am.
Q. Three days later on 9/11 did you call JoAnn and tell her you were going to get ten to fifteen years?
A. Yes, ma'am.
Q. Why'd you do that?

A. I was doing that just to make them feel better at the time. It was a lie.
Q. So you tell people lies because that's what they want to hear?
A. Yes, ma'am. Not entirely, though.
Q. You were aware from the beginning that detectives thought that Joe was the one who did this?
A. Yes, ma'am.
Q. And you even said that they had said that if a body was found Joe would be arrested, is that correct?
A. Yes, ma'am. That's what Joe had said to me.
Q. And you believed that?
A. Yes, ma'am, I did at the time.
Q. So after you gave your first statement you were aware that detectives did not believe you?
A. Yes, ma'am.
Q. That's true?
A. Yes, ma'am.
Q. Did they tell you that?
A. Yes, ma'am.
Q. They did tell you that?
A. Yes, ma'am.
Q. They told you, we don't believe this?
A. Yes, ma'am.
Q. They let you know that they wanted a different story?

A. I recommended to see them after the first statement.
Q. I understand that. But at the time you gave the first statement, at the end, they told you they didn't believe you, correct?
A. Yes, ma'am.
Q. Did they tell you they expected a different statement?
A. Yes, ma'am.
Q. You also told your aunt Pam and JoAnn that you had two lawyers because this was such a high profile case, is that correct?
A. Yes, ma'am.
Q. Was that true?
A. No, ma'am.
Q. You have a court appointed attorney, one?
A. Yes, ma'am.
Q. Just like Joe?
A. Yes, ma'am.
Q. You had Caroline at the time of your plea?
A. Yes, ma'am.
Q. Caroline Horlbeck is your court appointed lawyer?
A. Yes, ma'am.
Q. And she was your attorney who asked for this mental exam to be done?
A. Yes, ma'am.
Q. She's still your attorney today?

A. Yes, ma'am.
Q. Is she present in the courtroom?
A. No, ma'am.
Q. Now yesterday we talked a lot about the first statement. Is there anything in that first statement that's true?
A. No, ma'am.
Q. Okay. So when you say I did not finish the ninth grade, but I can read and write, that's a lie, ---
A. No, ---
Q. --- or that's true?
A. That's true.
Q. So some of what you put in your first statement is true?
A. Yes, ma'am.
Q. Okay. And you say I have known Charlie for about eleven months, true or false?
A. False.
Q. The first time I met him I saw him at the bottom of the driveway on a motorcycle, true or false?
A. That's true.
Q. You testified to that yesterday?
A. Yes, ma'am.
Q. So that is true. How about that you went to school in Thomasville, Georgia, true or false?

A. True.
Q. How about using the gun for protection? You walk a lot and dogs bother you sometimes, is that true or false?
A. Yes, ma'am, that's true.
Q. You testified to that yesterday, didn't you?
A. Yes, ma'am.
Q. That after you shot Charlie you walked around with the murder weapon?
A. Yes, ma'am.
Q. You write I have been up four days straight and anything can set you off, true or false?
A. False.
Q. You weren't up four days straight?
A. No, ma'am.
Q. How about it was a week before I went back to where the body was, true or false?
A. True.
Q. There are things in the statement that are true, correct?
A. Yes, ma'am.
Q. When I got there the body was swelled up. I moved it by myself, true or false?
A. True.
Q. I grabbed him by the feet and I dragged him down to the creek, true or false?

A. True.
Q. I took about four totem poles before I moved him, true or false?
A. True.
Q. I did this at night. I did not have any help, true or false?
A. True.
Q. I don't remember doing it, but I must have shot him in the back of the head, true or false?
A. False.
Q. You remember doing it?
A. Yes, ma'am.
Q. You shot him in the back of the head?
A. Yes, ma'am.
Q. You shot him in the back of the head?
A. Yes, ma'am.
Q. I freaked out, got in his truck and left, true or false?
A. True.
Q. You were all freaked out. Whose phone did you use?
A. Charlie's.
Q. Didn't you have an AT&T prepaid phone?
A. I did at the time, but it was out of minutes.
Q. When did it run out of minutes?
A. Just the next day after I got it.

Q. The next day after you got it?
A. Yes, ma'am.
Q. Well, we'll talk about that when we get to statement number three.
A. Okay.
Q. You say when I swear on my daddy's grave, I'm telling the truth. Your daddy's dead?
A. Yes, ma'am.
Q. That's true?
A. Yes, ma'am.
Q. What about when you swear on his grave, are you always telling the truth?
A. No, ma'am.
Q. You are aware that you told Courtney you swore on your daddy's grave that Joe had nothing to do with this?
A. Yes, ma'am.
Q. Did the prosecutor point that out to you?
A. Yes, ma'am.
Q. When did he point that out to you?
A. Here a couple of weeks ago.
Q. A couple of weeks ago. You knew that question was going to be ---
A. Yes, ma'am.
Q. --- asked of you?
A. Yes, ma'am.

Q. But in this statement you say whenever I tell -- swear on my daddy's grave, I'm telling the truth, correct?
A. Yes, ma'am.
Q. And you say you flip out if you swear on your daddy's grave and someone doesn't believe you?
A. No, ma'am.
Q. You don't say that?
A. I mean, yes, ma'am, I say that, but I don't do that.
Q. Have you ever done that?
A. No, ma'am.
Q. Your second statement. In your second statement -- hang on just a minute. I'm trying to keep this in order. I need to make sure there's nothing else before we get to the second statement. Let me back up. When you made this first statement, that was the same day you turned yourself in to Judge Cagle's office, correct?
A. Yes, ma'am.
Q. And who was your attorney?
A. Frank Eppes.
Q. It wasn't Chuck Marchbanks?
A. No, ma'am.
Q. Didn't you say in a phone conversation to JoAnn that Frank Eppes was not your lawyer and that you were mad at Frank Eppes?
A. Yes, ma'am.

Q. You told JoAnn that you would have hit Frank if they had not had shackles on you, is that correct?
A. Yes, ma'am.
Q. Because he said that you should go away and not come out, correct?
A. He told me that he would make sure I was buried if he was my lawyer and not have -- never see daylight again.
Q. If he was your lawyer?
A. Yes, ma'am.
Q. But he wasn't your lawyer?
A. No, ma'am.
Q. Chuck Marchbanks was your lawyer?
A. No, ma'am.
Q. Who was Chuck Marchbanks?
A. Frank Eppes' partner.
Q. Partner?
A. Or he works at Frank Eppes' law firm.
Q. Well, what was he doing there?
A. He was -- he was another one that Frank Eppes called in there when I went to go give him my statement.
Q. So if the officers testified that Chuck Marchbanks was there as your lawyer, that's incorrect?
A. Yes, ma'am.
Q. And you just said that Frank Eppes said if he was your lawyer he'd make sure you went away?

A. Yes, ma'am.
Q. And is it fair to say you did say you would have hit him if you hadn't been in shackles?
A. Yes, ma'am.
Q. Now, would you describe Frank Eppes?
A. Frank Eppes is a big man.
Q. Greenville's version of Andre the Giant, would you agree?
A. I would agree.
Q. 6'9"?
A. Yes, ma'am.
Q. Well over three hundred pounds?
A. Yes, ma'am.
Q. He's a big man?
A. Yes, ma'am.
Q. But you were going to hit him because you were that mad?
A. Yes, ma'am.
Q. You were so upset you would have done it even if it wasn't a good idea?
A. No, ma'am. I wouldn't have done it, but at the time that's how I was feeling.
Q. We were talking about how you and JoAnn were and how she was a mother figure to you. Did she say to you during that first phone call that you made to her -- that first

visit you had with her that we are here for you, you are our family?

A. Yes, ma'am.

Q. Was that something new?

A. No, ma'am.

Q. That was the way they had treated you for the past year, is that correct?

A. Yes, ma'am.

Q. It wasn't about you killing Charlie?

A. No, ma'am.

Q. That's the way you were?

A. Yes, ma'am.

Q. JoAnn would do whatever you asked, is that right?

A. Yes, ma'am.

Q. She drove you wherever you wanted to be driven whenever she could?

A. Yes, ma'am.

Q. JoAnn was actually the one who took you to turn yourself in, is that correct?

A. Yes, ma'am.

Q. And what did you tell JoAnn about why she was taking you to Judge Cagle's office?

A. 'Cause I told her Frank Eppes said that I had another warrant on me.

Q. Was that true?

A. No, ma'am.
Q. Why'd you tell her that?
A. I told her that to cover up for why I was really going down there.
Q. You didn't want her to know?
A. No, ma'am.
Q. Now, did you also say in that first visit with JoAnn that you had been borderline schizophrenic, that you were hearing shit, seeing shit? Sorry, your words, not mine.
A. Yes, ma'am. That was a lie at the time.
Q. It was a lie at the time?
A. Yes, ma'am.
Q. Well, why were you saying it?
A. I was saying that because that's what they wanted me -- that's what they wanted to hear.
Q. JoAnn is your mother and she wants -- is like your mother and she wants to hear that ---
A. She wanted me ---
Q. --- you were freaking out?
A. --- to get out on the streets.
Q. Excuse me?
A. She wanted me to get back out on the streets.
Q. How was you being freaked out, hearing stuff, seeing stuff going to get you back out on the streets?
A. At the time I was -- I thought it would because that's

what people told me.

Q. That's what people told you?

A. Yes, ma'am, in the -- in the jailhouse.

Q. What people?

A. Other inmates.

Q. Well, how would JoAnn know this?

THE COURT: Now that's an improper question. Please move on.

Q. Have you had hallucinations before?

A. No, ma'am.

MR. STEINBERG: Your Honor, I'm going to have to object to this entire line of questioning.

MS. GORTON: We're getting ---

THE COURT: Yeah, let's move ---

MS. GORTON: --- close.

THE COURT: Let's move on, please.

MS. GORTON: Objection preserved, Your Honor?

THE COURT: Yes.

MS. GORTON: Can you stipulate the objection's preserved for a later proffer?

MR. STEINBERG: Yes, I agree her objection is preserved.

MS. GORTON: Well, my proffer to your objection. Okay.

Q. Did you tell JoAnn that you turned yourself in because I can't let an innocent person go down for my actions?

A. Yes, ma'am.
Q. You told JoAnn you had to turn yourself in because Joe didn't do anything?
A. Yes, ma'am.
Q. You told her that you had done it all?
A. Yes, ma'am.
Q. And then you said I know they're recording, I don't care because it's true. Is that ---
A. Yes, ma'am.
Q. --- what you said? Now, you and JoAnn were talking about your relationship with Joe. Yesterday you told us that Joe only started calling you brother after you killed Charlie for him, but that's not true, is it?
A. No -- yes, ma'am, it is true.
Q. It is true?
A. Yes, ma'am.
Q. You were calling him bro in your first phone conversation?
A. Yes, ma'am.
Q. And it was your testimony this morning that you were treated as family the whole year that you were there?
A. Yes, ma'am, I was.
Q. You told JoAnn that you and Joe were best friends, correct?
A. Yes, ma'am.

Q. Was that true?
A. Yes, ma'am, that was true.
Q. During that visit did you ask JoAnn about how Joe and Tina were?
A. Yes, ma'am.
Q. And you asked JoAnn if Tina was still on good terms with Joe?
A. Yes, ma'am.
Q. Still on good terms with Joe?
A. Yes, ma'am.
Q. They were on good terms?
A. They were on speaking terms.
Q. And she told you they were having a conflict?
A. Yes, ma'am.
Q. And this alarmed you and you asked her, it ain't about me, is it? Did you say that?
A. Yes, ma'am.
Q. It ain't about me, is it?
A. Yes, ma'am.
Q. You didn't want to cause Joe any problems, did you?
A. No, ma'am.
Q. You loved him like a brother, right?
THE COURT: Now, that's been asked and answered several times. Please move on.
Q. How long had you known Joe when Charlie was killed? We

know that you'd been living with him a little more than a year. How long had you known him?

A. I've known him the whole time I've been up here.

Q. When did you come up here?

A. Back when I turned -- I had turned twenty-two.

Q. I'm sorry, I don't know what year that would be. Do you?

A. It's ---

Q. How old are you now?

A. How old am I now? I'm twenty-six.

Q. So when you killed Charlie you were twenty-four?

A. Yes, ma'am.

Q. And that was 2011?

A. Yes, ma'am.

Q. And you came up two years before that when you were twenty-two?

A. Yes, ma'am.

Q. So roughly 2009?

A. Yes, ma'am.

Q. I'm not trying to trick you with math. Is that ---

A. I know.

Q. So does that sound right?

A. Yes, ma'am.

Q. You started living with Joe a year prior. Did you ever pay him rent?

A. No, ma'am.
Q. Would he give you money?
A. Yes, ma'am.
Q. He would give you money to buy groceries?
A. No, ma'am.
Q. Would he give you money with any specific instructions; this is what you're to do with it?
A. Sometimes, yes, ma'am.
Q. Like what?
A. Buy dip, buy cigarettes.
Q. For you or for him?
A. Buy dip for him and cigarettes for me.
Q. What else would he do for you?
A. Give me pills.
Q. You didn't say anything about him giving you pills in any of your statements, did you?
A. No, ma'am, I didn't.
Q. What you said was he gave you money that you used to buy drugs?
A. Yes, ma'am.
Q. Correct?
A. Yes, ma'am.
Q. Even in the third statement that's what you said?
A. Yes, ma'am.
Q. But your third statement is a hundred percent accurate?

THE COURT: Now that's been asked and answered several times. Please move on.

Q. Then I would ask which was it, did he give you money to buy drugs or did he give you drugs?

A. Both.

Q. Were there any conditions that you had to follow to stay in that house for the first year?

A. Just be the nanny of the house, watch the house, take care of the kids, clean clothes, clean the house.

Q. Did you have to kill anybody?

A. No, ma'am.

Q. Beat up anybody?

A. No, ma'am.

Q. Was there any difference between how he treated you that first year and how he treated you afterward?

A. No, ma'am.

Q. None?

A. (No response).

Q. You also told us yesterday that Joe had bought you out of jail before?

A. Yes, ma'am.

Q. What were you in jail for?

A. A simple assault.

Q. A simple assault ---

MR. STEINBERG: Your Honor, I'm going to have to object

to prior bad acts.

