

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Florence County

William H. Seals, Jr., Circuit Court Judge

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S.C. Supreme Court

TYQUAN JARED AMIR JONES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212303

APPENDIX

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1 STATE OF SOUTH CAROLINA) IN FAMILY
2 COUNTY OF FLORENCE) COURT
3 STATE) TRANSCRIPT OF
4 V.) RECORD
5 TYQUAN JARED AMIR JONES)
6 DEFENDANT.)

7

8 JULY 13-14, 2006

9 FLORENCE, SOUTH CAROLINA

10

11 B-E-F-O-R-E:

12 HONORABLE JERRY D. VINSON, JUDGE;

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

14 FOR THE PLAINTIFF:

15 STEPHEN HILL, ESQ.

16 FOR THE DEFENDANT:

17 STEVEN MCLAURIN, ESQ.

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1 MR. HILL: Your Honor, may it please the Court?

2 THE COURT: Yes, sir.

3 MR. HILL: Your Honor, at this time, the state
4 calls the following petition, 2005-JU-21-242 in the interest
5 of TyQuan Jared Amir Jones.

6 Your Honor, he's charged on the petition with one
7 count of murder. One count of armed robbery. And one count
8 of unlawful possession of a pistol. Pursuant to the
9 statutes, the state move to have him waived up as an adult,
10 to the Court of General Session. A motion was made by this
11 office on December 14, 2005. Pursuant to that motion, he
12 was ordered to under go a pre-waiver evaluation which was
13 conducted by the Department of Juvenile Justice. And was
14 prepared by Dr. Pugh-Lilly who's here, today, to testify in
15 that regard as to her findings. He's been continuously
16 detained since December 14, 2005. And we're ready to
17 proceed, at this time, with a waiver hearing.

18 The state requesting that the Court finds that
19 Mr. Jones is an appropriate person to be waive for the Court
20 of General Session. And be treated an as adult for these
21 charges.

22 THE COURT: And is that on all counts on the
23 original petition?

24 MR. HILL: Yes, sir. Well, let's back up. The
25 unlawful possession of a pistol is actually not a waive-able

1 offense. But it counts as murder on Count One. And Count
2 Two on armed robbery, both of those are waive-able.

3 THE COURT: Thank you, sir.

4 Alright. And Mr. McLaurin has been appointed to
5 represent Mr. Jones.

6 Mr. McLaurin, are you ready to proceed, today?

7 MR. MCLAURIN: That's correct, Your Honor. We are
8 ready.

9 THE COURT: Anything needs to be brought to my
10 attention before we start taking testimony in this matter?

11 MR. HILL: Your Honor, not that I am aware of. If
12 you need me to detail a history of this case, at this point,
13 I can do so. But, I think, the Court is cognizant of the
14 history of this case by the examining the file.

15 THE COURT: Alright.

16 MR. HILL: We're ready to proceed. If you're
17 ready to take testimony.

18 THE COURT: Alright, does the state or the
19 defendant desire to make any opening statements to the
20 Court?

21 MR. HILL: The state does not.

22 MR. MCLAURIN: Nothing from the defendant, Your
23 Honor.

24 I just point out that, Your Honor, it seems on the
25 surface like a bad situation. But we're going to be able to

1 do show that TyQuan is a good guy. He's not a harden
2 criminal. We've got experts that are going to come here.
3 Dr. Pugh-Lilly is going to support the position that he does
4 not exhibit antisocial behavior. Can be rehabilitated. And
5 is remorseful for what happened. We're going to be able to
6 show that it was an accident what happened.

7 And based on that, Judge, we don't think the facts
8 are -- we would just ask the Court about keeping him a
9 juvenile.

10 THE COURT: Thank you, Mr. McLaurin. I'll be glad
11 to hear from your the first witness.

12 MR. HILL: Thank you, Your Honor. At this time,
13 the state would call Dr. Pugh-Lilly of the Department of
14 Juvenile Justice.

15 THE COURT: Come forward please, ma'am. And if
16 you would place your left on the Bible. And raise your
17 right.

18 THEREUPON,

19 ALEECE PUGH-LILLY
20 after having been duly sworn, testified as follows:

21 THE COURT: Thank you, ma'am. Please have a seat
22 in the witness stand. And if you would state your full
23 name.

24 DR. PUGH-LILLY: Dr. Aleece O. Pugh-Lilly.

25 THE COURT: And spell your last name.

1 DR. PUGH-LILLY: P-U-G-H-L-I-L-L-Y.

2 THE COURT: And your occupation?

3 DR. PUGH-LILLY: I'm a chief psychologist for the
4 Department of Juvenile Justice.

5 THE COURT: Thank you, ma'am.

6 Yes, sir.

7 MR. HILL: Your Honor, I believe, the Court has a
8 copy of the pre-waiver of the evaluation in its file.

9 THE COURT: There is a copy of that evaluation in
10 the file.

11 MR. HILL: Therefore the state does not need to
12 produce one as evidence in this case, is that's correct?

13 THE COURT: I'll take judicial notice of that
14 document as being a part of this Court's file.

15 MR. HILL: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. HILL:

18 Q Dr. Pugh-Lilly, I need to begin by establishing your
19 background and your credentials. How long have you
20 worked with the Department of Juvenile Justice?

21 A I've work for the Department of Juvenile Justice for
22 two years. And approximately four months.

23 Q What educational background do you have to enable you
24 to give -- gather -- to make an opinion in this case?

25 A I have a Bachelor's in Psychology. A Master's in

1 Psychology. And a Ph.D in Psychology.

2 Q And where were those degrees obtained?

3 A All three of those degrees were earned at the
4 University in Serie, Colombia.

5 Q And what certifications did you obtain, in order to,
6 support your work and validate your qualities in this
7 case?

8 A I am a licensed psychologist in the states of North
9 Carolina, as well as South Carolina.

10 Q Have you undergone any training or annual basis to
11 maintain your licenses and credentials?

12 A Yes, sir.

13 Q And when were you last -- what was the last trainings
14 that you underwent?

15 A I recently underwent a training in June of this year.

16 Q Have you testified in a Family Court before?

17 A No. I have not.

18 Q So this is first time you've testified for a court in a
19 pre-waiver hearing, is that correct?

20 A Yes, sir.

21 MR. HILL: Alright, Your Honor, at this time, this
22 state has no objection to Dr. Pugh-Lilly being found and
23 being held as an expert in the area of psychology. For the
24 purposes of juvenile psychology and preparation of the
25 evaluation.

1 THE COURT: Mr. McLaurin.

2 MR. MCCLAURIN: We, also, agree, Judge.

3 THE COURT: Alright. Without objection. She will
4 be qualified as an expert witness with particular, I guess,
5 area of specialty in juvenile justice.

6 Q Dr. Pugh-Lilly, you have a copy of the report in front
7 of you?

8 A Yes, sir.

9 Q Okay. Would you explain to the Court the sources of
10 information you consulted in arriving at your finding?

11 A Yes.

12 Q What were they?

13 A On two separation occasions I met with the subject,
14 TyQuan Jones. I met with him for, approximately, 5
15 hours and 15 minutes on February 17th. I met with him
16 an additional 4.5 hours on February 22nd. Prior to
17 meeting with TyQuan. I, also, met with his mother on
18 February 9th. And I, approximately, spent 3.5 hours
19 with his mother on that date. Additionally, I
20 conducted a Collateral Interview with Lieutenant
21 Swaggard on that same day, February 9th.

22 Q And did you have any access to any reports or records
23 regarding Mr. Jones?

24 A I was provided a Comprehensive History of TyQuan's. A
25 record with the Department of Juvenile Justice, as well

1 as, the incident reports related to all the related
2 offenses.

3 Q And were you supervised in the preparation of this
4 report?

5 A Yes, sir.

6 Q And what was the reason for that supervision?

7 A Simply, because this is my first waiver evaluation.

8 Q And your interviews with Mr. Jones took place in the
9 Detention Center in Columbia?

10 A Yes, sir.

11 Q Although, you haven't prepared -- although, you haven't
12 prepared a pre-waiver evaluation. Have you conducted
13 interviews of other juveniles in the Department of
14 Juvenile Justice?

15 A Yes, sir.

16 Q And have you met with them in the Detention Center?

17 A I have interviewed one other juvenile in a Detention
18 Center. Most of the juveniles that I interview are in
19 a community base setting.

20 Q So, you can, only, remember one other time that you
21 conducted an interview in a confine setting, is that
22 correct?

23 A Yes, sir.

24 Q Okay. Referring to your report, if you would please
25 take it. I have some questions I need to ask you

- 1 about. Beginning on page 3 with the prior court
2 history. You're aware are you not, this first referral
3 to the Department of Juvenile Justice occurred in
4 August of 2004 with incorrigible charges were brought
5 against him, is that correct?
- 6 A Correct.
- 7 Q And, then, later in 2004, he was charged with armed
8 robbery?
- 9 A Correct.
- 10 Q And, then, later he violated the probation sentenced he
11 received after pleading to that charge?
- 12 A Correct.
- 13 Q And that while he was at the Department of Juvenile
14 Justice he was found to be in the possession for
15 marijuana?
- 16 A My understanding is that initially upon returning from
17 the Reception and Evaluation Center, TyQuan was placed
18 on probation. And he was, also, given other
19 stipulations associated with his probation, including
20 up to 100 community service hours. And, then, it was a
21 year later when he was violated on probation.
- 22 Q Right?
- 23 A That he was re-detained by the Department of Juvenile
24 Justice.
- 25 Q Right?

1 A And it was doing that time, that marijuana was found in
2 his possession.

3 Q In fact, it was found in his possession when he was
4 being booked in the Detention Center, isn't that
5 correct?

6 A Correct. Correct.

7 Q He knew where he was going. And still took it with
8 him?

9 MR. MCLAURIN: I'm going to object to leading his
10 witness, Your Honor.

11 THE COURT: I'll sustain the objection. And you
12 can rephrase the question.

13 Q And you, also, understand and knew that this problem
14 occurred nearly three weeks after he was released from
15 the Department of Juvenile Justice, the one for which
16 he is in court, today?

17 A Correct. Allegedly.

18 Q Alright. Also, on page 3, under his behavioral
19 observation. Paragraph C. Would be stated that -- in
20 my paraphrase that his behavior and conduct towards you
21 were appropriate, is that correct?

22 A That is accurate.

23 Q Okay. In your work -- it's not surprising that the
24 young people that you interview act kindly and behaves
25 well towards you?

1 MR. MCCLAIRIN: Your Honor, I'm going to object,
2 once again on leading.

3 MR. HILL: I'll rephrase.

4 THE COURT: If you'll withdraw and rephrase.

5 Q What's a typical behavior of the people that you
6 interview?

7 A Actually, it depends on the individual. I have
8 extensive training in assessing individuals for various
9 psychological disorders. And due to that, I am trained
10 in order to be able to ascertain whether someone is
11 telling the factual information or being disingenuous,
12 and/or is trying present him or herself in a sociable,
13 desirable manner. And I did not get that impression
14 from TyQuan at any point doing the evaluation process.

15 Q You just alluded to possibly mental diagnosis. In your
16 evaluation, did you find that Mr. Jones suffered from
17 any mental deformities or abnormalities?

18 A In terms of emotional functioning he exhibited some
19 mild symptoms of depression. But nothing that would be
20 categorized as clinically significant. And are more
21 likely a result of the circumstances related to his
22 court involvement. More so than something abnormal
23 about him. So other than the mild symptoms of the
24 depression -- and associated and emotional stress
25 related to court involvement. There were no emotional

1 diagnosis, per se.

2 Q So. Was he able to conduct himself appropriately with
3 you?

4 A Yes.

5 Q Okay. Would you please turn to page 5 of your report.

6 I am sorry. Page 4. Under Paragraph D. His mental
7 status examine. If you would count down to the fourth
8 paragraph where it began with the words in regards to
9 the history?

10 A Uh-huh.

11 Q Of course the bottom third of that report is where I
12 would like to address?

13 A Uh-huh.

14 Q Okay. What information did Mr. Jones give you
15 regarding his substance abuse?

16 A TyQuan, readily, admitted that he began experimentation
17 with drugs at approximately at the age of 12. And it
18 progressed from that point. Began with milder
19 substances, for example marijuana. And progressed to
20 some more potent substances as he aged.

21 Q Okay. Did he use cocaine?

22 A By his admission. Yes.

23 Q Did he use alcohol?

24 A By his admission. Yes.

25 Q And did he tell you -- what reasons did he give you for

1 committing the crimes that he committed?

2 A TyQuan and I did not have a discussion about reasons
3 for committing the crimes that he committed.

4 Q Okay. Would you refer to the following -- the last
5 third -- Paragraph 4 under D?

6 A Uh-huh. Okay. So you're not necessarily referring to
7 the crimes in which we're in court for today?

8 Q I believe -- did you --

9 MR. HILL: Your Honor, if you have the report if
10 front of you?

11 THE COURT: I do.

12 MR. HILL: This is on page 4.

13 THE COURT: I'm looking at it.

14 Q Ms. Pugh-Lilly, will you read the sentence that stated,
15 TyQuan repeatedly stated -- and go on to the end of the
16 paragraph?

17 A TyQuan repeatedly stated, That the purpose for engaging
18 in any antisocial acts(i.e; burglary, armed robberies)
19 was to gain the financial resources to purchase more
20 drugs.

21 Q Would up continue on to the end of the paragraph?

22 A TyQuan further admitted, That he was abusing and
23 combining various drugs and alcohol on the date during
24 which the charges associated with this evaluation were
25 committed.

1 Q Thank you. And if you would. Please turn to page 5.
2 Top of the page there. It's a continuation of
3 paragraph of page 4. Did you discuss with him his
4 living arrangements of living between his mother and
5 father?

6 A Yes.

7 Q Okay. Did he explain to you why he would have prefer
8 to live with one parent oppose to another?

9 A Yes, sir.

10 Q What explanation did he give you?

11 A He gave the impression that he preferred to live with
12 his mother at some point. Because the rules were
13 relaxed in her home. Versus when he was living with
14 his father. There were strict guidelines for his
15 behavior. There were set expectations for his
16 behavior. There was more structure. So when he was
17 given the opportunity to move back in with his father.
18 Because he had lived with his father for approximately
19 five or six years, during earlier childhood to about
20 middle childhood. He opted to stay with his mother.

21 Q Would you read the very last sentence of that top
22 paragraph on page 5?

23 A Beginning with conversely?

24 Q Yes?

25 A Conversely, he habitually dismissed his mother's

1 directives.

2 Q Was he living with his mom, at the time, these
3 particular crimes occurred for which he is in the
4 court?

5 A Yes.

6 Q Turn on to page 7 regarding the psychological testing.
7 What were the purposes of the test that you perform in
8 this case?

9 A They were multiple instruments that were administered.
10 The first two of which were measures of Cognitive
11 Functioning and Achievement Functioning. Cognitive
12 Functioning is just -- accesses intellectual level, to
13 see what level he was functioning.

14 Q And what level was he functioning?

15 A In general, all the scores indicated that his IQ was
16 anywhere between the low average to average range.

17 Q Is that something that would cause alarm for you?

18 A Not at all. And the Achievement Assessment was
19 administered to see at what grade level he was
20 functioning in terms of academic performance.

21 Q For what grade level?

22 A It varies. Depending on the subtest that was
23 administered. There were three subtests that was
24 administered. In terms of reading comprehension, which
25 is exactly what it sounds like. It allows you to

- 1 understand information in written form. He was
2 performing at grade level. On the other two subtest,
3 Numerical Operations which are simply mathematical
4 functions, as well as spelling. He performed a bit
5 below the grade level on this particular measure.
- 6 Q Now, because there are other measures. Let's just
7 focus on those two, that you've just discussed. Those
8 two measures -- did they indicate -- what did they
9 indicate to you, if anything about his level of
10 understanding of right or wrong -- ability to perform
11 his conduct to the law. What if anything did those two
12 factors indicate in those regards?
- 13 A Are you referring to the two subtest or those two
14 measures, in general?
- 15 Q Yes. The two measures in general?
- 16 A The two measures in general, specifically, one of the
17 subtest that is included in the intellectual assessment
18 measures an individual understanding of conventional
19 standard of behavior. And with that sub-testing
20 performed -- meaning he has a good understanding of the
21 conventional standard behavior.
- 22 Q Among those test was there anything that indicated that
23 he could not conform his conduct to do what was right?
- 24 A No.
- 25 Q Now you said, That there was some other factors that

1 you tested, what were those?

2 A There were other instruments that were administered.

3 He was, also, administered two personality assessment.

4 The MACI which is the Millon Adolescent Clinical

5 Inventory, plus the Jesness revised inventory. Both

6 are standardized for adolescents. He was, also,

7 administered an assessment that assess for -- just for

8 global functioning, adaptive functioning. A variety of

9 different dimensions, it's called the Behavior

10 Assessment Skills for Children.

11 Q Did those two tests conflict in any way?

12 A Are you referring to the MACI and the Jesness?

13 Q Yes?

14 A Okay. I wouldn't say that the results conflicted. And

15 let me explain my response to you. The Millon

16 Adolescent Clinical Inventory is a more general

17 assessment of personality. So it assess across many

18 dimensions.

19 In addition to antisocial traits, it, also

20 measures for emotional disturbance. The home

21 environment. Sexuality. Those are just some other

22 examples of other dimensions. It's 160 words, excuse

23 me, item -- instrument, such that you're getting just a

24 more comprehensive picture of the individual.

25 In comparison, the Jesness is a personality

1 instrument that was, specifically, standardized and
2 normed on a population of delinquents, specifically
3 delinquent males. So it is a more sensitive
4 instrument, if you will, in terms of being able to
5 assess the juvenile for their propensity towards
6 delinquent acts and criminal acts -- and, in addition
7 to that, it just doesn't ask whether or not a juvenile
8 has committed such act. It, also, ask whether the
9 juvenile's -- what the juvenile's perception about
10 those acts. Again, getting into right or wrong.
11 Conventional standards of behavior. Their opinion
12 towards law enforcement. Inner personal
13 connectiveness. Because as you are probably aware a
14 juvenile who is less inner personally connected with
15 others is more likely to engage in delinquent acts. So
16 the Jesness measures for those kinds of things. And is
17 a more sensitive instrument.

18 Q So what were the findings of those two tests?

19 A Although, the MACI indicated that he had engaged in
20 some antisocial acts. Which in just -- in TyQuan
21 responding honestly to those questions. He would be
22 elevated on that scale. Simply because he had some
23 behavior problems in the past.

24 However on the Jesness, which as I mentioned
25 before. It's a more accurate and sensitive instrument.

1 He did not come up high on any of the dimension related
2 to a predisposition for a delinquent act.

3 Specifically, in comparison to a population of
4 delinquents. TyQuan did not fit a profile associated
5 on any of the dimensions indicated with the Jesness.

6 Instead, his responses were more indicative of a
7 non delinquent population. Meaning that he
8 demonstrated traits such as insight. And being self
9 aware. And being introspective. And all these traits
10 are something that you would want to see(A)in a
11 juvenile.

12 And two suggests a juvenile with similar traits is
13 an excellent candidate for rehabilitation.

14 Q In your work and studies have you found persons that
15 committed crimes who did not show antisocial traits?

16 A It's possible. Yes.

17 Q Looking at page 8 of your findings --

18 A Page 8?

19 Q Yes. Under the MACI Reports?

20 A Uh-huh.

21 Q Did you see the third line where it says, Finding from
22 this assessment suggested?

23 A Uh-huh.

24 Q Would you read the beginning of that line to the end of
25 the paragraph?

1 A Sure. Findings from this assessment suggested that
2 TyQuan exhibits a tendency to act-out in an antisocial
3 manner and is rebellious; however, he feels guilty
4 and/or remorseful about said actions.

5 Q Would you continue to read the paragraph?

6 A Moreover, he also exhibits a tendency to behave
7 unpredictably and impulsively. Keeping going?

8 Q Yes, ma'am?

9 A TyQuan is confused about his future and feels
10 directionless. All of these aforementioned factors
11 paired with an acknowledgement of familial discord (i.e.
12 feeling of estrangement from his parents) could have
13 contributed to TyQuan's alignment with a maladaptive
14 peer group.

15 Q And you address the maladaptive peer group later in
16 your report, is that correct?

17 A Yes.

18 Q So the Jesness Report conflicts with the MACI Report,
19 is that correct?

20 A Not conflict. It measures a different dimension of
21 delinquent's predisposition. It measures perception
22 and delinquent's profile types, versus the MACI is
23 specifically assessing for engagement in delinquent's
24 acts.

25 Q So one test tries to indicate whether a person is,

1 maybe, predispose in engaging in certain acts?

2 A Correct.

3 Q And the other measures -- tell me what the other

4 measures, again?

5 A The MACI is more or less saying, Have you done XY or Z.

6 Q Alright?

7 A And the juvenile saying, Yes or no. The Jesness is

8 asking, What is your perception about XY and Z.

9 Q Alright. Did you, also, explore his substance abuse?

10 A Yes.

11 Q On the bottom -- towards the bottom of page 9 --

12 A Uh-huh.

13 Q I think, you administered the Substance Abuse Subtle

14 Screening Inventory?

15 A Correct.

16 Q What is that? What does that mean?

17 A The Substance Abuse Subtle Screening Inventory is,

18 specifically, designed to determine if an individual is

19 engaging in -- it assesses on two different dimension.

20 One just, actually reported the use of substances.

21 The other dimension it assesses for is whether or

22 not the individual is exhibiting characteristics that

23 are, typically, associated with individuals who have or

24 can be diagnosed with a substance abuse dependence or

25 abuse.

1 Q Were one of your findings, Findings performed to a high
2 probability for substance equivalent?

3 A Correct.

4 Q And, then, towards that end of paragraph, did you state
5 that, however prior to his admission, he was never
6 involved with the abuse of substances and alcohol?

7 A Correct.

8 Q And do you know whether or not he was under the
9 influence of drugs and/or alcohol on the date that
10 these crimes allegedly occurred?

11 A By his admission. Yes.

12 Q Did he tell you what substances that he had used that
13 day?

14 A I'm going on memory here.

15 But, I believe, he had told me that he had been
16 using alcohol and cocaine. I'm not 100 percent certain
17 about that.

18 Q If you would turn to page 10. Under Section IV. Your
19 conclusion. And I would like you to begin --
20 concerning Subparagraph A. Level of Sophistication and
21 Maturity?

22 A Okay.

23 Q TyQuan was 15 when you examined him?

24 A Correct.

25 Q As a psychologist, do you have an opinion as to whether

1 or not he exhibits a maturity level consistent with
2 that of other 15-year-olds?

3 A Yes. I do believe that he does. In fact, there's no
4 evidence to suggests that other than some of the
5 behaviors that he exhibited. That he's -- his
6 personality type, his thought processes, his cognitive
7 abilities are all consistent with a quote -- unquote
8 normal 15-year-old.

9 Q Would it have alarmed you if he exhibited a maturity
10 level less than his age?

11 A Would it have alarmed me? In what sense?

12 Q Well, maybe, that's not a good question. If he
13 exhibited a maturity level less than his age. Would
14 that be an area of concern?

15 A Certainly. And it would have been evident in one or
16 areas. For example, cognitive functioning.

17 Q What if any characteristics did he exhibited to show
18 that he functioned at a level that was more mature than
19 his age?

20 A I did not have any data to suggest that TyQuan was
21 acting in a way that was more mature than his
22 chronological age of 15.

23 Q Turn over to page 11. And number 6. This is one of
24 what I would call mitigating circumstance?

25 A Uh-huh.

1 Q One of the factors that suggested possibility of
2 positive treatment?

3 A Uh-huh.

4 Q Number 6. Would you read that, please?

5 A TyQuan is motivated to receive help. He is
6 disappointed in his past misbehavior, and he has
7 expressed a desire to obtain help, and avoid other
8 negative behaviors.

9 Q Do you know whether he was offered assistance while he
10 was on probation?

11 A What type of assistance?

12 Q Well, to improve his behaviors. Do you know if he was
13 offered assistance with counseling programs while he
14 was on probation?

15 A I believe that he underwent one counseling section. If
16 I'm not mistaking. And that in and of itself wouldn't
17 be sufficient enough to treat any type of behavior
18 problems. One session.

19 Q Looking at Paragraph Number 9.

20 Where you say, TyQuan is very fearful of
21 incarceration, and is thus motivated to avoid future
22 criminal acts?

23 A Uh-huh.

24 Q He has been incarcerated before?

25 A He has been -- he was committed to the Reception and

1 Evaluation Center?

2 Q Right?

3 A And he was sentenced to a determinate sentence in the
4 Fall of 2005.

5 Q Would you agree with this statement that the demeanor
6 he exhibited towards you was for his own self
7 preservation? Because he knew, if he didn't act the
8 way he should that it would hurt him?

9 A No. I don't agree with that statement.

10 Q Would you explain why?

11 A As I mentioned earlier, due to my clinical training.

12 Due to the validity and reliability data that is
13 generated from all the psychological instruments that
14 are utilized. We are able to ascertain with a very,
15 very good degree of accuracy. Whether a person is
16 trying to depict him or herself in a more positive
17 light in an effort to avoid punishment or sanctions, or
18 something to that affect.

19 As noted earlier, TyQuan does not exhibit any of
20 those traits or symptoms.

21 Q Would you agree with this statement, that whenever he
22 is in a confine environment, whether it's R&E, or the
23 Department of Juvenile Justice --

24 MR. MCLAURIN: Judge, I let him lead on several
25 questions. I'm going to object to the leading on this. He

1 can ask questions. He's kind of back dooring to the leading
2 of the questions.

3 THE COURT: I will instruct that you not lead.

4 But I don't know if you were finish asking that question,
5 yet. So, if haven't determined if that was leading, yet, or
6 not. But I will remind you not to lead your witness.

7 Q Do you have an opinion as to whether or not he has
8 behave well, whenever, he's been incarcerated?

9 A I have data from --

10 Q What does the data suggest?

11 A The data suggest that when TyQuan is in a structure
12 setting. He does well. And I would -- if I may add on
13 to that.

14 Q Certainly?

15 A That would include a home environment, such that when
16 TyQuan was living with his father in a structure
17 setting. He, also, did well. So it's not something
18 with him being incarcerated or detained. It's just the
19 mere fact, that juveniles, themselves, tend to thrive.
20 When there's structure in their environment.

21 Q And where was he living when the crime allegedly
22 occurred?

23 A With his mother.

24 Q Who?

25 A His mother.

1 Q And that's an home environment?

2 A Correct.

3 Q Up on page 12. Number 14. Would you read that
4 paragraph to the Court, please?

5 A Sure. At the age of 16 years, 1 month, which was his
6 age at the time of the report. And given the parole
7 guidelines of 36 months to 54 months. There are,
8 approximately, 11 months to work toward rehabilitation
9 within the Juvenile Justice System.

10 Q Dr. Pugh-Lilly, do the psychologist and the Department
11 of Juvenile Justice have any rules or instructions
12 regarding -- stating opinions about whether or not a
13 juvenile should be waive up to the department -- waived
14 up to general session or kept in juvenile court?

15 A I think, the general consensus is that we're addressing
16 certain points that are taking in -- taken in their
17 totality when help lend to the decision whether or not
18 the juvenile should be waive. So since we're, only,
19 addressing certain points related to that equation.
20 Then, you don't, specifically make recommendations.

21 Q Okay. So the purpose of this report is what?

22 A To provide information regarding his behavior. His
23 past and environmental factors affecting his behavior.
24 Also, information regarding his cognitive functions,
25 achievement functioning, personality type and, also, to

1 assess for aspects such as levels of empathy, remorse,
2 guilt and potential for rehabilitation.

3 Q In regards to those last factors that you mentioned.
4 Sympathy, remorse, and ability to be rehabilitated.
5 What experiences have you had in observing those
6 factors in other juveniles?

7 A I have conducted, approximately, 300 court ordered
8 assessment. Most of which were conducted on juveniles.
9 And in each of those cases, in nearly all of those
10 cases, the juvenile had been adjudicated on some type
11 of offense. So that is something that I assess
12 regularly.

13 Q Alright. How many of those exhibited the qualities of
14 remorse, and ability to be rehabilitate, and empathy?

15 A I can't give you a specific number. But, in general
16 cases, in which a juvenile does exhibits those traits.
17 Then, again, the juvenile is more likely to benefit
18 from rehabilitation treatment services, and the like.

19 Q Okay. Is it more common, or less common for one of the
20 juveniles that you've seen in those 300 to exhibit
21 those traits?

22 A Actually, in most of the situation it's pretty common
23 for a juvenile to exhibit some level of empathy,
24 remorse, regret in some capacity.

25 Q Have you ever worked with adults?

1 A Yes.

2 Q In the Department of Corrections?

3 A Not in the Department of Corrections.

4 Q So the report that you -- is there anything that you
5 want to add, that I haven't asked you about?

6 A I would -- in terms of some guidance.

7 Q Anything you would like this Court to know that I
8 haven't ask you about?

9 A Not specifically.

10 MR. HILL: Answer any questions the Court or Mr.
11 McLaurin may have.

12 THE COURT: Mr. McLaurin.

13 MR. MCLAURIN: May it please the Court.

14 CROSS-EXAMINATION

15 BY MR. MCLAURIN:

16 Q Dr. Pugh-Lilly, my name is Steven McLaurin. And I
17 represent the juvenile in this case. You and I spoke
18 on the phone once before, I think. Wanted to go
19 through a little bit about your background.

20 First, in regards, to your evaluation in your
21 report, that you compiled for us, today. What training
22 have you had to guide you and to help you into forming
23 the report, that was actually generated, today?

24 A Prior to coming to the Department of Juvenile Justice,
25 for three years I was an assistance professor at the

1 University of Nebraska, Lincoln, in which I specialized
2 in criminal activity of juveniles.

3 Q And in that did you have to do case studies and
4 evaluate juveniles?

5 A I was a researcher. I was academic -- so most of my
6 setting related to assessing and conducting research
7 with that population.

8 Q When did you come on with the South Carolina Department
9 of Juvenile Justice?

10 A In March of 2004.

11 Q And you talked about since, then, you've done some
12 assessment on juveniles, is that correct?

13 A Correct.

14 Q Can you give the Court a little bit about it? What
15 kind of assessment you'd be referring to. And what you
16 actually did?

17 A I've conducted forensic evaluation for the Department
18 of Juvenile Justice. In, specifically, adjudicatory
19 evaluations for juveniles that have been adjudicated on
20 various offenses, in which the Court is asking for some
21 directions, in terms of sanctions and treatment
22 recommendations.

23 Additionally, I've conducted evaluations as a
24 contract forensic evaluator for Mecklenburg County in
25 North Carolina, in which I would assess juveniles for

1 the capacity to proceed or competency to stand trial
2 as -- competency to stand trial.

3 I've, also, conduct other court based assessments
4 including parenting evaluations, victim assessments, as
5 well as guardianship evaluations.

6 Q Specifically, in regards, to this particular report,
7 how did you come up with kind of the guideline you went
8 by? Did you have training to compile this report,
9 specifically?

10 A Much of the training that I acquired, in regards to
11 conducting waiver evaluations fully is a compilation of
12 different experiences throughout my graduate and
13 professional careers, including being very familiar
14 with the research in this area on juvenile delinquents,
15 and the like.

16 In addition to -- when I first began with the
17 Department of Juvenile Justice, obtaining various types
18 of training, and actually conducting court ordered
19 assessments?

20 Q And as we indicated you were, actually, at this waiver
21 reviewed by someone else, also?

22 A Correct. Correct.

23 Q Who would that be?

24 A My supervisor.

25 Q Alright. And I know you're here with someone today.

1 Who are you with?

2 A My supervisor. Kevin --

3 Q Okay. And based on his supervision did he think you
4 did a good job on this? What was his comment?

5 A I think his comment was excellent.

6 Q And you know how many he's done in the past?

7 A Approximately two dozen.

8 Q Alright. Let's talk, specifically, about TyQuan.

9 First off you had enough time to be able to meet with
10 TyQuan and his family, to be able to come up with this
11 report, did you not?

12 A Absolutely.

13 Q And did you have all the information you felt like you
14 need to make an informed decision in the report?

15 A Absolutely.

16 Q Now, we were going through some of the things you that
17 did. You interviewed the mother. You interviewed
18 TyQuan. Did you, also have an opportunity to speak
19 with his father?

20 A I sure did.

21 Q Okay. And, I think, you spoke with, actually, the
22 supervising officer, Lieutenant Swaggard, is that
23 correct?

24 A Yes. That's correct.

25 Q How about TyQuan in your interview. Was he cooperative?

- 1 Did he work with you?
- 2 A Absolutely. Very cooperative.
- 3 Q And was he polite?
- 4 A Absolutely.
- 5 Q We went through a dialogue of questions with the
- 6 solicitor about whether he was sincere or not. And
- 7 what was your opinion about his sincerity when he was
- 8 answering the questions?
- 9 A I feel 100 percent confident that TyQuan was sincere
- 10 throughout the entire evaluation process.
- 11 Q Do you even have any idea about how many juveniles
- 12 you've spoken with to determine his sincerity?
- 13 A Well, in each of the cases in which I've conducted an
- 14 adjudicatory evaluations, there's an assessment as to
- 15 whether or not you believe the juvenile is telling you
- 16 the truth.
- 17 Q And do you know how many you've done of those?
- 18 A Approximately 250. That's, specifically, related to
- 19 the juveniles. Approximately 300 court based
- 20 assessments.
- 21 Q Let's go through the report once again. I want to
- 22 highlight a few areas. We can start with his prior
- 23 court history. On page 3 of that report.
- 24 A Uh-huh.
- 25 Q Do you know the circumstances surrounding the armed

1 robbery that he was convicted of?

2 A From my understanding, TyQuan was a passive participant
3 in that situation. My understanding is that there was
4 some other individuals involved, who are the ones that
5 actually committed the offense. And TyQuan was
6 present. He was in the company of these individuals.
7 My understanding is he did not possess the weapon that
8 was utilized in the armed robbery. That he was
9 standing near the crime scene..

10 Q And you understood -- you were in the courtroom. Armed
11 robbery is the potential charge that could be waived up
12 to be treated as an adult, is that correct?

13 A Correct.

14 Q Is that correct?

15 A Correct.

16 Q And that's a pretty serious charge?

17 A Absolutely.

18 Q But he ended up getting what for the armed robbery?

19 A He was committed to the Reception and Evaluation
20 Center. And the recommendation -- post evaluation was
21 for him to be placed on probation. And receive 100
22 hours of community service.

23 Q Now, in terms of time that he's actually been at DJJ,
24 in the prison system, in the confine system. Can you
25 tell us how many month that was?

1 A I can do a quick calculation. Approximately, it's the
2 Reception & Evaluation Center for 30 to 45 days. At
3 the determinate sentence he was there, I think, from
4 September to November, so approximately two months.

5 And, then, during his last stint in detention he's
6 been detained since December of 2005.

7 Q So prior to this particular incident that we're here
8 about today?

9 A Right.

10 Q So about three months --

11 A About three months. Give or take.

12 Q About three months or so, is that correct?

13 A Yes.

14 Q Is that enough time for someone in TyQuan's family
15 setting and his situation to be rehabilitated?

16 A It's important to note that those weren't three
17 consecutive months.

18 Q Right.

19 A There was a year span in between those two situations.
20 In addition to that, the first time when he was
21 committed to the Reception & Evaluation Center, the
22 focus was not on treatment. The focus was on him
23 receiving an evaluation. So that he could go back to
24 court for a dispositional hearing. So in that setting,
25 virtually few treatment interventions were most likely

1 implemented. Now in the determinate sentence from
2 September to November, it's possibility that there were
3 some interventions during that time period. And
4 whether or not they're sufficient enough to redirect
5 TyQuan's behavior fully depends on the circumstance,
6 the type of the interventions that was utilized. And I
7 just don't have the data, in terms of what -- if
8 anything was actually implemented.

9 Q How about -- you do that know he's only been to one
10 counseling session --

11 A If I'm accurate. If I'm accurate. Yes.

12 Q And would that be something that he would need to go
13 to?

14 A Absolutely.

15 Q Counseling?

16 A Absolutely. And specifically with the behavior
17 interventionist.

18 Q And in the 11th month, staying at DJJ, it would
19 obviously be an opportunity to do that, would it not
20 be?

21 A Absolutely.

22 Q Do you know when TyQuan was released? We've been
23 through it already. He was released back into the same
24 environment he's been in which is with his mother, is
25 that correct?

- 1 A That's correct.
- 2 Q And why his mother loves TyQuan. She had a hard time
- 3 disciplining him. Because she had some personal issues
- 4 that she was dealing with, is that correct?
- 5 A Yes. That is accurate.
- 6 Q And is that a tough environment for a boy 14 -- 15 to
- 7 come back out, and have no supervision? Is that a
- 8 tough environment to try --
- 9 A As depicted. Absolutely.
- 10 Q And what about that environment do you understand is
- 11 difficult?
- 12 A My understanding is the environment in which TyQuan was
- 13 not only residing. But was his socialization network.
- 14 Was a crime infested environment in which a lot of
- 15 maladaptive activities were occurring. And more
- 16 importantly he was associated with a maladaptive care
- 17 group. Specifically, one individual in particular from
- 18 all reports were immersed in a criminal and maladaptive
- 19 life style.
- 20 Q And who is that individual?
- 21 A I believe his name is Tony Crawford.
- 22 Q And he's one of the codefendants, is that correct?
- 23 A That's correct.
- 24 Q What would explain from a psychological and
- 25 professional standpoint someone -- a young boy like

1 TyQuan drifting towards these older people who were
2 involved in crime?

3 A My understanding is during the past four or five years,
4 after he left the home of his father. He has not had a
5 lot of supervision. He has not had a lot of
6 monitoring. And naturally any young male would
7 gravitate toward a father figure. And perhaps this
8 individual served that role for him.

9 Q Did you understand that the individual provided
10 transportation for him at times?

11 A That's what I am told. Yes.

12 Q At times he provided a cell phone for him?

13 A That is what I am told.

14 Q Does all that kind of influence somebody?

15 A Absolutely.

16 Q At 14, 15-year-old-boy?

17 A Certainly an impressionable young child. A very young
18 juvenile.

19 Q And were you aware that he and his sister were living
20 together here with his mother. And, then, the
21 sister -- back, I think, when he was, probably, 12.
22 Went to live with his father?

23 A Yes. Exactly.

24 Q Is that your understanding?

25 A Yes.

1 Q Do you think that created a difficult situation for
2 him?

3 A Actually, I do think that it possibly had difficulties
4 for him. Because from all reports, he was extremely
5 close to his sister. And identified her as one of his
6 closest friends.

7 Q I think, the solicitor went over with you a part of
8 that report which indicates that TyQuan wanted to live
9 with his mother, at one point?

10 A Correct.

11 Q Because he could get away with whatever he wants, is
12 that right?

13 A Essentially.

14 Q Okay. And that was really historically based in the
15 past, is that not correct? Didn't you do an interview
16 with him where he indicated, I was trying to go live
17 with my father. I knew that was the best thing for me?

18 A TyQuan began to -- from my understanding. He began to
19 have those thoughts once he was released, from the
20 determinate sentence in November of 2005.

21 Q And did he explain to you that rationale for that
22 thought?

23 A He expressed to me that he understood that he was
24 engaging in some acts in which he honestly referred not
25 to engage in. He knew they were maladaptive. He knew

1 they were wrong. He knew that it would lead to further
2 problems for him. And he desired to escape from the
3 environment. Although, you know, at the age of 15,
4 obviously he would need some assistance to be able to
5 do that.

6 Q Did you understand there was some problems getting the
7 probation transferred to Virginia?

8 A I can't really comment on that. I'll allow the folks
9 from the office -- the Florence office to comment on
10 that. My understanding is that there were
11 conversations that were initiated. The specifics of
12 the conversations I'm not privy to that data.

13 Q As far as his mental status, he's never been on any
14 medication. No prescribe medication or anything like
15 that?

16 A Not to my knowledge.

17 Q Never had any diagnosis of learning disabilities things
18 of that nature?

19 A Not to my knowledge.

20 Q And is that a positive parts to rehabilitation?

21 A Absolutely.

22 Q Could you explain that briefly?

23 A Because he's not exhibiting clinically significant
24 symptoms of any type of emotional distress. Because he
25 does not require any type of medications that would

- 1 suggest that there aren't any long term or neurological
2 deficits that would have an effect on his behavior.
3 All of this suggests that he would be able to
4 comprehend and benefit. And interpret well, any type
5 of interventions that were implemented with him.
- 6 Q Let's talk a little bit about his drug problems. Your
7 understanding is that he started out, I think, 12 years
8 old --
- 9 A Experimenting?
- 10 Q Drinking and experimenting, is that right?
- 11 A Correct.
- 12 Q By 13 he moved on to cocaine, and things of that
13 nature, is that correct?
- 14 A Correct.
- 15 Q Now, I guess, positively it doesn't appear that he's
16 been on crack, has he?
- 17 A I can't, actually, speak to that.
- 18 Q Okay. Alright. Is that something that DJJ can help
19 him with? An addiction problem if he was in that
20 setting?
- 21 A Absolutely.
- 22 Q And can you -- do you know the services? Can you tell
23 me a little bit how they would intervene? And help
24 this young man out?
- 25 A Through the Department of Juvenile Justice, various

1 services are provided for our individual set of
2 institutionalized, including substance abuse treatment.
3 Individual counseling. Family counseling. Skills
4 training, like life skills. Inner personal skills.
5 Adaptive skills. Anger management. A whole host of
6 different issues are addressed.

7 Q And part of his motivation, I guess, was some of
8 these crimes. Was actually to support that habit, is
9 that correct?

10 A That's my understanding.

11 Q And if -- obviously, if he didn't have that habit. DJJ
12 did their role. Intervene. Didn't have that habit.
13 That would decrease any of the motivation for some of
14 his progress?

15 A Theoretically. Yes.

16 Q Let's talk a little bit about his maturity level. He
17 exhibit maturity of a typical 15-year-old, is that
18 correct?

19 A Absolutely.

20 Q And, I think, the solicitor wants to indicate maybe
21 more responsibility for the crime by saying that. But
22 don't you think that indicates that he's able to --

23 MR. HILL: Your Honor, I'd object to what he's
24 suggesting I'm was intending to infer.

25 MR. MCLAURIN: I'll rephrase the question.

1 THE COURT: Alright. Thank you, sir.

2 Q As far as maturity level goes --

3 He said, He exhibit the role of a typical
4 15-year-old, is that correct?

5 A That's correct.

6 Q And how would that influence his ability to be
7 rehabilitated? The ability for DJJ to come in and do
8 their part and get this man -- a good citizen in the
9 community, basically?

10 A From a psychological standpoint, your typical
11 15-year-old, who exhibit any type of criminal act or
12 delinquent act of any nature, generally, speaking is
13 often times held less culpable for those actions.
14 Simply, because of the fact that they're referring to
15 an adolescent identity. With adolescent cognitive
16 skills. And emotional functioning. And social
17 functioning. And behavioral functioning. It's very
18 typical for a 14 or 15-year-old to be impulsive in
19 their actions. So all these characteristics are
20 associated just with normal development of a 14 or
21 15-year-old. So we cannot in a general sense hold them
22 as culpable for their actions in comparison to adults.

23 Q And how about things like impulse? And being impulsive
24 and reacting to things? Is that define as a person
25 gets older or get out of adolescent?

1 A It, actually, peaks in middle adolescent, which is
2 between the ages of 14 and 15. And, then, steadily
3 decrease as a person approaches earlier adulthood.

4 Q And do you know what that's based on? Is that based on
5 --

6 A That's based on empirical evidence. Scientific data.

7 Q Now, did you ended up speaking as we talked about to
8 Lieutenant Swaggard, is that correct?

9 A Correct.

10 Q Why did you feel it was important to talk with him?

11 A Just to get his perception about the offense, itself.
12 And, specifically, about how cooperative or how
13 uncooperative TyQuan was in terms of the investigative
14 process.

15 Q And what was you understanding from the conversation
16 with Lieutenant Swaggard?

17 A My understanding was that the general perception was
18 that TyQuan was extremely cooperative. And that he
19 assisted in the investigative process. That he showed
20 them aspects of the crime scene. And where things were
21 located. And, generally, speaking was very
22 cooperative.

23 Q And did Lieutenant Swaggard feel that he was a passive
24 participant in the crime?

25 A He didn't, specifically, use those terms. In terms of

1 whether or not he thought he was a passive participant.

2 Q And I just want to read from your report.

3 In your report you said that, Lieutenant Swaggard,
4 specifically, stated, he believed the other three adult
5 males were instrumental in orchestrating the death of
6 the victim. And solicited TyQuan's assistance because
7 he was a juvenile?

8 A Correct.

9 Q That's what's in the -- report or was told to you, is
10 that correct?

11 A Correct.

12 Q Does his cooperation with Officer Swaggard indicate
13 anything about his sincerity in the interview with you,
14 and with adults in general?

15 A Absolutely. Then it, also, speaks to some of the
16 issues which Mr. Hill was alluding to, in regards to
17 whether or not he was presenting a front in my
18 presence. But the fact that he was cooperative with a
19 variety of different individuals, speaks to the fact
20 that he was genuine. That he was remorseful, regretful
21 for any possible acts that did occur on the date in
22 question.

23 Q Let's talk a little bit about the remorse. What was
24 your impression on TyQuan's feelings about what took
25 place and what happened?

1 A Other than what he verbally stated to me. His behavior
2 and his emotional reactions when processing the
3 circumstances surrounding the events on that particular
4 date, suggested that he felt an enormous amount of
5 regret. He shed some tears. He, specifically, related
6 an incidence in December when his half brother came to
7 visit him. I believe, his half brother is in the
8 military or something to that effect.

9 And TyQuan, specifically, stated, That he was very
10 upset by the fact that his half brother expressed
11 disappointment in him. And you could just -- it was
12 quite evident that he was regretful for any part that
13 he may have assumed in anything related to that
14 particular incident. And that he was in a position
15 such that he wanted to rectify or make amends in some
16 way, shape, or form.

17 Q We've talked about the environment that he was raised
18 in. The drugs. The older people that were in his
19 life. Did he ever try to use that as an excuse with
20 you to try to -- responsibility at all?

21 A Absolutely not.

22 Q Did he take responsibility?

23 A He accepted responsibility for his actions. And in
24 fact, as described, he was the one who -- and I'm not
25 sure he if he conveyed this with any of his

1 codefendants. But he himself came to the realization
2 that he felt like he was doing some things that he
3 shouldn't be doing. And wanted to stop them on his
4 own. Regardless of what other individuals were doing.

5 THE COURT: Are you talking about in general or
6 this specific event?

7 A In general. In general. Specifically, actually,
8 before this offense happened.

9 THE COURT: Yes, ma'am.

10 Q We went through his overall intelligence. That
11 particular section. Actually had some grade level
12 intelligence, as far as reading, and things of that
13 nature, is that not correct?

14 A Absolutely.

15 Q Is that correct? Were you surprised at that?

16 A Not at all.

17 Q And we've been through I'm not going to go through it
18 much. But this Jesness Inventory as compared to the
19 Millon Adolescent Clinical?

20 A Yes.

21 Q In comparison of those two?

22 A Yes.

23 Q And the Pre-waiver Evaluation which of those things
24 would be more relevant in your diagnosis?

25 A The Jesness.

1 Q And once, again, tell me why that is?

2 A Because the Jesness was standardized on a population of
3 delinquent males, specifically. And it is the tool
4 that is able to tease out whether or not an individual,
5 especially, a juvenile has characteristics that are
6 associated with Conduct Disorder. And as you are
7 probably aware that Conduct Disorder is one of the
8 criteria for an adult diagnosis of antisocial
9 personality. And many hardened criminals, many
10 seasoned criminal, many chronic criminals meet criteria
11 for antisocial personality disorder.

12 Q And TyQuan does not?

13 A Correct.

14 Q Let's talk a little bit since he's been in DJJ. You
15 had an opportunity to speak with people in Columbia
16 about how he's done?

17 A Yes.

18 Q And what's your understanding of how he's done?

19 A As of Tuesday. This past Tuesday, which was July 11th.
20 Since he was detained in December of 2005. TyQuan has
21 had four behavioral infractions. And they were all
22 extremely minor.

23 Q Give us an example. You told me one. But I may get in
24 trouble for it?

25 A The example that was given to me is not like making his

1 bed.

2 Q Now, have you been made aware of how he's done in
3 school since he's been over there?

4 A My understanding is that during the first quarter. He
5 received straight A's. Straight A's.

6 MR. MCLAURIN: Your Honor, I will approach real
7 quick to let her look at the exhibits.

8 THE COURT: Certainly. Certainly.

9 MR. MCLAURIN: We've, already, premarked and
10 introduced into evidence.

11 Your Honor, I don't think we've announced this.
12 I've got -- let see here. Five exhibits, here. That have
13 been premarked and introduced by stipulation.

14 THE COURT: Alright. They're marked as
15 Defendant's 1 through 6? Or you said, Five?

16 MR. MCLAURIN: One through five.

17 THE COURT: Alright. Defendant's 1 through 5,
18 will be admitted into evidence without objection, is that
19 correct, Mr. Hill?

20 MR. HILL: No objection.

21 THE COURT: Thank you, Mr. Hill.

22 Q I'm going to show you Exhibit No. 1. Can you briefly
23 tell me what that docket is?

24 A This is his student transcript from '05, '06. And it
25 doesn't give a start date. But the end date looks like

1 February 21st. Perhaps that a three. It could be
2 March. But he received a 97 in Language Arts. A 91 in
3 Social Studies. A 95 in Mathematics. Those are all
4 consistent of A's. In Science he received an 83. And
5 I believe that maybe a B.

6 Q What does that tells you about how well he's doing in
7 DJJ?

8 A In regards to his academics training, obviously, he's
9 doing well. And behaviorally, as well.

10 Q How about services, in general, that you think is
11 keeping TyQuan as a juvenile, instead of waiving him as
12 an adult?

13 A Uh-huh.

14 Q What can DJJ offer him that would help him out?

15 A The Department of Juvenile Justice can offer
16 him Behavioral Intervention. They can offer him
17 Substance Abuse Education. I'm assuming that since
18 he's been a detainee in December, that he has not
19 abused any other drugs, just from mere lack of access.

20 However, I think, he can still benefit from
21 further education about the deleterious affect of drug
22 use. And the Department of Juvenile Justice can offer
23 him that. Another very important emphasis for TyQuan
24 would be educational training. Either finishing high
25 school or obtaining some type of high school

1 equivalency certificate, like a GED. And receiving
2 some vocational training. I think, it would be very
3 important for him as well.

4 In addition to that, continuing to foster adaptive
5 life skills. Good coping skills. Continuing to
6 enforce and hold his interpersonal skills. Because he,
7 already, has some interpersonal skills. But continuing
8 to re-enforce those as well. All those type things the
9 Department of Juvenile Justice will be able to offer
10 him.

11 Q And if he had an indeterminate sentence he would be in
12 that system. And, I guess, just go into the Youthful
13 Offender System, is that how that work?

14 A Generally speaking at the age of 17, most juvenile are
15 transferred over to the Youthful Offenders Program.
16 Exceptions are made in limited cases.

17 However, those exceptions are made to my
18 understanding that there would have to be an advocate
19 within the system that specifically petition for the
20 juvenile to be able to remain at the Department of
21 Juvenile Justice pass their 17th birthday.

22 However, even, when they are transferred to the
23 Youthful Offenders Program my understanding is that
24 services similar to what we can offer through the
25 Department of Juvenile Justice would continue to be

1 implemented through the Youthful Offenders Program,
2 which I know is under the Offices of the Department of
3 Corrections.

