

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM YORK COUNTY
Court of Common Pleas

S.C. Supreme Court

The Honorable Edgar W. Dickson, Presiding Circuit Court Judge

Docket No. 2010-CP-46-0436

2014-000281

Berry Bolin, ... Appellant.

v.

State of South Carolina, ... Respondent,

APPENDIX VOLUME 2 OF 4

The Appellant, Berry Bolin, appeals the final order in this Post Conviction Relief Application case. The Final Order was issued and served on January 21, 2014. Appellant's motion to reconsider and/of for rehearing was denied on February 10, 2014.

September 9, 2014

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1 Q All right. Now, would you agree that -- now you heard
2 testimony here today from people, or from Mr. Brown, that he saw
3 gunfire first come out of the car. All right?

4 A Uh-huh.

5 Q And there were people, if you recall your closing
6 argument, you told the jury that you heard people say that, some
7 of the people that testify.

8 Is that why you didn't call Mr. Brown as a witness?

9 A I didn't call Mr. Brown as a witness for a couple of
10 reasons. Okay.

11 First of all, if we were going to put up any evidence
12 it had to be something that was going to be important. All
13 right. We didn't need to just put up cumulative witnesses.
14 Okay. From a yahoo gathering.

15 The second reason, is because Mr. Brown kept saying
16 that all the gunfire came from car number two. Now, there were
17 a few people who talked about a car number two. But through the
18 investigation there was nothing that could bear out anything
19 solid, anything that could bear out that there was a second car
20 there. Okay.

21 Now, eventually when we got into it of course and there
22 were some statements, and you got to remember is that we are
23 acting after the State. The State gets all the information
24 first accept what we can procure, and then they give it to us.
25 But you know, Jeff Buck died about a month and a half I think

1 after this thing occurred of an overdose. So he is gone.

2 We couldn't produce or find anything substantial that would
3 show there was a second car.

4 Now, if Mr. Brown had told me what he testified to today, I
5 wouldn't have put him up. The reason is because Mr. Bolin is
6 accused of shooting in a particular car. Well, Mr. Brown says
7 gunshot was coming from another car. So, there is no basis for
8 Mr. Bolin to be shooting into the car, where the gunshots is
9 coming from somewhere else. And since we really couldn't
10 produce a second car and there wasn't enough evidence there, the
11 credibility of that with the jury is not going to be good.

12 Q Okay. Do you recall who had testified that they saw or
13 had told the police that they saw gunfire coming out of that
14 car? Do you Robert Beverly saying that?

15 A The second car or the first car?

16 Q Lets just focus on whether or not they saw gunfire?

17 A No, it is important.

18 Q I got to ask the question.

19 A Very well.

20 MS. ELLIOTT: Your Honor, I object. He has a
21 right to explain his answer.

22 THE COURT: well, I understand. Mr. Leddy, you do
23 get to ask the questions.

24 Was there any testimony -- what he wants
25 clarification and you read the transcript?

1 MR. LEDDY: Yes.

2 THE COURT: Was there any testimony about shots
3 being fired from a second car?

4 MR. LEDDY: No.

5 THE COURT: Okay. All right. So, this will be
6 shots fired from the first car; is that correct.

7 MR. LEDDY: Right.

8 Q So, you recall Robert Beverly?

9 A I think so. I am not sure if I reviewed his testimony.

10 Q Do you remember he originally told police he saw
11 gunfire coming from a car?

12 A Okay.

13 Q And then at first he changed his story?

14 A Okay.

15 Q And then, do you recall Carolyn Killian--

16 MS. ELLIOTT: Your Honor, I am going to object to
17 that. I don't think that is a proper characterization
18 of that testimony. I believe it actually was the
19 reverse.

20 THE COURT: You think it was in reverse?

21 MS. ELLIOTT: Yes.

22 THE COURT: Okay. I got a suggestion, Mr. Leddy,
23 do you have the pages and the lines you are referring
24 to so I can cross reference them?

25 MS. ELLIOTT: We could just admit his statement and

1 then we would have that to compare his trial testimony
2 to.

3 THE COURT: Is that all right, Mr. Leddy?

4 MR. LEDDY: That is fine.

5 THE COURT: Okay. So this is Mr. Beverly.

6 MR. BEVERLY: Here is Mr. Beverly's testimony, so
7 we call look at it.

8 THE COURT: Is that his transcript testimony?

9 MR. LEDDY: Yes, sir.

10 THE COURT: If you can tell me what page.

11 MR. LEDDY: It is on page 743.

12 THE COURT: All right. Page 743 and you have a
13 statement as well?

14 MR. LEDDY: I do.

15 A So if page 758, line 17. And if you would read that?

16 A Okay.

17 Q All right. So can you read that for me, please?

18 A Sure. This is on direct. Okay. I wasn't sure who was
19 asking the question.

20 All right. Line 17, "Question, Okay. Did you ever in the
21 first statement to the police that you wrote, did you end up
22 saying anything about someone firing out of one of the cars?
23 Answer, I think I mentioned something about that."

24 Do you want me to read until you stop me. I can just
25 continue on.

1 Q Yes.

2 A "Question, Did anyone actually fire any out of any car?
3 Answer, I never seen it. Everybody was just talking about it.
4 And I kind of just visualized it in my head, but no, sir, I
5 never seen it."

6 Q All right. So Mr. Brown's testimony today is certainly
7 not cumulative to this, is it?

8 A No.

9 Q Okay.

10 MR. LEDDY: Your Honor, I am switching to a witness
11 named Bradley Deal, who was the target of this mob
12 of that evening. Page 917.

13 May I my approach?

14 THE COURT: Sure. He got it.

15 THE WITNESS: I got a copy.

16 MR. LEDDY: Great.

17 THE COURT: We are at page 917.

18 Q Please turn to 928, please, line ten. If you could
19 read that please, this is Bradley Deal on direct. You can
20 actually start on line eight.

21 A Right. "Question. Okay, and you had some problem with
22 Bobby Davis? Answer. In high school I had a girlfriend and he
23 was like, I guess, they were messing around. And you know, I
24 guess we didn't like each other because of that. And he kept,
25 you know, egging it on. Wanting to fight and everything. So we

1 had a fight I think off Paron (Phonetics) Road and you know,
2 that was last time I talked to him. After the fight that is the
3 last time I talked to him.

4 Question. All right. And how long was that before
5 this happened that you all had the fight on Paron Road. Answer.
6 It was the end of my junior year or the beginning of my senior
7 it was either the junior or the senior at the end of. Question.
8 Have you had another fight with Bobby since then? Answer. Not
9 with Bobby. I had been jumped by Travis Falls and Brandon
10 Childers. Bobby was there. Holly McCarter was there.

11 Question. So those three were there and those four I guess
12 many Bobby Hovis, Travis Falls. Answer. And Holly. Question.
13 and Holly? Answer. Yes. Question. And who was with you
14 then. Answer. Jonathan English, Lee Louder and a girl name
15 Karen Neese. Question. So Jonathan English, Lee Louder and
16 Karen" --

17 Q Mr. Greeley.

18 A Yes.

19 Q You can stop now?

20 A Thanks.

21 Q Can you flip over to 934. This is still Bradley Deal
22 on direct?

23 A Right.

24 Q And before we read, you heard Mr. Brown today say that
25 he didn't he have any animosity with Mr. Hovis or Mr. Falls?

1 A Yeah, I think he said that.

2 Q So you would agree this was certainly not cumulative to
3 what Mr. Brown said this morning?

4 A Well no, not on this. What we read so far.

5 Q If you will read 234, starting on line 11 -- or 19
6 please.

7 A All right. "Question. What did you see next after you
8 saw the girl get knocked down and someone dragging her. Answer,
9 the guy that had hit the girl had gotten back into the car and
10 the car pulled off. Moved up into the grass. Sat there for a
11 second. And I saw an arm stick out of the window and I saw
12 three muzzle flashes, so I turned around and went inside.

13 Question, you saw an arm stick out the window of that car?

14 Answer, yes. Question, after it pulled forward? Answer, yes,

15 sir. Question, and do you recall which door or which window

16 that arm came out of? Answer, the passenger side. Question,

17 the passenger side. Was it the front or the back? Answer, the

18 front. Question, the front window? Answer, yes. Question, I

19 am sorry. Answer, yes. Question, yes? Answer, yes, it was.

20 Question, it was the front window? Answer, yes. Question,

21 okay, on on the passenger side? Answer, yes, sir.

22 Question, how much of that hand did you see come out.

23 Answer, well from here up. Question, okay. So you saw a hand

24 from here up come out of the window? Answer, right about there.

25 Question, okay. Can you tell anything about that hand as far as

1 you could tell whose it was? Answer, nothing other than it was
2 an arm sticking out of the window. Question, was it clothed? I
3 mean, was there long sleeves on it? Answer, I don't remember.
4 Question, you don't remember. Did you see a gun in the hand?
5 Answer, no."

6 Q Okay. Mr. Greerley, do you recall besides these two
7 witnesses do you recall anybody else testifying about gunfire
8 coming out of a car or any cars?

9 A Not right off the top. I mean I can't give you a list
10 of names. I know that I think that Samantha Eason had given a
11 statement regarding gunfire at some point.

12 Q Do you recall that she didn't testify at trial?

13 A No, she did not testify.

14 Q And you didn't call her as witness?

15 A I did not call her as a witness.

16 Q All right. Now, do you remember in your opening
17 statement telling the jury that they were going to hear
18 testimony about gunfire coming out of the car?

19 A Yes, sir, they did.

20 Q Were these two people being the people referring to?

21 A Yes, well, and Mr. Deal.

22 Q Do you think that is compelling?

23 A I thought I was quite compelling, because it is not
24 just the aspect of gunfire coming out of the car. Okay. There
25 is also circumstantial evidence throughout this case, that there

1 may have been a gun in the car that would be -- have been shot.

2 Okay. And so it connects and it ties that up.

3 Q Okay. Would it strike you as physically impossible the
4 recounting that Mr. Deal gave?

5 A Physically impossible?

6 Q To have an arm out the front window and the driver
7 catch one through the wrist of the person whose arm is six feet
8 away from him?

9 A Well, I think having a gun coming out that side of the
10 car whether it is the front window or how far the arm comes out
11 is not going to make or break the case on that testimony. The
12 fact that there was a gun that came out of that window or came
13 out of a window on the passenger side and there were three
14 muzzle shots that were shot from the passenger side, is the
15 significant part of that.

16 Q Okay. Do you remember what Bradley -- when a witness
17 testified that she had purchased Kanax from Bradley Deal that
18 night?

19 A No, I don't.

20 Q But based on those two people, you thought that there
21 was enough to go to the jury and say we got evidence here of
22 people shooting out of the car?

23 A Oh, I think we had other stuff. And I also argued in
24 closing argument about that. If you will, one of the things and
25 Mr. Thompson made probably a timely objection. In my cross

1 examination of Travis Falls we talked about where he was hit
2 because the forensics and the bullet holes were significant in
3 regards to this theory, that there was a gun in the car and it
4 was being shot. Okay. The implication being that it was being
5 shot by Travis Falls because one bullet went through Mr. Falls'
6 wrist and into the head of Mr. Hovis.

7 Now Mr. Hovis was seated in the back seat of the car on the
8 right side. Mr. Falls got into the back seat of the car on the
9 left side. Mr. Falls had indicated in his testimony that his
10 arm was up behind Mr. Hovis. And so, it is page 590 of the
11 transcript I had Mr. Hovis come down in front of the jury so
12 that we could show the jury where he was seated and where his
13 arm was when that car started to pull off. And I was - - he
14 was, Mr. Hovis, who got shot and I was him and so I showed -- I
15 asked him, so was your arm here behind the head of Mr. Hovis
16 towards the passenger window. I mean the passenger's side
17 window and he said yes.

18 Now, Mr. Thompson objected on page 590 because he did a
19 good job. I had made my hand look like a gun. Okay. And so,
20 Mr. Thompson objected. Which was okay, I guess, because the
21 jury was able to see why he objected. So we got Mr. Falls arm
22 in a position that he could be having that gun and could be
23 shooting it. It would explain why he was shot through the wrist
24 and Mr. Hovis was hit in the back of the head.

25 We got Mr. Deal, who is seeing shots up from the front of

1 his house and he saw three muzzle flashes that were going off
2 his house. So that is some of the things there. Another thing
3 that we got in regards to the existence of a gun is that Holly
4 McCarter purger herself. She lied on the stand. And the State
5 put her up. And the State knew what she was going to testify
6 to. I knew what she was going to testify to. And that's why it
7 struck me greatly when we saw the video of the car pulling in
8 behind the police station. Because Holly McCarter said and she
9 testified, that they had stopped at the American Auto because
10 they wanted to change drivers because she was so upset. And she
11 gave that in a statement at the beginning of the investigation.
12 We got it. And the State stayed with that testimony. That they
13 had stopped there so that they could trade drivers. And that's
14 what she testified at trial. Under oath.

15 Now, she was the only female in the car. Everybody else
16 was male and she testified they stopped at the American Auto
17 Sales and then they went directly to the Clover Police
18 Department.

19 Well, the next time that we see the car when the car pulls
20 up behind the Clover Police Department who is driving the car,
21 Holly. They didn't trade drivers. So, they must have stopped
22 for some other reason.

23 Q And your theory?

24 A And that indicates the possibility of a gun.

25 Q Okay. And in fact you said to the jury, I will tell

1 you where the gun is, at American Auto Sales?

2 A Right.

3 Q All right. And you were present for Mr. Nivens,
4 testimony?

5 A I was.

6 Q Do you recall ever going to get or ask about that
7 video?

8 A No, the way that came about, because I gone back and I
9 looked at the timeline. At some point in our investigation my
10 investigator Scott Bernard called me and evidently we had not
11 received Discovery yet. I think we received our first round in
12 April, so I don't know when this happened.

13 I know I gave Scott his first request for things to go and
14 interview witnesses on March the third. Okay. So this would
15 have been after March the third some time. But he had received
16 information that they had stopped at American Auto. Don't know
17 where he got that information. But he had received that. And
18 so he called and I told him, I said, well, go out there and look
19 around and see if you can see anything.

20 Now, we didn't mention a video or anything like that.
21 Okay. The -- he ended up calling the sheriff's office and the
22 sheriff's office -- and this came out in the trial -- sheriff's
23 office then based on our phone call went out and did a search
24 for a weapon at American Auto. Nothing was found.

25 Now, when that occurred in regards to the incident how long

1 that was, I don't remember. Okay.

2 Now, at some point discussion did come up about trying to
3 retrieve a possible video. Okay. We did not do that. Okay.

4 So ---

5 Q Okay. Now, you testified earlier that Mr. Bolin hired
6 while he was still in jail. So it was right after the incident?

7 A His parents did.

8 Q And when you consulted with Mr. Bolin he actually saw
9 these people stop there. Do you recall him telling you that?

10 A Yeah, he told me that. He told me that. It was after
11 we had already determined it. Okay. And the reason being is
12 because I didn't sit down with Berry until some time after that.
13 Now, I met with him several times, but it was always on the jail
14 phones. I ended up what I was going to meet with him to find
15 out and talk with him. I was going to do it by contact visit.
16 Because contact visits are private. Jail phones are not.

17 Now, they will sit there and they will tell you that it is
18 a private conversation between me and my client on the phone as
19 we are looking at each other in the glass and it only goes from
20 this phone to that phone. But I know that is not true. Okay.
21 So I don't trust them because I had in the new section down here
22 I went to interview a client one time and I was sitting there
23 talking to him and all of sudden I hear the public defender
24 talking to his client in another stall like three things down.
25 And I told him, I said wait a minute you all be quiet over there

1 and I mentioned the public defender's name, and I said we got
2 something wrong there. I reported that. It was a new section
3 and the wires had gotten mixed up. And I reported it to the
4 sheriff's the department and I am sure they immediately fixed
5 that. So I don't trust the phones. I don't talk about the
6 facts of the case on phones.

7 Q When do you recall Berry telling you about seeing that
8 car at American Auto Sales?

9 A It was after we had already found out that they had
10 stopped at American Auto Sales. It may have been in May.

11 Q And how long after you were hired did you have your
12 first contact with him. Do you remember?

13 A No, I don't.

14 Q Was it within thirty days?

15 A I don't know. Usually we have to send over stuff and
16 that you all have our files. It may have been. It may not have
17 been. I don't remember.

18 Q Okay.

19 MR. LEDDY: I am almost done, Your Honor.

20 THE COURT: Take your time.

21 Q If you turn to page 208 of the transcript.

22 A Okay.

23 Q This is right after -- this is the morning that Lee
24 Owens pleads guilty?

25 A Okay.

1 Q So, you remember that you guys had a whole jury panel
2 come in and they were introduced to Mr. Bolin and Mr. Owens?

3 A Uh-huh.

4 Q And they were told who the victims were and what they
5 were charged with?

6 A Okay.

7 Q Do you remember that? I can show you?

8 A Is this --

9 THE COURT: Just point it out. What line you are
10 talking about, is that line 14? Twelve? Thirteen?

11 MR. LEDDY: This is actually on page 13 of the
12 transcript.

13 THE COURT: Not 108.

14 MR. LEDDY: That's right. I will get to 208. I
15 should have gone to 13 first.

16 THE COURT: Okay, 13.

17 Q So, on 13 it is just the two codefendants, their
18 lawyers are introduced to the jury panel. Do you remember that?

19 A Yeah.

20 Q And then you got to strike a jury and then they are
21 sent home for the day prior to being sworn?

22 A Okay.

23 Q And then the next morning if you go back to 208. All
24 the jurors have been told this is a murder and these two guys
25 are both charged under the same offense.

1 On page 208, this is the Court addressing the jury, if you
2 will start on page 208, line seven?

3 A Okay. Shall I read it?

4 Q Yes, please.

5 MS. ELLIOTT: Your Honor, I am going to object. I
6 don't see what relevance that has to any of the issues
7 that have been raised.

8 THE COURT: I think he may make a point about
9 what the judge said about one of the client's be
10 excused.

11 Is that correct?

12 MR. LEDDY: Right.

13 A "The Court. Just keep your seats for just a minute. I
14 know when you look at the clock, you think I missed that class
15 when they taught you how to tell time."

16 The reason he did is because it is 12:15 at noon. That is
17 aside.

18 "I really didn't. We worked yesterday on some legal
19 matters. We worked some morning this morning and you will
20 notice if you look to my right that Mr. Owens and his counsel
21 are not present anymore.

22 The case is concluded as to them. We are simply going
23 forward as to Mr. Bolin. So we haven't been just drinking
24 coffee and doing crosswords. We have been doing some work and
25 we hope we will move the case along more promptly than had we

1 not done the work we did.

2 Mrs. Long has been excused. She did not do anything wrong.
3 Things occur and that's why we have alternates and she was very
4 concerned about having to ask or convey to me the information
5 she did. But she has been excused from this panel."

6 Q All right. Mr. Greeley, that is enough. I meant to
7 stop you at the end of line 12. So on the next page, line six,
8 would you agree the jury then gets sworn?

9 A Yes.

10 Q And you can take your time and flip through those
11 pages. Do you recall asking the judge for a new jury?

12 A I don't think I did.

13 Q All right. Do you recall asking the judge to instruct
14 the jury that they shouldn't take into consideration the fact
15 that Mr. Owen's is no longer there?

16 MS. ELLIOTT: Your Honor, I am going to object.

17 This has not been alleged in the application.

18 A No.

19 MR. LEDDY: It is not necessary.

20 MS. ELLIOTT: I object to it.

21 MR. LEDDY: It is not necessary.

22 THE COURT: Okay. Well, I will decide that, but
23 thank you.

24 MR. LEDDY: I appreciate it.

25 A No.

1 THE COURT: Just hold on. Relax.

2 THE WITNESS: Sorry.

3 THE COURT: You are just asking him whether or if
4 he objected to those things and that just goes to I
5 think his argument of ineffectiveness of counsel.

6 MR. LEDDY: Yes.

7 THE COURT: Yes, ma'am.

8 MS. ELLIOTT: My concern is that it has not been
9 alleged as a ground of ineffective assistance of
10 counsel. To ask the judge to draw a new jury
11 and I object to it being added. If that is where we
12 are going today I object to that.

13 THE COURT: Well, I will note your objection. He
14 can continue to ask the question, Mr. Leddy.

15 MR. LEDDY: Thank you, Your Honor.

16 Q Did you ask for a curative instruction?

17 A I did not. I mean the record would reflect, but I
18 don't remember doing that.

19 Q Did you ask for a mistrial?

20 A No.

21 Q The judge didn't sua sponte give any sort of curative
22 instruction, did he?

23 A Not to my knowledge.

24 Q All right. You testified earlier that one of the
25 reasons you didn't put up witnesses is, if you are going to put

1 up something it is going to be important.

2 To you remember that?

3 A I do.

4 Q Do you remember that you did put up something in this
5 this case?

6 A I sure did.

7 Q If you turn to page 1040, you will see it in the
8 transcript.

9 Can you tell the Court what you did put up with evidence?

10 A Yeah. I called Mary Collins, who is paralegal for Mr.
11 Thompson and the person with whom handles all the Discovery
12 matters for all of their more serious cases. I called her to
13 come and testify.

14 Q Okay. And that was very brief testimony; is that
15 right?

16 A It was fairly brief, yes.

17 Q And I think you asked her why you had gotten certain
18 materials later than others?

19 A Well, it was a particular thing.

20 Q It was a statement, wasn't it?

21 A Yeah.

22 Q And she told you because she got it from law
23 enforcement later?

24 A Yeah.

25 Q So, would you agree that wasn't very effective?

1 A No, I think it was with what I was trying to show. One
2 of the things we were doing we were attacking the State. We
3 were attacking the way they handled the investigation. We were
4 trying to attack the credibility of their investigation. Okay.
5 Because you have to remember they ID Berry Bolin at the
6 beginning. They didn't do investigation overall. They did no
7 GSR whatsoever on anybody that was in that car. Okay. That is
8 whole another issue.

9 Q Can you tell me what Mary Collins has to do with that?

10 A Yeah. Yeah. It has to do with the third statement
11 that Mr. Bolin gave to law enforcement after he had been
12 arrested and was in jail.

13 The statement that we had received of him eventually
14 consisted of two pages. In April -- in April we had received
15 the first page of his statement that he gave to law enforcement.
16 And this was pointed out in Detective Yager's testimony when I
17 cross-examined him. That first page of the statement that my
18 client's had given was done in a narrative fashion. And it was
19 written out by Detective Yager. Okay.

20 The second page we had not received until June. The second
21 page was not written out in narrative fashion. The second page
22 was merely a recitation allegedly that my client had made to
23 Detective Yager regarding specific questions. Okay. That
24 allegedly had all been done at the same time back in April.

25 Now, the reason that I called Mary Collins and I was trying

1 to show the jury that even the statements aren't being done
2 properly and there is something funny going on because the
3 second page of the statement comes back and you can almost look
4 at and, if I recall, I haven't seen the statement. Didn't look
5 at it to come here. And I haven't seen it in five or six years.
6 But the second page of the statement almost goes down regarding
7 the elements of self defense. And deals with facts dealing with
8 the elements of self defense. And so you got a statement that
9 has two different types of writing. It is in the same
10 handwriting. We don't have a -- the pages aren't filed in. And
11 then the reason that I call Mary Collins to come in because she
12 handles the Discovery. And the way she handles the discovery is
13 when it comes in to her, as her testimony shows, she gets a
14 package. She goes through and she handwrites page number one,
15 two, three, four, as they come in. And then I might get a disc
16 in April. And it is going to have page one through so and so
17 and that is the information that she has gotten so far.

18 Well then I get my second disc in June and it has the next
19 sequence of pages that goes up. Well, out of this single
20 statement that my client allegedly gave after he was arrested on
21 February the 19th, a two-page statement, page one we received in
22 April and it had a certain number on it. Page two we received
23 in June and it had a whole another number way down the sequence.
24 And so page one and page two were not given to Miss Collins at
25 the same time.

1 Q Now, these were things that you said that you
2 thoroughly explored during cross examination of the officer?

3 A Yeah. Yeah.

4 Q Okay. But then you put up Mary Collins and got the
5 same information?

6 A No. Didn't get the same information. No. I got
7 Detective Yager, I got information about the statement itself.
8 How there wasn't a page one or one. Page two -- no, page one of
9 two. Page two of two. Okay. I had him go over. I had him --
10 I had it up on the screen and I showed the difference in the
11 pages and I shown the difference in a narrative. How the first
12 page had been written in the narrative and the second page had
13 been written just like answers to specific questions. So the
14 whole form was completely different.

15 Q And the jury saw that?

16 A Yes.

17 Q Okay. They saw that without Mary Collins going up?

18 A No, what Mary Collins does it shows that those two
19 pages came to the solicitor's office at a separate time. They
20 weren't together.

21 Q Okay. Okay. You would agree that you lost the last
22 closing because of that?

23 A Yeah.

24 Q Would you agree that the last closing is an important
25 thing to take into consideration in a criminal defense trial?

1 A Yeah, it can be.

2 Q Did you think it was in this case?

3 A Well, this was a seven-day trial. It is not like it
4 was a one-day trial or a one and a half day trial. It always is
5 a significant -- yeah. It is always a significant decision to
6 do that. But I needed to have Mary Collins to tie up what I was
7 trying to show law enforcement -- what I was trying to show what
8 law enforcement had done with his statement, otherwise that
9 would have been lost and I thought that was a significant aspect
10 about their investigation. I mean I never seen a statement of a
11 defendant that is two pages come separately two months apart and
12 being written different ways.

13 MR. LEDDY: Thank you. Please answer any
14 questions the State has.

15 THE COURT: Counsel, can I see the attorneys up
16 here for a second.

17 (Whereupon, there was an off the record
18 discussion.)

19 THE COURT: All right we will take a break for
20 lunch. We will come back at 1:30.

21 Mr. Greeley, you know you are under oath. You can
22 know you can't talk.

23 THE WITNESS: The great thing is I can't talk to
24 anybody and they can't talk to me.

25 THE COURT: That is right. Thank you, sir. See

1 you all at 1:30.

2 (Luncheon recess)

3 THE COURT: All right. Mr. Greeley, you are still
4 under oath.

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: All right, Miss Elliott, cross
7 examination.

8 MS. ELLIOTT: Thank you.

9 CROSS EXAMINATION

10 BY MS. ELLIOTT:

11 Q Mr. Greeley, when were you admitted to practice law?

12 A November of 1986.

13 Q And just briefly give us your professional background?

14 A I began as a assistant solicitor for the 16th Circuit.
15 here in York from 1986 to 1988. 1988 to 1990 I practiced with
16 the firm of Hayes, Brunson and Gaillon and in 1990 to the
17 present I had my own practice?

18 Q What portion of your practice is devoted to criminal
19 law?

20 A Most of it.

21 Q And are you member of any professional organizations or
22 associations?

23 A Yes, I am member of course of the State Bar. I am
24 member of the Federal Bar for the U.S. District Court. I am
25 member of Forth Circuit Court of Appeals in virginia. I also

1 been a member and past president of the South Carolina
2 Association of Criminal Defense Lawyers.

3 Those are professional organizations.

4 Q Have you served on any State wide public defender
5 committee or anything like that?

6 A I use to be chairman of the York County Public
7 Defender's Association before it became State wide.

8 I was chairman of the committee to select the first public
9 defender when it went to a State wide system. And for two years
10 I was appointed by the chief justice to serve on the sexually
11 violent predator task assessment team in Columbia.

12 Q Have you had experience during these years in the trial
13 or the handling of murder cases?

14 A I have.

15 Q And the other charges that were involved in this case?

16 A I have.

17 Q And would that be as defense attorney and prosecutor?

18 A Yes.

19 Q How do you keep up with the law and changes of the law?

20 A I do that through the association that I am member of
21 and also through the Judicial Website which publishes the weekly
22 publishes the new cases that come out of the Court of Appeals
23 and the Supreme Court.

24 Q And do you conduct research as needed on issues that
25 are pertinent to the cases that you might be handling?

1 A Yes.

2 Q Do you recall when you became involved or do you know
3 when you were retained to start representing Mr. Bolin?

4 A As I previously said I believe that I our dialogue
5 began the week after this incident had occurred. And it was
6 shortly thereafter that I was retained.

7 Q Okay. Do you have your file?

8 A Most of my file has been given over to counsel for Mr.
9 Bolin.

10 Q So you have not had the opportunity to review it and in
11 anticipation of testimony?

12 A No. No. I had the opportunity to go through the
13 transcript.

14 Q Okay. And when did you give that file to Mr. Bolin or
15 his family?

16 A It was after the appeal.

17 Q Okay.

18 A The appeals had run.

19 Q After you were retained did you have an opportunity to
20 conduct initial discussions with your client about case?

21 A Yeah, I did. Eventually.

22 Q And did you discuss his version of what happened?

23 A Yeah, we did do that.

24 Q Surrounding circumstances?

25 A Yes.

1 Q Did you discuss with him the circumstances surrounding
2 the various statements that he gave?

3 A Yes.

4 Q And I believe those were three; is that correct?

5 A There were three. Actually there was also an oral
6 statement. Alleged oral statement that he had made at his house
7 when the deputy went out to ask him to come to the Clover Police
8 Department. Very short statement, but I believe that one was
9 not discussed in evidence -- brought out in evidence.

10 Q In your discussions with him would you say that his
11 version of the events are consistent mostly with the last
12 statement he gave to the officers?

13 A Generally.

14 Q Okay. Did he ever tell you -- he did admit firing the
15 gun to you?

16 A Yes.

17 Q Did he admit that he did not see any gunfire from the
18 victim's car?

19 A I don't recall that.

20 Q And did he tell you that he just lost his head and
21 shot, basically, not those words but when he saw Lori fall to
22 the ground?

23 A I don't recall those words.

24 Q Okay. Did he ever tell you he saw a second car?

25 A No.

1 Q Okay. Did you in your conferences with him did you go
2 over the charges pending against him? The elements and what the
3 State would have to show to prove his guilt?

4 A Yes.

5 Q And did you review with him possible defenses he could
6 raise at trial?

7 A Yes.

8 Q And what did you tell him?

9 A Well, I mean the primary defense that we had of course
10 which in any case you are going to be potentially attacking the
11 work of the State. But at the same time there may be tactical
12 defenses that the defense may have and we talked about those as
13 far as the defense of another, which was presented in this case.

14 Q Okay. And did you explain to him what that was?

15 A Yes.

16 Q And after you received Discovery and conducted your
17 investigation did you review with Mr. Bolin the evidence the
18 State planned to present against him at trial?

19 A Yes.

20 Q So he knew what was coming?

21 A Yes.

22 Q Okay. And you knew what was coming?

23 A Yes.

24 Q Would you agree that all this appeared to have started
25 as an investigation to go to the quote spot to rumble more or

1 less?

2 A I know that was one of one of the things that at some
3 point in time was mentioned. I believe that it was Travis --
4 no, I think it was Holly McCarter who was talking about they
5 were going to pull up and have another car follow them to the
6 spot. I think that was her version.

7 Q Is the spot also where the earlier confrontation had
8 occurred between the Deas and Mr. Falls?

9 A I don't know if it was the same spot. I know -- they
10 both were at a spot.

11 Q But they called it "the spot"?

12 A The spot.

13 Q In your discussions with Mr. Bolin did he give you
14 witnesses to lead an investigation? Did he suggest any to
15 you?

16 A Yes, we talked about who he had seen that night and
17 would was there.

18 Q And did you an have opportunity to speak to those
19 individuals?

20 A Yes, we did.

21 Q Did you find your interviews with them helpful such
22 that you wanted to call them as defense witnesses?

23 A We were getting different versions which was expected
24 in a case like this. If you get the same version from six
25 different people then you would be suspect of that. But we did

1 have people that we were going to want to call. One was going
2 to be Bradley Deal. We were going to call him in our case. But
3 I didn't think the State would call him but they called him and
4 so --

5 Q You didn't have too?

6 A I didn't have too.

7 Q And were you able to elicit from him or did the State
8 elicit from Mr. Deal the information you wanted the jury to
9 hear?

10 A Yes.

11 Q Would you agree with me that many of the witnesses in
12 this case gave conflicting information with each other and with
13 their own previous statements? Did you find that to be true?

14 A Some of the witnesses, yeah, did that.

15 Q Was that problematic for the defense?

16 A Probably not as problematic as for the State.

17 Q Okay.

18 A Since the State has to present the burden of proof and
19 has to prove the case. But from presenting a factual defense,
20 yes.

21 Q Did you feel comfortable that the witness -- that any
22 potential witnesses -- let me back up a little bit.

23 Had you identified anyone other than Bradley Deal as a
24 witness you might like to call for the defense?

25 A Well, at one point in time there were people that we

1 were looking at possibly calling.

2 Q Okay.

3 A But as time went on statements would change and
4 people's convictions to a certain set of circumstances would not
5 become as convincing.

6 Q Okay. What investigation did you conduct other than
7 interviewing witnesses suggested by Mr. Bolin and I guess also
8 did you find witnesses independent of his suggestions as well?

9 A Well, what we did we had Mr. Bolin and what we talked
10 with him about. Of course we got Discovery and so that presents
11 all the witnesses -- potential witnesses, that the State knows
12 about. This particular case it provided a rather large pool.
13 And we also did the investigation in regards to the American
14 Auto and following up on that, once we had discovered that.

15 We went out to the scene and -- and I am sure there are
16 other things we did, but right off the top.

17 Q Were you able to review the car? Have photographs made
18 of the victim's car?

19 A Yeah. Well, we got that from from Discovery.

20 Q All right.

21 A And part of that was favorable to us.

22 Q Okay. And in what regards?

23 A There were -- well, the car was a mess. There was beer
24 all over the car. And I can't remember in particular, but there
25 were a few things that, you know, kind of gave a flair for who

1 the occupants were.

2 Q Okay. And the 911 tapes, the photographs and diagrams,
3 all that information you had been provided in advance of trial;
4 is that correct?

5 A Yes.

6 Q Okay. What about the jail calls between Mr. Bolin and
7 his family and others?

8 A I believe that those were provided.

9 Q Did you at the beginning of trial initially have a
10 motion to suppress those telephone calls?

11 A I believe that I did, and I think that was something we
12 were able to resolve and to work out to where the State wouldn't
13 be presenting those.

14 Q In the case in chief, is that correct?

15 A In their case in chief. Because I had -- I think it
16 was about that same time I had another case over here with
17 another solicitor that involved telephone calls and we had the
18 same issue that I had been successful in getting those to where
19 they couldn't use those in their case in chief. But knowing
20 that in our case depending on what was presented that they were
21 out there.

22 Q Okay. And in those telephone calls did Mr. Bolin admit
23 to his father that he shot the gun?

24 A Yeah, I think so.

25 Q And that he did not see -- and I mischaracterizing this

1 -- that he did not see any other guns or another car?

2 A I don't know if it was phrased like that.

3 Q Okay. But something along that line?

4 A I do believe that it may have contained something that
5 the State could have tried to make something out of.

6 Q Okay. Had the gunshot residue, the ballistic reports
7 from the sled, and autopsy, you reviewed all that?

8 A Yes.

9 Q And did you review all of that material with Mr. Bolter?

10 A I may not have sat down with each report because it was
11 quite voluminous.

12 Q Okay.

13 A But no, we went over the evidence the State had.

14 Q And you described it to him?

15 A Yes.

16 Q Even if he didn't see the document you described what
17 the State had??

18 A What they have. What they got and what they don't
19 have.

20 Q How did you prepare for the ballistic evidence that the
21 State would present at trial?

22 A We did our own investigation.

23 Q Okay. And was that favorable to the defense?

24 A I rather do a privilege, unless I am compelled by my
25 client and his lawyer to to answer that question.

1 Q Let me ask it this way because I may not need to know
2 that.

3 Did the defense ballistic's expert look at the victim's car
4 and the possibility of the victim shooting from the victim's
5 car?

6 A No.

7 Q Then I don't need ---

8 A No.

9 Q --- to go there?

10 A No.

11 Q Okay. All right. And did you discuss with Mr. Bolin
12 -- I know you discussed the evidence the State would present
13 against him at trial and the discovery material, did you also
14 discuss with him the results of your own investigation as far as
15 what witnesses you interviewed and what those witnesses would
16 say?

17 A Yes.

18 Q And did you discuss with him -- did he offer you at
19 that point any other leads for investigation or interview?

20 A Not that I recall.

21 Q Okay. Now, I believe Tom McKinney was representing the
22 co-defendant in this case, is that correct?

23 A That's correct.

24 Q Did you confer with her or discuss any of the evidence
25 with him?

1 A Yes. These were not -- they were co-defendants, but
2 they were not acting in a confederate way, and so we did confer
3 during the preparation of the case regarding all of the
4 evidence. That was regarding, especially the witness statements
5 because they were -- the witness statements of the whole
6 incident. So it was relevant to him and also relevant to us.

7 Q Did he ever discuss with you American Auto?

8 A I am sure we discussed that. I can't particularly give
9 you a time and date, but it was -- I sure we would have
10 discussed that.

11 Q Okay. And would you have discussed with him the
12 possibility of a video tape being available? Surveillance tape?

13 A That I don't recall us discussing.

14 Q Okay. What problems or issues did you fear might arise
15 during trial in the development of the defense?

16 A Well, I knew that we were going to have witnesses who
17 some were going to testify they saw shots and some were going
18 are saying they may have seen shots from the second car. Some
19 were going to testify they didn't see any shots.

20 As far as things that may have arisen during trial I can't
21 identify for you anything that I was thinking I hope this
22 doesn't happen.

23 Q Okay. All right. But mainly just conflicting
24 statements and the shifting positions of the witnesses involved,
25 is that correct?

1 A Yeah.

2 Q Okay. And did you discuss all that with Mr. Bolin
3 before trial?

4 A Yeah. I think everybody kind of knew that.

5 Q All right. And in addition to the defense of others,
6 you already testified that you also attempted to use the new or
7 the then new act or statute of Protection of Persons and
8 Property; is that correct?

9 A I did.

10 Q So that was also one of your theories of defense?

11 A Yes.

12 Q That you were trying to use in trial?

13 A Yes.

14 Q Okay. Understanding at that time that it may or may
15 not be successful; is that correct?

16 A That's correct.

17 Q And that it may or may not be applied retro-actively;
18 is that correct?

19 A That's correct.

20 Q And did you talk that with Mr. Bolin as well?

21 A Yes.

22 Q Okay. Did you make assessment about the likelihood of
23 success at trial if you went to trial in this case?

24 A I talked with Barry. In most of our conversations --
25 well, let me rephrase that. What I am thinking about here now is

1 my conversation with him when the 15 years was offered because
2 prior to that there had not been any real -- that I can recall,
3 any real negotiations that were going on. And 10 was the last
4 number that I had heard from the State and that was a not an
5 acceptable number.

6 Q Let me just back up a little bit and ask you, obviously
7 you did approach the State and engage in plea negotiations; is
8 that correct?

9 A Yeah.

10 Q And what was the as a result of your earlier
11 negotiations?

12 A I think we had gotten to the point of maybe 20 years if
13 he plead and that wasn't acceptable because I didn't think he
14 would get more than thirty and to do 20 years on a plea, 20
15 years is really a long time.

16 Q And did you have any subsequent offers from the State?

17 A I had the one that I previously testified about which
18 was 15.

19 Q After the first day of trial?

20 A Yes.

21 Q All right. And that offer was made -- the State
22 offered the defendant and the co-defendant guilty pleas at that
23 point; is that correct?

24 A I can't remember if -- I am thinking that our plea may
25 -- our offer may have come on the heels of Mr. Dwan's plea.

1 Q Okay.

2 A Rather than at the same time that morning.

3 Q But it was after a full day of Suppression hearings and
4 after you had argued to the Judge whether or not the Protections
5 of Persons and Property Act applied in this case?

6 A Yes.

7 Q And did you have any in chambers conferences with Judge
8 Hayes, with you and Mr. Thompson with Judge Hayes on the
9 application of the Persons and Property?

10 A Yeah, I think we had some informal discussions in
11 chambers about the law. It was a new law.

12 Q Did you get any feel from Judge Hayes as to his
13 position or his potential ruling on your motion to quash?

14 A Not at that time.

15 Q Okay. But at the end of the first day of trial Judge
16 Hayes did give an indication of his ruling, did he not?

17 A I think it was the next morning right before the plea
18 he said I am not going to grant your motion at this time.

19 Q And did you also move for an Immunity hearing at that
20 time, did you not?

21 A I did.

22 Q And that was denied?

23 A That was denied because I think the Court - - I didn't
24 think the Court would be comfortable in setting a procedure that
25 is going to end up having two trials.

1 Q Right. And as we have it now also two appeals, as it
2 has evolved since this case. And in the ruling Judge Hayes,
3 would you agree with me, indicated that he did not feel that act
4 applied to the facts of this case; is that correct?

5 A He was having a little bit of trouble getting there as
6 far as the particular facts in this case.

7 Q All right.

8 A Notwithstanding the fact that Mr. Falls was under the
9 bond order.

10 Q Okay. And Mr. Bolin was present in Court when this
11 transpired; is that correct?

12 A Yes.

13 Q If you could describe please then what happened as far
14 as -- and you have gone into it, but if you could reiterate
15 please, what happened the timing of the offer from the State and
16 what you did when you received that offer?

17 A When I received that offer I met with Berry. I
18 discussed it him. It was not what we had discussed as a
19 possible plea, which I recall being at the most 10 to 12 and I
20 told him basically what I testified before me. Which was I
21 recommended that he take the 15 years even though it was a long
22 time. And I said before and I said it then, he could have a
23 family. He could have a job. He was very -- he was under lot
24 of pressure at that point. Okay.

25 He was only 19 years old. He was having to make a decision

1 about 15 years and the Court was going to give us about 15, 20
2 minutes to do it. Of course, we had talked about that type of a
3 thing, but it's when it gets there and you got to make the call
4 that the pressure comes on and he had a lot of pressure on him
5 at that point.

6 Q In your discussions with him and did you met with him
7 initially alone or always met with him alone about the plea
8 offer?

9 A On this particular time, yes, I first met with him
10 alone so I could go through it with him and he wanted -- he
11 wanted to talk with his family. And I understood that. But it
12 is unusual thing to be able to get somebody who is not out on
13 bond to a meeting with their family. But the solicitor's office
14 and the sheriff's office office and the Court did allow them to
15 meet in the law library.

16 I was not in there with them. I did tell the parents what
17 I had recommended to him. I did tell them that it was his
18 decision and it was their decision, you know, to advise him
19 however they thought. And so they met for about 15 minutes.

20 Q And what was the conclusion?

21 A They decided they wanted to go forward with the trial
22 and not take the plea.

23 Q In your conferences with Mr. Bolin about the plea
24 offer, did you explain to him the strengths and weaknesses of
25 the State's case?

1 A Yes. Well, I did. And the problem that we had with
2 the case is the same reaction that we got from Judge Hayes. Mr.
3 Bolin was not a bad guy. Mr. Bolin was a good young man. Still
4 is. I am sure. But you got somebody shooting in the rear
5 window of a car and juries aren't going to like that. I mean it
6 just not a good scenario.

7 Q And you explained that to him as well as other factors?

8 A Sure.

9 Q Okay. And did you explain to him -- well, I guess that
10 would also encompass the strengths and weaknesses of the defense
11 in this case as well?

12 A Sure. I mean, defense of another versus was that
13 defense necessary.

14 Q And did you talk about the likelihood of the success of
15 Protection of the Person and Property at that point after Judge
16 Hayes had already forecast his ruling before the plea
17 discussion?

18 A Yes. I didn't think we were going to win on that given
19 the judge's ruling, but I knew that it would at least possibly
20 be an issue for appeal.

21 Q Okay. Was your advice to Mr. Bolin based on the facts
22 of the case, your investigation, the evidence that was going to
23 be presented by both sides, your experience and your experience
24 in these matters and with Judge Hayes?

25 A Yes.

1 Q The co-defendant accepted the plea offer; is that
2 correct?

3 A That's correct.

4 Q After the issue of Protection of Persons and Property
5 came up again I believe after the directed verdict stage; is
6 that correct?

7 A Yes.

8 Q You offered that as a ground for directed verdict?

9 A I believe so. The record would reflect it.

10 Q After the judge ruled that he did not find that it
11 applied to the facts of the case either at that point or maybe
12 it was when you were making the request for the jury charge, did
13 you consider approaching the solicitor's office to try to have
14 that plea offer reinstated?

15 A I may have done that. I am not sure. But what I
16 recall is that once we rejected it, it was done.

17 Q Okay.

18 A Because by the end of the directed verdict motion we
19 had been in trial for seven days.

20 Q Right.

21 A Or six days at that point.

22 Q Do you have any indication from the solicitor's office
23 at any point in time that they would care to or entertain a
24 revisitation or to revisit that offer at any point?

25 A Not at all.

1 Q Okay. And I apologize because I was looking at the
2 transcript I think when you testified about the American Auto
3 video tape, so I apologize to everyone to have to ask you this
4 again. But tell me how you learned about the American Auto?
5 What roll it played in the case?

6 A My investigator, Scott Bernard, called me and said he
7 had gotten information that they had stopped at American Auto on
8 the way to Clover and I said for him to go out there and begin
9 looking around to see if he could find anything.

10 Q And what were you looking for at that point?

11 A We were looking for a gun.

12 Q And I believe you contacted the sheriff's department
13 and officers also went out there; is that correct?

14 A Yeah, they came. Sheriff's office came out after we
15 had gone out there. I mean, I think they came out there the
16 same time but, we were on there first. We thought we had that
17 information first. I don't think we did, but I think the state
18 probably knew that because Holly McCarter, it was in her
19 statement and she was an alleged victim and I am sure that she
20 was probably interviewed the night of the shooting or the next
21 date. So - -

22 Q Were you able to develop a trial strategy for putting a
23 gun in the victim's car?

24 A Yeah. There was a number of things that I believed
25 would show the jury and would allow the jury to conclude that

1 there was a gun in the car of the alleged victims.

2 Q And how did you do that?

3 A Well, that was done through testimony of course.

4 Q Did you cross examine law enforcement officers about
5 whether they had received any information that the victim --
6 that there was gunfire from the victim's car?

7 A Yeah, I cross examined law enforcement about that.

8 Q Some said yes and some said no?

9 A Right. But there hadn't been any follow up by law
10 enforcement in regard to them. They were cross examined about
11 that. The fact that law enforcement didn't do any GSR testing
12 on any of the people in the car. They were quick to do it on
13 Mr. Belin. Did it that night. And did it after his first or
14 second statement. I can't remember it was one or the other.
15 But they did there's that night at Clover Police Department on
16 him. And the officer testified they kept them in the back of
17 the truck. So there would have been plenty of opportunity to do
18 it on the people in the car and they didn't do it.

19 Q Okay.

20 A I believe it was Michael Hubbard on cross examination
21 who testified that Jeff Buck had told them that they had guns at
22 Bradley Dill's house and so on cross examination he admitted
23 that when they were going over to that house they had the
24 information that there were guns there. Which wouldn't make any
25 sense for these yahoos that were in the car to show up to go to

1 a fight without a gun if they think there is guns there. So the
2 jury had that information.

3 The information of the way that Mr. Falls was shot through
4 his wrist. For me the only acceptable answer as to why he has
5 got his arm up around the back of the head of Mr. Hovis at that
6 point in time. Why. I mean, they are not piling around. And
7 the bullet went through his wrist into Mr. Hovis's head who is
8 sitting by the passenger's side window. That indicates the
9 possibility of a gun. So there were several things.

10 On, and I said it before, Holly McCarter committing perjury
11 when she says that they traded drivers at American Auto. They
12 didn't trade drivers at American Auto.

13 Q I believed you asked the officer who were present at
14 the police department when the car drove up, or he arrived as
15 the car was driving up, he indicated did he not on cross
16 examination that a female was driving?

17 A Right. It was actually on the video.

18 Q Okay.

19 A We saw her drive up and that was quite revealing.

20 Q And I believe you also cross examined on the fact that
21 no inventory listed the stick, the big stick, that was alleged
22 admitted to be in the car; is that also correct?

23 A Right. They said that they stopped and I think one of
24 them, it might have been Hubbard, one of them testified that
25 they through the stick out when they stopped at American Auto,

1 because there wasn't a big stick in the car. Okay.

2 Q And was a big stick found at American Auto?

3 A No.

4 Q Were you still able to argue to the jury through your
5 cross examination through out trial on this issue that there was
6 a gun in the victim's car?

7 A Absolutely. And I argued it quite a bit. It seemed to
8 be the reasonable answer to this.

9 Q It has been alleged that you were effective for failing
10 to call Eric Brown as witness to testify and you already touched
11 upon your decisions there.

12 Had you ever considered Mr. Brown as a potential defense
13 witness or as defense witness?

14 A Well, yeah. I mean, there is a time where you consider
15 - - (Witness's phone goes off.) I apologize. I forgot to turn
16 it off after lunch.

17 THE COURT: Thank you, sir.

18 Q Okay. I apologize.

19 A That's all right. Now, I forgotten my question. Mr.
20 Brown.

21 A Right. At the beginning of the case any potential
22 witness is considered a possible defense expert. But there are
23 times when you have to decide whether or not you are actually
24 going to put them up. There is a lot of things that go in to
25 determining whether or not you are put somebody up. The way

1 they come across. First of all what they have to offer in
2 testimony. The second thing is, can they offer it effectively.
3 The third thing are they believable. One of the four things is
4 are they going to be tied in any way to your client and if so,
5 is it a positive thing or is that a negative thing.

6 So there are a number of different reasons to determine
7 that. Mr. Brown, in his statement as he stated here today, his
8 statement was that he saw shots from a second car. We were not
9 interested in putting up somebody saying they saw shots coming
10 from a second car without saying they saw shots coming from the
11 car. Because it was the car that my client fired through the
12 back window.

13 Q Okay.

14 A And so, shots coming from a second car would not have
15 helped us at all.

16 Q And information that Mr. Brown told the polygraph
17 examiner that they shot at the wrong car. Would you have wanted
18 him to expose the defense to that information?

19 A No.

20 Q Did you also have an opportunity to review Samantha
21 Esson's statements, do you remember?

22 A Yes.

23 Q And did you consider her as a witness?

24 A We did.

25 Q And what was your conclusion?

1 A We were thinking of potentially calling her as witness.
2 And when it comes to defending criminal cases, I would submit,
3 that you never no if you are going to call a witness until you
4 call that witness from a defense stand point. Okay.

5 She was a potential witness for us, however, around the
6 first part of August I talked with Mr. McKinney. I think Mr.
7 McKinney had talked with her and she might have even given a
8 statement to Mr. McKinney. But I talked with Mr. McKinney and
9 she had talked with her again and she was walking back away
10 from what she had said. She had said that the State had
11 threatened her and she was afraid of them. And so she brings
12 into this mix all of these other things about her statement.
13 And so, her reliability then drops.

14 Q Okay. If you put her up on the witness stand and she
15 does not appear to be a credible witness what does that do to
16 the credibility of your defense?

17 A Well, it is reflected on our presentation of our case.

18 Q And ultimately did you make a decision not to call
19 Samantha Eason and Mr. Brown as witnesses?

20 A Yes.

21 Q And was that a strategic decision?

22 A It was.

23 Q And was it based on your experience?

24 A Yes, it was.

25 A As a trial attorney?

1 A Yes.

2 Q And was it based on your investigation and the facts of
3 the case?

4 A Yes.

5 Q And did you discuss these matters with your client?

6 A I think, like I said before, with a defense you never
7 know when you are going to call a witness until you call the
8 them, so I am sure we probably discussed that at that time in
9 trial, as to what was I were going to do and who we were going
10 to call when it became our time.

11 Q Mr. Bolin has also alleged you were ineffective during
12 the appeal stage of this case because you failed to petition the
13 South Carolina Supreme Court for certiorari from the Court of
14 Appeals decision, and I will back up.

15 You did handle both the appeals in this case, did you not?

16 A I did.

17 Q And you were very successful in having that charge,
18 possession of weapon by person under the age of 21 stricken as
19 unconstitutional; is that correct?

20 A That's correct.

21 Q And then after trial you also represented Mr. Bolin as
22 respondent -- or appellant in his appeal from the convictions
23 and sentences?

24 A Yes.

25 Q Tell me -- you have experience in handling appellant

1 matters; is that correct?

2 A Yes.

3 Q And tell me how you determined what you were going to
4 raise in your brief?

5 A Well, you know, what I try to do is make notes of
6 issues that would come up, that could be a possible appellant
7 issue while the trial is going on.

8 The Persons and Property Act I knew that was going to be
9 appeal issue. We didn't have any law on that, so it was going
10 to be an issue.

11 The Jackson versus Denny, we would not have gotten anywhere
12 with that. His statements was going to be admissible based on
13 facts in which the police officer procured them. And so it was
14 a trial -- even though it was seven days, there were not a lot
15 of appellant issues that came up. Most it was evidentiary. I
16 got most of my rulings sustained. And so, it was primarily on
17 the property issue.

18 Q Okay. And you reviewed your trial notes, reviewed the
19 transcript for the motions and objections you made just to
20 refresh yourself as well on what transpired during trial in case
21 there was something else there you might want to raise?

22 A I reviewed the transcript, yes.

23 Q And did you formulate an appellant strategy about what
24 issues to raise in this case?

25 A I did.

1 Q And was that strategy reflected in your brief?

2 A Yes.

3 Q Okay. And was that strategy based on your experience as
4 a trial attorney, as a appellant attorney and the facts of the
5 case?

6 A Yes.

7 Q You were not successful in your appeal. Is that
8 correct?

9 A That's correct.

10 Q And did you at that point consider whether to petition
11 for rehearing and then thereafter file a petition -- writ of
12 cert to the Supreme Court?

13 A Yes. And I had talked with my client and I believe I
14 talked with his family about that and given the ruling of the
15 Court I did not feel like we were going to be successful in
16 going to the Supreme Court.

17 Now, one of the considerations in going to the Supreme
18 Court is time. If you do a Writ of Certiorari it can end up
19 being -- first of all it is going to take a while for them to
20 even consider it. If you are fortunate enough to have it
21 granted so that they will consider your case then it is going to
22 take some more time and you would probably have maybe a year.
23 Depending on the circumstances it might be a year and a half.
24 And that would be an additional year and a half before he would
25 have any other remedy that he could seek. And so not thinking

1 that it was going to be a successful appeal to the Supreme Court
2 on the issues, by not seeking the writ of certiorari he would
3 then be able to move on to the next potential remedy that he
4 could seek which is this.

5 Q Post conviction relief.

6 How did you prepare for that brief? Did you conduct
7 research?

8 A Yes.

9 Q Read the transcript?

10 A Yes.

11 Q And did you consult or confer with other attorneys
12 about Protection and Property Act and what experiences they
13 might have been having they time or was this a pretty new
14 cutting edge issue?

15 A It was brand new. And yeah, we did discuss it. I mean
16 we have a list serve with the South Carolina Association of
17 Criminal Defense Lawyers. What a list serve is where lawyers
18 can -- we have over 300 members in the State, and if somebody
19 has got a legal issue or question they can fire it over the list
20 serve which comes through your e-mail. And so during that
21 period of time, that whole period of time, of course there was
22 quite a bit of banter as I recall regarding this new piece of
23 legislature.

24 Q And so you were discussing with and getting impute on
25 the issue from others, from other attorneys?

1 A Yes.

2 Q Did you -- was the decision not to file a petition for
3 rehearing or petition of writ of certiorari based upon your
4 reasonable professional judgment?

5 A Yes.

6 Q And the facts of the case and your experience as
7 criminal trial practitioner and criminal appellant attorney?

8 A Yes.

9 Q He has also alleged that you failed to object, you were
10 deficient or you provided ineffective assistance in failing to
11 object to order of restitution in this case and the transcript
12 shows you did not object. Could you address that and tell me
13 why?

14 A As I recall, of course, you know, in South Carolina you
15 have sentencing immediately following the jury verdict. There
16 is, unfortunately in our State it doesn't provide any down time
17 for people to regain themselves. But that doesn't have to do
18 with me. I am just talking about the atmosphere in and of
19 itself.

20 As I recall the amount of restitution was given through the
21 different victims's statements, written statements, and they
22 were primarily medical bills and funeral bills I believe. And
23 so I didn't object.

24 Q Because you had the documentation?

25 A Well, the judge had heard the whole case and it is my -

1 - it is my recollect that those were provided through the State
2 to the Court.

3 Q And if I may drop back to, just for a few minutes, to
4 the Protection of Property Act you understood and -- or you
5 testified that you understood it could likely be held not
6 retroactive to your case. You understood that was an issue in
7 the case; is that correct?

8 A I did.

9 Q And you explained that and discussed that with Mr.
10 Bolin?

11 A Yes.

12 Q But determined that it would be worth a chance because
13 it is such a new law, it would be worth a chance to try and to
14 see what would happened?

15 A I believe I would have been deficient in not trying.

16 Q And there has been no decisions on the retroactivity of
17 the act; is that correct?

18 A On the retroactivity?

19 Q Retroactivity of the Protection of Property Act to
20 cases where the crime occurred prior to the effective date or
21 the date the act became effective?

22 A Prior to ours, right.

23 Q Right. Right. Yeah, before yours. You had know
24 guidance is what I am trying to say.

25 A I had no guidance.

1 Q And was your hope that this might be a successful
2 avenue?

3 A Yes.

4 Q To grant immunity. To get immunity from the get go and
5 if not that then use it to argue for a directed verdict; is that
6 correct?

7 A Yes.

8 Q And then also to argue that he was entitled to a jury
9 charge based on the wording of that statute; is that correct?

10 A That's correct.

11 Q But you were not successful?

12 A No.

13 Q And understood from the beginning you might not be
14 successful?

15 A Right.

16 Q And Mr. Bolin understood or you told him from the
17 beginning that was something you were going to try but not be
18 successful?

19 A That's correct.

20 Q Okay. You were trying to do all you could for your
21 client?

22 A Well --

23 Q And present a defense?

24 A Yes.

25 MS. ELLIOTT: Your Honor, if may have one moment

1 quickly to look through my notes.

2 THE COURT: Yes, ma'am.

3 Q In that third statement, or the third discussion your
4 client had with an officer, and there was the question and
5 answer portion of it. Did he not admit that he was not afraid
6 at the time he shot?

7 A Well, I mean he made - - there are written statements
8 that are attributed to him by the police.

9 Q Right.

10 A That he said these things. Okay.

11 Q That he didn't feel threatened?

12 A Right.

13 Q Didn't see a gun from with the victims. And he just
14 lost it when he saw Laurie be hit to the ground, I guess, and
15 started shooting?

16 A Right. And I just found it interesting that allegedly
17 was stuff that my client had been asked the day after the
18 incident when we don't receive it until June and that's the
19 defense that we are headed towards.

20 Q Right.

21 A That all of sudden here is questions that he had
22 supposedly answered that were geared towards our defense.

23 Q That was pretty damaging to the defense?

24 A It was. It was and it was going to come in.

25 Q Yeah.

1 A And it was going to be not good for us unless we could
2 show, pardon my french, smelled.

3 Q Right. It was fabricated or something was not right
4 about it?

5 A And I did not have any direct information that it was
6 fabricated.

7 Q And I am not implying that it was.

8 A I understand. I understand. But what I wanted to do
9 was to show the jury everything in regards to that statement so
10 that they could make a decision that it wasn't right. Something
11 was not right with that statement because it was very, very
12 unusual.

13 Q So it was pretty important to put up the solicitor's
14 investigator or the person from the solicitor's office that
15 provided Discovery to try to show that there is something fishy
16 going on; is that correct?

17 A Well, we had to put her up to show that the solicitor's
18 office most probably received ten pages of the same statement
19 separately three months apart because of the way she numbers her
20 Discovery.

21 Q To establish the fishiness of it you could have argued
22 about it in closing argument too?

23 A Yeah.

24 Q About the discrepancy in the dates?

25 A That's correct.

1 Q Did you weigh the importance of presenting that in your
2 defense against the right to last closing argument?

3 A Yes.

4 Q And what was your conclusion?

5 A We had to get -- we had to be able to tie up the
6 problems with that statement.

7 Q Okay. One moment please.

8 MS. ELLIOTT: That's is all I have. Thank you.

9 THE COURT: Mr. Leddy, anything on Redirect?

10 MR. LEDDY: Very briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. LEDDY:

13 Q So essentially you stated that you didn't put up Mr.
14 Brown and Eason or other witnesses because you didn't think they
15 would be believable?

16 A I thought that there credibility might be wanting.

17 Q Okay. And as we discussed previously Robert Beverly
18 was tied to my client, right?

19 A I think so.

20 Q Well, they said that they grew up together in the
21 trial?

22 A Okay.

23 Q And he had actually changed his testimony, right?

24 A Yeah.

25 Q Said at trial he didn't remember any gunshots.

1 A Okay.

2 Q So you had that.

3 A And he was put up by the State.

4 Q Right. And you had him and you had Bradley Deal who
5 was a drug dealer, according to one of the witnesses?

6 A Yeah.

7 Q And who had gotten beaten up by these people?

8 A Yeah.

9 Q And who had had his girlfriend stolen by these people,
10 right?

11 A Yeah.

12 Q Okay. So -- all right. But the jury didn't hear from
13 these other people. They had to either believe those people who
14 were clearly liars?

15 A No, the jury doesn't have to believe anybody.

16 Q Okay. Regarding the forensics and the gunshot residue.
17 Do you recall that Ricky Deal, actually had an inclusive result
18 on gunshot residue?

19 A Yeah, now that you mentioned it I believe he did. I
20 think it was taken at his house.

21 Q And another point from the forensics. You were talking
22 about how these guys were yahoos that came over there?

23 A Yes.

24 Q And do you remember that Bobby Davis sexually had
25 tattoos, gang tattoos on him?

1 A Yes.

2 Q And do you recall not wanting to get those into
3 evidence because of the nature of the photographs?

4 A Well, yeah. I mean, I think it would be -- I don't
5 think a jury is going to well receive the defense putting up
6 autopsy pictures of the dead guy for the purpose of showing
7 having it showing a tattoo.

8 Q Do you think the jury might be more likely to think
9 that gang bangers would have a gun than not?

10 A Well, I mean, we had the gang bangers there. Okay.
11 The jury is not going to understand the difference between a
12 gang bangers, gang member and a yaho.

13 It was very clear in this trial these cars were coming over
14 to fight. And it was very clear that at least one of them, and
15 probably most of them, had information that there might be guns
16 at the Deal's house. All right. So, the fact that one of them
17 has got a tattoo on his arm, isn't going to sway the jury one
18 way or the other in regards to what we already have. What it
19 will do is it will upset the jury if the defense shows autopsy
20 pictures for the dead guy for the purpose of the tattoo. You
21 will get more harm than you are going to get good out of it.
22 Okay.

23 Q Now, as far as going to the American Auto, do you
24 remember seeing this document.

25 MR. LEDDY: Your Honor, may I approach real

1 quick?

2 THE COURT: You may.

3 Q This is dated March the 6th. So that would have been
4 within thirty days of the incident. Do you remember seeing this
5 document previously.

6 A Yeah, I think that is probably Scott's report.

7 Q This is your investigation?

8 A Yeah.

9 Q Mr. Bernard?

10 A Right.

11 Q And he went with detectives from the sheriff's office?

12 A Right.

13 Q And they said they spent 45 minutes there?

14 A Okay.

15 Q But nobody asked about the video apparently?

16 A No, they didn't.

17 Q Do you recall Mr. Bernard, isn't he really good friends
18 with the head of the sheriff's office investigation?

19 A Mr. Bernard regard, he is friends with a lot of people
20 at the sheriff's office. In fact he use to work at the
21 sheriff's office as deputy years ago. So he knows many people
22 at the sheriff's office.

23 Q Okay. As far as the decision to go to trial, one
24 reason why you thought 20 years was too much to go to trial is
25 because you thought you had really good appeal issues?

1 A No, I thought 20 years was too much because my client
2 and I thought that we would be able to get them down some.

3 Q Okay. But you thought that he had good appeal issues
4 though?

5 A I don't know that I had ever advised any client to go
6 to trial because they they have good appeal issues. Usually
7 what I do is say, if we have to go to trial at least we got some
8 appeal issues.

9 MR. LEDDY: Thank you.

10 THE COURT: Anything on recross?

11 MS. ELLIOTT: No, Your Honor. Thank you.

12 THE COURT: Thank you, Mr. Greeley, I appreciate
13 it.

14 MR. GREELEY: Thank you, judge.

15 THE COURT: You may step down.

16 MS. ELLIOTT: And if -- well, I will wait and see
17 if applicant rests and if after he does rest --

18 MR. LEDDY: Applicant rest.

19 MS. ELLIOTT: I can let Mr. Greeley go and I
20 appreciate you being here with us all day.

21 MR. GREELEY: Thank you.

22 THE COURT: Any objection to Mr. Greeley leaving?

23 MR. LEDDY: No, Your Honor.

24 THE COURT: You are free to leave.

25 MR. GREELEY: Thank you, judge.

1 THE COURT: All right. The State prepared to call
2 its case.

3 MS. ELLIOTT: Yes, Your Honor. We would like to
4 call first Rodney Nivens.

5 THE COURT: We will take a break after this. This
6 is not going to be a long witness?

7 MR. ELLIOTT: No, Your Honor.

8 RODNEY NIVENS, after being duly sworn testified.
9 as follows:

10 DIRECT EXAMINATION

11 BY MS. ELLIOTT:

12 Q State your name please.

13 A Rodney Nivens.

14 Q Thank you for being here with us today. I am sorry you
15 have been here all day.

16 A No problem.

17 Q We really appreciate it.

18 Mr. Nivens, how are you employed?

19 A I run the business for my father.

20 Q And what business would that be?

21 A American Auto Sales.

22 Q And that is the American Auto Sales that has been
23 discussed today during this hearing?

24 A Yes, ma'am.

25 Q Back in 2006 could you describe the business, the

1 location and at surrounding area of that business?

2 A We had the brick building then. Pretty big lot. Like,
3 you know, the main road frontage you had probably polls that
4 went from maybe 40 yards and then the parking area when you
5 first pull into front of the building is probably as long as the
6 courtroom and hold probably ten or 15 cars.

7 Q Okay. And the automobiles that were actually for sale
8 where were they located?

9 A If you are looking at the business, the building is
10 here and they were located to the right.

11 Q So on the building is in the middle and --

12 A The building is all the way to the left.

13 Q And the cars for sale are located to the right?

14 A Yes, ma'am.

15 Q And in front of that building you have a large parking
16 lot?

17 A It is about the size of this room. About the size of
18 this room. People just pull up right in front of the building
19 part.

20 Q In 2006 did you have video surveillance equipment?

21 A Yes, ma'am.

22 Q Who installed that equipment or purchased it or
23 arranged for it?

24 A Me and Roger both did. I can't remember the name of
25 the company.

1 Q But you contacted them and were you instrumental in
2 having it placed?

3 A Yes. You mean, did I monitor or did I have put it up?

4 Q Did you -- let me ask this. I apologize for the
5 inartful question. Someone contacted a video equipment company
6 and they came out and looked at your business, is that correct?

7 A Well, they contacted us.

8 Q Okay.

9 A And then they come out.

10 Q What did you tell them you wanted to be able to
11 surveil?

12 A Well, mainly my cars and the front. I would just like
13 any car for you have problems with kids egging your cars.
14 People cutting a tire, throwing rocks.

15 Q And the driveway to get from the street down to your
16 actual building, is where or was where?

17 A It is not really like a driveway. Can I hold this
18 piece of paper here and I will show you.

19 Q Yes.

20 A This is my whole lot. The parking lot is on this side.
21 My building is right here, just the parking was right up front.
22 That was it.

23 Q And how far from the road was your building?

24 A About from here to the wall, roughly.

25 Q All right. And what lighting conditions did you have

1 in 2006?

2 A We had Duke power come out and put three -- three of
3 the dual polls up.

4 Q All right. And were those mainly where the automobiles
5 that were for sale were located? Where were those polls?

6 A Right in front of the automobiles and then we had
7 another one put to the right side of the building that shined
8 directly in front of my place as well.

9 Q On the other side of it or directly in front of the
10 building?

11 A It was on the right hand side of my building but it
12 lite up the front.

13 Q And where was the video camera? Where were the video
14 cameras located?

15 A I switched them. Then it was one pointed to the front
16 to where people park at.

17 Q Okay.

18 A And then I had two facing this way, (indicating) to
19 watch my cars. I had two inside for my employees and one in the
20 back in the shop.

21 Q Okay. And what did that video equipment -- let me ask
22 you this.

23 Were you the main person who discussed what equipment would
24 go in and were you the main person to maintain that equipment?

25 A Yes, ma'am.

1 Q And what did you do to maintain it?

2 A I pretty much just used it for when something would
3 happen. Like if my washboy would -- or the guy that details my
4 cars, I am sorry, but if he would go out there and see a egg on
5 on the car, or see a windshield cracked he would come in and
6 tell me and then I would go inside and get on the, you know, the
7 security film and rewind it and pull it back and look at it and
8 record it and keep it and then show it to the officers.

9 Q Okay. Did you ever routinely just review it just to
10 see what you saw to make sure no one was meddling with your cars
11 and your property?

12 A I would every now and again. I mean, not really. Not
13 unless something actually happened. I didn't just come inside
14 and sit down and watch the whole night before.

15 Q Did you know that the police came out to search around
16 your business, to search that area?

17 A No, ma'am. I vaguely remember talking to them. I mean
18 it has just been so long. And I have had so many incidents and
19 I don't remember a whole bunch of them, you know, four or five
20 of them searching. There might have been one or two come out.

21 Q Did you tell them about the video equipment or the
22 possibility of captured on that equipment?

23 A No, ma'am.

24 Q Okay. And was the equipment trained in or pointed in a
25 certain place where it would have even picked that information

1 up?

2 A I don't know where they allegedly parked at. That is
3 the thing.

4 Q So there are parts of your property that it would not
5 have record?

6 A There is probably ten foot maybe.

7 Q Okay.

8 A If that. And that's on the far right corner and I
9 don't think a car would park there.

10 Q Or if they didn't drive all the way up into the
11 property then it might not have recorded it; is that correct?

12 A They would have had to be on the road before I couldn't
13 pick it up. As soon as it crosses the line my video camera
14 would get it.

15 Q And how often -- do you know what frequency the video
16 taped over? If that makes sense.

17 A It is right at thirty days.

18 Q Thirty day. Okay.

19 A I think it was 28, or 29 days.

20 Q Did you discuss this the possibility of video tape with
21 Officer Dover?

22 A Not to my knowledge.

23 Q This would have been after the trial. More recently I
24 believe?

25 A I talk to Officer Dover. He is a friend of mine, but I

1 I can't recall telling that I had video. They all know I got
2 videos because I had previous accidents before then. Like I had
3 a drunk guy back into the building and they come out and you
4 know, video tape. Well you just put your little scan card in
5 and it puts on at little disc for them and they would take it.

6 Q And Lee Owens worked for you back then?

7 A Yes.

8 Q When he ran into spot of trouble over this case?

9 A Yes, ma'am.

10 Q And is working for you now?

11 A Yes, ma'am.

12 Q And knows you have video equipment?

13 A I don't have it in I more.

14 Q Know you had video equipment in 2006?

15 A Yes, ma'am. Yeah, you could see them. You could see
16 them in the building and outside the building.

17 Q Did he ask you for the video tape?

18 A No. All the security was in my personnel office.
19 Nobody could see the screens. Like I said, there is no tape to
20 it. The only way is to rewind it is just turn a knob.

21 Q I am sorry. I am using old terminology and apologize
22 for that. But he didn't ask you to review the video? He didn't
23 ask to you review what was captured on those cameras and didn't
24 ask you for copies of anything or even to look at it.

25 A No, ma'am.

1 MS. ELLIOTT: That's is all I have. Thank you.

2 THE COURT: Anything on cross examination?

3 CROSS EXAMINATION

4 BY MR. LEDDY:

5 Q So Mr. Nivens, nobody from Mr. Greeley's office ever
6 came out and asked you about a video?

7 A From who now?

8 Q His attorney. His previous attorney.

9 A No, sir, you are the only one I remember.

10 Q I came by, right?

11 A Yes.

12 Q Thank you.

13 THE COURT: Anything on redirect?

14 MS. ELLIOTT: No.

15 THE COURT: All right you may step down and I
16 assume he can leave.

17 MS. ELLIOTT: Yes. Thank you, Mr. Nivens.

18 THE COURT: All right. We will take about a ten
19 minute break.

20 (Short recess.)

21 THE COURT: Miss Elliott.

22 MS. ELLIOTT: The State would call Mr. Thompson.

23 THE COURT: Mr. Thompson, you know earlier you were
24 placed under oath, you know you are still under oath.

25 MR. THOMPSON: Yes.

1 THE COURT: Thank you, sir.

2 DIRECT EXAMINATION

3 BY MS. ELLIOTT:

4 Q Mr. Thompson, you are a prosecutor for the 10th
5 Circuit Solicitor's Office; is that correct?

6 A Correct.

7 Q And were you assigned to handle the Berry Holm matter?

8 A I was.

9 Q And did you work with anyone else in the solicitor's
10 office on this case?

11 A Yes, mainly solicitor Pope and I worked together on the
12 case.

13 Q Okay. Were you provided with witness statements and
14 discovery material, I guess the material as collected by law
15 enforcement officers, were you provided with that material?

16 A Yes, I was.

17 Q And did you provide that material to Mr. Greeley?

18 A Yes, I did.

19 Q And did you have documentation of when and how that
20 information was provided?

21 A Yes.

22 Q And did you only provide information on one or two
23 occasions or was it an ongoing discovery process?

24 A As in every case it is ongoing process and this was no
25 different especially since a number of witnesses, most of the

1 witnesses were friends of one or two of the defendants if not
2 both. We had a lot that we had to turn over later dates as we
3 found things out.

4 Q And did you communicate with Mr. Greeley orally?

5 A Yes.

6 Q And did you communicated with Mr. Greeley by email?

7 A Yes.

8 Q And if I may ask, and I don't know if counsel has an
9 objection, but you have a number of -- let me count them. Nine
10 emails that you sent to Mr. Greeley from your file; is that
11 correct?

12 A Yes.

13 Q If I may show you this packet of nine documents and ask
14 if you can identify those.

15 A Yes, these are the emails that I provided to you that
16 were copies of emails that were sent to Mr. Greeley or Mr.
17 McKinney or both throughout the course of handling this case.
18 There would more emails but these seem to be the relevant ones
19 regarding discovery.

20 Q Okay. And the issues presented today; is that correct.

21 A Yes.

22 MS. ELLIOTT: Your Honor, we would move these
23 emails into evidence.

24 THE COURT: Have you had an opportunity to see
25 them?

1 MR. LEDDY: I got a copy, Your Honor. Here is my
2 problem, Your Honor. This is listed as number
3 18 on this privilege log; folder containing legal
4 correspondence between the State and Berry Holin. So
5 this constitutes a waiver of that.

6 Secondly, take the opportunity to note what is
7 considered to be work product in this office includes
8 things that were sent out to defense attorneys.

9 Third, under rule of completeness I don't think
10 he gets to determine what ones are relevant if he
11 brings some of them in even single one needs to be put
12 in the record.

13 THE COURT: I understand when you are saying, I
14 believe this was regarding Discovery being sent.
15 These were transmittals?

16 MS. ELLIOTT: Yes.

17 MR. THOMPSON: Yes, Your Honor.

18 THE COURT: And there are attachments?

19 MR. THOMPSON: There were no attachments to these
20 particular emails, no.

21 MR. LEDDY: These are about plea offers. These are
22 about -- reports from ballistic people. These are
23 about witness interviews.

24 THE COURT: May I see them?

25 MS. ELLIOTT: Yes.

1 MR. LEDDY: It is just Mr. Thompson is not the
2 arbiter of what comes into the Court, Your Honor.

3 MS. ELLIOTT: Your Honor, I asked Mr. Thompson - -

4 THE COURT: I don't need any argument on this. I
5 understand he is not the arbiter. I am the arbiter

6 MR. LEDDY: Yes, sir.

7 THE COURT: I understand your position on this.

8 Right now I am just asking do you have any
9 objection to these nine coming into evidence? These
10 nine emails, that is my question.

11 MR. LEDDY: I object if the other ones don't.

12 THE COURT: Okay. I am going to note objection on
13 the record okay.

14 If I can't have them all I don't want any of them,
15 right?

16 MR. LEDDY: That's correct.

17 THE COURT: Thank you, sir. All right, I will
18 note your objection. For the record I am letting them
19 into evidence. Okay. Nine emails in evidence.

20 (State Exhibit 1, nine emails, received in
21 evidence as of this date.)

22 Q Including in your communications with Mr. Greeley did
23 you notify him of upcoming trial, the date of trial?

24 A Yes, we did.

25 Q And potential plea offers that might be forthcoming?

1 A Yes, I did.

2 Q And did you also advise him as the matters arose that
3 you had discovered discrepancies or conflicts in interviewing
4 witnesses with previous statements those witnesses had given?

5 A Yes, in particular with the lay witnesses in the case.

6 Q Okay. And you have an email dated August 21, 2006
7 outlining the witnesses that you had interviewed or had been
8 interviewed and what the differences in the witness's testimony
9 might be or their positions, the changing positions of each of
10 those individuals?

11 A Yes.

12 Q And you did that in the event that this material was
13 something that might be useful to Mr. Greeley as a matter of
14 Discovery?

15 A Right, for Mr. Greeley and Mr. McKinney.

16 Q And you also communicated with Mr. McKinney -- I mean
17 Mr. Greeley, about the ballistic sled report in receipt of that
18 or anticipated receipt of that?

19 A Yes.

20 Q In order to comply with Discovery?

21 A Yes, I did.

22 Q So that he could know what to expect and when to expect
23 it?

24 A Correct.

25 Q And there is also an email dated August 24, 2006, from

1 an officer in which you also attempting to continue to comply
2 with Discovery where you are providing Mr. Greeley information
3 about statements made to officer Wright; is that correct?

4 A That is correct, there were several emails. When I
5 talked to officers that I wanted to make sure they had the
6 information regarding what the defendant said and how it
7 happened. I thought he did at the time, but I wanted to make
8 sure so I sent these emails to make sure they had them written
9 out from me.

10 Q And all of these were provided in anticipation of plea
11 negotiations and/or notification of potential trial dates and to
12 comply with Discovery requests made of you?

13 A Correct.

14 Q And they were, the responses to the Discovery requests
15 were so that you would maintain or continue to be in compliance
16 by notifying Mr. Greeley of any change in position of witnesses
17 that you had discovered in your interviews with the witnesses?

18 A Right. Any change with witnesses or anything, for
19 instance, any statement by the defendant just to make sure he
20 was aware of any statements the defendant would have made to law
21 enforcement.

22 Q Let me return this, I think I gone home with one
23 before.

24 What information -- well, lets go down this line with
25 the witnesses since we are talking about changes in witness

1 testimony or witness position. Did you interview Eric Brown?

2 A Yes, I did.

3 Q Did you also have a copy of the statement he had given
4 to law enforcement officers?

5 A I did.

6 Q And did you have any difficulty interviewing Mr. Brown?

7 A Yes, as a matter of fact I did. It was very difficult
8 to get a hold of Mr. Brown as with many of the witnesses, but in
9 particular with him. He avoided meeting with us a number of
10 times. I think if I am not mistaken we had called -- lets see,
11 his various family members. We talked from the other witnesses
12 we tried to get information, contact information, regarding him
13 from other witnesses, his wife, his grandmother. We contacted a
14 number of people in an attempt to contact him and ultimately
15 would be able to contact him. We would set up a time to meet
16 with him and then he wouldn't show up. And that happened
17 several times and finally, if I recall correctly, we went out.

18 One of the days that we went out actually looking for some
19 of the witnesses he was suppose to be out of town and said he
20 couldn't meet with us on this particular day and we ended up
21 finding him at Bud's Moore's house, one of the other witnesses
22 in the case, and a was at 4:30 in the afternoon. That was an
23 afternoon he was suppose to be out of town and unable to
24 interview with us, but we happen to find him there as a matter
25 of fact, there were two other people there that we needed to

1 interview as well. It was a little jackpot that day. We ran
2 into four witnesses in one spot hanging out together.

3 Q Okay. And you had the incident interview report I
4 think you indicated provided by Mr. Brown or by officers about
5 interviews with Mr. Brown?

6 A Yes.

7 Q And that was back on February 19, 2006?

8 A Yes, it is.

9 Q And you had an opportunity to review that before trial?

10 A Yes.

11 Q And what information would you been able to elicit from
12 Mr. Brown based on what that is in that statement?

13 A Well, Mr. Brown was one of the few that actually
14 somewhat stuck with, while his story conflicted itself, he stuck
15 with some of the major points of it. Which was that there was a
16 second car and he had seen shots being fired from that car. So
17 we had asked him if he would take a polygraph and he said he
18 would.

19 Q And when did he take that polygraph?

20 A He actually took that polygraph on August 28th of 2006.

21 Q Which would have been the first day of trial?

22 A The first day of trial. Right. He did that with
23 Detective Baker. I was not present during his polygraph.

24 Q And that was at your request?

25 A Yes. As a matter of fact it was -- he had failed to

1 show up to a prior polygraph that we had asked him to come to,
2 so Detective Baker moved some things around to be able to do at
3 this point in time.

4 Q And what was the result of that polygraph?

5 MR. LEDDY: Objection.

6 THE COURT: Your objection being?

7 MR. LEDDY: It is not admissible in court, and it
8 hasn't been turned over. And it listed once again as
9 being privileged, although I believe they been using
10 it today during this examination.

11 THE COURT: Okay.

12 MS. ELLIOTT: Your Honor, this goes to and I will
13 get to that, let me back up and ask Mr. Thompson this.

14 Q Did you provide this polygraph report or information
15 about the polygraph report to Mr. Greeley.

16 A Yes, Mr. Greeley and I spoke often during the time of
17 the trial. Both before we started in the morning, lunch time,
18 then afterwards. I think even had some calls back and forth
19 outside of that. And so when I received this information I
20 turned the information over to him and I assume I gave him the
21 report. If I did not hand him the report physically I would
22 have told him what was in the report at that point in time.

23 Q And what is in the polygraph report does it conflict
24 with the prior statement?

25 A Yes, it does as a matter of fact. In the polygraph

1 report there was as they do polygraphs they do a pre-test
2 interviews basically to get a reading on what that person says
3 the facts are.

4 MR. LEDDY: Objection. Mr. Thompson is not an
5 expert polygraph. As if anybody could be. But he is
6 not qualified to testify about how the polygraph works
7 and everything, Your Honor.

8 A I don't wish to testify as to the results of anything.
9 Simply the interview.

10 THE COURT: That's all right. I will note your
11 objection. Go ahead.

12 A And what they do they interview and get a basic set of
13 facts from the defendant and that's what they use to question
14 him after they do other questions and that's what they use to
15 find out if he passes the polygraph or not. In his particular
16 case he gave a set of facts to the detective at that time saying
17 he denied being upstairs in the Deal home which he said he had
18 been in a prior statement. That another witness had state - -
19 let's see, as we go through it I will try to pick out the
20 pertinent parts that are actually different.

21 He said he was the only one that wasn't tore up at the
22 party. It was a party, of course, from our investigation they
23 had a big cooler full of alcohol. A special mixture of alcohol
24 and some sort of punch and stuff that they made. They had beer.
25 They were doing things like xanax and a number of them did

1 several bars of xanax. But he mentions in it that unlike what
2 he said today he said that Robert Beverly and Samantha Eason
3 were taking xanax. Many Carolyn Killian was drunk. Lee Owens
4 and Kristin Moss were drinking swamp water which is the stuff in
5 the cooler they were calling that. And Brown stated that
6 another car came into the roadway. He wasn't sure of the color
7 of the car which is different from what he said before. He
8 actually given a color before as being at least dark.

9 He said he was not sure if he saw a gun or not even though
10 he had said prior he had seen a gun and even said it was silver
11 gun. Then he said he saw six or seven flashes and he was sure if
12 they were reflections in a window. And then Brown stated that
13 quote, they shot at the wrong car, he went on to state that if
14 it had been me I would be shooting -- I been shooting at the car
15 that shots were coming from. So in this he was implicating that
16 the mystery second car was the only one shooting and that they
17 didn't shoot at the second car. They shot at the other one.
18 Shot at the wrong one.

19 Q Did you make a decision about whether or not to use Mr.
20 Brown as the State's witness?

21 A Yes. And in going into that, basically our reasoning
22 was this. We had a case in which basically all of the lay
23 witnesses were friends of one of the defendant or both. And
24 they with good friend with each. Many dating each other, off
25 and on. It was a very bizarre situation as far as that goes.

1 Many of them did change stories after they initially talked to
2 law enforcement and so you can see through the transcript that
3 basically when I called them as witnesses I would have to call
4 them, have them tell what they were going to tell that
5 particular day and go back on previous statements and ask them
6 well, didn't you say in this prior statement that you gave to
7 the officer X, Y and Z. And I would have to get them to correct
8 or tell why their statements were different at the time that
9 they were testifying. So it was kind of a careful game for a
10 prosecutor in that I had to called witnesses and then had to
11 impeach in a nice way so that I could have testimony to show
12 what occurred that night because they were only people of course
13 who I can call to testify.

14 So when it came down to some of the last couple of
15 witnesses with Eric Brown and Samantha Eason, we did not call
16 them because we had called so many others and pretty much got
17 the story out that needed to get out at that point. And so when
18 it came to these two I felt that the cross examination would be
19 better served if the defense called them and then I would be
20 able to attack them much more vigorously on the inconsistencies
21 in the statements and the problems I had getting in contact with
22 them. And their closeness to each of the defendants.

23 Q Okay. And along that line you have voluntary statement
24 given by Samantha Eason, February 19th; is that correct?

25 A That is correct.

1 Q And that is information you were provided by law
2 enforcement and that you also provided provide to Mr. Greeley?

3 A Yes.

4 Q And then you also had a February 24th internal
5 prosecution document where Miss Eason was interviewed?

6 A Yes.

7 Q Okay. And that information was also provided to Mr.
8 Greeley?

9 A It was.

10 Q And did you make a determination about why - - you just
11 stated you didn't call her as witness, why not?

12 A Well, if you look with Miss Eason, the first statement
13 she gave was actually that night she sat down and she wrote the
14 statement herself. And it is very short. It is in her own
15 handwriting. She says I was at the party when a car pulled up
16 outside. When I walked outside Lee Owen started shooting a gun.
17 He shot the gun in the back window of the car. Then the people
18 in the car started firing shots back towards us. So Berry had
19 no choice but to fire back. She very concise. Seemingly this
20 is her statement of exactly what happened that night. As we try
21 to reach her we had problems, of course, getting her to come in,
22 but she ultimately she showed up one day and I don't even think
23 that we had her scheduled to come in that day. We had been
24 trying to reach her and asking her to come in and she showed up.
25 We interviewed her that morning.

1 Q And I apologize, I read out her birth date for the date
2 of internal prosecution document. It was actually on August 11,
3 2006; is that correct?

4 A That's correct.

5 Q Sorry about that.

6 A And when she came in that morning she told us something
7 completely different than what her first statement was. And
8 then she asked that we do a written statement for her. She
9 asked that she be able to provide a written statement because we
10 had not been taken written statements from anyone. She was the
11 only one that our office took a written statement from and it
12 was our her request. So we said yes and actually Chuck Neal who
13 is one of the court personnel here today was working for us at
14 that time, was working on this case as well as investigator and
15 Mr. Neal sat down with her and did a formal statement. Had her
16 read it and make sure everything was correct and that was the
17 statement she wanted to make. And I actually left him to do
18 that on his own after having interviewed her and then he brought
19 the statement to me. After he brought the statement to me and
20 we saw the huge conflicts of course and she already told us
21 those conflicts just moments before she gave a statement. I
22 sent this to in Discovery to Mr. Greeley and to Mr. McKinney and
23 you can see in the email that I addressed that as well, the fact
24 that she has changed her statement greatly. And once again the
25 statement does completely change, and from what we learned about

1 her she was dating Robert Beverly at the time that this
2 occurred.

3 Q Who testified and who was present?

4 A Right. And so she was the girlfriend of Robert Beverly
5 at the time.

6 What we then learned at the time she gave the second
7 statement in August, at the time of the trial, she was now
8 dating the other defendant, Lee Owens, who of course ultimately
9 plead but had been out on bond during this time. And so it was
10 just interesting to us as to how her story completely changed
11 regarding Lee Owens in this particular statement because she
12 went from saying that Lee Owens was shooting into the back of
13 the car to suddenly the car shooting at them and Lee Owens was
14 also acting in self defense. So it completely changed when she
15 gave this statement and you can see from the statement itself
16 there is more in it than that. And I remember when she was here
17 she didn't -- she seemed to be a little loopy. For a lack of a
18 better term, she was a little off. She appeared to have maybe
19 been taking something.

20 Q Had you formulated, based on your conversations with
21 both of these individuals right before trial, had you formulated
22 -- you had decided you would not use them, is that correct?

23 A Our final decision actually came during trial. Because
24 we didn't know what would happen regarding the other witnesses.
25 Quite honestly, I didn't know if they would change their story a

1 third time when they hit the stand. So I didn't know if it
2 would be necessary to call them or not.

3 Q Okay. That is why the names were called out as
4 potential witnesses?

5 A Correct. Well, we would put them on the potential
6 witness list for a couple of reasons. Even if ahead of time we
7 had decided not to call them we would have them on that
8 potential witness list.

9 We would want to know if the jury knows this person. Does
10 anyone on the jury have any familiarity with any of these
11 witnesses. Because it would hurt us later on if had we not done
12 that and that person ended up testifying and jurors knew him.
13 So we put them on there to make there is no other conflict and
14 also we didn't know at the time. We didn't know if we would
15 call them. It was later on that we determined that we saw how
16 the trial went and we saw how the testimony went and we decided
17 these two would be better off if we let the defense call them
18 and then we were able to cross examine them that way.

19 Q And did you formulate in your mind what cross
20 examination you would conduct for both of these witnesses?

21 A Yes. Yes.

22 Q And you would bring out the matters that you testified
23 about today?

24 A That's right.

25 Q If I may ask you whether you engaged with Mr. Greeley

1 in plea negotiations in this case?

2 A We did.

3 Q And what were the negotiations?

4 A As you can see from the emails initially, as final
5 reports started coming in and we started looking at trial dates
6 we initially offered him the voluntarily manslaughter and some
7 of the companion charges. To plead straight up to that group of
8 charges. And then as we got closer as Mr. Greeley had
9 testified, as we got closer to the actual trial date we ended up
10 going to I think ultimately as far down as to cap of 20 years or
11 to agree to 20 years at that point. And the defense would not
12 do that. And it really wasn't until we finally got into it with
13 the pretrial information that we were able to really sit down
14 and that both defendants at that point were the most serious
15 about talking about a plea agreement and that's when we were --
16 and from the State's side that is the point when we were best
17 able to sit down with the victim's family and talk to them about
18 the real possibilities of what might happen at trial. And so we
19 discussed the possibility of, you know, the jury just hanging up
20 on all this stuff and having to do it all again, or them coming
21 back not guilty or just them not believing these group of people
22 because they all changed statements hear and there, back and
23 forth. And so, that is when we came with the 15 year offer.
24 Just a flat 15.

25 Q And that was after the trial started?

1 A That's correct.

2 Q And is that unusual?

3 A That is. I mean it is not horribly unusual, but it is
4 unusual for some of the major cases we deal in. And I think
5 that this was somewhat of an unusual case in that usually you
6 have at least some independent witnesses who sees something
7 happen. All these witnesses were in favor of the defendant
8 quite honestly. So with us not nothing exactly what they would
9 say when they would come in we had decided what are we going to
10 do with the jury looking at the fact that obviously the group of
11 victims went there to fight. This was a fighting crew. From
12 the victims to the witnesses to the defendant. These are people
13 that this is one of the things they did in life. They met up
14 and they fought and it wasn't unusual for them to do that and I
15 don't think jurors like that.

16 Q And what happened after you extended that offer to Mr.
17 Greeley?

18 A The judge gave him time to talk to his client. I
19 remember we took that time as well to sit down with the victim's
20 family.

21 I know the judge gave special permission for the
22 defendant's family to also talk with him shortly. And so he had
23 sufficient amount of time and came back to us back with the
24 answer they wouldn't enter a plea.

25 Now, Mr. McKinney came back ultimately and we did work out

1 a plea as to Mr. Owens, but we did not as to Berry Borin. And I
2 remember when Mr. Greeley came out he appeared very dejected in
3 the final decision of the defendant. And he told us that he had
4 recommended that he take the plea but it looks like we are going
5 to have no trial at this point. But it was obvious that he had
6 attempted to do all he could at that point to ask for a plea.

7 Q Did you consider making that offer again at any point
8 in trial thereafter?

9 A No.

10 Q And would you have considered that?

11 A No, because when we got to the end of the trial we had
12 a good idea to see how the trial had gone. We didn't think that
13 the jury would come back and say not guilty at that point. So
14 we felt at this point why should we give him the benefit when he
15 has already dragged the the victims's family through the mud. He
16 has already dragged all the witnesses through it. We had to go
17 through all of that process. At that point there was no reason
18 to offer anything. Everything had been done.

19 Q And what information did you get about the American
20 Auto Location?

21 Q At what time, prior?

22 A Prior to trial.

23 Q Prior to trial. Prior to trial, of course we had
24 gotten information really from - - we had had information that
25 they had stopped there, but the first information that we got

1 and I think that was from the girl in the car in her statement
2 she said they had stopped there briefly to supposedly change
3 drivers. But we also got a call from the defense, from Mr.
4 Greeley, his investigator Scott Bernard. Or at less the
5 sheriff's department did. Telling them they thought that the
6 gun was used by the victims and it was possibly thrown out
7 there. So the sheriff's department in receiving that
8 information asked me about it. I told them go out and search.
9 It can't hurt. Go look right now and so they did. They went
10 and looked for anything they could find there at that point and
11 that was initially where American Auto came to be.

12 Later on after that I know we had discussions just within
13 our office do you think there was a video there or anything like
14 that. I asked some of the detectives I think from the sheriff's
15 department or some of the men who had worked on the case if they
16 would check into it. I don't recall who I asked. I just
17 remember we talked about it and I remember at least getting
18 information back that we don't have a video and I don't remember
19 much more than that?

20 Q When would that have been?

21 A That would have been probably two or three months after
22 the incident. And certainly it was a good time after the search
23 was done I think.

24 Q And did you visit the American Auto location?

25 A Yes. I make it a practice to visit the scene of

1 crimes. I went out to the scene on Laurens Road more than once
2 and with some times with some of the detectives who were working
3 the case, as well as I know I went out there a couple of times
4 just with people from our office to take a look and get vantage
5 points. And right going through there as you drive through there
6 and back through Clover you pass American Auto and so, we took
7 special note of it. Looked at it and that sort of thing when we
8 drove by.

9 Q And what is your understanding of where that car would
10 have stop or did stop?

11 A My understanding is that it would have stopped just on
12 the edge of the parking lot. It would have barely pulled off
13 the road for them to have swarmed and gotten back on and taken
14 off. That is if they had switched. Of course as Mr. Greeley
15 said, there was video from Clover that showed them pull in with
16 the girl driving.

17 Q And what conflicting testimony was there or evidence
18 was there disputing or deflecting the idea that shots were fired
19 from any car towards the house?

20 A There was a lot of evidence towards that. The car
21 itself and having viewed the car lend itself to a lot of this.
22 Because if you look where the bullets came into the car they had
23 come -- they put these rods in the car that kind of showed an
24 angle where the car would have to have been pulling away as the
25 shots went into the steep angle into the sides of car and then

1 into the back window of the car where ultimately the bullet
2 struck the victim and killed Mr. Hovis.

3 If you sit in the front side of that car, if someone would
4 have said shots are being fired from the first front seat of
5 that car, that would have been very difficult because one of the
6 the bullets actually went through the middle of that door right
7 where if the window had been down because someone was shooting
8 out it would have broken that window, and you wouldn't have been
9 able to put it back up. That window was not scratched. It was
10 completely up and it was completely there. So it doesn't make a
11 lot of sense that someone was shooting from that front window.
12 So then have you to look to the back window. What about the
13 back window. With the Clover Police Department it was obvious
14 from the photographs there that that back window was up at the
15 time they arrived at the Clover Police Department. If you see
16 pictures on the inside of that window and when we went down to
17 see it, there was a lot of blood on the side of that door frame
18 and there was some as well on the window itself. And it seemed
19 to match up with where the blood on the part of the window that
20 doesn't go down. There was some across that appeared in my
21 opinion would have stayed there. As well as there is, I guess,
22 the door post, but it is not quite a post. It is the set in
23 back window that was broken in any way. And of course that
24 window was not broken either. But if you sit in that car that
25 window comes out to about here (indicating) so to be able to

1 shoot out that window would be very difficult. You would have
2 lean way up and of course they would have to shot back at an
3 angle to get back to where the people were at the scene. So if
4 you are right handed you would have to be sticking your arm out
5 like this or you would have to stick your whole body out in
6 order to fire and to do that and have blood where it was on the
7 window in the door seems very unlikely. In addition if you look
8 at it, while there is some blood on the blood handle there is no
9 blood on the button that puts window going up and down. So it
10 seems to me that the people who had been shot in the car who
11 were bleeding all over the place within the car obviously they
12 touched the handle to get out and there was blood on it. If
13 they had touched the window to make it go up and down there
14 would have been blood on it as well or likely would have been.
15 So, that is something that stuck out. But in addition to that,
16 forensics had looked at the scene itself and from what some of
17 these people are saying there was up to 10 to 20 shots being
18 fired from this vehicle that is in the road. Well, anyone who
19 knows just a little bit about guns, would know you are going to
20 leave shell cases if you shoot that many shots because they
21 don't have revolvers that shoot 10 or 15 shots. There is going
22 to be some sort of shell cases because you are going to have a
23 gun that is going to have clip that is going to be throwing out
24 rounds that can hold a lot of ammunition. There were no things
25 found like. And no shell casings.

