

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

OCT - 7 2014

S.C. Supreme Court

SAMMY LEE SCOTT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000748

A P P E N D I X

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STATE OF SOUTH
CAROLINA

COUNTY OF ANDERSON

) IN THE COURT OF GENERAL
) SESSIONS
)
) INDICTMENT NO:
) 2006-GS-04-3262A, 3263A,
) 3264A, 3265, 3261

STATE OF SOUTH
CAROLINA

PLAINTIFF,

-VS-

SAMMY L. SCOTT,

DEFENDANT.

)
)
)
) TRANSCRIPT OF RECORD
) TRIAL
)
)
)

SEPTEMBER 8, 9, 10, 11, 2008
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J.C. BUDDY NICHOLSON, JR., JUDGE; AND A
JURY.

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

CATHERINE T. HUEY ESQ.
ASSISTANT 10TH CIRCUIT SOLICITOR
ATTORNEY FOR THE STATE

ANDREW POTTER, ESQ.
ATTORNEY FOR THE DEFENDANT

ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
POST OFFICE BOX 9
WALHALLA, SC 29691

Anderson County Courthouse

RANDOM STRIKE SHEET

1-A

JUDGE NAME :

TRIAL TYPE :

 PANEL ID : 2 SEPT 8, 2008
 COURTROOM CTR

DESCRIPTION : STATE VS. SAMMY SCOTT

Sorted by: Random Nbr

Trial

NAME	DATE OF BIRTH	DATE OF TRIAL	DATE OF STRIKE	DATE OF STRIKE	DATE OF STRIKE	DATE OF STRIKE	REMARKS
1 Palmer, Jeremiah E	124	B	M	()	(✓)	()	
2 Mahaffey, Jayne R	108	W	F	()	(✓)	()	
3 CRENSHAW, HEATHER	41	W	F	()	()	()	
4 Brock, James R	14	W	M	()	()	()	
5 Mcdonald, Okchin C	110	W	F	()	()	()	
6 Walters, David III	165	B	M	()	()	()	
7 Bolding, Jonathan L	12	W	M	()	(✓)	()	
8 GIBSON, CAROLYN L	150	W	F	()	(✓)	()	
9 Edens, Janet D	48	W	F	()	(✓)	()	
10 Troxell, Aleisha H	159	W	F	()	(✓)	()	
11 Owens, Sunny L	122	W	F	()	()	()	
12 Washington, Brenda D	166	B	F	()	(✓)	()	
13 Quiney, Douglas J	127	W	M	(✓)	()	()	
14 Young, Edward M	174	W	M	(✓)	()	()	
15 Moore, Polly A	118	B	F	()	(✓)	()	
16 Dahill, Marie S	40	W	F	()	()	()	
17 Shirley, James C	143	W	M	()	()	()	
18 Craft, Kevin T	39	W	M	()	()	()	
19 Watt, Dorothea L	168	W	F	()	()	()	
20 Childress, Brian W	34	W	M	()	()	()	
21 Humphrey, Harry J	86	B	M	(✓)	()	()	
22 Young, Frances C	175	B	F	()	()	()	
23 Davis, Gerald H	42	W	M	()	(✓)	()	

Anderson County Courthouse RANDOM STRIKE SHEET

1-B

JUDGE NAME :

Sorted by: Random Nbr

TRIAL TYPE :

CASE ID : 2 SEPT 8, 2008

DESCRIPTION : STATE VS. SAMMY SCOTT

Trial

COURTROOM CTR

NAME	JUROR NBR	RACE	SEX	EMPLOYED	DEF	STP	RELAT
24 Mcneal, Veronica A	112	B	F	()	(✓)	()	_____
25 Gaillard, Cheryl A	65	W	F	()	()	()	_____
26 Brown, Ryan C	178	W	M	()	()	()	_____
27 Butdorf, Matthew K	25	W	M	()	(✓)	()	_____
28 Grover, Carolyn A	73	W	F	()	(✓)	()	_____
29 Hurley, Linda S	87	W	F	()	()	()	_____
30 Perry, Kimberly D	126	W	F	()	()	()	_____
31 Capell, Mary N	28	W	F	()	()	()	_____
32 Mcpherson, Peggy T	113	W	F	()	()	()	_____
33 Maw, Bruce A	177	W	M	()	()	()	_____
34 Fountain, Sylvia J	61	W	F	()	()	()	_____
35 Isbell, Janice F	88	W	F	()	()	()	_____
36 Johnson, Chicole L	90	B	F	()	()	()	_____
37 Harris, James R	78	W	M	()	()	()	_____
38 Ellison, John M	51	W	M	()	()	()	_____
39 BROOKS, VALERIE F	60	W	F	()	()	()	_____
40 Mitchell, Leland S	115	W	M	()	()	()	_____
41 Hanna, Sandra S	77	W	F	()	()	()	_____
42 Sims, Brinell L	145	B	F	()	()	()	_____

Total Number of Jurors:

42

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1 ***** START OF REQUESTED TRANSCRIPT *****

2

3 THE COURT: MR. POTTER, CAN YOU GIVE ME A
4 WITNESS LIST, PLEASE?

5 MR. POTTER: I'M SORRY, YOUR HONOR.

6 (HANDING).

7 THE COURT: SOLICITOR, CALL YOUR CASE,
8 PLEASE.

9 MS. HUEY: YOUR HONOR, THE STATE CALLS SAMMY
10 SCOTT. HE IS CHARGED WITH MURDER, 2006-GS-04-3261; AS
11 WELL AS POSSESSION OF A FIREARM DURING THE COMMISSION OF
12 A VIOLENT CRIME. HE IS ALSO CHARGED WITH FOUR COUNTS OF
13 ASSAULT AND BATTERY WITH INTENT TO KILL, 3262, 3263,
14 3264, AND 3265. EACH OF THESE ASSAULT AND BATTERY WITH
15 INTENT TO KILL CHARGES ALSO HAS THE POSSESSION OF
16 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.

17 THE COURT: THANK YOU, MA'AM. DO YOU WANT
18 TO HAND ME THE INDICTMENTS?

19 MS. HUEY: YES, YOUR HONOR.

20 THE COURT: THANK YOU, MA'AM.

21 JURY VOIR DIRE:

22 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN
23 OF THE JURY PANEL, I'M GOING TO BASICALLY DO THE SAME
24 THING WE DID WITH THE FIRST JURY. I'M GOING TO CALL OUT
25 A LIST OF THE WITNESSES' NAMES AND ASK YOU IF YOU ARE

1 RELATED BY BLOOD OR MARRIAGE, IF YOU KNOW ANY OF THE
2 INDIVIDUALS, IF YOU HAD ANY CONTACT WITH THE INDIVIDUALS
3 WHOSE NAMES I CALL OUT.

4 IF THE INDIVIDUAL IS IN THE COURTROOM,
5 PLEASE STAND WHEN I CALL OUT YOUR NAME.

6 THE FIRST NAME IS TORREY ACKER. IS ANYBODY
7 RELATED BY BLOOD OR MARRIAGE TO TORREY ACKER, DOES
8 ANYBODY KNOW TORREY ACKER? IF SO PLEASE STAND. (NO
9 RESPONSE).

10 THE NEXT NAME IS GEORGE BURNS. IS ANYBODY
11 RELATED BY BLOOD OR MARRIAGE TO GEORGE BURNS, DOES
12 ANYBODY KNOW GEORGE BURNS? IF SO, PLEASE STAND. (NO
13 RESPONSE).

14 THE NEXT NAME IS JAMES BURNS. DOES ANYBODY
15 KNOW JAMES BURNS, IS ANYBODY RELATED BY BLOOD OR
16 MARRIAGE TO JAMES BURNS? IF SO, PLEASE STAND. (NO
17 RESPONSE.)

18 THE NEXT NAME IS SYDNEY CHESTER. IS ANYBODY
19 RELATED BY BLOOD OR MARRIAGE TO SYDNEY CHESTER, DOES
20 ANYBODY KNOW SYDNEY CHESTER? IF SO, PLEASE STAND. (NO
21 RESPONSE.)

22 THE NEXT NAME IS PETE DIAL. DOES ANYBODY
23 KNOW PETE DIAL, IS ANYBODY RELATED BY BLOOD OR MARRIAGE
24 TO PETE DIAL? IF SO, PLEASE STAND. (NO RESPONSE).

25 THE NEXT NAME IS JEREMI DIAL. DOES ANYBODY

1 KNOW JEREMI DIAL, IS ANYBODY RELATED BY BLOOD OR
2 MARRIAGE TO JEREMI DIAL? IF SO, PLEASE STAND. (NO
3 RESPONSE).

4 THE NEXT NAME IS WHITNEY DODSON. DOES
5 ANYBODY KNOW WHITNEY DODSON, IS ANYBODY RELATED BY BLOOD
6 OR MARRIAGE TO WHITNEY DODSON? IF SO, PLEASE STAND. (NO
7 RESPONSE).

8 THE NEXT NAME IS KYLE DUNCAN. DOES ANYBODY
9 KNOW KYLE DUNCAN, IS ANYBODY RELATED BY BLOOD OR
10 MARRIAGE TO KYLE DUNCAN? IF SO, PLEASE STAND. (NO
11 RESPONSE).

12 THE NEXT NAME IS PATRICIA DURHAM. DOES
13 ANYBODY KNOW PATRICIA DURHAM, IS ANYBODY RELATED BY
14 BLOOD OR MARRIAGE TO PATRICIA DURHAM? IF SO, PLEASE
15 STAND. (NO RESPONSE.).

16 THE NEXT NAME IS DECHANE EARL. DOES ANYBODY
17 KNOW DECHANE EARL, IS ANYBODY RELATED BY BLOOD OR
18 MARRIAGE TO DECHANE EARL? IF SO, PLEASE STAND. (NO
19 RESPONSE.)

20 THE NEXT NAME IS PATRICE GAINES. DOES
21 ANYBODY KNOW PATRICE GAINES, IS ANYBODY RELATED BY BLOOD
22 OR MARRIAGE TO PATRICE GAINES? IF SO, PLEASE STAND. (NO
23 RESPONSE.)

24 THE NEXT NAME IS INDIA GALLOWAY. DOES
25 ANYBODY KNOW INDIA GALLOWAY, IS ANYBODY RELATED BY BLOOD

1 OR MARRIAGE TO INDIA GALLOWAY? IF SO, PLEASE STAND.

2 THE NEXT NAME IS DONARDO GRAHAM. DOES
3 ANYBODY KNOW DONARDO GRAHAM, IS ANYBODY RELATED BY BLOOD
4 OR MARRIAGE TO DENARDO GRAHAM? IF SO, PLEASE STAND. (NO
5 RESPONSE).

6 THE NEXT NAME IS BRANDON KEASLER. DOES
7 ANYBODY KNOW BRANDON KEASLER, IS ANYBODY RELATED TO
8 BRANDON KEASLER? IF SO, PLEASE STAND. (NO RESPONSE).

9 THE NEXT NAME IS JOHNNY MAHAFFEY. DOES
10 ANYBODY KNOW JOHNNY MAHAFFEY, IS ANYBODY RELATED BY
11 BLOOD OR MARRIAGE TO JOHNNY MAHAFFEY? IF SO, PLEASE
12 STAND. (NO RESPONSE).

13 THE NEXT NAME IS SHANQUIL MARTIN. SHANQUIL
14 MARTIN, DOES ANYBODY KNOW -- IS ANYBODY RELATED BY BLOOD
15 OR MARRIAGE TO -- IF SO, PLEASE STAND. (NO RESPONSE).

16 THE NEXT NAME IS CAMERON MATTISON
17 (PHONETIC). DOES ANYBODY KNOW CAMERON MATTISON, IS
18 ANYBODY RELATED TO CAMERON MATTISON BY BLOOD OR
19 MARRIAGE? IF SO, PLEASE STAND. (NO RESPONSE).

20 THE NEXT NAME IS MARKESHA SMITH. DOES
21 ANYBODY KNOW MARKESHA SMITH, IS ANYBODY RELATED BY BLOOD
22 OR MARRIAGE TO MARKESHA SMITH? IF SO, PLEASE STAND.
23 (NO RESPONSE).

24 THE NEXT NAME IS BRITTANY YOUNG. DOES
25 ANYBODY KNOW BRITTANY YOUNG, IS ANYBODY RELATED BY BLOOD

1 OR MARRIAGE TO BRITTANY YOUNG? IF SO, PLEASE STAND. (NO
2 RESPONSE).

3 THE NEXT NAME IS KEN BLAKELY. DOES ANYBODY
4 KNOW KEN BLAKELY, IS ANYBODY RELATED BY BLOOD OR
5 MARRIAGE TO KEN BLAKELY? IF SO, PLEASE STAND. (NO
6 RESPONSE)..

7 THE NEXT NAME IS TOMMY CLAMP. DOES ANYBODY
8 KNOW TOMMY CLAMP, IS ANYBODY RELATED BY BLOOD OR
9 MARRIAGE TO TOMMY CLAMP? IF SO, PLEASE STAND. (NO
10 RESPONSE).

11 THE NEXT NAME IS MARK COYLE. DOES ANYBODY
12 KNOW MARK COYLE, IS ANYBODY RELATED BY BLOOD OR MARRIAGE
13 TO MARK COYLE? IF SO, PLEASE STAND.

14 YES, MA'AM. YOUR NAME?

15 **POTENTIAL JUROR PERRY:** KIMBERLY PERRY.

16 **THE COURT:** DO YOU KNOW YOUR NUMBER?

17 **POTENTIAL JUROR PERRY:** 126.

18 **THE COURT:** YES, MA'AM, MS. PERRY, HOW DO
19 YOU KNOW MARK COYLE?

20 **POTENTIAL JUROR PERRY:** I WENT TO SCHOOL
21 WITH HIM.

22 **THE COURT:** HIGH SCHOOL?

23 **POTENTIAL JUROR PERRY:** YES, SIR.

24 **THE COURT:** A LONG TIME AGO, NOT TOO LONG
25 AGO, OR HOW LONG?

1 POTENTIAL JUROR PERRY: WE WON'T TALK ABOUT
2 THAT.

3 THE COURT: PARDON? WE WON'T TALK ABOUT
4 THAT? (LAUGHTER). HAVE YOU SEEN HIM SINCE YOU GRADUATED
5 FROM HIGH SCHOOL?

6 POTENTIAL JUROR PERRY: YES, SIR.

7 THE COURT: HOW OFTEN DO YOU SEE HIM?

8 POTENTIAL JUROR PERRY: NOT TOO OFTEN.

9 THE COURT: JUST IN PASSING.

10 POTENTIAL JUROR PERRY: YES, SIR.

11 THE COURT: ARE YOU CLOSE PERSONAL FRIENDS?

12 POTENTIAL JUROR PERRY: NO, SIR.

13 THE COURT: YOU JUST WENT TO SCHOOL WITH HIM
14 AND KNOW HIM?

15 POTENTIAL JUROR PERRY: YES.

16 THE COURT: WOULD IT CAUSE YOU ANY
17 DIFFICULTY SITTING ON THIS JURY, ASSUMING HE WILL
18 TESTIFY?

19 POTENTIAL JUROR PERRY: NO, SIR.

20 THE COURT: CAN YOU BE FAIR TO BOTH THE
21 STATE AND THE DEFENDANT?

22 POTENTIAL JUROR PERRY: YES, SIR.

23 THE COURT: CAN YOU BASE YOUR DECISION IN
24 THE TESTIMONY YOU HEAR IN THE COURTROOM?

25 POTENTIAL JUROR PERRY: YES, SIR.

1 THE COURT: ALL RIGHT, THANK YOU, MS. PERRY.

2 THE NEXT NAME IS A.T. GRASTY. DOES ANYBODY
3 KNOW A.T. GRASTY, IS ANYBODY RELATED BY BLOOD OR
4 MARRIAGE TO A.T. GRASTY? IF SO, PLEASE STAND. (NO
5 RESPONSE).

6 THE NEXT NAME IS W.E. GREGORY. DOES ANYBODY
7 KNOW W.E. GREGORY, IS ANYBODY RELATED BY BLOOD OR
8 MARRIAGE TO W.E. GREGORY? IF SO, PLEASE STAND. (NO
9 RESPONSE).

10 THE NEXT NAME IS TODD OWENS. DOES ANYBODY
11 KNOW TODD OWENS, IS ANYBODY RELATED BY BLOOD OR MARRIAGE
12 TO TODD OWENS? IF SO, PLEASE STAND.

13 THE NEXT NAME IS MARK PATTERSON. DOES
14 ANYBODY KNOW MARK PATTERSON? IS ANYBODY RELATED BY
15 BLOOD OR MARRIAGE TO MARK PATTERSON? IF SO, PLEASE
16 STAND. (NO RESPONSE).

17 THE NEXT NAME IS STEVE REEVES. IS ANYBODY
18 RELATED TO STEVE REEVES BY BLOOD OR MARRIAGE, DOES
19 ANYBODY KNOW STEVE REEVES? IF SO, PLEASE STAND. (NO
20 RESPONSE).

21 THE NEXT NAME IS CHRIS SCOTT. DOES ANYBODY
22 KNOW CHRIS SCOTT, IS ANYBODY RELATED BY BLOOD OR
23 MARRIAGE TO MR. SCOTT?

24 YES, SIR.

25 POTENTIAL JUROR: CHRIS SCOTT IS MY

1 NEXT-DOOR NEIGHBOR.

2 THE COURT: LET ME SEE THE LAWYERS UP HERE.

3 THE CLERK: THAT'S JUROR NUMBER 56.

4 (JUROR NUMBER 56, JESS FASOLD, APPROACHED THE
5 BENCH.)

6 THE COURT: THIS IS HIS NEXT-DOOR NEIGHBOR.

7 LIKE I DID THE LAST TIME.

8 MS. HUEY: HE WORKS IN FORENSICS.

9 THE COURT: IS HE PART OF THE CHAIN?

10 MS. HUEY: YES, SIR.

11 (COURT TO ATTORNEYS OUT OF HEARING OF COURT
12 REPORTER.)

13 THE COURT: THE LAST TIME THE CHAIN WAS
14 STIPULATED TO. I'LL PROBABLY HAVE TO EXCUSE HIM UNLESS
15 Y'ALL CAN AGREE.

16 MS. HUEY: IT'S PRETTY INVOLVED.

17 THE COURT: YOU CAN'T DO WITHOUT HIM BASED
18 ON WHAT YOU TOLD ME BEFORE.

19 THANK YOU VERY MUCH. YOU MAY HAVE A SEAT.

20 (JUROR NUMBER 56 RETURNS TO JURY VENIRE.)

21 THE COURT: I'LL STRIKE HIM.

22 THE NEXT NAME IS MICHAEL SLOAN. DOES

23 ANYBODY KNOW MICHAEL SLOAN, IS ANYBODY RELATED TO

24 MICHAEL SLOAN? IF SO, PLEASE STAND. (NO RESPONSE).

25 THE NEXT NAME IS ANDY TRIBBLE. IS ANYBODY

1 RELATED BY BLOOD OR MARRIAGE TO ANDY TRIBBLE OR KNOW
2 ANDY TRIBBLE? IF SO, PLEASE STAND. (NO RESPONSE).

3 THE NEXT NAME IS BILL VAUGHN. IS ANYBODY
4 RELATED BY BLOOD OR MARRIAGE TO BILL VAUGHN, DOES
5 ANYBODY KNOW BILL VAUGHN? IF SO, PLEASE STAND. (NO
6 RESPONSE).

7 THE NEXT NAME IS KEN WHITLER. IS ANYBODY
8 RELATED BY BLOOD OR MARRIAGE TO KEN WHITLER OR KNOW KEN
9 WHITLER? IF SO, PLEASE STAND.

10 THE NEXT NAME IS JOE POWELL. IS ANYBODY
11 RELATED BY BLOOD OR MARRIAGE TO JOE POWELL OR KNOW JOE
12 POWELL? IF SO, PLEASE STAND. (NO RESPONSE).

13 THE NEXT NAME IS BRETT WOODARD, FORENSICS
14 PATHOLOGIST. I WON'T ASK YOU IF YOU HAVE BEEN A PATIENT
15 BECAUSE YOU WOULDN'T BE HERE. (LAUGHTER). IS ANYBODY
16 RELATED BY BLOOD OR MARRIAGE TO DR. WOODARD OR DOES
17 ANYBODY KNOW DR. WOODARD? IF SO, PLEASE STAND. YES,
18 SIR, YOUR NAME?

19 POTENTIAL JUROR MITCHELL: LELAND MITCHELL,
20 NUMBER 115.

21 THE COURT: DO YOU SEE HIM AT THE HOSPITAL?

22 POTENTIAL JUROR MITCHELL: OCCASIONALLY,
23 YES.

24 THE COURT: THE REST OF THEM SEE HIM EVERY
25 DAY. YOU DON'T SEE HIM EVERY DAY?

1 POTENTIAL JUROR MITCHELL: NO.

2 THE COURT: WOULD THAT CAUSE YOU DIFFICULTY
3 SITTING ON THE JURY?

4 POTENTIAL JUROR MITCHELL: NO, SIR.

5 THE COURT: CAN YOU BE FAIR TO BOTH THE
6 STATE AND THE DEFENDANT?

7 POTENTIAL JUROR MITCHELL: YES, SIR.

8 THE COURT: CAN YOU BASE YOUR DECISION ON
9 THE TESTIMONY YOU HEAR IN COURT?

10 POTENTIAL JUROR MITCHELL: YES, SIR.

11 THE COURT: WHAT'S YOUR NUMBER?

12 POTENTIAL JUROR MITCHELL: 115.

13 THE COURT: MR. MARTIN, THANK YOU VERY MUCH.

14 THE NEXT NAME IS THOMAS ELAND (PHONETIC).
15 IS ANYBODY RELATED BY BLOOD OR MARRIAGE TO THOMAS ELAND,
16 DOES ANYBODY KNOW THOMAS ELAND? (NO RESPONSE).

17 THE NEXT NAME IS ZACHARY MILLER. DOES
18 ANYBODY KNOW ZACHARY MILLER, IS ANYBODY RELATED BY BLOOD
19 OR MARRIAGE TO ZACHARY MILLER? (NO RESPONSE).

20 THE NEXT NAME IS KENDRICK DAWSON. IS
21 ANYBODY RELATED BY BLOOD OR MARRIAGE TO KENDRICK DAWSON?
22 IF SO, PLEASE STAND. (NO RESPONSE).

23 THE NEXT NAME DEJARION JAMAL RICE. IS
24 ANYBODY RELATED BY BLOOD OR MARRIAGE TO DEJARION RICE,
25 DOES ANYBODY KNOW DEJARION RICE? IF SO, PLEASE STAND.

1 (NO RESPONSE).

2 THE NEXT NAME IS JOSH BLACK. DOES ANYBODY
3 KNOW JOSH BLACK, IS ANYBODY RELATED BY BLOOD OR MARRIAGE
4 TO JOSH BACK? IF SO, PLEASE STAND. (NO RESPONSE).

5 THE NEXT NAME IS LA RICKIE HARKNESS. IS
6 ANYBODY RELATED BY BLOOD OR MARRIAGE TO LA RICKIE
7 HARKNESS, DOES ANYBODY KNOW LA RICKIE HARKNESS? IF SO,
8 PLEASE STAND.

9 YES, MA'AM. YOUR NAME?

10 POTENTIAL JUROR PERRY: KIMBERLY PERRY.

11 THE COURT: YOUR NUMBER?

12 POTENTIAL JUROR PERRY: NUMBER 126.

13 THE COURT: YES, MA'AM, MS. PERRY, HOW DO
14 YOU KNOW HIM?

15 POTENTIAL JUROR PERRY: I DON'T KNOW HIM
16 PERSONALLY, BUT I WORK WITH HIS SISTER.

17 THE COURT: YOU WORK WITH HIS SISTER?

18 POTENTIAL JUROR PERRY: YES, SIR.

19 THE COURT: HOW LONG HAVE YOU WORKED WITH
20 HIS SISTER?

21 POTENTIAL JUROR PERRY: I THINK SHE'S BEEN
22 THERE ABOUT THREE OR FOUR YEARS.

23 THE COURT: THREE OR FOUR YEARS?

24 POTENTIAL JUROR PERRY: YES, SIR. BUT WE'RE
25 ON SEPARATE SHIFTS NOW.

1 THE COURT: WOULD THAT CAUSE YOU ANY
2 DIFFICULTY SITTING ON THIS JURY?

3 POTENTIAL JUROR PERRY: NO, SIR.

4 THE COURT: CAN YOU BE FAIR TO BOTH THE
5 STATE AND THE DEFENDANT?

6 POTENTIAL JUROR PERRY: YES, SIR.

7 THE COURT: CAN YOU BASE YOUR DECISION ON
8 THE TESTIMONY YOU HEAR IN THE COURTROOM?

9 POTENTIAL JUROR PERRY: YES, SIR.

10 THE COURT: THANK YOU VERY MUCH, MS. PERRY,
11 JUROR NUMBER 126.

12 THE NEXT NAME IS DEMETRIUS EVANS. DOES
13 ANYBODY KNOW DEMETRIUS EVANS, IS ANYBODY RELATED BY
14 BLOOD OR MARRIAGE TO DEMETRIUS EVANS? IF SO, PLEASE
15 STAND. (NO RESPONSE).

16 SOLICITOR, IF YOU WILL STAND AND INTRODUCE
17 YOURSELF.

18 MS. HUEY: YES, SIR, YOUR HONOR.

19 MY NAME IS CATHERINE HUEY, I'M ASSISTANT
20 SOLICITOR IN ANDERSON COUNTY.

21 THE COURT: IS ANYBODY CLOSE PERSONAL
22 FRIENDS WITH ANYONE IN THE SOLICITOR'S OFFICE HERE IN
23 THE TENTH CIRCUIT, WHICH INCLUDES ANDERSON AND OCONEE?
24 IF SO, PLEASE STAND. (NO RESPONSE).

25 STAND AND INTRODUCE YOURSELF, MR. POTTER.

1 **MR. POTTER:** MAY IT PLEASE THE COURT.

2 MY NAME IS ANDY POTTER, I'M A LOCAL ATTORNEY
3 HERE IN ANDERSON COUNTY.

4 **THE COURT:** HAS ANYBODY BEEN REPRESENTED BY
5 MR. POTTER, EITHER PRESENTLY OR IN THE PAST, OR ANYONE
6 ELSE IN THE PUBLIC DEFENDER'S OFFICE? IF SO PLEASE
7 STAND. (NO RESPONSE).

8 IS THERE ANY MEMBER OF THIS PANEL WHO IS A
9 MEMBER OR A CONTRIBUTOR TO ANY GROUP WHO HAS AS ITS
10 PRIMARY CONCERN THE PROMOTION OF LAW ENFORCEMENT OR
11 VICTIMS' RIGHTS? THESE GROUPS WOULD INCLUDE BUT
12 CERTAINLY WOULD NOT BE LIMITED TO THE FOLLOWING:
13 M.A.D.D., S.A.D.D., C.A.V.E., AND C.A.D.R.E. IF YOU ARE
14 A MEMBER OR YOU CONTRIBUTE MONEY, PLEASE STAND.

15 **POTENTIAL JUROR HANNA:** SANDRA HANNA, NUMBER
16 77.

17 **THE COURT:** NUMBER 77. YES, MA'AM,
18 MS. HANNA.

19 **POTENTIAL JUROR HANNA:** I CONTRIBUTE MONEY
20 TO M.A.D.D.

21 **THE COURT:** DO YOU WANT TO COME AROUND?
22 (POTENTIAL JUROR HANNA APPROACHED THE BENCH.)

23 **THE COURT:** HOW LONG HAVE YOU BEEN A
24 CONTRIBUTOR TO M.A.D.D.?

25 **POTENTIAL JUROR HANNA:** PROBABLY ABOUT FIVE

1 YEARS.

2 THE COURT: FIVE YEARS?

3 POTENTIAL JUROR HANNA: UH-HUH.

4 THE COURT: IS THERE ANY PARTICULAR REASON
5 YOU DECIDED TO CONTRIBUTE TO M.A.D.D.?

6 POTENTIAL JUROR HANNA: YEAH. DRUNK
7 DRIVERS.

8 THE COURT: DO YOU HAVE ANY PERSONAL
9 EXPERIENCE WITH DRUNK DRIVERS?

10 POTENTIAL JUROR HANNA: YEAH, I LOST A SON.

11 THE COURT: YOU LOST A SON?

12 POTENTIAL JUROR HANNA: BUT HE WAS THE ONE
13 THAT WAS DRUNK.

14 THE COURT: OH, HE WAS DRINKING?

15 POTENTIAL JUROR HANNA: YES.

16 THE COURT: WAS IT A ONE-CAR ACCIDENT?

17 POTENTIAL JUROR HANNA: A MOTORCYCLE.

18 THE COURT: I'M SORRY ABOUT YOUR SON.

19 POTENTIAL JUROR HANNA: THANK YOU.

20 THE COURT: HOW WOULD THAT AFFECT YOUR
21 SITTING ON A JURY, AGAINST...

22 POTENTIAL JUROR HANNA: NO.

23 THE COURT: WHY NOT?

24 POTENTIAL JUROR HANNA: BECAUSE THAT'S IN
25 THE PAST; AND I THINK I CAN, I CAN LISTEN AND JUDGE FOR

1 MYSELF.

2 THE COURT: YOU DON'T THINK THE FACT THAT
3 YOU CONTRIBUTE TO M.A.D.D., WHICH PRIMARILY AFFECT THE
4 RIGHTS OF THE, PROSECUTING DRUNK DRIVERS, WOULD
5 INTERFERE WITH YOUR IMPARTIALITY?

6 POTENTIAL JUROR HANNA: NO. I THINK I COULD
7 BE IMPARTIAL.

8 THE COURT: WHAT IF IT WAS A DRUNK DRIVING
9 CASE?

10 POTENTIAL JUROR HANNA: I THINK I COULD.

11 THE COURT: YOU STILL THINK YOU COULD?

12 POTENTIAL JUROR HANNA: I FORGAVE MY SON FOR
13 DRIVING DRUNK.

14 THE COURT: YOU DID?

15 ANY QUESTIONS FROM THE STATE?

16 MS. HUEY: NO, SIR, YOUR HONOR.

17 MR. POTTER: NO, YOUR HONOR.

18 THE COURT: YOU THINK YOU CAN SET THAT ASIDE
19 AND YOU CAN BE FAIR?

20 POTENTIAL JUROR HANNA: I THINK SO, YES.

21 THE COURT: MR. POTTER, ANY QUESTIONS?

22 MR. POTTER: NO.

23 MS. HUEY: THANK YOU, YOUR HONOR.

24 THE COURT: COULD YOU HEAR, ROBIN?

25 COURT REPORTER: YES, SIR, I COULD, THANK

1 YOU.

2 THE COURT: AS I SAID IN THE FIRST TRIAL
3 BEFORE THIS SAME JURY PANEL ABOUT THE INDICTMENTS, IN
4 THIS CASE THE DEFENDANT IS CHARGED WITH MURDER,
5 POSSESSION OF FIREARM DURING THE COMMISSION OF A CRIME,
6 AND ASSAULT AND BATTERY WITH INTENT TO KILL, POSSESSION
7 OF A FIREARM DURING THE ASSAULT AND BATTERY; ANOTHER
8 ASSAULT AND BATTERY WITH INTENT TO KILL, AND POSSESSION
9 OF A FIREARM DURING THAT ASSAULT AND BATTERY; ASSAULT
10 AND BATTERY WITH INTENT TO KILL IN THE THIRD, AND
11 POSSESSION OF A FIREARM DURING THAT ASSAULT AND BATTERY;
12 AND A FOURTH ASSAULT AND BATTERY WITH INTENT TO KILL AND
13 THE POSSESSION OF A FIREARM.

14 IS THERE ANY MEMBER OF THE JURY PANEL THAT
15 HAS ANY BIAS OR PREJUDICE TOWARDS THE CHARGES
16 THEMSELVES, I.E., MURDER OR ASSAULT AND BATTERY AND THE
17 USE OF A DEADLY WEAPON DURING THE MURDER AND DURING THE
18 ALLEGED ASSAULT AND BATTERY WITH INTENT TO KILL? DO YOU
19 HAVE ANY BIAS OR PREJUDICE TOWARDS THOSE TYPES OF CRIMES
20 WHERE YOU CANNOT BE A FAIR JUROR? IF SO, PLEASE STAND.

21 POTENTIAL JUROR JOHNSON: LAURA JOHNSON,
22 NUMBER 92.

23 (A JUROR APPROACHED THE BENCH AND CONFERRED
24 WITH THE COURT.)

25 THE COURT: DID YOU DISPATCH THIS ONE?

1 POTENTIAL JUROR JOHNSON: NO, SIR. MY
2 FATHER WAS MURDERED WHEN I WAS A CHILD.

3 THE COURT: I'LL EXCUSE YOU FROM SERVICE ON
4 THIS JURY. I'M SORRY ABOUT YOUR FATHER.

5 POTENTIAL JUROR JOHNSON: OKAY. THANK YOU.

6 THE COURT: JUROR NUMBER 92 IS EXCUSED.

7 IS ANY MEMBER OF THE JURY PANEL AWARE OF ANY
8 BIAS OR PREJUDICE TOWARDS EITHER THE STATE OR THE
9 DEFENDANT IN THIS PARTICULAR CASE? IF SO, PLEASE STAND.
10 (NO RESPONSE).

11 AS I SAID BEFORE, THE INDICTMENTS ARE NOT
12 EVIDENCE, THEY ARE NOT TO BE CONSIDERED BY YOU IN ANY
13 MANNER WHATSOEVER. IT JUST THE MEANS BY WHICH THE
14 DEFENDANT IS BROUGHT BEFORE THE COURT FOR TRIAL.

15 THESE ALLEGED CRIMES OCCURRED ON JULY THE
16 10TH, 2006, AT A PUBLIX PARKING LOT HERE IN ANDERSON
17 COUNTY, AND AT THE TIME THERE WAS A LOT OF PUBLICITY
18 ABOUT IT. DOES ANYBODY REMEMBER READING ANYTHING IN THE
19 PAPER OR HEARING ANYTHING ON THE RADIO OR TELEVISION
20 ABOUT THIS CASE BACK IN JULY OF 2006 WHEN IT OCCURRED?
21 HAS ANYBODY HEARD ANYBODY TALKING ABOUT IT OTHER THAN
22 WHAT I'VE TOLD YOU HERE THIS MORNING? IF YOU HAVE HEARD
23 ANYTHING OR READ ANYTHING IN THE PAPER ABOUT IT OR SEEN
24 ANYTHING ON T.V. OR HEARD ANYTHING ON THE RADIO, PLEASE
25 STAND.

1 IF YOU WOULD, JUST LINE UP RIGHT IN FRONT OF
2 THE GATE HERE AND COME FORWARD ONE AT A TIME AND THE
3 ATTORNEYS CAN JOIN ME UP HERE.

4 (A JUROR APPROACHED THE BENCH AND CONFERRED
5 WITH THE COURT.)

6 THE CLERK: MS. SLOAN, NUMBER 146, YOUR
7 HONOR.

8 THE COURT: WHAT NUMBER?

9 THE CLERK: 146.

10 THE COURT: I DON'T HAVE A 146 ON MY LIST.

11 THE CLERK: SHE WAS THE ADD-IN BECAUSE SHE
12 GOT HERE LATE, YOUR HONOR, LISA SLOAN.

13 THE COURT: MS. SLOAN, HOW ARE YOU DOING
14 TODAY?

15 POTENTIAL JUROR SLOAN: I'M FINE. COLD, BUT
16 FINE.

17 THE COURT: COLD? IS IT COLD SITTING UP
18 THERE? HAVE YOU GOT A SWEATER OR SOMETHING? I GUESS WE
19 NEED TO PASS OUT BLANKETS WHEN YOU COME IN THE DOOR.
20 TELL ME WHAT YOU REMEMBER SEEING AND HEARING ABOUT THIS
21 CASE.

22 POTENTIAL JUROR SLOAN: WELL, I WORK WITH
23 ONE OF THE VICTIMS' FAMILIES, AND I HEARD ABOUT IT
24 ALMOST EVERY DAY.

25 THE COURT: WHICH VICTIM?

1 POTENTIAL JUROR SLOAN: THE DECEASED VICTIM,
2 A COUSIN.

3 THE COURT: YOU HEARD ABOUT IT EVERY DAY FOR
4 HOW LONG?

5 POTENTIAL JUROR SLOAN: FOUR WEEKS. AND
6 THEN I SAW IT ON THE NEWS.

7 THE COURT: WHAT DID THE COUSIN TELL YOU?

8 POTENTIAL JUROR SLOAN: JUST THAT THEY
9 TALKED ABOUT IT...

10 THE COURT: WHAT DO YOU REMEMBER THE COUSIN
11 TOLD YOU?

12 POTENTIAL JUROR SLOAN: JUST WHEN THEY, I
13 GUESS...

14 THE COURT: HOW DID THAT AFFECT YOU AT THE
15 TIME WHEN HE WAS TELLING YOU ALL THIS?

16 POTENTIAL JUROR SLOAN: I WAS LISTENING. IT
17 REALLY DIDN'T PHASE ME.

18 THE COURT: WHY NOT?

19 POTENTIAL JUROR SLOAN: BECAUSE IT'S
20 EVERYDAY LIFE.

21 THE COURT: IT DIDN'T HAVE ANY AFFECT ON YOU
22 AT ALL?

23 POTENTIAL JUROR SLOAN: I MEAN AS A CHILD,
24 ANY CHILD COULD GET DECEASED.

25 THE COURT: LET ME ASK YOU THIS. HOW WOULD

1 IT AFFECT YOU SITTING ON THIS JURY? OR WILL IT?

2 POTENTIAL JUROR SLOAN: IT PROBABLY WOULD,
3 BECAUSE I HAVE KIDS.

4 THE COURT: HOW WOULD IT AFFECT YOU?

5 POTENTIAL JUROR SLOAN: JUST THINKING ABOUT
6 IT.

7 THE COURT: YOU SAID IT WOULD AFFECT YOU.
8 IN WHAT RESPECT? HOW WOULD IT AFFECT YOU?

9 POTENTIAL JUROR SLOAN: I DON'T KNOW. I
10 GUESS WITH EMOTIONS, FLASHBACKS, ANY CHILDREN, ALL THE
11 TIME BETWEEN THAT AND -- I DON'T KNOW.

12 THE COURT: WOULD YOU HAVE ANY PREJUDICE
13 AGAINST THE DEFENDANT?

14 POTENTIAL JUROR SLOAN: NO, NOT THAT I KNOW
15 OF.

16 THE COURT: DO YOU FEEL THAT WHAT YOU HEARD
17 WOULD INTERFERE WITH YOU SITTING ON THE JURY?

18 POTENTIAL JUROR SLOAN: I WOULD PROBABLY
19 THINK ABOUT IT, YES, SIR.

20 THE COURT: QUESTIONS FROM THE STATE?

21 MS. HUEY: COULD YOU PUT ASIDE WHAT YOU
22 HEARD IF...

23 POTENTIAL JUROR SLOAN: I PROBABLY COULD,
24 BUT IT'S PROBABLY IN MY HEAD.

25 MS. HUEY: ARE YOU SAYING YOU COULD NOT BE

1 IMPARTIAL?

2 POTENTIAL JUROR SLOAN: (SHOOK HEAD.)

3 THE COURT: ANY MORE QUESTIONS? SOLICITOR,
4 ANY MORE QUESTIONS?

5 MS. HUEY: NO, SIR.

6 THE COURT: QUESTIONS?

7 MR. POTTER: NO, SIR.

8 THE COURT: NO QUESTIONS. OKAY.

9 YOU CAN HAVE A SEAT.

10 (POTENTIAL JUROR SLOAN RETURNED TO THE
11 VENIRE.)

12 THE COURT: MOTIONS?

13 MR. POTTER: I MAKE A MOTION TO STRIKE HER.

14 MS. HUEY: WE HAVE TO AGREE WITH HIM.

15 (A JUROR APPROACHED THE BENCH AND CONFERRED
16 WITH THE COURT.)

17 THE CLERK: 166, BRENDA WASHINGTON, YOUR
18 HONOR.

19 THE COURT: WHAT HAVE YOU HEARD ABOUT THIS
20 CASE?

21 POTENTIAL JUROR WASHINGTON: I READ ABOUT IT
22 IN THE NEWSPAPER.

23 THE COURT: WHAT DO YOU REMEMBER BEING IN
24 THE NEWSPAPER?

25 POTENTIAL JUROR WASHINGTON: THE SHOOTING

1 AND MURDER, A BUNCH OF KIDS.

2 THE COURT: DO YOU KNOW THEIR NAMES?

3 POTENTIAL JUROR WASHINGTON: JUST THE ONE
4 THAT GOT KILLED, I REMEMBER HIS NAME.

5 THE COURT: WHAT WAS HIS NAME?

6 POTENTIAL JUROR WASHINGTON: JAVARIS
7 CLINKSCALES.

8 THE COURT: DO YOU KNOW THEM?

9 POTENTIAL JUROR WASHINGTON: HIS DAD USED TO
10 BE MY SUPERVISOR AT ONE TIME.

11 THE COURT: HOW LONG WAS HE YOUR SUPERVISOR?

12 POTENTIAL JUROR WASHINGTON: ABOUT FIVE
13 YEARS, BUT I DON'T REMEMBER IT BEING THAT LONG.

14 THE COURT: DO YOU KNOW HIS SON?

15 POTENTIAL JUROR WASHINGTON: NO.

16 THE COURT: BUT YOU KNEW THE FATHER. HOW
17 LONG AGO WAS THAT?

18 POTENTIAL JUROR WASHINGTON: SINCE I WORKED
19 THERE?

20 THE COURT: YES, SINCE YOU WORKED THERE.

21 POTENTIAL JUROR WASHINGTON: THE FALL OF
22 2007.

23 THE COURT: 2007. WHEN THIS OCCURRED YOU
24 WERE WORKING THERE; IS THAT CORRECT?

25 POTENTIAL JUROR WASHINGTON: (NODDED HEAD).

1 THE COURT: WHAT DID THE FATHER TELL YOU
2 ABOUT HIS SON?

3 POTENTIAL JUROR WASHINGTON: HE DIDN'T TELL
4 ME NOTHING.

5 THE COURT: HE NEVER SAID ANYTHING TO YOU
6 ABOUT IT?

7 POTENTIAL JUROR WASHINGTON: NO.

8 THE COURT: WHAT ELSE DO YOU REMEMBER
9 READING IN THE PAPER ABOUT THAT?

10 POTENTIAL JUROR WASHINGTON: I JUST SAW
11 WHERE THAT'S THE ONE THAT'S SUPPOSED TO HAVE DID THE
12 SHOOTING, LAST WEEK.

13 THE COURT: YOU SAW THE PAPER LAST WEEK?

14 POTENTIAL JUROR WASHINGTON: YEAH, WHERE THE
15 TRIAL WAS COMING UP.

16 THE COURT: HOW WOULD THAT AFFECT YOU
17 SITTING ON THE JURY?

18 POTENTIAL JUROR WASHINGTON: IT WOULDN'T. I
19 MEAN, I'M HERE TO, IF I'M CHOSEN, TO TELL THE TRUTH, SO
20 I'LL TELL THE TRUTH.

21 THE COURT: YOU DON'T HAVE TO TELL THE
22 TRUTH, YOU HAVE TO DECIDE WHO'S TELLING THE TRUTH.

23 POTENTIAL JUROR WASHINGTON: YEAH.

24 THE COURT: OKAY.

25 POTENTIAL JUROR: UH-HUH.

1 THE COURT: YOU DON'T THINK IT WOULD HAVE
2 ANY EFFECT ON YOU?

3 POTENTIAL JUROR WASHINGTON: NO.

4 THE COURT: DO YOU THINK YOU COULD BE FAIR
5 TO BOTH THE STATE AND THE DEFENDANT?

6 POTENTIAL JUROR WASHINGTON: YES.

7 THE COURT: CAN YOU BASE YOUR DECISION ON
8 WHAT YOU HEAR IN THE COURTROOM?

9 POTENTIAL JUROR WASHINGTON: 'YEAH.

10 THE COURT: QUESTIONS FROM THE STATE?

11 MS. HUEY: NO, SIR.

12 MR. POTTER: YOU KNEW WHO JAVARIS' FATHER
13 WAS?

14 POTENTIAL JUROR WASHINGTON: YES.

15 MR. POTTER: DID YOU TALK TO HIM ABOUT IT OR
16 ANYTHING LIKE THAT?

17 POTENTIAL JUROR WASHINGTON: NO.

18 MR. POTTER: DID YOU TELL HIM I'M SORRY OR
19 ANYTHING LIKE THAT?

20 POTENTIAL JUROR WASHINGTON: NO.

21 MR. POTTER: NOW, WHEN YOU HEARD THAT THIS
22 HAPPENED, DID YOU KIND OF MAKE A DECISION ON THE PERSON
23 WHO WAS CHARGED WITH THIS, THAT HE WAS GUILTY, HE
24 SHOULDN'T HAVE BEEN THERE, OR ANYTHING LIKE THAT?

25 POTENTIAL JUROR WASHINGTON: NO.

1 MR. POTTER: YOU DIDN'T FEEL LIKE THE PERSON
2 THAT GOT CHARGED WAS THE RIGHT PERSON?

3 POTENTIAL JUROR WASHINGTON: I DIDN'T KNOW
4 IF HE WAS THE RIGHT PERSON OR NOT.

5 MR. POTTER: DO YOU KNOW ANY OTHER PEOPLE
6 THAT WERE INVOLVED IN THE SHOOTING?

7 POTENTIAL JUROR WASHINGTON: NO.

8 MR. POTTER: GALLOWAY, DO YOU REMEMBER THAT?

9 POTENTIAL JUROR WASHINGTON: NO.

10 MR. POTTER: SYDNEY CHESTER?

11 POTENTIAL JUROR WASHINGTON: NO.

12 MR. POTTER: SO EVEN WITH THE NEWS THAT YOU
13 'READ, YOU DIDN'T MAKE ANY DECISION?

14 POTENTIAL JUROR WASHINGTON: NO, SIR. HE
15 WAS, HIS FATHER, I JUST WORKED FOR HIM.

16 MR. POTTER: I UNDERSTAND. IS THERE A
17 REASON WHY YOU DIDN'T MAKE A DECISION?

18 POTENTIAL JUROR WASHINGTON: NO. I DON'T
19 JUDGE.

20 THE COURT: YOU MAY HAVE A SEAT. THANK YOU.
21 (POTENTIAL JUROR WASHINGTON RETURNED TO THE
22 VENIRE.)

23 THE COURT: ANY MOTIONS?

24 MR. POTTER: JUDGE, THE THING IS, HER LAST
25 STATEMENT, "I DON'T JUDGE," KIND OF CONCERNS ME.

1 **THE COURT:** THAT WAS IN RESPONSE TO THE WAY
2 YOU POSED THE QUESTION.

3 **MR. POTTER:** I UNDERSTAND.

4 **THE COURT:** I DON'T THINK SHE WAS SAYING I
5 DON'T JUDGE PEOPLE IN GENERAL, SHE WAS SAYING I DON'T
6 JUDGE THE SITUATION IN GENERAL. SHE ANSWERED THE
7 QUESTION YOU ASKED HER. HAVE YOU GOT A MOTION?

8 **MR. POTTER:** NO.

9 **THE COURT:** THANK YOU VERY MUCH.

10 (A JUROR APPROACHED THE BENCH AND CONFERRED
11 WITH THE COURT.)

12 **THE CLERK:** NUMBER 86, MR. HUMPHREY.

13 **THE COURT:** MR. HUMPHREY, HOW ARE YOU DOING?
14 86, HUMPHREY.

15 WHAT HAVE YOU HEARD ABOUT THE CASE, OR HAVE
16 YOU HEARD?

17 **POTENTIAL JUROR HUMPHREY:** JUST ON THE NEWS
18 AND THE PEOPLE ON T.V.

19 **THE COURT:** T.V.?

20 **POTENTIAL JUROR HUMPHREY:** YEAH, I SEEN ON
21 T.V. THAT IT HAPPENED AND THAT IT WAS POSSIBLE IT
22 STARTED FROM SOMETHING THAT STARTED BETWEEN TWO GUYS OR
23 A GROUP OF GENTLEMEN AND GIRLS, AND JUST THE WHOLE WAY
24 THAT THERE WAS GUNFIRE IN PUBLIX AND A STUDENT WAS
25 KILLED.

1 **THE COURT:** HOW DID THIS AFFECT YOU HEARING
2 IT ON TELEVISION?

3 **POTENTIAL JUROR HUMPHREY:** I JUST FELT LIKE
4 KIDS THAT TIME OF THE MORNING SHOULD BE AT HOME AND
5 THEIR PARENTS SHOULD HAVE MORE CONTROL OVER THEIR KIDS
6 THAN THEY DO. THEY SHOULDN'T BE OUT THAT TIME OF THE
7 MORNING, OR LEAVE THE HOUSE.

8 **THE COURT:** DO YOU KNOW ANY OF THEIR NAMES?

9 **POTENTIAL JUROR HUMPHREY:** I JUST KNOW THE
10 KID'S LAST NAME WAS CLINKSCALES THAT GOT KILLED.

11 (DISCUSSION OUT OF HEARING OF COURT
12 REPORTER.)

13 **THE COURT:** HOW WOULD THAT AFFECT YOU
14 SITTING ON A JURY?

15 **POTENTIAL JUROR HUMPHREY:** NOT AT ALL. TO
16 ME IT WAS JUST A MOMENT, I WOULD BE HERE.

17 **THE COURT:** IN OTHER WORDS, WHAT I'M TRYING
18 TO DETERMINE, I'M TRYING TO MAKE A DETERMINATION WHETHER
19 OR NOT YOU'VE GOT SOME PRECONCEIVED NOTIONS ABOUT
20 WHETHER THOSE DEFENDANTS ARE GUILTY OR NOT GUILTY.

21 **POTENTIAL JUROR HUMPHREY:** OH, NO. NO, SIR,
22 NOT AT ALL.

23 **THE COURT:** BASED ON WHAT YOU HAVE ALREADY
24 HEARD.

25 **POTENTIAL JUROR HUMPHREY:** NO. I DON'T KNOW

1 IF THERE WAS MORE THAN ONE SHOOTER OR ANYTHING. I JUST
2 SAW THE NEWSPEOPLE AND THAT WAS IT.

3 THE COURT: DO YOU THINK YOU COULD BE FAIR
4 TO THE STATE AND THE DEFENDANT?

5 POTENTIAL JUROR HUMPHREY: YES, SIR.

6 THE COURT: QUESTIONS?

7 MS. HUEY: I DO HAVE ONE, JUDGE.

8 HE MADE A COMMENT ABOUT THE KIDS SHOULD BE
9 AT HOME INSTEAD OF IN A PARKING LOT.

10 DO YOU THINK YOU COULD PUT ASIDE THAT AND
11 LISTEN TO THE TESTIMONY AND EVIDENCE YOU HEAR IN COURT?

12 POTENTIAL JUROR HUMPHREY: YES, MA'AM.

13 MS. HUEY: AND EVEN IF THE KIDS SHOULDN'T
14 HAVE GONE THERE, YOU CAN DECIDE ON THE CRIME?

15 POTENTIAL JUROR HUMPHREY: YES, MA'AM.

16 MS. HUEY: AND IF EVIDENCE WAS PRESENTED
17 ABOUT THIS DEFENDANT WHO DID THAT CRIME, YOU WOULD BE
18 ABLE TO FIND HIM GUILTY --

19 POTENTIAL JUROR HUMPHREY: YES, MA'AM.

20 MS. HUEY: -- OR NOT GUILTY.

21 POTENTIAL JUROR HUMPHREY: YES, MA'AM.

22 MR. POTTER: SIR, YOU MENTIONED YOU SAW THE
23 NEWS ABOUT SUPPOSEDLY TROUBLES BEFOREHAND?

24 POTENTIAL JUROR: UH-HUH.

25 MR. POTTER: THAT WAS ONE OF THE FIRST

1 THINGS YOU MENTIONED, SO OBVIOUSLY IT'S IN THE FOREFRONT
2 OF YOUR MIND. THERE MAY OR MAY NOT BE TESTIMONY ABOUT
3 TROUBLES BEFOREHAND. THE FACT THAT IT'S ONE OF THE
4 FIRST THINGS YOU MENTIONED, IS THAT GONNA BECOME A
5 BURDEN TO CONSIDER --

6 POTENTIAL JUROR: NO, SIR. I JUST REMEMBER
7 HEARING THAT.

8 MR. POTTER: BUT THESE THINGS SNEAK IN TO
9 CONSIDER, OKAY? AND THAT'S ALL RIGHT, THAT'S NOT A
10 PROBLEM. BUT ARE YOU GOING TO BE ABLE TO SIT THERE AND
11 SAY I HEARD THE NEWS AND THE ISSUES HAD NOTHING TO DO
12 WITH THE EVIDENCE, SO THAT YOU WILL BE ABLE TO MAKE A
13 DECISION ON IT, EVEN IF YOU HEARD IT ON THE NEWS?

14 POTENTIAL JUROR HUMPHREY: YES, SIR.

15 THE COURT: YOU'RE KIND OF TAKING HIM OUT.
16 GO AHEAD.

17 MR. POTTER: I'M NOT, JUDGE.

18 THE COURT: WELL, YOU'RE GETTING CLOSE TO
19 IT.

20 MR. POTTER: THAT'S ALL I HAVE.

21 THE COURT: THANK YOU.

22 (POTENTIAL JUROR HUMPHREY RETURNED TO THE
23 VENIRE.)

24 THE CLERK: MS. MOORE, NUMBER 118.

25 THE COURT: TELL ME WHAT YOU HAVE HEARD OR

1 SEEN.

2 POTENTIAL JUROR MOORE: THE TIME IT
3 HAPPENED --

4 THE COURT: HOW DID YOU KNOW?

5 POTENTIAL JUROR MOORE: MY DAUGHTER WENT TO
6 SCHOOL WITH THE DECEASED.

7 THE COURT: DID YOUR DAUGHTER TELL YOU ABOUT
8 IT?

9 POTENTIAL JUROR MOORE: SHE JUST SAID WHAT
10 HAPPENED.

11 THE COURT: WAS SHE THERE?

12 POTENTIAL JUROR MOORE: NO.

13 THE COURT: WHAT SHE HEARD, SHE HEARD FROM
14 SOMEONE ELSE AND TOLD YOU?

15 POTENTIAL JUROR MOORE: UH-HUH.

16 THE COURT: WHAT DID SHE TELL YOU?

17 POTENTIAL JUROR MOORE: THAT HE HAD GOTTEN
18 KILLED.

19 THE COURT: DID SHE TELL YOU WHO GOT KILLED?

20 POTENTIAL JUROR MOORE: NO.

21 THE COURT: HAVE YOU SEEN ANYTHING ON
22 TELEVISION ABOUT IT?

23 POTENTIAL JUROR MOORE: YEAH, IT WAS ALL
24 OVER THE NEWS.

25 THE COURT: DO YOU REMEMBER HEARING IT ON

1 TELEVISION?

2 POTENTIAL JUROR MOORE: AS FAR AS THE NAME,
3 I DON'T REMEMBER WHO.

4 THE COURT: HOW WOULD THIS AFFECT YOU
5 SITTING ON THE JURY?

6 POTENTIAL JUROR MOORE: IT WOULDN'T AFFECT
7 ME.

8 THE COURT: WHY NOT?

9 POTENTIAL JUROR MOORE: BECAUSE I WOULDN'T
10 KNOW THE PERSON, YOU KNOW.

11 THE COURT: QUESTIONS FROM THE STATE?

12 MS. HUEY: NO, SIR.

13 MR. POTTER: WHEN YOUR DAUGHTER -- BECAUSE
14 SHE WAS HEARING ABOUT IT -- WHEN YOUR DAUGHTER TOLD YOU
15 WHAT HAPPENED, HOW DID YOU FEEL?

16 POTENTIAL JUROR MOORE: YOU KNOW, I HAD A
17 FEELING ABOUT IT. I MEAN, YOU KNOW, THAT'S NATURAL.
18 AND THE FACT THAT IT WAS A KID SITUATION.

19 MR. POTTER: DID YOU MAKE A DECISION IN
20 REGARDS TO WHAT IT WAS ABOUT AND THAT KIND OF THING?

21 POTENTIAL JUROR MOORE: JUST ON WHAT
22 OCCURRED SOME OF IT DRIVING BY AND DO WHAT YOU HAVE.
23 THAT'S ALL I KNEW.

24 THE COURT: I GUESS WHAT I'M TRYING TO
25 DETERMINE IS, HOW THAT WOULD AFFECT YOUR SERVICE ON THE

1 JURY. WOULD IT?

2 POTENTIAL JUROR MOORE: NO. JUST TO SAY I
3 WOULD BE AFRAID, I DON'T KNOW IF I CAN DECIDE THAT
4 PERSON --

5 THE COURT: ANY MOTIONS? (NO RESPONSE).

6 (A JUROR APPROACHED THE BENCH.)

7 THE CLERK: MR. PALMER, 124.

8 THE COURT: WHAT HAVE YOU HEARD ABOUT THE
9 CASE?

10 POTENTIAL JUROR PALMER: THIS IS THE CASE --

11 COURT REPORTER: SIR, COULD YOU PLEASE SPEAK
12 UP?

13 THE COURT: HE SAID, "THIS IS THE SAME CASE
14 WHERE A B/HP STUDENT GOT KILLED. I'M A B/HP FAN."

15 DID YOU KNOW HIM?

16 POTENTIAL JUROR PALMER: NO, I DID NOT KNOW
17 HIM.

18 THE COURT: WHAT ELSE DID YOU HEAR?

19 POTENTIAL JUROR PALMER: YES. THE ONLY
20 THING I'VE HEARD WAS THAT A BOY WAS SHOT IN THE PARKING
21 LOT. I DON'T REALLY UNDERSTAND THE CASE AT ALL. I
22 DON'T KNOW ANYTHING ABOUT IT.

23 THE COURT: WHERE DID YOU HEAR THAT HE WAS
24 SHOT IN THE PARKING LOT?

25 POTENTIAL JUROR PALMER: THIS WAS ON THE

1 NEWS.

2 THE COURT: DO YOU REMEMBER WHAT ELSE YOU
3 HEARD ON T.V.?

4 POTENTIAL JUROR PALMER: HE WAS JUST -- I
5 THINK HE WAS 15 YEARS OLD.

6 THE COURT: ANYTHING ELSE?

7 POTENTIAL JUROR PALMER: NOT REALLY.

8 THE COURT: HOW WOULD THAT AFFECT YOU BEING
9 A BHP FAN?

10 POTENTIAL JUROR PALMER: NO, NOTHING.

11 THE COURT: HOW WOULD THAT AFFECT YOU ON THE
12 JURY?

13 POTENTIAL JUROR PALMER: NO.

14 THE COURT: WEST SIDE OF TOWN.

15 POTENTIAL JUROR PALMER: I GOT A SON ON THE
16 WEST SIDE, AND ALL SIX OF MY CHILDREN GRADUATED FROM
17 HANNA.

18 THE COURT: OH, OKAY. HOW DID YOU GET SO
19 CLOSE TO BHP, THEN?

20 POTENTIAL JUROR PALMER: MY SON PLAYED FOR
21 BHP, AND I SAID, HEY, THAT'S MY SON UP THERE, BUT ANY
22 TIME I WAS WITH THEM.

23 THE COURT: OKAY. ALL RIGHT. DO YOU THINK
24 YOU CAN BE FAIR AND IMPARTIAL?

25 POTENTIAL JUROR PALMER: I CAN BE.

1 THE COURT: BASED ON WHAT YOU HEAR?

2 POTENTIAL JUROR PALMER: YES, SIR.

3 THE COURT: YOU DON'T THINK THIS PRIOR
4 INFORMATION WOULD AFFECT YOU?

5 POTENTIAL JUROR PALMER: NO.

6 THE COURT: ANY QUESTIONS, MS. HUEY?

7 MS. HUEY: NO, SIR.

8 THE COURT: ANY QUESTIONS, MR. POTTER?

9 MR. POTTER: NO.

10 (POTENTIAL JUROR PALMER RETURNED TO VENIRE.)

11 THE COURT: ANY MOTIONS?

12 MR. POTTER: NONE.

13 (POTENTIAL JUROR APPROACHED THE BENCH.)

14 THE CLERK: NUMBER 112, MS. MCNEAL.

15 THE COURT: MS. MCNEAL, HOW ARE YOU DOING?

16 WHAT HAVE YOU HEARD ABOUT THIS?

17 POTENTIAL JUROR MCNEAL: I JUST VAGUELY
18 HEARD IT ON THE NEWS.

19 THE COURT: WHAT DO YOU VAGUELY REMEMBER?

20 POTENTIAL JUROR MCNEAL: JUST A SHOOTING AT
21 PUBLIX.

22 THE COURT: WHAT WAS YOUR REACTION WHEN YOU
23 HEARD IT?

24 POTENTIAL JUROR MCNEAL: I REALLY CAN'T
25 REMEMBER.

1 THE COURT: YOU DON'T REMEMBER?

2 POTENTIAL JUROR MCNEAL: NO. IT WAS LIKE, I
3 THINK IT WAS SOMETHING THAT SOMEBODY ELSE...

4 THE COURT: EVERYTHING YOU HEAR ON THE NEWS
5 IS BAD.

6 POTENTIAL JUROR MCNEAL: YEAH. THAT'S WHY I
7 VAGUELY -- IT VERY RARELY IS SOMETHING PLEASANT. IT'S
8 POSSIBLE, SO I DON'T KNOW TOO MUCH.

9 THE COURT: ALL THE GOOD STUFF, SO AND SO
10 GOT THIS AWARD, BUT IT'S ALL THIS GARBAGE IN THE
11 NEWSPAPER.

12 POTENTIAL JUROR MCNEAL: SOMETHING LIKE
13 THAT.

14 THE COURT: WOULD IT AFFECT YOU SITTING ON
15 THIS JURY?

16 POTENTIAL JUROR MCNEAL: NO. BECAUSE I
17 DON'T KNOW, I DON'T KNOW ANYBODY, THE VICTIMS, WHOEVER.
18 I DON'T KNOW THEM. I'M NOT REALLY FROM HERE. I'M
19 ORIGINALLY FROM VIRGINIA.

20 THE COURT: WHEREABOUTS IN VIRGINIA?

21 POTENTIAL JUROR MCNEAL: ARLINGTON.

22 THE COURT: ARLINGTON?

23 POTENTIAL JUROR MCNEAL: YEAH.

24 THE COURT: DO YOU THINK YOU WOULD BE FAIR?

25 POTENTIAL JUROR MCNEAL: YES.

1 THE COURT: WOULD YOU BASE YOUR DECISION ON
2 THE TESTIMONY?

3 POTENTIAL JUROR MCNEAL: YES.

4 THE COURT: THANK YOU.

5 (POTENTIAL JUROR MCNEAL RETURNED TO THE
6 VENIRE.)

7 (A POTENTIAL JUROR APPROACHED THE BENCH.)

8 THE COURT: MR. WALTERS, WHAT HAVE YOU
9 HEARD?

10 POTENTIAL JUROR WALTERS: WELL, THE THING IS
11 THAT I THINK I WORK WITH THE DECEASED'S FATHER.

12 THE COURT: HE WORKS WITH THE DECEASED'S
13 FATHER.

14 HOW LONG?

15 POTENTIAL JUROR WALTERS: ABOUT A YEAR.

16 THE COURT: DO YOU STILL WORK WITH HIM?

17 POTENTIAL JUROR WALTERS: YES, SIR.

18 THE COURT: WHAT HAS HE TOLD YOU ABOUT IT?

19 POTENTIAL JUROR WALTERS: HE HAS NOT
20 MENTIONED IT TO ME.

21 THE COURT: HAS HE EVER SPOKEN TO YOU ABOUT
22 IT?

23 POTENTIAL JUROR WALTERS: NO.

24 THE COURT: WHAT HAVE YOU HEARD ABOUT IT?

25 POTENTIAL JUROR WALTERS: JUST FROM READING

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1 THE PAPER THAT ONE OF THE CHILDREN, BASICALLY HE WAS --
2 KNOWING THAT HE -- SO I KEEP UP WITH KIDS AND JUST
3 KNOW -- DON'T KNOW THE KID PERSONALLY. I JUST KNEW THAT
4 I WORK WITH HIS FAMILY.

5 THE COURT: HOW WOULD THAT AFFECT YOU
6 SITTING ON THE JURY?

7 POTENTIAL JUROR WALTERS: IT WOULDN'T AFFECT
8 ME.

9 THE COURT: WHY NOT?

10 POTENTIAL JUROR WALTERS: FIRST OF ALL, I'LL
11 DO MY DUTY, THIS IS MY DUTY AS A JUROR IF I HAVE AN
12 OPPORTUNITY TO SERVE.

13 THE COURT: I'M JUST TRYING TO MAKE A
14 DETERMINATION WHETHER OR NOT THE FACT THAT YOU ARE
15 SITTING ON THIS JURY WOULD AFFECT YOU AGAINST THE STATE
16 OR THE DEFENSE.

17 POTENTIAL JUROR WALTERS: NEITHER ONE.

18 THE COURT: NEITHER?

19 POTENTIAL JUROR WALTERS: NO, SIR.

20 THE COURT: CAN YOU BE FAIR TO BOTH PARTIES?

21 POTENTIAL JUROR WALTERS: YES.

22 THE COURT: CAN YOU BASE YOUR DECISION ON
23 WHAT YOU HEAR IN COURT?

24 POTENTIAL JUROR WALTERS: YES.

25 THE COURT: ANY QUESTIONS?

1 MS. HUEY: NO, SIR.

2 MR. POTTER: MR. WALTERS, CAN YOU MAKE A
3 DECISION NOT ABOUT WHAT YOU HEARD AND READ?

4 POTENTIAL JUROR: NO. BECAUSE A LOT OF
5 THESE -- DETAILS AND STUFF -- AND I'VE NEVER KNOWN
6 HIM...

7 MR. POTTER: SO YOU, AFTER HEARING THE
8 REPORT OR READING THE REPORT, YOU DIDN'T MAKE AN OPINION
9 ABOUT WHETHER OR NOT SOMEBODY IS GUILTY OR NOT GUILTY?

10 POTENTIAL JUROR WALTERS: NO.

11 THE COURT: THANK YOU, MR. WALTERS, I
12 APPRECIATE IT.

13 (POTENTIAL JUROR WALTERS RETURNED TO THE
14 VENIRE.)

15 THE COURT: MOTIONS?

16 MR. POTTER: NO, YOUR HONOR.

17 (A JUROR APPROACHED THE BENCH.)

18 THE CLERK: MS. PERRY, 126.

19 THE COURT: TELL ME WHAT YOU KNOW.

20 POTENTIAL JUROR PERRY: I JUST REMEMBER
21 HEARING IT ON THE NEWS ABOUT WHEN IT HAPPENED, AND THEN
22 AT WORK AND EVERYTHING BECAUSE HIS COUSIN WOULD TALK
23 ABOUT IT AT WORK AND EVERYTHING, AND HIS SISTER AND
24 EVERYTHING...

25 THE COURT: WHAT DID YOU SEE ON THE

1 COVERAGE?

2 POTENTIAL JUROR PERRY: JUST THAT THERE WERE
3 A BUNCH OF KIDS IN THE PARKING LOT AT PUBLIX AND THAT
4 THERE HAD BEEN SHOTS FIRED AND ONE KID WAS KILLED.

5 THE COURT: ANYTHING ELSE?

6 POTENTIAL JUROR PERRY: THAT'S BASICALLY ALL
7 I LEARNED.

8 THE COURT: WHERE DO YOU WORK?

9 POTENTIAL JUROR PERRY: AT BOSCH.

10 THE COURT: AT BOSCH? AND WHO WAS TALKING
11 ABOUT IT?

12 POTENTIAL JUROR PERRY: JUST DIFFERENT
13 ASSOCIATES THAT HAD HEARD IT ON THE T.V. AND THE PAPER
14 AND HIS SISTER WORKED THERE.

15 THE COURT: WHOSE SISTER?

16 POTENTIAL JUROR PERRY: THE, LAVISKI
17 (PHONETIC), HIS SISTER WORKS THERE.

18 THE COURT: SHE'S ONE OF THE VICTIMS?

19 MS. HUEY: NO, SIR. HE'S ONE OF THE
20 DEFENSE'S WITNESSES.

21 THE COURT: HOW DID THAT AFFECT YOU?

22 POTENTIAL JUROR PERRY: I MEAN, I DIDN'T
23 KNOW OF THE DETAILS ON IT, SO I MADE NO JUDGMENT ON IT.

24 THE COURT: HOW WOULD THAT AFFECT YOU
25 SITTING ON A JURY?

25 | MR. POTTER: DID YOU FORM AN OPINION...

1 POTENTIAL JUROR PERRY: NO. NO.

2 MR. POTTER: NO FURTHER QUESTIONS.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

4 (POTENTIAL JUROR PERRY RETURNED TO THE
5 VENIRE.)

6 THE COURT: ANY MOTIONS? (NO RESPONSE).

7 CHRISTOPHER KAYLOR.

8 (POTENTIAL JUROR KAYLOR APPROACHED THE
9 BENCH.)

10 THE COURT: HOW ARE YOU DOING?

11 POTENTIAL JUROR KAYLOR: PRETTY GOOD, SIR.

12 THE COURT: WHAT HAVE YOU HEARD ABOUT THE
13 CASE?

14 POTENTIAL JUROR KAYLOR: MY WIFE WORKED ON
15 DISPATCH...

16 THE COURT: WHAT DID SHE TELL YOU, YOUR
17 WIFE?

18 POTENTIAL JUROR KAYLOR: JUST WHAT HAD
19 HAPPENED, AND...

20 THE COURT: TELL ME WHAT SHE EXPLAINED TO
21 YOU.

22 POTENTIAL JUROR KAYLOR: JUST THAT SOMEONE
23 HAD SHOT SOMEONE IN THE PUBLIX PARKING LOT.

24 THE COURT: DID SHE TELL YOU WHO?

25 POTENTIAL JUROR KAYLOR: NO, SIR. AND I

1 HEARD IT ON THE NEWS.

2 THE COURT: WHAT DO YOU REMEMBER SEEING ON
3 THE NEWS?

4 POTENTIAL JUROR KAYLOR: JUST A BASIC
5 DESCRIPTION OF WHAT HAPPENED AND...

6 THE COURT: HOW DID THAT AFFECT YOU WHEN YOU
7 HEARD FROM YOUR WIFE AND SAW IT ON T.V.?

8 POTENTIAL JUROR: (OUTSIDE HEARING OF COURT
9 REPORTER).

10 THE COURT: PERSONALLY. YOU SAW IT ON
11 TELEVISION? HAVE A SEAT.

12 I'LL EXCUSE HIM FOR CAUSE.

13 THE CLERK: YES, YOUR HONOR.

14 (A POTENTIAL JUROR APPROACHED THE BENCH.)

15 THE CLERK: JAMES SHIRLEY, 143.

16 THE COURT: HEY, MR. SHIRLEY. TELL ME WHAT
17 YOU HEARD.

18 POTENTIAL JUROR SHIRLEY: JUST THE BASIC
19 DETAILS: EARLY MORNING, GROUP GATHERED IN A PARKING LOT.
20 AND SOMEBODY WAS SHOT...

21 THE COURT: HOW DID THAT AFFECT YOU WHEN YOU
22 HEARD IT?

23 POTENTIAL JUROR SHIRLEY: I KNOW A LOT OF
24 THAT IS GOING ON ALL THE TIME. IT'S JUST ANOTHER THING.

25 THE COURT: DID YOU HAVE ANY OPINIONS AS TO,

1 ABOUT WHAT SOMEBODY HAS TOLD YOU, ABOUT WHAT YOU HEARD?

2 POTENTIAL JUROR SHIRLEY: NO, SIR.

3 THE COURT: NONE AT ALL?

4 POTENTIAL JUROR SHIRLEY: NO.

5 THE COURT: HOW WOULD IT AFFECT YOU SITTING
6 ON THE JURY?

7 POTENTIAL JUROR SHIRLEY: I WOULD BE FINE.

8 THE COURT: CAN YOU BASE YOUR DECISION ON
9 WHAT YOU HEAR IN THE COURTROOM.

10 POTENTIAL JUROR SHIRLEY: YES, SIR.

11 THE COURT: CAN YOU BE FAIR TO BOTH SIDES?

12 POTENTIAL JUROR SHIRLEY: YES, SIR.

13 THE COURT: QUESTIONS?

14 MR. POTTER: JUST REAL QUICK.

15 YOU MENTIONED THAT A LOT OF THAT WAS GOING
16 ON?

17 POTENTIAL JUROR SHIRLEY: JUST A LOT OF
18 VIOLENCE ---

19 COURT REPORTER: SIR, COULD YOU SPEAK UP?

20 POTENTIAL JUROR SHIRLEY: OH, I'M SORRY.

21 JUST A LOT OF THE VIOLENT ACTS, THEY HAVE
22 BEEN MORE PRONOUNCED, IT'S GOTTEN TO BE MORE REGULAR IN
23 THE COMMUNITY.

24 MR. POTTER: AND BASED ON THAT DO YOU THINK
25 YOU WOULD MORE LIKELY FIND HIM GUILTY?

1 **POTENTIAL JUROR SHIRLEY:** NO, SIR. I WOULD
2 HAVE TO BASE AN OPINION ON ALL THAT UNDER THE
3 CIRCUMSTANCES.

4 **MR. POTTER:** I GUESS I DON'T UNDERSTAND WHAT
5 YOU MEAN BY CIRCUMSTANCES.

6 **POTENTIAL JUROR SHIRLEY:** YOU KNOW, I DON'T
7 BASE MY OPINION ON WHAT I HEAR.

8 **THE COURT:** THANK YOU, MR. SHIRLEY.
9 (POTENTIAL JUROR SHIRLEY RETURNED TO THE
10 VENIRE.)

11 **THE COURT:** MOTIONS? (NO RESPONSE).
12 JAMES HANKS, JUROR 176.

13 (POTENTIAL JUROR HANKS APPROACHED THE BENCH.)

14 **THE COURT:** TELL ME WHAT YOU HEARD ABOUT IT.

15 **POTENTIAL JUROR HANKS:** WELL, JUST THROUGH
16 FOX NEWS AND INDEPENDENT HIGH SCHOOL FOOTBALL FAN, I
17 HEARD A YOUNG MAN FROM PENDLETON CAME DOWN AND SHOT THIS
18 BOY IN THE PARKING LOT FROM B/HP.

19 **THE COURT:** WHERE HAD YOU HEARD THAT?

20 **POTENTIAL JUROR HANKS:** I HEARD IT ON FOX
21 NEWS, NOT RECENTLY, BUT WHEN IT ALL HAPPENED.

22 **THE COURT:** OKAY. (OUTSIDE HEARING OF COURT
23 REPORTER.)

24 **POTENTIAL JUROR HANKS:** NO. NOT REALLY. IT
25 JUST CAUGHT MY ATTENTION, YOU KNOW, BY BEING A FOOTBALL

1 PLAYER.

2 **THE COURT:** HOW DID THAT AFFECT YOU WHEN YOU
3 HEARD IT?

4 **POTENTIAL JUROR HANKS:** WELL, I MEAN, I JUST
5 FELT BAD, YOU KNOW, FOR THE FAMILY AND ALL, BUT IT JUST
6 SEEMED LIKE THE NEWS KEPT HAMMERING THIS BOY FROM
7 PENDLETON; YOU KNOW, CAME DOWN, AND THAT'S JUST KIND OF
8 WHAT GOES THROUGH MY MIND.

9 **THE COURT:** LET ME ASK YOU THIS QUESTION:
10 COULD YOU LAY ALL THAT ASIDE AND BASE YOUR DECISION ON
11 THE TESTIMONY FROM THE COURTROOM?

12 **POTENTIAL JUROR HANKS:** I THINK SO. I TRY
13 TO DO THE HONEST THING IN WHATEVER I'M DOING NO MATTER
14 WHAT.

15 **THE COURT:** I'M JUST TRYING TO DETERMINE
16 WHETHER YOU HAD ANY PRECONCEIVED THOUGHTS ABOUT THE CASE
17 BEFORE...

18 **POTENTIAL JUROR HANKS:** WELL, I GUESS, YOU
19 KNOW, JUST LISTENING TO THE NEWS OVER AND OVER, IT
20 SEEMED LIKE THEY TRY TO ... THIS YOUNG MAN FROM
21 PENDLETON COMING DOWN FOR NO REASON AT ALL.

22 **THE COURT:** HOW DOES THAT AFFECT YOU?

23 **POTENTIAL JUROR HANKS:** WELL, IT PROBABLY
24 WOULD AFFECT ME SOME.

25 **THE COURT:** IN WHAT RESPECT WOULD IT AFFECT

1 YOU?

2 POTENTIAL JUROR HANKS: WELL, I MIGHT, YOU
3 KNOW, BE LEANING AGAINST HIM, THE YOUNG MAN THAT PULLED
4 THE TRIGGER.

5 THE COURT: YOU HAVE A SEAT.

6 I EXCUSE HIM FOR CAUSE.

7 (POTENTIAL JUROR HANKS WAS EXCUSED BY THE
8 COURT FOR CAUSE.)

9 THE COURT: HAS ANY MEMBER OF THE JURY PANEL
10 OR ANY MEMBER OF THEIR FAMILY EVER PERSONALLY BEEN
11 PROSECUTED BY ANYONE IN THE SOLICITOR'S OFFICE HERE IN
12 THE TENTH CIRCUIT, WHICH INCLUDES ANDERSON AND OCONEE,
13 PLEASE STAND? (NO RESPONSE).

14 ANY MEMBER OF THE JURY PANEL BEEN A VICTIM
15 OF A CRIME, EITHER THE JURY MEMBERS OR A MEMBER OF THEIR
16 IMMEDIATE FAMILY BEEN THE VICTIM OF A CRIME? IF SO,
17 PLEASE STAND. (NO RESPONSE).

18 DOES ANY MEMBER OF THE JURY PANEL KNOW OF
19 ANY REASON, PERSONAL OR OTHERWISE, AS TO WHY THEY CANNOT
20 SERVE ON THIS JURY? IF SO, PLEASE STAND. (NO
21 RESPONSE).

22 ANY MEMBER OF THE JURY PANEL RELATED OR
23 ACQUAINTED WITH ANY MEMBER OF LAW ENFORCEMENT? IF SO,
24 PLEASE STAND.

25 YES, MA'AM. YOUR SON WORKS WITH THE PUBLIC

1 TRANSPORTATION, RIGHT? HE WORKED FOR ONE YEAR; IS THAT
2 CORRECT? HE WORKED FOR THEM FOR ABOUT ONE YEAR; IS THAT
3 RIGHT?

4 POTENTIAL JUROR: YES.

5 THE COURT: WHAT IS YOUR NAME AND NUMBER?

6 POTENTIAL JUROR WATT: DOROTHEA WATT, 168.

7 THE COURT: WOULD THAT AFFECT YOU SITTING ON
8 THIS JURY?

9 POTENTIAL JUROR WATT: NO.

10 THE COURT: CAN YOU BE FAIR TO BOTH THE
11 STATE AND THE DEFENDANT?

12 POTENTIAL JUROR WATT: YES, SIR.

13 THE COURT: THANK YOU VERY MUCH.

14 ANY FURTHER QUESTIONS FROM THE STATE?

15 MS. HUEY: NO, SIR, YOUR HONOR.

16 THE COURT: ANY FROM THE DEFENDANT?

17 MR. POTTER: NONE FROM THE DEFENDANT.

18 THE COURT: MADAM CLERK, WHENEVER YOU'RE
19 READY.

20 THE CLERK: THANK YOU, YOUR HONOR.

21 MR. POTTER: MAY IT PLEASE THE COURT? I GOT
22 TEN, RIGHT?

23 THE COURT: YES, SIR.

24 MR. POTTER: I JUST WANTED TO MAKE SURE.

25 THE COURT: YES, SIR.

1 THE CLERK: PLEASE COME FORWARD AND PRESENT
2 YOURSELVES TO THE TWO TABLES.

3 JUROR NUMBER 124, JEREMIAH E. PALMER, NUMBER
4 124 (BLACK MALE).

5 WHAT SAY YOU FOR THE STATE?

6 MS. HUEY: PLEASE PRESENT THIS JUROR.

7 THE COURT: WHAT SAY YOU FOR THE DEFENDANT?

8 MR. POTTER: PLEASE EXCUSE MR. PALMER.

9 THE CLERK: NUMBER 108, JAYNE MAHAFFEY, 108
10 (WHITE FEMALE).

11 WHAT SAY YOU FOR THE STATE?

12 MS. HUEY: PLEASE PRESENT THIS JUROR.

13 THE COURT: WHAT SAY YOU FOR THE DEFENDANT?

14 MR. POTTER: PLEASE EXCUSE THIS JUROR.

15 THE CLERK: JUROR NUMBER 41, HEATHER

16 CRENSHAW, NUMBER 41 (WHITE FEMALE.)

17 WHAT SAY YOU FOR THE STATE?

18 MS. HUEY: PLEASE PRESENT THIS JUROR.

19 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

20 MR. POTTER: PLEASE SWEAR MS. CRENSHAW.

21 THE CLERK: IF YOU WILL HAVE A SEAT, MA'AM,
22 IN THE JURY-BOX.

23 NUMBER 14, JAMES BROCK, JUROR NUMBER 14
24 (WHITE MALE).

25 WHAT SAY YOU FOR THE STATE?

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1 MS. HUEY: PLEASE PRESENT THIS JUROR.
2 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
3 MR. POTTER: PLEASE SWEAR MR. BROCK.
4 THE CLERK: JUROR NUMBER 110, OKCHIN
5 MCDONALD, 110 (WHITE FEMALE).
6 WHAT SAY YOU FOR THE STATE?
7 MS. HUEY: PLEASE PRESENT THIS JUROR.
8 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
9 MR. POTTER: PLEASE SWEAR MS. MCDONALD.
10 THE CLERK: HAVE A SEAT, PLEASE, MA'AM, IN
11 THE JURY-BOX, MS. MCDONALD.
12 JUROR 165, DAVID WALTERS, NUMBER 165 (BLACK
13 MALE.)
14 WHAT SAY YOU FOR THE STATE?
15 MS. HUEY: PLEASE PRESENT THIS JUROR.
16 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
17 MR. POTTER: PLEASE SWEAR MR. WALTERS.
18 THE CLERK: HAVE A SEAT, PLEASE, MR.
19 WALTERS, IN THE JURY-BOX.
20 NUMBER 12, JONATHAN BOLDING, JUROR NUMBER 12
21 (WHITE MALE.)
22 WHAT SAY YOU FOR THE STATE?
23 MS. HUEY: PLEASE PRESENT THIS JUROR.
24 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
25 MR. POTTER: PLEASE EXCUSE MR. BOLDING.

1 THE CLERK: THANK YOU, MR. BOLDING.
2 NUMBER 150, CAROLYN GIBSON, JUROR NUMBER 150
3 (WHITE FEMALE.)
4 WHAT SAY YOU FOR THE STATE?
5 MS. HUEY: PLEASE PRESENT THIS JUROR.
6 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
7 MR. POTTER: PLEASE EXCUSE MS. GIBSON.
8 THE CLERK: YOU MAY RETURN TO YOUR SEAT.
9 THANK YOU.
10 NUMBER 48, JANET EDENS, 48 (WHITE FEMALE).
11 WHAT SAY YOU FOR THE STATE?
12 MS. HUEY: PLEASE PRESENT THIS JUROR.
13 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
14 MR. POTTER: PLEASE EXCUSE MS. EDENS.
15 THE CLERK: YOU MAY RETURN TO YOUR SEAT.
16 THANK YOU, MS. EDENS.
17 NUMBER 159, ALEISHA TROXELL, NUMBER 159
18 (WHITE FEMALE.)
19 WHAT SAY YOU FOR THE STATE?
20 MS. HUEY: PLEASE PRESENT THIS JUROR.
21 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?
22 MR. POTTER: PLEASE EXCUSE MS. TROXELL.
23 THE CLERK: THANK YOU.
24 JUROR NUMBER 122, SUNNY OWENS, NUMBER 122
25 (WHITE FEMALE.)

1 WHAT SAY YOU FOR THE STATE?

2 MS. HUEY: PLEASE PRESENT THIS JUROR.

3 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

4 MR. POTTER: PLEASE SWEAR MS. OWENS.

5 THE CLERK: IF YOU WILL HAVE A SEAT, PLEASE,
6 MA'AM, IN THE JURY-BOX.

7 NUMBER 166, BRENDA WASHINGTON, JUROR NUMBER
8 166 (BLACK FEMALE.)

9 WHAT SAY YOU FOR THE STATE?

10 MS. HUEY: PLEASE PRESENT THIS JUROR.

11 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

12 MR. POTTER: PLEASE EXCUSE MS. WASHINGTON.

13 THE CLERK: THANK YOU, MS. WASHINGTON, YOU
14 MAY RETURN TO YOUR SEAT.

15 NUMBER 127, DOUGLAS QUINEY, 127 (WHITE
16 MALE).

17 WHAT SAY YOU FOR THE STATE?

18 MS. HUEY: PLEASE EXCUSE THIS JUROR.

19 THE CLERK: YOU MAY RETURN. THANK YOU, MR.
20 QUINEY.

21 174, EDWARD YOUNG, 174 (WHITE MALE).

22 WHAT SAY YOU FOR THE STATE?

23 MS. HUEY: PLEASE EXCUSE THIS JUROR.

24 THE CLERK: YOU MAY RETURN TO YOUR SEAT.
25 THANK YOU, MR. YOUNG.

1 JUROR NUMBER 118, POLLY MOORE, NUMBER 118
2 (BLACK FEMALE).

3 WHAT SAY YOU FOR THE STATE?

4 MS. HUEY: PLEASE PRESENT THIS JUROR.

5 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

6 MR. POTTER: PLEASE EXCUSE MS. MOORE.

7 THE CLERK: YOU MAY RETURN TO YOUR SEAT.

8 THANK YOU, MS. MOORE.

9 JUROR NUMBER 340, MARIE DAHILL, JUROR NUMBER
10 40 (WHITE FEMALE.)

11 WHAT SAY YOU FOR THE STATE?

12 MS. HUEY: PLEASE PRESENT THIS JUROR.

13 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

14 MR. POTTER: PLEASE SWEAR MS. DAHILL.

15 THE CLERK: IF YOU WILL HAVE A SEAT, PLEASE,
16 MA'AM, IN THE JURY-BOX.

17 JUROR NUMBER 143, JAMES SHIRLEY, NUMBER 143
18 (WHITE MALE).

19 WHAT SAY YOU FOR THE STATE?

20 MS. HUEY: PLEASE PRESENT THIS JUROR.

21 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

22 MR. POTTER: PLEASE SWEAR MR. SHIRLEY.

23 THE CLERK: IF YOU WILL HAVE A SEAT, PLEASE,
24 IN THE JURY-BOX, MR. SHIRLEY.

25 JUROR NUMBER 39, KEVIN CRAFT, NUMBER 39

1 (WHITE MALE.)

2 WHAT SAY YOU FOR THE STATE?

3 MS. HUEY: PLEASE PRESENT THIS JUROR.

4 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

5 MR. POTTER: PLEASE SWEAR MR. CRAFT.

6 THE CLERK: PLEASE HAVE A SEAT, MR. CRAFT,
7 IN THE JURY-BOX.

8 JUROR NUMBER 168, DOROTHEA WATT, NUMBER 168

9 (WHITE FEMALE.)

10 WHAT SAY YOU FOR THE STATE?

11 MS. HUEY: PLEASE PRESENT THIS JUROR.

12 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

13 MR. POTTER: PLEASE SWEAR MS. WATT.

14 THE CLERK: JUROR NUMBER 34, BRIAN

15 CHILDRESS, NUMBER 34 (WHITE MALE.)

16 WHAT SAY YOU FOR THE STATE?

17 MS. HUEY: PLEASE PRESENT THIS JUROR.

18 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

19 MR. POTTER: PLEASE SWEAR MR. CHILDRESS.

20 THE CLERK: HAVE A SEAT PLEASE, SIR, IN THE
21 JURY-BOX.

22 JUROR NUMBER 86, HARRY HUMPHREY, NUMBER 86

23 (BLACK MALE.)

24 WHAT SAY YOU FOR THE STATE?

25 MS. HUEY: PLEASE EXCUSE THIS JUROR.

1 THE CLERK: YOU MAY RETURN TO YOUR SEAT.
2 THANK YOU, MR. HUMPHREY.

3 175, FRANCES YOUNG, NUMBER 175 (BLACK
4 FEMALE).

5 WHAT SAY YOU FOR THE STATE?

6 MS. HUEY: PLEASE PRESENT THIS JUROR.

7 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

8 MR. POTTER: PLEASE SWEAR MS. YOUNG.

9 THE CLERK: IF YOU WILL HAVE A SEAT IN THE
10 JURY-BOX PLEASE, MS. YOUNG.

11 JUROR NUMBER 42, GERALD DAVIS, NUMBER 42
12 (WHITE MALE.)

13 WHAT SAY YOU FOR THE STATE?

14 MS. HUEY: PLEASE PRESENT THIS JUROR.

15 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

16 MR. POTTER: PLEASE EXCUSE MR. DAVIS.

17 THE CLERK: YOU MAY RETURN TO YOUR SEAT.

18 THANK YOU, MR. DAVIS.

19 112, VERONICA MCNEAL, 112 (BLACK FEMALE).

20 WHAT SAY YOU FOR THE STATE?

21 MS. HUEY: PLEASE PRESENT THIS JUROR.

22 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

23 MR. POTTER: PLEASE EXCUSE THIS JUROR.

24 THE CLERK: THANK YOU, MS. MCNEAL.

25 65, CHERYL GAILLARD, NUMBER 65 (WHITE

1 FEMALE).

2 WHAT SAY YOU FOR THE STATE?

3 MS. HUEY: PLEASE PRESENT THIS JUROR.

4 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

5 MR. POTTER: PLEASE SWEAR MS. GAILLARD.

6 THE CLERK: IF YOU WILL HAVE A SEAT PLEASE,
7 MA'AM, IN THE JURY-BOX, MS. GAILLARD.

8 THE COURT: TWO ALTERNATES, MR. POTTER?

9 MR. POTTER: YES, SIR.

10 THE COURT: THERE ARE TWO ALTERNATES; YOU
11 GOT TWO AND THEY GOT ONE.

12 THE CLERK: 178, RYAN BROWN, 178 (WHITE
13 MALE.)

14 WHAT SAY YOU FOR THE STATE?

15 MS. HUEY: PLEASE PRESENT THIS JUROR.

16 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

17 MR. POTTER: PLEASE SWEAR MR. BROWN.

18 THE CLERK: HAVE A SEAT ON THE SECOND ROW,
19 YOU'LL BE OUR FIRST ALTERNATE.

20 JUROR NUMBER 25, MATTHEW BUTDORF, NUMBER 25.

21 WHAT SAY YOU FOR THE STATE?

22 MS. HUEY: PLEASE PRESENT THIS JUROR.

23 THE COURT: WHAT SAY YOU FOR THE DEFENDANT?

24 MR. POTTER: PLEASE EXCUSE MR. BUTDORF.

25 THE CLERK: YOU MAY RETURN TO YOUR SEAT.

1 THANK YOU, SIR.

2 NUMBER 73, CAROLYN GROVER, JUROR NUMBER 73
3 (WHITE FEMALE).

4 WHAT SAY YOU FOR THE STATE?

5 MS. HUEY: PLEASE PRESENT THIS JUROR.

6 THE CLERK: WHAT SAY YOU FOR THE DEFENDANT?

7 MR. POTTER: PLEASE EXCUSE MS. GROVER.

8 THE CLERK: YOU MAY RETURN TO YOUR SEAT.

9 THANK YOU, MS. GROVER.

10 NUMBER 87, LINDA HURLEY, JUROR NUMBER 87
11 (WHITE FEMALE.)

12 WHAT SAY YOU FOR THE STATE?

13 MS. HUEY: PLEASE PRESENT THIS JUROR.

14 THE COURT: WHAT SAY YOU FOR THE DEFENDANT?

15 MR. POTTER: PLEASE SWEAR MS. HURLEY.

16 THE CLERK: MS. HURLEY, YOU'LL BE OUR SECOND
17 ALTERNATE; YOU'LL HAVE A SEAT ON THE LAST ROW. THANK
18 YOU.

19 THE COURT: LADIES AND GENTLEMEN OF THE
20 JURY, IF YOU WOULD GO TO THE JURY ROOM AND ELECT A
21 FOREMAN OR FORELADY, YOU CAN ELECT ANYBODY BUT
22 MS. HURLEY OR MR. BROWN, ANYONE BUT THE TWO ALTERNATES.
23 ONCE YOU'VE DONE IT, WRITE THE NAME DOWN, GIVE IT TO THE
24 BAILIFF, AND I'LL GET YOU BACK IN THE COURTROOM. IF YOU
25 WILL FOLLOW THE BAILIFF, HE'LL SHOW YOU WHERE TO GO.

1 (THE JURY LEFT THE COURTROOM AT 2:00 P.M.)

2 THE COURT: MOTIONS FROM THE STATE ON
3 DRAWING THE JURY?

4 MS. HUEY: NO, SIR, YOUR HONOR.

5 THE COURT: MOTION FROM THE DEFENDANT FOR
6 DRAWING THE JURY?

7 MR. POTTER: NO, SIR, YOUR HONOR.

8 (THE COURT GAVE INSTRUCTIONS TO THE JURY
9 PANEL, AFTER WHICH THE JURY PANEL WAS EXCUSED
10 FOR THE DAY.)

11 THE COURT: CAN I SEE THE ATTORNEYS UP HERE
12 REAL QUICK?

13 (DISCUSSION AT SIDEBAR.)

14 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
15 2:04 P.M.)

16 THE COURT: I'LL ASK YOU NOT TO WATCH
17 TELEVISION TONIGHT, AT LEAST THE NEWS. I DON'T WANT YOU
18 TO HEAR ANYTHING ON TELEVISION ABOUT THE CASE. I WANT
19 YOU TO DECIDE THE ISSUES IN THE CASE BASED ON WHAT YOU
20 HEAR IN THE COURTROOM, NOT WHAT SOME NEWS REPORTER TELLS
21 YOU. SO PLEASE DON'T WATCH ANYTHING OR LISTEN TO OR
22 READ ANYTHING. AND THERE WILL PROBABLY BE SOMETHING IN
23 THE PAPER AND THERE WILL PROBABLY BE SOMETHING ON T.V.
24 TONIGHT. SO PLEASE DON'T LISTEN TO IT, PLEASE DON'T
25 READ IT.

1 AND WHEN YOU COME TO THE COURTHOUSE IN THE
2 MORNING, COME STRAIGHT TO THE JURY ROOM. AND IF YOU
3 WILL GO WITH THE BAILIFF, HE'LL SHOW YOU WHERE TO COME
4 AT 9:30 IN THE MORNING, AND WE'LL SEE YOU AT 9:30 AND
5 GET YOU STARTED AT THAT TIME.

6 I'VE GOT TO FINISH UP A GUILTY PLEA AND I'VE
7 GOT TO HEAR SOME MOTIONS IN THE CASE, SO WE'VE GOT AN
8 AFTERNOON, PLUS WE'VE GOT TO TAKE A LUNCH BREAK AT SOME
9 POINT IN TIME. IF YOU FOLLOW THE BAILIFF, HE'LL SHOW
10 YOU WHERE TO COME IN THE MORNING.

11 (THE JURY LEFT THE COURTROOM AT 2:05 P.M.)

12 (THE COURT CONSIDERED OTHER MATTERS.)
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1 AFTERNOON PROCEEDINGS

2

3 THE COURT: WE'RE GOING TO DO A JACKSON V.

4 DENNO HEARING OR YOUR MOTIONS FIRST? HOW DO Y'ALL WANT

5 TO PROCEED?

6 MR. POTTER: JUDGE, WE HAVE JACKSON V. DENNO

7 WITNESSES HERE FOR THAT SO LET'S GET THAT DONE. FIRST.

8 THE COURT: ALL RIGHT. IF WE'RE GOING TO DO

9 A JACKSON V. DENNO, WHAT IS YOUR OBJECTION TO THE

10 STATE -- IN OTHER WORDS, SPECIFICALLY, DO YOU DISPUTE

11 THAT THE MIRANDA RIGHTS WERE GIVEN, OR DO YOU DISPUTE

12 THAT IT WAS FREELY AND VOLUNTARILY GIVEN, OR BOTH? WHAT

13 IS YOUR DISPUTE WITH THE JACKSON V. DENNO?

14 MR. POTTER: JUDGE, BOTH, YOUR HONOR.

15 THE COURT: PARDON?

16 MR. POTTER: BOTH, YOUR HONOR.

17 THE COURT: SO YOU DISPUTE THAT THE MIRANDA

18 RIGHTS WERE EVEN GIVEN?

19 MR. POTTER: YES, SIR.

20 THE COURT: ALL RIGHT. WHAT ELSE DO YOU

21 DISPUTE ABOUT THE CONFESSION?

22 MR. POTTER: THE FREENESS AND VOLUNTARINESS

23 ABOUT THE STATEMENT.

24 THE COURT: PARDON?

25 MR. POTTER: THE FREENESS AND VOLUNTARINESS

1 OF THE STATEMENT.

2 THE COURT: IS THERE ANY QUESTION ABOUT
3 CONFINEMENT, OR IN CUSTODY?

4 MR. POTTER: I THINK HE --

5 THE COURT: PARDON?

6 MR. POTTER: IF MY UNDERSTANDING WAS
7 CORRECT, THIS WAS TAKEN AT THE CLEMSON POLICE
8 DEPARTMENT, SO HE WAS IN CUSTODY.

9 THE COURT: HAD HE BEEN ARRESTED AT THE
10 TIME?

11 MR. POTTER: YES, HE HAD BEEN, YOUR HONOR.

12 THE COURT: HE HAD BEEN?

13 MR. POTTER: YES, YOUR HONOR.

14 THE COURT: OKAY. ALL RIGHT. ANY OTHER
15 OBJECTIONS, OTHER THAN THE VOLUNTARINESS OF THE
16 STATEMENT AND WHETHER OR NOT THE MIRANDA RIGHTS WERE
17 GIVEN? ANY OTHER OBJECTION FROM THE DEFENDANT BEFORE WE
18 GET INTO THE HEARING?

19 MR. POTTER: NOT AT THIS TIME. OBVIOUSLY,
20 IF SOMETHING COMES UP...

21 THE COURT: SOLICITOR, I'LL BE GLAD TO HEAR
22 YOU.

23 MS. HUEY: YOUR HONOR, THE STATE CALLS ANDY
24 TRIBBLE.
25 WHEREUPON,

1 ANDY TRIBBLE,
2 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
3 FOLLOWS:

4 DIRECT EXAMINATION BY MS. HUEY:

5 Q. MR. TRIBBLE, WHERE ARE YOU EMPLOYED?

6 A. I AM EMPLOYED AT THE ANDERSON COUNTY SHERIFF'S
7 OFFICE.

8 Q. AND HOW LONG HAVE YOU BEEN WORKING THERE?

9 A. SINCE 2005.

10 Q. AND WHAT IS YOUR POSITION THERE?

11 A. DETECTIVE.

12 Q. AS A DETECTIVE DID YOU HAPPEN TO BE INVOLVED IN
13 THE INVESTIGATION OF SAMMY SCOTT?

14 A. YES.

15 Q. CAN YOU TELL ME HOW YOUR INVOLVEMENT WITH IT
16 BEGAN?

17 A. THE MORNING AFTER THE INCIDENT OCCURRED -- I'LL
18 REFER TO MY SUPPLEMENTAL REPORT THAT I HAVE HERE. ON
19 JULY THE 10TH OF 2006, DETECTIVE FRANK WOOTEN AND I WERE
20 INSTRUCTED TO GO TO CLEMSON AND GET WITH THE CLEMSON
21 POLICE OFFICERS IN AN ATTEMPT TO TRY TO LOCATE
22 MR. SCOTT. I BELIEVE A TIP HAD BEEN RECEIVED THAT HE
23 MAY HAVE BEEN INVOLVED IN THE INCIDENT.

24 WE WENT THERE, MET WITH LIEUTENANT ROBERT CROOKS
25 OF THE CLEMSON POLICE DEPARTMENT, AND WE ENDED UP GOING

1 TO MR. SCOTT'S RESIDENCE AT [REDACTED] IN CLEMSON.

2 HE WAS NOT HOME AT THAT TIME, BUT WE SPOKE WITH
3 HIS MOTHER, SHARON OGLESBY, WHO TOLD US THAT MR. SCOTT
4 WAS AT HIS SISTER'S HOUSE IN PENDLETON AT HER APARTMENT
5 AND THAT SHE WOULD GO GET HIM AND MEET WITH US AT THE
6 PENDLETON SUBSTATION, FORMERLY KNOWN AS THE POLICE
7 DEPARTMENT.

8 Q. ALL RIGHT. LET ME STOP YOU RIGHT THERE. SO WHEN
9 YOU WENT TO CLEMSON, THEN, TO BEGIN WITH, YOU WERE GOING
10 ON AN ANONYMOUS TIP; IS THAT CORRECT?

11 A. YES.

12 Q. OKAY. DID YOU HAVE ARREST WARRANTS IN HAND OR
13 ANY PAPERWORK?

14 A. NO.

15 Q. AND SO WHAT WAS THE PURPOSE OF SPEAKING WITH
16 MR. SCOTT?

17 A. JUST TO SEE, TRY TO CORROBORATE THE TIP, TO SEE
18 IF HE WAS, IN FACT -- TO SEE, TO SEE IF HE COULD ACCOUNT
19 FOR HIS WHEREABOUTS THE NIGHT BEFORE.

20 Q. AND WHEN YOU REFER TO THE NIGHT BEFORE, IS THAT
21 THE SHOOTING THAT TOOK PLACE AT PUBLIX?

22 A. YES.

23 Q. OKAY, THEN, I'M SORRY TO INTERRUPT YOU. YOU SAID
24 MRS. OGLESBY WAS GONNA MEET YOU AT THE ---

25 A. SHE SAID THAT SHE WOULD PICK MR. SCOTT UP AND

1 MEET US AT THE SHERIFF'S OFFICE SUBSTATION IN PENDLETON.
2 I BELIEVE THERE WERE TWO INVESTIGATORS WITH THE
3 SHERIFF'S OFFICE ALREADY AT HIS SISTER'S APARTMENT.

4 WHEN DETECTIVE WOOTEN AND I GOT THERE, THEY WERE
5 THERE, THEY HAD ALREADY LOCATED MR. SCOTT, AND HIS
6 MOTHER HAD ALSO ARRIVED THERE. WE TOLD THEM THAT WE
7 WOULD LIKE TO SPEAK TO THEM, AND SHE SAID THAT SHE WOULD
8 TAKE HIM TO THE PENDLETON POLICE DEPARTMENT AND TALK TO
9 US. AND THAT'S WHAT SHE DID. SHE -- MS. SCOTT RODE IN
10 HER CAR AND WE RODE IN OUR CAR, AND THEY WENT TO THE
11 POLICE DEPARTMENT.

12 Q. AND THAT WAS THE PENDLETON POLICE DEPARTMENT?

13 A. YES. AT THAT TIME IT WAS A SUBSTATION FOR THE
14 SHERIFF'S OFFICE BECAUSE PENDLETON POLICE DEPARTMENT WAS
15 NO LONGER IN OPERATION. THE SAME BUILDING.