4 Q Do you have -- what would be your concerns if TyQuan
5 was convicted as an adult, and be sentenced as an
6 adult? Do you have some concerns about that?

7 A My concern about any juvenile that is transferred to
8 General Session, and thereby tried as an adult would be
9 that, if the juvenile received a long sentence -- 10,
10 20, 30 plus years. My concern is that, that individual
11 would then be socialized with a peer group of hardened
12 criminals.

13 And, inevitably, that would have negative
14 implications of that individual once they're
15 released -- you know -- at the age of 30, or 40, or 50.
16 That individual will have a very difficult time
17 adjusting to society. Having been incarcerated since,
18 let's say, for example, the age of 15. That individual
19 will have a very difficult time inquiry any type of job
20 skills or securing a job. That individual will have a
21 very difficult time being able to just adapt in society
22 in general. So the likelihood of a person in that
23 situation re-offending is very odd.

24 Q Based on your training and experience, you think,
25 TyQuan should stay in the system. The DJJ system could

1 adapt and could possibly become a citizen and
2 contribute?

3 A I, certainly, can't issue any guarantees. But, I
4 think, that an individual that exhibits the types of
5 traits and characteristics that TyQuan is exhibiting.
6 Is an excellent candidate for rehabilitation.

7 Q Alright. Let me go through real quickly some of these
8 negative factors that you've listed on page 12 of your
9 report. The actual crime that occurred. Would it have
10 been worst if TyQuan would have been the oldest person
11 there? Or if he had been by himself and this had
12 happened? Is this the fact that other were around,
13 codefendant adults, does that change things in your
14 mind some?

15 A I would like to refrain from, specifically, commenting
16 on TyQuan's potential involvement, and anything related
17 to those offenses. However, if I speak, generalities
18 any juvenile who is in the presence of adults that are
19 engaging in maladaptive activities is more likely to
20 model those behaviors.

21 Q And, in regards, to Number 6, on that -- you had, also
22 add I think, his father as a potential support for an
23 extended family, is that not correct?

24 A Absolutely. Absolutely.

25 Q And is it important for once he gets out. If he does.

1 continue to be treated like as a juvenile to have
2 someone like his father. His brother. Or his half
3 brother as a role model, when he gets out?

4 A Absolutely.

5 Q And from your conversation, do you think, they would be
6 willing to do that?

7 A I have not had any conversations with his half brother.
8 But I have spoken with his father. And his father
9 relayed to me that he is one hundred percent committed
10 to assisting his son to become a productive citizen.

11 MR. MCLAURIN: I don't have anything further, Your
12 Honor.

13 THE COURT: Thank you, Mr. McLaurin. Any
14 redirect?

15

16 MR. HILL: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. HILL:

19 Q Dr. Pugh-Lilly, are you familiar with the recidivism
20 rate with the Department of Juvenile Justice?

21 A I don't know the statistics off the top of my head.

22 Q So you are or you're not?

23 A No.

24 Q Based on your experience, do you have an opinion as to
25 whether or not the recidivism rates are as high for

1 juveniles as they are for adults?

2 A My guesstimate is that in some limited cases
3 the recidivism rate is probably almost as high, if not
4 equally as high. Depending on the crime.

5 Q If Mr. Jones had been given -- would your opinions
6 change, if you knew that Mr. Jones had been given an
7 opportunity to receive the type of counseling that he
8 could receive in DJJ. If he received those while he
9 was on probation?

10 A Tell me more, specifically, what you're referring to.

11 Q In your earlier testimony you recited a number of
12 programs or aides that could be given to him, if he was
13 treated in the Department of Juvenile Justice?

14 A Yes.

15 Q Can those same program and aides be given to a person,
16 if they are on probation?

17 A Yes.

18 Q If he receive those while he's on probation would your
19 opinion change?

20 A In terms of?

21 Q Whether or not he was an appropriate candidate for
22 rehabilitation in the Department of Juvenile Justice?

23 A I'm not, exactly, sure what you are asking. But if
24 you're suggesting whether or not, he may not have
25 exhibited further behavior problems in terms of

1 criminal acts. It's possible. But it really depends
2 on the type of service that was implemented.

3 Q Well, if he receives service from the Department of
4 Juvenile Justice, such as the one that you suggested
5 that he could receive if he was treated as a juvenile?

6 A Right.

7 Q If he receive those while on probation?

8 A Uh-huh.

9 Q And had taken advantage of those?

10 A Uh-huh.

11 Q Would that have changed your opinion about his ability
12 to be rehabilitated?

13 A I'm assuming that if he had had those services, that
14 one potential outcome would have been, that he may not
15 have engaged in further behavior problems. The
16 potential outcome.

17 Q Were you aware that he -- has most of your work been
18 done in the area of juvenile delinquency?

19 A Yes.

20 Q Has that been the focus of your work primarily, since
21 you matriculated from school?

22 A Yes.

23 Q What was your doctrine degree in?

24 A Psychology.

25 Q Any particular branch?

1 A Counseling and psychology.

2 Q For juvenile or adults?

3 A It was counseling and psychology.

4 Q Most of your work have been with juveniles?

5 A Correct.

6 MR. HILL: Thank you, that's all I have.

7 THE COURT: Anything further?

8 MR. MCLAURIN: I don't have anything, Judge, thank
9 you.

10 THE COURT: Thank you, sir.

11 Well, I have a few questions for you.

12 Q&A

13 BY THE COURT:

14 Q The solicitor hit on something that I've been
15 scratching my head about. Up here a little bit. And
16 that is this, this young man was found delinquent after
17 an armed robbery situation. He was committed for
18 evaluation. That evaluation led to a sanction being
19 opposed to probation. And, during, that probationary
20 period services were offer to him?

21 A Uh-huh.

22 Q I don't know what those services were. I'm hoping I
23 will hear a little bit about that later. But, I'm
24 assuming that the same kind of services that you're
25 talking about, today, providing specifically for this

1 young man as part of the rehabilitative process?

2 A Uh-huh.

3 Q But my concern is as I'm sitting here is that if those
4 services were provided as part of his probationary
5 sentence. And we didn't see a change in him. A
6 rehabilitation?

7 A Uh-huh.

8 Q Why should I believe, now, that his incarceration or
9 commitment to the Department of Juvenile Justice is
10 going to be different. And that y'all are going to
11 accomplish in less than 11 months, now, what wasn't
12 accomplished in the probationary period that was, I
13 think, a year or nine months. I don't remember, now,
14 as I'm talking to you. But a year or nine months
15 before?

16 A I am not sure what services may have been offered to
17 him, that he did not utilize. But, if I were to take a
18 guess as to if and what the services were offered. And
19 he did not utilize those services, most likely, it was
20 due -- and, again, I'm speculating, here. Could have
21 been due to lack of parental involvement. There may
22 have been a caveat, such that he needed transportation.
23 He needed a parent to participate, especially,
24 something like intensive family services that inquires
25 parental involvement. And, again, I'm speculating

1 here. Because I am not aware of other services that
2 was offered, that were declined.

3 In terms of his ability to utilize the services
4 that would be offered through the Department of
5 Juvenile Justice, we can -- you know -- past behavior
6 predicts future behavior. And when TyQuan has been in
7 a structure setting in the past. And has been offered
8 such services. He has benefited from them. And he has
9 utilized them.

10 Q Well, as I'm looking back at your report. And,
11 obviously, you were given this information, and
12 concerning his prior court history. One of the
13 problems that he had, with regards, to his probation
14 was complying with the curfew?

15 A Uh-huh.

16 Q Completing the community services. And there could be
17 any number of reasons for that. And I don't think
18 that's what we're talking about in terms of
19 rehabilitation?

20 A Uh-huh.

21 Q And restraint from interaction with his codefendants.
22 I'm assuming there were some more of these maladaptive
23 persons that you've talked about here, today?

24 A Uh-huh.

25 Q And so, I'm assuming that if those were the things

1 that he didn't do, in terms, of what caused the
2 revocation of his probation, that he was given the
3 other services that were provided. That were -- if
4 they follow the general trend, would have been
5 counseling, and things like that?

6 A I'm not aware of exactly where this is data is. But my
7 understanding was -- is that he underwent one
8 counseling session. Again, I can't necessarily confirm
9 that.

10 Q Now, you're talking about during his probationary
11 period --

12 A Probationary period --

13 Q Or you're talking about the two months that he was at
14 DJJ committed for a determinate sentence?

15 A No. While he was in the community. While he was on
16 probation.

17 Q Well, did he receive any counseling from DJJ when he
18 was there for those 60 days, from September to
19 November?

20 A I don't know. My guess is he would have receive some
21 type of intervention. But, the extent of it, and the
22 actual type of services that were utilized. I'm not
23 quite sure.

24 Q So we don't know if he got any counseling --

25 A We don't know --

1 Q While he was there for two months?

2 A But, the Florence office might be able to speak to
3 that. They might have that data.

4 Q I've listen, carefully, to your testimony about
5 TyQuan's maturity. And I was impress with your
6 assessment of his ability to recognize that there was a
7 problem?

8 A Uh-huh.

9 Q He had a problem in that he needed to be away from
10 these maladaptive persons that you've talked about?

11 A Uh-huh.

12 Q And, clearly, there was a restriction, before. And he
13 didn't stay away from them. He's released on November
14 21, 2005.

15 And he tells you, That upon his release, he had
16 thoughts of wanting to go live and with father. After
17 the release. So he would be away from these
18 maladaptive persons?

19 A Uh-huh.

20 Q That he knew was so bad.

21 A Uh-huh.

22 Q That he knew was going to get him in trouble?

23 A Uh-huh.

24 Q But, then, he went straight back with them, allegedly?

25 A Uh-huh.

1 Q And was involved in this crime that occurred about, 14
2 days, allegedly, after he was released. So within two
3 weeks of his release, understanding that he shouldn't
4 be around these people. He, immediately, goes back
5 with these people. And, allegedly commits this crime?

6 A Uh-huh.

7 Q What does that -- what does that tells me about his --
8 truly, if he can control himself or not?

9 A From my professional opinion, I don't look at it, in
10 terms, of whether or not he's able to control himself.
11 I look at it from the standpoint that we was a
12 15-year-old male. And any juvenile in a situation in
13 which they were released from something -- well,
14 gravitate to what they know best. And that is what he
15 knew best. That was his peer group. He didn't have
16 any other options, at that point. And I'm not
17 absolving him from any type of activity that he might
18 have participated in.

19 I'm, simply, saying that one cannot ignore the
20 environmental factors that all evidence seems to
21 suggest -- had a huge factor -- factored significantly
22 into his behavior. And part of that I would, also,
23 include would be the lack of parental supervision and
24 the lack of monitoring within the home. He couldn't do
25 it by himself. Is essentially what I'm saying. He

1 needed help from someone else.

2 Q Alright. And did he receive any services from
3 September through November?

4 A And this is something that I think the department
5 struggles with, historically, that -- you know, a
6 juvenile can receive services and placement behind the
7 fence, in detention.

8 But, unless, there is follow-up within the
9 community, inevitably, most juvenile will revert back
10 to those same behaviors, that they were exhibiting
11 previously. There needs to be some type of follow-up.
12 There needs to be some type of structure. There needs
13 to be a continuation of services. Once the juvenile is
14 released back into the community.

15 Q Well you can see any concern. I mean he's been at DJJ.
16 By all accounts a horrible place for a young person to
17 be.

18 A Uh-huh.

19 Q And he knows why he's there?

20 A Uh-huh.

21 Q He knows that his conduct and his being around these
22 maladaptive persons has caused him to be there?

23 A Uh-huh.

24 Q And, then, within two weeks after he spends 60 days at
25 this horrible place, receiving some rehabilitative

1 services. He allegedly recommits?

2 A Uh-huh.

3 Q I mean -- I have a very strong concern about his
4 ability to be rehabilitated within the Juvenile Justice
5 System?

6 A And I can understand that.

7 And, again, all I can say is that from all the
8 information. Through interviewing. Through
9 personality assessment. Through the things that he has
10 exhibited thus far. I truly believe that he can
11 benefit from rehabilitative services.

12 With that said, if he were to remain in the
13 Juvenile Court System. And when he's released. You
14 know, let's say at the age of 19 or 20. I can't state
15 emphatically enough that there would need to be
16 services that would continue. It's -- I'm not
17 suggesting that he would receive these services. And
18 come out this just whole new person. I'm suggesting
19 that he can benefit from the services that we provide.
20 And services, definitely, need to continue, including
21 being in a very structured environment once he's
22 released, in order to, curtail from further behavioral
23 problems.

24 Q What impact is being in the Juvenile Justice System, in
25 particularly, being committed to the Department of

1 Juvenile Justice have on his maturity or on his growth?

2 A One of the factors associated with a juvenile being
3 able to remain in a Juvenile Justice System would be
4 that, at least, he is among peers. He's among people
5 around his own age. Most likely people with similar
6 type issues. Similar types of background. And
7 individuals that he can identify with, versus being in
8 a population of individuals that he may not necessarily
9 be able to identify with.

10 Q Will his commitment to the Department of Juvenile
11 Justice slow his maturity process?

12 A Oh no, not necessarily.

13 Q It won't really have an impact?

14 A In terms of his cognitive development, and things of
15 that nature. No.

16 Q Now, let's assume for a second that he is committed to
17 the Department of Juvenile Justice. And at the age of
18 17 he is transferred to the Department of Corrections,
19 as a youthful offender, and what services are going to
20 be available to him there as opposed to what available
21 to him at the Department of Juvenile Justice.

22 A I have this information right, here. I spoke with
23 someone from the Department of Corrections. And I
24 also -- she directed me to some information on the
25 website. And I will be happy to submit this to you.

1 They offer Substance Abuse Treatment. Family
2 Counseling. Accelerated Academic Programs, which is
3 some type of educational training. Thinking for a
4 change in which they are doing cognitive restructuring
5 trying to get the individuals to think about things a
6 little bit differently. The impact of the crime. They
7 go through victimization training, in terms of really
8 trying to look at things from the perspective of the
9 victim. They, also, offer anger management. Social
10 skills. Life skills. Alcohol and drug education. I,
11 already, mentioned the cognitive restructuring.
12 Parenting and Sex Offender treatment.

13 Q So, essentially, the same services that are offered at
14 the Department of Juvenile Justice?

15 A Very similar. Yes.

16 Q Do we know anything about the level of those services?
17 Are they -- do they have the same number of persons
18 committed to delivering those services, to the people
19 who are in the Department of Corrections?

20 A That I don't know. And I don't know the credentials of
21 the individuals implementing those services, either.

22 Q What, realistically, could you hope to accomplish in
23 less than 11 months, in terms of rehabilitation?

24 A Well, I think, it is important that is one of the
25 reasons I sought that information out. Because I do

1 believe that services do need to be ongoing. I don't
2 think -- given the circumstances and given the fact
3 that generally speaking, juvenile are transferred at
4 the age of 17. That's one of the reasons why I
5 contacted the Department of Corrections to see what
6 type of services that would be offered after that
7 point. And given the -- in theory -- in theory -- the
8 services would continue. So at the age of 17,
9 theoretically speaking, the services won't discontinue.
10 There will be an adjustment. There will be different
11 individual implementing the services. But,
12 theoretically speaking, the services would continue,
13 just under -- housed under the Department of
14 Corrections.

15 Q If he were tried as an adult. And if he were
16 convicted. And he was under the age of 17. He would
17 be committed to the Department of Juvenile Justice
18 until he reached the age of 17, is that correct?

19 A Correct.

20 Q And, then, he would become -- transferred from the
21 Department of Juvenile Justice, to the Youthful
22 Offender Program at the Department of Corrections,
23 until he reach the age of 21, is that correct?

24 A Actually, I think, the sentence is 36 to 54 months.
25 So, he would, probably be released before his 21st

1 birthday?

2 Q Alright. Well, if he were convicted, though, he would
3 remain at the Department of Corrections Youthful
4 Offender, until the age of 21. And, then, he would be
5 transferred to the general population, is that correct?

6 A I'm not a hundred percent accurate about this. I think
7 they stay until the age of 25.

8 Q Twenty-five?

9 A Yes.

10 Q Excuse me. Thank you. One of the questions that was
11 asked about trying to assess his level of maturity. I
12 think that the wording used in your report was.

13 That, he was, at least, as mature as -- as you
14 would expect him to be. Or as others his age would be.
15 And, I think, that may have been the reason there were
16 some questions about whether he was -- his social
17 maturity is, at least, average, in comparison to the
18 same age peers. Is there something that would indicate
19 to you that his social maturity would be greater than
20 his same age peers.

21 A No. I think, they are commensurate with other
22 15-year-olds.

23 Q And, last, I think, this is my last question. And you
24 were talking about the MACI versus the Jesness. Is it
25 a correct assessment to say that the MACI kind of

1 determines if you are delinquent? And the Jesness
2 determines how delinquent you are? In a way of
3 speaking -- I mean, we're talking about determining
4 just, exactly, what the nature of delinquency is? And
5 how deep rooted the problem is?

6 A Yes. More the latter from what you've just received --
7 how deep the problem is. It, actually, provides
8 profile of delinquency. The Jesness does. And on
9 different dimensions as well. For aggressiveness
10 versus conduct related behavior problems, and so on so
11 forth.

12 Q I'm curious. You've indicated that the Jesness is the
13 test that help you assess best this young man. Why do
14 y'all continue to use the MACI?

15 A Because we're, also, interested in those other
16 variables. Like the emotional problems. The familial
17 discord. A personality variables. Because it, also,
18 access with other things like borderline personality
19 disorder. Inner personal skills. Social skills. It
20 provides a lot of good data, as well.

21 THE COURT: Thank you, ma'am. Those are all the
22 questions I have. You can return to your seat.

23 MR. MCLAURIN: Judge, can I ask a follow-up or
24 two?

25 THE COURT: Generally, I don't allow question

1 after I finished questioning.

2 MR. MCLAURIN: That's alright.

3 THE COURT: Fine.

4 MR. HILL: I have no objections to the witness
5 being excused.

6 THE COURT: Any objections to this witness being
7 excused?

8 MR. MCLAURIN: I, probably, would like her to
9 stay, Your Honor. Just in case, we need to do any kind of
10 follow-up. If that's okay.

11 THE COURT: Well, let me ask you this question,
12 then. If I allow you to ask a few follow-up questions --
13 would that --

14 MR. MCLAURIN: No. You can go ahead. You can
15 excuse.

16 THE COURT: Okay. Alright. Thank you. You can
17 return to your seat. And, I think, we're going to ask you
18 to remain with us for a little while.

19 Alright, it's 1:20. Counsel, how about
20 approaching. Let's talk about what we have to do and in the
21 time we have to do it.

22 (Whereupon, a bench conference
23 was held.)

24 Sir, please step up to the Bible, please. Place
25 your left hand on the Bible. And raise your right.

1 THEREUPON,

2 GEORGE MACK

3 after having been duly sworn, testified as follows:

4 THE COURT: Thank you, sir. Please have a seat in
5 the witness stand.

6 If you would state your full name and occupation.

7 OFFICER MACK: George Mack. I'm employed with the
8 City of Florence Police Department.

9 THE COURT: Thank you, officer.

10 MR. MCLAURIN: If it please the Court.

11 THE COURT: Yes.

12 DIRECT EXAMINATION

13 BY MR. MCLAURIN:

14 Q Officer Mack, how long you've been with the police
15 department?

16 A Approximately 20 years.

17 Q And have you worked with juveniles in the police
18 department?

19 A Yes, sir. I have.

20 Q Okay. And, I think, you have a summer basketball
21 league, is that correct?

22 A Yes, sir.

23 Q And, please just tell me what that is? And how long
24 you've been doing it?

25 A It's a program where we get kids from various sides of

1 town. And we teach them the fundamentals of
2 basketball. We talk to them about different factors
3 that they may run into, while in the streets, and stuff
4 like that. Kind of get smart?

5 Q Okay. Was TyQuan Jones in your program?

6 A Yes, sir.

7 Q And how long was he there?

8 A TyQuan was probably in there for about two years.

9 Q And can you tell me how he did in the program?

10 A He was excellent. He never gave me any problems. He
11 participated. Mannered. I mean he was an excellent
12 kid.

13 Q And do you remember about when that was when you were
14 involved with him?

15 A Roughly about three, four years ago.

16 Q And you were involved with him for a couple of years,
17 is that correct?

18 A Yes, sir.

19 Q Through that period of time?

20 A Yes, sir.

21 MR. MCLAURIN: That's all I have, Your Honor.

22 THE COURT: Alright. Mr. Hill.

23 CROSS-EXAMINATION

24 BY MR. HILL:

25 Q Mr. Mack, so the purpose of the program was to teach

1 basketball and personal -- and what other things?

2 A We talked to them about -- we taught them basic
3 basketball. But, then, we talked to them about peer
4 pressure that kind of stuff.

5 Q Do you have an approximate date for his last date of
6 participation in your program?

7 A No, sir. I don't.

8 Q Was that within the last three or four years?

9 A Yes, sir.

10 Q Do you have any -- that's all that I have. Thank you.

11 THE COURT: Alright, thank you, Officer Mack.

12 May this witness be excused?

13 MR. HILL: No objection.

14 MR. MCLAURIN: Thank you, Judge for doing that.

15 THE COURT: Certainly. Alright, we're going to
16 take 30 minutes. Hope you can get something to eat in that
17 period of time.

18 (Whereupon, a short recess was
19 taken.)

20 THE COURT: Alright, we're back on the record. We
21 took a -- on the State vs. Jones. We took a break. And
22 before the break, we took one witness out of order.

23 So Mr. Hill, you can call your next witness.

24 MR. HILL: Your Honor, the state call Ms.
25 Burgess-Green.

1 THE COURT: Would you come forward, please. If
2 you'd place your left hand on the Bible. And raise your
3 right.

4 THEREUPON,

5 LACHARDA BURGESS GREEN

6 after having been duly sworn, testified as follows:

7 THE COURT: Thank you, ma'am. Please have a seat
8 in the witness stand. State your full name.

9 MS. BURGESS-GREEN: Lacharda Burgess-Green.

10 THE COURT: And your occupation?

11 MS. BURGESS-GREEN: Probation Officer with
12 Department of Juvenile Justice.

13 THE COURT: Thank you, Ms. Burgess-Green.

14 Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. HILL:

17 Q Ms. Green, were you the probation counselor for TyQuan
18 Jones?

19 A Yes, sir.

20 Q For what charges was he placed on probation?

21 A Armed robbery.

22 Q What day was he placed on probation?

23 A November --

24 Q Was it November 18th, 2004?

25 A November 18th.

- 1 Q Do you have a copy of the probation order in front of
2 you?
- 3 A No, sir. I don't.
- 4 Q Is that a copy of it?
- 5 A Yes, sir. It is.
- 6 Q On the second page of that order, were there specific
7 conditions outlined for him to follow?
- 8 A A 100 hours of community services.
- 9 Q What else?
- 10 A He must obey a curfew set by his mother and his
11 probation officer.
- 12 Q And anything else?
- 13 A Cooperate and complete any programs and services that
14 would be a benefit to TyQuan. That's it.
- 15 Q Alright. And those are, in addition, to the regular
16 terms of probation?
- 17 A Yes, sir.
- 18 Q Now, in regards, to programs that to which he may be
19 referred. What program if any were -- let me rephrase
20 this. Was he referred to any other programs?
- 21 A He was referred to mental health counseling for anger
22 management.
- 23 Q Okay. And where did that take place?
- 24 A Department of Mental Health.
- 25 Q In Florence?

- 1 A Yes, sir.
- 2 Q And how long did he go to that counseling?
- 3 A From February 10th, 2005 to May 6th of 2005.
- 4 Q Do you know how many sessions he attended?
- 5 A I don't.
- 6 Q Do you know if he successfully completed that counsel?
- 7 A Yes, sir. He did.
- 8 Q Are you familiar with what he is taught during the
- 9 anger management course?
- 10 A Could you repeat that?
- 11 Q Are you familiar with what he's taught, during that
- 12 course?
- 13 A No, sir. I'm not.
- 14 Q Did you refer him to any other counseling?
- 15 A I did not.
- 16 Q Well, could you explain to the Court your rationale
- 17 behind the referral to anger management, and the
- 18 decision that he didn't need any other referral?
- 19 A Well, I felt that due to the seriousness of the crime,
- 20 that he needed to be in some type of counseling. It
- 21 wasn't ordered. But I took it upon myself to make the
- 22 referral, then.
- 23 Q And that was for anger management?
- 24 A Yes, sir.
- 25 Q Alright. How many other programs -- what lead you to

1 chose that program as to oppose to any of the others?

2 A Well, actually, I just sent the referral to mental
3 health. And for them to do the assessment on the type
4 of counseling that they felt he needed. I didn't
5 specify anger management.

6 Q So Pee Dee Mental Health --

7 A Chose anger management.

8 Q Can you explain to the Court the violation of his
9 probation?

10 A The only problems that I had with TyQuan was violation
11 of his curfew and failure to attend school daily. But,
12 as far as, reporting monthly, that wasn't a problem.
13 He participated in the community projects. Keep
14 Florence Beautiful. And the DJJ Community Office
15 Cleanup. Basically, I didn't have a problem with
16 TyQuan on probation. His, only, problem was the
17 violation of curfew. Keeping his curfew and attending
18 school regularly.

19 Q Was he required to be drug tested?

20 A Yes. He was.

21 Q Was he drug tested?

22 A Yes, sir. He was. He was tested on July 18th, 2005.
23 He test positive for marijuana.

24 Q Were any other tests conducted?

25 A No, sir. There wasn't.

1 Q But he tested positive the one time he was tested?

2 A Yes, sir.

3 Q Are you familiar with any programs that he may have
4 participated in, while he was in the Department of
5 Juvenile Justice?

6 A No, sir. I'm not.

7 Q You have any knowledge of the programs that Pee Dee
8 Mental Health could have referred him to, while he was
9 on probation?

10 A No, sir.

11 Q But the decision, regarding the program that he was to
12 attend is made by Pee Dee Mental Health?

13 A Yes, sir.

14 MR. HILL: Answer any questions that Mr. McLaurin
15 might have.

16 THE COURT: Mr. McLaurin.

17 CROSS-EXAMINATION

18 BY MR. MCLAURIN:

19 Q Ms. Green, you indicated, as far as, reporting and
20 everything that TyQuan did well, in that regard, is
21 that correct?

22 A Yes, sir.

23 Q And what would he meet with you monthly, is that
24 correct?

25 A Yes, sir. Monthly.

1 Q Okay. In fact, you and TyQuan -- you kind of formed a
2 friendship. Beginning to like TyQuan, did you not?

3 A I did.

4 Q Okay. And, in fact, I think you helped with him out by
5 some community service. By coming up to your office
6 and cleaning up around the office. You mentioned that
7 earlier, is that correct?

8 A Yes, sir.

9 Q Did you trust TyQuan?

10 A I did.

11 Q Okay. Did you think he was somebody that you were
12 endanger around or anything like that?

13 A No, sir. I didn't.

14 Q Okay. How did he act with around you? Would he act
15 polite, courteous?

16 A TyQuan was, always, polite, courteous and very
17 manner-able towards me.

18 Q And we talked about services. Obviously, mental health
19 has other services other than anger management, you're
20 aware of that, right?

21 A I am.

22 Q Okay. And you don't know the specifics services that
23 they may offer other than the anger management class?

24 A I know they offer family counseling and family
25 preservations. I think, they offer drug and alcohol

1 counseling.

2 Q And none of that was done for TyQuan, is that correct?

3 A Not at Pee Dee Mental Health. We did give him a drug
4 test at Circle Park.

5 Q Yeah, I understand that. But none of that counseling
6 that you're talking about?

7 A No, sir.

8 Q And you don't have any idea of how often he went to the
9 counseling?

10 A I would assume once a month.

11 Q So probably about three times is what you think?

12 A I can't say.

13 Q Do you know if TyQuan had some transportation problems
14 in his family?

15 A No. I don't know.

16 Q You don't know anything about that? Did you have --
17 ever meet any of his family by chance?

18 A I met his mother. I met his brother. I met his
19 grandmother. And his sister. And, I think, one or two
20 of his aunts. Today is my first time meeting his
21 father.

22 Q Did they seem supportive of TyQuan?

23 A Yes, sir. Very supportive.

24 MR. MCCLAURIN: That's all. Thank you.

25 THE COURT: Any redirect?

1 MR. HILL: No, thank you, Your Honor.

2 THE COURT: I have a couple of questions for you.

3 Q&A

4 BY THE COURT:

5 Q When I was looking at the report from the Department of
6 Juvenile Justice that was prepared for today. In the
7 prior court history, they indicated that he violated
8 his probation. Because he failed to comply with the 8
9 p.m. curfew which you mentioned. He had not completed
10 the 100 hours of community service. And he was not
11 suppose to have any contact or interactions with his
12 codefendants. Is that what the basis for his violation
13 was?

14 A Yes, sir. I think, the basis for his violation was
15 school and curfew. But he was completing his community
16 service hours. But, I think, he got in that trouble
17 before he was allowed to finish.

18 Q Alright. What about this interaction with
19 codefendants. Who was he not suppose to have contact
20 with?

21 A I think, his codefendant was LaQuan Sellers. I'm not
22 familiar with anybody else.

23 Q Was that name mentioned, specifically, in the Court's
24 prior order?

25 A No, sir. It wasn't. It just said codefendant.

1 Q Okay. Now, when he came up for his probation
2 violation. When he was released from his detention on
3 November 21, 2005. His probation had terminated at
4 that point and time, is that correct?

5 A No, sir. He was ordered to continue on probation.

6 Q So he was still on probation?

7 A Yes, sir.

8 Q Okay. How long was his probationary period?

9 A For a period of one year. Eighteen months, I'm sorry.

10 Q Eighteen months. Okay. So that would have taken
11 beyond that time. Alright. When he tested positive
12 for marijuana in July of 2005. What would you,
13 ordinarily, do if you had one of your clients who
14 tested positive for drugs, unexpectedly?

15 A Normally, I would -- we would staff the case in the
16 office. And see about getting him into some drug
17 counseling or maybe probation violation. Or possibly
18 give the juvenile another chance at getting himself
19 clean. And, then, retesting them.

20 Q Was there any provision within the probation order for
21 any type of drug treatment?

22 A No, sir. There wasn't.

23 Q Did you meet with him after the drug test came back
24 positive?

25 A I did?

1 Q And did you talk with him about that?

2 A Yes, sir.

3 Q Did he indicate to you that he had any type of drug
4 problem?

5 A No, sir. He didn't.

6 Q Did he say it was just a one time thing? Went out and
7 smoke some marijuana with some friends or something?

8 A Well, first, he told me that, He was around somebody
9 that was smoking.

10 And, then, I told him to be honest with me.

11 And, then, he told me, Yes, ma'am, Ms. Burgess, I
12 was smoking. But I'm going to do better. If you give
13 me another chance. I'll get myself clean.

14 Q You spent -- would you say that you spent a fair amount
15 with TyQuan during the time you were his probation
16 officer?

17 A Yes, sir. I did.

18 Q Did he strike you as being a mature, immature, or about
19 average -- about average maturity for a young man his
20 age?

21 A I would say about average.

22 THE COURT: Thank you, ma'am. You can return to
23 your seat.

24 You can call your next witness.

25 MR. HILL: Your Honor, we'll go over the plea with

1 Ms. Devane, Intake Supervisor Department of Juvenile
2 Justice.

3 First of all the state will call Ms. Williams.

4 THE COURT: Ma'am, if you would come forward.

5 MR. HILL: And why she does so. I have a order to
6 present for the last hearing. So that transport --

7 THE COURT: Yes, sir.

8 Ma'am, if you would place you left hand on the
9 Bible. And raise your right.

10 THEREUPON,

11 LINDA BARR WILLIAMS

12 after having been duly sworn, testified as follows:

13 Thank you, ma'am. Please have a seat in the
14 witness stand.

15 And if you would state your full name and
16 occupation?

17 MS. WILLIAMS: Linda Barr Williams. Florence
18 County Director of Juvenile Justice.

19 THE COURT: Thank you, ma'am.

20 Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. HILL:

23 Q Ms. Williams, do you have a packet with you concerning
24 Mr. TyQuan Jones?

25 A Yes, sir.

1 Q Alright. And part of that packet, did you prepare a
2 social summary along with Ms. Melissa Devane, who is
3 employed with your office?

4 A Ms. Melissa Devane prepared the summary. And I
5 reviewed it.

6 Q Alright. And as the Director of the local Department
7 of Juvenile Justice are you familiar with Mr. Jones'
8 criminal record?

9 A Yes. I am.

10 Q Are you familiar with his school records?

11 A Yes. I am.

12 Q I'd like to began with the school records. If you
13 could turn to that in your packet, please?

14 A I have it.

15 Q Alright. What was the last school year in which he
16 attended school in the Florence County?

17 A 2005.

18 Q Do you know the last day that he attended school in
19 Florence County?

20 A Can I read this summary. And that will help you a
21 little better. That will give you more answers, too.
22 I think, it was September 2nd of '05.

23 Q Alright. So you acknowledged the last day he attended
24 was September 2nd, 2005?

25 A Yes.

1 Q Okay. During the school year of 2005, I assume that
2 would, also, be 2004, 2005?

3 A Yes.

4 Q You have knowledge of any disciplinary write-ups that
5 he received while he was a student?

6 A Yes.

7 Q Can you advise the Court as the nature of these
8 write-ups?

9 A He didn't have any actual write-ups. It was just like
10 poor attendance. But, as far as, being in school, he
11 was good in school. And in the classes. That's the
12 report from the instructor.

13 Q Alright. So the write-ups he received regarding --

14 A Tardy.

15 Q Okay. Those were the only disciplinary referrals?

16 A Yes.

17 Q For the 2004, 2005 school year?

18 A Yes.

19 Q Was he referred to the alternative school?

20 A Yes. He was.

21 Q Do you know why he was referred to alternative school
22 rather than to his regular middle school?

23 A For tardies and poor attendance.

24 Q Moving on. Are you familiar with Mr. Jones' criminal
25 background?

1 A Yes.

2 Q His criminal history. If you would refer to that,
3 please.

4 Your Honor, I'm well aware that the Court has this
5 in its file.' I need to place this on the record.

6 How many prior referrals has he had to the
7 Florence County Department of Juvenile Justice?

8 A Five.

9 Q Could you tell the Court each of those?

10 A In April of 2004, he was incorrigible. In July 2nd of
11 '04, he had a an armed robbery, which he was placed on
12 probation for 18 months. On August 22nd, he had a
13 probation violation. On September '05, simple
14 possession of marijuana. In October '05, he had a
15 simple possession of marijuana and that was in Richland
16 County. And, then, in December of '05, he got the
17 murder, armed robbery and unlawful possession of a
18 pistol.

19 Q Okay. Do you know any background about the most recent
20 marijuana charge that occurred in Richland County?

21 A He was committed under the determinate sentence for 30
22 days. And that's when -- on the marijuana -- and
23 that's when he got the marijuana charge. He brought
24 the marijuana, I guess, back from here. When he came
25 to court her. We sent him to Columbia. He had the

1 marijuana in his pocket. And when he got there. They
2 found it. And they took him to Court in Richland
3 County.

4 Q And part of the Juvenile Justice -- do they have a
5 recommendation for how this case should be treated --

6 A We don't make recommendations on waiver hearings.

7 Q Alright. The previous recommendation is for detention,
8 is that correct?

9 A Yes.

10 MR. HILL: Answer any questions Mr. McLaurin might
11 have.

12 THE COURT: Mr. McLaurin.

13 CROSS-EXAMINATION

14 BY MR. MCLAURIN:

15 Q Ms. Williams, how long have you been with DJJ?

16 A I've been with DJJ about 11 years.

17 Q And what is your background and training?

18 A I have 27 years of State Government experience. I've
19 been -- I started out teaching autistic children for
20 the Department of Special Needs and Disability. Worked
21 nine years as the Director at -- Correctional
22 Institution, with the Department of Corrections. And,
23 then, again I'm here with the Department of Juvenile
24 Justice.

25 Q Okay. And how long -- I am sorry. You, probably, said

1 this. But with DJJ how long have you been in that
2 position?

3 A About 11 years.

4 Q And what positions have you held with DJJ?

5 A I was the Intake Supervisor, prior to this position.
6 Work 15 years as a part time on-call agent with the
7 Department of Juvenile Justice.

8 Q And you got an opportunity to meet with TyQuan, is that
9 correct?

10 A Yes, sir. Know him very well.

11 Q And how you met him? And what environment --

12 A I've known TyQuan and his family -- our children played
13 ball together. Football. Basketball. Baseball.

14 Q Is he a good basketball player?

15 A He's a good player.

16 Q Okay. How about in the setting at DJJ? Have you had
17 an opportunity to meet him in that setting?

18 A Yes. I have.

19 Q In what role -- I guess I'm --

20 A When he was on probation. I review all cases. And
21 from time to time, I talk to all the juveniles that are
22 on probation, or on parole. And I sit on in
23 interviews. When the counselors talk to them. And I
24 have sat in on several ones with TyQuan.

25 Q What did you think about TyQuan, as far as, being

1 cooperative, polite, during this process?

2 A Very well mannered, cooperative. Look like the only
3 problem Ms. Burgess had is when he had that positive
4 marijuana. But other than that had no problems. He
5 worked on Keep Florence Beautiful. And you know,
6 that's a community project that Florence County is
7 involved in. And he worked with us. We cleaned the
8 streets of Irby Street. Didn't have any problems. One
9 of the quietest kids out there picking up the paper.
10 Very cooperative. He worked at the regional office,
11 which my Regional Director Office is there. He worked
12 there, also, on a special project. We never had a
13 problem.

14 Q Are you aware of the counseling that he went to, that
15 was testified earlier, are you familiar with that?

16 A I'm aware that she sent -- yes. He went to counseling.

17 Q Okay. And you don't know anything about his attendance
18 there or anything?

19 A We called Mental Health, today, again. Just to verify.
20 And we spoke to Susan Carter. And she didn't give --
21 the person that handled the case was out. Susan looked
22 it up. And she did not have a particular of how many
23 times he went.

24 But she did say, He completed it.

25 Q And, of course, there was no other drug counseling,

1 family counseling, nothing like that, that was given to
2 TyQuan, is that correct?

3 A Can you give me a minute, please. So I can double
4 check. No, sir.

5 Q And DJJ up in Columbia has this potential services, is
6 that correct?

7 A Yes, sir.

8 Q And are you familiar with the services that would be
9 offered, if he was a juvenile at DJJ?

10 A Yes, sir.

11 Q And can you tell us just briefly, what those services
12 are?

13 A Okay. If he was adjudant delinquent by Family Court,
14 and placed on probation with the Department of Juvenile
15 Justice. He would be provided after care supervision.
16 Psychological consultation for appropriate short term
17 placement if needed. He could be provided individual
18 group counseling. Family counseling and therapy.
19 Social skill training. Anger management. Drug
20 education. Addiction treatment. Substance abuse.
21 Self help groups. Tutorial programs. Vocational
22 rehabilitation programs. Independent living skills.
23 Education groups. And medical services. And, of
24 course, graduating from high school.

25 Q A lot of different services?

1 A A lot of different services.

2 Q And how about where you familiar with TyQuan's home
3 life, at all?

4 A No. I know his mother. But, I'm not actually familiar
5 with his home life.

6 Q Are you aware that there was some problems with
7 supervision there at the house? And she wasn't around
8 a lot of times, were you aware of that?

9 A From my knowing -- from me just hearing from the
10 counselor, that could have been the problem. Being his
11 tardies and absences from school. Because once he gets
12 to school. He did what he is required to do.

13 Q Alright. Let's talk about the school. It was,
14 basically, tardies were his main problem?

15 A Tardies and attendance.

16 Q Are you aware that he had to walk to school? Did you
17 know that?

18 A No. But some children do walk to school. If there is
19 no bus route there. I don't know exactly where he
20 lives or what schools. So I wouldn't know.

21 Q Were you aware that his mother wasn't around in the
22 mornings?

23 A Not aware. I know she works.

24 Q How about in the alternative school? How did he do in
25 the alternative school?

1 A That's what I read the alternative school report --

2 Q Oh, you did --

3 A Because, normally, that's where he was in the
4 alternative school.

5 Q And he did well?

6 A Yes.

7 Q In alternative school?

8 A It was just attendance and tardies --

9 Q Attendance. I'm sorry?

10 A Attendance and tardies.

11 Q Okay. No violent acts that you know of? Nothing like
12 that?

13 A No, sir.

14 Q How about your opinion of TyQuan's maturity level?

15 Would be average for his age?

16 A I think he's mature for his age.

17 Q Do you think TyQuan is the type of person that could be
18 rehabilitated in DJJ system?

19 A If he had a chance. Yes.

20 MR. MCLAURIN: I don't have any further questions,

21 Your Honor.

22 THE COURT: Mr. Hill.

23 REDIRECT EXAMINATION

24 BY MR. HILL:

25 Q Ms. Williams, are you familiar with the recidivism

1 rates in the Department of Juvenile Justice?

2 A Yes. I am.

3 Q Would you tell the Court what they are to the best of
4 your knowledge?

5 A For Florence County. I can only give you Florence
6 County. And we have so many alternative programs for
7 our children in Florence. We have very little
8 recidivism for Florence County.

9 Q But the children that are committed to the Department
10 of Juvenile Justice -- do you have idea about the
11 recidivism raised for the children that is committed to
12 the Department of Juvenile Justice?

13 A No.

14 Q You don't?

15 A No.

16 THE COURT: Anything else?

17 MR. HILL: No.

18 Q&A

19 BY THE COURT:

20 Q You indicated that you had contact with TyQuan. Both
21 before he was involved with your office. And during
22 the time that he was involved with your as a client?

23 A Yes, sir.

24 Q And, I believe, your testimony was that he, always,
25 struck you as being a polite and a nice young man?

1 Quiet? Never had any problems, at all, with him?

2 Showed up and did what he was supposed to do?

3 Everything like that? Did you have any reason to -- I
4 mean the purpose of that exercise, the probationary
5 period is a form of rehabilitation, is that correct?

6 A Correct.

7 Q A kind of a re-education, monitor, support? Those type
8 of things, is that correct?

9 A Correct.

10 Q And other than the positive drug test -- did you have
11 any reason to believe that the probation was not
12 serving its purpose as a rehabilitated tool?

13 A I have no other reason to believe that. Because the
14 youth that we choose to put in the different programs,
15 like Keep Florence Beautiful. And go on community
16 projects around citizens. We choose juvenile that are
17 on probation. That are cooperative. And that knows
18 how to act in the public. And we just don't -- just
19 pick any kids that's on probation. Because we put the
20 agency in liability.

21 THE COURT: That's all I have. Thank you, ma'am.

22 MS. WILLIAMS: Thank you, too.

23 THE COURT: Call your next witness.

24 Sir, if you would come forward, please? Place
25 your left hand on the Bible. And raise you right.

1 THEREUPON,

2 ERIC STONE

3 after having been duly sworn, testified as follows:

4 THE COURT: Thank you, sir. Please have a seat
5 here in the witness stand.

6 If you would state your name and your occupation?

7 MR. STONE: Eric Stone. Crime Scene Investigator
8 with the Florence Police Department.

9 THE COURT: Thank you, sir.

10 Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. HILL:

13 Q Mr. Stone, how long have you been employed with the
14 Florence Police Department?

15 A Six years.

16 Q And did you respond to the scene of a murder that
17 occurred on December 3rd, 2005? At 9:22 right here in
18 the City of Florence?

19 A Yes, sir. I did.

20 Q Okay. Do you have your notes and file in front of you?

21 A Yes, sir.

22 Q Were other officers on the scene when you arrived?

23 A Yes, sir.

24 Q And who was your supervisor at the scene?

25 A Corporal Mike Grant.

1 Q Okay. And did Officer Grant give you instructions once
2 you arrived?

3 A Yes, sir. He, actually, give me some instructions in
4 route over the cell phone.

5 Q And what did he tell you to do?

6 A He had me initially response to the hospital. Take
7 initial photos of the victim at the hospital. And
8 collect any evidence that may have been with the
9 victim.

10 Q And after you went to the hospital where did you go?

11 A I, then, responded to 920 June Lane. And met with
12 Corporal Grant.

13 Q And once you arrived at the scene, did you take
14 photographs?

15 A I did not take photographs. I did film the scene with
16 the recorder. VHS Recorder.

17 Q Were you present when the photographs were taken?

18 A Yes, sir.

19 Q And did you have the opportunity to view those
20 photographs?

21 A Yes, sir.

22 Q And did the photographs accurately depict what you
23 recorded in your video?

24 A Yes, sir.

25 Q And after you responded to the scene, did you have any

1 other participation in this case?

2 A Yes, sir.

3 Q What did you do?

4 A On scene I helped Corporal Grant mark evidence.

5 Collect evidence. We, also, took measurements on the
6 scene. After the scene, I went to the autopsy the next
7 day. Took photos at the autopsy. And collected
8 evidence from the autopsy.

9 Q At the scene, were you present when two 9mm bullets
10 cases were recovered?

11 A Yes, sir.

12 Q Did you take possession of those, or did Corporal Grant
13 take possession of those?

14 A Corporal Grant took possession of those.

15 Q Okay. Do you know about the chain and custody
16 regarding those bullet cases?

17 A Yes, sir.

18 Q Alright. Let us about that?

19 A Chain and custody would have been Corporal Grant.
20 From there it went to the crime scene truck. And once
21 all the evidence was secure there. It was taken to our
22 lab in the basement. And secure there.

23 And, then, afterwards or the next day or so.

24 Everything was packaged. The next -- in line with the
25 chain of custody from Corporal Grant would be either

- 1 Lieutenant Harrell or Sergeant Becker, one would be two
2 evidence custodian in the evidence room?
- 3 Q Okay. And regarding the two 9mm bullet cases were
4 those consistent with the bullet that was fired in this
5 case?
- 6 A No, sir.
- 7 Q What type of bullet was fired in this case?
- 8 A A 22 caliber.
- 9 Q So the 9mm bullets that was found. Were they used in
10 this case to commit the murder? Or were they something
11 that was found at the scene?
- 12 A They were just something that was found at the scene.
13 And at the time we were working the scene. We didn't
14 know what particular weapon was used.
- 15 Q So did you recover a 22mm casing on the scene?
- 16 A No, sir. Not on the scene.
- 17 Q Okay. Was it later recovered?
- 18 A Yes, sir.
- 19 Q And were you present when that was recovered?
- 20 A Yes, sir.
- 21 Q And where was that found?
- 22 A It was in the 1000 block of Christopher Lane.
- 23 Q And did you find the casing or did you find something
24 else.
- 25 A We found the weapon, along with the casing. And we

1 found additional live rounds in the weapon.

2 Q Now all the items for which you testified were recorded
3 here on video or by camera, is that correct?

4 A Yes, sir.

5 Q And you took photographs at the autopsy?

6 A Yes, sir.

7 Q Did you, also, take photographs of the scene where the
8 weapon was recovered?

9 A Yes, sir.

10 Q Did you provide me with copies of those photographs?

11 A Yes, sir. You have some there. And I have some
12 copies, as well.

13 Q I'm going to ask you to look at what's been premarked
14 as State's Exhibit No. 1, 2, through 3. Okay, will you
15 look at those and tell me if you recognize those?

16 A Yes, sir.

17 MR. HILL: Thank you.

18 THE COURT: Mr. McLaurin.

19 MR. MCLAURIN: I don't have any objection to those
20 been introduced.

21 MR. HILL: Your Honor, at this time, the state
22 would ask that State's Exhibit 1, 2, and 3. And all those
23 attached to 3, which I believe is 3A, 3B, and 3C be admitted
24 into evidence as State's Exhibit 1, 2, 3, 3A, 3B, and 3C.

25 THE COURT: Without objection, Mr. McLaurin?

1 MR. MCLAURIN: That's correct.

2 (Whereupon, three exhibits were
3 marked into evidence.)

4 THE COURT: Alright. Without objection. They
5 will be entered into evidence as State's 1, 2, 3. Three
6 consisting of three photographs.

7 MR. HILL: Right.

8 Q State's No. 1 is a picture of the scene on June 9th?

9 A Yes, sir.

10 Q Can you describe what is in that photograph?

11 A It shows the apartment building itself, which is Number
12 920. That picture is, specifically, showing the rear
13 area of 920B where the victim was found. It shows
14 blood on the scene on the door of 920B. On the
15 sidewalk. On the patio. And on the wall. It, also,
16 has the very closest edge -- has a pair of purple
17 gloves that are marking where the 9mm casings were
18 found.

19 Q Alright. And then, I believe, there were many other
20 pictures taken. Does that picture accurately reflect
21 the scene as you found it on that evening?

22 A Yes, sir.

23 Q State's Exhibit No. 2 is a picture of the decease.

24 What was the name of the decease?

25 A Desmond Keith, sir.

1 Q Okay. State's No. 2 depicts Desmond Keith, is that at
2 the autopsy or at the hospital?

3 A I will have to look at it. That's at the autopsy.

4 Q Okay, did you take that photograph?

5 A Yes, sir.

6 Q What's significant about that photograph?

7 A It shows a chip tooth.

8 Q And why is the chip tooth important?

9 A Initially, at the hospital the ER doctors, nurses and
10 I, we looked over the body to try and find a point of
11 entry of the bullet. And the only thing we could find
12 was the chipped tooth in his mouth. And, then, a lump
13 on the right side of his neck.

14 Q Okay?

15 A Also, the same thing at the autopsy, the only point of
16 entry that could be determined was the mouth. And the
17 was based off a chip tooth. And, then, the location of
18 the travel of the projectile down into the right side
19 of the neck.

20 Q And do you know the cause of death?

21 A Bleeding to death from the gunshot wound to the neck.

22 Q Okay. Do you know if the carotid artery was cut by
23 this bullet?

24 A Yes, sir.

25 Q So is it correct to say that the cause of death is a

- 1 gunshot wound to the mouth, which sever the carotid
2 artery, and bled to death?
- 3 A Yes, sir.
- 4 Q Do you have any idea, how many shots were fired in his
5 face?
- 6 A One to my knowledge, sir.
- 7 Q Do you know if a bullet fragment was recovered at the
8 autopsy?
- 9 A Yes, sir.
- 10 Q And did you take custody of that fragment?
- 11 A Yes, sir.
- 12 Q Could you describe to the Court the caliber of that
13 fragment?
- 14 A Based on its scale measure, it appears to be 22 caliber
15 projectile. And I would need the actual ballistic
16 report from SLED which we do not have, at this time.
17 But the bullet itself was consistent with a lead round
18 nose 22 caliber long rifle projectile.
- 19 Q I'm going to show you what was, previously, provide by
20 your office. It's a report from Newberry Pathologist
21 Associates. Would you examine that and tell me if you
22 recognize that document?
- 23 A Yes, sir.
- 24 Q What is that document?
- 25 A It's the documentation from the pathologist for

1 forensic. Pathologist at Newberry. It explains the
2 cost of death. And everything that they found at the
3 autopsy, that could be the cause of death. It's, also,
4 everything recovered from the body.

5 Q Sir, can you read this for me?

6 A Right here? It is therefore --

7 Q Yes, sir?

8 A It is therefore the opinion of this -- prosecutor in
9 light of history and original protocol in the autopsy
10 findings, that the cause of death is exsanguination,
11 due to lacerated right corotid artery, due to a gunshot
12 wound to the mouth. It is further my opinion that this
13 death is best classed as a homicide. And it's signed
14 by Dr. Joe Lest Sexton, M.D. Forensic Pathologist.