THE COURT: Yeah, let's move on.

Q. Do you have any prior convictions for felonies or ---

MR. STEINBERG: Your Honor, ---

THE COURT: I sustain the objection. Instruct the jury to disregard that. If you can rephrase it, but not that question.

MS. GORTON: Just a moment, Your Honor.

(Pause)

MS. GORTON: Just a moment, Your Honor.

THE COURT: All right. Take the jury out while ...

(Whereupon the jury exited the courtroom at 9:47 am)

THE COURT: All right. Now if you've got a record there for offenses for which he can be impeached, that's fine, but you don't ask him do you have felonies. If you can ask it properly, you can do it, okay?

MS. GORTON: All right. My apologies, Your Honor.

THE COURT: All right.

MS. GORTON: I was following Florida rules, not local rules. And I am sorry for that.

THE COURT: All right.

MS. GORTON: There was no deliberate intention. I don't believe that there are. I'm looking at his priors. I don't think there is any. I'm seeing a simple assault on a teacher, it looks like. And I don't have access to his

juvenile record. My understanding is is that juvenile records do come in if it's within ten years. Is that incorrect?

THE COURT: I'm not sure about that. You'll have to ---

MS. GORTON: I have reason to believe based on that mental exam ---

THE COURT: I'm not familiar with the juvenile record.

MR. STEINBERG: I'm not familiar either, Judge.

THE COURT: I mean, if it was ---

MR. STEINBERG: I would not have access to it to even give it to opposing counsel. It's a Florida record, pardon me, Georgia record.

MS. GORTON: Can we just inquire and that way the record will reflect ---

THE COURT: Go ahead and do that.

Q. Did you have any juvenile priors?

A. Yes. I was just on probation, informal probation for running away.

Q. Okay. Did you ---

MS. GORTON: And again, the jury's not here. So I'm trying to explore this fully.

Q. Did you tell the examiner upon your mental exam that you were on probation for hitting a teacher and that you'd been kicked out of three different schools for hitting

teachers?
A. No. I actually violated it by hitting a teacher.
Q. Did you get charged with hitting a teacher?
A. No, ma'am, I didn't.
Q. And -- okay. Are there any other juvenile offenses for which you were found delinquent?
A. No, ma'am.
Q. So the only one was running away?
A. Yes, ma'am.
Q. What did Georgia call that?
A. I don't know.

MS. GORTON: Judge, as long as the jury's out can we go ahead and do the proffer on the mental health?

THE COURT: All right.

MS. GORTON: Judge, I would first lay the record that Mr. Steinberg and I both approached you before trial began and indicated to you that Mr. Steinberg had agreed to waive any hearsay objections as to the examination report. So any objections that he's making are not based on hearsay, but based on the content of the report.

And this is important because of the case law that I have regarding this subject. First, I have Sellers. And again, Mr. Steinberg and I have met frequently and often. We both were aware that this was going to be an issue, but we need to preserve the record.

In the Sellers case, Jane Sellers versus South Carolina, 607 SE 82. It's a South Carolina Supreme Court, 2005. What that case was was where the -- where the defendant challenged the presentation of a witness based on mental illness. I believe it was based on schizophrenia, which according to this report was Mr. Allen's prior diagnosis. He's been hospitalized.

The jury has heard that he's been hospitalized at least three times. And that's just up here. This doesn't count Georgia. That he has been hospitalized twice in Patrick B. Harris and once in Marshall Pickens or the other way around.

A. The other way around.

MS. GORTON: The other way around. So three hospitalizations just since he's been in South Carolina, which he has testified was just two years prior to his incarceration. So in two years time he's been hospitalized three times.

The mental exam that he was subjected to pulled those records, the examiner pulled those records and noted that his diagnosis had been schizophrenia. And further indicated that he had reported hallucinations and went into specific instances of conduct.

At the conclusion of this examination, based on his records, based on a review of the jail records as well, based on a review of those hospitalizations and the

complaints and observations made they concluded that Mr. Allen was not actually schizophrenic, but was antisocial personality disorder. And they gave a number of specific instances as to why they were drawing that conclusion.

So let me go back to the case law. We've got Sellers where the defendant was challenging the presentation of a witness based on mental illness saying they weren't competent to sit as a witness. The case law on that is clear and that is that it goes to the weight of the evidence. It doesn't go to exclude the witness, but it goes to the weight of the evidence.

And what the South Carolina Supreme Court said in Sellers is that a witness' mental illness is not enough to rebut the presumption set forth in rule 601. A witness' mental capacity could, however, affect the credibility of that witness' testimony.

At trial counsel attacked the credibility of the witness on several grounds, including mental illness. Trial counsel cross examined Louie at length about his mental illness. The jury was fully aware of the fact that Louie was schizophrenic and, therefore, the jury could have decided to believe all or none of his testimony.

Now, Your Honor, this isn't a hypothetical situation. This is a situation where ---

THE COURT: Well, hold on just a minute. What's your

reply to that, solicitor?

MR. STEINBERG: Thank you, Your Honor. Sellers is one point. There are so many cases in the State's favor where it says courts have a right to stop cumulative evidence, evidence that's gone too far afield. The Holmes decision, Dickerson, Bigsby, all of these cases deal with we're not going to make a whole separate trial of this matter.

Counsel raised an issue, said the jury has to be fully aware. The jury is fully aware that he has mental problems, he has been treated. And I've been allowing a little bit more than, perhaps, I -- I should have made an objection earlier. I just don't want this to go into issues of did he ever kick a cat in Georgia, did he ever do this ---

THE COURT: All right. I'm -- but why does she not have a right to discover the extent of that mental illness, schizophrenia or the personality disorder? I agree with you that all the details, kicking cats and all that, but the conclusion that was made that he had a mental illness and what that was.

MR. STEINBERG: Counsel has been going a little bit too far. She's been saying other issues I just had to put a stop to, the rest of the mental health thing.

I did want to put one thing on the record. Myself and opposing counsel have been doing our best to limit improper things. I have told every witness don't bring up Mr. Jobo's

prior criminal acts. We've been very clear about this. And I'm trying to save the State some money.

My agreement as to hearsay is only that if Your Honor allows the report in, I'm not going to make her bring in a psychiatrist from Columbia. It's if you allow it in, the report can come in. I don't think the report should come in because the report has so much hearsay about kicking a cat, that kind of thing, prior bad acts like that. It just is getting a little bit too far afield, Judge. If she wants to go over the actual titles of his -- of his diagnoses, that's fine.

MS. GORTON: Your Honor, I think that in this particular case where we have statement number one where he says I flipped out and I did this because I flipped out that I have to be able at a minimum to go into the fact that he suffers from hallucinations and that he has a history that was referred to by this examiner of flipping out on people. He has a history of that. And there are no less than four separate incidences.

Furthermore, in this report he specifically tells them about an instance where he got angry at his sister and threatened to kill her dog and eat it.

THE COURT: I'm not going to allow ---

MS. GORTON: Well, ---

THE COURT: Now listen, I'm going to make a ruling.

I'm going to let you put in the record that he has a mental illness, what the conclusion is of that mental illness, but not any details about that, okay?

MS. GORTON: I still need to make my proffer. And I'm not arguing with you.

THE COURT: All right.

MS. GORTON: I'm really not. But I'm trying to make all the points that I need to make to make this proffer.

We have this statement number one saying he freaked out. The key issue in this case is whether or not Joe Phillips told him to go do this. He suffers from hallucinations. That is key.

Now, once you say that ---

THE COURT: You've already asked him that, haven't you, that he suffers from hallucinations?

MS. GORTON: You sustained the objection, Your Honor. You didn't allow me to ---

MR. STEINBERG: Yes, sir.

MS. GORTON: --- get that in.

THE COURT: All right. I'll reverse myself and allow you ---

MR. STEINBERG: Your Honor, you're going to allow as to the -- hallucination is not a diagnosis. Hallucination is a symptom. Are you going to allow the hallucination to come in?

THE COURT: Yeah, I'm going to allow that, hallucinations. I'll allow you to ask him that. Okay.

MS. GORTON: Okay.

THE COURT: Move on.

MS. GORTON: Now, and in the spirit of what we agreed to and that is that Mr. Steinberg was not going to make me bring in the expert. Once we get to this report and we say that it's relevant, which clearly under Sellers it is relevant, once we say it's relevant, under rule 703, facts used by an examiner as a basis for their opinion, are admissible.

And what this is is State v. Slocum, 336 South Carolina 619. This is Court of Appeals, 1999. And in this case they were talking about your hot button, polygraphs. And what they said was in this report where the psychiatrist relied upon the polygraph results, even the polygraph comes in.

So what I am arguing, for the proffer, for the record, is that once we agree and it's apparent from the face of the report that each of these instances were used by the examiner to say I don't agree he's schizophrenic, I think he's manipulating the system and that he suffers from antisocial personality disorder.

Now, I agree there might be parts of this that need to be proffered, but I think under the authority that I just handed you, those specific instances, if the examiner were

here, I would be allowed to go into it. And if we are treating this report as if the examiner is here, then these specific instances come in.

MR. STEINBERG: Your Honor, again, this case law says that courts are allowed and should restrict from going into extraneous issues, going to misleading, potential for confusion, marginally relevant, lack of probative value. This document might be useful at some other type of hearing, but not in a criminal trial where the other person is on trial -- is actually on trial. This is too far afield. This is just wrought with harm and lack of probative value.

THE COURT: Okay. I've made my ruling now. Continue ---

MR. STEINBERG: Thank you, Your Honor.

THE COURT: --- your proffer.

MS. GORTON: And, Judge, so that I don't step on -- across anything, what was your ruling? I can bring in hallucinations?

THE COURT: Yep.

MS. GORTON: And can I bring in any instances at all of prior bad acts where he's flipped out on other people? These were used by the examiner.

THE COURT: I'll allow that.

MS. GORTON: And, again, so that I'm clear, and I think this is probably where your line is drawn, can I go into

where he had threatened his sister's -- he got angry at his sister and threatened something she loved, her dog? Threatened to kill something she loved, her dog.

In this particular case, Christina loves Charlie. And he killed Charlie.

THE COURT: All right. I'll allow that one.

MR. STEINBERG: Yes, sir.

THE COURT: All right. Anything else?

MS. GORTON: No, Your Honor.

THE COURT: All right. We'll take about a five minute recess. You can step down.

(Whereupon court was in recess at 10:02 am)

(Whereupon court resumed at 10:10 am)

MR. STEINBERG: Small problem, Judge.

(Whereupon a bench conference was held off the record)

(Whereupon the bench conference was ended)

MS. GORTON: Judge, before we -- this probably doesn't -- maybe does need to be on the record. Howard and I were talking. I just wanted to make sure I'm crystal clear on the scope. Are you saying I cannot go into what antisocial personality disorder is?

THE COURT: (Affirmative nod).

MS. GORTON: Okay. And then I'm looking at this. You said yes on the sister and the dog. One of the things I had asked him that Howard objected, that you sustained, also in

addition to the hallucinations was the fact that he said he had been kept in dog cages as a child. That's actually in this report. Are you saying no on that?

THE COURT: No.

MS. GORTON: It's not a huge point. I just want to make sure. And I will tell you that in context of threatening sister and threatening to kill her dog, in this context as far as threatening to kill Charlie or killing Charlie that she loved, he says, his words, not mine, I mean, can't make this stuff up, that he's been having flashbacks while in jail, hallucinations and obsessions with eating people.

THE COURT: No, I'm not going to go ---

MS. GORTON: It is ---

THE COURT: --- into that.

MS. GORTON: --- a little bit over.

MR. STEINBERG: Thank you, Judge. And one more thing, you're not trying to get in that Charlie said he's going to beat, I mean, JJ says he's going to beat Charlie outside of this, it's something to try to get in the fact that he threatened to kill and eat his sister's dog?

MS. GORTON: I'm not even sure I'm going to put eat ---

THE COURT: No.

MS. GORTON: --- in there, but just that he got angry at his sister and he threatened to kill ---

THE COURT: Kill the dog.

MS. GORTON: --- the dog that she loved.

MR. STEINBERG: But he didn't threaten to kill his sister?

MS. GORTON: No.

MR. STEINBERG: Okay.

MS. GORTON: I don't think the report says that.

MR. STEINBERG: Okay. Very good. Thank you, Your Honor.

THE COURT: All right. Now, Ms. Gorton, can you get that person that the solicitor was talking ---

MR. STEINBERG: I'll go look for him again, Judge.

MS. GORTON: Howard, -- one more issue. Howard, on this report it also talks about drug seeking behavior by him at the jail, trying to get medication as reported by the jail. Can I get that in?

THE COURT: No, no, no.

MS. GORTON: Okay.

THE COURT: No. Do you know the person's name?

MS. GORTON: The report?

MR. STEINBERG: No, sir.

THE COURT: No, I'm talking about the ---

MS. GORTON: Oh.

MR. STEINBERG: I believe his first name is Chris from the jail phone calls. Actually, Mr. Phillips would know who

I'm talking about.

THE COURT: What's his name?

MS. GORTON: I don't know.

MR. PHILLIPS: Who you talking about?

MR. STEINBERG: The black gentleman who was with your family.

MR. PHILLIPS: His name is Chris.

MR. STEINBERG: Chris?

MR. PHILLIPS: Yeah.

MR. STEINBERG: Okay. You know his last name?

MR. PHILLIPS: I don't know his last name. I have no idea.

THE COURT: All right.

MR. STEINBERG: Deputy, he's been excluded from the courtroom, actually from the courthouse.

(Pause)

MS. GORTON: This report says he has expressed vague homicidal ideation. Can I get that in?

THE COURT: No.

MS. GORTON: In a homicide case, Your Honor?

THE COURT: No.

(Pause)

MS. GORTON: Oh, big one here. Howard, he also reported a history of snorting gunpowder to make me mean and use of marijuana. I'd like to get in that he reported

himself to this examiner that he snorts gunpowder ---

THE COURT: No.

MS. GORTON: --- for the sole purpose of making himself mean.

THE COURT: No, I'm not going to go that far. Is the man in the courthouse?

MR. STEINBERG: Your Honor, I think he was out taking a smoke. Let me see if he's walking down the hall.