1 They took metal detectors and went along the side of the
2 road at the place where the actual house was at this crime
3 scene. They looked of course in the car. They found nothing
4 that gave any evidence of something like that happening and so
5 that also showed that there was no weapon. No gun in that car.

6 In addition -- and we asked the witnesses who had testified
7 who had cars there was your car shot? No. None them were shot.
8 The house wasn't shot. The neighbors house which would have
9 been in that direct line back there was not shot. So forensics
10 had looked all over those houses. Looked all over whatever cars
11 were left when they got there and the other people confirmed
12 that their cars were not shot. And there was fair number of of
13 cars up in that driveway to what they said from six to eight or
14 nine. So have you that group of people standing there that is
15 supposedly being shot at and no one gets hit and nothing gets
16 hit and there is no evidence of it. So it really didn't appear
17 -- and I think the jury got that there was no real evidence that
18 there was gunfire coming from that car. In addition to the fact
19 a lot of the people never said there was gunfire come from that
20 car including the defendant. The defendant in his own statement
21 said he never saw gunfire coming from those cars?

22 Q And did he also say it in conversations with his
23 father?

24 A Yes. Yes, in his conversations with his father he said
25 he does not remember a second car being there. At least he did

1 not see one.

2 Q And that he never saw a gun?

3 A Correct. The jail calls that we had, the two jail
4 calls that we had planned to use if the defendant had testified
5 or in reply testimony if necessary, the first one occurred on
6 February 20th of 2006 at 9:35 am and that first call is he is
7 talking to his father and within that car he asked him -- his
8 dad asked him there was a second car and his words were "I don't
9 think so. I am ain't going to say there wasn't, but I don't
10 think so. I only seen one."

11 And so he made it clear that he only saw one car there not
12 two. And then he asked him if anyone else had shot his gun and
13 he said no and that he put it back in the truck, but that
14 someone had grab the barrel at some point. Let's see, his dad
15 ask if he was at straight behind the car when he was shooting.
16 No he was beside it and his dad ask if he was close. No, at
17 least 30 feet from the car and at least 20 feet from the road
18 and that he had stayed in the grass. He asked him if the other
19 shooter was shooting in the car and he said he could have been,
20 I don't. As we know from ballistics ultimately both of them
21 fired in that car. And then on the second call which was the
22 same day but later the same day, they talk about several things.
23 But he asks -- his dad asked him do you think it was more than
24 you and Lee shooting and he said I don't know about that. There
25 could have been. Do you know how many were in the car and he

1 said no. So, he doesn't remember any one else shooting other
2 than him and Lee. So I think just in his phone call himself,
3 not to mention the statements he gave to law enforcement where
4 he specifically he said there was no one firing at him I think
5 that made it clear that in reality no one had a gun firing back
6 at him.

7 Q And that was the theory of the State's case?

8 A Yes.

9 Q That is all I have. Thank you.

10 THE COURT: Anything on cross examination.

11 CROSS EXAMINATION

12 BY MR. LEDDY:

13 Q So, you decided not to call Samantha and Eric

14 A Yes.

15 Q And that's because you already had your side of the
16 story out?

17 A We had like every variation you could think of out
18 there. As you already pointed out to Mr. Greeley these people
19 that testified they didn't come in loving me for calling them to
20 testify. They had to be subpoenaed to come. They weren't happy
21 to be here. They didn't want to come. And they gave whatever
22 story they gave at that point in time. And as I said, I had to
23 basically on most of the witnesses call them. Have them give
24 what their statement was at that point in time and then cross
25 examine them with their prior statements. And so, I tried to

1 present as full of a case as I possibly could. I didn't shy
2 away from that. That is one of the points we had with the jury.
3 We wanted them to see as many people as we could from there, but
4 at some point it becomes ridiculous and when these stories
5 starting changing so wildly with these two, I just thought it
6 would be nice to truly cross examine someone at some point and
7 show what is happening and the biases that are coming across
8 with some of these witnesses.

9 Q So would you agree that during the State's case there
10 was only one person that said at trial that they saw gunfire
11 coming out of the car and that would have been Bradley Deal?

12 A No, I don't believe that is true. Because I think -- I
13 think other people -- it became clear that in their other
14 statements that some of them said at some point said there were
15 gunfire coming from other places.

16 Q Like Robert Beverly and then he recanted, right?

17 A Right, and that's what I said. You never knew what
18 they were ultimately going to say, but we brought it out that
19 some of them said that and then they would come in and recant.

20 Q So at trial, when they were sitting on the stand in
21 front of the jury one person said it, right, and that was
22 Bradley Deal?

23 A Bradley Deal.

24 Q Is that correct?

25 A No, I don't think it is.

1 Q Who else?

2 A Whether they said it as they are sitting there
3 testifying or whether they said it in a prior statement that
4 came out when they testified. So, more than one person -- at
5 some point in time it was in front of the jury that more than
6 one person be said at one point in time said there were gunshots
7 coming from another car.

8 Q So the one person that did say it in front of the jury
9 you just pointed out for 15 minutes how absolutely ridiculous
10 his story was, didn't you?

11 A It is.

12 Q Okay. And that's the only person that jury saw isn't
13 it?

14 A Who, Robert Beverly?

15 Q No, Bradley Deal.

16 A Bradley Deal?

17 Q Yes, sir.

18 A Bradley Deal, that not the only person they saw. They
19 saw all the witnesses.

20 Q Okay. But when I say when somebody sat in that chair
21 and testified what I mean is they sat in the chair and words
22 came out of there mouth in front of the jury, not what was on
23 some piece of paper the police wrote or they wrote some time
24 previously. So when I say that only one person at the trial
25 testified in front of the jury that they saw gun fire and that

1 one person was Bradley Deal would your answer to that be yes?

2 A It would be qualified yes, because like I said it came
3 out that other people had said at least at some point that there
4 was gunfire and I think that becomes relevant for a jury because
5 as they look with Bradley Deal he also was not credible during
6 his testimony. Because something you can't see in the
7 transcript is while he was on the stand and I came back to him
8 with the initial statement that he wrote because he wrote a
9 handwritten statement that was very different than what he was
10 testifying too at that moment in time and when I finally got him
11 to admit that was his handwritten statement, he made a little
12 laugh. He was on the stand and he was kind of like huh, and to
13 see that and for the jury to see that I literally heard some
14 people in the jury go huh. Give that breath, because they could
15 tell the boy was up there lying. He wasn't being honest.

16 The same thing would have come across with Eric Brown
17 because Eric Brown would have been cross examined --

18 MR. LEDDY: Objection. That is not responsive to
19 my question.

20 A I believe it is. You are trying to say --

21 MR. LEDDY: I object.

22 THE COURT: That's enough. I understand where you
23 are going with that. He has answered to the best of
24 his ability.

25 MR. LEDDY: But I am very carefully crafting my

1 questions, Your Honor.

2 THE COURT: I understand and I appreciate you
3 carefully crafting like you did.

4 MR. LEDDY: Yes, sir.

5 Q Now, just like you were just saying he wasn't
6 believable and the jury even signed. His attorney sat there and
7 saw that too, didn't he?

8 A Yes, he did.

9 Q Okay. And you heard him say earlier that he thought
10 that there was enough evidence in the record at the end of the
11 State's case for him to make that argument to the jury that
12 there was gunfire coming out the car, you heard him say that?

13 A There was enough evidence in the record to argue it.

14 Q You just said it was ridiculous.

15 A I believe it was, but that doesn't mean there wasn't
16 enough evidence in the record for him to argue that.

17 Q Okay. Well, let me ask you this, you wanted to -- so
18 there is one person that said, and it was pretty shocking when
19 he didn't put up Mr. Brown and Miss Mason, wasn't it?

20 A No. You have to once again, they had contacted these
21 people too. Mr. Brown said he had already talked to Mr.
22 Greeley's investigator. I got to imagine they may have told a
23 third story that I have never heard to Mr. Greeley or to Mr.
24 McKinney. So, no, it didn't shock me at all that they didn't
25 decide to call them. Knowing the stuff that I had to impeach

1 them with. I think it was smart idea not to call.

2 Q You think they should have just stuck with the
3 ridiculous story that you just laid out?

4 A I mean they had what they had in the case. They don't
5 get to buy their facts.

6 Q Now, did you see the two Mr. Nivens' come in here
7 today?

8 A Yes.

9 Q You see them say that nobody ever asked us about any
10 video?

11 A Yes.

12 Q You testified that you heard that we couldn't get our
13 hands on any video?

14 A And we couldn't, obviously, but --

15 Q How would you possibly know that sir if they never even
16 been asked?

17 A Well, I think they are incorrect because I know my
18 investigator, Martha Parish, talked to Rodney Nivens just a few
19 months ago when we were initially going to have this hearing and
20 he told her a little bit different. He said a little bit
21 different to me when I was standing right there with Miss Elliot
22 just before we took lunch break.

23 Q So those two guys just came in here and lied to us.

24 A No, I don't think they necessary came in and lied. I
25 don't think Roger Nivens knew anything about it. I don't think

1 he ever really worked with his own video stuff. I think the
2 other fella did and from what I understand he nervous. I don't
3 blame him. He lives in the community. A lot of the folks from
4 the defendant live in the community. They posted any number of
5 very mean things on line that I have seen, comparing us to any
6 case that comes up that we get bad press on, oh, they shafted
7 our son. And they did this and that.

8 No, I don't blame him. He wants to sell cars to anybody
9 who wants to buy them.

10 Q Now, you testified that you believed that you knew
11 where that car stopped on that property?

12 A Well, we had an idea.

13 Q How in the world would you possibly know that?

14 A When Lori Moss -- the people who testified said they
15 pulled up just on the side of the property. The victims in the
16 car they said where they parked.

17 Q The lady who was driving?

18 A Right.

19 Q Okay. The one who lied to you about switching seats?

20 A That is all we had. But if you think about it does it
21 make sense they would pull up into a parking spot in a place.
22 No. It makes sense they would pull up just enough to get out,
23 change and get going. But that's all I had.

24 Q I am sorry.

25 A But that's all I have. Whether that is true or not as

1 far as what they said, that is for someone else to determine.

2 Q In reality you have absolutely no idea where they
3 parked?

4 A Well, I have a guess. My guess would be, like I said
5 logic would tell you are not going to pull up when you are in a
6 hurry and get somewhere and park for a long period of time. I
7 know they were at the police departments within five minutes of
8 the first 911 call by the neighbor. So, that is about as long
9 as it takes to drive. So they didn't stop very long. It had to
10 be very brief.

11 MR. LEDDY: Your Honor, I don't know if you
12 want to take up this privilege law while we have Mr.
13 Thompson on the stand.

14 THE COURT: You already asked him about that. We
15 covered that.

16 MR. LEDDY: Oh, well, I haven't ask about each
17 individual thing. Have you had a chance, Your Honor?
18 Because some of these is unbelievable.

19 THE COURT: I understand what you pointed out and
20 he has written it out. That is a legal argument.
21 That is nothing to ask him about.

22 MR. LEDDY: Okay. Well, I sure would like to have
23 him explain some of that.

24 Q Now, the State's case, did reject the two car theory,
25 correct?

1 A Right.

2 Q And do you remember how many people said they saw two
3 cars?

4 A Well, it depends on what time you asked them because
5 some early on, very early on said they saw two cars and some
6 said they did not. And some changed and some who said they
7 hadn't before said they did later on, so to tell you right off
8 hand, no, because they changed.

9 Q But the jury never heard anybody that said that?

10 A The two cars?

11 Q Yeah.

12 A I don't recall if they heard it or not. But as Mr.
13 Greeley said obviously that may have been a trial decision of
14 his own. It would have hurt him if there were two cars and that
15 second car was the one shooting but somehow this car was the one
16 that was shot at.

17 Once again I point out the defendant said there wasn't a
18 second car.

19 MR. LEDDY: Beg the Court's indulgence.

20 THE COURT: Take your time.

21 MR. LEDDY: Thank you.

22 THE COURT: Yes, sir.

23 MR. LEDDY: I don't have anything else.

24 THE COURT: Thank you. Sir.

25 THE COURT: Anything on redirect?

1 MS. ELLIOTT: No, Your Honor. Thank you.

2 THE COURT: All right. You may step down. Thank
3 you sir.

4 MS. ELLIOTT: That would be the State's case.

5 THE COURT: That is the end of the State's case?

6 MS. ELLIOTT: Yes.

7 THE COURT: All right. What I will do is -- well,
8 before we do anything else, do you have a clean copy
9 of the privilege list. I have been making marks on
10 mine.

11 MR. LEDDY: I haven't marked mine up.

12 THE COURT: Okay. I like to get that marked and
13 that will be State's number two. And the different
14 boxes, I don't where they are now.

15 (State's Exhibit Two, Privilege list received in.
16 Evidence as of this date.)

17 MR. THOMPSON: We took them back to the office
18 during lunch break.

19 THE COURT: I want you to bring them back up here.
20 The boxes, you got four different boxes. What I want
21 those boxes the box labeled Hovis files, Discovery
22 box, will be States number three.

23 Second Box in there, one of three, these are your
24 privilege documents. I just want to have these marked
25 for identification, as States three, four and five

1 and six just marked for ID not going evidence. Okay.

2 MS. ELLIOTT: Wouldn't it be Applicants Exhibits?

3 THE COURT: Yes. I am sorry. It should be
4 Applicants. I am sorry. Thank you.

5 (Applicants Exhibit three, four and five, boxes,
6 marked for identification as of this date.)

7 MR. LEDDY: So, now Your Honor, does that mean you
8 have decided not to --

9 THE COURT: No, I haven't decided anything yet. I
10 just want to get them marked for ID so we have them to
11 refer to.

12 Discovery box will be six and then the three
13 privileged, arguably privilege boxes would be
14 seven, eight and nine. I want to have them mark for
15 ID and I will make a rulings about what I am going to
16 do with this. Okay.

17 Any other matters that we need to discuss?

18 MR. LEDDY: Are we talking about privilege right
19 now, your Honor?

20 THE COURT: What do you mean? What do you want to
21 talk about?

22 MR. LEDDY: Well, I want to put on the record I
23 think that for him to -- well for these not to be put
24 into the record would violate due process under State
25 and Federal constitution for Mr. Solin.

1 THE COURT: Okay.

2 MR. LEDDY: And his right to confront his accusers
3 and the six applicable provisions of the State
4 Constitution.

5 For instance I have no idea how a transcript of the
6 arraignment of Berry Bolin dated May 22nd is work
7 product in Mr. Thompson's office.

8 THE COURT: Just give me the page number.

9 MR. LEDDY: This is -- well, the page aren't
10 numbered, but it is number six.

11 THE COURT: Okay. It will be page two.

12 MR. LEDDY: Yes, sir. Page two, number six.

13 THE COURT: Okay. That will be what I have
14 identified as Applicant's seven; is that correct?

15 MR. LEDDY: I think it is Applicant's number six.
16 It is the first box.

17 THE COURT: Okay.

18 MR. LEDDY: I don't know how Berry Scott Bolin's
19 Discovery motion, warrants and tracking sheets are
20 work product of Mr. Thompson's office. He didn't
21 prepare those.

22 THE COURT: Your right.

23 MR. THOMPSON: Your Honor, if I may --

24 MR. LEDDY: I am not done with my objection.

25 THE COURT: You can sit down Mr. Thompson for just

1 a second. Okay. There are four boxes. Everybody
2 agrees there are four boxes?

3 MR. LEDDY: Yes, sir.

4 THE COURT: And on the first page it is not
5 numbered, the first box, labeled Hovis Falls Discovery
6 Box is Discovery that was given to Mr. Greeley and it
7 was given to you?

8 MR. LEDDY: Yes.

9 THE COURT: And it is discovery that you have as
10 well.

11 MR. LEDDY: Yes, Your Honor.

12 THE COURT: We are in agreement with that. That
13 box is number six; is that correct?

14 MR. LEDDY: Wait. I believe that is States's
15 exhibit three, Your Honor. The first box that is
16 Discovery, Hovis Fall's Discover box, I believe we
17 labeled that as a States exhibit.

18 MS. ELLIOTT: But then we changed it because I
19 said shouldn't that be Applicant's Exhibit because he
20 is moving it in.

21 MR. LEDDY: Okay. That is number six.

22 THE COURT: That's why I am trying to get it
23 straight on the record. And I apologize for the delay.

24 MR. LEDDY: No, that is fine. Let's get it right.
25 So the one I am reading from is number seven. That is

1 six on the privilege log.

2 THE COURT: Right. Okay. And then the box labeled
3 Hovis Falls two of three would be Appellant's eight
4 and then the final box will be number nine.

5 (Appellant's Exhibits 5-9, Boxes, marked for
6 identification only as of this date.)

7 MR. LEDDY: And I don't want to have to go through
8 this entire thing, Your Honor, but if we actually
9 only had work product on it this wouldn't be a simple
10 thing.

11 THE COURT: And what I am going to get you to do is
12 we now know what we are talking about. It has been
13 properly identified.

14 MR. LEDDY: Yes.

15 THE COURT: Wait a minute. Okay. Any comments
16 that you want to make about why you think it is not
17 work product, you are welcome to send me a letter
18 concerning that. Make sure you copy both Mr. Thompson
19 and Miss Elliot, and then I will give them an
20 opportunity to respond to that.

21 MR. LEDDY: Very good.

22 THE COURT: How long will that take?

23 MR. LEDDY: One week.

24 THE COURT: One week. Okay. Well, how about if I
25 give you ten days.

1 MR. LEDDY: That will be nice.

2 THE COURT: Okay. And then Mr. Thompson and Miss
3 Elliot, how long do you think it will take you all to
4 respond to that letter?

5 MS. ELLIOTT: Mr. Thompson has a big trial coming
6 up so it might be two weeks, if that is okay. Because
7 even if I assist -- well, I can't respond to it
8 because I don't know what they are.

9 THE COURT: You would be just because you are the
10 attorney of record.

11 MS. ELLIOTT: I will be the conduit, but I give
12 you 14 days be enough, Mr. Thompson?

13 MS. THOMPSON: I believe so Your Honor.

14 THE COURT: All right. That is what we will do.
15 All right.

16 MS. ELLIOTT: Thank you, Your Honor.

17 MR. LEDDY: Thank you.

18 * * * * *

19

20 (END OF TRANSCRIPT)

21

22

23

24

25

C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16th 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 in the captioned case, in the Circuit Court for York County, South Carolina, on the 11th day of October, 2012.

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

November 17, 2012

A. B.

IN THE COURT OF GENERAL SESSIONS
YORK COUNTY, SOUTH CAROLINA

SOUTH CAROLINA

VERSUS

BERRY SCOTT BOLIN 2006-GS-46-1599-1595 & 1600-1601
DEFENDANT

&

RONALD LEE OWENS 2006-GS-46-1602-1606
DEFENDANT

HEARD ON MONDAY, AUGUST 28 THROUGH WEDNESDAY,
SEPTEMBER 6, 2006.

BEFORE THE HONORABLE JOHN C. HAYES, III AND A JURY.

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15 TIM HAGER

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18 JERRY HOFFMAN

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22 MICHAEL HUBBARD

23 DIRECT EXAMINATION 459

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1 (COURT BEGINS AND THE JURY PANEL IS PRESENT IN
2 THE COURTROOM.)

3 THE COURT: FIRST LET ME APOLOGIZE FOR THE
4 SPACING. WE JUST ONLY HAVE, THE COURTROOM IS ONLY SO
5 BIG AND THEY ARE VERY FUNCTIONAL, THEY ARE A GOOD
6 SIZE, BUT AS A CASE SUCH AS WE'RE GETTING READY TO
7 START, WE'VE GOT TWO DEFENDANTS AND EACH SIDE HAS THE
8 RIGHT, INCLUDING THE STATE, TO STRIKE UP TO TEN
9 PEOPLE AND I'LL TELL YOU MORE ABOUT THAT IN A FEW
10 MINUTES, SO WE NEED TO HAVE A GOOD SIZE POOL.

11 JUDGE ALFORD I BELIEVE HAS ALREADY TOLD
12 YOU THAT THIS CASE COULD GO INTO NEXT WEEK. IF IT
13 DOES, WE'RE NOT GOING TO WORK ON LABOR DAY. I THINK
14 WE INFORMED YOU OF THAT. NOW I'LL ASK THE SOLICITOR
15 TO CALL THE CASE.

16 MR. POPE: MAY IT PLEASE THE COURT, YOUR
17 HONOR. DOCKET NUMBER 2006-GS-46-1595 THE STATE
18 VERSUS BERRY SCOTT BOLIN INDICTMENT FOR MURDER.
19 DOCKET NUMBER 2006-GS-1596 THE STATE OF SOUTH
20 CAROLINA VERSUS BERRY SCOTT BOLIN INDICTMENT FOR
21 ASSAULT AND BATTERY WITH INTENT TO KILL. DOCKET
22 NUMBER 2006-GS-46-1597 THE STATE OF SOUTH CAROLINA
23 VERSUS BERRY SCOTT BOLIN INDICTMENT FOR POSSESSION OF
24 A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.
25 DOCKET NUMBER 2006-GS-46-1598 THE STATE OF SOUTH

1 CAROLINA VERSUS BERRY SCOTT BOLIN INDICTMENT FOR
2 ASSAULT WITH INTENT TO KILL. DOCKET NUMBER
3 2006-GS-46-1599 THE STATE OF SOUTH CAROLINA VERSUS
4 BERRY SCOTT BOLIN INDICTMENT FOR ASSAULT WITH INTENT
5 TO KILL. DOCKET 2006-GS-46-1600 THE STATE OF SOUTH
6 CAROLINA VERSUS BERRY SCOTT BOLIN INDICTMENT FOR
7 DISCHARGING A FIREARM INTO AN OCCUPIED VEHICLE.
8 DOCKET NUMBER 2006-GS-46-1601 THE STATE BERRY SCOTT
9 BOLIN INDICTMENT FOR POSSESSION OF A PISTOL BY A
10 PERSON UNDER 21. EACH OF THESE CHARGES HAVE BEEN TO
11 THE GRAND JURY, HE IS PRESENT IN THE COURTROOM, AND
12 HE IS REPRESENTED BY MR. GREELEY.

13 DOCKET NUMBER 2006-GS-46-1602 THE STATE
14 VERSUS RONALD LEE OWENS INDICTMENT FOR DISCHARGING A
15 FIREARM INTO AN OCCUPIED VEHICLE. DOCKET NUMBER
16 2006-GS-46-1603 THE STATE VERSUS RONALD LEE OWENS
17 INDICTMENT FOR ASSAULT WITH INTENT TO KILL. DOCKET
18 NUMBER 2006-GS-46-1604 THE STATE VERSUS RONALD LEE
19 OWENS INDICTMENT FOR ASSAULT WITH INTENT TO KILL.
20 DOCKET NUMBER 2006-GS-46-1605 THE STATE VERSUS RONALD
21 LEE OWENS INDICTMENT FOR ASSAULT WITH INTENT TO KILL.
22 DOCKET NUMBER 2006-GS-46-1606 THE STATE OF SOUTH
23 CAROLINA VERSUS RONALD LEE OWENS INDICTMENT FOR
24 ASSAULT WITH INTENT TO KILL. ALL OF THESE ALSO HAVE
25 BEEN TO THE GRAND JURY AND HE'S REPRESENTED BY

1 MR. MCKINNEY. HE IS PRESENT IN THE COURTROOM, YOUR
2 HONOR.

3 THE STATE IS READY TO PROCEED ON BOTH OF
4 THESE SETS OF CHARGES.

5 THE COURT: MEMBERS OF THE JURY PANEL,
6 MR. BERRY SCOTT BOLIN IS REPRESENTED BY MR. LELAND
7 GREELEY. MR. BOLIN, WOULD YOU PLEASE STAND AND LET
8 THE JURY SEE WHO YOU ARE. THIS IS MR. BOLIN. YOU
9 MAY BE SEATED. AND THE STATE, THE SOLICITOR HAS READ
10 THE CHARGES AGAINST HIM.

11 MR. RONALD LEE OWENS IS REPRESENTED BY
12 MR. TOM MCKINNEY AND MR. JOHN RHEA AND THIS IS
13 MR. RONALD LEE OWENS. YOU MAY BE SEATED.

14 THE CHARGES AGAINST THESE INDIVIDUALS
15 ARE ALLEGED TO HAVE OCCURRED AT 1123 LAWRENCE ROAD IN
16 CLOVER. THEY ARE ALLEGED TO HAVE OCCURRED ON
17 FEBRUARY 18 OF THIS YEAR. IT'S ALLEGED THAT THE
18 FOLLOWING INDIVIDUALS ARE ALLEGED TO HAVE BEEN
19 VICTIMS OF THESE ASSAULTS: MICHAEL HUBBARD, HOLLY
20 MCCARTER, TRAVIS FALLS, AND THE DECEASED IS BOBBY R.
21 HOVIS THE THIRD, THAT WOULD HAVE BEEN THE VICTIM OF
22 THE MURDER FOR WHICH MR. BOLIN IS CHARGED.

23 I'VE TOLD YOU THAT, YOU'VE SEEN THE
24 INDIVIDUALS AND YOU'VE SEEN THEIR ATTORNEYS AND I'VE
25 TOLD YOU WHEN AND WHERE THIS TOOK PLACE AND THE

1 SOLICITOR HAS READ THE CHARGES TO YOU.

2 FIRST, ARE ANY OF YOU RELATED BY BLOOD OR
3 MARRIAGE TO ANY OF THE INDIVIDUALS WHOSE NAMES HAVE
4 ALREADY BEEN READ OUT? ARE YOU RELATED BY BLOOD OR
5 MARRIAGE OR A CLOSE PERSONAL FRIEND OF ANY OF THOSE
6 INDIVIDUALS I'VE JUST INTRODUCED TO YOU OR READ AS
7 VICTIMS OF THESE OFFENSES. I USUALLY SAY PLEASE
8 STAND BUT HALF OF YOU ARE STANDING, SO PLEASE RAISE
9 YOUR RIGHT HAND. NOBODY DOES. AND I WILL ASK MY
10 CLERK AND Y'ALL HELP ME IF I MISS SOMEBODY, IF I
11 DON'T SEE SOMEBODY RAISE THEIR HAND.

12 ARE ANY OF YOU AWARE, ANY OF YOU HAVE ANY
13 KNOWLEDGE ABOUT THIS CASE, HAVE ANY KNOWLEDGE ABOUT
14 IT FROM ANY SOURCE WHATSOEVER OR HAVE ANY OF YOU
15 FORMED OR EXPRESSED ANY OPINION ABOUT ANY MATTER OR
16 ISSUE WHICH WOULD BE INVOLVED IN THIS CASE IF SO
17 PLEASE STAND. OR RAISE YOUR RIGHT HAND. THOSE WHO
18 ARE SEATED STAND. IF YOU ARE SEATED STAND. IF YOU
19 ARE ALREADY STANDING RAISE YOUR RIGHT HAND. ALL
20 RIGHT. YES, SIR, YOUR NAME AND NUMBER.

21 THE JUROR: MY NAME IS REGINALD D. PRICE.
22 JUROR NUMBER 166.

23 THE COURT: I'M NOT GOING TO ASK YOU WHAT
24 YOU KNOW. THAT'S ALL I NEED TO KNOW. YES, SIR, YOUR
25 NAME AND NUMBER.

1 THE JUROR: JERRY BITZEL, JUROR 19.

2 THE COURT: ALL RIGHT. WOULD THE FACT
3 THAT YOU KNOW SOMETHING ABOUT THIS CASE, LET ME GO
4 WITH THIS GENTLEMAN FIRST. WHAT'S YOUR NAME AND
5 NUMBER.

6 THE JUROR: TOM SIMMS, NUMBER 187.

7 THE COURT: ALL RIGHT. WOULD THE FACT
8 THAT YOU KNOW SOMETHING ABOUT THIS CASE PREVENT YOU
9 FROM BEING FAIR AND IMPARTIAL IF SO PLEASE RAISE YOUR
10 RIGHT HAND. ALL RIGHT. YOU TWO WILL SIT DOWN AND
11 YOUR NAMES AGAIN?

12 THE JUROR: REGINALD PRICE.

13 THE JUROR: JERRY BITZEL.

14 THE COURT: YOU MAY BE SEATED. MR. SIMMS,
15 WOULD YOU PUT FROM YOUR MIND ANYTHING YOU KNOW ABOUT
16 THIS CASE AND RENDER YOUR VERDICT SOLELY ON THE LAW
17 AND THE EVIDENCE THAT'S DEVELOPED DURING THE TRIAL?

18 THE JUROR: SHOULD BE ABLE TO DO SO, SIR.

19 THE COURT: YOU WILL REMAIN WITH US. HE
20 SAID SHOULD BE ABLE TO. SHOULD YOU OR COULD YOU BE
21 ABLE TO?

22 THE JUROR: I BELIEVE I COULD, SIR.

23 THE COURT: ALL RIGHT. OKAY.

24 MR. GREELEY: YOUR HONOR, MAY WE APPROACH
25 BRIEFLY?

1 THE COURT: YES, SIR.

2 (BENCH CONFERENCE.)

3 THE COURT: MR. SIMMS, I'M GOING TO LET
4 YOU COME UP HERE FOR JUST A MINUTE AND WE'LL PART. I
5 HATE TO SINGLE YOU OUT BUT THIS IS HOW I HAVE TO DO
6 IT SINCE WE'VE GOT SO MANY PEOPLE.

7 (BENCH CONFERENCE.)

8 THE COURT: WERE ANY OF YOU MEMBERS OF THE
9 GRAND JURY WHICH PASSED ON THESE INDICTMENTS AT AN
10 EARLIER TIME, IF SO PLEASE STAND OR RAISE YOUR RIGHT
11 HAND. NO ONE DOES.

12 ARE ANY OF YOU AWARE OF ANY BIAS OR
13 PREJUDICE THAT YOU WOULD HAVE TOWARD THE STATE, MR.
14 GREELEY, MR. RHEA, MR. MCKINNEY OR MR. BOLIN OR
15 MR. OWENS; ANY OF YOU HAVE ANY BIAS OR PREJUDICE
16 TOWARD THOSE INDIVIDUALS SUCH THAT YOU WOULD NOT BE
17 ABLE TO BE A FAIR AND IMPARTIAL JUROR, IF SO STAND OR
18 RAISE YOUR HAND. NO ONE DOES.

19 HAVE ANY OF YOU BEEN REPRESENTED, ANY OF
20 YOU OR YOUR IMMEDIATELY FAMILY BEEN REPRESENTED BY
21 THE SOLICITOR'S OFFICE FOR YORK COUNTY OR MR. GREELEY
22 OR THE FIRM OF MCKINNEY, GIVENS, TUCKER, AND RHEA, IF
23 SO PLEASE STAND. ALL RIGHT. I'M NOT GOING TO ASK
24 YOU ABOUT HOW THEY REPRESENTED YOU, BUT I AM GOING TO
25 ASK YOU WHO REPRESENTED YOU AND THEN I'LL FOLLOW UP;

1 GIVE ME YOUR NAME, YOUR NUMBER, WHO REPRESENTED YOU
2 AND THEN I'LL ASK YOU THOSE GENERAL QUESTIONS. YES,
3 MA'AM.

4 THE JUROR: TERESA POLK, JUROR 163.
5 MR. MCKINNEY.

6 THE COURT: ALL RIGHT.

7 THE JUROR: RICHARD KIMBRELL, 116.

8 MR. POPE.

9 THE COURT: ALL RIGHT. WOULD THE FACT
10 THAT THESE ATTORNEYS HAVE BEEN INVOLVED WITH YOU AT
11 SOME TIME IN THE PAST, IF THAT WOULD PREVENT YOU FROM
12 BEING FAIR AND IMPARTIAL PLEASE RAISE YOUR RIGHT
13 HAND. NEITHER DOES.

14 IF EITHER OF YOU ARE CURRENTLY REPRESENTED
15 BY EITHER OF THOSE INDIVIDUALS PLEASE RAISE YOUR
16 RIGHT HAND. NO ONE DOES. THANK YOU. YES, SIR, YOUR
17 NAME AND NUMBER.

18 THE JUROR: I HAVE ONE QUESTION.
19 MR. MCKINNEY REPRESENTED, I THINK THIS IS THE RIGHT
20 MCKINNEY, REPRESENTED MY WIFE, MY FORMER WIFE, IN A
21 CASE MANY YEARS AGO.

22 THE COURT: WOULD THAT AFFECT YOUR
23 ABILITY -- YOUR NAME AND NUMBER.

24 THE JUROR: WILLIAM G. MARTIN, 126, AND
25 NO.

1 THE COURT: IT WOULD NOT AFFECT YOUR
2 ABILITY TO BE FAIR AND IMPARTIAL?

3 THE JUROR: NO, SIR.

4 THE COURT: THANK YOU. WE APPRECIATE THAT
5 INFORMATION. ARE ANY OF YOU OR A MEMBER OF YOUR
6 IMMEDIATE FAMILY INVOLVED IN LAW ENFORCEMENT OR IN
7 THE PROSECUTION OF CRIMINAL CASES AT ANY LEVEL?
8 ANYTHING FROM MILITARY POLICE AND JUDGE ADVOCATE
9 GENERAL AND LOCAL TOWN SHERIFF, TOWN POLICEMAN,
10 SHERIFF, MARSHALL, U.S. MARSHALL, PROSECUTOR AT ANY
11 LEVEL, IF SO PLEASE OR IF YOU ARE ALREADY STANDING
12 RAISE YOUR RIGHT HAND. ALL RIGHT. I'LL START OVER
13 HERE WITH THIS LADY. YOUR NAME AND NUMBER.

14 THE JUROR: JILL NEECE, 146.

15 THE COURT: HOW ARE YOU INVOLVED?

16 THE JUROR: MY HUSBAND IS A SERGEANT WITH
17 THE CHARLOTTE MECKLENBURG SHERIFF'S DEPARTMENT.

18 THE COURT: REMAIN STANDING. YES, MA'AM.

19 THE JUROR: ANNE TANNER, 198. MY
20 BROTHER-IN-LAW IS THE SERGEANT IN A POLICE FORCE IN
21 VIRGINIA.

22 THE COURT: ALL RIGHT. IF EITHER OF YOU
23 WOULD BE UNABLE TO BE FAIR AND IMPARTIAL DUE TO THIS
24 RELATION TO A LAW ENFORCEMENT OFFICER, PLEASE RAISE
25 YOUR RIGHT HAND. NEITHER DOES. IF EITHER OF YOU

1 COULD NOT BE ABLE TO BASE YOUR VERDICT IN THIS CASE
2 ON THE LAW AND THE EVIDENCE RAISE YOUR RIGHT HAND.
3 NEITHER DOES. THANK YOU. YOU MAY BE SEATED.

4 ARE ANY OF YOU MEMBERS OF OR CONTRIBUTORS
5 TO ORGANIZATIONS SUCH AS STUDENTS AGAINST DRUNK
6 DRIVERS, MOTHERS AGAINST DRUNK DRIVERS, CITIZENS
7 AGAINST VIOLENCE, TROOPER'S ASSOCIATION, SHERIFF'S
8 ASSOCIATION, FRATERNAL ORDER OF POLICE. ANY OF YOU,
9 STAND IF YOU ARE SEATED AND IF YOU ARE ALREADY
10 STANDING, RAISE YOUR RIGHT HAND. YES, SIR.

11 THE JUROR: JEFF TRULL, NUMBER 205.

12 THE COURT: WHICH ONE OF THESE
13 ORGANIZATIONS?

14 THE JUROR: TROOPER'S ASSOCIATION AND
15 SHERIFF'S ASSOCIATION.

16 THE COURT: WOULD THAT AFFECT YOUR ABILITY
17 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

18 THE JUROR: NO, SIR.

19 THE COURT: WOULD YOU BE ABLE TO BASE YOUR
20 VERDICT ON THE LAW AND THE EVIDENCE?

21 THE JUROR: YES, SIR.

22 THE COURT: THANK YOU. NOW THE NEXT ONE
23 I'M GOING TO ASK, I'M NOT GOING TO ASK YOU TO GO INTO
24 THE PARTICULARS OF IT BECAUSE I DON'T WANT TO GO TOO
25 FAR INVADING YOUR PRIVACY. HAVE ANY OF YOU BEEN THE

1 VICTIM OF WHAT YOU CONSIDERED A VIOLENT CRIME OR HAVE
2 ANY OF YOU OR A MEMBER YOUR IMMEDIATE FAMILY BEEN
3 CHARGED WITH COMMITTING A VIOLENT OFFENSE; THAT WOULD
4 BE SOMETHING USING ANY WEAPON OR AGGRAVATION OF SOME
5 TYPE, IF SO STAND OR RAISE YOUR RIGHT HAND. ALL
6 RIGHT.

7 THE JUROR: RICHARD KIMBRELL 116.

8 THE COURT: ALL RIGHT. YES, MA'AM.

9 THE JUROR: GLORIA SKINNER, 188. I'M
10 SORRY 180.

11 THE COURT: THAT'S ALL RIGHT.

12 THE JUROR: 188.

13 THE COURT: 188. ALL RIGHT. THE TWO OF
14 YOU THAT INDICATED THAT INVOLVEMENT, WOULD EITHER OF
15 YOU -- WELL, IF EITHER OF YOU COULD NOT BE FAIR AND
16 IMPARTIAL BECAUSE OF THIS HISTORY PLEASE RAISE YOUR
17 RIGHT HAND. NEITHER DOES. DO BOTH OF YOU, IF EITHER
18 OF YOU COULD NOT BASE YOUR VERDICT ON THE LAW AND THE
19 EVIDENCE RAISE YOUR RIGHT HAND. NEITHER DOES. THANK
20 YOU. YOU MAY BE SEATED OR REMAIN STANDING WITH THE
21 HAND DOWN.

22 NOW OUR SOLICITOR'S OFFICE IS MORE THAN
23 JUST MR. POPE AND I FORGOT TO INTRODUCE MR. WILLIE
24 THOMPSON. I'M NOT GOING TO ASK YOU TO GO THROUGH THE
25 LIST, BUT ARE ANY OF YOU AWARE OF YOUR BEING A FRIEND

1 OR A SOCIAL ACQUAINTANCE OF ANYBODY WHO WORKS WITH
2 THE YORK COUNTY SOLICITOR'S OFFICE EITHER AS AN
3 ATTORNEY OR A PARALEGAL OR AIDE, INVESTIGATOR OR
4 ANYTHING. PLEASE STAND. ALL RIGHT. YOU GOT YOUR
5 HAND UP. YES, MA'AM, YOUR NAME.

6 THE JUROR: LAUREN BROWN, NUMBER 24.

7 THE COURT: JUST REMAIN STANDING. YES,
8 MA'AM.

9 THE JUROR: TONYA GILLEN, 84.

10 THE JUROR: TIM BALDWIN, NUMBER 11.

11 THE COURT: WOULD ANY OF YOU BECAUSE OF
12 YOUR INVOLVEMENT WITH SOMEONE IN THE SOLICITOR'S
13 OFFICE, WOULD ANY OF YOU BE UNABLE TO BE FAIR AND
14 IMPARTIAL IN THE TRIAL OF THIS CASE. IF YOU WOULD,
15 PLEASE RAISE YOUR RIGHT HAND. NO ONE DOES. ALL
16 RIGHT. THANK YOU. YOU MAY BE SEATED.

17 NOW THE FOLLOWING ARE POSSIBLE WITNESSES
18 IN THIS CASE. I DON'T KNOW THAT ALL OF THEM WILL
19 TESTIFY, BUT I MAY, SINCE I GOT THESE ON SEPARATE
20 SHEETS OF PAPER, I MAY CALL OUT SOMEBODY'S NAME TWICE
21 BUT IF ANY OF YOU ARE RELATED BY BLOOD OR MARRIAGE TO
22 ANY OF THESE INDIVIDUALS OR IF YOU ARE REAL CLOSE
23 PERSONAL FRIENDS, SOCIALIZE WITH THEM, PLEASE LET ME
24 KNOW BY STANDING OR RAISING YOUR RIGHT HAND AND I
25 WILL ASK MY CLERK TO KEEP AN EYE OUT AND LET ME KNOW

1 IF ANYONE DOES STAND SO WE CAN STOP AT THAT TIME.
2 SAMANTHA EASON, BRADLEY DEAL, RICKY -- YES, SIR.
3 YOU'VE ALREADY BEEN EXCUSED. YOU DON'T HAVE TO STAND
4 ANYMORE. BRADLEY DEAL, RICKY DEAL, CAROLINE KILLIAN,
5 LORI MOSS, KRISTEN MOSS, TONYA HUMPHRIES, KENNY
6 NORRIS, LEE WALDEN, LEE LOWDER, ERIC BROWN, MIKE
7 BAKER, BRIAN SMITH BALLARD, MICHELLE BARFIELD, SCOTT
8 BERNARD, ROBERT LEE BEVERLY, ROCKY DEAN BREAKFIELD,
9 ERIC BROWN, MICHAEL SHANNELL, BRENDA LEE CHILDERS,
10 MERRY COLLINS, JOHN BRADLEY DEAL, RICKY DEAL, ALREADY
11 READ THOSE OUT, TRAVIS FALLS, MIKE HUBBARD, TONYA
12 HUMPHRIES, BILLY JENKINS, KAREN KIERCE, VICKI MARTIN,
13 HOLLY MCCARTER, BRADLEY MOORE, LORI MOSS, KENNETH
14 CHARLES NORRIS, RONALD LEE OWENS, MARTHA PARRISH,
15 WILLIAM HOWELL, ZANA STEPHENS, TONY STURGISS,
16 DANIELLE TAYLOR, LEE WALDEN, MICHAEL WALLACE, MICHAEL
17 SCOTT WELCHER, KATE BALLENTINE, MICHELLE LYNN
18 BARFIELD, JANET WALLACE BOLIN, RIO BREAKFIELD. FROM
19 CAROLINAS MEDICAL CENTER NICOLE BAIROSSI, WILLIAM P.
20 KERNS, DR. KYLE SOLTYS, DR. ROBERT A. STEPHENS, DR.
21 M. H. THOMASON, DR. MELINDA THRELKELD, DR. M.
22 YAAKOVIAN. ALSO BRIAN CHILDERS, BRENDA CHILDERS, AND
23 SALLY CHILDERS.
24 FROM THE CLOVER POLICE DEPARTMENT CD
25 DOVER, FRANCES DRAWDY, CHUCK GIBSON, JAMES DANIELA,

1 VICKI MARTIN. YES, SIR. YOUR NAME AND NUMBER AGAIN.
2 I KNOW YOU STOOD EARLIER BUT.

3 THE JUROR: JEFF TRULL NUMBER 250.

4 THE COURT: WHO DO YOU HAVE----

5 THE JUROR: CHUCK GIBSON AND ALSO MIKE
6 CHENILLE FROM THE PARAMEDICS.

7 THE COURT: WOULD THAT AFFECT YOUR ABILITY
8 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE IF
9 THEY WERE WITNESSES.

10 THE JUROR: IT VERY WELL COULD.

11 THE COURT: WELL, I'LL ALLOW---

12 THE JUROR: I DON'T WANT TO LIE BECAUSE I
13 BELIEVE IT VERY WELL COULD.

14 THE COURT: WELL, THAT'S THE REASON I--
15 YOU TOLD ME ENOUGH. THANK YOU. JUST HAVE A SEAT AND
16 HE'LL BE EXCUSED. DID Y'ALL GET THAT, CLERK? YES,
17 MA'AM, YOUR NAME AND NUMBER.

18 THE JUROR: KIM BLACKMON, 21. I'VE KNOWN
19 MICHAEL WALLACE.

20 THE COURT: WOULD THAT AFFECT YOUR
21 ABILITY, YOUR KNOWING MR. WALLACE AFFECT YOUR ABILITY
22 TO BE FAIR AND IMPARTIAL IN THIS CASE?

23 THE JUROR: NO.

24 THE COURT: THANK YOU. YES, MA'AM.

25 THE JUROR: EMILY JAMES, JUROR NUMBER 105.

1 I DO BELIEVE I KNOW OFFICER DOVER AND MIKE CHENILLE
2 WHO IS A PARAMEDIC FROM PIEDMONT.

3 THE COURT: WOULD THAT AFFECT YOUR ABILITY
4 TO BE FAIR AND IMPARTIAL?

5 THE JUROR: NO, SIR.

6 THE COURT: THANK YOU. CONNIE DOVER, THEN
7 THE FROM EMS PEOPLE: GEORGE FELSKE, GENE MOSS,
8 STEPHEN NEWLIN; THEN ALSO JOHNATHAN ENGLISH, TRAVIS
9 DEWAYNE FALLS, ELIZABETH HOVIS FAUBER, ROBERT JUSTIN
10 GAY. YES, SIR.

11 THE JUROR: JOHN LEE, JUROR NUMBER 120.

12 THE COURT: AND WHO?

13 THE JUROR: GENE MORRIS.

14 THE COURT: WOULD THAT AFFECT, YOUR
15 KNOWING GENE MOSS, WOULD THAT AFFECT YOUR ABILITY TO
16 BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

17 THE JUROR: NO.

18 THE COURT: THANK YOU. ROBERT GAY, DEETTA
19 GENTRY, STEPHEN GORANSSON, TIMOTHY EMANUEL GREEN,
20 RANDY HAMMOND, ERIC HARRIS, BOBBY ROYCE HOVIS, GEORGE
21 HOVIS, JONATHAN HOVIS, KRYSTAL HOVIS, STARR HOVIS,
22 DEBBIE HUBBARD, MICHAEL HUBBARD, DANIELLE ISENHOUR,
23 MICHAEL LEDFORD, BRANDON MARTIN, JACOB MARTIN, JAMES
24 L. MAYNARD, KEITH MCCARTER, RALPH MERCHANT JAMES
25 BRADY MOORE, BRAD MOORE, KRISTEN MOSS, TABITHA HOVIS

1 MULLIS, KENNETH CHARLES NORRIS, RONALD LEE OWENS,
2 CARL PARKER. FROM PMC: OTIS SPEIGHT. THEN FROM
3 STATE LAWSUIT DIVISION. YOU KNOW MR. SPEIGHT?

4 THE JUROR: YES, SIR. DR. SPEIGHT, I WORK
5 WITH HIM.

6 THE COURT: WOULD THAT AFFECT YOUR ABILITY
7 TO BE FAIR AND IMPARTIAL?

8 THE JUROR: NO.

9 THE COURT: OKAY. AND YOUR NAME AGAIN.
10 WE HAVE TO MAKE A RECORD OF THIS.

11 THE JUROR: JOHN LEE, 120.

12 THE COURT: THANK YOU. YOU MAY BE SEATED.
13 F. DAN DEFREESE, IRA JEFFCOAT, JOHN G. ROBERTS. THEN
14 NOT AFFILIATED WITH ANY PARTICULAR ORGANIZATION,
15 WILLIAM DEMIRON, TIM PAUL STEPHENS, DR. J. M.
16 SULLIVAN, THOMAS LEE WALDEN, MICHAEL SCOTT WALLACE;
17 THEN FROM YORK COUNTY MULTIFORENSIC SOMETHING UNIT:
18 BRIAN BAGWELL, AUDRA EDDIE, JOHN GEORGE, WAYNE SMITH,
19 KEVIN TOLSON, MIKE WILLIAMS. ALL RIGHT. YES, MA'AM.

20 THE JUROR: JILL BRYANT, JUROR NUMBER 39.
21 I KNOW WAYNE SMITH.

22 THE COURT: WOULD THAT AFFECT YOUR ABILITY
23 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

24 THE JUROR: NO, SIR.

25 THE COURT: SHE INDICATED NO. THANK YOU.

1 FINALLY FROM YORK COUNTY SHERIFF'S OFFICE: MIKE
2 BAKER, SERGEANT STEVE BLAIR, LANELLE DAY, M. FERRELL,
3 TIM HAGER, JERRY HOFFMAN. YES, SIR, YOUR NAME AND
4 NUMBER?

5 THE JUROR: DENNIS MCCRANEY, 130. TIM
6 HAGER.

7 THE COURT: WOULD THAT AFFECT YOUR ABILITY
8 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

9 THE JUROR: NO.

10 THE COURT: ALL RIGHT. THANK YOU. JERRY
11 HOFFMAN, SERGEANT PHILLIP JAMISON, BURT LILLY,
12 SERGEANT M.B. MABRY, DOUG PATTERSON, EDDIE STRAIT,
13 BETH TOLSON, TRACY STRICKLAND, ANTHONY WHITE, AND
14 RUSS YEAGER. ANYTHING FURTHER FROM THE STATE?

15 MR. POPE: NOTHING FROM THE STATE, YOUR
16 HONOR.

17 THE COURT: MR. GREELEY, ANYTHING OTHER
18 THAN WHAT'S BEEN HANDED UP?

19 MR. GREELEY: NOTHING OTHER THAN WHAT'S
20 BEEN HANDED UP.

21 THE COURT: MR. MCKINNEY, ANYTHING OTHER
22 THAN WHAT'S BEEN HANDED UP?

23 MR. MCKINNEY: NO, YOUR HONOR.

24 THE COURT: FINALLY DO ANY OF YOU KNOW OF
25 ANY REASON WHATSOEVER WHY YOU COULD NOT OR SHOULD NOT

1 SERVE AS A FAIR AND IMPARTIAL JUROR IN THE TRIAL OF
2 THIS CASE IF SO PLEASE RAISE YOUR HAND OR STAND. NO
3 ONE DOES. YES, SIR. DIDN'T I ALREADY EXCUSE YOU?

4 THE JUROR: I DON'T KNOW IF I'VE BEEN
5 EXCUSED YET OR NOT.

6 THE COURT: YOU HAVE. OKAY. ALL RIGHT.
7 THANK YOU THOUGH. RATHER BE SAFE THAN NOT.

8 (THE JURY IS DRAWN AND SEATED.)

9 JUROR NUMBER 189 LINDA SMOAK FW STRUCK BY STATE.
10 JUROR NUMBER 181 ANDRZEJ RZEPKA MW ACCEPTED.
11 JUROR NUMBER 116 RICHARD KIMBRELL MW STRUCK BY BOLIN.
12 JUROR NUMBER 185 GEORGE SEXTON MW STRUCK BY OWENS.
13 JUROR NUMBER 123 VIRGINIA LONG FW ACCEPTED.
14 JUROR NUMBER REBECCA BROWN FW STRUCK BY BOLIN.
15 JUROR NUMBER 50 GREGORY CAUSEY MW ACCEPTED.
16 JUROR NUMBER 54 STACY COOPER MW STRUCK BY OWENS.
17 JUROR NUMBER 142 RANDALL MORRIS MW ACCEPTED.
18 JUROR NUMBER 77 MICHELLE FORNOF FW STRUCK BY OWENS.
19 JUROR NUMBER 165 MARK PRICE MW STUCK BY BOLIN.
20 JUROR NUMBER 150 SANDRA NIDAY FW ACCEPTED.
21 JUROR NUMBER 209 CYNTHIA WARD FW STRUCK BY BOLIN.
22 JUROR NUMBER 92 MARGARET HENSON FW STRUCK BY OWENS.
23 JUROR NUMBER 132 CAROL MCGINNIS FW ACCEPTED.
24 JUROR NUMBER 146 JILL NEECE FW STRUCK MY OWENS.
25 JUROR NUMBER 72 JAMES FEEMSTER MB STRUCK BY STATE.

1 JUROR NUMBER 139 YVONNE MOFFATT FB STRUCK BY STATE.
2 JUROR NUMBER 46 DEBORAH CANFIELD FW STRUCK BY BOLIN.
3 JUROR NUMBER 159 SCOTT PETIT MW ACCEPTED.
4 JUROR NUMBER 207 ERIC VON FANGE MW ACCEPTED.
5 JUROR NUMBER 187 THOMAS SIMMS MW STRUCK BY STATE.
6 JUROR NUMBER 84 TONYA GILLEN FW ACCEPTED.
7 JUROR NUMBER 21 KIM BLACKMON FW STRUCK BY STATE.
8 JUROR NUMBER 167 JENNIFER QUEEN FW ACCEPTED.
9 JUROR NUMBER 175 TEQUILA RHODES FB ACCEPTED.
10 JUROR NUMBER 61 DOUG CURLEY MW ACCEPTED.
11 JUROR NUMBER 188 GLORIA SKINNER FW STRUCK BY BOLIN.
12 JUROR NUMBER 161 DANIEL PIERCE MW ACCEPTED.
13 JUROR NUMBER 11 TIMOTHY BALDWIN MW STRUCK BY OWENS.
14 JUROR NUMBER 114 TIMOTHY KEPHART MW ACCEPTED.

15 THE COURT: ANYTHING FROM THE STATE
16 INVOLVING THE STRIKING OF THE PANEL?

17 MR. POPE: NOTHING FROM THE STATE, YOUR
18 HONOR.

19 THE COURT: MR. GREELEY.

20 MR. GREELEY: NOTHING FROM MR. BOLIN, YOUR
21 HONOR.

22 THE COURT: MR. MCKINNEY.

23 MR. MCKINNEY: NO, YOUR HONOR.

24 (THE MAIN JURY PANEL IS EXCUSED AT
25 01:13 PM.)

1 THE COURT: THOSE OF YOU WHO WERE CHOSEN
2 WE HAVE SOME WHAT WE CALL PRE-TRIAL MATTERS TO TAKE
3 CARE OF SO THAT'S GOING TO TAKE US THE REST OF TODAY,
4 SO WHAT I'M GOING TO DO IS LET YOU GO IN JUST A FEW
5 MINUTES AFTER SOME PRELIMINARY INSTRUCTIONS. WE'RE
6 NOT GOING TO ADMINISTER THE OATH TO YOU AT THIS TIME
7 BUT YOU ARE ON THIS JURY PANEL, SO DO NOT LET ANYONE
8 DISCUSS THIS CASE WITH YOU, DON'T DISCUSS THE CASE
9 AMONG YOURSELVES, AND DON'T TRY TO MAKE UP YOUR OWN
10 MIND ABOUT THIS CASE UNTIL I INSTRUCT YOU TO JOINTLY
11 DELIBERATE AND RETURN A UNANIMOUS VERDICT. PRIOR TO
12 THAT TIME YOU ARE NOT EQUIPPED WITH ALL THE TOOLS YOU
13 NEED TO MAKE A FAIR AND REASONABLE DECISION SO DON'T
14 LET ANYONE INITIATE A CONVERSATION WITH YOU AND DON'T
15 INITIATE ONE YOURSELF.

16 I DON'T KNOW THAT THIS CASE WILL RECEIVE
17 ANY COVERAGE IN ANY NEWS MEDIA, BUT IF IT DOES DO NOT
18 LET YOURSELF BE EXPOSED TO IT, DON'T READ ABOUT IT,
19 DON'T WATCH ANYTHING ABOUT IT, DON'T LISTEN TO
20 ANYTHING ABOUT IT. IF ANYTHING CATCHES YOUR EYE OR
21 EAR THAT COULD REMOTELY DEAL WITH THIS TRIAL, DON'T
22 LET YOURSELF BE EXPOSED TO IT.

23 KEEP IN MIND AND I WILL REMIND YOU
24 TOMORROW THAT EACH OF THESE DEFENDANTS MR. BOLIN AND
25 MR. OWENS ARE PRESUMED INNOCENT. THEY DO NOT HAVE TO

1 PROVE THEIR INNOCENCE. THE STATE MUST PROVE THEIR
2 GUILT BEYOND A REASONABLE DOUBT BEFORE YOU COULD
3 CONVICT THEM AND I WILL TELL YOU MORE ABOUT THAT AND
4 MORE ABOUT HOW THE TRIAL WILL PROGRESS WHEN THE TRIAL
5 WILL START.

6 THE TWO ALTERNATES WILL ALWAYS SIT IN
7 THOSE PARTICULAR SEATS. THE REST OF YOU THERE IS NO
8 ASSIGNED SEATING EXCEPT FOR MR. RZEPKA, YOU'LL BE THE
9 FOREMAN AND YOU WILL SEAT IN THIS SEAT AND YOU WON'T
10 NEED TO CHANGE RIGHT NOW BECAUSE WE'RE GOING TO BE
11 STOPPING FOR THE DAY IN JUST A MOMENT. THE PLACE YOU
12 WILL REPORT TO AND BE QUARTERED IN BASICALLY WHILE WE
13 HAVE BREAKS AND THINGS IS THE JURY ROOM ON THIS
14 FLOOR. IT'S A NICE BIG GRAND JURY ROOM. THE BAILIFF
15 WILL SHOW YOU THAT ROOM IN JUST A MINUTE AS YOU GO
16 OUT AND HE WILL TELL YOU HOW TO BEST ENTER AND LEAVE
17 THE BUILDING AS YOU ARE SERVING ON THIS JURY PANEL.
18 WE WILL START BACK AT TEN IN THE MORNING. PLEASE BE
19 HERE READY TO GO. WE'LL START AS PROMPTLY AS WE CAN.
20 WE TRY TO START, THE OTHER MORNINGS WE'LL PROBABLY
21 START AT 9 OR 9:30 AND WE TRY TO STOP AROUND 5:30 OR
22 6. WE TRY NOT TO OVERWORK YOU. WE TAKE BREAKS ABOUT
23 EVERY HOUR AND AN HALF AND WE BREAK AT MIDDAY AT
24 LUNCH TAKING AN HOUR AND 15 MINUTES BECAUSE THERE ARE
25 NO PLACES YOU CAN WALK TO EAT OUT OF HERE. YOU HAVE

1 TO GET IN YOUR CAR TO DRIVE SO WE ALLOW A LITTLE
2 EXTRA TIME FOR THAT.

3 ANYTHING ELSE TO COVER BEFORE THE JURY IS
4 DISMISSED FOR THE DAY?

5 MR. POPE: NOTHING FROM THE STATE, YOUR
6 HONOR.

7 MR. GREELEY: NOTHING FROM MR. BOLIN.

8 MR. MCKINNEY: NO, YOUR HONOR, NOTHING.

9 THE COURT: REPORT BACK TO THE JURY ROOM,
10 MR. IVEY, THE BAILIFF, WILL TELL HOW TO GET IN AND
11 OUT AND HE'LL SHOW YOU WHERE THAT IS. KEEP IN MIND
12 THE ALTERNATES WILL SIT THERE AND MR. RZEPKA, YOU
13 WILL SIT IN THE FIRST SEAT ON THIS ROW AND I WILL
14 INSTRUCT YOU MORE TOMORROW. SO EVERYBODY REMAIN
15 SEATED WHILE THE JURY EXITS AND WE'LL SEE YOU AT TEN
16 O'CLOCK IN THE MORNING.

17 (THE JURY EXITS THE COURTROOM AT 01:17
18 PM.)

19 THE COURT: IT'S ABOUT 20 AFTER ONE SO I
20 THOUGHT WE WOULD TAKE A LUNCH BREAK UNTIL 2:15,
21 THAT'S NOT QUITE AN HOUR, BUT SINCE WE DON'T HAVE ALL
22 THE JURY PANEL, IS THAT SUFFICIENT, THEN WE'LL COME
23 BACK IN AND WORK ON THE MOTIONS. ALL RIGHT.

24 (COURT'S IN RECESS AT 01:18 PM.)

25 (COURT RESUMES AT 02:30 PM.)

1 MR. POPE: YOUR HONOR, I PREMARKED FOR
2 PURPOSES OF --

3 THE COURT: WAIT JUST A MINUTE.

4 (THE DEFENDANTS ENTER THE COURTROOM.)

5 THE COURT: YOU MAY PROCEED.

6 MR. POPE: YOUR HONOR, I PREMARKED THE
7 ITEMS THAT WILL BE USED FOR PURPOSES OF THE HEARING
8 AND I'VE GIVEN THE DEFENSE AN OPPORTUNITY TO REVIEW
9 THEM BEFORE WE BRING THE WITNESS IN. BRING THE FIRST
10 WITNESS IN, DEPUTY ANTHONY WHITE.

11 ANTHONY WHITE, BEING FIRST DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 THE COURT: WHAT ISSUE ARE WE DEALING WITH
14 FIRST?

15 MR. POPE: THIS WILL BE THE WITNESSES ON
16 THE JACKSON VERSUS DENNO ISSUE, YOUR HONOR. IN
17 PARTICULAR THIS WILL BE IN REFERENCE TO MR. BOLIN,
18 THE FIRST SET OF WITNESSES, AND I WILL CALL THE
19 COURT'S ATTENTION TO IT WHEN WE CHANGE TO THE SECOND
20 MR. OWENS.

21 THE COURT: ALL RIGHT.

22 IN CAMERA DIRECT EXAMINATION BY MR. POPE:

23 Q DEPUTY WHITE, IF WOULD YOU STATE YOUR NAME AND
24 SPELL YOUR LAST NAME FOR THE COURT REPORTER PLEASE?

25 A ANTHONY WHITE. W-H-I-T-E.

1 Q WHERE ARE YOU EMPLOYED?

2 A YORK COUNTY SHERIFF'S OFFICE.

3 Q AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

4 A FOR FIVE YEARS.

5 Q OKAY. AND DO YOU HAVE A SPECIFIC ASSIGNMENT

6 AREA-WISE?

7 A I WORK THE WESTERN SIDE OF YORK COUNTY WHICH IS

8 CLOVER/YORK AREA.

9 Q AND WERE YOU WORKING WITH THE SHERIFF'S

10 DEPARTMENT BACK SUNDAY, FEBRUARY 19 OF 2006?

11 A YES, SIR.

12 Q OKAY. THIS IS ACTUALLY THE SATURDAY NIGHT THE

13 18TH GOING INTO SUNDAY THE 19TH?

14 A YES, SIR.

15 Q DID YOU WORK THE NIGHT SHIFT?

16 A YES, SIR.

17 Q HOW DO Y'ALL WORK; IS IT SIX TO SIX?

18 A YES, SIR.

19 Q SO YOU WERE ON DUTY AND ON THE WESTERN SIDE THAT

20 EVENING?

21 A YES, SIR.

22 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO ASSIST IN

23 THE INVESTIGATION CONCERNING A SHOOTING THERE ON

24 LAWRENCE ROAD?

25 A YES, SIR.

1 Q COULD YOU RELATE TO THE COURT WHAT INVOLVEMENT
2 YOU HAD?

3 A I WAS ASKED TO GO TO MR. BOLIN'S RESIDENCE ON
4 FLATSTONE TO SEE IF I COULD SPEAK HIM WITH ABOUT
5 BEING A PART OF THAT SHOOTING.

6 Q YOU SAY YOU WERE ASKED, WHO WERE YOU ASKED BY?

7 A BY DEPUTY FERRELL.

8 Q AND DEPUTY FERRELL, WHERE WAS HE AT WHEN YOU
9 WERE TALKING TO HIM?

10 A DEPUTY FERRELL WAS AT LAWRENCE ROAD.

11 Q AND LAWRENCE ROAD ULTIMATELY WAS DETERMINED TO
12 BE THE SCENE OF THE CRIME OF THIS PARTICULAR CASE?

13 A YES, SIR.

14 Q OKAY. AND WAS HE THERE TRYING TO ASCERTAIN WHO
15 MAY HAVE BEEN PRESENT AT THE TIME OF THE SHOOTING?

16 A YES, SIR.

17 Q OKAY. AND PURSUANT TO HIS REQUEST -- AND YOUR
18 HONOR, OF COURSE, DEPUTY FERRELL WOULD TESTIFY HE HAD
19 NO CONTACT WITH MR. BOLIN, BUT DEPUTY FERRELL WOULD
20 TESTIFY IN THE TRIAL AS FAR AS LAYING THE GROUNDWORK
21 THAT I JUST WENT THROUGH. HE ASKED YOU TO GO IN AND
22 TRY TO LOCATE MR. BOLIN. DID YOU KNOW MR. BOLIN?

23 A I HAD SEEN HIM AND SPOKE TO HIM A COUPLE TIMES
24 BEFORE.

25 Q OKAY. AND WHERE DID YOU GO TO TRY TO LOCATE

1 MR. BOLIN?

2 A I WENT TO FLATSTONE ROAD WHICH IS IN THE COUNTY
3 PART OF BOWLING GREEN, SOUTH CAROLINA, RIGHT OUTSIDE
4 OF CLOVER, SOUTH CAROLINA.

5 Q AND WHY DID YOU GO TO THAT LOCATION?

6 A THAT'S THE LAST PLACE I DEALT WITH HIM BEFORE.
7 THAT'S WHERE HE SUPPOSEDLY LIVED.

8 Q OKAY. SO THAT'S WHERE HE RESIDED?

9 A YES, SIR.

10 Q OKAY. AND DID YOU SEE MR. BOLIN AT THAT
11 RESIDENCE?

12 A AT THAT TIME WHEN I ARRIVED HE WAS NOT THERE,
13 BUT WHILE I WAS LEAVING HE CAME IN.

14 Q OKAY. AND APPROXIMATELY WHAT TIME DO YOU RECALL
15 IN THE MORNING THIS WOULD HAVE BEEN?

16 A I DON'T REMEMBER WHAT TIME IT WAS IN THE
17 MORNING.

18 Q OKAY. AND DID YOU HAVE THE OPPORTUNITY TO
19 ACTUALLY TALK WITH MR. BOLIN THEN?

20 A YES, SIR, I SPOKE WITH HIM.

21 Q OKAY. AND WHAT DID YOU SAY TO HIM?

22 A I ASKED HIM HAD HE BEEN AT A PARTY ON LAWRENCE
23 ROAD THAT NIGHT.

24 Q OKAY.

25 A AND.

1 Q WHAT DID HE TELL YOU?

2 A HE TOLD ME HE HAD NOT BEEN TO THE PARTY. I SAID
3 THAT WAS FINE. I ASKED HIM DID HE MIND COMING TO OUR
4 DISTRICT TWO OFFICES AT CLOVER POLICE DEPARTMENT TO
5 SPEAK WITH SOME PEOPLE.

6 Q OKAY. AND WHAT DID HE TELL YOU?

7 A HE SAID HE DIDN'T MIND.

8 Q AND DID HE IN FACT GO TO CLOVER POLICE
9 DEPARTMENT?

10 A YES, SIR.

11 Q OKAY. AND HOW DID HE GO TO CLOVER POLICE
12 DEPARTMENT?

13 A HE GOT IN HIS CAR AND DROVE HIMSELF THERE. I
14 FOLLOWED BEHIND HIM.

15 Q WAS HE UNDER ARREST?

16 A NO, SIR.

17 Q WAS HE FREE TO STAY HOME IF HE WANTED TO?

18 A YES, SIR.

19 Q DID YOU PROMISE HIM OR THREATEN HIM OR ANYTHING
20 TO GET HIM TO GO TO CLOVER POLICE DEPARTMENT?

21 A NO, SIR.

22 Q YOU SAY YOU FOLLOWED HIM, DID HE IN FACT GO TO
23 CLOVER POLICE DEPARTMENT?

24 A YES, SIR, HE DID.

25 Q DID YOU HAVE ANY CONVERSATION WITH HIM THERE?

1 A WELL, ONCE WE GOT TO THE CLOVER POLICE
2 DEPARTMENT HE STEPPED OUT OF HIS CAR AND ASKED ME WHO
3 DID HE NEED TO SPEAK TO. I JUST TOLD HIM TO GO IN
4 THE LOBBY, SOMEBODY WOULD SPEAK TO HIM.

5 Q NOW WAS THAT THE EXTENT OF YOUR INVOLVEMENT WITH
6 MR. BOLIN?

7 A YES, SIR.

8 Q SO YOU ASKED HIM ABOUT THE PARTY, HE INDICATED
9 HE HAD NOT BEEN THERE, IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q OKAY. YOU ASKED HIM IF HE WOULD GO TO CLOVER
12 POLICE DEPARTMENT AND HE SAID THAT HE WOULD AND HE IN
13 FACT DID GO, IS THAT CORRECT?

14 A YES, SIR.

15 Q OKAY. THANK YOU. ANSWER ANY QUESTIONS THE
16 DEFENSE MAY HAVE.

17 CROSS EXAMINATION BY MR. GREELEY:

18 Q DEPUTY WHITE, WAS ANYBODY WITH HIM?

19 A HIS GIRLFRIEND WAS WITH HIM.

20 Q DID YOU SPEAK WITH HER?

21 A NO, SIR, NOT IN CONVERSATION.

22 Q WHERE WAS SHE AT THE TIME THAT YOU HAD CONTACT
23 WITH MR. BOLIN?

24 A SHE WAS STANDING THERE.

25 Q WAS ANYONE ELSE THERE?

1 A I DIDN'T SPEAK WITH ANYONE ELSE THERE. I DON'T
2 KNOW IF THEY WERE INSIDE THE HOUSE OR NOT.

3 Q WERE YOU BY YOURSELF OR WAS THERE ANOTHER
4 OFFICER WITH YOU?

5 A YES, SIR, AT THE TIME I FIRST SPOKE WITH HIM I
6 WAS BY MYSELF.

7 Q AND YOU SAID THAT ONCE YOU GOT TO CLOVER YOU
8 TOLD HIM TO GO INTO THE LOBBY?

9 A YES, SIR.

10 Q YOU DIRECTED HIM TO THE LOBBY?

11 A YES, SIR.

12 Q AND DID HE DO THAT?

13 A THE LAST I SAW HE WAS WALKING INSIDE THE CLOVER
14 POLICE DEPARTMENT DOOR, YES, SIR.

15 Q DID YOU HAVE ANY OTHER CONTACT WITH MR. BOLIN AT
16 ALL THAT EVENING?

17 A NO, SIR.

18 Q OR THE NEXT DAY?

19 A NO, SIR.

20 Q IN REGARDS TO TALKING WITH HIM?

21 A NO, SIR.

22 MR. GREELEY: I DON'T HAVE ANYTHING
23 FURTHER, YOUR HONOR.

24 THE COURT: MR. MCKINNEY.

25 MR. MCKINNEY: NO QUESTIONS.

1 MR. POPE: NOTHING, YOUR HONOR.

2 THE COURT: MR. WHITE, YOU CAN STEP OUT.

3 THANK YOU.

4 MR. POPE: YOUR HONOR, I ASK HE BE EXCUSED

5 AND HE'LL BE SUBJECT TO BEING RECALLED DURING THE

6 TRIAL.

7 THE COURT: YOU CAN BE EXCUSED SUBJECT TO

8 BEING RECALLED BY ANY OF THE PARTIES.

9 MR. POPE: THANK YOU, SIR. STATE WOULD

10 CALL SERGEANT PHILLIP JAMISON.

11 PHILLIP JAMISON, BEING FIRST DULY

12 SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY MR. POPE:

14 Q SERGEANT, IF WOULD YOU STATE YOUR NAME AND SPELL

15 YOUR LAST NAME FOR THE COURT REPORTER PLEASE, SIR?

16 A PHILLIP LEE JAMISON. JAMISON IS J-A-M-I-S-O-N.

17 Q COULD YOU TELL THE COURT WHERE YOU ARE EMPLOYED?

18 A WITH YORK COUNTY SHERIFF'S OFFICE.

19 Q AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE

20 SHERIFF'S OFFICE?

21 A SIX AND A HALF YEARS.

22 Q OKAY. AND WHAT'S YOUR CURRENT ASSIGNMENT OR

23 DUTIES WITH THE SHERIFF'S OFFICE?

24 A I'M A PATROL SERGEANT.

25 Q OKAY. I'M GOING TO CALL YOUR ATTENTION TO THE

1 EARLY MORNING HOURS OF SUNDAY, FEBRUARY 19, 2006,
2 WERE YOU WORKING WITH THE SHERIFF'S DEPARTMENT THEN?

3 A YES, SIR.

4 Q CAN YOU TELL THE JUDGE WHERE YOU WERE ASSIGNED
5 AND WHAT YOU WERE DOING THAT NIGHT?

6 A EARLY THAT, IN THE SHIFT, AND OUR SHIFT STARTS
7 AT SIX P.M. AND GOES TO SIX A.M., I HAD BEEN ASSIGNED
8 TO THE EASTERN SIDE OF THE COUNTY, THAT'S ROCK
9 HILL/FORT MILL. AND LATER ON THAT NIGHT, SOMEWHERE
10 AROUND 11:30/12 O'CLOCK I WAS REASSIGNED TO THE
11 WESTERN SIDE, THAT'S YORK/CLOVER AREA.

12 Q DID YOU RECEIVE A CALL AT SOME POINT AROUND
13 MIDNIGHT CONCERNING LAWRENCE ROAD AND THE CLOVER
14 POLICE DEPARTMENT?

15 A YES, SIR, I DID.

16 Q OKAY. AND BASED ON THAT CALL WHAT DID YOU DO?

17 A WHEN I RECEIVED THE CALL THEY ALSO SAID THAT
18 THEY HAD A, SOME INDIVIDUALS AT CLOVER POLICE
19 DEPARTMENT AND AT THAT TIME I WAS ON HIGHWAY 55 JUST
20 ABOUT THREE OR FOUR MILES EAST OF CLOVER POLICE
21 DEPARTMENT AND I DROVE DIRECTLY TO THE CLOVER POLICE
22 DEPARTMENT AT THAT TIME.

23 Q OKAY. WHEN YOU ARRIVED AT CLOVER POLICE
24 DEPARTMENT WHAT DID YOU OBSERVE?

25 A THERE WAS A VEHICLE THERE THAT HAD SOME VICTIMS

1 IN IT THAT HAD BEEN SHOT. THE AMBULANCE WAS THERE
2 WORKING WITH THE VICTIMS AND CLOVER POLICE OFFICER
3 WERE THERE IN THE PARKING LOT.

4 Q OKAY. FROM A SHERIFF'S DEPARTMENT STANDPOINT
5 WHAT DID YOU DO THERE AT CLOVER ONCE YOU ARRIVED?

6 A ONCE I ARRIVED I OBTAINED A CRIME SCENE LOG AND
7 THE AREA HAD ALREADY STARTED TO BE ROPED OFF BY
8 CLOVER POLICE DEPARTMENT AND I STARTED DEVELOPING A
9 CRIME SCENE LOG.

10 Q I GOT YOU. AND DID YOU ULTIMATELY HAVE AN
11 OPPORTUNITY, WERE OTHER PARTS OF THE SHERIFF'S
12 DEPARTMENT OR OTHER SPECIAL PARTS OF THE SHERIFF'S
13 DEPARTMENT CALLED IN TO ASSIST?

14 A YES, SIR, THE FORENSIC TEAM INVESTIGATORS.

15 Q DID YOU HAVE AN OPPORTUNITY WHILE YOU WERE THERE
16 TO ASSIST THE INVESTIGATORS IN TAKING ANY STATEMENTS
17 OR TALKING TO ANY INDIVIDUALS?

18 A YES, SIR, I DID.

19 Q DID YOU HAVE AN OPPORTUNITY TO TALK TO MR. BOLIN
20 SEATED HERE NEXT TO MR. GREELEY?

21 A YES, SIR, I DID.

22 Q OKAY. AND I WANT TO CALL YOUR ATTENTION, TELL
23 THE JUDGE WHERE YOU ENCOUNTERED HIM AND HOW YOU CAME
24 TO SPEAK TO MR. BOLIN?

25 A I WAS OUTSIDE STILL WORKING WITH THE CRIME SCENE

1 AND I RECEIVED A CALL ORIGINALLY ON THE RADIO FROM
 2 ONE OF MY OFFICERS, DEPUTY ANTHONY WHITE, AND HE
 3 INDICATED TO ME THAT HE WAS ON HIS WAY TO CLOVER
 4 POLICE DEPARTMENT AND THAT A GENTLEMAN, A MR. BOLIN,
 5 WAS ON HIS WAY AS WELL. AND HE THEN INDICATED HE HAD
 6 GIVEN ME A 21, A 1021, WHICH IS A PHONE CALL, AND HE
 7 CALLED ME BY PHONE AND HE INDICATED TO ME THAT
 8 INFORMATION FROM LAWRENCE ROAD SAYS THAT HE MAY HAVE
 9 BEEN INVOLVED AS ONE OF THE SHOOTERS.

10 Q TALKING ABOUT MR. BOLIN?

11 A MR. BOLIN.

12 Q OKAY. SO DID YOU HAVE THE OPPORTUNITY THEN TO
 13 TALK TO MR. BOLIN WHEN HE CAME?

14 A YES, SIR.

15 Q OKAY. NOW WHEN MR. BOLIN CAME AND ANTHONY WHITE
 16 HAD COME TO CLOVER, WAS MR. BOLIN IN CUSTODY?

17 A NO, SIR.

18 Q OKAY. DO YOU KNOW HOW MR. BOLIN ARRIVED THERE
 19 AT CLOVER?

20 A IN HIS PERSONAL VEHICLE.

21 Q OKAY. DID YOU SEE THAT OCCUR?

22 A I DID NOT SEE WHEN HE ACTUALLY ARRIVED BUT HE
 23 PARKED DIRECTLY IN FRONT OF THE FRONT DOOR OF THE
 24 CLOVER POLICE DEPARTMENT.

25 Q I GOT YOU. AND DID YOU HAVE THE OPPORTUNITY TO

1 TALK TO HIM?

2 A YES, SIR, I DID.

3 Q AND WHAT WAS, WHAT DID YOU DISCUSS WITH HIM?

4 A WE WENT INSIDE OUR LITTLE SUBSTATION THERE AT
5 THE CLOVER POLICE DEPARTMENT, SHERIFF'S DEPARTMENT
6 HAS A SUBSTATION THERE, AND WHEN WE WENT IN I ASKED
7 HIM WAS HE, WOULD HE BE WILLING TO WRITE DOWN
8 EVERYTHING THAT HE MAY HAVE SEEN, HEARD, OR OBSERVED
9 THERE ON LAWRENCE ROAD.

10 Q OKAY. DID YOU HAVE AN OPPORTUNITY, WAS, HE WAS
11 NOT IN CUSTODY?

12 A NO, SIR.

13 Q AT THIS POINT. IF HE HAD CHOSEN TO GO GET BACK
14 IN HIS TRUCK, WOULD YOU HAVE STOPPED HIM?

15 A NO, SIR.

16 Q OKAY. DID YOU, NONETHELESS, DID YOU READ HIM
17 HIS RIGHTS AT THAT TIME?

18 A YES, SIR. AND HE SAID THAT HE WOULD BE WILLING
19 TO WRITE A STATEMENT AS TO EVERYTHING THAT HE HAD
20 SEEN AND HEARD THERE AND AT THAT TIME I REMOVED A
21 MIRANDA RIGHTS FORM FROM THE DRAWER, I LAID IT DOWN
22 ON THE DESK IN FRONT OF MR. BOLIN, AND I READ TO HIM
23 LINE BY LINE.

24 Q OKAY. DID HE APPEAR TO UNDERSTAND WHAT YOU WERE
25 READING?

1 A YES, SIR.

2 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF
3 ALCOHOL OR DRUGS TO THE EXTENT HE COULD NOT
4 UNDERSTAND WHAT YOU WERE SAYING?

5 A NO, SIR.

6 Q OKAY. DID HE APPEAR TO HAVE THE EDUCATIONAL
7 ABILITY TO UNDERSTAND LANGUAGE AND WHAT YOU WERE
8 SAYING?

9 A YES, SIR.

10 Q OKAY. AND ULTIMATELY DID HE EXECUTE A FORM, A
11 MIRANDA FORM, IN YOUR PRESENCE?

12 A HE SURE DID.

13 Q AND HE SAID HE UNDERSTANDS EACH OF THE RIGHTS
14 THAT YOU GAVE?

15 A HE SAID HE UNDERSTOOD. WHEN HE SAID HE
16 UNDERSTOOD, THEN I SHOWED HIM WHERE I NEEDED HIM TO
17 SIGN.

18 Q OKAY. DID HE ALSO SAY THAT HE WAS WILLING TO
19 ANSWER QUESTIONS OR PROVIDE INFORMATION TO YOU?

20 A YES, SIR.

21 Q OKAY. AND DID HE INDICATE THAT ON THE FORM TOO?

22 A HE INDICATED THAT ON THE FORM WHICH WOULD HAVE
23 BEEN AS A WAIVER.

24 Q OKAY. I SHOW YOU STATE'S EXHIBIT 125 AND ASK IF
25 YOU RECOGNIZE THAT DOCUMENT?

1 A YES, SIR.

2 Q OKAY. WHAT IS THAT DOCUMENT?

3 A IT'S A MIRANDA RIGHTS AND WAIVER FORM.

4 Q OKAY. ALL RIGHT. IS THAT THE FORM THAT YOU
5 EXECUTED THAT NIGHT?

6 A YES, SIR.

7 Q IS THAT THE FORM THAT MR. BOLIN EXECUTED THAT
8 NIGHT?

9 A YES, SIR.

10 Q OKAY.

11 MR. POPE: I SHOW YOU STATE'S EXHIBIT 125,
12 YOUR HONOR.

13 Q YOU SAID YOU HAD ASKED WOULD HE BE WILLING TO
14 WRITE DOWN WHATEVER HE RECALLED OR WHATEVER HE
15 REMEMBERED?

16 A YES, SIR.

17 Q WERE YOU QUESTIONING HIM?

18 A NO, SIR.

19 Q PRIOR TO HIM WRITING DOWN HIS STATEMENT DID YOU
20 ASK HIM ABOUT WAIVING ANY OTHER RIGHTS OR BEING
21 INVOLVED IN ANY OTHER SEARCHES?

22 A I ASKED HIM WOULD HE BE WILLING TO SUBMIT TO A
23 SEARCH OF HIS PERSON AND VEHICLE.

24 Q OKAY. AND WHAT DID HE INDICATE?

25 A HE SAID YES.

1 Q OKAY. I AM GOING TO SHOW YOU WHAT'S BEEN MARKED
2 STATE'S EXHIBIT 126 AND ASK IF YOU CAN TAKE A LOOK
3 AND TELL ME IF YOU RECOGNIZE THAT DOCUMENT?

4 A YES, SIR.

5 Q WHAT IS THAT DOCUMENT?

6 A THIS IS A, THIS IS YORK COUNTY SHERIFF'S OFFICE
7 FORM PERMISSION TO SEARCH.

8 Q AND WAS THAT EXECUTED BY YOU AND MR. BOLIN THAT
9 NIGHT?

10 A YES, SIR.

11 Q OKAY. DID HE ALSO SIGN THAT IN YOUR PRESENCE?

12 A YES, SIR, HE DID.

13 Q AND YOU INDICATED THAT YOU SEARCHED HIS TRUCK.
14 ULTIMATELY DID THE FORENSIC UNIT HAVE A CHANCE TO
15 LOOK AT HIS TRUCK?

16 A YES, SIR.

17 Q AND DID HE CONSENT BY VIRTUE OF THIS AND ORALLY
18 TO YOU?

19 A YES, SIR.

20 MR. POPE: STATE'S EXHIBIT 126.

21 Q ALSO WAS THERE SOME TESTING THAT WAS DONE THERE
22 AT THE CLOVER POLICE DEPARTMENT CONCERNING GUNSHOT
23 RESIDUE?

24 A YES. I INFORMED MR. BOLIN THAT WHAT WE WOULD BE
25 LOOKING FOR IN PARTICULAR IN REGARDS TO HIS PERSON IN

1 THE VEHICLE WAS GUN POWDER OR RESIDUE ON HIS HAND AND
2 A GUN IN HIS VEHICLE.

3 Q ALL RIGHT. WHAT IF ANY STATEMENTS DID HE MAKE
4 TO YOU CONCERNING WHETHER HE THOUGHT GUN POWDER MAY
5 OR MAY NOT BE ON HIS HAND?

6 A I ASKED HIM WOULD THERE BE ANY REASON WHY THERE
7 WOULD BE ANY GUN POWDER RESIDUE ON HIS HANDS AND HE
8 INDICATED TO ME YES AND THAT HE HAD FIRED HIS GUN
9 EARLIER THAT DAY SOMEWHERE AROUND ABOUT LUNCH TIME.

10 Q OKAY. NOW ULTIMATELY DID YOU PROVIDE A FORM OR
11 AN OPPORTUNITY YOU SAID FOR HIM TO WRITE A STATEMENT?

12 A YES, SIR.

13 Q DID YOU PROVIDE AN OPPORTUNITY AND WHAT DID YOU
14 DO THAT ON?

15 A WE DID THAT ON A, IT'S A VOLUNTARY STATEMENT
16 FORM THAT THE SHERIFF'S OFFICE.

17 Q AND I SHOW YOU STATE'S EXHIBIT 127.

18 A YES, SIR, THIS IS IT.

19 Q IS THAT THE FORM?

20 A YES, SIR.

21 Q OKAY. AND DID HE SIGN THAT IN YOUR PRESENCE?

22 A YES, SIR.

23 Q OKAY. NOW WHO ACTUALLY WROTE OUT THIS
24 STATEMENT?

25 A MR. BOLIN DID.

1 Q DID YOU ASK HIM ANY QUESTION?

2 A NO, SIR.

3 Q DID YOU TELL HIM WHAT TO PUT?

4 A NO, SIR.

5 Q DID YOU TELL HIM WHAT TO LEAVE OUT OR INCLUDE?

6 A NO, SIR.

7 Q AND I NOTICE THERE IS A LINE AT THE END, WHAT'S
8 THE PURPOSE OF THE LINE AT THE END?

9 A ONCE HE FINISHED WITH THE STATEMENT I ASKED HIM
10 IS THAT ALL HE WANTED TO WRITE ABOUT, HE SAID YES,
11 AND THEN I DO THAT, I DID THAT LINE SO THAT NOTHING
12 ELSE COULD BE ADDED TO THAT STATEMENT.

13 Q ALL RIGHT.

14 MR. POPE: STATE'S EXHIBIT 127, YOUR
15 HONOR.

16 Q SERGEANT, WHILE YOU WERE HAVING THIS INTERACTION
17 WITH HIM DID YOU PROMISE HIM ANY FORM OF LENIENCY IF
18 HE WOULD COOPERATE?

19 A NO, SIR.

20 Q DID YOU THREATEN HIM WITH SOME CERTAIN
21 PUNISHMENT IF HE WOULD NOT COOPERATE?

22 A NO, SIR.

23 Q DURING THE TIME THAT THESE INITIAL CONVERSATIONS
24 WERE TAKING PLACE, AND I'VE ASKED YOU THIS EARLIER,
25 WAS HE FREE TO LEAVE?

- 1 A YES, SIR.
- 2 Q HE CAME THERE OF HIS OWN ACCORD?
- 3 A YES, SIR.
- 4 Q WAS HE UNDER ARREST AT THAT TIME?
- 5 A NO, SIR.
- 6 Q OKAY. FROM YOUR OBSERVATIONS IN TALKING TO HIM
- 7 DID EVERYTHING HE TELL YOU AND DO APPEAR TO BE
- 8 VOLUNTARY?
- 9 A YES, SIR.
- 10 Q DID YOU SEE HIM UNDER THE INFLUENCE OF ANYTHING
- 11 THAT WOULD HAVE KEPT HIM FROM UNDERSTANDING WHAT YOU
- 12 WERE TALKING ABOUT?
- 13 A NO, SIR.
- 14 Q OKAY. NOW SUBSEQUENTLY THE INVESTIGATORS CAME
- 15 TO THE CLOVER POLICE DEPARTMENT ALSO, A NUMBER OF
- 16 INVESTIGATORS FROM YOUR DEPARTMENT?
- 17 A YES, SIR.
- 18 Q DID YOU MAKE THEM AWARE BY VIRTUE OF DISCUSSION
- 19 AND COPIES OF THE ITEMS THAT WE'VE HANDED UP TO THE
- 20 JUDGE?
- 21 A YES, SIR.
- 22 Q AND DID YOU MAKE THEM AWARE THAT MR. BOLIN WAS
- 23 BEING COOPERATIVE AND HAD WAIVED HIS RIGHTS?
- 24 A YES, SIR.
- 25 Q AND YOU GAVE HIM A COPY OF THE STATEMENT?

1 A I DID.

2 Q OKAY. DID YOU HAVE ANY FURTHER INVOLVEMENT WITH
3 MR. BOLIN PAST THAT NIGHT?

4 A NO, SIR.

5 Q OKAY. OTHER THAN THE STATEMENTS CONCERNING THE
6 GUNSHOT RESIDUE AND THE STATEMENTS THAT HE'S GIVEN,
7 WERE THERE ANY OTHER STATEMENTS THAT YOU HAD THAT HE
8 MADE TO YOU?

9 A NO, SIR.

10 Q ALL RIGHT. THANK YOU, SIR. ANSWER ANY
11 QUESTIONS THE DEFENSE MAY HAVE.

12 MR. GREELEY: MAY IT PLEASE THE COURT.

13 CROSS EXAMINATION BY MR. GREELEY:

14 Q OFFICER JAMISON, NOW YOU WERE AT THE CLOVER
15 POLICE DEPARTMENT WORKING THE CRIME SCENE, IS THAT
16 RIGHT?

17 A YES, SIR.

18 Q AND SO WHEN YOU FIRST GOT TO THE CLOVER POLICE
19 DEPARTMENT YOU STARTED A CRIME SCENE LOG?

20 A YES, SIR.

21 Q AND THE CRIME SCENE LOG, OF COURSE, IS A LOG
22 THAT KEEPS UP WITH EVERYBODY WHO COMES IN AND OUT OF
23 THE CRIME SCENE, IS THAT CORRECT?

24 A YES, SIR.

25 Q AND WAS THAT YOUR RESPONSIBILITY THAT EVENING?

1 A WELL, THAT'S THE JOB THAT I BEGAN TO INITIATE
2 ONCE I WAS THERE.

3 Q OKAY.

4 A YES.

5 Q AND WHAT TIME DID YOU ARRIVE AT THE CLOVER
6 POLICE DEPARTMENT TO DO THIS? DO YOU RECALL?

7 A NO, SIR. I WAS ABOUT THREE OR FOUR MINUTES OUT
8 FROM THE CLOVER POLICE DEPARTMENT WHEN THE CALL CAME
9 IN.

10 Q THE EMTS WERE THEY STILL AT THE CLOVER POLICE
11 DEPARTMENT?

12 A YES, SIR.

13 Q AND SO WOULD IT BE A FAIR STATEMENT TO SAY YOU
14 HAD ARRIVED AT THAT SCENE NOT TOO LONG AFTER THE
15 PONTIAC ARRIVED THAT WAS CARRYING MS. FALLS,
16 MR. FALLS, MR. HOVIS, AND THE OTHERS?

17 A NOT KNOWING WHAT TIME THE CALL ACTUALLY CAME OUT
18 I WOULD SAY IT WASN'T LONG AFTER.

19 Q OKAY. COULD IT HAVE BEEN WITHIN HALF AN HOUR
20 POSSIBLY, IF THE EMTS WERE STILL THERE?

21 A I WOULD SAY YES.

22 Q OKAY. AND YOU WERE INITIATING THE CRIME SCENE
23 SO YOU MUST HAVE BEEN FAIRLY EARLY ON OR THEY WOULD
24 HAVE HAD SOMEBODY ELSE BEGIN INITIATING IT?

25 A THE CLOVER POLICE DEPARTMENT WAS ALREADY ON THE

1 SCENE. THEY HAD ALREADY ROPED OFF THE AREA, CORDONED
2 OFF THE AREA.

3 Q SO WHEN YOU GOT THERE?

4 A YEAH.

5 Q OKAY. NOW HOW LONG WERE YOU THERE BEFORE YOU
6 CAME IN CONTACT WITH BERRY?

7 A NOT ABSOLUTELY SURE. THAT COULD HAVE BEEN AN
8 HOUR.

9 Q OKAY.

10 A OR A LITTLE BETTER.

11 Q ALL RIGHT. AN HOUR OR A LITTLE BETTER?

12 A YES, SIR.

13 Q AND ONCE YOU CAME IN CONTACT WITH BERRY DID YOU
14 CONTINUE TO DO THE CRIME SCENE LOG?

15 A NO, SIR. I HANDED IT OFF TO THE CLOVER POLICE
16 DEPARTMENT.

17 Q SO YOU TURNED IT BACK OVER TO THE CLOVER POLICE
18 DEPARTMENT?

19 A YES, SIR.

20 Q NOW WHERE DID YOU DIRECT BERRY TO GO TO IN THE
21 BUILDING?

22 A HE WENT, HE WAS DIRECTED BY ANTHONY TO GO INTO
23 THE BUILDING.

24 Q OKAY. AND THEN DID YOU GO AND MEET HIM IN THE
25 BUILDING?

1 A YES, SIR.

2 Q WHERE DID YOU MEET HIM IN THE BUILDING?

3 A HE WAS IN THE LOBBY AREA OF THE CLOVER POLICE
4 DEPARTMENT.

5 Q WAS ANYONE WITH HIM TO YOUR KNOWLEDGE?

6 A YES, SIR.

7 Q WHO?

8 A THE FEMALE THAT I UNDERSTAND WAS HIS FIANCEE,
9 HIS GIRLFRIEND.

10 Q WERE THERE OTHER PEOPLE IN THE LOBBY?

11 A THERE WAS OTHER PEOPLE IN AND OUT OF THE LOBBY
12 PRETTY MUCH ALL NIGHT. I DON'T RECALL AT THAT VERY
13 PARTICULAR TIME.

14 Q THERE WERE A NUMBER OF YOUNG PEOPLE THAT DID
15 COME IN AND OUT DURING THE EVENING, ISN'T THAT
16 CORRECT?

17 A YES, SIR.

18 Q AND THESE YOUNG PEOPLE WHO WERE COMING IN AND
19 OUT DURING THE EVENING, WERE YOU INVOLVED IN TALKING
20 WITH THEM OR TAKING STATEMENTS FROM THEM AS WELL?

21 A I WAS.

22 Q NOW WHEN BERRY BOLIN GOT THERE WITH
23 MS. BARFIELD, DO YOU RECALL WHETHER OR NOT THEY WERE
24 SEGREGATED FROM THE OTHER GROUP OR THE OTHER PEOPLE
25 WHO WERE THERE INTO A SIDE ROOM?

1 A HE COULD HAVE BEEN IN THE LOBBY WITH OTHER
2 PEOPLE. THAT'S POSSIBLE. I DON'T RECALL.

3 Q AND AT THE TIME THAT YOU WENT TO SPEAK WITH HIM?

4 A UH-HUH.

5 Q DID YOU SEPARATE HIM FROM MS. BARFIELD AND DID
6 YOU SPEAK WITH HIM ALONE?

7 A AT THE TIME THAT I SPOKE TO HIM, AT THE TIME HE
8 GAVE ME THIS STATEMENT, HE WAS IN THE OFFICE ALONE
9 WITH ME, HIS GIRLFRIEND, THE THREE OF US WAS IN THE
10 OFFICE.

11 Q SO MS. BARFIELD WAS IN THERE AS WELL?

12 A YES.

13 Q OKAY. AND YOU SAID THAT YOU PULLED OUT A RIGHTS
14 FORM, IS THAT CORRECT?

15 A YES. YES.

16 Q NOW YOU TOLD THE SOLICITOR THAT IF HE WOULD HAVE
17 WANTED TO HE COULD HAVE GOTTEN UP AND LEFT?

18 A YES, SIR.

19 Q OKAY. YOU HAD NOT PLACED HIM UNDER ARREST AT
20 THAT TIME, HAD YOU?

21 A NO, SIR. NO, SIR.

22 Q THERE WERE A LOT OF PEOPLE AROUND AND Y'ALL WERE
23 JUST TAKING STATEMENTS, IS THAT CORRECT?

24 A YES, SIR.

25 Q FROM FOLKS. AND SO YOU WENT OVER THE RIGHTS

1 SHEET WITH HIM?

2 A I DID.

3 Q HE SIGNED THAT?

4 A YES, SIR.

5 Q DO YOU KNOW WHAT TIME THIS OCCURRED?

6 A NO, SIR.

7 Q IF I COULD, LET ME SHOW YOU WHAT'S BEEN ENTERED
8 FOR PURPOSES OF THIS HEARING AS STATE'S EXHIBIT 127.
9 IF YOU'LL LOOK AT THE BOTTOM OF THAT SHEET IT HAS A
10 TIME, DOES IT NOT?

11 A YES, SIR.

12 Q AND THAT TIME IS 2:37 A.M., IS THAT CORRECT?

13 A YES, SIR.

14 Q OKAY. NOW WAS THAT THE TIME IT WAS WHEN HE
15 FINISHED THE STATEMENT OR WHEN HE BEGAN THE
16 STATEMENT?

17 A IT WOULD HAVE BEEN THE TIME THAT HE COMPLETED
18 THE STATEMENT.

19 Q OKAY. AND HOW LONG WERE YOU IN THE ROOM WITH
20 HIM DOING THIS STATEMENT?

21 A I WAS THERE FOR THE DURATION.

22 Q AND ABOUT HOW LONG WAS THAT IN MINUTES IF YOU
23 REMEMBER?

24 A NO, SIR, I DON'T RECALL.

25 Q YOU DON'T REMEMBER HOW LONG?

1 A NO, SIR.

2 Q COULD IT HAVE BEEN AN HOUR?

3 A YES, SIR, POSSIBLE.

4 Q NOW DID YOU QUESTION HIM ABOUT THE STATEMENT
5 THAT HE GAVE?

6 A NO, SIR.

7 Q DID YOU TALK WITH HIM ABOUT WHAT HE KNEW BEFORE
8 YOU ASKED HIM TO WRITE THE STATEMENT?

9 A I DIDN'T EVEN READ THE STATEMENT.

10 Q DIDN'T EVEN READ IT?

11 A NO, SIR.

12 Q OKAY. AFTER HE HAD FINISHED, YOU DIDN'T READ
13 IT?

14 A NO, SIR.

15 Q WHAT DID YOU DO WITH IT?

16 A I PUT IT IN A PILE WITH OTHER STATEMENTS THAT I
17 HAD BEEN COLLECTING.

18 Q WHO ELSE WAS COLLECTING STATEMENTS WITH YOU,
19 ASSISTING YOU?

20 A I WAS THE ONLY ONE.

21 Q YOU WERE THE ONLY ONE WHO WAS TAKING STATEMENTS
22 FROM ALL THESE YOUNG PEOPLE?

23 A AT THE CLOVER POLICE DEPARTMENT.

24 Q YOU WERE BUSY, WEREN'T YOU?

25 A YES, SIR.

1 Q AND SO YOU HAD A PILE OF THESE STATEMENTS, IS
2 THAT CORRECT?

3 A YES, SIR.

4 Q NOW MR. BOLIN AT SOME POINT IN TIME ASKED YOU IF
5 HE COULD LEAVE A COUPLE OF TIMES, DIDN'T HE? AFTER
6 HE HAD GIVEN THE STATEMENT?