15 Q And do you know Dr. Sexton?

16 A Yes, sir.

17 Q Has he been doing pathology work in South Carolina for
18 many, many, years?

19 A Yes, sir. To the best of my knowledge. Yes.

20 Q Does he do a good amount of pathology work for Florence
21 County?

22 A Yes, sir.

23 Q Have you work with him before?

24 A Yes, sir.

25 Q Do you know if he's testified in trials, before?

- 1 A I have not seen testify. But I'm sure he has.
- 2 Q Alright. So we know who was shot? We know what killed
- 3 him? But we didn't have a weapon?
- 4 A That's correct.
- 5 Q And you stated earlier, that you took photographs of
- 6 the weapon where it was found, is that correct?
- 7 A Yes, sir.
- 8 Q Okay. That's now State's No. 3. A, B, C depict the
- 9 location of the weapon, is that correct?
- 10 A Yes, sir.
- 11 Q Will you describe to the Court where the weapon was
- 12 located?
- 13 A Describe the weapon.
- 14 Q Yes, sir?
- 15 A It is a Smith & Wesson Model 34-1. The caliber is a 22
- 16 long rifle. Had a brown colored handle. The metal is
- 17 what's called Blue. I believe it had a 4 inch barrel.
- 18 Q Would that be considered a long barrel or short barrel?
- 19 A That would be considered average to long barrel.
- 20 Q Alright. Now, are you particularly familiar with this
- 21 weapon? This type of weapon?
- 22 A Yes, sir.
- 23 Q And why is that?
- 24 A I carry the same model gun in a previous security
- 25 office job. It's just a different caliber.

1 Q Do you train on that weapon?

2 A Yes, sir.

3 Q Okay. As a result of your knowledge and expertise with
4 that weapon. Do you have an opinion of your own
5 knowledge as to the workings of this weapon?

6 A Yes, sir.

7 Q Is it what would be characterized as single action or
8 double action?

9 A It is a double action revolver.

10 Q That means that -- what does that mean?

11 A Okay. A double action revolver means that the gun can
12 be fired with the hammer down. A single action
13 revolver you have to cock the hammer back to fire. It
14 won't fire if the hammer is down. A double action
15 revolver you can cock it back and fire it. It will
16 function as a single action or double action.

17 Q Okay. And as someone involved in law enforcement is it
18 common practice for double action revolvers to be
19 carried in their single action mode -- I mean with the
20 hammer pulled back or with the hammer in place?

21 A The hammer down.

22 Q If the hammer is down that means it's up next to the
23 cylinder, is that correct?

24 A That's correct.

25 Q And if it's up next to the cylinder, then, what does it

1 takes for that weapon to fire?

2 A Based on the manufacture's specifications which I have
3 a copy of that weapon in double action mode --

4 MR. MCLAURIN: Your Honor, I'm going to object to
5 him giving anything about manufacture's specification. He's
6 not any kind of expert in gunsmith. Or hasn't establish
7 anything other than as a security officer. He carried that
8 gun one time. So I don't think he can give these types of
9 opinions that he is going to try to offer, today.

10 MR. HILL: We can move on.

11 THE COURT: You can just proffer the evidence?

12 MR. HILL: I'll proffer it for the record.

13 THE COURT: Tell me when the proffer begins and
14 when it ends, please.

15 MR. HILL: It begins now, Your Honor.

16 Q Mr. Stone, how many times have you fired a weapon of
17 this type that involved in this case?

18 A Probably at least over a thousand times.

19 Q Okay. And over how long a period did you own or
20 possess that weapon?

21 A For approximately thirteen months.

22 Q Did you ever have to break it down and clean it. And
23 reassemble it?

24 A Yes, sir.

25 Q Are you familiar with it working mechanics?

1 A Yes, sir.

2 Q Have you had literature about this weapon?

3 A Some. Yes, sir.

4 Q Were you provided any literature with this weapon when
5 it was given to you by your employer?

6 A Yes, sir. An operator's manual.

7 Q And did you learn what was in that operator's manual?

8 A Yes.

9 Q As a result of that experience, do you have opinions
10 regarding what it takes to fire this weapon?

11 A Yes, sir.

12 Q Okay. Do you have opinions as to how much force is
13 required to pull a trigger on this weapon?

14 A Yes, sir.

15 Q Based upon your knowledge and experience of with this
16 weapon, do you have an opinion as to what it would
17 cause for this weapon to fire accidentally?

18 A Yes, sir.

19 MR. HILL: Your Honor, based upon the witness'
20 testimony, based upon his own experience, I think, he's
21 qualified to offer opinion -- an expert opinion as to this
22 particular type of weapon based upon his own use and
23 knowledge of this weapon.

24 I'm not asking him to give any hearsay testimony
25 from any other source, other than I'm asking for his own

1 personal knowledge about this weapon.

2 THE COURT: Mr. McLaurin.

3 MR. MCLAURIN: Your Honor, first I want to make a
4 comment.

5 I thought he said, We were moving on.

6 I didn't know we were still dealing with this
7 issue --

8 THE COURT: I was under the impression that we
9 were doing the same thing. This was simply a proffer for
10 the record. That I was not to consider the testimony. And
11 it's simply a proffer for the purpose of the record.

12 MR. HILL: That's the proffer.

13 THE COURT: Thank you, sir.

14 MR. HILL: At this point, that's the only proffer.

15 THE COURT: Thank you, sir.

16 Q Mr. Stone, is this weapon easy to -- is this weapon
17 easy to fire?

18 MR. MCLAURIN: Judge, I'm going to object. That's
19 required from an expert's opinion. I mean -- he just cannot
20 draw that conclusion, unless he's some physicist. And can
21 tell you about the force and things like that. He can't
22 offer that.

23 MR. HILL: I think he can testify as to his own
24 use of his weapon. Because he's used his weapon --

25 MR. MCLAURIN: What relevance is his use of a

1 weapon?

2 MR. HILL: It goes to whether or not the shooting
3 was an accident, which is a major deal to this case.

4 THE COURT: As I understand the testimony.

5 He says, He's fired this particular weapon. The
6 particular kind of weapon about a thousand times. And so
7 he's familiar with how hard it is or how easy it is to fire
8 this weapon. But, I don't know what we're basing that on.
9 Harder or easier than other weapons -- I mean, obviously, I
10 understand the difference between a single action and double
11 action. But are we talking about harder than semi-automatic
12 or some other type of weapon? I guess, I would feel more
13 comfortable. I think he could give an opinion about how
14 hard it is to squeeze a trigger if he has enough experience
15 related to pulling the trigger on guns. I don't know if
16 that's an extra testimony.

17 In his opinion he can say, I think this is a
18 pretty easy gun to pull the trigger on.

19 MR. HILL: That's all I'm trying to do.

20 MR. MCLAURIN: But I don't think that's relevant
21 for the case, if he can't tie it up to how it was that
22 particular day. And he would have to be some kind of expert
23 to be able to do that.

24 So whether he says, It's easy or hard -- how can
25 we tie it up with this particular gun on that particular day

1 and make it relevant?

2 MR. HILL: Your Honor, it's the same make and type
3 of model that was used. That's all I can offer.

4 THE COURT: Well, have you ever fired this
5 particular gun?

6 MR. STONE: No, sir.

7 THE COURT: Alright. I'm going to sustain the
8 objection. And let you move on to your next question.

9 Q Based upon your experience with the use of your own
10 weapon. Is it a hard trigger to pull as opposed to
11 other weapons you've fired?

12 MR. MCLAURIN: You've just sustained that. I
13 mean, how is that necessary. That's the same question,
14 Judge.

15 THE COURT: It is the same question. And I have
16 sustained the objection. Now, if you want to proffer your
17 testimony. I will be glad to let you proffer your
18 testimony.

19 MR. HILL: I think we can move on from that.

20 Q When you recovered the weapon was there anything
21 unusual that you found about the weapon?

22 A It had been wrapped in a plastic bag. A grocery type
23 bag like you get from the grocery store. It had been
24 buried under the ground. I believe we took the
25 measurements. Somewhere about 18 inches deep. It was

1 buried. When we pulled it out. We removed it from the
2 bag. In the process, took photos of what we were
3 doing. We, then, opened the cylinder to see if the
4 weapon was clear or not. As the cylinder opened, we
5 observed the one spent round which was identified by
6 the hammer mark on the rim of the case.

7 Q And what's significant about that?

8 A It means that round was fired -- that round was in the
9 chamber position. So when we opened the cylinder and
10 that particular rotating counter clockwise the chamber
11 that's at the barrel, as it rotates out. It will
12 rotate over to the eleven o'clock position.

13 Q And where is that weapon placed?

14 A It was sent to SLED for analysis to my knowledge it is
15 still in the firearms lab at SLED.

16 Q Do you know how you were directed to that weapon?

17 A Yes, sir.

18 Q Tell us about that?

19 A I was notified by my supervisor, Sergeant Boyd that the
20 investigators talking to Mr. Jones. He had told me
21 where the weapon was. He was brought out to us. We
22 were given the location the weapon was supposed to be
23 at. Sergeant Boyd, Corporal Grant, myself, Lieutenant
24 Swaggard and several of the other investigators went to
25 the location. Officer Holmes or the transport officers

1 brought out Mr. Jones. He took us to where the weapon
2 was supposed to be. We searched for it. Initially,
3 didn't find it. Went and check another similar
4 location.

5 He said, That he was sure it was back at the other
6 location. Sergeant Boyd, Corporal Grant and I returned
7 back to the other location. And done more digging in
8 the area where Mr. Jones said, That he was sure where
9 it was at. And that's where we found it.

10 Q Do you know if Mr. Jones ever verify that the weapon
11 that you found was the weapon, in fact, that was used
12 in this case?

13 A Yes, sir.

14 Q He did verify that?

15 A Yes, sir. He told us, that was the weapon that they
16 used.

17 Q The weapon that he fired?

18 A Yes, sir.

19 MR. HILL: Answer any questions the defense might
20 have.

21 MR. STONE: Yes, sir.

22 MR. MCLAURIN: If it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. MCLAURIN:

1 Q Officer Stone, you surveyed the scene when you went
2 there, is that correct?

3 A Yes, sir.

4 Q And you aware that there were several other
5 codefendants that are charged in this case?

6 A Yes, sir.

7 Q Did you take any statements at all?

8 A No, sir.

9 Q And you were aware that they were all adults weren't
10 you?

11 A Yes, sir.

12 Q Okay. And how many other codefendants were they? How
13 many people were there that day, do you know?

14 A At the scene?

15 Q At the scene?

16 A None of those codefendants were at the scene when I
17 arrived.

18 Q Okay. So you don't know exactly what went down at the
19 scene, is that correct?

20 A That's correct. As far as interviewing any of the
21 defendants. No I don't.

22 Q Let me ask you this, you do know that when you got
23 there to the scene, there were drugs at the scene, were
24 they not?

25 A That's correct, sir.

1 Q And you do know that, basically, this was a drug deal
2 that went bad, isn't that how you characterized it?

3 A Yes, sir.

4 Q And are you aware that the -- communication is the key
5 -- were you aware of his toxicology report?

6 A No, sir. Not, at this time, I am not.

7 Q Were you aware that he was drinking, and had marijuana
8 in his system?

9 MR. HILL: Your Honor, what -- at this point that
10 line of questioning while relevant particular to other
11 aspects of this case. Is not relevant at all with what the
12 victim was doing. What was in his system is not relevant at
13 all to this witness, or anything that's been asked on
14 direct. It's not relevant to anything in this particular
15 hearing. And I ask that this line of questioning -- I
16 object to. And ask the Court to sustain my objection. I
17 don't think that's relevant.

18 MR. MCLAURIN: Judge, I think it's important for
19 the Court to get an understanding of what's going on at the
20 scene in this case. This is a drug deal that went bad. And
21 there were people intoxicated. That were on drugs. High.
22 And I think that's important for the Court to know. Kind of
23 what was going on that day. So we do think it's relevant
24 for the Court's decision, today. This not the trial for the
25 murder. This a waiver hearing. So we think it's important.

1 MR. HILL: Your Honor, I don't think it's fair to
2 put the victim on trial for this case. And that's what's
3 happening. And that's not right. That's not right. The
4 character of the victim is not relevant.

5 THE COURT: Well as I understand this witness
6 testified he doesn't know whether the victim had used drugs
7 or alcohol or anything else. So I don't know if we're going
8 to go any further than the first question which was asked,
9 Did he know if he did?

10 And he's going to say, No. I don't. Because he
11 doesn't have the information that was contained in the
12 toxicology's report. So I think that is the end of the line
13 of that questioning, at this point and time.

14 MR. MCLAURIN: I was going to follow up --

15 Q You look at the autopsy did you not, Officer Stone?

16 A Yes, sir.

17 Q And I was given the autopsy, toxicology report, all
18 that was together, right?

19 A What I bring back from the autopsy does not have the
20 toxicology results, which gives me -- and, then, the
21 toxicology results they aren't sent to me. They are
22 sent to the coroner. Now some of what you have showing
23 those results I don't have. Because they go to the
24 coroner. But they were provided to you. And in my
25 case filed I pretty much have the initial incident

1 report. And the stuff that I dealt with.

2 Q Well, let's talk about any drugs that were there. Can
3 you tell what drugs you found? And test in which you
4 did, at the scene?

5 A Okay.

6 THE COURT: Wait one second. Do you have an
7 objection to that.

8 MR. HILL: No. As long as he's required to
9 clarify.

10 THE COURT: Okay. Now, you can answer that
11 question, sir?

12 A We found a clear plastic bag which contained a white
13 powder substance. That we believed to be cocaine. We
14 do not determine that ourselves. We collected it. And
15 it was sent to the state laboratory. And they would
16 test it. I have not seen the test result to what they
17 determine the substance to be.

18 At the hospital it was given to me by one on the
19 McLeod security officer, Sergeant Lee Highman, that he
20 told me, Was collected from the pants pocket of the
21 victim, as a bag of marijuana. We found another clear
22 bag on scene. That was empty. But it had some residue
23 of a white powder substance. I, also, know that was
24 sent to SLED. But I do not have the test result
25 indicating what the substance was.

1 Q Okay. Let me ask you this, you got pictures of the
2 scene showing the blood that was on the ground, is that
3 correct?

4 A Yes, sir.

5 Q And does it appears the that victim in this particular
6 case, Mr. Keith, would have been maybe shot in one
7 place, and walked to another spot. And eventually
8 expired, is that correct?

9 A Yes, sir.

10 MR. MCLAURIN: I don't have any further questions,
11 Your Honor.

12 THE COURT: Mr. Hill.

13 MR. HILL: No, Your Honor.

14 THE COURT: I have no further additional questions
15 for you, sir. You can step down.

16 MR. STONE: Thank you, sir.

17 THE COURT: Can this witness be excused.

18 MR. HILL: The state has no objections.

19 MR. MCLAURIN: Neither does the defendant.

20 THE COURT: You can be excused from the courtroom.

21 MR. STONE: Thank you, sir.

22 MR. HILL: The state would call Michael Robinson.

23 THE COURT: If you would come forward please.

24 Place your left hand on the Bible and raise your right.

25 THEREUPON,

1 MICHAEL ROBINSON

2 after having been duly sworn, testified as follows:

3 THE COURT: Thank you, ma'am. Please have a seat
4 in the witness stand.

5 And if you would state your full name and
6 occupation?

7 MS. ROBINSON: I am Michael Thomas Robinson. I'm
8 an Investigator with the City of Florence Police Department.

9 THE COURT: Thank you, ma'am.

10 Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. HILL:

13 Q Ms. Robinson, how long have you been employed by that
14 department?

15 A I've been employed with the City of Police Department
16 since November of 1999.

17 Q And you received certification through working with the
18 Florence County Police Department?

19 A Yes, sir. I received my basic law enforcement
20 certification in July of 1999 through another
21 department. And, then, I was hired on with the city.

22 Q And how long have you been with investigation?

23 A I've been an investigator since 2004.

24 Q And how many cases have you worked before this case
25 occurred?

- 1 A Before this case occurred?
- 2 Q Yes?
- 3 A About 300 cases a year is what we work.
- 4 Q And were you the leading investigator in this
- 5 particular case?
- 6 A Yes, sir. I was.
- 7 Q And do you have your file in front of you?
- 8 A Yes, sir. I do.
- 9 Q And who assisted you as an investigator in this case?
- 10 A I had several investigators assisting me on publicizing
- 11 this -- always handled by more than one investigator.
- 12 My lieutenant at the time, Lieutenant Ron Swaggard
- 13 assisted me, as well as my Major. As well as my
- 14 immediate sergeant, Larry Drayton, as well as any other
- 15 investigating officer that was needed at my disposable
- 16 to help solve this crime.
- 17 Q Alright. This occurred on December 3rd, 2005 at about
- 18 10 minutes to 7, is that correct?
- 19 A Yes, sir. 6:45.
- 20 Q Alright. Who were the people involved in this case?
- 21 A The suspects that were arrested or --
- 22 Q Yes, ma'am.
- 23 A Okay. There were four suspects arrested. TyQuan Jones
- 24 was arrested. And Antonio Crawford was arrested. And
- 25 the Gurley Brothers. Donte' Gurley and Julius

- 1 Christopher Gurley.
- 2 Q So the people who are involved are TyQuan Jones?
- 3 A Yes, sir.
- 4 Q Donte' Gurley?
- 5 A Yes, sir.
- 6 Q Christopher Gurley?
- 7 A Yes, sir.
- 8 Q And Antonio Crawford?
- 9 A Yes, sir.
- 10 Q Those are the four principle people?
- 11 A Yes, sir. Those are the four people that were charged
- 12 with homicide of Desmond Keith.
- 13 Q Were those the four people involved in this case?
- 14 A Yes, sir.
- 15 Q Alright. Now, was there a plan in this case?
- 16 A This was definitely a planned homicide.
- 17 Q Okay --
- 18 A A planned robbery. Let me elaborate. It was
- 19 definitely a planned robbery.
- 20 Q So it was definitely a planned robbery?
- 21 A Yes, sir.
- 22 Q And do you know who developed that plan?
- 23 A Through my investigation it was determined that Donte'
- 24 set up --
- 25 Q Donte' Gurley?

1 A Donte' Gurley set up a plan to rob Desmond Keith, the
2 victim.

3 Q The victim?

4 A The victim of money and drugs. And whatever he had in
5 his possession. And he made this plan with TyQuan
6 Jones and with Antonio Crawford. And it was over the
7 Desmond Keith owing Donte's brother, Julius Christopher
8 Gurley some money.

9 Q So let me make sure I understand this. Desmond Keith
10 has a brother name Christopher Gurley?

11 A Yes, sir.

12 Q The victim owed Christopher Gurley some money?

13 A Supposedly. Yes, sir. Roughly \$250 is what
14 Christopher and Donte' Gurley stated.

15 Q So Desmond Keith owed Christopher Gurley money?

16 A Supposedly, yes, sir.

17 Q And Donte' Gurley, Chris' brother had a plan to set up
18 Desmond Keith to get his money back?

19 A Yes, sir.

20 Q And who did that involve?

21 A In involved TyQuan Jones and Antonio Crawford.

22 Q Now, when was this plan hatched? When did they come up
23 with this plan?

24 A Per our telephone records and the suspect's statements
25 it was hatched -- the plan was hatched at an individual

1 name Fifi which is Felicia.

2 Q And who is she?

3 A She is Antonio Crawford's sister and Angel's house.

4 And there apartment is, also, in June Lane where the
5 murder occurred.

6 Q And what day did this start?

7 A It started -- that would have been the day of the
8 incident that would have been December 3rd. Since that
9 time we've subpoenaed telephone records. And had
10 communication with the brothers beginning in the very
11 early morning hours of the 3rd, like 3:00 in the
12 morning is when it starts. I couldn't get all the
13 telephone communication between the brothers and
14 Antonio Crawford.

15 Q Well, since we're here. Let's set that up. So you
16 have telephone records that were involved in this case?

17 A Yes, sir. The night of the incident, whenever I
18 responded to the scene. I took Donte' Gurley back to
19 my office, as well as Christopher Gurley, myself, and
20 the lieutenant and Major Raines never showed up. And
21 that's when I started writing down telephone numbers.
22 Because I knew that would help us in this
23 investigation.

24 Q And what did the telephone records reveal?

25 A The telephone records revealed that the victim, Desmond

1 Keith had called Donte' Gurley at their scheduled time.
2 And whenever he arrived on June 9th. Ten minutes
3 before he was killed.

4 Q Was telephone calls made between the participants
5 before that time?

6 A Yes, sir. Yes, sir.

7 Q Do you have records?

8 A Yes, sir.

9 Q What did those records reflect?

10 A They reflect chatter between Antonio Crawford, who
11 TyQuan Jones was with. And the two brothers of various
12 times all throughout the day. If they were lump
13 together you could see their pattern.

14 Q So we have records between -- calls between Desmond
15 Keith, Donte' Gurley, his brother Christopher Gurley
16 and Antonio Crawford?

17 A Yes, sir.

18 Q Now, who was calling whom?

19 A Okay. The only person that Desmond Keith called was
20 one telephone call directly to Donte' Gurley. And --
21 which was the exact time that Donte' said. It was one
22 telephone call. It was letting him know that he was
23 there.

24 Q And it was 10 minutes before --

25 A Ten minutes before he was murdered.

1 Q When were the other calls placed?

2 A The other calls were placed -- well they began at 3:00
3 in the morning. At 3:40 in the morning on the 3rd.
4 And never really stopped, until everyone was arrested.
5 They had continuing conversations up to that point.

6 Q Now you said, That the calls were made to Antonio
7 Crawford. And that you know that TyQuan Jones was with
8 Mr. Crawford?

9 A Per their own statements, that's correct.

10 Q Okay. Who's statement?

11 A In TyQuan Jones' statements.

12 Q Okay. So TyQuan said to you, He was with Antonio
13 Crawford?

14 A That's correct.

15 Q During this time period?

16 A That's correct.

17 Q From early morning hours of December 3rd?

18 A Well I don't know about early morning hours. I know
19 that earlier that afternoon.

20 Q And was there phone calls made earlier that afternoon?

21 A Oh. Yes, sir. There were sporadic throughout the day.
22 You know, 5:00 in the morning, Antonio Crawford was --
23 Donte' was calling Antonio Crawford.

24 Q So we know the participants. We know the plan. Let's
25 talk about what happened. Alright. The police was

1 called out to this scene around 10 minutes to 7? What
2 was discovered at that scene?

3 A The 9-1-1 transcript shows that Mr. Donte' Gurley
4 called 9-1-1 at approximately 6:45 that evening.

5 And said, That his cousin had been shot. And
6 requested law enforcement assistance.

7 Q And, then, what happened?

8 A Law enforcement -- it was Officer Van Jackson that
9 arrived at the scene, initially. He found Mr. Keith at
10 the backdoor step of a neighboring apartment which was
11 920B June Lane. At that time, no one was with Mr.
12 Keith. Within a few seconds, Donte' Gurley arrived at
13 the scene.

14 And said, He was that called the police. And was
15 trying to get Mr. Keith some assistance.

16 Q And what did Donte' Gurley tell the officers at the
17 scene?

18 A Donte' Gurley said, That he and his brother Chris and
19 Desmond Keith had met at the stop sign, at the top of
20 the street, which is maybe a third of a mile.

21 Q When you talked about June Lane, what are we talking
22 about?

23 A We're talking about -- it's, also, known as Church Hill
24 Apartments. It's, also, known as Sealtest. It is the
25 apartments right behind the Sealtest off of Church

- 1 Street.
- 2 Q Okay. And when you turned off of Church Street, what
- 3 road are you turning on?
- 4 A You're turning off of Church Street onto June Lane in
- 5 one direction. The other direction you're turning off
- 6 of Church Street onto -- Drive, which, picks up June
- 7 Lane.
- 8 Q Okay --
- 9 A And Christopher Lane where the weapon was found. Right
- 10 behind June Lane.
- 11 Q Okay. So everyone showed up on June Lane?
- 12 A Yes, sir.
- 13 Q And when y'all talked to Donte' what happened?
- 14 A The initial officers responded to the scene. Secured
- 15 the scene. Had the ambulance on the way. Secured the
- 16 scene for the ambulance to come in. And begin with
- 17 providing medical assistance to Mr. Keith. I was there
- 18 by 7:00. I was notified at home. And responded to the
- 19 scene. I was there in 15 minutes. The ambulance was
- 20 still at the scene. Mr. Donte' Gurley was there. His
- 21 brother Christopher Gurley was not.
- 22 Q What did Donte' tell the officers?
- 23 A Donte' told the officers at the scene, initially, which
- 24 is the same thing that he told me. As a preliminary,
- 25 just asking him as a witness at the scene what

1 happened.

2 He said, Initially he met Desmond Keith at the
3 stop sign, at the top of the road. And that they were
4 walking back towards the apartments. They were going
5 to the party. And two masked gunmen came out of
6 nowhere. And, obviously, knew Desmond Keith. Because
7 they referred to him as Baby Worm and Worm.

8 And within just a few seconds, they said, I told
9 you I was going to get you.

10 And pulled out a gun. And shot him.

11 Q And what else did they do, besides -- did they rob him,
12 or try to rob him?

13 A What Donte' Gurley said initially was that, It was a
14 drug transaction going bad. That he wanted to buy
15 drugs from him.

16 And that, He got so scared that he threw his cell
17 phone. So initially, it was an armed robbery, at the
18 time.

19 Q Okay. So what was the motive behind the robbery? What
20 did they want to steal?

21 A They wanted to steal money and drugs.

22 Q Do you know if any money or drugs were stolen?

23 A From all the events that we are aware of Mr. Keith had
24 money on his person when we arrived at the scene. We
25 do not think that any money or drugs were stolen from

1 him. And the attempt was unsuccessful.

2 Q But they did try to rob him?

3 A They did try and rob him. Yes, sir.

4 Even stating to the point that, You know what time
5 it is.

6 There was a witness. And she's a auditory
7 witness. I guess you could say. Who was in the
8 bathtub. Right beside the back of the house. Where
9 this incident happened. She was taking a bath. And
10 I'll read her exact quote.

11 She was so terrified that she jumped out of the
12 bathtub. And laid down in the floor of her bathtub.
13 And waited for it to be over. And the statement that
14 she heard out of the window?

15 Q And who is this?

16 A Her name is Jennifer Anderson.

17 Q Right.

18 A She's the residence. She's the owner of the residence
19 or the renter of the property. And let me find it here
20 in her written statement. I found it.

21 I told you, I was going to get you. And, then,
22 she heard one gunshot.

23 Q Alright. So you had one witness when y'all arrived. I
24 think that's Donte' Gurley?

25 A That's correct. I asked him, To call his brother,

1 Christopher Gurley, who he, also, stated was a witness.
2 Back to the incident -- he said, I could speak to him
3 as well.

4 Q And did Chris show up?

5 A He did.

6 Q And did you talk to Chris at the scene?

7 A I did, as well. I spoke to him at the scene,
8 initially.

9 And he stated, That he had not seen anything. And
10 that he was just in the area. And requested to leave.
11 And at that time, we ask him the statement that he
12 might have -- since his brother had said, That he
13 possibly had seen, as well as, when they were together.

14 Q And so the body was taken to the hospital?

15 A That's correct. McLeod Medical Center.

16 Q He died at the hospital?

17 A He was pronounced dead at the hospital.

18 Q And did you know that \$100 was found in his pocket at
19 the hospital?

20 A I did not know how much money was found. It might have
21 been \$100. I'll have to look back through my notes. I
22 did not respond back to the hospital, initially. There
23 were too many people that I wished to speak to at the
24 scene. And I knew that the -- technician had responded
25 there to collect any belongings of Mr. Keith.

1 Q Okay. Did Donte' and Christopher Gurley become
2 suspects?

3 A Not initially.

4 Q What happened next with them?

5 A We've asked them to come up to the City County Complex
6 with us. So that they could be interviewed as
7 witnesses more fully. Because we felt that they had
8 seen more and probably was traumatized. And just
9 needed a minute to tell us what they had seen. They
10 agreed at the same time -- because it was a shooting.
11 And because they were, admittedly, in the area. We did
12 complete GSR kits on both of them that a crime scene
13 tech perform. A GSR is a Gunshot Residue Kit.

14 Q Did they test positive for gunshot residue?

15 A No, sir.

16 Q Did they give -- how many times did you talk to them
17 before they became suspects?

18 A We talked to them for days. Before they became
19 suspects. We even offered Donte' Gurley a polygraph
20 test.

21 Q Okay. And you can't go into that. How many -- did
22 they give conflicting statements about what happened?

23 A Initially, they did. And that was another reason why
24 we brought them to our office. After myself and
25 Lieutenant Ron Swaggard, who's is in the courtroom, and

1 Major Carlos Raines spoke with them.

2 Then, Christopher Gurley later on that evening
3 stated, That he was there. And that it was two unknown
4 masked gunmen that committed this incidence.

5 Q But, eventually, you decided that you were going to
6 charge them, is that correct?

7 A That's correct.

8 Q At that point, when you decided -- you took a recorded
9 statement, is that correct?

10 A That's correct. We took recorded statements before
11 that as well. But they were recorded as witnesses'
12 statements, finally. Because, at the time, that's all
13 they were. Were witnesses. There were three
14 statements total. Four statements total for Julius
15 Christopher Gurley. And I think three for Donte'
16 Gurley, that's correct.

17 Q You recognized those documents?

18 A That's the waiver of rights or the Miranda rights given
19 to Julius Christopher Gurley.

20 Q Before his last statement?

21 A Yes, sir.

22 MR. HILL: Your Honor, at this time, the state
23 would like to put into evidence the statement of Julius
24 Christopher Gurley.

25 MR. MCLAURIN: The only objection I have, Your

1 Honor, is he's given about three. I don't know how many
2 statements that may have been used.

3 THE COURT: Any problems with just going ahead and
4 introducing all three of them. And that way there will be
5 no questions. With that --

6 MR. MCLAURIN: No objection.

7 THE COURT: With that all three of them coming in
8 together --

9 MR. MCLAURIN: No objection.

10 THE COURT: Alright. Without objection. Then,
11 we'll mark the statements as State's Exhibits 4, 5, 6.

12 MR. HILL: And, Your Honor, this is a statement
13 from December 9th. And the first statement on December 3rd.

14 THE COURT: Alright. Now, hold on for a second.
15 Let me help my court reporter get these marked.

16 The first statement is December 3rd, 2005. And
17 that would be State's Exhibit Four.

18 (Whereupon, statement was marked
19 into evidence.)

20 MR. HILL: And, Your Honor --

21 THE COURT: Wait just one second.

22 MR. HILL: Yes, sir.

23 THE COURT: State's Exhibit Six will be the
24 December 9th -- excuse me -- Five will be December 9th
25 statement.

1 (Whereupon, statement was marked
2 into evidence.)

3 THE COURT: And the December 15th statement will
4 be State's Exhibit Six.

5 (Whereupon, statement was marked
6 into evidence.)

7 THE COURT: You have some additional evidence you
8 wish to enter in, at this time?

9 MR. HILL: Yes, I do, Your Honor. The statements
10 of codefendant, Donte' Gurley. And these are all the
11 statements that he made. His one package. Separate them if
12 you prefer. But I have no objections as to them being
13 admitted as one package.

14 THE COURT: No, that's fine. Do you have an
15 objection at this time?

16 MR. MCLAURIN: No, sir.

17 THE COURT: Alright. Number Seven will be Donte'
18 Gurley's statements.

19 (Whereupon, statement was marked
20 into evidence.)

21 THE COURT: Yes, sir.

22 Q Investigator Robinson, have you reviewed each of those
23 six statements -- now seven statements that are in
24 evidence from the Gurley's?

25 A Yes, sir.

- 1 Q Are you familiar with this?
- 2 A I am familiar with this.
- 3 Q Now, in all of those statements, what did they say
- 4 about the involvement with Mr. Jones.
- 5 A Initially, they weren't willing to say who Mr. Jones
- 6 was. They called him by a street name, which was
- 7 Hitman or Hit.
- 8 Q And were you able to verify that is his name?
- 9 A That is.
- 10 Q That is his nickname?
- 11 A That is.
- 12 Q Okay. So you identified him by his nickname of Hit?
- 13 A Uh-huh.
- 14 Q Did -- what happened next, in their regards, to them
- 15 talking about TyQuan?
- 16 A They gave -- initially, they gave a general description
- 17 and said -- we started asking who all was in the house.
- 18 Maybe, you know, somebody overheard you. You know,
- 19 this doesn't make sense.
- 20 And they said, That they knew who the two
- 21 individuals were involved in the shooting. And that
- 22 they knew, briefly, the shooter. And referred to him
- 23 as being a black male, reddish in color, young in age.
- 24 And referred to as Quan. Quan as Hitman.
- 25 Q And is Quan TyQuan Jones?

1 A Yes, sir.

2 Q Alright. So was that enough for you to arrest Mr.
3 Jones?

4 A We obtained a photograph of Mr. Jones. Completed a
5 photograph lineup. And he was positively identified
6 within five seconds of seeing the photo lineup by each
7 of the brothers, separately, as the shooter.

8 Q Now were these guys forced or coerced into say
9 anything?

10 A No. At this time, they were still witnesses to this
11 incidence.

12 Q So even before they were suspects and mirandised they
13 gave up TyQuan.

14 A Yes, sir.

15 Q Alright. So after they picked him out of the photo
16 lineup. When did you talk to Mr. Crawford?

17 A Mr. Crawford -- we met with Mr. Crawford before we met
18 with TyQuan. His name was, also, divulged by both the
19 Gurley Brothers. Desmond and Julius. He gave up Hits
20 name. But he knew Antonio as Tony Crawford.

21 And he said, It was Tony Crawford.

22 Q So you had three of the guys involved?

23 A That's correct. TyQuan Jones was the fourth person
24 arrested. Well, the second person arrested. Fourth
25 person named.

1 Q Okay. Now, what did Gurley -- let me back up. Did
2 Tony or Antonio Crawford ever give a statement?

3 A He did not give a statement. We did speak with him in
4 which sat with me in the interview room. And laughed.
5 He did not give a written statement. He did agree to
6 speak with us concerning the incident. But when
7 questioned about his involvement. He, basically,
8 laughed.

9 Q And has he been arrested?

10 A Yes, sir.

11 Q Now, in terms of the statements from the Gurley
12 brothers, tell the Court what TyQuan Jones' involvement
13 with these cases. Tell the Court about his
14 involvement?

15 A TyQuan Jones is admittedly the shooter. Eventually
16 killed Desmond Keith.

17 MR. MCLAURIN: Judge, is this on the portion
18 statement as I indicated on my pre-trial conference. I'd,
19 probably, have to object to anything coming in from the
20 state that's already voluntariness -- I understand this is a
21 pre-waiver hearing. But just for the record, I'd like to
22 present that to the Court, in regards to those statements
23 before she just starts commenting about the statements.

24 MR. HILL: At this point, I'm discussing the
25 Gurleys' statements. I understand Mr. McLaurin's objection.

1 And if need we can hold it, until I can present TyQuan
2 Jones' statement.

3 MR. MCLAURIN: I'm sorry --

4 THE COURT: I misunderstood him, too. I
5 apologize. I thought that she was saying that -- her
6 statement was he, admittedly, the defendant was, admittedly,
7 the shooter. And I thought that maybe --

8 MR. HILL: She did make that statement. But
9 that's not where I wanted to go with my testimony.

10 THE COURT: Alright. Well, when the time comes I
11 will be glad to hear your objection and the response.

12 MR. HILL: I wanted to focus on the Gurleys, at
13 this time.

14 THE COURT: Alright.

15 Q So what did the Gurleys state about TyQuan Jones'
16 involvement?

17 A Both of the Gurley brothers indicated that TyQuan Jones
18 was the actual individual that pulled the trigger that
19 killed Desmond Keith.

20 Q Alright. What else did they say about his involvement,
21 how involved at all was he in the planning of this?

22 A He was there. He was completely involved, as much as
23 anyone else was. And that they were all involved
24 together. He was no more, or less than anyone else.
25 He was --

1 Q Well, who owned the gun, in this case? Did they tell
2 you whose gun it was?

3 A TyQuan Jones -- they did not know how long TyQuan Jones
4 had had the weapon. They knew that he was the one that
5 had the weapon, whenever they walked down to the
6 stop -- to the stop sign. If I can talk about TyQuan
7 Jones --

8 Q We'll get to that in a minute. So, how long were these
9 folks together according to the Gurleys planning this
10 stuff?

11 A They had been at Fifi and Angel's -- Fifi is Felicia.
12 They had been at Fifi's and Angel's house with all the
13 children and the girls. Angel was not at home. But it
14 was another female there. Fifi's friend. They had
15 been at their house for quite some hours. Eating pizza
16 and watching television and playing with the kids. In
17 and out the house. And that would be, more so, TyQuan
18 Jones and the Gurley brothers. And Antonio Crawford
19 was predominantly at his aunt's house. Which is where
20 he, also, resides in the same.

21 Q So based upon all those statements, and the photo i.d.
22 you arrested TyQuan Jones, is that right?

23 A That's correct.

24 MR. HILL: At this point, Your Honor, I would like
25 begin making that statement on Mr. McLaurin's previous

1 objection.

2 THE COURT: Alright. Well we've been going, now,
3 for about a hour and a half. I think this would be a good
4 time for us to take a break. Take about a five minute
5 break.

6 And I'll remind the witness that she cannot talk
7 with anyone concerning this matter, during this break.

8 Alright. As I understand where we are in the mist
9 of the investigator's testimony is that Mr. Hill is seeking
10 at this time to introduce the written statements of the
11 defendant, Mr. Jones.

12 Is that correct, Mr. Hill?

13 MR. HILL: That is, Your Honor. I understand that
14 pursuant to the rules that we're operating under in this
15 hearing. It is admissible. I believe that Mr. McLaurin has
16 an objection for the record.

17 THE COURT: Alright. I will note for the record
18 there is a filed motion in this matter related to the
19 exclusion of these statements.

20 MR. MCLAURIN: Your Honor, we would make a motion
21 to keep this particular statement out of not being
22 voluntarily given. We felt like since he was a juvenile.
23 His mother should have been present there, while this
24 statement was being taken. And based on that, we feel, that
25 it was not a voluntary statement. And we're asking the

1 Court to not allow that to be put into the record.

2 MR. HILL: Your Honor, if I can respond. I do
3 think it's admissible under the rules we're operating
4 pursuant to this hearing. But if the Court needs for me to
5 go further in producing more evidence I can happily do so.
6 We think the statements are admissible, Your Honor.

7 THE COURT: Out of an abundance of caution, I
8 would like for you to develop that further. And avoid any
9 problems that Mr. McLaurin may have with the voluntariness
10 of his statements.

11 MR. HILL: At this time, Your Honor, the state
12 would -- I have a hearing pursuant to Jackson vs. Denna,
13 regarding the voluntariness of a statement under whether or
14 not he knowingly and intelligently waived his rights, prior
15 to giving a statement.

16 THE COURT: Yes, sir.

17 MR. HILL: And at this point, my questions would
18 be simply regarding those matters.

19 THE COURT: Alright. Thank you, sir.

20 Q Officer Robinson, were you present when the statement
21 was taken from the defendant, in this case?

22 A Yes, sir. I was.

23 Q Who else was presented when it was taken?

24 A Myself and Lieutenant Ron Swaggard.

25 Q Okay. And where was it taken?

1 A It was taken in the Conference Room of the City County
2 Complex on the Second Floor.

3 Q Okay. And who else present other than you and
4 Lieutenant Swaggard?

5 A TyQuan Jones. Do you mean inside the Conference Room?

6 Q Yes.

7 A Myself --

8 Q Was his mother present?

9 A TyQuan Jones' mother was sitting outside of Conference
10 Room door. She realized that he was giving a
11 statement. And had, actually, just minutes before that
12 for him to be arrested --

13 Q So where was his mother, prior to the statement being
14 giving?

15 A In the -- the way the conference room is set up. It's
16 at the end of a very short hallway. There are two
17 small offices on the left. And an office on the right.
18 At the end of that hallway, there's a lot of chairs.
19 And Mr. Jones' mother and maternal grandmother were
20 sitting outside.

21 Q And did you speak with them before you took the
22 statement of Mr. Jones?

23 A Yes. As well as -- TyQuan spoke with them as well.

24 Q And did she ask to be present?

25 A She did not.

- 1 Q Okay. If she had asked to be present would you have
2 allowed her to be present?
- 3 A Of course, we would have allowed her to be present.
- 4 Q Prior to your talking to TyQuan did he request anything
5 from y'all?
- 6 A He did. When we originally sat down with TyQuan --
7 We asked him, If he wanted anything to eat, or
8 anything to drink?
- 9 He didn't want anything to drink. But he did want
10 a bag of chips.
- 11 Q And were those supplied to him?
- 12 A They were. They were.
- 13 Q Was he allowed to use the restroom?
- 14 A He was. At one point, during the interview, he did
15 request to use the restroom. And his mother was in the
16 hallway, at that point, as well. So he was able to
17 speak to her.
- 18 Q Did he see his mother when he went to use the restroom?
- 19 A Yes, sir. Every time he asked to see his mother, he
20 was allowed. She was cooperative, and very supportive
21 of her child.
- 22 Q Now, prior, to taking the statement how did you assure
23 that he understood his rights, and really understood
24 them?
- 25 A This is pretty much a way I do every single time.

1 Every time I read this waiver of rights form. Every
2 time that we ever do this. I have them read it. While
3 I read out loud. And I take -- a pen mines in. Cause
4 I always keep a pen in my hand. And I face it towards
5 them. And we read it every word with my pen following
6 the lines.

7 Do you understand? Do you understand?

8 Q Are you aware if he suffers from any mental deficiencies
9 that would have kept him from understanding?

10 A No, sir.

11 Q What time of day would this be?

12 A The interview began about 3:00 in the afternoon.

13 Q So had he been kept awake by you all for a long period
14 of time?

15 A No, sir. No, sir.

16 Q Had he been kept in a room before y'all talked to him
17 any period of time?

18 A None whatsoever.

19 Q Okay. Tell the Court how long he was with you all
20 before you took the statement?

21 A Probably about an hour in half. Two hours. Before the
22 actual taped statement was done.

23 Q Alright. So what did you talk about during that hour,
24 that hour and a half?

25 A Everything that was going on. And everything that

1 happened. Immediately, we sent word to find his mother
2 and to contact his mother. And let her know what was
3 going on. That was not necessary. In a small
4 community as the West Side of Florence. Where TyQuan
5 was going to school. At the alternative school. She
6 was notified before we could ever get to her. Within
7 minutes she knew. And she immediately came up to the
8 office, immediately.

9 Q Now, was any of the evidence used against him based on
10 anything that was not in that statement?

11 A No, sir.

12 Q So any statements that he made you're relying upon that
13 statement, is that right?

14 A Yes, sir.

15 Q Now, so he signified that he understood by signing this
16 statement?

17 A Yes, sir. At the very bottom. On the left hand side.

18 Q Okay. Now, just technical where it says, One to
19 performing on this day. Why isn't that filled in?

20 A I am not a Notary Public. There was not an Notary
21 Public present. And, therefore, it was not completed.

22 Q Did he ever attempt to stop talking to you?

23 A No, sir.

24 MR. HILL: Your Honor, those all the statements I
25 have regarding to that matter.

1 THE COURT: Mr. McLaurin, do you have any cross on
2 that issue?

3 MR. MCLAURIN: Just briefly, Your Honor.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. MCLAURIN:

7 Q The form that you got. That's your form? The waiver
8 form?

9 A Uh-huh.

10 Q And why does it have a Notary spot on it?

11 A They all do. They all do. It's a standard form that
12 we use for every person.

13 Q If they got it on there. Should it be filled out
14 before a notary?

15 A Sure. If one is available. Yeah.

16 Q How about juveniles? You got a special form for
17 juveniles?

18 A Not for the waiver of rights form.

19 Q Is that --

20 A We do one for finger printing. Not for the waiver of
21 rights.

22 Q Is that the form you used for adults?

23 A That's the form we use for adults and for juveniles?

24 Q Did you get his mother to sign that particular form?

25 A I did not. I didn't see any reason for her to sign it.

1 She had voluntarily been in the room for several
2 minutes, you know, talking with her son. And were in
3 full agreement with everything. We weren't hiding
4 anything from anybody.

5 Q Well, you didn't get her to sign that? And he didn't
6 sign that in front of her, did he?

7 A I don't think he did. But I think that she read it.
8 She knew everything that was going on.

9 Q You think a 15-year-old on his own is able to waive his
10 rights?

11 A I think a 15-year-old can make pretty reasonable
12 decisions. That's what's been -- And he's an average
13 --

14 Q Go ahead. Go ahead. I'm sorry. I didn't mean to
15 interrupt you?

16 A Thank you. Thank you. I think a 15-year-old can
17 understand, you know, four or five letter words that's
18 contained in the form. Yes, sir.

19 Q Do you think a 15-year-old can understand legal
20 concepts and rights?

21 A I think -- you know -- you have a right to remain
22 silent. If you'd like I'd read it to you. Maybe you
23 can identify those legal concepts that maybe difficult?

24 Q I'm just asking you. Do you think a 15-year-old
25 understands that?

1 A I do think a 15-year-old understands that. If he can
2 point out specific lingo. The biggest words I see are
3 mentally and physically.

4 Q And when you took the statement, his mother wasn't
5 present, is that correct?

6 A She was outside in the -- I can't call it a waiver
7 room. She was right outside the door. Where the
8 interview was being held.

9 Q You didn't offer for her and say, Come on in? Sit in
10 on this? I want you to see what this is all about?

11 A We had spoken with her. And, actually, had another
12 investigator outside talking with her. I went out and
13 spoke with her on many -- every time. You know, that
14 anytime that she wanted to speak. We -- she was more
15 than cooperative with us. And we was more than
16 cooperative with her.

17 MR. MCLAURIN: I don't have any further questions.

18 THE COURT: Any redirect.

19 MR. HILL: Nothing, Your Honor.

20 I would ask that the state find that the
21 statements was freely and voluntarily given. And that he
22 knowingly and intelligently waived his rights in doing so.

23 THE COURT: I heard the testimony given. In fact,
24 I would be more concerned if under the circumstance based
25 upon the motion that was made in this matter. If this young

1 man's mother was not a part of the process that was ongoing
2 in this investigation. The fact that she was right outside
3 the room. That she had been present in the room, during
4 portions of the interview process based upon a witness's
5 testimony. The fact that there was no effort made to
6 preclude her from being part of the process, that this
7 15-year-old appears from the testimony that's been presented
8 here, today, to be reasonably bright and intelligent.

9 And should be able to understand the explanation
10 of his rights, as it's set forth in the disclosure statement
11 that he signed. All those factors are reassuring to the
12 Court that the statement was given with an appropriate
13 waiver of his rights and the opportunity to consult with his
14 mother, or any other person.

15 In addition, there was no effort to force this
16 young man to give a statement. He was not forced to remain
17 for an extended period of time without being able to use the
18 restroom, or have water or food, or anything that would make
19 him more comfortable. And that the interview process was
20 not a very extended process. As I understand the testimony
21 he had been there for about an hour, to an hour and a half
22 prior to giving the statement.

23 Again, those matters reassure the Court that the
24 statement was properly given with an appropriate waiver of
25 his rights. And I will allow the statement into evidence.

1 Thank you.

2 REDIRECT EXAMINATION

3 BY MR. HILL:

4 Q Ms. Robinson, if would you take the statement that you
5 just discussed. You have it in front of you?

6 A Yes, sir.

7 Q Okay. On page one. First paragraph where it has,
8 Jones. Would you read that to the Court, please?

9 A Yes, sir. It says, Jones. Me, Donte' and Chris were
10 sitting in Angel's living room.

11 And Donte' said, That he was going to rob what's
12 his name -- Worm for some money. That he owed Chris a
13 long time ago. And Donte' was talking on the phone
14 with him. Whatever.

15 And he told him, to come out here. And, then,
16 when Donte' called Tony. And Tony to be come back to
17 Sealtest. So he could rob him. And when Donte' knew
18 Worm was out there. We walked down to the hill. Up to
19 the hill where the staircase. And, then, I pulled out
20 the gun. And it went off by accident. And Tony
21 attempted to go in his pockets. But he didn't. And
22 Donte' called the police. Period.

23 Q And he goes on and explain the involvement, is that
24 correct?

25 A That's correct.

- 1 Q If you would flip over to page three. Just below.
2 Halfway down. Where you asked the question.
3 What happened next?
4 A Yes, sir.
5 Q And Jones responded. What did he say?
6 A He says. Jones says, Donte' started walking this way.
7 They were going to by some Dutchess to smoke some weed.
8 Or whatever. From the bootlegger.
9 Q Okay. If you flip over to page four. The very last
10 statements there.
11 Did Jones not say, Tony tried to go in his
12 pockets?
13 A Yes, sir.
14 It said, I ran. And Tony tried to go in his
15 pockets. But I guess he -- I don't know.
16 Q And if you'd flip over to page seven. Are you there?
17 A Yes, sir.
18 Q Just below. Halfway down. When you began to question
19 him about the gun. And I'll read your lines.
20 And your lines there were, And whose -- Let me
21 back up a minute. I apologize. Looking at the
22 statement -- does he explain where he got the gun?
23 A He does.
24 Q Where did he get it?
25 A He says that -- originally he says, That he found it at

1 the Twilight Zone, which I knew it had been torn down
2 for quite some time. Twilight Zone was a minor's club
3 on Irby Street.

4 And, then, halfway through saying he found it at
5 the Twilight Zone.

6 He stated that, He found it near the Freedom Plots
7 in an area out there.

8 Q Okay. And go on down a little bit. And I'll read your
9 lines. And who's had the gun, since? And what was his
10 response?

11 A He responded. And he said, Since, kinda -- oh Tony had
12 the gun. Cause I was in DJJ.

13 Q Okay. He got the gun back? When he got back from DJJ?

14 A That's what he's indicated. That I had got it from him
15 when I came back.

16 Q And how long had he had it, before he got back?

17 A He stated that, He have had it about a week. About a
18 week is his exact words.

19 Q Before this happened?

20 A Yes, sir.

21 Q And did he explain whether or not he had fired this gun
22 before? I need you to look on top of page eight.

23 A He said, Yes. That he had.

24 Q In his statement, did he reveal whether he was under
25 the influence of alcohol or drugs?

1 A He did not. And I don't ever remember saying that he
2 was.

3 Q Did you recall the earlier testimony from Dr.
4 Pugh-Lilly?

5 A I do.

6 Q And she stated, That he was under the influence of
7 alcohol and cocaine?

8 A I remember her stating that.

9 Q And do you know whether or not the other fellows
10 involved, in this case, were under the influence of
11 drugs or alcohol?

12 A The night of the incident. Christopher Gurley, and
13 both Donte' Gurley were asked directly.

14 And they stated, That there was -- they both had
15 -- I think Donte had smoked a joint much earlier in the
16 day. And they both had consumed a small amount of
17 alcohol prior to the incident.

18 Q Before we go any further with your statement. What was
19 TyQuan's role in this murder or robbery? What was his
20 job to do?

21 A I, specifically, asked him that. And, I think, I asked
22 Donte' and Christopher that as well. And nobody was --

23 What TyQuan said, Was he and Donte' had a gun.
24 Both of them had a gun.

25 But Donte' had motioned by nodding his head. Go

1 head, Go head. Rob him.

2 And TyQuan stated, That he had the gun. It was
3 winter time. So everybody wore coats. He had the gun
4 in his sleeve of his coat.

