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VOL I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY

Howard P. King, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSHUA A. REED,

APPELLANT

APPELLATE CASE NO. 2013-002318

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
) GENERAL SESSIONS COURT
COUNTY OF DARLINGTON)

STATE OF SOUTH CAROLINA)

STATE,)

TRANSCRIPT OF RECORD

v.) 13-GS-16-262
13-GS-16-263

JOSHUA REED AND) 13-GS-16-264
JOHNATHAN REED,) 13-GS-16-265

DEFENDANTS.)

October 21, 2013
Darlington, South Carolina

B E F O R E :

THE HONORABLE HOWARD P. KING, JUDGE;
AND JURY

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MR. HOLT: If it please the Court, the State would like to call the following four indictments. The State versus Johnathan Alexander Reed, 2013-GS-16-0263, for possession of a weapon during a violent crime; 0262 for murder, 2013-GS-16-0265, the State of South Carolina versus Johnathan Reed, possession of a weapon during a violent crime as well as 0264, the State of South Carolina versus Johnathan Reed for murder. Mr. Joshua Reed is represented by Rick Jones, and Johnathan Reed is represented by Mat Swilley.

THE COURT: All right. So that I can get the matter in the right order, counsel, let me make -- I know of course, for the State appearances is Mr. Holt and Ms. McKenzie representing the State. Counsel, if defense states your appearances for the record please.

MR. JONES: My name is Rick Jones along with Julie Wooten who is representing Mr. Joshua Reed.

MR. SWILLEY: My name is Mat Swilley and I represent Johnathan Reed.

THE COURT: All right. Ladies and gentlemen of the jury, you have heard the State call the cases against Johnathan Tyrone Reed and Joshua

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Alexander Reed. What I'm going to tell you now is not evidence in this case. It is simply the allegations of the indictments and is the charges against the defendant but is not evidence. You'll decide this case based upon the evidence that you hear from the witness stand and any exhibits, not based upon what is in the indictments, but there are four indictments in this case. Each of them, each defendant in this case is charged with the crime of murder and possession of a weapon during a violent, during the commission of a violent crime. And the State charges that Johnathan Tyrone Reed and Joshua Alexander Reed did in Darlington County on or about February 15th, 2012, along with -- well, together, willfully, feloniously, intentionally kill the victim Milton Hunter with malice aforethought either expressed or implied by means of shooting the victim. And the charge against each individual is murder.

In addition, each individual is charged with the possession of a weapon during the commission of a crime, of a violent crime, also arising out of the incident which occurred on February 15th, 2012, whereby, the victim in this case, Mr. Milton Hunter, lost his life.

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Now as has already been said, the defendant Mr. Joshua Reed is represented by Mr. Jones. Mr. Jones, would you stand, introduce your client to the jury please.

MR. JONES: Yes, Your Honor. This is my client Mr. Joshua Reed.

THE COURT: All right. Mr. Swilley represents Mr. Johnathan Reed.

Mr. Swilley, would you have Mr. Johnathan Reed stand and face the jury please.

MR. SWILLEY: This is Mr. Johnathan Reed. He's from Hartsville, South Carolina.

THE COURT: Thank you. All right, ladies and gentlemen, before we select a jury I need to ask you some questions. Please give your attention to these questions; and if any of them apply, then stand accordingly or advise us accordingly. Is any member of the jury panel related by blood or connected by marriage to either of the defendants Johnathan Reed or Joshua Reed, if so, please stand.

(There was no response.)

THE COURT: The following individuals may appear as witnesses in this case, and I would ask if the witnesses are present, if they would please stand when their name is called. Asia Gregg,

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Anthony Wingate, Johnny Lee Washington, David Sessoms, S-E-S-S-O-M-S, Jason Thompson of the Hartsville Police Department, Tenyonde Richardson of the Hartsville Police Department, Brandon Huggins of the Hartsville Police Department, Cheryl McCall of the Hartsville Police Department, Kelley Woodham of the Hartsville Police Department, Stan Kelly of the Hartsville Police Department, Mike Anderson of SLED, Joseph Kinard, Mark Blair of the Hartsville Police Department, Chief James Hudson of the Hartsville Police Department, Brian Rudick of the Hartsville Police Department, Terry Anderson of the Hartsville Police Department, Michael Stokes of the Hartsville Police Department, Laura South of the Hartsville Police Department, James W. Green of SLED, Jennifer Stoner of SLED, SLED being the State Law Enforcement Division, and Doctor Janice Ross for, a forensic pathologist. Is any member of the jury panel related by blood or connected by marriage to any of the proposed witnesses, if so, please stand.

(There was no response.)

THE COURT: Thank you. In addition the following people might also appear as witnesses in this case. If they are present please stand. Barbara Reed, Lavester Reed, Anthony Wingate, Johnny

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Lee Washington, Ryan Pierce, and Bill Mein (ph). Again, is any member of the jury panel related by blood or connected by marriage to any of the proposed witnesses, if so, please stand.

(There was no response.)

THE COURT: Thank you. Now as I said, let me ask the solicitors if they would stand and introduce themselves to the jury. I think I've already introduced them; but you need to introduce yourselves please, Mr. Holt, Ms. McKenzie, for the jurors.

MR. HOLT: Thank you very much, Judge. My name is John Holt. Beside me is Patty McKenzie Parker. She's recently married and that's her new name. And she's one of my bosses. And over here is Zach Foard who's recently hired by our office and he will be assisting some in this case.

THE COURT: Is any member of the jury panel represented now or been represented in the last ten years by either of the, any of the assistant solicitors in this case any of the lawyers in the Fourth Circuit Solicitor's Office, if so, please stand.

(There was no response.)

THE COURT: The defendants, Mr. Jones,

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Mr. Swilley, are with the Fourth Circuit Public Defender's Office. Has any member of the jury panel represented now or been represented in the last ten years by Mr. Jones or Mr. Swilley or any member of the Fourth Circuit Solic-- I mean, the Fourth Circuit Public Defender's Office, if so, please stand.

MR. SWILLEY: Your Honor, just for the record, I don't work for the fourth circuit. I have a law office in Myrtle Beach.

THE COURT: All right. Correct that, Mr. Swilley is with a private law firm in Myrtle Beach. Is any member represented by Mr. Swilley or been represented in the last ten years by him, if so, please stand.

(There was no response.)

THE COURT: Is any member of the jury panel close personal friends of any of the parties, their lawyers, or any of the witnesses whom I have read u off to you, if so, please stand.

(There was no response.)

THE COURT: Yes, sir, your name.

THE POTENTIAL JUROR: My name is Kelvin Hunter, juror 72.

THE COURT: Give me your number again.

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72?

THE CLERK OF COURT: Yes, sir.

THE COURT: All right. Mr. Hunter?

THE POTENTIAL JUROR: Yes.

THE COURT: All right, Mr. Hunter, tell me what your response to that is.

THE POTENTIAL JUROR: I am close friends with Mr. Wingate family as well as the Hunter family.

THE COURT: Okay. That will be the victim's family?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay. Did you say close personal friends with them?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay. All right, thank you, sir.

Yes, sir.

THE POTENTIAL JUROR: Your Honor, I do know the Hunter family, been knowing for many years.

THE COURT: Let me's get your name first.

THE POTENTIAL JUROR: I'm sorry, juror 87.

THE CLERK OF COURT: Mr. Tommy March.

THE COURT: 87, Mr. March. So you know, you say you know the Hunter family; is that correct?

THE POTENTIAL JUROR: Yes.
THE COURT: Are y'all close personal friends or just normal acquaintances?
THE POTENTIAL JUROR: Yes, sir.
THE COURT: Sir?
THE POTENTIAL JUROR: We're just acquaintances. We've known each other for a few years.
THE COURT: Would the fact that you know them prevent you from giving both the State and the Defense a fair and impartial trial based on the evidence ---
THE POTENTIAL JUROR: No, it will not, Your Honor.
THE COURT: ---would you be able to put that aside based on the evidence? And would you do that?
THE POTENTIAL JUROR: Yes, I would.
THE COURT: All right, thank you, sir. Does any member of the jury panel know anything about the facts of this case as I have briefly recited them to you, if so, please stand?
(There was no response.)
THE COURT: Has any member of the jury panel or a member of your immediate family -- and I

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define immediate family as spouse, parent, brother, sister, or child. Has any member of the jury panel or member of your immediate family ever been the victim of a violent crime, that is, a crime upon your person, if so, please stand.

(There was no response.)

THE COURT: Is any member of the jury panel or a member of your immediate family currently employed or been employed with a law enforcement agency within the last ten years, if so, please stand.

All right. Yes, ma'am, your name please.

THE POTENTIAL JUROR: Shannon Munoz, 98.

THE COURT: 98, Ms. Mouzon? How you pronounce that? Yes, ma'am, I didn't get your number.

THE POTENTIAL JUROR: 98.

THE COURT: 98, all right. Tell me what the situation is please, ma'am.

THE POTENTIAL JUROR: The question was member of family member ---

THE COURT: Who is the family member?

THE POTENTIAL JUROR: Russell Cox.

THE COURT: No, I mean ---

THE CLERK OF COURT: What's the

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relationship?

THE COURT: What's the relationship?

THE POTENTIAL JUROR: He's my father.

THE COURT: Your father?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Where is he employed, was employed?

THE POTENTIAL JUROR: Florence County.

THE COURT: Is he still employed there?

THE POTENTIAL JUROR: He's commissioned but he's not ---

THE COURT: In the Sheriff's Office, is that what he was?

THE POTENTIAL JUROR: (No verbal response.)

THE COURT: All right. So he's -- is he retired from the Sheriff's Office in Florence County? Did I state that right?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Would that fact prevent you from giving to the State and the Defense a fair and impartial trial based on the evidence?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you be able to put that aside and decide this case based on the evidence in

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this case?

THE POTENTIAL JUROR: Yes, Your Honor.

THE COURT: And would you do that?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am.

Yes, sir, the gentleman in the blue shirt.

THE POTENTIAL JUROR: Frank Stoda, 129.

THE COURT: 129. All right, Mr. Stoda, tell me what your situation is. I recall from the roll call that you were employed with 911 communication system; is that correct?

THE POTENTIAL JUROR: That is correct.

THE COURT: You're retired from that now?

THE POTENTIAL JUROR: Yes.

THE COURT: Okay. Is there anything you wanted to add to what you had disclosed a little while before?

THE POTENTIAL JUROR: No.

THE COURT: I mean, no other -- there's no other ---

THE POTENTIAL JUROR: My wife worked for the 9-1-1 center also and -- was a part of the ---

THE COURT: All right.

THE POTENTIAL JUROR: ---Police department.

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THE COURT: And that was in Virginia?

THE POTENTIAL JUROR: Yes.

THE COURT: Okay, all right. Mr. Stoda, would that fact prevent you from giving to the State and the Defendant a fair and impartial trial based on the evidence?

THE POTENTIAL JUROR: No.

THE COURT: Would you be able to put that aside and decide this case based on the evidence here in this courtroom?

THE POTENTIAL JUROR: Yes.

THE COURT: And would you do that?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, sir.

Okay, thank you. Has any member of the jury panel or member of your immediate family, as I have defined that term, concurrently employed or worked in the last ten years in the Fourth Circuit Solicitor's Office, if so, please stand.

(There was no response.)

THE COURT: Has any member of the jury panel or member of your immediate family worked in any prosecutor's office within the last ten years, if so, please stand.

Yes, ma'am.

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THE POTENTIAL JUROR: Number 59.

THE COURT: Yes, ma'am.

THE POTENTIAL JUROR: My daughter is an assistant district attorney in North Carolina.

THE COURT: Okay, all right. Would that prevent you from giving to both the State and the Defendant a fair trial based on the evidence in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would you be able to put that aside and decide this case based on the evidence you hear in this courtroom?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, ma'am.

Has any member of the jury panel or is any member of the jury panel a member of a victim's rights group such as MADD, SADD, CAVE, CADRE, any of those five organizations whose primary purpose is strict law enforcement or support of law enforcement if so, please stand.

(There was no response.)

THE COURT: Has any member of the jury panel formed or expressed an opinion as to the guilt or innocence of the defendant or either of these defendants Joshua Reed or Johnathan Reed? Any

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member of the jury panel formed or expressed an opinion as to the guilt or innocence of either of them, if so, please stand.

(There was no response.)

THE COURT: Is any member of the jury panel aware of any interest, any bias, or any prejudice for or against either of the defendants Johnathan Reed or Joshua Reed, if so, please stand.

(There was no response.)

THE COURT: Can each member of the jury panel give to the State and the Defendant a fair and impartial trial, if not, please stand.

(There was no response.)

THE COURT: Other than what has been disclosed to me, does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case, if so, please stand.

All right, yes, sir. Mr.?

THE POTENTIAL JUROR: Mr. Hunter, 72.

THE COURT: You're Mr. Hunter?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, Mr. Hunter, I understand your situation. Thank you, sir.

Are there additional questions on behalf

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of the State, Mr. Holt or Ms. Parker?

MR. HOLT: No, sir, Your Honor.

THE COURT: All right. Mr. Jones, there were two other questions that you had included in voir dire that I am not going to ask, 4 and 6. I'll give this to the court reporter, have her mark it as a Court exhibit and make it part of the record. Other than that are there any other questions?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. SWILLEY: There are, Your Honor. I'll bring those up to Your Honor.

(Pause.)

THE COURT: All right. Ladies and gentlemen, later on this trial or at some point in the trial the Court will instruct you on certain principles of law. Among those will be reasonable doubt, presumption of innocence, and mere presence at the scene of a crime and a number of other legal principles. Is there any member of the jury panel who feels that they could not follow the instructions of the Court on the law as given to you by this Court for any kind of personal reasons, if so, please stand.

(There was no response.)

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THE COURT: Has anyone on the jury panel or other member of your immediate family, including children, been to Pride Park in Hartsville, South Carolina, or go to that location on a regular basis, if so, please stand.

(There was no response.)

THE COURT: All right, Mr. Swilley, those are the ones I'm going to ask from your list. The others I believe I've either covered or I decline to ask because I don't think that they are necessary in this case. I've asked some of them already. I will give it to the court reporter and have her mark it as Court's Exhibit Number 2.

MR. SWILLEY: Thank you, Your Honor.

(Court's Exhibit Numbers 1 and 2 were marked and made a part of the record.)

THE COURT: Counsel, come up and let's talk about the procedure regarding the jury please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: All right, Mr. Clerk, if you will give us the jury please.

Ladies and gentlemen, I told you earlier this morning the computer will select the names of the jurors randomly. When your name is called

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please come through the door over here and come up to the front of the courtroom and face the back of the courtroom. If you are acceptable to the State the State would indicate by saying present the juror. If you're accepted each defendant will have a chance then to decide whether they'd like to keep you or whether or not they would like to use one of their peremptory strikes. Mr. Jones first, he will either state seat or accept the juror, and then Mr. Swilley will have a chance to either state accept or seat the juror. If any one of the three lawyers excuses you, have a seat back out with the remainder of the jury panel. If all three accept you then you would have a seat in the jury panel and we will proceed to the next juror.

All right, Mr. Clerk, if you will give us the jury.

THE CLERK OF COURT: Juror number 59, Linda Haenchen (white female). If you'll come forward, ma'am, this way for me. If you will come forward, stand right here for me please, Ms. Haenchen.

What saith the State, Mr. Holt?

MR. HOLT: Please present this juror.

THE CLERK OF COURT: What saith the

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Defense, Mr. Jones?

MR. JONES: Please excuse this juror.

THE CLERK OF COURT: You've been excused from this particular case. If you'd just simply go back and have a seat in the audience for me, Ms. Haechen.

Juror number 137, Beckie Tidwell (black female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Tidwell.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please excuse Ms. Tidwell from the trial of this case.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Tidwell. If you'd have a seat back out in the audience for me please.

Juror Number 87, Tommy March (black male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. March.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse this juror.

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THE CLERK OF COURT: You've been excused from this particular case, Mr. March, thank you.

Juror number 76, Chantel James (black female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. James.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Ms. James.

THE CLERK OF COURT: Please have a seat in the jury box for me, Ms. James.

Juror number 77, Eboney Jett (black female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Jett.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Ms. Jett.

THE CLERK OF COURT: Please have a seat in the jury box for me, Ms. Jett.

Juror number 80, Scott Jordan (white

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male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Jordan.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You've been excused from this particular case. Thank you.

Juror number 123, Helen Smith (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Smith.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: We'd excuse Ms. Smith from the trial of this case.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Smith. Thank you.

Juror number 146, Steven Williams (black male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Williams.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

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THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Williams.

THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Williams.

Juror number 63, Katherine Hines (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Hines.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please excuse Ms. Hines from this particular case.

THE CLERK OF COURT: You've been excused from this particular case. Thank you.

Juror 34, David Dixon (white male). What saith the State, Mr. Holt?

MR. HOLT: One moment, Mr. Clerk.

THE CLERK OF COURT: Okay.

MR. HOLT: Please present Mr. Dixon.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat Mr. Dixon.

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THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Dixon.

THE CLERK OF COURT: Please have a seat in the jury box for me please.

Juror number 95, Brandon Melton (white male). What say the State, Mr. Holt?

MR. HOLT: Please present Mr. Melton.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse this juror from this case.

THE CLERK OF COURT: You're excused from this particular case, Mr. Melton.

Juror number 15, Michael Blackwell (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Blackwell.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You've been excused for this particular case, Mr. Blackwell.

Juror number 132, Jamie Streett (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Streett.

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THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Streett.

THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Streett.

Juror number 128, Lillian Stewart (black female). What saith the State, Mr. Holt.

MR. HOLT: What was the juror's number, Mr. Suggs?

THE CLERK OF COURT: 128.

MR. HOLT: Please present Ms. Stewart.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Stewart. Have a seat back out in the audience for me. Thank you.

Juror number 84, Barbara Lee (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Lee.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

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MR. JONES: Seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: We excuse Ms. Lee from the trial of this case.

THE CLERK OF COURT: You're excused from this particular case, Ms. Lee.

Juror number 144, Christopher White (black male). What saith the State, Mr. Holt?

MR. HOLT: Please excuse Mr. White.

THE CLERK OF COURT: You've been excused for this particular case, Mr. White.

Juror number 102, Phillip Parrell (white male). What saith the State, Mr. Holt?

MR. HOLT: Please excuse this juror.

THE CLERK OF COURT: You've been excused from this particular case, Mr. Parrell. Thank you.

Juror number 135, Franklin Swinton (black male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Swinton.

THE CLERK OF COURT: What saith Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What say the Defense, Mr. Swilley?

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MR. SWILLEY: Please swear, Mr. Swinton.

THE CLERK OF COURT: Have a seat in the jury box, Mr. Swinton?

Juror number 22, Kevin Byrd (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Byrd.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You've been excused from this particular case, Mr. Byrd.

Juror number 20, Danielle Brown (white female.

MR. HOLT: What number, Mr. Clerk?

THE CLERK OF COURT: Juror 20. What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Brown.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please seat Ms. Brown.

THE CLERK OF COURT: Have a seat, Ms. Brown.

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Juror number 21, Sabrina Butler (white female. What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Butler.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please excuse Ms. Butler from the trial of this case.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Butler.

Juror number 113, Travis Ritenour (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Ritenour.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Beg the Court's indulgence. Please swear, Mr. Ritenour.

THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Ritenour.

Juror number 117, Joshua Sanderson (white

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male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Sanderson.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Sanderson.

THE CLERK OF COURT: Have a seat in the jury box for me, Mr. Sanderson.

Juror number 140, Henry Walker (white male). What saith the State, Mr. Holt?

MR. HOLT: Please excuse Mr. Walker.

THE CLERK OF COURT: Mr. Walker, you've been excused for this particular case. Thank you very much.

Juror number 35, James Dixon (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present Mr. Dixon.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You're excused from this particular case, Mr. Dixon. Thank you.

Juror 41, Jayme Ferger (white female).

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What saith the State, Mr. Holt?

MR. HOLT: Please present the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please excuse Ms. Ferger from the trial of this case.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Ferger. Thank you.

Juror number 120, William Sims, Jr. (black male). What saith the State, Mr. Holt?

MR. HOLT: This is number 120, Mr. Clerk?

THE CLERK OF COURT: Correct.

MR. HOLT: Please present Mr. Sims.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Sims.

THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Sims.

Juror number 89, Michael McCallum (white

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male).

MR. JONES: What number, Mr. Clerk?

THE CLERK OF COURT: 89.

MR. JONES: Sorry.

THE CLERK OF COURT: What saith the State, Mr. Holt?

MR. HOLT: Please present the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Seat the juror.

THE CLERK OF COURT: What say the Defense, Mr. Swilley?

MR. SWILLEY: We'd excuse Mr. McCullum from the trial of this case.

THE CLERK OF COURT: You're excused from this case, Mr. McCullum.

Juror number 145, Jeremy Widener (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear, Mr. Widener.

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THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Widener.

Juror 98, Shannon Munoz (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Munoz.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please excuse the juror.

THE CLERK OF COURT: You've been excused for this particular case, Ms. Munoz. Thank you.

Juror number 129, Frank Stoda, Jr. (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Excuse this juror.

THE CLERK OF COURT: You've been excused from this particular case, Mr. Stoda.

Juror number 36, John Early, Jr. (white male). What saith the State, Mr. Holt?

MR. HOLT: Please present the juror.

THE CLERK OF COURT: Any reason to show cause, Mr. Jones?

MR. JONES: No, sir.

THE CLERK OF COURT: What saith the

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Defense, Mr. Swilley?

MR. SWILLEY: Please swear Mr. Early.

THE CLERK OF COURT: Please have a seat in the jury box for me, Mr. Early.

THE COURT: All right, counsel, let's go with the first alternate. one, two, and two.

THE CLERK OF COURT: Juror number 30, Marquita Cotton (black female). What saith the State, Mr. Holt?

MR. HOLT: Please present this witness.

THE CLERK OF COURT: What say the Defense, Mr. Jones?

MR. JONES: Excuse this juror.

THE CLERK OF COURT: You're excused from this particular case, Ms. Cotton.

Juror number 32, Elizabeth Davis (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Davis.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Please seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

MR. SWILLEY: Please swear Ms. Davis.

THE CLERK OF COURT: Have a seat in the

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jury box, Ms. Davis.

THE COURT: Counsel, second alternate, same procedure.

THE CLERK OF COURT: Juror 44, Mary Folk (white female). What saith the State, Mr. Holt?

MR. HOLT: Please present Ms. Folk.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Excuse the juror.

THE CLERK OF COURT: You've been excused from this particular case, Ms. Folk.

Juror number 11, Daniel Benton (black male). What saith the State, Mr. Holt?

MR. HOLT: Please excuse Ms. Benton.

THE CLERK OF COURT: You've been excused from this particular case, Mr. Benton.

Juror 73, Benjamin Jackson (black male). Is there any reason for cause from the State, Mr. Holt?

MR. HOLT: There is none.

THE CLERK OF COURT: What saith the Defense, Mr. Jones?

MR. JONES: Seat the juror.

THE CLERK OF COURT: What saith the Defense, Mr. Swilley?

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MR. SWILLEY: Please swear Mr. Jackson.

THE CLERK OF COURT: Please have a seat in the second chair outside the jury box for me, Mr. Jackson.

THE COURT: Anything with regard to striking of the jury on behalf of the State, Mr. Holt?

MR. HOLT: There is none, Your Honor.

THE COURT: On behalf of the Defense, Mr. Jones?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. SWILLEY: No, Your Honor.

THE COURT: All right. Ladies and gentlemen drawn in the trial of this case, I've been advised that there are matters we need to take up and handle before we can actually start the trial of this case and we're going to do those for the rest of the day. There are matters that have to be taken up on the record and outside of your presence so I am going to excuse you for the rest of today. What I'm gonna ask that you do is go with the bailiff and be back in your jury room please at 9:30 tomorrow morning and we'll be ready to start at that time. There are several things that I want to tell you

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before I excuse you. First of all, later on in this case I will allow the twelve of you that make up the principal jury to select from among yourselves a foreperson of the jury. When that foreperson is selected that person should sit in the first seat here on the front row. The alternate should always sit in the two seats where they're seated outside the jury box. The rest of the seats in the jury box are not reserved, and it does not matter what order you come and go to the courtroom. I would simply ask that you go all the way down so it wouldn't be a situation of crawling over one another, leaving the first seat on the front row for the foreperson and when that foreperson is selected and I will tell you when to do that and the two seats on the outside for the two alternates.

I would also tell you that when you are assembling in the jury room in the morning or any time throughout the trial of the case, it would be improper for you to discuss this case at any time until I tell you to begin your deliberations. You should not discuss the case among yourselves until all of the evidence is in and until you've heard the arguments of counsel and the instructions on the law by the Court. So whenever you're in the jury room

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you can talk about anything you want to. Talk about weather, sports, children, grandchildren, anything at all, but don't talk about this case until I tell you it is appropriate for you to do so. Also, while you're away from the courthouse do not discuss the case with anyone. This means that when you see your family or your friends, do not discuss the case with them. I know that at this point you don't know anything about the case except what I have told you the basic elements of the indictment are. But nonetheless, it would be improper for you to discuss this case with anybody, with your friends or with your family, while outside the courtroom. Another reason for that is pretty apparent. You've got to decide the case based upon what you hear in this courtroom and not on the basis of anything else that you might learn from anybody else. Do not allow anyone to discuss the case with you. If anyone should approach you or try to talk to you about the case, get their name and their description, report it to the bailiffs. They will report it to me and I will deal with them.

Also, do not do any research either by either in newspaper or internet or anywhere else with regard to this matter. In other words,

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basically when you're away from the courthouse just forget about the matter until you come back in the courthouse and hear the evidence in this case.

With those admonitions then, I am going to excuse you now, allow you to go about your business for the rest of the day, and ask that you be back in your jury room tomorrow morning at 9:30 and we will have all these preliminary matters taken care of and will be ready to go forward. Thank you. You may go with the bailiff.

(WHEREUPON, the jury was removed from the courtroom at 12:13 p.m., and the following proceedings commenced in open court.)

THE COURT: All right, Mr. Jones, Mr. Swilley, we're going to be in recess on this case until 2:15 at which time we'll be back here ready to take up the matters that y'all need to take up so we will be ready to go forward at 2:15. We'll be at ease on this case then until 2:15. All of the parties that are involved in this matter are now excused.

(WHEREUPON, a lunch break was taken.)

THE COURT: All right, back on the record with regard to the matter of State versus Joshua Reed and Johnathan Reed. The two defendants are

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present in the courtroom with their attorneys. The State is present represented by Mr. Holt and Ms. Parker. During the lunch recess, Counsel, the clerk advised me that a juror had come to their office. A juror that was selected in the trial of this case had come to their office, and we need to address that first of all.

Ms. Carter, can you identify the juror please.

THE CLERK OF COURT: Your Honor, he's in the back of the room.

If you'll stand up.

THE COURT: What's your name, sir?

JUROR SWINTON: Franklin Swinton.

THE COURT: Come on up here.

THE CLERK OF COURT: Juror number 135. Well, it's 18 on that. Come stand right here for me.

THE COURT: All right. Counsel, that's juror number 135, Mr. Swinton.

All right, Mr. Swinton, let me remind you earlier this morning the Clerk administered the oath to you so you are under oath. I need to ask you some questions concerning your discussions with the clerk's office in which you told them — apparently

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you told the clerk's office you that did not believe that you could serve as a juror in this case.

JUROR SWINTON: Yes, sir.

THE COURT: Why is that?

JUROR SWINTON: Well, it's a matter of conscience. That's a religious reason why.

THE COURT: As a matter of conscience, what do you mean?

JUROR SWINTON: Well, I'm a minister.

THE COURT: Yes, sir.

JUROR SWINTON: And I'm pretty much strict and neutral when it comes to cases like this, and I was wondering is there any possible way that another juror could take my place in this particular case.

THE COURT: Well, of course you'll recall that we went through the voir dire examination, and one of the questions that I asked was does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case, and I didn't get any response from you at that time.

JUROR SWINTON: Well, it was because of the fact, sir, that I was really struggling against my conscience. And I do apologize for, you know, this being a last minute thing for me to bring it to

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your attention. I had to think long and hard about it.

THE COURT: Well, you say it's a religious reason. You're a minister. Do you have a church?

JUROR SWINTON: I tend to a local kingdom hall here in Darlington.

THE COURT: I'm sorry?

JUROR SWINTON: I tend to one of our local kingdom halls here in Darlington. I'm one of Jehovah witnesses.

THE COURT: Any questions you want to ask this juror, Mr. Holt?

MR. HOLT: So it's your belief that you couldn't pass judgment either way, either guilty or not guilty?

JUROR SWINTON: Correct, sir.

MR. HOLT: That's it, Judge.

THE COURT: Mr. Jones, anything you'd like to ask?

MR. JONES: I think the only question I'd ask is, you said that you would have to be neutral in a situation like this. I think that's what we're all striving for is to get neutral parties who would listen to the evidence and then make a decision based on the evidence that's presented. Do you have

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a problem with that?

JUROR SWINTON: Yes, sir, I do.

MR. JONES: And tell me what that problem is.

JUROR SWINTON: Well, the problem -- well see, being that I'm a very, (inaudible) you know, I'm not sure whether (inaudible) or not, but then I'm very certifiable. I do believe that it's really not in my place to pass any judgment on anybody regardless. I was basically taught not to judge because I was, you know, and I base my own decision based on that, sir.

MR. JONES: It's not a matter of just starting out neutral and being swayed by evidence. You're saying you can't make a decision?

JUROR SWINTON: Exactly, sir.

MR. JONES: That's all.

THE COURT: Mr. Swilley?

MR. SWILLEY: And I'm sorry, can you tell me again why -- what prevented you from coming forward with this beforehand.

JUROR SWINTON: Well, it was, it was a struggle that I had with my conscience. I should have said and I had I think (inaudible). And I do apologize. I wish I had brought it up earlier and

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did have the opportunity.

MR. SWILLEY: And sir, can you tell me, can you discern whether or not you're not -- you understand you're being asked to decide whether or not the State has proven its case beyond a reasonable doubt. I mean, that you take issue with?

JUROR SWINTON: I'm sorry?

MR. SWILLEY: Is that, I mean, do you understand that the jury decides whether or not the State has proven their case beyond a reasonable doubt. I mean, you understand that's what it is the jury does this?

JUROR SWINTON: Yes, sir.

MR. SWILLEY: Knowing that now do you think that would, you know, that would inhibit you from being able to sit on this jury?

JUROR SWINTON: Well, no, sir, I still stick with my conscience decision.

MR. SWILLEY: Okay, but just so I'm clear, you're telling me that you understand that you decide that -- you understand that a jury comes to a conclusion of whether or not the State has proven that person guilty beyond a reasonable doubt. And you do have a problem doing that, don't think you can come to a decision doing that?

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JUROR SWINTON: (Inaudible.)

MR. SWILLEY: Okay.

THE COURT: Motions, counsel, Mr. Holt?

MR. HOLT: Judge, I'd like him excused from the jury, and my argument is economical. Whether he comes back guilty or not guilty, that's only part of my job. The other party of my job here is to move the docket. And I think that with a hundred percent that this jury is gonna come through -- and it might not be today, it might be tomorrow, might be Wednesday -- and he just looks like a mistrial waiting to happen. We have the alternates. I'd rather get rid of him now to insure that I don't have to try the case multiple times.

THE COURT: Mr. Jones?

MR. JONES: I don't have a problem with you releasing him.

THE COURT: Mr. Swilley?

MR. SWILLEY: I take no -- I don't have a problem with this jury here leaving.

THE COURT: Well, that's my concern of course, is that this gentleman has testified that he would not be able to make a decision either way and that would just result in a -- whatever we did this week being futile and being mistrial and that's

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something we don't need to do no matter whether it's for guilt or for innocence.

My concern, Mr. Swinton, is the fact that this has caused the Court some problems and caused everybody here some problems because these very questions were asked before we ever drew the jury and you didn't come forward and tell us that you have a problem at that time. And if that had been the case we would have excused you before it ever got drawn and then we could have drawn additional jurors. What it amounts to now is that we got two alternates and we're gonna replace, put one of those alternates on the jury and that only leaves us one alternate. But if we have another problem, we still could have a mistrial simply by your not coming forward earlier and telling us that this was a problem. That's the reason for asking these questions. And for that reason I'm not going to -- I'm going to excuse you from this jury. I'm also going to not require that you come back as far as general sessions court is concerned.

But Madam Clerk, I want him transferred to Common Pleas, and he'll have to serve as a juror in Common Pleas court where he's not sitting in judgment of his fellow man.

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THE CLERK OF COURT: Yes, sir.

THE COURT: Okay. You'll be excused. You're get another notice and you'll have to come back to the court when there's civil court going on.

JUROR SWINTON: Thank you, sir.

(Juror was excused.)

THE COURT: All right. And while we're don't that, Madam Clerk, if you'll put the names of the two alternates in a hat and we'll have one of those honest looking deputies around here, if we can find one, draw one of the two names. Those would be Elizabeth Davis is one of the alternates, juror number 32; and Benjamin Jackson, juror number 73, is the other alternate.

THE CLERK OF COURT: We don't have a deputy.

THE COURT: Well, let the bailiff do it.

THE CLERK OF COURT: Your Honor, the juror that we're gonna select to put on the panel will be Benjamin Jackson.

THE COURT: All right, that's juror number 73 will take the place of the juror. All right, counsel, any objection to the procedure of excusing the one juror for reasons stated on the record and selection of the alternate juror on behalf of the

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State, Mr. Holt, any objection?

MR. HOLT: No objection, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. JONES: There's not, Your Honor.

THE COURT: All right, fine. Thank you, Counsel. I understand there's some pretrial motions. Let's find out what we got. Before we go forward I was advised in chambers that Mr. Jones I believe -- are there any pretrial motions on behalf of the State, Mr. Holt?

MR. HOLT: There are none.

THE COURT: Mr. Jones, I understand you had one with regards to identification; is that correct?

MR. JONES: I do, Your Honor.

THE COURT: All right. Give me a little summary about what the identification issue is and what the motion is.

MR. JONES: Your Honor, we got three witnesses who have picked, actually picked both of the defendants out of a lineup.

THE COURT: A live lineup or photo lineup?

MR. JONES: Photo lineup.

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THE COURT: Okay.

MR. JONES: And I have issues that the photo lineup itself was...

THE COURT: Unduly suggestive?

MR. JONES: It really was in my opinion, Your Honor. And the first prong, the second prong -- I think we're probably going to take some testimony from the witnesses or from perhaps a couple of the law enforcement people as to whether or not the other identifications were so reliable as to override the fact that the lineups were unduly suggestive.

THE COURT: I understand the Biggers factors in connection to this matter. Are the -- it's a two prong inquiry as to the process was unduly suggestive and subject to whether the out-of-court I.D. was so reliable that there's no substantial likelihood of misidentification. That's the inquiry under the Biggers matter. All right, so the motion has been made by Mr. Jones as to his client.

Mr. Swilley, you join in that motion?

MR. SWILLEY: I am, Your Honor, for the record.

THE COURT: And that's your only motion,

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Mr. Jones?

MR. JONES: It is, Your Honor. We are working on some issues dealing with the statement of the defendant Joshua Reed, which I believe we're going to be able to resolve with Mr. Holt.

THE COURT: Take care of all Jackson v. Denno matters ---

MR. JONES: Yes, sir.

THE COURT: ---voluntariness? Okay. All right, we'll give you a chance to do that.

All right, Mr. Swilley, you also have a motion in connection, a motion for suppression of all the results of the search warrant. Is that -- or the search, I don't know whether it was a warrant or not.

MR. SWILLEY: There was, Your Honor. There was a search warrant of Lincoln Avenue in Hartsville as well as a search warrant of the address of Lincoln Avenue in Hartsville. I'm not contesting the, whether or not there's probable cause to search the home. However, I'm moving to suppress anything that was found at Lincoln Avenue on the basis of relevance and which is Rule 402 and on the basis of the Court finding there is any relevance of anything found, that any

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introduction of such evidence would be a violation of Rule 403 and substantially more prejudicial than probative. Your Honor ---

THE COURT: But you're not moving to suppress the results of the search on the basis of no probable cause.

MR. SWILLEY: I mean, there was probable cause to search the home. It's just nothing that was uncovered that's relevant evidence in this case.

THE COURT: What is the evidence that you don't, you think outweighs the prejudicial effect outweighs the probative value?

MR. SWILLEY: Well, Your Honor, everything ---

THE COURT: Or is not relevant. What's the evidence that you think they've got that they want to use? I mean, I can't really rule on it till they introduce it but.

MR. SWILLEY: I understand that. Well, there was a .45 caliber Cobra patriot handgun found. There was a red Eliza (ph) dart box. There was several boxes of 45 caliber 38 Special rounds found, bags of marijuana, 15 photographs, a letter to my client from another individual in the Department of Corrections, my client's driver's license, a couple

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of pair of rubber croc shoes, a couple of other rounds. It's my understanding a bag of marijuana as well as some 9 by 18 Makorov (ph) rounds and some 38 blue elliptical shaped pills with no imprint. None of which was found here has any logical relevance to the case at bar. And the allegations are that the decedent Mr. Hunter, Mr. Hunter Campbell, was shot. There were rounds uncovered from his person which when sent to SLED they didn't come back as rounds that are consistent with the rounds that was fired in a 38 or 357 magnum revolver. There were no shell casings that were found at the scene.

Your Honor, when law enforcement interviewed the three eyewitnesses, none of which ever claimed my client had a gun, that was never -- that he had a gun used a gun, encouraged anyone to use a gun. They conducted search warrant on both his and his brother's homes which I believe are duplexes in the same building and then uncovered as evidence. There's nothing that suggests that there was a .45 caliber Cobra patriot gun used. There was never juxta position with bullets that were found in Milton Hunter Campbell with anything that was found in the home of my client. There was never any kind of analysis that juxta posed if the bullet found in

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the decedent, and bullets in the house were the same make or model other than same gig or same round so anything that would have been introduced as to that would be completely irrelevant and it were court find it had any relevance is extremely prejudicial.

THE COURT: Well, I'm gonna have to wait and see. We'll get to that in a few minutes. The more -- the one we need to take up first is the matter of the ID. Let's take care of that and we'll come back to the results of the search and determine whether that is a matter that can be handled in pretrial motion. All right, Mr. Holt, the State [sic] has made a motion to suppress the identification of the defendant under the Biggers case and the State cases construing it, and so the burden shifts to the State to show that the identification was not unduly suggestive and that it was so reliable that no substantial likelihood of misidentification exists so I'll allow you to put up any witnesses you wish to put up in that regard.

MR. HOLT: Thank you, Your Honor. If it please the Court, the State would like to call Asia Gregg to the stand.

THE COURT: All right, come around please.

THE CLERK OF COURT: Put your left hand on

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the Bible, raise your right hand please.

WHEREUPON,

ASIA GREGG,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you will have a seat.

PROFFER EXAMINATION

BY MR. HOLT:

Q Ms. Gregg, how old are you?

A 25.

Q And could you please state your whole name for the record?

A Asia Lawan (ph) Gregg.

Q And where are you from?

A Hartsville, South Carolina.

Q And have you ever testified in court before?

A No.

Q And are you an only child?

A No.

Q And who were your siblings?

A Milton Hunter was and Shakobe Ashalique (ph) Gregg.

Q And what was the highest point of education you reached before stopping?

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A 11.
Q 11th grade? And on February 15th, 2012, did you have occasion to visit Pride Park?
A Yes.
Q And what were you doing, what was your plan?
A Before we got there I called my brother Milton Hunter on the phone to ask him was he coming uptown that day, and he said he was. He was with a prior friend of his. And he asked me to get him something to eat 'cause I was on my way to Yogi Bear to get me something to it. Me and my ex-boyfriend Johnny Lee Washington. And on the way there he called me and told me to get him something to eat, and I got him a Boo Boo box as well as myself and Johnny Lee and we met up at the park.
Q All right. Who was at the park with you, all combined?
A All combined it was Milton Hunter, my brother, me, Johnny Lee Washington, and Chip — I call him Chip.
Q All right. And did someone come and join y'all?
A At that time, no.
Q All right. And can you tell us what happened from there?
A We was all sitting there eating, just talking.

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My brother got up from the table, the picnic table that we was at, and he was going across the street to the barber shop to the soda machine to get him a soda: And on his way coming back, the Reed brothers was in a blue truck and they passed by one time. My brother seen it but kept walking and came towards the park. And he said, what's wrong. And I'm looking at him like, just, just looking at him like out of space just staring at him like. And he wasn't really saying nothing. And I'm like, Milton what's wrong. He was like, them boys just rolled by. I'm like, what boys. He said them Reed boys. I said, okay, we ain't going to be at the park long, come on, let's hurry up and eat.

MR. JONES: Your Honor.

THE COURT: Yes, sir.

MR. JONES: It was just brought to my attention by the Solicitor. We have a reason to sequester witnesses. We've got all the witnesses in here. I think it might be appropriate.

THE COURT: Yeah, I think it is appropriate in this case.

Sequester the witnesses, Mr. Holt. If you will take care of the other witnesses on this issue.

MR. HOLT: I can, Your Honor.

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THE COURT: All right.

(Pause.)

MR. HOLT: How about law enforcement witnesses, Your Honor?

THE COURT: Well, I think if they're a part of this questioning, yes, sir, they'll have to be sequestered. If you're going to put them up on the issue of the I.D. and the procedure of I.D. and I think anything that goes with the issue of.

MR. HOLT: I wasn't aware that it pertained to the hearing.

THE COURT: Okay, that's fine.

Go ahead, Ms. Gregg.

Go ahead and ask your next question, Mr. Holt. Let's get back on track.

BY MR. HOLT:

Q You said -- what happened after the Reed brothers drove by?

A He walked back into the park and he was like, man. I was like, what's wrong. He wasn't saying anything so I was staring at him like out of space trying to get his attention like, Wop, tell me what's going on what's wrong.

Q And for the judge and the court reporter and everyone else, who was is Wop?

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A Milton, his nickname.

THE COURT: Who is that?

THE WITNESS: My brother Milton Hunter.

THE COURT: Okay.

THE WITNESS: And I asked him, I asked him again, I said him what's wrong. He was like, them Reed boys just rolled by. I said, well don't worry about it, we ain't going to be at the park long, let's just hurry up and eat. So in the process of us hurrying up and eating and me taking my box to the trash can they rolled by again, and the direction that they rolled by was from left to right. So they was leaving like coming from Hair so Lovely Tina Salon towards Piggly Wiggly where the railroad track is, going back that way.

BY MR. HOLT:

Q Uh-huh.

A Okay. My brother called my cousin and asked him -- he called my cousin Kenneth Dubose and asked him where he was. Kenneth say they was on Jasper and he said, what's up. Milton said, them Reed boys rode by again. Kenneth say, did they say anything to you. Wop said, Milton said, no. He was like, all right. Kenneth say, I'm on my way. And approximately us finish eating up, finished, you

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know, throwing our stuff away or whatever, Milton stood up. And I asked Milton what he stood up for and he was like, 'cause them boys keep riding by. And I was like, don't worry about it, let's just hurry up and go. And in the process of us sitting there, we was about to get up and go, they came from this end of the street and parked their car where the truck right here beside where they park the funeral home cars and such inside the garage then. A patrol car from them get another patrol car went pass them. They stayed in the car until the patrol car got to the stop sign and made a right. That's when they got out. When they got out they entered the park. My brother stood up. My words to my brother was, if anything go down I'm wit you, I'm not gonna let you fight by yourself. Those were my words to him. He said okay. My brother stood up. I stood up beside him. Joshua came in the park first and Johnathan was behind him. Joshua gave Johnny Lee dap first, and then he gave my brother dap.

Q Dap?

A Handshake, like (indicating), whatever. That kind of handshake.

Q Okay.

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A Johnathan stood on the side where John Lee was sitting. Picnic table was kind of slanted like this way. I was sitting here. Milton was sitting here. Johnny Lee was sitting here. When they entered Joshua came in first. Johnathan came behind him. Joshua gave Johnny Lee dap first and give my brother dap, I was still standing beside my brother.
Q How close were you to the defendants?
A Arm reach.
Q And could you see their faces?
A Yes.
Q What was the weather like that day?
A It was, it was good weather. It was kind of warm a little bit, but it still ---
Q Was there any ---
A ---had a chill.
Q Was there anything hampering you from viewing them?
A No.
Q Go ahead.
A He gave Milton -- he gave Johnny Lee dap first and he gave my brother dap, Milton Hunter. He gave Milton dap. So, in the process of that some words was exchanged. He -- Joshua asked Milton, did you talk to your big brother. Milton said, yes,

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everything is squash.
Q And squash means?
A I get -- everything is done, dealt with, nothing more to deal with it.
Q Okay.
A Johnathan said, hum, really. Five seconds after that Joshua took -- it was a silver revolver out of his pocket and just started shooting. The first shot scared Milton to the point where his hands was in his pocket. When the first shot went off he jumped like he was scared, like it shot him. Right after the first shot three more came right behind it.
Q Did you have occasion to look and see what Johnathan was doing while his brother Joshua was shooting?
A Standing there. He was just standing there.
Q And did he have a gun on his person?
A Yes, he did. He had a gun in his pocket on Johnny Lee Washington.
Q And what did you believe the purpose of Johnathan having a gun pointed at Johnny Lee Washington?
A So Johnathan wouldn't try to interfere with anything that was going on or to scare him to tell -- or to warn him, don't jump in or don't do

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Q How long do you think this lasted from the time the Reed brothers walked into the park to the time they escaped the park? How long do you think that was?

A I'd say it happened in a good bit of 30 seconds.

THE COURT: I'm sorry, how long?

THE WITNESS: A good bit of 30 seconds.

BY MR. HOLT:

Q Not once they approached you and y'all started talking?

A Oh, from the time they entered into the park?

Q I'm talking about from the time they entered the park till the time they ran from the park?

A I'd say about 30 to 35 minutes.

Q And that's just an estimate, right?

A Yeah, just an estimate.

Q All right. And once the incident was over what did the suspects do?

A Johnathan pulled Joshua by the coat and was like, come on, come on, come on. Joshua, he had on some crock shoes like the ladies at the hospital wear with the holes at the top. His shoes was about to come off so I guess he was trying to wiggle his foot back in his shoe and his brother was trying --

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pulling his coat, come on, come on. And they just ran to the truck. And in the process of them running to the truck and trying to crank the truck, u, a bottom piece of the pipe from under the truck fell off and it just sped off. And in the process of speeding off it was just a bunch of black smoke behind the truck.

Q And about how soon after the incident did you report this to law enforcement?

A I was in shock. I'd say almost by the time they got out the park, by the time they got out the little gate I was on the phone with my mom. Chip actually was on the phone with the 9-1-1.

Q Okay. And did the officers question you about this?

A Yes, a officer did question me. They asked me did I see who did it and what did they look like, describe them, what kind of clothes they was wearing and what direction they was, they left in, and what color vehicle they was in.

Q And what did you tell the police?

A I told them, um, that it was, um, I didn't know his -- at first I didn't know, like, his whole name but I called him Juby 'cause that's what I knew him by, Juby. And he was like, Juby. And I was like,

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Juby, but I know their last name is Reed. And he asked me to describe the clothes that they had on. I told them that Joshua had on some little clogs that the nurses, nurse ladies wear at the hospital. He had on like a little flanny jacket that zips up with the little hoodie. He had on some light colored almost like, kind of like sweat pants or something, something like jogging sweat pants that you exercise in. I didn't really pay attention to what Johnathan had on 'cause my focus wasn't on him; he was on the other side. My focus was on Joshua 'cause he was right there in front of my brother.

Q Okay. Now let me ask you this, did the police have occasion to show you a photo line-up?

A Yes, they came -- actually they came to my house after I left the hospital, Carolina Pines, and it was a white — it was a causation tall bald head guy.

Q Okay. Did he show you a line up?

A Yes.

Q And were you able to pick the defendants out of the line-up?

A Yes.

Q The people that had shot your brother, were you able to pick them out of a line-up?

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A Yeah, he showed me three pieces of paper with at least six photos on it, and he told me to look and see. He said, do you see the person who shot your brother? And I said yes. He said could you point to that person and I pointed to Joshua. And he told me to circle it and initial it. He said, do you see anybody else in this lineup that was with Joshua? I said, yes, right there, Johnathan. He told me to circle it and initial it.

Q And how certain were you on a scale of one percent to a hundred percent that who you picked out in the lineup was who shot your brother?

A I'm a hundred percent. They were in my face, arms reach.

Q And when the police were showing you this lineup, did they tell you who to pick?

A No, they didn't.

Q And did they suggest anybody for you?

A No, they didn't. They just handed me a piece of paper and said do you see the person that shot your brother. Those are their words.

