

Volume I of II

10420

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Thomas A Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V

GREGORY D DANIELS,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

COURT OF GENERAL SESSIONS
2009-GS-21-0427

State of South Carolina)

vs)

TRANSCRIPT OF RECORD

Gregory Deleon Daniels)
DEFENDANT)

April 12-16, 2010
Florence, South Carolina

B E F O R E

THE HONORABLE THOMAS A RUSSO, JUDGE, and a jury

A P P E A R A N C E S

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Attorneys for the Defendant

KESHIA REED
Official Court Reporter

1 MR JEPERTINGER The record keeper can stay
2 here, Your Honor?

3 THE COURT Sure, yeah All right Is there
4 anything else we need to take up before we bring the jury
5 out in -- open the case with opening statements? Anything
6 from the State?

7 MR JEPERTINGER No, sir

8 THE COURT Anything from the defense?

9 MR LAWSON No, Your Honor

10 THE COURT All right Ms Joe, if you would
11 ask the jury to join us please

12 (WHEREUPON, the jury came into open court)

13 THE COURT All right Ladies and gentlemen,
14 good morning I hope everyone had a good nights rest and
15 ready to go to work today We are about to begin the
16 trial of this case I am going to ask you if you would to
17 please give Mrs Bethea your attention as she places you
18 under oath for your role as jurors in this case

19 (WHEREUPON, the jury panel is sworn)

20 THE COURT Ladies and gentlemen, we are about
21 to try the case of The State vs Gregory Deleon Daniels
22 Before we begin this trial, I want to tell you that more
23 than likely this trial is going to be very different from
24 what you may have experienced in the past, most people
25 have not had the opportunity that you're going to have

1 this week to sit in on an actual jury trial Most
2 people's experience or exposure to jury trials are what
3 they've seen in the movies, read in books or what they've
4 seen on television And, of course, those trials are full
5 of high drama, intense action, riveting circumstances
6 because those -- that's Hollywood that's not real This
7 trial, ladies and gentlemen, while any one of or all of
8 those things may not be present, what you need to
9 understand is this trial is not for your entertainment
10 This trial is a fundamental part of our democracy It is
11 a search for the truth in an effort to make sure that
12 justice is done between the parties who are before the
13 Court In searching for the truth, that process often
14 times is slow, deliberate, sometimes repetitive In other
15 words, very much the opposite of what you see in
16 Hollywood This courtroom, ladies and gentlemen, is a
17 place of honor that is dedicated to the protection and the
18 preservation of citizens rights through what many have
19 called the greatest justice system ever created

20 The attorneys who appear before you are
21 advocates for the parties that they represent But first
22 and foremost, they are officers of the court sworn to
23 uphold the integrity and the fairness of our judicial
24 system You should expect them to be professional,
25 competent and ethical in the representation of their

1 clients' interest Remember that you have just taken an
2 oath to try this case and to reach a fair and a just
3 verdict So you are also expected to be professional,
4 reasonable and ethical in the performance of your duties
5 which I have absolutely no doubt that you will do And I
6 want to take this opportunity again to thank you for your
7 participation in our system of justice here in Florence
8 County

9 What I'm going to tell you now, ladies and
10 gentlemen, is intended to serve as an introduction to the
11 trial of this case These remarks are not a charge on the
12 law I will in fact charge you on the law at the close of
13 all the evidence before you retire to consider your
14 verdict These comments that I am going to make to you
15 now are simply an explanation of the procedures that we
16 are going to follow, so that you may better understand
17 what is going on during the course of the trial

18 Now, the defendant in this case, Mr Gregory
19 Deleon Daniels, is charged by an indictment that was filed
20 with this court and he is charged with the crime of murder
21 and possession of a weapon during the commission of a
22 violent crime The elements of those crimes of those
23 charges will be explain to you later when I charge you on
24 the law

25 The indictment, ladies and gentlemen, as I told

1 you yesterday is simply the charge by which the case is
2 brought into court and it is not in any sense evidence of
3 any of the allegations which it contains The defendant
4 has pled not guilty to this indictment And the State
5 therefore has the burden of proving each element of the
6 indictment beyond a reasonable doubt It will be your
7 duty, ladies and gentlemen, to decide whether or not the
8 State has met that burden

9 Your purpose as jurors is to find and to
10 determine what the true facts are in this case You are
11 the sole judges of the facts If at any time I make any
12 comment regarding the facts, you must disregard those
13 comments You are to determine the facts from the
14 testimony that you hear and any other evidence that may be
15 introduced during the process of the trial It is up to
16 you to determine what inferences that you feel may
17 properly be drawn from that evidence It is especially
18 important that you perform your duty of determining the
19 facts diligently and conscientiously because ordinarily
20 there is no way to correct an erroneous determination of
21 facts by a jury

22 Now, on the other hand but with equal emphasis,
23 the same law that makes you the judges of the facts makes
24 me the judge of the law The law is given to you by the
25 Court is the only law that you may follow You must

1 accept it and follow it even though you may disagree with
2 it I am not allowed to tell you, ladies and gentlemen,
3 what I think about the facts in this case And you as
4 well are not allowed to disagree with me about what the
5 law is or what you think the law should be Your job is
6 to take the law as I give it to you and apply it to the
7 facts as you find the facts to be from the testimony of
8 witnesses and any other exhibits which come into this
9 court And after doing that, you will render your verdict
10 a true and a just verdict under the solemn oath that
11 you've taken earlier as jurors in this case

12 Now, until I advise you to begin your
13 deliberations, you are not to have any discussion at all
14 with anybody about this case As a matter of fact and you
15 may find this a little odd because most people think that
16 juries when they go into the jury room, they're suppose to
17 deliberate and talk about the case And you are suppose
18 to do that at the end of the trial once you've heard from
19 the attorneys and I've charged you on the law, that's when
20 it's appropriate to deliberate But as the trial is in
21 its progress as we go through the trial, there may be
22 times that I send you back into the jury room And during
23 those times, you are not allowed to talk about the case
24 even amongst yourselves There's to be no discussion
25 about the case until it is proper

1 Now, it is important that throughout this trial
2 that you keep an open mind and not decide any issue in
3 this case until all of the evidence has been presented,
4 the parties have had their opportunities to discuss with
5 you or present to you their closing arguments and that I
6 have instructed you on the law It is your solemn
7 responsibility to determine the guilt or innocence of the
8 defendant And your verdict must be base solely on the
9 evidence as it is presented to you during this trial and
10 on the law as I instruct you at the close of this trial

11 Now, in just a moment, the Solicitor's going to
12 have an opportunity to address you with what is called an
13 opening statement In that statement, he is going to
14 explain to you what the issues in this case are or at
15 least what he believes the issues in this case are Once
16 he concludes his opening remarks, then the attorney for
17 the defendant, Mr Lawson, will have an opportunity to
18 also make an opening statement Although, you need to
19 understand that Mr Lawson is not required to do so

20 What's important that you understand is this,
21 what the lawyers tell you in their opening statements is
22 not evidence It is merely their contention as to what
23 they believe the evidence is going to show The evidence
24 in this case will be presented to you by witnesses who are
25 sworn to under oath to take this witness stand and testify

1 from this witness stand And then any exhibits which may
2 come in during the course of the trial, that's the
3 evidence in this case

4 Now, from time to time during the course of the
5 trial, you may hear one of the lawyers say something like
6 this, Judge, may we approach the bench or Your Honor we
7 have a matter of law we need to take up with the Court
8 During those time if that occurs, I may ask you to step
9 back into your jury room The reason that I may do that
10 is simply this often times when I am talking with
11 attorneys about a matter of law or a question of law, it
12 may be necessary for me to make some comment about the
13 testimony that was given or some comment about the facts
14 in regards to a ruling that I have to make As I told you
15 just a moment ago, I'm not to have any influence over you
16 about the facts in this case So to protect you from that
17 so that you don't get influence by anything I may say, I
18 may ask you to step back into your jury room so that I can
19 take up an issue of law, make that ruling, and then bring
20 you back out and not have any influence over you with
21 regards to the facts of the case

22 In determining what the true facts are in this
23 case, you must decide whether or not the testimony of a
24 witness is believable or not It is going to be my job to
25 rule as a matter of law whether certain testimony is

1 admissible at all or not But once testimony is admitted
2 whether or not you believe it is solely up for you to
3 decide In deciding whether to believe a witness, you
4 have the right to consider the interest of a witness, the
5 bias of any witness, the opportunity for the witness to
6 have seen the matters, and the things about which that
7 witness testifies, the way a witness acts on the witness
8 stand

9 Ladies and gentlemen, you have the right to
10 consider anything that is in this record that will help
11 you to evaluate the testimony of witnesses That means
12 that it is your duty to pay close attention to the
13 witnesses, to observe the witnesses, listen carefully to
14 the witnesses, pay close attention to the attorneys and to
15 the Court Please do not let your thoughts wonder, but
16 give strict attention to all of the testimony, strict
17 attention to the attorneys as they address you, as well as
18 to the Court when I charge you on the law, so that at the
19 end of this trial when all is said and done, you will then
20 be able to retire to your jury room to deliberate, discuss
21 and reach a verdict in this case Now, I am going to
22 recognize the attorney for the State, Mr Jepertinger, in
23 just a moment to address you with his opening remarks
24 But before I do that, let me ask the State are there any
25 objections or exceptions to the Court's opening remarks?

1 MR JEPERTINGER No, sir

2 THE COURT Any objections or exceptions from
3 the defense?

4 MR LAWSON No, Your Honor

5 THE COURT Thank you, sir

6 All right, ladies and gentlemen, please give the
7 attorneys your undivided attention as they address you
8 with their opening remarks

9 Mr Jepertinger

10 MR JEPERTINGER Thank you, Your Honor, please
11 the Court, counsel Ladies and gentleman of the jury, as
12 I was home last night contemplating what I was going to
13 say to you, I was struggling a bit because what do you say
14 when a young man by the name of Corey Byrd is shot in the
15 head and killed Then I begin thinking what do you tell a
16 jury when another young man, Gregory Daniels, is
17 responsible for that killing This all started back on
18 September the 4th 2008 You are going to hear from
19 witnesses in this case that there was a party going on at
20 this house, it is on the corner of and
21 in North Florence The party started noon
22 time maybe afterwards in the afternoon of September the
23 4th 2008 Several people were there, several people will
24 testify that Gregory Daniels began picking a fight with
25 Corey Byrd You will also hear that there were other

1 people at that party that also got involved in fights In
2 fact, two other individuals pulled guns on each other
3 Later, you will hear in that evening everybody left that
4 area and eventually Corey Byrd, the victim in this case,
5 was at that house early morning hours of September the
6 5th, which is a Friday morning He was going to catch a
7 ride with a gentleman by the name of Ryan Evans and
8 Gabriel Petterson He about to get into Evans' Tahoe when
9 he forgot his phone charger and he said I got to go back
10 in the house and the other two left him there He got his
11 charger, talk to the host of the party, and everyone that
12 was there still Then he left And he began walking and
13 at approximately 5 07 while he was on the phone with the
14 host of that party from their conversation
15 ceased Corey Byrd was shot dead

16 His girlfriend, Tiesha, expected him to meet her
17 and walked up to the corner of Dargan and Marlboro Street,
18 that's over here and she was wondering where Corey Byrd
19 was She was suppose to meet him She turned around and
20 what she perceived as garbage bags lying there by the side
21 of the road wasn't garbage bags, it was the lifeless body
22 of Corey Byrd who been shot with a 22 in his head Corey
23 Byrd is the victim Tiesha will tell you that she heard
24 a gunshot Tiesha will tell you that she saw someone in
25 dark clothing walk away from that scene down Marlboro

1 Street She couldn't identify the person But she could
2 identify the clothing, that was a black male in dark
3 clothing

4 You will hear her story as she called Corey's
5 cell phone and saw the light flash on the phone under the
6 lifeless body of Corey Byrd You will here how Brittany
7 Fludd came and turn the body over and, Oh, Lord, it's
8 their friend, Corey Byrd

9 Now, in this case, I wish we had this, but the
10 police came in, their crime scene guys, Investigator Myers
11 come in and worked that crime scene, trying to recover and
12 retrieve whatever evidence he could to link someone to the
13 murder of Corey Byrd They swabbed for DNA You will
14 hear from the people no DNA match on anything That's
15 relevant in this case There want be any DNA link is
16 going to link Gregory Daniels to anything, it is not
17 there There were no latent fingerprints to be found
18 The only fingerprints they did find in this case would
19 have been Corey Byrd You will hear about how they
20 retrieved gunshot residue from the palms of Corey Byrd,
21 but there is no physical evidence linking Gregory Daniels
22 to this crime, no eyewitnesses So you might be thinking
23 to yourself, why are we here then, Mr Prosecutor? Why
24 are we here? This case is based on a couple of things
25 When the investigator began investigating who killed Corey

1 Byrd, someone had to He went back to that party and
2 began asking who's there, what happened and he got a name
3 A guy that was trying to fight Corey Byrd that day was
4 Gregory Daniels You will hear from the investigator how
5 he brought Gregory Daniels in and Gregory Daniels said I
6 didn't know ---

7 MR LAWSON Objection, Your Honor, may we
8 approach?

9 THE COURT All right

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury)

13 THE COURT Sustain the objection

14 MR JEPERTINGER You will hear from the
15 witnesses in terms of what the investigator did And when
16 you begin looking at every fact dealing with Gregory
17 Daniels, you will see that he tried to cover up something
18 he did not need to cover up You will hear from Nyrena
19 Goodman in this case, Daniels' girlfriend at the time
20 How he got her to try to cover up this crime But the
21 only belief that the State didn't have any witnesses
22 against him and he needed her to cover up in this You
23 will hear from several witnesses that have no ax to grind
24 with this individual whether they be law enforcement,
25 whether they be phone records When those records come

1 in, you will begin to ask questions how does this add up
2 with someone that is not guilty Because let me tell you
3 and the only way I could bring this case to have some
4 semblance of sense is this fact, this case is almost like
5 UV rays We don't see UV rays We don't feel UV rays,
6 but you can tell when you been out in the sun as those UV
7 rays burn and tan They are there, you just need to look
8 for them In this very sense, Gregory Daniels is
9 responsible, he is responsible for the killing of Corey
10 Byrd

11 Now, in each every case, the judge will tell you
12 at the end of trial, at the end of trial, he will tell you
13 that State is required to prove guilt beyond a reasonable
14 doubt as to every element of the crime In this case, the
15 crime is murder, obviously, we know what that is It's
16 killing of one human being of another human being with
17 malice aforethought And he will define those terms for
18 you He is also charge with possession of a weapon during
19 the commission of a violent crime The judge will tell
20 you that murder is a violent crime in the State of South
21 Carolina And he had a weapon when he did it Beyond a
22 reasonable doubt that doubt which causes a reasonable
23 person to hesitate to act When you hear all the facts
24 and circumstances and I ask you to pay very close and
25 careful attention to all that is said, all that is

1 presented And in this case, you will come to only one
2 conclusion that that gentleman is responsible for the
3 murder of Corey Byrd Thank you

4 THE COURT Thank you, Mr Jepertinger
5 Mr Lawson

6 MR LAWSON May it please the Court

7 THE COURT Yes, sir

8 MR LAWSON Mr Jepertinger Ladies and
9 gentlemen of the jury, I want to take this opportunity
10 initially to thank, to thank you for being willing to take
11 your time and share of your time and your energy I know
12 that there probably a thousand things that you would be
13 doing than serving on jury duty, but I assure you that
14 there is no more important thing that you can do than be
15 here to serve on jury duty It's because of citizens like
16 you that are willing to give of their time and their
17 experiences and that come in and sit and listen and be the
18 judges of the facts of a case that we have the best
19 criminal justice system in the world

20 Our forefathers decided a long time ago that in
21 order for a citizen of these United States in this State
22 of South Carolina before a citizen could be found guilty
23 on charges proffered by the government, that a panel of
24 good people from the community would be called together
25 and that that panel of individuals would sit in judgment

1 of the evidence that the government accumulates in any one
2 case against the citizens And that only when and if that
3 panel of people decide that the government has proven
4 their case beyond a reasonable doubt, then and in that
5 event can citizens be deprived of his Liberty in these
6 United States It is only when the jury after judging the
7 facts is convinced by the evidence beyond a reasonable
8 doubt that a citizen is guilty of the crime with which he
9 is accused only then can a citizen be found guilty The
10 government has to bring to you evidence to prove guilt

11 Now, all the things that the prosecutor went
12 through in his opening is interesting and I want to make
13 sure that you listen very closely to the evidence that
14 will be presented, listen very closely to the testimony
15 that's given because you will be called on to judge not
16 only the evidence, but the credibility of the evidence
17 that's presented In other words, believability is
18 somebody believable or their story believable, is this
19 consistent with that or inconsistent with this and
20 inconsistent with that For that, you use your good
21 common sense Your good common sense And that's what I ask
22 you to bring and keep with you as you sit in this case is
23 keep your good common sense, that sense of justice and
24 fairness, that you operate with on a daily basis as you
25 judge things in your day-to-day activities The judge

1 will charge you at the end of the case with the law It
2 is your duty to then take that law and apply it to the
3 facts that you will hear in this case

4 Now, what you have is a situation where an
5 individual gets shot He gets shot shortly after a party
6 It is assume therefore that the party instigated the
7 shooting I don't know how that conclusion was reached
8 Maybe, we will find out as we go through this trial But
9 I submit that there are a number of days that transpired
10 prior to this get together, the party that could have
11 cause the fatality that occurred on September the 5th in
12 the early morning hours or it may well be that it all
13 relates back to that one single event of the party the
14 night before So there was apparently another party also
15 on that same day, that Mr Byrd also went to is
16 information that maybe produced in the case So there's a
17 lot of things to watch and lot of reasons at the
18 conclusion of this case that you're going to have to doubt
19 and you need only one You need only one as to any
20 incident or any element that the crime of murder has to be
21 proven by each and every element being proven beyond a
22 reasonable doubt

23 In other words, the State and the government
24 must bring forth evidence to prove guilt to every single
25 element of the crimes charge in this case murder and

1 possession of a firearm during a crime of violence

2 Now, both of these cases, the Court will go over
3 with you during your charge the elements of these
4 offenses And in each and every case, the elements must
5 be proven by the evidence beyond a reasonable doubt So
6 on any one element of any one crime if there is a
7 reasonable doubt, then the defendant is entitled to a
8 verdict of not guilty I believe that at the conclusion
9 of this case when you look at the evidence and you weigh
10 it and balance it, that there will be an abundance of
11 doubt And I believe that it will be your duty as you
12 swore your oath to find Gregory Deleon Daniels not guilty

13 If on the other hand, you feel that the State
14 has brought forth evidence that convinces you beyond every
15 reasonable doubt and that Gregory is guilty in this case,
16 then it is your duty in that case to find him guilty I
17 believe, however that as this case progresses that as each
18 and every instance begins to come to light that you will
19 agree with me that there are any number of reasons to
20 doubt as to who did this crime and specifically as it
21 relates to Gregory

22 So I ask you to please pay close attention,
23 listen to what you hear, look for physical evidence that
24 whatever was produced, how it was produced, things that
25 may have been done or could have been done, look at all

1 these things And at the conclusion of this case when we
2 get back up, then I will come to you with a closing
3 statement as well as the State and the judge will give you
4 a charge and then it will be your case to decide and judge
5 the evidence as it has been presented to you I just ask
6 you for a good, fair and reasonable determination, listen
7 closely and pay attention Thank you

8 THE COURT Thank you, Mr Lawson

9 MR JEPERTINGER Mr Deberry will call the
10 first witness

11 THE COURT All right Mr Deberry, you may
12 call your first witness

13 MR DEBERRY Tiesha Brown

14 MR JEPERTINGER They're all in my conference
15 room, Judge

16 THE COURT All right

17 (WHEREUPON, a pause in the proceedings)

18 THE CLERK If you will go to the witness stand
19 and place your left hand on the Bible and raise your right
20 hand to be sworn Do you swear the testimony you give in
21 this case will be the truth, the whole truth, and nothing
22 but the truth so help you God?

23 THE WITNESS Yes, ma'am

24 THE CLERK State your name for the record

25 THE WITNESS Tiesha Brown

1 THE COURT One moment, Mr Deberry
2 (WHEREUPON, a pause in the proceedings)
3 THE COURT All right, sir, you may begin
4 MR DEBERRY Thank you

5 WHEREUPON,

6 Tiesha Brown,
7 after first having been duly sworn, testified as follows

8 DIRECT EXAMINATION

9 BY MR DEBERRY

10 Q Okay Tiesha, thank you for being here today, we
11 really appreciate it Can you just please start off by
12 telling the jury your relationship with the victim in this
13 case Corey Byrd around the month of September and maybe
14 before then of 2008?

15 A I met Corey Byrd at the beginning of 2008 We
16 started off as friends and then we start talking and then
17 we just decided that we wanted to be friends

18 Q And so you and Corey Byrd were just friends?

19 A Uh-huh

20 Q About how often did you -- about when did you meet
21 Corey Byrd?

22 A April -- March, April around about that time

23 Q Okay So about how long did you know him before this
24 incident happen where he lost his life?

25 A Four or five months

1 Q Four or five months All right Did y'all -- how
2 often during that period of time would y'all communicate
3 or talk?

4 A We talked a lot I would come to his family, he'll
5 come to my family We talked a lot

6 Q Okay So y'all saw each other and spoke quite
7 often?

8 A Yeah

9 Q Did you have a telephone at that time?

10 A Yes, sir

11 Q And did y'all speak on the telephone very often?

12 A Yes, we did

13 Q Okay Can you remember what his telephone number was
14 at that time?

15 A Yes, it was

16 Q

17 A Correct

18 Q All right Do you recall the incident that took
19 place and what you know about it surrounding the events of
20 September the 4th and the early morning of September the
21 5th?

22 A Want me to tell what happened?

23 Q Yeah, at this time, you can just explain to the jury,
24 you know, what happened

25 A Okay Corey Byrd called me around 11 30, 12 o'clock

1 and ask me did I want to come to his cousin's, I guess,
2 cookout And I said, yeah, but I didn't want to come
3 alone, so I took my friend Brittany with me

4 Q Okay Can I just stop you? Can you explain a little
5 bit more about you said 11 30, 12 o'clock, is that ---

6 A At night

7 Q At night?

8 A Yeah

9 Q Is it right around midnight of the fourth and the
10 fifth?

11 A Yeah

12 Q Okay And that's the first time y'all saw him that
13 day?

14 A Yeah

15 Q All right Explain what happened?

16 A He meet us -- I didn't know how to get to the
17 cookout, so when we was on the phone, he gave us
18 directions And he met us on the corner of Fraser and
19 Roughfolk Street And then the cookout was the next
20 corner down, then we had walk to the cookout

21 Q Okay At that time, where were you living?

22 A On Marlboro Street

23 Q On Marlboro Street And who were you living with?

24 A Brittany and her family

25 MR DEBERRY So may I approach, Your Honor?

1 THE COURT Yes, sir

2 BY MR DEBERRY

3 Q Can you please ---

4 MR DEBERRY Your Honor, can we get in front of
5 the jury?

6 THE COURT Sure, absolutely

7 Ma'am, I just need to ask you though when you
8 step away from the witness stand, Miss Reed is taking down
9 everything that is being said, so please speak very
10 loudly And if you would, I'm going to get you to stand
11 on that side of Mr Deberry so that you're facing
12 Miss Reed, okay

13 BY MR DEBERRY

14 Q All right Can you -- what street is this?

15 A Marlboro Street

16 COURT REPORTER You got to speak up

17 MR LAWSON Your Honor, I'm going to object to
18 him -- if she can identify it, let her identify the
19 picture and the areas on the picture instead of him'
20 pointing them out to her before she even ---

21 THE COURT All right Mr Deberry, let the
22 witness find the areas and, ma'am, you need to speak
23 louder, please

24 BY MR DEBERRY

25 Q Can you tell us where you were living with Brittany

1 Fludd?

2 A Yes, I was staying right here

3 Q Okay All right What street is that?

4 A Marlboro Street

5 Q Okay And where was the cookout?

6 A The cookout was right here

7 Q All right What's the street corner there?

8 A

9 Q Okay Can you point where they can see?

10 A Right here

11 Q

12 A Yes

13 Q And point again to where your house was?

14 A Right here

15 Q Okay And that's on ---

16 A Marlboro street

17 Q Okay Now, when you traveled from Brittany Fludd's

18 to the cookout, how did y'all get there?

19 A We walk

20 Q Okay And approximately, how long of a walk is that?

21 A Fifteen to 20 minutes to get to the cookout

22 Q Okay So you can walk across here in 15 to 20

23 minutes?

24 A Yes, sir

25 Q Okay Now, explain to the jury -- how long did y'all

1 stay at the cookout?

2 A We stayed from 12 midnight to around four

3 Q Four in morning?

4 A Four in the morning

5 Q Okay And what happened then?

6 A At the cookout?

7 Q I mean, when you left

8 A We left -- Corey Byrd had left with Shavonne cause
9 they sent somebody to the store for cigarettes So
10 Brittany had to go to school the next morning and she said
11 she was out too late, so she wanted to go home So I was
12 calling his phone and he wasn't answering his phone

13 Q Okay, hold on just a minute Explain to the jury who
14 Shavonne is?

15 A Shavonne is -- it's her house that the cookout was
16 at

17 Q All right Where was the cookout?

18 A Right here

19 Q On ---

20 A

21 Q Okay So four o'clock you said y'all left?

22 A Yeah, around 3 30, four o'clock that we started
23 walking back home

24 Q Okay And so about what time do you think y'all walk
25 back to Brittany's house?

1 A Yeah, on Marlboro Street, yeah

2 Q Okay And about how long do you think that it took
3 you to walk back?

4 A Fifteen, 20 minutes

5 Q Okay So when is the next time you talk to Corey
6 Byrd?

7 A After I got home, he call my phone ask why did I
8 leave the cookout and I told him because Brittany had to
9 go to school the next morning And he ask me did I want
10 to come back and I said, yeah And then he said he would
11 meet me walking

12 MR LAWSON Your Honor, I am going to object to
13 the hearsay I mean, she's talking about a conversation
14 on the phone and giving us both sides of it, I don't think
15 that that's appropriate

16 THE COURT She talking about the conversation
17 between herself and the victim

18 MR LAWSON Corey Byrd saying what he was
19 telling her

20 THE COURT All right Just -- you can't say
21 what someone else told you, ma'am, you can just testify as
22 about what you have seen and what you know

23 MR DEBERRY Your Honor, I would offer that
24 we're not offering this for the truth of the matter
25 asserted just to support the events that took place that

1 night and offer what the truth of the matter of
2 conversation ---

3 THE COURT Is the conversation about the
4 directions on how to get there?

5 MR DEBERRY Your Honor, just sets up a
6 timeline

7 THE COURT All right I'll allow it, get to
8 the time frame

9 MR DEBERRY Okay Thank you

10 BY MR DEBERRY

11 Q So you testified he told you that he was going to
12 meet you?

13 A Yeah

14 Q About what time was that?

15 A Around 4 15 something like that

16 Q Okay And did he say how he was going to get there?

17 A He said he was going to walk

18 MR LAWSON Objection again, Your Honor, I mean
19 that's what I'm objecting to

20 THE COURT Sustained It's not relevant

21 MR DEBERRY All right

22 BY MR DEBERRY

23 Q Tell the ladies and gentlemen of the jury, Tiesha,
24 when you were expecting Corey Byrd and what happened?

25 A I was expecting him -- I can't say what he say, but

1 he was suppose to meet me at the corner in like five
2 minutes

3 Q What corner is that?

4 A Marlboro and Dargan

5 Q Okay And do you know if he got delayed you said
6 five minutes?

7 A Yeah, I heard a car in the background, but he
8 didn't -- I wait five minutes on the porch to see if I saw
9 any car because I thought he was in the car and I didn't
10 see a car And then I waited ten more minutes after that
11 and then I heard a gunshot and then I went in the house

12 Q All right Let me ask you just one question real
13 quick, do you know why he was delayed?

14 A He said he forgot his charger I don't know why

15 Q All right And at that time where was he?

16 A On at Shavonne house

17 Q And so it took him approximately how long before you
18 heard the gunshot?

19 A Like 15, 20 minutes after I hung up the phone with
20 him

21 Q All right And where were you when you heard the
22 gunshots?

23 A I was at my house sitting on the porch

24 Q Okay At Brittany Fludd and her parent's house?

25 A Sitting on the porch

1 Q All right And what did you do when you heard a
2 gunshot?

3 A At first, I walked in the house ask did they hear it
4 and they said, no So I walked to the edge of the road on
5 Marlboro Street by the mailbox and look down the road
6 And I seen somebody in all black, dark clothing and I yell
7 why you playing with a gun because it's North Florence
8 people shoot guns all the time I ask why you playing
9 with a gun and by the time I blink, the person
10 disappeared

11 Q Okay Show the jury exactly where you are and where
12 you saw the person in all black?

13 A The house right here

14 Q That's your house?

15 A Yeah I walk to the mailbox and I see somebody in
16 dark clothing

17 Q Where were they?

18 A They was right here

19 Q All right What's the street corner?

20 A Dargan and Marlboro

21 Q Dargan and Marlboro

22 A And I was right here And when I came to the fence,
23 I seen somebody in dark clothing as I was walking -- cause
24 we suppose to go to the store too After we met, we was
25 going to go to the Tiger Mart

1 Q Okay

2 A So I started walking towards Dargan Street where I
3 seen the person and

4 Q All right And is there any problem or you're able
5 to see from this house ---

6 A If you get in the middle of the road, you can see all
7 the way down You can see -- if you get in the middle of
8 the road, you can see all the way down to Commander you
9 can see I can see all the way down here

10 Q Okay And where is Commander?

11 A Commander Street right here If you stand in the
12 middle of the road, you can see all of this

13 Q Okay So when you're standing in the middle of the
14 road and you saw a person in dark clothing?

15 A Dark clothing

16 Q Which way did he walk?

17 A They came off of Dargan and turn right on Marlboro

18 Q Came off of Dargan and turn right on Marlboro and
19 then what did you see?

20 A They disappeared

21 Q Just one person?

22 A Yeah

23 Q All right And he was walking?

24 A Yeah

25 Q Okay Now, tell the jury what you did next?

1 A I started walking down here I didn't pass -- and
2 when I got to Dargan, I didn't pay attention -- to pay
3 attention I got to this house right here When I got to
4 this yard right here, I turn around and look and look like
5 it was some trash It was kind of dark, it look like
6 trash bag was on the ground

7 Q And where was that?

8 A Right

9 Q What street is that?

10 A Dargan

11 Q Okay How far from the corner of Dargan and Marlboro
12 was that where you thought you saw the trash bag?

13 A I don't know how far

14 Q Can you just point in the courtroom how far it would
15 have been?

16 A If I was right here probably to that door, to that
17 door

18 Q Maybe further, maybe shorter?

19 A Maybe further

20 Q And that's where -- okay So you saw that and what
21 did you do?

22 A Something told me to walk towards it cause it didn't
23 look right, so I walk towards it and I seen somebody lying
24 on the ground And I didn't know it was Corey Byrd right
25 then and there All I seen was white shoes and dark

1 clothing like blue Jeans and black shirt because

2 Q All right Go ahead and sit down So when you
3 realize it was a body, what did you do?

4 A I didn't know if they were alive or not, so I took my
5 feet and budge their feet and say are you all right, are
6 you all right And they didn't say anything So then I
7 started towards, back towards the house because I was
8 scared and then I seen a truck coming up

9 Q All right So you went back toward Brittany's house?

10 A Yeah, correct

11 Q Did you call anybody?

12 A I called -- after I seen the truck and the truck
13 stopped and looked at the body and then kept going, I call
14 Brittany first I called Brittany and I said Brittany,
15 I'm scared, can you come down here, somebody laying on the
16 ground and the clothes they got on, I think it Corey Byrd
17 So Brittany ran out the house in a long shirt, nothing but
18 a shirt on She ran out the house and then we started
19 towards the body together

20 Q Okay, let me stop you When you call Brittany and
21 she came, I mean, how long did that take just how long?

22 A Five minutes, she ran, not even five minutes

23 Q All right Just a short period of time?

24 A Yeah

25 Q She came from the house just like you did?

1 A Yeah

2 Q And where did y'all meet?

3 A We meet right in front of the house It's a house on
4 Marlboro Street It's a house on the corner of Dargan
5 We meet right in the front of that house

6 Q Okay, just a short distance from the body?

7 A From the body

8 Q Okay Now, tell the jury about the truck you saw?
9 What kind of truck was it?

10 A It was an SUV I don't know what type or what model
11 and it was green

12 Q Okay And when you first saw the body, you said you
13 saw trash bags Did you see the truck?

14 A I seen the truck come, it was like driving on the
15 wrong side of the road After I start to walk away, I
16 seen the truck driving

17 Q So you had already been to the body, nudge the foot
18 and had you called Brittany yet?

19 A No, I call Brittany after the truck left me

20 Q Okay But the truck ---

21 A Pull up

22 Q Which direction did the truck come from?

23 A This way it was

24 Q Came down Dargan?

25 A Down Dargan

1 Q Okay And to the body?

2 A Yeah, it stopped at the body and just looked and
3 drove away

4 Q Did they ever get out?

5 A I'm not sure

6 Q Okay But you saw the truck come down the road
7 Now, did you talk with somebody in the truck?

8 A Yeah

9 Q All right What did they say?

10 A They didn't see me when they seen the body After
11 they was getting ready to turn the corner, that when they
12 seen me and they stop and they was like what you doing
13 here, like, Spoke, what you doing here, did you see
14 anything And I was like no, no I was scared too, they
15 was like you call the police I was like, no, I'm about
16 to now

17 Q And then what happened?

18 A They speed away

19 Q They drove off

20 A Yeah

21 Q Okay

22 A And then I called Brittany When I call Brittany, I
23 was scared and she ran down the street and met me And we
24 walk to the body -- well, we walk to the body together
25 And I didn't want to think it was him, so I was calling

1 his phone And the closer we got to the body, I could see
2 a cell phone blinking on the ground

3 Q So the body was laying on the ground and you were
4 calling Corey Byrd?

5 A Yeah

6 Q And the phone was laying there beside him ---

7 A Blinking

8 Q --- started lighting up?

9 A Yeah

10 Q All right At that point, what did you think?

11 A I started crying, panicking because we knew it was
12 him at that point Brittany turn him over

13 Q Okay So y'all are standing just over the body at
14 that point?

15 A Yeah, and Brittany turned it over to make sure it was
16 really him

17 Q Okay And it was him?

18 A And then I -- his phone was ringing at the same time
19 I was trying to call his sister cause I didn't know what
20 to do I had call his sister first And I said, Erica,
21 Corey Byrd dead and she hung up in my face and said no,
22 no And then she called back, but I couldn't talk to her
23 Brittany had talk to her because I was crying and I
24 couldn't talk to her And then Corey Byrd phone rang and
25 Brittany thought it was his mom, but I recognize the voice

24 A We pulled up on where the cookout took
25 place

1 Q After the ---

2 A After the murder

3 Q After the murder?

4 A Yeah

5 Q Okay But when you heard the gunshot and when you
6 walked up and saw the body during -- that's the first time
7 you saw the green truck?

8 A Yeah

9 Q Okay All right And you saw a person walk away in
10 dark clothing right after the gunshot?

11 A Yes, right after the gunshot, yes

12 Q Okay All right

13 MR DEBERRY Excuse me for just a minute

14 (WHEREUPON, a pause in the proceedings)

15 MR DEBERRY Thank you, Tiesha, please answer
16 any questions Mr Lawson may have

17 THE COURT Mr Lawson, cross?

18 MR LAWSON May we approach the bench one
19 moment

20 THE COURT Yes

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury)

24 MR JEPERTINGER Judge, could we take a five
25 minute break?

1 (WHEREUPON, the jury came into open court)

2 THE COURT All right Ms Sheeder, is that
3 right?

4 FORELADY Yes

5 THE COURT Thank you very much, ma'am, for
6 serving as the forelady of the jury You have either my
7 congratulations or condolences however you want to take
8 it No, I really appreciate your willingness to serve in
9 that capacity

10 Ladies and gentlemen, if you recall, the State
11 had rested from direct examination

12 I would recognize Mr Lawson for the defense

13 MR LAWSON May it please the Court

14 THE COURT Yes, sir

15 CROSS-EXAMINATION

16 BY MR LAWSON

17 Q Ms Brown, I believe you testified that you were
18 living with the Fludd's, is that correct? And how long
19 had you been living with that family?

20 A Like from '06

21 Q Okay For a number of years?

22 A Uh-huh

23 Q And did Brittany Fludd have a brother that you were
24 dating, is that correct?

25 A Correct

1 Q Okay And when did Brittany's father find out that
2 you were seeing Mr Corey Byrd?

3 A I don't really ---

4 MR DEBERRY Objection, Your Honor, I think
5 that's irrelevant

6 MR LAWSON Your Honor, it's my understanding
7 that there was a threat to Mr Corey Byrd from that
8 individual

9 MR DEBERRY Objection, Your Honor, all this is
10 not ---

11 THE COURT Come here

12 (WHEREUPON, a bench conference was held in the
13 presence of the jury, but out of the hearing of the
14 jury)

15 MR LAWSON

16 Q Now, as I understand it, you had been there for a
17 number of years?

18 A Correct

19 Q And then you had testified on direct that you started
20 seeing Mr Corey Byrd when?

21 A We were friends in April

22 Q Okay Did you start dating at some point after that?

23 A We tried, but we just decided to be friends

24 Q Okay And would you meet at the house there?

25 A No, not at the house He was friends with everybody

1 at the house

2 Q Okay You would not meet with him there?

3 A Yeah, he would come over there, but he was friends
4 with everybody at the house He wasn't just at the house
5 to see me He knew Brittany He knew Brittany mom,
6 Brittany sister He knew everybody at the house

7 Q Okay Did you -- did he come by that house on this
8 particular day?

9 A No

10 Q You left that house?

11 A Uh-huh

12 Q And was that prearrange between the two of you that
13 you would go meet him somewhere?

14 A We had talk the night he died

15 Q And when did you decide to do that?

16 A I don't understand your question Can you repeat it?

17 Q You had said you were going to meet at the corner of
18 Marlboro and Dargan?

19 A Yeah

20 Q How did you decide that?

21 A Over the phone I was getting to that before you had
22 objected I was telling the story, but you didn't want to
23 hear it

24 Q Okay You had talked over the telephone?

25 A Yeah, that what I was saying earlier, but you

1 objected You didn't want to hear that part

2 Q Okay And then so you went -- what time was that?

3 A That we was on the phone?

4 Q Yeah

5 A Around 4 15 something like that, I'm not sure around

6 4 15 a m I'm not sure It was around four something

7 4 15, 4 30

8 Q All right Had you already left the cookout?

9 A Uh-huh

10 Q Okay Earlier, you testified I think you left the
11 cookout at what time?

12 A Around 3 30

13 Q Around 3 30

14 A Four o'clock

15 Q So you were already at home when you received a phone
16 call?

17 A (Nodded head)

18 Q And then you were on the front porch when you got
19 that phone call?

20 A No, I was in the house when he said -- when he ask me
21 was I coming back to the party, I was in the house

22 Q Okay And that was what time?

23 A We left the party around 3 30, four o'clock I say
24 4 15

25 Q And the question at that point was were you coming

1 back to the party?

2 A Yeah

3 Q All right And so how long after that was it before
4 you made arrangements to meet?

5 A I started to meet him at the -- I started to go back
6 to the party You didn't let me tell this part But he
7 told me to turn around cause he was going to get a ride
8 and probably five minutes after that, he said he was on
9 his way

10 Q Okay So still before five o'clock And when did
11 you go out on the porch?

12 A Around -- I don't really remember what time, around
13 four, 4 30 something like that I was waiting on him

14 Q Well, how long were you on the porch before anything
15 happened?

16 A Probably 15 minutes I was on the porch for five
17 minutes and then ten minutes went by -- about 15 minutes
18 and then I heard a gunshot

19 Q Okay And what you saying is that you think you went
20 out on the porch about 4 30?

21 A Yeah

22 Q So you were there about ten minutes and you heard a
23 gunshot?

24 A Yeah

25 Q All right And so that would have been about 20

1 minutes to five, quarter to five?

2 A No, it would have been -- we left the party around
3 3 30, four o'clock We talk around 4 15 I went on the
4 porch probably around 4 20, 4 30 something like that

5 Q All right And you were on the porch for about ---

6 A For 15 minutes

7 Q Ten or 15 minutes And then you heard a gunshot?

8 A Yes

9 Q And I believe you said on direct that it wasn't
10 unusual to hear gunshots?

11 A It wasn't

12 Q And how many gunshots did you hear?

13 A Just one

14 Q Okay And you didn't call the police at that point
15 about a gunshot?

16 A No, I didn't

17 Q You ask if anybody else heard a gunshot, nobody else
18 heard it?

19 A No

20 Q How long did it take to walk from that house which if
21 you could one more time on State's Exhibit Number 4 show
22 me the house where you staying?

23 A Right here

24 Q Okay It is right here?

25 A Uh-huh

1 Q And it's the corner
2 A It's not the corner of Marlboro, but it's by the
3 corner of Marlboro
4 Q All right Is there a house between ---
5 A Yes
6 Q Actually on the corner?
7 A Uh-huh And we were the next house
8 Q Okay And that's a block and some -- a block and a
9 quarter from the intersection of Dargan and
10 A Marlboro, yeah
11 Q Marlboro, is it not?
12 A Yeah
13 Q You see where is that?
14 A No, our house right here I think
15 Q Okay
16 A And Marlboro and Dargan right here
17 Q Okay So from here to here?
18 A Is the block
19 Q And the -- and when you went out and you saw somebody
20 walking, where was that person walking in relation to
21 these two spots?
22 A They was coming off of Dargan Street like and turning
23 on Marlboro And then I started walking towards the
24 person and I said, why you playing with a gun, why you
25 shooting in the air I said something and by the time I

1 blink, they disappeared

2 Q Okay Did you ever see that individual facing you?

3 A No

4 Q Okay And so the first time you saw him was at least
5 a block away?

6 A Yeah

7 Q And let me ask you, was it daylight or dark?

8 A It was dark

9 Q It's pretty dark around five o'clock in the morning?

10 A Uh-huh

11 Q All right And so that person just disappeared?

12 A Yeah

13 Q And had on -- did you say what this dark clothes is
14 that I mean like ---

15 A It could have been black They could have had on all
16 black

17 Q Could have been blue jeans?

18 A It was dark clothing I believe, it was black I'm
19 not sure

20 Q Okay That's why I said could it have been -- cause
21 you said something about blue jeans in your direct Could
22 it have been blue jeans?

23 A It probably was black Well, it could have been
24 blue It could have I thought Corey Byrd was a trash
25 bag

1 Q And you were standing where when you turned the
2 corner you were standing?

3 A I was standing at the right road

4 Q All right When did you first see the body laying?

5 A Where was I standing when I first seen the body?

6 Q Yeah

7 A Right here

8 Q So you went on up Marlboro Street?

9 A Yeah

10 Q And you saw it back through here cause the body was
11 over here?

12 A I turn it over here

13 Q And you thought it was a trash bag?

14 A Yes

15 Q And so did you walk that way then?

16 A Yeah

17 Q You came down Dargan Street?

18 A Uh-huh

19 Q Did you stop right there?

20 A Yeah, I came to the feet, to his feet I stopped at
21 his feet

22 Q Okay And you didn't recognize anything as being
23 particular?

24 A I seen the shoes At the party, I remember him
25 having on some white shoes And the color didn't look

1 like him, but I didn't want to touch him or nothing, so I
2 had call Brittany

3 Q What about this person that was walking down there,
4 do you remember what color shoes they had?

5 A No, it was dark

6 Q You just couldn't see?

7 A I could see them

8 Q Yeah

9 A But they had on dark clothes, shoes and all I seen
10 Corey Byrd white shoes If they had had on white shoes, I
11 would have seen their white shoes too They had on some
12 dark clothes

13 Q You think so?

14 A I know I seen they had on dark clothes

15 Q But I mean as far as the shoes, you don't know
16 whether they possibly could have been blocked from seeing
17 the shoes You were a block away, correct?

18 A I'd known if -- white will show in the dark If it's
19 dark, you will see something light They had on dark
20 clothing

21 Q Or light, correct? Now, how long were you at the
22 cookout?

23 A From midnight to about 3 30

24 Q Okay Do you know what time the cookout started?

25 A No, I don't know

1 Q Okay And so you were there for about three hours?

2 A Correct

3 Q And who did you go to the cookout with?

4 A Brittany and -- who I was there with, Corey He

5 invited me

6 Q And who did you go with?

7 A Brittany

8 Q Okay The two of y'all went together?

9 A Together

10 Q And how did y'all get there, you walked there?

11 A Yes, sir

12 Q And where was -- is that on this map also? The party

13 where the party was?

14 A Yes, it's the party was right here

15 Q

16 A

17 Q And then you live over here?

18 A Uh-huh

19 Q And y'all walk back, correct?

20 A Uh-huh

21 Q You said it took about 15 or 20 minutes?

22 A Yes, sir

23 Q And now how long did you date Brittany's brother?

24 MR DEBERRY Objection, Your Honor, that's

25 irrelevant

1 THE COURT Overruled I will allow it

2 A Three, four years

3 Q Okay And were y'all still dating in April of '08?

4 A No

5 Q When did you quit dating?

6 A I am not sure beginning of '08 -- '07 At end of '07
7 beginning of '08

8 Q You continued to live there at the house?

9 A Yes, I mean no disrespect, but what does this have to
10 do with it, if you don't mind me asking?

11 THE COURT Ma'am, you just answer questions,
12 okay

13 A Yeah, I continued living there

14 Q And did you at some point receive a threat in
15 relation to that relationship?

16 A No, the threat that I received had nothing to do with
17 Corey Byrd at all

18 Q Okay

19 A Mr Fludd, their father -- it had nothing to do with
20 Corey We use to get into it all the time We had
21 disagreements We use to get into it

22 Q So there were disagreements with Brittany's father?

23 A Yeah

24 Q And he live there at the house?

25 A Uh-uh

1 Q He didn't live there?

2 A Uh-uh

3 MR LAWSON I don't have any further questions

4 THE COURT Anything on redirect?

5 REDIRECT EXAMINATION

6 BY MR DEBERRY

7 Q Miss Brown, do you call the police every time you
8 hear a gunshot in North Florence?

9 A Not every time, no, sir

10 Q Okay Would you think it would be normal events that
11 took place and your time frame of calling the police?

12 A Would it be normal?

13 Q I mean, you went and saw the body Were you upset?

14 A Yes

15 Q Okay And then you called the police?

16 A Yes

17 Q Okay Do you ever remember testifying when I was
18 asking you questions earlier about blue jeans?

19 A I say Corey Byrd had on blue jeans

20 Q But the person you saw walking away from that scene
21 what did you see him wearing?

22 A It was dark clothing, it was dark clothing

23 Q If you took off from the front steps of the Fludd's
24 house and walk to the corner of Marlboro and Dargan where
25 the body was found and you were just walking in a normal

1 pace, how long will it take you to get there?

2 A A normal pace from the corner to -- four or three
3 minutes, five at the most

4 Q I mean, it's just one block?

5 A Yeah, not even five minutes if you walking

6 Q Is it about as long as the hallway?

7 A Yeah

8 Q When you come out of the elevator?

9 A From the elevator to here?

10 Q Well, it's just one block

11 A Yeah, it's about that long

12 Q You can walk across North Florence from the Fludd's
13 house to the party in about 15 minutes

14 A Fifteen minutes, yeah

15 MR DEBERRY Thank you very much

16 THE COURT Thank you, ma'am You may step
17 down

18 (WHEREUPON, the witness leaves the witness
19 stand)

20 MR DEBERRY Your Honor, we call Brittany
21 Fludd

22 THE COURT All right

23 MR JEPERTINGER Your Honor, you have any
24 problem with Miss Brown staying here?

25 THE COURT Mr Lawson, any objection to Miss

1 Brown remaining in the court since she's concluded her
2 testimony?

3 MR LAWSON No, Your Honor

4 THE COURT All right, that's not a problem

5 THE CLERK If you'll stand up for just a second
6 and place your left hand on the Bible and raise your right
7 hand Do you swear the testimony you give in this case to
8 be the truth, the whole truth, and nothing but the truth
9 so help you God?

10 THE WITNESS Yes, ma'am

11 THE CLERK Please be seated and state your full
12 name for the record

13 THE WITNESS Brittany Fludd

14 WHEREUPON,

15 Brittany Fludd,
16 after first having been duly sworn, testified as follows

17 DIRECT EXAMINATION

18 BY MR DEBERRY

19 Q Miss Fludd, I appreciate you being here today Just
20 ask that you speak up so the jury can hear what you have
21 to say Again, thank you for being here This case
22 involves the murder of Corey Byrd back on September the
23 5th of 2008 And we need you to explain to the jury, you
24 know, that day the day before what you and Miss Brown may
25 have done together and how these events unfolded and just

1 explain it to them as clearly as you can

2 MR LAWSON Objection, Your Honor, leading,
3 assume there's a question somewhere

4 THE COURT Non-leading questions

5 BY MR DEBERRY

6 Q On September 4th, did you go anywhere with
7 Miss Brown?

8 A Yes, sir

9 Q Okay And about what time did you go?

10 A I know it was around about 11 going on 12

11 Q At night?

12 A Yes, sir

13 Q Okay Speak up This is a map of North Florence
14 Did you -- this is Lucas Street and Marlboro Could you
15 tell the jury where you were living at that time?

16 A Right here

17 Q Okay And what street is that?

18 A Marlboro

19 Q Okay And what's the next intersection up? What
20 street is that?

21 A This Stackley Street

22 Q Okay And where did you and Miss Brown go together
23 that night around midnight?

24 A To a party on

25 Q Could you show the jury where that would be?

1 A Right here

2 Q Okay What street corner is that?

3 A

4 Q Okay Why did y'all go to that party that night?

5 A Corey Byrd ask us to go with him

6 Q Corey Byrd?

7 A Yes, sir

8 Q Okay And so how did y'all get there?

9 A We walked

10 Q Okay And to walk from your house over to Liberty to

11 where the party was, about how long if you just walking

12 normally trying to walk somewhere about how long would

13 that take?

14 A Five or ten minutes

15 Q About ten minutes?

16 A Yes, sir

17 Q Okay, to walk across from the neighborhood?

18 A Yes, sir

19 Q Okay And how long did y'all stay at the party when

20 y'all arrived first or when y'all got there?

21 A About four hours

22 Q Okay So it was around three or four o'clock in the

23 morning y'all decided to leave?

24 A Yes, sir

25 Q Where did y'all go?

1 A Back to my house

2 Q Okay And how did you get back to your house?

3 A We walk

4 Q Okay So y'all walked home?

5 A Yes, sir

6 Q All right Why did y'all leave?

7 A Because Ms Gass and her friends were throwing knives
8 and I had to go to school that day

9 Q Okay So that was a Thursday night coming on a
10 Friday morning?

11 A Yes, sir

12 Q All right And when you got back home, what did you
13 do?

14 A Nothing but lay down on the chair

15 Q Okay And so who walk with y'all from the cookout
16 back to your house?

17 A Corey he didn't walk us all the way, he walk us half
18 way

19 Q So who was it?

20 A Mr Corey Byrd

21 Q Who walk with you from the cookout back to your
22 house?

23 A Oh, Tiesha

24 Q Just the two of you?

25 A He walked us half way

1 Q Corey Byrd walked you half way?
2 A Yes, sir
3 Q And do you know what he did when he left y'all?
4 A No, sir
5 Q Okay And y'all -- what did y'all do?
6 A Went home and I change into my night clothes
7 Q And you testified you went to sleep?
8 A No, I ain't went to sleep
9 Q Okay What did you do when you got home?
10 A Lay down on the chair with my friend
11 Q All right And tell -- just tell us what you know
12 about what happened next?
13 A Talking about the party?
14 Q No, I'm talking about after the party when y'all got
15 home, did you get a phone call from Miss Brown?
16 A Yes, sir
17 Q Okay And what she tell you?
18 A That she seen a body laying on the ground
19 Q Okay What was her state of mind? I mean, was she
20 upset?
21 A Yeah, she was shaky and she was scared
22 Q Did she ask you to do anything?
23 A No
24 Q Well, did you do anything?
25 A Yes

1 Q All right Well, tell the jury what you did?

2 A I went up to the body and turn it over and it was
3 Corey Byrd

4 Q So where were you when you got the phone call?

5 A I was at home

6 Q You were at home?

7 A Yes, sir

8 Q And what did you do?

9 A When I got the phone call?

10 Q Yeah

11 A I ran down the street where she was at

12 Q How long do you think it took you to get down there
13 to where Tiesha was?

14 A About three to four minutes

15 Q Okay And that was coming out of the house and
16 running down there?

17 A Yes, sir

18 Q And where was she when you first met her after she
19 called you and told you?

20 A She was right here

21 Q Okay And what's this street corner?

22 A That's Dargan and Marlboro

23 Q Okay She was at Dargan and Marlboro?

24 A Yes, sir

25 Q When you got there, could you see the body?

1 A Yes, sir, I look straight at it

2 Q When y'all were standing on that corner about how far
3 would the body be? I mean, in this courtroom, if you
4 could just say about from here to where?

5 A If I'm right here, it should be to that desk right
6 there

7 Q Okay So what did you do -- and tell -- show the
8 jury just where the body of Mr Byrd was?

9 A Okay, that's the white house right there It was in
10 between right there in the middle of the house

11 Q Okay And was he in the yard or was he in the road?

12 A No, his -- like half his body was laying on the grass
13 and his bottom area was in the road

14 Q Okay And when y'all -- and what happened when you
15 met Tiesha at the corner, what did y'all do?

16 A Nothing, I turn the body over and told her it was him
17 and that's when she start calling his sister

18 Q All right You turn the body over?

19 A Yes, sir

20 Q Did you realize who it was?

21 A Yes, sir

22 Q Okay Did Tiesha -- do you know if she called his
23 phone number at that time?

24 A She was calling it, it was lighting up when I turn
25 his body over

1 Q His phone that was laying beside him?

2 A Yes

3 Q And that's when y'all realized who it was?

4 A Yes, sir

5 Q Okay And what did y'all do at that point?

6 A Called his sister and then she called 9-1-1

7 Q Okay Is that all you saw that night?

8 A Yes, sir

9 Q Okay Miss Fludd, you got a charge or conviction for
10 a simple assault and battery?

11 A Uh-huh, yes, sir

12 Q Okay When was that?

13 A I want to say around 2007, I think

14 Q Did it have anything to do with this incident at all?

15 A No, sir

16 Q It was just a fight

17 A Yes, sir

18 Q Okay You have any reason not to tell the truth here
19 today? You telling the truth here today?

20 A Yes, sir

21 Q Okay

22 MR DEBERRY Thank you very much and just
23 answer any questions Mr Lawson has

24 MR LAWSON Bear with me one moment

25 (WHEREUPON, a pause in the proceedings)

1 MR LAWSON May it please the Court

2 THE COURT Yes, sir

3 CROSS-EXAMINATION

4 BY MR LAWSON

5 Q Okay Miss Fludd, are you, okay? Not something I
6 said I hope

7 (WHEREUPON, the witness is crying)

8 THE COURT You haven't said anything

9 MR LAWSON I know

10 BY MR LAWSON

11 Q You ready?

12 A Yes, sir

13 Q Now, this a long time ago we talking about September
14 of 2008, correct?

15 A Yes, sir

16 Q Almost two years ago?

17 A Yes, sir

18 Q Did -- as things were happening that day especially
19 the day before on say September the 4th, you didn't know
20 anything was going to happen, did you?

21 A No, sir

22 Q So you weren't taking notes or keeping any particular
23 track of anything, were you?

24 A No, sir

25 Q Okay And then after things -- how did you find out

1 that there was a party on September the 4th?

2 A Corey Byrd call Tiesha phone and told -- ask us did
3 we want to go

4 Q Well, did he call you?

5 A No

6 Q Okay He called somebody else?

7 A Yes, sir

8 Q And then she told you that?

9 A Yes, sir

10 Q So you don't know that he called? You're just
11 assuming that based on somebody telling you that?

12 A Yes, sir

13 Q You didn't receive a phone call?

14 A No, sir

15 Q All right And so you spent some three hours at the
16 party?

17 A Yes, sir

18 Q Correct?

19 A Yes, sir

20 Q You were there from -- around 12 o'clock until
21 approximately three o'clock in the morning, is that
22 correct?

23 A Yes, sir

24 Q Okay And do you know exactly what time it was that
25 you got there?

1 A No, sir

2 Q Do you know exactly time you left?

3 A By me looking on the computer, I was almost home

4 about three

5 Q You were home by three?

6 A Yes

7 Q And so -- and I think you said it took probably ten

8 minutes to walk it, five or ten minutes?

9 A Yes, sir

10 Q So that would mean you check your computer when you

11 got home?

12 A No, I was on the computer when I was at the party

13 Q When you were at the party?

14 A Yes, sir

15 Q Well, did you take a laptop with you or was there

16 just one there?

17 A One was there

18 Q And when was the last time you checked what time was

19 it?

20 A Three

21 Q And how long did you stay after that?

22 A No, I just left because I had school

23 Q That's when you left?

24 A Yes

25 Q So within a couple of minutes after three you had

1 left?

2 A Yes, sir

3 Q All right Now, show the jury one more time where
4 that party was?

5 A Here

6 Q Okay And how did you get back home from there? How
7 did y'all walk? What way did you walk?

8 A Way up here and the pub somewhere up in here We
9 went through -- I think that's the church and we came up
10 by the church on Commander and we come up on my house
11 right here

12 Q All right And which street is this?

13 A This Fraser Street

14 Q Okay So you walked all the way down Fraser, you
15 didn't turn off one way or the other?

16 A No

17 Q How far did Mr Corey Byrd go down with you? You
18 said he walked you back

19 A I can't remember, I know it was half way

20 Q So can you show the jury about where it was that he
21 left you off?

22 A I don't remember, he walk us to

23 Q Okay And then you got home and laid down, is that
24 correct?

25 A Yes, sir

1 Q And do you know how long you stayed laying down?

2 A No, sir

3 Q What was the next thing you remember?

4 A When I was laying down?

5 Q Yeah

6 A Tiesha had came and ask me and my friend what we

7 wanted from the store and that she was meeting Corey Byrd

8 Q Okay And how long -- do you know how long that was

9 after you got home?

10 A I want to say about five minutes later

11 Q Okay So this is about 3 30 or so in the morning?

12 A No, he call her around about four going on five

13 Q So it's about four?

14 A Yes

15 Q Somewhere in between four, 4 30 It is in that

16 neighborhood?

17 A Talking about which part?

18 Q About what time I'm just trying to figure out what

19 time things were happening?

20 A Talking about when he call her?

21 Q Well, when -- the first thing that happened after you

22 got home, I assume you said you laid down?

23 A Yes

24 Q And then what was the first thing after that that you

25 remember?

1 A She ask me and my friend what we wanted from the
2 store

3 Q She ask you what you wanted from the store?

4 A Yes, sir

5 Q And how long was that after you got home?

6 A About five minute

7 Q About five minutes?

8 A Yes, sir

9 Q And did she go to the store?

10 A No, she was waiting on Corey Byrd to call her

11 Q Okay And did he call?

12 A Yes, sir, around about four

13 Q All right, as far as you know You didn't talk to
14 him, is that correct?

15 A No

16 Q And the same way as before she would say that she had
17 talk to him, but you never did?

18 A Yes, sir

19 Q Okay And have you seen this picture before today?

20 A I seen it once

21 Q Did you go over it with somebody?

22 A Yes, sir

23 Q With who was that?

24 A The gentleman right there

25 Q Okay With the prosecutor in the case?

1 A Yes, sir

2 Q Had went over this picture with you?

3 A Yes, sir

4 Q Okay And now what was the next thing you remember

5 happening after you were asked if you wanted anything from

6 the store?

7 A That when she walked out the door

8 Q All right She walked out the door?

9 A Yes, sir

10 Q What was the next thing you remember?

11 A We was laying down and then she came back in the

12 house asking us did we hear any gunshots

13 Q Okay Ask you if you heard any gunshots Then

14 what's the next thing you remember?