16 Q. OKAY. ALL RIGHT. NOW, ONCE HE GOT THERE, THEN,
17 WITH HIS MOTHER, WHAT TOOK PLACE? I'M SORRY.

18 CAN YOU TELL ME WHAT TIME OF DAY THIS WAS? DO
19 YOU REMEMBER?

20 A. IT WAS DURING THE DAYTIME. I WANT TO SAY IT WAS
21 BEFORE LUNCH, LATE IN THE MORNING, BUT I'M NOT POSITIVE
22 ABOUT THAT. BUT IT WAS DURING DAYTIME WORKING HOURS.

23 Q. BUT IT WAS THE DAY AFTER THE INCIDENT SO IT WOULD
24 HAVE BEEN ---

25 A. IT WAS JULY THE 10TH.

1 Q. OKAY. OKAY. I'M SORRY, GO AHEAD.

2 A. WHAT WAS THE QUESTION?

3 Q. I'M SORRY. ONCE THEY CAME TO THE STATION, WHAT
4 HAPPENED NEXT?

5 A. WE WENT INSIDE. WE TOLD MR. SCOTT THAT WE'D
6 RECEIVED INFORMATION THAT HE MAY HAVE BEEN INVOLVED IN
7 THAT SHOOTING, AND WE ASKED HIM TO ACCOUNT FOR HIS
8 WHEREABOUTS THE NIGHT BEFORE.

9 Q. AND WAS HIS MOTHER PRESENT?

10 A. SHE WAS. HE WANTED HER TO BE PRESENT, AND SHE
11 WAS THERE, ALL FIVE OF US, INCLUDING THE LIEUTENANT FROM
12 CLEMSON.

13 Q. NOW, DID YOU READ HIM HIS RIGHTS AT THAT POINT?

14 A. NO, MA'AM.

15 Q. WHY DIDN'T YOU?

16 A. HE WAS NOT IN CUSTODY AT THAT TIME. HE HAD
17 VOLUNTARILY GONE TO THE POLICE DEPARTMENT TO MEET WITH
18 US.

19 Q. SO DID HE, IN FACT, GIVE YOU A STATEMENT AS TO
20 HIS WHEREABOUTS THEN?

21 A. HE DID.

22 Q. OKAY. AND DID YOU TAKE THAT STATEMENT?

23 A. I DID.

24 Q. HOW DID THAT COME ABOUT? DID HE WRITE IT OR DID
25 YOU WRITE IT?

1 A. I WROTE THE STATEMENT FOR HIM. HE WAS READ THE
2 STATEMENT BACK. HE INITIALED THAT I WROTE IT FOR HIM,
3 AND SIGNED IT.

4 Q. AND HE SIGNED IT?

5 A. HE DID.

6 Q. I SHOW YOU STATE'S 1. IF YOU WOULD TAKE A LOOK
7 AT THAT FOR ME.

8 A. SURE.

9 Q. DO YOU RECOGNIZE THAT?

10 A. I DO.

11 Q. HOW DO YOU RECOGNIZE IT?

12 A. IT'S MY HANDWRITING, AND THAT'S THE STATEMENT
13 THAT I TOOK FROM MR. SCOTT THAT DAY.

14 Q. ARE THERE ANY SIGNATURES ON THAT?

15 A. THERE ARE: MR. SCOTT'S SIGNATURE ALONG WITH MY
16 SIGNATURE AND DETECTIVE WOOTEN'S SIGNATURE.

17 **MS. HUEY:** YOUR HONOR, AT THIS TIME WE WOULD
18 PUBLISH STATE'S 1 TO YOUR HONOR. WOULD YOU JUST RATHER
19 READ IT TO YOURSELF, JUDGE, OR HAVE MR. TRIBBLE READ IT?

20 **THE COURT:** I WOULD LIKE TO LOOK AT IT.

21 **MS. HUEY:** (HANDING.)

22 **THE COURT:** (COURT READS DOCUMENT.)

23 OKAY. THANK YOU. I MEAN, THAT'S NOT IN THE
24 CONFESSION, BUT HERE.

25 **MS. HUEY:** NO, SIR, YOUR HONOR, THAT'S JUST

1 HIS INITIAL STATEMENT.

2 THE COURT: I UNDERSTAND. I MEAN, THAT'S
3 NOT A CONFESSION. JACKSON V. DENNO WOULD NOT EVEN APPLY
4 ON THAT.

5 MS. HUEY: WELL, YOUR HONOR, WE HAVE TO DO
6 ALL THE STATEMENTS.

7 THE COURT: I UNDERSTAND. LAYING THE
8 FOUNDATION. THANK YOU.

9 MS. HUEY: YES, SIR, YOUR HONOR. THAT'S ALL
10 I HAVE FOR DETECTIVE TRIBBLE.

11 THE COURT: ANY CROSS-EXAMINATION?

12 MR. POTTER: MAY IT PLEASE THE COURT?

13 THE COURT: YES, SIR, MR. POTTER.

14 CROSS-EXAMINATION BY MR. POTTER:

15 Q. DETECTIVE, YOU INDICATED YOU WERE ACTING ON A TIP
16 THAT HE WAS INVOLVED IN THE SHOOTING, CORRECT?

17 A. YES, SIR.

18 Q. NOW, IT WAS YOURSELF AND DETECTIVE WOOTEN THAT
19 WENT TO CLEMSON TO GO FIND SAMMY; IS THAT CORRECT?

20 A. YES, SIR.

21 Q. AT THAT POINT IN TIME YOU HAD NO WARRANT OR
22 ANYTHING OF THAT SORT READY IN HAND TO SERVE ON SAMMY?

23 A. THAT'S CORRECT.

24 Q. ALL RIGHT. AND AFTER YOU MET WITH HIS MOTHER,
25 YOU WENT TO HIS SISTER'S APARTMENT?

1 A. WE DID.

2 Q. OKAY. AND THEN EVERYBODY GATHERED BACK AT THE
3 SUBSTATION IN PENDLETON, CORRECT?

4 A. YES.

5 Q. ALL RIGHT. NOW, WHEN THE STATEMENT WAS WRITTEN
6 OUT BY YOU, HIS MOTHER WAS IN THE ROOM, AS WELL?

7 A. SHE WAS.

8 Q. WAS HE FREE TO LEAVE AT THAT TIME?

9 A. YES. WE -- YES.

10 Q. OKAY. DID YOU INFORM HIM THAT HE WAS FREE TO
11 LEAVE AT THAT TIME, THAT HE DIDN'T HAVE TO GIVE A
12 STATEMENT?

13 A. I DON'T RECALL IF I TOLD HIM THAT OR NOT.

14 Q. BUT YOU DID TELL HIM THAT YOU WERE INVESTIGATING
15 THE SHOOTING AND HIS INVOLVEMENT AND YOU WANTED TO KNOW
16 HIS WHEREABOUTS; IS THAT CORRECT?

17 A. YES.

18 Q. THERE WERE TWO OTHER DETECTIVES AT THE APARTMENT
19 WHEN YOU GOT THERE, CORRECT?

20 A. YES.

21 Q. WHO WERE THEY?

22 A. DETECTIVE MICHAEL SLOAN AND DETECTIVE BILL
23 VAUGHN.

24 Q. WERE THERE ANY SEARCH WARRANTS AT THE APARTMENT
25 AT THAT TIME?

1 A. NO, SIR.

2 Q. OKAY. WAS THE APARTMENT SEARCHED, TO YOUR
3 KNOWLEDGE?

4 A. I BELIEVE BEFORE WE WENT -- I THINK IT WAS BEFORE
5 WE WENT TO THE POLICE DEPARTMENT. LET ME REFER TO MY
6 REPORT HERE. (READING.)

7 HIS SISTER DID GIVE US VERBAL CONSENT TO SEARCH
8 HER APARTMENT PRIOR TO GOING TO THE POLICE DEPARTMENT,
9 AND --

10 MR. POTTER: OKAY. I'M SORRY, GO AHEAD, I
11 DIDN'T MEAN TO INTERRUPT YOU.

12 A. -- WE DID A CURSORY SEARCH, WE DID NOT RECOVER
13 ANY EVIDENCE AND WE LEFT.

14 MR. POTTER: THANK YOU. NOTHING FURTHER.

15 THE COURT: ANY REDIRECT?

16 MS. HUEY: NO, SIR, THAT'S ALL I HAVE OF
17 THIS WITNESS, JUDGE.

18 THE COURT: YOU MAY STEP DOWN. THANK YOU
19 VERY MUCH.

20 (WHEREUPON, THE WITNESS WAS EXCUSED.)

21 MS. HUEY: YOUR HONOR, THE STATE CALLS
22 MICHAEL SLOAN TO THE STAND.

23 (WHEREUPON, THE WITNESS WAS SWORN BY THE
24 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
25 FULL NAME, SPELLING HIS LAST NAME.)

1 WHEREUPON,

2 MICHAEL SLOAN,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 DIRECT EXAMINATION BY MS. HUEY:

6 Q. MR. SLOAN, WHERE DO YOU WORK CURRENTLY?

7 A. SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

8 Q. HOW LONG HAVE YOU BEEN THERE?

9 A. APPROXIMATELY ONE YEAR TO THE DAY.

10 Q. AND HAVE YOU ALWAYS -- WHERE DID YOU WORK
11 PREVIOUSLY?

12 A. ANDERSON COUNTY SHERIFF'S OFFICE.

13 Q. AND HOW LONG WERE YOU THERE?

14 A. APPROXIMATELY SIX YEARS.

15 Q. IN WHAT CAPACITY DID YOU WORK THERE?

16 A. I WAS A DETECTIVE.

17 Q. AS A DETECTIVE DID YOU -- WHAT WERE SOME OF YOUR
18 DUTIES?

19 A. TO INVESTIGATE ANY CRIMES AND ASSIST OTHER
20 AGENCIES IN INVESTIGATING CRIMES.

21 Q. DID THAT ALSO INCLUDE TALKING WITH POSSIBLE
22 SUSPECTS?

23 A. IT DID.

24 Q. OKAY. DRAWING YOUR ATTENTION TO JULY 10TH OF
25 2006, DID YOU SPEAK WITH THIS PARTICULAR DEFENDANT,

1 SAMMY SCOTT, IN REFERENCE TO TAKING A STATEMENT FROM
2 HIM?

3 A. I DID.

4 Q. AND DID YOU ADVISE HIM OF HIS RIGHTS?

5 A. I DID.

6 Q. NOW, HOW DID THAT COME ABOUT?

7 A. I WAS CALLED TO GO TO CLEMSON P.D. AND ASSIST THE
8 OTHER INVESTIGATORS THAT WERE THERE. UPON ARRIVING AT
9 THE P.D., MR. SCOTT WAS INCARCERATED AT THE TIME INSIDE
10 THE CELL.

11 AND MR. SCOTT ACTUALLY HAD APPROACHED ME. HE
12 ACTUALLY CALLED ME FROM THE CELL, AND I THINK HIS
13 WORDS -- THEY CALLED ME "SLOAN" -- AND HE CALLED ME OVER
14 TO HIS CELL AND ADVISED ME THAT HE WANTED TO TALK.

15 I ADVISED MR. SCOTT THAT IF HE WANTED TO TALK
16 ABOUT THE INCIDENT THAT HAD TAKEN PLACE, WE'D BE GLAD TO
17 SPEAK WITH HIM.

18 HE SAID, "I DO WANT TO SPEAK WITH YOU."

19 SO WHEN MYSELF AND -- ONCE I REALIZED THIS, I GOT
20 TO DETECTIVE BILL VAUGHN. WE GOT THE CLEMSON POLICE
21 DEPARTMENT TO, OF COURSE, TAKE HIM OUT OF HIS CELL. WE
22 WENT INTO AN OFFICE THAT WAS LOCATED INSIDE THE POLICE
23 DEPARTMENT WHERE HE WAS INFORMED OF HIS MIRANDA RIGHTS
24 ON PAPER.

25 Q. DETECTIVE TRIBBLE TESTIFIED THAT MR. SCOTT HAD

1 GONE TO THE PENDLETON POLICE SUBSTATION?

2 A. CORRECT.

3 Q. OKAY. AND SO HOW DID THAT COME ABOUT THAT
4 MR. SCOTT ENDED UP AT THE CLEMSON POLICE DEPARTMENT?

5 A. AT THIS TIME THEY HAD ALREADY OBTAINED ARREST
6 WARRANTS FOR MR. SCOTT. HE WAS ARRESTED. I BELIEVE HE
7 WAS ARRESTED AT HIS HOME IN CLEMSON AND TRANSPORTED TO
8 THE CLEMSON POLICE DEPARTMENT.

9 Q. ALL RIGHT. AND SO HE WAS ARRESTED, AND THEN WHEN
10 HE WAS PUT IN THE HOLDING CELL, HE WANTED TO TALK WITH
11 YOU?

12 A. YES, MA'AM.

13 Q. OKAY. AND AT THAT TIME DID YOU ADVISE HIM OF HIS
14 RIGHTS?

15 A. I DID. WE HAVE AN ADVISORY OF RIGHTS FORM.

16 Q. AND SO YOU DID USE IT?

17 A. YES, MA'AM.

18 Q. OKAY. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS
19 STATE'S 2. IF YOU WILL TAKE A LOOK AT THAT FOR ME.

20 A. THAT IS THE ORIGINAL ADVISORY OF RIGHTS THAT WE
21 READ MR. SCOTT.

22 Q. NOW, HOW ARE YOU ABLE TO RECOGNIZE THAT?

23 A. IT'S MY HANDWRITING. IT'S THE SAME SHEET OF
24 PAPER I USED FOR MR. SCOTT.

25 Q. NOW, CAN YOU TELL ME ABOUT WHAT TIME THIS

1 ADVISORY OF RIGHTS TOOK PLACE?

2 A. 6:00 P.M.

3 Q. AND AGAIN, THIS TOOK PLACE WHERE INSIDE THE
4 CLEMSON POLICE DEPARTMENT?

5 A. THE -- DETECTIVE CROOKS, OR ACTUALLY LIEUTENANT
6 CROOKS TOOK US INTO AN OFFICE, JUST A SMALL ROOM THAT WE
7 USED TO INTERVIEW HIM IN, NOT INSIDE THE JAIL CELL.

8 Q. ALL RIGHT. AND CAN YOU DESCRIBE THAT ROOM FOR
9 ME?

10 A. A 15-BY-15-SQUARE-FOOT ROOM WITH A TABLE AND
11 CHAIRS.

12 Q. WERE THERE ANY WINDOWS OR ANYTHING LIKE THAT?

13 A. I DON'T REMEMBER IF THERE WERE ANY WINDOWS OR
14 NOT.

15 Q. WAS THE DEFENDANT IN HANDCUFFS AT THE TIME?

16 A. I DO NOT BELIEVE HE WAS IN HANDCUFFS BECAUSE WHEN
17 THEY RELEASED HIM OUT OF THE CELL, HE JUST WENT STRAIGHT
18 BACK THERE WITH US.

19 Q. NOW, OTHER THAN YOURSELF AND MR. VAUGHN, DID HE
20 HAVE -- WAS ANYONE ELSE PRESENT?

21 A. NO, MA'AM.

22 Q. NOW, WHAT EXACTLY WERE THE RIGHTS THAT YOU
23 INFORMED THE DEFENDANT OF?

24 A. WELL, OBVIOUSLY WE START WITH THE BEGINNING AND
25 FIND OUT HOW FAR HE WENT IN SCHOOL, CAN HE READ AND

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1 WRITE. AND DO YOU WANT ME TO GO THROUGH ALL THE RIGHTS?

2 Q. YES.

3 A. BEFORE WE ASK HIM ANY QUESTIONS, WE MAKE SURE HE
4 CAN READ THE FIRST LINE. HE READ THE FIRST LINE TO ME
5 AND INITIALED BESIDE IT. THAT IS (READING):

6 YOU DO HAVE THE RIGHT TO REMAIN

7 SILENT.

8 THE SECOND LINE -- AND I READ THIS WITH THEM
9 AND MAKE SURE WORD FOR WORD THEY UNDERSTAND WHAT THEY
10 ARE INITIALING BY -- (READING):

11 ANYTHING YOU SAY MAY BE USED

12 AGAINST YOU IN COURT.

13 NEXT LINE (READING):

14 YOU HAVE THE RIGHT TO SPEAK TO A
15 LAWYER FOR ADVICE BEFORE WE ASK YOU ANY
16 QUESTIONS AND YOU HAVE THE RIGHT TO HAVE
17 HIM THERE WITH YOU DURING QUESTIONING.
18 IF YOU CANNOT AFFORD A LAWYER, ONE WILL
19 BE APPOINTED FOR YOU BEFORE ANY
20 QUESTIONS.

21 IF YOU DECIDE TO ANSWER QUESTIONS
22 NOW, WITHOUT A LAWYER PRESENT, YOU STILL
23 HAVE THE RIGHT TO STOP ANSWERING
24 QUESTIONS AT ANY TIME. YOU ALSO HAVE THE
25 RIGHT TO STOP ANSWERING QUESTIONS AT ANY

1 TIME UNTIL YOU SPEAK WITH A LAWYER.

2 AND AS I READ HIM EVERY LINE,
3 DETECTIVE VAUGHN WAS THERE AND HE
4 UNDERSTOOD THEM ALL, AND HE INITIALED BY
5 THE FIRST ONE THAT HE COULD READ THAT
6 LINE AND CHECKED THE NEXT ONE.

7 Q. NOW, SO IN YOUR OPINION HE DID UNDERSTAND HIS
8 RIGHTS?

9 A. YES, MA'AM.

10 Q. OKAY. DID HE HAVE ANY QUESTIONS ABOUT HIS
11 RIGHTS?

12 A. HE DID NOT.

13 Q. AT ANY TIME DID HE EVER ASK FOR AN ATTORNEY?

14 A. NO, MA'AM.

15 Q. OR ANYONE ELSE FOR THAT MATTER?

16 A. NO, MA'AM. HE WANTED TO SPEAK WITH US.

17 Q. DID THE DEFENDANT APPEAR TO BE UNDER THE
18 INFLUENCE OF ANYTHING?

19 A. NO, MA'AM.

20 Q. WERE ANY THREATS OR PROMISES MADE IN ORDER TO GET
21 HIM TO SIGN THAT?

22 A. NO, MA'AM. WE ALSO, AT THE END OF THE WAIVER,
23 THERE'S A WAIVER OF RIGHTS UNDER THE MIRANDA WARNINGS
24 THAT YOU ALSO HAVE TO READ TO HIM, AND WE GO THROUGH
25 THAT. AND THERE'S A COUPLE WORDS IN THERE. WE EXPLAIN

1 THE WORDS TO THEM AND WHAT THEY MEAN AND MAKE SURE HE
2 KNOWS THAT NONE OF THAT'S GOING ON. HE ALSO SIGNED HIS
3 NAME BELOW THAT AND THAT WAS AT THE SAME TIME.

4 Q. AND AGAIN, HE SEEMED TO UNDERSTAND THAT PORTION
5 AS WELL?

6 A. YES, MA'AM.

7 Q. AND THEN AT THAT TIME DID HE INDICATE WHETHER HE
8 WANTED TO GIVE YOU A STATEMENT OR NOT?

9 A. HE DID WANT TO GIVE A STATEMENT.

10 Q. NOW, DID YOU ACTUALLY TAKE THE STATEMENT FROM
11 HIM?

12 A. I WAS PRESENT DURING THE WHOLE ENTIRE STATEMENT,
13 BUT DETECTIVE VAUGHN ACTUALLY WROTE THE STATEMENT FOR
14 MR. SCOTT.

15 Q. OKAY. AND BEING PRESENT, WERE YOU A WITNESS
16 THEN?

17 A. YES, MA'AM.

18 Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
19 AS STATE'S 3, AND IF YOU WOULD TAKE A LOOK AT THAT FOR
20 ME.

21 A. THAT IS THE ORIGINAL STATEMENT THAT DETECTIVE
22 VAUGHN WROTE FOR MR. SCOTT WITH MY SIGNATURE AT THE END
23 OF IT BEING POTENTIAL JUROR.

24 Q. AND NOW, TO YOUR KNOWLEDGE THAT YOU WERE
25 PRESENT -- AND LET ME BACK UP.

1 WERE YOU PRESENT FOR THE ENTIRE INTERVIEW?

2 A. FOR THE ENTIRE INTERVIEW, YES, MA'AM.

3 Q. AND TO YOUR KNOWLEDGE WAS THAT STATEMENT WRITTEN
4 DOWN AS THE DEFENDANT TOLD IT TO MR. VAUGHN?

5 A. WELL, SOMETIMES WE TAKE NOTES BEFORE WE ACTUALLY
6 WRITE THE SENTENCE, BUT I DON'T REMEMBER IF IT WAS
7 WRITTEN AS HE SAID IT OR IF WE TOOK NOTES AND WENT BACK
8 AND ---

9 Q. BUT DOES IT REFLECT WHAT THE DEFENDANT SAID?

10 A. YES, MA'AM. YES, MA'AM.

11 Q. DO YOU KNOW IF IT WAS READ BACK TO HIM OR HANDED
12 TO HIM FOR HIM TO READ AT THE END?

13 A. YES, MA'AM. WE ALWAYS READ IT BACK TO HIM.
14 DETECTIVE VAUGHN READ IT BACK TO HIM, MADE SURE HE
15 UNDERSTOOD WHAT HE WAS SIGNING, READ IT BACK TO HIM WORD
16 FOR WORD.

17 AND ALSO THERE WERE A COUPLE MISTAKES THAT COULD
18 HAVE BEEN GRAMMATICAL IN THERE THAT WERE MADE WHERE THE
19 WORD WAS CROSSED OUT AND MR. SCOTT ALSO INITIALED BY. I
20 CAN SEE SEVERAL HERE NOW WHERE WE WENT BACK AND READ IT
21 TO HIM.

22 Q. AT ANY POINT WERE EITHER YOU OR MR. VAUGHN ALONE
23 WITH HIM?

24 A. NO, MA'AM.

25 Q. Y'ALL WERE ALWAYS TOGETHER WITH HIM?

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1 A. YES, MA'AM.

2 Q. AND THE DEFENDANT THEN INDICATED THAT THAT WAS
3 HIS STATEMENT?

4 A. YES, MA'AM. AND HE INITIALED SEVERAL PLACES AND
5 SIGNED HIS FULL NAME.

6 MS. HUEY: THAT'S ALL I HAVE FOR THIS
7 WITNESS AT THIS TIME.

8 THE COURT: CROSS-EXAMINATION.

9 MR. POTTER: THANK YOU, YOUR HONOR, MAY IT
10 PLEASE THE COURT.

11 CROSS-EXAMINATION BY MR. POTTER:

12 Q. DETECTIVE, WERE THERE ANY OTHER FAMILY MEMBERS AT
13 THE CLEMSON POLICE DEPARTMENT WHEN HE WAS IN HIS CELL?

14 A. I'M SURE HIS MOTHER WAS THERE. I BELIEVE HIS
15 SISTER MIGHT HAVE BEEN THERE. THAT'S ABOUT ALL I CAN
16 REMEMBER.

17 Q. ALL RIGHT. AND HOW WAS HE DRESSED WHEN THEY
18 BROUGHT HIM OUT OF HIS CELL INTO THE INTERVIEW ROOM?

19 A. I DON'T REMEMBER THAT.

20 Q. DO YOU REMEMBER IF HE WAS WEARING A SHIRT OR NOT?

21 A. I DON'T REMEMBER IF HE WAS WEARING A SHIRT OR
22 NOT.

23 Q. NOW, WERE THERE ANY CLEMSON POLICE OFFICERS IN
24 THE INTERVIEW ROOM?

25 A. NO, SIR. ONE ESCORTED US IN THERE, BUT ONCE HE

1 ESCORTED US IN, THERE WAS JUST US.

2 Q. ALL RIGHT. AND YOU DON'T REMEMBER IF THERE WERE
3 ANY WINDOWS OR ANYTHING LIKE THAT?

4 A. NO, SIR.

5 Q. ACCORDING TO THE WAIVER OF STATEMENT, IT APPEARS
6 AS IF 6:00 WAS THE TIME ON THE WAIVER OF RIGHTS; IS THAT
7 CORRECT?

8 A. YES, SIR.

9 Q. HOW LONG WOULD IT HAVE BEEN?

10 A. IF I REMEMBER CORRECTLY, IT WAS APPROXIMATELY AN
11 HOUR. THAT'S AROUND ABOUT. IT COULD HAVE BEEN A LITTLE
12 SHORTER OR A LITTLE LONGER.

13 Q. OKAY. WERE THERE ANY RECORDING DEVICES, ANY
14 AUDIO OR VIDEO OR ANYTHING OF THAT SORT?

15 A. NO, SIR.

16 Q. WAS HE OFFERED ANYTHING TO EAT OR ANYTHING OF
17 THAT SORT, OR DO YOU KNOW IF HE HAD ANY FOOD BEFORE THIS
18 INTERVIEW TOOK PLACE?

19 A. WHEN I ARRIVED AT CLEMSON P.D., I DON'T KNOW IF
20 HE WAS -- HE HAD NOT BEEN INCARCERATED LONG WHEN I GOT
21 THERE. I DON'T KNOW IF HE WAS OFFERED FOOD.

22 Q. HOW LONG DID THE INTERVIEW TAKE PLACE?

23 A. I DON'T REMEMBER. VERY SHORT. I MEAN, WITHIN AN
24 HOUR OR TWO. PROBABLY NOT EVEN AN HOUR.

25 MR. POTTER: NOTHING FURTHER, YOUR HONOR.

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1 THE COURT: ANYTHING ON REDIRECT?

2 MS. HUEY: NO, SIR, YOUR HONOR.

3 (WHEREUPON, WITNESS WAS EXCUSED.)

4 MS. HUEY: THE STATE CALLS BILL VAUGHN TO
5 THE STAND.

6 (WHEREUPON, THE WITNESS WAS SWORN BY THE
7 CLERK OF COURT.)

8 WHEREUPON,

9 WILLIAM VAUGHN,

10 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
11 FOLLOWS:

12 DIRECT EXAMINATION BY MS. HUEY:

13 Q. PLEASE STATE YOUR NAME FOR THE RECORD.

14 A. WILLIAM VAUGHN, V-A-U-G-H-N.

15 Q. MR. VAUGHN, WHERE ARE YOU EMPLOYED?

16 A. ANDERSON COUNTY SHERIFF'S OFFICE.

17 Q. WHAT IS YOUR PRESENT POSITION?

18 A. TRAINING INSTRUCTOR.

19 Q. AND WHAT WAS YOUR PREVIOUS POSITION?

20 A. DETECTIVE.

21 Q. WERE YOU A DETECTIVE BACK IN JULY OF '06?

22 A. I WAS.

23 Q. AND DID YOU HAVE AN OPPORTUNITY TO TALK WITH THE
24 DEFENDANT IN THIS CASE?

25 A. I DID.

1 Q. AND HOW DID THAT COME ABOUT?

2 A. WHILE WE WERE AT CLEMSON POLICE DEPARTMENT,
3 DETECTIVE SLOAN CAME BY AND ASKED FOR ME TO COME WITH
4 HIM IN ANOTHER ROOM; THAT MR. SCOTT HAD CALLED HIM AND
5 SAID THAT HE WAS WANTING TO SPEAK TO HIM ABOUT THE
6 PUBLIX INCIDENT.

7 Q. AND WHY WAS IT IMPORTANT TO HAVE ANOTHER PERSON?

8 A. TO HAVE A WITNESS.

9 Q. SO WHO ACTUALLY READ THE, THE WAIVER OF RIGHTS
10 THEN?

11 A. DETECTIVE SLOAN.

12 Q. BUT YOU WERE A WITNESS TO THAT?

13 A. THAT'S CORRECT.

14 Q. OKAY. IN WITNESSING THAT, DID YOU SEE MR. SLOAN
15 USE A FORM?

16 A. HE DID.

17 Q. AND WHAT KIND OF FORM WAS THAT?

18 A. THE STANDARD FORM THAT WE HAVE WITH THE SHERIFF'S
19 OFFICE LOGO ON IT WITH THE MIRANDA RIGHTS ON IT.

20 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S 2. TAKE
21 A LOOK AT THAT FOR ME. DO YOU RECOGNIZE THAT?

22 A. I DO.

23 Q. HOW ARE YOU ABLE TO RECOGNIZE IT?

24 A. IT'S THE FORM THAT WE USED EVERY TIME THAT WE HAD
25 SPOKEN WITH THE SUSPECT -- OR NOT EVERY TIME -- EXCUSE

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1 ME -- EVERY TIME WE TALKED WITH THE SUSPECT AND OBTAINED
2 A WRITTEN STATEMENT.

3 Q. AND THAT WAS THE FORM THAT MR. SLOAN USED?

4 A. THAT'S CORRECT.

5 Q. OKAY. AND IS YOUR SIGNATURE ON THAT FORM?

6 A. IT IS.

7 Q. AND WHAT DOES THAT SIGNATURE INDICATE?

8 A. THAT I WITNESSED THE STATEMENT THAT HAD BEEN READ

9 TO MR. SCOTT AND EXPLAINED TO HIM.

10 Q. WHILE THE ADVISORY OF RIGHTS WAS GOING ON, IN
11 YOUR OPINION DID THE DEFENDANT SEEM TO UNDERSTAND HIS
12 RIGHTS?

13 A. HE DID.

14 Q. DID HE EVER STOP TO ASK QUESTIONS ABOUT THEM?

15 A. HE DIDN'T.

16 Q. DID HE EVER ASK FOR AN ATTORNEY AT ANY TIME?

17 A. HE NEVER ASKED FOR AN ATTORNEY.

18 Q. HE NEVER SEEMED TO BE UNDER THE INFLUENCE OF
19 ANYTHING?

20 A. NO, MA'AM.

21 Q. DRUGS OR ALCOHOL?

22 A. NO, MA'AM.

23 Q. DID MR. SLOAN THREATEN HIM IN ANY WAY OR PROMISE
24 HIM SOMETHING TO GET HIM TO SIGN IT?

25 A. HE DID NOT.

1 Q. IN YOUR OPINION WAS HIS WAIVER OF RIGHTS
2 VOLUNTARY?

3 A. YES, MA'AM.

4 Q. NOW, THE DEFENDANT INDICATED HE WISHED TO GIVE A
5 STATEMENT?

6 A. THAT'S CORRECT.

7 Q. OKAY. AND HOW DID THAT COME ABOUT?

8 A. WE HAD TALKED ABOUT THE INCIDENT THAT HAD
9 HAPPENED, ABOUT PUBLIX. ONCE WE HAD WENT THROUGH AND
10 ASKED HIM A FEW QUESTIONS AND HE STARTED GIVING
11 RESPONSES, HE WAS GIVEN THE OPPORTUNITY TO PUT IT IN A
12 WRITTEN STATEMENT, TO PUT IT DOWN ON A WRITTEN
13 STATEMENT, AT WHICH TIME HE, HE WOULD TELL, TELL ME WHAT
14 HAPPENED, AND I WOULD WRITE THE STATEMENT FOR HIM.

15 Q. OKAY. SO DID YOU WRITE IT AS HE WAS TELLING YOU
16 OR DID YOU TAKE A BREAK?

17 A. I WROTE IT AS HE WAS SAYING IT, AS HE WAS TALKING
18 TO ME AND DETECTIVE SLOAN.

19 Q. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 3. IF YOU COULD TAKE A LOOK AT THAT FOR ME. DO YOU
21 RECOGNIZE THAT?

22 A. I DO.

23 Q. HOW ARE YOU ABLE TO RECOGNIZE THAT?

24 A. IT'S MY HANDWRITING, AND IT'S THE STATEMENT THAT
25 WAS GIVEN THAT NIGHT AT CLEMSON POLICE DEPARTMENT BY

1 MR. SCOTT.

2 Q. NOW, DO YOU TYPICALLY WRITE THE STATEMENT OR HAVE
3 THE DEFENDANT WRITE IT OUT?

4 A. I TYPICALLY WRITE IT.

5 Q. AND WHY DO YOU DO IT THAT WAY?

6 A. FOR THE PURPOSE OF -- SO WE CAN GO THROUGH AND
7 MAKE SURE THAT THINGS ARE KIND OF IN A CHRONOLOGICAL
8 ORDER, FIND OUT -- SOMETIMES WHEN THE SUSPECTS WRITE IT,
9 THAT THEY JUMP FROM HERE TO THERE. JUST IT'S MORE OF AN
10 EASIER READ. ALSO, IT ALLOWS THEM TO CONCENTRATE MORE
11 ON THE EVENTS THAT HAPPENED AT THAT TIME WHILE I'M DOING
12 THE WRITING.

13 Q. DID YOU WRITE IT ACCURATELY, WHAT THE DEFENDANT
14 TOLD YOU WHAT HAPPENED?

15 A. I DID.

16 Q. AND DID YOU READ IT BACK TO HIM OR HAND IT TO HIM
17 TO READ?

18 A. I READ IT BACK TO HIM, AND ALSO IN PLACES WHERE I
19 HAD MADE A MISTAKE, I HAD GOT HIM TO PUT HIS INITIALS,
20 "SS," BY THEM.

21 Q. DID HE INDICATE THAT THAT WAS HIS STATEMENT?

22 A. HE DID BY SIGNING AT THE BOTTOM JUST ABOVE WHERE
23 IT SAYS "I RECEIVED A COPY" AND THEN HE INITIALED BESIDE
24 IT.

25 Q. NOW, IN ADDITION TO THE STATEMENT, WAS ANY OTHER

1 DOCUMENT FILLED OUT?

2 A. THERE WAS. THERE WAS A -- WHEN WE WERE TALKING
3 ABOUT THE INCIDENT, WE WERE TALKING ABOUT THE WEAPON
4 USED. MR. SCOTT DIDN'T KNOW EXACTLY THE MAKE OR MODEL
5 OF THE WEAPON THAT WAS USED, SO I HAD DRAWN TWO PICTURES
6 OF TWO GUNS, AND HE SAID THAT NEITHER ONE OF THEM LOOKED
7 EXACTLY LIKE WHAT, THE GUN THAT WAS USED THAT NIGHT, SO
8 HE DREW A PICTURE OF WHAT HE, OR A REPRESENTATION OF
9 WHAT WAS USED THAT NIGHT.

10 Q. OKAY. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS
11 STATE'S 4. DO YOU RECOGNIZE THAT ITEM?

12 A. I DO.

13 Q. AND HOW DO YOU RECOGNIZE IT?

14 A. IT'S GOT MY TWO DRAWINGS OF LONG GUNS AND IT HAS
15 THE ONE THAT MR. SCOTT HAD DID.

16 Q. OKAY. AND HOW DO YOU KNOW IT'S THE ONE THAT
17 MR. SCOTT DREW?

18 A. MR. SCOTT WROTE HIS, HAD SIGNED HIS NAME ABOVE IT
19 SAYING IT.

20 Q. SO IN YOUR OPINION WAS HIS STATEMENT THEN FREELY
21 AND VOLUNTARILY GIVEN?

22 A. YES.

23 MS. HUEY: YOUR HONOR, AT THIS TIME WE
24 PUBLISH IT TO YOUR HONOR; IF YOU WOULD LIKE MR. VAUGHN
25 TO READ IT OR IF YOU WOULD LIKE TO READ IT YOURSELF

1 (HANDING). THAT'S THE ADVISORY OF RIGHTS, YOUR HONOR,
2 THE STATEMENT AS WELL AS THE DRAWING.

3 THE COURT: (READS DOCUMENTS.)

4 ANY OTHER QUESTIONS?

5 MS. HUEY: NO, SIR, YOUR HONOR.

6 THE COURT: PARDON?

7 MS. HUEY: NO, SIR, YOUR HONOR.

8 THE COURT: CROSS-EXAMINATION?

9 CROSS-EXAMINATION BY MR. POTTER:

10 Q. DETECTIVE VAUGHN, YOU TESTIFIED EARLIER THAT YOU
11 DID NOT HEAR SAMMY, YOU DID NOT HEAR SAMMY SCOTT ASK
12 SLOAN TO TALK TO HIM; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. OKAY. SO SLOAN CAME AND GOT YOU AND SAYS "SAMMY
15 WANTS TO TALK, COME WITH ME."

16 A. CORRECT.

17 Q. IS THAT A FAIR STATEMENT?

18 A. YES, SIR.

19 Q. OKAY. AND Y'ALL WENT TO AN INTERVIEW ROOM IN THE
20 CLEMSON POLICE DEPARTMENT OFFICE; IS THAT RIGHT?

21 A. WE WENT TO A ROOM. I DON'T KNOW IF IT WAS THEIR
22 INTERVIEW ROOM. A ROOM.

23 Q. A TABLE AND CHAIRS THERE?

24 A. CORRECT.

25 Q. IT WASN'T ONE OF THE CLEMSON POLICE OFFICERS'

1 OFFICES, WAS IT?

2 A. NO, SIR.

3 Q. NOW, WAS HIS SISTER THERE AS WELL? AND WHEN I
4 MEAN BY "THERE," WAS HIS SISTER AT THE CLEMSON POLICE
5 DEPARTMENT?

6 A. YES, SIR, I BELIEVE SO.

7 Q. AND DO YOU REMEMBER WHAT SAMMY WAS WEARING WHEN
8 HE WAS BROUGHT INTO THE INTERVIEW ROOM?

9 A. NO, SIR.

10 Q. DO YOU RECALL IF HE HAD A SHIRT ON OR ANYTHING OF
11 THAT SORT?

12 A. NO, SIR.

13 Q. NOW, ON A STATEMENT AT THE VERY END IT SAYS
14 (READING):

15 I'M GOING TO WORK WITH THE POLICE
16 TO TRY TO GET THE GUN BACK.

17 OBVIOUSLY, DURING YOUR INTERVIEW YOU ASKED
18 WHERE THE GUN WAS, CORRECT?

19 A. CORRECT.

20 Q. OKAY. IN OTHER WORDS, YOU SAID, "WE CAN'T FIND
21 THE SHOTGUN, WHERE IS THE GUN AT?" IS THAT RIGHT?

22 A. CORRECT.

23 Q. OKAY. AT ANY POINT IN TIME DID YOU PROMISE HIM
24 IF HE WAS ABLE TO GET THE GUN FOR YOU, THAT THAT WOULD
25 BENEFIT HIM?

1 A. NO, SIR.

2 Q. SO NEITHER YOU NOR SLOAN SAID THAT TO HIM?

3 A. NO, SIR, NOT THAT I CAN RECALL.

4 Q. WHEN THE WAIVER OF RIGHTS WAS -- WHEN THE
5 ADVISORY OF RIGHTS WAS READ TO HIM, YOU GO TO THE
6 CHECKLIST, YOU HAVE THE RIGHT TO REMAIN SILENT, YOU HAVE
7 THE RIGHT TO AN ATTORNEY, ONE COULD BE APPOINTED TO YOU.
8 DID YOU EXPLAIN TO HIM THE PROCESS IF ONE WOULD BE
9 APPOINTED, HOW ABOUT THAT?

10 A. NOT THAT I CAN RECALL. I DON'T BELIEVE HE ASKED
11 FOR THAT INFORMATION.

12 Q. DID -- HAD HE -- HE HAD NOT BEEN FORMALLY BOOKED
13 AT THAT POINT IN TIME, ISN'T THAT TRUE?

14 A. THAT'S CORRECT.

15 Q. SO THE WARRANTS WERE JUST SERVED ON HIM AND HE
16 WAS BEING HELD IN THE CLEMSON POLICE DEPARTMENT UNTIL
17 YOU COULD CARRY HIM DOWN HERE, IS THAT TRUE?

18 A. CORRECT.

19 Q. ABOUT HOW LONG WAS THIS INTERVIEW?

20 A. BETWEEN 45 MINUTES AND AN HOUR.

21 Q. DID YOU HAVE ANY RECORDING OR VIDEOTAPE OR
22 AUDIOTAPE OR ANYTHING LIKE THAT?

23 A. NO, SIR.

24 Q. WAS THAT AVAILABLE FOR YOU?

25 A. NOT AT THAT TIME. WE WAS AT ANOTHER PERSON'S

1 JURISDICTION. WE WAS AT ANOTHER JURISDICTION.

2 Q. I UNDERSTAND. DID YOU ASK ANYBODY AT THE CLEMSON
3 POLICE DEPARTMENT IF THEY HAD ANY RECORDING DEVICES THAT
4 THEY COULD USE FOR AN INTERVIEW?

5 A. I DID NOT.

6 Q. DID YOU SEE ANY?

7 A. NO, SIR.

8 MR. POTTER: NOTHING FURTHER, YOUR HONOR,
9 THANK YOU.

10 THE COURT: ANY REDIRECT?

11 MS. HUEY: NO, SIR, YOUR HONOR.

12 THE COURT: YOU MAY STEP DOWN. THANK YOU
13 VERY MUCH.

14 (WHEREUPON, THE WITNESS WAS EXCUSED.)

15 THE COURT: ANY OTHER WITNESSES?

16 MS. HUEY: NO, SIR, YOUR HONOR.

17 THE COURT: PARDON?

18 MS. HUEY: NO, SIR.

19 THE COURT: ARGUMENTS?

20 ARGUMENT:

21 MR. POTTER: JUST WITH REGARDS TO THE FIRST
22 STATEMENT. OBVIOUSLY, THEY ARE INVESTIGATING THIS
23 PARTICULAR INCIDENT. AT THAT POINT IN TIME THEY RECEIVE
24 A TIP THAT HE MAY BE INVOLVED IN THE SHOOTING. I THINK
25 AT THAT POINT WHEN THEY BRING HIM IN FOR THE INTERVIEW,

1 EVEN THOUGH HE VOLUNTARILY CAME IN, THERE WAS NO
2 INDICATION ---

3 THE COURT: WELL, THE FIRST STATEMENT WASN'T
4 EVEN INCRIMINATORY. IT DIDN'T INCRIMINATE ANYBODY. SO
5 HOW IS IT A CONFESSION?

6 MR. POTTER: YOUR HONOR, IT'S OUR POSITION
7 THAT HE WAS ENTITLED TO MIRANDA AT THAT POINT IN TIME
8 REGARDING THE FIRST STATEMENT.

9 THE COURT: WELL, HE'S JUST ENTITLED TO
10 MIRANDA ABOUT SELF-INCRIMINATION AND TALKING. IT DIDN'T
11 INCRIMINATE ANYTHING. AND THEY WERE GOING THROUGH THE
12 INVESTIGATIVE PROCESS. WHAT DO YOU WANT ME TO DO WITH
13 THAT, THE FIRST STATEMENT?

14 MR. POTTER: I WANT YOU TO ---

15 THE COURT: YOU WANT ME TO DO WHAT?

16 MR. POTTER: I WANT YOU TO SUPPRESS THAT AND
17 NOT ALLOW THAT TO BE SUBMITTED TO THE JURY. AND THEN
18 THE MAIN REASON BEING THE FAILURE OF ANY WAIVER OF ANY
19 ADVISORY OF RIGHTS AT THAT POINT IN TIME.

20 IN REGARDS TO THE SECOND STATEMENT, I THINK
21 ON THAT ISSUE, WE'LL JUST GO AHEAD AND SUBMIT THAT TO
22 YOUR HONOR.

23 THE COURT: WHAT?

24 MR. POTTER: WE'LL JUST GO AHEAD AND SUBMIT
25 THAT ISSUE TO YOUR HONOR.

1 THE COURT: HAVE YOU GOT ANY ARGUMENT ON THE
2 SECOND STATEMENT?

3 MR. POTTER: NO, SIR.

4 THE COURT: ALL RIGHT. LET ME HEAR YOU ON
5 THE FIRST STATEMENT. HE WANTS THAT SUPPRESSED.

6 MS. HUEY: YOUR HONOR, I DON'T BELIEVE THE
7 DEFENDANT WAS IN CUSTODY AT THE TIME. HE CAME TO THE
8 POLICE STATION VOLUNTARILY. IT WAS STRICTLY, AS YOU
9 HAVE BEEN SAYING, FOR INVESTIGATIVE PURPOSES.

10 THEY RECEIVED A TIP. THEY WERE JUST TRYING
11 TO CHECK ON HIS WHEREABOUTS SO THEY COULD THEN FOLLOW UP
12 ANY ALIBI INFORMATION. THE DEFENDANT WAS NOT MIRANDIZED
13 AT THAT TIME, NOR DID HE GIVE ANY INCRIMINATING
14 STATEMENTS FOR THAT MATTER.

15 THE COURT: HOW LONG WAS THAT PRIOR TO THE
16 ARREST?

17 MS. HUEY: SEVERAL HOURS, YOUR HONOR.

18 THE COURT: OKAY. ALL RIGHT.

19 MS. HUEY: JUDGE, I MISSPOKE. IT WAS
20 ACTUALLY TWO DAYS. I'M SORRY.

21 THE COURT: I'M SORRY, WHAT?

22 MS. HUEY: TWO DAYS. I'M SORRY.

23 THE COURT: TWO DAYS?

24 MS. HUEY: YES, SIR. I'M SORRY.

25 THE COURT: ALL RIGHT. THAT MOTION TO

1 SUPPRESS THE FIRST STATEMENT IS DENIED AT THIS TIME.
2 HOWEVER, YOU MAY RENEW THAT MOTION SOMETIME DURING THE
3 TRIAL, WHENEVER THEY OFFER THAT AND WE HEAR ANY
4 ADDITIONAL TESTIMONY, IF THERE IS ANY BASIS FOR THAT.
5 DO YOU UNDERSTAND, MR. POTTER?

6 MR. POTTER: YES, YOUR HONOR.

7 THE COURT: OKAY. HAVE YOU GOT ANY ARGUMENT
8 ON THE SECOND AT ALL?

9 MR. POTTER: YOUR HONOR, AGAIN, I WOULD
10 SUBMIT THAT IN REGARDS TO, AND I EXPLAINED TO ---

11 THE COURT: LET ME JUST ASK YOU SOME
12 QUESTIONS IF YOU DON'T WANT TO MAKE AN ARGUMENT. WHERE
13 IS THERE ANY TESTIMONY AT ALL THAT MIRANDA WASN'T GIVEN?

14 MR. POTTER: JUDGE, IT'S MY -- I THINK THE
15 ISSUE IS NOT NECESSARILY WHETHER MIRANDA WAS GIVEN OR
16 NOT, BUT THE OPPORTUNITY TO CONSULT COUNSEL, THE
17 OPPORTUNITY TO EXPLAIN TO HIM HIS RIGHT OF COUNSEL, THE
18 PROCESS OF HAVING AN ATTORNEY APPOINTED ON THE ATTORNEY
19 FORM. I WOULD SUBMIT THAT HIS FAILURE TO DO SO WOULD
20 MAKE THAT INVOLUNTARY, NOT A VOLUNTARY WAIVER OF RIGHTS.

21 THE COURT: WHERE IS THERE ANY EVIDENCE THAT
22 IT'S NOT VOLUNTARILY GIVEN?

23 MR. POTTER: JUST THE TESTIMONY THAT
24 DETECTIVE VAUGHN SAID, THAT THEY DIDN'T EXPLAIN TO HIM
25 THE PROCESS OF HIS RIGHTS WITH REGARD TO GIVING COUNSEL.

1 THE COURT'S RULING:

2 THE COURT: ALL RIGHT. THE COURT HAS
3 CAREFULLY CONSIDERED ALL THE EVIDENCE WHICH HAS BEEN
4 OFFERED BY THE STATE AND THE DEFENDANT, AND THE COURT IS
5 CONVINCED BY THE PREPONDERANCE OF THE EVIDENCE, AND I SO
6 FIND THAT BEFORE THE ALLEGED STATEMENT WAS OBTAINED FROM
7 THE DEFENDANT, THE DEFENDANT WAS FULLY ADVISED OF HIS
8 RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS OF THE
9 CONSTITUTION OF THE UNITED STATES, WITH THE SAFEGUARDS
10 PROVIDED UNDER THE CASE OF MIRANDA V. ARIZONA, AS
11 FOLLOWS:

12 THE DEFENDANT WAS ADVISED PRIOR TO ANY
13 INTERROGATION THAT HE HAD THE RIGHT TO REMAIN SILENT;
14 THE DEFENDANT WAS ADVISED PRIOR TO ANY INTERROGATION AND
15 HE WAIVED HIS RIGHT TO REMAIN SILENT AND MADE A
16 STATEMENT; THAT SUCH STATEMENT CAN OR WILL BE USED
17 AGAINST HIM IN A COURT OF LAW; AND THE DEFENDANT WAS
18 ADVISED PRIOR TO ANY INTERROGATION HE HAD THE RIGHT TO
19 EMPLOY AND SELECT AN ATTORNEY OF HIS OWN CHOICE. IF HE
20 DID NOT HAVE ANY MONEY, FUNDS OR RESOURCES TO EMPLOY AN
21 ATTORNEY, THE COURT WOULD APPOINT AND PROVIDE AN
22 ATTORNEY FOR HIM, IF HE SO DESIRES, WITHOUT COST OR
23 EXPENSE TO HIM; HE HAS THE RIGHT TO HAVE HIS ATTORNEY
24 PRESENT WITH HIM AT ALL TIMES BEFORE ALL INTERVIEWS AND
25 ALL INTERROGATIONS.

1 THE DEFENDANT WAS ADVISED PRIOR TO ANY
2 INTERROGATION THAT HE HAD THE RIGHT TO CONSULT WITH HIS
3 ATTORNEY BEFORE THE INTERROGATION. THE DEFENDANT WAS
4 ADVISED PRIOR TO INTERROGATION THAT HE HAD THE RIGHT TO
5 INTERRUPT AND TERMINATE THE INTERROGATION AT ANY TIME;
6 AND HE HAD THE FURTHER RIGHT TO STOP ANSWERING QUESTIONS
7 AT ANY TIME DURING THE INTERROGATION.

8 THE DEFENDANT WAS ADVISED PRIOR TO THE
9 INTERROGATION DURING INTERROGATION IF HE DESIRED AN
10 ATTORNEY, THE INTERROGATION WOULD CEASE UNTIL AN
11 ATTORNEY WAS PROVIDED FOR HIM AND HE WOULD BE GIVEN AN
12 OPPORTUNITY TO CONSULT WITH HIS ATTORNEY PRIOR TO
13 FURTHER INTERROGATION.

14 I FIND THAT THE DEFENDANT KNOWINGLY AND
15 INTELLIGENTLY WAIVED HIS RIGHTS UNDER THE FIFTH AND
16 SIXTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED
17 STATES, THE CONSTITUTIONAL SAFEGUARDS REQUIRED BY
18 MIRANDA V. ARIZONA, AND ANY ALLEGED STATEMENT OBTAINED
19 FROM THE DEFENDANT WAS FREELY AND VOLUNTARILY GIVEN,
20 WITHOUT DURESS, COERCION, OR UNDUE INFLUENCE; WITHOUT
21 REWARD OR WITHOUT PROMISE OR HOPE OF REWARD, WITHOUT
22 PROMISES OF LENIENCY, WITHOUT THREAT OF DANGER AND
23 WITHOUT COMPULSION OR INDUCEMENT OF ANY KIND; AND SUCH
24 ALLEGED STATEMENT WAS THE VOLUNTARY PRODUCT OF THE FREE
25 AND UNCONSTRAINED WILL OF THE DEFENDANT.

1 THE COURT FINDS ALL THE FOREGOING
2 CONCLUSIONS BY A PREPONDERANCE OF THE EVIDENCE, AND I,
3 THEREFORE, FIND THE STATEMENT IS ADMISSIBLE INTO
4 EVIDENCE.

5 ANYTHING ELSE?

6 MS. HUEY: NO, SIR, YOUR HONOR.

7 THE COURT: MR. POTTER, I UNDERSTAND YOU
8 HAVE SOME MOTIONS; IS THAT CORRECT?
9 MOTIONS:

10 MR. POTTER: JUDGE, MAY IT PLEASE THE COURT.
11 THE FIRST ISSUE WE NEED TO TAKE UP IS WE ARE
12 GOING TO HAVE SOMEWHERE BETWEEN 34 AND 40 WITNESSES, A
13 MAJORITY OF THEM WOULD BE EYEWITNESSES WHO WERE
14 ALLEGEDLY ON THE SCENE WHEN THIS INCIDENT OCCURRED.

15 WHAT I AM GOING TO BE ASKING FOR IS THAT
16 THESE WITNESSES BE SEQUESTERED OR SEPARATED DURING THE
17 PENDENCY OF THIS TRIAL AND ADMONISHED NOT TO DISCUSS
18 THEIR TESTIMONY WITH ANY OTHER WITNESSES.

19 THE COURT: WHAT'S THE STATE'S POSITION ON
20 SEQUESTERING THE WITNESSES?

21 MS. HUEY: YOUR HONOR, I THINK THAT
22 MR. POTTER HAS TO SHOW SUFFICIENT GROUNDS TO SEQUESTER
23 THE WITNESSES; THAT MERE OPPORTUNITY TO COMPARE
24 TESTIMONY IS INSUFFICIENT GROUNDS TO SEQUESTER.

25 THE COURT: ALL RIGHT. I'LL SEQUESTER THE

1 WITNESSES. HOWEVER, THE STATE IS GOING TO BE REQUIRED
2 TO -- YOU'RE GOING TO BE REQUIRED TO SEQUESTER YOUR
3 WITNESSES, ALSO. DO YOU UNDERSTAND?

4 MR. POTTER: YES, SIR.

5 THE COURT: ALL RIGHT. ARE ANY OF THOSE
6 WITNESSES PRESENT?

7 MR. POTTER: I DON'T THINK ANY OF MY
8 WITNESSES ARE.

9 THE COURT: ARE ANY OF THEM PRESENT ON
10 BEHALF OF THE STATE OR THE DEFENDANT?

11 MS. HUEY: I DON'T -- WELL, OTHER THAN LAW
12 ENFORCEMENT, JUDGE.

13 THE COURT: OKAY. ALL RIGHT. WELL, REMIND
14 ME IN THE MORNING BEFORE WE START. LET ME TELL BOTH
15 ATTORNEYS THIS. I WANT YOU TO TELL YOUR WITNESSES THAT
16 BEING SEQUESTERED DOESN'T MEAN TO COME IN HERE AND
17 TESTIFY AND RUN OUT IN THE HALL AND TELL EVERYBODY WHAT
18 WAS SAID AND WHAT'S GOING ON.

19 AND, MR. POTTER, YOU TELL YOUR WITNESSES
20 THAT THEY ARE NOT TO REPEAT WHAT TRANSPIRED IN THE
21 COURTROOM WHILE THEY WERE IN THE COURTROOM TO ANY
22 WITNESSES THAT HAVE NOT TESTIFIED. ONCE THEY TESTIFY,
23 THEY ARE FREE TO STAY IN THE COURTROOM. BUT I WILL
24 SEQUESTER ALL WITNESSES FOR THE STATE AND THE DEFENDANT.

25 YOU CAN KEEP WHOEVER YOU WANT IN THE

1 COURTROOM AS FAR AS THE POLICE OFFICER, OKAY?

2 MS. HUEY: YES, SIR.

3 THE COURT: ALL RIGHT. ANY OTHER MOTIONS?

4 MR. POTTER: JUDGE, THERE IS APPARENTLY A
5 SHOTGUN THAT WAS FOUND IN THE LAKE.

6 THE COURT: IN THE LAKE?

7 MR. POTTER: YES, SIR. THIS WEAPON WAS
8 DISCOVERED, MY UNDERSTANDING, IN JUNE OF THIS YEAR.
9 IT'S MY UNDERSTANDING THE STATE IS GONNA TRY TO TIE THIS
10 SHOTGUN INTO THIS PARTICULAR CRIME.

11 THE ONLY CORROBORATING EVIDENCE I THINK IS A
12 STATEMENT FROM JOHNNY MAHAFFEY INDICATING THAT'S WHERE
13 THE GUN WAS SUPPOSEDLY DISPOSED OF. THERE'S NOTHING
14 ELSE THAT WOULD TIE THIS PARTICULAR WEAPON TO THIS
15 PARTICULAR INCIDENT, AND ACCORDINGLY, WE WOULD ASK THAT
16 YOUR HONOR HAVE A HEARING OR MAKE THE DETERMINATION ON
17 THE ADMISSIBILITY OF THAT SHOTGUN.

18 THE COURT: WELL, I JUST HAVE TO HEAR THE
19 TESTIMONY BEFORE I SUPPRESS IT. I'LL TAKE IT UNDER
20 ADVISEMENT, OKAY?

21 MR. POTTER: YES, SIR.

22 THE COURT: WHEN YOU GET TO THE POINT TO
23 OFFER IT INTO EVIDENCE, LET ME KNOW IF YOU WANT TO TAKE
24 ANY IN-CAMERA TESTIMONY; IF NOT, I'LL RULE AT THAT TIME,
25 OKAY?

1 MS. HUEY: OKAY.

2 THE COURT: WHAT ELSE?

3 MR. POTTER: THAT'S IT, JUDGE.

4 THE COURT: ANY OTHER MOTIONS?

5 MR. POTTER: NO, YOUR HONOR.

6 THE COURT: ANY OTHER MOTIONS FROM THE

7 STATE?

8 MS. HUEY: NO, SIR.

9 THE COURT: LET ME SEE THE ATTORNEYS UP
10 HERE.

11 (DISCUSSION AT SIDEBAR.)

12 THE COURT: WE'LL ADJOURN TILL 9:30 IN THE
13 MORNING.

14 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
15 STATE OF SOUTH CAROLINA V. SAMMY SCOTT
16 ADJOURNED AT 5:30 P.M. ON MONDAY, SEPTEMBER
17 8, 2008, TO RESUME AT 9:30 A.M. ON TUESDAY,
18 SEPTEMBER 9, 2008.)
19
20
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1 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
2 STATE OF SOUTH CAROLINA V. SAMMY SCOTT
3 CONTINUED ON SEPTEMBER 9, 2008, AT 9:42 A.M.)

4 THE COURT: ANYTHING FROM THE STATE BEFORE
5 WE BRING THE JURY?

6 MR. POTTER: NO, SIR, YOUR HONOR.

7 MS. HUEY: NO, SIR, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MR. POTTER: WE TALKED YESTERDAY ABOUT
10 SEQUESTERING WITNESSES. THE WITNESSES THAT I HAVE UNDER
11 SUBPOENA ARE NOT HERE TODAY, BUT WE'VE GOT THEIR PHONE
12 NUMBERS AND WE CAN CALL THEM WHENEVER WE NEED THEM TO BE
13 HERE, SO I JUST WANTED TO LET YOUR HONOR KNOW THAT WE
14 HAVE NO WITNESSES HERE TODAY.

15 THE COURT: OKAY. I ASSUME THAT THE STATE'S
16 WITNESSES ARE SEQUESTERED?

17 MS. HUEY: YES, YOUR HONOR, THEY ARE OUTSIDE
18 IN THE LOBBY.

19 THE COURT: HAVE YOU INSTRUCTED THEM ON WHAT
20 I TOLD YOU TO INSTRUCT THEM ON YESTERDAY?

21 MS. HUEY: YES, SIR, YOUR HONOR. I CAN GO
22 REITERATE THAT NOW.

23 THE COURT: PARDON?

24 MS. HUEY: I'D LIKE TO GO REITERATE THAT,
25 THOUGH, IF I CAN.

1 THE COURT: OKAY. IF YOU WANT TO, YOU CAN
2 BRING THEM IN THE COURTROOM AND I'LL REITERATE IT FOR
3 THEM.

4 MS. HUEY: NO, SIR. I'LL JUST DOUBLE-CHECK.
5 THEY'RE SITTING OUT RIGHT HERE.

6 THE COURT: OKAY.

7 MS. HUEY: I'LL BE RIGHT BACK.

8 THE COURT: MR. POTTER, HAVE YOU TOLD YOUR
9 WITNESSES?

10 MR. POTTER: JUDGE, I HAVE NOT TOLD MY
11 WITNESSES BECAUSE THEY ARE NOT HERE; BUT WE HAVE PHONE
12 NUMBERS AND I CAN HAVE MY ASSISTANT GO AHEAD AND GIVE
13 THEM A CALL AND TELL THEM.

14 THE COURT: I WANT YOU TO TELL THEM. THAT'S
15 ALL I WANT YOU TO DO. I DON'T CARE WHEN YOU DO IT, BUT
16 JUST DO IT, OKAY?

17 MR. POTTER: YES, SIR.

18 THE COURT: YES, MA'AM. THANK YOU VERY
19 MUCH. ANYTHING ELSE BEFORE WE BRING THE JURY?

20 MR. POTTER: NO, YOUR HONOR.

21 MS. HUEY: NO, YOUR HONOR.

22 THE COURT: BRING US A JURY, PLEASE.

23 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
24 9:44 A.M.)

25 THE COURT: MADAM CLERK, IF YOU WOULD SWEAR

1 THE JURY, PLEASE, MA'AM?

2 (WHEREUPON, THE JURY WAS SWORN BY THE CLERK
3 OF COURT.)

4 THE COURT: SOLICITOR?

5 OPENING STATEMENT BY MS. HUEY:

6 MS. HUEY: MAY IT PLEASE THE COURT.

7 ON JULY 10TH, 2006, THIS DEFENDANT, SAMMY
8 SCOTT, WENT TO ANDERSON. HE WENT LOOKING FOR REVENGE.
9 YOU SEE, HE HAD THIS BEEF, THIS DISPUTE, THIS ONGOING
10 FIGHT WITH A GUY BY THE NAME OF LARICKY HARKNESS, ALSO
11 KNOWN AS BOOT, B-O-O-T.

12 HE WENT TO ANDERSON LOOKING FOR BOOT. HE
13 KNEW THAT ON A SUNDAY NIGHT BOOT WAS PROBABLY AT A CLUB
14 NAMED CLUB MALLEY (PHONETIC), AND THAT AFTER CLUB MALLEY
15 CLOSED, HE WOULD GO AND HANG OUT IN PARKING LOTS BECAUSE
16 THAT'S WHAT THE KIDS DID. THEY WOULD GO TO TEEN NIGHT
17 AT CLUB MALLEY, AND THEN THEY WOULD HANG OUT IN PARKING
18 LOTS, DIFFERENT PARKING LOTS, AND IN THIS CASE PUBLIX.

19 AND SURE ENOUGH, SAMMY SCOTT LOADED UP HIS
20 MOM'S KIA WITH HIS FRIENDS, JOSH BLACK AND JOE BURNS,
21 AND TOOK OFF TO ANDERSON WITH A SHOTGUN IN THE CAR THAT
22 HE HAD GOTTEN OUT OF THE WOODS THAT DAY FROM HIS HIDING
23 PLACE FROM WHICH HE HAD PREVIOUSLY PURCHASED.

24 WHEN THEY DROVE IN THAT BLACK KIA, THEY
25 DROVE TO PUBLIX PARKING LOT AND SAW BOOT'S CAR. NOW,

1 YOU SEE, BOOT'S CAR IS VERY SPECIFIC, IT STANDS OUT.
2 IT'S A BROWN CAR, IT HAS A DELTA '88 ON IT, IT HAS A
3 REAL TALK (PHONETIC) ON IT. IT STANDS OUT. BOOT'S CAR
4 WAS THERE AS WELL AS 20 OR 30 OTHER CARS.

5 THE DEFENDANT PULLS INTO THE PARKING LOT IN
6 HIS BLACK KIA, HIS MOM'S BLACK KIA, SEES BOOT'S CAR, AND
7 HE TAKES HIS OPPORTUNITY. AND HE STICKS THAT SHOTGUN
8 OUT THE WINDOW OF THE KIA AND SHOOTS AT LEAST TWICE, IF
9 NOT THREE TIMES, TRYING TO HIT BOOT.

10 THE PROBLEM IS, THERE WAS A CROWD OF KIDS
11 BETWEEN HIM AND BOOT. AND LADIES AND GENTLEMEN, WE'RE
12 NOT HERE TODAY FOR THE MURDER OF LARICKY HARKNESS, ALSO
13 KNOWN AS BOOT. WE ARE NOT HERE FOR THE ASSAULT AND
14 BATTERY WITH INTENT TO KILL ON LARICKY HARKNESS, ALSO
15 KNOWN AS BOOT.

16 WE ARE HERE BECAUSE WHEN THAT DEFENDANT,
17 SAMMY SCOTT, STUCK THAT SHOTGUN OUT THE WINDOW OF HIS
18 CAR AND SHOT THROUGH A CROWD OF PEOPLE, HE KILLED
19 JAVARIS CLINKSCALES, A RISING FOOTBALL STAR AT
20 BELTON-HONEA PATH HIGH SCHOOL, 15 YEARS OLD, WHO WAS
21 STANDING IN THE PARKING LOT TALKING TO HIS FRIENDS.

22 HE DIDN'T EVEN SEE IT COMING. HE DIDN'T
23 EVEN HAVE TIME TO DUCK. THIS DEFENDANT DIDN'T EVEN KNOW
24 HIM.

25 NOT ONLY DID HE KILL JAVARIS CLINKSCALES, HE

1 INJURED FOUR OTHER PEOPLE: INDIA GALLOWAY, JAMES BURNS,
2 SHANQUIL MARTIN.

3 LADIES AND GENTLEMEN, HIS REVENGE TOOK OFF.
4 ALL HE COULD THINK ABOUT WAS GETTING AT BOOT. AND IT
5 DIDN'T MATTER WHO WAS IN HIS WAY, BECAUSE THERE WERE A
6 CROWD OF KIDS WHO HAD NO BEEF WITH HIM, THEY DIDN'T EVEN
7 KNOW WHO HE WAS. BUT IT DIDN'T STOP HIM FROM TAKING
8 THAT SHOTGUN AND SHOOTING THROUGH THAT CROWD TO TRY TO
9 GET AT BOOT.

10 NOW, THE EVIDENCE IN THIS CASE WILL COME
11 PRIMARILY FROM THIS WITNESS STAND, AND IT WILL COME IN
12 THE FORM OF TESTIMONY. YOU WILL HEAR FROM THE VICTIMS,
13 AGAIN, THE PEOPLE THAT WERE SHOT AT: SYDNEY CHESTER,
14 SHANQUIL MARTIN, INDIA GALLOWAY, JAMES BURNS. YOU WILL
15 HEAR FROM THEM.

16 YOU WILL HEAR FROM OTHER PEOPLE WHO WERE AT
17 THE PARKING LOT WHO HEARD THESE LOUD SHOTS FROM A
18 SHOTGUN. YOU WILL ALSO HEAR FROM PEOPLE THAT THIS
19 DEFENDANT KNOWS, THE PEOPLE THAT WERE WITH SAMMY SCOTT
20 THAT NIGHT OR IN CARS RIGHT BESIDE HIS.

21 YOU WILL ALSO HEAR FROM LAW ENFORCEMENT WHO
22 COLLECTED THE PROJECTILES FROM THE SCENE AND FROM CARS
23 THAT WERE HIT AND FROM THE VICTIMS WHO WERE HIT. YOU
24 WILL HEAR FROM THE FORENSIC PATHOLOGIST.

25 LIKE I SAID, ALL THE EVIDENCE IS GOING TO

1 COME FROM THIS WITNESS STAND. I ASK YOU TO LISTEN TO
2 ALL THAT EVIDENCE. I HAVE THE BURDEN OF PROOF, AND I
3 WELCOME THAT BURDEN. IT IS MY JOB TO PROVE TO YOU
4 BEYOND A REASONABLE DOUBT THAT THIS PERSON KILLED
5 ANOTHER PERSON, JAVARIS CLINKSCALES, WITH MALICE
6 AFORETHOUGHT, AND THAT HE SHOT AT FOUR OTHER PEOPLE WITH
7 MALICE AFORETHOUGHT.

8 AND MALICE CAN BE DESCRIBED AS ILL WILL, A
9 WICKED SPIRIT, A DEPRAVED HEART, RECKLESSNESS, NOT
10 CARING ABOUT THE SAFETY OR LIVES OF OTHER HUMAN BEINGS.
11 THAT'S WHAT MALICE AFORETHOUGHT IS. AND LADIES AND
12 GENTLEMEN, BEYOND A REASONABLE DOUBT, THIS DEFENDANT HAD
13 MALICE IN HIS HEART ON JULY 10TH, 2006. THANK YOU.

14 THE COURT: MR. POTTER?

15 MR. POTTER: THANK YOU, YOUR HONOR, MAY IT
16 PLEASE THE COURT.

17 OPENING STATEMENT BY MR. POTTER:

18 MR. POTTER: YOU WILL HEAR A LOT ABOUT BOOT.
19 BOOT IS AN INTERESTING CHARACTER. THE THING MAYBE THE
20 SOLICITOR FORGOT TO TELL YOU IS BOOT WAS ARMED. IT WAS
21 EITHER A .22 OR A .25 PISTOL, WE'RE NOT EVEN SURE. BUT
22 HE WAS ARMED.

23 BUT THE EVIDENCE IS GONNA SHOW THAT WHEN
24 SAMMY ROLLED INTO PUBLIX, SYDNEY CHESTER IS GONNA
25 TESTIFY THAT SHE SAW BOOT SHOOT. SYDNEY CHESTER TOLD

1 THE POLICE THAT WHEN SHE SAW BOOT SHOOT, SHE SAW JAVARIS
2 FALL.

3 LADIES AND GENTLEMEN, HE ROLLS UP IN PUBLIX
4 AND BOOT STARTS FIRING. HE GETS A SHOTGUN AND FIRES
5 BACK. HE'S NOT RESPONSIBLE FOR THAT BOY'S DEATH. THEY
6 SHOULDN'T HAVE BEEN OUT THERE. WE ALL KNOW THAT. THEY
7 SHOULD HAVE BEEN AT HOME. BUT HE'S NOT RESPONSIBLE FOR
8 THIS. THAT RESPONSIBILITY LIES WITH SOMEONE ELSE.

9 AND YOU'RE GONNA HAVE A LOT OF WITNESSES
10 COME BEFORE YOU. THEY WERE ALL AT THE SCENE, 20 TO 30
11 WITNESSES, TO TELL YOU THAT THEY SAW BOOT'S CAR THERE.
12 THERE WERE EVEN MORE PEOPLE ALL OUT THERE HAVING FUN,
13 BEING LOUD, PLAYING THEIR RADIOS LOUD.

14 BOOT HAS A CAR THAT HAS AN EXHAUST THAT WAS
15 EXTREMELY LOUD, SO HE'S REVVING IT UP, SHOWING OFF.
16 THAT'S THE KIND OF CHARACTER BOOT IS AND THE KIND OF
17 PERSON WHO WOULD EASILY PULL A PISTOL ON SOMEONE ELSE.

18 IF YOU HEAR ALL THE TESTIMONY, I THINK YOU
19 WILL SEE THE DEFENDANT IS NOT RESPONSIBLE.

20 THE COURT: CALL YOUR FIRST WITNESS, PLEASE,
21 MA'AM.

22 MS. HUEY: YES, SIR, YOUR HONOR, THE STATE
23 CALLS KYLE DUNCAN.

24 (WHEREUPON, RANDALL KYLE DUNCAN WAS SWORN.)

25 RANDALL KYLE DUNCAN, D-U-N-C-A-N.

STATE V. SCOTT -- 9/9/2008 -- DUNCAN/DIRECT

1 WHEREUPON,

2 KYLE DUNCAN,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 DIRECT EXAMINATION BY MS. HUEY:

6 Q. MR. DUNCAN, HOW OLD ARE YOU?

7 A. TWENTY-ONE.

8 Q. TWENTY-ONE. DO YOU WORK PRESENTLY?

9 A. NO, MA'AM, I'M CURRENTLY UNEMPLOYED.

10 Q. WHAT DID YOU DO PREVIOUSLY?

11 A. A SERVER, A SERVER.

12 Q. WHERE DID YOU GO TO HIGH SCHOOL?

13 A. DANIEL HIGH SCHOOL.

14 Q. DO YOU KNOW THE DEFENDANT IN THIS CASE, SAMMY

15 SCOTT?

16 A. YES, MA'AM, I DO.

17 Q. HOW DO YOU KNOW HIM?

18 A. I WENT TO SCHOOL WITH HIM.

19 Q. NOW, WHEN YOU SAY YOU WENT TO SCHOOL WITH HIM,

20 HOW MANY YEARS WERE Y'ALL IN SCHOOL TOGETHER: WAS IT

21 JUST HIGH SCHOOL OR BEFORE THAT, TOO?

22 A. JUST HIGH SCHOOL.

23 Q. HIGH SCHOOL?

24 A. YES, MA'AM.

25 Q. DO YOU ALSO KNOW RELATIVES OF MR. SCOTT?

1 A. YES, MA'AM.

2 Q. WHO DO YOU KNOW?

3 A. MY COUSIN WHITNEY WAS FRIENDS WITH NICKI AND
4 SAMMY AND ALL OF THEM.

5 Q. WHAT'S WHITNEY'S LAST NAME?

6 A. DOTSON (PHONETIC).

7 Q. NICKI IS NICKI SCOTT?

8 A. YES, MA'AM.

9 Q. DRAWING YOUR ATTENTION TO JULY 10TH OF 2006, DO
10 YOU REMEMBER WHAT YOU WERE DOING THAT DAY AND WHO YOU
11 WERE WITH?

12 A. I WAS WITH WHITNEY THAT DAY.

13 Q. YOU WERE WITH WHITNEY THAT DAY?

14 A. YES, MA'AM.

15 Q. AND THEN DID YOU EVENTUALLY MEET UP WITH SOMEONE
16 ELSE?

17 A. WE WENT OVER TO SAMMY AND NICKI'S HOUSE.

18 Q. ONCE YOU GOT THERE, WHAT DID YOU ALL DO?

19 A. WE SAT THERE FOR A LITTLE BIT PLAYING CARDS AND
20 STUFF, AND THEN AFTER THAT WE HAD LEFT OUT AND FOLLOWED
21 SAMMY INTO ANDERSON.

22 Q. WHEN YOU SAY SAMMY, THEN, WHO WAS SAMMY WITH?

23 A. JOSH AND TROY.

24 Q. JOSH?

25 A. BLACK.

- 1 Q. AND TROY?
- 2 A. VERNER (PHONETIC), MAYBE.
- 3 Q. AND WHAT CAR WERE THEY IN?
- 4 A. HIS MOTHER'S CAR.
- 5 Q. AND DO YOU REMEMBER WHAT SHE WAS DRIVING?
- 6 A. SOME KIND OF A LITTLE BLACK S.U.V.
- 7 Q. OKAY. WHAT CAR WERE YOU ALL IN?
- 8 A. WHITNEY'S CAR, IT WAS A RED CAVALIER.
- 9 Q. AND WHO WAS IN THE CAR WITH YOU?
- 10 A. NICKI AND MYSELF AND WHITNEY.
- 11 Q. AND WHITNEY. AND WAS WHITNEY DRIVING THEN?
- 12 A. YES, MA'AM.
- 13 Q. NOW, YOU SAID THAT YOU ALL FOLLOWED SAMMY TO
- 14 ANDERSON?
- 15 A. YES, MA'AM.
- 16 Q. DID YOU KNOW WHY YOU WERE GOING TO ANDERSON?
- 17 A. NO, MA'AM. I HAD NO IDEA.
- 18 Q. DID YOU ALL GO TO ANDERSON?
- 19 A. YES, MA'AM, WE DID.
- 20 Q. AND Y'ALL WERE IN CLEMSON, INITIALLY IN CLEMSON?
- 21 A. YES, MA'AM. YES, MA'AM, WE WERE IN CLEMSON.
- 22 Q. AND THEN YOU DROVE FROM ANDERSON TO CLEMSON?
- 23 A. YES, MA'AM.
- 24 Q. AND DANIEL HIGH SCHOOL WAS IN CLEMSON; IS THAT
- 25 CORRECT?

1 A. YES, MA'AM.

2 Q. NOW, WHEN YOU ALL DROVE TO ANDERSON, WERE YOU
3 DIRECTLY BEHIND SAMMY SCOTT?

4 A. NOT DIRECTLY BEHIND HIM, BUT WE WERE SOMEWHERE,
5 WE WERE WITHIN SIGHT OF HIM.

6 Q. Y'ALL WERE FOLLOWING HIM?

7 A. YES, MA'AM.

8 Q. NOW, WHERE DID YOU ALL FOLLOW HIM TO THEN?

9 A. WE WENT TO THE WAL-MART PARKING LOT, AND THEN THE
10 POLICE WAS RUNNING EVERYBODY OFF FROM THERE SO WE WENT
11 DOWN TO PUBLIX.

12 Q. WHY DID YOU GO TO THE WAL-MART PARKING LOT?

13 A. THERE WAS SOME PEOPLE OUT THERE HANGING OUT OR
14 SOMETHING AND THE POLICE RAN EVERYBODY OFF.

15 Q. DO YOU KNOW HOW MANY PEOPLE, CAN YOU TAKE A
16 GUESS?

17 A. OVER A HUNDRED.

18 Q. AND THEY WERE HANGING OUT IN THE WAL-MART PARKING
19 LOT?

20 A. YES, MA'AM.

21 Q. BUT WHEN YOU GOT THERE, THE POLICE WERE ALREADY
22 RUNNING THEM OFF?

23 A. YES, MA'AM.

24 Q. SO WHAT DID YOU THEN DO?

25 A. CIRCLED AROUND AND WENT DOWN TO THE PUBLIX

1 PARKING LOT.

2 Q. WERE Y'ALL STILL FOLLOWING SAMMY?

3 A. YES, MA'AM.

4 Q. AND WHEN YOU FOLLOWED HIM, DID YOU FOLLOW HIM TO
5 PUBLIX THEN?

6 A. YES, MA'AM.

7 Q. WHAT HAPPENED ONCE YOU GOT TO PUBLIX?

8 A. WE PULLED UP AND THAT'S WHEN EVERYTHING STARTED,
9 ALL THE SHOOTING AND EVERYTHING.

10 Q. WHEN YOU PULLED UP, CAN YOU DESCRIBE WHAT YOU SAW
11 IN THE PARKING LOT?

12 A. IT WAS PACKED UP FULL OF CARS AND PEOPLE STANDING
13 EVERYWHERE.

14 Q. THAT'S WHEN YOU SAID IT ALL STARTED HAPPENING.
15 WHAT DO YOU MEAN BY THAT?

16 A. THAT'S WHEN THE WHOLE SHOOTING STARTED.

17 Q. SO YOU HEARD GUNSHOTS?

18 A. YES, MA'AM, I DID.

19 Q. COULD YOU TELL WHERE THEY WERE COMING FROM?

20 A. ALL AROUND THE PARKING LOT. I MEAN...

21 Q. OKAY. WHAT WAS SAMMY SCOTT DOING?

22 A. SITTING IN HIS CAR.

23 Q. OKAY. AND WHAT WAS HE DOING WHEN HE WAS SITTING
24 IN HIS CAR?

25 A. DO I HAVE TO ANSWER THAT QUESTION?

1 Q. YES, SIR, YOU DO.

2 A. I JUST HEARD GUNSHOTS AS SOON AS WE PULLED UP.

3 Q. TELL ME WHAT SAMMY SCOTT WAS DOING.

4 A. (HESITATES) UM, I DON'T KNOW..

5 Q. I'M GONNA SHOW YOU A STATEMENT THAT YOU GAVE
6 DETECTIVE GEBING ON JULY 11TH, 2006. I WANT YOU TO TAKE
7 A LOOK AT THAT AND SEE IF THAT REFRESHES YOUR MEMORY AS
8 TO WHAT MR. SCOTT WAS DOING.

9 A. HE HAD A GUN OUT THE WINDOW.

10 THE COURT: SOLICITOR, YOU MAY CROSS-EXAMINE
11 HIM CONCERNING THE STATEMENT.

12 MS. HUEY: THANK YOU, JUDGE.

13 BY MS. HUEY:

14 Q. MR. DUNCAN, THEN, IF YOU WILL READ WITH ME ABOUT
15 HALFWAY DOWN, SPECIFICALLY I WANT YOU TO READ "I SAW
16 SAMMY," IF YOU WILL READ THAT OUT LOUD TO THE JURY.

17 A. (READING):

18 I SAW SAMMY STICK A LONG GUN OUT
19 THE DRIVER'S SIDE WINDOW. HE SHOT
20 TOWARDS THE CROWD. WE LEFT THE PARKING
21 LOT QUICKLY.

22 Q. OKAY. SO YOU SAW SAMMY, THIS DEFENDANT, WITH A
23 LONG GUN, AND YOU SAW HIM SHOOT INTO THAT CROWD OF
24 PEOPLE AT PUBLIX?

25 A. YES, MA'AM.

1 Q. THANK YOU. NOW, DO YOU KNOW WHY HE WAS SHOOTING?

2 A. NO, MA'AM, I HAVE NO IDEA WHY HE WAS SHOOTING.

3 Q. DO YOU KNOW WHO HE WAS SHOOTING AT?

4 A. NO, MA'AM.

5 Q. HOW LONG DID THIS TAKE PLACE, HOW QUICKLY DID
6 THIS ALL HAPPEN?

7 A. WITHIN MINUTES. UM, I'D SAY AROUND FIVE MINUTES.

8 Q. ONCE YOU SAW MR. SCOTT SHOOT INTO THE CROWD, WHAT
9 HAPPENED AFTER THAT?

10 A. WE LEFT THE PARKING LOT.

11 Q. WHEN YOU SAY YOU ALL LEFT THE PARKING LOT, YOU
12 WERE STILL WITH WHITNEY AND NICKI, HIS SISTER?

13 A. YES, MA'AM.

14 Q. OKAY. AND DID YOU ALL TAKE OFF WITHOUT SAMMY?

15 A. NO. WE BOTH LEFT TOGETHER.

16 Q. OKAY. SO MR. SCOTT LEFT THE PARKING LOT AS WELL?

17 A. YES, MA'AM.

18 Q. AND DID YOU ALL FOLLOW HIM THEN?

19 A. YES, MA'AM.

20 Q. DID YOU SEE WHEN YOU WERE FOLLOWING HIM?

21 A. NO, MA'AM.

22 Q. WHERE DID YOU ALL GO THEN?

23 A. BACK TO EDGEWOOD, WHERE WE WERE LIVING AT THE
24 TIME, OR WHERE ME AND MY COUSIN WERE LIVING AT THE TIME,
25 AND HIS SISTER LIVED OUT THERE.

1 Q. AND THOSE ARE APARTMENTS?

2 A. YES, MA'AM.

3 Q. ONCE YOU GOT TO EDGEWOOD APARTMENTS, WHAT
4 HAPPENED THERE?

5 A. WE WENT BACK TO WHITNEY'S APARTMENT AND WAS
6 PLAYING SPADES AND WATCHING THE NEWS.

7 Q. OKAY. BUT BEFORE THAT WHAT HAPPENED?

8 A. (NO RESPONSE.)

9 Q. I MEAN, WHAT HAPPENED? WERE YOU ALL SCARED?

10 A. YES, MA'AM.

11 Q. OKAY. WHY WERE YOU SCARED?

12 A. BECAUSE ALL OF THIS HAD JUST HAPPENED, AND ---

13 Q. AND BY "ALL THIS," YOU MEAN THE SHOOTING HAD JUST
14 HAPPENED?

15 A. YES, MA'AM.

16 Q. SO YOU SEE THIS SHOOTING TAKE PLACE, YOU ARE WITH
17 WHITNEY IN WHITNEY'S CAR. YOU GO TO EDGEWOOD
18 APARTMENTS. HOW LONG DID IT TAKE Y'ALL TO GET BACK?
19 WERE Y'ALL SPEEDING TO GET BACK?

20 A. YES, MA'AM.

21 Q. WHY WERE YOU SPEEDING TO GET BACK?

22 A. TO GET AWAY FROM THE SCENE, I GUESS.

23 Q. OKAY. ONCE YOU GOT BACK, WHAT HAPPENED?

24 A. WHITNEY AND NICKI OR NICKI AND WHITNEY HAD TOOK
25 THE CAR BACK TO SAMMY'S MOTHER'S HOUSE.

1 Q. WHAT CAR, THE CAR SAMMY HAD BEEN IN?

2 A. YES, MA'AM.

3 Q. WHAT DID NICKI SAY TO YOU?

4 ~~MR. POTTER: OBJECTION.~~

5 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

6 MR. POTTER: 'HEARSAY. IT'S CALLING FOR A
7 ~~STATEMENT THAT'S OUTSIDE -- THIS IS NOT A STATEMENT BY~~
8 ~~HIM.~~

9 (DISCUSSION AT SIDEBAR.)

10 BY MS. HUEY:

11 Q. MR. DUNCAN, AGAIN, HOW MANY MINUTES DID IT TAKE
12 TO GET FROM THE PUBLIX PARKING LOT WHERE THE SHOOTING
13 TOOK PLACE BACK TO EDGEWOOD APARTMENTS?

14 A. MAYBE 15 TO 20 MINUTES.

15 Q. OKAY. AND AGAIN, Y'ALL WERE SPEEDING TO GET
16 THERE?

17 A. YES, MA'AM.

18 Q. AND YOU WERE STILL SCARED?

19 A. YES, MA'AM.

20 Q. ALL RIGHT. AND WHAT WERE WHITNEY AND NICKI
21 DOING, WERE THEY SCARED TOO? WERE THEY FREAKING OUT?
22 SHOCKED? WHAT WAS GOING ON?

23 A. THEY WERE FLIPPING OUT, DIDN'T WANT ANYTHING SAID
24 ABOUT ANYTHING.

25 Q. OKAY. ALL RIGHT. AND SO WHEN YOU GOT BACK TO

1 THE APARTMENTS, WHAT DID NICKI SAY TO YOU?

2 ~~MR. POTTER:~~ SAME OBJECTION, YOUR HONOR.

3 THE COURT: OVERRULED.

4 A. SHE TOLD ME NOT TO SAY ANYTHING.

5 BY MS. HUEY:

6 Q. OKAY. SPECIFICALLY, READ EXACTLY WHAT SHE TOLD
7 YOU.

8 A. SHE SAID, "YOU DIDN'T SEE SHIT."

9 Q. AND HOW ABOUT TROY, WASN'T HE THERE WITH SAMMY
10 WHEN YOU PULLED UP?

11 A. YES, MA'AM. AND HE SAID, "THIS IS SOME REAL
12 GANGSTER SHIT."

13 Q. OKAY. AND WHAT DID HE SAY BEFORE THAT?

14 ~~MR. POTTER:~~ JUDGE, ~~SAME OBJECTION IN~~
15 ~~REGARDS TO WHAT TROY SAID.~~

16 THE COURT: OVERRULED.

17 A. I DON'T KNOW THAT TROY SAID ANYTHING BEFORE THAT.

18 BY MS. HUEY:

19 Q. HE JUST SAID THIS IS SOME REAL --

20 A. -- SOME REAL GANGSTER SHIT.

21 Q. BUT THEY WERE TRYING TO GET YOU NOT TO TALK; IS
22 THAT RIGHT?

23 A. YES, MA'AM.

24 ~~MR. POTTER:~~ OBJECTION.

25 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

1 ~~MR. POTTER:~~ JUDGE, ~~SHE'S PUTTING WORDS IN~~
2 ~~HIS MOUTH.~~

3 THE COURT: OVERRULED. GO AHEAD.
4 BY MS. HUEY:

5 Q. IS THAT WHY YOU ARE SCARED TODAY, MR. DUNCAN?

6 A. YES, MA'AM.

7 Q. NOW, MR. DUNCAN, WHEN YOU FIRST GOT TO THE PUBLIX
8 PARKING LOT -- I KNOW YOU SAID THAT'S WHEN THE WHOLE
9 THING WENT DOWN, SOMETHING LIKE THAT, THAT'S WHEN IT ALL
10 STARTED HAPPENING?

11 A. YES, MA'AM.

12 Q. OKAY. AND YOU SAID YOU HEARD GUNSHOTS?

13 A. YES, MA'AM, THAT'S TRUE.

14 Q. COULD YOU TELL WHO WAS SHOOTING IN THE PUBLIX
15 PARKING LOT, OTHER THAN MR. SCOTT?

16 A. NO, MA'AM. I JUST HEARD GUNSHOTS FROM
17 EVERYWHERE.

18 MS. HUEY: THAT'S ALL I HAVE FOR THIS
19 WITNESS.

20 THE COURT: CROSS-EXAMINATION.

21 MR. POTTER: THANK YOU, YOUR HONOR, MAY IT
22 PLEASE THE COURT.

23 CROSS-EXAMINATION BY MR. POTTER:

24 Q. KYLE, WHEN YOU ROLLED UP AT PUBLIX, YOU TESTIFIED
25 THAT YOU HEARD, STARTED HEARING SHOOTING; IS THAT

1 CORRECT?

2 A. YES, SIR.

3 Q. ~~YOU HEARD SHOTS. AND THAT'S WHEN YOU SAW SAMMY~~
4 ~~WITH THE SHOTGUN;~~ ISN'T THAT RIGHT?

5 A. YES, SIR.

6 Q. ~~AFTER YOU HEARD THE FIRST SHOTS; ISN'T THAT~~
7 ~~CORRECT?~~

8 A. AFTER I HEARD THE FIRST SHOTS?

9 Q. YES.

10 A. ~~I'M NOT SURE ABOUT THAT.~~

11 Q. ~~YOU HEARD SHOOTING ALL AROUND PUBLIX?~~

12 A. YES, SIR, I DID.

13 Q. YOU TESTIFIED THAT AS SOON AS YOU PULLED UP, THE
14 SHOOTING STARTED; IS THAT CORRECT?

15 A. ~~AS SOON AS I PULLED IN THE PUBLIX PARKING LOT,~~
16 ~~THE SHOOTING STARTED.~~

17 Q. YOU HEARD GUNSHOTS ALL AROUND THE PUBLIX PARKING
18 LOT?

19 A. YES, SIR.

20 Q. YOU HEARD THE SHOOTER -- YOU HEARD THE SHOOTING
21 FIRST AND THEN THAT'S WHEN YOU SAW SAMMY PULL THE
22 SHOTGUN INTO THE WINDOW, CORRECT?

23 A. I CAN'T BE A HUNDRED PERCENT SURE ON THAT.

24 Q. OKAY. BUT WE KNOW WHEN YOU ROLLED INTO THAT
25 PUBLIX PARKING LOT, THAT'S WHEN THE SHOOTING STARTED AND

1 YOU HEARD SHOOTING ALL AROUND THE PARKING LOT?

2 A. AS SOON AS I PULLED IN THE PARKING LOT, I HEARD
3 SHOOTING.

4 MR. POTTER: OKAY. THANK YOU.

5 THE COURT: ANY REDIRECT?

6 MS. HUEY: NO, SIR, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. THANK YOU.
8 ANY REASON HE CAN'T BE EXCUSED?

9 MS. HUEY: NO, SIR, I WOULD LOVE FOR HIM TO
10 BE EXCUSED IF THAT'S ALL RIGHT.

11 MR. POTTER: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT, MR. DUNCAN, YOU MAY
13 BE EXCUSED.

14 (WHEREUPON, THE WITNESS WAS EXCUSED.)

15 MS. HUEY: THE STATE WOULD CALL MARKESHA
16 SMITH NEXT.

17 (WHEREUPON, WITNESS WAS SWORN.)

18 WITNESS: MARKESHA SMITH, S-M-I-T-H.

19 DIRECT EXAMINATION BY MS. HUEY:

20 Q. MS. SMITH, HOW OLD ARE YOU?

21 A. TWENTY YEARS OLD.

22 Q. ARE YOU CURRENTLY IN SCHOOL?

23 A. YES, MA'AM.

24 Q. WHERE DO YOU GO TO SCHOOL?

25 A. SOUTHERN WESLEYAN UNIVERSITY.

1 Q. WHAT DO YOU DO?

2 A. I'M SPORTS MANAGER OF THE BASKETBALL TEAM.

3 Q. NOW, DO YOU KNOW THE DEFENDANT, SAMMY SCOTT?

4 A. YES, MA'AM.

5 Q. HOW DO YOU KNOW HIM?

6 A. I KNOW HIM WHEN HE WAS A LITTLE YOUNGER, IN
7 SCHOOL.

8 Q. DID YOU ALL GO TO SCHOOL TOGETHER?

9 A. YES, MA'AM.

10 Q. DO YOU KNOW OTHER PEOPLE IN HIS FAMILY?

11 A. I KNOW HIS SISTER AND MOTHER.

12 Q. AND HIS SISTER'S NAME IS?

13 A. (UNABLE TO HEAR RESPONSE.)

14 THE COURT: LET ME INSTRUCT YOU FOR A
15 SECOND.

16 LADIES AND GENTLEMEN OF THE JURY, IF YOU
17 CAN'T HEAR ANY OF THESE WITNESSES, RAISE YOUR HAND IF
18 YOU CAN'T HEAR ANYTHING DURING THIS TESTIMONY, AND I'LL
19 TRY TO CORRECT THAT.

20 THE COURT REPORTER: I DIDN'T HEAR HER LAST
21 ANSWER.

22 BY MS. HUEY:

23 Q. NICKI SCOTT, MS. SMITH?

24 A. YES, MA'AM.

25 Q. NOW I'M GONNA DRAW YOUR ATTENTION TO THE NIGHT OF

1 JULY 10TH OF 2006, THE EARLY MORNING HOURS, OKAY?

2 A. OKAY.

3 Q. WHAT WERE YOU DOING THAT NIGHT? WHERE DID YOU
4 GO?

5 A. WE WENT TO THE TEEN CLUB.

6 Q. THE TEEN CLUB?

7 A. YES, MA'AM.

8 Q. WHAT'S THE NAME OF THAT CLUB?

9 A. I THINK MALLEY.

10 Q. CLUB MALLEY?

11 A. YES, MA'AM.

12 Q. OKAY. AND WHO DID YOU GO TO CLUB MALLEY WITH?

13 A. FREDDIE -- I WENT WITH MY COUSIN.

14 Q. YOUR COUSIN?

15 A. YES, MA'AM.

16 Q. AND WHAT'S THE NAME OF YOUR COUSIN?

17 A. LATOYA.

18 Q. NOW, WAS IT JUST YOU AND LATOYA AT CLUB MALLEY?

19 A. YES, WE DROVE THERE.

20 Q. ONCE YOU GOT TO CLUB MALLEY, DID YOU LEAVE WITH
21 YOUR COUSIN?

22 A. NO. I LEFT WITH BRIAN KEASLER AND PATRICIA
23 ANDERSON (PHONETIC) AND PATRICIA DURHAM.

24 Q. FIVE OF Y'ALL?

25 A. YES.

1 Q. YOU LEFT IN WHOSE CAR?

2 A. BRIAN KEASLER.

3 Q. WHEN YOU LEFT, HAD THEY BEEN AT CLUB MALLEY?

4 A. YES.

5 Q. WERE THEY INSIDE OR WERE THEY HANGING OUT?

6 A. THEY WERE INSIDE.

7 Q. THEY WERE INSIDE? ONCE Y'ALL LEFT CLUB MALLEY,
8 WHAT DID YOU THEN DO?

9 A. WE WENT TO THE WAL-MART PARKING LOT.

10 Q. AND WHY DID YOU GO TO THE WAL-MART PARKING LOT?

11 A. WE HEARD THAT -- JAMAL WATSON (PHONETIC) TOLD ME
12 THAT SAMMY HAD A BEEF WITH SOMEBODY. I'M NOT SURE. WE
13 WENT TO THE PARKING LOT AND SAID THAT EVERYBODY WOULD
14 MEET UP THERE. AND WHOEVER BOOT IS, HE'S SUPPOSED TO BE
15 THERE AND SAM'S SUPPOSED TO COME, TOO.

16 Q. YOU DON'T KNOW BOOT'S REAL NAME?

17 A. NO, MA'AM.

18 Q. BUT YOU KNEW ABOUT THIS BEEF BETWEEN SAMMY AND
19 BOOT?

20 A. YES.

21 Q. NOW, WHAT HAPPENED AT THE WAL-MART PARKING LOT?

22 A. WHEN I WAS, GOT TO THE PARKING LOT, SOMEBODY
23 PROBABLY SAID THAT SAMMY GOT THERE. WHEN WE GOT THERE,
24 IT SEEMED LIKE THE WHOLE CLUB WAS SHIFTING AND WHATNOT,
25 AND THE POLICE CAME AND MADE US LEAVE.

1 Q. CAN YOU TAKE A GUESS AS TO HOW MANY PEOPLE WERE
2 AT THE WAL-MART PARKING LOT?

3 A. IT SEEMED LIKE THE WHOLE CLUB WENT TO THE
4 WAL-MART.

5 Q. YOU MEAN FROM CLUB MALLEY?

6 A. YES, MA'AM.

7 Q. THEY WENT FROM THERE TO THE WAL-MART PARKING LOT?

8 A. YES, MA'AM.

9 Q. THE POLICE RAN YOU OFF FROM THERE?

10 A. YES, MA'AM.

11 Q. AND WHAT TIME DOES CLUB MALLEY CLOSE? DO YOU
12 REMEMBER?

13 A. I'M NOT SURE.

14 Q. WOULD IT HAVE BEEN AROUND AFTER MIDNIGHT, DO YOU
15 THINK?

16 A. YEAH, JUST ABOUT THAT TIME.

17 Q. SO YOU GO TO WAL-MART. THE POLICE RUN YOU OFF
18 FROM THERE. WHERE DID YOU GO THEN?

19 A. THE PUBLIX PARKING LOT AFTER THE WAL-MART.

20 Q. NOW, DID YOU ACTUALLY GO TO THE PUBLIX PARKING
21 LOT?

22 A. I DIDN'T ACTUALLY, NO. WE TOOK OUR CAR TO THE
23 PARKING LOT AND I TOLD BRANDON NOT TONIGHT BECAUSE
24 SOMETHING WAS ABOUT TO GO DOWN, SO...

25 Q. WHAT DO YOU MEAN? WHAT DID YOU THINK WAS GONNA

1 GO DOWN?

2 A. WELL, IT APPEARS BOOT HAD SHOT IN THE AIR, SO I
3 FIGURED SOMETHING WAS GOING ON HERE, THIS IS NOT MY
4 PEOPLE, SO I TURNED INTO THAT BANK PARKING LOT BECAUSE I
5 DIDN'T WANT TO GO INTO PUBLIX.

6 Q. YOU DIDN'T WANT TO GET SHOT YOURSELF?

7 A. RIGHT.

8 Q. ALL RIGHT. SO WHERE IS THE BANK PARKING LOT IN
9 RELATION TO THE PUBLIX PARKING LOT?

10 A. RIGHT ACROSS THE STREET.

11 Q. OKAY. COULD YOU HEAR WHAT WAS GOING ON IN THE
12 PUBLIX PARKING LOT?

13 A. IT WAS LIKE A LOT OF PEOPLE DOWN THERE. I SAW A
14 LOT OF LIGHTS.

15 Q. A LOT OF LIGHTS?

16 A. CAR LIGHTS.

17 Q. COULD YOU SEE ANYBODY THAT YOU KNEW THERE?

18 A. NO. IT WAS A DARK PARKING LOT, BUT I SAW
19 HEADLIGHTS.

20 Q. WHAT, IF ANYTHING, DID YOU HEAR WHILE Y'ALL WERE
21 AT THE BANK PARKING LOT?

22 A. GUNSHOTS.

23 Q. YOU HEARD GUNSHOTS?

24 A. YES, MA'AM.

25 Q. ONCE YOU HEARD THE GUNSHOTS, WHAT DID YOU THEN

1 DO?

2 A. WELL, ONCE I HEARD THE GUNSHOT, WE STAYED IN THE
3 BANK PARKING LOT.

4 Q. YOU STAYED IN THE BANK PARKING LOT?

5 A. YES.

6 Q. HOW LONG DID YOU STAY IN THE BANK PARKING LOT?

7 A. MAYBE 30 MINUTES.

8 Q. WHAT MADE Y'ALL LEAVE?

9 A. WE SAW SAMMY PULL OFF, COME OUT OF THE PUBLIX
10 PARKING LOT, SO WE FOLLOWED HIM.

11 Q. SO YOU SAW SAMMY LEAVING THE PUBLIX PARKING LOT?

12 A. YES.

13 Q. DO YOU REMEMBER WHAT SAMMY WAS DRIVING?

14 A. A BLACK KIA SPORTAGE OR SOMETHING LIKE THAT.

15 Q. NOW, WAS HE, IN FACT, DRIVING?

16 A. YES.

17 Q. COULD YOU TELL WHO ELSE WAS IN THE CAR?

18 A. JOSH BLACK AND TROY BROWN.

19 Q. WHERE WERE THEY SEATED IN THE CAR?

20 A. TROY WAS IN THE PASSENGER'S SIDE AND JOSH WAS IN
21 THE BACK SEAT.

22 Q. SO YOU SEE SAMMY PULL OUT OF PUBLIX PARKING LOT.
23 WHAT KIND OF -- HOW WAS HE DRIVING?

24 A. I DON'T UNDERSTAND YOUR QUESTION.

25 Q. DID HE SEEM LIKE HE WAS IN A HURRY OR WAS HE JUST

1 TAKING HIS TIME?

2 A. HE SEEMED LIKE HE WAS IN A HURRY.

3 Q. SO HE WAS IN A HURRY TO GET OUT OF PUBLIX PARKING
4 LOT?

5 A. YES.

6 Q. DID YOU ALL NOTICE THAT IT WAS SAMMY? DID YOU
7 GET IN BEHIND HIM?

8 A. YES.

9 Q. NOW, WHY WERE YOU ALL FOLLOWING HIM?

10 A. I DON'T ACTUALLY KNOW WHY WE WERE FOLLOWING HIM.

11 Q. BECAUSE YOU WEREN'T DRIVING, RIGHT?

12 A. NO.

13 Q. ALL RIGHT. WHO WAS DRIVING YOUR CAR?

14 A. BRANDON WAS DRIVING HIS CAR.

15 Q. ALL RIGHT. SO BRANDON IS FOLLOWING SAMMY?

16 A. YES.

17 Q. AND IS HE, DID HE CATCH UP WITH SAMMY?

18 A. YES, MA'AM.

19 Q. OKAY. AND WHAT HAPPENED ONCE HE CAUGHT UP WITH
20 SAMMY?

21 A. WHEN HE CAUGHT UP WITH SAMMY, HE WAS A LITTLE,
22 LIKE, SAMMY WAS IN THE RIGHT LANE, WE WERE IN THE LEFT,
23 A LITTLE LEFT OF THE WHITE LINE, AND HE LEANED OUT THE
24 CAR AND HE POINTED A GUN AT US.