Q Did in any way type or system did they influence who you picked?

A No.

Q Please answer any questions that Defense has,

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okay?

A Okay.

THE COURT: Mr. Jones.

MR. JONES: Yes, sir. Thank you.

CROSS-EXAMINATION

BY MR. JONES:

Q Ms. Gregg, I need to ask you a couple of questions starting with the amount of time that you just testified to that this accident took place from start to finish. Did I understand you to say that from the time the individuals got out of a truck and entered the park until the time that they left was 30 to 35 minutes?

A Yes.

Q What did you do ---

A It's a estimate.

Q What did you do for 30 to 35 minutes?

A I was standing beside my brother. From the time that they were walking in my brother got off the bench and I stood up beside him.

Q And the conversation that you just described that took place, was that the only conversation?

A That the Reed brother and my brother had?

Q That everybody had that was right there?

A Yeah, that was the only conversation.

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Q All right. And that conversation as you just described it to me would have taken about a minute or two. What'd you do the other 30, 31, 35 minutes?
A Just standing there.
Q Everybody just stared at each other for 30, 35 minutes?
A After Joshua asked, did you talk to your big brother and my brother said, yeah everything is squash, Johnathan said, huh, really. And it was just dead silence. They were stare -- like, I don't want to say mean, like a lot of people don't know what mean like mean; but like a strange look as of like anybody can give you a look like this, your definition like this (indicating) what would your definition be like?
Q Do you watch TV?
A Yeah.
Q All right. Give me an example of a time period of 30 to 35 minutes from a television show that you watch?
A Does that include commercials?
Q Yeah, whatever you want it to include.
A Okay. I watch a lot of Law and Order.
Q Okay.
A From the time Law and Order comes on until the

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first commercial is the 30, 35 minutes.
Q Okay, that would be your estimate of the time?
A Yeah.
Q Okay, thank you. Now let me go back and ask a couple more questions. I think I heard you say all of this goings on around Pride Park occurred while you, Mr. Washington, and Chip were in the park eating; is that correct?
A Correct.
Q Okay. And I thought I heard you say that individuals were driving by in a blue truck; is that correct?
A Correct.
Q Okay. And I think I also heard you say that you, when you — when all this occurred, that the actual violent part of the confrontation took about 30 seconds?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q Okay. And during that period of time you were arms length away?
A Yes, sir.
Q All right. Do you know Mr. Joshua Reed?
A Yes, sir.

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Q All right. How did you know him?
A I went to school with him.
Q All right. And what grades were you in school with Mr. Reed?
A I was two grades above him.
Q Okay. And would you consider yourselves to be friends?
A No, I mean, acquaintances.
Q Acquaintances.
A The last time I seen Joshua before this event was like in a grocery -- as a matter of fact it was in IGA. I seen him at IGA, but it wasn't a hey or a bye. It was just a look, and you know, I mean, I -- it wasn't conversation between us. I mean, it's been so long since any conversation or any talking of any of that nature. It was just a glance of, okay, I know that person and just keep it moving. But as far as communication and all that, no.
Q You knew him by name?
A Yes.
Q All right. When you first were asked by law enforcement to tell them what happened and who might have been involved in this, how long was it after the event happened? Was it the same day?
A Yeah, it was the same day.

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Q Okay.
A As soon as it happened it took dispatch about no more than like five minutes to get there, and when they got there they started questioning me.
Q All right. And the statement that you gave that was videotaped, do you remember that?
A Yes.
Q When was that?
A This was two days after.
Q All right.
A If I'm not mistaken.
Q And do you remember what you said during that video statement? You don't have to repeat the whole thing, if you just are familiar with your statement.
A Yeah, I'm familiar with it.
Q Why would you call Mr. Reed Rail (ph) at that period?
A Rail?
Q Yeah.
A At the time I was trying to remember their last name and Rail came out; and then I was like, no, no, no, it's not Rail, it's Reed.
Q And do you recall describing the tall one with short hair as Johnathan?
A No, I don't recall that.

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Q You don't remember that?
A No.
Q If I read you a statement that said which one of the two did you believe was Johnathan and your answer was, oh, I know which one was Johnathan, the tall dark skinned one because that's my class mate. Do you admit or deny saying that?
A I don't recall saying that was my class mate. I don't recall that.
Q Okay. How about the answer to the question about the younger one with dreads. Do you know your answer do that question?
A Juby, yeah.
Q And if the video statement says I think his name was Joshua, would that be correct or incorrect?
A I have no recall of that.
Q You don't remember saying that?
A No.
Q Okay. Who is Chip?
A Chip is the other witness that was there.
Q Did you know him?
A No, sir, just by hearsay. I don't know him personally.
Q Did you, Mr. Washington, and Chip are the actual three people there ---

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A Yes.
Q ---and your brother were the only ones there when this happened?
A Yes, sir. That was in the park at that time when it happened, yes, sir.
Q And when did you get to know Ship by, Chip or Ship?
A I really didn't get to know him until he came to the setting up. He was there at the park during the time it happened. I mean, he wasn't over there like talking to us. It was me, my brother Johnny Lee at the picnic table eating, having conversation to ourselves. Chip was already in the park and he was by his car.
Q Were you introduced to him then that day?
A No.
Q And the setting up was when?
A The setting up happened, the setting up -- a lot of people was at the house that night, the same day it happened that night, was when everybody came to the house and, you know, was giving their remorse and stuff.
Q And do you recall questioning during your video statement that says, I just know him by Chip?
A Yes.

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Q Okay. But you didn't know him prior to this time?
A No.
Q Okay. Did all of y'all talk about what happened?
A No.
Q Didn't talk about it at all?
A No, because after that incident I never seen Chip again.
Q How about at the setting up, did he not come to the setting up?
A He came to the setting up that night.
Q Did y'all talk about it then?
A No, 'cause I was in the -- I was so shaken up I didn't want to talk to nobody. Only person I spoke to was the investigator that came to the house.
Q All right. And how about when right after the events happened everybody, I assume, was very upset and very excited, would that be an understatement?
A Yes, sir.
Q Did y'all discuss the matter among yourselves, you, Mr. Washington, and Chip at that time?
A No, sir, because at the setting up I was there and Chip was there, and Johnny Lee didn't come until the next day.
Q Move back -- well, before y'all left the park did

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y'all all discuss this?
A No, sir, because at the time I was being questioned by the officer and Chip was still in the park. I guess he was on his phone and John Lee wasn't in the park anymore.
Q Okay, that's all I have. Thank you.
THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Asia, you said it was a blue truck they were driving?
A Yes, sir.
Q Even though (inaudible) green truck ---
A A bluish green truck,---
Q ---green truck?
A ---like a maroon.
Q A maroon? That's red; isn't it?
A Like, no, I mean ---
Q What color was it?
THE COURT: Wait a minute.
THE WITNESS: It's like a bluish green.
BY MR. SWILLEY:
Q Okay. Like a teal would you say?
A I'm trying to see a color. It's like, almost like the color in the background of that second

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picture but a little bit darker. You know where that curtain is right there, the color on the inside blue but it's like, it was kind of like a greenish blue; but more of it was like a blue.
Q Okay. And you said that when they were walking up it was Joshua first and then Johnathan walking behind him?
A Yes.
Q All right. You said they walked up, right. And who gave Johnny Lee dap first?
A Joshua gave Johnny Lee and my brother dap. Johnathan didn't do anything.
Q Johnathan never gave anybody dap?
A No.
Q Okay. Didn't shake anybody's hand?
A No.
Q Okay. And then you said that it was -- they sat there and -- what did you guys talk about for 30 minutes?
A I didn't talk about anything.
Q You were sitting right there, right?
A Yeah.
Q Okay.
A When they came in the park Joshua came in first and Johnathan came behind him.

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Q Right.
A Johnathan came up and gave Johnny Lee dap and give my brother dap. Johnathan was standing beside John. Joshua was in front of my brother and I was beside my brother. And the words that Joshua said was, did you talk to your big brother. The words that my brother said was, yes, everything is squash. Johnathan said, oh really. That when Joshua said, okay, or whatever. He didn't say anything but he was just standing there with that look on his face like (indicating.)
Q And you said it was -- it was Joshua that said, oh really, when you talked to Terry Anderson, right?
A No, I said ---
Q Oh, really?
A ---Johnathan said, oh, really. Joshua is the one that said did you talk to your big brother.
Q And today is the first time that you said that it was Johnathan that said, oh really, right? Now you never said that before, have you?
A Said what before?
Q You said it was, and you said it was -- or you said the Reed brothers said we'll talk, remember that, when you talked to Terry Anderson? And then you said Milton said, I done talked to my big

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brother so everything is squash, right?
A Uh-huh.
Q So Milton was saying he had already talked to whom?
A His big brother ---
Q Who is?
A ---as in big brother. I don't know what that means.
Q Really?
A He just said big brother.
Q Okay, all right. And then you told Terry Anderson it's just somebody he calls his big brother, right?
A I guess it's somebody. I mean, big brother, that could be somebody he call big brother or a home boy he can say, what up, big bro. I don't know what big brother means. All I heard him say was did you talk to your big brother.
Q Okay. And then you said the Reed brother was like, the words that he said was, oh really, right?
A Uh-huh.
Q And you were talking about Joshua there, right?
A I was talking about Johnathan. Johnathan said, oh really.
Q Okay. And after he said, oh really, he went out

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and just started shooting?
A Joshua ---
Q All right.
A ---came out and started shooting.
Q All right. And he had a gun, and Joshua had the gun in what hand, his right or left hand?
A Joshua had the gun in his left hand.
Q Okay. But then you told Terry Anderson it was his right hand, right?
A I don't recall that because Terry Anderson didn't never -- I don't recall him asking me what hand that he had a gun in.
Q Okay. And he took the gun out of his pants pocket, right?
A Correct.
Q Okay. And then you told Terry Anderson it was out of his hoodie, right?
A I don't recall that.
Q Sure, okay. And you knew, you said you went to school with Joshua, right?
A Uh-huh.
Q And he was two grades below you?
A Yes, I'm 25. I'm thinking he's, what, 23, 22, 23.
Q So if Johnathan was in three grades below you,

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right?
A I don't know how old he is.
Q Okay. You don't remember Johnathan from high school?
A No, I just remember Joshua.
Q Where did you go to high school, Hartsville?
A Hartsville High School. And I also went to Darlington High School. In between those times I was both places; I switched schools.
Q You'd never seen Johnathan before, had you?
A Dread hair, no.
Q You never seen him before that day?
A I seen him but you talking about the day it happened?
Q No, before the day it happened had you ever seen Johnathan?
A No, I seen Joshua ---
Q Right.
A ---in IGA, but I haven't seen Johnathan. I haven't seen him.
Q Okay.
THE COURT: Counsel, I believe we're getting a little far field all the way. This is not an issue as to her testimony and what the credibility of it is concerned. That's a matter for

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the jury. All we're talking about here as I understood is this a motion to suppress the out of court identification under Biggers; and of course, what Biggers is, is a challenge to the out of court identification as being unduly suggestive. So what she saw at the time or what was going on out there at the scene really is not the issue here under State versus Biggers. The question is whether or not there was an out of court identification that is unduly suggestive; and if so, was it so reliable that most substantial likelihood of misidentification exist. But I don't think we need to get into a cross-examination of her direct testimony of what happened at the scene.

MR. SWILLEY: I understand, Your Honor, I'm getting there. I apologize.

THE COURT: All right.

BY MR. SWILLEY:

Q So you said you never seen Johnathan before that day in your whole life, right?

A I'm not saying out of my whole life, but I didn't see him before that happened, no.

Q Okay. So you don't recall ever seeing Johnathan before that, right? So you've never seen his face before, right?

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A I've seen his face before; but before that happened, no, I haven't seen his face. You, what you're trying to say is did you see him any time in your life. Yes, I have seen him before in my life; but during that time, no, I didn't see him in that area period, no.
Q Do you recall any time before February 15th in 2012?
A No.
Q You don't recall anything ever about your life before February 15th, 2012?
A About him, no. I never seen him before that.
Q So would it be accurate to say you had never seen Johnathan before the day of the shooting, correct?
A Yeah, correct.
Q Okay, all right. Now later on that day you were given a photographic lineup that contained a picture of Johnathan in there, right?
A Uh-huh.
Q Who gave you this photographic lineup?
A The Caucasian bald head dude.
Q That would be Mr. Anderson, right?
A Yes.
Q And you went through there and you identified -- you recall which photograph you identified, what

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number it was?
A No, I don't.
Q Okay. Beg the Court's indulgence. Asia, let me ask you again, you said this gentleman right here showed you the photographic lineup, Mr. Anderson?
A No, it wasn't him. Not him, no. The guy that shopped me the lineup, he didn't wear glasses. He was a tall, that guy isn't tall.
Q Right?
A He was a tall, white, bald head guy. He did not wear glasses.
Q All right. Sand how long did you look at the photographic lineup of Johnathan before you identified the picture of Johnathan?
A I didn't have to look at it long. I seen -- I -- don't -- incidents like that, anything that's troubling and terroring, you will never forget a face so as soon as he showed met that lineup I saw him and I pointed him out.
Q Okay.
A Circled his face and put my initials.
Q All right. And you know, you didn't notice that Johnathan picture was the only one in the lineup that had a white background, right? Do you recall that?

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A No, I don't recall.
Q I'm gonna show you this photographic lineup, Asia. You see photograph number one, right? You see that?
A Uh-huh.
Q Okay. And you see how it's darkened in the background?
A Yes.
Q Okay. And is that Johnathan?
A No.
Q Okay. You see this second photograph, you see how it's darkened in the background?
A Yes.
Q That's picture number two?
A Yes.
Q That Johnathan?
A No.
Q Okay. You see photograph number 3?
A Yes.
Q You see how it's darkened in the background?
A Yes?
Q Is that Johnathan?
A No.
Q Okay. So you see picture number 5?
A Yes.

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Q See how it's darkened in the photograph?
A Uh-huh.
Q Is that Johnathan?
A No.
Q You see where it's darkened in the photograph?
A Yeah.
Q That's not Johnathan, right?
A That's not Johnathan.
Q You see number 6, right. It is a photograph, it was six pictures, right?
A Uh-huh.
Q Is that darkened in the background?
A Yes.
Q Is that Johnathan?
A No, it's not.
Q I'm gonna show you number 4. Is that Johnathan?
A Yes, and the background is not darkened.
Q Okay. And did you notice the fact, the type of photograph used is different than the other five previously you picked out Johnathan in the lineup?
A Can you repeat that?
Q Did you recognize that that photograph was different than all the rest when you picked Johnathan out of the lineup?
A No, I didn't recognize that?

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Q So you're telling me it had no effect on which photograph you selected out of that lineup?
A No, it had no effect. Just by looking at -- just with the other photos that you showed me that had the blackened part of it, if you looked at it you can tell if you know that person or not. Just because it's blackened out and it's real dark, you can tell just by looking at it, no, that's not him.
Q And that's -- so you're telling me that the fact that the photograph was completely different type did not effect, didn't grab your attention?
A No, it didn't grab my attention.
Q Okay.

MR. SWILLEY: Your Honor, I have nothing further.

THE COURT: Mr. Holt.

REDIRECT EXAMINATION

BY MR. HOLT:
Q The man in the park you saw who shot your brother, did you pick him out of a lineup with one hundred percent accuracy?
A Yes, sir.

MR. HOLT: Your Honor, at this time I'd like to call our next witness.

THE COURT: Wait a minute. That's the

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last question you have of this witness?

MR. HOLT: Yes, sir.

THE COURT: All right. Anything further, Mr. Jones?

MR. JONES: No, sir.

THE COURT: All right. Thank you, you may step down.

All right, you may call your next witness, Mr. Holt.

MR. HOLT: Anthony Wingate.

MR. JONES: Judge, may we all approach a minute.

THE COURT: Sure.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE CLERK OF COURT: Come right here. Place your left hand on the Bible, raise your right.

WHEREUPON,

ANTHONY G. WINGATE,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you will sit in that brown chair right there, they're going to ask you some questions.

P R O F F E R E X A M I N A T I O N

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BY MR. HOLT:
Q Could you please give your whole name for the court reporter.
A Anthony Gerard Wingate.
Q And what nickname do you go by?
A Ship.
Q And have you ever testified in court before?
A No.
Q Okay. What's your level of education?
A I graduated from Denmark Technical College in 2005.
Q Okay. And on February 15th, 2012, did you have occasion to be in Pride Park?
A Yes, I did.
Q And can you describe what you witnessed that day?
A Well, when I got to the park Johnny Lee Washington and Asia, they was already in the park. And then I turned in 'cause I was driving. I turned in, I parked. And I walked over and started talking to them and then Milton walk, came over, and we was just all sitting there talking.
Q Okay. What did you come to the park to do?
A I came there to eat 'cause I had — I had some food and plus I had a little bit of liquor.
Q Okay. And were you planning on doing that by

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yourself?
A That was my intention, yeah.
Q Okay. And then did you realize that you were going to have share the tables with another group?
A Yeah, but only one person had asked me for, like, a drink and that was Johnny Lee Washington, but he was just playing. And so I walked over and I poured a little bit in a cup. I had just came from getting a tattoo on my arm and it was hurting. I wanted to drink something to ease the pain.
Q How many drinks had you had, do you think?
A I only had just that one.
Q Okay. What did you witness yourself that day? Describe to me what happened.
A Well, we was all sitting there — well, I was sitting there. Johnny Lee was sitting on the corner of the picnic table, and Asia was standing in front of him and Wop was standing in front of me. And we were just sitting there talking, and he was like, you got 65 cents so I can get a soda. And he walked across the street to get a soda. And when he came back he was looking, you know, just like something was wrong. I said, what's up man, what's wrong. And he was like, that them dudes I got into it with, you know, a few months back or whatever. And I

said, man, what y'all got going on out there, like that. And he was like, um, dude say I shot him. So I said, what you talking about, like that. And he was like, that's what they say. And I said, man, you want to get in my car so I can take you whenever you got to go to, you know what I'm saying, I'll drop you off like at Burger King or something. And he was like, naw, they ain't gonna do nothing. So they pass, then they came back around again. Then the third time they came they had -- I guess they kind of like waited because there was a police officer in one of those new police Chargers. He was at the stop sign, and the police made a left. They pulled to the right shoulders of the road and then the two guys came in the park. The man right -- I don't know what his name is -- but he was on the left-hand side and he was on the right side walking in the park. So when I turned around, the one with the long hair, he spoke to Johnny Lee; and so I said, dam, what going on here. A few words was said and they was like -- Wop say, I already talked to Pam (ph), that already squared away. My man right here said, you sure about that. And he was like, yeah, man, I already handled that, that taken care of. And he was like, oh really. So I was like,

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what the hell is going on here. So me, I stood up and started walking towards where the gazebo at 'cause I was fixing to go to my car 'cause I was like, well, they's just going to fight, oh well. By the time I got to the gazebo and walked passed like the -- I don't know if the pole still green or whatever color it is now that connected to the gazebo?

Q Yeah.

A As soon as I walked past and looked back I heard Wop say, you ain't gonna do that out here. And my man say, what? And only thing I heard was pow, pow, pow. When I looked Wop was doing like this right here, and I thought he shot his sister 'cause she fell so far back.

Q Who had the gun?

A The dude right here (indicating).

Q The one in between two people?

A Yeah.

Q Let the record reflect ---

A And I don't know, I don't know ---

MR. HOLT: And just let the record reflect he's pointed at Joshua.

THE WITNESS: I can speak now?

BY MR. HOLT:

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Q Yeah.
A I don't know them, you know, by names or nothing.
Q All right, and let me stop you right there. How close were you to the defendants on the day they shot Milton Hunter?
A When they first walked in the park I'm sitting here. Let's just say like this.
Q Less than 5-feet?
A Yeah, standing right there, like right there, both them standing like that.
Q All right. Now were you drunk?
A No, 'cause I hadn't only drunk half of the cup.
Q And was it raining, was it storming?
A No---
Q Had you had a clear view of the defendants?
A Yeah, it was a nice day.
Q All right. Now did the police ever show you a photo lineup?
A When we got to the police station.
Q Okay. And did you have a hard time picking them out of the photo lineup?
A No, no.
Q Did the police suggest to you who to pick?
A No. Only thing he did was start a thing up there with a bunch of pictures on it. And I say, well no,

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it can't be him 'cause he locked up. Then once you go through the pictures you can basically see who it was.

Q And between one hun-- one and a hundred percent, how sure are you that you picked out the people that shot Milton Hunter?

A Two hundred.

Q Okay. And did the police in any way suggest to you who to pick?

A No.

Q Did they influence you in any way?

A No.

Q Did they try to break you or threaten you to pick out a certain person?

A No.

Q Okay, that's all. Please answer any questions Mr. Jones has.

THE COURT: Mr. Jones.

MR. JONES: Yes, sir.

CROSS-EXAMINATION

BY MR. JONES:

Q Mr. Wingate.

A Yes.

Q Is your nickname Ship like a sailing ship?

A Yes, sir.

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Q Okay. Not Chip like a chopping chip?
A Naw.
Q Okay, all right. Can you give an estimate of the time from the first time that you saw anyone other than Mr. Washington, Ms. Gregg, and Mr. Milton Campbell Hunter come into the park until the time that those people left the park?
A Well, when I got to the park Washington and Asia was already in the park. I was just coming from the tattoo parlor.
Q That's a bad question. Let me start all over again.
A Yeah.
Q Okay? Your testimony was two people shot Milton Campbell Hunter while you were there?
A Yeah.
Q How long did that whole episode take from start to finish?
A It seemed like a long time, but it probably wasn't no more than about 15 minutes tops.
Q Okay. During that 15 minutes was your back towards the people talking, or were you facing everybody that was talking?
A Well, I was facing Wop, Milton, I was facing him. And they was -- well, my back was turned to them

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after I turned around to see who it was that was speaking. I looked, turned back around, and then that's when the conversation went on.

Q Okay. And during that 15 minutes of time you were kind of minding your own business but you could hear what was going on?

A Yeah.

Q How about the length of time that you actually had an opportunity to see who it was that was doing the talking? Can you give me an estimate of that time that you actually looked---

A In between ---

Q ---at the people?

A In between the 15 minutes when they first came up, then the one with the long hair spoke to Johnny Lee, I say within a three to five minute range after the conversation ended, that's when the other part happened.

Q Okay. And you had -- you had some pain from a tattoo and you were drinking a little liquor?

A Yes, sir.

Q All right. And the lineup that you got shown, when did that happen? Did it happen the same day?

A Yes.

Q It did, okay. Later that afternoon or evening?

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A Yes, after the, you know, after the police took him with the ambulance, and then -- I can't think of what the officer name is, but he say is y'all going to come down to the station and we'll give y'all, provide y'all with a ride. I said, well, that's my car right there. And he said, no, you can ride with us. I said okay.
Q All right. But now the video statement that you gave, that was not the same day? The video statement you gave when they asked you a bunch of questions?
A Uh-huh.
Q That was the same day or another day?
A That was the same day.
Q Same day?
A Same -- no, no, no, no, my bad. He called me. I was at work one day and I think it's -- bald head, white guy. Anderson?
Q Yes.
A He called me; I was at work. Asked me could I come over there to give, re-give my statement again.
Q Okay. But the lineup was actually the same day?
A Yes, sir.
Q Okay. And did you prior to that time had you ever seen either of these two gentlemen?

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A From when I used to be in the neighborhood but not knowing them 'cause we way two different age range.
Q Okay. But you did know Ms. Gregg, Mr. Washington, and Milton Campbell Hunter?
A I know Washington. I didn't know Ms. Gregg.
Q Okay.
A But I knew Milton from a previous time.
Q Got you. All right. And the lineup that you were given I think you said you knew it wasn't one 'cause he was in jail. Did you go through the process of elimination and pick out some that you knew and kind of discard those ---
A No, it wasn't ---
Q ---until you got to the one that you picked?
A No, it wasn't like that. It was like as soon as he put the paper down on the thing, I just got through reading a, what you call it, mug shot book. And the first picture of that was on the first row. I say, well, I know that ain't him 'cause he in jail, just like that, that was the statement I made.
Q So the mug shot book and the pieces of paper they put down, is that the same thing? Is that the same thing you're talking about?
A No. A mug shot book is what I had in my car.

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And I had just seen the first person, the first per-- male, black male that was on the printout of the pictures was in that ---

Q You talking about like the little paper you buy ---

A Yeah.

Q ---from a convenience store?

A Yeah.

Q I understand, all right. And you recognized one of those people as one of those lineup people?

A Yeah, it was on there, yeah.

Q All right, I got you. All right, did you notice that the backgrounds were different on the lineup pictures for each one of these lineups? Did you notice anything about that?

A I wasn't too much paying attention. I was looking at faces.

Q All right. Thank you, that's all I have.

THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILEY:

Q Mr. Wingate, in regards to my client, how long did it take you to pick out a photograph of him when you got the lineup?

A As soon as I, I mean, well, they put one up and I

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looked, and I remember the first person that I saw was in the mug shot.
Q Right.
A I kept looking at it. I say, well that's the dude right there that shot him. Then they put another one up and I looked. I said, that's the dude that was standing there that the -- that's the dude that was standing beside him.
Q Okay. And at that time you were -- were you still kind of buzzed from the liquor when you were looking at the photographs?
A I was never buzzed.
Q Okay, I got you. All right. And you said you had seen Johnathan before, and you hadn't seen him before?
A Yes, I had seen the guys before, but it been like years ago when I used to be on the street out there.
Q Right. How many years would that been?
A Now as of October 23rd it will be 13 years 21 days and 72 hours.
Q Mr. Wingate, so you're telling me the last time on February 15th, 2012, the day of the shooting, you hadn't seen my client since he was a little boy then?
A Yes.

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Q So he was like a little kid?
A Right. May I speak.
Q Yeah.
A The reason being I hadn't seen him that long was I have a cousin that stay at the end of the street.
Q Which street is that?
A Lincoln Avenue. Ms. Bernetha, that's my cousin. I used to go there and that's where I used to see the little kids running around.
Q And my client was a child then, right?
A Back then, yeah.
Q So is it fair to say you had never seen him when he was an adult?
A Not really.
Q Okay, all right. Thank you, Mr. Wingate.
THE COURT: Anything further of this witness, Mr. Holt?
MR. HOLT: No, sir, Your Honor.
THE COURT: All right, thank you. You may step down.
All right, Mr. Holt, next witness regarding the identification question on the lineup.
MR. HOLT: Sir?
THE COURT: I said, the next witness with regard to the identification questions lineup.

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MR. HOLT: Johnny Washington.

THE CLERK OF COURT: Mr. Washington, if you'll come around and let me swear you. Put your left hand on the Bible, raise your right.

WHEREUPON,

JOHNNY LEE WASHINGTON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Just have a seat in that chair. They're gonna ask you a couple of questions, okay.

THE COURT: Go ahead, Mr. Holt.

MR. HOLT: Thank you, Judge.

DIRECT EXAMINATION

BY MR. HOLT:

Q Can you give your whole name for the Court and court reporter.

A Johnny Lee Washington.

Q And have you ever testified in court before?

A No, sir.

Q And how old are you?

A 31.

Q And February 15th of 2012 did you have occasion to be in Pride Park?

A Yes, sir.

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Q Who did you go with?
A Asia Gregg.
Q And who did you meet there?
A Milton Hunter.
Q And what happened once Milton Hunter got there to the park with you?
A We sitting there eating Yogi Bear food. Asia had came from Yogi Bear. Next thing I know I seen the Reed boys pass by there about four times. Little cousin Sharon (ph) came out there for a minute to visit, then he left. And before time they came became they pull up on the side of the road I think on Marion Street. Came in the park. They came up in the park. You know what I'm saying, everybody talking for a minute, shook my hand, and I seen a police car going by. I was seeing where the police car going by. Turn back around I seen, you know what I'm saying, boom, boom, boom, boom, boom.
Q What do you mean when you say boom, boom, boom, boom?
A I heard them shots go off.
Q Who shot who?
A I'm saying Joshua Reed shot Milton Hunter.
Q Now did you know the Reed boys before this?
A I'm saying I know them but I ain't had known them

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like that.
Q Okay. And how close were you to the shooting? Were you under 10-feet or more than 10-feet away?
A Like from here to this lady right here.
Q That's how close you were to the defendants?
A Yes, sir.
Q And was there any weather in your way?
A No, sir.
Q Was there anything blocking your view or keeping you from getting a crystal clear image of the defendants?
A No, sir.
Q Now later on that day did you have occasion for the police to show you a photo lineup?
A Yes, sir.
Q And did you look at the lineup?
A Yes, sir.
Q And did you pick the defendants out of the lineup?
A Yes, sir.
Q And on a scale of one to a hundred how certain were you that who you picked out were the ones that shot Milton Hunter?
A Yes, sir, ten.
Q No, between one and hundred.

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A A hundred.
Q Okay. Please answer any questions that the Defense has.
THE COURT: Mr. Jones.

CROSS-EXAMINATION

BY MS. WOOTEN:
Q How are you, Mr. Washington?
A I'm doing all right.
Q So you said you were in the park. Who else was in the park with you at the time?
A Me, Shiran Wingate, my cousin. And my baby momma Asia, Levan Griggs, and Milton Hunter.
Q And how long after you got to the park did the two suspects come in the park by?
A I say a good 30 minutes after that.
Q Thirty minutes after you got there? And from the time that they walked into the park to the time they left, how long would you say that was?
A Say again. Can you run that question back over for the record.
Q From the time they walked into the parking to the time they left the park, how long was that?
A Well, long.
Q How many minutes, five minutes, two minutes?
A I can't tell you.

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Q No idea?
A No idea.
Q Okay. So the day this happened had you been drinking?
A No, I wasn't intoxicated or nothing. I was sober mind. If I was intoxicated I'd still know who they was.
Q Did Mr. Wingate give you anything to drink that day?
A Yeah, he gave me a little drink, a little sip, took a little shot together, that we did.
Q Okay. Were you under the influence of any drugs on that day?
A No, I wasn't on nothing.
Q So you said that two men came in and somebody shook your hand. Who shook your hand?
A Joshua Reed shook my hand.
Q Joshua Reed shook your hand?
A Yeah, he shook my hand and his buddy had shook my hand. He had shook Milton hand. He grabbed Milton and shot him in the head about five times.
Q He shot him in the head five times?
A About five times.
Q And you saw this happened?
A Yeah, I seen this happen. It clear like

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daylight, like it is right now.
Q Okay. So you didn't hear it; you saw it?
A No, I ain't hear it, I saw it.
Q How far away were you?
A Like I said one time, from here to that lady.
Q So 2-feet you say?
A I don't know how many feet that is; I ain't got a ruler.
Q Okay. How long did you know the Reeds before this day?
A Sort of like '05, '04, but I don't know them like that.
Q You also said while you were in the park a police car drove by?
A Uh-huh.
Q While you say the Reeds were in the front with you?
A Yeah, yes, ma'am.
Q Do you remember seeing a photo lineup later that day?
A Yes, ma'am.
Q Do you know how many people were in this lineup?
A It was a lot of people, a lot of.
Q A lot of people? How long did it take for you to identify Mr. Reed?

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A Oh, with no problem, right there on the spot.
Q Did you notice anything different about these pictures, that one was different from another?
A No, ma'am.
Q Who showed you this photo lineup?
A Chief Anderson took me down there. And like I said, I seen the police officer was in here just a while ago.
Q You don't see him in the courtroom now?
A No, ma'am.
Q Okay. I don't have anymore questions for you.
A Yes, ma'am.
THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILEY:
Q Mr. Washington, were you -- just to make sure, were you acquainted with Mr. Johnathan Reed before this date of the shooting?
A Can you run it back over for me.
Q Well did you know him, were you acquainted with him?
A No, sir.
Q So you never knew Johnathan before the day of the shooting, right?
A I had know him but I don't know him like that.

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Q When you say you don't know him like that ---
A Like, he's like, you know what I'm saying. I know he used to stay on our street. He used to come on through but I don't know, like hang out, no kicking, no spending the night here and there and go, they up and go.
Q And you said that when the Reeds approached you that day, was Johnathan in front or was Joshua in front?
A Johnathan was standing over here. Reed was standing right in front of me just like this right here. This one right here. My baby momma was right there, you know what I'm saying.
Q When you say Reed, when you refer to Reed ---
A Oh, Joshua Reed.
Q Joshua Reed, correct. Okay. And so you said so you recall when they walked up from when they parked the car, parked the truck?
A Yes, sir.
Q Was Joshua in front of was Johnathan in front?
A I don't know which one in the front.
Q Okay.
A I can't be exact.
Q All right. And you said that -- and I'm sorry. You said that on that day you shook hands with

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Johnathan first or Joshua?
A I said I shook hands with both of them, Joshua and Johnathan.
Q Okay, which one first?
A I don't know which one first to be exact, but I shook hands with both of them though 'cause I know.
Q All right. And can you tell me about how long from the time, from the point of the shooting to the point of the photograph line-up, how long did that take?
A I really couldn't tell you that either 'cause I had stayed in the park for a minute till they start investigating the whole crime scene.
Q You had stayed in the apartment?
A No, I had stayed in the park the whole time till they investigate the whole crime scene. I couldn't move nowhere.
Q You have no idea how long it took?
A No, sir.
Q You -- they show you a lineup of Johnathan's picture first or one with Joshua's picture first?
A I don't know.
Q Okay, all right. And how -- and when you saw the photographic line-up shot -- sorry. When you saw the photographic lineup with Johnathan -- that's my

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client right here in the green shirt — how long did it take you to find his picture?
A Right there? That's him.
Q How many photographs were sitting up on the table at the time?
A I don't know, sir.
Q I mean, was it less than ten?
A I don't know how many photographs but it had like little photographs. That's him in the line-up. You know how it is when they be lined up in there. It probably been six to the top, probably been six to the bottom, you know.
Q I'm sorry, Mr. Washington.
A It probably been six photographs to the top of people, six pictures to the bottom of people who, you know what I'm saying, pick them out.
Q So that would have been about 12 things?
A I don't know.
Q And were the pictures that were surrounded by Johnathan's picture, were they different looking people than Johnathan or were they the same type people?
A Clear like day.
Q So they were different than the picture of Johnathan?

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A Clear like day, that's him.
Q Okay. I understand that, sir, but I'm talking about -- let's talk about the other pictures that were around the picture of Jonathan. Were they similar to Johnathan's photograph?
A Different people.
Q They were different people, right, but like the types of people in the photograph, were they ---
A Naw.
Q They didn't look like Johnathan?
A Naw.
Q Okay, all right. Thank you, Mr. Washington?
A It was him though.
Q All right.

THE COURT: All right. Anything further?

MR. HOLT: I don't have anymore questions, Judge.

THE COURT: All right, you may step down.

MR. HOLT: If I could get Brian Rudick out the back please.

THE CLERK OF COURT: Place your left hand on the Bible, raise your right.

WHEREUPON,

BRIAN RUDICK,

having been duly sworn by the Clerk of Court,

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testified as follows:

THE CLERK OF COURT: If you'll have a seat in that chair.

THE COURT: All right, Mr. Holt.

DIRECT EXAMINATION

BY MR. HOLT:

Q Can you please give the court reporter your full name?

A It's Lieutenant Brian, B-R-I-A-N, Rudick, R-U-D-I-C-K.

Q And where are you employed?

A The Hartsville Police Department.

Q And how long have you been employed there?

A Nineteen years.

Q And what is your position currently? I know you said lieutenant but just specify it.

A I'm lieutenant over investigations unit.

Q And what does that entail?

A We monitor daily activities of the investigators, both criminal and narcotic assigned cases, assist the detectives with whatever cases they're working on.

Q And were you in that position on February 15th, 2012?

A Yes.

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Q And what were your duties that day? Did you have occasion to produce a photographic line-up, two of them for two defendants?
A I did. On the date in question late in the afternoon the Hartsville Police Department, specifically my investigators, got investiga-- got involved in a homicide investigation.
Q All right. Let me stop you right there.
(WHEREUPON, State Exhibits Nos. 1 and 2 were marked for identification only.)
THE COURT: All right.
MR. HOLT: Permission to approach, Judge.
THE COURT: Yes, sir.
BY MR. HOLT:
Q I'm gonna show you what's been marked State's Exhibit 1 and State's Exhibit 2.
THE COURT: Actually, I think they are marked as Court's, right?
MR. HOLT: Court's exhibit for I.D. purposes.
THE COURT REPORTER: State's 1 and 2 for I.D.
THE COURT: State's 1 and 2 for I.D., okay.
BY MR. HOLT:

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Q If you can look through those and tell me do you recognize them?
A Yes, sir, I do.
Q And have there been any changes, alterations, or deletions made since last you looked at them?
A No, sir.
Q Now Investigator Rudick, if you can tell us from start to finish how you created the lineup that you were talking about. You can set that down. Tell us how you created it, why you created it, and the circumstances surrounding its creation.
A Like I said, on February 15th, 2012, the Hartsville Police Department and the investigative unit were involved in investigation of a homicide. During the course of the investigation Sergeant Terry Anderson had been given two names of persons possibly involved. I was involved with going to an address on Lincoln Avenue. We had located a — the description of a vehicle that was given out. One of our officer's found a vehicle matching that description. We were following up with that investigation. We happened to be at the Reed residence on Lincoln. From there I went to assist a few other parts of the investigation. We spoke to Johnathan and Joshua Reed in the front of the house.

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Some other things led us to believe they were possibly involved. We wanted to do an interview with them at our investigations unit, not in their front yard. They were taken to investigations; and while I was doing that, I spoke to Sergeant Anderson by phone and he had told me that witnesses at the scene had identified Joshua and Johnathan as being involved in the shooting. So based on the fact that the witnesses were calling their names, that we were at their residence, and that they were now in my office to be invest-- to be questioned, Sergeant Anderson asked me to create two separate lineups with them in them and that's what I did.

Q How did you get the pictures for the lineups?

A The vast majority of our pictures we use a software called RMS. It's made by Southern Software. Most of our booking photographs, if we find someone who's not had an arrest we might pull their DMV photograph and add it to our system; therefore, when you're dealing with someone you can actually pull up their photograph and take a look at it. It has a module built in that does photo lineups for us. So knowing the names of those involved, we simply start with their picture, pull up what we have in our system. For this particular

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case both Johnathan and Joshua, their pictures were significantly old. I can't give you an exact date but they were both in their teens when the photographs were taken and I did not feel they were representative of that they looked liked currently.
Q What did you do?
A What we did was, because you can see from most of the photographs they're based off a neutral background, something similar to a painted wall, so that there's nothing else to distract in the back. DMV, jail pictures are all done about the same way. We simply took their photograph standing in front of a neutral wall of the detective division and imported those photographs into the system, used their photograph as the base, and then found five other individuals of similar, of the same race, sex, similar physical description I.f there was long hair we found long hair individuals that looked similar that had no significant changes. You know, one's you know, not a Facebook photograph and the rest are booking photographs; we try to make them all look the same.
Q And State -- Court's exhibit for I.D. 1 and 2, those are the lineups that you just talked about creating?

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A Yes.

MR. HOLT: Your Honor, at this time I'd like to move those into evidence.

THE COURT: All right, any objection?

MR. JONES: Not for just for purposes of this hearing.

THE COURT: Yeah, just for purposes of this hearing, any objection?

MR. JONES: No objection.

THE COURT: Both in evidence for purposes of this hearing, State's numbers 1 and 2.

BY MR. HOLT:

Q Now did you have occasion to show those lineups to any of the plea witnesses to the crime?

A I did.

Q And which one did you show it to?

A Asia Gregg.

Q And where did you meet with her and show it to her at?

A At her family's residence on East Home Avenue.

Q And did you influence, suggest, threaten or in any other way conjure her into picking out certain individuals?

A Absolutely not, sir.

Q And how certain was she of the individual she

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picked out that had shot her brother Milton Hunter, how certain did she appear to you that day?
A Significantly certain.
Q And how soon after the shooting did you do the video, the photographic lineup?
A Not to the minute, but probably four to five hours.
Q Okay. And I'm gonna show you -- and I'm sorry for this, what's been marked as State's Exhibit for identification 3. And I don't want you to tell me what it is but I want you to answer, has it been altered, changed, any deletions made since the last time you looked at it?
A No, sir.
Q And when Asia picked people out of a lineup at her house on East home Avenue, do you just take her word for it, or is there some type of memory made, some type of recording made for that purpose? And does she sign some paperwork or does she just point people out to you?
A Our standard operating procedure is we have a form that they fill out indicating to whom they were indicating was involved in the crime ---
Q Okay.
A ---or who they recognized.

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Q And did you give that piece of paper to Asia?
A I did.
Q And did she fill it out?
A I filled out the majority of it, the case number, date, time location, my name, and who I was interviewing or speaking to. It wasn't an interview but showing her the lineup. And then she completed the very bottom where indicates the number she's identifying and how.
Q And the piece of evidence in your hand is that said memorialization of the photo lineup that you showed Asia?
A Yes.
MR. HOLT: Your Honor, at this time the State would like to move State's Exhibit for identification 3 into evidence for purposes of this hearing only.
THE COURT: Any objection, Mr. Jones?
MR. JONES: No, sir.
THE COURT: Mr. Swilley?
MR. JONES: There is none, Your Honor.
THE COURT: All right, admitted into evidence as State's number 3 for purposes of the Neil v. Biggers hearing.
BY MR. HOLT:

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Q And can you tell us who she picked out of the photo lineup, what number of people, and then tell us who those people are represented by those?
A She picked out two. Like I said, there were two separate lineups. Knowing we were dealing with two separate suspects we did not want them in the same lineup so we created two separate ones. In the first lineup she picked out number four and said he was the guy driving. In the second lineup she picked out number two and said this is the one that shot my brother.
Q And then the first lineup number four, who is that?
A That would have been Joshua -- I mean, excuse me, Johnathan.
Q And in the second lineup, two, who was that?
A Joshua.
Q Okay. How were the photographs displayed? Did you put six pictures on one page, or what did you do?
A No, sir. Following the FBI best practices they were printed in black and white on individual photographs per one sheet so it was six individual sheets handed to her one at a time for identification.

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Q To your knowledge after the witness, the one witness you dealt with looked at the lineup, did she communicate to anyone else what her answers were?
A Not to my knowledge.
Q Okay. And did she appear certain to you?
A Absolutely.
Q And did you give copies of the lineup to any other officers so that they could ask other individuals?
A I created two sets of lineups. Mark Blair had another set, but it was the exact same. I just hit print twice when we created them.
Q Okay. Thank you very much. Please answer any questions Defense might have.

THE COURT: Mr. Jones.

MR. JONES: Yes, sir.

CROSS-EXAMINATION

MR. JONES:

Q You have the actual lineups?
A Yes, sir.
Q I'm gonna show you first number 1, State's Exhibit Number 1, and ask you if you would agree with me that picture number 4 has a different background than the others?
A Only as of all six are slightly different with

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different gray scale backgrounds.
Q Okay. And I'm gonna show State's number 2 and ask you the same question except ask you if picture number two has a significantly different background?
A Once again, all six are slightly different versions of gray scale backgrounds.
Q Would you agree with me that picture number 2 though is significantly lighter in background than the other five?
A I wouldn't necessarily use the word significantly, but it is different, yes, sir.
Q And I think you've explained why because that picture was actually taken that day, whereas, the other ones were generated by your program?
A The other ones were physically taken either by DMV, Department of Corrections, the jail, other locations and other -- we import them into our system for use. But that one, those two were taken that day, yes, sir, if that's your question.
Q And just so I understand, the program that you talked about, are the pictures in the program or do you have to go find the pictures?
A No -- yes and no. The RMS module that we use has the ability for you to attach a photograph from different sources. So over the years through

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bookings, through DMVs, sometimes we'll run across a suspect or a victim that we don't have a photograph of, and you go find a photograph of them and import it; that way we know what they look like. So the exact origin of all twelve of those photographs other than the two that I personally took, I could not tell you exactly. But they're already in the system. We didn't have to go hunt on the internet or anything like that.

Q And the two from Mr. Joshua Reed and Mr. Johnathan Reed, though, were taken that day?

A Yes.

Q Thank you. That's all I have.

THE COURT: Mr. Swilley.

BY MR. SWILLEY:

Q Investigator Rudick, did I hear correctly, you yourself took photographs of Johnathan and Joshua Reed?

A I believe I did.

Q And when you placed the photographs in front of Ms. Gregg were they on the table like ——

A No, sir. We were -- we were in a bedroom area and I handed them to her one at a time.

Q One at a time?

A Yeah. FI best practice is not to have them in a

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spread where they can see them all at the same time. It's to see them individually.

Q Just to be sure, when she came across when she was going to the photographic lineup for Johnathan she identified him as the guy driving?

A Yes.

Q Did she give any other description of Mr. Johnathan Reed at that time?

A Not that I recall.

Q Okay. And Mr. Jones may have asked this, did the other photographs as far as the ones being Johnathan could you tell -- I mean, can you testify as to how old those photographs were?

A No, no.

Q Okay. Nothing further, Your Honor.

THE COURT: Mr. Holt?

MR. HOLT: Nothing else for this witness, Judge.

THE COURT: All right, if you'd give those exhibits back to the court reporter please. You may step down.

All right, Mr. Holt.

MR. HOLT: Mark Blair.

THE COURT: Right there, Mr. Blair, to be sworn.

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THE CLERK OF COURT: If you'd place your left hand on the Bible, raise your right.

WHEREUPON,

MARK A. BLAIR,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat right here.

DIRECT EXAMINATION

BY MR. HOLT:

Q Can you provide your whole name for the record?

A Mark Alexander Blair.

Q And where are you employed?

A Hartsville Police Department.

Q And in what capacity?

A I am a training officer and was accreditation manager and handle grants.

Q Okay. And on February 15th, 2012, what position were your working with HPD?

A Then I was accreditation manager. I was the accreditation manager. We've since ceased accreditation, but I was the accreditation manager.

Q And how did you become involved in the murder of Milton Hunter?

A I was working in my office that day, and when I

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heard the radio call go out about a shooting incident at Pride Park I went to the area. And by the time I got there -- my office is about a mile-and-a-half away. By the time I got there they said there was enough officers on location; and subsequent radio call notified us that we were supposed to be looking for a pickup truck, a green pickup truck. I went to Lincoln Avenue.

Q Let me stop you right there?

A Yeah.

Q Officer Blair, did you have occasion to come into possession of two photographic lineups?

A Okay, yes, sir. I was at the investigations division about 5:30, 5:45 in the afternoon. And I had finished doing some other work down there; and Lieutenant Rudick handed me a series of photo lineups and asked me to take them up to the station, the main office, to the chief of police, so I -- and that's what I did; I took the lineups.

Q Now looking at State's Exhibit 1 and 2 for purposes of this hearing only, do you recognize those exhibits?

A Yes, sir. These are the lineups that I was given by Lieutenant Rudick.

Q Okay. Now did you have occasion to show those

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lineups to any witnesses of Milton Hunter's murder?
A Yes, I showed them to -- showed them to Anthony Wingate and Johnny Washington.
Q All right, now, I want to hand you what's been marked for identification purposes as State's Exhibit 5 and State's Exhibit 4.
A Okay.
Q And I don't want you to tell me what they are, but I do want you to tell me if you've seen them before.
A Yes, sir, I've seen them before.
Q And have there been any changes, alterations, deletions made in anything? Are they different since the last time you've seen them?
A It does not appear so, no.
Q Okay. Once you showed the photographic lineups to the two witnesses did you memorialize their findings in any way? Did you write down what they showed you?
A Yes.
Q Okay. And is that writing, is that it right there?
A On the bottom of the forms?
Q Yes, sir?
A Yes, sir.

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MR. HOLT: Your Honor, at this time the State would like to move State's Exhibit 4 and 5 into evidence please.

THE COURT: For purposes of this hearing?

MR. HOLT: For just purposes of this hearings.

THE COURT: Gentlemen?

MR. JONES: No objection, Your Honor.

MR. SWILLEY: No objection.

THE COURT: Admitted for purposes of this hearing, State's Numbers 4 and 5.

BY MR. HOLT:

Q Judge -- I'm sorry, Officer Blair.

A Yes.

Q Can you tell us what the two witnesses pointed out on those State's exhibits right there?

A Yes, sir. I read them the instructions on the forms and ---

Q And what are those instructions?

A Okay, I'll read them to you just like I read. "I, Mark Blair, will advise you the procedures for viewing the following lineup. The fact that these photographs, persons are being shown to you, should not cause you to believe that a guilty person has been identified or arrested. The person that

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committed the crime may or may not be in this lineup. Regardless of whether you make identification the police will continue to investigate this incident. It is just as important to clear innocent persons from suspicion as it is to identify the guilty parties. Please keep in mind that the individuals depicted in the lineup may not appear exactly as they did at the time of the accident because features such as hair and clothing are subject to change. You will be shown a number of photographs/images/people. All the images/persons will be shown even if an identification is made. Whenever you recognize anyone please tell the officers which photograph/image you recognize and how you recognize the individual. Please indicate in your own words how certain you are of the identification. Do not indicate in any way to other persons or witnesses that you have or have not made an identification." Those were the instructions read on that evening.