(Pause)

MR. STEINBERG: Your Honor, the gentleman is actually outside smoking. One of the officers -- deputies is going down there to tell him he can't come back in.

THE COURT: All right. Let's leave it like that and see what, if anything, hopefully, doesn't happen.

MR. STEINBERG: Yes, sir.

THE COURT: Now, at noon today I promised to do a minor settlement for lawyers. So I'm going to have to stop when they arrive to do that. I've ordered lunch for the jury and asked that it be here at noon. All right?

MR. STEINBERG: Yes, sir.

THE COURT: All right. Bring our jury.

(Whereupon the jury entered the courtroom at 10:19 am)

THE COURT: All right. You may proceed.

Cross Examination by Ms. Gorton Continued:

Q. You said yesterday when you were testifying for the

solicitor that Joe's reaction -- that you called Joe immediately after you killed Charlie, is that correct?
A. Yes.
Q. And that's the first phone call you made on Charlie's phone?
A. Yes.
Q. That phone call was at 10:05 am, correct?
A. Yes.
Q. And you say -- you said yesterday that when you told Joe -- what was his reaction?
A. He was upset and sick to his stomach.
Q. You said he broke down crying, didn't you?
A. Yes.
Q. He was crying?
A. Yes.
Q. And he got sick to his stomach. What do you mean by that?
A. By he couldn't believe it was done.
Q. Sick to your stomach, what do you mean?
A. That's all I know.
Q. Now, I asked you earlier about hallucinations, correct?
A. Yes.
Q. What was your answer?
A. I don't hallucinate.
Q. Huh?

A. I don't hallucinate.
Q. You don't hallucinate? But when you went for your medical mental exam on these charges did you indicate that you hallucinate?
A. Yes, I did.
Q. And, in fact, you already told us that you'd been at Patrick B. Harris and Marshall Pickens and you reviewed this report with your attorney, correct?
A. Yes.
Q. And the examiner in this report noted your records from Patrick B. Harris and stated HPH records note a history of auditory and visual hallucinations, is that correct?
A. Yes.
Q. Also said explosive and impulsive behavior, is that correct?
A. Yes.
Q. And when this examiner asked you about these hallucinations what did you say?
A. I told her exactly what -- I told her exactly what you said on the report.
Q. Well, that's what the hospital said. That's what the hospital records said about your prior hospitalization. What did you tell this examiner?
A. I told them that I was having problems like I was having problems sleeping and I was -- I told them that I

hear stuff. And I told them that I was seeing stuff, but that was a lie.

Q. When asked about psychotic symptoms, example, hearing voices, delusions, Mr. Allen reported visual and auditory hallucinations in the context of excessive drug use and did not endorse -- experience psychotic symptoms when sober, is that correct?

A. Yes, ma'am.

Q. Now, this report also talks about you having -- reporting to the jail you were having flashbacks, is that correct?

A. Yes, ma'am.

Q. Flashbacks to what?

A. To what I did.

Q. And the jail detention records indicate that you continued to report hallucinations while you were in jail, is that correct?

A. Yes, ma'am.

Q. Now, you weren't on drugs when you were in the jail, were you?

A. No.

Q. But throughout your stay, up until recently, you were reporting hallucinations?

A. Yes, ma'am.

Q. You were doing that why?

A. To be in the shoe, to not be around people.
Q. To get what you wanted?
A. No, to be in the shoe, to not be around people.
Q. Now, it does talk about this explosive and impulsive behavior. And it talks about these prior episodes where you have snapped. In the ninth grade did you snap?
A. Yes, I did.
Q. And that was in an alternative school, right?
A. Yes, it is.
Q. Prior to the alternative school you were in a private school. Did you snap there?
A. No, I didn't.
Q. You didn't hit anyone there?
A. No, I didn't.
MR. STEINBERG: Your Honor, I have to object to these new issues coming up, ninth grade cases.
THE COURT: Move on, please.
Q. This report also indicates that at one point you got mad at your sister and threatened to kill something she loved, is that correct?
A. Yes, it is. But you're talking about a totally different sister.
Q. Okay. But you did get mad at your sister?
A. Yes, I did.
Q. And you threatened to kill something she loved?

A. Yes, I did.
Q. That was her dog?
A. Yes, I did.
Q. And Christina loved Charlie?
A. It was not Christina. That was not her dog.
Q. Did Christina love Charlie?
A. Yes, she did.
Q. Did you know she loved Charlie?
A. Yes, I did.
Q. And at the end of this report the examiner concludes that you suffer from antisocial personality disorder, correct?
A. Yes, ma'am.
Q. On 8/21 you make another call to JoAnn's house and you talk to Snuffy, correct?
A. Yes, ma'am.
Q. And you tell him you're there to make sure somebody who was innocent stayed out of jail?
A. Yes, I did.
Q. And you said that came from the heart, that's family?
A. Yes, I did.
Q. And, here again, as you did on many calls did you say repeatedly I'm going to get a job and pay everyone back?
A. Yes, I did.
Q. You said that to Joe?

THE COURT: Now, that's been asked and answered several times. Please move on.

Q. On August 22nd did you call JoAnn and tell her you were back in the shoe?

A. Yes, I did.

Q. Did you tell her that you just went off again, you didn't mean to, but you just exploded again?

A. Yes, I did.

Q. And did that actually happen?

A. No, it didn't. I mean, it actually did over the phone, yes.

Q. Well, did you lose your temper, explode and break something?

A. No. I cussed out a c.o.

Q. Did you break sprinkler heads?

A. I ---

MR. STEINBERG: Your Honor, I have to object.

THE COURT: I sustain the objection.

Q. So you lost your temper and you exploded?

A. Yes, I did.

Q. And you found yourself back in the shoe?

A. Yes, I did.

Q. Now you tried to call JoAnn four times after that phone call, is that correct?

A. Yes, I did.

Q. And you tried to call Joe twice?
A. Yes, I did.
Q. And each of these calls starting 8/22 are not answered, correct?
A. Yes, I did.
Q. So then we have your second statement. And we've gone over your statement. And you've agreed that some parts of that is true, is that correct?
A. Yes.
Q. Did we go over your second statement?
A. No, we didn't.
Q. Then why did you say yes, we had?
A. I wasn't even paying attention. I have ADHD.
(Whereupon Ms. Gorton exhaled loudly)
THE COURT: Now don't act like that.
Q. Mr. Allen, this is a really important trial. And I need you to ---
THE COURT: Now -- now, please, ma'am, just ask questions.
MS. GORTON: Okay.
Q. Second statement, is it true that Frank Eppes told you he was going to make sure that you never got out and that you were pretty much buried?
A. Yes, ma'am.
Q. In your second statement you say that on the morning of

Friday, July 8th Jobo calls you on your prepaid phone.
A. Yes, ma'am.
Q. What time did that occur?
A. I don't know.
Q. Let me ask this, just so that we're clear. Was that a true statement?
A. Yes.
Q. Jobo called you?
A. On the -- on the prepaid phone, yes.
Q. What time did that occur?
A. I don't know.
Q. Was it before you killed Charlie?
A. It was way before that.
Q. Way before that? Okay. Was it after two am? Was it during that five am time that you all are making ---
A. Yes, it was.
Q. --- three different plans? So Joe called you?
A. Yes.
Q. And you're saying today under oath that that's true?
A. Yes.
Q. Did you say in that second statement that Joe gave you close to five hundred dollars in cash over a period of time?
A. Yes, I did.
Q. Did you specify what period of time that was?
A. No, I didn't.

Q. What period of time was that?
A. It was just at -- over the time I've been staying there.
Q. Over the whole year?
A. Yes.
Q. You also made a statement in your second statement that isn't in your third talking about shotguns, three 12 gauge shotguns, a .410 bolt action and a .22 rifle. Were there those shotguns available at the house?
A. Yes, there was.
Q. And in that statement you say that you hid those shotguns on Joe's property, is that correct?
A. Yes, I did.
Q. And that is true?
A. Yes, it is.
Q. It's -- you're saying today that it's true, not just that you said it, but that you're saying today that actually occurred?
A. Yes -- yes, I did, but they were not my weapons.
Q. I'm sorry, what?
A. I said yes, they did, but they were not my weapons.
Q. All right. On June 27th, two days after you gave this second statement did you call your sister's, Christina's number and say if these charges don't get dropped like they are supposed to be, I'll be in here forever?

A. Yes.
Q. So you thought by giving this second statement your charges were going to be dropped?
A. Yes, I did.
Q. The second statement, as soon as law enforcement realized it was a lie, they confronted you?
A. Yes, they did.
Q. You didn't ask to talk to them?
A. Not the third time, no.
Q. They went to you?
A. Yes, ma'am.
Q. What did they say?
A. They just told me they didn't believe me.
Q. Did they say why?
A. They said because this story don't make sense.
Q. Did they tell you about Jimmy Poole?
A. I already -- I heard them through the wall.
Q. So you already knew about Jimmy Poole when you gave this third statement?
A. Yes, I did. I heard them through the wall when they were speaking to him.
Q. Explain to the jury what you mean by through the wall.
A. You can hear -- you can hear through the walls. They're not sound -- they're not sound barrier. You can actually hear somebody speaking out real loud through the

walls. And Jimmy Poole talks very loud.
Q. So Jimmy Poole was near where you were?
A. He was on -- he was in the hallway. And I was in the office.
Q. So -- so that I understand this. Jimmy Poole is talking to law enforcement?
A. Yes.
Q. And you're in jail at that time?
A. Yes.
Q. They pull you out of the jail and set you in the room right next to where Jimmy Poole is?
A. I was in the room and Jimmy Poole was in the hallway.
Q. They didn't wait for Jimmy Poole to be gone to pull you out?
A. I was already out before Jimmy Poole was there.
Q. What were you out for?
A. I was out to give that statement, the last statement.
Q. And while they had you out to give that statement, Jimmy Poole is in the hall talking about what he has to say?
A. He came up and told them that he was there getting his motorcycle because that's what I heard him talking about.
Q. And you heard the whole thing?
A. I heard part of it.
Q. So you knew what they were looking for?
A. Yes.

MS. GORTON: The third statement has been entered into evidence.

MR. STEINBERG: (Affirmative nod).

MS. GORTON: This is an unaltered copy of the third statement. Do you have any objection to me using this?

(Whereupon the attorneys were conferring off the record)

MR. STEINBERG: No objection to using this, Your Honor.

Q. Have you had a chance to review your third statement to law enforcement? We've already talked about that. I withdraw the question. You said two weeks ago, right?

A. (Affirmative nod).

Q. You reviewed it with your lawyer, talked to Mr. Steinberg and it's one hundred percent accurate line for line, correct?

A. (Affirmative nod).

Q. Well, I'm going to go over that. Now, you say this all started when Joe Williams, Jobo, William Joe Phillips, found out that Christina Gentry, Jobo's baby's mama and my sister was dating Charlie Roberts, true?

A. (Affirmative nod).

Q. Is that true today?

A. Yes.

Q. I'm not asking whether you said that --

A. Yes, it was true.

Q. True. Jobo was mad as hell about it and he wanted to put up a front about it a couple of weeks and make it seem like they were best friends.
A. Yes.
Q. You're saying today that's true?
A. Yes.
Q. A couple of weeks went by and Jobo bought a .380 pistol. I don't know where he got it from. Did you know where he got it from?
A. No, I didn't.
Q. So that statement is true?
A. Yes.
Q. Jobo kept saying that he wanted -- that he had to do something to get rid of Charlie because he loved Christina and he never felt that way about a woman before?
A. Yes.
Q. A few hours went by and I started thinking on it. So I volunteered myself to shoot Charlie?
A. No. I know it's in the statement. I know it's in the statement.
Q. So that's not true?
A. But it's not true, no.
Q. Okay. I will cross that out. That's not true.
A. No, it's not.
Q. I told Jobo I would shoot Charlie for him. And Jobo

said, you can't choke on me, you've got to do this, correct?
A. Yes.
Q. Is that true?
A. Part of it is.
Q. Are you saying today under oath that that's true?
A. Part of it is, yes.
Q. What part's not true?
A. The part where I volunteered.
Q. Okay.
A. Where I told him I would.
Q. That's a period. I've crossed that out. My ---
A. Okay.
Q. --- next sentence is ---
A. Yes, it's true.
Q. --- I told Jobo I would shoot Charlie for him. And Jobo said, you can't choke on me, you've got to do this. Is ---
A. Yes, it's ---
Q. --- that your testimony today?
A. Yes.
Q. So after a couple of days I went to Charlie's house about five am in the morning and was going to break in the window.
A. Yes.
Q. True?

A. Yes.
Q. Did you know the window was open?
A. It was not open.
Q. How do you know that?
A. 'Cause I actually went there and I actually did come back. I wasn't going to do it because there was too many houses around.
Q. Jobo drove over -- drove me over to the end of the road Charlie lived on and let me out. And I went down and got between a building and the house and waited. True or false?
A. That's true.
Q. I was going in the -- I was going to go in the house and be waiting for Charlie when he came home. True or false?
A. True.
Q. Then I was going to take, a what, and wrap it around his neck?
A. A tie.
Q. A towel?
A. A tie.
Q. A tie?
A. Yes.
Q. Did you bring a tie?
A. No.
Q. Did you know where Charlie kept ties?

A. No.
Q. Do you know if Charlie had any ties?
A. No, I don't.
Q. So you were going to take a tie, wrap it around his neck after you held him at gunpoint and break his neck. Are you saying today under oath that that was a true plan?
A. Yes.
Q. All of it?
A. Yes.
Q. Then after that I choked and didn't break in the house.
A. True.
Q. True?
A. Yes.
Q. I ran back up to the end of the road and called Jobo to pick me up from a little AT&T prepaid phone I had. True?
A. Yes.
Q. Now, what time is that?
A. That was close to daylight, in the morning time.

THE COURT: Hold on. You need a recess?

JUROR: Yes, just to clear my throat.

THE COURT: Water? Yes. Get her some water, please.

(Whereupon the juror exited the courtroom)

THE COURT: Hold on, hold on.

(Pause)

THE COURT: All right. Take the jury back to the jury

-- in the second jury room. I think she's having some difficulties right now.

