

VOL. I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Abbeville County

Frank R. Addy, Circuit Court Judge

RECEIVED

AUG 28 2014

S.C. Supreme Court

ROBERT ORLANDO HILL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002106

APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
1999-GS-01-494

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,

-VS-

ROBERT ORLANDO HILL,
Defendant.

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

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July 14, 2005

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1 P-R-O-C-E-E-D-I-N-G-S

2 (Convened at 4:40 p.m.).

3 THE COURT: The record will open, please.

4 This is State of South Carolina versus Robert
5 Orlando Hill, indictment 99-GS-01-494. Count One,
6 murder; Count Two, possession of a firearm or knife
7 during commission of a violent crime.

8 The record will show that after after the
9 jury venire was qualified and a recess was
10 announced, that the Court went into chambers and
11 the Court was talking with Solicitor Peace about a
12 completely different matter in discussion,
13 whereupon there was a knock on the door and counsel
14 for Mr. Hill in the person of both Mr. Grose and
15 Mr. Buergey and for the State in the person of Mr.
16 Anthony came in and Mr. Grose made an informal
17 motion off the record for mistrial. He announced
18 then that he wanted to be heard on the record
19 concerning his motion for mistrial.

20 You're recognized, Mr. Grose.

21 MR. GROSE: Your Honor, I want the record to
22 reflect that I'm sitting, I guess, on what would be
23 to your right, and we're probably three feet from
24 the rail. I'm sitting near the center, Mr. Hill is
25 sitting in the middle of the table and Mr. Buergey

1 is next. There is a rail and Mr. Abernathy, a
2 uniformed deputy from the Sheriff's Department of
3 Abbeville is sitting behind Mr. Hill almost within
4 arm's reach of him, as close as anybody could sit
5 in this courtroom to him other than me and Mr.
6 Buergey sitting shoulder to shoulder at counsel
7 table.

8 Your Honor, I cite Dedeck versus Florida, 125
9 Supreme Court 2007, decided May 23rd of 2005. In
10 this case, Your Honor, the holding is listed at the
11 beginning, due process clause prohibits routine use
12 of physical restraints visible to jury during the
13 guilt phase of criminal trial.

14 Number two. Courts also may not routinely
15 place defendants in visible restraints during
16 penalty phase in capital proceedings.

17 Number three. Shackling in the instant case
18 was not shown to be specifically justified by
19 circumstances and thus violation of due process.

20 Number four, no showing of prejudice is
21 required to make out a due process violation from
22 the routine use of visible shackles.

23 This is just as bad, if not worse, Your
24 Honor. The close proximity, it is obvious that he
25 was put there for that purpose. I had a

1 conversation with Chief Johnson who I believe
2 instructed this deputy to be there, and I would
3 like either the State to stipulate to that or I
4 would like to call Chief Johnson and examine him,
5 as well as Deputy Abernathy.

6 THE COURT: Well, do you swear to tell the
7 truth?

8 DEPUTY JOHNSON: Yes, sir.

9 THE COURT: What did you instruct the deputy
10 to do?

11 DEPUTY JOHNSON: Go back on point. When we
12 took a break, before we took a break, during the
13 jurors' selection, all the jury process, my deputy
14 was seated right there where Mr. Williams is at.

15 THE COURT: All right, that's about 15 to 18
16 feet, Sheriff?

17 DEPUTY JOHNSON: Yes, sir, he was seated
18 there.

19 THE COURT: In a separate box, the grand jury
20 box?

21 DEPUTY JOHNSON: Yes, sir. When they took a
22 break Mr. Grose and Mr. Buergey, everybody from the
23 defense team gets up and leaves out of here.

24 THE COURT: Leaves the courtroom?

25 DEPUTY JOHNSON: Yes, sir. There is no one

1 sitting at that table or even, or around in here
2 beside Mr. Hill. He is in custody, he is my
3 responsibility and I will not let him get away, and
4 I have told Mr. Abernathy, who was standing right
5 over here behind the bar, to get a little bit
6 closer until this trial started. When the trial
7 starts he will be seated right back up here where
8 we always sit.

9 THE COURT: All right. Now, Mr. Grose may
10 ask questions but the Court will pose this question
11 to you. At the time you told Deputy Abernathy to
12 take the position behind the defendant, which is a
13 distance of about four to five feet, on the first
14 row of the spectator gallery in the courtroom,
15 behind the railing?

16 DEPUTY JOHNSON: Yes, sir.

17 THE COURT: When you told him that what was
18 the circumstance of the courtroom? Was there
19 confusion, with people leaving, was it loud?

20 DEPUTY JOHNSON: Yes, sir. I had even walked
21 to the back back here to check out front to make
22 sure everything was all right, I had milled around
23 here. There was some jurors maybe coming in, but
24 there was nobody from the defense in here.

25 THE COURT: But could a person without being

1 noticed walk out with the whole venire?

2 DEPUTY JOHNSON: No doubt about it, Judge.

3 THE COURT: All right. Questions of the
4 witness?

5 MR. GROSE: Has Lanny Hill ever tried to
6 escape anytime he has been in your custody?

7 DEPUTY JOHNSON: I haven't given him that
8 opportunity, no, sir.

9 MR. GROSE: So, the answer is no?

10 DEPUTY JOHNSON: He has been in maximum
11 custody, yes, sir.

12 MR. GROSE: He wasn't --

13 DEPUTY JOHNSON: In maximum lockdown.

14 MR. GROSE: He wasn't in maximum lockdown in
15 1999, you know, when he had a trial here in 2000,
16 was he?

17 DEPUTY JOHNSON: I can't remember. I know he
18 was in custody, yes, sir.

19 MR. GROSE: He was in custody. He didn't try
20 to escape during his trial in 2000, did he?

21 DEPUTY JOHNSON: No, sir, and we handle
22 security similar to we are now.

23 MR. GROSE: Right, but you also normally
24 handle security by having somebody sitting in the
25 grand jury box, correct?

1 DEPUTY JOHNSON: Yes, sir. But to finish my
2 answer, if you all leave I put a deputy behind
3 them.

4 MR. GROSE: All right.

5 DEPUTY JOHNSON: Because I have no security
6 at that back door. If I'm not there, there is no
7 security, so I allow the deputy be behind him, give
8 him his space at the defense table and I'm able to
9 cut off this part.

10 MR. GROSE: You realize I have no
11 responsibility for providing security in this
12 courthouse?

13 DEPUTY JOHNSON: I know it is solely my
14 responsibility, that's why I took the measures that
15 I did.

16 MR. GROSE: And --

17 DEPUTY JOHNSON: Not to cause him any harm or
18 anything with his trial. I am responsible for his
19 security and the courtroom security here.

20 MR. GROSE: And you have been able to provide
21 security by having people in plain clothes sit in
22 the grand jury box, haven't you?

23 DEPUTY JOHNSON: On occasions, yes, sir, when
24 they are available.

25 MR. GROSE: You have had Mr. Alford do it

1 when he has been here and available, haven't you?

2 DEPUTY JOHNSON: When they are available.

3 MR. GROSE: Of course he's in plain clothes?

4 DEPUTY JOHNSON: Yes, sir. You know, we have
5 a murder case we're working also, so they are tied
6 up in that case that we're investigating. I have
7 what I have available here in the courtroom, Judge.

8 MR. GROSE: So, what you are telling me is
9 there is no specific circumstances in this case
10 that you can cite that makes Lanny a flight risk,
11 Lanny Hill a flight risk?

12 DEPUTY JOHNSON: Any?

13 MR. GROSE: Is there any specific reason
14 about Lanny Hill, this defendant, my client, that
15 makes him a flight risk?

16 DEPUTY JOHNSON: No more than anybody else
17 that's charged with a capital offense like this,
18 no, sir.

19 MR. GROSE: And what difference does Mr.
20 Buergey's and my presence make here at all, if
21 we're not responsible for security?

22 DEPUTY JOHNSON: Well, if you all are there
23 talking with him, conferring with him, his focus is
24 on you all. When you all leave the building he is
25 just sitting here with idle time on his hands. I

1 just can't take that chance. It is nothing against
2 Mr. Hill, I don't know him from Adam's house cat.

3 MR. GROSE: And you didn't come to me and
4 say, "Can you go back and sit with Mr. Hill," or,
5 "Can you take Mr. Hill, inconspicuously escort him
6 back to the room?"

7 DEPUTY JOHNSON: When we started back that
8 thought did cross my mind but this right here, I
9 had just sat down, I hadn't been here 30 seconds
10 when you came back out and approached me, you know,
11 about it. I was going to wait until you come back
12 in here and I was going to talk to you about even
13 during breaks, like we have in the past, is taking
14 Mr. Hill out to your room and have a deputy posted
15 on the outside of the door.

16 MR. GROSE: So, you didn't realize that I was
17 in the courtroom, you saw that I got Mr. Anthony
18 and we went back and saw the judge?

19 DEPUTY JOHNSON: No, sir.

20 MR. GROSE: Okay.

21 DEPUTY JOHNSON: All I know is Mr. Hill was
22 sitting there for quite some time by himself. I
23 even stood here, Mr. Abernathy was over there, I
24 walked up past this lady here, talked to Mr.
25 Abernathy, had him go over there and sit until we

1 get started.

2 MR. GROSE: There were potential jurors in
3 this room during some of this?

4 DEPUTY JOHNSON: I can't say there was and I
5 can't say there wasn't. It seems like when I came
6 down, seems like there was some back in the back
7 area but I do not know.

8 MR. GROSE: All right. You were here when
9 they cleared the courtroom out, weren't you?

10 DEPUTY JOHNSON: I was.

11 MR. GROSE: And there were jurors in here
12 that had to be cleared, right?

13 DEPUTY JOHNSON: Yes, sir.

14 MR. GROSE: And the deputy has been sitting
15 here the entire time?

16 DEPUTY JOHNSON: No, sir, he has not.

17 MR. GROSE: The entire time since you
18 instructed him to sit here?

19 DEPUTY JOHNSON: For about two minutes before
20 you came over here, it was about two or three
21 minutes. Am I right?

22 MR. GROSE: And then after I came over there,
23 there was some time before the judge came in?

24 DEPUTY JOHNSON: Yes, sir.

25 MR. GROSE: Okay. And, so, he's been sitting

1 there that entire time, up until now, he's still
2 sitting here right now?

3 DEPUTY JOHNSON: You told me there was going
4 to be an issue with it, so I let him stay there.

5 MR. GROSE: You told me I had my butt on my
6 shoulder?

7 DEPUTY JOHNSON: I said you had your butt on
8 your shoulder, yes, sir, and you
9 still do.

10 MR. GROSE: That's all I have, Your Honor.

11 THE COURT: Mr. Anthony, any questions of
12 Chief Deputy Johnson?

13 MR. ANTHONY: No, I have no questions of
14 Chief Deputy Johnson.

15 THE COURT: All right. Any final comments?

16 MR. GROSE: Your Honor, I would like for you
17 to go review that case that I cited.

18 THE COURT: The Court doesn't need to do
19 that. The Court finds that what is obvious to you
20 is not necessarily obvious to another. The Court
21 would go so far as to say nothing is obvious. This
22 deputy's sitting where he is is an element of
23 security for the courthouse, both for the safety of
24 your client and for other people. Once the voir
25 dire is begun the entire venire will be advised

1 that the charge is one of murder, one of the more
2 serious charges there is in the law, so it would
3 be, it certainly would be sensible for the
4 government to take certain measures to see to it
5 that the defendant, your client, with all due
6 respect to him, the Court doesn't know whether he's
7 guilty or innocent of the charge and it makes no
8 mind, but the charge exists and the public would
9 expect security to be in effect, particularly when
10 we're in recess.

11 Whether anyone noticed the deputy is another
12 matter altogether. That is not obvious, that's not
13 obvious at all. The court finds he is not
14 shackled, he does not appear to be restrained in
15 any way, no one could find he is at all restrained.
16 But the deputy is sitting directly behind him, not
17 more than, not more than five feet, maybe six feet
18 in distance, something like that, but it is not any
19 kind of prejudice against your client, and the
20 Court so finds. The motion for mistrial is denied
21 but when we commence the trial the deputy will move
22 to another place, perhaps to the end of the row
23 there or someplace where you don't think that it
24 would be connected with security but security would
25 still be in effect for the purpose that it's

1 intended, for the protection of all involved.

2 Where do you want him to sit?

3 MR. GROSE: I would prefer there be somebody
4 in plain clothes but I would prefer he be sitting
5 someplace where it is not obvious that he has
6 anything to do here other than just he happens to
7 be here. I mean, it may not be obvious but under
8 this case I cited we don't have to show prejudice.
9 It's just simply a due process violation for it to
10 occur. And I want him moved far away. Where he's
11 sitting right now he could eavesdrop on
12 conversations I'm having.

13 THE COURT: Well, now, it was clear from the
14 exchange between Chief Johnson, who was under oath,
15 and your questioning of him that at the time the
16 deputy took his station behind your client there
17 was nobody sitting there of the defense team,
18 nobody. Is that correct?

19 DEPUTY JOHNSON: That is absolutely correct.

20 THE COURT: So, no eavesdropping could have
21 occurred.

22 MR. GROSE: If he stays here while we're
23 selecting a jury or through the trial, I mean, when
24 that jury comes back in here I don't want him here,
25 I don't want him sitting behind us at anytime while

1 the jury is in this courtroom.

2 THE COURT: Mr. Grose, the Court just asked
3 you where would you like for him to sit, keeping in
4 mind his responsibility for security of you, for
5 your client and for all persons present.

6 MR. GROSE: We've got a number of observers
7 in the grand jury box. I would just as soon he go
8 back to where he was in the beginning.

9 THE COURT: All right, he will sit on the
10 first seat there, where the young lady in the pink
11 is sitting.

12 MR. GROSE: He was in the third seat before.

13 DEPUTY JOHNSON: That's where we always sit,
14 right there.

15 THE COURT: All right, that's where he sits
16 always, that's where he will sit now. Is that
17 acceptable?

18 MR. GROSE: That's acceptable. Just for the
19 record, I don't know that I have been to you, maybe
20 I have, but I have been to other judges when they
21 were administrative judge and complained about the
22 lack of security in this courthouse just in
23 general.

24 THE COURT: There is no question about that,
25 the Court concurs completely with that.

1 MR. GROSE: And I don't think that Mr. Hill
2 should have to bear the responsibility because of
3 that. That just doesn't seem fair.

4 THE COURT: Whatever may seem fair to you,
5 the record will reflect that when the deputy took
6 station behind your client that the Court had
7 recessed and the jurors were allowed to leave the
8 building. Neither you nor Mr. Buergey, co-counsel,
9 were present at the table. There was no way for
10 the State to ensure the safety and/or security of
11 the defendant but to station Officer Abernathy
12 where he is, but now in the future, let's have an
13 understanding how this will be handled, when we
14 have a break you will walk with your client,
15 together with Mr. Abernathy, Chief Johnson will
16 accompnay, and go to your office. If he were to
17 need to take a break he will be escorted by both
18 officers, one of whom will be in the room with him
19 and one of whom will be outside the door. When you
20 are conferencing with him in private one officer
21 will be outside the door, if not both.

22 Fair enough?

23 MR. GROSE: That's fair enough, as long as
24 the jury doesn't see any of it, Your Honor, and I
25 don't think they would.

1 THE COURT: No, sir. They will be asked to
2 leave before you leave the table.

3 MR. GROSE: All right. Just for the record,
4 Judge, this is all coming on the heels, this isn't
5 happening in a vacuum, this is coming on the heels
6 we have already been to talk with you about, well,
7 this happened, and that was the fact Mr. Anthony
8 asked that he be brought over here dressed out for
9 court and when in fact at the time that jurors were
10 assembling he was brought over in an orange jail
11 suit with a belt around his waist and all chained
12 up contrary to the request of the Solicitor's
13 office. We already have been back there with you
14 earlier to ask you to try to deal with that in the
15 voir dire situation and your suggestion was that
16 you were going to try to ask some sort of question
17 about anybody having seen him earlier today before
18 they convened in this courtroom or something of
19 this nature. We are just starting to get problem
20 on problem on problem, if we're not careful, that
21 all deals with treating him like a dangerous
22 person. He has not been convicted of this at this
23 point and we're going to ask this jury this week to
24 find him not guilty and we're going to make a
25 strong argument for that, and I don't want the way

1 he's being treated in this courtroom to somehow, or
2 coming and going from this courtroom to influence
3 that thought process, and I don't think that's what
4 the Supreme Court wanted in this case that I cited.

5 THE COURT: This judge would under no
6 circumstances wish for any defendant subject to the
7 deprivation of his liberty to be prejudiced in any
8 way to this extent. At least so far as Officer
9 Abernathy stationing himself behind the witness
10 some four to five feet, whatever distance it is
11 from where he's sitting in the first row, the Court
12 finds no prejudice exists. There may have been no
13 one to have even noticed him. If so, there may
14 have been no real importance placed upon him.

15 The other subject you brought up that we have
16 already discussed, it is thought, without knowing,
17 that anybody who has seen this gentleman before on
18 this day will let us know and we will not allow
19 them to respond to the entire venire but come
20 forward and respond privately.

21 MR. GROSE: Yes, sir.

22 THE COURT: So that we can ferret out if any
23 prejudice were to exist and we can eliminate it.

24 So, Officer Abernathy, that's your station
25 and if we need to make any adjustments, then we'll

1 do so but we'll do it after conference with all
2 persons involved.

3 Anything further?

4 MR. GROSE: No, sir, not at this time. Just
5 that we maintain our motion, I don't want the
6 record to think that we're waiving our motion.

7 THE COURT: All right. Are we ready for voir
8 dire, counsel?

9 MR. GROSE: Subject to the motion. The only
10 reason I say that is there was a case out there one
11 time where defense counsel made a whole bunch of
12 objections, the Court asked are you ready, they
13 said yes, and since they didn't refer to their
14 prior motions they deemed it waived, and I don't
15 want to fall into that trap, so --

16 THE COURT: Are you talking about the instant
17 motion for mistrial?

18 MR. GROSE: Yes, sir. Subject to that
19 motion, I'm ready to go forward.

20 THE COURT: All right, noted and overruled
21 and preserved for the record.

22 MR. GROSE: Thank you, Your Honor.

23 THE COURT: All right. The Court intends to
24 leave the bench to review the somewhat voluminous
25 information that was given up to the Court for

1 potential voir dire. How do you want to handle the
2 security of the prisoner while the Court is off the
3 bench at this time?

4 MR. GROSE: I'll take him in the back room,
5 Your Honor.

6 THE COURT: All right. You will be escorted.
7 We'll stand in recess.

8 MR. GROSE: Thank you, Your Honor.

9 THE COURT: As soon as he's out of the room
10 you will ask the jurors back in.

11 MR. ANTHONY: Your Honor?

12 THE COURT: Wait, the record is open.

13 MR. ANTHONY: I have objections to three of
14 Mr. Grose's questions and I don't know if you want
15 to take that up now or if you want to wait to
16 review it and then take it up. I just thought I
17 could let you know that in case you wanted me to go
18 ahead and tell you about it.

19 THE COURT: Let's go ahead. He may have some
20 objections to yours. Some of them are duplicative
21 and the Court would intend, the Court would intend
22 not to ask the same question twice.

23 MR. ANTHONY: Yes, sir. I have objection to
24 his question number nine, which there is case law
25 that I do have available that says that the jury

1 should not be asked whether they credit the
2 testimony of one witness over another, which is
3 what his question number nine does regarding
4 testimony by police officers.

5 I have objections to his numbers 16 and 17
6 because it would be the State's position that if
7 you ask the jurors if they're willing to apply the
8 law as it stands, an answer to that would encompass
9 what is asked in questions 16 and 17.

10 THE COURT: The Court has previously asked
11 the former question about believing a police
12 officer over another witness but the Court will
13 grant your motion in this case and leave it to
14 direct and cross-examination to ferret out the
15 weight or credibility to be given to any witness'
16 testimony.

17 With regard to the last, what is it, 16 and
18 17?

19 MR. ANTHONY: Yes, sir.

20 THE COURT: What did you say about those?

21 MR. ANTHONY: Both those questions,
22 essentially the Court asked the question that just,
23 basically just asked jurors are you willing to
24 apply the law as it stands in this case, that would
25 encompass what they are asking in sixteen and

1 seventeen, which basically go into the facts of the
2 case.

3 THE COURT: Well, they will be instructed as
4 to the law. You concur with that?

5 MR. GROSE: I do, Your Honor. Well, let me
6 ask you this. Are they going to be instructed as
7 to the law that might apply when asking the
8 question in voir dire, at least in a general sense,
9 you know, if you ask them would they be able to
10 apply the law, including these various, you know,
11 murder, self defense, voluntary manslaughter,
12 things of that nature that we anticipate at this
13 time will be charged, that's one thing but, you
14 know, when you ask somebody just a general question
15 and don't call the specifics to their attention,
16 you know, they might not know the answer, you know,
17 they might not know that they might have a problem
18 with that, you know. I mean, somebody might have a
19 belief in our society so much against guns or
20 people possessing guns that would interfere with
21 their ability to recognize somebody's right to
22 defend themselves, and I think we're entitled to
23 know about those jurors, that those jurors exist.

24 With regard to number nine, I would like to
25 know what the cite is for the case that Mr. Anthony

1 has so I can review that.

2 MR. ANTHONY: There is two, one is 306
3 Southeast 2d 208, State v. Adams.

4 MR. GROSE: 306 Southeast --

5 MR. ANTHONY: 2d 208.

6 MR. GROSE: Uh-huh (Affirmative).

7 MR. ANTHONY: And the other is 422 Southeast
8 2d 123, which is State v. Davis.

9 MR. GROSE: All right. I'll take a look at
10 those during the recess.

11 MR. ANTHONY: I actually have copies of
12 those, I will give the defense one and give the
13 Court one.

14 THE COURT: The Court doesn't need one, the
15 Court is familiar with the Adams case.

16 MR. ANTHONY: Okay.

17 THE COURT: But in the past, in sheer
18 compliance with the request in most instances, Mr.
19 Grose, the Court has asked that question but since
20 you have made your position clear, Mr. Solicitor,
21 the Court will not ask that question. The Court
22 was not unaware of the State v. Adams case when it
23 was requested and did give it, the question, to the
24 venire. You made your position clear, so you all
25 can talk about it and the Court will review the

1 remaining portion of your voir dire and we will try
2 to seat a jury. In the meantime, if you all want
3 to talk, then we'll go about the circumstances as
4 we previously agreed, the prisoner will be escorted
5 to your office, Mr. Grose.

6 MR. GROSE: Thank you, Your Honor.

7 THE COURT: Or you can sit at counsel table,
8 as you will.

9 Madam Clerk, if you will secure this paper.
10 We stand in recess.

11 (Recessed at 5:03 p.m.).

12 (Reconvened at 5:23 p.m.).

13 (The jury returned to the courtroom).

14 THE COURT: Ladies and gentlemen of the
15 venire, we are preparing to try the case of the
16 State of South Carolina versus Robert Orlando Hill.
17 Jurors in this and every case, of course, must be
18 absolutely fair and impartial both to the defendant
19 Robert Orlando Hill and to the State of South
20 Carolina. To that end it's necessary to determine
21 if any member of the jury venire has heard anything
22 or knows anything about this case and whether, if
23 such knowledge were to exist, it in any way would
24 affect your ability to be absolutely fair and
25 impartial to the defendant Robert Orlando Hill and

1 to the State of South Carolina.

2 This is an indictment, ladies and gentlemen.
3 The indictment is a charging paper. It is simply a
4 charging paper. It's the document that brings the
5 matter before the Court and charges a person with a
6 crime. It is not evidence that the person has
7 committed any crime. It should never be considered
8 evidence. It is simply the paper that brings the
9 matter before the Court.

10 This indictment alleges in Count One that
11 Robert Orlando Hill did in Abbeville County on or
12 about the 6th of August, 1999, with malice
13 aforethought, kill one Terrence Artell Hill by
14 means of shooting and that the said Terrence Artell
15 Hill did die in Abbeville County as a proximate
16 result thereof on or about the 6th of August, 1999,
17 in violation of the laws of this state.

18 Count Two. That Robert Orlando Hill did in
19 Abbeville County on or about the 6th of August,
20 1999, possess a firearm or displayed what appeared
21 to be a firearm or knife during the commission of
22 the offense, to wit, murder, said offense being
23 defined as a violent offense pursuant to the laws
24 of this state.

25 Now, the indictment, again, is not evidence

1 and should not be construed or considered to be
2 evidence in any kind, in any way at anytime by
3 anyone but these things as mentioned to you to
4 determine if you know anything or have heard
5 anything about this case. If you know anything or
6 think you know anything or have heard anything or
7 think you have heard anything about this case
8 please stand.

9 There are no responses.

10 Ladies and gentlemen, the defendant Robert
11 Orlando Hill introduces himself to you by standing
12 and facing you. Face the jury.

13 THE DEFENDANT: May I say something?

14 THE COURT: No, sir, please don't. The Court
15 does not mean to be rude to you but this is not the
16 time for speaking.

17 Is there any member of the jury venire who
18 knows or think you know or who is related by blood
19 or marriage or in any way acquainted with Robert
20 Orlando Hill? Do you know him, do you think you
21 know him, do you know any member of his family, are
22 you related to him in any way, do you have any
23 relationship with him whatsoever, or if you think
24 you do please stand.

25 Your name and number, we'll start with the

1 gentleman here, your name and number, please, sir?

2 JUROR: 107, Jim Porter.

3 THE COURT: How do you report?

4 JUROR: I don't know the defendant personally
5 but I went to the same school as him at the same
6 time.

7 THE COURT: That's a proper response. And
8 would your having gone to school with him at the
9 same time in any way affect or impair your ability
10 to be fair and impartial both to Mr. Hill and to
11 the State of South Carolina were you to be seated
12 as a trial juror in this case?

13 JUROR: No, sir. I have no knowledge of the
14 case, I was in school in Greenwood at the time that
15 it happened.

16 THE COURT: Thank you very much, sir. Be
17 seated.

18 Your name and number, please?

19 JUROR: George Bell, juror 10.

20 THE COURT: Yes, sir, Mr. Bell?

21 JUROR: I had some friends that I have heard
22 of him when all that happened.

23 THE COURT: You heard of the defendant Mr.
24 Hill?

25 JUROR: Mr. Hill doing the shooting.

1 THE COURT: All right. Just remain standing,
2 please.

3 And the lady in the stripes?

4 JUROR: My number is 147, Liddell Williams,
5 and I grew up with Mr. Hill.

6 THE COURT: You grew up with Mr. Hill?

7 JUROR: Yes, sir. I lived across the street
8 from him and I know his family.

9 THE COURT: Do you feel you could be fair and
10 impartial both to Mr. Hill and to the State if you
11 were chosen as a trial juror?

12 JUROR: I don't want to be a juror.

13 THE COURT: Ma'am?

14 JUROR: I don't want to be a juror.

15 THE COURT: Juror 114 will be stricken for
16 cause. You may be seated. That was your number,
17 wasn't it?

18 JUROR: 147.

19 THE COURT: 147?

20 JUROR: Yes.

21 THE COURT: 147 is stricken for cause in this
22 case.

23 Your name and number, please, ma'am?

24 JUROR: Nancy-L. Ashmore, juror number 4.

25 THE COURT: Yes, ma'am?

1 JUROR: I know his family, I lived across the
2 street from him when he was younger.

3 THE COURT: Would your having lived across
4 the street from him when he was younger in any way
5 affect and impair your ability to be fair and
6 impartial both to Mr. Hill and the State of South
7 Carolina if you were seated as a trial juror?

8 JUROR: I would rather not serve on this
9 case.

10 THE COURT: This lady will be removed from
11 the box. Your number again, please?

12 JUROR: Number 4.

13 THE COURT: Number 4.

14 Mr. Bell, If you will come up, please. And
15 the attorneys will approach.

16 (Bench conference out of the hearing of
17 the remainder of the jury panel).

18 THE COURT: Speak to him. I didn't want you
19 to say in front of everybody what you might say.

20 JUROR: All right. A good friend of mine, I
21 met him over there at the Hog Pen one night, one
22 night we were out drinking and all, we go in there,
23 and a couple days later a black guy friend of mine
24 I worked with, he said, he asked me if I knew him,
25 I said yes, and that's when he told me about him

1 shooting, about the shooting and everything, in
2 '99.

3 THE COURT: Do I hear a motion?

4 MR. GROSE: I would move to remove him for
5 cause, Your Honor.

6 THE COURT: Do you concur?

7 MR. ANTHONY: No objection.

8 THE COURT: All right. Your number is?

9 JUROR: Number 10.

10 THE COURT: Number 10, Mr. Bell, is excused
11 for cause. Sit down, please.

12 MR. GROSE: Judge, while we're here --

13 THE COURT: Just a minute, Mr. Bell.

14 MR. GROSE: Not with him.

15 THE COURT: I'm sorry, have a seat.

16 MR. GROSE: It is probably my fault, but you
17 had said you were going to transfer juror number
18 one, we were going to call her up, we just never
19 did that earlier, because she's the one whose
20 husband works in their office, so I'm sure she's
21 going to stand up in a few minutes, you may just
22 want to let her know at some appropriate time she
23 was transferred.

24 THE COURT: Let's call her up now.

25 MR. GROSE: Okay.

1 THE COURT: What's her name?

2 MR. ANTHONY: Miss Allen.

3 (Bench conference concluded).

4 THE COURT: Miss Allen, juror number 1, will
5 approach, please.

6 (Bench conference out of the hearing of the
7 remainder of the jury panel).

8 THE COURT: While we were here the attorneys
9 brought to my attention that you responded that
10 your husband is with the Solicitor's office?

11 JUROR: Yes, sir.

12 THE COURT: You are excused for cause in this
13 case because of your relationship to the
14 Solicitor's office, the prosecuting agency in this
15 case.

16 JUROR: Okay.

17 THE COURT: Do you understand?

18 JUROR: Yes, sir.

19 THE COURT: You needn't stand up, you will
20 not be called in this case.

21 JUROR: Okay. Do you want me to leave?

22 THE COURT: No. You just sit down, stay with
23 us.

24 JUROR: Okay.

25 THE COURT: Thank you.

1 (Bench conference concluded).

2 THE COURT: Number 1, Miss Allen, is excused
3 for cause.

4 Is there any other juror who feels that he or
5 she knows the defendant in any way whatsoever, is
6 personally acquainted with him at all, has any
7 relationship with him at all or in any way
8 recognizes him from any contact at anytime in the
9 past? If so, please stand.

10 There are no responses.

11 Is there any member of the venire who has
12 seen the defendant on today, July the 11th, 2005?
13 Has anyone seen him before he was here sitting at
14 counsel table today, at all at anytime before you
15 entered the courtroom? If so, please stand.

16 There are no responses.

17 Ladies and gentlemen, the State is
18 represented by John Anthony, who stands and
19 introduces himself. Mr. Anthony is a member of the
20 office of the Eighth Circuit Solicitor's office and
21 he is an attorney who prosecutes cases of this
22 nature with the Eighth Circuit Solicitor's office.

23 Is there any member of the jury venire who
24 has ever been represented by Mr. Anthony or anyone
25 now or formerly related, associated with or related

1 with the Eighth Circuit Solicitor's office in
2 anyway whatsoever? If so, please stand.

3 There are no responses.

4 Is there any member of the venire who knows
5 anyone who works for or is in any way associated
6 with the Eighth Circuit Solicitor's office in any
7 capacity whatsoever? If so, please stand.

8 Your name and number?

9 JUROR: 78, my name is Richard Madden. My
10 son is a deputy for Abbeville County. Would that
11 be --

12 THE COURT: And therefore you respond how?

13 JUROR: Well, he works with the criminal
14 system.

15 THE COURT: Would that in any way affect or
16 impair your ability to be fair and impartial both
17 to the defendant Robert Orlando Hill and to the
18 State of South Carolina were you to be seated as a
19 trial juror in this case?

20 JUROR: No, sir.

21 THE COURT: Very well, sir. Be seated.
22 Thank you.

23 Is there any member of the jury venire or any
24 member of your immediate family or any of your
25 close friends ever been represented by the

1 Solicitor's office or by Mr. Anthony? If so,
2 please stand.

3 Your name and number, please?

4 JUROR: Thomas Barnes, number 7.

5 THE COURT: Your response?

6 JUROR: My daughter was represented I believe
7 maybe three years ago by the Solicitor's office.

8 THE COURT: And what kind of matter was it?

9 JUROR: It was like, I think maybe it was
10 against a minor, some minor charges.

11 THE COURT: Some friend of yours, relative?

12 JUROR: My daughter.

13 THE COURT: Would that circumstance in the
14 past in any way affect or impair your ability to be
15 fair and impartial both to the defendant Robert
16 Orlando Hill and to the State of South Carolina if
17 you are seated as a trial juror?

18 JUROR: No, sir.

19 THE COURT: Thank you. Be seated, please.

20 Is there any member of the jury venire ever
21 been prosecuted by John Anthony or by the Eighth
22 Circuit Solicitor's office for anything whatsoever?
23 If so, please stand.

24 Anyone presently being prosecuted by the
25 Eighth Circuit Solicitor's office or Mr. Anthony?

1 Please stand if you have a pending case.

2 Your name and number, please?

3 JUROR: 78, Richard Madden.

4 THE COURT: How do you respond?

5 JUROR: I was prosecuted but I was found not
6 guilty by this court.

7 THE COURT: Would that in any way affect your
8 ability to be fair and impartial both to the State
9 and to the defendant Mr. Robert Orlando Hill?

10 JUROR: No, sir.

11 THE COURT: Thank you for the response.

12 Is there any member of the venire or any
13 member of your immediate family of whom you may be
14 aware or any of your friends of whom you may be
15 aware ever been represented by Mr. Grose, who will
16 introduce himself by standing, who represents Mr.
17 Hill, or by Mr. Buergey, who introduces himself by
18 standing, or Miss Tara Shultz, who is associated
19 with Mr. Buergey and Mr. Grose, or by Miss Tammy
20 Beshears, who was recently associated with Mr.
21 Grose and Mr. Buergey? Anybody ever been
22 represented by them, any of your close friends or
23 any of your family members ever been represented by
24 any of these people, Mr. Grose, Mr. Buergey, Miss
25 Shultz or Miss Beshears? If so, please stand.

1 There are no responses.

2 The reverse question. Has anyone ever been
3 involved in any kind of legal matter or any kind of
4 matter whatsoever wherein the other side was
5 represented by Mr. Grose, Mr. Buergey, Miss Shultz
6 or Miss Beshears? If so, please stand.

7 There are no responses.

8 Is there any member of the jury venire or any
9 of your family members of whom you are aware or any
10 of your friends or acquaintances ever been the
11 victim of any serious crimes such as murder,
12 voluntary manslaughter, assault and battery with
13 intent to kill, assault and battery of a high and
14 aggravated nature, criminal sexual conduct,
15 kidnapping, burglary, larceny or other similar
16 crime? If so, please stand.

17 JUROR: I'm sorry.

18 THE COURT: Thank you very much for finding
19 your number. Your name and number?

20 JUROR: Rena Humphreys, number 64.

21 THE COURT: Thank you. How do you respond,
22 please, madam?

23 JUROR: My brother was convicted of child
24 molestation.

25 THE COURT: And when did that happen?

1 JUROR: About ten years ago.

2 THE COURT: Would that in any way affect your
3 ability to be fair and impartial both to the
4 defendant Mr. Hill and to the State of South
5 Carolina were you to be seated as a trial juror in
6 this case?

7 JUROR: No, sir.

8 THE COURT: Thank you, madam. Be seated.
9 Your name and number, please?

10 JUROR: Patricia Oxner, 101. My second
11 cousin, I have two, my second cousins are in prison
12 for murder.

13 THE COURT: Would that in any way affect your
14 ability to be fair and impartial both to the
15 defendant Mr. Hill and to the State of South
16 Carolina if you were seated as a trial juror?

17 JUROR: No.

18 THE COURT: Thank you. Be seated, please.
19 Yes, sir, in the rear?

20 JUROR: Roy Brown, number 18. My nephew was
21 convicted of murder.

22 THE COURT: Would that event in any way
23 affect or impair your ability to be fair and
24 impartial both to the State of South Carolina and
25 to the defendant Robert Orlando Hill were you to be

1 selected as a trial juror?

2 JUROR: No.

3 THE COURT: Thank you, sir. Be seated.

4 To repeat the former question, is there any
5 member of the venire or any of your family members
6 or friends of whom you are aware of been the victim
7 of such a crime, either murder, voluntary
8 manslaughter, assault and battery with intent to
9 kill, assault and battery of a high and aggravated
10 nature, criminal sexual conduct, burglary, larceny
11 or any other similar thing? Any of you, your
12 family members of whom you are aware or any of your
13 friends of whom you are aware ever been the victim
14 of such a crime?

15 Your name and number, please?

16 JUROR: 107, Wilma Uldrick. My brother was
17 shot and killed during a robbery approximately 27
18 years ago.

19 THE COURT: Would that event in any way
20 whatsoever affect your ability to be fair and
21 impartial both to the State and to the defendant
22 Robert Orlando Hill?

23 JUROR: No, sir.

24 THE COURT: Thank you. Be seated, please.

25 MR. ANTHONY: I'm sorry, what was her number

1 again?

2 THE COURT: Say your name and number, please,
3 again.

4 JUROR: Wilma Uldrick, I think my number is
5 107.

6 THE CLERK: 137.

7 THE COURT: 137. Thank you, ma'am.

8 Yes, ma'am, your name and number, please?

9 JUROR: My name is Naomi Mattison, my number
10 is 80. My son was killed in Columbia, South
11 Carolina about six or eight years ago.

12 THE COURT: Thank you for your response.
13 Would that event in any way affect your ability to
14 be fair and impartial both to the defendant Robert
15 Orlando Hill and to the State of South Carolina
16 were you to be selected and seated as a trial juror
17 in this case?

18 JUROR: No, sir.

19 THE COURT: Thank you, madam. Be seated.

20 Have any of the jury venire or any of your
21 immediate family of whom you are aware or any
22 friends of whom you are aware of been charged with
23 any crime by the Calhoun Falls Police Department?
24 If so, please stand.

25 There are no responses.

1 Is there any member of the jury venire or any
2 member of your immediate family of whom you may be
3 aware or any friend of yours of whom you may be
4 aware ever filed any lawsuit against any police
5 department based upon anything whatsoever?

6 Your name and number?

7 JUROR: 78, Richard Madden.

8 THE COURT: Yes, sir.

9 JUROR: I filed a federal lawsuit against the
10 Honea Path Police Department.

11 THE COURT: Would that event in any way
12 affect or impair your ability to be fair and
13 impartial in this case both to the defendant Robert
14 Orlando Hill and to the State of South Carolina if
15 you're seated as a trial juror?

16 JUROR: No.

17 THE COURT: Thank you. Be seated, please.

18 Seated at counsel table with Mr. Anthony is
19 Chief Alewine of the Calhoun Falls Police
20 Department.

21 Stand and introduce yourself.

22 Thank you, sir.

23 Also seated there is Chief Deputy Marion
24 Johnson of the Abbeville County Sheriff's office.

25 Thank you, sir.

1 Is there any one of the venire, any member of
2 your immediate family of whom you are aware or any
3 of your friends of whom you are aware related to or
4 know in any way whatsoever, socially, business
5 wise, politically or any way at all, either Mr.
6 Alewine or Mr. Johnson? If so, please stand.

7 Your name and number, please?

8 JUROR: George Bell.

9 THE COURT: Yes, sir. Your number is number
10 10?

11 JUROR: Yes, sir.

12 THE COURT: Yes, sir?

13 JUROR: My father and Mr. Johnson are real
14 good friends.

15 THE COURT: Your father and Mr. Johnson?

16 JUROR: Yes, sir.

17 THE COURT: All right, sir. Remain standing.
18 There is only two.

19 Would that relationship of which you are
20 aware between your father and Mr. Johnson who sits
21 there at counsel table, would that in any way
22 affect or impair your ability to be fair and
23 impartial both to the State and to Robert Orlando
24 Hill were you to be seated as a trial juror?

25 JUROR: No, sir.

1 THE COURT: Thank you. Be seated, please.

2 Your name and number?

3 JUROR: Thomas Barnes, 7. I know Chief
4 Alewine, we're good friends and we also go to the
5 same church together.

6 THE COURT: And your number again, please?

7 JUROR: Number 7.

8 THE COURT: Number 7?

9 JUROR: Yes, sir.

10 THE COURT: Would that relationship with that
11 potential witness in any way affect or impair your
12 ability to be fair and impartial both to the State
13 of South Carolina or to the defendant Robert
14 Orlando Hill if you are seated as a trial juror?

15 JUROR: No, sir.

16 THE COURT: Thank you, sir. Be seated.

17 Is there any member of the jury venire or any
18 of your immediate family or any of your friends of
19 whom you are aware a member of any organization
20 that has as one or more of its primary goals the
21 promotion of awareness of domestic violence or
22 advocacy of victims of domestic violence or a
23 member of any organization which has as one of its
24 primary goals the support of law enforcement, such
25 as MADD, SADD, CAVE or DARE, or other such

1 organizations? If so, please stand and identify
2 the organization and the person who is a member
3 thereof.

4 JUROR: My wife volunteers at sexual trauma
5 in Greenwood, South Carolina. Is that considered
6 the same thing?

7 THE COURT: That's an appropriate response.
8 Your name and number, please?

9 JUROR: I apologize, I don't remember my
10 number. My name is Jason Gantt.

11 THE COURT: Your last name?

12 JUROR: Gantt.

13 THE COURT: Number 45. Would your wife's
14 being associated in the way that you just described
15 with that organization in any way affect or impair
16 your ability to be fair and impartial both to the
17 defendant Robert Orlando Hill and to the State of
18 South Carolina were you to be seated as a trial
19 juror?

20 JUROR: No, sir.

21 THE COURT: Thank you, sir. Be seated.

22 Is there any member of the jury venire or any
23 member of your family or any close friend of whom
24 you are aware ever been a civilian or military law
25 enforcement officer? If so, please stand.

1 The question again, is there any member of
2 the jury venire or any member of your family of
3 whom you are aware or any close friend of whom you
4 are aware or anybody whom you are aware of, that's
5 a friend of yours, ever been a civilian or military
6 law enforcement officer?

7 JUROR: My husband was a law enforcement
8 officer with the South Carolina Wildlife.

9 THE COURT: I believe you said he's retired?

10 JUROR: Yes, sir.

11 THE COURT: Your name and number, please?

12 JUROR: 137, Wilma Uldrick.

13 THE COURT: Thank you. Remain standing,
14 please.

15 Yes, sir, your name and number?

16 JUROR: Number 70, William T. King, Jr. My
17 father-in-law was ex-chief of police, retired, here
18 in Abbeville.

19 THE COURT: Thank you. Would you remain
20 standing, please.

21 Yes, sir?

22 JUROR: George Bell, Number 10. My cousin,
23 Greenwood City, and his sister, Greenwood County,
24 and his mother used to work for the Highway Patrol
25 office.

1 THE COURT: All right, sir. Remain standing.
2 Juror number 10.

3 The gentleman in the white shirt, your name
4 and number, please?

5 JUROR: Me?

6 THE COURT: Yes, sir.

7 JUROR: 78, Richard Madden. My son is a
8 deputy for Abbeville County, is also in the
9 military.

10 THE COURT: Thank you very much. Remain
11 standing, please, sir.

12 Yes, the lady who just stood?

13 JUROR: Sylvia Bryant, number 21. My husband
14 is employed with the Honea Path Police Department.

15 THE COURT: Thank you. Remain standing,
16 please.

17 Yes, sir?

18 JUROR: 98, Michael Moore. My first cousin
19 is a state trooper in Jackson County.

20 THE COURT: Thank you. Remain standing, if
21 you would.

22 The gentleman in the back?

23 JUROR: Jason Gantt, number 45. My
24 grandfather was Chief of Police in River Falls,
25 Alabama. My uncle was a state trooper in Georgia

1 for twelve years before he went to a corrections
2 facility in Valdosta, Georgia. My wife was a
3 military police in the Air Force for six years and
4 now she's a paralegal and reservist.

5 THE COURT: Thank you. This question --
6 Yes, ma'am?

7 JUROR: My number is 80. My daughter, she's
8 a part-time magistrate judge here in Abbeville, she
9 works with Judge Ferguson.

10 THE COURT: That's a proper response. Your
11 name, please?

12 JUROR: Naomi Mattison.

13 THE COURT: Thank you.

14 Anyone else?

15 Remain standing, please, Miss Mattison.

16 Yes, madam, who just stood?

17 JUROR: Margaret Wilson, number 148. My
18 husband was a police officer about 30 years ago.

19 THE COURT: Thank you. That's a proper
20 response.

21 Anyone else who is related either by friend
22 or blood or marriage, in any way at all know anyone
23 who is now or was a military or civilian police
24 officer? In addition to those who are remaining to
25 stand, anybody else, please?

1 Then, as to those that are standing, would
2 your responses and the relationships with those
3 persons who are now or were police officers, either
4 civilian or military or in the capacity in which
5 you have referred to them, would those
6 relationships in any way affect or impair the
7 ability of any of you to be fair and impartial both
8 to the State of South Carolina and to the defendant
9 Robert Orlando Hill? If you feel that that would
10 render you unable to be fair and impartial to both
11 sides of this trial please raise your hand.

12 Number 10 will be removed from the box. All
13 others will be seated.

14 I remind you the allegations in the
15 indictment are simply allegations, they are not
16 proof of anything, and the indictment does not
17 constitute evidence of anything.

18 Is there a need for a response?

19 JUROR: No, sir.

20 THE COURT: The indictment is not evidence of
21 anything, but to reiterate more about the
22 indictment and the facts alleged therein, the event
23 giving rise to it occurred on the 6th of August,
24 1999, at Eastgate Apartments in Calhoun Falls.

25 Is there any member of the venire who has any

1 knowledge of the events surrounding this
2 indictment? If so, please stand.

3 There are no responses.

4 Is there any member of the venire who has
5 heard about this case by any means whatsoever,
6 including by radio, television or newspaper, or had
7 conversations about this with anyone whatsoever,
8 including a family member, any other friend or any
9 person whatsoever? If so, please stand. If you
10 have heard about it or talked with anybody about it
11 or read, seen or heard about it through the media
12 stand up and let it be known.

13 Yes, sir, your name and number?

14 JUROR: Roy Brown, number 18. I read about
15 it in the paper.

16 THE COURT: Would your having read about it
17 such as you may have done in any way affect or
18 impair your ability to be fair and impartial both
19 to the defendant Robert Orlando Hill and to the
20 State of South Carolina?

21 JUROR: No, sir.

22 THE COURT: Thank you, sir. Be seated.

23 Is there any member of the jury venire or any
24 of your family members or any other relatives or
25 any friend of whom you are aware ever been shot by

1 any other person or shot another person, whether
2 intentionally or accidentally? If so, please
3 stand.

4 Your name and number, please?

5 JUROR: Number 70, William T. King, Jr.

6 THE COURT: How do you report?

7 JUROR: I had a neighbor that was practicing
8 shooting a shotgun and one of the pellets
9 ricocheted off something and struck me right above
10 the eye.

11 THE COURT: A proper response. Remain
12 standing, please, sir.

13 Yes, ma'am, your name and number?

14 JUROR: My number is 137, I'm Wilma Uldrick.
15 My brother was shot and killed.

16 THE COURT: And you reported that previously?

17 JUROR: Yes, sir.

18 THE COURT: Thank you.

19 Yes, sir, your name and number?

20 JUROR: Edward Gilmer, number 67. I had a
21 brother that was shot fifteen or so years ago, and
22 a nephew that was shot and killed in Greenwood.

23 THE COURT: All right, sir.

24 Remain standing, please, madam.

25 And your name and number again, sir?

1 JUROR: Edward Gilmer, 67.

2 THE COURT: Thank you, sir.

3 Yes, sir?

4 JUROR: 78, Richard Madden. I accidentally
5 shot a friend of mine.

6 THE COURT: Was he killed?

7 JUROR: Yes.

8 THE COURT: Anyone else standing?

9 Would the events and the occurrences to which
10 either of the four of you have referred in any way
11 at all affect or impair your ability to be
12 absolutely fair and impartial both to the defendant
13 Robert Orlando Hill and to the State of South
14 Carolina were you to be seated as a trial juror?
15 If you feel that your ability to be fair and
16 impartial would be compromised in any way by those
17 events and occurrences raise your hand.

18 Thank you very much. Mr. Gilmer will be
19 removed from the box. All others will be seated.
20 Your number, Mr. Gilmer, was number 45?

21 JUROR: 67.

22 THE COURT: 67? Thank you.

23 JUROR: I think it was.

24 MR. ANTHONY: He's number 50, Your Honor.

25 THE COURT: Number 50, Mr. Gilmer.

1 JUROR: I'm sorry.

2 THE COURT: Number 50, number five-zero is
3 removed.

4 Ladies and gentlemen, this case may --
5 Yes, ma'am, your name and number?

6 JUROR: I'm sorry for the delay in
7 responding. My name is Wilma Uldrick, 138. When
8 you asked in response about Mr. Johnson and Mr.
9 Alewine, I did teach Mr. Johnson's children in
10 school, and it will not have any affect on how I
11 would rule in the case.

12 THE COURT: That's a proper response but the
13 Court must ask you, madam, although you have
14 already answered it, would that relationship that
15 you have referred to in any way affect or impair
16 your ability to be fair and impartial both to the
17 State of South Carolina and to the defendant Robert
18 Orlando Hill?

19 JUROR: No.

20 THE COURT: Thank you. Be seated, please.

21 Now, ladies and gentlemen, this trial may
22 involve some testimony about the use and/or
23 possession of some sort of illegal substance or
24 drug. Is there any member of the venire who is so
25 morally or religiously opposed to illegal drugs

1 that he or she could not fairly and impartially
2 consider the evidence in this case? If so, please
3 stand.

4 There are no responses.

5 This case may involve your being called upon
6 to view photographs of the deceased individual
7 whose name is Terrence Artell Hill. These pictures
8 may include photographs of injuries, including
9 blood.

10 Is there any potential juror or any member of
11 the venire who may have difficulty in viewing any
12 such photos or who may allow the viewing of the
13 photos to interfere with your ability to be
14 absolutely fair and impartial both to the defendant
15 Robert Orlando Hill and to the State of South
16 Carolina? If so, please stand.

17 There are no responses.

18 Is there any member of the venire who has
19 such religious or moral views or convictions which
20 would prevent your making a judgment as to the
21 guilt or as to the innocence of someone charged
22 with a criminal act? If so, please stand.

23 There are no responses.

24 Is there any member of the venire who does
25 not recognize the government of the United States

1 of America or the State of South Carolina? If so,
2 please stand.

3 There are no responses.

4 Ladies and gentlemen, the next question
5 concerns the potential witnesses in the case. You
6 are advised that both parties are required to name
7 the potential witnesses, and this does not mean
8 that each and every witness whose name will be
9 called actually will come to the stand and testify
10 but it does mean that if the person or persons'
11 names do not appear on one of these two lists, then
12 they may not be called. So, the rule is that
13 anyone who potentially could testify, given any
14 kind of scenerio that potentially could arise, must
15 be put on a witness list and you must be advised of
16 who they could be, not that they will be called to
17 testify, but they may be called.

18 So, the question after I have read these
19 names will be this. Is there any member of the
20 jury venire who is related by blood or marriage to
21 or in any way acquainted with any of the potential
22 witnesses in this case? And that means are you
23 related to them by blood or marriage, do you know
24 them in any way whatsoever?

25 Here are the potential witnesses in the case,

1 and if any one of them is present he or she will
2 stand, please, and please let me know.

3 This, by the way, is Miss Whitesides, who is
4 my law clerk or my lawyer and you may see her
5 coming and going from time to time to schedule
6 matters or to take care of things, and she's a
7 very, very important person to me and I certainly
8 appreciate her help.

9 So, if they stand please let me know.

10 Here are the potential witnesses in the case.

11 Shannon Hill.

12 Ira Green.

13 Geneva B. Clinkscales.

14 Geneva Michelle Clinkscales.

15 Jeff Tatum.

16 Nekia Tate Mareno.

17 Raymond Lee Dykes, formerly an employee of
18 the Calhoun Falls Police Department.

19 Terry Harvard, formerly an employee of the
20 Calhoun Falls Police Department.

21 Mike Alewine, of the Calhoun Falls Police
22 Department.

23 Jeff Crooks, State Law Enforcement Division.

24 Ken Whitler, State Law Enforcement Division.

25 John Ezekiel, formerly of the State Law

1 Enforcement Division.

2 Dr. Brett Woodard.

3 Glenrissa Gates.

4 Bryant O'Neal Bryant.

5 Robert Starks. He stands to your left,
6 ladies and gentlemen. Just face the jury, please.

7 Thank you, sir.

8 Freddie Hill. He stands to your left, ladies
9 and gentlemen. Face the jurors, please, Mr. Hill.

10 JUROR: Could I --

11 THE COURT: Thank you, sir. Be seated.
12 Don't speak. The Court does not mean to be rude to
13 you in any way. Thank you.

14 Robert Turman.

15 Booker Postell.

16 Jeanette Norman.

17 Don Girndt, spell his last name G-i-r-n-d-t,
18 Don Girndt.

19 Is there any member of the jury venire who is
20 related by blood or marriage to or in any way
21 acquainted with in any way whatsoever, socially,
22 politically, church, anyway at all, do you know or
23 are you related to any of these potential witnesses
24 or think you might be? If so, please stand.

25 JUROR: Lee Dykes was married to my niece.

1 THE COURT: Ma'am?

2 JUROR: Lee Dykes, a former policeman in
3 Calhoun Falls, was married at one time to my niece.

4 THE COURT: Your name and number, please?

5 JUROR: Wilma Uldrick, 137.

6 THE COURT: Thank you for your response.
7 Remain standing.

8 Yes, ma'am?

9 JUROR: Nancy L. Ashmore, juror number 4.

10 THE COURT: You all may be seated.

11 Yes, sir?

12 JUROR: 107, Jim Porter. Some of the names
13 on the list, associated with my job, I have had
14 some previous contacts with.

15 THE COURT: Through your insurance agency or
16 agent business?

17 JUROR: Yes, sir.

18 THE COURT: And your number and name, please?

19 JUROR: 107, Jim Porter.

20 THE COURT: Thank you.

21 Now, as to the two of you who are remaining,
22 would your associations and/or knowledge of either
23 of those witnesses whose names were just read in
24 any way affect your ability to be fair and
25 impartial both to the State of South Carolina and

1 to the defendant Robert Orlando Hill?

2 JUROR PORTER: No, sir.

3 JUROR ASHMORE: No.

4 THE COURT: If so, raise your hand.

5 There are no responses, and thank you both
6 very much.

7 Is there any member of the venire who has
8 formed or expressed any opinion, based upon
9 anything whatsoever, as to the guilt or as to the
10 innocence of the defendant Robert Orlando Hill of
11 the charges of which he is accused? If so, please
12 stand.

13 There are no responses.

14 Is there any member of the jury venire who is
15 conscious or aware of any interest, bias or
16 prejudice for or against the State of South
17 Carolina or for or against the defendant Robert
18 Orlando Hill? If you are aware of any interest,
19 bias or prejudice in any way whatsoever for or
20 against either side in this case please stand and
21 let it be known.

22 There are no responses.

23 Is there any member of the jury venire who
24 feels that he or she, based upon anything
25 whatsoever, would not be able to give both the

1 defendant Robert Orlando Hill and the State of
2 South Carolina a fair and impartial trial in this
3 case? If so, please stand.

4 There are no responses.

5 Some of the jurors responded positively to a
6 question as to whether they knew some of the
7 potential witnesses in this case. To those who
8 responded positively, the Court asks would your
9 knowledge and or relationship in the way that you
10 described it of any of the potential witnesses in
11 any way cause you to form any opinion about the
12 believability or the credibility of that witness
13 were he or she to testify under oath on this stand?
14 If so, please stand up.

15 There are no responses.

16 Is there any further or additional inquiry
17 requested by the State?

18 MR. ANTHONY: No, sir.

19 THE COURT: Is there any further or
20 additional inquiry requested by the defense?

21 MR. GROSE: No, sir. Can we approach on
22 another matter, Your Honor?

23 THE COURT: Yes, sir.

24 MR. GROSE: Just briefly.

25 (Unrecorded bench conference).

1 THE COURT: Ladies and gentlemen of the
2 venire, is there any member of the venire who has
3 ever been involved in any litigation of any kind
4 wherein either Mr. Anthony, Mr. Grose or Mr.
5 Buergey was involved? Any litigation of any kind
6 you have ever been involved in, whatever kind,
7 nature or sort, have any of these three lawyers
8 ever been involved in it? If so, please stand up
9 and let us know it now.

10 All the lawyers stand up and face the jury,
11 please.

12 Does any of the venire recognize any of these
13 three lawyers from having been involved in any
14 litigation? If so, please let it be known.