Q All right. And did you read that to both witnesses you met with?

A Yes, sir, separately.

Q Did you show the photographic lineups to them together?

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A No, sir.
Q Okay.
A I showed first one lineup and then the other lineup.
Q All right. Now Anthony Wingate ---
A Uh-huh.
Q All right, now Anthony Wingate, who did he pick out of the first lineup, what number?
A Let's see, Anthony Wingate picked out photograph number 2.
Q And who was photograph number 2?
A Josh Reed.
Q And how sure of himself was Anthony Wingate? Did he write or acknowledge it on there anywhere?
A He did not write or acknowledge. He wrote on here -- you want me to read exactly what he wrote?
Q I do?
A "I saw him shoot Woop up close." And he indicated to me that he knew the individuals in the photograph for a number of years and had ---
Q You say Woop, you mean W-O-P?
A W-O-O-P.
Q It's pronounce Wop.
A Wop or Woop. I would assume Woop.
Q And on the second interview who did he pick?

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A On the second lineup he picked out number four.
Q And who was that?
A Which was Johnathan Reed.
Q And what did he write under Johnathan Reed?
A All he wrote was he drove him up there.
Q All right. Putting that aside, who was the other person he interviewed that day?
A The other person was Johnny Washington.
Q And what dates and time did you do those interviews? Does your form reflect that?
A Yes, sir, February 15th, 2012, at 6:10.
Q All right. And what, who is that witness? What's their name?
A Johnny Washington.
Q And who did he pick out of the photo lineup?4?
A Our of the first lineup he picked out number 4 which was Johnathan Reed.
Q And what did he write under there?
A He wrote, I am a hundred percent -- well, the form says, "I am blank certain of my selection," and he wrote in "a hundred percent because I know him five year. He was driver of the truck." In his own words.
Q Who did he pick out of the second lineup?
A He picked out photograph number 2 which was

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Joshua Reed.
Q What did he say under there?
A Again, "I am a hundred percent certain of my selection because I seen him shout. I know him for five year."
Q Okay. And did you bribe, coerce, conjure, influence, threaten, or any way do anything to mandate that these witnesses picked out these defendants?
A No, sir.
Q If they had picked out somebody else would you have cared?
A No.
Q Okay. Thank you very much, Officer Blair. Please answer any questions Mr. Jones or Mr. Swilley might have.

THE COURT: Mr. Jones, okay.

MS. WOOTEN: Thank you.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Good afternoon. Is it Sergeant Blair?
A Yes.
Q How are you doing?
A Doing well.
Q I have a few questions about the lineup?

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A Okay.
Q Where exactly did you meet with Mr. Wingate and Mr. Washington?
A It was in the rear of the police department at 135 West Carolina Avenue. It's an area we commonly call the squad room or the sergeant's room.
Q And they were both in the same room when you arrived?
A Yes.
Q Okay. Which -- was it Mr. Wingate or Mr. Washington that talked to you first?
A It was Anthony I talked to first while Mr. Washington was outside.
Q And where did you take Mr. Washington, or where did you take Mr. Wingate to make sure they weren't together?
A Mr. Wingate stayed inside with me. Mr. Washington went outside, and I do not remember the officer's name that was standing there, but they were separated by 12 feet and a brick wall.
Q And so as part of your line-- I'm sorry, let me rephrase. Was it common for you to show photo lineups to witnesses? Was that part of your daily routine?
A No, ma'am.

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Q Had you done it before?
A Not using this particular form. This is the first time used this particular form and procedure.
Q Okay. How long before you met with your, Mr. Wingate and Mr. Washington, were you given the photo lineup?
A It was about 15 minutes.
Q Did Mr. ---
A Maybe.
Q ---Lieutenant Rudick tell you how to do it or did he just give you the form?
A He gave me the form and the photo lineups and told me to take them up to the station. I actually created this form myself as part of my accreditation manager duties so I was familiar with the form.
Q Okay. So when you had the witness fill out the form, do you fill out part of it and they complete the rest of it?
A I fill out the date and time and then they complete the bottom section of it.
Q Do you make sure that form is complete before you take it back to them?
A Yes.
MS. WOOTEN: Do you mind if I approach, Your Honor?

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THE COURT: No, ma'am.
BY MS. WOOTEN:
Q So as to State's Exhibit 5 for identification purposes, this is Mr. Wingate's?
A Uh-huh.
Q Is that completely filled out on the bottom?
A No, ma'am.
Q Did you request that he completely fill it out on the bottom?
A I do not recall.
Q And what is missing on that form?
A I am blank certain of my selection because.
Q Okay.
A And after because he wrote he drove him up there, but he did not say how certain he was on the form.
Q Okay. So when you are at the office with the witnesses were you aware that the Reed brothers were also there at the same time?
A At the police station?
Q Were they at the same building where the ——
A Oh, no, no, no. They weren't there at the police station with me.
Q Okay, you didn't see them?
A No, I did not see them.
Q Great. How did you show the photographs to Mr.

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Wingate for example?
A I took the six photographs and laid them out out on the table and asked that he look at them one at a time and I believe -- no, he looked at them all the way through and then identified numbers 2 and 4 respectively.
Q Right. Did you happen to notice something different about the background of those photos?
A I didn't really look at them. Looking at them now they may be a little bit different.
Q And what do you -- may I approach again, Your Honor?
THE COURT: Yes.
BY MR. SWILLEY:
Q Let's look at this lineup right here.
A Okay.
Q This one contains Mr. -- this is State's Exhibit for identification purposes 1 so -- excuse me one second. What would you say is different from number 4 to the rest of these photos in the background?
A Hold them that far away. I need my glasses on. From number 4?
Q Do you notice anything different, the background being darker or lighter?
A No, number 3 is a lot darker and numbers 1 and 2

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have this whited band on the side, whereas number 3 does not.
Q Okay. So there's various degrees of gray in the background?
A Yeah, just a little bit different gray.
Q Okay. How long did Mr. Wingate spend with the photographs before he made his identification?
A A minute or so, maybe two.
Q And Mr. Washington came second?
A Uh-huh.
Q How long would you say he spent with the photographs before he made his identification?
A Again, when he got to -- I got to refer to my report here. He stopped when he saw Johnathan Reed, and I asked him to go on ahead and go through all photographs to make sure.
Q A while ago you said spread them on the table?
A Uh-huh.
Q Does that mean you would just you put them up in front of him and he picked them out?
A Yeah. I mean, I didn't spread them out one at a time. I just kind of handed them to them and made sure that there were six in there.
Q Great.
MS. WOOTEN: I have no further questions

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for this witness, Judge.

THE COURT: Okay. Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Mr. Blair, I just want to make sure, when you -- when you showed Anthony Wingate the photograph of Johnathan Reed, right, you said that he wrote down, I quote, "He drove him up there"?

A Uh-huh.

Q That's number 4, right?

A Yes.

Q Okay. Did he make any kind of contemporaneous statement along with the identification Johnathan Reed?

A Did he make any other statement that's not written down on the form?

Q That you're talking about.

A He did say he recognized some of the other photographs in the lineup, that they didn't have anything to do with it.

Q But as far as Johnathan Reed, show me where.

A Okay.

Q Show me we he said he was one that drove him.

A Oh, right here.

Q Okay.

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A Right.
Q Right.
A Uh-huh.
Q At the time he wrote that he didn't say anything as far as a description of Johnathan Reed or anything he might have done?
A No, sir.
Q Okay. Just that he said he was the one that was driving?
A Uh-huh.
Q Okay. And when you showed the photographic lineup of Johnathan Reed to John Lee Washington he said, I quote, "I know him five year. He was driver of the truck."
A Yes.
Q Okay.
A The English isn't right; but yeah, "I know him five year, he was driver of the truck."
Q And he didn't, he didn't say or write anything else and in association with his identification of Johnathan Reed, correct?
A Correct.
Q Okay. And how long did you say it took Mr. Wingate to identify Johnathan Reed?
A Not long, just a couple of minutes to look at the

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whole thing.
Q Okay. And what about Johnny Lee Washington?
A Same thing, just...
Q Okay, nothing further.
THE COURT: Mr. Holt.
MR. HOLT: Just one question and I'm done, Judge.

REDIRECT EXAMINATION

BY MR. HOLT:
Q Was anybody else in the office with you while you were giving these?
A Yes, Chief James Hudson was watching the whole procedure.
MR. HOLT: That's all, Your Honor.
THE COURT: Anything further, Mr. Jones?
MR. JONES: Nothing further.
THE COURT: Thank you, sir. You may step down.
THE WITNESS: Thank you, Your Honor.
THE COURT: Make sure the court reporter has the exhibits.
THE WITNESS: Okay, I'll leave them right there.
THE COURT: Mr. Holt.
MR. HOLT: Would you get Chief Hudson

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please. One more witness, Your Honor.

THE COURT: All right.

THE CLERK OF COURT: Place your left hand on the Bible, raise your right hand.

WHEREUPON,

JAMES HUDSON, JR.,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat in the witness chair.

P R O F F E R E X A M I N A T I O N

BY MR. HOLT:

Q How are you doing, Chief?

A Good, how are you?

Q Can you please give your whole name and title for the court reporter?

A James Hudson, Jr., chief of police, Hartsville PD.

Q And how long have you been chief?

A A little over two years.

Q And how long have you been in law enforcement?

A Eighteen years.

Q And what capacity were you with law enforcement on February 15th, 2012?

A Chief of police.

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Q For Hartsville still?
A Yes, sir.
Q And did you have occasion within your office to witness Officer Blair give witnesses photographic lineups?
A I did.
Q And within your presence did Officer Blair threaten, coerce, confuse, discombobulate, try to get them say anything that wasn't true?
A No, he did not.
Q Did he try to pull any one picture above any other picture to get them to pick out a certain individual?
A He did not.
Q And is that the policy in your office ---
A It is.
Q ---the way that they did the photographic lineup?
A Yes, sir.
Q Okay. And is it your policy to confuse or threaten people in photographic lineups?
A No, sir.
Q You witnessed Officer Blair show both lineups to two different witnesses?
A I did.
Q Thank you, Chief. That's all.

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THE COURT: Mr. Jones.

CROSS-EXAMINATION

BY MR. JONES:

Q Yes, sir, just a couple of questions. Chief, at the time that Sergeant Blair was showing the lineup to the two witnesses were the suspects also at the same facility?

A No, sir.

Q They were not?

A No, sir.

Q Do you know if they were in custody at that time?

A They were being sought after.

Q So they were not even under arrest to your knowledge?

A There was a whole lot going on. They were being looked for at the time.

Q Okay, that's all I have.

THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Chief Hudson, do you have any independent recollection of Miss -- excuse me, of Mr. Wingate and Mr. Washington selecting the two individuals in those photographs in each lineups?

A We followed protocol. They were shown a photo

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lineup and given opportunity to pick those persons out.

Q Do you have -- do you remember this though?

A Yes, sir.

Q Okay. And do you recall when Anthony Wingate selected Johnathan Reed out of the photograph?

A I do.

Q Okay. And did he make any kind of contemporaneous statements based on your recollection anything associated with Mr. Johnathan Reed?

A Not to my knowledge.

Q Okay. And as far as Johnny Lee Washington goes, did he make any kind of contemporaneous statements as far as identification with Mr. Reed as far as how he recognized him from that day and for what reason, or just that you recognize him?

A Just that he recognize him.

Q Nothing else indicative of any kind of participation that Mr. Johnathan Reed has in the incident, correct?

A Not to my knowledge.

Q Thank you, sir.

A Yes, sir.

THE COURT: Mr. Holt.

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MR. HOLT: No further questions, Your Honor.

THE COURT: Okay, you may step down.

THE WITNESS: Thank you, sir.

THE COURT: Any further evidence on behalf of the State in connection with this matter, Mr. Holt?

MR. HOLT: No, sir, Judge.

THE COURT: All right. Mr. Jones, any evidence on behalf of the defendant in this regard?

MR. JONES: No, sir, Your Honor, just a chance to argue.

THE COURT: We'll do argument in just a minute. I'm talking about evidence.

MR. JONES: No.

THE COURT: Mr. Swilley, anything on your behalf?

MR. SWILLEY: There's not, Your Honor.

THE COURT: All right. Your motion, Mr. Jones, I'll be glad to hear from you.

MR. JONES: Judge, it's our position that number one, under Neil v. Biggers, State's exhibit 1 and 2, although the officers questioned did not readily agree with me, I think if the Court looks at these two exhibits, pictures that were identified,

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number 2 and number 4 have significantly different backgrounds than the other pictures that are presented. For that reason we feel that those lineups themselves were unduly suggestive. Under the two point, two prong inquiry the Court has to make, then I believe that the Court turns to the witnesses that were presented and determine whether or not their identifications were reasonable under all the other circumstances. And I think going individually starting with Miss Asia Gregg, the length of time that she indicated that the situation occurred was significantly different I think than the other witnesses. But she says that she spent about 35 minutes looking at the defendants, that she was standing right next to her brother, that they had her undivided attention and that she was shown a lineup shortly after the event occurred. Your Honor, we would argue that that is -- I won't say inherently unreliable, but it appeared from her testimony which as the Court remembers significantly expanded just on the lineup situation that I believe tried tell us everything she knew as she was questioned. It appears from the statements which she gave earlier -- I understand the Court did not have those statements -- but the questioning that

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was done of Ms. Gregg, she in fact did not have the degree of knowledge of either Mr. Joshua Reed or Mr. Johnathan Reed she indicated on her direct testimony. The same thing I believe for Mr. Wingate, Ship. He cut down on time significantly. I think he was down to about 15 minutes and that his opportunity to view of the defendant was even a lot shorter than that, three to five minutes. His degree of attention, I would submit to the Court, was probably significantly affected by the fact that he just had a tattoo and he was hurting and he was trying to drown the pain with whatever liquor he was drinking. I will concede that the length of time between the crime and actual confrontation was fairly short so that they were probably had not had a significant impact on his ability to identify. However, in the testimony that he gave it appeared that he might have been doing a little process of elimination because I believe he's the one that said that he had bought the dollar mug shot thing at a convenience store and recognized the first guy off of it so he took him out just by process of elimination.

THE COURT: But he didn't say anything about the other five, did he?

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MR. JONES: But he did not say anything about the other five, no, sir. Mr. Washington probably was the strongest of the three witnesses who did the identification; and he had, I believe, a significantly better opportunity to view the situation. And the fact that he appears to have known both of these defendants for a longer period of time, but he -- I'm still troubled by the fact that he said he knew them but he didn't know them in that way; and I'm not exactly sure what that meant other than he was probably very surprised and shocked, and upset about the whole situation going on and I would submit that that probably would lend the Court to believe that that perhaps is not a very reliable identification also. Coupled with the fact that all of them were shown the same lineups that had a significantly different background of these two defendants, I would submit that the out of court identifications by all three, Asia Gregg, John Lee Washington, and Anthony Wingate should be suppressed, Your Honor.

THE COURT: Wasn't that an attempt, Mr. Jones -- and I'm gonna look at them in just a minute -- but wasn't that an attempt by law enforcement to come up with a more accurate lineup

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by a showing of people about the same age, rather than showing them the pictures that they had on file which was significantly younger?

MR. JONES: I do not have any hesitation in telling the Court I don't think that the Hartsville Police Department intentionally did anything wrong.

THE COURT: I understand.

MR. JONES: I just, whenever it developed it got white backgrounds of these two individuals and varying degrees of gray for all of the other ones.

THE COURT: But the reason they wanted to use the two particular pictures of the defendants was to make their age in the same area as the other people that were in the lineups.

MR. JONES: Yes, sir, I'll certainly agree with that.

THE COURT: All right, Mr. Swilley, let me hear from you.

MR. SWILLEY: Your Honor, I think Mr. Jones has summarized the argument that the photographs were unduly suggestive due to background, their salient quality of that photograph judging from the other five on each of the

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photographic lineups. I don't think there's anything in testimony that would suggest second prong of Biggers is that the identification, nevertheless reliable, there's no substantial likelihood of misidentification existed I. don't think that -- I think these witnesses would have testified they did not know the two individuals if either at all or well. As far as Ms. Gregg was inconsistent, she said she couldn't ever remember seeing him before that date. Mr. Wingate was ambiguous. Mr. Washington was ambiguous about how well he had known the defendant before that, and Mr. Wingate probably never seen those gentlemen before as adults.

So I think that, you know, the unduly suggestiveness of the lineups is apparent, and I don't think these identifications were reliable enough. There's no substantial likelihood of misidentification was in existence of the Court prohibit all three of these individuals from identifying my client ---

THE COURT: All right.

MS. WOOTEN: ---during the State's case in chief.

THE COURT: All right.

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Mr. Holt.

MR. HOLT: Judge, I think, you know, the first part of the test we're talking about was identification procedure conducted unduly suggestive; and I certainly believe, Your Honor, that we've seen evidence to show that Defense doesn't even get past the first prong of the Biggers test. The only conceivable thing they have going for them is that the background for the Reed brother was a little bit lighter. And Your Honor, when you look at it I want you to remember what Officer Blair said. Some are lighter, some are darker, some have borders, some don't, some photographs are bigger, some are not as big. Judge, there is not an annual criminal consortium that gets together and sends out photographs of all these people. Detective Rudick told us you get them from DMV, you get them from the county jail. They get them when they take them themselves and then enter them into the system. So you've got all these different cameras, all these different purposes, feeding this one program that picks and chooses.

Judge, should Rudick and them have used the teenage pictures of the Reed brothers 'cause then I think we would have been something almost

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comical where they're showing a photographic lineup with a bunch of adults and two juveniles; and to get around that, Rudick and them made their own pictures. I think on top of all of this, I want everybody in the courtroom to never forget that everyone out there knew the Reed brothers to begin with. They have no problem pointing them in here today. They had no problem talking about them. They had no problem telling the Defense where and when they knew the Reed brothers from. I think you got three people who saw a murder and they're off a little bit on their times on what they saw but you just got three different opinions. I don't think you have an underlying conspiracy about a police to place two people under arrest for no reason whatsoever.

Judge, I want to say we don't even get to the second prong because I don't think the lineup was unduly suggestive in the least. But even if you do find that, that it was somewhat -- and it can't be somewhat suggestive, it's got to be unduly suggestive, I know we don't go there. But the second prong was the procedure is so suggestive as to give rise to the very substantial likelihood of irreparable misidentification under a totality of

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the circumstances, we have to remember that they knew the Reed brothers so that there's no way the second prong could ever be reached.

THE COURT: All right, thank you, sir. All right. The case law in this case, most especially Neil versus Biggers which is a US Supreme Court case cited as 409 US 188. 93 Supreme Court 375 is the basis for the identification questions that have risen before the Court and sets forth the test that has to be used by the Court in determining whether an identification is admissible. It has been interpreted several times by the South Carolina supreme court most notably in State verses Lewis, 354 South Carolina 222, 580 South Eastern 2d 149 and State versus Patterson 337 South Carolina 215, 522 South Eastern 2d 845. All of those cases establish proposition is whether identification procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification.

Biggers of course sets forth a two prong test, two prong inquiry. First, whether the ID process was unduly suggestive; and if it is found that it was unduly suggestive, then you go to the second prong as to whether the out of court ID was

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as so reliable that no substantial likelihood of misidentification exists. Biggers also sets forth a five factor test to be applied in determining whether the identification was unduly suggestive, whether the confrontation procedure was unduly suggestive. That's what we're looking at here is the confrontation procedure. And the five steps of Biggers are the opportunity of the witness to view the criminal act at the time; secondly, the witness' degree of attention; third, the accuracy of the witness' prior description of the criminal or the perpetrator; fourth, the level of certainty to, of the witness, the level of certainty of the witness' identification; and fifth, the length of time between the crime and the confrontation. In this case we've got four separate witnesses who were shown lineups of the defendants in the case along with other things, separate lineups, and were asked to view these two separate lineups individually.

In my view the lineups were not unduly suggestive. First of all, looking at the opportunity of the witnesses to view the criminal acts, they both, all three of them had plenty of opportunity varying from 15 to 20 minutes to review the criminal acts. The degree of attention, they

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were no doubt that they were looking very straight out and they were right just within a very short distance of them so all three of the witnesses were their identity -- their attention is focused on the scene.

When I come to the third factor which I think Mr. Holt has pointed out is one of the most important, and that's the accuracy of the witness' prior description of the perpetrator. I take that to mean it wasn't so much of a prior description of the perpetrator, but that all three of these witnesses knew who the defendants were in varying degrees. The first witness testified that she went to school with one of them and the other one was behind at school but she knew them by name and knew who they were. And the other two witnesses also were able to say that they knew them or could identify them, not necessarily that they were good friends with them but it's not like they were just trying to identify a complete stranger for any of them, all, none of the three tried to identify a complete stranger. All of them knew two perpetrators in this case. And I think it's a strong factor under Biggers under the third factor to be considered.

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Another factor to be considered is that the level of certainty of all of them was very high. And there was only a short time, anywhere from three to five hours between the time of the crime and time of the confrontation so all five of the Biggers factors are in favor of a very strong unlikelihood of misidentification so I agree, I really don't think that it is necessary to go to the second factor of Biggers to determine whether the identification was unduly suggestive. I mean, the second prong, because the ID is not unduly suggestive; but even if it were -- and I looked at the background of these pictures -- I think that it's such a slight difference that the average person just like the witnesses would not have noticed any difference in the background. The background of all of the pictures is in gray. All six of them is varying degrees of gray. It may be that one of them are a little lighter than the others; but I don't think that there is really any substantial difference that makes them. It's not like some of them were standing in front of a different wall or a different background. They're simply blank, gray backgrounds which I don't think is any substantial difference in the photographs.

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And especially when you couple that with the fact that all of the witnesses recognized them or knew them personally, I think that is a very small difference. Actually, it's a distinction without a difference. So even though I don't think it is necessary, I don't think that the — I do think that the out of court I.D. is so reliable that no substantial likelihood of misidentification existed even though it was not necessary that the Court go to that prong to find that the lineups as presented by the police are admissible, and the Court will so rule.

All right, let's take five minutes and then, Mr. Swilley, let's come back and we'll take a look at the matter you wanted to do. In the meantime, Mr. Holt, what I would like for you to do is to identify the evidence out of that search warrant that Mr. Swilley objects to as to what you wish to introduce and then we can decide whether or not it's admissible or not.

MR. HOLT: There's only one piece of evidence I wish to introduce.

THE COURT: All right. Tell us what that is and we'll come back in a few minutes. Let's take five minutes. All right, five minute recess.

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(WHEREUPON, a recess was taken from the proceedings.)

THE COURT: All right, we're back on the record with regard to the State versus Johnathan Reed and State versus Joshua Reed. Both Mr. Reeds are present in court with their counsel. The State is present, represented by the Fourth Circuit Solicitor's Office. The next matter, I think, that we need to address, Mr. Swilley indicated that he had an objection to matters that were seized, the admissibility of evidence seized as a result of a search warrant. And in order to determine whether it's admissible or not, one of the things I wanted to do was to determine factually what the State intended to use that was obtained in that search warrant. And Mr. Holt, identify for me what you want to introduce.

MR. HOLT: Judge, just by way of background, Johnathan Reed tells everyone that he lives at Lincoln. Officers arrived at 4:29 right after they tracked the truck down and they see him walk over to

THE COURT: Okay.

MR. HOLT: So they get the search warrant for his house and his brother's house. It's not a

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duplex. It's set separate in the middle by another house. One is their parent's house. The other is their grandparent's house. That maintain a loose residence in both.

MR. JONES: Your Honor, I don't want to interrupt Mr. Holt.

THE COURT: Hold on just a minute.

MR. JONES: There's witnesses -- the original witnesses are in the courtroom.

THE COURT: What's that got to do with -- so you're not objecting to the -- what they're gonna say. You've already said the search warrant is all right. It's just a question that he's identified ed what evidence we're talking about as to the relevance of it.

MR. SWILLEY: What that's admitted could affect their testimony.

THE COURT: I didn't plan to take any testimony to determine with relevance.

MR. SWILLEY: I'm talking about testimony on the record tomorrow.

MR. HOLT: The -- he might be talking about...

MR. SWILLEY: Your Honor, just out of abundance of caution, I mean, I have to protect

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myself. I know it's a case that's highly sensitive as far as what testimony is gonna be from lay witnesses. I wouldn't want that testimony tainted from what's again on.

THE COURT: I don't see how that affects relevance of testimony.

Go ahead, Mr. Holt.

MR. HOLT: And essentially what they find in Johnathan Reed's room is a pistol and I think ---

THE COURT: Is what?

MR. HOLT: Is a pistol.

THE COURT: Okay.

MR. HOLT: That's -- they also throughout that house, okay, Judge, they also take a bunch of photographs. They find some small smalls of marijuana and they find numerous ammunition.

THE COURT: Don't care about that. All I'm interested in is what you want me to do as a result of the search warrant.

MR. HOLT: The gun found in Johnathan Reed's room.

THE COURT: All right. And what's the relevance of that to the evidence in this case?

MR. HOLT: Asia Gregg said that when Josh shot her brother Johnathan Reed had a gun on Johnny

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Lee Washington. During his video statement Johnathan Reed testified that he hadn't seen or fired a gun in 12 years, he does not own a gun; and yet, in his bedroom is a pistol, the same type of gun that Asia described was pointed at her.

THE COURT: Doesn't that only come up for impeachment purposes?

MR. HOLT: I don't think it does, Judge. I think the video statement that he gave law enforcement is gonna come in where Terry Anderson is gonna show where Johnathan says I never had a gun nor do I own a gun, and I didn't have a gun in there. And then I think Asia is also gonna say that he, Johnathan had a gun, when he was there at the scene.

THE COURT: All right. You plan to introduce a statement that is admitted to be voluntary that he, where he says he did not own a gun?

MR. HOLT: Yes, sir.

THE COURT: All right. And then you wish to introduce the gun to show that that statement is not true?

MR. HOLT: Yes, sir.

THE COURT: All right.

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MR. SWILLEY: Your Honor, he's on trial for murder and possession of a weapon and commission of a violent crime, not for being a liar to Terry Anderson. The fact of the matter that he had a gun under his bed and that he said that he hadn't fired a gun in however many years, first of all, the fact he had a gun under his bed doesn't negate that fact in and of itself. Second of all, the fact he had a gun under the bed would suggest that he is a criminal although this gun, he was 21 I believe at the time ---

THE COURT: Well, I thought you were arguing a relevance question.

MR. SWILLEY: It's not, it's not relevant to this case. I mean, there's no, there's no way that this gun, this particular gun found under the bed of Johnathan Reed can be linked anywhere to the scene of the crime.

THE COURT: Well, that's true, and that's not what he's offering it for. What he's offering it for is to show that the statement he made to police is untrue.

MR. SWILLEY: Your Honor ---

MR. HOLT: Your Honor ---

THE COURT: Wait a minute now.

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MR. SWILLEY: And that's fine, but it does -- doesn't have any bearing on the actual crime for which he's on trial now.

THE COURT: True, but that doesn't make it irrelevant. I mean, the relevance of it, he's saying that your man made a voluntary statement to police ---

MR. SWILLEY: Okay.

THE COURT: ---which you agree with.

MR. SWILLEY: As goes to voluntariness.

THE COURT: Okay. So if it's voluntary then it's admissible; is it not?

MR. SWILLEY: The statement, yeah, it passed the Denno smell test, yeah, that's true, I agree to that.

THE COURT: So the statement is admissible?

MR. SWILLEY: Right.

THE COURT: And what he wants to do is to offer testimony to the effect that what he said in the statement is not true because a gun was found at his house.

MR. SWILLEY: Okay.

THE COURT: All right. Isn't that relevant to that issue?

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MR. SWILLEY: I don't think that it is because the object of the statement is the last time he's fired a gun and he tells them, you know, it's been some time. The fact there's a gun under the bed doesn't mean he fired a gun at any time.

THE COURT: That's not what I understood the statement to say. I understood he said the statement said that he didn't have a gun. What does the statement say?

MR. HOLT: Judge, they've got the transcript, but I just wanted to interject in case you didn't hear me or I didn't say it right. The witness Asia Gregg is going to say he pulled a pistol on Johnny Lee Washington to keep them out of the altercation that his brother was having with Milton Hunter. It's alleged that both individuals had guns. One witness is going to say that Johnathan had a gun at the scene. That's also the main reason I believe that piece of evidence is relevant.

THE COURT: Say that again, Mr. Holt.

MR. HOLT: Asia Gregg, who is the female, she is the sister of Milton Hunter.

THE COURT: Right, the first witness who testified in the I.D. hearing.

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MR. HOLT: Yes, sir. She was also the closest person to the scene who is going to testify for us. She describes Johnathan Reed as pulling a pistol out on Johnny Lee Washington and the other ones to keep them out of the altercation that Joshua was having with Milton Hunter.

THE COURT: All right. So she's gonna say he had a weapon at the scene?

MR. HOLT: Specifically a pistol.

THE COURT: A pistol.

MR. HOLT: Because she's saying that Johnathan had a revolver and that's why no shell casings were found.

THE COURT: Okay.

MR. HOLT: When I asked her was that the only gun there, she said no. Johnathan is gonna have it. She's gonna testify to that.

THE COURT: Mr. Swiley's client had a weapon?

MR. HOLT: Right, yes, sir.

THE COURT: And your contention is that weapon was seized or that was seized as a result of the search warrant was the weapon that he had at the scene of this crime?

MR. HOLT: Yes, sir, Your Honor.

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MR. SWILLEY: And first of all, Your Honor, in her prior statement she makes no mention of my client having a gun period; so therefore, so that point, the gun that was found under Johnathan's bed has not been identified as to have been used or brandished in the shooting. You know, no one's identified this particular weapon as having anything to do with shooting at the park. I think it would be irrelevant. And if was, even if it's prejudicial or even if it's probative that he lied, it's still unduly prejudicial. It makes him look like a criminal. The jury is gonna infer that he had something to do with this crime primarily because of the fact of the gun under his bed that hasn't been -- no one has factored this into this whole ---

THE COURT: Isn't it probative of the fact that the witnesses testified that he had a gun at the scene ---

MR. JONES: No.

THE COURT: ---and the gun was found at his house?

MR. SWILLEY: No, because there's no way that anybody identified this particular gun found under his bed.

THE COURT: What's anything says it has to

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be this particular gun? Well, isn't that a matter of weight for the jury?

MR. SWILLEY: I disagree because if it's not this particular gun that was used at the scene of the shooting then, or alleged to have been used at the scene of the shooting, it's completely irrelevant.

THE COURT: Isn't it circumstantial evidence that the witness had a gun in his control; and therefore, could have had a gun at the scene of the thing. Isn't that circumstantial evidence to that fact?

MR. SWILLEY: I don't think that it is because there's no identification of this particular gun.

THE COURT: Well, that's true, but it's still circumstantial evidence of a pistol.

MR. SWILLEY: Well, I don't think, I don't think it would be circumstantial evidence of a pistol. I think it's -- the only thing it's evident of is that he owned a gun or that he was, that there was a gun in his room at the time the search warrant was executed; that's it. And this is the first -- today, well recently, the first time I've heard that there was any allegation that he had a gun at the

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scene whatsoever. She makes no mention of that beforehand.

THE COURT: Who -- wait a minute now. Who did you say -- I didn't understand that.

MR. SWILLEY: In her statement to the police and then during the investigation ---

THE COURT: Well, you can cross-examine her on that in talking about the witness, but she did say today that he had a gun at the scene; did she not?

MR. SMILEY: She did.

MR. HOLT: She did.

THE COURT: And she's gonna testify to that fact, I assume, that he had a gun at the scene.

MR. HOLT: She is.

MR. SWILLEY: If she does. She can't -- there's no way she can identify this particular gun and therefore it's not relevant.

THE COURT: But that's the weight to be given to it as opposed to the admissibility.

MR. SWILLEY: Well, you know, assuming the -- even assuming for argument sake that there was a gun in the park and there was another gun, I don't see how this gun would be relevant, would be relevant to anything that went on at the park.

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THE COURT: Well, I disagree. I think the circumstantial evidence is the fact that your client had access to a gun and, or a pistol, and it was found at his house and under his bed so he had access to it; and it's circumstantial evidence, evidence of the fact that he had a weapon at the scene. I think that -- the weight to be given to that is for the jury to determine and not its admissibility. So I would disagree, on grounds of relevance I would not exclude the weapon found under his bed.

MR. SMILEY: And we're going on Rule 403 more substantial ---

THE COURT: Well, go ahead, I'll hear you on that.

MR. SMILEY: As far as being admitted, assuming that he feels like it is relevant, anything probative the admission of this gun can offer, is substantially outweighed by unfair prejudice as a result to this being introduced to Johnathan Reed. The mere fact he owned a gun under his bed, the jury is gonna infer that he uses guns, that he carries guns unlawfully, he uses guns within the commission of felonies. And it's gonna unduly prejudice him in front of the jury and that prejudice is gonna

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substantially outweigh whatever probative value that that gun can have in this case.

THE COURT: All right, I will disagree. I will find evidence is relevant and it is not -- I know it can be excluded if the probative value is substantially outweighed by the danger of unfair prejudice; but in my view the danger of unfair prejudice is not substantially outweighed by — the probative value is not substantially outweighed by the danger of unfair prejudice. I think the word substantially is the key here so I would overrule the objection on 401 and 403.

MR. SWILLEY: I would, if the Court would note my objection for the record.

THE COURT: Not necessary, the record are will reflect that.

All right, anything else, Mr. Holt, before we go forward tomorrow?

MR. HOLT: No, sir, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: No, sir.

THE COURT: All right, Mr. Swilley?

MR. SWILLEY: No, sir.

THE COURT: All right, counsel, let's be ready to go forward at 9:30 tomorrow morning. See

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you then.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on October 22, 2013.)

THE COURT: Back on the record with regard to the matter State versus Johnathan Tyrone Reed and Joshua Alexander Reed. The defendants are present in the courtroom with their counsel. The State is present and represented by Mr. Holt and Ms. Parker. Anything from the State before we bring the jury and have the jury sworn and begin the trial, Mr. Holt?

MR. HOLT: Judge, I just think it might be the time to discuss — immediately following the openings we're gonna go into the three fact witnesses. There are some records involved. If we could hear what Defense counsel plans on ---

THE COURT: Go into what? I'm sorry.

MR. HOLT: Go into the three fact witnesses.

THE COURT: Oh, okay.

MR. HOLT: If we can hear what Defense counsel thinks they're entitled to bring up from the record. I've never done this motion from this side before.

THE COURT: All right, let's look at

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those. Let me get a witness list and see who those witnesses are. All right, those are Alecia Gregg, Anthony Wingate, and Johnny Lee Washington. All right, first with regard to Ms. Gregg, what is her criminal record, Mr. Holt?

MR. HOLT: Judge, I believe she was convicted of an arson third in Beaufort County.

THE COURT: And when was that?

MR. HOLT: 2/21/2011.

THE COURT: Okay. Anything else?

MR. HOLT: That's it, Judge.

THE COURT: All right, that's Ms. Gregg. All right, Mr. Wingate.

MR. HOLT: Judge, he was convicted of distribution of crack cocaine in 1993.

THE COURT: Okay.

MR. HOLT: And malicious injury to city property in 1995, shoplifting. I think that's it, Judge.

THE COURT: All right. Okay. And then Johnnie Lee Washington.

MR. HOLT: His is a little more extensive, Your Honor. He's got a grand larceny to a motor vehicle in 1999. A burglary third in 2006, he received a YOA on it. And I believe that's it, Your

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Honor.

THE COURT: Okay.

MR. HOLT: Judge ---

THE COURT: Yes, sir.

MR. HOLT: Johnny Lee Washington, when he was convicted of burglary second he was also convicted of a burglary third. They were run concurrent in two thousand ---

THE COURT: Burglary second and burglary third.

MR. HOLT: Yes, sir, 2006.

THE COURT: Okay. All right, Mr. Jones, let's first address Ms. Gregg, the arson third of 2011. What's your position on that?

MR. JONES: That that would be subject to impeachment, Your Honor.

THE COURT: How do you — what do you say, Mr. Holt?

MR. HOLT: Certainly not, Your Honor. I don't agree. I don't think it goes to truth or voracity or anything.

THE COURT: It doesn't have to, does it? Under the rule 609 a person attacked credibility of the witness evidence of witness other than accused has been convicted of a crime shall be admitted

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subject to 403. If a crime is punishable by death or imprisonment in excess of more than one year in which the witness was convicted and evidence been convicted such, shall be admitted if the Court determine its probative value admitting the evidence outweighs its prejudicial effect. The old test of under the old rules of going to the truth or voracity is not the test anymore.

MR. HOLT: Then I make my objection under 403, Judge. I think that -- or where 403 count from the rules I just read rather. I think it'd be more prejudicial than it's fair because it doesn't have anything to do with the facts at hand. I think it doesn't show personally of her anything dishonest.

THE COURT: Okay. All right, I'll come back to that. Mr. Swilley, I would assume you also take the position that that is admissible under 609.

MR. SWILLEY: It is, Your Honor. It carries -- arson third degree carries up to 15 years. This happened in 2011 so it's within the ten year time limit. I do think it is admissible for purposes of impeachment under rule 609. I don't think that the prejudicial impact is substantially outweighed any kind of probative value of that.

THE COURT: It is substantial in this

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rule. It just says that its prejudicial effect. The other one that has substantial outweighing. This just says for the court determines the probative value of admitting the evidence outweighs its prejudicial effect of the accused. Okay. Let's look at Mr. Wingate's. Mr. Jones, distribution of crack in '93. When in '93, Mr. Holt? It's getting close to the ten year.

MR. HOLT: It's over 20 years at this point, Judge.

THE COURT: That's right, it is, yea, okay. That's why I'm a lawyer and not a mathematician. Okay. So you got the distribution of crack, malicious injury to county property, did you say? That's over 20 years. I mean, that's 18 years. And shoplifting is what year?

MR. HOLT: 2006, Judge.

THE COURT: And that's shoplifting first?

MR. HOLT: Shoplifting first. It was handled in magistrate's court.

THE COURT: So that's up to ten years. What's your position on those, Mr. --

MR. JONES: I don't see anything we can impeach. He has a -- he's got some arrests, substantial arrests in '04 with no disposition on

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this, this NCIC that we have we've been provided. So the only thing we got is shoplifting in '06 and ---

THE COURT: I agree. Well, let me hear from you, Mr. Swilley.

MR. SWILLEY: Your Honor, and I know know if I plan on out using this, just so we know, I'm looking at subsection 406. It says evidence any witness has been convicted of a crime shall be admitted if it involves dishonesty or false statement regardless of punishment. I think that shoplifting inherently involves dishonesty so I do think it would be admissible under the rule.

THE COURT: Well, which crimes under 609(a)(2)?

MR. SWILLEY: Shoplifting in 2006, and it's been about ten years. I do think that shoplifting would be admissible. The, I think the crack cocaine charge in '04 doesn't fall ---

THE COURT: There is no crack cocaine in '04.

MR. SWILLEY: Okay.

THE COURT: Three crimes of distribution of crack in 1993, malicious injury to city property in '95, and shoplifting in '06.

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MR. SWILLEY: I apologize. I was looking at the charges he picked up and it reported no disposition so I think the only shoplifting -- the shoplifting will be admissible under the crime of violence under 609 subsection two.

THE COURT: All right, I understand your position. Okay, now what about Mr. Washington? Apparently he has a grand larceny in '99, burglary third in '06, burglary third and burglary second in '06. Mr. Jones, what's your position?

MS. WOOTEN: Your Honor, it's our position that the burglary second and the burglary third in 2006 should be allowed to be ---

THE COURT: Okay. Mr. Swilley, what's your position?

MR. SWILLEY: Your Honor, I looked at Mr. Washington's wrap sheet. He has a two thousand -- I think the burglary is inherently a crime of dishonesty as well and would be in a position such it would be admissible under subsection two. I think those should be used for impeachment.

THE COURT: Okay. You agree? Y'all both agree that grand larceny is outside the ten year period?

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MR. SWILLEY: I concur with that.

THE COURT: All right. The ruling of the Court would be that as far as Ms. Gregg is concerned that the, it is admissible under 609(a)(1), well, the arson third, because I do feel that the probative value of admitting the evidence outweighs the prejudicial effect, and therefore, it is admissible for impeachment purposes.

With regard to Mr. Wingate, the shoplifting would be admissible under 609(a)(2). The witness has been convicted of a crime involving punishment, I mean, involving dishonesty and false statement so the shoplifting is admissible. And as far as Mr. Washington is concerned, the only thing that is admissible of the two burglary convictions in '06. They fall within the purview of 609(a)(1). So those would be admissible as impeachments.

All right, thank you. All right, anything else then before we bring the jury in?

MR. HOLT: Nothing from the State, Your Honor.

THE COURT: Anything, Mr. Jones?

MR. JONES: No, sir.

MR. SWILLEY: No, sir, Your Honor.

MS. WOOTEN: No, Your Honor.

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THE COURT: Anything?

MR. SWILLEY: There's not.

THE COURT: No motion's been made to me of sequestering the witnesses. I suppose y'all have agreed among that or ---

MR. JONES: We did, Your Honor.

MR. HOLT: And I hate to say this, Your Honor, I hate to interrupt you, if you could just say before every time the jury comes in to make sure the witnesses leave. I tried my best yesterday and today, but I'm scared that there might be somebody in here snuck in.

THE COURT: I'll do it right now. If there's anybody on this witness list that I published that are witness for State or Defense in this case, you will not be allowed to, permitted to stay in the courtroom until you are called as a witness. And there were two witness lists that were furnished to me and those names were furnished to me. So if any of those witnesses in the courtroom, then you'll need to leave until you are called as a witness.

(Pause.)

THE COURT: All right, ready to go, Mr. Holt?

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MR. HOLT: Yes, sir, Your Honor.
THE COURT: Gentlemen?
MR. JONES: Yes, sir.
MR. SWILLEY: Yes, sir.
THE COURT: Ms. Swilley? All right, bring the jury in please.
(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)
THE COURT: I want to thank you for your promptness in being back here this morning. We did have a few matters that we had ed to tend to this morning, and we have taken care of those. One of the things that I want to -- a couple of things I want to tell you before we begin. First of all, it became necessary yesterday afternoon to excuse one of the members of the jury and to substitute one of -- we went through the process and took care of that and the or with an alternate is that the, or not in place in the order of selection. They're replaced randomly. And the two alternates were Ms. Davis and Mr. Jackson, and those -- the random selection there resulted in Mr. Jackson being selected as a principal on this jury and so now he is one of the twelve members of the principal jury.

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And Ms. Davis, you will remain as the alternate in this case and of course will sit outside.

When we break for lunch and when you come back after lunch, what I would like for you to do at that time, the reason I stopped you from selecting the foreman this morning is because Mr. Jackson should participate in that process since he is now one of the principal members of the jury. I want the jury from the twelve of you to select a person to be the foreperson and that foreperson should sit in the first seat. Ms. Davis should not participate in this process because she is an alternate, but it should be twelve members of the principal jury should select the foreperson and advise the bailiff who you selected, and then that person should always sit in the first seat on the front row.

The other thing that I would ask you is if anyone attempts to talk with you about this case in any manner over the evening recess or contact with you in any way about this case over the evening recess, I would need to know about it.

(There was no response.)

THE COURT: Negative response and that's good. Also, if anybody has read any news stories or

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seen anything on television about this case over the evening recess I would also need to know about that now.

(There was no response.)

THE COURT: Again, negative response and that's good. All right, we are now ready to proceed, ladies and gentlemen.

Mr. Clerk, let's swear the jury.

THE CLERK OF COURT: Yes, sir. I ask each one of you to stand and raise your right hand for me please.

(WHEREUPON, the jury was

THE CLERK OF COURT: If you accepted the oath please indicate by saying I will.

(Jurors responded.)

THE CLERK OF COURT: Everyone who took the oath may have a seat.

THE COURT: Before we begin the actual trial of this case I thought it might be helpful if I explain to you basically how a trial proceeds. I know that all of you have seen trials on television, but I think you'll find that it is a great deal different in real life. First of all, the State will make an opening statement. An opening statement is not evidence. It is simply an outline

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to help you understand what the State expects the evidence will show. The defendants may, if they wish to, present an opening statement but they don't have to for reasons that I will explain later. Following the opening statements you will hear the testimony in this case. This consists of testimony from the State's witnesses as well as any physical exhibits which will be introduced as evidence. And I will tell you now that if there are physical exhibits admitted into evidence, the lawyers may ask for permission to publish those exhibits. That simply means to show the jury those exhibits, and I will likely grant that permission. And they will either hold them up to you while you're sitting there in the jury box or pass them around and allow you to look at them while you're in the jury box. Do not been concerned if you do not have as long to look at any physical exhibit as you might like. Anything that is introduced into evidence will go with you to the jury room when you retire to deliberate your verdict.

Following the completion of the testimony the attorneys will again have an opportunity to make what is called a closing statement or summation to you. This is an opportunity for the attorneys to

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summarize the case from their respective points of view. Again, these arguments are not evidence. Following the closing statements by the attorneys I will instruct you on the law of South Carolina as it pertains to the issues that have arisen in this case; and when I have completed my instructions to you, you will be permitted to begin your deliberations in order to reach a verdict.

Now ladies and gentlemen, you're now the jury in this case and I want to take a few minutes to tell you something about your duty as jurors and to give you some basic instructions. At the end of this trial I will give you more detailed instructions and those instructions will control your deliberations. It will be your duty to decide from the evidence what the facts are. You, and you alone, are the judges of the facts. You will hear the evidence, decide what the facts are, and apply those facts and the law which I will give to you. That is how you reach a verdict. In doing so you must follow the law whether you agree with it or not. The evidence consists of the testimony of witnesses, documents, and other things received into evidence as exhibits and any facts on which the lawyers agree or which I may instruct you to accept.

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Now you should not take anything that I may say or do during this trial as indicating what I think of the evidence or what your verdict should be. The law does not permit me to have an opinion on the facts. The same law that makes you the judge of the facts makes me the judge of the law. You must take the law as I give it to you regardless of what you think the law is or what the law ought to be. If I'm wrong on the law there's another time and place for that error to be corrected; but for this case you must accept the law as I charge it to you.

Now in a criminal case brought by the State of South Carolina the State charges the defendants with two crimes. Each one is charged with a crime of murder and the crime of possession of a weapon during the commission of a violent crime. To these charges the defendants have pled not guilty. They're -- the charges are contained in indictments which I hold in my hand. The indictments are not evidence of anything. They are simply the documents by which the case is brought to trial and are a general description of the charges made by the State against the defendants. As I said, the defendants have pled not guilty to these charges and are presumed innocent unless and until

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proven guilty beyond a reasonable doubt. A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. A defendant has the right not to testify and never has to prove innocence or present any evidence. The burden of proof is always on the State of South Carolina.

Now there are certain things that are not evidence and you must not consider them as evidence in deciding the facts of this case. The statements and arguments of attorneys are not evidence. Questions and objections of the attorneys are not evidence, and testimony that I instruct you to disregard is not evidence. Evidence may be direct or circumstantial. Direct evidence is testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any of the evidence. There are rules of evidence which control what can be received in court. When a lawyer asks a question or offers an exhibit into evidence and the lawyer on the other side thinks that it is not permitted by the rules, that lawyer may object. If I overrule the

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objection, the question may be answered or the exhibit may be received. If I sustain the objection the question cannot be answered or the exhibit cannot be received. Whenever I sustain an objection to a question or deny a motion to admit an exhibit into evidence, you must ignore the question or the existence of the exhibit and you must not guess what the answer would have been or what the exhibit would have shown. Sometimes it may be necessary for me to request that you leave the courtroom while I discuss with the attorneys legal questions that come up during the trial. If this occurs, you should not speculate about our discussions or the reasons that you were asked to leave the room. This is simply a procedure that the law requires when certain legal issues arise.

There also may be occasions when I ask the attorneys to step up to the Bench so that I can discuss a legal issue with them in private. I will do this as often as possible so that you will not be required to leave the courtroom more than is absolutely necessary. Again, if I ask the attorneys to step up to the Bench or if I ask you to leave the courtroom, please don't think that anybody is trying to hide anything from you or keep any evidence from

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you. This is simply a procedure used by all lawyers and by all court to determine and decide legal questions.