25 Q. HE POINTED A GUN AT YOU ALL?

1 A. YES.

2 Q. OKAY. NOW, COULD YOU TELL WHAT KIND OF GUN THIS
3 WAS?

4 A. NO.

5 Q. COULD YOU TELL THE SHAPE OF IT?

6 A. IT WAS LONG.

7 Q. IT WAS A LONG GUN?

8 A. YES.

9 Q. OKAY. NOW, WHY WAS HE POINTING THE GUN, THE LONG
10 GUN AT YOU ALL IF HE HAD KNOWN YOU YOUR WHOLE LIFE?

11 MR. POTTER: OBJECTION, YOUR HONOR, IT CALLS
12 FOR SPECULATION OF THIS WITNESS.

13 THE COURT: OVERRULED. GO AHEAD.

14 THE WITNESS: HE THOUGHT SOMEONE WAS
15 FOLLOWING HIM OUT OF THE PARKING LOT.

16 BY MS. HUEY:

17 Q. OKAY. SO HE DIDN'T REALIZE WHO IT WAS?

18 A. RIGHT.

19 Q. SO WHAT DID YOU DO TO TRY TO GET HIM TO STOP
20 POINTING THE GUN AT YOU ALL?

21 A. I CALLED TROY'S PHONE AND TOLD HIM THAT HE HAD TO
22 PUT THE GUN DOWN.

23 Q. DID HE PUT THE GUN DOWN THEN?

24 A. YES.

25 Q. DID YOU CONTINUE TO FOLLOW SAMMY?

1 A. YES.

2 Q. WHERE DID YOU ALL GO AFTER THAT?

3 A. WE WENT TO THE EDGEWOOD APARTMENTS.

4 Q. NOW, WHAT WAS THE FEELING IN THE CAR, WHAT WAS
5 THE MOOD?

6 A. IN OUR CAR?

7 Q. YES.

8 A. KIND OF SCARED.

9 Q. OKAY. AND WHY WERE YOU SCARED?

10 A. I THOUGHT I WAS GONNA DIE.

11 Q. BECAUSE Y'ALL HAD JUST HEARD GUNSHOTS?

12 A. RIGHT.

13 Q. AND SAMMY JUST POINTED A GUN AT YOU?

14 A. RIGHT.

15 Q. SO ONCE YOU GET BACK -- AND YOU SAID Y'ALL WENT
16 TO EDGEWOOD APARTMENTS?

17 A. YES.

18 Q. OKAY. ONCE YOU GOT TO EDGEWOOD APARTMENTS, WHAT
19 DID YOU DO ONCE YOU GOT THERE?

20 A. WE HAD PARKED AND STAYED THERE.

21 Q. OKAY. AND WHO ALL PULLED UP TO THESE APARTMENTS?

22 A. UM, IT WAS OUR CAR, SAMMY PULLED UP, AND THEN
23 ANOTHER CAR PULLED UP, SO WE HAD THREE CARS.

24 Q. AND WAS IT PRETTY SIMULTANEOUS?

25 A. WELL, WE WERE THE THIRD CAR.

1 Q. OKAY. AND ABOUT HOW LONG DO YOU THINK IT TOOK
2 Y'ALL TO GET FROM THE PUBLIX PARKING LOT TO EDGEWOOD
3 APARTMENTS?

4 A. MAYBE 15, 20 MINUTES, MAYBE.

5 Q. AND WERE YOU ALL SPEEDING A GOOD BIT?

6 A. YES.

7 Q. WHAT HAPPENED ONCE YOU ALL GOT THERE AND ALL
8 THESE CARS PULLED UP?

9 A. WELL, WE GOT THERE AND THEY WOULDN'T LET ANYBODY
10 OUT OF THE CAR, EXCEPT OUR CAR AND THE OTHER TWO
11 CARS ---

12 Q. LET ME BACK YOU UP RIGHT THERE. YOU SAY
13 EVERYBODY IS TRYING TO GET OUT OF THE CARS?

14 A. YEAH.

15 Q. CAN YOU TELL ME ALL THE PEOPLE THAT WERE THERE IN
16 THE THREE CARS?

17 A. SAMMY, TROY, JOSH, WHITNEY, MICKEY, AND I DON'T
18 KNOW THE THIRD PERSON WITH THEM IN THE THIRD CAR.

19 Q. THEN THERE WAS A THIRD PERSON THAT WAS IN THERE?

20 A. YES.

21 Q. DO YOU KNOW IF IT WAS A GUY OR A GIRL?

22 A. I DON'T KNOW.

23 Q. NOW, AND HOW ABOUT IN YOUR CAR, THERE WERE STILL
24 FIVE PEOPLE?

25 A. YES.

1 Q. AND WHAT ARE THEIR NAMES AGAIN?

2 A. INCLUDING MYSELF, PATRICE GAINES, MARKESHA,
3 PATRICIA DURHAM, AND BRITTANY YOUNG..

4 Q. SO WHAT WAS THE MOOD LIKE, BEING LIKE WHEN Y'ALL
5 PULLED UP TO EDGEWOOD APARTMENTS?

6 A. JUST SCARED, AND I WANTED TO GO HOME.

7 Q. NOW, WHAT, IF ANYTHING, DID YOU SEE NICKI DO?

8 A. SHE TOOK THE GUN INTO THE HOUSE.

9 Q. AND WHEN YOU SAY SHE TOOK THE GUN INTO THE HOUSE?

10 A. SHE GOT IT OUT OF SAMMY'S CAR AND TOOK IT INTO
11 HER APARTMENT.

12 Q. AND SHE LIVED AT EDGEWOOD APARTMENTS?

13 A. YES.

14 Q. WHAT, IF ANYTHING, DID SHE SAY TO YOU WHEN SHE
15 WAS TAKING THE GUN?

16 A. SHE SAID, "Y'ALL DIDN'T SEE NOTHING."

17 Q. WHAT HAPPENED AFTER THAT?

18 A. SAM CAME OUT OF THE CAR AND APOLOGIZED FOR
19 POINTING THE GUN AT US. AND THEN TROY, HE WALKED UP TO
20 THE CAR AND HE WAS LIKE, "YEAH, I DON'T KNOW ABOUT THIS
21 GANGSTER SHIT."

22 Q. AND WHY WERE THEY SAYING THAT?

23 A. I DON'T KNOW.

24 Q. DO YOU THINK THAT -- DID YOU TELL ANYONE THAT
25 NIGHT WHAT HAPPENED, ABOUT WHAT YOU KNEW?

1 A. YES, MA'AM.

2 Q. WHO DID YOU TELL?

3 A. I TOLD A GIRLFRIEND.

4 Q. AND DID THE POLICE EVENTUALLY COME TO YOU?

5 A. THEY EVENTUALLY GOT THERE.

6 Q. AND YOU TOLD THEM WHAT YOU KNEW AT THAT POINT?

7 A. THEY CAME TO MY HOUSE THE NEXT DAY BUT I WASN'T
8 THERE, AND THEY TRIED TO CALL ME AND MY PHONE WAS DEAD.
9 I DIDN'T KNOW UNTIL I GOT BACK TO MY HOUSE THAT NIGHT,
10 AND I WENT TO THE POLICE STATION THE NEXT MORNING.

11 Q. BUT REGARDLESS, YOU DIDN'T CALL THE POLICE THAT
12 NIGHT?

13 A. NO.

14 Q. WHY DIDN'T YOU CALL THE POLICE THAT NIGHT?

15 A. I DON'T KNOW. I MEAN, THERE WAS SHOOTING GOING
16 ON, BUT I DIDN'T KNOW WHAT HAPPENED. I DIDN'T KNOW
17 ANYBODY GOT HURT.

18 Q. NOW, WHEN NICKI TOOK THE GUN INTO HER APARTMENT,
19 HOW LONG WAS SHE IN HER APARTMENT, DO YOU KNOW?

20 A. MAYBE LIKE A MINUTE OR TWO.

21 Q. SO WERE YOU STILL IN THE PARKING LOT WHEN SHE WAS
22 IN HER APARTMENT?

23 A. YES.

24 Q. OKAY. AND SO DID YOU SEE HER COME OUT OF HER
25 APARTMENT?

1 A. SHE CAME OUT AND SAID THAT SHE HAD THE GUN.

2 Q. SHE GOT IN THE BLACK KIA?

3 A. RIGHT.

4 Q. AND DID YOU KNOW WHERE SHE WAS GOING?

5 A. SHE SAID SHE HAD TO TAKE THE CAR BACK HOME.

6 Q. HOW ABOUT SAM, DO YOU KNOW WHAT SAMMY DID?

7 A. HE WAS AT HER APARTMENT.

8 Q. HE WAS AT HER APARTMENT?

9 A. YES.

10 Q. OKAY. AND HOW LONG DID YOU STAY AT THE COMPLEX?

11 A. WE LEFT RIGHT AFTER NICKI LEFT.

12 Q. AND WHAT DID YOU DO ONCE YOU LEFT?

13 A. WE WENT TO THE MCDONALD'S PARKING LOT IN CLEMSON
14 AND WENT UP WITH QUANTAVIOUS, WHO SAID THAT SOMEONE HAD
15 BEEN SHOOTING.

16 MR. POTTER: OBJECTION, YOUR HONOR.

17 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

18 MR. POTTER: AGAIN, IT'S A HEARSAY
19 STATEMENT, OFFERED TO THE TRUTH OF THE MATTER ASSERTED.
20 THERE'S NO EXCEPTION I'M AWARE OF AT THIS POINT IN TIME.

21 THE COURT: I'LL SUSTAIN THE OBJECTION.

22 BY MS. HUEY:

23 Q. WITHOUT SAYING WHAT ANYONE SAID, YOU MET UP WITH
24 QUANTAVIOUS AT THE PARKING LOT AT THE MCDONALD'S IN
25 CLEMSON?

1 A. YES.

2 Q. RIGHT? ALL RIGHT. AND THEN AFTER THAT, DID YOU
3 AT SOME POINT LEARN THAT A SHOOTING HAD TAKEN PLACE AT
4 PUBLIX?

5 A. YES.

6 Q. A SHOOTING AND SOMEONE HAD DIED?

7 A. RIGHT.

8 Q. WHEN DID YOU FIND THAT OUT?

9 A. AT THE MCDONALD'S PARKING LOT.

10 Q. DID YOU ALSO HEAR IT ON THE NEWS OR ANYTHING LIKE
11 THAT?

12 A. NO.

13 Q. YOU JUST HEARD IT AT THE PARKING LOT?

14 A. YES.

15 MS. HUEY: THAT'S ALL I HAVE FOR THIS
16 WITNESS, JUDGE.

17 THE COURT: CROSS-EXAMINATION?

18 CROSS-EXAMINATION BY MR. POTTER:

19 Q. MARKESHA, YOU DIDN'T SEE WHO WAS SHOOTING THAT
20 NIGHT, DID YOU?

21 A. NO.

22 Q. OKAY. WELL, BUT THE WEEKEND BEFORE, YOU KNEW WHO
23 WAS SHOOTING HIS GUN UP IN THE AIR, CORRECT?

24 A. YES.

25 Q. AND THAT HAPPENED AT THE WAL-MART PARKING LOT OR

1 DID THAT HAPPEN ON CLEMSON BOULEVARD?

2 A. THE WAL-MART PARKING LOT.

3 Q. THE WAL-MART PARKING LOT. AND BOOT DRIVES A
4 BROWN DELTA '88, CORRECT?

5 A. I'M SORRY?

6 Q. BOOT DRIVES A BROWN DELTA '88; IS THAT CORRECT?

7 A. I DON'T KNOW WHAT KIND OF CAR IT WAS.

8 Q. IT'S A FOUR-DOOR BROWN OLD AMERICAN-MADE CAR,
9 RIGHT?

10 A. RIGHT.

11 Q. IT'S GOT "REAL TALK" WRITTEN ON IT, TOO, RIGHT?

12 A. RIGHT.

13 Q. OKAY. IT'S GOT DAMAGE ON THE REAR DRIVER'S SIDE.
14 DID YOU SEE THAT?

15 A. NO.

16 Q. BUT YOU KNOW HE DRIVES AN OLD FOUR-DOOR BROWN
17 CAR?

18 A. RIGHT.

19 Q. YOU KNEW THAT HE WAS SHOOTING THE WEEKEND BEFORE?

20 A. YES.

21 MR. POTTER: THAT'S ALL THE QUESTIONS I
22 HAVE, JUDGE.

23 THE COURT: ANY REDIRECT?

24 MS. HUEY: YES, YOUR HONOR, JUST A COUPLE
25 QUESTIONS.

1 REDIRECT EXAMINATION BY MS. HUEY:

2 Q. NOW, YOU KNEW ABOUT BOOT SHOOTING THE WEEKEND
3 BEFORE, YOU SAID?

4 A. YES.

5 Q. WAS SAMMY MAD ABOUT THAT?

6 MR. POTTER: OBJECTION, YOUR HONOR.

7 THE COURT: OVERRULED.

8 THE WITNESS: I DIDN'T KNOW ABOUT THAT.

9 BY MS. HUEY:

10 Q. BUT YOU KNEW OF A FIGHT BETWEEN SAMMY AND BOOT;
11 IS THAT RIGHT?

12 A. I KNEW THEY DIDN'T LIKE EACH OTHER.

13 THE COURT REPORTER: I'M SORRY, BUT I DIDN'T
14 GET THAT LAST ANSWER.

15 THE WITNESS: "I KNEW THEY DIDN'T LIKE EACH
16 OTHER."

17 THE COURT REPORTER: THANK YOU.

18 THE COURT: RECROSS?

19 MR. POTTER: NO, YOUR HONOR.

20 THE COURT: YOU MAY STEP DOWN.

21 ANY OBJECTION TO MS. SMITH BEING EXCUSED?

22 MR. POTTER: NO, YOUR HONOR.

23 THE COURT: MS. SMITH, YOU MAY BE EXCUSED.

24 YOU ARE WELCOME TO STAY IF YOU SO DESIRE.

25 (WHEREUPON, WITNESS WAS EXCUSED.)

1 MS. HUEY: THE STATE CALLS BRANDON KEASLER
2 TO THE STAND.

3 (WHEREUPON, WITNESS WAS SWORN BY THE CLERK OF
4 COURT AND ASKED TO STATE HIS FULL NAME,
5 SPELLING HIS LAST NAME.)

6 WITNESS: WHITNEY BRANDON KEASLER,
7 K-E-A-S-L-E-R.

8 WHEREUPON,

9 WHITNEY BRANDON KEASLER,
10 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
11 FOLLOWS:

12 DIRECT EXAMINATION BY MS. HUEY:

13 Q. AND, MR. KEASLER, HOW OLD ARE YOU?

14 A. I'M 19.

15 Q. AND ARE YOU IN SCHOOL SOMEWHERE?

16 A. YES, I AM.

17 Q. AND WHERE ARE YOU IN SCHOOL?

18 A. WINTHROP UNIVERSITY.

19 Q. AND WHAT YEAR ARE YOU THERE?

20 A. I'M A JUNIOR.

21 Q. NOW, DO YOU KNOW THE DEFENDANT IN THIS CASE,
22 SAMMY SCOTT?

23 A. YES, I DO.

24 Q. HOW DO YOU KNOW HIM?

25 A. HE IS A CLASSMATE OF MINE.

1 Q. A CLASSMATE?

2 A. UH-HUH.

3 Q. SO YOU ALL WENT TO SCHOOL TOGETHER?

4 A. YES, WE DID.

5 Q. ALL RIGHT. AND WHICH SCHOOL WAS THAT?

6 A. DANIEL HIGH SCHOOL.

7 Q. IN CLEMSON?

8 A. YES, MA'AM.

9 Q. NOW, DO YOU ALSO KNOW SOME OF HIS FAMILY MEMBERS;
10 FOR INSTANCE, HIS SISTER NICKI?

11 A. YES.

12 Q. AND HOW ABOUT HIS MOTHER, DO YOU KNOW HER AS
13 WELL?

14 A. YES.

15 Q. DRAWING YOUR ATTENTION TO JULY 10TH OF 2006, DO
16 YOU REMEMBER WHO YOU WERE WITH THAT NIGHT?

17 A. YES, I WAS, I DO. I WAS WITH PATRICIA DURHAM,
18 BRITTANY, PATRICE, AND MARKESHA SMITH.

19 Q. WHERE HAD Y'ALL BEEN THAT NIGHT?

20 A. CLUB MALLEY.

21 Q. AND HOW LONG HAD YOU BEEN AT CLUB MALLEY?

22 A. A COUPLE HOURS.

23 Q. WHAT DID Y'ALL DO AFTER CLUB MALLEY?

24 A. WE WENT TO WAL-MART AND HUNG OUT THERE AT THE
25 WAL-MART, AND THE POLICE WERE THERE. WE DIDN'T WANT TO

1 BE CONSIDERED TO BE LOITERING, SO WE FOLLOWED THE CARS
2 OUT FROM THERE. AND EVERYBODY WAS GOING DOWN TOWARDS
3 THE PUBLIX, BUT WE TURNED IN TO THE BB&T BANK BY THERE.
4 THERE WERE GUNSHOTS FIRED. PEOPLE WERE SCATTERED.

5 Q. OKAY. LET ME BACK YOU UP JUST A MINUTE. AT THE
6 WAL-MART, HOW MANY PEOPLE DO YOU THINK WERE AT WAL-MART?

7 A. SEVERAL. I DON'T KNOW HOW MANY PEOPLE WERE
8 THERE.

9 Q. WAS IT A CROWD OF PEOPLE?

10 A. SEVERAL CROWDS OF PEOPLE.

11 Q. CROWDS OF PEOPLE, OKAY.

12 POLICE COME THERE, RUN Y'ALL OFF?

13 A. YES, MA'AM.

14 Q. OKAY. AND SO THEN YOU, EVERYONE WAS GOING TO THE
15 PUBLIX PARKING LOT?

16 A. YES.

17 Q. BUT Y'ALL DIDN'T GO TO THE PUBLIX PARKING LOT?

18 A. NO, WE DID NOT.

19 Q. Y'ALL WENT TO THE BANK PARKING LOT INSTEAD?

20 A. YES.

21 Q. AND WHY DID Y'ALL DO THAT?

22 A. BECAUSE WE DIDN'T WANT TO GET INVOLVED WITH
23 ANYTHING.

24 Q. WHEN YOU SAY YOU DIDN'T WANT TO GET INVOLVED IN
25 THAT, WHAT DID YOU THINK WAS GONNA HAPPEN?

1 A. I DON'T KNOW. IT WAS DARK, AND THERE WAS A LOT
2 OF PEOPLE DOWN THERE. IT WAS JUST NOT A RIGHT SCENE.

3 Q. SO THEN I BELIEVE YOU HEARD GUNSHOTS?

4 A. YES.

5 Q. COULD YOU TELL WHERE THE GUNSHOTS WERE COMING
6 FROM?

7 A. NO.

8 Q. COULD YOU TELL IF THEY WERE FROM THE PUBLIX
9 PARKING LOT?

10 A. IT SOUNDED LIKE IT.

11 Q. ALL RIGHT. COULD YOU TELL WHO WAS SHOOTING
12 THOUGH?

13 A. NO.

14 Q. YOU DIDN'T SEE ANYBODY SHOOTING A GUN?

15 A. NO.

16 Q. AFTER THE GUNSHOTS, WHAT HAPPENED?

17 A. WE SAW CARS FLY UP THE ROAD, AND JUST SO HAPPENED
18 TO SEE SAMMY'S CAR, IT WAS HIS MOM'S CAR, WITH A RED CAR
19 FOLLOWING HIM. SO WE LEFT OUT OF THE BANK PARKING LOT
20 UP 176. AND WE CAUGHT UP WITH THEM AND THERE WAS A GUN
21 HANGING OUT THE WINDOW, AND IT LOOKED LIKE IT WAS AIMED
22 AT US SO WE SLOWED DOWN. SO WE CALLED SOMEBODY IN THE
23 CAR ON THE CELL PHONE, AND THEY DIDN'T ANSWER US.

24 Q. ALL RIGHT. LET ME STOP YOU RIGHT THERE.

25 A. UH-HUH.

1 Q. SO YOU SEE SAMMY PULLING OUT IN HIS MOM'S CAR?

2 A. YES.

3 Q. AND WHAT KIND OF CAR DID SHE HAVE, DO YOU
4 REMEMBER?

5 A. I DON'T KNOW WHAT KIND. I THINK IT WAS A RED
6 CAPRICE.

7 Q. A RED CAPRICE?

8 A. YES, MA'AM.

9 Q. OKAY. YOU ALL DECIDED TO FOLLOW SAMMY?

10 A. YES, MA'AM.

11 Q. ALL RIGHT. AND THERE WAS ALSO A RED CAR?

12 A. YES.

13 Q. DO YOU KNOW WHO WAS IN THE RED CAR?

14 A. I BELIEVE IT WAS HIS SISTER, I'M NOT SURE.

15 Q. Y'ALL ARE FOLLOWING SAMMY, AND THEN YOU SAID
16 SOMETHING ABOUT A GUN?

17 A. YEAH.

18 Q. OKAY. WHAT ABOUT THE GUN?

19 A. IT LOOKED LIKE IT WAS AIMED AT US, SO WE SLOWED
20 DOWN.

21 Q. OKAY. WHO WAS AIMING THE GUN?

22 A. IT WAS SAMMY.

23 Q. SAMMY. COULD YOU TELL WHAT KIND OF GUN IT WAS?

24 A. NO.

25 Q. COULD YOU TELL WHAT KIND OF SHAPE IT WAS?

1 A. (SHOOK HEAD.)

2 Q. DID IT SEEM LONG OR SHORT?

3 A. LONG, I GUESS.

4 Q. LONG, YOU GUESS?

5 A. YES.

6 Q. SO HE'S POINTING A LONG GUN OUT AT YOU OUT HIS
7 WINDOW?

8 A. UH-HUH.

9 Q. IS HE DRIVING?

10 A. NO.

11 Q. HE WASN'T DRIVING?

12 A. NO.

13 Q. WHO WAS DRIVING?

14 A. I GUESS JOSH BLACK. I'M NOT SURE.

15 Q. YOU CAN'T REMEMBER WHO WAS DRIVING?

16 A. NO.

17 Q. OKAY. BUT REGARDLESS, SAMMY HAD THE GUN?

18 A. (NODDED HEAD.)

19 Q. OKAY. NOW, WHEN HE WAS POINTING THE GUN AT YOU
20 ALL, DO YOU KNOW WHY HE WAS POINTING A GUN AT YOU ALL?

21 A. NO. I GUESS HE THOUGHT WE WAS SOMEBODY ELSE.
22 I'M NOT SURE.

23 Q. SO WHAT DID YOU ALL DO AS A RESULT?

24 A. WE SLOWED DOWN. SOMEONE IN THE CAR CALLED AND
25 TOLD HIM IT WAS US, AND BASICALLY WE FOLLOWED HIM BACK

1 TO THE APARTMENT COMPLEX.

2 Q. OKAY. NOW, WHEN HE WAS POINTING A GUN AT YOU
3 ALL, HOW DID YOU FEEL ABOUT THAT?

4 A. I WAS A LITTLE TERRIFIED.

5 Q. YOU WERE TERRIFIED?

6 A. RIGHT.

7 Q. WHY WERE YOU TERRIFIED?

8 A. BECAUSE LIFE IS TOO SHORT TO BE TAKEN AWAY IN AN
9 INSTANCE.

10 Q. DID YOU THINK YOU WOULD BE SHOT?

11 A. AT THAT TIME.

12 Q. NOW, ONCE YOU -- ONCE HE REALIZED IT WAS YOU ALL,
13 Y'ALL STILL FOLLOWED HIM TO WHERE?

14 A. TO THE APARTMENT COMPLEX.

15 Q. ONCE YOU ALL GOT TO THE APARTMENT COMPLEX, WHO
16 ALL GOT THERE?

17 A. I WAS IN MY CAR, AND IT WAS SAMMY, TROY, JOSH,
18 AND HIS SISTER.

19 Q. AND WHAT WAS THE MOOD OF EVERYONE?

20 A. I WAS IN SHOCK.

21 Q. YOU WERE IN SHOCK?

22 A. YEAH. I CAN'T SPEAK FOR EVERYBODY ELSE.

23 Q. ALL RIGHT. NOW, WHEN YOU WERE IN SHOCK AFTER ALL
24 THIS HAPPENED AND YOU GOT BACK IN THE COMPLEX, WHAT, IF
25 ANYTHING, DID NICKI SCOTT SAY TO YOU?

1 A. "YOU DON'T KNOW NOTHING. YOU DIDN'T SEE
2 NOTHING."

3 Q. DID YOU SEE NICKI DO ANYTHING?

4 A. SHE PUT SOME GUN IN HER ROOM, I GUESS.

5 Q. OKAY. WHEN YOU SAY SOME GUN, WHERE DID SHE GET
6 THE GUN?

7 A. OUT OF THE CAR.

8 Q. OUT OF SAMMY'S CAR?

9 A. I DON'T KNOW WHICH CAR IT WAS, BUT I KNOW IT CAME
10 OUT OF A CAR, ONE OF THE TWO.

11 Q. OKAY. DID ANYONE ELSE SAY ANYTHING TO YOU THAT
12 NIGHT?

13 A. NO.

14 Q. NOW, DID YOU CALL THE POLICE THAT NIGHT?

15 A. NO, I DIDN'T.

16 Q. DID YOU EVENTUALLY GIVE A STATEMENT TO THE POLICE
17 THOUGH?

18 A. YES, THE NEXT DAY.

19 Q. DID THEY COME TO YOU?

20 A. YES.

21 Q. DO YOU KNOW WHERE SAMMY WENT AFTER THIS HAPPENED?

22 A. (SHOOK HEAD.)

23 Q. HOW LONG DID YOU STAY AT THE COMPLEX?

24 A. IT COULDN'T HAVE BEEN MORE THAN FOUR OR FIVE
25 MINUTES.

1 Q. AND THEN YOU LEFT?

2 A. YES.

3 Q. AND THEN WHERE DID YOU GO?

4 A. WE WENT TO GET SOMETHING TO EAT.

5 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME.

6 CROSS-EXAMINATION BY MR. POTTER:

7 Q. BRANDON, YOU TESTIFIED YOU DIDN'T KNOW WHERE THE
8 SHOTS CAME FROM; ALL YOU DID WAS HEAR GUNSHOTS. YOU
9 DON'T KNOW WHO FIRED, YOU DON'T KNOW HOW MANY WERE
10 FIRED, YOU DON'T KNOW WHICH DIRECTION THEY WERE FIRED
11 IN?

12 A. (SHOOK HEAD.)

13 Q. YOU WERE SHAKING YOUR HEAD. IS THAT A "NO"?

14 A. NO, SIR.

15 Q. I'M SORRY. YOU NEED TO ANSWER "NO" IN ORDER FOR
16 HER TO TAKE IT DOWN.

17 A. I'M SORRY.

18 Q. SO YOU DIDN'T SEE ANYBODY SHOOT A GUN?

19 A. NO, SIR.

20 Q. YOU DIDN'T SEE WHERE THE GUN, OR WHICH DIRECTIONS
21 PEOPLE WERE FIRING?

22 A. NO, SIR.

23 Q. ALL YOU HEARD WERE SHOTS?

24 A. YES, SIR.

25 MR. POTTER: NOTHING FURTHER.

1 THE COURT: REDIRECT?

2 MS. HUEY: NO, SIR, YOUR HONOR.

3 THE COURT: ANY OBJECTIONS TO EXCUSING THIS
4 WITNESS?

5 MR. POTTER: NO, YOUR HONOR.

6 THE COURT: MR. KEASLER, YOU MAY BE EXCUSED.
7 YOU ARE WELCOME TO STAY IF YOU CHOOSE; OTHERWISE, YOU
8 MAY BE EXCUSED.

9 (WHEREUPON, WITNESS WAS EXCUSED.)

10 MS. HUEY: YOUR HONOR, THE STATE CALLS
11 PATRICE GAINES.

12 (WHEREUPON, PATRICE GAINES WAS SWORN BY THE
13 CLERK OF COURT AND ASKED TO STATE HER NAME,
14 SPELLING HER LAST NAME.)

15 WITNESS: PATRICE GAINES, G-A-I-N-E-S.

16 DIRECT EXAMINATION BY MS. HUEY:

17 Q. NOW, MS. GAINES, HOW OLD ARE YOU?

18 A. NINETEEN.

19 Q. DO YOU ATTEND SCHOOL RIGHT NOW?

20 A. NO, MA'AM.

21 Q. WHERE DID YOU GO TO SCHOOL?

22 A. DANIEL HIGH SCHOOL.

23 Q. DO YOU KNOW THE DEFENDANT IN THIS CASE, SAMMY
24 SCOTT?

25 A. YES, MA'AM.

1 Q. DID YOU GO TO SCHOOL TOGETHER?

2 A. YES.

3 Q. HOW LONG HAVE YOU KNOWN HIM?

4 A. ABOUT SIX YEARS.

5 Q. DO YOU KNOW HIS SISTER, NICKI?

6 A. UH-HUH.

7 Q. NOW, JULY 10TH OF 2006, DO YOU REMEMBER GOING TO
8 CLUB MALLEY?

9 A. UH-HUH.

10 Q. OKAY. AND WHO WERE YOU AT CLUB MALLEY WITH?

11 A. ME, MARKESHA, BRANDON, PATRICIA, BRITTANY.

12 Q. HOW LONG DO YOU THINK Y'ALL WERE AT CLUB MALLEY?

13 A. I'D SAY ABOUT SIX HOURS.

14 Q. SIX HOURS?

15 A. YEAH.

16 Q. OKAY. NOW, ONCE Y'ALL -- DO YOU KNOW WHAT TIME
17 CLUB MALLEY CLOSES?

18 A. UH-HUH.

19 Q. DID YOU ALL LEAVE WHEN IT CLOSED?

20 A. YES.

21 Q. OKAY. WHAT DID YOU DO AFTER IT CLOSED?

22 A. WE LEFT AND WE WENT TO WAL-MART AND THEN WE WENT
23 DOWN THE ROAD IN THE PUBLIX PARKING LOT AND WE WENT TO
24 THE BANK AND WE HEARD GUNSHOTS AND WE LEFT.

25 Q. OKAY. SO YOU WENT TO WAL-MART FIRST?

1 A. UH-HUH.

2 Q. AND THEN EVERYONE WAS HEADING TO THE PUBLIX
3 PARKING LOT?

4 A. UH-HUH.

5 Q. BUT YOU ALL WENT TO THE BANK?

6 A. UH-HUH.

7 Q. AND YOU HEARD GUNSHOTS?

8 A. YES, MA'AM.

9 Q. WHEN YOU ALL HEARD THE GUNSHOTS, WHAT DID YOU DO?

10 A. WE LEFT.

11 Q. OKAY. AND WHEN YOU LEFT, WERE YOU FOLLOWING
12 ANYBODY?

13 A. NO.

14 Q. YOU WEREN'T FOLLOWING ANYBODY?

15 A. WE WERE JUST GOING DOWN THE ROAD.

16 Q. YOU DIDN'T EVER SEE SAMMY SCOTT?

17 A. YES, MA'AM.

18 Q. YOU DID SEE SAMMY SCOTT?

19 A. YES, MA'AM.

20 Q. OKAY. WELL, TELL ME ABOUT SEEING SAMMY SCOTT.

21 A. WE SEEN HIM, AND AS WE WAS GOING DOWN THE ROAD I
22 HEARD MARKESHA ON THE PHONE SAYING SOMETHING ABOUT
23 POINTING A GUN, BUT I DIDN'T SEE NOTHING.

24 Q. SO YOU NEVER SAW A GUN?

25 A. NO, MA'AM.

1 Q. BUT YOU HEARD MARKESHA TALKING ABOUT THAT?

2 A. YES, MA'AM.

3 Q. WHAT WAS MARKESHA LIKE WHEN SHE WAS TALKING ABOUT
4 THE GUN? WAS SHE SCARED? WAS SHE FRIGHTENED?

5 A. YES, MA'AM.

6 Q. HOW ABOUT EVERYONE ELSE IN THE CAR?

7 A. JUST, EVERYBODY WAS JUST LIKE IN SHOCK AFTER WE
8 HEARD GUNSHOTS. EVERYBODY WAS LIKE IN SHOCK AFTER WE
9 HEARD GUNSHOTS.

10 Q. SO WHAT DID YOU ALL DO AFTER YOU SAW SAMMY?

11 A. WE LEFT AND WENT TO THE APARTMENT WHERE NICKI WAS
12 AT.

13 Q. EDGEWOOD APARTMENTS?

14 A. YES, MA'AM.

15 Q. ONCE YOU ALL GOT TO EDGEWOOD APARTMENTS, WHAT
16 HAPPENED THERE?

17 A. WE GOT THERE, SAT THERE, AND WE WAS JUST SITTING
18 THERE WAITING FOR EVERYBODY TO CALM DOWN AND WHATEVER.
19 AND WE HAD LEFT.

20 Q. NOW, WHEN YOU GOT THERE -- AND YOU SAID Y'ALL
21 WERE IN SHOCK?

22 A. UH-HUH, YES, MA'AM.

23 Q. HOW LONG DO YOU THINK IT TOOK YOU TO GET FROM THE
24 PARKING LOT TO EDGEWOOD?

25 A. ABOUT 15, 20 MINUTES.

1 Q. ALL RIGHT. AND WHEN YOU GOT THERE, DID NICKI,
2 WAS NICKI THERE, TOO?

3 A. YES, MA'AM.

4 Q. OKAY. AND WHAT, IF ANYTHING, DID NICKI SAY TO
5 YOU?

6 A. MA'AM?

7 Q. WHAT, IF ANYTHING, DID NICKI SAY TO YOU?

8 A. I DON'T REMEMBER HER SAYING ANYTHING. I DIDN'T
9 HEAR HER SAY ANYTHING.

10 Q. OKAY. YOU DON'T REMEMBER GIVING A STATEMENT TO
11 POLICE ABOUT HER SAYING SOMETHING?

12 A. YES, MA'AM.

13 Q. YOU DO REMEMBER GIVING A STATEMENT?

14 A. YES, MA'AM.

15 Q. OKAY. WELL, LET ME SHOW YOU THAT STATEMENT. I
16 WANT YOU TO TAKE A LOOK AT THIS, THAT LAST PARAGRAPH,
17 AND TELL ME WHAT NICKI TOLD YOU.

18 A. YOU WANT ME TO TELL WHAT I SAID ON THERE?

19 Q. UH-HUH. IS THAT WHAT SHE TOLD YOU: NICKI TOLD
20 US ALL NOT TO SAY ANYTHING, WE ALL SAID OKAY?

21 A. YES, MA'AM.

22 Q. NOW TELL ME WHAT ELSE YOU SAW NICKI DO. IF YOU
23 HAVE TO READ YOUR STATEMENT, DO THAT.

24 A. YOU MEAN WHERE WE GOT THE GUN OUT OF THE CAR?

25 Q. YES. OUT OF WHOSE CAR?

- 1 A. MISS SHARON'S CAR.
- 2 Q. OKAY. NOW, WHO'S MISS SHARON?
- 3 A. NICKI'S MOTHER.
- 4 Q. OKAY. WAS THAT THE CAR SAMMY WAS DRIVING?
- 5 A. YES, MA'AM.
- 6 Q. ALL RIGHT. AND WHAT DID SHE DO WITH THE GUN?
- 7 A. TOOK IT TO THE APARTMENT.
- 8 Q. NOW, TELL ME WHAT THE GUN LOOKED LIKE.
- 9 A. IT WAS ABOUT TWO OR THREE FEET LONG.
- 10 Q. OKAY. SO YOU COULDN'T TELL WHAT KIND OF GUN IT
- 11 WAS, BUT YOU COULD TELL IT WAS TWO OR THREE FEET LONG?
- 12 A. YES, MA'AM.
- 13 Q. AND AGAIN, THAT'S THE GUN THAT NICKI GOT OUT OF
- 14 THE CAR THAT SAMMY WAS DRIVING?
- 15 A. YES, MA'AM.
- 16 Q. ALL RIGHT. SHE TOOK THAT GUN TO HER APARTMENT?
- 17 A. UH-HUH.
- 18 Q. AFTER ALL THAT HAPPENED, WHAT DID YOU DO?
- 19 A. WENT HOME.
- 20 Q. OKAY. AND DID YOU CALL THE POLICE THAT NIGHT?
- 21 A. NO, MA'AM.
- 22 Q. ALL RIGHT. DID THE POLICE EVENTUALLY COME TO YOU
- 23 THEN?
- 24 A. YES, MA'AM.
- 25 Q. AND YOU GAVE THEM A STATEMENT?

1 A. YES, MA'AM.

2 MS. HUEY: THAT'S ALL I HAVE OF THIS
3 WITNESS, YOUR HONOR.

4 THE COURT: CROSS-EXAMINATION?

5 MR. POTTER: THANK YOU, YOUR HONOR, IF IT
6 PLEASES THE COURT.

7 CROSS-EXAMINATION BY MR. POTTER:

8 Q. ~~MS. GAINES, YOU WERE NOT IN THE PUBLIX PARKING~~
9 ~~LOT THAT NIGHT?~~

10 A. NO, SIR.

11 Q. ~~OKAY. SO YOU DON'T KNOW IF BOOT WAS THERE?~~

12 A. NO, SIR.

13 Q. ~~DO YOU KNOW WHO HE IS?~~

14 A. NO, SIR.

15 Q. ~~DO YOU KNOW LARRY HARKNESS?~~ DO YOU KNOW THAT
16 PERSON?

17 A. NO, SIR.

18 Q. ~~YOU DIDN'T SEE WHO WAS SHOOTING?~~

19 A. NO, SIR.

20 Q. OKAY. YOU DIDN'T SEE WHICH DIRECTION PEOPLE WERE
21 SHOOTING IN?

22 A. NO, SIR.

23 Q. OKAY. YOU DON'T KNOW IF THERE WAS MORE THAN ONE
24 GUN AT THAT SCENE AT THE PUBLIX PARKING LOT?

25 A. NO, SIR.

1 Q. ALL YOU KNOW IS YOU HEARD GUNSHOTS AND THEN YOU
2 ALL LEFT?

3 A. YES, SIR.

4 MR. POTTER: NOTHING FURTHER.

5 THE COURT: REDIRECT?

6 MS. HUEY: NOTHING ON REDIRECT, YOUR HONOR.

7 THE COURT: ANY OBJECTION TO MS. GAINES
8 BEING EXCUSED?

9 MR. POTTER: NO, YOUR HONOR.

10 THE COURT: MS. GAINES, YOU MAY BE EXCUSED.
11 YOU ARE WELCOME TO STAY IF YOU SO CHOOSE.

12 YOU MAY CALL YOUR NEXT WITNESS.

13 MS. HUEY: THE STATE CALLS PATRICIA DURHAM.
14 (WHEREUPON, PATRICIA DURHAM WAS SWORN BY THE
15 CLERK OF COURT AND WAS ASKED TO STATE HER
16 FULL NAME, SPELLING HER LAST NAME.)

17 WITNESS: PATRICIA DURHAM, D-U-R-H-A-M.

18 WHEREUPON,

19 PATRICIA DURHAM,
20 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
21 FOLLOWS:

22 DIRECT EXAMINATION BY MS. HUEY:

23 Q. MS. DURHAM, HOW OLD ARE YOU?

24 A. EIGHTEEN.

25 Q. ARE YOU IN SCHOOL SOMEWHERE?

- 1 A. YES, MA'AM.
- 2 Q. WHERE?
- 3 A. DANIEL HIGH SCHOOL.
- 4 Q. DO YOU KNOW SAMMY SCOTT?
- 5 A. YEAH.
- 6 Q. HOW DID YOU KNOW HIM?
- 7 A. WE WENT TO SCHOOL TOGETHER.
- 8 Q. HOW LONG HAVE YOU KNOWN HIM?
- 9 A. SINCE MY NINTH-GRADE YEAR.
- 10 Q. DO YOU REMEMBER WHAT YOU WERE DOING JULY 10TH OF
- 11 2006?
- 12 A. I WAS AT A CLUB THAT NIGHT.
- 13 Q. ALL RIGHT. WHICH CLUB WAS THAT?
- 14 A. MALLEY IN ANDERSON.
- 15 Q. AND WHO WERE YOU WITH?
- 16 A. BRITTANY YOUNG, PATRICE GAINES, BRANDON KEASLER,
- 17 MARKESHA SMITH.
- 18 Q. Y'ALL WERE AT CLUB MALLEY?
- 19 A. UH-HUH.
- 20 Q. ALL RIGHT. HOW LONG DID Y'ALL STAY AT CLUB
- 21 MALLEY?
- 22 A. WE STAYED UNTIL IT ENDED.
- 23 Q. DO YOU KNOW WHAT TIME IT CLOSED?
- 24 A. 1:30.
- 25 Q. DID IT CLOSE AT 1:30?

1 A. UH-HUH.

2 Q. OKAY. WHAT TIME -- WHAT DID YOU DO AFTER THEY
3 CLOSED?

4 A. WE LEFT AND WE WENT TO WAL-MART, WHERE EVERYBODY
5 USUALLY GOES, AND WE LEFT THERE, AND THEN WE STARTED TO
6 GO TO PUBLIX.

7 Q. AND HOW LONG HAD YOU BEEN AT WAL-MART?

8 A. NOT LONG. WE JUST RODE IN AND EVERYONE WAS
9 TELLING US TO LEAVE.

10 Q. COULD YOU TELL HOW MANY PEOPLE WERE AT WAL-MART?

11 A. NO.

12 Q. WERE THERE A LOT OF PEOPLE?

13 A. IN CARS, YEAH.

14 Q. ONCE YOU ALL LEFT WAL-MART, YOU WENT TO PUBLIX?

15 A. NO, WE DIDN'T GO TO PUBLIX. WE DIDN'T MAKE IT TO
16 PUBLIX.

17 Q. OKAY. SO YOU ALL DIDN'T MAKE IT INTO THE PUBLIX
18 PARKING LOT?

19 A. NO.

20 Q. WHY DIDN'T YOU GO INTO THE PUBLIX PARKING LOT?

21 A. BECAUSE THEY STARTED SHOOTING AND WE LEFT.

22 Q. SO YOU HEARD GUNSHOTS?

23 A. UH-HUH.

24 Q. DO YOU KNOW WHO WAS SHOOTING?

25 A. (SHOOK HEAD.)

1 Q. COULD YOU SEE WHO WAS SHOOTING, WHAT KIND OF GUNS
2 OR ANYTHING?

3 A. NO.

4 Q. COULD YOU TELL IF IT WAS COMING FROM THE PUBLIX
5 PARKING LOT?

6 A. YES.

7 Q. ONCE YOU ALL HEARD THE GUNSHOTS, YOU STARTED
8 LEAVING?

9 A. UH-HUH.

10 Q. AND YOU WERE A PASSENGER; IS THAT RIGHT?

11 A. UH-HUH.

12 Q. AND WHERE WERE YOU SEATED IN THE CAR?

13 A. I WAS BEHIND THE DRIVER.

14 Q. BEHIND THE DRIVER?

15 A. UH-HUH.

16 Q. WHEN YOU HEARD THE GUNSHOTS, HOW DID YOU FEEL
17 ABOUT IT?

18 A. I WAS SCARED.

19 Q. OKAY. AND YOU WERE SCARED. WHAT DID YOU DO?

20 A. I DUCKED MY HEAD.

21 Q. OKAY. AND YOU DUCKED YOUR HEAD DOWN IN THE CAR?

22 A. UH-HUH.

23 Q. AND WHY DID YOU DO THAT?

24 A. I WAS SCARED OF GETTING SHOT.

25 Q. OKAY. DO YOU REMEMBER MEETING UP WITH SAMMY

1 SCOTT AT ALL?

2 A. AT HIS SISTER'S HOUSE.

3 Q. HOW ABOUT BEFORE THAT?

4 A. NO.

5 Q. YOU DON'T REMEMBER Y'ALL MEETING UP WITH HIM ON
6 THE ROAD BACK TO CLEMSON?

7 A. BECAUSE MY HEAD WAS DOWN.

8 Q. BECAUSE YOUR HEAD WAS DOWN, OKAY. WELL, HOW
9 ABOUT, WHAT WAS EVERYONE DOING IN THE CAR?

10 A. TALKING.

11 Q. TALKING?

12 A. (NODDED HEAD.)

13 Q. TALKING HOW, EXCITEDLY? WERE THEY SCARED TOO?

14 A. YEAH. THEY WERE LOUD, BUT I DIDN'T LIFT MY HEAD
15 TO TRY TO LISTEN.

16 Q. WHAT WERE THEY SAYING THOUGH?

17 A. I DON'T KNOW.

18 Q. YOU DON'T KNOW?

19 A. NO.

20 Q. OKAY. DO YOU REMEMBER GIVING A STATEMENT TO
21 POLICE?

22 A. YES.

23 Q. OKAY. I SHOW YOU THIS STATEMENT FROM JULY 11TH.
24 LOOK AT THAT LAST PARAGRAPH AND SEE IF THAT REFRESHES
25 YOUR MEMORY.

1 A. THEY WERE TALKING ABOUT SAMMY.

2 Q. THEY WERE TALKING ABOUT SAMMY, RIGHT?

3 A. UH-HUH.

4 Q. AND GO ON. IT SAYS "EVERYBODY STARTED
5 SCREAMING"?

6 A. UH-HUH.

7 Q. AND WHAT WERE THEY SCREAMING?

8 A. "NO."

9 Q. HOW MANY TIMES WERE THEY SCREAMING THAT?

10 A. QUITE A FEW. THREE, MAYBE.

11 Q. AND THEN WHAT HAPPENED WHEN YOU HEARD THEM
12 SCREAMING "NO"?

13 A. I DON'T KNOW. MY HEAD WAS DOWN. I LOOKED UP AND
14 I SEEN SAMMY IN FRONT OF US.

15 Q. OKAY. AT THAT TIME YOU LOOKED UP AND SAW SAMMY?

16 A. UH-HUH.

17 Q. OKAY. BUT YOU ARE SAYING YOU DIDN'T SEE SAMMY
18 WITH A GUN?

19 A. UH-HUH.

20 Q. BUT REGARDLESS, YOU SAW SAMMY?

21 A. UH-HUH.

22 Q. BUT IN THE CAR YOU HEARD PEOPLE SCREAMING, "NO,
23 NO, NO" AND TALKING ABOUT SAMMY; IS THAT RIGHT?

24 A. UH-HUH.

25 Q. ONCE YOU ALL GOT TO EDGEWOOD APARTMENTS, DID YOU

1 SEE NICKI, HIS SISTER, AT THAT TIME?

2 A. I DID.

3 Q. OKAY. AND TELL ME ABOUT WHAT HAPPENED WITH
4 NICKI. I SEEN HER, AND WHEN I LOOKED OVER MY HEAD, SHE
5 WAS WALKING BACK TOWARDS THE CARS.

6 Q. AND WHAT DID NICKI TELL YOU?

7 A. SHE WAS SAYING IN GENERAL, "YOU DIDN'T SEE
8 ANYTHING," BUT I DIDN'T SEE ANYTHING SO I DIDN'T KNOW
9 WHAT SHE WAS TALKING ABOUT.

10 Q. BUT REGARDLESS, IN QUOTES, "Y'ALL HAD SEEN
11 NOTHING," RIGHT?

12 A. UH-HUH.

13 Q. THAT'S WHAT NICKI SAID TO SAY?

14 A. UH-HUH.

15 Q. NOW, WHAT HAPPENED AFTER THAT? HOW LONG DID YOU
16 STAY AT THE COMPLEX?

17 A. I'M NOT SURE. LIKE, WE CAME AND WE LEFT. I'M
18 NOT SURE EXACTLY WHAT TIME IT WAS.

19 Q. DID YOU CALL THE POLICE THAT NIGHT?

20 A. NO.

21 Q. OKAY. DID THE POLICE COME TO YOU?

22 A. NO.

23 Q. THE POLICE DIDN'T COME TO YOU?

24 A. HUH-UH.

25 Q. OKAY. DID YOU GO TO THE POLICE LATER ON THEN?

1 A. UH-HUH.

2 Q. YOU GAVE THEM THE STATEMENT AS TO WHAT YOU KNEW?

3 A. UH-HUH.

4 Q. WHICH AGAIN, YOU DIDN'T SEE SAMMY SHOOTING OR YOU
5 DIDN'T SEE HIM WITH THE GUN?

6 A. UH-HUH.

7 Q. BUT YOU WERE IN THE CAR THAT WAS BEHIND HIM, BUT
8 YOUR HEAD WAS DUCKED DOWN MOST OF THE TIME?

9 A. THE MAJORITY OF THE TIME.

10 Q. YOU HEARD PEOPLE IN THE CAR SCREAMING "NO, NO,
11 NO"?

12 A. YES.

13 Q. THEY WERE TALKING ABOUT SAMMY?

14 A. YES.

15 Q. THAT'S ALL TRUE?

16 A. YES.

17 MS. HUEY: THAT'S ALL I HAVE, JUDGE.

18 THE COURT: CROSS-EXAMINATION?

19 MR. POTTER: THANK YOU, YOUR HONOR, IF IT
20 PLEASES THE COURT.

21 CROSS-EXAMINATION BY MR. POTTER:

22 Q. ~~YOU DIDN'T SEE HOW MANY GUNS WERE AT PUBLIX, DID~~
23 YOU?

24 A. HUH-UH.

25 Q. ~~YOU JUST HEARD GUNSHOTS, CORRECT?~~

1 A. YES, SIR.

2 Q. YOU DIDN'T SEE WHO WAS SHOOTING? YOU DIDN'T SEE
3 WHO WAS SHOOTING AT WHOM?

4 A. NO, SIR.

5 Q. YOU DIDN'T SEE HOW MANY GUNS THAT WERE INVOLVED?
6 ALL YOU HEARD WERE GUNSHOTS?

7 A. YES, SIR.

8 MR. POTTER: NOTHING FURTHER.

9 THE COURT: REDIRECT?

10 MS. HUEY: NO, SIR, YOUR HONOR.

11 THE COURT: YOU MAY BE EXCUSED.

12 MR. POTTER, ANY OBJECTION TO HAVING HER
13 EXCUSED?

14 MR. POTTER: NO, YOUR HONOR.

15 (WHEREUPON, WITNESS WAS EXCUSED.)

16 THE COURT: CALL YOUR NEXT WITNESS.

17 MS. HUEY: THE STATE CALLS BRITTANY YOUNG TO
18 THE STAND.

19 (WHEREUPON, BRITTANY YOUNG WAS SWORN BY THE
20 CLERK OF COURT AND WAS ASKED TO STATE HER
21 FULL NAME, SPELLING HER LAST NAME.)

22 WITNESS: BRITTANY YOUNG, Y-O-U-N-G.

23 WHEREUPON,

24 BRITTANY YOUNG,

25 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS

1 FOLLOWS:

2 DIRECT EXAMINATION BY MS. HUEY:

3 Q. MS. YOUNG, HOW OLD ARE YOU?

4 A. EIGHTEEN.

5 Q. ARE YOU IN SCHOOL ANYWHERE?

6 A. TRI-COUNTY TECH.

7 Q. DO YOU KNOW THE DEFENDANT IN THIS CASE, SAMMY
8 SCOTT?

9 A. YES, MA'AM.

10 Q. AND HOW DO YOU KNOW HIM?

11 A. FROM SCHOOL.

12 Q. AND WHAT SCHOOL WAS THAT?

13 A. DANIEL HIGH.

14 Q. HOW LONG DO YOU THINK YOU HAVE KNOWN MR. SCOTT?

15 A. UM, TWO YEARS NOW.

16 Q. NOW, ON JULY 10TH OF 2006, DO YOU REMEMBER GOING
17 TO CLUB MALLEY THAT NIGHT?

18 A. YES, MA'AM.

19 Q. OKAY. WHO DID YOU GO TO CLUB MALLEY WITH?

20 A. WHO DID I RIDE WITH?

21 Q. UH-HUH.

22 A. MARKESHA SMITH, PATRICIA CAMPBELL AND PATRICIA
23 EARLE.

24 Q. HOW LONG DID YOU STAY AT CLUB MALLEY?

25 A. NOT LONG.

1 Q. NOT LONG?

2 A. UH-HUH.

3 Q. ONCE -- WHAT DID YOU DO AFTER CLUB MALLEY?

4 A. WE WENT TO THE WAL-MART PARKING LOT AND THEN WE
5 WENT TO THE PUBLIX, OR WE STARTED TO GO TO PUBLIX.

6 Q. AT THE WAL-MART PARKING LOT, HOW MANY PEOPLE WERE
7 THERE, DO YOU THINK?

8 A. JUST A FEW CARS.

9 Q. JUST A FEW CARS?

10 A. (NODDED HEAD.) I DON'T REMEMBER.

11 Q. I CAN'T HEAR YOU.

12 A. I DON'T KNOW EXACTLY.

13 Q. OKAY. WERE THERE PEOPLE STANDING OUTSIDE YOUR
14 CARS?

15 A. NO.

16 Q. THEY WERE JUST DRIVING AT THE WAL-MART?

17 A. UH-HUH.

18 Q. AND THEN EVERYONE WAS GOING TO PUBLIX?

19 A. UH-HUH.

20 Q. BUT YOU DIDN'T GO TO PUBLIX?

21 A. NO. WE STARTED TO PULL IN THERE, BUT WE HEARD
22 GUNSHOTS AND WE TURNED AROUND.

23 Q. WHERE DID Y'ALL -- WHERE DID Y'ALL GO INSTEAD OF
24 THE PUBLIX PARKING LOT?

25 A. WE STARTED BACK TOWARD CLEMSON.

1 THE COURT REPORTER: I DIDN'T HEAR THAT.

2 THE WITNESS: WE STARTED BACK TOWARD

3 CLEMSON.

4 BY MS. HUEY:

5 Q. YOU NEVER STOPPED AT THE BANK PARKING LOT?

6 A. WELL, WE TURNED AROUND IN IT.

7 Q. SO TALK TO ME ABOUT BEING AT THE BANK PARKING LOT
8 OUTSIDE OF PUBLIX.

9 A. WE TURNED AROUND IN THE BANK PARKING LOT AND
10 LEFT.

11 Q. SO YOU HEARD GUNSHOTS?

12 A. UH-HUH.

13 Q. WHERE DID YOU HEAR GUNSHOTS COMING FROM?

14 A. THE PUBLIX PARKING LOT.

15 Q. OKAY. DID YOU SEE WHO WAS SHOOTING?

16 A. NO, MA'AM.

17 Q. DID YOU SEE WHAT KIND OF GUNS WERE BEING SHOT?

18 A. NO, MA'AM.

19 Q. ONCE YOU LEFT THE BANK PARKING LOT TO HEAD BACK
20 TOWARD CLEMSON, WHAT HAPPENED ON THE WAY TO CLEMSON?

21 A. WE WERE GOING DOWN THE ROAD AND WE PULLED UP NEXT
22 TO SAMMY AND THEM AND THEN STARTED SCREAMING SAYING THAT
23 THEY SAW A GUN.

24 Q. THAT SAM WAS HOLDING A GUN OUT THE WINDOW?

25 A. THAT SOMEBODY, YEAH. THAT'S WHAT I HEARD OUT OF

1 THE CAR.

2 Q. NOW, DID YOU SEE THE GUN?

3 A. I SAW ITS SHAPE BUT I DON'T RECOLLECT ANY -- I
4 DIDN'T SEE A GUN.

5 Q. DO YOU NEED TO LOOK AT YOUR STATEMENT THAT YOU
6 GAVE POLICE?

7 A. NO, MA'AM.

8 Q. LET ME SHOW IT TO YOU. ABOUT TWO THIRDS OF THE
9 WAY DOWN, SEE IF THAT REFRESHES YOUR MEMORY.

10 A. OKAY.

11 THE COURT: SOLICITOR, YOU MAY CROSS HER
12 ABOUT THE STATEMENT.

13 BY MS. HUEY:

14 Q. OKAY. NOW TELL ME WHAT YOUR OWN STATEMENT READS
15 ABOUT TWO-THIRDS OF THE WAY DOWN.

16 A. IS (READING): EVERYBODY WAS SCREAMING... I DID
17 SEE A GUN COMING OUT OF THE DRIVER'S SIDE WINDOW.

18 Q. OKAY. "I DID SEE A GUN COME OUT OF THE DRIVER'S
19 SIDE WINDOW"?

20 A. YES, MA'AM.

21 Q. NOW, YOU DIDN'T KNOW WHAT KIND THAT WAS, THOUGH?

22 A. NO, MA'AM, I CAN'T BE FOR SURE.

23 Q. COULD YOU TELL WHAT KIND OF SHAPE IT WAS OR
24 ANYTHING?

25 A. NO.

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1 Q. ONCE YOU GOT BACK TO CLEMSON, WHERE WERE YOU ALL
2 IN CLEMSON?

3 A. I DIDN'T GO TO CLEMSON.

4 Q. OR EXCUSE ME. THE APARTMENTS?

5 A. YES, MA'AM.

6 Q. ONCE YOU GOT BACK TO THE APARTMENTS, WHAT
7 HAPPENED?

8 A. OH, WE JUST SAT OUT IN THE PARKING LOT AND
9 THEN...

10 Q. WHAT WAS THE MOOD OF EVERYONE?

11 A. WE JUST WENT THERE AFTER THE CLUB --

12 Q. PARDON?

13 A. WE WENT BACK THERE AFTER THE CLUB, MET UP WITH
14 EVERYBODY, AND WE LEFT.

15 Q. ALL RIGHT. BUT WAS EVERYONE TALKING ABOUT WHAT
16 HAD HAPPENED?

17 A. NO, MA'AM.

18 Q. EVERYONE PRETENDED LIKE NOTHING HAPPENED?

19 A. YES, MA'AM.

20 Q. EVEN THOUGH YOU JUST HEARD GUNSHOTS AND HAD SEEN
21 THIS GUY POINTING A GUN AT YOU ALL?

22 A. YES.

23 MS. HUEY: THAT'S ALL I HAVE OF THIS

24 WITNESS.

25 THE COURT: CROSS-EXAMINATION?

1 MR. POTTER: THANK YOU, YOUR HONOR, IF IT
2 PLEASES THE COURT.

3 CROSS-EXAMINATION BY MR. POTTER:

4 Q. ~~BRIAN, YOU DIDN'T SEE ANYBODY SHOOTING,~~
5 CORRECT?

6 A. ~~NO, SIR, I DIDN'T SEE ANYBODY.~~

7 Q. I'M SORRY, WHAT?

8 A. I SAID, "NO, SIR, I DIDN'T SEE ANYBODY."

9 Q. OKAY. SO YOU DIDN'T SEE ANYBODY IN PUBLIX
10 SHOOTING. ~~ALL YOU HEARD WERE GUNSHOTS.~~

11 A. ~~UH-HUH.~~

12 Q. SO YOU DON'T KNOW HOW MANY GUNS WERE INVOLVED,
13 YOU DON'T KNOW WHO. YOU DON'T KNOW IF ANYBODY ELSE WAS
14 SHOOTING GUNS. YOU DON'T EVEN KNOW IF SAMMY SHOT A GUN,
15 DO YOU?

16 A. NO.

17 MR. POTTER: NOTHING FURTHER.

18 THE COURT: REDIRECT?

19 MS. HUEY: NO, SIR, YOUR HONOR.

20 THE COURT: ANY REASON SHE CAN'T BE EXCUSED?

21 MR. POTTER: NO OBJECTION, YOUR HONOR.

22 THE COURT: YOU MAY BE EXCUSED. YOU ARE
23 WELCOME TO STAY IF YOU WANT TO STAY.

24 (WHEREUPON, WITNESS WAS EXCUSED.)

25 MS. HUEY: YOUR HONOR, MAY WE APPROACH?

1 THE COURT: YES, MA'AM.

2 (DISCUSSION AT SIDEBAR.)

3 THE COURT: MADAM FORELADY, LADIES AND
4 GENTLEMEN OF THE JURY, WHAT WE ARE GOING TO DO AT THIS
5 TIME IS TAKE A BREAK OF 15 OR 20 MINUTES. IF ANYBODY
6 SMOKES, YOU TELL THE BAILIFF AND HE'LL TAKE YOU TO THE
7 APPROPRIATE PLACE FOR SMOKING. IF YOU NEED ANYTHING
8 ELSE, PLEASE LET THE BAILIFF KNOW.

9 AND PLEASE DO NOT DISCUSS THE CASE AMONGST
10 YOURSELVES. I WANT YOU TO HEAR ALL THE TESTIMONY IN THE
11 COURTROOM BEFORE YOU START DISCUSSING THE CASE. IF YOU
12 WILL FOLLOW THE BAILIFF, HE WILL TAKE YOU TO THE JURY
13 ROOM.

14 (THE JURY LEFT THE COURTROOM AT 10:59 A.M.,
15 AND A RECESS WAS TAKEN.)

16 THE COURT: ANYTHING FROM THE STATE BEFORE
17 WE BRING THE JURY?

18 MS. HUEY: NO, SIR, YOUR HONOR.

19 THE COURT: ANYTHING FROM THE DEFENDANT?

20 MR. POTTER: NO, YOUR HONOR.

21 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
22 11:31 A.M.)

23 (WHEREUPON, JOSHUA QUINTON TERERA BLACK WAS
24 SWORN BY THE CLERK OF COURT AND WAS ASKED TO
25 STATE HIS FULL NAME, SPELLING HIS LAST NAME.)

1 WITNESS: JOSHUA QUINTON TERERA (PHONETIC)

2 BLACK, B-L-A-C-K.

3 DIRECT EXAMINATION BY MS. HUEY:

4 Q. MR. BLACK, HOW OLD ARE YOU?

5 A. NINETEEN.

6 Q. ARE YOU IN SCHOOL ANYWHERE?

7 A. TRI-COUNTY TECH.

8 Q. TRI-COUNTY TECH?

9 A. YES, MA'AM.

10 Q. OKAY. DO YOU KNOW THE DEFENDANT, IN THIS CASE --

11 A. YES, MA'AM.

12 Q. -- SAMMY SCOTT?

13 HOW DO YOU KNOW HIM?

14 A. A FAMILY LONG-TIME FRIEND.

15 Q. A LONG-TIME FRIEND?

16 A. (NODDED HEAD.)

17 Q. NOW, MR. BLACK, WERE YOU CHARGED IN CONNECTION
18 WITH THIS CASE?

19 A. YES, MA'AM.

20 Q. WERE YOU, IN FACT, CHARGED WITH ACCESSORY?

21 A. YES, MA'AM.

22 Q. NOW, HAVE YOU ENTERED INTO AN AGREEMENT WITH THE
23 STATE --

24 A. YES, MA'AM.

25 Q. -- REGARDING THAT CHARGE?

1 A. YES, MA'AM.

2 Q. OKAY. AND YOU UNDERSTAND THAT THAT AGREEMENT IS
3 THAT YOU MUST TESTIFY TRUTHFULLY HERE ON THE STAND?

4 A. YES, MA'AM.

5 Q. OKAY. AND IN EXCHANGE FOR THAT, YOU TESTIFYING
6 TRUTHFULLY, THE STATE IS GOING TO DISMISS THE CHARGE
7 AGAINST YOU?

8 A. YES, MA'AM.

9 Q. YOU UNDERSTAND THAT ANY TIME IF YOU DO NOT TELL
10 THE TRUTH, THAT WE CAN GO FORWARD WITH THE CHARGES
11 AGAINST YOU?

12 A. YES, MA'AM.

13 Q. WE CAN ALSO SEEK OTHER CHARGES AGAINST YOU?

14 A. YES.

15 Q. NOW, MR. BLACK, I WANT TO START OUT WITH WHAT YOU
16 KNOW ABOUT BOOT.

17 A. I REALLY DON'T KNOW TOO MUCH ABOUT HIM.

18 Q. DO YOU KNOW ABOUT MR. SCOTT'S RELATIONSHIP WITH
19 BOOT?

20 A. THEY REALLY DIDN'T EVEN HAVE A RELATIONSHIP.

21 Q. DID THEY LIKE EACH OTHER?

22 A. NO.

23 Q. NO, THEY DIDN'T LIKE EACH OTHER?

24 A. NO, MA'AM.

25 Q. OKAY. WHY DIDN'T THEY LIKE EACH OTHER?

1 A. JUST -- PEOPLE JUST DON'T LIKE YOU SOMETIMES. IT
2 MIGHT HAVE BEEN WHO IS FOR CLEMSON OR WHATEVER.

3 Q. I'M SORRY?

4 A. IT MIGHT BE WHO'S FOR CLEMSON OR WHATEVER.

5 Q. WHEN DID THEY START NOT LIKING EACH OTHER?

6 A. I KNOW PEOPLE TALK. I REMEMBER MAYBE A WEEK,
7 KIND OF LIKE A WEEK BEFORE THE EVENT OCCURRED, WE WAS AT
8 THE CLUB AND STUFF WENT DOWN AND WE GOT KICKED OUT, BUT
9 THAT'S THE FIRST TIME THEY LIKE EVER HAD REALLY A
10 CONFRONTATION OR ANYTHING.

11 Q. NOW, WHEN YOU SAY THE WEEK BEFORE, THE PUBLIX
12 SHOOTING TOOK PLACE ON JULY 10TH OF 2006. SO A WEEK
13 BEFORE THAT THERE WAS AN INCIDENT BETWEEN SAMMY AND
14 BOOT?

15 A. THEY JUST LIKE STOOD EACH OTHER UP IN THE CLUB
16 AND THEN HE KIND OF TALKED TO THE SECURITY GUARDS TO
17 COME AND THEN THEY KICKED US OUT.

18 Q. AND THE SECURITY GUARDS CAME AND KICKED YOU ALL
19 OUT?

20 A. YES, MA'AM.

21 Q. ALL RIGHT. THAT WEEK DID BOOT DO ANYTHING TO YOU
22 ALL?

23 A. WELL, I HAD GOT INTO A, I ACTUALLY GOT INTO AN
24 ALTERCATION WITH SOMEBODY, THEY TRIED TO RUN UP ON THE
25 CAR AND I FELT LIKE THEY WAS GONNA HIT ME OR, AND THEY

1 WAS TRYING TO HIT MR. SCOTT, SO I JUMPED OUT AND WE
2 STARTED FIGHTING WITH THEM. AND THEN AFTER THAT, AFTER
3 THE FIGHT OCCURRED, WE LEFT AND WENT TO THE WAL-MART
4 PARKING LOT. AND WE WAS ABOUT TO FIGHT AGAIN AND
5 SOMEBODY TOOK SHOTS AT ME.

6 Q. SOMEBODY TOOK SHOTS AT YOU?

7 A. YES, MA'AM.

8 Q. AND WAS SAMMY THERE WITH YOU?

9 A. YES, MA'AM.

10 Q. OKAY. AND DO YOU KNOW WHO WAS DOING THAT?

11 A. I REALLY COULDN'T SEE BECAUSE THEY WERE KIND OF
12 UP. YOU KNOW WHAT I'M SAYING?

13 Q. WHO DID YOU THINK WAS DOING IT?

14 A. I MEAN, EVERYBODY WAS SAYING IT WAS BOOT, SO...

15 Q. AND SO WAS SAMMY MAD ABOUT THAT?

16 A. SOMEBODY TRIED TO SHOOT AT US.

17 Q. OKAY. YOU WERE MAD ABOUT THAT?

18 A. YES, MA'AM.

19 Q. NOW, WHAT ABOUT THE WEEKEND OF THE PUBLIX
20 SHOOTING, THAT NIGHT, WHAT WERE YOU DOING? WHO WERE YOU
21 WITH?

22 A. I WAS ACTUALLY AROUND MY MOTHER'S WITH TWO OF MY
23 HOME GIRLS.

24 Q. OKAY. AND DID YOU EVENTUALLY MEET UP WITH
25 MR. SCOTT?

1 A. YES, MA'AM. THEY PICKED ME UP FROM CREEK WOOD
2 WHERE MY MOTHER LIVES.

3 Q. OKAY. AND WHAT DID HE COME PICK YOU UP IN?

4 A. HIS MOTHER'S JEEP.

5 Q. OKAY. WHAT COLOR WAS IT?

6 A. IT'S A BLACK --

7 Q. LIKE AN S.U.V.?

8 A. -- KIA, THAT'S RIGHT.

9 Q. AND WHO WAS WITH HIM?

10 A. JUST HIM AND MR. VERNER.

11 Q. AND TROY VERNER?

12 A. YES, MA'AM.

13 Q. ALL RIGHT. WHO WAS DRIVING?

14 A. MR. SCOTT.

15 Q. AND WHERE WAS TROY SITTING?

16 A. THE PASSENGER'S SIDE.

17 Q. AND WHERE WERE YOU SITTING?

18 A. IN THE BACK BEHIND THE DRIVER'S SIDE.

19 Q. NOW, Y'ALL WERE TALKING BEFORE GOING TO ANDERSON.
20 WHAT WAS SAMMY TALKING ABOUT?

21 A. NOT REALLY TOO MUCH. JUST THAT -- YOU KNOW WHAT
22 I'M SAYING -- HE HAD TALKED TO BUDA OR WHATEVER. HE
23 REALLY WASN'T SAYING TOO MUCH.

24 Q. THAT HE TALKED TO BOOT?

25 A. BUDA.

1 Q. BUDA, OKAY. WAS HE TALKING ABOUT BOOT?

2 A. NOT REALLY, BUT, YOU KNOW...

3 Q. WAS HE TALKING ABOUT ANDERSON BOYS?

4 A. YES, MA'AM.

5 Q. ALL RIGHT. AND WHO WERE THE ANDERSON BOYS?

6 A. I DON'T KNOW NAMES. YOU KNOW HOW YOU GO TO THE
7 CLUB AND YOU SEE PEOPLE.

8 Q. YOU GO TO THE CLUB AND SEE PEOPLE?

9 A. YES, MA'AM.

10 Q. OKAY. AND WHO WOULD SOME OF THESE PEOPLE BE?
11 WOULD BOOT BE ONE OF THESE PEOPLE?

12 A. YES, MA'AM.

13 Q. AND BOOT AND SAMMY HAD WORDS BEFORE?

14 A. YES, MA'AM.

15 Q. NOW, SO Y'ALL GET IN THE CAR TO GO TO ANDERSON.
16 DO YOU REMEMBER WHAT TIME THAT WAS?

17 A. AROUND 12, 12:30, SOMETIME AROUND IN THERE.

18 Q. NOW, WERE YOU ALL GOING TO GO TO CLUB MALLEY?

19 A. NO, IT WAS TOO LATE TO GO TO THE CLUB.

20 Q. TOO LATE TO GO TO CLUB MALLEY?

21 A. YES, MA'AM.

22 Q. ALL RIGHT. SO WHAT WERE YOU GOING TO DO INSTEAD?

23 A. USUALLY YOU TRY TO HIRE SOME GIRLS OUT OF THE
24 CLUB. THAT'S USUALLY, YOU KNOW, WHEN YOU LEAVE THE
25 CLUB, YOU TRY TO HIRE YOU SOME FEMALES, OR GET SOMETHING

1 TO EAT OR ANYTHING.

2 Q. AND WHERE DO YOU DO THAT?

3 A. IN THE PARKING LOT, YOU KNOW, WHEN EVERYBODY GOES
4 DIFFERENT PLACES.

5 Q. THERE WERE TWO DIFFERENT PARKING LOTS?

6 A. YES, MA'AM.

7 Q. WHICH PARKING LOT DID YOU TRY FIRST?

8 A. WAL-MART.

9 Q. AND THEN WHERE DID YOU GO FROM THERE?

10 A. WE WENT TO -- WE TOOK A RIGHT AT THE RED LIGHT
11 AND WENT -- TOOK ANOTHER LEFT AND WENT INTO THE PUBLIX
12 PARKING LOT.

13 Q. NOW, WHEN YOU WERE IN THE CAR, AGAIN, SAMMY WAS
14 DRIVING, TROY WAS NEXT TO YOU -- OR NEXT TO HIM, RATHER,
15 IN THE PASSENGER'S SEAT, AND YOU WERE IN THE BACK SEAT?

16 A. THAT'S RIGHT.

17 Q. OKAY. DID YOU NOTICE ANY KIND OF WEAPONS IN THE
18 CAR?

19 A. YES, MA'AM.

20 Q. OKAY. WHAT DID YOU SEE?

21 A. IT WAS A SHOTGUN.

22 Q. A SHOTGUN IN THE CAR?

23 A. YES, MA'AM.

24 Q. AND WHERE EXACTLY WAS IT?

25 A. IT WAS KIND OF LIKE, YOU KNOW, IF I'M SITTING

1 HERE, YOU KNOW, LIKE IN THE MIDDLE BETWEEN THE PASSENGER
2 AND THE DRIVER, LIKE.

3 Q. CONSOLE AREA?

4 A. YEAH, KIND OF LIKE THAT.

5 Q. OKAY. AND IN THE CONSOLE AREA, IF THERE WAS A
6 SHOTGUN, COULD IT FIT IN THE CONSOLE?

7 A. NO, IT COULDN'T FIT IN THE CONSOLE, IT WAS JUST
8 LYING IN THERE LIKE THAT (DEMONSTRATING).

9 Q. WAS IT LYING NEXT TO THE CONSOLE?

10 A. YES, MA'AM.

11 Q. ALL RIGHT. AND NEXT TO IN BETWEEN THE DRIVER'S
12 SEAT AND THE CONSOLE?

13 A. YES, MA'AM.

14 Q. SO NOT THE PASSENGER'S SEAT; IT WAS BETWEEN THE
15 DRIVER'S SEAT AND THE CONSOLE?

16 A. YES, MA'AM.

17 Q. AND WAS IT A PRETTY LONG GUN? IT WAS A SHOTGUN.

18 A. YES, MA'AM.

19 Q. ABOUT HOW LONG DO YOU THINK IT WAS?

20 A. IT MIGHT HAVE BEEN A LITTLE BIT LONGER THAN THIS
21 (DEMONSTRATING).

22 Q. ABOUT THE WIDTH OF THE STAND?

23 A. YES, MA'AM.

24 Q. OKAY. AND SO WAS IT STICKING OUT THE BACK SEAT
25 SOMEWHERE?

1 A. A LITTLE BIT.

2 Q. OKAY. WHAT HAPPENED ONCE Y'ALL GOT TO THE PUBLIX
3 PARKING LOT?

4 A. WELL, WE JUST PULLED IN, AND WHEN WE WAS PULLING
5 IN, IT WAS KIND OF LIKE GOING AT AN ANGLE. AND THEN I
6 NOTICED, I SAW LIKE SOME CARS, WHEN WE WAS AT THE RED
7 LIGHT, THEY WAS GOING STRAIGHT ACROSS. SO, LIKE I SAY,
8 WE TOOK THAT RIGHT AND CAME IN THROUGH THE BOTTOM.

9 AND I NOTICED, I SAW BOOT'S CAR AND I SAW
10 SOMEBODY STANDING ON TOP OF A CAR, AND IT WAS LIKE A
11 CROWD OF PEOPLE. AND THEN, AS WE WERE PULLING IN,
12 BECAUSE WE NEVER CAME TO A STOP, SOMEBODY STARTED
13 SHOOTING, YOU KNOW WHAT I'M SAYING? I HEARD A COUPLE
14 SHOTS. AND THEN I WAS LOOKING OUT THE WINDOW AND I
15 HEARD THE SHOTGUN GO OFF.

16 Q. YOU HEARD GUNSHOTS FIRST?

17 A. YES, MA'AM.

18 Q. AND THEN YOU HEARD GUNSHOTS OUT THE WINDOW YOU
19 WERE IN?

20 A. YES, MA'AM.

21 Q. OKAY. AND HOW DID THAT COME ABOUT?

22 A. JUST MR. SCOTT WAS SHOOTING THE WEAPON.

23 Q. HOW DID YOU GET THE GUN?

24 A. I REALLY DON'T KNOW. LIKE I SAY, I WAS LOOKING
25 OUT THE WINDOW, SO I MEAN, YOU KNOW, I REALLY COULDN'T

1 TELL YOU THAT.

2 Q. DID TROY REACH FOR THE GUN? HOW DID HE GET THE
3 GUN?

4 A. THAT'S WHAT I WAS SAYING. I WAS LOOKING OUT OF
5 THE WINDOW BECAUSE, LIKE I WAS SAYING, I SAW PEOPLE LIKE
6 OUT OF THE PARKING LOT AND THEN I HEARD THE GUNSHOT GO
7 OFF. I REALLY CAN'T HEAR OUT OF MY RIGHT EAR THAT MUCH
8 NOW BECAUSE OF ---

9 Q. YOU CAN'T HEAR OUT OF YOUR RIGHT EAR BECAUSE OF
10 THE GUNSHOT?

11 A. YEAH. THE WAY I WAS LOOKING WHEN HE SHOT, YOU
12 KNOW WHAT I'M SAYING, I WAS LOOKING OUT THE WINDOW.

13 Q. OKAY. SO YOU SAW SAMMY SHOOT THE SHOTGUN OUT THE
14 WINDOW?

15 A. YES, MA'AM.

16 Q. NOW, LET ME SHOW YOU. WHEN YOU SAY...

17 (STATE'S EX. # 12, AERIAL PHOTO, PUBLIX
18 PARKING LOT, WAS MARKED FOR IDENTIFICATION.)

19 BY MS. HUEY:

20 Q. WOULD IT HELP YOU TO SEE A COPY OF THE PUBLIX
21 PARKING LOT TO KIND OF POINT OUT WHERE EVERYONE WAS?

22 A. YES, MA'AM.

23 Q. OKAY. I'M GONNA SHOW YOU STATE'S 12. IF YOU
24 COULD STEP DOWN, PLEASE.

25 (WITNESS LEAVES STAND.)

1 A. LIKE I SAY ---

2 BY MS. HUEY:

3 Q. ALL RIGHT, MR. BLACK. SO Y'ALL WERE LEAVING FROM
4 WAL-MART. DID Y'ALL COME UP FROM CLEMSON BOULEVARD?

5 A. WE WAS COMING DOWN THIS WAY AND TOOK A LEFT AT
6 THE RED LIGHT (DEMONSTRATING).

7 Q. SO THAT'S THE ROAD NEXT TO PUBLIX?

8 A. RIGHT.

9 Q. OKAY. AND THEN ONCE YOU TOOK THE LEFT TO PUBLIX?

10 A. WE TOOK ANOTHER LEFT.

11 Q. SO YOU ALL CAME IN THIS ENTRANCE?

12 A. YES, MA'AM, GOING AT AN ANGLE.

13 Q. ALL RIGHT. SO Y'ALL CAME IN AT AN ANGLE?

14 A. ACTUALLY, WE WENT BACK OUT THE SAME ENTRANCE.

15 Q. AFTER THE SHOOTING YOU WENT OUT THE SAME
16 ENTRANCE?

17 A. YES, MA'AM.

18 Q. OKAY. NOW, WHEN Y'ALL PULLED IN, TELL ME WHAT
19 YOU SAW: WHO? WHAT KIND OF CARS?

20 A. I SAW, LIKE I SAY, A CROWD OF PEOPLE, AND I SAW
21 LIKE A CAR.

22 Q. WHEN YOU SAY A CROWD OF PEOPLE, DO YOU KNOW HOW
23 MANY PEOPLE?

24 A. IT WAS A LOT.

25 Q. A LOT OF PEOPLE?

STATE V. SCOTT -- 9/9/2008 -- JOSH BLACK/DIRECT

1 A. IT WAS JUST A LOT OF PEOPLE.

2 Q. OKAY. A LOT?

3 A. YES, MA'AM.

4 Q. A LOT OF CARS THERE TOO?

5 A. YES, MA'AM.

6 Q. OKAY. YOU SAID EARLIER ON THE STAND THAT YOU
7 NOTICED BOOT'S CAR?

8 A. YEAH, BECAUSE HE HAD THE '88.

9 Q. OKAY. NOW, TELL ME ABOUT WHERE BOOT'S CAR WAS.

10 A. IT WAS AROUND, LIKE AROUND IN HERE. (POINTING).

11 Q. AROUND IN HERE (POINTING)?

12 A. YES, MA'AM.

13 Q. OKAY. AND BOOT'S CAR YOU RECOGNIZE?

14 A. YES, MA'AM.

15 Q. HOW WERE YOU ABLE TO RECOGNIZE IT?

16 A. BECAUSE I KNOW HE HAD LIKE THE PEOPLE THAT ALWAYS
17 TALK ABOUT HE GOT THE DELTA '88 WITH THE "REAL TALK" ON
18 THE SIDE.

19 Q. OKAY. SO TO CLARIFY, Y'ALL COME IN HERE, THE
20 CROWD IS HERE, AND BOOT'S HERE (INDICATING)?

21 A. YES, MA'AM.

22 Q. OKAY. ALL RIGHT. SO WHEN YOU ALL COME IN, HOW
23 LONG WERE YOU AT PUBLIX?

24 A. NO MORE THAN LIKE 30 SECONDS.

25 Q. OKAY. SO YOU LITERALLY COME IN, YOU HEAR

1 GUNSHOTS. COULD YOU TELL WHERE THOSE GUNSHOTS WERE
2 COMING FROM?

3 A. I COULDN'T REALLY TELL. BUT THAT'S WHY I WAS
4 LOOKING OUT THE WINDOW TO SEE, BUT I DIDN'T SEE ANYBODY
5 SHOOT.

6 Q. BUT YOU DIDN'T SEE ANYBODY SHOOT?

7 A. I HEARD A LOUD GUNSHOT.

8 Q. OKAY. BUT YOU DIDN'T SEE ANYONE SHOOT?

9 A. NO.

10 Q. ALL RIGHT. AND SAMMY STICKS THE SHOTGUN OUT THE
11 WINDOW AND STARTS SHOOTING?

12 A. YES, MA'AM.

13 Q. HOW MANY TIMES DO YOU THINK HE SHOT?

14 A. TWICE.

15 Q. TWO TIMES?

16 A. YES, MA'AM.

17 Q. OKAY. NOW, AFTER HE SHOT, WHAT DID YOU ALL DO?

18 A. WE TURNED AROUND AND LEFT. WE WAS ALREADY AT AN
19 ANGLE, SO WE WAS AT RIGHT ANGLES AND WENT LIKE THAT
20 (DEMONSTRATING). THAT'S ALL, WE WENT.

21 Q. NOW, COULD YOU TELL WHICH DIRECTION SAMMY WAS
22 SHOOTING IN?

23 A. NO. I MEAN, BECAUSE I WASN'T LOOKING, I JUST
24 KNEW HE WAS SHOOTING.

25 Q. OKAY. BUT REGARDLESS Y'ALL WERE HERE (POINTING)?

1 A. YES, MA'AM.

2 Q. ALL RIGHT. AND THE CROWD IS HERE AND BOOT WAS
3 HERE (POINTING)?

4 A. YES, MA'AM.

5 Q. ALL RIGHT. AND SO WAS HE SHOOTING IN THIS
6 DIRECTION (POINTING)?

7 A. (NO RESPONSE.)

8 Q. HE SHOT INTO THE CROWD, DIDN'T HE?

9 A. I REALLY CAN'T SAY. I JUST KNOW THAT I WAS
10 LOOKING OUT THE WINDOW, THAT'S WHAT I'M SAYING: WHEN HE
11 SHOT, I WAS LOOKING OUT THE WINDOW ---

12 Q. OKAY. BUT WHERE WERE Y'ALL?

13 A. WE WAS COMING AT AN ANGLE LIKE THIS
14 (DEMONSTRATING).

15 Q. OKAY. COULD YOU TELL IF THE SHOTGUN WAS POINTED
16 UP IN THE AIR?

17 A. NO, MA'AM.

18 Q. WAS IT POINTED AT THE GROUND?

19 A. I COULDN'T TELL. I WAS LOOKING OUT THE WINDOW
20 AND IT SURPRISED ME TO HEAR BECAUSE IT WAS LOUD AND WAS
21 NEAR MY EAR. I WAS LOOKING OUT THE WINDOW AND I LOOKED
22 BACK AND WE WAS LEAVING.

23 Q. AND WAS HE LEANING OUTSIDE OF THE CAR?

24 A. NO, MA'AM.

25 Q. HE WAS JUST SITTING IN THE CAR?

1 A. YES, MA'AM.

2 Q. NOW, DID YOU ACTUALLY STOP?

3 A. NO, MA'AM.

4 Q. SO HOW WAS HE DRIVING AND SHOOTING?

5 A. I HAVE NO IDEA. I KNOW WE NEVER CAME TO A
6 COMPLETE STOP.

7 Q. AND Y'ALL WERE THERE FOR 30 SECONDS?

8 A. NO MORE THAN 30 SECONDS.

9 MS. HUEY: OKAY. HAVE A SEAT.

10 (WITNESS RESUMES STAND.)

11 BY MS. HUEY:

12 Q. OKAY. AFTER HE SHOT, WHAT DID YOU ALL THEN DO?

13 A. WE, WE LEFT AND THEN WE TOOK A LEFT AT THE RED
14 LIGHT AND WE JUST LIKE LEFT. WE WAS LEAVING ANDERSON
15 COMING BACK TOWARDS, BACK TOWARDS CLEMSON.

16 Q. OKAY. AND WHAT WAS GOING ON IN THE CAR WHEN
17 Y'ALL WERE HEADING TOWARDS CLEMSON?

18 A. WE WAS, WE WAS GOING, WE WAS FIRING. WE WAS
19 GOING REAL FAST. AND I JUST SO HAPPENED TO LOOK BACK
20 AND SEE SOMEBODY COMING UP ON US. AND WE WAS GOING LIKE
21 80 OR 90 OR WHATEVER. AND IF A CAR COME UP ON US, I'M
22 THINKING, LIKE, SOMEBODY LIKE COMING UP TO SHOOT US, SO
23 I LET THEM KNOW, YOU KNOW, SOMEBODY'S COMING UP BEHIND
24 US FAST OR WHATEVER. SO, YOU KNOW WHAT I'M SAYING? I
25 LAID DOWN IN THE SEAT. I AIN'T TRYING TO GET SHOT. I

1 LAID DOWN IN THE BACK SEAT OR WHATEVER, YOU KNOW?

2 Q. SO YOU WOULDN'T GET SHOT?

3 A. YES, MA'AM.

4 Q. OKAY. AND THEN DO YOU KNOW WHO CAME UP BEHIND
5 YOU?

6 A. IT WAS BRANDON KEASLER. HE WAS DRIVING HIS
7 MOTHER'S JEEP, OR SOMEBODY WAS. SOMEBODY WAS DRIVING
8 HIS JEEP.

9 Q. BRANDON KEASLER?

10 A. YES, MA'AM.

11 Q. SO THEN WHAT HAPPENED?

12 A. I THINK THERE WAS LIKE SOME, SAMMY HAD LIKE PUT
13 THE GUN OUT THE WINDOW OR WHATEVER, AND THEY WAS LIKE,
14 THEY SLAMMED ON BRAKES AND THEN SOMEBODY IN THE CAR
15 TRIED TO FOLLOW. I GUESS SOMEBODY HAD TOLD THEM THAT
16 WAS US OR WHATEVER, YOU KNOW, SO...

17 Q. OKAY. BACK UP. SAMMY PULLED THE GUN OUT?

18 A. I GUESS HE DID BY STICKING IT OUT THE WINDOW
19 BECAUSE, I MEAN, I FIGURE THERE WAS SOMEBODY SHOOTING,
20 COMING IN AND SHOOTING AT US, AND I FIGURED HE THOUGHT
21 THE SAME THING.

22 Q. AND DO YOU KNOW WHY HE WAS DOING THIS?

23 A. NO, MA'AM.

24 Q. WAS HE POINTING AT PEOPLE THAT CAME UP BEHIND
25 YOU?

1 A. I THINK SO.

2 Q. NOW, ONCE ALL THAT HAPPENED, WHERE DID YOU ALL GO
3 AFTER?

4 A. WE WENT BACK TO EDGEWOOD APARTMENTS.

5 Q. ABOUT HOW LONG DID IT TAKE YOU TO GET BACK TO
6 EDGEWOOD?

7 A. NO MORE THAN TEN MINUTES.

8 Q. NO MORE THAN TEN MINUTES?

9 A. YES, MA'AM.

10 Q. BECAUSE Y'ALL WERE GOING PRETTY FAST?

11 A. YES, MA'AM.

12 Q. ONCE Y'ALL GOT BACK TO EDGEWOOD, WHAT HAPPENED
13 THERE?

14 A. I GOT OUT OF THE VEHICLE, AND THEN I WALKED OVER
15 TO THE OTHER VEHICLE. I THINK I WENT TO CEDAR OR
16 SOMETHING. SO THEN I WENT IN THE HOUSE AND USED THE
17 BATHROOM, AND I CAME BACK OUT. AND BRANDON AND THEM,
18 THEY WAS GONE. SO I CAUGHT A RIDE AND WENT AND GOT
19 SOMETHING TO EAT. AND AFTER I GOT SOMETHING TO EAT, I
20 WENT DOWN TO MY GIRL'S HOUSE AND SPENT THE NIGHT WITH
21 HER.

22 Q. NOW, WHAT HAPPENED THE NEXT DAY AFTER ALL THIS?

23 A. I DIDN'T LEAVE FROM DOWN THERE UNTIL LIKE 5:00 OR
24 6:00 THE NEXT DAY, AND I HADN'T REALLY SPOKE TO ANYONE
25 OR CALLED ANYONE OR ANYTHING, AND I JUST WENT BY VISTA

1 WHERE THE HOUSE IS, AND THEY WAS IN THERE AND THEY WAS
2 WATCHING THE NEWS OR WHATEVER.

3 Q. EVERYONE WAS WATCHING THE NEWS?

4 A. YEAH, THE NEWS THAT JUST CAME ON OVER THERE ON
5 THE TELEVISION.

6 Q. WHAT HAPPENED? WHAT DID YOU GET FROM THE NEWS?

7 A. IT WAS JUST, THAT'S LIKE REALLY WHEN I FIRST
8 FOUND OUT KIND OF LIKE IT WAS A COUPLE PEOPLE SHOT AND
9 THAT MR. CLINKSCALES HAD BEEN KILLED.

10 Q. Y'ALL LEARNED ABOUT IT THEN?

11 A. YES, MA'AM.

12 Q. AND WAS SAMMY THERE?

13 A. YES, MA'AM.

14 Q. AND DID HE SAY ANYTHING TO YOU?

15 A. I MEAN, NOT REALLY. HE WAS JUST LOOKING AT THE
16 T.V., YOU KNOW. I MEAN, I'M SURE HE WAS FEELING LIKE WE
17 WAS JUST OUT THERE OR WHATEVER, BECAUSE THAT WAS HOW I
18 WAS FEELING: THAT COULD HAVE BEEN ME.

19 Q. BECAUSE IT COULD HAVE BEEN YOU?

20 A. YEAH. BECAUSE, I MEAN, A LOT OF PEOPLE WERE
21 SHOOTING THAT NIGHT.

22 Q. BUT Y'ALL WERE AT PUBLIX FOR ABOUT 30 SECONDS?

23 A. YES, MA'AM, NO LONGER.

24 Q. YOU COULDN'T TELL WHO WAS SHOOTING?

25 A. NO, MA'AM.

1 Q. OR IF ANYONE WAS SHOOTING AT YOU?

2 A. NO, MA'AM, I COULDN'T REALLY TELL.

3 Q. NOW, DID YOU, DID YOU TELL THE POLICE ABOUT WHAT
4 HAPPENED?

5 A. YES, MA'AM.

6 Q. I'M SORRY?

7 A. YES, MA'AM.

8 Q. DID YOU CALL THEM YOURSELF?

9 A. NO, MA'AM.

10 Q. THEY CAME TO YOU?

11 A. YES, MA'AM.

12 Q. AND DID YOU TELL THEM WHAT YOU KNEW AT FIRST?

13 A. YES, MA'AM.

14 Q. OKAY.

15 A. NO, I DIDN'T TELL THEM AT FIRST.

16 Q. AND WHY DIDN'T YOU WANT TO TELL THEM WHAT YOU
17 KNEW?

18 A. 'CAUSE, I MEAN, SOMEBODY GOT KILLED AND PEOPLE
19 SHOT AND I WAS DEAF. I WASN'T TRYING TO BE ANYWHERE
20 INVOLVED WITH THAT. YOU KNOW WHAT I MEAN? LIKE, HOW I
21 WAS, I JUST DIDN'T WANT TO BE INVOLVED WITH IT. LIKE,
22 WHEN THEY QUESTIONED ME FOR HOURS, LIKE RIGHT NOW, I'M
23 LIKE, I DON'T KNOW WHAT YOU'RE TALKING ABOUT, YOU KNOW?

24 Q. YOU DIDN'T WANT TO BE INVOLVED?

25 A. NO, MA'AM.

1 Q. DID YOU EVENTUALLY GIVE THEM A STATEMENT, THOUGH,
2 TELLING THEM ALL THIS?

3 A. YES, MA'AM.

4 Q. YOU GAVE THAT STATEMENT JULY 11TH, 2006?

5 A. YES, MA'AM.

6 Q. NOW, MR. BLACK, I'M GONNA SHOW YOU THE STATEMENT
7 YOU GAVE POLICE ON JULY 11TH, OKAY? IT'S TWO PAGES.
8 TAKE A LOOK AT THAT FOR ME. START WITH THE FIRST
9 PARAGRAPH.

10 A. IT SAYS ---

11 MR. POTTER: JUDGE, I DON'T UNDERSTAND WHY
12 HE'S LOOKING AT A STATEMENT. HE HASN'T INDICATED HE
13 REMEMBERS THE FACTS.

14 THE COURT: DO YOU HAVE A LEGAL OBJECTION?

15 MR. POTTER: SIR?

16 THE COURT: DO YOU HAVE A LEGAL OBJECTION?

17 MR. POTTER: JUDGE ---

18 THE COURT: I HAVEN'T HEARD THE QUESTION
19 YET. DO YOU HAVE A LEGAL OBJECTION?

20 MR. POTTER: I'M OBJECTING THAT HE'S LOOKING
21 AT THE STATEMENT. HE'S TESTIFIED HE DOESN'T NEED IT TO
22 REFRESH HIS RECOLLECTION OR ANYTHING LIKE THAT, SO IT
23 DOESN'T FALL UNDER ---

24 THE COURT: OVERRULED.

25

1 BY MS. HUEY:

2 Q. NOW, MR. BLACK, EARLIER WE TALKED ABOUT BOOT
3 SHOOTING AT THE SCENE?

4 A. YES, MA'AM.

5 Q. OKAY. AND THAT NIGHT Y'ALL WENT TO, ENDED UP AT
6 THE PUBLIX PARKING LOT?

7 A. YES, MA'AM.

8 Q. ALL RIGHT. BEFORE Y'ALL LEFT TO GO TO ANDERSON,
9 I WANT YOU TO REFRESH YOUR MEMORY WITH YOUR STATEMENT
10 AND TELL US WHAT SAMMY WAS TALKING ABOUT.

11 A. ON THE SECOND PAGE?

12 Q. ON THE FIRST PAGE.

13 A. OH, ABOUT THE ANDERSON BOYS RUNNING THEIR MOUTHS?

14 Q. UH-HUH.

15 A. HE TALKED TO BUDA, AND I GUESS HE WAS LIKE JUST
16 RELAYING MESSAGES OR WHATEVER THAT SOME PEOPLE HAD SAID
17 THIS OR SAID THAT OR WHATEVER.

18 Q. OKAY. AND DO YOU TALK ABOUT BOOT SHOOTING AT YOU
19 AND SAMMY?

20 A. WE DIDN'T REALLY TALK ABOUT IT TOO MUCH; NOT
21 REALLY, NO. STUFF HAPPENED LIKE THAT AND YOU JUST ---

22 Q. BUT THAT DID HAPPEN?

23 A. YES, MA'AM, THAT DID HAPPEN.

24 Q. AND THAT WAS ABOUT A WEEK BEFORE THE PUBLIX
25 INCIDENT?

1 A. YES, MA'AM. EXACTLY A WEEK.

2 Q. NOW, YOU ALSO TALKED ABOUT SAMMY AND BOOT NOT
3 REALLY LIKING EACH OTHER?

4 A. YES, MA'AM.

5 Q. RIGHT?

6 A. YES, MA'AM.

7 Q. AND THEY HAD GOTTEN INTO IT AT THE CLUB BEFORE?

8 A. YES, MA'AM.

9 Q. OKAY. AND WHAT, WHY HAD THEY GOTTEN INTO THE
10 TROUBLE? WHAT WOULD THEY HAVE GOTTEN INTO IT AT THE
11 CLUB ABOUT?

12 A. I REALLY DON'T KNOW. BUT I JUST KNOW THAT A LONG
13 TIME AGO A FIGHT HAD BROKE OUT, BUT I DON'T REALLY KNOW
14 IF THAT WAS ANYTHING LIKE THAT. BUT THIS TIME I JUST
15 KNOW THAT HE WAS LIKE, THE DUDE KEPT WALKING BY LOOKING
16 AT HIM AT THE CLUB. THIS WAS THE WEEK THAT HE, MISTER,
17 THAT I GOT SHOT AT OR WHATEVER.

18 Q. THAT WAS A LONG TIME AGO?

19 A. NO, THIS WAS THE WEEK BEFORE.

20 Q. OKAY. BUT THEN THE FIGHT AT THE CLUB WAS BEFORE
21 THAT, TOO, RIGHT?

22 A. YEAH. HE HAD GOT INTO AN ALTERCATION WITH SOME
23 OTHER GUYS BEFORE.

24 Q. SO THEY HAD BEEN FIGHTING FOR A WHILE?

25 A. I DON'T KNOW IF BOOT WAS INVOLVED IN THAT, BUT

1 JUST I KNOW THAT ---

2 Q. THEY WERE FIGHTING FOR A WHILE?

3 A. YEAH. YOU KNOW HOW PEOPLE TALK ABOUT, "I DON'T
4 LIKE THAT DUDE." BUT I KNEW THAT HE DIDN'T LIKE US OR
5 WHATEVER.

6 Q. OKAY. NOW, GETTING TO THE SHOOTING AT PUBLIX,
7 TELL ME AGAIN HOW ---

8 MR. POTTER: OBJECTION FOR THE RECORD. HE'S
9 ALREADY TESTIFIED IN REGARDS TO THE SHOOTING. WE'RE
10 JUST GOING OVER TESTIMONY.

11 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

12 MR. POTTER: 403, YOUR HONOR. THIS IS
13 DUPLICATIVE. HE'S ALREADY TESTIFIED AS TO THE SHOOTING,
14 SO WE OBJECT.

15 THE COURT: ALL RIGHT. LET ME HEAR THE
16 QUESTION FIRST AND THEN I'LL RULE ON YOUR OBJECTION.

17 WHAT'S YOUR QUESTION?

18 BY MS. HUEY:

19 Q. WHO GOT THE GUN FOR SAMMY?

20 THE COURT: ALL RIGHT. I OVERRULE THE
21 OBJECTION.

22 GO AHEAD.

23 THE WITNESS: AGAIN, LIKE I SAID, I CAN'T
24 REALLY SAY. YOU KNOW WHAT I'M SAYING? THAT'S THE TRUTH
25 BECAUSE I WAS LOOKING OUT THE WINDOW OR WHATEVER. Y'ALL

1 TOLD ME I HAD TO TELL THE TRUTH SO THAT'S WHAT I'M
2 DOING. I WAS LOOKING OUT THE WINDOW. THERE WAS PEOPLE
3 OUT THERE. I HEARD SOMEBODY FIRE SOME SHOTS AND I HEARD
4 THE SHOT. YOU KNOW WHAT I'M SAYING? I CAN'T REALLY SAY
5 IF MR. SCOTT PICKED IT UP HISSELF [SIC] OR IF MR. VERNER
6 HANDED IT TO HIM OR WHATEVER. I MEAN, RIGHT HERE I SEE
7 IN MY STATEMENT IT SAYS THAT...

8 BY MS. HUEY:

9 Q. BUT REGARDLESS, YOU SAW SAMMY SHOOT TWICE OUT THE
10 WINDOW?

11 A. THAT'S RIGHT.

12 Q. NOW, HAD YOU SEEN THIS SHOTGUN BEFORE?

13 A. NO, MA'AM.

14 Q. ALL RIGHT. DID SAMMY USUALLY TAKE A SHOTGUN WITH
15 HIM WHEN HE WENT TO ANDERSON?

16 A. NO, MA'AM. BUT EVERYBODY HAD -- I MEAN, YOU
17 CARRY PROTECTION, SOME SORT OF PROTECTION. I MIGHT
18 HAVE ---

19 Q. HAD YOU SEEN THIS SHOTGUN BEFORE THIS?

20 A. NO, MA'AM.

21 Q. HAD YOU SEEN HIM WITH A SHOTGUN BEFORE?

22 A. NO, MA'AM.

23 MS. HUEY: THAT'S ALL I HAVE.

24 THE COURT: CROSS-EXAMINATION.

25 MR. POTTER: THANK YOU, YOUR HONOR, IF IT

1 PLEASES THE COURT.

2 CROSS-EXAMINATION BY MR. POTTER:

3 Q. JOSH, IN YOUR STATEMENT YOU INDICATED THAT TROY
4 REACHED IN THE BACK AND GOT A SHOTGUN AND PUT IT UP
5 FRONT. EXCUSE ME. IT'S TROY WAS THE ONE THAT GOT THE
6 SHOTGUN AND PUT IT IN THE BACK OF THE CAR; IS THAT
7 RIGHT?

8 A. IT WAS NEVER IN THE BACK.

9 Q. OKAY. BUT YOUR STATEMENT SAYS THAT.

10 A. I KNOW MY STATEMENT SAYS THAT.

11 Q. OKAY. YOU GAVE THAT STATEMENT ON JULY THE 11TH,
12 2006, TO DETECTIVE REYNOLDS; IS THAT CORRECT?

13 A. YES, SIR.

14 Q. NOW, YOU ALSO TESTIFIED THAT THE SHOTGUN WAS
15 ABOUT THE LENGTH OF THE STAND YOU ARE SITTING AT?

16 A. YES, SIR.

17 Q. HOW MANY FEET IS THAT?

18 A. MAYBE THREE.

19 Q. SAY AGAIN?

20 A. MAYBE THREE.

21 Q. THREE, FOUR FEET, MAYBE? OR ARE YOU MAKING A
22 GUESSTIMATE?

23 MS. HUEY: HE SAID THREE, YOUR HONOR.

24 WITNESS: THREE.

25

1 BY MR. POTTER:

2 Q. THREE FEET?

3 A. YES, SIR.

4 Q. OKAY. SO IF I MEASURED THAT, THAT'S THREE FEET;
5 IS THAT RIGHT?

6 A. YES, SIR.

7 Q. ARE YOU TALKING ABOUT INSIDE OF THE TABLE OR THE
8 ENTIRE STAND?

9 A. THIS RIGHT HERE (INDICATING).

10 Q. THE ENTIRE STAND?

11 A. YEAH (INDICATING). YOU GONNA MEASURE IT?

12 Q. SIR?

13 A. YOU GONNA MEASURE IT?

14 Q. HAVE YOU GOT SOMETHING TO MEASURE IT WITH?

15 A. I MEAN, SHOOT, I SHOULD HAVE GOT A 12-INCH RULER.

16 Q. DON'T WORRY ABOUT IT. NOW LET'S TALK ABOUT YOU
17 ARE RIDING IN THE BACK SEAT AND SAMMY IS DRIVING,
18 CORRECT?

19 A. YES, SIR.

20 Q. ~~NOW YOU PULL INTO THE PUBLIC PARKING LOT.~~
21 ~~SOMEBODY STARTS SHOOTING.~~

22 A. ~~YES,~~ SIR.

23 Q. YOU SAW BOOT, YOU SAW BOOT'S CAR?

24 A. YES, SIR.

25 Q. OKAY. ~~DID YOU SEE BOOT?~~

1 A. IT WAS -- I CAN'T REALLY SAY. WELL, YEAH, ~~I SAW~~
2 ~~HIM IN HIS CAR.~~

3 Q. ~~YOU CAN'T MISS HIS CAR,~~ A BLACK -- EXCUSE ME -- A
4 BROWN DELTA '88 WITH "REAL TALK" WRITTEN ON IT. YOU
5 CAN'T MISS THAT. SO ALL THAT, ~~HEARD SHOOTING,~~ YOU LOOK
6 OUTSIDE AND SEE WHO'S SHOOTING, AND THAT'S ~~WHEN SAMMY~~
7 ~~FIRES A SHOT?~~

8 A. ~~YES,~~ SIR.

9 Q. IS THAT A "YES"?

10 A. YES, SIR.

11 Q. ~~YOU DON'T KNOW WHO HE WAS AIMING AT OR WHERE HE~~
12 ~~WAS AIMING?~~

13 A. ~~I CAN'T TELL.~~

14 Q. YOU JUST HEAR A SHOT NEXT TO YOU?

15 A. (NODDED HEAD.)

16 Q. YOU ALSO SAID THERE WERE A LOT OF PEOPLE SHOOTING
17 THAT NIGHT; IS THAT RIGHT?

18 A. YES, SIR.

19 MR. POTTER: NOTHING FURTHER, JUDGE, THANK
20 YOU.

21 THE COURT: ANY REDIRECT?

22 MS. HUEY: NO, SIR, YOUR HONOR.

23 THE COURT: YOU MAY STEP DOWN.

24 (WHEREUPON, WITNESS WAS EXCUSED.)

25 MS. HUEY: THE STATE CALLS TORREY ACKER,

1 YOUR HONOR.

2 (WHEREUPON, TORREY SINCLAIRE ACKER WAS SWORN
3 BY THE CLERK OF COURT, AND HE WAS ASKED TO
4 STATE HIS FULL NAME, SPELLING HIS LAST NAME.)