5 And he said, Okay. And that's when he pulled the
6 gun.

7 Q Now, who asked for the money?

8 A I don't know, specifically, who asked for the money. I
9 think it was Antonio Crawford. He never gave a former
10 statement.

11 Q And, then, TyQuan did what?

12 A TyQuan, at that point, pulled the gun and pointed it.

13 Q Did you test this gun?

14 A No. That's for SLED to conduct. And that gun is at
15 SLED right, now.

16 Q Alright, do you know when it was fired, whether the
17 hammer was up, or the cylinder was cocked back?

18 A I do not know if the cylinder was up or back. I can
19 tell you that it would -- it would be very ironic if it
20 was.

21 Q Do you know how close TyQuan Jones was when this
22 happened? How close was he?

23 A The victim was standing from all the blood and from
24 everyone's testimony as to, exactly, how it happened.
25 The victim was standing in the staircase. He was not on

1 the step. But there is a small --

2 MR. MCLAURIN: I'm going to object. There needs
3 to be foundation for that. I don't think she knows.

4 THE COURT: If you lay the foundation please, sir.

5 Q Do you have any evidence, or were you provided any
6 evidence, regarding the distance between the defendant
7 and Mr. Keith, at the time of the shooting?

8 A Per the other witnesses at the scene testimonies, that
9 it was -- they were all fairly close. And they were
10 standing. I, actually, have it on drawings that all
11 the defendants did for me.

12 Q Alright. So was it a long range shot or a close shot?

13 A It was very close?

14 Q Was Donte -- was TyQuan supposed to be the trigger man?

15 A Yes.

16 Q And did he know about this, on the way to do this?

17 A He said, That he did not.

18 But Donte' Gurley's statement indicate -- it was
19 actually Christopher Gurley's statements -- Julius
20 Christopher Gurley --

21 Stated that Donte' called Antonio to let Antonio
22 know that they were going up the street to meet with
23 Desmond. And, then, TyQuan heard it. TyQuan,
24 immediately, ran out of the door of Fifi's house. And
25 he went straight to Antonio. But he, already, had a

1 gun in his possession.

2 Q Now, is there any evidence to disprove that -- it's not
3 always good to prove negative. But is there any
4 evidence to disprove, to claim that it was an accident?

5 A To disprove it was an accident.

6 Q Yeah. How do we show it wasn't an accident?

7 A The poundage on that trigger pull --

8 MR. MCCLAURIN: I object, Your Honor. We been
9 through this.

10 THE COURT: You're going to need to lay a
11 foundation.

12 Q Okay. Skipping anything about trigger pull, okay.
13 What evidence if any do we have that it wasn't an
14 accident?

15 A What evidence if any?

16 Q Yes?

17 A There is no evidence to indicate that it was an
18 accident.

19 Other than what TyQuan said, It was a known
20 robbery. He went there with a gun in his hand. In his
21 hand to rob this victim.

22 Q Do you know how tall Mr. Keith was?

23 A I do not have exact estimate. I know that he was a
24 large guy. Let's see if I have it. I'm sure that I
25 could find it, if given a minute. I don't have a

1 height in my initial report. But I have a weight of
2 250. Maybe in the --

3 Q Do we know how tall Mr. Keith is -- I mean how TyQuan
4 Jones is?

5 A Let me see. It's on the initial incident report. What
6 it says in the incident report. In the police report
7 is that he is 6'3, 170 pounds.

8 Q That's referring to Mr. Jones?

9 A That's correct. TyQuan Jones.

10 Q So you know of your own knowledge whether or not TyQuan
11 Jones is taller than Mr. Keith?

12 A I think that TyQuan is. But I don't have, exactly, how
13 tall Mr. Keith is -- was. I don't think.

14 Q So after he confessed to this, did he lead you to the
15 gun?

16 A Not initially. He stated that -- that he didn't know
17 where the gun was. It was two days later.

18 Again, with another meeting with him and his
19 mother that he disclosed that the weapon was on
20 Christopher Lane.

21 Q Okay. Tell how the gun was disposed of? And what
22 participation he had in disposing the gun?

23 A TyQuan stated that, As he was running around the back
24 of the field there. He threw the gun over the fence,
25 which is an opened fence. It's a rod iron fence behind

1 June Lane. That separates June Lane and Sealtest from
2 the other houses off Christopher Lane.

3 He stated that, As he ran in that corner. He
4 threw the gun over the fence.

5 Q Was it later recovered?

6 A It was later recovered by --

7 Q By whom?

8 A Antonio Crawford.

9 Q And, then, what did Antonio and TyQuan do with the gun?

10 A TyQuan stated that, Antonio took the gun down
11 Christopher Lane. And buried it behind an abandon
12 concrete type house on the left hand side.

13 Q So he, willingly, participated in hiding this gun --

14 MR. MCLAURIN: Objection, Your Honor, on leading.

15 THE COURT: Sustain.

16 Q So he was present when it was buried?

17 A Yes, sir. He was present.

18 Q And after taking such a long time, does that about
19 covers what happened?

20 A It does.

21 MR. HILL: Just a minute. Thank you. Answer any
22 questions that the defense might have.

23 THE COURT: Mr. McLaurin.

24 MR. MCLAURIN: Yes, Your Honor. If it please the
25 Court.

1 THE COURT: Yes, sir.

2 RECROSS-EXAMINATION

3 BY MR. MCLAURIN:

4 Q Officer Robinson, Lieutenant Swaggard as you stated
5 earlier was your supervisor, in this particular case,
6 is that correct?

7 A Not my immediate supervisor. My sergeant is my
8 immediate supervisor. But, yes, he is above my
9 sergeant.

10 Q Well, wasn't he the supervising officer in this
11 particular case?

12 A He's my supervising officer in any case that I do.

13 Q Okay. Alright. And, obviously, he's got more
14 experience than you would --

15 A Certainly.

16 Q How long has been on the police force?

17 A I have no idea.

18 Q Alright. And would he have taken most of the
19 statements -- he was involved in most of the
20 statements, is that not correct?

21 A He was. He was involved in a lot of the statements.

22 Q The Gurleys' statements you weren't, actually, present
23 for some of those?

24 A I was present in every single one of the Gurleys'
25 statements.

1 Q You were in the room on every single one of those
2 statements?

3 A I was either in the room, or right next to the room.

4 Q Alright. Let me just look at those Gurleys' statements
5 for a minute. Because I don't remember that when I
6 looked at them.

7 THE COURT: While you're looking at those, I'm
8 going to have my court reporter mark the statement of the
9 defendant as State's Exhibit No. 8. Because that has not
10 been marked yet. But, of course, that has been entered
11 based upon my ruling.

12 (Whereupon, statement was marked
13 into evidence.)

14 MR. MCLAURIN: On the --

15 THE COURT: One second, please.

16 MR. MCLAURIN: I'm sorry.

17 THE COURT: That's okay. She just needs to mark
18 it.

19 Thank you, Mr. McLaurin.

20 Q Are you looking at those statements?

21 A I am.

22 Q You see any one where you weren't present?

23 A No, sir I don't. I know there was one that I was not
24 present. But that I had been in the initial interview
25 with him. I just had to leave, right, before he gave

1 his statement. And that would be the December 15th,
2 for Julius Christopher Gurley. And it, even, indicates
3 in here, that I was present and read his rights.

4 Q Okay. Well, let me ask you something about December
5 3rd one of Chris Julius Gurley?

6 A Sure --

7 Q He listed who was present in the beginning -- Never
8 mind. Okay. You're right. You're right on that.

9 A Yes.

10 Q Let's talk a little bit about while we're on the
11 Gurleys' statements. We can go ahead and talk about
12 that. How many different versions did they give?

13 A Quite a few, initially.

14 Q Okay. Alright.

15 A They were --

16 Q When you say, initially -- how many are we talking
17 about?

18 A The very first night. Donte' Gurley gave one
19 statement. Christopher Gurley gave two statements.

20 Q Alright. And that was the masked gunmen with Antonio,
21 right?

22 A Yes, sir.

23 Q And, then, they gave another statement, the next time
24 they came in, right saying something different, is that
25 not correct?

1 A They added that -- what changed in the statement was
2 that, Originally they did not know who these masked
3 gunmen were.

4 And, then, they stated, Yes, they did know who
5 they were.

6 Q Okay. And, actually, for TyQuan they didn't know his
7 name, did they?

8 A No, sir. They knew that he was a black man, reddish in
9 color. A minor and called Hits. Hitman and Quan.

10 Q And so the Gurleys continued to give different
11 statements, is that correct?

12 A No, sir. After they identified the gunmen, that's when
13 they started to --

14 Q They gave correct statements, is that your opinion?

15 A Well, there were -- I don't -- to me exactly what are
16 you asking me.

17 Q Well, you think you can believe what the Gurleys have
18 to say?

19 A Well, in TyQuan's statements -- when TyQuan was brought
20 in an interview his statement was pretty consistent
21 with the last statements given by both the codefendants
22 and their involvement.

23 Q Well, actually, referring to the Gurleys. You've given
24 some details about the Gurleys saying that, They were
25 this close, within this range.

1 You don't think you can trust what the Gurleys
2 saying, do you?

3 A That's the way it seems. With the blood and stuff.
4 Where the blood was. Compared with where the Gurleys
5 said it happened is accurate.

6 Q Okay. Well, let me ask you this. Haven't the Gurleys
7 recanted every statement they gave?

8 A They never recanted. One Gurley did at the very end.

9 Q Okay --

10 A One Gurley did. But you're referring to both --

11 Q Well, tell me about that. Let's hear about that.
12 That's what I want to hear?

13 A Okay. You want to ask me something specific?

14 Q Yeah. Tell me about him recanting?

15 A Alright. I received a letter from the Gurley brothers.
16 And he requested to speak to either me or Lieutenant
17 Swaggard at the Florence County Detention Center. I
18 went down to the Florence County Detention Center. And
19 where I met with -- I think I met with Christopher
20 Gurley or I have to look.

21 You mind if I look at my notes real quick to see
22 who I spoke with first?

23 Q No. I'd like for you to?

24 A I spoke with Christopher Gurley first. And that date
25 was January 4th, 2006. And Christopher Gurley was read

1 his miranda rights, of course.

2 And, then, stated that -- and I'll read verbatim
3 here if you don't mind.

4 He stated that, Donte' didn't setup Keith to be
5 robbed. And they told us that, because they were
6 scared of Crawford.

7 And, then, within a few minutes of us talking.

8 He broke down crying and said, I can't do this.
9 I'd tried to help my brother. This is not right.
10 Donte' did set this up.

11 And said, I can't -- I can't lie about this.

12 Q So the brother was saying that, Donte' set it up,
13 right?

14 A His brother. Yeah. He said, I've tried to help my
15 brother. But I just can't. I got to tell you the
16 truth. Donte' did set it up. It did happen like you
17 said it happened.

18 Q Now, if you read on down. I think you, probably,
19 changed your testimony, you sure Donte' Gurley didn't
20 change his testimony?

21 A Not Donte' Gurley. I apologize. Thank you for the
22 corrections. That would be Julius Christopher Gurley.

23 It was Donte' that, he said, Was his brother. And
24 that he couldn't -- he didn't want to hurt his brother.

25 Now, Donte' did change his statement, at that

1 point.

2 And said, No. No. No. No. That's not what had
3 happened.

4 Q And why don't you read the last paragraph on the
5 report?

6 A Alright. So I, then, spoke to Donte' Gurley. After
7 reading him his miranda rights. Donte' recanted his
8 prior statement, which is what I just said.

9 Saying that, He did not setup Keith to be rob.
10 Donte' also stated that his prior statement was given
11 because he was afraid of Crawford.

12 Again, I informed Donte' he was, already, in
13 custody at the time that he gave his last statement.
14 Confessing his involvement. I meant that -- gave his
15 statement. Crawford was, already, in custody. And he
16 couldn't have been afraid of a man in jail. But he
17 still wish to recant his statement.

18 Q So how many times did the Gurleys now -- we been what
19 is that four or five different versions, right?

20 A Four or five different versions of -- yes.

21 Q And we're back to square one by time this is all over
22 with again, right?

23 A I don't know about square one. But they recant.
24 People do. Even victims telling the truth recant.

25 Q And like I said before, you don't put any credence in

1 what they have to say as to --

2 A Sure I do --

3 Q As to proximity --

4 A If it's -- I'm sorry --

5 Q As to who knew what going into this deal, you do?

6 A Some parts that I can verify with physical evidence at
7 the scene. Yes. I give credence to.

8 Q The only verification -- the closeness of the two
9 people at the time of this particular shooting is
10 through Donte' and Chris Gurley, is that not correct?

11 A Donte' and Chris Gurley. And them physically drawing.
12 That's one thing that, always, remained constant with
13 them is their drawing.

14 Q What I'm saying is that you can't trust what they say,
15 can you?

16 A Well, I just explained it to you that, if I have
17 physical evidence at the scene. Then, I do trust a lot
18 what they say.

19 Q What physical evidence do you have that put him close
20 to the shooting? I mean -- to the victim? Other than
21 Donte' and Chris Gurley's statement. You don't have
22 any, do you?

23 A I don't understand what you're asking me.

24 Q You're saying that, Yes. I can trust Donte' and Chris
25 Gurley, right?

- 1 A Is that really what I'm saying? Is that what you're
2 getting? Because, I think, what I'm saying is there
3 are some facts that have remained constant --
- 4 Q And if I can finish. You say that based on the fact of
5 a thought that you had physical evidence to support
6 your position?
- 7 A That's correct.
- 8 Q You have no physical evidence to support proximity of
9 anybody to the victim?
- 10 A Other than their drawings which I already --
- 11 Q Other than their drawings?
- 12 A That's correct.
- 13 Q Alright.
- 14 A That did remain constant.
- 15 Q And let me ask you this. There's no doubt that this is
16 Donte' Gurley's plan to do this?
- 17 A Yes, sir.
- 18 Q He had motive in this case, right?
- 19 A Well, his brother Chris had the motive. He just
20 carried it out. But it's Chris' debt.
- 21 Q Alright. And we got cell phone records, right?
- 22 A Yes, sir.
- 23 Q Let's just talk about the cell phone records. Got no
24 cell phone records for TyQuan Jones, is that correct?
- 25 A No, sir.

1 Q Well, let me ask you this. When you, initially,
2 drafted up your report that I've got. You've indicated
3 that you have cell phone records for TyQuan Jones,
4 didn't you?

5 A TyQuan Jones number. Show me where. Maybe I can
6 elaborate.

7 Q Showing you 2-15-06. You say, You've got a list each
8 time a call placed between Donte' Gurley and TyQuan
9 Jones. And Christopher Gurley and TyQuan Jones?

10 A How many times?

11 Q I'll show it to you. Is that what that says?

12 A With TyQuan Jones which number is that?

13 Q Well --

14 A Because I've associated TyQuan Jones' number with that
15 of Antonio Crawford. They were together that day.
16 They were together at Fifi's house that day. And that
17 what --

18 Q Well, you didn't put Tony Crawford in that, did you?

19 A Huh-uh.

20 Q And it's not TyQuan Jones' phone, is it?

21 A Nope. That's the number --

22 Q Whose phone is it?

23 A That's Antonio Crawford's phone. Actually, it's not
24 even registered to him either. So it could have been
25 either one of those phone.

1 Q Well, do you know why you decided to put TyQuan Jones
2 in this?

3 A Because they were together that day. And you know -- I
4 -- that was written in February. January or February.
5 Two months after I had messed with the case. And it
6 may have even been a slip. I -- I don't --

7 Q The solicitor says, You've got the list of the cell
8 phone?

9 A I do.

10 Q With all those --

11 A Would you like to see them --

12 Q With the yellow piece of paper. With your summary?

13 A Uh-huh.

14 Q Well, what I'd like to know is you've got multiple
15 calls between the plan, between the Gurleys --

16 A Sure.

17 Q And Crawford, is that correct?

18 A That's correct.

19 Q And you started talking about Jennifer Anderson,
20 earlier?

21 A Uh-huh.

22 Q Didn't she say that the voice -- I think, and once
23 again, excuse my language.

24 You heard -- she heard the voice, Motherfucker,
25 did I not say I was going to get you?

- 1 A Uh-huh.
- 2 Q That's what was said?
- 3 A That's what was said. But I never alluded to who said
- 4 it.
- 5 Q Well, let's clarify that. Didn't she say that, That
- 6 was the same voice that call from the 9-1-1 call?
- 7 A That's right.
- 8 Q And who called the 9-1-1 call?
- 9 A That would be Donte' Gurley. Actually, to be honest
- 10 with you. In cases like that we have multiple people
- 11 that call 9-1-1. Saying they heard shots fired.
- 12 And, therefore, on the 9-1-1 voice recording when
- 13 you hear multiple calls to back to back, to back, to
- 14 back. There were several voices that called 9-1-1.
- 15 But if you're alluding to Donte' Gurley being one of
- 16 the persons that called 9-1-1. Yes. He was.
- 17 Q Well, if you believe Jennifer Anderson, who's a witness
- 18 with no motive. The same person that called 9-1-1.
- 19 Is the same person that said, Motherfucker, didn't
- 20 I say I was going to get you?
- 21 A As long as we can agree that she wasn't a physical
- 22 witness and but an auditory witness.
- 23 Q That's what I'm talking about?
- 24 A Okay.
- 25 Q When you say act like other people make 9-1-1 calls.

1 But nobody makes 9-1-1 calls from the back door of June
2 Lane, except for Donte?

3 A I don't know who was there. And I couldn't interpret
4 that from the 9-1-1 tapes.

5 Q So we're clear now. Crack at the scene?

6 A Uh-huh.

7 Q Marijuana at the scene?

8 A Until I scene the Sled Laboratory test, and I have not.
9 We refer to that as green leafy substance and a white
10 powdery substance.

11 Q You didn't ask TyQuan Jones in the statement, anything
12 about being intoxicated or any alcoholic drugs, did
13 you?

14 A I did not.

15 Q Okay. And you asked the other people. You indicated
16 you asked the Gurleys that, right?

17 A I did the first time that I interviewed them. Because
18 I could smell alcohol.

19 Q So you don't know one way or the other from the
20 statement whether he was high or not?

21 A No, sir. They never tested.

22 Q That would be consistent, though, with the scene there,
23 as far as, the Gurleys admitting they were high, is
24 that correct?

25 A Well, I don't think, I said, They admitted they were

1 high.

2 Q Okay. Well, they had been drinking and smoking, is
3 that right?

4 A They had been smoking earlier in the day. But had a
5 drink of alcohol. A quantity of alcohol. I can't even
6 tell you how much right, now.

7 Q And you seen the toxicology report on the victim?

8 A Let me pull it. I don't have it right --

9 Q Well, let me just ask you. Do you know the victim was,
10 also -- had alcohol, marijuana in his system?

11 A Yes, sir. Per the toxicology reports that was sent to
12 the coroner's office.

13 Q Now, why didn't you indicate -- you talked about
14 whether this was planned.

15 And you said, The Gurleys planned it, is that
16 correct?

17 A Yes, sir. Donte' Gurley.

18 Q Okay. And how old are Donte' Gurley?

19 A I don't know that. I have to check. They're not very
20 old.

21 Q They're not my minors, though, are they?

22 A Say that again. Your age?

23 Q They're not minors are they?

24 A No, sir. They're not minors?

25 Q Okay. And Tony Crawford, he's not a minor, is he?

- 1 A No, sir. He's not a minor.
- 2 Q And do you know that they got criminal history?
- 3 A Yes, sir.
- 4 Q Well, do the fact that there were drugs that were left
5 there at the scene indicate anything to you about the
6 intent?
- 7 A Well, I've think I've made it clear, initially, there
8 was an intent to rob of drugs and money. I've -- I've
9 never disputed that.
- 10 Q But if they were drugs left? What do you think
11 happened? Why did they leave the drugs?
- 12 A I don't even know that if those drugs were left from
13 the scene. It's the same thing with the .9 millimeter.
14 The rounds that were located. They were of no
15 relations to this case at all. This is a well-known
16 and documented drug location. I can't one hundred
17 percent tell you that those drugs were found from any
18 particular person out there.
- 19 Q I understand what you're saying about drugs out there.
20 But we do know there were drugs found on the person of
21 the victim?
- 22 A Yeah.
- 23 Q And you do know that they was money found on the person
24 of the victim?
- 25 A I know the sum or the amount of drugs --

1 Q I understand that. There was money?

2 A Yes, sir.

3 Q And nobody robbed anybody that you can tell? There's
4 no physical sign of a robbery?

5 A What TyQuan stated, Was that -- and, I think, we read
6 that just a minute ago in TyQuan's report.

7 Was that, Antonio tried to pack down his pockets.
8 But couldn't. And due to the blood at the scene, I
9 believe that was probably the best.

10 Q Didn't he say, He wasn't sure. Because he was running?

11 A No. I think he said -- No. Maybe that was TyQuan --
12 maybe that was Donte's statements. Let me look real
13 quick.

14 Q Maybe that was what --

15 A Let me look real quick. And I'll let you know
16 specifically. The fourth statement by Julius
17 Christopher Gurley. The last statement taken from him
18 on December 15th. On the third page. It was
19 Lieutenant Swaggard and he.

20 And, then, it said, Okay. Did you see Tony doing
21 anything else, referring to Antonio Crawford,
22 immediately, after the shooting?

23 And Julius Christopher Gurley stated, he ran. He
24 went in. Scuffling in his pockets and stuff, referring
25 to the victim.

1 And Lieutenant Swaggard said, He went through his
2 pocket. Okay. What did Hitman do? Referring to
3 TyQuan Jones?

4 And he stated, He stood there. And, then, he ran,
5 too, after that.

6 Does that answer your question?

7 Q You believe what Gurley say?

8 A Again, some things. Yes.

9 Q TyQuan Jones in the statement says that, The gun went
10 off. It was an accident, is that true?

11 A It was an accident?

12 Q Yes. He says that in his statement?

13 A Do I believe it was an accident?

14 Q No. I just asked you if he said that?

15 A Oh. Yes, sir. He said that in his statement. I think
16 maybe it was.

17 Q Did he apologized for what happened to the victim?

18 A Yes, sir. He did. And if I may elaborate. I did --
19 he did at the very end.

20 Q I'm not interested in anybody else's statement. Was it
21 --

22 A It, actually, was. That's not true. It was in the
23 very end of Julius Christopher's statement. If you
24 might not have read it completely.

25 Q I've read them all?

1 A You did. Let me see. He, actually, does say that. It
2 was -- that's TyQuan's.

3 Q Well what did he apologize for? I thought he said --

4 A Do you see that last statement given by TyQuan Jones?

5 Q TyQuan Jones?

6 A Not TyQuan Jones. Julius Christopher Gurley.

7 Q I don't have it in front of me?

8 A It says, Okay. In fact, if Worm was here right, now.

9 If he was here right, now, what would you say?

10 It says, I'm sorry. And he was crying. And wish
11 this had never happened to him.

12 So there was more than one person that said, I'm
13 sorry.

14 Q TyQuan Jones was cooperative with you?

15 A Yes, sir.

16 Q You got one statement from him, right?

17 A Yes, sir.

18 Q He was polite? He didn't give you a hard time about
19 anything, did he?

20 A Without question.

21 MR. MCLAURIN: I don't have anything else, Judge.

22 Thank you.

23 THE COURT: Any redirect?

24 MR. HILL: No, Your Honor.

25 THE COURT: I am curious about the ages of each of

1 the parties, obviously, I know the age of Mr. Jones. I was
2 just wondering about the ages of Mr. Crawford and Donte'
3 Gurley, and Christopher Gurley.

4 MR. HILL: Your Honor, from looking at the
5 incident report, at the time of these offenses, Antonio
6 Crawford was listed as 19. Julius Christopher Gurley was
7 listed as 24. Donte' was listed as 23.

8 THE COURT: Thank you, sir.

9 Thank you, ma'am.

10 OFFICER ROBINSON: Thank you.

11 MR. HILL: Your Honor, I have one very brief
12 witness.

13 THE COURT: We're at the 5:00 hour, at this point
14 and time. The state has, probably, finished its case. I
15 will allow the state the opportunity to call one more
16 witness, potentially, tomorrow. Because of the lateness of
17 the hour and the responsibilities that a number of people
18 have for children, and otherwise. We're going to break at
19 this point and time. I have a full docket tomorrow morning.

20 Although, I am going to suspend some things that I
21 would ordinarily hear at noon tomorrow. So we will start back
22 at noon tomorrow. And hopefully finish up by -- I'm going
23 to say in about two hours.

24 Does that sound reasonable counsel? Two hours?

25 MR. HILL: I think you underestimate.

1 THE COURT: Well, hopefully.--

2 MR. MCLAURIN: I think that's reasonable, Judge.
3 Hopefully, we can get it done quicker than that.

4 THE COURT: Well, hopefully we'll finish by two
5 tomorrow if we get started at noon.

6 So I will see everyone at noon tomorrow.

7 (Court adjourned until 12:00
8 p.m. on July 14, 2006.)

9 THE COURT: Alright. For the record we're back
10 now on the case of the State of South Carolina vs. TyQuan
11 Jones. This is a continuation of the waiver of hearing.
12 For the benefit of the attorneys and Mr. Jones, last night
13 after we finished. I read all the statements and the other
14 evidence that has been presented to me. That I've not had
15 the chance to look at. As it was coming in yesterday.

16 So I have had the opportunity to view all the
17 statements, that were submitted into evidence yesterday, as
18 well as the documents which were marked. We hadn't talked
19 about, yet. And Mr. McLaurin had marked some documents, as
20 well. And I went ahead and look at those documents, even
21 though, they had not been discussed, yet. But they had been
22 entered into evidence by stipulations. So I looked at those
23 documents, as well.

24 When we broke yesterday. There was some
25 discussion about whether the state was going to call any

1 additional witnesses.

2 At this time, Mr. Hill, are you going to call
3 anymore witnesses? Or are you prepared to rest?

4 MR. HILL: I have one other I'd love to call, Your
5 Honor.

6 THE COURT: Alright, sir. You can go ahead and
7 call that witness.

8 MR. HILL: Ron Swaggard of the Florence County
9 Police Department.

10 THE COURT: Sir, if you would come forward,
11 please. And put your left hand on the Bible. And raise
12 your right.

13 THEREUPON,

14 RON SWAGGARD

15 after having been duly sworn, testified as follows:

16 THE COURT: Thank you, sir. Please have a seat in
17 the witness stand. And if you would state your name and
18 occupation.

19 MR. SWAGGARD: My name is Ron Swaggard. And I'm a
20 lieutenant with the Florence Police Department.

21 THE COURT: Thank you, sir.

22 DIRECT EXAMINATION

23 BY MR. HILL:

24 Q Officer Swaggard, did you assist in the prosecution of
25 this case.

- 1 A I did.
- 2 Q During your prosecution, we're you contacted by
3 psychologist Pugh-Lilly of the Department of Juvenile
4 Justice?
- 5 A I had an opportunity to speak with her.
- 6 Q Okay. Were you present in the courtroom, yesterday,
7 when she discussed the statement that she gave the
8 Court?
- 9 A Yes.
- 10 Q I'd ask, at this time, that you clarify anything that
11 you told her? Why don't you tell us?
- 12 A Alright. I was contacted by the Department of Juvenile
13 Justice. I think, Ms. Linda Barr Williams gave me a
14 call. And ask me to come up and speak to Dr. Irmatur
15 and Dr. Pugh-Lilly about Mr. Jones.
- 16 Q Did you know either one of those individuals before you
17 arrived?
- 18 A I had met Dr. Irmatur in the past. In relation to
19 another homicide case involving some young men who were
20 age of 15. Both of them were evaluated..
- 21 Q And were those juveniles involved in waiver hearings,
22 as well?
- 23 A That's correct.
- 24 Q And that is how you came to know Dr. Pugh-Lilly?
- 25 A Oh. Yes, sir. That's correct.

1 Q So you met them through the Department of Juvenile
2 Justice?

3 A Yes, sir. I did.

4 Q And, then, what happened?

5 A Well, the only waiver hearings I've ever been involved
6 in before were those. So that was my only frame of
7 references. And by way of comparisons, I felt like
8 that the young man that we're dealing with in this case
9 was a lot different from those. I explained to her
10 that I felt like he was the kind of person who was a
11 follower and not a leader. And that he was the type of
12 person, you know -- though he might have participated
13 in something. And may have had a hand in the planning
14 of it. Wasn't the kind of person that would go out on
15 his own. And do this sort of thing. He's got to have
16 the strength of other people that are doing this kind
17 of thing around him, to lead him in a direction.

18 Q So does that absolve him of the culpability?

19 A Not at all. In fact, he's the person who pulled the
20 trigger. The whole incident happened as a result of,
21 you know -- decisions he made. He made some bad
22 decisions.

23 Q Is there any evidence that he was forced to participate
24 at all?

25 A I don't think he was forced. I think he was involved

1 with these people that wanted him to participate for --
2 to their advantage. And they used him. And there have
3 been some, you know, desire to please them. You know,
4 if you consider that coercion. Then, he was involved
5 with them in that regard.

6 Q To your knowledge, were you present when statements
7 were taken from him?

8 A From time to time, I was there. When all kinds of
9 people were giving statements. It's really hard for me
10 to recollect. And my role is like a supervising
11 investigator. I did many different things during that
12 time. And a lot of things that weren't, even, related
13 to that case, also.

14 Q So in your work on this case, did you ever hear Mr.
15 Jones state, that he did that against his will?

16 MR. MCLAURIN: Objection, leading Your Honor,
17 leading.

18 MR. HILL: Okay. I'll rephrase.

19 Q Okay. What if anything, did you hear Mr. Jones say
20 about this willingness to participate?

21 A During the interview with Mr. Jones, he initially, did
22 not want to say much of anything at all. When his
23 mother, grandmother and some aunts arrived. And he
24 knew that they were there. That's when he came to a
25 realization that he needed to cooperate with us. Based

1 on what they were telling him, That we were gonna be as
2 straight-up with him as we could with him. And treat
3 him with, you know, as much dignity and understanding
4 that we could given the circumstances. And under the
5 law, what we could do for him. We would do. If he
6 cooperated with us. And he did cooperate with us.. He
7 lead us to where the gun was. And he told us what
8 other people did. And the only conversation we had at
9 the point was, you know, what his responsibility was.
10 He knew that he messed up. There was some discussion
11 about this being a drug deal going bad, yesterday.

12 But this was a robbery that went bad.. They
13 planned a robbery and executed robbery. In fact, he
14 had access to the gun before he went to DJJ. Spent a
15 couple of months there. Came back. Got the gun from
16 one of the codefendants. And went out with them to do
17 the robbery.

18 Q Do you know how he took care of the gun, while he was
19 away at DJJ?

20 A My understanding is he gave it to Tony Crawford to keep
21 for him. And, then, got it back from Tony when he
22 returned. They gave him the nickname of Hits or
23 Hitman, you know. He doesn't mind going out and
24 participating in robbery.

25 But my opinion as an investigator and person that

1 is involved in this case. I, really, don't think the
2 murder was plan. I think, the robbery was planned and
3 executed. And as a result of that robbery. Someone
4 died.

5 Q But the fact that the killing took place during a
6 robbery, is that escalated to murder?

7 A It does.

8 Q And do you know if he was a willing participant?

9 A He was.

10 MR. HILL: Judge, I have no more further
11 questions, Judge -- I'm sorry let me ask you one more.

12 Q Is it anything else that you feel that you need to
13 clarify in regards to Dr. Pugh-Lilly's testimony about
14 your statements?

15 A Only that -- I mean, my only comparison, as far as a
16 kid in a waiver process would be the other kids, and
17 how they were. And they were totally in-cooperative.
18 And, you know, many of the elements that are still
19 improving because they didn't cooperate. But in this
20 case, this young man when he realized that this is what
21 he needed to do. He stood up. And he cooperated with
22 the police. And did what he need to do, to get to the
23 point. Where we are today. We found the gun because
24 of him.

25 Q So what -- were your statements made because you were

1 comparing Mr. Jones to other juveniles that you
2 prosecuted for murder?

3 A I would have to say yes. I mean, I compare like that
4 all the time in my mind. Yes. Frame of reference.
5 It's my experience. So I compare one kid to another
6 kid in my mind. He's not as bad as this one or that
7 one. But -- and try to draw a conclusion, based on
8 what I've learned from, you know, my life experience
9 with them, about these other ones. So that's the
10 context I was trying to put it in with her. He was not
11 as bad as those other kids. And he stood up. And told
12 us what his responsibility was. I'd only wished that
13 he'd stood up sooner. And live up to his
14 responsibility before this happened. Taking advantage
15 of the system he was in earlier.

16 MR. HILL: Your Honor, may I approach.

17 THE COURT: Yes.

18 Q Mr. Swaggard, I'm gonna show you a copy of a statement
19 given by Donte' Gurley on December 13. Would you read
20 the bottom paragraph to yourself? And, then, I want to
21 ask you a few questions?

22 A Okay.

23 THE COURT: And what date was that statement
24 given?

25 MR. HILL: December 13th. Donte' Gurley. I'm

1 sorry December 15th. Page 3.

2 Q Okay. Mr. Swaggard, according to Donte' Gurley did he
3 contact TyQuan Jones?

4 A It looks like he tried to contact him. And, then, he
5 got somebody on the phone.

6 Q And what was told to Donte'?

7 A It said, When, they answered the phone. They told me
8 -- gave me threats. Said I better not tell or snitch,
9 or this or that. You know, stick to the story that you
10 don't know what happened, and all that. That's what it
11 says.

12 MR. MCCLAURIN: I didn't quite see where that was,
13 Judge. I'm sorry where are you now?

14 (Whereupon, there was pointing
15 to indicate.)

16 Q So according to Donte' Gurley he tried to contact
17 TyQuan Jones and Antonio Crawford?

18 A Correct.

19 Q And, then, when he called them on their phones. He was
20 threaten?

21 A Yes, sir. And I'm not clear from this statement whose
22 phone they've got. I mean, did they both have one
23 phone or different phones. And who they, actually,
24 talked to. I don't know who was making the threat. I
25 could believe it was Tony Crawford making a threat.

1 Because Tony Crawford out of all these individuals
2 involved. He seems to me to be by far the most
3 dangerous.

4 Q He's, also, the youngest, isn't he?

5 A TyQuan's the youngest.

6 Q Okay. Is Antonio the second oldest?

7 A He's the second oldest. He's 19, I believe.

8 Q He's the closest in age to TyQuan?

9 A Correct.

10 Q I'll show you a copy of the telephone records
11 subpoenaed by Florence Police Department?

12 A Yes, sir.

13 Q Have you had a chance to review or look at these?

14 A Only a very cursory review. Not an in depth detail
15 knowledge of whose phone, or which number or any of
16 that, sir.

17 Q Okay. And I will ask you, if you will. Look on the
18 bottom of this page. And I'm referring to Cingular
19 phone records. This would be page number 010/014. On
20 the bottom dated 2-25-06. You see the orange
21 highlight?

22 A I do.

23 Q Okay. Can you tell us from examining that what number
24 was called? And what time that call was made?

25 A I can't tell which one is first. And which number is

1 called. And which number is not. But there's a call
2 between two phones.

3 Q Okay?

4 A 843-615-4599. And 245-9594. Those two phones are
5 connected in having a converse.

6 Q What time that did that occur?

7 A It was 94 seconds. And I don't know where the time
8 frame is. Okay 16:58. So that's about 4:00. Five
9 o'clock in the afternoon.

10 Q So Donte's character in your mind is different from
11 those of other cases you work with other boys in that
12 other case you worked?

13 A Donte' or --

14 Q I'm sorry. Tyquan?

15 A Yes.

16 Q So does that make him --

17 MR. MCCLAURIN: I'm going to object leading, Your
18 Honor.

19 THE COURT: I sustain the objection. You can
20 rephrase your question.

21 Q So in examining those -- so in examine -- comparing
22 those two in your mind. How did that influence the
23 statements that you made to Dr. Pugh-Lilly?

24 A I'm -- in the first case, the earlier case in 2003 with
25 those young men, they were never willing to accept

1 responsibility. Never willing to admit their role.
2 Never willing to give any aide to law enforcement in
3 the investigation of the case, which in my mind, that's
4 no remorse. No pity. No anything from anything
5 they've done. Not taking any responsibility in the
6 slightest. TyQuan Jones took responsibility for what
7 he did. And he's gonna face the consequences of what
8 he might have did. And in my mind, that's where the
9 difference lies.

10 MR. HILL: Thank you. Answer any questions the
11 defense might have.

12 THE COURT: Mr. McLaurin.

13 MR. MCLAURIN: Yes, Your Honor, if it please the
14 Court.

15 CROSS-EXAMINATION

16 BY MR. MCLAURIN:

17 Q Officer Swaggard, you've dealt with juveniles for a
18 number of years, is that correct?

19 A That's correct.

20 Q How long have you been on the police force.

21 A I started in May of 1985. So a little over 21 years.

22 Q And just because you've only been in one waiver hearing
23 doesn't mean you haven't dealt with all kind of
24 juveniles, is that not correct?

25 A That is correct.

1 Q Okay. You've taken statements? You interviewed
2 juveniles, is that correct?

3 A That's correct.

4 Q Let me ask this -- today or yesterday, when you came up
5 here. What type of hearing did you think you were
6 coming up here for, yesterday?

7 A I, actually, thought this was going to be the trial for
8 his crime.

9 Q Okay. And why did you think this was the trial for his
10 crime and not a waiver hearing?

11 A It was an assumption I made. I received the subpoena
12 from the Solicitor's Office. And I received subpoenas
13 from your office. I figure we were going to court on
14 the charges against Mr. Jones.

15 Q Why did you make that assumption, Officer Swaggard?

16 A Well, I had converse with a number of different people.
17 I thought that having spoken to everybody that, that's
18 the way this was going to go. I thought he was going
19 to stay here in juvenile court. I'm not convinced
20 based on what I heard. Beyond what I expected to hear
21 yesterday, that he doesn't need to go up. Because it
22 is very serious.

23 Q I'm confused on what you just said. I'm sorry?

24 A Sure. I heard other things, in addition, to what I
25 know. I heard some stuff, yesterday that just makes me

1 think that maybe him going up is the right thing.

2 Q Okay. Alright. Well, let me ask you this. I mean you
3 did the investigation. You've interviewed TyQuan, did
4 you not?

5 A That's correct.

6 Q Okay. And your impression of him -- and you're a
7 professional? You've been in business for 20 years,
8 right?

9 A Yes, sir.

10 Q You're much more experienced than Officer Robinson,
11 correct?

12 A Yes, sir.

13 Q Okay. And you heard Dr. Pugh-Lilly, did you not?

14 A I did.

15 Q And it was pretty clear that she said, He should stay
16 in DJJ, is that not correct?

17 MR. HILL: Your Honor, at this point, I'm going to
18 object to pitting the witnesses against each other.

19 THE COURT: I'm --

20 MR. MCCLAURIN: Yes, Your Honor. I mean -- he's
21 giving an opinion that he says, He changed his -- the way
22 he thought about the case. Because of testimony, yesterday.
23 So I just want to go through with him what he's referring
24 to.

25 MR. HILL: My objection is that he's at the point

1 that he's pitting his own testimony against that of the
2 other officers who have already testified. Comparing his
3 against them. And I think that's pitting the witness. So I
4 would have to object to that line of questioning.

5 THE COURT: I have to say that I agree, Mr.
6 McLaurin. That I don't have a problem with you doing what
7 you're doing in terms of making sure understand why his
8 opinion changed. But I do have a problem with you pitting
9 him against another witness. So I do sustain that
10 objection. But will allow you to continue your inquiry
11 along the lines of why he has changed his opinion.

12 MR. MCLAURIN: Well, I just wanted to make sure he
13 heard the same testimony I heard. So I'm asking him about
14 -- for example my question is what did Dr. Pugh-Lilly say.
15 He's heard her. And I wanted him to answer. And see what
16 he thought she said.

17 THE COURT: Actually what you said was that Dr.
18 Pugh-Lilly, in essence for time, that this child should not
19 be waived.

20 MR. MCLAURIN: Right.

21 THE COURT: I think that was your question. Is
22 that your question to him, at this point and time?

23 MR. MCLAURIN: Well, that was my question, then.
24 And I can change it.

25 And just ask him, What did he think Dr.

1 Pugh-Lilly's opinion is?

2 THE COURT: Mister --

3 MR. HILL: I think for the record reflects on the
4 phone what her testimony was.

5 THE COURT: Well, I don't have a problem with him
6 asking, What he thought Dr. Pugh-Lilly said. Because he
7 saying, He heard stuff in this courtroom. I can see why Mr.
8 McLaurin wants to know and understand, exactly, what he
9 heard yesterday in this courtroom. And the impact it had on
10 his opinion. And so I'll allow him to continue that line of
11 inquiry. I just don't want you saying -- I don't want you
12 pitting the testimony.

13 MR. MCLAURIN: I understand.

14 THE COURT: Thank you, sir.

15 Q You were present when Dr. Pugh-Lilly was testifying,
16 weren't you?

17 A Correct. I think I -- if I can answer the question
18 that the Judge asked. I know I'm suppose to answer
19 yours. I'm not trying to change anything I've
20 discussed with anybody, at any point and time. But
21 here's what I think. I think that this young man was
22 in the Juvenile Justice System. And he didn't take
23 every opportunity that he had, at the time, it was
24 offered to him. Young men make mistakes. And if he
25 goes to the Juvenile Justice System, again, I know what

1 kinda of a system is up there.

2 MR. MCLAURIN: I'm going to object. I just don't
3 think that can offer his opinions, Your Honor. I'm going to
4 object to his opinions about what DJJ system has to offer
5 and what it doesn't. That's why we have Dr. Pugh-Lilly.

6 THE COURT: Yes, sir, Mister --

7 MR. HILL: Your Honor, if he's going to allow to
8 offer testimony based on his experience. And opinions based
9 on his experience. I think that his opinion as to matter is
10 also relevant. I think he is able to give his opinion based
11 on his work.

12 THE COURT: Well, it's an interesting question
13 because it's -- I mean -- there is, clearly, evidence here
14 today. That he's an officer with many years of experience.
15 And has substantial experience dealing with juveniles.

16 And so, I mean, I think him being an officer who
17 has dealt with juveniles. Talk about his experience with
18 the Juvenile Justice System. I will ask that he be specific
19 in with his statements. And not make broad generalized
20 statements about what he believes the Juvenile Justice
21 System can and can't achieve. But be specific in his
22 statements about his opinions.

23 A I'll try to continue from where I think I was. My
24 concerns come down to is he going to be worse off? Is
25 society going to be worse off if he winds up spending

1 seven years DJJ, or a number of more years in the adult
2 system? I don't know what the answer is to that.
3 Because I'm not a psychologist. I'm glad I don't have
4 to make that decision. Because I'm not a Judge. And I
5 just have concerns based on what I learned, yesterday,
6 in the courtroom. That it's really going to be a
7 benefit to society and him to go to DJJ. And that's my
8 answer.

9 Q We'll just skip the testimony. Let's talk a little bit
10 about your investigation, your role in the
11 investigation. No doubt TyQuan is not the planner in
12 this?

13 A He was not the sole planner of it. No, sir. I don't
14 think he was.

15 Q And he was recruited. Because he was a juvenile, is
16 that not correct?

17 A I believe that too.

18 Q Okay. And who was the ring leader of this crime?

19 A Well, probably, Tony Crawford is the one that has the
20 most ability to plan an execute something like this.

21 Q And he was the one -- we you talked about the cell
22 phone calls. The bill shows you cell phone calls that
23 TyQuan and Tony? He was the one who was dealing with
24 TyQuan most of the time, is that not correct? He's
25 closest?

1 A He was the closest in age. I think, they were,
2 probably -- because we had dealt with the Gurleys so
3 much that you, then, had two factions. The Gurleys
4 that was dealing with us. And those two who were out
5 there. Wanting them not to say things to us. So my
6 answer is yes. I think, Tony and TyQuan -- before we
7 were aware of who they were. Were out there trying to
8 tell the Gurleys don't tell the police anything.

9 Q Tony would have the type reputation, and the type
10 personality to be able to influence a 15-year-old boy,
11 is that not correct?

12 A Yes.

13 Q And let talk a little bit about the Gurleys. We been
14 through -- I mean, they've given three or four, or five
15 different versions of their story, is that not correct?

16 A That is correct.

17 Q And you really can't trust what the Gurleys say, can
18 you?

19 A I trust it a lot less. Than, I trust what TyQuan did.

20 Q Okay. And tell me the difference about how TyQuan is
21 15 as opposed to these 23-year-old men. What did he
22 step up to the plate and do?

23 A He took responsibility for what he did by telling us
24 the truth. And by leading us to the weapon. And
25 giving us information that, eventually, led to the

1 arrest of the Gurleys.

2 Q And how about the Gurleys? You wouldn't have them, in
3 fact, if it was not for TyQuan, is that not correct?

4 A Well, we would not have arrested them. We had them. I
5 mean -- because they were talking to us all along. But
6 they weren't giving us accurate information.

7 Q When I say had -- I meant arrested. You didn't arrest
8 them, until after TyQuan -- you got TyQuan's
9 information, is that correct?

10 A That is correct.

11 Q Okay. And you felt like after you spoke to TyQuan
12 that's when you needed to arrest the Gurleys, is that
13 correct?

14 A That's correct. Let me say this. This is when we knew
15 we could arrest them. Based on the information he gave
16 us.

17 Q And as you said, You felt like that the shooting was an
18 accident. It wasn't plan to go out and kill this guy.
19 There wasn't any type of plan like that, was it?

20 A I believe, the plan was to commit a robbery.

21 Q And from the scene, that would support your position
22 because there were drugs left. And there was no
23 robbery committed as far as you could tell, is that
24 correct, at the scene?

25 A Well, I still don't know that they didn't get something

1 from him. But I don't know that they did, either. I
2 know that there was an attempt made to carry out the
3 robbery. A man was shot. And there was still steps
4 even after he was shot to try retain something of value
5 from him. Whether or not they did. I do not know if
6 they got anything out of his pockets or not, to this
7 day.

8 Q You're aware he had money -- the victim had money? And
9 --

10 A I am aware that he had money. And there was something
11 found in pocket at the hospital. That was mostly
12 likely drugs.

13 Q And he had the gun -- the gun was thrown somewhere?
14 Taken somewhere?

15 A That's correct.

16 Q And you could tell -- it surprised everybody, did it
17 not?

18 A My opinion about that is yeah. I don't think the
19 shooting was planned part of the robbery.

20 Q Let's talk about before you came to court, yesterday.
21 What characteristics did you see in TyQuan that made
22 you think that he should be in DJJ?

23 A Just the fact that he took responsibility for it. And
24 I thought there was a chance that he might be
25 rehabilitated.

1 Q Did your opinion change after you heard Dr. Pugh-Lilly?

2 A No. Well, it depends on whether or not she was the one
3 that said the business about him in the robbery. And
4 that's what he went up there for, for the first time.
5 I was not aware of the fact that he had committed
6 another robbery. I knew he had gone to DJJ for
7 something. But not that he'd committed a robbery
8 before this.

9 Q As an officer -- you don't look at somebody's records,
10 to determine what kind of record they have?

11 A If it was my case, solely, yeah. In fact I'd,
12 probably, pulled some of those criminal history for
13 Investigator Robinson. But, you know, talking in
14 general about TyQuan. Does he have DJJ records. Yes.
15 I probably did not. I definitely was not aware of
16 that. So, I can say I did not look to see what his
17 record was. But if it was my individual case.

18 Yes, sir.

19 MR. MCLAURIN: I don't have any further questions.

20 THE COURT: Any redirect?

21 MR. HILL: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. HILL:

24 Q Officer Swaggard, you were ask doing cross-examination,
25 why you were concerned about Mr. Jones being in the

1 Department of Juvenile Justice. What is your concern
2 about that?

3 A Well, my concern is whether or not, he'll really have
4 an opportunity to benefit. Or is he gonna come back
5 out as an even more hardened person --

6 Q One --

7 A Will he still -- I'm sorry go ahead --

8 Q I interrupted you. I apologize?

9 A Will he still, you know, be committing robberies. When
10 he's 21. When he gets out. That's my concern. Will
11 we be dealing with him in 7 years? And are officers of
12 the department going to be dealing with him in 7 years?
13 Is it not better for the department, for society if he
14 spends, you know, time in there, until he's 30? That's
15 where my conflict comes in.

16 Q Because of your work with juveniles, are you familiar
17 with what happens -- what the activities are inside the
18 Department of Juvenile Justice facility?

19 A I know there's a lot of gang activity involved in
20 there. I mean -- the kids, at one point and time, it,
21 basically, was a school for kids to learn how to be in
22 a gang. I know about the Illegal Juveniles. I know
23 about the Folk Nation. The Crips. The Bloods, all
24 that sort of stuff. You know, I had intensive
25 experience with that. And that's my concern. He's a

1 follower. He's not a leader. He's not a planner. But
2 he's gonna maybe get in there. And maybe influenced by
3 these things. I don't know what the answer is.

4 Q And are those prevalent in the Department of Juvenile
5 Justice?

6 A Yes.

7 Q Do you know whether or not if that's influenced crime
8 in Florence County?

9 A I believe it has.

10 Q And can you give the Court the most notorious example?

11 A My most notorious example would, probably, be the East
12 Side Mafia in the case where I first met, Dr. Imature.
13 A 17-year-old went to Juvenile Justice --

14 MR. MCLAURIN: Judge, I'm going to object to this.
15 I don't see how that it's relevant to this hearing. What's
16 his most notorious case of a juvenile is. This has no
17 relevance to this.

18 MR. HILL: I'll move on.

19 THE COURT: Question withdrawn. I'll sustain the
20 objection.

21 Q So you're familiar with gang activity in the Department
22 of Juvenile Justice?

23 A Yes.

24 Q And why does that concerns you about TyQuan Jones?

25 A It concerns me about his chances for rehabilitation.

1 And how he's going to be in the future.

2 Q Is that because he's a follower, instead of a leader?

3 A Yes, sir.

4 Q To your knowledge, was or was not there attempt on his
5 part to withdraw from this criminal spree?

6 A Did Mr. Jones trying to get out of being involved in
7 criminal activity? I don't know.

8 Q In this particular incidence, did he try to withdraw?

9 A Not to my knowledge.

10 Q To your knowledge, did someone give him the gun to use
11 in this case, or did he have it on his own?

12 A From my understanding about the facts of the gun, were
13 that he had the gun. Gave it to Tony Crawford. Went
14 and did some time at DJJ. Returned. And recovered the
15 weapon that was used in the next crime.

16 Q To your knowledge, did anyone tell him to shoot anyone
17 in this case?

18 A Not to my knowledge.

19 Q To your knowledge, was he threatened by anyone in this
20 case?

21 A Not to my knowledge. I can't think of anybody who
22 threatened him.

23 Q To your knowledge, was he promised anything if he
24 participated in this case?

25 A The only promise that anybody ever made to him was that

1 we would talk to, you know, members of the Court.

2 Members of the Solicitor's Office, whomever. He was
3 cooperative, you know. Did what he did to take
4 responsibility.

5 Q To your knowledge, did any of the other participants in
6 the crime make him any promises?

7 A I do not know if they did or not.

8 Q To your knowledge -- did he attempt to turn himself in
9 prior to the arrest, or did he wait until he was
10 arrested and fessed up?

11 A Well, he was arrested at the alternative school. And
12 it's typical whenever a kid get into trouble they start
13 going back to school.

14 Q So the original opinion that you may have formed about
15 this case in turn of disposition has that opinion
16 changed?