15 A That when she stayed in the house for a minute, walk

16 back out there and she walk to the corner of Marlboro and

17 Dargan

18 Q And what was the next thing you remember? I mean,

19 you know where she actually walk to You didn't go with

20 her, did you?

21 A No, sir

22 Q You were in the house, correct?

23 A Yes, sir

24 Q You didn't watch where she went?

25 A No, sir

1 Q So how do you know where she went?

2 A She called and told me where she was at

3 Q She told you where she went?

4 A Yes

5 Q Okay So now -- and then what did -- what was the
6 next thing you remember after you got the phone call?

7 A I told her I'll be right there After I hung up the
8 phone with her, that's when I ran down there

9 Q Okay You ran down there and where did you go to?

10 A I stop where she was at And then I look where she
11 said she seen the body, that when I went up to the body
12 and turned it over

13 Q You turned it over?

14 A Yes

15 Q Okay And why did you do that?

16 A To make sure to see was it Corey cause I didn't
17 believe her when she said it was him

18 Q Okay So you actually turned it over?

19 A Yes, sir

20 Q And then did you do anything else after that?

21 A No, sir

22 Q Okay At what point were the police called?

23 A After we call his sister

24 Q What's that?

25 A After we call his sister

1 Q I still didn't hear you
2 A After we call his sister
3 Q Okay You call somebody else?
4 A Yes, sir
5 Q And who was that?
6 A His sister
7 Q His sister?
8 A Yes
9 Q Call her and then after that called the police?
10 A Yes, sir
11 Q So let me try and get this straight You had already
12 been called?
13 A Yes, sir
14 Q And then you got there and then the sister was called
15 and then the police were called, correct?
16 A Yes, sir
17 Q All right And you spent about three hours at the
18 party, is that correct?
19 A Yes, sir
20 Q While you were there, did you see anybody get in any
21 fights?
22 A No, sir
23 Q All right Did you see anybody threaten Corey Byrd
24 in any way?
25 A No, sir

1 Q Okay Did you spend your time at the party in the
2 company of Mr Corey Byrd and or with who?

3 A I was with Tiesha

4 Q And who was she with?

5 A Me

6 Q And who else?

7 A We came there with Corey, but he left us at the
8 party

9 Q Okay And was this party basically at one house?

10 A Yes, sir

11 Q Okay So could you see people that were there at the
12 party?

13 A Certain people

14 Q Well, I mean, it wasn't like -- do you think there
15 were people there that you never saw?

16 A It's people there that I never did see

17 Q That you didn't know?

18 A Yeah, I didn't know them

19 Q Okay But you do think there was anybody there that
20 you didn't see? I mean, could they hide? Surely, they
21 could, but nobody was trying to hide were they?

22 A No

23 Q Okay And for three hours you were there?

24 A Yes, sir

25 Q And you didn't see any fights or anything like that?

1 A No, sir

2 MR LAWSON I don't have any other questions
3 for this witness

4 THE COURT Anything further?

5 REDIRECT EXAMINATION

6 BY MR DEBERRY

7 Q Miss Fludd, you said you were on the computer at the
8 house at the party?

9 A Yes

10 Q All right And the computer was inside?

11 A Yes, sir

12 Q And was it in a room inside? Was it in a room?

13 A It's in the front room

14 Q So it was in a front room?

15 A Yes, sir

16 Q While you're in the computer room, could you see
17 everybody else that was in the house?

18 A Only person I seen was the Gass girl, her friend and
19 her son

20 Q Okay And were they cooking out there?

21 A Yes

22 Q Where were they cooking?

23 A On the side of the house

24 Q Outside?

25 A Yes

1 Q Okay Were you on the computer most of the time you
2 were there or were you inside and outside?

3 A Mostly on the computer

4 Q So you're mostly on the computer?

5 A Yes

6 Q So you wouldn't know if somebody came or went outside
7 or what was going on outside?

8 A No, sir

9 MR DEBERRY All right I appreciate you very
10 much for coming Thank you very much You can have a
11 seat out here or leave, I guess, if you want to

12 THE COURT You may step down, ma'am
13 (WHEREUPON, the witness leaves the witness
14 stand)

15 THE COURT You may call your next witness

16 MR JEPERTINGER We're going to call Mr David
17 Hanks And this witness is out of order, Your Honor,
18 chronologically

19 THE COURT All right, sir

20 MR LAWSON Could we approach?

21 THE COURT Yes, sir

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury)

25 THE COURT All right

1 THE CLERK Place your left hand on the Bible
2 and raise your right hand Do you swear the testimony
3 you give in this case to be the truth, the whole truth,
4 and nothing but the truth so help you God?

5 THE WITNESS I do

6 THE CLERK Please be seated and state your full
7 name for the record

8 THE WITNESS My name is David Hanks
9 WHEREUPON,

10 David Hanks,
11 after first having been duly sworn, testified as follows

12 DIRECT EXAMINATION

13 BY MR JEPERTINGER

14 Q Okay Mr Hanks, for whom are you employed?

15 A AT&T

16 Q Okay Are you a custodian of records of your
17 company?

18 A Yes, sir, I am

19 Q Did you receive a subpoena to appear in court with
20 documents today?

21 A Yes, I did

22 Q Did you bring those records with you?

23 A Yes, sir

24 Q Okay Are the records that you brought here either
25 the originals or true and accurate copies of the

1 originals?

2 A They are accurate copies

3 MR JEPERTINGER Your Honor, we have -- we can
4 do it as one unit, Your Honor, or separately I suggest
5 we do it as one unit

6 THE COURT All right, that's fine

7 (WHEREUPON, State's Exhibit No 5 was marked for
8 identification only)

9 BY MR JEPERTINGER

10 Q I'm going to show you what's been marked as State's
11 Exhibit 5 Were these records prepared and maintained in
12 the regular course of AT&T's business?

13 A Yes, sir

14 Q Is it a regular practice of AT&T to have their
15 records prepared and reduced to writing?

16 A It is

17 Q Were these records either prepared by an employee or
18 a representative of the company who has personal knowledge
19 of the information contained therein or at least prepared
20 for information transmitted to that employee?

21 A Yes, sir

22 Q Were the entries contained in these records, these
23 phone records prepared at or near the time of the events
24 or conditions described in the records or reasonably
25 thereafter?

1 A Yes, sir

2 MR JEPERTINGER Your Honor, at this time, I
3 would move to have these phone records which have been
4 provided the defense attorney moved into evidence

5 THE COURT Any objection to the phone records
6 that you reviewed?

7 MR LAWSON No objection

8 THE COURT Without objection

9 (WHEREUPON, State's Exhibit No 5 was admitted
10 into evidence)

11 MR JEPERTINGER

12 Q Just very quickly, Mr Hanks And if I could ask the
13 witness to step down one second, Your Honor Show you in
14 front of the jury please If you could come around, just
15 explain if you understand this When we look at some of
16 these records, I just pull these out of form Could you
17 tell the jury what each of these columns mean?

18 A Sure, so the first column has the item number We
19 list each column numerically, the date the call occurred,
20 the time the call occurred and then the number area
21 called, the city that it was called to, minutes used
22 during that conversation There's a column for future
23 usage type indicate it's a peak call as oppose to a
24 non-peak time And then whether there's a charge and then
25 a roaming call The call was made on a roaming network

1 Q All right And I'm going to show examples of this
2 type of

3 A This is another form of the record Again, it has
4 the call date and time This would actually give us the
5 cell site that the call originated from, the city called,
6 the state, the number that originated the call, the number
7 that was called and then the duration in seconds

8 Q And finally, the last objects with the information?

9 A This is the information for the account that it is
10 set up under, who the billing party is, and then the
11 actual user being assign to that mobile number

12 MR JEPERTINGER All right, thank you Please
13 answer any questions that the defense attorney may have
14 for you

15 CROSS-EXAMINATION

16 BY MR LAWSON

17 Q What numbers were you requested to provide numbers
18 for?

19 A I don't recall the exact numbers, sir They're on
20 the subpoena

21 Q Is it on your records?

22 A Yes, sir There's an There's

23

24 Q Who's the subscriber on those?

25 A The first one the number ending in Nyrena

1 Goodman The second number ending in is a Leon
2 Bostic

3 Q Just those records are those the only ones that you
4 were requested?

5 A I believe so, sir

6 MR LAWSON I don't have any other questions

7 MR JEPERTINGER Just one thing very briefly

8 REDIRECT EXAMINATION

9 BY MR JEPERTINGER

10 Q And there's also another number, is that correct?

11 A I'm sorry I miss that one Yes, that's area
12 code

13 THE COURT Anything further, Mr Jepertinger?

14 MR JEPERTINGER No, sir

15 THE COURT Anything further, Mr Lawson?

16 MR LAWSON No, Your Honor

17 THE COURT Thank you very much, sir You may
18 step down Any objection to this gentleman being excused,
19 Mr Lawson?

20 MR LAWSON No, Your Honor

21 THE COURT Thank you very much, sir You're
22 free to go

23 (WHEREUPON, the witness leaves the witness
24 stand)

25 THE COURT We're going to take just 15 minutes,

1 ladies and gentlemen When I sent you out to do your
2 foreperson, I didn't excuse everyone else here, court
3 personnel, so I need to give them a break real quick So
4 let's just take 15 minutes Please have no conversation
5 about this case and we'll bring you back out shortly

6 (WHEREUPON, the jury retire to the jury room)

7 THE COURT We'll be in recess for about 15
8 minutes

9 (WHEREUPON, a break was taken)

10 THE COURT Okay

11 MR JEPERTINGER Your Honor, while we're
12 waiting the next two witnesses that are going to be called
13 to testify by the State are Clifton Ryan Evans and Gabriel
14 Peterson Evans in terms of NCIC for any impeachable
15 stuff, I don't see anything on Evans that can be used He
16 has a criminal domestic violence conviction in 2003 and a
17 public disorderly conduct conviction in 2009 I don't
18 think those are impeachable under 609

19 THE COURT What about the other witness?

20 MR JEPERTINGER The other gentleman I see a
21 possession of I think crack, Your Honor, in 2001 I think
22 they can use that, Your Honor He did have an ABHAN, but
23 that was back in 1997 And he received a YOA not to
24 exceed six years suspended to one year probation But
25 based on the age of that conviction, I would suggest to

1 the Court that he may not be able to go into that, Your
2 Honor He had an arrest in Georgia for -- also cocaine,
3 Your Honor, but there's no disposition on that charge So
4 I would say he's limited to crack, Your Honor, as I see
5 it

6 THE COURT Mr Lawson, would you concur -- let
7 me ask about the first witness Mr Jepertinger's review
8 of that NCIC record would indicate to him that there's not
9 any impeachable offenses that appear on that record would
10 you concur with that?

11 MR LAWSON I agree that the only conviction is
12 the CDV first offense I disagree that the CDV is not an
13 impeachable offense I think based on the severity of
14 which we now look at CDV, it should always be considered a
15 crime of moral turpitude especially in today's society

16 THE COURT All right How about the second
17 witness?

18 MR LAWSON I have not seen that one

19 THE COURT The State's position is that there
20 is a possession of crack cocaine charge that would be open
21 to cross but that would be it

22 MR JEPERTINGER Yes I think there's an
23 ABHAN, but I think it's outside the ten-year range

24 THE COURT Right

25 MR LAWSON Your Honor, I agree that the crack

1 is something that I can ask about

2 THE COURT Sure absolutely

3 MR JEPERTINGER The ABHAN I would say, Your
4 Honor, that the ten years as I understand it is a ten-year
5 window whenever a defendant testifies that as to general
6 witnesses that's not the rule in relation to witnesses,
7 fact witnesses And the -- a fact witness can be
8 impeached right on back in relation to prior records

9 MR LAWSON I would argue, Your Honor, that
10 under 609(b) when they talk about time limit The
11 evidence of a conviction under this rule is not admissible
12 of a period more than ten years has lapse since the date
13 of the conviction or of the relief of the witness or of
14 the relief of the witness It doesn't say defendant, say
15 witness

16 THE COURT I certainly understand where you're
17 coming from regarding the CDV conviction, Mr Lawson, but
18 I don't think it fits

19 And so -- the first witness you mention his name
20 is?

21 MR JEPERTINGER Clifton Evans

22 THE COURT With regards to Mr Evans, it
23 doesn't appear that there's any impeachable prior record
24 you can go into with regards to the second witness which
25 would be Mr Peterson You would be allowed to ask him

1 about his conviction on the crack cocaine charge, but I
2 think the ABHAN charge is outside the timeframe and would
3 not allow that

4 MR JEPERTINGER Thank you, Your Honor I also
5 add that Peterson also had an ill-treatment of animals in
6 general, but that was handled look like in city court,
7 Your Honor, or sheriff's department cause it was \$128 or
8 30 days And he also had like open containers and
9 reckless driving type convictions

10 THE COURT The crack charge appears to be the
11 only charge that you be able to question him on regarding
12 that

13 MR JEPERTINGER Thank you, Your Honor

14 THE COURT Anything further from the State?

15 MR JEPERTINGER No, sir

16 THE COURT Anything further from the defense
17 before we bring the jury out?

18 MR LAWSON No, Your Honor

19 THE COURT All right Ms Joe, if you would
20 please ask the members of the jury to join us

21 (WHEREUPON, the jury came into open court)

22 THE COURT All right, ladies and gentlemen, as
23 you recall, the State is still on their case and would
24 recognize Mr Jepertinger for your next witness

25 MR JEPERTINGER The State would call Clifton

1 Ryan Evans to the stand

2 THE COURT All right, please ask Mr Evans to
3 come around

4 (WHEREUPON, a pause in the proceedings)

5 THE CLERK If you would please go around and
6 place your left hand on the Bible and raise your right
7 hand Do you swear the testimony you give in this case to
8 be the truth, the whole truth, and nothing but the truth
9 so help you God?

10 THE WITNESS I do

11 THE CLERK Please go around and have a seat and
12 state your full name for the record

13 THE WITNESS My name is Clifton Ryan Evans

14 DIRECT EXAMINATION

15 BY MR JEPERTINGER

16 Q Mr Evans, where do you live?

17 A I live on

18 Q Okay How long have you lived there?

19 A About 22, 23, 24 years

20 Q Okay Are you employed anywhere?

21 A Not at the moment, but I was employed

22 Q Where were you employed?

23 A Fraser Industrial

24 Q Okay How long had you worked for Fraser Industrial?

25 A About three years

1 Q Okay What were your responsibilities at Fraser
2 Industrial?

3 A I was a welder

4 Q And were you so employed at Fraser Industrial as a
5 welder back in September of 2008?

6 A Yes

7 Q Okay Do you recall -- and before I ask you this, do
8 you know Shavonne Gass?

9 A Yes

10 Q Did you know where Shavonne Gass lived back in
11 September of 2008?

12 A Yes

13 Q Okay Basically, can you tell the jury where she
14 lived?

15 A She stay on -- I don't know the numbers, but it was
16

17 Q Okay Was it on the corner of
18

19 A Yes

20 Q All right Did you have an occasion to go to
21 Shavonne Gass' on September the 4th 2008?

22 A What you mean I don't understand?

23 Q Did you go to Shavonne Gass' house on September the
24 4th of 2008 to a cookout?

25 A No, I didn't go to the cookout

1 Q Okay Did you go there after the cookout?

2 A Yeah, later on when I got off work

3 Q Okay What time did you get off work if you recall?

4 A Two o'clock in the morning

5 Q All right So this would have been September the 5th
6 the next day?

7 A Yeah

8 Q All right You got off work at two o'clock and did
9 you head straight over to Shavonne Gass' place?

10 A No

11 Q Okay Where did you go?

12 A I was -- me and one of my homeboys we carpool when we
13 work together, so I was at his house and stayed over there
14 for about maybe an hour or two I ain't came over to the
15 house like it was about four o'clock in the morning

16 Q All right What were you driving at the time?

17 A 2003 Tahoe

18 Q Green in color?

19 A It's not green, it's gray

20 Q Gray Okay, very good And do you still own that
21 vehicle?

22 A Yes

23 Q Okay And at that point when you got to Shavonne's
24 house, did you drive there alone?

25 A Yeah, I came alone

1 Q Okay And who was there when you got to Shavonne
2 Gass' house?

3 A Shavonne, Corey Byrd and Gabby

4 Q Was that also known as Gabriel Peterson?

5 A Yes, I guess

6 Q Did you see an individual there by the name of Arthur
7 White?

8 A Yes, he was in the house

9 Q Did he have a female with him?

10 A Yes, his girlfriend was in there with him

11 Q Okay So there were various people there?

12 A Uh-huh

13 Q And when you got there, did you just want to say
14 hello or -- I mean, it's kind of early in the morning to
15 get to someone's house Did you just want to say hello
16 or?

17 A No, I went there cause me and him we drink alcohol
18 We was going to get a little bottle of liquor or
19 something

20 Q Okay And who's this that you're going to get a
21 little bottle of liquor from?

22 A Arthur White

23 Q Okay And did you go get a little bottle of liquor?

24 A No, he didn't go I went and got it, but he didn't
25 go he stayed

1 Q All right Now, when -- but that was your purpose in
2 going over there, correct?

3 A Yeah

4 Q Okay When you got there, were you going to give
5 anyone a ride to any place?

6 A No, but I was asked to give a ride to drop people
7 off

8 Q Okay And who was that doing the asking?

9 A Corey Byrd and Gabriel Peterson

10 Q Okay So did you say okay to that?

11 A No, I didn't say okay

12 Q Okay But did you give somebody a ride?

13 A Yeah, I gave Gabriel Peterson a ride

14 Q Okay How about Corey Byrd what was the deal there?

15 A He went back in the house to get his phone charger or
16 whatnot and I left after that

17 Q Okay What was your reason for leaving after that?

18 A What you mean what was the reason for leaving after
19 that? I never came there to pick nobody up

20 Q Okay So that's my question, you didn't want to wait
21 around?

22 A No

23 Q So did -- Byrd never made it into your vehicle?

24 A Uh-uh

25 Q Did he tell you he left something at Shavonne's

1 house?

2 A He said he was going in the house to get his phone
3 charger They went in the house, they was in there for a
4 little while, I left

5 Q With Peterson?

6 A Yeah

7 Q Okay Where did you go with Peterson after you left
8 Shavonne's house?

9 A I went off Sopkin Avenue and then I went and drop
10 Peterson off in Woodmont And we stay over there for like
11 20 or 30 minutes sitting in the truck talking

12 Q Okay Woodmont's a little northeast of
13 -- I mean off

14 A I'm not sure, but Woodmont is like on the other end
15 going towards Wilson High School or something like that

16 Q Okay Does Gabriel Peterson live over there?

17 A I guess his grandma stay over in Woodmont

18 Q Is that where you dropped him off?

19 A Uh-huh

20 Q Okay So you stopped over at and truth
21 did you go see the bootlegger over at

22 A Yes

23 Q And then you drop Peterson off in the Woodmont area,
24 correct?

25 A Yes

1 Q All right Then after you dropped him off, did you
2 stay a while at Gabriel Peterson's place or did you just
3 go back?

4 A No, I stayed a while We sat in the truck and talked
5 for like 10, 15, 20, 30 minutes

6 Q And then what happened?

7 A Then I left and I was coming home

8 Q All right?

9 A And I was coming down Dargan Street

10 Q All right Where did you live at that time?

11 A the same spot

12 Q Okay All right if I show you
13 what's been marked as State's Exhibit 4, do you recognize
14 some of these streets? There's Commander, Fraser?

15 A I recognize the whole neighborhood

16 Q Okay Can you tell the -- and I'm going to have you
17 stand up if the Court doesn't mind have him come off the
18 witness stand

19 THE COURT I don't mind, but I'm just curious
20 if the whole jury can see better from this angle and then
21 if you put a witness in front of the stand and then the
22 jurors on the far end can't see So just however you want
23 to do it, but all the jury needs to see

24 And, sir, if you do step down, you would please
25 speak aloud enough so that Miss Reed can hear everything

1 you're saying

2 BY MR JEPERTINGER

3 Q If you come down one second, please I'm going to
4 have you stand on this side, so the court reporter can
5 hear your voice if you stand over there, please Tell the
6 jury how you were going back to your house on

7 ? This is Dargan Street, correct?

8 A See y'all got it turned around a different way I
9 came along this way right here

10 Q All right You were going down Dargan Street?

11 A Uh-huh

12 Q Did you see anything unusual when you got near the
13 intersection of Marlboro and Dargan Street?

14 A Yes

15 Q Okay That's all I wanted you to do You can get
16 back on the stand All right Tell the jury what unusual
17 thing you saw at the intersection of Dargan and Marlboro
18 Street?

19 A Well, as I was coming down Dargan getting to the
20 intersection of Dargan and Marlboro Street, I see somebody
21 laying on the side of the road

22 Q All right And what did you do as a result of seeing
23 someone lying on the side of the road?

24 A I pull up and I ain't had never ever got out of my
25 truck I roll down the window and I was looking and I

1 seen the girl running and I ask her what had happen and
2 what was going on And something about she heard gunshots
3 and what should she do and all that, so I told her you
4 need to call the police or something, you know what I'm
5 saying

6 Q Right Did you recognize the clothing that the
7 individual had on that evening? And who did you see maybe
8 earlier that had that clothing that that individual had on
9 that was lying by the side of the road?

10 A Byrd

11 Q Okay And at that point, what did you do after you
12 spoke to the woman?

13 A After I spoke to her, I told her to call the police
14 She went running home And then I had went back to
15 Shavonne house and told them what I had just seen

16 Q Okay Did you tell Shavonne that you saw Corey lying
17 on the side of the road?

18 A Yeah

19 Q When you saw him, was the body moving at all?

20 A No

21 Q All right And approximately what time would you say
22 this, Mr Evans?

23 A This would have been about four or five o'clock in
24 the morning I can't be actual with the time because I
25 really wasn't looking at the time

1 Q All right Fair enough Thank you And after you
2 told Shavonne, what did you do?

3 A She had rode back over there and then by the time we
4 got back over there, I guess the crime victim unit y'all
5 had had the lights and everything over there

6 Q Over at the intersection of Dargan and Marlboro
7 Street?

8 A Yes

9 Q Did you wait to talk to the police over at Shavonne
10 Gass' house?

11 A Uh-uh

12 Q All right Did anybody come over to Shavonne's
13 house? Any kin to Corey or anything like that?

14 A Yeah, a matter of fact, we went back to Shavonne
15 house Corey Byrd sister and Tiesha came back over there

16 Q Eventually, did you speak to the police about this?

17 A No, I ain't talk to the police

18 Q Okay

19 A Not that day

20 Q Right You spoke to them later?

21 A Yeah

22 Q Okay After the sister of Corey and Tiesha came over
23 to Shavonne's, what did you do? Did you finally get home
24 or did you stick around?

25 A I went home after that

1 Q You went home?

2 A Yeah

3 Q And is that the only thing that happened that you're
4 involved with in this case?

5 A That's it

6 Q Okay Did you see anybody with dark clothing running
7 down Marlboro Street?

8 A I didn't see nobody

9 Q You did not attend the cookout?

10 A No

11 MR JEPERTINGER Thank you very much, I
12 appreciate it

13 THE COURT Mr Lawson

14 MR LAWSON Bear with me one moment

15 (WHEREUPON, a pause in the proceedings)

16 MR LAWSON May it please the Court

17 CROSS-EXAMINATION

18 BY MR LAWSON

19 Q Mr Evans, what model Tahoe did you have?

20 A A 2003

21 Q A 2003 Anything particular about that car? Did you
22 have any customization? Did you customize it at all?

23 A No

24 Q Now, is it my understanding from your testimony that
25 you did go over to the cookout?

1 A The cookout was over when I got off work

2 Q Okay But the remnants of what had been a cookout

3 you went over there by the house where the cookout was?

4 A Yes

5 Q And there was still some people around, correct?

6 A Correct

7 Q And that was -- where was that house?

8 A Right there

9 Q And that's ?

10 A Uh-huh

11 Q And when you left there, where did you go when you

12 left that location?

13 A Went down Vista Street, Sopkin Avenue, and then

14 Oakland Avenue What the name of that street going to

15 Woodmont Royal Street and on to Woodmont

16 Q Okay And where were you going when you left there?

17 A I went to get the bottle of liquor from the

18 bootlegger and I was going to drop Gabby off at his

19 grandma house in Woodmont

20 Q Okay Let me understand something, I think that I

21 understand it When you talk about bootlegger, you not

22 talking about somebody that make their own liquor?

23 A Uh-uh

24 Q No, you talking about bottled taxed liquor, but it's

25 just sold after hours?

1 A Yeah

2 Q And that's what you talking about when you talk about
3 a bootlegger?

4 A Yeah

5 Q And you didn't go to a liquor still and get yourself
6 a jug, a mason jar of white liquor Though I understand,
7 you did get gin which is white liquor anyway, right?

8 A Uh-huh

9 Q So -- and when -- had you had anything to drink
10 earlier that evening?

11 A Uh-uh

12 Q Okay Were you working out of town at the time?

13 A I was working in Lamar, Lamar Highway

14 Q On Lamar Highway

15 A Yeah Fraser Industrial is located in Lamar

16 Q Okay And you were worked in the facility?

17 A Yes

18 Q You were an in-house welder?

19 A Yes

20 Q And did y'all work shifts, you worked shift work?

21 A Yeah

22 Q Now, were you off for the week when you got off on
23 Thursday night or did you have to go in on Friday night?

24 A I'm not real sure At first, we was working like
25 four tens And then we had move -- yes, I think I was off

1 after that Thursday night because we was working like four
2 tens 40 hours a week Yes, I was off

3 Q Okay So you would start on -- you would go in on
4 Sunday night?

5 A No, I go in on Monday

6 Q Monday night, work Monday, Tuesday, Wednesday and
7 Thursday?

8 A Yeah

9 Q Okay And then when -- did you go by the bootlegger
10 before or after you left Peterson home?

11 A I went before

12 Q Before?

13 A Yeah

14 Q So you stopped by there, got what you needed and then
15 took Peterson home?

16 A Uh-huh

17 Q And then I understand you said y'all stopped at
18 Peterson's house for a little while?

19 A Uh-huh

20 Q How long did you spend there?

21 A I said already 20 to 30 minutes

22 Q Okay And from there where did you go?

23 A That's when I came home and I came down Dargan
24 Street

25 Q Okay Do you know what time that was?

- 1 A No, I'm not actually sure what time it was, but I
2 knew it was around between three and five o'clock in the
3 morning, anywhere between that time?
- 4 Q All right And now, as you were driving down Dargan
5 Street, you said you saw somebody laying in the roadway
- 6 A Uh-huh
- 7 Q At the time that you first saw that, you didn't know
8 whether it was a drunk passed out or some other situation,
9 did you?
- 10 A Yeah, I didn't know
- 11 Q All right When did you first notice something in
12 the roadway, how far off were you?
- 13 A Probably at the corner of Palm's
- 14 Q Okay Can you show the jury on State's Exhibit 4
15 where we talking about?
- 16 A Yeah, flip it over
- 17 Q Sorry about that
- 18 A Palm Street is right here
- 19 Q Huh?
- 20 A Palm Street is right here
- 21 Q And where was the body laying?
- 22 A Up in here somewhere, little bit -- when you get to
23 the church, a little bit before you get to that church
24 right across the street?
- 25 Q Okay And so you were coming down Dargan Street in

1 this direction and you saw something laying in the roadway
2 partially -- partially in the road and partially on the
3 side of the road And from that distance, you knew that
4 it was a person laying there?

5 A Yeah, I knew it was a person, I just didn't know what
6 was going on

7 Q And did you see anybody else at the time that you
8 notice that?

9 A Tiesha

10 Q And did you know who that was?

11 A It was his girlfriend

12 Q But did you know that at the time that you saw
13 someone or did you just see a person?

14 A You got to rephrase that better What you mean did I
15 know at the time?

16 Q All right When you were coming up and you first saw
17 something laying in the roadway?

18 A So I didn't know exactly who that was at the time, no
19 I didn't

20 Q At the time that you saw the person in the roadway,
21 you saw another individual?

22 A Yes

23 Q And where was that individual when you first saw him?

24 A She was running toward Marlboro Street, I guess,
25 going back home where she came from

1 Q Okay So you were -- you saw her from behind then?

2 A Yeah

3 Q Okay What happened when you got to the scene?

4 A I ask her what happened

5 Q All right Did you go up to her or did you stop at
6 where the person was in the street?

7 A I just roll up, I was in my truck I roll the window
8 down and I ain't never got out And I seen her running
9 and I stop her and asked her what was going on, she was
10 like something happen with some gunshots or something and
11 what should I do I told her to call the police same
12 thing I just told you

13 Q Okay So when you stopped, had she stopped running
14 and turned around?

15 A Uh-huh

16 Q Okay And did she come back to where you were?

17 A I say not all the way back

18 Q Not all the way back?

19 A She was far enough away where I can hear her and she
20 knew who I was

21 Q Okay Did you get out of your vehicle?

22 A No, I did not

23 Q Did you ever get out of your vehicle?

24 A No, I did not

25 Q All right And when you were approaching the -- did

1 you see anybody else?

2 A I didn't see nobody

3 Q All right Then get it straight, you saw the one
4 somebody laying there in what appeared to be on the edge
5 of the roadway and you saw the girl that was running away
6 from him, that's all you saw?

7 A Uh-huh

8 Q Did you hear any gunshots as you were coming down the
9 road? Did you have your radio on?

10 A Uh-huh

11 Q You remember if you had your window up or down as you
12 were coming down Dargan Street?

13 A I can't remember whether I had the window up or not

14 Q Okay You remember if it was warm, cold, in between?
15 You remember what the weather was?

16 A I can't even remember what the weather was

17 Q Well, I'm just asking It's been a long time?

18 A Uh-huh

19 Q Correct, it's been awhile Now, when you let -- when
20 you left, when you left there on -- after you told her to
21 call the police, you didn't stick around and wait around
22 to see what was going on, is that correct?

23 A Uh-huh

24 Q When you left there, where did you go?

25 A I already told you I went back to Shavonne house

1 Q Okay Well, I'm dumb I have to ask, I forget these
2 things And if I'm not standing there looking at what I
3 wrote down, I have to ask again When you got there, did
4 she say anything to you about something had happen?

5 A No, I acknowledge them that something had happen

6 Q You told her something that happened?

7 A Yeah

8 Q Did she act like she knew something had happen?

9 A No

10 MR LAWSON I don't have any other questions,
11 Your Honor

12 THE COURT Anything on redirect?

13 MR JEPERTINGER Nothing further, Your Honor, I
14 ask if he could be excused?

15 MR LAWSON No objection

16 THE COURT Thank you, sir You free to go
17 (WHEREUPON, the witness leaves the witness
18 stand)

19 THE COURT You may call your next witness

20 MR DEBERRY The State would call Gabriel
21 Peterson

22 THE CLERK If you will please go over to the
23 stand and place your left hand on the Bible and raise your
24 right hand Do you swear the testimony you give in this
25 case to be the truth, the whole truth, and nothing but the

1 truth so help you God?

2 THE WITNESS Yes

3 THE CLERK Please be seated and state your full
4 name for the record

5 THE WITNESS Gabriel Peterson

6 WHEREUPON,

7 Gabriel Peterson,

8 after first having been duly sworn, testified as follows

9 DIRECT EXAMINATION

10 BY MR DEBERRY

11 Q Okay Thank you for being here today, Mr Peterson
12 I appreciate your time Could you tell us the events as
13 they -- were you present at a cookout on September the 4th
14 and that bled over into September the 5th of 2008?

15 A Yes

16 Q Okay And what was your job at the cookout?

17 A I was cooking

18 Q So you were doing the cooking?

19 A Yes

20 Q About what time that day on September the 4th did
21 y'all get it started?

22 A It was early in the morning, early in the morning
23 probably -- well, I was getting stuff together, probably
24 afternoon time we got started really

25 Q You start sometime in the afternoon, early afternoon?

1 A Yes

2 Q Okay And about how many people were there when the
3 cookout started?

4 A Actually, I can't remember

5 Q You can't remember?

6 A Uh-uh

7 Q Okay Were people coming and going all day?

8 A Yes

9 Q All right And did you tell the jury -- did you
10 observe any arguments throughout that day?

11 A Yes, quite a few arguments

12 Q There was a few arguments?

13 A Yes

14 Q All right Can you tell the jury what you observed
15 in connection with those arguments and who they were
16 between and how they went down?

17 A Corey and Gregg had an argument

18 Q Okay You say Gregg, you see him in the courtroom
19 today?

20 A Yes, right there

21 Q Gregory Daniels sitting right here?

22 A Yes

23 Q Okay And you said Corey is that Corey Byrd?

24 A Yes

25 Q How long had you known Corey Byrd?

1 A Probably about first, second grade
2 Q Y'all grew up together?
3 A Yes
4 Q Okay Was Corey at the cookout from the beginning?
5 A Not at the beginning
6 Q Okay Do you remember about what time he might have
7 showed up?
8 A Afternoon
9 Q Okay And you said that they got in an argument Do
10 you remember -- I mean, what time was that?
11 A I don't remember, it was afternoon
12 Q Before dark?
13 A Yes, it was before dark
14 Q Okay And how do you know Greg Daniels?
15 A I seen him around before
16 Q Okay So you knew who he was?
17 A Yes
18 Q What time did he show up at the cookout?
19 A Afternoon probably two, afternoon
20 Q Before dark?
21 A Yeah, before dark
22 Q Okay And did they get in several arguments or kind
23 of?
24 A Yeah, they was arguing at the time
25 Q More than once?

1 A The argument last a minute so

2 Q Were they trying to fight or could you tell who the
3 aggressor was or who was starting it?

4 A Pretty much they just argue and then Greg off him
5 down the street

6 Q What do you mean by that?

7 A He just told him to come down the street and I'll
8 show you

9 Q So Greg Daniels told Corey Byrd to come down the
10 street and he had something?

11 A Yes

12 Q Do you know what he meant?

13 A No

14 Q Do you know if Corey Byrd knew what he meant?

15 A I guess fight or do whatever

16 Q Did -- did they go down the street?

17 A No

18 Q All right Was that the first time they got in an
19 argument that he told him that?

20 A To my knowledge, yes

21 Q Okay And so is it your testimony that Gregory
22 Daniels started the argument?

23 A I can't say who started the argument, but I know they
24 was arguing

25 Q Right And what was Gregory Daniels wearing that

1 day?

2 A He had on all black

3 Q He had on all black?

4 A Yes

5 Q Did he hang out with the crowd or was he across the
6 road? I mean, how did he mingle with the people at the
7 cookout?

8 A I can't really say how he was mingling with the crowd
9 because I was cooking, but he was there

10 Q He was there?

11 A Yes

12 Q Okay What time did you leave the cookout?

13 A Probably about -- it was in the morning time late
14 late in the morning -- early in the morning

15 Q So the next day?

16 A Yes

17 Q You started off about noontime on the forth It got
18 dark, came midnight and came the fifth and you left the
19 next morning?

20 A Yes

21 Q I mean that morning of the fifth?

22 A Yes

23 Q How did you leave?

24 A With Ryan

25 Q With Ryan?

1 A Yeah

2 Q Ryan Evans?

3 A Yes

4 Q Okay And what kind of car was he driving?

5 A A truck I think it's dark, black Tahoe

6 Q Okay And was there anybody else that was suppose to
7 ride with y'all when y'all left?

8 A Yeah, Corey suppose to jump in the truck with us

9 Q Okay And what happened?

10 A He said hold up for a minute let me go get my charger
11 and then ---

12 Q Phone charger?

13 A His phone charger, cell phone charger He was like,
14 okay, well, he going right up the street, so we just left
15 Me and Ryan left

16 Q All right And Ryan -- and so y'all were all in the
17 car and then Corey said I got to run inside ---

18 A We was getting in the car and he turn around and went
19 and got his phone charger

20 Q Okay And Ryan left?

21 A No, he was like, well, he going right up the street
22 say he want to get dropped off on Marlboro Street, I
23 think, that's what it is So he saying, he going right up
24 the street, so we just left

25 Q Okay You talking about Corey said that's where he

1 was going?

2 A Yeah, going to get dropped off there?

3 Q Are you familiar with the neighborhood?

4 A Yeah

5 Q Like the distance between Marlboro and where the

6 cookout was?

7 A Yes

8 Q So how long you think it would take to walk that far?

9 A Probably about five, ten minutes

10 Q Not too far?

11 A Not too far

12 Q All right So when you left the cookout, where did

13 y'all go?

14 A Went to the bootlegger house

15 Q Okay And when you left there where do you

16 A Went in my grandma yard sit and I finish the bottle

17 and then I went home

18 Q Okay So y'all sat in your grandmama's yard for a

19 period of time?

20 A Probably about 20 minutes, 15 minutes drinking

21 Q All right And then you just went inside and went to

22 sleep?

23 A Yeah

24 Q Okay Going back to the cookout, you said that

25 Gregory Daniels and Corey Byrd got into an argument and

1 Gregory Daniels asked him to come down the road?

2 A Yes

3 Q Was Corey -- Corey said he didn't want to do that?

4 A Yeah, he actually wanted to go, but, you know, people
5 like it ain't worth it Y'all just chill out, have fun at
6 the cookout

7 Q Okay And that was before dark or after?

8 A Before dark

9 Q Okay And when it came dark, did they get in an
10 argument -- any more arguments?

11 A No, not that I recall

12 Q That's all you observe?

13 A Yes

14 Q Okay You remember the last time you saw Gregory
15 Daniels at the cookout?

16 A It was late at night, he was on a moped

17 Q He was on a moped?

18 A Yes

19 Q Pretty close to the time you left or earlier than
20 that or about what time was the last time you think you
21 saw him?

22 A It could have been because it was late

23 Q It was late?

24 A Yes

25 Q So it could have been close to the time you left?

1 A Yes

2 Q You remember what time it was when y'all left?

3 A No, not really It was late like 4 35 in the
4 morning

5 Q About 4 35 in the morning?

6 A Yeah

7 Q Okay Hang on just a second

8 MR DEBERRY All right Please answer any
9 questions Mr Lawson may have Thank you for your time

10 MR LAWSON Bear with me one moment, Your
11 Honor

12 THE COURT Yes, sir

13 (WHEREUPON, a pause in the proceedings)

14 MR LAWSON May it please the Court

15 THE COURT Yes, sir

16 CROSS-EXAMINATION

17 BY MR LAWSON

18 Q Okay Mr Peterson, you live over in the area pretty
19 much in the same vicinity where this was, where the
20 cookout was?

21 A No, I live in Woodmont

22 Q Woodmont?

23 A Yes, sir

24 Q And but -- is that where they took you that night
25 when you got your ride home?

1 A Yes, sir

2 Q All right Now, when you were testifying on direct,
3 I just want to get this straight you had said you got
4 there in the morning, was it in the morning or in the
5 afternoon when you got to the cookout?

6 A To the cookout, oh, I was there early in the morning
7 prepping food and stuff getting it done

8 Q Okay About what time?

9 A It had to been before 12, but the cookout start in
10 the afternoon afterwards

11 Q Okay What time -- you were cooking?

12 A Yes

13 Q What time were you suppose to start having food ready
14 to eat?

15 A It wasn't no specific time

16 Q But you were aiming toward sometime in the afternoon?

17 A Yes

18 Q Early in the afternoon or later in the afternoon,
19 what were you heading for, do you remember?

20 A No, I was just cooking

21 Q Okay That was a long time ago?

22 A Yeah

23 Q Okay And it's hard to remember some things I would
24 assume I mean, you didn't take notes and keep track of
25 what you were doing that day, did you?

1 A No

2 Q Nor did you keep notes of what was going on?

3 A No

4 Q All right Now, so when you first got there, you

5 first started just prepping food, getting the area ready

6 What kind -- did you use grills?

7 A Yeah, two grills

8 Q Charcoal grills or gas?

9 A Charcoal

10 Q So you had to fire up the charcoal?

11 A Yeah

12 Q When did you do that? Do you remember when you lit

13 the charcoal?

14 A No, sir

15 Q Did you cook on and on into the night or did you quit

16 at some time in the afternoon?

17 A Yes, I kept cooking because she kept going to get

18 more stuff because more people came

19 Q Okay How many people would you say came to this

20 cookout?

21 A It was a lot

22 Q I mean more than ten?

23 A Yes, more than ten

24 Q More than 50?

25 A Somewhere up in there

1 Q Somewhere between 50 and 100 people?

2 A Yes

3 Q And they were not -- was that not all there at one
4 time, that would be some came, some left, some came, some
5 left People left and came back, is that true too?

6 A Yes

7 Q People would be there for a little while and then
8 they leave and then they come back?

9 A Yeah

10 Q Now, you say there was an argument between Corey Byrd
11 and Greg Daniels, right?

12 A Yes

13 Q It wasn't a fistfight?

14 A No

15 Q And didn't you -- nobody pulled a gun on each other,
16 did they?

17 A No

18 Q Okay And did you see guns at the cookout?

19 A Yes

20 Q And people did pull guns on each other during the
21 afternoon?

22 A Yes

23 Q And did you see a guy riding in a car with a gun
24 hanging out the window?

25 A No

1 Q You didn't see that? Did you hear about that?

2 A No

3 Q Now, when -- was there a group there known as

4 Woodmont boys?

5 A Yes

6 Q Well, what is that when you smile is that

7 A Cause the way you say Woodmont boys

8 Q Is that a group of guys?

9 A Yeah, that's the neighborhood we from

10 Q And are you one of the Woodmont boys?

11 A Yeah, you can say that

12 Q And was there a little disturbance between the

13 Woodmont boys during that afternoon?

14 A Yes, we actually was fighting each other?

15 Q They were fighting each other?

16 A Yes

17 Q Were you involved in that?

18 A Uh-uh

19 Q Was Corey Byrd involved in that?

20 A No

21 Q Did he get involve in that?

22 A No, I don't think so

23 Q Did he get -- did he break it up?

24 A Yeah, he was like the peacemaker He wasn't involved

25 like fighting nobody or nothing

1 Q Okay And that's when guns were pulled between those
2 two groups?

3 A Yes

4 Q Okay Now, do you know if there was another party
5 going or another cookout going on at the same time that
6 this was going on?

7 A No

8 Q And did you know anything about a fish fry somewhere
9 else?

10 A No

11 Q So you stayed there at this location from the time
12 you got there that morning until you left the next
13 morning?

14 A Yes

15 Q And you don't know exactly what time it was you left,
16 but it was up around four or five o'clock in the morning?

17 A Uh-huh Maybe before the morning

18 Q Huh?

19 A It was right before the morning like daybreak

20 Q And do you remember what time Corey Byrd got there to
21 the party, to the cookout?

22 A No

23 Q Did you see him from time to time throughout the day?

24 A Yes

25 Q Was he there pretty much the whole day?

- 1 A Yeah, he was there
- 2 Q Pretty much from the first time you saw him which
- 3 would have been about what time?
- 4 A I can't remember the time
- 5 Q Can't remember Okay And when was the last time
- 6 that you saw him?
- 7 A Right before he was about to get in the truck and go
- 8 get his phone charger
- 9 Q And did you know where he was going at that time?
- 10 A Yes, he say he was going down to his girlfriend house
- 11 on Marlboro Street
- 12 Q All right And did you tell anybody else that?
- 13 A No, I told Ryan that I say he going right up the
- 14 street
- 15 Q So you told Ryan where he was going?
- 16 A Yes
- 17 Q So between you and Ryan who else knew where Corey
- 18 was going?
- 19 A I don't know
- 20 Q How many people were in the car with y'all?
- 21 A Us two
- 22 Q Just the two of you?
- 23 A Uh-huh He was about to get in, but he never got in
- 24 He went back to get his charger
- 25 Q Okay So it's just the two of you Do you know

1 whether or not anybody -- well, who else was in the house?

2 A I think it was Shavonne and Shavonne and two other
3 people, I can't remember who it was, but I know Shavonne
4 was one of them

5 Q Best of your recollection, there were three people
6 left in the house basically when y'all left?

7 A Could be

8 Q Could there have been more?

9 A I don't think so

10 Q Could it have been less?

11 A No I just don't remember that part

12 Q All right That's fair enough, but there was at
13 least some people left in the house?

14 A Yes

15 Q Do you know whether or not they knew where Corey Byrd
16 was going?

17 A I don't know

18 Q You don't know if they knew?

19 A Uh-uh

20 Q But for sure you and Ryan knew where he was going?

21 A Yes

22 Q Did you tell anybody else where he was going?

23 A No

24 Q Did Ryan tell anybody else where he was going?

25 A I don't think so

1 Q Okay Did either one of y'all make any cell phone
2 calls while you were riding in the car?

3 A No

4 Q Mr Peterson, one thing you do have a conviction for
5 possession of crack cocaine, do you not?

6 A Yes

7 Q That was in 2001?

8 A Yes

9 Q Now, when you were leaving, did you see Gregory
10 Daniels anywhere around at the time that you were leaving
11 the cookout?

12 A No

13 Q Had you seen him for some period of time before you
14 left?

15 A I seen him like -- it's hard to say like I seen him
16 before I left, but not right actually when I left

17 Q Okay So it was sometime before he left?

18 A Yes

19 Q Okay Had -- during the cookout most of the day, had
20 people been staying outside and just going in and out
21 basically on and off?

22 A Yes

23 Q And was there anybody left on the outside when you
24 left?

25 A No

1 Q Okay So you were basically the last ones to leave
2 from the outside?

3 A Yes

4 Q Okay

5 MR LAWSON Thank you

6 THE COURT Anything on redirect?

7 MR DEBERRY Thank you, Your Honor

8 REDIRECT EXAMINATION

9 BY MR DEBERRY

10 Q Okay Mr Peterson, it was dark when you left about
11 you say 4 30, five o'clock in the morning?

12 A Yes

13 Q Could there have been people that you didn't see
14 around in the darkness and shadows or anywhere?

15 A It could have been

16 MR DEBERRY Okay Thank you I have nothing
17 further

18 THE COURT Thank you very much, sir You may
19 step down

20 MR DEBERRY Your Honor, may Mr Peterson be
21 excused?

22 THE COURT Any objection to Mr Peterson being
23 excused?

24 MR LAWSON No, Your Honor

25 THE COURT You free to go, sir, thank you

1 around

2 THE CLERK If you will place your left hand on
3 the Bible and raise your right hand Do you swear the
4 testimony you give in this case to be the truth, the whole
5 truth and nothing but the truth so help you God?

6 THE WITNESS I do

7 THE CLERK Please be seated and state your full
8 name for the record

9 THE WITNESS My name is Doris Yarborough
10 Y-A-R-B-O-R-O-U-G-H
11 WHEREUPON,

12 Doris Yarborough,
13 after first having been duly sworn, testified as follows

14 DIRECT EXAMINATION

15 BY MR JEPERTINGER

16 Q All right Ms Yarborough, for whom are you
17 employed?

18 A I'm employed by the South Carolina Law Enforcement
19 Division also known as SLED

20 Q Okay And your responsibilities there, ma'am?

21 A And I work in evidence control, the log-in division

22 Q All right And can you tell the ladies and gentlemen
23 of the jury what someone in the log-in department at SLED
24 does?

25 A We take in the evidence that the officers throughout

1 the state bring to us for forensic analysis

2 Q Okay And you're located in Columbia I take it?

3 A That's true

4 Q All right And when you do that, can you tell the
5 ladies and gentlemen of the jury your process of checking
6 it in?

7 A The officers bring their evidence along with their
8 paperwork We verify as well as we can the paperwork, the
9 names on it, and what they're submitting as well as the
10 analysis request they have for their evidence

11 Q All right And at -- when you do that after you
12 check it in, are the items submitted to you parceled out
13 to perhaps various departments in SLED?

14 A They are, they are

15 Q And among those might be DNA, trace, gunshot residue,
16 fingerprints, ballistics or firearms, is that correct?

17 A Correct

18 Q And you don't know basically -- well, excuse me you
19 do know You do know what the officer is requesting when
20 he comes in and checks in where the item should go?

21 A They have their request on the items they're bringing
22 in

23 Q All right Now, depending on the item itself
24 submitted if it's blood, it may be refrigerated?

25 A Correct

1 Q If it's some physical item is there a secure locker
2 area ---

3 A We have a secure evidence room that everything that
4 we take in goes into until it is request for analysis

5 Q All right Did you receive any items in regards to
6 the case we're dealing with today State vs Gregory
7 Daniels involving Corey Lee Byrd?

8 A Yes, sir

9 Q Okay And do you have what is commonly referred to
10 as a chain of custody?

11 A I do

12 Q Could you tell us what you did, what items came in to
13 you?

14 A May I refer to my notes?

15 Q Sure

16 A Do you need to know everything that came?

17 Q Well, if you could, if you could tell us generally
18 what those things are that would help

19 A Okay The first two items were received by mail from
20 the coroner's office

21 Q And they would be -- what they be, ma'am?

22 A Blood for toxicology and also urine

23 Q Okay And let me ask you on those things like blood
24 for toxicology and urine, are those items normally
25 disposed of in a biohazard trash after they tested?

1 A I'm not perfectly sure on that

2 Q Okay Let me show you this to refresh your
3 recollection?

4 A Okay, that's what the chain of custody says Once it
5 leaves our office, you know, different things are handled
6 differently

7 Q Okay So we would not have those items if they were
8 disposed of?

9 A No, sir

10 Q The next items that you would receive, ma'am, would
11 have been?

12 A Let me go back to a copy of my log in sheet And
13 that would be on 9-30 of 2008 I received some prints to
14 go to latent prints the G S R kit from the victim, some
15 swabs for DNA analysis, some more blood from the victim,
16 and some clippings and the clippers used to collect those
17 clippings from the victim and some pulled scalp hair

18 Q Anything else, ma'am?

19 A No, sir

20 Q And how did you designate all those items? What was
21 it in a container B, I think, ma'am?

22 A They were placed in container B

23 MR JEPERTINGER I'm going to have this marked
24 for identification at this stage

25

1 (WHEREUPON, State's Exhibit No 6 was marked for
2 identification only)

3 BY MR JEPERTINGER

4 Q Ma'am, I'm going to show you what is marked as
5 State's Exhibit 6 for identification only Is this what
6 you would receive that was notated as container B?

7 A That is container B according to my papers

8 Q All right

9 MR JEPERTINGER And then I like to have this
10 marked as well please

11 (WHEREUPON, State's Exhibit No 7 was marked for
12 identification only)

13 BY MR JEPERTINGER

14 Q Let me show what's been marked as State's Exhibit 7
15 I believe this is the G S R kit?

16 A Item number four should be prints, item number five
17 should be a G S R kit

18 Q I show you right here

19 A Okay

20 Q All right Would that be the G S R kit?

21 A Correct

22 Q And are you the one that checked in -- you were the
23 forensic technician for all this that was being checked
24 in, ma'am?

25 A Those particular items, yes, sir

1 Q Okay Were there other items that you checked in
2 that you can identify the tech that check the items in
3 please?

4 A There appears to be two other items I think by the
5 SLED agent that investigated

6 Q That would be the fingerprint analysis person?

7 A It appears to be, yes, sir

8 Q And I am going to show you --

9 MR JEPERTINGER This mark for identification
10 as well

11 (WHEREUPON, State's Exhibit No 8 was marked for
12 identification only)

13 BY MR JEPERTINGER

14 Q I'm going to show you what's been marked as State's
15 Exhibit 8 for identification This is your item 15?

16 A That is item 15 and it was received by Nikki Perry
17 who is also a forensic technician in our department

18 Q And she would do absolutely the same thing you would
19 do?

20 A Correct

21 Q All right And that be check in evidence and put it
22 in the box?

23 A The secured storage, yes, sir

24 Q And that policy's the same whether it's you Nikki or
25 anyone else, is that correct?

1 A Anyone in our department, yes, sir

2 Q Okay

3 MR JEPERTINGER Thank you so much Please
4 answer any questions that Mr Lawson may have

5 MR LAWSON May it please the Court

6 THE COURT Yes, sir

7 CROSS-EXAMINATION

8 BY MR LAWSON

9 Q Okay State's Exhibits 6, 7, 8 for identification
10 purposes those which you just testified to, you had
11 nothing to do with testing on any of these items?

12 A No, sir, I did not

13 Q All you did were involved in receipt and distribution
14 of it?

15 A Correct, yes, sir

16 Q Did you do any work on any of these items?

17 A No, sir

18 Q I mean, sometimes when something comes in it's
19 checked initially Did you do any initial checking on any
20 of this evidence?

21 A No, sir, we take it on as I said to contain policy

22 MR LAWSON All right Thank you, ma'am I
23 don't have any further questions

24 MR JEPERTINGER I have no further questions
25 and I ask if Ms Yarborough can be released, so she can

1 go back to our capital

2 MR LAWSON No objection

3 THE COURT Thank you very much, ma'am You
4 free to go

5 (WHEREUPON, the witness leaves the witness
6 stand)

7 MR JEPERTINGER At this time, Your Honor, the
8 State would call Megan Fletcher to the stand

9 THE CLERK Please place your left hand on the
10 Bible and raise your right hand Do you swear the
11 testimony you give in this case to the truth, the whole
12 truth, and nothing but the truth so help you God?

13 THE WITNESS I do

14 THE CLERK Please be seated and state your full
15 name for the record

16 THE WITNESS Megan Fletcher F-L-E-T-C-H-E-R
17 WHEREUPON,

18 Megan Fletcher,
19 after first having been duly sworn, testified as follows

20 DIRECT EXAMINATION

21 BY MR JEPERTINGER

22 Q Ms Fletcher, for whom are you employed?

23 A I'm employed by the South Carolina Law Enforcement
24 Division also known as SLED?

25 Q And how long you work for SLED?

1 A Two and a half years

2 Q And what are your responsibilities at SLED?

3 A I'm a trace evidence analysis in forensics

4 Q Okay Can you tell everybody -- well, we all know
5 what tracing is, but can you tell us what trace evidence
6 is please?

7 A Trace evidence includes multiple different
8 disciplines We do fire degree analysis for the presence
9 of accelerants, fibers, paints, duck tape, glass, bullet
10 hole distance determination as well as gunshot residue
11 analysis

12 Q All right And have you had any specialized training
13 in the area of trace analysis?

14 A Well, I been at SLED I've undergone multiple
15 trainings in paint, fire debris analysis, bullet hole
16 distance determination and gunshot residue For gunshot
17 residue analysis, I underwent approximately ten months of
18 training under a court qualified analyst where I helped
19 and assisted in analyzing around 300 cases for that
20 analyst I was also required to take and pass oral and
21 practical and written examinations regarding gunshot
22 residue and our instrumentation

23 Q All right And I think you told me you never
24 testified in court, this is your first time, is that
25 correct?

1 A That's correct, sir

2 Q How many cases though at SLED have you analyzed in
3 terms of trace evidence?

4 A For gunshot residue analysis, it's been about 150
5 cases of my own, sir

6 Q Thank you

7 MR JEPERTINGER At this time, I like to have
8 Ms Fletcher qualified as an expert in trace analysis
9 specifically dealing with gunshot residue in this case,
10 Your Honor?

11 THE COURT Mr Lawson

12 MR LAWSON No objection

13 THE COURT All right Without objection, she
14 is so qualified

15 BY MR JEPERTINGER

16 Q If I might, I think you just heard Ms Yarborough
17 testify to her checking in State's Exhibit 7 Are you
18 familiar with State's Exhibit 7 for identification?

19 A What I am doing is I am looking for my initials and
20 the date on which I seal this evidence and I see my
21 initials on both This is gunshot residue taken from a
22 Corey Lee Byrd

23 Q All right Now, tell us a little bit about gunshot
24 residue is it made up of three specific metals?

25 A Among other things, the three specific metals that we

1 look for are lead barium and antimonium Those metals
2 come out in microscopic -- they're microscopic so you
3 can't see them with the naked eye, but they come out of a
4 gun when it's been fired

5 Q All right Now, you're saying when you analyzed
6 apparently this gunshot residue kit and let's stop there
7 What normally comes to you on a gunshot residue kit from
8 Corey Byrd?

9 A A typical gunshot residue is compressed of two
10 different sets of collection media The first are
11 particle lifts and those are basically stamps with a
12 sticky surface on them One particle lift is taken from
13 the right palm of the hand Another is from the right
14 back of the hand A third is from the left palm of the
15 hand And a fourth from the left back of the hand And
16 those will collect any gunshot residue particles until the
17 sticky -- when the particle lift is removed The second
18 part is a set of swabs, two swabs are collected from the
19 palm of hand, right back of hand, left palm of hand and
20 left back of hand And those swabs are used to determine
21 the amount of metals that were present on that -- the
22 person's hands at the time of the collection?

23 Q All right Now, is there any distinction in terms of
24 time limitation for a deceased person when you can do a
25 G S R kit on that individual that's deceased?

1 A On a deceased person, gunshot residue will remain
2 indefinitely until it's removed from a outside medium,
3 rain or washing of the hands by other person

4 Q Okay How about for a living person what -- is
5 there any time limitation on doing a G S R kit for
6 someone that is still alive?

7 A The maximum time that it will remain on a living
8 person is really around six hours This is because a
9 person will be sweating, taking their hands in and out of
10 their pockets, and after six hours, your body starts to
11 absorb those metals back into itself as well So on a
12 living person, it will really only remain for six hours

13 Q So if I were to give you this information that the
14 decedent died shortly after 5 00 a m on September 5th
15 2008, the limitation would be until about 11 00 a m or
16 shortly thereafter for a living person?

17 A That's correct, sir

18 Q All right Anything that you would receive after
19 11 00 a m on someone that's living you would not test, is
20 that correct?

21 A That's correct, it would not be analyzed

22 Q All right You did not receive a G S R kit for
23 Gregory Daniels in this case, did you?

24 A No, the only evidence I received was from Corey Lee
25 Byrd

1 Q Okay Now, in terms of Corey Lee Byrd, what did you
2 find within reasonable degree of trace analyst certainty?

3 A May I refer to my report?

4 Q Absolutely

5 A From the right palm of Corey Lee Byrd's hand, the
6 quantities of metals maybe associated with gunshot
7 residue From the right back of the hand, the quantities
8 of metals did not indicate gunshot residue From the left
9 palm of hand, the quantities of metals found did not
10 indicate the presence of gunshot residue And from the
11 left back of hand, the quantities of metals found did not
12 indicate the presence of residue

13 Q So you found -- when you talk about quantities, is
14 there a threshold level of metal that you have to find in
15 order to say it fits into your category of gunshot
16 residue?

17 A Correct There's certain amount of metals have a
18 high correlation with finding gunshot residue on a
19 person's hand

20 Q All right And the significance of finding gunshot
21 on the right palm of the victim in this case, the
22 decedent, can you draw any conclusions from that?

23 A It would be my opinion that he was in the vicinity of
24 a gun when it was fired

25 Q All right And obviously, you could get gunshot

1 residue firing a gun, correct?

2 A Correct You can get gunshot residue by firing a
3 weapon, handling a gun or being in close proximity to a
4 gun when it has been fired

5 Q All right But there is no way just by looking at
6 the results of a gunshot residue test to say which
7 happened in this case?

8 A No, sir, there is not

9 Q All right

10 MR JEPERTINGER Thank you so much please
11 answer any questions that the defense attorney may have
12 for you

13 THE COURT Mr Lawson

14 MR LAWSON May it please the Court

15 CROSS-EXAMINATION

16 BY MR LAWSON

17 Q Okay Ms Fletcher, you said you been with SLED how
18 long?

19 A About two and a half years

20 Q That whole time has been involved with G S R ?

21 A My first year was dedicated to gunshot residue I
22 have since trained in fire debris analysis and paint
23 analysis and I take cases in both of those

24 Q And the first year was what?

25 A Gunshot residue analysis

1 Q Okay And in this particular case is that the only
2 test that you did were gunshot residue, gun powder test?

3 A Yes, sir, that was the only item

4 Q All right Did you do any other testing of any other
5 evidence?

6 A No, sir, I did not

7 Q And you -- it was your opinion based on your findings
8 that a gun was fired in the proximity of this individual?

9 A Yes, sir, I did

10 Q Or could you say one way or the other whether he was
11 holding a gun when it was fired?

12 A In this case, I cannot, sir?

13 Q Okay You can't say he did or he didn't or either
14 one?

15 A All I can say is that he was in the vicinity of a gun
16 when it was fired

17 Q Okay

18 MR LAWSON I don't have any other questions

19 MR JEPERTINGER Just one brief thing that I
20 forgot to do At this time, Your Honor, I would put item
21 seven into evidence, Your Honor

22 THE COURT Any objection, Mr Lawson, to
23 State's Exhibit 7, which I'm assuming is the gunshot
24 residue kit

25 MR JEPERTINGER Gunshot residue kit

1 MR LAWSON I don't think the chain has been --
2 she didn't collect it

3 MR JEPERTINGER That's true We'll put it in
4 later Thank you, ma'am I appreciate it

5 THE COURT Any objection to this witness being
6 excused, Mr Lawson?

7 MR LAWSON No, Your Honor

8 THE COURT Thank you very much, ma'am You may
9 step down

10 (WHEREUPON, the witness leaves the witness
11 stand)

12 THE CLERK Please place your left hand on the
13 Bible and raise your right hand Do you swear the
14 testimony you give in this case to be the truth, the whole
15 truth, and nothing but the truth so help you God?