5 WITNESS: MY NAME IS TORREY SINCLAIRE ACKER,
6 A-C-K-E-R.

7 WHEREUPON,

8 TORREY ACKER,
9 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
10 FOLLOWS:

11 DIRECT EXAMINATION BY MS. HUEY:

12 Q. MR. ACKER, HOW OLD ARE YOU?

13 A. TWENTY-TWO.

14 Q. AND ARE YOU WORKING RIGHT NOW?

15 A. NOT NOW.

16 Q. WHERE WERE YOU PREVIOUSLY EMPLOYED?

17 A. QUANTUM INDUSTRIES.

18 Q. WHERE DID YOU GO TO HIGH SCHOOL?

19 A. PALMETTO HIGH.

20 Q. PALMETTO HIGH. NOW, DID YOU KNOW JAVARIS
21 CLINKSCALES?

22 A. YEAH, I DID.

23 Q. HOW DID YOU KNOW HIM?

24 A. HE WAS ONE OF MY HOME BUDS. HE WAS COOL.

25 Q. HE WAS ONE OF YOUR FRIENDS?

1 A. (NODDED HEAD.)

2 Q. HOW LONG HAD YOU KNOWN HIM?

3 A. NOT TOO LONG. I MEAN, I KNEW HIM ABOUT A YEAR OR
4 SO, A YEAR OR TWO.

5 Q. ABOUT A YEAR OR TWO?

6 A. (NODDED HEAD.)

7 Q. HOW DID YOU GET TO KNOW HIM?

8 A. I MEAN, MY BROTHER USED TO GO WITH US, HIS MOM.

9 Q. AND WHAT WERE YOU DOING ON JULY 10TH OF 2006?

10 A. I WAS AT CLUB MALLEY AND JUST WE WAS PARTYING AT
11 THE CLUB. AND AFTER THAT ---

12 Q. WELL, LET ME STOP YOU THERE. WHO ALL WAS AT CLUB
13 MALLEY?

14 A. THAT DROVE WITH ME?

15 Q. YEAH, HOW MANY THAT DROVE WITH YOU?

16 A. JAMES BURNS, GEORGE BURNS, SYDNEY CHESTER, AND I
17 THINK DONARDO GRAHAM.

18 Q. SO Y'ALL WENT TO CLUB MALLEY THAT NIGHT TOGETHER?

19 A. YES.

20 Q. WHERE DO YOU ALL LIVE?

21 A. I WAS LIVING IN BELTON AT THE TIME. WE ALL WAS
22 LIVING IN BELTON AT THAT TIME.

23 Q. SO YOU ALL LIVED IN BELTON. SO YOU ALL DROVE
24 FROM BELTON TO ANDERSON TO GO TO CLUB MALLEY?

25 A. UH-HUH.

1 Q. DID YOU ALL DO THAT OFTEN?

2 A. YEAH. WE DID IT LIKE TWO OR THREE WEEKS
3 PREVIOUSLY, YOU KNOW, BEFORE THAT.

4 Q. AND ONCE YOU GOT TO CLUB MALLEY, DID YOU RUN INTO
5 ANYONE ELSE THERE THAT YOU KNEW?

6 A. YEAH. A WHOLE LOT OF OTHER FRIENDS, YOU KNOW.
7 O'BRYAN CLINKSCALES --

8 Q. AND WHO WAS THAT?

9 A. JAVARIS'S BROTHER -- JAVARIS, AND PETE DIAL AND
10 JEREMI DIAL. JUST A LOT OF PEOPLE.

11 Q. A LOT OF PEOPLE YOU KNEW WERE THERE, FROM THE
12 BELTON AREA?

13 A. YEAH.

14 Q. AND WAS IT JUST FROM THE BELTON AREA?

15 A. BELTON, HONEA PATH.

16 Q. OKAY. NOW, THIS CLUB MALLEY, WHY WOULD Y'ALL GO
17 THERE ON SUNDAY NIGHTS?

18 A. IT WAS TEEN NIGHT.

19 Q. SO UNDERAGE TEENAGERS WERE THERE?

20 A. UH-HUH.

21 Q. NOW, HOW LONG DO YOU THINK YOU WERE AT THE CLUB?

22 A. I WAS THERE FOR LIKE TWO TO THREE HOURS.

23 Q. OKAY. AND DID ANYTHING HAPPEN AT THE CLUB?

24 A. NOT WITH US. I MEAN, SOME OTHER PEOPLE GOT INTO
25 IT, BUT IT WASN'T US. I DON'T KNOW.

1 Q. SOME OTHER GROUP OF PEOPLE WERE FIGHTING?

2 A. UH-HUH.

3 Q. NOW, ONCE YOU LEFT CLUB MALLEY, DO YOU REMEMBER
4 WHAT TIME THAT WAS?

5 A. IT WAS LIKE WHEN THE CLUB CLOSED ON ME. I DON'T
6 KNOW THE TIME.

7 Q. BUT THE CLUB WAS CLOSED?

8 A. UH-HUH.

9 Q. AND WHAT DID YOU ALL DO AFTER IT CLOSED?

10 A. WE, WE WAS GOING DOWN TO WAL-MART TO, YOU KNOW,
11 WHAT WE CALL IT PARKING LOT PIMPING.

12 Q. TO WHAT?

13 A. PARKING LOT PIMPING.

14 Q. PARKING LOT PIMPING. AND ONCE YOU GOT THERE TO
15 THE WAL-MART, HOW MANY PEOPLE DO YOU THINK WERE THERE?

16 A. WELL OVER A HUNDRED.

17 Q. A LOT OF PEOPLE WERE THERE?

18 A. UH-HUH.

19 Q. WERE PEOPLE IN THEIR CARS OR OUT OF THEIR CARS OR
20 BOTH?

21 A. WELL, WE WAS IN OUR CARS WITH PASSENGERS THAT GOT
22 TURNED AROUND BY POLICE, THEY TURNED US AROUND. SO
23 JAVARIS AND THE ONE RIDING, IT WAS LIKE, Y'ALL FOLLOW
24 US, SO WE ALL WENT, WE FOLLOWED THEM TO PUBLIX.

25 Q. NOW, JAVARIS WAS WITH?

1 A. DEVON (PHONETIC) RAINEY.

2 Q. WAS JAVARIS DRIVING, DO YOU KNOW, OR DEVON, DO
3 YOU KNOW?

4 A. I DON'T REMEMBER.

5 Q. DO YOU REMEMBER WHAT CAR THEY WERE IN?

6 A. YEAH. THEY WAS IN HIS MAMA'S WHITE MITSUBISHI
7 GALANT.

8 Q. JAVARIS'S MOTHER'S CAR?

9 A. HIS MOTHER'S CAR.

10 Q. SO YOU GET RUN OFF FROM WAL-MART?

11 A. UH-HUH.

12 Q. AND EVERYONE DECIDES TO GO DOWN TO PUBLIX?

13 A. PUBLIX, YEAH.

14 Q. AND SO DID YOU DO THAT TOO?

15 A. UH-HUH, I RODE.

16 Q. ALL RIGHT. SO YOU WENT TO PUBLIX. AND WHAT
17 HAPPENED ONCE YOU GOT TO PUBLIX?

18 A. WELL, WE GOT OUT THE CAR, AND IT WAS LIKE NOT
19 EVEN A MINUTE LATER, YOU KNOW.

20 Q. LET ME STOP YOU RIGHT THERE BEFORE WE GET INTO
21 THAT DETAIL. WHEN YOU GOT TO PUBLIX, WHERE DID YOU ALL
22 PARK, DO YOU REMEMBER?

23 A. JUST, WE PARKED ANYWHERE, YOU KNOW?

24 Q. AND WERE THERE STILL A LOT OF CARS, A LOT OF
25 PEOPLE?

1 A. YEAH. EVERYBODY WAS STILL IN THE CAR, YEAH.

2 Q. WERE PEOPLE GETTING OUT OF THEIR CARS?

3 A. YEAH. A LOT OF PEOPLE WAS GETTING OUT ALL AT THE
4 SAME TIME, BUT I BELIEVE WE WAS THE FIRST ONES TO GET
5 OUT, AND IT WAS LIKE A LOT OF PEOPLE WERE JUST CIRCLING
6 US AROUND.

7 Q. WERE YOU ONE OF THE FIRST OF THE CARS TO GET TO
8 THE PUBLIX PARKING LOT?

9 A. UH-HUH. OUR CAR AND JAVARIS'S CAR WERE THE FIRST
10 TWO CARS THERE.

11 Q. SO Y'ALL WENT AHEAD AND PARKED?

12 A. UH-HUH.

13 Q. AND Y'ALL WERE GETTING OUT OF YOUR CARS?

14 A. UH-HUH.

15 Q. OKAY. AND THEN WHAT IS THE NEXT THING YOU
16 REMEMBER?

17 A. I HEARD TWO LOUD BANGS. THEN I SEEN -- I HEARD
18 THE FIRST BANG AND I SEEN JAVARIS, HE WAS FALLING, HE
19 WAS FALLING TO THE GROUND.

20 Q. NOW, WHEN YOU SAY YOU HEARD A LOUD BANG, WAS THAT
21 A GUNSHOT?

22 A. YEAH, THIS WAS A GUNSHOT.

23 Q. COULD YOU TELL WHAT KIND OF GUN IT WAS COMING
24 FROM?

25 A. YEAH, IT WAS A SHOTGUN.

1 Q. IT WAS A SHOTGUN?

2 A. YEAH.

3 Q. HOW COULD YOU TELL IT WAS A SHOTGUN?

4 A. 'CAUSE I'VE BEEN HUNTING, YOU KNOW, WITH A COUPLE
5 OF MY FRIENDS.

6 Q. HAD YOU HEARD ANY OTHER GUNSHOTS BEFORE THEN?

7 A. NOT SINCE THOSE FIRST TWO ---

8 Q. YOU TWO WERE THE FIRST CARS THERE?

9 A. UH-HUH.

10 Q. AND THE FIRST THING YOU HEAR ARE THESE TWO
11 LOUD --

12 A. BANGS.

13 Q. -- SHOTGUN SHOTS?

14 A. YEAH.

15 Q. THE FIRST ONE HITS JAVARIS AND HE FALLS?

16 A. UH-HUH.

17 Q. WHAT HAPPENED THEN?

18 A. THEN, AS I SEEN JAVARIS FALLING, I SEEN JAMES
19 BURNS, HE WAS FALLING RIGHT BESIDE ME SAYING "I'M HIT."
20 AND DEVON WAS CALLING OUT, "THEY HIT MOOK, THEY HIT
21 MOOK." THAT'S JAVARIS.

22 Q. WHAT WAS THE NICKNAME?

23 A. MOOK.

24 Q. MOOK, I'M SORRY. NOW, SO JAMES GOT HIT. DOES
25 JAMES HAVE A NICKNAME?

1 A. PEE WEE.

2 Q. PEE WEE. SO YOU KNOW JAVARIS HAS BEEN HIT AND
3 YOU KNOW PEE WEE, JAMES, HAS BEEN HIT. WHAT ELSE
4 HAPPENED?

5 A. THAT'S WHEN I SEEN A GOLD DELTA '88 CIRCLE RIGHT
6 AROUND IN FRONT OF US, AND POINTING A GUN, AND IT WAS
7 LARICKY HARKNESS, HE WAS DRIVING.

8 Q. DOES LARICKY HARKNESS HAVE A NICKNAME?

9 A. NOT THAT I KNOW OF. I KNOW HIM AS "LARICKY."

10 Q. SO YOU ARE NOT FRIENDS WITH LARICKY?

11 A. NO.

12 Q. YOU JUST KNOW OF HIM?

13 A. I KNOW OF HIM.

14 Q. BUT REGARDLESS, WHAT KIND OF CAR DOES HE HAVE?

15 A. IT WAS A GOLD DELTA '88 WITH A "REAL TALK" ON THE
16 SIDE AND HAD A DENT IN THE BACK.

17 Q. DOES THAT CAR STICK OUT?

18 A. OH, YEAH, IT STICKS OUT A LOT, YEAH. I REMEMBER
19 THAT LIKE THE BACK OF MY HAND.

20 Q. SO YOU HEARD SHOTGUN SHOTS?

21 A. UH-HUH.

22 Q. JAVARIS FALLS. HOW LONG AFTER DID YOU SEE
23 LARICKY HARKNESS?

24 A. RIGHT WHEN I TURNED AROUND, LIKE FIVE SECONDS I
25 SEEN HIM POINTING A GUN OUT.

1 Q. LARICKY WAS POINTING A GUN?

2 A. YEAH, HE WAS POINTING A GUN OUT. BUT IT WAS A
3 HANDGUN. IT WAS A HANDGUN.

4 Q. DEFINITELY NOT A SHOTGUN?

5 A. NO, IT WASN'T A SHOTGUN.

6 Q. SO DID YOU SEE LARICKY SHOOTING?

7 A. YEAH, I SEEN HIM SHOOTING TOWARDS US. THAT'S
8 WHEN I WAS DUCKING AND RUNNING.

9 Q. SO WHAT HAPPENED THEN?

10 A. EVERYBODY JUST SCATTERED. DEVON WAS CRYING,
11 "HELP ME GET MOOK, PUT HIM IN THE CAR." AND THAT'S WHEN
12 I WAS STATING, DONARDO, RUN, GO GET HIM. AT THE SAME
13 TIME I WAS RUNNING BEHIND JAMES, I WAS RUNNING AROUND
14 HIM TRYING TO GRAB HIM AND PUT HIM IN HIS CAR. HE
15 COULDN'T FIND HIS KEYS, SO HE GOT OUT AND GOT IN ANOTHER
16 CAR. I THINK IT WAS A WHITE CAR. I THINK IT WAS. HE
17 GOT IN THAT CAR AND THEY DROVE OFF.

18 AND I SEEN JAVARIS AND DEVON, THEY HAD DROVE OFF.
19 AND DONARDO WAS IN THE BACK SEAT PUTTING HIM IN, THEY
20 WAS PUTTING JAVARIS IN.

21 Q. OKAY. DID YOU HEAR JAVARIS SAY ANYTHING AFTER HE
22 GOT SHOT?

23 A. HE, HE AIN'T HAD TIME TO.

24 Q. BY THE TIME YOU ALL GOT OUT OF THE CAR AND
25 JAVARIS FELL, HOW LONG DO YOU THINK PASSED? HOW MUCH

1 TIME?

2 A. IT WAS INSTANT. IT WAS RIGHT THEN. I MEAN, YOU
3 KNOW, IT DIDN'T TAKE LONG FOR A SHOTGUN, WHEN YOU GET
4 HIT IN YOUR HEAD, IT DON'T TAKE LONG.

5 Q. SO HE NEVER SAID ANYTHING ELSE TO YOU?

6 A. NO.

7 Q. SO DONARDO AND DEVON TAKE JAVARIS TO THE
8 HOSPITAL?

9 A. UH-HUH.

10 Q. OKAY. AND THEN WHAT HAPPENED TO YOU?

11 A. I WAS, I WAS LEFT AT THE SCENE WITH SYDNEY
12 CHESTER. HE GOT HIT BY A PELLET I THINK IN HIS ANKLE,
13 AND I WAS LEFT AT THE SCENE WITH HIM.

14 Q. OKAY. WAS EVERYONE TAKING OFF IN THEIR CARS AND
15 LEFT, EITHER TO GO TO THE HOSPITAL OR GET OUT?

16 A. YEAH. EVERYBODY JUST SCATTERED, YOU KNOW?

17 Q. AND Y'ALL DIDN'T HAVE A CAR?

18 A. WELL, WE WAS IN PEE WEE'S CAR, JAMES'S CAR, BUT
19 HE COULDN'T FIND HIS KEYS. HE HAD HIS KEYS ON HIM BUT
20 HE COULDN'T FIND THEM BECAUSE, YOU KNOW, IT WAS KIND OF
21 A TIRE SPINNING REACTION.

22 Q. WELL, WHAT WAS EVERYONE DOING? WHAT WAS
23 EVERYONE'S MOOD?

24 A. EVERYBODY WAS JUST SCATTERED AROUND. IT WAS ME,
25 GEORGE BURNS AND SYDNEY, WE WAS TOGETHER, AND I WAS WITH

1 SYDNEY TRYING, YOU KNOW, TO HOLD HIM BECAUSE HE HAD GOT
2 SHOT AND HIS ANKLE WAS SHOT. AND WE WAS THE LAST ONES
3 THERE. AND THEN CAMERON, AND MATTISON I THINK WAS HIS
4 LAST NAME, HE HAD PULLED UP AND HE WAS GONNA TAKE US TO
5 THE HOSPITAL. BUT THE POLICE GOT THERE JUST IN TIME
6 BEFORE, YOU KNOW.

7 Q. HOW QUICKLY AFTER THIS SHOOTING DID THE POLICE
8 GET THERE?

9 A. I'D SAY IT TOOK LIKE, LIKE FIVE MINUTES.

10 Q. NOW, YOU DIDN'T SEE WHO SHOT JAVARIS THAT NIGHT?

11 A. NO.

12 Q. AND YOU COULDN'T SEE WHO SHOT SYDNEY OR JAMES?

13 A. HUH-UH.

14 Q. DO YOU KNOW SHANQUIL MARTIN?

15 A. YES, I KNOW HIM.

16 Q. DID YOU SEE WHO -- DID HE GET INJURED THAT NIGHT?

17 A. YEAH, HE GOT INJURED. HE GOT SHOT IN THE NECK.

18 Q. DO YOU KNOW WHO SHOT HIM?

19 A. NOT REALLY, BECAUSE HE WAS BEHIND ME, TOO. HE
20 WAS, HE WAS LIKE RIGHT THERE, LIKE RIGHT BEHIND ME.

21 SEE, I'M -- IT WAS LIKE -- CAN I EXPLAIN TO YOU HOW IT
22 WAS PLACED? LIKE THE JEEP WAS RIGHT HERE AND JAVARIS'S
23 MAMA'S CAR WAS RIGHT HERE. I'M OUTSIDE THE JEEP.
24 SHANQUIL WAS BEHIND ME, JAVARIS WAS ON THE OTHER SIDE OF
25 HIS MOM'S CAR, AND JAMES AND DEVON IS RIGHT IN FRONT, IF

1 NOT RIGHT BESIDE ME, RIGHT IN FRONT OF ME. AND AS I WAS
2 MOVING, I DIDN'T SEE SHANQUIL GET HIT. BUT HE SAID HE
3 WAS SHOT RIGHT BEHIND ME, SO, YOU KNOW.

4 Q. COULD YOU TELL WHERE THE SHOTGUN SHOTS WERE
5 COMING FROM?

6 A. IT WAS COMING FROM BEHIND BECAUSE I FELT LIKE
7 GLASS AND STUFF FIRST BEHIND ME, YOU KNOW, HITTING ME.
8 IT WAS HITTING ME. SO I KNOW IT CAME FROM BEHIND FIRST.

9 Q. AND DO YOU REMEMBER WHERE EXACTLY Y'ALL WERE IN
10 THE PARKING LOT?

11 A. IT WAS LIKE, LIKE IN THE MIDDLE, LIKE.

12 Q. NOW, JUST TO CLARIFY, THEN, YOU DIDN'T SEE
13 JAVARIS FALL UNTIL AFTER YOU HEARD THE SHOTGUN SHOT?

14 A. WELL, YEAH. WELL, I HEARD THE SHOTGUN SHOT.
15 THEN I AUTOMATICALLY LOOKED BACK AND THAT'S WHEN I SEEN
16 HIM, HE WAS FALLING.

17 Q. AND AFTER YOU SAW HIM FALL, THEN YOU SAW LARICKY
18 HARKNESS WITH HIS HANDGUN?

19 A. UH-HUH. THAT WAS IN FRONT OF US.

20 Q. THAT WAS IN FRONT OF YOU?

21 A. UH-HUH.

22 MS. HUEY: THAT'S ALL I HAVE FOR THIS
23 WITNESS, JUDGE.

24 CROSS-EXAMINATION BY MR. POTTER:

25 Q. TORREY, YOU DIDN'T SEE LARICKY UNTIL AFTER THE

1 SHOTS, CORRECT?

2 A. NO. I SEEN HIM -- AFTER THE TWO SHOTS, YEAH, I
3 DIDN'T SEE HIM UNTIL AFTER THE TWO SHOTS.

4 Q. AND YOU SAW HIM IN THE CAR AND HE WAS ROLLING BY
5 YOU, RIGHT?

6 A. HE WAS IN FRONT AND WENT RIGHT BY US.

7 Q. OKAY. AND THAT WAS THE FIRST TIME YOU SAW
8 LARICKY?

9 A. WELL, YEAH.

10 Q. AT THE PUBLIX PARKING LOT?

11 A. YEAH.

12 Q. OKAY. NOW, SO YOU HAVE NO IDEA ---

13 A. NO, THAT WASN'T THE FIRST TIME I SEEN HIM. I
14 SEEN HIM AT THE CLUB, I MEAN.

15 Q. I UNDERSTAND THAT. BUT IN THE PUBLIX PARKING
16 LOT, THAT'S THE FIRST TIME YOU SAW THE BROWN DELTA '88
17 OR THE GOLD DELTA '88?

18 A. I SEEN IT AT WAL-MART, TOO. IT PASSED IN FRONT
19 OF US AT WAL-MART.

20 Q. I UNDERSTAND THAT, BUT I'M TALKING ABOUT THE
21 PUBLIX PARKING LOT. THE FIRST TIME YOU SAW THE GOLD
22 DELTA '88 WAS IN THE PUBLIX PARKING LOT AFTER YOU HEARD
23 THE SHOTS?

24 A. I SEEN IT ROLLING AROUND IN FRONT OF US. OKAY.
25 AFTERWARDS. THE FIRST TWO SHOTS, AFTER THE FIRST TWO

1 SHOTS.

2 Q. DO YOU UNDERSTAND MY QUESTION?

3 A. YEAH, I UNDERSTAND.

4 Q. OKAY. ~~SO THE FIRST TIME YOU SAW LARICKY IN THE~~
5 ~~ROBLIX PARKING LOT WAS~~ AFTER THE SHOTS?

6 A. UH-HUH.

7 Q. THAT'S A "YES"?

8 A. ~~AFTER THE FIRST TWO SHOTS,~~ YEAH.

9 Q. ~~AND HE WAS STILL IN THE CAR~~ AND YOU DON'T KNOW IF
10 HE WAS OUTSIDE IMMEDIATELY BEFOREHAND OR ANYTHING LIKE
11 THAT BECAUSE YOU DIDN'T SEE HIM?

12 A. I DIDN'T SEE HIM ON THE SIDE OF ME, NO.

13 Q. NOW, ~~YOU DIDN'T SEE A BLACK KIA OR A BLACK S.U.V.~~
14 OR WHATEVER?

15 A. NO.

16 MR. POTTER: NOTHING FURTHER.

17 MS. HUEY: JUST A COUPLE ON REDIRECT.

18 THE COURT: YES, MA'AM.

19 REDIRECT EXAMINATION BY MS. HUEY:

20 Q. THE FIRST SHOTS YOU HEARD, WHAT KIND OF SHOTS
21 WERE THOSE?

22 A. THERE WAS TWO ---

23 MR. POTTER: OBJECTION. THIS IS OUTSIDE THE
24 SCOPE OF CROSS-EXAMINATION.

25 THE COURT: OVERRULED. GO AHEAD.

1 **THE WITNESS:** THERE WAS TWO LOUD SHOTS.

2 BY MS. HUEY:

3 Q. LIKE A SHOTGUN?

4 A. YEAH, REAL LOUD, A BIG BANG.

5 Q. DID YOU HEAR THE SHOTGUN SHOTS BEFORE THE SHOTGUN
6 SHOTS?

7 A. HUH-UH.

8 Q. AFTER THE SHOTGUN SHOTS, YOU SAW LARICKY SHOOT?

9 A. UH-HUH.

10 **THE COURT:** CROSS ON THAT?

11 RECROSS-EXAMINATION BY MR. POTTER:

12 Q. YOU DON'T KNOW IF LARICKY WAS OUTSIDE THE VEHICLE
13 OR INSIDE HIS VEHICLE POINTING HIS GUN ANYWHERE, DO YOU?

14 A. NO.

15 Q. NO? YOU DON'T KNOW IF ANYBODY ELSE HAD A WEAPON
16 INSIDE LARICKY'S CAR, DO YOU?

17 A. NO.

18 Q. YOU DON'T KNOW IF ANYONE ELSE IN THE 30-SOME ODD
19 CARS HAD A WEAPON IN THE PUBLIX, DO YOU?

20 A. NO.

21 **MR. POTTER:** NOTHING FURTHER.

22 **THE COURT:** YOU MAY STEP DOWN. THANK YOU
23 VERY MUCH.

24 ANY OBJECTION TO HIM BEING EXCUSED?

25 **MR. POTTER:** NO, YOUR HONOR.

1 THE COURT: YOU MAY BE EXCUSED OR YOU'RE
2 WELCOME TO STAY.

3 (WHEREUPON, WITNESS WAS EXCUSED.)

4 CALL YOUR NEXT WITNESS, PLEASE.

5 MS. HUEY: YOUR HONOR, THE STATE CALLS JAMES
6 BURNS.

7 (WHEREUPON, JAMES BURNS WAS SWORN BY THE
8 CLERK OF COURT.)

9 WHEREUPON,

10 JAMES BURNS,
11 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION MS. HUEY:

14 Q. WOULD YOU PLEASE GIVE US YOUR NAME FOR THE
15 RECORD?

16 A. JAMES DEMETRIUS BURNS, B-U-R-N-S.

17 Q. NOW, MR. BURNS, HOW OLD ARE YOU?

18 A. TWENTY-TWO.

19 Q. ARE YOU IN SCHOOL ANYWHERE?

20 A. NO, MA'AM.

21 Q. ARE YOU WORKING PRESENTLY?

22 A. I DO STAFFING, VENTURA STAFFING.

23 Q. WHERE DID YOU GO TO HIGH SCHOOL?

24 A. B/HP.

25 Q. DID YOU KNOW JAVARIS CLINKSCALES?

1 A. HE WAS A BROTHER OF O'BRYAN CLINKSCALES.

2 Q. YOU WERE FRIENDS WITH HIS OLDER BROTHER?

3 A. YEAH, I KNOW HIM PRETTY GOOD.

4 Q. ON JULY 10TH, 2006, DID YOU GO TO CLUB MALLEY?

5 A. YES, MA'AM. ME, TORREY ACKER, SYDNEY CHESTER,

6 AND, WELL, DONARDO GRAHAM RODE WITH US, BUT HE DIDN'T

7 RIDE TO PUBLIX WITH US.

8 Q. OKAY. HE RODE WITH YOU TO --

9 A. -- TO THE CLUB.

10 Q. TO THE CLUB.

11 A. HE RODE WITH US TO THE CLUB BUT NOT TO PUBLIX.

12 Q. HOW LONG WERE YOU AT CLUB MALLEY?

13 A. I'M NOT SURE. PROBABLY TWO, THREE HOURS.

14 Q. AND DID YOU ALL LEAVE CLUB MALLEY EVENTUALLY?

15 A. YEAH. WE LEFT ABOUT 1:00, SOMEWHERE IN THERE.

16 Q. AFTER YOU LEFT CLUB MALLEY, WHERE DID YOU ALL GO?

17 A. WE WAS GOING TO WAFFLE HOUSE BUT THEY SAID THE

18 POLICE WAS DOWN THERE SO WE GOT BEHIND DEVON, SYDNEY AND

19 JAVARIS AND WENT TO WAL-MART, AND THAT'S WHEN THE POLICE

20 WAS OUTSIDE SO THEY WENT TO PUBLIX.

21 Q. JAVARIS AND DEVON WENT TOGETHER?

22 A. UH-HUH.

23 Q. DO YOU REMEMBER WHAT CAR THEY WERE IN?

24 A. I THINK THEY WAS IN HIS SISTER'S CAR.

25 Q. HIS SISTER'S CAR?

1 A. YEAH, DEVON'S SISTER'S CAR. I THINK IT WAS A
2 WHITE CAR. I'M NOT SURE.

3 Q. A WHITE CAR, OKAY. THEY WERE IN A WHITE CAR.
4 WERE YOU FOLLOWING THEM?

5 A. YEAH, I WAS FOLLOWING THEM.

6 Q. SO YOU WERE DRIVING YOUR CAR THEN?

7 A. YES, MA'AM.

8 Q. AND WHAT KIND OF CAR DID YOU HAVE?

9 A. I GOT A GRAY CHEVY CAPRICE.

10 Q. SO YOU FOLLOWED JAVARIS DOWN TO WAL-MART?

11 A. YES.

12 Q. NOW, WHY WERE YOU GOING TO WAL-MART?

13 A. TO HANG OUT.

14 Q. JUST TO HANG OUT?

15 A. YEAH.

16 Q. ONCE YOU GOT TO WAL-MART, WHAT HAPPENED THERE?

17 A. POLICE RAN US OFF AND WE WENT TO PUBLIX.

18 Q. THE POLICE RAN YOU OFF FROM THERE?

19 A. (NODDED HEAD.)

20 Q. SO DO YOU KNOW HOW MANY PEOPLE WERE AT WAL-MART,
21 HOW MANY CARS?

22 A. PROBABLY ABOUT BETWEEN 18 AND 20, SOMEWHERE
23 AROUND THERE.

24 Q. A GOOD NUMBER OF CARS?

25 A. YES, MA'AM.

1 Q. ONCE THE POLICE RAN YOU OFF, WHERE DID YOU THEN
2 GO?

3 A. WE WENT TO THE PUBLIX PARKING LOT THEN.

4 Q. YOU WENT TO THE PUBLIX PARKING LOT?

5 A. YES, MA'AM.

6 Q. DID YOU FOLLOW JAVARIS TO PUBLIX?

7 A. NO. WE DIDN'T FOLLOW THEM TO PUBLIX. JAVARIS
8 WAS ALREADY THERE ONCE WE GOT THERE.

9 Q. JAVARIS WAS ALREADY THERE WHEN YOU GOT THERE?

10 A. THEY WAS ALREADY PARKED WHEN WE PULLED UP.

11 Q. WHEN YOU GOT THERE, HOW MANY CARS WERE THERE?

12 A. ABOUT 15, 20, SOMEWHERE IN THERE.

13 Q. SO WHAT DID YOU DO WHEN YOU GOT THERE?

14 A. I GOT OUT OF THE CAR. I WALKED TOWARDS, I THINK
15 IT WAS JAVARIS, PETE AND -- I THINK, I DON'T KNOW, I
16 THINK HIS BROTHER WAS WITH HIM, TOO. I WAS STARTING TO
17 WALK TOWARDS THEM.

18 Q. THEN WHAT HAPPENED?

19 A. I SEEN LIKE A BROWN CHEVY WITH LIKE A "REAL TALK"
20 ON THE SIDE, IT WENT ACROSS LIKE IN FRONT, AND THEN
21 THAT'S WHEN THE SHOTS WENT OFF.

22 Q. NOW, WHEN YOU SAW THAT BROWN CAR, DO YOU KNOW
23 WHOSE CAR THAT IS?

24 A. LARICKY.

25 Q. LARICKY HARKNESS?

1 A. YES.

2 Q. DO YOU KNOW LARICKY OR DO YOU JUST KNOW OF HIM?

3 A. NO, I JUST KNOW OF HIM.

4 Q. YOU SAW HIS CAR AND THEN YOU HEARD GUNSHOTS?

5 A. YES, MA'AM.

6 Q. NOW, WHAT KIND OF GUNSHOTS COULD YOU HEAR?

7 A. SHOTGUN.

8 Q. THEY CAME FROM A SHOTGUN?

9 A. YES, MA'AM.

10 Q. AND HOW CAN YOU TELL?

11 A. 'CAUSE LIKE I GREW UP ON THE STREETS. I KNOW
12 DIFFERENT SOUNDS.

13 Q. YOU KNOW WHAT A SHOTGUN SOUNDS LIKE?

14 A. YES, MA'AM.

15 Q. WERE THOSE THE FIRST SHOTS YOU HEARD --

16 A. YES, MA'AM.

17 Q. -- WERE SHOTGUN SHOTS?

18 A. YES, MA'AM.

19 Q. AFTER YOU HEARD THE SHOTGUN SHOTS, WHAT DID YOU
20 HEAR? WHAT HAPPENED NEXT?

21 A. I HAD, I HAD GOT SHOT, SO REALLY I WENT IN PANIC
22 MODE.

23 Q. WHERE DID YOU GET SHOT?

24 A. THE TOP OF MY SHOULDER, LIKE THE TOP OF MY BACK.

25 Q. WERE THERE TWO DIFFERENT ENTRANCES?

1 A. TWO DIFFERENT, YES, MA'AM.

2 Q. AND ONCE YOU GOT SHOT, DID THAT KNOCK YOU DOWN?

3 A. I TOOK OFF RUNNING. AND THEN LIKE MY BACK GAVE
4 OUT AND I COLLAPSED, AND O'BRYAN, DWIGHT (PHONETIC) AND
5 BRITTANY ALEXANDER (PHONETIC), THEY PUT ME IN THE CAR
6 AND TOOK ME TO THE HOSPITAL:

7 Q. DID YOU SEE WHO ELSE HAD GOT SHOT?

8 A. I SEEN WHEN JAVARIS FIRST GOT HIT. WELL, HE WAS
9 LIKE FOUR FEET IN FRONT OF ME. WHEN THE FIRST SHOTS
10 WENT OFF, I COULD SEE IT HIT HIM IN THE HEAD, LIKE HIS
11 HAT FLEW OFF, AND THEN I WENT OVER AND THEN HE HAD FELL.

12 Q. I KNOW THIS IS HARD FOR YOU, BUT IF YOU COULD
13 SPEAK UP SO THE JURY CAN HEAR YOU, OKAY? DO YOU NEED
14 SOME WATER OR SOMETHING?

15 MR. POTTER: DR. GRAHAM, CAN YOU GET HIM
16 SOME WATER?

17 MS. HUEY: WE CAN TAKE JUST A SECOND IF
18 WE NEED TO..

19 THE COURT: MR. BURNS, DO YOU WANT TO TAKE A
20 FEW MINUTES?

21 THE WITNESS: YEAH.

22 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN
23 OF THE JURY, MADAM FORELADY, LADIES AND GENTLEMEN OF THE
24 JURY, WE'LL TAKE A SHORT BREAK AND GIVE MR. BURNS A FEW
25 MINUTES. DON'T TALK ABOUT THE CASE AMONGST YOURSELVES.

1 WE'LL GET YOU BACK HOPEFULLY WITHIN A FEW MINUTES. WHY
2 DON'T WE SAY FIVE, FIVE, TEN MINUTES.

3 (THE JURY LEFT THE COURTROOM AT 12:30 P.M.)

4 THE COURT: MR. BURNS, DO YOU HAVE ANYBODY
5 WITH YOU TODAY?

6 THE WITNESS: MY MOTHER.

7 THE COURT: SOMEBODY GO ASK HIS MOTHER TO
8 COME IN, PLEASE.

9 MR. BURNS, STEP DOWN. GO OVER HERE AND SIT
10 IN THE JURY-BOX AND I'LL TALK WITH YOU IN A FEW MINUTES,
11 OKAY? WE'LL TAKE ABOUT A FIVE- OR TEN-MINUTE RECESS.

12 MR. POTTER: YOUR HONOR, MAY I APPROACH REAL
13 QUICK?

14 THE COURT: YES.

15 (DISCUSSION AT SIDEBAR.)

16 (RECESS.)

17 THE COURT: BRING US A JURY, PLEASE.

18 MR. BURNS, WOULD YOU COME BACK AND HAVE A
19 SEAT.

20 BRING THE JURY TO ME, PLEASE.

21 (DISCUSSION OFF THE RECORD.)

22 THE COURT: I'LL BE HAPPY TO GO BACK THERE
23 AND TELL THEM NOT TO TALK DURING LUNCH IF THAT'S OKAY
24 WITH THE STATE.

25 MS. HUEY: YES, SIR, YOUR HONOR.

1
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THE COURT: DEFENDANT?

MR. POTTER: YES, YOUR HONOR.

THE COURT: WE'LL BREAK FOR LUNCH AND
RECONVENE AT 2:15. MR. BURNS, GO TO LUNCH, GET YOURSELF
TOGETHER, TALK WITH YOUR MOM. I'LL SEE YOU AT 2:15.

(A LUNCHEON RECESS OCCURRED.)

1 AFTERNOON PROCEEDINGS

2

3

4

THE COURT: ANYTHING FROM THE STATE BEFORE
WE BRING THE JURY BACK?

5

MS. HUEY: NO, SIR, YOUR HONOR.

6

THE COURT: ANYTHING FROM THE DEFENDANT?

7

MR. POTTER: NO, YOUR HONOR.

8

THE COURT: MR. BURNS, YOU DOING OKAY?

9

THE WITNESS: YES, SIR.

10

THE COURT: PLEASE BRING US A JURY.

11

(WHEREUPON, THE JURY ENTERED THE COURTROOM AT
2:46 P.M.)

12

13

THE COURT: SOLICITOR, YOU MAY CONTINUE,

14

PLEASE.

15

MS. HUEY: THANK YOU, YOUR HONOR.

16

BY MS. HUEY:

17

Q. NOW, MR. BURNS, I WANT TO BACK UP JUST A LITTLE

18

BIT AND TALK ABOUT THE PUBLIX PARKING LOT, OKAY?

19

A. ALL RIGHT.

20

Q. WHEN YOU FIRST GOT TO THE PUBLIX PARKING LOT,

21

WHEN YOU GOT OUT OF YOUR CAR, WHAT'S THE NEXT THING THAT
YOU REMEMBER HAPPENING?

22

23

A. I STARTED WALKING TOWARDS JAVARIS AND PETE AND

24

JEREMI DIAL.

25

Q. OKAY. PETE AND JEREMI DIAL?

1 A. YES, MA'AM.

2 Q. OKAY. YOU WERE WALKING TOWARD THEM?

3 A. YES, MA'AM.

4 Q. ALL RIGHT. AND THEN WHAT THEN HAPPENED AFTER
5 THAT?

6 A. AS I WAS WALKING TOWARDS THEM, I SEEN A BROWN
7 CHEVY LIKE TOWARD THE FRONT OF US -- WELL, BEHIND THEM
8 IN FRONT OF ME. AND AS I WAS WALKING OVER THERE, A
9 GUNSHOT BLAST WENT OFF.

10 Q. NOW, THE GUNSHOT THAT YOU HEARD FIRST?

11 A. YES, MA'AM.

12 Q. WHAT KIND OF SHOTS WERE THOSE?

13 A. THEY SOUNDED LIKE 12-GAUGE BUCKSHOTS.

14 Q. LIKE A SHOTGUN?

15 A. YES, MA'AM.

16 Q. WHEN YOU HEARD THE SHOTGUN'S SHOTS, WHAT HAPPENED
17 THEN?

18 A. I -- FIRST I SEEN LIKE JAVARIS GET HIT, OR
19 WHATEVER, AND THEN HE HAD FELL; AND THEN, LIKE, I HAD
20 GOT HIT AND I TOOK OFF RUNNING. AND THEN I COLLAPSED,
21 AND THAT'S ---

22 Q. LET ME STOP YOU RIGHT THERE. YOU GOT HIT IN --

23 A. I GOT HIT IN THE SHOULDER AND LIKE THE TOP OF MY
24 BACK.

25 Q. OKAY. AND THEN YOU TOOK OFF RUNNING?

1 A. YES, MA'AM.

2 Q. AND THEN WHAT HAPPENED TO YOU?

3 A. THAT'S WHERE I COLLAPSED. AND O'BRYAN, WILLIAM
4 (PHONETIC) AND DWIGHT (PHONETIC) PUT ME IN A CAR. I
5 THINK IT WAS A WHITE CROWN VIC.

6 Q. OKAY. AND WHAT DID THEY DO THEN?

7 A. THEY TOOK ME TO THE HOSPITAL THEN.

8 Q. THEN YOU WENT TO THE HOSPITAL?

9 A. YES, MA'AM.

10 Q. HOW QUICKLY DO YOU THINK THIS ALL HAPPENED?

11 A. PROBABLY NOT EVEN FOUR OR FIVE MINUTES.

12 Q. NOW, ONCE YOU GOT IN THE HOSPITAL, HOW DID THEY
13 TREAT YOU FOR YOUR INJURIES?

14 A. I WAS IN A WHEELCHAIR ABOUT, ALMOST 30 MINUTES,
15 AND THEN THEY FINALLY TOOK ME BACK.

16 Q. OKAY. YOU SAT IN A WHEELCHAIR AT FIRST?

17 A. YES, MA'AM.

18 Q. AND THEN THEY TOOK YOU BACK?

19 A. YES, MA'AM.

20 Q. AND HOW DID THEY TREAT YOU ONCE THEY TOOK YOU
21 BACK?

22 A. THEY TREATED ME PRETTY, PRETTY GOOD, I GUESS.

23 Q. DID YOU NEED STITCHES OR ANYTHING? SURGERY?

24 A. NO. THEY SAID IF THEY HAD TOOK THEM OUT, THERE
25 WAS A CHANCE OF ME EITHER BLEEDING TO DEATH, OR LIKE, IF

1 WAS SO CLOSE TO THE SPINAL CORD, I COULD HAVE BEEN
2 PARALYZED IF THEY ---

3 Q. DID THEY TELL YOU WHAT WAS IN YOUR BACK?

4 A. YEAH. THEY SAID TWO BUCKSHOTS OR WHATEVER.

5 Q. AND SO THEY DECIDED NOT TO DO SURGERY BECAUSE IT
6 WOULD HAVE BEEN MORE DANGEROUS?

7 A. YES, MA'AM.

8 Q. DO YOU STILL HAVE THOSE IN YOUR BACK?

9 A. YES, MA'AM.

10 Q. DO YOU KNOW WHO SAMMY SCOTT IS?

11 A. I DON'T KNOW HIM.

12 Q. DID YOU SEE HIM THAT NIGHT?

13 A. NO, MA'AM.

14 Q. DID YOU SEE A BLACK KIA THAT NIGHT?

15 A. NO, MA'AM.

16 Q. BUT YOU DID SEE LARICKY HARKNESS?

17 A. YES, MA'AM.

18 Q. DID YOU SEE LARICKY HARKNESS WITH A GUN?

19 A. NO, MA'AM.

20 Q. DID YOU SEE ANYONE ELSE WITH A GUN?

21 A. NO, MA'AM.

22 Q. AND TO CLARIFY, WHEN YOU SAW THAT BROWN CAR --

23 A. THE BROWN CAR WAS IN FRONT OF ME.

24 Q. IT WAS IN FRONT OF YOU?

25 A. YES, MA'AM.

1 Q. AND YOU WERE SHOT IN THE BACK?

2 A. YEAH.

3 MS. HUEY: THAT'S ALL I HAVE FOR THIS
4 WITNESS, JUDGE.

5 THE COURT: CROSS-EXAMINATION.

6 MR. POTTER: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION BY MR. POTTER:

8 Q. YOU TESTIFIED THAT YOU SAW THE "REAL TALK" BROWN
9 CHEVY BEFORE YOU HEARD THE SHOTS?

10 A. YES, MA'AM. I MEAN, YES, SIR.

11 Q. AND YOU DID SEE LARICKY DRIVING THAT CAR?

12 A. NO. I REALLY DIDN'T EVEN -- I REALLY DON'T KNOW
13 HIM; LIKE I JUST KNOW IT WAS HIS CAR.

14 Q. YOU WEREN'T PAYING THAT CLOSE ATTENTION IF HE WAS
15 DRIVING THE CAR?

16 A. NO, SIR. CORRECT.

17 Q. OKAY. AND WHEN YOU HEARD THE SHOTS, THAT'S WHEN
18 YOU STARTED RUNNING, CORRECT?

19 A. I HEARD SHOTS BEHIND ME.

20 Q. DID YOU HEAR ANY OTHER SHOTS?

21 A. NO.

22 Q. OKAY. YOU DIDN'T SEE ANYBODY WITH A GUN?

23 A. NO, I DIDN'T.

24 Q. OKAY. YOU DIDN'T SEE ANYBODY SHOOTING?

25 A. NO, SIR.

1 Q. SO YOU DON'T KNOW IF THERE WAS ONE GUN THERE, YOU
2 DON'T KNOW IF THERE WERE TEN GUNS THERE?

3 A. CORRECT.

4 MR. POTTER: NOTHING FURTHER.

5 THE COURT: REDIRECT?

6 MS. HUEY: NO, SIR, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. THANK YOU
8 VERY MUCH.

9 (WHEREUPON, WITNESS WAS EXCUSED.)

10 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

11 MS. HUEY: YES, SIR, THE STATE CALLS SYDNEY
12 CHESTER.

13 (WHEREUPON, WITNESS WAS SWORN BY THE CLERK OF
14 COURT AND HE WAS ASKED TO STATE HIS FULL
15 NAME, SPELLING HIS LAST NAME.)

16 THE WITNESS: SYDNEY CHESTER -- SYDNEY
17 ANTONIO DEMETRIUS CHESTER.

18 WHEREUPON,

19 SYDNEY CHESTER,

20 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
21 FOLLOWS:

22 DIRECT EXAMINATION BY MS. HUEY:

23 Q. MR. CHESTER, HOW OLD ARE YOU?

24 A. NINETEEN.

25 Q. NINETEEN? DO YOU GO TO SCHOOL ANYWHERE?

- 1 A. HUH-UH.
- 2 Q. DO YOU WORK ANYWHERE?
- 3 A. NO, MA'AM.
- 4 Q. DID YOU WORK SOMEWHERE PREVIOUSLY?
- 5 A. NO, MA'AM.
- 6 Q. WHERE DID YOU GO TO HIGH SCHOOL?
- 7 A. B/HP.
- 8 Q. BELTON/HONEA PATH?
- 9 A. (NODDED HEAD.)
- 10 Q. DO YOU KNOW THE VICTIM IN THIS CASE, JAVARIS
- 11 CLINKSCALES?
- 12 A. YES, MA'AM.
- 13 Q. AND HOW DID YOU KNOW HIM?
- 14 A. HE WAS A FRIEND OF MINE FROM SCHOOL.
- 15 Q. A FRIEND FROM SCHOOL?
- 16 A. UH-HUH.
- 17 Q. DID YOU ALL GO TO HIGH SCHOOL TOGETHER?
- 18 A. YES, MA'AM.
- 19 Q. WERE YOU AT CLUB MALLEY WITH EVERYBODY ELSE --
- 20 A. YES, MA'AM.
- 21 Q. -- ON JULY 10TH OF 2006?
- 22 A. YES, MA'AM.
- 23 Q. ONCE Y'ALL LEFT CLUB MALLEY, WHERE DID YOU GO
- 24 THEN?
- 25 A. WENT TO WAL-MART.

- 1 Q. THE WAL-MART?
- 2 A. YES, MA'AM.
- 3 Q. OKAY. WAS IT THE PARKING LOT THERE?
- 4 A. YES, MA'AM.
- 5 Q. OKAY. AND DID YOU ALL STAY THERE VERY LONG?
- 6 A. NO. WE WERE BROKE UP.
- 7 Q. WAS JAVARIS AT THE WAL-MART PARKING LOT?
- 8 A. YEAH. HE WAS BEHIND US, I THINK.
- 9 Q. OKAY. HE WAS BEHIND YOU ALL?
- 10 A. (NODDED HEAD.)
- 11 Q. ONCE YOU ALL LEFT WAL-MART, WHERE DID YOU GO?
- 12 A. WE WENT TO PUBLIX PARKING LOT.
- 13 Q. TO THE PUBLIC PARKING LOT? WHAT HAPPENED ONCE
- 14 YOU GOT TO THE PUBLIX PARKING LOT?
- 15 A. WE GOT OUT.
- 16 Q. AND LET ME ASK YOU: WHO WERE YOU WITH THAT
- 17 NIGHT?
- 18 A. JAMES BURNS, GEORGE BURNS, TORREY ACKER, AND
- 19 DONARDO GRAHAM.
- 20 Q. AND SO ALL OF YOU ALL GOT OUT OF THE CAR AT
- 21 PUBLIX THEN?
- 22 A. YES, MA'AM.
- 23 Q. DO YOU KNOW HOW MANY CARS THERE WERE AT PUBLIX
- 24 THEN?
- 25 A. NO.

1 Q. WERE THERE A GOOD MANY AT THAT TIME?

2 A. THERE WAS A GOOD BIT.

3 Q. A GOOD BIT ENDED UP COMING TO PUBLIX?

4 A. UH-HUH.

5 Q. OKAY. WHEN YOU GOT OUT OF THE CAR, DID YOU MEET
6 UP WITH JAVARIS AT ALL?

7 A. NO. WE WERE WALKING OVER THERE.

8 Q. YOU WERE WALKING OVER TO MEET JAVARIS? OKAY.
9 HOW FAR APART WERE YOU FROM JAVARIS THEN?

10 A. LIKE SIX OR SEVEN FEET FROM HIM.

11 Q. ALL RIGHT. NOW, WHEN YOU WERE WALKING TOWARD
12 HIM, WHAT HAPPENED?

13 A. WE WERE WALKING TOWARD HIM, AND WE SEEN A WHOLE
14 LOT OF CARS COME UP AND START SURROUNDING US. AND THEN
15 I SEEN A BROWN CAR COME AROUND LIKE BEHIND JAVARIS WHERE
16 HE WAS FACING US, AND I SEEN, I SEEN, SEEN SOME SHOOTING
17 COME FROM THE BROWN CAR.

18 Q. YOU SAW SHOOTING COMING FROM THE BROWN CAR?

19 A. (NODDED HEAD.)

20 Q. NOW, THIS BROWN CAR, WHAT DID IT LOOK LIKE?

21 A. IT LOOKED LIKE A CHEVY.

22 Q. DID IT HAVE ANYTHING ON IT?

23 A. IT HAD SOME WRITING ON THE SIDE OF IT.

24 Q. IT HAD SOME WRITING ON IT? DO YOU KNOW WHOSE CAR
25 THAT WAS?

5 A. HUH-UH, NO, MA'AM.

6 Q. YOU DIDN'T KNOW THEN?

7 A. NO.

8 Q. DO YOU KNOW WHOSE CAR THAT WAS NOW?

9 A. YES, MA'AM.

10 Q. SO YOU SEE THE BROWN CAR, AND THERE WAS SHOOTING
11 COMING FROM THE BROWN CAR?

12 A. YES, MA'AM.

13 Q. OKAY. COULD YOU SEE WHO WAS SHOOTING FROM THE
14 BROWN CAR?

15 A. NO, MA'AM.

16 Q. COULD YOU SEE WHAT KIND OF GUN IT WAS?

17 A. NO, MA'AM.

18 Q. COULD YOU HEAR WHAT KIND OF SHOTS WERE COMING
19 FROM THAT CAR?

20 A. UH-HUH, YES, MA'AM.

21 Q. WHAT DID IT SOUND LIKE?

22 A. IT SOUNDED LIKE A SHOTGUN.

23 Q. FROM THE BROWN CAR?

24 A. (NODDED HEAD.)

25 Q. IT SOUNDED LIKE A SHOTGUN?

A. IT WAS LIKE THEY CAME UP, THEY CAME AROUND, AND
JUST A "BOOM." THAT'S ALL I HEARD, AND I STARTED
RUNNING.

Q. LET ME SHOW YOU A STATEMENT YOU GAVE OFFICERS ON

1 JULY 10TH. OKAY. WHY DON'T YOU TAKE A LOOK AT 228
2 STATEMENT AND SEE IF THAT REFRESHES YOUR MEMORY.

3 A. OKAY.

4 Q. OKAY. NOW, TALKING ABOUT THE BROWN CAR, WHAT
5 KIND OF SHOTS DID YOU HEAR COMING FROM THE BROWN CAR?

6 A. IT WAS LIKE -- TO TELL YOU THE TRUTH, IT HAPPENED
7 SO FAST, AT THE LAST MINUTE THE ONLY THING I HEARD FROM
8 THE BROWN CAR WAS LIKE A LITTLE .22 SHOTGUN, I MEAN LIKE
9 A LITTLE .22 PISTOL.

10 Q. OKAY. SO YOU HEARD TWO KINDS OF SHOTS THAT
11 NIGHT, RIGHT?

12 A. UH-HUH.

13 Q. YOU HEARD SOMETHING FROM A SMALL GUN AND YOU ALSO
14 HEARD SOMETHING FROM A SHOTGUN?

15 A. YES, MA'AM.

16 Q. OKAY. IS THAT ACCURATE?

17 A. YES, MA'AM.

18 Q. OKAY. AND IT ALL HAPPENED SO QUICKLY, YOU'RE NOT
19 SURE WHAT HAPPENED FIRST?

20 A. YES, MA'AM.

21 Q. DID YOU GET INJURED THAT NIGHT?

22 A. YES, MA'AM.

23 Q. OKAY. WHAT HAPPENED TO YOU?

24 A. I GOT SHOT. I GOT HIT IN THE ANKLE WITH A
25 PELLET.

1 Q. YOU GOT SHOT IN THE ANKLE WITH A PELLET?

2 A. WITH THE LITTLE -- I DON'T KNOW THE CALIBER OF
3 THE BALLISTIC THAT CAME OUT OF THE SHOTGUN.

4 Q. OKAY. DID YOU GO TO THE HOSPITAL THAT NIGHT?

5 A. YES, MA'AM.

6 Q. OKAY. AND DID THEY TREAT YOU FOR YOUR INJURIES
7 AT THE HOSPITAL?

8 A. YES, MA'AM.

9 Q. AND HOW DID THEY TREAT YOUR GUNSHOT WOUND?

10 A. THEY DIDN'T DO NOTHING BUT PUT A, THEY PUT LIKE A
11 LOT OF BANDAGES AROUND IT AND PUT A CAST ON IT.

12 Q. AND WHY DID THEY DECIDE TO -- DID THEY TAKE IT
13 OUT?

14 A. NO, MA'AM.

15 Q. WHY DID THEY DECIDE TO LEAVE IT IN?

16 A. BECAUSE THEY SAY IF THEY TAKE IT OUT, THEN THEY
17 WOULD HAVE TO BREAK MY ANKLE AND PUT A LITTLE METAL
18 PIECE IN RIGHT THERE, AND I WOULD HAVE TO WALK WITH A
19 LIMP.

20 Q. OKAY. AND YOU DIDN'T WANT TO DO THAT?

21 A. NO.

22 Q. OKAY. AND DID THEY TELL YOU WHAT WAS INSIDE YOUR
23 ANKLE?

24 A. YES, MA'AM.

25 Q. WAS IT A PELLET?

1 A. WELL, THE THING THAT CAME FROM A SHOTGUN.

2 Q. IT CAME FROM A SHOTGUN. OKAY. NOW, AT FIRST,
3 THOUGH, WHEN YOU GOT HIT, YOU DIDN'T KNOW IF A SHOTGUN
4 HIT YOU OR A DIFFERENT KIND OF GUN, RIGHT?

5 A. I DIDN'T KNOW I WAS SHOT AT FIRST.

6 Q. OKAY. YOU DIDN'T KNOW YOU WERE SHOT AT FIRST?

7 A. NO, MA'AM.

8 Q. OKAY. WHEN DID YOU FIGURE THAT OUT?

9 A. WHEN MY COUSIN, GEORGE BURNS, HAD TOLD ME; HE HAD
10 TOLD ME MY SHOE WAS BLEEDING AND IT WAS SMOKING.

11 Q. OKAY. AND SO YOU LOOKED DOWN. AND WHAT DID YOU
12 SEE?

13 A. I SEEN BLOOD COMING FROM MY SHOE.

14 Q. AND THEN DID YOU START FEELING IT?

15 A. HUH-UH. I HAD STUCK MY PINKIE IN A HOLE AND I
16 HAD FELT. AND THEN THE POLICE HAD CAME AND TOLD ME TO
17 WALK OVER TO WHERE THE AMBULANCE WAS. AND I TOLD HIM I
18 COULDN'T WALK. AND HE BRUNG [SIC] THE BED OVER THERE
19 AND I GOT UP ON IT AND THEY TOOK ME TO THE HOSPITAL.

20 Q. NOW, DID YOU HAVE TROUBLE WALKING AFTERWARD?

21 A. A LITTLE BIT. I STILL HAVE PAINS AND STUFF IN MY
22 LEG.

23 Q. AND AGAIN, IT'S STILL IN YOUR ANKLE, RIGHT?

24 A. YES, MA'AM.

25 Q. NOW, DID YOU SEE THE PERSON WITH THE SHOTGUN?

1 A. NO, MA'AM.

2 Q. DO YOU EVEN KNOW WHO SAMMY SCOTT IS?

3 A. NO, MA'AM.

4 MS. HUEY: THAT'S ALL.

5 THE COURT: CROSS-EXAMINATION?

6 MR. POTTER: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION BY MR. POTTER:

8 Q. SYDNEY, YOU HAVE GOT A COPY OF YOUR STATEMENT IN
9 FRONT OF YOU, CORRECT?

10 A. UH-HUH. YES, SIR.

11 Q. I'M SORRY, I'M A LITTLE HARD-OF-HEARING AND I
12 NEED FOR YOU TO SPEAK UP FOR ME IF YOU DON'T MIND.

13 NOW, LOOKING AT THE STATEMENT, I'M GONNA READ
14 WHAT'S WRITTEN FOR YOU, AND THIS WAS WRITTEN BY
15 DETECTIVE MCBRIDE. YOU GAVE A STATEMENT TO DETECTIVE
16 MCBRIDE THE NIGHT OF THE SHOOTING, CORRECT?

17 A. YES, SIR.

18 Q. AND WHEN YOU GAVE THAT STATEMENT TO DETECTIVE
19 MCBRIDE, YOU KNEW THAT IT WAS IMPORTANT TO TELL HIM
20 EVERYTHING THAT YOU KNEW; ISN'T THAT RIGHT?

21 A. YES, SIR.

22 Q. AND YOU KNEW IT WAS IMPORTANT BECAUSE THE
23 OFFICERS WERE INVESTIGATING THE SHOOTING, AND THEY
24 NEEDED TO KNOW ALL THE INFORMATION THAT YOU HAD SO THEY
25 COULD FIGURE OUT HOW TO INVESTIGATE THE CRIME AND TALK

1 TO PEOPLE; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. SO YOU DIDN'T WANT TO HOLD ANYTHING BACK. YOU
4 WANTED TO TELL HIM EVERYTHING, IS THAT RIGHT?

5 A. YES, SIR.

6 Q. YES, SIR. NOW IT IS SEPTEMBER 9TH, 2008, AND
7 THIS HAPPENED JULY 10TH, 2006; IS THAT CORRECT?

8 A. YES, SIR.

9 Q. SO IT'S FAIR TO SAY THAT YOUR MEMORY WAS PROBABLY
10 PRETTY MUCH BETTER ON JULY 10TH OF WHAT HAPPENED THAT
11 DAY THAN IT IS NOW ON SEPTEMBER 9TH, 2008; IS THAT
12 CORRECT?

13 A. YES, SIR.

14 Q. OKAY. NOW, ~~ON YOUR STATEMENT YOU SAID SOME-GUY~~
15 ~~IN A BROWN CAR PULLED UP AND STARTED SHOOTING;~~ IS THAT
16 RIGHT?

17 A. ~~YES,~~ SIR.

18 Q. OKAY. ~~SOME OF THOSE SHOTS HIT JAVARI'S. YOU SAID~~
19 ~~THAT,~~ RIGHT?

20 A. ~~YES,~~ SIR.

21 Q. AND YOU KNEW IT WAS IMPORTANT TO TELL THE
22 OFFICERS EVERYTHING YOU SAW AND EVERYTHING YOU KNEW THAT
23 DAY BECAUSE THEY WERE INVESTIGATING WHAT HAPPENED,
24 CORRECT?

25 A. YES, SIR.

1 Q. "WE STARTED TRYING TO GET BACK INTO JAMES'S CAR."
2 IS THAT CORRECT?

3 A. YES, SIR.

4 Q. OKAY. ~~YOU DON'T MENTION ANYTHING ABOUT A SHOTGUN,~~
5 ~~BLAST OR ANYTHING LIKE THAT,~~ DO YOU? IF YOU NEED TO
6 LOOK, TAKE YOUR TIME.

7 A. NO, SIR.

8 Q. OKAY. AND, LIKE I SAID, WHEN YOU GAVE THE
9 OFFICER THE STATEMENT, IT JUST HAPPENED YOU KNEW IN YOUR
10 MIND WHAT HAD HAPPENED AND YOU GAVE THE OFFICER
11 EVERYTHING YOU KNEW ABOUT THAT INCIDENT AT THAT TIME,
12 CORRECT?

13 A. UH-HUH. YES, SIR.

14 Q. OKAY. YOU WENT ON TO SAY THAT THE BROWN CAR WAS
15 A CHEVY, THAT IT LOOKED LIKE IT WAS BEAT UP, IT HAD A
16 BIG DENT ON THE BACK DRIVER'S SIDE, A BROWN CAR THAT
17 LOOKED LIKE IT HAD SOME WRITING OR A DECAL ON THE SIDE;
18 ISN'T THAT RIGHT?

19 A. YES, SIR.

20 Q. OKAY. WAS THIS A FOUR-DOOR CAR OR WAS IT A
21 TWO-DOOR, DO YOU REMEMBER?

22 A. I DON'T REMEMBER.

23 Q. OKAY. IF IT WAS A FOUR-DOOR CAR, WOULD THAT MAKE
24 THINGS A LITTLE BIT MORE CLEARER REMEMBERING IT?

25 A. (SHOOK HEAD.)

1 Q. OKAY. THAT'S A "NO"?

2 A. YES, SIR.

3 Q. JUST SAY YES OR NO BECAUSE SHE HAS TO TAKE IT
4 DOWN.

5 A. OKAY.

6 Q. NOW, YOU ALSO INDICATED THE BROWN CAR HAD PIPES
7 ON IT. DID IT HAVE A REAL LOUD EXHAUST?

8 A. YES, SIR.

9 Q. KIND OF, YOU KNOW, RUMBLING REALLY LOUD?

10 A. YES, SIR.

11 Q. OKAY. ~~YOU SAID YOU COULD NOT SEE THE SHOOTER,~~
12 ~~BUT HE SHOT OUT THE DRIVER'S SIDE WINDOW AS HE RODE BY.~~
13 ~~AND THIS IS THE BROWN CAR YOU ARE TALKING ABOUT,~~
14 CORRECT?

15 A. UH-HUH. YES, SIR.

16 Q. OKAY. ~~AND THEN YOU WENT ON AND SAID THE CAR~~
17 ~~NEVER STOPPED. IT SOUNDED LIKE ABOUT FOUR SHOTS FROM~~
18 ~~THE CAR,~~ IS THAT CORRECT?

19 A. YES, SIR.

20 Q. ~~SO YOU HEARD FOUR SHOTS?~~

21 A. YES, SIR.

22 Q. ALL RIGHT. ~~AND THEY ALL CAME FROM THAT BROWN~~
23 CAR?

24 A. MAN, ~~I REALLY DON'T KNOW.~~

25 Q. OKAY. ~~BUT THAT'S WHAT YOU WROTE THE NIGHT OF THE~~

1 SHOOTING.

2 A. ~~I KNOW.~~ I KNOW WHAT I WROTE.

3 Q. OKAY. NOW, THE SHOTS SOUNDED LIKE THEY CAME FROM
4 A SMALL CALIBER GUN LIKE A .22; IS THAT RIGHT?

5 A. UH-HUH.

6 Q. OKAY.

7 MR. POTTER: NOTHING FURTHER, YOUR HONOR.

8 NOTHING.

9 THE COURT: REDIRECT?

10 MS. HUEY: YES, SIR.

11 REDIRECT EXAMINATION BY MS. HUEY:

12 Q. NOW, MR. BURNS [SIC], DID YOU SEE JAVARIS GET
13 HIT?

14 A. NO, MA'AM.

15 Q. YOU JUST KNEW THAT HE GOT HIT?

16 A. YEAH. WE SEEN -- I SEEN HIM. IT WAS LIKE WE HAD
17 WALKED TOWARDS HIM. AND THEN WHEN THE SHOTS WENT OFF,
18 YOU COULD SEE HIS HEAD FLY. HE FELL.

19 Q. HE FELL. NOW, WHEN YOU FIRST FOUND OUT YOU WERE
20 SHOT, YOU THOUGHT IT MAY HAVE BEEN A .22 CALIBER PISTOL,
21 RIGHT?

22 A. YES, MA'AM.

23 Q. SO YOU COULD YOU HAVE BEEN WRONG IN WHAT HIT
24 JAVARIS THAT NIGHT?

25 A. NO. WHEN IT HIT HIM, IT HIT HIM HARD.

1 Q. BUT JAVARIS WAS HIT THAT NIGHT?

2 A. YES, MA'AM.

3 Q. OKAY. NOW, IF THE DOCTORS PULLED THE PROJECTILES
4 OUT OF HIS BODY, LIKE THEY COULD HAVE DONE WITH YOU, AND
5 THOSE TURNED OUT TO BE PELLETS LIKE THEY WERE IN YOURS,
6 WOULD THAT BE POSSIBLE?

7 A. YES, MA'AM.

8 Q. SO YOU DON'T KNOW FOR SURE WHAT HE GOT HIT WITH,
9 YOU JUST KNOW HE GOT HIT?

10 A. YES, MA'AM.

11 MS. HUEY: THANK YOU.

12 THE COURT: RECROSS?

13 MR. POTTER: NONE, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN. THANK YOU
15 VERY MUCH.

16 (WHEREUPON, WITNESS WAS EXCUSED.)

17 MS. HUEY: THE STATE CALLS PETE DIAL.

18 (WHEREUPON, PETE DIAL WAS SWORN BY THE CLERK
19 OF COURT, AND HE WAS ASKED TO STATE HIS FULL
20 NAME FOR THE RECORD, SPELLING HIS LAST NAME.)

21 THE WITNESS: ALIMIAS (PHONETIC) DIAL,

22 D-I-A-L.

23 WHEREUPON,

24 PETE DIAL,

25 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS

1 FOLLOWS:

2 DIRECT EXAMINATION BY MS. HUEY:

3 Q. DO YOU GO BY PETE?

4 A. YES, MA'AM.

5 Q. MR. DIAL, HOW OLD ARE YOU?

6 A. TWENTY.

7 Q. TWENTY? AND ARE YOU IN SCHOOL CURRENTLY?

8 A. YES, MA'AM.

9 Q. WHERE DO YOU GO TO SCHOOL?

10 A. CLEMSON COLLEGE.

11 Q. AND WHAT DO YOU DO THERE?

12 A. I PLAY FOOTBALL.

13 Q. YOU PLAY FOOTBALL FOR THEM?

14 A. YES, MA'AM.

15 Q. AND WHAT YEAR ARE YOU THERE?

16 A. SOPHOMORE.

17 Q. DID YOU KNOW JAVARIS CLINKSCALES?

18 A. YES, MA'AM.

19 Q. HOW DID YOU KNOW HIM?

20 A. WE GREW UP TOGETHER AND HE WAS LIKE A BROTHER TO
21 ME.

22 Q. DID YOU ALL GO TO HIGH SCHOOL WITH HIM?

23 A. YES, MA'AM.

24 Q. DO YOU KNOW HIS OLDER BROTHER AS WELL?

25 A. YES, MA'AM.

1 Q. NOW, DRAWING YOUR ATTENTION TO JULY 10TH OF 2006,
2 HAD YOU BEEN TO CLUB MALLEY?

3 A. YES, MA'AM.

4 Q. OKAY. AND AFTER CLUB MALLEY, WHAT DID YOU ALL
5 DO?

6 A. WE LEFT AND WENT TO WAL-MART PARKING LOT, AND THE
7 POLICE WAS THERE AND SO WE LEFT AND WENT TO PUBLIX.

8 Q. OKAY. AND WHO WERE YOU WITH THAT NIGHT?

9 A. DOMINIQUE DACUS AND DAEQUAUNE WOODY.

10 Q. IT WAS THE THREE OF YOU?

11 A. YES, MA'AM.

12 Q. ALL RIGHT. AND WHOSE CAR WERE YOU IN?

13 A. MINE.

14 Q. WHAT KIND OF CAR DO YOU HAVE?

15 A. A GREEN FORD EXPLORER.

16 Q. SO DID Y'ALL LEAVE WAL-MART IN YOUR GREEN FORD
17 EXPLORER AND GO TO THE PUBLIX PARKING LOT?

18 A. YES, MA'AM.

19 Q. OKAY. HAD YOU SEEN JAVARIS THAT NIGHT?

20 A. YES, MA'AM.

21 Q. WHERE DID YOU SEE HIM?

22 A. HE WAS BEHIND ME.

23 Q. OKAY. BEHIND YOU DRIVING?

24 A. YES, MA'AM.

25 Q. ALL RIGHT. AND YOU WERE ALL HEADED TO PUBLIX?

1 A. YES, MA'AM.

2 Q. ONCE YOU GOT TO PUBLIX, WHAT'S THE NEXT THING
3 THAT HAPPENED THERE?

4 A. WE PARKED, AND A COUPLE PEOPLE STARTED GETTING
5 OUT, BUT ME AND DOMINIQUE STAYED IN THE CAR BECAUSE IT
6 WAS DARK AND WE DIDN'T THINK IT WAS SAFE.

7 Q. OKAY. SO Y'ALL STAYED IN THE CAR?

8 A. YES, MA'AM.

9 Q. IN YOUR GREEN FORD EXPLORER?

10 A. YES, MA'AM.

11 Q. COULD YOU SEE OTHER PEOPLE STANDING OUTSIDE OF
12 THEIR CARS?

13 A. A LITTLE BIT.

14 Q. OKAY. DID YOU SEE JAVARIS?

15 A. NO, MA'AM.

16 Q. HOW LONG DO YOU THINK YOU WERE THERE?

17 A. ABOUT FIVE MINUTES.

18 Q. OKAY. AND THEN WHAT HAPPENED?

19 A. I HEARD A BIG GUNSHOT GO OFF.

20 Q. OKAY. AND WHEN YOU SAY "A BIG GUNSHOT", WHAT DID
21 IT SOUND LIKE?

22 A. A SHOTGUN.

23 Q. ARE YOU FAMILIAR WITH WHAT A SHOTGUN SOUNDS LIKE?

24 A. YES, MA'AM.

25 Q. OKAY. AND HOW SO?

1 A. I GOT A COUPLE FRIENDS WITH SHOTGUNS.

2 Q. OKAY. SO IT SOUNDED LIKE A SHOTGUN TO YOU?

3 A. YES, MA'AM.

4 Q. HAD YOU HEARD SHOTS PRIOR TO THAT?

5 A. YES, MA'AM.

6 Q. Y'ALL HAD ALSO HEARD OTHER SHOTS?

7 A. YES, MA'AM.

8 Q. OKAY. WHAT OTHER SHOTS DID YOU HEAR?

9 A. HANDGUN SHOTS.

10 Q. OKAY. YOU HEARD THAT BEFORE THE SHOTGUN?

11 A. THE SHOTGUN WAS FIRST.

12 Q. THE SHOTGUN WAS FIRST?

13 A. YES, MA'AM.

14 Q. ALL RIGHT. AND THEN YOU HEARD OTHER SHOTS?

15 A. YES, MA'AM.

16 Q. NOW, COULD YOU TELL WHO HAD THE SHOTGUN?

17 A. NO, MA'AM.

18 Q. COULD YOU TELL WHERE THE SHOTGUN SHOTS WERE
19 COMING FROM?

20 A. IT WAS COMING FROM BEHIND US.

21 Q. FROM BEHIND YOU?

22 A. YES, MA'AM.

23 Q. OKAY. NOW, WHO WERE YOU NEAR THEN? OTHER THAN
24 BEING IN THE CAR, WHO WAS AROUND YOU?

25 A. MY BROTHER.

1 Q. OKAY. WAS HE PARKED NEXT TO YOU?

2 A. YES, MA'AM.

3 Q. AND WHAT KIND OF CAR DOES HE HAVE?

4 A. A WHITE FORD EXPLORER.

5 Q. SO YOUR BROTHER WAS PARKED NEXT TO YOU?

6 A. YES, MA'AM.

7 Q. WAS HE OUT OF THE CAR OR WAS HE SITTING IN HIS
8 CAR?

9 A. HE WAS IN HIS CAR.

10 Q. HE WAS SITTING IN HIS CAR, TOO. OKAY. AND SO
11 Y'ALL WERE JUST PARKED THERE?

12 A. YES, MA'AM.

13 Q. DID YOU HEAR THE SHOTGUN SHOTS FIRST?

14 A. YES, MA'AM.

15 Q. ALL RIGHT. AND THEN YOU HEAR THE SMALLER PISTOL
16 LATER?

17 A. YES, MA'AM.

18 Q. DID YOU SEE THE PERSON WITH THE SMALLER PISTOL?

19 A. NO, MA'AM. I JUST SAW LIGHTS IN FRONT OF US.

20 Q. YOU SAW LIGHTS IN FRONT OF YOU?

21 A. YES, MA'AM.

22 Q. OKAY. AND DID YOU NOTICE ANY KIND OF CARS OR
23 ANYTHING THAT STOOD OUT TO YOU?

24 A. A DELTA '88, I THINK IS WHAT IT WAS OR SOMETHING
25 LIKE THAT.

1 Q. DO YOU KNOW WHOSE CAR THAT WAS?

2 A. LARICKY.

3 Q. LARICKY HARKNESS?

4 A. YES, MA'AM.

5 Q. NOW, DID YOU SEE LARICKY WITH A WEAPON?

6 A. NO, MA'AM.

7 Q. OKAY. THE LIGHTS THAT YOU SAW FLASHING, DID THEY
8 COME FROM THE DIRECTION OF LARICKY HARKNESS?

9 A. YES, MA'AM.

10 Q. WERE YOU WITH ANYONE WHO GOT SHOT THEN?

11 A. MY COUSIN.

12 Q. OKAY. WHO WAS YOUR COUSIN?

13 A. SHANQUIL MARTIN.

14 Q. DID YOU KNOW THAT JAVARIS HAD BEEN HIT?

15 A. NO, MA'AM.

16 Q. DID YOU KNOW THAT JAMES BURNS OR SYDNEY CHESTER
17 HAD BEEN HIT?

18 A. NO, MA'AM. I KNOW THAT JAMES GOT SHOT.

19 Q. YOU KNEW IT THAT NIGHT?

20 A. YES, MA'AM.

21 Q. OKAY. WHAT DID YOU DO AS A RESULT OF THESE
22 PEOPLE GETTING SHOT?

23 A. I WAS REALLY MAD, REALLY, BECAUSE WE HAD GOT
24 PULLED OVER AND WE COULDN'T REALLY GO NOWHERE.

25 Q. OKAY. WHAT DO YOU MEAN? PULLED OVER WHERE?

- 1 A. IT'S THE STORE BESIDE WALGREEN'S.
- 2 Q. OKAY. WAS THIS AFTER THE SHOOTING, THOUGH?
- 3 A. YES, MA'AM.
- 4 Q. OKAY. YOU ALL GOT PULLED OVER BY THE POLICE?
- 5 A. YES, MA'AM.
- 6 Q. OKAY. AND WERE YOU ON THE WAY -- WHERE WERE YOU
- 7 GOING?
- 8 A. TO THE HOSPITAL.
- 9 Q. OKAY. WAS SHANQUIL IN YOUR CAR?
- 10 A. YES, MA'AM.
- 11 Q. OKAY. YOU WERE TAKING SHANQUIL TO THE HOSPITAL
- 12 WHEN THEY PULLED YOU OVER?
- 13 A. YES, MA'AM.
- 14 Q. OKAY. NOW, ONCE THEY PULLED YOU OVER, DID THEY
- 15 CALL AN AMBULANCE FOR HIM TO COME?
- 16 A. YES, MA'AM.
- 17 Q. AND DID YOU HAVE TO GIVE A STATEMENT TO THE
- 18 POLICE?
- 19 A. YES, MA'AM.
- 20 Q. ALL RIGHT. AND YOU GAVE ONE THAT NIGHT?
- 21 A. YES, MA'AM.
- 22 Q. ALL RIGHT. NOW, DO YOU KNOW WHO SAMMY SCOTT IS?
- 23 A. NO, MA'AM.
- 24 Q. OKAY. DID YOU EVER SEE ANYONE GET SHOT?
- 25 A. NO, MA'AM.

1 Q. BUT YOU HEARD SHOTGUN SHOTS FIRST?

2 A. YES, MA'AM.

3 MS. HUEY: THAT'S ALL I HAVE FOR THIS
4 WITNESS, JUDGE.

5 THE COURT: CROSS-EXAMINATION?

6 MR. POTTER: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION BY MR. POTTER:

8 Q. YOU GO BY "PETE," CORRECT?

9 A. YES, SIR.

10 Q. NOW, YOU ~~GAVE A STATEMENT TO THE POLICE THE NIGHT~~
11 ~~OF THE SHOOTING~~; IS THAT RIGHT?

12 A. YES, SIR.

13 Q. OKAY. ~~AND IN THAT STATEMENT YOU INDICATED YOU~~
14 ~~HEARD FIVE OR TEN SHOTS~~; IS THAT RIGHT?

15 A. ~~YES~~, SIR.

16 Q. ~~AND THAT WAS AROUND THE SAME TIME YOU HEARD THE~~
17 ~~SHOTGUN?~~

18 A. ~~YES~~, SIR.

19 MR. POTTER: NOTHING FURTHER.

20 THE COURT: REDIRECT?

21 MS. HUEY: NO, SIR, YOUR HONOR.

22 THE COURT: MR. DIAL, YOU MAY STEP DOWN.
23 THANK YOU VERY MUCH.

24 (WITNESS LEFT THE STAND.)

25 MS. HUEY: MAY HE BE EXCUSED, YOUR HONOR?

1 THE COURT: ANY OBJECTION?

2 MR. POTTER: NO, YOUR HONOR.

3 THE COURT: MR. DIAL, YOU MAY BE EXCUSED.

4 THANK YOU VERY MUCH.

5 (WHEREUPON, WITNESS WAS EXCUSED.)

6 MS. HUEY: YOUR HONOR, THE STATE CALLS

7 JEREMI DIAL.

8 (WHEREUPON, JEREMI DIAL WAS SWORN BY THE

9 CLERK OF COURT.)

10 THE CLERK: WOULD YOU PLEASE GIVE US YOUR
11 NAME FOR THE RECORD.

12 THE WITNESS: JEREMIAS JERICUS (PHONETIC)
13 DIAL, D-I-A-L.

14 DIRECT EXAMINATION BY MS. HUEY:

15 Q. MR. DIAL, HOW OLD ARE YOU?

16 A. NINETEEN.

17 Q. OKAY. DO YOU GO TO SCHOOL SOMEWHERE?

18 A. YES, MA'AM.

19 Q. WHERE DO YOU GO TO SCHOOL?

20 A. I GO TO TUSCAN COLLEGE IN TENNESSEE.

21 Q. AND IS THAT WHERE YOUR BROTHER GOES, TOO?

22 A. YES, MA'AM.

23 Q. ALL RIGHT. WHAT YEAR ARE YOU THERE?

24 A. I'M A SOPHOMORE.

25 Q. DO YOU PLAY SPORTS THERE OR ANYTHING?

1 A. BASKETBALL.

2 Q. YOU PLAY BASKETBALL? DID YOU KNOW JAVARIS
3 CLINKSCALES?

4 A. YES, MA'AM.

5 Q. HOW DID YOU KNOW HIM?

6 A. HE WAS MY BEST FRIEND.

7 Q. HE WAS YOUR BEST FRIEND?

8 A. YES, MA'AM.

9 Q. DID Y'ALL PLAY FOOTBALL TOGETHER?

10 A. YES, MA'AM, WE PLAYED FOOTBALL AND BASKETBALL.

11 Q. NOW, WERE YOU ALL IN THE SAME CLASS?

12 A. NO, MA'AM. HE WAS A YEAR YOUNGER THAN ME.

13 Q. HE WAS A YEAR YOUNGER. NOW, ON JULY 10TH OF
14 2006, YOU DIDN'T -- DID YOU GO TO CLUB MALLEY WITH
15 EVERYBODY ELSE?

16 A. NO, MA'AM.

17 Q. OKAY. WHO WERE YOU WITH THAT NIGHT?

18 A. I WAS WITH MY COUSIN, SHANQUIL MARTIN.

19 Q. JUST THE TWO OF Y'ALL?

20 A. YES, MA'AM.

21 Q. ALL RIGHT. AND WHY DIDN'T Y'ALL GO TO CLUB
22 MALLEY?

23 A. I DIDN'T WANT TO GO AND HE HAD TO WORK.

24 Q. ALL RIGHT. AND SO DID YOU EVENTUALLY MEET UP
25 WITH OTHER PEOPLE, THOUGH?

1 A. YES, MA'AM.

2 Q. ALL RIGHT. AND WHERE DID THAT HAPPEN?

3 A. WE -- I PICKED HIM UP FROM WORK AND WE WENT UP
4 THERE TO THE PARKING LOT. WE SAT IN THE PARKING LOT AND
5 WAITED FOR THEM TO COME OUT.

6 Q. OF CLUB MALLEY?

7 A. YES, MA'AM.

8 Q. OKAY. AND SO DID THEY COME OUT OF CLUB MALLEY
9 FINALLY?

10 A. YES, MA'AM.

11 Q. OKAY. AND THEN WHAT DID YOU DO?

12 A. THEN WE WENT TO WAL-MART PARKING LOT, AND THEY
13 WOULDN'T LET US STAY THERE SO WE WENT TO PUBLIX.

14 Q. NOW, HAD YOU SEEN JAVARIS THAT NIGHT?

15 A. YES, MA'AM.

16 Q. WHERE DID YOU MEET HIM?

17 A. I SAW HIM WHEN HE WAS COMING OUT OF THE CLUB.

18 Q. OUT OF CLUB MALLEY?

19 A. YES, MA'AM.

20 Q. OKAY. AND HAD EVERYONE DECIDED TO GO TO WAL-MART
21 THEN?

22 A. YES, MA'AM.

23 Q. OKAY. AND SO YOU ALL WENT TO WAL-MART, AND Y'ALL
24 DIDN'T STAY VERY LONG, RIGHT?

25 A. YES, MA'AM.

1 Q. AND THEN EVERYBODY DECIDED TO GO TO PUBLIX?

2 A. YES, MA'AM.

3 Q. OKAY. AND DID YOU SEE JAVARIS GOING TO PUBLIX AS
4 WELL?

5 A. YES, MA'AM.

6 Q. ONCE YOU GOT TO PUBLIX, DO YOU REMEMBER WHAT YOU
7 DID, WHERE YOU PARKED?

8 A. I PARKED LIKE -- MY BROTHER WAS ON THE LEFT, I
9 WAS IN THE MIDDLE, AND JAVARIS WAS PARKED BESIDE MY CAR.

10 Q. OKAY. SO YOUR BROTHER'S GREEN EXPLORER --

11 A. YES, MA'AM.

12 Q. -- AND THEN YOUR WHITE EXPLORER?

13 A. YES, MA'AM.

14 Q. OKAY. AND THEN JAVARIS'S CAR WAS ON THE OTHER
15 SIDE OF YOU?

16 A. (NODDED HEAD.)

17 Q. AND WHAT KIND OF CAR WAS JAVARIS DRIVING?

18 A. A MITSUBISHI GALANT.

19 Q. DID YOU GET OUT OF YOUR CAR?

20 A. NO, MA'AM.

21 Q. DID YOU SEE JAVARIS GET OUT OF HIS?

22 A. YES, MA'AM. HE WAS SITTING ON THE HOOD AT FIRST
23 AND THEN HE WALKED LIKE TO THE BACK BY MY CAR.

24 Q. HE WAS SITTING ON THE HOOD OF?

25 A. OF HIS CAR.

1 Q. OF HIS CAR.

2 NOW, WERE YOUR CARS -- WERE ALL OF YOU ALL PARKED
3 IN THE SAME DIRECTION?

4 A. YES, MA'AM.

5 Q. SO YOU COULD SEE HIM SITTING ON THE HOOD OF HIS
6 CAR?

7 A. YES, MA'AM.

8 Q. AND THEN WHAT'S THE NEXT THING YOU REMEMBER?

9 A. AFTER HE WALKED TO THE BACK, THEN I HEARD A SHOT
10 AND I TURNED AROUND AND LOOKED, AND I HEARD ANOTHER
11 SHOT, AND MY CAR ROCKED, AND THAT'S WHEN I DUCKED DOWN.

12 Q. AND DID YOU SEE JAVARIS FALL?

13 A. NO, MA'AM.

14 Q. WHAT KIND OF SHOTS WERE THESE THAT YOU HEARD?

15 A. IT SOUNDED LIKE A SHOTGUN, SOMETHING LOUDER THAN
16 A HANDGUN.

17 Q. OKAY. HAD YOU HEARD OTHER SHOTS PRIOR TO HEARING
18 THE SHOTGUN?

19 A. NO, MA'AM.

20 Q. WHEN YOUR CAR ROCKED, WHAT DID YOU DO AFTER THAT?

21 A. I JUST LAID DOWN IN THE SEAT.

22 Q. OKAY. DID YOU HEAR SOME OTHER SHOTS AFTER THAT?

23 A. YES, MA'AM.

24 Q. OKAY. WHAT KIND OF SHOTS DID YOU HEAR THEN?

25 A. THEY SOUNDED LIKE A HANDGUN THEN. IT WASN'T AS

1 LOUD AS THE SHOTGUN SHOTS.

2 Q. COULD YOU TELL WHERE THOSE SHOTS WERE COMING
3 FROM?

4 A. NO, MA'AM.

5 Q. COULD YOU TELL WHERE THE SHOTGUN SHOTS WERE
6 COMING FROM?

7 A. I THOUGHT IT WAS FROM THE BACK.

8 Q. FROM BEHIND YOU?

9 A. YES, MA'AM. BECAUSE I DIDN'T SEE NOTHING IN THE
10 FRONT.

11 Q. IF YOU WERE IN THE PUBLIX PARKING LOT, COULD YOU
12 TELL WHERE THE SHOTS WERE COMING FROM BEHIND YOU, FROM A
13 SPECIFIC ROAD OR ANYTHING?

14 A. I THINK IT'S SALEM CHURCH ROAD.

15 Q. ALL RIGHT. IS THAT THE ROAD THAT RUNS NEXT TO
16 THE PUBLIX --

17 A. YES, MA'AM.

18 Q. -- ON CLEMSON BOULEVARD?

19 A. YES, MA'AM.

20 Q. OKAY. SO YOU HEARD THE SHOTS FROM THAT
21 DIRECTION?

22 A. YES, MA'AM.

23 Q. WHICH WAS FROM A SHOTGUN?

24 A. (NODDED HEAD.)

25 Q. OKAY. COULD YOU TELL WHERE THE SHOTS WERE COMING

1 FROM FROM THE SMALLER HANDGUN?

2 A. I COULDN'T TELL WHERE THOSE WERE COMING FROM,
3 BUT ---

4 Q. DID YOU EVER SEE ANYONE WITH A HANDGUN --

5 A. NO, MA'AM.

6 Q. -- A PISTOL?

7 A. NO, MA'AM.

8 Q. DID YOU EVER SEE ANYONE WITH A SHOTGUN?

9 A. NO, MA'AM.

10 Q. NOW, DID YOU SEE A BROWN CAR WITH DELTA '88 ON
11 IT?

12 A. YES, MA'AM..

13 Q. OKAY. DO YOU KNOW WHERE THAT WAS PARKED?

14 A. IT WAS, IT WAS LIKE UP IN FRONT OF ME. IT WASN'T
15 LIKE RIGHT IN FRONT OF ME, BUT IT WAS UP A LITTLE
16 FARTHER IN FRONT OF ME.

17 Q. YOU COULD SEE IT IN FRONT OF YOU?

18 A. YES, MA'AM.

19 Q. OKAY. AND DO YOU KNOW WHO DRIVES THAT CAR?

20 A. I THINK HIS NAME'S LARICKY. THEY CALL HIM BOOTS
21 OR SOMETHING LIKE THAT.

22 Q. OKAY. LARICKY HARKNESS?

23 A. (NODDED HEAD.)

24 Q. DID YOU SEE ANY -- AND YOU DIDN'T SEE LARICKY
25 HARKNESS WITH A GUN THAT NIGHT?

1 A. NO, MA'AM.

2 Q. BUT YOU WERE SEATED INSIDE YOUR CAR?

3 A. YES, MA'AM.

4 Q. DID ANYONE YOU WERE WITH GET HIT?

5 A. MY COUSIN, SHANQUIL MARTIN.

6 Q. NOW, HAD SHANQUIL GOTTEN OUT OF THE CAR?

7 A. YES, MA'AM. HE GOT OUT AND HE WAS TALKING TO
8 JAVARIS; AND WHEN THEY STARTED SHOOTING, HE RAN AROUND
9 THE FRONT OF MY CAR, AND LIKE HE GOT IN, THAT'S WHEN HE
10 GOT IN THE CAR WITH MY BROTHER.

11 Q. OKAY. SO YOU DIDN'T KNOW THAT SHANQUIL GOT HIT
12 AT ALL?

13 A. YES, MA'AM. I DIDN'T KNOW AT THE TIME UNTIL MY
14 BROTHER TOLD ME.

15 Q. OKAY. SO WHAT DID YOU DO AFTER ALL THESE
16 GUNSHOTS?

17 A. I WAS LEAVING AND I HEARD DAEQUAUNE SAY THAT
18 JAVARIS HAD GOT HIT, SO THEN I TURNED AROUND. AND
19 DAEQUAUNE HAD PICKED JAVARIS UP AND PUT HIM IN THE CAR,
20 AND THEN WE WENT TO THE HOSPITAL.

21 Q. WHO WAS WITH YOU WHEN YOU WENT TO THE HOSPITAL?

22 A. ME, RASHAAD SANDERS, AND LARRY BROWN.

23 Q. SO THE THREE OF YOU?

24 A. YES, MA'AM.

25 MS. HUEY: THAT'S ALL I HAVE FOR THIS

1 WITNESS, JUDGE.

2 THE COURT: CROSS-EXAMINATION?

3 MR. POTTER: THANK YOU, YOUR HONOR.

4 CROSS-EXAMINATION BY MR. POTTER:

5 Q. NOW, JEREMI, ~~YOU GAVE A STATEMENT TO THE POLICE~~
6 ~~THE NIGHT OF THE SHOOTING~~, IS THAT CORRECT?

7 A. YES, SIR.

8 Q. OKAY. AND HAVE YOU HAD A CHANCE TO REVIEW THAT
9 STATEMENT --

10 A. YES, SIR.

11 Q. -- BEFORE YOU TESTIFIED TODAY?

12 A. NO, SIR, NOT TODAY.

13 Q. OKAY. BUT YOU HAD A CHANCE TO REVIEW THAT WHEN
14 YOU GAVE A STATEMENT, AND IT WAS ACTUALLY TO DETECTIVE
15 REEVES?

16 A. YES, SIR.

17 Q. BUT YOU HAVEN'T HAD A CHANCE TO REVIEW IT BEFORE
18 YOU TESTIFIED TODAY?

19 A. NO, SIR.

20 Q. OKAY. ~~DO YOU RECALL TELLING DETECTIVE REEVES~~
21 THAT (READING):

22 ~~BEFORE I EVEN GOT A CHANCE TO OPEN MY DOOR, I~~
23 ~~HEARD FIVE TO SIX SHOTS IN A ROW FROM BEHIND ME?~~

24 A. YES, SIR.

25 Q. DO YOU RECALL SAYING THAT?

1 A. YES, SIR.

2 Q. OKAY. YOU DON'T MENTION -- STRIKE THAT.

3 WHEN YOU GAVE THE STATEMENT TO DETECTIVE REEVES,
4 YOU KNEW IT WAS IMPORTANT TO TELL HIM EVERYTHING, DIDN'T
5 YOU?

6 A. YES, SIR.

7 Q. OKAY. BECAUSE HE WAS INVESTIGATING WHAT HAPPENED
8 TO JAVARIS, WHO WAS YOUR BROTHER, OR HE WAS LIKE A
9 BROTHER, RIGHT? AND YOU KNEW YOU NEEDED TO TELL
10 EVERYTHING, IN AS MUCH DETAIL AS POSSIBLE, WHEN YOU GAVE
11 HIM THAT STATEMENT; IS THAT CORRECT?

12 A. YES, SIR.

13 Q. OKAY. AND YOUR STATEMENT IS SAYING YOU HEARD
14 FIVE OR SIX SHOTS COMING FROM BEHIND YOU; ISN'T THAT
15 CORRECT?

16 A. YES, SIR.

17 Q. ~~YOU DIDN'T SAY SHOTGUN SHOTS,~~ DID YOU?

18 A. ~~NO~~, SIR.

19 Q. ~~YOU DIDN'T SAY ANYTHING ABOUT HANDGUN SHOTS,~~ DID
20 YOU?

21 A. ~~NO~~, SIR.

22 Q. IT WAS IMPORTANT TO TELL DETECTIVE REEVES
23 EVERYTHING THAT YOU KNEW BECAUSE OF THAT INVESTIGATION,
24 WASN'T IT?

25 A. YES, SIR.

1 Q. AND IT IS SEPTEMBER 9TH, 2008, SO IT'S BEEN A
2 WHILE SINCE THIS HAPPENED, ISN'T IT?

3 A. YES, SIR.

4 Q. OKAY. AND YOUR MEMORY WAS PROBABLY A LITTLE BIT
5 BETTER THE NIGHT OF THE SHOOTING THAN IT IS TODAY, ISN'T
6 THAT TRUE?

7 A. YES, SIR.

8 MR. POTTER: NOTHING FURTHER. THANK YOU.

9 THE COURT: ANY REDIRECT?

10 REDIRECT EXAMINATION BY MS. HUEY:

11 Q. DO YOU REMEMBER WHERE YOU GAVE A STATEMENT TO THE
12 POLICE?

13 A. I WAS AT -- IT WAS ACROSS THE ROAD FROM CVS, AT
14 THAT LITTLE PLACE RIGHT THERE.

15 Q. OKAY. SO WERE YOU ON THE WAY TO THE HOSPITAL?

16 A. NO, MA'AM. WE HAD ALREADY LEFT THE HOSPITAL AND
17 CAME BACK.

18 Q. OKAY. AND THEN YOU GAVE A STATEMENT. WAS IT
19 THAT NIGHT THEN?

20 A. YES, MA'AM.

21 Q. AND REGARDLESS, THAT NIGHT YOU GAVE A STATEMENT
22 AND YOU SAID THE SHOTS CAME FROM THE DIRECTION OF SALEM
23 CHURCH ROAD, THE SHOTS YOU HEARD?

24 A. YES, MA'AM.

25 MS. HUEY: THANK YOU.

1 THE COURT: RECROSS?

2 MR. POTTER: NO, YOUR HONOR.

3 THE COURT: YOU MAY STEP DOWN. THANK YOU
4 VERY MUCH.

5 (WHEREUPON, WITNESS WAS EXCUSED.)

6 MS. HUEY: THE STATE CALLS SHANQUIL MARTIN.

7 (WHEREUPON, SHANQUIL MARTIN WAS SWORN BY THE
8 CLERK OF COURT, AND HE WAS ASKED TO STATE HIS
9 FULL NAME FOR THE RECORD, SPELLING HIS LAST
10 NAME.)

11 THE WITNESS: SHANQUIL MARTIN, M-A-R-T-I-N.

12 WHEREUPON,

13 SHANQUIL MARTIN,

14 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION BY MS. HUEY:

17 Q. HOW OLD ARE YOU?

18 A. EIGHTEEN.

19 Q. DO YOU GO TO SCHOOL SOMEWHERE?

20 A. NO, MA'AM, NOT YET. I'LL START IN JANUARY.

21 Q. WHERE ARE YOU GOING TO SCHOOL?

22 A. I DON'T KNOW YET.

23 Q. BUT YOU'RE GONNA GO?

24 A. YES, MA'AM.

25 Q. DID YOU KNOW JAVARIS CLINKSCALES?

1 A. YES, MA'AM.

2 Q. HOW DO YOU KNOW HIM?

3 A. HE WAS MY FRIEND FOR LIKE A LONG TIME.

4 Q. HE WAS? HOW LONG HAD YOU KNOWN HIM?

5 A. LIKE KINDERGARTEN, LIKE FIRST GRADE OR SOMETHING.

6 A LONG TIME.

7 Q. THAT'S A LONG TIME. ON JULY 10TH, 2006, YOU
8 DIDN'T GO TO CLUB MALLEY LIKE EVERYONE ELSE?

9 A. NO, MA'AM.

10 Q. YOU WERE WITH JEREMI DIAL?

11 A. YES, MA'AM.

12 Q. OKAY. AND YOU ACTUALLY WERE WORKING THAT NIGHT?

13 A. YES, MA'AM.

14 Q. OKAY. WHERE WERE YOU WORKING?

15 A. AT K.F.C. IN BELTON.

16 Q. WHAT TIME DID YOU GET OFF WORK THAT NIGHT?

17 A. LIKE 11:00, MAYBE.

18 Q. AND THEN DID JEREMI COME PICK YOU UP?

19 A. YES, MA'AM.

20 Q. WHAT DID Y'ALL DO ONCE HE PICKED YOU UP?

21 A. WE WENT TO HIS HOUSE.

22 Q. YOU WENT TO HIS HOUSE?

23 A. YES, MA'AM.

24 Q. AND THEN WHAT DID YOU ALL DO?

25 A. WE LEFT AND WENT TO GET SOMETHING TO EAT FROM

1 TACO BELL.

2 Q. AND AFTER YOU GOT SOMETHING TO EAT FROM TACO
3 BELL, WHAT DID YOU DO?

4 A. WENT TO MEET PETE AT CLUB MALLEY.

5 Q. I'M SORRY?

6 A. WENT TO MEET PETE AT CLUB MALLEY.

7 Q. PETE DIAL, OKAY.

8 A. YES, MA'AM.

9 Q. OKAY. AND DID YOU MEET UP WITH PETE THEN AT CLUB
10 MALLEY?

11 A. YES, MA'AM.

12 Q. ONCE Y'ALL MET AT CLUB MALLEY, WHERE DID EVERYONE
13 DECIDE TO GO?

14 A. WAL-MART.

15 Q. YOU WENT TO WAL-MART?

16 A. YES, MA'AM.

17 Q. Y'ALL DIDN'T STAY AT WAL-MART LONG, DID YOU?

18 A. NO, MA'AM.

19 Q. ONCE YOU LEFT WAL-MART, WHERE DID YOU GO?

20 A. WENT TO PUBLIX.

21 Q. HAD YOU SEEN JAVARIS THAT NIGHT?

22 A. YES, MA'AM.

23 Q. WHERE DID YOU SEE HIM?

24 A. OUTSIDE.

25 Q. WHERE ARE YOU TALKING ABOUT?

- 1 A. AT PUBLIX.
- 2 Q. HAD YOU SEEN HIM BEFORE PUBLIX?
- 3 A. YES, MA'AM.
- 4 Q. WHERE HAD YOU SEEN HIM?
- 5 A. IN THE CLUB MALLEY PARKING LOT.
- 6 Q. NOW, ONCE YOU ALL GOT TO THE PUBLIX PARKING LOT,
- 7 JEREMI WAS DRIVING YOU?
- 8 A. YES, MA'AM.
- 9 Q. YOU ALL PARKED YOUR CAR, JEREMI PARKED THE CAR?
- 10 A. YES, MA'AM.
- 11 Q. DID YOU GET OUT OF THE CAR?
- 12 A. YES, MA'AM.
- 13 Q. DID YOU GET OUT OF THE CAR RIGHT AWAY?
- 14 A. YES, MA'AM.
- 15 Q. WHAT'S THE NEXT THING YOU REMEMBER AFTER YOU GOT
- 16 OUT OF THE CAR?
- 17 A. I SEEN THE CAR DOOR OF THE BROWN DOOR, I SEEN IT
- 18 WITH A LITTLE LIKE AN UP HERE THING.
- 19 Q. WHAT NOW? SAY IT AGAIN?
- 20 A. I SEEN THE BROWN CAR.
- 21 Q. A BROWN CAR, OKAY. AND WHAT DID IT LOOK LIKE?
- 22 A. JUST LIKE...
- 23 Q. DID IT HAVE SOME WRITING ON IT?
- 24 A. YEAH. IT HAD DELTA '88 ON IT.
- 25 Q. IT HAD DELTA '88 ON IT. DO YOU KNOW WHOSE CAR

1 THAT WAS?

2 A. NO, MA'AM. NOT AT THE TIME.

3 Q. DO YOU KNOW WHOSE IT IS NOW?

4 A. I DO NOW.

5 Q. WHOSE WAS IT?

6 A. IT WAS LARICKY'S RIDE.

7 Q. SO YOU SAW THAT BROWN CAR?

8 A. YES, MA'AM.

9 Q. OKAY. AND THEN WHAT'S THE NEXT THING THAT
10 HAPPENED?

11 A. I SAW IT GO LIKE -- I JUST SAW IT PULL AWAY.
12 WHEN I SAW IT PULL AWAY, I HEARD THE SHOTS.

13 Q. NOW, COULD YOU TELL WHERE THE SHOTS WERE COMING
14 FROM?

15 A. FROM BEHIND ME, LIKE OVER BY THE ROAD LIKE OVER
16 THIS WAY (POINTING).

17 Q. OKAY. WHEN YOU SAY THE ROAD, PUBLIX PARKING
18 LOT --

19 A. PUBLIX PARKING LOT.

20 Q. -- ARE YOU TALKING ABOUT THE ROAD THAT RUNS NEXT
21 TO THE PUBLIX PARKING LOT?

22 A. YES, MA'AM.

23 Q. OFF CLEMSON BOULEVARD?

24 A. YES, MA'AM, I THINK THAT'S IT.

25 Q. OKAY. SO YOU HEARD THE SHOTS COMING FROM THAT

1 DIRECTION?

2 A. YES, MA'AM.

3 Q. AND WHAT KIND OF SHOTS DID YOU HEAR?

4 A. LIKE A LOUD, LIKE A LOUD BOOM.

5 Q. LIKE A LOUD BOOM?

6 A. BASICALLY.

7 Q. WHAT DID IT SOUND LIKE?

8 A. LIKE A SHOTGUN.

9 Q. NOW, DID YOU ALSO HEAR OTHER SHOTS?

10 A. YES, MA'AM.

11 Q. OKAY. WHAT OTHER KIND OF SHOTS DID YOU HEAR?

12 A. LIKE HANDGUN SHOTS.

13 Q. AND WHERE WERE THOSE COMING FROM, COULD YOU TELL?

14 A. I CAN'T TELL.

15 Q. AND WHAT HAD HAPPENED TO YOU IN THE MEANTIME?

16 A. IN THE MEANTIME -- ARE YOU TALKING ABOUT LIKE

17 BEFORE I GOT SHOT?

18 Q. YES, SIR.

19 A. OH, I WAS TRYING TO GET IN THE CAR.

20 Q. OKAY. SO BEFORE YOU GOT SHOT, WHERE WERE YOU

21 STANDING?

22 A. I WAS LIKE -- I THINK I WAS LIKE IN FRONT OF

23 JEREMI'S CAR LIKE A LITTLE BIT, AND I WAS LIKE WALKING

24 TOWARDS, I THINK I WAS WALKING TOWARDS JAVARIS BECAUSE

25 WE WAS TALKING.

1 Q. SO YOU WERE WALKING TOWARDS JAVARIS.

2 A. YES, MA'AM.

3 Q. WAS JARAVIS AT THE FRONT OF HIS CAR OR THE BACK
4 OF HIS CAR?

5 A. I REALLY CANNOT REMEMBER.

6 Q. OKAY. BUT YOU WERE WALKING TOWARD HIM?

7 A. YES, MA'AM.

8 Q. OKAY. AND AS YOU WERE WALKING TOWARD HIM, WHAT
9 HAPPENED?

10 A. THAT'S WHEN THE SHOTS STARTED.

11 Q. AND THE SHOTS THAT YOU HEARD FIRST WERE THE
12 SHOTGUN SHOTS?

13 A. YES, MA'AM.

14 Q. WHEN YOU HEARD THOSE, WHAT HAPPENED TO JAVARIS?

15 A. HE GOT HIT BY FIRST SHOT OR THE SECOND SHOT. I
16 THINK THE FIRST SHOT THEN SHOT HIM.

17 Q. DID YOU SEE HIM FALL?

18 A. I TRIED TO RUN.

19 Q. YOU TRIED TO RUN BECAUSE YOU HEARD SHOTS?

20 A. YES, MA'AM.

21 Q. ALL RIGHT. AND WHERE DID YOU RUN TO?

22 A. JEREMI'S CAR, BUT HIS DOOR WAS LOCKED. AND I
23 TRIED PETE'S CAR -- I MEAN, I WENT TO PETE'S CAR AND I
24 WAS ON MY WAY TO PETE'S CAR AND THAT'S WHEN I GOT SHOT.