15 Thank you. Be seated, please.

16 Is there any additional inquiry requested by
17 the State?

18 MR. ANTHONY: No, sir.

19 THE COURT: Any additional inquiry requested
20 by the defense?

21 MR. GROSE: No, sir.

22 THE COURT: Ladies and gentlemen -- Mr.
23 Manning will please take your station. Mr. Manning
24 will give you a smile as your name is called, and
25 the Court will take just a moment and explain to

1 you that all of your names are in little small
2 capsules. Now, show them the capsules, if you
3 will, please.

4 Every one of you have a capsule and each of
5 your names is in one of those capsules, and it
6 happens to be a Swisher Sweet box, by the way, and
7 is there any objection from the defense to the
8 assistant clerk Miss McMahan drawing the jurors?

9 Mr. Grose?

10 MR. GROSE: No, sir.

11 THE COURT: Thank you.

12 Any objection from the State?

13 MR. ANTHONY: No, sir.

14 THE COURT: Okay. You will hear, Miss
15 McMahan will vigorously shake the box, you can hear
16 it. Raise it up so they can see it.

17 All right, she's going to pull one name at a
18 time. When your name is called please come
19 directly, bring your belongings, please come
20 directly here and stand where Mr. Manning is
21 indicating, face the back of the courtroom, the
22 double doors, the clock, and strikes are ten for
23 the defense, five for the State, and we will select
24 twelve jurors.

25 THE CLERK: Number 138, Wilma C. Uldrick.

1 What say you for the State?

2 MR. ANTHONY: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. GROSE: Please seat Miss Uldrick.

5 THE CLERK: Miss Uldrick, you may take your
6 seat in the jury box.

7 107, Jim H. Porter, III.

8 What say you for the State?

9 MR. ANTHONY: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. GROSE: Please excuse this juror from
12 this case.

13 THE COURT: Mr. Porter, you're excused from
14 the trial of this case.

15 THE CLERK: 110, Mary M. Reece.

16 What say you for the State?

17 MR. ANTHONY: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. GROSE: Please seat Miss Reece.

20 THE CLERK: You may take your seat in the
21 jury box.

22 Number 97, Patricia Mills.

23 What say you for the State?

24 MR. ANTHONY: Please present the juror.

25 THE CLERK: What say you for the defense?

1 MR. GROSE: Please seat Miss Mills.

2 THE CLERK: Miss Mills, you may take your
3 seat in the jury box.

4 101, Patricia Oxner.

5 What say you for the State?

6 MR. ANTHONY: Please present the juror.

7 THE CLERK: What say you for the defense?

8 MR. GROSE: Please seat Miss Oxner.

9 THE CLERK: You may take your seat in the
10 jury box.

11 Number 60, Steven Hines.

12 What say you for the State?

13 MR. ANTHONY: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. GROSE: Please seat Mr. Hines.

16 THE CLERK: Number 70, William T. King, Jr.

17 What say you for the State?

18 MR. ANTHONY: Please seat the juror.

19 THE CLERK: What say you for the defense?

20 MR. GROSE: Please excuse this juror from
21 this case.

22 THE CLERK: You're excused from the trial of
23 this case.

24 Number 142, Linda White.

25 What say you for the State?

1 MR. ANTHONY: Please present the juror.
2 THE CLERK: What say you for the defense?
3 MR. GROSE: Please seat Miss White.
4 THE CLERK: Number 21, Sylvia Bryant.
5 What say you for the State?
6 MR. ANTHONY: Please present the juror.
7 THE CLERK: What say you for the defense?
8 MR. GROSE: Please excuse this juror from
9 this case.
10 THE CLERK: You're excused from the trial of
11 this case.
12 Number 35, Kasyson Collier.
13 What say you for the State?
14 MR. ANTHONY: Please present the juror.
15 THE CLERK: What say you for the defense?
16 MR. GROSE: Please seat Mr. Collier.
17 THE CLERK: You may take your seat in the
18 jury box.
19 Number 98, Michael S. Moore.
20 What say you for the State?
21 MR. ANTHONY: Please present the juror.
22 THE CLERK: What say you for the defense?
23 MR. GROSE: Please excuse this juror from
24 this case.
25 THE CLERK: 128, Amy Suber.

1 What say you for the State?

2 MR. ANTHONY: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. GROSE: Please seat Miss Suber.

5 THE CLERK: You may take your seat in the
6 jury box.

7 Number 76, Sonji Lovelace.

8 What say you for the State?

9 MR. ANTHONY: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. GROSE: Please seat Miss Lovelace.

12 THE CLERK: Number 85, Delona McCarley.

13 What say you for the State?

14 MR. ANTHONY: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MR. GROSE: Please seat Miss McCarley.

17 THE CLERK: Number 17, Melissa Brooks.

18 What say you for the State?

19 MR. GROSE: Please excuse the juror.

20 THE CLERK: You're excused from the trial of
21 this case.

22 109, Sarah Rankin.

23 What say you for the State?

24 MR. ANTHONY: Please present the juror.

25 THE CLERK: What say you for the defense?

1 MR. GROSE: Please seat Miss Rankin.

2 THE CLERK: Number 53, John Greer.

3 What say you for the State?

4 MR. ANTHONY: Please present the juror.

5 THE CLERK: What say you for the defense?

6 MR. GROSE: Please excuse this juror from
7 this case.

8 THE CLERK: Number 13, LeRoy Bolden.

9 What say you for the State?

10 MR. ANTHONY: Please excuse the juror.

11 THE CLERK: Number 12, Richard Bobo.

12 What say you for the State?

13 MR. ANTHONY: Please excuse the juror.

14 THE CLERK: Number 95, Martha Miller.

15 MR. GROSE: I'm sorry, which number, please?

16 THE CLERK: Number 95, Martha Miller.

17 MR. GROSE: Thank you.

18 What say you for the State? .

19 MR. ANTHONY: Please excuse the juror.

20 THE CLERK: You're excused from the trial of
21 this case.

22 Number 72, James Latimer.

23 What say you for the State?

24 MR. ANTHONY: Please excuse the juror.

25 THE CLERK: Number 37, Edna Cox.

1 What say you for the State?

2 MR. ANTHONY: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. GROSE: Please seat Miss Cox.

5 THE COURT: All right. Pursuant to 14-7-320,
6 the Court declares this case may or is likely to be
7 protracted. Now, that doesn't mean that the Court
8 knows that it will be protracted but from the
9 number of potential witnesses called, or named, it
10 could be. Therefore, pursuant to that statute the
11 Court is ordering that two alternate jurors be
12 drawn. That statute requires that the jury in
13 chief be sworn at this time. That statute requires
14 that the jury be sworn at this time and two
15 additional jurors, one or two, in this case we're
16 going to draw two, be sworn.

17 Now, will the defense waive the swearing of
18 this jury in chief and let us go ahead and draw two
19 alternates at this time?

20 MR. GROSE: Yes, sir.

21 THE COURT: Will the State waive the swearing
22 of the jury in chief pursuant to the statute and
23 allow us to go ahead and draw two alternate jurors
24 at this time?

25 MR. ANTHONY: Yes, sir.

1 THE COURT: Very well, thank you. Proceed.

2 The next two will be alternate jurors.

3 THE CLERK: Number 18, Roy Brown.

4 THE COURT: Strikes are two for the State,
5 four for the defense.

6 MR. GROSE: This is number 18, Madam Clerk?

7 THE CLERK: Yes, Roy Brown.

8 What say you for the State?

9 MR. ANTHONY: Please excuse the juror.

10 THE CLERK: 121, Angela Smith.

11 What say you for the State?

12 MR. ANTHONY: Please present the juror.

13 THE CLERK: What say you for the defense?

14 MR. GROSE: Please seat Miss Smith.

15 THE CLERK: Miss Smith, you may take your
16 seat to the left of the jury box.

17 127, Cecil Stuart.

18 What say you for the State?

19 MR. ANTHONY: Please excuse the juror.

20 THE CLERK: 137, Wilma B. Uldrick.

21 What say you for the State?

22 MR. ANTHONY: Please present the juror.

23 THE CLERK: What say you for the defense?

24 MR. GROSE: Please excuse this juror from
25 this case.

1 THE CLERK: Number 78, Richard Madden, Sr.
2 What say you for the State?

3 MR. ANTHONY: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. GROSE: Please seat the juror.

6 THE COURT: You may take your seat to the
7 left of the jury.

8 THE COURT: Thank you, Madam Clerk, for
9 calling the jurors to be seated, and thank you, the
10 venire remaining, for your patience while we have
11 accomplished this.

12 The venire remaining may leave the room --
13 are we ready to give them a number to call?

14 BAILIFF: Yes.

15 THE COURT: You will call the number -- will
16 counsel approach?

17 (Unrecorded bench conference).

18 THE COURT: Ladies and gentlemen of the
19 venire remaining -- we first turn to the trial
20 jury. Ladies and gentlemen, do not discuss the
21 case, you and I know the bare essential allegations
22 of the indictment, which is not evidence, should
23 never be construed to be evidence, that's all we
24 know, but in your short absence the Court will take
25 up something with your fellow members who have not

1 been selected as a trial jury, so will you please
2 retire to the jury room briefly. Do not talk about
3 the case at all by, between or among yourselves.
4 Retire to the jury room briefly, please.

5 (The jury was excused from the courtroom).

6 THE COURT: Ladies and gentlemen of the
7 venire remaining, please call the number -- now, I
8 think the bailiffs at the door will have the number
9 for you, and secure the number in your purse or
10 pocket as aforesaid, or someplace, and call it
11 after 1:00 o'clock, and sometimes the Court says
12 call after 1:00 and people don't call until 5:00,
13 so call between 1:00 and 1:30 --

14 Will that give enough time, Madam Clerk?
15 1:00 and 2:00?

16 THE CLERK: I would say so.

17 THE COURT: Between 1:00 o'clock and 2:00
18 o'clock tomorrow afternoon and there will be a
19 recording, and it will be succinct, terse and
20 clear, for your instructions either to report here
21 or to call back at a certain time.

22 Now, this is for your convenience. It just
23 keeps you from having to come up here if we're
24 still involved in the trial of the case and say,
25 "Well, we're still involved, go on back home." So,

1 this enables us to communicate with you with the
2 least inconvenience to each of you. So, call the
3 number between 1:00 and 2:00 tomorrow afternoon.
4 Every one of you is required to do that and receive
5 the instructions, and they may be to report here,
6 they may be to call back later. Whatever they are,
7 they will be clear and not capable of
8 misunderstanding.

9 The Court again extends its greatfulness to
10 you, each of you, for your patience during these
11 proceedings.

12 The venire remaining is excused, everyone
13 else will remain seated.

14 Thank you very much.

15 (The jury panel was excused from the
16 courtroom).

17 THE COURT: You better stop them at the door.
18 Do you have any motions as to the compilation, of
19 the selection or compilation of the jury?

20 MR. GROSE: No, sir.

21 THE COURT: All right. The record is clear
22 the defense has no motion as to the selection or
23 compilation of the jury.

24 Now, while the jurors were leaving there was
25 some noise, if you will, and the Court, before

1 allowing anyone to leave the front door of the
2 courtroom, inquired of defense counsel as to
3 whether there was any objection to the selection or
4 compilation of the jury, and the Court understood
5 that the defense had no objection. Is that the
6 case?

7 MR. GROSE: That's correct, Your Honor.

8 THE COURT Does the State have any objection
9 to the selection or compilation of the jury?

10 MR. ANTHONY: No, sir, we don't.

11 THE COURT: All right. We do have a motion
12 outstanding, we'll try to take that up in just a
13 moment so we can get it out of the way. The Court
14 proposes to let these folks go and come back in the
15 morning, unless you want to handle the motion in
16 the morning.

17 What's your pleasure? It's 20 minutes until
18 7:00.

19 MR. GROSE: I would just as soon come back in
20 the morning. There will be a few evidentiary
21 things to call to your attention but nothing that
22 we would have to deal with until we actually got
23 into the trial, I just wanted you to know about
24 them. I would suggest that perhaps we start about
25 a half an hour before you ask the jurors to be here

1 and have them collect in the county council room
2 back there, I think it's large enough and probably
3 more comfortable than the jury room, to be honest.

4 THE COURT: Yes, we often do that because it
5 is brighter, lighter and more comfortable for them.

6 Madam Clerk, would you arrange to have some
7 refreshments for them there?

8 THE CLERK: All right.

9 THE COURT: Mr. Anthony, do you have remarks
10 or comments?

11 MR. ANTHONY: No. I was just going to say I
12 do have a couple evidentiary issues I was going to
13 raise probably before we start testimony because I
14 just think it might go more smoothly if they are
15 dealt with before the witnesses start testifying.
16 I just wanted to let the Court know that. It's
17 things we can do in the morning before we actually
18 start the trial.

19 THE COURT: Will thirty minutes be sufficient
20 for both sides?

21 MR. GROSE: I believe so, Your Honor.

22 THE COURT: You have just the one motion of
23 which I am aware?

24 MR. GROSE: I have the one written motion and
25 I will have some issues that I want to call to your

1 attention that you may have to rule on in the trial
2 if they don't make them relevant somehow or things
3 that could come up that I don't want to come up but
4 it won't be anything lengthy, I don't believe.

5 THE COURT: Do you concur, Mr. Anthony?

6 MR. ANTHONY: Some of the things Mr. Grose is
7 thinking about might be some of the same things I'm
8 thinking about.

9 THE COURT: Of course that would be
10 understandable, both of you are aware of potential
11 pitfalls or problems.

12 MR. ANTHONY: Yes, sir.

13 THE COURT: But do you think thirty minutes
14 would be sufficient? If we convene at 9:30 and
15 have the jury come at 10:00, do you think that
16 would be enough time, thirty minutes?

17 MR. GROSE: I do, Your Honor. Just so that
18 you will have a bit more information, there is no
19 Jackson v. Deno hearing and there is no Fourth
20 Amendment suppression type hearings, and those are
21 usually the most time consuming type motions.

22 THE COURT: Indeed.

23 MR. GROSE: So that's why I think we both
24 feel more comfortable with the shorter time frame.

25 MR. ANTHONY: And I agree with that.

1 THE COURT: All right. Ask the jury in,
2 please, Mr. Busby.

3 (The jury returned to the courtroom).

4 THE COURT: Ladies and gentlemen of the trial
5 jury, thank you for your patience during the
6 selection process. The Court knows that it has
7 been lengthy and we appreciate your patience.
8 Please wear those badges at all times in and about
9 the courthouse so that everyone will know that
10 you're a juror and they will respect you
11 accordingly. Keep in mind that you should not talk
12 with any strangers. You may talk freely between
13 and among yourselves about the weather or about
14 your families, about things that may interest you,
15 but under no circumstances shall you discuss
16 anything about this case or anything about the law
17 at all. Stay away from that totally. That's a
18 direct order of the Court. Do not discuss what you
19 think you know or might know, because all you know
20 is the same thing that the Court knows, and that is
21 the bare and essential things that are stated in
22 this indictment and that were stated to you further
23 in the voir dire or the questions that were asked
24 of you, and that is not evidence, none of that is
25 evidence, so we know the same thing, we're on equal

1 ground, all of us. The people that know about it
2 are sitting at counsel table here, and in the
3 morning when we convene they will come before you
4 and we will have opening statements, which are
5 designed to alert you as to what this case is all
6 about and to tell you what you should be on the
7 lookout for and what you should give weight to as
8 far as the evidence is concerned, or on the other
9 hand, what you shouldn't give weight do so far as
10 the evidence may reveal. So, we'll know when the
11 attorneys come before you tomorrow what this is
12 about but right now we don't know what it is about
13 other than just what's said in the charging papers,
14 which is not evidence.

15 So, wear your badges at all times. Do not
16 allow anyone whom you do not know or is not a
17 member of your jury to come about you or talk with
18 you because, as the Court tried to explain to you,
19 that person could have an interest in this case.
20 Even if it's an innocent question, they could have,
21 they might have an interest in the case and someone
22 standing far afar might see that question asked of
23 you, and you have just been compromised, they would
24 assume that you were asked or told something about
25 this case. Stay away from strangers. That's the

1 strongest possible advice that the Court can give
2 you.

3 You are now involved and engaged in the trial
4 of a case. It's the highest, it's been said that
5 it is the highest and gravest responsibility that
6 may befall any citizen outside of time of war, so
7 this is an important thing.

8 Let's let you go now because of the noise we
9 just heard, a little thunder rolling, and come back
10 and be here at 10:00 in the morning. Do not
11 discuss the case -- did I overlook something? Yes.
12 You will be stopped at the top of the stairs and go
13 to a gathering room there because we have some
14 things to do, that's why we're having you come at
15 10:00, because we've got some things to do before
16 we begin the trial, so be here at 10:00 and let's
17 let you go now so you can get to your car before
18 the inclement weather.

19 Thank you very much. Do not discuss the
20 case.

21 (The jury was excused from the courtroom).

22 THE COURT: 9:30 in the morning.

23 (Hearing Adjourned).

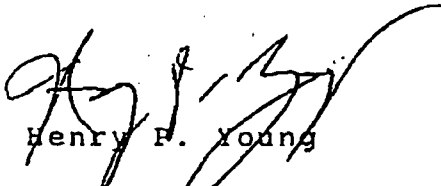
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2 I, the undersigned Henry P. Young, Official
3 Court Reporter for the Eighth Judicial Circuit of
4 the State of South Carolina, do hereby certify that
5 the foregoing is a true, accurate, and complete
6 transcript of record of all the proceedings had and
7 evidence introduced in the trial of the captioned
8 case in the Circuit Court for Greenwood County,
9 South Carolina, on the 11th day of July, 2005.

10 I do further certify that I am neither of kin,
11 counsel, nor interest to any party hereto.

12 January 20, 2006

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16 Henry P. Young
17 Court Reporter
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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
1999-GS-01-494

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,)

-vs-)

ROBERT ORLANDO HILL,)

Defendant.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

JONATHAN C. ANTHONY, Esquire
Attorney for the State

E. CHARLES GROSE, Esquire
W. ALEXANDER BUERGEY, Esquire
Attorney for the Defendant

Henry P. Young
Court Reporter

VOLUME II OF IV
July 12, 2005

1 (Reconvened at 9:41 a.m.).

2 THE COURT: We'll open the record, please.
3 This is the State of South Carolina versus Robert
4 Orlando Hill, indictment 99-494.

5 The Court understands that there were some
6 motions when we finished yesterday, one of them was
7 a motion by the defense. Mr. Grose?

8 MR. GROSE: Yes, sir, Your Honor. I have a
9 copy that I will hand up.

10 THE COURT: Thank you very much.

11 MR. GROSE: I will just point out for the
12 record that we had called this to your attention in
13 chambers yesterday before we started the jury
14 selection process, I didn't actually file it until
15 a little bit later, but what we have is a motion to
16 quash the indictment based upon the grand jury
17 practices that are employed in this Circuit and I
18 believe maybe common throughout the State. What I
19 do in this motion, in the argument section, I
20 tracked the history beginning with the case called
21 State v. Capps, 276 South Carolina 59, 1981.

22 In the Capps case the issue that was brought
23 before the Court was whether or not the Solicitor
24 could be the sole witness presenting the evidence
25 to the grand jury. "The practice included using a

1 Solicitor or other officer of the state as the sole
2 witness before the grand jury to provide only a
3 summary of the evidence, and we strongly suggest
4 that it be abandoned unless no alternative is
5 available."

6 They went on to say that they shared the
7 concerns that the nation's founders had that on
8 occasion prosecuting officers will expand too far
9 and abuse the power granted to them. A grand jury
10 is not a prosecutor's plaything and the awesome
11 power of the State should not be abused, should
12 not be used deliberately, or should be used
13 deliberately and not in haste, rather. Then Chief
14 Justice Lewis dissented and suggested that practice
15 should be banned altogether. He was afraid that
16 the grand jury could be viewed by a skeptical
17 public as a mere plaything of prosecutors. The
18 court dealt with it on two different occasion,
19 State versus Williams, 280 South Carolina 305,
20 1984, wasn't much treatment by the majority, they
21 just relied on Capps for allowing the practice but
22 Chief Justice Lewis dissented. "I adhere to my
23 views expressed in State versus Capps."

24 It's apparent that the majority view in Capps
25 is now being used as a license to circumvent and

1 eliminate meaningful participation by the Grand
2 Jury in the judicial process. This cavalier
3 treatment of this issue by the majority should be
4 disturbing.

5 It came up again in State versus Dawkins, 297
6 Carolina 386, 1989. In that case they went through
7 and reviewed the detailed testimony that had been
8 given by the prosecutor or by the investigating
9 officer the first time he testified before the
10 grand jury. Dawkins dealt with a re-indictment,
11 dealt with the fact that it was the same grand
12 jury, dealt with the fact that the, I believe it
13 was something like twenty minutes of testimony or
14 something the first time around. They allowed it
15 but they said, "While we conclude the motion to
16 quash the indictment was properly denied in this
17 case, we reiterate our holdings in Capps and
18 caution prosecutors to avoid the practice."

19 Then you get to State versus Anderson, 312
20 South Carolina 185, 1993. And in that case they
21 reprint a lot of the dialogue between the judge and
22 the prosecutor. The prosecutor basically said,
23 "Until the Supreme Court says we can't do this
24 we're going to do it, they said they didn't like it
25 but they didn't abandon it," and the judge said,

1 "Well, I don't really have any clear guidance about
2 what to do so I'm going to, you know, follow this
3 precedence, it appears to be allowed."

4 Well, in Anderson they held, "Because of the
5 uncertainty and confusion that is taking place at
6 all levels of the judiciary regarding this issue we
7 take this opportunity to explicitly prohibit the
8 practice of prosecutors appearing as the sole
9 witness before the grand jury. As with any
10 creation of a new liberty where formerly there was
11 none the rule must be applied prospectively."

12 When you go back -- essentially they adopted
13 the dissent in Capps from Chief Justice Lewis.
14 When you go back and you look at his dissent in
15 some detail, first of all the majority in Capps
16 dealt with the practice of using a Solicitor or
17 other officer of the State as the sole witness and
18 not just the Solicitor, although all the cases
19 subsequently dealing with it, and Capps itself
20 dealt with the Solicitor.

21 When you go back and you look at Chief
22 Justice Lewis' dissent in Capps, he called into
23 question his ruling in another case, State versus
24 Williams, 263 South Carolina 290, where he had
25 written the majority and they had okayed using

1 hearsay testimony in front of the grand jury, but
2 he went on and said, "In order to provide more than
3 lip service to the constitutional provision here in
4 question I would hold that an indictment cannot as
5 a matter of course be acquired solely on oral
6 hearsay testimony, the routine practice of one
7 individual appearing before the proceeding to give
8 his third-hand capsuled version of the facts, of
9 which he has no direct knowledge, without some
10 other competent evidence is insufficient."

11 I realize that you are probably in the same
12 situation, assuming that I'm right, and I hope that
13 I am, you are probably in the same situation as the
14 trial judge in Anderson, where the Supreme Court
15 hasn't given any guidance on this issue, probably
16 hasn't been asked to address this issue but we
17 would ask for a rule similar to what Chief Justice
18 Lewis was suggesting in his dissent in State versus
19 Capps where they have to call somebody with some
20 direct knowledge of the testimony. I believe the
21 indictment would reflect Mike Alewine was the sole
22 witness before the grand jury, he was the court
23 officer at the time, he is now, he's here today, he
24 is now the Chief of Police in Calhoun Falls. I do
25 note that he did witness some of the witness

1 statements in the case but Officer Harvard, who is
2 also sitting here today, has always been
3 characterized as the chief investigating officer in
4 this case, and there has been no testimony ever
5 that any of the officers were there when this
6 incident happened, so all their knowledge that was
7 acquired of this incident was acquired through
8 taking witness statements and that sort of things.

9 So, we would, we are asking hopefully our
10 Supreme Court to eventually adopt a rule where it
11 will be required that somebody with direct
12 knowledge such as eyewitnesses to a case are
13 required to appear before the grand jury. It
14 appears that that's what Chief Justice Lewis was
15 advocating, going back to State versus Capps, and
16 that would, it would instill more confidence in the
17 state grand jury system.

18 I don't know we have ever typed it, maybe if
19 this record were available, I wasn't in the
20 courtroom this week, but typically we come in with,
21 you know, numerous indictments and the amount of
22 time the grand jury considers all the indictments,
23 whether it's here or whether it's in Greenwood, the
24 two counties that I'm familiar with, they consider
25 all of them by lunchtime on Monday almost every

1 term. Sometimes it takes a little bit longer when
2 you have a brand new grand jury but, you know, it's
3 hard to fathom that the amount of testimony, the
4 amount of deliberations can be more than several
5 minutes combined, testimony and deliberations in
6 any given case.

7 THE COURT: Thank you, Mr. Grose.

8 Mr. Anthony?

9 MR. ANTHONY: Your Honor, the State would
10 just point out that there is nothing in the law
11 right now that precludes the grand jury practice
12 that was used to bring forth this indictment.
13 There is really nothing other than a dissent that
14 would suggest any kind of trend toward this, and we
15 just believe that this case should go forward on
16 the indictment under the procedure by which it was
17 presented to the grand jury.

18 THE COURT: The Court denies the motion to
19 quash the indictment. The Court does not find any
20 precedent either in the information which you have
21 kindly provided, Mr. Grose, or in any other
22 information which the Court is able to determine in
23 the interim that would require eyewitness direct
24 testimony to appear before the grand jury. The
25 work of the grand jury is based upon the achieving

1 of some probable cause to return a true bill.
2 While it's true that the practice of the Solicitors
3 appearing alone or any sole prosecuting officer
4 appearing alone is frowned upon, and that is clear,
5 clear that it's frowned upon, but it would be
6 surmising, without knowing, Chief Alewine is listed
7 as a witness on this case and that other than from
8 just statements he may have read, he may have gone
9 to the scene, he may have known the deceased, he
10 may have known the defendant, and if he was the
11 officer who talked with the grand jury and met the
12 threshold of probable cause, and that he must have
13 done because a true bill was returned, then he's an
14 investigating officer and he was able to provide
15 such evidence that in this case caused the grand
16 jury to find that probable cause existed to try the
17 case of the defendant here on trial.

18 Anything further?

19 MR. GROSE: Not on this matter, Your Honor.

20 THE COURT: Very well, thank you. The next
21 matter?

22 MR. GROSE: This case, as you might have
23 surmised already, has been returned for another
24 trial by the Court of Appeals. The issue that was
25 involved in granting the new trial had to do with a

1 violation of the Doyle versus Ohio, where the prior
2 Solicitor handling the case got into some
3 questioning of Mr. Hill about, about his not having
4 made a statement, not having told the investigators
5 what he told the jurors. What the record reflects
6 is that he was given a Miranda, a form that had the
7 Miranda warnings across the top, it wasn't a
8 separate sheet, it was the one that has the
9 warnings across the top and applies to writing a
10 statement, and without having that document in
11 front of me, the statements, what was written on
12 the statements said something to the effect, "I do
13 not want to make a statement," and Mr. Hill had
14 signed it, so he was provided his rights, he chose
15 not to make a statement, and that should have been
16 the end of that.

17 Now, I don't think that Mr. Anthony is going
18 to do anything to try to get us back into that
19 trouble again but this issue kind of crept into
20 the last case, because if you go back and look at
21 the record I was actually raising concerns that
22 they were getting dangerously close or even
23 suggesting his exercise of his right to silence
24 well before the conduct led the case to be
25 reversed. Where we could get into some trouble

1 again is that Mr. Hill, one of his family members
2 went to a police officer that they knew who lived
3 in Calhoun Falls, works for the city of Calhoun
4 Falls, worked for the city of Abbeville, and the
5 family member had made some indication that, you
6 know, Lanny was going to be a suspect in the
7 shooting and this police officer brought Lanny Hill
8 to the jail here in Abbeville.

9 THE COURT: When you say Lanny Hill do you
10 mean the defendant Robert Orlando Hill?

11 MR. ANTHONY: Right, Lanny Hill is the
12 nickname he goes by. I'm afraid we're going to
13 have to use a lot of first and last names.

14 THE COURT: That's okay. The Court wanted
15 the record to be clear that who you refer to is the
16 defendant Lanny Hill.

17 MR. GROSE: Thank you, Your Honor. One of
18 the things that Mr. Hill had testified to last
19 time, which I think was proper testimony, was that
20 he turned himself in and that he was coming to
21 court to prove his innocence. Well, in his mind he
22 probably thought he had to prove something, I know
23 he doesn't have that burden of proof, but turning
24 yourself in and not making a statement are
25 consistent with each other for wanting to come to

1 court and have your day in court. Without getting
2 into a lot of details, there is reason in his mind,
3 whether true or not, reason to believe he would not
4 get fair treatment in an investigation by the
5 Calhoun Falls Police Department and he thought his
6 better chance would be to have his day in court,
7 and so there is probably, I don't want the -- I
8 suspect Mr. Anthony is going to try it a lot
9 different than Mr. Coulter did, but there was a lot
10 of questioning about Lanny riding through the area
11 on a bicycle and leaving after the shooting
12 happened. I don't want this jury to get the idea
13 that the statement is trying to suggest flight,
14 because if he was fleeing he would have gone to
15 Florida or someplace else and not to a police
16 officer's house and turned himself in. It might
17 not have been immediately but it was the same
18 night, it was not days later or anything of that
19 nature.

20 One of the reasons that, if I remember
21 correctly, we felt that we had to get into some of
22 that is not just to show that that's consistent
23 with, you know, self defense, but it's also
24 consistent with, you know, not fleeing. And, so,
25 if we get into issues of, you know, fleeing and

1 that sort of thing it's probably going to have to
2 come out again that he did deliver himself to a
3 police officer, but then Solicitor Jones asked
4 questions of the officer, "Well, when was the first
5 time you saw Mr. Hill?" Well, the officer was at
6 the scene, you know, and Hill was in the jail, you
7 know, and so then he started asking questions,
8 "When was the first time you got a chance to lay
9 eyes on him," and that's the first place that it
10 started kind of creeping into the case. Then when
11 Mr. Hill testified it really got interjected into
12 the case, and in my opinion, it is just my opinion
13 and we know what all those are worth, you had said
14 yesterday nothing is obvious, it appears to me that
15 particularly going back to the record of what I
16 recall in the court, that there was some baiting
17 going on. Lanny's got a tenth grade education, he
18 is not on an equal level as far as training and
19 education and experience as any of the lawyers are
20 in this courtroom, and I don't think Mr. Anthony is
21 going to do that but I don't want to get into a
22 situation where they start baiting him into
23 something where we get into this problem with
24 issues about his, you know, not making a statement
25 to the police that night comes into play.

1 Now, his prior trial testimony, as long as
2 that's kept in the context of the trial testimony
3 and when it was, if they decide to use that for
4 impeachment or something else, that's an entire
5 different matter because that's when he had waived
6 his rights, not when he had been told his rights
7 and asserted them.

8 THE COURT: Mr. Anthony?

9 MR. ANTHONY: Well, I think that he, there is
10 going to be testimony from eyewitnesses to the
11 shooting that after the shooting he picked up the
12 bicycle he had gone to the scene on and rode off,
13 and I don't know how you present the case and don't
14 have someone testify to that.

15 THE COURT: The facts are the facts.

16 MR. GROSE: Right.

17 MR. ANTHONY: Yes, and I think that there is
18 some argument of flight because there is an
19 inference that can be drawn from the fact that he
20 did not remain at the scene after committing what
21 he claims to be a justified shooting.

22 Now, that said, I think all that's relevant,
23 I think all that can come in, can be argued by me.
24 I think Mr. Grose is entitled to elicit evidence
25 that at some point that evening not too long after

1 the shooting occurred he went to a law enforcement
2 officer's house and turned himself in, and I don't
3 have, I don't intend to have any objection to that
4 testimony. I don't think that you really need to
5 confuse a flight argument with a comment on
6 somebody's assertion of their right not to give a
7 statement. I mean, I intend to elicit testimony
8 about him leaving the scene, argue an inference
9 from him leaving the scene. I do not intend to
10 elicit any testimony about anybody attempting to
11 question him at all. I don't intend to have
12 anybody say that they talked to him, that they
13 tried to talk to him about anything, and when I
14 cross-examine him I do not intend to ask him
15 anything about any law enforcement officers asking
16 him questions or asking him for a statement or
17 anything like that.

18 So, that's my position. I don't think, I
19 think that there is relevant probative evidence
20 that I can present and then there is, you know,
21 there is evidence that if I start going into it I
22 violate his constitutional rights, like the Court
23 of Appeals said it happened last time, but I don't
24 think that you necessarily, I think you can do one
25 and not do the other, I guess is the right way to

1 put it.

2 THE COURT: Well, the Court concurs there is
3 a clearly delineated division or line between the
4 issues. One is whether he can be asked about his
5 failure to make a comment or failure to testify,
6 that would be an invasion of his Fifth Amendment
7 rights.

8 On the other hand, what he did according to
9 eyewitnesses, and the evidence is what he did and
10 that's a question for the jury, it can be argued
11 both by the State and by the defense, and where he
12 went and why he went there is also a question to be
13 argued by the State and to be argued by the
14 defense. Just so we stay away from any violation
15 of his rights.

16 Now, so far as his tenth grade education you
17 remarked there about, the Court doesn't gauge the
18 intelligence of a human being by the grade they
19 attained in school. This man may be smarter than
20 anybody in this room, that has no weight at all
21 with this Court.

22 MR. GROSE: But he doesn't have the training
23 that you and I and Mr. Anthony have, that's one of
24 the reasons why he has a lawyer, that is what I was
25 getting at.

1 THE COURT: Training being one thing and
2 intelligence and street smarts, quote, end of
3 quote, being another are not self berating. One
4 doesn't mean the other has an advantage over the
5 other.

6 MR. GROSE: Right.

7 MR. ANTHONY: The point I'm making, that you
8 alluded to, that there is no advantage here, we're
9 playing on a level field, as level as we can make
10 it.

11 MR. GROSE: That's what I want, I want to try
12 to keep it level. If it unfolds the way Mr.
13 Anthony described I don't think we're going to have
14 any problems on this issue. It's just that's not
15 how it unfolded five years ago.

16 THE COURT: The Court appreciates your
17 bringing this to the attention of the record and
18 the reader of the record, and Mr. Anthony, you seem
19 to be clear as to Mr. Grose's position based upon
20 the prior case and its being appealed and sent
21 back.

22 MR. ANTHONY: Yes, sir, I am.

23 THE COURT: All right. Anything further?

24 MR. GROSE: Yes. I have two issues with
25 regard to the handgun that they are going to

1 introduce in this case. One is my standing thing I
2 don't want them to use it in any kind of way that
3 intimidates the jury or scares them or that sort of
4 thing. If we're going to have it checked in front
5 of the jury I want it to be checked by an officer
6 who is not part of the prosecution team, one of
7 these, perhaps Chief Johnson, since he's not
8 involved -- well, he sat with him yesterday, but
9 somebody who is not involved with the prosecution
10 in the case.

11 THE COURT: You know my policy on that.

12 MR. GROSE: Right.

13 THE COURT: Right in front of the jury the
14 weapon, whether it be a shotgun, pistol or
15 whatever, is checked in open court to be certain
16 that everybody is at ease about the fact no one is
17 going to get injured by the weapon.

18 MR. GROSE: Right. I don't want it to look
19 like the prosecution police officers are more
20 interested in safety than we are, or anybody else,
21 just get one of these officers who's neutral to the
22 case to check it, that's all I'm asking.

23 THE COURT: All right, that will be done.

24 MR. GROSE: The second issue with the gun,
25 the second issue with the gun, when I go back and

1 read the record, I said, "My Heavens, why didn't I
2 object to this last time?" As we have already
3 discussed, Mr. Hill surrendered himself that night.
4 The gun was found later in a body of water, one of
5 the lakes around here. It was not placed there by
6 Mr. Hill. It was placed there by somebody named
7 Frank Tut who is not on the witness list, who is
8 charged separately for doing that. I don't think
9 it's relevant to any, if they want to ask Lanny, if
10 he testifies, did he give the gun to somebody else
11 or whatever that's one thing, but I think it's not
12 relevant that the gun was found in a lake when
13 somebody else put it there, and even if it is
14 relevant, the probative value is outweighed by the
15 prejudicial effect because it's not Mr. Hill's
16 conduct, it's somebody else's conduct that is at
17 issue at that point.

18 THE COURT: Mr. Anthony?

19 MR. ANTHONY: Well, there is going to be
20 testimony that that was the gun used that shot him
21 and there is going to be testimony that it, that as
22 part of the investigation Mr. Tut was approached
23 and asked if he knew the location of the gun, and
24 based on that conversation they went and recovered
25 the gun and that that was sent to SLED and then

1 SLED matched it up to the cartridges that were,
2 well, actually to the bullets that were found in
3 the victim.

4 MR. GROSE: I have no problem with that,
5 provided, number one, the hearsay statements don't
6 come in saying we asked him where the gun was. "He
7 took us to a place," that's fine.

8 Number two, if they don't go into any details
9 where they took him, "He took us to a place, we
10 recovered the gun, we took it to SLED, these are
11 our test results," I have no problem with that.

12 THE COURT: Well, the Court may have a
13 problem with the circumvention of the actual facts.
14 If the gun is found in a body of water, that is a
15 fact and for whatever, whatever weight it may
16 carry, if any, if that's the fact, then whomever
17 found the gun or however the State wishes to reveal
18 that fact, then that can come in. That is a fact
19 that occurred.

20 MR. GROSE: Okay.

21 MR. ANTHONY: The gun was found in a lake and
22 the gun was treated a particular way because of
23 where it was found. It can't really be explained
24 without that coming in.

25 THE COURT: I think Mr. Grose's concern is a

1 legitimate one. Don't go any further with this
2 business of the absent witness Tut or Tuck,
3 whatever his name is, other than he was asked, he
4 said, and it was found where he said it was.

5 MR. ANTHONY: Yes, sir, that's all I intend
6 to do.

7 THE COURT: Is that acceptable to you?

8 MR. GROSE: No, it is not, because what Tut
9 said would be a Crawford versus Washington problem
10 if we don't get to confront him. They asked him a
11 question, as long as the officer asking the
12 question testified he took him to a place, that's
13 okay, but my concern is that is a place where Mr.
14 Tut put the gun, not a place where Mr. Hill put the
15 gun, and --

16 THE COURT: Do we know that without Mr. Tut
17 present?

18 MR. GROSE: Well, they convicted him. Yes, I
19 think we do know that because they have statements
20 from him. We're not going to know that unless they
21 call Mr. Tut as a witness.

22 THE COURT: We're not concerned with Mr. Tut
23 but we are concerned and do reiterate something the
24 Court said momentarily, the question would be, "As
25 a result of that conversation did you go

1 somewhere?"

2 MR. GROSE: Right.

3 THE COURT: "Yes, we did." "And where did
4 you go?"

5 MR. GROSE: I have a problem with, I mean,
6 the fact that it was found in a body of water, them
7 linking that to Mr. Hill. That is not linked to
8 Mr. Hill. That's linked to Mr. Tut. That would be
9 relevant in Mr. Tut's trial but not Mr. Hill's
10 trial.

11 THE COURT: All right.

12 MR. ANTHONY: The fact the gun was recovered
13 is relevant and we're not, I mean, I'm not trying
14 to draw an inference that Mr. Hill was the one, I'm
15 not going to argue that Mr. Hill discarded the gun,
16 I won't argue -- I will argue the gun was recovered
17 based on them talking to Mr. Tut. That's all I'm
18 trying to show.

19 THE COURT: If you stop there would that --

20 MR. GROSE: That would be fine and I don't
21 think I'm going to have a problem, maybe Mr.
22 Anthony and I can discuss this during a break
23 before we get to it. I don't have a problem with
24 stipulating that this is the gun that fired the
25 shots and these, whatever they matched up,

1 projectiles came from the gun, I can stipulate to
2 that. I just don't want them to intentionally or
3 unintentionally create the inference that Lanny
4 Hill hid that gun in that body of water when he
5 didn't do that, somebody else did.

6 THE COURT: I believe what Mr. Anthony said
7 was clear on that point, whether it was found in a
8 body of water or in the top of the tallest oak tree
9 in Abbeville County or wherever it was found is
10 irrelevant evidence in this case.

11 MR. GROSE: I think that it was recovered is
12 relevant, I think it's relevant this is the gun. I
13 don't think that what Mr. Tut did with the gun is
14 relevant to this case.

15 MR. ANTHONY: Wherever it was recovered is
16 relevant.

17 MR. GROSE: I don't think so, not when Mr.
18 Hill didn't put it there.

19 THE COURT: Well, it's something for the jury
20 to give such weight as the jury deems it deserves.
21 It's a fact it was found in a body of water. If it
22 were found in the attic of an old abandoned house
23 that would be the same thing, that's where it was
24 found and it was connected to the incident with
25 which we're concerned, that's a fact. Facts are

1 sort of like stumps, you've got to deal with the
2 facts, you can't go around them, you can't go over
3 them, you've got to deal with the facts. That's
4 fact, it was found in a body of water as a result
5 of information coming to the authorities. True?

6 MR. GROSE: I think the rules of evidence
7 allow us to exclude certain facts. You know, you
8 made your ruling, I don't know that we need to
9 keep, I don't want to keep arguing it.

10 THE COURT: You suggested you all might work
11 out something.

12 MR. GROSE: Yes, sir. The last thing I have
13 is in the last trial, again I say, "Oh my God, how
14 did I let that happen," they referred to Artie Hill
15 as the victim over and over and over again. Of
16 course that's a conclusion for the jury to make and
17 we would make a motion that they not be allowed to
18 refer to the decedent as the victim.

19 THE COURT: How are you going to refer to
20 him, Mr. Prosecutor?

21 MR. ANTHONY: I won't refer to him as the
22 victim. I don't have any problem with not calling
23 him the victim. I don't think that the civilian
24 witnesses are going to refer to him as the victim,
25 they're going to refer to him as Artie Hill because

1 that's how they know him. I think that some of the
2 professional witnesses may refer to him as the
3 victim. In reading Dr. Woodard's testimony, I
4 think he pretty much refers to him as the victim,
5 and I think that's just his shorthand way of
6 talking about him. I mean, he did an autopsy on
7 somebody who had been shot six times and he called
8 him the victim. I just don't think that that's, I
9 don't think that a jury is going to draw any kind
10 of negative inference towards the defendant from a
11 professional witness making a shorthand reference
12 to somebody that they don't know, that they are
13 just engaging in their business and referring to as
14 a victim. So, I would, I don't, I would object to
15 the motion just because I just think, I just don't
16 see that as being something that prejudices a jury.
17 I think the jurors are intelligent enough to know
18 if a pathologist gets up there and starts calling
19 somebody the victim he's just talking about the
20 person he did the autopsy on.

21 MR. GROSE: I think that is actually the
22 worst part of all of it because they are going to
23 use this pathologist to in part try to argue that
24 it was murder and that he was a victim and his
25 conclusion about that, he wasn't there, he didn't

1 observe all these events that led up to it, he
2 can't testify about everything, and for him to be
3 calling somebody the victim I think is a conclusion
4 for the jury to reach.

5 THE COURT: Let's let the record be clear.
6 What you are saying is that the use of the term
7 victim is in some way prejudicial to your client
8 but a person who has sustained injuries, whether by
9 a lightning strike, that person is a victim of
10 whatever killed them.

11 MR. GROSE: If it's self defense Mr. Hill's
12 the victim, my client Mr. Hill's the victim and the
13 decedent is not a victim under the meaning --

14 THE COURT: The Court knows nothing about
15 this but did he sustain any injury to make him a
16 victim of any kind of injury to his body?

17 MR. GROSE: The use of the term victim
18 doesn't require sustaining injuries. You can be a
19 victim, a bad check, somebody steals my check,
20 forges my check, you know, I'm a victim. Victim as
21 used in this context has a very specific meaning of
22 victim of a crime, and this jury has to decide
23 whether a crime happened or not.

24 THE COURT: In this context it's the victim
25 of a gunshot wound, whether it's self inflicted,

1 suicide, a gunshot wound from unknown source, from
2 some hunter sitting in a tree a half a mile away,
3 it's still a victim. That's not prejudicial to
4 your client so long as it is used in the confines
5 of what we're talking about by a professional
6 witness if he uses that. You may want to advise
7 him, Mr. Anthony, to stay away from the term simply
8 because Mr. Grose has expressed a concern, but the
9 Court is not going to characterize the term victim
10 in any term other than a person who sustained an
11 injury, whether accidental, on purpose or as an act
12 of God.

13 Anything else?

14 MR. GROSE: That's all I have at this time,
15 Your Honor.

16 MR. ANTHONY: I have a couple matters, Your
17 Honor.

18 THE COURT: All right.

19 MR. ANTHONY: When Mr. Hill, when Artell Hill
20 was, when the autopsy was performed on him there
21 was a substance removed from his pocket that there
22 was an opinion expressed by a witness that it was
23 crack cocaine, and the State's position would be
24 that that should be excluded because it's really
25 just bad character evidence of the victim, unless

1 it can be made relevant in some way to self defense
2 or can be made relevant in some way to identity or
3 some other issue in the case, the State's position
4 is that it's not relevant, that it's just bad
5 character evidence about the victim and that it
6 shouldn't be admitted and introduced in front of
7 the jury.

8 THE COURT: Mr. Grose?

9 MR. GROSE: Judge, I have never been given an
10 analysis of this. This is something that has been
11 in the custody of the government except when it's
12 been being used here in court. Dr. Woodard
13 testified before that it was believed to be crack
14 cocaine. It was found in his pocket with a bunch
15 of money. He testified at the prior trial that one
16 of the first things he does in an autopsy is
17 conduct an examination of clothing. He views it,
18 and obviously he checks to see what's in it. It's
19 something that Artell Hill had on him at the time
20 that this took place, it's as much a fact of this
21 case as anything else and I don't think that, I
22 don't think it's character evidence, necessarily, I
23 think it's what it is, it's what was there.

24 THE COURT: Does it have to do with the
25 defendant's position that self defense is being

1 pled?

2 MR. GROSE: Your Honor, there is, I think,
3 some case law out there, maybe I can look for some
4 of it in the break. Not only was it crack cocaine
5 in his pocket, there was --.

6 THE COURT: We don't know that.

7 MR. GROSE: Well, what was believed to be
8 crack cocaine. It certainly looks like crack
9 cocaine. I'm not sure which bag it is, if we can
10 find it, it certainly looks like crack cocaine. It
11 was wrapped in a number of bills, he had a razor
12 blade in his pocket. These are all types of things
13 that the government typically introduces in a case
14 on possession with intent to distribute.

15 It's going to be, I have in my hand what was
16 Defendant's Exhibit Number 1 dated 3/22/2000. It's
17 going to be undisputed that this was found in Artie
18 Hill's hand. There is some federal case law that
19 talks about the connection, maybe state case law,
20 there is law that talks about connection between
21 typically guns, but weapons and drugs, that there
22 is a nexus that's inseparable. We had testimony
23 last time that this could be a deadly weapon if
24 used in a certain manner, this stick, from their
25 professional witnesses. It's all part of the whole

1 connection. I think it's just as much a fact of a
2 case, I mean, Mr. Anthony is getting the benefit of
3 a fact in the case where the gun was found, which
4 was conduct by a third party who's not going to be
5 involved in this trial. I don't think he can then
6 turn around and deny us, you know, conduct of the
7 decedent that he had, you know, what was believed
8 to be drugs and drug paraphernalia on him at the
9 time this happened. I mean, this is not just some
10 allegation five years ago, five days ago, the day
11 before, that he was involved in drugs. This day
12 there he had drugs in his pocket, and money.

13 THE COURT: Well, the Court hears you saying
14 drugs but has any motion been made to have the
15 analysis, has the defense moved to analyze that
16 substance?

17 MR. GROSE: I haven't, Your Honor, but if you
18 want it analyzed I think we could have an officer
19 field test it today, we could have the results by
20 lunch.

21 THE COURT: What do you say, Mr. Anthony?

22 MR. GROSE: I just point out to prove a drug
23 conspiracy you don't have to have the drugs
24 analyzed. I mean, they can look, I have in my hand
25 Defendant's Exhibit Number 2, I'll hand it up, it

1 looks like it's probably deteriorated over time but
2 they are also packaged in separate baggies.

3 THE COURT: Mr. Anthony?

4 MR. ANTHONY: Yes, sir.

5 THE COURT: What do you say about this?

6 MR. ANTHONY: I'm not, I'm not arguing, it is
7 not necessarily my position that it's not crack and
8 sufficiently established it's crack, I'm just
9 arguing it's not relevant. I mean, you know, I'm
10 not going to dispute that he had a stick, that
11 Artie Hill had a stick sitting in the front seat of
12 the car, between his legs, when he was shot because
13 that's obviously relevant to self defense, so I
14 don't have any objection to that.

15 THE COURT: And that brings us to the
16 substance that is talked about as being crack
17 cocaine. How is that, how is that relevant unless
18 we have testimony that that was the subject of
19 something that was going on?

20 MR. GROSE: Your Honor, there is just that
21 inseparable connection between drugs and guns as
22 our courts have talked about. I don't mind
23 referring to it as believed to be crack cocaine. I
24 mean, that is what the government does in a lot of
25 drug trials, we have this evidence that was

1 believed to be whatever type of drug. I can refer
2 to it in that regard if that's his objection. I'm
3 not sure that's his objection.

4 THE COURT: Well, the problem that the Court
5 has is if the field is going to be level and you
6 bring in crack cocaine in the possession of the
7 deceased, then in the eyes of the jury that's going
8 to be extremely prejudicial to the State's case,
9 that the decedent had that substance, if it is
10 crack cocaine, and the Court makes no finding one
11 way or the other, for his own use and benefit,
12 unless you have or the State has some information
13 it in some way was involved in the conflict
14 allegedly occurring between the defendant and the
15 deceased. Unless that comes out, then it's not
16 relevant.

17 MR. GROSE: I just move to prove this when
18 Dr. Woodard testifies later on.

19 THE COURT: All right. Be careful, Mr.
20 Anthony, that the jury will go out when that comes
21 in.

22 MR. ANTHONY: That's fine, I will remember
23 that. The only other thing I have is, and I don't,
24 I'm just, I'm going to go ahead and mention it
25 because I don't know what the defense's position

1 will be, when Officer Harvard testifies he'll
2 testify that he came to the scene, found the
3 victim's body in a seated position in the car, with
4 a stick between his legs, and that is relevant to
5 this case because the position of the victim is
6 relevant because the defense claims self defense.
7 So, the position the victim was in when he was
8 found is relevant to whether he was in an
9 aggressive posture or a non-aggressive posture, and
10 the State would seek to corroborate the testimony
11 of the victim's position, the State would seek to
12 introduce one photograph of the victim as found at
13 the crime scene, and I don't know Mr. Grose's
14 position on that but I wanted to put that on the
15 record so we could deal with it outside the
16 presence of the jury.

17 MR. GROSE: I'm not going to object to that,
18 provided that Mr. Harvard's testimony is limited to
19 what he observed when he got to the scene and not
20 any opinions about what happened, because I don't
21 believe he can be qualified as an expert.

22 THE COURT: He wouldn't, the only things he
23 could testify to is what he did and what he saw.

24 MR. GROSE: Right, and I'm not going to have
25 an objection to the picture.

1 THE COURT: All right. Anything further?

2 MR. ANTHONY: No, sir.

3 THE COURT: Anything further?

4 MR. GROSE: No, sir.

5 THE COURT: All right, let's take a short
6 recess while the jurors come into the jury room.
7 It will be about ten minutes, please.

8 (Recessed at 10:25 a.m.).

9 (Reconvened at 10:45 a.m.).

10 THE COURT; The record will open, please.
11 This is State of South Carolina versus Robert
12 Orlando Hill, indictment 99-494.

13 Is there anything from the State before the
14 jurors come in, please?

15 MR. ANTHONY: No, sir.

16 THE COURT: From the defense?

17 MR. GROSE: Your Honor, just briefly. I
18 would object to the jurors being sworn, on two
19 grounds. One, our motion for the mistrial, and
20 two, our motion to quash the indictment. I think
21 now is the appropriate time to call those to your
22 attention so they've not waived.

23 THE COURT: Noted and overruled.

24 Show the jury in, please. Subject to the
25 remark yesterday, both have waived the swearing of

1 the jury in chief and the alternate separately?

2 MR. GROSE: That's correct, and one of the
3 reasons we did that was because we still had that
4 motion to be heard.

5 MR. ANTHONY: That's correct.

6 (The jury returned to the courtroom).

7 THE COURT: Ladies and gentlemen of the jury,
8 we are beginning to try the case of the State of
9 South Carolina versus Robert Orlando Hill. The
10 Court will give you a brief preliminary
11 instruction.

12 First, the Court would thank you each for
13 your service as jurors on this particular case.
14 The Court understands that you are here under
15 varying degrees of hardship. It is taking you away
16 from things that you had rather be doing, being
17 with your families, doing your hobbies, at work,
18 with your friends and other things, but this is the
19 most fundamental thing that we do in our system of
20 justice. We genuinely appreciate your service.

21 In our system of justice the right to a jury
22 trial, the right to a jury trial of one's peers is
23 a fundamental, guaranteed and important right. It
24 should not be held against anyone that you are the
25 parties that are being called upon to find the

1 facts in this case. Our constitution guarantees a
2 right to a trial by jury in a case like this.

3 You will now be administered an oath. If you
4 will, please stand and raise your right hands.

5 THE CLERK: You shall well and truly try and
6 true deliverance make between the State of South
7 Carolina and the defendant and a true verdict
8 render according to the law and evidence, so help
9 you God?

10 If you accept this oath please indicate by
11 saying I will.

12 JURORS: I will.

13 THE CLERK: Thank you, and you may be seated.

14 THE COURT: Thank you, Madam Clerk, thank
15 you, ladies and gentlemen.

16 Ladies and gentlemen of the jury, you have
17 just taken an oath to well and truly try this case.
18 At the conclusion of the trial the Court will
19 charge you, that simply means tell you, what the
20 law is as it may apply to the facts as you find
21 them to be. The Court will charge you as to all of
22 the law that could apply to the facts as you find
23 them to be.

24 The Court is the sole and only judge of the
25 law. However, you are the more important judge in

1 any trial because you and you alone are the sole
2 and only judges of the facts. No one can invade
3 that jury box and find the facts. The finders of
4 facts are solely and only the jury. As judge of
5 the facts you will determine the credibility, that
6 means the believability, of the witnesses who will
7 testify before you here under oath and on this
8 witness stand. You must decide this case only and
9 exclusively upon the evidence that you hear and see
10 in this courtroom and upon nothing else whatsoever.

11 As judge of the law the Court may be called
12 upon to determine whether certain evidence may be
13 admissible or not admissible, and that is the
14 circumstance sometimes when we have to ask you to
15 step out momentarily while the attorneys can place
16 their position on the record. This is the only
17 place that we can do it, so it's not simply to ask
18 you to leave the room for your exercise or to
19 inconvenience you, but it's so that we can hear
20 what the attorneys have to say in representation of
21 their clients concerning the admissibility or the
22 inadmissibility of evidence so the Court can make a
23 ruling.

24 On other occasions we may have a
25 consideration of procedure, we may need to ask you

1 to leave so we can decide how to handle a
2 situation, and that's not to keep anything from you
3 or hide anything from you, but we must make a
4 record and this is the only place, as you see, that
5 we have that we can record and keep everything that
6 is said so that it may be reviewed if needed.

7 So, it's not to inconvenience you and it's
8 not to keep anything from you, and this is another
9 thing that you might keep in mind, it will give you
10 an opportunity to relax your mind. You're about to
11 learn that jury work is tough work because it's
12 mental work. The law requires that all of you stay
13 alert. The Court will be surveilling you
14 throughout the trial to see that you are alert. It
15 becomes difficult sometimes in the afternoon after
16 you have had your lunch to stay alert but if the
17 Court were to observe that someone is struggling,
18 no one will be singled out but we will have what is
19 called in baseball a seventh inning stretch. We'll
20 kind of get up, stretch around, move around a
21 little bit, reinvigorate ourselves, which sometimes
22 is a welcome opportunity, and then we'll sit back
23 down and continue, because it's hard to maintain
24 concentration in the degree and at the level that
25 you are about to experience. It's not an ordinary

1 thing that you're about to do. It's extremely,
2 extremely important and difficult.

3 It's important also that you know about
4 evidence. What the attorneys say to you is not
5 evidence. When they come before you in a moment
6 that's not evidence, what they say when they make
7 objections and remarks is not evidence, what the
8 Court says to you is not evidence. Evidence comes
9 from three sources and from only three sources.
10 The one with which you are most familiar is the
11 testimony and words from the lips of these
12 witnesses sworn to tell the truth, to which you
13 will give such weight as you deem their testimony
14 deserves. You and you alone are the sole judges of
15 the credibility or the believability of the
16 witnesses who are about to come before the Court
17 and testify.

18 Testimony is evidence, exhibits are evidence.
19 Exhibits are things that are introduced during the
20 course of the trial that you can feel and see and
21 look at and examine, and indeed you will take them
22 with you into the jury room so that you can see
23 them and have them with you and discuss whatever it
24 is that you may want to discuss about those things.