7 A NO, SIR, HE ASKED ME ABOUT USING THE RESTROOM
8 AND I THINK HIS FIANCEE ASKED ABOUT USING THE
9 RESTROOM AND WE PROVIDED A RESTROOM.

10 Q BUT YOU DON'T RECALL HIM ASKING THAT?

11 A NO, SIR. TO LEAVE, NO.

12 Q OKAY. AFTER YOU HAD TALKED WITH HIM AND TAKEN
13 THIS STATEMENT, WHAT DID YOU DO THEN?

14 A (NO RESPONSE.)

15 Q WERE YOU TAKING OTHER STATEMENTS FROM OTHER
16 PEOPLE?

17 A I DON'T RECALL IF ANY STATEMENTS WAS TAKEN AFTER
18 HIS STATEMENT. I DON'T RECALL, BUT HE PRETTY MUCH
19 STAYED THERE WITH ME THE DURATION OF THE TIME.

20 Q HE STAYED THERE WITH YOU ---

21 A ---FOR THE REST OF THE NIGHT.

22 Q HE STAYED THERE WITH YOU WHERE?

23 A THERE IN THE OFFICE, THE SHERIFF'S OFFICE
24 SUBSTATION.

25 Q IN THE SAME ROOM?

1 A IN THE SAME ROOM.

2 Q SO YOU JUST SAT WITH BERRY BOLIN FOR THE NEXT

3 HOWEVER LONG?

4 A PRETTY MUCH.

5 Q AND YOU DIDN'T DO ANYTHING ELSE?

6 A I DIDN'T ASK HIM ANY QUESTIONS OR ANYTHING LIKE

7 THAT, NO.

8 Q YOU JUST SAT WITH HIM?

9 A THE FORENSICS CAME IN THE MIDST OF THAT AND DID

10 THE, DID THEIR TEST AND THE SEARCH WAS CONDUCTED.

11 THE DETECTIVES CAME AND THEY TOOK HIM UPSTAIRS AND

12 TALKED TO HIM AND HE CAME BACK DOWNSTAIRS, SO IT WAS

13 A LOT GOING ON IN THAT PERIOD OF TIME.

14 Q NOW JUST OUT OF CURIOSITY, HE SIGNED A

15 PERMISSION FORM TO SEARCH HIS TRUCK, IS THAT CORRECT?

16 A YES, SIR.

17 Q DID HE SIGN A PERMISSION FORM FOR A GSR KIT?

18 A WELL, I EXPLAINED HIM TO THE PERMISSION FORM WAS

19 FOR A SEARCH OF HIS PERSON AND VEHICLE.

20 Q ALL RIGHT.

21 A AND I READ THAT ENTIRE FORM TO HIM.

22 Q BUT IF YOU WERE TO LOOK AT WHAT'S BEEN MARKED AS

23 STATE'S EXHIBIT 126 DOES IT SAY ANYTHING IN THERE

24 ABOUT THE SEARCH OF HIS ACTUAL PERSON OR DOES IT JUST

25 DEAL WITH TANGIBLE PROPERTY?

1 A IT DEALS WITH PROPERTY.

2 Q OKAY. THANK YOU. NOW YOU SAY THE DETECTIVES
3 CAME. HOW FAR AFTER YOU HAD HIM WRITE THIS STATEMENT
4 FOR YOU, HOW LONG AFTER THAT WAS IT THAT THE
5 DETECTIVES CAME AND DO YOU REMEMBER WHICH DETECTIVES
6 IT WAS?

7 A IT'S DETECTIVE DOUG PATTERSON SHORTLY AFTER HIS
8 STATEMENT WAS COMPLETED, VERY SHORTLY.

9 Q OKAY. ANY OTHER DETECTIVE?

10 A YES, SIR.

11 Q OKAY.

12 A DETECTIVE BETH.

13 Q PARDON?

14 A DETECTIVE BETH TOLSON.

15 Q TOLSON?

16 A AND LIEUTENANT HAGER.

17 Q THOSE THREE?

18 A YES, SIR, THEY CAME DOWN.

19 Q AND IN REGARDS TO DETECTIVE PATTERSON WHAT
20 CONTACT DID HE HAVE WITH MR. BOLIN AFTER YOU HAD,
21 AFTER YOU HAD GOTTEN THE STATEMENT?

22 A THEY WENT UPSTAIRS TO TALK.

23 Q DETECTIVE PATTERSON AND MR. BOLIN?

24 A YES, SIR.

25 Q DID YOU GO WITH THEM?

1 A NO, SIR.

2 Q OKAY. YOU DIDN'T GO IN THERE AT ANY TIME?

3 A NO, SIR.

4 Q DO YOU KNOW IF ANYBODY ELSE WENT WITH THEM

5 UPSTAIRS?

6 A I DON'T KNOW.

7 Q DO YOU KNOW WHAT WAS UPSTAIRS? WHERE WERE THEY

8 GOING UPSTAIRS?

9 A THERE IS A, KIND OF LIKE A COMMON AREA OR OPEN

10 AREA UPSTAIRS.

11 Q OKAY.

12 A I HAD ONLY BEEN UPSTAIRS ONE TIME AND THAT'S

13 DURING THE REMODELING SO.

14 Q OKAY. AND YOU STAYED DOWNSTAIRS?

15 A YES, SIR, I DID.

16 Q WAS HE SEPARATED FROM MS. BARFIELD?

17 A I WAS WITH, MS. BARFIELD WAS IN THE SAME ROOM

18 THAT I WAS IN.

19 Q SHE WAS WITH YOU?

20 A YES, SIR.

21 Q WAS IT AFTER THE GSR KIT THAT HAD BEEN DONE THAT

22 DETECTIVE PATTERSON TOOK HIM UPSTAIRS?

23 A YES, SIR.

24 Q AND WHO DID THE GSR KIT?

25 A WAYNE SMITH. WAYNE SMITH.

1 Q OKAY. AND HE'S WITH FORENSICS?

2 A YES, SIR.

3 Q NOW DID YOU SEE MR. BOLIN ANYMORE AFTER

4 DETECTIVE PATTERSON TOOK HIM UPSTAIRS?

5 A I DID.

6 Q AND WHEN WAS THAT?

7 A WHEN DETECTIVE PATTERSON CAME BACK DOWNSTAIRS.

8 HE CAME BACK INTO THE ROOM WHERE I WAS BEING, WHERE I

9 WAS SEATED WITH HIS FIANCEE AND HE SIT THERE.

10 Q OKAY. AND DID HE SIT BACK DOWN?

11 A YES, SIR, HE DID.

12 Q WERE THERE ANY OTHER YOUNG PEOPLE IN THE LOBBY

13 AT THAT TIME?

14 A I DON'T RECALL.

15 Q DO YOU KNOW IF ANY OTHER FAMILY MEMBERS HAD

16 ARRIVED?

17 A I'M NOT ABSOLUTELY SURE.

18 Q OKAY. DO YOU RECALL WHAT OTHER STATEMENTS YOU

19 TOOK THAT NIGHT?

20 A I TOOK A LOT OF OTHER STATEMENTS.

21 Q A LOT OF STATEMENTS?

22 A BUT I DON'T RECALL ANY DETAILS BECAUSE I DIDN'T

23 READ ANY OF THEM.

24 Q THAT'S FINE. OKAY. AND ONCE HE WAS RETURNED TO

25 YOU BY DETECTIVE PATTERSON HOW LONG DID HE SIT THERE?

1 A I'M NOT ABSOLUTELY SURE. IT MAY HAVE BEEN 15 OR
2 20 MINUTES.

3 Q DID YOU EVER LEAVE HIM?

4 A NO, SIR, I DIDN'T.

5 Q THE FIRST TIME BEFORE DETECTIVE PATTERSON TOOK
6 HIM UPSTAIRS, DID YOU EVER LEAVE HIM?

7 A NO, SIR.

8 Q DID YOU TELL HIM HE COULD GO?

9 A NO, I DID NOT TELL HIM HE COULD GO.

10 Q WHAT HAPPENED AFTER THAT? WERE YOU SITTING
11 THERE THE WHOLE TIME WITH MR. BOLIN AND DID SOMETHING
12 ELSE OCCUR?

13 A DETECTIVE PATTERSON CAME BACK DOWNSTAIRS AND
14 THEY GOT HIM AGAIN AND TOOK HIM UPSTAIRS.

15 Q THIS TIME YOU SAY "THEY GOT HIM AGAIN". WAS IT
16 A "THEY" THE FIRST TIME

17 A THERE, HE, LIEUTENANT HAGER WAS THERE AND HE WAS
18 THERE IN THE LOBBY AND THEY, THE TWO, DOUG PATTERSON,
19 DETECTIVE PATTERSON, AND LIEUTENANT HAGER WALKED OUT
20 TOGETHER. I CAN'T SEE THE STAIRS FROM THAT OFFICE SO
21 THEY WALKED BACK INTO THE CLOVER POLICE DEPARTMENT.

22 Q OKAY. SO THE FIRST TIME THAT HE WENT UPSTAIRS
23 YOU DON'T KNOW WHETHER THERE WAS ONE OR TWO PEOPLE
24 WHO TALKED WITH HIM?

25 A NO, SIR.

1 Q THE SECOND TIME THAT HE WAS TAKEN UPSTAIRS?

2 A YES, SIR.

3 Q WAS IT ONE PERSON OR TWO WHO CAME TO GET HIM?

4 A I WANT TO THINK IT'S TWO, BUT I'M NOT ABSOLUTELY
5 SURE.

6 Q OKAY. AND THEN THEY TOOK HIM UPSTAIRS. NOW DID
7 YOU STAY WITH MS. BARFIELD?

8 A YES, SIR, I DID.

9 Q DO YOU KNOW WHETHER ANYBODY ELSE WAS IN THE
10 LOBBY?

11 A THERE WERE PEOPLE THAT WAS COMING THAT WAS
12 INQUIRING IN REGARDS TO THE CONDITION OF THE VICTIM
13 AND I DIDN'T HAVE THAT INFORMATION AND I DON'T KNOW
14 EXACTLY WHO THEY WERE. BUT I DID, THERE IS A DOOR TO
15 THE OFFICE WHERE I WAS AT THAT LEADS OUT INTO THE
16 LOBBY SO I NEVER LEFT THERE.

17 Q OKAY.

18 A THAT OFFICE.

19 Q NOW HOW LONG WAS MR. BOLIN GONE THIS TIME?

20 A I'M NOT ABSOLUTELY SURE.

21 Q OKAY. DID HE RETURN?

22 A YES, SIR, HE DID.

23 Q AND WHEN HE RETURNED WHAT HAPPENED THEN? DID HE
24 SIT?

25 A YES, HE DID.

1 Q WAS HE UNDER ARREST AT THAT TIME?

2 A NOT TO MY KNOWLEDGE.

3 Q WERE YOU TOLD TO KEEP THEM THERE?

4 A NO, SIR.

5 Q BY ANYBODY?

6 A NO, SIR.

7 Q DETECTIVE PATTERSON OR ANYBODY TO SAY, KEEP AN

8 EYE ON HIM, WE DON'T WANT HIM TO GO ANYWHERE?

9 A NO, THEY DIDN'T, NEVER SAID FOR HIM TO STAY

10 THERE. BUT AT ONE, LATE THAT NIGHT, I THINK THEY MAY

11 HAVE GOTTEN SOME INFORMATION ABOUT A GUN AND

12 MR. BOLIN CAME BACK DOWN AND I CALLED AT THAT

13 PARTICULAR TIME BECAUSE HE HAD BEEN THERE AND ASKED,

14 HE INQUIRED ABOUT HIM; HE SAID, NO, HE PROBABLY CAN'T

15 GO RIGHT NOW, SO THEY WERE WAITING ON THE GUN.

16 Q SO AT SOME POINT IN THE EVENING YOU WERE TOLD HE

17 NEEDS TO STICK AROUND HERE WITH US?

18 A YES, SIR.

19 Q NOW IT WASN'T AFTER THE SECOND TIME HE CAME DOWN

20 OR DID HE GO BACK UP A THIRD TIME?

21 A I THINK IT WAS AFTER THE SECOND TIME.

22 Q OKAY. SO AFTER THE SECOND TIME WHEN HE WAS

23 RETURNED TO THE ROOM?

24 A YES, SIR.

25 Q YOU WERE INFORMED BY SOMEBODY --

1 FORMALLY PLACED UNDER ARREST?

2 A NO, SIR.

3 Q FOR ANYTHING?

4 A NO, SIR.

5 Q OKAY.

6 MR. GREELEY: IF THE COURT WILL INDULGE ME
7 FOR ONE MINUTE, ONE SECOND. THAT'S ALL I HAVE AT
8 THIS POINT, YOUR HONOR.

9 MR. MCKINNEY: I HAVE NOTHING.

10 THE COURT: ANYTHING ELSE FROM THIS
11 WITNESS, SOLICITOR?

12 MR. POPE: NO, SIR, YOUR HONOR. I ASK
13 THIS WITNESS BE EXCUSED.

14 THE COURT: LET ME JUST MAKE SURE THESE
15 THREE EXHIBITS HAVE NOT BEEN ACTUALLY OFFERED 126,
16 127, AND 125.

17 MR. POPE: THEY ARE OFFERED JUST FOR
18 PURPOSE OF THIS HEARING AT THIS POINT.

19 THE COURT: THEY ARE OFFERED AS COURT'S
20 EXHIBITS FOR THE PURPOSES OF THIS HEARING?

21 MR. POPE: OR STATE'S EXHIBITS.

22 MR. GREELEY: NO OBJECTION.

23 MR. MCKINNEY: NO OBJECTION, YOUR HONOR.

24 THE COURT: YOU CAN STEP DOWN.

25 MR. POPE: YES, SIR.

1 (STATE'S EXHIBITS 125-127 MARKED FOR
2 IDENTIFICATION.)

3 THE COURT: YOU CAN STEP DOWN. THANK YOU.
4 ANY OTHER WITNESSES?

5 MR. POPE: YES, SIR. THE STATE WOULD CALL
6 WAYNE SMITH PLEASE.

7 WAYNE SMITH, BEING FIRST DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. POPE:

10 Q SERGEANT SMITH, STATE YOUR NAME AND SPELL YOUR
11 LAST NAME FOR THE COURT REPORTER PLEASE?

12 A MY NAME IS DOUGLAS WAYNE SMITH. S-M-I-T-H.

13 Q COULD YOU TELL THE JUDGE WHERE YOU ARE EMPLOYED?

14 A EMPLOYED WITH THE YORK COUNTY SHERIFF'S OFFICE.

15 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
16 OFFICE?

17 A I'VE BEEN WITH THE SHERIFF'S OFFICE SINCE
18 JANUARY OF 1993.

19 Q WHAT'S YOUR CURRENT ASSIGNMENT?

20 A I'M A SERGEANT ON PATROL DIVISION.

21 Q OKAY. I WANT TO CALL YOUR ATTENTION BACK TO
22 FEBRUARY 19, 2006, WHERE WERE YOU ASSIGNED WITH THE
23 SHERIFF'S DEPARTMENT AT THAT TIME?

24 A I WAS ASSIGNED TO THE FORENSICS SERVICES UNIT AT
25 THAT TIME AS AN INVESTIGATOR.

1 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO RESPOND TO
2 CLOVER POLICE DEPARTMENT THE SUNDAY MORNING OR, YEAH,
3 SUNDAY MORNING, FEBRUARY 19, 2006?

4 A YES, I DID.

5 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO CONDUCT A
6 SEARCH OF THE DEFENDANT MR. BOLIN'S VEHICLE THAT
7 MORNING?

8 A YES, I DID.

9 Q OKAY. ALSO DID YOU HAVE AN OPPORTUNITY TO DO A
10 GSR TEST ON HIM?

11 A YES, I DID.

12 Q AND THE SEARCH OF THE VEHICLE I BELIEVE WAS
13 APPROXIMATELY 1:40. THE GSR TEST WAS 1:55. DOES
14 THAT SOUND RIGHT?

15 A THAT SOUNDS ABOUT RIGHT.

16 Q OKAY. AND CONCERNING THE SEARCH OF THE TRUCK,
17 WERE YOU AWARE THAT A CONSENT HAD BEEN EXECUTED FROM
18 SERGEANT JAMISON?

19 A YES, SIR.

20 Q AND WHEN YOU SEARCHED THE TRUCK RELATE TO THE
21 COURT WHAT WERE YOU LOOKING FOR?

22 A WE SEARCHED THE TRUCK. WE WERE LOOKING FOR
23 ANYTHING THAT WOULD TIE THE TRUCK OR THE OCCUPANTS OF
24 THE TRUCK TO THE SHOOTING THAT OCCURRED ON LAWRENCE
25 ROAD: ANY WEAPONS, ANY BLOOD, OR ANYTHING ALONG THAT

1 NATURE.

2 Q DID YOU HAVE ANY CONVERSATION, WAS MR. BOLIN
3 PRESENT WHEN YOU WERE SEARCHING HIS TRUCK?

4 A HE WAS WHEN I FIRST STARTED AND THEN HE WAS
5 INSIDE TALKING WITH DETECTIVE PATTERSON AND
6 LIEUTENANT BRYANT. I WAS OUTSIDE ALONE WHEN I
7 ACTUALLY CONDUCTED THE SEARCH PARKED OUT FRONT.

8 Q WHAT IF ANYTHING DID HE TELL YOU IN RELATION TO
9 SEARCHING THE TRUCK ABOUT WHETHER THERE WOULD BE A
10 WEAPON INSIDE OR NOT?

11 A THERE'S SUPPOSED TO BE A .45 PISTOL IN THE GLOVE
12 COMPARTMENT.

13 Q OKAY. AND DID YOU SEARCH IT AND SEARCH THE
14 GLOVE COMPARTMENT?

15 A YES, I DID.

16 Q AND WHAT DID--- DID YOU FIND A .45 IN THE TRUCK?

17 A FOUND NO FIREARM OF ANY TYPE IN THE TRUCK.

18 Q OKAY. AND THEN DID YOU HAVE ANY FURTHER
19 CONVERSATION WITH MR. BOLIN REGARDING THAT PISTOL?

20 A HE WAS BROUGHT OUTSIDE. I NOTIFIED DETECTIVE
21 PATTERSON THAT I DID NOT FIND THE WEAPON. HE WAS
22 BROUGHT OUTSIDE AND WE WERE STANDING ON THE SIDEWALK
23 AND I BROUGHT HIS ATTENTION, BECAUSE I THOUGHT MAYBE
24 I WAS JUST LOOKING IN THE WRONG PLACE, JUST FOR
25 CLARIFICATION, AND I TOLD HIM, I SAID I'VE LOOKED,

1 AND HE SAID, WELL, SOMEBODY MUST HAVE TOOK IT.

2 Q SOMEBODY MUST HAVE TOOK IT. REGARDING THE TRUCK
3 OR THE SEARCH OF THE TRUCK, DID YOU HAVE ANY FURTHER
4 CONVERSATIONS WITH HIM REGARDING THAT?

5 A NOT AFTER THAT, NO, SIR.

6 Q YOU ALSO PERFORMED A GSR KIT ON HIM, IS THAT
7 CORRECT?

8 A YES, SIR, I DID.

9 Q DID YOU TALK TO HIM OR GET ANY INFORMATION FROM
10 HIM CONCERNING THE GSR KIT?

11 A YES, SIR, THE BASIC FORM WE HAVE TO FILL OUT FOR
12 THE SLED ANALYSIS OF SOME GENERAL ADMINISTRATIVE TYPE
13 QUESTIONS AND I SAT DOWN WITH HIM AND WENT OVER
14 THOSE.

15 MR. POPE: HAVE THIS MARKED PLEASE, MA'AM.

16 (STATE'S EXHIBIT 133 GSR MARKED FOR
17 IDENTIFICATION.)

18 Q I DRAW YOUR ATTENTION TO STATE'S EXHIBIT 133 FOR
19 PURPOSES OF THIS HEARING AND I ASK YOU IF YOU CAN
20 TAKE A LOOK AND TELL ME IF YOU RECOGNIZE THAT?

21 A YES, SIR. IT'S THE RESIDUE ANALYSIS INFORMATION
22 SHEET THAT GOES TO SLED WITH THE KIT.

23 Q OKAY. AND YOU SAID THERE WAS SOME INFORMATION
24 YOU RECEIVED FROM HIM AS FAR AS WHAT HE HAD DONE OR
25 WHAT ACTIVITIES OR QUESTIONS THAT REGARDS THAT?

1 A YES, SIR.

2 Q WHAT DOES THAT QUESTION SAY?

3 A THE QUESTION IS: WRITE A BRIEF DESCRIPTION OF
4 THE SUBJECT'S ACTIVITY BETWEEN THE TIME OF THE
5 SHOOTING AND THE TIME OF THE GSR COLLECTION. WE
6 GENERALLY ASK THEM WHAT HAVE THEY BEEN DOING THE LAST
7 HOWEVER MANY HOURS WE THINK THE TIME HAS BEEN. THE
8 ANSWER WAS: HE WENT HOME, WENT TO SOME FRIEND'S
9 HOUSE, AND GOT SOME GAS.

10 Q OKAY. AND DOES IT INDICATE A TIME THE GSR WOULD
11 HAVE BEEN DONE OR COMPLETED?

12 A IT WAS COLLECTED FEBRUARY 19 AT 1:55 A.M.

13 Q OKAY. THANK YOU, SIR. AT ANY TIME THAT YOU
14 DEALT WITH HIM DID YOU THREATEN HIM OR PROMISE HIM IN
15 ANY MANNER?

16 A NO, SIR.

17 Q WHEN YOU TALKED TO HIM, DID HE APPEAR TO
18 UNDERSTAND WHAT YOU WERE SAYING?

19 A YES, SIR.

20 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF
21 ALCOHOL OR DRUGS OR ANYTHING SUCH THAT HE COULDN'T
22 UNDERSTAND OR COMMUNICATE WITH YOU?

23 A NO, SIR.

24 Q OKAY. DID YOU HOLD OUT ANY HOPE OF REWARD IF HE
25 TALKED TO YOU OR IF HE CONSENTED TO YOU OR ANYTHING

1 LIKE THAT?

2 A NO, SIR.

3 Q THANK YOU, SIR. ANSWER ANY QUESTIONS THE
4 DEFENSE MAY HAVE.

5 MR. GREELEY: MAY IT PLEASE THE COURT.

6 THE COURT: YES, SIR.

7 CROSS EXAMINATION BY MR. GREELEY:

8 Q DEPUTY SMITH, GOOD AFTERNOON.

9 A GOOD AFTERNOON.

10 Q WHAT TIME DID YOU GET TO CLOVER, DO YOU RECALL?

11 A I THINK IT WAS AROUND 20 MINUTES AFTER 12.

12 Q ABOUT 20 AFTER 12.

13 A WITHOUT LOOKING AT THE REPORT TO BE SPECIFIC.

14 Q DO YOU CARRY GSR KITS IN YOUR CAR?

15 A YES, SIR.

16 Q OKAY. THAT'S STANDARD PROCEDURE, IS THAT RIGHT?

17 A YES, SIR.

18 Q THEY ARE NOT BIG, ARE THEY?

19 A NO, THERE IS A SMALL PACK OF THEM.

20 Q YOU CAN CARRY A GROUP OF THEM. AND SO YOU HAVE
21 SOME IN YOUR CAR AND YOU GOT THERE ABOUT 12:20?

22 A YES.

23 Q OKAY. NOW IT INDICATES ON THE GSR SHEET AT 1:55
24 THAT WOULD HAVE BEEN WHEN YOU TOOK THE?

25 A AS SOON AS --

- 1 Q ACTUALLY PERFORMED ON HIM?
- 2 A YES.
- 3 Q OKAY. AND PRIOR TO THAT, DID YOU LOOK AT HIS
- 4 TRUCK PRIOR TO DOING THE GSR OR DID YOU LOOK AT THE
- 5 TRUCK AFTER THE GSR?
- 6 A I THINK IT WAS AFTER.
- 7 Q OKAY. ALL RIGHT. AND IT WAS DETECTIVE
- 8 PATTERSON THAT YOU WERE WORKING WITH?
- 9 A DETECTIVE PATTERSON AND LIEUTENANT BRYANT. SHE
- 10 WAS THERE.
- 11 Q LIEUTENANT?
- 12 A BRYANT, BETH BRYANT.
- 13 Q OH, OKAY. BETH TOLSON.
- 14 A BETH TOLSON, EXCUSE ME.
- 15 Q THAT'S OKAY. I GOT A LITTLE HISTORY SO I WAS
- 16 ABLE TO FIGURE OUT WHO YOU WERE TALKING ABOUT.
- 17 A THANK YOU.
- 18 Q ALL RIGHT. AND SO DID DETECTIVE PATTERSON COME
- 19 TO YOU AND SAY WE NEED TO DO A GSR KIT AND WE NEED TO
- 20 SEARCH THE TRUCK?
- 21 A RIGHT. I HAD BEEN OUT BACK WITH THE VEHICLE
- 22 PHOTOGRAPHING, DOCUMENTING IT.
- 23 Q THE PONTIAC?
- 24 A THE PONTIAC, YES, SIR.
- 25 Q OKAY.

1 A AND THEY CAME AND GOT ME.

2 Q ALL RIGHT. AND HAD HE INDICATED THAT HE HAD
3 GOTTEN THE INFORMATION AND TALKED WITH BERRY AND
4 Y'ALL NEEDED TO DO THIS?

5 A YES, SIR, THEY HAD SPOKE.

6 Q OKAY. SO AT THAT TIME DETECTIVE PATTERSON HAD
7 TALKED WITH BERRY?

8 A AS FAR AS I KNOW, YES, SIR.

9 Q OKAY. AND THAT WOULD HAVE BEEN BEFORE THE GSR
10 KIT?

11 A YES, SIR.

12 Q OKAY. AND THE GSR KIT WAS AT 1:55?

13 A YES, SIR.

14 Q DID YOU HAVE ANY INVOLVEMENT IN BERRY BOLIN'S
15 SIGNING THE PERMISSION TO SEARCH WHICH IS COURT'S
16 EXHIBIT 126?

17 A I BELIEVE I WITNESSED IT. THAT'S MY SIGNATURE
18 RIGHT THERE.

19 Q OKAY. AND HE WOULD HAVE DONE THAT BEFORE YOU
20 SEARCHED THE TRUCK?

21 A YES, SIR, THAT'S STANDARD PROCEDURE FOR THE FSU.

22 Q DO YOU KNOW IF YOU DID THIS AFTER THE GSR KIT
23 AND BEFORE YOU SEARCHED THE TRUCK?

24 A I THINK ALL THAT WAS DONE BEFORE IF MEMORY
25 SERVES ME.

1 Q ALL OF THAT, YOU MEAN THE PERMISSION?

2 A GENERALLY AT FSU WE DON'T DO ANYTHING WITHOUT
3 PERMISSION OR SEARCH WARRANT BEFORE WE TAKE ANY
4 ACTION.

5 Q DO YOU RECALL ANY OTHER STATEMENT THAT MR. BOLIN
6 ALLEGEDLY MADE OTHER THAN WHAT YOU WERE INQUIRING
7 ABOUT WITH THE GSR KIT?

8 A NO, SIR.

9 Q SO YOU DIDN'T PERFORM AN INTERROGATION OF HIM?

10 A NO, SIR, THAT'S NOT MY --- THAT'S NOT WHAT I WAS
11 THERE FOR.

12 Q BUT YOU HAD RECEIVED YOUR INFORMATION FROM
13 DETECTIVE PATTERSON PRIMARILY, CORRECT

14 A YES, SIR.

15 Q WHO YOU BELIEVE HE HAD RECEIVED HIS INFORMATION
16 FROM MR. BOLIN?

17 A YES, SIR.

18 MR. GREELEY: NOTHING FURTHER AT THIS
19 TIME.

20 THE COURT: ANY?

21 MR. MCKINNEY: NOTHING, YOUR HONOR.

22 MR. POPE: NOTHING, YOUR HONOR.

23 THE COURT: YOU CAN STEP DOWN. THANK YOU.

24 MR. POPE: AGAIN, YOUR HONOR, I ASK HE BE
25 EXCUSED SUBJECT TO BEING RECALLED.

1 THE COURT: AND YOU WANT 126 IN?

2 MR. POPE: YES, SIR.

3 THE COURT: I MEAN 133.

4 MR. POPE: YES, SIR. I WANT THEM ALL.

5 THE COURT: I KNOW BUT THIS.

6 MR. GREELEY: NO OBJECTION.

7 MR. POPE: YES, SIR.

8 (STATE'S EXHIBIT 133 MARKED FOR
9 IDENTIFICATION.)

10 MR. POPE: CALL DETECTIVE PATTERSON.

11 DOUG PATTERSON, BEING FIRST DULY

12 SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY MR. POPE:

14 Q DETECTIVE, IF YOU WOULD STATE YOUR NAME AND
15 SPELL YOUR LAST NAME PLEASE?

16 A IT'S DOUGLAS KIRK PATTERSON. P-A-T-T-E-R-S-O-N.

17 Q COULD YOU TELL THE COURT WHERE YOU ARE EMPLOYED?

18 A I'M EMPLOYED FOR THE YORK COUNTY SHERIFF'S
19 OFFICE.

20 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
21 DEPARTMENT?

22 A APPROXIMATELY 11 AND A HALF YEARS.

23 Q AND WHAT CAPACITY ARE YOU IN NOW?

24 A I'M ASSIGNED TO THE CRIMINAL INVESTIGATIVE
25 DIVISION.

1 Q OKAY. I'M GOING TO CALL YOUR ATTENTION BACK TO
2 SUNDAY, FEBRUARY 19, 2006, WERE YOU ASSIGNED TO THE
3 DETECTIVE DIVISION OR INVESTIGATIVE DIVISION AT THAT
4 POINT?

5 A YES, SIR.

6 Q OKAY. DID YOU HAVE A CHANCE TO COME OUT ON A
7 CALL TO THE CLOVER AREA IN REFERENCE TO A SHOOTING AT
8 LAWRENCE ROAD THAT MORNING, SATURDAY NIGHT/SUNDAY
9 MORNING OF FEBRUARY 19, 2006?

10 A YES, SIR.

11 Q OKAY. CAN YOU RELATE TO THE COURT HOW YOU WERE
12 CALLED OUT AND WHAT YOU DID?

13 A I RECALL IT WAS SOMETIME AFTER MIDNIGHT I
14 BELIEVE I GOT CALLED OUT. I WAS DETECTIVE ON CALL
15 THAT WEEK. I WAS DISPATCHED TO GO IN REFERENCE TO AN
16 INCIDENT ON LAWRENCE ROAD. I LEFT MY RESIDENCE, WENT
17 TO LAWRENCE ROAD, AND WHEN I GOT THERE THERE WAS A
18 DEPUTY INSIDE THE RESIDENCE AND A DEPUTY OUTSIDE THE
19 RESIDENCE. THE DEPUTY OUTSIDE THE RESIDENCE, I MADE
20 CONTACT WITH HER AND SHE ADVISED ME, GAVE ME A QUICK
21 RUN DOWN OF WHAT THEY KNEW AT THAT POINT; SHE SHOWED
22 ME SOME ITEMS THAT SHE HAD MARKED OUTSIDE ON THE
23 PROPERTY. AND I WENT INSIDE THE RESIDENCE AND MADE
24 CONTACT WITH DEPUTY INSIDE THERE AND HE AGAIN ADVISED
25 ME THAT THERE HAD BEEN AN INCIDENT THERE AND I THINK

1 THERE WERE FOUR OTHER INDIVIDUALS IN THE RESIDENCE
2 THAT HE WAS IN THE PROCESS OF GETTING STATEMENTS
3 FROM.

4 Q AND YOU SAID YOU SAW THE CASINGS ON THE GROUND
5 OUT THERE THAT SHE HAD MARKED?

6 A THE DEPUTY ADVISED ME THAT SHE HAD LOCATED SOME
7 SHELL CASINGS AND SHE HAD MARKED THEM.

8 Q OKAY. SO WHAT DID YOU DO THEN?

9 A I WENT INSIDE THE RESIDENCE. I SPOKE WITH THE
10 DEPUTY THERE. HE IDENTIFIED, HE IDENTIFIED THE OTHER
11 PEOPLE IN THE RESIDENCE FOR ME. I PROVIDED HIM WITH
12 SOME STATEMENT FORMS. I ALSO HAD A CALL TO RESPOND
13 TO THE CLOVER POLICE DEPARTMENT IN REFERENCE TO SOME
14 POSSIBLE OTHER PERSONS INVOLVED IN THE INCIDENT, SO I
15 LEFT THAT SCENE. I WAS ADVISED THAT FORENSIC
16 SERVICES WAS EN ROUTE AS WELL AS SOME OTHER LAW
17 ENFORCEMENT PERSONNEL, SO I LEFT THAT SCENE AND WENT
18 TO CLOVER POLICE DEPARTMENT.

19 Q OKAY. WHAT DID YOU DO WHEN YOU ARRIVED AT THE
20 CLOVER POLICE DEPARTMENT?

21 A I WENT INSIDE AND MADE CONTACT WITH DEPUTY
22 JAMISON WHO WAS INSIDE ONE OF THE INTERVIEW OR ONE OF
23 THE INTERVIEW ROOMS. INSIDE THE ROOM WAS TWO OTHER
24 INDIVIDUALS, A MALE AND FEMALE. DEPUTY JAMISON
25 ADVISED ME THAT THEY WERE POSSIBLY INVOLVED IN THE

1 INCIDENT AND HE WAS IN THE PROCESS OF GETTING SOME
2 INFORMATION FROM THEM.

3 Q OKAY. DID YOU RECOGNIZE ONE AS BEING MR. BOLIN?

4 A I DIDN'T KNOW MR. BOLIN AT THAT TIME BUT HE WAS
5 IDENTIFIED TO ME AS MR. BOLIN BY DEPUTY JAMISON.

6 Q OKAY. I MEAN TODAY YOU KNOW THAT WAS MR. BOLIN?

7 A YES, SIR.

8 Q ALL RIGHT. AND AGAIN AS INVESTIGATOR, WERE
9 THERE OTHER INVESTIGATORS THAT WOULD, YOU WERE THE
10 INITIAL INVESTIGATOR CALLED OUT?

11 A I WAS THE INITIAL ONE CALLED OUT AND I NOTIFIED
12 MY SUPERVISOR.

13 Q OKAY.

14 A THAT I WAS PROBABLY GOING TO NEED SOME
15 ASSISTANCE.

16 Q OKAY. AND DID SOME MORE INVESTIGATORS
17 ULTIMATELY COME TO THE POLICE DEPARTMENT?

18 A YES, SIR.

19 Q OKAY. DID YOU HAVE AN OPPORTUNITY WHILE YOU
20 WERE THERE TALKING TO SERGEANT JAMISON, DID HE GIVE
21 YOU ANY INFORMATION EITHER INITIALLY OR AT SOME POINT
22 CONCERNING ANY STATEMENTS THAT HE RECEIVED FROM
23 MR. BOLIN OR OF WAIVER OF RIGHTS THAT HE RECEIVED
24 FROM MR. BOLIN?

25 A HE DID ADVISE ME THAT HE HAD GIVEN MIRANDA TO

1 MR. BOLIN AND HAD GOT HIM TO SIGN A WAIVER OF RIGHTS
2 FORM AND I BELIEVE TAKEN A WRITTEN STATEMENT FROM
3 HIM.

4 Q OKAY. DO YOU KNOW AT WHAT POINT YOU ARRIVED AT
5 CLOVER POLICE DEPARTMENT?

6 A AT WHAT TIME?

7 Q YES, SIR.

8 A NO, SIR, I DON'T RECALL WHAT TIME IT WAS.

9 Q SO YOU WERE CALLED OUT, YOU WENT TO LAWRENCE
10 ROAD AND ASSESSED THAT SCENE BEFORE YOU EVER WENT TO
11 CLOVER; IN OTHER WORDS, YOU DIDN'T COME STRAIGHT FROM
12 DISPATCH, YOU WERE CALLED TO CLOVER POLICE
13 DEPARTMENT, RIGHT?

14 A RIGHT, I WENT STRAIGHT TO LAWRENCE ROAD AND THEN
15 TO THE PD.

16 Q OKAY. AND SO DID YOU HAVE AN OPPORTUNITY TO
17 TALK TO MR. BOLIN?

18 A YES, SIR, I DID.

19 Q WHO WAS WITH YOU WHEN YOU TALKED TO MR. BOLIN?

20 A IF I RECALL CORRECTLY THE FIRST TIME I SPOKE TO
21 HIM I SPOKE WITH HIM BRIEFLY INSIDE AT THE, IN THE
22 INTERVIEW ROOM WHERE DEPUTY JAMISON WAS. THAT'S
23 THEIRS.

24 Q THAT'S THE SHERIFF'S OFFICE SUBSTATION ROOM
25 RIGHT THERE TO THE RIGHT AS YOU GO IN?

1 A YES, SIR, OFF TO THE RIGHT.

2 Q OKAY.

3 A I SPOKE TO HIM BRIEFLY THERE. AT SOME POINT IN
4 TIME, I'M NOT SURE WHEN, WHEN THIS TRANSPIRED AFTER I
5 GOT THERE, I ASKED MR. BOLIN TO STEP UPSTAIRS WITH ME
6 AND TALKED TO HIM UP THERE.

7 Q OKAY.

8 A AND WENT BACK DOWNSTAIRS.

9 Q OKAY. AND DID YOU READ HIM HIS RIGHTS AGAIN?

10 A NO, SIR. I HAD BEEN ADVISED THAT HE HAD BEEN
11 MIRANDIZED AND THAT HE WAS AWARE OF HIS RIGHTS.

12 Q OKAY. AND WERE YOU ADVISED THAT HE HAD WAIVED
13 HIS RIGHTS?

14 A YES, SIR.

15 Q NOW WERE YOU PRIVY TO THE STATEMENT, THE ONE
16 PAGE STATEMENT, THAT SERGEANT JAMISON HAD RECEIVED
17 FROM HIM?

18 A YES, SIR, I SAW THE STATEMENT.

19 Q SO YOU GOT A CHANCE TO LOOK AT THAT?

20 A YES, SIR.

21 Q SO ULTIMATELY YOU HAD A CHANCE TO TALK TO HIM.
22 DID YOU PROMISE HIM OR THREATEN HIM IN ANY MANNER TO
23 GET HIM TO TALK TO YOU?

24 A NO, SIR.

25 Q DID YOU GIVE HIM SOME HOPE OF REWARD IF HE WOULD

1 COMMUNICATE, THAT YOU WOULD GO LIGHT ON HIM OR
2 ANYTHING OF THAT NATURE?

3 A NO, SIR.

4 Q OKAY. DID HE APPEAR TO BE UNDER THE INFLUENCE
5 OF ALCOHOL OR DRUGS TO THE EXTENT THAT HE COULDN'T
6 UNDERSTAND WHAT YOU WERE TALKING ABOUT?

7 A NO, SIR.

8 Q OKAY. WERE YOU ABLE TO CARRY ON A CONVERSATION?

9 A YES, SIR.

10 Q OKAY. INITIALLY WHEN YOU WERE TALKING TO HIM
11 WHEN YOU FIRST GOT THERE, AT THAT POINT WAS HE UNDER
12 ARREST?

13 A NO, SIR.

14 Q OKAY. NOW SUBSEQUENTLY AS YOU HAD AN
15 OPPORTUNITY TO TALK TO HIM, DID YOU TAKE A WRITTEN
16 STATEMENT FROM HIM?

17 A YES, SIR. I DID TAKE A WRITTEN STATEMENT FROM
18 HIM. I THINK THE SECOND TIME WE WENT UPSTAIRS AND
19 TALKED HE DID PROVIDE A WRITTEN STATEMENT I WROTE FOR
20 HIM.

21 Q OKAY. AND YOU SAY YOU WROTE IT FOR HIM?

22 A YES, SIR.

23 Q DID YOU GIVE HIM AN OPPORTUNITY TO LOOK OVER IT?

24 A YES, SIR.

25 Q OKAY. DID YOU GIVE HIM AN OPPORTUNITY TO SIGN

1 AND INITIAL IT OR CHANGE ANYTHING HE'D LIKE TO
2 CHANGE?

3 A YES, SIR.

4 Q OKAY. I SHOW YOU STATE'S EXHIBIT 128 AND ASK IF
5 YOU LOOK AT ALL THREE PAGES AND TELL ME IF YOU
6 RECOGNIZE THAT?

7 A YES, SIR, I DO.

8 Q NOW DOES THAT ACCURATELY REFLECT THE STATEMENT
9 THAT WAS GIVEN TO YOU BY MR. BOLIN?

10 A YES, SIR, IT IS.

11 Q AND DID HE SIGN IT IN YOUR PRESENCE?

12 A YES, SIR.

13 Q OKAY. WAS THERE A QUESTION OR AN ISSUE -- IF IT
14 PLEASE THE COURT, YOUR HONOR, I'LL HAND THIS UP
15 BECAUSE I'M NOT GOING TO GO THROUGH THE WHOLE
16 CONTENTS -- BUT WAS THERE A QUESTION OR ISSUE ABOUT
17 THE LOCATION OF HIS .45 CALIBER WEAPON?

18 A YES, SIR, THERE WAS.

19 Q OKAY. DID THERE COME A POINT IN WHICH THE
20 CONVERSATION THAT HE HAD GIVEN YOU SOME INFORMATION
21 HERE AND THEN SUBSEQUENTLY HE GAVE YOU SOME MORE
22 INFORMATION ABOUT THE .45?

23 A YES, SIR.

24 Q OKAY. COULD YOU, IF YOU WOULD, EXPLAIN THAT
25 JUST BRIEFLY TO THE JUDGE ON PAGE 2, EXPLAIN WHAT

1 WE'RE REFERENCING?

2 A OKAY. AFTER HIS INITIAL STATEMENT TO ME WE
3 RECEIVED SOME MORE INFORMATION THAT THE INFORMATION
4 HE HAD PROVIDED TO US WAS NOT ENTIRELY ACCURATE AND
5 WE CONFIRMED IT WITH THE INFORMATION THAT WE BECAME
6 AWARE OF AND ADVISED HIM THAT HE NEEDED TO TELL US
7 EXACTLY WHAT TOOK PLACE AND WHAT HE DID WITH THE GUN
8 AND THAT'S WHEN HE ADDED THE LAST PARAGRAPH THAT HE
9 HAD NOT BEEN TRUTHFUL IN HIS FIRST STATEMENT AS FAR
10 AS THE WHEREABOUTS OF THE WEAPON AND I HAD HIM WRITE
11 IN WHAT HE HAD ACTUALLY DONE WITH IT.

12 Q AND SO BASICALLY THE FIRST STATEMENT HE SAID HE
13 DIDN'T KNOW WHO HAD GOTTEN THE GUN AND IN THE SECOND
14 THE VERY LAST PARAGRAPH HE ADDS WHO ACTUALLY HAD THE
15 GUN BECAUSE YOU GUYS HAD INDEPENDENTLY TRACKED THAT
16 DOWN, IS THAT CORRECT?

17 A YES, SIR.

18 Q OKAY. AND DID YOU MAKE ANY THREATS TO GET HIM
19 TO CHANGE OR ADD ANYTHING?

20 A NO, SIR.

21 Q DID YOU GIVE HIM ANY PROMISES?

22 A NO, SIR.

23 Q AND THE LAST PART THAT WAS CHANGED, I KNOW THERE
24 WAS SOME TIMES WHEN HE WAS DOWNSTAIRS AND WOULD GO
25 DOWN WITH JAMISON AND WOULD COME BACK UP, DID THIS

1 ALL TAKE PLACE IN ONE SITTING INCLUDING THE LAST PART
2 OR WAS THAT SOMETHING --

3 A ALL THAT STATEMENT WAS GIVEN LAST TIME WE WENT
4 UPSTAIRS TO TALK. HE DIDN'T GO UPSTAIRS, WRITE THE
5 STATEMENT, AND COME BACK DOWN; THIS WAS ALL WROTE THE
6 LAST TIME WE TOOK HIM UPSTAIRS TO TALK.

7 Q AND THIS WAS AT 4:30 A.M., IS THAT CORRECT?

8 A YES, SIR.

9 MR. POPE: STATE'S EXHIBIT 128 I REQUEST
10 BE ADMITTED FOR THIS HEARING, YOUR HONOR.

11 THE COURT: ANY OBJECTION?

12 MR. GREELEY: NO OBJECTION.

13 MR. MCKINNEY: NO, YOUR HONOR.

14 (STATE'S EXHIBIT 128 STATEMENT MARKED FOR
15 IDENTIFICATION.)

16 Q ONCE HE HAD GIVEN YOU THE INFORMATION
17 SPECIFICALLY ABOUT THE .45 AND THE GUN AND YOU KNEW
18 WHAT YOU HAD AT THE SCENE FROM THE VICTIM ON LAWRENCE
19 ROAD, AT THAT POINT WAS HE FREE TO LEAVE? ONCE YOU
20 FOUND OUT ABOUT THE .45 AND THAT HE HAD ADMITTED TO
21 FIRING THE .45 INTO THE VICTIM'S CAR?

22 A AT THAT POINT WE DETERMINED HE WAS GOING TO BE
23 ARRESTED, THAT HE WAS IN CUSTODY.

24 Q OKAY. AND THAT WAS POST THIS STATEMENT; THAT
25 WAS AFTER THIS STATEMENT?

1 A AFTER THAT STATEMENT WAS GIVEN.

2 Q AND IN FACT I THINK YOU DID ARREST HIM AT 5:30
3 THAT MORNING OR THEREABOUTS?

4 A APPROXIMATELY 5:30, YES, SIR.

5 Q OKAY. AND SO THIS STATEMENT, THE 4:30
6 STATEMENT, IS ACTUALLY WHAT ULTIMATELY MADE THE
7 DECISION THAT YOU WOULD IN FACT ARREST HIM?

8 A YES, SIR.

9 Q OKAY. UP UNTIL THAT POINT YOU TALKED TO HIM
10 UPSTAIRS AND HE'S GONE DOWN, UP UNTIL THAT POINT WAS
11 HE IN CUSTODY THEN?

12 A NO, SIR.

13 Q OKAY. CALLING YOUR ATTENTION TO THE STATEMENT,
14 THE FIRST PAGE AND THE SECOND PAGE SAYS LIKE 4:30 AT
15 THE BOTTOM AND THE FINAL SIGNATURE SAYS 4:52, WHAT
16 DOES THAT MEAN? IT'S 4:30 AT THAT STARTING AND 4:52
17 WHEN IT ENDS OR WHAT DOES THAT DENOTE? WOULD YOU
18 LIKE TO SEE A COPY OF IT?

19 A CAN I SEE IT?

20 Q YEAH.

21 A I'M NOT SURE IF I WROTE THAT OR NOT. I THINK
22 4:52 IS WHEN THE LAST, THIS LAST PARAGRAPH WHERE WE
23 HAD TALKED TO HIM SOME MORE AND HE DECIDED TO TELL US
24 WHAT HE HAD DONE WITH THE GUN, I THINK PROBABLY THE
25 STARTING TIME OF THAT STATEMENT.

1 Q SO THE WINDOW BETWEEN 4:30 AND 4:52 IS WHEN THE
2 TOTALITY OF THIS IS COMING OUT?

3 A YES, SIR.

4 MR. POPE: ANSWER ANY QUESTIONS THE
5 DEFENSE MAY HAVE.

6 A YES, SIR.

7 MR. GREELEY: MAY IT PLEASE THE COURT.
8 CROSS EXAMINATION BY MR. GREELEY:

9 Q GOOD AFTERNOON, DETECTIVE PATTERSON.

10 A GOOD AFTERNOON.

11 Q NOW AT SOME POINT DURING THE EVENING YOU WORKED
12 WITH DEPUTY SMITH WHO IS DOING THE FORENSICS, IS THAT
13 CORRECT?

14 A YES.

15 Q AND YOU TALKED WITH HIM ABOUT SEARCHING
16 MR. BOLIN'S TRUCK AND YOU ALSO TALKED TO HIM ABOUT A
17 GSR KIT, IS THAT CORRECT?

18 A YES, SIR.

19 Q OKAY. AND YOU WENT TO HIM BECAUSE, TO
20 MR. SMITH, BECAUSE OF INFORMATION YOU HAD OBTAINED IN
21 TALKING WITH BERRY ABOUT GETTING A GSR KIT, IS THAT
22 CORRECT? YOU SAW IT AS BEING A POSSIBILITY THAT WE
23 MIGHT WANT TO DO THIS?

24 A YES, SIR, I JUST, IT'S NORMAL PROCEDURE TO DO A
25 GSR ON ANYBODY POSSIBLY INVOLVED.

1 Q RIGHT. SO IT'S NORMAL PROCEDURE TO DO A GSR ON
2 ANYBODY THAT'S POSSIBLY INVOLVED?

3 A NO, SIR. NO, I'M SAYING, I DON'T RECALL
4 ACTUALLY WHEN I WENT TO SPEAK TO MR. SMITH ABOUT IT.
5 I KNEW HE WAS GOING TO BE DOING IT. I ASKED HIM WHAT
6 HE WAS GOING TO BE DOING.

7 Q RIGHT.

8 A I DIDN'T INSTRUCT HIM TO DO A GSR.

9 Q BUT PRIOR TO THAT YOU HAD ALREADY TALKED WITH
10 MR. BOLIN?

11 A YES, SIR.

12 Q OKAY. AND YOU INDICATED THAT AT SOME POINT
13 DURING THE EVENING YOU HAD BEEN TOLD THAT HE HAD BEEN
14 ADVISED OF HIS RIGHTS AND HAD SIGNED THE WAIVER, IS
15 THAT CORRECT?

16 A YES, SIR.

17 Q AND SO AT NO TIME DURING THAT EVENING DID YOU
18 READ HIM PERSONALLY HIS RIGHTS OR HAVE HIM SIGN A
19 WAIVER YOURSELF, DID YOU?

20 A NO, SIR, DID NOT.

21 Q PARDON?

22 A NO, SIR.

23 Q NOW ACCORDING TO THE DOCUMENT THAT'S JUST BEEN
24 ENTERED WHICH IS COURT'S EXHIBIT 128, THE TWO TIMES
25 ON IT ARE 4:30 AND THEN 4:52, IS THAT CORRECT?

1 A YES, SIR.

2 Q OKAY. WAS THERE ANYONE ELSE INVOLVED IN THE
3 SOLICITATION OF THIS INFORMATION FROM MR. BOLIN OTHER
4 THAN YOURSELF?

5 A YES, SIR. LIEUTENANT TIM HAGER.

6 Q WHEN DID HE ARRIVE IN CLOVER, DO YOU KNOW?

7 A NO, SIR, I DON'T KNOW THE TIME THAT HE ARRIVED.

8 Q OKAY.

9 A IT WAS AFTER I ARRIVED. HE GOT TO THE PD AFTER
10 I DID.

11 Q OKAY. AND THE FIRST PART OF THAT STATEMENT WAS
12 DONE AT 4:30 A.M. ACCORDING TO THAT TIME, IS THAT
13 CORRECT?

14 A YES, SIR.

15 Q AND SO MR. BOLIN HAD BEEN AT THE CLOVER POLICE
16 DEPARTMENT FOR APPROXIMATELY THREE HOURS AT THE TIME
17 THAT THAT STATEMENT WAS GIVEN, IS THAT CORRECT?

18 A I'M NOT AWARE OF WHAT TIME HE ACTUALLY ARRIVED
19 AT THE PD. HE WAS THERE WHEN I GOT THERE.

20 Q AND WHEN YOU GOT THERE WHO WAS HE SITTING WITH?

21 A DEPUTY JAMISON. THERE WAS A YOUNG, A FEMALE IN
22 THE ROOM AS WELL, I DON'T RECALL HER NAME.

23 Q MAYBE A MS. BARFIELD, POSSIBLY. AT ANY TIME DO
24 YOU KNOW OF THAT MR. BOLIN WAS LEFT ALONE WITH NO
25 PRESENCE OF LAW ENFORCEMENT?

1 A NOT TO MY KNOWLEDGE, NO, SIR.

2 Q OKAY. AND AT WHAT POINT IN TIME IF ANY DID YOU
3 TELL OFFICER JAMISON THAT WE NEED TO KEEP AN EYE ON
4 HIM AND HE DOESN'T NEED TO LEAVE HERE?

5 A I DON'T KNOW WHEN I WOULD HAVE TOLD HIM, BUT I
6 DO REMEMBER ADVISING DEPUTY JAMISON THAT WE NEEDED TO
7 BE TALKING TO HIM. HE WAS STILL PART, THE
8 INVESTIGATION WAS ONGOING.

9 Q HE NEEDED TO STAY SO Y'ALL COULD TALK WITH HIM?

10 A YES, SIR.

11 Q OKAY. SO YOU DID TELL DETECTIVE, I MEAN DEPUTY
12 JAMISON THAT?

13 A YES, SIR.

14 Q BUT YOU DON'T RECALL WHAT TIME?

15 A NO, SIR, I SURE DON'T.

16 Q AND AFTER TELLING DEPUTY JAMISON THAT, WOULD YOU
17 HAVE EXPECTED DEPUTY JAMISON TO HAVE STOPPED HIM HAD
18 HE DECIDED HE WAS GOING TO LEAVE?

19 A I GUESS I WOULD HAVE ASKED HIM IF HE, I WOULD
20 HAVE WANTED HIM TO ADVISE ME IF THAT WAS TAKING PLACE
21 AND WE COULD HAVE FIGURED OUT WHAT WAS GOING TO BE
22 DOING NEXT. I'M NOT SURE WHAT HIS ACTIONS WOULD HAVE
23 BEEN IF MR. BOLIN DECIDED TO LEAVE.

24 Q OKAY. SO THERE IS A GOOD POSSIBILITY YOU WOULD
25 HAVE DONE SOMETHING THOUGH TO CONTINUE HIS PRESENCE

1 THERE SO Y'ALL COULD CONTINUE YOUR INVESTIGATION?

2 A I'M NOT REALLY SURE HOW TO ANSWER THAT, SIR.

3 I'M NOT SURE WHAT YOU ARE ASKING.

4 Q OKAY. LET ME SEE IF I CAN REPHRASE IT. YOU'VE

5 ALREADY SAID THAT AT ONE POINT IN TIME YOU DID TELL

6 DEPUTY JAMISON THAT IT WOULD BE A GOOD IDEA TO KEEP

7 AN EYE ON MR. BOLIN AND TO KEEP HIM THERE AT THE

8 POLICE DEPARTMENT SO Y'ALL COULD CONTINUE YOUR

9 INVESTIGATION OF HIM?

10 A YES, SIR.

11 Q IS THAT CORRECT?

12 A YES, SIR.

13 Q AND SO IN INSTRUCTING, AS A DETECTIVE IN

14 INSTRUCTING DEPUTY JAMISON OF THAT, WOULD YOU NOT

15 HAVE EXPECTED DEPUTY JAMISON, IF MR. BOLIN HAD

16 DECIDED TO LEAVE, TO HAVE STOPPED HIM FROM LEAVING?

17 A YES, SIR.

18 Q OKAY. AND DO YOU KNOW WHAT TIME YOU TOLD DEPUTY

19 JAMISON THAT?

20 A NO, SIR, I DON'T.

21 Q OKAY. HOW MANY TIMES DID YOU TAKE HIM UPSTAIRS

22 THAT EVENING?

23 A TWICE THAT I CAN RECALL. TWO TIMES I'M CERTAIN

24 OF.

25 Q OKAY. COULD IT HAVE BEEN MORE?

1 A THAT'S POSSIBLE. IT WAS, THERE WAS A LOT GOING
2 ON. TWICE THAT I CAN HONESTLY SAY I'M GOING TO TAKE
3 HIM UPSTAIRS.

4 Q RIGHT. YOU KNOW IT'S AT LEAST A MINIMUM OF TWO?

5 A YES, SIR.

6 Q OKAY. AND WHERE WOULD YOU TAKE HIM WHEN YOU
7 TOOK HIM UP THERE?

8 A AT THE TOP OF THE STAIRS THERE IS A LARGE ROOM,
9 AN OPEN ROOM, WITH A DESK OR TWO.

10 Q OKAY. AND WHERE WOULD HE SIT?

11 A THERE WAS A DESK AT THE TOP OF THE STAIRS.

12 Q AT A DESK AT THE TOP OF THE STAIRS INSIDE THE
13 ROOM?

14 A WELL, IT'S AN OPEN ROOM. YOU GO TO THE TOP OF
15 THE STAIRS, THERE IS A LARGER ROOM, AND THERE'S SOME
16 ROOMS OFF TO THE SIDE. WE JUST STAYED IN THE OPEN
17 PART.

18 Q OKAY. AND WHEN YOU SAY "WE" WHO IS WE?

19 A MYSELF AND MR. BOLIN. I THINK AT ONE POINT IN
20 TIME THERE MIGHT HAVE BEEN ANOTHER CLOVER POLICE
21 OFFICER UPSTAIRS ON THE PHONE TALKING TO SOMEBODY.

22 Q OKAY. AND HOW WERE YOU DRESSED THAT NIGHT? DID
23 YOU HAVE A GUN?

24 A YES, SIR.

25 Q OKAY. WERE YOU DRESSED IN PLAIN CLOTHES?

1 A PLAIN CLOTHES, YES, SIR.

2 Q OKAY. HE KNEW YOU WERE A POLICE OFFICER THOUGH?

3 A YES, SIR.

4 Q OKAY. AND AT WHAT POINT DID DETECTIVE HAGER,
5 LIEUTENANT HAGER, ENTER THE PICTURE?

6 A I THINK IT WAS LATER IN THE MORNING AFTER, YOU
7 KNOW, PRIOR TO GOING BACK UPSTAIRS A SECOND, I KNOW
8 THE SECOND TIME I TOOK HIM UPSTAIRS WHEN HE GOT THE
9 STATEMENT IS WHEN LIEUTENANT HAGER ARRIVED AND WE
10 WENT UPSTAIRS AND SPOKE WITH MR. BOLIN.

11 Q OKAY.

12 A I DON'T KNOW WHAT TIME IT WAS.

13 Q YOU DON'T KNOW WHAT TIME IT WAS?

14 A NO, SIR.

15 Q THE FIRST TIME YOU TOOK HIM UPSTAIRS, WHAT DID
16 YOU TALK ABOUT?

17 A WHAT HAD HAPPENED AT THE PARTY.

18 Q SO YOU WERE QUESTIONING HIM?

19 A YES, SIR.

20 Q OKAY. YOU DON'T KNOW WHAT TIME THAT WAS, DO
21 YOU?

22 A NO, SIR.

23 Q BUT YOU SEPARATED HIM FROM MS. BARFIELD, TOOK
24 HIM UPSTAIRS, AND QUESTIONED HIM?

25 A YES, SIR.

1 Q WAS IT JUST THE TWO OF YOU?

2 A AS I RECALL MYSELF AND MR. BOLIN AND I BELIEVE
3 THERE WAS A CLOVER POLICE OFFICER UPSTAIRS WHEN I GOT
4 UP THERE. AT SOME POINT IN TIME MY SUPERVISOR
5 LIEUTENANT TOLSON ARRIVED AND SHE CAME UPSTAIRS I
6 BELIVE WHEN MR. BOLIN AND I WERE ALREADY UPSTAIRS AND
7 I KIND OF FILLED HER IN ON WHAT WAS GOING ON, WHAT WE
8 KNEW AT THAT POINT IN TIME.

9 Q OKAY. AND DID SHE PARTICIPATE IN THE MEETING?

10 A I THINK SHE SPOKE TO MR. BOLIN. I'M NOT SURE
11 HOW LONG SHE, YOU KNOW, SHE LEFT TO GO BACK OUT TO
12 LAWRENCE ROAD SHORTLY AFTER SHE GOT THERE.

13 Q THE FIRST TIME YOU TOOK HIM UPSTAIRS WHAT DO YOU
14 RECALL HIM SAYING BASED ON YOUR INQUIRY?

15 A THAT THERE HAD BEEN A PARTY AND THERE WAS SOME
16 FIGHTING, THINGS HAD GOTTEN REALLY OUT OF HAND, AND
17 HE LEFT.

18 Q DID YOU TAKE ANY NOTES FROM THAT FIRST MEETING?

19 A NO, SIR.

20 Q YOU DIDN'T?

21 A NO, SIR.

22 Q OKAY. HOW LONG DID YOU MEET WITH HIM THAT FIRST
23 TIME?

24 A I DON'T RECALL.

25 Q SO YOU DIDN'T RECORD OR TAKE NOTES OF WHAT YOU

1 AND MR. BOLIN TALKED ABOUT IN YOUR FIRST MEETING WITH
2 HIM THAT EVENING UPSTAIRS, CORRECT?

3 A NO, SIR, I DIDN'T TAKE ANY NOTES.

4 Q PARDON?

5 A NO, SIR, I DIDN'T TAKE ANY NOTES.

6 Q OKAY. AND SO HOW LONG DID Y'ALL TALK THE FIRST
7 TIME?

8 A APPROXIMATELY? I'D HAVE TO GUESS. I DON'T
9 KNOW. I DON'T KNOW HOW LONG WE WERE UPSTAIRS. I CAN
10 GUESS BUT I'M NOT SURE.

11 Q OKAY. GIVE ME APPROXIMATION -- 30 MINUTES?

12 A MAYBE HALF HOUR.

13 Q OKAY. ALL RIGHT. AND YOU WERE ASKING HIM
14 QUESTIONS AND HE WAS ANSWERING THE QUESTIONS?

15 A YES, SIR.

16 Q OKAY. AT SOME POINT IN TIME YOU TOOK HIM BACK
17 DOWNSTAIRS?

18 A YES, SIR.

19 Q TO DEPUTY JAMISON, IS THAT CORRECT?

20 A YES, SIR.

21 Q HAD HIM SIT IN THE ROOM WHERE DEPUTY JAMISON
22 WAS, IS THAT CORRECT?

23 A YES, SIR.

24 Q WHAT DID YOU DO THEN?

25 A I WAS MAKING PHONE CALLS. I WAS IN CONTACT WITH

1 OTHER LAW ENFORCEMENT PEOPLE, TALKING TO OTHER FOLKS,
2 COMING AND GOING.

3 Q OKAY. DO YOU RECALL WHETHER LIEUTENANT HAGER
4 WAS THERE YET? DID HE, LET ME REPHRASE. DID HE
5 PARTICIPATE IN YOUR FIRST MEETING UPSTAIRS WITH
6 MR. BOLIN?

7 A NO, SIR.

8 Q OKAY. THEN DID YOU GO DOWN AND GET MR. BOLIN
9 AND TAKE HIM BACK UPSTAIRS A SECOND TIME?

10 A I TOOK HIM UPSTAIRS A SECOND TIME.

11 Q OKAY. WHAT TIME WAS THAT?

12 A IT WAS WHEN THE STATEMENT WAS WRITTEN, SO I'M
13 NOT SURE. I GUESS IT WAS AROUND 4:30.

14 Q OKAY. WHO WAS THERE IN THE ROOM AT THAT POINT
15 IN TIME?

16 A I BELIEVE LIEUTENANT HAGER WAS BACK UPSTAIRS
17 WITH ME THE SECOND TIME.

18 Q OKAY. AND TELL ME WHAT Y'ALL SAID TO MR. BOLIN
19 AT THE BEGINNING OF THAT MEETING?

20 A LIEUTENANT HAGER ASKED HIM DID, YOU'VE BEEN
21 MIRANDIZED, YOU KNOW YOUR RIGHTS, AND HE ASKED HIM IF
22 HE WAS AWARE OF HIS RIGHTS, HAD ALREADY BEEN READ TO
23 HIM, AND HE SAID THAT HE WAS.

24 Q OKAY. AND IT WAS AT THAT MEETING THAT THIS
25 STATEMENT WAS PRODUCED, IS THAT CORRECT?

1 A YES, SIR.

2 Q NOW EARLIER IN THE EVENING DEPUTY JAMISON
3 ALLOWED MR. BOLIN TO WRITE A STATEMENT IN HIS OWN
4 HANDWRITING, BUT YOU DIDN'T DO THAT, IS THAT CORRECT?

5 A YES, SIR.

6 Q DO YOU HAVE ANY NOTES FROM THIS SECOND MEETING?

7 A NO, SIR.

8 Q YOU DON'T HAVE ANY NOTES AT ALL?

9 A NO, SIR.

10 Q DO YOU TAKE NOTES DURING THOSE MEETINGS?

11 A IN ALL MY INTERVIEWS?

12 Q YES.

13 A NOT EVERY INTERVIEW. SOMETIMES I DO.

14 Q OKAY. SO YOU DIDN'T HAVE ANY NOTES FROM THE
15 FIRST MEETING, IS THAT CORRECT? DIDN'T HAVE ANY
16 NOTES FROM THE SECOND MEETING. IS IT A FAIR
17 STATEMENT TO SAY THAT BERRY BOLIN WAS PRETTY MUCH, HE
18 COULDN'T LEAVE WHEN HE WAS TALKING WITH Y'ALL, COULD
19 HE?

20 A AT THAT POINT IN TIME HE WAS NOT UNDER ARREST.

21 Q Y'ALL HAD MADE THE DECISION THOUGH PROBABLY TO
22 ARREST HIM, HAD YOU NOT, AND YOU WERE JUST GOING TO
23 WAIT AND SEE WHAT THE STATEMENT SAID?

24 A NO, SIR, HE PROVIDED THE STATEMENT SAYING, YOU
25 KNOW, WHAT HAD TAKEN PLACE AND THAT'S WHEN WE DECIDED

1 TO ARREST HIM.

2 Q ALL RIGHT. BUT HOW LONG DID YOU TALK TO HIM
3 BEFORE YOU STARTED WRITING THE STATEMENT?

4 A I'M NOT SURE HOW LONG WE HAD BEEN UP THERE WHEN
5 WE DECIDED TO TAKE THAT STATEMENT.

6 Q AND YOU WROTE IT, CORRECT?

7 A YES, SIR.

8 Q AND WHEN Y'ALL TOOK THAT STATEMENT AND WHEN YOU
9 WROTE THAT STATEMENT HE DIDN'T SIGN ANOTHER WAIVER OF
10 RIGHTS, DID HE?

11 A NO, SIR.

12 Q AND HE WASN'T READ HIS RIGHTS, WAS HE? HE WAS
13 JUST REMINDED OF WHAT HE HAD PREVIOUSLY SIGNED, IS
14 THAT CORRECT?

15 A YES, SIR.

16 MR. GREELEY: THAT'S ALL I HAVE FOR NOW,
17 YOUR HONOR.

18 MR. MCKINNEY: I HAVE NOTHING, YOUR HONOR.

19 THE COURT: ALL RIGHT. ANYTHING FURTHER?

20 MR. POPE: NO, SIR, YOUR HONOR.

21 THE COURT: YOU CAN STEP DOWN.

22 MR. POPE: THIS WITNESS ALSO BE EXCUSED,
23 YOUR HONOR?

24 THE COURT: CERTAINLY.

25 MR. POPE: THE STATE WOULD CALL RUSS

1 YEAGER.

2 RUSS YEAGER, BEING FIRST DULY
3 SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. POPE:

5 Q DETECTIVE YEAGER, STATE YOUR NAME AND SPELL YOUR
6 LAST NAME PLEASE FOR THE COURT REPORTER?

7 A JAMES RUSSELL YEAGER. Y-E-A-G-E-R.

8 Q WHERE ARE YOU EMPLOYED?

9 A WITH THE YORK COUNTY SHERIFF'S OFFICE.

10 Q HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

11 A STARTED IN '89.

12 Q IN WHAT CAPACITY WERE YOU INVOLVED IN THIS
13 PARTICULAR CASE?

14 A I'M ASSIGNED TO THE CRIMES AGAINST PERSONS UNIT.
15 DETECTIVE IN THE CRIMES AGAINST PERSON.

16 Q DO YOU HAVE THE AUSPICIOUS AUTHORITY TO BE,
17 WHAT, CASE AGENT, WHAT YOU CALL IT?

18 A CASE AGENT, YES, SIR.

19 Q WHAT DOES THAT MEAN?

20 A THE CASE IS ASSIGNED TO ONE DETECTIVE EVEN
21 THOUGH THERE MAY HAVE BEEN SEVERAL DETECTIVES THAT
22 WORK THE CASE. RIGHT NOW THERE IS ONLY TWO PEOPLE IN
23 OUR DIVISION OF THREE, COUNTING OUR SUPERVISOR, BUT
24 ONE OF US WOULD HAVE TO BE THE CASE AGENT WHEN IT'S A
25 HOMICIDE SO I GOT THIS ONE.

1 Q WHEN DID YOU ACTUALLY BECOME INVOLVED IN THIS
2 CASE?

3 A I WAS CALLED OUT ON THE 19, SUNDAY MORNING
4 AROUND, I THINK IT WAS ABOUT 7:30 WHEN I WAS PAGED.

5 Q SO THE CRIME TAKES PLACE AROUND MIDNIGHT THAT
6 SATURDAY NIGHT INTO SUNDAY MORNING AND YOU ARE COMING
7 IN SUNDAY MORNING?

8 A YES, SIR.

9 Q OKAY. AND DID YOU HAVE ALL OF THE INFORMATION,
10 ALL THESE DIFFERENT STATEMENTS AND REPORTS, WERE YOU
11 MADE AWARE OF ALL OF THE THINGS THAT WERE KIND OF
12 HAPPENING DURING THE NIGHT?

13 A RIGHT. WHEN I CAME INTO THE OFFICE MYSELF AND
14 DETECTIVE STRAIT, WHEN WE ARRIVED AT THE SHERIFF'S
15 OFFICE, WE WERE MET BY DETECTIVE PATTERSON,
16 LIEUTENANT TOLSON, LIEUTENANT HAGER, CAPTAIN HOFFMAN.

17 Q OKAY. AND DID YOU HAVE AN OPPORTUNITY TO TALK
18 TO MR. BOLIN?

19 A YES, SIR, LATER THAT AFTERNOON OR THAT EVENING.

20 Q AND WHERE DID THAT TAKE PLACE?

21 A AT THE JAIL AT THE MOSS JUSTICE CENTER.

22 Q HE WAS UNDER ARREST AT THAT TIME?

23 A YES, SIR.

24 Q OKAY. AND WHAT WAS YOUR PURPOSE FOR GOING TO
25 TALK TO HIM?

1 A WELL, THAT MORNING WHEN WE WERE CALLED IN WE
2 WERE GETTING, YOU KNOW, DIFFERENT STORIES. WE WERE
3 TRYING TO FIND ALL THE WITNESSES THAT WERE AT THE
4 PARTY THAT AFTERNOON. HE HAD WRITTEN ONE STATEMENT
5 AND ALSO HAD TALKED WITH DETECTIVE PATTERSON AND HAD
6 WROTE A STATEMENT. MYSELF AND DETECTIVE STRAIT WENT
7 DOWN TO INTERVIEW HIM FOR SOME CLARIFICATIONS ON SOME
8 QUESTIONS THAT WE HAD.

9 Q SO YOU WERE KIND OF DOING A, YOU GOT EVERYTHING
10 YOU GOT, YOU WERE KIND OF DOING A FOLLOW UP?

11 A A FOLLOW UP, YES, SIR.

12 Q AND WHERE DID YOU TALK TO HIM OVER AT THE JAIL?

13 A IN A CONFERENCE ROOM IN THE DETENTION CENTER.

14 Q OKAY. AND WHO WAS PRESENT IN THAT CONFERENCE
15 ROOM?

16 A MYSELF, DETECTIVE STRAIT, AND THE DEFENDANT.

17 Q OKAY. AND CERTAINLY AT THAT POINT HE WAS IN
18 MOSS JUSTICE, HE WAS IN CUSTODY, IS THAT CORRECT?

19 A YES, SIR.

20 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO READ HIS
21 RIGHTS TO HIM?

22 A YES, SIR, I DID.

23 Q OKAY. AND HOW DID YOU READ HIM HIS RIGHTS?

24 A ON THE MIRANDA FORM, WE HAVE A FORM WE READ, AND
25 THEN I ASKED HIM IF HE UNDERSTANDS HIS RIGHTS, THERE

1 IS A PLACE FOR HIM TO SIGN IT, AND I READ THEM TO HIM
2 AND ASKED IF HE UNDERSTOOD THOSE RIGHTS, AND HE SAID
3 HE DID.

4 Q SO THIS IS NOW SUNDAY EVENING?

5 A YES, SIR.

6 Q OKAY.

7 A YES, SIR.

8 Q AND I GUESS ABOUT 18 HOURS AFTER THE INCIDENT OR
9 SO?

10 A YES.

11 Q OKAY. AND DID YOU HAVE THE OPPORTUNITY TO, YOU
12 DISCUSS EACH RIGHT, DID HE APPEAR TO UNDERSTAND THOSE
13 RIGHTS?

14 A YES.

15 Q OKAY. DID YOU OR DETECTIVE STRAIT PROMISE HIM
16 OR THREATEN HIM IN ANY MANNER?

17 A NO, SIR.

18 Q WHAT SIZE ROOM IS THAT CONFERENCE ROOM?

19 A WELL, IT'S SMALL; MAYBE 10 BY, 8 BY 8 MAYBE.

20 Q OKAY. AND WHO WAS PRESENT IN THERE?

21 A MYSELF, DETECTIVE STRAIT, AND MR. BOLIN.

22 Q DID YOU GUYS HAVE WEAPONS?

23 A NO, SIR.

24 Q OKAY. AND DID HE INDICATE HE UNDERSTOOD THOSE
25 RIGHTS TO YOU?

1 A YES, HE DID.

2 Q OKAY. AND DID HE WAIVE THOSE RIGHTS TO YOU?

3 A YES.

4 Q OKAY. HAVE YOU DOCUMENTED STATE'S EXHIBIT 129?

5 A YES, SIR.

6 Q OKAY. AND HE SIGNED THAT IN YOUR PRESENCE?

7 A YES, HE DID.

8 Q DID HE APPEAR TO BE WILLING TO TALK TO YOU
9 FREELY AND VOLUNTARILY?

10 A YES, SIR, HE DID.

11 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF
12 ALCOHOL OR DRUGS OR ANYTHING TO THE EXTENT HE
13 COULDN'T UNDERSTAND WHAT YOU WERE SAYING?

14 A NO, SIR.

15 Q DID YOU PROMISE THAT THINGS WOULD GO LIGHTER FOR
16 HIM IF HE COOPERATED WITH YOU?

17 A NO, SIR.

18 Q DID YOU THREATEN HIM WITH HARSHER PUNISHMENT OR
19 INJURY OR ANYTHING OF THAT NATURE IF HE WOULD NOT
20 COOPERATE WITH YOU?

21 A NO, SIR.

22 Q OKAY. FROM YOUR OBSERVATION DID IT APPEAR THAT
23 HE WAS TALKING TO YOU FREELY AND VOLUNTARILY?

24 A YES, SIR.

25 Q AND DID IT APPEAR TO YOU THAT HE UNDERSTOOD

1 THESE RIGHTS?

2 A YES, SIR.

3 Q DID IT APPEAR TO YOU THAT HE WAS WAIVING HIS
4 RIGHTS?

5 A YES, SIR.

6 Q NOW DID YOU ASK HIM QUESTIONS WHEN YOU TALKED TO
7 HIM?

8 A STARTED OUT THE INTERVIEW JUST ASKING IF HE
9 COULD JUST TAKE US THROUGH THE EVENTS OF THE DAY. I
10 EXPLAINED TO HIM, YOU KNOW, I TOLD HIM YOU KNOW I'VE
11 TALKED TO OTHER POLICE OFFICERS AND DETECTIVE EARLIER
12 IN THE DAY, I EXPLAINED TO HIM THIS WOULD BE, THIS
13 CASE WAS BEING ASSIGNED TO MYSELF OR DETECTIVE
14 STRAIT, I EXPLAINED TO HIM THAT WE INVESTIGATED
15 HOMICIDES, AND THESE WERE SERIOUS ASSAULTS AND WE
16 TOLD HIM WE WANTED TO HEAR IT FROM HIM IN HIS OWN
17 WORDS WHAT HAD HAPPENED.

18 Q OKAY. AND WAS HE WILLING TO TELL YOU WHAT
19 HAPPENED?

20 A YES.

21 Q NOW DID YOU ASK HIM KIND OF SPECIFIC QUESTIONS
22 AS FOLLOW UP EVEN TO THAT TO KIND OF FILL IN THE
23 BLANKS IF THERE WERE QUESTIONS YOU HAD?

24 A WELL, I HAD A COPY OF HIS STATEMENT OR BOTH OF
25 HIS STATEMENTS THAT HE HAD WRITTEN EARLIER THAT DAY.

1 I DID HAVE A COPY OF BOTH OF THOSE. FIRST OFF I
2 JUST, I LET HIM JUST GIVE HIS SIDE; WHAT HE SAW, WHAT
3 HE DID WHICH, YOU KNOW, HE TALKED AND AFTER HE WAS
4 FINISHED GIVING HIS STORY, THEN I ASKED HIM SPECIFIC
5 QUESTIONS.

6 Q OKAY. I GOT YOU. AND BOTH THE GENERAL
7 STATEMENT OR HIS STORY AND THE SPECIFIC QUESTIONS DID
8 YOU REDUCE EACH OF THOSE TO WRITING?

9 A YES, SIR.

10 Q OKAY. AND THAT'S ATTACHED HERE TO 129?

11 A YES, SIR.

12 MR. POPE: YOUR HONOR, I MOVE FOR PURPOSES
13 OF THIS HEARING STATE'S EXHIBIT 129.

14 THE COURT: OKAY. ANY OBJECTION.

15 MR. GREELEY: NO OBJECTION.

16 MR. MCKINNEY: NO, YOUR HONOR.

17 (STATE'S EXHIBIT 129 STATEMENT MARKED FOR
18 IDENTIFICATION.)

19 MR. POPE: YOUR HONOR, I BELIEVE THAT WOULD
20 BE MY QUESTIONS. ANSWER ANY QUESTIONS MR. GREELEY
21 MAY HAVE.

22 CROSS EXAMINATION BY MR. GREELEY:

23 Q GOOD AFTERNOON, DETECTIVE YEAGER.

24 A GOOD AFTERNOON.

25 Q NOW BERRY WAS IN THE DETENTION CENTER?

1 A YES, SIR.

2 Q WHEN YOU WENT TO SEE HIM AND THIS WAS SUNDAY
3 AFTERNOON, IS THAT CORRECT?

4 A YES, SIR.

5 Q AND I BELIEVE THAT YOU DATED THE STATEMENT TIME
6 AND THE WAIVER OF RIGHTS TIME. WHERE WAS HE IN THE
7 ROOM? I MEAN, WHERE DID YOU MEET WITH HIM AT THE
8 DETENTION CENTER?

9 A HE WAS IN A HOLDING CELL AND WHEN WE WENT IN WE
10 TOLD THE JAIL STAFF THAT WE NEEDED TO GET HIM OUT OF
11 THE CELL AND INTERVIEW HIM AND AT THAT TIME MYSELF
12 AND DETECTIVE STRAIT TOOK HIM INTO AN INTERVIEW ROOM.

13 Q OKAY. HOW LONG WERE Y'ALL THERE, DO YOU RECALL?

14 A IN THE ROOM?

15 Q YEAH.

16 A PROBABLY GUESSING 45 MINUTES MAYBE, IF THAT
17 LONG.

18 Q DID YOU TAKE THE OTHER STATEMENTS HE HAD GIVEN
19 WITH YOU?

20 A YES.

21 Q WHAT ELSE DID YOU TAKE WITH YOU?

22 A NOTE PAD AND A PEN.

23 Q A BLANK NOTE PAD SO YOU COULD WRITE AND A PEN?

24 A YES, SIR.

25 Q DID YOU HAVE ANYTHING ELSE WITH YOU OTHER THAN

1 HIS PREVIOUS STATEMENTS AND OF COURSE THE NOTE PAD
2 FOR TAKING NOTES?

3 A I CAN'T RECALL THAT I HAD ANYTHING ELSE.

4 Q OKAY. WHAT ABOUT DETECTIVE STRAIT, WAS IT
5 STRAIT?

6 A STRAIT, YES, SIR.

7 Q AND I NOTICED, AND OF COURSE I'VE SEEN THESE, ON
8 THE ONE THAT WAS JUST PUT IN STATE'S EXHIBIT NUMBER
9 129, IS THAT CORRECT?

10 A YES, SIR.

11 Q AT THE CLOVER POLICE DEPARTMENT THEY HAD JUST A
12 BLANK TO WHERE SOMEBODY CAN HAND WRITE IT OUT, RIGHT?

13 A YES, SIR.

14 Q THIS IS LISTED AS AN INCIDENT INTERVIEW REPORT?

15 A YES.

16 Q IS THAT CORRECT?

17 A YES, SIR, THAT'S CORRECT.

18 Q Y'ALL DO THOSE WHEN YOU GO AND TALK WITH SOMEONE
19 AND THEN WHEN YOU GET BACK UP TO YOUR OFFICE OR
20 WHEREVER YOU'VE GOT THE ABILITY YOU THEN MEMORIALIZE
21 IT IN THIS REPORT, IS THAT CORRECT?

22 A THAT'S CORRECT.

23 Q OKAY. SO IT'S NOT SOMETHING THAT HE SIGNS?

24 A NO, SIR.

25 Q DID HE SEEM TO BE COOPERATIVE AT THAT TIME?

- 1 A YES, SIR, HE DID.
- 2 Q DID HE GIVE YOU ANY PROBLEMS?
- 3 A NO, SIR.
- 4 Q ANYBODY ELSE WITH YOU AND DETECTIVE STRAIT?
- 5 A NO, SIR.
- 6 Q OKAY. FOLLOWING THE TIME THAT YOU WENT DOWN AND
- 7 SPOKE WITH HIM THAT WE'RE JUST TALKING ABOUT, DOWN AT
- 8 THE MOSS JUSTICE CENTER, DID YOU TALK WITH HIM
- 9 ANYMORE AFTER THAT?
- 10 A I CAN'T RECALL. I KNOW ONCE THE WARRANTS WERE
- 11 DONE I DID TELL HIM, YOU KNOW, THAT WE WOULD LET HIM
- 12 KNOW. I EXPLAINED TO HIM ABOUT THE, THAT BOBBY HOVIS
- 13 HAD DIED AND WHEN I CALLED HE SAID THAT HE HAD
- 14 ALREADY, HE HAD HEARD THAT. WHEN I WAS TALKING, THE
- 15 DETECTIVES WERE TALKING WITH HIM EARLIER IN THE DAY,
- 16 HE WAS IN THE HOSPITAL AND HE DIDN'T KNOW FOR SURE SO
- 17 I DID TELL HIM.
- 18 Q WHEN THE DETECTIVES WERE TALKING WITH HIM
- 19 EARLIER IN THE DAY ON SUNDAY?
- 20 A YES.
- 21 Q WHO WAS THAT?
- 22 A I DON'T RECALL.
- 23 Q WHERE AT THE JUSTICE MOSS CENTER?
- 24 A I WOULD ASSUME CLOVER. I DON'T KNOW.
- 25 Q OH, OKAY.

1 A IT COULD HAVE BEEN AT THE JAIL, I DON'T KNOW,
2 BUT MR. BOLIN HAD ASKED ME ABOUT THAT.

3 Q OKAY.

4 A AND I TOLD HIM I WOULD LET HIM KNOW.

5 Q BUT OTHER THAN THAT YOU DIDN'T GO IN AND MEET
6 WITH HIM AND TAKE ANY OTHER STATEMENT OTHER THAN --

7 A NO, SIR.

8 Q ---WHAT'S BEEN PUT IN AS THIS COURT EXHIBIT?

9 A RIGHT.

10 Q DO YOU KNOW IF DETECTIVE STRAIT TALKED TO HIM
11 AGAIN?

12 A I DON'T KNOW.

13 Q OKAY. DO YOU HAVE ANY INFORMATION THAT
14 DETECTIVE STRAIT TALKED WITH HIM AGAIN?

15 A NO, SIR.

16 Q HOW LONG DID YOU TALK WITH HIM THAT DAY?

17 A GUESSING 45 MINUTES.

18 Q AND THIS WOULD HAVE BEEN ON A SUNDAY?

19 A YES, SIR, SUNDAY EVENING.

20 Q DID YOU EVER LEAVE MR. BOLIN ALONE WITH
21 DETECTIVE STRAIT?

22 A I DON'T RECALL LEAVING HIM.

23 Q DID YOU THREATEN MR. BOLIN?

24 A NO, SIR.

25 Q AND DO YOU KNOW IF DETECTIVE STRAIT THREATENED

1 HIM?

2 A NO, SIR.

3 Q OKAY.

4 A WE WERE IN THERE TOGETHER AND NOBODY MADE ANY
5 THREATS TO HIM.

6 MR. GREELEY: IF THE COURT WILL INDULGE
7 ME. THAT'S ALL I HAVE FOR NOW, YOUR HONOR.

8 MR. MCKINNEY: I HAVE NOTHING, YOUR HONOR.

9 MR. POPE: NOTHING FURTHER.

10 THE COURT: YOU CAN STEP DOWN. THANK YOU.

11 MR. POPE: MAY IT PLEASE THE COURT, YOUR
12 HONOR. AS TO MR. BOLIN THAT WOULD BE THE PROOF WE
13 WOULD HAVE. I DO HAVE WITNESSES FOR MR. OWENS. I
14 JUST WANT TO CALL TO THE COURT'S ATTENTION. I CAN
15 CONTINUE TO CALL WITNESSES.

16 MR. GREELEY: IF I MAY, YOUR HONOR. I
17 KNOW OF ANOTHER TIME AND A PLACE AND I JUST WANTED
18 TO, THERE WAS A TIME THAT HE WAS TAKEN TO THE SCENE.

19 MR. POPE: YOU WANT TO BE HEARD ON THAT?

20 MR. GREELEY: I WANTED TO MAKE SURE WE
21 HEARD THAT AND GET THE JURY AND THEN THEY STARTED TO
22 ADD IT IN THERE. HE WAS TAKEN OUT TO THE SCENE WITH
23 SOME OFFICERS.

24 MR. POPE: I WASN'T AWARE OF ANY
25 STATEMENTS BUT I GUESS HIS ACTIONS. LET ME MAKE

1 SURE. BEG THE COURT'S INDULGENCE.

2 THE COURT: ALL RIGHT. IS THIS A GOOD
3 TIME TO TAKE A BREAK AND Y'ALL CAN DISCUSS THIS.

4 (COURT'S IN RECESS.)

5 (COURT RESUMES AT 04:13 PM.)

6 THE COURT: CALL YOUR NEXT WITNESS.

7 MR. POPE: YOUR HONOR, WE RECALL DETECTIVE
8 DOUG PATTERSON.

9 THE COURT: ALL RIGHT. YOU ARE STILL
10 UNDER OATH.

11 DIRECT EXAMINATION CONTINUED BY MR. POPE:

12 Q DETECTIVE PATTERSON, THE STATEMENT, AND I DON'T
13 RECALL THE NUMBER, THE JUDGE HAS IT, BUT IT WAS
14 REDUCED TO WRITING BEGINNING AT 4:30 UP UNTIL FIVE
15 O'CLOCK, IS THAT RIGHT?

16 A YES, SIR.

17 Q OKAY. AND SUBSEQUENT TO THAT YOU SAID
18 LIEUTENANT HAGER WAS THERE ALSO, I BELIEVE SOME
19 PERIOD AROUND THAT TIME OR SHORTLY THEREAFTER THAT
20 THE ACTUAL GUN WAS RECOVERED FROM MR. WALLACE, IS
21 THAT CORRECT?

22 A YES, SIR.

23 Q OKAY. ALSO DID YOU HAVE THE OPPORTUNITY TO TAKE
24 MR. BOLIN OUT TO THE LAWRENCE ROAD AREA?

25 A YES, SIR, I DID.

1 Q AND WHAT WAS THE PURPOSE OF GOING THERE?

2 A LIEUTENANT HAGER REQUESTED I BRING HIM OUT THERE
3 SO HE COULD SHOW US WHERE HE WAS STANDING WHEN HE
4 FIRED SHOTS.

5 Q AND DID YOU GO TO THE LAWRENCE ROAD AREA?

6 A YES, SIR.

7 Q AND DID HE INDICATE TO YOU WHERE HE WAS
8 STANDING?

9 A YES, SIR.

10 Q AND DID HE GIVE YOU ANY FURTHER STATEMENTS OUT
11 THERE OTHER THAN INDICATING WHERE HE WAS STANDING?

12 A NO, SIR.

13 Q OKAY. THANK YOU, MR. PATTERSON. ANSWER ANY
14 QUESTIONS MR. GREELEY MAY HAVE.

15 CROSS EXAMINATION MR. GREELEY:

16 Q DETECTIVE PATTERSON, NOW AT THE TIME DID YOU
17 DRIVE BERRY BOLIN OUT TO LAWRENCE ROAD?

18 A YES, SIR, I DID.

19 Q WAS HE UNDER ARREST AT THAT TIME?

20 A YES, SIR, HE WAS.

21 Q OKAY. AND DID ANYONE GO WITH YOU?

22 A LIEUTENANT HAGER FOLLOWED US IN HIS VEHICLE.

23 Q WAS LIEUTENANT HAGER OUT THERE AS WELL?

24 A YES, SIR.

25 Q AND WHEN YOU GOT TO THE SCENE, WHAT DID YOU ASK

1 MY CLIENT?

2 A HE WAS ASKED TO SHOW US WHERE HE WAS STANDING
3 WHEN HE DISCHARGED HIS FIREARM.

4 Q OKAY. AND WHAT DID HE DO?

5 A HE ADVISED, ADVISED US WHERE HE WAS STANDING AT
6 WHEN HE SHOT.

7 Q OKAY. HE DID IT BOTH ORALLY AND ALSO WITH
8 HIS --

9 A WALK.

10 Q ---DEMONSTRATED. DID HE DEMONSTRATE TO YOU?

11 A NOT DEMONSTRATING BUT HE WALKED OUT INTO THE
12 YARD AND HE SAID I WAS APPROXIMATELY RIGHT HERE.

13 Q OKAY. WHAT ELSE DID YOU TALK WITH HIM ABOUT OUT
14 THERE, ANYTHING?

15 A WITH MR. BOLIN? I DIDN'T DISCUSS ANYTHING ELSE
16 WITH HIM.

17 Q WHAT DID Y'ALL DO AFTER HE DID THAT?

18 A I PUT HIM BACK IN MY VEHICLE AND TRANSPORTED HIM
19 TO THE MOSS JUSTICE CENTER.

20 Q SO YOU WENT FROM CLOVER WHERE THE LAST WRITTEN
21 STATEMENT YOU HAD BEEN INVOLVED WITH , IS THAT
22 CORRECT?

23 A YES, SIR.

24 Q AND AT THE CONCLUSION OF THAT STATEMENT HE WAS
25 PLACED FORMALLY UNDER ARREST FOR SOMETHING, IS THAT

- 1 CORRECT?
- 2 A YES, SIR.
- 3 Q AND HANDCUFFED, THE WHOLE BIT?
- 4 A YES, SIR.
- 5 Q AND THAT WAS AT CLOVER, IS THAT CORRECT?
- 6 A AT THE CLOVER POLICE DEPARTMENT, YES, SIR.
- 7 Q THEN YOU TRANSPORTED HIM, YOU WALKED HIM DOWN
- 8 AND PUT HIM IN A CAR, YOUR CAR?
- 9 A YES, SIR.
- 10 Q AND HE WAS IN CUSTODY, CUFFED?
- 11 A YES, SIR.
- 12 Q AND YOU THEN DROVE HIM OUT TO LAWRENCE ROAD ON
- 13 THE WAY TO THE MOSS JUSTICE CENTER, IS THAT CORRECT?
- 14 A YES, SIR.
- 15 Q AND IT IS ON THE WAY IN A WAY, ISN'T IT?
- 16 A IT'S IN THAT GENERAL DIRECTION, YES, SIR.
- 17 Q RIGHT. AND SO THAT WHOLE TIME HE WAS WITH YOU
- 18 AND IN CUSTODY?
- 19 A YES, SIR.
- 20 Q AND THEN AFTER YOU COMPLETED THIS, YOU PUT HIM
- 21 BACK IN THE CAR, CORRECT?
- 22 A YES, SIR.
- 23 Q AND THEN YOU TRANSPORTED HIM HERE, IS THAT
- 24 CORRECT?
- 25 A YES, SIR.

1 Q AND TO YOUR KNOWLEDGE HE HAS BEEN HERE SINCE?

2 A (NO RESPONSE.)

3 Q IS THAT CORRECT, TO YOUR KNOWLEDGE?

4 A THE LAST PLACE I SAW HIM.

5 Q OKAY. DID ANYBODY ELSE PARTICIPATE IN THAT
6 COMMUNICATION OUT AT LAWRENCE ROAD OTHER THAN YOU AND
7 LIEUTENANT HAGER?

8 A THERE WAS QUITE A FEW OTHER LAW ENFORCEMENT
9 PERSONNEL OUT THERE.

10 Q BUT WERE THEY INVOLVED IN THIS OR WERE THEY
11 DOING OTHER THINGS?

12 A (NO RESPONSE.)

13 Q OR DO YOU NOT RECALL?

14 A I DON'T RECALL.

15 Q OKAY.

16 MR. GREELEY: I HAVE NOTHING FURTHER AT
17 THIS TIME, YOUR HONOR.

18 MR. MCKINNEY: I HAVE NOTHING.

19 MR. POPE: I ASK THIS WITNESS BE RELEASED,
20 YOUR HONOR.

21 THE COURT: ALL RIGHT. YOU CAN BE
22 EXCUSED.

23 MR. POPE: THAT WOULD BE THE SHOWING BY
24 THE STATE FOR MR. BOLINS STATEMENT. I'M PREPARED TO
25 GO FORWARD WITH MR. OWENS' STATEMENT. I BELIEVE I'LL

1 HAVE ONE WITNESS IN THAT REGARD.

2 THE COURT: LET'S TAKE MR. BOLIN'S
3 STATEMENT. MR. GREELEY, WHAT ARE YOUR GROUNDS FOR
4 SUPPRESSION. I MEAN, YOU HADN'T ACTUALLY-- I PRESUME
5 YOU ARE MOVING FOR SUPPRESSION.

6 MR. GREELEY: I AM MOVING FOR SUPPRESSION,
7 YOUR HONOR. THE, IF I MAY I'D LIKE TO TAKE THEM ONE
8 AT A TIME BECAUSE IT'S KIND OF A SEQUENCE.

9 IT CAME OUT IN TESTIMONY THAT AT ONE POINT
10 IN TIME MR. BOLIN WAS ADVISED OF HIS RIGHTS AND I
11 BELIEVE THAT THAT CAME OUT WITH DEPUTY, AND IF I MAY
12 REFER TO THE COURT'S EXHIBITS, THAT CAME OUT WITH
13 DEPUTY JAMISON WHO HAD HIM SIGN A WAIVER OF RIGHTS.
14 THAT OCCURRED, ALTHOUGH NO SPECIFIC TIME IS GIVEN, IT
15 IS ASSOCIATED, AND I'VE ONLY GOT TWO HERE, BUT THAT'S
16 OKAY, I REMEMBER WHAT THEY SAY, IT IS ASSOCIATED WITH
17 APPROXIMATELY TWO, I'LL LOOK ON MY COPY, 2:37 IN THE
18 MORNING. SO AROUND 2:30, BASED UPON THAT TESTIMONY,
19 WE HAVE HIS FIRST RIGHTS THAT ARE GIVEN TO HIM. HE
20 IS AT THE CLOVER POLICE DEPARTMENT. HE IS IN THE
21 PRESENCE OF OFFICER DEPUTY JAMISON. ALSO THE
22 TESTIMONY HAS SHOWN THAT PRIOR TO THAT TIME HE
23 ALREADY HAD COMMUNICATION AS WELL WITH DETECTIVE
24 PATTERSON BECAUSE DETECTIVE PATTERSON TESTIFIED THAT
25 HE HAD TALKED WITH BERRY BOLIN AND BERRY BOLIN, BASED

1 UPON WHAT BERRY BOLIN HAD TOLD HIM, THEY DID THE GSR
2 KIT ON BERRY BOLIN. THE GSR KIT TIME IS 1:55 WHICH
3 PREDATES HIS READING OF RIGHTS AND FOR WHEN DETECTIVE
4 PATTERSON BEGAN WORKING WITH MR. BOLIN WHO WAS THERE
5 AT THE POLICE DEPARTMENT WITH DEPUTY JAMISON AND WITH
6 DETECTIVE PATTERSON.

