

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Stephanie P. McDonald, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMES ROSE,

APPELLANT

APPELLATE CASE NO. 2013-002750

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS # 2, 4, 14, 16, 17 (ALL PHOTOS OF HOME INTERIOR)

STATE'S EXHIBIT # 28 (PHOTOGRAPH OF DODGE CHARGER)

STATE'S # 34 (PHOTOGRAPH OF INTERIOR OF CAR)

STATE'S EXHIBIT # 96 (911 CALL MADE BY ANTOINE AIKEN)

STATE'S EXHIBIT # 99 (CD OF PHONE CALL)

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
	)	CASE NO. 2012-GS-10-3310
	)	2012-GS-10-3311
STATE	)	2012-GS-10-3312
	)	2012-GS-10-3313
	)	
VS.	)	
	)	TRANSCRIPT OF RECORD
JAMES ROSE,	)	
	)	
DEFENDANT.	)	

VOLUME I OF II

December 9, 10, 11, and 12, 2013

Charleston, South Carolina

B E F O R E:

The Honorable Stephanie McDonald, Judge; and a Jury.

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

Jennifer Shealy, Assistant Solicitor
 Jessica Baldwin, Assistant Solicitor
 For the State

Martha Kent Runey, Esquire
 Megan Ehrlich, Esquire
 For the Defense

OPENING BY MS. SHEALY

1 MS. SHEALY: May it please the Court.

2 THE COURT: Yes, ma'am, thank you.

3 MS. SHEALY: Ms. Runey.

4 **OPENING BY MS. SHEALY:**

5 Good morning. On January 24th, 2012, James Rose and a
6 tall, masked gunman and a short, stocky gunmen killed Leland
7 Shannon. They rode together to Shannon's home. Leland
8 Shannon was shot four times with two different types of
9 ammunition.

10 Let me tell you a little bit about Leland Shannon.
11 First of all, his friends called him Julio. So you will
12 probably hear us refer to him as Julio. He lived in
13 Lincolnville.

14 He had a girlfriend named Tawana Alston. Everybody
15 called her Nikki. He had a daughter named Joy who had just
16 moved back in with him when this happened.

17 Julio did some carpentry work. He was a window tinter.
18 He cooked for his friends. And he sold drugs.

19 James Rose was known as Black, Onyx, "O". Different
20 people would call him different nicknames. And he bought
21 drugs from Julio. And as it was getting closer to January
22 24th Onyx, he was getting mad. He was getting madder. He
23 was getting very mad.

24 Onyx didn't like the way Julio was charging. Onyx
25 wanted his respect. He told a friend that night, I am going

OPENING BY MS. SHEALY

1 to go get my respect back.

2 So what does Onyx do? He arms himself with at least
3 two men with masks and at least two different types of
4 weapons. He orchestrated the killing. Onyx, he wanted
5 what Julio had. He arrived with these goons, his men, in a
6 four-door, gray sedan. And Onyx left with them fleeing the
7 scene.

8 Ladies and gentlemen, the State has the burden of
9 proving to each of you that James Rose is guilty of murder.
10 And he is. The other guys, the ones with masks, they have
11 never been caught.

12 You are here to decide the case against James Rose.
13 Judge McDonald as she indicated, at the close of all the
14 evidence and after we've had an opportunity to give our
15 closing argument to you she will instruct you what the law
16 is in this case.

17 And James Rose is guilty under the hand of the one is
18 the hand of all. That is what we call the law. And she
19 will give you the full instruction as to what that law
20 means.

21 But I will tell you that the hand of one stands for
22 this: If a crime is committed by two or more people who are
23 acting together in committing a crime, the act of the one is
24 the act of all.

25 A person who joins with another to accomplish an

1 illegal purpose is criminally responsible for everything
2 done by the other person which occurs as a result.

3 When you get your men together, y'all get the weapons
4 together, and y'all get the masks together and you go in
5 there and shoot a man in his home with a 16-year-old in
6 the house and a daughter in the house, you are guilty of
7 murder.

8 If two or more people are together acting together
9 assisting each other in committing a crime, the act of one
10 is the act of all...

11 A principal in the crime which Mr. Rose was, is one who
12 act -- is one who either actually commits the crime is the
13 shooter or who is present aiding and abetting or assisting
14 in the committing of the crime.