Now in deciding the facts of this case you may have to decide which witnesses to believe and which witnesses not to believe. This is called credibility. You may believe everything a witness says or only part of it or none of it. In deciding what to believe you may consider a number of factors including the witnesses ability to see or hear or know the things a witness testified to; the quality of a witness' memory; the witness's manner or demeanor while testifying; whether the witness has an interest in the outcome of the case or any motive, bias, or prejudice; whether the witness is contradicted by anything the witness said or wrote before the trial or by any other evidence; and how reasonable was the witness' testimony when considered in the light of other evidence which you do believe.

Now just a few words to you about your conduct as jurors. Some of the things I have already told you, but they're important enough that they bear repeating. First of all, do not talk to each other about this case until the end of the case

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when you go to the jury room to deliberate your verdict. Secondly, do not talk with anyone else about the case until the trial is ended following your verdict and you have been discharged as jurors. This means do not discuss the case with members of your family or your friends or with anyone else. You may tell them that you are a juror, but don't tell them anything about the case until you have been discharged by me. Do not let anyone talk to you about the case. If anyone should try to talk to you about it get their name and their description, report it to the bailiffs, they will report it to me and I will deal with them. Do not read any news stories or articles or listen to any radio, television reports about the case. Do not do any research on the internet or any other research device. You're not to consider as evidence anything that you may see or hear when court is not in session. Do not make any investigation into the case on your own. And finally and probably most important, do not make up your mind about what your verdict should be until you have heard all of the testimony in this case and the arguments of counsel and the instructions on the law by the court. You will be instructed when to begin your deliberations

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by either me or one of the bailiffs.

Are there any objections to my initial remarks on behalf of the State, Mr. Holt?

MR. HOLT: None, Your Honor.

THE COURT: Behalf of defendant, Mr. Jones?

MR. JONES: None from the ---

THE COURT: Mr. Swilley?

MR. SWILLEY: No, Your Honor.

THE COURT: All right, the first order of business, ladies and gentlemen, is the matter of opening statements. For that purpose the State will -- I mean, the Court will recognize the assistant solicitor, Mr. Holt.

MR. HOLT: Thank you very much, Your Honor, may it please the Court, Mr. Jones, Ms. Wooten, Mr. Swilley. Pride Park is located on South Sixth Street in Hartsville. It is right behind the police station, Marketplace, Mozingo Liquors. It's not far. It's about a half a mile from there. On February 15th, 2012, Milton Campbell Hunter, his sister and her boyfriend, were occupying one of the picnic tables on a sunny day like 4:00 in the afternoon. Another person, another group, and the others came. Shortly thereafter two men started

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driving by, once, twice, I don't know how many times, and they parked. And after they parked they got out, and they spoke to Milton Hunter for not a very long amount of time and not a lot of words were exchanged before the two men pulled out a gun, shot Milton Campbell Hunter in the head, in the body, in the neck. This trial is gonna be about what happened that day, and this trial is gonna be about the Reed brothers. And I, John Holt, who represent the County of Darlington and the State of South Carolina intend to prove, and believe I can, that it was the Reed brothers that killed Milton Hunter that day.

Now throughout the course of this trial you're gonna learn how the government actually works from trials to the investigations, to various courtroom staff and what they do, and I can promise you it will not be anything like what you expect or what you come to believe happens in television and movies. It's a lot simpler. I'm gonna pull people up and I'm gonna put them in that chair, and I'm gonna examine them. And we're gonna introduce various pieces of evidence from them that they might have collected. And throughout the whole thing what I want you to remember is this, in America, the

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State has the burden to prove someone guilty. In this country the government can't just come in and say you're guilty of a crime and you have to prove your innocence; that's not how it's done. I have to come up here and prove to y'all beyond a reasonable doubt that the gentlemen sitting at these tables and represented by these attorneys were the ones that killed Milton Hunter. I don't think I'm gonna have a problem doing that. But the trade-off to all that is, is that citizens of America, citizens of South Carolina, citizens of Darlington, have to give up their time; they have to be here. And I want you to think about how important that is to everyone involved for the State, to the defendants even, and I want you to think about the rights you gain because of that. It's because you come here today that the government can't just come and take other people away. It's a very important thing. And I want you to remember that that oath you just swore was to two things.

Listen to the evidence to follow the law because while you have no formal training as a jury, you're twelve people from twelve different walks of life. You've been loved; you've been lied to. You may have begun it yourself. You work jobs you've

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been fired, all these various life experiences come to make you a unique judge of circumstance, of character, of things that you're gonna see on that witness stand and the evidence you're gonna hear. And it's this collective common sense that the twelve of you bringing to the table are gonna solve this problem in front of you. I don't have any doubt how it's gonna be solved or how I'm gonna prove it to you. I know how I'm gonna do that. But when you go back there, there can't be any belief what I want, what I feel like is right, what I feel like happened. You swore an oath and throughout the course of this trial I don't want y'all to forget it. Listen to the evidence and follow the law. And even though it may not make us always happy, those are the two things that you're gonna be sworn to do.

Now I'm gonna sit down and I'm gonna let them talk and shortly thereafter, we're gonna get into the case. I'm gonna call the witnesses that were there, and I'm gonna call the ones that investigated, both of which have ample evidence to prove my case. Thank you.

THE COURT: Mr. Jones, your client care to make opening statement?

MR. JONES: Yes, sir.

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THE COURT: Ms. Wooten?

MS. WOOTEN: Yes, Your Honor. There are two sides to every story. I want y'all to keep that in mind as you hear evidence today and tomorrow and however long this trial may last. Thank you. My name is Julie Wooten. I'm an attorney here in Darlington. I represent the Fourth Circuit Public Defender's Office. Seated over at the table next to me is Mr. Rick Jones and beside him is Mr. Joshua Reed; that's our client. Everybody in this room here today has a very important job to do. The government has already spoken to you, Mr. Holt, Ms. Parker, Mr. Farr. They represent the State, and it is their job to prove each charge and each element of the defenses beyond a reasonable doubt. The court reporter, she takes down every word we say to make sure we have an accurate record. The judge, he sits in judgment of law. He will instruct you on the law at the conclusion of the case and tell you what law to apply to the facts.

The government puts up first. This is important because as the judge told you, as Mr. Holt told you himself, they have the burden of proof in this case. They have to prove to you beyond a reasonable doubt that our client committed the crime

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in which he is charged. They carry the burden. They have to prove every element and that for this reason that they sit close to you, they talk first, and they have to put up the witnesses. As defense, we have don't have to prove anything to you. We don't have to make an opening statement, which is what I'm doing right now. We don't have to call a single witness. Mr. Reed himself does not have to speak because he has nothing to prove. He sits here today an innocent man. He is an innocent man. He remains an innocent man up until and only if the State, the Government, is able to prove their case to you beyond a reasonable doubt.

I would like very much for y'all to listen carefully to every bit, the information you're gonna hear, all of the evidence, all of the testimony that's presented. Yesterday when we did jury selection all of you were chosen by Mr. Joshua Reed, by Mr. Rick Jones, myself, because you all have common traits. You all have common sense, as Mr. Holt said, and you all have the ability to have an open mind to listen, and that is what we ask of you. Don't make up your mind until you hear all of the evidence presented to you.

I'm not entirely sure what this case is

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going to be because I don't have a crystal ball. What I can tell you is you're gonna hear conflicting stories. You're gonna hear conflicting stories I imagine from one witness to another, and I would anticipate that you're gonna hear conflicting stories sometimes within a witness' own testimony from previous statements, today in court, or perhaps with themselves as they're sitting on the witness stand. The judge is at the very end will instruct you on what it means to have evidence beyond a reasonable doubt. He'll explain that to you. Briefly he told you it is a doubt which causes a reasonable person to hesitate to act. While you're listening to the evidence keep all of this in mind. Listen to what everybody says, think about what motives they might have, what biases they might have in play, and then you get to judge exactly what evidence to take in consideration.

I don't know how many of you were excited about coming to jury yesterday or today; but I will tell you this, this may be just an ordinary Tuesday for you, but this is the most important day of Joshua Reed's life. Thank you so much for your service. Thank you for coming too. Thank you for your open mind.

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THE COURT: Mr. Swilley.

MR. SWILLEY: Thank you, Your Honor. Good morning, my name is Mat Swilley. I grew up in Greenville. I practice now in Myrtle Beach in a small law firm. That right there, the young man with the long hair, that's my client. That's Johnathan Reed. He grew up in Hartsville. He's about 22 years old. Grew up with a low income family with his brothers, with his mother. And what happened on February the 15th of 2012 goes kind of like this. Johnathan and his brother were on the way to the store, went down 6th. They turned off Marion, went down 6th Street. And I don't know how familiar y'all are with Hartsville. But he stopped, got out at Pride Park which is a public park in the middle of Hartsville. Then he get out, walk up. Milton Hunter is there. Johnathan Washington is there. And these are the people y'all are gonna hear about later on. A guy named Anthony Wingate is there sitting at the park eating Yogi Bear's fried chicken, which I think that's the only Yogi Bear left in America. And they're sitting there, the Reeds come up, they're all conversating. They're there for a number of minutes, all right. Somehow between Joshua Reed and Milton Hunter some bad blood

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comes up and between a conversation shots get fired by Joshua Reed. Milton Hunter dies. And my client, Johnathan Reed, does exactly what any reasonable person would do at that moment, he takes off. He removes himself from the situation. Nobody wants to be in the middle of a gun fight. Johnathan never had a gun. He never participated in anything illegal in Pride Park. He never insisted telling -- never assisted in any crime that took place; he didn't commit a crime. The reason that Johnathan is on trial right now; I'm gonna tell y'all, the reason why he's in that chair, because he's not gonna sit in that chair, and bear with us, against his brother. He didn't do that from the beginning, and he's didn't exactly will do that now. That's why he's charged a crime.

And what Mr. Holt said about the process and Ms. Wooten said about the process is all right except for Ms. Wooten said one thing that kind of I don't agree with; and that's that Mr. Holt and Ms. Parker, their job is to prove a defendant guilty beyond a reasonable doubt. I disagree with that. And as a former assistant solicitor, the job of the State and the solicitor's office is to seek justice. It's not to win; it's not get your conviction. It's

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to seek justice, and that's what y'all are here to do too. Y'all are here to seek justice, to create right. And justice in this case would be an acquittal of Johnathan Reed because Johnathan Reed is not guilty of murder. He's not guilty of possession of a weapon in the commission of a violent crime. I hope y'all can see that conclusion at the end of the case 'cause that's the truth.

And to understand kind of what's going on here I'm gonna break it down a little bit. To get to the point where we're at now, what happens is an investigation like this where there's a killing, police come and they investigate. When they get all their evidence they have to go before either summary court judge or a city judge which is the local judge, you know, within the municipality or the magistrate or the county, if it's in the county jurisdiction. And they have to come to that judge and say, okay, we think we have probable cause which is kind of a loosely defined term where there's some evidence something happened that a crime happened, and some evidence that this individual committed this crime and then they have to get judge to sign the want if they want to get, if they want to have the defendant, the person, charged with the crime

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and arrested. Okay, what happened in this case is the Hartsville police, the City of Hartsville, was the investigating unit. They were the law enforcement agency that was in charge of the investigation in this case. They came in, they did their investigation. And I believe there was a gentleman named Terry Anderson that was the lead investigator in this case, was in charge of investigations. He goes to the city judge of Hartsville, filled out a warrant with the exact same word for word paragraph for both of these people accusing them of what they did. It was signed and Johnathan and Joshua were arrested. After that, in order to get to that -- you have to secure the arrest -- in order to get them into court before a jury to be tried, what has to be done there has to be an indictment issued by what's called a grand jury. And that's kind of a, it's kind of a strange process. The grand jury convenes in secrecy, okay. A officer goes and testifies before a group of people that have to make a finding themselves to probable cause based upon what they've been instructed is probable cause and they have to issue what's called a true bill indictment which some of you come before here.

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This today is the first time that Johnathan Reed has got to participate in this process whatsoever. That means the buck stops with y'all. You're the decision makers. I think when Ms. Wooten says that y'all are the fact finders; but the fact that you have to come to conclusion to is whether or not the State has proven their case against my client and Mr. Jones and Ms. Wooten is going to have to beyond a reasonable doubt. And they're not gonna come to that conclusion with Johnathan Reed. And you shouldn't come to Johnathan Reed because Johnathan Reed is not guilty. He never had a gun. He never assisted in the murder. He never did anything to perpetuate, to further the purpose of the killing.

Now what happened this day, this is not, this wasn't a plan, okay. Nobody plans to kill anybody in the middle of the afternoon in front of three people, all right, that didn't happen. This is a spur of the moment decision that took place. Johnathan just happened to be literally at the wrong place at the wrong time. That's why he's there today. He is not guilty of murder and he's not guilty of possession of a weapon, he committed no violent crime. Thank you.

THE COURT: Mr. Holt, you may call your first witness.

MR. HOLT: Thank you very much, Judge. Asia Gregg up here please.

THE CLERK OF COURT: If you'll come forward right there as a witness please. Place your left hand on the Bible, raise your right.

WHEREUPON,

ASIA LAVON GREGG,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat up there for me please.

THE COURT: Go ahead, Mr. Holt.

DIRECT EXAMINATION

BY MR. HOLT:

Q Asia, would you please give your full name for the jury and the court reporter.

A Asia Lavon (ph) Gregg.

Q How old are you?

A 25.

Q Where do you live now?

A I'm currently staying in Florence, but I stay in Hartsville, South Carolina.

Q Where are you from?

A Hartsville, South Carolina.
Q Did you have a brother named Milton Hunter?
A Yes.
Q All right. Now Asia, I want to take you to February 15th, 2012, and I want to ask you what you did that day from the time you got up to the time you got to Pride Park.
A From the time I got up myself and Johnny Washington was together. We went to his mom's house. I called my brother. He didn't get an answer. He called me back. Me and Johnathan was on our way to Yogi Bear getting something to eat. He called and asked could I, would i get him something to eat and I said okay. We met up at Pride Park.
Q All right. Did y'all plan on meeting up there that day or did it kind of just happen?
A It kind of just happened.
Q All right. What happened next?
A We all were sitting there eating, just talking, reminiscing, having a good time. Gave my brother some change to go to the vending machine across the street.
Q And now at this time who was at Pride Park with you and who was also there?
A There with me was Johnny Lee Washington, my

brother Milton Hunter, me and Anthony.
Q And when you say Anthony who do you mean?
A Ship.
Q Okay. What's his last name, for the jury?
A I can't remember his last name.
Q Okay. Were y'all friends before February 15th?
A No.
Q Did you know him before February 15th?
A No.
Q Was he there when y'all got there, or did he get there later?
A He was there before we got there.
Q All right. What happened after your brother went and got a drink?
A He was coming back across the street and the Reed brothers rode past.
Q All right. Now let me interject here, and I want to step away from the story. Where was Milton living at this time?
A Milton was currently staying in North Carolina.
Q What was he doing in Hartsville that day?
A Family emergency.
Q Okay. And how many days had he been in Hartsville?
A Three.

Q Okay. When was he planning on leaving?
A 15th.
Q All right. Now what happened after he got there?
A He came back across the street. He called my cousin Kenneth and asked him ---

MR. JONES: Objection, hearsay.

THE COURT: All right. What's the basis, Mr. Swilley?

MR. SWILLEY: On the basis of hearsay, Your Honor.

THE COURT: All right. I'll hear from you. But it seem like to me it might be an offer of truth to show the effect to the jury but.

MR. HOLT: That's off-- it's offered to show the effect. It's not offered for the truth.

THE COURT: All right. I overrule the objection at this point.

I would tell you that most of the time you cannot testify as to what somebody else said. That's what we lawyers call hearsay. This particular statement does not fall within the hearsay rule, but be careful about saying in the future what anybody told you.

Okay, go ahead.

BY MR. HOLT:

Q You saw the brothers drive by. What happened next?
A He made a phone call.
Q Okay. And about how many times did the Reed brothers drive by?
A About three.
Q Did you know them, the Reed brothers, prior to that day?
A From around.
Q Were you friends?
A No.
Q All right. On the third time did they stop?
A Yeah.
Q And what happened then?
A They parked their car and got out.
Q And what happened next, Asia?
A They entered the park. They entered the park.
THE COURT: Wait a minute, take your time.
THE WITNESS: They entered the park and proceeded to walk towards us.
BY MR. HOLT:
Q About how close did they get to y'all before the stopped?
A Arms reach.
Q Did they say anything to you?

A No, not to me.
Q Did you hear what they said to Milton?
A Yes.
Q What was that?
A Joshua asked my brother if he talked to his big brother.
Q And did Joshua ask your brother anything else?
A No.
Q Did Joshua say anything after Milton answered him?
A No.
Q What did you see happen next?
A Joshua pulled a handgun from his coat pocket and started shooting.
Q About how many times did he shoot?
A About five.
Q Did you notice what type of gun it was?
A Yes, sir.
Q What type of gun was it?
A It was a silver and round revolver.
Q Do you know how many times your brother got hit?
A About four.
Q And after Josh shot him what happened next?
A They ran.
Q To where?

A To their truck.
Q What did they do then?
A Left.
Q From the time they entered the park, okay, and started walking toward you, Anthony and Johnny, to the time they ran back to their truck and got away, about how long do you think it was?
A About ten minutes.
Q All right.
MR. HOLT: Your Honor, permission to approach for demonstrative evidence.
THE COURT: Yes.
BY MR. HOLT:
Q Now Asia, who came up with Johnathan, I mean, with Joshua? When he shot your brother who was with him?
A His brother Johnathan.
Q Did you see while Joshua shot your brother what Johnathan was doing?
A Yes, sir.
Q And what was that?
A He was standing beside Johnny Lee with a gun in his pocket.
Q Asia, this is going to be tough. With the Court's permission I'm gonna ask you to look at the

diagram we got right there.

Can she stand up, Your Honor?

THE COURT: Yes.

BY MR. HOLT:

Q Do you recognize this scene, Asia?

A Yes, sir.

Q And what is it?

A Pride Park.

THE COURT: Keep your voice up, you're away from the microphone.

THE WITNESS: This is the center of Pride Park.

BY MR. HOLT:

Q All right. If that's the center of Pride Park and these are the picnic tables, can you show us where y'all were eating the Yogi Bear?

A Right here.

Q And who was taking up the other picnic table?

A (Inaudible.)

Q All right. Young and Young parking lot. Can you show us where the Reed brothers truck pulls up?

A It came from here about right there.

THE COURT: Keep your voice up please.

THE WITNESS: It came like from this way and start right here.

BY MR. HOLT:
Q And where did they enter the park from?
A This gate right here.
Q So show us how far across the park they had to walk to reach y'all?
A All the way across the park.
Q Can you show us one more time where you were sitting when they came up?
A I was sitting right here.
Q And how close was your brother to you?
A Five and five.
Q So y'all planned to meet the threat head on?
A Yes, sir.
Q Now when the Reed brothers were walking up to y'all how did you feel?
MR. SWILLEY: Objection, Your Honor.
THE COURT: What's the objection?
MR. SWILLEY: It's irrelevant how she felt.
THE COURT: No, sir, overruled.
BY MR. HOLT:
Q How'd you feel Asia?
A Very intimidated.
Q And why was that?
A By the way they came up.

Q And how long did they talk to your brother before they shot him?
A No more -- excuse me, no more than six seconds.
Q Asia, did you see them drive away?
A Yes.
Q And can you show the jury which route they took once they got back in their truck to leave the scene?
A When they back in the truck they came to the stop sign.
Q And that's 6th Street?
A Yeah.
Q All right. Asia, you can sit down. Thank you.
A (Complies.)
Q Immediately after Milton was shot what happened?
A I went down to him and I called my mom.
Q And after you called your momma what happened after that?
A The ambulance and the police came. They took me from him and started questioning me.
Q All right. Do you know who called 9-1-1?
A Yes.
Q Did anybody call?
A Yes.
Q Who was it?

A Anthony.
Q About how long after the 9-1-1 call till the police got there?
A 30 minutes.
Q Were there police in the area prior to the shooting?
A Yeah.
Q And how do you know that?
A When they parked their car a policeman came behind them and went around and made a right turn.
Q Now later on, you're not at the scene anymore, I want to talk about your interaction with the officers. Did an officer come to your home?
A Yes.
Q And what did y'all discuss?
A The lineup that he wanted to show me.
Q And did he show you a lineup?
A Yeah.
Q Did you have any trouble picking out Joshua Reed?
A No, sir.
Q Did you have any trouble picking out Johnathan Reed?
A No, sir.
Q And how certain were you that the individuals shot your brother?

A Very certain.
Q On a scale of one to a hundred percent?
A A hundred percent.
Q And do you see them in the courtroom now?
A Yes.
Q Can you point to them?
A (Indicating.)
Q Can you point to who shot your brother?
A (Indicating.)

MR. HOLT: No further questions, Your Honor.

THE COURT: Cross-examination, Mr. Jones.

MR. JONES: Yes, sir.

CROSS-EXAMINATION

BY MR. JONES:

Q Ms. Gregg, my name is Rick Jones. I'm representing Mr. Reed, and I've got a few questions concerning your testimony. On February the 15th how long had you and Mr. Hunter and Mr. Washington been in Pride Park before your brother was shot?
A About 30 minutes.
Q Okay. During that time what were you doing?
A Eating and talking to my brother and Johnny.
Q Okay. And there was somebody else at the other table I believe was there?

A No.
Q Is that correct?
A He wasn't at the table.
Q Where was he?
A Standing by his car.
Q And who is that?
A Anthony.
Q So he wasn't at the table?
A No.
Q All right. Where was his car parked?
THE COURT: You can step down and show him.
THE WITNESS: This is the parking lot. They built places where you can park your cars, and this is the parking lot. He was parked right here, and the playground right there.
BY MR. JONES:
Q All right. And who was that?
A Ship, Anthony.
Q All right, did you know him before that day?
A No.
Q How did you know his name was Ship?
A Talking to him in the park.
Q That day?
A Yes.

Q Okay. During the time that you were talking to him did you go over to his car?
A No.
Q Where you said you were sitting at that table, did you stay there the whole time?
A Yes.
Q Okay. Do you know how far away his car was from where you were sitting at that table?
A Less than 3-feet.
Q 3-feet?
A Less than 3-feet.
Q All right. Can you tell me how far 3-feet is?
A As long as this right here.
Q Just give me an example from one distance to another distance. Is it farther from me to you?
A Uh-huh.
Q Closer?
A A little closer.
Q All right. Tell me where, tell me where you think 3-feet is as I move across.
A Right there.
Q About here?
A Yeah.
Q So the car where Ship was was about this far away from where you were sitting; is that correct?

A Yes.
Q Okay. Now he stayed there the while time?
A Yes, sir, on the phone.
Q What was he doing?
A On the phone.
Q Pardon me?
A On his phone.
Q Okay. Was he on his phone the whole time?
A I'm not sure.
Q Okay. How about when you were talking to him, was he on his phone and just, did you interrupt him as she was talking?
A No.
Q So he got off the phone at some point in time or did he just put it back?
A Got off the phone.
Q Okay. If you want to sit back down that will be all right.
A (Complies.)
Q Did either Mr. Washington or your brother talk to that gentleman?
A Yes.
Q Did both of them talk to him?
A My brother.
Q Did any seem to know him?

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A Yes.
Q Okay. Did he -- did your brother introduce you to Ship?
A Yes.
Q Okay, so that's how you got to know him that day?
A Yes.
Q All right. The table where you were sitting -- and again, you were eating; is that correct?
A Yes.
Q You'd been there about 30 minutes before your brother was shot; is that correct?
A Correct.
Q You described two gentlemen parking a truck, getting out, and walking across the park to where you were?
A Correct.
Q All right. How close did those gentlemen get to you, your brother, and Mr. Washington?
A Arms reach.
Q Okay. Now is that -- that's farther than 3-feet that we just went through a minute ago?
A Yes, closer.
Q Closer, okay. Can you stretch your arm out and tell me if that's how far away they were?
A Yes.

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Q All right. And about how far is that?
A Arms reach.
Q All right. That was a silly question; I apologize for that. Now as the three of you were sitting at the table tell me again where each of you were?
A Johnny Lee was seated right here. My brother was sitting right here and I was sitting right here.
Q Okay. While you're standing there that's a picnic table; is that correct?
A Correct.
Q Were the two of you on the bench facing the table?
A No, sir, I wasn't facing it.
Q How were you seated on the table?
A I was facing towards the bench. Johnny Lee Washington was looking towards the fence where they parked, where my brother was towards the fence where they parked.
Q Again, you were on the benches or sitting on the table?
A On the table.
Q Sitting on the table, okay. As these two people approached the table where you were sitting did y'all shift around any?

A Yes.
Q What did you do?
A My brother stood up and I stood up beside him.
Q All right. Again, on the same side of the table?
A Yes, sir, right here.
Q All right. And I apologize, are you across the table from where the gentlemen came up to you?
A Yeah. When they came in I was standing right there beside my brother. I had done got up.
Q Was the table between you and them?
A No.
Q Okay, that's what I'm asking. If you will point to that diagram and tell me where those two gentlemen came up.
A They entered the park and came about right here.
Q Can you take this pen and mark where you think they stopped. Just put an X where you can see please, ma'am. Okay. And again, I'm sorry, take it back and put a circle where you and your brother were standing.
A (Complies.)
Q All right. Now you just put a circle on the end of the table; is that correct?
A Yes.
Q Okay. And again, they're this far away?

A Yes, sir.
Q All right. You can sit back down if you want to.
A (Complies.)
Q Mr. Holt asked you how long this whole episode took. I believe you said about ten minutes; is that correct?
A Yes, sir.
Q Now you said it took between 30 and 35 minutes before; didn't you?
A Yes, sir.
Q That wasn't right?
A No.
Q When did you decide it took ten minutes?
A I had to really think and go back to what happened to really calculate.
Q And when did you do that, last night?
A No.
Q So from yesterday to today when did you do your calculations?
A Between last night and today.
Q Okay, so maybe this morning?
A I won't say this morning.
Q Well tell me when?
A Between last night and today.
Q In the middle of the night?

A You can say that.
Q No, I want you to say something. When did it happen?
A From the time I left here yesterday till now.
Q Okay, all right. And now before I think you said that for a long period of time everybody just stared at each other?
A Yes, sir.
Q Did that happen?
A Yes, sir.
Q During that ten minutes -- well, let me back up a minute. I think Mr. Holt asked you from the time that the two gentlemen began to speak to your brother until he was shot, didn't you just say it took 6 seconds for that to happen? When was all the staring taking place?
A Right after he asked my brother the question.
Q Okay. And everybody just kind of stared at each other for somewhere between five and ten minutes perhaps?
A I wouldn't say five to ten minutes.
Q What would you say?
A I'd say for like two.
Q Okay, all right. And so the conversation took six seconds and everybody stared at each other for

two minutes. What'd you do the other almost eight minutes?
A Nothing.
Q Did you star at each other, did you walk around, did you ---
A No.
Q What did you do?
A I just stood there.
Q For eight minutes?
A Beside my brother. I won't say it was eight minutes.
Q Tell me how long you think it was?
A About a minute.
Q Okay. So we got two minutes, we got six seconds, we got another minute. All right, if I add right that's three minutes and six seconds. What did you do for the other seven minutes that you described all this taking place?
A Nothing, just standing there.
Q Just staring at each other?
A Yeah.
Q All right. Was that outside of the one minute we just described everybody staring at each other, was that another time?
A Within that minute.

Q Okay. Then maybe I'm missing, we -- you just described three minutes and six seconds approximately ---
A Uh-huh.
Q ---out of ten minutes. What happened the rest of the time?
A It happened so fast I don't remember.
Q Could it be that the whole confrontation took around three minutes instead of ten minutes?
A Can you explain that again.
Q Okay. If I under-- let me ask it this way. I understood what you said originally when Mr. Holt was talking to you, from the time two individuals parked, walked across, came up to where you were, shot and went back to the car, that took about ten minutes. Is that, is that what you said?
A Yes, sir, that's what I said.
Q All right. I'm just trying to get you to explain to me what happened during that ten minutes, and the only thing we've covered is three minutes and six seconds. So I'm asking you, could the event have taken way less than ten minutes, more like three minutes, or if it happened over a period of ten minutes what'd y'all do the rest of the seven minutes?

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A I'm not sure.
Q All right. Now I believe that you said that you knew both Mr. Reeds; is that correct?
A Correct.
Q How did you know both Mr. Reeds?
A They both attended the school that I was going to.
Q And what school was that?
A Hartsville High.
Q And when was that?
A '06, '05.
Q Okay. What grade would you have been in when they were at Hartsville High with you?
A 11.
Q You were in the 11th?
A Uh-huh.
Q Were you in front of them or behind them in school?
A In front of them.
Q All right. And how old are you?
A 25.
Q Okay. So in the 11th grade did you know both Mr. Reeds at that point in time?
A I wouldn't say know.
Q What would you say?

A Know of them.
Q Okay, all right. And were you familiar with their names?
A With one, yes.
Q Which one?
A Juby.
Q Who?
A Juby, Johnathan.
Q Judy?
A Juby.
Q With a B, Juby? Okay. And that's Johnathan, is he the younger or the older of the two?
A The younger.
Q Okay. Do you recall talking with Sergeant Anderson either the next day or a day or two after your brother was shot?
A Yes.
Q All right. And do you -- during that conversation did you tell Sergeant Anderson everything you knew about what happened?
A Yes, sir.
Q Okay. And do you remember describing the two gentlemen that you said came up to the park?
A Yes, sir.
Q All right. And do you remember having trouble

remembering their names?
A Yes, sir.
Q All right. Had a great deal of trouble; did you not?
A I wouldn't say a great deal.
Q What would you say?
A Just a little mix-up.
Q Did you know their names?
A Yes, I knew their names but they ---
Q Who was Rail you described?
A I was mistaken their last name for Rail, than Reed.
Q Okay. What else did you mistake?
A I think that's it.
Q But you mistook Johnathan for Joshua; did you not?
A Yes.
Q Okay. do you not think that's fairly significant?
A Yes.
Q That you didn't know which one was which?
A I know which one is which. It's just a name. It happened so fast when they were questioning me.
Q But this is two days afterwards when you have had plenty of time to think about it?
A I did, but my remorse was on my brother and my

family.
Q Okay. Now who did you talk to from the time that your brother was shot in the park until you talked with Sergeant Anderson and how -- when was that? Let me back up, when did you talk to Sergeant Anderson, how many days after this?
A I think it was the day after.
Q Next day?
A Yes, sir.
Q Okay. So about 24 hours later?
A Yes, sir.
Q During that 24 hours who did you speak with concerning what happened?
A Could you explain?
Q Sure. Did you talk to your mother about what happened?
A Yes.
Q Did you talk to your baby's father, Mr. Washington, about what happened?
A No.
Q Didn't see him anymore?
A Not after that, until the setting up.
Q Okay. And tell me when that setting up happened?
A It started that night.
Q The same night he was shot?

A Yes, sir.
Q Okay. So you saw him that night after Mr. Hunter was shot that afternoon; is that right?
A Yes.
Q Okay. Did you talk to him?
A No.
Q Didn't say a thing to him?
A I spoke to him.
Q Did you talk about the Reeds?
A No.
Q What did you talk about?
A He asked me how I was doing, how I was holding up, and I was going to be okay and everything was going to be all right.
Q But you never said anything about those two Reed brothers that came to the park?
A No.
Q But you talked to your mom about it?
A Yes.
Q Who else?
A My mom and Rudick.
Q And is that Lieutenant Rudick that we talked about with the Hartsville Police Department?
A Yes, sir.
Q Describe him.

A He's a tall Caucasian bald head guy.
Q When did he talk to him?
A That night.
Q The night that your brother was shot?
A Yeah.
Q At your house or at the police department?
A My mouse.
Q Okay. And who was there then?
A Family and friends.
Q Give me a number, how many people?
A About ten.
Q Okay. And did those ten people hear anything that was going on between you and Lieutenant Rudick?
A No.
Q Okay. When you talked to your mother about what had happened in the park did any of those ten people hear what you were saying?
A Just one.
Q Who is that?
A My grandmother.
Q All right. Did not anyone ask you what happened, who did this, what was going on?
A No.
Q Not a soul?
A No.

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Q All right. And you didn't say, those Reed brothers shot my brother?
A No.
Q Except to your mother and grandmother?
A Yes.
Q And Lieutenant Rudick?
A Yes, sir.
Q Okay. When -- let's go back to the park, all right. When Ship was at his car y'all were just conversing between the table and the car with him?
A Can you explain it.
Q When y'all were talking to each other, ---
A Uh-huh.
Q ---all right, what was the conversation about?
A My brother introduced me to him. He mentioned that I do a little free styling rap as in music, and that he knew him because he used to date a girl that he was curr-- the mother that he was currently dating.
Q So there's no question that your brother knew Ship?
A Yeah.
Q Okay. What was Ship doing at his car?
A Nothing. He was standing by his car on the phone.

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Q He was drinking; wasn't he?
A I don't remember.
Q Did Johnny hot ask him for a drink?
A I don't remember.
Q Okay. Did Milton not ask him for a cigarette?
A Yes.
Q Did Johnny get a cigarette?
A I don't remember.
Q Okay. But you don't remember any alcohol?
A No, sir.
Q Okay.
MR. JONES: One second please, Your Honor.
BY MR. JONES:
Q Just a couple of more questions, Ms. Gregg. Ms. Gregg, you're no stranger to law enforcement; isn't that correct?
A Correct.
Q In fact, in 2011 I believe you had a conviction for arson in the third degree; is that correct?
A Correct.
Q All right, thank you. From yesterday until today you got your thoughts together a little bit better, and we trimmed down the time of the event from 30 to 35 minutes to either 10 minutes or 3 minute; is that correct?

A Correct.
Q All right. Is there anything else from yesterday to today that you have changed?
A No.
Q Okay, that's about it? Thank you.
THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Asia, tell me just to clarify, you said that Johnathan and Joshua came to the park together, right?
A Yes.
Q Right. And you said that Joshua approaches Johnny Lee and gives him a hand shake, right?
A Correct.
Q Then Joshua approaches and gives your brother a hand shake, right?
A Correct.
Q And I think just to clarify, you said that from the time the Reed brothers got to the park to the shooting was about 30, 35 minutes?
A Yes, sir, I did.
Q Can you speak a little louder please, ma'am?
A Yes, sir, I did.
Q That they were there, they conversated.

Everybody conversated for a while, right?
A I wouldn't say everybody conversated.
Q So they were there, there was conversation going on?
A Correct.
Q All right. About 30, 35 minutes you say?
A That's what I said but...
Q That's what you said but what?
A No.
Q So?
A The time, it happened so fast the time seemed it was longer, but it probably was three or ten minutes.
Q Okay. So when you got there you said that Joshua asked Milton, your big brother, right?
A Right.
Q Okay. And after that Milton said something along the lines of that's squash is taken care of, right?
A Right.
Q And then you said at that point that's when Joshua pulled out a gun and shot your brother, right?
A Correct.
Q All right. Now Johnathan never shot anybody, correct?

A Correct.
Q All right. And at that time after -- I'm sorry, and I -- tell me how many times you think that your brother was struck by a bullet?
A About four.
Q About four times? Okay. And can you tell me what hand that Josh, that Joshua had the gun in?
A He had in his right hand.
Q In his right hand? Okay. And you said there was no more words said on behalf of anybody?
A No.
Q Okay. Johnathan didn't occur -- didn't tell his brother to shoot your brother, did he?
A I don't know.
Q Based on your -- you don't remember that, do you? That didn't happen, right, from your recollection?
A Could you explain that question.
Q Johnathan didn't have anything to do with shooting your brother, right, as far as aiding or abetting, right, that's correct?
A I don't know.
Q Okay. And you said that -- you stated on direct, to Mr. Holt you said that, today, you said Johnathan had -- was standing beside Johnny Lee with a gun in his pocket?

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A Correct.
Q Okay. Was that so -- just sitting here kind of like this? Can you see?
A Yeah, I can see.
Q I mean, did it look like this?
A No.
Q What did it look like?
A Can I stand? This is the picnic -- this is the picnic table and me and my brother were standing right here. Johnny Lee was right here. He was standing right here with one hand, right, like this. You could see the imprint. This is the imprint of it.
Q So he was just sitting like this?
A Yeah.
Q Wasn't pointing it at anybody?
A No.
Q He was just sitting ---
A No.
Q He was ---
A Johnny Lee -- to explain it, Johnny Lee, he was sitting right here.
Q Right.
A He was standing there, right here. His coat pocket, if he was facing this way it'll be this way.

His coat pocket was like this.
Q Right. So based upon your observations Johnathan wasn't pointing a gun at anybody?
A It was on Johnny Lee, yes.
Q But you just told me he didn't point a gun at anybody, that it was in his pocket.
A It was in his pocket. You could see the imprint of it.
Q Okay. But you just told me he wasn't pointing it at anybody. Now you're saying it was?
A It was on Johnny Lee.
Q You told me he was pointing a gun at Johnny Lee through his pocket. Is that what you're saying now?
A Yeah.
Q Okay. And you can go ahead and sit down. Yesterday when you were testifying I think you said that -- you just said Johnathan had a gun pointed at Johnny Lee Washington, right? You didn't say anything about a pocket, right?
A No.
Q Okay. So, and then you recall when you were interviewed by Investigator Anderson here you never mentioned anything you never mentioned anything about a gun with Johnny period, right?
A Correct.

Q Okay. And you just told Mr. Jones that when you talked to Investigator Anderson you told Investigator Anderson everything you knew about what happened, right?
A Yes, sir, that I thought I knew everything what happened.
Q Okay.
A Everything happened so fast, it's ...
Q Right. And when you were talking to Investigator Anderson everything would have been pretty fresh in your mind, right?
A Most of it, yes.
Q Right. And you remember going into the police station and gave about a ten minute interview with Investigator Anderson?
A Yes.
Q And it's true that not one time did you mention that Johnathan ever had a gun, correct?
A I only had it mentioned one time.
Q When you met with him for that 30 minute period at the police station, right?
A Uh-huh.
Q You never admitted Johnathan -- you never said Johnathan had a gun?
A Right.

Q Okay, so you said one thing with Investigator Anderson and now you're saying another thing yesterday, now you're saying another thing today. Which one is true?
A What I said today is true.
Q Okay. So you're telling me now that you didn't tell the truth to Investigator Anderson?
A I'm not saying that I didn't tell the truth. Everything happened so fast that, I mean, I couldn't remember it happened a year ago so me trying to get my thoughts together and reminisce on what happened and having to go back to the scene and really think about it is my recollection so, yes, I might have been mistaken.
Q So Asia, you said when you talked to Investigator Anderson you didn't have to back a year ago, did you?
A No.
Q You just had to go back a day or so, right?
A Yes.
Q And you didn't mention anything about Johnathan having a gun or doing anything as far standing there, correct?
A Correct.
Q Okay. So now that we're at trial you changed

that story to implicate Johnathan, correct?
A Could you explain that.
Q So now today and yesterday and I guess as of last Friday, you've changed your story to indicate Johnathan, correct?
A Correct.
Q Okay. So first you didn't implicate Johnathan at all and now you are implicating Johnathan. You agree with me there?
A Uh-huh.
Q Okay. Now let me -- it's fair to say -- be honest with me of course. You hate Johnathan Reed; don't you?
A I wouldn't say hate.
Q Okay. Well, you blame Johnathan Reed for your brother's death along with his brother, correct?
A Correct.
Q And you want them to be convicted; don't you?
A In my heart, yes.
Q Well, I mean, just generally you want them to be convicted; is that true?
A Yes.
Q Both of them, right? Right. And you understand that if you had stuck with the story at the beginning that's, that doesn't implicate Johnathan

Reed, does it?
A No.
Q Okay. And now you've changed your story today and yesterday to say that Johnathan had a gun, right?
A It wasn't that I changed my story.
Q But Asia, you didn't, you never said anything about him having a gun the first time period, and now you're saying that he did have a gun. That's changed, right?
A Yes, it did change.
Q That's something different; isn't it?
A Yes, sir.
Q Right. And you changed that story to implicate Johnathan. Why did you do that?
A It wasn't that I was intentionally trying to put him in the scene to try to say he did or didn't do anything. I just left out some stuff because it was -- when I had the interview with him it was -- he was going through, and at the time I was trying to block out stuff that I didn't really want to go back to it but they was -- I guess I did make a mistake and leave some things out.
Q Okay. You didn't -- you want to block stuff out not go back to it, but you told Investigator

Anderson that Josh shot your brother?
A Yes.
Q I mean, you said, you didn't block that out, did you? You told him that Josh shot him, right?
A Yes.
Q Okay. And you didn't tell him that Johnathan did anything, correct?
A Correct.
Q Other than the fact he was there present, right?
A Yeah.
Q Okay. And that doesn't make a lot of sense, does it?
A If you think about it, no.
Q Okay, okay. Beg the Court's indulgence. Asia, this is the most -- is it true this is the most traumatic thing that's ever happened to you; wouldn't it?
A Yes.
Q What happened on October 15th, 2012 is something that you, nor anybody else would ever forget, right?
A Correct.
Q All right. But you do acknowledge that you've changed your story more than once since that day; is that correct?
A Yes.

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Q Okay. Even though this is -- this is the worst thing you've ever seen, right?
A Yes.
Q All right. And you think this -- and you'd never seen anything similar to this beforehand, right? You'd never seen a shooting beforehand, had you?
A Me personally, no.
Q I mean, in person, right? You've never seen shooting before, have you?
A No.
Q You'd never seen anybody die before, have you?
A No.
Q And you've never anybody be shot or die since this time, have you?
A No.
Q Okay. So it's true that this should stand out in your mind as would you agree with me to say that you'll never -- you don't think you're ever going to forget this, do you?
A No.
Q Yet you changed what you say happened several times, is that right, about three times, correct? Yes or no.
A Correct, yes.
Q Okay. And I think you said that you had known

both of the Reeds beforehand before the shooting?
A I wouldn't say know.
Q You knew who they were?
A Yes.
Q Okay. And you told — I think you told Investigator Anderson that you did know the brother with the dreads, right, from your interview beforehand?
A Can you repeat the question.
Q I'm sorry. You told Investigator Anderson that you didn't know the brother, the other brother with the dreads, right? You tod Investigator Anderson you didn't know him, right?
A Correct.
Q But you did know him, right?
A I don't know him. I know of him.
Q Okay. But you know who he was, right?
A Yeah.
Q But you told Investigator Anderson you didn't?
A I don't remember.
Q Okay. Now, and you said that, you said that Joshua had the gun in his left hand?
A No, I said his right hand.
Q Okay, you say his right hand. And you said that he took, he pulled the gun out of his pants pocket?

A Coat pocket.
Q Coat pocket. Okay, was it a coat like a coat like I'm wearing or was it like a ---
A No, it was like a -- almost like a, it was like, not a jogging, it was like a coat that you would wear with sweat pants.
Q Okay. And you remember what clothes Johnathan was wearing?
A I can't remember.
Q You can't remember about his clothes that he was wearing that day?
A No, sir.
Q Okay. Can you say that when -- did Jonathan shake hands with your brother Milton and Johnny Lee when they got there?
A Say it again.
Q Did Johnathan, did he shake hands with Johnny Lee and with Milton when they walked up?
A No.
Q He didn't shake hands? Okay. But you told Investigator Anderson that they shook hands? So you said they gave him a hand shake, right? "They" as in both of them. Is that what you meant when you talked to Investigator Anderson?
A I don't remember that.

Q I'm sorry?
A I don't remember that.
Q Okay. And the first person you called was your mother; is that right?
A Right.
Q You didn't call the police, 9-1-1?
A No, sir.
Q Ship called the police, right?
A Correct.
Q Okay. You said after the shots rang out they both ran, right?
A Correct.
Q They both fled? And that's the last thing you remember about the Reeds?
A Yes, sir.
Q Okay.

MR. SWILLEY: Beg the Court's indulgence. Nothing further, Your Honor.

THE COURT: Redirect?

MR. HOLT: Thank you very much, Judge.

REDIRECT EXAMINATION

BY MR. HOLT:

Q Asia, on the day in question did you have a stop watch in your pocket?
A No, sir.

Q Did you have a tape measure on you?
A No, sir.
Q Did you write down in a note book everything every time somebody said something to you?
A No, sir.
Q All right. Asia, I want you to think real carefully what Mr. Swilley was asking you. And he was bringing up Terry Anderson's interview. Did Terry Anderson ask you who shot your brother?
A Yes.
Q And who did you say did it?
A Joshua.
Q Now did Terry Anderson ever specifically ask you who all had guns on them?
A No.
Q Okay. So did you tell the truth to Terry Anderson at those times he investigated you and talked to you about the crime?
A Yes.
Q And are you telling the truth now?
A Yes.
Q And has there been any change in your story?
A A little bit about the time that the, the approximate time they came into the park and the shooting and afterwards, that probably changed,

yeah.
Q So things you have to guess on changed?
A Yeah.
Q Okay. Asia, who shot your brother?
A Joshua Reed.
Q And who was beside him when he did it?
A Johnathan Reed.
Q And how certain are you?
A I'm positive.
Q Thank you, Asia.

MR. HOLT: That's all, Your Honor.

THE COURT: Recross, Mr. Jones?

MR. JONES: I do have two things that I would like to ask Ms. Gregg.

RE-CROSS EXAMINATION

BY MR. JONES:

Q Mr. Holt just asked you when talked to Sergeant Anderson 24 hours after this event happened you told him that Joshua Reed shot your brother; is that right?
A Correct.
Q That's not correct what you told Mr. Anderson, is it? You told him, in fact, that Johnathan shot your brother; isn't that right?
A I don't remember.

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Q You don't remember being confused about who was who?
A Talking to Anderson at the police station?
Q Whenever you talked to him?
A When I talked to him as soon as it happened at the park, it happened so fast I mistake that last name for Rail and it was Reed so I might have did said Joshua and Johnathan.
Q And you mixed both of them up and you didn't know which one so you told them that somebody else other than Joshua shot your brother. You said Johnathan shot my brother, but that wasn't right, was it?
A No.
Q Okay. And I believe you stated just a minute ago that Joshua pulled a gun with his right hand; is that correct?
A Correct.
Q And yesterday you said it was the left-hand; did you not?
A I don't remember saying left hand.
Q You don't recall saying left hand when you were asked about what hand Joshua used?
A No.
Q Gracious. That's all I have, thank you.
THE COURT: Recross, Mr. Swilley?

MR. SWILLEY: Thank you, Your Honor, briefly.

RE-CROSS EXAMINATION

BY MR. SWILLEY:

Q Asia, when you interviewed with Investigator Anderson, you know, when you taped it, you'd agree that whether or not Johnathan would have had a gun in court, right?

A Yea.

Q Okay, and you failed -- and you didn't tell him that at the time, correct?

A Correct.

Q Thank you.

THE COURT: All right, thank you. You may step down.

All right, ladies and gentlemen. You've been in the courtroom almost an hour-and-a-half. I think it's appropriate that we take our morning break at this time. We are going to take about a ten minute recess. I'm gonna allow you to go to your jury room. Please do not discuss the case among yourselves. Just relax a few minutes. I'll send for you in about ten minutes. You may go this way.

(WHEREUPON, the jury was removed from the

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courtroom.)

THE COURT: All right, counsel, be ready to start back 11:15 by that clock up there.

(WHEREUPON, a recess was taken from the proceedings.)

THE COURT: All right, back on the record with regard to the matter of the State versus Joshua and Johnathan Reed. We had to have a few matters that come up, but I just want to put on the record too for everybody to hear here in the courtroom that I understand that there have been some contact between some of the people here and some of the witnesses and if I find out that any witness has been intimidated that person that makes that contact is going to jail.

All right, Mr. Holt, you ready to proceed?

MR. HOLT: State is, Your Honor.

THE COURT: Ready to go, Mr. Jones?

MR. JONES: Yes, sir.

THE COURT: Ready, Mr. Swilley?

MR. SWILLEY: Yes, Your Honor.

THE COURT: Bring the jury in please.

(WHEREUPON, the jury was returned to the courtroom at and the following proceedings commenced in open court.)

THE COURT: All right. Thank you, ladies and gentlemen. I apologize for taking a little bit longer that we had planned to. We did have a couple of matters we had to deal with, and we have done that and are ready to proceed.

Mr. Holt, you may call your next witness.

MR. HOLT: If it please the Court, Judge, the State would call Johnny Lee Washington to the stand. He's back there in the back.

THE COURT: All right.

THE CLERK OF COURT: If you'll come around here please. If you'll put your left hand on the Bible and raise your right.

WHEREUPON,

JOHNNY LEE WASHINGTON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Make sure you talk loud enough where we can hear you.

DIRECT EXAMINATION

BY MR. HOLT:

Q Mr. Washington, could you please give your whole name to the jury?

A Yes, I will. Johnny Lee Washington.

Q And how old are you?