7 SO MY FIRST MOTION, YOUR HONOR, IS THAT
8 FIRST OF ALL WHATEVER WAS SAID PRIOR TO 2:35 TO
9 DETECTIVE PATTERSON REGARDING BERRY BOLIN AND
10 REGARDING THE GUN BECAUSE SPECIFICALLY WHAT THEY WERE
11 DOING WAS THEY GOT HIM TO DO A PERMISSION TO SEARCH
12 HIS TRUCK, THEY WERE LOOKING FOR THE GUN, SO
13 MR. BOLIN HAD TOLD THEM THAT, THEY HAD RECEIVED
14 INFORMATION MR. BOLIN HAD A GUN, HE HAD A .45. THEY
15 WERE LOOKING FOR IT. OKAY. HIS RIGHTS AREN'T READ
16 UNTIL 2:30, AND SO I'M MOVING TO SUPPRESS MR. BOLIN'S
17 STATEMENT IN REGARDS TO THE GUN TO DETECTIVE
18 PATTERSON WHICH BROUGHT ABOUT THEM LOOKING FOR THE
19 TRUCK, IN THE TRUCK, GETTING THE PERMISSION WHICH
20 BROUGHT ABOUT THE GSR KIT THAT THEY PERFORMED HIM ON
21 HIM AT 1:55 AND HIS RIGHTS HAD NEVER BEEN PROVIDED TO
22 HIM AT THAT TIME FOR ANY OF THOSE THINGS, AND SO I'M
23 MOVING TO SUPPRESS ANY STATEMENTS THAT HE GAVE TO
24 THEM WHICH WOULD BE INFORMATION ABOUT THE GUN AND AS
25 FRUIT OF THE POISONOUS TREE I WOULD MOVE TO HAVE THE

1 GUN SUPPRESSED.

2 I BELIEVE THAT MY CLIENT AT THAT POINT IN
3 TIME WAS IN AND I WILL USE THE WORD AS THE LAW LOVES
4 TO USE OF THE WORD CONSTRUCTIVE CUSTODY AS OPPOSED TO
5 ACTUAL BEING ARRESTED, BUT HE WAS AT THE POLICE
6 DEPARTMENT, THEY WERE THERE. DETECTIVE PATTERSON DID
7 INDICATE HE TOLD DEPUTY JAMISON AT ONE POINT THAT HE
8 WAS NOT TO LEAVE, AND THAT THEY WOULD STOP HIM FOR
9 THAT.

10 THE COURT: BUT THAT WAS AFTER THE
11 STATEMENT. THE CHRONOLOGY, I'M GOING TO LET THE
12 SOLICITOR GO OVER IN A MINUTE, BUT THE CHRONOLOGY I
13 THOUGHT WAS DIFFERENT FROM THAT.

14 MR. GREELEY: OKAY.

15 THE COURT: I MEAN, I'M GOING TO WAIT AND
16 LET THE SOLICITOR OUTLINE IT FOR ME, BUT IT'S MY
17 UNDERSTANDING WHEN HE FIRST READ HIS RIGHTS, THE
18 FIRST TIME THAT, I KNOW YOU ARE GOING BEFORE THAT,
19 THAT HE HAD DRIVEN THERE IN HIS OWN CAR AND THAT HIS
20 GIRLFRIEND WAS WITH HIM.

21 MR. GREELEY: YES, SIR.

22 THE COURT: AND OF COURSE NOTHING
23 INDICATED THAT HE WAS IN CONSTRUCTIVE CUSTODY. IN
24 FACT THE LAST CASE I CAN RECALL READING, THEY TOOK
25 HIM IN THE PATROL CAR AND THEY SAID, WELL, HE DIDN'T

1 HAVE A CAR TO GO HOME AND HE DIDN'T DRIVE AND BASED
2 CONSTRUCTIVE CUSTODY ON THE FACT THAT HE WAS KIND OF
3 LOCKED THERE AND UNLESS HE MIGHT HAVE THUMBED, SO
4 THAT'S NOT EVEN CLOSE HERE. THERE IS NO TESTIMONY
5 THEY HAD TAKEN THE KEYS AWAY FROM HIM. LET ME HEAR
6 FROM THE SOLICITOR.

7 MR. GREELEY: THEN I'LL GO ON TO THE OTHER
8 ONES AFTER.

9 MR. POPE: AND I'LL GET UP THROUGH
10 JAMISON. YOUR HONOR, THE CHRONOLOGY I WOULD SUBMIT
11 TO THE COURT, HE WAS FIRST APPROACHED AT HIS
12 RESIDENCE BY DEPUTY WHITE, ASKED IF HE WAS AT THE
13 PARTY ON LAWRENCE ROAD; HE SAID NO. HE WAS ASKED IF
14 HE'D GO TO THE CLOVER POLICE DEPARTMENT TO SPEAK TO
15 OFFICERS THERE AND HE SAID YES. HE WAS AT HIS
16 RESIDENCE. HE WAS NOT IN CUSTODY. HE WAS PRESUMABLY
17 IN HIS YARD AT HIS HOUSE. THE DEPUTY TESTIFIED THAT
18 HE WAS FREE, IF HE CHOSE, TO GO ON IN THE HOUSE TO DO
19 IT. THAT HE DROVE HIS TRUCK TO CLOVER POLICE
20 DEPARTMENT. SO I'D SUBMIT HE WENT THERE OF HIS OWN
21 ACCORD.

22 WHEN HE MEETS WITH SERGEANT JAMISON, IT'S
23 MY INFORMATION FROM THE TESTIMONY, YOUR HONOR, THAT
24 ONE OF THE FIRST THINGS SERGEANT JAMISON DID WITH
25 THIS DEFENDANT AND A NUMBER OF THE INDIVIDUALS WAS

1 THE RIGHTS FORM AT THE SHERIFF'S DEPARTMENT
2 SUBSTATION WHICH IS IN CLOVER POLICE DEPARTMENT.
3 IT'S AN OFFICE RIGHT TO THE RIGHT. IT'S MY
4 UNDERSTANDING THAT HE WAS ALLOWED AND DID IN FACT
5 TAKE HIS GIRLFRIEND WITH HIM WHEN HE DROVE OVER
6 THERE. HE TOOK HIS TRUCK THERE OF HIS OWN ACCORD.
7 HE HAD HIS GIRLFRIEND ACTUALLY STILL IN THE ROOM WITH
8 HIM WHEN SERGEANT JAMISON WAS SPEAKING TO HIM. I
9 WOULD SUBMIT THAT SERGEANT JAMISON WENT THROUGH HIS
10 RIGHTS WITH HIM AND AGAIN BASED ON THE TESTIMONY AND
11 I WOULD ADMIT THAT THE RIGHTS FORM DOES NOT HAVE A
12 TIME ON IT, BUT BASED ON THE TESTIMONY, IT WAS MY
13 UNDERSTANDING THE RIGHTS FORM TOOK PLACE PRIOR TO THE
14 CONSENT OF THE TRUCK AND THE GSR SO I WOULD ACTUALLY
15 SAY THAT ULTIMATELY THAT STATEMENT WAS 2:37, BUT I
16 WOULD SAY THAT PUTS THE RIGHTS FORM SOMEWHERE MORE IN
17 THE AREA OF 1:30 AND AGAIN I'M TAKING IT FROM THE
18 TESTIMONY.

19 THE COURT: BUT WE DON'T NEED EXACT TIMES.
20 IF WE DON'T HAVE THE TIMES WE DON'T HAVE THEM, BUT WE
21 CAN HAVE: I DID THIS AFTER I DID THAT.

22 MR. POPE: AND THAT'S MY UNDERSTANDING.

23 THE COURT: I DID THIS PRIOR TO THAT.

24 MR. POPE: CORRECT.

25 THE COURT: AND I DON'T REMEMBER ANY

1 MENTION OF A GUN PRIOR TO GIVING THE RIGHTS FORM.

2 MR. POPE: THAT'S CORRECT.

3 THE COURT: MR. GREELEY, CAN YOU POINT ME
4 TO ANY?

5 MR. GREELEY: YOUR HONOR, IT WAS MY
6 UNDERSTANDING OF THE TESTIMONY DETECTIVE PATTERSON
7 TALKED ABOUT HE HAD RECEIVED INFORMATION FROM
8 MR. BOLIN ABOUT THE GUN AND SO HE WENT TO OFFICER
9 SMITH ABOUT THE GSR. THE GSR WAS DONE AT 1:55.

10 THE COURT: I'M NOT TALKING ABOUT THE
11 TIMES NOW. LET'S LEAVE THE TIMES OUT. WE CAN'T
12 VERIFY THAT. I'M TALKING ABOUT JUST CHRONOLOGICALLY,
13 LEAVING TIMES OUT.

14 MR. GREELEY: CHRONOLOGICALLY MY
15 UNDERSTANDING OF THE TESTIMONY WOULD HAVE BEEN THE
16 CONVERSATION WITH MR. BOLIN BY DETECTIVE PATTERSON
17 REGARDING THE GUN, FOLLOWED BY THE GSR, AND THEN THE
18 SEARCH OF THE TRUCK, AND THEN THE STATEMENT THAT
19 JAMISON GAVE OR TOOK.

20 THE COURT: MY UNDERSTANDING WAS THAT MY
21 LITTLE NOTES SAY HE TALKED WITH BOLIN, ASKED IF BOLIN
22 WOULD WRITE DOWN HIS OBSERVATION, AND HE WROTE DOWN
23 THOSE OBSERVATIONS, AND THEY HAD NOTHING TO DO WITH
24 THE GUN IF I REMEMBER CORRECT. NOBODY HANDED THEM
25 BACK UP --

1 MR. GREELEY: THAT'S CORRECT.

2 THE COURT: HE SAID AND THEN MY NEXT NOTE
3 SAYS, I READ HIM HIS RIGHTS, EXECUTED THE FORM, SAID
4 HE UNDERSTOOD, NOT BEING QUESTIONED, AND THEN THEY
5 ASKED IF THEY COULD SEARCH PERSON AND VEHICLE AND HE
6 SIGNED PERMISSION TO SEARCH. THAT'S THE CHRONOLOGY
7 BACK ON MY NOTES.

8 MR. GREELEY: I UNDERSTAND THAT. JUST THE
9 DOCUMENTED EVIDENCE, THE DOCUMENTED EVIDENCE THAT'S
10 IN THE COURT'S POSSESSION WOULD REFLECT THAT THE GSR
11 CAME BEFORE THE STATEMENT AND THAT'S WHAT I'M GOING
12 ON AS FAR AS THE TIME. THE TIME FOR THE GSR WAS 1:55
13 A.M. AND THE TIME FOR THE STATEMENT WAS 2:37 SO.

14 MR. POPE: PLEASE THE COURT.

15 THE COURT: I DON'T HAVE THE GSR. WELL,
16 MAYBE I DO. ALL RIGHT.

17 MR. POPE: YOUR HONOR, I DO AGREE. I
18 WOULD SUBMIT THAT THE RIGHTS FORM CAME FIRST. THE
19 CONSENT TO SEARCH THE TRUCK CAME SECOND, 1:40, THE
20 GSR AT 1:55, THE STATEMENT FORM AT 2:37. I WOULD
21 NOTE, AS THE COURT JUST NOTED, THE STATEMENT FORM
22 THERE IS ACTUALLY NO MENTION OF THE GUN WHATSOEVER,
23 AND MY UNDERSTANDING OF MR. GREELEY'S QUESTIONING TO
24 MR. PATTERSON, HE WAS ASKING THAT HE REQUESTED FSU TO
25 DO GUNSHOT RESIDUE AND OF COURSE THE COURT REPORTER

1 HAS HIS STATEMENT, IT IS WHAT IT IS; IT'S MY
2 UNDERSTANDING HE SAID THEY DID IT AS A MATTER OF
3 COURSE. I'M NOT SURE I HEARD HIM SAY HE REQUESTED
4 THAT, BUT AGAIN IT IS IN THE RECORD AS IT IS, SO YOU
5 HAVE THE RIGHTS AND YOU HAVE THE CONSENT TO SEARCH
6 THE TRUCK AND YOU HAVE THE GSR AND THE STATEMENT THAT
7 HE SHOT A PISTOL EARLIER IN THE DAY AND THEN THE
8 STATEMENT FORM AT 2:37 AND THAT'S WHERE WE END UP
9 WITH MR. JAMISON.

10 NOW AGAIN IN THE SEARCH OF THE TRUCK WITH
11 MR. SMITH THERE IS ALSO IN THAT TIME PERIOD THAT
12 THERE IS A .45 PISTOL IN THE GLOVE BOX OF HIS TRUCK.
13 WHEN THEY COULDN'T FIND IT HE SAID SOMEBODY MUST HAVE
14 TAKEN IT.

15 THE COURT: LET ME ASK YOU THIS,
16 MR. GREELEY.

17 MR. GREELEY: YES, YOUR HONOR.

18 THE COURT: DO THEY HAVE TO GIVE HIM HIS
19 MIRANDA RIGHTS BEFORE THEY ASK TO SEARCH?

20 MR. GREELEY: NO, YOUR HONOR, THAT -- AS
21 FAR AS THE TRUCK?

22 THE COURT: YEAH.

23 MR. GREELEY: NO, THEY DO NOT.

24 THE COURT: OKAY. ALL RIGHT.

25 MR. POPE: YOUR HONOR --

1 THE COURT: WELL --

2 MR. POPE: DO YOU WANT TO HEAR MY POSITION
3 UP TO THAT POINT OR DO YOU WANT TO WAIT?

4 THE COURT: SURE.

5 MR. POPE: YOUR HONOR, AT THIS POINT I
6 WOULD SAY THAT HE IS NOT IN CUSTODY, HE WAS FREE TO
7 LEAVE. IF YOU RECALL THE TESTIMONY, THERE IS SOME
8 QUESTION, AT SOME POINT HE WAS NOT FREE TO LEAVE; YOU
9 HEARD THAT FROM SERGEANT JAMISON AND YOU HEARD IT
10 FROM INVESTIGATOR PATTERSON; BUT ALSO THE TRIGGER FOR
11 THE NOT FREE TO LEAVE IS WHEN HE TOLD THEM THAT HE
12 HAD FIRED HIS .45 IN THE CAR WHICH COMES FROM THE
13 STATEMENT THAT PATTERSON HAD THAT I BELIEVE THAT YOU
14 HAVE BEFORE YOU. I THINK IT'S APPROXIMATELY 4:30,
15 YOUR HONOR, SO I SUBMIT UP UNTIL THAT POINT THERE WAS
16 NO REQUIREMENT OF MIRANDA EVEN THOUGH MIRANDA HAD
17 BEEN GIVEN AND THAT MIRANDA HAD BEEN CONFIRMED. I
18 WOULD SUBMIT THAT UP TO THAT POINT THERE WAS NO
19 REQUIREMENT OF MIRANDA.

20 THE COURT: LET ME INTERRUPT ONE MORE TIME
21 TO MAKE SURE I'M RIGHT. JAMISON GOT THE FIRST WAIVER
22 OF RIGHTS AND IT'S NOT, IT DOESN'T HAVE ANY TIME ON
23 IT?

24 MR. POPE: CORRECT.

25 THE COURT: SO YOU CAN'T TIE IT TO ANY

1 TIME OTHER THAN THE FACT THAT HE TESTIFIED IT WAS
2 OBTAINED BEFORE THEY GOT THE SEARCH.

3 MR. POPE: CORRECT. THAT HE SAID THAT WAS
4 THE FIRST THING, BASICALLY THE FIRST THING HE DID,
5 ONE OF THE FIRST THINGS HE DID.

6 YOUR HONOR, I SUBMIT THAT AT 4:30 THEN YOU
7 HAVE THE STATEMENTS FROM WAYNE SMITH REGARDING WHEN
8 THEY ARE SEARCHING THE TRUCK, THEN AT 4:30 YOU HAVE
9 THE STATEMENT THAT YOU HAVE BEFORE YOU THAT, AND
10 AGAIN I DON'T HAVE THE NUMBER, THAT MR. PATTERSON
11 TESTIFIED TO, AND THEN OF COURSE I THINK I'M GETTING
12 AHEAD OF MR. GREELEY, THEN YOU HAVE MR. YEAGER'S
13 STATEMENT THAT WOULD HAVE BEEN THAT FOLLOWING
14 AFTERNOON, SUNDAY AFTERNOON THE 6TH.

15 THE COURT: MR. GREELEY, I FIND THAT THE
16 EVIDENCE OBTAINED, THE STATEMENT, THE GUN RESIDUE
17 COLLECTION, AND ALL OF THE STATEMENTS THAT HE GAVE
18 OTHER THAN HE DID SAY I BELIEVE TO THE, FIRST SAID HE
19 HADN'T BEEN THERE TO OFFICER WHITE, AND THEN YOU GET
20 TO THE POINT WHERE HE ASKED BOLIN IF HE WOULD WRITE
21 DOWN HIS OBSERVATION AND READ HIM HIS RIGHTS, SO I
22 FIND BEFORE ANY STATEMENT WAS OBTAINED FROM MR. BOLIN
23 THAT HE HAD BEEN PROPERLY ADVISED OF HIS 5TH AND 6TH
24 AMENDMENT RIGHTS AND SAFEGUARDS UNDER MIRANDA. THEY
25 ARE SETFORTH ON THE RIGHTS FORM. HE HAD THE RIGHT TO

1 REMAIN SILENT. ANYTHING HE SAID WOULD AND COULD,
2 COULD AND WOULD BE USED AGAINST HIM IN A COURT OF
3 LAW. HE HAD A RIGHT TO TALK TO AN ATTORNEY AND HAVE
4 THE ATTORNEY PRESENT WHILE BEING QUESTIONED. IF HE
5 COULD NOT AFFORD AN ATTORNEY ONE WOULD BE APPOINTED
6 TO REPRESENT HIM BEFORE ANY QUESTIONING, AND HE COULD
7 EXERCISE THOSE RIGHTS AND NOT ANSWER ANY QUESTIONS AT
8 ANY TIME, AND HE INDICATED HE EXPLAINED THEM AND THEN
9 INDICATED BY SIGNING A WAIVER THAT HE WAS WILLING TO
10 TALK; DID NOT WANT AN ATTORNEY, UNDERSTOOD WHAT HE
11 WAS DOING, NO PROMISE OR THREATS HAD BEEN MADE AND NO
12 PRESSURE HAD BEEN PLACED ON HIM AND OF COURSE, IT
13 WOULD BE A JURY QUESTION ALSO; BUT I FIND THAT HE WAS
14 PROPERLY ADVISED, THAT HE PROPERLY WAIVED THOSE
15 RIGHTS, GAVE THEM UP, THAT THE STATEMENT OR
16 CONFESSION, WHICHEVER YOU WANT TO CALL IT, WAS
17 OBTAINED FREELY AND VOLUNTARILY WITHOUT DURESS,
18 COERCION, UNDUE INFLUENCE, REWARD, PROMISE, WITHOUT
19 PROMISE OF HOPE OR REWARD, WITHOUT LENIENCY, WITHOUT
20 ANY PROMISE, WITHOUT ANY THREAT OF INJURY, WITHOUT
21 ANY COMPULSION OR INDUCEMENT OF ANY KIND, AND I FIND
22 THAT THE STATEMENT AND THE FOLLOWING GUNSHOT RESIDUE
23 AND THE VOLUNTARY STATEMENT GIVEN AT 4:30 AND 2:37
24 ALL WERE THE VOLUNTARY PRODUCT OF A FREE AND
25 UNCONSTRAINED WILL OF MR. BOLIN. I FIND THIS BY THE

1 PREPONDERANCE OF THE EVIDENCE AND THE ISSUE OF
2 VOLUNTARINESS WILL ALSO BE FOR THE JURY'S
3 CONSIDERATION, AND SO I DENY THE MOTION TO SUPPRESS
4 THE STATEMENT AND THE GUN. ALL RIGHT. ANYTHING
5 ELSE, MR. GREELEY?

6 MR. GREELEY: YOUR HONOR, THERE ARE ONLY
7 TWO MORE BUT THEY DON'T REQUIRE TESTIMONY AND WE CAN
8 TAKE THOSE UP AFTER WE'VE GONE THROUGH ALL THE
9 TESTIMONY AND THE WITNESSES.

10 MR. POPE: YOUR HONOR, I DID NOT, NOR DID
11 MR. GREELEY SPEAK SPECIFICALLY TO MR. YEAGER WHO WAS
12 THE AFTERNOON BUT IT WAS THE SECOND READING OF
13 MIRANDA BUT --

14 THE COURT: WELL, HIS IS ON THE 4:30, NO,
15 THAT'S PATTERSON. YEAGER IS 6:02 P.M.

16 MR. POPE: YES, SIR.

17 THE COURT: AND I MEAN I CAN GO THROUGH, I
18 CERTAINLY FIND THAT CONFORMS TO WHAT I FOUND EARLIER,
19 BUT HE'S BEEN GIVEN HIS RIGHTS ONCE AND I DON'T THINK
20 THERE IS ANY REQUIREMENT THAT THEY CONTINUE GIVING
21 HIM HIS RIGHTS, BUT THEY DID GIVE HIM HIS RIGHTS
22 AGAIN AND THIS WAS THE STATEMENT THAT WAS AN
23 INTERVIEW, NOT A SIGNED STATEMENT, BUT AN INTERVIEW
24 THAT'S BEEN TYPED UP AND MY FINDINGS AS TO THE
25 EARLIER STATEMENT WITNESSED BY VOLUNTARY, THE READING

1 OF THE RIGHTS AND THE VOLUNTARY WAIVER BY JAMISON
2 APPLY EQUALLY WITHIN THE SAME FORCE AND EFFECT AS TO
3 THE WAIVER, GIVING OF THE RIGHTS AND THE WAIVER AT
4 6:02 INVOLVING MR. YEAGER.

5 MR. POPE: THANK YOU, SIR. YOUR HONOR,
6 THE NEXT I WOULD HAVE ONE WITNESS FOR MR. MCKINNEY'S
7 CLIENT. I WILL TELL YOU I HAVE TALKED A LITTLE BIT
8 TO MR. MCKINNEY. TECHNICALLY HE WAS NOT IN CUSTODY
9 BUT LAW ENFORCEMENT SPENT A GOOD DEAL OF TIME WITH
10 HIM. ULTIMATELY HE LEFT AND HE WAS NOT ARRESTED AT
11 THE END OF THE CONVERSATION. I THINK OUT OF AN
12 ABUNDANCE OF PRECAUTION WE'LL PUT THAT ON THE RECORD.
13 I'VE GOT THE WITNESS HERE TO DO THAT. IF THAT ORDER
14 SUITS THE DEFENSE COUNSEL.

15 MR. MCKINNEY: YES.

16 JERRY HOFFMAN, BEING FIRST DULY
17 SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION BY MR. POPE:

19 Q MR. HOFFMAN, IF WOULD YOU STATE YOUR NAME AND
20 SPELL YOUR LAST NAME FOR THE COURT REPORTER?

21 A JERRY HOFFMAN. H-O-F-F-M-A-N.

22 Q MR. HOFFMAN, IF YOU WOULD, STATE YOUR OCCUPATION
23 FOR THE COURT PLEASE?

24 A I'M A CAPTAIN WITH THE YORK COUNTY SHERIFF'S
25 OFFICE.

1 Q OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH
2 THE SHERIFF'S OFFICE?

3 A SINCE JUNE OF 1989.

4 Q AND YOU HAVE SPECIFIC DUTIES THERE AT THE
5 SHERIFF'S OFFICE?

6 A YES, SIR. CURRENTLY I'M THE CAPTAIN OVER THE
7 INVESTIGATIVE DIVISION.

8 Q OKAY. I'LL CALL YOUR ATTENTION TO FEBRUARY 19,
9 2006, THE EARLY MORNING HOURS INTO THAT SUNDAY
10 MORNING, WERE YOU WITH THE SHERIFF'S DEPARTMENT AT
11 THAT TIME?

12 A YES, SIR, I WAS.

13 Q AND DID YOU HAVE A CHANCE TO BECOME INVOLVED IN
14 THE INVESTIGATION OF THE SHOOTING AT LAWRENCE ROAD?

15 A YES, I DID.

16 Q COULD YOU TELL THE COURT WHEN YOU WERE CALLED
17 OUT AND WHEN YOU BECAME INVOLVED?

18 A IT WAS EARLY MORNING HOURS OF THAT SUNDAY I
19 RECEIVED A CALL OR A PAGE AT MY HOME AND WAS TOLD IT
20 WAS A SHOOTING ON LAWRENCE ROAD. I RESPONDED THERE
21 TO THAT SHOOTING.

22 Q ABOUT WHAT TIME DID YOU ARRIVE THERE, DO YOU
23 RECALL?

24 A I WOULD GUESS IT WAS SOMEWHERE AROUND 1:30 OR
25 SO. I DO NOT KNOW EXACTLY.

1 Q DID YOU ASSIST THAT NIGHT WITH THE
2 INVESTIGATION, DID YOU HAVE FELLOW INVESTIGATORS THAT
3 WERE WORKING ON THIS CASE?

4 A YES, SIR.

5 Q OKAY. AT SOME POINT IN THE MORNING HOURS, LIKE
6 AT APPROXIMATELY SIX A.M., DID YOU HAVE AN
7 OPPORTUNITY TO TRY TO CONTACT MR. LEE OWENS?

8 A YES, I DID.

9 Q OKAY. AND WHAT WAS YOUR PURPOSE OF CONTACTING
10 HIM?

11 A TO SEE IF HE WOULD MEET MYSELF AND LIEUTENANT
12 TIM HAGER SOMEWHERE TO DISCUSS HIS KNOWLEDGE OF THAT
13 SHOOTING.

14 Q FROM YOUR INVESTIGATION THAT NIGHT DID YOU HAVE
15 INFORMATION THAT PERHAPS HE HAD BEEN AT THAT
16 LOCATION?

17 A YES, SIR. I INTERVIEWED A COUPLE OF FOLKS WHO
18 TOLD ME THAT HE WAS THERE.

19 Q OKAY. AND DID YOU ASK HIM IF YOU COULD MEET
20 WITH HIM, WITH MR. OWENS?

21 A YES, I DID. I ASKED HIM IF WE COULD MEET.

22 Q AND DID YOU IN FACT MEET WITH HIM?

23 A YES, HE CHOSE OR ASKED US TO MEET HIM AT HIS
24 FATHER'S RESIDENCE IN CLOVER.

25 Q AND DID YOU GO TO HIS FATHER'S RESIDENCE?

- 1 A YES, WE DID.
- 2 Q WHERE WAS THAT AT?
- 3 A IT'S ON CLINTON AVENUE IN CLOVER.
- 4 Q AND THIS IS A SUNDAY MORNING. IS IT DAY LIGHT
- 5 YET WHEN YOU MEET WITH HIM?
- 6 A IT'S JUST ABOUT TO GET DAY LIGHT. ACTUALLY DAY
- 7 LIGHT WAS JUST BREAKING WHEN WE PULLED INTO THE
- 8 FATHER'S RESIDENCE.
- 9 Q OKAY. SO HE DOES NOT RESIDE THERE AT HIS
- 10 FATHER'S RESIDENCE?
- 11 A NOT AT THAT TIME.
- 12 Q AND DID YOU READ HIM HIS RIGHTS WHEN YOU WERE
- 13 TALKING TO HIM?
- 14 A NO, SIR.
- 15 Q AND WHY NOT?
- 16 A MR. OWENS WAS NOT IN CUSTODY.
- 17 Q DID HE DRIVE THERE TO MEET YOU?
- 18 A YES, SIR, HE DROVE. IT WAS A LOCATION HE
- 19 PICKED. HE DROVE THERE TO MEET US THERE.
- 20 Q AND IT WAS AT HIS FATHER'S RESIDENCE?
- 21 A YES, SIR.
- 22 Q WAS HE FREE TO LEAVE IF HE CHOSE TO?
- 23 A YES, SIR. YES, SIR. OR FREE TO TELL US TO
- 24 LEAVE.
- 25 Q AND DID YOU TALK TO HIM AT THAT TIME?

- 1 A YES, SIR, LIEUTENANT HAGER AND MYSELF DID.
- 2 Q DID YOU PROMISE HIM OR THREATEN HIM IN ANY
- 3 MANNER?
- 4 A NO, SIR.
- 5 Q PROMISE HIM YOU'D GO LIGHT ON HIM IF HE WOULD
- 6 TALK TO YOU?
- 7 A NO.
- 8 Q THREATEN HIM WITH WORSE PUNISHMENT?
- 9 A NO, SIR.
- 10 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF
- 11 ALCOHOL OR DRUGS WHEN HE COULDN'T UNDERSTAND WHAT YOU
- 12 WERE TALKING ABOUT?
- 13 A NO, SIR.
- 14 Q OKAY. DID HE APPEAR TO BE SPEAKING TO YOU
- 15 VOLUNTARILY?
- 16 A YES, SIR.
- 17 Q OKAY. WHO WAS PRESENT WHEN YOU WERE TALKING TO
- 18 HIM?
- 19 A MYSELF, LIEUTENANT HAGER WAS THERE, MR. OWENS OF
- 20 COURSE, HIS FATHER AND I BELIEVE HIS GRANDMOTHER WAS
- 21 ALSO THERE.
- 22 Q WHERE DID YOU SPEAK TO HIM?
- 23 A IN THE LIVING ROOM AREA OR WHAT I WOULD CALL THE
- 24 LIVING ROOM AREA OR DEN OF HIS HOME OR OF HIS
- 25 FATHER'S HOME.

1 Q AND YOU HAD A CONVERSATION WITH HIM AT THAT
2 TIME. DID YOU ULTIMATELY REDUCE THAT TO WRITING?

3 A I BELIEVE-- YES, IT WAS REDUCED TO WRITING.
4 LIEUTENANT HAGER ACTUALLY DID THAT PART.

5 Q AND YOU REVIEWED THIS WHAT I HAVE MARKED AS
6 STATE'S EXHIBIT 130?

7 A YES, SIR.

8 Q OKAY. AND DOES THAT SUMMARY ACCURATELY REFLECT
9 THE DISCUSSION YOU HAD WITH HIM THAT DAY?

10 A YES, SIR.

11 MR. POPE: FOR PURPOSES OF THIS HEARING I
12 HAND UP STATE'S EXHIBIT 130 THAT IS THE SUMMARY OF
13 WHAT WAS TOLD TO HIM THAT DAY.

14 Q ADDITIONALLY DID YOU GIVE HIM AN OPPORTUNITY TO
15 WRITE OUT HIS OWN STATEMENT?

16 A YES, SIR, I DID.

17 Q OKAY. AND HOW DID THAT TAKE PLACE?

18 A AFTER WE TALKED TO MR. OWENS AT HIS RESIDENCE I
19 ASKED HIM IF HE COULD SHOW US OR GO BACK WITH US TO
20 LAWRENCE ROAD AND KIND OF GIVE US AN IDEA OF WHERE HE
21 MAY HAVE BEEN STANDING AND HE AGREED THAT HE WOULD.
22 WE AGREED TO GO TO CLOVER POLICE DEPARTMENT AND ALLOW
23 HIM TO PARK HIS VEHICLE THERE AND WE HAD SOME FURTHER
24 CONVERSATION AT CLOVER POLICE DEPARTMENT AND THEN WE
25 ENDED UP LEAVING CLOVER POLICE DEPARTMENT AND GOING

1 OUT TO LAWRENCE ROAD.

2 Q OKAY. AS FAR AS THE STATEMENT HE WROTE HIMSELF,
3 WHERE DID THAT TAKE PLACE?

4 A HE DID THAT AT CLOVER POLICE DEPARTMENT.

5 Q SO YOU LEFT HIS FATHER'S HOUSE AND WENT TO
6 CLOVER AND LEFT THE VEHICLE THERE BUT HE WROTE OUT A
7 STATEMENT?

8 A YES.

9 Q DID YOU TELL HIM WHAT TO PUT IN THE STATEMENT?

10 A DID I TELL HIM WHAT TO PUT IN THE STATEMENT?

11 Q YES.

12 A NO, SIR, I DID NOT.

13 Q OKAY.

14 A I MEAN OTHER THAN TOLD US WHAT HAPPENED THAT
15 NIGHT OR HIS KNOWLEDGE OF THAT NIGHT WAS, WERE THE
16 ONLY INSTRUCTION I WOULD HAVE GIVEN HIM.

17 Q ALL RIGHT. AND THEN THIS WAS SIGNED AND DATED
18 BY MR. OWENS AT SEVEN O'CLOCK ON THAT 19TH, IS THAT
19 CORRECT?

20 A YES, SIR, THAT'S CORRECT.

21 Q THAT STATEMENT HE GAVE YOU, DOES THAT APPEAR TO
22 BE FREELY AND VOLUNTARILY GIVEN ALSO?

23 A YES, SIR.

24 Q OKAY.

25 MR. POPE: THAT WOULD BE STATE'S EXHIBIT

1 131, YOUR HONOR, MOVE INTO EVIDENCE FOR THIS HEARING.

2 (STATE'S EXHIBIT 131 MARKED FOR
3 IDENTIFICATION STATEMENT.)

4 Q AND SO ONCE YOU LEFT CLOVER, WHERE DID YOU SAY
5 YOU WENT NEXT?

6 A AFTER WE LEFT CLOVER POLICE DEPARTMENT MR. OWENS
7 RODE WITH ME IN MY COUNTY ISSUED VEHICLE, WE WENT TO
8 LAWRENCE ROAD TO THE INCIDENT LOCATION.

9 Q AND WHAT TOOK PLACE AT LAWRENCE ROAD?

10 A MR. OWENS SHOWED US OR ASKED HIM TO SHOW US IF
11 HE COULD ABOUT WHERE HE WOULD HAVE BEEN STANDING WHEN
12 HE FIRED HIS GUN OR HE TOLD US HE HAD FIRED HIS GUN
13 TWO TIMES UP INTO THE AIR.

14 Q AND DID YOU FIND EVIDENCE AND THE LOCATION OF
15 WHERE HE WOULD HAVE BEEN STANDING?

16 A YES, SIR, RIGHT IN THE SAME AREA THAT HE POINTED
17 OUT TO US WE FOUND TWO NINE MILLIMETER CASINGS.

18 Q WERE THERE ANY OTHER CASINGS FOUND ALSO?

19 A SHORTLY AFTER WE FOUND THOSE TWO, LIEUTENANT
20 HAGER WAS THERE WHERE THOSE COULD BE MARKED, I
21 CONTINUED TO LOOK AROUND AND A SHORT DISTANCE AWAY
22 FROM THOSE TWO SHELLS I FOUND A GROUPING OF ANOTHER
23 THREE SHELLS.

24 Q OKAY. AND DID YOU CONTACT FORENSIC UNIT TO
25 RECOVER THOSE ITEMS ALSO?

1 A YES, SIR, WE MARKED THOSE SO THEY COULD RECOVER
2 THEM ONCE THEY GOT THERE.

3 Q OKAY. ONCE YOU LEFT THE LAWRENCE ROAD LOCATION,
4 WHERE DID YOU GO NEXT?

5 A I AGAIN ASKED MR. OWENS IF HE, PART OF WHAT HE
6 TOLD ME WHEN WE WAS AT HIS HOUSE THAT HE HAD THROWN
7 HIS GUN INTO THE RIVER. I ASKED HIM IF HE WOULD TAKE
8 ME TO THAT LOCATION AND SHOW ME WHERE HE HAD THROWN
9 THE GUN THINKING WE MIGHT BE ABLE TO RECOVER THAT
10 WEAPON, SO HE TOOK ME OUT TO ALLISON CREEK BOAT
11 LANDING AND SHOWED ME THAT AREA.

12 Q OKAY. DID HE SHOW YOU WHERE HE HAD THROWN HIS
13 GUN OR WHERE IT WAS LOCATED?

14 A YES, SIR, THERE IS A FISHING PIER THERE THAT HE
15 HAD SHOWN ME HE HAD THROWN THE GUN OFF OF.

16 Q DID HE MAKE ANY OTHER STATEMENTS TO YOU WHEN YOU
17 WERE THERE AT WHERE HE HAD THROWN THE GUN?

18 A NO, SIR. I THINK ALL OF OUR CONVERSATION THERE
19 WAS, YOU KNOW, OTHER THAN JUST CONVERSATION BETWEEN
20 HIM AND I ABOUT THE GUN AND WHERE HE HAD THROWN THE
21 GUN.

22 Q I GOT YOU. OKAY. DURING ANY OF THIS TIME WAS
23 HE IN CUSTODY?

24 A NO, SIR.

25 Q NOW HE HAD LEFT HIS VEHICLE AT CLOVER AND HE IS

1 RIDING WITH YOU, IS THAT CORRECT?

2 A THAT IS CORRECT.

3 Q DID YOU GUYS FORCE HIM TO RIDE WITH YOU?

4 A NO, SIR.

5 Q OKAY. AND DID HE AGREE WITH YOU TO GO TO THE
6 LAKE OR DID YOU, WAS THAT VOLUNTARY FROM YOUR
7 ESTIMATION?

8 A YES, THAT WAS VOLUNTARY.

9 Q ULTIMATELY AROUND 12:20 THAT DAY DID HE ALSO
10 GIVE YOU CONSENT TO SEARCH, YOU AND MR. PATTERSON,
11 CONSENT TO SEARCH HIS RESIDENCE AT VIEW HEIGHTS ROAD
12 IN CLOVER?

13 A YES, SIR, THAT CAME SOMETIME AFTER THE BOAT
14 LANDING. FROM THE BOAT LANDING I HAD TAKEN HIM BACK
15 TO THE CLOVER POLICE DEPARTMENT AND HE HAD LEFT FROM
16 THERE.

17 Q AND WHAT WAS YOUR PURPOSE OF GOING TO HIS
18 RESIDENCE?

19 A I HAD A CONVERSATION WITH HIS ATTORNEY AND HAD
20 ASKED HIM IF LEE COULD MEET US AT HIS RESIDENCE AND
21 ALLOW US TO SEARCH HIS RESIDENCE FOR ANY KIND OF
22 EVIDENCE; SPECIFICALLY WHAT I WOULD HAVE BEEN LOOKING
23 FOR WOULD HAVE BEEN BULLETS OR CASINGS SIMILAR TO THE
24 ONES THAT WE HAD FOUND OR DISSIMILAR TO THOSE BECAUSE
25 PART OF WHAT HE TOLD US ON THE SCENE ONCE WE FOUND

1 THOSE, THE SECOND GROUP OF CASINGS, THE THREE CASES
2 TOGETHER, HE SAID THAT THOSE WEREN'T HIS AND COULDN'T
3 BE HIS BECAUSE THE CASINGS THAT HE HAD WOULD HAVE
4 BEEN A DIFFERENT COLOR.

5 Q OKAY. BUT DID HE -- AND HE ALLOWED YOU
6 VOLUNTARILY TO SEARCH HIS RESIDENCE?

7 A YES, SIR, AFTER HE SIGNED THIS CONSENT TO SEARCH
8 FORM.

9 MR. POPE: YOUR HONOR, I HAND UP THIS
10 STATE'S EXHIBIT 132 AND ASK TO BE ADMITTED FOR
11 PURPOSES OF THIS HEARING.

12 THE COURT: ANY OBJECTION?

13 MR. MCKINNEY: NO.

14 (STATE'S EXHIBIT 132 MARKED FOR
15 IDENTIFICATION.)

16 Q AND DID HE IN FACT ALLOW YOU TO SEARCH HIS
17 RESIDENCE?

18 A YES, HE DID.

19 Q OKAY. AND DID YOU FIND ANY ITEMS OF EVIDENCE
20 THAT YOU RECOVERED THERE?

21 A WE DIDN'T FIND ANYTHING WE TOOK FROM HIS
22 RESIDENCE.

23 Q AFTER -- YOU TALKED TO HIM AT HIS FATHER'S
24 HOUSE, YOU GOT A WRITTEN STATEMENT AT CLOVER, YOU
25 WENT TO LAWRENCE ROAD, YOU WENT TO THE BOAT LANDING,

1 AND NOW YOU'VE SEARCHED HIS HOUSE, ALL OF THOSE
2 THINGS HE DID, AT ANY POINT DID HE SAY HE DID NOT
3 WANT TO COOPERATE?

4 A NO, SIR. ACTUALLY THE SECOND PART I HAD TALKED
5 TO HIS ATTORNEY BEFORE WE DID THAT AND I MEAN HE WAS
6 COOPERATIVE WITH US AND HE DIDN'T GIVE US ANY
7 TROUBLE.

8 Q WAS HE IN CUSTODY AT ANY, AT THIS TIME?

9 A NO, SIR, HE WAS NEVER IN CUSTODY, NEVER UNDER
10 ARREST.

11 Q AS A MATTER OF FACT WHEN ALL THIS WAS OVER WAS
12 HE ARRESTED AT THE END OF THAT?

13 A NO, SIR. I LEFT HIS RESIDENCE AFTER WE SEARCHED
14 HIS RESIDENCE, HE STAYED THERE WITH HIS FATHER OR
15 WHEREVER THEY WENT AFTER THAT, AND I WENT ON ABOUT MY
16 BUSINESS THROUGH THAT DAY.

17 Q SO IT WAS SUBSEQUENT OR LATER TIME THAT WEEK
18 THAT HE WAS OR FOLLOW UP THAT HE WAS ARRESTED, IS
19 THAT CORRECT?

20 A YES, SIR, LATER THAT WEEK HE WAS ARRESTED.

21 Q THANK YOU, SIR. ANSWER ANY QUESTIONS THE COURT
22 OR THE DEFENSE MAY HAVE.

23 A YES, SIR.

24 CROSS EXAMINATION BY MR. MCKINNEY:

25 Q CAPTAIN, I BELIEVE HE VOLUNTARILY TURNED HIMSELF

1 IN, RIGHT?

2 A SIR?

3 Q HE VOLUNTARILY TURNED HIMSELF IN?

4 A YES, SIR. THAT'S MY UNDERSTANDING. I DON'T
5 BELIEVE THAT WAS TO ME, BUT THAT WAS MY
6 UNDERSTANDING.

7 Q YOU AND I TALKED ABOUT IT?

8 A YES, SIR.

9 Q WHEN YOU FIRST MET WITH HIM AT HIS HOME, YOU
10 SAID YOU REMEMBER HIS FATHER WAS THERE?

11 A YES, SIR.

12 Q DO YOU REMEMBER IF ANYBODY ELSE BEING THERE?

13 A LIKE I SAID I BELIEVE HIS, I BELIEVE IT WOULD
14 HAVE BEEN HIS GRANDMOTHER, THAT THERE WAS ANOTHER
15 LADY THERE.

16 Q DO YOU KNOW WHETHER OR NOT HIS UNCLE WAS?

17 A HIS UNCLE WAS NOT AT HIS RESIDENCE AS BEST AS I
18 CAN RECALL.

19 Q OKAY.

20 A NOT AT THE HOME. NOW HIS UNCLE DID COME UP TO
21 CLOVER POLICE DEPARTMENT.

22 Q OKAY.

23 A WHILE WE WERE THERE WITH HIM AT THE CLOVER
24 POLICE DEPARTMENT.

25 Q OKAY. WHEN YOU FIRST MET WITH HIM AND STARTED

1 ASKING HIM ANY QUESTIONS DID HE AT FIRST TELL YOU
2 THAT HE DIDN'T WANT TO ANSWER QUESTIONS?

3 A NO, SIR, HE NEVER INDICATED TO ME --

4 Q NO.

5 A THAT HE DID NOT WANT TO ANSWER QUESTIONS NOW.

6 Q AND AT NO TIME, AND I THINK YOU ALREADY ANSWERED
7 THIS, BUT YOU SAID THERE WERE NO THREATS MADE,
8 NOTHING TO GIVE HIM ANY GOOD TREATMENT OR BAD
9 TREATMENT; NOTHING TO SAY THAT IF YOU DON'T ANSWER
10 QUESTIONS, WE'RE JUST GOING TO LOCK YOU UP?

11 A NO, SIR, I DON'T RECALL ANY STATEMENT ALONG
12 THOSE LINES.

13 Q OKAY. ALL RIGHT. BUT HE WAS NOT IN CUSTODY AT
14 THE TIME?

15 A HE WAS NOT IN CUSTODY.

16 Q LET ME JUST ASK YOU, MENTION THESE CASINGS. YOU
17 SAID YOU FOUND, HE WENT TO THE SCENE WITH YOU AND
18 SHOWED YOU WHERE HE WAS STANDING AND RIGHT THERE HE
19 SAID HE FIRED UP IN THE AIR I THINK TWICE AND YOU
20 FOUND TWO CASINGS?

21 A YES, SIR. RIGHT IN THE SAME, I MEAN, WHEN HE
22 SHOWED US WHERE HE WAS STANDING WHEN HE SAID THAT HE
23 FIRED THE TWO SHOTS INTO THE AIR WE DID FIND TWO NINE
24 MILLIMETER CASINGS IN THAT SAME GENERAL AREA.

25 Q AND DO YOU REMEMBER IF THAT WAS RIGHT AT THE

1 DRIVEWAY, RIGHT CLOSE TO THE DRIVEWAY?

2 A THAT WOULD BE MY RECOLLECTION NOW. IT WAS KIND
3 OF UP THE DRIVEWAY FROM THE ROAD WAY.

4 Q OKAY.

5 A BUT IT WOULD HAVE BEEN -- I MEAN, I'D HAVE TO
6 LOOK AT THE CRIME SCENE DIAGRAM TO SEE EXACTLY WHERE
7 THOSE WERE LOCATED IN THE DRIVEWAY.

8 Q NO, THAT'S ALL RIGHT. YOU CONTINUED TO LOOK
9 AROUND AND YOU FOUND THREE MORE?

10 A I---YES, SIR.

11 Q WERE THEY THE SAME TYPE OF CASING OR WERE THEY
12 NOT?

13 A THEY WERE THE SAME TYPE OF CASING.

14 Q OKAY. AND HOW FAR IF YOU REMEMBER WERE THOSE
15 CASINGS FROM EACH OTHER? HOW FAR DID HE SHOW YOU --
16 FROM THE FIRST TWO, HOW FAR WERE THE OTHER THREE?

17 A THE FIRST TWO THAT WE FOUND, I MEAN, AGAIN THEY
18 WOULD BE DOCUMENTED ON THE CRIME SCENE SKETCH.

19 Q I KNOW. I'M ASKING YOU WHAT YOU REMEMBER?

20 A I HONESTLY DON'T REMEMBER HOW FAR THEY WERE. I
21 KNOW THEY WERE FAR ENOUGH THAT I HAD TO, I HAD WALKED
22 AWAY FROM WHERE THOSE TWO WERE TO ACTUALLY FIND THEM.

23 Q ALL RIGHT. I THINK THAT'S ALL.

24 MR. POPE: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: YOU CAN STEP DOWN.

1 A THANK YOU, SIR.

2 THE COURT: ANYTHING FURTHER FROM THE
3 STATE.

4 MR. POPE: NO, SIR, THAT WOULD BE OUR
5 PROFFER.

6 MR. MCKINNEY: NOTHING FROM THE DEFENDANT
7 AND I DISCUSSED THIS FULLY WITH MR. OWENS AND HE
8 CONCURS BASICALLY THAT THAT'S WHAT HAPPENED. HIS
9 STATEMENTS, HE SAYS, WERE VOLUNTARILY GIVEN, HE
10 WANTED TO DO THAT; WE HAVE NO MOTION TO SUPPRESS WITH
11 REGARD TO THIS.

12 THE COURT: OKAY. THANK YOU. MR.
13 GREELEY, I DON'T THINK YOU FORMALLY SAID IT BECAUSE
14 YOU WENT INTO YOUR MOTION, BUT I PRESUME MR. BOLIN
15 DIDN'T WANT TO TESTIFY IN REGARDS TO THAT?

16 MR. GREELEY: THAT'S CORRECT.

17 THE COURT: ALL RIGHT. NOW DOES THAT TAKE
18 CARE OF ALL THE JACKSON VERSUS DENNO MATTERS?

19 MR. POPE: YES, SIR.

20 MR. GREELEY: ON BEHALF OF MR. BOLIN TO MY
21 KNOWLEDGE, YES.

22 THE COURT: NOW WE GOT SOME OTHER MATTERS.
23 WE GOT THE MOTION TO QUASH. ONE IS MOTION TO QUASH
24 ALL INDICTMENTS BASED ON THE PROTECTION OF PERSONS
25 AND PROPERTY ACT AND THE SECOND TO, AT LEAST BY

1 MR. BOLIN AND MR. OWENS THEN MR. BOLIN HAS A SEPARATE
2 MOTION TO QUASH THE INDICTMENT FOR CARRYING A PISTOL
3 BEING UNDER 21, SO I'LL BE GLAD TO HEAR FROM
4 MR. BOLIN.

5 WE'VE ACTUALLY HAD AN IN CHAMBERS
6 CONFERENCE ON THESE AND I HAVE READ OVER THE ACT AND
7 LET ME START BY THIS. LET'S LOOK FIRST, IT KIND OF
8 MAY BE IN REVERSE ORDER, AT THE POSSESSION OF PISTOL
9 UNDER THE AGE OF 21. I'M GOING TO TURN TO THE STATE
10 FIRST. I'VE LOOKED AT YOUR BRIEF AND I'LL BE VERY
11 CANDID, I'M HAVING A LOT OF TROUBLE WITH THE ACT.
12 ARTICLE 17 SECTION 14 OF THE SOUTH CAROLINA
13 CONSTITUTION SAYS THAT EVERY CITIZEN WHO IS 18 YEARS
14 OF AGE OR OLDER NOT LABORING UNDER DISABILITIES
15 DESCRIBED IN THIS CONSTITUTION OR OTHERWISE STATED BY
16 LAW SHALL BE DEEMED SUI JURIS AND ENDOWED WITH FULL
17 LEGAL RIGHTS AND RESPONSIBILITY. THEN IT DOES ALLOW
18 RESTRICTIONS REGARDING ALCOHOLIC BEVERAGES.
19 MR. THOMPSON, IT'S IN YOUR MEMORANDUM SO I PRESUME
20 YOU ARE GOING TO ARGUE IT, HOW YOU CAN SUPPORT THE
21 STATUTE IN LIGHT OF THAT?

22 MR. THOMPSON: WELL, YOUR HONOR, THE
23 STATUTE IS ALMOST IDENTICAL TO THE OTHER STATUTES
24 WITHIN OTHER STATES. WHILE OUR STATE HAS NOT MADE A
25 SPECIFIC DECISION THAT WOULD FULLY FACE THIS HEAD ON,

1 OTHER STATES HAVE, AND THEY'VE FOUND ON THOSE COURSE
2 ALONG THOSE LINES THAT BASICALLY THIS IS WITHIN THE
3 POLICE POWER OF THE STATE AND IN DOING SO THEY LOOKED
4 AT THE FACT THAT THE RIGHT TO BEAR ARMS IS NOT
5 NECESSARILY AN ABSOLUTE RIGHT.

6 THE COURT: I AGREE WITH THAT. WE START
7 OFF FELONS CAN'T CARRY, YOU CAN'T CARRY THEM ON
8 SCHOOLS, YOU CAN'T CARRY THEM CONCEALED, THERE IS A
9 ABUNDANCE OF THINGS, BUT WHAT HE'S SAYING IS, YES,
10 YOU CAN RESTRICT ALL OF THAT BUT NOT BECAUSE OF AGE
11 BECAUSE OUR CONSTITUTION SAYS THAT YOU CAN'T, ONCE
12 YOU ARE 18 YOU GOT ALL THE RIGHTS OF AN ADULT, YOU
13 ARE CONSIDERED SUI JURIS, SO DO YOU HAVE ANY STATUTE
14 THAT SPECIFICALLY DEALS WITH THE AGE?

15 MR. THOMPSON: WELL, THE OTHER STATUTES I
16 BELIEVE DID SPECIFICALLY DEAL WITH THE AGE. I THINK
17 IF I'M NOT MISTAKEN SOME OF THE OTHER STATES.

18 THE COURT: ALL RIGHT. WHICH ONES?
19 BECAUSE I AGREE, IT'S NOT AN ABSOLUTE RIGHT AND THERE
20 ARE, I WENT THROUGH A LIST OF THEM EARLIER. IF I CAN
21 FIND MY NOTES. FUGITIVES CAN'T HAVE THEM, CAN'T HAVE
22 A PISTOL IF YOU'VE BEEN CONVICTED OF A CRIME OF
23 VIOLENCE, IF YOU ARE A HABITUAL DRUNKARD, DRUG
24 ADDICT, MENTALLY INCOMPETENT, MEMBER OF A SUBVERSIVE
25 ORGANIZATION, DECLARED BY A COURT TO BE UNFIT.

1 MR. THOMPSON: RIGHT, AND WHAT THEY BASE
2 THAT ON IS THAT IT PROMOTES THE PUBLIC HEALTH,
3 SAFETY, AND WELFARE --

4 THE COURT: I AGREE WITH THAT. I'M WITH
5 YOU ON THAT. THAT'S NO PROBLEM. THEN WE, WE DON'T
6 HAVE A STATUTE THAT SAYS DRUNKARDS CAN CARRY GUNS.
7 WE HAVE SOMEBODY OR DRUNKARDS CAN ALL HAVE THE RIGHTS
8 OF ANYONE OVER THE AGE OF 18. WE GOT A STATUTE THAT
9 SAYS ONCE YOU ARE 18 YOU ARE AN ADULT FOR ALL
10 PURPOSES.

11 MR. THOMPSON: RIGHT. AND YOU CAN BEAR
12 ARMS. YOU CAN HAVE A RIFLE, YOU CAN HAVE A SHOTGUN,
13 YOU CAN HAVE OTHER LEGAL WEAPONS OF PEOPLE OF THAT
14 AGE; HOWEVER, THE STATE HAS LOOKED AT THE WELFARE AND
15 SAFETY OF OTHER PEOPLE AND DETERMINED THAT PEOPLE
16 UNDER 21 SHOULD NOT POSSESS A PISTOL. AS A MATTER OF
17 FACT, THE STATE'S POSITION IS THAT HAD THAT BEEN
18 SOMETHING THE DEFENDANT FOLLOWED IN THIS CASE WE
19 WOULDN'T HAVE A DEAD PERSON TODAY.

20 THE COURT: WELL, I AGREE. I AGREE WITH
21 THE RESULTS MIGHT NOT HAVE OCCURRED.

22 MR. THOMPSON: I BELIEVE THE COURT OF
23 APPEALS IN INDIANA IS ONE THAT FOUND THAT BY THE
24 RESTRICTION AS WELL AND SAID THAT IT WAS IN THE
25 INTEREST OF PUBLIC SAFETY AND PROVIDED REASONABLE

1 REGULATIONS FOR THE USE OF A HANDGUN. AS WELL AS I
2 BELIEVE CONNECTICUT'S SUPREME COURT HAS FOUND THAT
3 STATES ARE UNIFORM IN THEIR APPROACH THAT THE STATES
4 HAVE THE POLICE POWER TO ALLOW US TO REGULATE EVEN TO
5 RESTRICT THE RIGHTS TO BEAR ARMS.

6 THE COURT: WHERE ARE YOU IN YOUR BRIEF?

7 MR. THOMPSON: I'M ON WHAT WOULD BE THE,
8 UNDER THE SECTION IN THE ARGUMENTS SECTION, THE
9 SECOND PAGE OF THE ARGUMENT SECTION.

10 THE COURT: MAY I MAKE A SUGGESTION IN THE
11 FUTURE.

12 MR. THOMPSON: NUMBER THE PAGES OF THE
13 BRIEF, YES.

14 THE COURT: ALL RIGHT. ARGUMENT, OKAY.

15 MR. THOMPSON: THE SECOND PAGE OF THAT,
16 IT'S ABOUT FIVE LINES DOWN, STARTS OUT THE COURT OF
17 APPEALS IN INDIANA SECOND DISTRICT AND ITS RULING.

18 THE COURT: LOOK AT WHAT IT SAYS.
19 PROHIBITING POSSESSION OF A HANDGUN BY A PERSON UNDER
20 18.

21 MR. THOMPSON: RIGHT, BUT THAT'S ALSO AN
22 AGE RESTRICTION.

23 THE COURT: I KNOW BUT WE HAVE A
24 CONSTITUTION THAT SAYS, YEAH, WE CAN GO ALONG WITH
25 THAT. THE COURT OF INDIANA THE SECOND DISTRICT ITS

1 RULING SLAM DUNK FOR THE STATE.

2 MR. THOMPSON: RIGHT. BUT WE ALSO LOOK AT
3 THE FACT THAT IT IS A PRESUMED CONSTITUTIONAL AT THE
4 BEGINNING, THAT THERE HAS TO BE SOME OTHER SHOWING
5 THAT SHOWED THEY ARE NOT CONSTITUTIONAL WOULD CAUSE
6 THAT TO BE IN THAT FORM. AND I BELIEVE, YOUR HONOR,
7 YOU HAVE MENTIONED THAT YOU ARE ALLOWING FOR,
8 UNDERSTAND THAT YOU ARE ALLOWING FOR DISABILITIES AS
9 BEING SOMETHING THAT YOU CAN'T POSSESS A FIREARM FOR
10 OR A PISTOL FOR OR JUST AS THE ACT, OUR ACT SAYS OR
11 AS OUR CONSTITUTION SAYS OR THIS PARTICULAR ACT SAYS,
12 IT DESCRIBES EXCEPT FOR DISABILITY IT DESCRIBES THAT
13 AS BEING ONE OF THE REASONS YOU WOULDN'T ALLOW
14 SOMEONE TO POSSESS A FIREARM. IN THE STATEMENT THAT
15 I BELIEVE YOU READ EARLIER FROM THE ACT ITSELF.

16 THE COURT: IT SAYS IN THE ACT YOU ARE 18
17 REMOVES ALL YOUR DISABILITIES AND UNLESS THERE IS
18 SOME DISABILITY OTHERWISE ESTABLISHED BY LAW.

19 MR. THOMPSON: I BELIEVE SO, YOUR HONOR.

20 THE COURT: WELL, THEN THIS STATUTE
21 DOESN'T MEAN ANYTHING THEN.

22 MR. THOMPSON: WELL, IT CERTAINLY DOES.

23 THE COURT: BECAUSE YOU WILL --

24 MR. THOMPSON: IT MEANS YOU CANNOT
25 RESTRICT THEM IN SOME FORM BEARING ARMS. I THINK ALL

1 THE STATES KIND OF FALL UNDER SOME KIND OF AGREEMENT
2 THAT WHILE WE'RE DOING THIS AS A POLICE POWER FOR
3 PISTOLS OTHER ARMS ARE ALLOWED AND SO WE'RE NOT
4 RESTRICTING THEM FROM BEING ABLE TO BEAR ARMS. THEY
5 ARE STILL HAVING THAT RIGHT AND THEY ARE STILL
6 FEELING THAT RIGHT AS A CONSTITUTIONAL RIGHT, AND
7 ONCE AGAIN OUR STATE, ONCE AGAIN, LOOKS AT THAT RIGHT
8 NOT AS AN INDIVIDUAL RIGHT NECESSARILY BUT AS A MORE
9 COLLECTIVE RIGHT, ONE THAT DEALS MORE AND HAS BEEN
10 DETERMINED BY MOST COURTS TO BE ONE THE RIGHT TO ARM
11 A MILITIA, NOT NECESSARILY INDIVIDUAL. IT IS
12 ACTUALLY VERY FEW STATES THAT SPREAD IT OUT TO THE
13 INDIVIDUAL. THIS PARTICULAR STATUTE SEEMS TO SPREAD
14 IT OUT TO AN INDIVIDUAL UNDER STATUTE BUT NOT UNDER
15 THE CONSTITUTION ITSELF.

16 THE COURT: WELL, A PERSON OF ANY AGE
17 CAN'T POSSESS A PISTOL.

18 MR. THOMPSON: CORRECT.

19 THE COURT: BUT THE PENALTY FOR THIS
20 PARTICULAR STATUTE IS FIVE YEARS IF I REMEMBER
21 CORRECT AS OPPOSED TO ONE YEAR IF YOU OR I POSSESS A
22 PISTOL, RIGHT?

23 MR. THOMPSON: RIGHT. WE HAVE TO UNLAWFUL
24 CARRY IT.

25 THE COURT: YEAH. OBVIOUSLY IF YOU HAD IT

1 LOCKED IN YOUR TRUNK OR GLOVE BOX OR AT HOME.

2 MR. THOMPSON: RIGHT.

3 THE COURT: OR IN THE PROCESS OF FISHING
4 OR WHATEVER ALL.

5 MR. THOMPSON: THOSE RESTRICTIONS ARE ON
6 EVERYBODY, SO WHILE YOU ARE ALLOWED TO POSSESS A
7 FIREARM, OBVIOUSLY THESE PEOPLE AREN'T AT THEIR HOME.

8 THE COURT: THAT'S NOT WHAT THEY ARE
9 CHARGED WITH.

10 MR. THOMPSON: THAT'S CORRECT.

11 THE COURT: HE'S CHARGED WITH POSSESSING
12 IT BECAUSE OF HIS AGE.

13 MR. THOMPSON: THAT'S CORRECT BUT THAT IS
14 ALSO AN ARBITRARY LIMITATION. THAT'S ONE THAT THE
15 LEGISLATURE LOOKED AT AND SAID, HERE IS SOMETHING
16 THAT WOULD PROTECT SOCIETY THAT WOULD BE BETTER AS A
17 POLICE POWER, WE'RE GOING TO DECIDE A PERSON CAN'T
18 JUST WALK AROUND AT ANY POINT WITHOUT A GUN UNLESS
19 THERE ARE CERTAIN PROVISIONS MADE THAT THEY HAVE TO
20 FOLLOW TO DO THAT. SOMEONE WOULD HAVE TO BE LICENSED
21 TO BE ABLE TO CARRY A CONCEALED WEAPON OR SOMETHING
22 OF THAT NATURE OR IT'S AGAINST THE LAW SO THAT ALSO
23 IS ONE THAT CAN BE RESTRICTED AS A RESTRICTION THAT
24 FOLLOWS EVERYBODY THAT THE STATE HAS ONCE AGAIN MADE
25 UNDER ITS POLICE POWER.

1 THE COURT: BUT HOW CAN YOU RESTRICT
2 SOMEONE 18 TO 21, PUT A GREATER DEGREE OF CULPABILITY
3 ON THEM THAN YOU CAN ON SOMEONE OVER 21.

4 MR. THOMPSON: WELL, I THINK THE SAME WAY
5 YOU CAN SAY SOMEONE WITH A DISABILITY COULDN'T HAVE
6 IT. IT HAS TO DO, ONCE AGAIN AS YOU SAID WITH A, THE
7 SAME WAY YOU CAN SAY SOMEONE UNDER THE AGE OF 18
8 CAN'T HAVE ONE. IT IS A MATTER OF THAT SAME AS THEY
9 RESTRICT, SAME AS LIKE DRIVER'S LICENSE AND SUCH AS
10 THAT, THIS IS KIND OF A RESTRICTION UNDER THE POLICE
11 POWER THAT THEY CAN LOOK TO AND DETERMINE --

12 THE COURT: WELL, SHOW ME ANY OTHER AGE,
13 ANY OTHER PLACE THAT AGE IS A, ANYONE OVER 18 IS
14 PENALIZED, OTHER THAN LIQUOR LAWS, AND THERE IS ONE
15 IN THERE THAT SAYS BETWEEN 18 AND 25 BEFORE YOU CAN
16 GET MARRIAGE LICENSE YOU HAVE TO SHOW PROBATE JUDGE
17 PROOF OF AGE, IT DOESN'T SAY YOU CAN'T GET MARRIED;
18 WHAT OTHER ACT IS THERE THAT DIFFERENTIATES BETWEEN
19 ANYBODY WHO SIMPLY BASED ON AGE. NOT SIMPLY ON AGE,
20 BEING OVER 18.

21 MY POINT IS, AT LEAST WHAT I THINK THE
22 CONSTITUTION SAYS IS, YOU CAN TREAT PEOPLE, PEOPLE
23 OVER 18 ARE SUPPOSED TO BE TREATED LIKE EVERYBODY
24 ELSE BECAUSE THEY ARE AN ADULT UNLESS THERE IS SOME
25 PARTICULAR DISABILITY AND WHAT DISABILITY IS THERE

1 BETWEEN AGE 18 AND 25 AS OPPOSED TO 18 AND 21 AND 21
2 AND ABOVE OTHER THAN AGE?

3 MR. THOMPSON: I HAVE TO SAY THE AGE AND AS
4 THE LEGISLATURE LOOKED AT IT AND AS WE'VE SEEN IN OUR
5 EVERY DAY ACTIVITY WITHIN THE COURT HOUSE THAT IS A
6 GROUP OF PEOPLE WHO ARE VERY DANGEROUS WITH HANDGUNS.

7 THE COURT: ANYBODY IS DANGEROUS WITH A
8 HANDGUN.

9 MR. THOMPSON: NOT NECESSARILY. THERE IS A
10 LOT OF PEOPLE WHO OWN THEM WHO DON'T USE THEM TO KILL
11 ANYBODY, SO I THINK THAT --

12 THE COURT: WELL, PROBABLY A LOT OF PEOPLE
13 WHO ARE BETWEEN 18 AND 21 WHO DON'T USE THEM TO KILL
14 ANYBODY.

15 MR. THOMPSON: AND THAT MAY BE TRUE AS
16 WELL, BUT I THINK AS WE LOOK AT IT THROUGH THE COURT
17 SYSTEM AND OUR EXPERIENCES AND LOOKING AT WHY THE
18 STATE WOULD HAVE DONE SUCH A THING IT IS CERTAINLY
19 WITHIN THE POLICE POWER TO DO SO. THERE IS NOTHING
20 THAT WOULD PREVENT THEM FROM PICKING CERTAIN AGES TO
21 DO THAT AND FOR OUR SOCIETY TO DO THAT, PICK CERTAIN
22 AGES THAT SEEM TO BE A VIOLENT AGE FOR THIS TYPE OF
23 WEAPON, FOR THIS TYPE OF THING, AND SO ONCE AGAIN AGE
24 RESTRICTIONS IF YOU WANT TO LOOK AT SOMETHING WOULD
25 HAVE AGE RESTRICTION, YOU COULD INCLUDE TAKING GUN TO

1 A HIGH SCHOOL.

2 THE COURT: YOU CAN'T DO THAT AT ANY AGE.

3 MR. THOMPSON: CORRECT, BUT --

4 THE COURT: THE STATUTE SAYS THAT. YOU
5 CAN'T HAVE A MACHINE GUN. YOU CAN'T HAVE A SAWED OFF
6 SHOTGUN. YOU CAN'T HAVE A SAWED OFF RIFLE. YOU
7 CAN'T HAVE MILITARY WEAPONS BUT THAT'S.

8 MR. THOMPSON: AND THAT'S TRUE, BUT SEE,
9 THERE IS NOTHING UNCONSTITUTIONAL ABOUT THEM MAKING
10 THAT DELINEATION BETWEEN 18 AND 21.

11 THE COURT: WELL, THIS CONSTITUTIONAL
12 PROVISION DOESN'T MEAN ANYTHING?

13 MR. THOMPSON: I BELIEVE IT DOES, BUT I
14 THINK IT'S NOT AIMING AT THIS I DON'T BELIEVE. IT
15 STILL DERIVES POLICE POWERS. IT DOESN'T MEAN THAT
16 JUST BECAUSE THERE IS SOME GROUP THAT THEY CLAIM TO
17 BE A GROUP THAT CAN'T POSSESS SOME THEM AT SOME
18 PERIOD OF TIME IT GOES ALONG WITH ANYONE ELSE. NOT
19 EVERYBODY IS A DRUNKARD AND CAN'T POSSESS A GUN.

20 THE COURT: IT SAYS YOU CAN'T BUT I DON'T
21 KNOW IF ANYBODY HAVE EVER BEEN PROSECUTED.

22 MR. THOMPSON: I'VE SEEN A COUPLE, BUT, YOU
23 KNOW, THOSE THINGS APPLY AND THOSE ARE CIRCUMSTANCES
24 THAT THE LEGISLATURE --

25 THE COURT: BUT THEY ARE NOT TIED TO AGE.

1 THAT'S THE KEY. THEY ARE NOT TIED TO AGE. YOU CAN'T
2 BE A DRUG ADDICT, YOU CAN'T, NOTHING ELSE IS TIED TO
3 AGE OTHER THAN THAT ONE PROVISION.

4 MR. THOMPSON: BUT THERE IS NOTHING THAT
5 WOULD PROHIBIT IT REALLY TO BEING TIED TO AGE.

6 THE COURT: THE CONSTITUTION. YOU DON'T
7 THINK OUR CONSTITUTION MEANS ANYTHING?

8 MR. THOMPSON: WELL, SEE, THEY STILL HAVE
9 THE RIGHT TO BEAR ARMS THOUGH BECAUSE THEY HAVE SOME
10 RESTRICTION ON THE RIGHT DOESN'T MEAN THEY STILL HAVE
11 THAT RIGHT.

12 THE COURT: I'M NOT TALKING ABOUT THE
13 RIGHT TO BEAR ARMS. I'M TALKING ABOUT THE AGE. WHAT
14 I'M GOING TO DO IS TAKE THIS UNDER ADVISEMENT AND I'M
15 GOING TO HEARING FROM MR. GREELEY SINCE I'VE BEEN
16 DOING ALL THE ARGUING AND GIVE YOU OVERNIGHT TO DO
17 SOME FURTHER RESEARCH BECAUSE THE INDIANA CASE IT'S
18 SAYS YOU CAN'T, THEY HAVE A STATUTE THAT SAYS YOU
19 CAN'T DO IT WHEN YOU ARE UNDER AGE 18, WE SAY THAT,
20 SO THAT'S NOT A WHOLE LOT OF PRECEDENT.

21 MR. THOMPSON: BUT I WILL POINT OUT RIGHT
22 AFTER IT SAYS NOT LABORING UNDER DISABILITIES
23 DESCRIBED IN THIS CONSTITUTION, IT SAYS OR OTHERWISE
24 ESTABLISHED BY LAW, SO THERE IS, OBVIOUSLY THEY ARE
25 MAKING ROOM FOR LAWS TO BE ESTABLISHED THAT WOULD

1 OTHERWISE SOMEWHAT RESTRICT OR BE ABLE TO PUT LIMITS
2 ON POSSESSING OF A FIREARM.

3 THE COURT: OR DOING ANYTHING UNTIL YOU
4 ARE 21. UNDER THIS YOU ARE SAYING THAT THE
5 LEGISLATURE COULD NOW SAY THAT YOU CAN'T GET MARRIED
6 UNTIL YOU ARE 21 AND THAT WOULD BE A DISABILITY
7 IMPOSED BY -- GO AHEAD AND GET YOUR COUNSEL FROM.

8 MR. THOMPSON: YES, SIR. WELL, AS
9 MS. JOYNER POINTED OUT, MARRIAGE IS A FUNDAMENTAL
10 RIGHT WHERE THE RIGHT TO BEARS RIGHT ARM IS NOT.

11 THE COURT: WHAT ABOUT DRIVING? YOU CAN'T
12 DRIVE UNTIL YOU ARE 21.

13 MR. THOMPSON: DRIVING IS NOT A
14 FUNDAMENTAL RIGHT.

15 THE COURT: YOU DON'T HAVE A RIGHT TO
16 DRIVE, THAT'S TRUE. BUT THEY CAN CREATE A DISABILITY
17 BASED ON AGE?

18 MR. THOMPSON: I BELIEVE THE STATE CAN
19 UNDER ITS POLICE POWER.

20 THE COURT: HOW ABOUT FREEDOM OF SPEECH.

21 MR. THOMPSON: IS DEFINITELY A FUNDAMENTAL
22 RIGHT.

23 THE COURT: CAN YOU RESTRICT IT AND SAY
24 THAT IF YOU ARE UNDER 21 THAT YOU CANNOT, SOMEHOW
25 YOUR FREEDOM OF SPEECH IS RESTRICTED?

1 MR. THOMPSON: I DON'T BELIEVE SO, BUT
2 ONCE AGAIN, FREEDOM OF SPEECH IS A FUNDAMENTAL RIGHT,
3 BUT FREEDOM OF SPEECH IS NOT GOING TO HARM THE
4 COMMUNITY EITHER. YOU ARE NOT GOING TO HAVE SOMEONE
5 COME OUT AND SAY I HATE YOU AND THAT'S GOING TO KILL
6 SOMEBODY. THAT'S NOT SOMETHING THAT UNDER THE POLICE
7 POWER WOULD EVER HAVE TO LOOK AT.

8 THE COURT: MR. GREELEY.

9 MR. GREELEY: YOUR HONOR, I'M GOING TO BE
10 VERY BRIEF. I BELIEVE THAT THE IMPORTANT THING IS
11 THAT WE'RE DEALING WITH A PROVISION THAT IS A
12 CONSTITUTIONAL RIGHT. BASICALLY WHAT IT DOES IS IT
13 COMES DOWN TO THE STATUTE CRIMINALIZED 18 TO 21 YEAR
14 OLDS FOR POSSESSING A GUN IS MERELY A STATUTE AND
15 WHAT THE LEGISLATURE DID BACK THEN IS THEY PASSED
16 THIS STATUTE. WELL, THE STATUTE CAN'T TRUMP A
17 CONSTITUTIONAL PROVISION. IT JUST CAN'T DO IT. AND
18 IT'S JUST LIKE, YOU WERE SAYING AS FAR AS FREEDOM OF
19 SPEECH, IF THE LEGISLATURE IN SOUTH CAROLINA SAID
20 THAT PEOPLE BETWEEN THE AGE OF 18 AND 21 CAN'T
21 PRACTICE RELIGION BECAUSE THEY ARE NOT OLD ENOUGH TO
22 MAKE A DECISION ABOUT THAT IMPORTANT THING YET, THEN
23 IT'S THE SAME AS THE BEARING ARMS. I DON'T KNOW
24 THAT, I JUST DON'T SEE HOW IT IS A CONSTITUTIONAL
25 STATUTE BECAUSE OF THE TRUMPING. IT'S A DIFFERENCE

1 BETWEEN PROHIBITION AND RESTRICTION. THE POLICE
2 POWERS CAN COME IN AND CAN RESTRICT CERTAIN THINGS
3 AND IN CERTAIN CIRCUMSTANCES. HERE WE HAVE A
4 COMPLETE PROHIBITION OF A CONSTITUTIONAL RIGHT THAT
5 SHOULD BE GOING TO PEOPLE UNDER THE CONSTITUTION
6 THROUGH THE SUI JURIS AND IT'S THIS COMPLETE
7 PROHIBITION OF THAT GROUP THAT I WOULD SUBMIT MAKES
8 THIS STATUTE UNCONSTITUTIONAL AND DOESN'T TRUMP THE
9 SUI JURIS CONSTITUTIONAL PROVISION.

10 THE COURT: THERE ARE AN AWFUL LOT OF
11 RIGHTS ENUMERATED IN THE CONSTITUTION AND I JUST,
12 SEARCH AND SEIZURE, JURY TRIALS, EMINENT DOMAIN,
13 SPEEDY TRIAL, COULD THE LEGISLATURE ENACT A PROVISION
14 THAT SAYS, A STATUTE THAT SAYS THAT ANYONE UNDER 21
15 IS NOT ENTITLED TO A SPEEDY TRIAL? THAT'S A
16 CONSTITUTIONAL RIGHT LIKE THE RIGHT TO BEAR ARMS NOT
17 A FUNDAMENTAL RIGHT.

18 MR. THOMPSON: I DON'T BELIEVE THAT THAT
19 IS SOMETHING THAT THEY CAN DO OBVIOUSLY.

20 THE COURT: WHY NOT?

21 MR. THOMPSON: WELL, I DON'T THINK THAT,
22 THEY CAN'T EVEN DO THAT FOR SOMEONE UNDER THE AGE OF
23 18, SO THERE IS NO, THERE IS NO WAY THAT THEY COULD
24 RESTRICT THAT. THERE IS NO, AS WELL THERE IS NO
25 DANGER IN SOMEONE, THERE IS NO DANGER TO THE PUBLIC.

1 ONCE AGAIN, SOMEONE IS NOT GOING TO BE KILLED BY
2 GIVING PEOPLE SPEEDY TRIALS. WHEREAS SOMEONE CAN BE
3 BY GIVING SOMEONE WHO SHOULDN'T HAVE A GUN A GUN.

4 AND AS TO MR. GREELEY'S REFERENCE TO
5 RELIGION, RELIGION CAN BE RESTRICTED AS WELL TO
6 CERTAIN EXTENTS. YOU CAN HAVE RELIGION THAT WOULD
7 SAY AS PART OF OUR WORSHIP WE NEED TO SACRIFICE 15
8 GOATS DOWNTOWN ROCK HILL IN THE MIDDLE OF THE SQUARE.
9 YOU KNOW, YOU CAN PROHIBIT THEM FROM DOING THAT.
10 THAT'S NOT NECESSARILY JUST CARTE BLANC YOU CAN DO
11 WHATEVER YOU WANT TO. THIS IS NOT PROHIBITING THEM
12 FROM POSSESSING FIREARMS. IT IS SIMPLY PISTOLS.
13 THEY CAN HAVE OTHER FIREARMS.

14 THE COURT: MR. GREELEY, I'M FLIP
15 FLOPPING, BUT YOU HAVE A RIGHT TO VOTE AT AGE 18 AND
16 THAT CAN BE RESTRICTED, CAN'T BE RESTRICTED ON THE
17 BASIS OF AGE BUT IT CAN BE RESTRICTED FOR OTHER
18 REASONS.

19 MR. GREELEY: IT CAN BE RESTRICTED AND A
20 LOT OF TIMES THOSE RESTRICTIONS COME FROM ACTIONS OR
21 ACTIVITIES THAT HAVE BEEN PERFORMED BY THAT
22 INDIVIDUAL WHICH CAUSES THEM TO LOSE THAT RIGHT OR TO
23 BECAME RESTRICTED AS OPPOSED TO THIS STATUTE HERE TO
24 WHERE THERE HASN'T BEEN ANYTHING THAT THEY HAVE DONE
25 TO BRING THIS ABOUT OR TO LOSE THAT RIGHT OR TO HAVE

1 THAT RIGHT RESTRICTED EXCEPT EXIST BETWEEN AGES.

2 THE COURT: ALL RIGHT. WELL, I'M GOING TO
3 TAKE IT UNDER ADVISEMENT AND I'LL HEAR SOME FURTHER
4 ARGUMENT ON IT IN THE MORNING.

5 ALL RIGHT. WHAT ABOUT THE QUASHING, THE
6 IMMUNITY UNDER THE PROTECTION OF ONE'S HOME ACT OR
7 WHATEVER IT'S CALLED.

8 MR. GREELEY: YOUR HONOR, AS YOU HAD
9 MENTIONED WE DID HAVE A CONFERENCING IN REGARDS TO
10 THIS AND I'LL BE CANDID WITH THE COURT, I FEEL LIKE
11 I'M GOING DOWN A DARK ALLEY IN REGARDS TO THIS. I
12 HAVE A LAW THAT EXISTS, I DON'T KNOW WHAT IT
13 BASICALLY IS GOING TO END UP MEANING, AND SO I'M
14 GOING DOWN THAT ROAD. I BELIEVE THAT GIVEN THE
15 LANGUAGE OF THE STATUTE SINCE IT SAYS THAT A PERSON
16 IS TO BE IMMUNE FROM PROSECUTION THAT IT THEN SETS
17 UP, IT POSSIBLY SETS UP A REMEDY SO THAT A PERSON CAN
18 ASSERT THAT RIGHT TO BEING IMMUNE FROM PROSECUTION IF
19 THEY ARE BEING PROSECUTED AND IF THE FACTS SHOW THAT
20 THEY SHOULD NOT BE PROSECUTED BASED UPON WHAT THE
21 LEGISLATURE HAS LAID OUT IN THIS LAW.

22 I WOULD MOVE, UNDER MY MOTION TO QUASH THE
23 INDICTMENTS, THAT IF THE COURT DOES NOT QUASH THE
24 INDICTMENTS THAT A HEARING BE HELD TO DETERMINE IF IT
25 SHOULD BE DONE AND THAT THE PROSECUTION WOULD CEASE

1 AT THAT POINT IN TIME UNTIL A HEARING COULD BE HELD.
2 IT WOULD BE LIKE A, BASICALLY A RESTRAINING ORDER OR
3 ASKING FOR A RESTRAINING ORDER AGAINST THE STATE I
4 GUESS.

5 IN THIS PARTICULAR SITUATION I WOULD
6 SUBMIT TO THE COURT THAT THERE ARE FACTS IN THIS CASE
7 THAT COULD BE INTERPRETED AS FITTING UNDER THIS LAW.
8 THERE IS EVIDENCE IN THE CASE THAT THE CAR THAT CAME
9 OVER TO THE DEAL'S HOUSE WAS COMING OVER WITH THE
10 INTENT TO GO TO THE DEAL'S HOUSE WHERE THERE WAS A
11 PARTY GOING ON. I BELIEVE THAT ONE OF THE PEOPLE IN
12 THE CAR HAS ALREADY GIVEN THAT STATEMENT, THAT THEY
13 HAD KNOWLEDGE, AND THAT'S THEIR PURPOSE TO GO OVER TO
14 THE DEAL'S HOUSE WHERE RICKY DEAL AND BRADLEY DEAL
15 WERE. THERE IS EVIDENCE IN THE CASE THAT TWO, AT
16 LEAST ONE OF THE PERSONS IN REGARDS TO THE DEALS, ONE
17 OF THE PERSONS IN THE CAR WAS UNDER A BOND
18 RESTRICTION TO STAY AWAY FROM THE DEAL'S HOUSE AND TO
19 STAY AWAY FROM BRADLEY DEAL WHICH HAD BEEN IMPOSED BY
20 HIM AT APPROXIMATELY THREE TO FOUR DAYS PRIOR, AND SO
21 WE HAVE POSSIBLE EVIDENCE THAT THIS PERSON IS IN
22 VIOLATION OF THAT BOND RESTRICTION WHICH IS ADDRESSED
23 IN THIS STATUTE. AND ONE OF THE THINGS THAT THE
24 STATUTE DOES IS IT ALSO IMPOSES THESE PRESUMPTIONS,
25 AND SO FOR THE RECORD I GUESS AT THIS POINT IN THE

1 PROCEEDING I WOULD BE MAKING THE MOTION THAT BASED
2 UPON THE FACT THAT THE OCCUPANTS OF THE VEHICLE KNEW
3 WHERE THEY WERE GOING, THEY WERE GOING TO DEAL'S
4 HOUSE, AND THE FACT THAT MR. FALLS WAS UNDER A BOND
5 RESTRICTION NOT TO GO TO THE DEAL'S HOUSE AND NOT TO
6 GO AROUND BRADLEY DEAL, AND YET THAT'S WHERE THEY
7 CAME TO. THEY DIDN'T MAKE IT TO THE DWELLING. WE
8 WILL CONCEDE THAT. THIS DID NOT OCCUR IN THE
9 DWELLING. IT DID NOT OCCUR ON THE FRONT PORCH. IT
10 OCCURRED AT THE END OF THE DRIVEWAY. THE REASON IT
11 OCCURRED AT THE END OF THE DRIVEWAY IS BECAUSE THE
12 OCCUPANTS OF THE DWELLING CAME OUT INTO THE YARD WHEN
13 THEY SAW THAT THE CAR HAD ARRIVED, AND SO THE CAR, IT
14 WAS THE CAR'S PRESENCE AT THE YARD IN COMING TO THE
15 DEAL'S RESIDENCE THAT CAUSED THEM TO COME OUT INTO
16 THE YARD AND THUS THAT'S WHERE THE CONFLICT TOOK
17 PLACE. IT WAS THERE. SO BASED ON THOSE FACTS I
18 WOULD SUBMIT TO THE COURT --

19 THE COURT: WHICH SECTION ARE YOU RELYING
20 ON.

21 MR. GREELEY: WELL WE'VE GOT, UNDER THIS
22 LAW IT PROTECTS CERTAIN PEOPLE.

23 THE COURT: JUST POINT TO THE SECTION. I
24 KNOW ALL THAT.

25 MR. GREELEY: THE DIFFICULT PART THAT WE

1 HAVE IS SECTION 16-11-431 TO WHERE IT DEFINES
2 DWELLING.

3 THE COURT: I DON'T THINK IT, IT DOESN'T
4 COME UNDER THE INTENT PART OF IT OR ATTACHED
5 PROPERTY. I DON'T THINK HE COMES UNDER THE DWELLING
6 OF A RESIDENCE. YOU CITED ME THE OTHER DAY 16-11-440
7 ABOUT A PERSON NOT ENGAGED IN UNLAWFUL ACTIVITIES IF
8 HE IS ATTACKED AT ANOTHER PLACE WHERE HE HAS A RIGHT
9 TO BE --

10 MR. GREELEY: RIGHT, AND THAT WOULD BE IN
11 RELATION TO ---

12 THE COURT: FOCUS ON THAT BECAUSE ALL
13 THESE OTHER TALK ABOUT SOMEONE COMING IN YOUR
14 RESIDENCE OR COMING IN AN OCCUPIED VEHICLE, TALKS
15 ABOUT PEOPLE BEING AN OWNER, LESSEE OR TITLE HOLDER.
16 HE DOESN'T FALL INTO ANY OF THOSE CATEGORIES. I
17 DON'T THINK.

18 MR. GREELEY: WELL, I WOULD SUBMIT TO THE
19 COURT THAT IN THIS CASE MY CLIENT HAD A RIGHT TO BE
20 WHERE HE WAS.

21 THE COURT: THEY DIDN'T SAY THAT IN THE
22 STATUTE. THEY DIDN'T SAY, WELL BUT IN, I'M LOOKING
23 AT (A) NOW AND (B) BUT (C) A PERSON WHO IS NOT
24 ENGAGED IN UNLAWFUL ACTIVITY AND WHO IS ATTACKED IN
25 ANOTHER PLACE HAS A RIGHT TO BE, IF HE REASONABLY

1 BELIEVES IT WAS NECESSARY TO PREVENT DEATH OR GREAT
2 BODILY INJURY TO HIMSELF OR OTHER, THAT'S SUBJECTIVE.
3 HE'S GOT TO SOMEHOW PROVE THAT.

4 MR. GREELEY: WELL, THEN IF YOU GO DOWN
5 TO --

6 THE COURT: (C) LOOKS LIKE IT'S A VERSION
7 OF SELF DEFENSE WHICH WOULD BE FOR A JURY AS OPPOSED
8 TO IMMUNITY.

9 MR. GREELEY: IT IS. THEN YOU HAVE (E)
10 WHICH ESTABLISHES THIS SORT OF PRESUMPTION I GUESS.
11 A PERSON WHO BY FORCE ENTERS TO ATTEMPTS TO ENTER A
12 DWELLING, RESIDENCE, OR OCCUPIED VEHICLE IN VIOLATION
13 OF AND THERE WE GET BACK TO THE PROBLEM OF THE
14 DWELLING WITH THE VEHICLE, BUT IN VIOLATION OF AN
15 ORDER OF PROTECTION, RESTRAINING ORDER, OR CONDITION
16 OF BOND IS PRESUMED TO BE DOING SO WITH THE INTENT TO
17 COMMIT AN UNLAWFUL ACT.

18 THE COURT: BUT HE DIDN'T ENTER A
19 DWELLING, RESIDENCE, OR OCCUPIED VEHICLE.

20 MR. GREELEY: WELL, AND THAT'S WHERE WE GET
21 TO THE POINT TO WHERE IS IT DWELLING OR DOES (C) ALSO
22 PLAY INTO IT. I MEAN, THEY DIDN'T HAVE THE OPP-- YOU
23 KNOW, OUR POSITION WOULD BE THEY DIDN'T HAVE THE
24 OPPORTUNITY TO GET TO THE DWELLING. THEY STOPPED, HE
25 WAS STOPPED AT THE DRIVEWAY, BUT IT WAS STILL A

1 PERSON -- HE WAS STILL A PERSON WHO IS UNDER ONE OF
2 THESE, I'LL JUST USE TERM DISABILITY THAT IS IN THE
3 STATUTE, UNDER A CONDITION OF BOND NOT TO GO OVER
4 THERE.

5 THE COURT: IF SOMEBODY IS UNDER A BOND TO
6 STAY AWAY FROM YOU AND THEY ARE DRIVING DOWN THE
7 STREET AND YOU WALK OUT AND SHOOT THEM, AND YOU JUST
8 SAY I HAD A CONDITION OF BOND AND I'M WHERE I'M
9 SUPPOSED TO BE, I'M IN MY YARD EVEN IF IT'S ON A
10 PUBLIC STREET?

11 MR. GREELEY: WELL, I WOULD AGREE WITH
12 THAT ASSESSMENT OF THE FACTS.

13 THE COURT: YOU WOULD AGREE THAT THAT THEY
14 COULD DO THAT IF --

15 MR. GREELEY: I WOULD AGREE, NO -- IF
16 SOMEBODY IS JUST DRIVING DOWN THE STREET AND HAPPENS
17 TO PASS BY THE HOUSE AND SOMEBODY COMES OUT SHOTS
18 THEM THEN I --

19 THE COURT: WHAT IF --

20 MR. GREELEY: I WOULD AGREE THAT THEY
21 AREN'T ENTITLED TO DO THAT.

22 THE COURT: IF HE JUST PULLS OUT AND
23 HOLLERS A VULGAR WORD OUT.

24 MR. GREELEY: I BELIEVE THAT BEGINNING AS
25 SOON AS THAT PERSON BEGINS TO DO ANYTHING THAT CAN BE

1 INTERPRETED AS BEING AGGRESSIVE THEN I THINK UNDER
2 THIS STATUTE YOU'VE GOT SOME PROTECTION.

3 THE COURT: SO I GUESS AT SOME POINT
4 SOMEBODY IS GOING TO INTRODUCE SOME EVIDENCE ABOUT
5 THE RESTRAINING ORDER AND ALL THAT.

6 MR. GREELEY: YES, SIR, YOUR HONOR.

7 THE COURT: I'M GOING TO DENY THE MOTION
8 AT THIS POINT. I READ THE STATUTE AND GIVEN SOME
9 CONSIDERATION. I'M NOT SURE I UNDERSTAND EVERYTHING
10 THAT IT MEANS, BUT I WILL LISTEN TO THE EVIDENCE AND
11 CERTAINLY ENTERTAIN MOTIONS AS WE GO ALONG EITHER AT
12 DIRECTED VERDICT OR A MOTION TO PREVENT, AGAIN, THERE
13 IS NO REAL STRUCTURE IN HERE. I DON'T KNOW AFTER THE
14 STATE PRESENTS ITS EVIDENCE WHETHER OR NOT A
15 DEFENDANT HAS A RIGHT TO THRESHOLD LIKE JACKSON
16 VERSUS DENNO HEARING ON THE ISSUE OF THE STATUTE AND
17 WE'LL JUST VISIT THAT WHEN WE GET THERE. AS I THINK
18 I SAID IN CHAMBERS THE OTHER DAY I DID NOT THINK THE
19 LEGISLATURE INTENDED FOR A GROUP OF PEOPLE INVOLVED
20 IN A FIRE FIGHT AND FIST FIGHT TO BE PROTECTED BY
21 THIS ACT AND EVERYTHING I'VE HEARD SO FAR AND THE
22 STATEMENTS I'VE READ THAT'S WHAT HAPPENED HERE. IT'S
23 NOT FUN AND GAMES BECAUSE I DON'T KNOW THAT THERE WAS
24 ANY GANGS INVOLVED BUT GROUPS OF PEOPLE FOR WHOM
25 THERE WAS QUITE A BOUNTY OF ANIMOSITY TO MAKE IT

1 CONVENIENT TO MEET EACH OTHER IN THE STREET AND DUKE
2 IT OUT AND SHOOT IT OUT AND ONE SIDE WON AND THE
3 OTHER SIDE LOST AND NOW THE WINNERS ARE BEING TRIED.
4 I DON'T THINK THE STATUTE, I DON'T THINK THAT'S
5 WITHIN THE SCOPE OF WHO THE STATUTE WANTED TO
6 PROTECT. YOU KNOW YOU TALK ABOUT FOLLOWING UP ABOUT
7 ON WHAT THE SOLICITOR WAS ARGUING A LITTLE BIT AGO,
8 OBVIOUSLY YOU DON'T WANT PEOPLE FIRING OUT IN THE
9 OPEN AND OUT IN THE STREETS. YOU WANT PEOPLE TO
10 PROTECT THEIR HOMES, BUT WHEN PEOPLE GO OUT IN THEIR
11 YARD AND START SHOOTING, THEY ARE LIABLE TO HIT THE
12 NEIGHBORS, LIABLE HIT THE NEIGHBOR'S KIDS; I MEAN I
13 JUST CAN'T ENVISION THAT SHOOTING IN A CAR RACING
14 DOWN THE STREET FROM BEHIND IS, MIGHT HAVE SELF
15 DEFENSE, BUT THAT THE LEGISLATURE MEANT TO MAKE THE
16 INDIVIDUAL ENGAGING IN SUCH CONDUCT IMMUNE FROM
17 CRIMINAL AND CIVIL LIABILITY, BUT WE'LL REACH THAT
18 WHEN WE REACH THAT.

19 MR. MCKINNEY, DO YOU HAVE ANYTHING YOU
20 WANT TO SAY.

21 MR. MCKINNEY: WELL, JUDGE, I HAVE FILED,
22 AS YOU KNOW, A SIMILAR MOTION ON BEHALF OF MR. OWENS.
23 I WOULD POINT OUT THAT I DID READ THE STATUTE, LOOKED
24 AT IT VERY CAREFULLY WITH REGARD TO MR. OWENS, I
25 BELIEVE VERY STRONGLY THAT IF YOU TAKE THIS STATUTE,

1 THE WAY IT'S WORDED, MR. OWENS WOULD FALL INTO THE
2 CATEGORY OF BEING IMMUNE FROM PROSECUTION AND THAT'S
3 JUST LOOKING AT THE CLEAR WORDING OF THE STATUTE
4 ITSELF. I WOULD ALSO POINT OUT THAT---

5 THE COURT: THIS WAS HIS HOUSE?

6 MR. MCKINNEY: NO, SIR, BUT HE HAD A RIGHT
7 TO BE THERE.

8 THE COURT: I UNDERSTAND THAT. IT WASN'T
9 HIS DWELLING.

10 MR. MCKINNEY: NO, SIR.

11 THE COURT: HE WASN'T A TENANT?

12 MR. MCKINNEY: THAT'S RIGHT.

13 THE COURT: WAS THERE ANY KIND OF
14 RESTRAINING ORDER TO KEEP THE DECEASED AWAY FROM THIS
15 MAN OR ANYBODY IN THAT CAR?

16 MR. MCKINNEY: NOT AGAINST THIS MAN, NOT
17 AGAINST MR. OWENS.

18 THE COURT: SO HE WASN'T PROTECT HIMSELF,
19 HE WAS PROTECTING SOMEBODY ELSE?

20 MR. MCKINNEY: WELL, HE WAS PROTECTING
21 HIMSELF BECAUSE I WILL POINT OUT THAT THERE IS
22 EVIDENCE THAT A PERSON JUMPED OUT OF ONE OF THE
23 VEHICLES INTO THE YARD IN AGGRESSIVE MANNER TOWARD
24 MR. OWENS. THAT EVIDENCE EXISTS IN THE STATEMENTS
25 GIVEN TO THE STATE.

1 THE COURT: AND THAT'S SELF DEFENSE. THAT
2 MIGHT GIVE RISE TO SELF DEFENSE.

3 MR. MCKINNEY: I BELIEVE IT DOES. BUT I AM
4 CONCERNED ABOUT THE WORDING OF THIS STATUTE AS IT
5 APPLIES TO MR. OWENS AND OTHER PEOPLE IN THIS CASE
6 ESPECIALLY WHEN YOU LOOK AT 16-11-440 (C) WHICH
7 BASICALLY DOESN'T RESTRICT IT TO DWELLINGS OR
8 ANYTHING LIKE THAT. IT JUST SAYS AS LONG AS THE
9 DEFENDANT WASN'T ENGAGED IN UNLAWFUL ACTIVITY AND WAS
10 ATTACKED IN A PLACE WHERE HE HAD A RIGHT TO BE, HE
11 HAD NO DUTY TO RETREAT, BUT HAD THE EXPLICIT RIGHT TO
12 STAND HIS GROUND AND MEET FORCE WITH FORCE. NOW I
13 AGREE, THAT SOUNDS LIKE SELF DEFENSE, BUT IT IS A
14 PART OF A STATUTE THAT GOES ON TO SAY THAT ANY PERSON
15 WHO FITS UNDER THIS STATUTE IS IMMUNE FROM
16 PROSECUTION AND THAT WORDING IN PARAGRAPH (C) IS VERY
17 CLEAR AND THEN AS YOU GO TO 16-11-450 (A) THAT
18 SECTION STATES THAT A PERSON USING DEADLY FORCE IS
19 PERMITTED BY THIS SECTION, AS PERMITTED BY THIS
20 SECTION IS JUSTIFIED IN USING SAID FORCE AND IS
21 IMMUNE FROM CRIMINAL PROSECUTION UNLESS AGAINST WHOM
22 THE DEADLY FORCE WAS USED WAS A POLICE OFFICER. I
23 MEAN, TO ME, SECTION (C) DOESN'T LIMIT IT TO
24 DWELLINGS, IT DOESN'T LIMIT IF TO ANYTHING ELSE; IT
25 CLEARLY SAYS THAT IF HE IS IN A PLACE WHERE HE HAS A

1 RIGHT TO BE, IF MR. OWENS HAD A RIGHT TO BE WHERE HE
2 WAS AND IS NOT ENGAGED IN UNLAWFUL ACTIVITY, THEN HE
3 HAS NO DUTY TO RETREAT AND FALLS UNDER THIS SECTION
4 FROM BEING IMMUNE FROM PROSECUTION. THAT'S WHY THIS
5 STATUTE WAS PASSED I BELIEVE.