16 THE DEFENDANT I do

17 THE CLERK Please be seated and state your full
18 name for the record

19 THE WITNESS Matthew Graham Fitts F-I-T-T-S
20 WHEREUPON,

21 Matthew Fitts,
22 after first having been duly sworn, testified as follows

23 DIRECT EXAMINATION

24 BY MR JEPERTINGER

25 Q Okay Mr Fitts, for whom do you work?

1 A I work for South Carolina Law Enforcement Division's
2 forensic DNA serology laboratory

3 Q And what are your responsibilities there?

4 A Predominantly, our responsibilities are to receive
5 evidence that has been collected at crime scenes from
6 around the state. In our laboratory, we look for
7 biological evidence predominantly blood, semen or saliva.
8 And we attempt to develop DNA profiles from that. And
9 then we get standards from individuals and we develop DNA
10 profiles from them. And we compared these DNA profiles to
11 either include or exclude someone as a potential
12 contributor to that evidence.

13 Q Okay. And how long have you been doing that type of
14 work?

15 A I been doing this off and on for SLED for about 13
16 years.

17 Q Okay. And have you had any specialized training to do
18 what you do?

19 A Yes, both in-house training at SLED through qualified
20 analyst as well as external training, workshops and
21 meetings and conferences.

22 Q Okay. Have you ever been qualified as an expert
23 before?

24 A Yes, I have.

25 Q In the area of?

1 A Forensic DNA and serology

2 Q Have you been qualified as an expert every time?

3 A Yes, I have

4 Q Okay

5 MR JEPERTINGER And at this time, Your Honor,
6 I would move to have Mr Fitts qualified as an expert in
7 forensic DNA analysis and serology

8 THE COURT Mr Lawson?

9 MR LAWSON No objection

10 THE COURT Without objection, he is so
11 qualified

12 BY MR JEPERTINGER

13 Q Sir, can you tell -- we hear this all the time, but
14 can you tell us what DNA is, we hear about it on
15 television?

16 A DNA is a compound that's found in almost all of your
17 cells All of your nucleated cells half of which you
18 inherited from your father, the other half from your
19 mother And it's a very large molecule that you actually
20 -- your cells read and it dictates your development into a
21 human being

22 Q It makes you you and me me?

23 A Correct And 99.9 percent of it is identical between
24 individuals because we're all humans, but there's small
25 percentage of it that varies and that's the percentage

1 that we test to develop a human profile?

2 Q Okay In this particular case, I am going to show
3 you what's been marked as State's Exhibit 6 for
4 identification came from our control B And I'm also
5 going to show you State's Exhibit 8 for identification,
6 which is listed as item number 15 a buckle swab Are you
7 familiar with both items, sir?

8 A Yes, I am This container B contain a series of
9 envelopes with swabs that I received and analyzed And
10 these small tubes in the bottom are the actual remaining
11 DNA extracts from those items of evidence And this item
12 15 is a buckle swab

13 Q Can you tell us what a buckle swab is?

14 A It's just a swabbing of your inside of your cheek
15 It's a lot less invasive then trying to get a blood sample
16 from somebody and it give us enough epithelial cells from
17 the mouth that we can get purified DNA and develop a DNA
18 profile And we use that as a standard a lot of times as
19 well as a blood sample?

20 Q All right And that buckle swab came from the
21 defendant in this case, is that correct?

22 A That's correct

23 Q All right Can you tell the jury what you analyze,
24 the items you analyze in this case please?

25 A I analyzed a swab from the stain on the grass near

1 marker number two A swab from the stain in the roadway
2 near marker number three There were swabs from the rim
3 of a Bud Light beer can near marker number five There
4 were swabs from a stain on the pants belonging to Kevin
5 Hennix, I believe There were fingernail scrapings from
6 Corey Byrd There was a blood standard from Corey Byrd
7 and a buckle swab from Gregory Daniels

8 Q All right In terms of -- now, when you say markers,
9 I believe those will be markers that the police officers
10 put down?

11 A Yes I don't have any reference as to where that is

12 Q Okay Very good Can you tell the jury within a
13 reasonable degree DNA analysis serological certainty what
14 your findings were in terms of the items submitted to you?

15 A On items five and six, these were swabs from the
16 grass and swabs from the roadway blood was indicated and
17 the DNA profile developed from those items matched the DNA
18 profile of Corey Byrd

19 Q That would be the decedent in this case?

20 A That's correct

21 Q All right

22 A The swab from the Bud Light beer can items seven a
23 DNA profile was develop that from that and it was from an
24 unidentified male individual, which means it did not match
25 that of Corey Byrd or Gregory Daniels

1 Q All right

2 A The swab from a stain on a pair of pants A DNA
3 profile was developed from that and it was item eight
4 And it was a mixture of two individuals and the major
5 contributor to that mixture was from an unidentified male
6 individual Corey Byrd and Gregory Daniels were excluded
7 as possible contributors to that mixture

8 Q So the blood on Kevin Hennix pants was not Corey
9 Byrd's nor Gregory Daniels?

10 A No, it was not

11 Q All right

12 A The DNA profiles developed from the fingernail
13 scrapings from Corey Byrd One set was item ten and 11
14 One set was a mixture, but the major profile match that of
15 a DNA profile of Corey Byrd The other profile was
16 insufficient for comparison purposes And then the DNA
17 profile from item 11 of the right hand fingernail
18 scrapings also match that of Corey Byrd

19 Q And, of course, those items came from Corey Byrd?

20 A That's correct

21 Q All right

22 MR JEPERTINGER Thank you Please answer any
23 questions that Mr Lawson may have for you

24 MR LAWSON May it please the Court

25 THE COURT Yes, sir

CROSS-EXAMINATION

1
2 BY MR LAWSON

3 Q Okay Did I understand you to say that over
4 99 percent of the DNA molecules were the same for
5 everybody 99 9 percent?

6 A Yes

7 Q So less than 1 percent is basically how we do
8 identification using the DNA molecule?

9 A Yes

10 Q Isn't -- I have heard that we really don't understand
11 a whole lot about the DNA molecule pass that one or
12 two percent that we use?

13 A Well, I -- there's many many years of significant
14 amount of study on the DNA molecule There's a huge body
15 of scientific knowledge on the DNA molecule itself For
16 forensic purposes, we're only looking at places that we
17 know vary from person to person And if you want to
18 visualize it, it's like your DNA would be a book that has
19 a million pages and the majority of that we are the same
20 What we do is we go to specific pages in that book where
21 we know people differ and those are the pages that we
22 compare We don't bother to try and look at the entire
23 book because that would just technically, that would be
24 not practical

25 Q So what you do is you then develop a profile using

1 those segments that you expect to be different and
2 individual?

3 A That's correct

4 Q And then with that profile, you also develop on the
5 unknown samples a profile and then attempt to match the
6 known with the unknown?

7 A Just look at the profiles and see if they do or do
8 not match

9 Q Okay And that profile is a series of numbers that
10 you get and as you run your test, is that correct?

11 A Well, we assign it a series of numbers these are what
12 are referred to as allele and it's -- you get one allele
13 as I said earlier One allele from your mother you
14 inherit and another allele one from your father you
15 inherit And then we assign these allele a number

16 Q All right It actually comes back in a graph form?

17 A Yes, it does

18 Q Now, you test only those items that are submitted to
19 you obviously, is that correct?

20 A That's correct

21 Q You don't go out in the field and gather the
22 information yourself?

23 A I have done that, but I didn't do any of that for
24 this case

25 Q Okay In this case, you took what was provided to

1 you and did testing on that?

2 A That's correct

3 Q All right You were provided two known samples, is
4 that correct?

5 A That's correct

6 Q And that was a Mr Byrd and a Mr Daniels?

7 A That's correct

8 Q You compared these profiles that you developed on the
9 items of evidence to those two individuals, is that
10 correct?

11 A That's correct

12 Q Did you compare it through the use of any computer
13 documents or any computer fields to any other individuals?

14 A No, I did not

15 Q All right Isn't there a situation C O D I S is the
16 name of a ---

17 A The data base which a lot of profiles are submitted
18 that qualify There is strict guidelines as to what
19 profile may be entered into the DNA data base And in
20 this particular case, there were no items of evidence that
21 would qualify to be entered into that data base?

22 Q Is that because you had known samples of a suspect to
23 compare to?

24 A Well, the item of evidence is what gets entered into
25 the data base And if a item of evidence, obviously,

1 matches the victim, the victim does not qualify to go into
2 the data base If the item of evidence matches the
3 subject that could qualify to go in the data base or an
4 unknown profile that is believed to be -- if an item was
5 handled by a perpetrator that they think is a perpetrator
6 of a crime, then that could qualify for going into the
7 data base, but in this particular case, there were no
8 profiles developed that qualified for entering in the data
9 base

10 Q You didn't have any information that would allow you
11 to go to the data base and for submission purposes?

12 A That's correct

13 Q All right And in the testing that you did on the
14 items submitted, there were positive identifications to
15 Mr Byrd?

16 A Yes, there were

17 Q But there was nothing positive on any of the evidence
18 to Mr Daniels?

19 A No, there was not

20 MR LAWSON Thank you

21 MR JEPERTINGER Nothing further, Your Honor
22 Thank you

23 THE COURT Thank you very much, sir You may
24 step down

25 Mr Lawson, any objection?

1 MR LAWSON No objection

2 (WHEREUPON, the witness leaves the witness
3 stand)

4 THE COURT All right Thank you, sir

5 MR JEPERTINGER Your Honor, we call Dr
6 Cynthia Schandl

7 THE COURT Please come around please, ma'am

8 THE CLERK Please place your left hand on the
9 Bible and raise your right hand Do you swear the
10 testimony you give in this case to be the truth, the whole
11 truth, and nothing but the truth so help you God?

12 THE WITNESS Yes, I do

13 THE CLERK Please be seated and state your full
14 name for the record

15 THE WITNESS Cynthia Aana Schandl

16 S-C-H-A-N-D-L

17 WHEREUPON,

18 Dr Cynthia Schandl,
19 after first having been duly sworn, testified as follows

20 DIRECT EXAMINATION

21 BY MR JEPERTINGER

22 Q Okay With whom are you employed, Dr Schandl?

23 A The Medical University of South Carolina in
24 Charleston, South Carolina within the department of
25 pathology and laboratory medicine

1 Q Okay And what are your primary responsibilities for
2 MUSC?

3 A My primary responsibilities is as a forensic
4 pathologist I also do other things So as a forensic
5 pathologist, basically that's the study of disease as it
6 relates to death So forensic pathology specifically
7 looks at the cause of death

8 Q Okay And you perform autopsies, correct?

9 A Yes, to those things one of the tools is to perform
10 autopsies

11 Q Let me ask you, what specialized training have you
12 had in the area of forensic pathology?

13 A Well, in order to become a forensic pathologist, one
14 must first go through medical school to become a medical
15 doctor I did my medical degree at the Medical University
16 of South Carolina And then there is further training
17 following that before I became specialize in forensic
18 pathology, one must learn the field of pathology or
19 general pathology So there's what they call a residency
20 training program, which is four years for that So that's
21 in order to learn anatomic pathology or clinical
22 pathology And then there are board exams associated --
23 national board exams associated with both anatomic
24 pathology and clinical pathology And then following that
25 training in those board examinations, there is another

1 year of forensic pathology fellowship training specific to
2 the field of forensic pathology, so I do that fellowship
3 And then there is another board examination in the field
4 specifically of forensic pathology Also, a national
5 board examination by the American Board of Pathology,
6 which I have taken and passed as well

7 Q Okay And is it true that you have both a medical
8 degree and a PH D, ma'am?

9 A Yes, sir

10 Q And a PH D is in what?

11 A The PH D is also in the field of pathology and
12 laboratory medicine

13 Q So you're a doctor Dr Schandl?

14 A Not to be redundant

15 Q Thank you And you how many autopsies have you
16 conducted?

17 A Over a thousand

18 Q All right And you've testified in court before?

19 A Yes, sir

20 Q And you been qualified as an expert in the field of
21 forensic pathology?

22 A Yes, sir

23 MR JEPERTINGER At this time, Your Honor, I
24 move to have Dr Schandl qualified as an expert in the
25 field of forensic pathology?

1 MR LAWSON Without objection

2 THE COURT All right, without objection

3 BY MR JEPERTINGER

4 Q Ma'am, you receive the body of a decedent in this
5 case Corey Lee Byrd, is that correct?

6 A Yes, sir, that is correct

7 Q Okay Can you tell the ladies and gentlemen of the
8 jury the nature of your examination of the remains of
9 Mr Corey Byrd?

10 A Yes, sir, we perform an autopsy on September 6th of
11 2008 And so an autopsy examination begins with examining
12 the body as it presents to you, including looking at the
13 clothing if the person is wearing clothing, looking at
14 this -- you're looking at identifying features, scars,
15 tattoos and those sorts of things look at all of that We
16 then remove the clothing and examine that separately and
17 then examine the surface of the body again for any scars,
18 tattoos or injuries And the case of Mr Byrd, there was
19 an entrance gunshot wound to the head, to the right side
20 of the head, to the right side of the head behind and
21 above the right ear, that we saw upon external
22 examinations that we're still looking at the body from the
23 outside And the second part of the autopsy examination
24 is what we call the internal examination that is commonly
25 thought of as the autopsy where we look -- we open the

1 body look at the internal organs both for natural disease
2 processes as well as injuries And Mr Byrd did have
3 injury to his brain from that gunshot wound The bullet
4 traveled through his skull, into his brain, through the
5 midline of his brain to the left side of his brain and a
6 bullet was recovered from the left side of Mr Byrd's
7 brain at the autopsy, which we recovered and did give as
8 evidence to an official from law enforcement

9 Q Ma'am, let me just stop you there The object
10 recovered based on your experience was it a small caliber
11 bullet?

12 A Well, what we do to look at bullets we don't look at
13 caliber per se, but caliber is basically just a
14 measurement of the base -- the size of the base of a
15 bullet So we do measure the base of the bullet and
16 length of the bullet I'm referring to the report that I
17 generated in this case And the base of the bullet is
18 0 22 or 0 20 inch And you might compare that to a 22
19 caliber, which is 0 22 inch, so it is about that caliber
20 Again, I don't talk in caliber, I talk in size of the base
21 of the bullet, but that's generally thought of as a small
22 caliber

23 Q Yes, ma'am Now, did you take any x-rays of the
24 corpse?

25 A Yes, when we're looking at particularly gunshot

1 wounds and we need to be recovering that evidence, the
2 bullet, we will do x-rays both from the front and from the
3 side of the area that has been shot and localize that
4 bullet, so that it will make it easier for us to find it
5 upon our examination And so we do routinely do x-rays in
6 this sort of cases that we did do in this case

7 MR JEPERTINGER I'm going to have this
8 photograph marked please on the back

9 (WHEREUPON, State's Exhibit No 9 was marked for
10 identification only)

11 BY MR JEPERTINGER

12 Q I am going to show you State's Exhibit 9 for
13 identification at this point Can you recognize that?

14 A Yes, this is a photograph of the digital x-ray
15 picture that was generated during this autopsy examination
16 of Mr Byrd

17 Q Okay Does that photograph or two photographs on
18 State's Exhibit 9 fairly and accurately portray what the
19 x-ray showed?

20 A Yes, it does

21 MR JEPERTINGER At this time, I would move
22 State's Exhibit 9 into evidence please

23 THE COURT Any objection, Mr Lawson, to
24 State's Exhibit 9?

25 MR JEPERTINGER Into evidence?

1 MR LAWSON No objection

2 THE COURT Without objection State's Exhibit 9

3 (WHEREUPON, State's Exhibit No 9 was admitted
4 into evidence)

5 BY MR JEPERTINGER

6 Q Now, can you tell us what we're looking at? And if
7 you could stand up, the photo is a little small, if you
8 can stand up and get off the stand please And tell the
9 jury what we are looking at on this photograph?

10 A Basically, this is the same picture This is the
11 picture including on the screen and then this is a little
12 bit closer up And they're both an x-ray again from the
13 side and so this is Mr Byrd's skull from the side This
14 is the same thing which is concentrate on the blown up
15 version here And then so you can see that bone is quite
16 dense and it has this white appearance But metal is even
17 denser than bones, so it's even more white or radio opaque
18 as they say So this is little white circle here is a
19 representation, radiographically or by x-ray of the bullet
20 and where it is in Mr Byrd's head before we removed it on
21 autopsy examination This rather bright white round
22 object is actually the bullet as it came to us in
23 Mr Byrd

24 Q All right Thank you What else did you do, ma'am,
25 in terms of this autopsy?

1 A Well, routinely we will take blood samples and
2 fingernail clippings and pulled head hair that will go to
3 South Carolina Law Enforcement Division or other law
4 enforcement agencies for testing We also will package
5 the clothing for further testing should that be required,
6 so all that is released as evidence to a law enforcement
7 official

8 Q Did you do that in this case, ma'am?

9 A Yes, sir

10 Q All right

11 A Also during the examination, we at least at our
12 facility we take representative section of each of the
13 major organs and look at those under the microscope, again
14 to document any natural disease processes or injuries that
15 may be present And we did do that in this case as well

16 Q Okay In terms of any toxicological report that
17 would have a blood standard would have been drawn from the
18 decedent, is that correct?

19 A Yes, again, if blood is present, we will draw blood
20 for toxicological analysis specifically certain counties
21 use South Carolina Law Enforcement Division in which case
22 those samples will go to SLED, other counties will use
23 another testing agency, so they will send them to a
24 different agency We don't do that toxicologic testing
25 ourselves We take the sample and send it to the testing

1 agency

2 Q And normally, those items are mailed to the tox
3 person, is that correct?

4 A Yes, it will either be mailed or couriered depending
5 upon where they are going

6 Q Okay In this case, do you have -- do you know which
7 way the blood standards were sent?

8 A I don't know, but I can look These would have been
9 couriered

10 Q All right

11 A I believe so

12 Q Okay Are you sure about that, ma'am?

13 A What I have is I have our, our services request and I
14 have the receipt by one of our personnel that delivered
15 them to the postal service, I apologize No, it says
16 courier services It says delivered to postal center in
17 Harborview Towers for overnight state courier service and
18 that includes the toxicology in this case

19 Q Okay All right Now, in these cases, you were
20 often asked to determine cause of death and manner of
21 death within a reasonable degree of pathological
22 certainty?

23 A Yes, that's correct

24 Q Okay Can you determine the probable cause of death
25 within a reasonable degree of forensic pathological

1 certainty?

2 A Yes, sir

3 Q And what is that probable cause of death, ma'am?

4 A Cerebral disruption ---

5 Q Excuse me what does that mean for the jury?

6 A May I complete the cause of death and then I'll be
7 happy to explain

8 Q Yes, I'm sorry

9 A Cerebral disruption due to a penetrating gunshot
10 wound to the head, so basically what we're talking about
11 cerebral disruption is -- cerebrum is the brain, so
12 disruption of the brain due to penetrating Now, there's
13 two words that we use when we're talking about the path of
14 a projectile penetrating and perforating In this case,
15 it's penetrating because it went in, but it didn't go out
16 Perforating would be that there was no bullet in the head
17 and would have gone all the way through, okay So it's a
18 penetrating gunshot wound to the head

19 Q Okay And the manner of death in this case?

20 A The manner of death is homicide, which simply means
21 that one individual died at the hands of another

22 Q All right Now, were there any other fractures to
23 the skull that you noticed in your autopsy?

24 A There were fractures that radiated from the entrance
25 wound, so you have this little circular entrance wound

1 that was in the area where the bullet actually entered
2 And then there several other fractures to the base of the
3 skull And then there's a hairline fracture that came out
4 to the frontal skull on the right-hand side, so there were
5 several fractures?

6 Q And that's consistent with that penetrating gunshot
7 wound to the back of the head being the cause of those
8 fractures?

9 A It is certainly possible that they are all from that
10 event

11 MR JEPERTINGER All right Okay Thank you
12 very much Please answer any questions that Mr Lawson
13 may have for you

14 THE COURT Mr Lawson

15 MR LAWSON May it please the Court

16 THE COURT Yes, sir

17 CROSS-EXAMINATION

18 BY MR LAWSON

19 Q Okay Doctor, the -- in relation to this case, you
20 did not come to Florence to perform this autopsy, did you?

21 A No, sir, the coroner had the body transported to the
22 facility in Charleston

23 Q And that's normally the way you do things?

24 A Yes, sir

25 Q So you didn't have anything to do with the collection

1 of the body or any other evidence that may have been
2 submitted to you?

3 A Nothing as it came to me or only that that I took
4 from the body after it came to me

5 Q And what you do is you then take it and transfer it
6 to someone that's coming back to Florence at the
7 completion of your autopsy?

8 A Yes, most of the evidence was transferred to someone
9 who is coming back at that same date

10 Q And do you get the reports of the toxicology that it
11 come back to you?

12 A Generally speaking, yes

13 Q And did it in this case?

14 A It did in this case

15 Q What were the results?

16 A The results of the toxicology analysis on Mr Byrd
17 was ethanol, which is alcohol at a level of 0.126 percent
18 And he was positive for tetrahydrocannabinol, that's THC
19 which is active substance in marijuana at a level of 2.2
20 micrograms per liter And he was also positive for
21 metabolite of THC, which is called leathery carboxy
22 tetrahydrocannabinol or THC A level of 9.2 micrograms
23 per liter that was all in his blood

24 Q And when you speak of a metabolite is that what you
25 said?

1 A Yes, sir

2 Q Is that just the process of breaking down the drug or
3 whatever or alcohol whatever it may be?

4 A That's correct So when you metabolite something,
5 you take it from whatever form you take it into the body
6 and you break it down into other things all these enzymes
7 that break things apart, so that is exactly right The
8 metabolite of THC in this case is actually not an active
9 metabolite So the active drug the THC is the active form
10 of the drug

11 Q Now, in this case, there was one entry wound?

12 A Yes, sir

13 Q There were no exit wounds?

14 A That is correct?

15 Q And you said that would be called perforating wound
16 if there were an exit wound?

17 A Yes, sir

18 Q So all we have is one penetrating gunshot wound in
19 this case?

20 A Yes, sir

21 Q Were there any signs of additional injuries that may
22 have occurred at or about the time of the shooting?

23 A Let me double check, I don't believe so It is
24 possible that the frontal fracture of the skull may have
25 been due to a secondary blunt trauma, but I have no way of

1 knowing that It could also have been related to the
2 gunshot wound itself, so I have no conclusive evidence of
3 other injuries

4 Q Okay What would be a secondary -- you said a
5 secondary cause?

6 A Yes, another blunt trauma that would have cause
7 fracture to the skull I don't know if that's related to
8 the gunshot wound or to another event

9 Q Okay Blunt trauma is just a blow to the head with
10 some object It could even be the ground, could it not?

11 A Or the ground, yes, sir

12 Q Especially a pavement?

13 A It could be

14 MR LAWSON I don't have any other questions,
15 Doctor Thank you

16 MR JEPERTINGER Beg the Court's indulgence one
17 second

18 THE COURT Yes, sir

19 (WHEREUPON, a pause in the proceedings)

20 REDIRECT EXAMINATION

21 BY MR JEPERTINGER

22 Q Once again, I think in terms of something Mr Lawson
23 alluded to that blunt trauma if it were a secondary thing
24 other than coming from the entrance wound, would that be
25 consistent with someone falling on their head?

1 A It could well be

2 MR JEPERTINGER Thank you very much I
3 appreciate it That's all the questions I have, Your
4 Honor, and ask if Dr Schandl can be released from her
5 subpoena?

6 THE COURT Any objection?

7 MR LAWSON Only if she going to charge the
8 State by the hour, I would object to that point

9 THE COURT Thank you very much, Doctor, you're
10 free to go, ma'am

11 (WHEREUPON, the witness leaves the witness
12 stand)

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury, but out of the hearing of the
15 jury)

16 THE COURT Ladies and gentlemen, I need to take
17 up a couple matters with the attorneys really in an effort
18 to make things flow smoother and quicker with these next
19 several witnesses I'm going to ask if you would to step
20 back into your jury room, have no discussion about the
21 case If you need anything let us know, okay

22 (WHEREUPON, the jury retire to the jury room)

23 THE COURT All right We'll remain at ease
24 here for the next ten minutes or so if anybody need to use
25 the restroom

1 (WHEREUPON, a break was taken)

2 THE COURT The State ready to proceed?

3 MR JEPERTINGER Yes, sir I would ask, Your
4 Honor ---

5 THE COURT We need to go over ---

6 MR JEPERTINGER Yes, sir, series of witnesses,
7 Your Honor, that we intend to call, Your Honor We got a
8 Shavonne Gass that is going to testify, Your Honor I see
9 a criminal domestic violence first of offense and a breach
10 of peace, Your Honor, on her record And I think that's
11 all she has on it, Your Honor I don't think any of that
12 is impeachable

13 THE COURT All right, Mr Lawson

14 MR LAWSON Your Honor, I take the same
15 position on criminal domestic violence

16 THE COURT Yes, sir All right Anything
17 other than that, Mr Lawson, though on that witness'
18 record?

19 MR LAWSON No, Your Honor

20 THE COURT All right I am going to
21 respectfully deny that regarding the CDV, so that witness
22 would have no impeachable prior record Who you have
23 next?

24 MR JEPERTINGER I'll just give you the ones I
25 have, Your Honor

1 THE COURT All right

2 MR JEPERTINGER Joseph Tracy Washington I
3 don't see any conviction on his record

4 THE COURT Would you agree with that,
5 Mr Lawson, on Mr Washington?

6 MR LAWSON That's correct

7 THE COURT Who else you got, Mr Jepertinger?

8 MR JEPERTINGER The next one is James Lee
9 Black, Your Honor Mr Black had an ABHAN back on
10 March 18th 1998, Your Honor He got ten years suspended
11 to three years probation His court date was March 18th
12 1998, which was some six months -- well, more than six
13 months, Your Honor, ten years, ten and a half years before
14 this conviction, Your Honor I say that is too stale I
15 also see looks he bonded forfeited on 2001 for public
16 drunk I don't think that applies nor is open container,
17 Your Honor He also had public disorderly conduct in
18 2003 Those are the only convictions I see

19 THE COURT And his name is what now?

20 MR JEPERTINGER James Lee black

21 THE COURT Mr Black Mr Lawson, would you
22 agree that Mr Black has nothing within the ten year time
23 frame?

24 MR LAWSON Well, again, Your Honor, I think
25 the assault and battery should be subject to

1 cross-examination and it is obviously was serving the
2 probationary period within the ten years

3 THE COURT You know, I was thinking about that
4 too, but it is my understanding that if he successfully
5 completed that and never went back in, that would not
6 apply That applies as long as he's expose to that time
7 And if he ever goes back in, then it extends that time
8 So with regards to Mr Black, it appears there would be no
9 impeachable record

10 MR JEPERTINGER All right And then we have a
11 Nyrena Goodman who does not have a record that I see

12 THE COURT Would you concur with that?

13 MR LAWSON Correct, Your Honor

14 THE COURT All right Is that all,
15 Mr Jepertinger?

16 MR JEPERTINGER For this afternoon, Your
17 Honor, in terms of that

18 THE COURT Mr Lawson, anything from the
19 defense we need to cover before we bring the jury back
20 out?

21 MR LAWSON No, Your Honor

22 THE COURT All right Ms Joe, if you would
23 ask the jury to join us

24 (WHEREUPON, the jury came into open court)

25 THE COURT Mr Jepertinger, you ready to

1 proceed?

2 MR JEPERTINGER Yes, sir

3 THE COURT All right, sir

4 MR JEPERTINGER The State would call James Lee
5 Black, Jr

6 THE COURT Mr Black, come around please

7 THE CLERK Place your left hand on the Bible
8 and raise your right hand Do you swear the testimony you
9 give in this case to be the truth, the whole truth, and
10 nothing but the truth so help you God?

11 THE WITNESS Yes, I do

12 THE CLERK Please come around and have a seat
13 and state your full name for the record

14 THE WITNESS My name is James Lee Junior Black
15 WHEREUPON,

16 James Lee Black,
17 after first having been duly sworn, testified as follows

18 DIRECT EXAMINATION

19 BY MR JEPERTINGER

20 Q Okay Mr Black, where do you live?

21 A

22 Q All right And are you currently employed?

23 A Yes, sir

24 Q Where do you work?

25 A No, I don't work

1 Q Oh, you don't work You're unemployed?

2 A Yes, sir

3 Q Okay All right Do you know Shavonne Gass?

4 A Yes, I do

5 Q How long have you known Shavonne?

6 A All us stay in the same neighborhood North Florence

7 and went to school together

8 Q Okay Did you know Corey Byrd?

9 A Yes, sir

10 Q Do you know Gregory Daniels?

11 A I seen him, but I don't know him like, you know, I

12 don't know him like that We never talk or nothing

13 Q Okay, we both a little -- not that loud spoken, so I

14 want you to talk right into that microphone like you

15 Johnny Cash or somebody, okay Keep your voice up is what

16 I'm trying to tell you Did you have the opportunity to

17 be at a party, cookout back on September 4th of 2008, over

18 at Shavonne's house?

19 A Yes, I was there

20 Q Okay It is my understanding she lives on the corner

21 of Streets?

22 A Yes

23 Q All right About what time did you get there, do you

24 recall?

25 A I got there a little after four cause I got off work

1 at 3 30, got in a little after four o'clock

2 Q Where were you working at the time?

3 A Wellman in Darlington

4 Q Did y'all get laid off during that time?

5 A Well, a little after that went bankrupt

6 Q When you got there after four, who did you see and
7 what did he do?

8 A When I got there, they was already cooking on the
9 grill, so I start talking to everybody that was there at
10 the time and more people start showing up cause it's a
11 cookout and we start talking, went and got some drinks
12 from the store, came back, start cooking on the grill, got
13 a little late, got dark Then after that me and Little B
14 ---

15 Q Okay, let's stop right there Little B is a guy name
16 Bryan Timmons, isn't that correct?

17 A Yes, sir

18 Q He lives over in the Woodmont area, isn't that
19 correct?

20 A Yes

21 Q And just briefly, can you tell the jury what -- did
22 you get into a fight with Little B?

23 A Yes, it was -- everybody make mistakes I don't know
24 why he threw the chicken board at me, but he did that and
25 push me a couple of times and I had to defend myself We

1 got in a little squabble

2 Q All right And did you happen to see Corey there?

3 A Yes, Corey he was there

4 Q Did he have any difficulties with anybody that
5 evening?

6 A No, he ain't had no problems with nobody really cause
7 everybody was having a good time

8 Q All right Did you see him -- anything happen
9 between Corey and Greg?

10 A I just know some reason Greg had want to fight Corey

11 Q That's what I'm asking you about Tell the jury
12 exactly how that transpired? What went down?

13 A Only thing I know he kept telling Corey to come down
14 the street You know, he want to fight him, but we kept
15 stopping Corey from going down the street to fight him

16 Q All right And how many times did he ask him to come
17 down the street to fight him?

18 A It was over four or five times cause we have to keep
19 making sure they want fight, you know, cause everybody was
20 drinking, you know what I mean

21 Q At -- was that before your fight with Little B?

22 A That was actually, yeah, before that and after me and
23 Little B got into our little incident and after that too

24 Q So are you saying that Greg kept trying to get Corey
25 to fight before and after your incident ---

1 A True, that's what I'm saying, yes

2 Q Okay And how was Gregory dressed that evening if
3 you recall? What type clothes did he have on?

4 A Well, I know he been there earlier and then chill for
5 a minute and he left and came back

6 Q How was he dressed? What type clothes ---

7 A I ain't know what he had on the first time when he
8 left I know he left and came back When he came back,
9 he did have black on

10 Q All right Okay Do you know how he left? Did he
11 leave walking or did you see him on any moped or bicycle
12 or anything?

13 A I know he had a scooter earlier, but I don't know if
14 he rode the scooter or walk home cause like I said there
15 was a lot people at the party and everybody was talking
16 and drinking

17 Q Okay All right How long did you stay at that
18 party?

19 A I say until like 12, 12 30 cause everybody left and
20 went home, went their separate ways

21 Q Okay Did you pay attention to where Corey went?

22 A No, sir

23 Q Did you pay attention to where Gregory went?

24 A No, sir

25 Q Did you pay attention to where anybody went except

1 yourself?

2 A There you go I went about my business

3 Q All right

4 MR JEPERTINGER That's all I have Please
5 answer any questions that Mr Lawson may have for you

6 THE COURT Mr Lawson

7 MR LAWSON May it please the Court, bear with
8 me one moment

9 (WHEREUPON, a pause in the proceedings)

10 CROSS-EXAMINATION

11 BY MR LAWSON

12 Q Okay Mr Black, I understand that you said at this
13 time this was back in 2008, correct?

14 A Yes, sir

15 Q You remember what month it was?

16 A I don't exactly know what month it was, but I know I
17 was at the cookout

18 Q You was at a cookout?

19 A Yes, sir

20 Q Have you been to any cookouts since then?

21 A Yes, sir, plenty of them

22 Q Huh?

23 A Yes, sir, plenty of them

24 Q Plenty of them What separates this cookout from any
25 of the other ones you been to?

1 A A friend of mine he got killed at the last party we
2 talking about now

3 Q At the party?

4 A At the party or wherever, but I know when we left and
5 everybody went their separate ways everybody just was
6 gone

7 Q All right Did -- how many people were there when
8 you got there?

9 A It was I say probably about maybe six, ten people
10 when I got there

11 Q How many?

12 A Maybe six or eight when I got there

13 Q All right How many were there when you left?

14 A It was still a good bit

15 Q More than six or eight or less than?

16 A Yes, sir

17 Q All right How many was the most that were there any
18 one time that you can recall?

19 A I say between six and maybe 11 30

20 Q Between what?

21 A Six and 11 30?

22 Q From six in the afternoon until 11 30 at night?

23 A Yeah, cause it's North Florence, it's a cookout
24 people come, go

25 Q Would then what you're telling me is people would

1 come in stay for a little while and then leave?

2 A Yes, sir

3 Q People -- did I understand you to say people were
4 drinking?

5 A Yes, sir

6 Q You were drinking?

7 A Yes, sir

8 Q And what were you drinking, do you recall?

9 A I drink beer Bud Light, I was drinking gin

10 Q Gin and Bud Light

11 A Yes, sir

12 Q And you were there about six or seven hours something
13 like that?

14 A There a couple hours, yeah, before everybody left

15 Q Okay Did you eat?

16 A Yes, sir, it's a cookout

17 Q It was a cookout?

18 A Yes, sir

19 Q Now, how did you get there?

20 A Well, I was there at work and the lady I ride with
21 pass by on where the cookout was there on
22 the corner And I saw everybody cooking out and I got
23 dropped off right there and I went over to the cookout

24 Q Okay And how -- when you left, did you leave
25 walking?

- 1 A No, sir, I got drop off
- 2 Q Okay, you got a ride?
- 3 A Yes, sir
- 4 Q Who did you get a ride with?
- 5 A I got a ride with one of my homeboys and I got
- 6 dropped off at the club
- 7 Q Okay So you went from the cookout to a club?
- 8 A Yes, sir
- 9 Q Which club did you go to?
- 10 A The Pub
- 11 Q The what?
- 12 A Pub
- 13 Q And where is that?
- 14 A It's in north Florence direction in front of Tiger
- 15 Mart
- 16 Q In front of Tiger Mart?
- 17 A Uh-huh
- 18 Q And how long did you stay there?
- 19 A Stay probably about an hour or two and I left there
- 20 and went to another club that's downtown on Dargan
- 21 Q Did you have any problems with Mr Byrd?
- 22 A No, sir
- 23 Q Did you have any in the past?
- 24 A No, sir
- 25 Q Now, when you say there was a disagreement between

1 Corey Byrd and Greg Daniels, is that correct?

2 A Yes, sir

3 Q And Greg was trying to get Corey to come down the
4 street?

5 A Yes, sir

6 Q But that never happened, did it?

7 A No, cause we ain't let Corey go down there

8 Q All right Was there ever any fight between the two
9 of them?

10 A No

11 Q All right When you left, did you see Gregory
12 Daniels at that time?

13 A No, sir

14 Q Do you think he had already left?

15 A He probably did, probably did, I ain't paid
16 attention I know I left

17 Q Was Corey Byrd still there when you left?

18 A I don't know cause people was like -- like I say
19 people was going back and forth to the store

20 Q Okay So you don't remember if he was there or not
21 when you left?

22 A No, sir

23 Q And do you remember anybody that was there when you
24 left?

25 A No, sir, I ain't paid attention I just went about

1 my business

2 Q There were -- were there any threats between Corey
3 and Gregory Daniels?

4 A Like I side earlier, I just know he was trying to
5 fight Corey the whole time, but we ain't let that happen,
6 so words -- they probably pass words to each other

7 Q But there was never any physical confrontation
8 between the two?

9 A No, sir

10 Q What was the closest they got to each other?

11 A Not too close cause every time they was trying to get
12 close, you know, fight him or whatever, we grab Corey and
13 pull away and break it up

14 Q Okay And where -- do you live the same place now
15 that you live then?

16 A Yes, sir

17 Q And where was that?

18 A North Florence

19 Q In north Florence?

20 A Yes, sir, I'm still there

21 Q Were you there when there was a disturbance -- were
22 you or do you know about a group called the Woodmont boys?

23 A Woodmont boys?

24 Q Yeah

25 A No, sir, we live in Woodmont

1 Q You live in Woodmont?

2 A That's a neighborhood, that's a part of North
3 Florence

4 Q Is there -- was there some dispute between some guys
5 from the Woodmont area that evening?

6 A Like I say me and my friend B B got into an argument
7 and we fought, but it wasn't nothing bad like that

8 Q All right Did you have a gun?

9 A No, sir, I ain't had no weapons on me

10 Q Did any of the other people have a gun?

11 A Well, they pull out guns on each other, but they
12 didn't use them

13 Q Did you ever see Corey Byrd with a gun?

14 A No, sir

15 Q What about Gregory Daniels?

16 A No, sir

17 Q Okay You said you got in a fight?

18 A Yeah

19 Q You actually got in a physical fight?

20 A Yes, sir

21 Q Did somebody pull gun on you?

22 A No, sir

23 Q They didn't But there were other guns pulled and
24 showed in the process of the evening?

25 A Yes, sir

1 MR LAWSON I don't have any other questions

2 THE COURT Anything on redirect?

3 MR JEPERTINGER No, sir

4 THE COURT Thank you, sir You may step down

5 (WHEREUPON, the witness leaves the witness

6 stand)

7 MR JEPERTINGER Your Honor, we call Shavonne

8 Gass

9 THE CLERK Place your left hand on the Bible

10 and raise your right hand Do you swear the testimony you

11 give in this case to be the truth, the whole truth, and

12 nothing but the truth so help you God?

13 THE WITNESS Yeah

14 THE CLERK Please go around and have a seat and

15 state your full name for the record

16 THE WITNESS Shavonne Gass

17 WHEREUPON,

18 Shavonne Gass,

19 after first having been duly sworn, testified as follows

20 DIRECT EXAMINATION

21 BY MR DEBERRY

22 Q Okay Thank you for being here today, Shavonne If
23 you could tell the jury how you knew Corey Byrd?

24 A I knew Corey from childhood His family, my family
25 they close

1 Q Okay So it's safe to say y'all grew up together?

2 A Yeah

3 Q All right And on or about the time around September
4 the 4th or September the 5th of 2008, where were you
5 living?

6 A On

7 Q On And did you have a cookout that
8 weekend or that day?

9 A Yeah

10 Q That started when September the 4th?

11 A Yeah

12 Q Okay And about what time in the day did y'all get
13 started?

14 A It was early in the day probably a little after 12

15 Q Right around midday?

16 A Uh-huh

17 Q Okay Can you just explain what the plans were for
18 the cookout I mean, y'all were going to cook just for
19 lunch or was it going to be an all day thing?

20 A We was just having a cookout and it grew

21 Q And it grew?

22 A Yeah, people kept coming

23 Q People kept coming How big was your crowd at any
24 given time? Were people coming and going?

25 A It was a large crowd

1 Q Okay And was Corey Byrd there?

2 A Yeah

3 Q Okay And at the time were you and Corey close
4 friends?

5 A What you mean close?

6 Q Well, I mean, did y'all talk ---

7 A On a regular basis?

8 Q On a regular basis?

9 A No

10 Q Okay Did y'all have each others telephone numbers?

11 A No, not until later on that night

12 Q Later that night Okay Did you observe -- do you
13 know Gregory Daniels?

14 A Yep

15 Q Is he in the courtroom here?

16 A Uh-huh

17 Q Okay And how long have you known Gregory Daniels?

18 A The same way

19 Q You grew up with Gregory?

20 A His mom stayed behind my daddy We all -- his family
21 close with my daddy family

22 Q All right Did you happen to observe Corey and
23 Gregory Daniels that day getting into an argument?

24 A No

25 Q You didn't see them ---

1 A I didn't see them argue

2 Q Do you know that they got in an argument?

3 A I heard that they got into an argue, but I didn't see
4 them arguing

5 Q Okay Did you address Gregory Daniels about arguing
6 at your cookout?

7 A He wasn't arguing He was talking to someone else
8 about Corey

9 Q Okay Who was he talking to?

10 A Bernard Cooper

11 Q Bernard Cooper Do you know what he was saying about
12 Corey?

13 MR LAWSON Objection, Your Honor, it's
14 hearsay

15 MR DEBERRY Your Honor, it's a statement of
16 the defendant

17 THE COURT What was the question again?

18 MR DEBERRY What he was saying about the
19 victim? What the defendant was saying about the victim?

20 THE COURT All right What the defendant was
21 saying?

22 MR DEBERRY Yes, sir

23 THE COURT Overrule

24 BY MR DEBERRY

25 Q Can you tell jury what you heard Gregory Daniels

1 telling about ---

2 A Bernard Cooper had just got finish fighting Bryan
3 Timmons about a car Corey was saying don't worry about
4 the car that kind of stuff happen in the hood or whatever
5 blah blah So I was like don't boost it up, don't boost
6 up the situation just leave it alone When I said that,
7 Gregory backed up

8 Q So Gregory was being the aggressor in the situation?

9 A It really wasn't -- it was just, You heard what he
10 say about your car It was that And before it got any
11 further, I stepped in between them and told them don't do
12 it cause I had kids in the house

13 Q You stepped between who now?

14 A Corey was facing Bernard Gregory was behind Corey
15 and I stepped in front of Gregory and told him just leave
16 it alone

17 Q Okay What was Gregory Daniels wearing that day?

18 A He was wearing dark-colored clothes

19 Q Dark clothes How was he acting that day when you
20 observed him?

21 A He was just quiet He wasn't talking to nobody
22 really He was just

23 Q Did you observe any -- was he in your yard the whole
24 time or was he kind of hanging around nearby or where was
25 he -- I mean, where he hang out most of the time?

1 A He was in the yard

2 Q In your yard?

3 A And he left and came back, everybody was just in and

4 out

5 Q But you saying that he just wasn't really talking to

6 many people?

7 A Uh-huh

8 Q But he wasn't confronting Corey Byrd?

9 A What you mean by confronting?

10 Q You said you step between them?

11 A Yeah, I step between him, but he was talking to

12 Bernard He wasn't talking to Corey

13 Q Okay Did Gregory Daniels ever tell you that Corey

14 robbed him?

15 A Yeah

16 Q And can explain to the jury how that conversation

17 went between you and the defendant?

18 A It was me and Gabby and we was standing up and Greg

19 was on his moped And we was talking and he said

20 something like he -- Corey robbed him and then he sat back

21 and said he was just joking

22 Q Okay What time was that?

23 A I'm not sure

24 Q Was it daytime or nighttime?

25 A It was night

1 Q It was nightttime?

2 A Uh-huh

3 Q And that's when he had on his dark clothes?

4 A Yeah

5 Q What was your telephone number at that time?

6 A

7 Q Okay

8 A Uh-huh

9 Q Okay And that was at your house?

10 A Yeah

11 Q That wasn't a cell phone?

12 A No, I didn't have a cell phone

13 Q Okay When is the last time that evening that you
14 saw Gregory Daniels?

15 A He was walking down the street and asking for a
16 cigarette

17 Q Was that late?

18 A I'm not sure what time it was, but it was late

19 Q It was after midnight?

20 A Yeah, cause almost everybody had left

21 Q Everybody almost had left?

22 A Yeah

23 Q Do you remember who you were sitting with or who was
24 around you at that time?

25 A If I'm not mistaken, it was Corey and his girlfriend

1 Q Okay And you testified that Gregory Daniels walk by
2 and gave you a cigarette?

3 A Uh-huh

4 Q So he wasn't at the party, he was just walking down
5 the street?

6 A Yeah

7 Q Do you know where he lived at that time?

8 A Down the street by the Pub

9 Q By the where?

10 A The Pub

11 Q By the Pub?

12 A Uh-huh

13 Q Is that -- you know what street that would be on?

14 A I think it's

15 Q And did you see him around a
16 neighborhood during the time you lived around there? I
17 mean, just on occasion?

18 A Yeah, if I was going to the Pub or sitting on the
19 porch on something

20 Q He be around

21 A Uh-huh

22 Q Okay Your Honor, may I approach I am going to
23 show you a map Can you point to the jury where your
24 house was? Where the cookout was?

25 A My house was on the corner of Liberty, it looks like

1 it may have been right there

2 Q Okay On this corner right here?

3 A Uh-huh

4 Q All right What street is that the corner of Liberty
5 and what street?

6 A

7 Q The corner of Okay So Gregory
8 Daniels was in the neighborhood?

9 A He stayed there

10 Q Okay What time was Mr Bryan Evans and Gabby did
11 they leave together?

12 A It was after three in the morning

13 Q It was after three in the morning that they left?

14 A Uh-huh

15 Q Did Corey go with them?

16 A Corey was on his way to go with them, but he came
17 back because he left his charger

18 Q Okay And when he came back, did they go ahead and
19 leave without him?

20 A Yeah, they left him

21 Q Okay And you testified that's after three in the
22 morning?

23 A It was three

24 Q And what did Corey Byrd do?

25 A He left

1 Q He left on foot?

2 A Yeah

3 Q And did y'all have a telephone conversation after he
4 left?

5 A Yeah, he call me when he was walking down the street

6 Q And did he tell you where he was?

7 MR LAWSON Objection, Your Honor, hearsay

8 THE COURT Sustained

9 BY MR DEBERRY

10 Q Shavonne, can you tell the jury the last thing that
11 Corey Byrd told you before the last word you ever heard
12 from Corey Byrd?

13 MR LAWSON Objection, Your Honor, it's hearsay
14 and it's inadmissible and hearsay is prejudicial

15 MR DEBERRY Your Honor, we believe it's a
16 present sense impression It's an exception to the
17 hearsay rule and we believe it's admissible

18 THE COURT Sustain the objection

19 MR DEBERRY Beg the Court's indulgence

20 (WHEREUPON, a pause in the proceedings)

21 MR JEPERTINGER May we take it up outside the
22 presence of the jury, Your Honor

23 THE COURT All right Ladies and gentlemen,
24 let me get you to step back into your jury room while I
25 take up this matter of law Please have no conversation

1 about this case

2 (WHEREUPON, the jury retire to the jury room)

3 THE COURT All right, Mr Deberry

4 MR DEBERRY Your Honor, is it possible if we
5 can proffer the statement in -- outside the presence of
6 the jury for you to make a ruling

7 THE COURT All right I'll allow that

8 MR DEBERRY Okay, thank you

9 BY MR DEBERRY

10 Q Shavonne, can you tell the judge and just who's here
11 in the courtroom the last words that Corey Byrd told you
12 that night?

13 A The last thing Corey Byrd told me was that nigga I
14 was arguing at the cookout with behind me

15 Q All right What happened?

16 THE COURT I'm sorry I didn't hear that Could
17 you repeat that, ma'am, I'm sorry

18 THE WITNESS The guy he was arguing with at the
19 cookout was behind him

20 THE COURT That's what he said to you?

21 THE WITNESS Uh-huh

22 THE COURT That's what he said to you?

23 THE WITNESS Uh-huh

24 THE COURT All right

25

1 BY MR DEBERRY

2 Q What time was that?

3 A I'm not sure it had to be between -- cause Ryan had

4 already left It had to be between 4 30 and five maybe

5 Q Around five o'clock?

6 A Uh-huh

7 Q Can I approach the witness to refresh your

8 recollection Can you read that highlighted line?

9 A It says ---

10 Q Does it say what time that phone call ended?

11 A It says 4 53 to 5 14

12 Q Does the highlighted part say 5 14 or 5 07?

13 A The highlighted part says 5 07

14 Q Is that between your phone number and Corey Byrd's

15 phone?

16 A And Corey's phone, yeah

17 Q All right Did Corey Byrd tell you anything else in

18 those last few minutes about whether or not you wanted to

19 talk to the fellow that was behind him?

20 A Like what? He said, The nigga I was arguing with at

21 the cookout behind me, you want to talk to him

22 Q And what did you say?

23 A I said, no, but the phone had already went dead

24 Q The phone was dead, okay

25 MR DEBERRY Your Honor, Rule 803(1) presence

1 sense impression is a statement describing or explaining
2 an event or condition made while the declarant was
3 perceiving the event or condition or immediately
4 thereafter Your Honor, we believe that this is the exact
5 time he got killed He observe something at that time
6 And it is critical to the case and we believe that present
7 sense impression and it should be allowed

8 THE COURT Let me see that

9 Mr Lawson, I'll be happy to hear from you on
10 that

11 MR LAWSON Your Honor, I mean, it obviously
12 obviates any opportunity that the defense would have
13 cross-examined in the normal sense circumstance if the
14 statement is made out of court And quite frankly,
15 there's no way they can, this is not being offered for the
16 truth of the matter contained therein, that's what exactly
17 they're trying to offer this for And it is pure hearsay

18 MR DEBERRY Your Honor, we don't contest the
19 fact that the statement is purely hearsay, but it's an
20 exception to the hearsay rule, it's a present sense
21 impression

22 THE COURT And I apologize and my hearings
23 maybe not good, I'm still not understanding the -- I just
24 don't think I've heard the statement We're outside the
25 jury presence, somebody tell me what the statement is

1 A The nigga I was arguing with at the cookout is behind
2 me, do you want to talk to him

3 THE COURT Now, how does that describe or
4 explain an event? What event is that describing?

5 MR DEBERRY It's a present sense impression
6 It's a condition

7 THE COURT A present sense -- describing or
8 explaining an event or condition made while the declarant
9 was perceiving the event or condition or immediately
10 thereafter

11 MR DEBERRY Yes, sir, he was perceiving the
12 condition and speaking his mind I mean, it's a reliable
13 statement because he's saying exactly what he's
14 perceiving It's a present sense impression

15 THE COURT But if I'm understanding the
16 testimony cause you asked her twice and she stated that it
17 wasn't Corey Byrd he was arguing with, it was the other
18 guy

19 MR LAWSON That's exactly what she said

20 THE COURT That's exactly her testimony

21 MR DEBERRY Your Honor, there's more --
22 there's evidence in the record that Corey Byrd and Gregory
23 Daniels were arguing at the cookout

24 THE COURT This is the witness you're asking

25 THE WITNESS I didn't physically see them

1 arguing Greg was talking to Bernard Cooper

2 THE COURT That's what she said in her
3 testimony You asked her twice

4 THE WITNESS He was talking to Bernard Cooper,
5 but he was talking about Corey

6 BY MR DEBERRY

7 Q Do you have knowledge that Gregory Daniels and Corey
8 Byrd were arguing at the cookout?

9 A I never saw them arguing, but I heard that they was
10 arguing

11 Q You have knowledge that they were arguing?

12 A I can't say I heard, but I didn't see them physically
13 cause I wasn't there I was in and out more people kept
14 coming I kept going back and forth, but I didn't
15 physically see them I heard that they was arguing

16 Q Miss Gass, can you explain when you use the term
17 boost them up, what were you referring to?

18 A Greg trying to make Corey and Coop argue I didn't
19 want Corey and Coop to argue, so I was like don't boost up
20 the situation just let it go and that's when Greg fell
21 back

22 MR DEBERRY Your Honor, may I beg the Court's
23 indulgence for just a moment

24 THE COURT Yes

25 (WHEREUPON, a pause in the proceedings)

1 THE COURT Stephen, can I look at your rule
2 book again real quick?

3 MR DEBERRY Yes, sir

4 THE COURT Thank you, sir

5 MR DEBERRY Your Honor, I also have Judge
6 Anderson's book on the subject if you like to look at it

7 THE COURT If you would give me one moment I
8 left my book in the office, let me grab my book

9 (WHEREUPON, a pause in the proceedings)

10 MR DEBERRY Your Honor

11 THE COURT Yes, sir

12 MR DEBERRY Your Honor, may I ask a few more
13 questions of Miss Gass?

14 THE COURT You don't need to for purpose -- I
15 mean, we're outside the juries presence For purpose of
16 my ruling, that's not necessary

17 MR DEBERRY Your Honor, I think what I have
18 might clear up the situation some

19 THE COURT I'm pretty clear in my mind at this
20 point

21 Mr Lawson, looking at 803 in defining present
22 sense impression which is a statement which is not
23 excluded by the hearsay rule, the statement describing or
24 explain an event or a condition made while the declarant
25 was perceiving the event or the condition or immediately

1 thereafter His comment that phone conversation was the
2 guy standing behind me who was arguing with me at the -- I
3 don't know the exact words The guy standing behind me
4 who was arguing with me at the party or at the cookout or
5 whatever, seems that it would in fact fall under that
6 present sense impression describing the situation he was
7 in at that moment I don't know how it is relevant to her
8 testimony based on the testimony, but that doesn't make it
9 inadmissible

10 MR LAWSON Well, yes, it does Your Honor, it
11 is pure hearsay It is trying to be slipped in under an
12 exception to hearsay In every situation when, Your
13 Honor, tries to determine admissibility of evidence, the
14 last and final test is always a Rule 403 test on
15 prejudicial effect and probative value The probative
16 value of this statement is suspect at best The
17 prejudicial effect it could be phenomenal There's -- as
18 she said in her own testimony, it was no arguing between
19 this -- that she knows of between this man and that
20 individual but

21 THE COURT Which plays right into your hands
22 So why they want it in, I don't know, but that doesn't
23 make it inadmissible

24 MR LAWSON Because there's other people that
25 have testified that my client did have words with that

1 individual and they not gone take her testimony and
2 separate it out You can't expect -- the jury is not
3 going to go back there and take into consideration all the
4 testimony that was given And now, we're talking about
5 taking a videotape basically of the incident that the
6 videotape's missing, but we're going to talk about what
7 was on it any way And they are attempting to get a
8 statement from the victim allegedly identifying someone, a
9 perpetrator who is apparently a black individual that was
10 at the party earlier and he had words with And we know
11 at least two times, we know that from testimony that my
12 client had a discussion with him whether it was -- the
13 State is just insisting ---

14 THE COURT Well, according to her testimony, so
15 did others

16 MR LAWSON Exactly, so did others That's why
17 I'm saying what they're looking for out of this and what
18 they're trying to get out of this is not justified, it's
19 not even fair, not remotely fair

20 THE COURT Mr Deberry

21 MR DEBERRY Your Honor, I think your ruling is
22 correct I think, it's purely a hearsay statement, but
23 there's no question, it's a present sense impression which
24 is an exception under our rules I think I can perhaps
25 lay a better foundation if I can refresh Miss Gass' memory

1 with her statement she gave law enforcement shortly after
2 what happened

3 THE COURT Well, let her read her statement

4 MR DEBERRY All right

5 BY MR DEBERRY

6 Q Miss Gass, this is a copy of your statement that you
7 gave to the Florence Police Department on September the
8 9th, okay A Detective Graham was interviewing you And
9 on page four, he says, okay, now talking about the fellow
10 he argued with after he said that, you told me earlier
11 that you assumed he was talking about Greg Now, tell me
12 describe your thoughts of why you -- why you're assuming
13 it's Greg and not Coop And could you read your response
14 right here just read that paragraph?

15 A I assumed it was Greg because that's the only
16 argument that I saw that I stepped in the middle of and
17 told Greg not to follow it up I told him to get out of
18 Corey's face not to follow it up That's the only thing I
19 know he could have been talking about I never saw Coop
20 and Corey get into anything Coop told me that he was
21 arguing with Corey, but I never saw it

22 Q So after reading that, do you think you might have
23 stepped in between Greg and Corey?

24 A No Greg was talking to Coop Gregory was standing
25 behind Corey Greg was talking about Corey to Coop I

1 stepped in and I told Greg don't boost it up, leave it
2 alone My kids are in the house That's what I told him
3 I never saw him physically arguing with Corey What I saw
4 me and Corey had just got back from the store When we
5 got back from the store, Bernard Cooper and Little B had
6 just got finish fighting or arguing whatever about Coop's
7 car When that was happening, Corey said something like
8 that kind of thing happen in the hood or something like
9 that And Greg was like you going to let him talk about
10 your car like that And that's when he was standing
11 behind Corey I stepped in facing Greg and I told Greg
12 don't boost it up, leave it alone, let him go And Greg
13 jump back like that

14 Q But you told the officers that you stepped in the
15 middle of them?

16 A I was in the middle because ---

17 THE COURT She explained her answer, Mr
18 Deberry She's not going to say what you want her to say

19 A I was in the middle because Greg ---

20 THE COURT That's fine I think it is an
21 exception to the hearsay rule Why you want to go down
22 that road is your call I'll allow it And note the
23 defenses exception to that ruling I think it is a
24 presence sense impression based on the statement that I've
25 heard and will allow it

1 MR DEBERRY Thank you, Your Honor

2 MR LAWSON Your Honor, I had raised it under
3 403 as well as probative value and prejudicial effect

4 THE COURT Yes, sir, and I'm certainly -- I
5 don't think it rises to the level of being inadmissible
6 under 403 Yes, it is prejudicial, but as I've heard you
7 say on several occasions when use to be a prosecutor and
8 I've said it myself as well everything -- most everything
9 that State presents is prejudicial to the defense, as it
10 rise to the level where its probative value is outweighed
11 by its prejudicial effect, I don't believe it is And I'm
12 going to allow the statement in but note your exception to
13 that ruling All right

14 Bring the jury back in, Ms Joe

15 (WHEREUPON, the jury came into open court)

16 MR DEBERRY May it please the Court

17 THE COURT All right, sir

18 DIRECT EXAMINATION CONTINUED

19 BY MR DEBERRY

20 Q Okay All right Miss Gass, I think where we left
21 off was between the telephone conversation between you and
22 Corey Byrd Please tell the jury the last thing that
23 Corey Byrd told you before --

24 MR LAWSON Your Honor, I renew the objection

25 THE COURT All right, noted overruled

1 BY MR DEBERRY

2 Q Please tell the jury the last thing Corey Byrd told
3 you before the phone call ended?

4 A That nigga I was arguing with at the cookout is
5 behind me, do you want to talk to him

6 Q You say the fellow that was at the cookout behind you
7 -- arguing with at the cookout was behind -- could you say
8 it one more time slowly?