17 A It's in doubt. I mean, I don't know what the answer
18 is. I felt at one time he would benefit by staying in
19 the system. And I'm not sure he still wouldn't. And
20 I'm glad I don't have to make that decision.

21 Q So you're not sure?

22 A I'm not sure.

23 Q So you made your recommendation in this case?

24 A I don't think I can make a recommendation. But, I
25 think, that he could. It might be better for society

1 if he did get tried as an adult.

2 MR. HILL: Answer any questions that they may have
3 on the cross.

4 THE COURT: Mr. MCLAURIN.

5 RECROSS-EXAMINATION

6 BY MR. MCLAURIN:

7 Q Office Swaggard, I want to make sure I heard you
8 correct. I know you're not saying that the fine people
9 at DJJ don't do good work? You're not saying that are
10 you?

11 A Not at all.

12 Q Okay. Alright. I wanted to make sure I was clear on
13 that. Because that's kinda what that sounded like?

14 A I work very closely with the Department of Juvenile
15 Justice on a local level, and as far as, what goes in
16 Columbia. I'm familiar with. And I know they've taken
17 steps to try to fix that problem. But I still know
18 that they exist.

19 Q And do you know that by being up in Columbia. I
20 thought you worked here in Florence?

21 A No. I do. But I can see the end result of it.

22 Q How do you see the end result of it?

23 A I see more and more kids involved in gang activity
24 everyday?

25 Q But that doesn't mean they went through the system?

1 You said, Earlier you didn't even know he was in
2 the system.

3 A That's true. His name was not on the --

4 Q Don't you think DJJ in Columbia is an appropriate spot
5 for a 15-year-old boy? I mean -- don't you think
6 they do good work up there? They could, possibly,
7 rehabilitate someone?

8 A I think there's a, possibility, he can be
9 rehabilitated. I think if he goes up there. And he
10 takes advantage of the opportunities he gets when he's
11 up there. And he does not involve himself in gang
12 activity. And he chooses the next time someone ask him
13 to get involve in something.

14 And he says, No. Because I been through that.

15 I think he'll be alright.

16 MR. MCLAURIN: I don't have any more questions,
17 Your Honor. Thank you.

18 THE COURT: Lieutenant Swaggard, as an officer of
19 the Florence Police Department. I've listened to your
20 statements, today about your various concerns. And one of
21 the things that I'm concerned about is he protection of this
22 community. That's one of the inquiries that I make, so far
23 as what I'm expected to in this waiver hearing.

24 And do you have an opinion, sir, about whether or
25 not you believe this young man poses a threat to this

1 community?

2 OFFICER SWAGGARD: There's no doubt, that he is a
3 threat. That's, also, part of my conflict. You know, I
4 want to protect the community. That's my job. But I, also,
5 want this young man to have a chance.

6 THE COURT: Thank you, sir. You can return to
7 your seat.

8 Any other witnesses?

9 MR. HILL: Not from the state, Your Honor.

10 THE COURT: Alright.

11 MR. HILL: We would reserve if need be to call
12 someone on reply.

13 THE COURT: Alright. Thank you, sir.

14 Alright, Mr. McLaurin.

15 MR. MCLAURIN: Yes, sir. If it please the Court.
16 We call Officer Robinson to the stand.

17 THE COURT: Alright. If you would come forward,
18 please, ma'am.

19 THEREUPON,

20 MICHAEL THOMAS ROBINSON
21 after having been duly sworn, testified as follows:

22 THE COURT: Please have a seat in the witness
23 stand. State your full name.

24 OFFICER ROBINSON: Michael Thomas Robinson.

25 THE COURT: Yes.

1 MR. MCLAURIN: If it please the Court.

2 DIRECT EXAMINATION

3 BY MR. MCLAURIN:

4 Q Ms. Robinson, of course, we went through yesterday.

5 You testified being an officer. You were the leading
6 investigator in this case, is that correct?

7 A That's correct.

8 Q Okay. We talked about the Gurleys, yesterday, and your
9 opinion was that you believe some of the things that
10 they Gurleys say, is that correct?

11 A Some of the things. That's correct.

12 Q I'm going to show you a letter that was sent. It's got
13 an officer report. It's got your name.

14 It says on 2-07-06, I received letters from both
15 Donte' and Christopher Gurley.

16 A Uh-huh.

17 Q You remember those letters you got?

18 A Yes, sir. I hadn't read them in quite some time.

19 Q And that was on February 7th of '06, is that correct?

20 A It is, sir.

21 Q That's, actually, from your correspondence on the
22 front?

23 A Yeah. On February 7th, I received them. It looks like
24 they were written to days before that. Also, it looks
25 like 2. Maybe a 3 or a 5, something like that.

1 Q Do you know which one wrote that letter that's attached
2 right, there?

3 A I don't know. I'd have to look at it to see if it was
4 signed. It wasn't signed.

5 Q I've got a highlighted area, there. Of course, this is
6 entitled Dear Ms. Robinson, is that correct?

7 A Uh-huh.

8 Q Okay. And would you read for the Court the highlighted
9 area I've got there. Starting with plus he has pending
10 charges?

11 MR. HILL: Your Honor, if the Court would please,
12 I need some directions as to where to find this.

13 Q If you would read that, please?

14 A Okay. I'm just trying to finish a couple of -- in the
15 copy you have.

16 It says, Plus he has pending charges in Marion, to
17 go to court. From your -- that's what I can't. For --
18 it's says KE or something like that. I said before.
19 And, then, it says, He was the one who got TyQuan to
20 draw the gun on Desmond Keith. TyQuan wasn't going to
21 pull that gun, until Tony Crawford -- repeat Tony
22 Crawford, told him to pull out the gun.

23 You want me to continue? That's where the
24 highlight stop.

25 Q That's all.

1 A It's just that one word on the second line.

2 Q I've got another area highlighted on down, about bottom
3 of the page.

4 And it says, Like I said.

5 A Yes, sir.

6 Q If you would read that sentence to the Court?

7 A Okay. It says, Like I said before, Tony is the reason
8 why our cousin, Desmond Keith is dead. He really hate
9 and disliked Desmond.

10 MR. MCLAURIN: Your Honor, at this time, we would
11 like to introduce this into evidence, as I think 6.

12 THE COURT: I think that is correct.

13 Mr. Hill.

14 MR. HILL: No objection.

15 MR. MCLAURIN: That's all the questions I have,
16 Your Honor.

17 THE COURT: Alright. Without objection. It will
18 be marked and admitted as Defendant's Six.

19 (Whereupon, letter was admitted
20 into evidence.)

21 Was this letter from Donte' or Chris Gurley?

22 OFFICER ROBINSON: I don't know, Your Honor. It's
23 not signed.

24 THE COURT: But you know it was from one or the
25 other?

1 OFFICER ROBINSON: Yes, sir.

2 THE COURT: Alright. Thank you.

3 MR. HILL: Your Honor, the state would ask
4 admission for the other letter we received from one of the
5 either letter that we received from one of the Gurleys.

6 THE COURT: Alright. Is that correct, it's
7 without objection?

8 MR. MCCLAURIN: I don't have any problems with
9 that.

10 THE COURT: Alright, then, without objection.
11 That will marked and entered as State's -- I think we're up
12 to Nine.

13 (Whereupon, letter was marked
14 into evidence.)

15 CROSS-EXAMINATION

16 BY MR. HILL:

17 Q Ms. Robinson, do you have a copy of this letter with
18 you?

19 A That's what I was looking for. I'm not sure.

20 Q Okay. But that was provided to our office by you, is
21 that correct?

22 A Yes, sir. I'm sure I have it in my case file.

23 MR. HILL: Your Honor, this is just to make the
24 record complete. We would ask that the Court take judicial
25 notice of the letter.

1 Q Ms. Robinson --

2 A Yes --

3 Q During your investigation and interrogations and
4 discussions with TyQuan Jones, what if anything did he
5 ever say about being forced to shoot this gun?

6 A He never said, He was forced to shoot the gun. As a
7 matter of fact, before the -- for the first hour of the
8 interview we were shocked because there was no emotion.

9 And he -- I'm referring to we as myself and Sergeant
10 Larry Drayton, who at the time was my immediate
11 supervisor. And was in the initial interview with Mr.
12 Jones. I mean, we were just shocked that TyQuan did
13 not even acknowledge that he was in sorrow. So there
14 was no saying that he was forced at all.

15 Q Okay. You read the letter put in evidence by the
16 defendants?

17 A Yes, sir.

18 Q Okay. And the letter paraphrase, Antonio Crawford made
19 TyQuan shoot his gun?

20 A Can you say that again, please?

21 Q In Donte' or Christopher Gurley's letter, they
22 mentioned that Antonio Crawford is responsible for this
23 trigger being pull?

24 A Yes, sir.

25 Q Did TyQuan Jones ever tell you that, that's what

1 happened?

2 A No, sir.

3 Q Did he ever tell you Antonio Crawford made him shoot
4 that gun?

5 A No, sir.

6 Q Did he ever say, Antonio told him to pull the trigger?

7 A No, sir.

8 Q Did he ever tell you that anyone made him pull that
9 trigger?

10 A No, sir. Never. As a matter of fact, I've, always,
11 believe that what that statement was referring to was
12 the fact that there was a head nod. And I would have
13 to read back through the written transcripts. That one
14 of the Gurley brothers. And I can't remember, exactly,
15 which one. And I think it was TyQuan's statement that
16 there was a head nod from Donte' to Antonio. And I,
17 always, thought that, that's what that was. That's
18 what they were referring to.

19 MR. HILL: Your Honor, may I see the last exhibit?

20 Thank you.

21 Q About one quarter of a way down of this letter, I'd ask
22 that you read the sentence beginning, Under my index
23 finger where it says TyQuan. Read that sentence?

24 A Yes, sir.

25 It's, just cause TyQuan Jones can't do this.

1 Can't do -- I apologize. Can't do his time on his own.

2 If we're here.

3 Q So he was never forced to fire this gun?

4 A There is no indication, whatsoever, in my investigation
5 that was -- that I would -- that would believe me to
6 believe that Mr. Jones was forced.

7 Q He was never coerced to go into this at all, was he?

8 A As a matter of fact, and I think, we discussed this
9 statement yesterday. That one of the Gurley brothers
10 indicated that Mr. Jones had ran out behind the house.
11 Behind them. When they went up the hill to meet with
12 Mr. Keith?

13 Q In fact, he had fired this gun before, hadn't he?

14 A Yes, sir.

15 Q He was familiar with the gun?

16 A Yes, sir. By Mr. Jones.

17 Q He had owned it for a while?

18 A Yes, sir. He owned it?

19 Q It was his?

20 A Yes, sir.

21 Q He owned it?

22 A Yes, sir.

23 Q He gave it to somebody to take care of it while he was
24 away?

25 A Yes, sir.

1 Q As soon as he got back, he got it back, didn't he?

2 A Yes, he did.

3 Q He carried it with him, didn't he?

4 A Yes, he did.

5 Q And when he went over to see Antonio or the Gurleys

6 that day. They didn't tell him to bring the gun, did

7 they?

8 A No, sir. There's no indication they did.

9 Q He carried it with him all the time, didn't he?

10 A We have every indication to believe he did?

11 Q And if a teenager carries a weapon is a danger to the

12 community of Florence?

13 A Yes, sir. Very much so.

14 Q Is that a normal activity for a 15-year-old to carry a

15 pistol that is loaded?

16 A No, sir.

17 Q And that's a danger to society, isn't it?

18 A I have every reason to believe it is.

19 MR. HILL: Answer any questions the defense might

20 have.

21 THE COURT: Any redirect?

22 MR. MCLAURIN: Yes, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. MCLAURIN:

25 Q The sentence that Mr. Hill just showed you, TyQuan

1 Jones can't do his time on his own. That's what it
2 just said, right?

3 A I think so. I don't have it here right in front of me?

4 Q Well, you can interpret that to mean TyQuan Jones can't
5 do his time on his own. Just because he can't do time
6 on his own?

7 A You want my opinion?

8 Q Yeah.

9 A I would love to read the sentence before it. And the
10 sentence afterwards. I know that that's a common lingo
11 among people in prison that say, you know --

12 Q Well, let me just ask you this. You don't think that
13 means because he's a juvenile, he can't do time on his
14 own?

15 A You know, I have to tell you. Throughout this entire
16 investigation, there was never any mention of that
17 even -- of TyQuan Jones being a juvenile every played a
18 factor in this case. I found no evidence to or for
19 that because he was a juvenile. It never made a
20 difference either way.

21 Q You heard Officer Swaggard testify?

22 A Yes, sir. But, again, I never heard any statements
23 that lead me to a conclusion that --

24 Q Wouldn't that --

25 A The juvenile procedure had any -- the fact that one of

1 the individuals that had part was a juvenile have
2 anything to do, whatsoever.

3 Q Wouldn't that statement that's in that letter indicate
4 that?

5 A Well, I don't think that has anything to do with him
6 being a juvenile.

7 Q Well tell me your interpretation of it --

8 A Can I read it just a minute?

9 Judge, if you would --

10 Q I sure will?

11 A Thank you. I appreciate you giving me that
12 opportunity. I read the whole letter rather, quickly.
13 And I was trying to see anything that would indicate
14 what you're asking me. And I see nothing about that
15 statement that refers to him in any kind of juvenile
16 capacity.

17 Q And they say, Just because TyQuan Jones can't do time
18 on his own?

19 A Yes, sir.

20 Q That doesn't refer to you as an experienced officer
21 that they're referring to him being a juvenile?

22 A No, sir. And I'll tell you --

23 Q That's not relevant --

24 A When you would hear -- may I finish?

25 Q Yes?

1 A Thank you. Usually, when, we hear statements like
2 that. What they are referring to is when groups of
3 people are involved in a crime. They, usually, just
4 want the shooter. If they didn't, actually, pull the
5 trigger. They just want one person to fall for it. It
6 doesn't matter if it's a juvenile or an adult, a male
7 or a female. It has no criteria. It depends -- they
8 just want the person who, actually, pull trigger to do
9 the crime. If that's what -- that was my
10 interpretation as a seasoned law enforcement officer.
11 Or fairly seasoned --

12 Q A what?

13 A Or fairly seasoned since November of '99.

14 Q So your opinion is Donte' Gurley, Chris Gurley, and
15 Tony Crawford had no idea this man was a juvenile?

16 MR. HILL: Your Honor, he's leading.

17 MR. MCLAURIN: This is a hostile witness, Your
18 Honor, clearly, I can lead on an adverse witness.

19 THE COURT: Well, I mean -- she may very well be.
20 But I haven't declared it to be hostile, at this point and
21 time or adversity, at this point and time. You called her.
22 She's your witness. If you want to ask her or declare her
23 to be hostile.

24 MR. MCLAURIN: I would ask that, Your Honor.

25 THE COURT: What's the state's position?

1 MR. HILL: Due to the fact, that the witness may
2 not give the answers to the attorney, that the attorney
3 desires to hear. Does not, necessarily, mean she's hostile.

4 THE COURT: I don't disagree with that statement.
5 But, clearly, she is called from the state. She is the
6 state's -- one of the state's chief prosecuting witness.
7 And so I am going to declare her to be a hostile witness.
8 And allow you to lead.

9 MR. MCCLAIRIN: Thank you, Your Honor.

10 Q So your impression, you don't think they knew he was a
11 juvenile?

12 A I think, they knew without a doubt that he was a
13 juvenile. And the reason why I say that is because
14 whenever we were given a description, initially, of who
15 the other suspects were. They indicated that he was a
16 young guy that, that was the only, even reference to
17 the juvenile in my entire investigation.

18 Q Let me ask you this now. We talked about giving a
19 statement, yesterday. You indicated, yesterday, he was
20 very cooperative. Very forthcoming in the statement.
21 And was honest with you guys, is that correct?

22 A I don't think I used the word honesty. Cooperative.
23 Yes. He was cooperative. Especially, after he had a
24 chance to speak with his family.

25 Q Well, you never used the word yesterday -- all day when

1 you testified about being shocked about no emotions.

2 And that was never said, is that correct?

3 A I've tried to answer your questions very directly. As
4 I am now. And trying to give you as much information
5 as I can to --

6 Q Well my question is just simply, you never said
7 anything about being shocked about any emotions,
8 yesterday, is that correct?

9 A That's correct. I started to. But, then, I realized
10 that it wasn't exactly what you were asking me. And,
11 if I didn't reach the subject. I apologize.

12 MR. MCLAURIN: I don't have any more questions.

13 THE COURT: Mr. Hill.

14 MR. HILL: No, thank you, Your Honor.

15 Q&A

16 BY THE COURT:

17 THE COURT: Well, I just want to clarify
18 something. Because I want to make sure I understand what
19 Mr. Jones' attitude was. What his demeanor was. When all
20 the questioning him on the date that he gave his statement.
21 I think it was December 15th, 2005. And I've heard some
22 information about that. But I would like to hear from you.
23 Your description of his attitude and demeanor as you
24 questioned him about his involvement, in essence, was
25 accusing him of being the person who shot the victim in this

1 case.

2 OFFICER ROBINSON: I have been an investigator
3 since 2004. And so I am still learning everyday. And I
4 hope to continue to learn. So I can only really give you my
5 opinion. But, I'll do my best. I've learned that it's in
6 very emotionally charged -- charges like this. When someone
7 is accused of murder and things like that. They go through
8 different stages in the interview process. And it was
9 classic textbook that TyQuan -- Mr. Jones went through.
10 Originally, it was complete denial. Now, was he ever rude?
11 Was he, you know, ever mean or vicious?

12 No, sir.

13 Under no circumstance. You know, he was very
14 cooperative and very polite. But was he, actually, willing
15 to give his involvement initially?

16 No, sir.

17 He didn't, you know, immediately sit down and tell
18 what happened.

19 THE COURT: I'm less concern about how cooperative
20 he was or wasn't. Than, I am about his demeanor. How he
21 acted. And his emotional reactions or response to what was
22 going on to that interview process.

23 OFFICER ROBINSON: Mr. Jones at no point cried,
24 during the whole interview. As a woman, maybe that's what I
25 remembered about it. And I was surprised at that. Because

1 at the very end, finally, he got emotional. And that was at
2 the very end. After he gave his statement. But someone who
3 had remorse for murder. You would think that they would be
4 much more devastated in my personal opinion. And that was
5 not the case, initial. Now, he was upset. And his mother
6 was devastate. And very concern, as well as his other
7 family members. And at the very end, he did show emotions
8 with them. But it was not what I would expect to see in my
9 experience.

10 Is that helping at all?

11 THE COURT: What would you have expected to see?

12 OFFICER ROBINSON: If it was an accident. I
13 really would have expected to see --

14 THE COURT: And this was based upon your
15 experience in how many interviews?

16 OFFICER ROBINSON: In how many interviews? Oh, I
17 have interviews on every case I have. It could have been
18 300 cases a year, since that time. If it, really, was an
19 accident.

20 Normally, what we get is, I am so sorry. I never
21 meant for that to happen. I need to make this right. And
22 that's what we get off the bat. And that was not the case,
23 this time. Until, after he was allowed to speak to his
24 family.

25 And, then, he said, Yeah. This was an accident.

1 I didn't mean to do this.

2 But this was after about an hour of prompting that
3 we got that. It wasn't, you know, immediately hands up.
4 You know, he didn't turn himself in, you know. He didn't
5 stay at the scene. There was nothing to lead us to believe
6 that, initially, that it was an accident other than his
7 testimony.

8 THE COURT: Of course, you're, also, talking about
9 a young man who's 15 years of age dealing with these issues,
10 is that correct?

11 OFFICER ROBINSON: That's right. Yes.

12 THE COURT: Alright. Thank you, ma'am. You can
13 return to your seat.

14 OFFICER ROBINSON: Sir, does this belong to you?

15 MR. MCCLAURIN: That their. It's not ours.

16 OFFICER ROBINSON: It's not mines.

17 THE COURT: I've got it. That's her copy.

18 MR. MCCLAURIN: Your Honor, we would call to the
19 stand Adriene Powell.

20 THE COURT: Ma'am, if you would come forward,
21 please. And you would place your left hand on the Bible.
22 And raise your right.

23 THEREUPON,

24 ADRIENE POWELL

25 after having been duly sworn, testified as follows:

1 THE COURT: Thank you, ma'am. Please have a seat
2 in the witness stand. And if you would state your full
3 name.

4 MS. POWELL: Adriene Powell.

5 THE COURT: Alright. Yes, sir.

6 MR. MCLAURIN: If it please the Court.

7 DIRECT EXAMINATION

8 BY MR. MCLAURIN:

9 Q Ms. Powell, you are the mother of TyQuan Jones, is that
10 correct?

11 A Yes.

12 Q And once you lived here in Florence, is that correct?

13 A Yes.

14 Q What the address that you lived at?

15 A [REDACTED].

16 Q And prior to Mr. Jones being involved in this incident.
17 He was living with you, is that correct?

18 A Yes.

19 Q Give the Court a little bit of history about where
20 TyQuan lives, and different places that he's been --
21 let's say in the last two years?

22 A With his father. And part of the time with me in
23 Virginia.

24 Q Well, when he was younger. Where did he live?

25 A With his father.

- 1 Q Okay. And his father, who is he?
- 2 A Dwayne Jones.
- 3 Q And how long did he live with his father in Virginia?
- 4 A Six, seven years.
- 5 Q And until what time, did he move back to Florence?
- 6 A When he was about 11, or 12.
- 7 Q Eleven or twelve years old?
- 8 A Uh-huh.
- 9 Q And, now, does he have any siblings?
- 10 A Yes.
- 11 Q And who are his siblings?
- 12 A He has an older brother, Floyd Smith. And a younger
- 13 sister, Cheneque J.
- 14 Q And Cheneque J. is the biological child of Mr. Jones
- 15 who's here, is that correct?
- 16 A Yes.
- 17 Q So they are full blood brother and sister, is that
- 18 correct?
- 19 A Yeah.
- 20 Q And where does Cheneque J. lives?
- 21 A With her father in Virginia.
- 22 Q And how long has Cheneque J. lived with her father in
- 23 Virginia.
- 24 A They stayed the same amount of time. And, then, they
- 25 came here to live. And, then, she went back up about

- 1 two years ago.
- 2 Q To Virginia?
- 3 A Yes.
- 4 Q So we're in '96, '95, '94. Sometime in '94, maybe?
- 5 A Uh-huh.
- 6 Q And TyQuan stayed. And lives with you?
- 7 A Yeah.
- 8 Q Is that correct in that particular time?
- 9 A Yeah.
- 10 Q Alright. How about the older brother Floyd Smith?
- 11 Where is he?
- 12 A He's in the military.
- 13 Q And how old is he?
- 14 A Twenty-two.
- 15 Q Twenty-two-years old?
- 16 A Yeah.
- 17 Q Let me just ask you this, how is his sister doing in
- 18 Virginia? We're going to get Mr. Jones to talk about
- 19 this. You understand how --
- 20 A Yes. She's doing very well.
- 21 Q Now, basically, since TyQuan's been in this trouble,
- 22 starts with the armed robbery. He's been living here
- 23 with you, is that correct?
- 24 A Yes.
- 25 Q Tell me about where you work?

- 1 A I work as a waitress in a restaurant.
- 2 Q And tell me, generally, your work schedule. You work
- 3 at night, daytime?
- 4 A Mostly at night.
- 5 Q And has it been tough to supervise TyQuan?
- 6 A Yes.
- 7 Q And why is that?
- 8 A Because, I'm not there, when he gets home from school.
- 9 He's supposed to do, you know, stay -- do what he
- 10 supposes to do, you know. But, sometimes, he leaves.
- 11 Q What time would you work to sometimes?
- 12 A Ten or eleven.
- 13 Q And since the robbery, during that probation period,
- 14 you've worked that same schedule, is that correct?
- 15 A Mostly, yes.
- 16 Q Alright. Now, unfortunately, you have a drug problem?
- 17 A Yes.
- 18 Q You have an admitted drug problem, is that correct?
- 19 A Yes.
- 20 Q What kind of drug do you use?
- 21 A Crack.
- 22 Q Do you consider yourself addicted to it?
- 23 A Yeah.
- 24 Q And have that made it difficult in raising TyQuan?
- 25 A Yeah.

1 Q And I think at one point DSS had taken the children, is
2 that correct?

3 A Uh-huh.

4 Q When was DSS involved with the children?

5 A I think before he was five.

6 Q I'm sorry what?

7 A Before the age of five.

8 Q And where did he go and reside at that time?

9 A With my oldest son grandmother.

10 Q How long did he live there?

11 A I think about three or four years. I think.

12 Q Were you since the armed robbery, were y'all trying to
13 coordinate him to move back to Virginia?

14 A Yes, we were.

15 Q What obstacles were you running into to try to get that
16 accomplished?

17 A He said, He couldn't go. Because he had to do his
18 community service.

19 Q Do you think his father would discipline him better
20 than you could?

21 A Very much.

22 Q We've heard a lot about his gentleman, Tony Crawford,
23 do you know Tony Crawford?

24 A Not very well.

25 Q Are you aware that he was associated with your son?

- 1 A Yes.
- 2 Q Let me ask you this. Transportation -- do you have a
3 car?
- 4 A No.
- 5 Q How would TyQuan get to school when he went to school.
- 6 A Walk or catch a cab. Mostly, he would walk.
- 7 Q So he mentioned that several times. What about the
8 cab? He would catch a cab?
- 9 A Yeah.
- 10 Q You would call a cab for him?
- 11 A Uh-huh.
- 12 Q You talked a little bit about the mental health
13 counseling he had to do?
- 14 A Yeah.
- 15 Q How did he get to the mental health counseling?
- 16 A My mother would take him or he would walk.
- 17 Q And did he go like he was supposed to?
- 18 A Yeah.
- 19 Q As far as you're aware that's the only counseling that
20 he attended, is that correct?
- 21 A Yes.
- 22 Q If TyQuan was to get out at 21. And if he was to stay
23 in the DJJ system. What do you think would be his best
24 interest when he gets out? As far as where he would go
25 and live?

1 A Live with his father.

2 MR. MCLAURIN: I don't have anything further, Your
3 Honor. Thank you.

4 Answer any questions Mister -- the solicitor might
5 have. I'm sorry.

6 THE COURT: Mr. Hill.

7 MR. HILL: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HILL:

10 Q Ms. Powell, TyQuan was placed on probation November of
11 2004, wasn't he?

12 A Yes.

13 Q He was given one years probation, wasn't he?

14 A Yes.

15 Q As part of probation he was required to do community
16 service?

17 A Yes.

18 Q Correct?

19 A Uh-huh.

20 THE COURT: You have to say yes or no, ma'am.

21 MS. POWELL: Okay.

22 Q Whose responsibility was it to complete that work?

23 A His.

24 Q He didn't complete it, did he?

25 A No.

1 Q In fact, he didn't complete it between December,
2 January, February, March all the way into August of
3 2005. He had all those months and he didn't complete
4 it, did he?

5 A No.

6 Q Whose fault is that? His. And that's the only this
7 that kept him from going to Virginia? Right? That's
8 what you said?

9 A Yeah.

10 Q If he completed the public service. He could have gone
11 to Virginia?

12 A Yes.

13 Q And that's where you wanted him to go? But he didn't
14 do it?

15 A No.

16 Q And that's his fault? Ma'am?

17 A Yes.

18 Q

19 MR. HILL: Thank you, that's all I have.

20 THE COURT: Mr. McLaurin.

21 MR. MCLAURIN: I don't have anything. Thank you,
22 Judge.

23 Q&A

24 BY THE COURT:

25 THE COURT: Ma'am, I have just a few questions for

1 you. Obviously, after this armed robbery charge that
2 occurred and the probationary sentencing -- your son was
3 placed on -- you understood that he had certain probationary
4 requirements, is that correct?

5 MS. POWELL: Yes.

6 THE COURT: You were fully aware of what those
7 were, is that correct?

8 MS. POWELL: Yes.

9 THE COURT: The Department of Juvenile Justice
10 Officers met with you and your son? And explained what was
11 expected, is that correct?

12 MS. POWELL: Yes.

13 THE COURT: Did they explain to you that you
14 needed to encourage with and support him, and assist him in
15 meeting those requirements, is that correct?

16 MS. POWELL: Yes.

17 THE COURT: And did you do that?

18 MS. POWELL: To the best of my ability.

19 THE COURT: Alright. I understand you had some
20 transportation issues?

21 MS. POWELL: Yeah.

22 THE COURT: But you dealt with those to the best
23 of your ability, is that correct?

24 MS. POWELL: Yes.

25 THE COURT: Did you encourage him to perform his

1 community service?

2 MS. POWELL: Yes.

3 THE COURT: Did he seem to be doing that?

4 MS. POWELL: Yes.

5 THE COURT: Were you aware that he was using
6 marijuana?

7 MS. POWELL: Occasionally.

8 THE COURT: Did you bring that to the attention of
9 the Department of Juvenile Justice?

10 MS. POWELL: Yes. She knew. When she gave him
11 the drug test.

12 THE COURT: Did you know about it, before July of
13 2005? That is when the test was given? And it came back
14 positive? Did you know, prior to, that time, that your son
15 was using marijuana.

16 MS. POWELL: No.

17 THE COURT: Alright. So that's the first notice
18 you had that he was using marijuana?

19 MS. POWELL: Yes.

20 THE COURT: Now, were you aware that he was -- I
21 think you said, That you knew that he was spending time with
22 Antonio Crawford, is that correct?

23 MS. POWELL: Right.

24 THE COURT: Was he spending time with Antonio
25 Crawford while he was on his probation, before July of 2005?

1 So we're talking about last year from January to July?

2 MS. POWELL: No.

3 THE COURT: Do you know how --

4 MS. POWELL: Wait a minute. Say that, again.

5 THE COURT: Last year, 2005 --

6 MS. POWELL: Uh-huh.

7 THE COURT: From January until July was he
8 spending time with Antonio Crawford?

9 MS. POWELL: No.

10 THE COURT: Do you know when he started spending
11 time with Antonio Crawford?

12 MS. POWELL: No.

13 THE COURT: When did you first become aware that
14 he was spending time with Antonio Crawford?

15 MS. POWELL: Around August, I think. September.
16 Something like that.

17 THE COURT: Alright. It was before he went away
18 to DJJ for the 60 days, is that correct?

19 MS. POWELL: Right.

20 THE COURT: Alright. So -- you said, You had met
21 Antonio Crawford?

22 Did you know how old he was?

23 MS. POWELL: I thought he was 17.

24 THE COURT: Did you ask your son about how old he
25 was?

1 MS. POWELL: No. I just assumed. Because, he was
2 kind of built small.

3 THE COURT: Did you have anything that would
4 indicate to you that Antonio Crawford was not an appropriate
5 person for you son to be with?

6 MS. POWELL: No.

7 THE COURT: Did you know about him spending time
8 with the other persons who are accused of being involved in
9 this situation? And that's Mr. Donte' Gurley and Mr.
10 Christopher Gurley?

11 MS. POWELL: I never heard of them, until this
12 happened.

13 THE COURT: After you heard their names, did you
14 know who they were?

15 MS. POWELL: No.

16 THE COURT: And so you wouldn't of recognized them
17 by sight?

18 MS. POWELL: No.

19 THE COURT: And you had no idea your son was
20 spending time with them?

21 MS. POWELL: No.

22 THE COURT: Did he ever mentioned their names to
23 you?

24 MS. POWELL: No.

25 THE COURT: You're aware that there is a -- there

1 are allegations that he had a weapon, a pistol? Were you
2 aware that he had a pistol?

3 MS. POWELL: No.

4 THE COURT: Had you ever seen that at any point
5 and time?

6 MS. POWELL: No.

7 THE COURT: Did you talk to the Department of
8 Juvenile Justice? Someone at the Department, one of the
9 officers of the Department of Juvenile Justice about what it
10 would take for him to be able to leave South Carolina and go
11 to Virginia?

12 MS. POWELL: Yes.

13 THE COURT: And they told you what?

14 MS. POWELL: That he would have to finish his
15 community service.

16 And, when, he finally, you know, he kept pushing.

17 He kept saying, He wanted to go.

18 We, finally, got -- we were getting the paperwork
19 ready. And that's when this happened.

20 THE COURT: You're talking about in December?

21 MS. POWELL: Uh-huh.

22 THE COURT: He didn't work, during the summer of
23 2005, did he? Work for someone? Work somewhere? Have a
24 job?

25 MS. POWELL: He's too young to work.

1 THE COURT: Okay. So there was no reason he
2 couldn't performed all the community service last summer, is
3 that correct?

4 MS. POWELL: Well, he went away in -- I can't
5 remember the month.

6 THE COURT: He went away? You're talking about,
7 when he went to DJJ?

8 MS. POWELL: Uh-huh.

9 THE COURT: He didn't go to DJJ until September of
10 2005. So was there any reason why he could have not been
11 working on his community service requirements during the
12 summer of 2005?

13 MS. POWELL: I don't know. I don't think so.

14 THE COURT: Did you encourage him to do that?

15 MS. POWELL: Yeah. Well, see -- for one thing by
16 me not having a car. It was to hot and walk. And, then, he
17 did go to summer camp that year.

18 THE COURT: Went to summer camp?

19 MS. POWELL: Yeah. But -- church camp.

20 THE COURT: How long was that?

21 MS. POWELL: Just a week.

22 THE COURT: Alright. Thank you, ma'am. You can
23 return to your seat.

24 MR. MCLAURIN: Your Honor, I thought he was put on
25 probation until August of '05? Am I wrong about that.

1 THE COURT: I thought he had 18 months probation.
2 Because he went on -- let me look at the records. He was in
3 court on the armed robbery on November 18th, 2004. And,
4 it's my understanding from his testimony it was an 18 month
5 probationary period.

6 MR. MCLAURIN: Yes.

7 THE COURT: Does your review of the records
8 coincide with that?

9 MR. MCLAURIN: It does.

10 THE COURT: Alright.

11 MR. MCLAURIN: Maybe I need to get that cleared
12 up. I thought he had that established about the community
13 service. I guess we can call one of the DJJ people, the
14 probation officer.

15 THE COURT: Would you like to call her, at this
16 time?

17 MR. MCLAURIN: Yeah. Yeah.

18 THE COURT: Alright. If you would place your left
19 hand on the Bible. And raise your right.

20 THEREUPON,

21 LACHARDA BURGESS-GREEN
22 after having been duly sworn, testified as follows:

23 THE COURT: Thank you, ma'am. Please have a seat
24 there in the witness stand.

25 And if you would state your full name and

1 occupation?

2 MS. 'BURGESS-GREEN: LaCharda Burgess-Green.

3 Probation Officer with the Department of Juvenile Justice.

4 DIRECT EXAMINATION

5 BY MR. MCLAURIN:

6 Q Ms. Green, I know you've, already, testified. We're
7 going to go straight to the point, here. How did
8 TyQuan do on his -- as far as community service goes?

9 A He did well on his community services. He just was
10 completing them slow. Very, very, slow. So I gave him
11 the opportunity to complete the hours with the Keep
12 Florence Beautiful Project. And the cleanup at the
13 regional office. And the cleanup at our local office.
14 Here on the 7th Floor. To do some hours. But he
15 didn't come everyday.

16 Q Was that a schedule that you kind of made with him on
17 community service?

18 A I did. Cause he was -- he was, originally schedule his
19 community service at the Girls and Boys Club. But he
20 didn't go. He went maybe -- he would go Monday. And
21 he wouldn't go back to the next Monday. So I -- then,
22 it was -- he had transportation problems, as far as
23 getting to the Boys and Girls Club. So every time a
24 special project would come up. I would chose him to
25 go.

1 Q So he had 18 months to complete that, right?

2 A That's correct.

3 Q There was no deadline. You need to complete it in a
4 certain period of time?

5 A No.

6 Q Except for the 18 months?

7 A Except for the 18 months.

8 Q And, prior to that, I think he got arrested, I think
9 you said?

10 A He did. And I think he maybe between the time frame he
11 got a probation violation that sent him on a
12 determinate sentence.

13 MR. MCLAURIN: I don't have any further questions.

14 CROSS-EXAMINATION

15 BY MR. HILL:

16 Q Would you clarify a couple of things for me, please?

17 Isn't an individual allowed to transfer from South
18 Carolina to another state while on probation, if all
19 the other conditions have been satisfied?

20 A Yes, sir. If the other states accepted him.

21 Q Are you familiar with testimony that was given earlier
22 regarding his inability to go to Virginia? Because
23 he's not completed his community service work?

24 A Yeah. I heard the testimony.

25 Q Was that accurate?

1 A Well, what I told Ms. Powell and Ms. Jones, and also
2 TyQuan. TyQuan talked to me one day.

3 He said, That he did not want to go to Virginia.

4 I told Ms. Powell and Mr. Jones, That it would be
5 best if TyQuan got some of those hours out of the way.
6 Before transferring to Virginia. Because if TyQuan
7 didn't complete the stipulations here. He wasn't going
8 to complete them in Virginia. And he would be
9 incarcerated. Before he can complete his probationary
10 sentence.

11 When I began preparing the paperwork. I spoke
12 with Mr. Jones on the phone.

13 And I told him, That I needed the address, and his
14 place of employment. Where he works. And I needed him
15 to let me know that he was willing to take TyQuan in.
16 Mr. Jones is suppose to give me a call back. And let
17 me know if he was going to take TyQuan. But I never
18 received a phone call back. So the paperwork was just
19 waiting on his word. That he would accept him into
20 Virginia, in his residence at his home.

21 Because I told him, I probably would have to bring
22 TyQuan back to court, to let the Judge transfer his
23 probation. And I would have to staff the case with my
24 county director and the staff.

25 Q So what stumbling blocks, if any, then did the

1 completion of the service hours caused of his
2 transferring to Virginia?

3 A None.

4 Q Okay. So the fact that he hadn't completed them
5 wouldn't stopped them from going to Virginia?

6 A No. They wouldn't have stopped them. I just -- that
7 was just my opinion to him that if I were him. I would
8 I would complete some of the stipulations here.

9 But, TyQuan didn't actually tell me that he wanted
10 to move to Virginia. TyQuan mother was having a hard
11 time.

12 And she told me -- she had a private conversation
13 with me. And she told me, why she needed him to go to
14 Virginia.

15 But his father didn't, actually, tell me that if
16 you send him I'll look after him. I'll make sure he
17 does this and he does that. His father didn't,
18 actually, tell me that.

19 MR. HILL: Alright. I thank you cleared that up.
20 Thank you.

21 THE COURT: Did you know how far TyQuan lived from
22 the Boys and Girls Club?

23 MS. BURGESS-GREEN: No, sir. I don't.

24 THE COURT: He lived at [REDACTED] ?

25 MS. BURGESS-GREEN: Yes, sir.

1 THE COURT: Do you know the address of the Boys
2 and Girls Club?

3 MS. BURGESS-GREEN: I don't.

4 THE COURT: Alright. Thank you, ma'am.

5 MR. MCLAURIN: We call Dwayne Jones to the stand.

6 THE COURT: Mr. Jones, please come forward,
7 please. Would you place your left hand on the Bible. And
8 raise your right.

9 THEREUPON,

10 DWAYNE JONES
11 after having been duly sworn, testified as follows:

12 THE COURT: Thank you, sir. And if you would
13 state your full name, please.

14 MR. JONES: Dwayne Edwards Jones.

15 THE COURT: How do you spell your first name?

16 MR. JONES: D-W-A-Y-N-E.

17 THE COURT: Thank you, sir.

18 MR. MCLAURIN: May it please the Court.

19 DIRECT EXAMINATION

20 BY MR. MCLAURIN:

21 Q Mr. Jones, you are the biological father of Mr. TyQuan
22 Jones, is that correct?

23 A Yes.

24 Q And you live in Virginia as we've discussed? Where do
25 you live in Virginia?

- 1 A Petersburg.
- 2 Q Petersburg, Virginia?
- 3 A Petersburg, Virginia.
- 4 Q How long have you been living up there?
- 5 A Approximately 16 years.
- 6 Q And you have one other child, I think, with Ms. Powell,
- 7 is that correct?
- 8 A Yes.
- 9 Q And what is her name?
- 10 A Cheneque J.
- 11 Q And how old is Cheneque J.
- 12 A 14.
- 13 Q Do you have any other children with Ms. Powell?
- 14 A No. I don't.
- 15 Q Okay. And give us a little bit of history. So that we
- 16 can get it down, as far as when TyQuan was living with
- 17 you. And when he came back here down to Florence?
- 18 A TyQuan and Cheneque both -- I got custody of TyQuan and
- 19 Cheneque J. both. Actually, Cheneque J. wasn't even in
- 20 school. She was four years old. TyQuan was just going
- 21 to kindergarten. They stayed with me up until the time
- 22 TyQuan was about 12. I had remarried since, then. And
- 23 I was going through some domestic abuse with my second
- 24 wife. That's how they ended up back with their mother,
- 25 to get them out of hostile environment, so to speak.

1 Q And so how old was TyQuan, at that particular point, do
2 you know?

3 A About 12 going on 13.

4 Q How did he do when he was in your custody?

5 A He did great. All of his teachers had nothing but
6 praise about him. His politeness. His willingness to
7 work. Willingness to help others. Classmates. The
8 whole nine. He was a AB student up until the fifth or
9 sixth grade.

10 Q And where did he go to school, there? In public
11 schools in Petersburg?

12 A Yes, sir.

13 Q Okay. Do you know the school?

14 A He went to Walnut Hill Elementary. And after that he
15 went to -- I believe he only went to Walnut Hill
16 Elementary.

17 Q And how about the little girl, Cheneque J. how did she
18 do?

19 A She did great. She's doing great right, now.

20 Q Alright. And tell me what your occupation is right,
21 now?

22 A I'm a Forklift Operator for Standard Motor
23 Incorporation.

24 Q How have you work for that particular company?

25 A Four years.

- 1 Q And you talked about some domestic difficulties.
2 That's behind you. You're divorced? All that's over.
3 That was several years ago?
- 4 A Yes.
- 5 Q Is that correct?
- 6 A Yes.
- 7 Q I think at some point you ended up getting
8 re-established and custody of Cheneque J. is that
9 correct?
- 10 A Yes.
- 11 Q When was that?
- 12 A That was, approximately, two years ago. She been in
13 Virginia, now, back in Virginia for two years.
- 14 Q And how is she doing?
- 15 A She's doing great.
- 16 Q Is she involved in extracurricular activities?
- 17 A She is.
- 18 Q What is she in?
- 19 A The school step club. Cheerleading. She just,
20 recently, went to a spring dance. She doing great.
- 21 Q Grades seem to be doing good?
- 22 A Grades are good.
- 23 Q How do you handle discipline?
- 24 A Take away what she likes. Telephone. TV. Outdoor
25 activities. Social activities.

1 Q I think, you told me at one point, you would work at
2 night, also, is that correct?

3 A That's correct.

4 Q And did you changed your work schedule?

5 A I did.

6 Q Were you trying to coordinate getting TyQuan up to
7 Virginia?

8 A Yes.

9 Q And what efforts were you making towards that?

10 A Well, I was in contact with Ms. Burgess on a couple of
11 occasions. And I was under the impression that there
12 was -- that he had to complete his community service.
13 Everything else could be transferred to Virginia. But,
14 he had to complete his community service. Because the
15 probation was started in South Carolina.

16 Q Do you think you could have made a difference during
17 that period of time?

18 A I know I could.

19 Q And tell me, now -- obviously, we're way down the road,
20 here. But, just, say that TyQuan went to DJJ. And was
21 there until he was 21. What's your vision for TyQuan
22 in the future, if he's able to get out.

23 A I can see TyQuan doing some after counseling, you know.
24 Family -- him as well as me, as a family. Getting him
25 into some vocational studies. You know, get him a

1 trade. So he can find him a job. You know, go get his
2 GED. So he can be a productive citizen.

3 Q Do you have contacts in Virginia in the Petersburg
4 area?

5 A I do.

6 Q In the construction business?

7 A I do.

8 Q And do you feel like you will be able to, possibly,
9 place him, or help him get a job?

10 A Given enough time, I'm sure I can.

11 Q Are you willing to take that on as a responsibility?

12 A I am.

13 MR. MCLAURIN: I don't have any further questions.

14 THE COURT: Mr. Hill.

15 MR. HILL: I do not, Your Honor.

16 Q&A

17 BY THE COURT:

18 THE COURT: Since November of 2004, Mr. Jones,

19 until this incident, did you have contact with your son?

20 Did you talk with him on the phone? Or visit with him, at
21 any point and time?

22 MR. JONES: We, always, stay in contact. You

23 know, more so, him and his sister. But, when she gets on

24 the phone with him. I get on the phone with him. We all

25 talk. We see him every summer. Because his sister comes

1 down here. And stays with his mother every summer. Every
2 Christmas break out of school. And every spring break.

3 THE COURT: Did he come and spend time with you,
4 during that period, from November of 2004 until December of
5 2005?

6 MR. JONES: Before -- yes. He came up for
7 Christmas. One year. I can't exactly confirm the date.
8 But he did come up for Christmas one year. Instead of the
9 other way around, instead my daughter coming down here. He
10 wanted to come up there for Christmas.

11 And I said, No problem.

12 THE COURT: And you were aware that he was on
13 probation from his appearance in court here on November of
14 2004, is that correct?

15 MR. JONES: Yes.

16 THE COURT: Were you made aware of the conditions
17 of his probation? And what was expected of him?

18 MR. JONES: Not so in depth. I know he had
19 community service. And I know he had to report to Ms.
20 Burgess every month. That's pretty much all I knew.

21 THE COURT: Did you talk with his probation
22 officer about his situation? How he was doing?

23 MR. JONES: A couple of times. Yes. I did.

24 And she said, He was doing great.

25 I mean other than his tardiness to school. And no

1 attendance in school, or than that.

2 She said, He's doing great.

3 THE COURT: Were you aware that he was using
4 marijuana?

5 MR. JONES: Not until after his urinalysis.

6 THE COURT: Okay.

7 MR. JONES: It came back positive.

8 THE COURT: How did you learn of that?

9 MR. JONES: Through his mother.

10 THE COURT: At what point and time, did you and
11 his mother began to talk about him coming back up? And
12 living with you in Virginia?

13 MR. JONES: She expressed to me that TyQuan was
14 really getting aggravated with the trouble that he was
15 getting into. He wanted to start over and change his life.
16 She talk to me. I talk to Ms. Burgess.

17 THE COURT: When was this?

18 MR. JONES: This was --

19 THE COURT: Was this before or after he spent the
20 60 days at the Department of Juvenile Justice?

21 MR. JONES: This was after.

22 THE COURT: Okay.

23 MR. JONES: I believe. This was after.

24 THE COURT: So it was just before this alledged
25 incident?

1 MR. JONES: Exactly. Approximately, two to three
2 weeks before this incident happened. We were trying to get
3 the ball rolling to bring him up to Virginia.

4 THE COURT: Alright. Thank you, sir.

5 MR. JONES: Thank you.

6 MR. MCLAURIN: Beg the Court's indulgence, one
7 moment please.

8 THE COURT: Yes.

9 MR. MCLAURIN: Judge, that be all we have, Your
10 Honor.

11 THE COURT: Alright. Anything further, Mr. Hill.
12 Any further witnesses?

13 MR. HILL: No, Your Honor.

14 THE COURT: Alright. Gentlemen, let me give you
15 about five minutes to gather your thoughts, to make your
16 final arguments. And so we will take about a five minute
17 break.

18 Mr. Hill.

19 CLOSING ARGUMENT

20 MR. HILL: May it please the Court.

21 Your Honor, for your assistance I will that my
22 argument will track the eight factors in Kent vs. United
23 States.

24 Your Honor, in examining this case. What keeps
25 coming back to me is the attorney for the State of South

1 Carolina is that we have a young man who's, repeatedly,
2 return to the behaviors what he participated in for last two
3 or two in half years. Despite being given some
4 opportunities, despite being an average, or perhaps a little
5 below average intelligence. But, also, while still
6 possessing mental and physical capabilities to succeed. He
7 continued to return to the behaviors which are not only
8 dangerous for him. But, also, result in an extremely
9 dangerous and deadly situation for Desmond Keith and his
10 father, Otis Keith. On behalf of Mr. Otis Keith, the
11 victim's father, I'd like to tell you that he is not able to
12 be present, today.

13 He asked me to reflect to the Court, that he
14 suffers from diabetes. Has pins in both of his ankles. And
15 was not able to come to Court, today. His absence, he asked
16 not to be held against him.

17 But the actions that were carried out in this
18 case, on December of '04 -- '05 have resulted in something
19 very tragic.

20 And while conscious of the arguments and
21 participation of the defense on the behalf of the State of
22 South Carolina. I would argue and urge this Court to please
23 treat TyQuan Jones as an adult for the following reasons:
24 In examining the factors of Kent vs. United States factor
25 that we first address is the seriousness of the crime of

1 whether or not the protection of the community requires a
2 waiver.

3 Your Honor, I think it's clear that the crime of
4 this case is characterized as most serious in our state
5 legislature. It's the most deadly and serious crime
6 recognized in this nation. And protection for the society
7 in the community of Florence is important. Because a young
8 person who continuous to run to the same life style in which
9 he engage, that are drugs and guns is a danger to society.

10 Secondly, it's clear that the case involves an
11 aggressive, violent, premeditated act. In this case,
12 there's evidence that language and threat were accompanied
13 during this armed robbery. It's evident, and I believe
14 clear that the killing was planned -- the robbery was
15 planned. And the killing was a reasonable expectation to
16 follow as the result of the dangerous and unlawful activity,
17 that each of the persons engaged in. It can't be anything
18 that was more violent and aggravated. And I think
19 willfulness and premeditation are shown by the evidence that
20 TyQuan along with the other codefendants engaged in a
21 planning of the robbery.

22 In fact, he carried a gun with him. No one made
23 him do it. He had it with him. And he knew the danger that
24 the gun could pose to others. I think those elements are
25 met or meet the criteria that are shown for premeditation.

1 Moving on to Number Three, regarding the
2 procuratorial merit of this action. The state believes that
3 the evidence is sufficient upon which the grand jury did
4 return an indictment against TyQuan Jones in this case. We
5 think, that's been established here in the hearing that we
6 had over the last day. And that the grand jury in Florence
7 County could reasonably expected to return an indictment in
8 this case on the charges of murder, armed robbery, and any
9 others that the Solicitor or the General Session case may
10 deem appropriate. The other codefendants in this case are
11 adults. And their cases are being handled in the Court of
12 General Sessions. They have been charged and arrested. And
13 they have been in prison in the Florence County Detention
14 Center. So their cases will be dispose of as adults in the
15 Court of General Sessions.

16 And one of the factors that Court -- state or
17 should be considered is the desirability of the trial and
18 the disposition of the entire of offense in the same court
19 for all the other people will be tried. TyQuan is the only
20 juvenile in this case. And in terms of leaving that
21 criteria of treating him as an adult is appropriate, also
22 treating the other people as adults in the same court.

23 Moving on to factor Number Six, Mr. Jones is shown
24 to believe to function as average or a little below average
25 educational level. I believe it was shown that he

1 understands right from wrong. I believe it was shown that
2 he was able to perform conduct of the law. I believe it was
3 shown that he suffers from any mental or physical
4 abnormalities that would cause him to deviate from doing
5 what is right or what is wrong. I did not heard evidence
6 that there was anything about his mental capacities that
7 caused him to be more influenced, commit crimes, than anyone
8 else. I did not hear any evidence that showed that he is
9 more susceptible to the pressures that could be placed on
10 him than any other person. Those I think satisfy and show
11 that he is a mature, sophisticated 15-year-old, now
12 16-year-old. Because of those he chose to engage in a life
13 style which involves drug, guns, and crime. We discussed
14 his lack of potential culpability because of the influence
15 of older adults in this case. But there is no evidence that
16 he was forced. There no evidence that he was coerce. There
17 is no evidence that he was promised anything to stay with
18 these people, to associate with these people, or to have any
19 relationship with them, whatsoever. He chose on his own to
20 do this. He chose on his own to whom he wished to
21 associate. He made a conscious, sophisticated decision
22 about his action. He was given an opportunity to serve a
23 probationary sentence. He was given opportunity to partake
24 in, at least, one counseling class. And he was given the
25 opportunity to learn some things during that class. There's

1 nothing to indicate from testimony to show he lack any
2 rehabilitation in those efforts.