6 THE COURT: SO IF HE WAS IN A BAR IT WOULD
7 BE THE SAME SET OF CIRCUMSTANCES? IMMUNE, NOT SELF
8 DEFENSE, HE'D BE IMMUNE.

9 MR. MCKINNEY: JUDGE, IT MAY BE THE WORST
10 MOST POORLY WRITTEN STATUTE IN THE WORLD, BUT IT'S
11 WHAT WE HAVE TO LIVE WITH TODAY. I'M NOT SAYING THAT
12 IT'S A FINELY TUNED STATUTE. AS A MATTER OF FACT, I
13 THINK IT IS VERY POORLY WORDED, BUT WE HAVE TO LIVE
14 WITH OTHER STATUTES THAT THE LEGISLATURE PASSES IF
15 THEY ARE NOT UNCONSTITUTIONAL AND THIS ONE CLEARLY
16 SAYS WHAT IT SAYS.

17 NOW IF WE GET TO A BAR SITUATION WHERE
18 PERSON IS THERE LAWFULLY AND SOMEBODY COMES UP AND
19 ATTACKS HIM, THEN MAYBE THEY ARE CHANGING THE LAW OF
20 SELF DEFENSE OR CERTAINLY ADDING ANOTHER DIMENSION TO
21 IT BECAUSE THIS STATUTE SAYS IF HE'S IN A PLACE HE
22 HAS A RIGHT TO BE AND HE'S THERE LAWFULLY AND HE IS
23 ATTACKED HE HAS A RIGHT TO USE DEADLY FORCE UNDER
24 THIS SECTION AND IF HE DOES, HE'S IMMUNE FROM
25 PROSECUTION.

1 THE COURT: ALL RIGHT. SO TO GO TO THE
2 ABSURD, WE DON'T HAVE DUALS ANYMORE, BUT IF SOMEONE
3 SAYS MEET ME IN MAIN STREET AT HIGH NOON.

4 MR. MCKINNEY: NO, SIR, THAT WOULD NOT
5 APPLY?

6 THE COURT: WHY NOT? A DUAL IS ILLEGAL SO
7 WE WON'T CALL IT A DUAL. LET'S JUST CALL IT A GUN
8 FIGHT.

9 MR. MCKINNEY: AND HE'S NOT BEING
10 ATTACKED. THIS IS DONE BY AGREEMENT I GUESS IN A
11 DUAL OR IN A GUN FIGHT. THAT'S DONE BY AGREEMENT.

12 THE COURT: WHAT IF HE WALKS OUT IN THE
13 STREET AND SEES HIS ARCH ENEMY AND DOESN'T AND IT'S
14 NOT PREARRANGED, BUT HE SEES HIS ARCH ENEMY ON THE
15 STREET AND DRAWS HIS GUN AND THE OTHER PERSON DRAWS
16 THEIR GUN.

17 MR. MCKINNEY: I DON'T THINK THAT WOULD
18 APPLY.

19 THE COURT: BOTH OF THEM WERE ENGAGED IN
20 LAWFUL ACTIVITY, BOTH OF THEM OLD ENOUGH TO HAVE
21 PISTOL, THEY HAVE CONCEALED WEAPON PERMIT AND ALL
22 THAT AND THEY HAD A RIGHT TO BE THERE. BOTH OF THEM
23 HAD A RIGHT TO BE ON THE STREET AND THEY BOTH DRAW AT
24 THE SAME TIME.

25 MR. MCKINNEY: I DON'T THINK THAT'S THE

1 SAME AS THIS. I THINK IN THIS CASE --

2 THE COURT: ---IT'S PRETTY CLOSE.

3 MR. MCKINNEY: I DON'T. PLUS, JUDGE, I
4 THINK YOU HAVE TO LOOK AT THAT SECTION THAT THEY
5 THREW IN THERE AND SAID IF A PERSON IS UNDER A
6 RESTRAINING ORDER, NOW ADMITEDLY IT WASN'T AGAINST
7 HIM AND IT WASN'T, IT WAS AGAINST THIS HOUSE THOUGH,
8 IT WAS IN FAVOR OF THIS HOUSE, AND PERSONS IN THIS
9 HOUSE, AND ALL OF THESE PEOPLE WERE ACTING IN
10 CONCERT, SO I WOULD TAKE THE POSITION IF ANY ONE OF
11 THEM, IF THEY WERE ACT IN CONCERT IN COMING OVER
12 THERE TO DO MISCHIEF, THE RESTRAINING ORDER WOULD
13 APPLY ACROSS THE BOARD TO EVERY ONE OF THEM. AND
14 THAT SIMPLY GIVES RISE TO A PRESUME THAT THEY ARE
15 THERE TO DO BODILY HARM. IT'S A MOST UNUSUAL STATUTE
16 I AGREE. AND I DON'T KNOW WHERE, I'VE BEEN LOOKING
17 AT IT FROM THE STANDPOINT IF THE COURT DENIES THIS
18 MOTION HOW WE GOING FIT THIS INTO JURY CHARGES?

19 THE COURT: WELL, THEY DON'T GIVE US A
20 WHOLE LOT OF GUIDANCE. YOU KNOW THERE ARE A LOT OF
21 IMMUNITIES THAT ARE USUALLY BASED ON STATUS: YOU'RE
22 A JUDGE YOU ARE IMMUNE FROM CERTAIN THINGS; YOU ARE A
23 JUROR YOU ARE IMMUNE FROM CERTAIN THINGS; THEY ARE
24 STATUS RELATED AND YOU DON'T HAVE TO PROVE THAT. YOU
25 EITHER ARE OR YOU ARE NOT. YOU CAN TAKE JUDICIAL

1 NOTICE IF SOMEBODY IS A JUDGE OR SOMEBODY IS A
2 POLITICIAN OR SOMEBODY -- MOST IMMUNITIES THAT I CAN
3 FIND HAVE SOME SORT OF STATUS THAT PREEXISTS. IT'S
4 NOT CREATED AT THE MOMENT, THE STATUS OF.

5 MR. MCKINNEY: BUT THIS ONE IS.

6 THE COURT: WELL, IT MAY BE. BUT AGAIN
7 HOW DO WE DECIDE WHETHER OR NOT THEY REACHED THAT
8 STATUS? IS IT THE COURT, IS IT THE JUDGE TO
9 DETERMINE OR FOR THE JURY?

10 MR. MCKINNEY: WELL, CERTAINLY I THINK THE
11 JUDGE CAN DETERMINE IT BASED ON THE FACTS. IT'S
12 CLEAR. I THINK IT WOULD HAVE TO BE CLEAR.

13 THE COURT: WHO HAS THE BURDEN OF PROOF?

14 MR. MCKINNEY: I THINK WE HAVE THE BURDEN
15 OF PROOF AND I UNDERSTOOD THAT WHAT WAS GOING TO
16 HAPPEN IN THE CASE WAS WE WERE GOING TO HEAR
17 EVIDENCE --

18 THE COURT: WE ARE.

19 MR. MCKINNEY: AND POTENTIALLY ADD MORE
20 EVIDENCE IF WE NEEDED TO DO THAT.

21 THE COURT: THAT'S WHERE I THINK WE OUGHT
22 TO GO. WE'RE GOING TO HEAR WHAT THE STATE HAS AND
23 THE DEFENSE MAKE THEIR MOTIONS AND IF THEY ARE
24 GRANTED, THEY ARE GRANTED. THAT'S FINE. IF THEY ARE
25 NOT, THEN I WILL GIVE THE DEFENSE, I WILL PUT THIS ON

1 THE RECORD NOW, I WILL GIVE THE DEFENSE AN
2 OPPORTUNITY TO MAKE OUT A CASE OUTSIDE THE PRESENCE
3 OF THE JURY TO SEE IF THEY FALL WITHIN THIS CATEGORY.
4 NOW THE QUESTION IS IF THE JUDGE RULES THAT THEY ARE
5 NOT WITHIN THIS CATEGORY, DOES THAT END IT OR DO THEY
6 STILL GET A CHARGE TO THE JURY? DO YOU GET TWO
7 SHOTS.

8 MR. MCKINNEY: I WOULD THINK SO.

9 THE COURT: WHY.

10 MR. MCKINNEY: WELL ---

11 THE COURT: IF THE JUDGE SAYS THEY ARE NOT
12 IMMUNE THEN THEY ARE NOT IMMUNE.

13 MR. MCKINNEY: BUT THERE AGAIN THAT'S AT A
14 DIRECTED VERDICT STAGE.

15 THE COURT: I'M NOT TALKING ABOUT DIRECTED
16 VERDICT. IF YOU GOT A BURDEN OF PROOF, IF YOU GOT
17 THE BURDEN OF PROOF, YOU GOT NOTHING AT DIRECTED
18 VERDICT.

19 MR. MCKINNEY: LET ME PUT IT THIS WAY. IF
20 THE COURT TAKES THE POSITION THAT THEY ARE NOT IMMUNE
21 THEN I WOULD STILL ARGUE THAT WE HAVE THE RIGHT TO
22 HAVE CERTAIN PARTS OF THIS STATUTE CHARGED TO THE
23 JURY. I SUPPOSE THE JUDGE WOULD HAVE TO MAKE A
24 DECISION BASED ON THAT TOO; BUT YES, I WOULD ARGUE
25 THAT WE WOULD HAVE THAT RIGHT.

1 THE COURT: ANYTHING ELSE FROM THE STATE?

2 MR. THOMPSON: YOUR HONOR, I STILL THINK
3 THE FIRST THING WE NEED TO CONSIDER IS WHETHER THIS
4 STATUE APPLIES IN THIS CASE AT ALL. ONCE AGAIN THE
5 STATE WOULD ARGUE THAT THIS IS A PROSPECTIVE ACT,
6 IT'S NOT RETROACTIVE, AND THAT WE CANNOT GO BACK AND
7 APPLY NEW RIGHTS THAT DID NOT EXIST AT THE TIME OF
8 THE INCIDENT. BECAUSE OBVIOUSLY WHAT THIS STATUTE
9 WOULD BE GIVING IS NOT JUST, WELL, IMMUNITY WHICH
10 WOULD BE A HUGE THING IN ITSELF, BUT ALSO IT WOULD
11 SPREAD THAT TO OTHER PEOPLE SUCH AS PEOPLE WHO WERE
12 INVITED ON THE PROPERTY, IT WOULD SPREAD IT AS WELL
13 TO PEOPLE NOT JUST TRYING TO ENTER A DWELLING BUT
14 ENTER A BUSINESS OR A --

15 THE COURT: IT SAYS BUSINESS.

16 MR. THOMPSON: ---VEHICLE.

17 THE COURT: AND VEHICLE.

18 MR. THOMPSON: SO THOSE THINGS IS QUITE A
19 LARGE EXPANSION AND THE STATE ALSO HAS A POSITION
20 THAT THE GRANTING OF IMMUNITY FOR CRIMINAL MATTERS
21 WOULD ACTUALLY BE UNCONSTITUTIONAL BY OUR
22 LEGISLATURE, THAT THESE CONSTITUTION PUTS PROSECUTION
23 IN THE ATTORNEY GENERAL'S HANDS AND UNDER HIS
24 SUPERVISION AND THAT HE WOULD BE THE ONE TO DETERMINE
25 WHETHER SOMEONE IS ACTUALLY IMMUNE FROM---

1 THE COURT: WHY DON'T YOU RUN THIS BY OUR
2 CURRENT ATTORNEY GENERAL THEN. IF YOU ARE DEFERRING
3 TO THE ATTORNEY GENERAL I THINK I WOULD HOLD WITH THE
4 ATTORNEY GENERAL COME DOWN ON THIS ONE AND THE LAST
5 ATTORNEY GENERAL TOO. BUT ARE YOU SAYING THAT WE GOT
6 TO RUN THIS BY THE GENERAL ATTORNEY BEFORE WE CAN
7 DECIDE WHETHER TO PROSECUTE IT OR NOT?

8 MR. THOMPSON: NO, JUDGE, I'M NOT. I'M
9 SIMPLY SAYING THAT THIS STATUTE DOES NOT APPLY HERE.
10 I NEED TO GO BACK TO THAT FACT THAT IT'S A
11 PROSPECTIVE STATUTE. IT DOES NOT APPLY TO THIS CASE.
12 WE ACTUALLY DON'T HAVE TO WRESTLE WITH ALL THE
13 INTRICACIES OF THIS STATUTE AT THIS TIME BECAUSE IT
14 DOES NOT APPLY HERE.

15 I MEAN IN THE, SAYING IT FALLS WITHIN THE
16 STATUTE SEEMS TO SAY THAT IT'S GOING TO BE FROM HERE
17 ON OUT. YOU LOOK AT CASE LAW REGARDING THIS. I
18 THINK IT'S PRESUMED PROSPECTIVE NOT RETROACTIVE
19 UNLESS IT SPECIFICALLY SAYS IT'S RETROACTIVE WHICH
20 THIS STATUTE NOWHERE SAYS, IT DOESN'T EVEN SAY ONE
21 PART OF IT COULD BE RETROACTIVE, UNLESS THERE IS A
22 CLEAR LEGISLATURE INTENT TO THE CONTRARY. THE
23 LEGISLATURE DOESN'T APPEAR TO HAVE ANY CLEAR INTENT
24 THAT SAYS THIS WOULD BE RETROACTIVE AND WE SHOULD ADD
25 THIS TO PEOPLE'S CASES PENDING AT THE TIME THAT THE

1 STATUTE COMES IN. THE STATUTE ITSELF OR UNLESS THE
2 STATUTE IS SIMPLY REMEDIAL IN NATURE OR PROCEDURAL IN
3 NATURE; WELL, THIS IS REMEDIAL OR JUST PROCEDURAL.
4 THIS CERTAINLY CREATES A RIGHT. IT DOESN'T, IT'S NOT
5 SOMETHING THAT MINOR. IT'S NOT SOMETHING THAT CAN BE
6 CHANGED LIKE A RULE OF EVIDENCE OR SOMETHING LIKE
7 THAT WE CAN FALL BACK ON.

8 THE COURT: WELL, WHAT ABOUT WHEN IT
9 STARTS IN 16-11-420 AND SAYS IT IS THE INTENT OF THE
10 GENERAL ASSEMBLY TO CODIFY THE COMMON LAW CASTLE
11 DOCTRINE, SO THEY START OFF BY SAYING THIS IS THE
12 LAW, WE'RE JUST PUTTING IT IN, THIS IS THE COMMON
13 LAW THAT WE'RE SAYING HERE, WE'RE JUST PUTTING IT
14 INTO STATUTE.

15 MR. THOMPSON: BUT THEY OBVIOUSLY KNOWING
16 THAT BECAUSE THE COMMON LAW CASTLE DOCTRINE SIMPLY
17 DEALT WITH DWELLINGS AND PEOPLE WHO LIVED IN THOSE
18 DWELLINGS.

19 THE COURT: I KNOW THAT. AND IT SAYS THE
20 CASTLE DOCTRINE RECOGNIZES A PERSON'S HOME IS HIS
21 CASTLE AND TO EXTEND THE DOCTRINE TO VEHICLES AND
22 PLACE OF BUSINESS.

23 MR. THOMPSON: CORRECT.

24 THE COURT: SO THEY ARE SAYING AND WHAT
25 WE'RE SAYING THIS IS THE LAW BECAUSE IT'S ALREADY THE

1 LAW. WE JUST WANT EVERYBODY TO KNOW IT'S THE LAW.

2 MR. THOMPSON: RIGHT, BUT THEY DON'T, THE
3 LAW NEVER BEFORE GRANTED IMMUNITY. IT WAS ALWAYS A
4 JURY QUESTION.

5 THE COURT: THAT'S NOT WHAT THEY ARE
6 SAYING. THEY'RE SAYING IT'S CODIFYING IN COMMON LAW
7 DOCTRINE.

8 MR. THOMPSON: NO, THEY ARE SAYING THAT AS
9 TO THE EXTENSION OF IT, NOT AS TO THE GRANT OF
10 IMMUNITY. THE GRANT OF IMMUNITY IS SOMETHING THAT IS
11 SOLELY GIVEN IN THIS STATUTE. THAT'S NEVER MENTIONED
12 IN ANY CASE LAW ANYWHERE. THEY ALSO PROVIDE FOR SOME
13 SORT OF, LOOK AND SEE EXACTLY WHERE THEY PROVIDE FOR
14 SOME SORT OF PROBABLE CAUSE HEARING BEFORE AN ARREST.
15 OBVIOUSLY THAT WAS NOT DONE HERE BEFORE ARREST
16 BECAUSE THIS LAW DIDN'T APPLY AT THAT TIME. NOW
17 THERE HAS BEEN A PROBABLE CAUSE HEARING AND THAT WAS
18 PRESENTED TO THE GRAND JURY.

19 THE COURT: ALL RIGHT. WELL, WE'VE GOT A
20 PLAN ON THIS ONE. WE'LL SEE HOW WE PROCEED. I'M AS
21 CONFUSED AS THE NEXT PERSON BUT IT DOESN'T APPEAR TO
22 ME THAT THIS IS A CASE THAT THE STATUTE WAS MEANT TO
23 ADDRESS BUT I DIDN'T WRITE THE STATUTE AND I'LL STUDY
24 ON IT SOME MORE. ALL RIGHT. WE'LL START BACK AT TEN
25 IN THE MORNING. YES, SIR.

1 MR. GREELEY: YOUR HONOR, I JUST HAVE, IF
2 WE COULD JUST FOR THE RECORD TWO BRIEF MOTIONS. ONE
3 IS THERE ARE TWO TELEPHONE CALLS THAT THE STATE
4 PROVIDED ME LAST THURSDAY BETWEEN MY CLIENT AND HIS
5 FATHER THAT WERE RECORDED ON FEBRUARY 20. IT'S MY
6 UNDERSTANDING AT THIS POINT IN TIME THAT THEY HAVE
7 INDICATED THAT THEY DON'T ANTICIPATE USING THOSE IN
8 THEIR CASE IN CHIEF BUT I MAY END UP BEING REPLY
9 TESTIMONY AND I UNDERSTAND THAT AND I'M GOING TO
10 WITHDRAW MY MOTION BASED UPON THAT FACT, SO I'M NOT
11 GOING TO DEAL WITH THAT. THE MOTION FOR LYLE
12 DISCLOSURE I'M --

13 THE COURT: ANY LYLE TESTIMONY?

14 MR. GREELEY: ---GOING TO ASK THE
15 SOLICITOR IF HE HAS ANY LYLE IN REGARDS TO MY
16 DEFENDANT IN THIS CASE.

17 MR. THOMPSON: NO, WE HAVE NO LYLE
18 TESTIMONY TO PRESENT IN THIS CASE.

19 THE COURT: WHAT ABOUT IMPEACHABLE, WHILE
20 I'M THINKING ABOUT THAT, WHAT ABOUT IMPEACHABLE
21 OFFENSES AS TO THE TWO DEFENDANTS?

22 MR. THOMPSON: I DON'T BELIEVE EITHER
23 DEFENDANT HAS IMPEACHABLE DEFENSES, YOUR HONOR.

24 MR. GREELEY: NO, WE'RE CLEAR ON THAT.
25 HAVE WE ALREADY DISCUSSED THE SEQUESTRATION MOTION BY

1 ME?

2 THE COURT: RIGHT.

3 MR. GREELEY: BUT THERE ARE CERTAIN PEOPLE
4 THAT WILL BE ALLOWED TO REMAIN.

5 THE COURT: EXCEPT FOR THOSE WE MENTIONED
6 EARLIER AND WE WANT TO PUT THAT ON THE RECORD SO
7 THERE WON'T BE ANY PROBLEMS. EVERYBODY ELSE WILL BE
8 SEQUESTERED AND INSTRUCTED WHOMEVER THEY ARE HERE
9 FOR, THEY MAY BE HERE FOR MORE THAN ONE PERSON, WE
10 INSTRUCT THEM THAT THEY ARE NOT TO DISCUSS ANYTHING
11 ABOUT THEIR TESTIMONY OR QUESTIONS THAT WERE ASKED,
12 ANY COMMENTS THE JUDGE MAKES, ANYTHING ABOUT THEIR
13 TESTIMONY OR BEING IN COURT WITH ANYONE ELSE UNTIL
14 THE TRIAL IS CONCLUDED. WHO ARE THE ONES WHO CAN
15 STAY IN FOR THE STATE?

16 MR. POPE: I BELIEVE THE VICTIMS AND THE
17 INVESTIGATIVE STAFF AND I THINK THE DEFENSE IS THE
18 DEFENDANTS.

19 MR. GREELEY: HIS FAMILY WHO ARE NOT ---

20 MR. POPE: I THINK THE CONCERN WAS THAT
21 THE FATHER WAS ON THE TAPE AND HE MIGHT BE CALLED AS
22 A WITNESS. I HAVE NO OBJECTION TO HIM STAYING.

23 MR. GREELEY: THEN I WOULD HAVE, OF
24 COURSE, MR. BERNARD MY INVESTIGATOR, MR. SHANNELL,
25 WHO WORKS FOR HIM WHO MAY OR MAY NOT BEING COMING IN

1 AND MAYBE ANDREA THOMAS BUT SHE'S NOT A WITNESS, MY
2 LEGAL ASSISTANT.

3 MR. MCKINNEY: ARE Y'ALL FINISHED WITH
4 THAT BECAUSE I HAVE TO SORT OF PROTECT THE RECORD
5 WITH REGARD MR. OWENS AND WOULD MAKE THE SAME MOTION
6 REGARDING LYLE. I DON'T THINK THERE IS -- NONE. I
7 WOULD LIKE TO ADVISE THE COURT FOR THE RECORD I HAVE
8 DISCUSSED THIS EXTENSIVELY WITH MY CLIENT. WE
9 CONSIDERED TRYING THESE CASES TOGETHER OR SEPARATING
10 THEM, WE, AND MY CLIENT AGREED NOT TO MAKE ANY MOTION
11 TO SEVERE THE TRIALS. THAT WAS DONE PURSUANT A GOOD
12 EXPLANATION TO MR. OWENS AND CAREFUL THOUGHT ON MY
13 PART, BUT I WANTED THE RECORD TO SHOW THAT WE HAD
14 CONSIDERED THAT.

15 I ALSO HAD INFORMATION, MR. OWENS HAS BEEN
16 GOING TO CATAWBA COMMUNITY HEALTH CENTER AND
17 MR. OWENS HAS BEEN PLACED ON MEDICATION BY THEM AND
18 I'LL READ THIS INTO THE READ, IT IS A LETTER DATED
19 AUGUST 15 FROM THEM STATING MR. OWENS IS CURRENTLY
20 RECEIVING HEALTH SERVICES. HE HAS BEEN DIAGNOSED
21 WITH ANXIETY DISORDER, DEPRESSIVE DISORDER, AND
22 ADJUSTMENT DISORDER. I SPECIFICALLY REQUESTED AS HIS
23 ATTORNEY WHETHER OR NOT THEY FELT THAT THEY WERE OF
24 THE OPINION THAT HE COULD NOT ASSIST ME, PROPERLY
25 ASSIST ME IN THIS TRIAL, TO PROPERLY DEFEND HIM, AND

1 THEY DID NOT GIVE ME ANY SUCH OPINION AND I DO KNOW
2 THAT HE HAS NOT TAKEN HIS MEDICATION TODAY AND I AM
3 OF THE OPINION BASED ON ALL THIS THAT HE IS IN A
4 MENTAL STATE TO ASSIST ME IN HIS DEFENSE AND GO
5 FORWARD WITH THE TRIAL.

6 THE COURT: SO YOU ARE TELLING THE COURT
7 THAT THERE IS NO COMPETENCY QUESTION INVOLVING HIS
8 UNDERSTANDING WHAT HE'S CHARGED WITH, THE HEARING
9 THAT'S GOING ON, AND IS ABLE TO ASSIST COUNSEL.

10 MR. MCKINNEY: THAT'S CORRECT, YOUR HONOR.
11 THAT'S WHAT I'M TELLING THE COURT. THANK YOU.

12 THE COURT: WE'LL BE AT EASE THEN UNTIL
13 TEN IN THE MORNING AND IF I CAN SEE COUNSEL JUST FOR
14 A MINUTE.

15 (COURT'S IN RECESS AT 05:37 PM.)

16 (COURT RESUMES ON AUGUST 29, 2006 AT
17 11:33 AM.)

18 THE COURT: SOLICITOR.

19 MR. THOMPSON: RONALD LEE OWENS. MAY IT
20 PLEASE THE COURT. THIS IS THE STATE OF SOUTH
21 CAROLINA VERSUS RONALD OWENS INDICTMENTS
22 2006-GS-46-1602 WHEREIN HE'S CHARGED WITH DISCHARGING
23 A FIREARM INTO AN OCCUPIED VEHICLE. THE DEFENDANT IS
24 PLEADING NO CONTEST ON THIS CHARGE. AS WELL AS
25 2006-GS-46-1603 ASSAULT WITH INTENT TO KILL. THE

1 DEFENDANT IS PLEADING NO CONTEST TO THIS CHARGE AS
2 WELL. 2006-GS-46-1604 FOR ASSAULT WITH INTENT TO
3 KILL. THE DEFENDANT IS PLEADING NO CONTEST WITH THAT
4 CHARGE AS WELL. ALL THREE HAVE BEEN SENT TO THE
5 GRAND JURY AND HAVE BEEN TRUE BILLED.

6 AS PART OF THE PLEA AGREEMENT WE HAVE
7 AMENDED THE INDICTMENTS IN 1603 TO READ THAT NOT ONLY
8 THAT HE ADMITTED AN ASSAULT UPON BOBBY HOVIS BUT ALSO
9 ON MICHAEL HUBBARD AND THAT'S BEEN ADDED IN ON THE
10 INDICTMENTS. AND 1604 HAS BEEN AMENDED TO ADD AS
11 WELL THE ASSAULT ON TRAVIS FALLS AND HOLLY MCCARTER,
12 SO HOLLY MCCARTER'S NAME HAS BEEN ADDED INTO THAT.

13 THE COURT: MR. MCKINNEY, DO YOU CONSENT
14 TO THOSE?

15 MR. MCKINNEY: YES, YOUR HONOR, WE DO.

16 MR. THOMPSON: ALSO AS PART OF THIS PLEA
17 AGREEMENT, YOUR HONOR, THERE IS THE DISMISSAL OF TWO
18 CHARGES: 2006-GS-46-1605 ASSAULT WITH INTENT TO KILL
19 AND 1606 ASSAULT WITH INTENT TO KILL AND THEY WOULD
20 HAVE DEALT WITH THOSE TWO INDIVIDUALS THAT HAVE NOW
21 BEEN ADDED INTO THE OTHER TWO INDICTMENTS HOLLY
22 MCCARTER AND MICHAEL HUBBARD. THOSE TWO ARE BEING
23 DISMISSED AS PART OF THIS PLEA.

24 THERE IS A RECOMMENDATION BY THE STATE,
25 YOUR HONOR, AS FAR AS SENTENCING. WE ARE ASKING FOR

1 CONCURRENT SENTENCING AND A CAP, THE CAP BEING THE
2 MAXIMUM THAT HE COULD RECEIVE WHICH WOULD BE TEN
3 YEARS PROVIDED ON THE SERVICE OF FIVE YEARS AND FIVE
4 YEARS PROBATION. THAT IS ONCE AGAIN LISTED AS A CAP
5 FOR THE PURPOSES OF HIS NO CONTEST PLEA.

6 IN ADDITION THE DEFENDANT HAS GIVEN
7 STATEMENTS TO LAW ENFORCEMENT AND IF FOR SOME REASON
8 THE DEFENDANT WERE TO COME BACK AT A LATER TIME AND
9 BASICALLY DENY THOSE STATEMENTS AND GIVE SOME OTHER
10 STORY, THE PLEA ITSELF WOULD STAY IN EFFECT; HOWEVER,
11 THE SENTENCING COULD BE REVISITED AT THAT POINT AND
12 SO THE DEFENSE HAS AGREED TO THAT AS WELL.

13 MR. MCKINNEY: THAT IS CORRECT, YOUR
14 HONOR.

15 THE COURT: MR. OWENS, HOW OLD ARE YOU?

16 MR. OWENS: 35 YEARS OLD, YOUR HONOR, SIR.

17 THE COURT: YOU REPRESENTED BY
18 MR. MCKINNEY AND MR. RHEA?

19 MR. OWENS: YES, SIR.

20 THE COURT: YOU SATISFIED WITH THEIR
21 SERVICES?

22 MR. OWENS: YES, SIR.

23 THE COURT: YOU ARE CHARGED WITH TWO
24 COUNTS OF ASSAULT WITH INTENT TO KILL. EACH OF THESE
25 CARRIES UP TO TEN YEARS IN JAIL AND POSSIBILITY OF A

1 FINE. IT'S ALLEGED THAT THESE OCCURRED HERE IN YORK
2 COUNTY ON LAWRENCE ROAD ON OR ABOUT FEBRUARY 18,
3 2006, WHEN YOU DID WITH MALICE AFORETHOUGHT COMMIT
4 ASSAULT UPON TRAVIS FALLS, HOLLY MCCARTER, AND IN THE
5 OTHER INDICTMENT, SECOND INDICTMENT, BOBBY HOVIS, AND
6 MICHAEL HUBBARD. IT'S ALLEGED THAT AS TO THOSE FOUR
7 YOU SHOT A FIREARM WHILE THEY WERE RIDING IN A
8 VEHICLE WHILE BEING DRIVEN AWAY FROM YOU. YOU
9 UNDERSTAND WHAT YOU ARE CHARGED WITH AND THE
10 POTENTIAL PENALTY ON EACH OF THOSE INDICTMENTS?

11 MR. OWENS: YES, SIR, YOUR HONOR.

12 THE COURT: HOW DO YOU PLEAD TO THESE TWO
13 CHARGES?

14 MR. OWENS: NO CONTEST.

15 THE COURT: TO BOTH?

16 MR. OWENS: YES, SIR.

17 THE COURT: YOU UNDERSTAND THAT THE COURT
18 TREATS A NO CONTEST PLEA THE SAME AS IT TREATS A PLEA
19 OF GUILT?

20 MR. OWENS: YES, SIR.

21 THE COURT: OKAY. YOU ARE ALSO CHARGED
22 WITH DISCHARGING A FIREARM INTO AN OCCUPIED VEHICLE
23 ON THAT SAME DATE ON LAWRENCE ROAD AND IT'S ALLEGED
24 THAT YOU DID WILLFULLY AND UNLAWFULLY DISCHARGE A
25 FIREARM AT OR INTO AN OCCUPIED VEHICLE IN VIOLATION

1 OF THE LAWS OF THIS STATE. YOU UNDERSTAND WHAT YOU
2 ARE CHARGED WITH ON THAT?

3 MR. OWENS: YES, SIR, YOUR HONOR.

4 THE COURT: WHAT DOES THAT CARRY?

5 MR. THOMPSON: UP TO TEN YEARS, YOUR
6 HONOR.

7 THE COURT: IS IT A FELONY?

8 MR. THOMPSON: YES, SIR, YOUR HONOR.

9 THE COURT: IS IT A VIOLENT OR SERIOUS
10 OFFENSE?

11 MR. THOMPSON: NO, IT IS NOT.

12 THE COURT: MR. OWENS, ON THAT YOU COULD
13 RECEIVE UP TO TEN YEARS IN JAIL ALSO AND IT IS A
14 FELONY. YOU UNDERSTAND THAT?

15 MR. OWENS: YES, SIR, YOUR HONOR.

16 THE COURT: HOW DO YOU PLEAD TO THAT
17 CHARGE?

18 MR. OWENS: NO CONTEST.

19 THE COURT: AS TO THESE THREE CHARGES
20 OTHER THAN THE RECOMMENDATION OF A CAP THAT WAS
21 STATED TO ME A MOMENT AGO BY THE SOLICITOR HAS
22 ANYBODY MADE ANY OTHER PROMISES OR THREATS TO CAUSE
23 YOU TODAY TO ENTER YOUR PLEA OF GUILT TO THESE
24 CHARGES?

25 MR. OWENS: NO, SIR, YOUR HONOR.

1 THE COURT: ARE YOU TODAY UNDER THE
2 INFLUENCE OF ANYTHING THAT WOULD CAUSE YOU TO BE
3 INTOXICATED?

4 MR. OWENS: NO, SIR, YOUR HONOR.

5 THE COURT: ARE YOU TODAY ENTERING YOUR
6 PLEA FREELY AND VOLUNTARILY?

7 MR. OWENS: YES, SIR.

8 THE COURT: MR. OWENS, YOU HAVE A RIGHT TO
9 A TRIAL BY JURY ON THIS CHARGE AND IN FACT WE'VE
10 DRAWN A JURY AND IT HAS NOT BEEN SWORN, BUT YOU DO
11 HAVE A RIGHT TO HAVE A TRIAL BY JURY AND HAVE THAT
12 JURY HEAR THE STATE'S EVIDENCE AND THE STATE WOULD
13 HAVE TO PROVE YOUR GUILT BEYOND A REASONABLE DOUBT
14 BEFORE THAT JURY OR ANY JURY COULD CONVICT YOU.

15 YOU HAVE THE RIGHT AS TO THE CHARGE TO
16 REMAIN SILENT; THAT IS, NO ONE CAN MAKE YOU GIVE ANY
17 STATEMENT OR TESTIFY AGAINST YOURSELF. YOU HAVE THE
18 RIGHT TO CONFRONT THE WITNESSES AGAINST YOU; THAT IS,
19 TO SEE, HEAR, QUESTION, AND CROSS EXAMINE THOSE
20 WITNESSES THAT THE STATE WOULD CALL. AND YOU HAVE
21 THE RIGHT TO HAVE THE STATE ISSUE SUBPOENAS FOR YOUR
22 WITNESSES TO COME AND TESTIFY ON YOUR BEHALF. YOU
23 UNDERSTAND YOU HAVE THESE RIGHTS?

24 MR. OWENS: YES, SIR.

25 THE COURT: DO YOU HAVE ANY QUESTIONS

1 ABOUT THEM?

2 MR. OWENS: NO, SIR.

3 THE COURT: I ADVISE YOU THAT BY ENTERING
4 A PLEA OF GUILT YOU ARE GIVING UP THESE RIGHTS AND
5 YOU ARE ALSO GIVING UP ANY DEFENSE YOU MIGHT HAVE TO
6 THIS SET OF CHARGES. BY PLEADING NO CONTEST, YOU
7 ALSO GIVE UP ALL THESE RIGHTS. YOU UNDERSTAND THAT?

8 MR. OWENS: YES, SIR.

9 THE COURT: KNOWING ALL THOSE THINGS I ASK
10 AGAIN HOW DO YOU PLEAD TO ASSAULT WITH INTENT TO KILL
11 INVOLVING MR. FALLS AND MS. MCCARTER?

12 MR. OWENS: NO CONTEST.

13 THE COURT: HOW DO YOU PLEAD TO ASSAULT
14 WITH INTENT TO KILL INVOLVING MR. HOVIS AND
15 MR. HUBBARD?

16 MR. OWENS: NO CONTEST.

17 THE COURT: HOW DO YOU PLEAD TO
18 DISCHARGING A FIREARM ON FEBRUARY 18 OF THIS YEAR, AT
19 A VEHICLE ON LAWRENCE ROAD?

20 MR. OWENS: NO CONTEST, YOUR HONOR, SIR.

21 THE COURT: ALL RIGHT. HAS THE STATE
22 COMPLIED WITH THE VICTIM'S RIGHT ACT?

23 MR. THOMPSON: YES, WE HAVE.

24 THE COURT: I HAVE A VICTIM IMPACT
25 STATEMENT. ANY RESTITUTION?

1 MR. THOMPSON: ODDLY ENOUGH, YOUR HONOR,
2 THE RESTITUTION MAINLY WOULD BE AS TO FUNERAL COSTS
3 TO BOBBY HOVIS AND I DON'T KNOW THAT THIS DEFENDANT
4 COULD NECESSARILY BE REQUIRED TO PAY THAT.

5 THE COURT: ALL RIGHT. TELL ME THE FACTS
6 AND DOES HE HAVE ANY PRIOR RECORD?

7 MR. THOMPSON: ONLY TRAFFIC OFFENSES FROM
8 WHAT I CAN SEE. I THINK A RECKLESS DRIVING IS THE
9 ONLY THING THAT COMES UP ON HIS RAP SHEET OF A
10 CONVICTION. OTHER THAN THAT, YOUR HONOR, THE
11 DEFENDANT, THIS OCCURRED ON FEBRUARY 18 OF 2006 HERE
12 IN YORK COUNTY IN THE CLOVER AREA AT 1123 LAWRENCE
13 ROAD. IT WAS JUST BEFORE MIDNIGHT. THERE WAS A
14 PARTY AT THAT RESIDENCE BELONGED TO A FAMILY CALLED
15 THE DEALS. THEY DID NOT NECESSARILY LIVE AT THE
16 RESIDENCE AT THE TIME BUT WERE RENOVATING BUT HAD
17 DONE SOME WORK ON IT THAT DAY AND TWO OF THE SONS WHO
18 WERE OF AGE AT THAT TIME WERE THERE AND THROWING A
19 PARTY. THERE WAS A LOT OF DRINKING AND OTHER THINGS
20 OF THAT NATURE GOING ON AT THE PARTY. THE DEFENDANT
21 WAS THERE. HE'S A COUSIN OF THE DEAL'S. HE WAS
22 JOINING WITH THEM IN THE PARTY.

23 DURING THE COURSE OF THE PARTY THE STATE
24 WOULD INTEND TO PROVE DURING THE TRIAL THAT THERE WAS
25 PHONE CALLS MADE BACK AND FORTH BETWEEN ULTIMATELY

1 SOME OF THE VICTIMS WITH A MIDDLE MAN BY THE NAME OF
2 JEFF BUCK. BASICALLY THEY CALLED MR. BUCK OR
3 MR. BUCK WOULD CALL THEM AND RELAY MESSAGES BETWEEN
4 THEM AND THE DEALS AND AS WELL AS SOME OF THE OTHER
5 PEOPLE AT THE PARTY THERE, NOT NECESSARILY THIS
6 DEFENDANT, THEY WOULD RELAY MESSAGES BACK, BUT THERE
7 WAS A PERIOD TO BASICALLY INVITING THEM TO COME AND
8 FIGHT. THEY ALL, THE STATE WOULD INTEND TO PROVE,
9 THAT IT WAS KIND OF A MUTUAL THING THAT THEY WANTED
10 THIS GROUP OF PEOPLE TO COME FIGHT AND THEY WERE
11 EGGING THEM ON TO DO SO. ULTIMATELY WHEN THEY DID
12 COME THE FOUR PEOPLE, THERE WAS ACTUALLY FIVE PEOPLE
13 IN THE CAR AT THE TIME, SOME OF THE PEOPLE DID EXIT
14 THE VEHICLE. THERE WAS A FIGHT PARTICULARLY THAT
15 BEGAN BETWEEN HOLLY MCCARTER AND A GIRL BY THE NAME
16 OF LORI MOSS. AS THOSE TWO FOUGHT, THE STATE WOULD
17 SHOW THAT ULTIMATELY TRAVIS FALLS BROKE UP THAT
18 FIGHT, HOLLY'S BOYFRIEND WHO ALSO CAME IN THE CAR,
19 BUT THAT THEY HAD SEEN SOMEONE WITH A GUN AND THE
20 TESTIMONY WILL BE THE PERSON THEY SAW IN THE YARD
21 WITH THE GUN WOULD ULTIMATELY HAVE TO BE LEE OWENS.
22 THEY SAID IT WAS A VERY TALL MAN, FROM THE WITNESS'S
23 TESTIMONY, WITH THE GUN STANDING IN THE YARD. AS
24 THEY BEGAN TO YELL THAT THEY HAD GUNS, THEY GOT BACK
25 INTO THE CAR AND ATTEMPTED TO DRIVE OFF. WHEN THEY

1 DID SO ULTIMATELY SHOTS WERE FIRED INTO THE CAR. AS
2 THE COURT IS AWARE, THERE WERE TWO SETS OF SHOTS
3 FIRED INTO THE CAR. THE STATE CONTENDS SOME FROM A
4 .45 CALIBER AND SOME FROM A NINE MILLIMETER WEAPON.
5 THIS DEFENDANT ADMITTED, YOUR HONOR, THAT HE DID HAVE
6 A NINE MILLIMETER PISTOL, THAT HE FIRED IT, INITIALLY
7 HE ADMITTED THAT HE FIRED ONLY TWO INTO THE AIR AND
8 SOME WITNESSES CONFIRMED THEY SAW HIM FIRE TWO INTO
9 THE AIR, BUT ALSO THE WITNESSES CONFIRM THEY ALSO SAW
10 HIM DRAW DOWN AND SHOOT INTO THE CAR. THERE ARE NINE
11 MILLIMETER OR WHAT THE STATE PURPORTS TO BE NINE
12 MILLIMETER BULLETS, TWO OF THEM RECOVERED FROM THE
13 ACTUAL DOOR OF THE CAR AND WILL BE PRESENTING THAT AT
14 TRIAL SHORTLY, BUT THE STATE CONTENDS THAT HE DID
15 FIRE INTO THE CAR THAT WAS OCCUPIED AT THAT TIME BY
16 THOSE FOUR PEOPLE. THE FIFTH PERSON HAD ALREADY
17 TAKEN OFF RUNNING THROUGH, DOWN THE ROAD AND ACROSS A
18 FIELD AT THAT POINT, SO HE'S NOT A VICTIM AS FAR AS
19 THIS GOES BECAUSE HE WAS OUT OF THE CAR RUNNING AWAY
20 WHEN THIS OCCURRED. BUT THOSE ARE THE BASIC FACTS
21 THAT THE STATE WOULD INTEND TO PROVE IN THE CASE,
22 YOUR HONOR.

23 NOW AS FAR AS THE VICTIMS MR. BOBBY HOVIS,
24 JR., THE FATHER OF BOBBY HOVIS THE THIRD WHO WAS
25 KILLED IN THE INCIDENT, DOES WISH TO ADDRESS THE

1 COURT AS WELL AS MICHAEL HUBBARD.

2 THE COURT: MR. OWENS, DO YOU AGREE THAT
3 IF YOU WENT TO TRIAL THOSE ARE THE FACTS THAT THE
4 STATE WOULD PRESENT TO A JURY?

5 MR. OWENS: YES, SIR.

6 THE COURT: MR. OWENS, I ACCEPT YOUR
7 PLEAS. I FIND THEY ARE FREELY, VOLUNTARILY,
8 KNOWINGLY, AND INTELLIGENTLY ENTERED. THEY ARE
9 ENTERED WITH THE ADVICE OF COMPETENT COUNSEL WITH
10 WHOM YOU ARE SATISFIED. AND YOU'VE ENTERED PLEAS OF
11 NO CONTEST TO ALL THREE CHARGES AND THE FACTS SUPPORT
12 THESE PLEAS. IN A MOMENT I'LL HEAR FROM YOU AND YOUR
13 ATTORNEY. ARE YOU RETAINED?

14 MR. MCKINNEY: RETAINED, YES, YOUR HONOR.

15 THE COURT: I'LL BE GLAD NOW TO HEAR FROM
16 THE VICTIMS.

17 WHILE THEY ARE COMING UP LET ME GO AHEAD
18 AND PUT ON THE RECORD THAT THERE WERE, SINCE WE
19 ALREADY STARTED THE TRIAL, MR. MCKINNEY PUT ON THE
20 RECORD YESTERDAY INFORMATION CONCERNING ANY MENTAL
21 STATUS OF MR. OWENS AND I WANT THAT INCORPORATED IN
22 THE RECORD HERE AND DO YOU STILL STAND BY THAT
23 REPRESENTATION THAT THERE IS NO COMPETENCY QUESTION?

24 MR. MCKINNEY: ABSOLUTELY, YOUR HONOR.
25 THERE IS NO QUESTION IN MY MIND.

1 THE COURT: ALL RIGHT. YES, SIR, YOUR
2 NAME?

3 MR. HUBBARD: MICHAEL HUBBARD.

4 THE COURT: TELL ME WHAT YOU WANT TO TELL
5 ME.

6 MR. HUBBARD: IT'S JUST SINCE THAT DAY,
7 THE LAST COUPLE OF MONTHS HAVE JUST BEEN SO HARD. I
8 SEEN MY FRIEND JUST GO RIGHT THERE OUT OF SOMETHING
9 SO CRAZY. JUST FROM ONE LITTLE FIGHT. IT'S JUST
10 RIDICULOUS HOW GUNS CAN GET SO CARRIED AWAY. AND
11 IT'S JUST IMPACTED MY LIFE SO BAD. I MEAN, IT'S
12 NERVE RACKING JUST TO GO OUTSIDE IN THE PUBLIC AND
13 JUST BASICALLY GO ANYWHERE WITHOUT HAVING TO WATCH
14 YOUR BACK NOW.

15 THE COURT: THANK YOU. IS THIS MR. HOVIS?

16 MR. HOVIS: YES, SIR. YOUR HONOR, OF
17 COURSE MY SON, HIS LIFE WAS TAKEN THAT NIGHT AND THE
18 GENTLEMAN HERE, HE FIRED AT THE CAR AS IT WAS PULLING
19 AWAY, AND WHEN YOU ARE SHOOTING AT A VEHICLE OF
20 COURSE YOU ARE INTENDING ON HITTING SOMEBODY AND IF
21 YOU ARE, YOU ARE ALSO, YOU KNOW, INTENDING TO HURT
22 SOMEBODY INSIDE THE VEHICLE WHEN YOU ARE SHOOTING THE
23 WAY THEY DID AND OUR REQUEST IS THAT YOU GIVE HIM THE
24 MAXIMUM THAT YOU CAN, YOUR HONOR.

25 THE COURT: THANK YOU, MR. HOVIS. ALL

1 RIGHT. ANYTHING ELSE FROM THE STATE?

2 MR. THOMPSON: THE STATE WOULD GO ALONG
3 WITH MR. HOVIS' REQUEST THAT HE RECEIVE THE MAXIMUM
4 UNDER THE CAP, YOUR HONOR.

5 THE COURT: ALL RIGHT. MR. MCKINNEY.

6 MR. MCKINNEY: MAY IT PLEASE THE COURT.
7 AGAIN MR. RHEA AND I ARE RETAINED TO REPRESENT RONALD
8 LEE OWENS IN THIS MATTER. WE WERE RETAINED FEBRUARY
9 21 OF THIS YEAR, JUST A COUPLE DAYS AFTER THIS
10 INCIDENT OCCURRED. WE HAVE FULLY INVESTIGATED THE
11 MATTER. BETH BRANHAM, JOHN RHEA, AND I HAVE POURED
12 OVER, LOOKED AT, REVIEWED ALL THE INFORMATION THAT WE
13 COULD GATHER WITH REGARD TO THIS CASE. THE STATE HAS
14 ADVISED ME THAT THEY HAVE HAD AN OPEN FILE POLICY
15 WITH ME AND I BELIEVE THAT THEY HAVE. THEY HAVE
16 FURNISHED ME WITH ALL THE INFORMATION THAT THEY HAVE
17 WHETHER IT'S REQUIRED TO OR NOT.

18 IN ADDITION TO THAT, YOUR HONOR, I HAVE
19 PERSONALLY, AND ALL OF US, HAVE TALKED TO ALL OF THE
20 WITNESSES THAT WE FELT WERE NECESSARY TO TALK TO IN
21 THIS CASE; EVERY WITNESS THAT MR. OWENS HAS ASKED US
22 TO CONSULT WITH, TALK TO, MIGHT HAVE SOME INFORMATION
23 ABOUT THIS CASE, WE HAVE DISCUSSED THE MATTERS
24 PERSONALLY WITH THOSE WITNESSES.

25 BASED ON MY INVESTIGATION OF THIS CASE I

1 CONCUR IN THIS PLEA. CERTAINLY I HAVE NOT GIVEN ANY
2 ADVICE TO MR. OWENS AS TO WHAT THE COURT'S SENTENCE
3 MIGHT BE WITH REGARD TO WITHIN THE RECOMMENDATIONS
4 THAT HAVE BEEN MADE NOR HAVE WE GIVEN HIM ANY ADVICE
5 AS TO HOW MUCH TIME HE MIGHT HAVE TO SERVE DEPENDING
6 ON THAT SENTENCE BECAUSE WE COULD NOT DO THAT. I'VE
7 DISCUSSED THIS MATTER WITH HIS FATHER AND HIS UNCLE
8 WHO IS STANDING BEHIND HIM HERE. HIS FATHER IS THE
9 ONE IN THE NECK BRACE IN THE WHITE SHIRT.

10 THE COURT: CAN YOU GIVE ME THEIR NAMES.

11 MR. MCKINNEY: YES. HIS FATHER'S NAME IS
12 MR. OWENS, RONALD, THE SAME, AND THEN THAT'S THOMAS
13 HIS UNCLE IN THE BLUE SHIRT.

14 YOUR HONOR, THIS WAS A VERY DIFFICULT
15 DECISION TO REACH. OBVIOUSLY YOU KNOW FROM WHAT
16 YOU'VE SEEN AND HEARD OVER THE LAST DAY OR SO THAT WE
17 ARE READY TO PROCEED WITH TRIAL IN THIS CASE. WE ARE
18 PREPARED TO GO AND I'VE EXPLAINED TO MR. OWENS THAT
19 IF THIS DECISION HAD BEEN OTHERWISE THAT WE WOULD
20 HAVE ACCEPTED THAT AND GONE FORWARD. IT WOULD NOT
21 HAVE AFFECTED US IN OUR HANDLING OF THE TRIAL OF HIS
22 CASE. HE HAS MADE THIS DECISION AFTER HAVING BEEN
23 EXPLAINED ALL OF HIS RIGHTS, ALL THE RAMIFICATIONS OF
24 THIS THAT WE CAN EXPLAIN TO HIM WITH A CLEAR
25 UNDERSTANDING, THAT THE GUN VIOLATION IS A FELONY,

1 THAT THE OTHER TWO ARE NOT. HE UNDERSTANDS THE
2 RAMIFICATIONS OF THAT. I BELIEVE THAT HE IS OF A
3 MENTAL STATE TO FULLY UNDERSTAND WHAT I HAVE
4 EXPLAINED TO HIM. HE'S ADVISED ME THAT HE
5 UNDERSTANDS IT AND I BELIEVE THAT HE DOES UNDERSTAND
6 IT.

7 YOUR HONOR, HIS MOTHER PASSED AWAY ABOUT A
8 MONTH BEFORE THIS OCCURRED. HIS FATHER IS NOT WELL.
9 HIS FATHER IS ON HEAVY MEDICATIONS AND MR. OWENS
10 BASICALLY TAKES CARE OF HIS FATHER.

11 ADDITIONALLY MR. OWENS WORKS. HE'S
12 EMPLOYED. HE HAS ONE CHILD AND HE TAKES CARE OF THAT
13 CHILD AND HE PROVIDES FOR THAT CHILD. HE FINISHED
14 THE 11TH GRADE IN SCHOOL. HE WORKS FOR AMERICAN AUTO
15 IN CLOVER AND HE AND HIS FAMILY ARE LONG TIME
16 RESIDENTS OF CLOVER. I BELIEVE HE'S LIVED THERE ALL
17 OF HIS LIFE, IS THAT CORRECT?

18 MR. OWENS: YES, SIR.

19 MR. MCKINNEY: THE STATEMENT ABOUT HIS
20 PRIOR CRIMINAL RECORD IS ACCURATE. AS FAR AS I KNOW
21 HE HAS NO PRIOR ACTUAL CRIMINAL RECORD OTHER THAN THE
22 TRAFFIC REFERRED TO EARLIER. I'M ASKING THE COURT TO
23 LOOK AT ALL THIS AND TO CONSIDER SENTENCING HIM TO
24 LESS, JUST AS THE STATE IS ASKING YOU TO CONSIDER
25 SENTENCING HIM TO THE MAXIMUM CAP, I'M ASKING YOU TO

1 CONSIDER SOMETHING LESS THAN THAT IF YOU WILL. HE
2 TURNED HIMSELF IN. HE COOPERATED FULLY WITH THE
3 POLICE IN THIS MATTER. HE DOESN'T WANT TO HAVE
4 ANYTHING TO DO WITH GUNS EVER AGAIN AND HE'S ADVISED
5 ME OF THAT. HE IS EMOTIONAL ABOUT THIS MATTER
6 BECAUSE IF ANYTHING HAS EVER OPENED HIS EYES TO WHAT
7 COULD HAPPEN IN THE REAL WORLD IF YOU MIX GUNS WITH
8 OTHER EMOTIONS, HE NOW SEES AND KNOWS IT EVEN THOUGH
9 HIS GUN HAD NOTHING TO DO WITH THE DEATH OF THE
10 DECEASED VICTIM.

11 YOUR HONOR, WE AGREE THAT THE FACTS AS
12 STATED BY MR. THOMPSON ARE IN FACT THE FACTS THAT
13 WOULD BE PRESENTED BY THE STATE BECAUSE WE TOO HAVE
14 SEEN THOSE FACTS, BUT THERE ARE OTHER FACTS IN THIS
15 CASE, THERE IS OTHER EVIDENCE IN THIS CASE, THAT
16 CONTRADICT TO SOME EXTENT THE EVIDENCE THAT
17 MR. THOMPSON HAS GIVEN TO THE COURT. I WON'T GO
18 THROUGH ALL OF THAT BUT I WILL SAY THAT MR. OWENS HAD
19 ONLY BEEN AT THIS PLACE FOR A SHORT PERIOD TIME. HE
20 WENT OVER, HE DROVE BY, AND ONE OF THE GIRLS SAW HIM
21 AND CALLED HIM ON HIS CELL PHONE. HE WAS DRIVING BY,
22 NOT STOPPING. THESE PEOPLE WHO WERE AT THIS HOUSE,
23 WHO OWNED THE HOUSE, WERE IN FACT RELATIVES OF HIS.
24 THEY CALLED HIM AND ASKED HIM TO COME BACK AND HE
25 WENT BACK. HE KNEW ABOUT AN ALTERCATION THAT HAD

1 EXISTED BETWEEN A MEMBER OF THE PEOPLE IN THE HOUSE
2 AND A MEMBER OF THE OTHER GROUP TWO WEEKS BEFORE. HE
3 ALSO KNEW ABOUT THOSE PHONES CALLS. HE HEARD, ONCE
4 HE GOT TO THE HOUSE, ABOUT THE PHONE CALLS AND
5 REALIZED THERE MIGHT BE SOME KIND OF ALTERCATION,
6 SOME KIND OF FIGHT THAT MIGHT ARISE. HE HEARD ABOUT
7 IT. HE WAS NOT A PART OF THOSE TELEPHONE
8 CONVERSATIONS. HE WANTED TO GET OUT OF THE PLACE
9 BEFORE ANY KIND OF ALTERCATION OCCURRED, ANY KIND OF
10 FIGHT OCCURRED. HE, IN FACT, SAID THIS IS WHAT HE
11 SAYS THAT HE WAS LEAVING TO DO THAT AND WHEN HE GOT
12 TO HIS VEHICLE, ANOTHER VEHICLE, A VEHICLE PULLED UP,
13 AND THIS IS SUPPORTED BY SOME OF THE STATE'S OWN
14 WITNESSES THAT A PERSON, A BIG PERSON, EITHER AS BIG
15 OR BIGGER THAN HE WAS, HE DID NOT KNOW, AND GOT OUT
16 AND CAME AT HIM WITH A GUN AND A BOTTLE. HE HAD A
17 NINE MILLIMETER, HE SAYS HE FIRED IT AS THEY SAY, HE
18 FIRED IT UP IN THE AIR. HE THINKS HE FIRED IT EITHER
19 TWO OR THREE TIMES. FRANKLY WHAT HAPPENED AFTER THAT
20 HE DOES NOT HAVE ANY RECOLLECTION OF FIRING THE
21 WEAPON AT THE CAR NOR DOES HE HAVE ANY RECOLLECTION
22 OF THE CAR PULLING AWAY AND WHAT HE SAYS IS HE GOT IN
23 HIS VEHICLE AND LEFT AND THEREIN IS THE REASON FOR
24 THE NO CONTEST PLEA, YOUR HONOR, AND I WANTED TO
25 EXPLAIN THAT TO THE COURT.

1 WE HAVE CONSIDERED ALL DEFENSES IN THIS
2 CASE, EVEN THE DEFENSE OF SELF-DEFENSE, AND AS YOU
3 KNOW WE HAVE A MOTION PENDING UNDER THE NEW CASTLE
4 STATUTE THAT EXISTS. NO RULING HAS BEEN MADE ON THAT
5 YET AND I UNDERSTAND IT, WE BOTH UNDERSTAND THAT, AND
6 I'VE EXPLAINED THAT TO MR. OWENS AND HE UNDERSTANDS
7 THAT IN PLEADING GUILTY HE IS GIVING UP HIS RIGHTS
8 WITH REGARD TO ANY OF THIS TRIAL AND ALL OF THAT, BUT
9 HE HAS CHOSEN TO DO SO AND AGAIN I BELIEVE THAT THAT
10 IS BEING FREELY AND VOLUNTARILY DONE, I CONCUR IN IT,
11 AND I BELIEVE THAT HE IS MAKING THE RIGHT DECISION.
12 AT THIS TIME I THINK MAYBE HIS FATHER MAY HAVE A WORD
13 TO SAY AND HIS UNCLE.

14 THE COURT: YES, SIR.

15 MR. OWENS: BUT HE'S ALL I'VE GOT. HE'S
16 HELPED ME THANK GOODNESS BECAUSE I HAD SURGERY. IT
17 WASN'T REVERSED AND HE'S TAKEN CARE OF ME. HE'S ALL
18 I GOT TO TAKE CARE OF ME. MY WIFE DIED. WE WERE
19 MARRIED 40 YEARS AND I HAVE BEEN BESIDE HER FROM THE
20 START TO THIS JANUARY 25. SHE WAS BURIED AND I WAS
21 AT HER LAST BREATH. AND I JUST, THIS HAS BEEN
22 TERRIBLE ON ME AND MY SON TOO. HE'S HAD MENTAL STUFF
23 EVER SINCE. HE'S TRIED TO GO AND GET HELP, TRYING
24 STUFF, BUT HIS, HIS NEPHEW, THEY INVITED HIM TO COME
25 DOWN AND THEY WAS TRYING TO --- THERE WASN'T NO

1 DRINKING PARTY. BASICALLY HE WENT DOWN THERE BECAUSE
2 HE DIDN'T, JUST LIKE HE SAID, HE DIDN'T HAVE NO
3 DRINKS, NO NOTHING, AND HE HEARD THAT IT WAS GOING TO
4 COME DOWN, SO HE TOLD THEM HE DIDN'T WANT NO TROUBLE
5 AND HE WAS FIXING TO LEAVE. HE SAID, DADDY, I WENT
6 TO THE CAR, SAID THE BIG MAN, WHAT HE DID, AND YOU
7 KNOW HE WENT ON.

8 MR. MCKINNEY: THANK YOU, MR. OWENS. YOUR
9 HONOR, I WOULD MENTION MR. OWENS REFERRED TO IT, BUT
10 I WOULD MENTION THE FACT THAT MR. LEE OWENS SAYS THAT
11 HE HAD NOTHING TO DRINK THAT NIGHT, NO DRUGS OR
12 ANYTHING LIKE THAT. I ALLUDED TO THE FACT THAT HE'S
13 LEARNED HIS LESSON ABOUT A GUN AND THAT GUNS DON'T
14 WORK IN SITUATIONS LIKE THIS. A LOT OF TIMES THEY
15 DON'T WORK AND I WANT THE COURT TO UNDERSTAND THAT I
16 HAVE CERTAINLY EXPLAINED TO HIM AND GONE OVER WITH
17 HIM CAREFULLY AND HE UNDERSTANDS THAT ONE OF THE
18 BIGGEST MISTAKES I THINK THAT WAS MADE THAT NIGHT ON
19 HIS PART WAS HAVING THAT GUN AND HE UNDERSTANDS THAT.
20 THOMAS, DO YOU HAVE ANYTHING YOU WANT TO SAY?

21 MR. THOMAS OWENS: THANK YOU, YOUR HONOR.
22 I'M THOMAS OWENS, LEE'S UNCLE, AND LEE HAS A GOOD MOM
23 AND DAD. HIS MOM PASSED AWAY. LEE IS A GOOD PERSON
24 REALLY AND I KNOW ALL THE PEOPLE HERE, BUT BAD
25 ASSOCIATIONS SOMETIMES CAN CAUSE PROBLEMS IF WE DON'T

1 USE WISDOM. BUT I'D LIKE TO SAY I'VE SEEN THE TEARS,
2 I'VE SEEN THE HEARTBREAKS OF EVERYONE THAT'S HERE,
3 AND MY HEART GOES OUT TO THEM BECAUSE THERE IS PEOPLE
4 THAT'S HURTING THERE THIS MORNING AND THERE IS
5 SOMETHING, THINGS THAT'S HAPPENED THAT NEVER CAN BE
6 REPAIRED, BUT THE THING I HOPE THAT COMES FROM THIS
7 IS LEE WILL SEE THE SERIOUSNESS AND ALL THE OTHERS
8 WILL SEE THE SERIOUSNESS OF IT AND FROM THIS TIME ON
9 THAT THEY WILL MAKE GOOD ASSOCIATIONS AND THEY WILL
10 MAKE GOOD CHOICES IN WHAT HAPPENED. LEE WAS THERE,
11 BUT HE'S JUST IN THE WRONG PLACE AT THE WRONG TIME.
12 HE WAS INVITED BECAUSE HE WAS GOING THROUGH A HARD
13 TIME. HIS MOTHER HAD PASSED AWAY OF CANCER AND HE
14 HAD HAD GIRLFRIEND PROBLEMS AND HE WAS JUST THERE AND
15 THIS THING CAME ABOUT. AND, YOU KNOW, WE ALL HATE
16 IT, WE CAN'T TAKE IT BACK, BUT MAYBE FROM THIS DAY
17 FORWARD EVERYBODY INVOLVED WILL LEAVE HERE WITH THE
18 SERIOUSNESS OF LIFE AND THEIR ACTIONS AND
19 CONSEQUENCES THROUGH IT. BUT I DON'T RELISH YOUR
20 POSITION AND YOUR SEAT. I KNOW THE RESPONSIBILITY
21 THAT YOU HAVE. BUT MY HEART GOES OUT ONCE AGAIN TO
22 EVERYBODY THAT'S INVOLVED, THAT GOD WILL HEAL THE
23 HURT IN THIS THING AND EVERYBODY WILL BE BETTER.
24 THANK YOU, SIR.

25 THE COURT: THANK YOU.

1 MR. LEE OWENS: YOUR HONOR, SIR, I'M SORRY
2 ABOUT WHAT HAPPENED. I FEEL FOR THE FAMILY. AND
3 WHATEVER HAPPENS WHEN I COME BACK I WILL NEVER HAVE
4 ANY INVOLVEMENT WITH FIREARMS. I TRIED TO STRAIGHTEN
5 MY LIFE OUT, GET MYSELF TOGETHER.

6 MR. MCKINNEY: THANK YOU, YOUR HONOR.
7 THAT WOULD BE ALL THAT WE HAVE UNLESS MR. RHEA.

8 MR. RHEA: NO.

9 THE COURT: WELL, NOBODY HAS ADDRESSED WHY
10 HE IS TOTING A NINE MILLIMETER TO BEGIN WITH. I
11 GUESS I'LL JUST HAVE TO BLAME THAT ON THE COMPANY HE
12 WAS KEEPING OR SOMETHING, BUT HE HAD A PISTOL ON HIM.

13 MR. MCKINNEY: HE DID HAVE A PISTOL, YOUR
14 HONOR, IT WAS, AND IT WAS NO REAL REASON FOR HIM TO
15 HAVE IT OTHER THAN THAT THAT'S PEOPLE DO SOMETIMES.
16 AND I HOPE THAT, THERE IS EVIDENCE THAT THERE WAS GUN
17 FIRE FROM BOTH SIDES, AND I HOPE THAT ALL THESE
18 PEOPLE WOULD UNDERSTAND THAT THEY NEED TO LEAVE THEIR
19 GUNS AT HOME.

20 THE COURT: COWBOY MENTALITY --

21 MR. MCKINNEY: THAT'S RIGHT. I AGREE.

22 THE COURT: ---RESULTS IN JUST WHAT
23 HAPPENED HERE.

24 MR. MCKINNEY: JUDGE, I AGREE.

25 THE COURT: ON ALL THREE OF THESE THE

1 SENTENCES ARE THE SAME, ON ALL THREE THE SENTENCES
2 ARE THE SAME. MR. OWENS, THEY ARE EACH FOR TEN YEARS
3 SUSPENDED TO FIVE YEARS ACTIVE TIME GIVING YOU CREDIT
4 FOR TIME SERVED, THEN YOU'LL BE ON PROBATION FOR FIVE
5 YEARS. QUITE FRANKLY, THIS IS A VERY GENEROUS
6 SENTENCE. THIS IS A SENTENCE MUCH BELOW, THEY ARE
7 ASKING ME TO GO BELOW THIS, BUT FOR THIS AGREEMENT
8 AND IF IT WAS JUST UP TO ME THE SENTENCE WOULD BE
9 MUCH HARSHER. I CAN ASSURE YOU OF THAT. I DON'T
10 TAKE LIGHTLY WHAT HAPPENED IN THIS EVENT, NOT THAT
11 YOU OR YOUR ATTORNEYS DO, BUT THIS IS A VERY, VERY
12 GENEROUS SENTENCE. BUT ON EACH IS TEN YEARS PROVIDED
13 UPON FIVE YEARS SERVICE, PROBATION FOR FIVE YEARS TO
14 FOLLOW. THEY ARE CONCURRENT. GIVE YOU CREDIT FOR
15 THE TIME YOU'VE SERVED. THEY SAY YOU WEREN'T
16 DRINKING OR ANYTHING THAT NIGHT BUT I'M STILL GOING
17 TO HAVE YOU HAVE SUBSTANCE ABUSE AND RANDOM DRUG AND
18 ALCOHOL TESTING, ANGER MANAGEMENT COUNSELING, AND YOU
19 ARE TO HAVE NO CONTACT WITH THE VICTIMS OR THEIR
20 FAMILIES OF ANY SORT WHATSOEVER. YOU UNDERSTAND ALL
21 THAT?

22 MR. OWENS: YES, SIR, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU.

24 MR. MCKINNEY: THANK YOU, YOUR HONOR.

25 MR. RHEA: THANK YOU, YOUR HONOR.

1 THE COURT: WE'LL TAKE A REAL SHORT BREAK
2 AND THEN GET TO THE OTHER.

3 (COURT'S IN RECESS AT 12:03 PM.)

4 (COURT RESUMES AT 12:09 PM.)

5 THE COURT: IS THE STATE READY?

6 MR. POPE: THE STATE IS READY, YOUR HONOR.

7 THE COURT: LET'S COME TO ORDER. WE ARE
8 BACK ON THE RECORD. MR. BOLIN IS PRESENT. WE ARE
9 GOING TO START OFF, I'M GOING TO ASK THE CLERK TO
10 PICK ONE OF THESE PIECES OF PAPER. WE HAVE EXCUSED
11 MRS. LONG AND WE WILL NOW PICK THE ALTERNATE. AND
12 THE ALTERNATE IS MR. KEPHART. ANYTHING BEFORE WE GET
13 THE JURY IN? I'M GOING TO MAKE A COMMENT ABOUT SOME
14 ISSUES BUT ANYTHING.

15 MR. POPE: NOTHING FROM THE STATE, YOUR
16 HONOR.

17 MR. GREELEY: NOTHING FROM MR. BOLIN.

18 THE COURT: AT THIS POINT I'M GOING TO
19 RULE ON THE QUASHING, THE MOTION TO QUASH THE
20 INDICTMENT FOR POSSESSION OF A PISTOL BY SOMEONE
21 UNDER THE AGE OF 21, I'M GOING TO GRANT THAT MOTION.
22 BASED ON THE ARGUMENT THAT WE HAVE HAD YESTERDAY, I
23 DON'T BELIEVE, I BELIEVE WE USED THE WORD DISABILITY
24 THEY ARE TALKING ABOUT SOME DISABILITY OTHER THAN AGE
25 FROM THE STATUTE. ANYWAY, I'M GOING TO QUASH THE

1 INDICTMENT. I FIND THAT IT'S UNCONSTITUTIONAL. SO
2 WE HADN'T THE SWORN THE JURY. IF THE STATE WANTS TO
3 POSTPHONE THE TRIAL AND APPEAL THAT ISSUE, WE HAVE TO
4 DO IT NOW OR NEVER.

5 MR. POPE: THAT WAS OUR DISCUSSION.

6 THE COURT: ALL RIGHT. TAKE A MINUTE.
7 YOU HAVE GOT TO HAVE ANTICIPATED THAT I MIGHT HAVE
8 DONE THIS.

9 MR. POPE: SIR?

10 THE COURT: SURELY YOU ANTICIPATED THAT I
11 COULD HAVE DONE THIS WHEN I GOT TWO CHOICES.

12 MR. POPE: WE ALWAYS ANTICIPATE ANYTHING
13 IS POSSIBLE, YOUR HONOR. YOUR HONOR, NOT BEING A
14 APPELLATE LAWYERS WE'RE JUST TRYING, WE CLEARLY WANT
15 TO GO FORWARD WITH THE TRIAL. WE PRESERVE WHATEVER
16 RIGHTS WE MAY OR MAY NOT HAVE TO APPEAL ON THIS ISSUE
17 SINCE IT WILL NEVER GO TO THE JURY AND THE JURY HAS
18 NEVER BEEN SWORN, WE WON'T HAVE AN OPPORTUNITY TO
19 ADDRESS THAT, THERE IS NOTHING TO AFFECT WITH GOING
20 FORWARD WITH THE TRIAL. IN OTHER WORDS, IF YOU
21 DISMISS IT WE --

22 THE COURT: I UNDERSTAND WHAT YOU ARE
23 SAYING AND I'M NOT APPELLATE JUDGE EITHER.

24 MR. POPE: I JUST WANTED TO PUT THAT ON
25 THE RECORD THAT WE MAY INTEND TO APPEAL BUT WE WOULD

1 NOT WITHHOLD GOING FORWARD AT THIS TIME.

2 THE COURT: ALL RIGHT. AND AS TO THE
3 PROTECTION OF PERSONS AND PROPERTY ACT, I HAVE NO
4 REASON FOR ME TO RULE ON THAT AT THIS TIME. I RULED
5 YESTERDAY THAT WE WOULD REVISIT THAT ISSUE AT AN
6 APPROPRIATE TIME, THEREFORE, IT'S NOT RIPE TO BE
7 RULED ON BY THE COURT AT THIS TIME. SO ANYTHING
8 BEFORE WE GET THE JURY IN?

9 MR. POPE: YOUR HONOR, I KNOW THAT YOU'LL
10 BE SWEARING THE JURY, THEY HAVE NOT BEEN SWORN YET,
11 AND AGAIN I DON'T KNOW THE APPROPRIATE PROCEDURE BUT
12 WE WITHDRAW THE UNDER 21 INDICTMENT SO IT WILL NEVER
13 GO TO THIS JURY.

14 THE COURT: IT'S BEEN QUASHED SO YOU DON'T
15 NEED TO WITHDRAW IT. IT'S GONE AS FAR AS I'M
16 CONCERNED. IN FACT, I'LL PUT THE DATE ON IT AND I'LL
17 EVEN PUT THE TIME SO TO MAKE SURE IT'S DONE BEFORE
18 THE JURY IS SWORN. SO I'VE GOT 12:13 P.M. ALL
19 RIGHT.

20 NOW VIRGINIA LONG, JUROR NUMBER 123, CAME
21 TO US AND TOLD US, I MEAN MYSELF AND COUNSEL, WITH A
22 CONCERN ABOUT HER SERVING AS A JUROR. I THOUGHT IT
23 WAS A LEGITIMATE CONCERN AND I EXCUSED HER. SHE DID
24 NOT DO ANYTHING WRONG. IT WAS JUST FACTS THAT COME
25 TO LIGHT AFTER A JURY HAS BEEN IMPANELED. WE HAVE

1 FOLLOWED THE STATUTE AND DRAWN AT LOTS BETWEEN THE
2 TWO ALTERNATES AND NUMBER 114 MR. KEPHART WAS DRAWN
3 BY THE CLERK SO HE WILL BE THE ALTERNATE. LET'S
4 BRING IN THE JURY.

5 (THE JURY RETURNS TO THE COURTROOM AT
6 12:14 PM.)

7 THE COURT: JUST KEEP YOUR SEATS FOR JUST
8 A MINUTE. I KNOW WHEN YOU LOOK AT THE CLOCK YOU
9 THINK I MISSED THAT CLASS WHEN THEY TAUGHT YOU HOW TO
10 TELL TIME. I REALLY DIDN'T. WE WORKED YESTERDAY ON
11 SOME LEGAL MATTERS, WE WORKED SOME MORE THIS MORNING,
12 AND YOU WILL NOTICE IF YOU LOOK TO MY RIGHT, THAT
13 MR. OWENS AND HIS COUNSEL ARE NOT PRESENT ANYMORE.
14 THE CASE IS CONCLUDED AS TO THEM. WE'RE SIMPLY GOING
15 FORWARD AS TO MR. BOLIN, SO WE HAVEN'T JUST BEEN
16 DRINKING COFFEE AND DOING CROSSWORDS. WE'VE BEEN
17 DOING SOME WORK AND WHAT WE'VE DONE WE HOPE WILL MOVE
18 THE CASE ALONG MORE PROMPTLY THAN HAD WE NOT DONE THE
19 WORK WE DID.

20 MRS. LONG HAS BEEN EXCUSED. SHE DID NOT
21 DO ANYTHING WRONG, THINGS OCCUR, THAT'S WHY WE HAVE
22 ALTERNATES AND SHE WAS VERY CONCERNED ABOUT HAVING TO
23 ASK OR CONVEY TO ME THE INFORMATION SHE DID, BUT
24 SHE'S BEEN EXCUSED FROM THIS PANEL. MR. KEPHART, YOU
25 ARE NOW A JUROR. WE DRAW LOTS, WE DON'T GO IN THE

1 ORDER, SO MR. PIERCE IS NOW THE ALTERNATE AND YOU
2 WILL SIT THERE AND MR. RZEPKA IS THE FOREMAN. THOSE
3 ARE THE ONLY TWO ASSIGNED SEATING. EVERYONE ELSE
4 JUST SIT WHERE YOU COME AND HAPPEN TO LIGHT. NOW IF
5 YOU'LL STAND AND THE CLERK WILL ADMINISTER THE OATH.

6 (THE JURY IS SWORN.)

7 THE COURT: YOU MAY BE SEATED. I'M GOING
8 TO TRY NOT TO REPEAT A LOT OF WHAT I SAID YESTERDAY,
9 BUT I DO REMIND YOU NOT TO LET YOURSELF BE EXPOSED TO
10 ANY NEWS COVERAGE IF THERE IS ANY. I DO REMIND YOU
11 THAT YOU ARE NOT TO MAKE UP YOUR MIND OR DISCUSS THE
12 CASE UNTIL I INSTRUCT YOU TO DO THAT AND I WILL
13 REMIND YOU THAT YOU ARE NOT TO LET ANYONE DISCUSS THE
14 CASE WITH YOU NOR ARE YOU TO INITIATE ANY
15 CONVERSATIONS ABOUT THE CASE OUTSIDE THE COURTROOM.

16 NOW TO THE CHARGES AGAINST MR. BOLIN HE
17 HAS ENTERED PLEAS OF NOT GUILTY. HIS PLEAS OF NOT
18 GUILTY PLACE ON THE STATE THE BURDEN OF PROVING HIS
19 GUILT BEYOND A REASONABLE DOUBT. IN JUST A MOMENT I
20 WILL ALLOW EACH COUNSEL THE OPPORTUNITY, THEY ARE NOT
21 REQUIRED, BUT THEY HAVE THE OPPORTUNITY TO COME
22 BEFORE YOU AND MAKE OPENING STATEMENTS. NOW THESE
23 OPENING STATEMENTS ARE SIMPLY THAT, THEY ARE
24 STATEMENTS, THEY ARE NOT ARGUMENTS AND THEY ARE NOT
25 EVIDENCE. IT'S SORT OF BLUE PRINTS OF THE TRIAL.

1 THEY WILL TELL YOU A LITTLE MORE ABOUT THE CASE THAN
2 I HAVE ALREADY TOLD YOU AND I HAVEN'T TOLD YOU VERY
3 MUCH, BUT THEY WILL FLESH IN WHAT THE CASE IS ABOUT
4 AND WHAT THEY EXPECT YOU TO BE PRESENTED WITH AS FAR
5 AS EVIDENCE, TESTIMONY, AND EXHIBITS.

6 LATER DURING THE TRIAL THEY WILL HAVE THE
7 OPPORTUNITY AT THE END TO COME BEFORE YOU AND MAKE
8 CLOSING ARGUMENTS OR SUMMATIONS AT WHICH TIME THEY
9 WILL BE TRYING TO CONVINCE YOU OF WHAT VERDICT WOULD
10 BE APPROPRIATE. THAT'S NOT WHAT THEY ARE DOING AT
11 THIS TIME.

12 MR. BOLIN IS PRESUMED INNOCENT OF THE
13 CHARGE AND DOES NOT HAVE TO PROVE ANYTHING. HE DOES
14 NOT HAVE TO PROVE HIS INNOCENCE. THE STATE MUST
15 PROVE HIS GUILT BEYOND A REASONABLE DOUBT. I HAVE
16 THREE PRIMARY JOBS: ONE IS I CALL IT SORT OF THE
17 WAGON MASTER; THAT IS, I'M IN CHARGE OF THE
18 MECHANICS, EVERYBODY SITS WHERE THE, PEOPLE SITTING
19 AT THE RIGHT PLACE, ONLY ONE PERSON TALKS AT A TIME,
20 WE TAKE BREAKS, THOSE KIND OF THINGS. ANOTHER IS
21 THAT I RULE ON QUESTIONS OF ADMISSIBILITY OF
22 EVIDENCE. IF ONE SIDE BELIEVES THAT CERTAIN EVIDENCE
23 SHOULD BE ALLOWED IN THE RECORD AND THE OTHER DOES
24 NOT, I HAVE TO MAKE THAT DECISION. IT'S ONE OF MY
25 JOBS. ONCE I HAVE MADE THAT DECISION, IT'S BINDING

1 ON THE WITNESS, THE LAWYERS, AND ON YOU. IF I
2 INSTRUCT THE JURY TO DISREGARD ANY EVIDENCE, YOU MUST
3 DISREGARD IT. AND IF I HAVE TO EXCUSE YOU WHILE WE
4 DISCUSS POINTS OF EVIDENCE, DON'T HOLD THAT AGAINST
5 THE ATTORNEY. THAT'S WHAT THEY ARE SUPPOSED TO BE
6 DOING AND WE MAY HAVE TO LET YOU RETIRE WHILE WE
7 DISCUSS A POINT OF EVIDENCE BUT DON'T HOLD THAT
8 AGAINST ANYONE IF WE DO. MY THIRD JOB IS THAT I AM
9 THE SOLE JUDGE OF THE LAW. IT IS SOLELY UP TO ME TO
10 CHARGE THE LAW TO YOU AND YOU MUST TAKE, ACCEPT, AND
11 APPLY THE LAW AS I CHARGE IT. I'M GIVING YOU SOME
12 LEGAL PRINCIPLES NOW, DURING THE TRIAL I MAY GIVE YOU
13 SOME LEGAL PRINCIPLES, AND AT THE END OF THE TRIAL I
14 WILL GIVE YOU A PRECISE AND COMPREHENSIVE CHARGE ON
15 THE LAW AND THEN YOU WILL APPLY THAT TO THE FACTS.

16 YOU ARE NOT TO INFER FROM ANYTHING I SAY
17 OR DO AT ANY TIME AS INDICATING AN OPINION OF MINE ON
18 THE FACTS. I'M NOT ALLOWED TO FORMULATE OR EXPRESS
19 OPINION ON THE FACTS. THAT IS SOLELY YOUR JOB. AS
20 TRIERS OF FACT, IT IS SOLELY UP TO YOU TO EXAMINE THE
21 EVIDENCE, GIVE TO THE EVIDENCE THE EFFECT, THE VALUE,
22 THE WEIGHT, AND THE TRUTH YOU BELIEVE THAT EVIDENCE
23 SHOULD HAVE. IN DOING THIS YOU MAY BELIEVE ONE
24 WITNESS AS OPPOSED TO SEVERAL, SEVERAL WITNESSES AS
25 OPPOSED TO ONE; YOU MAY BELIEVE ALL, PART, OR NONE OF

1 A WITNESS' TESTIMONY. USE YOUR COMMON SENSE, YOUR
2 SENSE OF LOGIC AND YOUR EXPERIENCES IN LIFE AS YOU
3 ANALYZE THE EVIDENCE.

4 AS JUDGES OF THE FACTS YOU OF NECESSITY
5 MUST JUDGE THE CREDIBILITY, THAT IS, THE
6 BELIEVABILITY OF THE WITNESSES WHO TESTIFY. IN
7 ASSESSING BELIEVABILITY USE THOSE THINGS THAT I'VE
8 JUST DISCUSSED, USE THOSE THINGS THAT YOU IN YOUR DAY
9 TO DAY LIFE FIND AS BEING INDICATORS OF TRUTHFULNESS
10 AND YOU CAN USE CERTAIN EVALUATORS: THE WITNESS'
11 DEMEANOR, HOW THEY ACT WHEN THEY ARE ON THE STAND.
12 ARE THEY HESITANT OR STRAIGHT FORWARD IN RESPONDING
13 TO QUESTIONS. IS THEIR TESTIMONY CONSISTENT OR
14 INCONSISTENT WITHIN ITSELF OR WHEN EXAMINED IN LIGHT
15 OF OTHER TESTIMONY. YOU CAN CONSIDER THE OPPORTUNITY
16 A WITNESS HAD TO ACTUALLY KNOW THOSE THINGS ABOUT
17 WHICH THE WITNESS TESTIFIED. AND YOU CAN CONSIDER
18 ANY BIAS OR PREJUDICE; THAT IS, WHETHER A WITNESS
19 WOULD WISH TO HELP OR HURT ONE SIDE OR THE OTHER.
20 ALL OF THESE THINGS YOU CONSIDER, DETERMINE THE TRUE
21 FACTS, APPLY THE LAW, AND YOU'LL BE ABLE TO RETURN A
22 VERDICT THAT IN FACT SPEAKS THE TRUTH.

23 IF YOU CAN'T SEE OR YOU CAN'T HEAR, LET ME
24 KNOW. IT'S NOT FAIR TO ASK YOU TO RESOLVE THIS CASE
25 AND THEN NOT LET YOU SEE AND HEAR WHAT'S IMPORTANT

1 FOR YOU TO SEE AND HEAR, SO CUP YOUR EAR OR GIVE ME A
2 VOICE RAISING GESTURE OR A NUDGING GESTURE AND WE'LL
3 CORRECT WHATEVER PROBLEM THAT EXISTS. WE TAKE BREAKS
4 ABOUT EVERY HOUR AND A HALF. IF YOU NEED A BREAK AT
5 ANY TIME PLEASE RAISE YOUR RIGHT HAND AND WE WILL
6 TAKE A BREAK NO QUESTIONS ASKED AND I EXTEND THAT TO
7 COUNSEL AND MR. BOLIN. WE WANT TO MOVE THE CASE
8 ALONG BUT WE'RE NOT IN THAT BIG A HURRY. IT'S HARD
9 TO PAY ATTENTION IF YOU ARE NOT COMFORTABLE, SO IF
10 YOU NEED A BREAK RAISE YOUR HAND AND WE'LL TAKE A
11 BREAK NO QUESTIONS ASKED. ALL RIGHT. MR. THOMPSON.

12 MR. THOMPSON: THANK YOU, YOUR HONOR.

13 OPENING STATEMENT BY MR. THOMPSON.

14 MAY IT PLEASE THE COURT. NOTHING GOOD
15 HAPPENS AFTER 11 O'CLOCK AT NIGHT. THAT WAS ONE OF
16 THE REASONS I HAD AN 11 O'CLOCK CURFEW AS A YOUNG MAN
17 BECAUSE MY PARENTS BELIEVED NOTHING GOOD HAPPENS
18 AFTER 11 O'CLOCK AT NIGHT.

19 WELL, ON FEBRUARY 18 OF THIS YEAR IN
20 CLOVER ON LAWRENCE ROAD NOTHING GOOD HAPPENED AFTER
21 11 O'CLOCK THAT NIGHT. IT'S A TRUE STATEMENT AND
22 YOU'LL SEE FROM THIS CASE AS MANY WITNESSES WILL BE
23 CALLED WHY IT'S SO TRUE AND SO TRAGIC. THERE ARE
24 GOING TO BE A LOT OF WITNESSES AND I THINK I NEED TO
25 EXPLAIN THE CONTEXT OF THE SITUATION YOU ARE COMING

1 INTO BECAUSE IT WILL BE KIND OF CONFUSING.

2 THE HOUSE AT 1123 LAWRENCE ROAD, THE
3 EVIDENCE WILL SHOW, THAT THAT HOUSE WAS OWNED BY THE
4 DEAL FAMILY. THEY WEREN'T CURRENTLY LIVING IN THE
5 HOUSE BECAUSE IT WAS BEING RENOVATED SO THE TWO SONS
6 BRADLEY DEAL AND RICKY DEAL DIDN'T LIVE THERE AT THAT
7 TIME, BUT THEY HAD BEEN THERE EARLIER IN THE DAY AND
8 HELPING WITH SOME OF THE RENOVATIONS AND SOME OF THE
9 CLEANING WITH THE FAMILY. NOW ULTIMATELY AS THE DAY
10 PROGRESSED AND IT ENDED UP, IT GETS DARK A LITTLE
11 EARLY IN FEBRUARY AND THEY START SHUTTING THINGS
12 DOWN, THE BOYS DECIDE THEY ARE GOING TO HAVE A PARTY
13 AND HAVE A GET TOGETHER AND SOME FRIENDS ARE GOING TO
14 COME OVER, SO THAT BEGINS. AND OF COURSE, SOME OF
15 THEIR FRIENDS ARE ALL EASY TO CONTACT BECAUSE
16 EVERYBODY HAS CELL PHONES, THEY CALL AROUND, PEOPLE
17 START COMING, PEOPLE THAT THEY DON'T EVEN KNOW TOO
18 WELL BECAUSE THEY ARE WITH SOME OF THEIR FRIENDS, BUT
19 AT ANY ONE TIME YOU ARE GOING TO FIND WHEN THIS
20 PARTY, WHEN IT GETS IN MOTION, IT'S GOING TO HAVE
21 ANYWHERE FROM 15 TO 20 PEOPLE, MAYBE MORE, MAYBE A
22 LITTLE LESS, BUT THAT'S HOW MANY PEOPLE ARE GOING TO
23 BE AT THIS HOUSE AND PRETTY MUCH AT ANY ONE TIME.
24 WITHOUT THE PARENTS BEING THERE AT THIS POINT,
25 WITHOUT SOME OTHER ADULT BEING THERE, BUT YOUNG

1 ADULTS, SOME AS YOUNG AS 17, SOME UP INTO THEIR 20'S
2 AND SOME AS OLD INTO THEIR LOW 30'S. FAIR AMOUNT OF
3 PEOPLE AT THIS HOUSE, ALL PARTYING, DRINKING, SOME OF
4 THEM DOING DRUGS, HAVING WHAT THEY THINK IS A
5 HARMLESS PARTY AT THAT TIME. HOWEVER, AS YOUNG MEN
6 OFTEN DO WHEN THEY GET TOGETHER BRAVADO COMES IN:
7 YOU HAVE TO BE TOUGH, YOU HAVE TO BE COOL IN FRONT OF
8 YOUR FRIENDS. YOU HAVE TO HAVE THINGS THAT ARE COOL.
9 WELL, YOU ARE GOING TO HEAR TESTIMONY OF HOW ONE OF
10 THE PEOPLE AT THE PARTY A RONALD LEE OWENS HAD A
11 PISTOL WITH HIM, NINE MILLIMETER. YOU'LL HEAR
12 TESTIMONY HOW HE SHOWED IT TO SOME PEOPLE. HE
13 ACTUALLY TOOK IT OUT AND SHOWED IT, HE WAS SHOWING IT
14 AROUND, THIS IS COOL, LOOK AT THE GUN I HAVE. HE
15 CARRIED IT IN HIS PANTS AND THEY SAW IT. HE WOULD
16 KIND OF ADJUST IT SO HE COULD MOVE AROUND BECAUSE IT
17 WAS FUN. NOW RONALD LEE OWENS, ONE OF THE OLDEST
18 PEOPLE THERE, HE'S 34, BUT HE'S COUSINS WITH BRADLEY
19 AND RICKY DEAL, SO THAT'S WHY HE'S THERE AT THE
20 PARTY.

21 YOU ARE ALSO GOING TO HEAR ABOUT THE
22 DEFENDANT RIGHT HERE, BERRY BOLIN, BEING AT THAT
23 PARTY AND YOU ARE GOING TO HEAR FROM THE STATEMENTS
24 HE GAVE TO THE POLICE, HE ALSO HAD A GUN THERE AT THE
25 PARTY. HIS GUN WAS A .45 CALIBER PISTOL AND FOR

1 THOSE OF YOU WHO DON'T KNOW MUCH ABOUT PISTOLS, THE
2 DIFFERENCE BETWEEN A NINE MILLIMETER AND A .45
3 CALIBER PISTOL IS RATHER LARGE. YOU'LL SEE FROM,
4 WHEN THE EVIDENCE COMES IN, YOU'LL SEE A SHELL CASING
5 FROM NINE MILLIMETERS. THEY ARE RATHER SMALL. THESE
6 ARE DARK. THEY ARE ALL THE SAME. THERE WILL BE FIVE
7 OF THEM FOUND AT THE SCENE. THEN YOU'LL SEE THE GOLD
8 CASINGS FROM THE .45. THOSE CASINGS MUCH LARGER,
9 ALMOST TWICE AS LARGE IF YOU REALLY LOOK AT THEM AS
10 FAR AS WIDTH OF THEM, IT HAS A HEAVIER BULLET, A BIG
11 BULLET, SO YOU'LL SEE THE DIFFERENCE IN THOSE SHELL
12 CASINGS AS WELL. FIVE OF THOSE SHELL CASINGS FOUND
13 AT THE SCENE BECAUSE THE TYPE OF GUN THAT THEY HAD
14 WERE BOTH SEMI-AUTOMATICS WHICH MEANS WHEN YOU FIRE
15 THE GUN THE SHELL CASINGS EJECTS SO WE KNOW THAT BOTH
16 THOSE GUNS WERE FIRED AT LEAST FIVE TIMES.

17 NOW THE PEOPLE AT THE PARTY, ONCE AGAIN
18 WITH BRAVADO, THEY START GETTING PHONE CALLS BACK AND
19 FORTH BECAUSE THEY LIVE ON THEIR CELL PHONES AND
20 YOU'LL SEE THE PEOPLE THROUGHOUT THIS CASE CONSTANTLY
21 ON THEIR CELL PHONES. WHAT ENDS UP HAPPENING AND AS
22 THE TESTIMONY WILL BRING OUT A YOUNG MAN THERE NAME
23 BY THE NAME OF JEFF BUCK WHO WAS KIND OF A GO-BETWEEN
24 THAT DAY, HE WOULD CALL INTO BOBBY HOVIS OR SOME OF
25 HIS FRIENDS WHO WERE NOT AT THE PARTY, BUT THEY HAD

1 SOME SORT OF BEEF WITH RICKY DEAL SOMETIME BEFORE
2 THIS, SO CALLS GOING BACK AND FORTH BETWEEN THEM AND
3 THEN HE MENTIONS THIS TO BOBBY HOVIS, BOBBY HOVIS
4 THEN MENTIONS THIS BACK TO THEM, AND PEOPLE AT THE
5 PARTY ULTIMATELY ARE EXPECTING THERE IS GOING TO BE A
6 GROUP OF GUYS COMING OVER AND THERE IS GOING TO BE A
7 FIGHT. ONCE AGAIN NOTHING GOOD HAPPENS AFTER 11
8 O'CLOCK. AND THEY ARE EXPECTING THIS AND YOU'LL HEAR
9 TESTIMONY EXPECTING OF HOW PEOPLE EXPECTED IT. ONE
10 YOUNG MAN WILL TESTIFY THAT HE DROVE UP KIND OF LATE
11 TO THE PARTY BUT A BUNCH OF GUYS CAME RUNNING OUT
12 THINKING IT MIGHT BE THE CAR BECAUSE HE WAS KIND OF
13 SURPRISED WHEN THEY ALL CAME RUNNING OUT AND THEN
14 WHEN HE WENT IN AND REALIZED THEY WERE WAITING FOR
15 SOMEONE ELSE. A FEW MINUTES LATER THOSE PEOPLE
16 SHOWED UP AND THERE WAS GOING TO BE A FIGHT.

17 BUT THEN YOU'LL SEE THE PROBLEM IS THEY
18 CAME TO A FIGHT AND LEE OWENS AND BERRY BOLIN HAD A
19 GUN AT THAT FIGHT. BUT THE ONLY ACTUAL FIGHTING THAT
20 YOU'LL HEAR TESTIMONY THAT OCCURS IS REALLY STARTING
21 BETWEEN TWO YOUNG WOMEN. WHEN THE CAR PULLS UP THERE
22 IS GOING TO BE FIVE PEOPLE IN THIS CAR, YOU'LL HEAR
23 FROM FOUR OF THEM BECAUSE ONE OF THEM IS NOW DEAD.
24 OF THOSE FOUR THERE IS MICHAEL HUBBARD WHO ACTUALLY
25 NEVER GETS OUT OF THE CAR; THERE IS HOLLY MCCARTER,

1 THERE IS BOBBY HOVIS WHO IS NOW DEAD; THERE IS TRAVIS
2 FALLS WHO WAS SHOT IN THE ARM, AND THEN THERE IS
3 KENNY NORRIS WHO ENDS UP NOT GETTING BACK IN THE CAR
4 AND YOU'LL HEAR HIS TESTIMONY AT THE END HE RAN DOWN
5 THE ROAD WHEN HE SAW PEOPLE WITH GUNS AND JUST TOOK
6 OFF, BUT YOU'LL HEAR THOSE FIVE PEOPLE IN THAT CAR.
7 ULTIMATELY, YOU'LL HEAR HOLLY GOT OUT AND STARTED
8 FIGHTING WITH THE GIRL THAT SHE HAD A BEEF WITH AT
9 THE PARTY NAMED LORI MOSS. THIS FIGHT IS HAPPENING
10 IN THE STREET. IT'S NOT HAPPENING AT THE HOUSE,
11 INSIDE THE HOUSE, OR EVEN IN THE YARD. IT'S
12 HAPPENING IN THE STREET WHERE THE CAR HAS STOPPED.
13 THE CAR STOPS RIGHT IN FRONT OF THE DRIVEWAY AND THIS
14 IS AN AREA OF FLAT LAND AND THE ONLY, THE ONLY DIVOTS
15 IN IT ARE REALLY, THERE IS A LITTLE DITCH RIGHT DOWN
16 THE SIDE OF THE ROAD, IT'S JUST A SMALL DITCH MAYBE
17 YEA HIGH, JUST A DRAINAGE DITCH DOWN THE FRONT NEAR
18 THE EDGE OF THE ROAD. DRIVEWAY THAT COMES UP, IT HAS
19 A LITTLE TURN AROUND IN THE DRIVEWAY, AND THE REST OF
20 IT COMES STRAIGHT UP TO THE GARAGE, AND THE REST OF
21 THE HOUSE IS RIGHT HERE AND IT'S A PRETTY DECENT
22 HOUSE BUT IT'S NOT FAR FROM THE ROAD. IT'S MAYBE
23 30-34 YARDS OFF THE ROAD TOPS, 30 PROBABLY, NOT 40.
24 I WOULD SAY SOMEWHERE IN THAT AREA, BUT YOU'LL SEE.
25 YOU CAN JUDGE FOR YOURSELF. IT'S IN THE PHOTOGRAPHS.

1 WHEN THAT FIGHT HAPPENS WITH HOLLY THEN
2 YOU'LL HEAR TESTIMONY THAT ULTIMATELY TRAVIS WAS OUT
3 OF THE CAR AND TRAVIS ACTUALLY ENDS UP HITTING THIS
4 GIRL LORI MOSS AND THAT REALLY SETS PEOPLE INTO
5 MOTION. OTHER PEOPLE HAD GOTTEN OUT OF THE CAR AND
6 KENNY NORRIS GOT OUT OF THE CAR AND SAID HEY, COME
7 ON, AND YOU'LL HEAR TESTIMONY THAT HE EVEN HAD A BEER
8 BOTTLE IN HIS HAND BECAUSE HE HAD BEEN DRINKING IT
9 AND THEN HE THREW IT DOWN AT THE FEET OF SOME GIRLS
10 STANDING IN DRIVEWAY, BUT THOSE GIRLS THEN RECOGNIZED
11 HIM, THEY YELLED AT HIM, AND HE TURNED AWAY FROM
12 THEM. HE DIDN'T FIGHT THEM. THEN HE HAD WORDS WITH
13 BRADLEY MOORE BECAUSE IT WAS ONE OF HIS GIRLFRIEND'S
14 THAT HE HAD JUST THROWN A BEER BOTTLE AT AT HER FEET,
15 BUT HE DIDN'T FIGHT HIM. BRADLEY MOORE IGNORED HIM
16 TOO. BUT REALLY MR. BOLIN DIDN'T NECESSARILY KNOW
17 THESE PEOPLE COMING IN THE CAR. NEITHER DID
18 MR. OWENS. THAT'S WHAT MAKES THIS SO TRAGIC. ONCE
19 AGAIN NOTHING GOOD HAPPENS AFTER 11. THE BRAVADO
20 WITH THESE YOUNG MEN, YOU'LL SEE AND YOU'LL SEE FROM
21 THEIR STATEMENTS, THAT HE ENDED UP FIRING INTO THAT
22 CAR AS IT LEFT. YOU'LL SEE FROM THE BULLET HOLES IN
23 THE CAR, YOU'LL SEE FROM BULLET HOLE IN BACK OF BOBBY
24 HOVIS' HEAD.