25 Testimony, exhibits, and there could be a

1 stipulation. That's just a big word for the
2 agreement of both of the parties that a fact is
3 true, such as the sun rose this morning at 7:06 or
4 a certain thing occurred. There could be a
5 stipulation. There may not be any stipulations but
6 a stipulation, were it to occur, is a fact. It's
7 evidence. Testimony, exhibits, and possible
8 stipulation. Nothing else is evidence, nothing you
9 hear or see outside the walls of this courtroom is
10 evidence, nothing you think you may know or think
11 you may believe outside the walls of this courtroom
12 or that you learn during the course of this trial
13 is evidence. What you're about to hear and see is
14 evidence, the sole and only evidence.

15 While the Court may rule upon whether such
16 evidence may be admissible and proper to fall upon
17 your ears, you and you alone will determine what
18 weight or importance to give to any evidence.

19 It's important that you understand the legal
20 yardstick that applies in this criminal case. The
21 burden is upon the State and remains upon the State
22 to prove the guilt of the defendant here on trial
23 beyond a reasonable doubt. The defendant does not
24 have to prove anything. He has no burden, he has
25 no responsibility. The burden is upon the State

1 and remains upon the State to prove his guilt to
2 your satisfaction beyond a reasonable doubt. That
3 will be explained to you more thoroughly at a later
4 time.

5 The first part of any trial is opening
6 statements. As you were told on yesterday just
7 briefly, opening statements are very important
8 because at this time we know only what is set out
9 in the bare essential allegations of the indictment
10 and the bare essential questions that were asked
11 you when you were members of the venire. We don't
12 know anything. Opening statements are designed and
13 intended to familiarize you and the Court with what
14 this is all about.

15 Please pay attention to these skilled and
16 trained attorneys. They will try and possibly
17 succeed on both accounts, all accounts in making
18 you alert and aware of what facts will come before
19 you and which of those facts you should give weight
20 to and which of those facts you may should not give
21 weight to. At least they will give you some
22 education as to what you are about to see and hear
23 and whether you should give it importance.

24 They will give you a broad brush, if you
25 will, a broad explanation of what is going to

1 occur. It's very important that we understand from
2 the get-go what this is going to involve so that
3 you will know what to be on the lookout for and be
4 ready to receive it. That's the intention and the
5 reason for opening statements, so you don't go into
6 a case without knowing a thing in the world about
7 it. The attorneys will educate all of us as to
8 what they think is important, what the evidence may
9 reveal, may not reveal and so forth, so please give
10 them your best attention.

11 After the opening statements, then the State
12 will commence its case in chief. Now, the case in
13 chief means that the State will call witnesses
14 until you hear the State's attorney, the
15 prosecutor, say something like that's all we have,
16 that's our case, or, the State rests.

17 That means the case in chief is concluded,
18 there is no more evidence to be brought forward by
19 the State. The defendant, you recall, has no
20 burden, he may or he may not present any evidence.
21 If he does not present any evidence that's his
22 right. It cannot and must not be held against him
23 in any way, because the burden is not upon the
24 defendant, he has no responsibility, he has no
25 burden. In our system of justice the burden is

1 upon the State and remains upon the State to prove
2 the guilt of the defendant here on trial beyond a
3 reasonable doubt. However, he has a right to
4 present a defense if he wishes, and were he to
5 present a defense, then you will hear witnesses
6 called here by the defendant.

7 At the end of that, were it to occur, then
8 you will hear the attorneys for the defendant say
9 that is the defense, or the defense rests, or
10 something to that effect. That's the end of the
11 defense.

12 Now, there could be, there could be the
13 possibility of reply testimony. That's very
14 limited, very unusual but it sometimes occurs.
15 Reply testimony is very restricted, only to matters
16 that were brought up in the defense in chief, if
17 any defense is presented, and none is required, and
18 if none is presented it cannot, must not and will
19 not be held against the defendant. But the State
20 does have the opportunity to respond to any new
21 matter, any new matter that may have come up in the
22 case in defense in chief and was not touched on in
23 the State's case in chief. That will be very
24 short, very limited, very compact. That will be
25 the end of all the evidence.

1 At that time the attorneys will come before
2 you in what is generally referred to as final
3 argument. You will not see any histrionics, you
4 will not see any, hear any loud boisterous
5 language, but the attorneys will come before you
6 and they will point out to you what the evidence
7 has revealed and what is important and what you
8 should give weight to, what you should consider, or
9 on the other hand, what you should not consider.
10 They will cover what has been proven or disproven,
11 in their opinions. Then the Court will charge you.
12 That just simply means tell you what the law is and
13 then you will be given the opportunity to
14 deliberate.

15 At no time under any circumstances will you
16 talk by, between and among yourselves or with any
17 other human being about this case. It is not fair
18 to either party, it's not fair to the people of the
19 State of South Carolina and it's not fair to Robert
20 Orlando Hill for you to say anything at all under
21 any circumstances about this case to anyone while
22 you are serving as a sworn juror. It's not fair
23 that you allow anyone to speak to you about this
24 case. Something that someone may say, however
25 innocent it may seem, may stick with your mind and

1 you will in some way keep that in your mind and
2 consider it when you're deliberating. That's not
3 fair. Don't allow anyone to speak with you about
4 this case.

5 If there were to be any media coverage of the
6 case, such as newspaper, television or radio, it's
7 your responsibility individually to completely and
8 absolutely disregard anything you see, hear or read
9 about this case outside this courtroom. Disregard
10 it completely and disabuse your mind of it
11 completely and absolutely. It is not evidence, you
12 should not consider it at all, and this is open
13 court, you may have, we may have a journalist
14 coming and going, we don't know who's coming and
15 going, this is open public court, but if you were
16 to see, hear or read anything outside this
17 courtroom it's not evidence, disregard it
18 completely and absolutely.

19 The trained and excellent attorneys in this
20 case are advocates for their clients. They're
21 doing their very best to represent their clients to
22 the best of their abilities. You and I are not
23 advocates. You have no enemies to punish, you have
24 no friends to reward. You are not concerned with
25 who the parties are in this case. Your sole and

1 only concern is to find the truth in this case
2 regardless of from what source it may come to you.

3 The trial judge's responsibility is to
4 preside over the case, to rule upon the
5 admissibility of evidence and charge you or tell
6 you what the law is as may apply to the facts of
7 the case as you find them to be. Your
8 responsibility as a juror and as a jury, as a
9 group, lies essentially in the oath that you have
10 taken to well and truly try this case and a true
11 verdict render according to the facts in this case.

12 Again, you are not advocates, you have no
13 friends to reward, you have no enemies to punish.
14 It's your duty to find the facts and find the
15 truth, which will be reflected in your verdict.

16 The word verdict comes from the Latin term
17 verdicto, which means to speak the truth. So, when
18 you reach a verdict it will speak the truth.
19 That's what it means.

20 If anyone needs to bring anything to the
21 attention of the Court during the course of the
22 trial, such as you cannot hear or you cannot see,
23 please let that be known, raise your hand
24 immediately. The Court will be surveilling you
25 from time to time and if by chance the Court is not

1 looking, maybe the Clerk or someone will bring it
2 to my attention. All of you, including our
3 alternates, need to see and hear everything, so if
4 there is an obstruction and/or lack of tone,
5 please let us know it because all of you need to
6 see and hear everything and all of you need to stay
7 alert throughout the entire trial.

8 This judge does not elect a foreperson. You
9 will have the opportunity to get to know each
10 other, you have already had the chance to visit
11 here this morning while we were doing other things.
12 And we were doing other things, we weren't just
13 causing you to sit and relax and get to know each
14 other for the benefit of your knowledge of each
15 other. We were working here. But you will get to
16 know each other better and when you feel
17 comfortable, the only ones that are not eligible to
18 be the foreperson are your alternates, your
19 alternates cannot be the foreperson of your jury,
20 but any of the jury in chief, the twelve of you may
21 be a foreperson and when you feel comfortable, when
22 you wish, when you can, as soon as you can, then
23 select a foreperson.

24 A foreperson has no more authority nor say so
25 than any other member of the jury. He or she will

1 preside over your deliberations, will correspond
2 with the Court on your behalf if it becomes
3 necessary. There will not be any talking back and
4 forth off the record, you will write a note and the
5 Court will respond to you in writing and that note
6 will be handed back out, it will be made part of
7 the record by the court reporter, a court's
8 exhibit.

9 So, that's what your foreperson will do,
10 preside over your deliberations and to correspond
11 with the Court on behalf of the jury as a whole.

12 So, select a foreperson when you feel
13 comfortable. He or she will sit at the right front
14 seat of the jury box throughout the trial and
15 everyone else may sit wherever you're comfortable.
16 Some people like to sit in the same seat all the
17 time and some people like to sit in different
18 seats. It doesn't matter where the rest of the
19 jurors sit, but the foreperson will occupy the
20 foreperson's seat throughout the trial and the
21 alternates will occupy the alternate seats
22 throughout the trial.

23 As soon as you feel comfortable please write
24 the name of the foreperson on a piece of paper, Mr.
25 Busby check and be certain there is paper and

1 pencil in the jury room, write the name of your
2 selected foreperson on a piece of paper, their
3 juror number and write foreperson under their name
4 and then that will be given to the court reporter
5 and kept with the permanent record of the trial.
6 There is no rush to do that but do it as quickly as
7 you feel comfortable in doing so.

8 Ladies and gentlemen, thank you for your kind
9 attention to these brief opening remarks of the
10 Court. This is an important case. This case is
11 important to the State of South Carolina and this
12 case is important to the defendant Robert Orlando
13 Hill. Each party is entitled to a fair and
14 impartial trial at your hands.

15 We will now have opening statements.
16 Solicitor Anthony, the jurors are with you, sir.

17 MR. ANTHONY: Thank you very much, Your
18 Honor.

19 Good morning.

20 JURORS: Good morning.

21 MR. ANTHONY: My name is John Anthony and I'm
22 the Deputy Solicitor for Abbeville County and I'm
23 the man that will be representing the State in the
24 trial of this case.

25 I just want you all to think for a second

1 about what it is that gives a person power because
2 it seems to me like for people, power, for
3 different people power comes from different things.
4 For some people power means having a lot of money
5 and probably for some people like, say, a doctor or
6 maybe a lawyer or somebody who builds houses or
7 something like that power means having knowledge,
8 it means having a special skill.

9 For a teenager power probably comes from a
10 driver's license. But wherever power comes from,
11 there is a saying about it that I like, and it
12 comes from a movie that I expect probably several
13 of you have seen, it comes from the Spiderman movie
14 and you may remember what Spiderman's uncle tells
15 him in that movie. He says, "With great power
16 comes great responsibility."

17 Back on August 6th of 1999 the defendant in
18 this case Robert Hill, who is going to be referred
19 to throughout the trial as Lanny Hill, that's what
20 everybody calls him, Lanny Hill rode through the
21 Eastgate Apartments in Calhoun Falls on a bicycle
22 and there were some people out, two people out on
23 the steps of one of the buildings and he stopped
24 and he talked to them for awhile and then he told
25 them he was leaving to go get some food.

1 A few minutes later Lanny Hill came back to
2 Eastgate Apartments, riding through the parking lot
3 on the same bicycle, but this was a different Lanny
4 Hill. The Lanny Hill that had been through there
5 the first time was just like plain old Peter
6 Parker, he was just a regular guy on a bicycle.
7 But the Lanny Hill who came back the second time
8 had some power just like Spiderman, but for Lanny
9 Hill the power came from a pistol that was tucked
10 inside his pants and underneath his shirt.

11 When Lanny Hill rode through the project, the
12 apartment complex the second time a young man in a
13 car, by the name of Artell Hill, called out to him
14 and Artell Hill was sitting in a car, there was
15 another young man standing out beside the car named
16 Jeff Tatum, talking to him. And Artell Hill called
17 out for Lanny Hill and said, "I heard you been
18 looking for me." Artell Hill was sitting in the
19 car, he had a stick in between his legs in the car
20 but he never got out of the car, he never
21 brandished the stick. But when Artell Hill called
22 out for Lanny Hill, Lanny Hill laid down his
23 bicycle and started walking toward the car, he
24 pulled the gun out from his pants and he shot
25 Artell Hill six times, then he turned around, he

1 went back to his bicycle and he rode off.

2 In this case you're going to hear from people
3 who witnessed this, from people who saw this
4 happen, and you're going to hear from people who
5 investigated this, some law enforcement people and
6 some other people who dealt with this case after it
7 happened, and it's going to be your job to decide
8 if Lanny Hill used that power that came from that
9 pistol in a responsible way, and we believe that
10 after you have heard all the evidence in this case
11 that you're going to say no, he didn't use the
12 power that came from that pistol in a responsible
13 way, and you're going to find him guilty of murder.

14 Thank you all very much.

15 MR. GROSE: May it please the Court.

16 THE COURT: Mr. Grose.

17 MR. GROSE: What we do in our opening
18 statements is we talk to you about what we think
19 the case is going to be, what the theory of the
20 case is, the story, so to speak. You look at
21 everything in a story, not a life, but the story of
22 somebody's life, the story of some event. The
23 story like you hear in history or bedtime story has
24 kind of a flow to it. It's what we think as
25 lawyers that we're going to try to prove in a case

1 or try to show in a case.

2 Now, the judge has already told you that the
3 burden is always on the State of South Carolina.
4 Throughout the entire case the burden is on them to
5 prove the case beyond a reasonable doubt. That's
6 an important right that comes down to us from our
7 founding fathers, through our constitution that we
8 protect every day in this courtroom and other
9 courtrooms around the state and around the country.

10 Mr. Anthony talked about, you know, with
11 power comes responsibility. Without question, you
12 jurors are the most powerful people in this room
13 right now. It's not us lawyers with our knowledge,
14 or the judges with their robe, or the witnesses who
15 come. You all are the most powerful people in this
16 room because you all are the ones that listen to
17 this evidence and decide whether the State has met
18 their burden of proof beyond a reasonable doubt.

19 As Mr. Anthony said, with power comes
20 responsibility, and the responsibility that comes
21 with that is to listen to the evidence and filter
22 it through your common sense, your experiences in
23 life and determine whether or not they have met the
24 burden of proof because the responsibility, the
25 obligation is that if they do not meet the burden

1 of proof is to find any defendant in any case,
2 Lanny Hill in this case, not guilty.

3 What Mr. Anthony told you was that he was
4 going to prove that Artell Hill was sitting in the
5 car. Implied in that is that he never stood up and
6 he never got out of the car. That's their story
7 that they're going to try to tell you in this
8 courtroom.

9 Now, I'm going to be up front with you.
10 They're going to call some witnesses that are going
11 to say that that's what happened, but there is two
12 types, really three types of witnesses you are
13 going to hear from in this case. The first people
14 are the ordinary everyday citizens that were out
15 there watching what happened, and there is going to
16 be some of them.

17 The second group of witnesses that they're
18 going to call is the police officers who responded
19 to the scene and investigated what happened.

20 And the third group of people they are going
21 to call are what they call the forensic experts.
22 You probably know something about that, there is
23 lots of TV shows now, crime scene shows that deal
24 with the forensics evidence, the autopsy, the crime
25 scene experts.

1 What happened on August 6th? Lanny actually
2 rode by there three times, to the store, came back
3 by, came back another time. When he came back, and
4 you are going to hear from Lanny, Lanny doesn't
5 have to take the stand but he's going to get up
6 here and tell you what happened that day. That's
7 his right, nobody can take that away from him.

8 Artell Hill had a stick. It's a stick about
9 this long, you are going to see it because if they
10 don't put it in evidence we will. It's a stick
11 about this long, it's about this big around, it's
12 the length of maybe an axe handle or baseball bat.
13 You will see it's too short to be a walking stick.
14 Lanny is going to tell you that he took into
15 account things he already knew about Artie,
16 situations that had already been developing, the
17 fact that he had shown him the stick one time as he
18 drove by, and the fact he started to get out of the
19 car carrying that stick, coming at him, and this is
20 all a split second.

21 You are going to hear witnesses say this all
22 happened quickly, quickly, and in some ways it's
23 kind of ironic because it's going to take us
24 probably two days, today, tomorrow, maybe into
25 Thursday or so to go through and explain what

1 happened, that happened so quickly. Some of the
2 witnesses were just out there talking to other
3 people, some of the witnesses were people that had
4 arrived with Artell Hill.

5 The eyewitness testimony in this case is
6 going to leave something to be desired and
7 therefore I ask your patience, your patience until
8 we get to the part where we talk about the
9 forensics, the pathologists. The reason that we
10 have these types of experts is to help determine
11 what happened, that sometimes what eyewitnesses say
12 is not always accurate.

13 What we intend to do through their evidence
14 is to show that that door had to have been opened
15 to that car, that there is evidence that Artell
16 Hill had gotten out of that car and that more
17 probably than not he had stood up. Again I ask for
18 your patience because it's not going to be until we
19 get to that part that things start to come
20 together. It's kind of like a puzzle.

21 Partly what we're going to try to show is
22 that when they got there they, the officers, the
23 first responding officers, when they got there they
24 found a certain situation. They preserved that for
25 a couple hours or so until the crime scene person

1 could get there, and that they preconceived some
2 conclusions in the case and never fully looked and
3 considered all of the evidence. And that's where
4 reasonable doubt comes into play, because there are
5 things that we're going to try to show that maybe,
6 possibly they could have and should have documented
7 better than they did.

8 And that's where reasonable doubt comes into
9 play, because in this courtroom is a situation
10 where it's the government bringing a charge against
11 a person. Right before we dismissed yesterday the
12 judge was talking to you and the thunderstorm was
13 coming up and he kind of cut a little bit short his
14 explanation, but he was talking about jury service
15 being one of only two things that the government
16 requires you to do. One is go to war if there is
17 ever a draft in a time of war, thank God we don't
18 have that right now, and two is jury service. And
19 when you were sitting out here in a group he told
20 you that that's because you or your family members
21 or friends could one day be charged, that's
22 something our founding fathers knew, and that all
23 that is asked of you in this courtroom is fairness,
24 to fairly exercise that responsibility that comes
25 with the power of being jurors.

1 When you hear all the witnesses, not just the
2 first group, the people who saw what happened, and
3 the second group, not the investigators, but the
4 forensics people, and take into account what they
5 know, when you consider the burden of proof and you
6 consider what's presented, this is what they've got
7 to prove to get murder, that Artell Hill was
8 sitting there doing nothing and got shot.

9 Murder is the intentional or the felonious
10 killing of another person with malice aforethought.
11 I suspect you are also going to hear about
12 voluntary manslaughter and self defense. Both of
13 those things involve provocation. Provocation and
14 self defense and reasonable doubt are the things
15 that you are going to hear us talk about in this
16 trial and at the end of this trial we're going to
17 ask that you return a verdict and find Lanny Hill
18 not guilty.

19 THE COURT: Solicitor, call your first
20 witness, please.

21 MR. ANTHONY: We call Officer Harvard.

22 THE CLERK: Raise your right hand.
23
24
25

TERRENCE HARVARD - DIRECT

1 TERRENCE HARVARD,
2 after being first duly sworn testified as follows:
3 THE COURT: Thank you. And if you will give
4 us your name for the record.

5 THE WITNESS: Terrence Harvard.

6 THE CLERK: Okay.

7 THE COURT: You may examine.

8 MR. ANTHONY: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. ANTHONY:

11 Q Would you just state your name again, please?

12 A Terrence Harvard.

13 Q And, Mr. Harvard, how are you currently
14 employed?

15 A ~~I am a public safety officer with the City of~~

16 ~~Clinton Public Safety Officer, Police Division.~~

17 Q I want to take you back to August, 1999.
18 Where were you working at that point in time?

19 A ~~I was employed with Calhoun Falls City~~

20 ~~Police Department.~~

21 Q What was your position there at that time?

22 A I was a sergeant.

23 Q How long had you worked for Calhoun Falls at
24 that time?

25 A I started employment there in March, 1997.

TERRENCE HARVARD - DIRECT

1 Q Okay. And were you working the evening of
2 August 6th, 1999?

3 A Yes, sir, I was.

4 Q And did you receive a call that night to go
5 out to Eastgate Apartments?

6 A Yes, sir.

7 Q And is that the city of Calhoun Falls?

8 A Yes, sir.

9 Q Is that in Abbeville County?

10 A Yes, sir.

11 Q What time were you called out to Eastgate
12 Apartments?

13 A The time was approximately 7:18.

14 Q Okay. In the evening?

15 A Yes, sir, in the evening.

16 Q And what were you called out in regards to?

17 A The call we received was a code for a
18 shooting.

19 Q And where were you when you got the call?

20 A Inside the Police Department.

21 Q And what were you, what were you doing at the
22 time?

23 A I was talking with the officer that was
24 working with me that evening, Officer Savage.

25 Q And once you got the call what did you do?

TERRENCE HARVARD - DIRECT

1 A When the call first came across it kind of
2 startled me and I just had this, I guess this look
3 and I looked at Savage and I then got on the radio
4 and asked them to repeat the call, which came back
5 again as a shooting.

6 Q Okay. And once you verified it what did you
7 do?

8 A Immediately we left the office in separate
9 vehicles and proceeded to Eastgate Apartments.

10 Q And as you drove into Eastgate Apartments
11 what did you observe?

12 A As I arrived there, to the right of me as I
13 was pulling in I saw a group of people standing on
14 the sidewalk and they were pointing in the opposite
15 direction, which would have been to the left of me.
16 I looked --

17 Q And what were they pointing to?

18 A As I looked to the left of me I noticed that
19 they were pointing at a vehicle.

20 Q And what type vehicle was it?

21 A It was a small blue vehicle.

22 Q And what did you do when you saw the vehicle?

23 A At that time I drove up towards that vehicle.

24 Q Okay. And what did you do then?

25 A I got out of the patrol car and then went to

TERRENCE HARVARD - DIRECT

1 the vehicle.

2 Q And when you arrived at the vehicle what did
3 you observe?

4 A I observed Artell Hill sitting in the front
5 seat.

6 Q And was it the front passenger or front
7 driver?

8 A Front passenger.

9 Q Okay. What did you observe about Mr. Hill
10 upon getting to the blue car?

11 A What I observed is that it was apparent that
12 Mr. Hill had been shot.

13 Q Okay. And how many times did you perceive he
14 had been shot, just based on being there at the
15 car?

16 A From what I could see at that time,
17 apparently there were four wounds to his body.

18 Q And what was the positioning of his body when
19 you got there?

20 A He was sitting slumped forward.

21 Q And as far as what he was doing at the time,
22 what did you perceive Mr. Hill was doing when you
23 got to the car?

24 A It appeared as if he were gasping.

25 Q And how did this gasping, how did it conclude

TERRENCE HARVARD - DIRECT

1 or what happened as you were there observing him?

2 A Just like there was a final gasp and he just
3 sat there motionless.

4 Q And did you notice any items on or about his
5 person sitting there in the car?

6 A Yes, sir.

7 Q And what item did you notice?

8 A In his left hand there was a stick.

9 Q And where was, what was the stick's position
10 in the car?

11 A The end was on the floorboard, it was
12 straight up.

13 Q Okay. And after you arrived there and saw
14 Mr. Hill what happened next? Did anyone else come
15 to the scene there where the car was?

16 A At that time I instructed Officer Savage to
17 get out some crime scene tape which I helped him
18 put up and also notified dispatch to notify the
19 rest of the officers with Calhoun Falls of the
20 situation.

21 Q Did anyone else come to attend to Mr. Hill?

22 A EMS was also dispatched.

23 Q And what kind of dealings, or what did EMS do
24 or EMS workers do when they arrived?

25 A They checked for pulse.

TERRENCE HARVARD - DIRECT

1 Q All right. And did they in any way alter the
2 position of Mr. Hill's body or move him around,
3 anything to that, anything like that?

4 A No, sir.

5 Q All right. You said you called for the
6 officers from Calhoun Falls to come to assist.
7 Were any other law enforcement agencies requested
8 to come assist in this incident?

9 A Yes, sir.

10 Q And who else did you ask to come?

11 A A SLED forensic team.

12 Q And what was the purpose of that?

13 A To process the crime scene itself.

14 Q And then once the officers from Calhoun Falls
15 arrived what did you all start doing in regards to
16 trying to investigate the incident?

17 A Some of the officers spoke with the witnesses
18 that were in the area, and myself, Chief Alewine
19 and Lieutenant Johnson, we recovered some shell
20 casings on the ground and marked those.

21 Q All right. How did you mark them?

22 A We placed cups over them.

23 Q And what was the purpose of doing that?

24 A To preserve them actually as we had found
25 them.

TERRENCE HARVARD - DIRECT

1 Q Okay. And you said that officers with the
2 Department began to canvas and try to talk to
3 people. Did you that night develop a suspect in
4 the shooting of Artell Hill?

5 A Yet, we did.

6 Q Who was that suspect?

7 A The suspect was Robert Orlando Hill.

8 Q Okay. And were there any charges, any
9 requests for charges against him made that night?

10 A Yes, sir.

11 Q Okay. What charge was that?

12 A Murder.

13 Q All right. I'm showing you what has been
14 marked for identification as State's Exhibit
15 Number 1. I would ask that you just take a look at
16 this diagram and tell me if you recognize what this
17 is?

18 A Yes, sir, I recognize it.

19 Q Okay. What is this, Officer Harvard?

20 A That's a diagram of areas of Calhoun Falls.

21 Q Okay. And what, particularly what is it a
22 diagram of, Officer Harvard?

23 A It's a diagram of Eastgate Apartments.

24 Q Okay.

25 A Surrounding streets.

TERRENCE HARVARD - DIRECT

1 Q Okay. Does this diagram fairly and
2 accurately reflect the location and the names of
3 the surrounding streets and the location of the
4 buildings and the parking lot of Eastgate
5 Apartments?

6 A Yes, sir.

7 Q Okay. And -- okay. What I would ask you to
8 do is step down, if you would.

9 THE COURT: Mr. Manning, there is an easel
10 there. Just sit it right there. That's good.

11 Q Officer Harvard, if you would, I'm going to
12 hand you my pen.

13 THE COURT: We have a pointer, Mr. Manning, I
14 believe. Well, we'll have to do without it.
15 Proceed.

16 MR. ANTHONY: All right. Thank you, Your
17 Honor.

18 BY MR. ANTHONY:

19 Q I'm going to hand you my pen. I would ask
20 you, first of all just tell the jurors, and you are
21 probably going to need that, maybe if you came
22 around here maybe everyone can see, just tell the
23 jurors what they're looking at here, if you would.

24 A Okay. This is the parking lot of Eastgate
25 Apartments, this is Tupelo Street, this is Eastgate

TERRENCE HARVARD - DIRECT

1 Drive.

2 Q And when you came in from the police
3 department when you received this call how did you
4 come into the apartment complex?

5 A Okay, I came in from this direction, turned
6 onto Tupelo Street, came down to Eastgate Street,
7 making a left-hand turn, came up into Eastgate
8 Apartments. This would be the first entrance into
9 the apartment complex. As I pulled in right here I
10 saw a group of people in this area here. They were
11 pointing in this direction.

12 Q And then where -- there has been drawn here,
13 you can take that if it will help you, it has been
14 drawn here, there is a car positioned right close
15 to that building there. Is that an accurate
16 reflection of where the car was?

17 A Yes, sir, the vehicle was parked right there.

18 Q Okay, thank you. You can take your seat
19 back. Thank you.

20 All right. Officer Harvard, I'm going to
21 hand up now to you what has been marked for
22 identification as State's Exhibit Numbers 2, 3, 4,
23 6 and 7, and I would ask first of all that you look
24 at Exhibits 2, 3, 4 and 6. First of all, if you
25 would, just look at those four pictures and tell me

TERRENCE HARVARD - DIRECT

1 if you recognize what those pictures depict.

2 A Okay. In Exhibit 4 is the vehicle that
3 Artell Hill is sitting in.

4 Exhibit 6 is the picture with the cups, with
5 the shell casings.

6 This photo here, Number 3, is a front shot of
7 where the cups are located in position of the
8 vehicle.

9 And Number 2 is a rear shot of the vehicle
10 and also as to where the cups are located.

11 Q Okay. And do those cups fairly and
12 accurately depict the location of the automobile
13 that night and the location of the cups you set out
14 to protect the evidence that evening?

15 A Yes, sir.

16 Q Okay. Then I'm going to show you what has
17 been marked for identification as State's Exhibit
18 Number 7. Would you take a look at that and tell
19 me if you recognize that picture?

20 A Yes, sir.

21 Q And what is that a picture of?

22 A It's a picture of Artell Hill sitting in the
23 front seat.

24 Q And does that picture fairly and accurately
25 depict his position when you found him that night

TERRENCE HARVARD - DIRECT

1 at Eastgate Apartments upon receiving the call?

2 A Yes, sir.

3 Q All right.

4 MR. ANTHONY: We would move those exhibits
5 into evidence, 2 through 4, and 6 and 7.

6 THE COURT: How says the defense?

7 MR. GROSE: No objection.

8 THE COURT: Without objection they will
9 become part of the evidence in the case, ladies and
10 gentlemen.

11 (Photographs marked State's Exhibits 2,
12 3, 4, 6 and 7 were received in evidence).

13 BY MR. ANTHONY:

14 Q All right, what we will do, I will show you
15 first of all Exhibit Number 4. If you would, just
16 hold that, hold that up so the jury can see, and
17 tell the jury what is that a picture of.

18 A This is the vehicle which Artell Hill was
19 sitting in.

20 Q And if you would, just take that down to the
21 other side, let those jurors see it.

22 Now let me ask you on this picture. Can you
23 show the jury on this picture where the people were
24 congregated that pointed the car out to you?

25 A When I arrived on the scene there was a group

TERRENCE HARVARD - DIRECT

1 of people, I don't know if you can see it very
2 well, there is a bush right here and a group of
3 people were on the sidewalk right here in this
4 area.

5 Q Okay. If you would, just walk down to the
6 other side and we'll show the other half of the
7 jury.

8 And is that the particular place down there,
9 is there a particular marked parking spot down
10 there at the end of that, end of that picture?

11 A I can barely make out the pole.

12 Q Okay. And what was that, where is the pole
13 and what's the significance of the pole?

14 A Right here where my pen is pointing is a pole
15 that is holding up a handicapped parking space
16 sign.

17 Q Is that where the car is parked?

18 A Yes, sir. There is a vehicle, you can see
19 the front end, the reflector of another vehicle.

20 Q And the people who pointed the car out to
21 you, they were right there, is that correct, they
22 are right there in front of that car, I mean that's
23 where the people who pointed him out to you were,
24 is that --

25 A Closer up towards where this crime scene tape

TERRENCE HARVARD - DIRECT

1 is.

2 Q Step down there and show the jury where the
3 people were that pointed Mr. Hill out to you.

4 A Close here to this area where the crime scene
5 tape is, related to the sidewalk.

6 Q Okay. Now, on this diagram, just to relate
7 the two exhibits to each other, on this diagram
8 what has been marked here?

9 A That would be the handicapped parking space.

10 Q Okay. And on the diagram the handicapped
11 spot is just depicted as being two spots down from
12 the vehicle but in reality, looking at that
13 picture, how much space or how many parking spots
14 are there between the vehicle and the handicapped
15 spot?

16 A Six.

17 Q Okay. And I want to show you now what's been
18 marked for identification, what is in evidence now,
19 State's Exhibit Number 3. If you would, just tell
20 the jury what that's a picture of.

21 A This photo is a side shot of the vehicle, and
22 the cups that are here on the ground is where we
23 found four different shell casings.

24 Q Okay. -I'm going to show you now Exhibit
25 Number 6. If you would, just tell the jury what

TERRENCE HARVARD - DIRECT

1 that is and walk that down so they can see that
2 picture.

3 A Okay. This is a close-up shot as in relation
4 to where the shell casings had fallen to the ground
5 and where we recovered and have them covered up.

6 Q All right. This is a smaller picture, we'll
7 pass this to the jury.

8 So, if you would, just take this photo and
9 tell the jurors what that's a picture of. This is
10 State's Exhibit Number 7.

11 A This is a photo of Artell Hill.

12 Q And point out where is the stick located on
13 that picture?

14 A This is the stick that I seen in his hand.

15 Q Is that where it was when you came upon Mr.
16 Hill?

17 A Yes, sir.

18 Q Okay. If you would, just walk that down so
19 the other jurors can see it.

20 All right, thank you, you can get back on the
21 stand now. Thank you very much.

22 On some of those pictures there is a sheet
23 over the car. Why was that placed there, what was
24 the purpose of that?

25 A Out of respect.

TERRENCE HARVARD - DIRECT

1 Q And was it quite some time that night before
2 Mr. Hill's body was taken out of the car?

3 A Yes, sir.

4 Q Now, after you were at the crime, at the
5 scene of the shooting that night, what did you do
6 next on this case, what did you do the next day as
7 far as your involvement, Officer Harvard?

8 A Later on in the day, which would then have
9 been August the 7th, I went to Anderson and attended
10 the autopsy.

11 Q Okay. And was any evidence placed in your
12 possession at the autopsy?

13 A Yes, sir.

14 Q What was that?

15 A Personal effects and projectiles and bodily
16 fluids.

17 Q I'm handing up now what has been marked for
18 identification as State's Exhibit Number 8. I
19 would ask you to look at these items that are
20 inside the bag and tell me if you have ever seen
21 those items before.

22 A Yes, sir.

23 Q Okay. What are those items?

24 A These are the projectiles.

25 Q Okay. And what did you do with those

TERRENCE HARVARD - DIRECT

1 projectiles once you secured them at the autopsy?

2 A Taken them to SLED.

3 Q Okay. What was the purpose of taking them to
4 SLED?

5 A To get them analyzed.

6 Q Okay. Now, after you went to the autopsy on
7 August the 7th did you continue to investigate this
8 incident?

9 A Yes, sir.

10 Q And as part of your investigation of the
11 incident did you have a conversation with a man
12 named Frank Tut?

13 A Yes, sir.

14 Q Okay. And when was that?

15 A It was in the latter part of August, several
16 weeks after the shooting.

17 Q Okay. And after talking to Mr. Tut where did
18 you go after you had a conversation with him about
19 this?

20 A To Lake Russell, off Bobby Brown Park Road
21 over in Georgia.

22 MR. GROSE: Your Honor, I renew our previous
23 objections to this being not relevant under 402 and
24 the probative value is outweighed by any
25 prejudicial effect under Rule 403. This has to do

TERRENCE HARVARD - DIRECT

1 with Frank Tut, not Lanny Hill.

2 THE COURT: Thank you. Noted and overruled.
3 Continue.

4 BY MR. ANTHONY:

5 Q And when you went to Lake Russell did you
6 meet with anybody there?

7 A Yes, sir.

8 Q Who did you ask to come there with you?

9 A Marty Thomas and the Abbeville Dive and
10 Rescue Team.

11 Q And when you got there to Lake Russell did
12 you ask Mr. Tut to do anything?

13 A Yes, sir, I did.

14 Q What did you ask him to do?

15 A I asked him if he could show roughly the area
16 that he had stated the pistol was at.

17 Q And how did you get him to do that?

18 A He had picked up a rock and threw it into the
19 water.

20 Q Okay. And once he did that what did the
21 people who were there with you do?

22 A They set up their equipment, at which time
23 Marty Thomas went into the water.

24 Q Okay. And when he came out of the water did
25 he have anything?

TERRENCE HARVARD - DIRECT

- 1 A Yes, sir, he did.
- 2 Q Okay. And what did he have?
- 3 A He had in his hand a pistol.
- 4 Q And did you come into possession of that
- 5 pistol after he brought it out of the water?
- 6 A Yes, sir.
- 7 Q All right. What did you do with it?
- 8 A I placed the pistol into a bucket that had
- 9 water in it.
- 10 Q And what was the purpose of doing that?
- 11 A It was instructed to us by one of the
- 12 forensic people at SLED to keep the weapon in the
- 13 same element that we found it in.
- 14 Q And when you found the pistol what condition
- 15 was the pistol in insofar as ammunition being in
- 16 it?
- 17 A The magazine was seated into the pistol
- 18 itself and the slide was partially back with a
- 19 cartridge jammed in between another cartridge.
- 20 Q All right. And how many more rounds were
- 21 left in the magazine?
- 22 A One.
- 23 Q All right. I'm showing you what has been
- 24 marked for identification as State's Exhibit
- 25 Number 5. Could you look at that picture and tell

TERRENCE HARVARD - DIRECT

1 me if you know what that's a picture of?

2 A This is a picture of the pistol that was
3 recovered out of the water.

4 Q Does that picture of the pistol fairly and
5 accurately depict how it appeared when it was
6 recovered out of the lake in late August of 1999?

7 A Yes, sir.

8 MR. ANTHONY: We would move Exhibit Number 5
9 into evidence.

10 MR. GROSE: Subject to our ongoing objection,
11 Your Honor.

12 THE COURT: It will be admitted and become
13 evidence in the case. The objection is overruled.

14 (Photograph of pistol received in evidence
15 as State's Exhibit Number 5).

16 BY MR. ANTHONY:

17 Q If you would, just come forward and show the
18 jury the picture.

19 Okay, thank you.

20 I'm handing you now what has been marked for
21 identification as State's Exhibit Number 9. I
22 would ask you to look at that bucket and look at
23 the contents of the bucket and tell me if you have
24 ever seen that before?

25 A Yes, sir.

TERRENCE HARVARD - DIRECT

1 Q All right. What is that?

2 A This is the pistol that was recovered out of
3 the lake.

4 Q Okay. Are there any other items in the
5 bucket besides just the pistol, and do you know
6 what they are?

7 A Yes, sir. The magazine that was in the
8 weapon, the spent cartridge that was jammed and the
9 round that was in the magazine.

10 Q All right. Do those appears to you to be in
11 the same condition they were in when you recovered
12 them, other than of course the bucket had water in
13 it at the time?

14 A Yes. I mean, when we recovered it, you know,
15 the pistol of course had the magazine seated in it
16 and it was jammed.

17 Q Okay. But other than the fact it's been
18 disassembled in that way, are they still in the
19 same condition?

20 A Yes.

21 Q Okay. What did you do with this gun and the
22 bucket that make up State's Exhibit number 9?

23 A It was tagged as it is now and taken to SLED.

24 Q Okay. All right, just to take you back,
25 After the autopsy did you and anybody else from

TERRENCE HARVARD - DIRECT

1 Calhoun Falls do any other work at the crime scene
2 there where the shooting had occurred?

3 A Yes, sir. During the autopsy initially what
4 I observed were four wounds to Artie Hill's body
5 but the autopsy itself revealed there were six
6 wounds, four of them being to the head area, so
7 once that was revealed, we knew then that there had
8 to be some more evidence out at the scene,
9 particularly another shell casing.

10 Q And was another shell casing located at the
11 scene?

12 A Yes, sir, it was.

13 Q Was that casing sent to SLED as well?

14 A No, sir.

15 Q Okay.

16 MR. ANTHONY: If I can have one moment.

17 THE COURT: Take your time.

18 MR. ANTHONY: All right, thank you. That's
19 everything on direct.

20 THE COURT: All right, we're going to take a
21 short recess before cross-examination. Mr.
22 Witness, you are expected to take a recess as well.
23 You are instructed not to talk with anyone about
24 any questions you have been asked or answers you
25 have given to those questions or any questions you

TERRENCE HARVARD - DIRECT

1 expect you could be, any answers you expect you
2 could give to any questions you could be asked.
3 You are not to discuss the case at all with anyone.
4 It is advised that you stay clear of all attorneys
5 involved in the case and walk around, relax and
6 take a break yourself.

7 THE WITNESS: Yes, sir.

8 THE COURT: Are those instructions clear?

9 THE WITNESS: Yes, sir.

10 THE COURT: Thank you, sir. Come down.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Ladies and gentlemen of the jury,
13 we'll take a short recess so that everyone can be
14 comfortable. Do not discuss the case by, between
15 and among yourselves, and retire to the jury room.

16 (The jury was excused from the courtroom).

17 THE COURT: All right, we'll stand in recess.

18 (Recessed at 11:56 a.m.).

19 (Reconvened at 12:18 p.m.).

20 THE COURT: All right, we'll open the record,
21 please. This is State of South Carolina versus
22 Robert Orlando Hill, indictment 99-494.

23 Is there anything from either party before
24 the jurors come in?

25 MR. GROSE: No, sir.

TERRENCE HARVARD - DIRECT

1 MR. ANTHONY: No, nothing from the State.

2 THE COURT: The jurors have handed out an
3 indication that Steven Hines, juror number 60, has
4 been selected as a foreperson.

5 Show the jury in, please; Mr. Busby.

6 (The jury returned to the courtroom).

7 THE COURT: Ladies and gentlemen, you have
8 selected juror number 60, Mr. Steven Hines, as your
9 foreperson and, Mr. Foreperson, you will sit in
10 that seat for the balance of the trial and the
11 alternates will remain in those seats for the
12 balance of the trial and as aforesaid, every other
13 person can sit wherever you're comfortable, knowing
14 that some people like to sit in the same seat, some
15 people like to sit in different places, so make
16 yourself comfortable as you will.

17 Madam Clerk, if you will hand this to the
18 court reporter it will become a court's exhibit.

19 The witness will please take the stand.

20 (Court Exhibit Number 1 was marked).

21 THE COURT: Mr. Witness, have you talked with
22 anyone about any questions you have been asked or
23 answers you have given to those questions or to
24 any, about any questions that you expect you could
25 be asked or any answers that you expect you might

TERRENCE HARVARD - DIRECT

1 give to those anticipated questions?

2 THE WITNESS: No, sir.

3 THE COURT: Have you discussed this case with
4 anyone at all since we took a break?

5 THE WITNESS: No, sir.

6 THE COURT: Do you understand you have been
7 sworn and remain under oath to tell the truth?

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you very much, sir. The
10 witness is with you, Mr. Grose, on cross
11 examination.

12 MR. GROSE: Thank you, Your Honor. May it
13 please the Court.

14 THE COURT: Mr. Grose.
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TERRY HARVARD - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q Now, I believe that you said you were at the Calhoun Falls Police station when you got the call?

A Yes, sir.

Q And where is that located?

A It's located on Savannah Street.

Q And how far is that from the Eastgate Apartments?

A I would say about, if you look at it in city blocks, approximately three.

Q About three city blocks? Do you know what your dispatch time was?

A Again, from the best of my memory, it was 1918, it would be 7:18 p.m.

Q And that's the front page of your incident report, right?

A Yes, sir, it is.

Q And that does say 7:18 p.m., doesn't it?

A Dispatch time, yes, it does.

Q And there is an arrival time, isn't there?

A Yes, sir.

Q What is that arrival time?

A 1921, which would be 7:21.

Q Now, Mr. Anthony had you look at some

TERRY HARVARD - CROSS

1 pictures. I'm going to hand you what's been
2 admitted in evidence as State's Exhibit Numbers 2,
3 3 and 4.

4 A Yes, sir.

5 Q And have you look at those for a second.
6 Now, all three of those pictures show the full car,
7 don't they?

8 A Yes.

9 Q And all three of those pictures show the
10 sheet over the car in some manner?

11 A Yes, sir.

12 Q And as I understand it, you had put that
13 there out of respect for Artell Hill, is that
14 right?

15 A And also family members.

16 Q And family members, and just so that until
17 SLED arrived everything would be kept as it was,
18 right?

19 A Yes, sir.

20 Q Okay. Now, what I'm getting at is you
21 didn't -- when you arrived there that sheet was not
22 on the car?

23 A No, sir, it wasn't.

24 MR. GROSE: Let's mark these as Defendant's 1
25 and 2, please.

TERRY HARVARD - CROSS

1 Q I'm going to hand you what has been marked as
2 Defendant's Exhibits 1 and 2.

3 A Yes, sir.

4 Q Okay. Defendant's Exhibit Number 1 shows the
5 vehicle as if you were looking at the passenger
6 side, doesn't it?

7 A Yes, uh-huh (Affirmative).

8 Q And you can see Artell Hill sitting in there?

9 A Yes, sir.

10 Q And this is before the sheet was put on it,
11 right?

12 A Yes, sir.

13 Q In fact, if we take a look at these real
14 quick, it's a little bit different angle but you
15 are looking at them more or less from the same side
16 as -- let's see what number they have here.

17 State's Number 3. Is that right? The numbers are
18 on the back. It's the same side but a different
19 angle?

20 A Correct.

21 Q By the way, you didn't take these pictures,
22 did you?

23 A No, I didn't.

24 Q In fact, the crime scene person from SLED
25 that we have heard about is the one who actually

TERRY HARVARD - CROSS

1 took these pictures?

2 A Correct.

3 Q Okay. But these pictures are representative
4 of both what you saw and what you did, at least in
5 reflection to the sheet and those cups?

6 A Yes.

7 Q Is that a yes?

8 A Yes, sir.

9 Q Number two is from the back of the car?

10 A Yes, it is.

11 MR. GROSE: Your Honor, at this time I would
12 move Defendant's Numbers 1 and 2 into evidence.

13 MR. GROSE: No objection.

14 THE COURT: Without objection, Numbers 1 and
15 2 of the defendant will become evidence in the
16 case.

17 (Photograph received in evidence
18 as Defendant's Exhibit Number 1).

19 (Photograph received in evidence
20 as Defendant's Exhibit Number 2).

21 BY MR. GROSE:

22 Q We also have Number 6 that is already in
23 evidence. That shows the cups up close, right?

24 A Yes, sir.

25 Q Now, Number 1, I think you said reflected

TERRY HARVARD - CROSS

1 what you saw when you got there before the sheets
2 were put up?

3 A Exactly.

4 Q Okay. And the door was shut when you got
5 there?

6 A Yes, sir.

7 Q Okay. In fact, the only thing that really
8 took place was two people checked Artell Hill,
9 correct?

10 A (No response).

11 Q Let me ask this. You checked him, or at
12 least went over by the car?

13 A Yes, sir, visually.

14 Q Because you testified earlier that you could
15 still hear some faint breathing?

16 A Not so much as hearing, it was more of what I
17 was seeing.

18 Q Okay. And the emergency medical service
19 arrived fairly quickly, right?

20 A Yes, sir.

21 Q And they checked for a pulse?

22 A Yes, sir.

23 Q But other than doing that, nobody did
24 anything to disturb it from what you found in
25 Defense Number 1?

TERRY HARVARD - CROSS

1 A Correct.

2 Q Okay.

3 MR. GROSE: Your Honor, at this time I would
4 just publish Defendant's 1 and 2 and let the jury
5 pass them around.

6 THE COURT: You may.

7 BY MR. GROSE:

8 Q The reason I think you testified you placed
9 the cups there was sort of to protect that
10 evidence?

11 A Yes, sir.

12 Q I think at one time when Mr. Anthony was
13 asking questions you used the word recover or
14 something of that nature. Really what you did was
15 identify the evidence and place the cups so that it
16 would be in the same place?

17 A Yes, sir, for recovery.

18 Q So it wouldn't get picked up or kicked by
19 anybody?

20 A Exactly.

21 Q Or the wind move it around or anything of
22 that nature?

23 A Correct.

24 Q Because at this time it's, I guess, moving
25 towards and past probably 7:30 when all this is

TERRY HARVARD - CROSS

1 happening?

2 A Well --

3 Q You arrived at 7:21?

4 A Correct.

5 Q You would have began securing the crime scene
6 fairly quickly after that?

7 A Yes, sir.

8 Q And you would have contacted the State Law
9 Enforcement Division, what we have been calling
10 SLED, fairly quickly, wouldn't you?

11 A Yes, sir.

12 Q And they have to -- well, SLED is sometimes
13 referred to as, I don't know the right word, but a
14 consulting agency or a resource agency? They are
15 an agency where departments like you can call on
16 them for assistance?

17 A Specialized services.

18 Q Specialized service, that's a good term. And
19 the specialized service that you requested was that
20 they send somebody to look at the crime scene, a
21 crime scene team?

22 A Yes, sir.

23 Q How many agents came?

24 A One agent.

25 Q And that's Agent Crooks?

TERRY HARVARD - CROSS

- 1 A Yes, sir.
- 2 Q And he was probably coming from someplace
3 else, probably the midlands area of South Carolina,
4 Columbia, wasn't he?
- 5 A Yes, sir.
- 6 Q And just to state the obvious, it takes a
7 good while to drive from Columbia to Calhoun Falls?
- 8 A Yes, sir.
- 9 Q So, it was more or less around 10:00 o'clock
10 when he arrived that night?
- 11 A I can't give an exact time but it was later
12 on.
- 13 Q It was at least a couple hours?
- 14 A Give or take.
- 15 Q Okay. And he's the one who took these
16 photographs?
- 17 A Yes, sir.
- 18 Q And actually it would have still been light
19 when you arrived at 7:21?
- 20 A Yes, sir, it was.
- 21 Q And a difference in these photographs is that
22 it's nighttime at that point but that's not a
23 substantive difference, that is just a factor of
24 the time, correct?
- 25 A Correct.

TERRY HARVARD - CROSS

1 Q All right. Now, I believe overall you were
2 out there for a number of hours that night, going
3 into the next morning?

4 A Yes, sir.

5 Q You were out there a total of about seven
6 hours approximately, weren't you?

7 A Yes, sir.

8 Q While Mr. Crooks from SLED was there you
9 observed him taking these photographs, correct?

10 A Yes, sir.

11 Q And looking, examining the shells that you
12 had covered with the cups, is that right?

13 A Yes, sir, as he removed them.

14 Q And I believe you had identified four shells
15 at this time?

16 A Yes, sir.

17 Q Now I want to turn your attention to the
18 autopsy, okay?

19 A Yes, sir.

20 Q That was the next day?

21 A Yes, sir.

22 Q And you attended the autopsy?

23 A Yes, sir, I did.

24 Q And the doctor who does the autopsy, he's a
25 different kind of consultant than what Mr. Crooks

TERRY HARVARD - CROSS

1 was?

2 A Yes, sir.

3 Q And Mr. Anthony had asked you about State's
4 Exhibit Number 8, correct?

5 A Correct.

6 Q And is that the projectiles you took from the
7 autopsy?

8 A Yes, sir.

9 Q Okay. I'm going to hand you those. What
10 I've done is, I've removed these from the big bag.
11 Then there is three smaller bags in there, correct?

12 A Yes, sir.

13 Q And there is a plastic case inside each one
14 of those?

15 A Yes, sir.

16 Q And that's for the projectiles, one case for
17 each projectile that you recovered, or that the
18 doctor gave you at the autopsy?

19 A Yes, sir.

20 Q So, there is three of them?

21 A Yes, sir.

22 Q One in each of those three plastic cases?

23 A Uh-huh (Affirmative).

24 Q And that's what you took to SLED?

25 A Yes, sir.

TERRY HARVARD - CROSS

1 Q Okay. I'm just going to put these back in
2 the larger bag.

3 Now, let's go back to the first night that
4 you were out there for a second, and State's Number
5 6, that shows the cups, there was four cups that
6 you placed out there that night, right?

7 A Yes, sir.

8 Q And at that time, based on your observations
9 of Artell Hill and based on those observations of
10 those cups, or where you placed the cups, you
11 thought there was four shots?

12 A Correct.

13 Q And I believe you testified at the autopsy
14 you learned that there was six shots?

15 A Correct.

16 Q And, so, that led you back and you found one
17 more shell eventually?

18 A Yes, sir.

19 Q Okay. So, eventually you recovered six
20 shells?

21 A Well, at the scene itself five.

22 Q Four the first time?

23 A Correct.

24 Q A fifth one when you went back?

25 A Well, actually Chief Alewine and Lieutenant

TERRY HARVARD - CROSS

1 Johnson were the ones that went back.

2 Q But you're familiar with that as part of the
3 investigation, they in fact recovered that?

4 A Yes, sir.

5 Q And the sixth one was recovered with the gun?

6 A Yes, sir.

7 Q Okay. So, six shells were recovered?

8 A Yes, sir.

9 Q Incidentally --

10 MR. GROSE: Let's mark this as Defendant's
11 Number 3.

12 Q I'm going to hand you Defendant's Exhibit
13 Number 3. You have seen that before, haven't you?

14 A Yes, sir.

15 Q In fact, I'm also going to hand you, I will
16 take back this photograph, switch it out with
17 what's been marked as State's Number 7. That stick
18 you're holding in your hand is the same stick
19 that's in that photograph, isn't it?

20 A Yes, sir.

21 Q And that's the stick that Artell Hill was
22 holding in his hand when you arrived at the scene?

23 A Yes, sir.

24 Q And he had a grip on that stick?

25 A Yes, sir.

TERRY HARVARD - CROSS

1 Q About how long is that stick, Mr. Harvard?

2 A Almost the same as a yardstick, give or take.

3 Q All right. It could also be similar to the
4 length of a baseball bat or axe handle or something
5 of that nature?

6 A Baseball for a Little League, perhaps.

7 Q Okay.

8 A Axe handle, about the same length.

9 MR. GROSE: Your Honor, at this time I would
10 move Defendant's Number 3 into evidence.

11 THE COURT: How says the State?

12 MR. GROSE: No objection.

13 THE COURT: Defendant's Number 3 is part of
14 the evidence in the case, ladies and gentlemen.

15 Q (Stick marked as State's Exhibit
16 Number 3 was received in evidence).

17 BY MR. GROSE:

18 Q I believe you testified you went to work in
19 Calhoun Falls in about 1997?

20 A Correct.

21 Q Having parts to an investigation like this is
22 not unusual, is it?

23 A Sir?

24 Q Having parts, different people involved in an
25 investigation like this is not unusual, is that

TERRY HARVARD - CROSS

1 correct?

2 A Correct.

3 Q And it's not unusual, as the investigation
4 progresses, that you learn new things, is it?

5 A Exactly.

6 Q And in fact that happened in this case
7 because you learned that there was six shots
8 instead of four?

9 A Correct.

10 Q And that led you to eventually recover the
11 additional shell casings?

12 A Correct.

13 MR. GROSE: I'll take these back from you.
14 I'm about to wrap up.

15 Q Now, sometimes as an investigator you come
16 into information like you just said that Mr.
17 Alewine and another one of the officers were the
18 ones who actually found the casings, right?

19 A Correct.

20 Q And in this case on the night of August 6th,
21 going into the morning of August 7th, at some point
22 you learned that Lanny Hill did turn himself in,
23 didn't you?

24 A If I'm remembering correctly, that while we
25 were at the scene, once we had gathered information

TERRY HARVARD - CROSS

1 about Robert Hill being the person in question,
2 that a BOLO was put out and he was picked up by a
3 sheriff's deputy.

4 Q Are you aware of the fact that he went to
5 Robert Turman's house?

6 A I can't recall that exactly.

7 MR. GROSE: I'm just going to show him this
8 to see if this refreshes his memory.

9 MR. ANTHONY: Okay.

10 A Yes.

11 Q So, you came into information that Lanny Hill
12 went to Robert Turman's house, correct?

13 A Well, the information that I had received was
14 that he had been picked up and was being
15 transported to the jail.

16 Q Okay. Now, Robert Turman doesn't work for
17 Calhoun Falls, does he?

18 A No, sir.

19 Q He didn't work for Calhoun Falls then?

20 A No, sir.

21 Q But he lives in Calhoun Falls?

22 A Yes, sir, right outside the city limits.

23 Q He is a police officer?

24 A Deputy sheriff, lieutenant with the sheriff's
25 office.

TERRY HARVARD - CROSS

1 Q Okay. And, so, you did come into information
2 that Freddie Hill and Lanny Hill went to Robert
3 Turman's house, correct?

4 A After the transport and everything had been
5 made, correct.

6 Q Okay. So you came into information that
7 Lanny Hill turned himself in?

8 A Correct.

9 MR. GROSE: Beg the Court's indulgence for a
10 moment.

11 THE COURT: Take your time, counsel.

12 MR. GROSE: That's all I have at this time,
13 Your Honor.

14 THE COURT: Redirect?

15 MR. ANTHONY: Just briefly, Your Honor.

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TERRY HARVARD - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. ANTHONY:

3 Q You testified about some, what has been
4 marked for identification as State's Exhibit Number
5 8, submitting this to SLED. I just call your
6 attention to the larger bag that these three
7 smaller bags are in.

8 A Yes, sir.

9 Q What is the markings you placed on that bag?

10 A My signature is on it for the sealing
11 official, and the date that it was sealed up.

12 Q Okay. And that's what you, that's the bag
13 that you put the the smaller bags in when you take
14 things to SLED to be analyzed, is that correct?

15 A Correct.

16 Q Okay. And I'm going to show you State's
17 Exhibit Number 4. When you arrived at the scene
18 were there any other vehicles inside this crime
19 scene area --

20 A No, sir.

21 Q -- that you created right after you got
22 there?

23 A No, sir. Once the scene was roped off
24 nothing came in and nothing went out.

25 Q Okay. So, when the scene was roped off there

TERRY HARVARD - REDIRECT

1 weren't any vehicles present in that area of the
2 parking lot?

3 A No, sir.

4 Q Okay.

5 MR. ANTHONY: If I could have one moment.

6 All right, that's all on redirect.

7 MR. GROSE: Nothing further, Your Honor.

8 THE COURT: Thank you, sir. Come down.

9 (Witness excused).

10 THE COURT: Do you have a short witness, Mr.
11 Solicitor?

12 MR. ANTHONY: May we approach?

13 THE COURT: Yes, sir.

14 (Unrecorded bench conference).