3 We can't ignore the fact that the evidence shows
4 that he has lived in an environment that may not be
5 satisfactory, however, I must point out to the Court that
6 numerous people in this world lives in conditions of crime.
7 Lives in area where they are deprived of the necessities
8 that we take for granted every day. And they have thrived.
9 They've been productive. They have not engaged in the
10 activities that's Mr. Jones engaged in purposefully,
11 willfully, and intentionally.

12 While we hurt perhaps for what he's been in. No
13 one made him do it. That was his conscious decision. And
14 he was sophisticated and mature to make those decisions.
15 There was no evidence of any emotional effects. But there
16 is a pattern of criminal and illegal activity in his life.
17 For which he, and only he is responsible. You are aware of
18 his criminal record having seen that in his file report.

19 And, finally, that leave us to factor Number
20 Eight.

21 And as Dr. Pugh-Lilly said. I hope I'm quoting
22 her correctly. There is no guarantee.

23 Respectively, I would like to ask the Court to
24 consider her demeanor. While he was on probation. The
25 Department of Juvenile Justice preferred him to the

1 Department of Mental Health. And, then, made an evaluation
2 for services that should be provided. They provided the
3 services that they thought was appropriate. If any other
4 services had been needed, those, I believe, would have been
5 given to him. Perhaps they weren't given to him because
6 they thought he was rehabilitated. He was rehabilitated and
7 didn't take. Respectfully, why should we believe it would
8 take this time?

9 The argument which I am sure the Court is
10 familiar. And I know the Court has inquired about this. Is
11 the lengthy time he would benefit from services in the
12 Department of Juvenile Justice if he would to be waived up
13 to the Court of General Sessions. That, of course, at this
14 time is only 11 months. But, in reality is that enough time
15 to nearly rehabilitated. But that's the goal. And I
16 understand that's an important factor.

17 But, respectfully, the state believes that
18 rehabilitated efforts in this case are important or no less
19 important than all the other factors in Kent vs. United
20 States. The rehabilitated factor is not given more weight
21 than any other factor. It is one factor standing with all
22 the other factors.

23 A part of rehabilitation requires that a person
24 takes responsibility for his or own action. And shows some
25 initiative on his own in correcting his behavior. And while

1 it's one thing to state you goals. It's, certainly, another
2 to demonstrate your intent to carry out those by your
3 actions. And I think evidence is sufficient to show that
4 Mr. Jones' words, while they might have been good. Did not
5 support his actions.

6 He was able to take advantage of some programs and
7 some assistance. And he was given an opportunity to really
8 think about the course of his life, during the two months or
9 so he spent on probation revocation sentence. He came back
10 and said some things good. But he sure didn't live them
11 out. Because the first thing he did. Was get his gun. And
12 why else is he going to get the gun, unless he is up to no
13 good? And a teenager with a gun I submit, considering his
14 background and his history was a dangerous, dangerous thing.
15 He didn't take it upon himself, which is the first step that
16 has to be made to rehabilitate yourself. You can have the
17 support. You can have the classes. You can have the
18 encouragement.

19 But, unless you make a conscious effort to do it.
20 It's not going to take. He said it. He had the chance.
21 But he didn't take those steps. And within three weeks,
22 after what should have been the biggest wake-up call of his
23 life. He committed the most horrendous crime, voluntarily,
24 willingly, intentionally. Did not run. And in fact, hid
25 the gun. Didn't tell anybody if it was an accident. He

1 didn't do anything. He didn't hang around. In fact, went
2 back and found the gun. After he threw away. And, then,
3 buried it. I can't ignore those facts. Rehabilitation is
4 important. But I can't ignore those facts. I can't ignore
5 the fact that there's a dead man. And a family has lost
6 their son. And I don't want that to be lost. And I know it
7 won't be on this Court.

8 So when you consider all these factors together.
9 What's in the best interest of the child is important.
10 That's the purpose of the juvenile system. But it, also,
11 weighs even less as this fact to what's in the best interest
12 of the community.

13 Your Honor, respectively, the state believes that
14 it's in the best interest for TyQuan Jones be treated as an
15 adult for the actions that he committed. He's
16 sophisticated. He's mature. He's intelligent, to do what
17 he did. And the state, respectively, request that the Court
18 consider all these actions, all these factors, and waive him
19 up accordingly.

20 THE COURT: Thank you, sir.

21 Mr. McLaurin.

22 CLOSING ARGUMENT

23 MR. MCLAURIN: If it please the Court.

24 THE COURT: Yes.

25 MR. MCLAURIN: As the Court is well aware. I've

1 been involved in this case, now three or four months. Been
2 appointed on the case. But, it's really been a great honor
3 and a pleasure to meet TyQuan and his family. I've enjoyed
4 getting to know them. Ms. Powell have been great to work
5 with. She's been at every appointment I've asked her to be
6 at. And she seemed very sincere about her love for her
7 child.

8 Unfortunately, her life has been misguided. And a
9 15-year-old needs supervision. And, frankly, he didn't have
10 it. And she would be the first one -- as she said up on the
11 stand. And admit that he didn't have what he need. And Mr.
12 Jones, he and I have been speaking over the last several
13 weeks, I've been very impressed with him, his role in
14 TyQuan's blood sister. How well she's really done. The
15 extracurricular activities she's involved in. The
16 discipline that he's provided. I think, he can be a great
17 influence in TyQuan's life. And he was trying to get there.
18 But, unfortunately, community services and stuff like that
19 prevented him from being able to get TyQuan back up to
20 Virginia. Might not be here if we had that situation.

21 We've, also, spoke about Floyd Smith who is the
22 half brother. Who is, also, here behind us. He's in the
23 military. Served in Afghanistan. He has siblings that has
24 be successful. He has it in himself to do that. And we
25 know that from his history.

1 But, Your Honor, is well aware I have a new child.
2 And the child is 17-month-old. And one of the things that's
3 been hard for me to accept of the child is other people's
4 opinions, professional opinions about my child. Sometimes I
5 think I know more than they do.

6 But, for example, a week ago my child was sick.
7 Had a temperature. Fever. Runny nose. All the things that
8 you need an antibiotic for.

9 So I told my wife, Take him to the doctor. He
10 needs the antibiotic.

11 She goes to the doctor.

12 The doctor says, No. He just got a cold. Doesn't
13 need any antibiotic.

14 I said, Well that doesn't makes sense to me. You
15 know, look at all these symptoms. That doesn't make sense
16 to me. Then, I started thinking. We have a professional
17 here. A doctor that's been to school. Seen children.
18 Dealt with children. And he knows from his experience.
19 What to do for children. And how to handle children.

20 And I ask the Court -- I started thinking about
21 this case. You know, that's what we have in this case. We
22 as adults sometimes don't understand 15-year-olds. What
23 goes on in their minds. But we have a trained professional,
24 the only trained professional in this courtroom. The state
25 legislation says, Look for these hearings you need somebody

1 to give an evaluation. A pre-waiver evaluation. It's
2 necessary. We need for this to happen. So you've got Dr.
3 Pugh-Lilly. Who's this person who is trained and
4 experienced to tell us adults. Okay, this is what goes on
5 in a 15-year-old mind. This is what happens. This is how
6 they reacted. It's different. It's not logical to us
7 sometime as an adult. But, it's logical when you give her
8 experience. And she tells you what a typical 15-year-old is
9 like. And when she tells you about TyQuan Jones. First he
10 was remorseful for what happens. He got upset during the
11 interview. The solicitor wanted to know, well, was he
12 sincere.

13 And she says, Yes. He was sincere. That I've had
14 experience. And I know he was sincere.

15 And if she says it. Well, I've got to believe
16 it's true.

17 She says, Because he cooperated with the police.
18 That, also, shows that he's sincere. He had nothing to
19 gain. He was hurting himself by cooperating with the
20 police. And he was sincere. He apologized in his
21 statement. So he was an honest person. Coming forward.
22 Trying to rectify a wrong that he knows he had done. He's
23 not antisocial according to Dr. Pugh-Lilly's report that she
24 did. He doesn't show those characteristics. He's mature.
25 And while solicitor thinks that helps his case. We think

1 that's very important. This is not somebody who can't be
2 changed. Who can't be molded into a different person.
3 Given the chance. Given the opportunity. He's mature
4 enough. He's smart enough. He can be taught these things.
5 He can give counseling. We just need to give him a chance
6 with adult supervision. With a considerable period of time
7 where he would have counseling. Have the services that he
8 need. So the question can he be rehabilitated? Well we
9 don't have any doubt about that. Because we got a
10 professional. Somebody who is appointed by the legislature
11 to do these type of things.

12 And says, Yes Court. Yes, Solicitor. This person
13 can be rehabilitated.

14 He can be. Because of my experience. Because of
15 my interview. Because of his family. We know these things
16 to be true. Why it seems that his criminal history may play
17 into.

18 She says, Well, that's logical for an adult. But
19 not for a 15-year-old. Because if you put a 15-year-old out
20 there with no adult supervision. It doesn't matter how much
21 counseling they've had. How much therapy they've had. You
22 put him at home by himself at night. And Mr. Tony Crawford
23 come blowing the horn.

24 Come on. Come on, TyQuan. Get in the car. Let's
25 go buddy. We're going to have some fun. This is real fun.

1 Coming on.

2 What's he's going to do? He's going to go out
3 there. He needed the support at home. That's what the key
4 to the case is. That's the key to what the psychologist
5 said. You can't just have the therapy. And send him into
6 an home environment where there's nothing there. So that's
7 what he would be provided in the juvenile system. If he was
8 in the system. So the question that we have to ask is --
9 and nobody can answer. I think Lieutenant Swaggard can -- I
10 can't say for sure about. But what happens if he goes to
11 DJJ. Get's out at 21. What we have -- give us as guides to
12 determine maybe how that outcome would be. Well, we know
13 when he's with his father. When he's in a supervised role.
14 He's got it in him to be a good person. He has got it in
15 him. It's some people -- it's some juveniles that don't
16 have it in them. And I guarantee you if he didn't
17 Pugh-Lilly would say so. The great DJJ workers, Ms.
18 Williams and the others they would say so. Well this guy
19 doesn't have it in him. But we got professionals --

20 We got DJJ saying, We can offer him some things to
21 where he can be a better person. And he's got it in him to
22 do this.

23 And like I said, We know that from his father.
24 This didn't start until he was twelve. His behavior didn't
25 start until he was in an unsupervised setting with his

1 mother. So he's in this setting with his mother.

2 And like I said, You got these other people that's
3 coming around him that can influence you.

4 Lieutenant Swaggard said -- I said, Could Tony
5 Crawford, be the type person that could influence a person
6 like TyQuan Jones?

7 Sure, he could be. Yeah, that's the type person
8 that would influence somebody like that.

9 I got to believe that an officer who tells me that
10 -- been on the force for 20 years. If he could be
11 influenced by somebody else. So I think that's important
12 for the Court to consider. I think the Court needs to
13 consider, too, that what we would be talking about is some
14 boy who has been in jail for six months. Who's 15. Who's,
15 already, done six months. He could be confined until he is
16 21. Big difference between 15 and 21. You got all the
17 services that could be provided to him during that period of
18 time. No matter what we can all say we're different between
19 21 and 15. We know that by fact. But if he's got somebody
20 in behind him. He's got the Youthful Offenders time which
21 provides as Dr. Pugh-Lilly says, all the services he would
22 need. Family counseling. Things like that. And I would
23 love to know what this young man would be like if he wasn't
24 a drug addict. I'd love to know if clean TyQuan Jones what
25 he would be like. And that's what DJJ will provide.

1 Unfortunately, he failed a drug test while he was on
2 probation. He never had any drug test. He never had any
3 follow-up in regards to that. And that's what this young
4 man need. He needed somebody to help him with a problem
5 that he has. So he's 15. He's on drugs. He's got a mother
6 who's not there. What chance does he got? I'll tell you the
7 chances he got. The chances he got is to be with people his
8 age. In a setting in DJJ environment, where they can work
9 with him.

10 And as I said, Clearly, everybody says, He can be
11 molded. We can turn him into somebody. We can do this.
12 Gets off drugs. Gets clean. Gets all those things going
13 for him. And, you know, two or three anger management
14 classes just aren't going to cut it. Even more than that,
15 two or three anger management classes and being put back in
16 that same environment is a tough thing. And, you know,
17 being 15-years-old, he needs to have somebody going in
18 behind him. Unfortunately, he didn't have those things.

19 You've, also, heard and you've got a letter. We
20 didn't talk about it. But, I want to make sure that they
21 know that Ms. Bates is the mentor there at DJJ facility.

22 It says, Great kid. Can't complain. Always do
23 wonderful things there. You got his report card from the
24 DJJ facility. Says, he did good in grades. Has very minor
25 discipline problems. Since then, no discipline -- serious

1 disciplinary. So we got a record, now, a six month record.

2 We can say, Okay. Let's see how's he done. He

3 done good. Real good. Done good. Alternative school.

4 People say he done good in alternative school. He's was a

5 little late at times. He was truant at times. But, my

6 gosh, the boy was having to walk. He was having to take

7 taxis. He was walking to his own counseling sessions at

8 times. I commend him for just walking to those things. And

9 just being there. I don't know what I would have done.

10 And, Judge, then, we get to the crime itself. And

11 I understand. We understand, completely, that it's a

12 situation that's very severe. And he's very sympathetic and

13 apologetic for what happened. He said that in his

14 statement. He voice that throughout. And, I think, that

15 shows a lot of character about him. I think, it shows a

16 lot, at least, a 15-year-old. And he's the one who's given

17 the police all the information they need. He's cooperated.

18 He's acted more mature and accepted more responsibility.

19 Therefore, rehabilitated than these 23 and 25-year-old guys,

20 that give four or five different statements.

21 Tony Crawford comes in and kind of laugh, they

22 said, during the interview.

23 And here he is. Get's upset at the beginning of

24 his statement. Who knows how a 15-year-old reacts.

25 When you say, Okay. Did you kill somebody or hurt

1 somebody?

2 He was forthright. He cooperated.

3 Lieutenant Swaggard said, He appreciated that.

4 He, probably, need some consideration. Because he helped
5 out. They would not have the gun. If it had not been for
6 him. So I think he deserves some credit for that. For
7 being a mature individual. For showing and stepping up to
8 the plate. And taking responsibility.

9 And as I said, There was no motive for that. It
10 was against his best interest. So there's the test right
11 there. Whether he's sincere.

12 So if you look at the crime itself, though. And,
13 clearly, this was not somebody planning to go out and kill
14 this man. Kill the victim. It was something that happened
15 that was an accident. You heard him say something about
16 some words that were put with what was said that happened.
17 Well the words from Jennifer Anderson, the witness, gave a
18 statement was from Donte' Gurley.

19 Get this "MF". I want him. Donte' Gurley had a
20 motive. He was the one who owed his brother -- the victim
21 owed his brother.

22 He was the one who said, Alright. Let's get
23 together. Let's do this thing.

24 Lieutenant Swaggard said, Yeah. I think they
25 wanted to get with him. Because he was a juvenile. They

1 wanted to take advantage of him.

2 TyQuan -- Tony Crawford -- said, Yeah. He's the
3 type of person that would take advantage of you. He would
4 influence you. You saw the letters in evidence that the
5 Gurleys said.

6 He would have never pulled that gun, according to
7 the Gurleys. If it had not been for Tony Crawford telling
8 him to, and influencing him to.

9 And I think that's a mitigating fact the Court has
10 to consider here, today. And I don't think TyQuan is the
11 type person that's trying to shake responsibility. I asked
12 Dr. Pugh-Lilly that.

13 Just the type person to say, Oh my mother was
14 gone.

15 Oh, these boys were influencing me.

16 Oh, you know, all these other things to try to
17 shake responsibility. No. He's not saying that. He didn't
18 say that himself. His lawyers did. His advocates did.
19 People who have seen him in life. Or speaking for him.
20 This is a quiet young man, respectful according to
21 everybody.

22 You heard Officer Mack say, Respectful. Great in
23 our program.

24 So, Judge, bottom line is this young man has a
25 chance. He can be a better person. We owe it to him to

1 give him a chance to get the services he did not get,
2 initially, while he was on that probation. And while it
3 seems some of the ways he did in probation may seem
4 illogical to us. For a 15-year-old, who does supervision
5 according to Dr. Pugh-Lilly that a pretty typical situation.

6 So, you know, kind of the elephant in the room. I
7 mean, he doesn't really stand much of a chance. They'll
8 tell you this in General Sessions. He's going to get 15, 20
9 years of General Sessions. We all know that. We're sitting
10 here lying to ourselves.

11 Does this young man who was 15 when he committed
12 this, who was on drugs at the time he did this, and when
13 everybody else was on drugs and high when this happened?

14 He said, I didn't mean to do this. Who has,
15 unfortunately, a situation that he's got at his house. He
16 doesn't deserve that fate. The fate he deserves is to stay
17 in jail until he's 21. Come out a new man. Get services.
18 Get off drugs. Make himself a better person. Which is
19 shown he can do. And by the evidence we've got from DJJ,
20 he's doing right, now.

21 Ask the Court to let him continue that. Have
22 mercy on this young man. And let him show the Court that he
23 can be a responsible individual.

24 Thank you, Your Honor.

25 THE COURT: Thank you, Mr. McLaurin.

1 This is most certainly, the most serious hearing
2 that exist in our Juvenile Justice System. And, obviously,
3 the time we spent involved in this process is indicative on
4 how serious it is.

5 I've heard a great deal of evidence, yesterday and
6 today. And I got to tell you. I didn't sleep so well last
7 night. This case was on my mind. This young man was on my
8 mind last night. And I thought about what I was going to be
9 asked to do by both the state and by Mr. McLaurin on behalf
10 of TyQuan, today.

11 And I thought about how I would analyze this.
12 And, you know, I am -- for the record. I am required to
13 analyze this case pursuant to the Kent Case. And consider
14 those factors that the State of South Carolina have talked
15 about in their closing arguments. That is the basis that I
16 must address these issues on. There is no other way for me
17 to analyze this case, but under those factors.

18 I've listened, carefully, to the evidence. And
19 one of the things that impressed me as I've listen to the
20 evidence. Is repeatedly what I have heard about this young
21 man. Is that he is a nice, pleasant, polite, respectful,
22 quiet, unassuming person. And, I think, that everybody who
23 has had contact with this young man in the settings that are
24 structured would say that about him. And would be stunned
25 and are stunned that this nice, polite, quiet, respectful

1 young man is accused of this very serious offense.

2 As to the factors I must consider, the first
3 factor is the seriousness of the alledge offense. Related
4 to the community and whether the protection of the community
5 requires a waiver. I cannot imagine and the law does not
6 contemplate and/or serious offense than murder and armed
7 robbery. It is, of course, the most serious of offenses
8 against persons. And so it is a great concern for this
9 Court and to the community. Because of those offenses, and
10 the question I must analyze is whether the protection of
11 this community requires waiver. And that's a strong
12 statement.

13 What I'm, really, looking at is are there
14 substantial concerns I should have about this young man.
15 About the likelihood that he would return to this community
16 in an un-rehabilitated fashion. And whether he repose a
17 substantial danger to the community in that situation.

18 And this, of course, the ultimate question. And I
19 will think about that. And talk about that a little more as
20 I analyze the other factors.

21 The second package was whether the allege offense
22 was violent, premeditated, committed in an aggressive manner
23 or with malice. Whether this was no doubt a violent
24 offense. Murder and armed robbery utilizing the gun is, of
25 course, a violent offense. Was it premeditate? The

1 evidence established in this hearing that the robbery itself
2 was a planned event. It was not a happenstance event. It
3 was not something that was a spur of the moment thing. It
4 was, clearly, an event, an action that required a plan. And
5 because there was a decision to have a weapon. A gun.
6 There's, clearly, the reasonable potential that someone
7 would be injured -- seriously injured or killed in the
8 process of committing that robbery.

9 I do not in any way want to indicate that I
10 believe that the death of victim was premeditate. Because I
11 don't believe that the death of the victim was premeditate.
12 From the standpoint that someone went about with the intent
13 to murder the victim. What I do mean to say is that when
14 someone commits an armed robbery with a gun. There is a
15 reasonable expectation or potential that that gun could be
16 used in the process. And that someone could be injured or
17 killed.

18 And was this committed in an aggressive way and
19 with malice? Malice is, of course, defined as hatred or ill
20 will or volatility. It's the intentional doing of a
21 wrongful act without just cause of excuse, with intent to
22 cause injury. And, clearly, from the events that occurred.
23 Malice, the aggressive manner in which this crime was
24 committed. The use of the weapon, would indicate to me that
25 factor is, of course, found to exist in this analysis.

1 I'm suppose to make a decision about whether the
2 alledge offense was against persons or against property with
3 the greater weight being given to offenses against persons,
4 especially injuries resulted. And, of course, that speaks
5 for itself. It was, of cours, an offense against a person.

6 I'm supposed to think about the prosecuted merit
7 of the complaint. That is whether there's evidence on which
8 a grand jury maybe expected to return an indictment.
9 Obviously, a great deal of time was spent in this hearing.
10 Talking about the evidence that would be presented, with
11 regards to the allegations and the criminal conduct of this
12 defendant. And after analyzing that, considering all the
13 evidence presented both the testimony that was presented as
14 evidence, and these exhibits that have been entered into
15 evidence.

16 I do find there is evidence upon which a grand
17 jury would be expected to return an indictment. The
18 desirability of trial and disposition of the entire offense
19 in one court on the juvenile's associates and the alledged
20 offense are adults who will be charged with the crime. From
21 the standpoint of my analysis, this is the least important
22 thing to me. It is, certainly, a more efficient, perhaps,
23 to try everyone at one time. But that is not a motivating
24 factor in any decision which I would make in this case.

25 It is, of course, a factor that I must consider.

1 And under the Kent Case, it is of equal weight to all other
2 factors. But, I say, clearly, that is not a factor which
3 bears heavily on any decision that I would make in this
4 case.

5 Clearly, there are three adults charged with the
6 same crime arising from the same event. And, clearly, it is
7 easier -- not easier, but more of an efficient way to
8 dispose of these charges in the same court. And so to that
9 extent as the state stated in its closing argument that is a
10 finding which I can't make.

11 The next factor is, clearly, very important to
12 this Court. And I have a great deal of thought about this
13 as the testimony was presented, particularly, the testimony
14 of Dr. Pugh-Lilly. And that is the sophistication and
15 maturity of TyQuan as determined by consideration of his
16 home. His environmental situation. His emotional attitude
17 and his pattern of living. And I want to express that I am
18 very sympathetic this young man's opportunities or lack of
19 opportunities. That is to say he may not have had as many
20 opportunity as other young people have. He may not have had
21 the discipline in his home environment that other young
22 people have had. He may have not had the encouragement that
23 other young people have had. And I am fully cognizant of
24 the testimony of his mother. Who've expressed candidly to
25 this Court her own addiction issues and expressed how that

1 would have affected her ability to be an effective parent
2 for this young man.

3 As I listen to the information provided by Dr.
4 Pugh-Lilly. And I've had an opportunity before we began
5 this trial to, carefully, review all the information of Dr.
6 Pugh-Lilly and the Department of Juvenile Justice. Because
7 it was a part of this Court's file. I have my own copy that
8 I have read. Not once, but twice. And, then, listened
9 carefully to the testimony of Dr. Pugh-Lilly. And I have
10 given great weight to the information. She has provided to
11 this Court in its entirety.

12 Clearly, this young man's maturity and
13 sophistication are consisted of someone of his own age. I
14 don't believe he is more mature. Nor do I believe that he
15 is less mature than someone of his own age. Whatever normal
16 means, normal is what Dr. Pugh-Lilly talked about. And she
17 felt that he was as mature as he would be expected to be.
18 I'm cognizant that this young man lives in a relatively
19 undiscipline environment. And even expressed that he
20 thought he would be better living with his father in a more
21 discipline environment. And I have to say that that was a
22 significant -- and I believe very mature realization. That
23 to me almost was indicative of maturity greater than 15
24 years. I'm not holding him to any greater maturity level.
25 But it certainly shows incite. And it indicates to me that

1 he is very bright and capable young man. He was concerned
2 about his association with what Dr. Pugh-Lilly defined as
3 maladaptive. We would call bad influence. But at any rate
4 he, again, had incite that being with those people was a bad
5 thing. It was bad him. Said it was bad for his future.
6 And it placed him in a dangerous position.

7 I am concerned about his realization. And from
8 the testimony that was presented here, today. I believe,
9 those realizations came about during the time. Or that he
10 was in custody and confined at the Department of Juvenile
11 Justice in Columbia for his violations of his conditions of
12 probations from September to November. Clearly, he had, at
13 least, some sort of realization or epiphany that his life
14 had to change. The things that he was doing. The things
15 that he was involved in were not appropriate. And that to
16 me is indicative of rehabilitation. Because he realized it
17 was his home environment. He realized that it was the
18 people that he was hanging out with, that was contributing
19 to his delinquency. And I commend him for that. He,
20 clearly, understood the difference of what was right and
21 what was wrong. That demonstrates that. He, clearly,
22 understood, apparently, that he would be influenced by other
23 people. Because he indicated that he should not be around
24 those people. I agree that there was information provided
25 to this Court that he was any more or less accessible to

1 that influence. And I have to say his involvement was not a
2 forced situation. I mean he hung out with people who were
3 maladaptive. It was his choice. And so I am struck. and I
4 supposed disappointed that after he had this realization --
5 this epiphany about his life. And what was best to help him
6 be the very best person that he could be. That he,
7 immediately, went back to that lifestyle after he was
8 released, November 21, 2005. And by the information
9 provided to this Court, through the evidence he regain
10 possession of his handgun, which is a great concern for me.
11 Given the fact that he had had this realization.

12 And, then, within two weeks his alleged offense
13 involved in this very serious crime. I'm concerned about
14 his pattern of living. I'm concerned about his drug abuse.
15 And the abuse -- I don't mean to indicate that I think that
16 he was addicted to drugs. But, clearly, he abused drugs.
17 And there's, clearly, information before this Court that he
18 engaged in criminal activities to support his use of drugs.

19 In general, I have to say that what I see this
20 young man who seems to be someone, everyone likes and
21 respect, and feels good about. I see this young man, also,
22 who seems to have an attitude of disregard for the rights of
23 other, for the property of others. And it's, almost, as if
24 he knows what to say. And knows what's right. And knows
25 what he should do. Clearly, but fails to take the steps of

1 doing those things. That causes me to be concerned about
2 his abilities to be rehabilitated.

3 I am very cognizant of his prior record. And I
4 am, obviously, aware of his prior armed robbery addiction
5 and his prior drug offense addiction. And as I have said, I
6 am very concerned about proximity and time of his release
7 from the Department of Juvenile Justice on November 21,
8 2005. And his recondition of the very -- alleged
9 recondition of the very offense that led him to be involved
10 with the Department of Juvenile Justice in the first place.
11 It wasn't a different crime. It wasn't a lesser crime. It
12 was the crime that was planned was an armed robbery. The
13 very thing that he had just been convicted of the year
14 before. The very thing that he was on probation for. The
15 very thing that his violation led him to spend 60 days at
16 the Department of Juvenile Justice. Hopefully to help him
17 understand the consequence of his actions and would cause
18 him to reform his ways.

19 So I am left with the analysis of the last factor,
20 which is prospect for adequate protection of the public, and
21 likelihood of reasonable rehabilitation of the juvenile. If
22 he is found to have committed the alledged offense by the
23 use of procedures, services, and facilities currently
24 available to this Court.

25 Clearly, Dr. Pugh-Lilly's report would indicate

1 that this young man is an excellent candidate for
2 rehabilitation. But, even, she noted in her report that
3 there was -- at the time, she did the report eleven months
4 within the Juvenile Justice System that she is familiar with
5 that rehabilitation efforts could be made. And I note that
6 it is, now, about nine months. Because this young man will
7 turn 17 on March 30, 2007. And when she was questioning
8 concerning this -- she, of course, said what I knew she had
9 to say. What anybody would say. There are no guarantees in
10 this life. There are no guarantees that rehabilitation
11 would be effective.

12 Now, I thought about the factors that she talked
13 about. With regards to positive treatment outcomes within
14 the Juvenile Justice System. She, of course, noted the fact
15 that he was very cooperative with law enforcement, agency
16 personnel. And manifested a positive motivation towards a
17 preference for rehabilitated services.

18 But as I think about that statement and I,
19 clearly, understand it. And appreciate the fact that Mr.
20 Jones did as was testified to. Step up. Step forward. And
21 take responsibility and deal with this. And I'm, also,
22 cognizant of the fact that there was a significant -- well
23 there was some delay in his efforts to fully disclose what
24 he knew about this alledged crime or his alledged
25 involvement in this crime.

1 And I'm, also, cognizant that he's 15 years of
2 age. And, quite frankly, I don't know at 15 years of age,
3 or 20 years of age, or 40 years of age, what I or anyone
4 would do if faced with the same situation in which this
5 young man found himself. But I do have -- I am aware of
6 that positive treatment outcome consideration of factor.
7 And I very aware as Mr. McLaurin, very eloquently pointed
8 out in his zealous final argument that he -- that TyQuan has
9 done very well, at the time that he's been at the Department
10 of Juvenile Justice.

11 And I'm, also, cognizant that when he functions
12 within a structured atmosphere. School. DJJ. Where people
13 are with him. Watching him. Looking after him. He does do
14 very well. He has found to be a responsible, respectful,
15 polite young man. And he does well, not only in his
16 behavior. But in his school work, which tells me he that
17 has the ability to do those things.

18 I think he has the capabilities to excel in his
19 education and training for his life. I think that he is
20 willing an able to be involved in counseling. And he is
21 most certainly motivated, at this time, to be rehabilitated.

22 But, you know, I can't help but feel like he was
23 motivated previously to be rehabilitated. Particularly,
24 during that period of time, he spent at the Department of
25 Juvenile Justice from September until November of 2005.

1 And as I said before, I think he realization from
2 that period of time would, clearly, indicate that process
3 had had an impact on him. That he discover, understood
4 himself, perhaps, in a way that he had not before. But, he
5 failed to carry through. I'm aware that he's accepted
6 responsibility for his past offenses. And I'm aware that he
7 has expressed appropriate feeling of remorse for past
8 offenses. He has express according to the information
9 provided to the Court in this hearing -- remorse for this
10 event. And I have no doubt in my mind, young man, you are
11 sorry from the bottom of your soul for what has happened. I
12 know that TyQuan is afraid of incarceration. I know that he
13 has expressed appropriate feelings of empathy. I do not
14 believe that he has any type of psychiatric disorder which
15 would prevent him from benefiting from rehabilitative
16 service. I am certain that there is no reason as Dr.
17 Pugh-Lilly suggested to believe that rehabilitation would
18 not work for this young man.

19 But I am struck by the fact that Dr. Pugh-Lilly
20 testified that there was 11 months to work within the
21 Juvenile Justice System on this, at the time of her report.
22 And up to 54 months as I understood her testimony and her
23 report to work on rehabilitation through the entire justice
24 system. That is a transfer to the Department of Corrections
25 Youthful Offenders Program.

1 And I, also, have considered the negative factors.
2 That Dr. Pugh-Lilly talked about. And that is that TyQuan's
3 charge with a very serious and violent offense. That would
4 reflect a lack of and concern for the well being of others
5 and a disregard for human life. And that persons who
6 commits such action are more difficult to rehabilitate.
7 That persons who chose to associate with other maladaptive
8 -- with others who are maladaptive. That is persons who
9 commit crimes are more difficult to rehabilitate. And
10 TyQuan has by the information provided by this Court has
11 done that. That he has exhibited a series of delinquent
12 offenses and engaged in a pattern of increasingly, risky,
13 and violent behaviors. And that repeat offenders that has
14 established any social lifestyles are less likely to benefit
15 from rehabilitation. That he has abused illicit substances
16 and alcohol. Increasing the likelihood that rehabilitation
17 would be of less benefit. Or that he would be less likely
18 to benefit from that rehabilitation.

19 I have substantial concerns about TyQuan,
20 properly, availing himself of his rehabilitative
21 opportunities. Specifically, thinking about, again, the
22 proximity and time of his release on November 21, 2005 the
23 date of the crime. I have concerns that, as I've said,
24 while TyQuan can recognize his deficits. And recognize his
25 needs. He lacks commitment to change to those things. In

1 essence, I have substantial concerns about his lack of
2 commitment to rehabilitation based upon his past conduct.

3 Given those factors and my analysis of them, and
4 the concerns which I have expressed to you. I must conclude
5 that the protection of this community does require waiver.
6 And I will so order.

7 Yes, counselor.

8 MR. HILL: Your Honor, as to the Court's order,
9 since he is now eligible to be charged as an adult. I
10 believe that he can be hand over to the Department of
11 Florence County Detention Center on these charges.

12 And we ask that bond not be set, at this time.
13 But he is entitled for a bond to set before the Circuit
14 Court, Judge, at the appropriate time.

15 THE COURT: Mr. McLaurin.

16 MR. MCLAURIN: However, Your Honor, sets it
17 appropriately. I don't have no position on that.

18 THE COURT: Alright. I am not comfortable in
19 setting bond. So I am declined to set bond here, today. It
20 is extraordinary for the Family Court to set bond here,
21 today. So I am declined to set bond.

22 I do find it is appropriate as I've made the
23 decision for the waiver to occur. That it is appropriate
24 that he been taken into custody. And be placed with the
25 Florence County Detention Center, until further arrangements

1 are made concerning the custodial status.

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

3 CERTIFICATE OF REPORTER

4 I, Thelma Salters, hereby certify that I reported
5 the preceding case entitled the State v. TyQuan Jared Amir
6 Jones Docket No. 06-GS-21-1257 at the Florence County
7 Courthouse, July 13-14, 2006.

8 I FURTHER CERTIFY that the foregoing pages 6
9 through 289 constitute a true, accurate and full transcript
10 of said trial.

11 I FURTHER CERTIFY that I am not employed by any of
12 the parties hereto and I have no financial interest in the
13 outcome of said case.

14 IN WITNESS WHEREOF, I have heretofore set my hand
15 and seal at Richland County on this 11 day of February,
16 2008.

17 

18 Thelma Salters, Court
19 Reporter and Notary
20 Public for the
21 State of South
22 Carolina my
23 Commission Expires:
24 May 02, 2015
25

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE

2006-GS-21-1257

THE STATE OF SOUTH CAROLINA :

-VS- :

TRANSCRIPT OF RECORD :

TYQUAN JARED AMIR JONES :

MARCH 15, 2007

FLORENCE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, JUDGE.

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

JACK W. LAWSON, JR., ESQUIRE
ATTORNEY FOR THE STATEC. STEVENS MCLAURIN, ESQUIRE
ATTORNEY FOR THE DEFENDANTDAPHNE D. HELMS
CIRCUIT COURT REPORTER

GENERAL ADVISEMENT OF CONSTITUTIONAL RIGHTS

2

1 (COURT REPORTER'S NOTE: THE COURT ADVISED A GROUP OF
2 DEFENDANTS OF THEIR CONSTITUTIONAL RIGHTS, WHICH TYQUAN JONES
3 WAS A PART OF THIS GROUP. FOLLOWING THE ADVISEMENT OF THESE
4 RIGHTS, THE COURT HEARD THE GUILTY PLEAS OF EACH DEFENDANT
5 SEPARATELY. THUS, FOLLOWING THE ADVISEMENT OF RIGHTS TO THE
6 GROUP OF DEFENDANTS, THE TRANSCRIPT REFLECTS THE GUILTY PLEA
7 OF MR. JONES.)

8 THE COURT: LISTEN. THOSE OF YOU WHO HAVE BEEN HERE, I
9 KNOW YOU'VE HEARD IT BEFORE. THE GOOD THING IS YOU'VE ONLY
10 HEARD IT ABOUT SIX OR SEVEN TIMES. IF I DID THIS THE OLD
11 WAY, BY NOW YOU WOULD HAVE HEARD IT ABOUT -- HOW MANY PLEAS
12 HAVE WE DONE? ABOUT 55 OR SO? YOU WOULD HAVE HEARD IT 55
13 TIMES. SO BEAR WITH ME AS I GO THROUGH IT AGAIN. THOSE OF
14 YOU WHO HAVE ALREADY HEARD THIS, BEAR WITH ME. THOSE OF YOU
15 WHO HAVE NOT HEARD IT, PLEASE LISTEN CAREFULLY.

16 WHAT I'M GOING TO DO, GENTLEMEN AND LADIES, IS I'M GOING
17 TO GO OVER YOUR CONSTITUTIONAL RIGHTS THAT ARE COMMON TO ALL
18 OF YOU. ALL OF YOU HAVE DIFFERENT CHARGES THAT OCCURRED AT
19 DIFFERENT TIMES AND ARE NOT RELATED TO EACH OTHER, BUT
20 THERE'S ONE COMMON THREAD THAT ALL OF US HAVE. ALL OF US
21 HAVE THE SAME CONSTITUTIONAL RIGHTS. WE ALL LIVE UNDER THE
22 SAME CONSTITUTION. SO I'M GOING TO REVIEW WITH YOU THOSE
23 CONSTITUTIONAL RIGHTS.

24 WHAT I'M GOING TO DO WITH YOU TODAY AS I GO THROUGH THIS
25 PROCESS DOES NOT BIND YOU TO DO ANYTHING. GOING OVER YOUR

1 RIGHTS WITH YOU DOES NOT BIND YOU TO DO ANYTHING. IN OTHER
2 WORDS, LADIES AND GENTLEMEN, I HAVE TO REVIEW YOUR
3 CONSTITUTIONAL RIGHTS WITH YOU BEFORE YOU PLEAD GUILTY. YOU
4 MAY SIT THERE AND GO, "WELL, I'M NOT PLEADING GUILTY."
5 THAT'S OKAY. YOU DON'T HAVE TO. YOU CAN LISTEN TO WHAT I'VE
6 GOT TO SAY. IF YOU DECIDE NOT TO PLEAD GUILTY, THAT'S YOUR
7 CALL. IF YOU DECIDE TO PLEAD GUILTY, THEN WE'RE THAT MUCH
8 FURTHER ALONG IN THE GAME AS FAR AS GETTING YOUR GUILTY PLEA
9 QUALIFIED. SO PLEASE LISTEN CAREFULLY AS I GO OVER THIS.

10 AS I GO THROUGH THESE RIGHTS, I'M GOING TO ASK --
11 OBVIOUSLY I CAN'T ASK EVERYBODY TO RESPOND, "YES, I
12 UNDERSTAND." THERE'S NO WAY THE COURT REPORTER COULD EVER
13 TAKE DOWN ALL OF THAT. SO WHAT I'M GOING TO ASK YOU IS AS I
14 GO THROUGH THESE RIGHTS -- AT VARIOUS TIMES I'M GOING TO ASK:
15 IS THERE ANYONE WHO DOES NOT UNDERSTAND THESE RIGHTS? PLEASE
16 RAISE YOUR HAND. AND IF YOU DON'T UNDERSTAND SOMETHING I'VE
17 SHARED WITH YOU, RAISE YOUR HAND AND I'LL TRY TO EXPLAIN IT
18 TO YOU. ALSO, IF YOU HAVE AN ATTORNEY, YOU'LL HAVE PLENTY OF
19 TIME TO TALK WITH YOUR LAWYER ABOUT IT.

20 NOW, EVERYONE WHO IS IN HERE IN COURT HERE IS PRESUMED
21 INNOCENT OF YOUR CHARGES, BUT IF YOU PLEAD GUILTY YOU GIVE UP
22 CERTAIN CONSTITUTIONAL RIGHTS. YOU GIVE UP YOUR RIGHT TO
23 REMAIN SILENT AND YOU GIVE UP YOUR RIGHT TO A JURY TRIAL. IS
24 THERE ANYONE WHO DOES NOT UNDERSTAND THAT? IF YOU DO NOT
25 UNDERSTAND THAT, RAISE YOUR HAND. ALL RIGHT. THANK YOU.

GENERAL ADVISEMENT OF CONSTITUTIONAL RIGHTS

4

1 THERE ARE NONE.

2 ASSOCIATED WITH YOUR RIGHT TO A JURY TRIAL ARE OTHER
3 RIGHTS THAT YOU HAVE. SO IF YOU GIVE UP YOUR RIGHT TO A JURY
4 TRIAL, YOU GIVE UP THESE OTHER RIGHTS AS WELL, AND I'M GOING
5 TO GO OVER THOSE WITH YOU. IF YOU WERE TO HAVE A JURY TRIAL,
6 YOU WOULD BE PRESUMED INNOCENT AND THE STATE HAS TO PROVE
7 YOUR GUILT BEYOND A REASONABLE DOUBT. THE WAY THEY DO THAT
8 IS THEY BRING WITNESSES INTO COURT, AND THOSE WITNESSES WOULD
9 COME UP HERE AND THEY WOULD TESTIFY UNDER OATH, AND IF THE
10 STATE'S CALLING THE WITNESS, CHANCES ARE THEY'RE GOING TO BE
11 TESTIFYING AGAINST YOUR BEST INTEREST.

12 THE CONSTITUTION PROVIDES THAT ANYONE WHO IS CHARGED
13 WITH A CRIMINAL OFFENSE AND IS IN TRIAL HAS THE RIGHT TO
14 CONFRONT THE STATE'S WITNESSES OR, IN OTHER WORDS, THEY HAVE
15 A RIGHT TO QUESTION THOSE WITNESSES THROUGH YOUR LAWYER OR
16 YOURSELF IF YOU REPRESENT YOURSELF. YOU HAVE THE RIGHT TO
17 QUESTION THE STATE'S WITNESSES, BUT WHEN YOU PLEAD GUILTY, BY
18 TELLING THE COURT THAT YOU'RE GUILTY YOU GIVE UP YOUR
19 PRESUMPTION OF INNOCENCE. YOU RELIEVE THE STATE OF THE
20 BURDEN OF PROVING YOUR GUILT. THEY NO LONGER HAVE TO PROVE
21 YOUR GUILT AND SO, THEREFORE, THEY DON'T HAVE TO BRING THEIR
22 WITNESSES INTO COURT AND YOU GIVE UP YOUR RIGHT TO QUESTION
23 OR TO CONFRONT THOSE WITNESSES. IS THERE ANYONE WHO DOES NOT
24 UNDERSTAND THAT? IF SO, PLEASE RAISE YOUR HAND AND I'LL BE
25 HAPPY TO ANSWER IT. ALL RIGHT. I THINK EVERYBODY

1 UNDERSTANDS.

2 NOW, DURING THE COURSE OF A TRIAL, IF YOU WERE TO HAVE
3 ONE, YOU COULD PUT UP WITNESSES IN YOUR OWN DEFENSE. YOU
4 YOURSELF COULD TESTIFY IN YOUR OWN DEFENSE IF YOU WANTED TO.
5 BUT AS I TOLD MR. MCFADDEN A MINUTE AGO AND AS I'M TELLING
6 YOU NOW, IN THIS COUNTRY NO PERSON WHO'S CHARGED WITH A
7 CRIMINAL OFFENSE EVER HAS TO PROVE THEMSELVES INNOCENT. THE
8 STATE ALWAYS HAS THE BURDEN OF PROOF. THE STATE MUST PROVE
9 YOUR GUILT BEYOND A REASONABLE DOUBT.

10 IF YOU CHOSE TO DO SO DURING THE COURSE OF A TRIAL, YOU
11 COULD EXERCISE YOUR RIGHT TO REMAIN SILENT. IF YOU DID THAT,
12 I WOULD TELL THE MEMBERS OF THE JURY THEY COULD NOT HOLD THAT
13 AGAINST YOU. THEY COULD NOT TALK ABOUT IT IN THEIR
14 DELIBERATIONS. THEY COULD NOT PENALIZE YOU AT ALL FOR
15 EXERCISING YOUR RIGHT TO REMAIN SILENT. IS THERE ANYONE WHO
16 DOES NOT UNDERSTAND THAT? IF YOU DON'T UNDERSTAND THAT AND
17 YOU NEED TO ASK ME A QUESTION, LET ME KNOW NOW. ALL RIGHT.

18 NOW, LADIES AND GENTLEMEN, THE STATE HAS TO PROVE YOUR
19 GUILT TO THE JURY BEYOND A REASONABLE DOUBT TO A UNANIMOUS
20 VERDICT. ALL 12 MEMBERS OF THE JURY HAVE GOT TO AGREE THAT
21 YOU ARE GUILTY OR THEY COULD NOT CONVICT YOU OF THE CHARGE
22 THAT YOU'RE FACING.

23 NOW, I WILL -- LET ME BREAK HERE FOR A MOMENT AND TELL
24 YOU I DO REALIZE THAT, NUMBER ONE, THAT I AM PERSONALLY A
25 FAIRLY BORING PERSON AND, SECONDLY, THAT YOU'VE HEARD THIS

GENERAL ADVISEMENT OF CONSTITUTIONAL RIGHTS

6

1 BEFORE AND YOU'RE PROBABLY BORED HEARING IT AND, THIRDLY,
2 IT'S AWFULLY HOT IN HERE, BUT I CANNOT ALLOW YOU TO SIT BACK
3 THERE AND SLEEP. SO THAT GENTLEMAN AGAINST THE WALL WHO'S
4 HOLDING UP THE WALL RIGHT BEHIND THE WINDOW THERE, I NEED FOR
5 YOU TO AT LEAST ACT LIKE YOU'RE LISTENING. THIS GENTLEMAN
6 OVER HERE. LADIES AND GENTLEMEN, I UNDERSTAND IT'S HOT IN
7 HERE. IS THERE ANYTHING WE CAN DO TO CONTROL THE TEMPERATURE
8 AT ALL? ALL RIGHT.

9 NOW, AS I TOLD YOU, THE STATE HAS TO PROVE YOUR GUILT
10 BEYOND A REASONABLE DOUBT TO A UNANIMOUS VERDICT. ALL 12
11 MEMBERS OF THE JURY HAVE TO AGREE THAT YOU'RE GUILTY OR THEY
12 COULD NOT CONVICT YOU, BUT IF THEY DID CONVICT YOU, IF YOU
13 DID GO TO A TRIAL AND IF YOU WERE CONVICTED, THEN YOU COULD
14 APPEAL THAT CONVICTION TO A HIGHER COURT IF YOU FELT THAT
15 THAT WAS APPROPRIATE. IS THERE ANYONE WHO DOES NOT
16 UNDERSTAND THAT? IF YOU DO NOT UNDERSTAND THAT, RAISE YOUR
17 HAND AND I'LL ANSWER ANY QUESTIONS YOU'VE GOT. ALL RIGHT. I
18 THINK EVERYBODY UNDERSTANDS.

19 LADIES AND GENTLEMEN, THOSE ARE YOUR CONSTITUTIONAL
20 RIGHTS WITH REGARDS TO YOUR RIGHT TO A JURY TRIAL, YOUR
21 RIGHTS TO REMAIN SILENT. THOSE RIGHTS ALL OF YOU HAVE,
22 REGARDLESS OF WHAT YOU'RE CHARGED WITH. IF YOU PLEAD GUILTY,
23 IF YOU DECIDE THAT YOU WANT TO GO FORWARD WITH YOUR GUILTY
24 PLEA, THEN YOU GIVE UP THOSE RIGHTS. YOU'LL WAIVE THEM AT
25 LEAST AS FAR AS IT RELATES TO THAT CHARGE. YOU DON'T WAIVE

1 THEM FOREVER. IF YOU WERE TO GET IN TROUBLE AT A LATER DATE,
2 YOU HAVE ALL THOSE RIGHTS COME BACK. YOU STILL -- YOU STILL
3 HAVE THEM. BUT IF YOU PLEAD GUILTY TO A PARTICULAR CHARGE
4 TODAY, WITH REGARD TO THAT CHARGE YOU WAIVE THOSE RIGHTS; YOU
5 GIVE THEM UP.

6 NOW, I'M GOING TO RECOGNIZE THE SOLICITOR AND THEY'RE
7 GOING TO CALL YOUR CASES ONE BY ONE. IF THEY CALL YOUR NAME
8 AND YOU ARE GOING TO PLEAD GUILTY, COME ON UP. IF YOU HAVE A
9 LAWYER, MAKE SURE OBVIOUSLY YOUR LAWYER IS WITH YOU. IF NOT,
10 I'LL DEAL WITH YOU AT THAT POINT. LET ME -- LET ME GO AHEAD
11 AND DEAL WITH THAT RIGHT NOW BECAUSE I KNOW SEVERAL OF YOU
12 HAVE INDICATED YOU WISH TO PLEAD GUILTY AND YOU DON'T HAVE A
13 LAWYER.

14 LADIES AND GENTLEMEN, EVERYONE IS ENTITLED TO AN
15 ATTORNEY IF YOU CANNOT AFFORD ONE. NOW, AS YOU HEARD ME TALK
16 WITH THE GENTLEMAN EARLIER WHO ACTUALLY DID NOT QUALIFY FOR
17 THE PUBLIC DEFENDER, THE LAW IN SOUTH CAROLINA HAS A CERTAIN
18 STANDARD THAT IS SET, AND EVERYONE WHO IS ABOVE THAT
19 FINANCIAL STANDARD IS PRESUMED TO BE ABLE TO AFFORD A LAWYER.
20 THAT MAY OR MAY NOT BE TRUE. BUT THE LAW SAYS THAT IF YOU'RE
21 ABOVE THAT STANDARD, YOU'RE NOT ENTITLED TO AN APPOINTED
22 LAWYER. IF YOU FALL BELOW THAT STANDARD, THEN YOU ARE
23 ENTITLED. IF YOU CANNOT AFFORD A LAWYER, IF YOU FALL BELOW
24 THAT STANDARD, THE COURT WOULD APPOINT A LAWYER TO REPRESENT
25 YOU AT NO COST TO YOU.

1 NOW, THOSE OF YOU WHO COME BEFORE THE COURT WITHOUT A
2 LAWYER, WHAT YOU NEED TO UNDERSTAND IS THAT YOU HAVE THAT
3 RIGHT AND, NUMBER TWO, THAT THERE ARE RISKS INVOLVED IN GOING
4 FORWARD WITHOUT A LAWYER. AS YOU SAW WHEN I WAS TALKING TO
5 MR. MCFADDEN EARLIER, A LAWYER, BECAUSE OF HIS OR HER
6 EDUCATION, THEIR EXPERIENCE, THEIR SCHOOLING, THEIR TRAINING,
7 THEY UNDERSTAND THE RULES OF COURT AND THOSE RULES CAN
8 BENEFIT YOU. THEY ALSO HAVE DEALT WITH, MORE THAN LIKELY,
9 THE SOLICITOR'S OFFICE. IF NOT THIS SOLICITOR'S OFFICE, SOME
10 SOLICITOR'S OFFICE. THEY'VE DEALT IN CRIMINAL LAW AND CAN
11 NEGOTIATE ON YOUR BEHALF.