25 Q. SO JAVARIS GOT HIT?

1 A. YES, MA'AM.

2 Q. AND THEN YOU WERE RUNNING?

3 A. RIGHT.

4 Q. AND YOU WERE TRYING TO GET INTO JEREMI'S CAR BUT
5 IT WAS LOCKED?

6 A. IT WAS LOCKED.

7 Q. AND THEN YOU WENT TO PETE'S?

8 A. YES, MA'AM.

9 Q. AND THAT'S WHEN YOU GOT SHOT?

10 A. YES, MA'AM.

11 Q. NOW, WHERE DID YOU GET SHOT?

12 A. AROUND IN THE NECK.

13 Q. IN THE NECK?

14 A. YES, MA'AM.

15 Q. NOW, WHEN YOU GOT SHOT IN THE NECK, DID YOU FEEL
16 IT IMMEDIATELY?

17 A. LIKE, NOT IMMEDIATELY, BUT, YOU KNOW, I FELT IT
18 LIKE A COUPLE SECONDS LATER.

19 Q. YOU KNEW YOU HAD BEEN HIT BY SOMETHING?

20 A. YES, MA'AM.

21 Q. SO WHAT DID YOU DO AS A RESULT?

22 A. WHAT DID I DO AS A RESULT?

23 Q. YES.

24 A. WE GOT IN PETE'S CAR AND THEN WE WENT TO THE
25 HOSPITAL.

- 1 Q. YOU TOLD HIM THAT YOU HAD GOTTEN SHOT?
- 2 A. YES, MA'AM.
- 3 Q. NOW, PETE WAS TAKING YOU TO THE HOSPITAL?
- 4 A. YES, MA'AM.
- 5 Q. AND WHAT HAPPENED ON THE WAY TO THE HOSPITAL?
- 6 A. THE POLICE PULLED US OVER.
- 7 Q. THE POLICE PULLED YOU OVER?
- 8 A. YES, MA'AM.
- 9 Q. AND ONCE THEY PULLED YOU OVER, DID THEY GET AN
- 10 AMBULANCE FOR YOU?
- 11 A. YES, MA'AM.
- 12 Q. ALL RIGHT. AND DID AN AMBULANCE TAKE YOU TO THE
- 13 HOSPITAL?
- 14 A. YES, MA'AM.
- 15 Q. NOW, ONCE YOU GOT TO THE HOSPITAL, YOU HAD A
- 16 WOUND TO YOUR NECK?
- 17 A. YES, MA'AM.
- 18 Q. DID YOU HAVE ANOTHER WOUND ANYWHERE ELSE?
- 19 A. NO, MA'AM.
- 20 Q. JUST YOUR NECK?
- 21 A. YES, MA'AM.
- 22 Q. NOW, HOW DID THEY TREAT THAT?
- 23 A. SURGERY.
- 24 Q. OKAY, YOU HAD SURGERY?
- 25 A. YES, MA'AM.

1 Q. NOW, WHEN DID YOU GO INTO SURGERY, DO YOU
2 REMEMBER?

3 A. MAYBE TWO, TWO OR THREE DAYS LATER; TWO DAYS,
4 SOMETHING LIKE THAT.

5 Q. WERE YOU IN THE HOSPITAL FOR SEVERAL DAYS?

6 A. MAYBE LIKE TWO OR THREE DAYS, LIKE THREE DAYS OR
7 SOMETHING.

8 Q. OKAY. AND THEY DID SURGERY TO REMOVE WHAT WAS --

9 A. YES, MA'AM.

10 Q. OKAY. AND WHAT DID THEY END UP REMOVING FROM
11 YOU?

12 A. BUCKSHOT.

13 Q. AND AFTER THE SURGERY AND THEY REMOVED THE
14 BUCKSHOT, HOW MUCH LONGER DID YOU HAVE TO STAY IN THE
15 HOSPITAL?

16 A. NOT LONG. I JUST, I LEFT THE SAME DAY.

17 Q. NOW, WHY DID THEY DECIDE TO TAKE THAT OUT? WHY
18 DID THEY THINK THEY NEEDED TO DO THAT?

19 A. I DON'T KNOW.

20 Q. REGARDLESS, THEY DID?

21 A. YES, MA'AM.

22 Q. OKAY. YOU WERE IN THE HOSPITAL FOR SEVERAL DAYS.
23 DID ANYTHING ELSE HAPPEN ONCE YOU GOT OUT OF THE
24 HOSPITAL?

25 A. NO, MA'AM.

1 Q. DID YOU HEAL PRETTY QUICKLY AFTER THAT?

2 A. YES, MA'AM.

3 Q. NOW, DO YOU KNOW THE DEFENDANT IN THIS CASE,
4 SAMMY SCOTT?

5 A. NO, MA'AM.

6 Q. DID YOU EVER SEE HIM WITH A SHOTGUN THAT NIGHT?

7 A. NO, MA'AM.

8 Q. DID YOU SEE ANYONE WITH A SHOTGUN THAT NIGHT?

9 A. NO, MA'AM.

10 Q. DID YOU SEE ANYONE WITH A HANDGUN THAT NIGHT?

11 A. NO, MA'AM.

12 MS. HUEY: THAT'S ALL I HAVE FOR THIS
13 WITNESS, JUDGE.

14 THE COURT: CROSS-EXAMINATION.

15 MR. POTTER: MAY IT PLEASE THE COURT?

16 CROSS-EXAMINATION BY MR. POTTER:

17 Q. SHANQUIL, YOU GAVE A STATEMENT TO THE POLICE THE
18 NIGHT OF THE SHOOTING; IS THAT RIGHT?

19 A. THAT'S CORRECT.

20 Q. AND YOU TALKED ABOUT HOW THIS GUY IN THE BROWN
21 '88 HAD PULLED THROUGH THE LOT, ALMOST HITTING SOMEBODY?

22 A. THAT'S CORRECT.

23 Q. DO YOU REMEMBER THAT?

24 A. YES, SIR.

25 Q. AND SOMEBODY HAD GAVE HIM WORDS. I DON'T KNOW IF

1 THEY WERE JOKING ABOUT WHAT THEY SAID, BUT HE HAD TO HIT
2 THE BRAKES TO STOP. I'M NOT SURE WHO HE ALMOST HIT, BUT
3 HE YELLED SOMETHING AT THE GUY IN THE CAR, THAT IF HE
4 HIT SOMEBODY, THAT THEY NEEDED TO COME SETTLE IT?

5 A. CORRECT.

6 Q. ~~YOU DON'T KNOW HOW MANY GUNS WERE THERE THE NIGHT~~
7 ~~OF THE SHOOTING~~, DO YOU?

8 A. ~~NO~~ SIR.

9 Q. IT COULD HAVE BEEN TWO, IT COULD HAVE BEEN TEN?

10 A. YEAH.

11 MR. POTTER: NOTHING FURTHER.

12 THE COURT: REDIRECT?

13 MS. HUEY: NOTHING, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN.

15 (WHEREUPON, WITNESS WAS EXCUSED.)

16 MS. HUEY: YOUR HONOR, THE STATE CALLS INDIA
17 GALLOWAY TO THE STAND.

18 (WHEREUPON, INDIA GALLOWAY WAS SWORN BY THE
19 CLERK OF COURT AND SHE WAS ASKED TO STATE HER
20 FULL NAME, SPELLING HER LAST NAME.)

21 THE WITNESS: INDIA LAKESHA (PHONETIC)

22 TAKELA (PHONETIC) GALLOWAY, G-A-L-L-O-W-A-Y.

23 DIRECT EXAMINATION BY MS. HUEY:

24 Q. MS. GALLOWAY, HOW OLD ARE YOU?

25 A. NINETEEN YEARS OLD.

1 Q. WHERE DID YOU GO TO HIGH SCHOOL?

2 A. T.L. HANNA.

3 Q. ARE YOU IN SCHOOL SOMEWHERE NOW?

4 A. YES, MA'AM.

5 Q. WHAT TYPE OF SCHOOL?

6 A. A HAIR SCHOOL.

7 Q. NOW, ON JULY 10TH OF 2006, HAD YOU BEEN AT CLUB
8 MALLEY THAT NIGHT?

9 A. YES, MA'AM.

10 Q. ALL RIGHT. AFTER CLUB MALLEY DID YOU GO TO
11 WAL-MART PARKING LOT?

12 A. YES, MA'AM.

13 Q. AND EVERYONE GOT RUN OFF FROM THE WAL-MART
14 PARKING LOT?

15 A. YES, MA'AM.

16 Q. AND ONCE YOU LEFT WAL-MART, DID YOU GO TO THE
17 PUBLIX PARKING LOT?

18 A. YES, MA'AM.

19 Q. AT THE PUBLIX PARKING LOT, WHERE DID YOU PULL IN?

20 A. I PULLED IN IN THE MIDDLE OF THE PARKING LOT.

21 Q. IN THE MIDDLE OF THE PARKING LOT?

22 A. YES, MA'AM.

23 Q. DO YOU KNOW WHO YOU WERE AROUND? DID YOU KNOW
24 ANYBODY AROUND YOU?

25 A. MY BEST FRIEND, CHASSIDY, WAS BESIDE ME IN HER

1 CAR.

2 Q. WERE THERE A LOT OF CARS OUT THERE THAT NIGHT?

3 A. YES, MA'AM.

4 Q. WERE THERE A LOT OF PEOPLE OUT THERE THAT NIGHT?

5 A. YES, MA'AM.

6 Q. NOW, HOW, WHAT'S THE NEXT THING YOU REMEMBER
7 HAPPENING AT THE PUBLIX PARKING LOT?

8 A. EVERYBODY WAS SITTING THERE TALKING. AND I
9 NOTICED A DELTA '88 CAR GOING BY IN FRONT OF ME, AND
10 THEN, AFTER THAT, THAT'S WHEN THE SHOOTING HAD STARTED.

11 Q. OKAY. NOW, THE DELTA '88 CAR, DO YOU KNOW WHOSE
12 CAR THAT IS?

13 A. LARICKY'S.

14 Q. LARICKY HARKNESS?

15 A. YES, MA'AM.

16 Q. SO YOU SAW THAT CAR PASS BY YOU?

17 A. YES, MA'AM.

18 Q. WAS IT IN FRONT OF YOU OR BEHIND YOU?

19 A. IN FRONT OF ME.

20 Q. IT WAS IN FRONT OF YOU.

21 A. YES, MA'AM.

22 Q. NOW, WHAT HAPPENED AFTER YOU SAW HIM PASS IN
23 FRONT OF YOU?

24 A. AFTER I, HE PASSED ME, THAT'S WHEN I NOTICED,
25 THAT'S WHEN THE SHOOTING HAD STARTED.

1 Q. THE SHOOTING HAD STARTED?

2 A. YES, MA'AM.

3 Q. NOW, WHAT KIND OF SHOTS DID YOU FIRST HEAR?

4 A. I DON'T KNOW WHAT KIND OF GUN, BUT IT WAS LOUD
5 SHOTS.

6 Q. IT WAS LOUD SHOTS?

7 A. YES, MA'AM.

8 Q. WAS IT LOUDER THAN A HANDGUN?

9 A. YES, MA'AM.

10 Q. BUT YOU DON'T KNOW WHAT KIND OF GUN IT WAS?

11 A. NO, MA'AM.

12 Q. IT WAS LOUD. COULD YOU TELL WHERE THOSE WERE
13 COMING FROM?

14 A. FROM BEHIND ME.

15 Q. FROM BEHIND YOU. NOW, DID YOU HEAR DIFFERENT
16 KIND OF SHOTS THAT NIGHT?

17 A. NO, MA'AM. JUST THAT ONE CERTAIN GUN.

18 Q. I'M SORRY?

19 A. JUST THAT ONE CERTAIN GUN.

20 Q. OKAY. AND ONCE THAT HAPPENED, WHAT DID YOU DO?

21 A. I, IT WAS THE PERSON THAT GOT IN FRONT OF MY CAR,
22 SO I COULD NOT MOVE UNTIL HE MOVED; AND AFTER HE MOVED,
23 I LEFT AND WENT TO RYAN'S PARKING LOT.

24 Q. OKAY. SO AS SOON AS YOU HEAR THE LOUD SHOTS, YOU
25 TAKE OFF BASICALLY?

1 A. YES, MA'AM.

2 Q. ALL RIGHT. NOW, WHEN YOU TAKE OFF, WHAT DO YOU
3 REALIZE?

4 A. I REALIZED THAT MY BACK WINDOW IS BEING SHOT OUT
5 AND THAT THE BULLET HAD GRAZED ME ON MY FOREHEAD.

6 Q. NOW, HOW DID YOU -- WERE YOU BLEEDING OR
7 SOMETHING?

8 A. YES, MA'AM. I WAS BLEEDING FROM MY FOREHEAD AND
9 MY BACK.

10 Q. AND DO YOU KNOW WHAT GRAZED YOU?

11 A. NO, MA'AM.

12 Q. DO YOU, DID YOU KNOW AT THE TIME WHAT HAD SHOT
13 YOUR BACK WINDOW OUT?

14 A. NO, MA'AM.

15 Q. NOW, ONCE YOU REALIZED YOU WERE BLEEDING, WHAT
16 DID YOU DO?

17 A. WHEN I HEADED FORWARD, SHE HAD TOLD ME, MY
18 PASSENGER BESIDE ME, LAQUITA (PHONETIC), SHE HAD TOLD ME
19 I WAS BLEEDING. SO WHEN I GOT OUT OF THE CAR, I GOT THE
20 POLICE AND TOLD THEM WHAT WAS GOING ON. AND I KEPT
21 TELLING THEM. THE POLICE KEPT, YOU KNOW, GOING UP AND
22 DOWN THE HIGHWAY AND THERE WASN'T NOBODY STOPPING.

23 Q. YOU WERE AT THE RYAN'S PARKING LOT?

24 A. YES, MA'AM.

25 Q. WAITING FOR THE POLICE TO COME TO YOU?

1 A. YES, MA'AM.

2 Q. AND THEY KEPT GOING BY YOU BECAUSE THEY WERE
3 GOING SOMEWHERE ELSE?

4 A. YES, MA'AM.

5 Q. SO DID THEY EVENTUALLY GET TO YOU THEN?

6 A. YES, MA'AM, THE AMBULANCE CAME.

7 Q. AND THE AMBULANCE CAME AS WELL?

8 A. YES, MA'AM.

9 Q. SO YOU WERE TAKEN TO THE HOSPITAL BY THE
10 AMBULANCE?

11 A. YES, MA'AM.

12 Q. AND YOU WERE TREATED FOR YOUR INJURIES AT THAT
13 POINT?

14 A. YES, MA'AM.

15 Q. NOW, WHAT KIND OF INJURIES DID YOU SUSTAIN?

16 A. I WAS JUST HYPERVENTILATING, AND THEY CHECKED MY
17 HEAD TO MAKE SURE THE BULLET DIDN'T GO IN MY HEAD AND MY
18 BACK, TOO.

19 Q. ALL RIGHT. AND HOW DID THEY TREAT YOUR ABRASION?

20 A. THEY JUST COVERED IT UP; CLEANED IT UP AND
21 COVERED IT UP.

22 Q. YOU DIDN'T REQUIRE SURGERY?

23 A. NO, MA'AM.

24 Q. WERE YOU RELEASED FROM THE HOSPITAL THAT NIGHT?

25 A. YES, MA'AM.

1 Q. NOW, DO YOU KNOW SAMMY SCOTT IN THIS CASE?

2 A. NO, MA'AM.

3 Q. OKAY. DID YOU EVER SEE HIM THAT NIGHT?

4 A. NO, MA'AM.

5 Q. AND DID YOU EVER SEE A SHOTGUN THAT NIGHT?

6 A. NO, MA'AM.

7 Q. DID YOU EVER SEE ANYONE WITH A PISTOL THAT NIGHT?

8 A. NO, MA'AM.

9 MS. HUEY: THAT'S ALL I HAVE FOR THIS

10 WITNESS, JUDGE.

11 THE COURT: CROSS-EXAMINATION?

12 MR. POTTER: THANK YOU, JUDGE.

13 CROSS-EXAMINATION BY MR. POTTER:

14 Q. INDIA, WHEN YOU GOT TO THE PUBLIX PARKING LOT,
15 THERE WERE A LOT OF PEOPLE THERE, CORRECT?

16 A. YES, SIR.

17 Q. THERE WERE A LOT OF CARS THERE, RIGHT?

18 A. YES, SIR.

19 Q. PEOPLE INSIDE THEIR CARS AND PEOPLE OUTSIDE THEIR
20 CARS?

21 A. YES, SIR.

22 Q. RADIOS BEING PLAYED?

23 A. YES, SIR.

24 Q. OKAY. THERE WAS ONE GUY WHOSE EXHAUST WAS REAL
25 LOUD. DID YOU HEAR THAT?

1 A. NOT TO MY KNOWLEDGE.

2 Q. WERE YOU INSIDE THE CAR OR OUTSIDE THE CAR?

3 A. I WAS STANDING OUTSIDE MY CAR.

4 Q. OKAY. WERE THERE PEOPLE STANDING ON CARS OR
5 SITTING ON CARS OR ANYTHING OF THAT SORT?

6 A. NOT TO MY KNOWLEDGE.

7 Q. YOU DIDN'T SEE ANYBODY SITTING ON A CAR OR
8 ANYTHING LIKE THAT?

9 A. NO, SIR.

10 Q. OKAY. AND TO BE SURE I UNDERSTAND IT, YOU ONLY
11 HEARD ONE TYPE OF SHOT?

12 A. YES, SIR.

13 Q. OKAY. AND YOU CHARACTERIZE THAT SHOT AS BEING A
14 LOUD SHOT?

15 A. YES, SIR.

16 Q. AND YOU ALSO SAW A DELTA, A BROWN DELTA '88 WITH
17 "REAL TALK" ON IT?

18 A. YES, SIR.

19 Q. DID YOU SEE WHO WAS DRIVING THAT CAR?

20 A. YES, SIR.

21 Q. AND THAT WAS LARICKY, RIGHT?

22 A. YES, SIR.

23 Q. HE'S ALSO KNOWN AS BOOT?

24 A. YES, SIR.

25 MR. POTTER: NOTHING FURTHER. THANK YOU.

1 MS. HUEY: MAY SHE BE EXCUSED, YOUR HONOR?

2 THE COURT: NO QUESTIONS?

3 MS. HUEY: NO, SIR.

4 THE COURT: YOU MAY STEP DOWN.. THANK YOU
5 VERY MUCH.

6 (WHEREUPON, WITNESS WAS EXCUSED.)

7 MS. HUEY: THE STATE CALLS ANDY TRIBBLE TO
8 THE STAND.

9 (WHEREUPON, ANDY TRIBBLE WAS SWORN BY THE
10 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
11 FULL NAME, SPELLING HIS LAST NAME.)

12 THE WITNESS: ANDREW TRIBBLE, T-R-I-B-B-L-E.
13 DIRECT EXAMINATION BY MS. HUEY:

14 Q. WHERE DO YOU WORK?

15 A. ANDERSON COUNTY SHERIFF'S OFFICE.

16 Q. AND WHAT IS YOUR POSITION THERE?

17 A. I'M A DETECTIVE.

18 Q. WHAT ARE YOUR DUTIES?

19 A. INVESTIGATE VARIOUS CRIMES, INCLUDING HOMICIDES,
20 ET CETERA.

21 Q. DID YOU HAVE AN OPPORTUNITY TO INVESTIGATE THIS
22 PARTICULAR CASE?

23 A. I WAS INVOLVED IN THE INVESTIGATION.

24 Q. TELL ME WHEN YOUR INVOLVEMENT BEGAN.

25 A. THE MORNING AFTER THE SHOOTING OCCURRED, WHEN I

1 REPORTED TO WORK, I WAS ASSIGNED, ALONG WITH ANOTHER
2 DETECTIVE AT THE TIME, THAT WAS DETECTIVE FRANK WOOTEN,
3 TO GO TO THE CLEMSON AREA AND GET WITH SOMEONE FROM THE
4 CLEMSON POLICE DEPARTMENT.

5 WE HAD RECEIVED A TIP -- I DIDN'T RECEIVE THE
6 TIP, SOMEONE IN THE OFFICE HAD RECEIVED THE TIP -- THAT
7 SAMMY SCOTT MAY HAVE BEEN INVOLVED IN THE SHOOTING, AND
8 WE WERE TO GO AND TRY TO LOCATE HIM AT HIS RESIDENCE.

9 MYSELF AND DETECTIVE WOOTEN WENT TO THE POLICE
10 DEPARTMENT AND MET WITH LIEUTENANT ROBERT CROOKS. WE
11 THEN WENT TO MR. SCOTT'S RESIDENCE, WHICH I BELIEVE WAS
12 [REDACTED] IN CLEMSON WHERE WE LOCATED HIS MOTHER
13 THERE.

14 Q. SO YOU WENT TO [REDACTED] AND SAMMY WASN'T
15 THERE BUT HIS MOTHER WAS?

16 A. THAT'S RIGHT.

17 Q. OKAY. AND DID YOU SPEAK WITH SAMMY'S MOTHER AT
18 THAT TIME?

19 A. WE DID. AND SHE TOLD US THAT SAMMY WAS AT HIS
20 SISTER'S HOUSE, OR HIS SISTER'S RESIDENCE, WHICH I
21 BELIEVE WAS AN APARTMENT IN PENDLETON, AND THAT SHE
22 COULD GO GET HIM AND SHE WOULD MEET WITH US.

23 WE MADE ARRANGEMENTS TO MEET HER AT THE, WHAT
24 USED TO BE THE PENDLETON POLICE DEPARTMENT, WHICH IS NOW
25 A SUBSTATION FOR THE SHERIFF'S OFFICE.

1 Q. NOW, DID YOU STAY AT SAMMY'S MOTHER'S HOUSE LONG
2 THEN?

3 A. NO, WE DIDN'T. DETECTIVE WOOTEN AND I, WE
4 LEARNED THAT THERE WERE TWO OTHER DETECTIVES, IT WOULD
5 HAVE BEEN MICHAEL SLOAN AND BILL VAUGHN FROM THE
6 SHERIFF'S OFFICE, THEY WERE AT SAMMY'S SISTER'S HOUSE OR
7 HER APARTMENT IN PENDLETON ALREADY, AND THEY WERE THERE
8 WHEN SAMMY'S MOTHER ARRIVED THERE. WE ARRIVED A FEW
9 MOMENTS LATER.

10 Q. NOW, DID YOU ACTUALLY GO TO SAMMY'S SISTER'S
11 HOUSE THEN, TOO?

12 A. WE DID.

13 Q. OKAY. AND WHAT DID YOU DO, IF ANYTHING, ONCE YOU
14 GOT THERE?

15 A. WHEN WE WERE THERE, AS I SAID, THE OTHER
16 DETECTIVES WERE ALREADY THERE, AND THEY HAD ALREADY
17 LOCATED SAMMY THERE AT THE APARTMENT AND HIS MOTHER HAD
18 ARRIVED PRIOR TO US GETTING THERE. WE TOLD SAMMY THAT
19 WE WOULD LIKE TO SPEAK WITH HIM. HE SAID THAT HE WANTED
20 HIS MOTHER TO BE THERE WITH HIM. WE ASKED HIM IF HE
21 WOULD VOLUNTARILY COME SPEAK WITH US, AND HE RODE WITH
22 HIS MOTHER TO THE SUBSTATION TO TALK WITH US.

23 BUT TO BACK UP JUST A MOMENT, BEFORE WE LEFT THE
24 APARTMENT, WE ASKED HIS SISTER IF WE COULD SEARCH HER
25 APARTMENT, AND SHE DID ALLOW US TO SEARCH THE APARTMENT.

1 WE DID A BRIEF SEARCH FOR ANY WEAPONS, AND WE DIDN'T
2 LOCATE ANYTHING AND DIDN'T TAKE ANYTHING FROM THE
3 APARTMENT.

4 Q. AND AT THAT TIME DID YOU KNOW WHAT KIND OF WEAPON
5 YOU WERE SEARCHING FOR?

6 A. NO.

7 Q. BUT REGARDLESS, YOU DIDN'T SEE ANY KIND OF
8 FIREARM?

9 A. NO. WE DIDN'T SEE ANYTHING.

10 Q. ONCE YOU SEARCHED THE APARTMENT, THEN, DID YOU GO
11 TO THE SUBSTATION?

12 A. WE DID. DETECTIVE WOOTEN AND I RODE IN OUR CAR
13 AND SAMMY AND HIS MOTHER WERE IN HER VEHICLE. WE MET
14 THEM THERE. WE TOLD SAMMY THAT HIS NAME HAD COME UP IN
15 THIS INVESTIGATION AND WE WANTED HIM TO ACCOUNT FOR HIS
16 WHEREABOUTS THE NIGHT BEFORE.

17 HE TOLD US THAT HE HAD BEEN AT HIS SISTER'S
18 HOUSE, IF I RECALL CORRECTLY, FROM ABOUT 7:00 P.M. TILL
19 MIDNIGHT THE NIGHT BEFORE, AND THAT HE HAD BEEN AT HOME
20 THE REMAINDER OF THE NIGHT AT HIS RESIDENCE IN CLEMSON
21 UNTIL HE WENT BACK TO HIS SISTER'S HOUSE THE FOLLOWING
22 MORNING.

23 Q. AND DID YOU TAKE A STATEMENT TO THAT EFFECT?

24 A. WE DID. WE TOOK A SHORT WRITTEN STATEMENT FROM
25 HIM. I WROTE THE STATEMENT OUT, READ IT BACK TO HIM TO

1 MAKE SURE IT WAS SATISFACTORY, AND HE SIGNED IT, AND I
2 SIGNED IT, AND DETECTIVE WOOTEN SIGNED IT.

3 Q. NOW, WAS HE UNDER ARREST AT THIS POINT IN TIME?

4 A. NO, HE WASN'T.

5 Q. OKAY. AND THE PURPOSE OF TALKING TO HIM WAS?

6 A. JUST TO ACCOUNT FOR HIS WHEREABOUTS AND TRY TO
7 CORROBORATE THE TIP WE HAD RECEIVED. AND HE WAS
8 RELEASED AFTER WE HAD MET WITH HIM.

9 Q. AND WHEN YOU MET WITH HIM, HE SAID HE WAS NEVER
10 NEAR ANDERSON?

11 A. THAT'S RIGHT. HE SAID HE WAS AT, EITHER AT HIS
12 SISTER'S APARTMENT OR AT HOME.

13 Q. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS STATE'S

14 1. IF YOU COULD TAKE A LOOK AT THAT FOR ME, PLEASE.

15 A. SURE. OKAY.

16 Q. DO YOU RECOGNIZE THAT?

17 A. I DO.

18 Q. HOW ARE YOU ABLE TO RECOGNIZE THAT?

19 A. FOR ONE, IT'S MY HANDWRITING. I'VE SIGNED IT AND
20 IT'S THE STATEMENT THAT I TOOK FROM SAMMY THAT DAY. IT
21 ALSO HAS HIS, A COPY OF HIS DRIVER'S LICENSE RECORD THAT
22 I PROBABLY ATTACHED TO IT AT THE TIME.

23 Q. AND HAS THAT BEEN ALTERED IN ANY WAY?

24 A. NO.

25 MS. HUEY: YOUR HONOR, AT THIS TIME I MOVE

1 STATE'S 1 INTO EVIDENCE.

2 THE COURT: ANY OBJECTION?

3 MR. POTTER: NO, YOUR HONOR.

4 THE COURT: WITHOUT OBJECTION, STATE'S
5 NUMBER 1 IS IN EVIDENCE.

6 (STATE'S EX. # 1, DEFENDANT'S STATEMENT
7 NUMBER 1, WAS RECEIVED IN EVIDENCE.)

8 MS. HUEY: YOUR HONOR, AT THIS TIME I WOULD
9 LIKE TO HAVE MR. TRIBBLE PUBLISH IT TO THE JURY.

10 THE COURT: YES, SIR.

11 BY MS. HUEY:

12 Q. IF YOU WOULD, PLEASE READ IT TO THE JURY.

13 A. (READING):

14 IT'S DATED JULY THE 10TH, 2006, PAGE NUMBER ONE,
15 HAS HIS NAME, SAMMY LEE SCOTT; ADDRESS, [REDACTED]
16 CLEMSON, SOUTH CAROLINA, 29631.

17 I NOTED A BLACK MALE, DATE OF BIRTH [REDACTED] OF 1980.
18 TWO PHONE NUMBERS HERE THAT HE PROVIDED: [REDACTED] AND
19 [REDACTED].

20 THE FIRST LINE READS (READING):

21 DETECTIVE TRIBBLE IS WRITING THIS
22 STATEMENT FOR ME. LAST NIGHT MY SISTER,
23 NICKI, PICKED ME UP AT MY HOUSE ON VISTA
24 DRIVE IN CLEMSON AND WE WENT TO HER
25 APARTMENT AT EDGEWOOD SQUARE APARTMENTS

1 IN PENDLETON. IT WAS AROUND 7:00 P.M. I
2 STAYED WITH NICKI UNTIL ABOUT 11:00 P.M.
3 THEN I WENT BACK HOME AND STAYED THE REST
4 OF THE NIGHT -- WENT BACK HOME AND STAYED
5 THE REST OF THE NIGHT. MY MOM, SHARON
6 OGLESBY, WAS THERE AND MY FRIEND, TROY
7 VERNER, WAS THERE. WE WERE THE ONLY
8 THREE PEOPLE THERE AT MY HOUSE ALL NIGHT.

9 SIGNED SAMMY SCOTT, AND I SIGNED
10 IT AS A WITNESS AND DETECTIVE FRANK
11 WOOTEN SIGNED IT AS WITNESS.

12 Q. THAT WAS TAKEN ON JULY 10TH?

13 A. YES.

14 Q. ALL RIGHT. DO YOU REMEMBER ABOUT WHAT TIME OF
15 DAY THAT WAS?

16 A. I WANT TO REMEMBER THAT IT WAS LATE MORNING. IF
17 NOT, IT WOULD HAVE BEEN EARLY AFTERNOON. BUT IT WAS
18 DURING THE DAYTIME, LATE MORNING OR AFTERNOON.

19 Q. AND THE SHOOTING HAD OCCURRED THE EARLY MORNING
20 HOURS OF THE 10TH?

21 A. I BELIEVE SO.

22 Q. NOW, WHAT ELSE WAS YOUR INVOLVEMENT, THEN, OTHER
23 THAN TAKING THIS INITIAL STATEMENT FROM THE DEFENDANT?

24 A. I BELIEVE LATER, MAYBE THE NEXT DAY, I MAY HAVE
25 INTERVIEWED SOME OTHER WITNESSES THAT DID PROVIDE SOME

1 STATEMENTS REGARDING SEEING SAMMY GOING BACK UP THE ROAD
2 THAT NIGHT AND FOLLOWING HIM BACK TO HIS SISTER'S
3 APARTMENT.

4 Q. AND WAS THAT YOUR ONLY INVOLVEMENT?

5 A. YES.

6 MS. HUEY: THAT'S ALL I HAVE OF THIS
7 WITNESS.

8 THE COURT: CROSS-EXAMINATION?

9 MR. POTTER: I HAVE NO QUESTIONS.

10 THE COURT: YOU MAY STEP DOWN. THANK YOU
11 VERY MUCH.

12 MS. HUEY: THE STATE CALLS MICHAEL SLOAN.
13 AND, YOUR HONOR, MAY MR. TRIBBLE BE EXCUSED?

14 THE COURT: ANY OBJECTION?

15 MR. POTTER: NO, YOUR HONOR.

16 (WHEREUPON, WITNESS WAS EXCUSED.)

17 THE WITNESS: MICHAEL SLOAN, S-L-O-A-N.

18 (WHEREUPON, MICHAEL SLOAN WAS SWORN BY THE
19 CLERK OF COURT.)

20 DIRECT EXAMINATION BY MS. HUEY:

21 Q. MR. SLOAN, WHERE ARE YOU PRESENTLY EMPLOYED?

22 A. SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

23 Q. AND HOW LONG HAVE YOU BEEN THERE?

24 A. A YEAR.

25 Q. AND WHERE WERE YOU BEFORE THAT?

1 A. ANDERSON COUNTY SHERIFF'S OFFICE.

2 Q. AND HOW LONG WERE YOU THERE?

3 A. APPROXIMATELY SIX YEARS.

4 Q. WHAT WAS YOUR POSITION THERE?

5 A. A DETECTIVE.

6 Q. AS A DETECTIVE DO SOME OF YOUR DUTIES INCLUDE
7 INVESTIGATING HOMICIDE CASES?

8 A. YES, MA'AM.

9 Q. DID YOU HAVE AN INVOLVEMENT IN THIS PARTICULAR
10 CASE AGAINST SAMMY SCOTT?

11 A. I DID.

12 Q. CAN YOU PLEASE TELL ME HOW YOUR INVOLVEMENT
13 BEGAN?

14 A. ON JULY, I BELIEVE IT WAS JULY 10TH, I WAS CALLED
15 TO GO TO CLEMSON POLICE DEPARTMENT TO ASSIST DETECTIVES
16 IN THE MURDER OF -- I WAS CALLED TO CLEMSON P.D. TO
17 ASSIST IN THE INVESTIGATION. WE GOT THERE, AND THEY HAD
18 ADVISED ME THAT THEY HAD ARRESTED SAMMY SCOTT FOR THE
19 MURDER.

20 I MET WITH DETECTIVE BILL VAUGHN. WE WENT BACK
21 TO THE CELL THAT SAMMY SCOTT WAS IN. I WAS BY MYSELF
22 WHEN WE WALKED THROUGH THERE. AND SAMMY ACTUALLY CALLED
23 ME BY MY LAST NAME, AND HE SAID, SLOAN, SLOAN, COME
24 HERE, I WANT TO TALK TO YOU. SO I ---

25 Q. I'M SORRY. LET ME INTERRUPT YOU THERE REALLY

1 QUICKLY. BEFORE GETTING TO THE CLEMSON POLICE
2 DEPARTMENT, HAD YOU BEEN AT SAMMY'S SISTER'S HOUSE AT
3 ALL?

4 A. YES, MA'AM. I BELIEVE THAT WAS THREE OR FOUR
5 DAYS BEFORE THAT.

6 Q. AND SO YOU HAD BEEN AT HIS SISTER'S HOUSE?

7 A. YES, MA'AM.

8 Q. AND WHAT THEN HAPPENED AT THE SISTER'S HOUSE?

9 A. WHEN MYSELF AND DETECTIVE VAUGHN WENT TO HIS
10 SISTER'S HOUSE, WE WERE NOTIFIED THAT THE MOTHER WAS
11 COMING OVER THERE. SO WHEN THE MOTHER WAS THERE, WE
12 WERE HEADED TO HER APARTMENT AND THE DOOR WAS OPEN. AS
13 WE STOOD OUTSIDE GOING TO APPROACH MR. SCOTT, WE COULD
14 HEAR SOME, NOT ARGUING BUT JUST KIND OF VERBAL BACK AND
15 FORTH BETWEEN A WOMAN AND WHO WE LATER FOUND TO BE
16 MR. SCOTT.

17 Q. WERE THERE VOICES?

18 A. THERE WAS.

19 Q. I MEAN AND DID THEY SEEM VERY LOUD?

20 A. YES, THEY WERE. THE MOTHER WAS ACTUALLY TELLING
21 MR. SCOTT, "WE NEED TO GO, WE NEED TO GO. THE POLICE
22 WANT TO TALK TO YOU, SO WE GOT TO GET YOU OUT OF HERE."

23 MR. SCOTT WAS SAYING, "I'M NOT GOING ANYWHERE.
24 I'M NOT GOING ANYWHERE." AND SHE KEPT TRYING TO GET HIM
25 TO LEAVE. AT THAT POINT MR. SCOTT CAME TOWARDS THE

1 DOOR.

2 WITH THE INFORMATION WE HAD FROM THE TIP, WE KNEW
3 THERE WAS A GUN INVOLVED; OBVIOUSLY THERE WAS A
4 HOMICIDE. AT THAT POINT I PRESENTED MY FIREARM IN THE
5 READY POSITION, TOLD MR. SCOTT TO STEP OUTSIDE, AT WHICH
6 TIME HE DID.

7 THERE WAS A LOT OF COMMOTION. THE MOTHER WAS
8 OBVIOUSLY IRATE THAT WE WERE THERE. SAMMY SCOTT WAS
9 IRATE THAT WE WERE THERE.

10 AT THIS TIME A CONFRONTATION ENSUED, AND THAT'S
11 WHEN DETECTIVES TRIBBLE AND DETECTIVE WOOTEN ARRIVED,
12 AND WE THOUGHT IT WAS BEST JUST FOR DETECTIVES WOOTEN
13 AND TRIBBLE JUST TO TAKE IT OVER, AND THAT'S WHEN THEY
14 GOT SAMMY TO GO TO PENDLETON.

15 Q. AND SO YOU DIDN'T, YOU WERE NOT INVOLVED IN HIS
16 INITIAL STATEMENT?

17 A. NO, MA'AM.

18 Q. NOW, AT SOME POINT LATER, THOUGH, MR. SCOTT WAS
19 ARRESTED ON THESE CHARGES?

20 A. YES, MA'AM. I BELIEVE IT WAS THREE OR FOUR DAYS
21 LATER.

22 Q. OKAY. AND SO AS A RESULT, YOU AGAIN WENT TO
23 CLEMSON?

24 A. CLEMSON P.D., YES, MA'AM.

25 Q. AND WHY DID YOU GO TO CLEMSON P.D. AGAIN?

1 A. I WAS CALLED AND TOLD TO GO AND ASSIST WITH THE
2 INVESTIGATION.

3 Q. AND THEN ONCE YOU GOT THERE, WHAT HAPPENED?

4 A. WHEN I GOT THERE, I SAW SAMMY IN THE JAIL CELL.
5 AND THAT'S WHEN SAMMY ACTUALLY CALLED OUT FOR ME, AND HE
6 SAID, "SLOAN, SLOAN, COME OVER HERE." SO I WALKED TO
7 HIS CELL, I THINK HE WAS BY HIMSELF IN THERE.

8 HE SAID, "I WANT TO TALK TO YOU."

9 AND I TOLD SAMMY ---

10 Q. OKAY. HAD HE KNOWN YOU PRIOR TO THIS?

11 A. YES. FROM HIS SISTER'S APARTMENT.

12 Q. OKAY. AND THAT'S THE ONLY WAY HE KNEW YOU?

13 A. YES, MA'AM.

14 Q. AND HE KNEW YOUR NAME?

15 A. YES, MA'AM.

16 Q. SO HE CALLED FOR YOU?

17 A. YES, MA'AM.

18 Q. ALL RIGHT. AND THEN WHAT HAPPENED?

19 A. WHEN I APPROACHED HIS CELL, HE SAID, "I WANT TO
20 TALK TO YOU, I WANT TO TALK TO YOU."

21 I SAID, WE'LL BE GLAD TO TALK TO YOU, BUT WE'RE
22 GONNA TALK ABOUT THE PUBLIX INCIDENT AND WE'RE NOT GONNA
23 TALK ABOUT ANYTHING ELSE THAT YOU TALKED ABOUT TO
24 TRIBBLE WITH ABOUT BEING HOME WITH HIS MOTHER.

25 HE SAID, "NO, I'M READY TO TALK TO YOU."

1 SO OBVIOUSLY, I NEEDED A WITNESS, SO I WENT AND
2 GOT DETECTIVE VAUGHN WHO WAS -- I BELIEVE THERE WAS A
3 LITTLE LOBBY OUTSIDE AND HE WAS OUTSIDE IN THE LOBBY
4 BECAUSE HIS MOTHER WAS THERE, AND I BELIEVE HIS SISTER
5 WAS THERE, IF I'M NOT MISTAKEN.

6 SO WE WENT BACK WITH MR. SCOTT. I THINK
7 LIEUTENANT CROOKS ACTUALLY GOT HIM OUT OF THE CELL FOR
8 US, PUT US IN A ROOM. I GUESS IT WAS THEIR INTERVIEW
9 ROOM, A SMALL ROOM WITH TABLES AND CHAIRS.

10 AT THAT TIME WE ADVISED MR. SCOTT WE WERE GONNA
11 HAVE TO READ HIM HIS MIRANDA RIGHTS AND EXPLAIN THAT TO
12 HIM, AND WE DID.

13 Q. OKAY. NOW IT WAS IMPORTANT FOR YOU TO GRAB BILL
14 VAUGHN?

15 A. CORRECT.

16 Q. AND WHY WOULD YOU DO THAT?

17 A. WELL, OBVIOUSLY WE WOULD NEVER INTERVIEW ANYBODY
18 BY OURSELVES. WE WOULD NEED A WITNESS TO EVERYTHING WE
19 DO.

20 Q. SO ONCE YOU GET THIS INTERVIEW ROOM AT CLEMSON
21 P.D., AGAIN, IT CONSISTED OF A SMALL ROOM, CHAIRS, A
22 COUPLE OF CHAIRS?

23 A. A COUPLE OF CHAIRS AND A TABLE AND THAT'S WHERE
24 WE SAT DOWN AT.

25 Q. NOW, WAS MR. SCOTT IN HANDCUFFS AT THIS TIME WHEN

1 YOU TALKED WITH HIM?

2 A. I DON'T BELIEVE HE WAS AT THE TIME BECAUSE HE HAD
3 BEEN IN THE CELL AND LIEUTENANT CROOKS HAD GOTTEN HIM
4 DIRECTLY OUT OF THE CELL AND BROUGHT HIM TO US.

5 Q. OKAY. NOW, WHAT IS THE FIRST STEP WHEN YOU
6 ADVISE SOMEONE OF THEIR RIGHTS?

7 A. WELL, WE HAVE A STANDARDIZED SHERIFF'S OFFICE
8 FORM THAT WE USE WHEN WE ADVISE EVERYBODY OF THEIR
9 RIGHTS. WE FIND OUT THEIR EDUCATION, CAN THEY READ AND
10 WRITE, ALL THEIR PERTINENT INFORMATION, AND THEN WE GO
11 THROUGH THE STEPS OF THE FORM.

12 Q. OKAY. AND YOU DO THAT USING THE FORM?

13 A. YES, MA'AM.

14 Q. OKAY. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS
15 STATE'S 2 AND ASK YOU IF YOU WILL TAKE A LOOK AT THAT.

16 A. THAT IS THE SHERIFF'S OFFICE ADVISORY OF RIGHTS,
17 AND IT IS THE ORIGINAL FORM THAT MYSELF, DETECTIVE
18 VAUGHN, AND SAMMY SCOTT ALL SIGNED AFTER WE READ HIM HIS
19 MIRANDA RIGHTS.

20 Q. NOW, THIS FORM, TELL ME HOW YOU GO ABOUT THAT
21 WITH THIS PARTICULAR DEFENDANT.

22 A. WELL, THE FIRST QUESTION WE ASK IS WE GET THEIR
23 PERTINENT INFORMATION WHICH WOULD ALL BE ON THE
24 STATEMENT. WE ASK THEM, CAN THEY READ AND WRITE, WHAT
25 GRADE THEY'VE COMPLETED IN SCHOOL. WE DATE IT, WHICH IS

1 ACTUALLY THE 11TH. I SAID THE 10TH. IT WAS THE 11TH AT
2 6:00 P.M.

3 AND THE FIRST LINE IS "YOU HAVE THE RIGHT TO
4 REMAIN SILENT." WE ALWAYS HAVE THEM READ THE FIRST LINE
5 ALOUD. I HAVE THEM READ THE FIRST LINE TO ME AND
6 INITIAL IT TO SHOW ME THAT THEY CAN READ, AND HE
7 OBVIOUSLY READ IT BECAUSE HIS INITIALS ARE BESIDE IT.

8 EACH LINE BELOW THAT, THERE'S A CHECK BY IT, AND
9 I TURN THE PAPER TO THEM AS I READ IT TO THEM, AND
10 THAT'S WHY THE CHECKS LOOK AS THEY DO, BECAUSE I CHECK
11 BACKWARDS AS I READ IT TO HIM. AND HE OBVIOUSLY
12 UNDERSTOOD EVERY ONE BECAUSE THERE WAS A CHECK BESIDE
13 IT, AND HE ALSO SIGNED HIS NAME TO IT, "SAMMY SCOTT"
14 BELOW THAT.

15 Q. SO DID HE SEEM TO UNDERSTAND HIS RIGHTS AS THEY
16 WERE READ TO HIM?

17 A. YES, MA'AM.

18 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF
19 ANYTHING WHILE THIS WAS GOING ON?

20 A. NO, MA'AM.

21 Q. DID HE AT ANY TIME ASK YOU ANY QUESTIONS ABOUT
22 HIS RIGHTS?

23 A. NO, MA'AM. HE WAS WILLING AND READY TO TALK.

24 Q. NOW, AFTER YOU GO OVER HIS RIGHTS, DO YOU THEN
25 ASK HIM IF HE WANTS TO GIVE YOU A STATEMENT?

1 A. WELL, AFTER WE TELL HIM WHAT HIS RIGHTS ARE, HE
2 HAS TO SIGN IT AND I INITIAL AND DETECTIVE VAUGHN ALSO
3 INITIALED IT, ACTUALLY SIGNED IT.

4 AND THEN THERE'S WAIVER OF RIGHTS, AND IT'S JUST
5 THAT I'VE READ THE STATEMENTS OF MY RIGHTS, AND I HAVE
6 NOT BEEN FORCED, COERCED, AND I DO WISH TO GIVE A
7 STATEMENT NOW. AND HE ALSO SIGNED HIS NAME BELOW THAT,
8 TOO.

9 Q. OKAY. SO HE NOT ONLY SIGNED THAT HE UNDERSTOOD
10 HIS RIGHTS BUT THEN HE ALSO SAID HE WANTED TO WAIVE HIS
11 RIGHTS?

12 A. THAT'S CORRECT.

13 MS. HUEY: YOUR HONOR, AT THIS TIME WE WOULD
14 MOVE STATE'S 2 INTO EVIDENCE.

15 THE COURT: ANY OBJECTION?

16 MR. POTTER: NO, YOUR HONOR, IN REGARDS TO
17 THE ADVISORY OF RIGHTS FORM, NO.

18 THE COURT: OKAY. STATE'S EXHIBIT NUMBER 2
19 IS ADMITTED WITHOUT OBJECTION.

20 (STATE'S EX. # 2, ADVISORY OF RIGHTS FORM,
21 WAS RECEIVED IN EVIDENCE.)

22 BY MS. HUEY:

23 Q. NOW, IN READING HIM THE ADVISORY OF RIGHTS FORM,
24 AGAIN, MR. VAUGHN IS PRESENT FOR THE READING OF THE
25 FORM?

1 A. THAT'S CORRECT.

2 Q. BUT YOU ACTUALLY WERE READING HIM HIS RIGHTS,
3 THEN?

4 A. YES, MA'AM.

5 Q. AND MR. VAUGHN WAS A WITNESS TO THIS?

6 A. HE WAS A WITNESS, YES, MA'AM.

7 Q. HAD HE SIGNED HIS NAME ANYWHERE?

8 A. HE DID. HE SIGNS HIS NAME IN TWO PLACES, I SIGN
9 MY NAME IN TWO PLACES, AND SAMMY SCOTT SIGNED HIS NAME
10 IN TWO PLACES.

11 Q. NOW, WHEN MR. SCOTT SIGNED IT TO WAIVE HIS
12 RIGHTS, DID YOU ACTUALLY TAKE THAT STATEMENT?

13 A. I DID NOT TAKE THE STATEMENT. I WAS PRESENT FOR
14 THE ENTIRE STATEMENT. MYSELF AND DETECTIVE VAUGHN BOTH
15 ASKED QUESTIONS OF SAMMY SCOTT, BUT DETECTIVE VAUGHN
16 ACTUALLY WROTE THIS STATEMENT OUT.

17 Q. BUT REGARDLESS, YOU WERE THERE THE ENTIRE TIME?

18 A. YES, MA'AM.

19 Q. ALL RIGHT. I'M GONNA SHOW YOU WHAT'S BEEN MARKED
20 AS STATE'S 3. IF YOU COULD TAKE A LOOK AT THAT FOR ME.

21 A. THAT IS THE ORIGINAL STATEMENT OF SAMMY SCOTT IN
22 DETECTIVE VAUGHN'S HANDWRITING, WITH MY SIGNATURE,
23 DETECTIVE VAUGHN'S SIGNATURE, SAMMY SCOTT'S SIGNATURE
24 WITH SAMMY SCOTT'S INITIALS IN NUMEROUS PLACES ON IT.

25 Q. AND AGAIN, YOU SIGNED THAT AS A WITNESS?

1 A. YES, MA'AM.

2 Q. AT ANY TIME DID YOU SEE MR. VAUGHN COERCE
3 MR. SCOTT OR PRESSURE HIM INTO GIVING THE STATEMENT?

4 A. NO, MA'AM.

5 Q. AS FAR AS YOU KNOW AND TO YOUR KNOWLEDGE WAS THE
6 STATEMENT OF MR. SCOTT THAT HE GAVE, WAS THAT FAIRLY AND
7 ACCURATELY AS REPRESENTED BY MR. VAUGHN?

8 A. THIS STATEMENT IS WRITTEN EXACTLY IN SAMMY
9 SCOTT'S WORDS. WHEN WE GET DONE WRITING THE STATEMENT,
10 WE TURN THE STATEMENT AROUND TOWARDS MR. SCOTT. WE READ
11 THROUGH IT WITH HIM, MAKE SURE HE UNDERSTANDS
12 EVERYTHING, EVERYTHING IS SATISFACTORY TO HIM.

13 THERE'S OBVIOUSLY SOME MISTAKES IN HERE, MOST OF
14 THEM ARE PROBABLY GRAMMATICAL. AS WE'VE GONE THROUGH
15 IT, ONE OF US HAS POINTED MISTAKES OUT, AND HE'S EVEN
16 INITIALED HIS INITIAL BY EVERY MISTAKE, AND THEN SIGNED
17 IT "SAMMY SCOTT" AT THE END OF IT.

18 Q. AND SO THE INITIALS THROUGHOUT THAT, DOES THAT
19 ACTUALLY INDICATE THAT HE'S ACTUALLY READ IT?

20 A. YES, MA'AM.

21 Q. ALL RIGHT. AS WELL AS THE SIGNATURE AT THE
22 BOTTOM?

23 A. YES, MA'AM.

24 Q. BUT AGAIN, MR. VAUGHN WAS THE LEAD ON THAT
25 PARTICULAR STATEMENT?

1 A. YES, MA'AM.

2 Q. EVEN THOUGH YOU WERE IN THE ROOM WITH HIM?

3 A. YES, MA'AM.

4 Q. OKAY. WHAT WAS YOUR OTHER INVOLVEMENT IN THIS
5 CASE, OTHER THAN INITIALLY GOING TO SAMMY'S SISTER'S
6 HOUSE AND THEN THE INITIAL CONTACT ---

7 A. I TOOK NUMEROUS -- I HAD NUMEROUS INTERVIEWS WITH
8 WITNESSES IN THE CASE; AND IF I'M NOT MISTAKEN, I MIGHT
9 ALSO HAVE DONE A SEARCH WARRANT ON PHONE RECORDS.

10 Q. AND ANYTHING ELSE THEN?

11 A. NOT THAT I CAN THINK OF.

12 MS. HUEY: THAT'S ALL I HAVE OF THIS
13 WITNESS, JUDGE.

14 THE COURT: CROSS-EXAMINATION.

15 MR. POTTER: THANK YOU, JUDGE.

16 CROSS-EXAMINATION BY MR. POTTER:

17 Q. DETECTIVE, THE FIRST TIME YOU MET SAMMY WAS AT
18 HIS SISTER'S APARTMENT, OKAY?

19 A. YES, SIR.

20 Q. AND ACTUALLY THE FIRST TIME YOU SAW HIM, YOU HAD
21 A GUN ON HIM?

22 A. YES, SIR.

23 Q. AND WHEN THAT HAPPENED, DETECTIVE TRIBBLE AND
24 DETECTIVE WOOTEN SHOWED UP?

25 A. YES, SIR.

1 Q. OKAY. AND YOU JUST KIND OF TURNED THINGS OVER
2 AND LET THEM HANDLE IT?

3 A. YES, SIR.

4 Q. OKAY. APART FROM THAT PARTICULAR CONTACT AT THE
5 APARTMENT, YOU DIDN'T GET TO SEE SAMMY SCOTT AGAIN UNTIL
6 YOU WERE AT THE CLEMSON POLICE DEPARTMENT?

7 A. I DON'T BELIEVE I'D SEEN HIM AT THAT TIME SINCE
8 THAT APARTMENT THING, UNLESS I'M JUST LEAVING SOMETHING
9 OUT.

10 Q. OKAY. YOU SAW HIM AT THE APARTMENT AND THEN YOU
11 SAW HIM AT THE POLICE DEPARTMENT LATER ON?

12 A. YEAH, TO THE BEST OF MY KNOWLEDGE.

13 Q. HE KNEW YOUR NAME?

14 A. YES.

15 Q. HOW DID HE KNOW YOUR NAME?

16 A. FROM THE CONFRONTATION WE HAD AT THE APARTMENT.

17 Q. NOW, WHEN YOU ~~DID THE INTERVIEW WITH SAMMY~~, THIS
18 WAS ~~AT THE CLEMSON POLICE DEPARTMENT~~; IS THAT CORRECT?

19 A. THAT'S ~~CORRECT~~.

20 Q. SO IT'S NOT THE SHERIFF'S DEPARTMENT?

21 A. NO, SIR.

22 Q. AND THERE WERE NO RECORDING DEVICES AVAILABLE?

23 A. ~~IT'S NOT IN OUR POLICY AT THE SHERIFF'S OFFICE~~
24 ~~THAT WE USE ANY RECORDING DEVICES, SO I WOULDN'T HAVE~~
25 ~~EVEN ASKED FOR THEM AT THE CLEMSON P.D.~~

1 Q. OKAY. BUT DON'T YOU THINK IT WOULD BE BETTER IF
2 YOU HAVE AN OPPORTUNITY TO HAVE A RECORDING OF THE
3 DEFENDANT IF HE'S GONNA MAKE A STATEMENT ON AN
4 INVESTIGATION?

5 A. IF THAT WAS OUR POLICY, YES, BUT IT'S NOT OUR
6 POLICY, SO THAT'S NOT WHAT WE DO.

7 Q. OKAY. SO IT'S NOT YOUR POLICY TO VIDEOTAPE THAT
8 INTERVIEW, AS WELL, IS IT?

9 A. NO, SIR.

10 Q. NOW, VIDEOTAPE WOULD BE ABLE TO SHOW YOU
11 INTERACTING WITH THE DEFENDANT, AND THERE WOULDN'T BE
12 ANY ISSUES IN REGARDS TO ANY PRESSURE OR PROMISES OR
13 COERCION, WOULD THERE?

14 A. IF WE HAD THAT CAPABILITY.

15 Q. IF YOU HAD THAT CAPABILITY.

16 A. UH-HUH.

17 Q. OKAY. SO THE SHERIFF'S DEPARTMENT DOESN'T HAVE A
18 VIDEO CAMERA?

19 A. I'VE NEVER SEEN A VIDEO CAMERA IN OUR
20 INVESTIGATIVE, OVER AT THE SHERIFF'S OFFICE.

21 Q. THERE'S VIDEO CAMERAS ON THE SOUTH CAROLINA
22 HIGHWAY PATROLMAN CARS, AREN'T THERE?

23 A. SURE.

24 Q. EVERY TIME THEY SWITCH ON THE BLUE LIGHT, IT
25 KICKS ON, RIGHT?

1 A. SURE.

2 Q. OKAY. BUT OUR SHERIFF'S DEPARTMENT DOESN'T HAVE
3 ANY VIDEO CAPABILITY?

4 A. I'M SURE IT HAS CAPABILITY. I HAVE NO ACCESS TO
5 VIDEO CAMERAS.

6 Q. OKAY. ALL RIGHT. BUT YOU DIDN'T CHECK WITH THE
7 CLEMSON POLICE DEPARTMENT TO SEE IF THEY HAD ANY
8 RECORDING EQUIPMENT, DID YOU?

9 A. NO, SIR, I DIDN'T.

10 Q. OKAY. SO THEY COULD HAVE HAD RECORDING EQUIPMENT
11 AND YOU JUST CHOSE NOT TO USE IT?

12 A. POSSIBLY.

13 Q. YOU ARE AT S.L.E.D. NOW; ISN'T THAT RIGHT?

14 A. YES, SIR.

15 Q. DOES S.L.E.D. RECORD THEIR INTERVIEWS?

16 A. NO, SIR.

17 Q. S.L.E.D. DOESN'T RECORD THEIR INTERVIEWS?

18 A. NO, SIR.

19 Q. NO AUDIOTAPE OR VIDEOTAPE OF ANY INTERVIEWS?

20 A. NOT IN MY REGION, NO, SIR.

21 MR. POTTER: NOTHING FURTHER.

22 THE COURT: REDIRECT?

23 MS. HUEY: NO, SIR, YOUR HONOR.

24 MAY HE BE EXCUSED?

25 THE COURT: YOU MAY STEP DOWN. THANK YOU

1 VERY MUCH.

2 (WHEREUPON, WITNESS WAS EXCUS

3 THE COURT: CAN I SEE THE ATTORNEYS

4 JUST A SECOND?

5 (DISCUSSION AT SIDEBAR.)

6 THE COURT: MADAM FORELADY, MEMBERS OF THE
7 JURY, WE'LL TAKE A SHORT BREAK AT THIS TIME. AND PLEASE
8 DON'T DISCUSS THE CASE AMONGST YOURSELVES. IF THERE ARE
9 ANY SMOKERS, LET THE BAILIFF KNOW. WE'LL SEE YOU BACK
10 IN ABOUT 20 MINUTES.

11 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
12 4:04 P.M.)

13 THE COURT: WE'LL TAKE ABOUT A 20-MINUTE
14 BREAK.

15 MS. HUEY: THANK YOU, JUDGE.

16 (RECESS.)

17 THE COURT: ANYTHING FROM THE STATE BEFORE
18 WE BRING THE JURY?

19 MS. HUEY: NO, SIR, YOUR HONOR.

20 THE COURT: ANYTHING FROM THE DEFENDANT?

21 MR. POTTER: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. BRING US THE JURY,
23 PLEASE.

24 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
25 4:42 P.M.)

1 THE COURT: CALL YOUR NEXT WITNESS PLEASE,
2 MA'AM.

3 MS. HUEY: YES, SIR, YOUR HONOR. THE STATE
4 CALLS BILL VAUGHN TO THE STAND.

5 (WHEREUPON, BILL VAUGHN WAS SWORN BY THE
6 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
7 FULL NAME AND SPELL HIS LAST NAME.)

8 THE WITNESS: WILLIAM VAUGHN, V-A-U-G-H-N.

9 DIRECT EXAMINATION BY MS. HUEY:

10 Q. MR. VAUGHN, WHERE DO YOU WORK?

11 A. ANDERSON COUNTY SHERIFF'S OFFICE.

12 Q. HOW LONG HAVE YOU BEEN THERE?

13 A. NINE AND A HALF YEARS.

14 Q. WHAT IS YOUR CURRENT POSITION THERE?

15 A. TRAINING INSTRUCTOR.

16 Q. HAVE YOU ALWAYS DONE THAT?

17 A. NO, MA'AM.

18 Q. OKAY. WHERE DID YOU WORK BEFORE THAT?

19 A. I WAS IN THE DETECTIVE DIVISION.

20 Q. AT THE SHERIFF'S OFFICE?

21 A. CORRECT.

22 Q. AND WERE YOU WITH THE DETECTIVE DIVISION AT THE
23 SHERIFF'S OFFICE IN JULY OF 2006?

24 A. I WAS.

25 Q. DID YOU INVESTIGATE THIS CASE AGAINST SAMMY SCOTT

1 IN ANY WAY?

2 A. I DID ASSIST ON IT.

3 Q. OKAY. TELL ME HOW YOUR INVOLVEMENT BEGAN.

4 A. WE -- I WAS -- ME AND DETECTIVE SLOAN WAS TOLD TO
5 GO TO DRIVE TO SAMMY SCOTT'S SISTER'S RESIDENCE AT
6 EDGEWOOD, I BELIEVE THAT'S EDGEWOOD SQUARE, AT WHICH
7 TIME THAT'S WHEN DETECTIVE SLOAN AND MYSELF FOUND
8 MR. SCOTT AND HIS MOTHER AND SISTER IN THEIR APARTMENT.

9 Q. AND WHAT, IF ANYTHING, DID YOU HEAR WHEN YOU
10 ARRIVED THERE?

11 A. I JUST HEARD MR. SCOTT'S MOTHER AND HIM TALKING
12 ABOUT HOW LAW ENFORCEMENT WANTED TO TALK WITH MR. SCOTT.

13 Q. OKAY. AND WAS THE MOTHER SUGGESTING ANYTHING?

14 A. I WAS ON ONE CORNER OF THE DOOR -- OR EXCUSE
15 ME -- OF THE BUILDING. I DIDN'T HAVE A CLEAR -- I
16 WASN'T IN CLEAR HEARING DISTANCE OF THE DOOR.

17 Q. OKAY. SO WAS DETECTIVE SLOAN AT THE DOOR THEN?

18 A. HE WAS.

19 Q. OKAY. AND YOU WERE ---

20 A. I WAS ON THE CORNER OF THE BUILDING AND DETECTIVE
21 SLOAN WAS AT THE ACTUALLY -- ON THE OTHER SIDE OF THE
22 DOOR.

23 Q. OKAY. NOW, DID YOU EVENTUALLY MEET WITH THE
24 DEFENDANT?

25 A. I DID.

1 Q. OKAY. AND WHERE DID THAT TAKE PLACE?

2 A. THAT TOOK PLACE AT CLEMSON P.D.

3 Q. NOW, AT THE CLEMSON POLICE DEPARTMENT, HOW DID
4 HIS COMMUNICATION WITH YOU COME ABOUT?

5 A. I WAS TOLD BY DETECTIVE SLOAN THAT MR. SCOTT
6 WANTED TO SPEAK WITH HIM, AND HE ASKED ME TO COME ALONG
7 AS A WITNESS.

8 Q. AND IS THAT PROTOCOL, TO TYPICALLY HAVE A WITNESS
9 WITH YOU?

10 A. YES, MA'AM.

11 Q. NOW, MR. SLOAN ACTUALLY DID THE ADVISORY OF
12 RIGHTS FORM; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. OKAY. BUT YOU WERE A WITNESS TO THAT?

15 A. THAT'S CORRECT.

16 Q. ALL RIGHT. AND IN YOUR OPINION MR. SCOTT SEEMED
17 TO UNDERSTAND HIS RIGHTS AS THEY WERE GIVEN TO HIM?

18 A. HE DID.

19 Q. ALL RIGHT. AND I UNDERSTAND THAT HE WANTED TO
20 WAIVE THOSE RIGHTS?

21 A. THAT'S CORRECT.

22 Q. HE THEN SAID HE WANTED TO GIVE A STATEMENT; IS
23 THAT TRUE?

24 A. THAT'S TRUE.

25 Q. ALL RIGHT. AND DID YOU TAKE THAT STATEMENT FROM

1 HIM?

2 A. I DID TAKE THE STATEMENT FROM HIM.

3 Q. OKAY. AND HOW, HOW DID THAT COME ABOUT?

4 A. USUALLY WHEN YOU HAVE TWO, TWO DETECTIVES OR TWO
5 LAW ENFORCEMENT TALKING TO A PERSON, IT'S NOT UNCOMMON
6 FOR BOTH OF THE LAW ENFORCEMENT PERSONNEL TO ASK
7 QUESTIONS AT A CERTAIN TIME.

8 IF I CAN RECALL CORRECTLY, I THINK DETECTIVE
9 SLOAN WAS ACTUALLY THE PRIMARY, ASKING MOST OF THE
10 QUESTIONS; THAT'S THE REASON WHY I WAS WRITING THE
11 STATEMENT FOR MR. SCOTT.

12 Q. NOW, DID YOU OFFER -- DID YOU WRITE THE STATEMENT
13 YOURSELF?

14 A. I DID.

15 Q. ALL RIGHT. AND IS THAT TYPICALLY HOW YOU DO
16 THINGS?

17 A. THAT'S CORRECT.

18 Q. NOW, WHY IS THAT?

19 A. IT'S JUST EASIER TO GO INTO -- TO GET
20 CHRONOLOGICAL ORDER IN THE STATEMENTS. AND ALSO, WHILE
21 THE PERSON THAT YOU ARE TALKING TO, THEY DON'T HAVE TO
22 CONCENTRATE ON THE SIMPLE FACT OF WRITING THE STATEMENT
23 THEMSELVES, THEY CAN THINK ABOUT THE FACTS OF THE
24 INCIDENT THAT YOU ARE TALKING TO THEM ABOUT.

25 Q. AND SO THEN DID YOU TAKE A STATEMENT FROM

1 MR. SCOTT DOING IT THAT WAY?

2 A. I DID, YES, MA'AM.

3 Q. AND AS HE TOLD YOU WHAT HAD HAPPENED, YOU WOULD
4 WRITE IT DOWN?

5 A. THAT'S CORRECT.

6 Q. OKAY. AND THEN ONCE YOU WERE DONE WITH HIS
7 STATEMENT, DID YOU READ IT BACK TO HIM?

8 A. HIS STATEMENT WAS TURNED AROUND FACING MR. SCOTT.
9 IT WAS READ TO HIM. AND THERE WAS ALSO -- I MADE A FEW
10 MISTAKES IN THERE, AND THOSE MISTAKES WERE INITIALED BY
11 MR. SCOTT. AND THE MISTAKES, FROM WHAT I CAN RECALL
12 FROM THE STATEMENT ARE, THERE'S NO RHYME OR REASON, BUT
13 IT'S ALL THROUGHOUT THE STATEMENT.

14 Q. DID HE INITIAL THE MISTAKES INDICATING THERE WERE
15 MISTAKES?

16 A. YES, MA'AM.

17 Q. DID HE SIGN THE STATEMENT?

18 A. HE SIGNED THE STATEMENT AT THE BOTTOM WITH HIS
19 FULL NAME. AND BELOW HIS NAME I ALWAYS WRITE "I
20 RECEIVED A COPY OF THIS STATEMENT" AND I GET HIM TO
21 INITIAL THAT BESIDE THAT PHRASE. .

22 Q. I ASK YOU TO LOOK AT WHAT'S BEEN MARKED AS
23 STATE'S 3. WOULD YOU TAKE A LOOK AT THAT, PLEASE. DO
24 YOU RECOGNIZE THAT?

25 A. I DO.

1 Q. AND HOW ARE YOU ABLE TO RECOGNIZE IT?

2 A. IT'S THE STATEMENT WE TOOK THAT DAY FROM
3 MR. SCOTT, AND IT'S IN MY HANDWRITING WITH MY NAME AND
4 DETECTIVE SLOAN'S NAME ON IT AS A WITNESS.

5 Q. IS MR. SCOTT'S ON THERE, AS WELL?

6 A. THAT'S CORRECT.

7 MS. HUEY: YOUR HONOR, AT THIS TIME WE MOVE
8 STATE'S EXHIBIT 3 INTO EVIDENCE AND ASK TO PUBLISH IT.

9 THE COURT: ANY OBJECTION?

10 MR. POTTER: YES, YOUR HONOR, FOR THE
11 REASONS PREVIOUSLY STATED.

12 THE COURT: ALL RIGHT. I'LL ACCEPT YOUR
13 OBJECTION AND PREVIOUS REASONS FOR THE OBJECTION. AND
14 THE COURT OVERRULES THAT OBJECTION BASED UPON THE
15 FINDINGS THE COURT MADE IN THE IN-CAMERA HEARING.

16 IT'S ADMITTED, WITH OBJECTION.

17 MS. HUEY: THANK YOU, JUDGE.

18 (STATE'S EX. # 3, DEFENDANT'S SECOND
19 STATEMENT, WAS RECEIVED IN EVIDENCE.)

20 BY MS. HUEY:

21 Q. MR. VAUGHN, IF YOU WILL NOW READ THE STATEMENT TO
22 THE JURY, PLEASE?

23 A. THE STATEMENT AT THE TOP, IT STATES THAT HE
24 COMPLETED ELEVENTH GRADE AT DANIEL HIGH SCHOOL, THE DATE
25 OF 7-11-06 AT PAGE NUMBER 1. STATEMENT OF SAMMY SCOTT,

1 4[REDACTED]9, [REDACTED] CLEMSON, SOUTH CAROLINA. IT
2 HAD HIS HEIGHT AND HIS WEIGHT UNDERNEATH THAT.

3 SAMMY SCOTT'S INITIALS ARE AT THE VERY BEGINNING.
4 OF THE STATEMENT, AND THE FOLLOWING SENTENCE READS
5 (READING):

6 I HAD DETECTIVE W.T. VAUGHN WRITE
7 THIS STATEMENT FOR ME IN MY OWN WORDS. I
8 WAS AT BROCK'S TRAILER PARK IN PENDLETON.
9 MY MOM WENT TO WAL-MART IN ANDERSON --
10 EXCUSE ME -- IN CLEMSON. SHE PICKED ME
11 UP FROM BROCK'S ABOUT 8 OR 9 P.M. ME, MY
12 MOMMA, TROY VERNON AND DARION (PHONETIC)
13 WENT BACK TO MY HOUSE IN CLEMSON. I
14 ASKED MOMMA COULD I SEE THE CAR. SHE
15 SAID YES.

16 AS SOON AS I WENT HOME, I GOT IN
17 THE CAR. ME AND TROY WENT TO CREEKWOOD
18 APARTMENTS. TROY WAS DRIVING. WE WENT
19 TO PICK UP JOSH. PEOPLE SAID, LET'S GO
20 TO THESE NIGGERS' HOUSE, NIGGERS BECAUSE
21 THEY THINK THAT WE'RE SCARED TO GO TO THE
22 CLUB. I STARTED TALKING, I STARTED
23 THINKING AND PEOPLE WAS BOASTING MY HEAD
24 UP.

25 ON THE WAY TO ANDERSON I WENT TO

1 THE WOODS AND GOT THE SHOTGUN. THE GUN
2 WAS IN THE WOODS NEAR MY HOUSE AT VISTA.
3 I GOT THE GUN EARLIER THAT DAY AND PUT IT
4 IN -- PUT IT THERE. I GOT THE GUN FROM
5 PENDLETON. I GOT IT FROM SOME CRACK HEAD
6 IN PENDLETON. I PAID \$45 FOR IT. IT HAD
7 ONE SHELL IN IT. I GOT TWO MORE FROM THE
8 CRACK HEADS.

9 AFTER I GOT IT OUT OF THE WOODS,
10 WE WENT STRAIGHT TO ANDERSON. AS SOON AS
11 WE GOT THERE IN ANDERSON, WE WAS NEAR THE
12 MALL AND SOME GIRLS YELLED OUT OF THE
13 WINDOW, IT WAS GOING DOWN AT WAL-MART.

14 TROY WAS STILL DRIVING. HE
15 TURNED AROUND AND WENT TO WAL-MART ON
16 LIBERTY HIGHWAY. I SAW ALL KIND OF CARS
17 COMING OUT. THEY WERE SAYING IT WAS
18 GOING DOWN OVER HERE ACROSS THE STREET.
19 TROY WAS STILL DRIVING AND WE FOLLOWED
20 THEM TO A STORE WITH THE GREEN WORDS
21 WRITTEN ON IT. WE PULLED IN THE PARKING
22 LOT AND STOPPED.

23 BOOT WAS OUT OF THE CAR IN FRONT
24 OF US. THERE WAS PEOPLE MEETING UP LIKE
25 THEY WERE ABOUT TO FIGHT. A SHOT WENT

1 OFF BEHIND US. I SHOT IN THE AIR ONCE
2 AND I TRIED TO SHOOT BOOT TWO TIMES.
3 TROY WAS DRIVING OFF AND THAT WAS WHEN I
4 TRIED TO SHOOT AT BOOT.

5 NICKI AND WHITNEY WAS FOLLOWING
6 US WHEN I WAS SHOOTING. I DID NOT KNOW
7 SHE WAS BEHIND US UNTIL I SAW EVERYBODY
8 LEAVING.

9 WE THEN DROVE TO NICKI'S
10 APARTMENT. NICKI TOOK THE CAR FROM ME,
11 FROM TROY BECAUSE SHE SAID WE WAS NOT
12 SUPPOSED TO HAVE IT. NICKI TOOK THE CAR
13 TO MAMA'S HOUSE AND WHITNEY FOLLOWED HER.
14 WHITNEY AND NICKI CAME BACK AND I STAYED
15 AT NICKI'S HOUSE. I DID NOT GET ANY
16 SHELLS OUT OF MY MAMA'S CAR.

17 I KNOW WHAT I WAS AIMING AT AND
18 IT WAS BOOT'S CAR. I AM GOING TO WORK
19 WITH THE POLICE AND TRY TO GET THE GUN
20 BACK.

21 END OF STATEMENT.

22 AND SAMMY SCOTT'S INITIALS ARE
23 THERE BEFORE THE PHRASE "END OF
24 STATEMENT."

25 Q. NOW, DID HE DESCRIBE THIS SHOTGUN THAT HE USED

1 ANY FURTHER?

2 A. I TRIED TO GET ACCURATE DESCRIPTIONS. SCOTT
3 DIDN'T KNOW LIKE THE MAKE OR THE MODEL OF THE GUN
4 ITSELF. SO ON A PIECE OF PAPER I TRIED TO DRAW WHAT I
5 WOULD CONSIDER AN ASSAULT RIFLE ON JUST A REGULAR PIECE
6 OF NOTEBOOK PAPER, AND I TRIED TO ILLUSTRATE WHAT A
7 SHOTGUN LOOKS LIKE.

8 AT THAT TIME MR. SCOTT SAID THAT NEITHER ONE OF
9 THOSE GUNS RESEMBLED WHAT HE HAD. SO I ASKED MR. SCOTT
10 WOULD HE DRAW WHAT HE FELT THE GUN LOOKED LIKE THAT HE
11 USED, AND HE DID.

12 Q. AND HE DID DRAW THAT?

13 A. HE DID.

14 Q. AND DID HE INDICATE THAT WAS HIS DRAWING?

15 A. HE DID. I HAD GOTTEN HIM TO WRITE HIS NAME ABOVE
16 IT TO SHOW THAT THIS WAS HIS INTERPRETATION OF THE GUN
17 THAT WAS USED.

18 Q. I'M GONNA SHOW YOU WHAT'S BEEN MARKED AS STATE'S
19 4. IF YOU CAN TAKE A LOOK AT THAT, PLEASE. DO YOU
20 RECOGNIZE THAT?

21 A. I DO.

22 Q. HOW ARE YOU ABLE TO RECOGNIZE IT?

23 A. IT'S MY ATTEMPT TO DRAW -- IT WAS TWO OF MY
24 ATTEMPTS TO DRAW A LONG GUN, AND SAMMY'S GUN -- SAMMY'S
25 INTERPRETATION OF THE GUN THAT WAS USED. IT HAS SAMMY'S

1 NAME, FIRST NAME ABOVE IT, AND I WROTE SAMMY LEE SCOTT,
2 7-11-06 DURING THE INTERVIEW, AND THIS WAS THE GUN THAT
3 HE DREW.

4 Q. AND HAS THAT BEEN CHANGED OR ALTERED IN ANY WAY?

5 A. NO, IT WAS NOT.

6 MS. HUEY: AT THIS TIME WE WOULD MOVE
7 STATE'S 4 INTO EVIDENCE, JUDGE.

8 THE COURT: ANY OBJECTION?

9 MR. POTTER: THE SAME OBJECTION AS BEFORE IN
10 REGARDS TO THE STATEMENT.

11 THE COURT: ALL RIGHT. ADMITTED WITH
12 OBJECTION.

13 (STATE'S EX. # 4, A DRAWING, WAS RECEIVED IN
14 EVIDENCE.)

15 MS. HUEY: MR. VAUGHN, IF YOU WOULD STEP
16 DOWN.

17 (WITNESS LEAVES STAND.)

18 BY MS. HUEY:

19 Q. I'M GONNA SHOW YOU STATE'S 4. OKAY. NOW, CAN
20 YOU EXPLAIN TO THE JURY WHAT YOU WERE TALKING ABOUT AS
21 FAR AS YOUR DRAWINGS AND SAMMY'S DRAWING?

22 A. THIS IS MY INTERPRETATION OF WHAT A SHOTGUN COULD
23 POSSIBLY LOOK LIKE. AS YOU CAN SEE, I'M NOT AN ARTIST.
24 THIS IS ALSO MAYBE WHAT I WOULD INTERPRET AS AN ASSAULT
25 RIFLE. MR. SCOTT SAID THAT THOSE, THOSE DIDN'T LOOK

1 LIKE ANYTHING THAT, OR THE WEAPON THAT HE USED. SO
2 HE -- I ASKED HIM, IF HE WOULD, TO KIND OF WRITE OR DRAW
3 THE WEAPON HE USED, AND THAT WAS HIS INTERPRETATION.

4 MS. HUEY: THANK YOU VERY MUCH. YOU CAN
5 HAVE A SEAT.

6 (WITNESS RESUMES STAND.)

7 BY MS. HUEY:

8 Q. NOW, MR. VAUGHN, WHEN YOU WERE TAKING THIS
9 STATEMENT FROM HIM, DID HE EVER SAY THAT SOMEONE WAS
10 SPECIFICALLY SHOOTING AT HIM?

11 A. NO, MA'AM.

12 Q. HE JUST SAID THAT HE HEARD SHOTS?

13 A. THAT'S CORRECT.

14 Q. OKAY. AND THEN WHEN HE HEARD THOSE SHOTS, HE
15 FIRED HIMSELF?

16 A. CORRECT. HE WAS AIMING AT BOOT.

17 Q. I'M SORRY?

18 A. I BELIEVE HE SAID HE WAS AIMING AT BOOT.

19 Q. AND HE WAS AIMING AT BOOT. OTHER THAN SAYING
20 THAT BOOT WAS IN FRONT OF HIM, DID HE SAY WHERE ELSE
21 BOOT WAS OR ANY FURTHER DESCRIPTION OF HIM?

22 A. NO, MA'AM.

23 Q. NOW, DID YOU -- DID HE COOPERATE IN TRYING TO GET
24 THE GUN BACK?

25 A. HE TOOK US TO A LOCATION WHERE HE SAID THE GUN

1 WAS, BUT THE GUN WAS, IN FACT, NOT THERE.

2 Q. AND SO THAT DIDN'T PAN OUT?

3 A. NO, MA'AM.

4 Q. NOW, WHAT, IF ANYTHING, WAS YOUR OTHER
5 INVOLVEMENT IN THIS CASE?

6 A. I HAD TAKEN A STATEMENT FROM ANOTHER INDIVIDUAL
7 EARLIER THAT DAY, AND THAT WAS PRETTY MUCH THE EXTENT OF
8 MY INVOLVEMENT.

9 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME,
10 JUDGE.

11 THE COURT: CROSS-EXAMINATION.

12 MR. POTTER: THANK YOU, JUDGE.

13 CROSS-EXAMINATION BY MR. POTTER:

14 Q. NOW, WHEN YOU MET UP WITH SAMMY, SLOAN, DETECTIVE
15 SLOAN WAS THE ONE WHO GRABBED YOU AND SAID, "I NEED YOU
16 AS A WITNESS FOR THIS INTERVIEW"; IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. ALL RIGHT. BUT YOU DIDN'T HEAR ANY CONVERSATIONS
19 BETWEEN SAMMY AND DETECTIVE SLOAN BEFORE, AT THE POLICE
20 DEPARTMENT?

21 A. THAT'S CORRECT.

22 Q. AND YOU INTERVIEWED SAMMY IN AN INTERVIEW ROOM OR
23 A ROOM WITH TABLES AND CHAIRS, CORRECT?

24 A. CORRECT.

25 Q. YOU CAN'T RECALL IF THERE WERE ANY WINDOWS IN

1 THERE?

2 A. NO, I CAN'T RECALL.

3 Q. DO YOU RECALL WHAT SAMMY WAS WEARING?

4 A. NO, SIR.

5 Q. DO YOU REMEMBER IF HE HAD A SHIRT ON OR ANYTHING
6 OF THAT SORT?

7 A. I DO NOT REMEMBER IF HE HAD A SHIRT ON OR NOT.

8 Q. NOW, YOU HAVE HEARD TESTIMONY EARLIER THAT IT'S
9 AGAINST ANDERSON COUNTY SHERIFF'S POLICY TO RECORD
10 INTERVIEWS; IS THAT CORRECT?

11 A. THERE IS NO POLICY IN PLACE STATING THAT YOU HAVE
12 TO HAVE RECORDINGS.

13 Q. IS THERE A POLICY IN PLACE SAYING THAT YOU ARE
14 NOT TO RECORD?

15 A. I CAN'T ADVISE ON THAT. I CAN'T, I CAN'T ADVISE
16 ON THAT.

17 Q. YES OR NO. I MEAN, YOU CAN'T ADVISE BECAUSE YOU
18 CAN'T TELL US, OR...

19 A. NO.

20 Q. OR JUST YOU DON'T KNOW?

21 A. I DON'T KNOW.

22 Q. OKAY. ALL RIGHT. NOW, WHEN YOU WERE AT THE
23 CLEMSON POLICE DEPARTMENT, DID YOU CHECK TO SEE IF THERE
24 WAS ANYTHING TO RECORD THIS INTERVIEW WITH?

25 A. I DID NOT.

1 Q. OKAY. DO YOU KNOW IF THERE WAS ANY AUDIO OR
2 VIDEO CAPABILITIES TO RECORD AT ALL FOR THAT
3 QUESTIONING?

4 A. I DIDN'T KNOW IF THEY HAD THAT CAPABILITY.

5 Q. ~~THE STATEMENT THAT SAMMY GAVE TO YOU INDICATED~~
6 ~~THAT HE HEARD SHOTS?~~

7 A. CORRECT.

8 MR. POTTER: NOTHING FURTHER, YOUR HONOR.

9 THE COURT: REDIRECT?

10 REDIRECT EXAMINATION BY MS. HUEY:

11 Q. MR. VAUGHN, SO THE STATEMENT SAID THAT HE HEARD
12 SHOTS?

13 A. THAT'S CORRECT.

14 Q. BUT AGAIN, ~~HE COULDN'T TELL WHO WAS SHOOTING AT~~
15 ~~HIM, IF ANYONE?~~

16 A. THAT'S CORRECT. WE TOLD HIM, ~~WE ASKED FOR HIM TO~~
17 ~~GIVE US ALL THE -- TO THE BEST OF HIS KNOWLEDGE TO GIVE~~
18 ~~US EVERYTHING THAT HAPPENED THAT NIGHT AS FAR AS HIS~~
19 ~~INVOLVEMENT IN IT, AND THE ONLY THING THAT HE COULD TELL~~
20 ~~US WAS THAT HE HEARD SHOTS.~~

21 Q. ~~AND HE DIDN'T EVEN KNOW IF SOMEONE WAS SHOOTING~~
22 ~~AT HIM?~~

23 A. THAT'S CORRECT.

24 THE COURT: ANY RECROSS ON THOSE TWO
25 QUESTIONS?

1 RECROSS-EXAMINATION BY MR. POTTER:

2 Q. THERE'S NOTHING IN THE STATEMENT INDICATING HE
3 KNEW PEOPLE WERE SHOOTING AT HIM, IS THAT CORRECT, OR
4 DID HE TELL YOU THAT?

5 A. HIS STATEMENT DIDN'T, DIDN'T REFLECT ANYBODY
6 THAT -- HE DIDN'T SAY THAT SOMEONE WAS SHOOTING AT HIM.
7 HE HEARD SHOTS.

8 Q. SO YOU DON'T KNOW THAT HE KNEW SOMEBODY WAS
9 SHOOTING AT HIM OR NOT?

10 A. HE DID NOT TELL US IF HE WAS BEING SHOT AT OR
11 NOT, ONLY THE FACT THAT HE HEARD SHOTS.)

12 Q. YOU DIDN'T WRITE IT DOWN. THAT'S JUST NOT
13 INDICATED IN WHAT YOU WROTE DOWN IN HIS STATEMENT,
14 CORRECT?

15 A. CORRECT. THIS STATEMENT WAS TAKEN FROM HIS
16 WORDS.

17 Q. AND EVERYTHING THAT CAME OUT OF HIS MOUTH FROM
18 THAT INTERVIEW YOU PUT DOWN ON THE STATEMENT?

19 A. I CAN'T SAY FOR A HUNDRED PERCENT CERTAINTY, BUT
20 FOR THE MOST PART THAT IS HIS WORDAGE FROM OUR
21 DISCUSSION.

22 MR. POTTER: NOTHING FURTHER.

23 THE COURT: YOU MAY STEP DOWN. THANK YOU SO
24 VERY MUCH.

25 (WHEREUPON, WITNESS WAS EXCUSED.)

1 **THE COURT:** MADAM FORELADY, LADIES AND
2 GENTLEMEN OF THE JURY, WE'RE GOING TO STOP AT THIS TIME
3 BE BACK IN THE JURY ROOM TOMORROW MORNING AT 10:00 AND
4 WE'LL GET STARTED AT THAT TIME.

5 DON'T DISCUSS THE CASE AMONGST YOURSELVES,
6 DON'T DISCUSS IT WITH YOUR HUSBAND, YOUR BOYFRIEND OR
7 YOUR GIRLFRIEND OR WHOEVER. THEY HAVEN'T HEARD ANY
8 TESTIMONY. THEY DON'T KNOW WHAT'S BEEN SAID IN THE
9 COURTROOM. I WANT YOU TO BASE YOUR DECISION ON WHAT YOU
10 HEAR IN THE COURTROOM. PLEASE DON'T READ ANYTHING IN
11 THE PAPER OR WATCH ANYTHING ON TELEVISION ABOUT IT.

12 I'LL SEE YOU IN THE MORNING AT 10:00. HAVE
13 A GOOD EVENING.

14 (THE JURY LEFT THE COURTROOM AT 5:00 P.M.)

15 **THE COURT:** LET'S EVERYBODY ELSE STAY SEATED
16 FOR A FEW MINUTES UNTIL WE HAVE EVERYBODY CLEARED OUT,
17 PLEASE.

18 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
19 STATE OF SOUTH CAROLINA V. SAMMY SCOTT WAS
20 ADJOURNED AT 5:05 P.M. ON TUESDAY, SEPTEMBER
21 9TH, 2008, TO RESUME AT APPROXIMATELY 10:00
22 A.M. ON WEDNESDAY, SEPTEMBER 10TH, 2008.)
23
24
25

1 (WHEREUPON, THE TRIAL OF THE MATTER OF THE
2 STATE OF SOUTH CAROLINA V. SAMMY SCOTT
3 CONTINUED ON WEDNESDAY, SEPTEMBER 10TH, 2008,
4 AT APPROXIMATELY 10:12 A.M.)

5 (STATE'S EXHIBITS # 13 THROUGH 21 WERE MARKED
6 FOR IDENTIFICATION.)

7 THE COURT: IS THERE ANYTHING ELSE BEFORE WE
8 BRING THE JURY?

9 MS. HUEY: NO, SIR.

10 THE COURT: ALL RIGHT. BRING THE JURY.

11 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
12 10:31 A.M.)

13 THE COURT: SOLICITOR, IF YOU WANT TO CALL
14 YOUR NEXT WITNESS?

15 MS. HUEY: YES, SIR, YOUR HONOR. THE STATE
16 CALLS DR. BRETT WOODARD TO THE STAND.

17 (WHEREUPON, DR. BRETT WOODARD WAS SWORN BY
18 THE CLERK OF COURT AND HE WAS ASKED TO STATE
19 HIS FULL NAME, SPELLING HIS LAST NAME.)

20 THE WITNESS: BRETT WOODARD; W-O-O-D-A-R-D.

21 DIRECT EXAMINATION BY MS. HUEY:

22 Q. DR. WOODARD, WHAT IS YOUR OCCUPATION OR
23 PROFESSION?

24 A. I'M A MEDICAL DOCTOR AND A PATHOLOGIST BY
25 SPECIALTY TRAINING.

1 Q. AND WHAT IS A PATHOLOGIST?

2 A. A PATHOLOGIST IS A PHYSICIAN SPECIALIST WHO
3 STUDIES DISEASES AND ILLNESS OR INJURY IN INDIVIDUALS
4 THROUGH THE USE OF TISSUE SAMPLES OR BLOOD SAMPLES TO
5 STUDY THE CHEMISTRY OR OTHER FEATURES OF THE BLOOD.

6 Q. AND IS THAT ALSO A FORENSIC PATHOLOGIST THEN?

7 A. FORENSIC PATHOLOGIST IS A SUBSPECIALTY AREA
8 WITHIN THAT SPECIALTY OF PATHOLOGY THAT DEALS WITH HUMAN
9 INJURY OR DISEASE CAUSED BY EXTERNAL FORCES, SEPARATING
10 INJURY FROM NATURAL DISEASE, AND ACQUIRING INFORMATION
11 THAT ALLOWS THE DEAD PERSON TO TELL THE PARTICULAR STORY
12 OF THEIR INJURY OR DISEASE.

13 Q. NOW, CAN YOU DESCRIBE YOUR EDUCATIONAL BACKGROUND
14 FOR THE JURY?

15 A. I RECEIVED A BACCALAUREATE DEGREE FROM THE
16 UNIVERSITY OF PITTSBURGH, I ATTENDED MEDICAL SCHOOL AND
17 RECEIVED A MEDICAL DEGREE FROM TULANE UNIVERSITY OF NEW
18 ORLEANS, I DID AN INTERNSHIP AT THE CHARITY HOSPITAL OF
19 NEW ORLEANS, I DID A PATHOLOGY RESIDENCY TRAINING AT
20 DUKE UNIVERSITY MEDICAL CENTER, AND WENT FOR FELLOWSHIP
21 TRAINING AT THE NORTH CAROLINA MEDICAL EXAMINER'S OFFICE
22 IN THE SPECIFIC AREA OF FORENSIC PATHOLOGY.

23 Q. AND ARE YOU BOARD CERTIFIED IN FORENSIC
24 PATHOLOGY?

25 A. YES. I'M BOARD CERTIFIED IN ANATOMIC PATHOLOGY,

1 CLINICAL PATHOLOGY, BLOOD BANKING AND TRANSFUSION
2 MEDICINE, AND FORENSICS PATHOLOGY.

3 Q. AS A FORENSIC PATHOLOGIST, WHAT ARE SOME OF YOUR
4 DUTIES?

5 A. AT THE REQUEST OF THE NEXT OF KIN OR THE CORONERS
6 IN OUR STATE, I EXAMINE PEOPLE WHO ARE THOUGHT TO HAVE
7 DIED FROM NON NATURAL REASONS AND TO EXAMINE THE BODIES
8 AND MAKE A DETERMINATION OF THE CAUSE AND MANNER OF
9 DEATH.

10 Q. SO YOU PERFORM AUTOPSIES?

11 A. THAT'S CORRECT.

12 Q. HOW MANY AUTOPSIES HAVE YOU PERFORMED OVER YOUR
13 CAREER?

14 A. I PERFORM SOMEWHERE BETWEEN 200 AND 250 AUTOPSIES
15 A YEAR.

16 Q. HOW LONG HAVE YOU BEEN PRACTICING AGAIN?

17 A. HERE IN ANDERSON SINCE 1982.

18 Q. HAVE YOU EVER TESTIFIED AS AN EXPERT,
19 DR. WOODARD?

20 A. YES, I HAVE.

21 Q. AND ABOUT HOW MANY TIMES HAS THAT HAPPENED?

22 A. HUNDREDS OF TIMES IN STATE AND FEDERAL COURT.

23 MS. HUEY: YOUR HONOR, AT THIS TIME WE WOULD
24 MOVE TO HAVE DR. WOODARD QUALIFIED AS AN EXPERT IN
25 FORENSIC PATHOLOGY.

1 THE COURT: ANY OBJECTION?

2 ~~MR. POTTER~~: NO, YOUR HONOR.

3 THE COURT: ALL RIGHT. THE COURT SO FINDS
4 THAT DR. WOODARD IS AN EXPERT QUALIFIED IN THE FIELD OF
5 FORENSIC PATHOLOGY.

6 MS. HUEY: THANK YOU, YOUR HONOR.

7 BY MS. HUEY:

8 Q. WERE YOU WORKING IN THIS CAPACITY BACK IN JULY OF
9 2006?

10 A. YES, I WAS.

11 Q. AND DID YOU HAVE THE OCCASION TO PERFORM THE
12 AUTOPSY ON JAVARIS CLINKSCALES?

13 A. YES, I DID, ON JULY 10TH, 2006.

14 Q. HOW OLD WAS MR. CLINKSCALES WHEN HE CAME TO YOU,
15 DR. WOODARD?

16 A. HE WAS 15 YEARS OF AGE.

17 Q. GENERALLY WHEN YOU ARE ABOUT TO BEGIN AN AUTOPSY,
18 WHAT IS THE GENERAL PROCEDURE YOU FOLLOW?

19 A. WE START TO EXAMINE THE BODY IN THE CONDITION
20 THAT WE RECEIVE IT. IF IT'S CLOTHED, WE START WITH AN
21 EXAMINATION OF THE CLOTHING; WORK UNDER THE CLOTHING TO
22 THE SKIN SURFACE; AND THEN LOOK INSIDE THE BODY AT THE
23 INTERNAL ORGANS, BONES, FOR ANY SIGNS OF INJURY, AND
24 THEN TRY AND RELATE THAT TO WHAT WE SAW IN THE CLOTHING
25 OR SAW ON THE SKIN.

1 Q. AND DID YOU DO THAT IN THIS PARTICULAR CASE?

2 A. YES, I DID.

3 Q. OKAY. CAN YOU TELL US WHAT YOU FIRST OBSERVED
4 THEN ABOUT MR. CLINKSCALES?

5 A. HE HAD SEVERAL SHOTGUN PROJECTILE WOUNDS TO HIS
6 BODY. HE HAD, HAD HIS CLOTHING REMOVED AND MEDICAL
7 INTERVENTION HAD BEEN UNDERTAKEN WITH THE DOCTORS TAKING
8 OVER THE BREATHING FOR HIM AND PUTTING SEVERAL I.V.'S
9 INTO HIS BODY TO TRY AND SUPPLY EXTRA FLUID TO HIS BODY.

10 Q. NOW, SPECIFICALLY AS TO HIS HEAD, DR. WOODARD,
11 HOW MANY SHOTS DID YOU NOTICE THERE?

12 A. HE HAD THREE BUCKSHOT WOUNDS TO HIS HEAD: ONE
13 WAS SLIGHTLY IN FRONT OF THE RIGHT EAR WHERE THE
14 RIGHT -- WHERE THE EAR WOULD COME TO JOIN THE HEAD; ONE
15 WAS ABOVE THE RIGHT EAR AND CLOSER TO THE TOP OF THE
16 HEAD; AND ONE WAS IN THE FRONT FOREHEAD AREA. ALL THE
17 WOUNDS ENTERED FROM THE RIGHT SIDE OF HIS BODY AND THE
18 PROJECTILES PASSED TOWARD THE LEFT SIDE OF HIS BODY.

19 Q. WHAT WOULD BE THE EFFECT OF THESE PARTICULAR
20 BUCKSHOT WOUNDS HAVE HAD ON HIM?

21 A. WELL, THE BUCKSHOT WOUND IN THE FRONT WAS A
22 GRAZING WOUND, IT WENT INTO THE SKIN AND TORE THE LITTLE
23 BLOOD VESSELS IN THE SKIN AND BRUISED THE SKIN AND THEN
24 CAME BACK OUT TO THE LEFT OF WHERE IT ENTERED.

25 BUT THE BUCKSHOT WOUND THAT WENT IN SLIGHTLY IN

1 FRONT OF THE RIGHT EAR ENTERED THE BRAIN, PASSED THROUGH
2 THE, WHAT WE CALL THE BRAIN STEM, THE PORTION OF THE
3 BRAIN THAT COMES UP FROM THE SPINAL CORD AND CONNECTS
4 THE BRAIN AND THE SPINAL CORD TO EACH OTHER AND HAS OUR
5 PRIMITIVE CENTERS IN IT THAT CONTROL RESPIRATION, SO
6 THAT WE KNOW TO TAKE OUR NEXT BREATH IN IT; THAT
7 BUCKSHOT PELLET WENT THROUGH THAT, TORE IT AWAY FROM THE
8 OVERLYING BRAIN, AND THEN CAME TO REST IN THE BRAIN
9 MATERIALS ON THE OPPOSITE SIDE.

10 THE BUCKSHOT PELLET THAT WENT IN ABOVE THE RIGHT
11 EAR AND BEHIND THE INITIAL ONE WENT THROUGH THE CEREBRAL
12 HEMISPHERES OF THE BRAIN AND TORE A HOLE IN THE CEREBRAL
13 HEMISPHERES OF THE BRAIN.

14 Q. IF MR. CLINKSCALES HAD BEEN STANDING AT THE TIME
15 HE WAS SHOT, WHAT WOULD THESE GUNSHOT WOUNDS HAVE -- HOW
16 WOULD THEY HAVE ---

17 A. HE WOULD INSTANTLY LOSE CONSCIOUSNESS, AND HE
18 WOULD INSTANTLY LOSE CONTROL OF HIS LEGS. HIS -- THE
19 MESSAGE THAT HIS BRAIN HAD LAST SENT TO HIS SPINAL CORD
20 TO DO WHAT WOULD BE NECESSARY FOR HIM TO STAND ERECT IN
21 WHATEVER POSITION HE WAS STANDING WOULD PERSIST FOR
22 MATTERS OF LESS THAN A SECOND, AND THEN THOSE MUSCLES
23 WOULD BECOME SLOWLY FLACCID, AND HE WOULD TO OBSERVERS
24 MELT TO THE GROUND IN AN UNSUPPORTED WAY. IF HE WAS
25 LEANING AGAINST AN OBJECT, HE WOULD SLIDE DOWN THAT

1 OBJECT TO THE GROUND AND STRIKE THE GROUND IN AN
2 UNCONTROLLED WAY.

3 Q. NOW, WOULD HIS HEART STILL CONTINUE BEATING?

4 A. HIS HEART, ESPECIALLY A YOUNG PERSON'S HEART LIKE
5 THIS, WILL CONTINUE TO BEAT UNTIL THE OXYGEN LEVELS IN
6 THEIR BLOOD FALL AWAY TO SUCH AN EXTENT AND THE CARBON
7 DIOXIDE LEVELS BUILD UP TO SUCH AN EXTENT THAT THE HEART
8 NO LONGER CAN TOLERATE THAT).

9 IF C.P.R. IS BEGUN, SOMEBODY STARTS TO BREATHE
10 FOR THE INDIVIDUAL, THEN THE HEART COULD BE KEPT BEATING
11 FOR A LONG TIME.

12 Q. (SO THE HEART COULD KEEP GOING, BUT HOW ABOUT THE
13 BRAIN?

14 A. THE BRAIN HAS, IT'S BEEN -- IT'S DONE THE MINUTE
15 THOSE TWO BUCKSHOT PELLETS ENTERED IT.

16 Q. (SO HE WAS BRAIN DEAD?

17 A. THAT'S CORRECT.)

18 Q. DOCTOR, WHAT ELSE DID YOU OBSERVE ABOUT THE
19 VICTIM'S BODY? DID HE HAVE ANY OTHER WOUNDS?

20 A. HE HAD A BUCKSHOT WOUND TO HIS RIGHT SHOULDER
21 THAT WENT IN SOFT TISSUES OF THE RIGHT SHOULDER, AND WE
22 RETRIEVED THAT BUCKSHOT PELLET.

23 HE HAD A BUCKSHOT WOUND THAT WENT INTO THE BACK
24 OF HIS NECK IN THE SOFT TISSUES, MISSED BONE AND THEN
25 CAME OUT ON THE LEFT SIDE.

1 AND THEN HE HAD A BUCKSHOT WOUND DOWN ON THE
2 FLANK ABOUT WHERE THE, IN THE LINE WHERE THE SEAM ON A
3 MAN'S SHIRT WOULD BE, THAT ENTERED INTO THE BODY, TORE A
4 HOLE IN THE LIVER AND BOWEL.

5 Q. NOW, DR. WOODARD, HOW DID YOU MAKE A
6 DETERMINATION THAT THIS WAS BUCKSHOT?

7 A. WE REMOVED BUCKSHOT FROM THE INJURY TO THE
8 SHOULDER WHERE THERE WAS AN INTACT BUCKSHOT PELLET, AND
9 THEN WE REMOVED TWO FLATTENED BUCKSHOT PELLETS FROM THE
10 HEAD WOUNDS.

11 WE LOOKED AT THE PHYSICAL SIZE. SHOTGUNS
12 BASICALLY COME IN TWO PELLET SIZES, WHAT WE WOULD REFER
13 TO AS BUCKSHOT AND BIRDSHOT. BIRDSHOT IS FINE BB'S LIKE
14 THE BB'S THAT A CHILD MIGHT USE OR A YOUNG PERSON MIGHT
15 USE IN A BB GUN. THE BUCKSHOT IS MUCH LARGER IN
16 PHYSICAL SIZE, AND RIVALS THE SIZE OF A .32 CALIBER
17 BULLET IN ITS PHYSICAL DIAMETER DIMENSION. SO BY
18 LOOKING AT IT WE CAN DETERMINE IT BELONGS TO THE
19 BUCKSHOT FAMILY.

20 Q. AND AGAIN, YOU RECOVERED THREE OF THOSE FROM HIS
21 BODY?

22 A. THAT'S CORRECT.

23 Q. AND TWO FROM THE BRAIN?

24 A. TWO FROM THE BRAIN AND ONE FROM THE SOFT TISSUE
25 OF THE BACK.

1 Q. AND THE ONES TO THE BRAIN WERE THE FATAL SHOTS?

2 A. THOSE TWO SHOTS TO THE BRAIN WERE FATAL.

3 Q. NOW, DR. WOODARD, CAN YOU TELL HOW MANY TIMES
4 MR. CLINKSCALES HAD BEEN SHOT?

5 A. HE HAD TWO SHOTS: ONE IN THE SHOULDER, ONE
6 ACROSS THE NECK, TWO BUCKSHOTS INTO THE HEAD, ONE IN THE
7 SOFT TISSUE OF THE FOREHEAD, ONE WENT THROUGH HIS THROAT
8 RIGHT ABOUT WHERE YOUR ADAM'S APPLE IS, AND OUT THE
9 OTHER SIDE, AND THEN HE HAD THE ONE IN HIS FLANK.