A 31.
Q And where are you from?
A Hartsville, South Carolina.
Q And where do you currently live?
A Howard Street.
Q Now how do you know -- is that the city of Hartsville?
A Yes, sir, right on 5th Street.
Q How do you know Asia Gregg?
A My baby momma.
Q How long have you known her?
A I have known Asia Gregg since '04.
Q And did you know at any time her brother Milton?
THE COURT: Take the microphone away from your face so we can hear you.
THE WITNESS: Sir?
BY MR. HOLT:
Q Did you happen to know her brother Milton Hunter?
A Yes, sir.
Q Now were you with Asia Gregg in the park on February 15th, 2012?
A Yes, sir.
Q And what park were y'all in?
A We was in Pride Park.
Q And what city is that located in?

A Hartsville, South Carolina.
Q And what county?
A Darlington County.
Q Now could you describe to us from the time you got to the park to the time you left exactly what happened?
A Yes, sir.
Q What happened?
A Me and Asia Lavon Gregg had left Hartsville motel. She had want to leave, get something to eat. I asked her where she want to get something to eat from. She said from Yogi Bear. We got something to eat from Yogi Bear. She had got her brother something to eat and down me something to eat.
THE COURT: Slow down a little bit.
THE WITNESS: We had went to Pride Park. We were sitting at Pride Park. Her brother Milton Hunter, he had came out there. So young fella right here, Joshua Reed and his brother Johnathan, were right here, rode by the park about three times.
BY MR. HOLT:
Q What kind of car were they in?
A They was in a green truck, sir.
Q All right. And if you can stand up with the Court's permission. This is Marion Young and Young.

If you can show us which way they drove by Pride park?
A Drove by this way right here, left and went over here.
Q Okay. And how did they come back by later?
A They had came up in here right here.
Q And where did they park?
A They parked right beside the funeral home in the parking lot there.
Q Okay. And you can sit down. Now exactly what happened? Did they ever, did they ever park the car? Did they ever park the green truck they were in?
A Yes, sir.
Q And what did they do after that?
A They got out. Before they got out the police had rode by though.
Q Okay. And what happened when they got out?
A They had walked -- they had walked on the street, walked where we was. Everybody was speaking and talking for a little minute. When the police had passed by I had looked where the police going at I heard a gunshot went off.
Q Where were you looking when the gunshot went off?
A When I was looking when the first gun shot was

looking off I look at the police car. Went I turned back he had Milton like that right there ---

Q Who had Milton?

A Joshua Reed, sir.

Q Okay. And what was he doing?

A Milton trying to fight for his life; and he was, he was gunning him.

Q About how many times did he shoot the gun?

A He shot about five times though.

Q Did you see what type of gun Josh had?

A I no see really what type of gun he had, sir, but I know ---

MR. SWILLEY: Your Honor, can I request the Court request the witness talk into the microphone. I'm having trouble hearing him.

THE COURT: Move a little bit -- pull the chair up a little bit closer and slow down a little bit.

BY MR. HOLT:

Q You said you saw Josh shooting Milton?

A Yes, sir.

Q And what did they do after he shot Milton?

A He and his brother, they ran up out the park, jump back up in the truck, and they left.

Q Did you notice who was driving?

A I couldn't really recall who was driving, sir.
Q Now previous to the day in question, February 15th, 2012, did you know the Reed boys?
A I'm saying I seen them here and there; but as hanging out all that, no, too young to be hanging around me. I don't even know them like that.
Q All right. Did any time the police show you a photographic lineup?
A Yes, sir.
Q And did you have trouble picking Josh out of the lineup?
A No, I seen him clear like daylight like I see everybody in this courthouse, no problem.
Q And did you have any problem picking Johnathan out in the lineup?
A No, sir.
Q And on a scale of one to a hundred how certain are you that you picked out of the lineup the people that shot Milton Hunter that day?
A Unt, unt, just like that right there. It wasn't a problem.
Q All right.
MR. HOLT: Beg the Court's indulgence. No further questions, Your Honor.
THE COURT: Cross-examination, Mr. Jones

or Ms. Wooten?

CROSS-EXAMINATION

BY MS. WOOTEN:

Q Good morning, Mr. Washington.

A Good morning to you too.

Q So as to the date in question, how long would you say it was between the time the two pulled up and the time they left after the shooting?

A I really can't recall that, Miss, really can't.

Q So how long were you at the park before the two individuals showed up?

A I just had left the hotel room so the hotel, the hotel get out by 11:00. We go get something to eat, guess we get to the park, probably like 30 minutes to an hour probably.

Q 30 minutes to an hour before this happened? Okay. You said something interesting in your statement to Mr. Holt. You said -- correct me if I'm wrong -- when the first shot happened you were looking at a police car?

A When the police -- when the first shot, got me up bam, that one like that right there. He got Milton though. That man grab that man like this right here. I ducked. I thought the bullet was going to hit me, I went, hold, what going on. I turned back

around he was gunning him.
Q But you said there was a police car there?
A No, I never say that there was a police was there. They wait till the police pass by first.
Q Okay, the police car left and then something happened, right?
A Yes, ma'am.
Q Right. Did anybody shake hands with anybody when they got to the park?
A You say did anybody know ---
Q Shake hands through each other, neither ---
A We speak, we wasn't greeting.
Q Did y'all talk beforehand?
A Yes, ma'am, we talked.
Q Without telling me what anybody said how long did you say y'all talked for?
A It wasn't what too many words really.
Q Did either of them shake your hand?
A Yes, both of 'em shake my hand.
Q Okay. How far away were you from the shooter when they shot Milton Hunter?
A Right here to this, to this right here.
Q So you were very close?
A Yes, ma'am.
Q Can you describe the gun, what it looked like?

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A I can't describe the gun or what it looked like, and like, you know what I'm saying.
Q So did you see it or did you hear it?
A Oh, I hear it.
Q You heard it.
A When it went off I hear it now.
Q How many shots do you think were fired?
A About five.
Q Okay. So at the time on that day what was your relationship to Asia Gregg?
A My baby momma.
Q Were y'all close?
A Close, tight, close, very close like that right there.
Q Y'all from the hotel together?
A Yes, and all.
Q You had a baby together?
A Yes, and all.
Q So after the shooting happened, immediately after the shooting happened before the police got there, were you talking to Asia about what happened?
A Can you run that back over for the record?
Q Sure. After the shooting and before the police got there were you comforting your baby's mother? Were you talking to her, were you holding her?

A Yeah, I hold her, yeah.
Q Was she upset?
A Huh?
Q Was she upset?
A You say was she up-- you talking about was she upset?
Q Did she seem upset to you, like crying or?
A What you mean by that?
Q What do I mean by upset? After the shooting before the police got there was she crying?
A What you mean was she crying?
Q Was she crying? Did she have tears running down her face? Was she crying, was she upset?
A You mean because her brother died? Yeah, yeah, she was crying.
Q Were you talking to her about what happened?
A Whoa, they had left and went to the hospital with her brother.
Q She left immediately and went to the hospital.
A Yes, and I stayed on the scene and she hustling all them. All them investigator was talking to me and Shawn Wingate. I ain't never left the scene or nothing. I leaned against Shawn Wingate car the whole time.
Q So you never went to the hospital, you stayed

there?
A No, I went to speak to the police station.
Q So tell me about Mr. Wingate. How do you know him?
A That's my cousin.
Q Your cousin? When you got to the park was he there first or did he come after?
A No, he was not there first.
Q You got there first?
A Yes.
Q You and Asia got there first, and Milton was already in the park?
A No, Milton wasn't in the park.
Q So you and Asia got there first and then Milton came?
A Me and Asia got there, then Milton had came to the park.
Q And then who -- and then Mr. Wingate came after that?
A Yes.
Q So where was Mr. Wingate when y'all were hanging out and eating chicken?
A You say where he was?
Q Uh-huh.
A Mr. Wingate was sitting on the other table.

Q He was? Can you stand up for a second and show me on the diagram, where were you? Where were you and Asia?
A Right here. I was right here. I was sitting on the table right here.
Q Right here? Where is Mr. Wingate?
A Mr. Wingate is right here.
Q Mr. Wingate is up here at the picnic table and you're down here Asia down here?
A Uh-huh.
Q Milton was next to you?
A Right here.
THE COURT: All right now, speak up. you're away from the microphone.
THE WITNESS: Milton is right here.
THE COURT: I still can't hear you.
THE WITNESS: Shawn Wingate laying on the table right here. Asia's right here; Milton was right here.
BY MS. WOOTEN:
Q Uh-huh.
A I was right here. Johnathan right there. In front of Milton was Johnathan Reed.
Q So where did the two people that came in the park, where did they come in from?

A Oh, they come from this road right here. That's straight across.
Q You can have a seat. Thank you.
A (Complies.)
Q So how long -- your cousin Mr. Wingate, what do you call him?
A You say what do I call him?
Q Uh-huh, what do you call him?
A I call him Ship.
Q Ship. How long were you and Asia and Milton hanging out before somebody came in the park?
A We been out there a good little minute, but I can't give you no time limit on it.
Q Were you drinking?
A No, I had just a little sip of his drink.
Q Whose drink did you take a sip of?
A I took a sip of Ship drink.
Q He was drinking?
A Yes.
Q It's true that you yourself have a criminal record, right?
A Yes.
Q Is it true that in 2006 you were convicted of burglary second and a burglary third?
A Yes.

Q You're no stranger to dealing with law enforcement?
A No, ma'am.
Q After this event happened and Asia went to the hospital and you stayed at the park, was there some time later on that evening that everybody gathered at the family home?
A Me, I did not went to the family home.
Q Where did you go?
A Me and Shawn Wingate, you know what I'm saying -- she and her cousin took her to the police station.
Q Immediately?
A Immediately. I'm talking about, you know what I'm saying, take her straight to the police station to identify the people who shot him. She and her cousin drop me off at home.
Q Do you know where Ship went after that?
A No. No, ma'am, I don't know.
Q Thank you. After the shooting happened you and Asia, you were still together, right?
A Yes, ma'am.
Q Y'all were tight, close?
A No, ma'am, we still close. We still tight.
Q You still have a good relationship?
A Yes, ma'am, we still do. That's my baby momma.

Q Have y'all ever talked about what happened in the park that day?
A Talk about it, yes, ma'am we do. We talk about that but that's her brother T.
Q Right.
A That's my homeboy, her brother, and my friend. We gonna talk about that. You can't forget about it.
Q I understand.
MS. WOOTEN: Just one second, Your Honor. I have no further questions, Your Honor. Thank you.
THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Johnny Lee, I think the last thing you just said, this whole incident was something you could never forget about, right?
A Yes, sir.
Q You remember it crystal clear?
A Yes, sir.
Q Like it was yesterday?
A Yes, sir.
Q Scoop up a little bit and talk into the mic. I can't hear very well.
A Yes, sir.

Q I appreciate it. So based upon your recollection, what you remember, which is good, right?
A Yes, sir.
Q You know Johnathan Reed right here; don't you?
A I know him, but I don't know him like that.
Q Okay. You know who he was?
A Yes, sir, I know who he was.
Q And it's true to say Johnathan Reed never had a gun, right?
A Sir?
Q Johnathan Reed, this guy right here, he never had a gun, did he?
A Sir, you know what I'm saying, I can't look through nobody pocket, don't look under nobody shirt. I don't know what they man had, could -- well, his brother had a gun; I know that for a fact.
Q So based upon, based upon your memory Johnathan Reed did not have a gun?
A Sir, I can't say that, sir.
Q Okay. Did you see Johnathan Reed with a gun?
A Sir, I didn't see him with a gun or none of that right there, but I can't say he didn't had a gun though.
Q What now?

A I can't say he didn't had a gun, but I didn't see him with a gun.
Q Okay, and he didn't -- he wasn't pointing a gun at you, was he, Johnathan Reed?
A First you trying to say he didn't had a gun, but now you're saying ---
Q No, no, he didn't point a gun at you, did he?
A No, he ain't no point gun at me.
Q Didn't point a gun, didn't have a gun in his pocket pointing at you?
A No, sir.
Q on, right? The best you could tell Johnathan Reed was just there, right?
A Yes, sir.
Q Didn't do anything to assist or help with the shooting of Milton, did he?
A Well, he could have stopped it though.
Q I'm not asking if he could have stopped it or not. I'm asking he didn't do anything to assist or help with the shooting of Milton, did he?
A Well, why he came to the park in the first spot.
Q No, I'm not, no -- I can't answer questions. I'm asking you, okay. Johnathan Reed did not do -- isn't it true Johnathan Reed did not do anything to assist or help with the shooting of Milton Hunter,

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correct?
A I can't say that ---
Q Okay. So it's true to say based on what you remember Johnathan Reed was there, right?
A Yes, sir.
Q And nothing more?
A Yes, sir.
Q Okay.
A Can I ask you a question?
Q No, you cannot ask me a question. I'm sorry, I didn't mean to be rude. I can't offer testimony, all right. So you said when you got there you shook hands with both the Reeds, right?
A Say it again.
Q You shook hands with both the Reeds?
A I shook hands with both of them when they was fixing to go. I thought they was going to leave when he grabbed my home boy and shot him.
Q Okay. All right. So but you'd shaken hands with both brothers before that, right?
A Yes, I shook both hands with both of them on the streets and all seem like numerous times; but hanging out and all that, no, we ain't never did that.
Q Okay. And everything seemed to be — until

Milton got shot everything seemed to be normal?
A I ain't know that gonna happen that day.
Q So that's a yes?
A Say that again.
Q That's -- everything seemed to be normal up to that point, right?
A You talking about with Milton and them?
Q Just everybody there, everybody seemed to be okay?
A Well, you can say that and to that.
Q Okay, all right. And from the point where the Reeds got to the park and to the shooting happened how long did you say that was?
A Say that again.
Q From the point where the Reeds came up, right, and to the point where the shooting happened, how long of a time was that?
A Sir, I couldn't tell you.
Q Couldn't tell me, no idea?
A No.
Q Okay.

MR. SWILLEY: Beg the Court's indulgence. I have nothing further, Your Honor.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. HOLT:
Q Did you hear the Reed brothers say anything after the shooting?
A No, sir.
Q Did you see which way they ran off?
A Yes, sir.
Q Which way was that?
A They ran off, left this way through there, head back towards Young and Young way, across the railroad tracks, you know what I'm saying like going toward Hanna funeral home and all that.
Q Did they leave together?
A Yes, sir, they left together, jumped in the truck.
Q Did Johnathan stay behind to help?
A Did he stay around to help?
MR. SWILLEY: Objection, Your Honor, irrelevant.
THE COURT: Overruled.
BY MR. HOLT:
Q Did either one of the Reed brothers stay behind to help Milton?
A I will say he assist him. I will say he help him out, you know what I'm saying. He help, he assist. He came out to the park with him, you know what I'm

saying. That like me going out to the park with my brother and my brother don't know what's going on?

Q But neither one of the brothers stayed behind to help?

A Yeah, they jump in the truck together and they ran off together.

Q All right. Thank you, Mr. Washington.

THE COURT: Ms. Wooten, anything else?

MS. WOOTEN: No, Your Honor.

THE COURT: Mr. Swilley.

MR. SWILLEY: Briefly, Your Honor.

RECROSS-EXAMINATION

BY MR. SWILLEY:

Q Johnnie Lee, you're from the rough part of town, right?

A That what they say.

Q Okay. Anyway, wouldn't it be -- it would be logical to say when a shooting happens it's the wise thing to leave the scene ---

MR. HOLT: Objection, your Honor.

MR. SWILLEY: ---right?

THE COURT: Wait a minute, let him finish the questions. Don't answer until he finishes the question, then I'll see if there's an objection.

What's the question?
BY MR. SWILLEY:
Q Would you say that it was -- it is the logical thing to do when a shooting happens is to run away?
THE COURT: All right, hold on, what's the objection to that, Mr. Holt?
MR. HOLT: There is no objection.
THE COURT: All right, answer the question.
BY MR. SMILEY:
Q You got to say yes or no, sir.
A Can you run that question back over.
Q Wouldn't it be the logical thing to say that when a shooting occurs the wise thing to do would be to run away, right?
A Umm.
Q Is that a yes or no?
A You say the wise thing to do is run away?
Q I mean, you don't want to be around when ---
THE COURT: Wait a minute, let him answer it.
BY MR. SWILLEY:
Q Right.
A That wasn't a wise thing to run away.
Q Okay. So you don't agree that when gun shots are

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fired you don't want to remove yourself from the scene?

THE COURT: He answered the question.

MR. SWILLEY: Okay, all right, I have nothing further.

THE COURT: All right, thank you. You may step down.

All right, counsel, come up a minute.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: It requires us to do it a few minutes and I must do it on the record and outside of your presence so I'm gonna ask you to go to the jury room. Please do not discuss the case among yourselves and just relax a few minutes, but this is something we'll have to take up on the record and outside of your presence. Please go to the jury room.

(WHEREUPON, the jury was removed from the courtroom and the following proceedings commenced in open court.)

THE COURT: Mr. Holt, I believe you wanted to call Mr. Wingate as a witness; is that correct?

MR. HOLT: If we can get Mr. Wingate up here please.

Judge, at this time I also ask if it might be appropriate if we cleared the courtroom as well for both sides. I would like to put that out there. I'm not sure how you or defense counsel would feel.

THE COURT: Well, I'm opposed to that. I think the courtroom should be open and I've always kind of felt like that and I feel like that now.

MR. HOLT: I agree.

THE COURT: All right.

THE CLERK OF COURT: Place your left hand on the Bible, raise your right hand.

WHEREUPON,

ANTHONY WINGATE,

having been duly sworn by the Clerk of Court, testified as follows:

THE COURT: Mr. Wingate, come up and have a seat. I'm gonna tell you that in a few minutes we're gonna bring the s jury back in and Mr. Holt is going to ask you some questions on the record with the jury in here and defense lawyers will also have the right to cross-examine you with the jury in here. But prior to doing that, we wanted to find out what your testimony would be before the jury.

All right, Mr. Holt.

P R O F F E R E X A M I N A T I O N

BY MR. HOLT:
Q How old are you, Mr. Wingate?
A 39.
Q And were you at Pride Park on February 15, 2012?
A Yes, sir.
Q What did you go there to do?
A My intentions, I went there to eat 'cause I just got at tat, just had a tattoo on my arm, and then I had some alcohol 'cause I was still feeling the pain from it so I drink.
Q And why while you were at park what did you witness?
A Basically I just saw the little dude shoot the other dude.
Q Which dude is that?
A The dude sitting in the middle right there.
Q And do you know his name?
A Not, not really. I don't know his name really. I just know from seeing him previous time before.
Q Okay. What else did you witness that day?
A Well, after the shooting that was basically -- I called the 9-1-1, and then the police and stuff came, and the ambulance came.
Q And after Milton Hunter was shot, laid there and died, did you notice anything or did you do anything

to help him?
A Yeah, I tried to stick my finger 'cause his tongue was like real big, and I tried to put my finger in his mouth to move his tongue back but that didn't really help.
Q How do you know how to do that?
A 'Cause I took nursing class at Denmark Technical class, College.
Q Did you see what the individual that shot Milton Hunter, did you see what type of automobile they arrived in?
A It was a green pickup truck.
Q All right. And using the diagram up there can you show us where they parked and how they entered the park and what they did next? Now this is Marion Avenue, Fifth Street, and the picnic tables.
A They was parked about right here. And this the parking lot right here to the Young and Young?
Q Yes, sir.
A And they was parked right there and walked through here and we were all sitting -- that's a open gate right there so we was all sitting like right up in this area here. Got over a little we were sitting right here, and ---
Q Where was your car parked?

A Right here. About like in the middle of the parking lot gravel.
Q Okay.
A Facing that way.
Q And you were at your car?
A No, I had walked -- when the conversation, whatever the conversation was that they was having, I started walking towards the -- is this the gazebo right here?
Q No, sir.
A Whenever the gazebo at I started walking towards it.
Q All right. And when you were on your way to the gazebo did you notice anything, did you turn around for any reason?
A Yeah, I heard one say, I already handled that, I already talked to Fan about that. And then, and he was like, oh really. And he said, man you ---
Q Who said, oh really?
A The dude right there, the one in the middle. And he say, oh really. And Wop said, man, you ain't about that, you ain't gonna do that out here.
Q And who is Wop?
A Milton Hunter. By that time all I hear was gun -- all I seen was gun -- he went boom, boom, boom.

I thought that Asia, I thought she was shot 'cause she tell so bar back and so I was like, damn. And then she start trying to crawl towards him but he was on the ground. By that time he was on the ground. He just kep- he just -- I don't know if he unloaded or not, but you know, he shot till he stopped. And then he ran, grabbed his brother, and they ran out the park.

Q What did they do after they left the park?

A Got out and as I was on the phone with the -- well, by that time they had done jump in their car and went this way towards on Sixth street.

Q All right, Mr. Wingate, please answer any questions that defense counsel may have.

THE COURT: I don't think cross-examination is appropriate at this time. Mr. Holt, you satisfied the witness has testified truthfully?

MR. HOLT: Yes, sir.

THE COURT: You ready to proceed for the jury?

MR. HOLT: I am.

THE COURT: All right, come have a seat. All right, bring the jury in please.

(WHEREUPON, the jury was returned to the

courtroom at and the following proceedings commenced in open court.)

THE COURT: All right, thank you. Ladies and gentlemen, we're now ready to proceed.

Mr. Holt, you may present your direct examination testimony of Mr. Wingate.

MR. HOLT: Thank you very much, Judge.

DIRECT EXAMINATION

BY MR. HOLT:

Q Mr. Wingate, can you give your whole name for the jury?

A Anthony Sherod (ph) Wingate.

Q What county did you grow up in?

A Darlington County.

Q What city do you currently work in? What city do you work in?

A Oh, Darlington.

Q All right. And are you familiar with the Pride Park area of Hartsville?

A It's right down the street from my house.

Q All right. On February 15th, 2012, did you have a occasion to be in Pride Park?

A Yeah.

Q About what time do you get there, do you know?

A It had to be around about -- I left the tattoo

parlor at 2:30 I think. I got there around about 2:45.
Q Okay. And can you, using the diagram up there show us about where you parked your car.
THE COURT: Go ahead, sir.
THE WITNESS: I parked my car over here. I came in -- came off 'cause I came down Sixth, made a left, and I parked my car. I parked the car right there.
BY MR. HOLT:
Q And what was your intention that day from going to the park?
THE COURT: You can stand there or you can sit down.
THE WITNESS: My intentions I had went to eat, and then I had -- I had just got this tattoo and I had bought about a half a pint of Svedka.
BY MR. HOLT:
Q Svedka is?
A Liquor, vodka, 'cause my arm was still hurting from getting the tattoo.
Q Did you make yourself a drink?
A Yeah.
Q And about how many drinks did do you have that day?

A Well, I had poured about half of the bottle in the cup with some ruby red cranberry juice.
Q Well, how about this, do you think you were drunk?
A I ain't had nothing but one sip out of it.
Q And then what happened after you had one sip?
A After I went and poured it, went and sat back down where the rest of everybody else was, they had done came in the park. And then I asked, I asked what y'all got going on here, and Milton say ---

MR. JONES: Objection, hearsay.

MR. SWILLEY: Objection, hearsay.

THE COURT: Just tell what you did as a result of what he said.

THE WITNESS: And I said, man, whatever. By that time they had done came to the park.

BY MR. HOLT:
Q Okay, hold on, I think we're getting ahead of ourselves. Did you go to the park with Milton and Johnny Lee Washington and Asia? Did you go with them?
A No, I went by myself.
Q Did you go with the intentions of meeting up with anybody?
A No.

Q So this is all just an unpleasant coincidence?
A Wrong place at the wrong time.
Q Now did you notice anybody driving by repeatedly by the park that afternoon?
A Green truck.
Q Okay. And did that green truck eventually park?
A Yeah.
Q And who got out of the green truck?
A Them two guys right there.
Q All right. And did you know who you're referring to as these two guys, did you know them?
A I mean, two different age brackets. I mean, I know them from when they was little kids.
Q How old are you?
A I'm 39. I'll be 40 next month.
Q Okay. Now can you show us on the diagram where they got out of their truck at and what they did next?
A They got out -- Marion Avenue right here, somewhere in here. They were way behind the stop sign, I know that.
Q Okay.
A 'Cause there was already -- the police car at the stop sign and the police made a left. And then they got out.

Q Where did they enter the park?
A Through the gate beside there off of Marion Avenue.
Q All right. Where did they proceed to after they entered?
A They walked straight towards where we was.
Q Now what did you do when you saw them walking off and why?
A After I said, man, whatever, I started doing this right here (indicating). I started doing this (indicating).
Q So you were leaving?
A I was going towards — I was going towards my car, but I walked through up under the gazebo.
Q And why was that?
A 'Cause I had — something didn't feel right to me.
Q Now did you have occasion to turn around when you started walking towards the gazebo?
A Yeah, when I heard ---
Q What made you turn around?
A When I heard the last part of the conversation.
Q What did you hear?
A I heard ---
MR. SWILLEY: Objection, hearsay.

MR. HOLT: Party opponent, Your Honor.
THE COURT: Pardon me?
MR. HOLT: Parent opponent.
THE COURT: All right. You heard -- the conversation, you talking about what one of these two gentlemen said?
THE WITNESS: This gentleman right here said.
THE COURT: It's what he said? Okay, all right. Objection overruled.
BY MR. HOLT:
Q What did you hear that gentleman say?
A He said, what? Then he shot him.
Q Who did he shoot?
A He shot Milton.
Q And about how close was he to Milton when he shot Milton?
A He was probably about like right here to that end of this box right here.
Q And what did Milton do?
A I didn't know whether he pushed his sister or not. I actually thought ---
Q Where was his sister?
A She was right beside him 'cause I actually thought he shot her because she fell probably about

to where your podium thing at right here where you ---

Q Yes, sir.

A And he went to like do like this right here, but -- and he had done got hit like, I don't know, three or four times. And he fell just like that like he was still in the boxing stands.

Q And what happened to Asia?

A She was on the ground yelling, get up, get up, get up Wop, get up. And then by that time I grabbed my phone and I said, oh, shit -- I mean, I ---

Q You can say what you said.

A Oh. And then I was on the phone with 9-1-1 and she had done crawled over to him. I think she tried to turn him. She tried to turn his head or something and I said, no, no, no, don't do that because he gonna choke. And I was like, no, turn him on his side so it will go out his mouth. And as I got down, got down beside talking to the people, they were like, calm down. And I was like, he can't breathe. When I looked at his tongue it was, it was mad big, it was really big. So I took my finger and I tried to stick it down move his tongue back so he could breathe.

Q And what happened when you did that?

A He started (indicating). He was breathing in because his tongue was, his airway was blocked by his tongue.
Q How did you know to do that?
A Because I went to Denmark Technical College and I took nursing for two-years-and-a-half.
Q Now after you called 9-1-1 what happened next?
A I said just tell the officer that just went down Sixth Street, he can't be no more to the first light to turn around. And she said what officer. I said, all I know he driving one of them Hartsville police cars.
Q All right.
A And that's when by that time I look up -- I don't know who the guy, I don't know which officer it was. I know it was a white guy. He came, slung up, jump out. And I guess he called on his thing or whatever and told the -- by that time the ambulance came and we stood back like this right here while they did what they was doing and put him on the gurney.
Q Who came and spoke to you next, do you remember?
A Two people walked up. Anderson and, what's his name? I know him by Teyon.
Q Where did they take you?
A They took us to the police station.

Q And when you were there what happened?
A They asked us did we know who did it.
Q And did you tell them?
A I said, well, I don't know 'em like that, but I know of 'em. I know of 'em but I don't know 'em.
Q And did they show you a photo lineup?
A Yeah.
Q And did you pick the people out of the photo lineup?
A Yeah.
Q And on a scale of one to a hundred, how sure are you that the people you picked out were the people that shot Milton Hunter?
A I was a hundred percent.
Q All right. And while you were there did the police influence or force or coerce you in any way to pick a certain person?
A No.
Q All right. After you picked the people out of the lineup what did you do next?
A I said take me back to my car, man.
Q Did they take you back to your car?
A Yep, and the cup of liquor I had was still on the back of the car.
Q Did you ever get to drink with Mr. Wingate?

A As soon as I got home.
Q No further questions.
THE COURT: All right, Mr. Jones.

CROSS-EXAMINATION

BY MR. JONES:
Q Mr. Wingate, I think I heard you say wrong place wrong time. Would you describe the events of 2/15/12 as wrong, you being at the wrong place at the wrong time?
A Yes, sir.
Q Okay. Now prior to February 15th of last year -- and if you've already answered I apologize; I didn't hear it. Did you know either of the Reeds?
A No, I can't -- I think I know like their grandfather or something like that 'cause I got an aunt that stay on the same street at the very end. In passing from taking my aunt to see her sister-in-law down there and seeing them in the yard, but that was when they was little. I don't them like, you know, hung out with them.
Q No dealings with them?
A No.
Q Okay. And while you were at the park you basically were there just to kind of hang out, get over the tattoo that you had, have a drink, just

kind of be there?
A Yeah.
Q Is that correct?
A Yes, sir.
Q All right. When the other folks started coming up, Mr. Washington, Ms. Gregg and Mr. Hunter, did you know that crowd? Did you know them?
A Yes, me and -- Johnny Lee, I know him, and I didn't know ---
Q How do you know him?
A His family used to say on the opposite street from me?
Q Are you related to him?
A No.
Q Anybody -- did you know anybody else?
A I knew Milton. I didn't know, I didn't even though that was his sister, Asia. I didn't know he had a sister.
Q And you didn't know Mr. Hunter by Milton, did you?
A I just knowed him by Wop.
Q That was his nickname?
A Yeah.
Q And how long do you think y'all were there talking before this incident took place when Milton

was shot?
A You asking me for the incident?
Q Just -- yes, the whole time that y'all talked until Milton was shot. Estimate of time?
A I got to the park about 2:45 so we was there a good 30 minutes before this whole incident took place.
Q Now this, the chart that we have here, if I understood you correctly you where t a picnic table hanging out? Or, were you at one of those tables?
A Uh-huh.
Q Did you go back and forth from the table to your car?
A At one point in time 'cause I got a cigarette. I got me a cigarette and I got Johnny Washington a cigarette.
Q And how long do you think you stayed at your car?
A Long enough to reach down in there and pick it up and walk back.
Q Just a couple of seconds?
A Yeah.
Q You didn't hang out at your car and have your drink and just kind of hang around there while you were doing all of that?
A I didn't get to drink until after I ate. I ate

first.
Q And where did you eat?
A Picnic table.
Q Not your car?
A No.
Q All right. After you ate, after you had a drink, after you got a cigarette, that's when this event took place?
A Right after I poured the drink and walked back over there to where the, where you know, where we were sitting.
Q Okay. Can you describe what the two gentlemen that walked up to Mr. Hunter were wearing?
A The man right there had on -- the one in the middle that's sitting in the middle between you, he had a hoodie and some shorts and some of them, them hospital shoes like the women wear, I think they call them crocks.
Q All right, we're talking about this gentleman, Mr. Joshua Reed?
A Yeah, the dude in the middle.
Q Right here?
A Yeah, your client.
Q Okay. The hoodie, what color was it? Do you recall?

A It was blue or black.
Q All right. Was it a pullover, a zip-up, or do you remember?
A I just know it was a hoodie.
Q Okay, all right. Had some shorts on?
A Yes.
Q And again, if you said the color I didn't hear it.
A I never said the color of the shorts.
Q Okay. Do you remember?
A I just know he had on shorts.
Q Okay. And then some dark crock shoes?
A Yeah.
Q All right. That's Mr. Joshua that we're talking about. How about the other gentleman, do you recall what he was wearing?
A He had on some jeans and a hood and some sneakers.
Q All right. And again, any idea of the colors?
A I don't pay attention like that.
Q Okay. And from the time that the two gentlemen walked up until Mr. Hunter was on the ground was it a matter of seconds or a matter of minutes? How long did it take for all that to take place?
A I wasn't counting.

Q Roughly, any idea?
A It wasn't -- I's say short conversation so, I'd say about 45 seconds but all of that to take place start to finish.
Q Okay. Now after it happened I believe you said two guys ran back to the, that little entrance there on Marion, got in the truck, took off?
A Well, before he ran he grabbed his brother by the jacket and pulled him.
Q So both of them are gone?
A Yeah.
Q All right. You're calling 9-1-1. You're trying to help Mr. Hunter?
A Yeah.
Q Okay. All of that happened before the police got there did you have a chance to say anything to either Ms. Gregg or Mr. Washington?
A No, because she was hysterical. She was saying, get up, Woop.
Q Okay.
A And Johnny was puzzled.
Q All right. After the police got there I assume it took some time for the ambulance and all to take Mr. Hunter to the hospital. Did you talk to Mr. Washington, let's say, at that point in time?

A No, 'cause she was -- he was holding her because at the time that was his girlfriend, and he was holding her and she was crying. He was trying to hold her, you know, keep her calm.
Q Okay. Did she -- did the two of them separate at some time? Did she go one way and he went another way?
A No, we all were standing there together once the police and stuff go there 'cause they was like, we need to talk to y'all 'cause, you know, you're right here.
Q And as that was happening did y'all talk among yourselves either with or without the police being there, about what just happened?
A Could you repeat that again.
Q Did you and Mr. Washington and Ms. Gregg at any time after this happened talk with each other about what happened?
A Actually, yesterday was the first time I seen them since this happened.
Q Okay, all right. Back up again, did I not here you say that you and Mr. Washington were taken to the police station to talk to the investigators?
A Yes.
Q Okay. How about during that time, did y'all talk

with each other about what just happened?
A No, 'cause I was in the front seat and they was in the back seat of the car with Mr -- what's his name -- Chief Hudson.
Q And maybe I misunderstood. Was Ms. Gregg with y'all?
A I think, I think she was in the back seat with us.
Q Okay. So your recollection is all three of you went to the police station and then y'all started talking to the police?
A That's the way it went.
Q Got you.

MR. JONES: One second, Judge.

THE COURT: All right.

MR. JONES: That's all I have. Thank you.

THE COURT: Cross-examination, Mr. Swilley?

MR. SWILLEY: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Anthony, you go by Ship, right?
A Yes.
Q Okay.
A Oh, not no more.

Q Okay. Mr. Wingate then.
A Yeah.
Q You said you got there, came around there by yourself, right?
A Yeah.
Q And you knew Wop, you knew Milton, right?
A Yeah, I knew Wop.
Q Were you friends with him?
A Well, we was acquaintance because a lady I used to date, he was dating her daughter.
Q Okay. So it's true to say you don't really have -- none of the people involved this as far as the people at Pride Park, you're not friends with any of them, right?
A I'm friends with Johnny Lee.
Q Okay, all right, I'm sorry. Now is it fair to say you -- the entire -- every shot that was fired at Milton you witnessed that, right?
A Yeah, I believe the first one missed.
Q There was fired at him?
A Yeah.
Q So you witnessed this whole thing, right?
A Yeah, right.
Q And you see these two Reed brothers, right?
A Yeah.

Q You don't have any trouble telling them apart, do you?
A No.
Q Okay. And at that time you said it took -- now you said from the time they pulled up to the time that Milton was shot, how long of a time was that?
A I mean, in actuality when it happened it seemed like it took a long time, but it probably wasn't no more than probably 45 seconds.
Q And at the time you saw Joshua Reed shoot Milton Johnathan Reed wasn't doing anything, right?
A He was standing, he was standing -- see, he was standing opposite side of Johnny Lee.
Q Right. And did I hear you say before that he looked shooked when all this was going on?
A Yeah, I honestly say that.
Q Like, I mean, he had a look of bewilderment on his face?
A He looked as puzzled just like I looked puzzled.
Q Right. And at the time you saw Johnny, Johnathan didn't have a gun, did he?
A Not from my knowledge I don't know.
Q I mean, you didn't see a gun in his hand, did you?
A No.

Q Didn't see a gun hanging out of his clothes, did you?
A No. I think he had his hands in his, like in his coat, in the hoodie.
Q You didn't see the imprint of a gun in his coat, did you?
A Naw.
Q Is that no?
A No, no.
Q Okay. And at the time you said after the shooting stopped, you said -- did I hear correctly -- Joshua grabbed Johnathan and pulled Johnathan out of there?
A Yeah, he -- 'cause he was still standing there sort of -- they was over here and he had to go back around the picnic table and he grabbed him by the hoodie, was like, come on, come on, and they started going and went back out through the gate.
Q So it's fair -- it's true to say that based upon your observations Johnathan Reed had nothing to do with this shooting other than fact he was just in the park? Is that true?
A (There was no response.)
Q Based on your observations?
A If I answer that in that way I'll be telling a

lie.
Q Well ---
A I want to answer it another way.
Q Mr. Wingate, just tell ---
THE COURT: Give him the best answer that you can give him.
THE WITNESS: From my observation is he ain't had anything to do with it he wouldn't never been with him.
BY MR. SWILLEY:
Q Okay, but you didn't see him do anything but stand there?
A He didn't do anything but stand there.
Q That's it, right?
A Yeah.
Q Okay. And after that you said -- and you said yesterday was the first time you've seen Asia and Johnny Lee since this incident?
A Yep.
Q Almost two years later?
A (Shakes head.)
Q Okay.
THE COURT: Yes?
THE WITNESS: Yes, sir.
THE COURT: She has to take this down.

She can't take down a nod.

THE WITNESS: All right, yes.

THE COURT: Okay.

MR. SWILLEY: Beg the Court's indulgence. I have nothing further, Your Honor.

THE COURT: Redirect, Mr. Holt?

REDIRECT EXAMINATION

BY MR. HOLT:

Q Mr. Wingate, can you show us again how you said the Reed brothers were standing when Mr. Hood was talking to you?

A When they first came in the park they were standing over here because they walked over and spoke to Johnny Lee, shook his hand.

Q Now where was -- just show us where Josh was standing.

A Like here, and his brother was standing over -- talking about during the incident or when they first got there?

Q During the incident?

A Oh. He was standing in front of the bench on this side, and the brother was standing over here still where Johnny Lee was.

Q Okay. So Josh Reed was standing over who?

A I don't know him by name.

Q The one that shot Milton, who was he standing over?
A Oh, he was standing, he was standing right there in front of Milton.
Q And the one who didn't shoot Milton, who was he standing over?
A He was standing over Johnny Lee.
Q Okay. Now where were you at when this was happening?
A Halfway in between the gazebo.
Q So is it fair to say that some of John -- some of the brother with dreads was blocked out from his brother from your point of view?
A I couldn't -- that's why I couldn't see whether he had a gun or not.
Q Okay. Let me ask you this, did you look in his pockets?
A Huh?
Q Did you look in his pockets?
A In?
Q In Johnathan's Reeds' pockets?
A No.
Q But you did see him stand standing over ---
A Over John.
Q Okay. Did you -- could you tell who was driving

that day?
A No, but by the time I saw them they was walking across the street together. I know the one that did the shooting was on the left and the one that -- the other one that was standing was on the right. So as far as knowing who was driving I don't know.
Q Thank you.
MR. HOLT: No further questions, Your Honor.
THE COURT: Mr. Jones?
MR. JONES: Nothing.
THE COURT: Mr. Swilley?
MR. SWILLEY: Very briefly.

RECROSS EXAMINATION

BY MR. SWILLEY:
Q Mr. Wingate, when you say standing over you mean like standing next to? Is that what you mean? I mean, everybody was standing up, right?
A Well, Johnny Lee was sitting down.
Q Oh, so you mean standing just kind of like this?
A Standing right beside him.
Q That's all you mean?
A Yeah.
Q Okay, that's it.
THE COURT: All right. Witness is

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excused.

Counsel, let me see you at side bar please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: All right, you've completed with this witness, Mr. Holt?

MR. HOLT: Yes, Your Honor.

THE COURT: You want him excused?

MR. HOLT: If it please the Court, if you can excuse him as well as Johnny Lee Washington.

THE COURT: All right.

Mr. Wingate, you are excused, you're free to go. And Mr. Washington is also excused. Let's talk about scheduling just a moment. Come up here just a minute.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: All right, ladies and gentlemen, I was talking to the lawyers about scheduling, and there are some things that the lawyers need to, in preparation for the next witness that may take a few minutes and I think it's appropriate for us to take our lunch break at this time and so we are going to do that. I'm gonna ask

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that you go get your lunch. Please be back in your jury room, let's say at 1:30. It's 12:30 now. That will give you about an hour. Does that give enough time? If so, please be back in the jury room 1:30. Over the recess for lunch do not discuss the case with anyone. Do not allow anyone to discuss it with you. If anybody approaches you about the matter or tries to talk to you about it get their name or their description, report it to me and I will report it — and I will handle them. And just be back in the jury room. Please do not begin discussing the case among yourselves when you're re-assembling in the jury room. I would ask that the twelve members of the jury select a person that you want to be the foreperson when you come back in, and notify the bailiff of who that person is gonna be. But if you'll be back in your jury room please at 1:30 we'll be ready to go forward at that time. Thank you. Have a pleasant lunch.

(WHEREUPON, the jury was removed from the courtroom at 12:30 p.m., and the following proceedings commenced in open court.)

THE COURT: Counsel, come up just a moment please.

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(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: All right, I understand the jury is out. Now at this time just to, I know there is an important matter for all the people that are involved, that includes the victim's family and the family and friends of the defendants as well. And I know it also a highly emotional matter with each one and I just don't want to -- I want to make sure that we do not have any problems. And to make sure that we don't have any problems we're going to adjourn the court in -- I'll have Mr. Staggers to adjourn. At this time I release all members of the victim's family. Everyone else please keep your seats. All right, victim's family may be released. You may, are released.

Mr. Bailiff, let me know when they're on the elevator.

(Pause while victim's family leaves the courtroom.)

THE COURT: All right, we'll be in recess until 1:30, and we will start back at that time.

(WHEREUPON, a lunch break was taken.)

(WHEREUPON, State Exhibits Nos. 3 through 22 were marked for identification only.)

THE COURT: The State had the opportunity

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to mark certain exhibits. Madam Reporter, what have we marked and what have we got -- what's been marked -- and are we marking into evidence or just for identification?

MR. HOLT: Marked for identification, Your Honor.

THE COURT: Oh, okay. Is everything is just for identification? Nothing is admitted at this point?

MR. HOLT: Nothing is admitted at this point.

THE COURT: All right. Anything before we bring the jury in, Mr. Holt?

MR. HOLT: There is not, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. SWILLEY: No, Your Honor.

THE COURT: All right, bring the jury in please.

(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)

THE COURT: All right. Ladies and gentlemen, thank you for your attention and your

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promptness in being back here. And we had to take care of a few matters but we got those taken care of and we're ready to go forward. I understand the jury has selected Mr. Dickson as the foreperson of this jury so if you'll sit right where you are seated now Mr. Dixon. And of course, the alternate will sit where she is seated. The rest of the seats are not reserved and you can sit in either seat in the jury box. I will ask you now as I ask you every time away from the courthouse if anyone has contacted you or tried to talk with you about this case in any manner whatsoever I will need to know about it now.

(There was no response.)

THE COURT: Negative response and that's goods. All right, at the time we adjourned for lunch the State was presenting the State's case in chief and they may continue to do so at this time.

Mr. Holt.

MR. HOLT: Thank you very much, Your Honor. The State would like to call David Sessoms.

THE COURT: Come around please, Mr. Sessoms.

THE CLERK OF COURT: Step forward and take the oath of a witness please. I ask you to place

your left hand on the Bible, raise your right.

WHEREUPON,

WILLIAM D. SESSOMS,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Step up to the witness stand, sir.

THE COURT: All right, Mr. Holt, you may proceed.

MR. HOLT: Thank you very much.

DIRECT EXAMINATION

BY MR. HOLT:

Q Please give your whole name for the jury and the court reporter.

A My name is William David Sessoms.

Q And Mr. Sessoms, what's your current occupation?

A Currently I'm employed by Darlington County, director of the Darlington County 9-1-1 communication center.

Q And what duties does your job entail?

A I'm the keeper of the records as far as communications. We -- central dispatch, we dispatch all emergency response, fire, EMS, and law enforcement for Darlington County.

Q All right. And how are 9-1-1 calls recorded?

A Everything coming into the 9-1-1 center, radio, and telephone, is recorded, have a recording system. And we're -- recording comes in and it's on a computer and we can play it back and save it. But everything coming in, conversation, radio, traffic, on-traffic, every conversation coming into the 9-1-1 center is recorded.

Q And do you ever have to pull any of that data out and make copies of them for storage?

A Yes, sir, that's really one of my primary jobs. As the agency has something that needs play back I'm the only one that does the recordings.

Q And how do you do that? How do you go about doing that?

A It's on a server. We pull it up by -- we got a computer aided dispatch. It's called a CAD report. So when the call comes into 9-1-1 the dispatcher takes the information, types it, and enters it into the computer, and we dispatch the appropriate agency. Once the -- we take the phone call. We dispatch the emergency response agencies, and once the call is completed they'll close the call out. It's stored on the computer and the records go back as long as the server is, you know, is good.

MR. HOLT: Permission to approach, Your

Honor.

THE COURT: Yes, sir.

BY MR. HOLT:

Q I'm gonna show you what's been marked for identification purposes only, it's State's Exhibit 13 and State's Exhibit 11. And without telling me what those are, can you tell me if you recognize them?

A Yes, sir, I do.

Q And as far as State's Exhibit 11 and 13, since the last time you've seen them have there been any changes or alterations or deletions made to them?

A No, sir, it doesn't appear to be.

Q All right.

MR. HOLT: Your Honor, at this time the State would ask to move 11 and 13 into evidence.

THE COURT: What are they?

THE WITNESS: I'm sorry, State's Exhibit number 11 is the computer aided dispatch. We call it the CAD report. It's the actual report where the stuff is typed into the computer.

THE COURT: That's good enough. What's the other one?

THE WITNESS: And the other is a -- this is a copy of a disk that I burned for the Hartsville

Police Department.

THE COURT: All right. Any objection, Mr. Jones?

MS. WOOTEN: May I review them?

THE COURT: Sure.

MR. SWILLEY: No objection from me, Your Honor.

MS. WOOTEN: No objection, Your Honor.

THE COURT: All right, both exhibits will be admitted into evidence without objection. Give them back to the court reporter and let her take the ID numbers off of them.

(WHEREUPON, State Exhibits Nos. 11 and 13 were admitted into evidence.)

THE COURT: All right, you may proceed, Mr. Holt.

BY MR. HOLT:

Q Mr. Sessoms, in regards to that CAD report can you explain to the jury what information it tells you and how you know?

A It's a form. Everything -- you know, forms are always the same. It tells you, kind of tells me the call taker name Pam took the call. Came in on February 15th, 2012. It uses military time 16:04:47. And the call was processed and actually

entered into the computer at 16:05 so it took them probably about 35, 40 seconds to get that information entered. The call, once it's entered into the system we use call takers and dispatchers. We don't have separates; everybody does the same job. So once the call is entered the appropriate dispatcher for that agency -- in this cases the Hartsville Police Department -- automatically dispatches the call out to the Hartsville Police Department. Since it was an emergency and needed ambulance also we dispatch EMS and the Hartsville Police Department.

Q And does it say what time you dispatched them?

A Yes, sir. Let's see, the call was put in at 16:05:52 and EMS was dispatched at 16:06:26, less than, you know, 40 seconds later get EMS. And Hartsville Police Department was dispatched at 16:07:23 so we ---

Q And do you have a -- do you have a status by -- when you have to alert multiple agencies do you have a status who you alert first? Or, how does that happen?

A Well, always do the ambulances first is the way we -- you know, it doesn't always work that way. But if a dispatcher heres we're in a pretty tight

area or they are, and if they hear, you know, a call coming in they'll automatically just instinctly, you know, get EMS rolling. So it's done kind of all in one motion.

Q Okay.

MR. HOLT: Your Honor, at this time the State would like to publish the disk for the jury.

THE COURT: All right, permission granted. As I told you ladies and gentlemen, the lawyers do ask time to time to publish certain evidence to you and they want to do that at this time. As you are always be able to take anything that was admitted into evidence back into the jury room with you and look at it as long as for as much as you would like to. And if it's something that requires electronics to or make arrangements for that in the jury room as well. You also have a right to see it while we're here in the courtroom.

All right, Mr. Holt.

MR. HOLT: Thank you very much, Your Honor.

(State Exhibit No. was played for the jury.)

BY MR. HOLT:

Q We can pick out certain portions of that call I think that things are visible, you know, definitely

audible. Why does it sound like there were multiple calls going on at the same time?