15 THE COURT: Mr. Foreman, ladies and
16 gentlemen, we will take a luncheon now and come
17 back a little early. We'll come back at 2:15.
18 That will give you an hour and a half, a little bit
19 more, it'll give you about an hour and 32 minutes.

20 Do not discuss the case by, between and among
21 yourselves nor with any other person. If anyone
22 attempts to discuss the case with you in an
23 innocent fashion immediately tell that person that
24 you are a juror and you are not permitted to
25 discuss the case with them. If after you alert and

1 make aware anyone who approaches you and talks with
2 you about this case they continue to ask you or
3 question you or discuss the case with you that
4 would be highly improper, wrong and illegal and you
5 should use every measure at your disposal to
6 identify such person or persons by clothing,
7 height, weight, gender, automobile, tag number or
8 any way you can and report that to one of the
9 bailiffs or to the Court Clerk who sits directly in
10 front of the Court as soon as you return, without
11 sharing that with any other person. The Court will
12 investigate that incident and deal with it
13 immediately and effectively.

14 If there were to be any newspaper, radio or
15 television coverage of this trial of which you may
16 become aware, as soon as you understand that it's
17 about this trial you should disregard it completely
18 and absolutely and disabuse your mind of it because
19 it's not evidence. It did not happen in this
20 courtroom, it has nothing to do with this trial,
21 although it may concern the trial, it's not
22 evidence and you should not pay any attention to
23 it, and if you were to read, see or hear anything
24 ignore it completely and put it out of your mind.

25 That having been said, we'll stand in recess

1 until what time, 2:15? 2:15. Everybody be back in
2 the jury room at 2:15. All others remain seated,
3 the jurors are excused until 2:15.

4 (The jury was excused from the courtroom).

5 THE COURT: We stand in recess until 2:15
6 unless there is something for the record?

7 MR. GROSE: Nothing from us, Your Honor.

8 THE COURT: Thank you.

9 (Recessed at 12:46 p.m.).

10 (Reconvened at 2:29 p.m.).

11 THE COURT: We are returning into session in
12 the matter of the State of South Carolina versus
13 Robert Orlando Hill, indictment 99-494.

14 Is there anything from the State before the
15 jurors come in?

16 MR. ANTHONY: No, sir.

17 THE COURT: From the defense?

18 MR. GROSE: No, sir.

19 THE COURT: Ask the jury in, please, Mr.
20 Busby.

21 (The jury returned to the courtroom).

22 THE COURT: All jurors are present, with the
23 foreman and the alternates properly seated.

24 The matter lies with the State. Call your
25 next witness, please.

1 MR. ANTHONY: Thank you. Call Geneva B.
2 Clinkscates.

3 THE CLERK: Miss Clinkscates, if you will
4 stand here, raise your right hand and put your left
5 on the Bible.

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GENEVA B. CLINKSCALES - DIRECT

1 ~~GENEVA B. CLINKSCALES,~~

2 after being first duly sworn testified as follows:

3 THE CLERK: Okay, and if you will, state your
4 complete name for the record.

5 THE WITNESS: Geneva Clinkscapes, Calhoun
6 Falls.

7 THE CLERK: Thank you. Have a seat.

8 THE COURT: This witness is with you,
9 Solicitor.

10 MR. ANTHONY: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. ANTHONY:

13 Q Would you state your name, please?

14 A Geneva Clinkscapes, Calhoun Falls.

15 Q And, Miss Clinkscapes, how long have you
16 lived in Calhoun Falls?

17 A All my life.

18 Q And I want to take you back now to August of
19 1999. Where were you living in August of 1999?

20 A Eastgate Apartments.

21 Q Okay. And why were you living there?

22 A I was there with my son because he was
23 terminally ill with lung cancer.

24 Q And was your son still alive at that time, in
25 August of '99?

GENEVA B. CLINKSCALES - DIRECT

1 A Yes, sir.

2 Q And where were you living, which building
3 were you living in at the apartments?

4 A

5 Q And did anybody else in your family live near
6 you?

7 A My granddaughter lived upstairs.

8 Q Okay. In the same building?

9 A In the same building.

10 Q Okay. I want to take you now to August 6th
11 of 1999, that evening around 7:00 o'clock. Where
12 had you gone?

13 A I didn't go nowhere, I was standing outside
14 on the sidewalk.

15 Q Okay. And who was out there with you?

16 A Me and my granddaughter and a friend of
17 her's.

18 Q Anybody else?

19 A When --

20 Q Was anybody else with your granddaughter?

21 A Nobody but me and her and a friend girl and
22 my little grandson.

23 Q Okay. And what was, what was the plan that
24 night, why had you met with your granddaughter and
25 her friend and her son out there, what were they

GENEVA B. CLINKSCALES - DIRECT

1 going to be doing, what were you going to do?

2 A I was standing outside with them talking to
3 them because she was wanting me to babysit for her
4 that evening, she was going to a movie.

5 Q Okay. And while you all were out there
6 talking what happened?

7 A While we was standing there talking that's
8 when Artie and them drove up.

9 Q Okay. Who was driving the car?

10 A Odell.

11 Q Where did they go when they drove up, what
12 did they do?

13 A Well, when they drove up Odell got out of the
14 car and came down there on the sidewalk where we
15 was in the breezeway and was standing there talking
16 but Artie never did even move, he didn't even get
17 out of the car.

18 Q Okay. And who else, who else was in the car,
19 aside from Odell and Artie?

20 A Jeffrey Tatum.

21 Q Okay. Now, how do you know Artie?

22 A I knew him from, you know, growing up in the
23 neighborhood and going to school with my kids.

24 Q Okay. After Odell got out and when Jeffrey
25 and Artie were left in the car, between Jeffrey and

GENEVA B. CLINKSCALES - DIRECT

1 Artie, who was where?

2 A Artie was still sitting in the car, Jeffrey
3 was kneeling down on the sidewalk at the front end
4 of the car talking to him.

5 Q Okay. All right. And as this was going on
6 did anybody else come into the parking lot?

7 A Well, while we was still standing there
8 talking, whenever we looked up, Lanny came riding
9 up on a bicycle.

10 Q Okay. Now, how do you know Lanny?

11 A Well, I know him from going to school with my
12 kids.

13 Q Is Lanny here in the courtroom?

14 A That's him over there.

15 Q All right. Could you just tell the jury what
16 he's got on?

17 A What he got on is black and white shirt and
18 black pants.

19 Q All right.

20 MR. ANTHONY: I would ask the record reflect
21 she's identified the defendant Lanny Hill.

22 THE COURT: The record will reflect.

23 MR. ANTHONY: All right.

24 BY MR. ANTHONY:

25 Q When Lanny came into the parking lot which

GENEVA B. CLINKSCALES - DIRECT

1 direction or which street did he come from?

2 A He came in on Tugaloo Street.

3 Q And when he came in what, where did he go?

4 A He came on in riding the bicycle and he came
5 up right to where I was standing and got off the
6 bike and walked up to the car.

7 Q And as he walked up to the car what did he
8 do? What happened as he was walking up to the car?

9 A Well, when he got off the bike this is what
10 he did first, and then he walked on up to the car,
11 and when he walked up to the car he put his hand
12 and pulled out the gun and like that and shot him.

13 Q If you would, if you want to, you can
14 actually stand up and show the jury again how he
15 drew that gun, what you saw him do.

16 A Well, when he put the bike down he got up off
17 the bike just like this and walked on up to the car
18 and then that's just the way he held his hand and
19 shot him.

20 Q Thank you. You can have a seat. And how
21 many times did he shoot? What was the order of the
22 shots?

23 A The first time it was two shots and then a
24 pause in between. Okay, then later on I heard, say
25 like four or five more shots after that.

GENEVA B. CLINKSCALES - DIRECT

1 Q All right. And while he was shooting what
2 was Artell Hill doing?

3 A Still sitting in the car, never did move.

4 Q Okay. Did he ever get out of the car?

5 A No, he never did move.

6 Q Did the door of the car ever open?

7 A No.

8 Q Did you ever see a stick in the car?

9 A No, I didn't see that.

10 Q Okay. Well, after Lanny Hill shot the five
11 or six shots what did you do, or what did Lanny
12 Hill do, what did you see him do?

13 A Well, after he shot him he put it back down
14 in his pants and come back and got on the bicycle
15 and rolled on back off just like he came in.

16 Q Now, when this occurred, when what you just
17 described with him dropping the bicycle and walking
18 up to the car, did you hear any kind of
19 conversation going on between Artie sitting in the
20 car and Lanny on the bicycle?

21 A No, I didn't hear nothing.

22 Q And when this shooting occurred, after it
23 happened what did you do, yourself?

24 A I couldn't do nothing but just stand there
25 and look, and my granddaughter called 911.

GENEVA B. CLINKSCALES - DIRECT

1 Q Okay. And then what did you do after it was
2 over and after 911 was called?

3 A Well, when I kind of got myself together I
4 went back inside my apartment.

5 Q All right. And did you talk to the police
6 about the incident that night?

7 A No, I didn't.

8 Q Okay. Did you talk to them at some point in
9 time later on?

10 A The next day when they came around and got a
11 statement.

12 Q Okay, all right. If you would, just step
13 down a second. You might want to stand right over
14 there so you won't block people. Can you take this
15 and point, and if you would, just on that diagram
16 show the jury where you lived, which building you
17 were staying in?

18 A This building right here.

19 Q Okay. And where were you standing when he
20 came up and dropped the bicycle, where were you
21 standing on that night?

22 A Right here, standing right there.

23 Q Okay. And where was the car?

24 A The car was back up here.

25 Q Okay. And when he drove in on the bicycle

GENEVA B. CLINKSCALES - DIRECT

1 which way did he come from?

2 A He come in from this direction on into the
3 parking lot.

4 Q Okay.

5 A Right there. This is where he got off the
6 bicycle, right here.

7 Q Okay. And let me, I just want to show you
8 one other thing. I want to show you one of the
9 pictures of the parking lot, if you would just take
10 a look at this and --

11 MR. GROSE: Can he identify the number for
12 the record?

13 Q I'm sorry, I'm showing State's Exhibit
14 Number 4. If you would, if it's on the picture,
15 just point out to the jury where you were standing
16 when he came in and dropped the bike, if you can
17 show them on that picture?

18 A Right here.

19 Q All right.

20 A At the breezeway of the apartment, that's
21 where I was standing, right there.

22 Q Go ahead and just kind of back down here so
23 everybody can see it.

24 Then come on down to the end here.

25 A Right in there, that's the breezeway where we

GENEVA B. CLINKSCALES - DIRECT

1 were standing, right there.

2 Q Okay. And I'm going to show you now State's
3 Exhibit Number 3, and if you would, point out on
4 this picture where Mr. Hill came to. If you can
5 show on that picture, where did he come to to fire
6 the shots?

7 A He had to come from down here, up to this car
8 right here.

9 Q Where was he standing when he fired the
10 shots?

11 A Right here, right here in that window.

12 Q Okay. If you would, just walk down and show
13 the other jurors where he was standing.

14 A Right there in the window.

15 Q And I'm going to show you again State's
16 Exhibit Number 4 and I just ask you when this
17 incident occurred were there any other cars in that
18 parking lot but inside that tape that's been put
19 up?

20 A No, there wasn't nobody else in there, wasn't
21 no car or nothing in there.

22 Q Okay. And the car, the car that's right
23 there at the very edge of the picture, was that
24 there when the shooting occurred?

25 A That was down on the lower side from where we

GENEVA B. CLINKSCALES - DIRECT

1 was standing.

2 Q Okay. But the car, let me make sure, let me
3 just ask you the question so you understand, this
4 car right here that you see right there, was that
5 there?

6 A That was a car was there, it was a car was
7 there, it was a broke down car, wasn't nobody using
8 it.

9 Q Okay.

10 A It was just sitting there in the parking lot.

11 Q Okay. There were no cars between --

12 A No cars between --

13 Q Between this car and the car at the far end?

14 A No, wasn't no car in between them.

15 Q You can take your seat right there.

16 MR. ANTHONY: All right, thank you. That's
17 everything on direct.

18 THE COURT: Cross-examination, please.

19 MR. GROSE: Yes, sir.

20 MR. GROSE: Sorry, Your Honor. Do you still
21 have the ones you showed her?

22 MR. ANTHONY: That's them.

23 MR. GROSE: Okay.

24

25

GENEVA B. CLINKSCALES - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q Do you see where that says State Number 3 on the back?

A Uh-huh (Affirmative).

Q That's one of the ones Mr. Anthony had you look at a minute ago. Of course when this happened that white sheet wasn't on that car, was it?

A No.

Q Okay. But when he was asking you to show where Mr. Hill, Lanny Hill was when he shot you put your finger on that white sheet, didn't you?

A Yes.

Q Can you do that again for me, please? Okay, maybe step down here. I'm going to hold it. Why don't we do this. I know this isn't the best thing but stand where everybody can see, you might want to stand just to my side. If you could, use that ruler and point.

All right. What you had said when he was asking you questions is that Mr. Hill, Lanny Hill, had walked up to the car. Right?

A That's right.

Q And when you say up to the car, you're talking about getting real close to the car, just

GENEVA B. CLINKSCALES - CROSS

1 like how you're pointing there, right?

2 A That's right.

3 Q You're saying he was right up to the window
4 of the car?

5 A That's right.

6 Q And his body would have been, the way you're
7 pointing, very close to that door of the car?

8 A He was sitting in the front seat of the car.

9 Q I'm talking about Lanny Hill. You said Lanny
10 Hill walked up to the car?

11 A Right.

12 Q Artie was sitting in it?

13 A That's right.

14 Q Lanny is on the outside of the car?

15 A That's right.

16 Q You said Lanny held the gun out this way?

17 A That's right.

18 Q By the way, Lanny was standing straight up
19 the entire time, right?

20 A That's right.

21 Q How close, if he's that close to the car, how
22 close did the gun get to Artie?

23 A Just like I put my arm out like this, that's
24 the the way he put his hand against him.

25 Q Okay. The way you did that, you had your

GENEVA B. CLINKSCALES - CROSS

1 hand a couple inches from my body, right?

2 A That's right, it was a couple inches from
3 Artie.

4 Q So, the gun, would that have been sticking
5 out past the end of his hand?

6 A Yes.

7 Q Yes?

8 A That's right.

9 Q So, the gun is, what you're saying is that
10 the gun was within a few feet of Artie?

11 A Not a few feet. A few inches.

12 Q I'm sorry, you're right, a few inches of
13 Artie. He had actually stuffed the gun through the
14 window?

15 A That's right.

16 Q Inches away from his head?

17 A That's right.

18 Q Okay. And that's what you saw from down by
19 the breezeway just down this way, we're looking at
20 number, this is Number 2, but down this way?

21 A Uh-huh (Affirmative).

22 Q You have to say yes or no.

23 A Yes.

24 Q You can have a seat back up there, please.

25 And you're absolutely certain about that,

GENEVA B. CLINKSCALES - CROSS

- 1 that that gun was a couple inches from his head?
- 2 A That's right.
- 3 Q No doubt about it in your mind?
- 4 A No doubt.
- 5 Q Sticking it in the car window?
- 6 A That's right.
- 7 Q Okay. Now, the Solicitor asked you some
- 8 questions, you were talking with some people when
- 9 this happened, right?
- 10 A Standing there talking to my granddaughter
- 11 and my grandson and a friend of her's.
- 12 Q So, there was three other people there?
- 13 A That's right.
- 14 Q Your granddaughter, right?
- 15 A Uh-huh (Affirmative).
- 16 Q You have to say yes or no for the court
- 17 reporter.
- 18 A Yes.
- 19 Q A friend?
- 20 A That's right.
- 21 Q And a grandson?
- 22 A That's right.
- 23 Q And the Solicitor asked you about hearing
- 24 things. You didn't hear anything that Lanny Hill,
- 25 or rather, that Artell Hill in the car said to

GENEVA B. CLINKSCALES - CROSS

1 Lanny Hill?

2 A No, I didn't.

3 Q Okay. And you didn't hear anything that
4 Lanny Hill said?

5 A No, I didn't.

6 Q Or anybody else, Jeffrey Tatum or whoever was
7 at the car?

8 A No, I didn't hear nothing, nothing nobody
9 said.

10 Q Okay.

11 MR. GROSE: I beg the Court's indulgence a
12 moment.

13 Q Where was Jeffrey Tatum standing?

14 A At the front of the car.

15 Q Okay.

16 A Kneeling down on the sidewalk talking to
17 Artie.

18 Q On the passenger side?

19 A That's right.

20 Q All right. And you never saw the stick?

21 A No, I didn't.

22 Q Okay. Did you ever see it at all later on
23 that night?

24 A No.

25 Q Okay. But you're sure that that gun was

GENEVA B. CLINKSCALES - CROSS

1 within a couple inches of Artie Hill's head?

2 A That's right.

3 Q Is that right?

4 A That's right.

5 Q No doubt about it in your mind?

6 A No.

7 MR. GROSE: That's all I have at this time,
8 Your Honor.

9 THE COURT: Redirect?

10 MR. ANTHONY: No redirect.

11 THE COURT: Thank you. Come down, please.
12 Watch your step.

13 (Witness excused).

14 MR. ANTHONY: The State would call Geneva
15 Michelle Clinkscals.

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GENEVA M. CLINKSCALES - DIRECT

1 ~~GENEVA MICHELLE CLINKSCALES~~

2 after being first duly sworn testified as follows:

3 THE CLERK: Okay, if you will state your name
4 for the record.

5 THE WITNESS: Geneva Michelle Clinkscales.

6 THE COURT: You may examine, sir.

7 MR. ANTHONY: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. ANTHONY:

10 Q Would you state your name, please?

11 A Geneva Michelle Klinkscales.

12 Q Miss Clinkscales where do you live?

13 A I reside in Calhoun Falls.

14 Q Where do you work?

15 A Right now I'm currently working at Mohawk
16 Industries.

17 Q And what do you do there?

18 A I spin.

19 Q Okay. And I want to take you back now to
20 August, 1999. Where were you living at that time?

21 A I was living at Eastgate Apartments,
22 Apartment F-2.

23 Q And was anybody else in your family living
24 near you?

25 A My grandmother.

GENEVA M. CLINKSCALES - DIRECT

1 Q Where did she live?

2 A She lived in apartment .

3 Q I want to take you now to August 6th of 1999.
4 What were your plans for that evening?

5 A I had got off a long weekend that Friday, I
6 was currently working at Milliken in Abbeville, me
7 and my girlfriend Patrina had planned on going out
8 that particular evening.

9 Q Okay. What were you going to do in regards
10 to child care?

11 A My grandmother was going to keep my son for
12 me.

13 Q And as you were getting ready to leave to go
14 out did you see anybody come into the parking lot
15 of the apartment complex?

16 A At first me and my friend Patrina was
17 standing on the balcony and I seen Odell Tillman
18 drive up, he was driving a blue Corona, that's an
19 older model, Artie was in the front seat and
20 Jeffrey was in the back seat. And they parked.
21 Jeffrey got out --

22 Q Let me stop you just a second. When you say
23 Artie, are you referring to Artell Hill?

24 A That's correct.

25 Q How did you know Artell Hill?

GENEVA M. CLINKSCALES - DIRECT

1 A Artie was my half-brother's first cousin and
2 we grew up together.

3 Q Okay. And after you saw the car pull up what
4 did you and your friend and your son all do?

5 A We were still standing on the balcony and
6 Odell got out of the car, he was walking and he was
7 talking to my friend.

8 Q Okay. And then what did you do?

9 A I closed my door and we walked downstairs to
10 my grandmother's apartment.

11 Q Okay. And where did you stand when you got
12 downstairs?

13 A We stood like right there by the doorway but
14 close enough to the front of the breezeway.

15 Q Okay. And after you got down there what did
16 you observe happened as far as Jeffrey and Artie
17 were concerned?

18 A Jeffrey was outside the car talking to Artie.

19 Q Okay. And where was Artie?

20 A Artie was sitting on the passenger side, in
21 the front seat.

22 Q Okay. And as this is going on, you're down
23 there outside the apartment and Jeffrey is outside
24 the car and Artie is inside the car, did somebody
25 else come into the parking lot?

GENEVA M. CLINKSCALES - DIRECT

1 A Lanny came up on a bicycle.

2 Q Okay. And when you say Lanny, you mean Lanny
3 Hill?

4 A Robert Orlando Hill.

5 Q Okay. And how did you know Lanny?

6 A Lanny and my younger brother went to school
7 together, they played football, and my daddy and my
8 step-dad are friends with his daddy.

9 Q Okay. And how did he come into the apartment
10 parking lot?

11 A He were on a bicycle.

12 Q Okay. Which direction did he come from?

13 A He came off Tugaloo Street, the side road to
14 Eastgate.

15 Q All right. And when he, when he came in
16 where did he go?

17 A He came up by the handicapped ramp and he got
18 off the bicycle.

19 Q And once he did that, after he did that and
20 he laid his bicycle down at the handicap ramp what
21 did he do?

22 A He walked over to the car and I proceeded to
23 talk to my friend.

24 Q Okay.

25 A He walked over to the car and I was still

GENEVA M. CLINKSCALES - DIRECT

1 standing over there talking to my friend.

2 Q Okay. And when he walked over to the car
3 what did he do?

4 A I heard two gunshots.

5 Q And then what did you hear?

6 A A pause.

7 Q Okay. Then what?

8 A Then I heard a couple more shots.

9 Q Okay. And what were you doing while these
10 gunshots were going on?

11 A I was pushing my son into the apartment.

12 Q And did you get into the apartment before the
13 last four shots?

14 A Yes, I did.

15 Q Okay. And what were you able to observe once
16 you got into your apartment?

17 A I observed Lanny, after the shots I observed
18 Lanny coming back to the bicycle and getting on his
19 bike and leaving.

20 Q Okay. And before the shots started were you
21 observing the car?

22 A I wasn't really paying attention because I
23 was standing around talking. I seen Artie and
24 Jeffrey sitting in the car, out there talking.

25 Q Okay. And did you ever see -- what did you

GENEVA M. CLINKSCALES - DIRECT

1 observe Artie doing the whole time while Lanny was
2 walking up to him?

3 A He was sitting in the car.

4 Q Did he ever get out of the car?

5 A No.

6 Q Did the door of the car ever open?

7 A No.

8 Q Did you ever see a stick?

9 A Not until after the fact.

10 Q Okay. Did you hear any kind of conversation
11 out there that night between Lanny Hill and Artell
12 Hill before the shooting?

13 A No.

14 Q Okay. And what were you doing that might
15 have prevented you from hearing anything?

16 A I had my own conversation.

17 Q Okay. And after the shooting what did you
18 see Lanny Hill do?

19 A He got on his bicycle and left.

20 Q In which direction did he go?

21 A He went back out towards Tugaloo Street.

22 Q If you would, just step down. If you would,
23 just take that and just point out where you were
24 standing.

25 A I was standing up in this area right here.

GENEVA M. CLINKSCALES - DIRECT

1 Q Okay. And where did he, where did you see
2 him drop the bicycle?

3 A The handicap ramp was right here, he laid
4 that bicycle right there and he walked over to the
5 car.

6 Q Okay. If you would, just go around to the
7 other side and show them the same thing so
8 everybody can see, the people over here can see.
9 Where were you standing, first of all?

10 A I was standing right in here.

11 Q Okay.

12 A The handicap ramp was right over here, he
13 laid his bicycle right beside the handicap ramp and
14 he walked over to the car.

15 Q All right. And when he left which way did he
16 leave?

17 A He came, got his bike from over here and he
18 came back out on this end right there and he came
19 on this street and he rode off on this street right
20 there.

21 Q Okay. All right, thank you. You can have
22 your seat back. Thank you.

23 Now, after this happened what did you do?

24 A I called 911.

25 Q Where did you do that from?

GENEVA M. CLINKSCALES - DIRECT

- 1 A From my grandmother's apartment.
- 2 Q Okay. And then what did you do after you
3 called 911?
- 4 A I walked out to the car where Artie was but I
5 didn't touch him. I said, "Artie, Artie, Artie," I
6 was calling his name.
- 7 Q And was anybody else out there with you?
- 8 A Yes, me and Ira.
- 9 Q Okay.
- 10 Q What did you observe about Artie when you
11 walked up to the car?
- 12 A He was gasping like that.
- 13 Q All right. And did you see anything in his
14 hand at that time when you got to the car?
- 15 A That's when I seen the stick.
- 16 Q Okay. And did you try to say anything to
17 him?
- 18 A I said, "Artie, Artie, Artie."
- 19 Q And did he respond in any way?
- 20 A He did not respond at all.
- 21 Q And did you stay until the police came that
22 night?
- 23 A I was out there when the police came, Officer
24 Harvard and Officer Savage and from the EMS team
25 was Joseph Cade.

GENEVA M. CLINKSCALES - DIRECT

1 Q Okay. Let me show you State's Exhibit
2 Number 4. I would just ask you, when this incident
3 occurred were there any cars inside that tape?

4 A There was no cars over there at all.

5 Q Okay. There were no cars inside the tape on
6 this picture?

7 A No, there wasn't.

8 Q Okay.

9 MR. ANTHONY: If I could have one moment.

10 THE COURT: Take your time.

11 MR. ANTHONY: Thank you. That's all on
12 direct.

13 THE COURT: Cross-examination, please.

14 MR. GROSE: Thank you, Your Honor. You can
15 leave that up for a second.

16 MR. ANTHONY: Okay, sure.

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GENEVA M. CLINKSCALES - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q I'm going to ask you to step back down here
4 again if you don't mind.

5 When the prosecututor was asking what you saw
6 Lanny Hill do when he was walking to the car you
7 said he walked right up to the car, right?

8 A Yes.

9 Q Then you pointed this direction and ended
10 right by the car?

11 A Yes.

12 Q In the same parking space?

13 A In the same parking space.

14 Q Okay. And why don't you step over here just
15 for a second so I can make sure we can see the
16 other side. He came this way and ended in this
17 same space?

18 A Yes, that's correct.

19 Q Inside the lines of the parking space?

20 A That's correct.

21 Q You can step back up there, please.

22 So, what you're saying is that Lanny got real
23 close to the car?

24 A He was close to the car.

25 Q And he was standing up straight the whole

GENEVA M. CLINKSCALES - CROSS

1 time, right?

2 A Yes, he was.

3 Q He was never crouched down or anything like
4 that?

5 A I never seen him crouch.

6 Q Okay. And did he stick the gun in the window
7 of the car?

8 A I didn't see him stick the gun in the window.
9 I heard two shots, a pause, and I was gone.

10 Q All right. But he was standing, his body was
11 positioned right next to the car?

12 A That's correct.

13 Q Okay. Now, you said that you saw Artie
14 sitting in the car the whole time?

15 A That's correct.

16 Q He never moved?

17 A Never moved once at all.

18 Q So, if this is a car seat, he was in this
19 position the entire time?

20 A He was sitting up in the car.

21 Q All right. And he never turned to try to get
22 out of the car?

23 A Never.

24 Q He never turned his body within the car?

25 A I didn't see him turn his body.

GENEVA M. CLINKSCALES - CROSS

- 1 Q You saw him sitting in this position?
- 2 A I seen him sitting in the car.
- 3 Q Chest towards the windshield?
- 4 A That's correct.
- 5 Q The entire time?
- 6 A That's correct.
- 7 Q In fact, you said before that Artie never
- 8 moved inside the car?
- 9 A I never seen him move.
- 10 Q Okay. And you're certain about that?
- 11 A I'm positive.
- 12 Q And you didn't hear anything that was said?
- 13 A I didn't hear nothing said.
- 14 Q You didn't hear anything Jeffrey Tatum said?
- 15 A No, I did not.
- 16 Q You didn't hear anything that Artell Hill
- 17 said to Lanny Hill?
- 18 A No, I did not. I had a conversation of my
- 19 own. You can't hear two conversations unless you
- 20 are right there at it.
- 21 Q That's fine. All I'm asking, did you hear
- 22 it?
- 23 A No, I did not.
- 24 Q And you didn't hear anything Lanny said to
- 25 Artie?

GENEVA M. CLINKSCALES - CROSS

- 1 A No, I didn't.
- 2 Q And that door was shut the entire time?
- 3 A The door was shut the entire time.
- 4 Q The car door?
- 5 A That's correct.
- 6 Q Okay. And you walked up to the car but you
- 7 didn't touch anything?
- 8 A I didn't touch anything.
- 9 Q And certainly you didn't touch that door?
- 10 A No, sir.
- 11 Q And you didn't see anybody else touch that
- 12 door?
- 13 A No, sir.
- 14 Q Or open that door?
- 15 A Not the passenger side door, I didn't see
- 16 anybody touch that door.
- 17 Q And the police got there within a relatively
- 18 few minutes?
- 19 A That's correct.
- 20 Q Okay. And your half brother is Artie
- 21 Hill's --
- 22 A He's deceased.
- 23 Q But he's Artie Hill's cousin?
- 24 A First cousin.
- 25 Q And you grew up with Artell Hill?

GENEVA M. CLINKSCALES - CROSS

1 A That's correct.

2 MR. GROSE: That's all I have at this time,
3 Your Honor.

4 THE COURT: Redirect?
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GENEVA M. CLINKSCALSES - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. ANTHONY:

Q Was the passenger side door of the car shut when you got to it?

A Yes, it was.

Q Okay. And when the shots actually occurred could you see Artie's body? Did you see where it was positioned in the car when the shots occurred?

A He was sitting up in the car when the shots was fired.

Q Okay.

MR. ANTHONY: Thank you.

THE COURT: Recross?

MR. GROSE: No, sir.

THE COURT: Thank you, ma'am. Come down.

(Witness excused).

THE COURT: Call your next witness, please.

MR. ANTHONY: We call Mr. Tatum.

JEFFREY TATUM - DIRECT

1

~~JEFFREY TATUM~~

2

after being first duly sworn testified as follows:

3

THE CLERK: Okay, if you will, state your
4 entire name for the record.

5

THE WITNESS: Jeffrey Tatum.

6

THE CLERK: Okay, thank you.

7

THE COURT: You may examine, Solicitor.

8

MR. ANTHONY: Thank you.

9

DIRECT EXAMINATION

10

QUESTIONS BY MR. ANTHONY:

11

Q Will you state your name, please?

12

A Jeffrey Tatum.

13

Q Mr. Tatum, where are you from?

14

A Calhoun Falls.

15

Q Okay. Were you living in Calhoun Falls back
16 in August of 1999?

17

A Yes, sir.

18

Q All right. And did you know Artell Hill?

19

A Yes, sir.

20

Q And how did you know him?

21

A We were friends ever since he was small, we
22 grew up together.

23

Q Okay. And I want to take you back now to

24

August the 6th of 1999, in the late afternoon of

25

that day. Did you see Artell Hill on that day?

JEFFREY TATUM - DIRECT

- 1 A Yes, sir.
- 2 Q Okay. How did you come to see him?
- 3 A I got off work that evening so I walked up to
- 4 Eastgate Gates, where everybody goes, and so I got
- 5 there about 4:30 and so Odell said, "Let's cut the
- 6 block," so we cut the block, we rode around through
- 7 town, through the hood, just riding, cutting the
- 8 block.
- 9 Q When you say Odell, who is Odell?
- 10 A Odell, he was the driver.
- 11 Q What's his last name?
- 12 A Tillman.
- 13 Q Who was it, you and Odell and who else?
- 14 A And Artell Hill.
- 15 Q And while you all were riding around that
- 16 afternoon and into the early evening did you go
- 17 through Eastgate Apartments?
- 18 A Yes, sir.
- 19 Q Okay. Who was driving?
- 20 A Odell Tillman.
- 21 Q What did Odell decide to do while you all
- 22 were riding through Eastgate Apartments?
- 23 A He decided to stop, he seen the crowd out
- 24 there, so he just pulled in the parking lot.
- 25 Q Okay. And where were you seated in the car

JEFFREY TATUM - DIRECT

- 1 when you all were riding around?
- 2 A In the back seat behind Artie.
- 3 Q where was Artie?
- 4 A He was in the front.
- 5 Q Okay. Well, once you all pulled in at
- 6 Eastgate Odell parked, right?
- 7 A Yes, sir.
- 8 Q What did he do after he parked?
- 9 A He got out, started talking.
- 10 Q Okay. Where did he go to talk?
- 11 A It was in the F building, I believe.
- 12 Q He went to the F building?
- 13 A Yes.
- 14 Q Okay. And what did you do after Odell had
- 15 been talking to the crowd at the F building, what
- 16 did you decide to do?
- 17 A He stayed, he was talking so long, so I just
- 18 got out of the car.
- 19 Q Okay. And where did you, where did you go?
- 20 A I got out of the car and I got out, stood up
- 21 beside Artie on this side. We was talking then.
- 22 Q Can you sit up, if you would, just speak in
- 23 that microphone a little bit?
- 24 A Yes, sir.
- 25 Q Thank you. All right. So, as you're doing

JEFFREY TATUM - DIRECT

1 that what happened? Did you see somebody else come
2 into the parking lot when you were doing that?

3 A Yes, sir.

4 Q Who did you see?

5 A I seen Lanny, he rides up on his bicycle, me
6 and Artie, we kept on talking.

7 Q Let me just back you up a second. How did
8 you know Lanny Hill?

9 A I knew him through his brother Reggie, we
10 were good friends and all.

11 Q Okay. And did you have any dispute or any
12 kind of bad feelings with Lanny Hill at that time?

13 A No, sir.

14 Q Okay. And that day had you seen Lanny Hill
15 before?

16 A Yes, sir. We had just rode through Seneca
17 Circle.

18 Q Okay. And how much time had passed from the
19 time you had seen him when you rode through Seneca
20 Circle, until the time you parked at Eastgate?

21 A About fifteen minutes.

22 Q Okay. And had there been any problems with
23 Mr. Hill when you saw him ride through Seneca
24 Circle?

25 A No, sir.

JEFFREY TATUM - DIRECT

1 Q What had happened in regards to him the first
2 time you had seen him that afternoon?

3 A He was just standing up in the crowd and so
4 we rode through, I spoke, and so we went on.

5 Q All right. And how long had you all been
6 there at Eastgate before Lanny came riding in on
7 his bicycle?

8 A About fifteen minutes.

9 Q Okay. When he came riding in on his bicycle
10 what happened, what was said between the people
11 there, that you recall?

12 A That I recall, that I remember, me and Artie
13 kept talking. Then we seen Lanny, then he said,
14 "What's up, I heard you was looking for me," just
15 like that.

16 Q Let me just back you up, I'm sorry. Did you
17 say something to Lanny when he came through?

18 A I spoke, I said, "What's up, Lan?" He said,
19 "What's up, Bodine?" That's what he call me.

20 Q That's what he said to you?

21 A Yes.

22 Q Then what was said after that?

23 A After that Artie rose up, said, "What's up, I
24 heard you was looking for me," just like that.

25 Q Okay.

JEFFREY TATUM - DIRECT

- 1 A So Lanny --
- 2 Q When you say he rose up, what do you mean?
- 3 A I was standing right beside the car, on the
- 4 passenger side, he couldn't see because I was in
- 5 the way, and he rose up like this, just like that.
- 6 Q Okay. You mean he sat up in his car seat?
- 7 A Yes, sir.
- 8 Q Okay. And what did he say?
- 9 A He said, "I heard you was looking for me,"
- 10 just like that.
- 11 Q And then when Artie said that what did Lanny
- 12 Hill do?
- 13 A He got off his bike and he dropped the bike,
- 14 he said, "All right, stay right there." Then --
- 15 Q All right. And then what did Lanny Hill do
- 16 then?
- 17 A He pulled out his gun and started shooting.
- 18 Q Okay. Where did he -- did he make any steps,
- 19 did he go anywhere?
- 20 A He walked toward the car maybe about, say
- 21 about two to three steps toward the car.
- 22 Q And then what did he do after he took two to
- 23 three steps toward the car?
- 24 A He started shooting.
- 25 Q And how many times did you recall him

JEFFREY TATUM - DIRECT

1 shooting, how many shots did you hear?

2 A I only recall four.

3 Q Okay. And as this was happening where were
4 you?

5 A I was still leaning up against the car. I
6 never moved while he was shooting.

7 Q All right. And how far away were you from
8 Artie?

9 A Side by side, about as close as me to this
10 mike right here.

11 Q And when he walked up to the car, when Lanny
12 Hill walked up to the car and shot Artie what was
13 Artie doing?

14 A He was just sitting there, never moved.

15 Q Now, did Artie have anything on his person at
16 the time in the car?

17 A He just had his stick in his hand.

18 Q Okay. And if you would, show the jury how he
19 was holding that stick while you were standing
20 there talking to him.

21 A He was just like this, had both hands on his
22 stick just like this.

23 Q And did Artie ever get out during this
24 incident?

25 A No, sir.

JEFFREY TATUM - DIRECT

1 Q Did he ever open the door?

2 A No, sir.

3 Q And did he ever do anything with the stick?

4 A No, sir. He never moved, he never attempted
5 to move or do nothing.

6 Q Well, after this incident occurred, after the
7 shots rang out what did you do?

8 A After he stopped, finished shooting, he left,
9 I went up in the breezeway, sat up on the steps.

10 Q Did you see where Lanny Hill went after the
11 shots had been fired?

12 A No, sir, because after he finished I just ran
13 up under the breezeway and sat on the steps.

14 Q Mr. Tatum, you were convicted in 2003 of
15 malicious injury to property, is that correct?

16 A Yes, sir.

17 Q And you are currently charged with a charge
18 of distribution of marijuana, is that right?

19 A Yes, sir.

20 Q Has anybody promised you or offered you
21 anything in consideration or as a reward for
22 testifying today?

23 A No, sir

24 Q All right. I'm going to show you a couple
25 things. This is State's Exhibit Number 3. If you

JEFFREY TATUM - DIRECT

1 would, you can step down a minute, I'm going to
2 hold this and you can just take, take my pen --

3 THE COURT: Mr. Witness, speak up, please.

4 A Yes, sir.

5 THE COURT: So we can hear you.

6 Q If you would, just point out on this picture
7 to the jury where you were when, and you may want
8 to just stand on this other side, we'll step down
9 in just a minute, where were you when the shooting
10 occurred?

11 A I was right here.

12 Q Okay.

13 A Right.

14 Q Right there in between the passenger seat --

15 A And the back.

16 Q The front seat and the back seat?

17 A Yes.

18 Q Okay. Where did Mr. Hill, Lanny Hill, go to
19 to fire the gun, where did you see him come to?

20 A He come up somewhere along in here, right in
21 here and then he fired.

22 Q Okay. Show the jury again, where did you see
23 the shots fired from?

24 A Right along in here.

25 Q Okay. All right. What we'll do, we'll step

JEFFREY TATUM - DIRECT

1 down here, show it to these jurors.

2 Show the jury once again where you were
3 standing?

4 A I was right here, Lanny was right here.

5 Q Show the jurors where Mr. Hill came to to
6 fire the gun.

7 A Right here.

8 Q All right, thank you. You can get back up on
9 the stand.

10 MR. ANTHONY: If I could have one moment?

11 THE COURT: Take your time.

12 Q During this whole encounter did Artie say
13 anything to Lanny other than what you testified to
14 about, "I heard you been looking for me"?

15 A No, sir.

16 MR. ANTHONY: All right, thank you. That's
17 all on direct.

18 THE COURT: Cross-examine.

19 MR. GROSE: Thank you, Your Honor.

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JEFFREY TATUM - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q I believe the prosecutor showed you, looks
4 like State's Exhibit Number 3?

5 A Yes.

6 Q That's the side you looked at?

7 A Uh-huh (Affirmative).

8 Q You have to give a yes or no answer.

9 A Yes.

10 Q And where did you point where Lanny was when
11 he shot?

12 A Right here.

13 Q Okay. About right there where my finger is?

14 A Somewhere like that.

15 Q Somewhere like that? More or less in the
16 middle of that other parking space?

17 A That's right.

18 Q Not the parking space where the car was
19 parked?

20 A Not the parking space where the car is, no.

21 Q My finger is in the general area, maybe not
22 exactly?

23 A Not exactly but right along in there.

24 Q All right. Now, you gave a statement to
25 Officer Harvard, didn't you, or to somebody in law

JEFFREY TATUM - CROSS

- 1 enforcement, to the police?
- 2 A That's right?
- 3 A The next day?
- 4 A That's right.
- 5 Q And I realize there is something else on the
- 6 back but that's a copy of your statement on the
- 7 front side, isn't it?
- 8 A That's right.
- 9 Q That's your signature at the bottom, is that
- 10 right?
- 11 A That's right.
- 12 Q And you knew when you were giving this that
- 13 this was part of the official police investigation,
- 14 correct?
- 15 A That's right.
- 16 Q All right. If you will look, one, two,
- 17 three, four, maybe five lines up from the bottom,
- 18 okay, didn't you tell Officer Harvard, "Then Lanny
- 19 walked up to Artie and point blank fired three
- 20 times into Artie's head"?
- 21 A That's point blank to me.
- 22 Q Point blank is half a parking space away?
- 23 A It was dead center of it.
- 24 Q Did he stick the gun inside the car?
- 25 A No, sir.

JEFFREY TATUM - CROSS

1 Q So, if we, if we look at, I'll take that
2 statement back, if we look at State's Exhibit 3
3 again, you see some cups in that picture?

4 A Yes, sir.

5 Q I realize those cups weren't out there when
6 this shooting happened but those cups are in, some
7 of them are in that other parking space, at least
8 two, maybe three of them are?

9 A Right.

10 Q You're saying that's the area this happened
11 at?

12 A That's right.

13 Q Where Lanny was?

14 A Yes, sir.

15 MR. GROSE: Beg the Court's indulgence for a
16 moment.

17 Q You and Artie were friends, were you not?

18 A Yes, sir.

19 Q You had known him all your life?

20 A Yes, sir.

21 Q You spent quite a bit of time with him, with
22 Artie?

23 A Not much. We just happened to be together
24 that day.

25 Q But you and Artie had been friends all your

JEFFREY TATUM - CROSS

1 life?

2 A Yes, sir.

3 Q And when you all were riding around that day,
4 I will hand you what has been marked State's
5 Exhibit Number 3, he had that stick with him,
6 didn't he?

7 A Yes, sir.

8 Q That entire time?

9 A Yes, sir.

10 Q And he still had that in his hand at the time
11 that he got shot, didn't he?

12 A Yes, sir.

13 MR. GROSE: One moment, please, sir.

14 Q Were you ever present when Artell Hill
15 threatened Lanny Hill on any other occasion?

16 A No, sir. No, sir.

17 Q Are you saying that never happened?

18 A Not, no, sir, not while I was around.

19 MR. GROSE: That's all I have at this time,
20 Your Honor.

21 THE COURT: Redirect?

22 MR. ANTHONY: No redirect, Your Honor.

23 THE COURT: Thank you, sir. Mr. Anthony,
24 will you, Madam Clerk, take possession of the
25 evidence? You may step down, sir.

JEFFREY TATUM - CROSS

1 (Witness excused).

2 THE COURT: Replace this on the evidence
3 table, please.

4 MR. ANTHONY: I've got it.

5 THE COURT: Thank you. You may call your
6 next witness.

7 MR. ANTHONY: The next witness will be
8 Shannon Hill.

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SHANNON HILL - DIRECT

1 SHANNON HILL,
2 after being first duly sworn testified as follows:

3 THE CLERK: If you will, state your name for
4 the record.

5 THE WITNESS: Shannon Hill.

6 THE COURT: You may examine.

7 MR. ANTHONY: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. ANTHONY:

10 Q Would you state your name, please?

11 A Shannon Hill.

12 Q Miss Hill, where do you live?

13 A Calhoun Falls.

14 Q And going back to August, 1999, where did you
15 live then?

16 A Eastgate Apartments, Apartment Number G-3.

17 Q Okay. And do you know the defendant in this
18 case, Lanny Hill?

19 A Yes, I do.

20 Q And how do you know him?

21 A He was friends with my brother, they like
22 grew up together.

23 Q Okay. And going back to August 6th of 1999,
24 did you see Mr. Hill on that day?

25 A Yes.

SHANNON HILL - DIRECT

1 Q Okay. And when did you see him initially or
2 what were you --

3 A I seen him twice.

4 Q Okay, that's what I'm saying. The first time
5 you saw him where did you see him, where was it?

6 A The first time I saw him I was sitting on the
7 steps in front of my apartment.

8 Q Okay.

9 A Me and Ira Green was talking.

10 Q Who is Ira Green?

11 A Ira Green, at the time I was dating his
12 cousin.

13 Q Okay. And you say you were outside on the
14 steps of your apartment?

15 A Yes, sir.

16 Q Okay. And how did Mr. Hill, how was he
17 getting around when you saw him?

18 A He was on a bicycle.

19 Q Okay. And when he came by while you were
20 sitting on the steps did you all have a
21 conversation?

22 A Yes, we did.

23 Q Okay. What did you talk about?

24 A He asked about Shy, and he said he had to go
25 to the grocery store and get his uncle something to

SHANNON HILL - DIRECT

1 eat.

2 Q Okay. Who is Shy?

3 A At the time that was the daughter of, I'm not
4 going to say his girlfriend, but a girl he was
5 messing with.

6 Q Okay.

7 A He said he was going to go get his uncle
8 something at Gurley's.

9 Q What is Gurley's?

10 A A grocery store across the street from the
11 apartment complex.

12 Q After you had this conversation with Lanny
13 Hill what did he do?

14 A Well, before he went to the store he went in
15 my apartment.

16 Q Okay. Was there somebody in your apartment
17 at the time?

18 A My brother and his girlfriend.

19 Q Okay. And then after -- did he leave the
20 apartment?

21 A Yes, he did.

22 Q Okay. And which way did he go when he left
23 your apartment?

24 A Like right across the street.

25 Q Going toward Gurley's?

SHANNON HILL - DIRECT

- 1 A Yes.
- 2 Q How was he getting around?
- 3 A On a bicycle.
- 4 Q After he left and went towards Gurley's did
5 anybody else come in the parking lot, that you
6 knew?
- 7 A Yes.
- 8 Q Okay.
- 9 A As he was going across the field, Odell
10 pulled up, he was driving, Artie was in the
11 passenger side.
- 12 Q You say Artie, are you referring to Artell
13 Hill?
- 14 A Uh-huh (Affirmative).
- 15 Q How do you know Artell Hill?
- 16 A All of us grew up together and we was friends
17 up until that point. Him and my brother, you know,
18 I don't know if I should say this --
- 19 Q Just how do you know him?
- 20 A Well, just growing up in the neighborhood.
- 21 Q Okay. As they pulled in, as the car with
22 Odell and Artie and Jeffrey all pulled in did you
23 see Lanny?
- 24 A Yes. He was going across the field across
25 from Eastgate Apartments.

SHANNON HILL - DIRECT

1 Q Okay. After the car pulled in and after you
2 saw Lanny going across this field did you come to
3 see Lanny a second time?

4 A Yes. A few minutes later he came back to the
5 apartment complex on a bicycle, the same bicycle
6 that he left the first time riding.

7 Q Okay. How did he get into the apartment
8 complex?

9 A He came in off Tugaloo Street.

10 Q Okay. And when he drove in where was Artell
11 Hill located?

12 A Artie was sitting in the car, on the
13 passenger side.

14 Q Okay. And the other young men that had been
15 with him that night, Odell and Jeffrey, where were
16 they?

17 A Well, Jeff, I can't remember his exact
18 location. I know he was by the car talking to
19 Artie, and Odell was going down the sidewalk
20 toward --

21 Q Where were you?

22 A Sitting on the steps in front of F
23 apartments.

24 Q Okay. And, so, you were in the same place,
25 you were there where you talked to him?

SHANNON HILL - DIRECT

- 1 A Uh-huh (Affirmative).
- 2 Q Okay. And was Ira still there?
- 3 A Ira still sat behind me on the same flight of
4 steps.
- 5 Q When Lanny Hill drives his bicycle into the
6 apartment complex what do you see or hear go on?
- 7 A Jeffrey -- well, he was going toward the
8 handicap ramp, I was talking about Lanny Hill, he
9 was riding the bike toward the handicap ramp.
10 Jeffrey Tatum says, "What's up, man?" Lanny said
11 nothing. Artie said, "I heard you all looking for
12 me." Lanny dropped his bike --
- 13 Q Let me stop you. There is this exchange
14 between Lanny and Jeffrey?
- 15 A Uh-huh (Affirmative).
- 16 Q Artie said, "Heard you were looking for me,"
17 to Lanny?
- 18 A Yes.
- 19 Q And, so, what does Lanny do once Artie says
20 that?
- 21 A Lanny drops the bike.
- 22 Q Where did he drop the bike?
- 23 A Close to the handicap ramp.
- 24 Q Okay. And then what did Lanny do after he
25 dropped the bike?

SHANNON HILL - DIRECT

1 A Okay. After he dropped the bike he said,
2 "Stay right there." As he was saying that he went
3 to lift up his shirt.

4 Q Okay.

5 A At that time, I mean, he pulled something out
6 and he pointed it toward Artie as he was walking
7 toward the car.

8 Q All right. Did you observe him do that, did
9 you see what it was he pulled out?

10 A I could just see the reflection, something
11 glaring in the sun.

12 Q Okay. Could you tell what he was doing with
13 this item he pulled out?

14 A He was pointing it toward Artie's head.

15 Q Okay, all right. And as he was walking
16 towards Artie what happened then?

17 A Well, he walked right up to the car and just
18 started shooting.

19 Q And was anything else said between the two of
20 them as he was, after he got off the bicycle?

21 A Well, Lanny, after he told Artie to stay
22 right there he started walking toward the car,
23 Artie said, "I'm not worried about you shooting
24 me."

25 Q Okay, all right. Was there anything else he

SHANNON HILL - DIRECT

1 said?

2 A No. After Artie said that, that's when he
3 started shooting, Lanny started shooting.

4 Q How many times do you recall Lanny firing the
5 gun?

6 A I recall two to three shots, then a pause,
7 and about three or four more shots.

8 Q Okay. And while Lanny Hill was shooting the
9 gun what was Artell Hill doing?

10 A Just sitting there.

11 Q And did you ever -- before Lanny fired the
12 shots as he was walking up to the car what was
13 Artie doing?

14 A Sitting in the car.

15 Q Okay. Did you ever see Artie get out of the
16 car?

17 A No.

18 Q Did you ever see the door to the car open?

19 A No, I didn't.

20 Q And did you ever see a stick?

21 A No, not at that time, I didn't.

22 Q Okay. When did you see a stick?

23 A After the coroner, after they did all the
24 photographs and they took it out, took his body out
25 of the car.

SHANNON HILL - DIRECT

1 Q All right. Once you heard the gunshots what
2 did you do yourself?

3 A I grabbed my son, at the time he was like
4 one, and I ran in my apartment.

5 Q Okay. And when you, after you did that what
6 did you do next?

7 A A few minutes later I came back outside.

8 Q And what did you see when you came back out?

9 A The police officers and a lot of people had
10 gathered around.

11 Q Where had Ira gone when you came back out?

12 A Ira was down toward the car.

13 Q Did you see Lanny Hill leave the parking lot?

14 A No, I didn't see him leave.

15 Q Okay. Where were you immediately after the
16 shooting?

17 A I was standing out on the sidewalk after I
18 came out of my apartment.

19 Q I mean right after the shooting occurred
20 where did you go?

21 A I went into my apartment.

22 Q Okay. Were you looking outside at that time?

23 A No, because you cannot see from my apartment,
24 the window is facing Gurley's.

25 Q Okay. Miss Hill you were convicted in 2002

SHANNON HILL - DIRECT

1 of shoplifting, is that correct?

2 A Yes.

3 Q And going back to the day before this
4 incident occurred, had you seen Lanny Hill that
5 night?

6 A Yes, I did.

7 Q Where had you seen him that night?

8 A It wasn't actually that night, it was after
9 12:00, it was going into the next morning.

10 Q Early in the morning?

11 A Yes.

12 Q Did you have conversation with him or hear
13 him say some things that morning?

14 A Yes, I did.

15 Q What was he saying early that morning?

16 A Well, we was sitting outside and he said he
17 was tired of people not taking him seriously, he
18 was going to get his respect one way or another
19 even if it meant taking somebody out.

20 Q All right. And if you would, just step down
21 a moment.

22 Okay. I will hand this to you. Now, can you
23 show the jury where it was on this diagram, the
24 building that you lived in, where it was?

25 A I was in this building right here.

SHANNON HILL - DIRECT

1 Q Okay. If you would maybe, it would probably
2 be easier to step over here, I think everybody
3 could see.

4 Show them again which building.

5 A In that building.

6 Q Okay. It's marked as far as where you were
7 seated when you had the conversation with Lanny
8 Hill prior to him going to Gurley's and then, you
9 know, when he came back, where were you?

10 A It's about right off, I was near the bottom
11 step.

12 Q Okay. And that's approximately right there
13 where it's written Shannon, right?

14 A Yes, sir.

15 Q Okay. And you said that you talked to him
16 and then he left. When he left the first time,
17 when he said he was going to the market which
18 direction was he going?

19 A Right straight that way.

20 Q Okay. And then where is Gurley's in relation
21 to the direction he was going?

22 A Okay, when you go that way, it's a
23 launndromat, then Gurley's.

24 Q Okay. When you saw him the next time, when
25 you talked about the field, show the jury where you

SHANNON HILL - DIRECT

1 saw him cross this field.

2 A Okay. Coming back the same way he left, but
3 it's like a stop sign right there, and coming from
4 Gurley's it would be going like that across the
5 field.

6 Q Okay, all right. And then after you see him
7 cross the field, then do you see him anymore, like
8 once he gets down here?

9 A No, because it's houses and there is another
10 street.

11 Q Okay. And then when you see him the next
12 time, when he actually comes into the parking lot
13 and stops and this incident occurs which way did he
14 go, which way did he come in that time?

15 A Off of this street right here and into the
16 first entrance.

17 Q All right. And where do you recall him when
18 he laid the bicycle down, approximately where was
19 that on the drawing?

20 A Like right up there.

21 Q Okay, you can take your seat back. Thank
22 you.

23 MR. ANTHONY: That's everything on direct.

24 Mr. Grose, do you want me to take this down?

25 MR. GROSE: Yes, we can take that down,

SHANNON HILL - DIRECT

1 please.

2 THE COURT: The witness is with you, Mr.

3 Grose.

4 MR. GROSE: Your Honor, may it please the
5 Court.

6 THE COURT: Mr. Grose.

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SHANNON HILL - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q Now, Lanny and your brother were friends?

A Yes.

Q All right. Your brother is named Rico Hill?

A Yes.

Q Even though you have the same last name as Lanny, you're not related to Lanny?

A Not that I know of.

Q Okay. And you're familiar with the time where Artell Hill had chased your brother Rico --

MR. ANTHONY: Objection, hearsay.

THE COURT: Sustained.

MR. GROSE: Your Honor, I have a matter of law.

THE COURT: Ladies and gentlemen, Mr. Foreman, we have a matter to discuss outside your presence. Please do not discuss the case by, between and among yourselves, and retire to the jury room.

(The jury was excused from the courtroom).

THE COURT: The question apparently was going to be does she recall the time her brother chased the defendant. Is that correct?

MR. GROSE: No.

SHANNON HILL - CROSS

1 THE COURT: What was the question?

2 MR. GROSE: The question is does she recall a
3 time where Artell Hill, the decedent, had chased
4 her brother Rico Hill with a stick, and/or with a
5 bat. On page 113 of the trial transcript before I
6 asked her, "You know there was a time when Artie
7 chased after Rico with a stick, don't you, or a
8 bat?" Her answer was first, "No, I don't know that
9 Artie chased after Rico with a stick, no, I don't."
10 "You heard about it though, haven't you?" "Yes, I
11 have."

12 So, it was something she was familiar with.
13 This is something that Lanny knew about before that
14 day, in addition to having been confronted with a
15 bat or a stick by Artie prior to this happening,
16 and it's relevant because he knew about, he can
17 take that into account when he decides to defend
18 himself, the reputation of the decedent for
19 violence, and the fact she knew about it
20 corroborates the fact that people knew about it,
21 that that was something that was known in the
22 community.

23 THE COURT: Mr. Anthony?

24 MR. ANTHONY: It's still hearsay. The
25 transcript is real clear, she says she doesn't know

SHANNON HILL - CROSS

1 about it, and then he asked her, "Well, you have
2 heard about it?" She says, "Well, I've heard about
3 it." Well, that's hearsay.

4 THE COURT: The objection is sustained.

5 MR. GROSE: Your Honor, it's not being
6 offered for the truth of the matter asserted, it's
7 being offered for what was in Lanny Hill's mind at
8 the time and something that would corroborate his
9 state of mind.

10 THE COURT: The record is clear on your
11 behalf. The objection is sustained.

12 MR. GROSE: Thank you, Your Honor.

13 THE COURT: Let's take a short recess,
14 please.

15 Now, Madam Witness, we're going to take a
16 recess now because we have been in session here
17 about an hour and ten minutes. You may not discuss
18 with anyone anything about this case. You may not
19 talk with anyone about any questions you have been
20 asked by Mr. Anthony or any answers you have given
21 to his questions or any questions you may have been
22 asked by Mr. Grose or you think you may be asked by
23 any one of them or answers that you could possibly
24 give to any question you could be asked. You may
25 not talk with anyone about this case.