9 A The nigga I was arguing with at the cookout is behind
10 me, do you want to talk to him

11 Q What happened at that point?

12 A The phone went dead

13 Q Okay And do you know what time that was or close to
14 what time that was?

15 A A little after five

16 Q Okay After the phone went dead, you try to call him
17 back?

18 A A little while later, yeah

19 Q Did anybody answer?

20 A His girlfriend

21 Q Okay And did anybody come back to your house after
22 that?

23 A Ryan Evans

24 Q And did they tell you anything?

25 A He told me that he saw Corey on the side of the road

1 and he think he dead

2 Q All right About how long was that after you talk
3 with Corey?

4 A Maybe about 15 minutes

5 Q All right

6 MR DEBERRY Thank you very much

7 THE COURT Mr Lawson

8 MR LAWSON May it please the Court

9 THE COURT Yes, sir

10 CROSS-EXAMINATION

11 BY MR LAWSON

12 Q Miss Gass, it's my understanding that this cookout
13 was at your house, is that correct?

14 A Yes

15 Q How long did you live there?

16 A It was about five or six months something like that

17 Q Do you still live there now?

18 A No

19 Q When did you leave or move from there?

20 A It was like two or three weeks later

21 Q Were you basically there the whole time during the
22 party then?

23 A No

24 Q What did you do?

25 A I was back and forth to the grocery store and to the

1 liquor store

2 Q Okay So you -- any time y'all needed supplies you
3 would go and pick them up?

4 A I had to go get them

5 Q Okay How often did you leave in the course of the
6 cookout?

7 A Maybe like five or six times

8 Q Okay And what would be the average length of time
9 that you would stay gone?

10 A Twenty or 30 minutes

11 Q What would be the longest period of time you stayed
12 gone?

13 A Forty-five minutes to an hour

14 Q Okay Did you go to the same store each time?

15 A No

16 Q Which liquor store did you go to?

17 A The one on Oakland Avenue

18 Q And I assume -- would you -- did you buy liquor and
19 beer there or just liquor?

20 A Half gallon of gin

21 Q Just gin?

22 A Mostly

23 Q And what time -- was there a specific time for
24 starting and stopping in relation to this cookout?

25 A No

1 Q What time did people first start arriving there?

2 A A little after 12

3 Q Okay What about -- did you have people lined up to
4 help you with the cookout, like people to do cooking and
5 things?

6 A People was already there before we even decided to
7 have a cookout so, yeah

8 Q Okay This was not a planned event ahead of time?

9 A Uh-uh

10 Q So that morning, you just got up decided to have a
11 cookout that day?

12 A That day when I was in the bed sleep and Bryan
13 Timmons got me up say let's have a cookout

14 Q So that's when everything just started rolling when
15 you got up that morning?

16 A Yep

17 Q Okay And that's how people just started word of
18 mouth just started spreading around the neighborhood?

19 A Yep

20 Q Okay Wasn't official invitation send out?

21 A No

22 Q It was a neighborhood cookout basically?

23 A It was just a cookout and people started showing up

24 Q And I guess more people showed up and more people ---

25 A The more I had to leave and go out and buy extra

1 stuff

2 Q And more people showed up, the more people you had to
3 feed more ---

4 A The more people that was drinking

5 Q I guess by about midnight people -- some people were
6 getting pretty high? I would assume

7 A We started drinking early like probably after 12, so
8 they should have been drunk before midnight

9 Q Should have been drunk long before midnight And
10 then when did you finally -- when would you finally
11 consider that cookout to have been over?

12 A About a little before Ryan came to the house, so it
13 had to be like three in the morning, a little after three

14 Q You say after Ryan came?

15 A Uh-huh People started leaving a little while before
16 Ryan got there, so it had to be a little after three

17 Q I have heard numbers anywhere from six to 50 What
18 -- how many people you think were there during the course
19 of the day?

20 A Between 50 to 80

21 Q Okay And I would not think that -- would six to
22 eight would be a very accurate number for the people that
23 were there normally at one time or would that be a low
24 figure?

25 A Low

1 Q Okay

2 MR LAWSON Bear with me one moment, Your
3 Honor

4 THE COURT Yes, sir

5 (WHEREUPON, a pause in the proceedings)

6 BY MR LAWSON

7 Q Did you observe anybody riding in a green SUV riding
8 back and forth around the house, your house?

9 A No

10 Q All right Did you see anybody riding out of the car
11 with a gun in their hand?

12 A Riding out of the car with a gun in their hand?

13 Q Riding -- hanging out the car, out the window of the
14 car?

15 A No

16 Q Did you hear of something that may have happened in
17 relation to Corey being threatened in that respect with
18 somebody riding by in a car?

19 A No

20 Q Did you see Gregory drinking?

21 A No

22 Q And I assume you observed -- are you talking with him
23 a couple of times?

24 A Uh-huh

25 Q When -- what time did Corey leave?

1 A When Ryan pulled up It had to be between 3 30 and
2 four?

3 Q Okay And did you know where he was going?

4 A He was going to meet his girlfriend, he was suppose
5 to be going to the store to get some cigarettes

6 Q Okay Do you know what store he was going to?

7 A Tiger Mart

8 Q Did he tell you that?

9 A Yeah, because earlier during the cookout me and Corey
10 had given someone else some money to go get some
11 cigarettes and they never showed up

12 Q All right And did you tell anybody where he was
13 going?

14 A No

15 Q All right As far as you know then, you didn't --
16 how many people were staying in your house that evening?

17 A How many people spent the night there?

18 Q Yeah

19 A It was just me, Arthur, my kids and Arthur's
20 girlfriend, Sade

21 Q All right So that's three adults?

22 A Uh-huh

23 Q And that would have been the only people that were
24 there at the time when Corey left?

25 A Yes

1 Q Okay And cause he left about the same time that
2 Ryan had left?

3 A Ryan had left, but he left like maybe two or three
4 minutes after they left

5 Q Okay

6 A He was going to ride with Ryan, but he left his phone
7 charger in the house He came back in the house to get
8 his charger, but they left him

9 Q They left while he was in the house?

10 A In the house getting his charger

11 Q And then -- so when he left, you were the only one
12 left in the house that knew where he was going?

13 A Yes

14 Q And you didn't tell anybody?

15 A No

16 Q Okay Did you -- if I remember right on direct, you
17 said that you got a cigarette from Gregory?

18 A Uh-huh

19 Q At the time that you got a cigarette from Gregory,
20 was Corey there with you?

21 A Yes

22 Q Did they have any words between the two of them?

23 A No

24 Q They say anything to each other at all?

25 A (No response)

1 MR LAWSON Okay I don't have any other
2 questions, Judge

3 THE COURT Anything on redirect?

4 MR DEBERRY I have no further questions
5 Thank you, Miss Gass

6 We ask that she be excused, Your Honor

7 THE COURT Any objection, Mr Lawson?

8 MR LAWSON No, Your Honor

9 THE COURT Thank you, ma'am, you're free to go
10 (WHEREUPON, the witness leaves the witness
11 stand)

12 THE COURT All right Y'all want to step up
13 here real quick get a feel for what's going on here

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury, but out of the hearing of the
16 jury)

17 THE COURT All right Ladies and gentlemen,
18 it's a couple minutes to five So I was just trying to
19 get a feel from the attorneys about witnesses and our
20 schedule So we're going to go ahead and adjourn for the
21 afternoon The same instructions I gave you yesterday,
22 let your friends, loved ones, and family members know that
23 you're still involved in this trial, so you still are not
24 allowed to talk about it and ask them to respect that and
25 have no conversation with anybody And let me just

1 (WHEREUPON, the jury came into open court)

2 THE COURT Good morning, ladies and gentlemen
3 I hope everyone had a good evening and is ready to go this
4 morning If you recall from yesterday when we adjourned
5 for the afternoon, the State is still presenting their
6 case So I would recognize Mr Jepertinger at this time
7 for his next witness

8 MR JEPERTINGER Please the Court, Your Honor,
9 we call Corporal Chris Moreau of the Florence Police
10 Department

11 THE COURT All right, sir, if you please come
12 around

13 THE CLERK Please place your left hand on the
14 Bible and raise your right hand Do you swear the
15 testimony you give in this case to be the truth, the whole
16 truth, and nothing but the truth so help you God?

17 THE WITNESS I do

18 THE CLERK Please be seated and please state
19 your full name for the record

20 THE WITNESS Christopher Michael Moreau
21 WHEREUPON,

22 Chris Moreau,
23 after first having been duly sworn, testified as follows

24 DIRECT EXAMINATION

25

1 BY MR JEPERTINGER

2 Q Officer Moreau, what position do you hold at the city
3 police?

4 A I'm a corporal in the crime scene unit

5 Q Okay And your responsibilities with the crime scene
6 unit include what?

7 A Primarily responding to and collecting evidence from
8 any and all crime scenes that we may be needed on,
9 transportation of evidence to and from the complex,
10 processing that evidence as well taking it to and from the
11 SLED lab in Columbia

12 Q All right I guess in other places they would call
13 that CSI, correct?

14 A Yes, sir

15 Q All right Okay

16 A Without the budget they have on TV

17 Q Very good How long have you been doing that sort of
18 job?

19 A I been with crime scene since July of 2005

20 Q All right So you were doing it back in September of
21 2008?

22 A Yes, sir

23 Q Okay Were you called out to the Marlboro Street,
24 Dargan Street area?

25 A Yes, sir, it was at 5 30 in the morning Corporal

1 Myers, who is also with crime scene, notified me of a
2 homicide that we had

3 Q Okay Were you the primary person at -- crime scene
4 tech at that scene?

5 A No, sir, Corporal Myers was primary on that scene

6 Q Now, just very very carefully the Marlboro Street,
7 Dargan Street area that you were called out to and I show
8 you this on State's Exhibit 4 and I'm going to ask you a
9 very difficult question What county is that in?

10 A It is in the County of Florence, also in the city
11 limits of Florence

12 Q Okay, thank you so much When you got out there,
13 what's the first thing that you did?

14 A Initially as soon as I arrived on scene, I met with
15 Corporal Myers and several other officers to basically get
16 a run down on what was going on

17 Q Right I'm going to show you what's in evidence as
18 State's Exhibit 11 and State's Exhibit 10 Can you tell
19 the jury what these photographs depict?

20 A These first two pictures here are pictures of the
21 victim as he was when we arrived on scene These
22 photographs were taken by Corporal Myers, but I was
23 present when he took them

24 Q Okay Those flags around there those markers are
25 those that ---

1 THE COURT Hold on for a second

2 MR LAWSON Refer to exhibit number

3 MR JEPERTINGER I thought I did State's
4 Exhibit 10

5 THE COURT State's 10 All right, go ahead,
6 sir

7 BY MR JEPERTINGER

8 Q And those markers or flags, did you put those down
9 there or Corporal Myers?

10 A Those were put down by Corporal Myers Those are
11 just evidence marking flags, any items of interest that we
12 mark in this case I believe one was a cell phone
13 Marker number four is on a cell phone Number one was, I
14 believe, used to identify just the body itself Two and
15 three, I believe, were what we believe to be blood on the
16 ground

17 Q All right And State's Exhibit 11?

18 A State's Exhibit 11 is just pictures from further away
19 from the general scene, picture on the bottom is pretty
20 much standing on the side of Marlboro Street and looking
21 north on Dargan What you see there is the body covered
22 with a sheet, which I believe was place there by EMS prior
23 to us arriving Second picture is at the same
24 intersection backed out showing the crime scene tape that
25 officers had put up to cord off the area

1 Q All right And I'm going to show you State's Exhibit

2 12 This not to scale sketch who did that?

3 A I did this

4 Q Okay And the reason for doing that?

5 A Any major scene we'll sketch out roughly on graph
6 paper It's not anything to scale, but we try to sketch
7 everything in the area just to give a perspective This
8 is the intersection of Marlboro and Dargan looking north
9 on Dargan Street showing where the different items of
10 evidence flags that we put down item one being the body
11 Then we also show where various telephone poles, different
12 things in the area And we get rough measurements of the
13 scene triangulating every measurement from three different
14 angles, that way if we needed to we could somewhat
15 recreate the scene in the future

16 Q Okay Now, obviously, there were photographs taken
17 because we have some here, correct?

18 A Yes, sir

19 Q You took photographs?

20 A I did I took 35 millimeter photographs to
21 compliment the digital

22 Q Right And Corporal Myers took photographs?

23 A Yes, sir

24 Q Now, in terms of trying to find tangible evidence,
25 what did you guys do out there?

1 A Like I said, once we note the obvious, we perform a
2 search of the entire area trying to find anything and
3 everything else that may be related such as shell casings
4 which we did not find

5 Q Okay You found blood drippings, is that correct?

6 A Yes, sir

7 Q Okay And what did you or Corporal Myers do with the
8 blood drippings?

9 A It would have been tested first by Corporal Myers
10 with a phenolphthalein presumptive blood test kit You
11 will see it on TV with the CSI It's a little swab that
12 turns pink It's actually a lot more -- there's three
13 steps instead of one like they do on TV We do that on
14 anything that we presume to be blood and that test just
15 confirms that it's blood It doesn't tell us human or
16 animal, it just says it's blood After it's confirmed to
17 be blood -- in this case, Corporal Myers took swabs pretty
18 much collected the blood from each area

19 Q All right And at that point, when he swabbed areas
20 -- would you swab surrounding things I think someone
21 mentioned a beer can that was tested up at SLED Did you
22 swab that beer can as well?

23 A I did not, but Corporal Myers did

24 Q Corporal Myers And you were present when he did
25 that?

1 A Yes, sir

2 Q Okay In terms of trying to find any sort of latent
3 fingerprints, did you try to find any fingerprints or
4 anything of that nature?

5 A I'm not sure, but I know Corporal Myers would have on
6 anything that could have been printed I believe such as
7 the cell phone or the can I know swabs would have been
8 taken first and foremost, DNA has to be done before any
9 type of powder is used

10 Q All right The only fingerprints that you know of in
11 being involved in this case were the fingerprints of the
12 deceased, isn't that correct?

13 A Yes, sir

14 Q All right But it would have been your protocol to
15 look for anything and everything you could?

16 A Yes, sir

17 Q Okay Now, after the scene was done and apparently
18 you did this sketch afterward, correct?

19 A Yes, sir, that's one of the last things that was
20 completed was the sketch

21 Q All right What happened with all the swabs that
22 were taken by law enforcement at the scene? What happened
23 to them did you get them?

24 A Ultimately, I did get them I believe it was the 29th
25 of September The 30th of September I took them to SLED

1 Q Okay And where -- from the scene where would they
2 have gone?

3 A They were secured in envelopes by Corporal Myers,
4 each set of swabs would have been put in a separate
5 envelope where he would have transported them to the
6 complex where they would be packaged and logged into our
7 evidence room

8 Q All right And were you given a set of swabs from
9 blue jeans excuse me -- did you take a set of swabs from a
10 pair of blue jeans worn by a person name Kevin Hinnix?

11 A I did I believe it was 5 30 on the afternoon of the
12 fifth when one of our investigators brought them down for
13 me to swab his pants

14 Q Okay And you took that swab, correct?

15 A Yes, sir

16 Q And you placed it in the series of things to go to
17 SLED, correct?

18 A Yes, sir, package the same type envelope the other
19 ones would have been package but kept separate

20 Q All right And you took that to SLED and who did you
21 give all that stuff to that you took?

22 A I believe, it was Ms Yarborough, the forensic
23 technician that testified yesterday

24 Q All right And I'm going to show you container B
25 Can you recognize that and that would be on State's

1 Exhibit 6?

2 A Yes, sir, Exhibit Number 6 is a bag that was signed
3 by me dated by me on the bag This is what happens when
4 you get to SLED They put items into a bag, seal the bag
5 We date and initial that bag My initials and date are on
6 the top as well as my signature

7 MR JEPERTINGER All right At this time, I
8 would move six into evidence, Your Honor

9 THE COURT Any objection State's Exhibit 6?

10 MR LAWSON State's Exhibit 6, no, Your Honor

11 THE COURT All right, without objection

12 (WHEREUPON, State's Exhibit No 6 was admitted
13 into evidence)

14 BY MR JEPERTINGER

15 Q In terms of gunshot residue test, was that done on
16 the decedent, the dead person in this case?

17 A Yes, sir, it was

18 Q Can you tell a little bit how you try to preserve
19 the -- any gunshot residue I think use paper bags, is that
20 correct?

21 A Yes, sir

22 Q Tell the jury a little bit about that?

23 A Generally with a homicide victim, we want to protect
24 the hands as much as possible because we don't know what
25 type of evidence may be under the fingernails Did they

1 try to fight off an attacker, grab ahold of somebody We
2 don't know So what we'll do at a scene or as soon as
3 possible is we'll put paper bags over the entire hand and
4 wrist area, tape the bag and seal it around the cuff if
5 they're wearing a shirt or on their forearm if they're
6 not That way the paper bag it want allow anything in or
7 out and it will preserve whatever is on the hands
8 General practice is at an autopsy is once the pathologist
9 gets done with all of their examinations of the hands,
10 collecting whatever clippings they may or anything from
11 under the fingernails And they tell us that they are
12 finish At that point, we'll take a G S R kit from the
13 hands

14 Q And in this case, Corporal Myers went to the autopsy,
15 is that correct?

16 A Yes, sir

17 Q Okay All right Other than being there and doing
18 the sketch and taking some photographs, was that your
19 primary involvement with this case other than carrying
20 State's Exhibit 6 to Columbia?

21 A Yes, sir

22 Q Did you take the gunshot residue kit to Columbia or
23 was that Corporal Myers?

24 A I believe I took it, let me just check the evidence
25 form here I did take the G S R kit to SLED on the same

1 date as the other items

2 Q Okay So Corporal Myers would have given you that
3 kit, correct?

4 A Yes, sir

5 Q Okay

6 MR JEPERTINGER Thank you so much Please
7 answer any questions that Mr Lawson may have for you

8 THE COURT Mr Lawson

9 MR LAWSON Bear with me one moment

10 THE COURT Yes, sir

11 (WHEREUPON, a pause in the proceedings)

12 CROSS-EXAMINATION

13 BY MR LAWSON

14 Q Okay Officer -- is it Officer Moreau?

15 A That's fine

16 Q Sergeant, Lieutenant, General?

17 A Officer or Corporal whichever you prefer

18 Q We'll go with Corporal how about that You been with
19 the crime scene unit since 2005

20 A July of 2005 is when I was promoted to investigations
21 and went to crime scene There was a six-month period in
22 2007 where I went back to the street as patrol supervisor

23 Q And then that was in '07?

24 A '07 -- from September of '07 and March of '08

25 Q And you been back with crime scene ever since?

1 A Yes, sir

2 Q Now, on a general night on this particular night or
3 morning of, I think, it was September the 5th was it not?

4 A Yes, sir

5 Q Of 2008 Were you on-call on that particular day?

6 A On that particular day, I was what we call second
7 out, second call We'll have a primary call every night
8 and our crime scene sergeant is generally second call, but
9 that particular week he was out of town for training the
10 entire week, so I was on second call

11 Q Okay So the primary call for that week was Myers?

12 A Yes, sir

13 Q Deputy Myers or Officer Myers And then why would
14 you be called out in a particular case?

15 A It is our protocol and anything as major as a
16 homicide that we try to have at least two crime scene
17 technicians on the scene

18 Q Okay The photographs that were taken is it my
19 understanding you took digital photographs and 35
20 millimeter photographs?

21 A Corporal Myers took the digital photographs?

22 Q Right

23 A And I took a few photographs backup with a 35
24 millimeter, which is a practice we don't do any more

25 Q You don't do that at all any more?

1 A No, sir, we don't

2 Q When did you quit using a 35 millimeter?

3 A I want to say probably been a year now, I am not sure
4 the exact date

5 Q And why did you use a 35 millimeter?

6 A It is a practice that the department had been doing
7 for years since digital first came out I was advised it
8 was as a back up to the digital because at the time when
9 they started doing that, if the digital photographs had
10 not been completely recognized in all courts, so we were
11 using it as a back up

12 Q And the initial digital photographs weren't as good
13 as 35 millimeter photographs originally?

14 A Originally when digital first came around, they were
15 nowhere near the quality

16 Q And so you just used a 35 millimeter for quality but
17 as digital developed, then you've back off of 35
18 millimeter for cost if for no more other reason?

19 A Cost had a lot to do with it, yes, sir

20 Q Cause with 35 millimeter, you have to develop the
21 film and all that, correct?

22 A Yes, sir And, you know, unlike digital you can't
23 see the picture when you take it

24 Q All right Now, on State's Exhibit 10, 11 and -- we
25 know 12 you actually draw that?

1 A Yes, sir

2 Q Do you know are these photographs that you took or

3 did Myers take those photographs?

4 A These would have been taken by Corporal Myers

5 Q And that's on State's Exhibit 10 and 11 both

6 exhibits?

7 A Yes, sir, ten and 11

8 Q And do you know about what time these photographs

9 would have been taken?

10 A I was called at 5 30 I would say probably around

11 six o'clock in the morning

12 Q Okay So based on the photographs, it appears that

13 it's right at dawn when you were starting to take the

14 pictures?

15 A These pictures here were taken before these as you

16 can see it's getting lighter and lighter

17 Q Okay And that's not by camera artificial light,

18 that's actually the sunlight that lightens these pictures

19 up?

20 A Yes, sir

21 Q So when you first arrived on the scene was it still

22 dark?

23 A It was just starting to break dawn

24 Q Okay About this point?

25 A Yes, sir

1 Q Okay How long were you there before you started
2 taking photographs?

3 A Corporal Myers started taking his photographs shortly
4 after I got there

5 Q All right Now, on State's Exhibit 11 right here in
6 the top corner, that's the road sign is it not?

7 A Yes, sir

8 Q And that's at the corner of Marlboro and Dargan
9 Street?

10 A Yes, sir

11 Q So -- and is this picture taken from the same corner
12 of both photographs taken from the same corner?

13 A Yes, sir This one would have been slightly further
14 forward towards the body than this one?

15 Q Okay And this is not even a quarter of a block
16 away, is it not?

17 A No, sir, this the front of the same yard

18 Q So that -- where that sheet is where the body is less
19 is in the same yard basically that the picture that you're
20 standing in or Myers was standing in when he took the
21 photographs?

22 A Yes, sir

23 Q Was this the position that the body was in when y'all
24 arrived there on State's Exhibit 10?

25 A Yes, sir, that is the position that the body was in

1 when we first removed the sheet after I arrived

2 Q Okay Did -- well, did you move the body in removing
3 the sheet or did you try not to?

4 A We try to get pictures first of everything as is when
5 we arrive before we do any kind of moving

6 Q Okay

7 A Of course, in this case, we would have to eventually
8 move the body for evidence searching?

9 Q Okay I see this yellow -- what is -- that's crime
10 scene tape?

11 A Yes, sir

12 Q That's what that's called Was there crime scene
13 tape at the other end of this crime scene?

14 A I'm not sure I don't recall every where the crime
15 scene tape was I know they had officers blocking the
16 road pretty far down at the other end You can make out a
17 patrol vehicle with this picture, that's parked across the
18 road

19 Q Okay And would that have been about a block away or
20 less than a block?

21 A Probably less, but I'm not sure

22 Q Okay And that's a police vehicle?

23 A Yes, sir

24 Q And the purpose of crime tape is just to keep people
25 out or in one way or the other?

1 A Yes, sir

2 Q So the car would be operating as the crime scene tape
3 on this end, is that correct basically?

4 A If there was another tape, generally we will do both
5 when it involves the roadway We will have tape up and we
6 will have vehicles and officers stationed

7 Q Okay And would there have been tape -- now, this
8 would have been across Dargan Street I assume?

9 A Yes, sir

10 Q And was there tape also on Marlboro Street?

11 A I believe there was, but what I seen in the picture,
12 I couldn't tell you exactly where it was

13 Q Now, what area did you walk at the crime scene when
14 you inspected the crime -- is it my understanding from
15 your testimony on direct that you inspected the crime
16 scene looking for possible evidence after you took the
17 photographs or at some point during the investigation?

18 A Yes, sir, we would have started centralized and
19 worked our way out

20 Q Okay And how far did you go and what were the
21 boundaries on that crime scene as you will?

22 A I don't recall the exact boundaries of how far we
23 went, but we would have went to probably past where this
24 vehicle was and definitely ultimately pass where any tape
25 was just making sure that it wasn't anything that we

1 messed You know, starting to centralize and expounding
2 outward

3 Q Okay What about in the other direction? I guess,
4 that would be Dargan Street, is that correct?

5 A Yes, sir

6 Q That we're talking about with the police vehicle down
7 here?

8 A Yes, sir

9 Q And that would be north and south, correct?

10 A Yes, sir, we would have checked several yards in both
11 directions on Marlboro Street as well

12 Q So that's east and west?

13 A Yes, sir

14 Q Did you go past this house on the corner of Marlboro
15 Street? Did you go this way?

16 A Yes, sir We would have gone -- we would have walked
17 between me and Corporal Myers and several other officers
18 and investigators We would have walked past this vehicle
19 down here on either side checking the yards as well as the
20 roadway

21 Q Okay And what about going on Marlboro Street? This
22 house is on the corner of Marlboro and Dargan I think,
23 the address of this house is the , it's I
24 think it's on the corner actually of Marlboro Street Did
25 you check the other side of this house?

1 A We would have checked the entire yard around that
2 house, yes, sir

3 Q Okay What about the other side of the road on the
4 other side of Dargan? And where in relation to either of
5 these photographs was the beer can found?

6 A It would have been ---

7 Q Maybe, the diagram would help

8 A I believe right -- I believe that's it, you can see
9 in the picture right there very small, but between the
10 telephone pole and the orange traffic cone

11 Q Okay And as I understand your direct, you checked
12 looking for shell casings or any other evidence of gunshot
13 having been fired?

14 A Pretty much anything that would show us where
15 somebody had been in the area

16 Q And did you find anything other than -- let's see for
17 physical evidence you had a cell phone that was recovered,
18 a beer can, some blood droppings and basically from the
19 scene was that it?

20 A I believe that was all that was recovered from the
21 scene, yes, sir

22 Q Obviously, there was a body recovered also In this
23 photograph on State's Exhibit 10, is that the sheet that's
24 being held up right there or is that a different sheet?

25 A I'm not sure which sheet it was I generally carry a

1 sheet in my truck for purposes if a crowd is gathering to
2 hold it up because we don't allow the onlookers, we don't
3 need them looking at a body

4 Q Was that taking place at that time, do you know?

5 A I believe there was quite a few people had gathered
6 by that point

7 Q And this would be later up in the morning cause the
8 sun is out in this photograph?

9 A Yes, sir

10 Q So that probably was not the sheet that he was
11 covered in?

12 A I can't say for sure if it was or it wasn't When I
13 arrived on scene, there was a sheet covering the body I
14 was advised it was put there by EMS?

15 Q When EMS does that, do you take that sheet as part of
16 the crime scene evidence? Do you take and retrieve that
17 sheet?

18 A It depends on the circumstances I have in the past

19 Q Did you on this occasion?

20 A I did not on the occasion I don't know if Corporal
21 Myers did or not

22 Q Now, once you left the scene that morning other than
23 preparing the diagram which is State's Exhibit 12, I
24 assume you did this later?

25 A That was done on the scene before we left?

1 Q That was done on the scene?

2 A Yes, sir

3 Q Okay, good Then once you left what additional
4 investigative things did you do in relation to this case?

5 A There was like I said a gentleman brought to me when
6 I was requested to swab his pants for what was identified
7 to be blood on his pants, which was later sent to SLED I
8 did that as well as take several pictures of his pants and
9 him And there was later a cell phone that was brought to
10 me I took two pictures of I believe a moped I believe
11 that's all I did on this case

12 Q All right Now, did you -- how did this stuff get
13 back to Florence? Did you pick it up and bring it back?

14 A I know some of it was brought back by SLED agents
15 yesterday, other items looks like they were brought back
16 by Corporal Myers

17 Q Okay But you didn't -- so basically you took things
18 to SLED, but you never -- you didn't pick anything up?

19 A I doesn't look like I brought anything back in this
20 case, no, sir

21 Q Okay Now, with those pants that you took, did you
22 do a preliminary test on those pants to determine whether
23 or not it was a blood stain?

24 A Yes, sir, I did

25 Q And it was positive for blood?

1 A Yes, sir

2 Q Did you ask the individual to give you a DNA swab,
3 mucal swab?

4 A I did and he refused

5 Q He refused?

6 A Yes, sir

7 Q Now, did you accompany or go to the autopsy?

8 A No, sir

9 Q Is it normal for somebody from crime scene to go to
10 the autopsy?

11 A Yes, sir, Corporal Myers attended this autopsy

12 Q So if you had been first on call, you probably would
13 have gone to the autopsy in this case?

14 A More than likely, yes, sir

15 Q So it's whoever is the primary on the case usually is
16 the one that goes to the autopsy unless for some reason
17 they have something else going on?

18 A Barring other circumstances, yes, sir

19 Q Okay Did you in fact -- is it my understanding from
20 your direct that you put bags on the hands of Mr Byrd at
21 the scene?

22 A That would have been done -- let me refer to my
23 report here Yeah, that was prior to EMS taking the body
24 from the scene, we put bags on his hands

25 Q And that was at the scene there at Dargan and

1 Marlboro Street?

2 A More than likely as he was being loaded on the
3 stretcher where we could get access to him

4 Q And that's to protect any evidence that may be on
5 those hands?

6 A Yes, sir

7 Q And then the bag is removed did I understand by the
8 pathologist at the autopsy or by whoever accompanies the
9 body at the autopsy?

10 A More than likely by the pathologist or one of their
11 assistants

12 Q Then it is turned over to whoever is there to observe
13 the autopsy, is that correct?

14 A Yes, sir, generally we will observe and photograph
15 certain aspects of the autopsy along with the pathologist
16 taking their photographs

17 Q And that goes with any other evidence that the
18 pathologist finds at the autopsy would also be given to
19 the individual to bring back to Florence, is that correct?

20 A Yes, sir, there's a few things that they send to SLED
21 themselves blood for toxicology, I believe, but generally
22 all other evidence is sent back with the officer

23 Q Okay And that's how like if there's bullets
24 retrieved or things like that, that's how those get back
25 is by the officer bringing them back from the autopsy?

1 A Yes, sir

2 Q Now, did you request of SLED that they perform any
3 test in this case?

4 A The requested paperwork was completed by Corporal
5 Myers

6 Q Okay So you didn't make any request for scientific
7 forensic testing at SLED in this case?

8 A No, sir

9 MR LAWSON I don't have any other questions

10 THE COURT Anything on redirect?

11 MR JEPERTINGER No, sir

12 THE COURT Thank you very much, sir You may
13 step down

14 (WHEREUPON, the witness leaves the witness
15 stand)

16 MR JEPERTINGER I ask that Corporal Moreau
17 may be excused

18 MR LAWSON Without objection

19 THE COURT You're free to go, sir

20 You may call your next witness

21 MR JEPERTINGER Call Corporal Thomas Myers

22 THE COURT Corporal Myers

23 THE CLERK If you may place your left hand on
24 the Bible and raise your right hand Do you swear the
25 testimony you give in this case be the truth, the whole

1 truth, and nothing but the truth so help you God?

2 THE WITNESS I do

3 THE CLERK Be seated and state your name for
4 the record

5 THE WITNESS Thomas Myers

6 WHEREUPON,

7 Thomas Myers,

8 after first having been duly sworn, testified as follows

9 DIRECT EXAMINATION

10 BY MR JEPERTINGER

11 Q Okay Officer Myers, where do you work?

12 A Assign as corporal in the crime scene unit of the
13 Florence Police Department

14 Q And how long have you been with the crime scene unit?

15 A Since November of 2006

16 Q All right And your responsibilities are similar to
17 Officer Moreau?

18 A The same, yes, sir

19 Q Were you the primary responder in terms of crime
20 scene out to the incident that occurred on September 5th
21 2008 Marlboro and Dargan Street?

22 A Yes, the night before I would have been what we call
23 the on-call duty technician, which follows through the
24 next morning into our next business day So anything that
25 would come out that we needed to respond to during that

1 time I was primary on that

2 Q What time did you get a call to go out there?

3 A I believe it was -- let me refer to my notes
4 approximately 5 21 on the morning of the 5th

5 Q All right And when you got out to the scene, what
6 did you observe?

7 A The scene had already been taped off with the
8 barricade tape, the yellow crime scene tape I was
9 advised that the patrol officers had done that prior to
10 our arrival, which helps us because we can concentrate on
11 the actual scene once we arrive I was briefed by the
12 patrol supervisor and a couple officers as to their
13 findings which we typically do as our standard is to get
14 briefed, so we know what we are looking for, what we think
15 is important in the case, what the officers that responded
16 to -- they're first on scene, so we kind of get a sight
17 and sound idea of what they believe and just use that to
18 access the remainder of the scene investigations

19 Q Okay After you did that, what was your next step?

20 A At some point during that time, I contacted Corporal
21 Moreau as a second call out as he explained earlier is our
22 procedure I began searching the immediate scene for any
23 obvious signs of evidence that may have been in the area
24 My next step would have been to begin photography of the
25 area, just taken into different angles how we photograph a

1 scene is by different angles starting with wide and then
2 approaching the pertinent items We will do that --
3 certainly with the good feature of digital photography as
4 we're basically unlimited in a number of photos that we
5 could take So we will take several different angles over
6 a large period of time

7 Q All right I am going to show you State's Exhibit 10
8 and 11 These photos represent, I guess, the scene as you
9 perceived it and began marking things down flags?

10 A Initially, the photographs that I would take before
11 would not include the markers We take photographs as we
12 find anything there and then after the initial round of
13 photographs are done, we'll go back and we'll actually
14 place the numbered evidence markers and then photograph
15 again based on their relation to each other

16 Q So there hundreds of photographs, correct that you
17 would have taken ---

18 A Typically

19 Q --- in this case? After you took the photographs of
20 the area, what was your next step?

21 A During photography as well, the inspection of the
22 scene is on-going As I am being briefed by the officers,
23 I am looking around at any items that kind of stand out to
24 me There's also during photography I would do the same
25 It's fairly ongoing after photography and the markers were

1 place down that at some point prior to -- I recall
2 Corporal Matthews arriving at the scene And generally at
3 his request, we don't disturb the body until he's made his
4 inspection of the body I recall he requested me to
5 search for identification of the victim and I recall
6 finding an ID card in a pocket, a pants pocket

7 Q It was the decedent in this case Corey Lee Byrd?

8 A Yes, sir

9 Q Okay And then after you did that, what did you do
10 next?

11 A About the time that EMS would arrive to retrieve the
12 decedent's body, we photographed We removed the sheet
13 which was placed earlier by first responding EMS and
14 photographed the body as it lay there And on further
15 inspection at the photography of the body, at that point I
16 would have bagged the hands as was testified to earlier
17 just to preserve any trace evidence that was on the hands
18 to prevent anything from additionally being placed on the
19 hands during transport

20 Q All right And what else did you do then?

21 A We would have assisted EMS with removing the body
22 from the scene We would remain there, take additional
23 photographs with the numbered markers still in place,
24 collected the items that were identified by the numbered
25 markers

1 Q Okay Now, those items identified by the number
2 markers, can you tell the jury principally what you found
3 which would be outlined on State's Exhibit 10?

4 A Yes, the numbers that I used in this case, the marker
5 number one identified the body of Corey Lee Byrd Number
6 two identified some blood droppings or some red droppings
7 that we presume to be blood as well as number three Now,
8 number three the similar droppings were in the roadway
9 Marker number four was a cell phone that was nearby the
10 body Now, I recall as I arrived on the scene that cell
11 phone was preserved by one of our patrol officers with a
12 large traffic cone just so it wouldn't be kicked out of
13 the way or become misplaced I should have that in some
14 photographs and would remove that Again, during
15 photography in between different photography settings, we
16 would continually search the scene which is where -- it's
17 not on this photo, but the -- I located a beer can which
18 is identified as marker number five that was south of the
19 body in the same right of way off the road

20 Q I will show you State's Exhibit 12 Moreau sketch
21 where he has marker five excuse me Would that be
22 consistent with what you just testified to?

23 A It was about half way between what we perceive to be
24 the lying placement of the body and the next corner

25 Q And based on your investigation, could you tell how

1 long that beer can had been there?

2 A I recall as I was walking with the patrol officers
3 that were briefing me after my arrival at the scene that I
4 did smell a strong beer odor in the air Based solely on
5 that, I would say that that can had not been there that
6 long And as, of course, the time that we were there that
7 odor had dissipated

8 Q All right And after that, what did you do? After
9 you took the swabs and so forth?

10 A The swabs were collected from the stains I tested
11 those with the phenolphthalein presumptive test to
12 determine whether it is blood or another unknown stain
13 Upon that, I collected those swabs to be sent later to
14 SLED for analysis The -- I recall searching the area for
15 any additional evidence that we may have tracked over or
16 missed or just hadn't come in contact with yet

17 Q Let me ask you this, in your search for all this
18 evidence that you may have been looking for, did you find
19 any latent prints, fingerprints on anything?

20 A No, nothing had any fingerprints that were developed

21 Q The only fingerprints you took were of what?

22 A I collected what we call major case prints from Corey
23 Lee Byrd's hands the following day at the autopsy at MUSC,
24 that's again standard procedure that we do in order to --
25 a lot of times we're able to identify a body as early as

1 we did with Mr Byrd But we take major case prints as we
2 can submit those to be analyzed as well A lot of times
3 whether it be for identification of the body or if we
4 gather latent fingerprint evidence in the case, the print,
5 the major case prints from the deceased body can be ruled
6 out as for instance that an item belong to that person or
7 his prints were on it, but that was not the case in this
8 case, but again standard procedure is what we following

9 Q Okay Now, you searched the area for whatever
10 physical evidence you could to help this jury reach a
11 decision, correct?

12 A Yes

13 Q After you did that, were you present when Moreau did
14 a sketch or did you leave thereafter or

15 A I believe I assisted him with measurements We again
16 part of the reason in having a second technician come out
17 and assist it is not another set of eyes, it's another set
18 of hands So we follow through we leave at the same time
19 and we will generally help each other do a sketch, take
20 measurements and that would have been the case here as
21 well

22 Q Okay Now, after you did all of that at the scene,
23 what did you do then?

24 A From the scene, I would have returned to this
25 building in the basement, which is where our lab is,

1 analyze the evidence that I had collected from the scene
2 We attempted to do the autopsy the same day, that's all in
3 scheduling with the coroner's office There was as I
4 recall a hurricane was threatening Charleston, so we
5 pushed it back a day which allowed me to go that Saturday
6 as it would be to the autopsy So there's some
7 preparation that we do to turn over evidence to the
8 pathologist in the case And I would have used that time
9 to prepare that information and collect any evidence that
10 we remove from the scene to analyze it to the best of my
11 abilities at -- in our lab prior to it being sent to SLED?

12 Q And did you do that in this case?

13 A Yes, sir

14 Q Can you tell us specifically what you did?

15 A Specifically, I took the beer can that was collected
16 We use a -- it's a cyanoacrylate which is basically super
17 glue We heat super glue up and it adheres to --
18 hopefully adheres to any ridge detail that a fingerprint
19 may leave We do that on a number of items, cans included
20 which was done on this, but no fingerprints were developed
21 on the can Also, I recall doing latent print processing
22 on the cell phone, which I was advised at the scene had
23 belong to the victim And it was also handle by one of
24 the complainants at the scene, but I recall doing latent
25 processing on the cell phone

1 Q When you say complainants, could it either be Tiesha
2 Brown or Brittany Fludd?

3 A Yes, one of the first on the scene, that was again
4 why we get briefed by the officers is collect as much
5 information And I try to meet with more than one officer
6 if at all possible just because a situation that's as
7 hectic as this there could be more citizens that make
8 contact with more than one officer And just as before I
9 get started at the scene, I take in account all
10 information that's been shared with them My further
11 processing in the lab would have just consisted of proper
12 packaging of the swabs that were collected in order to be
13 sent to SLED

14 Q All right And at that point after you did all that
15 stuff, you turned it into the evidence locker or gave it
16 to Moreau directly?

17 A We turn it into our evidence custodian It is secure
18 in our evidence room in the basement of this building
19 And then when the next SLED trip is scheduled, we use a
20 rotating schedule It is not necessary I wouldn't take my
21 own evidence necessarily, but it may turn out to be that
22 way Every two weeks, we take evidence to SLED And
23 based on our duty rotation, court time, training, we have
24 a schedule for who takes those trips And Corporal Moreau
25 was on schedule for this trip He would have sign out the

1 evidence from our evidence custodian and delivered it to
2 SLED

3 Q Okay Now, the next day you did go to the autopsy,
4 is that correct?

5 A Yes, that's correct

6 Q All right And at the autopsy, what physical things
7 did you do to the decedent's hands because I think you
8 said major case prints were taken, correct?

9 A Yes, that's correct

10 Q And what did Dr Schandl give you if you recall?

11 A Once the pathologist Dr Schandl, who testified
12 yesterday, once they are finished with their outside
13 inspection of the body, they -- she would have collected
14 the fingernail clippings And during the course of that
15 time, once their kind of in between their stages of the
16 autopsy, we'll go in and we'll collect gunshot residue
17 from the hands If it's an apparent gunshot crime, we
18 will do that or if there's any indication that a gun was
19 in the area, that's again standard procedure Also,
20 collected major case prints from the hands of Mr Corey
21 Byrd

22 Q Okay In terms of the fingernail scrapings and the
23 gunshot residue, major case prints did you collect all
24 that?

25 A Yes

1 Q Now, in terms of the gunshot residue, I am going to
2 show you State's Exhibit 7, that's been identified as
3 gunshot residue kit is that the one that you took at the
4 autopsy?

5 A Yes, it is I've indicated with a seal with my
6 initials the information on the front based on the subject
7 that it was collected from And then as well as my
8 information being the collecting officer I would have
9 sealed this envelope and it would have gone to SLED in
10 this manner This envelope -- this was placed in here at
11 SLED and sealed in by our delivering officer who in this
12 case was Corporal Moreau, which is taped off at SLED
13 again, so there's a couple of integrity seals involved,
14 but that is this evidence

15 MR JEPERTINGER Your Honor, at this time, I
16 would move State's 7 into evidence

17 THE COURT Any objection regarding State's
18 Exhibit Number 7

19 MR LAWSON No, Your Honor

20 THE COURT Without objection, it is in
21 evidence

22 (WHEREUPON, State's Exhibit No 7 was admitted
23 into evidence)

24 BY MR JEPERTINGER

25 Q Now, when Dr Schandl conducted the autopsy, did she

1 recover a bullet?

2 A Yes

3 Q Okay Projectile?

4 A Projectile, a fired projectile

5 Q Did she give it to you?

6 A Yes

7 Q What did you do with that projectile?

8 A That projectile was then -- it was determine at the
9 autopsy that it was a 22 caliber based on measurements
10 At that time, I collected it along with Mr Byrd's
11 clothing and some personal effects that were in his
12 pockets, which we don't disturb until after the autopsy
13 for the pathologist to review all that All that was
14 collected by me and returned to our agency and secured and
15 later logged into evidence

16 Q Okay Now, question that I have, did you send that
17 projectile off to SLED for analysis?

18 A No, sir A lot of our cases we will forward fired
19 projectiles to SLED for analysis SLED actually has their
20 own protocol for calibers that measure as 22 calibers
21 They do not test them The testing that they will do on a
22 22 it's in SLED terms it is considered full firearm
23 examination which is ---

24 Q What does that mean?

25 A To compare a bullet to a gun to see if that gun fired

1 that bullet In this case, we were never -- we never
2 received a gun in question that related to the case, so
3 the bullet that we had did not qualify for a full firearm
4 examination

5 Q Had you obtained a gun you would have sent that
6 bullet off for that full firearm?

7 A Absolutely

8 Q You never ---

9 A That wasn't the case in this We run into that We
10 -- sometimes we don't get guns with bullets

11 Q All right After that, Officer Myers, what did you
12 do?

13 A Between -- I created some photo lineups at the
14 request of Lieutenant Compton

15 Q Who's the chief investigator in this case?

16 A That's correct A lot of what we do is after the
17 fact support of the chief investigator in a case as they
18 have a request for audio files to be transferred We
19 transfer those to a secured disk, so they can be
20 transcribed and then placed into evidence as well as
21 anything else that may recover or collect during the
22 process of their investigation They will turn it over to
23 us We are typically the primary link in the chain of
24 evidence for our department especially having worked the
25 initial scene The further evidence we go through us to

1 be logged in generally if there's -- especially if there's
2 further forensic analysis to be done that we can do at our
3 level

4 Q All right Now, I am going to show you State's
5 Exhibit 8 for identification Do you recognize that
6 object, sir?

7 A Yes, this is a package that I had sealed It
8 contains a buckle swab from Gregory Daniels, which I
9 collected February 23rd of this year I received a court
10 order to collect a saliva sample from Mr Daniels On the
11 24th of February this year, I met with Mr Daniels and
12 collected that and that's what we call a buckle swab
13 It's a cotton tip swab that we rub on the inside of the
14 cheek and that provides a noninvasive DNA collection
15 What we then called a known standard because we are aware
16 of the location that it came from

17 Q And did you carry that buckle swab to Columbia?

18 A I did I delivered it to -- I delivered that to
19 SLED

20 Q And I believe Nicky Perry checked it in and this was
21 what Dr Fitts -- Mr Fitts checked or Agent Fitts?

22 A That's correct

23 MR JEPERTINGER All right At this time, I
24 would move State's 8 into evidence, Your Honor

25 MR LAWSON Without objection?

1 THE COURT Without objection State's 8
2 (WHEREUPON, State's Exhibit No 8 was admitted
3 into evidence)

4 BY MR JEPERTINGER

5 Q Now, you say that at the scene there was a cell
6 phone?

7 A Yes, at the scene that's correct

8 Q All right And I'm going to get this marked for
9 identification Let me show you State's Exhibit 13
10 There are two items in State's Exhibit 13 Can you tell
11 us what these items are please?

12 A Yes This is the cell phone that I collected from
13 the scene I believe it was marker number four, marker
14 number four at the scene The second item in the bag is
15 just my at scene collection bag which we keep up with the
16 evidence goes into a bag and then I would seal it in an
17 envelope to be secured in evidence

18 Q And the number four marker?

19 A References marker number four

20 Q That was on the sketch?

21 A That's correct

22 Q Let me ask you have you been able to recharge that
23 phone?

24 A Yes

25 Q All right And have you been able to observe what is

1 on that phone?

2 A Yes

3 Q Okay When was the last phone calls made on that
4 phone?

5 A According to the internal call log in the phone, the
6 last outgoing call was made at 4 55 a m on September
7 the 5th of 2008

8 Q So what number do you know?

9 A

10 Q Okay And what was the duration of that phone call?

11 A Fourteen minutes and 13 seconds

12 Q All right So at 4 55 -- let me get this straight
13 4 55 the phone call lasted?

14 A Fourteen minutes and 13 seconds?

15 Q So what would that be 5 09 more less when the phone
16 call ended?

17 A Approximately

18 Q Okay And then what was the last call on that phone?

19 A The next number in line was an incoming call from the
20 same phone number that was made at 5 15 I believe, it's
21 duration was 16 or 18 seconds

22 Q And your investigation that number of the -- what did
23 you say?

24 A

25 Q Was that Shavonne Gass' home number?

1 A As I understand it, yes

2 Q All right

3 MR JEPERTINGER At this time, I would move
4 State's Exhibit 13 into evidence, Your Honor

5 THE COURT Any objection?

6 MR LAWSON No objection

7 THE COURT Without objection State's Exhibit
8 13

9 (WHEREUPON, State's Exhibit 13 was admitted into
10 evidence)

11 MR JEPERTINGER Beg the Court's indulgence

12 (WHEREUPON, a pause in the proceedings)

13 BY MR JEPERTINGER

14 Q Did you get a number on State's Exhibit 13, did you
15 get that owners number on that phone?

16 A I don't have it noted

17 Q Is this thing charged?

18 A Yes

19 Q Could you look?

20 A Sure Bear with me, I'm not familiar with the
21 settings on the phone That feature appears to be blocked
22 where I'm familiar with it in other phones it's not
23 showing up

24 Q That will be fine All right Now, subsequent to
25 this you are still continuing investigating this matter,

1 correct?

2 A That's correct

3 Q All right Did you have an opportunity to receive
4 another cell phone from Lieutenant Compton?

5 A I did

6 Q Okay And I -- let me show you what's been marked as
7 State's Exhibit 14 Do you recognize the object in
8 State's Exhibit 14?

9 A It is a Samsung flip phone As I recall, I receive
10 this directly from then Sergeant Thompson on
11 September 15th 2008

12 Q And who did that phone belong to?

13 A I was advised this belong to Gregory Daniels

14 Q All right Have you charged that as well?

15 A Yes, this has been charged

16 Q Okay Did you take photographs of that?

17 A I did On April 9th of this year, I received a
18 search warrant to actually photograph the contact list
19 incoming, outgoing calls massaging any communication back
20 and forth that was stored on the phone And on that same
21 day, I served the warrant then photographed it

22 Q I am going to have these marked

23 MR JEPERTINGER I move State's Exhibit 14 into
24 evidence

25 THE COURT Any objection to State's 14 which is

1 the other cell phone?

2 MR LAWSON No objection

3 THE COURT Without objection

4 (WHEREUPON, State's Exhibit 14 was admitted into
5 evidence)

6 BY MR JEPERTINGER

7 Q I want to show you what's been marked for State's
8 Exhibit 15, 16, and 17 for identification Can you
9 identify those?

10 A These are photographs that I took of -- screens shot
11 of the cell phone where the search warrant was served on
12 it?

13 Q Do they fairly and accurately portray what was on
14 State's Exhibit 14?

15 A Yes

16 Q All right Now, obviously those are just three
17 photographs of many, is that correct?

18 A Yes, there was several photographs taken

19 Q Now, the number for State's Exhibit 14 was what
20 number?

21 A ---

22 MR LAWSON Objection, Your Honor, I didn't --
23 if he's publishing these prior to introducing them, I have
24 an objection ---

25 MR JEPERTINGER I move them into evidence,

1 Your Honor

2 THE COURT All right You now moving those
3 into evidence?

4 MR JEPERTINGER Yes, sir

5 MR LAWSON Then I have an objection that I
6 think should be taken up outside the presence of the jury

7 THE COURT All right Ladies and gentlemen,
8 get you to step back into your jury room Please have no
9 conversation about the case while I take up this matter of
10 law

11 (WHEREUPON, the jury retire to the jury room)

12 THE COURT All right These are State what?

13 MR JEPERTINGER State's 16, 17, and 18 excuse
14 me -- 15, 16, 17

15 THE COURT Fifteen, 16 and 17 and, Mr Lawson,
16 you have an objection to those exhibits, is that correct,
17 sir?

18 MR LAWSON That's correct

19 THE COURT All right, sir, be happy to hear
20 from you

21 MR LAWSON Your Honor, these are photographs
22 of screens from a cell phone that was taken from my
23 client These screens if introduced, I'm assuming that
24 they're introducing them for some -- quite frankly, I
25 don't know exactly what the purpose, but what they are

1 going to do is they're going to shift the burden in
2 relation to my client because it will be essential if
3 these cell phone records come in to answer them with
4 some -- there's no way that this officer can testify as to
5 what the sender of that cell phone message intended And
6 the simply putting in a message on a cell phone in and of
7 itself is nothing of an incriminating nature They are
8 also, I believe, trying to bolster future witness
9 testimony by showing simply that there's a phone number in
10 the cell phone to someone who may at some point testify in
11 this case as a federal informant And in order to
12 contradict any of that, it would require the defense not
13 only to put up a defense, but for the defendant himself to
14 testify It's totally where -- it's just impossible for
15 the defense to go forward with that posture being sent at
16 this point

17 MR JEPERTINGER Your Honor, they're merely
18 representations of what's already in evidence as State's
19 Exhibit 14 off the contact list?

20 THE COURT Have you viewed -- have you looked
21 at these closely I'm not -- cause these aren't messages
22 I don't know

23 MR LAWSON Well, I'm trying to figure out
24 exactly what they are

25 THE COURT Well, and I don't know, I'm going to

1 get you to look at them because ---

2 MR JEPERTINGER He's seen them

3 THE COURT Oh, you seen them, okay I guess
4 I'm not understanding your objection of how that shifts
5 the burden

6 MR LAWSON Because I tell you one thing, I
7 know one of the reason for it There's a cell phone
8 number that they're going to try and say is to an
9 informant that's going to testify in this case And
10 they're going to say that that establishes that for
11 someway that my client had contact with him and it
12 verifies what he's going to testify to and that may or may
13 not be so, but in order to answer that, there's only one
14 way to answer it and that's for us to testify

15 MR JEPERTINGER I have no control over his
16 client in whether his client testifies or not, that's his
17 option, Judge, but this is all evidence coming in, Judge

18 THE COURT I'm not understanding how it compels
19 -- how it shifts the burden I realize it puts -- it's
20 another piece of evidence that the State is attempting to
21 put there, but why does ---

22 MR LAWSON The whole process, Your Honor, from
23 this point on what we're going to see They have my
24 client's girlfriend of many years subpoenaed with letters
25 that he wrote to her Through those letters, they are

1 going to try to establish that he was trying to fabricate
2 a -- some defense in the case They are going to take his
3 statement which he thought nothing of after about the case
4 which he talked about the night before, they're going to
5 try to attack that and attack it in such a way to make it
6 look like he is lying to create a false alibi All of
7 which the whole rest of this case is gone focus on what my
8 client did in relation to trying to defend himself in
9 relation to this case, that's where they're going with
10 this case That's how they're going to try and prove
11 guilt, not by any evidence direct evidence that they have,
12 but through circumstantial evidence that is absolutely
13 coming from the defense in the case and that may have very
14 simple explanation, but which will require the defense to
15 answer each and every one is gone be the same way

16 THE COURT Well ---

17 MR LAWSON Judge, you can't -- I mean, it
18 can't be fair to sit and take a defendant's statement tell
19 him it's not about the case

20 THE COURT We're not talking about a statement
21 right now

22 MR LAWSON Okay

23 THE COURT We're talking about State's Exhibits
24 14, 15, and 17

25 MR JEPERTINGER Fifteen, 16 and 17

1 THE COURT I'm sorry 15, 16 and 17

2 MR LAWSON Well, it's going to be the same
3 exact same situation is what they're trying to do here
4 They'll try to do then and they'll try to do again I
5 don't think it's right, it just doesn't pass the smell
6 test I'm sorry I realize may be I know a lot more about
7 the case than but ---

8 THE COURT You know a lot more about the case
9 than I do, I don't know anything except what I've heard
10 here And I don't know -- again, not knowing anything
11 about the case, I don't know what they're trying to do or
12 what you're trying to do I just that -- these exhibits,
13 these three exhibits have been moved into evidence They
14 been testified to They're off of State's Exhibit 14
15 which is in evidence And I'm -- they are not messages or
16 anything they're numbers I'm going to overrule the
17 objection and allow them I don't see where they're not
18 admissible or that there's any procedural rule that would
19 keep them out at this point

20 MR LAWSON Can we take a brief recess at this
21 point since the jury is out?

22 THE COURT You're exactly right, it's a good
23 opportunity cause they're out, so why don't we take about
24 ten minutes Court will be in recess for about ten
25 minutes

1 Yes, sir, you can take a break, but you can't
2 talk to anyone about your testimony or anything like that

3 (WHEREUPON, a break was taken)

4 THE COURT Anything from the State before we
5 proceed?

6 MR JEPERTINGER No, sir

7 MR LAWSON Your Honor, additional -- one of
8 these is a photograph of a file that's in the phone It's
9 the name of a photograph that's in the phone and the name
10 of an audio file that's in music that plays when the phone
11 rings The person that the number is listed it's just
12 like a call directory is what it is, but it's two -- the
13 -- as I understand it, a witness in this case or possible
14 witness and it will require if that witness testifies, the
15 only way that I know is for the defense to reply as to
16 what this is in effect

17 THE COURT You can cross-examine -- if the
18 State puts a witness up, you can cross-examine that
19 witness I'll certainly note that for the record that
20 that is part of the objection from the defense And am I
21 correct, Mr Lawson, that's that first one that -- what
22 number is that?

23 MR JEPERTINGER

24 THE COURT The exhibit number?

25 MR JEPERTINGER State's Exhibit 15

1 MR LAWSON Your Honor, that might -- I mean
2 where this becomes critical is in an allegation and if
3 this comes out in the future that my client got paid for
4 doing this bastardly deed and it says get paid ---

5 THE COURT You're asking me to make rulings on
6 something that what if this comes out It may be -- I
7 can't predict the future, I don't know what they are going
8 to do

9 MR LAWSON I go based on what I been provided
10 in discovery and I think that I'm allowed to rely on that
11 And then have a picture file, nothing more than a picture
12 file noted as that the probative value of that is
13 extremely outweighed by the prejudicial effect

14 THE COURT It may be that -- and I don't know
15 cause I'm at a disadvantage cause I don't know anything
16 that maybe at some point if they put a witness on the
17 stand and try to go down that road, it may be at that
18 point appropriate to exclude certain testimony I don't
19 know, but at this stage what they presented, it just does
20 not appear to be inadmissible evidence, that phone and all
21 of that data right there is in evidence without objection
22 that phone is in

23 MR LAWSON I did -- I did not object to the
24 cell phone itself I do object to the contents of the
25 cell phone Maybe, I should have made that clear was an

1 error on my part

2 THE COURT I mean, but, you know, cause you're
3 making the objection now You're certainly -- I think
4 you've covered it I just don't see that it's
5 inadmissible and I am going to allow it

6 MR JEPERTINGER Thank you, Your Honor, we are
7 ready

8 (WHEREUPON, State's Exhibit Nos 15, 16 and 17
9 were admitted into evidence)

10 (WHEREUPON, the jury came into open court)

11 THE COURT Ladies and gentlemen, I just want to
12 explain to you, it didn't take me that long to hear that
13 matter of law While you were out, we thought it would be
14 a good opportunity, so we don't have to send you back out
15 to allow the court staff and personnel to take a break
16 while y'all were out So we did take up that matter of
17 law and then we went ahead and took a short break so that
18 people could get up and stretch their legs or whatever
19 If you recall, we took up that matter of law allowing
20 those exhibits into evidence

21 And, Mr Jepertinger, you can continue with your
22 examination

23 DIRECT EXAMINATION CONTINUED

24 BY MR JEPERTINGER

25 Q Now, I'm going to ask you once again on State's

1 Exhibit 14, which is a Samsung Singular phone that came
2 from whom?

3 A I receive that from Lieutenant Compton

4 Q Who got it from?

5 A I was advised from Gregory Daniels

6 Q Okay Now, on State's Exhibit 15, 16 and 17, can you
7 tell the jury what is on those? First over all, State's
8 Exhibit 15, which is in evidence Can you tell us what
9 that says?

10 A This is a screen shot of a -- part of the contact
11 list to a contact that had been stored in the phone?

12 Q And it says -- what does it say specifically?

13 A It appears the name that was assign to the contact is
14 called Luck L-U-C-K Luck The cell phone number attach to
15 that is

16 Q Okay And on State's Exhibit 16?

17 A This is a screen shot from the calls received list in
18 the phone This shows that a call was received dated
19 September 9th of 2008 I'm sorry -- of September 9th 2008
20 at 8 51 p m It appears that the number is

21 And the contact appears to be G A as the contact name
22 that was stored in it

23 Q Okay All right And State's Exhibit 17?

24 A This is a screen shot of the number of the cell phone
25 in question The number of the phone is

1 Q All right And that was the cell number for this
2 Samsung Singular that Compton got from Daniels, the
3 defendant, in this case?

4 A That is correct

5 Q All right Now, I'm going to try to roll the stone
6 up the hill one more time

7 A All right

8 Q Have you figured out how to get the phone number on
9 this thing?

10 A Yes, sir

11 Q All right This is State's Exhibit 13 this is an --
12 looks like a LG Alltel?

13 A Right

14 Q Once again where did you get the LG Alltel from?

15 A That was collected from the scene near the head of
16 Mr Byrd

17 Q Okay So this phone was by the body of the decedent,
18 Corey Byrd, at Dargan and Marlboro Street collected on
19 September 5th 2008?

20 A That's correct

21 Q Is that correct?

22 A That's correct

23 Q Okay

24 A The number of this phone shows to be

25 Q Thank you And I know I'm being repetitive, but I

1 just want to make sure because the last calls at what time
2 were they that you had on the Alltel phone, the one found
3 at the scene?