12 THERE'S CERTAIN ADVANTAGES TO HAVING A LAWYER AND THERE
13 ARE RISKS OF GOING FORWARD WITHOUT ONE. YOU ALL NEED TO
14 UNDERSTAND THAT THERE ARE RISKS INVOLVED, AND YOU'RE ENTITLED
15 TO PROCEED ON YOUR OWN. NO ONE CAN FORCE YOU TO HAVE A
16 LAWYER. YOU CAN REPRESENT YOURSELF, BUT YOU JUST NEED TO
17 UNDERSTAND THAT THERE ARE RISKS INVOLVED IN THAT AND THERE
18 ARE ADVANTAGES TO HAVING A LAWYER AND THAT IF YOU COULD NOT
19 AFFORD ONE, THE COURT WOULD APPOINT ONE TO REPRESENT YOU AT
20 NO COST TO YOU. HAVING SAID THAT, AT THIS TIME I RECOGNIZE
21 THE STATE.

22 MR. LAWSON: MAY IT PLEASE THE COURT?

23 THE COURT: YES, SIR, MR. LAWSON.

24 MR. LAWSON: THE STATE WOULD CALL INDICTMENT
25 2006-GS-21-1257, THE STATE VERSUS TYQUAN JARED AMIR JONES.

1 MR. JONES IS INDICTED FOR MURDER. THE STATE HAS AGREED TO
2 ACCEPT A PLEA TO VOLUNTARY MANSLAUGHTER AND RECOMMEND A
3 20-YEAR CAP.

4 THE COURT: ALL RIGHT. THE REMAINING CHARGES ASSOCIATED
5 WITH THAT WILL BE DISMISSED?

6 MR. LAWSON: THAT'S CORRECT, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. LAWSON: WELL, THE CASE WILL REMAIN ACTIVE AGAINST
9 ALL CO-DEFENDANTS.

10 THE COURT: OKAY. BUT THEY'RE NOT LISTED ON THIS
11 INDICTMENT.

12 MR. LAWSON: THEY'RE NOT ON THIS INDICTMENT.

13 THE COURT: OKAY.

14 MR. LAWSON: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT, SIR. SO THAT -- I GUESS WHAT I'M
16 SAYING IS IF AT THE CONCLUSION, IF WE SUCCESSFULLY COMPLETE
17 THE PLEA, THAT WILL RESOLVE THIS INDICTMENT.

18 MR. LAWSON: DISPOSE OF THIS INDICTMENT, YES, SIR.

19 EXAMINATION BY THE COURT

20 Q. OKAY. SIR, YOU'RE TYQUAN JARED AMIR JONES?

21 A. YES, SIR.

22 Q. MR. JONES, INDICTMENT 06-1257 IS A TRUE-BILLED
23 INDICTMENT, MULTIPLE-COUNT INDICTMENT. COUNT 1 IS AN
24 INDICTMENT FOR A CHARGE OF MURDER. COUNT 2, ATTEMPTED ARMED
25 ROBBERY AND COUNT 3 CONSPIRACY. HOWEVER, SIR, IT'S MY

GUILTY PLEA

10

1 UNDERSTANDING THAT YOU'RE BEFORE THE COURT ON THE LESSER
2 CHARGE OF VOLUNTARY MANSLAUGHTER AND THAT PURSUANT TO YOUR
3 PLEA, IF YOUR PLEA GOES THROUGH SUCCESSFULLY, THAT COUNT 2
4 AND COUNT 3 WILL BE DISMISSED PURSUANT TO YOUR PLEA. IS THAT
5 CORRECT, SIR?

6 A. YES, SIR.

7 Q. ALL RIGHT. MR. JONES, THE CHARGE THAT YOU'RE PLEADING
8 TO, THE VOLUNTARY MANSLAUGHTER CHARGE, CARRIES A MAXIMUM
9 PENALTY OF UP TO 20 YEARS. DO YOU UNDERSTAND THAT?

10 A. YES, SIR.

11 Q. EXCUSE ME. THIRTY YEARS. DO YOU UNDERSTAND THAT, SIR?

12 A. YES, SIR.

13 Q. ALL RIGHT. THE 20 YEARS IS THE RECOMMENDATION OF THE
14 STATE AS FAR AS A CAP, BUT THE CHARGE ITSELF ACTUALLY CARRIES
15 A 30-YEAR SENTENCE. DO YOU UNDERSTAND, SIR?

16 A. YES, SIR.

17 Q. UNDERSTANDING THE NATURE OF THE CHARGE AGAINST YOU AS
18 WELL AS THE POSSIBLE PUNISHMENT, HOW DO YOU PLEAD TO
19 VOLUNTARY MANSLAUGHTER? GUILTY OR NOT GUILTY?

20 A. GUILTY, SIR.

21 THE COURT: ALSO, MR. JONES -- WELL, LET ME -- LET ME --
22 I'M GOING TO BACK UP A MINUTE. MR. MCLAURIN, YOU REPRESENT
23 MR. JONES?

24 MR. MCLAURIN: I DO, YOUR HONOR.

25 THE COURT: HAVE YOU DISCUSSED WITH HIM THE NATURE OF

1 THE CHARGE HE'S PLEADING TO AND HIS CONSTITUTIONAL RIGHTS TO
2 A TRIAL?

3 MR. MCLAURIN: YES, SIR.

4 THE COURT: HAVE YOU ALSO DISCUSSED THE SITUATION THAT
5 THIS IS CATEGORIZED AS A VIOLENT AND A MOST SERIOUS OFFENSE
6 AND THE STRIKE SITUATION---

7 MR. MCLAURIN: YEAH, TWO STRIKES..

8 THE COURT: ---ASSOCIATED WITH THAT?

9 MR. MCLAURIN: YES, SIR.

10 BY THE COURT:

11 Q. MR. JONES, DO YOU UNDERSTAND THAT UNDER OUR SYSTEM OF
12 LAWS THAT CERTAIN CRIMES ARE CATEGORIZED AS EITHER SERIOUS OR
13 MOST SERIOUS? THE LAW IN SOUTH CAROLINA IS THAT IF AN
14 INDIVIDUAL RECEIVES CONVICTIONS FOR EITHER TWO MOST SERIOUS
15 OR THREE SERIOUS OFFENSES THAT ON THAT THIRD OR THAT SECOND,
16 IF IT'S ANOTHER MOST SERIOUS, THE STATE CAN SEEK A SENTENCE
17 OF LIFE WITHOUT PAROLE. DO YOU UNDERSTAND, -- DO YOU
18 UNDERSTAND THAT, SIR?

19 A. YES, SIR.

20 Q. SO THAT YOUR PLEA TO THIS CHARGE WOULD CONSTITUTE ONE OF
21 THOSE STRIKES. DO YOU UNDERSTAND THAT, SIR?

22 A. YES, SIR.

23 Q. ALL RIGHT, SIR. NOW, YOU'RE 16 YEARS OF AGE AT THIS
24 TIME, SIR?

25 A. YES, SIR.

1 Q. HOW FAR HAD YOU GOTTEN IN SCHOOL?

2 A. TENTH GRADE.

3 Q. OKAY. NOW, WERE YOU -- WERE YOU IN SCHOOL AT THE TIME
4 THIS OCCURRED?

5 A. YES, SIR.

6 Q. WERE YOU A FULL-TIME STUDENT OR DID YOU WORK OUT -- DID
7 YOU WORK AFTER SCHOOL? DID YOU HAVE A JOB OR ANYTHING?

8 A. NO, SIR.

9 Q. ALL RIGHT, SIR. DO YOU HAVE ANY CHILDREN?

10 A. NO, SIR.

11 Q. HOW LONG HAVE YOU BEEN IN JAIL ON THIS CHARGE, SIR? OR,
12 MR. MCLAURIN, DO YOU KNOW?

13 MR. MCLAURIN: ABOUT A WEEK OR SO AFTER THE INCIDENT---

14 THE COURT: OKAY.

15 MR. MCLAURIN: ---WHICH WAS DECEMBER 3RD, I THINK, OF
16 '05, YOUR HONOR.

17 THE COURT: RIGHT.

18 MR. MCLAURIN: SO OVER A YEAR NOW.

19 BY THE COURT:

20 Q. ABOUT 15 MONTHS? IS THAT---

21 A. YES, SIR.

22 Q. ---ABOUT RIGHT? ALL RIGHT, SIR. NOW, MR. JONES,
23 EARLIER TODAY WHEN I WENT OVER EVERYONE'S CONSTITUTIONAL
24 RIGHTS, WERE YOU PRESENT FOR THAT?

25 A. YES, SIR.

1 Q. DID YOU UNDERSTAND THOSE RIGHTS AS I WENT OVER THEM?

2 A. YES, SIR.

3 Q. DO YOU HAVE ANY QUESTION ABOUT THOSE RIGHTS OR DO YOU
4 NEED TO SPEAK WITH MR. MCLAURIN ANY FURTHER BEFORE WE
5 PROCEED?

6 A. NO, SIR.

7 Q. DO YOU UNDERSTAND THAT THOSE RIGHTS AS WE WENT OVER
8 THEM, SIR, THAT WITH REGARDS TO THIS CHARGE THAT THOSE RIGHTS
9 ARE WAIVED OR YOU GIVE THEM UP BY PLEADING GUILTY? DO YOU
10 UNDERSTAND THAT?

11 A. YES, SIR.

12 Q. NOW, IN OTHER WORDS, YOU WILL NOT HAVE A JURY TRIAL.
13 YOUR CASE WILL BE HEARD BY ME TODAY, AND THE CASE WILL BE
14 RESOLVED TODAY WITHOUT THE JURY TRIAL OR ALL THE RIGHTS
15 ASSOCIATED WITH A JURY TRIAL. DO YOU UNDERSTAND THAT?

16 A. YES, SIR.

17 Q. ALL RIGHT, SIR. NOW, THE STATE HAS MADE A
18 RECOMMENDATION IN THIS CASE THAT ALTHOUGH THIS CHARGE OF
19 VOLUNTARY MANSLAUGHTER CARRIES A MAXIMUM PENALTY OF UP TO 30
20 YEARS THAT THE STATE HAS MADE A RECOMMENDATION THAT WHATEVER
21 SENTENCE THE COURT IMPOSES THAT THE COURT NOT IMPOSE ANYTHING
22 OVER 20 YEARS. DO YOU UNDERSTAND THAT?

23 A. YES, SIR.

24 Q. NOW, LET ME -- IS THAT -- AND THEN, OF COURSE, COUNT 2
25 AND COUNT 3 ARE GOING TO BE DISMISSED.

1 A. YES, SIR.

2 THE COURT: MR. MCLAURIN, IS THAT CORRECT?

3 MR. MCLAURIN: YES, SIR, YOUR HONOR. AND I DON'T KNOW
4 IF IT NEEDS TO BE STATED NOW, BUT THE SOLICITOR AND I HAVE
5 TALKED ABOUT PUTTING HIM IN A YOUTHFUL OFFENDER SETTING AFTER
6 THIS.

7 THE COURT: I DON'T THINK -- I DON'T THINK YOU CAN.

8 MR. LAWSON: NO. YOUR HONOR, I JUST WANTED TO RECOMMEND
9 UNTIL HE'S 21 OR 18, WHATEVER AGE THEY MOVE HIM UP. AT 15 OR
10 16 I DON'T KNOW THAT HE SHOULD BE THROWN IN WITH THE BIG BOYS
11 IF IT'S POSSIBLE TO SEPARATE HIM.

12 MR. MCLAURIN: I DON'T MEAN TO PLEAD UNDER THE YOUTHFUL
13 OFFENDER OR ANYTHING.

14 MR. LAWSON: NO.

15 MR. MCLAURIN: JUST PUT HIM IN THAT SETTING IS WHAT WE
16 HAD TALKED ABOUT.

17 THE COURT: I DON'T KNOW THAT I HAVE ANY CONTROL OVER
18 THAT, TO BE HONEST WITH YOU. I THINK THAT'S STRICTLY UP TO
19 THE DEPARTMENT OF CORRECTIONS, AND I THINK THEY HAVE PROTOCOL
20 INVOLVING YOUNG MEN OF MR. JONES' AGE AND DEPENDING ON THE
21 CRIME OF WHERE THEY GO.

22 MR. LAWSON: YES, SIR.

23 THE COURT: I MEAN, I'LL BE CERTAIN -- I DON'T MIND
24 MAKING THAT AS A REQUEST ON THE THING, BUT I DON'T KNOW THAT
25 I HAVE THE AUTHORITY---

1 MR. MCLAURIN: I'VE EXPLAINED---

2 THE COURT: ---TO DIRECT IT.

3 MR. MCLAURIN: ---TO MR. JONES IT MAY NOT BE BINDING,
4 BUT IF THE COURT WOULD NOT MIND---

5 THE COURT: I DON'T MIND -- I DON'T MIND PUTTING IT IN
6 AS A PART OF THE SENTENCE, BUT I DON'T KNOW THAT---

7 MR. MCLAURIN: YES, SIR.

8 THE COURT: ---THEY'RE BOUND BY IT.

9 MR. MCLAURIN: YES, SIR.

10 BY THE COURT:

11 Q. NOW, MR. JONES, LET ME EXPLAIN TO YOU, SIR, THIS SO THAT
12 -- I WANT YOU TO BE FULLY INFORMED. I HAVE NOT HEARD THE
13 FACTS. I DON'T KNOW ANYTHING ABOUT THIS CASE. I JUST KNOW
14 THAT THE STATE'S MADE THIS RECOMMENDATION. DO YOU UNDERSTAND
15 THAT THE COURT IS NOT BOUND BY THIS RECOMMENDATION?

16 A. YES, SIR.

17 Q. IN OTHER WORDS, SIR, IF AFTER HEARING THE FACTS AND
18 HEARING FROM THE STATE AND HEARING FROM YOU AND ANYONE ON
19 YOUR BEHALF IF I FEEL THAT I COULD NOT FOLLOW THE
20 RECOMMENDATION, YOU COULD BE SENTENCED TO ANYTHING FROM ZERO
21 UP TO 30 YEARS. DO YOU UNDERSTAND THAT?

22 A. YES, SIR.

23 Q. ALL RIGHT, SIR. UNDERSTANDING THAT AND UNDERSTANDING
24 ALL THESE RIGHTS THAT WE'VE REVIEWED AND THAT YOU GIVE UP
25 YOUR JURY TRIAL RIGHTS, DO YOU STILL WANT TO GO FORWARD WITH

GUILTY PLEA

16

1 YOUR PLEA, SIR?

2 A. YES, SIR.

3 Q. OTHER THAN THE RECOMMENDATION, HAS ANYONE PROMISED YOU
4 ANYTHING, HELD OUT ANY HOPE OF REWARD OR THREATENED YOU IN
5 ANY WAY TO GET YOU TO PLEAD GUILTY?

6 A. NO, SIR.

7 Q. ARE YOU SATISFIED WITH THE REPRESENTATION AND THE ADVICE
8 THAT YOU HAVE RECEIVED FROM MR. MCLAURIN?

9 A. YES, SIR.

10 Q. HAVE YOU -- DO YOU HAVE ANY COMPLAINTS AGAINST HIM OR
11 ANY MEMBER OF HIS OFFICE?

12 A. NO, SIR.

13 Q. ARE YOU -- HAVE YOU TOLD HIM EVERYTHING YOU KNOW ABOUT
14 THIS CASE, ANYTHING YOU KNOW ABOUT YOUR INVOLVEMENT, ANYTHING
15 YOU KNOW ABOUT ANY POTENTIAL WITNESSES? HAVE YOU TOLD HIM
16 EVERYTHING SO THAT HE COULD LOOK INTO THESE MATTERS ON YOUR
17 BEHALF AND FULLY EXPLORE ANY POSSIBLE DEFENSES YOU MAY HAVE?

18 A. YES, SIR.

19 Q. ALL RIGHT, SIR. HAS MR. MCLAURIN DONE EVERYTHING THAT
20 YOU FEEL THAT HE COULD DO TO ASSIST YOU IN THIS CASE?

21 A. YES, SIR.

22 Q. IS THERE ANYTHING THAT HE HASN'T DONE THAT YOU FEEL HE
23 SHOULD DO?

24 A. NO, SIR.

25 Q. ARE YOU TODAY, MR. JONES, UNDER THE INFLUENCE OF ANY

1 SUBSTANCE THAT WOULD AFFECT YOUR ABILITY TO UNDERSTAND WHAT
2 YOU'RE DOING?

3 A. NO, SIR.

4 Q. ARE YOU AWARE OR DO YOU KNOW IF YOU HAVE ANY PHYSICAL,
5 MENTAL, OR NERVOUS CONDITION THAT WOULD AFFECT YOUR ABILITY
6 TO UNDERSTAND WHAT YOU'RE DOING?

7 A. NO, SIR.

8 Q. OKAY. DO YOU HAVE ANY COMPLAINTS AGAINST THE
9 SOLICITOR'S OFFICE, LAW ENFORCEMENT, OR ANYONE OUT AT THE
10 DETENTION CENTER?

11 A. NO, SIR.

12 Q. THE ANSWERS THAT YOU'VE GIVEN ME TO MY QUESTIONS, SIR,
13 HAVE THEY BEEN YOUR ANSWERS OR HAVE THEY BEEN WHAT SOMEONE
14 ELSE TOLD YOU TO TELL ME?

15 A. MY ANSWERS, SIR.

16 Q. AND HAVE THOSE ANSWERS BEEN TRUTHFUL, SIR?

17 A. YES, SIR.

18 Q. ARE YOU PLEADING GUILTY TO THE CHARGE OF VOLUNTARY
19 MANSLAUGHTER OF YOUR OWN FREE WILL, SIR?

20 A. YES, SIR.

21 Q. AND ARE YOU GUILTY OF THAT CHARGE?

22 A. YES, SIR.

23 THE COURT: ALL RIGHT. MR. JONES, I'M GOING TO GET MR.
24 LAWSON AND ANYONE ELSE THAT HE MAY DESIGNATE TO GIVE ME THE
25 FACTS SURROUNDING THIS. I ASK THAT YOU PLEASE LISTEN

1 CAREFULLY AND THEN I'LL COME BACK TO YOU IN JUST A MOMENT,
2 SIR. MR. LAWSON.

3 MR. LAWSON: MAY IT PLEASE THE COURT? MICHAEL ROBINSON
4 FROM THE FLORENCE POLICE DEPARTMENT INVESTIGATED THIS CASE,
5 YOUR HONOR. IT OCCURRED ON DECEMBER THE 3RD, 2005, HERE IN
6 THE CITY OF FLORENCE OVER RIGHT ON -- ON JUNE LANE, I
7 BELIEVE, AND I WOULD ASK THAT YOUR HONOR HEAR FROM
8 INVESTIGATOR ROBINSON AS TO THE FACTS OF THE INCIDENT CASE.

9 THE COURT: I'D BE MORE THAN HAPPY TO. INVESTIGATOR
10 ROBINSON, BE HAPPY TO HEAR FROM YOU, MA'AM.

11 INVESTIGATOR ROBINSON: THANK YOU, YOUR HONOR. YOUR
12 HONOR, ON DECEMBER THE 3RD OF 2005 THE DEFENDANT AND THREE
13 CO-DEFENDANTS WERE AT JUNE LANE APARTMENTS. THEY WERE
14 VISITING A FRIEND OF THEIRS, A FEMALE FRIEND OF THEIRS, BY
15 THE NAME OF ANGEL. THEY WERE ALL AT ANGEL'S APARTMENT AND
16 THEY WERE DISCUSSING THE DECEASED WHO IS DEMONDS KEITH. ONE
17 OF THE -- TWO OF THE CO-DEFENDANTS IN THIS INCIDENT ARE
18 BROTHERS, THE GURLEY -- CHRISTOPHER GURLEY AND DONTE GURLEY.
19 SUPPOSEDLY THE DECEASED OWED ONE OF THE GURLEY BROTHERS SOME
20 MONEY, AND THEY CONSPIRED TOGETHER TO FORMULATE THIS PLAN TO
21 ROB MR. KEITH OF HIS DRUGS AND MONEY THAT COULD POSSIBLY BE
22 ON HIS POSSESSION AT THE TIME.

23 MR. -- ONE OF THE CO-DEFENDANTS, ANTONIO CRAWFORD, WENT
24 TO HIS RESIDENCE, OBTAINED HIS WEAPON, BROUGHT IT BACK, GAVE
25 THE WEAPON TO THE DEFENDANT AND THEY CALLED DEMONDS KEITH AND

1 ASKED THEM TO MEET THEM ON JUNE LANE. HIS SISTER DROPPED MR.
2 KEITH OFF ON JUNE LANE. THEY WALKED UP TO THE STOP SIGN TO
3 MEET HIM, BUT THE GURLEY BROTHERS CONTINUED ON AND MET HIM AT
4 THE STOP SIGN, AND THE CO-DEFENDANT AND THE DEFENDANT HID
5 BACK IN THE SHADOWS BEHIND THE APARTMENTS.

6 IMMEDIATELY WHEN THEY MET BEHIND ONE OF THE APARTMENTS
7 ON JUNE LANE, THEY IMMEDIATELY -- MR. JONES PULLED THE GUN,
8 PLACED IT TOWARDS MR. KEITH AND DEMANDED MONEY AND DRUGS.
9 MR. KEITH AT THAT POINT WAS TRYING TO PULL HIS HANDS OUT OF
10 HIS WALLETS TO GIVE -- OUT OF HIS POCKETS TO GIVE HIM
11 WHATEVER HE HAD AND THE GUN DISCHARGED FROM MR. TYQUAN JONES
12 AND HE SHOT HIM IN THE MOUTH.

13 HE THEN WAS TRYING TO RECEIVE HELP. HE -- AN AMBULANCE
14 WAS CALLED IMMEDIATELY. THE GURLEY BROTHERS STAYED ON THE
15 SCENE, AND MR. JONES AND ANOTHER CO-DEFENDANT, ANTONIO
16 CRAWFORD, FLED THE SCENE. THEY WERE ALL LATER IDENTIFIED
17 BOTH IN A PHOTO LINE-UP FROM PEOPLE IN THE AREA STATING THAT
18 THEY HAD SEEN MR. JONES AND MR. CRAWFORD FLEEING FROM THE
19 SCENE IN A SEPARATE VEHICLE. AFTER THAT, THE GURLEY BROTHERS
20 GAVE STATEMENTS IN WHICH THEY LATER ADMITTED THAT THEY HAD
21 BEEN INVOLVED IN A CONSPIRACY TO ROB MR. KEITH OF DRUGS AND
22 MONEY AND THAT LATER MR. JONES WAS ARRESTED AT THE
23 ALTERNATIVE SCHOOL IN FLORENCE.

24 THEY NOTIFIED HIS FAMILY AND HIS FAMILY CAME UP, AND WE
25 INTERVIEWED MR. JONES WHERE HE ADMITTED TO ACTUALLY HAVING

1 THE GUN IN HIS POSSESSION. HE ADMITTED THAT MR. CRAWFORD
2 GAVE HIM THE HANDGUN AND THAT HE WAS TO USE THE GUN TO ROB
3 HIM. HE WAS ACTUALLY NUDGED BY ANTONIO CRAWFORD: DO IT. DO
4 IT. PULL THE GUN OUT. AND HE PULLED THE GUN OUT, AND AS
5 SOON AS THE GUN CAME OUT OF HIS WRISTBAND, HE SHOT HIM IN THE
6 MOUTH.

7 THE COURT: ANYTHING ELSE, MR. LAWSON?

8 MR. LAWSON: YOUR HONOR, THIS -- AND THE REASON IT'S ON
9 SEPARATE INDICTMENTS: CRAWFORD AND THE GURLEYS WERE INDICTED
10 PRIOR TO MR. JONES. MR. JONES -- WE HAD TO PETITION FROM
11 FAMILY COURT TO MOVE THIS INTO ADULT COURT, AND AS A RESULT
12 IT GOT DELAYED BEHIND THE OTHER CO-DEFENDANTS. I THINK MR.
13 MICHAEL WAS INVOLVED IN THAT PROCESS OF REMOVING THIS UP TO
14 GENERAL SESSIONS. AND I WOULD ADVISE THE COURT THAT THE
15 PARENTS OF MR. KEITH ARE HERE AND WOULD SPEAK AT WHATEVER
16 TIME YOUR HONOR WOULD WISH TO HEAR FROM THEM.

17 THE COURT: ALL RIGHT. NOW -- AND, MR. LAWSON, I DON'T
18 KNOW IF YOU EVEN HAVE THIS AVAILABLE. IS THERE ANY JUVENILE
19 RECORD INVOLVING MR. JONES?

20 MR. LAWSON: THERE IS AN ARMED ROBBERY CONVICTION ON MR.
21 JONES IN 2004. HE WENT TO THE DEPARTMENT OF -- D.J.J. I
22 KNOW THAT THERE WAS AN EVALUATION DONE, BUT WHAT SENTENCE WAS
23 IMPOSED I CAN'T -- I CAN'T FIND THAT IN MY RECORDS. BUT I DO
24 KNOW THAT HE HAS A CONVICTION FOR A JUVENILE ARMED ROBBERY.

25 THE COURT: ALL RIGHT, SIR.

1 MR. LAWSON: WHICH WAS SOME YEAR BEFORE THIS HAPPENED
2 ACTUALLY.

3 THE COURT: ALL RIGHT. MR. JONES, THE FACTS THAT
4 OFFICER OR INVESTIGATOR ROBINSON SHARED WITH THE COURT
5 INVOLVING THIS CHARGE, ARE THOSE FACTS CORRECT, SIR?

6 MR. JONES: YES, SIR.

7 THE COURT: ALL RIGHT. I FIND THAT THE STATE HAS
8 PROVIDED A SUBSTANTIAL FACTUAL BASIS TO SUPPORT THE CHARGE
9 THAT MR. JONES HAS PLED GUILTY TO, THAT HIS DECISION TO ENTER
10 THAT PLEA OF GUILTY HAS BEEN DONE FREELY, VOLUNTARILY, AND
11 INTELLIGENTLY. HE'S HAD THE BENEFIT OF AN EXCELLENT LAWYER
12 IN MR. STEVE MCLAURIN. HE HAS INDICATED THAT HE IS SATISFIED
13 WITH MR. MCLAURIN'S REPRESENTATION, AND I WILL ACCEPT HIS
14 GUILTY PLEA. MR. MCLAURIN, I'LL BE HAPPY TO HEAR FROM YOU
15 AND THEN ANYONE ELSE THAT YOU WANT ME TO HEAR FROM.

16 MR. MCLAURIN: YES, YOUR HONOR. IF IT PLEASE THE COURT?
17 YOUR HONOR, I'VE HAD THE HONOR OF REPRESENTING TYQUAN AND HIS
18 FAMILY NOW FOR ALMOST A YEAR. AS MR. LAWSON INDICATED TO
19 YOU, MR. HILL AND I SPENT A WHOLE DAY TOGETHER IN FAMILY
20 COURT ON A JUVENILE WAIVER HEARING THAT WE HAD SOME SIX,
21 SEVEN, EIGHT MONTHS AGO AND, OF COURSE, AS YOU'RE AWARE, HE
22 WAS WAIVED UP.

23 DURING THAT PROCESS THOUGH I GOT TO KNOW HIS FAMILY.
24 HIS BROTHERS AND HIS SISTER IS HERE TODAY. HIS GRANDMOTHER
25 IS HERE AND HIS MOTHER IS HERE. THEY'VE BEEN VERY

1 COOPERATIVE WITH ME, VERY NICE PEOPLE TO WORK WITH. BUT AS
2 YOUR HONOR PROBABLY IS AWARE, IN A LOT OF THESE JUVENILE
3 CASES UNFORTUNATELY TYQUAN HAD NO STRUCTURE GROWING UP.

4 MS. POWELL WILL BE THE FIRST ONE TO ADMIT TO YOU SHE HAD
5 A CRACK ADDICTION PROBLEM UNFORTUNATELY AS HE WAS GROWING UP.
6 SHE WASN'T THERE LIKE SHE SHOULD HAVE... D.S.S. TOOK TYQUAN
7 AT ONE POINT. AND SO UNFORTUNATELY HE REALLY HAD NO FATHER
8 FIGURE, NO SUBSTANCE AS FAR AS SOMEONE AT HOME TRYING TO STAY
9 IN BEHIND HIM TO KEEP HIM STRAIGHTENED OUT. AND ONE OF THE
10 MOST UNFORTUNATE THINGS ABOUT THIS WHOLE CASE IS THAT TYQUAN,
11 EVEN THOUGH HE'S A YOUNG MAN, AT A VERY EARLY AGE HE SHOWED A
12 GREAT SKILL IN BASKETBALL, YOUR HONOR, AND WAS DOING
13 RELATIVELY GOOD IN SCHOOL.

14 HIS FIRST COUSIN -- I DON'T KNOW IF YOU KNOW CARLOS
15 POWELL WHO PLAYED WITH WILSON AND IS IN THE PROS NOW, AND
16 HE'S GOT ANOTHER FIRST COUSIN THAT JUST WON THE STATE
17 CHAMPIONSHIP WITH WILSON. AT 13 OR 14 HE WAS ABOUT 6'4" AND
18 WAS PLAYING WITH A JUNIOR VARSITY TEAM, AND I'VE SPOKEN WITH
19 OFFICER MACK IN THE CITY REC LEAGUE WHO SPEAKS VERY HIGHLY OF
20 TYQUAN AND SAYS THAT HE HAD A GREAT WORK ETHIC, NEVER TALKED
21 BACK TO HIM, WORKED WELL WITH HIM, AND REALLY SHOWED A GREAT
22 SKILL FOR BEING ABLE TO DO THAT. BUT NOW HE HAS
23 UNFORTUNATELY CHOSEN A BAD ROUTE, AND HE'S GOING TO HAVE TO
24 GIVE ALL THAT UP. BUT I JUST POINT THAT OUT THAT THERE'S A
25 LOT OF PEOPLE WHO ARE IN -- LIKE I SAID, OFFICER MACK WHO

1 THINKS HIGHLY OF TYQUAN AND THINKS THAT HE'S GOT A FUTURE.
2 AND WHEN I THINK -- AND I'M GOING TO HAND UP THE REPORT OF
3 THE JUVENILE PSYCHOLOGIST AT SOME POINT, BUT WHEN YOU GET
4 KIDS AT THAT AGE AND THEY DON'T HAVE A FATHER FIGURE AND
5 NOBODY IS AT HOME, THEY DRIFT TOWARDS OLDER PEOPLE GENERALLY
6 AND THAT'S WHAT HE DID.

7 THE WORST INFLUENCE WAS PROBABLY THE ANTONIO CRAWFORD
8 WHO HAS, MY UNDERSTANDING, A PRETTY SUBSTANTIAL RECORD AND
9 REALLY TOOK AN INTEREST IN TYQUAN AND CAME AND WOULD PICK HIM
10 UP IN HIS CAR, TAKE HIM RIDING, DO THINGS LIKE THAT WITH HIM,
11 AND THAT'S KIND OF HOW THIS INCIDENT OCCURRED. OFFICER
12 SWAGART ALSO INVESTIGATED THIS CASE AND HE BASICALLY SAID
13 THAT THEY KIND OF USED TYQUAN AS A JUVENILE TO CARRY THE
14 WEAPON, TO GET THIS -- GET THIS THING DONE. SO IT WAS DONTÉ,
15 CHRIS GURLEY, AND TONY CRAWFORD WHO ARE ALL OLDER THAN TYQUAN
16 AND THEY INFLUENCED HIM ON THIS OCCASION, ALTHOUGH HE TAKES
17 FULL RESPONSIBILITY. I DON'T WANT THE COURT TO THINK HE'S
18 NOT TAKING RESPONSIBILITY. I JUST THINK BY WAY OF MITIGATION
19 THE COURT NEEDS TO BE AWARE OF THAT.

20 SO THEY ALL GET AROUND AND THEY MAKE THIS PLAN. AS THE
21 INVESTIGATOR SAID, CHRIS GURLEY HAD A BEEF WITH UNFORTUNATELY
22 THE VICTIM, MR. KEITH, AND THEY PLANNED THIS ROBBERY AND
23 BASICALLY IT WAS SOMEWHAT OF A DRUG DEAL THAT WENT BAD
24 UNFORTUNATELY. AND TYQUAN INDICATES TO ME THAT HE NEVER
25 MEANT TO PULL THE TRIGGER. HE PULLED THE GUN OUT, AND THE

1 NEXT THING I KNOW IT GOES OFF. AND THE REASON I THINK YOU
2 CAN TELL THAT HE DIDN'T MEAN TO DO IT IS THERE WERE DRUGS
3 LEFT AT THE SCENE. UNFORTUNATELY ON THE VICTIM THERE WERE
4 DRUGS ON THE VICTIM. SO EVERYBODY SCATTERED AFTER THAT
5 HAPPENED. TO ME, IF THIS WAS A PLANNED DEAL, THAT WOULD NOT
6 HAVE OCCURRED. EVERYBODY WOULD HAVE GOTTEN THE DRUGS.

7 ONCE THEY APPREHENDED TYQUAN, HE COOPERATED. HE GAVE A
8 TRUTHFUL STATEMENT RIGHT OUT OF THE GATE. GOING THROUGH THE
9 JUVENILE CASE, WE WENT THROUGH ALL THE STATEMENTS THAT THE
10 GURLEY BROTHERS GAVE AND THEY WOULD SAY ONE THING, THEN
11 CHANGE THEIR STORY. THERE WERE LIKE THREE OR FOUR DIFFERENT
12 VERSIONS OF THE STORY. SO REALLY THE CASE DIDN'T GET WRAPPED
13 UP UNTIL TYQUAN GOT INVOLVED AND JUST GAVE THEM EVERYTHING
14 THAT THEY NEEDED, TOOK THEM TO THE GUN, SHOWED THEM WHERE THE
15 GUN WAS. SO HE TOOK FULL RESPONSIBILITY FOR WHAT HAPPENED.

16 NOW, OBVIOUSLY AFTER THIS OCCURRED HE WAS IN D.J.J. FOR
17 THE PAST YEAR OR SO UNTIL HE GOT WAIVED UP, AND HE'S BEEN OUT
18 IN EFFINGHAM HERE FOR THE LAST SIX MONTHS OR SO. BUT WHILE
19 IN D.J.J. HE DID A GOOD JOB OF DOING THE COURSES AND DOING
20 THE WORK THAT HE WAS SUPPOSED TO DO WHILE HE WAS THERE. I'M
21 GOING TO HAND A STATEMENT UP TO THE COURT OF RONALD AND
22 SHEILA GATES. THIS IS MR. TYQUAN JONES' MENTORS. EVIDENTLY
23 THEY HAVE MENTORS IN THE JUVENILE SYSTEM, AND THIS IS AN
24 ELDERLY COUPLE. I SPOKE WITH HER ON THE PHONE.
25 UNFORTUNATELY, SHE COULDN'T BE HERE TODAY, BUT SHE SPOKE VERY

1 HIGHLY OF TYQUAN AND SAID THAT HE WAS VERY WELL BEHAVED AND
2 REMORSEFUL AND REALLY THOUGHT HAD A POTENTIAL TO BE
3 REHABILITATED.

4 YOUR HONOR, I'D ALSO HAND UP TO THE COURT THE REPORT OF
5 DR. PULILLY (PHONETIC) WHO WAS THE PSYCHOLOGIST THAT WAS
6 ASSIGNED TO DO THE PRE-ADJUDICATION WAIVER EVALUATION. I'VE
7 GOT A CERTAIN SECTION OF THAT REPORT HIGHLIGHTED, AND IF THE
8 COURT WOULD INDULGE ME, I'D LIKE TO GO THROUGH A LITTLE BIT
9 OF IT---

10 THE COURT: SURE.

11 MR. MCCLAURIN: ---BECAUSE I THINK IT'S IMPORTANT FOR THE
12 COURT TO UNDERSTAND. BASICALLY SHE FELT LIKE SHE SHOULD HAVE
13 BEEN -- STAYED DOWN IN THE JUVENILE COURT WAS HER FINAL
14 OPINION, BUT, OF COURSE, THE JUDGE FOUND DIFFERENTLY. BUT
15 SHE HAS SEVERAL COMMENTS IN THERE THAT I THINK, AS I SAID,
16 WERE SUPPORTIVE. BEGINNING WITH THE SECTION "REMORSE AND
17 RESPONSIBILITY," SHE INDICATES, AS I'VE HIGHLIGHTED IN THERE,
18 THAT HE SEEMED VERY REMORSEFUL FOR WHAT HAPPENED, TALKING
19 ABOUT HIM BEING VERY TEARFUL IN THE INTERVIEWS AND THINGS OF
20 THAT NATURE, THAT HE REALIZED THAT HE WAS RUNNING AROUND WITH
21 THE WRONG CROWD. BASICALLY THEY WERE -- THEY WERE ROBBING
22 PEOPLE FOR MONEY AND DRUGS IS A LOT OF WHAT THEY WERE DOING
23 IN THIS CASE, YOUR HONOR.

24 TURNING ON TO THE NEXT PAGE WHICH WAS PAGE 7, YOUR
25 HONOR, YOU CAN SEE THE EVALUATOR INTERVIEWED LIEUTENANT

1 SWAGART AND THAT'S WHAT OFFICER SWAGART TOLD THE
2 PSYCHOLOGIST, THAT TYQUAN WAS A PASSIVE PARTICIPANT. THE
3 OFFICER ALSO SPECIFICALLY STATED HE BELIEVED THE OTHER THREE
4 ADULT MALES WERE INSTRUMENTAL IN ORCHESTRATING THE DEATH OF
5 THE VICTIM AND SOLICITED TYQUAN'S ASSISTANCE BECAUSE HE WAS A
6 JUVENILE. YOU CAN SEE THE PSYCHOLOGICAL TESTING THERE SHOWS
7 THAT HE HAS A LOW RANGE OF COGNITIVE ABILITY.

8 TURNING ON TO PAGE 9, YOUR HONOR, I'VE GOT A SECTION
9 HIGHLIGHTED THERE ABOUT HER FINDINGS. HER FINDINGS -- THAT'S
10 IN THE TOP PARAGRAPH. HER FINDINGS SUGGEST THAT ACROSS THE
11 BOARD TYQUAN DID NOT EXHIBIT TENDENCIES THAT ARE TYPICALLY
12 ASSOCIATED WITH THE DELINQUENT POPULATION. SPECIFICALLY, HE
13 DID NOT ENDORSE SIGNS OF DISTRUST OF AUTHORITY FIGURES, A
14 LACK OF SATISFACTION WITH HIMSELF, AN UNCONSCIOUS AWARENESS
15 OF FEELINGS OR A TENDENCY FOR HIS THINKING TO BE HEAVILY
16 INFLUENCED BY PERSONAL NEEDS. INSTEAD, TYQUAN EXHIBITED
17 TENDENCIES MORE IN LINE OF A NON-DELINQUENT POPULATION. HE
18 APPEARED TO BE INSIGHTFUL, SELF-AWARE, AND INTROSPECTIVE.

19 ALSO, AS A SIDE NOTE, YOUR HONOR, AT ABOUT 13 HE STARTED
20 USING DRUGS AND ALCOHOL, TYQUAN DID, AND SHE IN THIS REPORT
21 GOES THROUGH THAT AND, OF COURSE, ON THE DAY OF THIS SHOOTING
22 HE INDICATES HE WAS UNDER THE INFLUENCE ON THAT PARTICULAR
23 DAY. HER CONCLUSION, YOUR HONOR, IS THAT -- OF COURSE, SHE
24 SAYS THAT TYQUAN FULLY REALIZED THAT HE SHOULD BE HELD
25 ACCOUNTABLE FOR HIS ACTIONS BUT GOES THROUGH THE INFLUENCE

1 THAT OCCURRED AND THE IMPULSIVE NATURE OF JUVENILES AND
2 ADOLESCENTS. AND AS I WAS TELLING THE JUDGE AT THE FAMILY
3 COURT HEARING, NOBODY REALLY KNOWS THE MIND OF A 15-YEAR-OLD
4 EXCEPT SOMEONE WHO IS A PROFESSIONAL WHO IS TRAINED IN THESE
5 WAYS OF DETERMINING WHAT THEIR CAPABILITIES ARE, BUT HER
6 CONCLUSIONS ON PAGE 11 THAT -- THAT IN THE JUVENILE SYSTEM HE
7 DEMONSTRATED THAT HE COULD OPERATE WELL IN A STRUCTURED
8 ENVIRONMENT. HIS SCHOOL ATTENDANCE PERFORMANCE AND BEHAVIOR
9 WAS GOOD WHEN IN A CONTAINED AND STRUCTURED ENVIRONMENT.

10 TYQUAN'S MOTIVATED TO RECEIVE HELP. HE'S ACCEPTED
11 RESPONSIBILITY. HE HAS FEELINGS OF REMORSE. I JUST THINK
12 THOSE ARE IMPORTANT THINGS FROM A PROFESSIONAL TO -- FOR THE
13 COURT TO UNDERSTAND WHEN THE COURT CONSIDERS THE SENTENCE IN
14 THIS CASE. HE HAS NEVER DENIED RESPONSIBILITY, YOUR HONOR,
15 BUT WITH HIS AGE, WITH HIS FAMILY BACKGROUND, WITH PEOPLE
16 SAYING THAT THIS YOUNG MAN HAS POTENTIAL, I WOULD ASK THE
17 COURT TO CONSIDER GIVING HIM SOME SORT OF BREAK ON THIS
18 PARTICULAR SENTENCE SO THAT HE CAN GET OUT AT SOME POINT,
19 WHETHER IT BE IN HIS LATE TWENTIES OR SOME POINT IN HIS LIFE
20 AND GO ON AND BE PRODUCTIVE.

21 I GUESS THE FORTUNATE THING ABOUT IT: HE WAS SO YOUNG
22 THAT HE WILL BE ABLE TO GET OUT AT SOME POINT, BUT TO BE ABLE
23 TO DO THAT, YOUR HONOR, IN HIS TWENTIES OR SO WOULD BE
24 SOMETHING I WOULD ASK THE COURT TO CONSIDER. NOW, HIS MOTHER
25 IS HERE AND I KNOW SHE WANTED TO SAY A WORD AND I THINK

1 TYQUAN WANTED TO SAY A WORD OR TWO ALSO, YOUR HONOR.

2 THE COURT: I'LL BE HAPPY TO HEAR FROM ANYONE. I JUST
3 NEED---

4 MR. MCLAURIN: MS. POWELL.

5 THE COURT: I JUST NEED, YEAH, THEIR NAME FOR THE
6 RECORD, PLEASE.

7 MR. MCLAURIN: THIS IS ADRIANNE POWELL, THE MOTHER OF
8 TYQUAN. I KNOW SHE WANTED TO SAY A WORD OR TWO. GO AHEAD.

9 THE COURT: YES, MA'AM, MS. POWELL.

10 MS. POWELL: I HAVE HAD PROBLEMS IN MY LIFE AND I KNOW
11 THAT HAD SOME EFFECT ON HIM, AND I KNOW HE'S SORRY FOR WHAT
12 HE DID AND HE WANTS TO TAKE RESPONSIBILITY FOR THAT.

13 MR. MCLAURIN: THANK YOU.

14 THE COURT: THANK YOU, MA'AM.

15 MR. MCLAURIN: I KNOW TYQUAN WANTED TO SAY A WORD OR
16 TWO, I THINK, YOUR HONOR.

17 THE COURT: BE MORE THAN HAPPY TO HEAR FROM ANYONE.

18 MR. JONES: I WOULD LIKE TO SAY I'M SORRY TO THE FAMILY,
19 BUT I DO TAKE RESPONSIBILITY FOR MY ACTIONS, BUT IT WAS
20 ACCIDENTAL WHAT HAPPENED, SIR, BUT I'VE HAD TIME TO THINK
21 ABOUT IT AND I DO WANT TO ADMIT MY LIFE -- I KNOW THEY'RE
22 SAYING I WAS GOING DOWN THE WRONG PATH, BUT I HAVE MADE SOME
23 CHANGES IN MY LIFE, SIR.

24 THE COURT: ALL RIGHT.

25 MR. MCLAURIN: I BELIEVE THAT'S -- THAT'S IT, YOUR

1 HONOR.

2 THE COURT: IF I CAN GET MR. MCLAURIN AND MR. LAWSON TO
3 STEP UP.

4 MR. MCLAURIN: YES, SIR.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

6 THE COURT: ALL RIGHT. THANK YOU, SIR. ANYTHING
7 FURTHER, MR. MCLAURIN?

8 MR. MCLAURIN: THAT WOULD BE ALL, YOUR HONOR.

9 THE COURT: ALL RIGHT. MR. LAWSON, I'LL BE HAPPY TO
10 HEAR FROM ANYONE ON BEHALF OF MR. KEITH.

11 MR. LAWSON: STATE YOUR NAME, PLEASE.

12 MR. KEITH: MY NAME IS OTIS KEITH. I'M THE FATHER OF
13 DEMONDS ONTRARE (PHONETIC) KEITH. THAT WAS MY YOUNGEST SON,
14 MY BABY. NOTHING ANYONE DOES IN HERE TODAY IS GOING TO BRING
15 MY SON BACK BECAUSE I MISS HIM. WHEN I GO HOME TODAY, I
16 STILL GOT TO GO HOME TO A LONELY HOUSE AND HOME. I APPEAR
17 TODAY BECAUSE I WOULD LIKE TO SEE JUSTICE BEING DONE FAIRLY
18 AND CORRECTLY.

19 I DO ACCEPT YOUR APOLOGY FOR BEING SORRY ABOUT WHAT
20 HAPPENED, BUT THIS IS THE FOURTH TIME I'VE SEEN YOU AND THIS
21 IS THE FIRST TIME YOU'VE EVER SAID ANYTHING AND YOU'VE HAD
22 PLENTY OF OPPORTUNITY PRIOR. NO ONE -- I DON'T WISH THIS ON
23 ANYONE WHO IS IN THIS COURTROOM OR CAN HEAR ME BECAUSE NO ONE
24 KNOWS WHAT IT'S LIKE TO LOSE A SON, YOUR YOUNGEST SON.

25 EIGHTEEN MONTHS AGO WE WALKED AROUND IN MY YARD BECAUSE

1 I'M A DIABETIC AND A HEART PATIENT. ME TELLING HIM ABOUT HOW
2 TO PLAN MY GOING ON AND HOW TO HANDLE BUSINESS, AND ALL OF A
3 SUDDEN IT'S THE OTHER WAY AROUND AND PART OF ME IS GONE THAT
4 I'LL NEVER GET BACK IN THIS LIFE. THE ONLY THING I CAN DO IS
5 PRAY THAT JUSTICE IS SERVED, SIR. THANK YOU.

6 THE COURT: THANK YOU, SIR. I VERY MUCH APPRECIATE YOU
7 BEING HERE. I KNOW HOW DIFFICULT -- I IMAGINE HOW DIFFICULT
8 IT IS. I DON'T KNOW. YOU'RE RIGHT; YOU'RE EXACTLY RIGHT.
9 AND I'M VERY SORRY FOR YOUR LOSS.

10 MR. KEITH: THANK YOU, SIR.

11 THE COURT: ANYTHING ELSE?

12 MR. LAWSON: NOTHING, YOUR HONOR.

13 THE COURT: YOU KNOW, WE -- I'M GOING TO ADDRESS YOU,
14 MR. JONES, BUT I'M GOING TO ADDRESS EVERYBODY. AND THE
15 ABSOLUTE MOST DIFFICULT PART OF THIS JOB THAT I HAVE IS THIS
16 BECAUSE HERE'S A YOUNG MAN, 16 YEARS OF AGE, AND I'VE GOT A
17 RESPONSIBILITY TO DO WHAT MR. KEITH MENTIONS IS -- IS
18 JUSTICE. SIR, I DON'T KNOW THAT I CAN DO JUSTICE BECAUSE I
19 DON'T KNOW THAT THE LAW PROVIDES -- I DON'T KNOW WHAT JUSTICE
20 IS IN THIS CASE.

21 I KNOW AS I STAND HERE UNDER THESE WORDS FROM SCRIPTURE
22 THAT WE'RE TO DO JUSTLY, LOVE MERCY, AND WALK HUMBLY WITH
23 GOD. I DON'T KNOW WHAT JUSTICE IS IN THIS CASE. I CAN'T
24 IMAGINE GOING THROUGH WHAT THIS GENTLEMAN HAS GONE THROUGH.
25 I'VE GOT A LITTLE BOY WHO'S 20 MONTHS OLD. JUST THIS PAST

1 WEEKEND HE HAD AN ACCIDENT AND SPLIT HIS HEAD OPEN, AND JUST
2 FOR A MOMENT IT JUST STOPPED MY HEART. HE'S FINE. HE GOT
3 STITCHES; HE'S FINE. BUT I COULDN'T IMAGINE LOSING HIM. I
4 COULDN'T IMAGINE GOING ON.

5 I WANT EVERYBODY TO UNDERSTAND SOMETHING. THAT'S THE
6 PROBLEM BECAUSE ALL THESE YOUNG PEOPLE ARE WALKING AROUND
7 WITH GUNS AND DRUGS. THEY MIGHT BE HERE TODAY AND I WOULDN'T
8 KNOW IT IF I SAW THEM, BUT YESTERDAY I HAD THREE OR FOUR
9 YOUNG MEN UP HERE WEARING THEIR GANG SHIRTS, AND I'D ALREADY
10 MADE THE DECISION IF THEY SHOWED UP TODAY I WAS GOING TO BAN
11 THEM FROM THE COURTROOM. I'M NOT SAYING THAT THIS WAS PART
12 OF AN ORGANIZED GANG, BUT IT WAS A GANG BECAUSE THERE WAS
13 THREE OR FOUR OF YOU INVOLVED IN PLANNING TO DO THIS.

14 YOU'VE GOT A RELATIVE WHO, BARRING HIM DOING ANYTHING
15 STUPID, HE'S GOT AN INCREDIBLE LIFE AHEAD OF HIM BECAUSE HE
16 TOOK THE SKILLS THAT GOD GAVE HIM AND THAT APPEARS THAT GOD
17 MAY HAVE GIVEN YOU AS WELL AND HE APPLIED THOSE SKILLS TO THE
18 ATHLETIC FIELD, AND HE NOW HAS MADE MORE MONEY JUST THIS YEAR
19 THAN I'VE MADE IN MY ENTIRE LIFE ALL TOTAL AND HE'LL MAKE
20 TONS AND TONS MORE FOR HIMSELF AND HIS FAMILY.

21 YOU APPARENTLY DEAL WITH OR HAVE THOSE SKILLS OR AT
22 LEAST SOME LEVEL OF THOSE SKILLS, AND INSTEAD OF DIRECTING
23 YOUR ATTENTION AND YOUR EFFORTS IN THAT AREA, YOU FELT IT WAS
24 MORE APPROPRIATE TO BE A THUG AND, SIR, THAT'S WHAT YOU ARE.
25 YOU'RE A THUG. I'M NOT SAYING YOU'RE A BAD PERSON, BUT

1 YOU'RE A THUG. YOU BULLY PEOPLE. YOU'RE A COWARD BECAUSE
2 INSTEAD OF GOING UP -- YOU WANT TO STEAL FROM SOMEBODY? DO
3 YOU WANT TO STEAL FROM ME? COME UP TO ME AND STEAL FROM ME.
4 THREATEN ME, BUT DON'T DO IT WITH A GUN. I'M UNARMED.
5 YOU'RE A COWARD. COWARDS HIDE BEHIND GUNS.

6 ALL THESE PEOPLE WHO WALK AROUND THIS COMMUNITY WITH
7 GUNS -- HAVE A SEAT, SIR. NO, SIR, YOU WON'T. HAVE A SEAT.
8 HERE'S MY POINT. WE'RE NOT STANDING HERE TODAY IF YOU DIDN'T
9 HAVE THE COURAGE TO JUST DO WHATEVER IT IS YOU'RE GOING TO DO
10 WITHOUT A WEAPON.