SHANNON HILL - CROSS

1 Do you understand that?

2 THE WITNESS: I understand.

3 THE COURT: The best policy would be for you
4 to go about the area alone and do not be with
5 anyone else.

6 THE WITNESS: Okay.

7 THE COURT: And even position yourself maybe
8 in the back part of the courtroom. We will take
9 about a ten minute break. Do you understand those
10 instructions?

11 THE WITNESS: I understand.

12 THE COURT: Thank you so much. Come down,
13 and watch your step.

14 We will take this opportunity for a short
15 recess, please. We'll be in recess for about ten
16 minutes.

17 (Recessed at 3:47 p.m.).

18 (Reconvened at 4:03 p.m.).

19 THE COURT: We'll open the record, please.
20 This is the State of South Carolina versus Robert
21 Orlando Hill, indictment 99-494.

22 Is there anything before the jurors come in?

23 MR. GROSE: Yes, sir.

24 THE COURT: You have something?

25 MR. GROSE: Yes, sir, briefly.

SHANNON HILL - CROSS

1 THE COURT: All right, sir.

2 MR. GROSE: With regard to the hearing
3 outside the presence of the jury we had a minute
4 ago, I would cite state versus Blurton,
5 B-l-u-r-t-o-n, 342 South Carolina 500, 537 SE 2nd
6 291. It was actually reversed in Mr. Blurton's
7 favor on other grounds but everything I'm getting
8 ready to cite is still good law. Under letter A,
9 regarding taped conversations, in that trial
10 Blurton had attempted to admit some tape recordings
11 that were made by the police with Blurton's
12 knowledge but not with his co-defendant's
13 knowledge. The co-defendant asserted his Fifth and
14 did not testify at the trial.

15 And what these were being tried to be
16 admitted for was to show that Blurton could have
17 had a state of mind or a belief that he was not
18 participating in a robbery but, rather, the robbery
19 was staged as part of a CIA operation, and there is
20 a discussion in there, it starts off here, says
21 it's generally not admissible under 802 but it goes
22 on to say, talks about in this case the tapes were
23 not offered to prove the veracity of any statement
24 made during the conversation between Blurton and
25 Mayfield, Mayfield was the co-defendant. Rather,

SHANNON HILL - CROSS

1 they were offered to show Blurton had been led to
2 believe the robbery was staged and his actions were
3 sanctioned by the CIA, because these conversations
4 would have added credence to Blurton's testimony
5 that he lacked criminal intent. That was the
6 defense in the case, there was no criminal intent,
7 and were not hearsay. The trial court erred in
8 excluding them. They cite State versus Harris.

9 And then if you go further in the case to
10 Section C, whether others believed Mayfield to be a
11 Navy Seal, it was conclusively determined, at least
12 for the purposes of the trial, that Mayfield wasn't
13 a Navy Seal but it was a common, Walmart was the
14 incident location, it was common knowledge of
15 people in the Walmart through statements Mayfield
16 had made, again he wasn't testifying, that he had
17 been a former Navy Seal, people believed that he
18 had been a former Navy Seal, and they said the
19 testimony did not constitute hearsay because it was
20 not offered to prove the truth of any out of court
21 statements and should not have been excluded on
22 those grounds, and they refer to Rule 801(C) of the
23 rules of evidence, and in fact they point out with
24 regard to that, that it was undisputed it was not
25 true. But they were offering it at that trial to

SHANNON HILL - CROSS

1 show there was a belief it was true.

2 What we have here is in the Blurton trial it
3 was a general criminal intent defense, the State
4 always has to prove criminal intent. We were
5 arguing they couldn't do that because of the
6 beliefs. Well, self defense is kind of a criminal
7 intent type of thing. You're not intending to
8 commit a crime, you're intending to defend
9 yourself, and the fact, this talks about the
10 importance of facts that others believed some of
11 the same things Blurton was claiming to believe or
12 knew about them tended to support the defense.

13 That's what we've got here, is she knows that
14 her brother had been chased, or had heard that her
15 brother had been chased by a stick, by Artie with a
16 stick or bat, and this goes to his state of mind,
17 Lanny Hill's state of mind when he's deciding to
18 defend himself. So, with this added addition to
19 the record, we feel we should be allowed to go into
20 it, certainly if not now, perhaps be allowed to
21 recall her at the end of the case, so I would ask
22 she be required to remain under subpoena for the
23 call of the Court until the trial is over.

24 THE COURT: Mr. Anthony?

25 MR. ANTHONY: Well, we'll just respond

SHANNON HILL - CROSS

1 something she heard doesn't, doesn't have any
2 relevance to his state of mind, his fear, his
3 apprehension, it is just hearsay, it was just
4 something she hears, it's not relevant.

5 THE COURT: The Court sustains the objection.
6 The statement is not offered to show what the
7 defendant did, but it's just what this witness had
8 heard. There is a distinct missing link. This is
9 not even touched on by that Blurton case, which has
10 a bizzare fact situation, no question about that,
11 but ~~what this witness says she had heard had~~
12 ~~nothing to do with what this defendant knew or~~
13 ~~thought he knew~~, so there is a distinct difference
14 and missing link, so the hearsay is definite and it
15 is ruled out. That will not be admitted, the
16 objection is sustained.

17 Anything further?

18 MR. GROSE: Not at this time, Your Honor.

19 MR. ANTHONY: Your Honor, I just ask that the
20 Clinkscates ladies who just testified for the
21 state, they be excused if there is no objection.

22 MR. GROSE: No objection.

23 THE COURT: All right, thank you. Now, we
24 have Miss Shannon Hill. Where is Miss Shannon
25 Hill? Okay, Miss Shannon Hill, you may just remain

SHANNON HILL - CROSS

1 seated back there.

2 Show the jury in.

3 (The jury returned to the courtroom).

4 THE COURT: All the jurors are present, with
5 the foreman and alternates properly seated.

6 Ladies and gentlemen, we have taken up an
7 issue of law outside your presence and we have also
8 used the opportunity to take a recess. You were
9 already in the jury room and hopefully there were
10 some refreshments, light refreshments and so forth
11 there, so we took a recess while you were out.

12 Now, Miss Shannon Hill will please come and
13 return to the witness stand.

14 Madam Witness, have you talked with anyone
15 about any questions you have been asked or answers
16 you have given to those questions, or any questions
17 you expect that you could possibly be asked or any
18 answers that you could give to those anticipated
19 questions at all?

20 THE WITNESS: No, sir.

21 THE COURT: Have you discussed this case with
22 anyone from the time that we took a recess and you
23 left the stand, until this very moment?

24 THE WITNESS: No, sir.

25 THE COURT: You understand that you have been

SHANNON HILL - CROSS

1 sworn and you remain under oath to tell the truth?

2 THE WITNESS: Yes, I do.

3 THE COURT: Thank you. This witness is with
4 you, Mr. Grose.

5 BY MR. GROSE:

6 Q All right. Now, I believe what you're saying
7 is Artie was just sitting in the car?

8 A Yes, he was.

9 Q And if this is the passenger seat of the car,
10 where I'm sitting, he was sitting like this?

11 A Yes.

12 Q And he never did anything to get out of the
13 passenger seat?

14 A No, he didn't.

15 Q And he didn't move around in the car?

16 A No.

17 Q And he didn't do anything to open the door,
18 is what you're saying?

19 A That's exactly what I'm saying.

20 Q Okay. And that he just sat there?

21 A He just sat in the car.

22 Q Now, the Solicitor asked you some questions
23 about what you heard. You said you heard Jeffrey
24 say what's up?

25 A Yes.

SHANNON HILL - CROSS

1 Q Okay. Isn't it true that Artie said
2 something but you couldn't hear what was said, the
3 first thing that Artie said?

4 A Yes.

5 Q You couldn't hear that, he said something you
6 couldn't hear?

7 A Yes.

8 Q Okay.

9 A It was like muffled.

10 Q You were all the way down at this other
11 building, right?

12 A I wouldn't say all the way down, it's not
13 that far from where the incident took place.

14 Q There was a full building in between you,
15 though, you were at this building down here?

16 A Yes, I was two buildings down.

17 Q Okay. You were two buildings down but you
18 could hear that Artie said something but you
19 couldn't hear what it was?

20 A Yes.

21 Q And you heard Lanny say stay right there?

22 A Yes.

23 Q And what you're saying is that Lanny walked
24 up to the car?

25 A Yes.

SHANNON HILL - CROSS

- 1 Q And put the gun to Artie's temple?
- 2 A Yes.
- 3 Q When you say put it to his temple, you mean
- 4 right to his temple?
- 5 A He was right up on the car and from where I
- 6 was sitting at on the steps we could see the gun to
- 7 Artie's head.
- 8 Q All right. And you heard five shots, is what
- 9 you remember?
- 10 A Yes, about five shots.
- 11 Q There was a couple shots?
- 12 A A pause.
- 13 Q A pause, a couple shots, a pause and more
- 14 shots?
- 15 A Yes.
- 16 Q And you would agree that this all happened
- 17 real quick?
- 18 A Yes, it did.
- 19 MR. GROSE: Beg the Court's indulgence for a
- 20 moment.
- 21 THE COURT: Take your time.
- 22 Q When all this was happening and ending up you
- 23 grabbed your baby and went inside, right?
- 24 A Yes.
- 25 MR. GROSE: That's all I have at this time.

SHANNON HILL - CROSS

1 THE COURT: Redirect?

2 MR. ANTHONY: No redirect.

3 THE COURT: Thank you, madam. Come down.

4 Watch your step.

5 (Witness excused).

6 THE COURT: Call your next witness, please,
7 Solicitor.

8 MR. ANTHONY: Call Mr. Green.

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IRA GREEN

A To see my cousin Otis Green.

IRA GREEN - DIRECT

1 Q Who was Mr. Green associated with that lived
2 at Eastgate?

3 A Shannon Hill.

4 Q Okay. And when you got there that day to see
5 Otis Green what happened as far as people coming
6 and going?

7 A He wasn't there so I was talking to Shannon
8 at Eastgate Apartments.

9 Q Where specifically were you at Eastgate
10 Apartments?

11 A I was at the top of the steps.

12 Q And outside the building where Miss Hill
13 lived?

14 A Yes, sir.

15 Q Okay. As you were out there with Miss Hill
16 did you happen to see Lanny Hill?

17 A Yes, sir.

18 Q Okay. And how was he getting around when you
19 saw him?

20 A On a bicycle.

21 Q How do you know Lanny Hill?

22 A I went to school with his brother.

23 Q When he came into the building, I'm sorry,
24 when he came into the apartment complex how did he
25 come in, where did he come from?

IRA GREEN - DIRECT

1 A Tugaloo Street.

2 Q And did he stop and talk to you and Miss
3 Hill?

4 A Yes, sir.

5 Q Okay. And what did you discuss?

6 A He said he was going down to Gurley's to get
7 something for his Uncle Red to cook something to
8 eat.

9 Q I need you to speak up, I can't quite hear
10 you.

11 THE COURT: Is there any way we can increase
12 the volume on the amplification here? Does that
13 have any amplification at all?

14 Thank you very much. Continue direct
15 examination. Excuse the interruption.

16 MR. ANTHONY: All right.

17 BY MR. ANTHONY:

18 Q What did he talk to you about?

19 A He said he was going to the store to get
20 something to cook.

21 Q Okay. Who was he going to get something to
22 cook for?

23 A His Uncle Red.

24 Q All right. Which way did he head after he
25 told you that?

IRA GREEN - DIRECT

- 1 A Toward Gurley's.
- 2 Q All right. And did you see him again a
3 little bit later on that evening?
- 4 A Yes, sir.
- 5 Q About how long before you seen him again?
- 6 A I guess about maybe ten, maybe fifteen
7 minutes.
- 8 Q Okay. And where was he when you saw him the
9 next time?
- 10 A He was going across the field on the bicycle.
- 11 Q And how was he traveling across the field?
- 12 A On the bicycle.
- 13 Q Okay. Was there any particular route he was
14 following going across the field?
- 15 A Not really. It's a shortcut across the
16 field.
- 17 Q Okay. And as he was going across the field
18 did another car come into the parking area?
- 19 A Yes, sir.
- 20 Q Okay. And who was in that car?
- 21 A Odell Tillman and Artell Hill and Jeffrey
22 Tatum.
- 23 Q Okay. And what did they do when they, when
24 they pulled, drove into the parking lot, what did
25 they do?

IRA GREEN - DIRECT

1 A Odell, he went inside the complex. Jeffrey
2 got out of the car, he was standing in front of the
3 car. Artie was sitting in the car.

4 Q All right. And how do you know Artell Hill?

5 A We played basketball.

6 Q Okay. How long had you known him?

7 A I guess just about all my life.

8 Q Okay. And when they pulled into the parking
9 lot did you notice what Mr. Hill was doing as he
10 was riding across the field?

11 A Repeat the question.

12 THE COURT: Restate your question. Which Mr.
13 Hill?

14 Q What was Lanny Hill doing when the car pulled
15 into the parking lot?

16 A He was going across the field.

17 Q And did you make, did you notice where he was
18 looking, where Lanny Hill was looking when he was
19 going back across the field?

20 A Toward the car.

21 Q He was looking toward the car Artell Hill was
22 in?

23 A Yes.

24 Q Okay. And then you say once the car parked,
25 where did Odell go?

IRA GREEN - DIRECT

- 1 A Inside the complex.
- 2 Q Okay.
- 3 A Inside, what I call it.
- 4 Q The building?
- 5 A Yes.
- 6 Q What did Jeff do?
- 7 A He got out of the car and talked to Artie, on
- 8 the passenger talking to Artie, on the passenger
- 9 side standing up.
- 10 Q And what did Artie do?
- 11 A Nothing, stayed in the car.
- 12 Q Okay. Where was Artie in the car?
- 13 A The passenger side, the front seat.
- 14 Q All right. And then after the car parked and
- 15 Odell and Jeff got out and Jeff was standing there
- 16 talking to Artie, did you see Lanny again?
- 17 A Yes, sir.
- 18 Q Okay. And where did Lanny come from when you
- 19 saw him the next time?
- 20 A Tugaloo Street.
- 21 Q And how was he getting around?
- 22 A Bicycle.
- 23 Q Okay. And where did he go?
- 24 A He came like the second turn. Then he got
- 25 off the bicycle at the handicap ramp.

IRA GREEN - DIRECT

1 Q When he went into the parking lot and got off
2 the bicycle at the handicapped spot what, if
3 anything, did you hear being said between him and
4 Jeffrey and Artie?

5 A Jeffrey said, "What's up, man?" Then Lanny
6 said, "Nothing." Then Artie said, "I heard you all
7 looking for me."

8 Q Artie said what?

9 A "I heard you all was looking for me."

10 Q Then once Artie said that what did Lanny do?

11 A He got off his bike, went like towards the
12 car.

13 Q As he was going toward the car did he do
14 anything, did Lanny Hill do anything?

15 A Yes, sir. He went down like in his pants
16 like this and pulled something out.

17 Q And what happened next after he pulled
18 something out of his pants?

19 A It was a gun.

20 Q Okay. And did Lanny say anything else to
21 Artie or Artie say anything else to Lanny, that you
22 heard?

23 A As far as I know he could have said, "What's
24 up, nigger," Artie come back out with something but
25 I couldn't hear what he said.

IRA GREEN - DIRECT

1 Q Lanny says this to Artie, "What's up," the
2 what's up comment to Artie as he's walking toward
3 the car, is that correct?

4 A Yes.

5 Q And then Artie says something in reply but
6 you don't know what?

7 A No, I don't know what it was.

8 Q Okay. And then what happened after then,
9 what's the next thing that happened that anybody
10 did or said?

11 A He pulled a gun out, he pulled it, it got
12 jammed.

13 Q Okay. So, what did he do?

14 A Then he went toward the car and started
15 shooting about four or five times.

16 Q Okay. Did he do anything to the gun once it
17 appeared to be jammed?

18 A He cocked it back.

19 Q Lanny cocked it back?

20 A Yes.

21 Q Okay. Then what did he do after he cocked
22 the gun back?

23 A He started shooting.

24 Q How many times did you hear him shoot?

25 A I heard about like four or five shots.

IRA GREEN - DIRECT

1 Q Okay. What kind of sequence did they come
2 in, if you know?

3 A What kind --

4 Q What was the sequence of the shots? Was it
5 just one after another, or was there an
6 interruption?

7 A About like two, pause, then a couple more
8 shots.

9 Q You say two, pause, you mean two shots?

10 A Yes, two shots and a pause.

11 Q Okay. And then more shots?

12 A Yes.

13 Q Okay. And while this was happening, while
14 Lanny was walking up to the car and when the
15 shooting was occurring what was Artie doing?

16 A Nothing, sitting in his seat.

17 Q Okay. Did he ever get out of the car?

18 A No, sir.

19 Q Did he ever open up the door of the car?

20 A No, sir.

21 Q All right. And then after the shooting
22 occurred what happened then, what happened after
23 Lanny shot?

24 A Lanny got on the bike and rode out the way he
25 came in, and I ran down where Artie was and told

IRA GREEN - DIRECT

1 him help was on the way and I kept talking to him.

2 Then after that I ran --

3 Q Let me back you up. You run to Artie. Did
4 anybody else go to him besides you?

5 A Yes.

6 Q Who else?

7 A We call her Rag but her name was Michelle.

8 Q The lady that just testified?

9 A Yes.

10 Q When you got to Artie what was he doing, what
11 kind of condition --

12 A He was taking deep breaths.

13 Q And did you notice anything on his person at
14 that time? Was he holding anything?

15 A Yes, sir.

16 Q What was he holding?

17 A He was holding a stick.

18 Q Where was the stick?

19 A Like between the legs. He had both hands
20 holding the stick real tight.

21 Q Had you ever seen that stick that night
22 before running to the car and looking in it?

23 A No, sir, my first time to seen it.

24 Q Did you ever see, that night did you ever see
25 Artie do anything with that stick?

IRA GREEN - DIRECT

1 A No, sir.

2 Q Okay. And after you ran to the car and you
3 checked Artie out and see what kind of condition
4 he's in, what do you do then?

5 A Then I ran behind Eastgate Apartments, to the
6 rescue squad, and told some guy that a guy got shot
7 and he said the rescue squad was on their way, so I
8 ran back to where Artie was and started back
9 talking to him.

10 Q Okay. When you were talking to him was he
11 ever able to respond at all to you?

12 A No, sir.

13 Q Okay. Were you there when the police arrived
14 at the scene?

15 A Yes, sir.

16 Q Okay. Did you talk to them about what
17 happened that night?

18 A Yes, sir.

19 Q Okay. You can step down, if you would,
20 please, Mr. Green.

21 What I would ask you to do, take that
22 measuring stick and point out a few things for the
23 jury. Show the jury where you were when you and
24 Shannon were talking to Lanny.

25 A Right here.

IRA GREEN - DIRECT

1 Q Okay. That's actually where it says Ira
2 right there on the diagram?

3 A Yes, sir.

4 Q Okay. And when Lanny left, when Lanny Hill
5 left after you all finished talking to him which
6 way did he go? If you would, show the jury the
7 path he took leaving.

8 A When he went out to Gurley's?

9 Q Yes, sir.

10 A Out that way.

11 Q Okay. And down Broadwell Street, is that
12 right?

13 A Well, like you got 81, you have dirt right
14 there going that way, you got 81 kind of like
15 there.

16 Q When you saw him the next time, show the jury
17 the path you saw him taking, what way was he going?

18 A The way he went, the way he went out, he came
19 back around this way, just like a stop sign right
20 up here, that stop sign, you got a path go across
21 the field.

22 Q Okay. At some point did you lose sight of
23 him as he was going down that path?

24 A Yes, sir.

25 Q Okay. And then when you saw him the next

IRA GREEN - DIRECT

1 time how did he, how did he get into the apartment
2 building the next time you saw him, or into the
3 apartment complex?

4 A He come up this street, came up through that
5 way.

6 Q Okay. Where did he, where did he go to? On
7 that drawing show where you saw him go to when he
8 came back in the last time.

9 A Okay. He came in the last time up this way,
10 came up through that way.

11 Q Okay. The last time, I mean the time before
12 the shooting, how did he come into the apartment
13 complex that time?

14 A All I can remember, he probably came this
15 way, my memory was he came through that way.

16 Q He came through that way? Where did he go?

17 A He came up through that way.

18 Q Okay. And parked?

19 A Yes. The bike was somewhere up in here where
20 the handicap spot was.

21 Q Okay. And show them again where he dropped
22 the bike.

23 A Somewhere over by the handicap spot. Some
24 things I can remember, some things I can't.

25 Q Okay.

IRA GREEN - DIRECT

1 A I really can't, it's been years, you know.

2 Q All right.

3 MR. ANTHONY: If I could have one moment.

4 THE COURT: Take your time, counsel.

5 MR. ANTHONY: Thank you. That's everything.

6 If you would --

7 THE COURT: Very well, return to your seat,
8 please, Mr. Witness.

9 MR. ANTHONY: Your Honor, we would move
10 Exhibit Number 1 into evidence at this time.

11 MR. GROSE: There is no objection.

12 THE COURT: Without objection Number 1 will
13 become part of the evidence in the case, ladies and
14 gentlemen.

15 (Diagram marked as State's Exhibit
16 Number 1 was received in evidence).

17 MR. ANTHONY: That is everything on direct.
18 Do you want me to leave this up, Mr. Grose?

19 MR. GROSE: No, we can take it down.

20 THE COURT: The witness is with you, Mr.
21 Grose, on cross examination.

22 MR. GROSE: Thank you, Your Honor. If it
23 please the Court.

24 THE COURT: Mr. Grose.

25

IRA GREEN - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

1 Q Now, when the shooting, right before that
2 happened, when Lanny rode back up, as I understand
3 it, you heard Jeffrey say, "What's up?"

4 A Yes, sir.

5 Q So, it was Jeffrey, not Artie said that?

6 A It was Jeffrey.

7 Q Jeffrey said that?

8 A Yes, sir.

9 Q And then Artie said something but you
10 couldn't hear what that was?

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 Q You have to give yes or no answers for the
15 court reporter.

16 A Yes, sir.

17 Q And you were two buildings down?

18 A Yes, sir.

19 Q And that was loud enough, he said something,
20 you could hear that he said something but you don't
21 know what it was?

22 A Yes, sir.

23 Q And then that's when Lanny said something

IRA GREEN - CROSS

1 like, "What's up," and the shooting happened?

2 A Yes, sir.

3 Q All right. Now, Lanny, did he walk up to the
4 car?

5 A Yes, sir.

6 Q How close was he to the car?

7 A Real close, to me.

8 Q Real close?

9 A Yes.

10 Q And how was he holding the gun?

11 A Kind of like sideways.

12 Q And how close was the gun to Artie?

13 A Close to him, close to his head.

14 Q Close to his head?

15 A Yes.

16 Q Inside the car?

17 A Yes.

18 Q Within a few inches?

19 A I say about that.

20 Q You say about within a few inches?

21 A Yes.

22 Q All right, you can sit back down. Now, as I
23 understand it, you and Artell Hill were friends,
24 right?

25 A Yes, used to shoot ball on the basketball

IRA GREEN - CROSS

1 court.

2 Q In fact the first time you met him was on the
3 field or court somewhere playing sports, right?

4 A Yes.

5 Q You knew him most of your life?

6 A Yes, knew both of them.

7 Q Huh?

8 A I knew both of them.

9 Q I couldn't understand you?

10 A I knew both of them the rest of my life.

11 Q But you were good friends with Artie?

12 A Well, basically I was both of them, like my
13 granddaddy stayed down at Big Flat, that is how I
14 really get to know Lanny and his brother and stuff.

15 Q You considered Artie a good friend, is my
16 question?

17 A Yes.

18 Q And your mother and Artie Hill's mother are
19 good friends?

20 A Yes, sir.

21 Q And I believe you told Mr. Anthony when he
22 was asking you questions that there are things
23 about this you just can't remember because time has
24 gone by?

25 A Yes. The truth is, I try to block it out of

IRA GREEN - CROSS

1 my mind.

2 Q You try to block it out of your mind?.

3 A Yes. It was a terrible sight, what I saw, I
4 never seen anything like that.

5 MR. GROSE: Beg the Court's indulgence.

6 That's all I have at this time, Your Honor.

7 THE COURT: Redirect?

8 MR. ANTHONY: Just briefly.

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IRA GREEN - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. ANTHONY:

3 Q You said that Artie said something that you
4 couldn't hear?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q As I recall, you testified that Artie said to
9 Lanny, "Heard you been looking for me"?

10 A I heard that part.

11 Q You heard that?

12 A Yes, distinct.

13 Q Was that before or after he said something
14 that you couldn't hear?

15 A It was before.

16 Q All right, go ahead.

17 A That was before.

18 Q When did he say the thing you couldn't hear?

19 A After he had said something that I heard I
20 had bent down and did something.

21 Q I'm sorry?

22 A I had bent down and do something, clean up,
23 that is why I couldn't hear what Artie had said.

24 Q Okay. Did Artie say the thing you couldn't
25 hear before Lanny said what's up to him, before

IRA GREEN - REDIRECT

1 Lanny said what's up and then used the N word to
2 Artie, or after he did that?

3 A Let me think. It was before.

4 Q It was before?

5 A Yes.

6 Q Okay. So, in between Artie saying, "I heard
7 you been looking for me," to Lanny --

8 A Jeffrey said, "What's up," Lanny say nothing,
9 then Artie say, "I heard you been looking for me,"
10 like that.

11 Q And then at some point -- go ahead.

12 A Then like something after then, Lanny said,
13 when Artie had said something, then I couldn't hear
14 what he said.

15 Q Okay.

16 MR. ANTHONY: All right, thank you. That's
17 everything on redirect.

18 THE COURT: Recross?

19 MR. GROSE: Briefly, Your Honor.
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IRA GREEN - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q I'm going to hand you a copy of your statement. It's two-sided, you might want to flip it over and look at both sides. Do you see your signature on the back page?

A Yes, sir.

Q Okay. And that's the statement that you gave to the police, isn't it?

A Yes, sir.

Q Okay. And if you look on the front side of it, if you go down about half the page, it says, "Lanny had left and went to Gurley's and went to his Uncle Red's house."

Right?

A Yes.

Q Then it says, "Then came back, when Lanny," still on the bike, still on his bike." Right?

A Yes, sir.

Q "Came back. Ira heard Jeffrey say what's up?"

A Yes.

Q "Then I heard Artie say, this is sort of in between, Jeffrey was outside the car, I heard Artie say something, I couldn't hear what he said."

IRA GREEN - RECROSS

1 Isn't that right?

2 A Yes, sir.

3 Q And it says then Lanny said what's up, and
4 used the N word. Right?

5 A Yes.

6 Q If you flip it over, "Then Lanny pulled out
7 the gun from his pocket and tried to shoot and the
8 gun jammed."

9 Right?

10 A Yes.

11 Q "Then I heard Artie say I'm not worried about
12 the gun."

13 Right?

14 A Yes, sir.

15 Q And you don't know why Artie said that he
16 wasn't worried about the gun, do you?

17 A No.

18 Q But you know he said it?

19 A Yes.

20 Q "Then Lanny cocked the gun and held it in the
21 window and started shooting."

22 Right?

23 A Yes, sir.

24 Q There is nothing in your statement about
25 Artie ever saying, "I heard you were looking for

IRA GREEN - RECROSS

1 me," that's not in your statement, is it?

2 A No, sir.

3 Q You gave that, signed that statement at 8:30
4 p.m. on August 6th, 1999, right?

5 A Yes, sir.

6 MR. GROSE: That's all I have, Your Honor.

7 THE COURT: Redirect?

8 MR. ANTHONY: No redirect.

9 THE COURT: Thank you, sir. Come down.
10 Watch your step.

11 (Witness excused).

12 THE COURT: Call your next witness.

13 MR. ANTHONY: We call Mr. Crooks.

14 MR. GROSE: Your Honor, may we approach
15 briefly?

16 THE COURT: Of course.

17 (Unrecorded bench conference).

18 THE COURT: Call your witness, Solicitor.

19 MR. ANTHONY: Agent Crooks.
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JEFFREY CROOKS - DIRECT

1 ~~JEFFREY ALLEN CROOKS~~

2 after being first duly sworn testified as follows:

3 THE CLERK: If you will, state your name for
4 the record, please.

5 THE WITNESS: Jeffrey Allen Crooks.

6 THE COURT: You may examine, Counsel.

7 MR. ANTHONY: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. ANTHONY:

10 Q Will you state your name, please?

11 A My name is Jeffrey Allen Crooks.

12 Q And, Mr. Crooks, how are you employed?

13 A I'm a Senior Agent with the South Carolina
14 State Law Enforcement Division, commonly referred
15 to as SLED.

16 Q And how long have you worked for SLED?

17 A Approximately eight years.

18 Q And what do you currently do for them?

19 A Currently assigned as a field agent in the
20 upstate region of South Carolina.

21 Q Okay. And back in August of 1999 what were
22 you doing with SLED?

23 A I was assigned to the SLED latent print crime
24 scene unit. My responsibilities included examining
25 fingerprints and other impression evidence, as well

JEFFREY CROOKS - DIRECT

1 as processing crime scenes.

2 Q And at that time how long had you worked for
3 SLED?

4 A About two years.

5 Q And could you tell the jury what your
6 educational background is?

7 A I have a Bachelor of Science Degree from The
8 Citadel. I'm a certified police officer in the
9 State of South Carolina, I have successfully
10 completed courses at the South Carolina Criminal
11 Justice Academy in investigations, crime scene
12 photography, fingerprint development techniques,
13 fingerprint comparisons, also successfully
14 completed courses in crime scene investigation,
15 palmprint identification, footwear and tire tread
16 examination, blood stain pattern analysis, advanced
17 blood stain pattern analysis. I have successfully
18 completed the Federal Bureau of Investigation
19 fingerprint comparison course, and I have testified
20 as an expert in crime scene and fingerprint
21 comparisons in the state courts of South Carolina
22 and North Carolina as well as federal court.

23 MR. ANTHONY: Your Honor, at this time we
24 would move to qualify Agent Crooks as an expert in
25 the field of crime scene analysis.

JEFFREY CROOKS - DIRECT

1 THE COURT: Questions on his voir dire?

2 MR. GROSE: No, sir.

3 THE COURT: Ladies and gentlemen, this
4 witness is an expert in the field of crime scene
5 analysis.

6 Continue.

7 MR. ANTHONY: Thank you, Your Honor.

8 BY MR. ANTHONY:

9 Q I'm going to take you now back to August 6 of
10 1999. Did you have an occasion to go to Calhoun
11 Falls on the night of August 6th, 1999?

12 A Yes, sir, I did.

13 Q And why did you go to Calhoun Falls?

14 A The city police department had requested SLED
15 assistance in a death investigation and needed
16 assistance with investigating a crime scene.

17 Q Okay. And if you would, just explain to the
18 jury why it is that somebody involved with SLED
19 might go to Calhoun Falls when they have a homicide
20 incident.

21 A Well, operating a crime scene unit takes a
22 lot of training, takes a good bit of money to
23 maintain equipment that's necessary. Many agencies
24 tend to have limited ability when it comes to
25 processing crime scenes, therefore we exist in

JEFFREY CROOKS - DIRECT

1 order to provide them whatever expertise they may
2 need and/or equipment to assist them with
3 investigating their scene.

4 Q And is that basically what you were going to
5 do in Calhoun Falls that night, assist the police
6 department?

7 A Yes, sir. SLED is an assisting agency. We
8 normally don't get involved in a case unless we are
9 asked to by the agency of jurisdiction. In this
10 case it would have been Calhoun Falls.

11 Q Okay. And when you arrived at Eastgate
12 Apartments that night what did you do initially?
13 How did you begin your --

14 A Upon my arrival I met with the officers at
15 the scene to get some background information on
16 what exactly they had. Once I did that I did what
17 we call a walk-through of the scene, basically look
18 at the scene to try to determine what exactly is
19 present, what's going to need to be done to try to
20 develop a game plan.

21 Once that is done we will photograph the
22 scene as it existed upon our arrival, with
23 photographs. Then we will begin looking in depth
24 into the actual scene itself to try to determine
25 what needs to be photographed in addition to the

JEFFREY CROOKS - DIRECT

1 basic photography and also what evidence needs to
2 be collected.

3 Q And when you arrived there did you take
4 pictures of the crime scene?

5 A Yes, sir, I did.

6 Q Okay. And then did you make an observation
7 of the vehicle where Artell Hill was shot?

8 A Yes, sir, I did.

9 Q Okay. And what did you observe when you
10 looked at the car?

11 A Well, the victim was sitting in the front
12 passenger seat of the vehicle. Upon my arrival the
13 door was closed, all the car doors were closed and
14 there was a sheet that had been placed over,
15 partially over the vehicle. Once the scene was
16 photographed as I saw it upon arrival, then we
17 removed the sheet and additional photographs were
18 taken depicting the victim, the victim's position
19 in the vehicle.

20 Q Okay. And was the victim holding anything
21 when you observed him at the crime scene?

22 A Yes, sir. There was, I guess I describe it
23 as a cane, or it was a large stick, it was in his
24 left hand and it was between his legs, from this
25 position, down toward the floorboard.

JEFFREY CROOKS - DIRECT

1 Q And where were his feet?

2 A Both of his feet were on the floorboard of
3 the passenger side of the vehicle.

4 Q And what was the position of his upper body?

5 A He was slightly leaned forward off the back
6 of the seat and leaned a little bit to his left.

7 Q And did you make, did you observe blood on or
8 about Artie Hill's person that night?

9 A Yes, sir, I did.

10 Q Okay. And where was blood located?

11 A There was blood observed running down his
12 right arm. There was also a large amount of blood
13 that had pooled in his lap area. There was also
14 blood present on his left hand and on the cane he
15 was holding in his left hand, as well as blood
16 located on the seat he was sitting in.

17 Q All right. And what observations did you
18 make about the direction of the flow of blood from
19 Mr. Hill?

20 A As far as any particular area of blood or all
21 the blood in general?

22 Q Just in general what observations did you
23 make about blood flow?

24 A The blood was flowing downward from his
25 injuries. All the blood that I observed on the

JEFFREY CROOKS - DIRECT

1 body was consistent with him being in that position
2 during blood letting. In other words, when the
3 blood was flowing, it appeared consistent with him
4 sitting in the seat.

5 Q Okay. And why would, why was the blood flow
6 that you observed consistent with him sitting in
7 the seat rather than being in some other position?
8 What would lead you to say it was consistent with
9 him being in the seat?

10 A Well, the blood that I observed was what we
11 call free flowing blood, it was basically blood
12 coming out of the injuries the victim had. In
13 particular was some blood on his right arm that
14 appeared to be coming from a wound to the shoulder.
15 The blood flowed down his upper arm and then turned
16 toward his inner arm and flowed down to the
17 floorboard area.

18 Normally it's been my experience when someone
19 is in another position, if he was standing up and
20 his arm was down the blood would have flowed down
21 his arm and continued down his arm as opposed to
22 going down his arm and then turning towards the
23 inside and flowing toward the floor as it would if
24 your arm was bent.

25 Q All right. And after you photographed the

JEFFREY CROOKS - DIRECT

1 car as it was when you got there and photographed
2 the victim inside, inside the car, what was done
3 then in regards to --

4 A Once all the items of evidence were
5 photographed, there were also some cartridge
6 casings present on the ground in the parking lot.
7 Those had already been marked, prior to my arrival,
8 with paper cups. Once those items were
9 photographed they were collected, the car was
10 photographed with the victim in place as he was
11 when I arrived. The car was looked through,
12 examined, the body was removed from the vehicle
13 after the photographs were taken, then I took
14 several more photographs of the vehicle once the
15 body was removed from the seat. Then I processed
16 the outside of the vehicle for fingerprints. I
17 observed several fingerprints that were
18 identifiable or useful for comparison, so I
19 collected them for comparison at a later date in
20 the lab.

21 Q Okay. And sticking with the fingerprints on
22 the car, did you find any prints of either Artell
23 Hill or Lanny Hill on the vehicle?

24 A No, sir. I compared the prints found on the
25 outside of the vehicle to fingerprints of both

JEFFREY CROOKS - DIRECT

1 individuals and was not able to identify any as
2 belonging to either one of them.

3 Q Okay. Then you made reference to there being
4 shell casings on the ground. What did you do in
5 regard to those?

6 A Well, the casings were collected
7 individually, they were packaged individually, then
8 I transported them back to Columbia to the SLED
9 lab. Once I got to the lab I processed the casings
10 for any fingerprint evidence that might be present.
11 I did not locate any fingerprints on the casings.
12 Then I transferred those casings to the firearms
13 department of the SLED laboratory for them to do
14 their analysis.

15 Q I hand you what has been marked for
16 identification as State's Exhibit Number 10. Can
17 you identify the items that are in this bag?

18 A Yes, sir, I can.

19 Q What are those items?

20 A These are tin containers, metal containers
21 that I used to package the cartridge casings in,
22 and the cartridge casings are also present.

23 Q All right. And those are the same containers
24 you used back in August of '99 when you worked the
25 crime scene?

JEFFREY CROOKS - DIRECT

1 A Yes, sir, that's correct. They bear my
2 initials as well as my handwriting describing the
3 location the casings were when they were collected,
4 along with the lab number. And I wrote on all four
5 of them that way.

6 Q You processed them for prints and then you
7 submitted them to the firearms department at SLED
8 to be analyzed and compared?

9 A Yes, sir, that's correct.

10 Q Okay. I'm going to show you now, I want to
11 show you now what has been marked as State's
12 Exhibit Number 9 for identification. Did you ever
13 see that particular container and the gun that's
14 contained in it?

15 A Yes, sir, I have seen them before.

16 Q Okay. And who showed you that gun?

17 A It was brought to the lab by then Sergeant
18 Harvard with Calhoun Falls.

19 Q All right. And what discussion did you have
20 and what decisions did you make in regards to
21 trying to process that gun?

22 A He told me where he found it. I met with him
23 and --

24 MR. GROSE: Objection to the hearsay, Your
25 Honor.

JEFFREY CROOKS - DIRECT

1 THE COURT: Sustained.

2 MR. ANTHONY: I'll just rephrase it.

3 BY MR. ANTHONY:

4 Q When that gun was brought to you what
5 condition was it in?

6 A It was in this bucket and it was submerged in
7 water.

8 Q Okay. Did you make a decision about
9 performing any analysis on the gun?

10 A Yes, sir. When he brought the gun to the lab
11 I observed that it was contained in water, which is
12 standard practice. If a gun is found in water we
13 always recommend that the weapon be packaged in
14 water. There is concern with the weapon rusting
15 when it's taken out of the water for any period of
16 time, so when he brought the weapon to the lab a
17 decision had to be made as to whether trying to
18 process the actual weapon for fingerprints would be
19 a detriment to the actual firearms comparison that
20 would have been done by the firearms lab because
21 there would have been a chance of the gun rusting
22 once it came out of the water.

23 Q So, what decision did you make in regards to
24 trying to do fingerprint analysis on it?

25 A Well, I felt like at the time, based on what

JEFFREY CROOKS - DIRECT

1 I knew about the case or what I had been told, I
2 felt like that being able to conduct a ballistics
3 comparison would have outweighed any value of
4 locating fingerprints on the weapon. It's been my
5 experience as a fingerprint examiner that although
6 you can find fingerprints on a weapon that has been
7 submerged in water, it doesn't happen very often
8 because the friction of the water from current and
9 just sitting in an extreme environment like under
10 water tends to have an adverse effect on
11 fingerprints. Just the current water flowing over
12 a gun itself can wipe off a print from a weapon. I
13 felt like the ballistics exam would have been more
14 valuable to the case, so we made a decision, I
15 conferred with the sergeant, he agreed, so we
16 decided to do only firearms exam instead of doing
17 both prints and firearms.

18 Q So, the gun was sent to firearms instead of
19 you working with it in latent prints?

20 A That's correct. I never received the gun, I
21 only talked to him about the options we had and
22 what we were going to decide to do.

23 Q Okay.

24 MR. ANTHONY: All right, thank you. That's
25 everything on direct.

JEFFREY CROOKS - DIRECT

1 THE COURT: Cross-examination.

2 MR. GROSE: If it please the Court, I'm going
3 to mark some photographs. Let's mark these:

4 (Defendant Exhibit Numbers 4 through
5 17 were marked).

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JEFFREY CROOKS - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q Agent Crooks, if I understand it, you came
4 from someplace other than Calhoun Falls?

5 A Yes, sir. I was assigned out of the lab in
6 Columbia.

7 Q All right. And Columbia is a good distance
8 from here, isn't it?

9 A Yes, sir.

10 Q And actually it's even a little farther from
11 here to Calhoun Falls, so it probably took you
12 about two hours, didn't it, or a little bit more?

13 A That's about right, yes, sir.

14 Q And you arrived at 10:00, right?

15 A Yes, sir.

16 Q In fact, you made a notation in your notes
17 you arrived exactly at 10:00?

18 A Yes, sir.

19 Q And that would be fairly consistent with
20 about how fast you could get from Columbia to
21 Calhoun Falls, I would think?

22 A Yes, sir.

23 Q All right. If you got a call sometime around
24 7:30, if you assumed that Officer Harvard arrived
25 at about 7:21, so sometime between 7:21 and 8:00

JEFFREY CROOKS - CROSS

1 o'clock you got a call, and probably two hours to
2 Calhoun Falls?

3 A I received the phone call at exactly 7:50
4 p.m.

5 Q Okay. Now, as I understand it, your training
6 is in processing crime scenes, examining crime
7 scenes?

8 A That's one area of my training, yes, sir.

9 Q Okay. So, it's your hope when you do that,
10 that things are preserved fairly intact before you
11 get there, don't you?

12 A Yes, sir.

13 Q Okay. And in this case when you arrived you
14 found that there had been a crime scene tape put
15 up?

16 A Yes, sir.

17 Q Okay. And you found that there had been a
18 covering put over the car, right?

19 A Partially over the car, yes, sir.

20 Q And you found that there was some cups that
21 were put over some shell casings that were found?

22 A That's correct.

23 Q Okay. I believe you testified that one of
24 the things you do when you get there is you talk to
25 the chief or the investigating officer, somebody on

JEFFREY CROOKS - CROSS

1 crime scene, the location, to find out what it is
2 they're dealing with?

3 A That's correct.

4 Q And that's before you start taking
5 photographs, before you start doing any
6 examinations?

7 A That's correct.

8 Q And the person that you talked to in this
9 case was Terry Harvard of the Calhoun Falls Police
10 Department?

11 A Yes, sir.

12 Q Okay. And what you had was, what was
13 described to you was that there was heard four
14 shots, right?

15 A Yes, sir.

16 Q I tell you what --

17 A I believe it was four shots, that's what they
18 told me.

19 Q You've got a page of notes that look like
20 that, don't you?

21 A Yes, sir.

22 Q Why don't you flip to that so we're looking
23 at the same thing.

24 If you go down about a third of the page your
25 notations were, "Witness advised they heard four

JEFFREY CROOKS - CROSS

1 shots"?

2 A That's correct.

3 Q Okay. And you were also advised that
4 witnesses stated that Mr. Hill was sitting in the
5 vehicle in the parking lot, right?

6 A That is correct.

7 Q And that's notated, in fact, just a little
8 bit above that, that's notated in your notes?

9 A That's correct.

10 Q And you take photographs, and I think the
11 first thing you want to do is start documenting
12 generally what you see?

13 A Yes, sir.

14 Q Because in processing the crime scene,
15 looking at it, eventually you are going to get to
16 where you're moving things, right?

17 A That is correct.

18 Q So, what you want to do, you want to start
19 far out and get a picture of what it looked like
20 when you got there?

21 A That is correct.

22 Q And then you want to start moving in a little
23 bit closer and take pictures of that?

24 A Yes, sir.

25 Q And that's a way of sort of documenting what

JEFFREY CROOKS - CROSS

1 you're doing when changes are made?

2 A That is correct.

3 Q And then if you find anything of significance
4 you're going to want to take a close-up of that,
5 right?

6 A Yes, sir.

7 Q I'm going to hand you what has been marked as
8 Defendant's Exhibits 4 through 17. Those are
9 pictures you took that night, aren't they?

10 A Yes, sir, it is.

11 MR. GROSE: I would move those into evidence,
12 Your Honor.

13 THE COURT: How says the State?

14 MR. ANTHONY: No objection.

15 THE COURT: Without objection, Defendant's
16 Exhibits 4 through 17 will become evidence in the
17 case, ladies and gentlemen.

18 (Thirteen photographs were received
19 in evidence as Exhibits 4 through 17).

20 BY MR. GROSE:

21 Q I hand you State's Exhibit 7. You took that?

22 A Yes, I did.

23 Q That is not dissimilar to, not all of them,
24 but not dissimilar to what I showed you a minute
25 ago?

JEFFREY CROOKS - CROSS

1 A That's correct.

2 Q That one has some holes in one of the bottom
3 corners, doesn't it?

4 A Yes, it does.

5 Q Those holes, they form probably letters and
6 numbers or something of that nature?

7 A Yes, sir. When a case is submitted to our
8 lab, whether it's by us or by an outside agency,
9 that case is assigned what we call a lab number and
10 when we get our photographs processed that number
11 is stamped with perforation into those photographs.

12 Q All right. The ones that I just showed you,
13 that I just moved into evidence, those don't have
14 that on them, do they?

15 A I don't believe they do.

16 Q You can look at them. They don't, do they?

17 A No, sir, they don't.

18 Q And I believe you might be aware we requested
19 copies that didn't have the stamps made on them,
20 the stamps put in them?

21 A That's correct.

22 MR. GROSE: And Numbers 1 and 2, Defendant's
23 Numbers 1 and 2, those are, those are already in
24 evidence, Your Honor.

25 Q Those are pictures that you took?

JEFFREY CROOKS - CROSS

- 1 A That is correct.
- 2 Q Okay. And the numbers are on the back of
3 this but I have State's Exhibits 2, 4 and 6. Those
4 are pictures that you took?
- 5 Q Yes, sir, I'm sorry. Yes, sir, it appears to
6 be.
- 7 Q Okay. Let's set these down. Let's talk
8 about some of these.
- 9 I'm going to hand you, to begin with, Numbers
10 4 and 5. If you don't mind, you can step down here
11 so we can show these jurors.
- 12 Let's start with Number 4 and tell them what
13 that shows. That would be something -- why don't
14 we hold it up so they can see. That would be what
15 you found when you arrived at the scene, isn't that
16 correct?
- 17 A Yes, sir, it is.
- 18 Q And that depicts --
- 19 A Well, that bag there is part of my equipment.
- 20 Q The bag is part of your equipment but I'm
21 talking about the car and the sheet and the cups.
- 22 A Yes, sir, that's correct.
- 23 Q And the yellow tape, does that one show the
24 yellow tape?
- 25 A Yes.

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1 Q It shows it on the one side?

2 A Yes.

3 Q All right. In fact, let's show both of these
4 at once because these are the same from different
5 angles, aren't they?

6 A Yes, sir.

7 Q Okay. And when I was asking you a minute ago
8 about taking things from far back or very
9 generally, that is what you were doing?

10 A Yes, sir.

11 Q That's what you found?

12 A Yes.

13 Q Okay. And let me take those back from you.
14 I will hand you number -- well, let's start with
15 Numbers 1 and 2 that are already in evidence. If
16 you can show those to the jury, those are pictures
17 of the car from the outside after you removed the
18 sheet. Isn't that correct?

19 A Yes, sir. Well, this one is. Yes, sir, they
20 both are.

21 Q Okay. And, so, this is sort of documenting
22 that after you got there you took the sheet off,
23 you looked at it still from a distance. Right?

24 A Yes.

25 Q And hadn't disturbed anything?

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1 A Yes, sir, that's correct.

2 Q And in Number 1 it shows that door being
3 shut, you had been told that that's what they found
4 when they arrived, being Officer Harvard when he
5 arrived at the scene, is that right?

6 A I'm sorry, what was that?

7 Q You were told that the door to the car was
8 shut, that's what Officer Harvard found?

9 A I believe that's correct, yes.

10 Q And that's what that picture depicts?

11 A Yes.

12 Q And this is Number 1 that we're looking at.
13 Now, Number 6 is a little bit of a closer picture
14 to the car, isn't it?

15 A Yes, sir, it is.

16 Q All right. We're looking at it from the
17 passenger side, right?

18 A That's correct.

19 Q So, this is kind of consistent with moving
20 in, looking at it a little closer?

21 A Yes, sir.

22 Q Now I'm going to show you Number 7 and Number
23 8. Those are two different angles from the front
24 of the car?

25 A Yes, sir, that's correct.

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1 Q Okay. And let's turn these around so they
2 can see them.

3 Now, what's significant about these angles
4 from the front of the car, when you look at both of
5 them you can tell that the front windshield was not
6 shattered or shot through or anything like that?

7 A That's correct.

8 Q Okay. In Number 7, on what would be the left
9 shoulder, do you see a red spot there?

10 A Yes, sir, I do.

11 Q All right. And if this helps you with
12 anything let me know, okay?

13 A Okay.

14 Q Now, at the time you arrived you thought you
15 were dealing with four gunshot wounds because
16 that's what you were told?

17 A Yes, sir, that is what I was told.

18 Q Are you aware there were six gunshot wounds?

19 A I have not actually seen the pathology
20 report. I believe there was more than four but I'm
21 not sure how I know that, if I found that out
22 through his office or --

23 Q Do you know if that red spot on the left
24 shoulder, which would be on the passenger side, do
25 you know if that's a gunshot wound or not?

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1 A Just looking at this picture, no. It appears
2 to be just a stain of blood.

3 Q So, what you're telling these jurors is that
4 on August 6th and up until today you don't know
5 what that red spot on the shoulder is?

6 A No, I'm saying based on looking at that
7 picture I'm not sure what it is.

8 Q Okay. And you have never seen an autopsy
9 report in this case?

10 A No, sir, I never received a copy of that.

11 Q Sometimes you crime scene analysis people do
12 receive autopsy reports, don't you?

13 A Sometimes we do, yes, sir.

14 Q Would you like to take a look at it? Beg the
15 Court's indulgence for a moment.

16 THE COURT: The witness may resume his seat.
17 While we're doing that, ladies and gentlemen, we'll
18 take a short recess. We have been in session for
19 an hour and four minutes.

20 Do not discuss the case by, between and among
21 yourselves, and retire briefly, with this
22 additional information. We are going to run late
23 this evening, a little later, because after this
24 witness we have another witness who has come from
25 far away and we need to dispose of both of those

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1 witnesses so the other will not have to return
2 tomorrow. So, if you need to make a telephone
3 call, and it's expected we might go until about
4 6:30, maybe a quarter of 7:00 possibly, if you need
5 to make a telephone call to alert some family
6 member or someone that you are going to be busy
7 here and working later than usual please let one of
8 the bailiffs know and that will be arranged.

9 Do not discuss the case by, between and among
10 yourselves under any circumstances, and retire to
11 the jury room.

12 Thank you.

13 (The jury was excused from the courtroom).

14 THE COURT: Mr. Witness, you will not discuss
15 anything you have been asked or any answers you
16 have given or any questions you expect you could be
17 asked or any answers you could give to those
18 anticipated questions under any circumstances. Do
19 you understand?

20 THE WITNESS: Yes, I do.

21 THE COURT: You are ordered not to discuss
22 this case with anyone under any circumstances but
23 you as well are entitled to take a break.

24 THE WITNESS: Okay.

25 THE COURT: So, walk around, relax but it is

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1 suggested you not talk with any of the attorneys or
2 anyone involved in the case.

3 THE WITNESS: Okay.

4 THE COURT: Do you understand?

5 THE WITNESS: Yes, I do.

6 THE COURT: Thank you very much, sir.

7 MR. GROSE: Your Honor, with your permission
8 I will let him look at this report.

9 THE COURT: Sure, while we're in recess he
10 can take it in the back there. Any objection,
11 Solicitor?

12 MR. ANTHONY: No.

13 THE COURT: Take a seat back there and study
14 that information, Mr. Witness, thank you.

15 We are in recess.

16 (Recessed at 5:14 p.m.).

17 (Reconvened at 5:22 p.m.).

18 THE COURT: The record will open, please.
19 State of South Carolina versus Robert Orlando Hill,
20 indictment 99-494.

21 Ask the jury in, please.

22 (The jury returned to the courtroom).

23 THE COURT: All jurors are present, with the
24 foreman and alternates properly seated. Mr.
25 Witness, if you would come forward.

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1 Mr. Witness, have you talked with anyone
2 about any answers you have given to questions you
3 have been asked or any answers you expect that you
4 may give to any anticipated questions?

5 THE WITNESS: No, sir, I have not.

6 THE COURT: Have you discussed this case with
7 anyone at all under any circumstances?

8 THE WITNESS: No, sir, I have not.

9 THE COURT: Do you understand you have been
10 sworn and you remain under oath to tell the truth?

11 THE WITNESS: Yes, sir, I do.

12 THE COURT: Thank you, sir. The witness is
13 with you on continued cross-examination.

14 BY MR. GROSE:

15 Q Right before the break, Mr. Crooks, I asked
16 if you ever received a copy of the autopsy report.

17 A Yes, sir.

18 Q But you had not?

19 A I had not.

20 Q That is something you sometimes review in
21 your line of work or field of professional
22 expertise, is that correct?

23 A Yes, sir. It is not necessarily a required
24 document that we collect. It depends on exactly
25 what we're requested to look at, if any further

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1 analysis of the photographs is requested.

2 Q Right, but nobody ever requested any further
3 analysis of the photographs, did they?

4 A No, sir.

5 Q Okay. But it is something you do rely on in
6 your field of expertise, is that correct?

7 A Well, for certain things. It depends on what
8 you're wanting us to tell you.

9 Q Well, for example, you read this autopsy
10 report during the break, right?

11 A Yes, sir.

12 Q We did that, the jury may, I think they were
13 leaving or out of the room, so the jurors didn't
14 hear that but we did it with the judge's and
15 solicitor's agreement because you have been
16 instructed not to talk to anybody, but we agreed
17 you can look at that report to save time, right?

18 A Yes, sir, that's correct.

19 Q After looking at that report you know that
20 there was actually six separate gunshots?

21 A Yes, sir.

22 Q Okay. And that is different than the
23 information that you had at the scene when you took
24 the photographs, right?

25 A Yes, sir, that's correct.

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1 Q Because what you were told was four but it
2 was really six, correct?

3 A Yes, sir, that's correct.

4 Q And after determining that it was six and not
5 four nobody asked you to conduct an additional
6 analysis of the photograph, did they?

7 A No, sir, nobody did.

8 Q All right. I'm going to hand you 7 and 8,
9 Defendant's 7 and 8. Those were photographs we
10 were talking about before this whole autopsy report
11 came up.

12 And that's a picture from the front of the
13 car, right?

14 A Yes, sir, it is.

15 Q And I think we agreed that the windshield was
16 intact, right?

17 A Yes, sir, it is.

18 Q All right. And having read the report, you
19 are now aware that that red spot on the left
20 shoulder is a gunshot wound?

21 A Yes, sir, it is.

22 Q And after having read the report, are you now
23 aware that that gunshot wound entered and exited?

24 A Yes, sir.

25 Q Okay. And you are also aware a little bit

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1 about the angle of that entry and exit now, aren't
2 you?

3 A (No response).

4 Q Let me show you, maybe speed this up a little
5 bit.

6 A Yes, sir.

7 Q Okay. And it entered, it basically dropped
8 about half an inch from the time it entered until
9 the time it exited, right?

10 A Approximately, yes, sir. That's according to
11 what this says, yes, sir.

12 Q So, it was more or less a level shot, with a
13 slight drop?

14 A It says it went from three-eighths of an
15 inch, I'm sorry, from three inches down, three
16 instance below the shoulder and exited three and a
17 half inches, so, yes, sir, that's correct.

18 Q What they do, they measure from the shoulder,
19 down to where it went in, and the shoulder, down on
20 the back to where it went out, is that right?

21 A That's correct.

22 Q All right. Now, you collected, we're going
23 to come back to these later, but you collected some
24 shell casings out there, didn't you?

25 A Yes, sir.

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1 Q And we're looking at -- what number is that,
2 if you will read that, please?

3 A This one on the outside?

4 Q No, the exhibit number.

5 A I'm sorry, State Number 10.

6 Q Okay. You did not collect any projectiles,
7 did you?

8 A No, sir. I was unable to locate any.

9 Q And you looked for them?

10 A Yes, sir, I did.

11 Q All right. Now I'm going to hand you what's
12 been marked as State's Exhibit Number, I mean
13 Defendant's Exhibit Number 9. I will hand you
14 that. If you could look back here, do you see a
15 tear in the shirt?

16 A Yes, sir, I do.

17 Q That very possibly could be the exit wound,
18 couldn't it?

19 A Yes, sir, it could.

20 Q And that looks like that passes near the edge
21 of the seat, so if I'm sitting in the seat here and
22 out near the edge of the seat, is that right?

23 A I'm sorry, repeat that.

24 Q It looks as though when it would go through,
25 if you followed the angle, it would either go into

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1 the seat or into the back seat of the car, if you
2 just followed in a straight line, entrance/exit,
3 straight out?