25 NOW THERE IS A LOT OF PEOPLE AT THE PARTY.

1 ONE THING YOU'LL ALWAYS FIND IS IF YOU HAVE 15
2 DIFFERENT PEOPLE TELLING YOU ABOUT SOMETHING THAT
3 OCCURRED, YOU'LL HAVE 15 DIFFERENT STORIES, AND I
4 WANT YOU TO REALIZE THAT UP FRONT. SOME OF THEM ARE
5 VERY GREAT. SOME OF THEM AS A MATTER OF FACT I THINK
6 YOU'LL FIND TO BE WILD. BUT YOU HAVE TO JUDGE WHAT
7 THE TRUTH IS OUT OF THAT. TO HELP YOU OUT I WANT TO
8 GIVE YOU SOME ADVICE ON HOW TO DO THAT. IN THIS CASE
9 ESPECIALLY YOU WILL HAVE A LOT OF FORENSIC EVIDENCE
10 TO LOOK AT, A LOT OF SOLID EVIDENCE AS TO WHAT IS AT
11 THE PROPERTY ITSELF. AS I TOLD YOU THERE WILL BE
12 TESTIMONY ABOUT THE SHELL CASINGS, THE FIVE NINE
13 MILLIMETER CASINGS. THESE CASINGS ARE NOT RIGHT UP
14 THE STREET. THEY ARE UP A LITTLE BIT OFF THE STREET
15 JUST TO THE SIDE OF THE DRIVEWAY AND THEY GO FIVE
16 BOOM BOOM BOOM BOOM BOOM PRETTY MUCH IN A ROW AS THEY
17 FALL KIND OF ZIG ZAG PATTERN, SO THAT IT SHOWS
18 SOMEONE WOULD HAVE A FIRED THAT FIREARM EITHER MOVING
19 TOWARDS OR MOVING BACK AWAY FROM THE ROAD OR AT LEAST
20 ALONGSIDE OF THE ROAD AS THEY FIRED TOWARD THE CAR
21 LEAVING. YOU'LL SEE AS TO THE .45 CALIBER IS THE ONE
22 THAT MR. BOLIN WAS FIRING. THERE IS FIVE SHELL
23 CASINGS SO WE KNOW HE AT LEAST FIRED FIVE SHOTS.
24 THOSE ARE ALL DOWN RIGHT WHERE THE DRIVEWAY MEETS THE
25 ROAD AND RIGHT ALONG THE EDGE OF THE ROAD ALL ZIG ZAG

1 A LITTLE BIT BACK AND FORTH. EVERY ONE OF THOSE .45
2 CASINGS IS THERE. WHEN YOU LOOK AT THE CAR ITSELF
3 YOU WILL SEE AN ANGLE INTO THE CAR HITTING THE SIDE
4 OF THE DRIVER'S DOOR WITH A NUMBER OF BULLETS. THERE
5 IS ACTUALLY SIX SHOTS THAT HIT THIS CAR. ONE GRAZES
6 OFF THE HOOD. ONE OF THEM HITS A DOOR POST AND ENDS
7 UP JUST UNDER THE HOOD ON THE AIR VENT GRILLS. ONE
8 OF THEM COMES RIGHT IN UNDER THE SIDE VIEW MIRROR AND
9 ACTUALLY GOES UP AND ENDS UP IN THAT DOOR. ONE COMES
10 INTO THE SIDE OF THE DOOR, HITS IT. ONE COMES JUST
11 UNDER THE DOOR AND PASSES THROUGH IT AND WE DON'T
12 RECOVER THAT ONE. AND OF COURSE ONE COMES THROUGH
13 THE BACK WINDOW WHICH GOES THROUGH TRAVIS FALLS' ARM
14 JUST BELOW HIS WRIST OR JUST ABOVE HIS WRIST, GOES
15 CLEAN THROUGH THAT BECAUSE HE WAS TRYING TO PULL
16 BOBBY'S HEAD DOWN AS THEY HEARD THE SHOTS HITTING
17 AGAINST THE CAR AND KNEW GUNS WERE BEING FIRED AT HIM
18 AND THEN IT GOES IN THE BACK OF BOBBY'S HEAD AND
19 YOU'LL SEE FROM THE PATHOLOGIST THAT IT COMES IN KIND
20 OF ON THE SIDE OF HIS, BACK OF HIS HEAD, IT GOES FROM
21 THIS SIDE, FROM THE RIGHT TO THE LEFT, COMES FORWARD
22 HITTING THE FRONT OF HIS SKULL AND BOUNCES BACK INTO
23 HIS BRAIN. THERE IS REALLY NO CHANCE OF BOBBY
24 SURVIVING THAT PARTICULAR SHOT. AND YOU'LL SEE HOW
25 THEY DROVE IMMEDIATELY TO THE CLOVER POLICE

1 DEPARTMENT FOLLOWING THAT STOPPING ONLY TO CHANGE
2 DRIVERS BECAUSE AT THAT POINT HOLLY WAS DRIVING, HAD
3 BECOME PANICKED WHEN SHE REALIZED THAT BOBBY WAS
4 PROBABLY DEAD, THAT MICHAEL HUBBARD SWITCHED SPOTS
5 WITH HER AS SOON AS THEY GOT AWAY, AND GOT TO THE END
6 OF LAWRENCE ROAD RIGHT AT 321 THAT THEY GOT OUT AND
7 SWITCHED PLACES AND DROVE TO CLOVER.

8 AS A MATTER OF FACT, YOU'LL HEAR TESTIMONY
9 FROM THE 911 PEOPLE AND THE TIMES THAT THE CALLS COME
10 IN BECAUSE YOU'LL HEAR TESTIMONY OF A NEIGHBOR RIGHT
11 NEXT DOOR WHO CALLS AT 11:57 AND A FEW SECONDS, BUT
12 IT'S SOME FIVE MINUTES LATER WHEN BRADLEY DEALS CALLS
13 TO SAY THAT SOMETHING HAPPENED AT HIS HOUSE. AND I
14 WANT YOU TO LISTEN TO WHAT ELSE THESE PEOPLE AT THAT
15 HOUSE SAY AND ONCE AGAIN NOT ALL OF THEM ARE GOING TO
16 TELL YOU THE TRUTH. I'LL PUT THAT RIGHT OUT TO YOU
17 RIGHT NOW. THAT'S WHY YOU LOOK AT EVERYBODY HARD
18 WHEN YOU HEAR THEIR TESTIMONY. EVERYONE AT THAT
19 PARTY HAS SOME MOTIVATION WHETHER IT'S THEY ARE GOOD
20 FRIENDS OF THE DEALS THAT THEY DON'T WANT TO HAVE IN
21 TROUBLE; WHETHER IT'S GOOD FRIEND OR RELATIVE OF
22 BERRY BOLIN THAT THEY DON'T WANT TO GET IN TROUBLE;
23 WHETHER IT WAS RONALD LEE OWENS, A GOOD FRIEND OR
24 RELATIVE THAT THEY DON'T WANT TO GET IN TROUBLE OR
25 WHETHER THEY JUST DON'T WANT TO BE INVOLVED. BUT

1 LIKE I SAID, YOU ARE GOING TO HEAR WILD STORIES FROM
2 THEM BUT WHAT I WANT YOU TO CONCENTRATE ON AS I SAID
3 IS THAT FORENSIC EVIDENCE IN THE YARD THAT TELLS YOU
4 SOMETHING RIGHT THERE THAT THEY HAD TO FIRE WHEN THE
5 CAR WAS LEAVING BECAUSE ALL THE SHOTS COME IN AT AN
6 ANGLE JUST FROM THE BACK AND TO THE SIDE; THE
7 PATHOLOGIST WILL ALSO TESTIFY THAT THE BULLET
8 RECOVERED, YOU'LL HAVE AN EXPERT IN BALLISTICS THAT
9 WILL TESTIFY WHILE HE CAN'T SAY THAT THE GUN THAT
10 THEY RECOVERED FROM BERRY BOLIN 100 PERCENT THAT GUN
11 SHOT THAT BULLET, HE CAN TELL YOU THAT IT IS, THAT A
12 NINE MILLIMETER DID NOT BECAUSE IT'S TOO LARGE OF A
13 BULLET. HE'S GOING TO TELL YOU THAT BULLET THAT IS
14 IN BOBBY HOVIS' HEAD IS CONSISTENT IN EVERY WAY WITH
15 A BEING A .45 CALIBER BULLET, FROM THE WEIGHT AND
16 SIZE, TO EVERY CHARACTERISTIC HE COULD READ AS FAR AS
17 THE RIFLE OF THE BARREL GOING IN A PARTICULAR
18 DIRECTION, AND HE'LL EXPLAIN THAT TO YOU AND YOU'LL
19 KNOW BY THE END THERE IS NO OTHER BULLET BUT THE .45
20 THAT COULD HAVE KILLED HIM.

21 AS WELL YOU NEED TO CONSIDER WHAT BERRY
22 BOLIN TOLD THE POLICE BECAUSE HE TALKED TO THEM A
23 NUMBER OF DIFFERENT TIMES. HIS FIRST CONTACT WAS
24 WITH OFFICER WHITE AND AS HE'LL TESTIFY HE WAS
25 ACTUALLY WAITING AT BERRY BOLIN'S RESIDENCE BECAUSE

1 AS THIS HAPPENED EVERYBODY TOOK OFF, ONLY FOUR GUYS
2 ARE AT THE HOUSE WHEN THE POLICE GET THERE, AND THEY
3 GET THERE IN FIVE MINUTES, ONLY FOUR GUYS. IT'S THE
4 TWO DEAL BOYS AND IT'S LEE WALTON AND LEE LOWDER.
5 THOSE ARE THE FOUR GUYS AT THE HOUSE AT THIS POINT
6 AND YOU'LL HEAR THE TESTIMONY FROM THE OFFICERS WHEN
7 THEY TALK TO YOU ABOUT THESE PEOPLE AND WHAT THEY ARE
8 DOING AT THE HOUSE AND WHAT THEY ARE SAYING INITIALLY
9 BECAUSE THEY ALL WRITE STATEMENTS INITIALLY; RIGHT
10 THERE AT THE HOUSE THE OFFICER GIVES THEM PAPER AND
11 SAYS HERE, WRITE DOWN WHAT HAPPENED, AND YOU'LL SEE
12 VARYING STORIES FROM WHAT THEY WROTE DOWN ORIGINALLY
13 AND WHAT THEY TELL YOU NOW.

14 AS WELL JUST ABOUT EVERYBODY ELSE AT SOME
15 POINT ENDS UP AT THE CLOVER POLICE DEPARTMENT WITH
16 SOME DEPUTIES FROM THE YORK SHERIFF'S DEPARTMENT
17 ASKING THEM TO DO THE SAME THING. MR. BOLIN WAS NO
18 DIFFERENT. THE DEPUTIES HEARD HE WAS THERE, DEPUTY
19 HAPPENED TO KNOW WHERE HE LIVED, SAID I'LL GO SEE IF
20 HE'S AT HIS HOUSE AND THAT'S DEPUTY WHITE. HE IS
21 THERE. THE DEFENDANT SHOWS UP WITH HIS GIRLFRIEND IN
22 HIS TRUCK. HE ASKED HIM WERE YOU AT THE PARTY. THE
23 FIRST THING HE TELLS HIM IS NO AND THE DEPUTY ASKS
24 HIM WOULD YOU MIND COMING TO THE CLOVER POLICE
25 DEPARTMENT AND TALK WITH US. WE'RE HAVING A BUNCH OF

1 PEOPLE TALK WITH US FROM THE PARTY. OKAY. HE GOES.
2 WELL, THEN WHEN HE GETS TO THE CLOVER POLICE
3 DEPARTMENT HE GIVES ANOTHER STATEMENT AT THAT POINT
4 AND THIS IS THE ONE THAT HE CAN WRITE DOWN ALL ON HIS
5 OWN AND EVEN AS HE IS DOING THAT HE TELLS THEM, WELL,
6 YEAH, I DO HAVE A GUN, A .45 AND IT'S OUT IN MY
7 TRUCK. THEY ASKED HIM IF THEY CAN GO GET IT. THEY
8 GET A CONSENT TO SEARCH THE TRUCK. THEY GO OUT
9 THERE. IT'S NOT OUT THERE. THEY COME BACK AND HE
10 SAID, WELL, SOMEONE MUST HAVE TAKEN IT. THEN HE
11 GIVES A STATEMENT WHERE HE BASICALLY SAYS NOTHING
12 ABOUT THE GUN. AT THIS POINT HE SAYS NOTHING ABOUT
13 THE --- HE WRITES HIS OWN STATEMENT, HE SAYS, WHILE I
14 WAS AT THE PARTY WE KNEW SOME GUYS WANTED TO COME
15 OVER. THERE WAS A COMMOTION GOING ON. I WENT
16 OUTSIDE. I HEARD SOME SHOTS. I JUMPED IN. I GOT IN
17 MY CAR AND LEFT BECAUSE I DIDN'T WANT TO GET MINOR IN
18 POSSESSION. SO BECAUSE HE'S SAYING I'M IN ALCOHOL
19 VIOLATION HE DOESN'T WANT TO GET THAT.

20 THEN HE COMES BACK AGAIN ULTIMATELY AS THE
21 NIGHT GOES ON AND GIVES ANOTHER STATEMENT AND IN THAT
22 STATEMENT HE TELLS THE OFFICER, YES, I WAS THERE;
23 YES, I HAD MY GUN; AND I SHOT IT. I SHOT IT AT THE
24 CAR WAS IT WAS LEAVING. THEY TALK ABOUT HOW HE HEARD
25 OTHER SHOTS BESIDE HIM AND HE'LL SHOW YOU FROM THE

1 TESTIMONY HOW LEE OWENS WAS SHOOTING AT THE SAME
2 TIME. WE WILL TELL YOU AND I WANT YOU TO REMEMBER
3 THAT AS YOU LOOK THROUGH BECAUSE YOU'LL HEAR THOSE
4 STATEMENTS BECAUSE HE GIVES MORE AND HE GETS EVEN
5 MORE IN DETAIL ABOUT WHAT HAPPENED THAT NIGHT AND YOU
6 HAVE TO REMEMBER THAT BECAUSE NEVER IN HIS STATEMENTS
7 WILL YOU SEE HIM SAY I WAS BEING SHOT AT, MY LIFE WAS
8 IN DANGER, THEY WERE COMING AT ME, NONE OF THOSE
9 THINGS EXIST, BUT HE DOES SAY, I SHOT AT THE CAR AS
10 IT WAS DRIVING AWAY. HE WILL SAY WHEN HE SAW LORI
11 MOSS GET HIT THAT HE USED TO DATE HER A LONG TIME AGO
12 AND HE GOT UPSET AND THEN HE SHOT THAT GUN.

13 SO YOU KNOW THOSE THINGS GOING INTO THE
14 OTHER PEOPLE TESTIFYING SO YOU'LL KNOW A CERTAIN FACT
15 PATTERN AROUND THAT YOU KNOW THE TRUTH ABOUT FROM THE
16 BEGINNING, SO AS YOU OBSERVE THESE OTHER PEOPLE THAT
17 COME IN AND TESTIFY AND AS YOU HEAR WHAT THEY HAVE TO
18 SAY, JUDGE IT AGAINST THAT. JUDGE IT AGAINST WHAT
19 THE REAL EVIDENCE IS THAT WE KNOW IS THERE FOR SURE.
20 THAT WILL HELP YOU. IT WILL ALSO HELP YOU TO SEE
21 WHAT THESE PEOPLE SAID ORIGINALLY AND HOW THEY
22 CHANGED SINCE THEN AND WHAT THEY ARE TELLING YOU NOW
23 AND ONE THING YOU ALWAYS HAVE TO USE, YOUR COMMON
24 SENSE. I THINK EVERYONE, SOMETIMES YOU LOOK PAST
25 THAT WHEN YOU ARE DEALING WITH A SERIOUS CASE, BUT

1 HAVE TO JUST SIT BACK AND THINK WHAT'S THE FIRST
2 THING SOMEONE WOULD DO IF THEY WERE BEING ATTACKED BY
3 SOMEONE ELSE, ESPECIALLY SOMEONE ELSE WITH A GUN.
4 WHAT'S THE FIRST THING YOU WOULD DO WHEN THE POLICE
5 CAME. AND Y'ALL CAN FIGURE IT OUT FOR YOURSELF. I
6 DOUBT IT'S NOTHING. I DOUBT IT'S GIVING A STATEMENT
7 THAT DOESN'T REALLY TALK ABOUT WHAT HAPPENED. COMMON
8 SENSE WILL TELL YOU THE FIRST THING YOU WOULD SAY
9 WOULD BE THEY WERE SHOOTING AT ME. THEY WERE GOING
10 TO GET ME. BUT INSTEAD AS MR. BOLIN DID, HE ACTUALLY
11 WENT SOMEWHERE ELSE BEFORE HE WENT HOME AND HE'LL
12 ADMIT TO THAT IN THAT STATEMENT, HE WENT TO MICHAEL
13 WALLACE'S PLACE, IT'S A COUSIN OF HIS, HE GAVE HIM
14 THE GUN THAT HE HAD, THE .45 CALIBER, AND HE ASKED
15 HIM TO GET RID OF IT. IT WAS ONLY ULTIMATELY THAT HE
16 TOLD THE POLICE THAT HE HAD DONE THAT AND WHEN THE
17 SUBSEQUENT STATEMENTS THAT THEY WERE ABLE TO CALL
18 MICHAEL WALLACE AND GET THAT GUN. WHEN YOU ARE
19 ACTING IN SELF-DEFENSE OR WHEN YOU HAVE THE RIGHT TO
20 DO WHAT YOU ARE DOING YOU DON'T HIDE IT. YOU SHOUT
21 IT FROM THE ROOF TOPS. COMMON SENSE.

22 NOW THE CHARGES THAT HE FACES, OF COURSE
23 THE BIGGEST IS MURDER. WHAT IS MURDER? MURDER IS
24 THE KILLING OF ANOTHER, AN UNLAWFUL KILLING OF
25 ANOTHER, WITH MALICE AFORETHOUGHT AND THAT'S ALWAYS

1 AN ODD THING TO THINK.

2 WHAT IS MALICE? LET ME BREAK IT DOWN FOR
3 YOU A LITTLE BIT. OFTEN TIMES THEY CHARGE AS AN
4 EVIL, WICKED, OR DEPRAVED HEART. I LIKE TO THINK OF
5 MALICE AS BEING MEAN, JUST SIMPLE DEFINITION, WHAT IS
6 MALICE? IT'S BEING MEAN AND WHAT DO WE INTEND TO
7 PROVE IN THIS CASE? THAT HE HAD MALICE IN HIS HEART
8 WHEN HE FIRED THOSE SHOTS. HE DIDN'T JUST FIRE ONCE,
9 HE DIDN'T JUST FIRE IN THE AIR, HE DREW DOWN ON THE
10 CAR THAT WAS LEAVING FULL OF PEOPLE AND FIRED HIS
11 GUN. THAT'S DOWN RIGHT MEAN. THAT'S MALICE.

12 WHAT ELSE IS HE CHARGED WITH? ASSAULT AND
13 BATTERY WITH INTENT TO KILL. OF COURSE, ASSAULT AND
14 BATTERY, EVERYBODY KNOWS WHAT THAT IS. THE ASSAULT
15 PART IS ACTUALLY THE THREATENING TO DO SOMETHING, SO
16 THE BATTERY IS THE ACTUAL CONTACT. SO ASSAULT AND
17 BATTERY WITH INTENT TO KILL IS THE THREATENING WITH
18 THE CONTACT WHICH ULTIMATELY MALICE AND THAT'S
19 MEANNESS ONCE AGAIN AND THIS IS WHAT HAPPENED TO
20 TRAVIS FALLS BECAUSE THE BULLET WENT THROUGH HIS ARM
21 FIRST BEFORE IT WENT TO BOBBY HOVIS' HEAD, SO HE WAS
22 BATTERED BY THAT.

23 THEN THERE IS TWO COUNTS FOR THE OTHER TWO
24 PEOPLE IN THE CAR AT THE TIME OF ASSAULT WITH INTENT
25 TO KILL. NOW THAT'S THE ASSAULT. THAT'S THE PRESENT

1 APPARENT ABILITY THAT YOU CAN DO SOMETHING BAD, IN
2 THIS CASE THE FIRING OF THE GUN AT THE CAR FULL OF
3 PEOPLE, BUT HE JUST DIDN'T HIT THEM AND WE'RE ALL
4 FORTUNATE AND GLAD THAT DIDN'T HAPPEN. BUT HE SHOT
5 INTO THAT CAR ONCE AGAIN WITH MALICE, WITH THAT
6 MEANNESS.

7 AND ONE FINAL THING THAT HE IS CHARGED
8 WITH OR TWO OTHERS ACTUALLY, DISCHARGING A FIREARM
9 INTO AN OCCUPIED VEHICLE WHICH PRETTY MUCH DESCRIBED
10 ITSELF RIGHT WITHIN THE TITLE OF THE STATUTE AND IT'S
11 SIMPLY THAT, SHOOTING A GUN INTO A VEHICLE THAT'S
12 OCCUPIED BY PEOPLE; AND THE FINAL THING POSSESSION OF
13 A FIREARM IN THE COMMISSION OF A VIOLENT CRIME.
14 WELL, MURDER AND ASSAULT AND BATTERY WITH INTENT TO
15 KILL ARE VIOLENT CRIMES SO IF YOU FIND THAT HE'S
16 GUILTY OF EITHER ONE OF THOSE CHARGES OR BOTH AND HE
17 POSSESSED A PISTOL, THEN HE'S GUILTY OF POSSESSING A
18 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.
19 THAT'S THE WAY THE LAW BREAKS DOWN ALL THOSE ASPECTS,
20 BUT ONCE AGAIN I WILL TELL YOU TO CONSIDER EACH
21 PERSON WHO GETS UP HERE TO TESTIFY, EACH LAY WITNESS
22 WHO STANDS UP HERE WHO WAS AT THAT PARTY, WAS IN THAT
23 CAR, LISTEN TO THEM AND LISTEN TO WHAT WE KNOW THE
24 FORENSIC EVIDENCE IS AND WHAT YOU WILL KNOW THE
25 EVIDENCE IS FROM THE DEFENDANT'S STATEMENTS AND JUDGE

1 THEM AGAINST THAT. BECAUSE I BELIEVE THAT WILL
2 PROVIDE YOU WITH THE TRUTH AND THE TRUTH WILL BE THAT
3 BERRY BOLIN IS GUILTY AS CHARGED. NOTHING GOOD
4 HAPPENS AFTER 11.

5 THE COURT: MR. GREELEY.

6 MR. GREELEY: MAY IT PLEASE THE COURT.

7 OPENING STATEMENT BY MR. GREELEY:

8 MR. FOREMAN, LADIES AND GENTLEMEN OF THE
9 JURY, GOOD AFTERNOON. I HOPE Y'ALL ARE WELL AND I'M
10 SORRY THAT YOU HAD TO WAIT AS LONG AS YOU DID BEFORE
11 YOU COULD BEGIN PARTICIPATING IN THIS. THIS IS A
12 CASE OF WHAT WE CALL IN SOUTH CAROLINA AS DEFENSE OF
13 OTHERS. IT'S JUST LIKE SELF-DEFENSE. IT HAS THE
14 SAME ELEMENTS AS SELF-DEFENSE, BUT IT'S THE DEFENSE
15 OF OTHERS. WHEN YOU ARE THERE AND SOMEBODY PROTECTS
16 SOMEBODY ELSE OR OTHER PEOPLE AND HAS THE ABILITY TO
17 DO THAT. I'M GOING TO TALK TO YOU A LITTLE BIT MORE
18 ABOUT THAT IN JUST A MINUTE BUT THAT'S WHAT THIS CASE
19 IS ABOUT.

20 FIRST OF ALL I'D LIKE TO MAKE SOME
21 INTRODUCTIONS TO YOU. I WANT YOU TO MEET MY CLIENT.
22 THIS IS BERRY BOLIN. BERRY SITS IN THAT CHAIR BESIDE
23 ME BECAUSE HE'S BEEN ACCUSED BY THE STATE OF SOME OF
24 THE MOST SERIOUS CHARGES SOMEONE COULD BE ACCUSED OF.
25 AT THE TIME OF THIS INCIDENT BERRY WAS 19 YEARS OLD,

1 SINCE THEN HE HAS TURNED 20. HE GRADUATED CLOVER
2 HIGH SCHOOL. HE LIVES WITH HIS PARENTS. THEY ARE
3 HERE. THEY ARE SEATED RIGHT ON THE FRONT. THIS IS
4 MITCH AND JANET BOLIN. BERRY IS THEIR SON.

5 NOW THERE IS SOME OTHER PEOPLE THAT YOU
6 ARE GOING TO HEAR ABOUT IN THIS CASE. YOU ARE GOING
7 TO HEAR ALL KINDS OF NAMES. ONE OF THE NAMES THAT
8 YOU ARE GOING TO HEAR, AND I WANT YOU TO REMEMBER
9 THIS NAME, I WANT YOU REMEMBER THE NAME OF TRAVIS
10 FALLS. TRAVIS FALLS. MR. FALLS IS, I DON'T KNOW
11 THAT I SEE HIM SEATED IN HERE NOW, SO HE'S NOT IN
12 HERE, BUT HE'S AN ALLEGED VICTIM IN THIS CASE BECAUSE
13 MR. FALLS ON THAT PARTICULAR NIGHT WAS STRUCK WITH A
14 BULLET IN HIS WRIST. MR. FALLS IS 26 YEARS OF AGE.
15 HE'S NOT A TEENAGER. HE'S A MAN. MR. FALLS IN THAT
16 CAR THAT NIGHT HAD WITH HIM HOLLY MCCARTER WHO WAS
17 HIS GIRLFRIEND. HOLLY MCCARTER WHO WAS HIS
18 GIRLFRIEND. THERE WAS ALSO MR. HUBBARD IN THE CAR.
19 HE IS IN THE COURTROOM. THERE WAS ALSO IN THE CAR
20 MR. HOVIS. MR. HOVIS IS THE MAN WHO ENDED UP DYING
21 FROM THIS INCIDENT. AND YOU ALSO WILL HAVE
22 MR. NORRIS WHO WAS IN THE CAR WHEN IT CAME TO THE
23 HOUSE AND ENDED UP NOT BEING IN THE CAR WHEN IT LEFT
24 THE HOUSE AND THIS WAS ONE OF FIVE. MR. FALLS WAS
25 THE OLDEST ONE. HE'S 26 YEARS OLD.

1 NOW YOU'VE HEARD ABOUT THE SOLICITOR AND
2 THE PARTY. WHAT I'M GOING TO DO IS I'M GOING TO
3 SHIFT GEARS REAL QUICK AND I'M GOING TO TALK TO YOU
4 ABOUT THE LAW BEFORE I TALK TO YOU MORE ABOUT
5 MR. FALLS AND ABOUT THIS INCIDENT THAT NIGHT AND
6 ABOUT MY CLIENT AND HIM BEING AT THIS PLACE. SO I'M
7 GOING TO TALK WITH YOU BRIEFLY ABOUT THE LAW SO THAT
8 YOU CAN HAVE AN UNDERSTANDING AS WE GO THROUGH THIS
9 HOW THE LAW WORKS. YOU KNOW, WHENEVER YOU WATCH ON
10 TELEVISION AND YOU SEE A SHOW THAT HAS A COURTROOM
11 SCENE AND IT'S A CRIMINAL COURTROOM SCENE A LOT OF
12 TIMES YOU WILL HEAR THE DEFENDANT IS ON TRIAL. AND
13 YOU KNOW WHAT I'M TALKING ABOUT. YOU'VE SEEN THAT.
14 SOMETIMES IN PERRY MASON IF YOU ARE OLDER, SOMETIMES
15 TO WHERE THE DEFENDANT IS ON TRIAL. I WILL TELL YOU
16 THAT IS FICTION. BERRY BOLIN WHO BECAUSE HE'S BEEN
17 ACCUSED OF THESE THINGS IS SOMETIMES REFERRED TO AS A
18 DEFENDANT AND DON'T LET THAT BE A HORRIBLE WORD TO
19 YOU, IT'S JUST A LABEL, IS NOT ON TRIAL IN THIS CASE.
20 HE'S NOT ON TRIAL. LET ME TELL YOU WHY. A LONG TIME
21 AGO OUR COUNTRY DID A WONDERFUL THING, THEY DECIDED
22 AND PUT INTO LAW THAT IF THE GOVERNMENT WAS GOING TO
23 ACCUSE SOMEONE OF BEING A CRIMINAL AND OF COMMITTING
24 CRIMES THEN THE GOVERNMENT WAS GOING TO HAVE TO PUT
25 UP BECAUSE THE GOVERNMENT IS WHAT HAS ALL THE

1 RESOURCES, THE GOVERNMENT IS WHAT IS POWERFUL, THEY
2 HAVE ALL THE AUTHORITY AND SO IF THEY ARE GOING TO
3 ACCUSE ANYONE OF BEING A CRIMINAL THEN THEY HAVE TO
4 PROVE IT AND NOT ONLY DO THEY HAVE TO PROVE IT, THEY
5 HAVE TO PROVE IT BEYOND A REASONABLE DOUBT. AND SO
6 AS YOU SIT IN THIS CASE AND YOU OVERSEE THIS CASE AND
7 IN YOUR PREPARATION TO DELIBERATE ON THIS CASE WHEN
8 IT IS CONCLUDED, THE PRIMARY ISSUE THAT IS IN YOUR
9 HEAD IS: HOW IS THE STATE'S CASE? HAVE THEY PROVED
10 IT? WHAT INFORMATION HAVE THEY PROVIDED US? HAVE
11 THEY DONE THE THINGS THE WAY THEY SHOULD HAVE DONE
12 THINGS? ARE THEY ABLE TO ACTUALLY PROVE THIS? THAT
13 IS THE ISSUE THAT YOU WILL BE DETERMINING AND SO YOU
14 SEE BERRY, WHO IS SEATED OVER THERE, ISN'T ON TRIAL.
15 IT'S THE GOVERNMENT THAT'S ON TRIAL FOR THEIR
16 ALLEGATIONS AGAINST BERRY, ACCUSING HIM OF ALL THESE
17 HORRIBLE MOST SERIOUS CRIMES.

18 NOW THE STATE TOLD YOU SOME OF THE THINGS
19 THEY PROPOSED THAT YOU WERE GOING TO HEAR. I WANT
20 YOU TO REMEMBER RIGHT OFF THE BAT THE STATE BEGAN TO
21 GIVE YOU AN APOLOGY BASICALLY ABOUT THE WITNESSES
22 THAT YOU WERE GOING TO HEAR BECAUSE YOU ARE GOING TO
23 HEAR SOME WILD THINGS AND YOU ARE NOT GOING TO BE
24 ABLE TO BELIEVE THIS AND YOU'RE NOT GOING TO BE ABLE
25 TO BELIEVE THAT. YOU ARE GOING TO HAVE TO PICK AND

1 CHOOSE. PICK AND CHOOSE. THAT'S THE THEME OF THIS
2 WHOLE CASE, PICKING AND CHOOSING, AND IT'S WHAT THE
3 STATE HAS PICKED AND CHOSEN AND THE ROAD THAT THEY
4 HAVE CHOSEN TO FOLLOW IN THIS CASE IS TO SAY THAT
5 HE'S THE CAUSE. HE'S THE CAUSE.

6 NOW ONE OF THE THINGS THAT YOU ARE GOING
7 TO FIND OUT ABOUT MR. FALLS, WHO IS IN THE CAR, WHO
8 WAS THE OLDEST IN THE CAR THAT CAME OVER THERE, IS
9 YOU ARE GOING TO FIND OUT WHY AND WHAT RELATIONSHIP
10 HE HAD WITH THE DEALS.

11 YOU SEE ABOUT FOUR DAYS PRIOR TO THIS
12 INCIDENT MR. FALLS WAS RELEASED FROM JAIL. HE HAD
13 BEEN ARRESTED FOR, HE AND HIS FRIENDS, BEATING
14 BRADLEY DEAL. BRADLEY DEAL IS ABOUT 19 YEARS OLD
15 18-19. HE HAD BEEN ARRESTED FOR THAT ABOUT FOUR DAYS
16 BEFORE THIS INCIDENT. NOT ONLY THAT BUT YOU ARE
17 GOING TO DISCOVER THAT AT THE TIME HE WAS RELEASED HE
18 WAS LET OUT ON BOND AND HAD A BOND RESTRICTION AND
19 THE BOND RESTRICTION SAID, THE JUDGE THAT RELEASED
20 HIM SAID, YOU ARE NOT TO HAVE ANY CONTACT WHATSOEVER
21 WITH BRADLEY DEAL, WHO YOU HAD BEEN AT THAT TIME
22 ACCUSED OF BEATING. FOUR DAYS LATER WHERE IS HE?
23 WHERE IS HE? DESPITE THE COURT ORDER. YOU ARE GOING
24 TO HEAR ABOUT THAT, OKAY.

25 HOLLY MCCARTER, THE SOLICITOR TOLD YOU

1 ABOUT A FIGHT THAT HAPPENED IN THE ROADWAY BETWEEN
2 HOLLY MCCARTER AND LORI MOSS. WELL, MR. FALLS WAS
3 INVOLVED IN THAT TOO. YOU ARE GOING TO HEAR EVIDENCE
4 THAT MR. FALLS, A 26 YEAR OLD BIG GUY, UNLOADS ON A
5 17 YEAR OLD GIRL IN THE ROADWAY. OKAY. AND WHAT YOU
6 WILL FIND OUT IS THAT FOUR DAYS PRIOR TO THIS HOLLY
7 MCCARTER, MR. FALLS' GIRLFRIEND, HAD BEEN RELEASED
8 FROM PRISON.

9 MR. THOMPSON: OBJECTION, YOUR HONOR.

10 THE COURT: I SUSTAIN.

11 MR. THOMPSON: MAY I APPROACH THE BENCH.

12 THE COURT: MOVE ONTO SOMETHING ELSE.

13 MR. GREELEY: I'LL MOVE ON. OKAY. NOW
14 MR. FALLS IS OVER THERE SO THAT'S WHAT YOU ARE GOING
15 TO HEAR. NOW LET ME TELL YOU A LITTLE BIT ABOUT
16 MR. BOLIN, OKAY. MR. BOLIN ENDED UP OVER AT THE
17 DEAL'S HOUSE BECAUSE I THINK IT WAS HIS COUSIN ROCKY
18 BREAKFIELD CALLED HIM AND SAID LET'S GO OVER TO
19 BRADLEY AND RICKY DEAL, AND IF ANYBODY WHO IS A
20 PARENT KNOWS THAT THEY HAVE THESE PARTIES SOMETIMES,
21 KIDS THIS AGE AND THEY WILL HAVE A PARTY AT A HOUSE
22 SO THEY GO OVER THERE. YOU ARE NOT GOING TO HEAR ANY
23 EVIDENCE IN THIS CASE THAT BERRY BOLIN WAS INVOLVED
24 IN ANY OF THE PHONE CALLS THAT WERE GOING ON THAT
25 EVENING. THERE IS NO EVIDENCE OF THAT. BECAUSE HE

1 WASN'T. YOU ARE GOING TO HEAR EVIDENCE THAT HE GOES
2 OVER TO THE DEALS AND THERE IS A PARTY. HE'S THERE
3 AT THE PARTY. AT SOME POINT IN TIME SOMEBODY HOLLERS
4 THEY ARE HERE AND PEOPLE BEGIN TO GO OUTSIDE. WELL,
5 THIS CAR HAS PULLED UP AND HAS BLOCKED THE DRIVEWAY
6 AND YOU ARE GOING TO HEAR EVIDENCE THAT ONE OF THE
7 OCCUPANTS OF THE CAR, A BIG GUY, COMES UP THE
8 DRIVEWAY THREATENING PEOPLE. THERE MAY BE TESTIMONY
9 THAT HE HAD A GUN. THERE IS TESTIMONY THAT HE BROKE
10 A BEER BOTTLE AT THE FEET OF THE GIRLS READY TO TAKE
11 ON ALL COMERS. YOU ARE GOING TO HEAR TESTIMONY THAT
12 THERE WAS A FIGHT THAT BEGAN DOWN THERE NEAR THE
13 ROADWAY BETWEEN THE GIRLS AND YOU'LL HEAR TESTIMONY
14 MR. FALLS GOT INVOLVED IN THAT. BERRY BOLIN WASN'T
15 CARRYING A GUN AS WAS KIND OF IMPLIED BY THE STATE.
16 IN HIS TRUCK, IN THE GLOVE BOX WHERE IF A PERSON HAS
17 A GUN IN A TRUCK THAT'S WHERE IT SHOULD BE, HE WENT
18 TO HIS TRUCK AND DID GET OUT OF THE GLOVE BOX THIS
19 GUN. OKAY. AT SOME POINT IN TIME YOU ARE GOING TO
20 HEAR EVIDENCE THAT THE PEOPLE DID RUN BACK TO THE
21 CAR, YOU'LL HEAR EVIDENCE MS. MOSS WAS LYING IN THE
22 ROADWAY, AND YOU ARE GOING TO HEAR ALSO TESTIMONY
23 THAT WHEN THEY GOT BACK INTO THE CAR THAT THERE WERE
24 SHOTS FIRED FROM THAT CAR AND THEN THERE WERE SHOTS
25 FIRED. MR. BOLIN DID FIRE SHOTS THAT NIGHT. HE DID

1 FIRE SHOTS. BUT YOU ARE GOING TO HEAR TESTIMONY THAT
2 SHOTS WERE FIRED FROM THAT CAR AND THEN THEY LEFT.

3 NOW I COULD GIVE AN OPENING STATEMENT THAT
4 WOULD LAST TWO AND A HALF DAYS ABOUT THE THINGS YOU
5 ARE GOING TO HEAR AND I'M NOT GOING TO DO THAT. BUT
6 YOU ARE ALSO GOING TO SEE HOW THE LAW ENFORCEMENT IN
7 THEIR PURSUIT OF THIS CASE AND IN THEIR INVESTIGATION
8 OF THIS CASE PICKED AND CHOSE WHO THEY WANTED TO
9 BELIEVE, WHAT THEY WANTED TO BELIEVE, WHY THEY WANTED
10 TO BELIEVE IT, AND SET THEIR SIGHTS IN ONE DIRECTION
11 AND NEVER LET UP ON IT. AND YOU WILL HEAR, THE
12 SOLICITOR SAID, ABOUT THE 911 TAPE. YOU ARE GOING TO
13 HEAR BRADLEY DEAL CALL 911 FROM HIS HOUSE AFTER THIS
14 OCCURRED AND TOLD THE WHOLE STORY ON THE 911 ABOUT
15 THE PAST, ABOUT TRAVIS FALLS HAVING BEAT HIM, AND HAD
16 BEEN RELEASED FROM JAIL, AND HE HAD COME OVER THERE
17 THAT NIGHT, IT'S ON ALL THE 911 TAPE TO WHATEVER LAW
18 ENFORCEMENT WANTED TO HEAR IT AND HE ALSO SAID THAT
19 THEY WERE SHOOTING AT US. IT'S ON THE 911 TAPE.
20 OKAY.

21 SO THIS IS A CASE ABOUT DEFENSE OF OTHERS,
22 SELF-DEFENSE. IN SOUTH CAROLINA IT IS A COMPLETE
23 DEFENSE AND THE STATE WILL HAVE TO PROVE TO YOU
24 BEYOND A REASONABLE DOUBT AND INCLUDING ANYTHING
25 ABOUT SELF-DEFENSE BEYOND A REASONABLE DOUBT BEFORE

1 YOU CAN CONVICT HIM OF ANYTHING BECAUSE THE LAW SAYS
2 A PERSON HAS A RIGHT TO DEFEND THEMSELVES AND TO
3 DEFEND OTHERS IN CERTAIN SITUATIONS. THIS WHOLE
4 THING TOOK ABOUT 90 SECONDS PROBABLY AND A
5 19-YEAR-OLD BOY HAD TO MAKE A DECISION AND HE DID.
6 AT THE END OF THIS I SUBMIT TO YOU YOU WILL LOOK AT
7 THEIR CASE AND YOU WILL DECIDE THAT HE IS NOT GUILTY
8 OF THE CHARGES THAT THEY HAVE ACCUSED HIM OF. THANK
9 YOU.

10 THE COURT: ALL RIGHT. MEMBERS OF THE
11 JURY PANEL, WE'LL BREAK FOR LUNCH AT THIS TIME. IT'S
12 A LITTLE AFTER ONE, WE WILL BREAK UNTIL 2:15, AND
13 PLEASE REPORT BACK TO THE JURY ROOM. I PROMISE I'LL
14 DO MY BEST TO START AS PROMPTLY THERE AFTER AS WE
15 CAN. I THINK WE'VE GOTTEN MOST OF THE THINGS OUT OF
16 THE WAY SO WE SHOULD BE A PACE WITH THE TRIAL AT THIS
17 POINT SO WE'LL SEE YOU BACK AT 2:15. THANK YOU.

18 (THE JURY EXITS THE COURTROOM AT 01:02
19 PM.)

20 THE COURT: WE'LL BE AT EASE UNTIL 2:15.

21 (COURT'S IN RECESS AT 01:02 PM.)

22 THE COURT: THE STATE READY.

23 (COURT RESUMES AT 2:20 PM.)

24 MR. POPE: THE STATE IS READY, YOUR HONOR.

25 MR. GREELEY: WE ARE, YOUR HONOR.

1 THE COURT: BRING US THE JURY.

2 (THE JURY RETURNS TO THE COURTROOM AT
3 02:20 PM.)

4 THE COURT: CALL YOUR FIRST WITNESS.

5 MR. THOMPSON: THE STATE WOULD CALL RALPH
6 MERCHANT.

7 RALPH MERCHANT, BEING FIRST DULY
8 SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. THOMPSON:

10 Q MR. MERCHANT, CAN YOU GIVE YOUR FULL NAME FOR
11 THE COURT PLEASE?

12 A RALPH ANTHONY MERCHANT.

13 Q AND WHERE DO YOU WORK?

14 A I'M THE DIRECTOR FOR 911, YORK COUNTY.

15 Q AND HOW LONG HAVE YOU BEEN DOING THAT?

16 A SIX YEARS.

17 Q WHAT ARE SOME OF YOUR DUTIES AS THE DIRECTOR OF
18 911 HERE IN YORK COUNTY?

19 A I'M RESPONSIBLE FOR THE OVERALL OPERATION,
20 DAY-TO-DAY, THE TRUNKING, THE RADIO SYSTEM,
21 EVERYTHING THAT INCORPORATES FOR EMERGENCIES.

22 Q AND WAS THAT YOUR POSITION BACK ON FEBRUARY 18
23 OF THIS YEAR?

24 A YES, SIR, IT WAS.

25 Q AND CAN YOU TELL ME AS PART OF YOUR DUTIES DO

1 YOU KEEP RECORDS AS FAR AS EVERY 911 CALL THAT COMES
2 IN?

3 A YES, SIR, I KEEP THE RECORDINGS IN MY OFFICE.

4 Q ALL RIGHT. SO YOU ACTUALLY HAVE THE RECORDINGS
5 THEMSELVES?

6 A YES, SIR, THE TAPES THAT THEY ARE ON.

7 Q OKAY. AND CAN YOU TELL ME WHEN THOSE RECORDINGS
8 COME IN IS THERE ANYTHING THAT PUTS A TIME WITH THOSE
9 RECORDINGS?

10 A YES, SIR, IT IS. ON THE DIGITAL RECORDER IT IS
11 TIME STAMPED WHERE NOBODY CAN TAKE, IT'S
12 INDUSTRIAL-WIDE THAT THEY DO THIS.

13 Q CAN ANYBODY TAMPER WITH THAT OR CHANGE THAT?

14 A NO, SIR, THEY CANNOT.

15 Q AND IS THAT STAMP AT THE BEGINNING OF EACH CALL?

16 A YES, SIR.

17 Q AND CAN YOU TELL ME HOW DOES THAT CLOCK MAINTAIN
18 ITS TIME. HOW IS IT?

19 A USUALLY BY A SATELLITE.

20 Q OKAY. SO IS IT ONE OF THOSE ATOMIC TYPE CLOCKS?

21 A YES, SIR.

22 Q IN THIS PARTICULAR CASE DID YOU HAVE OCCASION TO
23 LISTEN TO 911 TAPES THAT CAME IN OR THE CALLS CAME IN
24 REGARDING THIS CASE IN 911?

25 A YES, SIR, I DID.

1 Q AND CAN YOU TELL ME, I'LL SHOW YOU THREE AT THIS
2 TIME.

3 MR. THOMPSON: IF YOU WOULD MARK THESE.
4 I'VE ALREADY SHOWN THESE TO THE DEFENSE, YOUR HONOR.

5 Q STATE'S EXHIBIT NUMBER 134, IF YOU CAN TELL ME
6 WHAT THAT IS?

7 A THIS IS THE FIRST 911 CALL THAT WE RECEIVED ON
8 FEBRUARY 18 AT 11 O'CLOCK.

9 Q ALL RIGHT. AND HAVE YOU HAD AN OPPORTUNITY TO
10 LISTEN TO THAT TAPE BEFORE YOU TESTIFIED TODAY?

11 A YES, I HAVE.

12 Q AND DOES IT FAIRLY AND ACCURATELY DEPICT THE
13 CALL AS IT CAME IN 911 THAT EVENING?

14 A YES, SIR, IT IS.

15 MR. THOMPSON: YOUR HONOR, I ASK TO ENTER
16 THIS INTO EVIDENCE AT THIS TIME.

17 MR. GREELEY: NO OBJECTION.

18 THE COURT: BE RECEIVED.

19 MR. THOMPSON: AND ASK TO PUBLISH IT TO
20 THE JURY AT THIS POINT IN TIME, YOUR HONOR.

21 (STATE'S EXHIBIT NUMBER 134 TAPE
22 RECEIVED INTO EVIDENCE AND PUBLISHED TO THE JURY.)

23 Q AT THE BEGINNING OF THAT TAPE THERE WAS A TIME
24 STAMP, WAS THERE NOT?

25 A YES, SIR.

1 Q AND WHAT WAS THE TIME STAMP ON THIS TAPE?

2 A IT'S ON THERE. 23 OR 11:57 AND TEN SECONDS.

3 Q ALL RIGHT. SO THAT IS WHEN THE FIRST CALL CAME
4 IN REGARDING THIS CASE --

5 A YES, SIR.

6 Q WITH 911. ALL RIGHT. I SHOW YOU STATE'S
7 EXHIBIT 136. CAN YOU TELL ME IF YOU HAVE HAD AN
8 OPPORTUNITY TO LISTEN TO THAT RECORDING AS WELL?

9 A YES, SIR, THIS IS THE SECOND 911 CALL.

10 Q ALL RIGHT. AND HAVE YOU HAD A CHANCE TO LISTEN
11 TO THAT SINCE BEFORE YOU'VE TESTIFIED THIS AFTERNOON?

12 A YES, SIR, I HAVE.

13 Q AND DOES IT FAIRLY AND ACCURATELY DEPICT THE
14 CALL AS IT CAME IN TO 911 THAT NIGHT?

15 A YES, SIR, IT DOES.

16 Q ALL RIGHT. IS IT TIME STAMPED AS WELL AT THE
17 BEGINNING FOR A TIME ON IT?

18 A YES, SIR.

19 Q WILL THIS ONE BE READ IN MILITARY TIME AS WELL?

20 A YES, SIR, IT SHOULD BE.

21 MR. THOMPSON: BEFORE I PLAY IT, YOUR
22 HONOR, I GUESS I SHOULD ASK TO ENTER IT INTO EVIDENCE
23 AT THIS TIME.

24 THE COURT: ANY OBJECTION?

25 MR. GREELEY: NO OBJECTION.

1 THE COURT: IN WITHOUT OBJECTION.

2 (STATE'S EXHIBIT NUMBER 135 RECEIVED
3 INTO EVIDENCE AND IS PUBLISHED TO THE JURY.)

4 Q AND THAT ENDED AT THAT POINT. DID THE PERSON
5 HANG UP AT THAT POINT?

6 A NO, SIR, WE DISCONNECTED AT THAT POINT.

7 Q WHEN THE POLICE WERE THERE?

8 A YES, SIR.

9 Q AND HAD YOU HAD INDEPENDENT CONFIRMATION THAT
10 THE POLICE WERE THERE AT THAT TIME AS WELL, DO YOU
11 KNOW?

12 A NOT AT THAT TIME. WE JUST HEARD FROM THE
13 CONVERSATION OR FROM THE YORK COUNTY SHERIFF'S OFFICE
14 THAT THE POLICE WERE THERE.

15 Q ALL RIGHT. NOW THAT CALL CAME IN I BELIEVE WAS
16 IT TWO MINUTES AFTER MIDNIGHT AND SOME ODD SECONDS,
17 IS THAT CORRECT?

18 A YES, SIR.

19 Q SO SOME FIVE MINUTES AFTER THE FIRST CALL, IS
20 THAT CORRECT?

21 A YES, SIR.

22 Q NOW OBVIOUSLY 911 HAS A CAPABILITY OF TAKING
23 MORE CALLS THAN ONE AT A TIME?

24 A YES, SIR.

25 Q SOME THERE IS, SOME OF THE BACKGROUND NOISE

1 MIGHT BE OTHER CALLS COMING IN, IS THAT RIGHT?

2 A CORRECT.

3 Q I'LL SHOW YOU STATE'S EXHIBIT 135 AND ASK YOU TO
4 IDENTIFY THAT FOR ME.

5 A IT'S THE THIRD CALL, CORRECT.

6 Q THE THIRD CALL?

7 A YES, SIR.

8 Q AND HAVE YOU HAD A CHANCE TO LISTEN TO THAT CALL
9 AS WELL?

10 A YES, SIR.

11 Q SINCE THAT NIGHT. DOES IT FAIRLY AND ACCURATELY
12 DEPICT THE CALL THAT CAME IN THAT NIGHT?

13 A YES, SIR.

14 MR. THOMPSON: I WOULD ASK TO ENTER THIS
15 INTO EVIDENCE AT THIS TIME.

16 MR. GREELEY: NO OBJECTION.

17 THE COURT: BE RECEIVED.

18 (STATE'S EXHIBIT 136 TAPE RECEIVED INTO
19 EVIDENCE.)

20 Q DO YOU RECALL WHERE THE THIRD CALL CAME FROM?

21 A THIS COMES FROM ONE OF OUR DIRECT LINES. WE
22 HAVE DIRECT LINES TO ALL THE LAW ENFORCEMENT AGENCY
23 AND THIS CAME FROM THE DIRECT LINE FROM CLOVER POLICE
24 DEPARTMENT.

25 Q ALL RIGHT.

1 (STATE'S EXHIBIT 136 IS PUBLISHED TO THE
2 JURY.)

3 Q ALL RIGHT. CAN YOU TELL US AGAIN WHAT TIME THAT
4 CALL CAME IN?

5 A THAT CALL CAME TWO MINUTES AND 20 SECONDS AFTER
6 MIDNIGHT.

7 Q ALL RIGHT. SO ALMOST THE EXACT SAME TIME AS THE
8 CALL CAME IN FROM THE RESIDENCE AT 1123 LAWRENCE
9 ROAD, CORRECT?

10 A SIX SECONDS LATER.

11 Q OKAY.

12 A YES, SIR.

13 Q SO THAT CALL CAME, THEY ARE ACTUALLY AT THE
14 CLOVER POLICE DEPARTMENT ACCORDING TO THAT CALL AT
15 THE SAME POINT THAT HE'S CALLING 911?

16 A YES, SIR.

17 Q ALL RIGHT. AND THOSE WERE THE FIRST THREE CALLS
18 THAT CAME IN ON THIS CASE?

19 A YES, SIR.

20 Q THANK YOU.

21 MR. THOMPSON: COURT'S INDULGENCE ONE
22 MOMENT, YOUR HONOR.

23 Q AND I BELIEVE THE OTHER CALLS THAT CAME IN WERE
24 THOSE CLOVER POLICE DEPARTMENT CALLS AS WELL OR?

25 A TWO FROM CLOVER AND ONE FROM YORK COUNTY

1 CONFIRMING THE CELL PHONE NUMBER.

2 Q OKAY. SO NO OTHER CALLS FROM CITIZENS CAME IN
3 THAT NIGHT?

4 A NO, SIR.

5 Q THEY WERE LAW ENFORCEMENT AT THAT POINT?

6 A NO, SIR.

7 MR. THOMPSON: THANK YOU. NO FURTHER
8 QUESTIONS.

9 THE COURT: MR. GREELEY.

10 CROSS EXAMINATION BY MR. GREELEY:

11 Q BRIEFLY. OFFICER MERCHANT, I BELIEVE THAT IT
12 WOULD REFLECT ON THERE THAT THE CALL, THE SECOND CALL
13 FROM BRADLEY DEAL?

14 A YES, SIR.

15 Q THAT YOU SAID CAME IN ON AT 12:02:14?

16 A YES, SIR, TWO MINUTES AFTER MIDNIGHT.

17 Q AND YOU TRANSFERRED THAT PERSON TO THE SHERIFF'S
18 DEPARTMENT?

19 A YES, SIR.

20 Q AND THAT'S WHAT WE HEARD WAS THAT PERSON TELLING
21 THE SHERIFF'S DEPARTMENT SHORTLY AFTER 12:02:14 THAT
22 THE CAR HAD COME BY AND THAT THEY WERE SHOOTING AT
23 THEM?

24 A YES, SIR.

25 Q IS THAT CORRECT? AND THIS WOULD HAVE BEEN ABOUT

1 THE SAME TIME THAT THE CAR, ACCORDING THIS CALL FROM
2 CLOVER, GOT TO THE POLICE DEPARTMENT IN CLOVER WHERE
3 THERE WERE POLICE, RIGHT?

4 A (NODS HEAD.)

5 MR. GREELEY: THANK YOU.

6 THE COURT: I DIDN'T HEAR THE ANSWER.

7 MR. GREELEY: OH.

8 A I'M SORRY. ACCORDING TO THE TIME, YES, SIR.

9 MR. GREELEY: THANK YOU.

10 THE COURT: ANY REDIRECT?

11 MR. THOMPSON: NO, YOUR HONOR.

12 THE COURT: WE APPRECIATE YOUR TIME. YOU
13 CAN BE EXCUSED.

14 A YOU ARE WELCOME, SIR.

15 MR. POPE: THE STATE WOULD CALL OFFICER
16 MICHAEL TRABUE.

17 MICHAEL TRABUE, BEING FIRST DULY
18 SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION BY MR. POPE:

20 Q OFFICER, IF WOULD YOU STATE YOUR NAME AND SPELL
21 YOUR LAST NAME FOR THE COURT REPORTER PLEASE?

22 A I'M SERGEANT MICHAEL L. TRABUE. I'M A SERGEANT
23 WITH THE CLOVER POLICE DEPARTMENT.

24 Q AND IF YOU'D SPELL TRABUE FOR US?

25 A T-R-A-B-U-E.

1 Q COULD YOU TELL THE JURY HOW LONG YOU'VE BEEN
2 EMPLOYED WITH CLOVER?

3 A APPROXIMATELY SIX YEARS.

4 THE COURT: YOU'LL HAVE TO SPEAK UP.

5 A APPROXIMATELY SIX YEARS.

6 Q OKAY. AND COULD YOU TELL THEM, YOU SAID YOU
7 WERE A SERGEANT, IS THAT CORRECT?

8 A YES, SIR.

9 Q WHAT ARE YOUR DUTIES THERE AT THE CLOVER POLICE
10 DEPARTMENT?

11 A PATROL SUPERVISOR, BASICALLY KEEP THE SHIFT
12 RUNNING.

13 Q HOW DO Y'ALL RUN YOUR SHIFTS AT CLOVER?

14 A TWO TO A SHIFT AND A DISPATCHER.

15 Q OKAY. I WANT TO CALL YOUR ATTENTION BACK TO
16 SATURDAY, FEBRUARY 18, RUNNING INTO SUNDAY, FEBRUARY
17 19, WERE YOU WORKING THAT NIGHT?

18 A YES, SIR, I WAS.

19 Q OKAY. AND YOU SAID IN CLOVER IN THE CITY LIMITS
20 PROPERTY YOU HAVE TWO TO A SHIFT PLUS DISPATCHER?

21 A YES, SIR.

22 Q OKAY. WHO WAS WORKING WITH YOU THAT NIGHT?

23 A CORPORAL DAVID DOVER.

24 Q OKAY. I WANT TO CALL YOUR ATTENTION TO
25 APPROXIMATELY MIDNIGHT, A LITTLE BIT THEREAFTER, DID

1 YOU HAVE THE OPPORTUNITY TO BE IN PROXIMITY TO YOUR
2 POLICE DEPARTMENT THERE AT CLOVER?

3 A YES, SIR. I WAS AT THE BACK OF THE POLICE
4 DEPARTMENT WITH A PRISONER.

5 Q OKAY. IF YOU WOULD RELATE TO THE JURY WHAT
6 HAPPENED. NOW THIS PRISONER, WAS THIS UNRELATED TO
7 THIS PARTICULAR CASE?

8 A YES, SIR, IT WAS TOTALLY UNRELATED.

9 Q OKAY. AND WHAT WERE YOU DOING WITH THAT
10 PARTICULAR PRISONER AT THAT POINT?

11 A I HAD ARRESTED HIM ROAD SIDE, HAD TOOK HIM FROM
12 321 BACK TO THE PD, I WAS GOING TO BOOK HIM IN. HE
13 WAS IN THE BACK OF MY PATROL CAR. I PULLED UP, GOT
14 HIM OUT; WE WERE GETTING READY TO WALK TO THE BACK OF
15 THE PD AND A CAR PULLS UP AND A GENTLEMAN JUMPS OUT
16 AND RUNS TOWARD ME AND MY PRISONER. I PUSHED MY
17 PRISONER KIND OF ASIDE. HE SAYS THAT THERE IS
18 SOMEBODY SHOT IN HIS CAR, SO I TURNED AROUND TO TAKE
19 MY PRISONER INSIDE, I LOCK HIM DOWN, AND I TOLD
20 DISPATCH TO CALL EOC AND LET THEM KNOW WHAT WE GOT.
21 I COME BACK OUT AND CORPORAL DOVER HAD PULLED UP.

22 Q NOW THIS IS CORPORAL DOVER, IS HE A CLOVER
23 OFFICER ALSO?

24 A YES, SIR.

25 Q OKAY.

1 A HE IS.

2 Q SO HE'S THE OTHER OFFICER ON YOUR SHIFT THAT
3 NIGHT?

4 A YES, SIR. AND I DIRECTED HIM OVER TO WHERE THE
5 VEHICLE WAS AT. AT WHICH TIME I WALKED TO THE
6 VEHICLE AND OBSERVED A GENTLEMAN SITTING IN THE BACK
7 SEAT WITH LARGE AMOUNTS OF BLOOD COMING OUT OF THE
8 BACK OF HIS HEAD.

9 Q OKAY. THE INDIVIDUAL THAT RAN TOWARD YOU
10 INITIALLY, WHEN YOU TOOK THE PRISONER IN, DID YOU
11 OBSERVE HIM WHEN YOU CAME BACK OUT?

12 A YES, SIR.

13 Q AND WHAT WAS HIS CONDITION?

14 A HE HAD A, WHAT APPEARED TO BE, A BULLET HOLE IN
15 HIS I BELIEVE IT WAS HIS RIGHT WRIST.

16 Q AND WHAT IF ANYTHING DID YOU OR OFFICER DOVER DO
17 AS FAR AS THAT INDIVIDUAL?

18 A OFFICER DOVER WAS TALKING TO HIM WHEN I WENT
19 BACK IN THE BACK OF THE CAR TO SEE ABOUT THE OTHER
20 GENTLEMAN. WHEN WE WERE TALKING, IT WAS ME AND
21 CORPORAL DOVER. CORPORAL DOVER RAN OVER AND WAS
22 DEALING WITH THE GENTLEMAN THAT WAS SHOT IN THE
23 WRIST. I WENT BACK AND TRIED TO RENDER AID FOR THE
24 GUY THAT WAS IN THE BACK SEAT. I ALSO HAD A RIDE
25 ALONG THAT NIGHT, A VICKI MARTIN, WHO WAS ALSO WITH

1 ME THAT NIGHT.

2 Q WHAT WAS THE VICTIM IN THE BACK SEAT, YOU SAY HE
3 WAS BLEEDING, WHAT WAS HIS CONDITION FROM WHAT YOU
4 OBSERVED?

5 A VERY SHALLOW, ALMOST NOT BREATHING, STOPPED, IN
6 FACT WHEN CHUCK GIBSON WITH CLOVER RESCUE ARRIVED ON
7 SCENE, WE PULLED HIM OUT OF THE CAR BECAUSE I BELIEVE
8 HE DID STOP BREATHING ONCE.

9 Q OKAY. AND YOU SAY MR. GIBSON ARRIVED, SO CLOVER
10 RESCUE, IS IT IN CLOSE PROXIMITY?

11 A YES, SIR, IT'S BEHIND THE POLICE DEPARTMENT.

12 Q OKAY. AND IN ADDITION TO CLOVER RESCUE, OF
13 COURSE, YOU SAY YOU INDICATED INSIDE FOR DISPATCH TO
14 CALL FOR HELP?

15 A YES, SIR.

16 Q AND WE HEARD THAT, SO WERE OTHER MEDICAL
17 PERSONNEL ARRIVING AND OTHER LAW ENFORCEMENT
18 PERSONNEL?

19 A YES, SIR. CLOVER RESCUE, SOME OF THEIR PEOPLE
20 WERE STARTING TO ARRIVE ON SCENE, AND WHEN THEY
21 STARTED ARRIVING ON SCENE WE JUST KIND OF BACKED OFF
22 AND LET THEM WORK AND KIND OF DIRECTED OUR ATTENTION
23 TO THE GENTLEMAN THAT WAS SHOT ON THE WRIST, TRYING
24 TO ASK HIM WHO SHOT YOU AND HE WAS UNCOOPERATIVE AND
25 DIDN'T REALLY WANT TO TALK TO US.

1 Q OKAY. AND AS FAR AS THE SCENE ITSELF, THE
2 VEHICLE, WHAT IF ANYTHING DID YOU DO TO SECURE THE
3 VEHICLE?

4 A WE GOT SOME CRIME SCENE TAPE AND ROPED IT OFF
5 AND KEPT THE SCENE SECURE.

6 Q OKAY. AND DID YOU ULTIMATELY TURN THAT SCENE
7 OVER TO THE YORK COUNTY FORENSIC UNIT?

8 A YES, SIR, I DID.

9 Q OKAY. IN ADDITION TO CLOVER RESCUE DID I THINK
10 PIEDMONT RUN THE AMBULANCE SERVICE IN THAT AREA, DID
11 PIEDMONT EMTS ALSO ARRIVE ON THE SCENE?

12 A YES, SIR. I DON'T RECALL SEEING THEM EXACTLY,
13 BUT I KNEW THAT THEY WERE THERE.

14 Q OKAY. THE AMBULANCE ULTIMATELY ARRIVED?

15 A YES, SIR.

16 Q OKAY. AND ULTIMATELY WERE BOTH THE VICTIMS WITH
17 INJURIES WERE THEY REMOVED FROM THE SCENE AT CLOVER?

18 A YES, SIR, THEY WERE.

19 Q OKAY. AND CLOVER POLICE DEPARTMENT, THAT'S ALSO
20 IN YORK COUNTY, IS THAT CORRECT?

21 A YES, SIR, IT IS.

22 Q OKAY. WERE THERE OTHER OCCUPANTS IN THE CAR IN
23 ADDITION TO THE ONES THAT WERE INJURED?

24 A YES, SIR. THERE WAS TWO OTHER OCCUPANTS, THE
25 DRIVER AND THERE WAS A BACK SEAT PASSENGER AS WELL.

1 I WANT TO SAY THE DRIVER WAS A FEMALE.

2 Q OKAY.

3 A I BELIEVE SO.

4 Q NOW ONCE YOU SECURED THAT AREA AS FAR AS THE
5 INVESTIGATION, YOU DETERMINED IT WAS CONNECTED WITH
6 LAWRENCE ROAD?

7 A YES, SIR, WE DID.

8 Q OKAY. DID YOU TURN THAT OVER TO THE SHERIFF'S
9 DEPARTMENT?

10 A YES, SIR, WE DIRECTED EVERYBODY THAT WAS
11 ASSOCIATED WITH IT TO THE FRONT LOBBY TO SPEAK WITH
12 YORK COUNTY.

13 Q DID YOU ALTER OR CHANGE ANYTHING IN THE VEHICLE;
14 DID YOU REMOVE ANY WEAPONS OR ANY EVIDENCE?

15 A NO, SIR, I DIDN'T SEE ANYTHING IN THE VEHICLE.

16 Q OKAY. OF COURSE, YOU DIDN'T PROCESS THE VEHICLE
17 ITSELF?

18 A NO, SIR, I DID NOT.

19 Q ANY OBSERVATION WHILE YOU HAD OF ANY WEAPONS IN
20 THAT AREA?

21 A NO, SIR, I DIDN'T OBSERVE ANY.

22 Q THANK YOU, SIR. BRIEFLY I CALL YOUR ATTENTION,
23 CAN YOU SEE THAT FROM WHERE YOU ARE SITTING, SIR?
24 IT'S BLUE RIGHT NOW.

25 A YES, SIR.

1 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
2 ONE. DID YOU HAVE AN OPPORTUNITY PREVIOUSLY TO LOOK
3 AT THAT PHOTOGRAPH PRIOR TO COMING TO COURT?

4 A YES, SIR, I DID.

5 Q OKAY. AND COULD YOU TELL THE JURY WHAT THAT
6 DEPICTS?

7 A THAT LOOKS LIKE THE VEHICLE THAT WAS IN THE
8 PARKING LOT THAT NIGHT, YES, SIR.

9 Q COULD YOU TELL THE JURY WHAT THE YELLOW KIND OF
10 TAPE THAT WE SEE HERE?

11 A THAT'S CRIME SCENE TAPE THAT WE USE TO ROPE OFF
12 A CRIME SCENE.

13 Q I SHOW YOU WHAT'S BEEN MARKED -- BEG THE COURT'S
14 INDULGENCE.

15 THE COURT: THESE ARE IN EVIDENCE?

16 MR. POPE: I WAS GOING TO SAY, I WAS GOING
17 TO LET MR. GREELEY LOOK AT THEM ONE MORE TIME.

18 MR. GREELEY: I BELIEVE I'VE SEEN THEM ALL.
19 I HAVE NO OBJECTION.

20 THE COURT: IN WITHOUT OBJECTION.

21 (STATE'S EXHIBITS 1-5 PHOTOGRAPHS RECEIVED
22 INTO EVIDENCE.)

23 Q THIS IS STATE'S EXHIBIT ONE THROUGH FIVE. DO
24 EACH OF THOSE ACCURATELY DEPICT THE SCENE AS YOU
25 SECURED IT THAT NIGHT?

1 A YES, SIR, THEY DO.

2 Q OKAY.

3 A YES, SIR.

4 MR. POPE: YOUR HONOR, PERMISSION TO
5 PUBLISH ONE THROUGH FIVE.

6 THE COURT: IN WITHOUT OBJECTION.

7 Q THIS IS STATE'S EXHIBIT 1, ITEM TWO, CAN YOU SEE
8 OKAY FROM THERE?

9 A YES, SIR.

10 Q WHAT DOES ITEM TWO DEPICT?

11 A THE SAME VEHICLE INSIDE THE PERIMETER OF THE
12 CRIME SCENE WITH THE TAPE AROUND IT.

13 Q AND WHEN YOU REMOVED THE VICTIM FROM THE CAR
14 WHERE WOULD HE HAVE BEEN AND YOU CAN FOLLOW ALONG
15 WITH THE ACTUAL COPIES IF THAT WILL ASSIST YOU.

16 A WOULD HAVE BEEN ON THIS SIDE WHERE THE BACK TIRE
17 IS AT.

18 Q AND WHERE THIS PHOTO DEPICTS?

19 A YES, SIR.

20 Q STATE'S EXHIBIT THREE. LIKEWISE THIS IS JUST
21 ANOTHER VIEW OF THE SAME VEHICLE ON THE OTHER SIDE?

22 A SAME THING.

23 Q YES, SIR. STATE'S EXHIBIT FOUR AND STATE'S
24 EXHIBIT FIVE. ALL OF THESE DEPICT THE CONDITION OF
25 THE VEHICLE AS YOU OBSERVED IT THAT NIGHT WHEN IT

1 ARRIVED, WHEN IT ARRIVED ON THE SCENE?

2 A YES, SIR.

3 Q THANK YOU, SIR. ANSWER ANY QUESTIONS THE
4 DEFENSE MAY HAVE PLEASE.

5 A YES, SIR.

6 CROSS EXAMINATION BY MR. GREELEY:

7 Q GOOD AFTERNOON, OFFICER. HOW ARE YOU?

8 A I'M DOING FINE, SIR.

9 Q NOW WHEN THE CAR ARRIVED THERE WAS ONLY ONE
10 FEMALE IN THE CAR, ISN'T THAT CORRECT?

11 A YES, SIR.

12 Q AND YOU RECALL HER BEING THE DRIVER?

13 A YES, SIR.

14 Q OKAY. AND IT WAS THE GENTLEMAN THAT YOU SPOKE
15 WITH THAT HAD BEEN SHOT IN THE RIGHT WRIST, IS THAT
16 CORRECT?

17 A YES, SIR.

18 Q BUT HE WAS UNCOOPERATIVE WITH YOU?

19 A YES, SIR.

20 Q AT THAT TIME. OKAY.

21 A I DON' KNOW IF IT WAS DUE TO PAIN OR.

22 Q RIGHT, OKAY. THE, HOW LONG DID YOU STAY ON DUTY
23 THAT EVENING?

24 A FROM SIX O'CLOCK IN THE MORNING OR SIX O'CLOCK
25 AT NIGHT UNTIL SIX O'CLOCK IN THE MORNING, SIR.

1 Q SO YOU WERE THERE UNTIL PRETTY MUCH THE WHOLE
2 NIGHT?

3 A YES, SIR.

4 Q IS THAT CORRECT?

5 A YES, SIR.

6 Q AND THERE WERE A LOT OF PEOPLE WHO CAME IN AND
7 OUT OF THE CLOVER POLICE DEPARTMENT THAT EVENING, IS
8 THAT CORRECT?

9 A YES, SIR.

10 Q LOTS OF YOUNG FOLKS WHO CAME IN?

11 A YES, SIR.

12 Q WERE GIVING STATEMENTS AND THINGS LIKE THAT TO
13 THE SHERIFF'S DEPARTMENT PEOPLE, IS THAT CORRECT?

14 A YES, SIR.

15 Q AT ANY TIME DURING THAT EVENING DID ANYONE FROM
16 THE SHERIFF'S DEPARTMENT TELL YOU SINCE YOU WERE
17 THERE AT THE SCENE AND YOU WERE THERE AT CLOVER OR
18 DID ANYBODY RADIO TO YOU AND TELL YOU THAT THE
19 SHERIFF'S DEPARTMENT HAD GOTTEN A REPORT THAT IF THIS
20 WAS THE SAME CAR THAT HAD BEEN OUT ON LAWRENCE ROAD
21 THAT THERE WAS A REPORT THAT SHOTS HAD COME FROM THAT
22 CAR, THAT PEOPLE HAD SHOT AT THE PEOPLE AT LAWRENCE
23 ROAD, DID ANYBODY SAY TO YOU THAT THERE MAY HAVE BEEN
24 GUN FIRE FROM THAT VEHICLE?

25 A NO, SIR.

1 Q DID YOU TAKE ANY STATEMENTS FROM ANY OF THE
2 YOUNG FOLKS?

3 A NO, SIR.

4 Q THAT NIGHT?

5 A NO, SIR, I SENT THEM ALL TO THE FRONT LOBBY.

6 Q AND THAT WAS MOSTLY HANDLED BY THE YORK COUNTY
7 SHERIFF'S DEPARTMENT?

8 A YES, SIR.

9 Q YOUR DISPATCHER, IS HER NAME STELLA?

10 A YES, SIR, IT IS.

11 Q HAS SHE KIND OF GOT LONG BLOND HAIR?

12 A YES, SIR.

13 Q KIND OF WAVY?

14 A YES, SIR.

15 Q SHORTLY AFTER THIS DO YOU HAVE ANY KNOWLEDGE
16 ABOUT HER ASSISTING MS. MCCARTER IN THE WASHING OF
17 MS. MCCARTER'S HANDS IN THE LOBBY OF THE CLOVER
18 POLICE DEPARTMENT?

19 A NO, SIR, I DON'T KNOW ANYTHING. I WASN'T INSIDE
20 THE OFFICE PER SE. I WAS OUT BACK MOST OF THE NIGHT.

21 Q Y'ALL HAD VIDEO IN BOTH THE LOBBY AND AT THE
22 BACK DOOR OF CLOVER THAT RUNS ALL THE TIME, DON'T
23 YOU?

24 A YES, SIR, WE DO.

25 Q AND Y'ALL KEEP THOSE TAPES, DON'T YOU?

1 A YES. WELL, THEY ARE DIGITAL I BELIEVE.

2 Q OTHER THAN THE FEMALE DRIVER AND THE PERSON WHO
3 HAD BEEN SHOT IN THE WRIST AND MR. HOVIS WHO WAS
4 WOUNDED, WAS THERE ANOTHER PERSON, FIVE IN THE CAR?

5 A NO, SIR, THERE WERE FOUR.

6 Q FOUR IN THE CAR?

7 A WHAT I OBSERVED.

8 Q OKAY.

9 A THE GENTLEMAN THAT WAS SHOT IN THE WRIST WAS ON
10 THE PASSENGER SIDE OF THE VEHICLE, THE FEMALE WAS
11 DRIVING, THE GENTLEMAN IN THE BACK WHO HAD BEEN SHOT
12 AND THERE IS ANOTHER GENTLEMAN.

13 Q OKAY.

14 MR. GREELEY: THAT'S ALL I HAVE FOR NOW,
15 YOUR HONOR.

16 THE COURT: REDIRECT.

17 MR. POPE: BRIEFLY.

18 REDIRECT EXAMINATION BY MR. POPE:

19 Q THE EXTENT OF YOUR INVOLVEMENT IN THE
20 INVESTIGATION WAS WHAT YOU JUST TOLD US, YOU DIDN'T
21 FOLLOW UP LEADS, YOU DIDN'T TAKE STATEMENTS, OR
22 ANYTHING OF THAT NATURE?

23 A NO, SIR, I DID NOT.

24 Q YOU WERE ASKED ABOUT THE WASHING OF THE HANDS,
25 WAS THERE A LARGE AMOUNT OF BLOOD IN THE VEHICLE AND

1 ON THE INDIVIDUALS THAT WERE INVOLVED THAT WERE
2 INJURED?

3 A YES, SIR.

4 Q OKAY. THANK YOU, SIR.

5 THE COURT: RECROSS.

6 MR. GREELEY: NO, YOUR HONOR.

7 THE COURT: YOU CAN STEP DOWN AND BE
8 EXCUSED. WE APPRECIATE YOUR TIME.

9 A THANK YOU, JUDGE.

10 THE COURT: CALL YOUR NEXT WITNESS.

11 MR. POPE: THE STATE WOULD CALL GEORGE
12 FELSKE PLEASE.

13 GEORGE FELSKE, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MR. POPE:

16 Q MR. FELSKE, WOULD YOU STATE YOUR NAME AND SPELL
17 YOUR LAST NAME FOR THE COURT REPORTER?

18 A GEORGE FELSKE. F-E-L-S-K-E.

19 Q CAN YOU TELL THE JURY WHERE YOU ARE EMPLOYED?

20 A I WORK FOR PIEDMONT MEDICAL CENTER.

21 Q AND WHAT ARE YOUR DUTIES?

22 A I'M A PARAMEDIC THERE. ALSO I WORK IN THE HYPER
23 BARIC DEPARTMENT.

24 Q AS FAR AS THE PARAMEDIC DUTIES CAN YOU TELL THE
25 JURY WHAT KIND OF BACKGROUND AND TRAINING THAT ALLOWS

1 YOU TO PERFORM THOSE DUTIES?

2 A YES, SIR. BACK IN '94 I STARTED MY TRAINING,
3 BECAME A EMT. I WENT ON TO BECOME A FIREFIGHTER JUST
4 SOUTH OF DETROIT AND WORKED THERE FOR 8 YEARS AS
5 FIREFIGHTER GRASPED THROUGH MY EDUCATION, THROUGH EMT
6 BASIC, INTERMEDIATE, TO PARAMEDIC. I RECEIVED MY
7 PARAMEDIC IN 2000.

8 Q WHAT DO YOU ACTUALLY, AS A PARAMEDIC, WHAT IS IT
9 YOU ACTUALLY DO AS YOUR JOB?

10 A OUR JOB IS, IT'S VARIED. I MEAN IT'S FROM
11 SIMPLE NOSE BLEEDS TO CARDIAC ARREST TO CAR
12 ACCIDENTS, ANY EMERGENCY IS WHAT WE HANDLE.

13 Q AND YOU RENDER ASSISTANCE, ULTIMATELY ARE YOU AN
14 INTERMEDIARY TO THE HOSPITAL ULTIMATELY?

15 A RIGHT. OUR JOB IS TO PROVIDE THE CARE FOR THE
16 PATIENT UNTIL WE CAN GET THEM TO A HIGHER LEVEL OF
17 CARE.

18 Q I CALL YOUR ATTENTION TO THE EARLY MORNING HOURS
19 OF SUNDAY, FEBRUARY 19, 2006, WERE YOU WORKING THAT
20 DAY?

21 A I WAS.

22 Q OKAY. AND WHERE WERE YOU STATIONED AT THAT
23 TIME?

24 A I WAS WORKING EMS FIVE WHICH IS LOCATED IN YORK
25 ON 321 IN ALEXANDER LOVE.

1 Q IS THAT OUT WHERE PIEDMONT WEST IS?

2 A YES, THE SAME BUILDING.

3 Q OKAY. AND YOU WERE CALLED OVER, DID YOU
4 ACTUALLY HAVE THE OPPORTUNITY TO TAKE AN AMBULANCE
5 OVER TO CLOVER POLICE DEPARTMENT?

6 A YES. THEY DISPATCHED BOTH UNITS OUT OF THAT
7 STATION AND THE SUPERVISOR FROM THAT STATION.

8 Q COULD YOU TELL THE JURY WHAT YOU OBSERVED WHEN
9 YOU ARRIVED THERE?

10 A WHEN I GOT THERE THERE WAS, I SEEN CLOVER RESCUE
11 WAS THERE, THE CLOVER PD. CHUCK GIBSON, HE WAS WAS A
12 RESCUE MEMBER WITH CLOVER RESCUE, HE CAME TO ME,
13 APPROACHED ME, TOLD ME KIND OF WHAT HE HAD. THE
14 FIRST VICTIM MR. HOVIS WAS LAYING ON THE GROUND
15 BESIDE THE CAR AND THEN THERE WAS ANOTHER VICTIM
16 ABOUT FIVE, FIVE TO TEN FEET AWAY FROM HIM. WE
17 STOPPED AND ASSESSED. I WAS WORKING WITH THE
18 INTERMEDIATE AT THAT TIME SO I WAS THE HIGHEST LEVEL
19 ON SCENE, SO I DID INITIAL TRIAGE OF ALL THE
20 PATIENTS. MR. HOVIS WAS THE FIRST ONE I TRIAGED AND
21 OBVIOUSLY HIS WOUNDS WERE VERY SERIOUS. I KNEW THERE
22 WAS ANOTHER UNIT RIGHT BEHIND ME, A MINUTE TO TWO
23 MINUTES OUT, SO I WENT TO MR. FALLS, CHECKED HIM, AND
24 HE HAD AN INJURY TO HIS ARM BUT THE BLEEDINGS WAS
25 CONTROLLED AT THE TIME SO I ALLOWED HIM TO HOLD THE

1 PRESSURE ON HIS OWN WOUND AND I WENT BACK TO
2 MR. HOVIS.

3 Q IF YOU WOULD FOCUS ON MR. HOVIS, COULD YOU TELL
4 THE JURY WHAT YOU OBSERVED AND WHAT TREATMENT YOU
5 RENDERED?

6 A WHEN WE GOT THERE HE WAS BEING CARED FOR BY ONE
7 OF THE CLOVER RESCUE MEMBERS. THEY WERE HOLDING HIS
8 HEAD IN WHAT WE CALL C-SPINE PRECAUTION IN CASE THERE
9 IS ANY INJURIES TO HIS NECK AND SHE WAS ALSO
10 MAINTAINING HIS AIRWAY. AT THAT TIME WE HAD GOT ALL
11 OUR EQUIPMENT, WE PUT A C-COLLAR ON TO PROTECT HIS
12 NECK, PUT HIM ON THE LONG SPINE BOARD. AT THIS TIME
13 WE STILL WEREN'T AWARE OF WHAT HIS INJURIES WERE.
14 MOVED HIM TO THE TRUCK WHERE WE COULD TAKE CARE OF
15 HIM A LITTLE BETTER. REMOVED ALL HIS CLOTHING.
16 DIDN'T FIND ANY OTHER WOUNDS OTHER THAN A WOUND TO
17 THE BACK OF HIS HEAD WHICH APPEARED TO BE A GUNSHOT
18 WOUND.

19 Q OKAY. AND AS FAR AS AND I MAY NOT BE USING THE
20 RIGHT TERMS BUT AS FAR AS RESPONSIVENESS, IS THAT
21 SOMETHING YOU TEST FOR TO DETERMINE AT THE TIME?

22 A YEAH, WE USE WHAT WE CALL THE GLASS GLAUCOMA
23 SCORE. IT CONSISTS OF THREE TASKS. THE EYE
24 RESPONSES; DO THEY OPEN THEIR EYES. PAIN, YOU KNOW,
25 CAN THEY TALK TO YOU ABOUT THEIR PAIN, OR IF YOU

1 STICK THEM WITH A NEEDLE DO THEY GRIMACE FROM THE
2 PAIN. AND THEN THEIR MOTOR REACTIONS, IF WE ASK THEM
3 TO DO SOMETHING CAN THEY DO IT. AND THEY ARE SCORED
4 THREE AS THE LOWEST AND 15 IS THE HIGHEST AND AT THAT
5 TIME HE WAS A NUMBER THREE. HE HAD NO RESPONSES
6 WHATSOEVER.

7 Q OKAY. AND THE TIME, AND WHAT AID DID YOU TRY TO
8 RENDER TO HIM?

9 A WE HAD STARTED TWO IVS ON HIM TO REHYDRATE HIM
10 BECAUSE HE HAD LOST SOME BLOOD. WE WERE MANUALLY
11 BREATHING FOR HIM. WE HAD TO INTUBATE HIM WHICH IS
12 PLACING A TUBE DOWN HIS THROAT WHERE WE CAN TAKE OVER
13 HIS BREATHING FOR HIM. HE WAS BREATHING AT THE TIME
14 BUT IT WAS VERY SHALLOW AND WHEN THEY ARE IN A STATE
15 LIKE THAT THEY CAN'T MAINTAIN THEIR OWN AIRWAYS SO IF
16 THEY WERE TO VOMIT THEY ASPIRATE THE VOMIT SO WE
17 ATTEMPTED TO INTUBATE HIM BUT DUE TO HIS INJURIES HIS
18 JAW WAS CLENCHED SO WE HAD TO ADMINISTER PARALYTICS
19 WHICH PARALYZE HIS BODY BASICALLY AND RELAXES ALL HIS
20 MUSCLES SO WE COULD ACTUALLY INTUBATE HIM THEN AND WE
21 MANUALLY VENTILATED HIM.

22 Q AS FAR AS THE RATING OF THREE, THE LOWEST
23 RATING, DID HE EVER IMPROVE FROM THAT?

24 A NO.

25 Q SO WHAT STEPS DID YOU THEN TAKE TO TRY TO GET

1 HIM FURTHER MEDICAL CARE?

2 A WELL, WE CALLED FOR A HELICOPTER. IT WAS
3 ALREADY ON STANDBY. THE EMS OR EOC DISPATCHERS HAD
4 ALREADY PLACED THE HELICOPTER ON STANDBY FOR US AND
5 AS SOON AS WE GOT THERE WE HAD REQUESTED THE
6 HELICOPTER AND THAT WOULD TAKE HIM TO CMC WHERE THEY
7 HAVE A LEVEL ONE TRAUMA CENTER WITH MORE EQUIPMENT TO
8 DEAL WITH HIM.

9 Q I GOT YOU. SO WHEN YOU PARTED COMPANY WITH THE
10 HELICOPTER DID YOU EVER RECEIVE, FROM THE TIME YOU
11 BEGAN TO THE END, DID YOU EVER RECEIVE ANY RESPONSE
12 FROM HIM?

13 A NO.

14 Q DID HE HAVE ANY ACTIVITIES?

15 A NOTHING.

16 Q OKAY. THANK YOU, SIR. ANSWER ANY QUESTIONS THE
17 DEFENSE MAY HAVE.

18 MR. GREELEY: I HAVE NO QUESTIONS, YOUR
19 HONOR.

20 THE COURT: YOU CAN STEP DOWN AND BE
21 EXCUSED. WE APPRECIATE YOUR TIME.

22 A THANK YOU VERY MUCH.

23 THE COURT: CALL YOUR NEXT WITNESS.

24 MR. POPE: THE STATE WOULD CALL DEPUTY
25 MARK FERRELL PLEASE.

1 MARK FERRELL, BEING FIRST DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. POPE:

4 Q DEPUTY FERRELL, WOULD YOU STATE YOUR NAME AND
5 SPELL YOUR LAST NAME FOR THE COURT REPORTER PLEASE,
6 SIR?

7 A MARK FERRELL. F-E-R-R-E-L-L.

8 Q COULD YOU TELL THE JURY WHERE YOU ARE EMPLOYED?

9 A YORK COUNTY SHERIFF'S OFFICE.

10 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
11 OFFICE?

12 A THREE YEARS.

13 Q OKAY. AND WHAT IS YOUR ASSIGNMENT WITH THE
14 SHERIFF'S OFFICE?

15 A UNIFORM PATROL DIVISION, SWAT TEAM, AND HONOR
16 GUARD.

17 Q AS FAR AS THE PATROL DIVISION, WHAT ARE YOUR
18 DUTIES; WHAT DO YOU DO DAY-TO-DAY?

19 A ANSWER CALLS OF SERVICE, TRAFFIC ENFORCEMENT,
20 JUST SERVICE TO THE PUBLIC.

21 Q DO YOU HAVE A PARTICULAR AREA THAT YOU ARE
22 ASSIGNED TO?

23 A CLOVER DISTRICT.

24 Q IS THERE A PARTICULAR SHIFT THAT YOU ARE
25 ASSIGNED TO?

- 1 A D-SHIFT, NIGHT SHIFT.
- 2 Q SO WHEN YOU WORK NIGHT SHIFT WHAT DO YOU GUYS
- 3 WORK; WHAT'S YOUR SHIFT, THE TIME?
- 4 A SIX TO SIX. SIX AT NIGHT TO SIX IN THE MORNING.
- 5 Q I CALL YOUR ATTENTION BACK TO SATURDAY, FEBRUARY
- 6 18 AND SUNDAY MORNING, FEBRUARY 19, WOULD THAT HAVE
- 7 ENCOMPASSED ONE OF YOUR SHIFT'S THAT NIGHT FROM
- 8 SATURDAY AT SIX TO SUNDAY MORNING SIX AM?
- 9 A YES, SIR.
- 10 Q OKAY. AND YOU SAY YOU WORK CURRENTLY OR AT THAT
- 11 TIME YOU WORKED THE CLOVER AREA?
- 12 A YES, SIR.
- 13 Q SO ARE YOU FAMILIAR WITH THOSE AREAS?
- 14 A YES, SIR. I GREW UP IN CLOVER. I LIVED THERE
- 15 FOR 25 YEARS.
- 16 Q OKAY. CALLING YOUR ATTENTION PARTICULARLY TO
- 17 RIGHT AROUND MIDNIGHT OR A LITTLE AFTER ON SUNDAY,
- 18 FEBRUARY 19, DID YOU RECEIVE A CALL REFERENCED TO AN
- 19 INCIDENT THERE IN CLOVER?
- 20 A YES, SIR, I DID.
- 21 Q COULD YOU TELL THE JURY WHERE YOU RESPONDED TO?
- 22 A I RESPONDED TO 1123 LAWRENCE ROAD, CLOVER.
- 23 Q OKAY. AND IS THAT 1123 LAWRENCE ROAD IN CLOVER,
- 24 IS THAT IN YORK COUNTY?
- 25 A YES, SIR, IT IS.

1 Q OKAY. AND COULD YOU TELL THE JURY WHAT YOU
2 OBSERVED WHEN YOU ARRIVED THERE?

3 A WHEN I ARRIVED ON SCENE THERE WERE, I RECALL
4 THERE WERE FOUR SUBJECTS STILL AT THE HOUSE, THEY
5 WERE IN THE YARD WHEN I PULLED UP, STATED THEY HAD
6 BEEN HAVING A PARTY AND --

7 MR. GREELEY: OBJECTION, YOUR HONOR.

8 THE COURT: I SUSTAIN THE OBJECTION.

9 MR. GREELEY: THAT'S HEARSAY.

10 Q DON'T TELL ME WHAT THEY SAID.

11 A I'M SORRY.

12 Q WHEN YOU ARRIVED AT THE HOUSE AT THAT SCENE,
13 THERE WERE ONLY FOUR INDIVIDUALS STILL THERE?

14 A YES, SIR.

15 Q OKAY. AND WHAT DID, WHAT DID YOU DO AS FAR AS
16 THOSE FOUR INDIVIDUALS?

17 A UM.

18 Q DON'T TELL ME WHAT THEY SAID. TELL ME WHAT YOU
19 DID.

20 A WE TOOK ALL FOUR INDIVIDUALS INSIDE THE
21 RESIDENCE BECAUSE THERE WAS A CRIME SCENE OUTSIDE THE
22 RESIDENCE.

23 Q NOW WAS THERE OFFICERS WORKING YOUR SHIFT THAT
24 RESPONDED WITH YOU?

25 A YES, SIR.

1 Q OKAY. AND WHO WAS THAT?

2 A DEPUTY LANELLE DAY.

3 Q NOW WHEN YOU SAID THERE WAS A CRIME SCENE
4 OUTSIDE, IS THAT SOMETHING YOU DETERMINED BASED ON
5 THE CALL?

6 A BASED ON THE CALL, YES, SIR.

7 Q OKAY. AND YOU SAY YOU WENT INSIDE. WHAT DID
8 OFFICER DAY DO?

9 A OFFICER DAY STAYED OUTSIDE AND SECURED THE CRIME
10 SCENE OUTSIDE.

11 Q NOW WERE THERE OTHER OFFICERS OR OTHER
12 DEPARTMENTS WITHIN THE SHERIFF'S DEPARTMENT CALLED OR
13 SHERIFF'S OFFICE CALLED TO ASSIST IN THIS MATTER?

14 A WELL, AT THE TIME I ARRIVED AT LAWRENCE ROAD THE
15 VICTIMS ARRIVED AT CLOVER PD SO I KNEW WHAT WAS GOING
16 ON AT THE POLICE DEPARTMENT AT THE SAME TIME THAT I
17 ARRIVED AT THE HOUSE WHERE THE INCIDENT OCCURRED. I
18 ALSO CALLED DEPUTY WHITE AND LET HIM KNOW WHAT WAS
19 GOING ON. HE'S WORKING IN THE SAME AREA.

20 Q AND I'LL ASK YOU ABOUT THAT IN A SECOND. ARE
21 THERE OTHER ENTITIES WITHIN THE SHERIFF'S DEPARTMENT
22 LIKE THE FORENSIC UNITS?

23 A THAT'S RIGHT.

24 Q AND DETECTIVES THAT HAVE DIFFERENT ROLES FROM
25 WHAT THE UNIFORM GUYS ARE?

1 A YES, SIR.

2 Q WERE CALLS MADE I GUESS BOTH TO CLOVER AND TO
3 OUT WHERE YOU ARE AT FOR THOSE TYPES FOLKS TO ARRIVE,
4 THE INVESTIGATORS?

5 A YES, SIR, DETECTIVES WERE CALLED AND OUR
6 FORENSIC UNIT WAS CALLED OUT.

7 Q SO AS FAR AS ASSISTING THE INVESTIGATION WHAT IF
8 ANYTHING DID YOU DO IN THE HOUSE AS FAR AS ANY OF THE
9 WITNESSES OR ANYTHING?

10 A BASICALLY I LET THE WITNESSES WRITE STATEMENTS
11 AS TO WHAT THEY SAW OR WHAT OCCURRED THAT NIGHT AND I
12 STAYED WITH THEM INSIDE THE RESIDENCE WHILE THEY DID
13 THAT.

14 Q DID YOU TELL THEM WHAT TO WRITE OR WHAT NOT TO
15 WRITE OR?

16 A NO, SIR, NOT AT ALL.

17 Q DID YOU ACTUALLY RECEIVE FORMS FROM THE
18 INVESTIGATORS THAT THEY WERE TO WRITE THEM ON OR
19 GIVEN TO WRITE THEM ON?

20 A YES, SIR, DETECTIVE PATTERSON GAVE THEM TO ME AT
21 THE TIME THE STATEMENT FORMS FOR THEM TO WRITE THEIR
22 STATEMENTS ON.

23 Q AS FAR AS THE SCENE AT LAWRENCE ROAD, YOU
24 FOCUSED PRIMARILY IN THE HOUSE?

25 A YES, SIR. I STAYED IN THE KITCHEN PRIMARILY.

1 Q OKAY. AND THEN DEPUTY DAY AND THEN ULTIMATELY
2 THE CRIME SCENE FOLKS WOULD HAVE FOCUSED ON THE
3 OUTSIDE?

4 A THAT'S CORRECT.

5 Q OKAY. AT SOME POINT AND WHEN THESE INDIVIDUALS
6 WERE GIVING STATEMENTS, WERE THEY ALSO TALKING ABOUT
7 WHAT HAD OCCURRED AND I'M NOT ASKING YOU TO TELL ME
8 WHAT OCCURRED, BUT WERE THEY TALKING ABOUT WHAT
9 OCCURRED?

10 A YES, SIR, THEY DID.

11 Q OKAY. AND BASED ON THAT DID YOU ULTIMATELY GIVE
12 A CALL, YOU HAD REFERRED TO THIS EARLIER, THAT YOU
13 ULTIMATELY GIVE A CALL TO ANOTHER SHIFT OFFICER, I
14 THINK ANTHONY WHITE?

15 A THAT'S CORRECT.

16 Q OKAY. AND WHAT DID YOU REQUEST MR. WHITE DO?

17 A REQUESTED HIM TO GO BY BERRY BOLIN'S HOUSE AND
18 LOCATE HIM. THE WITNESSES THAT I SPOKE TO AT THE
19 RESIDENCE, THEY TOLD SEVERAL NAMES OF PEOPLE --

20 MR. GREELEY: OBJECTION, YOUR HONOR,
21 HEARSAY.

22 Q AGAIN DON'T TELL ME WHAT THEY SAID, JUST TELL ME
23 WHAT YOU DID IN RESPONSE TO IT?

24 A OKAY.

25 Q SO YOU CALLED ANTHONY WHITE AND ASKED HIM TO DO

1 WHAT?

2 A TO GO BY BERRY BOLIN'S HOUSE TO SEE IF HE WAS AT
3 THE PARTY AND ASK HIM IF HE WOULD MIND COMING TO
4 SPEAK WITH DETECTIVES AT THE POLICE DEPARTMENT.

5 Q OKAY. OTHER THAN THE STATEMENTS INSIDE AND THE
6 THINGS YOU RELATED AND REQUESTS YOU MADE TO ANTHONY
7 WHITE, WERE YOU INVOLVED IN ANY OF THE FOLLOW UP AND
8 THE INTERVIEW OF ALL OF THE WITNESSES AND ALL THE
9 THINGS THAT ARE PROCESSED IN THE CRIME SCENE, ANY OF
10 THOSE MATTERS?

11 A NO, SIR.

12 Q IS THIS THE EXTENT OF YOUR INVOLVEMENT IN THIS
13 PARTICULAR CASE?

14 A YES, SIR.

15 Q OKAY. WHEN MORNING CAME AROUND AND SIX O'CLOCK
16 CAME, DID THE NEXT SHIFT OFFICERS OR OTHER OFFICERS
17 COME AND TAKE CONTROL OF THE CRIME SCENE AND SUCH AS
18 THAT?

19 A YES, SIR, THAT'S CORRECT.

20 Q OKAY. SO IN OTHER WORDS, YOU WERE ABLE TO LEAVE
21 THE SCENE ULTIMATELY AT SIX IN THE MORNING?

22 A ROUND ABOUT SIX, YES, SIR.

23 Q OKAY. THANK YOU, SIR.

24 MR. POPE: BEG THE COURT'S INDULGENCE.

25 ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE PLEASE,

1 SIR.

2 CROSS EXAMINATION BY MR. GREELEY:

3 Q GOOD AFTERNOON, MICK.

4 Q HOW YOU DOING

5 Q I'M ALL RIGHT. WHAT OTHER OFFICERS DO YOU
6 RECALL CAME OUT TO THE HOUSE WHILE YOU WERE OUT
7 THERE?

8 A DEPUTY DAY, THE FORENSIC UNIT, I CAN'T RECALL
9 THEIR NAMES EXACTLY. DETECTIVE PATTERSON CAME OUT
10 FROM THE SHERIFF'S OFFICE, CAPTAIN HOFFMAN. I
11 BELIEVE BETH TOLSON.