(Whereupon the jury exited the courtroom at 10:40 am)

THE COURT: You can step down and go back in the -- we'll take a recess. All right. Let's take a short recess and let me see if I can find out what's going on.

(Whereupon court was in recess at 10:41 am)

(Whereupon court resumed at 10:44 am)

(Whereupon the jury entered the courtroom at 10:45 am)

THE COURT: Okay. You may proceed.

Cross Examination by Ms. Gorton Continued:

Q. All right. Where we were is you say at around five am you called Jobo to pick you up from the little AT&T prepaid phone you have. So your testimony here today under oath is that you used your AT&T prepaid phone to call Jobo, is that right?

A. Yes.

Q. And this is around five am and prior to daylight?

A. Yes.

Q. And what time did it get daylight in July -- on July 8th, about?

A. About 5:30, 6:00.

Q. Okay. I ran all the way up to the end of Lions Park Road and there's a little dirt road in the woods right there. And I waited there for Jobo to pick me up. True or

false?

A. True.

Q. Jobo picked me up and we left. True or false?

A. True.

Q. I went and smoked a lot of ice and did a few pills and got my guts up and went back to Charlie's after daylight. How long did you spend -- first of all, is that true or false?

A. Yes, it's true.

Q. How long did you spend smoking ice and popping pills?

A. Not long.

Q. Well, where did you do that at?

A. At the house.

Q. I went into the woods across from the road from Charlie's and waited for Charlie to pull up. Is that true or false?

A. That's true.

Q. I was going to run up to him and catch him at gunpoint and make him go into his house, but I never made it out of the woods because I choked up again, correct?

A. Yes.

Q. Is that true or false?

A. That's true.

Q. Then I walked all the way back to Chestnut and down to 276 -- down 276 to Long Shoals. True or false?

A. True.
Q. How long does it take to walk all the way down back to Chestnut, 276 to Long Shoals?
A. About ten or fifteen minutes.
Q. I went into the house and woke Jobo up and told him that I had choked again. True or false?
A. True.
Q. What time is it by this time?
A. About 8:00.
Q. Jobo said he was real disappointed and asked me if he got me alone with Charlie would I choke up, and I said, no, I would shoot him. True or false?
A. True.
Q. And that's when Jobo called Charlie the same morning and bullshitted with him for a minute. True or false?
A. True.
Q. Was anyone else at the house when Joe made this call?
A. No.
Q. Where did Joe keep his cell phone?
A. In his pocket.
Q. When he was sleeping?
A. Yes.
Q. This is right after -- what did he sleep in?
A. His pants.
Q. And he slept all night with the cell phone in his

pants?
A. Yes.
Q. This was usual?
A. Yes.
Q. This was right after Charlie got home from work because I had saw Charlie pull up at his house while I was waiting in the woods. Is that true or false?
A. That's true.
Q. Okay. So what time did you leave the woods?
A. I left the woods after 8:15.
Q. After 8:15?
A. Yes.
Q. Well, if you didn't leave the woods until 8:15 what time did you get to your house?
A. I got to my house about 8:45, 9:00.
Q. It was about nine or 9:30 in the morning when Jobo called Charlie. True or false?
A. True.
Q. Jobo asked Charlie if he could take me to get an alternator for the gray van, which wasn't tore up.
A. True.
Q. Now, in your other statements you had said you were familiar with the Rider property, is that correct?
A. No. I've been there twice.
Q. You've been there twice?

A. Yes.
Q. And what do you do when you're there?
A. We went there one time to drop somebody off and went there another time to just talk to the family when it was -- the house was still there.
Q. So you knew there were car parts in that shed?
A. There used to be.
Q. You knew that, though?
A. Yes.
Q. Charlie said, yes, and he was getting ready to go to bed and that -- but that he would take me. True or false?
A. True.
Q. Jobo told Charlie to give me a few minutes and that I would be up at Charlie's. True or false?
A. True.
Q. Jobo took me to [redacted], the road that Charlie lives on, and dropped me off at the end of the street. And I walked to Charlie's and he met me at the mailbox. True or false?
A. True.
Q. And that's when I offered Charlie ten dollars for gas, and he told me not to worry about it. True or false?
A. True.
Q. We got in Charlie's truck and I directed him where to go. True or false?

A. True.
Q. I directed Charlie to drive to Carl Rider's old place across from Ingles. True or false?
A. True.
Q. I told him to bust a right at Ingles and it would be the first right in the curve.
A. Yes. True.
Q. Now, yesterday -- I'm going to stop here for just a minute. When you were testifying for the prosecutor, he talked about all three plans. Did I understand you that you were the one who said to each of those two prior plans, no, it ain't going to work?
A. Yes.
Q. You were worried about getting caught?
A. Yes.
Q. So now the plan is to shoot Charlie near Ingles?
A. Yes.
Q. And this is after 9:00. Ingles is open?
A. Yes.
Q. Shoppers are there?
A. Yes.
Q. Certainly within sounding distance of Ingles, isn't it?
A. Yes.
Q. And there is a neighborhood also that backs up to this property, correct?

A. Yes.
Q. Pretty fancy neighborhood?
A. Yes.
Q. Going back to your statement. Me and Jobo had already made a plan to get to Charlie -- to get Charlie to Carl's place so I could get him alone and pop him. True or false?
A. True.
Q. On the way there we were talking about fishing and hunting. And Charlie said he hadn't been hunting last year. So we were -- so we were getting -- it says alone, but does it mean along?
A. Along.
Q. Okay. So you were pretending to be Charlie's friend?
A. Yes.
Q. And so you were getting along. And you told Charlie that there was a deer stand and a feeder at Carl's. You knew about that, right?
A. Yes.
Q. So when we got there there was a tree in the driveway. True, right?
A. Yes.
Q. I said, hold on, I'm going to have to walk down there. And Charlie volunteered to walk with me after I told him he might have to walk with me to look for the alternator. I'm going to stop there. Which was it? Did Charlie volunteer

or did you tell him he might have to come help you?
A. I told him he might have to come help me. And then he walked down there with me.
Q. Okay. So did Charlie volunteer?
A. He just -- after -- after I said that, he, yeah, he volunteered to walk with me.
Q. Okay. So you asked him first and then he doesn't say no?
A. Yes.
Q. We got down there and I said it's supposed to be in one of these buildings or sheds. And we started looking around. Now, I'm not leaving this statement. We still have more pages to go. But up here where you say I called Jobo to pick me up from a little AT&T prepaid phone I had, at that time was Jobo's number 436-5750?
A. I don't know. I believe so.
Q. You believe so? Can you tell me what time this says?
A. It says 1:09:18.
Q. That shows the time. What date is it?
A. 7/8/2011.
Q. What does it say here? Do you need me to bring it closer?
A. You had a incoming call ---
MADAME COURT REPORTER: I can't ---
THE COURT: She can't hear the ---

A. Oh. You had an incoming call or attempted to make a call, but the account has insufficient funds. Please add money to your balance.

Q. What does it say at 1:11 on the same day?

A. Oh. Attention, your balance has been zero -- has reached zero. Refill and save any minutes remaining and extend your expiration date.

Q. So you didn't really call Joe at five am, did you?

A. No, but I tried to.

Q. No, actually you didn't. All right. Well, let's go back and cross that off. And going back to statement number two where you said it was true that Joe had called you around five am, that wasn't true either, was it?

A. No.

Q. Page two, Charlie started with me and I was looking in the building. I pretended to look -- oh, let me stop there. Is that true or false?

A. It's true.

Q. I pretended to look and I stepped into one of the buildings and cocked the gun. True or false?

A. True.

Q. The gun was a Hi-Point .380 semi-automatic and was black in color with a silver streak below the slider. True or false?

A. True.

Q. That was the same gun that Jobo had given me before to shoot Charlie with.

A. True.

Q. Was it true that Joe gave you the gun?

A. Yes.

Q. Was it also true -- is it your testimony today that it was also true that he told you to shoot Charlie with this gun?

A. Yes.

Q. We supposedly couldn't find the alternator. So that's when I got Charlie's attention over to the big shed. True?

A. Yes.

Q. I told Charlie it might be in there. And we walked in there and I pretended to look for an alternator. True?

A. Yes.

Q. That's when Charlie said, I doubt it'll be in there. True?

A. Yes.

Q. I said, somebody must have lied then.

A. Yes.

Q. So Charlie started walking off towards the right hand corner of the building and he turned his back to me. And that's when I pulled the gun and shot Charlie in the back of the head. Is that true?

A. Yes.

Q. Is it your testimony today that you are one hundred percent sure you shot him in the back of the head?

THE COURT: Now, that's been asked and answered several times, please. Go ahead and answer it this time.

A. Yes.

Q. When I saw him laying on the ground, blood was coming out the front of his head. I just shot him once from about fifteen to twenty feet away. So when you testified yesterday that it was twenty-five to thirty feet away, which was it?

A. It was about twenty-five, thirty feet away.

Q. Which is it?

A. It's twenty-five, thirty feet away.

Q. So in your statement where you say you shot him just once from about fifteen to twenty feet away, that's not correct?

A. No, it's not.

Q. Okay. I freaked out after the gunshot and ran to Charlie's truck. True of false?

A. True.

Q. That's when I looked for the keys to the truck and they weren't in the truck.

A. True.

Q. So I went back to Charlie and rolled him over and got the keys out of his pocket and grabbed his cell phone, too,

because Joe had wanted me to get the phone so he could look through it and see what kind of messages was sent between Charlie and Christine -- let me break that one down. There's no period there, but I'm going to take one part at a time. So I went back to Charlie and rolled him over and got the keys out of his pocket. True or false?

A. True.

Q. And I grabbed his cell phone, too. True or false?

A. True.

Q. Because Joe had wanted me to get the phone so he could look through it and see what kind of messages was sent between Charlie and Christina to see if she loved Charlie or if they were ...

A. Having sex.

Q. Yeah. Okay. Was that all true?

A. Yes.

Q. I got Charlie's wallet, too. And I got in the truck panicking. Were you panicking?

A. Yes, I was.

Q. Did you get Charlie's wallet?

A. Yes, I did.

Q. What did you do with it?

A. Throw it in the river.

Q. You got Charlie's wallet and you were panicking. And you couldn't get the truck started because you were flipping

out. Now, I want to stop. Is this the point where you call Joe?

A. Yes.

Q. You make your first phone call to him?

A. Yes.

Q. Okay. Now, back on that first page you said that you called Joe with your AT&T prepaid phone, is that correct?

A. No, it's not. I called from -- I called him from Charlie's phone.

Q. Okay. But at five am were you saying that you called him from the prepaid phone, that AT&T prepaid phone? Was that in your statement that you used your prepaid phone to do that?

A. Yes.

Q. Okay. And so why didn't you use your prepaid phone to call Joe this time?

A. Because I had no minutes on it.

Q. Earlier you testified that it had ran out of minutes the day after you got it.

A. Yes.

Q. When did it actually run out of minutes?

A. The day that I tried to call Jobo. The day -- the morning that I tried to call Jobo at like 5:00 in the morning.

Q. So you didn't actually call him?

A. No, it never went through.
Q. When I finally got it started I was barking tires leaving out of there and I got on 276. I passed Ingles and called Jobo from Charlie's phone and asked him where he wanted me to put the truck at.
A. That's true.
Q. Is that at 10:05?
A. Yes.
Q. First call? Is that the first call or do you call from the driveway first?
A. That was the first call. I believe it's the first call. It's been -- it's been a while since it happened.
Q. Jobo told me to put it up at the end of Gap Creek Road and that there was a pull-off spot. True or false?
A. True.
Q. Jobo told me it was steep and you could run the truck off the bank. True or false?
A. True.
Q. So I pulled up to a different spot above where he was talking about. I pulled behind the little roadbed behind the hill in the bushes. True or false?
A. True.
Q. I grabbed a camouflauge cloth and started wiping the truck down. True or false?
A. True.

Q. Did you have a girlfriend that lived up off of Gap Creek Road?
A. No, I didn't.
Q. Did you ever visit anyone up at Gap Creek Road?
A. No, I didn't.
Q. You never did odd jobs off of Gap Creek Road?
A. No, I didn't.
Q. That's your testimony today?
A. Yeah, it's one hundred percent testimony.
Q. After that I walked about a quarter of a mile down the road to the light pole, got in the bushes and called Jobo. Which call is that?
A. It's -- it's later on.
Q. Our choices -- when your first call is at 10:05, your choice -- the choices are 10:06, 10:14 or 10:49. Do you recall?
A. No, I don't.
Q. Now, in your statement you say you told Jobo to come pick you up alone?
A. Yes, I did.
Q. Now, didn't you say that you guys had already made this plan?
A. Yes.
Q. And that it was Joe's plan?
A. Yes.

Q. But you're telling Joe to come get you and to be alone?
A. Yes.
Q. And that's when his -- he got his mama, Jimmy Poole, and Billy, Bojo's [sic] youngest son, and they came and picked me up in Jobo's black -- mama's black Nissan Maxima. Now when you called Jobo did he explain to you he was already in the car?
A. He told me he was already in the car on his way, but he didn't say his mama or anybody was with him.
Q. Jobo's mother, JoAnn, was driving. Jimmy Poole was in the passenger's seat up front. And me and Jobo were in the backseat and Billy was between us.
A. True.
Q. Okay. And you've already testified that you heard Jimmy Poole. Did Jimmy Poole give all these details when you heard him?
A. No. I don't know.
Q. You don't know?
A. I just heard just a glimpse of what he was saying to the law about a motorcycle and that was it.
Q. When I got in the car I still had the gun. And it was stuck in my pants so you couldn't see it. True or false?
A. True.
Q. Did you have a tool bag?
A. No, I didn't.

Q. I had a black ET shirt, black pants and brown boots on. True or false?
A. That was false with the ET shirt.
Q. The black ET shirt?
A. Yeah. I wasn't wearing it.
Q. Okay. So this part in your statement where you say you were wearing the back ET shirt, we're talking the XXL shirt?
A. Yes.
Q. You're saying now that that's not true, you weren't wearing it?
A. That's not true.
Q. What about black pants and brown shoes?
A. Yes, I was.
Q. The shirt -- the very next sentence says, the shirt was the same shirt I used to rap the gun with when I buried it.
A. It was the gun -- it was the shirt I used to wrap the gun with when I buried it, but it wasn't the shirt I wore.
Q. Well, what did you mean then when you say the same shirt? The shirt was the same shirt.
A. I guess they're talking about the same shirt in the thing.
Q. What thing?
A. In the sand.
Q. So you didn't say this? You did say this or you didn't say this?