4 A That is possible. It would depend on his
5 body position at the time he was shot.

6 Q Okay. That's what we're going to talk about.
7 You didn't find a bullet in the seat, did you?

8 A No, sir. I was unable to find one.

9 Q You didn't find one in the back seat?

10 A No, sir.

11 Q So, that indicates that his body was in a
12 different position than how it's sitting in the
13 car, doesn't it?

14 A Well, that is definitely a possibility. It
15 is also a possibility that the bullet could have
16 been there and I did not find it. All I can tell
17 you is I did not find it.

18 Q Are you aware of how many projectiles were
19 recovered total?

20 A Projectiles, no, sir, I'm not.

21 Q Okay. You didn't recover any?

22 A No, sir. Only cartridge casings.

23 Q Okay. Now, let's do this if you don't mind.
24 Step down here again.

25 A Do I need the picture?

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1 Q No, you can leave that up there. If you
2 could, with that yardstick show generally what the
3 path would be and the angle.

4 A I would say, I would guess probably about
5 like that.

6 Q That's more than a half inch drop.

7 A All right. I can't see.

8 Q Something like that. So, if I pulled this
9 out more or less at that angle, if I had a gun in
10 this hand and you were standing toward me, it could
11 make that entrance and exit wound, couldn't it?

12 A Yes, sir, it could.

13 Q Okay. In fact, my right hand with the gun
14 would be pointing toward the left side of your
15 body, wouldn't it?

16 A To shoot me in the left shoulder, yes, sir.

17 Q If we were face to face, squared up towards
18 each other?

19 A That is a possibility, yes, sir.

20 Q Okay. You can have a seat again, please.

21 In fact, after reading that autopsy report,
22 going back to the number of projectiles, you're
23 aware that only three were recovered in the
24 autopsy, aren't you?

25 A I believe that's what it says. I'm just

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1 double checking.

2 Q Take your time.

3 A Yes, sir, that's what it says, three.

4 Q Okay. And you looked for them and you didn't
5 find them?

6 A Yes, sir, that's correct.

7 Q And what you were told was, is that all these
8 shots were into the car and you didn't find any of
9 them in the car anywhere?

10 A That's correct.

11 Q All right. I'm going to hand you what's been
12 marked as Defendant's Exhibit Numbers 10, 11 and
13 12. We have already talked about those and put
14 those into evidence, haven't we?

15 A Yes, sir, we have.

16 Q And those are pictures of Artell Hill sitting
17 in the car. Is that right?

18 A Yes, sir, that's correct.

19 Q Now, you talked about blood running down, and
20 basically Artie is sitting in the car and he's
21 holding this stick, Defendant's Number 3. You
22 recognize that?

23 A Yes, sir, that's the stick he was holding.

24 Q Okay. In fact there is blood on the stick,
25 isn't there?

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1 A Yes, there is.

2 Q And blood running down the stick?

3 A That's correct.

4 Q And what you're talking about with blood
5 flowing down, there was head wounds and at the time
6 that blood, that blood started flowing it flowed
7 down into his lap and even onto this stick?

8 A Yes, sir, that's correct.

9 Q Okay. There is no blood flow from the
10 shoulder wound, is there, just a red dot?

11 A Well, that technically is blood flow, yes,
12 sir, but there was no blood flowing down from --

13 Q No blood flowing down?

14 A Just a stain.

15 Q Okay. And, so, if he was in this position
16 when the blood started flowing and his head fell
17 forward, that would be on the stick, right, and
18 flow down into his lap?

19 A Yes, sir, that's correct.

20 Q But you're not talking about every wound
21 causing the same blood flow because the different,
22 the blood would flow different from the different
23 wounds, wouldn't it?

24 A I'm not sure I understand your question.

25 Q Okay. There is no blood running down from

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1 the wound on the shoulder?

2 A No, sir.

3 Q All right. So, the blood on the stick and in
4 his lap, that's not from the shoulder wound, that's
5 from the head wound?

6 A The blood in the lap, yes, sir, that is from
7 the head wound.

8 Q Okay. Now, what you were told when you got
9 there is the car door was shut, right?

10 A Yes, sir.

11 Q Defendant's Exhibit Number 1, that's how you
12 found it after you took --

13 A After we took the sheet off, yes.

14 Q After you took the sheet off, and that
15 picture does indeed show the car door shut, doesn't
16 it?

17 A Yes, sir.

18 Q Okay. I'm just going to move this. All
19 right, what I want to do is focus on 11 and 12. Do
20 you still have the magnifying glass?

21 A Yes, sir, I do.

22 Q Okay. What I want you to do is let's look at
23 the Number 12 first. In fact, Number 12 is closer
24 up, right? Do you see this area down here? That's
25 where the car door would cover when it's shut.

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1 Isn't that correct?

2 A Are you talking about the ribbed portion
3 where the screws are?

4 Q The ribbed portion where the screws are.

5 A Yes, that's correct.

6 Q In fact there is some dirt and sand in there,
7 right?

8 A Yes.

9 Q There is some ribs and a little gap in there,
10 right?

11 A Yes.

12 Q Between the gaps between the ridges, is what
13 I'm saying?

14 A Yes, sir.

15 Q I want you to look down on this end toward
16 your left. Can't you see blood or what appears to
17 be blood drops in that area where the ribs are?

18 A No, sir. That appears to be debris.

19 Q You don't see red in there? Look down toward
20 this end.

21 A I see what appears to be blood drops on the
22 vertical portion and also on the portion, the
23 higher portion, but the blood right here, or the
24 marks right here around this screw, I'm not
25 convinced that's blood.

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1 Q You can't say that's not blood, can you?

2 A Well, there is a reason why I say that, and
3 that's because of another photograph.

4 Q Which photograph?

5 A Another photograph in this set.

6 Q Which one?

7 A It's not one of these that's been introduced.
8 This photograph.

9 MR. GROSE: Okay, let's mark this as the next
10 defendant's in order.

11 (Defendant's Exhibit 18 was marked).

12 BY MR. GROSE:

13 Q Doesn't there appear to be blood on that
14 screw?

15 A Where is the original ones you showed me?

16 Q I think you have them in your lap there.

17 A There appears to be something there.

18 However, when you compare the photographs of
19 basically the same area, the first photograph being
20 the one with the body in the seat and then the
21 second one being the photograph of once the body
22 was removed from the seat, those areas that appear
23 to be objects are in different locations, they are
24 not consistent, which leads me to believe it is
25 some type of debris.

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1 Now, there are spots that do appear
2 consistent to me on the vertical edge, that I would
3 agree that, yes, that is blood, which would be this
4 part right here. However, based on comparing those
5 two photographs, if the blood had dropped on that
6 location and had dried, then there is really no
7 reason why it should have moved.

8 Q Right.

9 MR. ANTHONY: Your Honor --

10 A So, the two photographs are not consistent.

11 MR. ANTHONY: Could we just put on the record
12 the exhibit numbers of the two pictures?

13 MR. GROSE: He's looking at Number 12 and
14 Number 18.

15 I move Number 18 into evidence.

16 THE COURT: Any objection?

17 MR. ANTHONY: No objection.

18 THE COURT: Number 18 is part of the
19 evidence.

20 (Photograph received in evidence as
21 Defendant's Exhibit Number 18).

22 BY MR. GROSE:

23 Q On the blue vertical part --

24 A Yes, sir.

25 Q -- do you agree it looks like blood on that

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1 in Number 18, don't you?

2 A Yes, sir, I do believe that is blood.

3 Q And it looks like it's on the top and on the
4 front side?

5 A The top and the vertical side, yes, sir, I
6 agree with that.

7 Q All right. And the top side, I mean the
8 vertical side, the door would close against,
9 wouldn't it?

10 A Normally, yes, sir, that is the case.

11 Q All right. So, if that blood is on the
12 vertical, the blue vertical part where the door
13 would normally be closed, that could very well
14 indicate that that door was open when that blood
15 got there?

16 A That could indicate that. However, I would
17 not, based on my training doing blood stain pattern
18 analysis, would not use that conclusively to
19 indicate that the door was open. The reason why I
20 say that is because this being an older car, I have
21 seen doors that don't close where there would not
22 at least be some sort of a gap between that
23 vertical side and the car door because of the age
24 of the vehicle.

25 Q But you can't say, based on that, you can't

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1 rule out that door was open at some time, based on
2 those photographs, can you?

3 A I would not rule out that as a possibility,
4 yes, sir.

5 Q All right. When you were there that night
6 you weren't looking for that possibility, were you?

7 A Yes, sir. I was looking for every
8 possibility.

9 Q You don't have any close-ups of that, do you?

10 A No, sir. These are the only photographs I
11 have.

12 Q Right. And sometimes you do take close-ups
13 of things for later analyzation?

14 A Yes, sir, that's correct.

15 Q In fact, in 13 through 17 these are very
16 close-up pictures, we will talk about them more in
17 a minute, but those are very close-up, right?

18 A Yes, sir.

19 Q Okay. Now, nobody ever asked you to go back
20 and analyze these again, did they?

21 A No, sir, they did not.

22 Q Now, on State's Number 7, that's one of the
23 ones that has those holes in it we talked about,
24 right?

25 A That's correct.

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- 1 Q All right. Those holes just happen to be,
2 not through any design or anything, but randomly
3 where you decided to put them, along that door
4 base, that door stripping?
- 5 A Well, some of the area is perforated.
6 However, there still is a fair amount that is not
7 obliterated by those dots. But, yes, sir, it is in
8 that general area.
- 9 Q Those dots are in that general area?
- 10 A That's correct.
- 11 Q All right. Let's go ahead and move on for a
12 second. I'm going to hand you Number 13. What
13 Number 13 is, is a close-up of the right shoulder,
14 correct?
- 15 A Yes, sir, that's correct.
- 16 Q And what it shows, I'm going to hold it to
17 the jury so they can see it while we talk about it,
18 what it shows is what appears to be an entrance
19 wound through a bloody shirt?
- 20 A Correct.
- 21 Q Okay. Now, at the time that you were taking
22 this photograph you didn't know the path of that
23 bullet, did you?
- 24 A No, sir, I did not.
- 25 Q Having during our break looked at the autopsy

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1 report you do, don't you?

2 A I read it. I will have to refer to it again.

3 Yes, sir, I do.

4 Q All right, and that path was into the armpit
5 area, wasn't it?

6 A It says from the distal arm, toward the
7 proximal arm.

8 Q What would that path be?

9 A I'm not familiar with that terminology.

10 Q All right. So, we would have to ask Dr.
11 Woodard, who did the autopsy, about that?

12 A That is correct, if you want an accurate
13 assessment, yes, sir, I would recommend that. I
14 don't feel comfortable explaining that terminology
15 because I'm not that familiar with it.

16 Q Okay. Nobody has ever come back to you and
17 asked you to do more examinations after the
18 autopsy, we have already established that, right?

19 A That is correct.

20 MR. GROSE: Let's mark this.

21 (Defendant Exhibit Number 19 was marked).

22 BY MR. GROSE:

23 Q I'm going to hand you what has been marked as
24 Defense Exhibit Number 19, and absent maybe this
25 number that was Number 10 that's put in the top

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1 corner, you drew that diagram, didn't you?

2 A Yes, sir, I did.

3 Q And I'm going to look at Number 5.

4 MR. GROSE: Your Honor, I move Number 19 into
5 evidence.

6 MR. ANTHONY: No objection.

7 THE COURT: Without objection Number 19 will
8 become part of the evidence in the case.

9 (Diagram received in evidence as Defendant's
10 Exhibit Number 19.

11 BY MR. GROSE:

12 Q Number 5 handed up has pictures of the cups
13 over the shell casings, right?

14 A Yes, sir.

15 Q Number 19, the diagram we just did, has three
16 circles, I mean four circles, I'm sorry, with
17 numbers on them that you placed there, right?

18 A Yes, sir.

19 Q And basically what you did is somewhat
20 arbitrarily or randomly but in a logical way you
21 numbered these so that you could track what was
22 found where?

23 A Yes, sir, I did.

24 Q Okay. And in fact what we have here today in
25 evidence has the same number?

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1 A Yes, sir.

2 Q All right. In fact, so the jury can
3 understand this, this is from State's Exhibit
4 Number 10, and I just grabbed one out of there,
5 that's Number 4?

6 A Yes, sir.

7 Q And in this there is also a shell casing,
8 right?

9 A Yes, sir.

10 Q And, so, what we know, I'm just going to hold
11 this up since it's already in evidence, so they can
12 see it, what we can do is we can take each one of
13 these and match it to a location in these pictures
14 and diagram, right?

15 A Yes, sir.

16 Q I'm going to show this to the jury, I will
17 show the picture.

18 What we have already introduced as 14, 15, 16
19 and 17 are pictures that you took close up?

20 A Yes, sir.

21 Q Is that right?

22 A Yes, sir. I'm sorry.

23 Q In fact, what we see in those is the shell
24 casing with the container that you were going to
25 put it in next to it, right?

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1 A That's correct.

2 Q I'm just going to take one, they are all
3 fairly similar, aren't they, but one goes to each
4 one?

5 A Yes, sir, that's correct.

6 Q There are four photographs that go to each
7 one of them. Now I'm going to hand you back Number
8 14. I want you to take that magnifying glass, or
9 you may not even need it, and I want you to look
10 right there, which would be to the left of the
11 shell. Did I get it back?

12 A I don't know. Here it is.

13 Q All right. Do you see that red spot there?

14 A Yes, sir.

15 Q You cannot rule out that that red spot is a
16 drop of blood, can you?

17 A No, sir, I cannot rule that out.

18 Q All right.

19 A I also cannot confirm that that is blood.

20 Q All right. Let's talk about that for a
21 second. You only have, in information you
22 collected, you were only told about one person
23 having injuries, right?

24 A Yes, sir, that's correct.

25 MR. GROSE: Your Honor, if I may, I would

JEFFREY CROOKS - CROSS

1 like to publish this to the jury, with the
2 magnifying glass.

3 THE COURT: You may.

4 BY MR. GROSE:

5 Q You were only given information about one
6 person having injuries, and that was Artell Hill?

7 A Yes, sir.

8 Q And, so, if what we see in that photograph is
9 blood, then that means Artell Hill was outside the
10 car, doesn't it?

11 A If it was his blood.

12 Q And you said you had no way of confirming
13 whether it was blood or whose blood it is, but
14 that's really not true, is it, you do?

15 A I have no way of confirming it based on that
16 photograph.

17 Q Right. But SLED is an agency that deals
18 with, you have lots of different departments,
19 right?

20 A Yes, sir.

21 Q And we talked about your training and your
22 expertise, right?

23 A Yes, sir.

24 Q You analyze crime scenes, right?

25 A Yes, sir.

JEFFREY CROOKS - CROSS

- 1 Q You analyze blood splatter?
- 2 A Yes, sir.
- 3 Q You analyze fingerprints?
- 4 A Yes, sir.
- 5 Q All right. You don't particularly analyze
- 6 firearms, right?
- 7 A No, sir, I do not.
- 8 Q We have a gentleman, is this gentleman
- 9 sitting back here waiting to testify about
- 10 firearms?
- 11 A Uh-huh (Affirmative).
- 12 Q Is that a yes?
- 13 A Yes, I'm sorry.
- 14 Q I believe you said when you collected this
- 15 gun, State's Exhibit number 9, you decided not to
- 16 fingerprint it because you wanted this fellow back
- 17 here to have a good shot at examining it, right?
- 18 A That's correct.
- 19 Q Basically it goes to another office or
- 20 another building or another place at SLED, right?
- 21 A That's correct.
- 22 Q And you also at SLED have evidence processing
- 23 departments, don't you?
- 24 A Yes, sir.
- 25 Q And one of the things that the evidence

JEFFREY CROOKS - CROSS

1 processing department does is they look at things
2 that can be collected at the crime scene, right?

3 A Yes, sir.

4 Q Fibers?

5 A Yes, sir.

6 Q Because if I go in and do something I could
7 lose fiber off my coat, they examine fibers, they
8 examine hair fiber, right?

9 A Yes, sir.

10 Q They also examine blood, don't they?

11 A Yes, sir.

12 Q And even though you're not technically up on
13 that, you work with them and you know that they can
14 examine that item that's collected that's believed
15 to be blood and determine if it's blood, right?

16 A Yes, sir. I can do that in the field.

17 Q You can do that in the field and you can give
18 them that for them to do?

19 A Yes, sir.

20 Q You can send them blood and they can send it
21 to the DNA department?

22 A Yes, sir.

23 Q The DNA department is very sophisticated,
24 very accurate, isn't it?

25 A Yes, sir, it is.

JEFFREY CROOKS - CROSS

1 Q They can take a sample of somebody's blood
2 and compare it with an evidence sample, right?

3 A Yes, sir.

4 Q And from your knowledge in general and from
5 having read that autopsy report for the first time
6 today, you know that Dr. Woodard collected some
7 body fluid, including blood, and sent to it SLED,
8 right?

9 A Yes, sir.

10 Q You didn't collect anything that was believed
11 to be blood to send to SLED for comparison, did
12 you?

13 A No, sir.

14 Q And that stuff that we saw on the door that
15 could be where the door closes, you didn't collect
16 any of that?

17 A No, sir, I did not.

18 Q So, there was a way to have that tested if
19 you had collected it?

20 A Well --

21 Q If you had collected it?

22 THE COURT: The witness can answer the
23 question.

24 A If it were blood, yes, sir.

25 Q It could be tested to determine if it was

JEFFREY CROOKS - CROSS

1 blood?

2 A Yes, sir.

3 Q And what we see in that photograph that the
4 jurors are passing around right now, you could
5 collect a sample of that and test it to determine
6 if it was blood, right?

7 A Yes, sir.

8 Q And to determine whose blood it was?

9 A Yes, sir.

10 Q Or rule out whose blood it could be?

11 A Yes, sir.

12 Q Very accurate?

13 A Yes, sir.

14 Q And then we would know?

15 A Yes, sir.

16 Q But we didn't do any of that in this case,
17 did we?

18 A No, sir.

19 Q And you can't rule out that there was blood
20 in that car door where it should be closed, you
21 can't rule that out?

22 A Are you talking about on the ribbed portion?

23 Q On the vertical part that the door would
24 close against.

25 A That is probably blood, I agree that is more

JEFFREY CROOKS - CROSS

1 than likely blood.

2 Q And you didn't collect that?

3 A No, sir, I did not.

4 Q That could have been evidence that the door
5 was open?

6 A It's possible.

7 Q And that it is more probable that it was
8 blood?

9 A Yes, sir.

10 Q And you didn't collect anything that's next
11 to shell casing Number 1 that's in that photograph
12 that the jurors are passing around?

13 A No, sir, I did not.

14 Q All right.

15 MR. GROSE: Beg the Court's indulgence.

16 I have nothing further, Your Honor.

17 THE COURT: Redirect?

18 MR. ANTHONY: If I can have a moment?

19 THE COURT: Take your time.

20 MR. ANTHONY: I would just like to take a
21 moment to see the pictures.

22 THE COURT: Bailiff, obtain that, please, and
23 hand it to counsel.

24

25

JEFFREY CROOKS - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. ANTHONY:

Q In your collection of the shell casings did you see anything on the ground that looked to you like blood?

A No, sir. When you're looking for items of evidence on a pavement it's extremely difficult to find, to find even cartridge casings. When it's in the dark it makes it even more difficult. That stain next to that casing, just now is the first time I have noticed that stain. I cannot tell you if it was blood. It could be transmission fluid, for all I know, I don't know. I have seen that in a parking lot before because transmission fluid tends to have a red tint to it. It could definitely be blood.

A lot of times in these photographs the appearance in the photograph, when you take a picture in the dark, looks a lot brighter because of the flash but it is extremely difficult to find stains like that on that dark background. That is not to say we don't look for them. It's been my experience that even when you're told the number of cartridge casings or number of shots that have been fired you tend to look for more because you know

JEFFREY CROOKS - REDIRECT

1 there is a possibility that the witness heard
2 wrong. The same thing goes with this blood. It's
3 definitely possible that could be blood I missed
4 but at the same time that is an extremely difficult
5 environment to locate spots like that.

6 Q All right. If somebody had been shot
7 standing outside of the vehicle would you expect
8 more than just one spec of blood? Would you expect
9 to find more blood than that on the surface of the
10 parking area?

11 A Depending on the nature of the wound. Some
12 wounds, for example a head wound, bleed a lot more
13 than, say, a wound to the body. If a person is
14 shot and it pierces his heart it is possible he
15 could bleed profusely from that wound. It is also
16 possible you could get shot and not leave any blood
17 at all. By example of that a wound in the victim's
18 left shoulder. There was no, there is no
19 indication that blood dripped from that wound.

20 Q And going back to what you were asked about
21 the photographs of the inside of the car, and let
22 me get those. Do you still have them?

23 A I'm sorry, I've got --

24 MR. GROSE: There is some over here, Mr.

25 Anthony, I don't know if these are are the ones.

JEFFREY CROOKS - REDIRECT

1 They might be underneath that.

2 MR. ANTHONY: Let me see.

3 MR. GROSE: Underneath, lift up whatever that
4 one is, look through those in your hand.

5 They are not in there?

6 MR. ANTHONY: No.

7 THE WITNESS: I'm sorry, which ones?

8 MR. ANTHONY: I'm looking for the ones that
9 have been marked in evidence, the inside of the car
10 that you were asked about.

11 MR. GROSE: What is that next to you down
12 there, did you check those?

13 THE WITNESS: These are the ones you gave me.

14 MR. GROSE: I think that's the ones he's
15 looking for.

16 MR. ANTHONY: I believe that's the ones I'm
17 looking for.

18 THE WITNESS: Are these the ones you are
19 looking for?

20 MR. ANTHONY: Yes.

21 BY MR. ANTHONY:

22 Q All right. I'm going to show you Defendant's
23 Exhibit Number 12. I'll show you Number 12 and
24 also Number 18. I'll ask you step down. That way
25 we can show these to the jury..

JEFFREY CROOKS - REDIRECT

1 You were testifying that there is stain,
2 there is material in the rib area of these
3 pictures, that you don't believe to be blood, and I
4 would ask, just take these two photos and show the
5 jury what you're talking about and why you think
6 that.

7 A This area right here is ribbed, it has raised
8 lines and there are screws that hold it to the car.

9 THE COURT: Mr. Witness, you have to walk all
10 the way up so all the jurors can see.

11 A Beyond that ribbed area is a raised area that
12 goes vertical and then it forms an L and covers up
13 part of the carpeting of the front of the vehicle.
14 It's kind of hard to tell because you lose
15 perspective in this photograph, but directly above
16 the rib area it goes vertical for about a quarter
17 inch, then it goes flat near the top. When you
18 compare the photographs, these two photographs, one
19 being of the victim in the vehicle and one being
20 with the victim already removed, there are some
21 objects around the screw in this picture that are
22 not present in the picture where he is still in the
23 vehicle. There are also some objects present in
24 the picture where he is still in the vehicle, that
25 aren't in the picture when he was removed. It's my

JEFFREY CROOKS - REDIRECT

1 opinion that most, these items on the ribbed area
2 is going to be regular debris, otherwise they would
3 be in the same place in both pictures.

4 Now, it's possible that additional spots
5 could be located or additional items such as blood
6 could have transferred to the ribbed area upon
7 removal of the body for transport by the coroner's
8 office. However, there are items in this first
9 picture where the body is that are not present in
10 this picture when the body was removed.

11 On the vertical part there are some drops
12 which are consistent with blood stains. They are
13 present in both pictures, as are drops on the top
14 portion above the vertical edge. These drops are
15 consistent with blood, they are consistent with
16 being created from one event, therefore it does not
17 give me reason to believe that that blood came from
18 anyone other than the same event, which would have
19 meant it would have come from the victim.

20 Q Go ahead, bring it all the way down here.
21 Hold them a minute, just stand there and let them
22 take a look at what you have.

23 A Particularly on the vertical edge there are
24 drops of blood, then over to the right there is one
25 more drop as well as numerous drops on the upper

JEFFREY CROOKS - REDIRECT

1 flat portion. Those drops are consistent with the
2 blood coming down the victim's right arm during
3 blood letting.

4 Q All right. And the drops that you said you
5 found on the edge, which is shown on State's
6 Exhibit Number 18, and also, I'm sorry, on
7 Defendant's Exhibit Number 18, also Defense Exhibit
8 12, what opinion do you have about what those drops
9 of blood tell you about whether the door to the car
10 was open or shut at the time of the shooting?

11 A It tells me it's possible the door was open
12 but I would not be willing to go so far as to say
13 it rules out the door being closed. The reason why
14 I say that is when you do a traditional blood stain
15 pattern analysis it's normally done at the request
16 of an agency when you need to determine facts about
17 the case. Blood stain patterns don't always
18 provide that information. In my opinion this case
19 was, the blood on the doorjamb of this vehicle does
20 not tell you anything that would rule out one
21 possibility or the other. In other words, I can't
22 say that the door was shut and I can't say for a
23 fact it was open.

24 Q And what would be another possibility of how
25 the blood could get there if the door was shut?

JEFFREY CROOKS - REDIRECT

1 A It's possible if the door was shut and there
2 was a gap between the door and the jamb, it is
3 possible blood could drop in that gap and leave the
4 stains on the vertical portion.

5 Q All right. Now, going back to the wounds,
6 you were asked about the shoulder wound and I think
7 Mr. Grose had you stand up and you testified that
8 the shoulder wound would be, could be consistent
9 with two people face to face and one person taking
10 a gun and shooting the other person through the
11 shoulder at a slightly downward angle. Is that
12 correct?

13 A I'm sorry, can you repeat that again?

14 Q Yes. Mr. Grose had you stand down from the
15 stand and I believe you said that the type of wound
16 the victim sustained to the shoulder could be
17 consistent with two people standing in front of
18 each other and one shooting the other?

19 A Standing in front of each another?

20 Q Yes, standing in front, standing up and one
21 shooting the other. Is that --

22 A As far as just the angle of the wound?

23 Q Yes, sir.

24 A That is one possibility, yes, sir.

25 Q Okay. And would it also not be possible that

JEFFREY CROOKS - REDIRECT

1 that angle of the wound could be generated by
2 somebody in a seated position and a gun simply
3 being lowered to that person's shoulder?

4 A Yes, sir, I would think that is one
5 possibility also.

6 Q So, the angle of the shot does not tell you
7 anything conclusive about where the person doing
8 the shooting or where the person who was shot was
9 positioned. Is that a fair statement?

10 A That is correct, that in conjunction with the
11 position of the body in the vehicle, the blood
12 flow, there is nothing in the blood flow that tells
13 me that he was in any other position, but I also
14 cannot rule that out. The angle of the gun, the
15 angle of the wound in the shoulder doesn't tell me
16 for a fact he was standing up or for a fact he was
17 sitting down.

18 Q Okay. And is there anything about the blood
19 flow in this case that is consistent with him
20 standing up?

21 A No, sir, I did not observe anything in the
22 blood flow from the victim that could tell me
23 conclusively yes, he was standing up. However,
24 there is blood flow that is consistent with him
25 being in a seated position during blood letting.

JEFFREY CROOKS - REDIRECT

1 MR. ANTHONY: All right. If I can have one
2 moment.

3 Q And would it be possible if somebody were
4 inside the vehicle and were shot inside the
5 vehicle, that you might have blood, some blood
6 actually on the outside, on the pavement? Is that
7 a possibility?

8 A Well, every situation is different. However,
9 based on his wounds that I observed, I would not
10 think that if the stain in the photograph was
11 blood, that it was the result of the actual
12 shooting event. In other words, you've got two
13 things happening. You've got the individual being
14 shot and there is blood that is going to be present
15 from the actual shooting. Then you have blood
16 flowing as a result of gravity after he's shot.
17 That occurs over a period of time. I do not see,
18 based on the position of the body and looking at
19 the blood, that the blood on the, if that is blood
20 on the pavement, that it could have been a result
21 of the actual shooting event itself.

22 Q Okay. I'm sorry, you said if there is blood
23 on the pavement you don't see that it could be the
24 result of the shooting event?

25 A Right, because blood only travels so far and

JEFFREY CROOKS - REDIRECT

1 that type of stain on the pavement is not
2 indicative of the type of blood that is a result of
3 some type of force such as a gunshot or being hit
4 with an object.

5 Q Okay. But in working this crime scene you
6 never found anything outside the vehicle that you
7 thought was blood?

8 A No, sir. And also the stain next to, in the
9 photograph, next to the tin is also, does not
10 appear to be consistent with blood dropping,
11 whether we call that free flowing blood, blood just
12 drops off a body by gravity and creates a mark on
13 the surface. It looks more like a stain, the way
14 it's made.

15 Q Okay. And what would the difference, if you
16 would, explain that a little bit more, what would
17 the difference be?

18 A Well, if an individual is standing in an area
19 and he starts bleeding and it flows down his arm
20 and drips off his finger tip you're going to have a
21 pretty clear round drop of blood. It's kind of
22 hard to explain without being able to show, but it
23 wouldn't look like a large stain, it would look
24 like a single drop of blood like when you see paint
25 drip, would be the best way to describe it.

JEFFREY CROOKS - REDIRECT

1 Q Would it look basically like the drops in
2 those pictures, in the ones that you just got
3 through showing the jury?

4 A Yes, sir, that is correct.

5 Q I mean, that's basically what a drop would
6 look like?

7 A That is correct.

8 Q Okay. And what you are saying is that the
9 drop that you see there on the, in the interior of
10 the car is different than what you see there beside
11 that cannister?

12 A What I'm saying is it doesn't look like a
13 drop that came straight down and just dropped on
14 the ground. It's not consistent. Usually blood
15 behaves the same way every time when it strikes an
16 object, depending on the type of surface. So,
17 basically what I'm telling you is with this drop of
18 blood I can't tell you why that is, if that's
19 blood, how it got there or how it ended up there.

20 Q Okay.

21 A But I wouldn't think that the blood would
22 travel that far from the victim's body if he was in
23 a vehicle.

24 Q Okay.

25 MR. ANTHONY: If I could have one moment.

JEFFREY CROOKS - REDIRECT

1 All right, that's all on redirect.

2 THE COURT: Recross.

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JEFFREY CROOKS - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q So, what you're saying is, if that's blood it didn't get there from while he was sitting in the car?

A Right. I can't, I cannot come up with a scenerio how that blood could have gotten there if he was sitting in the vehicle, as a result of the actual wound itself.

Q All right. So, it would mean that if that is his blood, then more probably than not it got there with him outside the vehicle. Would you agree with that?

A Yes, it would have had to.

Q And you agree that there is blood on that vertical part of the door?

A Yes, sir, that's correct.

Q All right. And that's very consistent with the door being open, right?

A That is one possibility, yes, sir.

Q All right. And when you're talking about possibilities you are speculating, you haven't examined that door to know if there is any gap there or not?

A No, sir, I have not.

JEFFREY CROOKS - RECROSS

1 Q All right. That's just speculation, but you
2 know there is blood there?

3 A Yes, sir.

4 Q Okay. And you know it could have gotten
5 there if the door was open?

6 A Yes, sir.

7 Q All right. Mr. Anthony asked you about the
8 typical blood stain analysis, and that's something
9 that's done for agencies to try to determine facts,
10 right?

11 A Yes, sir. Sometimes they will request it, we
12 will do that upon request.

13 Q Dr. Woodard never asked you to do a blood
14 stain analysis to determine facts, did he?

15 A No, sir.

16 Q The Calhoun Falls Police Department didn't
17 ask you to do a blood stain analysis to determine
18 facts, did they?

19 A No, sir.

20 Q Nobody from Mr. Anthony's office, the Eighth
21 Circuit Solicitor's office ever asked you to do an
22 analysis to determine these facts, did they?

23 A No, sir.

24 Q All right. Now, you talked about collecting
25 evidence in the environment out there. What you

JEFFREY CROOKS - RECROSS

1 are referring to is it's dark when you get there at
2 10:00 at night?

3 A Yes, sir, it is.

4 Q And some things you might not be able to see
5 very well, right?

6 A Yes, sir.

7 Q And the cups were put over those shell
8 casings presumably by the officers when it was
9 daylight, right?

10 A I can't speculate. I would assume so, yes,
11 sir.

12 Q Would you assume they did that early on to
13 secure it, as opposed to later on?

14 A Yes.

15 Q All right. And it would have been, in August
16 it would have been light around 7:21 to 7:50,
17 between the time they arrived and you got called?

18 A Yes, sir.

19 Q Okay. Now, you said shell casings are
20 sometimes hard to find and that's because they are
21 small and it's hard to find in the dark, right?

22 A Yes, sir.

23 Q And blood stains would be hard to find in the
24 dark, too?

25 A Yes, sir, that's correct.

JEFFREY CROOKS - RECROSS

1 Q And you said that sometimes the flash,
2 because you try to light up the area because you're
3 trying to take pictures in the dark and make it
4 where it can be seen?

5 A Yes, sir.

6 Q In fact you can see, you know, in some of
7 these pictures there is artificial light source?

8 A Yes, sir.

9 Q Practically in all of them you can see that,
10 right?

11 A Yes.

12 Q It kind of lights up, in this one I'm looking
13 at, Number 7, it lights up the car a little bit,
14 right?

15 A Yes, sir.

16 Q All right. So, what happens, then, is when
17 you take a picture like, I think it's Number 14, do
18 you have that in your hand, Number 14, in fact you
19 can see in Number 14 that it lights up the area of
20 the casing where you put your number one on the
21 bullet, the bullet casing and that red spot we have
22 been talking about, right?

23 A Yes.

24 Q This is an uneven pavement, right?

25 A Yes, sir. It's asphalt.

JEFFREY CROOKS - RECROSS

1 Q That being uneven, that might effect how it
2 scatterd or dries when it drops?

3 A Yes, sir.

4 Q And that lights up that whole area, doesn't
5 it?

6 A Yes, sir.

7 Q And, so, it's very possible that when you
8 took this picture, Number 14, and lit up that area,
9 that it showed something that was harder to detect
10 at night, isn't it, that's very possible?

11 A In the photograph, yes, sir.

12 Q Okay. In fact you said, we just talked about
13 this, it's sometimes hard to find shell casings,
14 right?

15 A Yes, sir.

16 Q When you arrived you were told it was four
17 shots, right?

18 A Yes, sir.

19 Q They had marked four shell casings?

20 A Yes.

21 Q You looked for shell casings, didn't you?

22 A Yes, I did.

23 Q In fact you wrote in your notes search for
24 additional casings was negative. Are you aware
25 that after the autopsy and it was determined that

JEFFREY CROOKS - RECROSS

1 there were six wounds, that officers, including Mr.
2 Alewine, from the Calhoun Falls Police Department
3 went back to the scene?

4 A No, sir, I was not.

5 Q So, you're not aware of whether or not they
6 found a shell casing that you didn't find in your
7 search?

8 A I'm not immediately aware. However,
9 frequently when we have night scenes, and I can't
10 say specifically if I told them this but I don't
11 remember, but as a usual practice I tend to tell
12 that local agency you might want to come back at
13 daylight, make sure we didn't miss anything, I may
14 have told them that, may not have, but I typically
15 do when I'm working a night scene such as this and
16 there is a possibility I may have not recovered,
17 particularly, shell casings.

18 Q Would it surprise you to learn that Chief
19 Investigating Officer Mr. Harvard has testified
20 they did in fact recover an additional shell
21 casing? Would that surprise you?

22 A Can I refer to my note real quick?

23 Q Well, my question is would it surprise you if
24 he testified to that here today?

25 A I don't recall being told. I just want to

JEFFREY CROOKS - RECROSS

1 make sure in my notes there is no indication that I
2 was advised.

3 Q Okay.

4 A No, sir, I do not have any record of being
5 told that.

6 Q All right. But if they were to testify that
7 they found a fifth one at the scene, that would not
8 be unusual?

9 A No, sir. That has happened in the past.

10 Q Okay. So, essentially how one of these sort
11 of investigations go, you document and collect
12 whatever you can find there, right?

13 A Yes, sir.

14 Q And you know the autopsy was done the next
15 day?

16 A Yes, sir.

17 Q And like the gun examination was done
18 sometime later as well, right?

19 A Yes, sir, that's correct.

20 Q So, as time goes on it's often times you
21 learn more things, right?

22 A Yes, that's correct.

23 Q So, it's very possible that you didn't
24 document everything that was there that night to be
25 documented, isn't that correct?

JEFFREY CROOKS - RECROSS

1 A As far as finding everything that was there
2 to be found, that is very possible, yes.

3 Q In fact that may have happened if they indeed
4 did find a fifth casing out there, right?

5 A That could have happened, yes, sir, if they
6 went back and found one.

7 Q And if that happened that means you missed
8 something?

9 A That is possible, yes, sir.

10 MR. GROSE: Nothing further.

11 THE COURT: Redirect?
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JEFFREY CROOKS - FURTHER REDIRECT

1 FURTHER REDIRECT EXAMINATION

2 QUESTIONS BY MR. ANTHONY:

3 Q The casings, the picture of the casings that
4 has this stain on it that you were asked about,
5 which is depicted in Defendant's Number 14, that is
6 next to your number one. Right?

7 A Yes.

8 Q That's next to the, next to the canister that
9 you wrote a number one?

10 A Yes, sir.

11 Q Then showing you Defense Exhibit Number 19,
12 which is your drawing of where you found things,
13 Number one is right there, is that correct?

14 A Yes, sir.

15 Q Just step down a minute. And which one of
16 these cones would your number one on Defendant's
17 Exhibit Number 19, which one would that correspond
18 to?

19 A It would have been this cone right here.

20 Q Okay. It would be the farthest out cone?

21 A Yes, sir.

22 Q Okay. And can you say anything about, do you
23 have any opinion, if someone were shot outside the
24 car and a drop of blood were found right here at
25 this cone, what would you be able to determine

JEFFREY CROOKS - FURTHER REDIRECT

1 about where their position would have to be to have
2 blood right there?

3 A Well, looking at the drop in question next to
4 that item, it appears that if there was blood it
5 would have either been a transfer, in other words,
6 coming off, possibly could have come off, gotten
7 onto somebody's shoe or something at one location
8 and then ended up there. It is also very possible
9 it was a drop of blood that dropped straight down,
10 like I said, that free flowing blood as a result of
11 gravity. If it was a result of that, then that
12 person would have had to have been standing in that
13 location. In other words, he would have to have
14 been standing where that stain was, for it to drop
15 down and hit the ground as a result of gravity.

16 Q Okay. So, if it were blood from a free
17 flowing blood from a gunshot, then you would expect
18 the person who had been shot to be basically right
19 there in the immediate, within inches of the cone,
20 is that correct?

21 A Yes, sir, that's correct.

22 Q Okay. And how far would you approximate
23 distance wise that cone is from the passenger side
24 door of the car?

25 A I couldn't give you an exact measurement. It

JEFFREY CROOKS - FURTHER REDIRECT

1 appears to be five feet, four or five feet, maybe.

2 Q All right, thank you. And you were asked
3 about whether or not Calhoun Falls Police
4 Department or any other agency had asked you to do
5 a blood stain pattern analysis. Would doing a
6 blood stain pattern analysis in a situation like
7 this yield any kind of conclusive results, Agent
8 Crooks?

9 A No, sir. Looking at the blood, all the blood
10 in the vehicle was free flowing blood. Pretty much
11 it just tells you that the blood flowed while he
12 was in that seat. It really doesn't tell you a
13 sequence of events, per se. In other words, I
14 can't tell you which shot came first, which shot
15 came second, which shot came third. In my opinion,
16 this traditionally is the type of case where you
17 are trying to figure out how a certain drop of
18 blood got where it's at based on what we found at
19 the scene.

20 Q Just to give the jury something to compare it
21 with, when is that kind of blood stain pattern
22 analysis normally helpful in making a determination
23 about what happened?

24 A Well, one obvious example would be, just as a
25 hypothetical example, if an individual shot someone

JEFFREY CROOKS - FURTHER REDIRECT

1 else and claimed that he shot that person in self
2 defense or if the guy was standing up when he shot
3 him, and the blood was a foot off the floor and it
4 was what we call high velocity blood splatter,
5 which only occurs as a result of a gunshot wound,
6 then that would be inconsistent with what that
7 individual told us. There are ways with blood
8 stain analysis to look at a person, say if they got
9 hit in the head with a blunt object multiple times,
10 there is a possibility there could be blood stain
11 on the ceiling that could give us a good idea
12 within one or two blows of how many times he struck
13 the individual. Those are the type of things where
14 blood stain pattern analysis can usually be
15 beneficial.

16 Q But you don't have any of that what you call
17 high velocity blood splatter in this case, is that
18 right?

19 A No, sir. Looking at the scene, all the blood
20 that was there in the vehicle was consistent with
21 free flowing blood as a result of gravity as he was
22 bleeding from his wounds. You know, there is
23 really not a whole lot to analyze from the
24 standpoint of telling you what happened. Gravity
25 is always going to go down hill. That is what the

JEFFREY CROOKS - FURTHER REDIRECT

1 blood did. Therefore there was no, based on what I
2 saw, I felt no need to mention a traditional blood
3 stain analysis.

4 MR. ANTHONY: All right, thank you. That's
5 all on redirect.

6 MR. GROSE: Just very briefly, and I know
7 we're getting late.

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JEFFREY CROOKS - FURTHER RECROSS

1 FURTHER RECROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q You said that the drop that we're looking at
4 on the pavement could have come from being
5 transferred from a shoe or something like that,
6 right?

7 A Yes, sir. I cannot rule out that
8 possibility, and just like it's possible it could
9 be a free flowing drop, yes, sir.

10 Q Right. And basically it just dropped right
11 where it was, straight down, right?

12 A Yes, sir.

13 Q Okay. Transferred blood on shoes is more
14 likely when there is a crime scene to walk through,
15 isn't there?

16 A That's correct.

17 Q Nobody is walking through this car, you don't
18 see any evidence of that?

19 A No.

20 Q There is no footprint of blood in that car?

21 A No.

22 Q So, if it's blood it's more likely it dropped
23 straight down, right?

24 A That is the more likely scenario.

25 Q Again, he asked you about the free flowing

JEFFREY CROOKS - FURTHER RECROSS

1 blood. You said that you're not, you can't talk
2 about the sequence of the shots, you can't do that,
3 can you?

4 A No, sir, I'm sorry, no, sir, I cannot tell
5 you which shot occurred first or second or third or
6 whatever.

7 Q And to the extent that it can be determined,
8 Dr. Woodard the pathologist is the better one to
9 say that, isn't he?

10 A Yes, sir, I would think so, yes, sir.

11 Q All right. Assuming for a second that the
12 shot to the shoulder and the shot to the arm were
13 the first two shots, assume that for a second, in
14 the pictures that you looked at, they show slower
15 evidence of blood flow, less amounts of blood flow?

16 A I'm sorry, the left shoulder, is that
17 correct?

18 Q I'm sorry, yes, the left shoulder and the
19 right arm shot, those show less evidence of blood
20 flow?

21 A Well, the right arm had more blood flow than
22 the left. I would consider it as moderate blood
23 flow as opposed to the other one, which was heavy
24 blood flow.

25 Q What we see in his lap in the seat is heavy

JEFFREY CROOKS - FURTHER RECROSS

1 blood flow?

2 A That's correct.

3 Q It was moderate from the arm?

4 A Yes.

5 Q But it was virtually none you observed on the
6 shoulder shots?

7 A That is correct.

8 Q In fact you weren't even sure there was a
9 gunshot wound there until we brought that out
10 today, right, you had to look at the report?

11 A Yes, sir, and looking at the scene at the
12 time, you know, I obviously figured it could be a
13 gunshot wound but I couldn't tell you for sure
14 because I never saw the pathology report.

15 Q Until today?

16 A But I knew that could have been a possibility
17 of that's how that blood was at that location,
18 would have been a result of a gunshot.

19 Q So, the blood on the pavement, if the
20 shoulder and the arm shot were one of the first two
21 shots, those have a lot less flowing blood, that
22 drop on the pavement, the drop on the pavement
23 could be consistent with one of those other first
24 two, assuming those were the first two, is that
25 correct?

JEFFREY CROOKS - FURTHER RECROSS

1 A Yet, if it's blood, yes, sir.

2 MR. GROSE: That's all I have.

3 THE COURT: Redirect?

4 MR. ANTHONY: No, no redirect, thank you.

5 THE COURT: Thank you. Come down.

6 (Witness excused).

7 THE COURT: We'll take about five minutes,
8 ladies and gentlemen. We have one additional
9 witness which will be brief.

10 Do not discuss the case by, between and among
11 yourselves, retire briefly to the jury room.

12 (The Jury was excused from the courtroom).

13 THE COURT: We're going to stand at ease
14 about five minutes, please.

15 MR. ANTHONY: Your Honor --

16 THE COURT: Wait just a minute. I want to
17 get Agent Whitler, he has been very patient, we
18 wanted to get him today.

19 MR. ANTHONY: Yes, sir. Can Mr. Green and
20 Miss Hill be excused?

21 MR. GROSE: No objection.

22 THE COURT: They may. They may stay, you may
23 stay, it will be very brief.

24 (Recessed at 6:33 p.m.)

25 (Reconvened at 6:40 p.m.).

JEFFREY CROOKS - FURTHER RECROSS

1 THE COURT: The record is open, please, in
2 the matter of the State of South Carolina versus
3 Robert Orlando Hill, indictment 99-494.

4 Anything before the jurors come out for the
5 other witness?

6 MR. ANTHONY: I just have one thing I wanted
7 to clear up. Does the defense have any desire to
8 keep Miss Hill here?

9 MR. GROSE: I said no objection before. She
10 can leave if she wants to.

11 MR. ANTHONY: That's fine.

12 THE COURT: Miss Hill can leave or she may
13 stay. We'll be here just for a brief time. If she
14 wishes to stay and observe she may, or she may
15 leave.

16 MR. ANTHONY: Okay. She does not have to
17 come back, is what I meant?

18 MR. GROSE: Well, no, I think she still needs
19 to be under subpoena, Your Honor, unless you're
20 ruling that I can never go back into that one
21 issue.

22 MR. ANTHONY: That was why I brought it up.

23 MR. GROSE: I misunderstood. She can leave
24 as long as she's subject to coming back, if this
25 trial develops in a way you will allow me to go

JEFFREY CROOKS - FURTHER RECROSS

1 back into that.

2 THE COURT: All right, Miss Hill, you may
3 just stay with us, the best thing is to stay with
4 us, please.

5 Ask the jury in, please.

6 (The jury returned to the courtroom).

7 THE COURT: All the jurors are present, with
8 the foreperson and the alternate properly seated.

9 Call your next witness, please, Solicitor.

10 MR. ANTHONY: The State would call Agent
11 Whitler.

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KENNETH WHITLER - DIRECT

1 KENNETH H. WHITLER,
2 after being first duly sworn testified as follows:

3 THE COURT: Okay.

4 THE CLERK: If you would, please state your
5 name for the record.

6 THE WITNESS: Kenneth H. Whitler, spelled
7 W-h-i-t-l-e-r.

8 THE CLERK: Thank you.

9 THE COURT: This witness is with you,
10 Solicitor Anthony.

11 MR. ANTHONY: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. ANTHONY:

14 Q Would you state your name, please?

15 A Kenneth H. Whitler.

16 Q Mr. Whitler, who are you employed by?

17 A I'm employed by the South Carolina Law
18 Enforcement Division.

19 Q What's your position there?

20 A Firearms and tool mark examiner in the
21 laboratory section.

22 Q How long have you worked for SLED?

23 A Since 1997.

24 Q And before that how were you employed?

25 A I was employed by the Federal Bureau of

KENNETH WHITLER - DIRECT

1 Investigation.

2 Q Okay. And how long did you work there?

3 A I retired with proximately 22 years of
4 service. I spent the last part of my career in the
5 FBI laboratory as a firearms and tool mark
6 examiner.

7 Q And what does a firearms and tool mark
8 examiner do?

9 A We examine bullets, cartridge casings to
10 determine if they were fired by a particular
11 firearm.

12 Q And could you tell the jury what your
13 education and training is in the field of firearms
14 examination?

15 A Okay. I have undergraduate and graduate
16 degrees from the University of South Carolina.
17 There is no school that you can go to to get a
18 degree in firearms identification. You have to
19 learn it from other firearms examiners. When I was
20 in the FBI I underwent their training program,
21 which takes approximately a year and a half to two
22 years, and you work with qualified examiners on a
23 daily basis and you also have the course of study
24 that they give you to undertake.

25 At the end of your training period when all

KENNETH WHITLER - DIRECT

1 the examiners in the unit determine that they think
2 you have learned everything you need you are given
3 a series of tests and if you successfully complete
4 those tests, then you are certified as a firearms
5 tool mark examiner in the laboratory, and I
6 successfully completed all those tests and was so
7 certified.

8 Q All right. In your experience with the FBI
9 and SLED have you testified as an expert witness in
10 trials?

11 A Yes, I have. My testimony has been accepted
12 in state and federal court and also some
13 territorial courts and in two other countries.

14 MR. ANTHONY: At this time, Your Honor, I
15 would offer Agent Whitler as an expert in the field
16 of firearms examination.

17 THE COURT: Questions on his voir dire?

18 MR. GROSE: No, sir.

19 THE COURT: Ladies and gentlemen, this
20 witness is an expert in the field of firearms
21 examination.

22 Continue.

23 BY MR. ANTHONY:

24 Q Agent Whitler, I'm going to hand up to you
25 what has been marked for identification as State's

KENNETH WHITLER - DIRECT

1 Exhibit Number 9 and ask if you have seen this
2 container and the items in it before?

3 A Yes, I have.

4 THE COURT: Is the weapon cleared?

5 A Yes, it is.

6 THE COURT: Thank you.

7 Q When did you see that item or those items?

8 A When they were submitted for examination.

9 Q To the firearms department of SLED?

10 A Yes, sir.

11 Q All right. And do they still basically have
12 the same appearance as they did when you dealt with
13 them at SLED back in 1999?

14 A Well, the gun is not in a bucket of water but
15 basically it looks like when I sent it back, yes,
16 sir.

17 MR. ANTHONY: We move Exhibit 9 into
18 evidence.

19 THE COURT: How says the defense?

20 MR. GROSE: I would just ask that the tags
21 that have nothing to do with the examination be
22 removed and subject to my previous objections about
23 this, you know, the matters we dealt with earlier.

24 THE COURT: The objections are noted and
25 overruled and we won't worry about the tags at the

KENNETH WHITLER - DIRECT

1 moment but they will be removed before the jury has
2 an opportunity to closely examine them because we
3 are running late, it's now twelve minutes until
4 7:00.

5 (Gun and magazine received in evidence
6 as State's Exhibit Number 9).

7 THE COURT; Continue direct examination.

8 BY MR. ANTHONY:

9 Q When you received these items what condition
10 was the gun and those other items you have up there
11 with the gun, what condition were they in?

12 A When I received these items they were, the
13 pistol, and this object is called the magazine, the
14 magazine was inside the pistol. This fired
15 cartridge casing was in the ejection port of the
16 pistol and the unfired cartridge was in the chamber
17 here behind the cartridge casing.

18 Q If you would, you can take the gun out, if
19 you will, the Court will allow it, take the gun out
20 and show the jury where the cartridge casing was
21 and use the gun to illustrate where these items
22 were located.

23 THE COURT: Mr. Witness, you may step down
24 and step before the jurors in order to explain
25 exquisitely what you just said.

KENNETH WHITLER - DIRECT

1 A The ejection port area is this area of the
2 pistol. It's the hole, and this is where the fired
3 cartridge, the cartridge casing is pushed out this
4 hole.

5 The magazine holds the cartridges so that the
6 pistol can be fired, and it fits, can everyone see
7 the magazine, it fits in the grip of the pistol
8 like so. If you can visualize, this goes up, I
9 will get on this side, it fits inside the grip of
10 the pistol, it goes up so it can feed the
11 cartridges into the pistol. When I received it
12 this magazine was inside the grip of the pistol.

13 Now, the action was open and the unfired
14 cartridge was back in this area of the chamber
15 area. You can see there is a fairly good amount of
16 room in there where the cartridge is supposed to be
17 on top in the magazine. It had come loose and it
18 was loose inside this area and the fired cartridge
19 casing was actually holding the slide back. This
20 area, this piece is called the slide, so it was
21 jammed in here and actually holding this part open.

22 Q Okay, thank you. And how would you go about,
23 as a matter of fact you might just want to stay up
24 there to answer this next question, how would you
25 go about firing the gun? Just tell the jury what

KENNETH WHITLER - DIRECT

1 you would have to do to load that gun and shoot it.

2 A To fire it you would have to take the
3 magazine, which I showed you before, put your
4 cartridges into the magazine, insert it into the
5 pistol. At that point you would have the magazine
6 has the cartridges in it, they are inside the
7 pistol, but in order to make it fire, what you have
8 to do is get them from the magazine, if you will
9 remember, it's sitting in this area, it has to get
10 into this area, which is the chamber area.

11 So, what you do is when you pull the slide
12 back and then let it go forward, as it goes forward
13 it takes the top cartridge off the magazine and
14 inserts it in this chamber area. Then when you
15 pull the trigger the cartridge goes off, the bullet
16 comes out the barrel, and if everything goes right
17 the fired cartridge casing gets thrown out of the
18 ejection port while the slide is going to the rear.

19 When the slide gets all the way to the rear
20 there is a spring here that's being compressed and
21 when it goes forward that provides the energy to
22 bring the slide forward and pick up another
23 cartridge and start and load it into the chamber
24 area. So, now you're ready, you fired the
25 cartridge, thrown the fired cartridge casing out

KENNETH WHITLER - DIRECT

1 and you have a new cartridge in there and you are
2 ready to shoot again.

3 Q All right. What would cause a cartridge to
4 get stuck in the gun?

5 A Well there are several things that could
6 happen. A malfunction of the gun, the ammunition
7 wasn't, didn't give enough punch, if you will, and
8 it didn't quite have enough energy. There has got
9 to be a certain amount of impulse to make the
10 pistol operate properly. If you don't have it
11 sometimes the cartridge casing won't clear, won't
12 go all the way back, the slide won't go all the way
13 back, so the cartridge casing doesn't get out the
14 ejection port.

15 Then at that point when the slide tries to go
16 forward it's trying to pick up that new cartridge
17 and you have two things trying to occupy the same
18 place and it just doesn't work. What happens is,
19 you end up with both of them keeping the slide from
20 going forward.

21 It could be if you shoot, because these do
22 eject to the side, if you shoot too close to
23 something, actually I have seen cases where the
24 cartridge casing bounced back into the ejection
25 port because someone got too close to a barricade

KENNETH WHITLER - DIRECT

1 or wall or something trying to shoot and something
2 pushed it back. It could just be that sometimes
3 the gun just malfunctions.

4 Q And if it gets jammed up like that what do
5 you have to do to fix it to where you can shoot it
6 again?

7 A What you have to do is you have to take the
8 tension off, because all this, you have a spring in
9 here holding it, you have to get the tension off of
10 the cartridge casing or the cartridge or both,
11 which you have in this case. What you do, you
12 remove the magazine, that takes some of the tension
13 off the bottom, and then you pull the slide to the
14 rear as far as you can and then you try to either
15 pull it or shake whatever is loose in there. In
16 this case the cartridge casing is actually turned
17 around backwards and the mouth or the hole end of
18 the cartridge casing was over the extractor, so I
19 had to sort of pull it out and then drop the
20 unfired cartridge in my hand.

21 Q Okay. Thank you, you can take your seat
22 back.

23 I was going to show you now what is marked
24 for identification as State's Exhibit Number 10.
25 Can you take a look at those and tell me if you

KENNETH WHITLER - DIRECT

1 have seen those before?

2 A Yes, I have.

3 Q All right. When did you see those items?

4 A These were submitted along with the pistol.

5 Q Okay. And do they still appear to be in the
6 same condition they were when you examined those in
7 August of '99?

8 A That's correct.

9 MR. ANTHONY: We move the exhibit, the
10 cartridge casings exhibit into evidence, which is
11 State's Exhibit Number 10.

12 THE COURT: And what was the number for the
13 weapon?

14 MR. ANTHONY: It was Number 9, Your Honor.

15 THE COURT: Number 9 includes, let's let the
16 record be clear, Number 9 includes the bucket and
17 the weapon.

18 MR. GROSE: And the other items that are
19 bagged with the weapon.

20 THE COURT: And Number 10 is the cartridge
21 casings?

22 MR. ANTHONY: Yes, sir.

23 THE COURT: As a whole?

24 MR. ANTHONY: Yes, sir.

25 THE COURT: All four of them?

KENNETH WHITLER - DIRECT

1 MR. ANTHONY: Yes, sir.

2 THE COURT: All right, let the record be
3 clear.

4 MR. GROSE: There is no objection to that
5 motion.

6 THE COURT: Thank you, sir.

7 (Cartridge casings received in evidence
8 as State's Exhibit Number 10).

9 BY MR. ANTHONY:

10 Q When you received those cartridge casings
11 what kind of a analysis did you perform on those
12 cartridge casings in relation to the gun you have?

13 A I compared, test fired the pistol and then
14 compared the test fired cartridge casings to these
15 submitted cartridge casings to determine if they
16 were fired by this pistol.