10 Q. SO, DR. WOODARD, IN YOUR EXPERT OPINION, WHAT WAS
11 THE CAUSE OF JAVARIS CLINKSCALES' DEATH?

12 A. A BUCKSHOT WOUND TO THE HEAD WITH RESULTING
13 INJURY OF BRAIN STRUCTURES.

14 Q. DR. WOODARD, DID YOU ALSO DO OR MAKE ANY
15 OBSERVATIONS ABOUT HIS HANDS OR ANYTHING LIKE THAT?

16 A. WE LOOKED OVER HIS HANDS TO SEE IF THERE WAS ANY
17 SIGN THAT HE HAD RECENTLY STRUCK ANY KIND OF PHYSICAL
18 BLOWS WITH HIS HANDS AND DID NOT SEE ANY KIND OF
19 INJURIES, BRUISES, SCRAPES, TO WHAT WE REFER TO AS THE
20 KNUCKLE SURFACES OF THE HANDS.

21 HE DID HAVE A LARGE HIGH-SCHOOL TYPE RING ON IT
22 THAT WAS SOME SORT OF FOOTBALL ACCOMPLISHMENT RING THAT
23 HE HAD ON HIS HAND, AND THERE WAS NO BRUISING UNDERNEATH
24 THAT RING AND THERE WAS NO EVIDENT TISSUE ON THE SURFACE
25 OF THE RING.

1 Q. SO IN YOUR OPINION DOES IT APPEAR THAT HE HAD
2 BEEN IN A STRUGGLE OF SOME SORT?

3 A. THERE WAS NO EVIDENCE THAT HE HAD BEEN IN A
4 RECENT STRUGGLE WITH SOMEONE.

5 Q. DR. WOODARD, DID YOU ALSO VIEW X-RAYS OF TWO
6 OTHER VICTIMS RELATED TO THIS CASE?

7 A. YES.

8 (STATE'S EX. # 22, C.D. WITH X-RAYS OF MR.
9 BURNS, WAS MARKED FOR IDENTIFICATION.)

10 (STATE'S EX. # 23, X-RAYS OF MR. CHESTER, WAS
11 MARKED FOR IDENTIFICATION.)

12 BY MS. HUEY:

13 Q. I SHOW YOU STATE'S 22. IF YOU COULD TAKE A LOOK
14 AT THAT FOR ME, PLEASE.

15 A. YES. THIS REPRESENTS A C.D. READ DISK THAT I HAD
16 PREVIOUSLY SEEN AND MARKED THAT I'D SEEN IT, AND
17 ACTUALLY HAVE SEEN THIS DISK OR SIMILAR DISKS ON SEVERAL
18 OCCASIONS, AND THEY REPRESENT THE X-RAYS FROM THE
19 ANDERSON AREA MEDICAL CENTER DURING MR. BURNS'S
20 HOSPITALIZATION.

21 Q. OKAY. AND AGAIN, YOUR INITIALS ARE ON THERE,
22 DR. WOODARD?

23 A. THAT'S CORRECT.

24 Q. THANK YOU.

25 MS. HUEY: YOUR HONOR, AT THIS TIME WE WOULD

1 MOVE STATE'S 22 INTO EVIDENCE.

2 THE COURT: ANY OBJECTION?

3 MR. POTTER: NO, YOUR HONOR.

4 THE COURT: STATE'S EXHIBIT 22 WILL BE
5 ADMITTED WITHOUT OBJECTION.

6 (STATE'S EX. # 22 WAS RECEIVED IN EVIDENCE.)

7 BY MS. HUEY:

8 Q. DR. WOODARD, IF YOU DON'T MIND STEPPING DOWN,
9 PLEASE.

10 (WITNESS LEAVES STAND.)

11 A. THERE ARE THREE DIFFERENT X-RAYS THAT WERE TAKEN,
12 THE DATES OF THE -- YOU HAVE THE DATE OF HIS BIRTH, AND
13 THEN OVER ON THIS SIDE YOU CAN SEE THE ASCENSION NUMBER.
14 THESE REPRESENT CHEST X-RAYS: PORTABLE SINGLE VIEWS;
15 CHEST X-RAY, TWO VIEWS; CHEST X-RAY, PORTABLE SINGLE
16 VIEW.

17 THIS IS THE FIRST CHEST X-RAY THAT WAS TAKEN.
18 YOU CAN SEE THAT THESE REPRESENT THE E.K.G. LEADS THAT
19 ARE ON THE OUTSIDE OF HIS BODY AND THE WIRES THAT
20 CONNECT HIM.

21 NOW, HERE ON THE LEFT SIDE OF HIS BODY,
22 OVERLAPPING THE CHEST AREA, YOU SEE A RELATIVELY ROUND,
23 BUT A PROJECTILE THAT'S IN THE GENERAL SIZE AND SHAPE
24 CHARACTERISTICS OF A BUCKSHOT PELLET.

25 Q. AND IS THAT THE ONLY ONE THAT YOU DETECT,

1 DR. WOODARD?

2 A. YEAH. THE -- THERE IS ANOTHER ONE UP HERE ON THE
3 LEFT SIDE OF HIS NECK.

4 Q. AND IN YOUR OPINION THOSE ARE CONSISTENT WITH
5 BUCKSHOT?

6 A. THAT'S CORRECT.

7 Q. OKAY. THANK YOU, DR. WOODARD.

8 I'M ALSO GONNA SHOW YOU WHAT'S BEEN MARKED AS
9 STATE'S 23. DO YOU RECOGNIZE THAT?

10 A. AGAIN, I'VE SEEN THIS C.D., I'VE SEEN THIS C.D.
11 OR ONE LIKE IT, AND IT REPRESENTS MR. CHESTER'S X-RAYS
12 THAT WERE TAKEN OF HIS ANKLE AT THE TIME OF HIS
13 HOSPITALIZATION.

14 Q. AND AGAIN, YOUR INITIALS ARE ON THERE,
15 DR. WOODARD?

16 A. THAT'S CORRECT.

17 MS. HUEY: YOUR HONOR, AT THIS TIME WE WOULD
18 MOVE STATE'S 23 INTO EVIDENCE.

19 THE COURT: ANY OBJECTION?

20 MR. POTTER: NO, YOUR HONOR.

21 THE COURT: IT WILL BE ADMITTED WITHOUT
22 OBJECTION.

23 MS. HUEY: THANK YOU, YOUR HONOR.

24 (STATE'S EX. # 23 WAS RECEIVED IN EVIDENCE.)

25 THE WITNESS: THIS REPRESENTS MR. CHESTER'S

1 X-RAYS TAKEN, HERE'S HIS HOSPITAL ACSESSION NUMBER, THIS
2 REPRESENTS X-RAYS AT THE ANKLE, THREE VIEWS. AND IN HIS
3 LEFT ANKLE, AS WE LOOK FROM FRONT TO BACK, WE SEE A
4 ROUND PROJECTILE MADE OUT OF LEAD, SO IT SHOWS UP AS A
5 DIFFERENT DENSITY OF THE BONE, THE MAJOR BONE OF HIS
6 ANKLE ALONG THE SIDE, NEAR HIS GROWTH PLATE, AND YOU CAN
7 SEE HIS GROWTH PLATE RIGHT HERE. AND THEY MEASURED IT
8 AT LEAST IN THIS VIEW AS 9.48 MILLIMETERS.

9 SO THEN IN THE OTHER VIEWS, THE ANKLE, THEY
10 BEGIN TO ROTATE THE ANKLE; AGAIN, YOU CAN SEE IT'S A
11 RELATIVELY ROUND PROJECTILE, BUT YOU SEE THE EDGES OF
12 BONE LIFTED UP BY THE PROJECTILE, THE PROJECTILE IS IN
13 THE BONE AND IT'S NOT IN THE JOINT SPACE.

14 AND THEN THE NEXT VIEW, WE JUST ROTATED THE
15 ANKLE AROUND, AND AGAIN YOU SEE THE, STILL SEE THE ROUND
16 LEAD SHAPE OF A PROJECTILE THAT IS CONSISTENT WITH A
17 BUCKSHOT WOUND ALSO.

18 Q. SO IN YOUR OPINION, DR. WOODARD, THAT IS
19 CONSISTENT WITH A BUCKSHOT WOUND?

20 A. YES.

21 MS. HUEY: OKAY. THANK YOU, DR. WOODARD,
22 YOU CAN HAVE A SEAT.

23 (WITNESS RESUMES STAND.)

24 BY MS. HUEY:

25 Q. NOW, DR. WOODARD, HIS SHOTS, I BELIEVE, WERE ON

1 HIS RIGHT FLANK?

2 A. HE WAS SHOT ON HIS RIGHT FLANK, HIS RIGHT
3 SHOULDER, AND THE RIGHT SIDE OF HIS HEAD AND THE RIGHT
4 SIDE OF HIS NECK.

5 Q. WHAT, IF ANYTHING, DOES THAT GIVE YOU IN TERMS OF
6 DIRECTIONALITY OF THE BULLET?

7 A. IT TELLS ME THAT THE SHOOTER WOULD BE OFF TO HIS
8 RIGHT, RELATIVELY PERPENDICULAR WITH THE SIDE OF HIS
9 BODY, AND THAT HIS FACE WAS POINTED AT A 45-DEGREE ANGLE
10 TO THE SHOOTER. SO IF THE JURY WAS THE SHOOTER, I WOULD
11 HAVE BEEN LOOKING ROUGHLY TOWARD THE EXIT DOOR WHEN THE
12 JURY SHOT ME.

13 Q. SO IT COULDN'T HAVE COME FROM THE FRONT, THEN, IN
14 YOUR OPINION, DR. WOODARD?

15 A. NO. IT CAME FROM HIS SIDE.

16 MS. HUEY: THAT'S ALL I HAVE, JUDGE.

17 THE COURT: CROSS-EXAMINATION.

18 MR. POTTER: THANK YOU, YOUR HONOR, IF IT
19 PLEASES THE COURT.

20 CROSS-EXAMINATION BY MR. POTTER:

21 Q. DOCTOR, SO ON THAT LAST QUESTION BY THE
22 SOLICITOR, IT COULDN'T COME FROM BEHIND HIM, EITHER,
23 COULD IT?

24 A. NO. ~~IT DIDN'T COME FROM BEHIND HIM.~~

25 Q. ALL RIGHT. NOW, YOU INDICATED THAT HE WAS

1 INITIALLY SEEN AT THE EMERGENCY DEPARTMENT AT THE
2 HOSPITAL; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. AND THERE WAS A SUBSTANTIAL AMOUNT OF LIFE-SAVING
5 WORK DONE ON HIM IN THE EMERGENCY ROOM; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY. DID ANY OF THAT WORK DONE BY THE EMERGENCY
8 PHYSICIANS DO ANYTHING WITH REGARDS TO THE CONDITION OF
9 HIS HEAD OR ANY OF HIS BODY?

10 A. NO. THEY PUT A TUBE INTO HIS MOUTH, I GUESS THAT
11 WOULD BE PART OF HIS HEAD, BUT THEY DIDN'T ATTEMPT TO
12 OPERATE ON HIM. EVIDENTLY THEY FELT HE WAS INOPERABLE
13 BECAUSE OF WHAT THEY SAW.

14 Q. SO THERE WAS NO TREATMENT DONE TO ANY OF THE
15 WOUNDS HE HAD WHILE HE WAS UNDER THE CARE OF THE
16 EMERGENCY ROOM PHYSICIANS?

17 A. THAT'S CORRECT.

18 Q. OKAY. YOU INDICATED THE TUBE WAS PLACED DOWN HIS
19 THROAT. WAS THERE ANY OTHER TYPE OF RESPIRATION?

20 A. HE HAD AN I.V. INTO HIS, THE CENTER PART OF HIS
21 RIGHT HAND, AND AN I.V. INTO THE TOP OF HIS RIGHT HAND.
22 HE HAD A URINARY CATHETER PLACED. HE HAD LITTLE PADS
23 PUT ON HIM THAT THEY USE FOR EKG'S AND THEN PADS PUT ON
24 HIM THAT THEY USE FOR DEFIBRILLATION.

25 THE RING WAS LEFT ON HIS RIGHT-HAND FOURTH

1 FINGER, AND ON HIS LEFT HAND ON THE THIRD FINGER HE HAD
2 A LITTLE GADGET THAT THEY USE TO MEASURE CAPILLARY
3 OXYGEN.

4 Q. OKAY. NOW LET'S TALK A LITTLE BIT ABOUT YOUR
5 AUTOPSY. YOU INDICATED THERE WERE SEVERAL PASS-THROUGH
6 WOUNDS; IS THAT TRUE?

7 A. THAT'S CORRECT.

8 Q. OKAY. WHERE WERE THOSE PASS-THROUGH WOUNDS AT?

9 A. ONE WAS TO THE FRONT OF HIS FOREHEAD.

10 Q. OKAY. WE'LL STOP FOR A SECOND. SO HE'S GOT --
11 DOES IT ENTER HIS HEAD OR IS IT A GRAZE?

12 A. NO. IT, WELL, IT ENTERS THE SKIN OF HIS HEAD --

13 Q. I GOT YOU.

14 A. -- BUT IT DOESN'T ENTER THE SKULL, AND THERE
15 REALLY IS NOT MUCH THERE EXCEPT SKIN AND A LITTLE SOFT
16 TISSUE.

17 Q. OKAY. BUT THERE IS A GRAZING-TYPE INJURY THERE?

18 A. THAT'S CORRECT.

19 Q. ALL RIGHT. AND WHERE WAS THE OTHER INJURY?

20 A. HERE AT THE BACK OF HIS NECK, IT WENT THROUGH THE
21 MEATY PART OF THE BACK OF HIS NECK AND THEN OUT THE
22 OTHER SIDE.

23 Q. ANY OTHER PASS-THROUGH INJURIES?

24 A. THE -- HE HAD ONE THAT ENTERED HIS BODY, BUT
25 PASSED THROUGH HIS BODY THAT WENT THROUGH BASICALLY HIS

1 ADAM'S APPLE.

2 Q. OKAY. WHEN YOU TALK ABOUT PASS-THROUGH, THAT
3 MEANS THE BULLET ENTERED THE BODY AND THEN EXITED THE
4 BODY AS WELL; IS THAT RIGHT?

5 A. THAT'S CORRECT.

6 Q. OKAY. THE INJURIES TO HIS HEAD, WERE THESE SMALL
7 HOLES OR WERE THESE BULLET HOLES IN THE HEAD OR WAS
8 THERE ANY OTHER DAMAGES TO THE HEAD CAUSED BY THESE
9 PROJECTILES?

10 A. THE ---

11 Q. LET ME CLARIFY A LITTLE BIT., ON THE OUTSIDE OF
12 THE HEAD.

13 A. THEY JUST MADE A SINGLE HOLE. THERE WAS NO
14 POWDER OR STIPPLING OR OTHER SIGNS OF THE MATERIALS THAT
15 COME OUT WITH A GUNSHOT WOUND ON THE SKIN.

16 Q. OKAY. SO THERE WAS NO, THERE WAS NO REMOVAL OF
17 ANY OTHER PORTIONS OF HIS HEAD AS A RESULT OF THAT
18 SHOTGUN BLAST?

19 A. NO.

20 Q. JUST THE HOLE?

21 A. JUST THE HOLE.

22 Q. AND YOU FOUND TWO HOLES IN THE RIGHT SIDE OF HIS,
23 RIGHT SIDE OF HIS HEAD?

24 A. THAT'S CORRECT: ONE IN FRONT OF THE EAR, ONE
25 ABOVE THE EAR. NOT COUNTING THE ONE THAT WAS IN HIS

1 FRONT FOREHEAD.

2 Q. THE PASS-THROUGH ONE ON THE HEAD, YOU DON'T KNOW
3 WHAT TYPE OF CALIBER BULLET WOULD CAUSE THAT
4 PASS-THROUGH ONE, DO YOU?

5 A. NO.

6 Q. THE PASS-THROUGH WOUND TO THE NECK, DO YOU KNOW
7 THE TYPE OF CALIBER BULLET THAT WOULD CAUSE THAT
8 PASS-THROUGH INJURY?

9 A. NO.

10 Q. THE PASS-THROUGH WOUND FOR THE NECK, THE FIRST
11 ONE WAS ABOUT THE ADAM'S APPLE, AND THE SECOND ONE YOU
12 SAID BACK OF THE NECK?

13 A. THAT'S CORRECT.

14 Q. COULD YOU TELL THE CALIBER BULLET USED FOR THAT?

15 A. NO.

16 Q. WERE THERE ANY OTHER PASS-THROUGH WOUNDS IN THE
17 BODY BESIDES THE ONE WE JUST MENTIONED?

18 A. NO.

19 Q. IN REGARDS TO THE INJURIES THAT THE BODY
20 SUSTAINED AND YOUR DETERMINATION ON WHAT CAUSED HIM TO
21 DIE, YOU DO NOT NECESSARILY KNOW WHICH WOUND HAPPENED
22 FIRST?

23 A. NO.

24 Q. OKAY. THANK YOU.

25 MR. POTTER: NOTHING FURTHER.

1 THE COURT: ANY REDIRECT?

2 REDIRECT EXAMINATION BY MS. HUEY:

3 Q. DR. WOODARD, CAN YOU TELL WHICH WOUNDS KILLED
4 HIM, THOUGH?

5 A. YES.

6 Q. AND AGAIN, WHICH WERE THOSE?

7 A. THE TWO WOUNDS THAT WENT TO HIS HEAD: THE ONE
8 THAT WAS IN FRONT OF HIS RIGHT EAR AND THE ONE THAT WENT
9 IN THE RIGHT SIDE OF HIS HEAD.

10 Q. AND AGAIN, DID YOU RECOVER ANY PROJECTILES FROM
11 THOSE TWO AREAS?

12 A. THAT'S CORRECT.

13 Q. AND THOSE ARE BOTH BUCKSHOTS?

14 A. THAT'S CORRECT.

15 MS. HUEY: NO FURTHER QUESTIONS.

16 THE COURT: ANY RECROSS?

17 MR. POTTER: NO, YOUR HONOR.

18 THE COURT: IS THERE ANY REASON THIS WITNESS
19 MAY NOT BE EXCUSED?

20 MR. POTTER: OF COURSE, YOUR HONOR.

21 MS. HUEY: NO, YOUR HONOR.

22 THE COURT: OKAY, DOCTOR, YOU MAY BE
23 EXCUSED. THANK YOU VERY MUCH.

24 (WHEREUPON, WITNESS WAS EXCUSED.)

25 THE COURT: SOLICITOR, YOU MAY CALL YOUR

1 NEXT WITNESS.

2 MS. HUEY: THE STATE CALLS MARK PATTERSON TO
3 THE STAND.

4 (WHEREUPON, MARK PATTERSON WAS SWORN BY THE
5 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
6 FULL NAME, SPELLING HIS LAST NAME.)

7 THE WITNESS: WILTON MARK PATTERSON,
8 P-A-T-T-E-R-S-O-N.

9 WHEREUPON,

10 MARK PATTERSON,
11 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION BY MS. HUEY:

14 Q. NOW, MR. PATTERSON, WHERE DO YOU WORK, WHAT
15 DIVISION?

16 A. THE CRIME SCENE DIVISION.

17 Q. AND IN THE CRIME SCENE DIVISION WHAT ARE SOME OF
18 YOUR RESPONSIBILITIES?

19 A. WE RESPOND TO VARIOUS BREAK-INS, BURGLARIES,
20 ASSAULTS, ARMED ROBBERIES, HOMICIDES; WORK CRIME SCENES.

21 Q. AND WHEN YOU WORK A CRIME SCENE, I MEAN, WHAT ARE
22 SOME OF THE THINGS THAT YOU WOULD DO TO WORK THE CRIME
23 SCENE?

24 A. WELL, WE WOULD PHOTOGRAPH THE VARIOUS CRIME
25 SCENES WE GO ON, WE'D PROCESS THEM FOR FINGERPRINTS,

1 COLLECT EVIDENCE.

2 Q. WHAT ARE SOME TYPICAL ITEMS OF EVIDENCE THAT YOU
3 WOULD COLLECT?

4 A. CLOTHING; CLOTHING, FINGERPRINTS, ANYTHING THAT
5 WOULD BE SUBSTANTIAL FOR THE CASE.

6 Q. HOW ABOUT IN TERMS OF WEAPONS OR ANYTHING LIKE
7 THAT?

8 A. YES. IF ANY WEAPONS WAS ON SCENE, WE WOULD
9 COLLECT IT.

10 Q. AND ANYTHING, DISCHARGEABLE WEAPONS?

11 A. YES. ANYTHING, PROJECTILES, SHELL CASINGS,
12 BULLET FRAGMENTS.

13 Q. NOW, DID YOU HAVE AN OCCASION TO WORK THIS
14 PARTICULAR CASE AGAINST SAMMY SCOTT?

15 A. I DID. ON 7-10 I WAS HOME ASLEEP, AND MY
16 LIEUTENANT CALLED ME AT ABOUT 3:00 A.M., SAID HE WAS
17 WORKING A SHOOTING AT THE PUBLIX. AND HE ASKED ME TO GO
18 TO THE E.R.; THAT HE HAD I THINK FIVE VICTIMS THERE AND
19 HE NEEDED ME TO RESPOND AND CHECK ON THOSE VICTIMS.

20 Q. AND SO DID YOU, IN FACT, THEN RESPOND TO ANMED?

21 A. I DID. AND THEY HAD FIVE VICTIMS. THERE WAS --
22 FOUR WAS STILL ALIVE AND ONE WAS ALREADY PRONOUNCED
23 DECEASED. I PHOTOGRAPHED THE INJURY TO EACH ONE,
24 COLLECTED THEIR CLOTHING, AND COLLECTED A G.S.R.,
25 GUNSHOT RESIDUE KIT ON EACH ONE OF THEM.

1 Q. NOW I'M GONNA STOP YOU ON THE G.S.R., YOU SAID?

2 A. YES. GUNSHOT RESIDUE. I GUESS JUST TO SAY JUST
3 IN SIMPLE TERMS, TO TRY TO RULE OUT WHETHER OR NOT
4 SOMEONE HAS FIRED A WEAPON OR NOT IN THE LAST, YOU KNOW,
5 SIX HOURS OR SO.

6 Q. AND WHY DO YOU SAY SIX HOURS; IS THAT TYPICALLY
7 HOW LONG GUNSHOT RESIDUES LAST?

8 A. THEY, ON A LIVING, ON A LIVING PERSON THEY
9 RECOMMEND YOU DON'T WAIT ANY LONGER THAN SIX HOURS.

10 Q. AND SO DID YOU, IN FACT, PERFORM G.S.R. KITS THEN
11 ON THE FOUR LIVING VICTIMS AT THAT TIME?

12 A. I DID.

13 Q. AND THAT WOULD HAVE BEEN INDIA GALLOWAY, SYDNEY
14 CHESTER, SHANQUIL MARTIN, AND JAMES BURNS?

15 A. LET'S SEE. THAT'S CORRECT.

16 Q. WHEN YOU ARE PERFORMING A G.S.R. KIT, TELL ME A
17 LITTLE ABOUT THE PROCEDURE YOU FOLLOW.

18 A. OKAY. WELL, IT'S PRETTY STANDARD. EACH KIT
19 COMES WITH A SET OF DIRECTIONS. JUST FOLLOW EACH STEP.
20 YOU USE SWABS TO SWAB THE BACK OF THE HANDS, THE FRONT
21 OF THE HANDS, THE WEBBING OF THE HANDS. YOU HAVE A
22 PARTICLE LIFT THAT YOU DO THE SAME THING TO, WHERE
23 YOU'RE LOOKING FOR BIGGER OBJECTS ON THE FRONT AND BACK
24 OF THE HANDS.

25 Q. AND THEN WHAT DO YOU ACTUALLY USE TO DO THE

1 G.S.R.?

2 A. IT'S A PARTICLE LIFT. WE USE PARTICLE LIFTS. WE
3 USE COTTON SWABS AND JUST SWAB THE HANDS WITH IT, AND,
4 YOU KNOW, TAKE LIFTS FROM BOTH HANDS WITH PARTICLE
5 LIFTS.

6 Q. OKAY. DO YOU DO THE RIGHT AND LEFT HANDS?

7 A. RIGHT AND LEFT HANDS, YES, AND, YOU KNOW, TAKE
8 LIFTS FROM BOTH HANDS WITH PARTICLE LIFTS.

9 Q. OKAY. SO YOU DO THE RIGHT AND LEFT HAND?

10 A. RIGHT AND LEFT HANDS, YES.

11 Q. OKAY. FRONT AND BACK?

12 A. FRONT AND BACK.

13 Q. AND THEN ONCE YOU DO THAT, DO YOU PUT THEM IN AN
14 ENVELOPE?

15 A. PUT THEM IN A, PUT THEM IN A CASE, PUT -- EACH
16 ONE OF THEM COMES IN A LITTLE PLASTIC VIAL -- PUT THEM
17 BACK IN THE CASE, PUT THEM IN THE SEAL IN THE CASE AND
18 SEAL THEM UP.

19 Q. AND THEN YOU DON'T ACTUALLY TEST THE G.S.R. ON
20 SITE?

21 A. NO. THEY'RE SENT OFF.

22 Q. OKAY. THAT'S SENT TO S.L.E.D.?

23 A. TO S.L.E.D.

24 Q. SO YOU FOLLOWED THAT PROCEDURE AS WELL WITH EACH
25 OF THE FOUR LIVING VICTIMS?

1 A. I DID.

2 Q. AND YOU ALSO PERFORMED A G.S.R. KIT ON JAVARIS
3 CLINKSCALES, THE DECEASED?

4 A. YES, MA'AM, I DID.

5 Q. OKAY. AND WITH THE DECEASED, DOES THE G.S.R.
6 STAY ON IT A LITTLE BIT LONGER?

7 A. THIS, YOU CAN WAIT LONGER THAN SIX HOURS ON THAT
8 ONE. BUT IT WAS WITHIN SIX HOURS.

9 Q. SO DID YOU FOLLOW THAT PROCEDURE WITH HIM?

10 A. YES, I DID.

11 Q. AND THEN AGAIN, PUT EVERYTHING IN AN ENVELOPE
12 THAT WAS LATER SENT TO S.L.E.D.?

13 A. YES, MA'AM.

14 Q. NOW, YOU ALSO TALKED ABOUT TAKING PHOTOGRAPHS?

15 A. YES, MA'AM, I DID. AND I PHOTOGRAPHED EACH, EACH
16 VICTIM AT THE E.R.

17 Q. AND THAT WAS TO DOCUMENT THEIR INJURIES?

18 A. YES, MA'AM.

19 (STATE'S EXHIBITS # 17-A AND 17-B, TWO
20 PHOTOGRAPHS OF SHANQUIL MARTIN, WERE MARKED
21 FOR IDENTIFICATION.)

22 BY MS. HUEY:

23 Q. NOW I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
24 17-A AND 17-B. IF YOU COULD TAKE A LOOK AT THESE TWO
25 PHOTOS, PLEASE?

1 A. YES.

2 Q. DO YOU RECOGNIZE THOSE PHOTOS?

3 A. YES, MA'AM, I DO.

4 Q. AND HOW ARE YOU ABLE TO RECOGNIZE THOSE?

5 A. THESE WERE -- OKAY. THIS SHOULD BE SHANQUIL

6 MARTIN. I PHOTOGRAPHED HIM. HE HAD TWO SMALL INJURIES,
7 TO THE SIDE OF HIS NECK.

8 Q. OKAY. AND DO THOSE PICTURES FAIRLY AND
9 ACCURATELY DEPICT WHAT YOU SAW ON SHANQUIL THAT NIGHT OF
10 JULY 10TH, 2006?

11 A. YES.

12 MS. HUEY: OKAY. AT THIS TIME WE WOULD MOVE
13 17-A AND B INTO EVIDENCE, JUDGE.

14 THE COURT: ANY OBJECTION?

15 MR. POTTER: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. ADMITTED WITHOUT
17 OBJECTION.

18 (STATE'S EX. # 17-A AND 17-B WERE RECEIVED IN
19 EVIDENCE.)

20 MS. HUEY: MR. PATTERSON, IF YOU COULD STEP
21 DOWN FROM THE STAND, PLEASE.

22 (WITNESS LEAVES STAND.)

23 BY MS. HUEY:

24 A. I SHOW YOU WHAT'S BEEN MARKED AS 17-A. COULD YOU
25 PLEASE TELL THE JURY WHY YOU TOOK A PICTURE OF THAT?

1 A. THE PHOTOGRAPH WAS BASICALLY JUST TO SHOW THE
2 INJURY TO THE NECK THERE.

3 Q. AND THEN THIS IS 17-B?

4 A. THE SAME, SAME THING: SHOWING THE INJURY TO THE
5 VICTIM.

6 Q. IS THAT JUST A CLOSE-UP OF IT?

7 A. YES, MA'AM.

8 MS. HUEY: OKAY. THANK YOU, MR. PATTERSON.

9 (WITNESS RESUMES STAND.)

10 BY MS. HUEY:

11 Q. YOU ALSO TOOK PHOTOS OF SYDNEY CHESTER, IS THAT
12 CORRECT, MR. PATTERSON?

13 A. YES, MA'AM. LET'S SEE. I SPOKE TO MR. CHESTER.
14 HE HAD A, WHAT LOOKED LIKE A GUNSHOT INJURY TO HIS LEFT
15 ANKLE.

16 Q. MR. CHESTER?

17 A. YES. SYDNEY, SYDNEY CHESTER?

18 Q. YES, SIR. I'M GONNA SHOW WHAT'S BEEN MARKED AS
19 15-A AND 15-B.

20 THE COURT: ANY OBJECTION?

21 MR. POTTER: NO, YOUR HONOR.

22 (STATE'S EXHIBITS 15-A AND 15-B, TWO
23 PHOTOGRAPHS OF SYDNEY CHESTER, WERE RECEIVED
24 IN EVIDENCE.)
25

1 BY MS. HUEY:

2 Q. MR. PATTERSON, IF YOU DON'T MIND STANDING DOWN.

3 (WITNESS LEAVES STAND.)

4 BY MS. HUEY:

5 Q. 15-A AND 15-B HAVE BEEN ADMITTED INTO EVIDENCE.

6 THIS IS 15-A. IF YOU COULD PLEASE TELL THE JURY WHO
7 THAT IS.

8 A. THAT'S MR. SYDNEY CHESTER.

9 Q. AND THEN 15-B, CAN YOU TELL US WHAT THIS PICTURE
10 DOCUMENTS?

11 A. YES. THAT'S SHOWING THE INJURY TO HIS ANKLE.

12 Q. AND THAT'S JUST A CLOSE-UP OF HIS ANKLE?

13 A. YES, MA'AM, JUST A CLOSE-UP THERE.

14 Q. THANK YOU. DID YOU ALSO TAKE PICTURES OF JAMES
15 BURNS?

16 A. YES, MA'AM, I DID. LET ME CHECK ON MR. BURNS.

17 Q. 14-A, B AND C.

18 A. MR. BURNS HAD TWO INJURIES TO HIS RIGHT SIDE AND
19 HIS UPPER BACK.

20 THE COURT: ANY OBJECTION?

21 MR. POTTER: NO, YOUR HONOR.

22 THE COURT: 14-A AND B ARE ADMITTED WITHOUT
23 OBJECTION.

24 MS. HUEY: AND C, YOUR HONOR.

25 THE COURT: ALL RIGHT. AND C, OKAY.

1 (STATE'S EXHIBIT 14-A, B AND C WAS RECEIVED
2 IN EVIDENCE.)

3 BY MS. HUEY:

4 Q. MR. PATTERSON, IF YOU DON'T MIND STEPPING DOWN
5 AGAIN. I'M SORRY.

6 A. YES.

7 (WITNESS LEAVES STAND.)

8 Q. 14-A, THEN, CAN YOU TELL US WHO THAT IS?

9 A. THAT'S MR. BURNS.

10 Q. AND 14-B, WHAT DOES THAT DEPICT?

11 A. THAT'S SHOWING INJURY TO HIS SHOULDER AND HIS
12 UPPER BACK.

13 Q. AND HOW ABOUT 14-C?

14 A. THE SAME PICTURE, JUST A CLOSE-UP.

15 Q. THANK YOU. AND FINALLY, YOU ALSO TOOK PICTURES
16 OF MS. INDIA GALLOWAY?

17 A. YES, MA'AM, I DID. MS. GALLOWAY HAD AN INJURY TO
18 THE RIGHT SIDE OF HER FOREHEAD.

19 (COUNSEL CONFER.)

20 BY MS. HUEY:

21 Q. DID SHE ALSO HAVE AN INJURY TO HER BACK, AS WELL?

22 A. YES, MA'AM, SHE DID. THE INJURY TO HER FOREHEAD
23 WAS ALREADY BANDAGED. I COULDN'T SEE THE ACTUAL INJURY
24 ON THAT.

25 Q. OKAY, THANK YOU. I'M GONNA SHOW YOU 16-A, B AND

1 C..

2 THE COURT: WHAT NUMBERS?

3 MS. HUEY: 16-A, B AND C.

4 ARE THEY WITHOUT OBJECTION?

5 THE COURT: ANY OBJECTION?

6 MR. POTTER: NO, YOUR HONOR.

7 THE COURT: ALL RIGHT. ADMITTED WITHOUT
8 OBJECTION.

9 (STATE'S EX. # 16-A, 16-B, AND 16-C WERE,
10 RECEIVED IN EVIDENCE.)

11 BY MS. HUEY:

12 Q. ALL RIGHT. IF YOU COULD TELL ME WHAT 16-A IS,
13 THEN?

14 A. THAT WAS MS. GALLOWAY WHEN I PHOTOGRAPHED HER AT
15 THE EMERGENCY ROOM. SHE HAD A BANDAGE ON, AND THE E.R.
16 PERSONNEL DIDN'T FEEL LIKE THEY WANTED TO TAKE IT OFF,
17 SO I JUST LEFT IT LIKE THAT.

18 Q. OKAY. BUT THAT WAS FROM A WOUND THAT SHE
19 RECEIVED THAT NIGHT?

20 A. YES, MA'AM.

21 Q. OKAY. AND THEN 16-B?

22 A. THAT WAS THE BACK, SHE JUST HAD SOMETHING REAL
23 SMALL RIGHT THERE. SHE WASN'T SURE WHAT IT WAS, BUT...

24 Q. OKAY. AND THEN 16-C?

25 A. THAT'S JUST A CLOSE-UP OF IT.

1 Q. OF WHAT WAS ON HER BACK?

2 A. A CLOSE-UP OF THE INJURY TO HER BACK WITH A
3 SCALE.

4 MS. HUEY: THANK YOU, MR. PATTERSON, YOU CAN
5 HAVE A SEAT.

6 (WITNESS RESUMES STAND.)

7 BY MS. HUEY:

8 Q. NOW, IN ADDITION TO DOCUMENTING THE INJURIES OF
9 THE VICTIMS THAT WERE AT THE HOSPITAL THAT EVENING, WHAT
10 ELSE DID YOU DO?

11 A. WELL, PROBABLY ABOUT 10:00 A.M. THAT SAME MORNING
12 WE TOOK SCOTT AND I AND WENT BACK TO THE PUBLIX PARKING
13 LOT JUST TO LOOK OVER THE AREA IN THE DAYLIGHT HOURS.
14 AND WHILE WE WERE THERE, WE FOUND SEVERAL PIECES OF
15 SHOTGUN SHELLS, INTERNAL PART OF THE WADDING, SHELL
16 CAPS, AND WE LOCATED TWO PELLETS IN THE PARKING LOT.

17 Q. AND SO THAT WAS THE DAY AFTER THE SHOOTING?

18 A. WELL, IT WAS ---

19 Q. OR THE MORNING AFTER?

20 A. WELL, YEAH. JUST THE DAYLIGHT HOURS, YEAH.

21 Q. AND THE REASON FOR GOING OUT BACK IN THE DAYTIME?

22 A. JUST 'CAUSE IT WAS DARK AND -- IT WAS DARK WHEN
23 THE INCIDENT HAPPENED, SO WE WOULD HAVE DAYLIGHT, WE'D
24 HAVE THE SUNSHINE TO LOOK AROUND IN.

25 Q. AND THAT SCENE WAS DOCUMENTED WITH PHOTOS AS

1 WELL?

2 A. IT WAS.

3 Q. NOW, HOW ABOUT ANY CARS, MR. PATTERSON, DID YOU
4 TAKE ANY PHOTOGRAPHS OF CARS THAT WERE AT THE HOSPITAL?

5 A. I PHOTOGRAPHED -- YES, MA'AM. LET ME LOOK. IT
6 WAS A WHITE FORD CROWN VICTORIA, AND A WHITE MITSUBISHI
7 GALANT, I PHOTOGRAPHED THEM; AND A RED, RED HONDA
8 ACCORD.

9 Q. AND THOSE WERE ALL TAKEN AT THE HOSPITAL THAT
10 NIGHT?

11 A. I PHOTOGRAPHED THEM AT THE HOSPITAL.

12 Q. OKAY. THOSE WERE NOT TAKEN AT THE PUBLIX PARKING
13 LOT?

14 A. NO, MA'AM.

15 Q. SO THEY HAD BEEN REMOVED FROM THE CRIME SCENE?

16 A. YES, MA'AM.

17 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME.

18 THE COURT: CROSS-EXAMINATION?

19 MR. POTTER: IF IT PLEASES THE COURT.

20 CROSS-EXAMINATION BY MR. POTTER:

21 Q. YOU MENTIONED THAT YOU WENT BACK TO THE PUBLIX
22 SHOPPING -- PARKING LOT THE FOLLOWING MORNING?

23 A. YES, SIR.

24 Q. THE MORNING AFTER THE SHOOTING, THAT MORNING?

25 A. YES, SIR.

1 Q. AND DURING DAYLIGHT HOURS. AND YOU SAID AROUND
2 10:00; IS THAT CORRECT?

3 A. YES, SIR.

4 Q. OKAY. AND THE PUBLIX STORE WAS OPEN; IS THAT
5 RIGHT?

6 A. YES, SIR.

7 Q. OKAY. SO THERE WAS TRAFFIC COMING AND GOING,
8 CUSTOMERS AT PUBLIX AND K-MART AND ALL THE OTHER SHOPS
9 ON THAT STRIP?

10 A. YES, SIR.

11 Q. SO THERE WAS NO ROPING OFF OF THE AREA OR
12 ANYTHING LIKE THAT?

13 A. NOT, NOT WHILE WE WERE THERE.

14 Q. OKAY.

15 MR. POTTER: NOTHING FURTHER. THANK YOU.

16 THE COURT: REDIRECT?

17 REDIRECT EXAMINATION BY MS. HUEY:

18 Q. NOW, MR. PATTERSON, DID YOU ACTUALLY GO TO PUBLIX
19 PARKING LOT THAT NIGHT OR --

20 A. NO, MA'AM.

21 Q. -- JUST THE HOSPITAL?

22 A. NO, MA'AM. I WENT STRAIGHT TO THE HOSPITAL.

23 Q. OKAY. SO YOU DON'T KNOW IF IT WAS ROPED OFF THAT
24 NIGHT?

25 A. NO. THAT NIGHT I DON'T KNOW.

1 MS. HUEY: OKAY. THAT'S ALL I HAVE, JUDGE.

2 THE COURT: ANY RECROSS?

3 MR. POTTER: NO, YOUR HONOR.

4 THE COURT: YOU MAY STEP DOWN. THANK YOU
5 VERY MUCH.

6 (WHEREUPON, WITNESS WAS EXCUSED.)

7 MS. HUEY: THE STATE CALLS CHRIS SCOTT TO
8 THE STAND.

9 (WHEREUPON, CHRIS SCOTT WAS SWORN BY THE
10 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
11 FULL NAME FOR THE RECORD, SPELLING HIS LAST
12 NAME.)

13 THE WITNESS: CHRISTOPHER WARREN SCOTT,
14 S-C-O-T-T.

15 WHEREUPON,

16 CHRISTOPHER SCOTT,

17 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 DIRECT EXAMINATION BY MS. HUEY:

20 Q. MR. SCOTT, WHERE ARE YOU EMPLOYED?

21 A. THE ANDERSON COUNTY SHERIFF'S OFFICE.

22 Q. AND HOW LONG HAVE YOU BEEN THERE?

23 A. TWO AND A HALF YEARS.

24 Q. WHERE DID YOU WORK PREVIOUSLY?

25 A. I WAS IN CHARGE OF THE CRIME SCENE UNIT WITH THE

1 AIKEN COUNTY SHERIFF'S OFFICE PRIOR TO COMING HERE TO
2 ANDERSON.

3 Q. AND WHAT IS YOUR POSITION WITH THE ANDERSON
4 COUNTY SHERIFF'S OFFICE?

5 A. I'M A LIEUTENANT. I SUPERVISE THE CRIME SCENE
6 UNIT.

7 Q. AS THE SUPERVISOR OF THE CRIME SCENE UNIT, WHAT
8 ARE SOME OF YOUR DUTIES AND RESPONSIBILITIES?

9 A. WELL, OF COURSE I MANAGE ALL THE PERSONNEL, MAKE
10 SHIFT ASSIGNMENTS, BUT I ALSO RESPOND TO CRIME SCENE
11 CALLS, ALSO.

12 Q. AND DID YOU, IN FACT, RESPOND TO THE CRIME SCENE
13 AT THE PUBLIX PARKING LOT?

14 A. I DID.

15 Q. AND WHERE IS THAT LOCATED?

16 A. RIGHT THERE ON CLEMSON BOULEVARD -- IS THAT SAM
17 CHURCH ROAD AND CLEMSON BOULEVARD?

18 Q. AND IS THAT LOCATED IN ANDERSON COUNTY?

19 A. YES, MA'AM.

20 Q. NOW, WHEN YOU RESPONDED TO THE PUBLIX PARKING LOT
21 WHAT, IF ANYTHING, DID YOU SEE WHEN YOU FIRST GOT THERE?

22 A. WELL, OF COURSE WE HAD THE AREA -- THE AREA WAS
23 SECURED WHEN I GOT THERE. SERGEANT BLAKELY, WHO WORKS
24 FOR ME, HAD ALREADY RESPONDED. HE WAS, HE WAS ON DUTY.
25 HE RESPONDED TO THE CALL AND THEN HE CALLED ME. AND OF

1 COURSE WE, SOMETHING LIKE THAT, WE USUALLY TRY TO GET AS
2 MANY PEOPLE AS WE NEED TO WORK, SO I RESPONDED, AND OF
3 COURSE WE ASSESSED THE SITUATION FROM THERE TO SEE WHAT
4 WE NEEDED TO DO.

5 Q. AND SO WHAT WAS THE FIRST THING YOU THOUGHT YOU
6 NEEDED TO DO?

7 A. WELL, THE FIRST THING WE'RE ALWAYS GONNA DO IS
8 DOCUMENT THE SCENE PHOTOGRAPHICALLY OR WHATEVER, MAKE
9 SURE THAT WE HAVE A PHOTOGRAPH OF EVERYTHING BEFORE
10 ANYTHING IS MOVED, PICKED UP, COLLECTED OR WHATEVER,
11 WE'RE GONNA MAKE PHOTOGRAPHS.

12 Q. AND SO THE SCENE WAS PHOTOGRAPHED THAT NIGHT?

13 A. YES.

14 Q. OKAY. BUT IT WAS DARK WHEN IT WAS --

15 A. OH, YES, MA'AM, IT WAS DARK.

16 Q. IT WAS PRETTY DARK?

17 A. VERY DARK.

18 Q. OKAY, IT WAS VERY DARK. SO WOULD THE PHOTOS HAVE
19 BEEN HARD TO PICK THINGS UP IN?

20 A. OH, YEAH. ESPECIALLY SOMETHING, SOME OF THE
21 THINGS THAT WE DISCOVERED OUT THERE WERE VERY DIFFICULT
22 TO SEE AND VERY DIFFICULT TO PHOTOGRAPH, ESPECIALLY
23 LAYING ON THE GROUND AND LAYING ON PAVEMENT. I MEAN,
24 IT'S HARD, ESPECIALLY DIFFICULT TO GET A PHOTOGRAPH OF
25 THOSE KIND OF THINGS AT NIGHT BECAUSE THEY REALLY KIND

1 OF BLEND INTO THE PARKING LOT, IT'S VERY DIFFICULT TO
2 SEE THEM SOMETIMES.

3 Q. BECAUSE THEY BECOME THE SAME COLOR?

4 A. YES.

5 Q. SO THAT WAS THE REASON THAT YOU AND MARK
6 PATTERSON WENT OUT THE NEXT DAY DURING THE DAYLIGHT?

7 A. RIGHT. THAT'S PRETTY STANDARD. THAT'S PRETTY
8 STANDARD FOR US TO RETURN TO A CRIME SCENE LIKE THAT IN
9 THE DAYLIGHT BECAUSE IT'S JUST, IT'S JUST SO MUCH EASIER
10 TO SEE, AND, YOU KNOW, JUST IN CASE YOU MISS SOMETHING,
11 I MEAN, IT'S JUST THAT SIMPLE.

12 Q. OKAY. BUT SPECIFICALLY THAT NIGHT WHEN YOU FIRST
13 GOT THERE, DID YOU NOTICE ANYTHING IN THE PARKING LOT
14 AROUND WHERE THE VICTIM WAS SUPPOSEDLY STANDING?

15 A. BLOOD. BLOOD ON THE GROUND, YES, MA'AM.

16 Q. AND THEN DID YOU STAY AT THE PUBLIX PARKING LOT
17 OR DID YOU HAVE TO RESPOND SOMEWHERE ELSE?

18 A. I WAS THERE BRIEFLY, AND WE GOT -- WE KIND OF GOT
19 A HANDLE ON WHAT WE'RE GONNA DO AND DECIDED WHAT WE
20 NEEDED TO DO, BUT WE HAD THESE, HAD OTHER VEHICLES THAT
21 HAD BEEN DAMAGED BY GUNFIRE. AND AS THESE THINGS
22 STARTED COMING IN, WE HAD TO START SENDING PEOPLE TO
23 OTHER PLACES. SO I LEFT THERE AND WENT RIGHT DOWN THE
24 ROAD TO THE RYAN'S PARKING LOT RIGHT DOWN THE STREET
25 FROM THE PUBLIX TO WHERE A VEHICLE HAD STOPPED AND THAT

1 HAD BEEN DAMAGED BY GUNFIRE.

2 AND OF COURSE, I WAS THE ONE THAT GOT TO CALL
3 MARK PATTERSON AT 3:00 IN THE MORNING AND SEND HIM
4 SOMEWHERE, AND SO WE JUST HAD TO START, START RESPONDING
5 TO THIS, TO THESE PLACES AS THINGS HAPPENED. SO I WENT
6 TO THE PARKING LOT AT RYAN'S RIGHT AFTER THAT, YES,
7 MA'AM.

8 Q. AND KEN BLAKELY STAYED ON AT PUBLIX?

9 A. RIGHT, THAT'S CORRECT.

10 Q. NOW, WHEN YOU WENT TO THE RYAN'S PARKING LOT, WHO
11 DID YOU CONTACT THERE?

12 A. THEY JUST HAD A UNIFORMED PATROL OFFICER WHO WAS
13 THERE SECURING THE VEHICLE THERE, AND I DON'T REMEMBER
14 WHO, WHICH ONE IT WAS, BUT THEY HAD A UNIFORM PATROL CAR
15 STANDING BY UNTIL I GOT THERE.

16 Q. OKAY. AND DID YOU DOCUMENT THE CAR THAT NIGHT?

17 A. I DID.

18 (COUNSEL CONFER.)

19 BY MS. HUEY:

20 Q. MR. SCOTT, IF YOU DON'T MIND STEPPING DOWN,
21 PLEASE.

22 (WITNESS LEAVES STAND.)

23 MS. HUEY: YOUR HONOR, THESE ARE SEVERAL
24 PHOTOGRAPHS OF INDIA GALLOWAY'S CAR, AND I BELIEVE THEY
25 HAVE BEEN ADMITTED WITHOUT OBJECTION.

1 MR. POTTER: JUDGE, I HAVE NO OBJECTION.

2 MS. HUEY: YOUR HONOR, THERE ARE SEVERAL:

3 IT'S 10-A, 10-B, 10-C, 10-G, 10-J, AND 10-F, AND THEY'RE
4 A LITTLE OUT OF ORDER BECAUSE THERE WERE SOME OTHER
5 PICTURES TAKEN AT A LATER DATE.

6 THE COURT: ADMITTED WITHOUT OBJECTION.

7 MS. HUEY: THANK YOU, YOUR HONOR.

8 (STATE'S EXHIBITS 10-A, 10-B, 10-C, 10-F,
9 10-G, AND 10-J WERE RECEIVED IN EVIDENCE.)

10 BY MS. HUEY:

11 Q. ALL RIGHT. MR. SCOTT, I'M GONNA SHOW YOU WHAT'S
12 BEEN ADMITTED AS 10-E. CAN YOU TELL ME WHAT THAT'S A
13 PICTURE OF?

14 A. YES, MA'AM. THAT WAS THE VEHICLE THAT I
15 RESPONDED TO IN THE PARKING LOT AT RYAN'S.

16 Q. OKAY. AND WHY DID YOU SPECIFICALLY SHOOT THIS
17 PICTURE?

18 A. WELL, IT APPEARED THAT IT HAD BEEN INVOLVED IN
19 THE INCIDENT, GUNFIRE, A PROJECTILE HAD POSSIBLY BROKEN
20 THE BACK WINDOW THERE.

21 Q. I'M ALSO GONNA SHOW YOU 10-G. AND WHAT DOES THAT
22 DEPICT?

23 A. THE SAME, THE SAME VIEW BASICALLY. IT WOULD BE A
24 LITTLE CLOSER AND IT LOOKED LIKE, TO ME LIKE PELLETS
25 STRUCK THE BACK OF THE VEHICLE AND POSSIBLY THE WINDOW

1 AND HAD BROKEN IT OUT.

2 Q. NOW --

3 A. IT'S ALSO HERE, PELLET STRIKES, PELLET STRIKES,
4 PELLET STRIKES; THAT'S WHAT IT LOOKED LIKE TO ME.

5 Q. AND WHY DID YOU THINK THOSE WERE PELLET STRIKES?

6 A. WELL, I MEAN, THE SHAPE OF THEM. THIS ONE WAS
7 BASICALLY A GLANCING KIND OF A BLOW, BUT THIS ONE WAS A
8 HOLE, I MEAN THAT WAS A HOLE, A PELLET HOLE.

9 Q. AND PELLETS ARE USUALLY ROUND?

10 A. YES, MA'AM, ROUND.

11 Q. NOW, AGAIN, THAT'S 10-F?

12 A. THAT'S THE SAME VEHICLE, JUST A LITTLE DIFFERENT
13 VIEW.

14 Q. AND HOW ABOUT 10-A?

15 A. THIS IS THE FRONT, THE DRIVER'S PORTION OF THAT
16 SAME VEHICLE. AND OF COURSE IT HAS SOME DAMAGE THERE;
17 WE DIDN'T KNOW IF THAT WAS A PROJECTILE AT THE TIME, BUT
18 WE JUST, WE USUALLY TRY TO SHOOT A PHOTOGRAPH OF THE
19 VEHICLE ALL THE WAY AROUND SO WE'LL HAVE IT DOCUMENTED.

20 Q. ALL RIGHT. AND THEN 10-J?

21 A. THAT'S THE BACK SEAT, THE BACK SEAT OF THE
22 VEHICLE, WHERE ALL OF THE GLASS FROM THE BACK WINDOW HAD
23 FALLEN INTO THAT AREA.

24 Q. AND HOW ABOUT 10-B?

25 A. THAT'S THE FRONT, YOU KNOW, THE DRIVER'S SEAT,

1 PASSENGER'S FRONT SEAT. THERE AGAIN, JUST PHOTOGRAPHING
2 IT TO SHOW YOU HOW IT LOOKED WHEN WE GOT THERE.

3 MS. HUEY: OKAY, THANK YOU. YOU CAN HAVE A
4 SEAT FOR THE TIME BEING.

5 (WITNESS RESUMES STAND.)

6 BY MS. HUEY:

7 Q. OKAY. SO YOU TOOK PHOTOGRAPHS OF MS. GALLOWAY'S
8 CAR THAT EVENING?

9 A. YES, MA'AM.

10 Q. NOW, WAS THAT CAR ACTUALLY PROCESSED AT THE SCENE
11 OR AT A LATER TIME?

12 A. NO, MA'AM. GENERALLY, IF WE, IF IT'S AT ALL
13 POSSIBLE, WE WILL TOW THOSE VEHICLES TO THE SHERIFF'S
14 OFFICE SO THAT WE CAN SPEND SOME TIME ON THEM WHEN WE
15 HAVE SOME LIGHT. BECAUSE, YOU KNOW, SOME OF THEM MAY BE
16 LENGTHY. WE MAY BE LOOKING FOR PROJECTILES AND WE MAY
17 HAVE TO REMOVE CAR PARTS INSIDE AND OUT TO LOOK FOR
18 PROJECTILES AND THINGS LIKE THAT, SO IT'S JUST NOT
19 SOMETHING YOU CAN REALLY DO.

20 IF YOU HAD TO DO IT, OF COURSE WE COULD. BUT IF
21 WE CAN GET IT TO OUR OFFICE, WE CAN HAVE A LOT BETTER, A
22 LOT BETTER TIME WITH IT, A LOT MORE LIGHT. WE CAN
23 SECURE IT AND KIND OF DO IT AT OUR LEISURE, DO IT WHEN
24 WE GET TO IT. WE CAN GET TO THAT ONE. WE PUT THEM IN
25 ORDER, AND BASICALLY GO THROUGH THEM AND THAT SORT OF

1 STUFF. SO WE'D HAD IT TOWED, WE'D HAD THAT VEHICLE
2 TOWED TO OUR OFFICE TO PROCESS IT LATER.

3 Q. AND YOU ALL IMPOUNDED IT, THEN?

4 A. YES, IMPOUNDED IT.

5 Q. SO, AND THAT WAS DONE AT A LATER DATE OR A LATER
6 TIME?

7 A. YES.

8 Q. NOW, HOW ABOUT, DID YOU YOURSELF DO ANY GUNSHOT
9 RESIDUE KITS?

10 A. YES, MA'AM.

11 Q. AND DID YOU PERFORM ONE ON A LARICKY HARKNESS?

12 A. YES, MA'AM.

13 Q. OKAY. AND HOW DID THAT COME ABOUT?

14 A. BASICALLY THE, WE HAVE INVESTIGATORS THAT ARE
15 ASSIGNED TO THESE THINGS, SEVERAL INVESTIGATORS THAT ARE
16 ASSIGNED TO THESE THINGS, AND AS EVENTS UNFOLD, THEY
17 WILL ASK US TO RESPOND TO DIFFERENT LOCATIONS AND DO
18 G.S.R. KITS ON DIFFERENT PEOPLE OR PROCESS DIFFERENT
19 VEHICLES, WHATEVER HAPPENS TO TRANSPIRE AFTER THIS
20 INCIDENT TOOK PLACE.

21 AND MYSELF AND SERGEANT BLAKELY RESPONDED TO AN
22 AREA DOWN OFF CLEMSON HIGHWAY AT WHITEHALL, AND WHERE
23 SEVERAL PEOPLE WERE TOGETHER WITH INVESTIGATORS AND THEY
24 ASKED US TO DO G.S.R. KITS ON SEVERAL PEOPLE THAT THEY
25 THOUGHT MAY BE INVOLVED IN IT OR WITNESSES TO IT, OR

1 SO ---

2 Q. WHY DO YOU ALL DO THAT? WHY, WHAT IS THE GOAL OF
3 PERFORMING A G.S.R. KIT ON EVERYONE WHO WAS AT THE
4 SCENE?

5 A. WELL, WE WANT, WE WANT TO RULE OUT ANYBODY THAT
6 MAY BE A POSSIBLE SUSPECT, THAT MAY HAVE FIRED A GUN,
7 AND IF SOMEBODY HAD FIRED A GUN, WE WANT TO KNOW THAT
8 ALSO. SO, I MEAN, WE GENERALLY DO G.S.R. KITS ON
9 ANYBODY THAT HAS ANYTHING TO DO, OR THAT'S IN THE AREA.
10 IF THEY'RE IN A HOUSE, AND THERE'S SIX PEOPLE IN THE
11 HOUSE AND GUNS ARE FIRED IN THE HOUSE, WE DO SIX G.S.R.
12 KITS. I MEAN, IT'S JUST PRETTY STANDARD PROCEDURE FOR
13 US TO DO THAT.

14 Q. NOW, WHAT IS -- IS THERE ANY KIND OF TIME FRAME
15 ASSOCIATED WITH THAT, THOUGH?

16 A. WELL, IF YOU'RE -- YOU HAVE A KIND OF A FOUR,
17 ABOUT A FOUR-TO-SIX-HOUR WINDOW ON A G.S.R. KIT UNLESS
18 THE PERSON HAS WASHED THEIR HANDS. IF THEY WASHED THEIR
19 HANDS, THEN THEY'RE KIND OF KABLOOEY, THAT'S KIND OF IT
20 RIGHT THERE.

21 UNLESS THEY ARE DECEASED. NOW, IF THEY ARE
22 DECEASED, YOU DON'T HAVE ANY, YOU KNOW, ANY SWEATING,
23 PERSPIRATION, SKIN SLOUGHING, NONE OF THAT STUFF GOING
24 ON. SO IF THEY ARE DECEASED, THEN WE DON'T HAVE A, WE
25 DON'T HAVE ANY PROBLEM WITH THE G.S.R., IT WILL STAY

1 THERE UNTIL WE GO GET IT.

2 WE BASICALLY BAG A PERSON'S HANDS, THIS, A
3 DECEASED PERSON'S HANDS, PUT A PAPER BAG OVER THEIR
4 HANDS TO PROTECT THEM JUST, JUST FOR RUBBING. BUT AS
5 FAR AS LIVING AND BREATHING AND THE G.S.R. LEAVING THEM
6 ON ITS OWN, IT WON'T HAPPEN WITH A DEAD PERSON, SO...

7 BUT WITH A LIVING PERSON, WE HAVE TO, WE NEED TO
8 GET TO THAT QUICKLY, AS QUICKLY AS POSSIBLE.

9 Q. AND SO IF FOR SOME REASON YOU COME IN CONTACT
10 WITH A PERSON, YOU KNOW, LET'S SAY 10 TO 12 HOURS AFTER
11 THE SHOOTING TOOK PLACE, DO YOU BOTHER WITH THE G.S.R.
12 KIT AT THAT POINT?

13 A. WELL, WE MAY PROBABLY DO IT ANYWAY, BUT...

14 Q. HOW ABOUT IF DAYS LATER?

15 A. NO. YOU KNOW, WE PROBABLY, PROBABLY WOULDN'T DO
16 IT DAYS LATER, NO. BUT THEN, YOU KNOW, THERE'S A
17 POSSIBILITY IT MAY BE ON CLOTHING AND THINGS LIKE THAT,
18 TOO. SO I MEAN, IT JUST KIND OF DEPENDS ON THE
19 CIRCUMSTANCES. BUT AS FAR AS THEIR HANDS GO, DAYS LATER
20 WOULD PROBABLY BE PRETTY FRUITLESS.

21 Q. NOW, <THEN THE DAYLIGHT HOURS, YOU WENT WITH MARK
22 PATTERSON OUT TO THE PUBLIX PARKING LOT AGAIN?

23 A. YES, MA'AM.

24 Q. AND WHAT WAS THE PURPOSE OF THAT?

25 A. JUST TO TAKE A LOOK, JUST TO MAKE SURE WE DIDN'T

1 MISS ANYTHING IN THE DARKNESS. AND, LIKE I SAY, WE
2 USUALLY TAKE ANOTHER, TAKE ANOTHER LOOK. I MEAN, YOU
3 MAY HAVE PROJECTILES THAT STRIKE BUILDINGS, YOU MAY HAVE
4 PROJECTILES THAT STRIKE LIGHT POLES THAT YOU JUST CAN'T
5 SEE. AND, I MEAN, IF WE GET OUT THERE DURING THE DAY,
6 WE'D HAVE A LOT BETTER CHANCE TO SEE AND THAT SORT OF
7 STUFF, SO WE JUST TOOK ANOTHER, ANOTHER LOOK AROUND AND,
8 YOU KNOW, DISCOVERED SOME OTHER SHOTGUN SHELL PARTS OUT
9 THERE IN THE PARKING LOT AND A FEW PELLETS.

10 Q. SO YOU WERE ABLE TO FIND SOME STUFF DURING THE
11 DAYLIGHT HOURS?

12 A. YES, MA'AM.

13 Q. AND Y'ALL TOOK PHOTOS OF THAT TO DOCUMENT?

14 A. WE DID.

15 (COUNSEL CONFER.)

16 MS. HUEY: YOUR HONOR, I'M GONNA SHOW
17 MR. SCOTT STATE'S 18-A THROUGH N. I BELIEVE THESE ARE
18 GONNA BE ADMITTED WITHOUT OBJECTION.

19 THE COURT: ADMITTED WITHOUT OBJECTION.
20 IS THAT CORRECT, FROM DEFENSE?

21 MR. POTTER: YES, SIR.

22 THE COURT: THANK YOU VERY MUCH.

23 (STATE'S EXHIBITS 18-A THROUGH 18-N, 14
24 PHOTOGRAPHS OF PARKING LOT, HAVING BEEN
25 PREVIOUSLY MARKED FOR IDENTIFICATION, WERE

1 RECEIVED IN EVIDENCE.)

2 BY MS. HUEY:

3 Q. MR. SCOTT, PLEASE STEP DOWN.

4 (WITNESS LEAVES STAND.)

5 Q. I SHOW 18-A.)

6 A. THIS IS THE PARKING LOT, AND OBVIOUSLY THERE'S A
7 MARKER IN THE MIDDLE OF IT, NUMBER ONE THERE, AND IT'S
8 VERY DIFFICULT TO SEE WHAT'S NEXT TO THAT MARKER, BUT
9 HOPEFULLY WE HAVE A CLOSER ONE. I CAN'T TELL YOU WHAT
10 IT IS RIGHT THIS MINUTE, BUT...

11 Q. AND WHY IS THAT? WHY DO YOU ALL TAKE A PICTURE
12 FROM FAR AWAY AND THEN A CLOSE-UP?

13 A. WELL, YOU HAVE TO -- IF I JUST WALKED UP TO THAT
14 MARKER AND SHOT A PICTURE, WHAT IS NEXT TO THAT MARKER,
15 IT COULD BE ANY PARKING LOT IN THE UNITED STATES OF
16 AMERICA. THIS IS FOR, BASICALLY FOR REFERENCE SO YOU
17 COULD TELL WHERE IT WAS IN THE PARKING LOT.

18 Q. AND WHAT ABOUT THESE MARKERS? WHY DO YOU ALL USE
19 THOSE MARKERS?

20 A. WELL, THERE AGAIN, IF THERE WASN'T A MARKER
21 THERE, YOU WOULDN'T EVEN KNOW WHY WE WERE TAKING A
22 PHOTOGRAPH. SO THERE SHOULD BE A CLOSER PHOTOGRAPH OF
23 THAT SO YOU COULD SEE WHAT IS NEXT TO NUMBER 1.

24 Q. AND EVEN WITH THE CLOSER PHOTOGRAPH, WERE SOME OF
25 THE THINGS YOU WERE FINDING THAT DAY, HOW SMALL WERE

1 THEY?

2 A. WELL, IF THEY'RE PELLET FRAGMENTS, WE ARE TALKING
3 ABOUT LITTLE BEADY THINGS. THE PELLET ITSELF IS AS BIG
4 AS MY PINKY, SO IT'S VERY SMALL.

5 Q. AND AGAIN, IS THAT WHY IT WOULD MAKE IT HARD TO
6 SEE THAT AT NIGHT?

7 A. OH, SURE. IN A PARKING LOT, I MEAN, A PELLET, A
8 PIECE OF A PELLET AND A ROCK, THEY ALMOST LOOK THE SAME
9 UNLESS YOU GOT REALLY CLOSE TO THEM. SO IT'S VERY
10 DIFFICULT TO SEE THAT STUFF AT NIGHT.

11 Q. I'M GONNA SHOW YOU 18-B THEN.

12 A. THERE'S A CLOSER ONE. BUT IT'S NOT, STILL NOT
13 REALLY CLOSE ENOUGH FOR YOU TO TELL WHAT IT IS. BUT IT
14 LOOKS LIKE, IT LOOKS LIKE A SHOTGUN SHELL CAP IS WHAT IT
15 LOOKS LIKE.

16 Q. AND YOU DID FIND SEVERAL OF THOSE OUT THERE; IS
17 THAT RIGHT?

18 A. YES, MA'AM.

19 Q. OKAY. NOW, THIS IS 18-C?

20 A. THERE WERE SOME OTHER THINGS THAT WE MARKED. AND
21 THERE AGAIN, THOSE PHOTOGRAPHS ARE BACK THIS FAR SO THAT
22 WE CAN TELL WHERE WE ARE AT IN THE PARKING LOT.

23 Q. AND THIS IS 18-D, I'M NOT SURE IF YOU WANT TO
24 TAKE A LOOK AT IT FIRST. DO YOU NEED YOUR GLASSES?

25 A. NO. THIS LOOKS LIKE MORE CAPS, MORE GREEN CAPS.

1 MS. HUEY: OKAY. YOU MAY PUBLISH THAT FOR
2 THE JURY THEN. THIS IS 18-D.

3 THE WITNESS: (TO JURY) THERE THEY ARE,
4 THERE THEY ARE, SMALL GREEN CAPS.

5 BY MS. HUEY:

6 Q. AND AGAIN, CAN YOU POINT OUT THAT THOSE ARE THE
7 CAPS?

8 A. YEAH. YOU CAN SEE BY THE MARKER THOSE LITTLE
9 GREEN CAPS, A MARKER BY THEM, THOSE LITTLE GREEN CAPS
10 MARKED THERE BY TWO AND THREE.

11 Q. 18-E?

12 A. THERE AGAIN, THERE'S TWO AND THREE, THE SAME
13 PHOTOGRAPHS THAT YOU GUYS SAW, BUT NOW YOU CAN SEE
14 EXACTLY WHERE WE ARE IN THE PUBLIX PARKING LOT.

15 Q. AGAIN, WITH 18-F?

16 A. THERE IS SOMETHING THAT WE MARKED, NUMBER 4 AND
17 5, 4 AND 5, AND THIS IS JUST A SHOT BACK FAR ENOUGH
18 WHERE WE CAN SEE WHERE WE ARE IN THE PARKING LOT.

19 Q. AND I'M GONNA SHOW YOU 18-G FIRST.

20 A. WHAT THIS NEXT ONE IS, I REALLY COULDN'T TELL.

21 Q. DID YOU ALL THINK YOU FOUND WHERE THE VICTIM WAS
22 STANDING WHEN HE WAS SHOT?

23 A. YES, MA'AM. THAT'S PROBABLY SOMETHING, SOMETHING
24 THAT WE MARKED WITH NUMBER 4 WE FOUND AROUND NEXT TO THE
25 AREA OF BLOOD ON THE GROUND.

1 Q. OKAY. SO I'M GONNA SHOW YOU 18-G.

2 A. THAT'S WHAT YOU JUST SHOWED ME. IT LOOKS LIKE
3 THE AREA OF BLOOD WHERE THE VICTIM WAS STANDING AND
4 SOMETHING THAT WE MARKED THERE AS NUMBER 4.

5 Q. OKAY. AND IF YOU WANT TO LOOK AT 5?

6 A. THAT'S ANOTHER CAP, ANOTHER GREEN CAP THAT WE
7 MARKED AS NUMBER 5.

8 Q. OKAY. AND WHAT'S SIGNIFICANT ABOUT A CAP?

9 A. THE SHOTGUN SHELLS, PARTICULARLY BUCKSHOT SHELLS,
10 SOMETIMES THEY'RE CRIMPED ON THE END, AND THAT'S THE END
11 WHERE THEY'RE CRIMPED. BUT A LOT OF TIME BUCKSHOT
12 SHELLS HAVE A, HAVE VERY BIG PELLETS, NINE PELLETS, AND
13 TWO-AND-THREE-QUARTER-INCH BUCKSHOT, AND TYPICALLY THEY
14 HAVE A CAP ON THE END INSTEAD OF THE SHELL BEING CRIMPED
15 IN AND THE CAP IS HOLDING EVERYTHING IN THE TOP. SO THE
16 SHELL KIND OF ROLLS OVER THE TOP AND THERE'S JUST A FLAT
17 CAP ON THE TOP.

18 Q. AND SO THAT IS EXPELLED?

19 A. YES, MA'AM. IT'S EXPELLED ALONG WITH
20 EVERYTHING ELSE THAT'S ON THE BUCKSHOT. SOME SHELLS
21 HAVE A CUP THAT THE SHELLS ARE IN, AND SOME HAVE FOAM
22 THAT THEY'RE PACKED IN. IT JUST KIND OF DEPENDS ON THE
23 MANUFACTURER AND WHAT TYPE OF SHELLS WE ARE TALKING
24 ABOUT.

25 Q. AND I BELIEVE YOU SAID THERE WERE NINE PELLETS

1 USUALLY?

2 A. NINE PELLETS, YES, MA'AM.
3 TWO-AND-THREE-QUARTER-INCH BUCKSHOT, YOU GOT NINE .32
4 CALIBER PELLETS. IT'S BASICALLY LIKE NINE PEOPLE
5 STANDING SIDE BY SIDE SHOOTING IN THE SAME DIRECTION,
6 NINE OF THEM COMING OUT AT ONE TIME. SO YOU AND EIGHT
7 OF YOUR FRIENDS STANDING THERE AND YELLING "PULL" AND
8 ALL OF THE NINE PELLETS ARE GOING IN THE SAME DIRECTION
9 WHEN IT'S FIRED ONE TIME.

10 Q. SO AGAIN, I'M GOING TO PUBLISH TO THE JURY 18-H,
11 THAT'S WHAT YOU JUST TALKED ABOUT, MARKER 5, AND THERE
12 BEING A CAP THERE?

13 A. THERE'S A CAP THERE, THAT'S RIGHT. UH-HUH.

14 Q. AND AGAIN, 18-I?

15 A. THERE IS 6, 7 AND 8. OF COURSE, IT'S THERE AGAIN
16 TRYING TO GET BACK FAR ENOUGH TO GIVE YOU A LITTLE IDEA
17 OF WHERE WE WERE IN THE PARKING LOT. YOU CAN'T REALLY
18 SEE WHAT'S NEXT TO THEM YET.

19 Q. AND 18-J?

20 A. THAT WAS A LITTLE, A LITTLE BIT CLOSER OF NUMBER
21 8 AND 9, BUT THERE AGAIN, I WASN'T ON THE SIDE WHERE I
22 COULD SEE IT.

23 Q. NOW I'M GONNA SHOW YOU 18-K THROUGH N, IF YOU
24 WANT TO TAKE A LOOK AT THE CLOSE-UPS FIRST.

25 A. IT LOOKS LIKE SOME OTHER PELLET FRAGMENTS AND

1 SOME WADDING FROM THE SHOTGUN, PIECES OF WADDING.

2 THAT'S PROBABLY WHY THEY'RE MARKED BY THESE.

3 Q. OKAY. WE'LL JUST DO THIS QUICKLY THEN, TO SHOW A
4 CLOSE-UP OF 18-M, IS A CLOSE UP OF 8? AND AGAIN, THAT
5 INDICATES YOU FOUND SOMETHING PRETTY SMALL; IS THAT
6 CORRECT?

7 A. IT WAS EITHER A PIECE OF A PELLET OR PIECE OF
8 SHOTGUN WADDING.

9 Q. AND AGAIN, CLOSE-UP OF 9?

10 A. EITHER A PELLET OR A PIECE OF SHOTGUN WADDING.

11 Q. 18-K?

12 A. THE SAME AS THOSE OVER HERE, EITHER A PIECE OF A
13 PELLET, A VERY SMALL PIECE OF A PELLET, OR A PIECE OF
14 SHOTGUN WADDING THAT'S EXPELLED WHEN A ROUND IS FIRED.

15 Q. AND 18-L?

16 A. THE SAME THING. WE'RE JUST MARKING VERY SMALL
17 ITEMS SO THAT YOU CAN GET AN IDEA OF WHERE THEY ARE.

18 Q. AND SO EVEN THOUGH WE CAN'T NECESSARILY SEE
19 WHAT'S THERE, IT KIND OF GIVES YOU AN IDEA OF WHERE
20 THESE THINGS YOU FOUND WERE LOCATED?

21 A. RIGHT.

22 Q. OKAY. NOW, YOU DIDN'T JUST TAKE PHOTOS OF THESE;
23 YOU ACTUALLY COLLECTED THEM, AS WELL; IS THAT RIGHT?

24 A. OH, YES, MA'AM.

25 Q. AND WHEN YOU COLLECT THEM, HOW DO YOU, DO YOU

1 KEEP THEM AND TEST THEM OR IS THAT THEN SENT TO SOMEONE
2 ELSE?

3 A. WELL, IF THERE'S A TEST THAT NEEDS TO BE
4 CONDUCTED ON THOSE THINGS, SOME THINGS, SOME THINGS WE
5 SEND TO S.L.E.D. FOR A TEST IF THERE'S A SPECIFIC TEST
6 WE NEED DONE ON IT. IF NOT, IT STAYS WITH US IN OUR
7 EVIDENCE ROOM TILL TODAY. BUT IF IT NEEDS TO BE SENT,
8 BASICALLY WE GET TOGETHER WITH THE INVESTIGATORS AND
9 DECIDE WHAT NEEDS TO BE SENT TO S.L.E.D. FOR SOME TYPE
10 OF TEST AND WHAT DOESN'T NEED TO BE.

11 MS. HUEY: YOUR HONOR, I'M GONNA SHOW
12 MR. SCOTT STATE'S EXHIBIT 21, AND I BELIEVE THAT'S
13 WITHOUT OBJECTION.

14 THE COURT: WITHOUT OBJECTION?

15 MR. POTTER: NO OBJECTION.

16 THE COURT: 21 WILL BE ADMITTED WITHOUT
17 OBJECTION.

18 (STATE'S EX. # 21, PACKAGES OF PROJECTILES
19 TAKEN FROM PUBLIX PARKING LOT, 21-A THROUGH
20 21-K, WAS RECEIVED IN EVIDENCE.)

21 BY MS. HUEY:

22 Q. MR. SCOTT, IF YOU WANT TO TAKE A LOOK AT WHAT'S
23 INSIDE OF HERE. NOW, SPECIFICALLY THE ONES THAT YOU GOT
24 FROM THE PARKING LOT, CAN YOU SHOW THE JURY, FOR
25 INSTANCE, SOME OF THE CAPS THAT YOU WERE REFERRING TO?

1 A. THESE ARE -- THIS IS WHAT YOU JUST SAW IN THE
2 PHOTOGRAPH, THESE GREEN CAPS. IT'S JUST PART OF THE,
3 PART OF THE INTERNAL WORKINGS OF A SHOTGUN SHELL. I
4 MEAN, THIS IS EXPELLED WHEN A SHELL IS FIRED AND ALL
5 THAT STUFF IS TOGETHER TO KIND OF KEEP THE PELLETS
6 TOGETHER AS THEY TRAVEL DOWN THE BARREL. BUT THIS IS
7 JUST A PART OF THE INTERNAL PARTS OF THE SHOTGUN, AND
8 THERE ARE SEVERAL OF THOSE THAT WE SHOT PHOTOGRAPHS OF
9 THESE CAPS. AND THERE IS FOUR CAPS; I MEAN, YOU HAVE
10 ONE CAP PER SHELL, SO ---

11 Q. SO IT'S SAFE TO SAY THERE WERE PROBABLY FOUR
12 SHOTGUN SHOTS?

13 A. IT SAFE TO SAY THERE WERE PROBABLY AT LEAST FOUR
14 SHOTGUN SHOTS.

15 Q. AT LEAST FOUR?

16 A. AT LEAST FOUR.

17 Q. NOW, HOW ABOUT SOME OF THE PELLETS YOU RECOVERED
18 FROM THE PARKING LOT, CAN YOU SHOW HOW SMALL THOSE WERE?

19 A. YEAH. THIS ONE, AGAIN, THEY ARE NOT IN GREAT
20 SHAPE; THEY'RE NOT IN TERRIBLE SHAPE, BUT THEY'RE NOT IN
21 GREAT SHAPE. ANYTIME THEY STRIKE ANYTHING THAT'S HARD,
22 IT'S GONNA DEFORM THEM. BECAUSE THEY ARE PRETTY,
23 THEY'RE BASICALLY PRETTY SOFT, IT'S JUST LEAD, SO
24 THEY'RE PRETTY SOFT. IT'S PRETTY EASY TO -- YOU CAN HIT
25 THEM WITH A HAMMER AND MASH THEM FLAT. SO I MEAN

1 THEY'RE PRETTY SOFT, AND IF THEY GET ANYTHING HARD, THAT
2 WILL JUST DEFORM THEM.

3 Q. AND IT CAN NOT ONLY DEFORM THEM, BUT IT CAN CAUSE
4 THEM TO FRAGMENT AND BREAK OFF?

5 A. OH, YEAH. THEY'LL BREAK INTO PIECES, AND THOSE
6 PIECES WILL HIT THINGS ALSO. I MEAN, IT MAKES IT
7 DIFFICULT FOR US SOMETIMES. BUT IF ONE OF THESE PELLETS
8 HITS SOMETHING HARD, AND THEN IT FRAGMENTS, THEN YOU
9 HAVE A LOT OF OTHER LITTLE HOLES WHERE, WHERE PIECES --
10 AND, OF COURSE, IT CAN DO THE SAME THING TO PEOPLE. IF
11 IT HITS SOMETHING HARD, PIECES OF THAT CAN COME OFF AND
12 HIT SOMEBODY.

13 Q. AND HOW ABOUT WHEN IT HITS A CAR, FOR INSTANCE?

14 A. THEY'RE POWERFUL ENOUGH TO PUNCH A HOLE IN A CAR,
15 YOU KNOW, DEPENDING ON HOW FAR AWAY THEY'VE BEEN SHOT
16 AND THAT SORT OF STUFF, BUT THEY'RE CERTAINLY POWERFUL
17 ENOUGH TO BE, TO PUNCH A HOLE IN A CAR DOOR OR KNOCK A
18 WINDOW OUT, BREAK A WINDOW OUT, SO SOMETHING LIKE THAT
19 IS CERTAINLY POWERFUL ENOUGH TO DO THAT.

20 Q. AND AS FAR AS THE WADDING THAT WAS COLLECTED ON
21 THE SCENE, IS THAT SOMETHING THAT CAN BE TESTED AT
22 S.L.E.D.?

23 A. NOT TO MY KNOWLEDGE. THEY MAY BE ABLE TO TELL
24 YOU THAT IS HIS SHOTGUN WADDING; BUT AS FAR AS
25 IDENTIFYING THAT PARTICULAR WADDING OR THESE PARTS WITH

1 A PARTICULAR SHOTGUN, THAT'S VERY DIFFICULT, UNLESS
2 THERE'S SOME DEFECT IN THE SHOTGUN THAT MAY CAUSE SOME
3 OF THESE PARTS TO BE SCARRED IN A CERTAIN WAY WHEN THEY,
4 SOMEBODY SAWED A BARREL IN HALF OR SOMETHING LIKE THAT,
5 REALLY MANGLED THE BARREL UP OR SOMETHING LIKE THAT,
6 THERE MIGHT BE SOME MARKINGS.

7 BUT MOST OF THE TIME A SHOTGUN IS A SMOOTH BORE.
8 EVERYTHING THAT, EVERYTHING IS NOT THE RIFLE, LIKE A
9 PISTOL OR RIFLE THAT EXTENDS THE BULLET WHEN IT COMES
10 OUT, THEY'RE BASICALLY SMOOTH ON THE INSIDE, AND THE
11 PELLETS JUST TRAVEL DOWN THAT BARREL AND OUT THEY GO.
12 SO THERE'S NOTHING THAT, NOTHING THAT IMPACTS THAT ROUND
13 WHEN IT LEAVES THE BARREL, SO THERE'S NOTHING TO MARK
14 IT. SO IF I SHOT A SHOTGUN, THIS SHOTGUN OR THIS
15 SHOTGUN, YOU COULDN'T TELL WHETHER THIS WADDING CAME
16 FROM THIS ONE OR THIS PELLET CAME FROM THIS. BUT
17 THERE'S NOT ANY, THERE'S NOTHING THAT MARKS THAT PELLET
18 OR THAT WADDING LIKE IN A RIFLE RANGE.

19 Q. NOW, SO THAT WAS EVERYTHING FROM THE PARKING LOT?

20 A. YES, MA'AM.

21 Q. OKAY. NOW, WE TALKED ABOUT IMPOUNDING THE
22 VEHICLES EARLIER?

23 A. UH-HUH.

24 Q. ALL RIGHT. DID YOU THEN PROCESS THOSE VEHICLES?

25 A. YES, MA'AM.

1 Q. OKAY.

2 (COUNSEL CONFER.)

3 MS. HUEY: YOUR HONOR, I'M GONNA SHOW
4 MR. SCOTT STATE'S 10-B AND 10-C WHICH ARE ADMITTED
5 WITHOUT OBJECTION.

6 THE COURT: NO OBJECTION?

7 MR. POTTER: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT. ADMITTED WITHOUT
9 OBJECTION.

10 (STATE'S EXHIBITS 10-B AND 10-C, PHOTOGRAPHS
11 OF RED FORD CONTOUR, WERE RECEIVED IN
12 EVIDENCE.)

13 BY MS. HUEY:

14 Q. MR. SCOTT, I DON'T KNOW IF YOU WANT TO TAKE A
15 CLOSE-UP OF THESE FIRST. IT'S MS. GALLOWAY'S CAR THAT
16 YOU TOOK PHOTOS OF WHEN IT WAS DARK --

17 A. YES.

18 Q. -- AND THEN IN THE DAYLIGHT HOURS YOU TOOK
19 PICTURES OF IT; IS THAT CORRECT?

20 A. THIS IS, THESE WERE TAKEN AT OUR OFFICE AFTER THE
21 VEHICLE WAS IMPOUNDED.

22 Q. OKAY. NOW I'M GONNA SHOW YOU STATE'S 10-B. IF
23 YOU CAN TELL THE JURY WHAT THAT SIGNIFIES?

24 A. WELL, THIS IS THE BACK OF THE SAME VEHICLE THAT
25 YOU SAW PHOTOGRAPHS OF EARLIER. I WAS THERE IN THE

1 DAYLIGHT NEXT TO OUR OFFICE. I JUST WANTED TO GET A
2 LITTLE BIT BETTER PHOTOGRAPH DURING THE DAY. AND YOU
3 CAN SEE THAT THERE'S A ROD THERE JUST STICKING OUT OF
4 THIS HOLE, STICKING OUT OF THIS HOLE, AND THAT WAS A
5 TRAJECTORY ROD, WHICH IS REALLY NOTHING BUT A FIBERGLASS
6 STICK IS WHAT IT BOILS DOWN TO.

7 WE USE THOSE THINGS TO TRY TO DETERMINE THE
8 DIRECTION OF A PROJECTILE, TO STICK IT IN THE HOLE AND
9 SEE, KIND OF SEE WHICH WAY IT'S POINTING, AND THAT'S
10 BASICALLY WHAT I DID THAT FOR, TO KIND OF SHOW THE
11 DIRECTION, IF IT'S IMPORTANT TO THE CASE, OR TO SHOW
12 THAT THERE IS A HOLE THERE, OBVIOUSLY THAT IT GOES ALL
13 THE WAY THROUGH. THAT'S WHAT THAT ROD IS FOR, THE
14 TRAJECTORY ROD IS FOR.

15 Q. AND AGAIN, YOU THOUGHT BECAUSE OF THE SIZE AND
16 SHAPE THAT, THAT WAS BUCKSHOT?

17 A. YES, MA'AM. WELL, PLUS YOU HAVE -- I MEAN, IT'S
18 NOT NECESSARILY BUCKSHOT, OF COURSE, WHEN WE SEE IT, BUT
19 IT'S OBVIOUSLY THAT YOU HAVE A STRIKE AND A STRIKE AND A
20 STRIKE AND ANOTHER STRIKE, AND THIS WINDOW IS BROKEN
21 OUT, AND I THINK ON THE INSIDE OF THE VEHICLE WE FOUND
22 SOME OF THOSE LEAD FRAGMENTS AND WHATNOT THAT WERE
23 CONSISTENT WITH BUCKSHOT.

24 BUT THERE AGAIN, THE PELLETS ALL COME OUT AT THE
25 SAME TIME, AND WHEN YOU HAVE A PLACE TOGETHER LIKE THAT

1 THAT IS HIT ALL INTO ONE DIRECTION BASICALLY, AND IT'S
2 PRETTY CONSISTENT WITH IT BEING SHOT WITH A SHOTGUN WITH
3 BUCKSHOT.

4 Q. NOW I'M GONNA SHOW YOU, THEN, STATE'S 10-C.

5 A. THAT IS A -- AS A MATTER OF FACT, THAT ARROW IS
6 JUST A PIECE OF A LEAD FRAGMENT THAT I FOUND IN THE
7 FLOOR OF THE, FRONT FLOOR OF THE CAR.

8 Q. OKAY. AND IS THAT WHERE THE -- IS THAT THE
9 DRIVER'S SEAT FLOORBOARD?

10 A. YES, MA'AM, THE DRIVER'S SEAT FLOORBOARD.

11 Q. OKAY. NOW, DID YOU ALSO TAKE PHOTOGRAPHS OF A
12 WHITE EXPLORER THAT BELONGED TO MR. DIAL?

13 A. YES, MA'AM.

14 MS. HUEY: YOUR HONOR, I SHOW MR. SCOTT
15 STATE'S 9-A THROUGH 9-E.

16 THE COURT: ANY OBJECTION?

17 MR. POTTER: NO, YOUR HONOR.

18 THE COURT: 9-A THROUGH 9-E ARE ADMITTED
19 WITHOUT OBJECTION.

20 (STATE'S EXHIBITS 9-A THROUGH 9-E,
21 PHOTOGRAPHS OF A WHITE FORD EXPLORER, HAVING
22 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION,
23 WERE RECEIVED IN EVIDENCE.)

24 BY MS. HUEY:

25 Q. IF YOU WANT TO TAKE A LOOK AT THOSE, MR. SCOTT?

1 A. OKAY.

2 Q. I'M GOING TO SHOW YOU 9-A.

3 A. THIS IS A PHOTOGRAPH OF THE WHITE EXPLORER THAT
4 WAS ALSO INVOLVED. AND I THINK YOU SEE MY PINK ROD
5 THERE AGAIN, BASICALLY TRYING TO SHOW WHERE A PROJECTILE
6 PASSED THROUGH IT, WHERE THIS ROUND -- AND WE'RE JUST
7 TRYING TO FIGURE OUT WHERE IT CAME FROM. THEY USUALLY
8 MOVE IN A STRAIGHT LINE, UNLESS SOMETHING, THEY IMPACT
9 SOMETHING OR WHATEVER, SO IT GIVES US A GOOD IDEA ABOUT
10 WHERE THE ROUND -- WHERE THE PERSON WAS STANDING WHEN
11 THEY WERE DOING THE SHOOTING.

12 PLUS A LOT OF TIMES WHEN WE, WHEN WE, IF YOU ARE
13 TRYING TO FIND THAT PROJECTILE, WE PUSH THAT ROD THROUGH
14 TWO HOLES, BASICALLY YOU HAVE TO HAVE TWO HOLES TO MAKE
15 SURE IT'S LINED UP. IF IT'S ONE HOLE, IT WILL BASICALLY
16 DO LIKE THAT. IF IT'S TWO HOLES, IT WILL BASICALLY
17 POINT TO WHERE IT'S AT, SO A LOT OF TIMES YOU DIRECT
18 YOUR TRAJECTORY ROD THROUGH THOSE TWO HOLES AND
19 BASICALLY LOOK AT THE END OF IT TO SEE WHERE IT'S GONE,
20 AND THEN HOPEFULLY WE CAN FIND IT AT THE END OF THAT
21 PATH.

22 Q. OKAY. AND THEN STATE'S 9-B?

23 A. THIS IS A LITTLE CLOSE-UP OF THAT SAME, SAME
24 TRAJECTORY ROD, AND I THINK IT IMPACTED THE WINDSHIELD
25 OUT THERE AFTER IT PASSED THROUGH SEVERAL THINGS THERE

1 ALSO.

2 Q. DID YOU NOTICE A LOT OF DAMAGE TO THIS PARTICULAR
3 CAR?

4 A. UM, YEAH. I MEAN, IT WAS SHOT UP PRETTY GOOD.

5 Q. THIS IS 19-C.

6 A. THAT WAS A PELLET. THAT'S A PELLET THAT WE FOUND
7 IN THIS VEHICLE ALSO. AS YOU CAN SEE, IT'S TUCKED
8 BETWEEN THE, TUCKED BETWEEN THE RUBBER MOLDING AND THE
9 LITTLE PLASTIC PIECES UP THERE. THAT'S JUST WHERE IT
10 ENDED UP.

11 Q. AND THEN 9-D?

12 A. THIS IS THE INSIDE OF THAT SAME VEHICLE, BUT THIS
13 WAS THE NIGHT THAT THE SHOOTING OCCURRED, NOT THE NEXT
14 DAY, THIS WAS THE NIGHT IT OCCURRED. WE WERE TRYING TO
15 DOCUMENT WHAT WE SAW IN THE CONSTRUCTION OF THE
16 WINDSHIELD, IT LOOKED LIKE IT KNOCKED THE MIRROR OFF AND
17 THE PELLETS STRIKED IT OFF THERE.

18 Q. AND 9-E?

19 A. BASICALLY THE SAME PHOTOGRAPHS. JUST TRYING TO
20 DOCUMENT, DOCUMENT WHERE, WHERE SOME OF THESE PELLETS
21 STRUCK THIS VEHICLE.

22 Q. AND AGAIN, THE FRAGMENTS THAT YOU COLLECTED IN
23 YOUR OPINION WERE CONSISTENT WITH?

24 A. BUCKSHOT, YES, MA'AM.

25 Q. BUCKSHOT. AND THEN FINALLY, MR. SCOTT, I SHOW

1 YOU 8-A THROUGH C.

2 MS. HUEY: YOUR HONOR, I BELIEVE THESE ARE
3 ADMITTED WITHOUT OBJECTION.

4 THE COURT: ANY OBJECTION?

5 MR. POTTER: NO OBJECTION.

6 THE COURT: ADMITTED WITHOUT OBJECTION.

7 (STATE'S EXHIBIT 8-A, 8-B, AND 8-C, WHITE
8 MITSUBISHI PHOTOS, HAVING BEEN PREVIOUSLY
9 MARKED FOR IDENTIFICATION, WERE RECEIVED IN
10 EVIDENCE.)

11 BY MS. HUEY:

12 Q. ALL RIGHT, MR. SCOTT. THEN YOU ALSO PROCESSED
13 THE VICTIM'S CAR, THE WHITE MITSUBISHI; IS THAT CORRECT?

14 A. UH-HUH.

15 Q. OKAY. I'M GONNA SHOW YOU 8-A THEN. CAN YOU SHOW
16 WHAT THAT'S A PICTURE OF?

17 A. THIS IS, THIS IS THE WHITE MITSUBISHI THAT WAS
18 INVOLVED, AND THIS WAS IN OUR PARKING LOT AGAIN, THE
19 SAME, IN THE DAYLIGHT. AND THERE AGAIN ALL I WAS TRYING
20 TO DO WAS DOCUMENT SOME OF THE, SOME OF THE PELLET
21 IMPACTS, AND THERE'S ANOTHER TRAJECTORY ROD THAT IS
22 PLACED IN THAT HOLE TRYING TO SHOW THE DIRECTION THAT
23 THE PELLET ENTERED THE VEHICLE.

24 Q. AND THIS IS 8-C.

25 A. THAT'S A CLOSER PICTURE OF THE ONE THAT WE JUST

1 LOOKED AT OR WHATEVER. IT'S KIND OF SHOWING THE
2 DIRECTION THAT THAT PELLET ENTERED THE VEHICLE.

3 Q. AND 8-B?

4 A. AND THERE'S ANOTHER, ANOTHER IMPACT, ANOTHER
5 TRAJECTORY ROD, BASICALLY THE SAME DIRECTION. YOU CAN
6 SEE THIS PELLET ENTERED FROM THE SAME DIRECTION, FROM
7 ABOUT THE SAME DIRECTION.

8 Q. NOW, DID YOU COLLECT THE PROJECTILES OUT OF THIS
9 CAR OR DID SOMEONE ELSE?

10 A. I THINK SERGEANT BLAKELY COLLECTED THOSE
11 PROJECTILES.

12 MS. HUEY: THANK YOU. YOU CAN HAVE A SEAT
13 NOW.

14 (WITNESS RESUMES STAND.)

15 BY MS. HUEY:

16 Q. ALL THE PROJECTILES COLLECTED FROM ALL THE
17 VICTIMS' CARS, WERE THOSE SENT TO S.L.E.D.?

18 A. I BELIEVE SO.

19 Q. I SHOW YOU STATE'S 20.

20 (COUNSEL CONFER.)

21 MS. HUEY: ALL RIGHT. I'M GONNA SHOW YOU
22 WHAT'S BEEN MARKED AS STATE'S 20. I BELIEVE IT'S GONNA
23 BE ADMITTED WITHOUT OBJECTION.

24 THE COURT: ANY OBJECTION?

25 MR. POTTER: NO OBJECTION.

1 THE COURT: ADMITTED WITHOUT OBJECTION.
2 (STATE'S EXHIBIT 20, PROJECTILES FROM
3 VICTIMS' CARS, AFTER HAVING BEEN PREVIOUSLY
4 MARKED FOR IDENTIFICATION, WAS RECEIVED IN
5 EVIDENCE.)

6 BY MS. HUEY:

7 Q. IF YOU COULD TAKE A LOOK AT THOSE, PLEASE.

8 A. OKAY.

9 Q. AND WHAT ARE THOSE, MR. SCOTT?

10 A. THESE ARE PELLETS AND PELLET FRAGMENTS WE
11 RECOVERED FROM THOSE VEHICLES, WHAT WE COULD FIND THEM,
12 IN THOSE VEHICLES.

13 Q. OKAY. AND SPECIFICALLY THE WHITE MITSUBISHI, THE
14 RED FORD CONTOUR, AND THE WHITE FORD EXPLORER?

15 A. RED FORD -- RIGHT. THIS IS THE PELLET THAT WE
16 SAW THE PHOTOGRAPH OF THAT WAS JAMMED DOWN BETWEEN THE
17 RUBBER MOLDING AND THE, AND THE PLASTIC PORTION OF THE
18 CAR. THAT'S THIS PELLET FROM THAT WHITE FORD EXPLORER.

19 AND SOME OF THE FRAGMENTS THAT I FOUND FROM THE
20 CONTOUR, BASICALLY THAT'S ALL WE HAD LEFT. IT WAS
21 BROKEN UP PRETTY GOOD, BUT IT'S OBVIOUSLY PIECES OF A
22 PROJECTILE, YOU KNOW.

23 AND THE MITSUBISHI THE TRUNK, THE ONE THAT WE SAW
24 LAST, THAT HAD THE TRAJECTORY RODS IN THERE, WE WERE
25 ABLE TO RETRIEVE THAT PELLET FROM THAT VEHICLE. AND I

1 THINK SERGEANT BLAKELY MAY HAVE GOTTEN -- THIS IS FROM A
2 HONDA ACCORD, OR SERGEANT PATTERSON MAY HAVE COLLECTED
3 THIS ONE AT THE HOSPITAL, I THINK THIS IS WHERE THIS
4 CAME FROM.

5 Q. FROM ANOTHER VEHICLE?

6 A. FROM ANOTHER VEHICLE, RIGHT.

7 Q. AND THEN AGAIN, ALL OF THOSE ARE PACKAGED UP AND
8 SENT TO S.L.E.D., WHICH IS IN COLUMBIA, FOR TESTING?

9 A. RIGHT. THAT'S CORRECT.

10 Q. NOW, MR. SCOTT, WHEN YOU WERE CANVASSING THE
11 PARKING LOT AT PUBLIX, OTHER THAN SHOTGUN CAPS AND
12 WADDING AND LEAD FRAGMENTS FROM PELLETS, DID YOU FIND
13 ANY OTHER CASINGS?

14 A. NO, MA'AM. WE DIDN'T FIND ANY OTHER CASINGS,
15 RIFLE, PISTOL CASINGS, OR ANY SHOTGUN CASINGS EITHER.
16 WE DIDN'T FIND ANY SPENT, ANY SPENT CASINGS AT ALL FROM
17 ANY TYPE OF WEAPON. JUST SHOTGUN PARTS, SHOTGUN SHELL
18 PARTS, THAT'S ALL WE FOUND, AND PELLETS.

19 Q. AND AGAIN, THE SCENE WAS SEARCHED THAT NIGHT OR
20 DURING THE DAYLIGHT HOURS?

21 A. YES, MA'AM, THAT'S CORRECT.

22 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME,
23 JUDGE.

24 THE COURT: CROSS-EXAMINATION?

25 MR. POTTER: MAY I APPROACH?

1 THE COURT: YES, SIR.

2 (DISCUSSION AT SIDEBAR.)

3 THE COURT: MADAM FORELADY, LADIES AND
4 GENTLEMEN OF THE JURY, WE'LL TAKE A BREAK AT THIS TIME.
5 WE HAVE BEEN GOING ABOUT AN HOUR AND 35 OR 40 MINUTES.
6 IF YOU NEED A SMOKE BREAK, LET THE BAILIFF KNOW, OR IF
7 YOU NEED ANYTHING, LET THE BAILIFF KNOW AND THEN WE'LL
8 TAKE A 20-OR-30-MINUTE BREAK. PLEASE DON'T DISCUSS
9 ANYTHING AMONGST YOURSELVES. IF YOU WILL FOLLOW THE
10 BAILIFF TO THE JURY ROOM.

11 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
12 11:56 A.M.)

13 THE COURT: OFFICER SCOTT, YOU MAY STEP
14 DOWN. THANK YOU VERY MUCH. WE'LL TAKE ABOUT A
15 15-OR-20-MINUTE BREAK.

16 (RECESS TAKEN.)

17 THE COURT: ANYTHING FROM THE STATE?

18 MS. HUEY: NO, SIR.

19 THE COURT: ANYTHING FROM THE DEFENDANT?

20 MR. POTTER: NO, SIR.

21 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
22 12:32 P.M.)

23 THE COURT: MADAM FORELADY, THERE ARE SOME
24 PADS. WHO WANTS A PAD AND PEN? RAISE YOUR RIGHT HAND.
25 IF YOU WOULD JUST DISTRIBUTE IT WITH THE

1 PENS.

2 DOES EVERYBODY HAVE A PAD AND PE
3 PEN? IS THERE ANYBODY THAT DOESN'T HAVE ONE? (NO
4 RESPONSE).

5 ALL RIGHT. IF YOU WILL WRITE YOUR NAME
6 INSIDE THE PAD. WHEN YOU LEAVE THE COURTROOM, LEAVE
7 YOUR PADS IN THE COURTROOM. AND YOU CAN RETRIEVE THEM
8 WHEN YOU COME BACK AFTER A BREAK OR IN THE EVENING, IN
9 THE MORNINGS. THE CLERK WILL KEEP THEM AT NIGHT. AT
10 THE END OF THE TRIAL, THEN YOU MAY TAKE THE PADS WITH
11 YOU TO THE JURY ROOM, BUT IN THE MEANTIME LEAVE THEM IN
12 THE COURTROOM.

13 AND THERE WILL NOT BE A TRANSCRIPT AT THE
14 END OF THIS TRIAL TO ANSWER YOUR QUESTION.

15 YES, I'M SORRY. THE JUROR NEEDS TO USE THE
16 PHONE. WHO NEEDS TO USE THE PHONE? RAISE YOUR HAND.
17 DO YOU NEED TO USE IT RIGHT NOW?

18 A JUROR: (SHOOK HEAD.)

19 THE COURT: BECAUSE IF YOU DO, I'LL LET
20 YOU -- IF IT'S SOMETHING YOU'VE GOT TO TAKE CARE OF,
21 I'LL BE HAPPY TO LET YOU GO DO THAT RIGHT NOW.

22 A JUROR: NO, SIR.

23 THE COURT: YOU CAN WAIT TILL LUNCH? I'M
24 SERIOUS NOW. IF YOU NEED TO MAKE A PHONE CALL, LET ME
25 KNOW, WE'LL WAIT ON YOU.

1 A JUROR: NO. IT'S ALL RIGHT.

2 THE COURT: OKAY. ALL RIGHT. YOU CAN MAKE
3 YOUR PHONE CALL AT LUNCH.

4 DOES THAT ANSWER ALL YOUR QUESTIONS, MADAM
5 FORELADY?

6 FORELADY: THAT'S IT.

7 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

8 MR. POTTER: MAY IT PLEASE THE COURT.

9 CROSS-EXAMINATION BY MR. POTTER:

10 Q. MR. SCOTT, YOU INDICATED INITIALLY YOU WERE AT
11 THE PUBLIX PARKING LOT THE NIGHT, THE MORNING OF THE
12 SHOOTING; IS THAT CORRECT?

13 A. YES, SIR.

14 Q. WHEN IT WAS STILL DARK AT THAT POINT IN TIME?

15 A. YES, SIR.

16 Q. WAS THERE ANY ATTEMPTS TO DO ANY PHOTOGRAPHS AT
17 THAT TIME?

18 A. YES, SIR.

19 Q. WERE YOU INVOLVED WITH THAT OR WAS SOMEBODY ELSE
20 GIVEN THAT ASSIGNMENT?

21 A. SOMEBODY ELSE HAD THAT ASSIGNMENT, YES, SIR.

22 Q. AND YOU WENT TO THE RYAN'S PARKING LOT TO CHECK
23 ON THE OTHER CAR?

24 A. RIGHT.

25 Q. ALL RIGHT. NOW, ABOUT WHAT TIME WAS IT WHEN YOU

1 LEFT THE PUBLIX PARKING LOT?

2 A. I DON'T KNOW EXACTLY. I WAS ONLY THERE PROBABLY
3 20 MINUTES MAYBE AND WAS GONE RIGHT AFTER THAT.

4 Q. AND THEN YOU DIDN'T RETURN BACK TO THE PUBLIX
5 PARKING LOT UNTIL ABOUT 10:00, 11:00 THAT MORNING?

6 A. THAT'S CORRECT.

7 Q. OKAY. AND AT THAT POINT IN TIME WHEN YOU
8 RETURNED BACK TO THE, WHEN YOU RETURNED BACK TO THE
9 PUBLIX PARKING LOT, THE STORES HAD BEEN OPEN, TRAFFIC
10 HAD BEEN COMING AND GOING, AND IT WASN'T A SECURED
11 SCENE?

12 A. THAT'S CORRECT.

13 Q. OKAY. AND THE FACT THAT IT WASN'T A SECURED
14 SCENE MEANS THAT POSSIBLE EVIDENCE COULD HAVE BEEN
15 DAMAGED, COULD HAVE BEEN DISRUPTED, COULD HAVE BEEN
16 REMOVED. IT WAS, IN ESSENCE, A DEGRADED SCENE; IS THAT
17 TRUE?