A Because there were. This is in an environment no more distance than you're sitting and you have-- I have at least five people on radios, and it -- when you get a call like this it's total chaos. And you know, you, it's bits and pieces. It's like fishing, you know try to get that -- we need certain information so we can send, you know, the proper agency. And of course the first of course is do anybody need an ambulance and try -- the most important question is where is it at 'cause if we can't get where it's at out of you, we can't get you the help. So the dispatcher sometimes, you know, and you can hear in the background it gets kind of crazy but I have most of my -- this particular shift, all of them are experienced dispatchers, you know, so that's what you hear is what they heard and they just to have to do the best they can with their training and background to try to piece together the information so we can respond.

Q And in less than a minute they still manage to get people to the scene?

A Yes.

Q Dispatch from your end?

A If I'm not mistaken, let me look. The call was actually dispatched to Hartsville police -- well to the EMS. Hartsville Police Department at 16:07:23. And at 16:08 -- at 16:08:07 which the first police officer signed off at the scene.

Q All right. Mr. Sessoms, thank you so much for all your help and please answer any questions that defense counsel might have.

A Thank you.

THE COURT: Ms. Wooten.

MS. WOOTEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. WOOTEN:

Q Good afternoon, Mr. Sessoms.

A Good evening, yes, ma'am.

Q Can you tell me how many 9-1-1 calls were received in the dispatch in relation to this incident?

A Give me a minute. If the additional calls, you know, the technician will get the report generated, then we put notes into it so if you will give me just a minute to. Had a second caller, also had a caller from Rogers Barber shop. States he did not see anything, man laying on the ground shot. So there was two according to the notes. Then a male

caller called, we called back several times. The bonk you heard is where we lost connection on the cell phone, and of course we tried to make contact several times. It went straight to voice mail. According to this there were at least two calls in this particular incident that we put into the CAD.

Q And is one of those phone calls the one we heard?

A Those are the two -- yes, that's the one you heard. Everything you heard is actually this.

Q Okay. And from those two 9-1-1 calls were suspects positively identified on the phone call?

A Not on the phone call -- well, I don't think, let me. Of course, you heard the dispatcher ask, you know, do you know who it was. The only -- they give a description at 16:30:47 which is about 25 minutes after the call came in. Dreads, white male, light skin, advise, give it out -- very little information you know, suspect information in this particular, yeah.

Q But my question was at the time or shortly there, a few minutes after the incident was there a positive identification.

A Not to my knowledge, not into the 9-1-1 center itself.

Q And it was a very quick response time I'm

guessing?
A Yes, ma'am.
Q So a matter of minutes from the first call to the dispatch?
A Yes, ma'am.

MS. WOOTEN: Just one second please Your Honor.

THE COURT: Yes, ma'am.

MS. WOOTEN: No further questions. Thank you.

THE COURT: Mr. Swilley?

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Mr. Sessoms, this is about the extent of your involvement in this case?
A This is the only extent I've had, yes, sir.

MR. SMILEY: Thank you. Nothing further.

THE COURT: Anything further, Mr. Holt?

MR. HOLT: Nothing, Your Honor.

THE COURT: Thank you, Mr. Sessoms, you are excused.

Would you like the witness excused, Mr. Holt?

MR. HOLT: I'd appreciate it, Judge.

THE COURT: Any objection?

MR. JONES: No, sir, there is none.

THE COURT: You are excused, thank you kindly.

All right, you may call your next witness, Mr. Holt.

MR. HOLT: Can we get Jason Thompson from the back please.

THE CLERK OF COURT: If you'd come around to be sworn as a witness. Put your left hand on the Bible, raise your right.

WHEREUPON,

JASON ASHBY THOMPSON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat right here.

DIRECT EXAMINATION

BY MR. HOLT:

Q Could you please state your whole name for the court reporter and the jury.

A Yes, It's Jason Ashby Thompson.

Q And how old are you, Mr. Thompson?

A 37.

Q And where are you currently employed?

A Sunoco.

Q And what's your job there?
A Corporate security manager.
Q And how long you been doing that?
A Approximately one year. It'll be a year in January.
Q All right. And before that where were you employed?
A The city of Hartsville Police Department.
Q How long were you employed there?
A A year-and-a-half.
Q About how long have you been in law enforcement you think?
A Almost 15 years.
Q All right. Where have you worked besides Hartsville and Sunoco?
A At Wythe (ph) County, Virginia.
Q All right. And on February 15th, 2012, where were you employed at that time?
A At City of Hartsville Police Department.
Q All right. And around 4:00 were you dispatched or did you get a call, what -- let me back up a minute. I'm jumping ahead of myself. When you were at Hartsville what exactly were your job responsibilities what was your position within the organization?

A I was a corporal in the patrol unit, patrol division.
Q And if somebody is assigned to patrol what would that entail versus what somebody assigned to investigation would do?
A Patrol typically patrols the city looking for crime, traffic violations, and responds to dispatch or calls from dispatch.
Q All right. And on that day around, sometime around 4:00 -- feel free to look over your notes, were you dispatched to any individual call?
A Yes, I was. At approximately -- I don't have the exact time. Approximately that time I was actually I just pulled into the police department, rather, the parking lot of the police department, and received a call for shots fired in area of Pride Park.
Q Now the police department is about how far from Pride Park?
A Approximately four or five blocks.
Q Okay. And had you been by Pride Park earlier that day?
A Yes. In fact, right just prior to that I had driven past Pride Park on my way to the police department so it was in a matter of a minute or so.

Q All right. And when you got to Pride Park after you were dispatched what did you find at the scene?
A When I arrived on scene there were several people in the vicinity of the center of the park. I observed one gentleman laying on the ground. I exited my vehicle, approached the subject there at which point several subjects that were there were -- they were obviously emotional. They were saying that he had been shot. I observed the victim lying on the ground. And at that point started to render first aid to him as well ---
Q What did the victim look like to you?
A It appeared he had sustained a head wound. At that initial point I couldn't tell what it was. He was lying on his back and had a large pool of blood coming out from the back of his head. He had an injury to his -- I can't remember which eyeball. One of his eyes was protruding, and he also had blood spitting from his mouth as he was attempting to breathe.
Q All right. And did you hear him say anything?
A No, he was not responsive.
Q All right. Now what did you do then?
A At that point I was trying to find out where his wounds were as well as try to gather information

from the folks that were there. I gathered information. It was two subjects that had previously been in the area and that they had fled in one direction away from the park. I asked -- there was two male subjects that I was ---

MR. SWILLEY: Objection, Your Honor. I'm gonna object to hearsay.

THE COURT: He hadn't said anything. He said he asked them. Let's see what -- he can testify to what he said. Go ahead.

THE WITNESS: I asked the gentleman to stand off to the side and wait for other officers to arrive while I tended to the victim.

BY MR. HOLT:

Q And what'd you do next?

A Well, about the same time one of the -- another police officer showed up. EMS showed up. We began to take some, remove some of the clothing from the victim to ascertain where the injuries were. I recovered two cell phones from his pockets and handed them to another police officer and asked him to hold on to those. I also directed them to the two subjects that I had previously been speaking to.

Q Did EMS come to the body?

A That is correct. He was -- the gentleman was

still, had a paint pulse while we were there, and I actually went with him to the hospital.

Q How did you end up in the EMS with the victim?

A I rode in the ambulance the entire way.

Q And where did y'all go?

A Carolina Pines.

Q What did you witness there?

A We entered one of the trauma rooms. Several doctors and nurses started to, tending to the victim. They tried, what appeared, every medical procedure they could at that point to save the gentleman and was not successful.

Q Mr. Thompson, please answer any questions Defense might have. Thank you.

THE COURT: Mr. Jones or Ms. Wooten?

MS. WOOTEN: No questions, Your Honor.

THE COURT: All right. Mr. Swilley?

CROSS-EXAMINATION

BY MR. SWILEY:

Q Mr. Thompson, you said when you got to Pride Park you began speaking with several subjects, or two subjects. Was that Johnny Lee Washington and Anthony Wingate?

A I did not get their identifications. There's just two subjects.

Q Okay. Two African American males?
A That is correct.
Q Any females around at the time?
A There were females. There was female in the park. I did not speak to her. I do remember as I approached a female turned around. She was very emotional, and I didn't engage in any conversation with her that I can recall.
Q Approximately how many other vehicles in the park?
A A handful at most. Unfortunately because of the circumstances, people started coming from everywhere. I don't know who was there, quite, at the time that it happened.
Q Okay. Thank you, Mr. Thompson.
THE COURT: Mr. Holt, anything further?
MR. HOLT: Nothing, Your Honor.
THE COURT: Can the witness be excused?
MR. HOLT: Yes, please.
THE COURT: Any objection?
MS. WOOTEN: No, Your Honor.
THE COURT: Thank you, Mr. Thompson. Thank you for coming. You are excused.
THE WITNESS: Thank you.
THE COURT: All right, Mr. Holt, call your

next witness.

MR. HOLT: Thank you very much, Your Honor. At this time the State would like to call Tenyonde Richardson of HPD.

THE CLERK OF COURT: If you'll come around and take the oath of a witness.

WHEREUPON,

TENYONDE RICHARDSON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat.

DIRECT EXAMINATION

BY MR. HOLT:

Q Could you please give your whole name for the jury.

A My name is Tenyonde Richardson.

Q How old are you?

A I'm 36.

Q And where are you currently employed?

A Hartsville Police Department.

Q And in what capacity?

A I'm the patrol commander.

Q Okay. So how many people are under you?

A At the current about 12, 13 people on patrol.

Q And how long have you been in law enforcement?
A Eleven years.
Q How long you been with Hartsville?
A Eleven years.
Q So you've been with Hartsville the entire time?
A Yes, indeed.
Q That's unusual. Let's start by talking about what your duties are. What are your duties with patrol?
A My duties as patrol commander is to maintain day operations on patrol.
Q And what does a patrol officer do, visa vie the community? What are their responsibilities? Do they answer calls, do they investigate crimes, what do they do?
A Basically a patrol officer main duty is to answer calls and just work the different areas which the city itself is broken down into four sectors. Their main job is patrol the sectors that they're working.
Q What sector is Pride Park?
A Pride Park is in Charlie sector.
Q All right. So on February 15th, 2012 did you have occasion to go to Charlie sector, specifically Pride Park?
A Yes.

Q And what did you do when you arrived on scene?
A When I arrived on scene I assisted the first officer that was on scene, Corporal Thompson. I assist by securing the scene and trying to maintain order at that time 'cause it was kind of chaotic at the time.
Q And what did you witness when you got on the scene?
A When I got on scene I noticed a let of individuals that were still there. There was a lot of screaming and crying and noticed an individual that was the victim that was lying on the ground.
Q All right. And did you put out any calls to look for anything, or did you call for other officers? Did you do anything in that regard?
A Yes, I did.
Q And what was that?
A Basically I started talking with bystanders or people that were there in the park and try to get as much information as possible, and the little bit of information I did get was two individuals that left in a green pickup truck and that's ——
Q And what did you do with that information?
A After receiving that information I put it out across the radio to the other units to start looking

for that vehicle with those two individuals in it.
Q All right. What did you do next?
A I started, after getting that information I started trying to back some of the bystanders up and start taping off the scene itself with securing tape.
Q And why is taping off the scene important?
A It's important so we can preserve the scene itself.
Q Why would you want to do that?
A Preserve whatever evidence that we're gonna have to find just to keep people out of the incident area.
Q And after you had the scene roped off what were your responsibilities then and what did you do next?
A Just to try to gather as much information as possible and just maintain that no one goes in the scene itself.
Q All right, thank you so much. Please answer any questions the Defense might have.

THE COURT: Mr. Wooten, Mr. Jones?

MS. WOOTEN: One second, Your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MS. WOOTEN:

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Q Good afternoon. How are you, sir?
A I'm doing well.
Q Is it Lieutenant Richardson?
A First Sergeant Richardson.
Q How are you this afternoon?
A Doing well.
Q How long after the initial call went out did you respond to the scene?
A Well, when the call first came out I was coming out the back of the station so I immediately jumped in the vehicle and started heading towards the park so I can't -- I don't remember the exact time it came out; but shortly after, as soon as the call came out I ran to my vehicle and went to the park.
Q And any estimation of time, five minutes, ten minutes, how long it took you to get to the park?
A I would say no less than a minute or so.
Q Just a minute?
A Yes.
Q You testified that you thought it was chaotic?
A Yes.
Q And there were several bystanders and you were helping control the scene; is that correct?
A That's correct.
Q Did you recognize any of the bystanders at the

park?
A I did, yes, yes, ma'am.
Q Did you recognize Johnny Lee Washington?
A Yes.
Q Did you recognize Anthony Wingate?
A Yes.
Q Did you talk to either of them?
A I remember talking to them; but like I said, my main focus was trying to get everybody calmed down and trying to assist Corporal Thompson with the victim and trying to secure the scene.
Q Isn't it true that you wrote and submitted a supplemental report ---
A I did.
Q ---for the case file? Do you remember writing that report?
A Yes.
Q Do you remember asking the bystanders you spoke to who the suspects were by name?
A Yes.
Q Did they give you an answer?
A Well, at that time they didn't know the individuals by name. They just said two individuals. And after I got the information as far as that and the description of the truck, that's

when I gave that information out over the radio.
Q Thank you.
MS. WOOTEN: Just one second please, Your Honor.
THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Mr. Richardson, how many people were in the park at the time of your arrival, approximately?
A I can't give an exact number.
Q Approximately.
A I would say between four to five if I can recall.
Q Does that include Mr. Washington and Mr. Wingate?
A Yes, sir.
Q Okay. And you spoke to everybody there?
A Well, I didn't speak to everyone, no, sir.
Q Okay. Just Mr. Washington and Wingate?
A Yes.
Q Okay. Thank you, Officer Richardson.
THE COURT: Anything further, Mr. Holt?
MR. HOLT: No, sir.
THE COURT: All right. Thank you, Mr. Richardson, you may step down.
Would you like the witness excused, Mr. Holt?

MR. HOLT: I'd appreciate it.

THE COURT: Any objection?

MS. WOOTEN: No, Your Honor.

MR. SWILLEY: No, Your Honor.

THE COURT: Mr. Richardson, you are excused.

All right, Mr. Holt, call your next witness.

MR. HOLT: Kelly Woodham.

THE CLERK OF COURT: Please place your left hand on the Bible and raise your right.

WHEREUPON,

WILLIAM KELLY WOODHAM,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat right here in this wooden chair.

DIRECT EXAMINATION

BY MR. HOLT:

Q Officer Woodham, what's your current position where you work?

A I'm a victim's advocate and a police officer for the city of Hartsville.

Q And I apologize, what's your full name? Can you do that for the court reporter?

A William Kelly Woodham.
Q How old are you?
A 38.
Q How long have you been in law enforcement?
A Nine years.
Q Okay, what did you do before that?
A I was SRO at Hartsville Middle School.
Q You have to tell us what SRO means?
A I'm sorry, school resource officer.
Q All right. Now how long have you been in that position as police officer and victim's advocate for HPD?
A About a year-and-a-half.
Q Now let me ask you this, February 15th, 2012, what position were you employed in at HPD and what were your duties then?
A I was school resource officer at Hartsville Middle School.
Q All right now, date in question, February 15th, 2012, what, did you get -- were you dispatched to a call around 4:00, or what did you do that day?
A I just left Hartsville Middle School at about 4:00 that afternoon; I heard the call on the radio.
Q How did you respond?
A I went down Fourteenth Street, took a right on

Washington Street.
Q Did you go straight to Pride Park?
A I did not. I believe my -- I was searching for a vehicle in question.
Q All right, what vehicle were you searching for, do you remember?
A It's a green pickup truck.
Q All right. And did you find that green pickup truck?
A Yes, I did.
Q And where did you find it?
A Lincoln Avenue.
Q All right now, once you found the green pickup truck what did you do?
A I went to the front door at There was a lady standing on the porch, didn't identify her. Asked her if anybody had driven the truck, and before she could answer someone come on the front porch.
Q And who was it that came on the front porch?
A Johnathan Reed.
Q And is he in the courtroom now?
A Yes.
Q And where is he?
A He's sitting with the dreads.

Q Okay. And what did he say?
A He had said he'd driven the truck about an hour to run some errands in town.
Q So about -- and he admitted to driving the truck an hour before?
A Yes.
Q Well, did you test the hood to see if the hood was still warm?
A I did not have.
Q What did you do then?
A I went back to my car to let the other officers know that I possibly found the truck in question.
Q And then what happened?
A I waited. First Sergeant Blair was first. I watched Johnathan Reed, see what he was gonna do until other officers got there.
Q What did Johnathan Reed do?
A He walked around in the yard of -- well, and then went over to Lincoln Avenue.
Q Did he ever enter the house at ?
A After First Sergeant Blair arrived he did go in the house.
Q All right. And what other involvement did you have in this case?
A I transported Johnathan Reed to the Hartsville

Police Department detective division.
Q All right. And where is that located?
A On south Fifth Street in town. I'm not sure of the exact address.
Q But when somebody says -- how many buildings does Hartsville Police Department own or occupy in the city of Hartsville?
A Two.
Q And where are they?
A One of them, the main office is 135 West Carolina and the other one is on Fifth Street.
Q All right.
A That's where the detective division is.
Q All right, Officer Woodham, answer any questions defense counsel may have, sir, okay?

THE COURT: Cross-examination, Mr. Jones or Ms. Wooten?

MS. WOOTEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. WOOTEN:
Q How are you this afternoon?
A Good, thank you.
Q Just a few quick questions. You talked about Johnathan Reed. You saw Johnathan Reed when you were at the residence; is that correct?

A Correct.
Q Did you see Joshua Reed at that time?
A No.
Q Did you talk to Joshua Reed at that time?
A No, I didn't.
Q Did you transport Joshua Reed anywhere?
A No, I didn't.
Q That's all I have. Thank you.
THE COURT: Mr. Swilley?

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Your testimony to the extent you were involved in this case, Officer Woodham, you didn't do anything else with regards to this case?
A No.
Q Okay, that's all.
THE COURT: All right. Anything further, Mr. Holt?
MR. HOLT: No, sir, Your Honor.
THE COURT: Would you like to have the witness excused ——
MR. JONES: No objection.
THE COURT: Objection?
You are excused. Thank you for coming.
All right, you may call your next witness.

MR. HOLT: Thank you very much, Judge. At this time the State would like to call Mark Blair to the stand.

THE COURT: All right.

THE CLERK OF COURT: If you'd put your left hand on the Bible and raise your right.

WHEREUPON,

MARK ALEXANDER BLAIR,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat in this wooden chair they'll ask you some questions.

THE WITNESS: Okay.

DIRECT EXAMINATION

BY MR. HOLT:

Q Officer Blair, can you please give your whole name for the jury.

A Mark Alexander Blair.

Q And how old are you?

A I am 41.

Q Where are you currently employed?

A Hartsville Police Department.

Q Okay, how long have you been there?

A Nineteen years.

Q You've been in law enforcement 19 years or were

you anywhere else before HPD?
A I started in Hartsville.
Q So your entire career?
A My whole career, yes.
Q On February 15th, 2012, what was your position within HPD at that time?
A I was the accreditation manager. It's an administrative job within the police department and I also handled training, making sure the officers get their proper training and keeping up with certain case numbers and stuff.
Q All right, but on that day a call came out. Did you respond to the call?
A Yes, sir, I was in my office at East Park Apartments which is about a mile-and-a-half away from Pride Park on the other side of town.
Q Okay. What did you do when the call came out?
A I left my office and drove across town; and during the time that it took me to get there, several -- it sounded like several other officers had arrived on scene on the radio. It was getting crowded. A description was given out of a green truck being driven by two black males; and so instead of going to the park, I went to the immediate area just driving around trying to find

green truck that might be driven by people matching the description.

Q Did you find that truck?

A I did not. Officer Kevin Woodham called on the radio and told me, or told everybody that he had found the truck at Lincoln Avenue, and that a person at fitting the description of subjects at the park had come to the door when he knocked on the door asking about the vehicles and ---

MR. SWILLEY: Objection, Your Honor, as hearsay. I believe he's testified as to what Officer Woodham told him.

THE COURT: What say you? All right, don't tell what you heard but what you did. You can testify what you did as a response of what you learned?

THE WITNESS: Okay. Based on what I heard on the radio I went to assist with Kelly Woodham. When I got there he began explaining what he had found; and before we could actually go up to the house or anything, the other officers start arriving. Several Darlington County Sheriff's Office deputies, as well as lieutenant Rudick and some of our investigators, arrived on the scene as well.

BY MR. HOLT:
Q All right. Now what did you do -- now that scene sounds likes it became crowded as well.
A It did. I kind of stood back with Kelly and some of the deputies basically waiting on some orders, what do you want me to do. And at one point another call came out over the radio from the officers at the scene at Pride Park. One of them asked -- and I'm not sure what the officer's name was, either Brandon Huggins or Jason Thompson. They asked about the, if the truck was missing an exhaust pipe, a part of its exhaust system.
Q What did you do?
A The truck was sitting in the yard next to the house so nobody else was looking at it at the time. A couple of deputies were guarding it but nobody was looking under it so I walked over and just kind of crouched down and looked underneath it and there was a section of exhaust pipe missing. So I got back on the radio and said, yes, this truck is missing a section of exhaust pipe.
Q All right. And after that ---
A After that I went back over to speak with Lieutenant Rudick. He had put handcuffs on one of the, one of the persons, either Johnathan or Joshua

Reed. He put handcuffs on Johnathan. He was placed in a patrol car. He was speaking with Joshua Reed. And he informed me at that time that I needed to put handcuffs on Joshua Reed and have both persons transported down to the detective division.

Q All right. Once at the detective division, who did you bring in with you, who did you meet, what did you do?

A Let's see, Stan Kelley and Keely Woodham transported the Reeds. I went -- I was handed before I left the scene I was handed a gunshot residue collection kit. This is a sample. Was handed a gunshot residue collection kit and by Lieutenant Rudick, and he asked me to go, to go ahead and perform the test. Actually, Mike Anderson asked me to go ahead and perform the gunshot residue collection test on both the Reeds.

Q And did you comply with that?

A Yes, sir.

Q And what does a gunshot residue test entail? What did you do and how did you do it? Were they both in the same room with you?

A I did one at the time. Let me refer back to my report. I started with Johnathan. And the way these things work, the way these things work is

there's a set of gloves in here and the form, and some instructions. What I -- all I did was put on the gloves and fill out the form with some basic subject information. And then there's a set of instructions that tells you exactly what to do, and I followed the instructions step by step to collect any gunshot residue that might be ---

Q What do the instructions entail just briefly? You don't have to go into it.

A Okay. Tells you to fill out all the information on the form, put on the disposable plastic gloves that are in the kit, and there are some vials inside. And it's basically just a little sticky tape on these vials and you do one side of the hand and with this sticky thing. Do one side of the hand and then you put it away and then you turn the hand over and there's another one for the palm. And then you just put the sticky stuff on the palm and put the vials back in the bag, then you do the other hand.

Q And what are you trying to collect with those?

A You're trying to collect residue from firing a pistol.

Q Okay.

A And according to the SLED report ---

Q We're not going get into the SLED report.
A Okay, okay. It's just gun powder and little pieces of molten metal that are left over when you fire a gun that stick to your clothing, your hands, things like that.
Q And maybe you said this, maybe you didn't, were the suspects both in the same room?
A No, I did one complete kit on one subject and then he was removed. The next suspect was brought in and then I did the same kit on him. So I had two separate bags with all their stuff separately.
Q And then what did you do with those kits?
A Those kits were turned over to -- I was gonna give them to Terry Anderson but he was busy. On evidence sheet I think it says Terry Anderson. Or in my report it says Terry Anderson. I was gonna give them to him. I sat them down on his desk and sat waiting on him. He started the interview process so Laura South came in from her office just across the hall and got the bags and went ahead and logged them into evidence since she was already there.
Q And who is Laura South?
A Laura South is a detective. She's our evidence officer. She's in charge of logging all the

evidence, take them to SLED, things like that.
Q How did the defendants appear to you during the -- is there a acronym or shorthand for gunshot residue test?
A GSR.
Q How did they appear to you during the GSR test?
A Johnathan was very calm and he didn't say much. He was calm during the procedure. They were both very compliant. Josh was a little bit more nervous looking, and he was -- he kept coughing. And he would rub his hands on his pants, was kind of twitchy. But neither one of them was, you know, fighting against it or anything like that. They were, they complied with the tests.
Q And after you administered the GSR and separated the two co-defendants what did you do then?
A After I -- once the test was complete they were turned back over to patrol officers or detectives; I can't remember. After I logged the evidence I was handed two lineups and told to take the lineups to the chief of police up at the main office.
Q All right. I want to stop you right there.
A Okay.
Q I want to approach.
THE COURT: Yes.

BY MR. HOLT:
Q And I want to ask you, show you, what's been marked strictly for identification purposes. It's State's Exhibit 1 and State's Exhibit 2.
A Okay.
Q And I want to ask you if you recognize them. And I want to ask you, since the last time you've seen them have there been any changes or alterations or deletions?
A I do recognize them. These are lineups that ---
Q No, no, don't say --
A Okay, I do recognize them.
Q Okay. Have there been any changes, alterations, or deletions?
A No, sir.
Q And can you tell me what those are?
A These are a set of lineups consisting of six photographs of various individuals including Johnathan and Joshua Reed.
Q All right.
MR. JONES: Your Honor, at this time the State would ask that State's Exhibit for identification 1 and 2 be moved into evidence.
THE COURT: Mr. Jones?
MR. JONES: Your Honor, we would renew our

objection to these pieces of evidence.

THE COURT: Based on the same thing?

MR. JONES: Same grounds, Your Honor.

MR. SWILLEY: I will do that as well, Your Honor, same objection.

THE COURT: All right, same ruling. The exhibit will be admitted into evidence, State's Number 1 and State's number 2 subject to objections previously made by counsel.

(WHEREUPON, State Exhibits Nos. 1 and 2 were admitted into evidence.)

BY MR. HOLT:

Q Okay, Officer Blair.

A Yes.

Q Could you tell me what you did once you had the lineups in hand?

A Okay. I went back to the station to the main police department. Our detective division and our police department are separated by half a mile or so, so I went back to the police station with the two lineups. There were two people waiting at the police station, Anthony Wingate and Johnny Washington. And I presented -- separated the two people. We took Anthony Wingate inside and left Johnny Washington outside the police department.

They're separated by a brick wall and a door. I presented the lineups to Mr. Wingate, and there's a form that goes with it.

Q And I'm gonna stop you right there, and I'm gonna approach, Your Honor. And I'm gonna show you what's been previously marked as State's Exhibit 4 and State's Exhibit 5.

A Okay.

Q And we'll handle it just like we did the other one.

A Okay.

Q In which case can you tell me do you recognize these exhibits?

A I recognize the form.

Q And since the last time you've seen them have there been any changes, alterations, or deletions?

A No, sir.

Q And if you can tell me and the jury what they are.

A These are our lineup instruction forms they consist of date, time, and some instructions for viewing the lineup for how the procedure is done. Basically what I do is I read the instructions to the, whoever the person is that I'm giving the lineup to.

Q And let me stop you, and I apologize. We'll keep that going in just a second.
A Okay.
MR. HOLT: Your Honor, at this time I'd like to introduce State's Exhibit for identification 4 and 5 into evidence.
THE COURT: Mr. Jones.
MR. SWILLEY: Your Honor, I would object to portion of State's Exhibit 5. Maybe we need to argue this outside the presence of the jury since it's a matter of law.
THE COURT: You may approach.
(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)
THE COURT: It's just marked for identification at this time.
MR. HOLT: Okay.
THE COURT: What about number 4, Mr. Jones?
MR. JONES: I was looking at that, Judge.
THE COURT: Okay, ID only at this point, Mr. Holt.
MR. HOLT: Yes, sir, Your Honor.
BY MR. HOLT:
Q Let me ask you exactly how you show the photo

lineups to the witnesses.
A Okay. I handed them the six photos and I kind of kind of fan them public out a little bit so I knew there were six of them. I laid them out on the desk.
Q Why do you not put them all on the same sheet of paper?
A I've been told that the old style of six pack where I have them all on one sheet of paper leads people to pick the person that looks most like the suspect that they saw, that they could look at them and get it wrong basically. It leads to false positives.
Q How is what you did here different than that?
A Because they have to look at each picture individually, and studies have shown that it leads to better results. It's more likely they'll pick somebody that's actually there rather than someone that looks closest to it.
Q The two witnesses ---
A Uh-huh.
Q ---did they have any trouble picking out who shot Milton Hunter?
A No, sir.
Q And how certain were they when you asked them?

A They were, they were very certain. They said they had known the individuals and they knew of them and they had known them for a number of years.
Q And who did they pick out as the shooter? What number on your photo lineup that's already marked into evidence did they pick out?
A Okay, let's find out. Number 2. And number 2 is Joshua Reed.
Q Okay. And who did they pick out from those photo lineups as his accomplice?
A Johnathan Reed.
Q All right. And about how long did these photo lineups take you?
A Just -- the actual looking at the photos was just a couple of minutes. It took a little bit longer to read the instructions and to fill out the forms so I would say no more than 10, 15 minutes each.
Q And while you're here can you give us like a synopsis or maybe a brief run-through of what those instructions are? And what I'd like to talk about is was there any type of influence from you or anyone else that you saw there or pressure to pick certain people out of a lineup?
A No, no, sir.
Q What are the instructions?

A The instructions say: I, Mark Blair, will advise you of the procedures for viewing the following lineup. The fact that these photographs or persons are being shown to you should not cause you to believe that the guilty person has been identified or arrested. The person that committed the crime may or may not be in this lineup. Regardless of whether you make identification, the police will continue to investigate this incident. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties. Please keep in mind the individuals depicted in the lineup may not appear exactly as they did at the time of the incident because features such as hair and clothing are subject to change. You'll be shown a number of photographs or images or people. All the images or persons will be shown even if identification is made. Whenever you recognize anyone please tell the officer which photograph or image you recognize and how you recognize the individual. Please indicate in your own words how certain you are of the identification. Do not indicate in any way to other persons or witnesses that you have or have not made an identification.

Q All right. Mark, let me ask you a question. If

they had picked someone else out or they had said he wasn't on there, would you have cared?
A No, sir.
Q And what were you looking for with these photo lineups?
A I was looking to see which person they picked out.
Q All right. Please answer any -- oh, I'm sorry. What did you do after you showed them the photo lineups?
A Filled out the forms, and I made a little note at the bottom saying which one they picked out was which person, and I think turned them back over to -- yes. Once it was over with, Chief Hudson viewed the whole thing. And once it was -- once I was done with the lineups the -- we took down some additional information from the witnesses, addresses, date of birth, stuff like that from the police report so they could be included. I returned the lineups to Laura South down at the detective decision so I just drove back down to our detective division and turned the lineups over to Laura South so they could be entered into evidence.
Q All right. Thank you very much.
THE COURT: Cross-examination, Mr. Jones?

MR. JONES: Yes, sir.

CROSS-EXAMINATION

BY MR. JONES:

Q Sergeant or lieutenant?

A Sergeant.

Q Sergeant Blair, a couple of questions.

A Yes, sir.

Q You mentioned when you were talking about the lineup that the old way of doing, of showing a witness a lineup was called a six pack where you have all the photos on one piece of paper?

A Right.

Q Okay. And they don't do that them because you said you read some studies and that was they were giving out too many false positives?

A Right.

Q Okay. So how long has this way of viewing photos been standard operating procedure?

A I do not know, sir.

Q Okay. The articles that you've read, did it indicate that it's, that they're people who are making those kind of incidents as to what might be better practice that it's still evolving since office trying to do better?

A I don't remember that.

Q Don't remember that, okay. All right, let me show you if I can.
A Yes.
Q Go to State's Exhibits 1 and 2 and let's do 1 first.
A Okay.
Q All right. 1 is actually seven pages, six with photos. Would you agree to that?
A Right.
Q And if you will look at the photos on all the pages.
A Uh-huh.
Q And then I want to you a question or two.
A Okay.
Q All right. Would you agree with me when I say that picture number 4 has a substantially lighter background than any of the other pictures? Would you agree or disagree with me on that?
A You say it's lighter than some of them. Number 3 is pretty close. Number 3 is a lot darker. I would disagree substantially lighter.
Q Okay. What term would you use if you would use a term?
A I would say lighter.
Q Okay. All right, thank you. That's number,

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that's State's Exhibit Number 1. And I'm gonna ask the same question about number 2 and ask you if you would agree with me that picture number 2, not page number two but picture number 2, has substantially lighter background than any of the other five pictures.

A I would agree the background is lighter.

Q Okay, very good. Thank you.

A You're welcome.

Q Now as to those two lineups did you generate those pictures?

A No, sir.

Q Do you know who did?

A Lieutenant Brian Rudick.

Q Very good. All right. And as to the two people that you talked to, Mr. Washington and Mr. Wingate?

A Yes.

Q Both of them picked out the same two pictures I believe that you said?

A Yes, sir.

Q All right. Do you recall if either one of them identified either one of the suspects they picked out by name?

A By name? I did not indicate that on my report so I do not know by name.

MR. JONES: One second please, Your Honor. That's all I have, Your Honor. Thank you.

THE COURT: Cross-examination, Mr. Swilley?

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Officer Blair?

A Yes.

Q State's exhibit I believe number 2?

A Yes, sir.

Q Which is right here?

A Yes, sir.

Q Mr. Jones discussed the fact that there's a lighter background as well on the one with Joshua Reed. Would you say that's the same situation, same case with Johnathan Reed?

A Yes.

Q Okay. And if I heard you correctly you said you were the one that actually took the gunshot residue tests?

A Yes, sir.

Q Okay. And so during the course of taking the test with the swab, right, the hand, front and back?

A Yeah, it was a two step process. The first one is a sticky, it's like a sticky tape.

Q Right.
A And then the second one is a -- and the second part of the test is actually a swab. I was informed by Laura South that at SLED they don't even ---
Q Don't tell what anybody told you. I'm sorry. Without telling what anybody told you, just to make sure, you said that Mr. Johnathan Reed was compliant when he was taking the test?
A Yes.
Q Okay. And you completed it the way it should be completed?
A Yes.
Q Okay. And had you ever performed one of these tests before?
A This was, I think, my fourth or fifth lineup of these I've done.
Q Okay. And how many have you done since then?
A None since then.
Q Okay. But to the best of your knowledge you completed this test correctly?
A Yes, sir.
Q Okay. Nothing further.
THE COURT: Anything further, Mr. Holt?
MR. HOLT: No, sir, Your Honor.
THE COURT: All right, thank you, sir.

You may step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right, Mr. Holt, you may call your next witness.

MR. HOLT: The State would like to call Michael Stokes.

THE CLERK OF COURT: Mr. Stokes, if you'd come around here to be sworn. Put your left hand on the Bible and raise your right.

WHEREUPON,

MICHAEL STOKES,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat in this witness chair. And state your name for the record.

THE WITNESS: My name is Michael Stokes, officer with the Hartsville Police Department.

DIRECT EXAMINATION

BY MR. HOLT:

Q What position are you at HPD currently?

A I'm a patrol officer.

Q And on February 15th, 2012, what position were you then?

A I was a patrol officer.

Q How long you been in law enforcement?
A Close to five years.
Q Okay. Where did you spend those five years in law enforcement at?
A Well, I started off in Florence, city of Florence Police Department, then I transferred over to Hartsville Police Department two years ago.
Q Now on February 15th, 2012, where were you working?
A That day I was currently off. I was called in to assist with a homicide that they had in the city of Hartsville.

MR. HOLT: Judge, I think we just need a brief side bar with you. I don't want to touch on anything to be wrong.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

BY MR. HOLT:
Q Officer Stokes, I don't want you to give me anymore evidence than what I ask you, okay?
A Okay.
Q Did you collect the clothes from the defendants in this case?
A Yes, sir.
Q And with those clothes did you collect Johnathan

Reed's clothes?
A Yes, sir.
Q Did you collect Joshua Reed's clothes?
A Yes, sir.
Q And what did you do with the clothes once you collected them?
A While we were at the, they were --
THE COURT: What did you ---
THE WITNESS: ---placed in a ---
THE COURT: Just answer the question.
THE WITNESS: They were placed in a bag and taken to Laura South to evidence.
BY MR. HOLT:
Q All right. Officer Stokes, please answer any questions they may have.
MS. WOOTEN: No questions, Your Honor.
THE COURT: Mr. Swilley?

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Did you say you place those clothes in a plastic bag?
A They were. Put in a plastic bag and then placed into a paper bag.
Q Okay, so the plastic bag, then in a paper bag?
A Yes, sir.

Q Do you have any kind of protocol at the police department that requires what type of bag to place these, these clothes in?
A Not that I'm familiar with.
Q Okay. Did you do that, put that plastic bag on your own accord or did you just do that 'cause you were ordered to?
A I was requested from investigators, the investigating staff, to place the clothes in individual bags.
Q Okay. They didn't specify plastic or paper?
A No, sir. I believe they might have requested plastic. I mean, excuse me, paper, but at the jail they didn't have any available at the current time.
Q Okay, thank you.

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

All right, Mr. Holt.

MR. HOLT: Judge, our next two witnesses are gonna get into a lot of evidence. If you will ---

THE COURT: Okay, we can take a recess at this time. We've been in the courtroom an hour, a little over an hour, an hour 10, 15 minutes. Let's take an afternoon recess at this time. Ladies and

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gentlemen, it's about ten minutes to three. We plan to start back at 3:00. Thank you. Go to your jury room. Please do not discuss the case among yourselves.

(WHEREUPON, the jury was removed from the courtroom and the following proceedings commenced in open court.)

THE COURT: Get any equipment you need to get set up or if there's anything you need to share to see if you can agree on it by saving time to do so during this time, and let's plan to start back at 3:00.

MR. HOLT: Yes, sir.

(WHEREUPON, a recess was taken from the proceedings.)

THE COURT: All right. Back on the record with the matter of State versus Reed. Both counsel for Mr. Reed, Joshua and Johnathan Reed, present in the courtroom with their counsel. The State is present represented by the Solicitor's Office.

Ready to go forward, Mr. Holt?

MR. HOLT: We are, Your Honor.

THE COURT: All right. Anything before we bring the jury in, Mr. Jones?

MR. JONES: Nothing.

THE COURT: Mr. Swilley?

MR. SMILEY: No, Your Honor.

THE COURT: All right, bring the jury in please.

(WHEREUPON, the jury was returned to the courtroom, and the following proceedings commenced in open court.)

THE COURT: All right. Thank you, ladies and gentlemen, we are now ready to proceed.

Mr. Holt, you may call your next witness.

MR. HOLT: Thank you very much, Judge. At this time the State would like to call Chief James Hudson to the stand.

THE COURT: Okay.

THE CLERK OF COURT: Come around to be sworn. Place your left hand on the Bible and raise your right hand.

WHEREUPON,

JAMES HUDSON, JR.,

having been duly sworn by the Clerk of Court, testified as follows:

DIRECT EXAMINATION

BY MR. HOLT:

Q Chief, could you give your whole name for the jury please.

A Chief James Hudson, Junior.
Q All right. Where are you currently employed?
A Hartsville Police Department.
Q And what's your role in the Hartsville Police Department?
A Chief of police.
Q And how long have you been there?
A Two years.
Q All right. How long you been in law enforcement?
A Eighteen years.
Q Eighteen years?
A Yes, sir.
Q Where were you before?
A The Darlington County Sheriff's Office.
Q Let me ask you this, what does the duties of the chief of police, what does that normally entail?
A We see the day-to-day operations of the department, implement new policies, and community involvement.
Q And how would you classify your, what you did on February 15th, 2012, in regards to the murder of Pride Park? How would you classify your involvement in this case?
A Overseeing operations in regards to the incident that had taken place.

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Q Can you tell us exactly what you did?
A I met with the officers at the Hartsville PD in the back, and I just observed the photo lineup being done.
Q All right. And who were the -- who were the officers conducting the photo lineup and who were, who were they conducting it with, what witnesses were they talking to?
A The officer was First Sergeant Mark Blair. What was the second part of your question, sir?
Q And who were the witnesses he was speaking with? Do you remember?
A The witness was a Johnny Washington and the second person was Mr. Wingate.
Q And why were they there at your office?
A Those were the two people that from information we had gotten, that was at the park during the time of the incident.
Q Okay. Why were they at the main HPD office as opposed to the investigative division?
A We always try to keep separation between the person that possibly was accused of committing a offense versus the witnesses.
Q And did you witness the two witnesses being shown a lineup by Mark Blair?

A I did.
Q And did Mark Blair or anybody else in your office try to persuade or push on to the witnesses who to choose in the lineup?
A No, sir.
Q And if you had saw anything like that would you have allowed it?
A No, sir.
Q All right. Thank you very much, Chief. Please answer any questions defense might have.

THE COURT: Cross-examination?

MR. JONES: I have no questions, Judge.

MR. SMILEY: Nothing, Your Honor.

THE COURT: All right. Thank you, Chief Hudson, you may step down.

All right, you may call your next witness.

MR. HOLT: Thank you very much, Judge. Can we get Mike Anderson out here.

THE CLERK OF COURT: Come around to be sworn. Place your left hand on the Bible and raise your right hand.

WHEREUPON,

MICHAEL L. ANDERSON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat in the chair.

DIRECT EXAMINATION

BY MR. HOLT:

Q Could you please give your whole name and occupation for the jury?

A Michael L. Anderson, employed with the State Law Enforcement Division, SLED.

Q All right. And how about February 15th, 2012, where were you working then?

A I was a detective sergeant with the Hartsville Police Department.

Q What -- Agent Anderson, how long have you been in law enforcement?

A Forty years.

Q And when you were a detective in Hartsville what do your duties entail?

A The investigation of criminal crimes of Hartsville and outside the city of Hartsville, protect and serve the citizens of Darlington County and the citizens of South Carolina.

Q All right. How about specifically in regards to the case at hand, Milton Hunter's murder at Pride Park, on February 15th, 2012, what were your duties in that case?

A My duties were there to secure a vehicle and obtain search warrants.
Q All right. What did you do -- first off, just walk me through your day on the 15th. How did you find out about the murder and what did you do after that?
A I heard over radio dispatch they had located a vehicle at Lincoln. I drove to that location I met with Lieutenant Brian Rudick of the Hartsville Police Department and Corporal Stan-- Kelly Windham of Hartsville Police Department. And I was advised at that time by Lieutenant Brian to secure vehicle and obtain search warrants if needed.
Q All right. And were you a part of the group that searched those two houses?
A Yes, I was.
Q Were you also the individual that searched the truck?
A Yes, I was.
Q And as part of the search on the truck what all did you do?
A Went through the complete body of the interior of the truck looking for any type of weapons that could be found, any things or type of drugs. Also there was a flexible, which I call pipe, that was

recovered at the crime scene and I put the vehicle on a jack.

Q All right.

A When I say jack, a hydraulic jack, I'm sorry.

MR. HOLT: Permission to approach, Your Honor.

THE COURT: Yes, sir.

BY MR. HOLT:

Q I'm gonna show you what's been marked as State's Exhibit 17 for identification purposes, 17-H through 17-AA.

A Yes, sir.

Q Now Agent Anderson, after you have time to look those over I want to ask you if you recognize them.

A (Reviews exhibits.) Yes, sir.

Q All right. And what are they?

A Those are the pictures I've taken myself of a 1977 Ford pickup truck green in color.

MR. HOLT: Your Honor, at this time the State would ask to move 17-H through 17-AA into evidence?

THE COURT: Any objection?

MR. SWILLEY: I have no objection to those photographs.

MR. JONES: I need to look just one more

quick time.

THE COURT: All right, sure.

(Pause while Mr. Jones reviews photographs.)

MR. JONES: No objection.

THE COURT: All right, admitted into evidence without objection. Madam Court Reporter, if you can take the I.D. marks off.

THE COURT REPORTER: I didn't I.D.

THE COURT: No I.D. marks, okay. That's State's numbers what?

MR. HOLT: 17-H through 17-KK, or -AA.

THE COURT: All right, admitted into evidence without objection.

(WHEREUPON, State Exhibits Nos. 17-H through 17-AA were received into evidence.)

BY MR. HOLT:

Q All right. Now Agent Anderson, if you could come down here and look at this, one more question. Is that the pipe that you have photographed in your photograph?

A Yes, sir, that's the pipe there and I -- after that I took it back to the Hartsville evidence room where it was being detained.

Q All right. Now if you can bring those

photographs with you and we could publish them to the jury while we discuss it.

THE COURT: Yes, sir.

BY MR. HOLT:

Q Can you tell us what this is, Agent Anderson?

THE COURT: Specify which one.

BY MR. HOLT:

Q 17-AA.

A This is the 1977 green Ford vehicle that I processed at the location out at J&M Auto Repair.

Q Why did you take that to J&M Auto Repair?

A At the time I was on a -- well, I finished before I arrived at the scene and I dispatched the next towing service which was J&M. They arrived about ten minutes till seven and dispensed from there by (inaudible) install.

Q All right. And can you tell us what this is right there?

A This is the underneath of the Ford vehicle ---

Q 17-H.

A I'm sorry. The vehicle itself wherein flexile pipe and the muffler.

Q All right. Where did you find the vehicle at?

A I found it, first found it at Lincoln.

Q Okay. And what is this a picture of?

A This is another picture of the vehicle itself with the flexile pipe going back over the axle.
Q And that's 17-I. 17-K, why is that piece right there significant?
A This is a piece of pipe itself identification to match the number itself on the vehicle that was a close up to.
Q Now 17-L, can you explain to the jury what's going on in that photograph?
A This is generally McKenzie Hann (ph), he's the owner of J&M, and he's holding this where he processed or matching up this flexile pipe also with also filler.
Q Did they match?
A Yes, they did.
Q And 17-M?
A This is another photograph of the muffler itself you can see here the continue clamps also where it mounts up here. Also you got a sticker where it's also present. With this sticker it's a off market brand of cell pipe you can buy mostly in any auto parts store here.
Q And where did you receive this tail pipe from, this specific one?
A I got that from the Hartsville Police Department

evidence room.
Q All right. What is that?
A This is a back shot of the vehicle itself going through exhaust pipe. This is the one that was missing. You notice this is the side on the right side it's down. This is a shot of the vehicle except the rear.
Q 17-O, what is this?
A This is a picture of identification of the vehicle itself of the door, the doorjamb, and identification of the vehicle itself. The car is fine with the -- of the registration.
Q 17-U?
A This is the insurance card which we're all familiar with. In South Carolina you got to have insurance so this is the picture of the insurance card itself.
Q 17-B?
A This is the information on the plate and everything, the tag, registration, South Carolina.
Q And what's the significance of 17-W?
A This is going to be -- I'm sorry. This is showing the condition of itself as you can see that the material pipe itself, exhaust system itself, is rotted, polluted, so that basically the whole

exhaust system itself should have been replaced at some time.

Q Now the exhaust system that you've identified is the one you tested here and you said that you got that from the Hartsville evidence room. Did you tell me or did I ask, did that fit the truck that was found at Lincoln Street?

A Yes, it did.

Q And do you know where that pipe was found?

A No, Brandon Huggins brought that spot, brought that in, I'm sorry. Brandon, he's a officer of Hartsville.

Q But you were in charge of taking this and photographing it and seeing if it fit?

A That is correct.

Q All right. Agent Anderson ---

A May I sit back down or?

Q Yes, sir, yes, sir. If you would answer any questions Defense might have I'd appreciate it.

THE COURT: Mr. Jones, Ms. Wooten?

MR. JONES: Yes, sir. One second, Judge.

THE COURT: All right.

MR. JONES: No questions, Your Honor.

THE COURT: Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Investigator Anderson, you yourself searched inside the truck or did you procure a search warrant?

A I searched the inside of the truck itself.

Q Okay. And nothing of evidentiary value was found from the truck?

A That's correct.

Q Okay, thank you, Mr. Anderson.

THE COURT: Mr. Holt, anything else of this witness?

MR. HOLT: No redirect, Judge.

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

THE WITNESS: Thank you, Your Honor. Have a good day.

All right, Mr. Holt.

MR. HOLT: We call Joseph Kinard. I'd appreciate it.

THE COURT: Come around, Mr. Kinard. Ms. Carter will swear you.

THE CLERK OF COURT: Put your left hand on the Bible and raise your right.

WHEREUPON,

JOSEPH KINARD,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat in this brown chair and state your name for the record.

THE WITNESS: Joseph Kinard.

DIRECT EXAMINATION

BY MR. HOLT:

Q Joseph, how old are you?

A 38.

Q And where are you employed?

A I'm self-employed, J&M Auto Repair and ---

Q And how long have you been in that business?

A Self-employed for about eight years.

Q All right. And on February 15th, 2012, did you have a contract with the city to move something or how did you become involved in this?

A I got a rotation call to ---

Q What's a rotation -- explain that to me and the jury?

A You get put on a list with municipalities or your state government to where you can tow vehicles for that department. And there's like ten wreckers on the list and it just so happened it was my turn to be called to tow the vehicle.