15 When a person does an act in the presence of and with
16 the assistance of another the act is done by both. It
17 doesn't matter who actually commits the crime. You are all
18 guilty.

19 You don't get to get two men and put them in masks and
20 have weapons and give a signal and they kill someone and get
21 away with it. You are as guilty as they are.

22 Ladies and gentlemen, this case isn't a scientific
23 case. You know how all the television shows now are all
24 about science and all of this miraculous stuff that they do.
25 This case is about witnesses, people who knew and talked to

OPENING BY MS. SHEALY

1 Onyx ahead of time, the people who were at Julio's that
2 night, the people who talked to Onyx afterwards.

3 There is no question he set this thing in motion, that
4 he and his men rode their together with guns and masks.
5 That evening he entered the house you will hear the
6 witnesses tell you James Rose enters the house and he leaves
7 the house. But upon his leaving, masked gunmen come in. No
8 regard for who is in the home.

9 The State does not have to prove to you - and I want to
10 set this out early on - we don't have to prove that we know
11 which one did what while they were in the house.

12 We know they entered. We know they killed Leland
13 Shannon, left him to die. He dies later at the hospital.
14 Shoot him four different times, two different types of
15 ammunition.

16 You don't have to prove to you who pulled the trigger.
17 We have to prove to you that they acted together. They
18 acted together to take this man's life.

19 You will hear from several of the witnesses that after
20 the events occur you will find out where everybody goes.
21 And the ones who knew Julio go to the hospital to see how he
22 is doing.

23 And Detective Perkins, seated right behind their table,
24 in the Charleston County Sheriff's Department they -- they
25 go to the hospital and when Leland Shannon is still in

OPENING BY MS. SHEALY

1 surgery start talking to the people who were there that
2 night. You will hear directly from them. Can you imagine
3 their emotional state that evening.

4 James Rose, he had the motive. James Rose he had the
5 gall. James Rose, he had the buddies. And he caused the
6 death of Leland Shannon. They shot him. And they shot him.
7 And they shot him. And they shot him. And then what did
8 they do? They were hoping to take his stash.

9 Thank you.

10 THE COURT: Thank you.

11 Yes, ma'am.

12 **OPENING BY MS. RUNEY:**

13 Ms. Shealy just told you this is a story of guns and
14 drugs, wheeling and dealing, late night deals, people coming
15 and going, a dangerous lifestyle.

16 And James Rose and Leland Shannon were both involved in
17 that lifestyle. They ran in the same circles. They were
18 friends. They had some of the same friends. And they both
19 dealt in drugs. And yes, that is true because James Rose
20 bought drugs from Leland Shannon. He did the same day this
21 happened.

22 And to be quite honest with you, I can't tell you what
23 these witnesses are going to say, what they are going to say
24 when they come and sit on this witness stand and testify
25 before you.

OPENING BY MS. RUNEY

1 I can't tell you that because they have never told the
2 same thing, never told the same story. It may be a
3 different version today, tomorrow, or back then right when
4 this happened two years ago.

5 From the minute the Charleston County Sheriff's Office
6 responded to this shooting the inaccurate stories were
7 flying. And so, yes, there will be the element of surprise
8 for all of us in here.

9 As I mentioned earlier, James had bought drugs that
10 evening earlier in the day. And there had been a discussion
11 about the price. The price had gone up. And two witnesses
12 that you will hear from, Tawana Alston and Antoine Aiken,
13 they knew that. And they were there.

14 So James Rose was the natural assumption for these two,
15 and they rolled with it. And so when they met with the
16 detective that is what they told him. And that is what the
17 detectives did, went forward and after James Rose..

18 Ms. Shealy also mentioned to you that you will not hear
19 a lot about physical evidence. There will be some things
20 that are admitted into evidence, but none of those things
21 link James Rose to this murder.

22 And it is certainly understandable for friends, family,
23 and even law enforcement to want to find the person who did
24 this, the desire for someone to be held responsible.

25 Someone has lost their life. And regardless of

OPENING BY MS. SHEALY

1 someone's lifestyle, no one deserves to be shot down like
2 this. No one deserved what happened to Leland Shannon. But
3 not at the hands of an innocent man who is not a killer.
4 James Rose bought drugs, but he is not a killer. And he did
5 not kill his friend.