17 Q Okay. And what, just if you would, just
18 briefly explain how you go about doing that, what
19 kind of process do you use?

20 A We do the comparison on what is called a
21 comparison microscope. It is basically a
22 microscope that has two stages, and a stage is
23 merely something that holds the object that I want
24 to examine. So, with two stages I can put a
25 cartridge casing on each stage and optically I look

KENNETH WHITLER - DIRECT

1 through the microscope and they look like they're
2 side by side. Then I can rotate the cartridge
3 casings trying to find microscopic marks to see if
4 these marks are the same on the cartridge casing on
5 the left, if they are also on the one on the right.
6 If I find sufficient agreement, then I'm able to
7 say that both of those cartridge casings were fired
8 by the same gun.

9 If I'm comparing, say, two cartridge casings
10 found at a scene I can say they were fired by the
11 same gun. I'm comparing a cartridge casing to the
12 test fired cartridge casing from a submitted
13 pistol, then I would be able to say it was fired by
14 that gun.

15 Q Okay. And once you performed that comparison
16 in regards to these cartridges cases and the gun
17 what conclusions did you reach?

18 A I found they had the same general class
19 characteristics, meaning they could have been fired
20 by this pistol but there were insufficient
21 corresponding marks that would give me the ability
22 to say that these cartridge casings were fired by
23 this pistol and no other.

24 Q And I want to show you now State's Exhibit
25 Number 8 for identification. I ask you to take a

KENNETH WHITLER - DIRECT

1 look at the items inside that bag and let me know
2 if you have ever seen those before?

3 A Yes, I have.

4 Q All right. And what are those items?

5 A These are three fired bullets that were
6 submitted for examination.

7 Q All right. Did you examine those at SLED
8 back in August of '99?

9 A Yes, sir.

10 Q All right. And do they appear in the same
11 condition today as they did when you examined them?

12 A Yes, sir.

13 MR. ANTHONY: We move those items which are
14 State's Exhibit Number 8 into evidence.

15 THE COURT: What says the defense?

16 MR. GROSE: I'm sorry, State's Exhibit
17 Number 8?

18 THE COURT: State's Exhibit Number 8, which
19 are the fired bullets.

20 MR. GROSE: I don't know that they -- well,
21 yes, no objection.

22 THE COURT: All right, State's Number 8 will
23 become part of the evidence in the case.

24 (Three fired projectiles received in
25 evidence as State's Exhibit Number 8).

KENNETH WHITLER - DIRECT

1 BY MR. ANTHONY:

2 Q What kind of comparison did you perform on
3 those items, on the fired projectiles, in relation
4 to the gun?

5 A I did the same examination, I took test fired
6 bullets from this pistol and put them on the
7 microscope and compared those test bullets to these
8 bullets.

9 Q And when you did that what conclusion did you
10 reach in regards to that comparison?

11 A In this instance I was able to determine that
12 these three bullets were fired by the submitted
13 pistol.

14 MR. ANTHONY: Thank you. That's everything
15 on direct.

16 THE COURT: Cross-examination.

17 MR. GROSE: Very briefly.

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KENNETH WHITLER - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q You have never been to the incident location in Calhoun Falls, have you?

A No, I haven't.

Q Your only role was to examine that weapon and those bullets, fired bullets and the shells, right?

A That's correct.

Q Now, you were explaining how that gun operates. It's fair to say it takes a lot longer to explain how that operates than to actually operate the gun, doesn't it?

A That's correct.

Q I mean, that gun is designed to fire very rapidly?

A Yes, sir.

Q So, if witnesses said this happened quickly, that would be consistent with how that gun operates?

A Yes, sir. It will fire as quickly as you can pull your finger.

Q As quickly as you can pull, so six shots could be fired off in less than six seconds, less than two or three seconds?

A I would say so, yes, sir.

KENNETH WHITLER - CROSS

1 MR. GROSE: Nothing further.

2 THE COURT: Anything further?

3 MR. ANTHONY: No, sir.

4 THE COURT: Thank you, sir. You may come
5 down.

6 (Witness excused).

7 THE COURT: Any objection to these witnesses,
8 both Agent Crooks and Agent Whitler being excused?

9 MR. GROSE: I have no objection.

10 MR. ANTHONY: No, sir.

11 THE COURT: Thank you. Thank you both for
12 your patience and you are excused, you may leave
13 the building.

14 Ladies and gentlemen, we'll recess for this
15 evening. Do not discuss the case by, between and
16 among yourselves nor with any other person. Do not
17 permit anyone to discuss the case with you. If
18 anyone asks an innocent question or asks you a
19 question about the case innocently please tell them
20 immediately that you are a juror.

21 Now, the Court is not oblivious that human
22 beings are naturally curious and tonight
23 particularly when you go home you're going to be
24 asked questions by people who are very close to
25 you, your children, your spouses, your parents,

1 your close neighbors and friends. You're on your
2 oath not to discuss this case with anyone or to
3 allow anyone to discuss this case with you. That
4 wouldn't be fair to either party in this matter
5 because some innocent remark may be made and may
6 stay in your mind and upset the even, level balance
7 that you must keep until you have heard all the
8 case.

9 So, do not share with anyone anything about
10 this case or allow anyone to do so. If anyone
11 persists in trying to discuss this case with you
12 after they are aware and alert that you are a
13 juror, that's highly wrong and illegal and you
14 should use every measure at your disposal to
15 identify any such person or persons, if there be
16 more than one, by any way you can, and we have
17 already talked about that, where it occurred, what
18 they looked like, where they went, what kind of
19 vehicle they were in, how they were traveling,
20 whatever way you can give us information because
21 that would be very wrong and out of order and we
22 would want to know about that. Everybody would.
23 So, don't let it happen and were it to happen
24 please report it. Do not talk about it, this case,
25 do not allow anyone to talk with you about it.

1 If there were to be any media coverage of
2 this trial such as newspaper, television or radio,
3 you are on your oath to well and truly try this
4 case on the law and evidence presented within the
5 walls of this courtroom and upon nothing else
6 whatsoever, so you must disabuse your mind
7 completely of anything that you see, hear or read
8 outside this courtroom that may concern this case
9 because it is not evidence.

10 And having said that, Mr. Foreman and ladies
11 and gentlemen, please have a pleasant evening, be
12 back in the jury room at 9:30, and thank you for
13 your patience for allowing these gentlemen to go
14 about their business somewhere else in the state
15 tomorrow.

16 You are excused.

17 (The jury was excused from the courtroom).

18 THE COURT: Is there anything from the State
19 before the record is closed for the evening?

20 MR. ANTHONY: No, sir.

21 THE COURT: From the defense?

22 MR. GROSE: No, sir.

23 THE COURT: We're in recess until 9:30,
24 please.

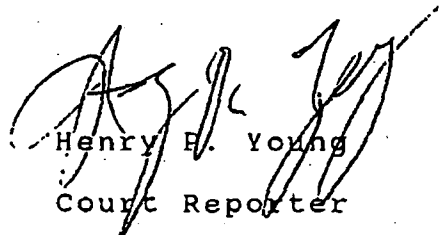
25 (Recessed at 7:05 p.m.).

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I, the undersigned Henry P. Young, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case in the Circuit Court for Abbeville County, South Carolina, on the 12th day of July, 2005.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 20, 2006


Henry P. Young
Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
1999-GS-01-494

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,)

-vs-)

ROBERT ORLANDO HILL,)

Defendant.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

JONATHAN C. ANTHONY, Esquire
Attorney for the State

E. CHARLES GROSE, Esquire
W. ALEXANDER BUERGEY, Esquire
Attorney for the Defendant

Henry P. Young
Court Reporter

VOLUME III OF IV
July 13, 2005

1 (Reconvened at 9:46 a.m.).

2 THE COURT: The record is open. This is
3 State of South Carolina versus Robert Orlando Hill,
4 indictment 99-494.

5 Is there anything from the State before the
6 jurors come in, please.

7 MR. ANTHONY: No, sir.

8 THE COURT: From the defense?

9 MR. GROSE: No, sir.

10 THE COURT: Ask the jury in, please.

11 (The jury returned to the courtroom).

12 THE COURT: All jurors are present, with the
13 foreman and the alternates properly seated.

14 The matter lies with the State. Call your
15 next witness, please.

16 MR. ANTHONY: We call Dr. Woodard, Your
17 Honor.

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BRETT WOODARD - DIRECT

1 BRETT WOODARD,
2 after being first duly sworn testified as follows:

3 THE CLERK: If you will, state your name for
4 the record, please.

5 THE WITNESS: Brett Woodard, W-o-o-d-a-r-d.

6 THE CLERK: Thank you.

7 THE COURT: This witness is with you,
8 Solicitor Anthony.

9 MR. ANTHONY: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. ANTHONY:

12 Q Would you state your name, please?

13 A Brett Woodard.

14 Q And, Dr. Woodard, how are you employed?

15 A I work with Piedmont Pathology Associates in
16 Anderson, South Carolina.

17 Q What is your position there?

18 A I'm a pathologist.

19 Q And what does a pathologist do?

20 A A pathologist is a medical specialist by
21 training that looks for the causes of human disease
22 and injury through techniques of looking at body
23 tissues and organs under microscopes with a naked
24 eye and by doing chemical and biologic tests.

25 Q And could you tell the jury what education

BRETT WOODARD - DIRECT

1 and training you have in the field of pathology?

2 A I attended Duke University Medical Center in
3 anatomical and clinical pathology, and received
4 Board certification from the American Board of
5 Pathology after completing a competency
6 examination. I then returned in the early 1990's
7 to the North Carolina Medical Examiner's office,
8 took fellowship training in the field of forensic
9 pathology and took my Board certification in the
10 field of forensic pathology. I'm licensed in the
11 states of South Carolina, Georgia and North
12 Carolina for the practice of medicine.

13 Q Okay. And how long have you been employed
14 with Piedmont Pathology Services?

15 A Since 1982.

16 Q And how long have you been practicing in the
17 field of pathology?

18 A Since 1980.

19 Q And have you testified before and been
20 qualified as an expert before in the field of
21 forensic pathology?

22 A Yes, I have.

23 Q Approximately how many times?

24 A Hundreds in the state of South Carolina.

25 MR. ANTHONY: Your Honor, at this time I

BRETT WOODARD - DIRECT

1 would qualify, or I would move to qualify Dr.
2 Woodard as an expert in the field of forensic
3 pathology.

4 THE COURT: Questions on his voir dire?

5 MR. GROSE: No, sir.

6 THE COURT: Thank you. Ladies and gentlemen,
7 this witness is an expert in the field of forensic
8 pathology. Continue direct examination.

9 BY MR. ANTHONY:

10 Q Dr. Woodard, if you could, why would you in
11 your job perform autopsies for people who die in
12 Abbeville County?

13 A I have a contract with the Abbeville County
14 Coroner to perform his autopsies that he feels in
15 the course of his investigations are necessary.

16 Q Okay. And going back now to August 7th of
17 1999, did you perform an autopsy on Terrence Artell
18 Hill?

19 A Yes, I did.

20 Q And where did you perform that autopsy?

21 A The morgue facility of the Anderson Area
22 Medical Center in Anderson, South Carolina.

23 Q And how old was Mr. Hill?

24 A He was 22 years old at the time.

25 Q And how did you begin the procedure of

BRETT WOODARD - DIRECT

1 performing this autopsy?

2 A I start by examining the deceased as they are
3 brought to me. In this particular case Mr. Hill
4 was clothed, so we started by examining his
5 external clothing for any signs of injuries or
6 wounds that may manifest themselves through the
7 clothes.

8 We then proceeded to undress him, inventory
9 all the items that were with him, that were present
10 in his pockets, and then look for any injuries to
11 the external surface of the body.

12 Q And did you observe injuries to the external
13 surface of his body?

14 A Yes, I did.

15 Q What injuries did he have?

16 A He had six separate gunshot wounds.

17 Q Okay. And just tell the jury kind of
18 summarily right now where were the wounds located?

19 A There were four wounds to his head and two
20 wounds to his body, one to his right shoulder and
21 one to his left shoulder.

22 Q Okay. And what I would ask you to do, have
23 you seen photographs? In your performing this
24 autopsy were some photographs provided to you
25 documenting Mr. Hill's position when he was found

BRETT WOODARD - DIRECT

1 there by the police department?

2 A Yes several Polaroid pictures were supplied
3 to me at the time of the autopsy.

4 Q Okay. What I would like to do now is,
5 Officer Hill, if you would, please, or Officer
6 Harvard, if you would, I'm sorry, please come
7 forward. What I want to do is ask Officer Harvard
8 to have a seat right there.

9 Dr. Woodard, if you would, I would ask you to
10 step down and illustrate to the jury where these
11 wounds were.

12 THE COURT: We have a pointer, where is that,
13 in the form of a yardstick. It serves the purpose,
14 Doctor.

15 A All right. The pictures that I was given, he
16 was sitting in the passenger seat of this
17 automobile, with the passenger's window in a rolled
18 down position. He had two gunshot wounds to his
19 lower body, not his head. I will begin with those.
20 He had a short sleeved shirt on and right at the
21 edges of the short sleeve on the right he had a
22 gunshot wound that went into the right arm, went up
23 in the arm and crossed through the axilla and ended
24 up in the muscle, the big muscle of the chest,
25 pectoral muscle, where I recovered this projectile.

BRETT WOODARD - DIRECT

1 The second gunshot wound I will describe went
2 into his left shoulder from the front, went through
3 the meat of his shoulder and came out the back
4 side, almost on the left, on the seam of his shirt
5 on the back side.

6 Two gunshot wounds were to the front part of
7 his head, one creased across his skull, going from
8 the right side toward the left side in
9 approximately this angle. One went into the
10 substance of his skull and his brain above his
11 right ear, in front of it, in this approximate
12 position, passing through the substance of the
13 brain, to be recovered in the back part of the
14 substance of the brain.

15 Go ahead and set up. One gunshot wound went
16 into his skull above his right ear, slightly behind
17 it, in this portion of his skull, across through
18 the substance of the brain and we found the
19 projectile in the left front of his brain.

20 And then one wound went into the skull in
21 approximately this position, near where the crown
22 or cowlick of the hair would be, hit the bone,
23 knocked a plug of bone out and then literally
24 bounced out of the body with only that plug of bone
25 being pushed up against the brain.

BRETT WOODARD - DIRECT

1 Q I want to ask you in detail now about these
2 wounds, and if you would, I will start with the
3 shoulder wound. Show the jury again, just going
4 back to the shoulder wound, where the wound entered
5 the shoulder, where it would have gone out of the
6 shoulder.

7 A The left shoulder?

8 Q The left, yes, sir, the left shoulder wound.

9 A It entered on the beefy piece of muscle here
10 we call the deltoid on your shoulder. It entered
11 the front part of that beefy piece of muscle, it
12 went through the shirt, into the beefy piece of
13 muscle and then came out almost on the seam at the
14 back of the shirt and went wherever the bullet
15 went.

16 Q Okay. The shot, what was the, was it on an
17 upward or downward path?

18 A Relative to the body sitting in correct
19 position, it was slightly down, about half an inch
20 farther down at the back than it was at the front.

21 Q All right. And what, from the photos you saw
22 of the crime scene, where the body was positioned
23 in the car when it was found, what conclusion would
24 you draw about where the victim's body was when
25 that shot occurred?

BRETT WOODARD - DIRECT

1 A The victim's body had to be rotated at the
2 waist to present itself more to the open window,
3 would have had to have been turned to be looking
4 out the open window. Again I'm only referring to
5 the shoulders, the position of the shoulders.

6 Q Okay. And what is it that you know from your
7 knowledge of these type incidents that lets you
8 make that conclusion? Why is it that that would
9 have had to have been the case?

10 A In order to get, to present this portion of
11 the body to the shooting barrel and get a front to
12 back position of the body.

13 Q Okay. And did you, in making your
14 observations during this autopsy did you make any
15 observations that would give you an idea or allow
16 you to make a conclusion as to how far away the
17 shots were fired from Mr. Hill's body?

18 A When we look for distance on the body, when a
19 bullet is fired not only does the bullet come out,
20 but a cloud of gas that contains fine pieces of
21 gunpowder that didn't go off comes out and it also
22 carries some bigger pieces, congealed powder and
23 small metal fragments that are scraped off the
24 bullet in the rifling materials, and they are all
25 thrown forward.

BRETT WOODARD - DIRECT

1 The bullet carries the farthestest distance.
2 The fine powder carries a very short distance, and
3 with a typical handgun that distance usually
4 doesn't exceed about six inches. The coarse
5 particles carry farther, and in a typical handgun
6 that usually doesn't exceed about one foot. I saw
7 none of the fine or coarse particles on the shirt
8 or on the wound and therefore I can say that the
9 end of the gun barrel was a foot or more away from
10 the victim at the time the gun was discharged.

11 Q Okay. And given where Artell Hill, Artell
12 Hill was positioned in the car, would it have been
13 possible to shoot him from over a foot away if he
14 hadn't been turned?

15 A No.

16 Q All right. And from that, I take it you
17 conclude he must have been turned to some degree so
18 that the shoulder would have been exposed?

19 A That's correct.

20 Q And going now to the second shoulder wound,
21 if you would, just show the jury once again the
22 path of that wound.

23 A The wound came in on a short sleeved, a man's
24 short sleeved shirt, just barely caught the edge of
25 the bottom of the shirt sleeve, went into the

BRETT WOODARD - DIRECT

1 substance of the arm, barely nicked the big bone
2 here in the upper arm, the humerus, staying inside
3 the body tissue, passes through the soft tissue of
4 the armpit, the axilla, and comes to rest on the
5 front part of the chest wall here in the big muscle
6 of the front part of the chest.

7 Q Okay.

8 A Obviously that is not a very straight
9 direction, and so I know not what the elbow, down,
10 was doing but from the elbow to the shoulder the
11 arm had to be lifted and slightly back in order to
12 make this path possible and still keep it in the
13 body tissues. If the arm was down, then the path
14 goes out of the arm and ends up where we find the
15 bullet, it wouldn't stay in the axilla, and also
16 the entry wound was egg shaped and had a scrape on
17 the skin in the lower portion of the arm, showing
18 me that it entered the arm in this general pattern
19 as it enters the arm, so that allows me to know
20 that from the shoulder to his elbow was in some
21 position similar to that.

22 Q Okay. So, because of the path of that wound
23 you know that the shoulder had to be raised?

24 A That's correct.

25 Q Okay.

BRETT WOODARD - DIRECT

1 A From the elbow to the shoulder, the upper arm
2 was raised. Again, I don't know what was happening
3 with the hand or the lower arm.

4 Q Okay. And in order to have the kind of shot
5 to the right shoulder that you have, where would
6 Mr. Hill, the man who was shot, where would his,
7 where would the rest of his body have to be
8 positioned relative to the shooter to get that kind
9 of effect or that kind of shot to the right
10 shoulder, through the elbow area?

11 A The shooter would have to be, after the arm
12 was in this general position, it comes through
13 here, the shoulder would have to be aiming sort of
14 at his side of his body, not a face on shot, but a
15 side on shot.

16 Q Okay. And what does that, what does that
17 suggest in regards to where Mr. Hill's left side
18 was, the side that had been shot through the left
19 shoulder, where would that side part of his body be
20 relative to the right shoulder at the time of the
21 shot?

22 A At the time of the shot, there is no way to
23 know.

24 Q Okay.

25 A Obviously the two shots, you can't shoot from

BRETT WOODARD - DIRECT

1 the front to the back of the left shoulder and side
2 on to the right shoulder with the body positioned
3 the same way, so there had to have been, either the
4 shooter had to move or the presentation of the body
5 to the shooter had to move.

6 Q Okay. But the left side, essentially the two
7 shots to the two shoulders had to come from, with
8 Mr. Hill being in two different positions?

9 A That's right, his upper body moved in two
10 different positions.

11 Q Okay. All right, let's go to the head
12 wounds. Once again, if you would, show the jury
13 where the two wounds, first of all we will do the
14 two to the front of the head, where were they
15 located?

16 A From about the hairline edge and creasing
17 across the head was the first wound in this general
18 path. It didn't enter the body, it just creased
19 along through the scalp and slammed into the bone.

20 The second one was above the right ear and in
21 front of it and entered in this general temple
22 region of the skull. We know the direction of this
23 wound relative to his head was from his right front
24 toward his left back and we know the direction of
25 this bullet through his head was from the right

BRETT WOODARD - DIRECT

1 front toward the left back. We recovered that
2 bullet in the back substance of his brain.

3 Q Okay, all right. And what would have been
4 the effect of the two wounds on the person who was
5 shot?

6 A They would have been incapacitating. The
7 wound across the top of the head would be similar
8 to a very powerful blow, like a baseball bat or
9 something, and the person wouldn't have
10 necessarily, they would have been severely stunned,
11 to totally unconscious. The wound through the
12 substance of his brain would render him
13 incapacitated and instantly unconscious. It would
14 not necessarily result in instant stopping of the
15 heart or the lungs.

16 Q Okay. And what can you say, taking these two
17 wounds to the head that you just talked about, and
18 comparing those to the two wounds to the two
19 shoulders, as far as a sequence, can you make, do
20 you have an opinion as to which set of wounds would
21 have occurred first?

22 A Obviously with the right shoulder, compared
23 to where he's found at the time, the police find
24 him, the right shoulder has fallen by gravity into
25 much of a sitting position, so there had to be

BRETT WOODARD - DIRECT

1 voluntary action of the right shoulder or muscle
2 control. That muscle control would not be there
3 after these head shots. These head shots are in
4 very close parallel arrangement and the head was in
5 a general similar position at the time that both of
6 these head shots occurred.

7 Q Okay. So, as far as the sequence of the head
8 shots, which of the two head shots to the front of
9 the head came first? Can you give an opinion as to
10 which of those two came first?

11 A No, I can't. I can't know which one came
12 first.

13 Q Okay. As far as whether either head shot
14 came before or after the two shots to the
15 shoulders, can you give an opinion as to which one
16 of those came first?

17 A The right shoulder shot had to come before
18 the head shots because there is voluntary motion
19 that would be lost when the head shots occurred.

20 Q Okay. Would you say the same thing about the
21 left shoulder shot?

22 A There is no way to know.

23 Q Okay. Why is that?

24 A Because it's essentially from the front to
25 the back and there is no motion or required

BRETT WOODARD - DIRECT

1 position other than the position the officer is in
2 right now, which would be, if I just stopped motion
3 and in a sitting position my hands would
4 essentially fall into that general posture, so
5 there is no way to know.

6 Q Okay. But the left shoulder shot would have
7 required, just making sure I understand how you are
8 testifying, the left shoulder shot would have
9 required movement, a turning of the body to the
10 window?

11 A That's correct. He would have had to
12 voluntarily turn his body to present it to the gun
13 barrel when the left shoulder shot occurs, and
14 obviously he couldn't do that action or somebody
15 would have had to literally crawl inside the car
16 and stand on the dash underneath the window and
17 shoot, which physically there was no evidence of
18 that close proximity at the discharge.

19 Q So, would he have been able to turn and
20 present his left shoulder to the window of the car
21 after he had been shot in the head?

22 A No.

23 Q Okay. Is there anything else that shows you
24 that, shows you the position of the body or
25 indicates to you the position of Mr. Hill's body at

BRETT WOODARD - DIRECT

1 the time of the head shots, any other factors that
2 you observed?

3 A He still has blood pressure at the time of
4 the head shots because he has an active bleeding
5 pattern from these two frontal head shots, where he
6 does not have an active bleeding pattern from these
7 two posterior head shots, the one that was behind
8 the ear and the one that was closer to the cowlick
9 or the crown of the hair.

10 Q And does that bleeding pattern you just
11 talked about, does it provide you with any kind of
12 evidence from which you can render an opinion as to
13 where the body was positioned when he was shot in
14 the head?

15 A The body was positioned, when he is shot in
16 the head, in a sitting position that would be
17 similar to the general sitting position that one
18 assumes in an automobile seat.

19 Q Okay. And how do you know that? What is it
20 about the bleeding pattern that lets you know that?

21 A There is no blood evidence on his pants or
22 his clothing below his knees or on top of his
23 shoes. All the blood pattern collects on here,
24 basically in his lap area and upon the top part of
25 his thighs, and there is drain out blood from this

BRETT WOODARD - DIRECT

1 right shoulder as well. When a bullet goes in, for
2 a small portion of a second the skin, the skull,
3 the bullets are inside the skull, inside the brain
4 and so blood comes out the entry hole in a little
5 cloud of fine blood, and if you are in a standing
6 position that falls on your shoes. If your legs
7 aren't protected by something like the edge of the
8 dash, then it falls on you.

9 Q And in this case --

10 A It fell on his lap, it didn't fall on his
11 shoes, it didn't fall on his lower legs.

12 Q Okay. Let's go now to the wounds to the back
13 of the head. Just tell the jury once again what
14 wounds we have to the back of the head and where
15 they traveled.

16 A Above his right ear and behind it in
17 approximately this area he has a gunshot wound that
18 enters the skull and the substance of the brain,
19 passes to the left front of the skull, so between
20 the frontal wound and this wound they literally
21 carved the brain in quarter sections, and this
22 wound is in a different geometric presentation to
23 the head than these two wounds were that came in
24 the front. --

25 Q And then the other wound to the back of the

BRETT WOODARD - DIRECT

1 head?

2 A About the crown of the head, right about
3 where the cowlick would be, a wound, an atypical
4 wound went in, knocked a plug of bone out and then
5 bounced back off his skull.

6 Q As far as that type of shot, something that
7 goes in and then bounces out, what normally in a
8 shooting situation causes that kind of thing?

9 A Well, there are a variety of things that can
10 cause that. Most commonly old, defective
11 ammunition where either the primer that sets the
12 powder off is old and defective, perhaps got wet,
13 part of it won't go off, or there is some defective
14 feature about that ammunition. It is almost like a
15 partial misfire of that bullet so the bullet
16 doesn't leave the gun with the usual energy that
17 that particular bullet would normally have.

18 Other possibilities would be some sort of
19 malalignment or malfunction in the barrel where
20 actually a bullet doesn't hit the barrel square on
21 but hits it slightly off kilter and it literally
22 expends its energy to get back in the central
23 track. And then the third possibility would be
24 that the bullet passed through some intermediate
25 target of some sort, lost part of its energy in

BRETT WOODARD - DIRECT

1 that target and then struck the victim.

2 Q And as far as sequencing goes between the two
3 wounds to the front of the head and the two wounds
4 to the back of the head, can you say which one of
5 those two sets of wounds came first?

6 A The wounds to the front of the head, there is
7 still evidence there is blood pressure. On the
8 wound to the back of the head there is no evidence
9 of residual blood pressure.

10 Q Okay. And from that, which would you, what
11 do you conclude came first?

12 A I conclude the wounds to the front of the
13 head came before the ones to the back of the head.

14 Q Okay. Now, making that assumption, or going
15 with that opinion, after the shots to the front of
16 the head what would you expect to occur with the
17 positioning of Mr. Hill's head after he's, after
18 he's been shot to the front, what will happen to
19 his head?

20 A The muscles that the officer is using to hold
21 his head up would no longer be functioning, so his
22 head would fall by gravity -- just let your head
23 slump over -- and as you saw, the officer sort of
24 would be pulled away from the seat a little bit
25 just like the officer as he sort of fell asleep in

BRETT WOODARD - DIRECT

1 his chair would go forward. The right or left
2 movement of his head would be unpredictable, you
3 know, fall a little more to the right or to the
4 left, is really an unpredictable thing. But he
5 would essentially be in that general posture, his
6 hand controlled by gravity, the weight of his body
7 controlling the upper portion, and his neck and
8 where his head rests by gravity, which would move
9 him into this general position.

10 Q Okay. If you would, if this is possible --
11 well, when he moves into that position what part of
12 his head is exposed?

13 A This more posterior portion of his head is
14 exposed to the open car window.

15 Q All right. And would that be consistent with
16 shots starting to go into the back of his head as
17 opposed to going into the front of his head?

18 A Yes.

19 Q And as far as the angle of the shots, do you
20 have an opinion as to how the body would have,
21 could have been positioned to render the kind of
22 angles that you see in this instance where you have
23 essentially the criss-cross pattern of the bullets
24 going through the head, how would Mr. Hill's body,
25 how could it have been positioned with the shots

BRETT WOODARD - DIRECT

1 going through the front of the head to render that
2 criss-cross pattern with the shots going through
3 the back of the head, as far as taking into
4 consideration the movement of the head you just
5 described?

6 A Okay. If the head was turned -- turn a
7 little bit to the jury -- if the body was in a
8 turned position such as this to the open window we
9 get the criss-cross pattern through the front of
10 the head. And then when -- now go to sleep -- then
11 when the officer falls into an unconscious position
12 with the shooter still at the window we get the
13 opposite direction.

14 MR. ANTHONY: If I could have one moment.

15 Q All right, you can take your seat back.
16 Thank you very much. Thank you, Officer Harvard.

17 Dr. Woodard, during the course of the autopsy
18 did you recover any projectiles from Mr. Hill's
19 body?

20 A Yes, I did.

21 Q Okay. And where did you recover the
22 projectiles?

23 A I recovered two projectiles from the
24 substance of his brain, one was in the left front
25 and one was in the left back. Then I recovered a

BRETT WOODARD - DIRECT

1 projectile in the muscle of his right chest, and
2 placed them all separately into evidence.

3 Q Okay. The two in the brain, I take it those
4 would have been consistent with the pattern left
5 from the two criss-cross head shots?

6 A That's correct.

7 Q Okay. And then the one from his chest would
8 have been consistent with the one to the right
9 shoulder?

10 A That's correct.

11 Q All right. I'm showing you what has been
12 marked for identification as State's Exhibit Number
13 11 and State's Exhibit Number 12. Can you identify
14 those two documents, please?

15 A Yes. These are anatomic drawings that I have
16 superimposed the general path of the projectiles
17 from Mr. Hill on these drawings and their
18 approximate positioning on the drawings.

19 Q And do those fairly and accurately depict the
20 location and the path of the shots to Mr. Hill that
21 you just testified about this morning?

22 A That's correct.

23 MR. ANTHONY: We would move those drawings
24 into evidence at this time.

25 MR. GROSE: No objection.

BRETT WOODARD - DIRECT

1 THE COURT: Sir?

2 MR. GROSE: No objection.

3 THE COURT: Without objection these two
4 drawings will be marked as one, or are they marked
5 as two?

6 MR. ANTHONY: They are marked as two, I'm
7 sorry, Your Honor.

8 THE COURT: What are their numbers?

9 MR. ANTHONY: Eleven and twelve.

10 THE COURT: Very well, thank you. State's 11
11 and 12 are evidence in the case, ladies and
12 gentlemen.

13 (Drawing of bullet paths received in
14 evidence as State's Exhibit Number 11).

15 (Drawing of bullet paths received in
16 evidence as State's Exhibit Number 12).

17 QUESTIONS BY MR. ANTHONY:

18 Q All right. Dr. Woodard, based on your
19 autopsy of Artell Hill do you have an opinion as to
20 his cause of death?

21 A Yes. He had two gunshot wounds into the head
22 that provided death.

23 MR. ANTHONY: Your Honor, I would ask to
24 publish eleven and twelve to the jury at this time.

25 THE COURT: Very well.

BRETT WOODARD - DIRECT

1 MR. GROSE: No objection.

2 MR. ANTHONY: Thank you. That's everything
3 on direct.

4 THE COURT: Cross-examination.

5 MR. GROSE: May it please the Court.

6 THE COURT: Mr. Grose.

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CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q There were a total of six gunshot wounds?

A That's correct.

Q And you recovered three projectiles?

A That's correct.

Q And two of the projectiles were from the head, right?

A That's correct.

Q And those would have been the two fatal wounds?

A That's correct.

Q And the third projectile was from the arm wound?

A That's correct.

Q And that was a non fatal wound?

A That's correct.

Q Of the six gunshot wounds, only two were fatal, correct?

A That's correct.

Q And four were not fatal?

A That's correct.

Q Okay. What you do in an autopsy is you are examining the body?

A Yes.

BRETT WOODARD - CROSS

1 Q And basically you probably start with the
2 body laid out on a table?

3 A That's correct.

4 Q And the body is brought to you essentially in
5 the condition that it was found, not in the same
6 position, but in the condition it was found as far
7 as being clothed and that sort of thing?

8 A Yes.

9 Q And, so, when you do an autopsy you begin by
10 examining the person as they arrive?

11 A That's correct.

12 Q Which would include an examination of their
13 clothing?

14 A Yes.

15 Q And what you do is you look for signs of
16 injury to the clothing, right?

17 A Yes.

18 Q And that can include where there might be
19 some blood stains?

20 A That's right.

21 Q And what you are looking for is, just in any
22 autopsy in general you are looking for gunshot
23 wounds or knife wounds or signs of trauma?

24 A That's correct.

25 Q And, so, you want to carefully look at that

BRETT WOODARD - CROSS

1 before you start removing the clothing?

2 A Yes.

3 Q And when you remove the clothing, before you
4 start cutting into the body you are going to
5 examine the body?

6 A That's correct.

7 Q And again, you're examining the body for
8 signs of injury, whether it be gunshot wounds,
9 knife wounds or other signs of trauma?

10 A That's right.

11 Q And you are also going to take that into
12 account, the relationship of any trauma to the
13 body, to the signs of trauma to the clothing?

14 A Yes.

15 Q Because you can line up, if there was a hole
16 in the shirt like you found in the left shoulder,
17 you can line that up with the hole in the body?

18 A That's right.

19 Q And the same thing if there is an exit wound,
20 you can line that up?

21 A Right.

22 Q Okay. And it's important to do all of this
23 first because once you start cutting you really
24 can't go back and do that as easily?

25 A That's right.

BRETT WOODARD - CROSS

1 Q Okay. And when you start opening up the body
2 to examine it that's when you can start also
3 learning some more about the paths of gunshots, for
4 example?

5 A Yes.

6 Q I mean, for example, if you've got an
7 entrance wound and an exit wound you have kind of
8 got a good idea of the path at that point?

9 A That's correct.

10 Q So, when you're examining the body you would
11 want to see if that's going to be consistent, and
12 likely it would be, right?

13 A That's right.

14 Q Because we're dealing with, I guess, sort of,
15 you know, laws of nature, laws of physics and that
16 sort of things?

17 A That's correct.

18 Q With a gunshot the bullet is going to travel
19 in a straight direction until it's diverted
20 somehow?

21 A Or runs out of energy.

22 Q Or hits something and is diverted?

23 A That's right.

24 Q And when you just have an entrance wound, I
25 guess that's going to call for a little bit more of

BRETT WOODARD - CROSS

1 an internal examination to see where that bullet
2 ended up?

3 A Yes.

4 Q What you're trying to do is follow that path
5 and see where it goes?

6 A That's correct.

7 Q And, so, in this case you had three wounds
8 that did not leave projectiles in the body?

9 A That's correct.

10 Q And three that did?

11 A That's correct.

12 Q Okay. Now let's talk about these wounds for
13 a second, okay? If I can have Mr. Harvard come
14 back around again? Where did that ruler get to?

15 Thank you. The first wound I want to talk
16 about is the wound to the left shoulder. Okay?

17 A All right.

18 Q Huh?

19 A Fine.

20 Q I believe you had some Polaroid pictures,
21 didn't you?

22 A The Solicitor took them from me.

23 (Defendant's Exhibit Number 20 was
24 marked for identification).

25 BY MR. GROSE:

BRETT WOODARD - CROSS

1 Q I'm going to hand you what has been marked
2 as, I believe, Defendant's Exhibit Number 20. Is
3 that a Polaroid picture I guess was presented to
4 you?

5 A Yes, the Polaroid picture was given to me at
6 the time of the autopsy.

7 Q Okay. Probably from Mr. Harvard who attended
8 the autopsy?

9 A Probably.

10 Q Okay.

11 MR. GROSE: I would move this in evidence,
12 Your Honor.

13 MR. ANTHONY: Can I see it?

14 MR. GROSE: Sorry.

15 MR. ANTHONY: No objection.

16 THE COURT: Without objection. The number?

17 MR. GROSE: Number 20, Your Honor.

18 THE COURT: Number 20 of the defense becomes
19 part of the evidence in the case.

20 (Photograph marked Defendant's Exhibit
21 Number 20 was received in evidence).

22 BY MR. GROSE:

23 Q And what Number 20 shows, Doctor, is Mr.
24 Artie Hill, it's a front view of the car, correct?

25 A That's correct, we're looking through the

BRETT WOODARD - CROSS

1 front window of the car, over the top of the hood.

2 Q All right. And he's sitting in the car
3 facing forward?

4 A Essentially in a face forward position.

5 Q Okay.

6 MR. GROSE: I'm going to publish those to the
7 jury if it's all right.

8 THE COURT: You may.

9 BY MR. GROSE:

10 Q With regard to the wound to the left
11 shoulder, as I understand it, it's your position
12 that Artell Hill was not in the position in that
13 photograph when that wound took place?

14 A That's correct.

15 Q All right. And what we're dealing with, in
16 part, the first thing we're dealing with is we have
17 a confined space?

18 A That's correct.

19 Q The interior of an automobile?

20 A That's correct.

21 Q And we all know from our cars that there is
22 limited room in there?

23 A Correct.

24 Q And you're looking at the path of the wound?

25 A That's correct.

BRETT WOODARD - CROSS

1 Q And incidently, I believe you said that all
2 these wounds, or your opinion is all these wounds
3 were more than a foot away?

4 A That's correct.

5 Q Let's talk about that for just a second.
6 There is really basically three categories that you
7 can identify would be sort of a contact, a very
8 close proximity, which I think in this case you
9 said would be contact to six inches?

10 A That's correct.

11 Q And the second area would be a farther area,
12 with a gun this size would be another six inches?

13 A Approximately a foot total.

14 Q And what you're looking for is the pattern
15 that is left on the body based on these gases and
16 powders and stuff that's expelled from the gun?

17 A Or the clothing.

18 Q Or the clothing. It could be either on the
19 body or clothing or both?

20 A That's correct.

21 Q And at a certain distance, at about six
22 inches with a gun this size that pattern changes?

23 A It makes it's first change, that's correct.

24 Q Right. And then after a foot that pattern is
25 not there?

BRETT WOODARD - CROSS

- 1 A It becomes inapparent.
- 2 Q Okay. So, if somebody said these wounds were
3 within a few inches that would not be correct,
4 would it?
- 5 A That's correct.
- 6 Q They would have to be more than a few inches?
- 7 A That's right.
- 8 Q Would have to be more than twelve inches?
- 9 A That's correct.
- 10 Q If somebody said that they stuck the gun to
11 Artie's temple that wouldn't be true, would it?
- 12 A No, it would not.
- 13 Q Because you don't have that type of pattern
14 that you expect when it's stuck to the temple?
- 15 A That's correct.
- 16 Q And these are objective findings, right?
- 17 A That's correct.
- 18 Q I mean, that pattern is either there or it's
19 not there?
- 20 A That's correct.
- 21 Q I mean, when we're talking about a gun not
22 working sometimes, we're not talking about it not
23 leaving these patterns, we're talking about its
24 mechanical functioning, right?
- 25 A That's correct.

BRETT WOODARD - CROSS

1 Q Okay. Now, the wound to the shoulder, coming
2 back to that --

3 A The left shoulder?

4 Q To the left shoulder, yes, sir, thank you.
5 The wound to the left shoulder, in that picture
6 that's being passed around, the window shield, the
7 glass is not broken?

8 A No, it's not.

9 Q And, so, you know, it could be more than a
10 foot away in front of the car and shoot and get
11 that wound but it would break the glass?

12 A That's correct.

13 Q And that's something that's sort of
14 inescapable, isn't it?

15 A Yes.

16 Q Okay. So, what we know, then, because of the
17 confined space of the car, the fact that the glass
18 is not broken, is that the body had to be in a
19 different position?

20 A That's correct.

21 Q And for that to happen that person would have
22 to be facing the shooter, wouldn't they?

23 A They would have to be more square to the
24 shooter, face on.

25 Q Squared up with the shooter, is that right?

BRETT WOODARD - CROSS

1 A Yes.

2 Q All right. What I would ask you to do is
3 come down here again and using this ruler again
4 show the angle of that wound, how it would have
5 entered.

6 A It entered approximately here and goes
7 through the body, going slightly down relative to
8 its entry point.

9 Q It goes down about half an inch, right?

10 A Yes.

11 Q Can you put this ruler in about the position
12 it would be if it was going down about a half an
13 inch?

14 A I would guess about like that.

15 Q All right. Now, what if the body was more in
16 a straight position? It would be about like that?

17 A Yes.

18 Q Okay. Could this wound have occurred if
19 somebody was standing up?

20 A Certainly.

21 Q All right. Put Mr. Harvard in the position
22 if he was standing up. Stand up, Mr. Harvard.

23 Okay. And the shooter could have been, would
24 have to have been squared up?

25 A He would have been squared up. This

BRETT WOODARD - CROSS

1 represents the end of the barrel of the shooter's
2 gun. It would have had to be, it would have to be
3 at least this far farther away.

4 Q Okay. And the shooter would be, I'm going to
5 try to hold this in the exact position, the shooter
6 would be facing --

7 A Facing him.

8 Q And if the shooter had the gun in their right
9 hand -- can you lift your right hand -- being in
10 this position facing the shooter could cause that
11 wound, couldn't it?

12 A Yes.

13 Q Very possible?

14 A Yes, sir.

15 Q Sit back down.

16 If somebody were to turn -- turn this way --
17 sitting in a car it's kind of difficult to get
18 turned where you're squared up straight to the
19 shooter, isn't it?

20 A It would depend on where the shooter was.

21 Q He would have to turn more than this,
22 wouldn't he?

23 A I would think he would, yes.

24 Q Because -- I'm going to show you what's been
25 marked as Defendant's Exhibit Number 1.

BRETT WOODARD - CROSS

1 A Okay.

2 Q I want you to assume that that's a picture
3 that was taken by a SLED crime scene examiner on
4 the night this happened.

5 A All right.

6 Q All right. You're dealing with the door of
7 the car, right?

8 A Uh-huh (Affirmative).

9 Q And you're dealing with the, I don't know
10 what you call it, but that metal piece that holds
11 up the car?

12 A Yes.

13 Q And, so, in order to get squared towards the
14 shooter you would have to be turned enough to be
15 fully facing, because at the angle he's at now it
16 would be going through part of the car?

17 A That's correct.

18 Q Would you have to be fully turned almost like
19 this?

20 A Yes.

21 Q All right. Being turned in that position --
22 you can relax -- being turned in that position is
23 also, like we said, consistent with being outside
24 the car and standing up facing directly the
25 shooter?

BRETT WOODARD - CROSS

1 A The wound does not eliminate that
2 possibility, no.

3 Q Okay. And this wound, by comparison, is a
4 slow bleeding wound. Is that fair to say?

5 A Yes. It doesn't have a great deal of blood
6 associated with it.

7 Q All right.

8 MR. GROSE: I'm going to pass Exhibit
9 Number 1, if it's all right, Judge.

10 THE COURT: You may.

11 Q I'm going to hand you Defendant's Exhibit
12 Number 7, and again I want you to assume that that
13 was taken by a SLED crime scene person.

14 A All right.

15 Q And that shows a red dot on this shoulder
16 wound that we're talking about, right?

17 A Yes, about a quarter size.

18 Q There is not a lot of blood --

19 A No.

20 Q -- in that wound?

21 A No, there's not.

22 Q And correct me if I'm wrong but I believe you
23 said that this wound was to the beefy muscle?

24 A Right, the deltoid.

25 Q All right. So it's going through, I mean,

BRETT WOODARD - CROSS

1 that is certainly going to create bleeding but it's
2 not going to create the same amount of bleeding as
3 if it goes through an artery or vital organ?

4 A That's correct.

5 Q That is just medical science?

6 A That's right.

7 Q The amount of blood that's present in those
8 places, right?

9 A That's correct.

10 Q It's greater in places where it's being
11 transported from one part of the body to another or
12 in the vital organs like the heart or something?

13 A That's right.

14 Q All right. And, so, that picture is
15 consistent with what you're saying about this being
16 a slow bleeding wound?

17 A Right.

18 Q All right.

19 MR. GROSE: I'll pass this, Your Honor.

20 Q And again, this wound to the shoulder was one
21 of the first two wounds, right?

22 A That's right.

23 Q Because Artell Hill was not in the position
24 that he was in in what we marked as the Polaroid,
25 Number 20?

BRETT WOODARD - CROSS

1 A No.

2 Q And in order to be in a position where he was
3 squared with the shooter he still had to have the
4 ability to move his body?

5 A That's correct.

6 Q And to turn his body?

7 A That's correct.

8 Q And certainly at that point he could still
9 stand?

10 A He would still be able to stand, yes, sir.

11 Q And walk?

12 A Yes.

13 Q And we know that this wound and the one to
14 the other arm, the right arm, were the first two?

15 A That's right.

16 Q Because during those shots and after those
17 shots he would have still had the ability to move?

18 A Correct.

19 Q Okay. Now, the wound to the shoulder, I'm
20 sorry, to the arm, can we demonstrate again what
21 position the angle of that would be, if you don't
22 mind stepping down?

23 A Okay.

24 Q First of all the arm is not in this position,
25 is it?

BRETT WOODARD - CROSS

1 A No, it's not. It's not in a resting
2 position.

3 Q It would had to have been raised?

4 A That's correct.

5 Q Let's put it in the position it would have
6 had to have been.

7 A Essentially this position relative to the
8 open window so that the bullet could come in the
9 muscle, bump the bone and then go into the pectoral
10 muscle but still stay in the body.

11 Q Okay. It's more or less a level shot?

12 A Pretty much level.

13 Q Kind of like the one to the left shoulder was
14 level?

15 A That's right.

16 Q They are in fact at about the same level in
17 the body?

18 A Yes, pretty much.

19 Q Okay. This wound could have occurred
20 standing up as well, couldn't it?

21 A Yes.

22 Q All right. Put him in a position how it
23 could have occurred standing up. Maybe we can just
24 turn him so all the jurors can see real well.
25 Let's turn him toward you. Turn the body.

BRETT WOODARD - CROSS

1 A He would have to have the right side of his
2 body facing me.

3 Q It couldn't have come from the left?

4 A No, it can't come from the left. He has to
5 have the right side of his body facing me, his arm.
6 Again I don't know what is our condition beyond
7 here but his arm would be in approximately that
8 position, the bullet would come down and go into
9 the pectoral muscle.

10 Q All right. And it went through like in here?

11 A No, no, it went right --

12 Q Right through in here?

13 A No, right up in here, right.

14 Q The elbow could be a little bit lower and it
15 go in there?

16 A Right.

17 Q The elbow could be in this position?

18 A Uh-huh (Affirmative).

19 Q And then the angle would be straight out this
20 way?

21 A That's right.

22 Q And that could have come from somebody in a
23 standing position making that shot?

24 A Certainly.

25 Q With him being in a standing position?

BRETT WOODARD - CROSS

1 A Yes, sir.

2 Q Okay.

3 MR. GROSE: Can you come back over here, Mr.
4 Harvard?

5 Q So, we know at this point that the shooter is
6 at least, the barrel of the gun, the end of the gun
7 is at least a foot away?

8 A That's correct.

9 Q And, so, if the gun was out like this the
10 closest part would be the barrel and the shooter
11 would be maybe a step back or something?

12 A Arm's length back.

13 Q All right. And we know that these wounds
14 were basically level shots?

15 A Yes, essentially.

16 Q Okay. So, the shooter and the person who was
17 shot would have to be aligned in such a way so that
18 physics would work for that path to be a level
19 path?

20 A Certainly.

21 Q Okay. Now, in your autopsy you document how
22 tall Mr. Hill, Artell Hill is?

23 A That's correct.

24 Q And if I remember correctly, that was 70
25 inches?

BRETT WOODARD - CROSS

1 A 70 inches.

2 Q All right. And I'm not the greatest with
3 math but I believe 70 inches converts to five-ten?

4 A That's right.

5 Q And, so, certainly a person's height takes
6 into account some of these factors. If they are
7 standing up you have to take into account their
8 height?

9 A That's correct.

10 Q Has anybody told you how tall Lanny Hill is?

11 A Not to my knowledge.

12 Q All right. If you assume he's five-eleven
13 that would put him at about the same height or a
14 little bit taller?

15 A Yes, essentially the same height.

16 Q All right. So, when we're talking about
17 these wounds, standing up, and particularly the one
18 in the shoulder where they are squared up, that's
19 an additional factor that makes this standing shot
20 consistent?

21 A It certainly would make it possible,
22 absolutely.

23 Q Okay. And it would be consistent with that,
24 could be consistent with that?

25 A It could be.

BRETT WOODARD - CROSS

1 Q Okay. Now, you made a comment, when we were
2 talking about the arm wound, that you really don't
3 know what's happening from the elbow, down?

4 A That's correct.

5 Q All right. And that could be consistent --
6 before we go into that, this elbow-arm wound, by
7 comparison, is bleeding a bit differently than the
8 first one we talked about, right?

9 A More aggressively bleeding.

10 Q All right. And Defendant's Exhibit Number
11 11, assume that was taken by a crime scene person
12 from SLED, that's consistent with what you saw at
13 the autopsy?

14 A Yes, it is.

15 Q All right. And you say that's bleeding more
16 aggressively. That's not bleeding as much or as
17 fast as the wound, the fatal wound, the first wound
18 to the head when there was still blood pressure?

19 A Right.

20 Q And we'll talk more about that in just a
21 second. But this would be a little bit slower
22 bleeding than the head wound?

23 A Yes, it would be.

24 Q Okay. And again that takes into account the
25 amount of blood in the area where the shot was,

BRETT WOODARD - CROSS

1 right?

2 A Yes, sir.

3 Q And also the pressure on the blood?

4 A That's right, how much pressure would be
5 pushing blood around the body.

6 Q Right. the blood is being delivered by an
7 artery that is a lot stronger than being returned
8 by the veins that return the blood to the heart?

9 A That's correct.

10 Q Okay. And then you've got to take into
11 account maybe the distance from the heart and the
12 size of the arteries or blood vessels or other
13 tissues that would bleed?

14 A And how much, how many vessels were torn by
15 the bullet.

16 Q Right, the path and everything, because we
17 talked about the muscle tissue versus maybe other
18 types of tissue that would have more blood?

19 A That's right.

20 Q All right. You can set this down.

21 You talked about knowing the position from
22 the elbow, up?

23 A That's correct.

24 Q That's taking into account the physics of the
25 body?

BRETT WOODARD - CROSS

1 A That's right.

2 Q It's harder to tell from the elbow, down?

3 A I can't, because the elbow, your wrist and
4 your elbow are rotational joints.

5 Q Right.

6 A They could assume a multitude of positions
7 and still have the upper part of the arm in that
8 position.

9 Q All we know is they weren't in a position
10 that was blocking the path of the bullet?

11 A That's right.

12 Q But they could have been in another position?

13 A Right.

14 Q And if somebody had gotten out of the car and
15 was squared up with the shooter, all right?

16 A All right.

17 Q That would have caused the wound to the left
18 shoulder?

19 A That's correct.

20 Q And then if they were turning away from the
21 shooter to get back into the car with their arm up
22 like this, that would put that arm in the path to
23 receive that shot?

24 A That's correct.

25 Q And if they got back into the car, at this

BRETT WOODARD - CROSS

1 point the head wounds have not occurred with the
2 first two shots?

3 A That's correct.

4 Q So, they could have gotten back in the car
5 and be seated down in some position before the head
6 shots, correct?

7 A Could.

8 Q All right. Now, with regard to the head
9 shots, you can't really tell the complete order,
10 one, two, three, four, but you can say two happened
11 before the other two?

12 A That's correct.

13 Q All right. And again we're doing this based
14 on the medical science and the physics?

15 A That's correct.

16 Q All right. Now, we talked about wounds to
17 the front of the head and to the back of the head?

18 A That's correct.

19 Q We're not talking about something to the dead
20 back of the head, are we?

21 A No, not --

22 Q What we're talking about is more toward the
23 front, all these head wounds came in more or less
24 from the side?

25 A Came in from the side.

BRETT WOODARD - CROSS

1 Q All right. Two of them were more toward the
2 front and two of them were more toward the back?

3 A That's correct.

4 Q And that's how we're characterizing it.
5 Correct?

6 A That's correct.

7 Q All right. Now, Mr. Anthony had you look at
8 some diagrams that you prepared, I believe they are
9 Numbers 11 and 12 of the State's exhibits.

10 A They are.

11 Q Now, you have the paths drawn in there and we
12 know that the, well, the first two, the ones toward
13 the front side of the head, one was fatal and one
14 was not fatal?

15 A That's correct.

16 Q All right. The one that grazed the forehead,
17 I'm not sure if I'm pointing right, grazed the
18 forehead, that one did not go into the skull, into
19 the brain?

20 A It did not.

21 Q All right. I believe you said that one would
22 have stunned somebody to knock them out?

23 A That's correct.

24 Q The wound that went into the head and into
25 the brain, you actually recovered that projectile?

BRETT WOODARD - CROSS

1 A Yes, I did.

2 Q Okay. And that one would have been instantly
3 incapacitating?

4 A That's right.

5 Q And the reason that it would have been
6 instantly incapacitating is because of the
7 destruction that it does to the brain tissues?

8 A That's correct.

9 Q And this is the one that produced a large
10 amount of bleeding?

11 A That's correct.

12 Q Because the blood pressure was present still
13 at this point?

14 A That's correct.

15 Q And once that happened the arm couldn't have
16 been raised anymore?

17 A That's correct.

18 Q The body couldn't have been raised anymore?

19 A No.

20 Q But we do know that the head was still
21 slightly turned towards the shooter when that took
22 place?

23 A That's correct.

24 Q In fact, both of the front wounds, when it
25 took place. If you can step down here with these

BRETT WOODARD - CROSS

1 diagrams. I'm looking at Number 11, and this is
2 two dimensional, so it's not going to have the same
3 effect as a three dimensional?

4 A That's correct.

5 Q But to get these angles that are in here the
6 head would had to have been turned in this
7 direction?

8 A That's correct.

9 Q All right. Can you place my head in the
10 direction that that would had to have been?

11 A Move your head, turn around and look at me.

12 Q That general position?

13 A That general position.

14 Q Okay. And that would be consistent with the
15 position somebody might be in if they had just sat
16 back down in the car, looking out the window?

17 A It would be possible.

18 Q Okay. And once these happened, the head
19 would fall?

20 A That's correct, by gravity.

21 Q By gravity, particularly after the one that
22 was --

23 A Into the substance of the brain.

24 Q -- into the substance of the brain, because
25 it was immediately incapacitating?

BRETT WOODARD - CROSS

1 A Uh-huh (Affirmative).

2 Q So, the blood pressure is going at that
3 point, and so the blood would start bleeding down
4 the chest and the lap and that sort of thing?

5 A That's right.

6 Q All right. You can step back up to the
7 stand, sit back down.

8 When we're talking about the flow pattern,
9 this would be a downward flow of the blood?

10 A That's right, come to the skin surface and
11 then by gravity.

12 Q By gravity. Again we're talking about the
13 laws of nature and the laws of physics?

14 A That's correct.

15 Q And that would also, because of this, there
16 would be, I guess, a loss of blood pressure soon
17 thereafter?

18 A That's correct.

19 Q And, so, that's why you're saying that when
20 the final two shots, the head was, had dropped
21 down, when those final two shots took place there
22 wasn't as much bleeding from the fatal wound, or
23 the final two, one was fatal, one was non fatal?

24 A That's correct.

25 Q So, there wouldn't have been as much bleeding

BRETT WOODARD - CROSS

1 at that point, even though it enters the same
2 tissue there is not as much bleeding because the
3 first wound, all the blood is flowing out of there
4 and the blood pressure has changed?

5 A That's correct.

6 Q All right. And, again, there was only two, I
7 mean three projectiles recovered?

8 A That's correct.

9 Q Two from the head, one from this, the right
10 arm?

11 A Right.

12 Q And, again, we're dealing with a confined
13 space of an automobile?

14 A Yes, we are.

15 Q Okay. The fact that the projectile from this
16 left shoulder is missing can be consistent with
17 having been outside the car and that projectile
18 flying off someplace else?

19 A Certainly.

20 Q All right. It would be unusual for there to
21 be so many shots into the car and only recover --
22 well, let me rephrase that.

23 It would be unusual for there to be six shots
24 in a confined space like a car and only be able to
25 find three projectiles?

BRETT WOODARD - CROSS

1 A In the body?

2 Q Well, you're looking, you're not the only one
3 looking for projectiles, right?

4 A No. Are you talking about in the substance
5 of the car?

6 Q They could be in the car?

7 A That's correct.

8 Q All right. You find the ones that enter and
9 stay?

10 A That's correct.

11 Q And they have other investigators look for
12 the ones that don't enter and stay?

13 A That's correct.

14 Q Okay. And when you're dealing with a
15 confined area, very arguably there is less room for
16 these projectiles to travel?

17 A That's correct.

18 Q That is just physics, again, I mean, because
19 of the limitations of the space?

20 A That's correct.

21 Q All right.

22 MR. GROSE: Beg the Court's indulgence for a
23 moment.

24 Q Very briefly, I'm getting close to being
25 finished, but assuming that the first two shots

BRETT WOODARD - CROSS

1 were outside the car, the blood flow is a lot less
2 from those wounds than from that fatal head wound?