12 Q QUITE A FEW?

13 A YES, SIR.

14 Q A LOT OF THE DEPARTMENT WAS WORKING LATE THAT
15 NIGHT, WEREN'T THEY?

16 A YES, SIR, CALLED OUT, YES, SIR.

17 Q AT ANY POINT YOU TESTIFIED THAT YOU WERE STAYING
18 IN TOUCH WITH THE CLOVER POLICE DEPARTMENT BECAUSE OF
19 THE CAR BEING THERE AND YOU KIND OF KNEW WHAT WAS
20 GOING ON THERE AND YOU WERE TALKING BACK AS TO WHAT
21 WAS GOING ON AT THE SCENE, THAT'S COMMON, ISN'T IT?

22 A YES, SIR.

23 Q DID YOU RELAY ANY INFORMATION TO ANY OTHER
24 OFFICER EITHER AT CLOVER OR OTHERWISE THAT SHOOTING
25 MAY HAVE COME FROM THE CAR AS WELL?

1 A NOT THAT I RECALL.

2 Q OKAY.

3 MR. GREELEY: I DON'T HAVE ANYTHING
4 FURTHER.

5 MR. POPE: I ASK THIS WITNESS BE EXCUSED.

6 THE COURT: YOU CAN STEP DOWN AND BE
7 EXCUSED. APPRECIATE YOUR TIME. THANK YOU.

8 A THANK YOU.

9 MR. POPE: CALL DEPUTY DAY.

10 LANELLE DAY, BEING FIRST DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MR. POPE:

13 Q OFFICER DAY, IF YOU WOULD STATE YOUR NAME AND
14 SPELL YOUR LAST NAME FOR THE COURT REPORTER PLEASE,
15 MA'AM?

16 A I'M OFFICER LANELLE DAY WITH THE YORK COUNTY
17 SHERIFF'S OFFICE. MY LAST NAME IS SPELLED D-A-Y.

18 Q COULD YOU TELL THE JURY WHERE YOU ARE EMPLOYED?

19 A I'M EMPLOYED WITH THE YORK COUNTY SHERIFF'S
20 OFFICE, YORK, SOUTH CAROLINA.

21 Q TELL THE JURY HOW LONG HAVE YOU BEEN EMPLOYED
22 WITH THE SHERIFF'S OFFICE?

23 A I'VE BEEN EMPLOYED WITH THE SHERIFF'S OFFICE FOR
24 FIVE YEARS NOW.

25 Q AND WHAT ARE YOUR DUTIES WITH THE SHERIFF'S

1 OFFICE?

2 A I AM A PATROL OFFICER.

3 Q DO YOU HAVE A PARTICULAR AREA THAT YOU ARE
4 ASSIGNED TO?

5 A YES, SIR. I'M NORMALLY ASSIGNED TO THE YORK
6 DISTRICT.

7 Q OKAY. AND DO YOU HAVE A PARTICULAR SHIFT THAT
8 YOU ARE ASSIGNED TO?

9 A YES, SIR, I'M ASSIGNED TO THE D-SHIFT ROTATION.
10 IT'S 400 SHIFT.

11 Q IS THAT NIGHT, DAY, OR GOES IT DO BOTH OR?

12 A IT'S A NIGHT SHIFT ROTATION. IT'S SIX PM TO SIX
13 AM.

14 Q I CALL YOUR ATTENTION BACK TO SATURDAY, FEBRUARY
15 18 SIX P.M. RUNNING INTO SUNDAY, FEBRUARY 19 SIX AM,
16 WERE YOU ON THAT SHIFT THAT NIGHT?

17 A YES, SIR, I WAS.

18 Q WHERE WERE YOU ASSIGNED TO WORK THAT NIGHT?

19 A I WAS ASSIGNED TO THE YORK DISTRICT THAT NIGHT.

20 Q WHAT IS YORK DISTRICT? IS THAT THE WESTERN SIDE
21 OR IS THAT WHAT WE CALL THE WESTERN SIDE?

22 A YES, SIR. IT IS THE WESTERN SIDE OF THE COUNTY.
23 YORK DISTRICT RUNS FROM JUST SOUTH OF CLOVER, THE
24 TOWN OF CLOVER, TO THE CHESTER COUNTY LINE AND IT
25 RUNS FROM THE CHEROKEE COUNTY LINE TO ABOUT A THIRD

1 OF THE WAY TO ROCK HILL AFTER YOU LEAVE THE YORK CITY
2 LIMITS.

3 Q I'M GOING TO CALL YOUR ATTENTION PARTICULARLY
4 ABOUT MIDSHIFT, AROUND MIDNIGHT, DID YOU HAVE AN
5 OPPORTUNITY TO RECEIVE A CALL TO LAWRENCE ROAD. I
6 THINK IT WAS 1123 LAWRENCE ROAD IN CLOVER?

7 A YES, SIR.

8 Q AND THAT'S IN YORK COUNTY?

9 A YES, SIR.

10 Q OKAY. COULD YOU TELL THE JURY WHAT HAPPENED;
11 WHAT YOU OBSERVED?

12 A OKAY. WHENEVER THE CALL CAME OUT I ACTUALLY
13 ANSWERED UP TO BE A BACK UP UNIT AND I WAS COMING
14 FROM THE BEERSHEBA ROAD AREA OF YORK COUNTY. I WAS
15 THE SECOND CAR ON THE SCENE THAT EVENING.

16 Q WHO WAS FIRST?

17 A DEPUTY ---

18 Q I'M SORRY. GO AHEAD.

19 A DEPUTY MARK FERRELL HAD PULLED IN JUST AHEAD OF
20 ME, JUST WITHIN A MINUTE TO TWO MINUTES AHEAD OF ME
21 AND HE HAD COME FROM THE 321 END BECAUSE HIS CAR WAS
22 POINTING ON LAWRENCE ROAD COMING IN FROM 321. I HAD
23 COME IN FROM THE 161 END, MY CAR WAS POINTING,
24 DIRECTLY FACING HIS PATROL CAR.

25 Q WHAT DID YOU DO WHEN YOU ARRIVED?

1 A WHENEVER I ARRIVED I SAW THAT DEPUTY FERRELL WAS
2 ALREADY INSIDE OF THE RESIDENCE AND I CHECKED ON HIM
3 VERY BRIEFLY AND THEN WENT BACK OUT INTO THE YARD TO
4 SECURE THE OUTSIDE PORTION OF THE YARD TO SECURE THE
5 SCENE.

6 Q OKAY. NOW WE'VE HEARD ABOUT SECURING THE SCENE
7 FOR EVIDENCE AND LIKE WHERE YOU PULL EVIDENCE TAPE
8 AND ALL THIS STUFF, DID YOU HAVE ANY EVIDENCE TAPE
9 THAT NIGHT?

10 A NO, SIR, THAT EVENING I DID NOT HAVE EVIDENCE
11 TAPE IN MY PATROL CAR.

12 Q DID DEPUTY FERRELL HAVE ANY EVIDENCE TAPE?

13 A NO, SIR.

14 Q WHERE WAS ALL THE EVIDENCE TAPE?

15 A (CHUCKLES.) I REALLY CAN'T ANSWER THAT
16 QUESTION. WE JUST DID NOT HAVE ANY AVAILABLE RIGHT
17 AT THAT MOMENT. WE HAD HAD A COUPLE OTHER INCIDENTS
18 RECENTLY AND HAD USED A SIGNIFICANT AMOUNT OF TAPE.

19 Q I GOT YOU. SO WHAT DID YOU DO, WHEN YOU SAY
20 SECURE THE SCENE, WHAT DID YOU DO?

21 A I DID LEAVE MY PATROL CAR PARKED IN THE POSITION
22 THAT IT WAS IN BECAUSE THAT PRETTY WELL BLOCKED ANY
23 VEHICLE FROM DRIVING OVER THE PORTION OF THE PROPERTY
24 THAT IS THE END OF THE DRIVEWAY. THEY WOULD HAVE HAD
25 TO COME IN 321, WOULD HAVE HAD TO COME AROUND MARK'S

1 CAR OR COMING FROM 161 WOULD HAVE HAD TO COME AROUND
2 MY CAR AWAY FROM THE EDGE OF THE PROPERTY. SECURING
3 THE SCENE NORMALLY MEANS THAT YOU DON'T ALLOW ANYBODY
4 NEW TO COME INTO THAT AREA OF THE PROPERTY.

5 Q IS THAT WHAT YOU DID THAT MORNING?

6 A YES, SIR, THAT IS WHAT I DID AT THAT POINT WAS
7 JUST PHYSICALLY KEPT EVERYONE OUT OF THAT PIECE OF
8 PROPERTY UNLESS THEY HAD REASON TO BE THERE ON
9 OFFICIAL BUSINESS.

10 Q WHEN YOU SAY REASON LIKE DETECTIVES AND
11 FORENSICS?

12 A YES, SIR, LIKE DETECTIVES, FORENSICS, PEOPLE
13 THAT WERE WORKING THE CRIME SCENE, AND THEY WERE ALL
14 LOGGED IN.

15 Q AND SO THAT EVENING, WAS IT COLD THAT EVENING?

16 A VERY COLD.

17 Q YOU SPENT THE MAJORITY OF YOUR TIME OUTSIDE
18 WATCHING THIS SCENE, IS THAT CORRECT?

19 A YES, SIR.

20 Q OKAY. WHEN YOU ARRIVED INITIALLY DID YOU
21 OBSERVE ANYTHING, FOR EXAMPLE, ON THE CEMENT ANYTHING
22 THAT YOU MADE NOTE OF?

23 A AFTER, LIKE I SAID, I KIND OF MADE A MAD DASH TO
24 THE CAR TO KIND OF CHECK ON MARK AND TO MAKE SURE
25 THAT HE WAS OKAY, AND WHENEVER I COME BACK OUT I DID

1 NOTICE SOME THINGS ABOUT THE PROPERTY. YOU KNOW, IN
2 THE DRIVEWAY I DID NOTICE THAT THERE WAS A DAMP SPOT
3 THAT SMELLED AND DID GIVE ME THE IMPRESSION OF BEING
4 BEER. I DID NOTICE THAT THERE WAS SOME SHARDS OF
5 BROWN GLASS NEAR THE DRIVEWAY. I DID, AS I WALKED
6 BACK TO THE PATROL CAR, START OBSERVING SHELL
7 CASINGS.

8 Q LET ME STOP YOU ON THE WET SPOT AND THE BROWN
9 GLASS, LIKE A BEER BOTTLE OR SOMETHING HAD BUSTED?

10 A YES, SIR.

11 Q IS THAT WHAT --

12 A YES, SIR.

13 Q I MEAN IT WAS IN THE PROXIMITY TO THE WET SPOT
14 AND THE GLASS?

15 A YES, SIR.

16 Q OKAY. DID YOU POINT THAT OUT TO THE FORENSICS
17 OFFICER?

18 A YES, SIR.

19 Q OKAY. AND THEN YOU SAID YOU STARTED NOTING SOME
20 BULLET CASINGS, WHERE WERE THEY LOCATED?

21 A THEY WERE NEAR THE END OF THE DRIVEWAY. THEY
22 WERE, IF YOU WERE STANDING IN THE MIDDLE OF LAWRENCE
23 ROAD LOOKING AT THE HOUSE AND YOU WERE STANDING LIKE
24 RIGHT AT THE END OF THE DRIVEWAY, THEY WOULD HAVE
25 BEEN BASICALLY FROM THE CENTER OF THE DRIVEWAY TO THE

1 LEFT INTO THE DITCH WHERE THE CULVERT IS. THERE WAS
2 TWO OR THREE LOCATED RIGHT IN AND AROUND THE CULVERT
3 HOLE AND THEN THERE WAS ONE I BELIEVE UP ON THE
4 DRIVEWAY ITSELF OR THE END OF THE ROAD, THE TIE IN.

5 Q AND DID YOU HAVE SOME MATERIALS TO MARK THOSE
6 PARTICULAR SPOTS?

7 A YES, SIR, I DID. I ACTUALLY WENT BACK TO THE
8 PATROL CAR AND I HAD A BAG OF BALLOONS THAT I KEEP IN
9 THE BACK OF THE PATROL CAR BECAUSE THEY DON'T BLOW
10 AWAY EASILY. WHEN THE WINDS BLOW THEY WILL LAY WHERE
11 YOU PUT THEM AND I JUST DROPPED ONE EVERY PLACE THAT
12 I FOUND ANYTHING THAT APPEARED TO BE SIGNIFICANT
13 TRYING TO ESTABLISH HOW WIDE THE CRIME SCENE ACTUALLY
14 MAY HAVE BEEN.

15 Q OKAY. AND NOW DID YOU GET OUT INTO THE YARD AND
16 SEARCH FOR OTHER ITEMS OR ANYTHING OF THAT NATURE OR
17 WERE YOU ONLY MARKING THE THINGS THAT YOU WERE
18 READILY SEEING?

19 A I MARKED THE THINGS THAT I READILY SAW. I DID
20 WALK THROUGH THE YARD BUT IT WAS VERY DARK OUT THAT
21 THERE EVENING, LIGHT WAS VERY POOR, I DIDN'T SEE MUCH
22 BEYOND WHERE THE LIGHTS OF THE TWO PATROL CARS COULD
23 LIGHT.

24 Q AND ULTIMATELY DID THE FORENSIC UNIT COME AND
25 YOU KIND OF TURN THE SCENE OVER TO THEM TO DO THE

1 ACTUALLY PROCESSING?

2 A YES, SIR.

3 Q OKAY. NOW DID YOU OBSERVE ANY OF THE OCCUPANTS
4 IN THE HOUSE WHILE YOU WERE OUTSIDE, WERE ANY OF THEM
5 OUTSIDE AT ANY POINT?

6 A THE BOYS DID COME INTO THE PORCH AREA MAYBE ONE
7 OR TWO OCCASIONS JUST BRIEFLY AND MARK, OFFICER
8 FERRELL, KIND OF AND BESIDES BEING COLD, KIND OF
9 TRIED TO HERD EVERYBODY BACK UP AND TRY TO KEEP THEM
10 INSIDE THE HOUSE BECAUSE.

11 Q WHAT WERE THEY TO DOING ON THE PORCH AREA? DID
12 YOU NOTICE THEM DOING ANYTHING PARTICULAR IN THE
13 PORCH AREA?

14 A IF I RECALL CORRECTLY A COUPLE OF THE BOYS SMOKE
15 AND THEY DID COME TO THE PORCH A TIME OR TWO AND
16 SMOKE A CIGARETTE.

17 Q I GOT YOU.

18 A OKAY.

19 Q I SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED AS
20 STATE'S EXHIBIT 10, 11, 12, 13 AND 14. I DON'T
21 BELIEVE YOU'VE HAD A CHANCE TO OBSERVE THESE
22 PREVIOUSLY. IF YOU'LL TAKE JUST A MOMENT AND LOOK AT
23 THOSE, PLEASE, MA'AM.

24 A YES, SIR.

25 Q DO THOSE PICTURES ACCURATELY DEPICT THE SCENE

1 THAT NIGHT AT SOME POINT? I REALIZE THAT YOU WERE
2 THERE FOR HOURS, BUT AT SOME POINT THAT NIGHT THAT
3 ACCURATELY DEPICTS THE SCENE?

4 A YES, SIR.

5 MR. POPE: YOUR HONOR, I MOVE STATE'S
6 EXHIBIT 10, 11, 12, 13 AND 14 INTO EVIDENCE.

7 MR. GREELEY: NO OBJECTION.

8 THE COURT: BE RECEIVED.

9 (STATE'S EXHIBITS 10 THROUGH 14
10 PHOTOGRAPHS RECEIVED INTO EVIDENCE.)

11 MR. POPE: PERMISSION TO PUBLISH, YOUR
12 HONOR.

13 THE COURT: YES, SIR.

14 Q I'LL HAND YOU THE ITEM AND IF YOU CAN JUST TELL
15 US THE NUMBER AND TELL US WHAT IT DEPICTS AND THEN
16 WE'LL PUT IT UP ON THE SCREEN AT THE SAME TIME?

17 A ALL RIGHT.

18 Q STATE'S EXHIBIT TEN. IF YOU CAN TELL US WHAT
19 THIS ITEM DEPICTS?

20 A YES, SIR. THAT IS THE PHOTO LABELED STATE'S
21 EXHIBIT NUMBER TEN AND THAT IS THE FRONT OF THE HOUSE
22 LOCATED THERE ON LAWRENCE ROAD.

23 Q OKAY. CAN YOU TELL US STATE'S EXHIBIT 11
24 PLEASE, MA'AM?

25 A STATE'S EXHIBIT NUMBER 11 LOOKS AS IF THE

1 PHOTOGRAPHER WERE STANDING PROBABLY ON THE BOTTOM
2 STEP OF THE FRONT PORCH LOOKING BACK OUT TOWARD OUR
3 PATROL CARS. THE CAR THAT IS IMMEDIATELY TO THE LEFT
4 OF THE DRIVEWAY IS MY PATROL CAR. THE CAR THAT IS TO
5 THE RIGHT OF THE DRIVEWAY IS DEPUTY FERRELL'S PATROL
6 CAR. AND THE VEHICLE BEHIND MY PATROL CAR ON THE FAR
7 LEFT APPEARS TO BE ONE OF THE FORENSICS UNIT. I
8 THINK THAT WAS THE ONLY VEHICLE THAT WAS EVER PARKED
9 BEHIND MINE THAT NIGHT WAS ONE OF THE FORENSIC
10 VEHICLES AND THE CARS THAT WERE MARKED DIRECTLY
11 BEHIND OFFICER FERRELL'S VEHICLE OR WHERE THE
12 DETECTIVES WERE COMING IN AND OUT SPEAKING WITH
13 DIFFERENT PEOPLE BUT THAT'S LOOKING BACK ACROSS THE
14 FRONT OF THE YARD.

15 Q 13 IS THAT ALSO A SIMILAR PICTURE. I'M SORRY.
16 12 IS THAT A SIMILAR PICTURE OF THE FORENSIC UNIT HAD
17 ARRIVED?

18 A YES, SIR, NUMBER 12 IS PRETTY MUCH IDENTICAL
19 EXCEPT THE FORENSIC'S TRUCK HAS BEEN PULLED UP INTO
20 THE DRIVEWAY.

21 Q I SHOW YOU 13, MA'AM. CAN YOU TELL US WHAT
22 THAT DEPICTS?

23 A NUMBER 13 LOOKS TO HAVE BEEN MADE JUST FROM THE
24 FAR EDGE OF THE LAWRENCE ROAD LOOKING BACK AT THE
25 HOUSE AND IN THIS PICTURE YOU CAN SEE THAT AT THIS

1 TIME THE BULLET SHELL AND SHELL CASINGS HAVE NOT BEEN
2 RECOVERED BECAUSE I OBSERVE IN THIS PICTURE THE PINK
3 BALLOONS THAT I HAD PLACED STILL LAYING IN PLACE
4 WHERE WE HAD FOUND OR WHERE I HAD LOCATED.

5 Q EITHER YOU CAN DO IT FROM THERE OR IF YOU NEED
6 TO STEP DOWN, IF YOU CAN KIND OF SHOW ME WITH THIS
7 POINTER -- WITH THE PERMISSION FOR HER TO STEP DOWN?

8 THE COURT: SURE.

9 Q SHOW THEM, I REALIZE THE BIG PICTURE DOES NOT
10 DEPICT IT AS GOOD AS THE PHOTO, WOULD YOU SHOW THEM
11 ROUGHLY WHERE THE PINK BALLOONS ARE?

12 A OKAY. THERE IS ONE RIGHT ABOUT THERE. THERE IS
13 ANOTHER RIGHT ABOUT THERE, RIGHT ON THE EDGE OF WHERE
14 THE PAVEMENT TIE IN AND THE CONCRETE COME TOGETHER.
15 AND THERE IS ANOTHER ONE JUST ON THE EDGE OF THE
16 GRASS RIGHT HERE THAT I CAN SEE.

17 Q CALL YOUR ATTENTION TO STATE'S EXHIBIT NUMBER
18 14, THE OTHER PICTURE THAT MAY SHOW THEM A LITTLE
19 CLOSER, CAN YOU DEPICT WHERE THE BALLOONS ARE IN
20 THAT?

21 A YES, SIR. THERE IS ONE RIGHT HERE. THERE IS
22 ONE RIGHT THERE. THERE'S, I BELIEVE I CAN SEE, I
23 KNOW THAT I CAN SEE ONE AND I BELIEVE I CAN JUST
24 BARELY THE EDGE OF THE OTHER RIGHT IN CULVERT AREA
25 RIGHT HERE.

1 Q AND YOUR PURPOSE OF DOING THAT WAS TO DRAW
2 ATTENTION TO IT FOR WHEN THE FORENSIC UNIT COMES TO
3 PROCESS IT?

4 A YES, SIR.

5 Q PROCESS THE SCENE.

6 A YES, SIR.

7 Q NOW DID YOU ALTER OR CHANGE THOSE OR MOVE THEM?
8 I MEAN, I KNOW YOU PUT THE BALLOONS DOWN.

9 A YES, SIR.

10 Q BUT DID YOU MOVE ANY OF THE EVIDENCE OR
11 ANYTHING?

12 A NO, SIR, I DIDN'T TOUCH, I DIDN'T TOUCH ANYTHING
13 THAT WAS LAYING ON THE GROUND. THE ONLY THING I DID
14 WAS JUST BY THE EDGE OF THE BALLOON DROP IT CLOSE BY
15 WHERE I HAD SEEN.

16 Q THAT WAS JUST TO DRAW ATTENTION TO?

17 A YES, SIR.

18 Q WHEN THEY WERE PROCESSING THIS?

19 A YES, SIR.

20 Q THANK YOU, MA'AM. ANSWER ANY QUESTIONS MR.
21 GREELEY MAY HAVE.

22 MR. GREELEY: MAY IT PLEASE THE COURT.
23 CROSS EXAMINATION BY MR. GREELEY:

24 Q GOOD AFTERNOON, DEPUTY DAY.

25 A GOOD AFTERNOON.

1 Q YOU'VE BEEN SHOWING US THE PICTURES THAT WERE
2 TAKEN. DID YOU TAKE THOSE PICTURE OR DID SOMEONE
3 ELSE?

4 A NO, SIR, ONE OF THE FORENSICS OFFICERS I BELIEVE
5 WOULD HAVE TAKEN THOSE PHOTOS.

6 Q DO YOU KNOW WHAT TIME THEY TOOK THOSE PHOTOS?

7 A I DON'T KNOW PER SE WHAT TIME IT WOULD HAVE BEEN
8 ON THE CLOCK. I CAN TELL YOU KIND OF APPROXIMATELY
9 HOW LONG WE HAD BEEN ON THE SCENE WHENEVER FORENSICS
10 GOT THERE AND THEN THEY WORKED FOR MANY HOURS THROUGH
11 THE EVENING.

12 Q RIGHT. SO YOU HAVE AN APPROXIMATION AS TO WHEN
13 FORENSICS ARRIVED?

14 A WE HAD BEEN ON THE SCENE FOR SEVERAL MINUTES
15 WHENEVER THEY GOT THERE BECAUSE WE ALSO HAD THE
16 SITUATION GOING ON AT CLOVER PD WHERE FORENSIC UNIT
17 WENT THERE AND ONCE THEY GOT THERE, LIKE I SAID, THEY
18 WORKED FOR SEVERAL HOURS THERE ON THE SCENE, BOTH
19 INSIDE AND OUT, TAKING PHOTOS SO.

20 Q SO THE FORENSIC PEOPLE FOR THE SHERIFF'S
21 DEPARTMENT YOU HAD ONE GROUP THAT WAS THERE WITH YOU?

22 A YES, SIR.

23 Q ON LAWRENCE ROAD. AND YOU HAD ANOTHER GROUP
24 THAT WAS AT THE CLOVER POLICE DEPARTMENT, IS THAT
25 CORRECT?

1 A I DON'T KNOW IF IT WAS TWO SEPARATE GROUPS OR
2 THEY WERE THE SAME GROUP.

3 Q THERE WERE DIFFERENT ---

4 A I DO KNOW WE HAD A GROUP WITH US. I NEVER LEFT
5 LAWRENCE ROAD.

6 Q RIGHT. BUT THERE WERE DIFFERENT PEOPLE WITH THE
7 YORK COUNTY SHERIFF'S DEPARTMENT WHO WORK IN
8 FORENSICS?

9 A YES, SIR, THERE WERE MANY PEOPLE THAT WORK IN
10 FORENSICS.

11 Q ALL RIGHT. WHAT WAS THE APPROXIMATE TIME IF YOU
12 RECALL THAT FORENSICS ARRIVED? YOU SAID A FEW
13 MINUTES AFTER I DID, ARE WE TALKING ABOUT 30 MINUTES
14 OR WE TALKING ABOUT 45 MINUTES?

15 A I CAN ONLY GUESS. I DON'T WEAR A WATCH TO WORK.
16 I DO HAVE A PAGER AND EVERYTHING, BUT I DON'T
17 NORMALLY LOOK AT THOSE. I CAN ONLY GUESS THAT IT MAY
18 HAVE BEEN 30 MINUTES TO AN HOUR AFTER I ARRIVED ON
19 THE SCENE.

20 Q OKAY. AND AT WHAT POINT IN TIME DID THE
21 FORENSICS TRUCK PULL UP INTO THE DRIVEWAY AND PARK?

22 A I DON'T RECOLLECT.

23 Q DID THEY JUST PULL ON IN UP TO THAT PLACE?

24 A NO, SIR, THEY PULLED IN BEHIND MY PATROL CAR
25 FIRST.

1 Q OKAY. DO YOU KNOW HOW LONG THEY STAYED BEHIND
2 YOUR PATROL CAR BEFORE THEY PULLED INTO THE DRIVEWAY?

3 A NO, SIR.

4 Q OKAY. NOW IF WE COULD, DO YOU HAVE THOSE
5 PICTURES WITH YOU?

6 A YES, SIR.

7 Q IF COULD YOU LOOK AT STATE'S EXHIBIT NUMBER 13.

8 A YES, SIR.

9 Q OKAY. AND I'M GOING TO ASK FOR THE CLOSER VIEW
10 OF THE DRIVEWAY WHICH WOULD HAVE BEEN 14. IF YOU CAN
11 LOOK AT THAT, OKAY. AND COULD YOU STEP DOWN ONCE
12 AGAIN. DO YOU STILL HAVE THE POINTER?

13 A YES, I DO.

14 MR. GREELEY: SHE MAY STEP DOWN, YOUR
15 HONOR.

16 Q COME ON DOWN, IF YOU WOULD PLEASE. NOW YOU
17 TALKED ABOUT WHEN YOU FIRST GOT THERE YOU NOTICED
18 SOMETHING IN THE DRIVEWAY WET?

19 A OKAY.

20 Q THAT IN YOUR BELIEF WAS BEER, IS THAT CORRECT?

21 A YES.

22 Q WOULD YOU POINT TO WHERE IN THE DRIVEWAY YOU
23 BELIEVE THAT TO HAVE BEEN?

24 A IT ACTUALLY IS CLEARER IN THIS PICTURE.

25 Q WHICH PICTURE?

1 A IN THE PHOTOGRAPH THAT I'M HOLDING. IT'S A
2 LITTLE CLEARER THAN THAT BLOWN UP PHOTO.

3 Q IS THAT IT RIGHT THERE?

4 A YES.

5 Q AND WHICH ONE IS IT CLEARER ON, WHAT NUMBER IS
6 THAT?

7 A THIS IS STATE'S EXHIBIT NUMBER 14.

8 Q THE ONE WHERE ITS CLEARER IS 14?

9 A YES, SIR.

10 Q THAT'S THIS ONE?

11 A YES, SIR.

12 Q SO THAT'S, THAT IS THE SPOT IN THE DRIVEWAY?

13 A YES, SIR.

14 Q AND YOU ALSO SAID THAT YOU NOTICED THAT THERE
15 WAS BROKEN BEER BOTTLE, IS THAT CORRECT?

16 A I NOTICED PIECES OF GLASS.

17 Q PIECES OF GLASS. AND WHAT COLOR WERE THE PIECES
18 OF GLASS?

19 A THEY WERE BROWN.

20 Q THEY WERE BROWN?

21 A YES, SIR.

22 Q AND WHERE DID YOU NOTICE THE PIECES OF GLASS?

23 A THEY WERE, AND NOW THIS IS FROM MEMORY OKAY, TO
24 THE BEST OF MY RECOLLECTION THEY WERE IN THIS
25 VICINITY ALONG THE EDGE OF THE DRIVEWAY TO THIS SIDE

1 I BELIEVE.

2 Q ALL RIGHT. NOW YOU WERE OUT THERE, I'M GOING TO
3 ASK IF YOU WOULD TO GIVE YOUR BEST ESTIMATE, IS THERE
4 ANY WAY FOR YOU TO GIVE AN ESTIMATE IN FEET AS TO HOW
5 FAR IT WOULD BE FROM THE BEGINNING OF THE DRIVEWAY UP
6 TO WHERE YOU SEE THE BEER?

7 A OKAY. AND BY THE DRIVEWAY ARE WE SAYING HERE AT
8 THE RIGHT LINE OR ARE WE SAYING AT THE TIE IN?

9 Q WHY DON'T WE TAKE IT FROM THE --- SEE THE
10 CULVERT IS?

11 A YES, SIR. IN BETWEEN THE TWO?

12 Q SURE. JUST RIGHT AT THE CULVERT?

13 A HERE?

14 Q YEAH, FROM THE CULVERT UP TO THE BEER. ABOUT
15 HOW FAR IS THAT ESTIMATION?

16 A I WOULD SAY BETWEEN 12 AND 16 FEET.

17 Q OKAY. THANK YOU. I APPRECIATE THAT.

18 A YES, SIR.

19 Q WHY DON'T YOU HAVE A SEAT AGAIN. WHEN YOU WERE
20 PUTTING OUT YOUR BALLOONS?

21 A YES, SIR.

22 Q DID YOU MARK THE BROWN GLASS THAT YOU SAW WITH A
23 BALLOON?

24 A NO, SIR, I DID NOT.

25 Q YOU DID NOT?

1 A NO, SIR.

2 Q HOW LONG WERE YOU OUT THERE THAT EVENING?

3 A I WAS OUT THERE FROM MY TIME OF ARRIVAL AS NOTED
4 ON THE INCIDENT REPORT, I CAN'T TELL YOU JUST EXACTLY
5 WHAT TIME THAT WAS, UNTIL JUST BEFORE DAY LIGHT.

6 Q SO YOU WERE OUT THERE FOR QUITE AWHILE?

7 A YES, SIR.

8 Q AND DID YOU EVER NOTIFY ANYONE THAT THERE MAY
9 HAVE BEEN SHOOTING COMING FROM THE CAR THAT EVENING?

10 A I DO NOT RECALL HAVING SAID THAT.

11 Q THE BOYS THAT YOU SAW, THE BOYS THAT WERE AT THE
12 HOUSE?

13 A YES, SIR.

14 Q HOW MANY BOYS WERE THERE?

15 A I RECALL FOUR THAT WERE THERE THROUGH THE NIGHT.

16 Q DID YOU HAVE AN OPPORTUNITY TO SPEAK WITH THEM,
17 SAY HELLO OR ANYTHING TO THEM?

18 A YES, SIR, JUST BUT NOT MUCH MORE THAN THAT.

19 Q WERE THEY POLITE?

20 A FOR THE MOST PART, YES, SIR.

21 MR. GREELEY: I HAVE NOTHING FURTHER AT
22 THIS TIME.

23 REDIRECT EXAMINATION BY MR. POPE:

24 Q MR. GREELEY HAD ASKED YOU ABOUT THE BOYS BEING
25 POLITE, WERE THEY CLEANING UP AT SOME POINT WHEN YOU

1 WERE THERE?

2 A YES, SIR. AS I'VE TESTIFIED, I WAS OUT IN THE
3 YARD THE MAJORITY OF THE EVENING. ONCE THE
4 DETECTIVES FELT THAT AND CRIME SCENE, ONCE THE
5 FORENSIC UNIT FELT THAT THEY HAD SUFFICIENTLY, YOU
6 KNOW, TAKEN CARE OF WHAT I WAS GUARDING OUTSIDE, THEY
7 SAID THAT IT WAS OKAY FOR ME TO GO AHEAD AND STEP
8 INTO THE HOUSE AND AT THAT POINT I DID OBSERVE THAT
9 THEY APPEARED TO BE TIDYING UP THE KITCHEN A LITTLE
10 BIT, JUST KIND OF MILLING AROUND THE HOUSE, YES, SIR.

11 Q NOW MR. GREELEY ASKED DID YOU TELL ANYBODY THAT
12 THEY WERE SHOOTING OUT OF THE CAR, WERE YOU INVOLVED
13 IN SOME PART OF THE INVESTIGATION THAT TOLD YOU THAT?

14 A NO, SIR, NOTHING OTHER THAN WHEN THE INITIAL
15 CALL COMES OUT THERE IS A LOT OF CONFUSION ABOUT
16 WHERE THE SHOTS ARE COMING FROM AND IT'S MORE BECAUSE
17 YOU HAVE NEIGHBORS MAY HAVE CALLED IN AND SAID I
18 HEARD SOMETHING, I DON'T KNOW WHAT THE RACKET WAS, I
19 HEARD SOMETHING, SO YOU KNOW WE'RE TRYING TO BE SAFE
20 AS WE CAN COMING INTO THAT SITUATION AND I DON'T
21 RECALL HAVING EVER SAID THAT SHOTS WERE BEING FIRED
22 FROM THE CAR.

23 Q OKAY. THANK YOU, MA'AM.

24 A YES, SIR.

25 RE CROSS EXAMINATION BY MR. GREELEY:

1 Q BRIEFLY. YOU SAID THE BOYS WERE IN THE HOUSE
2 CLEANING UP THE HOUSE?

3 A THEY, THEY WERE IN THE KITCHEN WHENEVER I WENT
4 INSIDE THE HOUSE AND IT WASN'T, IT WASN'T CLEANING
5 LIKE SCRUBBING BATHROOMS OR IT WASN'T HEAVY DUTY
6 CLEANING, IT WAS JUST THEY HAD HAD A PARTY THERE THAT
7 EVENING, THEY WERE JUST KIND OF MILLING AROUND THE
8 SINK, TIDYING UP, MOPPING DOWN, A COUPLE OF THE BOYS
9 THAT LIVED THERE. IT WASN'T UNUSUAL IN APPEARANCE.

10 Q BUT WASN'T A DEPUTY THERE TO SECURE A SCENE?

11 A THE SCENE ITSELF WAS OUTSIDE WHERE I WAS AT.

12 Q OKAY.

13 A NO BULLETS WERE FIRED INSIDE THE RESIDENCE.

14 Q SO NOTHING UNUSUAL WAS IN THE RESIDENCE?

15 A NOTHING UNUSUAL WAS IN THE RESIDENCE, NO, SIR.

16 MR. GREELEY: NOTHING FURTHER.

17 THE COURT: YOU CAN STEP DOWN AND BE
18 EXCUSED. WE APPRECIATE YOUR TIME. CALL YOUR NEXT
19 WITNESS.

20 MR. POPE: THE STATE WOULD CALL ANTHONY
21 WHITE.

22 ANTHONY WHITE, BEING FIRST DULY SWORN,
23 TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION BY MR. POPE:

25 Q DEPUTY, IF WOULD YOU STATE YOUR NAME AND SPELL

1 YOUR LAST NAME FOR THE COURT REPORTER PLEASE, SIR?

2 A ANTHONY WHITE. W-H-I-T-E.

3 Q DEPUTY WHITE, WHERE ARE YOU EMPLOYED?

4 A YORK COUNTY SHERIFF'S DEPARTMENT.

5 Q HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

6 A FIVE YEARS.

7 Q AND WHAT SPECIFIC ASSIGNMENT DO YOU HAVE WITHIN
8 THE SHERIFF'S DEPARTMENT?

9 A PATROL DEPUTY FOR THE WESTERN SIDE OF YORK
10 COUNTY.

11 Q AND YOU HAVE A PARTICULAR SHIFT THAT YOU ARE
12 ASSIGNED?

13 A I'M ASSIGNED TO D SHIFT.

14 Q IS THAT THE SAME AS FERRELL AND DAY?

15 A YES, SIR.

16 Q OKAY. I WILL CALL YOUR ATTENTION BACK TO
17 SUNDAY, FEBRUARY 19, SATURDAY NIGHT GOING INTO SUNDAY
18 MORNING, WERE YOU, WAS THAT YOUR SHIFT THAT NIGHT?

19 A YES, SIR.

20 Q Y'ALL DO SIX PM TO SIX AM?

21 A YES, SIR.

22 Q AND YOU WERE ON DUTY THAT NIGHT?

23 A YES, SIR.

24 Q OKAY. WITHOUT GETTING INTO WHAT HE SAID, DID
25 YOU HAPPEN TO HAVE A CALL FROM DEPUTY FERRELL FROM

1 THE LAWRENCE ROAD LOCATION?

2 A YES, SIR.

3 Q NOW DID YOU ACTUALLY GO TO LAWRENCE ROAD
4 YOURSELF?

5 A NO, SIR.

6 Q BASED ON YOUR CONVERSATION WITH DEPUTY FERRELL,
7 WHAT IF ANYTHING DID YOU DO AS FAR AS THIS CASE?

8 A I WENT TO FLAT STONE DRIVE.

9 Q OKAY. AND WHAT WAS YOUR PURPOSE OF GOING TO
10 FLAT STONE DRIVE?

11 A TO SPEAK WITH MR. BOLIN.

12 Q OKAY. WHEN YOU SAY MR. BOLIN YOU ARE TALKING
13 ABOUT THE DEFENDANT BERRY BOLIN?

14 A YES, SIR.

15 Q DID YOU KNOW MR. BERRY BOLIN IF YOU SAW HIM?

16 A YES, SIR.

17 Q OKAY. AND WAS HE AT THE RESIDENCE AT FLAT STONE
18 DRIVE?

19 A NO, SIR.

20 Q OKAY. WHAT DID YOU DO THEN?

21 A I WAS ABOUT TO LEAVE WHEN HE PULLED IN.

22 Q OKAY. WHEN YOU SAY PULLED IN, WHAT WAS HE
23 DRIVING?

24 A HE WAS DRIVING A TRUCK.

25 Q OKAY. DO YOU RECALL WAS ANYBODY WITH HIM AT

1 THAT TIME?

2 A YES, SIR, THERE WAS A FEMALE WITH HIM ALSO.

3 Q OKAY. AND WHAT IF ANY CONVERSATION DID YOU HAVE
4 WITH MR. BOLIN?

5 A I ASKED HIM IF HE HAD BEEN AT A PARTY ON
6 LAWRENCE ROAD.

7 Q OKAY. AND WHAT DID HE TELL YOU

8 A HE REPLIED NO.

9 Q OKAY. WHAT IF ANYTHING ELSE DID YOU ASK HIM?

10 A I ASKED HIM DID HE MIND GOING DOWN TO CLOVER PD
11 AND SPEAK WITH SOME PEOPLE AND HE SAID THAT HE WOULD.

12 Q OKAY. DID YOU PROMISE HIM ANYTHING IF HE'D COME
13 DOWN THERE AS FAR AS CHARGES OR ANYTHING OF THAT
14 NATURE?

15 A NO, SIR.

16 Q DID YOU THREATEN HIM IN ANY MANNER TO GET HIM TO
17 COME?

18 A NO, SIR.

19 Q WAS HE UNDER ARREST AT THAT TIME?

20 A NO, SIR.

21 Q OKAY. AND HE WAS AT HIS RESIDENCE OR A FAMILY
22 MEMBER'S RESIDENCE?

23 A YES, SIR.

24 Q WAS HE FREE TO GO IN IF HE CHOSE TO?

25 A YES, SIR.

1 Q OKAY. BUT IN FACT HE GOT IN HIS VEHICLE. DID
2 YOU OBSERVE WHERE HE WENT WHEN HE LEFT THERE?

3 A WHEN WE LEFT FLAT STONE HE DROVE THROUGH 321 TO
4 THE CLOVER POLICE DEPARTMENT.

5 Q WHEN HE GOT TO CLOVER POLICE DEPARTMENT WHAT IF
6 ANY CONVERSATION DID YOU HAVE WITH HIM AT THE CLOVER
7 POLICE DEPARTMENT?

8 A HE STEPPED OUT OF THE CAR AND ASKED ME WHAT HE
9 NEEDED TO DO AND I TOLD HIM TO JUST STEP INSIDE THE
10 LOBBY AND TELL HIS NAME AND SOMEBODY WOULD SPEAK WITH
11 HIM.

12 Q OKAY. WAS THAT THE EXTENT OF YOUR CONVERSATION
13 WITH HIM?

14 A YES, SIR.

15 Q OKAY. DID YOU HAVE ANYMORE INVOLVEMENT IN THE
16 INVESTIGATION AS FAR AS GOING TO LAWRENCE ROAD OR
17 GOING TO CLOVER?

18 A NO, SIR.

19 Q OKAY. SO HE INDICATED HE HAD NOT BEEN AT THE
20 PARTY ON LAWRENCE ROAD BUT HE DID AGREE TO GO TO
21 CLOVER PD AND TALK TO PEOPLE, IS THAT CORRECT?

22 A YES, SIR.

23 Q DID IT APPEAR THAT HE WAS GOING VOLUNTARILY OF
24 HIS OWN FREE WILL?

25 A YES, SIR.

1 Q IS THERE ANYTHING YOU DID TO INTIMIDATE HIM OR
2 FORCE HIM TO GO DOWN THERE?

3 A NO, SIR.

4 Q ALL RIGHT. THANK YOU, SIR. ANSWER ANY
5 QUESTIONS MR. GREELEY MAY HAVE.

6 MR. GREELEY: MAY IT PLEASE THE COURT.
7 CROSS EXAMINATION BY MR. GREELEY:

8 Q DEPUTY WHITE, GOOD AFTERNOON.

9 A HOW ARE YOU.

10 Q NOW WHEN YOU FIRST GOT TO BERRY'S HOUSE HE
11 WASN'T THERE, IS THAT CORRECT?

12 A YES, SIR.

13 Q AND YOU SAID THEN HE ARRIVED AS YOU WERE GETTING
14 READY TO LEAVE?

15 A YES, SIR.

16 Q YOU HAD NOT LEFT YET?

17 A NO, SIR.

18 Q WHAT WERE YOU DRIVING?

19 A THE SHERIFF'S PATROL CAR.

20 Q MARKED SHERIFF'S POLICE OFFICER?

21 A YES, SIR.

22 Q GOT THE BLUE LIGHTS ON THE TOP?

23 A YES, SIR.

24 Q HE KNEW THAT YOU WERE A POLICE OFFICER WHEN HE
25 PULLED INTO THE DRIVEWAY, DIDN'T HE?

1 A YES, SIR.

2 Q AND HE PULLED ON INTO THE DRIVEWAY?

3 A YES, SIR.

4 Q DIDN'T HE? OKAY. AND OTHER THAN SAYING HE WAS
5 NOT AT THE PARTY, HE WAS COOPERATIVE WITH YOU THAT
6 NIGHT?

7 A YES, SIR.

8 Q POLITE?

9 A YES, SIR.

10 Q DID JUST WHAT YOU ASKED HIM TO DO, DIDN'T HE?

11 A YES, SIR.

12 Q OKAY. AND HE DROVE HIMSELF AND YOU FOLLOWED
13 HIM, IS THAT CORRECT?

14 A YES, SIR.

15 Q AND HE DROVE FINE TO THE CLOVER POLICE
16 DEPARTMENT, DIDN'T HE?

17 A YES, SIR.

18 Q NOW IF HE WAS DRUNK OR ANYTHING LIKE THAT, YOU
19 WOULDN'T HAVE LET HIM DRIVE --

20 A NO, I WON'T.

21 Q ---TO THE POLICE DEPARTMENT, WOULD YOU?

22 A NO, SIR.

23 Q OKAY. AND SO HE PULLED UP TO CLOVER POLICE
24 DEPARTMENT AND YOU TOLD HIM WHERE TO GO?

25 A HE ASKED ME WHERE HE NEEDED TO GO AND I TOLD HIM

1 TO STEP IN THE LOBBY, SOMEBODY WOULD TALK TO HIM.

2 Q AND HE DID THAT?

3 A YES, SIR.

4 Q IS THAT CORRECT?

5 A YES, SIR.

6 Q IS THE LAST CONTACT YOU HAD WITH MR. BOLIN?

7 A YES, SIR.

8 Q YOU'VE HAD NO FURTHER CONTACT WITH HIM?

9 A NO, SIR.

10 Q OKAY. DID YOU EVER CALL ANYBODY WITH THE
11 SHERIFF'S OFFICE THAT NIGHT WITH ANY INFORMATION THAT
12 THERE MAY HAVE BEEN SHOOTING COMING FROM THE CAR?

13 A NO, SIR.

14 Q OKAY.

15 MR. GREELEY: THAT'S ALL I HAVE.

16 REDIRECT EXAMINATION BY MR. POPE:

17 Q DID YOU EVER RECEIVE ANY INFORMATION THAT THERE
18 WAS SHOOTING COMING FROM THE CAR?

19 A NO, SIR, I DIDN'T.

20 Q OKAY. THANK YOU.

21 MR. POPE: THAT'S IT, YOUR HONOR.

22 RECROSS EXAMINATION BY MR. GREELEY:

23 Q SO YOU DIDN'T TALK WITH THE DISPATCHER AT THE
24 SHERIFF'S DEPARTMENT WHO HAD BEEN GIVEN INFORMATION
25 THROUGH THE 911 TAPE THAT PEOPLE WERE SHOOTING AT THE

1 DEALS?

2 A WELL, I HEARD THAT CALL GO OUT, BUT I DIDN'T GET
3 INFORMATION PERSONALLY. I WAS WORKING --

4 Q SO YOU HEARD THAT CALL?

5 A YES, SIR.

6 Q SO YOU HAD INFORMATION THAT THERE MAY HAVE BEEN
7 SHOOTING COMING FROM THE CAR?

8 A ACTUALLY NOT FROM A CAR. THEY JUST SAID THERE
9 WAS GUNSHOTS FROM THE AREA. THAT'S WHAT WE GOT FROM
10 A NEIGHBOR.

11 Q DID YOU RECEIVE INFORMATION THAT BRADLEY DEAL
12 HAD STATED TO 911 THAT PEOPLE HAD COME BY AND WERE
13 SHOOTING AT THEM?

14 A I DON'T KNOW WHO STATED WHAT AS FAR AS THAT
15 GOES.

16 THE COURT: YOU CAN STEP DOWN AND BE
17 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU.

18 A YES, SIR.

19 MR. POPE: THE STATE WOULD CALL SERGEANT
20 PHILLIP JAMISON.

21 (BENCH CONFERENCE.)

22 THE COURT: I'M BEING TOLD THAT THIS
23 WITNESS MAY BE A LITTLE LENGTHY AND IT'S GETTING
24 CLOSE TO A BREAK TIME SO WE'LL TAKE A BREAK NOW
25 BEFORE WE GET INTO THIS WITNESS. JUST FOLLOW THE

1 BAILIFF TO THE JURY ROOM.

2 (THE JURY EXITS THE COURTROOM AT 03:38
3 PM AND COURT'S IN RECESS.)

4 (COURT RESUMES AT 03:58 PM AND THE JURY
5 RETURNS TO THE COURTROOM AT 03:58 PM.)

6 THE COURT: CALL YOUR NEXT WITNESS.

7 MR. POPE: THE STATE WOULD CALL SERGEANT
8 PHILLIP JAMISON.

9 PHILLIP JAMISON, BEING FIRST DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION BY MR. POPE:

12 Q SERGEANT JAMISON, IF WOULD YOU STATE YOUR NAME
13 AND SPELL YOUR LAST NAME FOR THE COURT REPORTER?

14 A PHILLIP LEE JAMISON. J-A-M-I-S-O-N.

15 Q AND SERGEANT JAMISON, WHERE ARE YOU EMPLOYED?

16 A YORK COUNTY SHERIFF'S OFFICE.

17 Q AND ARE YOU CURRENTLY ON DUTY WITH THE SHERIFF'S
18 DEPARTMENT AT THIS TIME?

19 A NO, SIR, I'M ON LEAVE.

20 Q WHERE ARE ASSIGNED NOW OR WHAT WHAT ARE YOU
21 DOING NOW?

22 A RIGHT NOW I'M JUST FINISHING UP COMPLETING MY
23 TRAINING ON DEPLOYMENT TO IRAQ.

24 Q AS FAR AS, YOU ARE GOING ON LEAVE BUT YOU ARE
25 STILL EMPLOYED WITH THE SHERIFF'S DEPARTMENT, IS THAT

1 CORRECT?

2 A YES, SIR, I AM.

3 Q AND HAS YOUR RANK CHANGED SINCE YOU WENT INTO
4 THE MILITARY OR ANYTHING AS FAR AS HERE?

5 A NO, SIR.

6 Q OKAY. SO YOU ARE A SERGEANT, THAT IS CORRECT?

7 A YES, SIR.

8 Q COULD YOU TELL THE JURY WHAT YOUR DUTIES ARE AS
9 A SHERIFF WITH THE SHERIFF'S DEPARTMENT OFFICE?

10 A I SUPERVISE WHICHEVER SIDE OF THE COUNTY THAT
11 I'M ASSIGNED TO BE IT THE EAST SIDE OR THE WEST SIDE
12 OF THE COUNTY.

13 Q I WANT TO CALL YOUR ATTENTION BACK TO LATE
14 SATURDAY EVENING OF FEBRUARY 18, 2006, UP TO SUNDAY
15 FEBRUARY 19, WERE YOU WORKING ON THAT SHIFT THAT
16 NIGHT?

17 A YES, SIR, I WAS.

18 Q AND WHAT SIDE OF THE COUNTY WERE YOU ASSIGNED
19 THAT NIGHT?

20 A I WAS ASSIGNED THE EASTERN SIDE OF THE COUNTY
21 CONSISTING OF ROCK HILL/FORT MILL AREA.

22 Q DID THERE COME A TIME WHEN YOU MOVED OVER TO THE
23 WESTERN SIDE?

24 A YES, SIR, AROUND 12 O'CLOCK MIDNIGHT.

25 Q OKAY. CAN YOU TELL THE JURY WHAT IF ANYTHING

1 OCCURRED AS YOU WERE COMING TO THE WESTERN SIDE?

2 A I HAD, I LEFT THE EASTERN SIDE COMING DOWN 161
3 TURNED ONTO HIGHWAY 55 EAST TOWARD CLOVER AND A CALL
4 CAME OUT IN REGARDS TO SHOTS BEING FIRED ON LAWRENCE
5 ROAD.

6 Q OKAY. AND SO WHERE DID YOU PROCEED TO AT THAT
7 POINT?

8 A I WAS PROCEEDING TO LAWRENCE ROAD AND ANOTHER
9 CALL CAME BACK OUT THAT WE HAD VICTIMS AT THE CLOVER
10 POLICE DEPARTMENT.

11 Q OKAY. SO WHAT DID YOU DO?

12 A I WAS ON 55 EAST AT THAT TIME, APPROXIMATELY
13 MAYBE THREE-FOUR-FIVE MILES FROM CLOVER POLICE
14 DEPARTMENT, I INDICATED TO DISPATCH THAT I WOULD
15 PROCEED TO CLOVER POLICE DEPARTMENT.

16 Q OKAY. WHEN YOU GOT TO CLOVER POLICE DEPARTMENT
17 WHAT DID YOU DO OBSERVE?

18 A THERE WAS A, THERE WAS CRIME SCENE TAPE AND
19 MEDICAL PERSONNEL AND CLOVER POLICE PERSONNEL THAT
20 WAS WORKING WITH SOME THE INDIVIDUALS, VICTIMS, THAT
21 WAS INSIDE OF A VEHICLE IN THE BACK PARKING LOT.

22 Q NOW CLOVER POLICE DEPARTMENT, IT'S IN THE CITY
23 LIMITS OF CLOVER?

24 A YES, SIR.

25 Q BUT IT'S STILL IN YORK COUNTY, IS THAT THE?

1 A YES, SIR.

2 Q NOW LAWRENCE ROAD, IS IT IN THE CITY LIMITS OF
3 CLOVER?

4 A IT'S IN THE COUNTY.

5 Q IT'S OUT IN THE COUNTY?

6 A YES, SIR.

7 Q SO THE COUNTY PART WAS YOUR CASE AND THAT PART
8 OF THIS HAD COME INTO THE CITY?

9 A AND PART OF IT CAME INTO THE CITY, SO IN ESSENCE
10 IT STILL MEANS THAT WE HAD TO, HAD TO STILL KIND OF
11 WORK IT.

12 Q OKAY. AND SO WHAT DID YOU DO IN THAT REGARD;
13 WERE YOU THE FIRST OFFICER IN RANK FOR THE SHERIFF'S
14 DEPARTMENT TO ARRIVE THERE?

15 A YES, SIR.

16 Q OKAY. SO WHAT DID YOU DO?

17 A I STARTED WRITING DOWN THE NAMES OF MEDICAL
18 PERSONNEL AND POLICE PERSONNEL THAT WAS THERE INSIDE
19 THE CRIME SCENE.

20 Q AND WHAT'S THE PURPOSE OF DOING THAT?

21 A SO THAT I BE ABLE TO PUT TOGETHER A LIST OF
22 PEOPLE THAT WAS THERE AND INVOLVED.

23 Q OKAY.

24 A BASICALLY JUST CREATING A LOG.

25 Q DID THERE COME A TIME WHEN YOU LEFT THE PARKING

1 LOT AND WENT INSIDE TO ASSIST?

2 A YES, SIR, THERE DID.

3 Q AND TO YOUR KNOWLEDGE DID CLOVER POLICE
4 DEPARTMENT MAINTAIN A LOG ALSO?

5 A YES, SIR.

6 Q OKAY. AND WHAT IF ANY ASSISTANCE DID YOU RENDER
7 WHEN YOU GOT INSIDE THE POLICE DEPARTMENT?

8 A ONE OF THE POLICE, THE CLOVER POLICE OFFICER HAD
9 INDICATED TO ME AFTER I HAD SPOKE WITH HIM AND SAID
10 THAT I WAS NEEDED ON THE INSIDE, AND THEY TOLD ME,
11 SAID THAT'S FINE, WE GOT THIS. AT THAT TIME I WENT
12 INSIDE AND PROCEEDED TAKING STATEMENTS FROM
13 INDIVIDUALS.

14 Q OKAY. NOW IN ADDITION TO THE UNIFORM OFFICERS
15 OF THE SHERIFF OFFICE, WERE THERE OVER ASPECTS OF THE
16 SHERIFF'S OFFICE, OTHER DIVISIONS, THAT WERE CALLED
17 OUT TO HELP TOO?

18 A YES, SIR, FORENSICS AND INVESTIGATORS,
19 DETECTIVES.

20 Q OKAY. NOW AS FAR AS, IT SOUNDS KIND OF CLICHE,
21 BUT INVESTIGATORS, THEY ACTUALLY FOLLOW UP ON THE
22 SPECIFICS OF THE CASE?

23 A YES, SIR.

24 Q OKAY. AND IN TAKING STATEMENTS, WERE YOU
25 ASSISTING THE INVESTIGATORS OR WERE YOU CONDUCTING

1 THE INVESTIGATION, HOW WAS THAT?

2 A I WAS NOT CONDUCTING THE INVESTIGATION. I WAS
3 BASICALLY JUST PROVIDING INDIVIDUALS THAT WAS THERE
4 ON THE SCENE THAT EITHER SAW OR HEARD OR WITNESSED
5 ANYTHING AT THE LAWRENCE ROAD OF THEIR, WITH THE
6 VICTIMS THAT WAS IN THE PARKING LOT, A FORM, A
7 VOLUNTARY STATEMENT FORM, THAT THEY COULD WRITE
8 THINGS DOWN.

9 Q NOW YOU ARE NOT AT LAWRENCE ROAD, YOU ARE AT
10 CLOVER POLICE?

11 A I'M AT CLOVER POLICE DEPARTMENT.

12 Q OKAY. DID A NUMBER OF INDIVIDUALS THAT MAY OR
13 MAY NOT OBSERVED OR BEEN INVOLVED IN THE LAWRENCE
14 ROAD INCIDENT, DID THEY COME TO CLOVER POLICE
15 DEPARTMENT?

16 A THERE WAS A NUMBER OF PEOPLE THERE.

17 Q OKAY. AND DID YOU HAVE THE OPPORTUNITY TO TALK
18 TO A NUMBER OF OTHERS?

19 A ONLY, I SPOKE TO MOSTLY PEOPLE THAT WAS
20 PROVIDING ME WITH INFORMATION AND THERE WAS OTHER
21 PEOPLE THAT WAS ASKING ME OR INQUIRING ABOUT THE
22 VICTIMS.

23 Q I GOT YOU. NOW DID YOU HAVE AN OPPORTUNITY AT
24 SOME POINT TO COME IN CONTACT WITH THE DEFENDANT
25 MR. BOLIN?

1 A YES, SIR, I DID.

2 Q OKAY. AND COULD YOU TELL THE JURY HOW THAT CAME
3 TO PASS?

4 A I WAS, I WAS OUTSIDE ORIGINALLY WITH THE, IN THE
5 PARKING LOT, AND I GOT A CALL FROM ONE OF MY OTHER
6 OFFICERS THAT INDICATED TO ME THAT THEY WAS EN ROUTE
7 TO CLOVER POLICE DEPARTMENT AND MR. BOLIN WAS EN
8 ROUTE TO CLOVER POLICE DEPARTMENT AS WELL AND HE
9 THEN -- THIS WAS SAID ON THE OVER THE RADIO.

10 Q NOW WAS THAT DEPUTY WHITE?

11 A THAT WAS DEPUTY ANTHONY WHITE.

12 Q OKAY.

13 A AND THIS WAS INDICATED OVER THE RADIO, THEN HE
14 SAID THAT HE WOULD GIVE ME A 1021 WHICH IS BASICALLY
15 A PHONE CALL. HE CALLED ME ON MY CELL, MY CELL
16 PHONE, AND HE INDICATED TO ME THAT THERE WAS
17 INFORMATION THAT MR. BOLIN MAY HAVE BEEN ONE OF THE
18 SHOOTERS AT THE SCENE.

19 Q SO WHEN MR. BOLIN CAME TO THE POLICE DEPARTMENT
20 THERE AT CLOVER, WHEN HE SHOWED UP, DID YOU PLACE HIM
21 UNDER ARREST AS SOON AS HE WALKED IN?

22 A NO, SIR, I DIDN'T.

23 Q OKAY. TELL THE JURY WHAT IF ANYTHING YOU DID AS
24 FAR AS MR. BOLIN WHEN HE CAME?

25 A OKAY. I WENT INSIDE THE CLOVER POLICE

1 DEPARTMENT, THAT'S THE LOBBY AREA, THAT'S WHERE
2 MR. BOLIN WAS WAITING. I ASKED HIM TO COME INTO THE
3 SHERIFF'S OFFICE SUBSTATION WHICH IS JUST GOING
4 THROUGH A DOOR RIGHT INTO THE SUBSTATION, AND I ASKED
5 HIM WAS HE BE WILLING TO WRITE ME A STATEMENT AS TO
6 ANYTHING THAT HE SEEN OR HEARD OR SAW ON LAWRENCE
7 ROAD AND HE INDICATED THAT HE WOULD. HIS FIANCEE OR
8 GIRLFRIEND WAS WITH HIM AND I SAID SHE WAS WELCOME TO
9 COME IN AND SIT IN THE OFFICE AS WELL.

10 I THEN GAVE MR. BOLIN A MIRANDA RIGHTS
11 FORM AND I PUT IT DOWN IN FRONT OF HIM AND I READ
12 LINE FOR LINE THE MIRANDA RIGHTS AND ASKED HIM DID HE
13 UNDERSTAND. HE SAID HE DID AND I SHOWED HIM WHERE TO
14 SIGN.

15 Q OKAY. NOW I'M GOING TO SHOW YOU WHAT'S BEEN
16 MARKED AS STATE'S EXHIBIT NUMBER 125 FOR
17 IDENTIFICATION. ASK IF YOU CAN TAKE A LOOK AT THIS
18 COPY AND TELL ME IF YOU CAN IDENTIFY THAT?

19 A YES, SIR.

20 Q AND WHAT IS THAT ITEM?

21 A THAT'S THE SHERIFF'S OFFICE MIRANDA RIGHTS FORM
22 AND THE WAIVER OF THE RIGHTS.

23 Q AND WHOSE SIGNATURES APPEARS THEREON?

24 A MR. BOLIN AND MINE.

25 Q OKAY. AND DID HE, DID HE SIGN THAT IN YOUR

1 PRESENCE?

2 A HE DID.

3 Q OKAY. AND YOUR SIGNATURE APPEARS THERE ALSO?

4 A YES, MY SIGNATURE IS ON THE PART WHERE HE
5 WAIVERS THOSE RIGHTS.

6 Q OKAY. THANK YOU.

7 MR. POPE: YOUR HONOR, I MOVE TO ADMIT
8 STATE'S EXHIBIT 125 FOR IDENTIFICATION INTO EVIDENCE.

9 MR. GREELEY: PREVIOUS OBJECTION.

10 THE COURT: SUBJECT TO EARLIER RULINGS
11 IT'S ALLOWED IN.

12 (STATE'S EXHIBIT 125 MIRANDA FORM IN
13 EVIDENCE.)

14 Q SERGEANT, I'M GOING TO ASK, REFERRING TO THE TOP
15 OF THE FORM FIRST, IF YOU COULD RELATE TO THE JURY
16 THE RIGHTS THAT YOU DISCUSSED WITH MR. BOLIN?

17 A I INDICATED TO MR. BOLIN THAT THIS WAS HIS
18 MIRANDA RIGHTS, AND THAT YOUR RIGHTS ARE, BEFORE YOU
19 ARE ASK, BEFORE I ASK YOU ANY QUESTIONS I WANT YOU TO
20 BE ADVISED OF YOUR RIGHTS. YOU HAVE THE RIGHT TO
21 REMAIN SILENT. ANYTHING YOU SAY CAN AND WILL BE USED
22 AGAINST YOU IN A COURT OF LAW. YOU HAVE THE RIGHT TO
23 TALK TO AN ATTORNEY AND HAVE HIM OR HER PRESENT WITH
24 YOU WHILE YOU ARE BEING QUESTIONED. IF YOU CANNOT
25 AFFORD TO HIRE AN ATTORNEY, ONE WILL BE APPOINTED TO

- 1 REPRESENT YOU BEFORE ANY QUESTIONS IF YOU WISH. YOU
2 CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND
3 NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS. DO
4 YOU UNDERSTAND THESE, EACH OF THESE RIGHTS AS I HAVE
5 EXPLAINED THEM TO YOU. AND MR. BOLIN CHECKED YES AND
6 HE PROVIDED ME WITH HIS SIGNATURE.
- 7 Q AND THERE IS A SIGNATURE BELOW THE CHECK?
- 8 A YES.
- 9 Q WHOSE SIGNATURE IS THAT?
- 10 A THAT'S MR. BOLIN.
- 11 Q AND DID HE DO THAT IN YOUR PRESENCE?
- 12 A YES, SIR.
- 13 Q LIKEWISE THERE IS A DATE WHEN IT HAPPENED,
14 RIGHT?
- 15 A YES, SIR.
- 16 Q IT HAPPENED THAT MORNING?
- 17 A YES, SIR.
- 18 Q LET ME ASK YOU WHEN YOU WERE READING THESE
19 RIGHTS YOU HAD DIFFERENT LINES, DID HE APPEAR THAT HE
20 UNDERSTOOD WHAT YOU WERE TALKING ABOUT?
- 21 A YES, SIR.
- 22 Q WHEN YOU HAD A CONVERSATION WITH HIM YOU WERE IN
23 A ROOM WHERE HE WAS CLOSE, CLOSE AS I AM TO THIS
24 TABLE?
- 25 A HE WAS SITTING AT THE TABLE. I WAS STANDING.

1 Q OKAY.

2 A AND I WAS RIGHT BESIDE HIM.

3 Q OKAY. AND SO IT'S MR. BOLIN AND HIS GIRLFRIEND
4 OR FIANCEE AND YOURSELF, IS THAT CORRECT?

5 A HIS FIANCEE WAS SITTING AT ANOTHER DESK.

6 Q DID YOU THREATEN HIM IN ANY MANNER TO GET HIM TO
7 WAIVE THOSE RIGHTS?

8 A NO, SIR.

9 Q OR TO UNDERSTAND THEM AT THIS POINT?

10 A NO, SIR.

11 Q DID YOU PROMISE HIM ANYTHING IF HE WOULD
12 COOPERATE WITH YOU?

13 A NO, SIR.

14 Q OKAY. AT THAT POINT WHEN YOU WERE READING THOSE
15 RIGHTS, NOW WAS THIS ONE OF THE FIRST THINGS YOU DID
16 AS FAR AS MR. BOLIN?

17 A YES, SIR.

18 Q OKAY. AT THAT POINT WAS HE UNDER ARREST AT THAT
19 TIME?

20 A NO, HE WAS WASN'T.

21 Q HE HAD COME THERE OF HIS OWN ACCORD?

22 A YES, SIR.

23 Q WAS HE FREE TO LEAVE AT THAT JUNCTURE AS FAR AS
24 YOU WERE CONCERNED?

25 A AS FAR AS I WAS CONCERNED HE WAS FREE TO LEAVE.

1 Q OKAY. DID HE APPEAR TO BE UNDER THE INFLUENCE
2 OF ALCOHOL OR DRUGS OR ANYTHING WHERE HE COULDN'T
3 UNDERSTAND YOU?

4 A NO, SIR.

5 Q OKAY. DID HE APPEAR THAT HE WAS VOLUNTARILY
6 INDICATING TO YOU THAT HE UNDERSTOOD THOSE RIGHTS?

7 A YES, SIR.

8 Q OKAY. WAS THERE ANY, BASED ON YOUR EXPERIENCE
9 AND YOUR OBSERVATIONS OF MR. BOLIN, DID YOU HAVE ANY
10 FEELING THAT HE DID NOT UNDERSTAND THOSE RIGHTS?

11 A NO, SIR, I DIDN'T.

12 Q OKAY. WHAT IS THE NEXT COMPONENT OF THE
13 STATEMENT? ONCE YOU NOW APPRISED HIM OF HIS RIGHTS
14 AND HE SAID THAT HE UNDERSTOOD THEM, WHAT IS THE NEXT
15 SECTION?

16 A IT'S THE WAIVER OF RIGHTS AND I ALSO READ THIS
17 TO HIM. THAT MR. BOLIN: I AM WILLING TO TALK TO
18 POLICE AND ANSWER QUESTIONS. I DO NOT WANT AN
19 ATTORNEY AT THIS TIME. I UNDERSTAND AND I KNOW WHAT
20 I'M DOING. NO PROMISE OR THREATS HAVE BEEN MADE TO
21 ME AND NO PRESSURE OF ANY KIND HAS BEEN MADE UPON ME,
22 AND I WITNESS IT AND MR. BOLIN SIGNS IT.

23 Q AND AGAIN THE SAME QUESTION, DID YOU THREATEN
24 HIM OR PROMISE HIM ANYTHING TO GET HIM TO DO IT?

25 A NO, SIR.

1 Q AND HE WAIVED THOSE RIGHTS FREELY?

2 A YES, SIR.

3 Q OKAY. NOW ULTIMATELY DID YOU HAVE A FORM THAT
4 YOU GAVE HIM THAT YOU ALLOWED HIM TO GIVE A
5 STATEMENT?

6 A YES, SIR.

7 Q OKAY. WHEN YOU GOT THAT STATEMENT DID YOU
8 QUESTION HIM OR HOW DID YOU GET THE INFORMATION ABOUT
9 THE STATEMENT HE GAVE YOU?

10 A I JUST PUT IT BEFORE HIM AND ASKED HIM TO WRITE
11 DOWN ANYTHING THAT HE REMEMBERED, RECALLED THAT HE
12 EITHER SEEN OR HE HEARD OR HE SAW.

13 Q YOU SAID AT THAT POINT HE WASN'T IN CUSTODY?

14 A NO, SIR.

15 Q OKAY. DID YOU ASK HIM ANY OTHER QUESTIONS OTHER
16 THAN WHAT YOU JUST SAID?

17 A I ASKED HIM ONE QUESTION. THEY ALSO ASKED HIM
18 WOULD HE BE WILLING TO SUBMIT TO A SEARCH OF HIS
19 PERSON AND VEHICLE AND I ASKED HIM ONE QUESTION THAT
20 A SEARCH OF HIM THAT WE WANTED TO DO A SMEAR FOR GUN
21 POWDER RESIDUE AND IF THERE WAS ANY REASON WHY THERE
22 WOULD BE ANY RESIDUE ON HIS HAND.

23 Q WHAT DID HE TELL YOU?

24 A HE SAID, YES, HE WOULD, THAT HE HAD BEEN FIRING
25 A GUN EARLIER THAT DAY.

1 Q EARLIER, NOT TALKING ABOUT THE LAWRENCE ROAD
2 INCIDENT, BUT TALKING ABOUT EARLIER?

3 A YES, TARGET PRACTICE.

4 Q AND THAT'S THE ONLY QUESTIONING YOU DID OF HIM?

5 A YES, SIR.

6 Q AS FAR AS WHAT HE ULTIMATELY WROTE IN HIS
7 STATEMENT, DID YOU LIKE SIT ACROSS FROM HIM LIKE THE
8 INVESTIGATORS DO AND SAY TELL ME WHAT HAPPENED THEN
9 AND TELL ME WHAT HAPPENED THEN, ANYTHING OF THAT
10 NATURE?

11 A HE WAS SITTING OVER AT ANOTHER DESK. THE DESK I
12 WAS SITTING AT I WAS DOING SOME TYPING AND STILL
13 PUTTING SOME OTHER NAMES AND ADDRESSES AND PHONE
14 NUMBERS TOGETHER FROM THE CRIME SCENE.

15 Q NOW IN ADDITION TO MR. BOLIN, WERE THERE OTHER
16 PEOPLE STATEMENTS THAT YOU LET KIND OF DO THE SAME
17 THING?

18 A YES, SIR.

19 Q GAVE THEM THE SHEET AND SAID TO FILL IT OUT?

20 A YES, SIR.

21 Q OKAY. NOW YOU SAY YOU ASKED PERMISSION TO
22 SEARCH BOTH HIS VEHICLE I THINK IT WAS IN THE PARKING
23 LOT?

24 A YES, SIR.

25 Q AND PERMISSION TO DO THE GUN POWDER RESIDUE?

1 A YES, SIR.

2 Q AS FAR AS THE PERMISSION TO SEARCH THE VEHICLE,
3 DID HE ALSO EXECUTE A FORM IN THAT REGARD WITH YOU?

4 MR. GREELEY: NO OBJECTION.

5 THE COURT: IN WITHOUT OBJECTION.

6 (STATE'S EXHIBIT 126 SEARCH FORM RECEIVED
7 INTO EVIDENCE.)

8 Q SHOW YOU STATE'S EXHIBIT 126, ASK YOU IF YOU
9 RECOGNIZE THAT FORM?

10 A YES, SIR. THIS IS THE YORK COUNTY SHERIFF'S
11 OFFICE PERMISSION TO SEARCH FORM THAT I PRESENTED TO
12 MR. BOLIN.

13 Q AND THE PURPOSE OF THAT WAS TO SEARCH HIS
14 VEHICLE, IS THAT CORRECT?

15 A HIS VEHICLE AND HIS PERSON.

16 Q OKAY. WAS HE COOPERATIVE WITH YOU?

17 A YES, SIR, HE WAS.

18 Q SO ULTIMATELY HE CAME TO THE POLICE DEPARTMENT
19 HE ALLOWED YOU TO SEARCH HIS VEHICLE, HE WAIVED HIS
20 RIGHTS, AND GAVE YOU A STATEMENT, IS THAT RIGHT?

21 A YES, SIR.

22 Q NOW DID YOU ACTUALLY CONDUCT A SEARCH OF HIS
23 VEHICLE?

24 A NO, SIR, I DID NOT.

25 Q WHO CONDUCTED THAT SEARCH OF THE VEHICLE?

1 A ONE OF THE FORENSIC UNIT GUYS, WAYNE SMITH.

2 Q OKAY. NOW AGAIN I AM GOING TO REFER YOUR
3 ATTENTION TO STATE'S EXHIBIT 127 AND ASK YOU, WITHOUT
4 TELLING ME WHAT IT SAYS YET, IF YOU CAN TELL ME IF
5 YOU CAN IDENTIFY THAT?

6 A THAT'S THE WITNESS VOLUNTARY STATEMENT THAT I
7 SIGNED AS A WITNESS THAT MR. BOLIN GOT.

8 Q OKAY.

9 MR. GREELEY: NO NEW GROUNDS FOR
10 OBJECTION.

11 THE COURT: OKAY. BASED ON EARLIER RULING
12 IT IS IN.

13 (STATE'S EXHIBIT 127 STATEMENT RECEIVED
14 INTO EVIDENCE.)

15 MR. POPE: STATE'S EXHIBIT 127, YOUR
16 HONOR.

17 Q NOW SERGEANT, SO ULTIMATELY YOU GAVE HIM, IT'S A
18 COPY, BUT YOU GAVE HIM THIS SHEET?

19 A YES, SIR.

20 Q AND ALLOWED HIM TO WRITE OUT A STATEMENT?

21 A YES, SIR.

22 Q OKAY. DID YOU GO THROUGH HIS STATEMENT WITH HIM
23 AND TELL HIM THIS OUGHT TO BE CHANGED OR THAT OUGHT
24 TO BE CHANGED?

25 A I JUST ASKED, WHEN HE COMPLETED IT, I ASKED HIM

1 WAS THAT IT, WAS THAT THE END. HE SAID, YES. I PUT
2 A ZIG ZAG MARK ON THE REMAINING LINES TO, AS AN
3 INDICATION THAT IT'S NOT GOING TO BE ALTERED OR
4 WOULDN'T BE ALTERED BY ANY OTHER PERSON AND WE BOTH
5 SIGNED OFF ON IT.

6 Q OKAY. WHEN HE GAVE THAT STATEMENT, YOU SAY HE
7 SAT AT A DESK AND WROTE IT, DID IT APPEAR TO BE FREE
8 AND VOLUNTARY WHEN HE GAVE THAT STATEMENT?

9 A YES, SIR.

10 Q AS FAR AS INSTRUCTIONS OF WHAT TO PUT OR WHAT TO
11 DO, WHAT DID YOU TELL HIM IN REGARD TO WHAT THE RIGHT
12 OF WHAT TO DO?

13 A ONLY THE THINGS THAT HE OBSERVED OR THAT HE SAW
14 OR HE HEARD FROM THE SCENE.

15 Q JUST TELL US WHAT YOU KNOW?

16 A JUST TELL US WHAT YOU KNOW.

17 Q OKAY. ALL RIGHT. OTHER THAN MARKING OUT OR
18 MARKING IT AT THE END AND OF COURSE THE JURY WILL SEE
19 IT, BUT MARKING AT THE END TO MAKE SURE THERE WAS NO
20 FURTHER WRITING, DID YOU REVIEW ACTUALLY EVEN WHAT HE
21 SAID?

22 A NO, SIR, I DIDN'T.

23 Q OKAY. WHAT WERE YOU DOING WITH THESE STATEMENTS
24 THAT YOU WERE TAKING?

25 A I WAS JUST COMPILING THEM FOR THE INVESTIGATORS.

1 Q OKAY. AND SO YOU TURNED THOSE OVER ULTIMATELY
2 TO THE INVESTIGATORS?

3 A YES, SIR.

4 Q OKAY. IN PARTICULAR, DETECTIVE PATTERSON AND
5 LIEUTENANT HAGER, DID YOU MAKE THEM AWARE OF THE
6 STATEMENT AND THE WAIVER THAT HAD TAKEN PLACE?

7 A I MADE THEM AWARE OF ALL STATEMENTS THAT I HAD
8 TAKEN THAT NIGHT. I MADE THEM AWARE OF MR. BOLIN'S
9 STATEMENT, THE PERMISSION TO SEARCH, AND THE WAIVER
10 OF HIS MIRANDA RIGHTS.

11 Q OKAY. AND ANY OF THE STATEMENTS YOU SAID YOU
12 DIDN'T EVEN REVIEW IT, YOU DIDN'T DO FOLLOW UP
13 QUESTIONS OR ANYTHING OF THAT NATURE?

14 A NO, SIR.

15 Q WITH ANY OF THE FOLKS YOU TOOK STATEMENTS FROM?

16 A NO, SIR, I DIDN'T.

17 Q OKAY. SO FROM CHRONOLOGY STANDPOINT YOU READ
18 HIM HIS RIGHTS, SOME POINT IN BETWEEN THEN HE DOES
19 GUN POWDER RESIDUE AND A SEARCH OF HIS VEHICLE, AND
20 THEN HE HAS AN OPPORTUNITY TO SIT DOWN AT A TABLE AND
21 WRITE THAT STATEMENT?

22 A YES, SIR.

23 Q OKAY. WHAT TIME WAS THAT STATEMENT?

24 A THE STATEMENT WAS COMPLETED AT 0237.

25 Q OKAY. NOW AT THE TIME OF YOUR DEALING WITH HIM

1 AND I'VE ASKED YOU THIS PREVIOUSLY, AT THE TIME
2 YOU'RE DEALING WITH HIM WAS HE UNDER ARREST?

3 A NO, SIR.

4 Q OKAY. WAS HE FREE TO LEAVE?

5 A YES, SIR.

6 Q OKAY. ULTIMATELY YOU GAVE THE INFORMATION TO
7 THE INVESTIGATORS DID HE ACTUALLY HAVE AN OPPORTUNITY
8 TO GO UP ONE MORE TIME UPSTAIRS AND TALK TO THE
9 INVESTIGATORS?

10 A YES, SIR, HE DID.

11 Q DID THERE COME A TIME AT SOME POINT LATER IN THE
12 MORNING HOURS WHEN HE HAD TALKED WITH THE
13 INVESTIGATORS THAT YOU WERE INFORMED THAT HE WAS NOT
14 FREE TO LEAVE?

15 A YES, SIR, AT THAT POINT WAS.

16 Q SO AT SOME POINT FROM MIDNIGHT ON COMING INTO
17 THE MORNING HOURS AT THE END OF YOUR SHIFT HE WAS
18 THERE MOST OF THAT EVENING, IS THAT CORRECT?

19 A YES, SIR.

20 Q AND ULTIMATELY HE WAS PLACED IN CUSTODY?

21 A YES, HE WAS.

22 Q OKAY.

23 MR. POPE: YOUR HONOR, PERMISSION TO
24 PUBLISH THE STATEMENT.

25 Q IF YOU COULD RELATE TO THE JURY WHAT MR. BOLIN

1 TOLD YOU IN THAT INITIAL STATEMENT PLEASE BRIEFLY?

2 A A VOLUNTARY STATEMENT. I, BERRY BOLIN, KNOW AND
3 UNDERSTAND MY RIGHTS HAVING DECIDED TO ANSWER
4 QUESTIONS AT THIS TIME. I NOW MAKE THE FOLLOWING
5 STATEMENTS. WOKE UP AT 11:30 P.M. AT MY HOUSE.
6 WATCHED MOVIES UNTIL TWO OR TO THREE P.M. WITH MY
7 GIRLFRIEND. TOOK SHOWER THEN WENT TO MY AUNT'S
8 HOUSE. GIRLFRIEND WENT HOME TO TAKE SHOWER. I HUNG
9 OUT IN THE BACK YARD AND THE BUILDING AND SHOT AT
10 BIRD. AROUND 4:35 TO FIVE O'CLOCK THEN HUNG UP OUT A
11 LITTLE LONGER. DRANK ALCOHOL UNTIL 8:30 OR 9 O'CLOCK
12 THEN QUIT AND AT 9:30 WENT TO BRADLEY DEAL'S HOUSE.
13 LARGE COMMOTION, WENT OUTSIDE TO SEE IF IT WAS
14 SERIOUS OR NOT. SAW IT WAS SERIOUS. DID NOT WANT TO
15 GET, I'M NOT SURE ABOUT THAT WORD, IN POSSESSION OF,
16 MINOR IN POSSESSION OR ANYTHING LIKE THAT AND DROVE
17 TO GIRLFRIEND'S HOUSE. AND THEN TO MY HOUSE.

18 Q WAS THAT THE TOTALITY OF HIS STATEMENT AT THAT
19 TIME?

20 A YES, SIR.

21 Q OKAY. AND THEN YOU MARKED KIND OF A LINE AT THE
22 END, IS THAT CORRECT?

23 A I DID.

24 Q AND AGAIN YOU DIDN'T QUESTION HIM?

25 A NO, SIR.

1 Q IN ANY MANNER, SHAPE, OR OTHER THAN WHAT HE GAVE
2 YOU AT THAT TIME, IS THAT CORRECT?

3 A NO, SIR.

4 Q THANK YOU. BEG THE COURT'S INDULGENCE. ANSWER
5 ANY QUESTIONS MR. GREELEY MAY HAVE.

6 A YES, SIR.

7 MR. GREELEY: MAY IT PLEASE THE COURT.

8 CROSS EXAMINATION BY MR. GREELEY:

9 Q SERGEANT JAMISON, GOOD AFTERNOON.

10 A GOOD AFTERNOON, SIR.

11 Q YOU SAID THAT YOU WERE RIDING OVER TOWARDS
12 CLOVER FROM THE EAST SIDE TO THE WEST SIDE?

13 A YES, SIR.

14 Q OR THE WEST SIDE?

15 A FROM THE EAST TO THE WEST.

16 Q EAST TO THE WEST?

17 A YES, SIR.

18 Q AND AT SOME POINT IN TIME YOU GOT THIS CALL
19 ABOUT A SHOOTING OUT ON LAWRENCE ROAD?

20 A YES, SIR.

21 Q AND SHORTLY THEREAFTER YOU GOT A CALL ABOUT THE
22 SCENE AT THE POLICE DEPARTMENT?

23 A YES, SIR.

24 Q WERE THOSE CLOSE IN PROXIMITY?

25 A YES, SIR.

1 Q THEY WERE?

2 A YES, SIR.

3 Q AT THE TIME THAT YOU GOT THOSE, HOW FAR AWAY

4 WERE YOU FROM THE CLOVER POLICE DEPARTMENT?

5 A I'M NOT EXACTLY SURE, PROBABLY THREE-FOUR-FIVE

6 MILES. IT ONLY TOOK ME JUST A VERY SHORT TIME TO GET

7 THERE, FIVE MINUTES OR LESS.

8 Q OKAY. AND AT THE TIME THAT YOU ARRIVED THE EMS

9 WERE ALREADY THERE FROM YORK, IS THAT CORRECT?

10 A EMS WAS ON THE SCENE AND THE SCENE HAD CRIME

11 SCENE TAPE AROUND IT, YES.

12 Q SO EMS WERE ABLE TO GET THERE FROM YORK BEFORE

13 YOU WERE NOTIFIED OF ANY OF THESE GOINGS ON?

14 A APPARENTLY SO, YES, SIR.

15 Q NOW YOU MENTIONED THAT YOU TALKED WITH, YOU

16 RECEIVED A CALL FROM DEPUTY WHITE?

17 A YES, SIR.

18 Q WHEN BERRY WAS DRIVING IN FROM HIS HOUSE, IS

19 THAT RIGHT?

20 A I RECEIVED A CALL FROM DEPUTY WHITE.

21 Q LETTING YOU KNOW THAT?

22 A THAT HE WAS EN ROUTE TO CLOVER POLICE

23 DEPARTMENT.

24 Q OKAY. AND SO Y'ALL COMMUNICATE A GOOD BIT WHEN

25 SOMETHING LIKE THIS IS GOING ON OVER THE RADIO, ALL

1 THE DIFFERENT DEPUTIES AND OFFICERS AND WHATEVER, IS
2 THAT CORRECT?

3 A YOU DO GET A LOT OF TRAFFIC, YES, SIR.

4 Q OKAY. AND DO YOU LISTEN TO IT ALL?

5 A WELL, YOU LEARN TO LISTEN TO THAT THAT MEAN
6 SOMETHING FOR YOU.

7 Q YOU LEARN TO LISTEN TO WHAT'S IMPORTANT TO YOU?

8 A YES, SIR.

9 Q AND WHAT'S NOT IMPORTANT TO YOU?

10 A EXACTLY.

11 Q OKAY. AS YOU WERE GOING OVER TO CLOVER AND YOU
12 DECIDED TO GO TO THE POLICE DEPARTMENT?

13 A YES, SIR.

14 Q WHAT IF ANY INFORMATION DID YOU RECEIVE FROM THE
15 YORK COUNTY SHERIFF'S DEPARTMENT THAT THERE HAD BEEN
16 SHOOTING COMING FROM THE CAR OR FROM THE PEOPLE IN
17 THE CAR?

18 A THE INFORMATION THAT I RECEIVED IS THAT THE,
19 THAT THE VICTIMS, THERE WAS VICTIMS FROM LAWRENCE
20 ROAD AT THE CLOVER POLICE DEPARTMENT AND I INDICATED
21 TO MY DISPATCHER THAT I WOULD GO TO CLOVER POLICE
22 DEPARTMENT BECAUSE THAT'S WHERE I WAS CLOSER.

23 Q SO AT THAT POINT IN TIME NOBODY HAD GIVEN YOU
24 ANY INFORMATION THAT THE SHERIFF'S DEPARTMENT HAD
25 INFORMATION THAT ALLEGEDLY THERE HAD BEEN SHOOTING

- 1 FROM THE CAR?
- 2 A NO, SIR.
- 3 Q NOBODY TOLD YOU THAT?
- 4 A UH-HUH.
- 5 Q AND SO YOU WENT ON TO CLOVER?
- 6 A YES, SIR.
- 7 Q AND YOU SET UP THE SCENE TO DO NOT, LET ME
- 8 REPHRASE THAT. I DON'T LIKE THE WAY THAT SOUNDS
- 9 EITHER, OFFICER.
- 10 A OKAY.
- 11 Q OKAY. YOU BEGAN A CRIME SCENE LOG?
- 12 A I BEGAN A LIST OF THE PEOPLE THAT WAS THERE,
- 13 YES, SIR.
- 14 Q AND AT SOME POINT IN TIME YOU TOOK YOURSELF OFF
- 15 THE CRIME SCENE LOG AND BEGAN TO SEEK STATEMENTS OF
- 16 ALL THESE PEOPLE WHO WERE COMING IN?
- 17 A YES, SIR.
- 18 Q THERE WERE A LOT PEOPLE COMING INTO CLOVER OVER
- 19 THAT PERIOD OF TIME?
- 20 A YES, SIR.
- 21 Q WEREN'T THERE?
- 22 A YES, SIR.
- 23 Q A LOT OF YOUNG FOLKS?
- 24 A A LOT OF YOUNG FOLKS.
- 25 Q A LOT OF CELL PHONES?

1 A DON'T RECALL ANYONE TALKING ON CELL PHONES BUT
2 HARDLY EVERYONE HAS CELL PHONES.

3 Q ALL RIGHT. AND WHO HAD YOU TALKED TO AND TAKEN
4 STATEMENTS FROM PRIOR TO BERRY COMING THERE, DO YOU
5 RECALL?

6 A NO, SIR NOT THE NAMES.

7 Q IN REVIEWING FOR COURT TODAY DID YOU REVIEW TO
8 SEE WHAT PEOPLE YOU HAD ACTUALLY TALKED TO AND TAKEN
9 STATEMENTS FROM THAT EVENING?

10 A NO, SIR, I DID NOT.

11 Q ALL RIGHT. DO YOU RECALL THAT AT ABOUT 22
12 MINUTES AFTER MIDNIGHT YOU TOOK A STATEMENT FROM A
13 MR. HUBBARD?

14 A I DON'T RECALL NAMES.

15 Q WHO HAD BEEN IN THE CAR?

16 A I KNOW I TOOK SEVERAL STATEMENTS BUT I DON'T
17 RECALL WHO THE NAMES.

18 Q DO YOU RECALL AT ABOUT 1 A.M. THAT YOU ALSO TOOK
19 A STATEMENT FROM A MS. MCCARTER WHO HAD BEEN IN THE
20 CAR?

21 A I KNOW I TOOK SOME STATEMENTS FROM PEOPLE THAT
22 DROVE UP TO CLOVER POLICE DEPARTMENT. I DON'T RECALL
23 NAMES BECAUSE I WAS BASICALLY HANDING OUT FORMS AND
24 TRYING TO GET INFORMATION AND GETTING ADDRESSES AND
25 PHONE NUMBERS, IN WAYS THAT I COULD, THE DETECTIVES

- 1 COULD FOLLOW UP WITH THEM.
- 2 Q OKAY. NOW YOU MENTION THAT WHEN YOU TALKED WITH
3 BERRY HE WAS COOPERATIVE?
- 4 A YES, SIR.
- 5 Q HE APPEARED TO UNDERSTAND EVERYTHING HE WAS
6 DOING?
- 7 A YES, SIR.
- 8 Q WAS HE POLITE?
- 9 A VERY.
- 10 Q AND YOU TALKED TO HIM ABOUT WRITING OUT THE
11 STATEMENT?
- 12 A YES, SIR.
- 13 Q AND MICHELLE WAS WITH HIM, HIS GIRLFRIEND, IS
14 THAT CORRECT?
- 15 A YES, SIR.
- 16 Q DO YOU KNOW WHETHER OR NOT YOU DID A STATEMENT
17 OR HAD HER WRITE OUT A STATEMENT?
- 18 A SHE DID.
- 19 Q OKAY. AND PRIOR TO GIVING THE STATEMENT, HAVING
20 HIM DO THE STATEMENT, YOU HAD HIM SIGN A PERMISSION
21 TO SEARCH?
- 22 A YES, SIR.
- 23 Q RIGHT?
- 24 A YES, SIR.
- 25 Q DID YOU HAVE ANY PROBLEM WITH HIM GIVING YOU

1 THAT?

2 A NO, SIR.

3 Q HE GAVE YOU A PERMISSION TO SEARCH HIS TRUCK?

4 A HE DID.

5 Q AND IT WAS RIGHT OUTSIDE, WASN'T IT?

6 A DIRECTLY IN FRONT OF THE POLICE STATION.

7 Q HE HAD BROUGHT IT OVER THERE?

8 A YES, SIR.

9 Q AND DRIVEN IT?

10 A YES, SIR.

11 Q SO ALL Y'ALL HAD TO DO WAS WALK OUTSIDE IF YOU
12 WERE GOING TO SEARCH IT, RIGHT?

13 A YES, SIR.

14 Q DIDN'T EVEN HAVE TO GO ANYWHERE?

15 A YES, SIR.

16 Q PRETTY EASY?

17 A YES, SIR.

18 Q AND YOU TALKED WITH HIM ABOUT A GSR KIT?

19 A YES, SIR.

20 Q OKAY. AND AS YOU SAID AND OF COURSE

21 INVESTIGATOR SMITH WILL, MAY TESTIFY TODAY, IT'S UP

22 TO THE STATE, IN REGARDS TO THE FORENSICS, BUT WHY

23 DID YOU ASK HIM FOR A GSR KIT? WHAT IS YOUR

24 UNDERSTANDING OF WHAT IT DETERMINES?

25 A IT DETERMINES IF AN INDIVIDUAL HAS FIRED A

1 WEAPON RECENTLY.

2 Q AT SOME POINT IN THE PAST?

3 A AT SOME POINT IN THE PAST, YES, SIR.

4 Q NOW WHEN YOU TALKED WITH MR. HUBBARD AND HAD HIM
5 GIVE A WRITTEN STATEMENT AT 12:22 AM WHICH WOULD HAVE
6 BEEN APPROXIMATELY 15 MINUTES AFTER THEY HAD ARRIVED
7 AT CLOVER WITH THE CAR, DID YOU TELL HIM THAT Y'ALL
8 WOULD LIKE TO HAVE PERMISSION TO DO A GSR KIT ON
9 MR. HUBBARD WHO WAS ARRIVING IN THE CAR?

10 A NO, SIR, I DIDN'T.

11 Q MS. MCCARTER THAT YOU TALKED TO AT 1 A.M. WHICH
12 WAS PRIOR TO MR. BOLIN, MS. MCCARTER WAS THE FEMALE
13 WHO WAS IN THE CAR?

14 A OKAY.

15 Q DID YOU ASK HER IF SHE WOULD OBJECT TO HAVING A
16 GSR KIT PERFORMED ON HER?

17 A NO, SIR, I DIDN'T.

18 Q SO YOU DIDN'T ASK THEM TO DO GSR KITS?

19 A NO, SIR.

20 Q AT ANY TIME LATER THAT MORNING OR ANY TIME AFTER
21 THAT DID YOU GO BACK TO ASK THOSE TWO PEOPLE FOR GSR
22 KIT?

23 A NO, SIR, I DIDN'T.

24 Q YOU WERE NEVER INSTRUCTED TO DO THAT, WERE YOU?

25 A NO, SIR.

1 Q NOW WHEN YOU WOULD TAKE THESE STATEMENTS, NOT
2 TAKE THEM BUT HAVE THE PEOPLE WRITE THEM?

3 A YES, SIR.

4 Q YOU SAID THAT YOU WERE COLLECTING THESE WRITTEN
5 STATEMENTS?

6 A YES, SIR.

7 Q OKAY. AND IT'S IMPORTANT TO ACCUMULATE AS MUCH
8 INFORMATION ABOUT A CASE AS YOU CAN WHEN IT'S BEING
9 INVESTIGATED, WOULD YOU AGREE WITH THAT?

10 A YES, SIR.

11 Q OKAY. AND YOU ARE PART OF THAT INVESTIGATION
12 AND THAT ACCUMULATION, IS THAT CORRECT?

13 A YES, SIR.

14 Q OKAY. SO AFTER YOU WOULD TAKE THESE STATEMENTS
15 YOU WOULD READ THEM, WOULDN'T YOU, TO SEE WHAT WAS IN
16 THERE, AT LEAST LOOK AT IT TO SEE WHAT THEY ARE
17 SAYING, AND THEN YOU WOULD PUT IT OVER IN THE STACK
18 FOR ANOTHER DETECTIVE AT SOME POINT?

19 A IF I KNOW I'M GOING TO BE THE INVESTIGATING
20 OFFICER I WOULD, BUT I KNEW I WOULD NOT BE
21 INVESTIGATING OFFICER IN THIS CASE.

22 Q OKAY. DID YOU READ THE STATEMENTS THAT THESE
23 PEOPLE GAVE TO YOU THAT EVENING?

24 A NO, SIR. I READ ONE STATEMENT. I READ HIS
25 GIRLFRIEND'S STATEMENT BECAUSE IT WAS VERY SHORT.

1 Q IT WAS VERY SHORT?

2 A YES, SIR.

3 Q OKAY. THE OTHER STATEMENTS YOU DIDN'T READ?

4 A NO, SIR.

5 Q AT ALL?

6 A NO, SIR.

7 Q AND SO YOU WERE NOT ABLE TO ACCUMULATE ANY

8 KNOWLEDGE FROM THOSE STATEMENTS TO PASS ON TO ANY

9 OTHER OF YOUR OFFICERS AT THAT TIME, IS THAT CORRECT?

10 A NO, SIR.

11 Q SUCH AS IF YOU HAD LEARNED INFORMATION FROM

12 MR. HUBBARD'S STATEMENT AT 12:22 AND YOU HAD READ

13 THAT STATEMENT AND IT WOULD HAVE CONTAINED

14 INFORMATION YOU THOUGHT WOULD BE IMPORTANT, YOU COULD

15 HAVE THEN RADIOED AS MR. WHITE, DEPUTY WHITE RADIOED

16 YOU, AND SAY WE'VE GOT THIS INFORMATION THAT SOMEBODY

17 MIGHT WANT TO LOOK INTO, IS THAT CORRECT?

18 A THAT WOULD BE A CORRECT STATEMENT.

19 Q OKAY. BUT BECAUSE YOU DIDN'T READ THOSE

20 STATEMENTS THAT WERE GIVEN TO YOU YOU WEREN'T ABLE TO

21 PASS ALONG ANY INFORMATION THAT WAS CONTAINED IN

22 THOSE STATEMENTS UNTIL SOMEBODY ELSE READ THEM,

23 SOMEONE WAY DOWN THE LINE, IS THAT CORRECT?

24 A AT THAT PARTICULAR TIME I WAS DEALING WITH A

25 LARGE VOLUME OF STATEMENTS AND I KNEW I HAD

1 INVESTIGATORS ON THE WAY.

2 Q OKAY. AND SO YOU WERE GOING TO TAKE THE
3 STATEMENTS AND COLLECT THEM AND HAND THEM OVER TO THE
4 INVESTIGATOR?

5 A YES, SIR.

6 Q AND LET THE INVESTIGATOR DO WHATEVER THEY WOULD
7 DO WITH THEM, IS THAT CORRECT?

8 A YES, SIR.

9 Q AND WHO WERE YOU COLLECTING THESE STATEMENTS
10 FOR?

11 A AT THAT TIME I DIDN'T KNOW WHO I WOULD BE
12 COLLECTING IT FOR, BUT ALL I KNEW WE DID HAVE AN
13 INVESTIGATOR THAT WAS EN ROUTE.