A. I did say that, but it was a lie right there.
Q. It was a lie.
A. I was wearing a black long sleeved shirt at the time.
Q. Later on you talk about wearing a black long sleeved shirt to move the body. We are talking right now about when you shot Charlie.
A. I did use a long sleeved shirt to wear to move the body, too.
Q. Same shirt?
A. Yes.
Q. Okay. So now you're saying that's a lie, you were not wearing that black ET shirt?
A. I was not wearing it, no.
Q. The shirt was the same shirt I used to wrap the gun with when I buried it. So is that a lie?
A. No. The shirt -- the shirt that I used to wrap the gun with is not a lie.
Q. Okay. So we're going to cross off the same shirt, correct?
A. Yes.
Q. I burnt the pants and the boots. After they picked me up we rode around and looked for Jimmy's motorcycle. So after that we went back home and -- what time did you get home?
A. I don't know. It's been -- it's been a while since I

actually ...

Q. Well, let me back up. Did you really burn the pants and boots?

A. Yes, I did.

Q. Where did you burn them?

A. In the backyard of Jobo's house.

Q. After they picked me up we rode around. True or false?

A. Yes, it's true.

Q. Looking for Jimmy's motorcycle?

A. Yes, it's true.

Q. So after we went back home and we left again and I still had the gun.

A. Yes, I did.

Q. Okay. You testified yesterday it wasn't just that day, you kept it all the way up until you buried it, is that true?

A. Yes, it is.

Q. I kept it with me all the time for about a month after that. True?

A. Yes, it is.

Q. Joe didn't use it?

A. No.

Q. We went and I bought some ice, probably about forty dollars worth. Where did you go to buy ice?

A. Steve and Crystal's.

Q. Is Steve and Crystal's the same house as Dana LaClair's?
A. No, it's not.
Q. Did you go to Steve and Crystal's house when you were looking for the motorcycle?
A. Yes, I did.
Q. So did you get the drugs while you guys were still looking for the motorcycle and the car was full of people?
A. Yes, I did.
Q. So that wasn't a separate trip, was it?
A. No, it wasn't.
Q. Joe didn't take you there, did he?
A. No.
Q. JoAnn took you there?
A. JoAnn took me there.
Q. And JoAnn has taken you to Steve and Crystal's to get drugs before, correct?
A. Yes.
Q. Many times?
A. Yes.
Q. In fact, she took you the night before you turned yourself in to get drugs, didn't she?
A. Yes.
Q. At three am?
A. Yes.

Q. It wasn't Joe?
A. No.
THE COURT: Now, please move on.
Q. When we got home I gave Jobo Charlie's phone. He went and looked through it for any messages and didn't find any. And he broke the phone and buried it behind Snuffy's house. True or false?
A. True.
Q. I saw Jobo bury the gun while I was sitting on his back porch. True or false?
A. True.
Q. Did you ever show law enforcement where that gun is? Or where that phone is?
A. No, I told them, though.
Q. They took you out to have you show them ---
A. No, ---
Q. --- where ---
A. I told them where it was. They never -- they never took me out there to look for it.
Q. Did they take you out to find the guns?
A. No. Yes, they did.
Q. And were the guns near Jobo's property?
A. Yes, they were.
Q. And that was on the same property that you say that the cell phone was?

A. No.
Q. Snuffy's house is where in relation to Joe's?
A. Snuffy's old house is two houses down.
Q. Within walking distance?
A. Yes.
Q. Towards the river?
A. No.
Q. But you didn't go and show them where the cell phone was?
A. No.
Q. Were you aware that if they had the cell phone they could determine whether or not Joe checked for messages? Were you aware of that?
A. No.
MR. STEINBERG: Your Honor, I object. She's ---
THE COURT: Yeah, ---
MR. STEINBERG: --- testifying to ---
THE COURT: --- I sustain ---
MR. STEINBERG: --- technical information.
THE COURT: --- the objection and instruct the jury to disregard that.
Q. Everybody with Jobo thought they were picking me up from doing some electrical work in River Falls. How do you know that?
A. 'Cause that's what I was told to say. That's what I

was told to say the first time. That's what they -- that's what they wanted to say.

Q. Who told you to say that?

A. Jobo.

Q. When did he tell you to say that?

A. When I was still on the streets.

Q. When you were still on the streets?

A. While I was still at home. Before I turned myself in.

Q. So this is -- when they picked you up, at the time they picked you up ---

A. Oh, that's what Jobo told me to tell them.

Q. And when Jobo told you to tell them that, was that while you guys were talking on the phone?

A. That was before it happened. We had already planned it.

Q. I then threw Charlie's wallet in the river up in River Falls. True or false?

A. True.

Q. Take anything out of it?

A. No.

Q. Was there anything in it?

A. No.

Q. No money?

A. No.

Q. No ID?

A. Yes. There was ID and there was cards in there, but I didn't take none of that.

Q. About a week after I was still F'ed up on dope and pills, me and Joe went back to where the body was. It says me and Joe, correct?

A. Joe dropped me off, yes.

Q. We talked about that yesterday. And we're about to get to that. Okay. So you're saying that's true?

A. Yes.

Q. To where the body was?

A. Yes.

Q. And Joe dropped me off, true?

A. Yes. That's true.

Q. I drug the body to the creek by myself.

A. Yes, that's true.

Q. The body was bloated and had maggots, and flies and bees around it.

A. Yes.

Q. I didn't look at the face because I was scared to.

A. Yes.

Q. I grabbed him by his pant legs and his feet and drug him.

A. Yes.

Q. I drug him to the creek-bed.

A. Yes.

Q. That's a sentence up here. You added that in, correct?
A. Yes.
Q. And is that true?
A. Yes.
Q. I covered the body up with the yellow round shovel and was wearing red and black gloves and a black long sleeved shirt. True?
A. Yes.
Q. And now you're saying it's the same shirt you used to shoot him in?
A. Yes, it was.
Q. Well, how do you remember that?
A. How do I remember that? Because it was the -- because I was told to wear the shirt because when I go to pull the trigger the gunpowder residue wouldn't get on my arms.
Q. Now you say all that stuff is back in the woods about two hundred yards. Did they ever try to recover that?
A. They tried to, but they -- we couldn't find it.
Q. Did they take you with you [sic] to try to recover that?
A. Yes, they did.
Q. And that's not anywhere near Joe's house, is it?
A. No.
Q. Not anywhere ---
A. It's ---

Q. --- where the gun was found?
A. It's -- It's over there by Carl Rider's old property.
Q. And were you able to find any of it?
A. No, I wasn't.
Q. I took it all off there and walked down to White Horse Extension and made my way to the phone. Well, what were you wearing at that point?
A. I was wearing another shirt up under it. I was wearing a wife-beater.
Q. Well, you called Jobo's phone from the Spinx. And I seen Gerald Childs was in the parking lot.
A. Yes.
Q. You're still saying that's true?
A. Yes.
Q. All right. Why did you walk all the way to the Spinx instead of using the phone at Ingles?
A. Because I was scared to go to Ingles and use the phone.
Q. Why?
A. I was -- because I had just got done dragging a body. And when I come out of Long -- when I come out at White Horse Extension I was already further on down past Ingles. I was right across from the store.
Q. Gerald Childs was helping a girl get in her -- get her car unlocked and he asked me if I needed a ride home. True or false?

A. True.
Q. And I said, yes. And he took me home. And I woke Jobo up and told him I buried the body. True or false?
A. True.
Q. Okay. You're saying that Jobo dropped you off to bury the body, but no arrangements were made to get you back?
A. The arrangements were made, but he never answered his phone. So he never even -- he never even -- he said he was going to drive back around and never did come back around. So I was left to walk.
Q. None of that's in here, is it?
A. No, it's not.
Q. After that I was back to my regular routine. So how long did you stay freaked out?
A. I stayed freaked out for a while.
Q. How long is a while?
A. A while is a couple of weeks.
Q. Well, when did you go back to your regular routine?
A. Not too long after.
Q. What's not too long after?
A. When I was smoking ice.
Q. Well, ---
A. That wasn't too long. I mean, that was within a couple of weeks.
Q. So it was a couple of weeks before you started smoking

ice again?
A. Yes.
Q. So you were clean and sober for those two weeks?
A. Yes.
Q. So Joe wasn't giving you any drugs during those two weeks?
A. No.
Q. I just want everybody to know that Charlie was a good guy. And from what I know in my sober state, I never would have shot him, and I'm sorry. I felt like -- true or false?
A. True.
Q. Now, this is -- I felt like I was indebted to Joe for everything he had done for me. So that's why I shot Charlie Roberts. True?
A. That's true what I said in that statement.
Q. Jobo also paid me around five hundred dollars in all to kill Charlie. True or false?
A. True.
Q. Okay. It's your statement today that's true. I want to make sure we're talking about the same five hundred dollars that you said was over time for the whole year that you stayed with him.
A. Yes, that's true.
Q. Jobo gave me money over time to buy dope, and pills or whatever I wanted to satisfy me. It says he gave you money,

correct?
A. Yes.
Q. Does it say that he gave you drugs or pills?
A. No, it don't.
Q. Is this a true statement?
A. Yes, it's -- part of it's true.
Q. Jobo also paid me money to confess to killing Charlie to keep him out of it. How much more did he pay you for that?
A. Two hundred dollars.
Q. So are we talking five hundred plus two hundred?
A. Yes.
Q. Did you say two hundred here?
A. No, I didn't.
Q. In what way were you paid two hundred?
A. I was paid two hundred dollars in cash right after the drugs.
Q. You didn't mention that?
A. No, I didn't.
Q. Jobo put me up to killing Charlie over Christina because he was in love or infatuated with Christina and he didn't want nobody messing around with the love of his life.
A. True.
Q. Okay. Do you know if Joe was also seeing other women?
A. Yes.

Q. He was, wasn't he?
A. Yes.
Q. The day the body was found I dropped Christina off at work and Jobo was with me. True or false?
A. True.
Q. We talked about me turning myself in. I told him I would, but just give me some money, and some Roxies, and some dope, and Joe did. Is this the first time your statement says that Joe gives you drugs directly?
A. Yes.
Q. And that is when you are talking about turning yourself in?
A. Yes.
Q. He gave me the money to get stuff. And I stayed up all night smoking dope.
A. Yes.
Q. And that was when JoAnn took you to go get the dope?
A. Yes. The last time, yes.
Q. At three am?
A. Yes.
Q. I did call Frank Eppes and told him I was going to turn myself in. And he told me to turn myself in at 9:30 the next morning. True?
A. Yes.
Q. I went the same day and I buried the guns because Jobo

was afraid the police were going to come to his house. So I buried the guns beside the river.

A. True.

Q. So why did you bury the 9mm?

A. Because I was told to. The 9mm's for Jobo's protection from Leroy Roberts because he said Leroy Roberts carried a .38 pistol in his pocket. He said he was threatening to shoot him.

Q. Before Charlie died?

A. After.

Q. Well, when did the 9mm come out?

A. He bought it. I don't know when. And it was laid up under his shed with a pair of pants above it.

Q. You don't know when he bought it?

A. No, I don't.

Q. Could have had it all along?

A. I have no idea when he bought any of his guns.

Q. So he could have had that 9mm all along?

THE COURT: That ---

MS. GORTON: I just ---

THE COURT: Move on, please, ma'am.

MS. GORTON: All right.

Q. That same day -- okay. This is my true statement and there is nothing else to tell that I know of. The two other statements I gave are partly false.

A. True.
Q. I didn't tell the truth because I was scared.
A. Yes.
Q. And this is the truth as God is my witness.
A. Yes.
Q. Now, yesterday did you say you didn't tell the truth because you were angry?
A. The second one I didn't tell the truth because I was angry. The first one, I was scared.
Q. This is my true statement and everything -- and is everything I know and have to say about this case.
A. Yes.
Q. Okay. Everything you know, but the two hundred dollars isn't in here, right?
A. Yes.
Q. Now, yesterday the solicitor was asking you about this alternator story, right?
A. Yes, ma'am.
Q. And you told us yesterday that Joe dropped you off at Charlie's in his mama's car. Isn't it true that before you said that Joe dropped you off in his van and that he dropped you off down the street so that Charlie wouldn't see the van and Charlie would think the van needed an alternator?
A. Yes.
Q. And you were talking about Joe's van?

A. Yes.
Q. But yesterday you said it was -- the cover story was an alternator for Tina's van?
A. Yes.
Q. And the prosecutor even followed up with some questions on that and asked you, well, why was it Joe dropped you off because your -- and you said it was because of the kids, he had to go get the kids, correct?
A. He had to watch the kids.
Q. In your prior statement you said it was so Charlie wouldn't know the van was working, correct?
A. Yes, correct.
Q. After you gave this third statement on August 29th did you continue to call JoAnn?
A. Yes, I did.
Q. Did you -- did anyone tell you to do that?
A. No.
Q. Did you do it on your own?
A. Yes, I did.
Q. So in this statement you're saying that you did it all because Joe set you up. Do you continue to tell JoAnn that Joe had nothing to do with it?
A. Yes, I did.
Q. So you only come clean to law enforcement?
A. Yes, I did.

Q. You continued to tell JoAnn that Joe had nothing to do with it?
A. Yes, I did.
Q. You tell Gail also, Joe's former wife?
A. Um-hum (affirmative).
Q. You tell her you don't know why Joe was arrested. Is that true?
A. Um-hum (affirmative).
Q. But you did know why he was arrested, right?
A. Um-hum (affirmative).
Q. He was arrested because of your second statement, correct?
A. Um-hum (affirmative).
Q. Did you tell Gail you were looking at death row?
A. Yes, I did.
Q. Why did you tell her that?
A. Because what some inmates in all of Greenville County told me that I could be looking at.
Q. Right. So you believed that?
A. I believed it at the time, yes.
Q. You weren't deliberately lying to her?
A. No.
Q. Not because you thought that's what she wanted to hear, but that's what you believed?
A. That's what I believed at the time, yes.