4 A The last call outgoing was on that date September 5th
5 at 4 55 a m

6 Q Hold on 4 55 a m and what was the duration of that?

7 A Fourteen minutes, 13 seconds

8 Q Fourteen minutes ---

9 A Second 13 seconds

10 Q --- thirteen seconds in duration? And then you said
11 there was an incoming call?

12 A That was followed by an incoming call

13 Q On the same date?

14 A Yes, sir, 5 15 a m That was short in duration 16 or
15 18 seconds

16 Q All right Other than doing those things that we've
17 asked in terms of the phones is there anything else that
18 you might have done in this case, sir?

19 A A side from standard photographic lineups, audio file
20 transfers

21 Q Paperwork?

22 A Paperwork and basically that's it

23 MR JEPERTINGER Beg the Court's indulgence one
24 second

25 (WHEREUPON, a break was taken)

1 MR JEPERTINGER Please answer any questions
2 that Mr Lawson may have for you

3 MR LAWSON May it please the Court

4 THE COURT Yes, sir

5 CROSS-EXAMINATION

6 BY MR LAWSON

7 Q Officer Moreau, Corporal?

8 A Corporal

9 Q Now, you were primary on-call on September the 5th of
10 2008, is that correct?

11 A That's correct

12 Q Would that have been September the 4th -- how did
13 your call periods work?

14 A My schedule -- my on-call schedule would have started
15 at 3 00 p m on the 4th And I would actually spend time
16 in the office from three to 11 At 11 00 p m , I go on
17 on-call status where I leave the office and wait to be
18 called out And that actually follows on to the next
19 morning that would be 8 30 when we arrive back at the
20 office I remain on an on-call status

21 Q So basically, you at the office until 11 00 p m
22 Then are home or wherever until 8 30 and you get called
23 and you go from wherever you are at the time you get the
24 call?

25 A That's correct, yes, sir

1 Q On this particular evening, do you remember where you
2 were at the time you got the call, where you in the office
3 or where were you?

4 A I was at home

5 Q You were at home All right And did you respond
6 straight to the scene or did you come by the complex?

7 A No, I went straight to the scene

8 Q All right And when you got there, what condition
9 did you find the crime scene in?

10 A I would consider it a secure scene In that, our
11 officers on patrol had secure the area with tape good bit
12 around the scene, as well as the patrol cars several
13 patrol cars were parked in the area blocking off the
14 roadways They had it maintained

15 Q Do you remember what the boundaries of the crime
16 scene were or had been established by the officers on the
17 scene?

18 A I -- the only one I can recall directly is the south
19 which would be -- right at the intersection of Marlboro
20 and Dargan, south of the body, that the direction I came
21 in at and where I entered at

22 Q Okay That's where in the photograph from State's
23 Exhibit 11, that's that crime scene tape is at the
24 southern boarder of the crime scene, is that correct?

25 A Yes, that is correct

1 Q Okay And do you remember if there was crime scene
2 tape marking the northern boundary of the crime scene?
3 A I don't -- I know there was a patrol car placed in
4 the roadway I do not recall about the tape
5 Q Okay And that's the patrol car ---
6 A That would be it in the distance
7 Q And as I understand it, you actually took these
8 photographs in 11 and 10?
9 A Yes, sir
10 Q When you got there what was the condition of visual
11 light? Was the sun up or was it still dark?
12 A It was coming up I guess you would call it dusk
13 Q Would that have been some of the first photographs
14 taken ---
15 A Yes
16 Q --- when you arrive there?
17 A Those should have been very early on
18 Q So that gives us a pretty good idea of what the
19 condition were at the time you arrived would be pretty
20 consistent with this photograph?
21 A Yes, sir
22 Q And that's just breaking daylight?
23 A Right
24 Q And then by the time you got to these, you can see as
25 Officer Moreau ---

1 A The sign was well up by that point

2 Q Okay So that would have been later on in the
3 investigation?

4 A That's correct

5 Q So as I understand it then, you basically taken
6 photographs on and off as you go through the scene?

7 A Yes, sir

8 Q And you don't just take the camera start shooting as
9 soon as you get there shoot straight through, then go and
10 search and do things like that?

11 A No, sir, no

12 Q So it's an on and off situation with the camera?

13 A That's right

14 Q And, I mean, it makes more sense to do it that way
15 doesn't it because you don't know what you gone find until
16 you go look for it?

17 A That's right I don't -- none of us do The first
18 thing we do is get briefed on what had been believe to
19 have happened and that way we know to pick a starting
20 point and not to just roll out and start taking pictures

21 Q And, I mean just -- and not to beat a dead horse, but
22 would that briefing have taken place before you took any
23 pictures?

24 A Yes

25 Q Okay So that briefing would last normally about how

1 long?

2 A There's no set amount of time I say this one was
3 probably 10 to 15 minutes before I was comfortable enough
4 to begin photos As something may have appeared out of
5 place to me, then I would assess it then and either get
6 further briefed or clarification on something

7 Q Okay And how long were you on the scene before
8 Corporal Moreau arrived?

9 A I believe I contacted him in route while I was in
10 route I may have made it to the scene 15 to 20 minutes
11 prior to him

12 Q Okay So y'all basically were there together the
13 whole time?

14 A Yes, sir

15 Q And now when you went through the numbers there, do
16 you put those numbers out?

17 A Yes, sir

18 Q Okay And then you did that in your initial
19 inspection or search?

20 A No, I'll take photographs of everything first as is,
21 that way in looking back I can know what was at the scene
22 I can be reminded of what was at the scene Now, after my
23 initial photographs is when I would place the markers
24 down

25 Q All right Then you go back and take photographs

1 with the markers?

2 A That's correct

3 Q And so in State's Exhibit 10 that would have been
4 after you had taken initial round of photographs without
5 markers and then you had gone out marked it and then
6 took -- started taking other -- a second set of photos?

7 A That's right

8 Q And that would explain how we are on up in the day as
9 well?

10 A That's correct

11 Q It's not something that happens right like that?

12 A We want rush a scene like that

13 Q Now, who determines what test, scientific forensic
14 test will be requested from SLED?

15 A Generally, between the technician and the lead
16 investigator will decide what evidence has been collected
17 Also after the autopsy, the additional evidence from the
18 autopsy will be determined and that takes place in a
19 conversation between the technician that attends the
20 autopsy and the pathologist

21 Q And technician being you ---

22 A That's correct

23 Q --- in this case? And Corporal Moreau will also be a
24 technician?

25 A That's correct

1 Q The crime scene individual or representative is the
2 technician that we are talking about?

3 A That's right

4 Q And now, who is in charge of the crime scene when you
5 arrive there the crime scene technician or the
6 investigating officer?

7 A When I arrive at the scene, I like to take control of
8 the scene in matters of evidence, which at that point the
9 entire scene and surrounding areas to me are evidence
10 Now, as far as interviewing any witnesses by standards, we
11 do not typically do that That is up to the investigator
12 and anyone assisting them

13 Q Okay That's what I was going to ask you Normally, in
14 your normal investigation, your duties relate to the
15 accumulation of evidence in what -- and photographs as
16 oppose to finding witnesses and interviewing witnesses and
17 chasing down leads and that sort of thing, that's not
18 part of your general duty?

19 A Typically, it's not We are a support -- our unit is
20 a support to the investigations division in the event and
21 generally on a scene that is our primary After the fact,
22 we assist in several ways of -- with the investigator, but
23 at the scene our primary task is evidence related

24 Q And as you said not that you want to do that or can't do
25 that, is just that your typical roles in the investigation

1 is to your primary role and function there is no
2 accumulate evidence and protect it?

3 A Exactly

4 Q And now when -- I understand you do preliminary test
5 for fingerprints, do you not, Corporal?

6 A It's not necessary a preliminary We can actually
7 collect latent prints if they been developed

8 Q Okay I mean, the reason I ask that is in relation
9 to DNA, you don't run any profiles at all in relation to
10 DNA?

11 A Exactly That's a collection and we turn that over
12 to the lab And this may have been your question as to
13 the latent fingerprints, we will analyze them to collect
14 them, but we don't run any systems on that We also send
15 those to SLED for analysis had there been any in the case

16 Q But typically like with the beer can in this case,
17 you would preliminary -- do steps to determine whether or
18 not you could find any -- what look to be fingerprint?

19 A A visual observation, yes, sir

20 Q For a ridge detail, that's what you're looking for
21 And if you find ridge detail, you then send that to SLED
22 for evaluation?

23 A We would apply in this case, we -- cyanoacrylate
24 which is a chemical term for super glue and what that does
25 is enhance any prints that are present And then there's

1 a powder in the process that we put on the item and then
2 lifting tape If we were to find a print lifting tape and
3 then send the tape itself on a backed card not the item,
4 we would just send the lift

5 Q All right So the beer can would not go to SLED,
6 anything that you found anything containing ridge detail
7 You remember if there was ridge detail observed on the
8 can?

9 A No, sir What I recall of the can, there was several
10 smudges overlaying prints but nothing with any detail at
11 all And then the other evidence collected from the can
12 were swabs from the rim area, which were done prior to the
13 latent examination

14 Q That was possibly DNA?

15 A That's right

16 Q So you did nothing with those swabs other than
17 package them and send them to SLED?

18 A Correct We're not -- we pass that on to the lab for
19 the scientific evaluation on that

20 Q All right And did you request DNA analysis in this
21 particular case?

22 A In our procedure, when we submit items to the State
23 lab at SLED, that is our request Had we not sent
24 anything, that would not -- that would not imply a
25 request As we submit evidence to SLED depending on the

1 evidence, we make a request on what we're looking for
2 Basically, if latent prints were to go to SLED, we're
3 looking for identification If we have a known standard
4 set of prints via the major case prints, then we're
5 looking for -- we are not just looking for identification,
6 we're looking for comparison Same thing with DNA, if we
7 -- when we send swabs to the lab, they're not just looking
8 for DNA If we got a known standard that we had
9 collected, they're looking for comparison or what's called
10 ownership From the rim of the can by sending it, the rim
11 swabs from the can, my intention on sending that to SLED
12 was for saliva for again a donor who might have taken a
13 drink from that can

14 Q And at -- do you recall requesting -- making specific
15 request for DNA?

16 A For the items sent that constitutes our request for
17 processing

18 Q Okay So it's -- when you send items in SLED knows
19 what their suppose to do is that what you're saying?

20 A That's our understanding

21 Q All right Do you ever make a request for specific
22 DNA testing?

23 A Not sure if I understand your question

24 Q When you send an item up, do you request SLED please
25 run DNA on this or please run serology?

1 A That's part of our submission when we submit the item
2 to them that dictates our request for analysis

3 Q All right As I understand it, you did the
4 accumulation of the gunshot residue test, is that correct?

5 A Correct

6 Q And did you collect this evidence or did the
7 pathologist do that and give it to you?

8 A The gunshot residue?

9 Q Yes

10 A The gunshot residence was collected by myself

11 Q And at what point did you collect that?

12 A Generally, it normally just happens in between the
13 doctor's schedule with the body Some doctors are
14 different they -- during -- once their observation is
15 done, they'll allow us to step in and do that And it's
16 basically kind of a case by case basis, but it's before
17 ---

18 Q The point I was making is it was not done here prior
19 to going to the medical university?

20 A No, it was done ---

21 Q At Charleston?

22 A Right

23 Q During -- at some point during the autopsy?

24 A At some point during the autopsy

25 Q Okay And at that point that evidence was given to

1 you and ultimately was taken to SLED?

2 A From the autopsy?

3 Q Yes

4 A When I leave the university, I sign over any evidence
5 that is recovered, as well as anything that was obviously
6 sent with the body, that would be clothing all that was
7 returned and transported back by me

8 Q All right Now, there was a bullet that was obtained
9 at the autopsy?

10 A Yes, sir

11 Q Now, that bullet was that taken to SLED?

12 A No, sir

13 Q It was not And let me ask, are you familiar with
14 what testing they can do at SLED in relation to gunshot or
15 bullet?

16 A Not as familiar as someone who would actually do the
17 testing

18 Q All right Do they have a data base of guns where
19 they can use their tool mark and match possible gun to an
20 unknown gun?

21 A They do, that's called I B I S , which is their
22 integrated ballistics identification system

23 Q And they have C O D I S , which is for ---

24 A DNA And then A F I S which is for ---

25 Q Fingerprints And these are all data bases where you

1 can put if you obtain a fingerprint for example, you can
2 put that fingerprint and ask it -- if you don't know whose
3 fingerprint it is, if there's somebody in that data base
4 that has that fingerprint, it would come back to that
5 individual?

6 A Based on the quality of the prints submitted, yes,
7 sir

8 Q Same with DNA?

9 A That's right

10 Q It would come back if it was run through the
11 C O D I S system depending again on the quality of the
12 DNA?

13 A And the standards being in the system, yes, sir

14 Q Are you familiar with a term in DNA called degraded
15 DNA?

16 A Vaguely familiar

17 Q Just mean it's old and not very good for testing?

18 A As I understand it, yes, sir

19 Q And that I guess time, weather other conditions can
20 affect that in relation to DNA?

21 A That's right

22 Q Do you know if anything in this case if it was
23 submitted to any of those -- if any evidence was submitted
24 to any data bases?

25 A I don't know specifically when we submit the evidence

1 to SLED, that's generally as I understand it their
2 protocol if something comes back unknown, that it goes
3 automatically into one of the data bases depending on what
4 the evidence is

5 Q Okay Now, State's Exhibit 15 is a copy that was
6 taken from the cell phone that you received from who?

7 A This was the cell phone originally received from
8 Lieutenant Compton I was advised that that came from
9 Gregory Daniels

10 Q Okay And ---

11 A And since been in our evidence room

12 Q That photograph is a photograph of what?

13 A This is a screen capture of a name and a contact
14 list

15 Q Okay So in cell phones, there's a contact list as
16 basically like your phone directory?

17 A Right, address book, phone directory

18 Q And so what this is is somebody that was in this cell
19 phone as a person that you put their name and phone number
20 or whatever in your phone?

21 A That's correct

22 Q And any cell phone that has a contact list would have
23 this capability?

24 A Yes, sir, ones I've seen are similar to that

25 Q And this second line was actually a fourth line down

1 is it says get paid JPG, what is that indicating?

2 A The jpg indicates to me that's an image which would
3 be of a JPeg quality It is common ending for
4 photographs Now, the icon before that, I am not familiar
5 with that each cell phone carrier may use different icons
6 to, you know, for instance beside the number the icon is a
7 phone and that would say to me that that was the phone
8 number Now, having suffix of jpg would tell me that
9 that's a picture which is stored in the phone, which may
10 be attached to the contact?

11 Q Well, is this the phone that that contact is in?

12 A Yes

13 Q And can you find that picture?

14 A That's the picture with the file name

15 Q And what date, can you see the date that that
16 photograph was taken?

17 A Let me see if it gives that option The time on
18 there is just the phone stop In the properties, the
19 photo named get paid jpg is dated October 2nd of 2006 at
20 10 50 p m It is a jpg format

21 Q That means that picture comes up when that number
22 comes up, is that correct?

23 A Typically, in a contact list, that's the case

24 Q And the picture appears to be a young man

25 A Let me pull it back up It's just some cash laid out

1 on a table or on something

2 Q Okay And this next listing, do you know -- does
3 that indicate music?

4 A I would presume that The icon is a bell, which I
5 would say is a ring tone On this screen shot, it doesn't
6 completely give the end of it as far as what type of file
7 it is, but it says you don't see me F T S L dot dot dot,
8 so the file name continues, but that appears that it would
9 be possibly a ring tone audio

10 MR LAWSON Thank you I don't have any other
11 questions

12 THE COURT Anything further redirect?

13 MR JEPERTINGER Just one second

14 (WHEREUPON, a pause in the proceedings)

15 MR JEPERTINGER I do not thank you so much

16 THE COURT Thank you very much, you may step
17 down

18 MR JEPERTINGER May he be excused, Your Honor?

19 THE COURT Any objection to the officer being
20 excused?

21 MR LAWSON No, sir

22 THE COURT Thank you, sir You are free to go
23 (WHEREUPON, the witness leaves the witness
24 stand)

25 MR DEBERRY Your Honor, the State would call

1 Jamie Presnell

2 THE COURT Mr Presnell, come to the stand
3 please

4 THE CLERK If you would approach the witness
5 stand, place your left hand on the Bible and raise your
6 right hand Do you swear the testimony you give in this
7 case will be the truth, the whole truth, and nothing but
8 the truth so help you God?

9 THE WITNESS I do

10 THE CLERK Please be seated and state your name
11 for the record

12 THE WITNESS My name is James Presnell
13 WHEREUPON,

14 James Presnell,
15 after first having been duly sworn, testified as follows

16 DIRECT EXAMINATION

17 BY MR DEBERRY

18 Q Okay Thank you, Mr Presnell, for being here today
19 Are you currently employed?

20 A No, sir

21 Q Okay Were you employed the month of September 2008?

22 A Yes, sir

23 Q And where were you working at that time?

24 A Country Hearth Inn

25 Q And what is Country Hearth Inn, what type of business

1 is it?

2 A It's a motel

3 Q Okay And where is it located?

4 A On South Irby Street

5 Q On South Irby Street Where about -- I mean is there

6 landmark near there that you could tell the jury just

7 where it is?

8 A There's an AutoZone across the street

9 Q Okay Is that near Big Lots?

10 A Yes, sir

11 Q Okay Is it on the same side of the road as Big

12 Lots?

13 A It's on the same side of the road

14 Q Okay That's in Florence?

15 A Yes, sir

16 Q What was your position at that time?

17 A I was the night-shift auditor

18 Q Night-shift auditor And what were some of your job

19 duties at that -- as the night-shift auditor?

20 A I did all the audit paperwork and I checked in

21 anybody who came in during that shift

22 Q Okay So somebody -- and what were your hours, your

23 working hours?

24 A Eleven to seven

25 Q At night?

1 A Yes, sir

2 Q And do you recall if you were working on September

3 the 4th, September 5th that night shift?

4 A Yes, sir

5 Q 2008?

6 A I can't remember, it's so long ago, but I was there

7 MR DEBERRY May I approach, Your Honor?

8 THE COURT Yes, sir

9 BY MR DEBERRY

10 Q I'm going to hand you some paperwork from the Country

11 Hearth Inn and Suites and see if can you identify Tell

12 the jury what that is?

13 A This is a receipt from check in

14 Q All right What time -- so were you working -- and

15 what's the date on that receipt?

16 A The date on it is 9-5-2008

17 Q And that -- and were you the clerk that ---

18 A I was

19 Q --- checked them in?

20 A My initials are on it

21 Q And so that would have been during the -- and does it

22 have a time or what time somebody checked in?

23 A It says 0534 It was 5 34 in the morning

24 Q 0534 a m Okay And so basically that paperwork

25 says that you were working and that somebody that you

1 checked in an individual or individuals at 5 34 in the
2 morning ---

3 A Yes, sir

4 Q --- on September 5th 2008 All right And does it
5 provide any information about who was in the room was or
6 did they check in and get a room

7 A Yes, sir, it was two adults, the name, address
8 driver's license number

9 Q Okay What's the name?

10 A Nyrena Goodman

11 Q And that's who the name room was checked in by?

12 A Yes, sir

13 Q Okay And that was at 5 34 in the morning?

14 A Yes, sir

15 Q Now, do you recall who or how many people you saw or?

16 A I don't correctly remember, but I do remember only
17 seeing the woman

18 Q You just saw a lady?

19 A Yes

20 Q And can I see that? There's a stamp on there that
21 says September 6th 2008 Can you explain to the jury what
22 that would signify?

23 A Yes, sir, whenever they checked out -- people have
24 checked out and they no longer at the motel, the next day
25 we stamp it off and to file it with the cash checkouts

1 Q So that wouldn't -- does it say when they checked
2 out?

3 A No, sir, it doesn't

4 Q Okay But does that mean they checked out on
5 September the 6th that stamp at the bottom?

6 A That just means that they -- they weren't there on
7 September the 6?

8 Q Okay So you're just saying that as a part of record
9 keeping sometime after they leave is it usually the next
10 day when it get stamped?

11 A Usually, if they only stay one night

12 Q All right Okay So that doesn't have anything to
13 do with what time they checked out?

14 A No, sir

15 Q Okay All right And was this report generated at
16 the time of the check in by yourself?

17 A Yes, sir

18 Q Okay And that's accurate to time of check in and
19 what you did and in procedure with Country Hearth Inn and
20 Suites as far as they way y'all check people in?

21 A Yes, sir

22 MR DEBERRY Your Honor, at this time, I like
23 to introduce -- well, I like to mark it as a State's
24 Exhibit and have it introduced as evidence

25 THE COURT Show that to Mr Lawson

1 MR LAWSON No objection

2 THE COURT Without objection State's Exhibit

3 18

4 (WHEREUPON, State's Exhibit No 18 was admitted
5 into evidence)

6 BY MR DEBERRY

7 Q Mr Presnell, just one more time, what was the name
8 of the person who checked in at 5 34 in the morning?

9 A Nyrena Goodman

10 MR DEBERRY All right Thank you very much
11 I don't have anything further

12 THE COURT Sir, Mr Lawson may have some
13 questions for you

14 CROSS-EXAMINATION

15 BY MR LAWSON

16 Q Mr Presnell, do you still work at that location?

17 A No, sir

18 Q When did you leave?

19 A I left Country Hearth I want to say October '09

20 Q '09, last year?

21 A Yes, sir

22 Q Last year And did you work there up until that
23 time?

24 A Yes, sir

25 Q There anything unusual about this particular day as

1 oppose to any other day that you were working there?

2 A Nothing sticks out

3 Q Huh

4 A Nothing that I remember

5 Q Okay Do you have any independent recollection of
6 that day or early morning hours of that day?

7 A No, sir

8 Q Do you remember anything?

9 A It was a long time ago

10 Q I know it was a long time ago Do you remember --
11 did you give a statement to the police? Did they
12 interview you?

13 A All I said was I was working and I checked somebody
14 in, that's

15 Q You remember saying that -- something about a van, a
16 minivan seeing one outside?

17 A No, sir

18 Q You remember saying that you saw a man in that van?

19 A No, sir

20 Q Okay Hold on one second

21 (WHEREUPON, a pause in the proceedings)

22 BY MR LAWSON

23 Q Can't seem to put my hands on your statement You
24 did talk with police though, is that correct?

25 A Sometime afterward I remember talking to police

1 Q And you told them as best you could what you recall?

2 A Yes, sir

3 Q And it was a whole lot closer to the event at that
4 time than it is now, would you agree?

5 A Yes, sir

6 Q Let me ask you this, you talk with the police,
7 correct?

8 A Yes, sir

9 Q And they asked you about this particular morning, is
10 that correct?

11 A I believe so

12 Q And it's been sometime -- it was sometime after that
13 that you talk with them?

14 A Yes, sir

15 Q Okay And do you recall anything that y'all talked
16 about?

17 A I remember the name of the officer I spoke to

18 Q Other than that, do you remember anything about your
19 conversation with the officer?

20 A I remember I told him what I told you that I check
21 somebody in I really didn't know what they wanted me to
22 say other than that

23 Q Okay And -- well, do you recall there any of the
24 circumstances now as you think back?

25 A As I think back, what I remember happening is I

1 checked somebody in I don't know anything beyond that

2 Q And do you actually remember that?

3 A Do I remember that?

4 Q Yes

5 A I checked a bunch of people in, I work at a motel

6 Q Specifically, do you remember this particular person
7 being checked in?

8 A No, sir

9 Q So could have been any -- a hundred different people
10 ---

11 A Yes, sir

12 Q --- that you checked in from September the 5th of
13 2008 until October of 2009 when you left working there?

14 A Yes, sir

15 Q By the way, did you go to work with another hotel
16 group?

17 A After I left Country Hearth?

18 Q Yeah

19 A I did

20 Q And so you continued to check people in?

21 A Yes, sir

22 Q So you been checking people in right on up to
23 yesterday, I guess?

24 A Until Saturday

25 Q Until Saturday, you been off for a few days

1 MR LAWSON I don't have any other questions

2 REDIRECT EXAMINATION

3 BY MR DEBERRY

4 Q Mr Presnell, you say you remember who the police
5 officer you talk to?

6 A Yes, sir

7 Q What is his name?

8 A Lieutenant Compton

9 Q Okay And do you remember -- you testified earlier,
10 but do you remember that you told him that you saw a
11 woman?

12 A Yes, sir

13 Q And does the hotel receipt where you checked in
14 Nyrena Goodman at 5 34 in the morning, does that indicate
15 what room she might have been checked into?

16 A Room 132

17 Q All right

18 MR DEBERRY Thank you very much for being
19 here, I don't have anything further

20 THE COURT Thank you, sir, you may step down

21 (WHEREUPON, the witness leaves the witness
22 stand)

23 MR DEBERRY May he be excused, Your Honor?

24 THE COURT Mr Lawson, any objection to him
25 being excused?

1 MR LAWSON I mean, I may want to ask him
2 another question or two, Judge, do I not have that right?

3 THE COURT You do as long as you let the Court
4 know

5 MR LAWSON I am sorry, Your Honor, I was
6 listening to somebody

7 THE COURT Mr Presnell, if you would just
8 have a seat for a moment

9 MR LAWSON I do have one or two questions

10 THE COURT All right

11 MR LAWSON I'm sorry, but I'm still trying to
12 figure out what happened to a statement I had

13 THE COURT Ok, no problem

14 RECROSS-EXAMINATION

15 BY MR LAWSON

16 Q Let me ask you, on the time that we're talking about
17 on this information is that -- what time does that
18 reflect? Is that the time that when you first get there
19 or is that the time that you actually finish checking in?

20 A The time when you finish checking in

21 Q Okay So all the paperwork has to be done in
22 advance?

23 A This is the paperwork, this is all they fill out here
24 and then I ring it up in the register

25 Q Okay But that's done in advance before the time is

1 printed on there?

2 A Yes, sir

3 Q Okay

4 MR LAWSON Thank you, that's all I have

5 THE COURT All right

6 MR DEBERRY Your Honor, may I ask one more
7 brief question?

8 THE COURT We bounce this back and forth like a
9 ping-pong ball You're excused, sir

10 Any objection to this witness being excused,
11 Mr Lawson?

12 MR LAWSON No, Your Honor

13 THE COURT All right You free to go, sir
14 Thank you

15 (WHEREUPON, the witness leaves the witness
16 stand)

17 THE COURT Call your next witness

18 MR JEPERTINGER Nyrena Goodman

19 THE COURT Ask Miss Goodman to come on in

20 THE CLERK If you would go to the witness stand
21 and place your left hand on the Bible and raise your right
22 hand to be sworn Do you swear the testimony you give in
23 this case to be the truth, the whole truth, and nothing
24 but the truth so help you God?

25 THE WITNESS Yes, ma'am

1 THE CLERK Please be seated and state your name
2 for the record

3 THE WITNESS Nyrena Goodman

4 MR LAWSON Your Honor, may we approach the
5 bench?

6 THE COURT Yes, sir

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the
9 jury)

10 THE COURT All right Ladies and gentlemen,
11 I'm going to get you to step back to your jury room while
12 I take up a matter of law with the attorneys, please have
13 no conversation about the case

14 (WHEREUPON, the jury retire to the jury room)

15 THE COURT All right, Mr Lawson

16 MR LAWSON Your Honor, may it please the
17 Court

18 THE COURT Yes, sir

19 MR LAWSON My understanding that the State
20 will introduce through this witness certain letters that
21 were written from my client to this individual and the
22 defense would object to the introduction of those letters
23 Your Honor, the -- there is personal content in these
24 letters that has absolutely no relevancy to this case and
25 could be prejudicial simply in the fact that some people

1 may not like what he is saying in the letters, personal
2 matters things concerning sex between two consenting
3 adults Those things have absolutely nothing to do with
4 the case and could be totally prejudicial just for no
5 other reason than what they say

6 THE COURT Mr Jepertinger

7 MR JEPERTINGER If I can respond?

8 THE COURT Yeah

9 MR JEPERTINGER Your Honor, the defendant
10 wrote to Nyrena -- it's a bunch of them to Nyrena from --
11 I'm just trying to get these in order, Judge

12 THE COURT You intend to introduce all of
13 those?

14 MR JEPERTINGER Well, Judge, let me tell you
15 my theory on this, okay First of all, I think under 901
16 she's familiar with his handwriting so and so forth She
17 had a long-term relationship with him I agreed with
18 Mr Lawson to a certain extent There is things of a
19 personal nature talking about sex so on and so forth
20 However, there are also portions of the letters that talk
21 about our stories aren't straight You need to cover up,
22 you need to say this to the police so our stories get
23 straight Those things are very detrimental

24 THE COURT Why can't these letters be redacted
25 so that all this peripheral garbage doesn't come in?

1 MR JEPERTINGER Judge, part of this is the
2 State's theory is that this man has never -- has
3 maintained his innocence in a private conversation with
4 this defendant he never said I'm innocent of these
5 charges He made one brief reference that I think he use
6 the word frame one time But however, if we know that
7 there had been 40 letters and I only introduced portions
8 of seven or eight letters where he's trying to cover up
9 things Mr Lawson will say, well, he wrote you 40
10 letters, didn't he And probably in those other 33 on
11 what he could argue to the jury in those other 33 he said,
12 my God, I'm innocent

13 THE COURT So ask him that At any point, did
14 he ever -- I mean, that's easily -- I mean, that is so
15 easy, Mr Jepertinger

16 MR JEPERTINGER I understand

17 THE COURT Did he ever profess his innocence to
18 you in any of these letter ever? Let her answer the
19 question, I don't know what the answer will be

20 MR JEPERTINGER Well, part of it too is these
21 ---

22 THE COURT I'm not going to allow 40 letters to
23 come in with a lot of peripheral, obscene crap that has
24 nothing to do with this trial I'm not going to let that
25 happen

1 MR JEPERTINGER I understand that The
2 problem I have, Judge -- and it was my fault or the
3 State's fault let's put it this way, that in order to
4 redact this, Your Honor, we would need an afternoon If
5 you're talking about me just crossing things out ---

6 THE COURT You got it this afternoon

7 MR JEPERTINGER Very good

8 THE COURT Here's the thing and again, I'm just
9 trying to get the objection and the objection is the
10 letters contain things well beyond this case that would be
11 obviously bias and prejudicial to the defendant that have
12 absolutely nothing to do -- may lead into his character or
13 whatever which is inappropriate, is that correct?

14 MR LAWSON That's part -- that's one thing
15 that I object to

16 THE COURT Well, let's have it all because I
17 need to decide What about relevant --

18 MR LAWSON I don't think there's anything
19 relevant

20 THE COURT I'm sure

21 MR LAWSON Your Honor, the problem is this is
22 beauty is in the eye of the beholder State reads
23 something and looks at it as a cover up Defense looks at
24 something and looks at it as a possible defense If the
25 defense is trying to assert a defense simply by -- there's

1 never any -- I challenge the State to find one threat in
2 any letter

3 THE COURT All right Here's what we are going
4 to have to do before I can make any kind of appropriate
5 ruling, the State is going to have to go through those
6 letters And I'm assuming the way to do it is to photo
7 copy them and then scratch out, redact out all of the
8 stuff that doesn't apply And then you can present to the
9 Court and present to Mr Lawson those portions that you
10 feel are admissible and applicable to this case Then you
11 can make a more well formed objection to specifically what
12 they're trying to introduce and I can make a ruling But
13 to -- I think we're a little premature at this stage
14 There's 40 -- there's a ton of letters here and I'm
15 confident most of it is not coming in, but I don't know
16 what's relevant or what they think is relevant and what
17 they don't believe is relevant And, of course, your
18 position is none of it is relevant

19 MR LAWSON Your Honor, I mean, my client been
20 in jail for almost two years I mean, and they been
21 dating for a number of years prior -- since 2002 So I
22 mean writing letters to this lady is not anything to be
23 criticize

24 THE COURT But I'm not going to tell the State
25 how to use their afternoon All of us know that we are

1 going to adjourn this case this afternoon while I take up
2 civil matters that have nothing to do with this case
3 through this witness today He can introduce the letters
4 He may not introduce them into evidence, but he can have
5 her identify them

6 MR JEPERTINGER That would be my purpose
7 today

8 THE COURT Without going into them, without
9 them being published, without going into their content,
10 and then we're going to adjourn this afternoon And what
11 he chooses to do with his afternoon -- I mean -- in other
12 words, it's not like I'm adjourning the trial to give the
13 State an opportunity to do this because they been laxed
14 for two years We all know this afternoon has been
15 blocked off for that civil matter from the getgo So
16 however, they want to use their afternoon is up to them
17 But I think it is premature to try to make any ruling and
18 have not tried yet to actually introduce them into
19 evidence, but I do appreciate and I agree with you, Mr
20 Lawson, that we should have stopped at this point to
21 address this issue because we didn't want to get down that
22 road with this witness but

23 MR LAWSON Then is it my understanding then
24 we're not going into content at all today?

25 THE COURT Correct That is correct because

1 they are not in evidence at this point

2 MR JEPERTINGER Can we get this all taken care
3 of at one time, it's 12 08

4 THE COURT I don't understand

5 MR JEPERTINGER I mean --

6 THE COURT You mean stop now?

7 MR JEPERTINGER If that will be, okay

8 THE COURT Here's the thing and you all know
9 this cause you done this forever Mr Deberry has done it
10 for a while Lawyers don't work until five o'clock and go
11 home If y'all got to stay up all night fooling with it,
12 that's up to you all I don't know We're going to make
13 the maximum use of our time while we got it because it's a
14 scheduling issue on my part that I have these civil guys
15 coming in this afternoon I wish I could have done it
16 differently, but I can't So I think ---

17 MR JEPERTINGER Would you allow me to do this,
18 can I call another witness?

19 THE COURT You can call any witness you want

20 MR JEPERTINGER Thank you And Miss Goodman

21 ---

22 THE COURT I'm not going to tell you what order
23 to call your witnesses All right Then let me go ahead
24 and get Miss Goodman to step down

25 MR JEPERTINGER I'm sorry, Judge

1 THE COURT That's okay I'll explain to the
2 jury that we had a matter of law and that the State is
3 calling a different witness Now, Mr Jepertinger, keep
4 in mind, we got about 50 or so minutes, so I don't know
5 who you're going to call next, but

6 MR JEPERTINGER I understand, Judge, but this
7 is one of the few that I have left that are -- we can
8 possibly fit in 50 minutes

9 THE COURT Well, I am just saying keeping the
10 time frame in mind -- I know you're not restricted to
11 that, but you certainly don't want to call somebody who
12 you know going to take an hour and a half

13 MR JEPERTINGER Judge, I'm want take an hour
14 and a half with the individual I don't know what
15 Mr Lawson will do cross-examination I'm not trying to
16 be disrespectful

17 THE COURT You know, I'm not either, but I'm
18 telling you right now, I'm stopping this trial so that
19 these people can get lunch before we start that two
20 o'clock hearing So if I have to stop it in the middle of
21 a witness, we will stop it in the middle of a witness

22 MR JEPERTINGER Yes, sir

23 THE COURT All right Bring the jury in
24 please Hold on
25

1 MR LAWSON What witness are -- is being
2 called?

3 MR JEPERTINGER Andre Bradley

4 MR LAWSON Bradley?

5 MR JEPERTINGER Yes

6 MR LAWSON Your Honor, I understand this guy
7 is an informant I do not have a copy of his plea
8 agreement with the government as I understand it He may
9 be entitled to a Rule 35 based on his testimony, but I
10 haven't been provided

11 MR JEPERTINGER The State doesn't have a Rule
12 35(b) with this individual I don't know if the federal
13 government has, different ---

14 THE COURT You made no deals with this
15 individual?

16 MR JEPERTINGER There are no pending charges
17 against this individual in state court We don't have any
18 charges against him It's a federal matter

19 THE COURT You're not aware of any federal
20 issues?

21 MR JEPERTINGER I know he's facing time in the
22 federal court I don't have it I'm telling you I gave
23 you everything I got

24 MR LAWSON Well, I object to this man's
25 testimony I can't believe that he's got federal charges

1 pending and that there is not a plea agreement that -- and
2 that his federal lawyer whoever that may be has made
3 arrangements that he's going to get some kind of credit

4 THE COURT Well, wouldn't they clearly had have
5 to make those arrangements through the State?

6 MR JEPERTINGER You would think

7 THE COURT And so you're accusing
8 Mr Jepertinger of lying to you?

9 MR LAWSON No

10 THE COURT Well, what are you doing then?

11 MR LAWSON Not Mr Jepertinger, but there's
12 been other people that's handle this case

13 THE COURT Mr Jepertinger, as an officer of
14 the Court, do you know of any ---

15 MR JEPERTINGER I haven't seen a plea
16 agreement between Bradley and his federal attorney

17 THE COURT How about the prior attorney that
18 had this case before you?

19 MR JEPERTINGER I've looked in the file, it is
20 not in there I can't even tell you who his federal
21 attorney is, Judge

22 THE COURT Is Mrs Parr here?

23 MR JEPERTINGER Judge ---

24 THE COURT You been busy I know that While I
25 got the jury out, somebody see if Mrs Parr is in her

1 office -- talk to Mrs Parr I am assuming she's the
2 other lawyer that handle the case

3 MR LAWSON Correct

4 (WHEREUPON, a pause in the proceedings)

5 MR JEPERTINGER Mrs Parr says she received
6 nothing from the federal entities

7 THE COURT And no conversation with them
8 regarding this gentleman testifying in this case?

9 MRS PARR No

10 THE COURT How about law enforcement?

11 Gentlemen, I'm not gone tolerate hiding anything, step up
12 to the plate Has there been any conversation with the
13 federal authorities for this guy's cooperation in this
14 case?

15 TIM COMPTON Your Honor, I talk to -- Mr Jay
16 Ervin is his attorney I talk to him and I have talk to
17 Wendy in the federal court And she's -- they all agreed
18 that he could testify What I was trying to do and ---

19 THE COURT And is he getting some type of
20 leniency from the federal court for cooperating with your
21 investigations?

22 TIM COMPTON I been told it's a possibly he
23 could They haven't gave me any paperwork or have done
24 anything I haven't even met him in person

25 THE COURT This witness is not going to testify

1 until this issue gets resolved cause they are entitled to
2 that So have you got another witness?

3 MR JEPERTINGER Not for today, Your Honor

4 THE COURT And tell me why the young lady that
5 was just in here, tell me why you cannot have her on the
6 stand right now?

7 MR JEPERTINGER Well, Your Honor, I wanted to
8 get -- instead of parsing the whole thing out, we could do
9 that and put her up except for the letters and then bring
10 her back tomorrow, Your Honor

11 THE COURT I'll tell you what We are going to
12 adjourn for the afternoon We're going to adjourn for the
13 afternoon and we'll start back at nine o'clock in the
14 morning Let me bring the jury out and explain to them
15 about us adjourning and let me handle them

16 MR JEPERTINGER Thank you, Your Honor

17 THE COURT If you'll ask the jury to join us
18 please Let me explain now, I'm telling you and it comes
19 from the years that I worked in both the public defender's
20 office and in the Solicitor's office And I'm telling you
21 now, Mr Compton, all law enforcement, you had better
22 disclose everything you know cause I'm not messing around
23 I'm not playing anything hiding under the table springing
24 something on anybody In this courtroom, while I'm on
25 this bench, every defendant that comes in this court is

1 going to get a fair and impartial hearing And we're not
2 going to play games with informants who have cut deals,
3 but we're not going to tell the defense that they got a
4 deal, that ain't happening

5 Now, I don't know if I'm going to let this guy
6 testify at all depending on what we find out But I'm
7 telling you you better tell the State everything you know
8 You better disclose everything you know I don't need to
9 hear it right now I'm just telling you it better be
10 done

11 TIM COMPTON I haven't lied or done anything

12 THE COURT I haven't said you lied, but I am
13 going to say you withheld the fact that this guy's got a
14 deal cut in federal court and you knew it

15 TIM COMPTON I didn't know what the law was in
16 the court I didn't know about that I didn't know what
17 to do in this courtroom, Your Honor

18 THE COURT Well, you know that this gentleman,
19 John Jepertinger, is your prosecutor and he needs to be
20 given full disclosure when he's going to use a witness on
21 the witness stand

22 MR JEPERTINGER Judge, we'll provide whatever
23 or call the federal entities here and provide it to the
24 defense

25 THE COURT I know you will, I know you will

1 My problem is you weren't given that information and you
2 should have been

3 MR JEPERTINGER We will get it done Thank
4 you so much

5 THE COURT If they are ready, we are ready
6 (WHEREUPON, the jury came into open court)

7 THE COURT Okay Ladies and gentlemen, taken
8 up these matters and looking at our time and everything
9 and this is something that I'm going to share with you
10 that you weren't aware of, has nothing to do with this
11 case, but it affects this case

12 I have been assigned a complex civil litigation
13 that we're going to start trial in Monday in Columbia
14 that's going to take two weeks to try Coming into this
15 term of court, I was not aware what cases the State was
16 gone call, which is typical I usually find out once we
17 arrive I had previously before this term of court
18 scheduled pretrial matters on that complex civil
19 litigation this afternoon, so I knew on Monday morning
20 that we were not going to be holding general sessions
21 court or criminal court this afternoon in my court because
22 I was going to be handling that civil matter So I was
23 going to go about one o'clock and then break and give you
24 the afternoon off and we were going to start back in the
25 morning

1 (WHEREUPON, the jury was excuse for the day)

2 THE COURT All right Okay We will resume at
3 nine o'clock in the morning Now, I am going to be here
4 this afternoon if y'all need me for anything But if
5 history is any indication, these guys in this civil matter
6 are going to burn up my entire afternoon But if you need
7 something, let Jeanette know And if I can break away,
8 I'll do that and help you with anything I can help with

9 MR JEPERTINGER Thank you, Your Honor

10 THE COURT We will be in recess

11 (WHEREUPON, the proceedings were concluded for
12 the day to be reconvened on April 15, 2010)

13 MR JEPERTINGER Judge

14 THE COURT Yes, sir

15 MR JEPERTINGER Before we start testimony, two
16 individuals have criminal records and instead of sending
17 the jury out ---

18 THE COURT All right

19 MR JEPERTINGER The first individual is a guy
20 name Andre Bradley, Your Honor I think I told you by the
21 way that Nyrena Goodman doesn't have a record

22 THE COURT Right, we discuss that yesterday

23 MR JEPERTINGER But Andre Bradley, Your Honor,
24 1997, he was convicted of loafing and loitering I don't
25 think that's applicable He also had a trespassing in

1 '97 I don't think that's applicable He had a P W I D
2 crack cocaine And it looks like a P W I D cocaine, Your
3 Honor, in 1999, Your Honor He also had a trespass after
4 notice in '99 And those are the '99 convictions, Your
5 Honor And get a ruling on those, Your Honor Of course,
6 it's -- we're beyond the ten-year time limit However, it
7 looks like he has received into the department of
8 corrections So technically, I think he been received
9 probably within the ten years and I think they can use
10 that against him

11 THE COURT I think that is appropriate With
12 regards -- and that is mister who you said?

13 MR JEPERTINGER That's Mr Bradley I would
14 say -- it's the latest N C I C read listed it as
15 distribution et cetra crack cocaine or P W I D , Your
16 Honor I believe, it's a P W I D , Your Honor

17 THE COURT Okay

18 MR JEPERTINGER And that was for both crack
19 and cocaine in '99

20 THE COURT All right Mr Lawson, with regards
21 to Mr Bradley other than the P W I D crack and P W I D
22 cocaine charges, which I think you be allowed to ask him
23 about Is there anything else on his record?

24 MR JEPERTINGER There's a blue light, I see
25 that He got three months for that, I think he can use

1 that too, Your Honor For whatever it's worth, Your
2 Honor, there was a simple possession of marijuana in 2001

3 THE COURT That wouldn't be

4 MR JEPERTINGER Looks like he has a lot of
5 D U S 's and car charges I don't think he can use those
6 There was -- and it's hard reading here It says
7 probation custody start date possession of cocaine third
8 offense ten years suspended to four days and that was in
9 2007 He obviously can use that

10 THE COURT All right Would you agree with
11 those assessments, Mr Lawson?

12 MR LAWSON This N C I C is a bit confusing
13 I see -- looks like 2002 manufacturing possession, but I
14 don't see

15 MR JEPERTINGER That will be nol-prossed,
16 Jack

17 MR LAWSON Your Honor, as to Mr Bradley, I
18 think, he has also had a pending federal case which I
19 believe I can cross examine him about in relation to his
20 cooperation as it relates to this case

21 MR JEPERTINGER Your Honor, I think he can

22 THE COURT Yeah So that would be on
23 Mr Bradley? What other witness do you got?

24 MR JEPERTINGER There is a Miss Jasmine
25 Barrett and she has a shoplifting back in 2002, which I

1 think they can use There's something in magistrate court
2 says miscellaneous criminal offenses, so I don't have no
3 idea what this is, Judge

4 THE COURT That wouldn't be

5 MR JEPERTINGER I think that shoplifting would
6 be it

7 THE COURT Okay All right With that
8 witness, it appears that there is a shoplifting that
9 applies With that other witness, Jack, Mr Jepertinger
10 seems to indicate that she has a prior shoplifting which
11 would be appropriate but that's the extent of her record,
12 that would be subject to cross, would you agree with that?

13 MR LAWSON Which witness?

14 MR JEPERTINGER Miss Barrett

15 MR LAWSON I don't remember seeing

16 THE COURT Jasmine Barrett

17 MR LAWSON Your Honor, it appears as though I
18 ask she has a shoplifting in 2002 It also looks like a
19 shoplifting in 2007

20 MR JEPERTINGER What the conviction is it says
21 court charge miscellaneous criminal offenses I know she
22 was arrested for it but just says miscellaneous criminal
23 offenses, that's kind of vague, Your Honor

24 THE COURT I don't know what the miscellaneous
25 criminal offenses will be, so without, you know, more

1 clarification I don't know what that charge is

2 MR LAWSON I can't run N C I C , Your Honor

3 THE COURT They did run it and that's what it
4 comes up as You can check with the magistrate's office
5 to see what the exact charge was

6 MR LAWSON The arrest charge is shoplifting

7 MR JEPERTINGER Well, she wasn't ---

8 MR LAWSON And hindering an officer

9 MR JEPERTINGER I can't tell you what it is at
10 this point I'll ask her

11 THE COURT Just ask her

12 MR JEPERTINGER I'll ask her for whatever it's
13 worth, Your Honor

14 THE COURT You can ask her right now if you
15 want to clear it up

16 (WHEREUPON, a pause in the proceedings)

17 MR JEPERTINGER Mr Deberry spoke to the
18 witness and she says she pled to something which clarifies
19 that She thinks it may be shoplifting, but I don't think
20 she was that sure, is that correct?

21 MR DEBERRY That's my understanding I think
22 we will concede it may have been shoplifting

23 MR JEPERTINGER It could have been shoplifting
24 for whatever it is worth, Your Honor

25 THE COURT How do you not know what you've pled

1 guilty to Do you plead guilty to a lot of stuff and you
2 get confused or something I mean, that's like somebody
3 who tells me, you know what, I don't remember if I ever
4 went to jail or not I mean, all right Mr Lawson, I'll
5 allow you to ask or, Mr Jupertinger, you can do it

6 MR JEPERTINGER We're going to burn it first

7 THE COURT Anything else regarding those
8 witnesses?

9 MR JEPERTINGER I think that's it in terms of
10 lay witnesses, Your Honor

11 THE COURT All right Let me -- let's go ahead
12 and address, yesterday the State had called a witness with
13 the intent of bringing in some letters And again, this
14 ruling is obviously going to be based on the witness
15 identifying those letters and being able to establish the
16 proper foundation But assuming that that will occur, the
17 defense has objected to those letters coming in

18 My issue was that letters had not been redacted
19 to eliminate any improper or non-relevant information in
20 the letters, that since has been done We've reviewed
21 those in chambers The defense has maintained their
22 objection to those letters coming in at all or any portion
23 of them coming in, but having reviewed the letters in
24 their redacted form, again assuming that the proper
25 foundation is laid If that is in fact done, I have

1 decided that those are in fact admissible and will allow
2 them into evidence once the proper foundation has been
3 laid But I want to note for the record that the
4 defense's objection is to the letters in their entirety,
5 is that correct, Mr Lawson?

6 MR LAWSON That's correct, Your Honor

7 THE COURT The defense objects to them coming
8 in at all?

9 MR LAWSON Yes, sir

10 THE COURT Okay

11 MR LAWSON Your Honor, I would point out there
12 was one letter that the State had redacted that we didn't
13 have a copy of and so it was not included in the package
14 that we gave to, Your Honor We have now been provided
15 with a copy of that letter and it's -- we made no changes
16 to that letter under the terms that we had talked about

17 THE COURT All right, sir

18 MR LAWSON I think the State -- we didn't
19 realize when we handed you the package that that letter
20 was missing until we got back down in the office, but you,
21 I guess, may need a copy of that additional letter We
22 have it

23 THE COURT That's fine All right

24 MR LAWSON I just wanted to make sure, Your
25 Honor, that the State didn't think that there was a letter

1 in there that wasn't in there give them an opportunity to
2 get their package

3 THE COURT Well, anything else -- anything
4 further before we proceed?

5 MR JEPERTINGER No, sir, we are ready to go

6 THE COURT Anything from the defense? Anything
7 further before we bring the jury in?

8 MR LAWSON No, Your Honor

9 THE COURT Ms Joe, ask the members of the jury
10 to join us please

11 (WHEREUPON, the jury came into open court)

12 THE COURT All right Ladies and gentlemen,
13 welcome back to the courthouse and we are going to proceed
14 now I had to take up some other matters before we got
15 started, so I apologize for the delay in getting started,
16 but we're now ready to proceed And, Mr Jepertinger, we
17 would recognize you for your first witness

18 MR JEPERTINGER Call Nyrena Goodman to the
19 stand

20 THE CLERK Please place your left hand on the
21 Bible and raise your right hand Do you swear the
22 testimony you give in this case to be the truth, the whole
23 truth, and nothing but the truth so help you God?

24 THE WITNESS Yes, ma'am

25 THE CLERK Please be seated and state your name

1 for the record

2 THE WITNESS Nyrena Goodman

3 WHEREUPON,

4 Nyrena Goodman,

5 after first having been duly sworn, testified as follows

6 DIRECT EXAMINATION

7 BY MR JEPERTINGER

8 Q Okay Nyrena, how old are you?

9 A Twenty-two

10 Q Where do you live?

11 A on

12 Q How long have you lived at that address?

13 A Going on about five years

14 Q Five years?

15 A Yes

16 Q All right Do you know the defendant in this case
17 Gregory Daniels?

18 A Yes, sir

19 Q How do you know Gregory Daniels?

20 A He was my boyfriend

21 Q He was your boyfriend?

22 A Yes, sir

23 Q How long was he your boyfriend?

24 A About five years

25 Q You no longer in that relationship with him?

1 A No, sir

2 Q All right Safe to say he was your boyfriend back in
3 September of 2008?

4 A Yes, sir

5 Q Okay Do you remember the week of September the 4th
6 and 5th, 2008?

7 A Yes, sir

8 Q Did you have a relative pass away during that week?

9 A Yes, sir, my aunt

10 Q Your aunt?

11 A Uh-huh

12 Q When did your aunt pass away?

13 A The first on that Monday

14 Q All right And was she buried either Tuesday or
15 Wednesday of that week?

16 A No, that Saturday on the 6th

17 Q Okay So it would have been Saturday the 6th she was
18 buried?

19 A Yes, sir

20 Q Okay Now, specifically, on the Thursday evening
21 September the 4th, did you see Gregory Daniels?

22 A I seen him that night

23 Q And what time did you see him that night?

24 A About 7 30, eight o'clock

25 Q Okay When is the next time you saw Gregory Daniels?

1 A At 5 30 that Friday morning

2 Q Okay Where -- how did you see Gregory Daniels?

3 A He came and picked me up

4 Q Was he with anyone?

5 A Yes, sir

6 Q And who was he with?

7 A Gary

8 Q Did you know Gary's name at the time?

9 A No, sir

10 Q All right Who provided the name of Gary to you?

11 A Gregory Daniels

12 Q And he picked you up and what type of vehicle did

13 they pick you up in?

14 A A van

15 Q All right And from there and he picked you up at

16

17 A Yes, sir

18 Q Where did you go from

19 A To the motel

20 Q Was that the Country Hearth Inn and Suites?

21 A Yes, sir

22 Q All right I am going to show you what's been marked

23 as State's Exhibit 18 Do you recognize that print in

24 there?

25 A Yes, sir

1 Q Who is that?

2 A My name

3 Q Okay And was that when you checked into the Country
4 Hearth Inn and Suites?

5 A Yes, sir

6 Q Did Gregory or Gary go with you into the Country
7 Hearth Inn and Suites?

8 A Gregory did

9 Q Did he go with you when you checked in or did you
10 check in alone?

11 A Checked in alone

12 Q How long did the check-in process take minute or two?

13 A Yeah

14 Q All right Gregory went into the motel room with
15 you?

16 A Yes, sir

17 Q Okay How long did Gregory stay in the motel room
18 with you that morning of September the 5th?

19 A When I got there, I went to sleep

20 Q All right

21 A His phone was ringing and he answered And he was
22 asking -- somebody was asking him where was he He said
23 he was in the country with his girlfriend So he called
24 somebody to come pick him up And he then left about --
25 he was gone for about two hours He text me to say he was

1 on his way up there

2 Q I didn't understand a word you said He texted you

3 and what?

4 A He said he was on his way up there

5 Q He was on his way up there to the Country Inn motel?

6 A Yes, sir

7 Q And did you respond back or what did you do? Did you

8 say that's okay?

9 A Yeah, I said okay I text back and said okay

10 Q At that point -- at that point, what were you just

11 still in bed?

12 A Yes, sir

13 Q About what time of morning was that?

14 A I can't remember the time, sir

15 Q All right Okay Who came next to the motel room?

16 A Who came next?

17 Q Yeah You're in the room alone at that time,

18 correct?

19 A His uncle came

20 Q Did Gregory come with him?

21 A No, sir

22 Q Okay What was his uncle's name?

23 A I don't know his uncle name

24 Q Did he introduce himself as Gregory's uncle?

25 A Yeah, but I don't remember his name

1 Q Okay, that's fine At that point, did y'all just sit
2 and talk while
3 A No, I fell asleep
4 Q Okay
5 A Fell back to sleep
6 Q Okay When you woke up, who was there in the room?
7 A His uncle was still there And I text him ask him
8 where he was and he said he was on the way
9 Q You text Gregory?
10 A Yes, sir
11 Q And then did he get back?
12 A Not right then
13 Q Okay You had to wait a little longer?
14 A Uh-huh
15 Q About how long?
16 A Say about 30 minutes later I know, he was gone for
17 a hot minute, a long time
18 Q All right And then what happened?
19 A Then he came up He got a rental car
20 Q Okay, wait a minute He came up Do you know how he
21 came up?
22 A I don't know how he came up
23 Q He came up to the room?
24 A Yes, sir
25 Q And he went with his uncle somewhere?

- 1 A And got a rental car
- 2 Q When he came back with a rental car, what type of
3 rental car was it?
- 4 A A Taurus
- 5 Q All right And when he got that Taurus, did the
6 uncle come with him back to the motel?
- 7 A Yes, sir
- 8 Q Okay What did you do then?
- 9 A Got in the Taurus and I left
- 10 Q Okay And this would have been Friday, correct?
- 11 A Yes, sir
- 12 Q Okay And then after you got dressed and left, where
13 did you go?
- 14 A I went home He dropped me off at home
- 15 Q Okay Back on
- 16 A Yes, sir
- 17 Q Okay Do you know where he and his uncle went
18 afterward?
- 19 A No, sir
- 20 Q All right Now, what was your cell phone number, do
21 you recall?
- 22 A It was
- 23 Q Okay Now, was this a prepaid phone?
- 24 A Yes, sir
- 25 Q Okay And did these prepaid phone cards have what

1 are card sim cards in them?

2 A Yes, sir

3 Q All right Now, are you familiar with the number

4

5 A Yes, sir

6 Q And that phone was listed to your name, isn't that

7 correct?

8 A Yes, sir

9 Q Did you use

10 A Did I use it?

11 Q Yes

12 A Yes

13 Q Who else used

14 A Gregory Daniels

15 Q Was that on the phone that he carried?

16 A Yes, sir

17 Q And on September 5th 2008, did he begin using a

18 another sim card phone number?

19 A Yes, sir When he dropped me off, he told me he was

20 going to change his number I ask him why, he told me --

21 he ain't gave me no answer

22 Q Okay Did he ever call you back from

23 A Yes, sir, he called me and told me it was his new

24 number

25 Q All right So he changed from to that new

1 number on September the 5th 2008?

2 A Yes, sir

3 Q In your five years of dating Gregory Daniels, had you
4 ever seen his handwriting before?

5 A Yes, sir

6 Q Are you familiar with his handwriting?

7 A Yes, sir

8 MR JEPERTINGER Your Honor, I would like to
9 have these letters marked for identification?

10 THE COURT Okay

11 MR LAWSON Your Honor, the defense objects to
12 the introduction of the letters as per our previous
13 objection

14 THE COURT Certainly note your objection, it's
15 overruled

16 (WHEREUPON, State's Exhibit No 19 was marked
17 for identification only)

18 BY MR JEPERTINGER

19 Q I am going to show you what's been marked as State's
20 Exhibit 19 If you would look at these series of papers,
21 can you tell me if that is Gregory's handwriting?

22 A Yes, sir

23 Q And what is indicated by State's Exhibit 19? Are
24 these letters or what are they?

25 A Letters

1 Q They are letters written from whom to whom?

2 A He was writing letters to me

3 Q Okay And this is his writing, correct?

4 A Yes, sir

5 MR JEPERTINGER At this time, I would move

6 State's Exhibit 19 into evidence, Your Honor

7 THE COURT Defense's objection is noted

8 MR LAWSON Yes, Your Honor

9 MR JEPERTINGER Court's ruling?

10 THE COURT They are in evidence

11 (WHEREUPON, State's Exhibit 19 was admitted into
12 evidence)

13 MR JEPERTINGER At this point, please answer
14 any questions Mr Lawson may have for you

15 MR LAWSON Bear with me one moment, Your
16 Honor

17 THE COURT Yes, sir

18 (WHEREUPON, a pause in the proceedings)

19 MR LAWSON May it please the Court

20 THE COURT Yes, sir

21 CROSS-EXAMINATION

22 BY MR LAWSON

23 Q Okay Ms Goodman, is it my understanding that you
24 had known Gregory for five years, was that in 2008?

25 A Sir?

- 1 Q When did you first meet Gregory Daniels?
- 2 A Well, I been met him, but we was together for five
- 3 years?
- 4 Q You were together for five years?
- 5 A Yes, sir
- 6 Q Are you still together?
- 7 A No, sir
- 8 Q When did -- you separate, break up?
- 9 A Yes, sir
- 10 Q When was that?
- 11 A It was last year 2009
- 12 Q 2009?
- 13 A Yes, sir
- 14 Q And the letters that you talked about that you
- 15 identified, that's State's Exhibit 19?
- 16 A Yes, sir
- 17 Q These letters were written to you?
- 18 A Yes, sir
- 19 Q And did -- and there were other -- there were a lot
- 20 of letters written to you from Mr Daniels, were they not?
- 21 A Yes, sir
- 22 Q And now when -- let me understand something now on
- 23 September the 4th of 2008, you saw Gregory that day?
- 24 A September the 4th
- 25 Q On September the 4th ---

1 A That Thursday?

2 Q That was a Thursday

3 A Yes, sir, that night

4 Q Okay Did you see him at all during the daytime?

5 A No, sir

6 Q Okay Did -- where were you living at the time?

7 A on

8 Q North?

9 A

10 Q ?

11 A Yes, sir

12 Q And where is that in relation to North Dargan Street

13 or Dargan and

14 A You go off and go -- turn on Lucas

15 Street and go to North Florence

16 Q How far was your house from Gregory's house at the

17 time?

18 A It ain't that far

19 Q Say what, ma'am?

20 A It's not that far

21 Q It's not that far Was it blocks, miles, half a mile

22 about how far do you know?