3 A That's correct.

4 Q Okay.

5 MR. GROSE: Your Honor, may Mr. Anthony and I
6 approach briefly?

7 THE COURT: Yes, sir.

8 (Unrecorded bench conference).

9 MR. GROSE: Thank you, Your Honor. That's
10 all I have at this time.

11 THE COURT: Cross-examination, Mr. Anthony,

12 MR. GROSE: Actually it would be redirect,
13 Your Honor.

14 THE COURT: I'm sorry, redirect.

15 MR. ANTHONY: If I could just have a moment.
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BRETT WOODARD - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. ANTHONY:

3 Q Just a couple questions, Dr. Woodard. The
4 motion of Mr. Hill's right arm when he was shot, by
5 raising it, that's what you testified to?

6 A Yes, sir.

7 Q Would that be consistent with the kind of
8 defensive motion you expect people to make when a
9 gun is pointed at them?

10 A Throwing their arm up as if it would stop the
11 bullet.

12 Q All right.

13 MR. ANTHONY: Mark that.

14 (State's Exhibit Number 13 was marked).

15 BY MR. ANTHONY:

16 Q I'm showing you what has been marked for
17 identification as State's Exhibit Number 13. Is
18 this one of the photos that you looked at in
19 performing the, or before you began to perform the
20 autopsy, to get an overview of the situation there
21 in Calhoun Falls?

22 A Yes, it is.

23 Q Okay. And does that show the car and Mr.
24 Hill seated in the car?

25 A It shows him seated in the passenger side of

BRETT WOODARD - REDIRECT

1 the automobile.

2 MR. ANTHONY: We move Number 13 into
3 evidence.

4 MR. GROSE: No objection.

5 THE COURT: Without objection Number 13 will
6 become part of the evidence for the State.

7 (Photograph received in evidence as
8 State's Exhibit Number 13).

9 BY MR. ANTHONY:

10 Q That is a view of the car from the driver's
11 side, is that correct?

12 A Yes, it is.

13 Q What is the position of the driver's side
14 window at the time that picture is made?

15 A The driver's side window at the front door is
16 completely down and the back door is down halfway.

17 Q Okay. And given, supposing Mr. Hill were
18 seated in the car and turned as you testified he
19 would have had to have done to have been shot
20 through the left shoulder, would it be possible
21 for -- well, where would you expect, if he had been
22 seated in the car, through his left shoulder, where
23 would you expect the bullet to travel?

24 A Across the car and either into the driver's
25 side door or through its window.

BRETT WOODARD - REDIRECT

1 Q Okay. So, it is not, had he been shot that
2 way it would be quite possible that there would not
3 be a projectile recovered inside the car, since the
4 window was open?

5 A That's correct.

6 MR. ANTHONY: I ask to pass this to the jury.

7 THE COURT: You may.

8 MR. ANTHONY: If I could have one moment.

9 THE COURT: Take your time.

10 MR. ANTHONY: Thank you. That's all.

11 THE COURT: Recross?

12 MR. GROSE: No, sir, nothing further.

13 THE COURT: Mr. Foreman, ladies and
14 gentlemen, we will take a recess at this time.
15 Please do not discuss the case by, between and
16 among yourselves, and be aware that we have some
17 questions of law to discuss while you're taking a
18 break. Do not discuss the case and retire to the
19 jury room. You may remain here until everyone has
20 had an opportunity to look at that exhibit.

21 The jurors may retire. Do not discuss the
22 case.

23 (The jury was excused from the courtroom).

24 THE COURT: Counsel will approach.

25 (Unrecorded bench conference).

BRETT WOODARD - REDIRECT

1 THE COURT: All right, the witness is with
2 you, Mr. Grose, to proffer testimony.

3 MR. GROSE: Thank you, Your Honor. And just
4 for the record, before I ended my examination of
5 Dr. Woodard Mr. Anthony and I had approached and we
6 had this matter that we had indicated would have to
7 be taken up outside the presence of the jury, and
8 the government allowed us to reserve that to do at
9 this point.

10 THE COURT: Let's put one other thing. The
11 reader will also note that we had additional
12 discussion wherein the court inquired of defense
13 counsel as to whether there was any defense to be
14 presented wherein the defense would claim that
15 there was a drug deal or any kind of an exchange of
16 drugs contemplated or involved between the deceased
17 and the defendant and, Mr. Grose, you represented
18 that that would not be, you did not expect the
19 evidence to reveal any such intended transaction.

20 MR. GROSE: That's correct but I also said
21 there would be evidence that Artell Hill and Lanny
22 Hill had done drugs before, before these
23 difficulties arose, and there is also, I said there
24 is that connection between weapons and drugs that
25 the government likes to push in all kind of other

BRETT WOODARD - REDIRECT

1 cases and that they are trying to have it both ways
2 by objecting to this in this case.

3 THE COURT: Well, you have no, let's just let
4 the record reflect that the defense has no
5 information at hand that would go to show that the
6 defendant had knowledge that the deceased had any
7 drugs at all?

8 MR. GROSE: No, sir.

9 THE COURT: Very well, the record is clear.

10 MR. GROSE: All right.

11 THE COURT: Thank you very much.
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BRETT WOODARD - CROSS

1 FURTHER CROSS EXAMINATION

2 | QUESTIONS BY MR. GROSE:

3 Q Doctor, as part of your autopsy you do an
4 inventory of people's clothing and the contents of
5 their pockets?

6 A That's correct.

7 Q And in this case you checked the pockets of
8 Artell Hill?

9 A Yes, I did.

10 Q And in those pockets you found within one of
11 them, it was his right front pocket, there was two
12 small ziplock type bags which contained a yellow
13 granular material suggestive of crack cocaine?

14 | A That's correct.

15 Q I'm going to show you what was marked as
16 Defendant's Exhibit Number 2 but dated 3/22 of the
17 year 2000. Is that what you found in your autopsy?

18 A Yes, this is one of my bags with my
19 identification on it, my handwriting and we had
20 sealed it with tape.

21 | Q All right.

22 MR. GROSE: Just to keep the record straight,
23 Your Honor, I would mark it for identification as
24 the next number in order in this case and we will
25 place it so both stickers can be seen.

BRETT WOODARD - CROSS

1 THE COURT: Very well. Any objection to
2 that, Mr. Anthony?

3 MR. ANTHONY: No, sir.

4 THE COURT: It's for identification only.

5 MR. GROSE: I understand.

6 (Bag marked Defendant's Exhibit 21
7 for identification).

8 BY MR. GROSE:

9 Q Also you found those two bags of what's
10 believed to be crack cocaine, one of those was
11 folded in a \$20 bill?

12 A That's correct.

13 Q And within this same pocket there was \$75 in
14 money present?

15 A That's correct.

16 Q There were two \$20 bills, correct?

17 A That's correct.

18 Q Three \$10 bills, correct?

19 A Yes.

20 Q And one \$5 bill?

21 A Yes.

22 Q And that adds up to \$75?

23 A That's correct.

24 Q You also found a folded pocket knife inside
25 his clothing?

BRETT WOODARD - CROSS

1 A That's correct.

2 Q And in his right back pocket there was a
3 wallet?

4 A That's correct.

5 Q It contained an additional \$20 bill?

6 A No, \$2 bill.

7 Q An additional \$2 bill and a Susan B. Anthony
8 dollar coin?

9 A That's correct.

10 Q And a razorblade?

11 A That's correct.

12 MR. GROSE: That's all I have, Your Honor.

13 THE COURT: Now, the Court has not ruled upon
14 any evidence to be brought before the jury other
15 than the presence of drugs. If you want to ask him
16 in front of the jury about the money and the
17 contents of the wallet and so forth that's fine if
18 you want to do that.

19 MR. GROSE: Your Honor, in all my years of
20 watching the government present possession with
21 intent to distribute cases, there is of course an
22 inference based on weight and I would concede that
23 based on what we have here that weight doesn't
24 appear to be present, but the inference based on
25 the weight is not a prerequisite for bringing a

BRETT WOODARD - CROSS

1 possession with intent to distribute case. When
2 the government tries to present those cases they of
3 course rely on circumstantial evidence which would
4 include the people who sell drugs often have money
5 in their pocket, that the going rate for crack
6 cocaine is \$20, that razorblades can be used as
7 drug paraphernalia, and of course we all, you know,
8 all of us who are grown men who shave have
9 razorblades. Of course we don't carry them around
10 in our pockets for that purpose, so that's also an
11 additional circumstance suggestive of all this, and
12 we get back to the nexus of weapons with drugs that
13 the government, particularly the federal government
14 is big on presenting. The issues with the money
15 and the razorblades go with, go with that.

16 I do think I want to ask him if there was a
17 knife in his pocket. I will do that when the jury
18 comes back in.

19 THE COURT: Anything other than the presence
20 of the contraband, because that would be more
21 prejudicial than probative in this matter, unless
22 as you have already covered on the record, the
23 defense expects that to become an issue between the
24 parties?

25 MR. GROSE: Just so I don't waive anything,

BRETT WOODARD - CROSS

1 when you bring the jury back in I want to ask him
2 about the contents of the pockets, with the
3 exception of the alleged contraband.

4 THE COURT: Very well. Bring them back in,
5 please, Mr. Busby.

6 (The jury returned to the courtroom).

7 THE COURT: Continue cross-examination.

8 MR. GROSE: Thank you, Your Honor.

9 BY MR. GROSE:

10 Q Very briefly, Doctor. We talkèd earlier
11 about the examination of clothing as part of the
12 autopsy?

13 A That's correct.

14 Q And as part of that you make an inventory or
15 at least list there in your report items that are
16 found inside people's clothing?

17 A That's correct.

18 Q And in this case there was some items in the
19 front right pocket?

20 A Yes, there were.

21 Q There was some folded money?

22 A That's correct.

23 Q And that totaled \$75?

24 A That's correct.

25 Q I believe there was two twenties, correct?

BRETT WOODARD - CROSS

- 1 A Yes.
- 2 Q Three tens?
- 3 A Correct.
- 4 Q And a five?
- 5 A That's correct.
- 6 Q And those denominations add up to \$75?
- 7 A That's correct.
- 8 Q Also in one of his pockets there was a folded
- 9 pocket knife?
- 10 A Yes, there was.
- 11 Q And in his --
- 12 MR. ANTHONY: Your Honor, may we approach for
- 13 a moment?
- 14 THE COURT: Yes, sir.
- 15 (Unrecorded bench conference).
- 16 BY MR. GROSE:
- 17 Q All right, Doctor, going back to what I was
- 18 asking you. In one of his pockets there was a
- 19 wallet?
- 20 A His back right pocket.
- 21 Q Back right pocket, and in the wallet there/
- 22 was a \$2 bill?
- 23 A That's correct.
- 24 Q A Susan B. Anthony dollar coin?
- 25 A That's correct.

BRETT WOODARD - CROSS

1 Q There was numerous pictures?

2 A Correct.

3 Q Personal identification and other papers?

4 A That's right.

5 MR. GROSE: That's all I have at this time,
6 Your Honor.

7 THE COURT: Mr. Anthony?

8 MR. ANTHONY: No further questions.

9 THE COURT: All right. Ladies and gentlemen,
10 we have some additional questions of the witness to
11 be placed on the record outside your presence.
12 Please do not discuss the case and retire to the
13 jury room.

14 We also are going to take a break together
15 with you, this will take about three or four
16 minutes, then we will all take a break, so you can
17 relax a few minutes. Don't discuss the case and
18 retire to the jury room.

19 (The jury was excused from the courtroom).

20 THE COURT: Just before this break there was
21 a request by the Solicitor to approach and we had
22 an off the record conversation in which the
23 Solicitor interposed an objection to the
24 razorblade, along the same lines as his objection
25 to the drugs. The Court indicated that that

BRETT WOODARD - CROSS

1 objection would be sustained, as it would be more
2 prejudicial than probative, since we are not
3 involved in a drug related transaction or case, and
4 so the objection was sustained. However, it's the
5 recollection of the court that the existence of the
6 razorblade in the wallet has already been placed on
7 the record. I believe that's the case.

8 MR. GROSE: That's correct, Your Honor, and I
9 would just add that I believe that the Government
10 stated they were concerned about the connection of
11 the razorblade in proximity with the drugs, which
12 is, I think, the objection itself kind of goes to
13 prove my point, there is a nexus between drugs and
14 the razorblade, which is paraphernalia, and a nexus
15 between the weapons. So, I think their objection
16 actually helps support our argument that all of
17 this stuff is related.

18 THE COURT: That is not the way the Court
19 recalls it but, Mr. Anthony, will you speak to that
20 issue?

21 MR. ANTHONY: Well, it's the State's position
22 that -- I agree there is a nexus between the drugs
23 and the razorblade and neither one of them is
24 relevant because the issue in the case, this is a
25 murder case and the issue is whether Mr. Hill

BRETT WOODARD - CROSS

1 committed the murder or whether he was acting in
2 self defense, and crack on the victim's person or
3 other associated paraphernalia on the victim's
4 person is not relevant to either issue, it's just
5 bad character evidence about the victim, and that
6 alone is not admissible.

7 THE COURT: The objection is sustained.
8 Anything further?

9 MR. GROSE: No, sir.

10 THE COURT: Any objection to Dr. Woodard
11 being excused?

12 MR. ANTHONY: No, sir.

13 MR. GROSE: No, sir.

14 THE COURT: Dr. Woodard, thank you very much.
15 It's a pleasure to see you again, sorry it's under
16 these circumstances, but you may leave the
17 building.

18 (Witness excused).

19 THE COURT: We stand in recess, please, for
20 about ten minutes.

21 (Recessed at 11:17 a.m.).

22 (Reconvened at 11:45 a.m.).

23 THE COURT: All right, we'll open the record,
24 please, in the matter of State of South Carolina
25 versus Robert Orlando Hill, indictment 99-494.

1 Is there anything from the defense?

2 MR. GROSE: Your Honor, I had mentioned that
3 we have a short witness, that witness is here, I
4 told him to be here at noon, so I'm going to put
5 him up first and then call Mr. Hill, if that's all
6 right.

7 THE COURT: All right. Anything further?

8 MR. GROSE: If the State is going to rest,
9 rather than bringing the jury in and sending them
10 back out, I will go ahead and move for directed
11 verdict.

12 THE COURT: There is no need to argue it.
13 The Court is concerned with the existence of
14 evidence and not its weight, so the Court is
15 constrained and required to deny that motion.

16 Do you want to be heard?

17 MR. ANTHONY: No. The only other matter I
18 point out is if Mr. Hill is going to get on the
19 stand after the jury gets back in the box it's my
20 feeling it would be a good time for the Court to go
21 ahead and advise him of his right not to testify.

22 THE COURT: We shall do that now. Mr. Hill,
23 it is the Court's understanding your attorney
24 intends to call you to testify in your own behalf.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You have an absolute
2 constitutional right to remain silent. If you were
3 to elect your right to remain silent that could not
4 be held against you in any way and the Court would
5 tell the jurors they could not hold your silence
6 against you at all in any way at anytime, not even
7 when they were deliberating your innocence or guilt
8 in the jury room in secret. So, it's your
9 decision, it's not your attorney's decision, it's
10 no one else's decision but yours as to whether you
11 wish to testify and expose yourself to
12 cross-examination by the State's attorney, or
13 remain silent and avail yourself of your absolute
14 constitutional right to silence.

15 Do you understand your choices?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: What do you want to do?

18 THE DEFENDANT: I'll get on the stand.

19 THE COURT: You want to testify?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you concur with that decision,
22 Mr. Grose?

23 MR. GROSE: I do, Your Honor, and I would
24 just point out for the record that he testified in
25 his first trial and I think his approach and my

1 approach to this has been consistent from both the
2 first trial to the second trial in making this
3 decision.

4 THE COURT: And do you waive on behalf of
5 your client a questioning him before you call
6 him?

7 MR. GROSE: I do, Your Honor. I don't think
8 that's necessary. I feel like he's made this
9 decision knowing his rights and freely has decided
10 that it's what he wants to do.

11 THE COURT: Thank you, Mr. Grose. And thank
12 you, Mr. Hill: Be seated.

13 THE DEFENDANT: All right.

14 THE COURT: Anything further from the State?

15 MR. ANTHONY: Well, there is one issue I will
16 go ahead and raise because I would expect it to
17 come up in Mr. Hill's testimony and I'm going to
18 object to it, so I will just go ahead and deal with
19 it now if that's what the Court would like to do.

20 When Mr. Hill testified the first time he
21 referenced a pending criminal sexual conduct charge
22 against the victim Artell Hill and that charge was
23 made, had been made in June of '99 and I think the
24 relation that was pointed out was that it was; the
25 alleged victim in the case was the defendant's

1 cousin, I believe, and the State would object to
2 there being testimony to that effect because it
3 appeared to me from reading the transcript the
4 first time that that was another incident of just
5 bad character evidence of the victim. It wouldn't
6 be relevant to any self defense argument the
7 defendant might make. The substance of the charge
8 was that Artell Hill had been accused of digitally
9 penetrating a ten-year old girl, and that would not
10 be relevant to any self defense issue that Lanny
11 Hill might have in this situation and it appears to
12 me that it would just solely be bad character
13 evidence about the victim, and so I would object to
14 there being any reference made to that charge
15 during the course of the direct examination.

16 THE COURT: Thank you.

17 Mr. Grose?

18 MR. GROSE: Your Honor, it's not often in
19 this business we get a second chance at things and
20 I reference a couple times I looked at in this
21 transcript and wondered why I did something or
22 didn't do something. I expect that there will be
23 testimony that there was a prior friendship between
24 Artell Hill and Lanny Hill and that several events
25 happened over that summer that changed or were

1 involved in changing the nature of that
2 relationship, and I suspect that Mr. Hill is going
3 to testify, among some of these events, one of them
4 was, you know, when Artell Hill got those charges
5 it seemed like there was a different attitude
6 coming from him. He is going to testify about some
7 of the prior threats, and I think that going from a
8 friendly relationship where they hung out together
9 on a fairly regular basis, to a relationship where
10 he felt like he had to be on guard to protect
11 himself, it's relevant to know the factors that
12 were going through his mind because he's entitled
13 to take into account all of those factors when he
14 is deciding whether or not he needs to defend
15 himself. I'm not going to go into a lot of the
16 substance of the charges but I am going to ask if
17 he's aware of, you know, if that's one of the
18 events that coincided with this change in
19 relationship in June, July, August of that relative
20 time frame of 1999.

21 THE COURT: The Court appreciates the
22 defense's position but will grant the motion in
23 limine, if you will, of the State. First, there
24 was no adjudication, as the Court understands.

25 MR. ANTHONY: That's correct. He was killed

1 before the case ever went to court.

2 THE COURT: There was no adjudication. There
3 were some charges made about which we do not know
4 the truth or anything. This is not to say that the
5 Court is not going to allow any testimony about bad
6 feelings but the defendant will not be permitted to
7 testify about any criminal charges brought against
8 the deceased arising out of this alleged incident,
9 and you may instruct him accordingly, and the
10 record will show and protect your position.

11 MR. GROSE: We'll have to make a proffer at
12 some later time, Your Honor.

13 THE COURT: We'll do that.

14 MR. GROSE: I plan to take that up on appeal
15 if there's a conviction.

16 THE COURT: Anything further from either
17 side?

18 MR. GROSE: Not at this time.

19 MR. ANTHONY: Not from the State, Your Honor.

20 THE COURT: Show the jury in, please.

21 (The jury returned to the courtroom).

22 THE COURT: All the jurors are present, with
23 the foreperson and the alternates properly seated.

24 The matter lies with the State, Mr. Anthony.

25 MR. ANTHONY: Your Honor, at this time the

1 State rests its case. Thank you.

2 THE COURT: Mr. Foreman, ladies and
3 gentlemen, that is the case in chief. We turn to
4 the defense. Mr. Grose.

5 MR. GROSE: Your Honor, I would call Robert
6 Turman, I believe he might be out in the hallway.

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ROBERT TURMAN - DIRECT

1 ROBERT TURMAN,
2 after being first duly sworn testified as follows:

3 THE CLERK: State your full name, please.

4 THE WITNESS: Robert Turman.

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. GROSE:

7 Q Mr. Turman, would you please state your full
8 name for the record?

9 A Lieutenant Robert Turman.

10 Q Where are you employed?

11 A Abbeville County Sheriff's Office.

12 Q And not the specific address, but which area
13 of the county do you live in?

14 A Calhoun Falls area.

15 Q Back in August of 1999 were you living in
16 Calhoun Falls?

17 A Yes, I was.

18 Q Were you living there on August 6th of 1999?

19 A Yes, sir.

20 Q Were you employed in law enforcement then?

21 A Yes, sir.

22 Q With which agency?

23 A Abbeville Sheriff's office.

24 Q All right. So, how long have you been
25 employed with them?

ROBERT TURMAN - DIRECT

1 A About thirteen and a half years.

2 Q Okay. And on the night of August 6th, 1999,
3 did Lanny Hill come to your house?

4 A Yes, he did.

5 Q Did he have anybody with him?

6 A He had Freddie Hill and William Dunn.

7 Q Did he tell you what he wanted to do, if
8 anything?

9 A He didn't.

10 Q Huh?

11 A He didn't, Freddie did.

12 Q All right. Was that that Lanny wanted to
13 turn himself in?

14 A Yes.

15 Q All right. And did you bring Lanny to the
16 Sheriff's Department, the detention center in
17 Abbeville County that night?

18 A No, I did not. I called Lieutenant Graham,
19 she came and picked him up.

20 Q And did she leave with him in that direction?

21 A Yes, she did.

22 MR. GROSE: That's all I have, Your Honor.

23 THE COURT: Mr. Anthony.

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ROBERT TURMAN - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. ANTHONY:

Q Approximately what time did they come to your house?

A Right offhand I'm not sure. It was in the afternoon, around 5:00 or 6:00, I guess, might have been earlier than that.

Q Okay. I'm going to show you a statement. Do you recognize this document?

A Yes, I do.

Q Okay. And does that document tell you what time it was?

A No, it doesn't.

Q That does not tell you that, okay. So, you're not sure when it was?

A Not the exact time, no.

Q Okay.

MR. ANTHONY: If I could have one moment.

THE COURT: Take your time.

(Brief pause).

MR. ANTHONY: That's all, thank you.

ROBERT TURMAN - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q He asked you about the time. You said in the
4 afternoon. Was it daylight?

5 A Yes, it was.

6 MR. GROSE: That's all I have.

7 THE COURT: Mr. Anthony?

8 MR. ANTHONY: No recross.

9 THE COURT: Thank you, sir. Come down.

10 (Witness excused).

11 MR. GROSE: Your Honor, at this time I would
12 call Lanny Hill to the stand.

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ROBERT ORLANDO HILL - DIRECT

1 ROBERT ORLANDO HILL,
2 after being first duly sworn testified as follows:

3 THE CLERK: State your full name for the
4 record.

5 THE WITNESS: Robert Orlando Hill.

6 THE CLERK: Be seated.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. GROSE:

9 Q You're Robert Orlando Hill, correct?

10 A Yes, sir.

11 Q Do you have any nicknames that you go by?

12 A Lanny, Cheeks.

13 Q Lanny, where does that nickname come from?

14 A Come from my own family.

15 Q Is that a shortened verse of your middle
16 name?

17 A Yes, it is.

18 Q How did you get the nickname Cheeks.

19 A Well, messing with women.

20 Q Messing with women?

21 A Yes.

22 Q All right. Where were you born?

23 A Abbeville.

24 Q And have you lived in Abbeville all your
25 life?

ROBERT ORLANDO HILL - DIRECT

- 1 A No, I stayed in Calhoun Falls.
- 2 Q In Abbeville County?
- 3 A Yes.
- 4 Q And who are your parents?
- 5 A Robert Starnes and Annie Hill.
- 6 Q Are they present in the courtroom?
- 7 A Yes, they is, they're over there.
- 8 Q Can you point them out?
- 9 A Right there.
- 10 Q All right. And who are the other people
- 11 sitting with them?
- 12 A That's my sister and my brother-in-law Bennie
- 13 Foster, and Delores, my other sister, and Loraine.
- 14 Q I may have asked you this already, but how
- 15 old are you?
- 16 A 26 years old.
- 17 Q And your date of birth?
- 18 A April 18, 1979.
- 19 Q All right. And, so, when the events that
- 20 we're here to talk about happened how old were you
- 21 then?
- 22 A I was twenty years old.
- 23 Q Do you have any brothers and sisters?
- 24 A Yes. I have four brothers and two sisters.
- 25 Q Are you married?

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1 A No, I'm not.

2 Q Have you ever been married?

3 A No, sir.

4 Q Do you have any children?

5 A No, sir.

6 Q Did you attend elementary school in Abbeville
7 County?

8 A Yes, I did, in Calhoun Falls.

9 Q And what grades did that include at the time,
10 what was the name of the school, first of all?

11 A John C. Calhoun Elementary.

12 Q What grades did that include at the time that
13 you went to John C. Calhoun Elementary?

14 A One through sixth.

15 Q And did you attend any other schools in
16 Abbeville County?

17 A I went to high school in Calhoun Falls.

18 Q All right. And how far did you go in high
19 school?

20 A All the way to the tenth grade.

21 Q Did you ever graduate?

22 A No, sir.

23 Q Did you ever get a GED?

24 A No, sir.

25 Q How old were you when you left school in the

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1 tenth grade?

2 A Seventeen.

3 Q All right. While you were in school did you
4 participate in any activities?

5 A Yes, I did. I played football.

6 Q All right. How much of your life did you
7 play football?

8 A Ever since I been little playing midget.

9 Q What positions did you play?

10 A I played left guard and defensive end and on
11 offense I played end, too.

12 Q You played in high school as well?

13 A Yes, I did.

14 Q Okay. And have you ever worked?

15 A Yes, I have, at Mohawk.

16 Q And about how long did you work there?

17 A I worked there about six months.

18 Q Okay. And is that really the only job that
19 you ever had?

20 A Yes, it is.

21 Q Okay. Why not any others?

22 A Any other jobs?

23 Q Yes, sir.

24 A Well, I'm going to be honest, I'm going to
25 tell the truth, I was out there, I ain't always

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1 worked, so I'm going to be honest, that's the
2 truth.

3 Q All right. Did you have any hobbies?

4 A Yes. I shot basketball.

5 Q We've heard from some people in this case,
6 from and about some other people. One was Odell
7 Tillman. Do you know Odell Tillman?

8 A Yes, I do.

9 Q How long have you known him?

10 A I know him but I don't know him like that.

11 Q How long have you known him or known of him?

12 A I say since about, since going to school.

13 Q Okay. Did you and he ever hang out together?

14 A No, we don't.

15 Q Do you know who Odell was friends with?

16 A Artell Hill.

17 Q How close a friend did you believe them to
18 be?

19 A Best friends.

20 Q All right. One of the witnesses who
21 testified was Jeffrey Tatum. Do you know him?

22 A Yes, I do.

23 Q And how did you know him?

24 A Through my brother.

25 Q All right. Do you know what -- were you and

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1 Jeffrey Tatum good friends?

2 A Yes.

3 Q All right. And was Jeffrey friends with your
4 brother?

5 A Yes, he was.

6 Q Do you know if Jeffrey was friends or
7 connected with Artell Hill?

8 A Yes.

9 Q And what do you know about that?

10 A Well, we used to all hang out together as far
11 as over at Artie's girlfriend's house.

12 Q All right. Ira Green, have you known him?

13 A Yes, I know him but we never hung together or
14 nothing like that.

15 Q All right. Was he somebody you ever hung out
16 with?

17 A No, sir.

18 Q Was he somebody if you saw him, see him you
19 would talk to him?

20 A Yes, sir.

21 Q Okay. Shannon Hill, do you know her?

22 A Yes, I do.

23 Q All right. Now, you and her have the same
24 last name. As far as you know are you and her
25 related?

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1 A No, sir.

2 Q And do you know any of her siblings?

3 A Family members?

4 Q Yes, sir.

5 A Yes.

6 Q Who is that?

7 A Rico Hill. Me and him like brothers.

8 Q How is Rico related to Shannon?

9 A That's her brother.

10 Q Do you know who Shannon was seeing?

11 A Yes. Otis Green.

12 Q All right. And do you know, do you know Otis
13 Green?

14 A Yes, I do.

15 Q Okay. We had two ladies named Miss
16 Clinkscates testify. The first one was Geneva
17 Clinkscates, the grandmother. Do you know her?

18 A No, I don't know her like that but I know
19 her.

20 Q You know her when you see her?

21 A Yes.

22 Q All right. How about Michelle, Geneva
23 Michelle Clinkscates, do you know her?

24 A Yes, I know her.

25 Q And how well do you know her?

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- 1 A Not that well.
- 2 Q Okay. Now, Artell Hill, did you know Artell
3 Hill?
- 4 A Yes, I did.
- 5 Q All right. How long had you known Artell
6 Hill?
- 7 A I been knowing Artell Hill since going to
8 school.
- 9 Q All right. And how long would that be?
- 10 A I say since I been little, growing up.
- 11 Q So, at John C. Calhoun Elementary you knew
12 Artie?
- 13 A Yes, I did.
- 14 Q All right. Did you know him at Calhoun Falls
15 High School?
- 16 A Yes, I do.
- 17 Q And did you and he, were you and he ever on
18 the same football team?
- 19 A Yes. He played football, he was a running
20 back but he quit.
- 21 Q How long did he play on the same team you
22 were on?
- 23 A I say about two months.
- 24 Q All right. At anytime were you and Artell
25 Hill ever friends with each other?

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1 A Yes, we was.

2 Q All right. And how long did this friendship
3 go on for?

4 A Me and Artie, we always been all right as far
5 as used to hang together and everything, and I used
6 to, at the point in time I was talking to his
7 sister, too, his half sister.

8 Q That was some type of relationship you were
9 involved in?

10 A Yes, it was.

11 Q What was her name?

12 A Charlotte Wakefield.

13 Q Did you all ever hang out together?

14 A Me and Artie?

15 Q Yes, sir.

16 A Yes, we did.

17 Q What type of things did you all do when you
18 would hang out?

19 A Well, used to drink, smoke and just play
20 cards and stuff like that.

21 Q All right. Any other types of things?

22 A Well, that just be as far as going out, we
23 might go to the club, he used to ride in my car and
24 everything. As far as him and his girlfriend,
25 whatever, I just called them my nieces and they

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1 called me uncle.

2 Q When you said that you all would drink
3 together, what do you mean by that?

4 A Well, we used to get together, all us get
5 together and just hang out, as far as get high
6 together or just sit around and play cards and have
7 fun.

8 Q You said get high. Is that smoking
9 something?

10 A Yes, smoking weed.

11 Q Marijuana?

12 A Yes, and drinking.

13 Q And drinking? Are we talking about drinking
14 alcohol?

15 A Yes, sir.

16 Q Okay. These were friendly type situations?

17 A Yes, sir.

18 Q Now, was there ever a time when this
19 friendship between you and Artie changed?

20 A Yes. That's when he, him and his girlfriend
21 were having problems.

22 Q Okay. And who was his girlfriend, again?

23 A Glenrissa Gates.

24 Q Was there ever a time when he made a comment
25 to you in relation to some problems that they might

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1 have?

2 A Yes. He called me in his room and asked me
3 was she messing with Otis Green and she was talking
4 outloud, and I said I don't know nothing about it.

5 Q Who messing with Otis Green?

6 A Glenrissa Gates.

7 Q Say again what he said to you about it?

8 A He asked me did I know anything about it and
9 I told him I don't know nothing about it, so when
10 he came out the room all us were, we came back out
11 of the room or whatever, he said, "I can beat all
12 you all, me and Sammy can beat all you all." I
13 said, "Artie, I ain't got nothing against you or
14 nothing but," I said, "me and you can go one on
15 one." So on that date Jeffrey Tatum was there that
16 day, because Glenrissa Gates, her sister Glenda
17 Gates, all us just sitting in her house, in
18 Glenrissa Gates' house.

19 Q Was there ever another incident, situation
20 where Artell Hill confronted you?

21 A Yes. We came, after that, I thought it was
22 over with, but we came back to go stay over at his
23 girlfriend's house, as far as hang out again.

24 Q Who did you mean by we?

25 A It was me, O'Neal Bryant, Rico Hill, DeeDee

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1 Norman and Booker Postell, so we all went, we all
2 drove up there, went up there.

3 Q All right. DeeDee Norman, is that Dedrick
4 Norman?

5 A Yes, sir.

6 Q And when you drove up where, where did you
7 drive to?

8 A We drove up to Glenrissa Gates' house.

9 Q And what happened?

10 A On that day right there, whenever O'Neal and
11 Artie, they get to fighting, so they was out there
12 fighting. I had a dislocated knee.

13 Q How did you dislocate your knee?

14 A Well, we was all playing at my uncle's house
15 and somebody fell on the back of my legs, I
16 dislocated my whole knee.

17 Q Was it immobilized somehow?

18 A Yes. I had a cast, one of them little blue
19 things for a splint.

20 Q All right. And in this confrontation that
21 you're talking about where were you?

22 A I was sitting in the car the whole time, so
23 when all this was going on, whenever Artie said
24 some words to me or whatever, as far as if I wasn't
25 in that cast he would do what he have to do or

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1 something like that, and I know all them were
2 fighting or whatever, so after they were fighting
3 or whatever Artie ran back in the house and got a
4 baseball bat, so Sammy Reid come back out, too, out
5 of his house, he had a baseball bat.

6 Q Okay. What happened, what did they do with
7 those bats?

8 A So, on that day Rico Hill had a little, what
9 you call one of them little bats about that little,
10 O'Neal had a stick, O'Neal Bryant had a stick on
11 that date. So, after all of us, after all they was
12 fighting and going on, so O'Neal took off running,
13 they chased Sammy, Artie was chasing him with a
14 baseball bat, and --

15 Q Did a car get damaged in the process?

16 A Yes, it did. Artie hit the car with the
17 baseball bat two times and put a dent in it.

18 Q Were there ever any times where you learned
19 of threats from Artell Hill through some other way?

20 A Yes.

21 Q Okay. What were those?

22 A Well, where this occurred, I know Glennessa
23 was telling me that Sammy, Sammy said when he

24 MR. ANTHONY: Objection.

25 THE COURT: Sustained.

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1 MR. ANTHONY: To what Sammy said.

2 THE COURT: Sustained.

3 MR. GROSE: Your Honor, this is relevant
4 because it's information that came to him that he
5 had in his mind at the time that he felt that he
6 had to defend himself.

7 THE COURT: The objection is sustained.

8 MR. GROSE: I will move on, Your Honor.

9 BY MR. GROSE:

10 Q But is it fair to say things were
11 communicated to you?

12 A Yes.

13 Q Okay. And who were, without going into what
14 they said, who were the people who communicated
15 those things to you?

16 A Who said that?

17 Q Yes, not what they said, but who said it to
18 you?

19 A Artie and Sammy.

20 Q Okay. And did you ever take any actions to
21 try to avoid being in places where Artie would be?

22 A Yes, I did. I stopped coming over there
23 altogether and I didn't go back as far as hanging
24 out over at his girlfriend's house, Glenrissa
25 Gates, Bucknelly. I stopped going there, and I just

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1 ~~stayed away from the whole situation.~~

2 Q So, you stayed away from his girlfriend's
3 house?

4 A Yes.

5 Q Is that a place where you thought Artie would
6 be?

7 A Yes.

8 Q You said Bucknelly?

9 A Yes.

10 Q Where is that? That's a section of Calhoun
11 Falls?

12 A Yes.

13 Q All right. And was that an area that you
14 knew he would be in?

15 A Yes, I did.

16 Q Now, the Eastgate Apartments, is that far
17 from where you stayed?

18 A I don't stay there, but always that's --

19 Q Where did you stay?

20 A I stayed in the Country Park.

21 Q How far is it to go from the Country Park to
22 Eastgate Apartments?

23 A I say about two, maybe three miles.

24 Q And did you have reason to be going to the
25 Eastgate Apartments?

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1 A Yes, I did. That's where Rico Hill stay at.

2 Q That was somebody that was like a brother to
3 you?

4 A Yes. We just hangs together every day,
5 that's where we hangs out at.

6 Q Was there a woman that you were seeing that
7 stayed there?

8 A Yes, I did, Tonya Green.

9 Q All right. And would you ever go over there
10 to see her?

11 A Yes. That's where we used to, that's where
12 we hang out at, too.

13 Q Okay. Does she have a child?

14 A Yes, she do, a little girl.

15 Q All right. That's not your child, though?

16 A No, it's not.

17 Q Did you or your family ever take care of that
18 child?

19 A I did.

20 Q Okay. And did your family help?

21 A Yes, my Uncle Red, he might have watched her.

22 Q On August 6th of 1999 were you or somebody in
23 your family taking care of that child?

24 A Yes, we was.

25 Q All right. And where was that child at?

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1 A She was over at my Uncle Red's house.

2 Q And about what time did that child come to
3 your Uncle Red's house?

4 A Well, in the morning time.

5 Q Okay. And at the time that these events
6 happened was that child still at your Uncle Red's
7 house?

8 A Yes, sir.

9 Q Okay. On August 6th did you ever go to
10 Gurley's?

11 A Yes, sir.

12 Q What is Gurley's?

13 A It's a grocery store.

14 Q And where is Gurley's located in relation to
15 the Eastgate Apartments?

16 A Well, it's right across from Eastgate
17 Apartments.

18 Q All right. How far would you judge that
19 distance to be?

20 A About from right across, I say about from
21 here, probably that door right there.

22 Q Okay. And are there a lot of grocery stores
23 in Calhoun Falls?

24 A No, sir.

25 Q Is that the closest one to where you stayed?

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1 A Yes.

2 Q All right. And why were you going, how did
3 you get to Gurley's?

4 A I was riding a bike.

5 Q And why were you going there?

6 A To get something to eat.

7 Q All right. And did you do that?

8 A Yes, I did.

9 Q And on the way there did you stop and talk to
10 anybody?

11 A No, sir.

12 Q Okay. Did you ever stop and talk to anybody
13 either going or coming from there?

14 A Well, when I was coming back I know I seen,
15 it was Artie, Jeffrey Tatum and Odell, I was going
16 back to go back to my uncle's house, I know Artie
17 raised up the stick, did like this, so at the time
18 it was, whenever I didn't come back, I know I seen
19 them, I just seen that they just went on by, they
20 went to Eastgate, so I said, "I'm going to avoid,
21 stay away from that."

22 On that day me and Warren Tate, we was
23 gambling, we was shooting dice, some dice, so I
24 didn't come back for 45 or 30 minutes, I thought
25 they would be gone.

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1 Q So, when you rode back from Gurley's to your
2 Uncle Red's, you're saying you saw a stick?

3 A Yes. He raised it up.

4 Q Does it look like Defendant's Exhibit Number
5 3?

6 A Yes, sir.

7 Q All right. And you said you didn't go back
8 over there right away?

9 A No, sir.

10 Q All right. Who were you with?

11 A I was by myself riding a bike.

12 Q Well, when you went back where you stayed who
13 were you with then?

14 A My Uncle Red's house.

15 Q Who else was there?

16 A Uncle Pete.

17 Q You said something about Warren Tate.

18 A Yes, Warren Tate.

19 Q What did you and Warren Tate do?

20 A We was shooting dice.

21 Q And there was a period of time while you all
22 were doing that?

23 A Yes, sir.

24 Q All right. Where was this child that you
25 were talking about at this time?

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1 A She was in the house.

2 Q At some point you went back to the Eastgate
3 Apartments?

4 A Yes, sir.

5 Q And what was your purpose for doing that?

6 A I was coming to tell Tonya that come get her
7 girl because I'm responsible for her.

8 Q And this is the person who you would go over
9 there and see?

10 A Yes, on a daily basis.

11 Q Now, when you went back you had in your
12 possession a handgun?

13 A Yes, sir.

14 Q All right. How long had you had that handgun
15 in your possession?

16 A I had it on me since all this been happening
17 because I went to the police station the day the
18 thing with the baseball bat, me and a couple more
19 friends went to the Calhoun Falls Police Department
20 and we wanted to push warrants on Artie for hitting
21 the car with the baseball bat, but on that day they
22 said --

23 MR. ANTHONY: Objection, hearsay.

24 Q Did they give you a warrant?

25 A No, they wouldn't. On that day they say

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1 that --

2 MR. ANTHONY: Objection, hearsay.

3 THE COURT: The objection is sustained.

4 Q Did you sign a warrant, did they let you sign
5 a warrant?

6 A No, they did not.

7 Q Okay. And, so, it was sometime after that
8 that you got this gun?

9 A Yes, sir.

10 Q Who did you get it from?

11 A I got it from Frank Tut.

12 Q On August 6th were you carrying the gun with
13 you that day?

14 A Yes, sir.

15 Q Were you carrying it with you when you went
16 to Gurley's?

17 A Yes, sir.

18 Q And when you came back from Gurley's were you
19 carrying it?

20 A Yes, sir.

21 Q And when you went back that third time you
22 were carrying the gun?

23 A Yes, sir.

24 Q Did you go to the Eastgate Apartments with
25 any intentions of using that gun?

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1 A No, sir.

2 Q All right. How did you come back this third
3 time?

4 A Well, when I come back, I come back, I come
5 back, I only came back that time there to tell
6 Tonya to come get her little girl but when I rode
7 up or whatever I never did see Artie or nothing
8 like that.

9 Q When you rode up how did you ride up?

10 A I rode up on my bike.

11 Q All right. And at what point, at some point
12 did you see Artie?

13 A All I know, Jeffrey said something and I
14 looked over to Jeffrey and then I seen Artie rose
15 up, Artie rose up on the passenger side, he rose up
16 in the car.

17 Q Did you see that stick?

18 A Yes, sir.

19 Q And what did Artie do?

20 A Artie said, "I heard you been looking for
21 me."

22 Q All right. Then what happened?

23 A So I didn't say nothing, so I just, I just
24 sitting on the bike, so when I getting ready to get
25 off the bike to knock on the door I seen, that's

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1 when Artie reached over as far as coming to open
2 the door, so when he raised over, he come to open
3 the door, I seen the door crack, that's when I got
4 off the bike and started shooting.

5 Q All right. Did he start getting out of the
6 car?

7 A All I seen, yes, sir, I seen him when the
8 door cracked, so when I started shooting whenever I
9 seen him, that's when he shut the door back.

10 Q Had you been smoking or drinking that day?

11 A Yes, sir.

12 Q What had you been smoking or drinking?

13 A I was smoking weed and drinking beer.

14 Q All right. And how did you feel when you saw
15 Artie opening the door and coming out of the car?

16 A Well, I seen him, as soon as I'm ready to get
17 off the bike or whatever, he ain't made no point
18 until he seen me there, I'm fixing to get ready to
19 turn around on the bike, now he making, now he
20 reaching to open the door to get out.

21 Q And did you take into account some of these
22 past situations with him?

23 A Yes, sir.

24 Q And did you feel that you were in danger?

25 A Yes, sir, I feared for my life, so that's

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1 when I started shooting.

2 Q All right. And do you know how many times
3 that you shot?

4 A No, sir.

5 Q Was all this happening real fast?

6 A Yes, sir.

7 Q Do you remember all the details of what
8 happened at this point?

9 A No, sir.

10 Q And why is that?

11 A I was high.

12 Q Were you doing what you felt you needed to do
13 to protect yourself?

14 A Yes, sir.

15 MR. ANTHONY: I object to the leading.

16 THE COURT: Sustained. This is your witness
17 on direct. The question will be stricken, the jury
18 will disregard the question.

19 Continue.

20 Q Did you feel there was any need to react?

21 A Yes, sir.

22 Q Did you ever hear Artie say anything?

23 A Yes. All I heard him say, "I heard you all
24 been looking for me?"

25 Q Did you ever hear him say anything else?

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1 A No, sir.

2 Q After the shooting happened what did you do?

3 A Well, after the shooting, whenever I got back
4 on the bike and I went over to my Uncle Red's
5 house.

6 Q Okay. And how long did you stay there?

7 A I didn't stay there long.

8 Q Where did you go after that?

9 A I went to, I went home and then my brother
10 Freddie came and then I went to Robert Turman's
11 house and turned myself in.

12 Q Okay. Did you give the gun to anybody?

13 A Yes, sir.

14 Q Who did you give the gun to?

15 A Frank Tut.

16 Q And why did you give it to him?

17 A Well, I gave it to him because the gun was
18 registered in his name.

19 MR. GROSE: I beg the Court's indulgence for
20 a moment.

21 THE COURT: Take your time, Counsel.

22 MR. GROSE: That's all the questions I have
23 at this time, Your Honor.

24 THE COURT: Cross-examination.

25 MR. ANTHONY: May we approach?

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1 THE COURT: You may.

2 (Unrecorded bench conference).

3 THE COURT: Mr. Foreman, ladies and gentlemen
4 of the jury, we will recess at this time for
5 luncheon. We have completed the direct examination
6 of the witness on the stand.

7 Mr. Witness, you are instructed not to talk
8 with anyone about any questions you have been asked
9 or answers that you have given or any questions
10 that you could be asked, that you think you might
11 be asked or any answers you could give to those
12 questions that you anticipate. Do you understand
13 that?

14 THE WITNESS: Yes, sir.

15 THE COURT: You may not discuss this case
16 with anyone at all under any circumstances.

17 THE WITNESS: Yes, sir.

18 THE COURT: It is as if we're not taking a
19 break. Do you understand that?

20 THE WITNESS: Yes, sir.

21 THE COURT: Very well. Now, the best policy
22 would be not to be around or go around either one
23 of your lawyers or with anyone who is a member of
24 your family or possible witness in the case. That
25 would be the best policy.

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1 THE WITNESS: Yes, sir.

2 THE COURT: Do you understand that?

3 THE WITNESS: Yes, sir.

4 THE COURT: All right. Right now, of course,
5 just sit where you were, just come on down and sit
6 where you were, let we tell the jury some other
7 things. Just don't talk with your lawyer.

8 Now, Mr. Foreman, ladies and gentlemen, we're
9 going to take a break. We feel that the
10 cross-examination will take some time, the Court
11 has a pre-scheduled civil matter at 2:15 and
12 another pre-scheduled matter at 2:30, and also a
13 luncheon scheduled at about a quarter of 1:00, so
14 if we were to start the cross-examination we may
15 not only not get through before the scheduled
16 luncheon, but then run late in the civil matter,
17 run late with the criminal matter, then we might
18 not get started back until, into the cross
19 examination until later in the afternoon.

20 So, what we're going to do is let you go from
21 now until 2:45. That's longer than we generally
22 allow but we have, we have a civil matter and a
23 criminal matter which does not involve this case at
24 all, to take care of and we want to go ahead and
25 get those things out of the way without

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1 inconveniencing you, so we're going to take a break
2 now from now until 2:45. If we're not through with
3 the matter the bailiffs may ask you to wait in the
4 conference room out front. It is really more
5 comfortable than the jury room because it's well
6 lighted and you can look out and about the area and
7 so forth. But if we're through, then you will be
8 asked to come on in and we'll start back
9 immediately as quickly as we can. We've got a lot
10 to do in the period of time that we have.

11 Do not discuss the case by, between and among
12 yourselves. You will grow weary of hearing these
13 instructions. Do not discuss the case by, between
14 and among yourselves nor with any other person. Do
15 not permit anyone to discuss the case with you. If
16 anyone does innocently ask you about the case
17 immediately tell that person or persons that you
18 are a juror and you are not permitted to talk with
19 them about it, and you will do it in a polite way,
20 "I'm sorry, but I can't talk with you about it
21 because I'm a juror."

22 If anyone persists, after you make them aware
23 and alert that you are a juror, in trying to talk
24 with you, ask you questions, inquire of you about
25 this case in any way whatsoever that would be

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1 highly irregular, wrong and even illegal, because
2 you're a sworn juror hearing this case and
3 something someone may say to you may upset your
4 balance, you haven't heard all the case, your
5 mental balance, of course, and disturb your
6 impartiality and your view toward the evidence
7 that's being revealed in this courtroom.

8 If that were to happen, to repeat, and the
9 Court apologizes for it, use every reasonable
10 measure at your disposal to identify any such
11 person or persons and report that event to one of
12 the bailiffs or to the Court Clerk who sits before
13 the Court and that will be investigated immediately
14 and effectively. So, don't allow anyone to talk
15 with you and don't talk with anyone at all,
16 including by, between and among yourselves.

17 Were there to be any newspaper coverage, any
18 media coverage at all such as newspaper, television
19 or radio, if you were to become cognizant that such
20 is coming to your ears or eyes disregard it
21 completely and disabuse your mind of what you may
22 see, hear or read absolutely because it's not
23 evidence, it's not being presented to you within
24 the walls of this courtroom, so it doesn't mean
25 anything. The only evidence is that which you hear

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1 here in this courtroom, so if it were to come to
2 your attention by some indirect way such as media,
3 disregard it absolutely and completely.

4 We will now excuse you until 2:45. 2:45.
5 Everyone else will remain seated, the jurors are
6 excused.

7 (The jury was excused from the courtroom).

8 THE COURT: The Court stands in recess, we're
9 in recess until 2:45, please.

10 (Recessed at 12:32 p.m.).

11 (Reconvened at 3:03 p.m.).

12 THE COURT: All right, the record is open in
13 the matter of the state of South Carolina versus
14 Robert Orlando Hill, indictment 99-494.

15 Is there anything from the State?

16 MR. ANTHONY: No, sir.

17 THE COURT: From the defense?

18 MR. GROSE: At some point we're going to have
19 to proffer Mr. Hill's testimony with what was
20 excluded on the State's motion. I don't know if
21 you want to do that now or at the end of the day?

22 THE COURT: We'll go forward now with
23 cross-examination.

24 MR. GROSE: Okay.

25 THE COURT: Then we'll do that, but please

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1 help me, you and I will help each other remember
2 it.

3 MR. GROSE: Yes, sir.

4 THE COURT: Mr. Busby, just show the jury in
5 please.

6 (The jury returned to the courtroom).

7 THE COURT: Ladies and gentlemen, thank you
8 very much. We have been busy and we have, we have
9 come closer than you would think to getting
10 everything done and getting you back in. We have
11 been busy with several matters. Having finished
12 all of them, the record will reflect that Mr.
13 Foreman and the alternates and the remaining jurors
14 are present and seated.

15 Mr. Witness, if you would just come right on
16 up and have a seat, please.

17 If I may have your attention. Have you
18 talked with anyone at all from the time we, that
19 you left that stand and you received instructions
20 from the Court?

21 THE WITNESS: No, sir.

22 THE COURT: Have you talked to anybody about
23 any questions you have been asked or answers you
24 have given to those questions or questions you
25 expect could be asked or answers that you could

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1 give to those anticipated questions?

2 THE WITNESS: No, sir.

3 THE COURT: Have you discussed this case at
4 all with anyone since you left the stand, until
5 now?

6 THE WITNESS: No, sir.

7 THE COURT: Do you understand that you have
8 been sworn and you remain under oath to tell the
9 truth?

10 THE WITNESS: Yes, sir.

11 THE COURT: Very well, thank you. This
12 witness is with you, Mr. Anthony, on cross
13 examination.

14 MR. ANTHONY: Thank you, Your Honor.
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ROBERT ORLANDO HILL - FURTHER CROSS

1 FURTHER CROSS EXAMINATION

2 QUESTIONS BY MR. ANTHONY:

3 Q Mr. Hill?

4 A Yes, sir.

5 Q I want to take you back a little earlier to
6 the day before the shooting. You testified that
7 you went to Gurley's that afternoon, late that
8 afternoon or early that evening, shortly before the
9 shooting occurred, is that correct?

10 A Yes, sir.

11 Q Okay. And before you went to Gurley's had
12 you been in Eastgate earlier that afternoon?

13 A Yes, sir.

14 Q Okay. And you had ridden through there and
15 talked to Shannon Hill and Ira Green right outside
16 of Shannon Hill's apartment, isn't that right?

17 A Yes, sir.

18 Q Okay. And you had a conversation with them
19 and then you left Eastgate and you went to Gurley's
20 Market?

21 A Yes, sir.

22 Q Okay. Now, when you got to Gurley's, at that
23 point in time, is it at that point in time you're
24 saying you saw the car that had Artie and Odell and
25 Jeffrey in it?

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- 1 A That's when I was coming back from the store.
- 2 Q Okay. So, it was after you left Gurley's?
- 3 A Yes, sir.
- 4 Q Okay. And you saw their car, the car Odell
- 5 was driving?
- 6 A Yes. That's when Artie raised up the stick,
- 7 did like that.
- 8 Q Okay, were you at the store or were you on
- 9 the road or where?
- 10 A Right there like the stop sign, you got to
- 11 look this way and look that way before you even go
- 12 across the street.
- 13 Q Okay. There before you get to the field
- 14 going into Eastgate?
- 15 A Like a little shortcut, right across, you
- 16 can't miss it.
- 17 Q Okay.
- 18 A A dirt road.
- 19 Q You're saying, you're saying that that's
- 20 where you saw the car with the three young men in
- 21 it?
- 22 A Yes, sir.
- 23 Q Okay. And you're saying that when you saw
- 24 the car that Artie raised up that stick at that
- 25 point in time?

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1 A Yes, sir.

2 Q Okay. And where was the car, where was it?

3 A The car was right, where the car is, there is
4 a stop sign right there, too. Well, he had to stop
5 to turn.

6 Q Okay. Were they pulling into Eastgate?

7 A No, they wasn't in Eastgate, like right there
8 where Gurley's -- I don't know where they coming
9 from.

10 Q I see, okay. So, this was nearer to Gurley's
11 than it was to Eastgate?

12 A Yes, sir.

13 Q Okay. Him showing you the stick is something
14 that happened, and we don't have pictures of it and
15 I can't, I'm having a hard time, I think,
16 communicating where, but what you're saying is that
17 it happened somewhere on the road near Gurley's?

18 A Yes, sir.

19 Q Okay. And your testimony is that you see
20 this car and the three guys are in it and Artie
21 shows you this stick and you go to your uncle's?

22 A Yes, sir.

23 Q Okay. And it is when you go to your uncle's
24 that you actually get the gun, isn't that correct?

25 A No, sir.

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- 1 Q You're saying that's not right?
- 2 A No, sir.
- 3 Q Okay. And when did you get the gun?
- 4 A I already had it.
- 5 Q You already had the gun?
- 6 A Yes, sir.
- 7 Q Okay. Well, Mr. Hill, do you remember giving
- 8 testimony about this incident before?
- 9 A No, sir.
- 10 Q You don't have any recollection of ever
- 11 talking about this before?
- 12 A I never did give no statements.
- 13 Q Well, I'm not asking about a statement, I'm
- 14 asking about testimony, I'm asking about being in a
- 15 courtroom talking about this, do you remember ever
- 16 doing that?
- 17 A No, sir.
- 18 Q You don't have any recollection of ever
- 19 speaking in a courtroom about this incident?
- 20 A No, sir.
- 21 Q Okay. All right, I am going to read a series
- 22 of questions and answers to you, and this comes
- 23 from page 352 of a transcript.
- 24 A Okay.
- 25 Q And I'm going to ask you if you have ever

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1 been asked these questions and given these answers.
2 Okay, there is about five or six questions and
3 answers, I'm going to read you the whole set and
4 then just ask you if you have ever heard them
5 before, okay?

6 A All right.

7 Q All right. "Did you have a gun when you saw
8 Artie earlier that night at Gurley's Meat Store?"
9 That's the question.

10 "ANSWER: Did I have a gun?

11 QUESTION: Uh-huh.

12 ANSWER: No, sir, I didn't.

13 QUESTION: You didn't? So, after you saw him
14 at the meat store is when you went and got the gun,
15 right?

16 ANSWER: No -- yes. That's what I told you,
17 when Artie said, when he yelled out the window at
18 me and said something to me.

19 QUESTION: Right. You went and got the gun?

20 ANSWER: Yes, sir.

21 QUESTION: Where did you go get the gun?

22 ANSWER: To my uncle's house.

23 QUESTION: From your uncle's house? Where
24 does your uncle live?

25 ANSWER: On Seneca Street.

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1 QUESTION: Right down here, so you went and
2 got the gun?

3 ANSWER: Right, yes, sir.

4 QUESTION: What did you do?

5 ANSWER: I just put it on me for protection."
6 Now, do you ever remember --

7 MR. GROSE: I would ask under the rule of
8 completeness that they read the next question, Your
9 Honor, lines four through six.

10 THE COURT: Motion is granted.

11 "QUESTION: For protection?

12 ANSWER: I didn't come over there to bother
13 him or to do nothing to him or to do nothing
14 towards him."

15 All right, I'm just asking you did you ever
16 give those answers to those questions, Mr. Hill?

17 A At the point in time it wasn't no night time
18 so I never did say it was no night time.

19 Q Well, I'm just asking you did you ever give
20 that set of answers to that set of questions?

21 A To that set of answers right there, yes, sir.

22 Q Okay. So, you recall giving those answers to
23 the questions I just read?

24 A No, not -- I already said I already had the
25 gun on me at the point in time.