Q. Okay. And clarify what time we're talking about. Did you believe that you were looking at death row when you gave statement number one?

A. I was -- kept crying about it. I thought I was. I kept thinking about it because of the way everything took place.

Q. When you were on your way to turn yourself in, after you'd been out doing drugs with JoAnn, did it occur to you that you were looking at the death penalty?

A. No, I just kept thinking about it.

Q. So -- well, when did you start thinking about it? Once you got to jail, after you gave the statement or before you gave the statement?

A. After I gave the statement.

Q. After you gave the statement. So at the time you give the first statement you're not worried about the death penalty?

A. No.

Q. The time you give the statement are you worried about the death penalty?

A. Yes, because I started sobering up.

Q. And good point, you'd sobered up. You'd been there for nine days at that point, right?

A. Yes.

Q. At the time you gave the third statement were you

worried about the death penalty?
A. No, I wasn't.
Q. You weren't? What had changed?
A. I stayed in the shoe the whole time. When I gave that statement -- I was in the shoe when I -- when I gave it.
Q. Did you think you were looking at the death penalty when you gave the third statement?
A. In parts, yes and no.
Q. I'm going to have to ask for clarification on that.
A. Yes.
Q. Yes. Now after -- four days after this August 29th statement do you call your aunt Pam for the first time?
A. Yes.
Q. And that's on September 3rd?
A. Yes.
Q. And you call her and you tell her you haven't called her because you've been in solitary and haven't been allowed to use the phone in three weeks, correct?
A. Yes.
Q. But that wasn't true, was it?
A. No.
Q. You had just called Gail?
A. Yes.
Q. A day or two before?
A. Yes.

Q. You tell Pam basically statement number three, correct?
A. Yes.
Q. You also tell her you're facing the death penalty. And you tell her, don't you, that the detectives have been behind you, that's what they told you. Is that what you said to aunt Pam?
A. Yes.
Q. The detectives are behind you, what did that mean?
A. That's what I thought.
Q. Well, okay. Well, tell me what you thought ---
THE COURT: Now, that -- please move on.
Q. The detectives, did they tell you that Joe is guiltier than you are?
A. Yes.
Q. A little over an hour after you hang up from talking to aunt Pam you called JoAnn back?
A. Yes.
Q. And you continued to say you don't know why Joe's been arrested, you have no idea?
A. Yes.
Q. In fact, you specifically tell her you didn't rat on anybody?
A. Yes.
Q. And then you start talking to JoAnn about canteen money.

A. Yes.
Q. You're wanting JoAnn to send you more money?
A. Yes.
Q. For your canteen?
A. Yes.
Q. And less than an hour later after that you go back to calling Christine, correct?
A. Yes.
Q. And it's back to it was all Joe's fault? Yes?
A. Yes.
Q. And you tell her you felt like you owed him something?
A. Yes.
Q. And here as well you say he helped me get money so I could get drugs. You never tell your sister that Joe gave you drugs, do you?
A. She knew that he did.
Q. Do you ever say that in this ---
A. No, I don't.
Q. Huh?
A. I don't.
Q. You say he gave me money?
A. (No response).
Q. And you say you felt obligated?
A. Yes, I did.
Q. Five days later you call your aunt Pam. We're at

September 8th. We're close to the end. On September 8th you call your aunt Pam again. Did you tell her that you're working with detectives to get leniency?

A. That's what I told her.

Q. Was it true?

A. No.

Q. Was it what you were hoping for?

A. It's what I was hoping for, yes.

Q. And that same day, or I'm sorry, three days later you call JoAnn and you tell her you're looking to get ten to fifteen years, is that correct?

A. Yes, ma'am.

Q. Is that what you were hoping for?

A. Yes, ma'am.

Q. That's what you thought that statement number three was going to get you?

A. That's what I was hoping for.

Q. I'm wrapping it up here. After you gave your third statement you kept calling JoAnn until she found out the truth, correct?

A. Yes.

Q. You kept telling her you didn't know why Joe was arrested?

A. Yes.

Q. You kept calling her and asking her for money ---

A. Yes.
Q. --- when she had no idea?
A. Yes.
Q. You called her on 9/6, September 6th?
A. Yes.
Q. September 12th?
A. (Affirmative nod).
Q. So you never came clean with her?
A. No.

MS. GORTON: Nothing further.

MR. STEINBERG: Your Honor, I do have precise -- hopefully precise redirect.

Redirect Examination by Mr. Steinberg:

Q. Mr. Allen, did Jobo Phillips ever tell you not to speak to Christina Gentry about this matter?
A. Yes.
Q. On the phone or in person? Or both?
A. In person and on the phone in code.
Q. Have I or anybody in law enforcement ever threatened you with perjury charges?
A. No, y'all haven't.
Q. After conversations with myself or with Mr. Hammett what's your understanding of how you had to answer questions for Ms. Gorton? You have to tell her the truth as well?
A. Yes, I did.

Q. You agree your first statement was a lie?
A. Yes, I do.
Q. You agree your second statement was a lie?
A. Yes, I do.
Q. Let me ask you a question -- a question about the telephone calls. Just briefly, does JoAnn have a land line and a cell phone?
A. No.
Q. Which one does she have? Do you know the numbers?
A. She had a cell phone. It's 254-8064.
Q. Whose number is 836 -- 836?
A. 836?
Q. Yes, sir.
A. I don't know. I know my mama had a phone.
Q. There were a number of questions dealing with the word volunteer. Did you just flat out volunteer, say, hey, why don't I kill Charlie for you? Or were you asked before that to kill him?
A. I was asked.
Q. By who?
A. Jobo.
Q. This Ingles, could you actually physically see the Ingles from where you did the shooting?
A. No.
Q. Did Jobo ever give you drugs directly?

A. Yes.
Q. What drugs?
A. Pills and ice.
Q. How would your sister, Christina, know if Joe would have given you drugs?
A. She would -- when she lived with him she knowed before because that's what he did before.
Q. Okay. But you have actually gotten drugs straight from him?
A. Yes.
Q. Thank you. That's all the questions I have.

THE COURT: All right. Step down. All right, solicitor.

MR. STEINBERG: Your Honor, at this point the State does rest.

THE COURT: All right. Take the jury out, please.

(Whereupon the jury exited the courtroom at 11:31 am)

THE COURT: Okay. Any motions?

MS. GORTON: Yes, Your Honor. At this point I would move for judgment of acquittal or directed verdict, the basis of which, given Mr. Allen's background and the fact that he is the only person to testify that Joe encouraged, couseled or paid him to do this, that there's, in the light most favorable to the State, there's not a case against Mr. Phillips for accessory before the fact.

THE COURT: And I'd have to deny your motion.

MS. GORTON: I understand.

THE COURT: All right. Now, will you have some testimony?

MS. GORTON: Will I be presenting testimony?

THE COURT: Yes.

MS. GORTON: No, Your Honor.

THE COURT: Is your client going to testify?

MS. GORTON: No, Your Honor.

THE COURT: And you have no other witnesses?

MS. GORTON: No, Your Honor.

THE COURT: All right. Put the Defendant under oath for me, please.

MADAME CLERK: Would you raise your right hand. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth so help you God?

MR. PHILLIPS: Yes, ma'am.

MADAME CLERK: Thank you.

THE COURT: You can sit down now. Mr. Phillips, we're at a point in your trial where you need to make a decision on whether or not you, yourself, will testify or otherwise present other testimony. Do you understand that?

MR. PHILLIPS: Yes, sir.

THE COURT: Now, I have to tell you that you don't have to take the stand and testify or present evidence because

MR. PHILLIPS: Yes, sir.

THE COURT: Got any complaint whatsoever to make against her?

MR. PHILLIPS: No, sir.

MS. GORTON: Judge, I would like, just for the record, there were a number of witnesses that we subpoenaed. I believe I issued seventeen total subpoenas. But Mr. Phillips and I have discussed this and we've discussed the advantage of not presenting any evidence or witnesses and having last closing. And we've discussed that. And he is fully informed of the decision not to present witnesses and why that is.

THE COURT: All right. I find that you have knowingly and intelligently waived your right to testify or otherwise present evidence in this case. That being the situation, then you will have the final argument. I will inform the jury that's your decision and that you don't have to testify. And I'll explain that right to the jury, okay?

MR. PHILLIPS: Yes, sir.

THE COURT: All right. Do you have any -- I'll tell you, I'm going to charge the law with respect to accessory before the fact. I'm going to charge circumstantial evidence. I'm going to charge weight to be given to testimony of an expert along with my general charge. Have I overlooked anything?

MR. STEINBERG: Your Honor, I believe we have to, under the circumstances, charge both murder and the definition of malice to include a firearm.

THE COURT: I'm going to define murder.

MR. STEINBERG: Yes, sir. Thank you, Your Honor.

MS. GORTON: Judge, ---

MR. STEINBERG: I would ask that you define -- actually, I'll waive that issue, Your Honor.

MS. GORTON: Judge, I have a request as to accessory before the fact. Given the specific facts and circumstances that arose in this trial and -- forgive me, I'm fairly new to this jurisdiction. A number of years in Missouri and Florida, but not this jurisdiction.

I pulled this jury charge for accessory before the fact off of the College of Charleston or Charleston Bar Association. And what it says is the defendant is charged with being accessory before the fact to murder. In order to prove this crime the State must prove beyond a reasonable doubt that the defendant either advised, agreed, urged, counseled, hire or in some way aided or abetted another person to commit the crime, that the defendant was not present when the offense was committed.

And then it has two definitions. It has; aid means to help, promote the course or accomplishment of, to give support to or to give assistance to. And abet means to

encourage or appear to favor support.

Under the specific facts and circumstances of this case, specifically the testimony of Tammie Timmons where she testified that Joe came up and said I'll give you a hundred dollars to knock this guy off, and she said I didn't take him seriously, nobody would, I would ask for the additional instruction to -- additional paragraph to this instruction that says to be guilty of accessory before the fact the defendant must have acted in the prescribed manner prior to the commission of the offense.

I'm sorry, the factual basis for asking for that would have been he clearly provided assistance after the fact. So I think under the facts and circumstances that came out, we need that clarification. To be guilty of accessory before the fact, the defendant must have acted in the prescribed manner prior to the commission of the prescribed offense or the murder.

THE COURT: All right. I'm not going to charge that specific language. All right. Any ---

MS. GORTON: I'm sorry, I have another one.

THE COURT: Sure.

MS. GORTON: I'm also asking for an instruction on criminal intent. And this is the Tammie Timmons issue.

I believe that the facts could reasonably be construed by the jury that Joe was upset about Christine and --

Christina and Charlie and that he made many, many comments which caused JJ to ultimately act. But if he didn't have the criminal intent to do so, then he can't be guilty of this charge. If he complained about it and talked about how upset he was and how something needed to be done about Charlie, but he had no intent for anyone to kill Charlie.

THE COURT: Do you have a specific charge you want to present to me that I can look at? If you've got a request for a charge, then give it to me so it'll be a part of the record and I'll consider it.

MS. GORTON: I would add to my other request where it says before the fact, I would say, furthermore, in order to be guilty ---

THE COURT: I want you to give me something in writing so that I ---

MS. GORTON: I'm sorry.

THE COURT: --- can look at it, okay.

MS. GORTON: I'm sorry. Did you want me to give you in writing the other one as well?

THE COURT: Yes. I want -- I want you to give me in writing what you're requesting so that I can ...

MR. STEINBERG: Thank you, Your Honor. I'll hand up my copy, accessory to murder, accessory before the fact. The statute defines it properly. One who counsels, hires or otherwise procures a commission of a felony is guilty of ---

THE COURT: That's the way I charge it.

MR. STEINBERG: Yes, sir.

MS. GORTON: I would also ask for the charge of independent act. When two or more conspire to commit a crime they're responsible for all incidental and coincidental acts growing out of the same common design. However, conspirators are not responsible ---

THE COURT: You want the hand of one, the hand of all. Is that what you're requesting?

MS. GORTON: I don't think hand of one a hand of all is appropriate in this case because they're not charged with being co-conspirators per say.

THE COURT: Will you please ---

MS. GORTON: I'm sorry.

THE COURT: --- write out and give to me -- we're going to recess now and I'll give you time to do that.

MS. GORTON: One more request.

THE COURT: Okay.

MS. GORTON: Accessory after the fact is a lesser included.

MR. STEINBERG: Judge, that's excluded.

THE COURT: No, I'm not going to charge after the fact. Okay. All right. We'll take a recess. And, like I say, I've got to do this minor settlement at noon. Let's be back in an hour. That'll give you time to write out -- is that

enough?

MS. GORTON: I think so. Well, do you want it typed? Does it matter? I'm not a public defender. I'm a 608. So ---

THE COURT: No.

MS. GORTON: --- my office isn't here.

THE COURT: If you can write it legibly where I can read it, then ---

MS. GORTON: I'll try.

THE COURT: Okay. All right. Please be back in an hour.

MR. STEINBERG: Thank you, Your Honor.

(Whereupon court was in recess at 11:42 am)

(Whereupon court resumed at 11:44 am)

MS. GORTON: Judge, in order to efficiently address the issues that I'm concerned about addressing I would ask if you could let me know which accessory before the fact charge you are going to read. If there's a copy of it or what your ---

THE COURT: Make her a copy of this, please, Joelle.

MS. GORTON: Thank you.

THE COURT: Make two copies of it.

MR. STEINBERG: Thank you, Your Honor. Yours is pretty much in line with just the statute?

THE COURT: I think it is. It's the one I've been

using for thirty years.

MR. STEINBERG: Yes, sir.

MADAME CLERK: This is giving us a problem. I'll go back and make a copy of it and be right back.

(Whereupon court was in recess at 11:45 am)

(Whereupon court resumed at 12:51 pm)

THE COURT: All right. You have your requests?

MS. GORTON: I do, Judge. And I even managed to type them. It's basically your instruction with this added to it. And I'm giving the State a copy.

As to the first requested change, it's simply deleting the sentence; as a necessary element of murder it must have been committed without ---

THE COURT: All right. Let me look to see what your requests are.