14 Q WAS HE THERE AT THE TIME THAT YOU WERE DOING
15 THIS?

16 A NO, SIR, HE WASN'T.

17 Q ALL RIGHT. WELL, LET ME ASK YOU THIS. YOU TOOK
18 MR. BOLIN'S -- EXCUSE ME. LET ME REPHRASE THIS. YOU
19 HAD MR. BOLIN WRITE OUT A STATEMENT AT 2:37 IN THE
20 MORNING?

21 A YES, SIR.

22 Q IS THAT CORRECT?

23 A YES, SIR.

24 Q ACCORDING TO THE RECORDS PROVIDED BY THE
25 SOLICITOR'S OFFICE, YOU WERE ALSO INVOLVED IN THE

1 INTERVIEW OF MR. HUBBARD AS I'VE MENTIONED AT 12:22
2 IN THE MORNING WHICH WOULD HAVE BEEN TWO HOURS BEFORE
3 MR. BOLIN. YOU WERE INVOLVED IN A STATEMENT GIVEN BY
4 MS. MCCARTER AT 1 AM IN THE MORNING, YOU WERE
5 INVOLVED IN A STATEMENT GIVEN BY LORI MOSS AT 4:18 AM
6 IN THE MORNING, AND YOU WERE INVOLVED WITH A
7 STATEMENT GIVEN BY SAMANTHA EASON AT 5:30 AM THAT
8 MORNING. WERE THERE NO INVESTIGATOR THERE UNTIL
9 AFTER 5:30?

10 A NO, SIR.

11 Q TO GIVE A STATEMENT TO?

12 A THE INVESTIGATORS DID SHOW UP.

13 Q OKAY.

14 A THEY WERE NOT DIRECTLY WITH ME.

15 Q OKAY.

16 A AT THAT PARTICULAR TIME.

17 Q AND SO AS YOU ARE ACCUMULATING THESE STATEMENTS,
18 SOME OF THEM ARE ABOUT AN HOUR APART, WHAT WOULD YOU
19 DO, WOULD YOU JUST TAKE THEM AND SET THEM ON THE
20 TABLE?

21 A NO, SIR. THEY WAS GIVEN TO AND PROVIDED TO THE
22 INVESTIGATORS. WHEN THEY CAME INTO THE ROOM THEY
23 COLLECT IT, THEY READ THOSE STATEMENTS.

24 Q SO AN INVESTIGATOR WAS THERE BY ONE, IS THAT A
25 GOOD, IS THAT A GOOD ESTIMATE OR WAS IT BEFORE THEN?

- 1 A THAT'S PROBABLY A GOOD ESTIMATE. THEY MAY HAVE
2 BEEN BEFORE.
- 3 Q IT MAY HAVE BEFORE THEN?
- 4 A THAT'S PROBABLY A GOOD ESTIMATE.
- 5 Q AND IT WAS DETECTIVE PATTERSON WHO WAS THE FIRST
6 INVESTIGATOR ON THE SCENE?
- 7 A DETECTIVE PATTERSON WAS THE FIRST INVESTIGATOR
8 ON THE SCENE.
- 9 Q OKAY. AND SO YOU WOULD HAVE GIVEN THESE
10 STATEMENTS WITHOUT READING THEM, YOU WOULD HAVE GIVEN
11 THESE STATEMENTS TO DETECTIVE PATTERSON WHENEVER HE
12 GOT THERE?
- 13 A YES, SIR. THE ONES THAT I HAD COLLECTED TO THAT
14 POINT.
- 15 Q OKAY. SO IT WOULD HAVE BEEN DETECTIVE
16 PATTERSON'S RESPONSIBILITY TO PULL OUT ANY RELEVANT
17 INFORMATION IN THOSE STATEMENTS THAT MIGHT NEED TO BE
18 LOOKED INTO OR INVESTIGATED?
- 19 A YES, SIR.
- 20 Q AT ANY POINT DURING THAT EVENING DID YOU, DO YOU
21 RECALL RECEIVING INFORMATION THAT SHOTS WERE FIRED
22 FROM THAT CAR OR WERE FIRED BY PEOPLE IN THAT CAR?
- 23 A NO, SIR.
- 24 Q YOU NEVER DID?
- 25 A NO, SIR.

1 Q YOU SAID THAT WHEN MR. BOLIN WAS WRITING OUT HIS
2 STATEMENT YOU WERE ALSO INVOLVED IN PUTTING TOGETHER
3 NAMES AND ADDRESSES AND WHATEVER.

4 A YES, SIR.

5 Q WHAT TYPES OF NAMES AND ADDRESSES WERE YOU
6 PUTTING TOGETHER?

7 A THE INDIVIDUALS THAT HAD GIVEN ME THE
8 STATEMENTS, THE INDIVIDUALS THAT HAD DRIVEN UP IN THE
9 VEHICLE AT THAT TIME, SIR.

10 Q NOW HOW LONG WAS BERRY THERE BEFORE HE GAVE THE
11 WRITTEN STATEMENT, DO YOU RECALL?

12 A HE STARTED WORKING ON IT IMMEDIATELY WHEN I CAME
13 INTO THE OFFICE AND WE WENT THROUGH THE MIRANDA
14 RIGHTS, WE WENT THROUGH THE SEARCH FORM, AND AS BEST
15 I REMEMBER HE MAY HAVE BEEN INTERRUPTED BECAUSE THEY
16 WERE, FORENSIC WAS PERFORMING A SEARCH ON THE OUTSIDE
17 AND I THINK THEY HAD PROBLEMS WITH FINDING A GUN THAT
18 HE SAID WAS, MAY HAVE BEEN IN THE VEHICLE.

19 Q ALL RIGHT. SO HE MAY HAVE BEEN INTERRUPTED IN
20 THE STATEMENT THAT HE HAD GIVEN?

21 A YES, SIR, WRITING.

22 Q WRITING?

23 A YES, SIR.

24 Q AND SO IF HE WAS INTERRUPTED, HOW WAS HE
25 INTERRUPTED? DID THEY ASK HIM ABOUT IT? DID HE GET

- 1 UP AND GO OUT?
- 2 A YES, SIR.
- 3 Q SO HE WENT WITH THEM?
- 4 A YES, SIR.
- 5 Q AND THEN HE CAME BACK?
- 6 A YES, SIR.
- 7 Q AND THEN HE FINISHED WRITING?
- 8 A YES, SIR.
- 9 Q AND THEN DID HE SIT?
- 10 A YES, SIR.
- 11 Q AFTER THAT?
- 12 A YES, SIR.
- 13 Q AND WHO DID HE SIT WITH?
- 14 A THE, MYSELF, HIS GIRLFRIEND.
- 15 Q JUST THE THREE OF Y'ALL?
- 16 A YES, SIR.
- 17 Q AND HOW LONG DID HE SIT THERE BEFORE ANYBODY
- 18 ELSE CAME IN TO THAT ROOM?
- 19 A I'M NOT SURE, SIR.
- 20 Q OKAY.
- 21 A 15 MAYBE, 15 MINUTES OR SO.
- 22 Q AND THEN WHAT HAPPENED AFTER THAT?
- 23 A DETECTIVE PATTERSON TOOK HIM UPSTAIRS.
- 24 Q SO DETECTIVE PATTERSON CAME IN?
- 25 A YES, SIR.

1 Q AND WAS DETECTIVE PATTERSON THERE BEFORE HE DID
 2 THE WRITTEN, THE WRITING?
 3 A I THINK.
 4 Q WHICH WAS AT 2:37?
 5 A I THINK DETECTIVER PATTERSON SHOWED UP AND HE
 6 MAY HAVE BEEN STILL WRITING THE STATEMENT AT THAT
 7 TIME.
 8 Q OKAY. AND SO DETECTIVE PATTERSON THEN TAKES HIM
 9 OUT OF THAT ROOM?
 10 A YES, SIR.
 11 Q AND TO YOUR KNOWLEDGE GO WHERE?
 12 A UPSTAIRS.
 13 Q UPSTAIRS. YOU DIDN'T GO WITH HIM?
 14 A NO, SIR.
 15 Q OKAY. DID BERRY COME BACK TO THE ROOM YOU WERE
 16 IN?
 17 A YES, SIR, HE DID.
 18 Q AND HOW LONG WAS HE UPSTAIRS BEFORE HE CAME BACK
 19 TO THE ROOM?
 20 A MAY HAVE BEEN UPSTAIRS 20 MINUTES OR 30 MINUTES
 21 OR SOMETHING.
 22 Q AND HE CAME BACK TO THE ROOM AND HAD A SEAT?
 23 A YES, SIR, HE DID.
 24 Q DID HE LEAVE?
 25 A NO, SIR.

- 1 Q HE JUST STAYED THERE?
- 2 A HE JUST STAYED THERE.
- 3 Q OKAY. AND HOW LONG DID HE STAY WITH YOU THAT
- 4 TIME?
- 5 A ABOUT 15 MINUTES OR SO.
- 6 Q AND THEN WHAT HAPPENED?
- 7 A HE WAS TAKEN BACK UPSTAIRS AND I BELIEVE AT THAT
- 8 TIME WAS WITH DETECTIVE PATTERSON AND TIM HAGER,
- 9 LIEUTENANT HAGER.
- 10 Q OKAY. SO THEY CAME BACK, IS THAT RIGHT?
- 11 A YES, SIR.
- 12 Q OR AT LEAST DETECTIVE PATTERSON DID. LIEUTENANT
- 13 HAGER NEVER CAME DOWN INTO THE ROOM, DID HE?
- 14 A LIEUTENANT HAGER DID COME INTO THE ROOM.
- 15 Q HE DID COME INTO THE ROOM?
- 16 A YES, SIR.
- 17 Q AND THEN THEY TOOK HIM BACK UPSTAIRS?
- 18 A YES, SIR.
- 19 Q AND HOW LONG WAS HE GONE THAT TIME?
- 20 A I DON'T RECALL. IT WAS SOMEWHERE MAYBE 20 OR 30
- 21 MINUTES OR SO.
- 22 Q AND THEN HE CAME BACK AGAIN?
- 23 A THEN HE CAME BACK.
- 24 Q OKAY. HE DIDN'T LEAVE?
- 25 A NO, SIR.

- 1 Q HE SAT THERE?
- 2 A YES, SIR.
- 3 Q HE AND MICHELLE SAT THERE?
- 4 A YES, SIR.
- 5 Q AND MICHELLE SITTING THERE?
- 6 A SLEEPING.
- 7 Q ALL NIGHT.
- 8 A SLEEPING.
- 9 Q AND THEN WHAT HAPPENED AFTER THAT? DID IT
- 10 HAPPEN AGAIN?
- 11 A YES, SIR.
- 12 Q OKAY. AND WHO CAME DOWN TO GET HIM?
- 13 A DETECTIVE PATTERSON AS BEST I CAN REMEMBER.
- 14 Q DETECTIVE PATTERSON CAME DOWN AND GOT BERRY?
- 15 A YES, SIR.
- 16 Q TOOK HIM BACK UPSTAIRS?
- 17 A YES, SIR.
- 18 Q OKAY. WAS THAT THE LAST CONTACT YOU HAD WITH
- 19 HIM?
- 20 A YES, SIR.
- 21 Q THAT WAS ON THE THIRD TRIP UPSTAIRS?
- 22 A APPROXIMATELY, YES, SIR.
- 23 Q WHO ELSE WAS TAKING STATEMENTS FROM PEOPLE?
- 24 WERE YOU THE ONLY ONE?
- 25 A I WAS THE ONLY ONE FROM THE UNIFORM, FROM THE

1 UNIFORM PATROL DIVISION, THAT WAS ACTUALLY TAKING
2 STATEMENTS.

3 Q DO YOU KNOW OF ANYBODY ELSE NON-UNIFORM OR
4 ANYTHING LIKE THAT THAT WAS TAKING STATEMENTS FROM
5 THESE YOUNG PEOPLE WHO WERE COMING IN?

6 A NO, SIR. NO, SIR.

7 Q DID YOU ASSIST WITH THE SEARCH OF THE PONTIAC?

8 A NO, SIR, I DID NOT.

9 Q AT THE CLOVER POLICE DEPARTMENT?

10 A NO, SIR.

11 Q DID YOU ASSIST WITH THE SEARCH OF MY CLIENT'S
12 TRUCK?

13 A NO, SIR, I DIDN'T.

14 Q YOU JUST PRIMARILY WORKED, DID YOU TALK WITH
15 ANYBODY ELSE THAT NIGHT OTHER THAN BERRY AND THESE
16 OTHER PEOPLE THAT I'VE NAMED?

17 A NO, SIR.

18 Q DID YOU EVER TALK WITH ANYBODY FROM FAMILIES OR
19 ANYTHING LIKE THAT?

20 A HIS FAMILY WAS THERE AND THEY DID INQUIRE ABOUT
21 MR. BOLIN. THERE WAS SOME PEOPLE IN THE LOBBY THAT
22 WAS INQUIRING ABOUT THE VICTIM.

23 Q OKAY. AND YOU WERE KIND OF THE FRONT PERSON?

24 A YES, SIR.

25 Q THAT EVERYBODY WOULD HAVE TO COME TO?

1 A YEAH, DIDN'T HAVE MUCH INFORMATION.

2 Q OKAY. SO YOU WEREN'T GETTING A LOT OF
3 INFORMATION FROM OTHER OFFICERS?

4 A WASN'T GETTING ANY INFORMATION FROM THE SCENE OR
5 WHAT WAS HAPPENING UPSTAIRS.

6 Q OKAY.

7 MR. GREELEY: IF THE COURT WILL INDULGE ME
8 ONE MOMENT. THAT'S ALL I HAVE AT THIS POINT.

9 THE COURT: ANY REDIRECT?

10 MR. POPE: NO, YOUR HONOR, THAT'S ALL.

11 THE COURT: YOU CAN STEP DOWN AND BE
12 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU. CALL
13 YOUR NEXT WITNESS.

14 MR. POPE: YOUR HONOR, MAY WE APPROACH
15 JUST ONE SECOND.

16 (BENCH CONFERENCE.)

17 MR. POPE: THE STATE WILL CALL DOUG
18 PATTERSON.

19 DOUG PATTERSON, BEING FIRST DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION BY MR. POPE:

22 Q DETECTIVE PATTERSON, IF YOU WOULD STATE YOUR
23 NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER
24 PLEASE?

25 A IT'S DOUGLAS KIRK PATTERSON. P-A-T-T-E-R-S-O-N.

1 Q TELL THE JURY WHERE YOU ARE EMPLOYED?

2 A I'M EMPLOYED AT THE YORK COUNTY SHERIFF'S
3 OFFICE.

4 Q HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

5 A APPROXIMATELY 11 AND A HALF YEARS.

6 Q OKAY. AND WHAT'S YOUR CURRENT ASSIGNMENT?

7 A I'M ASSIGNED TO THE CRIMINAL INVESTIGATIVE
8 DIVISION.

9 Q AND WHAT DO YOU DO AS YOUR DUTIES IN THE
10 INVESTIGATIVE DIVISION, WHAT DO YOU DO DAY-TO-DAY?

11 A I'M ASSIGNED TO THE JUVENILE SEX CRIMES UNIT.

12 Q OKAY. AND I CALL YOUR ATTENTION BACK TO THE
13 BEGINNING OF THIS YEAR IN FEBRUARY 19 OF 2006, WHERE
14 WERE YOU ASSIGNED AT THAT TIME?

15 A I WAS ON CALL FOR THAT WEEK.

16 Q SO INVESTIGATOR, YOU SAID YOU WERE ASSIGNED TO
17 THE JUVENILE SEX CRIMES UNIT?

18 A YES, SIR.

19 Q WE'RE NOT DEALING WITH THAT IN THIS CASE, RIGHT?

20 A YES, SIR.

21 Q AND DO Y'ALL TAKE TURNS TAKING CALLS FOR THE
22 INVESTIGATIVE DIVISION?

23 A YES, SIR.

24 Q OKAY. AND YOU HAPPEN TO BE TAKING CALLS THAT
25 WEEKEND THAT INCLUDED SUNDAY, FEBRUARY 19, IS THAT

1 CORRECT?

2 A THAT'S CORRECT.

3 Q OKAY. AND SO DID YOU RECEIVE CALLS SOMETIME IN
4 THE EARLY MORNING HOURS OF SUNDAY THE 19?

5 A YES, SIR, SOMETIME SHORTLY AFTER MIDNIGHT I
6 BELIEVE IT WAS.

7 Q OKAY. AND WHAT DID YOU DO AT THAT POINT?

8 A WE GET PAGED OUT AND I CALLED MY DISPATCHER ON
9 THE PHONE AND THEY ADVISED ME THEY HAD AN INCIDENT IN
10 THE CLOVER AREA AND I WAS DISPATCHED TO GO UP TO AN
11 ADDRESS ON LAWRENCE ROAD.

12 Q OKAY. WHAT INFORMATION DID YOU HAVE FROM YOUR
13 DISPATCHER AT THAT TIME?

14 A BASICALLY THERE HAD BEEN AN INCIDENT INVOLVING A
15 SHOOTING AT A HOUSE ON LAWRENCE ROAD AND THAT WAS
16 PRETTY MUCH IT ON THE PHONE WITH DISPATCH.

17 Q SO WHEN YOU LEFT YOUR RESIDENCE, WHERE DID YOU
18 PROCEED TO?

19 A I WENT TO THE ADDRESS AT LAWRENCE ROAD.

20 Q CAN YOU TELL THE JURY WHAT WAS OCCURRING, WHAT
21 YOU OBSERVED WHEN YOU GOT TO LAWRENCE ROAD?

22 A WHEN I GOT TO LAWRENCE ROAD I OBSERVED A COUPLE
23 OF PATROL CARS PARKED ON THE STREET NEAR THE HOUSE,
24 ENCOUNTERED A DEPUTY OUTSIDE. SHE ADVISED ME THAT SHE
25 WAS THERE TO SECURE SOME THINGS THAT THEY HAD FOUND.

1 SHE ADVISED ME THEY HAD SOME SHELL CASINGS SHE FOUND
2 NEAR THE ROAD.

3 Q DID YOU SEE HER PINK BALLOONS?

4 A YES, SHE POINTED SOME BALLOONS OUT ON THE
5 GROUND, THE ROADWAY, COVERING UP SOME SHELL CASINGS.

6 Q OKAY. DID YOU ALTER OR REMOVE ANYTHING AT THAT
7 SCENE?

8 A NO, SIR.

9 Q WHAT ELSE DID YOU DO WHILE THERE YOU WERE?

10 A I DID GO INSIDE THE RESIDENCE. I WAS ADVISED
11 THERE WAS ANOTHER DEPUTY INSIDE. I WENT INSIDE AND
12 MADE CONTACT WITH THE DEPUTY INSIDE, NOTICED HIM AND
13 I THINK FOUR OTHER INDIVIDUALS INSIDE THE HOUSE.

14 Q OKAY. WHAT DID YOU DO THEN?

15 A I SPOKE WITH THE DEPUTY BRIEFLY, ADVISED ME THAT
16 THESE INDIVIDUALS WERE HERE AT THE SCENE WHEN THE
17 INCIDENT TOOK PLACE, AND HE WAS IN THE PROCESS I
18 BELIEVE OF GETTING SOME STATEMENTS FROM THEM. HE
19 ASKED ME IF I HAD SOME STATEMENT FORMS. I WENT BACK
20 OUT TO MY VEHICLE AND GOT STATEMENT FORMS, TOOK THEM
21 BACK INTO HIM, AND RIGHT BEFORE I LEFT HE WAS
22 ADVISING THEM TO WRITE DOWN THEIR STATEMENTS.

23 Q IS THAT KIND OF A BLANK SHERIFF'S DEPARTMENT
24 FORM IS THAT WHAT YOU WERE GIVEN?

25 A YES, SIR.

1 Q OKAY. NOW DID YOU PARTICIPATE IN THE INTERVIEW
2 OF THE FOUR GUYS AT THE HOUSE?

3 A NO, SIR.

4 Q OKAY. SO ONCE YOU SAW THE CONDITION AT THAT
5 SCENE, WHAT DID YOU DO NEXT?

6 A AFTER I PROVIDED THE STATEMENT FORMS TO THE
7 DEPUTY, I WALKED BACK OUTSIDE, SPOKE AGAIN WITH THE
8 DEPUTY WHO WAS OUTSIDE. AT THAT TIME A MR. DEAL, I
9 BELIEVE THE OWNER OF THE PROPERTY HAD ARRIVED, HE WAS
10 OUT IN THE ROADWAY.

11 Q NOW THE FATHER?

12 A THE FATHER, YES, THE FATHER. AND HE WAS
13 CONCERNED ABOUT WHAT WAS GOING ON AND I ADVISED HIM
14 SOMETHING HAD TAKEN PLACE AND HE NEEDED TO REMAIN
15 OUTSIDE. AND DURING THIS TIME I WAS GETTING PHONE
16 CALLS ADVISING ME THAT THERE WAS A, SOME OF THE
17 INCIDENT HAD RELOCATED TO THE CLOVER POLICE
18 DEPARTMENT, SOME PEOPLE INVOLVED IN IT, AND SO I WENT
19 TO, LEFT THE HOUSE ON LAWRENCE ROAD TO GO TO THE
20 CLOVER POLICE DEPARTMENT.

21 Q SO WHEN YOU LEFT THE LAWRENCE ROAD SCENE, YOU
22 HAD ONE OFFICER INSIDE TAKING STATEMENTS AND THEN
23 ANOTHER OUTSIDE SECURING THE SCENE?

24 A YES, SIR. I WAS ADVISED BY MY DISPATCH THAT
25 FORENSIC SERVICE UNIT WAS EN ROUTE.

1 Q WHAT'S THEIR PURPOSE?

2 A THE FORENSIC SERVICES UNIT?

3 Q YES, SIR.

4 A THEY WERE GOING TO COME OUT TO SECURE EVIDENCE,
5 PROCESS THE SCENE. I'M NOT TRAINED IN THAT, SO I
6 COULDN'T TELL YOU EXACTLY WHAT ALL THEY DO.

7 Q THAT'S THE EVIDENCE COLLECTION?

8 A RIGHT.

9 Q OKAY. AND SO WHERE DID YOU GO WHEN YOU LEFT
10 LAWRENCE ROAD?

11 A I WENT STRAIGHT TO THE CLOVER POLICE DEPARTMENT.

12 Q AND WHAT WAS THE SITUATION WHEN YOU ARRIVED AT
13 THE CLOVER POLICE DEPARTMENT?

14 A I PARKED IN BACK AND WAS MET BY A MEMBER OF THE
15 FORENSIC SERVICE UNIT AND HE DIRECTED ME TOWARD A
16 VEHICLE THAT WAS PARKED IN THE BACK OF THE CLOVER
17 DEPARTMENT. HE ADVISED ME THIS VEHICLE WAS INVOLVED
18 IN THE SHOOTING. I ASKED HIM WHERE THE OCCUPANTS
19 WERE AND HE SAID THEY HAD BEEN TRANSPORTED TO A
20 HOSPITAL.

21 Q SO THE VICTIMS WERE GONE BY THE TIME?

22 A YES, SIR, THE VICTIMS WERE ALL GONE WHEN I GOT
23 THERE. HE, YOU KNOW, SHOWED ME THE VEHICLE, ALL THE,
24 YOU KNOW, THE BLOOD AND THAT SORT OF THING.

25 Q DID YOU OBSERVE ANY DAMAGE TO THE VEHICLE TOO?

1 A YES, SIR. THE WINDOW WAS SHATTERED. THERE WAS
2 A LOT OF BLOOD AND THAT SORT OF THING.
3 Q OKAY.
4 A FROM THERE I WENT INSIDE THE PD.
5 Q SO THE FORENSICS GUY, AS FAR AS EVIDENCE AND
6 THINGS, HE'S GOING TO GO TAKE CARE OF THAT SCENE TOO,
7 AS WELL AS THE LAWRENCE ROAD SCENE?
8 A YES, SIR.
9 Q OR GUYS PLURAL?
10 A YEAH.
11 Q OR OFFICER PLURAL?
12 A YES, SIR.
13 Q OKAY. SO YOU GO INTO CLOVER POLICE DEPARTMENT,
14 WHAT'S THE SITUATION INSIDE THERE?
15 A WENT INSIDE AND THE CLOVER DISPATCHER ADVISED ME
16 THAT ANOTHER DEPUTY WAS IN A ADJACENT ROOM. I WENT
17 IN THAT ROOM AND IT WAS DEPUTY JAMISON AND ALSO IN
18 THAT ROOM WAS MR. BOLIN AND A YOUNG LADY. I DON'T
19 RECALL HER NAME AT THIS TIME.
20 Q OKAY. NOW IN ADDITION TO THOSE FOLKS, WERE
21 THERE OTHER FOLKS IN THE POLICE DEPARTMENT?
22 A YES, SIR.
23 Q OTHER CITIZENS IN THE WAITING AREA OR?
24 A THERE MAY HAVE BEEN SOME FOLKS OFF TO THE LEFT.
25 AS YOU GO IN THEY HAVE LOBBY AREA, I GLANCED OVER

1 THERE, BUT I WENT STRAIGHT TO THE DISPATCHER AND
2 ADVISED THAT THE PEOPLE THAT I NEEDED TO SEE WAS OVER
3 IN THE ROOM TO THE RIGHT.

4 Q OKAY. AND SO WHEN YOU TALKED TO SERGEANT
5 JAMISON, WERE YOU APPRISED OF THE SITUATION AS FAR AS
6 MR. BOLIN'S RIGHTS?

7 A YES, SIR. HE ADVISED ME THAT HE HAD ALREADY
8 MIRANDIZED MR. BOLIN AND HAD HIM SIGN A WAIVER.
9 THAT'S PRETTY MUCH WHAT HE ADVISED ME.

10 Q WHO IF ANYBODY WAS WORKING WITH YOU AT THAT
11 JUNCTURE? INITIALLY ARE YOU THE FIRST INVESTIGATOR
12 TO GET TO CLOVER POLICE DEPARTMENT?

13 A YES, SIR. I DID NOTIFY MY SUPERVISOR BY PHONE
14 ON THE WAY, I ADVISED THEM THAT I WAS PROBABLY GOING
15 TO NEED SOME ASSISTANCE.

16 Q ULTIMATELY DID OTHER INVESTIGATORS ARRIVE?

17 A YES, SIR.

18 Q WHO WERE SOME OF THE OTHER INVESTIGATORS TO
19 ARRIVE?

20 A MY IMMEDIATE SUPERVISOR BETH TOLSON, LIEUTENANT
21 TOLSON, SHE WAS ALSO THE ON CALL LIEUTENANT, SHE
22 ARRIVED. AND THEN AT SOME POINT AFTER THAT
23 LIEUTENANT TIM HAGER ARRIVED AT THE CLOVER PD.

24 Q AND WERE YOU MADE AWARE, YOU SAID YOU WERE MADE
25 AWARE OF THE MIRANDA, BUT YOU WERE ALSO MADE AWARE OF

1 MR. BOLIN'S INITIAL STATEMENT THAT'S MARKED AS
2 STATE'S EXHIBIT 127?

3 A YES, SIR. DEPUTY JAMISON ADVISED ME AND SHOWED
4 ME THE STATEMENT THAT MR. BOLIN HAD ALREADY MADE.

5 Q OKAY. SO SUBSEQUENT TO THAT STATEMENT, WHICH I
6 THINK IS MARKED AS 237, SUBSEQUENT TO THAT TIME DID
7 YOU HAVE AN OPPORTUNITY, EVEN BEFORE AND AFTER THAT
8 TIME, DID YOU HAVE SOME OPPORTUNITY TO HAVE SOME
9 DISCUSSIONS WITH MR. BOLIN?

10 A AFTER THAT STATEMENT WAS GIVEN, YES, SIR, I DID.

11 Q NOW WERE YOU PRESENT WHEN THE GUNSHOT RESIDUE
12 TEST WAS TAKEN FROM HIM?

13 A I HONESTLY DON'T RECALL. I KNOW THAT I
14 DISCUSSED THAT WITH SOME OF THE FORENSIC SERVICES
15 PERSONNEL THAT THAT TEST WAS GOING TO BE
16 ACCOMPLISHED, BUT HONESTLY I DON'T RECALL BEING
17 PRESENT OUT THERE WHEN THAT TOOK PLACE.

18 Q OKAY. WHAT ABOUT WHEN HIS VEHICLE, HIS WHITE
19 TRUCK, WAS SEARCHED, WERE YOU INVOLVED IN THAT?

20 A NO, SIR. NOT IN THE SEARCH, NO, SIR.

21 Q SO ULTIMATELY YOU HAVE A CHANCE TO TALK TO
22 MR. BOLIN BUT WHERE DO YOU TALK TO HIM AT?

23 A I REQUESTED HE ACCOMPANY ME UPSTAIRS, GO
24 UPSTAIRS AT THE CLOVER POLICE DEPARTMENT TO A, YOU GO
25 UP TO THE TOP OF THE STEPS AND THERE IS A LARGE ROOM,

1 IT'S A DESK AND CHAIRS AND WE SAT UP THERE AND
2 TALKED.

3 Q OKAY. AT THAT POINT WAS HE IN CUSTODY THEN?

4 A NO, SIR.

5 Q AT THAT JUNCTURE WHEN YOU FIRST WENT TO TALK TO
6 HIM, WAS HE FREE TO LEAVE, WAS HE THERE VOLUNTARILY
7 AT THAT POINT?

8 A YES, SIR. MY UNDERSTANDING, YES, SIR.

9 Q WAS HE COURTEOUS TO YOU?

10 A YES, SIR.

11 Q DID HE GO UPSTAIRS FREELY AND VOLUNTARILY?

12 A YES, SIR.

13 Q DID HE APPEAR WILLING TO TALK TO YOU?

14 A HE WAS UPSET, BUT, YEAH, HE DIDN'T -- YEAH, HE
15 WAS COOPERATIVE I THINK.

16 Q OKAY. DID HE APPEAR TO BE UNDER THE INFLUENCE
17 OF ALCOHOL OR DRUGS SUCH THAT HE COULDN'T UNDERSTAND
18 WHAT YOU WERE SAYING?

19 A NO, SIR.

20 Q OKAY. TO TALK TO HIM, AS YOU ARE TALKING TO
21 HIM, DID YOU THREATEN HIM CERTAIN PUNISHMENT OR
22 CERTAIN THINGS WOULD HAPPEN TO HIM IF HE DIDN'T
23 COOPERATE WITH YOU?

24 A NO, SIR.

25 Q DID YOU PROMISE HIM THAT IF HE WOULD WORK WITH

1 YOU THERE WOULD BE SOME TYPE OF LENIENCY FOR HIM?

2 A NO, SIR.

3 Q DID IT APPEAR THE TIMES THAT YOU WERE TALKING
4 THAT HE WAS SPEAKING TO YOU FREELY AND VOLUNTARILY?

5 A YES, SIR.

6 Q OKAY. AT THAT POINT DID HE ULTIMATELY, EVEN AT
7 THAT POINT DID HE ULTIMATELY GIVE YOU A STATEMENT?

8 A THE FIRST TIME THAT HE COME WITH ME UPSTAIRS WE
9 DISCUSSED THINGS VERBALLY. HE DID NOT WRITE ANYTHING
10 DOWN. LATER IN THE MORNING HE DID PROVIDE ME WITH A
11 STATEMENT.

12 Q OKAY. SO WAS THERE A SERIES OF TIMES THAT YOU
13 TALKED TO HIM UPSTAIRS?

14 A AT LEAST TWICE THAT I CAN RECALL THAT WE WENT
15 UPSTAIRS TO TALK.

16 Q OKAY. ANY OF THOSE TIMES AND I ASKED Y'ALL
17 THESE THINGS, BUT DID YOU THREATEN HIM OR PROMISE HIM
18 ANY TIME?

19 A NO, SIR.

20 Q ANY TIME DURING THIS WHOLE THING DID YOU
21 THREATEN HIM TO GET HIM TO TALK TO YOU?

22 A NO, SIR, I DID NOT.

23 Q DID YOU READ HIM AN ADDITIONAL SET OF MIRANDA
24 WARNINGS AFTER THE PREVIOUS ONES WITH SERGEANT
25 JAMISON HAD BEEN READ?

1 A NO, SIR.

2 Q OKAY. NOW WHEN YOU TALKED TO HIM INITIALLY YOU
3 SAID HE WAS FREE TO LEAVE. AT SOME POINT DURING HIS
4 STATEMENT WHEN HE GAVE HIS STATEMENT, DID IT BECOME A
5 POINT IN TIME WHEN HE WASN'T FREE TO LEAVE?

6 A YES, SIR, AFTER HE PROVIDED A STATEMENT ABOUT
7 THE INCIDENT ADVISING US THAT HE HAD FIRED SOME
8 ROUNDS AT THE VEHICLE.

9 Q OKAY. AND AS PART OF YOUR INVESTIGATION WAS ONE
10 OF THE THINGS YOU ARE TRYING TO ASCERTAIN IS WHAT
11 CALIBER GUN HE HAD?

12 A YES, SIR.

13 Q AND WERE YOU TRYING TO OBTAIN THE LOCATION OF
14 WHERE THAT WEAPON WAS?

15 A YES, SIR.

16 Q OKAY. ULTIMATELY DID YOU RETRIEVE THE WEAPON,
17 NOT YOU PERSONALLY, BUT DID YOUR INVESTIGATION, DID
18 YOU RETRIEVE HIS .45 CALIBER PISTOL?

19 A YES, SIR, LATE IN THE MORNING IT WAS RECOVERED.

20 Q WHO RETRIEVED THAT?

21 A MY UNDERSTANDING THAT LIEUTENANT TIM HAGER
22 RECOVERED THE WEAPON FROM A SUBJECT LAST NAME
23 WALLACE.

24 Q OKAY. AND IS HE SOME RELATIONSHIP TO MR. BOLIN?

25 A MY UNDERSTANDING IS HE'S A COUSIN I BELIEVE.

1 Q SO DURING THE HOURS HEADING TOWARD MORNING YOU
2 ALSO, OTHER THAN TALKING TO MR. BOLIN, OTHER THINGS
3 WERE GOING ON IN THE INVESTIGATION ALSO?

4 A OH, YES, SIR, MOST DEFINITELY.

5 Q AND ULTIMATELY THE .45 CALIBER PISTOL WAS
6 BROUGHT TO THE CLOVER POLICE DEPARTMENT?

7 A YES, SIR.

8 Q AND TURNED OVER TO MR. HAGER?

9 A YES, SIR.

10 Q OKAY. NOW DID YOU HAVE AN OPPORTUNITY FROM
11 MR. BOLIN TO GIVE YOU A VOLUNTARY STATEMENT?

12 A YES, SIR.

13 Q OKAY. NOW DID YOU GIVE HIM A SHEET AND TELL HIM
14 TO WRITE WHAT HE KNEW LIKE MR. JAMISON DID?

15 A ACTUALLY AFTER WE DISCUSSED IT, I DECIDED I
16 WOULD, I WROTE, HE DICTATED TO ME, AND I WROTE DOWN
17 WHAT HE ADVISED ME HAD TAKEN PLACE, THEN I HAD HIM
18 READ AND SIGN THE STATEMENT.

19 Q DID HE HAVE AN OPPORTUNITY TO LOOK AT EACH PAGE
20 AND TO NOTE WHAT HAD BEEN WRITTEN AND MAKE ANY
21 CHANGES IF HE CHOSE TO MAKE ANY CHANGES?

22 A YES, SIR.

23 Q OKAY. WERE THERE IN FACT EVER ANY CHANGES OR
24 ADDITIONS MADE TO THE WRITTEN STATEMENT THAT HE GAVE?

25 A YES, SIR. AFTER HIS INITIAL STATEMENT THERE WAS

1 A BRIEF PERIOD OF TIME AFTER HE FINISHED THAT
2 PARTICULAR STATEMENT, WE WERE STILL DISCUSSING
3 THINGS, AFTER WE MADE HIM AWARE, THE KNOWLEDGE THAT
4 WE HAD OBTAINED, AND ADVISED HIM THAT WE DIDN'T FEEL
5 LIKE HIS STATEMENT WAS COMPLETE, AT THAT TIME HE
6 DECIDED TO GO AHEAD AND TELL US WHAT HAD TAKEN, YOU
7 KNOW, A LITTLE BIT MORE DETAIL, AND THAT'S WHERE HE
8 ADDED I THINK IT WAS PROBABLY APPROXIMATELY A
9 PARAGRAPH TO THE END OF THE STATEMENT.

10 Q AGAIN THAT WAS IN RELATIONSHIP TO WHAT HAD
11 ACTUALLY HAPPENED TO HIS GUN?

12 A YES, SIR.

13 Q SO ONCE YOU KIND OF INVESTIGATED AND FIGURED OUT
14 AND TOLD HIM YOU KNEW THAT, HE GAVE THE INFORMATION
15 ON THAT?

16 A YES, SIR.

17 Q AND THAT WAS REFLECTED, DID HE WRITE A TOTALLY
18 NEW STATEMENT?

19 A IT WAS JUST LIKE AN ADD ON TO THAT EXISTING
20 STATEMENT.

21 Q OKAY. AND I SHOW YOU WHAT'S BEEN MARKED AS
22 STATE'S EXHIBIT 128 FOR IDENTIFICATION. IS THIS THE
23 STATEMENT THAT HE GAVE YOU THAT EVENING?

24 A YES, SIR, IT IS.

25 Q OKAY. THANK YOU.

1 MR. POPE: YOUR HONOR, I MOVE STATE'S
2 EXHIBIT 128 INTO EVIDENCE.

3 MR. GREELEY: SUBJECT TO THE PREVIOUS
4 RULING.

5 THE COURT: BASED ON PREVIOUS RULINGS
6 ADMITTED OVER OBJECTION.

7 (STATE'S EXHIBIT 128 STATEMENT
8 RECEIVED INTO EVIDENCE.)

9 Q COULD YOU RELATE TO THE JURY THE TIMES THAT ARE
10 INDICATED ON THAT STATEMENT ON EACH OF THE PAGES?

11 A ON THE PAGE ONE IT'S 0430. PAGE TWO 0430 AND
12 PAGE THREE IS 452.

13 Q OKAY. SO DURING THAT TIME PERIOD IS THAT WHEN
14 YOU START OR IS THAT WHEN YOU FINISH OR WHAT DOES
15 THAT ACCOUNT?

16 A APPROXIMATE BEGINNING AND ENDING TIME.

17 Q AND DURING THAT TIME YOU HAD THE STATEMENT THEN
18 YOU HAD THE LAST PARAGRAPH ALSO ADDED, THE ADDITIONAL
19 PARAGRAPH CONCERNING THE PISTOL, THAT WAS ADDED.
20 DURING THAT SAME TIME PERIOD?

21 A YES, SIR.

22 Q OKAY. AND WAS MR. BOLIN COOPERATIVE DURING THAT
23 TIME? DURING THE TIME THAT ALL THIS IS HAPPENING;
24 DID YOU HAVE TO FORCE HIM TO GIVE YOU A STATEMENT?

25 A NO, SIR, HE TALKED.

1 Q OKAY. ULTIMATELY DID HE ACTUALLY GO WITH YOU TO
2 LAWRENCE ROAD?

3 A YES, SIR, HE DID.

4 Q AND WHAT WAS THE PURPOSE OF GOING TO LAWRENCE
5 ROAD?

6 A WE WANTED TO ADVISE US OR SHOW US WHERE HE WAS
7 STANDING AT WHEN HE DISCHARGED HIS WEAPON.

8 Q OKAY. AND CAN YOU GIVE THE JURY ROUGH
9 APPROXIMATION, DID HE ACTUALLY GO OUT TO THE HOUSE
10 AND TELL YOU WHERE HE WAS STANDING?

11 A YES, SIR. I TOOK HIM, I TOOK HIM IN MY VEHICLE
12 AT THIS TIME. HE WAS IN MY CAR AND I RODE HIM OUT TO
13 THE LAWRENCE ROAD ADDRESS. WE GOT OUT OF THE VEHICLE
14 AND HE ADVISED US, HE INDICATED A POSITION IN THE
15 YARD. I DIDN'T TAKE ANY MEASUREMENTS OR ANYTHING
16 MYSELF, BUT APPROXIMATELY I GUESS ABOUT HALFWAY
17 BETWEEN THE ROADWAY AND THE RESIDENCE, NOT QUITE
18 HALFWAY.

19 Q NOW AS FAR AS ANY EVIDENCE OR MEASUREMENTS THAT
20 WERE TAKEN THERE, DID THE FORENSIC UNIT DO ALL THAT?

21 A YES, SIR.

22 Q IN OTHER WORDS, RECOVER EVIDENCE AND MAKE
23 MEASUREMENTS?

24 A YES, SIR.

25 Q OKAY. SO, BUT HE WAS EVEN COOPERATIVE TO THE

1 POINT HE TOLD YOU WHERE HE WAS AT IN THE YARD WHEN IT
2 WAS FIRED, RIGHT?

3 A YES, SIR.

4 Q OKAY. NOW ULTIMATELY BASED ON THE INFORMATION
5 THAT YOU HAD, WAS MR. BOLIN ARRESTED APPROXIMATELY
6 5:30 THAT MORNING?

7 A YES, SIR.

8 Q SO ONCE HE CAME TO THE CLOVER PD VOLUNTARILY
9 THAT NIGHT, ULTIMATELY HE DIDN'T LEAVE VOLUNTARILY,
10 IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q AND THAT WAS BASED ON YOUR INVESTIGATION THROUGH
13 THAT NIGHT?

14 A YES, SIR.

15 Q OKAY.

16 MR. POPE: YOUR HONOR, AT THIS POINT I
17 MOVE TO PUBLISH THE STATE'S EXHIBIT IN THIS CASE.

18 Q IF YOU WOULD READ THIS STATEMENT TO THE JURY
19 PLEASE, SIR, IN ITS ENTIRETY?

20 THE COURT: EXHIBIT NUMBER?

21 Q IF YOU WILL REFERENCE THE EXHIBIT NUMBER ON THE
22 TOP.

23 A IT'S STATE'S EXHIBIT 128. VOLUNTARY STATEMENT
24 SAYS: I, BERRY BOLIN, KNOW AND UNDERSTAND MY RIGHTS.
25 HAVING DECIDED TO ANSWER QUESTIONS AT THIS TIME I NOW

1 MAKE THE FOLLOWING STATEMENT. _____

2 I WAS INSIDE BRAD'S HOUSE AND HEARD SOME
3 YELLING GOING ON OUTSIDE. I WAS GOING OUTSIDE AND I
4 HEARD SOMEONE YELL TO GIVE ME A GUN. I WENT TO MY
5 TRUCK AND GOT MY GUN. SOMEONE RAN UP TO ME AND SAID
6 GIVE ME YOUR FUCKING GUN. ALL OF A SUDDEN SOMEONE
7 SHOT A GUN TWO TIMES NEAR ME. I DIDN'T KNOW WHO
8 FIRED THOSE SHOTS. I LOOKED TOWARD THE CAR UP AT THE
9 END OF THE DRIVEWAY. I SAW A GIRL FALL AND SOMEONE
10 SAID SHE HAD BEEN SHOT. THEN SOMEONE SAID NO, THEY
11 HIT HER. I THEN SAW SIX OR SEVEN PEOPLE RUN TOWARD
12 THE CAR. I THINK IT WAS ALL THE PEOPLE THAT HAD BEEN
13 IN THE HOUSE. I THEN HEARD TWO OR THREE SHOTS BEING
14 FIRED NEAR THE CAR. AT THAT TIME THERE WERE PEOPLE
15 FIGHTING AND HANGING ON TO THE CAR. AFTER THE SHOTS
16 WERE FIRED, THE CAR STARTED PULLING AWAY. THAT IS
17 WHEN I STARTED SHOOTING AT THE CAR. I THINK THAT I
18 SHOT ABOUT FOUR TIMES. ALL I KNOW IS I SHOT ALL MY
19 BULLETS. AT THE SAME TIME I WAS SHOOTING THERE WAS
20 SOMEONE ELSE BESIDE ME SHOOTING. I'M NOT SURE IF IT
21 WAS THE SAME PERSON WHO SHOT NEAR ME RIGHT AFTER I
22 GOT MY GUN. AFTER IT WAS OVER I WAS RUNNING AROUND
23 AND UPSET. I GOT RID OF MY GUN BUT I DON'T REMEMBER
24 WHAT I DID WITH IT. I THINK THAT I GAVE IT TO
25 SOMEONE. I LIED ABOUT WHO I GAVE MY GUN TO SO THAT

1 HE WOULD NOT GET IN TROUBLE. I WENT TO A PARTY AND
2 GAVE IT TO MY COUSIN MICHAEL WALLACE. I TOLD HIM
3 WHAT HAPPENED AND I TOLD HIM TO GET RID OF THE GUN.
4 THIS STATEMENT WAS WROTE FOR ME BY DETECTIVE DOUG
5 PATTERSON. I HAVE READ IT AND IT IS WHAT I TOLD HIM.

6 Q DID HE INDICATE THAT HE UNDERSTOOD HIS RIGHTS IN
7 THAT STATEMENT ALSO?

8 A YES, SIR. AT THE TOP OF EACH PAGE IT SAYS HIS
9 NAME, THE SAME STATEMENT THAT I KNOW AND UNDERSTAND
10 MY RIGHTS.

11 Q AND DID HE SIGN THAT IN YOUR PRESENCE?

12 A YES, HE DID.

13 Q THANK YOU, SIR. ANSWER ANY QUESTIONS MR.
14 GREELEY MAY HAVE.

15 A YES, SIR.

16 MR. GREELEY: MAY IT PLEASE THE COURT.

17 CROSS EXAMINATION BY MR. GREELEY:

18 Q DETECTIVE PATTERSON, WHO WAS IN CHARGE THAT
19 NIGHT IN CLOVER WHEN YOU GOT THERE?

20 A IN CHARGE OF WHAT, SIR?

21 Q IN CHARGE OF THE INVESTIGATION?

22 A IN CHARGE OF THE INVESTIGATION?

23 Q WHO WAS IN CHARGE?

24 A I WAS CALLED OUT TO ASSIST IN THE INVESTIGATION
25 BY THE SHIFT. THERE WAS SEVERAL PEOPLE INVOLVED IN

1 THE INVESTIGATION.

2 Q WHO HAD THE LAST WORD; WHO WAS IN CHARGE?

3 A WE'RE NOT REALLY SET UP THAT WAY. I'M NOT
4 REALLY SURE. YOU KNOW, WE HAVE DETECTIVE TO DO THEIR
5 THING. WE HAVE UNIFORM PATROL DOES THEIR
6 ASSIGNMENTS. I NOTIFIED SEVERAL SUPERVISORS. THEY
7 CAME OUT TO THE HOUSE OR CAME OUT TO THE PD AND
8 ASSISTED. BUT WE DON'T HAVE A RIGID CHAIN OF COMMAND
9 THING LIKE THE MILITARY DOES. IT'S KIND OF A GROUP
10 EFFORT.

11 Q SO YOU DON'T HAVE ANYBODY WHO SAYS I NEED FOR
12 YOU TO GO DO THIS, I NEED FOR YOU TO GO DO THAT, I
13 NEED FOR YOU TO GO DO THAT?

14 A NO, SIR, THERE IS NOT A CENTRAL FIGURE WHO IS
15 MAKING ALL THOSE DECISIONS. THAT IS SOMETHING THAT
16 AS WE ALL FULFILL OUR JOB FUNCTIONS, WE KNOW THAT'S
17 WHAT WE DO AND.

18 Q OKAY. AND SO WHEN YOU FIRST GOT THE CALL YOU
19 WENT OUT TO LAWRENCE ROAD?

20 A YES, SIR.

21 Q WHAT TIME WAS THAT, DO YOU RECALL?

22 A IT WAS SHORTLY AFTER MIDNIGHT. APPROXIMATELY,
23 I'M NOT SURE, MAYBE 12-12:15-12:30.

24 Q OKAY. AND HOW LONG WERE YOU AT LAWRENCE ROAD
25 BEFORE YOU WENT OVER TO CLOVER POLICE DEPARTMENT?

- 1 A APPROXIMATELY 30-45 MINUTES, PROBABLY CLOSER TO
2 30 MINUTES I GUESS.
- 3 Q SO YOU WERE OVER THERE WITH DEPUTY FERRELL?
- 4 A YES, SIR.
- 5 Q AND THE BOYS OVER AT THE HOUSE?
- 6 A YES, SIR.
- 7 Q DID YOU GO IN THE HOUSE?
- 8 A YES, SIR, I DID.
- 9 Q AND DID YOU TALK TO DEPUTY DAY?
- 10 A I SPOKE TO HER OUTSIDE, YES, SIR.
- 11 Q AND DID YOU LOOK AROUND?
- 12 A OUTSIDE?
- 13 Q YEAH.
- 14 A I LOOKED WHERE SHE INDICATED THAT SHE HAD FOUND
15 SOME SHELL CASINGS.
- 16 Q DID YOU LOOK FOR ANYTHING ELSE?
- 17 A I USED MY FLASHLIGHT. IT WAS DARK OUTSIDE. I
18 USED MY FLASHLIGHT TO MAKE SURE I DIDN'T STEP ON
19 ANYTHING WHILE GETTING TO THE RESIDENCE. I DIDN'T DO
20 A SEARCH OF THE YARD OR ANYTHING. I JUST WENT FROM
21 WHERE I PARKED MY CAR AND SPOKE TO DEPUTY DAY AND
22 WALKED UP TO THE RESIDENCE.
- 23 Q OKAY. WHEN YOU GOT INSIDE DID YOU TALK TO
24 DEPUTY FERRELL?
- 25 A YES, I DID.

1 Q AND WERE YOU TALKING WITH DISPATCH THAT NIGHT,
2 TOO? ON AND OFF ABOUT WHATEVER NEEDED TO BE TALKED
3 TO DISPATCH ABOUT?

4 A I SPOKE TO THEM PROBABLY A FEW TIMES USING MY
5 PHONE OR WALKIE-TALKIE.

6 Q OKAY. YOU SAID THAT YOU GOT INFORMATION
7 REGARDING A SHOOTING FROM DISPATCH, IS THAT RIGHT?

8 A YES.

9 Q IS THAT ALL DISPATCH GAVE YOU?

10 A YES, SIR.

11 Q INFORMATION REGARDING A SHOOTING?

12 A THEY ADVISED ME THERE HAD BEEN AN INCIDENT ON
13 LAWRENCE ROAD, SHOTS FIRED, HAD SEVERAL PEOPLE
14 INJURED, AND THEY REQUESTED THAT I RESPOND OUT TO
15 LAWRENCE ROAD.

16 Q DID ANYBODY THAT NIGHT TELL YOU THAT BRADLEY
17 DEAL HAD CALLED 911, WHO LIVED OR WHOSE FAMILY OWNED
18 THE HOUSE, AND ON THE 911 CALL SAID THAT PEOPLE CAME
19 BY SHOOTING AT THEM?

20 A NO, SIR.

21 Q NOBODY EVER SHARED THAT CALL WITH YOU?

22 A I UNDERSTOOD THERE HAD BEEN A 911 CALL ABOUT
23 SHOTS FIRED. I WAS NOT GIVEN SPECIFICS AS FAR AS WHO
24 WAS SHOOTING AT WHOM, JUST SHOTS HAD BEEN FIRED.

25 Q OKAY. BUT WOULD YOU AGREE THAT IF SPECIFICS HAD

1 BEEN GIVEN IT WOULD BE GOOD FOR THAT TO HAVE BEEN
2 PROVIDED?

3 A USUALLY WHEN WE ARE DISPATCHING A CALL LIKE THAT
4 YOU GET CALLED OUT IN THE MIDDLE OF THE NIGHT THEY
5 PROVIDE YOU JUST ENOUGH INFORMATION TO GET YOU
6 ROLLING. THEN WHEN WE GOT OUT THERE WE TRY TO
7 DEVELOP MORE INFORMATION.

8 Q NOW DID FORENSICS GET TO LAWRENCE ROAD BEFORE
9 YOU LEFT LAWRENCE ROAD TO GO TO CLOVER?

10 A NO, SIR.

11 Q AND DID YOU TALK WITH THE BOYS?

12 A WHEN I ENTERED THE HOUSE MOST OF THOSE YOUNG MEN
13 I THINK I GUESS KNOW ME FROM PRIOR EXPERIENCES IN
14 CLOVER AND WE SPOKE.

15 Q OKAY.

16 A I BELIEVE THEY STARTED WANTING TO GIVE ME
17 INFORMATION AND I ADVISED THEM TO HOLD WHAT THEY GOT,
18 THAT WE WOULD GET A STATEMENT FROM THEM, AND THAT IS
19 WHY I PROVIDED DEPUTY FERRELL SOME STATEMENTS SO THEY
20 WOULD WRITE DOWN WHAT THEY HAD TO SAY.

21 Q OKAY. SO THEY WERE GOING TO TALK TO YOU ABOUT
22 THIS AND YOU TOLD THEM NOT TO, THAT YOU'D GET IT
23 LATER WITH DEPUTY FERRELL AFTER YOU ASSESSED
24 EVERYTHING, IS THAT RIGHT?

25 A YES, SIR.

1 Q AND SO AT SOME POINT IN TIME DID DEPUTY FERRELL
2 DO THAT LATER AFTER YOU HAD LEFT?

3 A YES, SIR. I GIVE HIM THE BLANK STATEMENT FORMS.
4 AS A MATTER OF FACT WHEN I LEFT HE WAS GIVING THE
5 FORMS TO THE YOUNG MEN TO GATHER THEIR STATEMENTS
6 WHEN I LEFT THE RESIDENCE.

7 Q OKAY. AND THEN YOU WENT TO CLOVER POLICE
8 DEPARTMENT?

9 A YES, SIR.

10 Q AND YOU SAID THAT WHEN YOU ARRIVED AT THE CLOVER
11 POLICE DEPARTMENT YOU MET WITH A MEMBER OF FORENSICS?

12 A YEAH, THERE WAS FSU INDIVIDUAL OUT BEHIND THE
13 CLOVER POLICE DEPARTMENT.

14 Q WHO WAS IT?

15 A THAT WAS DEPUTY WAYNE SMITH.

16 Q SMITH?

17 A YES, SIR.

18 Q IS THAT RIGHT?

19 A YES, SIR.

20 Q OKAY. HE WAS ALREADY THERE, RIGHT?

21 A AT THE PD, YES, SIR.

22 Q OKAY. AND THIS WAS AT APPROXIMATELY WHAT TIME?

23 A IT WAS CALLED OUT, LIKE I SAID, SOMEWHERE AROUND
24 12:15 TO 12:30 AND I WENT TO LAWRENCE ROAD, STAYED
25 APPROXIMATELY HALF AN HOUR OR SO.

- 1 Q ABOUT ONE, LITTLE BIT AFTER ONE, 1:05 HE WAS
2 ALREADY THERE?
- 3 A YES, SIR, HE WAS ALREADY THERE.
- 4 Q OKAY. AND YOU TALKED WITH HIM?
- 5 A YES, SIR.
- 6 Q AND WAS IT AT THAT POINT IN TIME -- WELL, LET ME
7 ASK YOU THIS. DID YOU TALK WITH OFFICER JAMISON?
- 8 A YES, I DID.
- 9 Q ALL RIGHT. AND WHAT WAS YOUR UNDERSTANDING OF
10 WHAT HE WAS DOING?
- 11 A WHEN I WENT INSIDE THE CLOVER POLICE DEPARTMENT
12 OFFICER JAMISON WAS IN A ROOM WITH MR. BOLIN AND THE
13 YOUNG LADY.
- 14 Q OKAY.
- 15 A AND WHEN I FIRST WALKED IN, HE WAS ON THE PHONE
16 WITH SOMEONE, I DON'T KNOW WHO HE WAS ON THE PHONE
17 WITH, BUT AFTER HE HUNG UP HE ADVISED ME WHO WAS
18 SITTING IN FRONT OF HIM. IT WAS MR. BOLIN. HE
19 ADVISED ME THAT HE HAD ALREADY GIVEN MR. BOLIN THE
20 MIRANDA WARNING AND HAD HIM SIGN A WAIVER.
- 21 Q OKAY.
- 22 A HE WAS THERE ASSISTING WITH THE INVESTIGATION.
- 23 Q OKAY. AND WERE YOU IN CHARGE OF HIM OR WAS HE
24 IN CHARGE OF YOU?
- 25 A NEITHER.

- 1 Q NEITHER ONE?
- 2 A WE WERE ASSISTING EACH OTHER.
- 3 Q YOU WERE ASSISTING EACH OTHER?
- 4 Q NOW OFFICER JAMISON TOOK A NUMBER OF OR HAD
- 5 PEOPLE GIVE A NUMBER OF STATEMENTS THAT NIGHT, IS
- 6 THAT CORRECT?
- 7 A YES, SIR.
- 8 Q OKAY. AND WHEN DID YOU SEE THOSE STATEMENTS?
- 9 A I SAW THEM SHORTLY AFTER I GOT THERE, HE GAVE ME
- 10 MR. BOLIN'S STATEMENT NOT LONG AFTER I ARRIVED.
- 11 Q BUT OTHER STATEMENTS, WHEN DID YOU SEE THE OTHER
- 12 STATEMENTS?
- 13 A I DON'T RECALL EXACTLY WHEN I SAW THOSE
- 14 STATEMENTS.
- 15 Q YOU DON'T RECALL?
- 16 A NO, SIR.
- 17 Q DID YOU GO AND COLLECT THEM FROM HIM SO YOU
- 18 COULD ANALYZE THEM TO SEE WHAT INFORMATION THEY MIGHT
- 19 HAVE TO SEE WHAT YOU MIGHT NEED TO LOOK AT?
- 20 A I WAS AWARE HE HAD SOME STATEMENTS, BUT I DON'T
- 21 RECALL READING EACH ONE OF THOSE STATEMENT AT THE
- 22 TIME.
- 23 Q SO YOU DON'T RECALL READING THE STATEMENTS?
- 24 A NO, SIR.
- 25 Q DO YOU KNOW WHO'S READING THE STATEMENTS AT

1 CLOVER POLICE DEPARTMENT THAT ARE BEING WRITTEN IF
2 YOU ARE NOT DOING IT AND OFFICER JAMISON IS NOT DOING
3 IT?

4 A DO I KNOW WHO IS READING THE STATEMENTS?

5 Q YES. DO YOU KNOW WHO MIGHT BE READING THE
6 STATEMENTS?

7 A I WOULD, I'M ASSUMING SOMEONE FROM LAW
8 ENFORCEMENT. I MEAN I'M NOT SURE WHAT YOU ARE ASKING
9 ME, WHO IS READING THE STATEMENTS.

10 Q WELL, STATEMENTS ARE BEING DRAFTED BY PEOPLE WHO
11 ARE ALLEGED EYE WITNESSES TO THIS ACCOUNT, IS THAT
12 RIGHT?

13 A THE PEOPLE I UNDERSTAND HE GOT STATEMENTS FROM
14 WAS MR. BOLIN AND THE YOUNG LADY THAT WAS WITH HIM AT
15 THAT TIME.

16 Q SO YOU DON'T KNOW OF ANY OTHER STATEMENTS?

17 A NO, SIR.

18 Q HE DIDN'T TELL YOU OF A STATEMENT THAT WAS GIVEN
19 BY MS. MCCARTER AT 1 A.M. WHICH WOULD HAVE BEEN AN
20 HOUR AND A HALF BEFORE THE STATEMENT WHO WAS AN
21 OCCUPANT OF THE VEHICLE?

22 A I DON'T RECALL SEEING THOSE STATEMENTS.

23 Q OKAY. DO YOU RECALL SEEING A STATEMENT FROM
24 MR. HUBBARD WHO HAD BEEN GIVEN ABOUT AN HOUR AND A
25 HALF BEFORE THEN TOO AND WAS AN OCCUPANT OF THE

1 VEHICLE?

2 A NO, SIR, I DON'T RECALL SEEING THAT STATEMENT.

3 Q DID YOU DEAL WITH ANY OTHER STATEMENTS THAT
4 NIGHT THAT DEPUTY JAMISON HAD DONE ABOUT LORI MOSS
5 MAYBE, AT ABOUT FOUR O'CLOCK, DID YOU SEE THAT
6 STATEMENT?

7 A I DON'T RECALL, SIR.

8 Q OKAY. DID YOU SEE ONE THAT WAS ABOUT 5:30 AM BY
9 SAMANTHA EASON WHO WAS AN OBSERVER THAT EVENING?

10 A AT 5:30, NO, SIR.

11 Q DO YOU KNOW WHO SAW THOSE STATEMENTS THAT NIGHT,
12 ANYBODY, MAYBE?

13 A NO, SIR.

14 Q NOW YOU SAID THAT YOU WENT TO BERRY BOLIN ABOUT
15 THE GSR THING, HAD YOU TALKED WITH MR. SMITH ABOUT
16 OBTAINING THE GSR FROM BERRY BOLIN?

17 A HE ADVISED ME THAT HE WAS GOING TO DO ONE.

18 Q OKAY. DID YOU HAVE ANY CONVERSATION WITH
19 DETECTIVE SMITH OR ANYBODY WHO MIGHT HAVE BEEN IN THE
20 POLICE DEPARTMENT

21 A DID I HAVE A CONVERSATION WITH THEM?

22 Q I'M GOING TO FINISH IT. IT WILL MAKE MORE SENSE
23 WHEN I DO, OKAY?

24 A OKAY.

25 Q DID YOU HAVE ANY CONVERSATION WITH DETECTIVE

1 SMITH OR ANYBODY ELSE IN THE POLICE DEPARTMENT ABOUT
2 DOING A GSR KIT ON THE PEOPLE WHO WERE IN THE CAR?

3 A I DON'T RECALL HAVING A CONVERSATION ABOUT ANY
4 OF THE OCCUPANTS THAT EVENING, THAT MORNING.

5 Q NOW GSR KITS, THOSE ARE TIME IMPORTANT, AREN'T
6 THEY? YOU DON'T WANT SOMEBODY GOING A REAL LONG TIME
7 BECAUSE THE GSR KIT THEN BECOMES LESS VALUABLE, IS
8 THAT CORRECT?

9 A YES, SIR.

10 THE COURT: YOU MIGHT WANT TO TELL THE
11 JURY WHAT A GSR KIT IS.

12 Q CAN YOU EXPLAIN TO THE JURY WHAT YOUR
13 INFORMATION AND YOUR KNOWLEDGE OF A GUNSHOT RESIDUE
14 KIT IS?

15 A MY LIMITED KNOWLEDGE OF A GUNSHOT RESIDUE KIT IS
16 AS I UNDERSTAND IT IF SOMEONE HAS DISCHARGED A
17 FIREARM, YOU CAN TAKE A SWAB, A Q-TIP SWAB, I'M NOT
18 EVEN SURE IF YOU USE Q-TIPS OR LITTLE CLOTHS AND THEY
19 CAN GET RESIDUE, POSSIBLY GET GUNPOWDER RESIDUE OR
20 SOME SORT OF RESIDUE FROM AN INDIVIDUAL'S HANDS THAT
21 WOULD INDICATE THEY HAD FIRED A GUN WITHIN A CERTAIN
22 PERIOD OF TIME. I COULDN'T EVEN TELL YOU HOW LONG
23 THAT LASTS. I DON'T KNOW. I'M NOT SPECIFICALLY
24 TRAINED IN THAT.

25 Q AND SO WITH ANYBODY WHO MAY HAVE FIRED A GUN A

1 GUNSHOT RESIDUE KIT, IF DONE IN A TIMELY FASHION, CAN
2 POSSIBLY PROVIDE SOME INFORMATION FOR A CASE, IS THAT
3 CORRECT?

4 A YES, SIR.

5 Q AND THAT'S WHY Y'ALL DECIDED TO DO ONE WITH
6 BERRY, ISN'T THAT CORRECT?

7 A YES, SIR.

8 Q OKAY. YOU DON'T REMEMBER ANYBODY SAYING LET'S
9 DO A GUNSHOT RESIDUE KIT ON ANYBODY WHO WAS IN THE
10 CAR?

11 A WHEN I ARRIVED ALL THE OTHER OCCUPANTS, ALL THE
12 OCCUPANTS OF THE VEHICLE WERE GONE. THERE WAS NO ONE
13 FROM THE VEHICLE WAS STILL THERE WHEN I GOT THERE.
14 MY UNDERSTANDING WAS THEY WERE TRANSPORTED TO THE
15 HOSPITAL.

16 Q OKAY. NOW IT WAS YOUR INFORMATION AT THAT TIME,
17 WAS IT NOT, SOMEBODY HAD TOLD YOU THAT TWO PEOPLE IN
18 THE CAR HAD BEEN WOUNDED, CORRECT?

19 A YES, SIR.

20 Q AND THERE WERE TWO PEOPLE IN THE CAR WHO CAME TO
21 CLOVER POLICE DEPARTMENT WHO WERE NOT WOUNDED,
22 CORRECT?

23 A YES, SIR.

24 Q SO WHERE WERE THE TWO PEOPLE IN THE CAR AT THE
25 TIME YOU GOT THERE, WHERE WERE THE TWO PEOPLE IN THE

1 CAR WHO WERE NOT WOUNDED AND WHO DID NOT NEED MEDICAL
2 TREATMENT?

3 A I DON'T KNOW.

4 Q YOU DON'T KNOW?

5 A NO, SIR.

6 Q ALL RIGHT. NOW IN TALKING WITH BERRY WHEN WAS
7 THE FIRST TIME THAT YOU TALKED WITH BERRY AND TOOK
8 HIM UPSTAIRS, DO YOU RECALL?

9 A I DON'T RECALL WHAT TIME, NO, SIR. SHORTLY
10 AFTER I ARRIVED.

11 Q AND WHEN YOU TOOK HIM UPSTAIRS, Y'ALL WENT AND
12 TALKED, IS THAT RIGHT?

13 A YES, SIR.

14 Q OH AND ONE THING ABOUT THE GUN AND THE RECOVERY
15 OF THE GUN, IN FACT THAT INFORMATION OF THE RECOVERY
16 OF THE GUN YOU DID GET FROM BERRY, IS THAT CORRECT?
17 THERE WAS A CELL PHONE NUMBER OR SOMETHING AND THEY
18 WERE ABLE TO GET THAT FROM MICHELLE, IS THAT CORRECT?

19 A YES, SIR.

20 Q HE TOLD YOU MICHAEL WALLACE HAD THE GUN, IS THAT
21 CORRECT?

22 A EVENTUALLY, YES, SIR.

23 Q HE ASSISTED GETTING THAT PHONE NUMBER FROM
24 MICHELLE'S CELL PHONE SO Y'ALL WOULD BE ABLE TO CALL
25 MICHAEL TO SAY COME ON AND BRING THE GUN DOWN, IS

1 THAT CORRECT?

2 A YES, SIR.

3 Q AND MICHAEL DID COME ON AND BRING THE GUN DOWN,
4 DIDN'T HE?

5 A YES, SIR.

6 Q ALL RIGHT, SIR. NOW BEFORE ALL THAT, THE FIRST
7 TIME YOU TOOK HIM UPSTAIRS WAS IT AFTER THE SEARCH OF
8 THE VEHICLE AND THE GUNSHOT RESIDUE AND IT WAS AFTER
9 HE HAD FILLED OUT THE SHEET TO BEGIN WITH WITH DEPUTY
10 JAMISON, CORRECT?

11 A I'M NOT SURE THE EXACT SEQUENCE OF EVENTS. I
12 TOOK HIM UPSTAIRS. I KNOW HE HAD BEEN MIRANDIZED AND
13 HAD HIS RIGHTS READ TO HIM. I'M NOT EXACTLY SURE ON
14 WHAT THE SEQUENCE IS.

15 Q AND WHO WAS UPSTAIRS? YOU AND BERRY?

16 A MYSELF, MR. BOLIN AND I. I BELIEVE IT WAS THE
17 CLOVER POLICE POLICE OFFICER UPSTAIRS. YOU KNOW, I
18 DON'T KNOW WHO THAT WAS. I KNOW IT WAS SOMEONE
19 SITTING IN THE ROOM.

20 Q WAS LIEUTENANT HAGER UP THERE?

21 A NOT AT THAT TIME.

22 Q OKAY. AND WHAT DID YOU TALK ABOUT? DID YOU
23 TALK?

24 A I ASKED HIM ABOUT WHAT HAPPENED AT THE PARTY.
25 WHAT HAD TAKEN PLACE.

1 Q NOW THIS WAS NOT THE TIME THAT YOU WROTE THE
2 STATEMENT FOR HIM?

3 A NO, SIR.

4 Q OKAY. SO YOU TALKED WITH HIM, HOW LONG DID YOU
5 TALK WITH HIM UP THERE?

6 A APPROXIMATELY, I DON'T KNOW, MAYBE 10-15
7 MINUTES. I WASN'T WEARING A WATCH. I DON'T KNOW. I
8 DIDN'T LOOK AT THE CLOCK. IT WASN'T AN EXTENDED
9 PERIOD OF TIME. I'M NOT SURE.

10 Q DID YOU TAKE ANY NOTES AT THIS JUNCTURE?

11 A NO, SIR.

12 Q YOU DIDN'T WRITE DOWN ANYTHING TO TALK ABOUT AT
13 THAT TIME?

14 A NOT AT THAT TIME, NO, SIR.

15 Q THEN YOU TOOK HIM BACK DOWNSTAIRS, IS THAT
16 CORRECT?

17 A YES, SIR.

18 Q OKAY. AND AT SOME POINT IN TIME HE WASN'T UNDER
19 ARREST, BUT DIDN'T YOU TELL DEPUTY JAMISON THAT WE
20 DON'T WANT HIM TO GO ANYWHERE?

21 A YES, SIR.

22 Q OKAY. AND HE WENT AND HE SAT IN THE ROOM, IS
23 THAT RIGHT?

24 A YES, SIR.

25 Q AND YOU CAME DOWN AND YOU GOT HIM AGAIN, IS THAT

1 RIGHT?

2 A YES, SIR.

3 Q AND YOU TOOK HIM BACK UPSTAIRS AGAIN TO TALK

4 WITH HIM, IS THAT CORRECT?

5 A YES, SIR.

6 Q AND HOW LONG DID YOU TALK WITH HIM THIS TIME?

7 A A LITTLE BIT LONGER THAN THE FIRST TIME I'M

8 SURE, BUT I DON'T RECALL EXACTLY HOW LONG IT WAS.

9 Q JUST THE TWO OF YOU THIS TIME, THE SECOND TIME?

10 A AT SOME POINT IN TIME MY LIEUTENANT ARRIVED AND

11 I HAD HIM UPSTAIRS, I DON'T KNOW IF THAT WAS THE

12 FIRST TIME OR THE SECOND TIME. I'M NOT REALLY SURE.

13 Q THAT WOULD BE LIEUTENANT HAGER?

14 A NO, THAT WOULD BE LIEUTENANT TOLSON, BETH

15 TOLSON.

16 Q OKAY. SO LIEUTENANT TOLSON ARRIVES AT SOME

17 POINT?

18 A YEAH, SHE ARRIVED BEFORE LIEUTENANT HAGER DID.

19 Q SO THE TWO OF Y'ALL HAD HIM UPSTAIRS TALKING TO

20 HIM?

21 A SHE CAME UPSTAIRS AFTER I WAS ALREADY THERE.

22 Q OKAY. STILL LIEUTENANT HAGER HAS NOT ARRIVED?

23 A NOT AT THAT TIME.

24 Q WELL, Y'ALL TOOK HIM BACK DOWN STAIRS AFTER THAT

25 MEETING, DIDN'T YOU?

1 A YES, SIR.

2 Q OKAY. YOU DIDN'T WRITE ANYTHING DOWN, YOU
3 DIDN'T TAKE ANY NOTES, DID YOU?

4 A NO, SIR, I DIDN'T.

5 Q OKAY. OH AND I UNDERSTAND THAT, I UNDERSTAND
6 THAT HE SIGNED HIS MIRANDA WAIVER AND HE DID THAT
7 WITH DEPUTY JAMISON. YOU DIDN'T GIVE HIM, YOU DIDN'T
8 REMIND HIM OF THOSE RIGHTS AT ALL, DID YOU?

9 A I DIDN'T. LIEUTENANT HAGER DID WHEN HE CAME UP.

10 Q OH, HE DID?

11 A YEAH.

12 Q OKAY. AND SO LIEUTENANT HAGER CAME IN THE THIRD
13 TIME, IS THAT RIGHT?

14 A I DON'T RECALL ACTUALLY TAKING MR. BOLIN
15 UPSTAIRS UP TWICE. I THINK WHEN LIEUTENANT TOLSON
16 ARRIVED POSSIBLY THE FIRST TIME I TOOK HIM UPSTAIRS.
17 AGAIN I DON'T RECALL HOW MANY TIMES. LIEUTENANT
18 HAGER CAME UP. I KNOW THE LAST TRIP WE MADE UPSTAIRS
19 WHEN LIEUTENANT HAGER ARRIVED.

20 Q AND WAS IT THAT TRIP THAT LIEUTENANT HAGER AND
21 YOU WERE IN THERE WITH HIM THAT YOU ENDED UP WRITING
22 THE STATEMENT FOR HIM?

23 A YES.

24 Q ALL IN ALL HE WAS THERE ABOUT, I THINK THE TIME
25 ON THE STATEMENT IS WHAT, 4:30, SOMEWHERE AROUND IN

- 1 THERE?
- 2 A YES, SIR.
- 3 Q SO THAT WOULD BE ABOUT TWO AND A HALF HOURS THAT
- 4 HE'D BEEN THERE WITH Y'ALL?
- 5 A I'M NOT SURE WHAT TIME HE GOT TO THE PD.
- 6 Q AT ANY TIME DURING THIS PERIOD OF TIME WHEN
- 7 LIEUTENANT HAGER GOT THERE, WHEN LIEUTENANT HAGER GOT
- 8 THERE, WAS HE IN CHARGE?
- 9 A NO, SIR, I WON'T SAY HE WAS IN CHARGE. HE'S
- 10 MORE A EXPERIENCED OFFICER. YOU KNOW. BUT HE, HIM
- 11 BEING THE SENIOR PERSON THERE, HE'S THE ONE THAT
- 12 WOULD PROBABLY BE GUIDING THE PROCESS.
- 13 Q OKAY. NOW AT SOME POINT IN TIME DURING THAT
- 14 EVENING AT THE CLOVER POLICE DEPARTMENT, EARLY THAT
- 15 MORNING, DO YOU RECALL EVER SEEING A STATEMENT THAT
- 16 SAID THAT THE PEOPLE IN THE CAR WERE SHOOTING?
- 17 A YES, SIR.
- 18 Q YOU DO?
- 19 A UH-HUH.
- 20 Q WHEN, WHAT TIME?
- 21 A A COUPLE YOUNG LADIES CAME BY AND GAVE
- 22 STATEMENTS.
- 23 Q AND WHAT TIME WAS THIS?
- 24 A I DON'T RECALL.
- 25 Q AND SO YOU RECEIVED INFORMATION THAT NIGHT FROM

1 TWO LADIES, TWO YOUNG GIRLS, THAT THE PEOPLE IN THE
2 CAR HAD BEEN SHOOTING?

3 A THEY ADVISED THAT THEY SAW FIRE OR SOMETHING TO
4 THAT EFFECT AROUND THE VEHICLE.

5 Q GUN FIRE AROUND THE VEHICLE?

6 A RIGHT.

7 Q OKAY. AND YOU DON'T RECALL WHAT TIME THAT WAS?

8 A WHAT TIME THEY GAVE THEIR STATEMENT?

9 Q WHAT TIME YOU FOUND OUT THAT INFORMATION?

10 A NO, SIR.

11 Q DO YOU KNOW OF ANY SHERIFF'S DEPARTMENT PERSON
12 WHO HAD THAT INFORMATION BEFORE YOU?

13 A NOT TO MY KNOWLEDGE, NO, SIR.

14 Q OKAY. SO TO YOUR KNOWLEDGE YOU WERE THE FIRST
15 ONE TO HAVE THAT INFORMATION, IS THAT CORRECT?

16 A YES, SIR.

17 Q WHAT DID YOU DO WITH IT?

18 A I PASSED IT ON TO PROBABLY, I THINK IT WAS
19 LIEUTENANT HAGER. I'M NOT SURE. I HONESTLY DON'T
20 KNOW WHAT I DONE WITH THOSE STATEMENTS.

21 Q OKAY. SO YOU GOT THE INFORMATION THAT SOMEBODY
22 SAYING THAT THERE WAS GUN FIRE AROUND OR COMING FROM
23 THE CAR AND YOU DON'T KNOW WHAT YOU DID WITH IT?

24 A I DON'T RECALL WHO I GAVE THE STATEMENT TO, NO,
25 SIR.

1 Q DO YOU REMEMBER TALKING TO A CAROLINE KILLIAN AT
2 2:30 IN THE MORNING?

3 A I REMEMBER TALKING TO MS. KILLIAN. I'M NOT SURE
4 WHAT TIME IT WAS.

5 Q DO YOU REMEMBER TALKING TO A TONYA HUMPHRIES
6 ABOUT THE SAME TIME YOU TALKED TO MS. KILLIAN?

7 A YES, SIR.

8 Q WHETHER TRUE OR NOT, DO YOU KNOW IF THAT COULD
9 HAVE BEEN THE SOURCE OF THAT INFORMATION?

10 A ARE THEY THE ONES THAT GAVE THE STATEMENTS?

11 Q YEAH.

12 A YES, SIR, THEY ARE GOING TO GIVE THOSE
13 STATEMENTS THEN.

14 Q OKAY. NOW ISN'T IT TRUE THAT IF IT WAS GUN FIRE
15 COMING FROM THE CAR THAT CHANGES THINGS FORENSICALLY?

16 A YES, SIR.

17 Q OKAY. AND SO WOULD IT NOT BE INTERESTING TO SEE
18 IF WE NEED TO DO ANY GUNSHOT RESIDUE TESTS ON THE
19 OCCUPANTS OF THE VEHICLE, WOULD THAT BE A LOGICAL
20 IDEA

21 A YES, SIR.

22 Q IN THIS CASE DID THE YORK COUNTY SHERIFF'S
23 DEPARTMENT EVER DO GUNSHOT RESIDUE TESTS ON ANYBODY
24 IN THE CAR?

25 A I'VE NOT SEEN ANY DOCUMENTATION, NO, SIR. NOT

1 TO MY KNOWLEDGE.

2 Q WERE YOU INVOLVED IN ANY WAY IN THE SEARCH OF
3 THE PONTIAC?

4 A NO, SIR.

5 Q WHAT TIME DID YOU FINISH WORKING THAT DAY ON
6 THIS CASE, DO YOU RECALL?

7 A IT WAS ABOUT 6:30 THE FOLLOWING EVENING.

8 Q THE FOLLOWING EVENING?

9 A SUNDAY EVENING.

10 Q OKAY. SO YOU WORKED ON THIS CASE ALL THE WAY UP
11 UNTIL 6:30 SUNDAY EVENING, CORRECT?

12 A YES, SIR.

13 Q OKAY. AND AFTER THAT DAY DID YOU WORK ON THE
14 CASE MORE?

15 A NO, SIR.

16 Q OKAY. THAT WAS YOUR?

17 A I CORRECT MYSELF. THE FOLLOWING DAY I DID
18 ASSIST IN A FEW MORE INTERVIEWS.

19 Q OKAY.

20 A I THINK IT WAS MONDAY, A FEW MORE INTERVIEWS.

21 Q OKAY. DO YOU REMEMBER WHO THOSE PEOPLE WERE?

22 A THAT I INTERVIEWED?

23 Q YEAH.

24 A I INTERVIEWED A MR. BEVERLY.

25 Q OKAY.

- 1 A AND MR. BUCK.
- 2 Q OKAY. JEFF BUCK
- 3 A YES, SIR. ALSO A MR. BROWN.
- 4 Q OKAY. ERIC BROWN?
- 5 A YES, SIR.
- 6 Q ROBERT BEVERLY?
- 7 A ROBERT BEVERLY, YES, SIR.
- 8 Q ALL RIGHT. AFTER YOU INTERVIEWED THEM DID YOU
- 9 HAVE ANYTHING ELSE TO DO WITH THIS CASE OR WAS THIS
- 10 CASE TURNED OVER AND ASSIGNED PERMANENTLY TO SOME OF
- 11 YOUR CO-WORKERS?
- 12 A YES, SIR.
- 13 Q IT WAS?
- 14 A YES, SIR.
- 15 Q OKAY.
- 16 MR. GREELEY: IF THE COURT WILL INDULGE ME
- 17 FOR ONE MOMENT. THAT'S ALL I HAVE AT THIS TIME, YOUR
- 18 HONOR.
- 19 THE COURT: REDIRECT.
- 20 MR. POPE: JUST BRIEFLY.
- 21 REDIRECT EXAMINATION BY MR. POPE:
- 22 Q AS FAR AS THE INVESTIGATION, YOU HAVE UNIFORM
- 23 OFFICERS TAKING STATEMENTS THEN YOU HAD VARIOUS
- 24 INVESTIGATORS, YOU NAMED A NUMBER OF PEOPLE YOU TOOK,
- 25 IS THAT CORRECT?

1 A YES, SIR.

2 Q OKAY. AND SO OUT AT THE HOUSE YOU HAD OFFICER
3 FERRELL WHO HAS PREVIOUSLY TESTIFIED AND YOU GAVE HIM
4 THE STATEMENT FORMS, HE WAS TAKING THE STATEMENTS, IS
5 THAT CORRECT?

6 A YES, SIR.

7 Q OKAY. THEN YOU HAD AT THE CLOVER POLICE
8 DEPARTMENT YOU HAD SERGEANT JAMISON, HE WAS TAKING
9 STATEMENTS, RIGHT?

10 A YES, SIR.

11 Q THERE WAS A NUMBER OF STATEMENTS THAT YOU TOOK,
12 I THINK MR. GREELEY REFERENCED SOME YOUNG LADIES WHO
13 CAME AND TOLD YOU ABOUT FIRES FROM THE CAR OR
14 SOMETHING LIKE THAT, TALKED TO JEFF BUCK AND HE
15 TALKED ABOUT THE PHONE CALLS BACK AND FORTH KIND OF
16 BEGINNING THE FIGHT THING, YOU TALKED TO HIM TOO,
17 RIGHT?

18 A YES, SIR.

19 Q OKAY. ALL THESE STATEMENTS MR. GREELEY IS
20 ASKING YOU ABOUT YOU SAY YOU DON'T KNOW WHAT HAPPENED
21 TO THEM, DID THEY DISAPPEAR AFTER THAT OR ARE THEY
22 PART OF YOUR CASE FILE?

23 A THEY ARE ALL FORWARDED TO THE CASE AGENT TO THE
24 DETECTIVES PRIMARILY WORKING THE CASE.

25 Q OKAY. NOW ULTIMATELY DETECTIVE YEAGER WAS

1 ASSIGNED THE DUTY OF BEING KIND OF THE CASE AGENT
2 WHICH IS KIND THE COLLECTOR OF ALL DOCUMENTS, IS THAT
3 CORRECT?

4 A YES, SIR.

5 Q OKAY. BUT THAT NIGHT AS YOU KIND OF INDICATED,
6 YOU GET THERE, YOU SEE THE SCENE AND THE SITUATION
7 YOU GOT SO YOU CALL YOUR SUPERVISOR THAT WAS BETH
8 TOLSON, RIGHT?

9 A YES, SIR.

10 Q AND SHE WAS, HAPPENED TO BE THE SUPERVISOR IN
11 THE DIVISION THAT YOU WERE IN WHICH WAS THE SEX CRIME
12 DIVISION, IS THAT RIGHT?

13 A YES, SIR.

14 Q IS THAT WHY YOU CALLED HER BECAUSE SHE HAPPENED
15 TO BE YOUR SUPERVISOR?

16 A SHE WAS THE ON CALL LIEUTENANT AS WELL.

17 Q OKAY. SO YOU HAVE AN ON-CALL INVESTIGATOR, THAT
18 WAS YOU, YOU THEN HAVE AN ON-CALL LIEUTENANT?

19 A YES, SIR.

20 Q THEN WHEN IT'S CLEAR IT'S CRIMES AGAINST PERSONS
21 THEN LIEUTENANT HAGER IS THE SUPERVISOR OF THE CRIMES
22 AGAIN PERSONS UNIT, IS THAT CORRECT?

23 A YES, SIR.

24 Q SO HE KIND OF IS, IT KEEPS STEPPING OUT, HE
25 COMES OUT, IS THAT RIGHT?

- 1 A YES, SIR.
- 2 Q THEN YOU HAVE A CAPTAIN HOFFMAN, IS THAT
- 3 CORRECT?
- 4 A YES, SIR.
- 5 Q HE'S THE CAPTAIN OVER ALL THE INVESTIGATORS, IS
- 6 THAT RIGHT?
- 7 A THAT'S CORRECT.
- 8 Q AND DID HE IN FACT COME OUT THERE THAT NIGHT,
- 9 TOO?
- 10 A YES, HE DID.
- 11 Q DID ALL THESE GUYS JUST COME OUT THERE AND SIT
- 12 AROUND WHILE YOU TOOK THIS ONE STATEMENT?
- 13 A NO, SIR.
- 14 Q WHAT WERE THEY DOING?
- 15 A THEY WERE TALKING TO OTHER FOLKS AND TRYING TO
- 16 PIECE THINGS TOGETHER.
- 17 Q AND MR. GREELEY ASKED YOU ULTIMATELY IF SOMEBODY
- 18 SAID WHO SAID GO DO SOMETHING OR, SO IF LIEUTENANT
- 19 HAGER HAD COME AND SAID, OKAY, SOMEBODY NEEDS TO GO
- 20 OUT TO THE HOUSE, WOULD YOU HAVE GONE OUT TO THE
- 21 HOUSE?
- 22 A YES, SIR.
- 23 Q IF HOFFMAN LOOKS AT ALL THE STATEMENTS AND SAYS,
- 24 HERE IS THE PLAN OR THIS IS WHAT WE'RE GOING TO DO
- 25 NEXT, IN FACT, THAT DID HAPPEN, DIDN'T IT, HOFFMAN

1 MADE ASSIGNMENTS, WENT AND DID CERTAIN THINGS,
2 FOLLOWED UP ON THE OTHER, MR. OWENS AND THE NINE
3 MILLIMETER, HE DID THOSE THINGS TOO, IS THAT CORRECT?

4 A YES, SIR.

5 Q OKAY. SO EVERYBODY IS WORKING DIFFERENT PARTS
6 BUT Y'ALL WORKING TOWARD A COMMON END, IS THAT
7 CORRECT?

8 A YES, SIR.

9 Q OKAY.

10 MR. POPE: BEG THE COURT'S INDULGENCE.
11 NOTHING FURTHER, YOUR HONOR.

12 THE COURT: MR. GREELEY.

13 MR. GREELEY: I'M SORRY. NOTHING FURTHER.

14 THE COURT: YOU MAY BE EXCUSED. THANK
15 YOU. YOU CAN STEP DOWN. MEMBERS OF THE JURY, WE'LL
16 STOP FOR THE DAY AND WE'LL START BACK IN THE MORNING
17 AT 9:30 IN THE MORNING. PLEASE KEEP IN MIND DON'T
18 LET YOURSELF BE EXPOSED TO ANYTHING ABOUT THE CASE
19 EITHER THROUGH THE NEWS OR OTHERWISE, DON'T DISCUSS
20 THE CASE OR OTHERWISE, DON'T TRY TO MAKE UP YOUR OWN
21 MIND, WE'LL SEE YOU BACK AT 9:30 AND WE'LL TRY TO
22 START AS PROMPTLY AS WE CAN AT THAT TIME. EVERYONE
23 ELSE REMAIN SEATED AND I'LL LET THE JURY LEAVE FOR
24 THE EVENING. HAVE A PLEASANT EVENING.

25 (THE JURY EXITS THE COURTROOM AT 05:33)

1 PM.)

2 THE COURT: ANYTHING FROM THE STATE?

3 MR. POPE: NO, SIR, YOUR HONOR.

4 THE COURT: ANYTHING FROM THE DEFENSE?

5 MR. GREELEY: NOTHING FROM THE DEFENSE.

6 THE COURT: SEE YOU AT 9:30 IN THE

7 MORNING.

8 (COURT'S IN RECESS AT 05:33 PM.)

9 (COURT RESUMES ON AUGUST 30, 2006, AT

10 09:39 AM.)

11 THE COURT: IS THE STATE READY.

12 MR. POPE: THE STATE IS READY, YOUR HONOR.

13 THE COURT: THE DEFENSE IS READY.

14 MR. GREELEY: THE DEFENSE IS READY.

15 THE COURT: ALL RIGHT. BRING IN THE JURY.

16 (THE JURY RETURNS TO THE COURTROOM AT

17 09:40 AM.)

18 THE COURT: GOOD MORNING.

19 (THE JURY: GOOD MORNING.)

20 THE COURT: SOLICITOR.

21 MR. POPE: MAY IT PLEASE THE COURT. THE

22 STATE CALLS DETECTIVE RUSS YEAGER.

23 RUSS YEAGER, BEING FIRST DULY

24 SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION BY MR. POPE:

1 Q DETECTIVE YEAGER, STATE YOUR NAME AND SPELL YOUR
2 LAST FOR THE COURT REPORTER PLEASE?
3 A RUSS YEAGER. Y-E-A-G-E-R.
4 Q CAN YOU TELL THE JURY WHERE YOU ARE EMPLOYED?
5 A WITH THE YORK COUNTY SHERIFF'S OFFICE.
6 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
7 OFFICE?
8 A SINCE 1989.
9 Q AND COULD YOU TELL THE JURY WHERE YOU ARE
10 ASSIGNED AT THE SHERIFF'S OFFICE?
11 A I'M ASSIGNED TO THE CRIMES AGAINST PERSON
12 DIVISION IN THE DETECTIVE DIVISION.
13 Q AND CRIMES AGAINST PERSONS WHAT IS IT THAT YOU
14 GUYS DO?
15 A CRIMES AGAINST PERSON WE INVESTIGATE HOMICIDES,
16 ASSAULTS, ROBBERIES, FORGERIES.
17 Q WHO IS THE SUPERVISOR OF THAT DIVISION?
18 A LIEUTENANT TIM HAGER.
19 Q AND WHO ARE THE MEMBERS OF YOUR DIVISION
20 CURRENTLY?
21 A MYSELF, DETECTIVE EDDIE STRAIT, AND LIEUTENANT
22 HAGER.
23 Q AND WAS THAT THE SAME BACK IN FEBRUARY OF THIS
24 YEAR?
25 A YES, SIR, IT WAS.

- 1 Q THE SAME CONFIGURATION?
- 2 A YES, IT WAS.
- 3 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO BECOME
- 4 INVOLVED IN THE INVESTIGATION IN THIS PARTICULAR CASE
- 5 OF THE LAWRENCE ROAD SHOOTING?
- 6 A YES, SIR.
- 7 Q TELL THE JURY WHEN YOU BECAME INVOLVED?
- 8 A I WAS PAGED OUT SUNDAY MORNING. IT WAS AROUND
- 9 7:30 WHEN I RECEIVED THE PAGE. I CHECKED ON THAT
- 10 MORNING RIGHT JUST BEFORE 8 O'CLOCK.
- 11 Q OKAY. SO THIS EVENT HAPPENED RIGHT AT MIDNIGHT
- 12 SATURDAY NIGHT, ROLLING INTO SUNDAY MORNING, YOU ARE
- 13 NOW SUNDAY MORNING LIKE DAY LIGHT COMING INTO WORK?
- 14 A YES, SIR.
- 15 Q WERE YOU THE FIRST, I GUESS AS FAR AS THE
- 16 HOMICIDE UNIT, YOU AND YOU SAID DETECTIVE STRAIT?
- 17 A YES, SIR.
- 18 Q DID HE COME ON BOARD AT THE SAME TIME?
- 19 A YES, SIR, HE DID.
- 20 Q NOW LIEUTENANT HAGER, WAS HE OUT AT THE TIME
- 21 THAT YOU CAME IN?
- 22 A YES, SIR, HE WAS ALREADY OUT.
- 23 Q SO HE HAD ALREADY BEEN INVOLVED IN THE CASE?
- 24 A YES, SIR.
- 25 Q OKAY. AND WHERE DID YOU REPORT TO WHEN YOU CAME

1 ON DUTY?

2 A CAME TO THE SHERIFF'S OFFICE HERE AT THE MOSS
3 JUSTICE CENTER.

4 Q OKAY. AND WHO WAS PRESENT WHEN YOU ARRIVED AT
5 THE SHERIFF'S OFFICE?

6 A WHEN I CAME IN THERE WAS LIEUTENANT HAGER,
7 LIEUTENANT TOLSON, DOUG PATTERSON, AND CAPTAIN
8 HOFFMAN.

9 Q OKAY. WHAT IF ANYTHING DID YOU GUYS DO, THE
10 HOMICIDE DETECTIVES AND OTHER DETECTIVES DO, IN
11 FURTHERANCE OF THIS CASE THERE AT THAT TIME?

12 A WHEN I CAME IN, WHEN MYSELF AND DETECTIVE STRAIT
13 ARRIVED, WE MET WITH OTHER DETECTIVE THAT HAD BEEN
14 OUT, WE MET IN THE CONFERENCE ROOM AND SAT DOWN WITH
15 THEM AND REVIEWING STATEMENTS WHICH WAS JUST GOING
16 OVER THE INTERVIEWS THAT THE DETECTIVES HAD MADE,
17 THEY WERE KIND OF FILLING IN, DETECTIVE STRAIT IN, ON
18 WHAT THEY HAD DONE THAT NIGHT AND WHAT STILL HAD TO
19 BE DONE THAT DAY.

20 Q DID YOU RECEIVE STATEMENTS FROM, FOR EXAMPLE,
21 THE UNIFORM OFFICERS THAT HAD TAKEN STATEMENTS, DID
22 THOSE COME TO YOU ALSO?

23 A YES, SIR, THEY DID.

24 Q OKAY. HOW ABOUT THE STATEMENTS THAT SAY
25 DETECTIVE PATTERSON AND OTHER DETECTIVES TOOK, DID

1 YOU GET THOSE STATEMENTS?

2 A YES, SIR, I DID.

3 Q ANYTHING CLOVER WOULD HAVE GENERATED, LIKE THE
4 CRIME SCENE LOGS, OR THOSE TYPES THINGS, DO THOSE
5 COME TO YOU?

6 A YES, SIR, I HAD ALL THAT.

7 Q DID YOU END UP HAVING A SPECIAL ASSIGNMENT OR
8 SPECIAL RESPONSIBILITY AS FAR AS THIS PARTICULAR
9 CASE?

10 A THERE WERE SOME, STARTED OUT JUST MAKING A LIST
11 OF ALL THE PEOPLE THAT HAD BEEN INTERVIEWED. THE
12 ONES THAT WERE THERE THAT THEY HADN'T FOUND YET, WE
13 WERE MAKING A PLAN ON WHO WE WERE GOING TO GO SEE
14 THEN, TRY AND LOCATE SOME OF THESE PEOPLE,
15 REINTERVIEW THEM AGAIN. PARTICULAR PLAN WE ALSO, THE
16 VICTIM WAS AT THE HOSPITAL AT THAT TIME, WE STILL HAD
17 TO MAKE CONTACT WITH THE HOSPITAL, GET AN UPDATE ON
18 CONDITION. THE OTHER VICTIM WHO HAD ALSO BEEN SHOT
19 IN THE INCIDENT, HE WAS ALSO AT THE HOSPITAL, WE
20 STILL NEEDED TO GET AN UPDATE ON HIS CONDITION.

21 Q NOW YOU YOURSELF AS FAR AS A KIND OF A
22 REPOSITORY OF ALL THESE STATEMENTS AND ALL OF THIS
23 INFORMATION, DID YOU HAVE SPECIAL ASSIGNMENT AS FAR
24 AS THAT?

25 A YES, SIR, I WAS ASSIGNED THE CASE AS THE CASE

1 AGENT.

2 Q OKAY. AND WHAT DOES BEING THE CASE AGENT MEAN?

3 A MEANS I COLLECTED IT ALL. KEEP IT IN A BIG
4 NOTEBOOK.

5 Q EVERYBODY THAT GETS SOMETHING TAKES IT DOWN TO
6 JAMISON, WRITES IT DOWN ULTIMATELY, YOU ARE
7 RESPONSIBLE?

8 A YES, SIR.

9 Q YOU ARE KIND OF CUSTODIAN OF ALL THE PAPERWORK?

10 A THAT'S CORRECT.

11 Q NOW DOES THAT MEAN THAT YOU CALL ALL THE SHOTS
12 IN THE INVESTIGATION?

13 A NO, SIR.

14 Q OKAY. HOW DID THAT OPERATE? DO YOU HAVE A
15 HIERARCHY AT THE SHERIFF'S OFFICE?

16 A YES, SIR. MY IMMEDIATE SUPERVISOR IN ANY
17 HOMICIDE IS LIEUTENANT HAGER AND ALSO CAPTAIN HOFFMAN
18 IS IN CHARGE OF THE WHOLE DETECTIVE DIVISION.

19 Q AND WAS CAPTAIN HOFFMAN INVOLVED IN THIS
20 INVESTIGATION ALSO?

21 A YES, SIR, HE WAS.

22 Q WAS CAPTAIN HOFFMAN INVOLVED THAT MORNING?

23 A YES, SIR.

24 Q TRYING TO MAKE A PLAN OF WHO WOULD GO WHERE?

25 A YES, SIR.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable Edgar W. Dickson, Presiding Circuit Court Judge

Docket No. 2010-CP-46-0436

Berry Bolin, ... Appellant.

v.

State of South Carolina, ... Respondent,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 9, 2014



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