Q And where did you go?
A It was right on the -- it was a side street off of Sixth Street on -- I don't remember off the top of my head the name of the street.
Q All right. And I'm gonna show you what's been marked as State's Exhibit 6 through State's Exhibit AA, number 17, and I'm gonna ask you if you recognize the car you towed that day in connection with this murder?
A I do.
Q All right. Can you show it to the jury?
A This Ford F-150.
Q Now is this a normal day where you just take it and drop it off or did anything special happen?
A I was asked if I could be an expert witness to testify about a exhaust pipe that they found. They wanted me to identify whether it did or did not come off of this truck.
Q Did you look at the pipe?
A I did.
Q For HPD?
A I did.
Q And let me ask you this, does this right here appear to be a pipe that you looked at?
A It does.

Q All right. And who was with you when you were looking at the pipe and also looking at the truck?
A Mike Anderson, police officer for the city of Hartsville.
Q All right. And did you find, did the pipe match up with that specific truck?
A It did.
Q Okay. Did you put it back on there and put it together?
A I did.
Q And everything matched up?
A It did.
Q All right. And what did you do after that?
A I wrote an affidavit confirming that.
Q All right. Joseph, please answer any questions defense counsel might have.

THE COURT: Mr. Jones?

MR. JONES: Yes, sir, just a couple.

CROSS-EXAMINATION

BY MR. JONES:

Q Mr. Kinard, when you looked at that pipe and -- and I'm looking at State's Exhibit 17-L. Is that your hand holding that pipe up there?
A It is.
Q All right. Now is your testimony that this pipe

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is the exact pipe that came from here, or is this pipe a pipe that fits between these two pipes?
A It was the exact pipe.
Q Okay. And you determined that by how?
A The flexile pipe that was welded on to that had a fracture in it and the fracture matched up perfectly.
Q Very good. Now the pipe itself was given to you by Sergeant Anderson; is that correct?
A Correct.
Q So you don't have any idea where it came from?
A No.
Q All right. Do you have any idea how long that it had been disconnected from the rest of the truck?
A Not exactly.
Q Okay. And not exactly would mean it could be a minute or it could be a year?
A I wouldn't say a year because of the rust on it, where it was connected at. That's how I determined that they did go together 'cause there was still shiny metal there.
Q And when the pipe was brought to you was it in the exact same condition as it is now?
A Appears to be.
Q All right. Did it appear to have been cleaned

up, wiped off, or anything of that nature?
A No.
Q Okay. And the truck that you towed, did it remain at your place of business?
A It's still there today.
Q Today it's still there? Got you.
A Yes, sir.
Q And let me go back to the time period. The condition of the rest of the tail pipe in that 17-L, and I'm gonna ask you again -- maybe 17-L and 17 -- well, I tell you what, let's start with I. 17-I, is that part of the pipe that you think that this pipe came off of?
A That end. If you'll see it's got a lip sticking off the end where the flexile pipe is.
Q The top of that pipe?
A It matches up with this one here.
Q Okay. And is 17-H, is that the same pipe from a different angle?
A It is.
Q Okay. And again, 17-L is where you are holding this pipe back there?
A Correct.
Q And I'm gonna ask you again, just for my clarification, could that pipe have been gone from

the other two pieces of pipe for longer than a day?
A Not sure.
Q Got no idea how long it was?
A Not exactly.
Q That's it. That's all I have.
THE COURT: All right.
Yes, sir.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Mr. Kinard, you didn't participate in any part of the investigation of the case; is that correct?
A I did not.
Q You're just limited to your inter-- activities with what the -L pipe appeared to be?
A Yes, sir, correct.
Q All right.
THE COURT: Thank you, Mr. Swilley.
Anything else, Mr. Holt?
MR. HOLT: No, sir, Your Honor.
THE COURT: All right. Thank you, sir. You may step down.
All right, you may call your next witness, Mr. Holt.
MR. HOLT: Your Honor, at this time the State would like to call Brian Rudick to the stand.

THE CLERK OF COURT: Place your left hand on the Bible and raise your right.

WHEREUPON,

BRIAN RUDICK,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat and state your name for the record.

THE WITNESS: My name is Lieutenant Brian Rudick.

DIRECT EXAMINATION

BY MR. HOLT:

Q Lieutenant Rudick, how long have you been in law enforcement?

A Nineteen years.

Q Where are you currently employed?

A Hartsville Police Department.

Q How long have you been with HPD?

A My entire career.

Q Is that pretty popular?

A Too old to bounce around.

Q Where did you work previously? That question doesn't apply. February 15th, 2012, what capacity were you working for HPD at that time?

A Lieutenant over investigations unit.

Q Okay. And explain to myself as well as the jury what exactly your job entails?
A As an investigator we're tasked with looking into cases that might require special techniques, special investigative skills, or more advanced time than a normal patrolman might be able to handle. And as the lieutenant I'm to monitor the work flow and watch what the other detectives are doing and basically keep the division on track.
Q All right. How did you become involved with the murder of Milton Hunter at Pride Park on February 15th, 2012?
A At the time of the incident I was at the office working some unrelated case and heard dispatch give the call out and immediately responded to the area.
Q All right. Once you were on scene what did you do?
A Initially before I got to the scene Corporal Horton (ph), we had been given a description of a green pickup truck possibly in the scene that was involved. Before I actually made it to the scene Corporal Horton said he was going to be out with a green pickup truck on Eighth street. I was just several blocks away so I responded to back him up. Turned out that was an uninvolved vehicle. You can

imagine when you start looking for a green pickup trucks you find a quite a few of them. So we determined that it was, it was, had not moved, it was cold to the touch, was uninvolved. I then responded to the scene.

Q So you did not arrest the first person in a green pickup truck you came across?

A No.

Q All right, go ahead.

A Left there, went straight to the scene. When I arrived there were emergency response vehicles, EMS, fire department, I believe plenty of police cars. So I parked in the middle of the roadway on Sixth street, got out. Initially I spoke to Detective Sergeant Terry Anderson. He was on scene before I was. We conferred just briefly, and he said he would be taking control of the case as the lead agent.

Q How is the lead agent decided? What's the significance of that?

A They're sort of the point of the spear, if you will. They direct other activities or going on, and they're the primary investigator on any given.

Q How are they chosen?

A At the time he was the first on scene. He had

already spoken to several of the people there. He had the most relevant information so he decided he would maintain control and continue to investigate on the scene.

Q All right. So what did you do after that?

A I was actually -- I spoke to Captain Ray, see if she needed anything, and at that time she did not. As you can imagine on a scene like this it was kind of chaotic. There was a young man making a lot of conniption and noise just north of Pride Park where the scene was.

Q Did you investigate that?

A I did. In fact, Sergeant Anderson directed me to. And when you're dealing with a particular case we tend to lose rank so he was directing the case. He asked me to go find out what this guy was talking about. I heard him made several comments about a person possibly being involved by the name of Reed Allen. I finally got him calmed down, asked him, what you know. Obviously I had just got there; I didn't know what he was talking about. And in short he told me, well, I heard other people saying he's the one who did it. I said, so you had no first hand knowledge; he said no. And I recommended that he not continue spreading names and rumors because

somebody might get hurt behind it that wasn't actually involved. He understood, calmed down. I realized he had no actual actionable information so we let him go.

At this point EMS was getting ready to transport the victim from the scene to the hospital. Not knowing his current condition we were gonna send an officer with him in case of any kind of spontaneous utterance if he said anything or was able to answer any kind of questions, and I was prepared to do that. In fact, I'd gotten back in my vehicle and was relocating it out of the roadway 'cause I knew I was going to be parking and leaving it there. I didn't want to leave it in the middle of the road. And at that time Corporal Woodham came over across the radio saying that he had found another green pickup truck and needed assistance or other officers to come to him. My truck was running, I was facing in the correct direction, and I was only two blocks away so I responded to him as well.

Q What did you find when you got there?

A When I got there Corporal Woodham and I spoke real briefly at the roadway. He told me that he had ---

MR. JONES: Objection, Your Honor.
MR. SWILLEY: Objection to what he said.
THE COURT: Don't testify to what he told you. Just tell what you did as a result of what he told you.
THE WITNESS: We had -- there was a green Ford F-150 pickup truck parked at a residence. Corporal Woodham had said that he had seen ---
MR. JONES: Objection, Your Honor.
THE COURT: Don't testify to what he said, just what you did.
THE WITNESS: Okay.
BY MR. HOLT:
Q Did you respond to any other houses in the immediate vicinity of based on reports you received from other officers?
A I stayed directly in front of the entire time.
Q Did you have other officers secure Lincoln Street?
A Yes.
Q Okay. Who? Let me approach please. I'm gonna show you what's been marked State's Exhibit A, 17-A through 17-G and I want to ask you just briefly, o you recognize those?

A Yes, I do.
Q And have there been any changes to them since the last time you saw them?
A No, sir.
Q And what are they?
A They're photographs that I took of a Ford F-150 pickup truck.
MR. HOLT: And Your Honor, at this time I'd like to move those into evidence.
THE COURT: Any objection, Mr. Jones?
MR. JONES: I'll look one more quick time.
THE COURT: Okay.
MR. JONES: No objection at all.
THE COURT: Is there any objection, Mr. Swilley?
MR. SWILLEY: No, sir.
THE COURT: Admitted into evidence 17-A through 17-G?
MR. HOLT: Yes, sir.
THE COURT: Okay, admitted into evidence without objection.
(WHEREUPON, State Exhibit Nos. 17-A through 17-G were admitted into evidence.)
BY MR. HOLT:
Q All right. Can you tell the jury right now what

those are and why they're significant?
A We had been given the description of a green pickup truck initially by dispatch. To whom gave that information I'm not aware, but that was the vehicle that we were looking for as possibly being involved. Before when -- just after arriving and speaking to Corporal Woodham I called Sergeant Anderson and learned from him that he had been given the name of Johnathan Reed on the scene. I knew from 19 years of experience and working in Hartsville that Reeds, several families of Reeds lived in that proximity to where I was within a house or two. I was not for sure if it was this house, but I knew it was that part of the block. So just adding those things together and the possibility of this vehicle being involved was greatly enhanced over just anyone else's vehicle. Knowing that we would be needing search warrants for the vehicle I took static photographs where it was sitting before it was touched by law enforcement or anyone else.
Q All right. What did you do after that?
A We had -- I had asked, and I don't recall the officer but I'd asked someone to locate Johnathan Reed and asked him to come speak to me.

Q Did you speak to him?
A I did.
Q And after you spoke with him what did you do?
A I spoke to him on video. I had a small body camera because our in-car cameras were not functioning on the cars that I had available so one of the narcotics officer gave me a body camera. Mirandized him, asked him some basic information and I actually pointedly asked him if he was involved. He denied ---
Q What'd he tell you?
A He said he was not. With the information at hand I thought it was worth questioning him a little more detail in a little more controlled environment so I asked him if he'd go with us to the police department to the detective division for an interview and he agreed.
Q And did you take him?
A Yes, he did.
Q What did you do after he did that?
A After speaking to Johnathan I learned that Joshua was always on scene, and I do not recall to whom told me that but he was also at one of the residents. I asked him to come speak to me and basically he repeated the same thing. Advised him

he was being videotaped, advised him of his Miranda rights, asked him if he was involved, he said no. I asked him if he'd mind coming down to the office talked with us, he said no, so he was transported at that point.

Q All right. And what did you do after that?

A After they were transported I went down to our detective division. When I first arrived Sergeant Blair was administering a GSR kit on one of the two Reeds; I don't recall which one. Once again, I called Sergeant Terry Anderson to converse and figure out what was going on. At that point he asked me to create photo lineups to include both Johnathan and Joshua Reed.

Q And if you could look at State's Exhibit 4 and State's Exhibit 5 that are directly in front of you. I think Blair was looking at them right before you left. Yep, that's them. And if you could, tell the jury if those are in fact the lineups you created?

A This is State's Exhibit 1 and State's Exhibit 2.

Q My bad.

A Okay. Yes, sir, these are the lineups that I created that night.

Q Can you tell the jury how you created those lineups.

A The police department uses a software called RMS. We write all of our incident reports, document citations. It's pretty much our software for everything we do, and in that software is a location that we can add photographs. We generate photographs from either booking at the jail, from Department of Corrections photographs, Department of Motor Vehicles photographs; and at times we just take pictures of people and then import it to there. It's called a master name index, and my name is in there. Pretty much anyone we've had contact with at all is in the master name index. So I enter criteria that I'm looking for to create a lineup. So if I have an oriental male as a suspect I would enter that as their sex and race. I usually pick an age, then go one year on either side of the defendant or the suspect's age so that they're all approximately the same age. And then physically go though each photograph, and I'm looking for similarities. You want -- if he has facial hair I want to make sure everybody I selected has facial hair. If he has a unique -- if he's bald I want to find five bald guys to go along with him so it's not as to stand out different from the other photo-- from the suspect photographs. So what I did was I

started two separate lineups. One included each of the Reed brothers, and then I found other people of similar physical characteristics and added them as well and created two separate lineups so they were not in the same lineup.

Q All right. And once you created those lineups what did you do?

A Like I said, they were created at the request of Sergeant Anderson. I believe it passed off copies of Sergeant Anderson because they were rather tasked that needed to be completed.

Q And did you have occasion to actually show that lineup to anybody?

A I did. After I did the lineup I ended up at the hospital with the victim.

Q Did you meet with his family there?

A Just briefly I did.

Q All right. And then did you -- you proceeded to where after that?

A After I left the hospital I went back to Lincoln Avenue where they were conducting search warrants. Over the radio they were running out of flashlights so I had three that were charged in my vehicle; I dropped them off. And at that time I was asked to take the lineups out to East Carolina Avenue, East

Home Avenue, excuse me, to where Ms. Asia Gregg was with some family members.

Q All right. And I want to approach the witness.

THE COURT: Yes, sir.

BY MR. HOLT:

Q And I'm gonna show you what's been marked for identification purposes only as State's Exhibit 3. And I want to ask you if you recognize that?

A I do.

Q And since the last time you've seen it has there been any changes or deletions made to it?

A No, sir.

Q And can you tell us what it is?

A It is the standard form that the Hartsville Police Department adopted to, for creating lineups and the instructions for viewing the lineups.

MR. HOLT: And Your Honor, at this time I'd like to place State's Exhibit 3 into evidence.

THE COURT: Any objection?

MR. JONES: Yes, sir, we previously have dealt with State's Exhibits---

THE COURT: All right, let me look at it.

MR. JONES: ---3 and 4.

MR. SWILLEY: Same issue with 3 and 4, Your Honor.

THE COURT: All right, come around please.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: All right, it's identified at this time, not in evidence.

BY MR. HOLT:

Q Lieutenant Rudick, did Asia Gregg have a hard time picking the individuals that killed her brother out of the lineup?

A Absolutely not.

Q And about how long did she take looking at the photographs?

A Oh, there were six in each lineup, twelve photographs. Probably three to five seconds each.

Q And how certain about her choice did she appear to be when she answered you?

A Extremely.

Q Okay. And Lieutenant Rudick, after you showed the witness to Asia, after you showed the photo lineup to Asia -- before I jump to the next one let me back up, and I apologize. Did you in any way influence her to make a decision?

A Absolutely not.

Q If she had failed to pick someone or not pick someone off that lineup would you have cared?

A Not particularly.
Q Okay. Now what did you do after you showed the lineup to Asia?
A Spoke to the family for a little while longer expressed our condolences, expressed our concern if there's anything we could do to help them, then I left the house.
Q About what time was that, do you know?
A Seems like it was 8 or 9:00 in the evening.
Q Okay. So we're getting toward night?
A Oh, definitely, yes.
Q What did you do then?
A Went back to the office and started some of the paperwork that is required on a case of this magnitude.
Q Lieutenant Rudick, please answer any questions that Defense counsel might have, okay?
THE COURT: Cross-examination, Mr. Jones?

CROSS-EXAMINATION

BY MR. JONES:
Q Mr. Rudick?
A Yes, sir.
Q When you were at the park then you got either heard a call or you got a call about Lincoln Avenue you said you were already pointed in the right

direction?
A Uh-huh.
Q Which direction were you pointing?
A I was facing south.
Q Okay. And how did you get from Pride Park to Lincoln Avenue?
A I turned right on Marion Avenue, proceeded down to Eighth Street, turned left on Eighth Street, went one block over, turned on to Lincoln.
Q That's the natural way to go; is it not?
A I guess so.
Q Okay, all right. But's the way you went?
A That's the way I went, yes, sir.
Q And you as a police officer with a task to accomplish probably went the most logical route from where you were to where you needed to go; is that correct?
A I did.
Q Okay. Now when, I believe you stated that you spoke individually with Mr. Johnathan Reed and Mr. Joshua Reed. Both denied any involvement in this situation?
A Correct.
Q All right. And as a result of what you were doing you ended up with them at which HPD facility?

A They were taken to the detective division which is 626 North Fifth Street.
Q Fifth Street, okay. All right. And at that point in time had you already begun preparing a lineup or did it happen after y'all got there?
A It was once we got to the detective division that I was asked to complete that task.
Q Okay. And in completing that task how did you generate the photos of Mr. Johnathan Reed and Mr. Joshua Reed?
A Because I'm familiar enough with them, when I was looking through the photographs I realized that the two that we had on file for Johnathan and Joshua Reed were significantly old to the point where they were maybe in their teens when the picture was taken. When we do a photo lineup you try to have the most recent picture you can. People change over time. Hair styles change over time so you want to look -- you want the person to look as close to what they do at the moment as you can. I believe Johnathan Reed's photograph, he had much shorter hair; there was some obvious difference. So and what we did was we took some photographs that night of them standing in front of a neutral background and then imported them into the system.

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Q All right. And that's where State's Exhibit Number 1, that's where photo 4 came from; is that correct?
A Yes.
Q All right. And on State's Exhibit Number 2, that's where photo number 2 came from; is that correct?
A Yes.
Q Would that explain why those two photos have lighter backgrounds than the other ones?
A They do have lighter backgrounds, yes, sir.
Q Okay, thank you. Now also when you went -- you were the one who ultimately took those lineups, exhibits 1 and 2, to Ms. Gregg; is that correct?
A Yes.
Q All right. Do you recall if Ms. Gregg identified either of the suspects by name?
A Yes.
Q And was she correct in the names that she had?
A No.
Q And who had to help her get the correct names?
A Well, I wasn't asking her what their names were. She pointed to the picture of Joshua and used the word or the name Johnathan. And I, once again, just for clarification of what she was identifying and

she said that the picture of Johnathan was the driver and the picture of Joshua ---

MR. SWILLEY: Objection, Your Honor.

THE COURT: What's the objection?

MR. SMILEY: Previous to the issue of what we discussed previously of hearsay. I'm gonna move that comment be stricken from the record.

THE COURT: All right. Objection is hearsay?

MR. SMILEY: That's correct, Your Honor.

THE COURT: What say you, Mr. Jones?

MR. JONES: Your Honor, I agree that the answer to the question was hearsay. It was not -- actually it wasn't responsive to my question either.

THE COURT: All right. Objection sustained. Rephrase your question.

MR. JONES: I will.

BY MR. JONES:

Q Lieutenant, I was asking whether or not you had to correct Ms. Gregg in the naming of the two people that you were -- that both of y'all were talking about?

A I did not correct her answer. I simply said that that was not Johnathan.

Q Okay. And that was to picture number 4 in

Exhibit number 1; is that correct?
A No, that was to picture number 2 and Exhibit Number 2.
Q And that's the person she identified as Johnathan?
A Yes.
Q Correct. Thank you.
THE COURT: Cross-examination, Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q You said you spoke with my client Johnathan Reed at his house with a narcotics unit camera on your person?
A Yes.
Q Okay. And at the conclusion of that conversation did you make a recording of that, what was captured?
A Yes, I did.
Q Okay. And did you place that recording into evidence?
A I believe I did.
Q And did you give that to the Solicitor's Office with the case file?
A I believe I did.
Q Okay. So there's no reason that it should not

have been proffered from the Solicitor's officers, right?

A Not that I'm aware of.

Q Okay. And when you spoke to them did you fill out -- you read him his Miranda rights off of a card?

A I don't recall.

Q You don't know if it was a card or ---

A Honestly, it was rather chaotic. I don't know if it was a card or from my memory.

Q Okay. I don't have anything else.

THE COURT: Anything further, Mr. Holt, for this witness?

MR. HOLT: No, sir, Your Honor.

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

All right, Mr. Holt, you may call your next witness.

MR. HOLT: Laura South. Can we bring her back? And Your Honor, may we approach to talk about scheduling while our witness is coming out here.

THE COURT: All right, sir.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

WHEREUPON,

LAURA SOUTH,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Have a seat. State your name for the record.

THE WITNESS: My name is Laura South.

DIRECT EXAMINATION

BY MR. HOLT:

Q Detective South, where are you currently employed?

A With the Hartsville Police Department.

Q How long have you been there?

A A little over 16 years.

Q How long have you been in law enforcement?

A Sixteen years.

Q So HPD the entire time?

A The entire time.

Q And on February 15th, 2012 where were you employed and in what capacity?

A I'm evidence custodian with the Hartsville Police Department.

Q All right. And can you explain to the jury as well as myself what the evidence custodian does and what your primary responsibilities are.

A My primary responsibility is to store, log all

evidence and secure all the evidence. I also take the evidence to labs to get tested. I'm also a detective so I do help out with cases as needed.

Q All right. And did you respond to the murder at Pride Park?

A I did.

Q And about what time did you respond to that?

A It was immediately after the call came out. I'm not sure exactly what the time was.

Q Who did you go with?

A Detective Terry Anderson.

Q All right. And what'd you do right the time you got there?

A When I first got there there was a car that I saw someone getting ready to leave the scene so I stopped, stopped that person and started to talk to him. And then Detective Anderson took over for me and asked me to go to the, back to our office to get a camera.

Q All right. Now I'm gonna approach and ask you if you recognize for identification purposes State's Exhibit 16-A through 16-KK. If you will just look at them real quick and tell me just if you recognize what they are?

A Yes, these the photos that I took at the crime

scene.
Q Okay. You know, without talking about them can you tell me if there were any deletions or have they been changed or obstructed in any way since the last time you've seen them?
A Not that I can tell, no.
Q And who took them?
A I did.
Q Okay.
MR. HOLT: And at this time, Your Honor, the State would ask to move in those exhibits.
THE COURT: All right, Ms. Wooten, any objection? Mr. Swilley?
(Attorneys review exhibits).
MS. WOOTEN: No objection.
MR. SWILLEY: No objection.
THE COURT: All right, State's numbers 16-A through -KK will be admitted in evidence without objection.
(WHEREUPON, State Exhibits Nos. 16-A through 16-KK were admitted into evidence.)
MR. HOLT: Your Honor, if the witness can come down here and help me publish them and explain them to the jury.

THE COURT: Yes, sir.

Ms. South, you may step down.

BY MR. HOLT:

Q Could you explain to the jury what 16-A is.

A That was a pool of blood of the victim.

THE COURT: Keep your voice up. She's got to hear you. Step back a little bit.

THE WITNESS: Okay. That was a pool of blood and the jacket and hat down by the victim.

BY MR. HOLT:

Q 16-B?

A You can also see the blood and the clothing that was taken off the victim.

Q 16-C?

A Same thing.

Q All right. Now 16-D, what is that?

A That's the gazebo area at the park, and I believe over on the other side where the other evidence ---

Q All right. Show us where on this demonstrative exhibit, this diagram right here, this gazebo will be located?

A I believe that's this right here.

Q Okay.

A And the picture would have been coming I guess from this way.

Q All right. Now 16-F, what is this?
A This is just taken from another view point.
Q Now specifically what are these buildings that you can see on the outside of the park behind that fence?
A That is the funeral home.
Q What funeral home, do you know?
A Young and Young? That's where they parked in front. That's where their garage is over there.
Q All right, and what is this photograph, 16-H?
A That is Roger's Barber Shop.
Q And what is that blue -- what is that right there?
A That's a (inaudible) machine.
Q Okay. Now 16-N, what is that?
A Okay, this is the clothing that we discussed earlier and picnic table. This is Marion Avenue and that's the garage at the funeral home.
Q Do you know what boxes of food there were on that picnic table?
A They went to Yogi Bear.
Q What is this?
A That's the (inaudible).
Q Now this is -- 16-U, explain to the jury where this picture is taken from and why it's significant?

A Okay. This is taken from the, where the garage is of the funeral home on that side of the street and it's -- there's a muffler ---

THE COURT: Keep your voice up please.

THE WITNESS: I'm sorry. This is the Marion Avenue right here, and this is where there was a tire track and part of an exhaust system. I'm not sure what 'cause I don't know what that is.

BY MR. HOLT:

Q Just to help us decide, can you show us on that demonstrative piece right there?

A It was somewhere over here.

Q All right. Can you come back please?

A Uh-huh.

Q Did you see that tail pipe there?

A Yes, I did.

Q And did you photograph it?

A Yes, I did.

Q Okay. And what's been marked previously as State's Exhibit 9, does this appear to be the same piece of pipe?

A Yes, it does.

Q I'm not a mechanic. I don't know the real name of it. And after it was collected at the scene what happened to it after that?

A Well, I collected it. I put it in two grocery bags to take it down to my office and I put it in that box and sealed it up.
Q And is this the box you sealed it up in?
A Yes, it is.
MR. HOLT: Your Honor, at this time the State would ask to introduce State's Exhibit 9 into evidence.
THE COURT: Any objection?
MS. WOOTEN: No, Your Honor.
MR. SMILEY: I have none.
THE COURT: State's Exhibit Number 9 admitted without objection.
(WHEREUPON, State Exhibit No. 9 was admitted into evidence.)
BY MR. HOLT:
Q So you found this at the scene?
A Well, it was shown to me by (inaudible).
Q But you photographed it though?
A I photographed it.
Q And you collected it?
A Yes.
Q All right. And right here, there's plenty of these -- the jury will see them -- State's Exhibit 16-X? What is that right beside the pipe?

A That's a tire mark in the grass right here.
Q 16-Y?
A Same.
Q -Z?
A Same thing.
Q All right. What is 16-FF?
A It's a tire mark with a number marker.
Q And where is this if you point here from? Could you say the name.
A 16-HH (ph). This is on Marion Avenue east towards Sixth Street, and it's got the tail pipe and tire mark.
Q 16-II?
A That's the picnic bench and the clothing.
Q All right. Detective South, you can have your seat back. Thank you so much.
A Uh-huh.
Q Now if I could show you what's been marked as State's Exhibit 8.
A Yes.
Q And I don't want you to tell me what it is.
A Okay.
Q I just want to ask you if you know what it is?
A Yes, sir.
Q And who collected it and gave it to you?

A Michael Stokes, officer.
Q Okay. And after Michael Stokes gave it to you what did you do with it?
A I sealed it up and I took it to SLED, not that day but subsequently.
Q And after SLED worked through that who picked it up from SLED?
A I did.
Q All right. And has it been in your custody and control since then?
A Yes.
Q All right. Thank you so much.
A Uh-huh.
Q If I could ask you this right here.
A Uh-huh.
Q 18, do you know that is?
A These are GSR kits, gunshot residue kits.
Q And who collected those?
A I believe Brian Rudick, or Lieutenant Rudick, and First Sergeant Mark Blair.
Q All right. And what did they do with them after they collected them?
A They gave them to me and I sent them to SLED.
Q And after SLED tested them what happened to them then?

A I picked them up.
Q And they've been in your custody and control since then?
A Yep.
Q All right. And number 19.
A This I -- we just got from SLED when I picked, when I picked up the gunshot residue kits. These are particle lifts that they used on the shirt to test the shirt.
Q All right.
A So I guess this is the lifts they did of the shirt to test for gunshot residue.
Q Who collected those lifts?
A I imagine it was ---
Q What agency?
A SLED.
Q All right. And after they were collected and tested who picked them up?
A I did.
Q And where have they been since then?
A In my safe at the department.
Q Now why don't you take a second and explain to the jury how you keep the evidence. Is any, for instance, is anybody allowed to go in and look at the evidence in the department?

A No, it's all locked a safe, a bank vault type safe.
Q All right. Who's got the key?
A It's a combination.
Q Who's got that?
A Just me and my lieutenant.
Q Do you let anybody in there that wants to go in there, Laura?
A No. In fact, we have a log that we keep, but normally it's just me and lieutenant.

MR. HOLT: Beg the Court's indulgence ---

THE COURT: Yes, sir.

MR. HOLT: ---housekeeping stuff. All right.

BY MR. HOLT:
Q Detective South, please answer any questions that Defense counsel might have.
A Yes, sir.

THE COURT: Cross-examination, Ms. Wooten?

MS. WOOTEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. WOOTEN:
Q Good afternoon, Ms. South.
A Good afternoon.
Q How are you?

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A I'm fine. How are you?
Q I'm good. I just have a few questions for you.
A Okay.
Q Approximately how long after the incident was it before you arrived at Pride Park?
A From the time we got the call I was at the police department just like three or four blocks away so it was just a matter of 30 seconds, a minute maybe.
Q So right after ---
A From the time we got the call. I mean, I don't know how long.
Q Immediately?
A Yes, we immediate went there.
Q And to my understanding your main job at Pride Park was to take pictures?
A Yes, and collect the evidence.
Q Preserve the scene?
A Uh-huh.
Q Take photos? Okay. There are several pictures of what appears to be that pipe taken. Did you yourself discover that pipe?
A No.
MS. WOOTEN: May I approach the witness, Your Honor.
THE COURT: Yes, ma'am.

BY MS. WOOTEN:

Q I show you State's Exhibit 16-FF it looks like?

A Okay.

Q Can you tell me what that is?

A That is a tire mark in the grass.

Q Would that be next to the exhaust, a part of the exhaust?

A That's not in this photo.

Q Okay, but -- all right.

A Yeah.

Q Do you know if any testing was done on that tire track?

A No.

Q Okay. Those are all the questions I have. Thank you.

THE COURT: All right, Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Corporal South, you were the one according to you report you took all the stuff down to SLED for GSR examination?

A Yes.

Q All that -- not all of the things you collected off the Reed brothers were taken down there; is that correct?

A Correct.
Q And there's no reason for that? You just ---
A I take what I'm instructed to take by investigators so.
Q Okay. And you were told not to take everything?
A I was just told what to take.
Q Okay. And that was it, nothing more, nothing less?
A That's what -- I took what they told me to take so.
Q You don't know why you weren't told to take the rest of the clothes?
A (No verbal response.)
Q Is that a yes or no?
A No.

MR. SWILLEY: That's all I have.

THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. HOLT:
Q Does SLED place limits on what you can bring to them that might be included in the decision on what's tested and what's not?

MR. SWILLEY: Objection, Your Honor. I think that calls for speculation.

THE COURT: All right. I agree with the

way the question is asked. I'll give you a chance to rephrase it if there's anything you'd like to -- in other words, written policy. That's the only way. She can't speculate as to what SLED tells.

BY MR. HOLT:

Q Can you just take anything you want to SLED?

A No.

Q Okay. Are there limits on what you can take?

A Yes.

Q All right. Thank you.

THE COURT: Anything further, Mr. Jones, or Ms. Wooten?

MS. WOOTEN: No, Your Honor.

MR. SWILLEY: There's nothing.

THE COURT: All right, you may step down.

All right, counsel, let's talk about scheduling just a moment.

(WHEREUPON, counsel approached the Bench for an off-the-record discussion.)

THE COURT: The next witness is going to be rather long, and it would probably take us into the normal adjournment time and so I think it's appropriate that we recess for the afternoon at this time. I am going to allow you to go to your homes and families. And I will tell you now as I have

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told you throughout this case, that it would be improper for you to discuss this matter with anyone while you're away from the courthouse. You still have not heard all the testimony in this case, and of course, have not arrived at a verdict so any discussion of the case with anyone else would be improper. Similarly, do not let anyone discuss the case with you. If anyone should approach you or try to talk to you about this case over the evening recess I will need to know about it. And also, if there are any news stories or anything on television at all, if you see any news stories or anything in the broadcast media, simply turn them off and do not listen to those because you've got to decide this case based upon what you hear in this courtroom.

Also, in the morning do not deliberate the matter among yourselves. It's still premature for you to begin any discussion about the case. Just simply go about your business tonight, basically forget about this matter until tomorrow, and be back in the jury room tomorrow morning at 9:30. All right, thank you. Have a pleasant evening. I'll see you tomorrow. Jury only.

(WHEREUPON, the jury was removed from the courtroom at 4:21 p.m., and the following

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proceedings commenced in open court.)

THE COURT: All right, counsel, while we're waiting on the jury to leave the building, Mr. Jones, Ms. Wooten, Mr. Swilley, what I'd like to do would be to go ahead and advise the defendants of their Fifth Amendment right without requiring a decision at this time, and they'll still have an opportunity talk to you. So I would ask if you would all, both or all of you have your two clients stand please.

Mr. Joshua Reed and Mr. Johnathan Reed, I will tell you that you may be called as a witness to testify in your own behalf. I now advise you that you have the right to invoke the protections given to you by the Fifth Amendment to the Constitution of the United States and a similar counterpart provision of the constitution of the State of South Carolina. The Fifth Amendment to the Constitution of the United States provides in part that no person shall be kept, compelled in any criminal case to be a witness against himself. This provision of law means that you cannot be compelled or required to testify in this case. This is a right and a privilege which the law extends to you. It is a personal privilege and no one can waive this right

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except you. You have the right not to testify but you also have the right to testify. The Court will grant you the right to consult with your lawyer before you make a decision. If you elect not to testify your failure to testify cannot be considered by the jury in its deliberations, and I would so instruct the jury. If you elect to testify and waive the privileges extended to you by the Fifth Amendment of the Constitution you will then waive or you would then assume the role of a witness in this case and you would waive or give up your constitutional privilege against self-incrimination. This means that if you voluntarily take the witness stand and testify, you will then subject yourself to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in this case and you may be impeached to the same extent as any other witness, all of which is subject to the rules of law and the rules of evidence.

I further advise you that if you elect to take the witness stand and testify, that this decision on your part must be made freely, voluntarily, intelligently, and with knowledge of the protections given to you by the Constitution and

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with knowledge of the consequences of your election to testify. Now as I said, I'm not going to require a decision from you this afternoon because you have not -- we have not -- the State has not closed their case and it is not appropriate that you make a decision at this time as to whether you do or do not wish to testify in this matter.

But I will ask you, first of all, Mr. Joshua Reed, have you understood what I've explained to you?

DEFENDANT JOSHUA REED: Yes, sir.

THE COURT: Do you have any questions about what I've explained?

DEFENDANT JOSHUA REED: No, sir.

THE COURT: Okay. And I would advise you to consult with your lawyers because tomorrow at some point in time it's very likely that I will ask you whether you do or do not wish to testify in this case and if they have talked with you about your constitutional rights. You understand that?

DEFENDANT JOSHUA REED: Yes, sir.

THE COURT: All right. And Mr. Johnathan Reed, do you have any questions that you wish to ask me about what I've explained to you?

DEFENDANT JOHNATHAN REED: No, sir.

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THE COURT: Have you understood what I have explained?

DEFENDANT JOHNATHAN REED: Yes, sir.

THE COURT: And I will tell you that sometime between now and tomorrow you need to discuss with your lawyer about whether you should or should not testify in this matter because it is likely that at some point in time I will ask you whether you wish to exercise your constitutional right and not testify, or you do wish to testify. You understand?

DEFENDANT JOHNATHAN REED: Yes, sir.

THE COURT: You have any questions you wish to ask me?

DEFENDANT JOHNATHAN REED: No, sir.

THE COURT: All right, gentlemen, thank you. You may be seated.

All right, counsel, given just for planning purposes let me give you some thoughts and y'all tell me what you think. First of all, without prejudging the matter or without saying whether or not, without ruling on the motions that I know will be made at the appropriate time, when it comes to charging my general felony charge includes presumption of innocence, reasonable doubt, and

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burden of proof. The reasonable doubt charge that I use primarily is the one that Judge Baxley uses so if y'all are familiar with Judge Baxley's charge on reasonable doubt, that will be the one that I will be using.

With regard to procedural charges, my plan would be to use the direct and circumstantial charge as enunciated in the recent case, the Logan case. It changes the circumstantial evidence to the charge a little bit. That would be the one that I would use. There will likely be an expert witness and that will be Doctor Ross so I will probably charge the jury on the difference between expert witnesses, again, depending on the defendants' decision. There's the possibility of a charge of defendant not testifying.

And I would assume, Mr. Jones, Ms. Wooten or Mr. Swilley that y'all would request a charge on eyewitness identification?

MR. JONES: Yes, sir.

THE COURT: Okay.

MR. SWILLEY: Yes, sir, Your Honor. I'd also request a mere presence charge.

THE COURT: All right. I hadn't got there yet.

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MR. SWILLEY: Okay.

THE COURT: All right. I would also, will charge on separate verdicts for each defendant, that each of the defendants should be -- the charges against each defendant should be treated separately and they will make separate decisions as far as each defendant is concerned.

And I am sure, Mr. Holt, that you want the accomplice liability charge.

MR. HOLT: I was about to stand up and ask for it, Judge.

THE COURT: Okay. Which does include the mere presence. In other words, that it requires an active participation and not mere presence. Okay. That's kind of -- now and then, of course, the substantive charge of murder and possession of a possession and we'll get to see if there's anything else that would be charged in the way of substantive charges at this time. But murder and possession of the weapon would be the substantive charges at this time. I'll hear from you at some point in time when we get all the evidence in.

All right. One other thing I was going to -- oh, let me ask you, as defendant counsel, is there going to be any issue with regard to the

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qualification of Doctor Ross under State versus Castle as to her qualifications as an expert witness?

MR. JONES: Not from me, Your Honor.

MR. SWILLEY: I don't anticipate that at all.

THE COURT: So we don't need to have a hearing outside the presence of the jury to determine her qualifications and determine whether she can testify. All right.

Now with regard to those two exhibits, 3 and 4, Mr. Holt, what do you do? You propose to redact from those two exhibits the hearsay portion of those exhibits? Is that what you're going to do?

MR. HOLT: Yes, sir, there's three, four, is it five as well as Asia's and both the other -- there's three of them?

THE COURT: Did they all make statements how they something and so they need to be redacted as far as what the hearsay portion of them would be?

MR. HOLT: I'll take white out and just go over all of them and then -- and I'll do that today and ask you tomorrow.

THE COURT: Get that done this afternoon and show it to them in the morning and we'll see if

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they have any objections on them at that point.

MR. HOLT: Yes, sir.

THE COURT: Okay, all right. Anything else, counsel, that you think we need to do that would expedite the matter and move it along? I understand, Mr. Holt, that you anticipate in the morning having Mr. Anderson from the Hartsville Police Department and two SLED agents; is that correct?

MR. HOLT: No, sir, I think I'm gonna cancel one of the SLED agents. I think I'm gonna have Investigator Anderson, Jennifer Stoner, and Brandon Huggins who was supposed to be here today but is ill. And I don't see -- Jennifer and Brandon will probably take about as long as Laura South did today. And Terry Anderson will probably take us right you want to till whenever you're ready to break from lunch to wait on Doctor Ross.

THE COURT: What time is Doctor Ross scheduled here?

MR. HOLT: 2:00.

THE COURT: 2:00. I had Doctor Ross in Fairfield County two weeks ago and had the same situation that she performs her autopsies in the morning and does her testifying in the afternoon.

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So that's kind of what we have to do, schedule around her, her schedule. All right, counsel, we'll look at it from that angle. Now is there anything else anybody thinks we need to take up at this time that would expedite matters tomorrow? Mr. Holt, you know of anything else?

MR. HOLT: Nothing from the State, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: Nothing.

MR. SWILLEY: Not at this time, Your Honor.

THE COURT: All right. Then we'll be in recess till 9:30 tomorrow morning. One other thing before we do that. I think, again, the way for me to do this this afternoon before we actually recess, Mr. Holt, is let me go ahead and excuse the members of the victim's family and let them clear the building.

So y'all are excused. Everyone else please keep your seats.

All right, I've been advised the people on the elevator are out of the building. We are adjourned then or in recess until 9:30 tomorrow morning. See you then.

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(WHEREUPON, the proceedings were concluded for the day to be reconvened on October 23, 2013.)

THE COURT: Back on the record with regard to the matter of State versus Johnathan and Joshua Reed. The two defendants are present in the courtroom with their counsel. The State is present and represented by the Solicitor's Office. I have been informed all the jurors are present. Anything before I bring the jury in, Mr. Holt?

MR. HOLT: No, sir, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. SWILLEY: No, Your Honor.

THE COURT: All right, bring the jury in please.

(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)

THE COURT: Good morning, ladies and gentlemen and thank you for your promptness in being back here. And we are now ready to resume this matter. As I told you yesterday the State still is presenting their case and will continue to do so

this morning; but before we start with that, I do need to ask you if anyone has tried to contact you in any way about this case over the evening recess I would need to know about it now.

(There was no response.)

THE COURT: Negative response, and that's good. Also, if anybody read any news stories heard any television or radio broadcast about this matter over evening recess I will also need to know about that now.

(There was no response.)

THE COURT: Again, negative response and that's good.

All right, Mr. Holt, you may call your next witness.

MR. HOLT: Thank you very much, Judge. Can I get Brandon Huggins from the back please.

THE CLERK OF COURT: If you'll come around to be sworn. Put your left hand on the Bible and raise your right hand.

WHEREUPON,

BRANDON HUGGINS,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat

in this chair and give the court reporter your name.

THE WITNESS: Brandon Huggins.

DIRECT EXAMINATION

BY MR. HOLT:

Q Officer Huggins, what's your current position, your employment?

A I'm with the city of Hartsville Police Department and I work as a SRO in Washington Street Elementary School at this time.

Q Can you explain what a SRO is?

A It's school resource officer and I work inside the school.

Q And how long have you been employed by Hartsville Police Department?

A It will be four years in March.

Q And how many years have you spent in law enforcement total?

A Approximately nine years.

Q All right, where did you work before Hartsville?

A Pageland Police Department.

Q Okay. Now February 15th, 2012, what position did you hold in Hartsville Police Department at that time?

A I was a sergeant on patrol.

Q All right. What did your patrol duties include?

A I ran a shift, two other people besides myself at the time. We usually run five by a little short at the time; but had two other people besides myself, and I was over that shift.
Q And how are patrol offices alerted to problems within the community they have to respond to?
A Through dispatch which is located in Darlington, and they give us over the radio, they'll dispatch us to certain calls.
Q And on February 15th. The date in question, were you dispatched to Pride Park?
A I was.
Q And about what time was that?
A Around 4:10 in the afternoon.
Q Okay. Did you reach the location?
A I'm sorry?
Q Did you make it to Pride Park?
A Yes, I did.
Q And once there on the scene what did you discover?
A Once I arrived on scene I saw my corporal at that time, which is Jason Thompson. He was bent down over a blank male laying on the ground. I saw three other people standing in the park as well, two black males and a black female who were obviously

distraught.
Q What other officers were on the scene when you got there?
A Just Corporal Thompson at the time. Later arrived would be my first sergeant, Tenyonde Richardson. He arrived on scene shortly after and we started cordoning off the crime scene, putting up crime scene tape trying to get where no one -- restrict the area from anybody else getting into the area.
Q Why does HPD do that?
A That's to preserve any evidence that we have inside the crime scene so nobody tampers with or moves anything that may be there.
Q And after you coordinated the search, let's say quarantined, after you quarantined the area what did you do next?
A After that I sequestered the three other -- well, two black males and black female, sequestered them off to the side and tried to keep them separate from each other.
Q And what did you do after that?
A After that I turned those witnesses over to detective Sergeant Terry Anderson who arrived on scene. Those were turned over to him. Then I

started searching the area for any potential evidence, handgun, shell casings, any other type of weapons.

Q Did your investigation reveal a description that you put out over the radio?

A It did as well. Through my investigation I learned that we were possibly looking for two black males approximately six feet in height, 20 to 25 years old driving a green Ford F-150 pickup truck.

Q And you put that out over the radio?

A I did.

Q And after you put that out over the radio what did you do next?

A Once again I started looking for the shell casings and any weapons that was used in commission of the crime.

Q Did you find any shell casings or weapons?

A I did not find any shell casings, nor did I find any weapons in the general vicinity of the crime scene.

Q What did you find in the crime scene?

A Actually, I exited Pride Park. Those of you who are not familiar -- I don't know if we have a map -- but I crossed Marion Avenue which was already blocked off. We had other officers arrive.

Q There's a map right there. You can pull it out and show it. From the bottom, flip that up.
A Do we have to label it on here where we can pick it out pretty quickly? This will be the crime scene right here, which is just right off of Sixth Street. Marion Avenue is right here, and Pride Park is in this general area. I exited the gate that was over here and walked across Marion Avenue. There's a little grassy area next to Young and Young Funeral Home. That's where they park their cars at inside a covered building across from their funeral home. There's a little grassy area right here. Inside that grassy area -- and we also had, to go any further, we actually by this point in time we had other officers already staged on Marion blocking Marion Avenue off. Also on Sixth Street, Sixth Street was blocked off as well so no one could enter this area surrounding the crime scene.

I crossed Marion Avenue. And in that little grassy area I could stand back and visibly see what looks like a tire spinning off and that was the general direction I was told where the vehicle was parked at. You could see that tire spinning off. And between that tire track and the grass area there was a section of pipe laying kind of in the

middle of what a vehicle would look like.
Q You can put that down. I'm gonna show you what's been marked as State's Exhibit 16-FF, -GG, -Z and -Y. If you could -- Your Honor, if the witness could come here and we can talk about these in front of the jury?
THE COURT: Yes, sir, you may step down.
BY MR. HOLT:
Q Now they saw these yesterday; but can you tell us looking at 16-Y, is that a, is that a accurate portrayal of what you saw that day?
A That is. As you can see the tire track here and the section of tail pipe kind of standing in the middle of where the section of the tail pipe would run.
THE COURT: I don't know if they can see, Mr. Holt. We got some people standing in the way. Okay.
BY MR. HOLT:
Q About how far was the tail pipe from the tire mark?
A I would say 3-feet maybe, somewhere in that range.
Q Is that the tire mark?
A That is correct.

Q And were there any other tire marks in that area?
A If you can bring this picture back over. If y'all are familiar with Hartsville and Young & Young Funeral Home, that would be the concrete section of their parking lot.
Q Now about how clean was this area?
A At that time as you can see in the pictures it's very, very clean ---

THE COURT: Counsel, again, step back. There are people on the other end who can't see the things.

THE WITNESS: At that time point in time it was very clean in this area. There's generally no trash in that area. Young & Young Funeral Home keeps it very clean in that area 'cause it's so close related to where they actually have funeral services and things of that nature.

BY MR. HOLT:
Q All right. You can have a seat again.
A (Complies.)
Q I gonna show you what's been marked as State's Exhibit 9 and entered into evidence and ask that you hold that. Now could you tell me if that appears to be the piece of exhaust pipe that you found that day?

A It does.
Q And who did you tell about the exhaust pipe once you found it?
A I actually come back and told detective Sergeant Terry Anderson what I had found. I actually had -- to go even further than that, there were other officers standing there who actually stood by. Once again, no one is allowed in or outside the crime scene, and they actually stood by while I went and spoke with him.
Q All right, you can sit that down. Now I'm gonna show you what's been marked for identification purposes only as State's Exhibit 10. I want you to hold on to that. Don't talk about it, just look at it. And I'm gonna ask you what your duties were after you found the pipe and what you did next essentially?
A After I found the pipe and once the crime scene had essentially been broken down once we had collected all evidence we could collect at that time we actually break the crime scene down and we move forward from there. But at this point in time we actually had two search warrants to be served on two separate residences. I was asked to go to Lincoln Avenue and stand by with other officers

while we waited for the search warrant to arrive on the scene.

Q Why were y'all standing by?

A The reason that I was standing by, I have to go through -- detectives have to go out and see a judge and to get a search warrant signed so we can actually enter that residence and look for any evidence that may have been involved in the crime.

Q All right. About how long did that take you think?

A I'm gonna say maybe roughly an hour, maybe a little longer.

Q And if you could stand up and look at the map and show to the jury where in relation to Pride Park Lincoln would actually be.

A Actually, this is Pride Park here. Lincoln Avenue, as you can see is over here, so approximately maybe roughly a half mile to a mile from the location. I'd say more close to half a mile to Lincoln Avenue. And Lincoln Avenue is actually towards the end of Lincoln Avenue, almost towards the very end.

Q And who was on the search party that entered Lincoln?

A At the time it was myself, Lance Corporal Joshua

Daniels, Detective April Cook, and Detective Brandon Peavey. Detective Brandon Peavey and April Cook were Darlington County Sheriff's Office.

Q But you were a part of it?

A Yes, I was.

Q And looking at State's Exhibit 10 can you tell me, do you recognize that?

A I do.