(Pause)

THE COURT: All right. I'm going to charge as I showed you. And I'm going to file these with the clerk so that you'll be protected on the record.

(Whereupon Court's exhibit 1 was marked)

THE COURT: All right. Solicitor, you ready to talk to the jury?

MR. STEINBERG: Yes, sir, I am.

THE COURT: Bring them on.

(Whereupon the jury entered the courtroom at 12:54 pm)

THE COURT: Ladies and gentlemen, in the trial of a criminal case a defendant has absolutely no burden. A defendant does not have to take the stand and testify or otherwise present testimony or evidence. And that is because that is a constitutional right of every defendant. Now -- and I'll explain this right to you more fully during the course of my charge.

The Defendant in this case has exercised his constitutional right not to testify. So the evidence in this case is complete. And what we have remaining is the final arguments by the attorneys. And when they have concluded their arguments, then I'll charge you the law with respect to this case. Solicitor.

MR. STEINBERG: Thank you, Your Honor. May it please the Court. Ladies and gentlemen of the jury, I appreciate your time and consideration in this case.

Who would want Charlie Roberts killed? Who would want Charlie Roberts out of the picture? Who wants Christina not to have any other males involved? The answer to that is quite clear.

We have charged Jobo Phillips with accessory before the fact of murder. Accessory before the fact means that you have done something to assist another human being in this murder. It doesn't matter one percent or ninety-nine percent responsible, you are responsible if you encouraged,

if you reenforced, you paid, you drive somebody someplace, if you give them money, you give them drugs, you give them advice on how to do something, you are equally guilty of committing a crime if your crime is accessory before the fact.

Let's talk about the facts in this case for a minute. We know who shot Charlie Roberts. JJ admitted to it. All the evidence shows he's the one that pulled the trigger. You saw that he has some issues.

JJ Allen is pathetic. And I don't mean that in an insulting term, I mean that in its most clinical term. Dr. Ward is a pathologist, path, pathos, Greek term for sickness. JJ is not all right. Jobo took advantage of him knowing his issues.

We know who the trigger-man was, but who wanted Charlie dead? Charlie, who apparently has no enemies outside of Jobo. Charlie, who's had a steady job for two decades. Who wants Charlie dead? JJ Allen has some problems. Charlie Roberts was not one of his problems. Charlie Roberts was Jobo Phillips' problem.

Jobo has a motive. Jobo, I don't mean no disrespect, I'm not trying to just deride him, but he's not a forward thinker. This is not a well laid plan. Jobo is not thinking right in 2011, not when it comes down to Christina and Charlie.

This is a case of a jealous ex-boyfriend arranging, and planning, and encouraging, that's Jobo. And JJ, again, a pathetic do-boy or a watch-dog in his own words, executing the plan. I want you to listen to the phone calls. They are yours. They are in evidence. You will come in here mostly likely and play them if you need to hear them again. Listen to the phone calls between Jobo and JJ.

Now, the defense attorney is going to put up her defense and make a number of arguments. She gets the final argument. I don't know exactly what she's going to say. I think she's going to focus on cell phones during a very particular period, that is, where was -- where was Jobo in the time between 9:22 and noon or one?

Well, we have the relevant phone records. We know that the relevant phone records are Charlie's. Obviously, he's passed away, we can't talk to him. Jobo told a falsehood to the officers on Saturday, July 9th. We've got his, too.

Another critical reason, those are the phone numbers going back and forth. You've seen this, back and forth, back and forth. Charlie to JJ, JJ to Jobo, pardon me. Jobo to Charlie, then Charlie's phone call repeatedly to Jobo.

Finally, a final phone call from what's clearly JJ. It can't be Charlie, Charlie's dead on the southern point. JJ and Charlie's truck up on the very top. Jobo's already on his way. We know that. 11:08, phone call. 11:10,

voicemail calls, I should say.

We do not need Jimmy Poole and Roy Barrett's telephone calls from prior days. The officer's did what they were supposed to. You're saying maybe they missed this, they missed that. They checked for fingerprints. There are no fingerprints. They missed a .380 shell casing. They're familiar with this. They go back another time and they find it.

Now, the Defendant's primary theory in this case is what I'm going to have to refer to as the lone JJ theory. JJ did this alone. He did this for no reason involving Jobo Phillips.

Now, JJ's going to get what the law decides. He's going to get between thirty years and life. You've heard I've made a recommendation or will make a recommendation of thirty years. There is no parole in this case.

For you to believe that JJ did this without any assistance, any encouragement, any support from Jobo would require you to disbelieve T-Bird Starling and Roy Barrett. They both got together and both came up with this and both continued to come up with this idea. Roy Barrett's statement's in evidence. I urge you to read that word for word.

You also have to disbelieve Roy White and Tammie Timmons. They're obviously not a couple anymore. He's in

prison. But they would come up with this red headed MF-er, threat, on a different date just decided to come up here. Tammie Timmons wasn't even interviewed until well later.

You also have to disbelieve Bobby Sweet. Bobby Sweet got nothing out of this. Bobby Sweet came in from the State prison and testified to what happened. He has no dog in this fight. We sent him a subpoena, they put him on a bus, he has to testify. It's that simple.

You have to disbelieve all of those people and Christina and JJ and you have to disbelieve JJ's, pardon me, Jobo's own cell phone, pardon me, jailhouse calls. Listen to Jobo's jailhouse phone calls. They're all in there for you to listen to. They all scream Jobo's guilt alongside of JJ.

The Defendant has also raised some issues involving prescription pills. I submit to you Charlie Roberts was not a drug dealer or drug user and this is not a drug deal.

Opposing counsel and I actually have a very good relationship. So don't take this word incorrectly, but there was some irrelevant questions that were asked, some dwelling -- this is a common defense technique. You can dwell on one small area. It has nothing to do with the entirety of the case. You want to get the jury misled.

I urge you to look at the entirety of the case, not focus on whether Jimmy Poole or Christina Gentry had a

different story than Christina and Emily Gentry as to the time-line. We all agree, everybody in this room should agree, Jobo Phillips was not available, not around and was wisely not around when Charlie was murdered.

The defense attorney will have the final closing argument. I'll remind you that the Judge will instruct you on the law. Not anything I say or anything opposing counsel says is the law. It is up to the Judge.

I also advise you if you hear something from me, if I accidentally misstate something, within a two day trial maybe I've made a mistake, you are not to follow what I have to say or what opposing counsel has to say. The evidence is your recollection and before you on the table.

I've presented a time-line, if Ms. McIntyre will assist me. This time-line is designed primarily for my benefit. It's easier for me to explain this to you.

Jobo and Christina break up their on again, off again relationship in March of 2011. Christina moves out. Her children move with her, although they have a lot of contact with Jobo. Charlie and Christina start to date shortly after that.

Jobo discovers Christina and Charlie are dating in the Spring of 2011. You heard Jobo's not taking kindly to this. Jobo is infuriated by this. We see where this is going. We know what happens. We know what happened to Charlie after

this. That's his motive.

Emily Gentry, Jobo's recent girlfriend, clearly has a dispute with Christina Gentry, confirms Jobo is distraught over Charlie and Christina.

Jobo tells JJ that he and Jobo has to kill Charlie. He has to get him out of the way. Dakota O[redacted] also hears this conversation, recalls the conversation. He recalls it a little bit different. He was the young man that goes to Travelers Rest High School. He recalls, I've got to do something, he said it more than once, about Charlie, about the man seeing Christina.

Jobo's cousin was present. We obviously did not present Jobo's cousin in this case, also a juvenile. Jobo has JJ drive him past Charlie's house at the nighttime. You heard that -- that's one of the functions JJ performed. JJ cleans the house, he does various functions.

Apparently, he also drives Charlie past or drives Jobo past Charlie's house in the nighttime to see if Christina was there. Jobo said he's going to beat Charlie if he sees him. We know where this goes. We know where this ends.

June 12th, Jobo threatens Charlie at Charlie's own house at night. Jobo has the nerve, has the inclination and has the motive to go over to another man's house, bang on the door, threaten him, cuss him, called him that word, pussy faggot.

Finally, Christina has to force Jobo to leave. Makes him get in the car and drive away. That's June 12th. Charlie Roberts has less than a month to live. He'll be dead in a month because he made Jobo upset.

Deputy John Duncan responded to this location. Jobo actually calls Charlie and is surprised when he gets Deputy John Duncan. Jobo agrees not to bother Charlie anymore. There were some questions as to whether this was an incident or not.

Jobo agreed there had been an incident, involved a female, we all know which female this was, and he agrees he's not going to come by anymore. Well, he doesn't come by anymore. He has somebody else go by for him.

That same night Jobo tells Christina that Charlie is, quote, a pussy for not fighting me. Jobo tells JJ the same thing on the same night. Emily also testified that Jobo made similar comments. Shows he's not past it. He tells Deputy John Duncan he's past it, but he's not past it.

Christina speaks with Jobo. This is July 4th. Jobo calls Charlie, again, apologize for my language, a red headed MF-er and you're busy seeing him instead of seeing your family. He's not going to get past this. Jobo is stuck on this. Like calls it a fantasy relationship. Jobo still thinks that he's in a relationship with Christina. She'd broken it off. She's moved on. She's past this.

Jobo is not.

Jobo walks up to Roy White at the TR Speedway and offers him a hundred dollars to injure Charlie. I say injure. The magic words were knock out Charlie. He wants a man -- wants to hire a man to injure Charlie.

This is on July 4th. Tammie Timmons, you've heard this, I told you at the very beginning you might hear some hesitant witnesses. We had a couple. T-Bird was hesitant. Tammie Timmons couldn't get off the stand fast enough. She told you what she heard. She has no dog in the fight. She's not facing anything from me. I'm not prosecuting her for anything.

She also hears a hundred dollars to knock out that red headed MF-er. Charlie has four days left on this planet. Tammie told you she's from Marietta. Some of the other people told you Marietta's a little bit different. She told you that people talk like that in Marietta.

Well, when you have Jobo Phillips telling you, I want you to knock out a man for a hundred dollars, it's serious. He came to two people. He's been to the house before. This is not an isolated or a random threat.

Jobo then calls Roy Barrett to buy a throw-away pistol because he has a man to do a job. I believe I even asked Mr. Barrett, who also did not want to be here. Apparently, I and the marshals had a word with him. Roy Barrett gave a

statement dated August, pardon me, October 11th, 2011. We said, is that Jobo's word, throw-away gun? Yes. Did he say he has a man to do a job? Yes.

Roy recalls the date wrong, perhaps. Perhaps it was a Wednesday, maybe it was a Tuesday, maybe it was a Thursday. We don't know. But Roy recalls it was right before Charlie went missing.

That might seal the deal right there, ladies and gentlemen. Some of you might just decide to convict at that point once you re-read that, Jobo telling a man who has no dog in this fight and clearly does not want to be here for the State, I've got a man to do a job, I need a gun.

On that same day Jobo drives up at the Spinx to Roy Barrett and equally scared, T-Bird Starling, if you're asking, yes, his name actually is T-Bird. His mother had a sense of humor, I guess. They'd bought a gun.

T-Bird then tells Bobby Sweet that same day, hey, Jobo's looking for a gun. They call Jobo. This is early July of 2011. Jobo buys a black .380 Hi-Point pistol, which you have before you for one hundred and twenty-five dollars. He does not buy the 9mm at that time. It is not used in this case.

Jobo gives that same gun to JJ Allen. Bobby Sweet recalls it was right before Charlie went missing. Bobby knew the brand and the caliber. The officers did not tell

him.

Jobo then tells JJ he wants him to kill Charlie Roberts. It went from talking, talking to a very specific request on the morning of Friday, July 8th. There were some stupid attempts. Those are almost pathetic attempts. Those are attempts designed by someone who has nothing to lose, to have somebody else commit a stupid crime. That is Jobo telling JJ, I want you to execute these idiotic plans in front of the man's own house.

JJ has problems. JJ has mental problems. JJ has drug problems. JJ is smart enough to realize these plans won't work on Lions Park Road. Jobo comes up with a better idea, lure him elsewhere.

Jobo calls Charlie Roberts 9:22 in the morning. Jobo's phone calling Charlie's number, 9:22. Charlie has about a half hour to live. Jobo drives JJ towards Charlie's house. This is between 9:30 and ten. He drops him off, not too close, he doesn't want his car seen. JJ walks up, gets a ride from Charlie. They go to Carl Rider's old house, also on Friday morning.

Now, Charlie is, of course, unlikely probably to go anyplace with Jobo. Charlie would have to be incredibly naive, incredibly naive to go anyplace with Jobo. Jobo might be playing nice now, trying to be his friend, but he'd be crazy to go with Jobo.

But surely he's going to go with JJ. JJ's tiny. Did you see JJ? JJ didn't even come much taller than this podium. JJ's a small person. He's not really a threat. JJ himself is not a threat. Jobo's pistol there, the .380, is a threat.

He's going to get a car part at a place where car parts may well be. Also, it's Christina's brother. You heard Christina and Charlie are in a relationship.

Charlie's then shot in the head by JJ Allen with the pistol Bobby Sweet gave to Jobo. There's a discrepancy. Dr. Ward, brilliant man, I wish I was half as smart as he was. He said the bullet went in the front.

He said it could have been fired at a higher angle 'cause it went down, or the person's head could have been tilted, or the body could have been tilted. That would -- that would have involved the bullet going in the front and going at a very minor downward slant.

JJ took the stand and he said he believes, he is confident, he shot him in the back of the head. We were not there. Does anybody really believe JJ didn't pull the trigger? Maybe JJ's mistaken. Maybe Charlie turned his head, as quick as that was, took less than a second. I don't know. I'm not going to dwell on that issue. JJ pulled the trigger. And Charlie is dead.

Now, we know that JJ killed him, killed Charlie before

10:30. We know these phone calls were made by JJ Allen, 10:05, 10:06, 10:14, all going to Jobo. Jobo's receiving these phone calls. It's his phone. These phone calls continue on.

Charlie's phone goes from this area, farther south, and then it starts traveling north. 10:17, he again calls. Continues on up. All the way up to Zirconia, North Carolina's tower, still on Gap Creek Road in South Carolina. That is the path of Charlie's phone.