23 A I don't know, sir, it wasn't that far though

24 Q Walking distance?

25 A Yes, sir

- 1 Q About how long would it take you to walk?
- 2 A About five minutes
- 3 Q Okay I assume you walk that distance on occasion?
- 4 A Yes, sir
- 5 Q And he walked it as well?
- 6 A Yes, sir
- 7 Q Now, you said that that you saw him on the 4th at
8 about seven o'clock in the evening, is that correct?
- 9 A Yes, sir
- 10 Q And for how long did you see him?
- 11 A He drop some soda's off at my sister house because my
12 aunt funeral -- my aunt had died that Monday He had drop
13 some soda's off that Thursday
- 14 Q For?
- 15 A For setting up
- 16 Q For setting up?
- 17 A Yes, sir
- 18 Q Was it suppose to be that night or the next day?
- 19 A That night
- 20 Q That night So that's on September the 4th?
- 21 A Yes, sir
- 22 Q And a setting up is that kind of a wake?
- 23 A Yes, sir
- 24 Q And that's when people come by and visit the family
25 of the deceased And this was your aunt that had pass?

1 A Yes, sir

2 Q And what time did the setting up start?

3 A Start about five o'clock

4 Q Okay And did you go to that?

5 A Yes, sir

6 Q What time did you go?

7 A I got up early that day say around about two

8 Q You went about two?

9 A Yeah

10 Q So you went as a family member, you went before it

11 actually started for everybody else?

12 A Yes

13 Q You went as a family?

14 A Yes, sir

15 Q And then for how long did you see Gregory at seven?

16 A I told him to drop some soda off, he like stay about

17 five minutes

18 Q So basically just drop some drinks off and said I see

19 you later and left?

20 A Yes, sir

21 Q All right And then when was the next time that you

22 saw him?

23 A 5 30 that Friday morning

24 Q 5 30 the next morning?

25 A Yes, sir

1 Q Okay And who was with him whenever you saw him the
2 next time?

3 A It was Gary

4 Q Did you know Gary?

5 A No, sir

6 Q Had you seen Gary before?

7 A No, sir

8 Q Did he ever know Gregory to be with this individual?

9 A Sir?

10 Q Did you know Gregory to be with this individual Gary?

11 A You ask did I know him -- did Gregory know him?

12 Q Right

13 A I guess, they know each other, they was together

14 Q Okay, had they been together before?

15 A No, sir

16 Q Then you had never seen Gregory with that individual
17 before?

18 A That was my first time seeing him

19 Q Now, you were going to the Comfort Inn, correct?

20 A Yes, sir

21 Q And you went in and checked in, is that right?

22 A Yes, sir

23 Q And you filled out the paperwork or whatever the
24 little sheet that says your name and that sort of thing
25 This sheet did you file that out?

1 A Yes, sir

2 Q Now, did you personally write that or did you tell

3 the clerk and they wrote it?

4 A I wrote

5 Q You wrote it out?

6 A Yes, sir

7 Q And how long would you say that you were in the motel

8 area there checking in?

9 A It was for a couple of minutes and we went straight

10 to the room

11 Q All right When you first went in, was the clerk

12 there at the counter when you first went in?

13 A Yes, sir

14 Q And was -- did the clerk do anything else ---

15 A No, sir

16 Q --- before checking you in?

17 A No, sir

18 Q So he just checked you in and ---

19 A Gave me the key and went on in the room

20 Q And when you checked in, when you went in the room,

21 where was Gregory?

22 A He was outside in the van

23 Q He was outside?

24 A In the van

25 Q Okay Now, you say when you got to the room, you

1 laid down, correct?

2 A Yes, sir

3 Q You were sleepy?

4 A Yes, sir

5 Q Laid down to rest and that you shortly thereafter
6 went the sleep At the time that you went to sleep, where
7 was Gregory?

8 A He was up

9 Q He was up?

10 A Yes, sir

11 Q But he was in the room?

12 A Uh-huh

13 Q Okay And what was he doing?

14 A He was on the phone

15 Q Okay Do you know who he was talking to?

16 A No, sir

17 Q Did you then go to sleep?

18 A Well, when I got there, I went to sleep

19 Q Okay And what time was it when you woke up?

20 A I can't remember the time, sir

21 Q Okay Can you remember whether it was like five
22 minutes later or closer to an hour later or two hours
23 later that you woke up?

24 A Probably close to two hours

25 Q Close to an hour later And you woke up and there --

1 is it my understanding from your testimony there was
2 nobody there at that point?

3 A When I woke up?

4 Q Right

5 A What you say, sir?

6 Q Well, what do you recall when you woke up?

7 A When I woke up -- yeah, he was still there He got a
8 phone call He call somebody and told them to come pick
9 him up

10 Q Okay So when you woke up Gregory was there?

11 A Yes, sir

12 Q And then you stayed awake for a little while I assume
13 or ---

14 A Yes, sir

15 Q --- or was the phone ringing what woke you up?

16 A The phone was ringing and he answered And he was
17 saying -- the person ask him where he was, he was like he
18 was in the country with his girlfriend Then he call
19 somebody to come pick him up

20 Q Then he called somebody?

21 A Come pick him up

22 Q You know who he called?

23 A No, sir

24 Q You know who he was talking -- who had called him?

25 A No, sir

1 Q Is this the first time that y'all had ever been to
2 that motel?

3 A No, sir

4 Q Y'all go there pretty regular or on a regular basis?

5 A Yes, sir

6 Q Okay When you would go there, would Gregory go for
7 breakfast usually in the morning?

8 A Yes, sir

9 Q So this was not an unusual occurrence for the two of
10 y'all to go to the Comfort Inn?

11 A No, sir

12 Q I guess, it was a chance for the two of y'all to get
13 alone basically, is that correct?

14 A No, sir, I guess, he had me as an alibi to come get
15 me

16 Q Well, you had been there before?

17 A Yes, sir, I been there before

18 Q Okay Had there been any reason for -- had he ever
19 ask you to be an alibi before?

20 A No, sir

21 Q Okay Now, have the police talk to you in relation
22 to this thing?

23 A Yes, sir

24 Q They've interviewed you?

25 A Yes, sir

1 Q Okay Were you told that you could be arrested in
2 this case?

3 A Yes, sir

4 Q And so you been -- did you take it as a threat?

5 A No, sir

6 Q Did it scare you?

7 A Yes, sir

8 Q Okay So when Gregory left there, you don't -- I
9 think you said on direct that he left and you didn't see
10 how he left whether he was walking ---

11 A No, sir, I didn't see how he left

12 Q You just knew he left You didn't know whether he
13 was walking or riding? You don't know who he was with?

14 A No, sir

15 Q You don't know whether he even left, he could have
16 been staying around the motel as far as that goes?

17 A All I know he left out the room He say he call
18 somebody to come pick him up

19 Q You didn't go outside to look for him ---

20 A No, sir

21 Q -- none of that watch him or anything like that?

22 A No, sir

23 Q Okay Now, did I understand that you then went back
24 to sleep?

25 A Sir?

1 Q Did you then go back to sleep?

2 A Yeah, I went back to sleep He text me say his uncle
3 was on his way up there So I open the door for his uncle
4 and I fell back sleep He was gone for a long time, I say
5 for about two hours

6 Q Okay And do you know what time it was when he got
7 back?

8 A I think it was around about 11 30 something like
9 that I real don't remember the time, sir

10 Q Now, this would have been Friday morning, is that
11 correct?

12 A Yes, sir

13 Q Would have been the five and it would have been in
14 morning time?

15 A Yes, sir

16 Q You said around 11 o'clock -- before noon, before
17 lunchtime?

18 A Yes, sir

19 Q And the first thing you recall is when you woke up
20 was that Gregory's uncle came there to the room?

21 A Yes, sir

22 Q And then you went back to sleep after you talk with
23 him for a few minutes?

24 A Yes, sir

25 Q I assume y'all talk just chitchat a little bit And

1 then you said, well, I'm tired I'm going to go back to
2 sleep something to that effect?
3 A Yes, sir
4 Q And you laid back down?
5 A Yes, sir
6 Q Is that pretty much the way it happened?
7 A Yes, sir
8 Q And then you laid down and went back -- actually went
9 to sleep?
10 A Yes, sir
11 Q And do you know how long you slept for?
12 A About two and a half hours
13 Q About what?
14 A About an hour
15 Q About an hour?
16 A Yes, sir
17 Q Again about the same time the first time but pretty
18 close You didn't -- wasn't like you're watching and
19 checking time or anything like that?
20 A No, sir
21 Q And you didn't check any time and Gregory didn't ask
22 you to check any time say look what time it is or anything
23 like that?
24 A No, sir
25 Q Now, what -- did something wake you up the second

1 time or did you just wake up, do you recall?

2 A I just woke up

3 Q Just woke up?

4 A Yes, sir

5 Q Nothing -- phone didn't ring or something go off,
6 alarm clock or Gregory uncle's didn't say wake up, didn't
7 wake you up?

8 A No, sir

9 Q As far as you know, did he stay there while you were
10 sleep?

11 A Yeah, he stay there, yes, sir

12 Q He was there, but he was there when you woke up?

13 A Yes, sir

14 Q And then did Gregory then come back?

15 A He didn't come back right then I had text him ask
16 him where he was He said he was on his way back to the
17 room, so he came about 30 minutes later And his uncle
18 left and got a rental car

19 Q Okay

20 A Then they came back and got me

21 Q All right So you woke up, you then sent a text
22 message and ask him where he was and he said he was on his
23 way back?

24 A Yes, sir

25 Q He got back and that's when he and his uncle left to

1 get a rental car?

2 A Yes, sir

3 Q Okay And then the two of them came back to pick you
4 up?

5 A Yes, sir

6 Q And y'all left?

7 A Yes, sir

8 Q Did you check out?

9 A No, we didn't check out

10 Q Okay Were you intending on checking -- did you ---

11 A We just left -- got dressed and we just left

12 Q Did you intend on coming back as far as you knew with
13 that -- you just intended on staying one night?

14 A I guess, I thought we was going to stay another
15 night, but it didn't happen like that

16 Q Okay Where did you stay the next night?

17 A The next night?

18 Q Yeah, that be Friday night, that Friday where did
19 y'all stay?

20 A We went back to the room We went to Econolodge

21 Q So you went to a different motel?

22 A Yes, sir

23 Q But you were still staying in a motel on Friday
24 night?

25 A Yes, sir

1 Q And did you check in at this Econolodge?

2 A Yes, sir

3 Q Now, did I understand you to testify earlier that the
4 funeral was on that Friday?

5 A No, on that Saturday

6 Q On Saturday?

7 A Yes, sir

8 Q And on Saturday, did you go to the funeral?

9 A Yes, sir

10 Q Did Gregory go with you?

11 A Yes, sir

12 Q How did y'all go to the funeral?

13 A In a rental car We got in a rental car

14 Q Anybody go with you?

15 A Me and my cousin Trese and Gregory

16 Q Now, were you having any problems at home at this
17 particular time?

18 A No, sir

19 Q Wasn't any problems going on between you and any of
20 your relatives or anything like that?

21 A No, sir

22 Q Was there a problem with Gregory's house?

23 MR JEPERTINGER Your Honor, I object to that
24 question I don't see the relevancy If she knows, she
25 knows I don't know Gregory's house, I don't know if he's

1 having a plumbing problem or somebody's living with or
2 what the deal is there

3 THE COURT Well, I mean, I don't know she can
4 answer the question was it a problem with
5 BY MR LAWSON

6 Q Do you know if there was a problem at Gregory's house
7 that necessitated him staying away from the house?

8 A No, sir

9 Q You don't recall that?

10 A No, sir

11 Q Now, Miss Goodman, when you talk about the time like
12 the seven o'clock and that evening on September the 4th,
13 do you absolutely know these times to be accurate?

14 A No, sir, I really -- it was around that time but
15 about seven, 7 30

16 Q But you weren't checking the clock?

17 A No, sir

18 Q And so you -- and you're not trying to mislead
19 anybody by any of the times that you give?

20 A No, sir I really don't -- actually, I really don't
21 know the length of times that it was

22 Q And, of course, you have done that in relation to
23 times and places as best as you can recall?

24 A Sir?

25 Q You done that as best you could recall?

1 A Yes, sir

2 Q And so the thing just like you got a lot letters from
3 Gregory, didn't you? And y'all spent a good bit of time
4 together before this ever occurred?

5 A Sir?

6 Q Before any of this happened, y'all spent time
7 together?

8 A Yes, sir

9 Q Y'all had known each other for a long time?

10 A Yes, sir

11 Q And had in fact gone to hotels on previous occasions
12 this was not something totally new or unusual for the two
13 of you?

14 A No, sir

15 MR LAWSON I don't have any further questions,
16 Judge

17 THE COURT Redirect

18 REDIRECT EXAMINATION

19 BY MR JEPERTINGER

20 Q Was it unusual for you to go to a motel at 5 30 in
21 the morning?

22 A Never went that time in the morning

23 Q You were sleep at home when he came by?

24 A Yes, sir

25 Q At your house on

1 A Yes, sir

2 Q How did you know he was coming by?

3 A He called me and told me to get up and he was going
4 to come get me

5 Q Okay Now, you said he used the phone several times
6 while you were in the motel room?

7 A Sir?

8 Q Did he use his phone while you were there?

9 A Yes, sir

10 Q Okay Did he ever call your number while you were in
11 the motel together?

12 A No, sir

13 Q While you were asleep?

14 A No, sir

15 Q There's no communication talking on phones while
16 you're in the same motel room?

17 A No, sir

18 Q Okay And did you ever hear Gregory talk to some
19 unknown person on the phone about the dude from the
20 cookout? Did he ever mention anything about dude from the
21 cookout?

22 A Yes, sir

23 Q That's while you two were in the motel together?

24 A Sir?

25 Q Was that while you two were in the motel together

1 that he had that conversation with that individual?

2 A Yeah, in the motel, yeah

3 Q Did he ever mention about a dude at the cookout
4 previous -- did he ever talk to you on the cell phone on
5 the night of September the 4th?

6 A Talk to me about it?

7 Q Did he ever talk to you about -- call you
8 September 4th 2008 while he was at a cookout?

9 A Yes, sir

10 Q Okay Did he say anything about a dude there?

11 A He said -- he call me and say he was at a cookout and
12 he said he was at a cookout down the street from the
13 house And he said a dude was there that rob him a while
14 back that what he said

15 Q Did he name any name?

16 A He didn't say no name or nothing

17 Q Okay When he got to your house and with Gary in the
18 van to take you to the motel and he came back the next
19 morning, was he wearing the same clothes that he had on
20 when he picked you up?

21 A When he came back the next morning?

22 Q Yeah

23 A Yes, sir

24 Q Okay And what type clothes was he wearing?

25 A A black shirt, blue jeans and some black and gold

1 Jordan's

2 Q Now, in terms of talking to the police and them
3 telling you that you could be arrested, you were not
4 arrested in fact?

5 A No, sir

6 Q Okay In fact, all these letters on State's Exhibit
7 19 you provided them to the police, correct?

8 A Yes, sir

9 Q They didn't ask about these letters, correct?

10 A No, sir

11 Q You gave them to -- you called Lieutenant Compton to
12 give it to him?

13 A Yes, sir

14 MR JEPERTINGER Beg the Court's indulgence one
15 second

16 (WHEREUPON, a pause in the proceedings)

17 BY MR JEPERTINGER

18 Q When Gary and Gregory pulled up in the van, did they
19 come into the house or they beep the horn or were they
20 there any length of time or you just come out of the
21 house?

22 A I just came out the house

23 Q And they just called you?

24 A Yeah, Gregory called me and told me to get up he was
25 on his way to get me

1 Q As soon as they pulled up, you got out?

2 A Yes, sir

3 Q Okay

4 MR JEPERTINGER Thank you very much, please
5 answer if he has any recross

6 THE COURT Any additional questions?

7 MR LAWSON May it please the Court

8 THE COURT Yes, sir

9 RECROSS-EXAMINATION

10 BY MR LAWSON

11 Q Ms Goodman, it is my understanding that you had been
12 to motels and you been there at one, two, three o'clock in
13 the morning on previous occasions?

14 A Sir?

15 Q When you went to motels on previous occasions, you
16 had gone late at night or early in the morning had you
17 not?

18 A We just go like early, early in the morning We
19 never went that late

20 Q But you had gone at one and two o'clock in the
21 morning?

22 A No, sir

23 Q You had gone at 12 at night at midnight?

24 A Not that I recall

25 Q Okay Is it possible that you had?

1 A I don't know for sure, sir

2 Q Now, the clothes that you just testified about you
3 said it was a black shirt, blue jean pants?

4 A Yes, sir

5 Q And gold shoes

6 A Gold and black Jordan's

7 Q And was the gold, what did it look like? Was it a
8 bright gold or dull gold what?

9 A I can't remember, sir

10 Q Recognizable though you could see it was gold?

11 A Yes, sir

12 Q Is that the same thing he had on at seven o'clock
13 when you saw him that evening -- earlier that day?

14 A No, sir

15 Q You saw him earlier in the day at around seven
16 o'clock in the afternoon?

17 A Yeah

18 Q What did he have on then?

19 A I can't remember what he had on

20 Q Do you think it could have been the same thing?

21 A No, sir I don't think it was the same thing he had
22 on

23 Q But you don't know?

24 A No, sir

25 Q Now, if -- you sure it was blue jeans?

1 A Yes, sir

2 Q Okay

3 MR LAWSON I don't have any other questions

4 THE COURT Thank you, ma'am You may step
5 down

6 (WHEREUPON, the witness leaves the witness
7 stand)

8 MR JEPERTINGER Can we take a break until we
9 get the next witness in here, Your Honor?

10 THE COURT Let me ask you, ladies and
11 gentlemen, if you would retire to your jury room We'll
12 take a short break, let everybody stretch use the rest
13 room Please have no conversation about the case If you
14 need anything, let us know

15 (WHEREUPON, the jury retire to the jury room)

16 THE COURT We'll be at ease for a few minutes

17 (WHEREUPON, a break was taken)

18 THE COURT State ready to proceed?

19 MR JEPERTINGER State's ready and Mr Deberry
20 will be doing the direct examination

21 THE COURT Defense ready to proceed?

22 MR LAWSON Defense is ready

23 THE COURT All right Ms Joe, if you would
24 ask the jury to join us please

25 BAILIFF One moment, Judge

1 THE COURT All right

2 (WHEREUPON, a pause in the proceedings)

3 (WHEREUPON, the jury came into open court)

4 THE COURT All right Mr Deberry, you may
5 call your next witness, sir

6 MR DEBERRY Your Honor, we call Andre Bradley

7 THE COURT Mr Bradley, sir, if you please come
8 around to the witness stand

9 THE CLERK If you will please place your left
10 hand on the Bible and raise your right hand Do you swear
11 the testimony you give in this case to be the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS Yes

14 THE CLERK Please be seated and state your name
15 for the record

16 THE WITNESS Andre Bradley

17 WHEREUPON,

18 Andre Bradley,

19 after first having been duly sworn, testified as follows

20 DIRECT EXAMINATION

21 BY MR DEBERRY

22 Q Okay Good morning, Mr Bradley

23 A Good morning

24 Q How you doing today?

25 A All right

1 Q Can you tell the jury why you are dress the way you
2 are today? Do you have any pending charges at this time?

3 A Yes

4 Q Okay Are they with the state court or are they
5 federal charges?

6 A Federal charges

7 Q Federal charges, okay Do you have a state court
8 record or have you been convicted in state court for some
9 different crimes?

10 A You mean before?

11 Q Before

12 A Yeah

13 Q Okay In 1998, were you convicted of possession with
14 intent to distribute crack cocaine?

15 A Yes, sir

16 Q Okay Were you also convicted in that year of
17 possession with intent to distribute powder cocaine?

18 A Yes, sir

19 Q All right Were you convicted in that year of
20 failure to stop for a blue light?

21 A Yes, sir

22 Q In 2007, were you again convicted of possession of
23 cocaine?

24 A Yes, sir

25 Q All right With regards to your federal charges that

1 are pending now, can you tell the jury what those charges
2 are?

3 A Trafficking cocaine and crack

4 Q Okay And what brings -- do you have information
5 regarding the murder of Corey Byrd?

6 A Yes

7 Q And has the federal government given you any kind of
8 deal to testify here in state court today?

9 A No, sir

10 Q Have you sign what's called a proffer agreement with
11 the federal agreement?

12 A Yes, sir

13 Q And can -- is it your understanding that the proffer
14 agreement is not a cooperation agreement or a plea deal or
15 anything of that sort?

16 A Yes, sir, it suppose to be a cooperation agreement

17 Q Okay What's your hopes for testifying here today?
18 Are you trying to help yourself at all?

19 A No, sir -- yeah, to get myself out

20 Q Get you -- have you been told that by testifying here
21 today that you are absolutely going to get a break in
22 federal court?

23 A No, sir

24 Q Have you been told the opposite of that that you may
25 or may not?

1 A No, sir

2 Q Okay So you are just -- is it correct that you are
3 just testifying here today in hopes that the federal
4 government will look down on that as a good thing in your
5 favor?

6 A Yes, sir

7 Q So it is clear you don't have any deal with the
8 federal government to testify here today?

9 A No, sir

10 Q As I stated earlier, your name is Andre Bradley,
11 right?

12 A Yes, sir

13 Q What were you known as or did you have a nickname
14 when you weren't in prison?

15 A Lucky

16 Q Luck or Lucky?

17 A Yeah

18 Q Okay And you -- did you know Corey Byrd?

19 A Yes, sir

20 Q All right How long had you known Corey?

21 A Since, we was little

22 Q Did you know Mr Gregory Daniels?

23 A Yes, sir

24 Q You see him in here in court today?

25 A Yes, sir

1 Q Is this him here?

2 A Yes, sir

3 Q All right Did you know about a cookout that went on
4 on September the 4th?

5 A No, sir, I didn't know about it

6 Q Where did you live around the month of September of
7 2008?

8 A

9 Q

10 A Yeah,

11 Q Okay That's in Florence?

12 A Yes, sir

13 Q Okay And you knew Corey Byrd and you knew Gregory
14 Daniels at that time and had known them, is that what you
15 are testifying to?

16 A Yes, sir

17 Q Okay You know Corey Byrd was killed on September
18 the 5th 2008?

19 A Yes, sir

20 Q Okay Do you have any information that Mr Daniels
21 told you that relates to that murder prior to it
22 happening?

23 A Yes, sir

24 Q Okay Explain to the jury what Gregory Daniels told
25 you leading up to that murder?

1 A He just had call me told me he had did it or
2 whatever

3 Q I'm talking about before the murder

4 A That he was about to do a murder, told me he had to
5 do a job for somebody

6 Q All right He told you he had to do a job for
7 somebody Who was he talking about?

8 A Gary Bostic

9 Q He was going to do a job for Gary Bostic And what
10 kind of job did you understand that to be?

11 A Kill Corey Byrd

12 Q All right How did that come about? Explain to the
13 jury how you knew that he was going to do a job which
14 included the murder of Corey Byrd for Gary Bostic?

15 A Because it was something Corey Byrd did, I think, it
16 was a drug deal went bad or something with him and Gary
17 Bostic or whatever And he tried to get at Corey Byrd,
18 but I think he shot him two times, but he ain't never
19 killed him or nothing

20 Q Who tried to get at Corey Byrd?

21 A Gary Bostic

22 Q And when you say get at him -- try to get at him,
23 what do you mean?

24 A He tried to hit him up, he tried to shot him I
25 guess he try to kill him

1 Q All right And you testified that you believe it's
2 over a drug deal that went bad?

3 A Yes, sir

4 Q Do you know was it money, drugs or

5 A Money, some money came up There was some money that
6 was used to buy some drugs, but the drugs was fake

7 Q So who got ripped off in the deal?

8 A Gary Bostic

9 Q Okay You know about how much money it was over?

10 A I think it was \$3,500

11 Q Okay Gregory Daniels ever tell you how much Gary
12 Bostic was going to pay him to kill him?

13 A Yeah

14 Q What was the deal?

15 A Thousand dollars

16 Q Was it up front, after the murder, how was it?

17 A Five up front and five after

18 Q 500 for killing a man?

19 A (Nodded head in the affirmative)

20 Q How far before -- what kind of time frame was it that
21 you learned this information before Corey Byrd wound up
22 dead on Dargan Street?

23 A Probably about a month before that time

24 Q So this was in the works for quite a while?

25 A Yeah

1 Q Did you believe that Gregory Daniels was going to do
2 it?

3 A No

4 Q How many times did he say -- come to you and talk
5 about it?

6 A A couple times, maybe four or five

7 Q Four or five times he came and told you he was going
8 to do the job?

9 A Uh-huh

10 Q All right How often did you and Gregory Daniels see
11 each other? Were y'all close friends did y'all hang out?

12 A Yeah, yeah, real close every day almost

13 Q You saw him every day?

14 A Almost every day

15 Q Did you believe -- and you testified you didn't think
16 he was going to do it?

17 A No, sir

18 Q What do you think led him actually to commit the
19 crime?

20 A I don't know probably to prove a point due to the
21 fact probably got the \$500 first and

22 Q Did he tell you he might have been out of money or
23 did he tell you any reason he had to go do it?

24 A Just out of the love of who Gary Bostic was and I
25 think it was like really like he done got paid half the

1 money up front and, you know, I guess due to the fact he
2 spent it, he had to make it right

3 Q So you believe he got paid the money up front and
4 that there was a time period between that payment and the
5 murder?

6 A Yeah

7 Q And you're testifying that you believe he spent that
8 money, that he was out of money?

9 A Yeah

10 Q And so how was he going to get the next \$500 payment?

11 A Finish doing the job

12 Q Finish doing the job What was your phone number at
13 that time?

14 A

15 Q Say that again?

16 A I think, it was

17 Q All right And they called you Luck?

18 A Yeah, Luck

19 Q Okay Now, everything we talked about so far has
20 been leading up to when Corey Byrd was killed?

21 A Uh-huh

22 Q That was September the 5th, it was a Friday?

23 A Uh-huh

24 Q Tell the jury what happened next as far as between
25 you and Gregory Daniels?

1 A Well, he call me kind of early that morning probably
2 about 5 30 It was early that morning about 5 30, five
3 o'clock something like that And he ask me what I was
4 doing I told him I was at home And he been like I just
5 call to let you know I did it I'm like you did what? He
6 was like you already know what I'm talking about, just
7 watch the news I'll talk to you tomorrow, I'll call you
8 tomorrow from my new number or whatever

9 Q Now, at that time, what day do you think tomorrow
10 would have been? I mean, was it -- was it still dark when
11 he called you the first time?

12 A I can't tell cause like in my room I have black bags
13 on the windows, so it always kind of dark in my room I
14 can't tell cause I don't want to look outside

15 Q You ---

16 A It was morning time I know it was morning time

17 Q Early morning?

18 A Yeah, like early morning

19 Q So he told you he did it He said you know what he
20 been talking about?

21 A Yeah

22 Q You ask him what he did?

23 A No not on the phone cause I already know

24 Q All right When is the next time you talk or saw
25 Gregory Daniels?

1 A Think probably the same day it had been that same day
2 during the time like the news come on
3 Q All right What time is that you talking about noon
4 time news, 12 o'clock middle of the afternoon? You
5 talking about the six o'clock news?
6 A I thought it was 12, I but can't really say I know
7 Q All right Did he call you, what happened?
8 A He call me first and told me he was on his way to my
9 house
10 Q Okay And what did you say?
11 A I said all right, I'm at home
12 Q How long after he called you did he show up?
13 A About five minutes because he must have been coming
14 up the street when he call me
15 Q So it was as soon as he called you he pulled up?
16 A Uh-huh
17 Q All right That was at your house on
18 A Yes, sir
19 Q And did he come in the house?
20 A Yes, sir
21 Q How was he acting?
22 A Regular
23 Q Who was at the house when he came there?
24 A Me and my girlfriend
25 Q Who is your girlfriend?

1 A Jasmine Barrett

2 Q Jasmine Barrett Was it her house?

3 A No, it was me and her house together

4 Q So y'all were living there together?

5 A Yes, sir

6 Q When he came in, what did he want to do?

7 A Play dominos We was going to play dominos

8 Q Play domino Did he say anything more about the

9 news?

10 A Yeah, during that time after we play a couple hands,

11 then I yell turn the TV on or whatever turn it to the

12 movies

13 Q Did y'all do that?

14 A Yeah

15 Q Did the news come right on?

16 A Yeah, it came on a couple minutes after, but it came

17 on

18 Q Was there information on the news that night about

19 the murder?

20 A Yes, sir A man been killed on the corner of Dargan

21 and Marlboro gunshot wound to the head

22 Q And the killer was sitting in your house?

23 A Yes, sir

24 Q Did what he do when the news came on?

25 A Nothing

1 Q Was it his idea to turn the TV on and catch the news?
2 A Yes, sir
3 Q Did he tell you at that time he had killed him?
4 A Yes, sir, he said I told you, like that
5 Q Where was Jasmine Barrett?
6 A She was on the couch in the living room
7 Q How far away is that from the TV?
8 A About three feet from the TV
9 Q So she was watching the news too?
10 A Yes, sir
11 Q How far were you and -- were you and Gregory Daniels
12 were y'all still playing dominos?
13 A Yeah, we were sitting across from each other in the
14 kitchen
15 Q Is that -- can you see the TV from the kitchen?
16 A Yeah, you can see the TV from there
17 Q About how far away were y'all from the TV?
18 A About ten or 11 feet from the TV
19 Q Maybe as close from me to you?
20 A Uh-huh
21 Q And if you were the TV and I was where y'all were
22 sitting playing dominos, where would Miss Barrett have
23 been?
24 A She been on the chair probably about eight feet from
25 us

1 Q Like somewhere ---

2 A Catercorner like she was like ---

3 Q She was closer to the TV?

4 A Yeah, she was closer to me too

5 Q When he said I told you I did it, you think she heard
6 it?

7 A I don't know, but I know she got up and had walk in
8 the middle -- she walk in the hallway until where he
9 couldn't see her and she call me like come here, but only
10 I could see her from the hallway where I was sitting to
11 So when I went down the hallway, she was like get that boy
12 out my house I didn't want to come back and tell him
13 like that due to the fact that me and him was cool, you
14 know So instead, I just act like I had wanted to get
15 some weed or something I came back and was like you
16 don't know anybody got no weed or whatever I gave him
17 \$20 get me something to smoke, just go get it And when
18 you get it, just call my phone and I will meet you
19 somewhere else or whatever

20 Q All right So shortly after that -- after
21 Miss Barrett seem like she knew something was up, you got
22 him out of the house?

23 A Yeah

24 Q Did you talk to him after that?

25 A I think a couple days later, but I can't remember

1 what we talk about though

2 Q And he confess to you again that he did the job?

3 A Yes, sir, like he was going to get away with it, feel
4 like he was going to get away with it They ain't had no
5 suspects or nothing, but they did They just ain't
6 broadcast it cause they felt like if he knew he would have
7 ran or something

8 Q Do you know Gary Bostic?

9 A Yes, sir

10 Q Is he a drug dealer?

11 A Yes, sir

12 Q You believe Gregory Daniels?

13 A Sir?

14 Q Do you believe what he told you is true?

15 A Yes, sir, I believe it

16 Q You know what Gregory Daniels was driving when he
17 came up to your house that day and want to watch the news
18 with you?

19 A Taurus

20 Q It was a Taurus?

21 A A Taurus

22 Q Dark in color, light in color, you don't remember?

23 A I can't remember the color I thought it was like
24 some kind of purplish blue or something I can't remember
25 the color, I just know it was a Taurus

1 Q Is that what he usually drives?

2 A No, he usually rode a scooter

3 Q Okay When did you first come forward with your
4 information?

5 A When after I sign my proffer to the government and
6 they was like if they was to come to me with anything, if
7 I lie about it, they could take my proffer back And when
8 they came to me, that's when I went forward with the
9 information

10 Q All right Is it -- I mean, in the lifestyle that
11 you live, is it a cool thing to do to tell other people's
12 business?

13 A No

14 Q It is a dangerous thing to do?

15 A Yeah, dangerous, very dangerous

16 Q All right

17 MR DEBERRY Thank you very much, just answer
18 any questions the defense lawyer has

19 THE COURT Mr Lawson

20 MR LAWSON May it please the Court

21 THE COURT Yes, sir

22 CROSS-EXAMINATION

23 BY MR LAWSON

24 Q Okay Mr Bradley, let me get this straight, now in
25 1999 you pled guilty to possession with intent to

1 distribute crack cocaine and powder cocaine?

2 A Yes, sir

3 Q In state court?

4 A Uh-huh

5 Q That same year you also pled to failure to stop for a
6 blue light?

7 A Yes, sir

8 Q Also in state court?

9 A Yes, sir

10 Q And then in 2007, you pled to possession of cocaine
11 also in state court?

12 A Yes, sir

13 Q And now in 2010, you have drug charges pending in
14 federal court?

15 A Yes, sir

16' Q With two prior drug offenses?

17 A Yes, sir

18 Q Have feds advised you as to what the nature of your
19 charge in federal court will be?

20 A Yes, sir

21 Q Approximately, how much you are looking at?

22 A No, sir, not yet

23 Q Have they said anything to you about what -- have
24 your lawyer advised you of what you may be looking at in
25 relation to these charges?

1 A I got a guideline 20 to life, but they can't tell me
2 what I'm looking at cause I got to wait until my P S I
3 come back

4 Q You say the guidelines are up to life?

5 A Yeah, 20 to life

6 Q Twenty to life?

7 A Uh-huh

8 Q So that indicates to you that you possibly looking at
9 life in prison?

10 A Not really

11 Q Not really, possibly?

12 A Yeah, possibly

13 Q Okay Now, you didn't talk to law enforcement at all
14 until after you signed your proffer agreement with the
15 government, correct?

16 A Yes, sir

17 Q And that proffer agreement was signed on January the
18 20th of 2010, is that correct?

19 A Yes, sir

20 Q That was this year?

21 A Yes, sir

22 Q So you didn't tell anybody anything in 2008?

23 A No, sir

24 Q In the whole calender year of 2009, you didn't say
25 anything to anybody?

1 A No, sir

2 Q And in the first month of 2010, you decided after
3 being charged in federal court that you would talk about
4 this particular incident, is that correct?

5 A Yes, sir

6 Q Now, you knew Gregory Daniels from the neighborhood,
7 is that correct?

8 A Yes, sir

9 Q Y'all had done things together in the past?

10 A Uh-huh

11 Q And played dominos He come to your house, you gone
12 to his?

13 A Uh-huh

14 Q All right And then all of sudden he confesses to
15 you in the year of 2008, that he's getting ready to do a
16 job, correct?

17 A Yes, sir

18 Q When about was that that he talk to you about that?

19 A About a month before the murder

20 Q Okay Did you write anything down?

21 A Uh-uh

22 Q You just remember that?

23 A Sort of, not really fully

24 Q Not really?

25 A Not fully

1 Q Not fully So you say he was gone get \$500 in
2 advance and \$500 upon completion When did you find that
3 out?

4 A During the time before the murder, a little bit of
5 time before the murder, I guess, about a month Like I
6 say about a month before

7 Q About a month before And do you have any reason to
8 know why he would share this with you?

9 A Cause we was cool like that He probably felt like
10 he could tell me anything, you know And I wouldn't tell
11 it because that's how we was

12 Q He was sadly mistaken, wasn't he?

13 A Yes, sir

14 Q Because when it comes to saving your hide, you'll
15 tell anybody want you?

16 A No, sir

17 Q No Okay Then did y'all see each other on a daily
18 basis?

19 A Yes, sir

20 Q You saw each other every day?

21 A Yes, sir

22 Q Did you talk about this every day?

23 A No, sir

24 Q You talk about it every other day?

25 A Uh-huh

1 Q About every other day you talked about this?

2 A Yes, sir

3 Q So did you at some point get to thinking that it just

4 wasn't gone happen?

5 A Yes, sir

6 Q It was just make believe?

7 A I thought that the whole while like he ain't gone do

8 it

9 Q He ain't gone do nothing?

10 A Yeah, I thought he wasn't gone do that because it

11 ain't never been nothing he did since I know him

12 Q When did he get the first \$500?

13 A I don't know

14 Q You didn't see any money, any extra money around?

15 A No

16 Q But you assume he got the \$500?

17 A Yeah

18 Q You don't know that you assume that?

19 A Uh-huh

20 Q And you were at times seeing him every other day?

21 A Uh-huh

22 Q Now, how was the last 500 paid?

23 A I don't know

24 Q Well, did the person write a check, pay cash? Do you

25 know?

1 A I don't know

2 Q You don't know Did you see any extra money running
3 around after the event took place?

4 A Uh-uh

5 Q No, no extra money Did you tell anybody about these
6 conversations before executing this agreement with the
7 feds?

8 A Yes, sir

9 Q Who did you tell?

10 A My girlfriend

11 Q Your girlfriend Okay And anybody else?

12 A No, sir

13 Q Anybody in law enforcement?

14 A No, sir

15 Q Did the feds indicate anything about charging you as
16 an additional charge with anything involving this case
17 that Gregory's being prosecuted for?

18 A Yeah, if I would have lied about it

19 Q Yeah, they said they was going to prosecute you as
20 well for accessory after the fact?

21 A If I got caught lying about it, they would take my
22 proffer agreement back

23 Q They take your proffer agreement back and they would
24 charge you with conspiracy, did they talk about that?

25 MR DEBERRY Objection, Your Honor, I think

1 that's not proper

2 THE COURT Come on up, sir

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury)

6 THE COURT Sustained

7 MR LAWSON Okay Well, Your Honor, he ---

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury)

11 BY MR LAWSON

12 Q Let me understand now, your proffer agreement which
13 is an agreement that you gave with the government to
14 cooperate with them and give them information would be
15 withdrawn And at the point that they withdrew it, I
16 assume you had been interviewed by them?

17 A Uh-huh

18 Q You had made certain assertions as to your criminal
19 activity?

20 A Yeah, and if I was to lie about anything that came
21 forth with me, it look like I am lying to them, so I
22 wasn't really cooperating and it could have been taken
23 back

24 Q And they could charge you with everything?

25 A Yeah, everything

1 Q Okay Have you discussed this matter with any other
2 inmates in the jail?

3 A No not fully

4 Q Not fully Have you talked about it to people at the
5 jail?

6 A I said something about it like I was going to court
7 -- I had to go to trial for it

8 Q Did you tell them you been charged with it or that
9 you were going as a witness? What did you tell them?

10 A I was going to testify

11 Q You were going to testify Now, I believe in direct
12 testimony you said that you were watching the news What
13 day was that that you were watching the news?

14 A I can't remember what day that was

15 Q Well, was it September -- you had said something
16 about September the 5th?

17 A No, I don't know I can't remember what day I was
18 watching the news

19 Q Was it before the murder took place or after?

20 A Had to be after the murder?

21 Q Had to be after How far after a day, two days,
22 three days?

23 A I don't want to say cause I can't recall, you know
24 I don't want to really say a day cause I ain't for sure

25 Q Well, do you know how many days it was afterward?

1 A It couldn't have been many days after If it wasn't
2 the next day, it had to be the day after that
3 Q The day after that what?
4 A The day after the murder
5 Q So it would have been on Saturday?
6 A It was the day he called me and he came to my house
7 to play dominos, it was that day
8 Q And what time did he call you?
9 A I can't remember I know it was during the time the
10 news came on It was the 11 o'clock news or the seven
11 o'clock news
12 Q Eleven o'clock at night news or in the daytime news?
13 A Daytime
14 Q Now, you say that you got a call early in the morning
15 one morning?
16 A Uh-huh
17 Q What day was that, do you remember when that was?
18 A That was after the murder
19 Q And when -- what time was that?
20 A Had to be about five something in the morning
21 Q About five in the morning?
22 A Yeah
23 Q You really don't have any idea? You know if he was
24 calling you from his cell phone?
25 A Yes, sir

1 Q He was?

2 A He call me from his cell phone

3 MR LAWSON I don't have any other questions

4 THE COURT Anything further?

5 MR DEBERRY Beg the Court's indulgence for
6 just a second

7 THE COURT Yes, sir

8 (WHEREUPON, a pause in the proceedings)

9 REDIRECT EXAMINATION

10 BY MR DEBERRY

11 Q Mr Bradley, when Mr Lawson was talking to you about
12 if you weren't truthful here today, they might tear up the
13 proffer agreement, you might get charge with everything
14 Is he talking about the charge in connection with this
15 murder or charge in connection with some federal drug
16 charges?

17 A No, like lying about the situation I don't know
18 what they mean about that

19 Q Okay It's nothing to do with the murder It's what
20 you're dealing with in federal?

21 A Yeah

22 Q Okay And you explained earlier that the proffer
23 agreement is not a cooperation agreement, it's not a plea
24 deal, it's nothing but

25 A It's so it want add more pressure to me, whatever

1 pressure going against me, it will take that away

2 Q All right Do you know if Gregory Daniels change his
3 phone number the day of the murder?

4 A Yeah, he change his number because he call me from
5 another number

6 Q When he called you in the morning -- are you
7 testifying that when he called you in the early morning
8 said he just did it And when he called you later in the
9 day and said that, hey, I'm about to come to your house?

10 A It was a different number

11 Q Those are two different numbers?

12 A Yeah

13 Q By chance, you remember them?

14 A I know one was something number and other one
15 was a number I can't

16 Q The first one was like a something and the second
17 one had an in it?

18 A Yeah, I can't remember it by heart

19 Q All right And you said -- you testified earlier
20 that y'all were close friends?

21 A Yes, sir

22 Q I mean, y'all saw each other on a daily basis for
23 most the part?

24 A Uh-huh

25 Q All right

1 MR DEBERRY I thank you for being here, I
2 appreciate it

3 THE COURT Anything further?

4 MR LAWSON May it please the Court just a
5 couple questions

6 RECROSS-EXAMINATION

7 BY MR LAWSON

8 Q Okay Mr Bradley, you do expect to get help for the
9 testimony you given today, do you not?

10 A No, sir

11 Q You don't expect to get anything as a reward for what
12 you're doing here?

13 A I hope I do, but I don't expect nothing

14 Q You hope you do?

15 A Yeah, I hope I do

16 MR LAWSON Thank you

17 THE COURT Thank you very much, sir You may
18 step down

19 (WHEREUPON, the witness leaves the witness
20 stand)

21 MR DEBERRY Your Honor, the State calls
22 Jasmine Barrett

23 THE CLERK Place your left hand on the Bible
24 and raise your right hand Do you swear the testimony you
25 give in this case to be the truth, the whole truth, and

1 nothing but the truth so help you God?

2 THE WITNESS Yes

3 THE CLERK Please be seated and state your name
4 for the record

5 THE WITNESS Jasmine Barrett

6 WHEREUPON,

7 Jasmine Barrett,

8 after first having been duly sworn, testified as follows

9 DIRECT EXAMINATION

10 BY MR DEBERRY

11 Q How you doing, Ms Barrett? Thank you for being here
12 today Could you tell the jury where you were living the
13 month of September 2008?

14 A

15 Q On that's in Florence?

16 A Uh-huh

17 Q And who was living with you at that time?

18 A My children and my boyfriend

19 Q Who is your boyfriend?

20 A Andre Bradley

21 Q All right How long have you and Bradley been living
22 there together?

23 A At the September time a year and a half

24 Q Okay How many children do you have?

25 A Three

1 Q Okay And you still live there?

2 A Yes

3 Q Still at the same place?

4 A Uh-huh

5 Q And did you know Corey Byrd?

6 A No

7 Q You didn't know him?

8 A No

9 Q You know he got murdered on September the 5th, 2008?

10 A Yes

11 Q All right Did you know if Andre Bradley knew Corey

12 Byrd?

13 A He said he did

14 Q Okay

15 MR LAWSON Objection, Your Honor, that's

16 hearsay

17 THE COURT Sustain

18 BY MR DEBERRY

19 Q And do you know Gregory Daniels?

20 A Yes

21 Q Is he sitting here in the courtroom today?

22 A Yes

23 Q All right And how did you know Gregory Daniels?

24 A We share a relative

25 Q What's that?

1 A We share relatives

2 Q You share a relative, okay And so it's safe to say
3 you known him all your life maybe?

4 A Uh-huh

5 Q And how close was he and Andre Bradley around the
6 time of September 2008?

7 A They was pretty close

8 Q They talk on a regular basis that you know of?

9 A Uh-huh

10 Q Did Gregory Daniels come to your house on a regular
11 basis?

12 A Yes

13 Q So it was common to see him around and for him and
14 Andre to do things together?

15 A Uh-huh

16 Q Okay And did you ever hear a conversation between
17 Gregory Daniels and Andre Bradley before you learned that
18 Corey Byrd was murdered? They might have been talking
19 about anything having to do with Corey Byrd?

20 A You said before ---

21 Q Before

22 A --- he was murder?

23 Q Uh-huh

24 A No

25 Q All right And do you remember the -- do you

1 remember watching the news and learning of the murder on
2 September the 5th?

3 A I didn't actually sit down and see it I was like
4 seeing parts of it

5 Q Okay And when that news broadcast was on, it was in
6 your house?

7 A Uh-huh

8 Q And who was privy to the television -- I mean, who
9 could have been watching it?

10 A Who was there watching it?

11 Q Yeah

12 A It was Gregory and Andre Bradley

13 Q And you were in the vicinity?

14 A Uh-huh

15 Q All right And when the news of the murder came on
16 television, did you hear Gregory Daniels say anything?

17 A At the time, like I say I was in and out, but I think
18 it was probably after the news went off I heard him say he
19 did it

20 Q What did you understand that to mean?

21 A At the time, I didn't know what it was, but
22 afterward, I found out what it was

23 Q And what was it?

24 A Stating that he murder Corey Byrd

25 Q Okay Did you ask Andre Bradley to see if he could

1 get Gregory Daniels to leave your house after the news?

2 A Uh-huh

3 Q And why did you do that?

4 A Because I was afraid and I didn't want anything to do
5 with it

6 Q Okay You just wanted it to be out of your house?

7 A Uh-huh

8 Q And the days and time following that specific event
9 where the news came on and you put two and two together
10 and Andre ask Gregory to leave, did you witness any more
11 statements from Gregory, did he come back over -- did you
12 hear him say he did it again?

13 A No

14 Q All right But it was your understanding that he
15 said that?

16 A Uh-huh

17 Q That meant that he kill Corey Byrd

18 A Uh-huh

19 Q All right

20 MR DEBERRY Hold on just a second

21 (WHEREUPON, a pause in the proceedings)

22 BY MR DEBERRY

23 Q When you found out what you believe that you found
24 out, why didn't you come forward with that information?

25 A I'm not sure I guess, I felt like it wasn't my

1 place

2 Q Could it be dangerous to come up ---

3 MR LAWSON Objection, Your Honor, leading

4 THE COURT Sustained

5 BY MR DEBERRY

6 Q Is there any other reasons why you might not want to
7 bring that information forward?

8 A Like I say just afraid

9 Q Afraid?

10 A Uh-huh

11 Q Okay

12 MR DEBERRY Thank you very much Please
13 answer any questions Mr Lawson may have

14 THE COURT Mr Lawson

15 MR LAWSON Yes, your Honor, bear with me one
16 moment

17 THE COURT Yes, sir

18 (WHEREUPON, a pause in the proceedings)

19 MR LAWSON May it please the Court

20 THE COURT Yes, sir

21 CROSS-EXAMINATION

22 BY MR LAWSON

23 Q Okay Miss Barrett, as understand it, you know

24 Mr Andre Bradley?

25 A Uh-huh

1 Q Is that a yes?

2 A Yes, sir

3 Q Okay And how long have you known him?

4 A All my life

5 Q When did -- I assume at this point you date each
6 other?

7 A Yes, sir

8 Q And how long have you had a relationship with Mr
9 Bradley?

10 A Going on six years

11 Q Six years now from today?

12 A Going on six years Like five over five years

13 Q Started about 2005?

14 A 2004

15 Q 2004?

16 A Uh-huh

17 Q And you were living where in September of 2008?

18 A

19 Q And you still live there now?

20 A Yes, sir

21 Q And where is that located?

22 A Off National Cemetery Road in Florence

23 Q Okay Would that be North, South, East, West
24 Florence what?

25 A It's East Florence

1 Q And how long have you been there?

2 A I move there in 2007

3 Q 2007 And at the time that you move there,
4 Mr Bradley moved in with you?

5 A Uh-huh

6 Q Did you live with Mr Bradley in your prior residence
7 before you move to that location?

8 A Well, it was my apartment where I was living before,
9 but he use to come there

10 Q Okay So y'all were dating before you moved to your
11 present location?

12 A Yes, sir

13 Q Okay And then you have talked to the police I
14 assume about your testimony here today, is that correct?

15 A What you mean by that?

16 Q Have you talk to the police? Have they interviewed
17 you about today?

18 A Yes

19 Q Okay And did -- when was that interview, when did
20 you first get interviewed by the police?

21 A Sometime in March, I believe

22 Q Of what year?

23 A This year 2010

24 Q This year?

25 A Uh-huh

1 Q March of 2010?

2 A Uh-huh

3 Q But yet what you're testifying to today is something
4 that you said you figured out in September of 2008,
5 correct?

6 A Yes, sir

7 Q And let me understand this now, did Gregory Daniels
8 know you lived at that house?

9 A On

10 Q On

11 A Yes, sir

12 Q He knew you live there?

13 A Yes, sir

14 Q And, of course, he knew Mr Bradley live there as
15 well?

16 A Yes, sir

17 Q He had come there before?

18 A Yes, sir

19 Q And on some day, you remember whether it was a
20 Saturday or Sunday or a Monday, Tuesday and Wednesday what
21 day of the week it may have been when you saw him at your
22 house in relation to the testimony on direct?

23 A No, sir

24 Q You don't remember what day of the week it was?

25 A No, sir

1 Q You remember what month it was?

2 A I am sure it was September

3 Q Do you know that?

4 A No

5 Q Okay Do you -- you don't know what day of the week

6 Do you know what date of the month it was?

7 A No, sir

8 Q And what were -- do you remember what station you
9 were watching?

10 A No Like I said, I wasn't watching TV

11 Q Okay Was it midday, was it evening or was it
12 nighttime?

13 A I can't recall

14 Q You can't remember

15 A Uh-uh

16 Q You don't know if it was around lunchtime, it was
17 around suppertime or if it was around bedtime? You don't
18 remember that?

19 A No

20 Q All right And you don't remember what station it
21 was on?

22 MR DEBERRY Your Honor, this is asked and
23 answered She doesn't remember

24 THE COURT Sustain I'm going to let you ask
25 her, but if she says she doesn't remember, you don't have

1 to keep asking it over and over She either remember or
2 she doesn't

3 MR LAWSON I ask that question one time I
4 apologize for asking it again I will withdraw it
5 BY MR LAWSON

6 Q Okay Now, we -- so we get to this point and you
7 figured out that something was on TV, is that correct or
8 you heard the story which was it?

9 A Like I say, Andre and Gregory was watching the news
10 and I was in and out during the time

11 Q Okay And you heard something?

12 A Uh-huh

13 Q And what was it you heard?

14 A That he say he did it not knowing what it was

15 Q Okay How did you figure out what it was?

16 A Andre told me

17 Q Andre told you?

18 A Uh-huh

19 MR LAWSON That's all the questions I have

20 THE COURT Anything further? Anything on
21 redirect?

22 MR DEBERRY Nothing, Your Honor Can Miss
23 Barrett be excused?

24 THE COURT Mr Lawson, any objection?

25 MR LAWSON No objection Thank you very much,

1 ma'am, you free to go

2 (WHEREUPON, the witness leaves the witness
3 stand)

4 MR JEPERTINGER The State would call
5 Investigator Tim Compton to the stand

6 MR LAWSON May we approach?

7 THE COURT Yeah

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury)

11 THE COURT Ladies and gentlemen, in discussing
12 with the attorneys, this next witness may be a little
13 lengthy, so we're going to take just a short break, give
14 you an opportunity -- with that information in mind,
15 giving you an opportunity if you need to use the restroom
16 or get something to drink or eat a snack or something I
17 don't mean you need to eat a snack because we're going to
18 go into the evening, but this witness will more than
19 likely take us to the lunch break, so we're going to go
20 ahead and take a short recess right now So if you would
21 please retire to your jury room, have no conversation
22 about the case

23 (WHEREUPON, the jury retire to the jury room)

24 THE COURT All right, in recess for a little
25 bit

1 (WHEREUPON, a break was taken)

2 THE COURT Ask the jury to join us, Ms Joe

3 (WHEREUPON, the jury came into open court)

4 THE COURT Well, do you sufficiently feel like
5 a yo yo yet coming in and out Ladies and gentlemen, the
6 attorneys from both the State and the defense really do
7 care about your comfort and about your time and so we're
8 trying to be as efficient as we can We discussed this
9 situation and so we kind of come to the conclusion that
10 our time will probably be better spent breaking for lunch
11 at this time rather than try to get some of this testimony
12 in and then brake in the middle of it and get the rest of
13 it in this afternoon

14 Most of y'all probably feel heck, Judge, it is
15 12 o'clock, it is lunchtime In the court system here, we
16 tend to take lunch here at one o'clock I don't know why
17 that happens that way I guess it's because we don't
18 usually start court until after nine, but for whatever
19 reason, this is the time that we think it's going to be
20 better served for y'all purposes and the court's purposes
21 to go ahead and break for lunch now And then we'll start
22 with this witness after the lunch break It is about nine
23 minutes to 12, so I'm going to ask you please if you would
24 to be back in your jury room at 1 30 and we will pick up
25 at that time Please as always have no conversation with

1 anybody about this case Do not allow people to talk with
2 you, just go enjoy your lunch, get away from the
3 courthouse And we will see you back here at 1 30 So
4 everyone else please remain seated Ladies and gentlemen,
5 you are free to go, we'll see you back here at 1 30

6 (WHEREUPON, the jury was excuse for lunch)

7 THE COURT All right We will just start back
8 at 1 30 then

9 MR LAWSON Your Honor, may I ask if my client,
10 his mother is here Is there anyway they can make
11 arrangements to let him speak with his mother for sometime
12 over the lunch break?

13 THE COURT I don't have a problem with that if
14 they got a way they can do that and maintain their
15 security

16 MR LAWSON Thank you, Your Honor

17 (WHEREUPON, a lunch break was taken)

18 THE COURT Is the State ready to proceed?

19 MR JEPERTINGER Yes, sir

20 THE COURT Is the defense ready to proceed?

21 MR LAWSON Yes, sir, Your Honor

22 THE COURT Ask the jury to join us

23 (WHEREUPON, the jury came into open court)

24 THE COURT Mr Jepertinger, is the State ready
25 to proceed?

1 MR JEPERTINGER State's ready, Your Honor

2 THE COURT Mr Lawson, is that defense ready to
3 proceed, sir

4 MR LAWSON Yes, Your Honor

5 THE COURT Ms Joe, ask the ladies and
6 gentlemen to join us

7 (WHEREUPON, the jury came into open court)

8 THE COURT All right Ladies and gentlemen, we
9 are going to -- getting ready to resume the trial here at
10 this point And we recognize Mr Jepertinger for his next
11 witness

12 MR JEPERTINGER Thank you, Judge The State
13 would call Lieutenant Tim Compton to the stand

14 THE COURT All right, Tim, if you come around
15 to be sworn, sir

16 THE CLERK Place your left hand on the Bible
17 and raise your right hand Do you swear the testimony you
18 give in this case to be the truth, the whole truth, and
19 nothing but the truth so help you God?

20 THE WITNESS I do

21 THE CLERK Please be seated and state your full
22 name for the record

23 THE WITNESS Timothy Wade Compton

24 WHEREUPON,

25 Timothy Compton,

1 after first having been duly sworn, testified as follows

2 DIRECT EXAMINATION

3 BY MR JEPERTINGER

4 Q Okay Lieutenant Compton, can you tell the ladies
5 and gentlemen of the jury what you do for a living?

6 A I'm a lieutenant with the Florence Police Department

7 Q Okay Are you currently in investigations?

8 A No, I'm not

9 Q What are you doing now?

10 A I'm in the accreditation office at this time?

11 Q All right Back in September 5th of 2008, you were
12 sergeant, is that correct?

13 A Yes, I was

14 Q So you got a promotion since then?

15 A Yes, sir

16 Q And when you were sergeant back in September of 2008,
17 what were your responsibilities with the city police?

18 A I was the sergeant supervisor over financial crimes
19 detective, it was myself and two other detectives in the
20 financial crime unit

21 Q Okay Were you on-call investigator during early
22 morning hours of September 5th of 2008?

23 A Yes, sir, I was

24 Q Okay Did you have an opportunity to respond out to
25 a shooting call on the corner of Marlboro Street and

1 Dargan Street?

2 A Yes, sir I was at home that morning and I was on
3 call until 8 30 that morning And I received a phone call
4 from our headquarters that there was a shooting and they
5 needed me to respond that morning, which I did

6 Q Okay Now, if you could somewhat chronologically
7 walk the ladies and gentlemen of the jury through what you
8 did when you responded to that scene please?

9 A When I arrived on scene, I met with, I believe, it
10 was Corporal Worthington, Officer Ussery, who is the
11 patrol officer and patrol supervisor at the time Before
12 I entered the crime scene, just like the crime scene,
13 Officer Bo Myers who testified yesterday, you want to
14 gather what information you can before you even go into
15 the crime scene You want to try to learn as much as
16 possible what they already know, so, you know, when you go
17 in, you know a little bit of information what to look for
18 So at that time, I interviewed the officers and found what
19 was going on The victim's mother was at the crime scene
20 At that time, I felt I needed to talk to her first and
21 explain to her what was going on and that we do everything
22 we could to help her And at that point in time, we went
23 into the crime scene and I met with the officers in there
24 And I went around look at the crime scene with the crime
25 scene tech Bo Myers

1 Q Okay After you looked around the crime scene, what
2 was your next step in investigating this case?

3 A Based on the information gathered from the officers,
4 I needed to talk to Tiesha Brown who was the person who
5 heard the gunshot, who saw someone walk away and also
6 Brittany Fludd who testified I needed to talk to them,
7 interview them find out if they could get some more
8 information or if I could get more information from them
9 And, you know, develop, I guess, a direction of
10 investigation at that time After talking to them, I
11 wanted to get statements from them, but I told them, you
12 know, to please wait I was still at the crime scene
13 trying to find out what all was going on They informed
14 me they had went back to Shavonne Gass' house at
15 and that they took the victim's brother
16 excuse me -- the victim's sister to and
17 confronted Miss Gass and Ryan Evans to try to find out
18 what happened, if they knew anything So at that time, I
19 realized that I needed to speak to Miss Gass and I needed
20 to speak with Mr Evans and see if they had any
21 information

22 Q Okay And is that when you primarily found out about
23 this cookout the night before?

24 A Yes, I found out that there -- also I received a call
25 getting back to the office Received a call that the

1 information I receive there was a fight at the cookout
2 There also was arguments at the cookout and trying to find
3 out who was fighting, who was arguing, and trying to get
4 all the names of who was there and start trying to
5 interview them?

6 Q Okay And then what did you do in response to that
7 information that you obtained in terms of people being
8 there so on and so forth?

9 A I talk to a lot of people Many people I could find
10 out who was at that party slash cookout and find out what
11 information they knew And there was an argument and a
12 fight between a James Black and a Little B They call him
13 Little B, but he's Bryan Timmons And the victim had
14 broke them up and tried to -- basically, what I was told
15 he was trying to make peace at the cookout And then
16 learn that the defendant, Gregory Daniels, he was at the
17 cookout He -- Shavonne Gass words he was trying to boost
18 it up, which basically she explain to me boost it up means
19 trying to antagonize the situation even further and trying
20 to get the victim into a fight And people there was
21 trying to get Corey, the victim, not to fight And Corey,
22 the victim, and Gregory had an argument and they started
23 having multiple arguments according to the people at the
24 cookout

25 Q So based on that information, did that help you draw

1 a conclusion or were you still investigating before you
2 drew any conclusions?