Q And it's all one exhibit but it's two photographs.

A Okay. I recognize both.

Q All right. And since the last time -- I mean, you know, is it a true and accurate portrayal of what you saw that day?

A It is.

Q And have there been any changes, deletions, alterations made to those photographs between the photographs and the scene?

A No, they have not.

Q And can you tell us what it is?

A In the first picture would be Johnathan ---

Q Can you just tell us, are they pictures from where?

A They're pictures from Lincoln Avenue.

MR. HOLT: And Your Honor, at this time

the State would ask to move State's Exhibit 10 into evidence.

THE COURT: Any objection, Ms. Wooten or Mr. Swilley?

MR. SWILLEY: If I may see the exhibits. And just to clarify, is the exhibit both photographs?

THE COURT: Sir?

MR. SWILLEY: Are both photographs the exhibits? Your Honor, I'm gonna make an objection to the second photograph of State's Exhibit 10 under my previous objection?

THE COURT: Wait a minute.

MR. SMILEY: We join in his objection, Your Honor.

THE COURT: Let's mark them A and B so we'll know what they're talking about, Madam Clerk. 10-A and 10-B.

MR. SWILLEY: Your Honor, I ---

THE COURT: Wait just a moment. All right, there's no objection to 10-A; is that correct?

MR. SWILLEY: That's correct.

MS. WOOTEN: No, sir.

THE COURT: So 10-A will be admitted

without objection. 10-B, what's your position, Ms. Wooten?

MS. WOOTEN: We would join in with Mr. Swiley's objection as with relevance.

THE COURT: All right. And your objection Mr. Swilley is relevance under 401; is that correct?

MR. SWILLEY: As well as under rule 403, Your Honor.

THE COURT: All right. The ruling of the Court is that the evidence is relevant and I'll put on the record the reasons why I feel that it is relevant at a later time. I also feel that it is admissible under 403; and again, I'll put the reasons on the record at a later time. But the objection on basis of 401 and 403 is overruled and the exhibit 10-B will be admitted into evidence over, subject to the objections of both defendants.

(WHEREUPON, State Exhibits Nos. 10-A and 10-B were admitted into evidence.)

BY MR. HOLT:

Q Officer Huggins, can you tell us what those are pictures of and how you came to view those objects?

A One is a picture of Johnathan -- can I show the jury? One is a picture of Johnathan Reed's ID, South Carolina ID, which was found on a dresser

inside of a bedroom at Lincoln Avenue.
Q On or in?
A On top of the dresser, on the corner of the dresser. As you see this -- I don't know if you want to show them a little bit closer. But if you can see this, this is exactly how it was found. That's how it was photographed. We don't touch anything until we photograph it before we move it. And in the next, the next picture, is actually a 45 caliber semiautomatic handgun. As you can see it was found inside of a container next to the bed, and it does have ammo in it as well.
Q How do y'all know?
A I actually found both of those as I was searching the room.
Q Okay.
MR. HOLT: And permission to approach, Your Honor.
THE COURT: Yes, sir.
BY MR. HOLT:
Q At this time I'd like to show you what's been marked as State's Exhibit 6-B. I'd ask that you look at the object inside the box. Don't show it to the jury. Ask if you recognize the exhibit?
A I do.

Q And have you seen it before?
A I have.
Q And since last you've seen it have there been any changes?
A No, none that I see.
Q And did you find that object at ?
A I did find this object Lincoln Avenue.
MR. HOLT: Your Honor, at this time the State would move to submit it into evidence.
THE COURT: Same objection?
MR. SWILLEY: Yes, Your Honor, same objection on relevance and rule 403.
THE COURT: Okay, same objection?
MS. WOOTEN: Same objection.
THE COURT: Same objection, same ruling. I find the evidence is admissible under 401 and 403, and we'll put the reasons on the record at a later time. It will be admitted into evidence subject to objections of the defendants.
(WHEREUPON, State Exhibit No. 6-B was admitted into evidence.)
MR. HOLT: Thank you, Judge.
BY MR. HOLT:
Q Officer Huggins, would you pull that out and show the jury exactly what it is?

A Yes.

THE COURT: First make sure it's safe please.

THE WITNESS: Yes, sir.

BY MR. HOLT:

Q All right, sit down please.

MR. HOLT: Your Honor, I made a mistake. There's also a 7-B inside of there that I'm gonna have to question him and move into evidence.

THE COURT: All right, go ahead.

BY MR. HOLT:

Q Looking at State's Exhibit 7-B, are you aware what that is?

A Yes, that is actually ---

THE COURT: Don't tell what it is.

THE WITNESS: Yes, I am. Yes, I am.

BY MR. HOLT:

Q Have there been any changes, deletions, alterations made since you last reviewed it?

A None that I know of.

Q And are you sure it's substantially the same thing you saw at Lincoln Street?

A I am.

Q Okay.

MR. HOLT: Your Honor, at this time the

State would move 7-B into evidence.

THE COURT: 7-B? All right.

THE COURT REPORTER: It's just plain 7.

MR. HOLT: It's just plain 7.

THE COURT: 7, okay. All right, the first exhibit was 6. Go ahead as far as State's Exhibit Number 6.

BY MR. HOLT:

Q Can you show the jury what exactly State's Exhibit Number 6 is?

A I will. It's a .45 caliber semiautomatic handgun. And you all may not have been able to see earlier, it's actually ---

THE COURT: All right, talk loud enough for me to hear and her to play back for the jury.

THE WITNESS: Actually this was the picture of where it was located at, inside Lincoln Avenue.

BY MR. HOLT:

Q And that was found in the same bedroom as the ID?

A It was. Can I describe the state it was found in, the actual handgun?

MR. SWILLEY: I'm gonna object to that.

BY MR. HOLT:

Q What state was the handgun found in?

THE COURT: Just answer the questions.

THE WITNESS: The handgun was actually found in a fully loaded state which means one is in chamber and a fully loaded magazine.

BY MR. HOLT:

Q And was it found on additional ammunition?

MR. SWILLEY: Objection, Your Honor, I'm gonna object to that on the basis of relevance and also 403.

THE COURT: What was the question?

MR. HOLT: Was it found with additional ammunition?

THE COURT: Wait, I didn't hear.

MR. HOLT: Was it found with additional ammunition?

THE COURT: All right, objection is overruled. Same ruling, again I'll put it on the record. Objection is overruled.

BY MR. HOLT:

Q All right. And Brandon, after Officer Huggins, after he found this in the bedroom what did you do next?

A Once the handgun was found, as I stated before we did not move any objects until they are photographed. The semiautomatic .5 caliber handgun

was photographed inside of its container, which the picture I showed you all earlier. And the handgun was unloaded and put in a safe manner, and then it was turned over to the investigators.

Q All right. And what did you do next?

A After all evidence was turned over inside the -- once search warrant was completed inside the residence I cleared the scene and went back to the station and completed my report.

Q All right. Now I was asking you about State's Exhibit 7 earlier.

A Yes, sir.

Q And you said you recognized it?

A That's correct.

Q And has it changed since the last time you've seen it?

A No, sir.

Q All right. Do you know what it is?

THE COURT: Don't tell what it is. Do you know what it is?

THE WITNESS: Yes, I do. Yes.

MR. HOLT: And Your Honor, at this time the State would ask to enter State's Exhibit 7 into evidence.

THE COURT: Same objection?

MR. SWILLEY: Same objection, Your Honor, rules, relevance, and rule 403.

THE COURT: Objection is noted ---

MS. WOOTEN: Yes, Your Honor.

THE COURT: ---of both defendants and overruled under 403, 401 and 403. I'll put my reasons on the record later on.

(WHEREUPON, State Exhibit No. 7 was admitted into evidence.)

BY MR. HOLT:

Q And what is it?

A Actually, inside this is six rounds of .45 caliber ammunition.

Q Where you did you find it?

A It was found inside of the .45 caliber semiautomatic handgun that I showed you all earlier.

Q Officer Huggins, please answer any questions that defense counsel might have.

THE COURT: Yes, sir.

Ms. Wooten?

MS. WOOTEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. WOOTEN:

Q Good morning.

A Good morning.

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Q Are you Sergeant Huggins, Officer Huggins, how shall I ---
A Well, at the time I was sergeant but with the new job I took I went back to corporal so Corporal Huggins will be fine.
Q I have a few questions about the date in question. When you responded to Pride Park how -- what exactly was the reason for you going there, how were you summoned?
A I was dispatched to someone being shot inside Pride Park.
Q Great. Okay. When you arrived who was at the scene?
A My corporal at the time, Corporal Jason Thompson.
Q He was the only person at the scene?
A Only person at the scene when I arrived and other officers arrived shortly after I arrived.
Q You testified earlier to Mr. Holt that when you arrived at the scene you were instructed to take witnesses, three witnesses, and sequester them; is that correct?
A Well, three potential witnesses at the time.
Q Jessie [sic] Washington, Anthony Wingate, and Asia Gregg?
A No.

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Q Or did you know their names?
A Didn't know their names at the time.
Q Did you know their names after?
A That's correct.
Q Are those the three witnesses?
A Not Jessie Washington, Johnny Lee Washington.
Q I'm sorry, Johnny Lee Washington.
A Johnny Lee Washington, Anthony Wingate, and Asia Gregg.
Q And you took all three of them together? Where did you put---
A Actually we separated them out. I made them stand -- at the time at the scene we don't want people to get their stories the same matching because we want the honest opinion of anybody. Once you get people start talking afterwards, which they were very distraught at the time so they wasn't talking to each other, separated them out individually, try to keep them apart from each other.
Q And did you stand with these witnesses?
A I stood right in front of them, yes, I did.
Q And then when did these witnesses leave the scene?
A I can't tell you when they left the scene. Once

Detective Sergeant Terry Anderson arrived on scene he took over the witnesses, potential witnesses.
Q All three?
A Yes.
Q Do you remember writing a supplemental report for this case file?
A I do.
Q Do you recall that in your report you said that you sequestered two black male witnesses?
A Actually it fell on the floor but. Yes, it does say two black males, yes, ma'am.
Q Do you note anywhere in your report where you mentioned a female witness and sequestering her?
A Not that I see in my report, no.
Q Would your recollection of the events that happened be clearer today or when you wrote this report?
A This report was probably wrote late at night after I got done. I'd been working for 12 hours previous to that so, but I would say my recollection to the report would have been better at the time.
Q So it's likely that you're mistaken that Ms. Asia Gregg was not taken into sequestration by you?
A May have not been, no, ma'am.
Q Okay. So also in your report you noted that the

two black male witnesses gave you a rough description of suspects; is that correct?
A That's correct.
Q Did they mention long hair or short hair or physical description?
A Not that I ---
MR. SWILLEY: Your Honor, I think that calls for hearsay.
THE COURT: What about it, Ms. Wooten?
MS. WOOTEN: I'll rephrase.
THE COURT: Ma'am?
MS. WOOTEN: May I rephrase?
THE COURT: Yes.
BY MS. WOOTEN:
Q Did the suspect happen to identify — did the witnesses happen to identify the suspects in any greater detail than you noted in your report?
A Not that I have in my report at this time 'cause I, I didn't speak to them that long, you know. I was trying to get -- we try to get a quick description as we can because we want to get that out to officers because when someone is shot we want to catch the suspects as quickly as possible. So we try to get a brief description and wait for other officers to arrive so they can get a better

description so the description I ---
Q Thank you.
A If that makes sense.
Q Also just looking at your report, speaking from your report did your witnesses happen to name anybody by name?
A Not in my report, no, ma'am.
Q Thank you. And you were one of the first persons from law enforcement to interact with them?
A I actually told them -- other than asking, yes, but can I go a little further than that. Actually, when you're talking to someone too we're not rolling videotape. At that point in time my camera doesn't reach that far; so therefore, you don't want someone saying something and then not being on, recorded, to be used further so I ask for general description, yes.
Q No names given to you at that time?
A No, not at that time.
Q Great. And then the witnesses left the park. They were turned over to Terry Anderson and you didn't see them again for the afternoon?
A No, I did not.
Q Great. You also described about a search warrant that you participated and executed at 430---

A Lincoln Avenue.
Q -- Lincoln Avenue? Okay. This has already been admitted as State's Exhibit 6-B?
THE COURT: 6.
BY MS. WOOTEN:
Q Just 6, I'm sorry. Describe to me again what this is.
A It's a .45 caliber semiautomatic handgun.
Q Would this type of handgun, would it have ejected shell casings had it been used?
A Yes, ma'am, it would have.
Q Is that a revolver?
A No, it's not. It's a semiautomatic handgun.
Q Okay. So if rounds were fired from this gun they would ejected, correct?
A Yes, ma'am, they would have.
Q You testified earlier that you helped to secure the scene, quarantine it?
A Yes, ma'am.
Q Is that correct?
A That's correct.
Q Did you find any shell casings at the scene?
A No, ma'am, we did not find any shell casings at the scene.
MS. WOOTEN: Just one second please, Your

Honor.

THE COURT: Yes, ma'am.

MR. SMILEY: No further questions, Your Honor. Thank you.

THE COURT: Mr. Swilley.

MR. SWILLEY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SWILLEY:

Q Mr. Huggins, talking again about the firearm that was recovered, once it was recovered it was never dusted for fingerprints, was it?

A I'm unsure. Once I turn it over to the investigators that is their job ---

Q Right.

A ---to dust for fingerprints.

Q All right. And based upon your knowledge now that wasn't done as far as you know?

A I do not know. I cannot answer that question.

Q Okay, that's fine. And as far as where the gun's gone, the gun was never shown to any eyewitnesses, was it, to your knowledge?

A As far as?

Q As you know.

A Which eyewitness are you talking about?

Q Well, anybody, any of the witnesses that any

people found in the park. It was never shown to anybody else?
A No, not that I'm aware of.
Q Okay. So there's really nothing as far as forensics that you're aware of that links this gun to anything that went on in Pride Park, correct?
A I'm not sure.
Q I mean, as far as you know.
A As far as I know, no, I don't know.
Q Okay. And let me ask you, this gun, it wasn't, it wasn't registered as -- well, as far as you know, I mean, it was, it was being possessed lawfully, right?
A As -- without doing a background check, yes, it's been possessed lawfully.
Q Correct. And let me tell you, when you said you were in the park, I'm sorry, you're talking about talking to the witnesses or getting sequestered, did you have your recorder on, your mic?
A I can't remember if I had it on or not to be honest with you.
Q Okay. So you don't know if anything was ever recorded about as far as what you were doing in the park?
A I'm not sure.

Q Okay. Thank you, Investigator.

THE COURT: Redirect, Mr. Holt?

MR. HOLT: No, sir, Judge.

THE COURT: All right, thank you. You may step down.

All right, Mr. Holt, you may call your next witness.

MR. HOLT: Your Honor, the State will call Jennifer Stoner from SLED.

THE COURT: All right.

THE CLERK OF COURT: Put your left hand on the Bible and raise your right.

WHEREUPON,

JENNIFER M. STONER,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: If you'll have a seat and state your name for the record.

THE WITNESS: Jennifer M. Stoner.

DIRECT EXAMINATION

BY MR. HOLT:

Q Ms. Stoner, where are you currently employed?

A I'm employed by the South Carolina Law Enforcement Division in the trace evidence section of the forensic lab.

Q All right. And the South Carolina Law Enforcement Division is more commonly known as?
A It's known as SLED.
Q All right. And I think you stated your occupation. Can you say what it is you do within that department?
A Within the trace department we have several different categories of testing in which we perform analysis. We perform gunshot residue analysis. We perform fiber analysis, paint analysis, glass analysis, explosive analysis, fire debris analysis, and what is called a trace other category which encompasses many different unknown identifications and comparisons.
Q How long have you been doing that?
A I've been at SLED for 16 years and I've been in trace evidence for 15 years.
Q All right. What did you do before that?
A I graduated college and then I spent -- I was hired by SLED, and I worked for a year in the analysis department.
Q What was your major from college?
A Chemistry.
Q Okay. And did you receive any specialized training after college while you were with SLED?

A I went through a four year training program -- well, first when I started the drug analysis department I attended criminal justice academy and completed the in-house drug training program so that I was qualified to analyze controlled substances. After a year in that department I transferred into the trace evidence section and began a four year training program under the supervisor and the senior analyst in that department. During that time frame and up until currently I do take numerous courses and classes that will be put on in types of analyses that we perform for on the instrumentation that we use to perform the analyses.

Q And what is gunshot residue like you were talking about earlier?

A Gunshot residue is a term that's used to describe a cloud that's formed when a weapon is discharged. May I show a picture?

Q Yes, ma'am.

A Can I stand up?

Q Sure.

THE COURT: Yes.

THE WITNESS: These are pictures of several different guns and just shows a cloud of debris that comes out of a gun when it's fired.

This cloud contains microscopic particles that will deposit on your hands, on your clothes, or anything in the vicinity to the weapon when it was discharged.

Q And what do you call the process by which you look for GSR? What's that called?

A Can you rephrase that?

Q What types of equipment are used in looking for GSR?

A When we analyze for GSR we use an instrument that's called a scanning electron microscope. All it does is it does an automated search of our samples, magnifies them, and then performs a chemical analysis to determine what each particle is made of elementary.

Q Now doing this for a living are you a member of any professional organizations associated with doing this type of work?

A I'm a member of the Southern Association of Forensic Scientists and a member of AFTEE, which is the Association of Trace Evidence Examiners.

Q Now have you ever testified as an expert in court before?

A I have.

Q And approximately how many times?

A I've testified 76 times.
Q And were you made an expert each time?
A I was.
Q And approximately how many GSR or gunshot residue tests have you conducted?
A Over the 15 years that I've been in trace I've probably examined well over a thousand examinations on GSR.
Q All right. In what courts have you testified?
A I have testified in federal court, state court, and that court in New Jersey.

MR. HOLT: Your Honor, at this time the State would ask Ms. Stoner be qualified as an expert in the field of trace evidence.

THE COURT: Voir dire regarding qualification, Mr. Jones?

MR. JONES: Just one question, Your Honor.

THE COURT: Yes, sir.

MR. JONES: Your 76 qualifications as an expert, how many of them have been associated with GSR?

THE WITNESS: Probably about 40.

MR. JONES: I have no further questions.

THE COURT: All right.

MR. SWILLEY: I have none.

THE COURT: All right. The Court will qualify this witness as an expert in the field of trace evidence, specifically in gunshot residue analysis. Ladies and gentlemen, let me tell you what that means. Ordinarily if a witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those things which are within the perception of the witness are granted based on the perception of the witness are help to have a clear understanding of the witness' testimony and do not require special knowledge, skill, training, or experience. However, if scientific technical or other specialized knowledge will help the trier of fact, and that's you in this case, to determine a fact and issue, a witness qualified as an expert by knowledge, skill, experience, training or education, may testify in the form of an opinion. So basically the difference between the nonexpert witness and an expert witness is that an expert witness is allowed to give an opinion on matters within their field of expertise. Okay?

I've qualified this witness as an expert in the field of trace evidence specifically gunshot residue.

MR. HOLT: Thank you, Your Honor.

BY MR. HOLT:

Q Now how do things work at your department? Specifically how do you get evidence, how does the testing process work, and how is it conducted?

A Evidence comes into the laboratory by the individual police agency or a coroner's office or fire department, depends on the type of evidence that is submitted. The submitting officer will -- or evidence custodian, will bring the evidences into the facility. They wait until there's an opening in the log-in section. The log-in section is where all evidence intake occurs for the lab. Once they go into the log-in section they present their evidence to the technician that is working that area. They fill out -- they usually pre-log things. They fill out like suspect's name, victim's name, where the incident happened and the items they're submitting. The evidences is logged in. It's given a unique lab identifier, and each item is given a unique item number. The evidence is sealed in the presence of the officer bringing it in, and it's then transferred to evidence storage area for each department from which we pick up the evidence.

MR. HOLT: Permission to approach, Your

Honor?

THE COURT: Yes, sir.

BY MR. HOLT:

Q I'm gonna show you what's been marked for identification purposes as State's Exhibit 8 and ask if you can tell me, do you recognize that object?

A This is a paper bag that would have come in a sealed box. We usually don't receive evidence in bags. It's usually in an outer box with all areas sealed and initialed. But on the back of this it has the lab number of the case, item number, initials, and the date, so I can recognize it.

Q All right. And since the last time you've seen it have there been any changes or alterations made?

A I sealed it here with my initials and date and the seal is still intact.

MR. HOLT: Your Honor, at this time the State would ask we introduce into evidence State's Exhibit 8.

THE COURT: 8. Any objection, Mr. ---

MR. JONES: No.

THE COURT: ---Jones? Mr. Swilley?

MR. SWILLEY: If I can see it.

(Pause.)

MR. SWILLEY: No, sir, no objection, Your

Honor.

THE COURT: All right, admitted in evidence, State's Exhibit Number 8 without objection.

(WHEREUPON, State Exhibit No. 8 was admitted into evidence.)

BY MR. HOLT:

Q Can you tell who in your department signed for that, where it went, and when you received it?

A This evidence I received 10/2/2013. That is when we opened it, processed it, and re-sealed it.

Q And can you open it now? Who sealed it?

A I did.

Q All right.

A Do you want me to take it out?

Q Uh-huh. Is it sealed again?

A When we process evidence for gunshot residue we process in an evidence processing room. For most of our evidence we lay down what we call butcher paper to collect anything that may fall off of the evidence while we're processing it in case we need to preserve it. In this case we processed the evidence on the paper, wrap it in the paper, and then we take it and seal it again.

Q Now within that second layer of protection can we

unwrap that and see what's in there?
A Does anyone have a knife for this one? Or scissors?
THE COURT: You can't bring knives to the courthouse.
THE WITNESS: You can't. Thank you.
(Exhibit is opened.)
BY MR. HOLT:
Q Can you just describe to the jury what that is?
A This is a blue T-shirt we collected gunshot residue from?
Q All right. Now I want to ask you to look at and see if you recognize State's Exhibit 19.
A State's Exhibit 19 are the samples that we collected from the blue T-shirt.
Q All right. Now have you seen them before?
A Yes, when I collected them and sealed them.
Q So since you sealed them have there been any changes, alterations, or deletions made?
A No, the seal is in tact on the top of the envelope. It has not been.
MR. HOLT: Your Honor, at this time the State would move State's Exhibit 9 into evidence.
THE COURT: Any objection, Mr. Jones?
MR. JONES: No, sir.

THE COURT: Mr. Swilley?
MR. SWILLEY: No, sir.
THE COURT: All right. Admitted into evidence without objection State's Number 19.
(WHEREUPON, State Exhibit No. 19 was admitted into evidence.)
BY MR. HOLT:
Q All right now, feel free to look at your report. But using State's Exhibit 19 and 18 can you explain to us what you did and what you found?
A This is -- we make our own samples, particle collectors in the lab. We don't actually use the GSR kit for these collections, but it's the same type of collection kit that was used. What we do is we open the shirt and lay it out flat on the front because if you discharge a firearm you don't expect to find anything on the back of the shirt. We're looking at the front of the shirt. We look at the chest area and the sleeve area of the shirt. So we will take these, use four them and dab over each area and then mark the particle left of the area it was collected from.
Q All right. Now specifically on that shirt did you find any GSR, gunshot residue?
A On this shirt, which is item 11, and the particle

lift that I collected from the shirt are item 11.1, I found one round particle associated with gunshot residue in my collection from that shirt.

Q Why would the particle be round?

A When a firearm is discharged there's a lot of heat and pressure involved in that, and that heat and pressure causes the particular matters ejected from that gun to become molten which causes the particular matter to become round.

Q Okay. Now what -- let me ask you this.

MR. HOLT: Permission to approach, Your Honor?

THE COURT: Yes, sir.

BY MR. HOLT:

Q I'm gonna show you what's been marked as State's Exhibit 18 and ask, without telling me what it is if you recognize it?

A This is the lab number from the case I am testifying on with the container number which contains items of evidence and my initials are on it when I picked it up and when I sealed it.

Q So since last that bag was opened you were there?

A Yes, seal was intact.

Q All right. Have there been the changes to the bag that you can tell?

A There's a State's exhibit sticker on it.

MR. HOLT: Your Honor, at this time the State would ask to move State's Exhibit 18 into evidence.

THE COURT: Any objection?

MR. SWILLEY: I have no objection.

MR. JONES: I have none.

THE COURT: All right admitted into evidence without objection.

(WHEREUPON, State Exhibit No. 18 was admitted into evidence.).

BY MR. HOLT:

Q All right, Ms. Stoner, crack the bag open and tell us exactly what we got inside. Why did you seal it back up and unseal it? What's the purpose of all this?

A Just to show that the evidence is secure, that when we received it it was sealed and initialed so that we can show that no one had tampered with the evidence prior to us receiving it and that when it was presented to the agency it was not tampered with after the analysis: Container B contains three GSR kits from Joshua Reed, Johnathan Reed, and Milton Hunter.

Q All right. Now what GSR did you find on any of

those containers, or any of those GSR kits?
A On the kit from Milton Hunter we did not perform an analysis on that. With gunshot residue, when you're as a victim and you're shot, we expect to find gunshot on you because the barrel of the gun was pointed at you and all that residue is going towards you. A lot of the questions we get asked, did the victim have a gun. We're unable to answer that question so we're moving towards not analyzing victim kits. And in this case I called to find out if they needed the victim kit analyzed. It was told I did not so we did not proceed with that analysis.
Q All right. How about the other two?
A The kit from Josh Reed on the right palm -- when you collect a gunshot sit kit you collect from the right palm, back of the right hand, left palm and back of the left hand. So we have four separate collection areas. On the right palm I found one particle of gunshot residue. On the back of the right hand I found one round particle associated with gunshot residue and the left palm and the left back I did not find any particles associated with gunshot residue.
Q And who was that on?
A That was on Josh Reed.

Q All right. And what about the second kit?
A Number 9 was a kit from Johnathan Reed. On the kit from Johnathan Reed, on the back of the left hand I found one round particle consistent with gunshot residue.
Q And on the other hand?
A And the other areas of the hand, negative.
Q All right. Now is the information stored from your findings on any type of report?
A We generate a report which is State's Exhibit 21. This is the report that I generated from the evidence I analyzed in this case.
Q And you recognize it?
A Yes.
Q Has anybody changed it or deleted anything or messed anything up since last you've seen it?
A It did not appear to be.
Q Okay.

MR. HOLT: Your Honor, at this time State would ask to move ---

THE COURT: State's Number 21.

MR. HOLT: State's number 21 into evidence.

THE COURT: Mr. Jones?

MR. JONES: I want to look at that.

(Pause.)

MR. JONES: No objection.

MR. SWILLEY: There is none.

THE COURT: Admitted into evidence without objection.

(WHEREUPON, State Exhibit No. 21 was admitted into evidence.)

MR. HOLT: Thank you very much, Your Honor. Your Honor, I don't believe the State has any further questions.

THE COURT: All right. Mr. Jones?

MR. JONES: Yes, sir.

CROSS-EXAMINATION

BY MR. JONES:

Q Ms. Stoner I'm sensitive to rank. Are you Agent Stoner or Ms. Stoner? Tell me how to address you.

A I'm a lieutenant.

Q All right. Sorry, Lieutenant. I have several questions. Did I understand that the GSR evidence got to you on October the 2nd this year?

A That is when -- it came into SLED on -- I don't have the sheet. It was delivered 2/23/2012.

Q So you got it way back?

A Right, but I did not physically have it in my custody until recently.

Q Was it stored somewhere at SLED?
A It is either stored in our log-in section downstairs in the secure evidence storage or in our department in our evidence room.
Q When did you you actually get possession of it?
A On October first of this year.
Q Okay, all right. Now does it make any difference that it sat somewhere for a year-and-a-half before you analyze it?
A It does not. With gunshot residue, once you collect the evidence it will stay there until it's physically removed or destroyed.
Q Okay. Particularly as to the shirt, did you collect the evidence off the shirt in October or did somebody collect evidence of the shirt in February of 2012 and just store it?
A It was collected on October 2nd of 2013.
Q Okay. Now your picture that you had of the cloud, I don't believe that's in evidence, but could I see that a second?
A Which one you want? All three of them?
Q I didn't know you had three. Okay, let's look at those top two. And would it be a fair statement to say that that top picture of the cloud -- and if you can hold that up for us -- is that one gunshot?

A Yes.
Q Okay. And this probably is a silly question but do you have any idea, educated guess, how many little GSR particles might be in that cloud?
A Thousands.
Q Thousands, okay. So if there were five shots there would be five clouds?
A Each time the weapon is shot it would produce another cloud. Yes.
Q Okay. Again, with thousands of little particles floating around?
A Yes.
Q Okay. And if in those five clouds of thousands of particles, over five thousands of particles that are floating around, if a person was in the vicinity -- or let me ask this, how close do I have to be to come into contact with a cloud?
A It depends on the caliber of the weapon.
Q All right.
A Larger caliber weapons will produce a larger, more dense cloud than a smaller caliber weapon.
Q Okay.?
A The general rule we look at is within three to five feet of that cloud.
Q Okay, that's a good start. So I'm three to five

feet away and I've got thousands of particles floating around. What surfaces might those particles attach to?
A They can land on anything in that vicinity.
Q Okay. So it could be skin, it could be clothing, it could be tables, it could be anything?
A Yes.
Q All right. Once a particle has attached to something -- and let's use a hand, okay?
A Uh-huh.
Q If I got -- if I'm firing five times and I've got thousands of particles all around and some of them would probably come into contact with my hand ---
A Yes.
Q ---would that be a fair statement?
A It is.
Q Okay. Is it possible for those particles to transfer to another object from my hand?
A It is possible. We don't -- I don't have any transfer studies on how many you expect to transfer, but anything in that cloud can obtain particles on it if it's in that vicinity.
Q Okay.
A And you can transfer it from your hand.
Q All right. And so if I have particles around and

they could be on my clothes, they could be on my hand, it could be anywhere, correct?
A Yeah.
Q And as I'm moving around could those particles then attach to something else? Such as, let me give you an example. If I grab the door handle could a particle attach to a door handle?
A It could.
Q Okay. Or any other object?
A Yes.
Q Okay. Were you asked to examine GSR from any other objects other than what you just mentioned?
A We were not.
Q Okay. Such as a door handle to a vehicle?
A We normally do not analyze those, but if asked we do. But we cannot -- if I collect something from a door handle I can't tell if it got there from transfer or if it was vicinity to a shot being fired.
Q Okay.
A So that's -- we normally aren't asked that question to analyze those, but if we are, we will do it. I can't answer, say yes, that was from transfer.
Q Got you. It's just there?

A It's there.
Q All right. If I have a gun in my hand and I shoot five times with five clouds of thousands of particles and I put that gun in my pocket, would it be a fair assumption that there may be particles in my pocket?
A Yeah.
Q Were you asked to examine any items of clothing that had pockets?
A I was not.
Q All right. The -- is it number 8 or number 18? Which one was the shirt?
A The shirt I believe was 18. You mean State's Exhibit or item number?
Q I'm sorry, State's Exhibit?
THE COURT REPORTER: 8.
THE WITNESS: 8, sorry.
BY MR. JONES:
Q Number 8. That was a blue shirt that you identified as being from Mr. Joshua Reed; is that correct?
A It was -- I was told that it was from Johnathan Reed.
Q Of Johnathan Reed, I'm sorry. That's item number 8?

A Well, it's my item number 11.
Q Okay.
A It's State's Exhibit 8.
Q All right, sorry. Let me back up a minute. Let me go back to the cloud we're talking about with these thousands of particles going around. And I had asked about the, a pocket of a item of clothing that possibly could have particles in it, all right. And you told me that it was also possible to transfer from a hand with particles to another object and have -- but you don't how -- I guess my question is, you can't determine whether or not a particle came initially from the cloud or got transferred somehow; is that correct?
A That is correct. And in our results for that it could have, we do a positive that it could have been from being in the cloud, handling, firing, or being in the vicinity of discharging a firearm or touching something that had gunshot residue on it.
Q Okay. Now if I have shot a gun five times with thousands of little particles floating around, would it be logical to assume that I would have more than one particle on the inside of my palm and one particle on the outside of my palm?
A It depends on what you have done after you have

fired the gun. When you collect a gunshot residue kit we can only link anything found on the hands to six hours prior to when that kit was collected, or six hours from the time of the shooting. So if you shoot a weapon and you wash your hands or wipe your hands off, your body also absorbs that residue so everything you do with your hands will remove it. It doesn't stay on your hands indefinitely. After we've done in-house studies, after three to four hours, we don't see anything on the hand from firing.

Q Got you. All right.

MR. JONES: If I might approach, Your Honor?

THE COURT: Yes, sir.

BY MR. JONES:

Q If I did this, could I transfer a particle from me to you?

A You could.

Q Okay. And if I did ---

A If you have particles on your hand.

Q Correct. Let's assume that I have a gazillion particles.

A If you shot a gun and you shake my hand, yes.

Q If I do this, I'm gonna get one on the outside,

on the inside if I got them on both hands?
A It's a possibility, yes.
Q Okay. And any -- is there any other contact that could or any other way other than direct physical contact that these particles can get on something?
A Just from handling the weapon, firing the weapon or being in the vicinity to it, or touching something that has gunshot on it.
Q Okay. And I don't think I asked this but the cloud that's floating around for about three to five feet, do you have any idea how long that cloud stays a cloud before the particles disburse or fall down?
A I don't. These are taken with high speed photography so you don't even see this cloud when you fire a weapon so it's not visible to your eye when you see it. But I, I don't have any knowledge of how long it will stay; it depends on the caliber of the gun.
Q Okay?
A And the ammunition.
Q All right, and a couple more questions. The kit that came from Mr. Hunter, tell me again why you did not analyze that one?
A We in the past we would analyze victim GSR kits, but more often it was happening we were being asked

did the victim have a weapon, could they have fired a weapon. And we can't answer that question because we expect to find it on their hands from being shot so we've away from analyzing victim GSR kits unless there are extenuating circumstances that they need it analyzed so we're not routinely doing it anymore. And in this case I called to find out if they needed it done, and they told me it was all right to not analyze in this case, that if something came up in the future we could look at it but there was no question they needed answered with this kit.

Q Okay. When you -- but before we leave that, if I am, if I'm shot in the head area why would you it be logical to assume I'm gonna have gunshot residue on my hands?

A We find it on the hands of almost all victims that have been analyzed that have been snot in various different positions of being shot. It just, the cloud, it disburses, and you find it on the victims.

Q Okay. Again, we don't know in this situation because it wasn't analyzed?

A I did not analyze it.

Q All right. And there was some -- there was a question or two yesterday that left me a little

confused. Do you have a limit on how many GSR analyzes you can do in any particular case?
A No. There is confusion with that within the lab I think because the DNA department has a limit on samples per case. We do not have a limit. But I have had several calls from different agencies over the past few months asking me that so we're trying to let them know there is no limit for that. We -- whatever you collect we will analyze.
Q So in this case if you had items of clothing or swabs from steering wheels of the vehicle or swabs from a door or any of that nature, you could have done all of that?
A I could not do swabs. If it was a particle collection I could have analyzed it, but it would be very time consuming so they have to decide what they -- the time frame they need the evidence analyzed and what they're bringing in.
Q I think I used the wrong terminology but if -- how would you get a GSR particle off of, say a door handle to a vehicle.
A Using the particle lift.
Q That little thing ---
A Standard collection for any gunshot residue.
Q ---that you dab on there?

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A Yeah.
Q Okay, got you. But you could have analyzed if you had received that type of, what you call that again?
A A particle lift.
Q Particle lift from any item?
A I could have if the agency requested, yes.
Q Okay.

MR. JONES: One second please, Your Honor.

THE COURT: All right.

MR. JONES: No further questions. Thank you.

THE COURT: All right, cross-examination, Mr. Swilley.

CROSS-EXAMINATION

BY MR. SWILLEY:
Q Ms. Stoner, at the beginning of your report it says that there's three types of particle that you found, right? Actual gunshot residue particles, particles that are consistent with prime or residue, or particles that are associated with prime or residue; is that correct?
A That's correct.
Q Okay. Now as far as, tell me, so there's the actual particles of gunshot residue that you, that

you come to the conclusion actually came from a gunshot. And what's -- is that correct?
A Yes.
Q And what's the difference between a particle consistent with the primer and particles that are associated with primer?
A When the cloud formed you're gonna get all different types of particles in that cloud. You're gonna have the three component particles with the barium, antimony, and lead which are considered the gunshot residue.
Q Okay.
A These are the ones that are considered unique to gunshot residue; they came from the discharge of a firearm. Other particles are produced during that discharge which we consider consistent and associated. That just means the consistent particles are usually two component particles. They don't have all three of those components present. And there are possibilities; they could have come from another source. Normally we look fireworks can give you molten particles, but usually in fireworks we have sulfer, magnesium, different elements present that we cannot have present in any particles that we call consistent or associated with gunshot

residue. Associated particles are, I would say, the third positive that we have because they're basically round lead particles. You can find those in other applications, but usually there's iron present, or yet again, magnesium or sulfer. If those are present we don't call them and they're considered a negative. In this case they were round lead particles which fell into our category of particles associated with gunshot residue.

Q Okay. And am I correct when I say that the -- you said the actual gunshot residue which is a combination of lead, barium, and antimony, those are unique to gunshot residue?

A They are.

Q And the particles that are consistent are the two, you said the two composite particles?

A Usually two component particles.

Q Two component particles. Is that more consistent with like, I guess, the residue that drifts further from the gun I guess?

A No, it's not. It's just, all these particles are formed but since there is a possibility that something else in the environment could provide that even though I had no indication of it, we put that disclaimer in there because it is a possibility.

Q And then the particles that are associated with a single component ---
A Yes.
Q ---and that's the least, I guess that would be the least consistent with gunshot residue?
A It's gonna tier. The gunshot residue is most positive consistent than associated.
Q Okay, all right. And I'm gonna refer to your item 9, 9.4.
A Uh-huh.
Q You have -- that's the left back of Johnathan Reed. Say you have one particle that is consistent with gunshot residue that was found -- and this is the particle that, that may originate from additional sources, correct?
A Uh-huh, yeah.
Q And as to your 9.3 which is the left palm of Johnathan Reed, there was no, nothing found, correct?
A No prime or gunshot residue was found.
Q As to the right back of Johnathan Reed there was no prime or residue found, right?
A That is correct.
Q And as to right palm of Johnathan Reed there was no prime or gunshot residue found, correct?

A That is correct.
Q All right. And I'm gonna refer to your 8.1 which is the right palm of Joshua Reed. That was one particle of gunshot residue which is the, unique to the gunshot -- you said it's unique to gunshot residue, right?
A Yes, sir.
Q And then right back was one particle that was associated with the gunshot residue of Joshua Reed, item 8.2?
A Yes.
Q Okay. Now is it -- now is having gunshot residue on both sides of a hand, is that more consistent with firing, or firing a weapon or holding a weapon than just having particles consistent on one side?
A Can you rephrase that please.
Q Sorry. Now is having gunshot residue on both sides of your hand, is that more consistent with firing a weapon or holding a weapon than if you just have particles consistent with it on one?
A It's not -- it just means that I found something that I can call gunshot residue. The other particles are consistent or associated. You see it in gunshot residue; but the fact that it's on the palm in the back, it just means you were in the

vicinity to that firearm when it was discharged.
Q Right. You just -- so with the -- with 9, with item 9.4 where particle consistent, that just means that you -- it was -- it was likely you were in the vicinity when the gunshot was fired, correct?
A That's correct.
Q Okay. And that's Johnathan Reed, 9.4, correct?
A And when we report, even when we find gunshot residue on hand, we can't say that they fired a weapon as opposed to have been near the weapon when it was fired.
Q Right, right, okay. And if you held a weapon that had been fired at some time, would you be more likely to have gunshot residue on your palm?
A Anything you handle will touch the area of your hands if you would, so yes, handling on your palms you would more likely find it on your palm.
Q You mean more likely that you held a gun that it found on your palm, right? You mean it was more likely gunshot residue, for any residue found on your palm is more likely you have it on your palm. And if it's not found, more likely that you didn't, correct?
A If you have it on your palm I can say you handled a weapon or you were in the vicinity when the weapon

was fired.
Q Okay.
A But I can't tell you if -- what happens is, after you're in the vicinity to a weapon when it's fired or if you fire a gun, anything you do will remove that residue and after actually three to four hours we don't expect to find any. So if you collect a kit and I only find two particles on it, I don't know what happened from the time it was collected until I, the evidence was collected.
Q Okay.
A So when the gun was shot and the evidence was collected, the particles could have dissipated, could have been removed. They may not have been there to begin with; I have no knowledge of that. So therefore, when I find something, I have to say that it was either you fired a weapon, you were near a weapon when it was fired, you handled something that had gunshot residue on it.
Q Okay. And the T-shirt, the bag the T-shirt came in, do you have that, this bag? All right. And you said, you testified to Mr. Jones you were told that was a T-shirt of Johnathan Reed?
A I have a note on my sheet that I wrote down. It said Johnathan Reed, but I may have misunderstood

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them. I just analyzed it, and I did not have the name in the report of who it was from.
Q And that evidence property right here, it states that it was the T-shirt of Joshua Reed, correct?
A It does.
Q Okay. So there's really no way for you to know what person that T-shirt --
A I have to go with what was on the bag.
Q Okay.
A What they submitted it as.
Q Okay, I understand. I have nothing further.
THE COURT: Redirect?
MR. HOLT: None, Your Honor.
THE COURT: All right, thank you ma'am. You may step down.
Mr. Holt, make sure that the court reporter gets all these exhibits now before she packs up her stuff and leaves and takes things that were not exhibits.
MR. HOLT: Your Honor, at this time the State will call Terry Anderson.
THE COURT: All right, let's take a break before we start.
MR. HOLT: Oh, I apologize.
THE COURT: Ladies and gentlemen, it's

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about -- you've been in the courtroom about an hour 15 minutes. We're gonna take a morning break at this time before we go with the next witness so go to your jury room. Relax about 10, 15 minutes. We'll send for you very shortly. Do not discuss the case among yourselves.

(WHEREUPON, the jury was removed from the courtroom and the following proceedings commenced in open court.)

THE COURT: All right, I want to put my reasons on the record for the overruling of the objection of Mr. Jones and Ms. Wooten and Mr. Swilley with regard to the weapon. I did not want to in the presence of the jury because it might be, fear to be a comment on the facts, but I do think that I need to put my reasons on the record. And before I do that, Mr. Holt, do you have a copy of the search warrant? I don't think it's been introduced, but I'd like to see a copy of it, mainly the return part of it, just the return. Do you have the return?

MR. HOLT: Your Honor, it was used for information during the motion that we had first thing Monday morning. Yes, sir.

(Document tendered to the Court.)

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THE COURT: All right. With regard to the Exhibit 6 being the semiautomatic pistol and Exhibit 7 being the round found in the pistol, the Court overruled the -- first of all, there was no objection to the search warrant itself, and so it was not a motion to suppress because of an improperly obtained search warrant but was a motion to suppress the evidence obtained on that search warrant on the grounds of relevancy and even if relevant, that it was not admissible under 403. I ruled that it was relevant, and to me it is relevant because it corroborates the testimony of Asia Gregg that Johnathan had a gun in his pocket. It is probative, and as far as 403 is concerned, it is probative of the fact that he participated in the crime and was not merely present for a bystander and this probative value is not substantially outweighed by the danger of unfair prejudice, confusion of the issues or misunderstanding or misleading the jury. So that's where I see the relevance, that it is relevant to the fact that another -- it corroborates the testimony of another witness that he had a gun and this shows that he did have access to a gun or ownership of a gun, and so it's relevant for that factor. And I think that it's probative of the fact

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that he was not just merely present but was a participant or could have been a participant in the circumstantial evidence of his participation, and the jury has the right to consider that.

The reason I asked for the search warrant is that the State did not offer a number of things that were seized in the search warrant that I think are clearly irrelevant and should not have been introduced, and I would not have allowed them such as a box of .45 caliber Federal rounds, a box of .38 special Federal rounds, a box of .40 caliber S&W federal rounds, another -- a baggie of marijuana, a Winchester 410, other weapons, I mean other rounds, Federal rounds, and plastic sandwich bags containing three small bags of marijuana and plastic sandwich bag of marijuana found in the kitchen and the green leafy substance. All of those the State did not offer, and I do not think they're relevant to the issues that are here. But I do think that one, or those two things that they did offer are relevant for the reasons that I have stated because they do corroborate the testimony of another witness in this case, and the probative value is not substantially outweighed by the danger of unfair prejudice. So that was the reasons for allowing that and I just

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wanted that record to reflect that.

All right, counsel, we'll take ten minutes.

(WHEREUPON, a recess was taken from the proceedings.)

THE COURT: Back on the record with regard to Joshua Reed and Johnathan Reed. The defendants are present in the courtroom with their attorneys. The State is present represented by Mr. Holt and Ms. Parker. Anything before I bring the jury in, Mr. Holt?

MR. HOLT: No, sir, Your Honor.

THE COURT: Mr. Jones?

MR. JONES: No, sir.

THE COURT: Mr. Swilley?

MR. SWILLEY: No, Your Honor.

(WHEREUPON, the jury was returned to the courtroom and the following proceedings commenced in open court.)

THE COURT: All right, thank you. Ladies and gentlemen, we are now ready to proceed. The State will continue to present their case.

Mr. Holt, you may call your next witness.

MR. HOLT: Thank you, Judge. The State would call Terry Anderson to the stand.

THE COURT: All right, Mr. Anderson.

WHEREUPON,

TERRY M. ANDERSON,

having been duly sworn by the Clerk of Court, testified as follows:

THE CLERK OF COURT: Please have a seat.

DIRECT EXAMINATION

BY MR. HOLT:

Q Would you please give your whole name for the jury.

A Terrance Michael Anderson.

Q And how old are you?

A 57.

Q All right. Where are you currently employed?

A I am self-employed as a private investigator.

Q All right. What type of jobs do private investigators do?

A I basically do the same kind of thing I was doing when I retired from the police department, but to a different degree. I investigate car accidents, domestic disputes, child custody disputes. I also do some criminal work for defense attorneys.

Q Now before you were a private investigator what did you do?

A I was with the Hartsville Police Department.

Q For how many years?
A For about almost 13 years.
Q How many years were you in law enforcement?
A Seventeen years.
Q Where did you work the other four?
A Before I went to Hartsville I was in the Bennettsville Police Department ten months and before that I was in Newberry North Carolina Police Department for three-and-a-half years.
Q All right. And in law enforcement for 17 years, on February 15th, 2012, where were you employed?
A I was with the Hartsville Police Department as one of the detectives.
Q All right. And can you explain to us what happened on February 15th, how you were notified of the crime at Pride Park?
A Yes, sir. I was at the police department with Corporal South. Captain Patricia Ray came in and told us there was a shooting at Pride Park. Corporal South and I responded in my car to Pride Park. It took us about 30 seconds to get there.
Q All right. And how did you become primary on the scene and explain to the jury what primary might be?
A I became the primary 'cause I was basically the first detective on the scene so I started collecting

some information. And the primary investigator is basically in charge of the investigation. Lieutenant Rudick or other officers would ask me if I needed something done; I would tell them to do something. If I needed a search warrant, like I told detective lieutenant, or Sergeant Miké Anderson about doing search warrants at the residences. I told Lieutenant Rudick I needed some photo lineups to be shown to witnesses, stuff like that. Basically the primary is someone who coordinates the investigation.

Q And when you arrived at Pride Park what did you notice and what steps did you take?

A When I arrived at Pride Park there were already several officers there; I'm not sure how many. There was a lot of people outside now. The park got a fence around it. Got into the park. The EMS personnel were working on the victim. I was informed about a couple of witnesses that were off to the side. And so because the victim was unresponsive and they were working on him and going to take him to the hospital, I went and spoke with the witnesses.

Q And after you spoke with the witnesses what did you do?

A After that -- when I spoke to witnesses I got some basic information about descriptions or who had done, done the shooting. I passed that information out to the other officers over the radio. I also -- a bunch of people standing outside the fence. I started going up talking to a lot of people asking them did anybody else see anything so I didn't focus on just the three witnesses. I was hoping someone else had seen something, but they weren't in the park when it happened.

Q Did you find any other witnesses?

A No, sir, nobody else.

Q What did you find at the scene?

A At the scene we really didn't find a whole lot. After the victim was taken away, Corporal South and I checked the area. Besides the victim's clothing that was left there from EMS, we checked for any kind of shell casings and stuff. We didn't find any, which indicated to me the weapon used was a revolver.

Q All right. And after you searched the crime scene what did you do then?

A After leaving the crime scene after we secured the crime scene I went down to the police department to the detective division and interviewed the two

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Howard P. King, Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSHUA A. REED,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Joshua A. Reed, at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010, this 13th day of November, 2014.

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 13th day of November, 2014.

(L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2014.