We know Charlie was not with his phone after 10:00 because Charlie's down here at the incident location near the tower, the 10:05 tower. He doesn't travel with it, he's dead.

JJ tells Charlie -- drives Charlie's truck to Gap Creek Road, leaves it in the woods, but not far enough that people can't see it. A person did see it and called in to law enforcement.

JJ Allen, I say, is pathetic. And I don't mean to insult. I really don't. But he is pathetic at following directions because he was supposed to dispose of the body in the well. And there's a picture of that well in this -- in this collection of photos.

If he'd have dropped that body in the well, we probably wouldn't have a case here. If he had dropped that car farther in the woods, perhaps we wouldn't have a case here.

JJ doesn't follow directions well. He's a drug user. He has mental problems. He did a bad job of hiding this car. It was found that same day, that same day, 5:15.

Jobo gets a call from his do-boy. That's what JJ is. Calls him on Charlie's cell phone. Jobo's getting phone calls from Charlie's cell phone, comes into play. That's at 10:49.

Jobo goes to Gap Creek Road to pick up JJ Allen right where Jobo told him to go. Jobo ensures he has people in the car who will say he was not there at the time he pulled the trigger. And we agree he's not there at the time he pulled the trigger. The aerial maps confirm JJ's testimony.

Jobo and JJ go back to Jobo's house. Jobo provides JJ with a home, that's a motive, drugs, money, that's a motive. Jobo then searches Charlie's cell phone for the phone calls between Charlie and Christina. He then breaks the phone. The officers could not find the phone.

That's also on July 8th. Joe was obsessed with this. This is not the first time he's looked through the phone for messages. He's obsessed. That's the key word, he's obsessed. When you're obsessed you don't let things die.

The same day Charlie Roberts is shot in the head, Jobo has the nerve to ask Christina Gentry, quote, have you seen your boy today? Well, of course, she hasn't seen her boy today. The boy died at 10:00.

Jobo even texted her, the texts are in evidence, I love you very much. He texted an ex-girlfriend, his ex-girlfriend, who does not want to be with him, I love you very much.

Jobo then asked Christina on a date the very next day, Saturday, July 9th, 2011. Charlie's been dead for one day and Jobo's asking her out. He thinks his mission is accomplished. He thinks he's already won. Charlie's dead.

Jobo's interviewed by Investigator Chris Miller and says, quote, I am friends with Charlie Roberts. Jobo's statement is in -- in evidence. I want you to look at it. Do any of you really believe that Charlie and Jobo were friends at this point?

Jobo further stated, I don't want my friend to date my ex-girlfriend, ex-girlfriend is the key word, but I do not care who she dates. Again, does anybody here really think that Jobo does not care who Christina dates?

Jobo also claimed that Charlie is -- well, he didn't know that Charlie was dating Christina. However, we knew that to be false. Christina has told him. Jobo has already been to JJ -- to Charlie's house. So he knows about their relationship. Jobo just doesn't want to accept that.

Emily Gentry even went so far to say that when Charlie was killed Jobo continued to call Charlie names. And this is postmortem. This is after Charlie's dead. And said,

Charlie should not have been seeing Jobo's old lady. That's his term, Jobo's old lady, Christina. She can't go anyplace 'cause Jobo won't let her.

Jobo knows we're investigating the fact that Charlie has not been seen, but Jobo does not tell the Sheriff's Office that JJ called repeatedly on the day Charlie went missing from Charlie's phone. That is huge, ladies and gentlemen. That is massive.

Charlie's body's discovered on August 15th, by of all people, Jobo's cousin or uncle, I believe, Carl Rider. Jobo's familiar with the area. Jobo's upset that JJ didn't dump the body where he was supposed to, which was a well.

Jobo then tells JJ to turn himself in because Jobo has five kids. Jobo will get an attorney to take care of him and is giving him drugs. And JJ's got a problem with drugs.

And JJ follows suit, follows orders, follows directions. Like he did on July 8th, he did it on August 15th, he turns himself in. He has no reason, no reason whatsoever to turn himself in other than Jobo told him to and Jobo paid him to.

He gave the rather silly story that this was a shooting over nothing, an argument over a motorcycle. He said it was an illegal pill sale, but that wasn't the issue.

JJ in his statement admits, even though he was trying to cover for Jobo, he was doing his best to not get Jobo in

trouble, but he calls himself a watch-dog. What does a watch-dog do? A watch-dog protects his owner. As pathetic as that sounds when you're dealing with human beings, Jobo was JJ's owner.

JJ turns himself in to attorney Frank Eppes, who, as you've heard, was earlier associated with Jobo. JJ's in jail for a week. Jobo's not in jail yet. And JJ's upset. And he's understandably upset. He's been played for a fool.

He gives the same scenario in this statement as what the evidence shows except he puts Jobo in his shoes. Jobo's the trigger-man. JJ is an outlying observer. The first statement and the second statement clearly has some truth to it, but they're totally false in their entirety when read in their entirety.

That same day he gives a second statement. JJ goes with officers and shows them the murder weapon. It's a black .380 handgun. They also show him Jobo's 9mm buried right there in the sand. We've got a picture of that.

He also shows where Charlie was murdered, how he was murdered and where he dragged the body. The officers know about this. They know where the mealworms were. They know the body was here. They know the body had been drug because of what Dr. Ward had said about the shirt being pulled over the body.

James Armstrong confirms that the murder weapon, the

.380 that we have, State's exhibit number 2, is, in fact, the same weapon that fired the shell casing found in the murder site. The weapon's buried about a hundred or a hundred and fifty yards from Jobo's house, I believe.

Jobo is then arrested for his role. The officers had JJ's statement, Christina's statement, Deputy John Duncan's information and Bobby Sweet's information on who actually purchased the murder weapon, which was, of course, Jobo.

I don't even know if Bobby Sweet even knew JJ. In fact, I think I may have asked him the question, but I don't believe he said he knew him.

The State later indicted Jobo for a similar charge. This is my decision. Maybe I made a wrong decision. Maybe it should be murder as well, but I decided to go forward on accessory before the fact.

August 29th, Jimmy Poole, who is related to Jobo, gives a statement that Jobo had JoAnn Phillips, who was driving Jimmy someplace to divert her trip to go pick up JJ from Gap Creek Road. This shows that Jobo was involved. It shows he was smart enough not to be the only person around.

He has witnesses. Verizon, not Jimmy Poole. Jimmy Poole is off by about an hour or two, maybe an hour and forty-five minutes. Christina, when she says noon, she might be wrong about noon. Maybe noon to her means 12:30 or one. Verizon gets it right. They're paid to get it right.

They bill on getting times right.

Investigators Hammett and Miller, they go back to JJ Allen. They speak to him. They know he's told a falsehood about something. They speak to him and he says Jobo was obsessed with Christina. There shouldn't be much of a doubt about that.

Jobo wanted Charlie out of the picture. And Jobo gave JJ drugs and money to make this happen. I want to explain this, ladies and gentlemen. This is not Jobo being thrown under the bus by JJ. JJ, you'll have his statement, JJ's confessing to a murder. He is confessing to unmitigated, unbridled, one hundred percent murder.

He is not saying he did it, but look, he is saying I did it, but you also, in addition, need to know about Jobo. There were no offers, no promises. JJ makes a statement, he had no plea offer, it's corroborated by the evidence, by the cell phone information and the witnesses. They have nothing to do with each other. That's on August 29th.

JJ Allen then speaks to his sister. I have two disks, it's one call broken up into two pieces, this is JJ to Christina. He confesses why he did it, how he did it and that Jobo told him to do it. That's September 3rd of 2011. Very important date. Remember that, September 3rd of 2011. Again, no offer was made. This is a confession to the victim's girlfriend, which is JJ's sister. It's not made to

Investigator Hammett.

Jobo on the street tells JJ over the jail phone, Jobo is taking care of JJ. JJ says I take care of my shit here. They know they're being recorded. They can't speak freely. Jobo then says, you know what the hell is up. You're a man of your GD word. We have that phone call as well.

Jobo's arrested on August 26th. He tells Christopher Hammett, who's still at the table here, I don't know anything. Jobo again, again fails to tell the officers, hey, JJ called me from Charlie's phone on the day Charlie went missing 'cause he can't, because if he tells that, the case is over. He speaks to JJ and it's over.

Jobo tells his ex-girlfriend, Christina Gentry, his motive. He is still in love with her. He tells her that in person and over the phone, the jail phones. He proposes to her, I believe, is the testimony. She does not agree.

He admits stealing her cell phone to look to see if she is talking to Charlie. Here she only stole his cell phone -- Jobo only stole the cell phone. On July 8th he stole the man's life in order to get that cell phone and removed that threat to him ever having Christina back again.

Jobo tells his mother and his half sister, Courtney, on September 3rd, 2011 at 17:55 hours, these calls are here, these are all in evidence. You will be able to play them in a room or we'll play it in here in this courtroom.

Jobo says, tell mama, to JoAnn, JoAnn Johnson, to see JJ, tell him I will talk to him when I get out. Tell him his brother says he loves you. Is that a code or is that just offhand remarks? Tell him we are going to help him out. Jobo can, quote, help clear this. Tell JJ to keep quiet and keep it true.

Again, Jobo's not a dummy. I've never said he's a dummy. I'll never say he's a dummy. He knows to speak in code, but he does not know enough code. He doesn't realize we're actually paying attention to these jail phone calls.

September 3rd, again, a very important date, 2011 at 23:50 hours, Jobo, Jobo Phillips again says, tell JJ to keep his mouth shut, two times. Now you've heard these phone calls. I've had the opportunity to listen to them for thousands of hours, these phone calls. I can understand them. You might have had some trouble. The audio might not be very good. We can play it for you again. You ask for it, we will play these tapes for you again.

I've got a way around this so that he is not the main one. Tell him I love him. Tell him not to say anything in front of the GD sister. Tell him to keep his mouth shut.

Well, of course, JJ does speak to his sister that same day. September 3rd Jobo says don't let JJ speak to his sister. September 3rd JJ gives it up one hundred percent and completely. Tell him I'll take care of it when I get

out. I got a way around this when I get out. Keep mouth shut. He also says my shit goes to the grave with me.

Now, defense attorney is going to make an argument, she's already hinted at it, that this is an accessory after the fact. That's not what we're here about. Is he really doing this because he wants to help his little buddy, JJ? Or is he looking out for himself?

If you are finding out that he is -- if you decide that he is looking out for himself, that he has himself to blame here in this case, and he doesn't want himself to get in trouble, then you have convicted him of accessory before the fact.

He says my shit goes to the grave with me. I am going to set someone up. You see, that's Jobo. Jobo will set someone else up. Jobo does not get his hands dirty on this. Tell him hang in there for me. Not for himself, but for me.

Tell JJ to keep his mouth shut, let nothing slip. Well, what is there to slip other than that Jobo paid him to do this, and assisted him in doing this, and gave him a gun to do this?

And then tell him to keep his MF ass tight like he was doing to start with. Well, why would Jobo Phillips want JJ to keep quiet or keep with the first story, what he started with? Well, the first story exonerates Jobo. It makes it look like Jobo has nothing to do with this. That's what

Jobo wants.

September 9th, call from Jobo. Again, tell JJ to keep his mouth shut. Jobo is going to try to pin it off on someone else. Ladies and gentlemen, he's already telling us he likes to deceive, he likes to mislead. That's what he's doing. He is setting up a plan.

I will walk us both out of this. He also repeats he will, quote, put this off on someone else. He is trying to get JJ not to break because if JJ breaks, you listen to his September 3rd call to his sister, it's over for Jobo. Tell him not to say anything about me. He's looking out for himself. He is an accessory before the fact to a murder.

JJ about a year, a year ago, I guess, accepted a guilty plea to a murder with a recommendation of thirty years and no parole. Today, Jobo Phillips has to answer. Could we get the lights, please? Today, Jobo Phillips has to answer for what he has done.

You're going to go back into the deliberations room and you're going to ask yourself, did Jobo Phillips have anything to do with this murder? Did he knowingly give a gun, give instructions, give a bribe in the form of money or anything to kill Charlie? Did he make a plan? Did he drive JJ to where Charlie lived? Did he make plans ahead of time about where to get rid of the body, where to get rid of the truck? If he did any of those things, any one of those

things, he is actually guilty of accessory before the fact of a murder.

JJ Allen may have used Jobo's .380 to commit this crime, but I submit to you Jobo Phillips used JJ Allen as the murder weapon. That's just a tool. JJ Allen is the murder weapon.

I thank you for your time. I and the State of South Carolina appreciate the attention you've paid in this case. We thank you very much. Ms. Gorton.

THE COURT: Okay. Ms. Gorton.

MS. GORTON: It's back. I hope you'll forgive me. After twenty years of this, I still get really nervous up here. It's not that you all are that scary, it's also the responsibility of having someone's life in your hands. For that reason, I'm going to cling to this closing that I wrote last night. And I'll try not to read from it too much.

There were some things I wanted to say to you on our first day, but I wasn't able to do so. First, on behalf of Mr. Phillips, I'd like to thank you for being here. We both realize that your routines and your lives have been disrupted. And being here this week has probably been a huge inconvenience. Thank you for coming anyway because without you our system would not work.

And as I started to say before, this is in many ways a simple case. Charlie Roberts is dead. The State and I

agree as to who killed him, how and where.

JJ Allen shot and killed Charlie Roberts on Friday, July 8th just before 10:05 am in that broken down shed that you all saw, just north of Travelers Rest. We agree that William Phillips was not present. We agree on that. The issue before you is why.

I'm first going to explain to you some of the things that may still seem random or irrelevant to you. That wasn't a defense attorney's trick. In South Carolina we don't have depositions in criminal cases. A lot of what you heard over these last couple of days was the first time I was hearing it, too. But I have an obligation to cover all bases for my client not knowing how the case is going to evolve.

I can't get into Jerry Allen's mind. I have no idea what he's going to say. I don't know in advance what's going to be relevant or irrelevant. And for each of you that might be different. For some of you it might be huge that Christina Gentry was denying that they were back together when the phone calls and Emily seemed to suggest they were. Maybe that's irrelevant, maybe it's not, but it's no deliberate trick.

So I'm going to explain some of those things that we spent a lot of time on. You might be thinking why all the questions about this motorcycle? Why is it important to