3 A I was still investigating, but based on the
4 information I received from the people at the cookout, it
5 did bring my attention to Mr Daniels And I interviewed
6 Miss Gass She basically said that, you know, what I just
7 told you that Gregory was there, Corey was there She
8 mention that other people were there They was all
9 corroborating each others stories basically may have been
10 a little variance here and there, but it all boil down to
11 that Gregory was trying to get Corey into a fight and
12 argument and making him threats Shavonne Gass told me
13 that the reason she ---

14 MR LAWSON Objection, Your Honor She's
15 testified Her testimony should stand on its own without
16 interpretation from the stand

17 BY MR JEPERTINGER

18 Q Well, without trying to go into repeating all the
19 stuff -- that would be hearsay, Judge, to a certain
20 extent If you could say based on after you spoke with
21 her, what did you do that's a better way of doing it?

22 THE COURT Sustained

23 A Based on information I received, I learn that a
24 robbery had taken or may have taken place with the
25 complaint excuse me -- the defendant, Mr Daniels, and

1 Corey Byrd At that time, it got me more interested in
2 Mr Daniels that, you know, that I need to look for
3 further at Mr Daniels I looked at other people also
4 based on information

5 Q Now, but based on that fact, in fact did you or
6 Detective Clark deal with a Kevin Hinnix?

7 A Yes, we did

8 Q And he was supposedly at that party as well?

9 A He was at the party, yes, sir

10 Q Okay And did -- I guess in your presence did
11 Detective Clark find what he perceived to be a blood spot
12 on his pants?

13 A Yes, sir Interviewing Mr Hinnix, Detective Clark
14 noticed a stain on his pants At that time, it, you know,
15 we -- was it blood, what was it

16 Q Did you ask Officer Moreau to swab that just to
17 verify what that was?

18 A Yes, sir, we did And he swabbed it and it did come
19 up being blood It was sent to SLED for analysis The
20 SLED report came back that it was blood, but it did not
21 come back to the victim, did not come back to Mr Daniels
22 They don't know who it came back to, but it was blood, but
23 it didn't come back have to do anything with this murder

24 Q But at that point, you were still investigating you
25 and, I believe, Detective Clark as well, correct?

1 A Yes, sir, we checked out several people, you know, to
2 exclude them if they had anything to do with it or not

3 Q Okay Now, what did you do -- and I'm sorry to have
4 interrupted you, but what did you do then after you spoke
5 with Miss Gass and you were beginning to find out what
6 happened at that party? Did Miss Gass tell you about the
7 phone conversation she had with Corey Byrd just before ---

8 A Yes, sir Miss Gass received a phone call -- to go
9 back, the victim, Corey Byrd, was at Miss Gass' house
10 early that morning He was there through the whole
11 cookout back and forth to the store, but he left that
12 morning told Miss Gass that he was leaving She knew he
13 was going to meet Tiesha Brown He called her shortly
14 after he left her house on the way to walk to meet Tiesha
15 Brown and called her with his cell phone to her home phone
16 and she said they talk approximately 15 minutes she told
17 me ten to 15 minutes And then she told us that the last
18 conversation she had with the victim was that the person
19 that was arguing with him at the cookout was following
20 right behind him, do you want to talk to him She said,
21 Hell no She said the phone cut off at that time I
22 subpoenaed phone records and looked and it showed that
23 what she said was true, it was a phone call

24 Q And let me ask you, did you also and I am showing you
25 State's Exhibit 13, which is the Alltel cell phone This

1 was the phone found under the body of Corey Byrd, correct?

2 A It was found right next to him

3 Q Next to him Okay You had a chance to look at the
4 outgoing phone calls and incoming phone calls on this,
5 correct?

6 A Yes, sir, I did

7 Q All right And is that true that the outgoing phone
8 call was September the 5th at 4 55 a m and lasted 14
9 minutes and 13 seconds in duration?

10 A Yes, sir

11 Q And the incoming call was again from, I guess,
12 Shavonne Gass' phone at 5 15 and only lasted 16 and 18
13 seconds in duration?

14 A Yes, sir, I believe it was 18 seconds

15 Q All right Now, when you had that information what
16 did you do then?

17 A Basically, at that point, you know, seeing the phone,
18 the victim's phone and plus subpoenaing the phone records,
19 I corroborated Miss Gass was saying in reference to the
20 phone call So basically, I pinpointed the time of death
21 would be 5 07 a m

22 Q It would be 5 09, I looked That be 5 09?

23 A Yes, sir

24 Q Okay Go ahead

25 A At that time, I mean, I was still investigating and

1 looking at other possibly leads, but also trying to find
2 out more about Mr Daniels and if anybody else knew
3 anything And based on my investigation, I received phone
4 calls -- matter of fact, it was a crime stopper tip that
5 came in

6 Q Okay Don't tell us what the person told you, but
7 based -- you had a crime stoppers' tip, correct?

8 A Yes, sir

9 Q Okay After you had that crime stoppers' tip, did
10 you still have a person of interest maybe involved in this
11 crime?

12 A Yes, sir, it was still pinpointed or pointed at
13 Mr Daniels

14 Q Okay So at this stage, what do you do then?

15 A Let me refer to my report cause there's a lot of
16 things I did do I interviewed after talking to Miss Gass
17 I did interview Mr Evans And Mr Evans he had gotten
18 off work around three o'clock that morning Of course, he
19 testified that he went to ---

20 Q Just like he testified ---

21 A Yes, sir So at that point in time cause there was
22 some question to Mr Evans had something to do with it and
23 based on everybody that gave me information gave me
24 statements Mr Evans was not there at the time of the
25 murder, so I ruled him out as a suspect So I did look at

1 Mr Evans, you know, at one time and ruled him out based
2 on the time frame of everything

3 Q Let me ask you, it was also your understanding when
4 you spoke to Tiesha Brown that when the vehicle that Evans
5 was in that the body was already sprawled out on ground?

6 A Yes, sir

7 Q Okay All right Go on, what did you do then?

8 A I interviewed Mr Gabriel Petterson Of course, he
9 gave me a statement and what he testified he was a cook at
10 the cookout and that he did see an argument between
11 Mr Daniels and the victim and basically what Shavonne had
12 told him And just everything I been learning through my
13 investigation up to this point is corroborating each
14 person's story And it is still -- it's still looking
15 that Mr Daniels was my main suspect at that time

16 Q Okay So with that information, what did you do?

17 A Well, I continued to interview people from the
18 cookout I mean, I -- several people that already come up
19 here and testified, but I still interviewed them, check
20 out their stories and everybody still saying that it was
21 the arguments It was several arguments between
22 Mr Daniels and the victim

23 Q Okay

24 A And Wednesday September the 10th, I interviewed some
25 more people and -- excuse me for just a second

1 Q Take your time

2 A On that same day basically, I learned that

3 Mr Daniels was arrested

4 MR LAWSON Objection, Your Honor

5 THE COURT Sustained

6 BY MR JEPERTINGER

7 Q Did you have an opportunity to speak with Mr

8 Daniels on September 10th?

9 A Yes, sir, I did

10 Q All right And where did you have an opportunity to
11 speak with him?

12 A We spoke with him in the conference room, the police
13 department's conference room on the second floor in the
14 second floor City County Complex here

15 Q All right Now, at this point, you've already talk
16 to several several people, correct?

17 A Yes, sir

18 Q And you've gotten information that you perceived that
19 Gregory Daniels was a prime suspect in this case, correct?

20 A Yes, sir

21 Q Is that fair?

22 A That's fair, yes, sir

23 Q Now, prior to speaking to him, did you advise him of
24 his Miranda warnings?

25 A Yes, sir I advised him actually twice Once

1 through the card I carry

2 Q If you show us the card you carry and the tell the
3 ladies and gentlemen of the jury what you said to Gregory
4 Daniels?

5 A I told Mr Daniels that I wanted to talk to him about
6 the shooting that occurred September the 5th that year
7 And actually, he told me he did not want to talk about the
8 shooting

9 MR LAWSON Objection, Your Honor And we need
10 to take something up outside the presence of the jury

11 THE COURT Ladies and gentlemen, please step
12 into your jury room Please have no conversation about
13 the case I will get you out here as soon as I can handle
14 this matter

15 (WHEREUPON, the jury retire to the jury room)

16 THE COURT All right, Mr Lawson, be happy to
17 hear from you, sir

18 MR LAWSON May it please the Court, as I
19 understand it, he was getting ready to testify that my
20 client asserted his right against self-incrimination I
21 don't think that's appropriate to comment on that fact
22 Also, we might as well take it up now I noted, Your
23 Honor, has ruled as to Jackson vs Denno standards on
24 voluntariness, but the statement that my client gave the
25 State -- the defense objects to the introduction of that

1 statement on additional grounds and those grounds have
2 been stated along along throughout the trial, but it is a
3 statement involving activities that took place at or after
4 but prior to and after the incident and it relates to the
5 defendant stating his position as to what he was doing and
6 where he was during that time The State as I understand
7 it will go through and attempt at this point to introduce
8 his statement and then proceed to attack his statement in
9 effect using him as a witness against himself in an effort
10 to do nothing more than to pit his statement against the
11 other witnesses in the case And I feel that that is
12 totally inappropriate in this case

13 MR JEPERTINGER Your Honor, I think it is
14 perfectly acceptable, Your Honor, this is voluntariness of
15 a statement, Your Honor He has given any statement that
16 contradicts the statement he gave police came from his
17 hand Obviously, in the letters, Your Honor, where he
18 ask -- once we get into the letters where he's asked the
19 witness, Miss Nyrena Goodman, to basically change her
20 story to fit his

21 Your Honor, I think those weren't police induced
22 statements, those were given -- sent by mail to Nyrena
23 Goodman sent by him, Your Honor, nothing was induced He
24 has the police officer, Your Honor I think we're fully
25 entitled He was not limited to say whatever he wanted to

1 say, Your Honor It was a voluntary statement that he
2 gave, Your Honor, and now he's given a statement to a
3 private witness to completely contradicts that

4 THE COURT All right Again, assuming the
5 proper foundation is laid, I am going to overrule that
6 objection I'm going to allow the statement in assuming
7 that the proper foundation is laid to get that in
8 Anything further?

9 MR LAWSON Bear with me one moment

10 THE COURT Yes, sir

11 (WHEREUPON, a pause in the proceedings)

12 MR LAWSON Your Honor, I do feel that there is
13 an issue involving the State putting in evidence and then
14 using other witnesses and basically pitting their
15 witnesses against the statement that they choose to put
16 in I find that highly inappropriate, couldn't do it --
17 you can't call him to testify and do that I don't think
18 they should be able to do it through a statement But
19 they are in effect going to pit witnesses in this portion
20 of the trial

21 MR JEPERTINGER Your Honor, I don't think we
22 are pitting witnesses Everything ---

23 THE COURT They are inconsistent statements

24 MR JEPERTINGER They are inconsistent
25 statements from a defendant

1 THE COURT Depending on how you look at it
2 There's -- whatever's going to be in this statement,
3 which, of course, I haven't heard it, but whatever is
4 going to be in this statement versus what is made in these
5 statements I am not understanding this pitting of
6 witnesses

7 MR LAWSON I'm not talking about the letters
8 I assume that's what you're referring to

9 THE COURT Well, I thought that's what you were
10 ---

11 MR LAWSON I am talking about the other
12 witnesses in this case Your Honor, they put in his
13 statement alleging that he says this, this and this and it
14 is not true based on what the other witnesses have said
15 It's absolute

16 MR JEPERTINGER That happens in every case

17 THE COURT That's a trial

18 MR JEPERTINGER That's a trial

19 MR LAWSON Not on the same side, yes, that
20 happens when I put a witness up, but it doesn't happen on
21 one side of the case

22 THE COURT All right I've ruled, I'm going to
23 allow it in assuming you lay the foundation

24 MR JEPERTINGER Thank you, Your Honor

25 THE COURT We are going to be at ease for a

1 moment

2 (WHEREUPON, a break was taken)

3 THE COURT All right, Ms Joe

4 (WHEREUPON, the jury came into open court)

5 THE COURT Mr Jepertinger, you may continue

6 BY MR JEPERTINGER

7 Q Lieutenant Compton, you were about to tell the jury
8 what you read off the little card you have Would you
9 please do that?

10 A Yes, sir I told Mr Daniels I had to read him his
11 rights or Miranda warnings And I have a card here that I
12 always read from And it says you have the right to
13 remain silent, anything you say can and will be used
14 against you in a court of law You have the right to talk
15 to a lawyer and have him present with you while you are
16 being questioned If you cannot afford to hire a lawyer,
17 one would be appointed to represent you before any
18 questioning if you wish You can decide any time to
19 exercise these rights and not answer any questions or make
20 any statements Do you understand these rights I have
21 explain to you? Having these rights in mind do you wish
22 to talk to us now or answer any questions I may have for
23 you?

24 Q And what was his response to you?

25 A He said he would talk to me

1 Q Okay Now, obviously when you read that to him, you
2 were not alone in the room with him?

3 A Correct

4 Q Okay, there were other officers?

5 A Yes, sir

6 Q All right Now, I'm going to show you what State's
7 Exhibit 1 for identification If you can identify this
8 form?

9 A This is a waiver of rights form from our Florence
10 Police Department?

11 Q All right And basically, what does a waiver of
12 rights form show or say?

13 A Basically, it says what I just read to you and
14 Miranda warnings that's in more detail and in written
15 form And the person that we're reading it to also can
16 read it if they want Then we ask them to sign it and
17 date it once they understand it

18 Q All right And who's signature is on the bottom?

19 A Mr Daniels, Detective Clark and myself signature

20 MR JEPERTINGER At this time, I would move
21 State's Exhibit 1 into evidence, Your Honor

22 MR LAWSON Objection as previously noted

23 THE COURT All right, overrule, I'll allow it
24 in

25

1 (WHEREUPON, State's Exhibit No 1 was admitted
2 into evidence)

3 BY MR JEPERTINGER

4 Q At that point, did you take a statement from
5 Mr Daniels?

6 A We talked about the cookout and he gave me a taped
7 statement of the information he gave me, yes, sir

8 Q Okay I'm going to show you State's Exhibit 2 for
9 identification and State's Exhibit 3 for identification
10 Can you identify both State's Exhibit 2 and State's
11 Exhibit 3?

12 A State's Exhibit 2 is a CD of Mr Daniels taped
13 statement And basically, what we do with that once it's
14 on a tape crime scene downloads it to a CD Basically, it
15 is transcribed in written form and Exhibit No 3 is
16 basically what was said on his statement on a tape is
17 actually transcribed in writing, so we make a copy and
18 give it to whoever you need to

19 MR JEPERTINGER Your Honor, at this time, I
20 would move State's Exhibit 2 and State's Exhibit 3 into
21 evidence

22 MR LAWSON Previous objection

23 THE COURT And that certainly is noted

24 (WHEREUPON, State's Exhibits Nos 2 and 3 was
25 admitted into evidence)

1 MR JEPERTINGER Your Honor, at this time, may
2 I publish State's Exhibit 2 by way of the speaker system
3 we have set up here

4 THE COURT All right, sir Ladies and
5 gentlemen, as this disk is played, if you have any
6 difficulty hearing or whatever please let us know, okay
7 We will try our best to get it to where everybody can hear
8 it well

9 (WHEREUPON, a CD of the Defendant's statement
10 was played for the jury)

11 BY MR JEPERTINGER

12 Q Lieutenant Compton, in that statement, it seems like
13 Detective Clark is getting some phone calls while you were
14 taking that statement?

15 A Yes, sir

16 Q So that's what the ---

17 A That was the phone calls he -- he received a phone
18 call, I believe, from the investigations unit had some
19 question about another case

20 Q All right At this point, what did you do after you
21 took that statement from Mr Daniels?

22 A Basically, the interview ended and I left the room
23 and we had his property And next things I wanted to do
24 is talk to Miss Goodman to verify what Mr Daniels had
25 just told me And at that point in time, I ended up

1 talking to Miss Goodman on the phone I asked her where
2 she was at, she told me I asked if I could
3 talk to her And she wanted to know what it was about,
4 told her it's about an investigation I'm doing could I
5 come and pick her up and bring her back to the office, she
6 said yes At that time, picked her up, brought her back
7 to the office and interviewed her

8 Q All right When you interviewed her, did anything
9 peek your interest about Mr Daniels and after your
10 interview with her?

11 A Yes, sir Miss Goodman did not verify his statement
12 he had give to us In his statement, he said he left
13 around, I believe, his statement if I'm not mistaken said
14 10 30, went and kissed his God daughter's Tina's house,
15 left there and went and turned on or off the lights at his
16 house at Then I walk to Carver Circle
17 and then from there they went to Country Hearth Inn He
18 never did say how they got to Country Hearth Inn but said
19 they went there

20 Q Did you get a method of how they got to the Inn
21 eventually?

22 A Yes, sir, Miss Goodman stated that she was home in
23 bed sleep, which she already has testified to Got a
24 phone call from Mr Daniels get up, get ready, we are
25 going to the motel She did that Two minute later,

1 Mr Daniels shows up in a green minivan with -- she said a
2 black male, a younger black male driver She said she
3 didn't know who he was, never seen him before, drove to
4 the motel there on Irby Street And she used her money
5 and checked in under her name at the Country Hearth Inn
6 At that point, Narcotics Officer Bob Drulis had already
7 had went to ---

8 Q Okay Let's stick to the facts in this case, okay

9 A The fact of the matter is she said she got the phone
10 call and went to the motel Found out that they didn't
11 check in until 5 34 that morning, the murder occurred at
12 5 07 according to Miss Gass statement and ---

13 Q About when you check phone actually you found out
14 5 09 apparently?

15 A So again, based on what he told me that they was at
16 the motel that night According to Miss Goodman, they
17 weren't at the motel So at that point still convinced
18 that Mr Daniels is lying to me and trying to use
19 Miss Goodman as an alibi to try to get us to believe his
20 story and she didn't corroborate his story

21 Q So what did you do as a result of that?

22 A At that point, I knew I had enough of what we call
23 probable cause or PC and the next morning basically went
24 to the judge in city court I was able to obtain two
25 warrants for the arrest of Mr Daniels for murder and

1 possession of a weapon during the commission of a violent
2 crime

3 Q Okay And did y'all arrest him?

4 A Since, I sign the warrants Detective Clark and I went
5 to Florence County detention center and Detective Clark
6 and I took him into -- it's the library in the detention
7 center and Detective Clark read the warrants to
8 Mr Daniels at that time

9 Q All right Now, at that point when Detective Clark
10 served him with the warrants for both murder and
11 possession of a weapon during the commission of a violent
12 crime, did Mr Daniels want to speak with you?

13 A Yes, sir, he did

14 Q Okay Now, let me ask you this, when he wanted to
15 speak with you, your purpose serving the warrants was to
16 serve the warrants, correct?

17 A Correct

18 Q Okay That's all you were going to do at that point,
19 correct?

20 A Correct

21 Q Did you have a waiver of rights form like you see on
22 State's Exhibit 1 with you?

23 A No, we didn't We wasn't going to interview him and
24 we didn't carry one with us

25 Q Okay Tell the ladies and gentlemen of the jury what

1 happened?

2 A Basically, after the warrants was read to him,
3 Mr Daniels insisted on talking to both me and Detective
4 Clark several times I told him I could not talk to him
5 because he had already, you know, ask for an attorney

6 MR LAWSON Objection, Your Honor, that's an
7 inappropriate comment

8 MR JEPERTINGER I don't think so, Judge I
9 think it's part of admission at this point Your Honor,
10 in this sense, it's giving him context to what he did,
11 what he was going to do

12 THE COURT Overrule, I'll allow it

13 BY MR JEPERTINGER

14 Q So what happened then?

15 A After several times of him insisting on talking us, I
16 finally asked him do you want to talk with an attorney
17 He said yes At that point in time, I told him I had to
18 read his Miranda warnings to him again

19 Q So did you wipe out the card you pulled out a few
20 minutes ago?

21 A Yes, sir, I did

22 Q Okay And without re-reading the whole card, did you
23 re-read the whole card to him?

24 A Yes, sir, I did

25 Q And at that point, what did he say to you?

1 A He made several verbal statements if I can refer back
2 to my report

3 Q Go ahead

4 A Mr Daniels stated that the first time he --
5 basically, when he said he wanted to talk, I asked him,
6 you know, you said you didn't know Mr Daniels And he
7 said, you know, the first statement he gave which was on
8 tape he said he didn't know him from a can of paint He
9 met him that night at the cookout and they had a little
10 argument So this time I asked him when the first time
11 you heard of Corey and he said -- in his words, he said it
12 was a group of guys was pulling a train on a girl in
13 apartments and Corey stole \$700
14 Detective Clark asked him how did him and Nyrena Goodman
15 get to the Country Hearth Inn He stated his uncle drove
16 a rental car and took them to the Old Park Inn, which
17 Country Hearth Inn and Suites is the Old Park Inn He
18 stated that his first name Of course, we asked what was
19 the name of his uncle, he said first name Andrew, but he
20 could not remember his last name Mr Daniels admitted he
21 was arguing with Corey several times during the cookout
22 and not once like he admitted on the taped statement the
23 day before He admitted he was standing in the street at
24 Shavonne's and Corey told him he had been shot twice And
25 he said he was shot in the head before

1 Q He stated he was shot in the head before, who said
2 that statement?

3 A Mr Daniels said that back to Corey And he did show
4 me a scar at the right top side of his head where he had
5 been hit His explanation the little scar at the top of
6 his head he shown, it was with a stump when he was a
7 little boy when he raised his head over the doghouse and
8 they were throwing the stump over the doghouse So that
9 explanation of the, you know, why he said that or I'm
10 sorry -- I asked him if he had any wounds on him How do
11 I explain it? He said, you know, person ---

12 Q You can't say what someone said just go on All
13 right Anyway, did you say he went over to the cookout
14 approximately 2130 hours to you?

15 A He stated he left the cookout approximately 2130
16 hours to go to Tina's house on Vista Street And then he
17 went back to Shavonne's to get her a short slash
18 cigarette Then left and went to which
19 is his residence he told us at that time Then walked to
20 Carver Street -- Carver Circle excuse me and stated there
21 they ---

22 Q They stayed there?

23 A Went to Carver Circle and stayed there and they were
24 the last ones to leave the setting up When I asked him
25 how did they get to the motel, he now says a taxi drove

1 them to the Old Park Inn from Carver Circle Now, this is
2 the third way he's gotten to the Park Inn or Country
3 Hearth Inn

4 Q What did Detective Clark ask him at that point? He
5 asked him what taxi?

6 A He asked him, you know, what taxi and he stated the
7 dark green minivan, which is State Taxi He stated Nyrena
8 Goodman checked in and he walked in with her He stated
9 they went to the room and went to bed and he never left
10 the room until his uncle picked him up in a rental from
11 Budget Rental on South Irby Street and West Palmetto
12 Street Detective Clark asked about the taxi cab driver
13 and Mr Daniels stated the driver was an older black male
14 I asked the -- Mr Daniels several times if he would ---

15 Q That's pretty much ---

16 A Basically, that's what he told us in that interview

17 Q Now, after that interview had -- obviously, you
18 retrieved his personal property including what I show you
19 on State's Exhibit 14 his Samsung, is that correct?

20 A Yes, sir

21 Q All right And at that point, did you talk to other
22 witnesses in this case?

23 A I did talk to Mr Presnell

24 Q The gentleman that testified the motel clerk?

25 A Yes, sir

1 Q Who else?

2 A I went to the State Taxi and myself, Detective Clark
3 went to State Taxi and we checked the logbook for that
4 particular -- those two-day frame September 4th and 5th
5 And there was no record of a State Taxi picking anyone up
6 from or Carver Circle, interviewed taxi a
7 taxi cab driver who drives a dark green minivan He did
8 he didn't pick ---

9 MR LAWSON Objection, Your Honor, it is
10 hearsay

11 THE COURT Sustain

12 BY MR JEPERTINGER

13 Q Based on that fact, were you satisfied that ---

14 A I was satisfied that Mr Daniels had lied to me about
15 the State Taxi, there was no State Taxi

16 Q All right Now, after this, what do you do?

17 A I did go to Budget Rental Car and I did learn that an
18 Andrew Williams did rent a 2003 green Taurus at 11 30 on
19 September the 5th

20 Q All right So -- and then what did you do after
21 that?

22 A I received a ---

23 Q And let me ask you, the first name of that individual
24 that rented that car?

25 A Is Andrew?

1 Q And the name that he gave you of his uncle?

2 A His Uncle Andrew, but he couldn't remember his last
3 name

4 Q All right And then what happened?

5 A I received a phone call from Miss Brown and she
6 wanted to give me some information And the information
7 that I learn that Mr Daniels was paid to kill ---

8 Q Excuse me

9 A Mr Daniels was paid \$500 to kill Mr Byrd and was
10 suppose to get another \$500 after the murder

11 Q All right Now, after all this came in, did you just
12 keep on working this case?

13 A Yes, sir I called Miss Goodman back and asked her
14 if Mr Daniels had changed his cell phone number And she
15 stated, yes, he had changed his cell phone and she said
16 she couldn't tell me when he changed the cell phone
17 number, but she gave me the old phone number as

18

19 Q Okay And when you got this information about the
20 cell phones, did you start asking that phone records be
21 subpoenaed in this case?

22 A Yes, sir, I did

23 Q All right Now, I am going to show you State's
24 Exhibit 5 for identification which are several phone
25 records from AT&T that Mr Hanks, the records keeper,

1 testified to And you saw a subscriber individual for
2 is that correct?

3 A Yes, sir

4 Q And that was?

5 A Nyrena Goodman

6 Q And the active date for -- when was this
7 phone active for or sim card in this phone active for?

8 A November 13th 2007 through 9-5-2008

9 Q And 9-5-2008 is the date that Corey Byrd was
10 murdered?

11 A Yes, sir, it was

12 Q And so that was the active period for that phone?

13 A Correct

14 Q All right Now, did you have a chance to examine the
15 phone records in this case?

16 A Yes, sir, I did

17 Q All right Did you ask for any information on any
18 other subscriber numbers?

19 A I asked for information for the new number which is
20 the one I was familiar with at that time The one that
21 Mr Daniels was using, you know, that morning I believe
22 it's

23 Q I will show you State's Exhibit 17, which is a photo
24 that came off of State's Exhibit 14, which is the Samsung,
25 is that correct?

1 A Yes, sir

2 Q And the number again for the jury on that phone?

3 A Is

4 Q All right So that's the phone we are talking about,
5 correct?

6 A Correct

7 Q All right Did you find anything of any interest
8 while we're dealing with this phone number of

9

10 A Yes, sir Basically that number -- that's the new
11 number that was given to Nyrena It was assign to Nyrena,
12 but that was Miss Goodman on September the 5th And
13 there's phone records on there

14 Q Well, I have the service date on that is August 23rd
15 2006, correct?

16 A Correct

17 Q All right So that's when, I guess, the service date
18 started on that number?

19 A Yes, sir

20 Q Okay But that was just another sim card she had?

21 A Yes, sir

22 Q Okay But that was the phone number that the
23 defendant had in this case?

24 A Yes, sir

25 Q Okay Now, I'm going to ask you to kind of jump

1 ahead if you could, keep your finger at where you're at in
2 your report Did you request the phone number for a

4 A Yes, I did And that came back to Leon Bostic

5 Q Okay And the address for that?

6 A Florence, South Carolina

7 Q Okay Do you know Leon Bostic by another name as
8 well?

9 A Leon is actually his middle name, but his full name
10 is Gary Leon Bostic

11 Q All right And was there any significance when you
12 compared -- and I use word the significance Were there
13 any phone calls made after the murder of Corey Lee Byrd
14 from the phone that Gregory Daniels had to Gary
15 Leon Bostic at

16 A Yes, sir, there was

17 Q How many phone calls incoming and outgoing were there
18 between the two numbers September the 5th, 2008, and
19 September the 9th, 2008?

20 A I believe, I counted 41 phone calls

21 Q All right And, of course, that number was also
22 listed on his -- I show you State's Exhibit 16?

23 A Yes, sir, in my investigation, I've learned that Gary
24 Leon Bostic also goes by the, I guess, a/k/a G A and it's
25 on that picture

1 Q Right Now, did you also learn about -- and I show
2 you State's Exhibit 15 someone by the name of Luck late in
3 your investigation in terms of phone records?

4 A Yes, sir Much later, I learned that Luck is Andre
5 Bradley and his number is

6 Q All right And in terms of these phone records from
7 I see an outgoing call from at 5 59 p m
8 on September 5th 2008 to which number?

9 A To

10 Q And that would be?

11 A That would be Andre Bradley number?

12 Q The day of the killing at about 6 00 p m that
13 evening?

14 A Yes, sir

15 Q Just as a matter of public awareness or just
16 something we know, what time does the evening news come on
17 here in the Florence area?

18 A Six

19 Q All right Now, I am also going to show you State's
20 Exhibit 5 this -- looks like an Excel Spread sheet?

21 A Yes, sir

22 Q Okay There several numbers listed there, but you do
23 see any phone calls between and Nyrena Goodman's
24 number of Don't mark on it with your pen?

25 A

1 Q Uh-huh

2 A Yes, sir

3 Q Let me ask you this, at -- and I believe this is a
4 time column right next to it Were there phone calls
5 between those two numbers at 4 32 and 4 28 and 3 04 in the
6 morning?

7 A Yes, sir, there are calls at that time

8 Q Apparently, there was one at 5 21?

9 A Yes, sir

10 Q To -- from to is that correct?

11 A That's correct

12 Q All right And based on what Mr Daniels had told
13 you at 5 21, they should have been in the motel room
14 together?

15 A According to what he is saying, they should have been
16 in the room in the bed together

17 Q Okay All right Now, if we can go back where you
18 had your finger, what did you do then?

19 A To go back to Nyrena Goodman, after I asked her about
20 the old number, new number and everything, I did ask her
21 again to make sure I understood her the first time and ask
22 her about the minivan driver Again, she told me it was a
23 younger black male, unknown black male And she confirmed
24 everything she said the first time to me and I did get the
25 phone records Mr Corey Byrd's calls show that Shavonne

1 Gass according -- got phone calls 053 hours and basically
2 14 minutes and around 14 seconds I got 5 07 ended The
3 call records confirm what Shavonne Gass had told us in our
4 investigation appears the victim was shot and killed at
5 that time Also received phone records from AT&T Nyrena
6 Goodman cell phone records, which Mr Daniels is on her
7 plan Mr Daniels had changed -- which we had already
8 talked about had changed his phone number that same day
9 Of course, we just went over the phone record at 5 21 that
10 she called between her and Mr Daniels And basically, at
11 the timeline I'm looking at from the time I believe the
12 murder occurred to the time they checked into the Country
13 Hearth Inn, it's approximately 27 minutes

14 Q That is if you believe -- could be anywhere from 25
15 to 27, correct?

16 A Correct

17 Q All right Because on the phone, it says apparently
18 4 55 and apparently according to some record you have it
19 says 4 43?

20 A Yes, sir

21 Q So we're talking 25 to 27 minutes?

22 A Correct

23 Q Let me ask you this, I asked you to do this, correct?

24 A Yes, you did

25 Q In terms of timing the thing?

1 A Yes, sir, you did

2 Q In terms of distance and travel?

3 A Yes, sir

4 Q If you could come off the stand one second and I am
5 going to show you State's Exhibit 4 I'm going to have
6 you stand over there and please keep your voice up as loud
7 as you can, so the court reporter can hear you All
8 right Now, I think the question I had is well can
9 somebody travel that far and that distance Can you tell
10 the ladies and gentlemen of the jury the experiment I
11 asked you to carry out in terms of going to the scene the
12 corner of Marlboro and Dargan Street I believe that's
13 right here And tell the ladies and gentlemen of the jury
14 what you did? You have distances with you and the times
15 and so forth?

16 A Basically, Mr Jepertinger asked me to see if it was
17 possible for that timeframe from the time that we believe
18 the murder occurred to the time Miss Nyrena Goodman
19 checked into the motel So at that point in time, I did
20 three trips And all of them was during the daytime which
21 is more traffic out on the street at that time, but I
22 actually parked my car over here and I believe this is a
23 church right here

24 MR LAWSON Your Honor, I'm going to object,
25 there's already too many variables involved to determine

1 whether or not if he's gone try to attribute it to my
2 client There's no evidence that there was a car involved
3 anywhere at such point other than on

4 MR JEPERTINGER Well, you got to get from some
5 place to Your Honor, and we'd say he got
6 from the murder scene in a vehicle in a short time

7 THE COURT I'm going to allow you to testify
8 as to what you did Whether or not it's attributable at
9 all to this case is

10 BY MR JEPERTINGER

11 Q Well, if you could tell us what you did then please?

12 A Basically, I parked the next street over and I stood
13 where the victim had been laying I started walking I
14 walked around the corner and to where the church is where
15 my car was parked I walked at a leisure pace, got in the
16 car and I drove the most direct route to Miss Goodman's
17 home, which basically is come down the street to Lucas
18 here and make a right on to Lucas, go all the way down to

19 where it intersects with Lucas, make a left
20 onto And if you going on

21 Miss Goodman's house will be on your left I parked in
22 front of their house I sat there for five minutes, which
23 I believe is longer than it did occur I sat there for
24 five minutes And it's 1 2 miles from where I parked the
25 car to her address At that point, I left and drove

1 straight down to made a left on to
2 Darlington Street, all the way down to Irby Street, made a
3 right on to Irby, went all the way down to South Irby to
4 the Country Hearth Inn and Suites And it took me 16
5 minutes to get there during the daylight traffic hours and
6 it ended up being 3 3 miles

7 Q In total?

8 A In total, yes, sir

9 Q All right You continue to investigate this case
10 correct even after all that information about the phone
11 records and the statements and stuff like, you kept
12 working this case, isn't that correct?

13 MR LAWSON I'm going to object to the form of
14 the question that all that information, all that
15 information, I think, is an improper comment

16 THE COURT Sustained

17 MR JEPERTINGER Yes, sir

18 BY MR JEPERTINGER

19 Q What did you do?

20 A I continued with the investigation I basically had
21 to write my report, but I did follow-up on some more
22 information to see, but I didn't find out any more
23 information at that particular time, you know, in the
24 investigation, so I did my report waited for SLED and
25 stuff to be done Later, I received information that

1 Andre Bradley wanted to talk And at that time, we
2 interviewed him and got a statement from him

3 Q But that was this year, correct?

4 A Yes, sir

5 Q All right But prior to that, did you have a
6 conversation with Nyrena Goodman about anything?

7 A Yes, basically reinterviewed Miss Goodman again this
8 year and she said -- she brought this up to me I didn't
9 ask her She said I found out who that person was that
10 pick me up that morning on And I said what
11 are you talking about? The morning that Gary came in the
12 dark green minivan with an unknown black male And I
13 said, well, who is that? And she said it's Gary I said,
14 Gary who? She said I don't know his last name I said,
15 well, Gregory had wrote her a letter and telling her this
16 in the letter And I asked her do you have this letter?
17 She said, yes I said, can I have the letter? She said,
18 yeah, you can have all of them I said, what you do mean
19 all of them? She said I got a bunch of letters that he's
20 written me And I said, can I look at them? She said you
21 can have them So at that point in time, I picked -- went
22 to her house and she gave me the letters

23 Q Okay Now, I am going to show you what has been
24 marked as State's Exhibit 19, okay

25 A Yes, sir

1 Q Now, look at this and do these letters differ in
2 anyway from when you first received them?

3 A Yes, sir They been redacted

4 Q And is that to court order that some of the material
5 contained in some of these letters has been edited out?

6 A Yes, sir, they have

7 Q All right Now, for you -- did you read all the
8 letters that she gave you?

9 A Yes, sir, I did

10 Q Do you find things of interest in these particular
11 case that you thought would be damning, I guess, to Mr
12 Daniels?

13 A Absolutely, yes, sir

14 Q Okay I am going to show you if you have -- I am
15 going to show you one that's dated 10-2-08, starting with
16 the word the?

17 A The blank I told them what happened at the cookout
18 and after the argument, I walked to Tonya's house and we
19 went to the room in a cab, never gave them a time or
20 nothing

21 Q That was significant to you?

22 A Yes, sir, cause again he said, you know, he went in
23 the taxi cab And I verified that it was not true and
24 he's telling her to tell me that

25 MR LAWSON Your Honor, I don't think it's

1 appropriate to have running commentary on the letter
2 unless he has some individual knowledge from either Mr
3 Daniels or Miss Goodman as to what the intention is

4 THE COURT All right You can testify as to
5 the contents leave it at that

6 BY MR JEPERTINGER

7 Q I am going to show you looks like 10 October 2008,
8 here I will show you this -- if you could read that to
9 the jury please?

10 A Our stories are not the same I told them we left
11 off Carver Circle in a green van excuse me -- green van
12 cab with an old driver We were on the computer, but I
13 will tell them I was still there playing dominos You
14 went home to get clothes and I came and got you from there
15 no times though, make sure dude know this story, State
16 Taxi I already wrote Shanay -- I may be pronouncing it
17 wrong I will write you again over the weekend I pray
18 every day morning and noon and night I miss Do you --
19 do that go back to school get GED, so we can try living
20 together again But we already know what you got to do
21 Come see me homey

22 Q Okay I am going to show you looks like 10-15-08
23 If you can start there with some things I guess?

24 A Some things that I need to say to you I can't write
25 down or say on the phone, you feel me Someone told me

1 how you can help with me getting out of here I don't
2 know what you told them people, but all I need is for you
3 to say is I was with you at the time that they said this
4 happened I told you that when we went to the room,
5 remember I said we was together at the setting up But
6 you told them you was asleep and I came and picked you up
7 in a van My people told me that if you tell my solicitor
8 that you will give him or her a statement saying we were
9 together and they will give me a bond

10 Q All right Now, move on a little bit to another part
11 of that letter with they ain't got?

12 A They ain't got no gun, no bloody clothes, no shells
13 nothing Those are the main things they need to actually
14 convict me It don't matter how many people say it did
15 it -- I did it or we agree without the accurate
16 substantial evidence they ain't got shit, you feel me

17 Q All right I am going to show you what's also listed
18 as October the 18th 2008, starting with but?

19 A But all I need for you to do is say we left me with
20 your brother-in-law playing dominos on the computer You
21 went home and I came and got you and we went to the room
22 in a cab You don't know what number, but an old man was
23 driving the van, but you got to let old boy know to tell
24 the same thing

25 Q All right Move down here Just that little

1 photograph here please?

2 A Did you call up and me at him know that you calling
3 for Scou -- read the whole thing?

4 Q That will be fine Now, let me ask you in the course
5 of your investigation, did you come to find out a nickname
6 for Gregory Deleon Daniels?

7 A Actually, I found out two nicknames one is Scou and G
8 Man

9 Q All right On this letter of October the 18th, how
10 does he end the letter?

11 A Love always friend forever Greg a/k/a G Man

12 Q All right Let me show you -- I am going to show you
13 what I call the -- it looks like 16 October 2008 And it
14 the smile face heart you letter, okay?

15 A Yes, sir

16 Q I just need you to start here and stop at this
17 bracket?

18 A The only thing that they are going on is what
19 somebody is telling them, but they can't put me at the
20 scene cause we at the setting up and the room

21 Q All right I am going to show you what is the
22 November 16th letter and if you could starting with but?

23 A But anyways, I need you to call this number
24 and talk to Mr Jack Lawson and that is my lawyer tell him
25 that you are my girl And we were at the room during the

1 time they said that this occurred You can still tell him
2 that I pick you up in a van and we went to the room, but
3 tell him that you were waiting on me at your sister's
4 house, but you left because I took too long If they ask
5 you a time, just say you don't know what time it was But
6 you were sleep and we was at the room sleep when the
7 report on the news said at 5 00 a m But anyways, you
8 don't have to -- but it will help me and my bond hearing
9 you are who I was with when they found him How can we
10 talk about being together if you still letting streets
11 both you, cuz

12 Q All right And the last part of that letter in the
13 post script just read the post script?

14 A P S kiss my babies, tell them I'll see them soon

15 Q Keep going

16 A Handle that for me ASAP I need to have that money
17 up Call Luck tell him I said get at dude he
18 running his mouth

19 Q All right I am going to show you what's been marked
20 as February 19th 2009 Start with if there please?

21 A If I see you this weekend, I will tell you what they
22 saying, but your statement could hurt me in court because
23 they saying you told them that it was not a taxi and it
24 was a young dude driving the van And also that you was
25 sleep and I was on the phone talking to somebody about the

1 dude, but that has got to be when my phone started ringing
2 and that I left you and didn't come back until 6 00 a m
3 But they said dude was dead at 5 17 a m and the receipt
4 from the room shows us checking in at 5 34 a m But the
5 clerk saying he didn't see me but to cover that up, I'll
6 just say I was smoking a cigarette And for you -- did
7 they read you any rights most of the statements look like
8 they were reworded

9 Q Let me just stop there, in any of the statements you
10 took from any of these people, were any of your statements
11 reworded?

12 A No, sir, that exactly what the tape has on them?

13 Q All right Finally, I am going to show you looks
14 like June the 14th Can you start with a call all the way
15 to ASAP I guess?

16 A Call and tell Gary that calling for me and
17 let him know that Eddie Barefoot says he will take \$2,000
18 and come get me out Tell him my momma need one thousand,
19 that's who was -- dropped us off at the room or if you see
20 Ray tell him to tell G A I really need you to do this for
21 me ASAP

22 Q And G A was -- that you saw on the State's Exhibit
23 16, correct?

24 A That's correct

25 Q And that would be Gary Leon Bostic?

1 A Correct

2 Q Now, one of the last things that you did in this case
3 this year, who did you get a phone call from about this
4 Andre Bradley?

5 A Actually, Detective Clark advised me that he was
6 interviewing Mr Bradley and he wanted to give information
7 about this murder and shooting

8 Q So someone must have called Detective Clark?

9 A Yes, sir

10 Q And at that point had you spoken to Andre Bradley at
11 all about the facts and circumstances of this case and the
12 individual details?

13 A I never spoke to him about any details When I
14 learned of him wanting to talk about this murder, I went
15 to him and I told him to tell me which he proceeded to
16 tell me the facts as he knew it

17 Q Did you ever tell him about a Taurus vehicle?

18 A I did not

19 Q All right Did he know anything about what was in
20 the cell phones one way or the other? Did you clue him in
21 on that?

22 A No, sir

23 Q Did you clue him in on -- and I suppose the stuff was
24 on the news, correct?

25 A Yes, sir, it was on the news

1 Q But were there any particular details that would not
2 have been on the news that only you knew like the Taurus
3 so on and so forth?

4 A The Taurus was never put on the news And if I am
5 not mistaken, they gave general that an individual -- I
6 believe, they end up telling the victim's name that was
7 shot at the corner of Dargan and Marlboro but beyond that
8 there was no details released

9 Q All right And that was the first time that you had
10 that information, correct?

11 A I am sorry

12 Q With Bradley getting any information he had, this
13 year was the first time you required that information?

14 A Correct, yes, sir

15 Q As a result of talking to Bradley, did you want to
16 speak with Miss Barrett, Jasmine Barrett?

17 A Yes

18 Q And you spoke with her as a result of your
19 conversation with Bradley?

20 A Yes, sir And she gave me a taped statement as well
21 as Mr Bradley did

22 Q Okay And what was your purpose of wanting to talk
23 to Miss Barrett?

24 A To corroborate what Mr Andre Bradley had told me
25 about the meeting at the house or at the trailer and that

1 he come over to ---

2 Q What she testified to?

3 A Yes, sir

4 Q Okay

5 MR JEPERTINGER Beg the Court's indulgence one
6 second

7 (WHEREUPON, a pause in the proceedings)

8 MR JEPERTINGER Can we approach one second?

9 THE COURT Yes, sir

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury)

13 BY MR JEPERTINGER

14 Q That was your investigation in this case, correct?

15 A Yes, sir

16 Q Okay

17 MR JEPERTINGER Thank you Please answer any
18 questions that Mr Lawson may have for you

19 THE COURT Ladies and gentlemen, before we
20 recognize Mr Lawson for his cross-examination, we are
21 going to take a short break, give you an opportunity to
22 get a drink or whatever and then we will get started back
23 So if you please retire to your jury room and have no
24 conversation about the case, we will take this short break
25 and then come back and continue

1 (WHEREUPON, the jury retire to the jury room)

2 MR JEPERTINGER Your Honor, I know we are not
3 to have contact with the witness I didn't know if the
4 witness had to go to the bathroom either

5 THE COURT Lieutenant, obviously, you can step
6 down You just need to understand you can't have any
7 conversation with anybody about your testimony

8 THE WITNESS Yes, sir

9 (WHEREUPON, a break was taken)

10 THE COURT Anything before we bring the jury
11 out?

12 MR JEPERTINGER No, sir

13 THE COURT Anything from defense?

14 MR LAWSON No, sir

15 THE COURT Let the jury join us

16 (WHEREUPON, the jury came into open court)

17 THE COURT Mr Lawson, we recognize you for
18 your cross-examination

19 MR JEPERTINGER Thank you, Your Honor, may it
20 please the Court

21 THE COURT Yes, sir

22 CROSS-EXAMINATION

23 BY MR LAWSON

24 Q Lieutenant Compton, normally when a case starts in
25 the City how does that case begin? What starts the ball

1 rolling?

2 A The officers get to the crime scene And in this
3 particular case, it was a serious crime The protocol is
4 to call out the on-duty detective, which was me At that
5 time, when they told me what it was, I immediately started
6 getting crime scene involved

7 Q I'm talking about before that How did the first
8 officers know to go somewhere?

9 A I'm sorry, get radio call from central dispatch that,
10 you know, for instance the 9-1-1 call I believe, Tiesha
11 Brown called and officers responded to a radio call from
12 central dispatch to respond to Dargan and Marlboro in
13 reference to a shooting or person lying on the ground

14 Q So this instant originated with a 9-1-1 call?

15 A That's what I understand, yes, sir

16 Q What time did that 9-1-1 call take place?

17 A According to the original report dispatch time was
18 0517

19 Q 5 17?

20 A That's what the officer wrote, yes, sir

21 Q And would that indicate the time that the call came
22 in or the time that dispatch out to officers to go to the
23 scene?

24 A Usually, in a call like this immediately they
25 broadcast it as soon as they start getting the call in, so

1 it's probably right close to 0517, but the dispatch time
2 says 5 17 I am not sure exactly what time it was

3 Q So we -- at or around 5 17 is when the original
4 officers were at least dispatch began or the call came in
5 something started in relation to this case at 5 17?

6 A Yes, sir

7 Q And prior to that there's been no notice to the
8 police?

9 A Not that I know of, no, sir

10 Q Now, when you started the investigation, you started
11 by -- did I understand did you call crime seen or where
12 they already when you arrived?

13 A They was already on the scene if I'm not mistaken
14 before I arrived I had call them from my home and advise
15 them what I had because I'm the first one that gets the
16 call And it's my responsibility normally is to call out
17 crime scene which -- when I got the phone call, I knew I
18 was going to need crime scene

19 Q All right And so the original investigation and as
20 far as it goes as we enter the courtroom during this case,
21 there was a beer can recovered at the scene, correct?

22 A Correct

23 Q A cell phone recovered at the scene?

24 A Yes, sir

25 Q A body recovered at the scene ---

1 A Yes, sir

2 Q --- that was taken for an autopsy?

3 A Yes, sir

4 Q What else was found at the scene?

5 A I have to go back and look at what was logged in or
6 go refer back to Corporal Myers report

7 Q Well, there were some blood stains?

8 A Yes, sir, there was blood stain on the grass

9 Q And some on the pavement?

10 A Yes, sir

11 Q And basically that was it?

12 A Yes, sir

13 Q Now, there was never a gun found?

14 A No, sir

15 Q So there was no ballistics match done to any
16 firearms?

17 A No, sir

18 Q And SLED didn't do a test, they did have a bullet, a
19 bullet was recovered at the autopsy, correct?

20 A Correct

21 Q But there was no forensic test done using their
22 system or their data base to try and match that to
23 unknown gun that may have been out there somewhere?

24 A No, because what I understand through their policy
25 that they do not test 22's Unless, they have a gun

1 along with it

2 Q And there was none in this case?

3 A Correct

4 Q All right The DNA that was retrieved has been
5 tested and none of it was a match to my client, Gregory
6 Daniels?

7 A Correct

8 Q And now the -- and no -- other than the victim no one
9 else was tested or that the samples were not drawn to or
10 test against any other individuals, were they?

11 A What's tested -- I mean ---

12 Q Any DNA that was submitted to SLED was not tested
13 The only comparisons that were made were made to the
14 victim and to my client?

15 A Correct We didn't have anybody else to test it for
16 him

17 Q And nobody -- and it was not as far as you know put
18 into the system for the data base to determine if any of
19 that match some other individual, is that correct?

20 A As far as I know, I mean, the SLED person testified
21 I'm not sure what all he done I just know the blood
22 stains didn't match to the victim excuse me -- to Mr
23 Gregory Daniels

24 Q In your investigation, you found that there was an
25 actual fight between several individuals, is that correct?

1 A Yes, sir

2 Q And in your investigation, you found that Corey Byrd
3 was the -- got in the middle of that fight and broke it up
4 acted -- tried to calm everybody down?

5 A Yes, sir, he -- what I understand he got the tail end
6 of the argument They had went to the store and when he
7 come back, he was trying to keep peace and broke them up

8 Q And there were guns involved in that situation?

9 A Yes, sir

10 Q Did you find in your investigation information about
11 someone riding in an SUV, a green SUV that was hanging out
12 the window with a gun yelling at the victim you die today?

13 A I was told that, but based on my investigation, I
14 never found anybody who could corroborate what -- that was
15 actually occurred, nobody could corroborate that

16 Q Nobody would admit to having done that?

17 A Nobody admitted to me that that occurred

18 Q But there was information that someone was hanging
19 out a window yelling tonight you die or you die tonight
20 something to that effect?

21 A That was information I gathered along with other
22 information from other things that I checked out and could
23 not corroborate

24 Q Now, the individual -- the most recent witness to
25 come along in this case was a Mr Bradley I assume?

1 A Yes, sir

2 Q And now I assume that someone interviewed him, did
3 they not?

4 A Detective Clark interviewed him the first time,
5 that's how I -- Detective Clark after he interviewed him
6 he had contacted me knew he even help me with the
7 investigation, so he knew I was the chief investigator and
8 he contact me and told me I need to talk to Mr Bradley

9 Q And did you talk to him?

10 A Yes, sir, I did

11 Q Okay Did he give you information about the gun that
12 was used?

13 A Information ---

14 Q Did he tell you what kind of gun was used?

15 A The only thing he told me He told me he never saw a
16 gun, but he said he was told by Mr Daniels that Mr
17 Daniels told him that he had shot the victim But he said
18 he never saw a gun

19 Q Didn't tell him what kind of gun?

20 A Not that I can recall

21 Q Did you ask him if he knew what kind of gun it was?

22 A Well, I did ask him if he ever see a gun he said no

23 Q Did you ask him if he knew where the gun was?

24 A Again, he said he never saw a gun, so he couldn't
25 tell me where a gun would be

1 Q Did he tell you how many times the person was shot?

2 A He did tell me that Gregory told him he shot three
3 time

4 Q Three times?

5 A Yes, sir

6 Q And was that what your investigation showed was it
7 three times?

8 A The investigation showed he was shot once According
9 to Miss Brown, she heard one shot All I know there was
10 one shot I can't tell you if there's anything in the
11 grass or not, projectile in the grass or anything, but
12 shell casing ---

13 Q They did check the scene, did they not?

14 A Yes, but based on my 25 and a half years in the
15 police department, it's hard to find a shell casing at a
16 crime scene sometimes in the grass much less trying to
17 find a lead projectile coming from it in the dirt

18 Q Did they look for one?

19 A I mean, we all looked to see if it's a shell casing
20 or anything that we could find and we didn't find
21 anything

22 Q And what information at that point that you had would
23 make you think there was more than one shot?

24 A Based on my investigation, I only learned it was one
25 shot Now, Mr Bradley said that Mr Daniels told him he

1 shot the victim three times

2 Q So somebody lied?

3 A No, sir I don't believe anyone lied I wasn't
4 there at the conversation He could have told him he shot
5 three times He may not have shot three times All I can
6 say is we found the victim with one gunshot I think
7 Mr Bradley reported to us what Mr Daniels told him
8 Now, whether that part was completely accurate, your
9 client can be lying on your part

10 Q Now, so anything that your witnesses tell you if they
11 are your witnesses, if it's not corroborated by the
12 investigation, it can be a mistake or inadvertent or
13 somebody else lying to them But if someone who's a
14 suspect tells you something that doesn't pan out, that
15 become as lie?

16 MR JEPERTINGER Your Honor, I object that is
17 an argumentative question

18 THE COURT Sustained

19 BY MR LAWSON

20 Q All right You had said something in relation to the
21 statements that the statements are all recorded, but not
22 all the statements are recorded, are they?

23 A I mean, the people at the cookout, I recorded their
24 statements Miss Brown, Miss Fludd, and Shavonne even
25 your client You want me to name names, I can ---

1 Q Well, I mean not all -- the clerk from the hotel he
2 was not -- his statement was not recorded?

3 A No, I didn't record his statement no, sir

4 Q And my client was not recorded the second time?

5 A No, sir

6 Q So that's subject to your interpretation and what you
7 wrote down?

8 A That would be a negative, sir I wrote down what he
9 told me I didn't interpret anything

10 Q So if I ask you a question, you will always put it
11 down as a question if you perceived it as such?

12 A When I was talking to him, wrote down what he told me
13 and then I went back and wrote my report of what he said
14 I didn't interpret that

15 Q All conversation involves interpretation, don't you
16 agree officer? You have to interpret what's being said in
17 order to make a response?

18 A You respond based on what they said when you ask them
19 a second question or follow-up question I didn't
20 interpret anything I wrote down what he said then I
21 asked a question based on his answer Now, when you tell
22 one person to another person to another person, if I am
23 just telling a normal story, I may have a little bit of
24 interpretation But if I'm writing down facts, I'm
25 writing down facts and that's what I did

1 Q And you -- but you recorded the first statement?

2 A Yes, sir, the second statement he didn't want it
3 recorded the second one

4 Q And he told you that?

5 A Yes, sir, he didn't want nothing recorded, he just
6 wanted to talk to me

7 Q Said I talk to you but not recorded?

8 A He said, he didn't want it recorded And I wasn't
9 prepared to record it because I wasn't suppose to
10 interview him

11 Q But you could have been? It wouldn't have taken
12 long

13 A If I went back and got a digital recorder, which I
14 didn't carry with me at that time

15 Q Now, how many people would you say were at this
16 cookout?

17 A I can't tell you how many was actually at the
18 cookout I can tell you who I learn that I was able to
19 identify at the cookout, but, I mean, based on what
20 Miss Gass said it could be 50 to 80 I didn't find that
21 many And normally at a party usually a lot of people
22 show up you didn't want to show up

23 Q You have any question in your mind that there were
24 people at this party you did not talk to?

25 A Do I have any questions in my mind?

1 Q Yeah You think you talk to everybody that was
2 there?

3 A No, sir, I didn't I attempted to find everybody I
4 could

5 Q Do you think that you came close to talking -- if
6 there were 50 to 80 people there, you didn't come close to
7 talking to all of them, did you?

8 A No, sir The information I got is the one I talk to
9 that I could find and people ---

10 Q How many people did you talk to that were involved in
11 the alleged fight between the Woodmont boys?

12 A There was Joseph Washington, Little B Bryan Timmons,
13 James Black, Bernard Cooper And, of course, can't talk
14 to Mr Byrd There's -- I talk to Gregory, Shavonne Gass,
15 Arthur White Bryan wasn't there at the time that the
16 party was actually going on There was like three
17 brothers there I talk to, I believe, one of them on the
18 telephone And two of them, I think, I'm not mistaken
19 were out of town because of their work, but I did talk to,
20 I believe, two of the brothers They said they didn't see
21 anything and Mr Hinnix, which we've already mention too
22 And those are the ones I basically talk to and got -- what
23 they can tell me about what happened at the cookout, what
24 they saw and what they heard and did

25 Q Basically, you just went through a list of basically

1 pretty much people that's testified?

2 A Yes, I did You got Tiesha, you got Brittany I may
3 have left somebody out I don't think I have, but I may
4 have But those the ones just basically, you know, about
5 and they have testified to

6 Q And basically that's the entire population of those
7 interviewed in relation to this case?

8 A Yes, sir, those are the ones I've interviewed

9 Q Did you do statements on all of them?

10 A Mr Hinnix I did not I can pull out my statements
11 and tell you who I did get statements from
12 Mr Washington, Mr Black, Gabriel Petterson,
13 Mr Daniels, Shavonne Gass, Bernard Cooper, Bryan Timmons,
14 did get a statement from Nyrena, but she wasn't at the
15 cookout These are statements from Mr Bradley and
16 Miss Barrett I believe that be it, sir

17 Q Did you find out during the course of your
18 investigation any information about another cookout that
19 took place at the same time as this cookout approximately
20 the same time -- fish fry I believe it was?

21 A Yes, sir, on

22 Q And is that one that Mr Corey Byrd attended?

23 A I understand he attended in a short period of time,
24 yes, sir

25 Q Did you talk to anyone that was at that get together?

1 A I did talk to Mr Hinnix Mr Byrd and Mr Hinnix
2 left from the cookout on went to
3 for a short period of time and went to the fish fry
4 what they call it And then back from the fish fry back
5 to cookout

6 Q Did you check the fish fry -- did you go by the area
7 of the fish fry and check there to see how many people
8 were involved in that get together?

9 A No, sir, because at the time I saw no point in
10 talking to people at the fish fry that had nothing to do I
11 understand of this incident

12 Q Well, what made you so sure that this cookout had
13 something to do with this instance?

14 A Cause the information I received through phone calls,
15 people I interviewed said there was a fight and an
16 argument at the cookout, so that's why And the last
17 place the victim left before -- just prior to him being
18 killed, that's why I went and did an investigation at that
19 cookout

20 Q And how many people did your investigation show were
21 present when he left?

22 A Gabriel Petterson was there Shavonne Gass, Mr
23 Byrd, Arthur White, and Ryan Evans and, of course, Ryan
24 was in the vehicle He had pulled up according to his
25 testimony And when he told me he pulled up, he had made

1 a previous phone call to Mr White to go to a bootlegger's
2 house to get a bottle of gin

3 Q He testified, correct?

4 A Mr Evans did, yes, sir

5 Q And I mean Mr Evans was in that vehicle too, right?

6 A Right

7 Q There two people in the vehicle?

8 A Ryan Evans was by himself when he pulls up Gabriel
9 Petterson wanted a ride He was there to actually pick up
10 Mr White and go to a bootlegger's house, but Mr White
11 decided he didn't want to go because he had his girlfriend
12 there He had his girlfriend there and he didn't want to
13 leave her And Mr Byrd asked Mr Evans if he could catch
14 a ride down the street and he was going to get in the car
15 and then he realize he left his phone charger in the
16 house

17 Q I know we've heard that, that's the testimony we
18 heard

19 A Okay, I'm just answering what you asked

20 Q What I'm asking is how many people were there, I
21 didn't ask?

22 A I just told you, sir I just told you

23 Q Well, but what I'm getting at is how many people knew
24 or could have known what time Corey Byrd left that party
25 or the cookout The cookout was long since over?

1 A Yes, sir

2 Q Left that location?

3 A Arthur White knew he was leaving He didn't know --
4 I don't believe he knew what he was gone do I think
5 Arthur told me that he was going to go get a pack of
6 cigarettes and be back Gabriel and Shavonne knew Ryan
7 all he knew was he was to take him down the street and
8 drop him off Beyond that, I don't know

9 Q From your investigation, there's nobody else there,
10 correct at that time?

11 A Correct

12 Q And from your investigation everybody else had been
13 filtering out for some time since really around three
14 o'clock ---

15 A Around three o'clock

16 Q --- started filtering out And by 4 30 or five
17 o'clock, it was barely anybody there?

18 A Yes, sir

19 Q Now, in relation to State Taxi, wasn't -- didn't
20 State Taxi advised that they had two minivans?

21 A Yes, sir

22 Q And, of course, based on their records, there was no
23 taxi driver that was on the clock at that point at 5 30 in
24 the morning on September the 5th, 2008?