11 SEE, WHEN I WAS GROWING UP AND MR. LAWSON WAS GROWING UP
12 AND MR. MCLAURIN WAS GROWING UP, WE MIGHT GET OUR TAILS
13 WHIPPED, BUT IF WE HAD A DIFFERENCE WITH SOMEBODY, IF
14 SOMEBODY CHEATED US OUT OF SOMETHING, IF WE FELT LIKE WE HAD
15 TO GO MAKE THINGS RIGHT, WE JUST WENT DOWN THERE WITH OUR
16 FISTS AND WE EITHER GOT OUR TAILS CUT OR WE CUT SOMEBODY
17 ELSE'S TAIL. BUT YOU KNOW WHAT? THE NEXT DAY NOBODY WAS
18 DEAD. MOST OF THE TIME NOBODY WAS IN JAIL AND WE ENDED UP
19 BEING FRIENDS. BUT YOU YOUNG PEOPLE TODAY THINK THE ANSWER
20 TO EVERYTHING IS PULLING OUT A GUN.

21 YOU'VE MADE A CHOICE TO PULL OUT A GUN, AND NOW LOOK
22 WHAT YOU'VE DONE TO YOURSELF. I'M SURE -- THERE'S NO
23 QUESTION, MR. JONES, IF YOU COULD TURN THE CLOCK BACK, YOU
24 WOULDN'T HAVE DONE THIS. I KNOW THAT. EVERYBODY KNOWS THAT.
25 THAT'S -- THAT'S KIND OF A NO BRAINER. WE ALL UNDERSTAND

1 THAT. BUT THIS GENTLEMAN WILL NEVER SEE HIS SON AGAIN.

2 MR. MCLAURIN MADE THE COMMENT THAT FORTUNATELY FOR YOU
3 YOU'RE YOUNG ENOUGH THAT NO MATTER WHAT I DO -- I COULD
4 IGNORE THE STATE'S RECOMMENDATION AND GIVE YOU 30 YEARS
5 STRAIGHT. IT DOESN'T MATTER. WHEN YOU GET OUT, YOU'RE STILL
6 GOING TO BE A YOUNG MAN. THIS GENTLEMAN'S SON WILL NEVER GET
7 OUT. HE'LL NEVER SEE HIM AGAIN.

8 THE DISTURBING THING FOR ME -- AND I READ ALONG WITH MR.
9 MCLAURIN AS HE REVIEWED THIS REPORT. I AM NOT A
10 PSYCHIATRIST, PSYCHOLOGIST, AND I DON'T PROPOSE TO BE ONE AND
11 I DON'T PROPOSE TO UNDERSTAND THE SCIENCE OF THAT, BUT IT'S
12 HARD FOR ME TO UNDERSTAND COMMENTS IN THIS REPORT WHERE THE
13 DOCTOR STATES THAT HE DOESN'T EXHIBIT TENDENCIES THAT ARE
14 TYPICALLY ASSOCIATED WITH THE DELINQUENT POPULATION. IT'S
15 HARD FOR ME TO UNDERSTAND THAT WHEN I KNOW THAT YOU'VE GOT A
16 PRIOR -- JUST ONE YEAR PRIOR TO THIS YOU WERE CONVICTED OF
17 ARMED ROBBERY. DID THAT INVOLVE A GUN?

18 MR. JONES: THAT INVOLVED ME LOOKING OUT FOR SOMEBODY
19 ELSE.

20 THE COURT: DID IT INVOLVE A GUN THOUGH?

21 MR. JONES: YES, SIR.

22 THE COURT: AGAIN, GUNS. I UNDERSTAND THAT YOUR MOTHER
23 HAD PROBLEMS AND ISSUES INVOLVING DRUGS HERSELF, BUT YOU'RE
24 NOT THE FIRST YOUNG MAN TO GROW UP IN THAT SITUATION AND YOU
25 PROBABLY WON'T BE THE LAST UNFORTUNATELY. BUT YOU HAVE

1 CHOICES TO MAKE AND YOU CHOSE TO MAKE CHOICES TO GO IN A
2 DIRECTION OF BEING A BULLY, BEING A THUG, BEING A COWARD,
3 INSTEAD OF GOING IN THE DIRECTION OF FINDING SOMETHING
4 POSITIVE TO DO WITH YOUR LIFE.

5 THIS IS ALSO -- IT'S INCREDIBLE, MR. JONES, THAT YOUR
6 CASE IS ALMOST AN ENCAPSULATION OF EVERY ISSUE IN THIS
7 SOCIETY THAT IS THE PROBLEM AND THE REASONS THAT WE'RE HAVING
8 TO SPEND BILLIONS OF DOLLARS ON JAILS. YOU GREW UP AND YOU
9 DIDN'T HAVE A FATHER FIGURE IN YOUR HOUSE. YOU DIDN'T HAVE
10 SOMEBODY OF AUTHORITY OVER YOU, YET EVERY DAY, EVERY DAY,
11 ALMOST WITHOUT EXCEPTION -- AND YOU PEOPLE WHO HAVE BEEN
12 SITTING OUT HERE, YOU LISTEN AND FROM NOW ON LISTEN.

13 ALMOST EVERY YOUNG MAN THAT COMES BEFORE ME - I DON'T
14 CARE IF THEY'RE AFRICAN AMERICAN, CAUCASIAN, ASIAN, HISPANIC
15 - ALMOST 90 PERCENT OF THE YOUNG PEOPLE THAT COME IN FRONT OF
16 ME STAND BEFORE ME AND THEY ANSWER MY QUESTIONS: ARE YOU
17 MARRIED OR SINGLE? SINGLE. DO YOU HAVE ANY CHILDREN? YES.
18 DO THEY LIVE WITH YOU? NO. THAT'S THE SOCIETY WE ARE
19 CULTIVATING AND WE'VE DEVELOPED. PEOPLE DON'T GROW UP WITH
20 THEIR MOMS AND DADS ANYMORE, AND A MAJOR FACTOR OF IT IS
21 BECAUSE OF DRUGS.

22 I KNOW YOU'RE SORRY FOR THIS AND I APPRECIATE YOU
23 SHARING THAT, ESPECIALLY WITH MR. KEITH, BUT YOU CAN'T UNDO
24 CERTAIN THINGS. AND ALL OF Y'ALL NEED TO UNDERSTAND YOU
25 CAN'T UNDO A BULLET WHEN YOU'RE SO MUCH OF A COWARD THAT YOU

1 HIDE BEHIND A GUN.

2 YOU CAN CONFRONT ME IF YOU HAVE A PROBLEM WITH ME. YOU
3 CAN ASSAULT ME AND YOU CAN EITHER WHIP MY TAIL OR I'LL WHIP
4 YOURS, BUT WHEN THE DUST SETTLES, ALL YOU'VE GOT ARE BRUISES
5 AND BLOODY NOSES AND BROKEN NOSES OR WHATEVER. YOU START
6 WHIPPING GUNS OUT: NOW YOU'RE TAKING PEOPLES' LIVES AND YOU
7 CAN'T UNDO THAT. YOU CAN FIX A BROKEN BONE. YOU CAN FIX A
8 BLOODY NOSE. YOU CAN'T FIX WHEN YOU TAKE SOMEBODY'S LIFE,
9 AND THAT'S WHY I SAY THAT NO MATTER WHAT I DO HERE TODAY, I
10 CAN'T DO JUSTICE FOR YOU, SIR, BECAUSE I CAN'T BRING YOUR SON
11 BACK.

12 BUT THIS COMMUNITY AND THIS STATE AND THIS NATION HAS
13 GOT TO KNOW THAT THIS STUFF'S GOT TO STOP. THERE IS A
14 GROWING AND A GROWING AND A GROWING PROBLEM IN OUR -- IN OUR
15 COMMUNITY OF GANGS, AND I SAW THREE OR FOUR OF THEM UP HERE
16 YESTERDAY. I ONLY KNEW THEM BECAUSE THEY WERE STUPID ENOUGH
17 TO COME DRESSED IN THEIR COLORS. I WOULDN'T KNOW THEM IF
18 THEY JUST -- THEY MAY BE SITTING OUT THERE LISTENING TO ME
19 RIGHT NOW; I DON'T KNOW. BUT THE ONLY THING THAT COMES OUT
20 OF GANGS IS CRIME, DRUGS, AND DEATH. SO I DON'T UNDERSTAND
21 THE ATTRACTION TO IT, BUT IT'S A GROWING PROBLEM.

22 I'M TAKING INTO CONSIDERATION EVERYTHING THAT I'VE
23 HEARD. I'M CONSIDERING THE REPORT. THE CONCERN THAT THIS
24 COURT HAS IS THAT YOU WERE CONVICTED OF AN ARMED ROBBERY A
25 YEAR BEFORE THIS HAPPENED, AND THAT DIDN'T TEACH YOU A

1 LESSON. THAT DIDN'T GET YOUR ATTENTION THAT YOU DON'T ROB
2 PEOPLE OR EVEN ASSOCIATE WITH THOSE WHO DO WITH WEAPONS. AND
3 NONE OF THAT WORKS. NOTHING GETS YOUR ATTENTION.

4 SENTENCE OF THE COURT ON 2006-1257 IS THAT YOU BE
5 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD
6 OF 20 YEARS. I'M GOING TO GIVE YOU CREDIT FOR ANY TIME THAT
7 YOU HAVE SERVED. I'M GOING TO -- MR. MCLAURIN, I'M GOING TO
8 NOTE ON HERE THAT UNTIL MR. JONES OBTAINS THE AGE OF
9 ADULthood THAT THEY PLACE HIM IN A FACILITY -- IN A YOUTHFUL
10 OFFENDER FACILITY. IF THEY'LL ABIDE BY THAT, THEN THAT --
11 THAT'S GOOD, BUT IF THEY DON'T, I DON'T KNOW THAT I HAVE ANY
12 AUTHORITY TO ORDER IT, BUT I'M GOING TO PUT IT ON HERE. AND
13 IF I DO, THEY WILL, AND IF I DON'T, THEN THEY WON'T.

14 MR. LAWSON: THAT'S FINE, YOUR HONOR. THANK YOU, YOUR
15 HONOR.

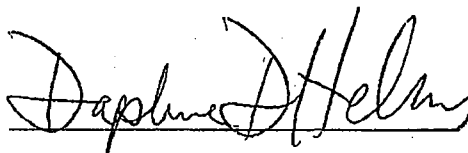
16 MR. MCLAURIN: THANK YOU.

17 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED. THERE WERE
18 NO EXHIBITS INTRODUCED.)
19
20
21
22
23
24
25

I, THE UNDERSIGNED DAPHNE D. HELMS, OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR FLORENCE COUNTY, SOUTH CAROLINA, ON THE 15TH OF MARCH, 2007.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

OCTOBER 7, 2007

A handwritten signature in cursive script, reading "Daphne D. Helms", written over a horizontal line.

DAPHNE D. HELMS, COURT REPORTER

STATE OF SOUTH CAROLINA

County of Florence

IN THE COURT OF COMMON PLEAS

2011-CP-21-2562

Tyquan Jared Amir Jones #320934

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution
2. Name and location of Court which imposed sentence Florence County,
Twelfth Judicial Circuit
3. Name(s) of co-defendant(s) (if any) Dante Gurley; Chris Gurley;
and Antonio Crawford
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) N/A

RECEIVED 28 PM 12:05
CLERK OF COURT
FLORENCE COUNTY, SC

(c)

5. The date upon which sentence was imposed and the terms of the sentence:

(a) March 15, 2007, 20 years D.O.C credit time serve

(b)

(c)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty Yes

(b) after a plea of not guilty

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. Motion for Reconsideration, Twelfth Judicial Circuitii. South Carolina Court of Appeals

iii.

(b) the result in each such Court to which you appealed:

i. Denied and Dismissedii. Affirmed

iii.

(c) the date of each such result:

i. July 2, 2007ii. April 20, 2011

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i.

ii. Opinion NO. 4822

iii.

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) N/A

(b)

(c)

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Involuntary Character of confession(b) Involuntary Guilty Plea(c) Ineffective Assistance of Counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Confession not voluntary, knowing, and intelligent(b) Guilty Plea not voluntary, knowing, and intelligent(c) Counsel failed to render adequate assistance and judgment

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? N/A(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A(d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i.

N/A

ii.

iii.

iv.

(b) the name and location of the Court in which each was filed:

i.

N/A

ii.

iii.

iv.

(c) the disposition thereof:

i.

N/A

ii.

iii.

iv.

(d) the date of each such disposition:

i.

N/A

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

N/A

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

Involuntary Character of confession

ii.

iii.

(b) the proceedings in which each ground was raised:

i.

Direct Appeal

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) First time filing P.C.R.
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes
 (b) your trial, if any? _____
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. C. Stevens McLaurin, Post Office Box 1461
Florence, SC 29503
 ii. M. Celia Robinson, Post office Box 11589
Columbia, SC 29211
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Waiver of jurisdiction, arraignment, plea
and sentencing.
 ii. Direct Appeal.
 iii. _____

19. State clearly the relief you seek in filing this application:

Waiver of jurisdiction and conviction reversed
and case remanded to family court for new
determination of waiver question and adjudication

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Tyquan Jones, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Tyquan Jones

SWORN to and subscribed before me this 21
 day of Sept, 2011.

Debra Jones (L.S.)
 Notary Public

My Commission Expires: 11-4-2015

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Tyquan Jones, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Tyquan Jones
Applicant

SWORN or affirmed to and subscribed before me this

21 day of Sept, 2011.

Duke Jorg
Notary Public

My Commission Expires: 1-4-2015

2011 SEP 28 PM 12:05
CORRE REEL-SHEARIN
CCCP & GS
JOHNSON COUNTY, SC

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE)

C.A. NO. 11-CP-21-2562

Tyquan Jared Amir Jones,
SCDC # 320934)

Applicant,)

RETURN

VS.)

State of South Carolina,)

Respondent.)
_____)

In response to the post-conviction relief application (PCR) filed September 28, 2011, Respondent would show this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the September 2006 term of the Florence County Grand Jury for murder, attempted armed robbery, and conspiracy. This followed his waiver from Family Court following a hearing on July 13-14, 2006. His co-defendants were Antonio Crawford, Julius Gurley, and Donte Gurley. C. Stevens McLaurin, Esquire, represented Applicant. On March 15, 2007, Applicant pled guilty to voluntary manslaughter and was sentenced by the Honorable Thomas A. Russo to twenty years imprisonment.

Applicant appealed his conviction and sentence. He was represented by M. Celia Robinson, Esquire. Following the submission of briefs, the Court of Appeals affirmed the waiver to Family Court, and the conviction and sentence on April 20, 2011. State v. Jones, 392 S.C. 647, 709 S.E.2d 696 (Ct. App. 2011) The remittitur was issued on May 6, 2011.

Attached herewith and incorporated herein by reference are the records of the Florence County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, the Family Court hearing transcript, and the guilty plea transcript.

Respondent reserves the right to amend its return upon the receipt of further information or materials.

II.

In his current application, Applicant alleges that he is being held in custody unlawfully because his statement was involuntary, he received ineffective assistance of counsel, and his plea was involuntary.

III.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); Alexander v. State, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry v. State, 300 S.C. 115 at 117, 386 S.E.2d 624 at 625 (1989), *citing* Strickland.

Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; Alexander, 303 S.C. at 541-42, 402 S.E.2d at 485. The Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, *Id.* Applicant must overcome this

presumption in order to receive relief. Cherry, Id.

Where there has been a guilty plea, the applicant must prove prejudice by showing that, but for counsel's errors, there is a reasonable probability he would not have pleaded guilty and instead would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370, 88 L.Ed.2d 203, 210 (1985); Jordan v. State, 297 S.C. 52, 54, 374 S.E.2d 683, 684 (1988). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, an evidentiary hearing is likely needed to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not

invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977).

Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

The State submits Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

Applicant's allegations concerning the voluntariness of his statement to law enforcement is a direct appeal issue and is improper in an application for post-conviction relief. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975). The allegation should be summarily dismissed.

VI.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VII.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not

specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code §17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VIII.

WHEREFORE, having made Return, Respondent requests that this Court dismiss this Application with prejudice.

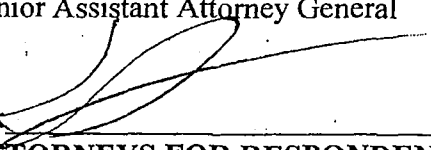
Respectfully submitted,

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By 
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November 29, 2011.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

COURT OF COMMON PLEAS

TYQUAN J. AMIR JONES)
320934)
PETITIONER,)

v.)

TRANSCRIPT OF RECORD
11-CP-21-2562

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

February 01, 2012
Florence, South Carolina

B E F O R E :

THE HONORABLE WILLIAM H. SEALS, JUDGE

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

CHARLES T. BROOKS, III, ESQ.
Attorney for the Petitioner

DAVID SPENCER, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 MR. SPENCER: The next case I'm going to
2 call is Tyquan James. I'm just going to grab the
3 file real quick. Excuse me, I misspoke, it's Tyquan
4 Jones. Your Honor, this is 2011-CP-21-2562. For
5 the record my name is David Spencer with the
6 Attorney General's Office, and Mr. Jones is
7 represented here today by Mr. Charles Brooks. This
8 is an application was filed in September 28th of
9 2011. Applicant was indicted in September of 2006
10 by the grand jury for murder, attempted armed
11 robbery, conspiracy, this filed a waiver hearing
12 from family court. He pled guilty on March 15th of
13 2007 to voluntary manslaughter, and he was sentenced
14 by Judge Russo to 20 years imprisonment. He did
15 file an appeal and the Court of Appeals affirmed the
16 waiver of family court and the conviction and
17 sentence also on April 20th of 2011 and the
18 remittitur was issued in May of 2011. Your Honor, I
19 have the packet for you.

20 THE COURT: Thank you.

21 MR. SPENCER: Mr. Jones was represented by
22 Mr. Steve McLaurin who is here today. He's driven
23 here from Greenville so I'm very appreciative of
24 that. At this time I would ask that Mr. Brooks set
25 out Mr. Jones' allegations for the record.

1 THE COURT: Mr. Brooks.

2 MR. BROOKS: May it please the Court,
3 Judge, basically my client is attesting that his
4 plea was involuntary given and there are going to be
5 issues that he testifies that come out of that.
6 I've explained to him that that's basically the
7 nature of what we're here today is to convince Your
8 Honor that his plea was of that nature and should be
9 set aside, that he should be sent back to give him a
10 new trial and that's what he wishes to go forward
11 on.

12 THE COURT: I'm ready whenever you are.

13 MR. BROOKS: We call Mr. Jones to the
14 stand.

15 THE CLERK OF COURT: If you would place
16 your left hand on the Bible and raise your right
17 hand.

18 WHEREUPON,

19 TYQUAN JONES,
20 having been duly sworn by the Clerk of Court,
21 testified as follows:

22 THE CLERK OF COURT: Be seated. State
23 your name for the record.

24 THE WITNESS: Tyquan Jones.

25 **DIRECT EXAMINATION**

PW - T. JONES - DIRECT

1 BY MR. BROOKS:

2 Q Mr. Jones, how are you today?

3 A I'm all right.

4 Q How old are you?

5 A 21.

6 Q Now I'm gonna ask you a couple of background
7 questions just to put these things on the record,
8 okay? You pled guilty to voluntary manslaughter and
9 received a sentence of 20 years; is that correct?

10 A Yes, sir.

11 Q Now you were indicted for murder, attempted armed
12 robbery, and conspiracy, and you were waived up from
13 family court. Do you understand that the only thing
14 that Judge Seals can do is give you a new trial and
15 put you back in the position that you were in? You
16 understand that? That's the only thing he can do.
17 If we win today that's the only thing he can do.
18 You understand that? We've discussed that.

19 A Yes, sir.

20 Q You got to speak up.

21 A Yes, sir.

22 Q And you understand what risk you could have if
23 you got a new trial?

24 A Yes, sir.

25 Q Okay. Now and knowing that, you told me that you

PW - T. JONES - DIRECT

1 still want to go forward; is that correct?

2 A Yes, sir.

3 Q Okay. Now tell me why you ended up pleading
4 guilty.

5 A I plead -- I pled guilty because my lawyer
6 advised me it was best because of a statement that I
7 gave.

8 Q Okay.

9 A And he said it's in my best interest to plead
10 guilty but ---

11 Q All right. Now you told me there were some
12 issues about that statement; is that right?

13 A Yeah.

14 Q Right?

15 A Yes, sir.

16 Q And what were the issues concerning your
17 statement that you were telling me about?

18 A That my statement was involuntary, right. We
19 were, um, we had a, um, waiver hearing where
20 Mr. McLaurin, he had objected to the statement being
21 used against me as evidence, and they had a Jackson
22 versus Denno hearing or whatever where the officer
23 Robinson, she got on the stand and testified. And
24 during her testimony she said that her and
25 Lieutenant Swaggart were the two people who

PW - T. JONES - DIRECT

1 questioned me or whatever, all right. And if you
2 look at the, you know, the little statement sheet,
3 Lieutenant Swaggart is the person who questioned me;
4 but due to her testimony they allowed the statement
5 to be entered. But later on during Lieutenant
6 Swaggart testimony, after the statement was allowed
7 to be entered into evidence he admitted when he got
8 on the stand and said that he made me a promise
9 saying that if I give him a statement he'll do
10 whatever he can for me and all this kind of stuff.
11 He said it twice 'cause the Solicitor asked him
12 again and further testimony did anybody promise me
13 anything, and he told the Solicitor he made me a
14 promise again.

15 Q Now so what are you saying that your lawyer did
16 wrong as relation to your plea?

17 A My lawyer, when, whenever — well, whenever, what
18 I'm saying my lawyer did wrong is whenever he got on
19 the stand and said whatever he said that my lawyer
20 should have moved to get the statement suppressed
21 again at my waiver hearing and that prevented me
22 from getting a chance at a better outcome.

23 Q So what you're saying is your lawyer should have
24 tried to suppress your statement again?

25 A Yes. Whenever he made the statement about him

PW - T. JONES - DIRECT

1 promising me leniency or whatever, my lawyer should
2 have moved to get it suppressed again after that.

3 Q Okay. Now, what -- and now you told me there
4 were some other things you wanted to tell the Court
5 about today; is that correct?

6 A Tell like, whatever like, as far as my guilty
7 plea, whenever we was at the waiver hearing he was
8 already talking, like, we're gonna get you if you
9 get waiver you gonna get 15, 20 years; but how could
10 he already say that when I was facing 30 years at
11 the minimum. But he already had in his head I was
12 going to get 15 or 20 years like he had his mind
13 made up already. That's in ---

14 Q You're talking about your lawyer?

15 A Yeah, that's in my -- in the transcript whatever
16 when he was at my waiver hearing where he was giving
17 closing argument.

18 Q Okay. And is there anything else that you want,
19 you said you wanted to tell the judge things about
20 your case, have we -- have you told everything?

21 A Yes, sir.

22 Q All right. Answer any questions that the
23 Attorney General has.

24 THE COURT: All right, Mr. Spencer.

25 **CROSS-EXAMINATION**

PW - T. JONES - CROSS

1 BY MR. SPENCER:

2 Q Do you recall Judge Russo explaining to you that
3 you could have a trial if you wanted one?

4 A Yes, he did explain that to me.

5 Q Okay. And did you tell him you wanted a trial?

6 A No, 'cause I was taking advice of my attorney.

7 Q Your attorney's advice was to plead guilty?

8 A Yeah, because of the statement.

9 Q Because of the statement because he was concerned
10 the statement would come into evidence and be used
11 against you?

12 A Yes, sir.

13 Q And then if that statement was used against you
14 there was a good strong likelihood you'd get
15 convicted, right?

16 A I guess so.

17 Q And you would have been convicted of murder?

18 A I guess so.

19 Q And you would have been facing 30 years to life?

20 A Yeah, if I was convicted.

21 Q If you were convicted. And instead, he had
22 arranged a plea deal for you where you would be
23 facing a cap of 20 years, right? And as a matter of
24 fact, it was possible at that point that the judge
25 could decide he wanted to sentence you to something

PW - T. JONES - CROSS

1 less than 20 years, right?

2 A Yes.

3 Q He could potentially sentence you to 15 years?

4 A Yes, sir.

5 Q And he just chose not to do — he chose to
6 sentence you to 20 years, right?

7 A Yes, sir.

8 Q All right. So you were hoping for 15 years, but
9 you realized you might get as much as 20 years,
10 right?

11 A Naw, I wasn't hoping for anything. I was just —
12 I was going 'cause he told me it was my best
13 interest. We didn't have any kind of conversation
14 before that. He just called me up one day, and I
15 was here and he was like, oh, you should plead
16 guilty because the statement or whatever and all
17 this kind of stuff.

18 Q So his advice to you was in light of the
19 statement being potentially used against you and in
20 light of the chances that a jury might convict you,
21 that you should plead guilty?

22 A Yes, sir.

23 Q And you decided to follow his advice?

24 A Yeah, I was 16 years old. I ain't know nothing
25 about no law so I was listening to him.

PW - T. JONES - CROSS

1 Q And you understand had the case gone to trial,
2 had that statement been challenged, he couldn't
3 guarantee you that statement would get suppressed,
4 could he?

5 A Yeah, but it was a likelihood it could have got
6 suppressed at that waiver hearing if he would have
7 made objection after the dude, after Lieutenant
8 Swaggart made his statement about if I made a
9 statement he would do this.

10 Q If he made a statement he would ---

11 A He would ---

12 Q ---indicated to the judge you'd cooperate?

13 A No, he said --- yeah, he said he was going to talk
14 to, he'd do whatever he can for me. He didn't say,
15 indicate to the judge that he'll --- that I
16 cooperate. He said he would do anything his power
17 for me.

18 Q Within his power?

19 A Yes.

20 Q He didn't promise he would dismiss the charge?

21 A No, but it's an implied promise of leniency.

22 Q He didn't tell you, you know, he didn't tell you
23 he had the ability to make sure you got a lenient
24 sentence, did he?

25 A Naw, that's how he made it seem.

PW - T. JONES - CROSS

1 Q And you understood you were facing up to life
2 imprisonment for murder, right?

3 A Naw, not at that point. I was still a juvenile.
4 I didn't know. I was still in family court.

5 Q You understand you're facing life imprisonment
6 now -- that you would you have faced life
7 imprisonment had the case gone to trial?

8 A That was later on.

9 Q You understand that now?

10 A Yeah.

11 Q Okay. You understand you were facing life
12 imprisonment?

13 A Yeah, later, after that.

14 Q And you were how old when you were 16?

15 A I was arrested when I was 15. I was tried when I
16 was 16.

17 Q Okay. And so how old are you going to be when
18 you max-out this 20 year sentence?

19 A Thirty something.

20 Q 35?

21 A 33, something like that.

22 Q 33?

23 A 34, something like that.

24 Q Okay. And that's for killing somebody, right?

25 A I -- I don't think -- I thought we was here to

PW - T. JONES - CROSS

1 discuss the errors of my case, not...

2 Q Well, did you tell your attorney, yeah, I shot
3 him?

4 A No, I didn't ever tell my attorney nothing.

5 Q You didn't tell him whether you did or not? Did
6 you shoot him?

7 A I don't think we're here for that right there.

8 Q I think that's exactly why we're here. If you
9 could answer the question. Did you shoot him?

10 A (There was no response.)

11 MR. SPENCER: Your Honor, I would ask the
12 question be answered.

13 THE COURT: Go ahead and answer the
14 question.

15 THE WITNESS: Naw.

16 BY MR. SPENCER:

17 Q You're saying you didn't shoot him?

18 A No, sir.

19 Q But you told Judge Russo you were pleading
20 because you were guilty?

21 A Yeah, because of involuntary statement that I
22 made.

23 Q Involuntary statement that you made is a
24 statement which you said you shot the victim?

25 A Because I was what you could say coerced.

PW - T. JONES - CROSS

1 Q So are you saying you were lying to Judge Russo?

2 A I was saying I'm following the advice of my
3 attorney.

4 Q Did your attorney tell you to lie to Judge Russo?

5 A No, my attorney told me to plead guilty so that's
6 what I did.

7 Q But he -- did he tell you to say when Judge
8 Russo -- let me make sure I get the wording of the
9 question right. Judge Russo asked you, are you
10 pleading guilty to the charge of voluntary
11 manslaughter of your own free will, sir? And you
12 said, yes, sir. The next question: And are you
13 guilty of that charge? You told him, yes, sir. Is
14 that correct?

15 A Yes.

16 Q So you were lying to Judge Russo?

17 A I just did what I thought was in my best interest
18 as far as my attorney advice.

19 Q Well, is -- was that the truth, your answer?

20 A Huh-uh.

21 Q Was that the truth?

22 A No.

23 Q Do you remember the Solicitor explaining the
24 facts of the case to Judge Russo?

25 A Yes.

PW - T. JONES - CROSS

- 1 Q And I'm just gonna read a portion of this just to
2 move things along. This is the judge saying: "All
3 right, Mr. Jones, I'm gonna let Mr. Lawson" -- this
4 is the prosecutor in this case -- "and anyone else
5 that he may designate give me the facts surrounding
6 this. I ask that you please listen carefully and
7 then I'll come back to you in just a moment, sir. "
8 And then he lets Mr. Lawson, prosecutor, explain the
9 facts. And then he asked you: Are those facts
10 correct, sir? And you told Judge Russo, yes, sir,
11 right?
- 12 A Yes, sir.
- 13 Q And those facts are correct, right? You really
14 did shoot the victim.
- 15 A Naw, those facts are not correct.
- 16 Q Oh, so you were lying to Judge Russo?
- 17 A No, I was following the advice of my attorney.
- 18 Q Is it true that the facts are correct?
- 19 A No, sir.
- 20 Q So that's a lie; isn't it?
- 21 A I guess so.
- 22 Q It is a lie, right? It's a lie that you told
23 Judge Russo.
- 24 A I guess so.
- 25 Q Is that what you're saying? It's a lie that you

PW ÷ T. JONES - CROSS

1 told Judge Russo so that you would get convicted and
2 go to prison, right?

3 A No, I was following the advice of my attorney.

4 Q And what you're telling me is that attorney's
5 advice was for you to lie?

6 A No, his advice was for me to plead guilty.

7 Q But that's not what Judge Russo asked you. He
8 didn't ask you then if you were pleading guilty. He
9 was asking you if those are the facts of the case
10 and you told him yes, sir. So either that's a lie
11 or that's a truth, which is it?

12 A I thought I was all in the process of pleading
13 guilty. I didn't know any different.

14 Q Just answer me yes or no. Is that true, those
15 facts?

16 A That's my answer to it. It was all in the
17 process of me pleading guilty. I didn't know any
18 different.

19 Q I understand it's in the process of pleading
20 guilty. Is it true, is it true that you shot that
21 guy as Jack Lawson indicated in the plea?

22 A No, sir.

23 Q And so that's a lie that you told Judge Russo,
24 right?

25 A I was pleading guilty.

PW - T. JONES - CROSS

- 1 Q Yes or no? Was that a lie?
- 2 A I said it.
- 3 Q If you could ask — if you can answer the
- 4 question yes or no. Was that a lie?
- 5 A I said it.
- 6 Q Was that a lie?
- 7 A I said it.
- 8 Q If you could answer yes or no. Was that a lie?
- 9 A I said it. It's on the transcript.
- 10 Q If you could tell me whether or not that's truth
- 11 or not. Answer yes or no and then you can explain.
- 12 A All right. Yes, I said it. It's what I said.
- 13 Q Yes, it's a lie?
- 14 A If that's what you want to call it.
- 15 Q Do you understand the difference between a truth
- 16 and a lie?
- 17 A Yeah, I do.
- 18 Q And when Judge Russo asked you if your answers to
- 19 his questions were truthful you told him they were,
- 20 right?
- 21 A Yes, sir.
- 22 Q And you know the difference between a truth and a
- 23 lie?
- 24 A I do.
- 25 Q Thank you. I have no further questions.

PW - S. MCLAURIN - DIRECT

1 THE COURT: Mr. Brooks.

2 MR. BROOKS: No other questions, Your
3 Honor.

4 THE COURT: All right. You may step down.

5 MR. BROOKS: We call Mr. McLaurin to the
6 stand.

7 THE CLERK OF COURT: If you would place
8 your left hand on the Bible and raise your right
9 hand.

10 WHEREUPON,

11 **CHARLES STEVEN MCLAURIN,**

12 having been duly sworn by the Clerk of Court,
13 testified as follows:

14 THE CLERK OF COURT: Be seated and state
15 your name for the record.

16 THE WITNESS: My name is Charles
17 Steven McLaurin.

18 **DIRECT EXAMINATION**

19 BY MR. BROOKS:

20 Q How are you today?

21 A Good. How about yourself?

22 Q You represented Mr. Jones?

23 A I did.

24 Q Can you give a brief summary of what the State's
25 case was against him?

PW - S. MCLAURIN - DIRECT

1 A Yeah. A lot of it dealt with the statement.
2 That was the main thing which of course he's pointed
3 out. He had given a statement admitting to shooting
4 the victim in this case. There was also testimony
5 from co-defendants that would indicate that he also
6 shot this individual so I think that was the basis,
7 the basic things for the case against him.

8 Q All right. Now y'all had a family court hearing
9 to determine whether or not he should be waived up.

10 A That's correct.

11 Q And I see that that was contested.

12 A That's correct.

13 Q And did you call witnesses on his behalf?

14 A I did. I did. We called a mentor of his that
15 testified that he felt like that Tyquan was a good
16 kid and that he had some redeeming qualities about
17 him that felt like he should not be waived up. We
18 also called -- I can't remember whether we called
19 him or maybe it was a joint witness, a psychologist
20 that evaluated him with the Department of Social
21 Services, who indicated also that he felt like
22 Tyquan was not mature and should stay in the
23 juvenile system.

24 Q What was the ---

25 A And ---

PW - S. MCLAURIN - DIRECT

1 Q What was the evidence saying that he should be
2 waived up from the State's position?

3 A Yeah, yeah. He had a prior history and he had
4 been convicted of several different violent
5 offenses. He had not done well in school. He had
6 been difficult in school. He did not have a family
7 life, which I felt like was positive for us, but the
8 judge felt differently, somebody to look after him
9 if he was to stay in the juvenile system. And so
10 those were several of the factors that I think the
11 judge considered in waiving him up. And of course,
12 the offense itself, and of course the violent nature
13 of the offense itself that was committed.

14 Q And how did it come about to being a plea?

15 A Well, we talked about different options. I spoke
16 with him and his mother. And his father I think
17 lived up north and came down, and we spoke also.
18 But I spoke with them and we considered our options
19 and felt like -- we'd already had one Jackson versus
20 Denno hearing where the statement had been allowed,
21 and I did not feel ---

22 Q Now that Jackson v. Denno hearing, that was at
23 the family court level?

24 A Yeah, the family court hearing. So one judge had
25 already heard that and decided that it was going to

PW - S. MCLAURIN - DIRECT

- 1 be let in so I advised him that I thought based on
2 the statement and the co-defendants' evidence that
3 it did not look like there would be a good
4 opportunity for us to have a trial and be successful
5 and so we made an informed decision to try to plead.
6 Q Okay. Did you advise him to do that?
7 A Yeah, I told him his options and I told him I
8 felt like that was the best option for him to do
9 that. Yeah, I did give him that advice.
10 Q Okay. Now at the — once it had been waived up
11 you didn't render any motions to try to go back and
12 have that statement suppressed again?
13 A No, we did not get to that stage where I made any
14 other motions. Motions in what court are you
15 referring to?
16 Q Circuit court, general sessions?
17 A In general sessions.
18 Q After the waiver?
19 A No, no, we did not do that. We didn't do that.
20 Q Okay. Some of these co-defendants you said that
21 they had given — had they testified or they had
22 given statements?
23 A I think they had given statements that indicated
24 that they'd identified him as the person who was the
25 shooter.

PW - S. MCLAURIN - DIRECT

1 Q Were these statements by these co-defendants
2 inconsistent in nature or inconsistent with one
3 another?

4 A They probably were. And the exact detail of each
5 statement I couldn't recall that right now, but as I
6 remember there were some fodder there for
7 cross-examination for sure. But with the totality
8 of the circumstances I felt like once again, that it
9 was my best advice for him to work out a plea and
10 which we did.

11 Q All right.

12 MR. BROOKS: Beg the Court's indulgence.

13 THE COURT: Sure.

14 BY MR. BROOKS:

15 Q Mr. McLaurin?

16 A Yes, sir.

17 Q Did you question Lieutenant Swaggart during the
18 Jackson v. Denno hearing in Family Court?

19 A You know, I know I questioned him at some point
20 in the case. I don't remember if it was in that
21 particular hearing or not. I really don't remember
22 that whether it was in that or not. I know I
23 questioned him and cross-examined him. And he is
24 right, he did indicate to us that he would try to
25 help Tyquan out. And I'll be honest with you,

PW - S. MCLAURIN - DIRECT

1 frankly he did. He testified at the family court
2 that he felt like that it was the influence of these
3 co-defendants on Tyquan and that Tyquan was just
4 following their lead so I think he did help him out.

5 Q So ---

6 A But the judge still waived him up.

7 Q So what you're saying is that particular
8 investigator actually might have induced Tyquan to
9 give a statement?

10 A No, I don't think he induced him. I mean, before
11 he -- I -- he just said he said he'd try to help him
12 out. I mean, I looked at the statement and there
13 was, I mean, out from the gate the defense was
14 always and has always been that Tyquan pulled the
15 gun out, he had a gun, and it went off by accident.
16 That was his spin on it, Tyquan's position.

17 Q Beg the Court's indulgence. Mr. McLaurin, wasn't
18 at the time during that Jackson v. Denno hearing
19 when I believe it was Lieutenant Swaggart would
20 start talking about certain inducements, certain
21 promises, did you object to any of that?

22 A Well, that was the whole nature of the hearing
23 was, you know, it was an objection that I had raised
24 about the admissibility of that statement. So that
25 was the whole nature of the hearing and so, of

PW - S. MCLAURIN - CROSS

1 course, yes, the whole -- we made a little argument
2 at the end of the Jackson v. Denno and the judge
3 said he was going to allow the statement in.

4 Q Okay. Mr. McLaurin?

5 A Yes.

6 Q After the Jackson v. Denno hearing had concluded
7 when Lieutenant Swaggart had got up on the stand and
8 said what he said about Mr. Jones' statement, you
9 didn't object then, did you?

10 A I don't remember. I don't remember objecting. I
11 don't remember that. Like I said, I really can't
12 remember at what stage Swaggart testified in the
13 hearing, you know, whether it was during that
14 hearing. But I don't remember that.

15 Q Would you just pretty much rely on what the
16 transcript had?

17 A What the transcript said is the indication of
18 what happened.

19 MR. BROOKS: No other questions, Your
20 Honor.

21 THE COURT: All right. Mr. Spencer.

22 **CROSS-EXAMINATION**

23 BY MR. SPENCER:

24 Q Was this case scheduled for trial at the time of
25 the guilty plea?

FW - S. MCLAURIN - CROSS

1 A No, no. It was -- we had just worked out a plea.
2 I think it -- it was not too far from being
3 scheduled, but I don't think we had like a date
4 certain or anything like that scheduled.

5 Q Were concerning those codefendants' statements
6 were -- do you know if any of those co-defendants
7 were going to testify against Mr. -- was going
8 testify --

9 A Mr. Jones.

10 Q --against Mr. Jones?

11 A My understanding is they were willing to testify.

12 Q And had the case gone to trial would you have
13 challenged the voluntariness of the statement?

14 A Certainly, just as we did at the waiver hearing.

15 Q Okay. And even if that statement was suppressed
16 would the State have had enough evidence to convict
17 Mr. Jones?

18 A You know, I think it would have made their case
19 much tougher, but I still think there was a chance
20 he could have been convicted.

21 Q Particularly if -- I'm sorry, I didn't mean to
22 interrupt.

23 A Yeah, with the co-defendants. And I think there
24 was somebody that put him there around the scene
25 area, but I can't remember the details of that

PW - S. MCLAURIN - CROSS

1 issue.

2 Q Did he discuss the facts of the case with you?

3 A Yes. Mr. Jones?

4 Q Mr. Jones?

5 A Yes.

6 Q And did he put himself there?

7 A Oh, yes. You talking about with our discussions?

8 Q Right.

9 A Yes.

10 Q And what defenses or any had he discussed with
11 you?

12 A Well, the main defense really was, you know, it
13 was an accident. He didn't mean to, for the gun to
14 go off and that, you know, he was following the lead
15 of those other guys. And so that was the main
16 defense really.

17 Q So actually his defense was pretty much what the
18 statement said anyway?

19 A What's consistent with what the statement said,
20 that it was an accident.

21 Q And -- beg the Court's indulgence. In your
22 estimation did you feel had you challenged that
23 statement in general sessions that you would have
24 been likely to succeed in a motion hearing?

25 A I thought it would be difficult. I mean, we had

PW - S. MCLAURIN - CROSS

1 a few points we could make. You know, what
2 Lieutenant Swaggart said was obviously a point that
3 we could make. His mother wasn't present during the
4 questioning and that was a point we could have made;
5 but all in all, though, I felt like it was going to
6 come in. I felt like there was a great chance it
7 was gonna to come in.

8 Q And you certainly didn't feel you could guarantee
9 Mr. Jones that it wouldn't come in?

10 A Oh, no, you're right, you're right, yeah. I
11 think it was more likely it would come in than not
12 so...

13 MR. SPENCER: Your Honor, I have no
14 further questions.

15 THE COURT: Anything further?

16 MR. BROOKS: No other questions, Your
17 Honor.

18 THE COURT: All right. Have a good day.
19 Call your next witness.

20 MR. BROOKS: Judge, that is the
21 Applicant's case.

22 THE COURT: All right. Anything from you,
23 Mr. Spencer?

24 MR. SPENCER: Your Honor, we won't have
25 any witnesses to present.

1 THE COURT: Thank you.

2 MR. BROOKS: Judge, briefly I would put
3 forth to the Court based on what my client has
4 testified to, Mr. McLaurin, this guilty plea should
5 be set aside and my client should be granted his
6 PCR, get a new trial. This was not a voluntary
7 plea. He was a very young man; he's been
8 frightened. There's issues about statements. He
9 solely, as he testified to, solely rely on the
10 advice of his counsel, thus he should get a new
11 trial.

12 THE COURT: All right, Mr. Spencer.

13 MR. SPENCER: Your Honor, of course the
14 main issue that we seem to be focused on today was
15 the voluntariness of the statement. As Mr. McLaurin
16 said he couldn't guarantee he could suppress it. As
17 a matter of fact, once this statement is admitted
18 this, it wouldn't hold up on appeal quite frankly.
19 You know, sort of vague statements like, you know,
20 I'll mention cooperation or, you know, I'll see what
21 I can do for you, those kind of statements are not
22 statements that would render a confession
23 involuntary. Of course, the standard once you get
24 on review and I just seem to have a bunch of these
25 that I've been responding to lately in my direct

1 appeal work, standard review to uphold the judge's
2 admission of a statement is any evidence and they're
3 the easiest briefs to write in the world for me to
4 do because you simply list a bunch of factors like,
5 yeah, I let them have bathroom breaks, yeah, I
6 bought them McDonalds, whatever. And you know, this
7 wasn't really even be much of a speed bump in terms
8 of direct appeal issue. Mr. McLaurin instead
9 pursued a strategy of getting a excellent plea
10 opportunity.

11 You know, I think my view actually, the
12 officer really did -- and I don't recall that in the
13 transcript -- the officer said I'll see if I can get
14 you a lenient sentence or help get a lenient
15 sentence, I think that's what happened. Twenty
16 years on a charge of murder, 20 years where your
17 defense is going to be that sort of Mickey Mouse
18 defense, oh, the gun went off accidentally. That's
19 not an accident not when you're in the course of
20 what I believe, if I recall correctly, was an armed
21 robbery. So Your Honor, I would ask that you deny
22 this application. I think what the record
23 establishes is Mr. McLaurin provided excellent
24 representation for his client, and he has put
25 Mr. Jones in a situation that he may or may not

1 deserve of being able to get out of prison in his
2 early 30s which, you know, that would be ten years
3 younger than I am today. So I think that's
4 excellent representation. Your Honor, I ask that
5 this application be denied.

6 THE COURT: Thank you. I'll take it under
7 advisement and have you a ruling by the end of
8 today.

9
10 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

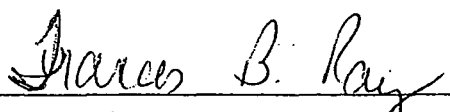
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 21st day of September, 2012.


FRANCES BAKIS-RAY, RPR

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Tyquan Jared Amir Jones,
SCDC # 320934)

Applicant,)

VS.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. NO. 11-CP-21-2562**ORDER OF DISMISSAL**2012 JUN -5 PM 1:17
FILED
CLERK OF COURT
FLORENCE COUNTY, S.C.

FILED

This matter is before this Court by way of an application for post-conviction relief (PCR) filed September 28, 2011. The State made its return on November 29, 2011. An evidentiary hearing into the matter was convened at the Florence County Courthouse on February 1, 2012. Applicant was present and represented by Charles T. Brooks, III, Esquire. The State was represented by David Spencer of the South Carolina Office of the Attorney General.

Applicant testified on his own behalf. Also testifying was his plea counsel, C. Stevens McLaurin, Esquire. This Court also had before it the PCR application, the State's return, the Clerk of Court's records regarding the subject convictions, the Applicant's records from the Department of Corrections, and the transcripts of the family court waiver hearing and the guilty plea hearing.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the September 2006 term of the Florence County Grand Jury for murder, attempted armed robbery, and conspiracy.

This followed his waiver from Family Court following a hearing on July 13-14, 2006. C. Stevens McLaurin, Esquire, represented Applicant. On March 15, 2007, Applicant pled guilty to voluntary manslaughter and was sentenced by the Honorable Thomas A. Russo to twenty years imprisonment.

Applicant appealed his conviction and sentence. He was represented by M. Celia Robinson, Esquire. Following the submission of briefs, the Court of Appeals affirmed the waiver to Family Court, and the conviction and sentence on April 20, 2011. State v. Jones, 392 S.C. 647, 709 S.E.2d 696 (Ct. App. 2011). The remittitur was issued on May 6, 2011.

ALLEGATIONS

In his current application, Applicant alleges that he is being held in custody unlawfully because his statement was involuntary, he received ineffective assistance of counsel, and his plea was involuntary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1985).

Ineffective Assistance of Counsel and Involuntary Plea

Applicant makes various allegations of ineffective assistance of counsel. The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321

S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRCP.

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985); Stalk v. State, 383 S.C. 559, 681 S.E.2d 592 (2009); Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Applicant testified that he felt his statement to law enforcement was involuntarily given and further that he pled guilty because of this statement. Applicant's charges stem from the shooting of the victim during the course of an armed robbery. Applicant gave a statement to police admitting that he utilized a gun in the armed robbery and claimed the gun went off accidentally. Other co-defendants gave statements to the police that were inculpatory to Applicant.

At the waiver hearing, counsel challenged Applicant's statement, but the family court found the statement admissible. Counsel testified he would have challenged the statement if the case went to trial, but that the statement would likely come in. Counsel further testified that he would have challenged the co-defendants' testimony for inconsistencies. However, counsel testified that conviction was likely if the case went to trial. Counsel testified that he informed Applicant of his options and that Applicant made an informed decision to take the plea offer, a recommendation of a twenty year cap for a plea to voluntary manslaughter, rather than face trial for murder.

The plea transcript supports the voluntariness of the plea. Applicant was informed of his constitutional rights, including the right to trial, the right to remain silent, and the right to confront his accusers. Tr. pp. 3-4, p. 14. Applicant advised the plea court that counsel did everything he could to assist Applicant with his case, that Applicant was not promised or threatened anything in pleading guilty, and that he was pleading guilty of his own freewill. Applicant told the plea court that his answers were truthful and that he was guilty of the charge. Tr. pp. 16-17. He further advised the plea court that he agreed with the State's recitation of facts. Tr. p. 21, lines 3-6.

This Court finds that counsel's performance was well within professional norms and that he did not render deficient performance. The transcripts reflect that counsel was vigorous in his

representation and his testimony reflects that he ensured Applicant made an intelligent and knowing decision to plead guilty. This Court finds counsel's testimony credible and gives it great weight. On the other hand, this Court does not find Applicant's testimony credible. This Court further finds that Applicant has not met his burden of proving prejudice, as this Court finds Applicant failed to show a likelihood that his statement to police would have been suppressed had he gone to trial. This Court finds that Applicant's plea was voluntarily given and further finds that the PCR application must be denied.

CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this Application for Post-Conviction Relief must be denied and dismissed with prejudice.

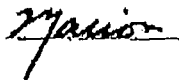
This Court advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right to seek appellate review of a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on an applicant's behalf.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 4 day of June, 2012.


William H. Seals, Jr.
Presiding Judge
12th Judicial Circuit

, South Carolina

INDICTMENT FOR

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

MURDER, ATTEMPTED ARMED ROBBERY AND
CONSPIRACY

At a Court of General Sessions, convened on SEPTEMBER 07, 2006, the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE - MURDER

That TYQUAN JARED AMIR JONES did in FLORENCE County on or about December 03, 2005, violate Sections 16-03-0010, 0020 and 16-01-0060 of the Code of Laws of South Carolina (1976), as amended, in that he did feloniously, wilfully and with malice aforethought kill one Desmond Keith, by means of shooting him with a handgun, and that the said Desmond Keith did die as a proximate result thereof.

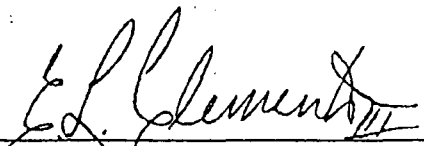
COUNT TWO - ATTEMPTED ARMED ROBBERY

That TYQUAN JARED AMIR JONES did in FLORENCE County on or about December 03, 2005, violate Sections 16-11-0330(B) and 16-01-0060 of the Code of Laws of South Carolina (1976), as amended, in that while armed with a deadly weapon, to wit: a handgun, did attempt to rob Desmond Keith, by means of force or intimidation, goods or monies of the said Desmond Keith.

COUNT THREE - CONSPIRACY

That TYQUAN JARED AMIR JONES did in FLORENCE County on or about December 03, 2005, violate Section 16-17-0410 of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully, wilfully, knowingly, wickedly and feloniously unite, combine, conspire, confederate, agree between and among Antonio Crawford, Julius Gurley and Donte Gurley, and have tacit understanding with each other and with divers other persons whose names are unknown to the Grand Jurors for the purpose of committing the crime of Attempted Armed Robbery and/or Murder.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

LT. JAMES RODGERS

FPD

Robinson

PROS:

JWL

D/O:

12-03-2005

ARREST WARRANT NO.

J395088 (1); J395089 (2); J395088 (3).

ACTION OF GRAND JURY

TRUE BILL

L. Coleman

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

The State of South Carolina,

County of FLORENCE

JWL

COURT OF GENERAL SESSIONS

SEPTEMBER

TERM

2006

THE STATE

vs.

TYQUAN JARED AMIR JONES

Indictment for

MURDER,
ATTEMPTED ARMED ROBBERY
AND
CONSPIRACY

FILED

2006 SEP -7 A 11:09

WILLIAM R. BELL
CLERK OF COURT
FLORENCE COUNTY SC