18 A. YES, SIR, IT'S POSSIBLE.

19 Q. ALSO, ~~BASED ON YOUR INVESTIGATION AND DISCUSSIONS~~
20 ~~WITH OTHER OFFICERS, YOU KNEW THERE WAS ABOUT 20 TO 30~~
21 ~~CARS THAT WERE THERE WHEN THE SHOOTING OCCURRED?~~

22 A. ~~YES,~~ SIR, QUITE A FEW.

23 Q. ~~AND A NUMBER OF THOSE CARS LEFT THE SCENE?~~

24 A. ~~YES,~~ SIR.

25 Q. AND ALSO BASED ON YOUR INVESTIGATION YOU KNEW

1 THERE WAS A LARGE NUMBER OF PEOPLE THAT WERE OUTSIDE
2 THOSE CARS AS WELL?

3 A. YES, SIR.

4 Q. AND THOSE PEOPLE LEFT THE SCENE AS WELL?

5 A. YES, SIR.

6 Q. THOSE ALL WOULD CONTRIBUTE TO THE FACT THAT
7 EVIDENCE COULD HAVE BEEN LOST OR DAMAGED OR WHATEVER BY
8 THOSE CARS LEAVING THE SCENE SO QUICKLY AND BY PEOPLE
9 RUNNING AROUND THAT PARKING LOT?

10 A. SURE. YEAH. WE JUST, WE HAVE TO LIVE WITH THAT
11 MOST OF THE TIME.

12 Q. I UNDERSTAND. I UNDERSTAND. NOW LET'S TALK REAL
13 QUICK ABOUT G.S.R. TESTS. ARE YOU FAMILIAR WITH THE
14 TAKING OF THE G.S.R. TEST?

15 A. YES, SIR.

16 Q. ARE YOU FAMILIAR WITH ANALYZING THEM?

17 A. NO.

18 Q. OKAY. YOU JUST SEND THEM TO S.I.E.D. AND LET
19 THEM DO IT?

20 A. RIGHT.

21 Q. BUT TYPICALLY A G.S.R. TEST WILL TELL YOU WHETHER
22 SOMEBODY FIRED A GUN, IF IT'S TAKEN, IF THE TEST WAS
23 TAKEN PROPERLY?

24 A. DEPENDING ON THE GUN.

25 Q. OKAY. SO THERE'S A CHANCE THAT A G.S.R. TEST

1 WOULD COME BACK AS BEING NEGATIVE, BUT SOMEBODY STILL
2 HAD FIRED A GUN?

3 A. IT'S POSSIBLE.

4 Q. WOULD A G.S.R. TEST SHOW IF SOMEBODY EVEN HELD A
5 GUN?

6 A. NOT LIKELY, NO, SIR. A GUNSHOT RESIDUE TEST IS A
7 TEST FOR GUN PRIMER, FOR PRIMER RESIDUE. BARIUM,
8 ANTIMONIUM, AND LEAD. THAT'S WHAT MAKES UP THE PRIMER
9 AND THAT'S WHAT THE TEST IS LOOKING FOR, IS PRIMER
10 RESIDUE. SO YOU DON'T HAVE THE PRIMER RESIDUE UNLESS
11 THE PRIMER IS HIT. THE BACK OF THE SHELL, WHEN IT'S
12 HIT, THAT RESIDUE IS WHAT THAT TEST IS DESIGNED TO
13 DISCOVER, AND IF YOU DON'T HAVE THAT PRESENT -- IF YOU
14 DON'T FIRE A GUN, YOU WON'T HAVE THAT PRESENT. OR IF
15 IT'S A RIM-FIRE. IF IT'S RIM-FIRE, YOU DON'T HAVE
16 PRIMER, SO YOU WOULDN'T HAVE IT IN A RIM-FIRE.

17 Q. OKAY. NOW, THE NIGHT OF THIS INCIDENT, IT WAS
18 JULY 10TH, CORRECT?

19 A. CORRECT.

20 Q. THE WEEK BEFORE WAS JULY 4TH, SIX DAYS BEFORE
21 JULY 4TH?

22 A. UH-HUH.

23 Q. DID YOU FIND ANY FIREWORK DEBRIS?

24 A. SERGEANT BLAKELY FOUND SOME FIREWORK DEBRIS, YES,
25 SIR.

1 Q. THE SHOTGUN WADDINGS THAT YOU FOUND, YOU FOUND
2 TOTAL OF FOUR, CORRECT?

3 A. UH-HUH.

4 Q. YOU CANNOT TELL, SINCE THESE ARE IN THE FRONT OF
5 THE SHOTGUN SHELLS, YOU CANNOT TELL ANY OF THE
6 DISTINCTIVE PATTERNS TO DETERMINE WHAT SHOTGUN THAT WAS
7 FIRED FROM?

8 A. NO, SIR. NO, SIR, THERE IS NOT.

9 Q. YOU HAVE FOUR SHOTGUN WADS. THEY COULD HAVE BEEN
10 FIRED BY ONE WEAPON OR FOUR SEPARATE WEAPONS; IS THAT
11 CORRECT?

12 A. THAT'S CORRECT.

13 Q. THERE WAS NO WAY OF KNOWING?

14 A. NO.

15 Q. OKAY. LET'S LOOK REAL QUICK AND TURN TO THE
16 CARS. THE WHITE MITSU.

17 A. UH-HUH.

18 Q. DO YOU MIND STEPPING DOWN FOR ME, PLEASE?

19 A. SURE.

20 (WITNESS LEAVES STAND.)

21 Q. ALL RIGHT. THIS RED TUBE HERE IS YOUR
22 TRAJECTORY; IS THAT CORRECT?

23 A. YES, SIR.

24 Q. AND AS IT'S ENTERING INTO THE MITSU, THAT SHOWS
25 THE TRAJECTORY PROJECTILE, CORRECT?

1 A. CORRECT.

2 Q. ALL RIGHT. AND THE PROJECTILE SEEMS TO BE COMING
3 FROM A LOW ANGLE UP TOWARDS THE TRUNK OF THAT VEHICLE;
4 IS THAT CORRECT?

5 A. ABOUT SO HIGH, ABOUT FLAT TRUNK HIGH, YES, SIR
6 (INDICATING).

7 Q. OKAY. DO YOU KNOW HOW HIGH THIS TRUNK IS?

8 A. NO. I GUESS ABOUT STANDARD HEIGHT FOR A CAR OR
9 TRUNK.

10 Q. OKAY. WELL, IT SEEMS DOWN BY THE EMBLEM SO THAT
11 MIGHT BE A LITTLE BIT LOWER THAN THE TOP OF THE TRUNK,
12 WOULD THAT BE FAIR TO SAY?

13 A. I GUESS IT'S FAIR TO SAY.

14 Q. YEAH. I MEAN, YOU TOOK THE PHOTOGRAPH.

15 A. YEAH, IT WOULD BE FAIR TO SAY.

16 Q. OKAY. LET ME SHOW YOU ONE MORE THING IF YOU CAN
17 JUST STAY WHERE YOU ARE.

18 A. SURE.

19 Q. IN THE RED FORD CONTOUR. OKAY. AGAIN, THIS IS
20 A -- YOU ARE USING THE RED TIP TO SHOW THE TRAJECTORY OF
21 THE PROJECTILE; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. IT APPEARS THAT PARTICULAR PROJECTILE TRAJECTORY
24 IS COMING FROM A LOW ANGLE GOING UPWARDS, IS THAT TRUE?

25 A. IT APPEARS TO BE THAT WAY, YES, SIR.

1 Q. SO IT WOULD BE REASON TO BELIEVE THAT WHOEVER
2 SHOT THE SHOTGUN WOULD HAVE BEEN AT A LOWER ANGLE THAN
3 WHERE THAT TRAJECTORY IS SHOWING.

4 A. WELL, OR SITTING IN, SITTING IN A VEHICLE,
5 PERHAPS.

6 Q. OKAY. LET'S LOOK BACK AT THE MITSU. OKAY. THIS
7 IS A LITTLE LOWER THAN WE ARE. THIS IS A LITTLE BIT
8 LOWER, OBVIOUSLY, THAN IT WAS ON THE FORD CONTOUR; IS
9 THAT CORRECT?

10 A. UH-HUH.

11 Q. OKAY. AGAIN, THAT TRAJECTORY WOULD SHOW SOMEBODY
12 AT A LOWER ANGLE, AS WELL, WOULDN'T IT?

13 A. YES.

14 MR. POTTER: THANK YOU. YOU CAN HAVE A
15 SEAT. -I APPRECIATE IT.

16 (WITNESS RESUMES STAND.)

17 BY MR. POTTER:

18 Q. THE PROJECTILE -- EXCUSE ME -- THE TRAJECTORY ON
19 THE MITSU, THAT WOULDN'T INDICATE ANYBODY SITTING IN THE
20 CAR, WOULD IT?

21 A. WELL, YOU KNOW, THE TRAJECTORY ROD IS A, IT'S A
22 PRETTY GOOD, IT'S A GOOD INDICATION, BUT IT'S NOT, IT'S
23 CERTAINLY NOT AN EXACT SCIENCE. I MEAN, IT DEPENDS ON
24 HOW BIG THE HOLE IS AND WHETHER THE ROD IS AT THE TOP OF
25 THE HOLE OR THE BOTTOM OF THE HOLE. SO, I MEAN, THAT'S

1 APPROXIMATE, BUT IT'S NOT EXACT.

2 Q. OKAY. BUT YOU ARE NOT DISPUTING THE FACT THAT
3 THAT MITSU TRAJECTORY WAS AT A DOWNWARD ANGLE?

4 A. THAT'S WHAT IT LOOKS LIKE IN THE PHOTOGRAPH, YES,
5 SIR.

6 MR. POTTER: THANK YOU. NOTHING FURTHER.

7 THE COURT: ANY REDIRECT?

8 MS. HUEY: YES, SIR.

9 REDIRECT EXAMINATION BY MS. HUEY:

10 Q. NOW, MR. SCOTT, IN YOUR EXPERIENCE WITH GUNSHOT
11 RESIDUE, CAN GUNSHOT RESIDUE ALSO BE ON SOMEONE WHO HAS
12 BEEN AROUND A FIREARM?

13 A. SURE.

14 Q. LIKE A VICTIM EVEN?

15 A. OH, YES. IF A VICTIM, SAY IT'S FIRED FROM THE
16 INSIDE OF A VEHICLE, IT COULD BE ON PASSENGERS IN THE
17 VEHICLE, SURE.

18 Q. AND NOW BACK TO THE ANGLES OF THE PELLETS AND
19 THAT SORT OF THING. WHEN A SHOTGUN IS FIRED, WHAT
20 HAPPENS WITH THE PELLETS AND THE SHELL?

21 A. WELL, THEY, THEY STAY TOGETHER FOR A PERIOD OF
22 TIME AND THEN THEY STARTED TO, THEY START TO FAN OUT.
23 AND SO BASICALLY THE FURTHER AWAY YOU ARE, THE BIGGER
24 THE PATTERN GETS. SO THEY START OUT IN A STRAIGHT LINE
25 AND THEN THEY START TO FALL OFF. THEY START TO FALL

1 OFF, UP AND DOWN AND AROUND AND BASICALLY IN A CIRCLE,
2 YOU KNOW? AND SO YOU'RE GOING TO HAVE SOME THAT ARE
3 GOING THIS WAY AND SOME THAT ARE GOING THAT WAY. THEY
4 BASICALLY DO LIKE, LIKE A CONE COMING OUT THE END OF THE
5 BARREL. THEY STAY TOGETHER FOR A WHILE AND THEN THEY
6 MAKE A CONE. AND THE FURTHER AWAY YOU ARE THE BIGGER,
7 THE BIGGER THE CIRCLE WILL BE. OF COURSE, DEPENDING ON
8 THE SHOTGUN AND WHAT CHOKE IT IS AND ALL THOSE TYPES OF
9 THINGS, BUT ---

10 Q. SO YOU CAN HAVE DIFFERENT ANGLES COMING FROM THE
11 SAME SHOT?

12 A. OH, SURE, YOU COULD. SURE, YOU COULD.

13 Q. AND IS THAT DIFFERENT FROM A HANDGUN?

14 A. YEAH. A HANDGUN SHOOTS ONE BULLET AND IT GOES
15 ONE DIRECTION AND THAT'S KIND OF THAT. BUT SHOTGUN
16 PELLETS, THEY DO, THEY DO ODD THINGS, THAT'S FOR SURE.
17 WELL, THEY'RE ROUND AND THEY'RE, THEY'RE BEING
18 COMPRESSED BY A GUN BARREL AND THEY COME OUT DEFORMED,
19 AND SO THEY DON'T, THEY DON'T TRACK LIKE A SINGLE
20 PROJECTILES DOES, THAT'S FOR SURE.

21 MS. HUEY: THANK YOU.

22 THE COURT: RECROSS?

23 MR. POTTER: JUST ONE QUICK QUESTION.

24 RECROSS-EXAMINATION BY MR. POTTER:

25 Q. LET'S LOOK AT THE MITSU AGAIN. CAN YOU LEAVE THE

1 STAND AGAIN?

2 A. SURE.

3 (WITNESS LEAVES STAND.)

4 Q. OKAY. YOU INDICATED THAT WHEN THE SHOTGUN -- LET
5 ME BACK UP A SECOND. DID YOU FIND A PROJECTILE IN THIS
6 PARTICULAR BULLET?

7 A. NO, I DON'T THINK SO; I DON'T THINK WE FOUND ONE.
8 WE FOUND ONE AT THE TAILLIGHT END, I THINK, BUT NOT THAT
9 ONE.

10 Q. OKAY. DID YOU FIND A PROJECTILES IN THE TRUNK OF
11 THE MITSU?

12 A. WELL, NO. I MEAN, THERE'S ONE IN THERE. THERE'S
13 ONE IN THERE. BUT WE HAVE TO, WE HAVE TO MAKE DECISIONS
14 A LOT OF TIMES WHETHER TO SAW SOMEBODY'S CAR IN HALF
15 TRYING TO FIND ONE OR LEAVE IT THERE, AND THAT'S ABOUT
16 WHAT THE SITUATION WAS IN A LOT OF THESE VEHICLES IS WE
17 WOULD HAVE TO TEAR THE VEHICLE APART TO RETRIEVE THE
18 PELLET.

19 Q. SO -- I'M SORRY, I DIDN'T MEAN TO CUT YOU OFF.

20 A. NO, THAT'S OKAY. THE ONE IN THE TAILLIGHT WE
21 FOUND VERY EASILY. THIS ONE OBVIOUSLY PASSED THROUGH
22 SOMETHING WE COULDN'T GET, WE COULDN'T GET TO IT.

23 Q. WERE YOU ABLE TO IDENTIFY WHERE -- YOU COULDN'T
24 GET TO IT, BUT COULD YOU SEE IT?

25 A. NO. WE COULDN'T SEE IT.

1 Q. OKAY. NOW ---

2 A. IF IT PUNCHES THROUGH THE INNER, THE INNER PART
3 OF THE CAR, ESPECIALLY IN THE INNER METAL OF THE CAR OR
4 WHATEVER, I MEAN, WE HAVE TO SAW THE PIECES TO GET TO
5 IT. AND WE WERE PRETTY CONVINCED THIS VEHICLE HAD BEEN
6 SHOT BY A SHOTGUN, SO WE HAD SOME PELLETS. WE WOULD
7 HAVE TO WEIGH THESE THINGS. I HATE TO CUT SOMEBODY'S
8 CAR TO PIECES WHEN I'M RELATIVELY SURE THAT THE VEHICLE
9 WAS SHOT WITH A SHOTGUN AND IT'S ONE, ONE BLAST.

10 Q. NOW, YOU INDICATED THAT WHEN A SHOTGUN IS FIRED,
11 THE BUCKSHOT OR WHAT HAVE YOU IS GONNA FORM KIND OF A
12 CONE PATTERN, IS WHAT YOU SAID?

13 A. UH-HUH.

14 Q. AND AGAIN, THE TRAJECTORY SEEMS TO BE GOING
15 UPWARDS ON THIS; IS THAT CORRECT?

16 A. YES, SIR. IT COULD HAVE BOUNCED OFF THE
17 PAVEMENT. IT COULD HAVE EVEN BOUNCED OFF THE PAVEMENT
18 AND DONE THE SAME THING.

19 Q. I UNDERSTAND.

20 A. WE USED TO TEACH BOUNCING BUCKSHOT OFF THE
21 PAVEMENT WHEN I TAUGHT AT THE ACADEMY, AS A MATTER OF
22 FACT. SO IT COULD HAVE EASILY BOUNCED OFF THE PAVEMENT
23 OR DONE THE SAME THING. YOU MIGHT HAVE ONE POINTING
24 STRAIGHT UP THAT HITS THE GROUND FIRST AND COME STRAIGHT
25 UP. IT HAPPENS ALL THE TIME. ESPECIALLY ON PAVEMENT,

1 CONCRETE, EVEN IN HOUSES WITH SLAB FLOORS, I SEEN THEM
2 BOUNCE OFF, OFF THE GROUND. AND WHEN YOU STICK THE
3 TRAJECTORY ROD IN HOLE, IT LOOKS LIKE SOMEBODY WAS
4 LAYING ON THEIR BACK AND SHOT IT, BUT IT ACTUALLY CAME
5 FROM THE GROUND UP. SO IT DEPENDS.

6 Q. I UNDERSTAND. AND THEN YOU WOULD BE ABLE TO TELL
7 THAT IF YOU SAW THE PELLET?

8 A. PERHAPS. IT DEPENDS ON WHAT KIND OF SHAPE IT'S
9 IN BASED ON HITTING THE VEHICLE. I MEAN, THE VEHICLE
10 MAY HAVE DEFORMED IT SO BAD YOU COULDN'T TELL ANYTHING
11 ABOUT IT AT ALL.

12 Q. HAVE A SEAT.

13 (WITNESS RESUMES STAND.)

14 BY MR. POTTER:

15 Q. DETERMINING GUNSHOT RESIDUE ON PEOPLE WHO HAVEN'T
16 FIRED A WEAPON, THAT WOULD MEAN TO SAY THAT THEY WERE IN
17 CLOSE PROXIMITY TO SOMEBODY WHO HAD FIRED A WEAPON,
18 CORRECT?

19 A. SAY IT ONE MORE TIME? I'M SORRY.

20 Q. OKAY. THE SOLICITOR ASKED YOU IF YOU COULD FIND
21 GUNSHOT RESIDUE ON SOMEBODY WHO HADN'T FIRED A WEAPON
22 AND YOU INDICATED THAT'S TRUE?

23 A. YOU COULD, YES.

24 Q. THAT WOULD INDICATE SOMEBODY WAS IN CLOSE
25 PROXIMITY TO SOMEBODY WHO HAD FIRED A WEAPON?

1 A. YES.

2 MR. POTTER: NOTHING FURTHER.

3 THE COURT: YOU MAY STEP DOWN. THANK YOU
4 VERY MUCH.

5 (WHEREUPON, WITNESS WAS EXCUSED.)

6 THE COURT: SOLICITOR, YOU MAY CALL YOUR
7 NEXT WITNESS.

8 MS. HUEY: YOUR HONOR, THE STATE CALLS KEN
9 WHITLER.

10 (WHEREUPON, KEN WHITLER WAS SWORN BY THE
11 CLERK OF COURT AND HE WAS ASKED TO STATE HIS
12 FULL NAME, SPELLING HIS LAST NAME.)

13 THE WITNESS: MY NAME IS KENNETH H. WHITLER,
14 AND THAT'S SPELLED W-H-I-T-L-E-R.
15 WHEREUPON,

16 KEN WHITLER,
17 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 DIRECT EXAMINATION BY MS. HUEY:

20 Q. WHERE ARE YOU EMPLOYED?

21 A. I'M EMPLOYED BY THE SOUTH CAROLINA LAW
22 ENFORCEMENT DIVISION, THAT'S ALSO KNOWN AS S.L.E.D. I'M
23 IN THEIR FORENSIC SERVICES DIVISION, WHICH IS THE
24 LABORATORY, AND I'M IN THE FIREARMS/TOOL MARK
25 DEPARTMENT.

1 Q. FIREARMS DEPARTMENT?

2 A. YES, MA'AM.

3 Q. DO YOU HAVE A SPECIFIC POSITION THERE OR TITLE?

4 A. I'M A FIREARMS/TOOL MARK EXAMINER.

5 Q. NOW, WHAT ARE SOME OF YOUR DUTIES IN THIS
6 POSITION?

7 A. BASICALLY WE LOOK AT AMMUNITION OR COMPONENTS FOR
8 THE PURPOSE OF ASSOCIATING WITH EACH OTHER OR WITH A
9 PARTICULAR FIREARM. WE ALSO DO TOOL MARKS TO SEE IF A
10 TOOL MADE A PARTICULAR MARK. ACTUALLY, FIREARMS
11 IDENTIFICATION, WHICH IS WHAT WE DO THE BULK OF OUR WORK
12 IN, IS JUST A SUBCLASSIFICATION OF A TOOL MARK. IN THIS
13 CASE THE GUN BARREL IS THE TOOL AND THE BULLET OR
14 CARTRIDGE CASE IS THE OBJECT BEING MARKED BY THE TOOL.

15 Q. NOW, WHAT MAKES FIREARMS IDENTIFICATION POSSIBLE,
16 TYPICALLY?

17 A. IT'S MADE POSSIBLE BY THE MARKS THAT ARE MADE ON
18 A, OR PUT ON A FIREARM WHEN IT'S BEING MANUFACTURED.
19 THE VARIOUS MANUFACTURING MARKS WHEN THE GUN IS MADE,
20 THOSE MARKS ARE LEFT ON THE GUN, AND WHEN THE BULLET OR
21 CARTRIDGE CASE IS FIRED IN IT, THOSE OBJECTS, BEING
22 SOFTER, WILL IN MANY CASES TAKE THE MARKS THAT ARE ON
23 THAT PARTICULAR FIREARM. AND THEY WILL BE PUT ON THAT
24 BULLET OR CARTRIDGE CASE AND WE'RE ABLE TO IDENTIFY
25 THOSE BACK TO THAT PARTICULAR GUN.

1 ALSO, YOU HAVE MARKS THAT ARE PUT ON FROM THE
2 WEAR AND TEAR OF THE GUN, JUST NORMAL USE. SOMETIMES
3 PEOPLE ABUSE THEIR GUNS, THEY DON'T CLEAN THEM OR LET
4 THEM GET RUSTY OR THINGS OF THIS NATURE. SO AS THE GUNS
5 GET OLDER, THEY TEND TO GET MORE AND MORE INDIVIDUAL
6 MARKS ON THEM THAT ARE PUT ON THEM FROM OTHER SOURCES.

7 Q. NOW, WHAT IS YOUR EDUCATIONAL BACKGROUND?

8 A. I HAVE GRADUATE AND UNDERGRADUATE DEGREES FROM
9 THE UNIVERSITY OF SOUTH CAROLINA.

10 Q. WHAT AREAS?

11 A. CRIMINAL JUSTICE AND GENERAL STUDIES AND PUBLIC
12 ADMINISTRATION.

13 Q. WHAT SPECIALIZED TRAINING HAVE YOU RECEIVED TO DO
14 FIREARMS IDENTIFICATION?

15 A. THERE IS NO UNIVERSITY THAT YOU GO TO TO GET A
16 DEGREE IN FIREARMS IDENTIFICATION. YOU HAVE TO LEARN
17 THIS ON THE JOB FROM OTHER QUALIFIED EXAMINERS. I
18 RECEIVED MINE WHEN I WAS EMPLOYED BY THE F.B.I.
19 LABORATORY AND THEIR FIREARMS LABORATORY BACK IN 1991.
20 IT WAS A -- I COMPLETED A TWO-YEAR TRAINING PERIOD WHERE
21 I LOOKED AT LITERALLY HUNDREDS OR THOUSANDS OF BULLETS
22 AND CARTRIDGE CASES, FIRED HUNDREDS OR MAYBE THOUSANDS
23 OF GUNS TO LOOK AT THESE BULLETS AND CARTRIDGE CASES,
24 AND WORKED ON A NUMBER OF REAL PLUS TEST CASES.

25 BASICALLY THE WAY THEY WORK IT IS YOU START OFF

1 WITH THE EXAMINERS DOING A LOT OF LOOKING, AND THEY DO A
2 LOT OF THE WORK, AND TOWARD THE END OF YOUR TRAINING
3 PERIOD YOU'RE DOING MOST OF THE WORK AND THEY DO THE
4 LOOKING OVER YOUR SHOULDER AND MAKE SURE YOU'RE DOING IT
5 PROPERLY.

6 AT THE END OF THAT TRAINING PERIOD, WHEN ALL THE
7 EXAMINERS FEEL THAT YOU ARE QUALIFIED, THEY GIVE YOU A
8 SERIES OF THREE TESTS, AND IF YOU SUCCESSFULLY COMPLETE
9 THOSE THREE TESTS, THEN YOU ARE CERTIFIED TO BE A
10 FIREARMS AND TOOL MARK EXAMINER FOR THE F.B.I.
11 LABORATORY.

12 I SUCCESSFULLY COMPLETED THE TRAINING PERIOD IN
13 1991, AND I RETIRED IN 1997 AND CAME TO S.L.E.D. AND DO
14 BASICALLY THE SAME JOB I DID IN THE F.B.I. LABORATORY.

15 Q. NOW, ARE YOU A MEMBER OF ANY PROFESSIONAL
16 ORGANIZATIONS OR ASSOCIATIONS?

17 A. I'M A MEMBER OF THE ASSOCIATION OF FIREARMS AND
18 TOOL MARK EXAMINERS.

19 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THE FIELD OF
20 FIREARMS IDENTIFICATION?

21 A. YES, I HAVE. I'VE BEEN QUALIFIED AS AN EXPERT IN
22 APPROXIMATELY 200 STATE, FEDERAL, AND TERRITORIAL
23 COURTS.

24 MS. HUEY: YOUR HONOR, AT THIS TIME WE WOULD
25 MOVE TO HAVE MR. ---

1 THE COURT: ANY OBJECTION?

2 MR. POTTER: NO, YOUR HONOR.

3 THE COURT: THE COURT SO FINDS.

4 BY MS. HUEY:

5 Q. NOW, MR. WHITLER, DID YOU ANALYZE EVIDENCE IN
6 THIS PARTICULAR CASE?

7 A. YES, I DID.

8 Q. AND TELL ME WHAT YOUR FIRST STEP IS WHEN YOU
9 RECEIVE EVIDENCE IN A CASE?

10 A. THE FIRST STEP IS TO LOOK AT ALL THE EVIDENCE AND
11 SEE WHAT YOU HAVE, TRY TO GROUP IT TOGETHER SO YOU LOOK
12 AT, SAY BULLETS COMPARED TO BULLETS, CARTRIDGE CASES
13 COMPARED TO CARTRIDGE CASES. IF YOU HAVE A FIREARM,
14 THEN WHAT YOU HAVE TO DO IS TEST-FIRE THAT PARTICULAR
15 FIREARM SO THAT YOU OBTAIN KNOWN STANDARDS OR KNOWN
16 BULLETS AND CARTRIDGE CASES TO COMPARE WHATEVER BULLET
17 OR CARTRIDGE CASE WAS SUBMITTED.

18 MS. HUEY: NOW, MR. WHITLER --

19 AND I BELIEVE STATE'S 19 HAS BEEN ADMITTED
20 WITHOUT OBJECTION, JUDGE.

21 THE COURT: ANY OBJECTION?

22 MR. POTTER: NO, YOUR HONOR.

23 THE COURT: WHAT NUMBER?

24 MS. HUEY: 19, YOUR HONOR.

25 THE COURT: 19?

1 MS. HUEY: YES, YOUR HONOR.

2 THE COURT: 19 IS ADMITTED WITHOUT
3 OBJECTION.

4 (STATE'S EX. # 19 WAS RECEIVED IN EVIDENCE.)

5 BY MS. HUEY:

6 Q. MR. WHITLER, IF YOU COULD TAKE A LOOK AT ALL OF
7 THESE FOR ME.

8 THE COURT: ANY OBJECTION TO 20 AND 21?

9 MS. HUEY: THEY'VE ALREADY BEEN ADMITTED,
10 JUDGE.

11 THE COURT: OH, THEY HAVE? OKAY. ALL
12 RIGHT.

13 A. YES, I'VE SEEN ALL OF THESE ITEMS.

14 BY MS. HUEY:

15 Q. ARE THOSE THE ITEMS THAT YOU HAD EXAMINED IN THIS
16 PARTICULAR CASE?

17 A. YES, THEY ARE.

18 Q. AND HOW DO YOU KNOW THAT, MR. WHITLER?

19 A. BECAUSE MOST OF THE ITEMS I INDIVIDUALLY MARKED,
20 AND IN ALL CASES I PUT THEM IN A SEALED BAG THAT I'VE
21 HEAT-SEALED AND PUT MY INITIALS ON. THESE BAGS ARE
22 STILL UNOPENED.

23 Q. AND DO YOU NOW ASSIGN A LAB NUMBER OR DOES
24 S.L.E.D. ASSIGN A LAB NUMBER TO THESE ITEMS SO THAT YOU
25 CAN IDENTIFY THEM?

1 A. WHEN EVIDENCE COMES INTO THE S.L.E.D. LABORATORY,
2 IT IS ASSIGNED A LABORATORY NUMBER, THAT'S REGARDLESS OF
3 WHAT EXAM IS GOING TO BE DONE, THAT'S THE MAJOR NUMBER
4 THAT WILL BE ASSIGNED TO IT.

5 DEPENDING ON WHAT DEPARTMENT IT GOES TO OR WHAT
6 ITEM IT IS, IT'S ALSO ASSIGNED AN ITEM NUMBER. AND SO A
7 PIECE OF EVIDENCE, FOR EXAMPLE, WOULD SAY THIS WAD, IT
8 WILL HAVE AN ITEM NUMBER, WHICH IN THIS CASE WAS ITEM
9 23, AND IT ALSO HAD A CASE NUMBER, 0707706. SO THAT WAY
10 WE CAN LOOK AT IT AND SAY WHAT CASE IT GOES TO AND WHAT
11 ITEM IT IS IN THAT PARTICULAR CASE.

12 AND THAT ITEM STAYS WITH THAT OBJECT. SO IF IT
13 GOES FROM SAY FIREARMS OR LATENTS AND IT COMES TO
14 FIREARMS, IT HAS THE SAME ITEM NUMBER.

15 Q. IT'S ALWAYS GONNA BE ITEM 5 IF IT STARTED OUT AS
16 ITEM 5?

17 A. YES.

18 Q. NOW, COULD IT BE A SUBCATEGORY OF ITEM 5, SO TO
19 SPEAK?

20 A. IN SOME CASES IF THERE'S -- IT HAPPENS A LOT OF
21 TIMES IN FIREARMS. IF IT COMES IN AND THEY WANT THE GUN
22 SWABBED FOR D.N.A., THEN IF THE ITEM, IF THE GUN IS ITEM
23 1, THEN THE SWABS WOULD BE ITEM 1.1 OR 1.2 DEPENDING ON
24 WHAT IT CAME FROM.

25 Q. AND THEN YOU DO A REPORT, MR. WHITLER, BASED

1 UNDER THE OFFICIAL LAB NUMBER AND THEN GOING THROUGH
2 EACH ITEM YOU HAVE?

3 A. THAT'S CORRECT.

4 Q. OKAY. SO IF WE COULD SPECIFICALLY TALK ABOUT
5 YOUR ITEM NUMBER 2, WHICH I BELIEVE YOU DESIGNATE AS
6 FOUR LEAD PELLETS?

7 A. YES, MA'AM.

8 Q. AND THESE WERE FOUR LEAD PELLETS THAT WERE
9 RECEIVED TO YOU IN TUBES, I BELIEVE?

10 A. YES.

11 Q. AND THOSE TUBES HAVE MARKINGS ON THEM; IS THAT
12 CORRECT?

13 A. THAT'S CORRECT.

14 Q. CAN YOU READ THE MARKINGS ON THE TUBES?

15 A. THEY HAVE CLINKSCALES, THEN JAVARIS, 7-10-06,) AND
16 I BELIEVE THAT'S ON ALL OF THEM. AND THEN ---

17 Q. THOSE COME TO YOU AND YOU EXAMINE THOSE?

18 A. YES.

19 Q. NOW, WHAT CAN YOU DO WITH THESE KIND OF ITEMS?

20 A. WELL, (THESE) I DETERMINE LOOK LIKE PELLETS OR
21 BUCKSHOT PELLETS. AND BY LOOKING AT THEIR WEIGHT AND
22 THEIR APPROXIMATE DIAMETER, I WAS ABLE TO DETERMINE
23 THEY'RE MOST CONSISTENT WITH BEING AUGHT OR DOUBLE AUGHT
24 BUCK PELLETS. AUGHT ARE LARGER PELLETS BASED ON THEIR
25 WEIGHT AND THEIR REMAINING DIAMETERS.

1 Q. AND WHAT DOES THAT MEAN?

2 A. BUCKSHOT COMES IN DIFFERENT SIZES. YOU HAVE
3 THE -- IT GOES FROM BIGGER PELLETS, WHICH WOULD BE LIKE
4 TRIPLE AUGHT BUCK, DOWN TO NUMBER ONE BUCK. SO AS THE
5 NUMBER -- IT GETS SMALLER AS YOU GET NUMBERS. AND THE
6 ONLY DIFFERENCE BETWEEN THE PELLETS IS THE DIFFERENCE IN
7 THEIR DIAMETER AND THEIR WEIGHT. AS THE PELLET GETS
8 BIGGER, IT WEIGHS MORE, AND IT ALSO HAS A LARGER
9 DIAMETER.

10 SO IN MANY CASES YOU CAN TELL WHAT KIND OF PELLET
11 IT IS IF YOU CAN WEIGH IT AND MEASURE IT. IN SOME
12 CASES, THOUGH, THEY ARE TOO DAMAGED AND YOU CAN'T GET A
13 GOOD DIAMETER ON IT. BUT YOU HAVE THE WEIGHT, SO IF THE
14 PELLET GETS SMASHED, YOU MAY NOT BE ABLE TO TELL
15 DIAMETER WISE THAT IT'S ACTUALLY A DOUBLE AUGHT BUCK
16 PELLET, BUT YOU, BY WEIGHT YOU CAN SAY THAT IT IS MOST
17 CONSISTENT WITH BEING A DOUBLE-AUGHT BUCK PELLET,
18 BUCKSHOT PELLET.

19 Q. SO IN YOUR OPINION THE FOUR PELLETS THAT CAME TO
20 YOU IN TUBES WITH JAVARIS CLINKSCALES' NAME ON THEM WERE
21 MOST CONSISTENT WITH BUCKSHOT; IS THAT CORRECT?

22 A. YES.

23 Q. NOW, DID YOU ALSO EXAMINE ITEM 31, MR. WHITLER,
24 WHICH I BELIEVE SHOULD BE ANOTHER TUBE?

25 A. YES, I DID.

1 Q. AND CAN YOU READ THE WRITING ON THAT PARTICULAR
2 TUBE?

3 A. IT LOOKS LIKE MARTIN AND THEN SHANQUIL.

4 Q. SHANQUIL?

5 A. SHANQUIL.

6 Q. AND AGAIN, YOU RECEIVED THAT ITEM FOR ANALYSIS?

7 A. THAT IS CORRECT.

8 Q. OKAY. AND WHAT DID YOU DO WITH THAT PARTICULAR
9 ITEM?

10 A. THAT ONE I ALSO SAID WAS CONSISTENT WITH BEING AN
11 AUGHT BUCKSHOT PELLET OR LARGER.

12 Q. NOW, MR. WHITLER, I BELIEVE YOU RECEIVED SEVERAL
13 WADDINGS; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. I BELIEVE IT'S YOUR ITEMS 21, 22, 23 AND 24?

16 A. YES, MA'AM.

17 Q. OKAY. AND WHAT, IF ANYTHING, WERE YOU ABLE TO
18 DETERMINE FROM THESE?

19 A. THOSE I WAS ABLE TO DETERMINE THEY ARE MOST
20 CONSISTENT WITH THE PLASTIC-OVER-POWDER WADS THAT ARE
21 LOADED INTO SOME .12-GAUGE REMINGTON BRAND SHOT SHELLS
22 THAT ARE USED WITH BUCKSHOT PELLETS.

23 Q. WHAT DOES PLASTIC OVER POWDER MEAN?

24 A. THE INSIDE OF A SHOT SHELL HAS DIFFERENT
25 COMPONENTS. BASICALLY, YOU HAVE YOUR PRIMER, WHICH

1 IGNITES GUN POWDER. THEN YOU HAVE YOUR GUN POWDER WHICH
2 IS NEXT TO YOUR PRIMER. THEN YOU HAVE, DEPENDING ON HOW
3 THE MANUFACTURER WANTS TO DO IT, THEY HAVE DIFFERENT
4 KINDS OF WADS. THERE'S A WAD BETWEEN THE GUN POWDER AND
5 THE PELLETS. YOU DON'T HAVE YOUR SHOTS -- I MEAN,
6 EXCUSE ME -- YOUR PELLETS IN THE GUN POWDER, SO THERE'S
7 A WAD. SOME OF THESE WADS ARE MADE OUT OF FIBER
8 MATERIAL, SOME ARE MADE OUT OF PLASTIC.

9 IN THIS CASE THIS PLASTIC WAD GOES OVER THE GUN
10 POWDER TO SEAL IT AND PUT A BARRIER BETWEEN THE BUCKSHOT
11 PELLETS AND THE GUN POWDER. SO WHEN THE SHELL IS
12 IGNITED, ALL THIS GETS PUSHED OUT THE BARREL, AND THEN
13 THE WAD WILL FALL AWAY AND THE BUCKSHOT WILL GO DOWN THE
14 RANGE AND THE POWDER IS CONSUMED MOSTLY IN THE BARREL.

15 Q. AND AGAIN, YOUR DETERMINATION IS THE WADDING
16 COMES FROM A SHOTGUN?

17 A. YES. IT HAS A DIAMETER, A CERTAIN DIAMETER; ITS
18 PHYSICAL CHARACTERISTICS ARE CONSISTENT WITH SOME OF THE
19 WADS THAT ARE LOADED IN THE REMINGTON BUCKSHOT SHOT
20 SHELLS.

21 Q. NOW, ITEM 3 THAT YOU ANALYZED, MR. WHITLER, IF
22 YOU COULD TELL US ABOUT THAT, PLEASE.

23 A. ITEM NUMBER 3 IS A LEAD FRAGMENT THAT THEN, THERE
24 ARE NO MARKS MARKED FOR IDENTIFICATION PURPOSES. IT HAS
25 NO CHARACTERISTICS OF A BUCKSHOT PELLET, BUT IT COULD

1 HAVE BEEN FROM A BUCKSHOT PELLET OR A FRAGMENT FROM A
2 BUCKSHOT PELLET.)

3 Q. AND THE WRITING ON THAT ENVELOPE, MR. WHITLER?

4 A. IT SAYS FROM BACK RIGHT TAILLIGHT OF MITSUBISHI
5 GALANT.

6 Q. AND AGAIN, YOU COULDN'T SAY FOR SURE, BUT IT IS
7 CONSISTENT WITH COMING FROM BUCKSHOT?

8 A. YES. IT HAS -- WHILE IT DOESN'T HAVE THE
9 TRADITIONAL ROUND BUCKSHOT APPEARANCE, IT LOOKS LIKE
10 BUCKSHOT THAT HAS HIT SOMETHING AND BEEN VERY DAMAGED.

11 Q. NOW, MR. WHITLER, YOUR ITEM 6?

12 A. OKAY.

13 Q. WHICH I BELIEVE ARE SIX DIFFERENT LEAD FRAGMENTS
14 THAT YOU RECEIVED?

15 A. YES, MA'AM.

16 Q. AND HOW MANY ENVELOPES DID YOU RECEIVE THOSE IN?

17 A. THESE WERE RECEIVED IN FOUR DIFFERENT ENVELOPES.

18 Q. AND IF YOU COULD BEGIN BY READING WHAT EACH
19 ENVELOPE SAYS.

20 A. ONE ENVELOPE HAS FORD CONTOUR, AND IT HAS THREE
21 LEAD FRAGMENTS IN IT. THE NEXT ONE HAS ONE LEAD
22 FRAGMENT AND IT SAYS FORD EXPLORER PASSENGER DOORJAMB.
23 THE OTHER ONE SAYS MITSUBISHI TRUNK, AND THAT'S ONE LEAD
24 FRAGMENT. AND THE LAST LEAD FRAGMENT SAYS FROM FRONT
25 RIGHT FENDER/DOOR AREA OF HONDA ACCORD.

1 Q. NOW, WHAT, IF ANYTHING, WERE YOU ABLE TO DO WITH
2 THESE PARTICULAR FRAGMENTS?

3 A. REALLY NOT MUCH OTHER THAN SAY THAT THEY ARE LEAD
4 FRAGMENTS AND THAT THEY COULD POSSIBLY HAVE COME FROM
5 BUCKSHOT PELLETS, OR BEEN BUCKSHOT PELLETS OR FRAGMENTS
6 FROM PELLETS.

7 Q. AND AGAIN, WHY IS IT THAT THERE IS JUST NOT
8 ENOUGH TO EXAMINE?

9 A. WELL, BUCKSHOT IS A VERY SOFT, WELL, ACTUALLY A
10 SOFT LEAD, AND WHEN IT HITS SOMETHING, IT'S VERY EASY TO
11 DEFORM IT. THEY'RE COMING OUT AT A RELATIVELY HIGH
12 SPEED, AND WHEN THEY HIT PARTICULARLY CARS THEY'LL
13 FLATTEN OUT AND THEY'LL BREAK UP, SO SOMETIMES YOU DON'T
14 EVEN HAVE THE COMPLETE PELLET.

15 AND BASICALLY UNLESS THERE IS SOMETHING WRONG
16 WITH THE BARREL OF THE SHOTGUN AND YOU ARE INCREDIBLY
17 LUCKY, YOU WILL VERY RARELY EVER GET ANY MARKS ON
18 BUCKSHOT. BECAUSE IT'S SUCH A SMALL AREA GOING DOWN A
19 BIG BARREL, THAT UNLESS THERE IS SOMETHING WRONG WITH
20 THE BARREL, LIKE SOMEONE HAS CUT IT IN SOME CASES AND
21 LEFT A RAW OR UNFINISHED EDGE AT THE MUZZLE, WHERE IT
22 WILL SCRAPE EVERYTHING THAT COMES OUT. YOU REALLY
23 RARELY GET ANY MARKS OFF BUCKSHOT OR SHOT SHELL
24 COMPONENTS COMING OUT OF THE BARREL OF A SHOTGUN.

25 SO IN THIS CASE ABOUT ALL YOU CAN DO IS, IF THE

1 PELLETS AREN'T VERY DAMAGED, YOU ARE ABLE TO TELL WHAT
2 SIZE BUCKSHOT THEY WERE OR WHAT KIND OF PELLETS THEY
3 WERE, AND THAT'S ABOUT ALL YOU'RE GONNA DO WITH THEM.

4 Q. NOW, MR. WHITLER, YOUR ITEM 1?

5 A. YES, MA'AM.

6 Q. WERE YOU ABLE TO TEST THAT AT ALL?

7 A. AGAIN, IT'S THE SAME AS THE OTHER LEAD FRAGMENTS.
8 IT'S A LEAD FRAGMENT THAT COULD POSSIBLY HAVE COME FROM
9 A BUCKSHOT PELLET, BUT IT HAS NO MARKS OF VALUE FOR
10 IDENTIFICATION.

11 Q. AND IS THAT ON THE LABEL IN ANY WAY?

12 A. IT JUST SAYS LEAD PROJECTILES FROM PARKING LOT.

13 Q. OKAY. AND THEN, MR. WHITLER, ITEM 19?

14 A. AGAIN, ITEM 19 IS A LEAD FRAGMENT THAT HAS NO
15 MARKS OF VALUE ON IT, AND IT COULD HAVE BEEN FROM A
16 PELLET, LEAD BUCKSHOT PELLET, OR SOME OTHER SOURCE. BUT
17 IT'S CONSISTENT WITH WHAT YOU WOULD EXPECT WHEN A
18 BUCKSHOT PELLET HITS SOMETHING.

19 Q. AND IS THERE A MARKING ON THAT PARTICULAR
20 ENVELOPE?

21 A. IT SAYS, ONE PELLET FOUND IN PARKING LOT ON
22 7-10-06.

23 Q. THANK YOU, MR. WHITLER. NOW, SO IN THIS
24 PARTICULAR CASE, HAD YOU BEEN GIVEN THE SHOTGUN THAT WAS
25 USED TO DO THE SHOOTING, WOULD YOU HAVE BEEN ABLE TO

1 MATCH WHAT YOU FOUND, OR WHAT YOU WERE GIVEN, RATHER,
2 WITH THAT PARTICULAR SHOTGUN?

3 A. NO. NONE OF THE OBJECTS I LOOKED AT HAD ANY
4 MARKS, MICROSCOPIC MARKS OF VALUE. THE WADS DIDN'T HAVE
5 ANY AND THE PELLETS DIDN'T HAVE ANYTHING, OR THE LEAD
6 FRAGMENTS.

7 Q. NOW TYPICALLY WITH A SHOTGUN, CAN YOU MATCH IT?

8 A. IN SOME CASES. LIKE I SAID BEFORE, IN SOME
9 CASES, IF YOU SAWED OFF THE BARREL AND YOU DIDN'T, AS WE
10 CALL, FINISH THE MUZZLE, AND JUST CUT IT AND SO IT LEFT
11 A RAW EDGE, IN SOME CASES WHEN A PLASTIC WAD COMES OUT,
12 IT WILL SCRAPE THAT AND LEAVE SOME MARKS ON THERE.

13 SOMETIMES THOSE MARKS WILL BE FOUND ON LARGER
14 BUCKSHOT PELLETS BECAUSE SMALL PELLETS JUST DON'T HAVE
15 ENOUGH SURFACE. BUT THAT IS VERY RARE, WELL, I WON'T
16 SAY RARE, BUT IT DOESN'T HAPPEN VERY OFTEN. AND MOST
17 BARRELS OF SHOTGUNS ARE VERY SMOOTH. SO THERE'S, UNLESS
18 THERE'S JUST SOMETHING ABNORMAL WITH THE BARREL, YOU'RE
19 NEVER GONNA IDENTIFY THE SHOT SHELL COMPONENTS TO A
20 BARREL OF A SHOTGUN.

21 WE DO IN MANY CASES, THOUGH, IDENTIFY THE SHOT
22 SHELL ITSELF THAT'S FIRED, WHICH IS THE CONTAINER, AND
23 BE ABLE TO SAY IT WAS FIRED IN A PARTICULAR SHOT IF THE
24 FIRED SHOT SHELL IS SUBMITTED. BUT IN THIS CASE WE
25 DIDN'T HAVE ANY FIRED SHOT SHELLS.

1 Q. NOW, WHAT CAN THE EFFECT OF RUST HAVE ON A
2 SHOTGUN IF YOU ARE TRYING TO MAKE A DETERMINATION?

3 A. THE RUST, WELL, WHAT IT WILL DO IS IT WILL PIT
4 THE SURFACE SO THAT ANYTHING RUNNING, GOING ACROSS IT,
5 WILL PICK UP THAT MARK. SO IF YOU HAVE SOME MICROSCOPIC
6 MARKS AND THEN YOU ALLOWED IT TO GET RUSTY IN A FIREARM,
7 WHAT YOU MAY BE LOOKING AT WHEN YOU SHOOT YOUR TEST
8 FIRES WOULD BE MARKS CAUSED BY RUST AND NOT BY THE
9 ACTUAL FIREARM.

10 SO IF THE GUN WAS FIRED IN ITS FIRST CONDITION OR
11 THE CONDITION IT WAS FIRED IN, IT WAS CLEAN, OR NOT
12 RUSTY, YOU WOULD HAVE A SET OF MICROSCOPIC MARKS PUT ON
13 THE SHOT SHELL OR BULLET OR CARTRIDGE CASE, WHATEVER.

14 BUT AFTER IT'S ALLOWED TO RUST, IF IT DOES A
15 SIGNIFICANT AMOUNT OF DAMAGE, THEN IF YOU SHOOT ANY TEST
16 FIRES DOWN THAT BARREL, IT'S GONNA BE CHANGED IN THE
17 SHOTGUN OR WHATEVER THE FIREARM HAPPENS TO BE. THAT
18 RUST WILL CHANGE THE SURFACE AND YOU MAY GET A
19 DIFFERENT -- IT MAY OVERRIDE THOSE PREVIOUS MARKS.

20 Q. SO IF THE SHOTGUN IS RUSTY, IT WOULD BE HARD FOR
21 YOU, ALMOST IMPOSSIBLE ---

22 A. IT'S MORE, IT MAKES IT MORE DIFFICULT. IT JUST
23 DEPENDS ON HOW LONG IT'S RUSTED, HOW BAD THE RUST IS.
24 IN SOME CASES IF THE MARKS THAT THE GUN MAKES ARE VERY
25 GOOD HEAVY MARKS, A LITTLE BIT OF RUST MIGHT NOT BOTHER

1 YOU. BUT IN SOME CASES THE MARKS ARE SO FINE THAT A
2 LITTLE BIT OF LIGHT RUST IS JUST ENOUGH TO MESS UP THE
3 SURFACE THAT YOU CAN'T PICK UP THE INDIVIDUAL MARKS
4 ANYMORE.

5 Q. SO, MR. WHITNEY, THEN IN YOUR OPINION, IN YOUR
6 EXPERT OPINION, EVERYTHING THAT WE'VE TALKED ABOUT IS
7 MOST CONSISTENT WITH BUCKSHOT PELLETS?

8 A. YES, MA'AM.

9 Q. NOW, MR. WHITLER, I JUST HAVE A COUPLE MORE
10 QUESTIONS. CAN YOU TELL THE JURY A LITTLE BIT ABOUT THE
11 FORCE OF A SHOTGUN WITH THESE KINDS OF BUCKSHOT PELLETS
12 IN THEM?

13 A. WHAT DO YOU MEAN BY FORCE?

14 Q. I MEAN HOW HARSH OR HOW SEVERE. HOW STRONG IS
15 IT?

16 A. WELL, THEY COME OUT IN THE NEIGHBORHOOD OF
17 SOMEWHERE OVER A THOUSAND FEET A SECOND, SOMEWHERE
18 AROUND 12 TO 14, 1500 FEET A SECOND. THEY ARE LIGHT
19 PELLETS. THEY ARE GENERALLY, IF YOU ARE TALKING ABOUT
20 BUCKSHOT, SAY DOUBLE-AUGHT BUCK IS EQUIVALENT TO LIKE A
21 .32 CALIBER HANDGUN BULLET AS FAR AS DIAMETER.

22 THERE BEING LIGHT, THEY DON'T HAVE THE RANGE
23 AFTER THAT A REGULAR RIFLE OR A HANDGUN WOULD HAVE. BUT
24 UP CLOSE THEY HAVE A LOT OF FORCE TO THEM. BUT I CAN'T
25 REALLY -- IT'S NOT LIKE YOU SEE IN THE MOVIES. IT WON'T

1 KNOCK YOU DOWN PHYSICALLY. BUT IT DOES HAVE ENOUGH
2 FORCE OBVIOUSLY TO KILL DEER AND OBVIOUSLY ANYTHING ELSE
3 THAT GETS IN FRONT OF IT IN THE CLOSER RANGES.

4 Q. AND WHEN IT'S, WHEN IT'S DISPERSED, HOW, HOW DOES
5 IT COME OUT?

6 A. WHEN IT COMES OUT OF THE BARREL, IT'S STILL IN
7 THE BARREL DIAMETER. SO SAY THE 12 GAUGE, THAT'S
8 APPROXIMATELY ALMOST THREE QUARTERS OF AN INCH DIAMETER.
9 SO IT WILL COME OUT AND FOR A SHORT PERIOD OF TIME IT
10 WILL STAY VERY COMPACT.

11 BUT AS IT TRAVELS OVER A FURTHER DISTANCE, WHAT
12 WILL HAPPEN IS THE WAD WILL START TO FALL AWAY AND THE
13 PELLETS ACTUALLY WILL STRING OUT. YOU MAY HAVE A STRING
14 THREE OR FOUR FEET LONG WHERE ONE PELLET WILL BE UP HERE
15 AND ONE WILL BE BACK HERE, BUT THEY START TO SPREAD.
16 AND THE FURTHER THAT THEY GO, THE MORE THEY WILL SPREAD.

17 LET'S SAY THERE'S SORT OF A ROUGH RULE OF THUMB
18 THAT APPROXIMATELY EVERY YARD OR EVERY THREE FEET OF
19 TRAVEL, THE PATTERN WILL OPEN UP ONE INCH. SO AT TEN
20 YARDS YOU MAY HAVE A TEN-INCH PATTERN. BUT AGAIN, I
21 EMPHASIZE THAT AS A VERY ROUGH RULE OF THUMB.

22 SOME GUNS WILL SHOOT TIGHTER THAN THAT, MEANING
23 THAT AT TEN YARDS THEIR PATTERN MAY BE SMALLER THAN TEN
24 INCHES, AND SOME SHOOT WIDER AND THEY WILL BE LARGER.
25 IT REALLY JUST DEPENDS ON THE SHOT SHELL THAT YOU HAVE,

1 HOW IT'S MANUFACTURED.

2 SOME ARE MANUFACTURED WITH THE IDEA THAT THE
3 MULTI-PATTERN WILL OPEN UP FASTER AND SOME THEY WANT
4 THEM TO OPEN UP AT LONGER DISTANCES. ALSO, YOU CAN HAVE
5 A CHOKE ON THE GUN, WHICH DETERMINES HOW QUICKLY THE
6 PATTERN WILL LENGTHEN UP. AND AGAIN, IT'S JUST A
7 COMBINATION OF GUN AND AMMUNITION ON HOW THAT PARTICULAR
8 COMBINATION WORKS.

9 Q. ONCE THEY START SEPARATING, DO THEY TEND TO STAY
10 IN A STRAIGHT LINE OR DO THEY SPREAD OUT?

11 A. THEY'LL STAY IN A STRAIGHT LINE, BUT THEY'RE
12 STARTING TO SPREAD, BECAUSE AS THEY TRAVEL THEY ARE
13 STARTING -- THEY ARE NOT AERODYNAM-- -- THEY ARE ROUND
14 WHEN THEY START. BUT AS THEY COME DOWN THE BARREL IN
15 MANY CASES THE BUCKSHOT, IN PARTICULAR, RUBS THE SIDE
16 OUT OF THE BARREL AND GETS A FLAT SPOT ON IT. SO IT'S
17 NOT PERFECTLY SPHERICAL.

18 AND THE WIND RESISTANCE WILL START TO CATCH IT.
19 AND AS THE WIND CATCHES IT, IT STARTS TO, IT CREATES
20 DRAG ON THE PELLET AND IT WILL OPEN UP AND IT MAY START
21 TO MOVE A LITTLE TO THE RIGHT OR TO THE LEFT AND THEY
22 GET THIS SPREAD OUT HERE.

23 WHERE A BULLET THAT HAS SPIN TO IT, BECAUSE OF
24 THE RIFLING TENDS TO STAY ON TRACK, PELLETS DON'T HAVE
25 THAT, SO THEY, THEY'RE JUST AT THE MERCY OF THE WIND AND

1 AERODYNAMICS. SO IF THEY GET FLAT SPOTS ON THEM OR
2 ANYTHING LIKE THAT, THEN THEY TEND TO OPEN UP MORE.

3 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME,
4 JUDGE.

5 THE COURT: CROSS?

6 CROSS-EXAMINATION BY MR. POTTER:

7 Q. MR. WHITLER, IF THE WEAPON WAS SAWED-OFF SHOTGUN,
8 IF THE BARREL OF THAT SHOTGUN HAD BEEN SAWED OFF, THEN
9 YOU WOULD FIND CONSISTENCIES ON THE SHOTGUN PELLETS OF
10 THAT FASHION; IS THAT CORRECT?

11 A. I'M NOT SURE WHAT YOU ARE ASKING. BY
12 "CONSISTENCIES" YOU MEAN MARKS?

13 Q. YOU TESTIFIED EARLIER THAT YOU MIGHT BE ABLE TO
14 IDENTIFY WHERE A PARTICULAR SHOTGUN PELLET CAME FROM IF
15 THE BARREL OR THE EDGE OF THE BARREL HAD BEEN SAWED OFF?

16 A. YES.

17 Q. SO IF THE SHOTGUN PELLETS THAT YOU EXAMINED ON
18 THIS CASE CAME FROM A SHOTGUN THAT HAD A BARREL THAT WAS
19 SAWED OFF, YOU WOULD SEE CHARACTERISTICS OF THAT ON THE
20 PELLETS; IS THAT TRUE?

21 A. YOU MIGHT SEE -- IN THIS CASE THERE WERE NO MARKS
22 THAT WERE CONSISTENT WITH COMING FROM A SHOTGUN BARREL
23 OR ANYTHING THAT LOOKED LIKE IT HAD COME LIKE THAT. IT
24 IS -- LIKE I SAID, IT IS EXTREMELY RARE THAT YOU COULD
25 EVER DO A BUCKSHOT PELLET -- COMPARE A BUCKSHOT PELLET

1 TO A BARREL, BECAUSE YOU'VE GOT A VERY SMALL PELLET
2 SURFACE AREA, YOU'VE GOT A VERY BIG BORE AREA. AND THE
3 IDEA THAT YOU'VE GOT TO SOMEHOW WHEN YOU TEST-FIRE GET
4 THE PELLET TO GO, GET A PELLET TO HIT THE SAME SPOT
5 EXACTLY THE SAME WAY, IT MAKES IT VERY, VERY DIFFICULT.
6 IT HAS BEEN DONE, BUT IT'S NOT DONE VERY OFTEN.

7 Q. I UNDERSTAND. BUT THERE WAS NOTHING IN REGARDS
8 TO WHAT YOU INVESTIGATED IN THIS CASE THAT WOULD
9 INDICATE THAT THERE WAS ANYTHING THAT WOULD SHOW IT WAS
10 FIRED FROM A SAWED-OFF SHOTGUN?

11 A. THERE WAS NOTHING -- LIKE I SAID, MOST I WOULD
12 NOT EVEN CALL NOT BUCKSHOT PELLETS. THEY COULD HAVE
13 BEEN PELLETS. I COULDN'T SAY WHETHER THERE WAS -- IF
14 THERE WAS A MARK ON A PELLET, I COULDN'T TELL YOU IF IT
15 CAME FROM A SAWED-OFF BARREL OR IF IT WAS SOMETHING ELSE
16 THAT IT MAY HAVE HIT.

17 Q. ALL RIGHT. NOW, YOU TESTIFIED EARLIER IN YOUR
18 REPORT -- YOU SENT A REPORT TO TODD ELLIS; IS THAT
19 CORRECT?

20 A. YES.

21 Q. OKAY. AND DO YOU HAVE THAT IN FRONT OF YOU?

22 A. YES, I DO.

23 Q. AND WHAT YOU HAVE LISTED AS ITEM 1, ONE LEAD
24 FRAGMENT, AND THAT WAS FROM THE PARKING LOT, IT SAID
25 ITEMS 1, 3 AND 9 BORE NO MARKS OF VALUE OR UNSUITABLE

1 FOR IDENTIFICATION.

2 DO YOU SEE WHERE I'M READING FROM?

3 A. YES, I DO.

4 Q. OKAY. NOW, YOU INDICATED THE ITEMS WERE
5 CONSISTENT WITH THEM BEING BUCKSHOT PELLETS; IS THAT
6 CORRECT?

7 A. YES.

8 Q. OKAY. IT'S MY UNDERSTANDING YOU DID TESTIFY THAT
9 THEY COULD HAVE COME FROM ANOTHER SOURCE?

10 A. YES. BECAUSE I COULDN'T CALL THEM BUCKSHOT
11 PELLETS, I SAID THEY ARE CONSISTENT WITH WHAT YOU --
12 WHEN YOU SEE A BUCKSHOT PELLET, WOULD IT HIT SOMETHING,
13 THIS IS WHAT THEY LOOK LIKE. BUT AS FAR AS HAVING A
14 NICE ROUND SURFACE OR SOMETHING THAT SHOWS YOU THAT IT'S
15 A BUCKSHOT PELLET, IN MANY CASES WHEN THEY'RE DAMAGED
16 YOU CAN'T DO THAT.

17 Q. SO IT'S CONSISTENT WITH BUCKSHOT, BUT WE DON'T
18 KNOW FOR SURE?

19 A. THAT'S CORRECT. I MEAN, IF YOU SHOW IT TO ME, MY
20 FIRST INCLINA- -- MY FIRST ANSWER WOULD BE IT'S MOST
21 CONSISTENT AND MOST LIKELY TO HAVE BEEN A BUCKSHOT
22 PELLET THAT WAS VERY DAMAGED. HOWEVER, BECAUSE I DON'T
23 HAVE ENOUGH CHARACTERISTICS TO SAY IT IS A BUCKSHOT
24 PELLET, IT COULD HAVE THEORETICALLY COME FROM ANOTHER
25 SOURCE.

1 Q. OKAY. AND THAT'S THE SAME RESULTS YOU FOUND ON
2 YOUR ITEM 3; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 MR. POTTER: NOTHING FURTHER. THANK YOU.

5 THE COURT: ANY REDIRECT?

6 MS. HUEY: NO, SIR, YOUR HONOR.

7 THE COURT: OKAY.

8 (WHEREUPON, WITNESS WAS EXCUSED.)

9 THE COURT: LADIES AND GENTLEMEN, IT'S 1:15,
10 WE'LL TAKE A LUNCH BREAK AT THIS TIME. BE BACK AT 2:45.
11 LEAVE YOUR NOTEPADS IN THE CHAIR. AND DON'T DISCUSS THE
12 CASE WITH ANYONE DURING THE LUNCH BREAK. SEE YOU AT
13 2:45.

14 EVERYBODY ELSE KEEP YOUR SEATS.

15 (THE JURY LEFT THE COURTROOM AT 1:18 P.M.)

16 THE COURT: BAILIFFS, GIVE THE JURY FIVE OR
17 TEN MINUTES TO LET EVERYBODY GET OUT OF THE COURTROOM.

18 WE'LL ADJOURN UNTIL 2:45. EVERYBODY KEEP
19 YOUR SEATS UNTIL THE JURY HAS THE OPPORTUNITY TO LEAVE
20 THE COURTHOUSE.

21 MAY I SEE THE ATTORNEYS UP HERE FOR JUST A
22 SECOND?

23 (DISCUSSION AT SIDEBAR.)

24 (A LUNCHEON RECESS OCCURRED.)
25

AFTERNOON SESSION

(STATE'S EXHIBIT 24-A THROUGH 24-H WAS MARKED
FOR IDENTIFICATION.)

THE COURT: SOLICITOR, DO YOU WANT TO CALL
YOUR NEXT WITNESS?

MS. HUEY: YES, YOUR HONOR. THE STATE CALLS
JOHNNY MAHAFFEY.

THE COURT: JOHNNY MAHAFFEY? OKAY.

(WHEREUPON, JOHNNY MAHAFFEY WAS SWORN BY THE
COURT.)

WHEREUPON,

(JOHNNY MAHAFFEY,

AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
FOLLOWS:

DIRECT EXAMINATION BY MS. HUEY:

Q. NOW, MR. MAHAFFEY, ARE YOU CURRENTLY
INCARCERATED?

A. YES.

Q. AND WHAT ARE YOU IN PRISON FOR?

A. MURDER.

Q. WHAT KIND OF SENTENCE ARE YOU SERVING?

A. LIFE.

Q. WERE YOU PREVIOUSLY IN THE ANDERSON COUNTY
DETENTION CENTER BEFORE YOU WENT TO S.C.D.C.?

1 A. YES, MA'AM.

2 Q. AND WERE YOU IN THE SAME CELL WITH SAMMY SCOTT,
3 THE DEFENDANT IN THIS CASE?

4 A. NOT IN THE EXACT SAME CELL, BUT RIGHT NEXT TO HIM
5 IN THE SAME POD, SO WE, THEY LET US OUT TOGETHER EVERY
6 DAY.

7 Q. AND SO YOU WERE IN THE SAME POD?

8 A. YEAH.

9 Q. HOW LONG WERE Y'ALL IN THE SAME POD, DO YOU
10 REMEMBER?

11 A. ALMOST ABOUT NINE MONTHS, TEN MONTHS, SOMETHING
12 LIKE THAT.

13 Q. NOW, WHEN YOU WERE WITH MR. SCOTT, WHAT KIND OF
14 CONVERSATIONS WOULD Y'ALL HAVE?

15 A. ABOUT PRETTY MUCH EVERYTHING.

16 Q. OKAY. WOULD Y'ALL -- WOULD HE DISCUSS THE REASON
17 HE WAS IN JAIL?

18 A. OCCASIONALLY. NOT ALL THE TIME, BUT THAT WOULD
19 JUST COME UP EVERY BLUE MOON. BUT IT DID, IT WOULD COME
20 UP, YES.

21 Q. AND WHAT WOULD HE TELL YOU ABOUT IT?

22 A. JUST DIFFERENT THINGS HE WAS WORRIED ABOUT.

23 Q. OKAY. SUCH AS?

24 A. THE FAMILY, HIS MOTHER AND SISTER, ABOUT THEIR
25 INVOLVEMENT.

1 Q. AND SPECIFICALLY DID HE TELL YOU WHAT HE DID?

2 A. WITH THE SHOTGUN AND SHOOTING INTO THE CROWD?

3 Q. YES, SIR.

4 A. YES.

5 Q. HE TOLD YOU HE DID THAT --

6 A. YES, MA'AM.

7 Q. AT THE PUBLIX PARKING LOT?

8 A. YES, MA'AM.

9 Q. NOW, WHEN HE TALKED ABOUT THAT HE WAS WORRIED
10 ABOUT HIS MOTHER AND HIS SISTER, WHY WAS HE WORRIED
11 ABOUT THEM?

12 A. ABOUT THEM GETTING A CHARGE FOR THEIR
13 INVOLVEMENT.

14 Q. AND WHAT DID HE TELL YOU THEY HAD DONE?

15 A. GOTTEN RID OF SOME OF THE EVIDENCE, THE SHELLS,
16 THINGS LIKE THAT.

17 Q. THE SHELLS AND THINGS LIKE THAT?

18 A. UH-HUH.

19 Q. AND HOW ABOUT THE ACTUAL WEAPON?

20 A. HE PUT IT IN THE LAKE UP OFF OF, I CAN'T REALLY
21 REMEMBER THE NAME OF THAT ROAD, BETWEEN CROSS AND --
22 IT'S LIKE AS SOON AS YOU LEAVE THE PARKING LOT AND YOU
23 GO RIGHT ACROSS 28 AND IT GOES UP TOWARDS SANDY SPRINGS.
24 I DON'T REMEMBER THE NAME OF THAT ROAD THAT CROSSES THE
25 LAKE RIGHT THERE. THERE'S A BRIDGE.

1 Q. WOULD THAT BE CENTERVILLE ROAD?

2 A. YES, MA'AM.

3 Q. NOW, WHAT SPECIFICALLY DID HE TELL YOU ABOUT THIS
4 LAKE OFF SENECA ROAD?

5 A. WELL, THEY JUST WENT TO SOMEONE ELSE'S HOUSE THAT
6 THEY KNEW THAT WAS OUT TOWARDS SANDY SPRINGS, WHICH I
7 KNOW THE AREA -- I KNEW THE AREA BECAUSE I LIVED THERE,
8 BUT...

9 AND THERE'S A SHORTCUT ROAD AREA THAT GOES OVER
10 TO CENTERVILLE, AND YOU HAVE TO CROSS THE LAKE THERE.
11 AND THAT'S ABOUT THE BEST PLACE TO PUT THE GUN, AND
12 THAT'S WHERE THEY PUT THE SHOTGUN.

13 Q. AND THAT'S WHERE THEY PUT THE SHOTGUN --

14 A. UH-HUH.

15 Q. -- THAT HE USED THAT NIGHT?

16 A. YES.

17 Q. AT THE PUBLIX SHOOTING?

18 A. YES. AND THE REASON THAT KIND OF STUCK IN MY
19 HEAD WAS BECAUSE THAT WAS ALSO THE SAME PLACE WHERE MY
20 WEAPON WAS. SO I WAS NATURALLY KIND OF WORRIED AT THAT
21 TIME, YOU KNOW, BECAUSE IF HE TELLS ME WHERE HIS IS OR
22 SOMETHING, THEY'RE GONNA FIND MINE THEN, BECAUSE IT WAS
23 EXACTLY -- FROM THE WAY HE DESCRIBED IT, IT WAS THE
24 EXACT SAME SPOT.

25 Q. OKAY. AND WHY DID YOU PUT YOUR GUN IN THAT LAKE?

1 A. IT'S ON THE WAY TO MY HOUSE AND IT'S A DEEP SPOT.
2 AND I HAVE A BOAT, AND I HAVE BEEN IN THAT COVE BEFORE
3 FISHING, SO I KNEW THAT WAS ONE OF THE DEEPEST SPOTS.

4 MS. HUEY: THAT'S ALL I HAVE.

5 THE COURT: CROSS-EXAMINATION?

6 MR. POTTER: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION BY MR. POTTER:

8 Q. JOHNNY, YOU ARE SERVING LIFE FOR KILLING
9 SOMEBODY; IS THAT RIGHT?

10 A. YES. ALLEGEDLY, YES.

11 Q. ~~WHY ARE YOU IN A RED SUIT?~~

12 A. ~~THAT'S BECAUSE I'M CONSIDERED AN ASSAULT RISK.~~

13 Q. OKAY. AND YOU ~~HAVE ASSAULTED A PRISON GUARD AT~~
14 ~~THE ANDERSON COUNTY DETENTION OFFICER~~, HAVEN'T YOU?

15 A. YES.

16 Q. AND YOU ARE STILL CONSIDERED A RISK TO ASSAULT AN
17 OFFICER AT THE S.C.D.C.?

18 A. YES. THAT'S WHAT THE RED IS MARKING ME FOR.

19 Q. NOW, YOU TESTIFIED THAT THEY FOUND -- OR, EXCUSE
20 ME -- YOU TESTIFIED THAT SAMMY, SAMMY DROPPED THE
21 SHOTGUN IN THE LAKE; IS THAT RIGHT?

22 A. YES.

23 Q. OKAY. HE DROPPED THE SHOTGUN IN THE SAME EXACT
24 LOCATION YOUR GUN WAS AT?

25 A. THE SAME LITTLE COVE AREA, YEAH, OFF THE SAME

1 BRIDGE.

2 Q. THE FIRST TIME -- AND YOU MET WITH TODD OWENS,
3 THE INVESTIGATOR ON THIS CASE, DIDN'T YOU?

4 A. YES.

5 Q. IN AUGUST OF THIS YEAR?

6 A. YES.

7 Q. OKAY.

8 A. HE CAME TO ME AND TALKED TO ME ABOUT IT BECAUSE I
9 HAD ACTUALLY MENTIONED THAT EARLIER, BEFORE HE EVEN
10 FOUND IT.

11 Q. SO FROM AUGUST OF '06 TO AUGUST OF '08, YOU
12 DIDN'T MENTION ANYTHING ABOUT THIS TO ANYONE, DID YOU?

13 A. NO. NOT THAT I REMEMBER.

14 Q. AND YOU WERE SENTENCED AND SERVED LIFE WHEN?

15 A. SEPTEMBER OF LAST YEAR.

16 Q. SEPTEMBER OF LAST YEAR. SO SEPTEMBER OF 2007, SO
17 FROM SEPTEMBER OF 2007 TO AUGUST OF '08 YOU HAVE BEEN IN
18 THE PENITENTIARY?

19 A. YES.

20 Q. AND YOU HAVEN'T TOLD ANYBODY ABOUT THIS?

21 A. WELL, I MEAN, IT'S NOT REALLY SOMETHING YOU TALK
22 ABOUT.

23 Q. SNITCHING ON OTHER PEOPLE IS NOT SOMETHING YOU
24 TALK ABOUT?

25 A. NO. I MEAN...

1 Q. NOW, YOUR ASSAULT ON A PRISON GUARD, THOSE
2 CHARGES ARE STILL PENDING; ISN'T THAT RIGHT?

3 A. TECHNICALLY, YES.

4 Q. TECHNICALLY, YES. BUT YOU HAVEN'T BEEN FOUND
5 GUILTY ON THAT.

6 A. BUT IT WOULD HAVE BEEN A WASTE OF TAX MONEY.

7 Q. WELL, YOU HAVEN'T BEEN FOUND GUILTY OF IT, HAVE
8 YOU?

9 A. IT WOULD BE A WASTE OF TAX MONEY. CONSIDERING I
10 HAVE A LIFE SENTENCE, SO THAT WOULD BE A WASTE OF MONEY.
11 BECAUSE WHAT ARE THEY GONNA DO?

12 Q. YOU HAVEN'T BEEN FOUND GUILTY OF THE PENDING
13 CHARGES, HAVE YOU?

14 A. WELL, LIKE I SAID --

15 Q. ANSWER THE QUESTION. YOU HAVEN'T BEEN FOUND
16 GUILTY OF THE PENDING CHARGES ---

17 THE COURT: GIVE HIM A CHANCE TO ANSWER THE
18 QUESTION AND DON'T INTERRUPT HIM.

19 AND, MR. MAHAFFEY, ANSWER THE QUESTION,
20 PLEASE, SIR.

21 PLEASE ASK THE QUESTION AND THEN YOU CAN
22 ANSWER IT.

23 BY MR. POTTER:

24 Q. YOU HAVEN'T BEEN FOUND GUILTY OF THE PENDING
25 ASSAULT ON A PRISON GUARD, HAVE YOU?

1 A. WELL, I GUESS THEY COULD ---

2 THE COURT: ANSWER THE QUESTION YES OR NO.

3 THE WITNESS: --- MAKE THE 999 YEARS A
4 THOUSAND IF THEY WANTED TO.

5 THE COURT: THE QUESTION IS: HAVE YOU BEEN
6 FOUND GUILTY OF THE ASSAULT? YES OR NO.

7 THE WITNESS: NO.

8 THE COURT: THANK YOU VERY MUCH.

9 PLEASE PROCEED. I DON'T WANT YOU TO CUT
10 YOUR CROSS SHORT. I JUST DON'T WANT YOU TO HAVE A
11 YANG-YANG CONTEST BETWEEN THE TWO OF YOU.

12 MR. POTTER: I UNDERSTAND.

13 THE WITNESS: HE'S ASKING STUPID QUESTIONS.

14 MR. POTTER: I'M SORRY. WHAT WAS THAT?

15 THE WITNESS: I SAID IT WAS A STUPID
16 QUESTION.

17 THE COURT: HE SAID IT WAS A STUPID
18 QUESTION.

19 THE WITNESS: I'M ALREADY SERVING 999 YEARS.
20 WHAT WOULD ANOTHER YEAR OR FIVE YEARS DO?
21 BY MR. POTTER:

22 Q. ANYTHING ELSE YOU WANT TO TELL THE JURY ABOUT
23 THIS?

24 A. WITH SAMMY SCOTT AND THE VICTIM, I WOULDN'T --
25 WHEN I HEARD ABOUT THIS, MY FIRST QUESTION WAS, WHY WAS

1 THE VICTIM OUT THERE SO LATE? I MEAN, I THINK IN MY
2 OPINION THEY WERE BOTH WRONG.

3 MR. POTTER: OKAY. NOTHING FURTHER.

4 THE COURT: ANYTHING ON REDIRECT?

5 MS. HUEY: YES, YOUR HONOR.

6 REDIRECT EXAMINATION BY MS. HUEY:

7 Q. NOW, MR. MAHAFFEY, YOU DIDN'T SPEAK TO TODD OWENS
8 UNTIL AUGUST OF THIS YEAR?

9 A. YES, MA'AM.

10 Q. BUT YOU COMMUNICATED WITH STEVE REEVES PRIOR TO
11 THAT?

12 A. YES.

13 Q. THROUGH A LETTER?

14 A. YES.

15 Q. AND DID THAT LETTER TALK ABOUT SAMMY SAYING THE
16 GUN WAS IN THE LAKE?

17 A. YEAH. I ACTUALLY GAVE THE LOCATION OF THE GUN
18 BEFORE THEY FOUND THE GUN.

19 MS. HUEY: THAT'S ALL I HAVE.

20 THE COURT: ANY RECROSS?

21 RECROSS-EXAMINATION BY MR. POTTER:

22 Q. YOU SENT A LETTER TO STEVE REEVES ABOUT THIS?

23 A. YES.

24 Q. STEVE REEVES HAS THAT LETTER?

25 A. I'M NOT SURE.

1 MR. POTTER: NOTHING FURTHER AT THIS TIME,
2 YOUR HONOR.

3 THE COURT: MR. MAHAFFEY, THANK YOU VERY
4 MUCH. YOU MAY GO WITH THE DEPUTY.

5 CALL YOUR NEXT WITNESS, PLEASE.

6 (WHEREUPON, THE WITNESS WAS EXCUSED.)

7 MS. HUEY: THE STATE CALLS KEN BLAKELY TO
8 THE STAND, PLEASE.

9 (WHEREUPON, KEN BLAKELY WAS SWORN BY THE
10 CLERK OF COURT.)

11 MR. POTTER: YOUR HONOR, MAY IT PLEASE THE
12 COURT?

13 THE COURT: YES, SIR.

14 MR. POTTER: I NEED TO TAKE UP A MATTER
15 OUTSIDE THE HEARING OF THE JURY, IF I COULD. FIVE
16 MINUTES.

17 THE COURT: WELL, COME UP HERE FIRST BEFORE
18 WE SEND THEM OUT, OKAY?

19 (DISCUSSION AT SIDEBAR.)

20 THE COURT: ONCE WE GET HIM, YOU CAN PUT
21 WHATEVER YOU NEED ON THE RECORD.

22 YOU MAY PROCEED, SOLICITOR.

23 WHEREUPON,

24 KEN BLAKELY,
25 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS

1 FOLLOWS:

2 DIRECT EXAMINATION BY MS. HUEY:

3 Q. MR. BLAKELY, WHERE ARE YOU CURRENTLY EMPLOYED?

4 A. I'M CURRENTLY EMPLOYED WITH THE ANDERSON COUNTY
5 FIRE DIVISION, FIRE DEPARTMENT.

6 Q. AND HOW LONG HAVE YOU BEEN WITH THEM?

7 A. SINCE NOVEMBER OF LAST YEAR.

8 Q. NOW, BEFORE THAT WHERE WERE YOU WORKING?

9 A. I WAS A SERGEANT AT THE CRIME SCENE FORENSICS
10 DIVISION AT THE ANDERSON COUNTY SHERIFF'S OFFICE.

11 Q. AND AS SUCH, WHAT WERE SOME OF YOUR DUTIES?

12 A. TO RESPOND TO ALL CRIME SCENES THAT NEEDED TO BE
13 PROCESSED, COLLECTION OF EVIDENCE, PHOTO DOCUMENTATION
14 OF EVIDENCE, THE PRESERVATION AND STORAGE OF EVIDENCE
15 BACK IN OUR FACILITY.

16 Q. AND DID YOU HAVE AN OCCASION TO RESPOND TO THE
17 CRIME SCENE IN THE PUBLIX PARKING LOT ON JULY 10TH,
18 2006?

19 A. YES, I DID. I WAS WORKING THAT NIGHT.

20 Q. AND ONCE YOU GOT TO THIS PARKING LOT, WHAT WAS
21 ONE OF THE FIRST THINGS YOU DID?

22 A. I WAS NOTIFIED THAT WE HAD A SHOOTING THAT
23 INVOLVED MULTIPLE VICTIMS THAT HAD ALL BEEN TRANSPORTED.
24 THE UNIFORM PATROL SUPERVISOR ON THE SCENE HAD BASICALLY
25 SECURED THE SCENE BY TAPING THE WHOLE PARKING LOT.

1 I THEN NOTIFIED MY SUPERVISOR, LIEUTENANT CHRIS
2 SCOTT. AFTER I NOTIFIED HIM, I STARTED MARKING EVIDENCE
3 OR ITEMS THAT I FOUND TO BE POSSIBLE EVIDENCE AND
4 PHOTOGRAPHED THEM IN THE AREA.

5 Q. NOW, WHEN YOU RESPONDED TO THE AREA, IT WAS DARK?

6 A. IT WAS AT NIGHTTIME, IT WAS AFTER MIDNIGHT, IN A
7 VERY DARK PARKING LOT.

8 Q. AND SO WERE SOME OF THE PHOTOS, WOULD IT BE
9 DIFFICULT TO SEE WHAT WAS IN SOME OF THE PHOTOS BECAUSE
10 OF ---

11 A. YES, MA'AM. I ACTUALLY HAD PROBLEMS WITH PROPER
12 EXPOSURE WITH MY FLASH BECAUSE IT WAS SO DARK IN THE
13 PARKING LOT.

14 Q. NOW, NONETHELESS, WERE YOU ABLE TO LOCATE SOME
15 ITEMS IN THE PARKING LOT?

16 A. YES, I WAS.

17 Q. OKAY. HOW DID THAT COME ABOUT?

18 A. AS I SAID, ONCE I GOT THERE AND RECOGNIZED WHERE
19 THE VEHICLES WERE PARKED, I STARTED LOOKING AROUND THAT
20 IMMEDIATE AREA. AND I FOUND BLOOD, I FOUND A BALL CAP
21 LAYING IN THE PARKING LOT, AS WELL. I FOUND A
22 PROJECTILE AND THE BLOOD WHERE THE VICTIM HAD BEEN
23 TRANSPORTED. HE WASN'T THERE UPON MY ARRIVAL. AND ALSO
24 A DIAMOND OR A CLEAR-COLOR STUDED EARRING, WHICH LOOKED
25 TO BE A DIAMOND EARRING STUD TO ME.

1 Q. AND YOU FOUND THAT IN THE PARKING LOT WHERE THE
2 VICTIM WAS SUPPOSED TO HAVE BEEN STANDING?

3 A. THAT IS CORRECT.

4 Q. NOW, ADDITIONALLY, WHAT ELSE DID YOU -- WHAT DID
5 YOU DO WITH THE PARKING LOT TO MAKE SURE THERE WAS
6 NOTHING ELSE YOU COULD FIND?

7 A. ONCE WE HAD MARKED AND COLLECTED AND PHOTOGRAPHED
8 ALL OF THE EVIDENCE AND HAD GOTTEN THE VEHICLES
9 PROCESSED AND TOOK CARE OF THERE, I NOTIFIED THE LOCAL
10 FIRE DEPARTMENT TO RESPOND OUT TO THE SCENE,
11 SPECIFICALLY REQUESTING THEIR LADDER TRUCK AND THEIR
12 RESCUE TRUCK WITH AS MANY LIGHTS AS POSSIBLE TO ATTEMPT
13 TO LIGHT UP THAT PARKING LOT.

14 ONCE THEY ARRIVED AND WE SET UP AND THE PARKING
15 LOT WAS LIT UP, I HAD ALL THE PERSONNEL ON THE SCENE AT
16 THAT TIME TO FORM A CHAIN AND START WALKING THE PARKING
17 LOT FROM THE FRONT OF PUBLIX AS FAR UP TO THE ROAD AS
18 CLEMSON BOULEVARD. THEN WE WOULD SWITCH OVER AND COME
19 BACK. AND WE WORKED THAT WHOLE, BOTH PARKING LOTS,
20 UPPER AND LOWER, IN AN ATTEMPT TO FIND ANY EVIDENCE.

21 Q. NOW, WAS A DIAGRAM OF THE CRIME SCENE DONE?

22 A. YES, IT WAS.

23 Q. OKAY. AND WOULD THAT HELP YOU IN YOUR TESTIMONY
24 TODAY?

25 A. YES, IT WOULD.

1 (STATE'S EX. # 25, DIAGRAM OF CRIME SCENE,
2 WAS MARKED FOR IDENTIFICATION.)

3 MS. HUEY: I'M GONNA SHOW YOU STATE'S
4 EXHIBIT 25 IF YOU DON'T MIND STEPPING DOWN FROM THE
5 STAND.

6 (WITNESS LEAVES STAND.)

7 BY MS. HUEY:

8 Q. CAN YOU DESCRIBE TO THE JURY WHAT THIS IS?

9 A. THIS IS A ROUGH SCALE, A NOT-TO-SCALE DRAWING OF
10 THE PARKING LOT AND THE SCENE THAT NIGHT. THIS BEING
11 SALEM TRUCK ROAD HERE, AND BEING PUBLIX AND THIS BEING
12 THE PARKING LOT HERE. THIS BEING THE INCIDENT WHERE THE
13 VEHICLE WAS LOCATED, THE BLOOD WHERE THE SUSPECT WAS
14 LAYING, AND THE OBJECTS OF EVIDENCE I PICKED UP THERE.
15 THIS BEING THE UPPER PART OF THE PARKING LOT.
16 (INDICATING).

17 SO WE WERE GETTING THE FIRE DEPARTMENT THERE TO
18 LIGHT IT UP AS MUCH AS WE CAN. AS I STATED, WE STARTED
19 FROM THIS POINT, WALKED ALL THE WAY UP, COME BACK DOWN,
20 AND WALKED THE WHOLE PARKING LOT BACK AND FORTH LIKE
21 THAT IN AN ATTEMPT TO RECOVER ANY OTHER EVIDENCE THAT
22 MAY BE PRESENT OR LOCATED IN THE PARKING LOT OR ON THIS
23 PARKING LOT. (INDICATING).

24 Q. NOW, YOU WERE UNABLE TO LOCATE ANY OTHER
25 PROJECTILES OR FRAGMENTS?

1 A. YEAH. WE WERE STILL UNABLE -- THIS BEING SUCH A
2 LARGE PARKING LOT AREA, WE STILL COULDN'T ACTUALLY LIGHT
3 IT UP MUCH AS IT WOULD BE LIT UP IN THE DAYTIME. WE
4 WERE STILL LIMITED WITH THE LIGHTS THAT WE HAD TO WORK
5 WITH.

6 Q. THANK YOU. NOW, IN DOCUMENTING THE PARKING LOT
7 AT NIGHT, AGAIN, YOU TOOK SOME PHOTOS. I'M GOING TO
8 SHOW YOU 24-A THROUGH 24-H, WHICH I BELIEVE WILL BE
9 ADMITTED WITHOUT OBJECTION?

10 MR. POTTER: NO OBJECTION. I'VE SEEN THOSE,
11 YOUR HONOR.

12 THE COURT: I'M SORRY?

13 MR. POTTER: I'VE SEEN THOSE PHOTOGRAPHS.

14 THE COURT: ANY OBJECTION?

15 MR. POTTER: I DON'T HAVE ANY OBJECTION TO
16 THE PHOTOGRAPHS.

17 THE COURT: OKAY. THANK YOU VERY MUCH.

18 ADMITTED WITHOUT OBJECTION.

19 ((STATE'S EXHIBIT 24-A THROUGH 24-H))

20 PHOTOGRAPHS OF THE PARKING LOT, WAS RECEIVED
21 (IN EVIDENCE.)

22 BY MS. HUEY:

23 Q. I SHOW YOU STATE'S 24-A. CAN YOU TELL THE JURY
24 WHAT THAT IS?

25 A. THIS IS JUST ONE AREA OF THE PARKING LOT. THIS

1 IS THE PUBLIX THAT'S IN FRONT OF THE PARKING LOT, OR THE
2 PARKING LOT IN FRONT OF PUBLIX. THESE ARE TWO VEHICLES
3 THAT WERE IN PLACE UPON MY ARRIVAL. THEY WERE FOUND
4 JUST AS THEY ARE SITTING RIGHT NOW.

5 Q. AND WERE, WAS ANYONE ELSE THERE WHEN YOU ARRIVED
6 IN TERMS OF WITNESSES?

7 A. THERE WERE, THERE WERE THREE OTHER PEOPLE ON
8 SCENE WHEN I ARRIVED. SO AFTER TALKING WITH THE UNIFORM
9 PATROL SUPERVISOR AND MAKING SURE THE SCENE WAS SECURED,
10 I WENT AHEAD AND DID A G.S.R KIT ON ALL THREE OF THOSE
11 FOLKS THAT WERE PRESENT AT THE TIME OF THE SHOOTING,
12 WHICH WAS STANDARD PROTOCOL.

13 Q. AND AGAIN, THAT'S GUNSHOT, FOR GUNSHOT RESIDUES;
14 RIGHT?

15 A. YES, THOSE WERE GUNSHOT RESIDUE KITS.

16 Q. NOW I'M SHOWING YOU STATE'S 24-B. CAN YOU TELL
17 US WHAT THAT DEPICTS?

18 A. THIS DEPICTS THE VICTIM'S HAT. THIS IS ACTUALLY
19 APPARENTLY WHERE THE VICTIM HAD FALLEN DOWN. IT'S WHERE
20 THE MOST CONCENTRATION OF BODILY FLUIDS WAS FOUND.

21 Q. AND DID THAT APPEAR TO BE BLOOD TO YOU?

22 A. IT IS BLOOD, YES.

23 Q. NOW, STATE'S 24-C.

24 A. AGAIN, BLOOD, THE VICTIM'S HAT. A PROJECTILE WAS
25 FOUND IN THIS AREA RIGHT HERE (INDICATING). AND THERE'S

1 A CLOSER UP PHOTOGRAPH OF IT (INDICATING).

2 Q. 24-D?

3 A. AGAIN, A CLOSER UP, CLOSER UP PHOTOGRAPH OF THE
4 VICTIM'S BALL CAP.

5 Q. 24-E?

6 A. THIS IS THE CLEAR STUDDED EARRING THAT I SPOKE OF
7 EARLIER THAT WAS FOUND IN THE BLOOD ON THE VICTIM.

8 Q. 24-G?

9 A. THIS IS THE PROJECTILE HERE AGAIN THAT WAS FOUND
10 IN THE BLOOD OF THE VICTIM.

11 Q. AND AGAIN, THAT PROJECTILE WAS SENT TO S.L.E.D.?

12 A. YES, IT WAS.

13 Q. AND THIS IS 24-H?

14 A. THIS IS AN ACTUAL SCALE OF THE SAME PROJECTILE.
15 WE, ONCE WE LOCATE A PIECE OF EVIDENCE SUCH AS THIS,
16 WE'LL SCALE IT AND PHOTOGRAPH IT AS WELL.

17 Q. AND THIS IS A PHOTO OF 24-F?

18 A. AGAIN, YOU CAN SEE WE ARE VERY LIMITED TO LIGHTS.
19 THESE ARE ACTUAL HEADLIGHTS OF A UNIFORM PATROL
20 OFFICER'S VEHICLE. THIS SHOWS THE BLACK MARKS OF THE
21 VEHICLES THAT LEFT PRIOR TO OUR ARRIVAL.

22 MS. HUEY: THANK YOU. YOU CAN HAVE A SEAT
23 FOR THE TIME BEING. (WITNESS RESUMES STAND).

24 BY MS. HUEY:

25 Q. SO YOU PHOTOGRAPHED AND COLLECTED THE EVIDENCE WE

1 JUST SAW. DID YOU ALSO GO TO THE HOSPITAL?

2 A. I DID ATTEND THE AUTOPSY OF THE VICTIM, YES.

3 Q. AND DID THAT, WHEN DID THAT TAKE PLACE?

4 A. THAT TOOK PLACE LATER ON THAT DAY.

5 Q. AND WHAT WAS THE PURPOSE OF YOU ATTENDING THE
6 AUTOPSY?

7 A. AGAIN, TO PHOTOGRAPH AND DOCUMENT THE INJURIES TO
8 THE VICTIM, COLLECTING ANY EVIDENCE THAT MAY BE PRESENT
9 OR RECOVERED FROM THE BODY OF THE VICTIM.

10 Q. NOW, DID YOU TAKE PHOTOGRAPHS, THEN, OF THINGS
11 THAT WERE RECOVERED FROM THE VICTIM'S BODY?

12 A. YES, I DID.

13 Q. OKAY. AND WHAT, IN FACT, WAS RECOVERED FROM THE
14 BODY?

15 A. WE FOUND RECOVERED PROJECTILES FROM THE VICTIM'S
16 BODY. THOSE WERE SCALED AND PHOTOGRAPHED.

17 Q. MR. BLAKELY, AGAIN I SHOW YOU 13-A, B AND C --
18 WHICH I BELIEVE ARE ADMITTED WITHOUT OBJECTION,
19 YOUR HONOR?

20 THE COURT: ADMITTED WITHOUT OBJECTION.

21 MS. HUEY: THANK YOU.

22 (STATE'S EXHIBITS 13-A, B AND C, PROJECTILES
23 FROM THE BODY OF JAVARIS CLINKSCALES, WERE
24 MARKED FOR IDENTIFICATION AND RECEIVED IN
25 EVIDENCE.)

1 (WITNESS LEAVES STAND.)

2 BY MS. HUEY:

3 Q. I SHOW YOU 13-A. WOULD YOU TELL US WHAT THAT
4 DEPICTS?

5 A. THIS IS A PROJECTILE THAT WAS REMOVED FROM THE
6 BODY OF THE DECEDENT.

7 Q. AND THAT'S 13-B?

8 A. THIS IS YET ANOTHER PROJECTILE OF THE SAME
9 CALIBER AND STYLE AS THE PREVIOUS ONE THAT WAS ALSO
10 REMOVED FROM THE VICTIM AT AUTOPSY.

11 Q. AND THIS IS 13-C?

12 A. AND THAT WOULD BE THE THIRD ONE THAT WAS REMOVED
13 FROM THE VICTIM AT AUTOPSY AS WELL.

14 Q. AND AGAIN, THESE PROJECTILES WERE SENT TO
15 S.L.E.D.?

16 A. YES.

17 Q. NOW, DID YOU ALSO RECOVER A PROJECTILE FROM THE
18 VICTIM'S MITSUBISHI?

19 A. YES, I DID.

20 Q. OKAY. AND WE SAW PHOTOS OF THAT EARLIER. DO YOU
21 REMEMBER EXACTLY WHERE YOU REMOVED THE PROJECTILE FROM?

22 A. IT WAS THE LEFT REAR TAILLIGHT.

23 Q. I SHOW YOU 8-B. AND WHAT DOES THAT DEPICT?

24 A. THIS DEPICTS WHAT THE LIEUTENANT SPOKE OF
25 EARLIER. UNLIKE THE ONE IN THE TRUNK, WE WERE ABLE TO

1 REMOVE THE LENS FROM THE VICTIM'S VEHICLE AND RECOVER IT
2 AND REMOVE IT FROM THE TAILLIGHT.

3 Q. AND AGAIN, THAT WAS SENT TO S.L.E.D.?

4 A. THAT WAS.

5 Q. NOW, MR. BLAKELY, WHAT OTHER INVOLVEMENT DID YOU
6 HAVE, THEN, IN TERMS OF THE FORENSICS IN THIS CASE?

7 A. (WITNESS RESUMES STAND.) (NO RESPONSE.)

8 Q. AT SOME POINT DID IT COME TO YOUR ATTENTION THAT
9 A POSSIBLE WEAPON HAD BEEN LOCATED?

10 A. YES. WE HAD RECEIVED INFORMATION OF AN UNRELATED
11 HOMICIDE, OF A POSSIBLE LOCATION OF A HANDGUN. I'M A
12 DIVER WITH THE SHERIFF'S OFFICE, SO -- WHEN I WORKED
13 THERE -- AND WE HAD OTHER DIVERS AS WELL, AND WE WERE IN
14 THE MIDDLE OF DEVELOPING AN EVIDENCE UNDERWATER RECOVERY
15 TEAM.

16 WE HAD RECEIVED INFORMATION THAT POSSIBLY THE GUN
17 WAS LOCATED ON CENTERVILLE ROAD AT WHITE CITY PARK
18 BRIDGE. SO WE COORDINATED -- OR I COORDINATED A NIGHT
19 DIVE IN AN EFFORT TO LOCATE THIS HANDGUN.

20 WE DIDN'T LOCATE THE HANDGUN; HOWEVER, WE DID
21 LOCATE A SAWED-OFF SHOTGUN. THAT WAS BROUGHT UP AND
22 COLLECTED AND BAGGED AND TAKEN BACK TO THE SHERIFF'S
23 OFFICE. THIS WAS FOUND ON A FRIDAY NIGHT.

24 THAT MONDAY MORNING I CHECKED WITH THE
25 INVESTIGATIONS DIVISION AND ASKED ANY OF THE DETECTIVES

1 IF THEY WERE LOOKING FOR A SAWED-OFF SHOTGUN OR A
2 SHOTGUN OF ANY TYPE IN ANY OF THEIR CASES. AT THAT
3 PARTICULAR TIME NO KNOWLEDGE OF ANY SHOTGUN WAS, WAS
4 KNOWN.

5 SO, IN TURN, I KEPT THE EVIDENCE, OR THE GUN,
6 LOGGED IT AS A DIVING DEMONSTRATION SO AS TO SHOW OUR
7 SUPERIORS AT THE SHERIFF'S OFFICE WHAT THE DIVING TEAM
8 WAS CAPABLE OF RECOVERING FROM THE DEPTH OF HARTWELL
9 LAKE.

10 Q. NOW, CAN YOU TELL ME A LITTLE BIT MORE ABOUT THE
11 RECOVERY OF THE SHOTGUN THEN? WHERE EXACTLY WAS IT
12 RECOVERED?

13 A. THE SHOTGUN ITSELF WAS ACTUALLY RECOVERED UNDER
14 THE WHITE CITY PARK BRIDGE IN ABOUT 60 FOOT OF WATER.
15 WHITE CITY PARK BRIDGE IS ON CENTERVILLE ROAD, IT'S THE
16 MAIN THOROUGHFARE GOING FROM THE MAIN BODY OF HARTWELL
17 LAKE UP TO CHARLIE T'S RESTAURANT. THAT WAS ANOTHER
18 REASON FOR COORDINATING THE EFFORT TO NIGHT, TO CUT DOWN
19 ON THE BOAT TRAFFIC AND THE SAFETY FOR MY DIVERS.

20 Q. NOW, CAN YOU TELL ME A LITTLE BIT ABOUT THE
21 BRIDGE? I MEAN IS THIS -- HOW CLOSE IS THE BRIDGE TO
22 THE WATER IN TERMS OF ---

23 A. THE BRIDGE, THE BRIDGE IS ABOUT 30 FOOT OFF OF
24 THE WATER, MORE OR LESS. GIVEN THE DEPTH OF THE LEVEL
25 OF HARTWELL RIGHT NOW, IT'S PROBABLY MORE THAN THAT. AT

1 THAT PARTICULAR TIME THE WATER DEPTH THAT WE FOUND THE
2 GUN IN WAS 60 FOOT. IT WAS FOUND ABOUT MIDDLE WAYS OUT
3 FROM THE START OF THE BRIDGE TO THE OTHER SIDE. IT WAS
4 FOUND ABOUT MIDDLE WAYS IN THE COVE, 10 TO 15, 20 FEET
5 OUT FROM THE BRIDGE.

6 Q. NOW, ONCE YOU RETRIEVED THIS SHOTGUN, HOW DID YOU
7 PRESERVE IT, SO TO SPEAK?

8 A. ONCE WE GOT IT BACK TO THE SHERIFF'S OFFICE, AS I
9 SAID, I BAGGED IT, HEAT-SEALED IT IN A BAG, DATED IT,
10 LABELED THE DIVERS' NAMES ON IT THAT WAS THERE THAT WAS
11 PRESENT WHEN IT WAS LOCATED, AND THE DATE THAT IT WAS
12 LOCATED, AND THE LOCATION AND THE DEPTH OF WATER THAT IT
13 WAS LOCATED IN.

14 Q. I SHOW YOU STATE'S 26. DO YOU RECOGNIZE THAT
15 ITEM?

16 A. YES. THIS WAS THE SHOTGUN THAT WE RECOVERED THAT
17 PARTICULAR NIGHT.

18 Q. AND WHAT IS THE DATE OF THAT?

19 A. 6-29 OF '07.

20 Q. HAS IT BEEN ALTERED IN ANY WAY SINCE IT WAS
21 COLLECTED?

22 A. NO. I HEAT-SEALED IT, AND THE HEAT SEALS ARE
23 STILL IN PLACE SINCE I SEALED IT, SO IT HAS NOT BEEN
24 OPENED OR TAMPERED WITH IN ANY WAY.

25 MS. HUEY: AT THIS TIME WE WOULD MOVE

1 STATE'S 26 INTO EVIDENCE.

2 MR. POTTER: I DO HAVE AN OBJECTION, YOUR
3 HONOR.

4 THE COURT: PARDON?

5 MR. POTTER: I DO HAVE AN OBJECTION.

6 THE COURT: OKAY. MADAM FORELADY, LADIES
7 AND GENTLEMEN OF THE JURY, I'M GOING TO ASK YOU TO LEAVE
8 THE COURTROOM. I OCCASIONALLY HAVE TO DO THAT BECAUSE
9 I'M NOT PERMITTED TO COMMENT ON THE FACTS OF THE CASE.
10 AND SOMETIMES IN MAKING A DECISION ON WHETHER SOMETHING
11 ADMISSIBLE IS NOT ADMISSIBLE OR UNDER THE RULES OF
12 EVIDENCE, I HAVE TO COMMENT ON THE FACT AND DISCUSS THE
13 FACTS WITH THE ATTORNEYS.

14 SO WHEN I HAVE TO ASK YOU TO LEAVE THE
15 COURTROOM SO I'LL BE FREE TO COMMENT ON THOSE FACTS, NO
16 ONE IS TRYING TO HIDE ANYTHING FROM YOU, THE LAWYERS ARE
17 NOT, THE COURT IS NOT. WE JUST HAVE CERTAIN RULES OF
18 EVIDENCE THAT WE HAVE TO GO BY, AND IT'S MY JOB AS JUDGE
19 TO SEE IF IT'S ADMISSIBLE UNDER THE RULES OF EVIDENCE
20 AND THAT'S WHAT I'M GOING TO DO.

21 IF YOU WOULD LEAVE YOUR NOTEPADS IN THE
22 CHAIR, AND PLEASE DO NOT DISCUSS THE CASE, AND I'LL GET
23 YOU BACK JUST AS SOON AS I MAKE A DECISION.

24 (THE JURY LEFT THE COURTROOM AT 3:44 P.M.)

25 THE COURT: MR. POTTER, BEFORE WE GET TO THE

1 SHOTGUN, WE HAD A BENCH CONFERENCE CONCERNING MAHAFFEY'S
2 TESTIMONY CONCERNING A LETTER. IS THERE ANYTHING YOU
3 WANT TO PUT ON THE RECORD CONCERNING THAT BEFORE WE GET
4 TO THE SHOTGUN?

5 MR. POTTER: YES, YOUR HONOR. IF IT PLEASES
6 THE COURT. MR. MAHAFFEY TESTIFIED THAT HE SENT A LETTER
7 TO DETECTIVE REEVES, AN INVESTIGATOR AT THE ANDERSON
8 COUNTY SHERIFF'S OFFICE, RELATING TO HIS KNOWLEDGE OF
9 THIS INCIDENT INVOLVING SAMMY. I HAVE NOT SEEN A COPY
10 OF THIS LETTER. I WAS UNAWARE THAT THE LETTER EXISTED.

11 I WAS PROVIDED A STATEMENT BY MR. MAHAFFEY,
12 AS WELL AS A REPORT. AND THERE WAS NOTHING IN THE
13 REPORT -- AND THIS IS A REPORT COMPLETED BY TODD
14 OWENS -- THERE IS NOTHING IN THE REPORT INDICATING A
15 LETTER WAS SENT BY MAHAFFEY TO REEVES OR ANYTHING OF
16 THAT SORT, JUST TO INDICATE HE DID AN INTERVIEW ON
17 AUGUST 5TH, '08, THAT WAS DOWN IN MCCORMICK COUNTY, AND
18 HE TOOK A STATEMENT FROM HIM RELATING TO THE INCIDENT WE
19 ARE TALKING ABOUT HERE TODAY. SO I HAVEN'T HAD AN
20 OPPORTUNITY TO REVIEW THAT LETTER. THERE MIGHT BE
21 EXCULPATORY MATERIAL IN THAT LETTER THAT MIGHT BE USED
22 IN CROSS-EXAMINATION.