25 A One was and one wasn't

1 Q Huh?

2 A One was and one wasn't

3 Q And nobody reported a call arriving?

4 A Nobody called in according to log books and the lady
5 I interviewed

6 Q Now, when you got these letters from Miss Goodman was
7 this after you had told her that she could get arrested on
8 these charges or for this or was it before you told her
9 that?

10 A To answer that question, I have to go back to the
11 first day I interviewed her, which is the day I
12 interviewed Mr Daniels or shortly thereafter I
13 interviewed Mr Daniels She wanted to know what this was
14 about I told her I wanted to talk to her about the
15 shooting and she was scared like anybody else would be
16 You know, didn't know what was going on And I told her I
17 said listen, you know, I'm doing an murder investigation
18 and basically, you know, if you are withholding any
19 information, you could be arrested And just like if
20 anybody interviewed, if they are withholding information
21 And it's proven that they lied in the investigation, they
22 could be arrested and that's true And I did tell her
23 that Now, this was back in 2008 Now, 2009 when she
24 came up to the complex to be reinterviewed in Ms Parr's
25 office, I called her on the phone said Ms Parr would like

1 to talk to you because we are preparing to go to court
2 with this And she came up and she, you know, went over
3 her statement again And then that's when she told me
4 about Gary that she knew who drove them to the motel Was
5 she told that again that day, absolutely not She
6 volunteered all this information

7 Q After having been told she could be arrested?

8 A Over a year and a half ago

9 Q So the fear -- the fear drops with time?

10 A I don't know if she was ever in fear I can't tell
11 you that

12 Q Now, well, I mean the whole purpose of telling people
13 they are subject to being arrested is to put them in a
14 state of extreme cooperativeness is it not, Officer?

15 A I wouldn't say those words I put that you wanted to
16 be truthful You want to get as truthful a statement as
17 you possibly can

18 Q What if she had told you, I just don't have anything
19 to say to you?

20 A And she very well could have said that, but she
21 didn't that day

22 Q What if she would have?

23 MR JEPERTINGER Your Honor, those good
24 questions, but it is speculative and I object

25 THE COURT Sustained

1 MR LAWSON I can't ask that question, Your
2 Honor, that's fine

3 BY MR LAWSON

4 Q Now, if -- how many letters did she bring to you?

5 A I believe, there was 39 -- I count the envelopes
6 There was approximately two to three letters per envelope

7 Q And you went through all of those?

8 A I read everyone of them, yes, sir

9 Q And picked out the ones that we went through today?

10 A Yes, sir

11 Q In court?

12 A Yes, sir

13 Q And the letters that some situation nothing more than
14 a boyfriend-girlfriend letter?

15 A I'm sorry

16 Q Some are nothing more than girlfriend-boyfriend
17 letters?

18 A Yes, sir

19 Q And one I think he actually told her to continue and
20 get her GED, did he not?

21 A Yes, sir

22 Q And out of all those letters the ones that have
23 anything to do with this case, were the ones that have
24 been gone over in your direct testimony, is that correct?

25 A I'm not sure I understand that What the question?

1 Q Out of all the letters that you receive from her, the
2 ones that have anything to do with this case specifically
3 and in relation to the motel are -- were the ones that you
4 went over on direct with?

5 A I believe so, yes, sir

6 Q Okay So there would be many more letters that had
7 nothing at all about that incident?

8 A Yes, sir

9 Q Of course, Gregory was charged at that time He knew
10 what he was facing, did he not?

11 A Yes, sir, he knew

12 Q He was advised at the time of his arrest of what he
13 was charged with?

14 A Yes, sir

15 Q Did you serve the warrant or did officer Clark serve
16 the warrant?

17 A Detective Clark served the warrants on Mr Daniels

18 Q Now, the cell phone could you determine whether or
19 not this was a prepaid plan?

20 A I believe it was prepaid

21 Q And on a prepaid plan -- my tongue doesn't want to
22 work On a prepaid plan, if you make a call, does it --
23 and there's -- the phone starts ringing is there a
24 connection made and it will show a one minute call?

25 A To be honest with you, I know when it rings you know

1 who's going to call But I mean based on pre -- I got the
2 same problem you got Based on, you know, that I'm not, I
3 can't tell you what, you know, basically that plan or a
4 regular cell phone that, you know, you're connected with a
5 company T-Mobile or whatever My son was up here
6 testifying, he could tell you anything about a phone I
7 can't tell you except what the records show

8 Q And the records show one minute calls on a number of
9 occasions?

10 A It shows minute calls I think it shows zero and I
11 take that as, you know, a call, but there was -- no one
12 answered or whatever

13 Q And those calls are both ways incoming and outgoing
14 minute calls both ways?

15 A Yes, sir, I believe so

16 Q Was there -- you checked if I'm not mistake from your
17 direct testimony, you checked calls to Mr Bradley on the
18 cell phone records, did you not?

19 A I looked at the records sitting up here and it has
20 his phone number basically their words cause to him from
21 Mr Daniels And I believe if I am not mistaken, calls
22 back from Bradley to Mr Daniels

23 Q As to September the 5th or September the 4th ---

24 A September the 5th

25 Q Between five o'clock -- from five o'clock in the

1 morning on September the 5th, the first call to Mr
2 Bradley was at 5 59 p m , is that correct?

3 A That's what I can find, yes, sir

4 Q That's 5 59 in the afternoon not a morning call,
5 correct?

6 A Correct

7 Q But Mr Bradley told you he got a call in the
8 morning, didn't he?

9 A He said he got a call, yes, sir

10 Q All right I think you told me on cross-examination
11 that the call was from a cell phone and from Gregory?

12 A Yes, sir, I did

13 Q No such call in the records?

14 A I do not have those records on his old phone I
15 don't have those records I don't have his number or when
16 I say his Mr Bradley number being called, no, sir

17 Q Do you know of -- what on direct you testified as to
18 the cell phone being terminated on 9-5-08?

19 A The numbers were changed

20 Q The cell being terminated?

21 A I don't think I seen anything terminated, the numbers
22 were changed

23 Q Of course, the cell -- if there's a problem with the
24 cell, that's how you correct it is it not, by changing
25 numbers? Your cell goes out something happens to your

1 phone?

2 A No, I've had to return my phone and ship it off, I've
3 always kept the same number

4 Q But if they can't -- I'm saying if there's a reason
5 if the cell phone -- is a problem with the cell phone, one
6 way to correct it is to change the number is it not?

7 A I still say, no, sir I mean, it's not the phone
8 numbers the problem, it's the data or the -- I'm looking
9 for a word not data but programs or whatever on cell
10 phones and the phone companies have

11 Q You ever use prepaid phone?

12 A No, I have not

13 Q Now, you had testified that -- the DNA information in
14 relation to comparison, when did you receive that
15 information?

16 A I never received it, the Solicitor's office received
17 that information

18 Q The information was never sent to the investigating
19 officer?

20 A The Solicitor's office request the information
21 themselves to find out, you know, what the results were
22 And SLED had sent the information straight to the
23 Solicitor's office And I've been shown the results, but
24 I never received it myself, no, sir

25 Q You know when that testing was done?

1 A Without that report in front of me, I couldn't tell
2 you, sir

3 Q You know when you saw the report?

4 A I didn't look at the date I was in the office and
5 they said by the way this information came back from SLED
6 and I looked at the paper and that was it

7 Q Okay So you don't recall what day you got the
8 information or you found out about the information in
9 relation to the DNA test?

10 A No, sir, I know it was this year

11 Q This year?

12 A Yes, sir

13 Q Do you know when -- did you request DNA information
14 in this case?

15 A No, sir, I don't request Crime scene handles all
16 evidence And they would send it and they would do the
17 proper paperwork and request the -- what they would like
18 for SLED to take a look at

19 Q Do you know when that request was done?

20 A No, without seeing the paperwork, I can't tell you
21 exactly the day I know it more likely be shortly after
22 the incident They usually -- one individual at a crime
23 scene will gather up all evidence And they will go like
24 every other Tuesday or whatever, I'm not sure what their
25 schedule is, but they'll go like once or twice every other

1 week or so

2 Q As the lead investigator, you don't receive copies of
3 all documents in a particular case?

4 A I receive most of them yes, sir, but just like you
5 already know and I testified, I didn't get the results
6 because the Solicitor's office requested that

7 Q Now, did you every find anybody that gave you any
8 information that my client ever got in a fight with Corey
9 Byrd that night?

10 A Got in -- I'm sorry that got into arguments and made
11 threatens, but physically, no physical fights, only
12 argument and threats

13 Q Exactly what do you call a threat? What information
14 did you find in your investigation that led you to believe
15 my client threaten Corey Byrd?

16 A He was standing in the street and when Corey said I
17 been shot twice and Mr Daniels said I been shot in the
18 head And he -- Mr Daniels made a statement come on down
19 the street, I got something for you And I think Gabriel
20 and James and them grab Corey and Corey wanted to do it
21 right there at the cookout at the street there And they
22 basically talked him out of going down the street with
23 Mr Daniels So do I see it as a threat, yes

24 Q And where -- at what time were they separated
25 physically from each other in order to break up the fight

1 between them?

2 A There wasn't a fight There was an argument and
3 threats, but there was no physical fight I think
4 Mr Black and Mr Petterson grabbed Corey and told him,
5 hey, you know, you don't do it

6 Q As a matter of fact, there was much more physical
7 contact from the fight that went on with the Woodmont boys
8 than there ever was between my client and Corey Byrd, is
9 that not an accurate statement?

10 A Yeah, the Woodmont boys -- I mean, there was a fight
11 between Bryan Timmons, Bernard Cooper, and James Black,
12 those are the three that I know physically fought at the
13 cookout Those are the three that was actually in a
14 physical fight

15 Q And Cooper actually argued with Corey Byrd as well?

16 A There was an argument, yes, sir

17 Q Did Gregory's cell phone ring during the interview
18 that you had with him?

19 A No, sir

20 Q You don't remember answering his phone?

21 A I did answer his phone, but it wasn't in the
22 interview

23 Q You answered his phone?

24 A Yes, sir, I did cause I recognize the number that was
25 calling, it was Nyrena Goodman

1 Q Miss Goodman was calling him?

2 A Yes, sir

3 Q This was the first interview, correct?

4 A Correct

5 MR LAWSON Bear with me one minute

6 (WHEREUPON, a pause in the proceedings)

7 BY MR LAWSON

8 Q One more thing, Lieutenant Compton, now in the
9 mornings, normally there's a train coming across Irby runs
10 up back and forth, back and forth picking up cars
11 approximately five o'clock, did you check to ---

12 MR JEPERTINGER Your Honor, I would object
13 unless he's going to offer some evidence about a train
14 running across other than through this witness, Your
15 Honor I don't know if we have somebody from C S X or
16 any of the railroads who can say a train run across at
17 that time, that's testimonial evidence

18 THE COURT You guys come up here real quick

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury, but out of the hearing of the
21 jury)

22 THE COURT Mr Jepertinger, your objection is
23 sustained

24 Mr Lawson, you can ask your question, sir

25 BY MR LAWSON

1 Q Now, did you check to see if there's a train that
2 runs across Irby in the mornings in Florence?

3 A No, sir, I do not

4 MR LAWSON I don't have any further questions

5 REDIRECT EXAMINATION

6 BY MR JEPERTINGER

7 Q Just a couple things you mention, you mention a
8 Ms Parr, is that a prosecutor in my office?

9 A Yes, sir

10 Q And did you -- were you sent a CAD report from -- in
11 terms of, I guess, emergent 9-1-1 calls?

12 A Yes, sir

13 Q Would that been the call tied to 9-1-1?

14 A Yes, sir

15 Q Okay Is that in your note somewhere?

16 A I believe so

17 Q Using that to refresh your recollection, when would
18 the 9-1-1 call come in?

19 A Came in at 0515, 16 00 a m

20 Q And then, I think, Mr Lawson, asked you about some
21 -- police being dispatch 5 17?

22 A Yes, sir

23 Q But the call initially came in at 5 15, is that
24 correct?

25 A Yes, sir, the duration time was a minute and 50

1 seconds

2 Q Okay In terms of phone call to Bradley's number
3 that was on the number, isn't that correct?

4 A Yes, sir

5 Q And we did not get any information in terms of the
6 number, is that correct?

7 A That's correct

8 Q I mean, in terms of just a complete log of

9 A Correct

10 Q I know there was this that Excel Spread sheet is that
11 true with some calls between Nyrena's number and the
12 isn't that correct?

13 A Yes, sir

14 MR JEPERTINGER Thank you That's all I have
15 of this witness, Your Honor

16 THE COURT Anything further, Mr Lawson?

17 MR LAWSON No, Your Honor

18 THE COURT Thank you very much, sir You may
19 step down

20 (WHEREUPON, the witness leaves the witness
21 stand)

22 THE COURT Yes, sir

23 MR JEPERTINGER Your Honor, I believe that
24 would be the State's case, Your Honor

25 THE COURT All right Ladies and gentlemen,

1 the State has rested its case And at the close of the
2 State's case, it is necessary for me to take up matters of
3 law with the attorneys And it is about 17 minutes to
4 five, so we're going to adjourn for the afternoon cause it
5 will take me a little time to take up these matters of
6 law Ask you to again continue to adhere to your
7 instructions, that you have no conversation about the case
8 with anyone You can let them know that their close to
9 you being able to talk to them, but they have to wait
10 until the case is over And when it is over, you can let
11 them know whatever it is they would like to know about it
12 Please if you would again, as we done, please be back in
13 your jury room at nine o'clock and we will get started as
14 soon as we get everybody assembled So if everyone would
15 remain seated in the courtroom Ladies and gentlemen, you
16 are free to go please be back at nine o'clock in your jury
17 room

18 (WHEREUPON, the jury excuse for the day)

19 THE COURT All right At this time, I'll be
20 happy to take up any motions at the close of the State's
21 case

22 MR LAWSON May it please the Court, the
23 defense would move for a motion for a directed verdict on
24 the basis that there is insufficient evidence that's been
25 put forward by the State to establish anywhere near

1 evidence beyond a reasonable doubt, that the only evidence
2 at all that indicates any form of guilt is the defendant's
3 own words attributed to the defendant by others And I
4 don't believe that the defendant's own words can be used
5 in and of itself if convicting him of a crime and I think
6 that's what we have here

7 THE COURT All right, sir

8 Mr Jepertinger

9 MR JEPERTINGER Your Honor, taking all this
10 evidence in the like most favorable to the State at the
11 this stage, I think based on Dr Schandl's testimony that
12 this individual met his demise through homicide, Your
13 Honor, the taking of a person's life by another person,
14 Your Honor And then, Your Honor, we know he was shot in
15 the back of the head based on her testimony, Your Honor
16 And then, of course, what he told Andre Bradley And, of
17 course, you know, this sufficiency of the evidence and I
18 suppose not the weight of it at this stage, Your Honor
19 But I think those elements, Your Honor, if we couple them,
20 I think we have met our burden in terms of evidence in
21 this case

22 THE COURT All right There is those things
23 that -- if I recall, there is also testimony that -- I
24 don't remember names, but that first young lady that
25 testified heard a gunshot, walked out and looked down in

1 the direction of the gunshot and saw someone leaving the
2 area in just all dark clothing There's testimony that
3 that was the defendant's attire that evening Again, I
4 don't know how the jury is going to look at anything, but
5 I just think that there is circumstantial evidence that is
6 in the record that whereby a jury could find And I
7 respectfully deny your motion for directed verdict
8 Anything else, Mr Lawson?

9 MR LAWSON I just -- I'm trying to figure out
10 what it was about her testimony that would indicate
11 anything in relation to my client She didn't say she
12 recognized him ---

13 THE COURT I didn't say she did

14 MR LAWSON --- or that it appeared to be him
15 or anything

16 THE COURT She describe a man in all dark
17 clothing leaving that area where the body was found
18 There was testimony -- and again, I'm not trying to make
19 the State's case, I'm not arguing to the jury I'm just
20 telling you there's evidence in the record, circumstantial
21 evidence the testimony from that night was that your
22 client was dressed in all dark clothing and was there at
23 the gathering Again, I'm saying that there is evidence
24 in the record, circumstantial evidence that I think
25 depending on how the jury views the evidence and what

1 weight they give evidence Anything further?

2 MR LAWSON Nothing from the defense

3 THE COURT I have taken the liberty guys of
4 copying or making 'y'all a copy of -- this is just a
5 proposed charge, it's not by any means a final charge,
6 something for you to look at You can add to, take away,
7 change, alter whatever you want to do, but just -- it's
8 something that we need to look at or need me to look at
9 Also, Mr Lawson, I would ask you, sir, have you discussed
10 with Mr Daniels what the defense intends to do with
11 regards to the defense's case?

12 MR LAWSON We have discussed it, but we're not
13 in a position to make a final decision right now, Your
14 Honor

15 THE COURT All right

16 MR LAWSON We'll be prepared to do that first
17 thing in the morning

18 THE COURT All right I'm going to -- we're
19 suppose to start at nine o'clock in the morning, so -- and
20 I can tell -- and I apologize both to Mr Lawson
21 Mr Jepertinger about this morning I just forgot about
22 the Bible study I attend on Thursday's I know I don't
23 have one tomorrow and I got to take my kids to school, so
24 I will be here early So if you need me before then, I'll
25 be in chambers If you would this evening, look over that

1 charge and then any prepose charges that you may have Be
2 prepared if you would in the morning to give those to me
3 and we will discuss those things as well Anything else
4 that we could do this evening that will help us in the
5 morning?

6 MR JEPERTINGER I can't think of anything

7 MR LAWSON Not that I of know

8 THE COURT All right Court will be in recess
9 then until nine o'clock

10 (WHEREUPON, the proceedings were concluded for
11 the day to be reconvened on April 16, 2010)

12 THE COURT All right If I recall where we
13 left off, Mr Lawson, you were going to take the evening
14 to decide or finalize what the State's intentions were
15 regarding or excuse me -- the defense's case Have you
16 had that opportunity to discuss that with Mr Daniels?

17 MR LAWSON Yes, Your Honor, I also thought
18 about the State's case, Your Honor And on behalf of the
19 State, I just move to dismiss the case, Your Honor

20 MR JEPERTINGER Awfully generous of him

21 THE COURT Well, Mr Lawson, tends to be a very
22 generous man I am sure you thought about the State's
23 case, but how about the defense's case

24 MR LAWSON Yes, Your Honor, and my client has
25 indicated that he does not wish to testify

1 THE COURT All right Mr Daniels, let me ask
2 you if I may, sir, about that decision Sir, you
3 understand that you have the right to testify and call
4 witnesses in your defense You understand that you have
5 that right?

6 THE DEFENDANT Yes, sir

7 THE COURT All right, sir And also, I know
8 you talked at length with Mr Lawson You also maintain
9 your Constitutional Right to remain silent Mr Lawson
10 has indicated that is what you're going to choose to do is
11 to exercise your Constitutional Right to not testify, is
12 that correct, sir?

13 THE DEFENDANT Yes, sir

14 THE COURT Mr Daniels the decision -- of
15 course, it is appropriate and I encourage all defendants
16 to -- the reason you have good lawyers as you do in
17 Mr Lawson and Mr Smith is so that you can discuss with
18 them and get their in put and their thoughts But the
19 bottom line is any time someone chooses to exercise or not
20 exercise their Constitutional Right, it is important that
21 the final decision is their decision So the decision to
22 exercise your Constitutional Right to not testify has that
23 been your decision, sir?

24 THE DEFENDANT Yes, sir

25 THE COURT And you have discussed that though

1 with your attorneys, is that correct?

2 THE DEFENDANT Yes, sir

3 THE COURT Has anyone forced you to make that
4 decision or coerced you in anyway to make that decision?

5 THE DEFENDANT No, sir

6 THE COURT So the decision to exercise your
7 right to not testify has been your decision freely and
8 voluntarily without any coercion, is that correct?

9 THE DEFENDANT Yes, sir

10 THE COURT Now, you understand that when I
11 charge the jury on the law, that I will explain to the
12 jury that the fact that you have chosen to exercise your
13 Constitutional Right that they cannot hold that against
14 you in any way I'll explain to them in greater detail
15 that you don't have to prove anything because the burden
16 of proof is on the State They got to satisfy that burden
17 of proof, you don't have to prove anything And I would
18 instruct them that they are not even allowed to discuss it
19 in the jury room You understand that?

20 THE DEFENDANT Yes, sir

21 THE COURT All right, sir Thank you very much
22 Mr Daniels, you may have a seat Let me -- Mr Lawson,
23 if I may, let me suggest that that maybe we -- while the
24 jury is out, that we go ahead and take up motions at the
25 close of all the evidence And then we -- rather than

1 bring the jury out and have you rest on the record, send
2 the jury back out or would you rather do it in that
3 fashion?

4 MR LAWSON We can do it most in the convenient
5 way

6 THE COURT And I thought once we bring the jury
7 out, then we'll be prepared to just move forward with
8 closing arguments So at this time, I will be happy to
9 take up any motions at the close of all the evidence

10 MR LAWSON May it please the Court

11 THE COURT Yes, sir

12 MR LAWSON The defense will renew all motions
13 made during trial, all motions made at the close of the
14 State's case, which there's been no other evidence
15 introduced

16 THE COURT All right, sir I respectfully
17 would deny those motions, but note them for the record I
18 gave y'all a propose charge yesterday that was just a
19 rough draft We need to probably go ahead and discuss
20 that -- from the State you had an opportunity to review
21 that

22 MR JEPERTINGER Yes, sir I think, we are
23 okay Whatever the applicable law is, Your Honor, we ask
24 that you apply it If the Court feels that any
25 lesser-included offense applies, so be it, leave that to

1 the Court's discretion, but the charge is fine, Your
2 Honor

3 THE COURT Mr Smith

4 MR SMITH Thank you, Your Honor May it
5 please the Court, we are okay with it too for the most
6 part We would request that the Court include the Manning
7 language, we don't want you to take out the reasonable
8 doubt language that's there, but we would ask that you ---

9 THE COURT Would cause a reasonable person to
10 hesitate to act

11 MR SMITH Hesitate to act, we ask that you
12 include that as well

13 THE COURT All right, sir

14 MR SMITH In addition to that, Your Honor,
15 under the heading fair and impartial trial ---

16 THE COURT Let me -- give me one second, I'm
17 going to go ahead and pull it up and get there, so I can
18 look along with you

19 MR SMITH That will be on page 15

20 THE COURT Again on page 15, okay All right

21 MR SMITH Your Honor, again on page 15, the
22 conclusion of your fair and impartial trial, we would ask
23 -- we do take exception to some of this language It's
24 actually over on page 16 first It is, You and I are
25 acting for the community and that is why we must see to it

1 that the trial is fair and that the verdict is just
2 That -- there's more language down about the honor of this
3 community, to honor this state, and to honor of this
4 country And then the paragraph under that Now, you,
5 the jury, take into your care the preservation of the
6 honor of this community, the honor of this state, the
7 honor of this country ---

8 THE COURT I thought I took that out You got
9 that in yours?

10 MR JEPERTINGER We don't have it in the
11 State's copy, Your Honor

12 THE COURT It's not in your copy

13 How did we get it in you all's copy I
14 specifically took that out

15 MR SMITH Well, the language about the honor
16 of this community ---

17 THE COURT I see where you say you and I are
18 acting for the community and that is why you must see to
19 it that this trial is fair and this verdict is just

20 MR SMITH Your Honor, your are right Now,
21 you, the jury, taken good care has been taken out of this
22 copy out of I don't know how we got into this other copy
23 we have

24 THE COURT Must be when you use to clerk for
25 me

1 MR SMITH The only other thing we take
2 exception to everyone is entitled to justice in this case,
3 that's the last paragraph

4 THE COURT I see it

5 MR SMITH We would argue that that is burden
6 shifting The fact that we don't feel like the State is
7 necessarily entitled to justice Instead, they have the
8 burden of proving defendant guilty beyond a reasonable
9 doubt And we would cite Cage vs Louisiana, which
10 suggest that the jury instructions that dilute the burden
11 of proof on the government prove beyond a reasonable doubt
12 violate due process and constitute reversible error

13 MR JEPERTINGER Your Honor, I think your
14 charge as a hold places the burden on the State to prove
15 guilt beyond a reasonable doubt And I think you say that
16 more than one time, Your Honor The other thing, too, is,
17 I think, at the basis for any sort of trial in the United
18 States of America is that both sides receive a just and
19 fair trial And I think to ---

20 THE COURT I was going to say why isn't the
21 State entitled to justice just as any defendant who comes
22 into court is entitled to justice Being entitled to
23 justice doesn't remove a burden or lessen a burden I am
24 going note your exception to that, but

25 MR SMITH It may be the language, Your Honor,

1 that's bothersome I beg the Court's indulgence

2 (WHEREUPON, a pause in the proceedings)

3 MR SMITH Your Honor, and after consulting
4 with Mr Lawson, one of our concerns is how the jury would
5 interpret this not as lay people not as us folks that work
6 in the legal field

7 THE COURT I understand I am trying to figure
8 out how the jury could adversely interpret that by the
9 Court saying that everyone in this case is entitled to
10 justice

11 MR JEPERTINGER Pledge of allegiance says in
12 liberty and justice for all, Your Honor, so, I mean, it's
13 something that I think that everyone is familiar with

14 MR SMITH And I certainly agree with
15 Mr Jepertinger in that respect, I wouldn't bring it in an
16 arena of a courtroom We feel like the State does have a
17 burden to prove beyond a reasonable doubt ---

18 THE COURT Well, I tell you what I'm going to
19 do Surely, they accept the burden, that's part of the
20 system of justice that we work under But it's fairly --
21 you know, that paragraph you are referring to where it
22 starts with that everyone is entitled to justice, I will
23 take that out and just put your verdict in this case
24 cannot based on sympathy, compassion or prejudice, just
25 doesn't seem to be that big a deal I think it's a true

1 statement of the status of this -- criminal jury trials
2 and civil jury trials in this country, that everyone is
3 entitled to justice Now, let me go back up because we
4 had that -- you had some language that I thought I had
5 taken out and so I just want to make sure that's not an
6 issue

7 MR SMITH Yes, sir, it is not in this

8 MR JEPERTINGER Which page will you be looking
9 at?

10 THE COURT Now, back on page 16 says presiding
11 officer of this court and has nothing to do guy with the
12 guy wearing the robe, but the Court is entrusted with the
13 honor of the community, honor of this state, and the honor
14 of this country in seeking Is that the language you're
15 talking about you got a problem with?

16 MR SMITH Yes, sir, and it's not quite as
17 offensive to the defense without that other paragraph

18 THE COURT About they now take it into their
19 care?

20 MR SMITH Yes, sir

21 THE COURT But you also made a comment that --
22 where it says you're not called as jurors very often
23 proper performance of that duty requires each of you to
24 reach the height of freeing your mind of all improper
25 influences You and I are acting for the community and

1 that is why we must see to it that this trial is fair and
2 this verdict is just You got a problem with that?

3 MR SMITH Yes, sir And we would just argue
4 that that last sentence is improper We feel like it puts
5 the jury ---

6 THE COURT We must see to it that the trial is
7 fair and the verdict is just

8 MR SMITH No, not the last clause in that
9 sentence, but you and I are acting for the community And
10 we just feel like that puts the jury as a conscious of the
11 community, similar to a golden rule argument, Your Honor,
12 in reference to the victim

13 MR JEPERTINGER I don't perceive it that way,
14 it's a matter of perception, Your Honor I think part of
15 what you are trying to do for the jury is to show them
16 that in every single case, Your Honor, that the burden is
17 on the State However, they are the judge of the facts
18 and the judges of the facts part of their responsibility
19 is to make sure that this defendant receives a fair and
20 impartial trial And taken as a whole, I think this
21 charge does that I don't think the language is
22 offensive, Your Honor I don't think it's burden
23 shifting I don't think it violates the golden rule
24 You're not asking them to put them -- putting them in
25 shoes of the victim in this case, Your Honor, or as being

1 on bugsmen for the community to fight crime

2 THE COURT Well, what I think it says is that
3 we are acting for the community, so that every trial here
4 is fair and just It is not -- it is not making a plea on
5 behalf of -- as Mr Jepertinger indicated not making a
6 plea on behalf of a victim or on behalf of the State I'm
7 going to note your exception to that language, I'm going
8 to leave that language in

9 Now, as far as any lesser-include offenses, I
10 reviewed in my mind, I've gone over the evidence I've
11 gone over the stuff that I recall that came through the
12 course of the trial and I don't think there is any
13 evidence -- and I am assuming I don't think there's a
14 lesser-included to the possession of a weapon charge, but
15 with regards to the murder charge and I considered and I
16 looked at the law regarding voluntary manslaughter versus
17 murder and I don't think there's evidence in this record
18 to support a charge on the lesser-include offense I
19 think the charge of murder -- if the jury believes the
20 evidence, if the jury looks at the evidence in the like
21 most favorable to the State -- I mean, if that's where
22 they end up coming down on, I don't think that there's
23 evidence to support a voluntary manslaughter conviction
24 So I'm going to leave the charge regarding the charge on
25 murder and the charge on the possession of a weapon during

1 the commission of a violent crime as the two charges that
2 I am going to charge I took out that language on that
3 last page and I certainly would note your exception on the
4 other language Is there anything else from the defense
5 regarding the charge and the Manning language?

6 MR SMITH That's all, Your Honor, thank you

7 THE COURT All right Mr Jepertinger, would
8 you agree if I recall during the course of the case, it's
9 been several days, but I don't believe the defense has put
10 anything into evidence?

11 MR JEPERTINGER I agree with that

12 THE COURT All right Mr Lawson, I'm assuming
13 you would prefer to argue last, is that correct, sir?

14 MR LAWSON That's correct, Your Honor

15 THE COURT All right Well, why don't we take
16 a few minutes while I finalize those changes

17 MR LAWSON Bear with me one moment, Your
18 Honor

19 (WHEREUPON, a pause in the proceedings)

20 MR SMITH One last thing in regard to this
21 charge, we would also ask that the Court eliminate the
22 section of statement of the defendant We feel like that
23 charge is normally included ---

24 THE COURT Statement of a witness?

25 MR SMITH Statement of defendant

1 THE COURT Statement of defendant? Where did
2 you get your charge, Mr Smith, cause I took that out too

3 MR JEPERTINGER Mine is statement of
4 defendants

5 THE COURT You got that in there too?

6 MR JEPERTINGER Yes, sir

7 MR LAWSON Thank God

8 THE COURT You are exactly right It is in
9 there And let me hear why you think it shouldn't be?

10 MR SMITH We would just ask that the Court
11 omit this from this particular case We think that
12 normally when that's included, it is talking about
13 confession We don't think there's been one in this case

14 THE COURT That is not the purpose of that
15 charge to discuss a confession It is in there because
16 any time statement from the defendant comes in -- I mean,
17 that's the purpose of the charge now

18 MR SMITH Well, we would just argue that by
19 including it it brings more attention to his statement as
20 oppose to all the witnesses that, you know, that have been
21 heard from in this trial And we would ask the Court to
22 exclude it on that basis We just feel like it highlights
23 his statement over everybody else's

24 THE COURT All right

25 MR JEPERTINGER I think it should come in

1 (WHEREUPON, a pause in the proceedings)

2 THE COURT Anything further, Mr Smith? I am
3 going to respectfully deny your request to take that
4 language out, that is standard language in many criminal
5 trials where the defendant -- where a statement -- and in
6 all honesty, and I've ready through it and I'm looking
7 through it, it's really written to the protection of the
8 defense to give the jury a reason to not consider the
9 statement if they don't find that it's been appropriately
10 received

11 MR SMITH Your Honor, may it please the Court,
12 we would just ask if the Court would to see if they could
13 just maybe pair it down a little Mainly, our concern is
14 ---

15 THE COURT Just so y'all understand, I got a
16 message from a juror's husband that he is having to take
17 her mother to the hospital and is asking that she call him
18 immediately So I'm getting Ms Joe to take that juror to
19 the telephone, so she can make that phone call to find out
20 what's going on with her mother Let me get you wait for
21 a moment, sir, to make sure that door is not open

22 (WHEREUPON, a pause in the proceedings)

23 THE COURT I'm sorry, Mr Smith I just wanted
24 to get that to the juror Go ahead, sir

25 MR SMITH Thank you, Your Honor We got

1 nothing further in regard to the charge, sir

2 THE COURT All right, sir

3 Just for y'all information, I don't know what
4 the result of that phone call is going to be, but just to
5 keep y'all posted that involves juror number 33 Brete
6 Duffee And we'll just have to see what the end result of
7 that ends up being

8 MR LAWSON Can we take a brief minute?

9 THE COURT Yes, we are just going to be ease to
10 see how this shakes out

11 (WHEREUPON, a break was taken)

12 THE COURT Yes, ma'am

13 MRS DUFFEE My mother she's at Methodist
14 Maner She's 80 and she has Alzheimer's She fell this
15 morning And they -- she passed out and was cold and
16 clammy and they couldn't get her heart rate back up and
17 her blood pressure was very low like 50 So they are
18 taking her to McLeod's to the emergency room I'm her
19 power of attorney and everything and I'm the only child in
20 town Would it be all right if I go up there?

21 THE COURT Absolutely Absolutely

22 MR JEPERTINGER Judge, please seat the
23 alternate

24 THE COURT That's the reason we have alternates
25 in case anything happens like this You are absolutely

1 free to go and get whatever you need and don't worry about
2 this You go take care of her

3 MRS DUFFEE Okay, how about do I need to come
4 back Monday or do I have to call or anything

5 THE COURT No, no, you are fine As matter of
6 fact, what they will do is they will send you a check for
7 your service this week and inside that check will be a
8 work excuse if you need it All right Thank you so
9 much I hope your mother is going to do well

10 MRS DUFFEE Thank you so much

11 (WHEREUPON, where upon juror number 33 Brete
12 Duffee was dismissed)

13 THE COURT All right Mr Smith, let me
14 explain or let me tell you my understanding of the
15 appropriate procedure when you have a situation where you
16 have two alternates It is my understanding that we put
17 the names of both of those alternates essentially in a hat
18 and have the clerk draw out a name and that the name
19 that's drawn out is the one that's seated When you have
20 one alternate, it doesn't matter, you substitute the
21 alternate When you have two alternates, I recall -- I
22 think there's a case on it

23 MR JEPERTINGER Judge, whatever you think is
24 proper

25 THE COURT Well, they use to just say the first

1 alternate is the one that steps in, but in a criminal
2 trial, I think it goes back to anonymous selection
3 process

4 MR JEPERTINGER Whatever you think is proper,
5 Judge, the State will concede to doing that

6 (WHEREUPON, a pause in the proceedings)

7 MR JEPERTINGER Your Honor, since we're doing
8 it this way, obviously, I waive any selection by a blind
9 person or child or any of that business how they use to do
10 it, Judge

11 MR LAWSON I've never do it this way, I just
12 seated the first alternate

13 THE COURT I was telling Mr Smith and
14 Mr Jepertinger that -- I'll just take a moment to go back
15 and look real quick, but I believe it's different in a
16 criminal trial then the way they do it in a civil trial
17 when you have more than one alternate Let me double
18 check it

19 (WHEREUPON, a pause in the proceedings)

20 THE COURT All right Let me point you to some
21 language here Section 14-7-1340 in South Carolina Code
22 of Laws states that if before the final submission of the
23 case to the jury, a juror thereon dies or becomes so ill
24 or disabled as to be unable in the judgment of the Court
25 to perform his or her duties thereon, the Court shall

1 order him or her to be discharged and should then draw the
2 name of one of the alternates if there be more than one by
3 ballot to serve in place of such dead or charge juror
4 throughout the remainder of the proceedings, being subject
5 to the same rules and regulations as applied to the
6 remaining jurors And it says to cross reference that
7 with Rule 47 of the civil rules Rule 47 of the civil
8 rules indicates that the jurors -- alternate jurors shall
9 be drawn in the same manner as they were selected And so
10 this is what I thought was the case is that in criminal
11 cases if you have more than one alternate juror, you would
12 draw those names out of a hat so the speak, it be by
13 ballot In a civil case, you would draw them in the order
14 in which they were selected So I have the jurors -- the
15 two alternate jurors names on a piece of paper here that I
16 placed in this so called hat I'm going to ask madam
17 clerk to draw a name out All right And it is alternate
18 juror Phillip Roberts juror number 122 who just so happens
19 to be the first alternate that was selected, so I guess it
20 ends up being a wash

21 MR JEPERTINGER Yes, sir

22 THE COURT Gentlemen, I have not produced to
23 you a verdict form, but I am assuming that the -- and I do
24 have a verdict form prepared, I just haven't printed it
25 out yet It is just simply as the charge of murder

1 whether it be guilty or not guilty as to the charge of
2 possession of a weapon guilty or not guilty

3 MR JEPERTINGER Thank you, Your Honor

4 THE COURT Is there anything further from the
5 State before we bring the jury out?

6 MR JEPERTINGER Nothing further from the
7 State, Your Honor

8 THE COURT From the defense?

9 MR LAWSON Nothing from the defense

10 THE COURT Now, Mr Lawson, when the jury comes
11 out, I recognize you on behalf of Mr Daniels You can
12 then rest on the record and then we will go right into the
13 closings

14 MR LAWSON Thank you, Your Honor

15 THE COURT All right Ms Joe, ask the jury to
16 join us

17 (WHEREUPON, the jury came into open court)

18 THE COURT All right Ladies and gentlemen,
19 welcome back this morning, we had a little bit of a change
20 up as you are probably aware Mrs Duffee had a family
21 matter that was necessary for her to go take care of

22 So, Mr Roberts, I am going to move you from the
23 role of an alternate to being on the main panel And so
24 you will move into that position on the main panel

25 Ladies and gentlemen, if you recall yesterday,

1 the State had rested their case And so at this time, I
2 would recognize Mr Lawson on behalf of the defense

3 MR LAWSON May it please the Court

4 THE COURT Yes, sir

5 MR LAWSON Your Honor, the defense rest

6 THE COURT Thank you, Mr Lawson

7 Ladies and gentlemen, the evidence that you are
8 going to have to decide this case is all in We are at
9 the close of all the evidence So we have reached the
10 portion of this trial where the attorneys are going to
11 have an opportunity to address you with what we commonly
12 refer as their closing arguments or final summation It
13 is their opportunity to -- well, we call it arguments,
14 but they are not going to argue, but they are going to
15 give you their view as to what the evidence has shown and
16 what their belief is as to what the evidence is and what
17 it has shown It is important that you give them your
18 attention throughout their comments What I do want you
19 to understand though is this, the evidence is closed The
20 evidence that you are going to have to decide this case is
21 closed So just like I told you with their opening
22 statements, what the lawyers tell you during their closing
23 remarks is not evidence It is merely their belief as to
24 what the evidence has shown It is important even though
25 it is not evidence, it is important that you listen

1 carefully to each side The State and the defense and
2 then at the close of their arguments, I will then give you
3 the law that applies to this action And then after you
4 receive that, you will be in a position to then deliberate
5 to decide this case You are very close to finally
6 reaching that time when you can actually talk about this
7 case to somebody other than yourself So if you would
8 please listen carefully as the attorneys have an
9 opportunity to address you with their closing remarks
10 Mr Deberry

11 MR DEBERRY Thank you, Your Honor

12 Ladies and gentlemen, I just want to begin this
13 morning by reading from the letter that was written from
14 Mr Gregory Daniels to Nyrena Goodman, his girlfriend
15 They ain't got no gun, no bloody clothes, no shells,
16 nothing Those are the main things they need to actually
17 convict me It don't matter how many people say I did it
18 or we argue Without accurate substantial evidence, they
19 ain't got nothing

20 Well, ladies and gentlemen, I submit to you over
21 the course of this trial the last four or five days, the
22 State has done nothing but put substantial evidence into
23 this record that that man killed Corey Byrd There is no
24 doubt Judge gone tell you about reasonable doubt He's
25 gone tell you that absolute certainty is not required,

1 okay There can be some type of doubt but can't be a
2 reasonable doubt, there's no reasonable doubt in this
3 record All the State has to prove is that you are firmly
4 convinced that that man, Gregory Daniels, killed Corey
5 Byrd The evidence is here It is in the record When
6 y'all retire to your jury room, you're going to have it
7 all You can look at it, you can read the letters
8 Everything you remember that came from that witness stand,
9 you are the judges of those facts You can believe any
10 part of it, all of it, none of it The judge will tell
11 you that It's up to you You are the finders of the
12 facts in this case And the facts have been presented to
13 you and they prove that Gregory Daniels killed Corey Byrd
14 There's no doubt about it

15 I want to just take a minute before I get
16 started commenting on the evidence, which is my job during
17 the closing argument I just want to thank you I want
18 to thank each and everyone of you for your undivided
19 attention, for your patience, for your willingness to
20 serve I know that you rather be probably anywhere
21 besides here this week But this country, this nation is
22 founded on the principle if you're accused of a crime, you
23 have the right for 12 citizens of the community to come in
24 and decide the facts of your case You are innocent until
25 the State proves you guilty beyond that reasonable doubt

1 And it takes 12 citizens a fair and impartial sample of
2 the community to decide that It is the fairest system
3 in the world and I thank you for being a part of it It
4 is honor to serve as a jury and I appreciate y'all
5 willingness to do so I watched you all week I know you
6 paid attention and I sincerely appreciate it I
7 appreciate the fact that I know that you are giving
8 Mr Daniels and the State of South Carolina a fair and
9 impartial trial in this case So just I want to thank you
10 for that, I really appreciate it

11 Now, the judge is also gone tell you when we get
12 finished, that Mr Lawson is going to present their
13 closing Judge is gone charge you with the law Then
14 he's gone tell you, unlike he's told you every time you
15 had to get up and go back to the room and go home all week
16 or go to lunch whatever the case was, you can't discuss
17 this case, can't talk about it, it's not time Well,
18 after we're finish here today, that's the time Y'all go
19 back there and the 12 of you get to sit down and talk
20 about it all, talk about what you think happened, what you
21 know happened, who you might believe, who you might not
22 believe You get to talk about the inconsistencies of
23 Mr Daniels' statements The way he tried to cover this
24 up the days and months and years after this killing An
25 innocent person doesn't do those things, have no reason

1 to But after you talked about it and you come to your
2 conclusion, it's your job to bring in this courtroom a
3 verdict And I'll practice -- and I think every lawyer in
4 here has practice in front of Judge Ralph King Anderson,
5 and he always tells the jury that the word verdict, the
6 Latin word, okay, and that it means to speak the truth,
7 that's the meaning of the word verdict is to speak the
8 truth Well, I ask you to bring back a true verdict and a
9 verdict that is true There's only one verdict in this
10 case that is true There's only one and there is no doubt
11 about it And it says Gregory Daniels killed Corey Byrd
12 There's too much in this case not to believe that
13 There's too much evidence It is all there, you heard it
14 You can take what of it you need to find him guilty and
15 that's the only truth that can come out of this case I
16 ask you to do that

17 Now, it is the State's burden to prove him
18 guilty beyond a reasonable doubt And I believe and I
19 told you already that I believe we done that You should
20 become firmly convinced beyond a reasonable doubt that he
21 'killed Corey Byrd

22 We have to prove the crime of murder in this
23 case Now, Dr Schandl from MUSC, she came here She
24 told you Corey Byrd was killed, it was a homicide The
25 word homicide means the taking of one life by another

1 human being There's no question that's what we have
2 here There's no question He was shot in the back of
3 the head around 5 07, maybe 5 08, 5 09 in the morning
4 September the 5th No question that we have a homicide
5 Now, that is the killing, that is an element of murder
6 There's another element of murder and it's called malice
7 aforethought Malice is a ill will or a hatred The law
8 in South Carolina says that that ill will or hatred can be
9 formed in a split, it doesn't have to be predetermine
10 But in this case and if it is predetermined if this is
11 just a split that you decide to kill somebody and you
12 carry it out, you can be convicted of murder, okay That
13 would be implied malice The judge is gone read this to
14 you But express malice is when you plan to do something
15 It's when you lie in wait It's when you carry out a
16 plan to kill somebody

17 Andre Bradley told you that he knew he had to
18 kill that man about a month before he had to do it Andre
19 Bradley told you he didn't really believe he was going to
20 do it, that wasn't really what something that Gregory Daniels
21 would do He's known him for a long time, but he did it
22 He called him right he did it, told him he did it, showed
23 up that afternoon, watch the news with him You think
24 it's a normal thing for Gregory Daniels to do to go over
25 to Andre Bradley's house and sit down and watch the news

1 with him every day, I don't think so

2 Now, I believe the evidence shows you that
3 Gregory Daniels lied in wait He was lying in wait in
4 that neighborhood that night He messed up when he told
5 Sergeant Compton that he didn't -- he left the cookout
6 9 30, ten o'clock, didn't know Corey Byrd from a can
7 paint, went to a setting up, then went to the room, stayed
8 there until check out time Now, we know that's a lie,
9 every bit of it You heard from Shavonne Gass what she
10 tell you when is the last time she saw Gregory Daniels, it
11 was late It was around the time Ryan Evans showed up
12 Remember, he worked until three o'clock in the morning
13 He got there Corey Byrd and Gabriel Petterson were gone
14 got get a ride with him, but Corey Byrd forgot his
15 charger, so Ryan left

16 About that time, she said that Gregory Daniels
17 walked by dress in black and that she was sitting on the
18 front porch and she ask him for a cigarette And he came
19 up there and gave her one He was in the area
20 Mr Lawson asked every one of the State's witnesses who
21 was around when Corey left, who knew where he was going,
22 was there anybody outside, who knew where he was going
23 Were you around? No, sir, I was already gone I don't
24 know who was around Brittany Fludd I was in the computer
25 room, I couldn't tell you who was watching him leave I

1 can tell you who was watching him leave, it was Gregory
2 Daniels He was there He was in the neighborhood and it
3 was late And he was lying in wait with express malice
4 for the opportunity for Corey Byrd to present himself to
5 be killed and that's what happened No question about it
6 He lived on I think that's one street over
7 from Dargan He's in his neighborhood, but he told
8 Compton that he was in the motel We know that he checked
9 in the motel at 5 34 It didn't make any difference
10 whether or not he walked in that motel with Nyrena
11 Goodman, but he thought in sending a letter, he's gone
12 write to cover that up since the clerk didn't see me walk
13 in, I just tell them I was outside smoking a cigarette,
14 innocent man doesn't need to cover up anything, that's the
15 fact

16 But I'm gone tell you what happened Here's the
17 cookout -- excuse me for just one second
18 and right here, right here is the cookout
19 Okay That's where Shavonne Gass bummed a cigarette from
20 the killer It's was 3 30 maybe four o'clock, maybe later
21 in the morning than that, okay He want us to believe he
22 wasn't in the area, but he was in the area Mr Lawson
23 kept asking every other witness were you in the area, who
24 was in the area, who saw him leaving, who knew where he
25 was going Well, Gregory Daniels did, he was in the

1 shadows He was in the neighborhood, he was lying in
2 wait He had to do the job Gary Bostic had already
3 paid him \$500 He was out of money, that's what Andre
4 Bradley told you Maybe, if he would have given \$500 back
5 and gotten out of the deal, but I believe he was too far
6 down that road I don't believe it was Gregory Daniels
7 personalty to do what he did, but the evidence proves
8 there ain't no question he did what he did He was in it
9 \$500 He had already taken the first payment, now it's
10 all he had left he could do Gary Bostic and Corey Byrd
11 had probably over \$3,500, but for a \$1,000, he's gone take
12 his life And that man right there agreed to do it, he
13 took the money He'd already spent the first five, he
14 needed the next And the only thing he could do about it
15 was kill Corey Byrd, so he killed him He was there He
16 was arguing with him He was trying to boost up his --
17 get a state of mind he needed to actually kill somebody
18 He wasn't a killer, but he is now

19 When he followed Corey Byrd from that house
20 around 4 30, 4 45 when Corey Byrd is walking to meet
21 Tiesha Brown, it all adds up The times are there I
22 will explain it to you He's walking down -- Corey Byrd's
23 walking down Dargan Street, okay It's in the
24 neighborhood that you know that that man was in at that
25 time Tiesha Brown hears the gunshot about the time Corey

1 should be coming up You know, she testified it might
2 have been 4 15, 4 30 when she got home from walking home
3 from the cookout Brittany needed to go to school the
4 next day They got home from the cookout Corey called
5 her She said Corey Byrd's phone number I'll get to
6 that in just a second It's all established, she's
7 looking for headlights But she doesn't know, you know,
8 he got left by Ryan Evans and Gabby They went ahead, got
9 them a bottle of liquor They went and sat Gabriel
10 Petterson's grandmother's house They sat there for 20 or
11 30 minutes It all adds up, the times are there The
12 times are there, okay Tiesha Brown here's the gunshot,
13 goes back inside ask Brittany if she thought she heard
14 one But as soon as she hears the gunshot, she looks down
15 there and she sees a man in black walking off Dargan
16 Street onto Marlboro Street and disappears

17 Now, we know that's around 5 07 or 5 09 right
18 around that time And how do we know that because Corey
19 Byrd was on the phone with Shavonne Gass And we got
20 phone records to prove it, okay We got a time that
21 Tiesha Brown heard the gunshot She saw the killer walk
22 off, okay I'm gone tell you what he did He killed a
23 man right here He walked off of Marlboro Street and he
24 got in the van with Gary Bostic The man who wanted Corey
25 Byrd dead, who paid for it to be done and who paid Gregory

1 Daniels \$500 already and probably told him the job needed
2 to be done if you want the rest of the money, okay We
3 know that because there was a young black driver in the
4 van, okay Gregory Daniels wants us to believe that it
5 was an old black man driving a taxi cab, but we know
6 that's not true because Sergeant Compton checked that out
7 They do have two green taxi's that say State Taxi on the
8 side of it only one of them one was running at that time
9 And there was no record that man -- Sergeant Compton says
10 that man says he didn't pick him up, okay That's out of
11 the question But remember in an effort to cover all this
12 trouble up, all these things that look bad for him in
13 court, he writes her a letter and what does he tell her
14 Nyrena, I need you to call this number And I'll tell you
15 what the number was in a minute This number was Gary's
16 number He was the one who was driving the van that
17 night Innocent man doesn't do that

18 Telling you, ladies and gentlemen, he's not
19 innocent He is guilty He killed Corey Byrd He got in
20 the van with Gary Bostic They drove to We
21 got some phone calls of Nyrena Goodman and Gregory Daniels
22 just before the murder, just after the murder He's
23 saying get up, get ready, we going to the room Nyrena
24 Goodman says, you know, we go to the room sometime, yeah,
25 that's normal But what's not normal, what we ain't never

1 done before is go at 5 30 in the morning, okay And he
2 told Sergeant Compton not once but twice that he was in
3 that room all night He was in the room all night He
4 was in the room all night But we got records He was in
5 132, told us he was in room 132 He told Lieutenant Tim
6 Compton in his statement they stayed in room 132
7 Mr Presnell from the motel he testified yesterday it says
8 right here room 132 He also testified what time it was
9 when they checked in 5 34, okay He testified that would
10 be the last payment copy, but I would submit to you that
11 this is all you need to do to get a room at the Country
12 Hearth Inn You got to file this out You got to put
13 your name, your address, and Florence, and your city, and
14 your driver license number and they can give you a room
15 How long can that take?

16 Now, Tim Compton, the investigator in this case,
17 he did a daytime study or investigation how long it would
18 take to drive around from around the corner of Marlboro
19 Street where Gregory Daniels killed Corey Byrd How long
20 would it take to drive there, to walk off that street, get
21 in a car, drive Nyrena Goodman's house on not
22 too far away I think he said 1 2 or three miles, okay
23 He sat there for five minutes I don't know how long it
24 took him to get Nyrena out of the house, but I would say
25 she probably was ready, okay They had called before,

1 Gregory Daniels called before Well, he stayed there five
2 minutes and then he took off and went the most direct way
3 down Irby Street to this motel, okay He did it in enough
4 time to be able to check in between the time of 5 07 in
5 the morning when the murder happened and 5 34 Just
6 remind yourself, he did it in the middle of the daytime
7 There's more traffic out there in the daytime, it's going
8 to take you longer They had time to do it and they did
9 it It all adds up, there is no doubt

10 Now, let's talk about the witnesses that
11 testified there were at the cookout, okay Gabriel
12 Petterson, I think he was the first one we put up He
13 testified that he was the cook, okay She called him that
14 morning said, hey, I think we're going to have a cookout,
15 could you come over and help, so he got there early, okay
16 He testified that throughout the day Gregory Daniels was
17 there dressed in black and arguing, testified that he
18 invited Corey Byrd, the victim, who died at his hands
19 later that night, he invited him down the street several
20 times that day But that he and Bernard Cooper and the
21 other guy was there told Corey, man, don't go down that
22 road with him and he didn't He was waiting for an
23 opportunity, he was lying in wait, he had his malice
24 already He just didn't have the killing, okay He
25 already had his first payment, he just didn't have the job

1 done

2 Late that night, the opportunity presented
3 itself and he killed Corey Byrd But Gabriel Petterson
4 tells you that they were arguing and he invited him down
5 the street Gabriel Petterson also corroborates Ryan
6 Evans, okay Ryan Evans didn't have a reason to come in
7 here and tell a lie I submit to you that he told the
8 truth He said that he was working second shift or third
9 shift, got off from work after three o'clock in the
10 morning, drove by there to see his friends There was a
11 couple of guys there that wanted a ride here, there, and
12 everywhere That brings up another point Jack Lawson
13 asked almost -- well, he asked Shavonne Gass, he says,
14 well, your party started at 12 o'clock in the afternoon
15 and at four o'clock the next morning, it's still going on
16 people must have been pretty high by then They were
17 drinking There's testimony they were drinking Well,
18 Gregory Daniels wasn't drinking, that's what she said
19 Gregory Daniels wasn't drinking He was there to do a
20 job, okay

21 Well, Gabriel Petterson tells you that sometime
22 after four o'clock they got ready to go They go in
23 Ryan's car, they go get a bottle of liquor and he was
24 going on home, okay Well, Corey Byrd miss that ride
25 And I don't know if he had caught it, he might still be

1 alive, maybe not But what's important about that there
2 are the times Sometime after four they went across
3 through the neighborhood over at Gabriel's house, stayed
4 there 20 or 30 minutes It was four, 4 30 he testified
5 that could have taken five, ten minutes to get a bottle of
6 liquor, okay Fifteen to 20 minutes both of them
7 testified that, you know, they sat and talked outside
8 Gabriel's grandmother's house before Gabriel called it a
9 night, all right And then Ryan Evans comes back, he's
10 going home He testified he was going home and that he
11 lives on one street over from Dargan
12 It's a reasonable route for him to take home But we know
13 that he didn't have anything to do with this because Ryan
14 Evans was seen coming up the road after Tiesha Brown found
15 the body Ryan Evans just came by He saw what was going
16 on He saw Tiesha Brown there She was upset, he told
17 her to call the police and he went to Shavonne's house,
18 they were all friends That's the reasonable thing to do
19 Now, you heard from James Black He was the
20 slim -- I think they even called him Slim, the slim fellow
21 that testified He said he didn't get there until about
22 four o'clock that day, okay Well, four o'clock that day
23 he said, yeah, Gregory Daniels was there dressed in all
24 black Corey was there, everybody was there Bryan
25 Timmons threw a chicken bone at me, we got in a fight I

1 didn't want to fight him, but I had to defend myself, him
2 and Bryan Timmons, okay But he witness Gregory Daniels
3 arguing with Corey Byrd He witness him invite him down
4 the street, come on down the street I got something for
5 you He witnessed it There's more than one Him and
6 Gabriel Petterson they testified they witness that and
7 that's during the day And then he tells Sergeant
8 Compton that, oh, I went to a setting up and then went to
9 the room for the rest of the night I was gone from
10 there, but we know he wasn't We know he wasn't, okay

11 He tells you in the letters, I ain't never told
12 them no times Nyrena Don't tell them no times I ain't
13 never told them on times But that's because he knows --
14 and when he gave Shavonne Gass that cigarette, it was
15 probably after four o'clock in the morning, but he told
16 Sergeant Compton that he did that right before he left to
17 go to the setting up and then to the room for the rest of
18 the night He says he layed in the room right up until
19 check out We know that's wrong, we know that's wrong
20 Nyrena told you he left I tell you where he left He
21 went to get rid of whatever evidence he had He had a
22 gun When I read you this first letter this morning say
23 they ain't got no gun They ain't got no bloody clothes
24 How does he know? How does he know what they have? That
25 was a letter dated October the 15th Investigations --

1 you know -- how does he know they don't have a gun? How
2 does he know they don't have any shells? How does he know
3 they don't have any bloody clothing? Because he got rid
4 of them He left that motel He left Nyrena in that
5 motel and he went and did what he had to do

6 MR LAWSON Your Honor, I hate to object during
7 closing arguments, but we may need to approach on that
8 issue

9 THE COURT All right

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury)

13 THE COURT Thank you, gentlemen You may
14 continue, sir

15 MR DEBERRY Thank you He wasn't in the motel
16 for a period of time I want to turn your attention,
17 ladies and gentlemen -- excuse me for just one second
18 These phone numbers represent what have been put into
19 evidence throughout this week I can tell you exactly who
20 told you, how they came into evidence They are into
21 evidence, okay Tiesha Brown testified that Corey Byrd's
22 phone number She testified that was his
23 number She was involved with Corey Byrd at the time of
24 the killing Y'all know what she did, she was waiting on
25 him to come see her that night She talk to him on the

1 phone The last time she had talked to him he was in Ryan
2 Evans' car, but he forgot his charger, okay So that's
3 Corey Byrd's phone number Shavonne Gass
4 testified that her phone number at the time was
5 that was at her house where the cookout was, okay
6 Gregory Daniels his phone number before the killing and
7 shortly thereafter was that's not the number
8 that's in that cell phone, okay Because the day of the
9 killing for whatever reason he thought he needed to do it,
10 he changed his phone number I can't explain that Don't
11 know why he did it, but he changed his phone number the
12 day he killed Corey Byrd, okay, so that was the number
13 before This is the number after okay The
14 State does not have records for But we do have
15 in evidence records for that is the phone number
16 he used to call Andre Bradley right before he pulled up at
17 his house to watch the news, okay That be this phone
18 call right here 5 59 p m on 9-5, September the 5th
19 He killed Corey Byrd that morning Andre
20 Bradley testified he told you that, you know, early that
21 morning Gregory called him and told him he did it and he'd
22 see him later He calls him back 5 59 p m just before
23 the evening news, Andre Bradley told you as soon as he
24 hung up, he saw a Taurus coming up in the yard, okay, came
25 in and watch the news And I told you before, I don't

1 think that's probably what they use to do when they hung
2 out together But he had point and he needed -- you know,
3 he wanted to tell somebody He thought Andre was his
4 friend Andre problem was his friend Andre told you he
5 didn't have a deal to come here and testify But I'll
6 tell you right now Andre's in a bad spot He's with the
7 federal government and they got him on some terrible drug
8 charges They don't have a deal with him though

9 Ladies and gentlemen, sometimes when you get
10 pushed into a corner whether it be your fault or not
11 sometimes you got to start doing the right thing, okay I
12 am telling you Andre Bradley he definitely came here
13 hoping to help himself, but we are not going to dispute
14 that fact But he doesn't have a deal He's just doing
15 stuff that will make him look good when his time comes to
16 go before a federal judge He's building his resume, you
17 can't blame him for that He told you it's dangerous to
18 tell on people like this It is not a good thing to do to
19 come into court and testify, might wind up just like Corey
20 Byrd if you do something like that I don't know Bradley
21 may decide it is time now he shouldn't be living that of
22 kind of life anymore He got time, he's have time to
23 think about it But he didn't have a deal The proffer
24 agreement is not a deal It is not a deal You know, he
25 didn't have a deal, he is just hoping for help later doing

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Thomas A Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

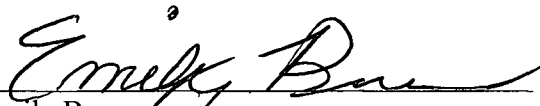
V

GREGORY D DANIELS,

APPELLANT

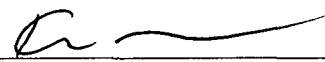
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 13th day of January, 2012



Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 13th day of January, 2012

 (L S)

Notary Public for South Carolina

My Commission Expires October 2, 2013

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SC Court of Appeals