23 SO RESPECTFULLY, I'M GOING TO ASK THAT ALL
24 HIS TESTIMONY BE STRICKEN FROM THE RECORD.

25 THE COURT: AS FAR AS STRIKING THE

1 TESTIMONY, I'M GOING TO DENY THAT MOTION.

2 HOWEVER, SOLICITOR, DO YOU HAVE THE LETTER?

3 MS. HUEY: YOUR HONOR, WE'RE WORKING ON
4 GETTING IT. I DIDN'T HAVE A COPY OF IT MYSELF. AND I
5 APOLOGIZE. I THOUGHT THAT WE HAD DISCUSSED THIS ORALLY.
6 BUT AT ANY RATE, WE ARE WORKING ON GETTING HIM A COPY OF
7 THAT.

8 THE COURT: ALL RIGHT. SO THE LETTER IS ON
9 THE WAY?

10 MS. HUEY: YES, SIR.

11 THE COURT: ALL RIGHT. WHAT I'M GOING TO
12 DO, WHEN YOU GET THE LETTER, YOU CAN REVIEW IT, AND IF
13 YOU WANT TO RE-CALL MR. MAHAFFEY, I'LL LET YOU RE-CALL
14 HIM IF THERE'S ANYTHING YOU WANT TO ASK HIM CONCERNING
15 THE LETTER.

16 MR. POTTER: YES, SIR.

17 THE COURT: AND I THINK THEY ARE HOLDING HIM
18 DOWNSTAIRS; IS THAT CORRECT?

19 WE'LL HOLD HIM DOWNSTAIRS UNTIL YOU GET THE
20 LETTER AND GIVE YOU THE OPPORTUNITY TO REVIEW IT. IF
21 YOU HAVE ANY ADDITIONAL MOTIONS CONCERNING THE LETTER
22 AFTER YOU SEE IT, THEN I'D BE GLAD TO HEAR THEM AT THIS
23 TIME.

24 HOWEVER, AS FAR AS STRIKING THE TESTIMONY, I
25 GUESS I'VE RULED ON IT, BUT I'LL WITHDRAW MY RULING

1 PENDING WHAT WE DO WITH THE LETTER, OKAY?

2 MR. POTTER: YES, SIR.

3 THE COURT: AND I'LL TAKE THAT MOTION UNDER
4 ADVISEMENT UNTIL I GET THE LETTER, OKAY?

5 MR. POTTER: YES, SIR.

6 THE COURT: ALL RIGHT. NOW LET ME HEAR YOUR
7 OBJECTION ON THE SHOTGUN.

8 MR. POTTER: JUDGE, ON THE SHOTGUN, OUR
9 POSITION IS THERE'S NO REAL CAUSAL CONNECTION BETWEEN
10 THIS PARTICULAR SHOTGUN AND WHATEVER SHOTGUN WAS
11 ALLEGEDLY USED BY MY CLIENT. IT'S THE TESTIMONY THAT
12 THE SHOTGUN WAS FOUND AT THE WHITE CITY PARK BRIDGE, AND
13 THE TESTIMONY FROM MAHAFFEY WAS IT WAS THE SANDY SPRINGS
14 OFF THE CENTERVILLE ROAD BRIDGE. IT'S MY UNDERSTANDING
15 THAT'S TWO DIFFERENT LOCATIONS.

16 AGAIN, THIS IS A SINGLE-SHOT SHOTGUN. THE
17 TESTIMONY ALLEGES THAT THERE WERE LOUD BOOMS, AT LEAST
18 TWO TO THREE. I WOULD SUBMIT THAT IN REGARD TO THE FACT
19 THAT THIS IS A SINGLE SHOT, THERE IS NO WAY THAT A
20 SINGLE SHOT CAN FIRE THAT FAST UNLESS YOU ARE LEE HARVEY
21 OSWALD.

22 THE FACT OF THE MATTER IS THERE IS NO CAUSAL
23 CONNECTION BETWEEN THAT PARTICULAR SHOTGUN AND THE ONE
24 THAT IS ALLEGED THAT SAMMY ALLEGEDLY USED THE NIGHT OF
25 THIS INCIDENT. SO I DON'T THINK THERE'S ANY CAUSAL

1 CONNECTION. THERE'S A HOLE GETTING THE SHOTGUN FROM
2 WHERE IT IS NOW INTO HIS HANDS.

3 THE COURT: SOLICITOR?

4 MS. HUEY: YOUR HONOR, I DISAGREE. WHILE I
5 CAN SEE THAT WE CAN'T NECESSARILY SAY FOR CERTAIN THAT
6 THIS IS THE MURDER WEAPON ---

7 THE COURT: WELL, FIRST OF ALL, LET'S BACK
8 UP ABOUT THE BRIDGE.

9 MS. HUEY: IT IS THE SAME BRIDGE.

10 THE COURT: I THINK IT'S THE SAME BRIDGE,
11 AND SOME PEOPLE CALL IT WHITE CITY PARK BRIDGE AND SOME
12 PEOPLE CALL IT CENTERVILLE BRIDGE. I THINK THEY'RE
13 TALKING ABOUT THE SAME BRIDGE. IT'S JUST THAT DIFFERENT
14 FOLKS CALL IT DIFFERENT NAMES, OKAY?

15 MS. HUEY: YES, SIR. IT IS THE SAME
16 LOCATION, NUMBER ONE.

17 THE COURT: I THINK IT'S CALLED DIFFERENT
18 NAMES BY DIFFERENT PEOPLE, OKAY? I THINK WE'RE TALKING
19 ABOUT THE SAME BRIDGE.

20 ALL RIGHT. LET ME HEAR YOU ON THE CAUSAL
21 CONNECTION.

22 MS. HUEY: IT IS THE SAME LOCATION, JUDGE.

23 SECONDLY, MR. MAHAFFEY AND MR. SCOTT SHARED
24 A POD FOR ALMOST A YEAR OR SO. THEY HAD CONVERSATIONS
25 BACK AND FORTH. HE TESTIFIED THAT MR. SCOTT TOLD HIM

1 WHERE THIS SHOTGUN HAD BEEN DISPOSED OF SPECIFICALLY.
2 THEY WERE ABLE TO DIVE AND FIND THE SHOTGUN.

3 ADDITIONALLY, YOUR HONOR, THE DEFENDANT DREW
4 A PICTURE WHEN HE GAVE HIS CONFESSION OF WHAT THE
5 SHOTGUN HE USED LOOKED LIKE, AND IT IS SIMILAR TO WHAT
6 WAS FOUND IN THE LAKE.

7 THE COURT: I THINK MAHAFFEY ALSO TESTIFIED
8 THAT IT WAS THE SAME PLACE HE THREW THE PISTOL, AND I
9 THINK FROM HAVING TRIED MAHAFFEY A YEAR AGO, I THINK
10 THERE WAS TESTIMONY IN THAT TRIAL THAT'S WHERE HE PUT
11 THE PISTOL.

12 MS. HUEY: YES, SIR, THAT IS CORRECT.

13 MR. POTTER: AND AGAIN, THERE'S NO
14 INDICATION -- THIS COULD BE ONE OF MAHAFFEY'S WEAPONS.
15 I MEAN, HE INDICATED HE DRIVES BY TO GET BACK TO HIS
16 HOUSE.

17 THE COURT: THERE WASN'T A SHOTGUN INVOLVED
18 IN THE MAHAFFEY CASE.

19 MR. POTTER: I UNDERSTAND THAT. BUT IT
20 DOESN'T MEAN HE DIDN'T HAVE A SHOTGUN AND HE DIDN'T
21 DISPOSE OF IT THAT WAY. IT JUST GOES TO HE KNEW OF THAT
22 AND HE WAS GONNA USE THIS.

23 THE COURT: WELL, SOLICITOR, THE ONLY THING
24 THAT CONCERNS ME IS I THINK THERE'S A CAUSAL CONNECTION,
25 IF I TAKE IT IN THE EVIDENCE MOST FAVORABLE TO THE

1 STATE. MAHAFFEY DID TESTIFY THAT HE TOLD
2 THERE IS A DRAWING OF THE GUN, AND THEY
3 LOCATION WHERE MAHAFFEY SAID THAT THE
4 HIM HE THREW IT. SO I THINK THERE'S A
5 THERE. LET ME HEAR YOU. I HAVEN'T SEEN THE GUN.
6 A SINGLE BARREL?

7 MS. HUEY: YES, SIR.

8 THE COURT: A SINGLE SHOT? ALL THE
9 TESTIMONY HAS BEEN MULTIPLE SHOTS. I THINK HIS
10 STATEMENT SAID HE SHOT ONE TIME IN THE AIR AND HE SHOT
11 ANOTHER TIME --

12 MS. HUEY: YES, SIR.

13 THE COURT: -- INTO THE CROWD, AND I
14 THINK -- WHAT'S THE GUY'S NAME? DO THEY CALL HIM "COON"
15 OR WHAT?

16 MR. POTTER: "BOOT."

17 MS. HUEY: "BOOT," YES, SIR.

18 THE COURT: THEY CALL HIM "BOOT." SO
19 WHATEVER NAME YOU WANT TO CALL HIM. BOOT. SO ALL THE
20 TESTIMONY HAS BEEN THAT THERE WERE MULTIPLE SHOTS, AND
21 SOME OF THEM SAID THEY WERE LOUDER THAN OTHERS AND SOME
22 OF THEM SAID NOT AS LOUD. SO HOW CAN THERE BE MULTIPLE
23 SHOTS OF A SHOTGUN WITH A SINGLE SHOT?

24 AND ALSO THERE WAS TESTIMONY THAT THE
25 SHOOTING DIDN'T OCCUR UNTIL A BROWN CAR WITH A DELTA '88

1 WAS MOVED, SO YOU'RE TRYING TO TELL ME HE SHOOTS ONE
2 TIME, BREAKS IT ---

3 (OUTBURST FROM COURTROOM).

4 THE COURT: SHUT UP. ANY MORE OUTBURSTS
5 FROM YOU, YOU ARE LEAVING THE COURTROOM. WHO WAS
6 CLAPPING? (NO RESPONSE). NO MORE OUTBURSTS OR YOU ARE
7 OUT OF THE COURTROOM OR YOU ARE IN JAIL DOWNSTAIRS. DO
8 YOU UNDERSTAND? DOES EVERYBODY UNDERSTAND?

9 UNIDENTIFIED PEOPLE: YES, SIR.

10 THE COURT: OKAY. THERE WILL BE NO MORE
11 OUTBURSTS, SUCH AS CLAPPING OR CHEERING OR ANYTHING
12 ELSE. DO YOU UNDERSTAND? I'M NOT GOING TO PUT UP WITH
13 IT.

14 ALL RIGHT. PLEASE PROCEED.

15 MS. HUEY: YOUR HONOR, WE NEED TO ACTIVATE
16 THE BREACH, AND INVESTIGATOR TODD OWENS WOULD TESTIFY TO
17 THAT IN HIS UPCOMING TESTIMONY.

18 THE COURT: HE WILL DO WHAT, NOW?

19 LET ME SEE IT. WHERE IS IT?

20 THE WITNESS: (HANDING).

21 THE COURT: THANK YOU, SIR. (HANDS BACK).

22 I'M SORRY. WHAT DID YOU SAY?

23 MS. HUEY: YOU COULD ACTIVATE THE BREACH,
24 WHICH WOULD ALLOW YOU TO RELOAD QUICKLY.

25 THE COURT: ALL RIGHT. I WILL TAKE THAT

1 MOTION UNDER ADVISEMENT UNTIL I HEAR THE TESTIMONY
2 WHOEVER YOU ARE GOING TO PUT UP, OKAY? SO I'M NOT
3 RULING ON YOUR MOTION AT THIS TIME UNTIL I HEAR THE
4 TESTIMONY.

5 MR. POTTER: THE ONLY OTHER THING I WANT TO
6 MENTION, JUDGE, JOSH BLACK, WHO WAS SUPPOSEDLY IN THE
7 VEHICLE AT THE TIME THE SHOOTING HAPPENED, INDICATED
8 THAT WEAPON WAS A LOT LONGER THAN THAT WEAPON.

9 MS. HUEY: EVERYONE ELSE SAID IT WAS A LONG
10 GUN.

11 THE COURT: I THINK EVERYBODY SAID, WHAT,
12 TWO TO THREE FEET? IS THAT CORRECT: TWO TO THREE FEET?

13 MR. POTTER: YES.

14 THE COURT: I HAVEN'T MEASURED THAT GUN, BUT
15 I THINK, MAYBE THE DETECTIVE CAN. I'LL TAKE THAT MOTION
16 UNDER ADVISEMENT UNTIL I HEAR FROM THE DETECTIVE'S
17 TESTIMONY. OKAY, SOLICITOR?

18 MS. HUEY: YES, SIR.

19 THE COURT: ANYTHING ELSE BEFORE I BRING THE
20 JURY IN?

21 MS. HUEY: NO, SIR.

22 THE COURT: BRING US A JURY, PLEASE.

23 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
24 3:54 P.M.)

25 THE COURT: ALL RIGHT. SOLICITOR?

1 MS. HUEY: THAT'S ALL THE QUESTIONS I HAVE
2 AT THIS TIME, YOUR HONOR.

3 THE COURT: CROSS-EXAMINATION?

4 CROSS-EXAMINATION BY MR. POTTER:

5 Q. MR. BLAKELY, ~~HAVE YOU HAD AN OPPORTUNITY TO~~
6 ~~TEST-FIRE-THAT-WEAPON?~~

7 A. ~~NO,~~ SIR, I HAVE NOT.

8 Q. ~~SO YOU DON'T KNOW IF IT'S OPERABLE?~~

9 A. NO, SIR, I DO NOT.

10 Q. ~~WERE THERE ANY BULLETS OR ANY SHELLS FOUND IN THE~~
11 ~~WEAPON?~~

12 A. ~~NO,~~ SIR. IT WAS CLEAR WHEN WE FOUND IT.

13 Q. ~~WAS THE TRIGGER WORKING ON IT?~~

14 A. ~~I DON'T KNOW,~~ SIR.

15 Q. I'M SORRY, I COULDN'T HEAR YOU. SAY THAT ONE
16 MORE TIME?

17 A. I SAID I DON'T KNOW, SIR.

18 MR. POTTER: NOTHING FURTHER.

19 THE COURT: ANY REDIRECT?

20 REDIRECT EXAMINATION BY MS. HUEY:

21 Q. IT HAD BEEN IN THE LAKE FOR A WHILE?

22 A. IT HAD BEEN, YES.

23 Q. WAS IT PRETTY RUSTY WHEN YOU DID RETRIEVE IT?

24 A. YES, IT WAS.

25 THE COURT: RECROSS?

1 MR. POTTER: YES, SIR.

2 RECROSS-EXAMINATION BY MR. POTTER:

3 Q. YOU DON'T KNOW HOW LONG IT'S BEEN IN THE LAKE?

4 A. NO, SIR, I CAN'T.

5 Q. IT COULD BE FIVE YEARS, IT COULD BE TWO MONTHS,
6 IT COULD BE TEN YEARS?

7 A. I CAN'T TELL YOU, SIR, HOW LONG IT'S BEEN THERE.

8 MR. POTTER: THANK YOU..

9 THE COURT: YOU MAY STEP DOWN. THANK YOU
10 VERY MUCH.

11 YOU MAY CALL YOUR NEXT WITNESS.

12 (WITNESS STEPPED DOWN.)

13 MS. HUEY: THE STATE CALLS TODD OWENS TO THE
14 STAND.

15 (WHEREUPON, TODD OWENS WAS SWORN BY THE CLERK
16 OF COURT, AFTER WHICH HE WAS ASKED TO STATE
17 HIS FULL NAME FOR THE RECORD AND TO SPELL HIS
18 LAST NAME.)

19 THE WITNESS: JARRETT TODD OWENS, O-W-E-N-S.
20 WHEREUPON,

21 (TODD OWENS,

22 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS
23 FOLLOWS:

24 DIRECT EXAMINATION BY MS. HUEY:

25 Q. WHERE DO YOU WORK?

1 A. AT THE ANDERSON COUNTY SHERIFF'S OFFICE.

2 Q. AND WHAT IS YOUR POSITION THERE?

3 A. I'M A DETECTIVE IN THE CRIMINAL INVESTIGATION
4 DIVISION.

5 Q. HOW LONG HAVE YOU BEEN IN THAT POSITION?

6 A. IN THAT POSITION A LITTLE OVER THREE YEARS.

7 Q. DID YOU HAVE AN OCCASION TO WORK THIS PARTICULAR
8 CASE AGAINST SAMMY SCOTT?

9 A. I DID.

10 Q. AND WHAT WAS YOUR ROLE IN THIS PARTICULAR CASE?

11 A. I WAS ASSIGNED AS THE PRIMARY DETECTIVE TO
12 COORDINATE THE INVESTIGATION AND TO COORDINATE THE
13 TESTING OF CERTAIN MATERIALS TO BE SENT OFF TO OTHER
14 LABORATORIES AND TO COORDINATE WITNESS STATEMENTS AND
15 VICTIMS' STATEMENTS AND POTENTIAL DEFENDANTS'
16 STATEMENTS.

17 Q. NOW, THAT IS THE PRIMARY, THEN; YOU DIDN'T
18 NECESSARILY DO EVERY SINGLE THING IN THE CASE?

19 A. NO, MA'AM.

20 Q. OKAY. WOULD YOU HAVE TO DELEGATE CERTAIN THINGS?

21 A. YES, MA'AM.

22 Q. TELL ME, THOUGH, HOW YOU FIRST BECAME INVOLVED IN
23 THE CASE.

24 A. I WAS NOTIFIED; I WAS CALLED BY THE UNIFORM
25 PATROL SUPERVISOR, LIEUTENANT GARRETT, OF A SHOOTING

1 INCIDENT THAT OCCURRED ON CLEMSON BOULEVARD THERE AT
2 PUBLIX. I WAS NOTIFIED APPROXIMATELY 2 A.M. I ARRIVED
3 AT THE SCENE. AT THAT TIME HE NOTIFIED ME WHAT HE HAD,
4 AND I TOOK CHARGE OF THE SCENE AT THAT POINT.

5 Q. WHEN YOU ARRIVED AT THE SCENE, IT WAS ALREADY
6 TAPED OFF?

7 A. THAT'S CORRECT.

8 Q. NOW, ONCE YOU WERE ADVISED OF WHAT WAS GOING ON,
9 WHAT DID YOU THEN DO?

10 A. I MADE CONTACT WITH THE FORENSICS DETECTIVE THAT
11 WAS ON SCENE AT THE TIME, SERGEANT KEN BLAKELY. I MET
12 WITH HIM, MET WITH THE SUPERVISOR OF THE ROAD PATROL AT
13 THAT TIME. HE INFORMED ME OF THREE INDIVIDUALS THAT
14 WERE STILL AT THE SCENE.

15 AND AS WE WERE DISCUSSING THOSE THREE
16 INDIVIDUALS, WE STARTED RECEIVING FURTHER INFORMATION
17 THAT THERE WERE POSSIBLE VICTIMS SCATTERED ALONG CLEMSON
18 BOULEVARD BEING IN VEHICLES THAT WERE DAMAGED IN
19 DIFFERENT PARKING LOTS.

20 Q. AND SO DID YOU SEND DEPUTIES THEN OUT TO DEAL
21 WITH THOSE PEOPLE?

22 A. I DID. I SENT -- I HAD AT MY DISPOSAL
23 APPROXIMATELY FIVE TO SIX DETECTIVES IMMEDIATELY THAT I
24 SENT ON VARIOUS LOCATIONS TO CARRY OUT VARIOUS DUTIES,
25 AND ALSO VARIOUS FORENSIC TECHNICIANS TO GO WITH THEM.

1 Q. NOW, DID ONE DEPUTY OR INVESTIGATOR COME INTO
2 CONTACT WITH A LARICKY HARKNESS?

3 A. THAT IS CORRECT. SHORTLY AFTER ARRIVING THERE I
4 SEEN HIM SPEAKING WITH THE THREE INDIVIDUALS THAT WE HAD
5 THERE, AS WELL AS SOME OF THE OTHER PERSONS OR
6 WITNESSES, AND PEOPLE THAT WE GET OUT WITH DAMAGED
7 VEHICLES, AND ALSO PEOPLE THAT HAD INJURIES AT THOSE
8 PARKING LOTS.

9 A DESCRIPTION WAS DEVELOPED OF A BROWN VEHICLE, A
10 DELTA '88 OLDSMOBILE CHEVROLET-TYPE VEHICLE, AND WE
11 BELIEVE IT HAD THE WORDS "REAL TALK" WRITTEN ON THE SIDE
12 OF IT AND HAD SOME DAMAGE TO THE REAR OF IT. THAT
13 INFORMATION WAS WHAT WE CALL A B.O.L.O.,
14 BE-ON-THE-LOOKOUT-FOR, WAS RELEASED OVER THE RADIO. AND
15 A SHORT TIME LATER OFFICER TIM GRASTY ACTUALLY LOCATED
16 THAT VEHICLE AND CONDUCTED A TRAFFIC STOP ON IT.

17 Q. MR. OWENS, I GONNA SHOW YOU 7-A THROUGH D --
18 WHICH I BELIEVE ARE ADMITTED WITHOUT OBJECTION?

19 MR. POTTER: NO OBJECTION, YOUR HONOR.

20 THE COURT: ADMITTED WITHOUT OBJECTION.

21 (STATE'S EXHIBIT 7-A THROUGH 7-D, PHOTOGRAPHS
22 OF DELTA '88, WAS RECEIVED IN EVIDENCE.)

23 MS. HUEY: IF YOU DON'T MIND STEPPING DOWN
24 BRIEFLY.

25 (WITNESS LEAVES STAND.)

1 BY MS. HUEY:

2 Q. NOW, THIS IS EXHIBIT 7-A. CAN YOU TELL US WHAT
3 THIS IS?

4 A. YEAH. THIS WAS STOPPED BY DETECTIVE TIM GRASTY.
5 IT MATCHED THE INITIAL DESCRIPTION WE HAD OF A POSSIBLE
6 SUSPECT VEHICLE BEING INVOLVED.

7 Q. OKAY. AND THIS IS 7-B?

8 A. THIS IS THE SAME VEHICLE. AS YOU CAN SEE HERE ON
9 THE DRIVER'S DOOR, IT'S THE BEGINNING OF THE WORDS "REAL
10 TALK" THAT WERE EMBLEMS THAT WERE PLACED ON THE VEHICLE.

11 Q. THIS IS 7-C?

12 A. THE SAME VEHICLE. AS YOU CAN SEE ON THE
13 PASSENGER DOOR IN REVERSE ON THE OTHER SIDE ARE THE
14 WORDS "REAL TALK" WRITTEN IN THE ENGLISH LANGUAGE.

15 Q. AND 7-D?

16 A. THIS IS THE DAMAGE -- THE SAME VEHICLE, BUT THIS
17 WAS THE DAMAGE THAT WE REFERRED TO IN THE DELTA '88
18 WHICH WAS ANOTHER OBVIOUS DETAIL OF THIS SPECIFIC
19 VEHICLE.

20 Q. SO THIS WAS A PRETTY -- THIS WAS A CAR THAT STUCK
21 OUT?

22 A. YES. VERY UNIQUE, VERY UNIQUE.

23 Q. AND THAT BELONGED AGAIN TO LARICKY HARKNESS?

24 A. THAT'S CORRECT.

25 Q. AND YOU CAN HAVE A SEAT.

1 (WITNESS RESUMES STAND.)

2 Q. NOW, WHEN LARICKY HARKNESS WAS PULLED OVER THEN,
3 WHAT, IF ANYTHING, HAPPENED AS A RESULT OF HIM BEING
4 PULLED OVER?

5 A. HE HAD A PASSENGER, AND THE PASSENGER HAD A
6 WARRANT FOR HIS ARREST, A BENCH WARRANT. AS WE SPOKE
7 WITH HIM, DUE TO THE UNIQUE DESCRIPTION OF THE VEHICLE
8 AND THE SHORT TIME FRAME THAT OCCURRED FROM THE INCIDENT
9 UNTIL HE WAS STOPPED, AN OVERVIEW OF THE VEHICLE WAS
10 CONDUCTED, NOT A THOROUGH SEARCH, BUT BASICALLY A
11 SECURITY SWEEP OF THE VEHICLE WAS MADE FOR ANY WEAPONS.

12 Q. OKAY. AND WHEN THAT HAPPENED, WAS ANYTHING
13 DISCOVERED?

14 A. YES. A LORCIN .25 CALIBER HANDGUN WITH LIVE
15 AMMUNITION AND MAGAZINE.

16 Q. AND THAT WAS TAKEN INTO EVIDENCE?

17 A. THAT'S CORRECT.

18 Q. NOW, ADDITIONALLY, LIEUTENANT SCOTT TESTIFIED
19 EARLIER THAT HE DID PERFORM A GUNSHOT RESIDUE KIT ON
20 MR. HARKNESS.

21 A. THAT IS CORRECT.

22 Q. AND MR. HARKNESS, HIS NICKNAME IS WHAT?

23 A. BOOT.

24 Q. BOOT. AND WAS THAT SENT TO THE SOUTH CAROLINA
25 LAW ENFORCEMENT DIVISION FOR TESTING?

1 A. IT WAS.

2 Q. OKAY. (AND WHAT WERE THE RESULTS OF THAT
3 PARTICULAR KIT?

4 A. IF YOU WILL EXCUSE ME JUST A MOMENT, I'LL GIVE
5 YOU THE EXACT FINDINGS.

6 (I RECEIVED NOTIFICATION JULY 25TH, 2007, FROM
7 S.L.E.D. LABORATORIES, S.L.E.D. LAB NUMBER L 07-07706,
8 AND IT'S LISTED AS ITEM 25. ONE G.S.R. KIT FROM LARICKY
9 TAVARIUS (PHONETIC) HARKNESS. IT STATES ITEM 25.1 RIGHT
10 PALM, AND IT STATES RESULTS: NON ROUND PARTICLES
11 CONTAINING LEAD, BARIUM AND ANTIMONY WERE FOUND. THESE
12 MAY BE ASSOCIATED WITH GUNSHOT RESIDUE.

13 IN SHORT, A POSITIVE RESULT FOR GUNSHOT RESIDUE
14 ON LARICKY HARKNESS' HANDS.

15 Q. AND THIS IS LIKE WITHIN HOURS OF THE PUBLIX
16 SHOOTING?

17 A. THAT'S CORRECT. IT WAS WITHIN THE SIX-HOUR TIME
18 FRAME WE USE FOR PERSONS THAT WE CHECK FOR G.S.R.

19 Q. NOW, AT THE TIME THAT MR. HARKNESS WAS PULLED
20 OVER, DID YOU KNOW WHAT KIND OF MURDER WEAPON WAS USED?

21 A. NO, MA'AM, WE DID NOT. WE DID NOT.

22 Q. (AND SO AS SUCH, WAS HE TREATED AS A SUSPECT?)

23 A. THAT IS CORRECT.

24 Q. NOW, AND DID SOMEONE SPEAK WITH MR. HARKNESS?

25 A. I DID.

1 Q. AS A RESULT OF YOUR CONVERSATION WITH
2 MR. HARKNESS, OR ANY CONVERSATIONS, DID THAT LEAD YOU TO
3 ANYONE ELSE?

4 A. YES. HE TOLD US THAT OVER THE PAST FEW WEEKS HE
5 HAD BEEN HAVING ---

6 MR. POTTER: OBJECTION, YOUR HONOR, TO THE
7 QUESTION REGARDING WHAT LARICKY TOLD THE INVESTIGATOR.
8 HE CAN TESTIFY AS TO WHAT HE DID BASED ON WHAT HE WAS
9 TOLD BY LARICKY.

10 THE COURT: I'LL SUSTAIN THE OBJECTION AS TO
11 WHAT HE ACTUALLY TOLD HIM. HE CAN SAY ---
12 BY MS. HUEY:

13 Q. WITHOUT ACTUALLY SAYING WHAT HE SAID, TELL ME
14 WHAT YOU DID AS A RESULT OF SPEAKING WITH HIM.

15 A. AS A RESULT OF THE INFORMATION WE RECEIVED FROM
16 LARICKY HARKNESS, WE SPOKE WITH OTHER INDIVIDUALS WHOSE
17 NAMES WERE BROUGHT UP AND WHO LED US TO MR. SCOTT.

18 Q. MR. SAMMY SCOTT?

19 A. THAT'S CORRECT.

20 Q. AND WHERE DID MR. SCOTT LIVE?

21 A. HE LIVED IN CLEMSON ON VISTA DRIVE.

22 Q. NOW, BEFORE GETTING TO MR. SCOTT THROUGH
23 MR. HARKNESS, HAD ANY OTHER INFORMATION COME IN TO
24 Y'ALL?

25 A. THE NEXT MORNING AFTER I SPOKE WITH MR. HARKNESS,

1 A TIP HAD COME IN, AN ANONYMOUS TIP COME IN, THAT SAMMY
2 SCOTT WAS INVOLVED IN THE SHOOTING THAT OCCURRED AT
3 PUBLIX THE NIGHT BEFORE.

4 Q. OKAY. AN ANONYMOUS TIP CAME IN?

5 A. THAT'S CORRECT.

6 Q. OKAY. AND AS A RESULT OF THE ANONYMOUS TIP, WHAT
7 DID YOU ALL DO?

8 A. I DELEGATED A COUPLE OF DETECTIVES TO GO TO THE
9 CLEMSON AREA IN AN ATTEMPT TO LOCATE MR. SCOTT. THEY IN
10 TURN CHECKED TO SEE IF HE HAD A VALID DRIVER'S LICENSE
11 AND FOUND THE ADDRESS OF VISTA DRIVE. AND THAT IS WHEN
12 DETECTIVE TRIBBLE AND DETECTIVE WOOTEN WENT TO THERE.
13 AND AS TO DETECTIVE TRIBBLE'S TESTIMONY EARLIER, HE
14 SPOKE WITH MR. SCOTT'S MOTHER.

15 Q. AND THAT'S WHERE THE INITIAL STATEMENT FROM
16 MR. SCOTT CAME FROM?

17 A. THAT'S CORRECT.

18 Q. NOW, AGAIN, WERE YOU INVOLVED WITH THE SECOND
19 STATEMENT HE GAVE POLICE?

20 A. I WAS PRESENT AT THE POLICE STATION, BUT I WAS
21 NOT ACTIVELY SPEAKING WITH MR. SCOTT WHEN HE GAVE THAT
22 STATEMENT, NO.

23 Q. AND WHAT WERE YOU DOING AT THAT POINT?

24 A. I WAS IN ANOTHER INTERVIEW ROOM WITH
25 MRS. OGLESBY, MR. SCOTT'S MOTHER, ALONG WITH DETECTIVE

1 GEBING FROM THE SHERIFF'S OFFICE.

2 Q. YOU WERE INTERVIEWING HER?

3 A. THAT'S CORRECT.

4 Q. NOW, WAS SAMMY SCOTT'S SISTER INTERVIEWED AS
5 WELL?

6 A. SHE WAS. AND I DON'T RECALL EXACTLY WHO
7 INTERVIEWED HER AND TOOK HER STATEMENT, BUT SOMEONE DID
8 INTERVIEW HER.

9 Q. NOW, IN SPEAKING WITH SAMMY SCOTT'S MOTHER AND
10 LEARNING OF HIS ADMISSION, DID YOU ALL PROCESS HIS
11 MOTHER'S CAR?

12 A. THAT'S CORRECT. WE DID THAT NIGHT. WHEN
13 MS. OGLESBY ARRIVED AT THE CLEMSON POLICE DEPARTMENT,
14 SHE WAS IN HER REGISTERED KIA SEPHIA, I BELIEVE IS THE
15 MODEL. IT WAS A BLACK S.U.V. WE HAD ALREADY OBTAINED A
16 SEARCH WARRANT FOR THAT VEHICLE DUE TO VARIOUS OTHER
17 STATEMENTS THAT WE HAD RECEIVED FROM VARIOUS WITNESSES
18 STATING THAT THAT WAS A SUSPECT VEHICLE THAT WAS USED
19 THAT NIGHT OF THE SHOOTING. I HAD IN MY HAND A SEARCH
20 WARRANT FOR THAT VEHICLE, AND I IMPOUNDED THAT VEHICLE
21 WHEN SHE ARRIVED AT THE CLEMSON POLICE DEPARTMENT AND
22 HAD IT TRANSPORTED BACK TO THE ANDERSON COUNTY SHERIFF'S
23 OFFICE FOR FURTHER PROCESSING.

24 (COUNSEL CONFER.)

25

1 BY MS. HUEY:

2 Q. MR. OWENS, IF YOU DON'T MIND STEPPING DOWN, I
3 WANT TO SHOW YOU EXHIBITS 5-A THROUGH -I --

4 WHICH I BELIEVE ARE ADMITTED WITHOUT OBJECTION?

5 MR. POTTER: THAT'S CORRECT, YOUR HONOR.

6 THE COURT: ADMITTED WITHOUT OBJECTION.

7 (STATE'S EXHIBIT 5-A THROUGH 5-I, BLACK KIA
8 PHOTOS, WAS RECEIVED IN EVIDENCE.)

9 (WITNESS LEAVES STAND.)

10 BY MS. HUEY:

11 Q. OKAY. I'M GONNA SHOW YOU 5-A, THEN.

12 A. THIS IS THE VEHICLE THAT I IMPOUNDED THAT NIGHT,
13 THE BLACK KIA SEPHIA.

14 Q. OKAY. AND 5-B?

15 A. THE SAME VEHICLE. WE PHOTOGRAPH IT TO MAKE SURE
16 THAT THERE IS NO DAMAGE BEFOREHAND AS WE IMPOUND IT, AND
17 ALSO TO PRESERVE ANY EVIDENCE THAT IS ON THE OUTSIDE OF
18 THE VEHICLE; BUT AS YOU CAN SEE, IT WAS PRISTINE AT THIS
19 POINT.

20 Q. 5-C?

21 A. AGAIN, A PHOTOGRAPH TO SHOW THAT THERE WAS NO
22 DAMAGE TO THE VEHICLE. AND AGAIN, THE REAR PHOTOGRAPH
23 OF THE PICTURE.

24 Q. THAT'S 5-D?

25 A. THAT'S A SPORTAGE VEHICLE.

1 Q. 5-E?

2 A. A PHOTOGRAPH OF THE INTERIOR AGAIN TO SHOW ANY
3 DAMAGE, OR LACK THEREOF IN THIS CASE, A PHOTOGRAPH TO
4 SHOW THAT.

5 AGAIN, A PHOTOGRAPH OF THE INSIDE OF THE VEHICLE,
6 AS WELL AS SHOTGUN ANY TYPE OF -- AND THIS IS THE, TO
7 KIND OF REFERENCE EVERYONE -- THIS IS THE REAR SEAT AND
8 THIS IS THE FRONT SEAT'S DRIVER'S IMPACT AND THIS IS THE
9 FLOORBOARD IN BETWEEN THE FRONT SEAT AND BACK SEAT,
10 AGAIN TO SHOW THAT THERE IS NO DAMAGE INSIDE THE
11 VEHICLE, IF THERE IS PRESENCE OF ANY BLOOD, IF THERE IS
12 PRESENCE OF ANY POSSIBLE EVIDENCE, ANYTHING THAT WOULD
13 BE OF EVIDENTIARY VALUE.

14 Q. 5-G?

15 A. AGAIN, THE SAME TYPE OF PHOTO, AND IT'S A PHOTO
16 OF THE INSIDE OF THE VEHICLE, BEING A STEERING WHEEL IN
17 THE FRONT COMPARTMENT.

18 Q. 5-H?

19 A. AGAIN, A FURTHER-BACK PHOTO OF THE REAR SEAT AS
20 WELL.

21 Q. AND FINALLY, 5-I?

22 A. AGAIN, A PHOTO. THIS IS OF THE FAR REAR OF THE
23 VEHICLE, THE CARGO COMPARTMENT.

24 Q. NOW, WHEN THIS BLACK KIA WAS PROCESSED, WERE ANY
25 PROJECTILES LOCATED?

1 A. NO. NO. WE FOUND NO PROJECTILES, (WITNESS
2 RESUMES STAND) NO SHELL CASINGS, SPENT OR LIVE, NO
3 DAMAGE, NO IMPACT OF ANY PROJECTILES, NO SCRATCHES,
4 SCRAPES, THOSE TYPE OF THINGS THAT WOULD BE ASSOCIATED
5 WITH A PROJECTILE STRIKING THE VEHICLE.

6 Q. NOW, WAS THE CAR FINGERPRINTED?

7 A. IT WAS FINGERPRINTED. AND ---

8 Q. WHAT WERE THE RESULTS OF THAT?

9 A. THE RESULTS WE CAME BACK WITH, WE HAD A POSITIVE
10 MATCH OF FINGERPRINTS ON THE VEHICLE, BEING SAMMY LEE
11 SCOTT, DATE OF BIRTH [REDACTED] OF [REDACTED], BLACK MALE; A TROY
12 VERNER, DATE OF BIRTH, [REDACTED] OF [REDACTED], A BLACK MALE; AND
13 SHARON OGLESBY, DATE OF BIRTH [REDACTED], A BLACK FEMALE,
14 WHO, IN FACT, IS THE OWNER. AND THAT INFORMATION
15 CORROBORATED THE STATEMENTS THAT WE HAD BEEN RECEIVING
16 STATING THAT MR. SCOTT WAS DRIVING THE VEHICLE AND THAT
17 ONE OF HIS PASSENGERS WAS TROY VERNER.

18 Q. NOW, BECAUSE THOSE FINGERPRINTS ARE THERE, CAN WE
19 NECESSARILY SAY WHAT TIME, WHAT DAY THOSE FINGERPRINTS
20 GOT THERE?

21 A. NO. YOU CANNOT DATE FINGERPRINTS.

22 Q. SO IT COULD HAVE HAPPENED FROM BEFORE THE
23 INCIDENT?

24 A. THAT'S CORRECT.

25 Q. OR EVEN AFTER THE INCIDENT?

1 A. CORRECT.

2 Q. OKAY. SO OTHER THAN PROCESSING THE BLACK KIA,
3 WHAT WAS THE NEXT STEP?

4 A. THEY PROCESSED IT FOR GUNSHOT RESIDUE, FOR ANY
5 TYPE OF LATENT FIBERS THAT MAY HAVE COME OFF, ANYTHING
6 LIKE THAT.

7 Q. AND WERE THEY ABLE TO GET ANY RESULTS FROM THE
8 GUNSHOT RESIDUE?

9 A. S.L.E.D. NOTIFIED US THAT THEY WERE UNABLE TO,
10 FOR SOME TYPE OF TECHNICAL ISSUE, EITHER WITH THE TYPE
11 OF MATERIAL WE USED, TO BE ABLE TO TEST POSITIVELY FOR
12 GUNSHOT RESIDUE. WE WERE TOLD, I BELIEVE, IT WAS DUE TO
13 SOME WOODEN DOWELS AND SWABS THAT WE HAD USED TO ATTEMPT
14 TO COLLECT THAT GUNSHOT RESIDUE, BECAUSE WE HAD USED A
15 KIT THAT YOU USE FOR A PERSON'S HANDS TO DO THIS GUNSHOT
16 RESIDUE KIT BECAUSE THERE IS NOT A PER SE STANDARD KIT
17 FOR GUNSHOT RESIDUE ON VEHICLES.

18 Q. AND SO THEY WERE UNABLE TO TEST WHETHER THE
19 GUNSHOT RESIDUE WAS ---

20 A. THEY WERE UNABLE TO TEST WHETHER IT WAS THERE OR
21 NOT THERE. THE TEST WAS UNABLE TO BE COMPLETED.

22 Q. NOW, HOW MANY WITNESSES DO YOU THINK, EITHER
23 YOURSELF OR YOUR TEAM, HOW MANY PEOPLE DO YOU THINK
24 Y'ALL TALKED TO?

25 A. I'M GONNA SAY A LIBERAL ESTIMATE BEING 60.

1 Q. SO 60 DIFFERENT PEOPLE?

2 A. APPROXIMATELY 60 PEOPLE.

3 Q. AND THOSE WERE PEOPLE THAT WERE AT THE PUBLIX
4 PARKING LOT PRIMARILY?

5 A. EVERY SINGLE PERSON WE SPOKE WITH, WE WOULD
6 CONFIRM THAT THEY WERE THERE AT THE TIME OF THE
7 SHOOTING.

8 Q. NOW, AS A RESULT OF THAT AND YOUR INVESTIGATION,
9 WERE YOU LED TO ANY OTHER SUSPECTS?

10 A. THE ONLY TWO PERSONS OF INTEREST THAT WERE EVER
11 BROUGHT TO OUR ATTENTION WERE LARICKY HARKNESS AND SAMMY
12 SCOTT. AND EVERYTHING THAT WE, EVERY STATEMENT THAT WE
13 TOOK, THE ONLY INFORMATION THAT WE HAD ON LARICKY WAS
14 THAT HE HAD A HANDGUN AND HE DISCHARGED SEVERAL ROUNDS,
15 AND THAT SAMMY LEE SCOTT HAD IN HIS POSSESSION A SHOTGUN
16 AND DISCHARGED SEVERAL ROUNDS.

17 Q. NOW, IN TERMS OF LARICKY HARKNESS, WE WEREN'T
18 ABLE TO RECOVER ANY SHELL CASINGS ON A .25 CALIBER?

19 A. A SPENT SHELL CASING AT THE SCENE? NO, WE WERE
20 NOT. WE ONLY FOUND ONLY LIVE SHELL CASINGS FROM HIS
21 VEHICLE, AND THEY WERE ACTUALLY LOADED INTO THE WEAPON.

22 Q. NOW, WERE YOU ALSO INVOLVED IN THE DIAGRAMMING OF
23 THE PARKING LOT AS WELL AS AERIAL PHOTOGRAPHS?

24 THE COURT: I'M SORRY, WHAT?

25

1 BY MS. HUEY:

2 Q. I SAID: WERE YOU ALSO INVOLVED IN THE
3 DIAGRAMMING OF THE PUBLIX PARKING LOT?

4 A. I WAS.

5 Q. OKAY. AND WHAT WAS THE PURPOSE OF THAT?

6 A. DUE TO THAT WE DID THIS A COUPLE DAYS LATER, WHEN
7 THE PARKING LOT WAS EMPTY EARLY ONE MORNING, MYSELF AND
8 INVESTIGATOR TODD CARON OF THE FORENSICS DIVISION
9 RESPONDED TO THE SCENE ORIGINALLY, SO I KNEW EXACTLY
10 WHERE THE VICTIM HAD BEEN THAT WE, HAD BEEN OUT WITH.
11 WE THOUGHT THE VICTIM WAS STRUCK. AND TO PINPOINT HIM
12 AND TO BASICALLY FAN OUT FROM THAT AREA AND GET
13 DIMENSIONS OF THE PARKING LOT AND USE THAT AS A CENTER
14 SPOT.

15 Q. I'M GOING TO SHOW YOU, THEN, WHAT HAS BEEN MARKED
16 AS STATE'S EXHIBIT 25 -- IF YOU WILL STEP DOWN, PLEASE.

17 (WITNESS LEAVES STAND.)

18 BY MS. HUEY:

19 Q. -- AND AGAIN EXPLAIN TO THE JURY HOW THIS HELPED
20 IN YOUR INVESTIGATION IN DEVELOPING A THEORY OF THE
21 CASE.

22 A. A LOT OF TIMES, AND THE SAME IS TRUE IF YOU ARE
23 INVESTIGATING A HOMICIDE INSIDE A HOME, YOU WANT TO
24 RECREATE A SCENE THE BEST YOU CAN. PHOTOGRAPHS ARE
25 NICE, BUT YOU ALMOST WANT A ONE-DIMENSIONAL IMAGE SO YOU

1 CAN KNOW EXACTLY THE POSITION OF THE PERSONS INVOLVED.
2 THAT HELPS TO SHOW INTENT, IT HELPS TO SHOW PLACES OF
3 ENTRY, EXIT. IT SHOWS WHERE PEOPLE WERE. AND ONCE YOU
4 HAVE AN ACCURATE DIAGRAM OF THE SCENE, IF YOU ARE
5 TALKING TO MULTIPLE WITNESSES LIKE WE DID IN THIS CASE,
6 IT'S EASIER TO SHOW THEM THIS AND SAY, WHERE WERE YOU IN
7 REGARDS TO THIS? AND IT GIVES US A BETTER UNDERSTANDING
8 OF WHERE THEY WERE THAT MOMENT AT THAT TIME BECAUSE WE
9 BENEFIT, AND THAT'S WHY WE COME UP WITH THIS.

10 AND AS YOU CAN SEE, WE USE A PHYSICAL PIECE OF --
11 A PHYSICAL OBJECT THAT WAS TANGIBLE FOR US TO START THAT
12 WAS IN CLOSE PROXIMITY WHERE THE VICTIM WAS. THE VICTIM
13 WAS FOUND IN THIS INCIDENT IN THIS AREA IN HERE NEAR THE
14 GRATE (POINTING). THIS IS A LARGE METAL STORM GRATE
15 WITH A LIGHT BULB BESIDE IT. AND MEASUREMENTS WERE
16 TAKEN FROM THIS LOCATION TO VARIOUS POINTS THROUGHOUT
17 THE PARKING LOT.

18 SALEM CHURCH ROAD IS HERE (POINTING), THIS IS THE
19 STOREFRONT, THIS IS WHERE PUBLIX IS WRITTEN ON THE
20 STORE, AND THESE ARE THE ROADS IN THE PARKING LOT, AND
21 THIS IS CLEMSON BOULEVARD IN THIS AREA UP HERE AND THIS
22 IS CHILI'S. (POINTING).

23 Q. NOW, THROUGHOUT YOUR INVESTIGATION, THEN, WERE
24 YOU ABLE -- I KNOW YOU SAID THE VICTIM WAS IN THIS
25 AREA -- WERE YOU ABLE TO GATHER WHERE THE OTHER PARTIES

1 INVOLVED WERE?

2 A. WE WERE. WE TOOK APPROXIMATELY 60 STATEMENTS.
3 OUR DETERMINATION WAS THAT THE CROWD WAS IN THIS AREA
4 AROUND THIS GRATE DUE TO THE VICTIM BEING IN THE CROWD.
5 HE WAS NOT ON THE OUTSKIRTS OF THE CROWD, AND BY ALL
6 ACCOUNTS HE WAS IN THE MIDDLE OF THE CROWD WITH THE REST
7 OF THE PEOPLE INVOLVED.

8 AND WE FOUND THAT THE CROWD OF YOUNG PEOPLE WAS
9 IN THIS AREA, AND THAT LARICKY "BOOT" HARKNESS WAS IN
10 THIS AREA HERE, AND THAT SAMMY SCOTT ENTERED FROM HERE,
11 CIRCLED HERE, IN THIS AREA, AND EXITED THE SAME WAY.

12 AND SO WITH SAMMY SCOTT HERE, THE CROWD HERE, AND
13 BOOT IN THIS AREA HERE IN HIS VEHICLE. SO YOU CAN SEE
14 NOW YOU HAVE MR. SCOTT, THE CROWD, AND THEN
15 MR. HARKNESS. (DEMONSTRATING).

16 MS. HUEY: AT THIS TIME WE WOULD MOVE
17 STATE'S 25 INTO EVIDENCE.

18 MR. POTTER: NO OBJECTION.

19 (STATE'S EX. # 25, DIAGRAM OF CRIME SCENE,
20 WAS RECEIVED IN EVIDENCE.)

21 BY MS. HUEY:

22 Q. NOW, IN ADDITION TO THE DIAGRAM, DID YOU ALSO DO
23 AERIAL PHOTOGRAPHS?

24 A. WE DID A LARGE AERIAL PHOTO. WE TOOK A
25 HELICOPTER UP AND TOOK IT AT ALMOST AS CLOSE OF AN ANGLE

1 AS WE COULD GET DUE TO WINDS AND AIR CONDITIONS AT THE
2 TIME.

3 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
4 STATE'S 12. AND IF YOU COULD TELL US WHAT THAT DEPICTS.

5 A. OKAY. THIS IS THE PARKING LOT AND THIS IS THE
6 PUBLIX. THIS IS A K-MART BESIDE IT. THIS IS SALEM
7 CHURCH ROAD HERE, IT RUNS ALONGSIDE THE PARKING LOT.
8 THIS IS THE PARKING LOT, LIKE I SAID, THIS IS THE MAIN
9 ENTRANCE, THE FRONT OF THE STORE. THIS HERE AT THE
10 BASE, YOU CAN BARELY SEE AN ORANGE OR YELLOW WARNING
11 CONCRETE PYLON. THAT IS THE BASE FOR THE STREETLIGHT
12 THAT I SHOWED YOU EARLIER ON THE DIAGRAM. AND IF YOU
13 LOOK BESIDE IT YOU CAN BARELY SEE BECAUSE THERE'S A DARK
14 SPOT HERE, AND THAT IS THE STEEL GRATE THAT I WAS
15 TALKING ABOUT. THIS ORANGE SPOT HERE IS WHERE THE
16 VICTIM WAS LAYING. (DEMONSTRATING).

17 MS. HUEY: AT THIS TIME I'D MOVE STATE'S 12
18 INTO EVIDENCE.

19 MR. POTTER: I DON'T HAVE ANY OBJECTION TO
20 THAT.

21 THE COURT: WITHOUT OBJECTION?

22 MR. POTTER: WITHOUT OBJECTION.

23 THE COURT: ADMITTED.

24 (STATE'S EX. # 12, AERIAL PHOTOGRAPH, PUBLIX
25 PARKING LOT, WAS RECEIVED IN EVIDENCE.)

1 BY MS. HUEY:

2 Q. ONCE YOU GOT THE AERIAL PHOTOGRAPHS, WHAT WAS
3 YOUR NEXT STEP IN TERMS OF DECIDING WHO WAS RESPONSIBLE
4 FOR KILLING JAVARIS CLINKSCALES?

5 A. WE TOOK SEVERAL THINGS IN CONSIDERATION. BUT
6 WHAT HAD THE MOST WEIGHING EFFECT WAS, OF COURSE, THE
7 EVIDENCE FROM THE VICTIM HIMSELF.

8 ONE THING WE TOOK IN CONSIDERATION WAS LOCATION
9 OF PERSONS INVOLVED. AS I SAID EARLIER, ON THE DIAGRAM,
10 MR. SCOTT IS IN THIS AREA HERE (INDICATING) AT THE TIME
11 OF THE SHOOTING. THE CROWD AND VICTIMS ARE IN THIS AREA
12 HERE (INDICATING); AND THE OTHER PERSON INVOLVED,
13 MR. HARKNESS, IS IN THIS AREA HERE OF THE PARKING LOT,
14 AND THAT'S ACCORDING TO OUR STATEMENTS.

15 AS WELL AS WE COULD FIGURE, WHEN MR. SCOTT
16 ENTERED HERE (INDICATING), HE FIRED TOWARDS LARICKY
17 HARKNESS THROUGH THIS CROWD OF PEOPLE. THE CROWD WAS
18 HERE (INDICATING), HARKNESS WAS ON THE OTHER SIDE, SO
19 NATURALLY HE HAD TO FIRE THROUGH THE CROWD IN AN ATTEMPT
20 TO STRIKE MR. HARKNESS.

21 AND ACCORDING TO HIS STATEMENT, HE SAID HE WAS
22 SHOOTING AT BOOT AND HE SHOT AT BOOT TWICE. WITH THE
23 STATEMENTS THAT WE HAD AND THE EVIDENCE THAT WE HAD,
24 THAT PUT MR. SCOTT AND MR. HARKNESS ON OPPOSITE SIDES OF
25 THE CROWD. SO IF MR. SCOTT WAS SHOOTING AT

1 MR. HARKNESS, HE HAD TO SHOOT INTO THE CROWD, THROUGH
2 THE CROWD IN ATTEMPTS TO HIT MR. HARKNESS.

3 HAVING THAT IN MIND, ONCE THE AUTOPSY WAS
4 PERFORMED AND WE RECEIVED THE REPORT FROM DR. WOODARD
5 THAT THE VICTIM DIED FROM BUCKSHOT WOUNDS TO THE HEAD,
6 WE FOUND NO EVIDENCE OF MR. HARKNESS EVER HAVING A
7 SHOTGUN AT THAT SCENE THAT NIGHT DURING THAT MOMENT. HE
8 HAD NO BUCKSHOT WITH HIM, HE HAD NO SHOTGUN WITH HIM.
9 HE ONLY HAD A SMALL CALIBER HANDGUN, WHICH IS A .25
10 CALIBER HANDGUN, WHICH IS SMALLER IN DIAMETER, THE .25
11 CALIBER BULLET, THAN THE .32 CALIBER BULLET YOU HEARD.
12 THIS BUCKSHOT, THIS DOUBLE-AUGHT BUCKSHOT IS EQUIVALENT
13 TO A .32 CALIBER, A .25 CALIBER, OF COURSE, WHICH IS
14 SMALLER.

15 HAVING THAT IN MIND, AND THE SHAPE OF THE
16 BUCKSHOT ITSELF BEING ROUND AND SPHERICAL, NOT
17 CONE-SHAPED LIKE A HANDGUN PROJECTILE IS, AND JACKETED,
18 I THINK IT'S JACKETED IN COPPER, THE ROUNDS THEMSELVES
19 BEING FOUND, AND THE LOCATION OF WHERE THE VICTIM WAS
20 STRUCK BEING FROM A SIDE ANGLE, AND EVERYTHING THAT WAS
21 FOUND THAT WE TALKED TO WITNESSES, AND AS YOU HEARD
22 TESTIMONY ON HERE, THE WITNESSES SAID THAT BOOT WAS IN
23 FRONT OF HIM AND THEY WERE LOOKING AT BOOT'S CAR WHEN
24 THEY HEARD THE SHOTS.

25 AND THAT'S ACCURATE WITH MR. CLINKSCALES, THE

1 VICTIM, WAS STANDING THERE WITH HIS FRIENDS AND THEY
2 WERE ALL LOOKING IN THE SAME DIRECTION, AND THE SHOT
3 COMING FROM BESIDE AND BEHIND, WHERE MR. SCOTT WAS
4 LOCATED.

5 AND THAT'S WHY WE MADE A DETERMINATION DUE TO THE
6 EVIDENCE WE FOUND THAT MR. SCOTT WAS IN POSSESSION WITH
7 A SHOTGUN AND THAT IT WAS BUCKSHOT, AND THAT HE HAD
8 FIRED TWICE INTO THE CROWD; THEREFORE, WE MADE THE
9 CHARGE OF MURDER AGAINST HIM AT THAT POINT.

10 Q. HOW ABOUT THE OTHER CHARGES AGAINST THE OTHER
11 VICTIMS?

12 A. THE OTHER VICTIMS, DUE TO THEM BEING STRUCK AND
13 RECEIVING MEDICAL ATTENTION, AND HIS DISCHARGING A
14 DEADLY WEAPON INTO A CROWD, WE CHARGED HIM ALSO WITH
15 ASSAULT AND BATTERY WITH INTENT TO KILL. BY DISCHARGING
16 A WEAPON, I DON'T THINK I HAVE ANY OTHER INTENT OTHER
17 THAN TO KILL YOU. AND CAUSING SEVERE BODILY INJURY TO
18 WHERE THEY HAD MEDICAL TREATMENT, WE'RE CHARGING THOSE
19 SUBSEQUENT FOUR COUNTS OF ASSAULT AND BATTERY WITH
20 INTENT TO KILL, AND ALSO THE COMMISSION OF A VIOLENT
21 CRIME, WHICH IS A SEPARATE CHARGE.

22 Q. NOW, LARICKY HARKNESS WAS CHARGED HIMSELF?

23 A. THAT'S CORRECT. WE FOUND NO PROJECTILES OF
24 MR. HARKNESS'S ON ANY OF THE VEHICLES AND ON ANY OF THE
25 VICTIMS. WE FOUND NO POSSIBLE PROJECTILES OF HIS THAT

1 WE COULD ARTICULATE WERE POSSIBLY A .25 CALIBER. THEY
2 WERE ALL LARGER THAN .25 CALIBER. EVEN THE SMALL
3 FRAGMENTS WERE LEAD-CORED SPHERICAL ROUND SHAPE, AND
4 NONE SEEMED TO BE COPPER JACKETED. ALL ROUNDS THAT WE
5 RECOVERED FROM MR. HARKNESS' GUN WERE COPPER-JACKETED
6 ROUNDS.

7 Q. SO HE WAS CHARGED IN CONNECTION WITH THIS, BUT HE
8 JUST DIDN'T HIT ANYBODY?

9 A. HE WAS CHARGED WITH ASSAULT WITH INTENT TO KILL.
10 THE DIFFERENCE IN THE CHARGE WITH ASSAULT WITH INTENT TO
11 KILL AND ASSAULT AND BATTERY WITH INTENT TO KILL IS IF I
12 STRIKE YOU WITH AN OBJECT.

13 IF I, FOR EXAMPLE, IN SHOOTING AT YOU ALL AS THE
14 JURY, AND IF I SHOOT ABOVE YOUR HEADS AND I DO NOT HIT
15 ANYONE, THAT'S ASSAULT WITH INTENT TO KILL. IF I SHOOT
16 INTO THE CROWD AND I STRIKE SOME OF YOU, THAT'S ASSAULT
17 AND BATTERY WITH INTENT TO KILL, AND THE BATTERY IS
18 UNWANTED TOUCHING PHYSICAL CONTACT, AND THAT WAS THE
19 DIFFERENCE IN THE CHARGES.

20 MS. HUEY: THANK YOU. YOU CAN HAVE A SEAT.

21 (WITNESS RESUMES STAND.)

22 BY MS. HUEY:

23 Q. NOW, WAS SAMMY SCOTT TESTED FOR GUNSHOT RESIDUE?

24 A. NO. THE TIME HAD ELAPSED THAT WE FELT THAT WE
25 COULDN'T GET AN ACCURATE TESTING FROM MR. SCOTT. IT WAS

1 I WANT TO SAY A PERIOD OF MAYBE 40 HOURS AFTER THE FACT,
2 SO IT WAS WELL OUTSIDE THE SIX-HOUR RANGE THAT WE
3 NORMALLY TEST FOR G.S.R.

4 Q. SO IF YOU HAD TESTED -- BECAUSE HE WAS OUTSIDE
5 THAT RANGE, IT WAS UNLIKELY TO FIND THE GUNSHOT RESIDUE?

6 A. VERY UNLIKELY THAT ANY POSITIVE OR NEGATIVE
7 RESULT WOULD HAVE SHOWN; IT WOULD NOT HAVE SHOWN
8 ANYTHING ABOUT THAT SPECIFIC TIME FRAME.

9 Q. NOW, TELL ME HOW JOHNNY MAHAFFEY'S INVOLVEMENT
10 CAME ABOUT IN YOUR INVESTIGATION.

11 A. I WAS INFORMED IN PASSING BY DETECTIVE REEVES
12 THAT HE HAD SOME INFORMATION FROM JOHNNY MAHAFFEY, AND
13 THE INFORMATION WOULD POSSIBLY BE INVOLVED IN SOME TYPE
14 OF HOMICIDE. HE DIDN'T SPECIFICALLY SAY WHICH ONE. AND
15 I WORK ON SEVERAL HOMICIDES A YEAR, AND WE JUST ROUGHLY
16 SPOKE IN PASSING.

17 AND I'D HAD A, NOT A RELATIONSHIP WITH
18 MR. MAHAFFEY, BUT I HAD INTERACTED WITH HIM IN MY
19 PROFESSIONAL JOB BEFOREHAND. I HAD CHARGED HIM PREVIOUS
20 TO THE MURDER CHARGE THAT HE WAS CHARGED WITH, AND I
21 KNEW OF MR. MAHAFFEY, AND I'D ACTUALLY ASSISTED
22 DETECTIVE REEVES ON HIS MURDER INVESTIGATION OF
23 MR. MAHAFFEY'S INVOLVEMENT. AND WE WERE SPEAKING ABOUT
24 IT, AND SEVERAL MONTHS LATER AFTER HE HAD BEEN ARRESTED
25 AND DURING THE INVESTIGATION PROCESS MR. REEVES HAD

1 GOING ON, HE INFORMED ME THAT HE HAD RECEIVED A LETTER
2 FROM MR. MAHAFFEY SAYING, I HAVE SOME INFORMATION -- IT
3 ACTUALLY CAME TO OUR SHERIFF, FIRST OF ALL, WHO IN TURN
4 GAVE IT TO MR. REEVES -- AND STATED THAT MR. MAHAFFEY
5 HAD, POSSIBLY HAD SOME INFORMATION ABOUT ANOTHER
6 UNRELATED HOMICIDE TO HIS.

7 Q. SO AS A RESULT OF THAT, IS THAT WHY KEN BLAKELY
8 THEN WENT TO SEARCH THE LAKE?

9 A. HE ACTUALLY WENT AND SEARCHED THE LAKE DUE TO
10 MR. MAHAFFEY'S CONFESSION IN HIS MURDER, AND THEN
11 BASICALLY HE GAVE DIRECTIONS AS TO WHERE HE THREW HIS
12 WEAPON THAT HE USED IN HIS HOMICIDE, AND THEY WENT TO
13 RETRIEVE HIS WEAPON. AND --

14 Q. AND WHAT KIND OF WEAPON WAS THAT?

15 A. IT WAS A, I BELIEVE A RUGER, A HANDGUN. I KNOW
16 IT WAS A HANDGUN, BUT I BELIEVE IT WAS A RUGER HANDGUN.
17 AND THEY WENT TO SEARCH FOR THAT SPECIFIC HANDGUN, AND
18 BY HAPPENSTANCE CAME ACROSS THIS. THEY WERE NOT AWARE
19 OF THE EVIDENTIARY, POSSIBLE EVIDENTIARY VALUE OF THIS
20 WEAPON WHEN THEY DID THAT SEARCH. THEY WERE NOT PRIVY
21 TO THE CONVERSATION THAT MR. REEVES AND I HAD.

22 Q. NOW, BUT NONETHELESS, IT WAS COLLECTED FROM THE
23 LAKE?

24 A. THAT'S CORRECT.

25 Q. NOW, WHAT WAS THE SIGNIFICANCE OF THIS ONCE YOU

1 SAW IT FOR YOURSELF?

2 A. ONCE I HEARD ABOUT A WEAPON HAD BEEN FOUND THAT
3 WAS A SAWED-OFF SHOTGUN THAT WAS FOUND AT THE
4 CENTERVILLE ROAD WHITE CITY PARK BRIDGE, IT PIQUED MY
5 INTEREST DUE TO THE DESCRIPTION I GOT OF THE WEAPON
6 BEING A SMALL SAWED-OFF SHOTGUN BECAUSE I WAS FAMILIAR
7 WITH THE SKETCH THAT MR. SCOTT HAD GIVEN US AT THE TIME
8 OF HIS CONFESSION OF WHAT THE GUN LOOKED LIKE. AND, OF
9 COURSE, WHEN I SAW THE WEAPON, I SAID THIS COULD BE THE
10 WEAPON.

11 AND IT WAS, IT WAS WELL OVER A YEAR BEFORE I EVEN
12 SAW THE WEAPON. BECAUSE I'D HEARD ABOUT THE WEAPON.
13 THEY HAD WENT OUT ON ANOTHER DIVE AND RECOVERED THE
14 WEAPON. I DID NOT SPEAK WITH INVESTIGATOR BLAKELY. HE
15 DID NOT SPEAK WITH ME, SO HE WAS UNAWARE OF MY POSSIBLE
16 INTEREST IF THIS WEAPON, AND SO THAT'S WHY IT WAS
17 RETAINED BY HIM FOR SO LONG WITHOUT ME EVER SEEING IT OR
18 EVER FOLLOWING UP THE INVESTIGATION ON IT.

19 ONCE I DID FIND OUT THAT HE HAD A WEAPON IN HIS
20 POSSESSION THAT MATCHED THE DESCRIPTION OF MR. SCOTT'S
21 WEAPON THAT HE DREW FOR US, THEN I BECAME INTERESTED AND
22 WENT AND LOCATED MR. MAHAFFEY IN MCCORMICK AND SPOKE
23 WITH HIM.

24 Q. NOW, SO YOU SAID IT WAS CONSISTENT WITH WHAT
25 MR. SCOTT DREW?

1 A. THAT'S CORRECT.

2 Q. NOW, IS IT ALSO CONSISTENT WITH WITNESS
3 STATEMENTS TAKEN THAT -- AND MR. SCOTT'S STATEMENT
4 HIMSELF, WHETHER THERE WERE AT LEAST THREE OR FOUR
5 SHOTGUN BLASTS?

6 A. YES. IT IS A SINGLE-SHOT BREACH-OPERATED
7 SHOTGUN. I'M SURE PEOPLE ARE FAMILIAR WITH A
8 DOUBLE-BARREL SHOTGUN OR THE OLD FARMER'S GUN THAT YOU
9 ACTIVATE A LEVER AND THE BREACH COMES OPEN, AND WHEN IT
10 DOES, IT EJECTS THE SPENT SHOTGUN SHELL CASING, AND YOU
11 SIMPLY HAVE TO PUT A NEW SHOTGUN SHELL INTO THE BREACH,
12 CLOSE IT, AND ACTIVATE THE TRIGGER. YOU MAY HAVE TO
13 COCK A HAMMER, BUT IT'S STILL A VERY SIMPLE OPERATED
14 WEAPON. AND A PERSON COULD OPERATE A BREACH, OPERATE A
15 SHOTGUN, I COULD FIRE APPROXIMATELY FIVE ROUNDS IN LESS
16 THAN 30 SECONDS.

17 Q. AND SO IT CAN HAPPEN QUICKLY, THEN?

18 A. VERY QUICKLY.

19 Q. BUT THAT HE WOULD HAVE TO RELOAD?

20 A. THAT'S CORRECT. AFTER EVERY, AFTER EVERY FIRING
21 OF THE WEAPON, WHEN YOU DISCHARGED THAT ONE SHOTGUN
22 SHELL, WHEN IT WAS EXPELLED THROUGH THE BARREL, OR THE
23 SHOTGUN SHELL WAS EXPELLED OUT THE BARREL, YOU WOULD
24 HAVE TO ACTIVATE THE LEVER, OPEN THE BREACH, AND AT THAT
25 TIME MOST BREACH-OPERATED SHOTGUNS HAVE AN AUTOMATIC

1 EJECTION WHERE THEY THROW THE SPENT SHELL OUT IN A
2 BACKWARD FASHION. YOU'D SIMPLY TAKE A NEW SHELL, PUT IT
3 IN, CLOSE THE BREACH, AND PULL THE TRIGGER.

4 Q. AND THAT COULD BE DONE IN HOW MUCH TIME, YOU
5 THINK?

6 A. LIKE I SAID, I COULD PROBABLY OPERATE A
7 BREACH-LOADED SHOTGUN OF THIS STYLE AND DISCHARGE
8 APPROXIMATELY FIVE ROUNDS IN APPROXIMATELY LESS TIME
9 THAN 30 SECONDS.

10 Q. NOW, CAN WE SAY FOR SURE, THOUGH, THAT THIS IS
11 THE WEAPON THAT SAMMY SCOTT USED IN THE PUBLIX SHOOTING?

12 A. NO. I CONSULTED THE STATE LAW ENFORCEMENT
13 DIVISION AT THE TIME WHEN WE HAD THE WEAPON WITH US.
14 AND DUE TO ITS SEVERE CORROSION, ITS LONG-TERM IMMERSION
15 IN WATER, IT WOULD BE IMPOSSIBLE TO DETERMINE THAT THIS
16 WAS THE WEAPON THAT WAS USED THAT CAUSED THE DEATH OF
17 JAVARIS CLINKSCALES WITHOUT THAT. IT WOULD BE
18 IMPOSSIBLE TO DO UNLESS THERE WERE TOOL MARK, PROJECTILE
19 MARKS THAT THE FIREARMS EXPERT TESTIFIED TO EARLIER.
20 IT'S VERY RARE THAT YOU WOULD GET THOSE PROJECTILE MARKS
21 FROM A SHOTGUN.

22 Q. BUT BASED ON YOUR INVESTIGATION ---

23 A. BASED ON MY INVESTIGATION, MY INTERVIEW WITH
24 MR. MAHAFFEY -- I WAITED A TIME FRAME BECAUSE OF HIS
25 IMPENDING INVESTIGATION. I WAITED TILL HE WAS SENTENCED

1 AND HE HAD WENT THROUGH A LOCATION PROCESS THROUGH THE
2 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS WAS AT HIS
3 FINAL LOCATION. THAT'S WHEN I WENT AND SPOKE WITH HIM,
4 AND THAT IS WHEN HE INFORMED ME OF THE CONVERSATION HE
5 AND MR. SCOTT HAD HAD, AND HIS BELIEF THAT THIS WEAPON
6 WAS THE SAME WEAPON THAT THEY HAD DISCUSSED.

7 MS. HUEY: THAT'S ALL I HAVE AT THIS TIME,
8 JUDGE.

9 THE COURT: CROSS-EXAMINATION?

10 MR. POTTER: THANK YOU, YOUR HONOR.

11 CROSS-EXAMINATION BY MR. POTTER:

12 Q. DETECTIVE OWENS, ~~THERE'S NO WAY YOU KNOW FOR SURE~~
13 ~~WHETHER THAT SHOTGUN WAS THE SHOTGUN THAT WAS INVOLVED~~
14 ~~IN THE SHOOTING?~~

15 A. ~~NO~~, SIR.

16 Q. THERE WAS ANOTHER SHOTGUN, TOO, WASN'T THERE?

17 A. YES, SIR, THERE WAS.

18 Q. AND THAT WAS DEMETRIUS EVANS' SHOTGUN, CORRECT?

19 A. THAT WAS WHOSE?

20 Q. DEMETRIUS EVANS' SHOTGUN.

21 A. THAT'S CORRECT.

22 Q. OKAY. AND HE HAD A 12-GAUGE SHOTGUN THAT WAS
23 FOUND IN HIS VEHICLE; IS THAT RIGHT?

24 A. THAT'S CORRECT.

25 Q. AND HE HAD SHELLS FOUND, AS WELL?

1 A. THAT'S CORRECT. HE HAD BIRDSHOT FOUND IN HIS
2 VEHICLE.

3 Q. OKAY. BUT, AND WE HAVE A 12-GAUGE SHOTGUN, WE
4 HAVE BIRDSHOT SHELLS THAT WERE UNSPENT?

5 A. UH-HUH.

6 Q. DID HE HAVE SPENT SHELLS IN HIS GUN?

7 A. HE HAD ONE SPENT SHELL THAT WAS STILL ACTUALLY IN
8 THE WEAPON ITSELF.

9 Q. AND YOU INDICATED YOU FOUND SHELL CASINGS IN
10 BOOT'S CAR; IS THAT CORRECT?

11 A. THAT'S CORRECT, LIVE AMMUNITION.

12 Q. YOU DIDN'T FIND SHELL CASINGS IN THE KIA?

13 A. THE BLACK KIA?

14 Q. THE BLACK KIA.

15 A. NO, SIR, WE DID NOT.

16 Q. OKAY. SO YOU DID FIND SHELL CASINGS IN BOOT'S
17 CAR, BUT THOSE WEREN'T 12-GAUGE SHOTGUN SHELL CASINGS?

18 A. NO, SIR, THEY WERE .25-CALIBER.

19 Q. .25 CALIBER SHELL CASINGS?

20 A. THAT'S CORRECT.

21 Q. AND BOOT, THE DELTA '88 WASN'T AT THE SCENE WHEN
22 YOU GOT THERE. IT WAS STOPPED EXACTLY WHERE?

23 A. I BELIEVE IT WAS ON 28 BYPASS NEAR WAL-MART JUST
24 BEFORE THE INTERSECTION OF HIGHWAY 29.

25 Q. OKAY. ABOUT HOW FAR AWAY FROM PUBLIX WAS IT?

1 A. I WOULD SAY A ROUGH ESTIMATE WOULD BE ANYWHERE
2 FROM FIVE TO SEVEN MILES.

3 Q. OKAY. WE'RE NOT TALKING ABOUT THE WAL-MART THAT
4 EVERYBODY CAME FROM?

5 A. NO, SIR. THAT WAS THE ONE ON LIBERTY HIGHWAY.

6 Q. NOW, YOU INDICATED THAT DEMETRIUS EVANS HAD A
7 12-GAUGE SHOTGUN?

8 A. THAT'S CORRECT.

9 Q. AND THAT WAS CONFISCATED?

10 A. THAT'S CORRECT.

11 Q. IS IT STILL IN EVIDENCE?

12 A. YES, SIR. WE HAD IT SENT TO S.L.E.D.

13 Q. IT'S STILL BEING HELD IN EVIDENCE?

14 A. YES, SIR.

15 Q. AND...

16 A. WELL, I TAKE THAT BACK. I DON'T KNOW IF WE
17 RELEASED THAT WEAPON. I CAN'T SAY DEFINITELY THAT
18 IT'S STILL THERE. I KNOW THAT WE, ONCE WE GOT IT BACK
19 FROM S.L.E.D.'S LABORATORY FOR ANALYSIS, WE FOUND THAT
20 ALONG WITH ---

21 Q. THAT'S NOT MY QUESTION. MY QUESTION IS ---

22 A. WHAT I'M SAYING IS I CAN'T 100 PERCENT SAY THAT
23 WE STILL HAVE IT IN EVIDENCE. WE MAY HAVE RELEASED IT
24 TO HIM AT THIS TIME.

25 Q. NOW, ~~WITH REGARD TO THIS WEAPON THAT WAS FOUND IN~~

1 ~~THE LAKE, YOU DON'T KNOW HOW LONG IT WAS THERE?~~

2 A. NO, SIR.

3 Q. OKAY. ~~IT COULD HAVE BEEN FOR A COUPLE MONTHS~~
4 ~~WHEN IT WAS FOUND OR IT COULD HAVE BEEN THERE FOR TEN~~
5 ~~YEARS, AS FAR AS YOU KNOW?~~

6 A. ~~THEORETICALLY, YES.~~

7 Q. ~~YOU NEVER TEST FIRED IT?~~

8 A. NO, SIR. ~~DOE TO ITS DETERIORATED STATE, I FELT~~
9 ~~IT WOULD BE UNSAFE.~~

10 Q. YOU DON'T EVEN KNOW IT WORKED IN THE FIRST PLACE?

11 A. NO, SIR.

12 Q. YOU INDICATED THAT IN A SINGLE-SHOT SHOTGUN, YOU
13 HAVE TO BREACH IT FOR THE SHELL TO COME OUT?

14 A. THAT'S CORRECT.

15 Q. AND YOU HAVE BEEN A LAW OFFICER FOR HOW LONG?

16 A. TEN YEARS.

17 Q. OKAY. SO YOU ARE TRAINED TO HANDLE FIREARMS?

18 A. YES, SIR.

19 Q. YOU HAVE TO BE QUALIFIED ON THE RANGE TO HANDLE
20 FIREARMS --

21 A. YES, SIR.

22 Q. -- IN ORDER TO KEEP BEING AN OFFICER --

23 A. YES, SIR.

24 Q. -- A DETECTIVE?

25 SO YOU ARE FAMILIAR WITH HANDLING THOSE WEAPONS,

1 AND YOU HAVE BEEN DOING IT FOR A LONG PERIOD OF TIME?

2 A. YES, SIR.

3 Q. OKAY.. AND YOUR TESTIMONY IS THAT YOU COULD
4 EASILY SHOOT FIVE ROUNDS WITHIN 30 SECONDS USING THAT
5 PARTICULAR WEAPON; IS THAT CORRECT?

6 A. APPROXIMATELY. LESS THAN 30 SECONDS, FIVE
7 ROUNDS.

8 Q. AND THAT'S ON THE RANGE, RIGHT?

9 A. YES, SIR. WELL, THAT'S ANY, BASICALLY ANY
10 SITUATION: IF I WAS SEATED, STANDING, LYING DOWN, I
11 FEEL LIKE I COULD POSSIBLY DO THAT.

12 Q. IT'S NOT YOUR SERVICE REVOLVER.

13 A. NO, SIR.

14 Q. YOU DON'T CARRY SOMETHING LIKE THAT.

15 A. NO, SIR.

16 Q. WHY DON'T YOU?

17 A. DUE TO THE LIMITED AMOUNT OF AMMUNITION THAT YOU
18 CAN CARRY, YOU WOULD HAVE TO CARRY SOME IN YOUR HAND OR
19 IN YOUR LAP OR IN A POCKET OR SOMETHING LIKE THAT.

20 Q. WELL, IT'S A SINGLE SHOT, TOO.

21 A. THAT'S CORRECT.

22 Q. YOU NEED SOMETHING THAT'S GOING TO BE MORE
23 PROTECTION FOR YOU, CORRECT?

24 A. CORRECT.

25 Q. AND WHEN YOU'RE UNDER A STRESSFUL SITUATION,

1 YOU'RE GONNA TUMBLE A LITTLE BIT WHILE YOU'RE TRYING TO
2 RELOAD, AREN'T YOU?

3 A. YOU MAY, YES.

4 Q. NOW, THE GUNSHOT RESIDUE TEST THAT WAS DONE ON
5 THE VEHICLE, THE S.L.E.D. REPORT CAME BACK ON THAT ONE
6 AS SAYING THAT NO ANALYSIS WAS DONE DUE TO IMPROPER
7 COLLECTION?

8 A. YOU ARE SPEAKING ABOUT THE VEHICLE?

9 Q. YES.

10 A. THAT'S CORRECT. THAT'S CORRECT.

11 Q. S.L.E.D. SAID YOU DIDN'T DO IT RIGHT?

12 A. CORRECT.

13 Q. SO THEY DIDN'T EVEN WANT TO DO AN ANALYSIS?

14 A. CORRECT.

15 Q. AND YOU INDICATED THAT THERE WERE GUNSHOT RESIDUE
16 TESTS DONE ON OTHER PEOPLE, AS WELL, DIDN'T YOU?

17 A. THAT'S CORRECT.

18 Q. AND THE GUNSHOT CAME BACK AS POSITIVE ON LARICKY?

19 A. THAT'S RIGHT. WE DID EVERY VICTIM, AND ALSO
20 MR. EVANS THAT HAD THE OTHER SHOTGUN, AND ALL OF THEM
21 WERE NEGATIVE GUNSHOT RESIDUE KITS.

22 Q. IT DOESN'T MEAN THAT SOMEONE DIDN'T HOLD A GUN.

23 A. IT DOESN'T MEAN THAT -- SOMEONE COULD HOLD A GUN.

24 Q. IT DOESN'T MEAN THAT SOMEBODY COULD, AFTER FIRING
25 A WEAPON, WASH OFF GUNSHOT RESIDUE FROM THEIR HANDS?

1 A. IF SOMEBODY HAD A SINK AND SOAP READILY
2 AVAILABLE, THEN YES, THEY COULD WASH THEIR HANDS BEFORE
3 WE COULD TEST THEM, YES.

4 Q. NOW, YOU TESTIFIED YOU HAD ABOUT 60 STATEMENTS?

5 A. THAT IS CORRECT.

6 Q. ALL RIGHT? 60 STATEMENTS.

7 A. THAT'S CORRECT, SIR.

8 Q. IS IT POSSIBLE YOU WERE UNABLE TO GET STATEMENTS
9 FROM PEOPLE WHO WERE THERE?

10 A. IT'S POSSIBLE. THERE MAY HAVE BEEN A HANDFUL OF
11 PEOPLE THAT WE DID NOT OR WEREN'T ABLE TO SPEAK WITH.
12 BUT EVERY PERSON THAT PROVIDED A STATEMENT, WE ASKED WHO
13 ALL WAS THERE, AND THAT'S BASICALLY HOW IT SNOWBALLED
14 INTO THE EFFECT OF HAVING 60 PERSONS ON THE SCENE
15 BECAUSE ONE PERSON KNOWS OF FIVE TO TEN PEOPLE THERE BY
16 NAME THAT THEY CAN RECOLLECT TO US, AND, IN TURN, VICE
17 VERSA.

18 MR. POTTER: NOTHING FURTHER, YOUR HONOR.

19 THE COURT: ANY REDIRECT?

20 MS. HUEY: YES, SIR.

21 REDIRECT EXAMINATION BY MS. HUEY:

22 Q. NOW, MR. OWENS, MR. POTTER BRINGS UP DEMETRIUS
23 EVANS.

24 A. UH-HUH.

25 Q. HAD HE EVER BEEN IN THE PUBLIX PARKING LOT THAT

1 NIGHT?

2 A. NO, MA'AM. HE WAS STOPPED -- OF COURSE, WHEN
3 SOMETHING LIKE THIS HAPPENS, OFFICERS ARE ON HIGH ALERT
4 FOR PERSONS RETURNING TO THE SCENE TO PICK UP PERSONS
5 THAT MAY RUN ON FOOT, PEOPLE THAT MAY BE TRYING TO FLEE
6 THE AREA ON FOOT AND HAVE FRIENDS PICK THEM UP. SOME
7 OFFICERS OBSERVED MR. EVANS, WHETHER HE WAS JUST BEING
8 NOSEY, BUT HE WAS, HIS DRIVING WAS ERRATIC ENOUGH THAT
9 THEY FELT IT WAS NECESSARY TO STOP HIM AND IDENTIFY HIM.

10 Q. AND DO YOU KNOW WHY HIS DRIVING WAS ERRATIC?

11 A. I DO NOT. I DON'T KNOW IF -- I BELIEVE, I
12 BELIEVE THAT HE WAS CONTACTED BY A FAMILY MEMBER WHO WAS
13 AT PUBLIX AND HE WAS CONCERNED FOR THEM AND THAT'S WHY
14 HE CAME TO THE CLEMSON BOULEVARD AREA, TO SEE IF HIS
15 FAMILY MEMBER HAD BEEN HARMED.

16 Q. NOW, AND A SHOTGUN WAS FOUND IN HIS VEHICLE?

17 A. THAT'S CORRECT.

18 Q. ALL RIGHT. AND AS A RESULT OF THAT, YOU ALL DID
19 A GUNSHOT RESIDUE KIT ON HIM?

20 A. THAT'S CORRECT.

21 Q. AND THAT CAME BACK AS WHAT?

22 A. NEGATIVE RESULTS. IT SAID THAT HE HAD NOT
23 DISCHARGED A WEAPON AT ALL. HE HAD NOT BEEN IN CLOSE
24 PROXIMITY OF A WEAPON THAT HAD BEEN DISCHARGED. AND
25 THIS WEAPON WAS A LONG, FULL-SIZED, WHAT YOU WOULD CALL

1 A HUNTING STYLE SHOTGUN, I WOULD SAY APPROXIMATELY 36
2 INCHES TO 40 INCHES LONG.

3 Q. SO IT WASN'T A SAWED-OFF SHOTGUN?

4 A. NO, MA'AM.

5 Q. AND YOU MENTIONED EARLIER BIRDSHOT?

6 A. THAT'S CORRECT.

7 Q. NOW, WHAT IS BIRDSHOT?

8 A. BIRDSHOT, AS PREVIOUS WITNESSES HAVE STATED,
9 BIRDSHOT IS A SMALL SPHERICAL PROJECTILE THAT IS
10 BASICALLY THE SAME SHAPE AS A BB, LIKE A CHILD'S BB GUN
11 WOULD SHOOT. MOST EVERYBODY IS FAMILIAR WITH THAT. I
12 CAN'T GIVE YOU EXACT MEASUREMENTS, BUT THEY ARE VERY,
13 VERY TINY, ALMOST LIKE A PEA GRAVEL OR SMALLER SIZE.

14 Q. AND THAT IS DIFFERENT FROM THE PROJECTILES THAT
15 WERE RECOVERED FROM MR. CLINKSCALES AS WELL AS ALL THE
16 OTHER VICTIMS?

17 A. THAT'S CORRECT. THAT'S CORRECT. THE PROJECTILES
18 THAT WE FOUND IN THE VICTIM AND AT THE SCENE AND IN ALL
19 OF THE VEHICLES THAT WE PROCESSED THAT BELONGED TO THE
20 VARIOUS VICTIMS, AND ALSO THE X-RAYS THAT WE HAD, THE
21 BIRDSHOT WOULD NOT BE LARGE ENOUGH TO BE CONSIDERED
22 BUCKSHOT. IT WOULD BE WAY, WAY SMALLER IN DIAMETER AND
23 WOULD NOT BE OF THE SAME WEIGHT OR DIAMETER THAN THE
24 BUCKSHOT.

25 Q. ALL RIGHT. AND IN INTERVIEWING 60 WITNESSES, DID

1 ANYONE PUT MR. EVANS AT THE PUBLIX PARKING LOT SHOOTING
2 A SHOTGUN?

3 A. NO, MA'AM. NO ONE HAD SEEN MR. EVANS, HAD NOT
4 SEE HIS VEHICLE, DID NOT DESCRIBE A VEHICLE THAT MATCHED
5 HIS, DID NOT MATCH A SUSPECT THAT MATCHED HIM. IN NO
6 WAY, SHAPE, OR FORM WAS HE EVER EVEN MENTIONED IN OUR
7 ORIGINAL WITNESSES.

8 Q. AND SO WAS HE RULED OUT AS A SUSPECT?

9 A. WE TOOK IT INTO CONSIDERATION. BUT ONCE WE
10 LOOKED AT THE WEAPON ITSELF, THE WEAPON HAD A SPENT
11 SHELL CASING, AS I STATED EARLIER, STILL IN THE BREACH
12 AREA OF THE SHOTGUN THAT WAS SPENT, BUT IT WAS OF THE
13 SAME MAKE AND MODEL AS THE BIRDSHOT IN THE BOX OF
14 UNSPENT AMMUNITION HE HAD. AND YOU COULD LOOK INSIDE
15 THE BARREL OF THE SHOTGUN AND THERE WAS DUST PARTICLES.
16 IT WAS ALMOST AS IF HAD BEEN STORED UNDER A BED OR IN A
17 CLOSET FOR SEVERAL MONTHS AND DUST HAD BUILT UP ON IT
18 INSIDE OF THE BARREL. AND WE FELT IF HE HAD FRESHLY
19 FIRED THAT WEAPON, THAT, OF COURSE, THAT DUST WOULD NOT
20 BE THERE, IT WOULD BE A CLEAN BARREL.

21 AND MOST, A LOT OF PEOPLE ARE FAMILIAR WITH THE
22 SMELL OF A FRESHLY FIRED GUN. YOU HAVE THAT SMELL OF
23 GUN POWDER, ALMOST LIKE WHEN A FIREWORK GOES OFF YOU
24 SMELL THAT POWDER BURN SMELL ON THAT, AND THERE WAS NONE
25 OF THAT ON THE WEAPON, AROUND THAT WEAPON. AND, LIKE I

1 SAID, THE INSIDE OF THE BARREL HAD DUST ON IT.

2 MS. HUEY: THAT'S ALL I HAVE, JUDGE.

3 THE COURT: ANY RECROSS?

4 RECROSS-EXAMINATION BY MR. POTTER:

5 Q. MOST OF THE WITNESSES YOU INTERVIEWED AT THE
6 SCENE DIDN'T PLACE A BLACK KIA AT THE SCENE, DID THEY?

7 A. NOT MOST OF THE WITNESSES, BUT SOME OF THEM, YES.

8 Q. OKAY. THOSE WERE THE WITNESSES THAT WERE
9 FOLLOWING BRANDON KEASLER IN THAT CAR IN THE BACK,
10 CORRECT?

11 A. THAT'S CORRECT.

12 Q. BUT THE WITNESSES WHO WERE IN THE CROWD DID NOT
13 SEE A BLACK KIA?

14 A. THAT'S CORRECT. IT WAS BEHIND THEM, SO THEY
15 WOULD NOT HAVE BEEN ABLE TO SEE IT.

16 Q. BUT IN ALL THEIR STATEMENTS THEY DIDN'T INDICATE
17 ANY, SEEING A BLACK KIA AT ALL?

18 A. NO, SIR. LIKE I SAID, AS BEST WE COULD FIGURE
19 WITH THE SCENE THAT WE HAD, THE BLACK KIA WOULD HAVE
20 BEEN BEHIND THEM WHEN THE SHOOTING HAPPENED AND THE
21 CROWD WAS FACING IN THE GENERAL VICINITY OF BOOT.

22 Q. BUT YOU DON'T KNOW THAT ALL THOSE PEOPLE WERE
23 LOOKING ---

24 A. NO, SIR, I DON'T KNOW THAT FOR A FACT. BUT BY
25 THE WITNESSES' STATEMENTS, THAT WAS THE GENERAL

1 CONSENSUS, THAT THEY WERE LOOKING.

2 MR. POTTER: NOTHING FURTHER.

3 THE COURT: YOU MAY STEP DOWN. THANK YOU
4 VERY MUCH.

5 THE WITNESS: YES, SIR.

6 (WHEREUPON, WITNESS WAS EXCUSED AT 4:46 P.M.)

7 MS. HUEY: YOUR HONOR, IF WE COULD TAKE A
8 SHORT BREAK?

9 THE COURT: LET ME SEE YOU UP HERE FIRST
10 BEFORE YOU TAKE A BREAK.

11 MS. HUEY: YES, SIR.

12 (DISCUSSION AT SIDE-BAR.)

13 THE COURT: MADAM FORELADY, MEMBERS OF THE
14 JURY, WHAT WE'RE GOING TO DO IS WE'RE GOING TO STOP AT
15 THIS TIME. IT'S TEN MINUTES TO FIVE. LEAVE YOUR
16 NOTEPADS IN THE CHAIR. PLEASE DON'T DISCUSS THE CASE
17 WITH ANYBODY, DON'T WATCH TELEVISION ABOUT IT OR DON'T
18 READ ANYTHING IN THE PAPER ABOUT IT. WE WANT YOU TO
19 MAKE YOUR DECISION ON WHAT YOU HEAR IN THE COURTROOM,
20 NOT WHAT YOU HEAR ON TELEVISION OR READ IN THE PAPER.

21 I'LL SEE YOU IN THE MORNING. WE'LL GET
22 STARTED AT 9:30 IN THE MORNING. HAVE A GOOD EVENING.

23 (THE JURY LEFT THE COURTROOM AT 4:50 P.M.)

24 THE COURT: ALL RIGHT. FOR THE RECORD,
25 JUROR LINDA S. HURLEY, THE SECOND ALTERNATIVE, HAS BEEN

1 EXCUSED. THIS MORNING SHE CALLED IN SICK. SHE'S SICK
2 WITH BRONCHITIS, AND I HAVE EXCUSED HER, FOR THE RECORD.

3 WE'RE GOING TO TAKE A SHORT BREAK.

4 MR. POTTER, LOOK AT THE LETTER AND SEE IF THERE'S
5 ANYTHING YOU WANT TO TAKE UP WITH THE COURT AFTER YOU
6 HAVE HAD AN OPPORTUNITY TO READ IT. HOW MUCH TIME DO
7 YOU NEED?

8 MR. POTTER: I NEED TO MAKE A COPY AND
9 ADJUST IT. I'M SORRY, YOUR HONOR.

10 THE COURT: HOW MUCH TIME DO YOU NEED TO
11 READ THE LETTER AND TAKE UP ANYTHING WITH THE COURT?

12 MR. POTTER: COULD I DO THAT IN THE MORNING,
13 YOUR HONOR?

14 THE COURT: WELL, I'D RATHER DO IT THIS
15 AFTERNOON IF YOU COULD. HOW LONG IS THE LETTER?

16 MR. POTTER: WELL, HE TALKS, JUDGE, HE TALKS
17 ABOUT ---

18 THE COURT: I MEAN, IS IT A ONE-PAGE,
19 HALF-A-PAGE LETTER?

20 MR. POTTER: IT'S TWO PAGES. HE TALKS ABOUT
21 NUMEROUS DEFENDANTS THAT HE WANTS TO GIVE INFORMATION
22 ON. HE TALKS ABOUT HOW HE'S INNOCENT, HE TALKS ABOUT
23 HOW IT'S A CORRUPT LEGAL SYSTEM.

24 THE COURT: DO YOU WANT TO TAKE IT UP IN THE
25 MORNING?

1 MR. POTTER: SIR?

2 THE COURT: DO YOU WANT TO TAKE IT UP IN THE
3 MORNING?

4 MR. POTTER: I WOULD LOVE TO.

5 THE COURT: OKAY.

6 IS INVESTIGATOR REEVES HERE?

7 MS. HUEY: NO, SIR, YOUR HONOR, BUT I CAN
8 GET HIM HERE IN THE MORNING.

9 THE COURT: ALL RIGHT. WILL YOU GET HIM
10 HERE IN THE MORNING?

11 MS. HUEY: YES, YOUR HONOR.

12 THE COURT: DEPENDING UPON THE LETTER AND
13 DETECTIVE REEVES, ARE YOU GOING TO HAVE ANY FURTHER
14 WITNESSES?

15 MS. HUEY: I DON'T BELIEVE SO, JUDGE.

16 THE COURT: OKAY. ALL RIGHT.

17 HOW ABOUT MAKING TWO COPIES WHILE YOU'RE
18 MAKING THEM?

19 MR. POTTER: SEE YOU LATER.

20 THE COURT: YES, SIR.

21 (THE TRIAL OF THE STATE OF SOUTH CAROLINA V.
22 SAMMY SCOTT ADJOURNED AT 4:52 P.M. ON
23 SEPTEMBER 10, 2008, TO RESUME AT
24 APPROXIMATELY 9:30 A.M. ON SEPTEMBER 11,
25 2008.)

STATE V. SCOTT -- 9/11/2008

1 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
2 STATE VERSUS SAMMY SCOTT CONTINUED ON
3 THURSDAY, SEPTEMBER 11, 2008 AT 9:45 A.M.)
4 THE COURT: ALL RIGHT. FOR THE RECORD,
5 YESTERDAY THE DEFENSE MADE AN OBJECTION TO THE
6 ADMISSIBILITY OF THE SHOTGUN. I'M GOING TO SUSTAIN THAT
7 OBJECTION. I'M NOT GOING TO ALLOW THE SHOTGUN IN.

8 WE HAD AN INFORMAL CHARGE CONFERENCE
9 YESTERDAY CONCERNING A LESSER-INCLUDED VOLUNTARY
10 MANSLAUGHTER CHARGE, AND UNDER THE STATE VERSUS
11 CHILDRESS CASE, I AM NOT GOING TO CHARGE THE
12 MANSLAUGHTER.

13 WE ALSO HAD A BENCH CONFERENCE ON THE ISSUE
14 OF SELF-DEFENSE IN THE STATE VERSUS SLATER, AND I AM
15 GOING TO CHARGE THE SELF-DEFENSE.

16 ALL RIGHT. IS THERE ANYTHING ELSE -- WELL,
17 I GUESS THE NEXT THING IS, DO YOU HAVE ANY FURTHER
18 TESTIMONY FROM THE STATE?

19 MS. HUEY: NO, SIR, YOUR HONOR, THE STATE
20 RESTS.

21 THE COURT: ALL RIGHT.

22 MR. POTTER: IF I MAY HAVE JUST A BRIEF
23 MOMENT, JUDGE?

24 THE COURT: YES, SIR.

25 (WHEREUPON, THE DEFENDANT CONFERRED WITH

1 COUNSEL OFF THE RECORD.)

2 MR. POTTER: MAY IT PLEASE THE COURT?

3 THE COURT: YES, SIR.

4 MR. POTTER: I'VE SPOKEN WITH MY CLIENT.
5 HE'S TOLD ME HE TO SAY HE NOT WISH TO TESTIFY IN THIS
6 CASE, SO IF YOUR HONOR CARES TO GO THROUGH THE RIGHTS
7 WITH HIM.

8 THE COURT: I'LL BE HAPPY TO DO THAT. BUT
9 BEFORE WE GET TO THAT. YESTERDAY THERE WAS A QUESTION
10 ABOUT A LETTER TO DETECTIVE REEVES, AND I UNDERSTAND THE
11 LETTER WAS PRODUCED YESTERDAY. MR. POTTER, YOU WANTED
12 UNTIL THIS MORNING TO REVIEW THE LETTER TO SEE IF THERE
13 WAS ANY MOTIONS OR TESTIMONY YOU WANTED TO TAKE
14 CONCERNING THE LETTER. I'VE GOT A COPY OF THE LETTER.
15 I'LL BE HAPPY TO MARK IT AS COURT'S EXHIBIT NUMBER ONE.
16 I'LL BE GLAD TO HEAR ANYTHING YOU WANT TO SAY ABOUT THE
17 LETTER.

18 MR. POTTER: JUDGE, IN REGARDS TO ANY
19 ADDITIONAL TESTIMONY ABOUT THE LETTER, I DON'T THINK I'D
20 WANT ANY ADDITIONAL TESTIMONY ABOUT THAT LETTER. AGAIN,
21 I WOULD RENEW MY MOTION ABOUT FAILING TO BE PROVIDED TO
22 US AND WE ASK THAT MR. MAHAFFEY'S TESTIMONY BE STRICKEN
23 FROM THE RECORD. I KNOW YOUR HONOR HAS ALREADY RULED ON
24 THAT, BUT WE RENEW THAT MOTION AT THIS TIME. BUT THAT'S
25 ALL WE HAVE ON THE LETTER.

1 **THE COURT:** ALL RIGHT. NOW, I GAVE YOU AN
2 OPPORTUNITY -- I DID NOT -- I KEPT MR. MAHAFFEY HERE IN
3 ANDERSON COUNTY. I COULD HAVE HIM UP HERE.

4 **MR. POTTER:** I UNDERSTAND, YOUR HONOR.

5 **THE COURT:** IF YOU WANT ME TO BRING HIM UP
6 AND HAVE HIM RE-CALLED AND ASK HIM ANY QUESTIONS
7 CONCERNING THE LETTER OR ANY OTHER QUESTIONS THAT YOU
8 DID NOT SEE THE LETTER UNTIL YESTERDAY AFTERNOON, I WILL
9 DO THAT.

10 **MR. POTTER:** I UNDERSTAND, YOUR HONOR, AND I
11 DO NOT NEED THAT.

12 **THE COURT:** ALL RIGHT. READING THE LETTER,
13 I DON'T THINK THERE'S ANYTHING IN THE LETTER THAT IS
14 EXCULPATORY AS FAR AS YOUR CLIENT IS CONCERNED. AS A
15 MATTER OF FACT, THE ONLY THING IN THE LETTER ABOUT YOUR
16 CLIENT IS SAMMY SCOTT IN HIS DEFENSE, WHAT HAPPENED,
17 WHY, AND WHAT HAPPENED TO EVIDENCE. I SPOKE WITH ALL OF
18 THE DEFENDANTS. THAT'S THE ONLY COMMENT ABOUT YOUR
19 CLIENT IN THE LETTER.

20 IS THAT CORRECT, SOLICITOR?

21 **MS. HUEY:** YES, SIR, YOUR HONOR.

22 **MR. POTTER:** YES, SIR.

23 **THE COURT:** I FIND IT HAS NOT VIOLATED ANY
24 RULE 5 MOTION OR ANY OTHER RULES OF EVIDENCE, OKAY?

25 **MR. POTTER:** YES, SIR, I UNDERSTAND.

1 THE COURT: SO YOUR MOTION IS DENIED AS FAR
2 AS STRIKING MR. MAHAFFEY'S TESTIMONY.

3 MR. POTTER: YES, YOUR HONOR.

4 THE COURT: AND I WILL MARK THE LETTER AS
5 COURT'S EXHIBIT NUMBER 1.

6 (COURT'S EXHIBIT NUMBER 1, LETTER FROM JOHNNY
7 MAHAFFEY TO SOLICITOR, WAS MARKED FOR
8 IDENTIFICATION.)

9 THE COURT: I REEMPHASIZE THAT IF YOU WANT
10 ME TO GET HIM UP HERE, I WILL, IN AN ATTEMPT FOR YOU TO
11 GO INTO CROSS-EXAMINATION AS TO WHAT HE KNOWS ABOUT
12 SCOTT AND THE CASE THAT WE ARE TRYING. THE WHAT, WHERE,
13 WHEN, AND HOW OF THAT CASE.

14 MR. POTTER: I UNDERSTAND. I DON'T NEED ANY
15 MORE TESTIMONY FROM HIM.

16 THE COURT: OKAY. ALL RIGHT.
17 DOES THE STATE NEED ANY MORE TESTIMONY FROM
18 HIM?

19 MS. HUEY: NO, SIR, YOUR HONOR.

20 THE COURT: ALL RIGHT. MR. SCOTT, IF YOU
21 WILL PLEASE STAND AND RAISE YOUR RIGHT HAND.

22 MR. POTTER: DO YOU NEED US AT THE BAR, YOUR
23 HONOR?

24 THE COURT: PARDON?

25 MR. POTTER: DO YOU NEED US TO COME TO THE

1 BAR?

2 THE COURT: NO. YOU CAN JUST STAY WHERE YOU
3 ARE.

4 (WHEREUPON, THE DEFENDANT WAS SWORN BY THE
5 COURT.)

6 COURT'S QUESTIONING OF DEFENDANT RE TESTIFYING OR NOT:

7 THE COURT: ALL RIGHT. I WANT TO EXPLAIN
8 SOME THINGS TO YOU AND ASK YOU SOME QUESTIONS, OKAY?
9 YOUR ATTORNEY HAS INFORMED THE COURT THAT YOU DO NOT
10 PLAN ON TESTIFYING. FIRST OF ALL, I WANT TO EXPLAIN TO
11 YOU, UNDER THE FIFTH AMENDMENT OF THE CONSTITUTION, NO
12 ONE CAN MAKE YOU TESTIFY AGAINST YOURSELF. DO YOU
13 UNDERSTAND?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: YOU HAVE THE RIGHT TO REMAIN
16 SILENT, AND IN ANY CRIMINAL CASE THE STATE HAS THE
17 RESPONSIBILITY AND THE DUTY AND THE OBLIGATION TO PROVE
18 YOU GUILTY BEYOND A REASONABLE DOUBT. YOU HAVE NO
19 OBLIGATION TO PROVE YOUR INNOCENCE. DO YOU UNDERSTAND?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: NO ONE CAN COMPEL YOU TO TESTIFY
22 AGAINST YOURSELF. THAT'S A PRIVILEGE AND A LAW THAT
23 EXTENDS TO YOU. DO YOU UNDERSTAND?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: ONLY YOU HAVE THE RIGHT. YOU

1 ARE THE PERSON THAT HAS TO MAKE THE DECISION WHETHER YOU
2 WANT TO TESTIFY OR NOT TESTIFY. AND I UNDERSTAND YOU
3 HAVE CONSULTED WITH YOUR ATTORNEY CONCERNING TESTIFYING;
4 IS THAT CORRECT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: HAVE YOU UNDERSTOOD YOUR
7 CONVERSATIONS THAT YOU HAVE HAD WITH YOUR ATTORNEY?

8 THE DEFENDANT: YES, SIR.

9 THE COURT: DO YOU HAVE ANY OTHER QUESTIONS
10 YOU WANT TO ASK YOUR ATTORNEY ABOUT YOUR RIGHT TO
11 TESTIFY?

12 THE DEFENDANT: NO, SIR.

13 THE COURT: NOW, DO YOU UNDERSTAND IF YOU
14 ELECT NOT TO TESTIFY, THAT CANNOT BE USED AGAINST YOU AS
15 AN INFERENCE OF GUILT, AND YOUR FAILURE TO TESTIFY
16 CANNOT BE CONSIDERED BY THE JURY IN ITS DELIBERATIONS.
17 I WILL SO CHARGE THE JURY. DO YOU UNDERSTAND?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: NOW, IF YOU ELECT TO TESTIFY,
20 WHEN YOU TAKE THE WITNESS STAND, YOU HAVE TO ANSWER ALL
21 THE QUESTIONS. IN OTHER WORDS, THE FIFTH AMENDMENT
22 RIGHT IS EXERCISED BY NOT TESTIFYING OR TESTIFYING.
23 ONCE YOU DECIDE TO TESTIFY, YOU DON'T TAKE THE FIFTH
24 AMENDMENT TO EACH INDIVIDUAL QUESTION. IT'S NOT LIKE
25 TELEVISION. DO YOU UNDERSTAND?