6 His future stands on all the lies that have told in
7 this case. What a scary thing. And you will hear those.
8 And sadly these are the same stories that you will be left
9 to make a decision with.

10 And when you hear all of the testimony in this case you
11 will know that you have made the right decision when you
12 find James Rose not guilty.

13 THE COURT: Thank you. Call your first witness,
14 please.

15 MS. SHEALY: Thank you. Ishmal Weston.

16 THE COURT: All right, sir, if you will come on up and
17 we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: Sir, once you are seated state your first
20 and last name and spell your last for the record.

21 MR. WESTON: Ishmal Weston, W-E-S-T-O-N.

22 (ISHMAL WESTON, after having been
23 sworn, testified as follows:)

24 DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON:

25 Q. Ishmal, if you would please tell the jury how old you

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 are.

2 A. I'm 17.

3 Q. Okay. And where are you living currently?

4 A. In Jacksonville, Florida, with my brother.

5 Q. With your brother?

6 A. Yes, ma'am.

7 Q. Are you in high school now?

8 A. Yes, ma'am.

9 Q. And will you be returning to Jacksonville after you
10 testify?

11 A. Yes, ma'am.

12 Q. Could you tell the jury please if you would back in
13 2012 where did your father live in a relationship to where
14 Julio lived?

15 A. Right next door.

16 Q. Right next door?

17 A. Yes, ma'am.

18 Q. Okay. And did you live with your father or were you
19 only visiting your father back then?

20 A. I was just visiting my father.

21 Q. Did your mother live in the Charleston area?

22 A. No, ma'am, she had stayed in Summerville.

23 Q. Summerville, okay. If you would please; did you know
24 Leland Shannon, Julio?

25 A. Yes, ma'am.

- 1 Q. And could you describe for the jury if you would
2 whether you would ever go over to Julio's house.
- 3 A. Can you say that again?
- 4 Q. Would you ever go over to Julio's house?
- 5 A. Yes, ma'am.
- 6 Q. Okay. Tell the jury what you would do when you would
7 go over there?
- 8 A. Play the game and talk to him and stuff.
- 9 Q. Play what?
- 10 A. I would just play the game.
- 11 Q. And when you say games what are you talking about?
- 12 A. Like the Xbox.
- 13 Q. Okay.
- 14 A. Like Call of Duty and stuff.
- 15 Q. What?
- 16 A. Like Call of Duty.
- 17 Q. Okay, do you know what I need you to do if you would,
18 please, can you talk just a little bit louder for us.
- 19 A. Oh, okay.
- 20 THE COURT: Thank you.
- 21 Q. It's kind of hard, but if you need to get closer to the
22 microphone, that's great. Would Julio ever cook for you?
- 23 A. Sometimes.
- 24 Q. Okay.
- 25 A. For like everybody.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. He would cook for everybody?

2 A. Yes, ma'am.

3 Q. When you would go over to Julio's would he ever tell
4 you you needed to leave?

5 A. Sometimes.

6 Q. Okay. And would you leave?

7 A. Yes, ma'am.

8 Q. Who was Ross?

9 A. He was just like a friend I had know from my daddy.

10 Q. Okay. And is Ross a big guy?

11 A. Yes, ma'am.

12 Q. Do you remember what Julio's girlfriend's name was?

13 A. We just call her Nikki.

14 Q. Nikki. And did you know Joy?

15 A. No, ma'am.

16 Q. Did you ever meet Julio's daughter?

17 A. I had met her like the first night on the accident or
18 what happened.

19 Q. Okay.

20 A. That's the first time I met her.

21 Q. That is the first time you had ever met her?

22 A. Yes, ma'am.

23 Q. Tell us if you would whether or not you knew James
24 Rose.

25 A. Yes, ma'am, I knew him.

1 Q. Okay. And how long had you know him?

2 A. My daddy had knew him for a while, so I see him come
3 around the house like sometimes.

4 Q. Okay. And what did you call him, what ---

5 A. Onyx.

6 Q. --- nickname?

7 A. Onyx.

8 Q. Now before January 24th, 2012, had you ever seen Onyx
9 over at Julio's house?

10 A. Before?

11 Q. Uh-huh. Had you ever see him there before that date?

12 A. No, ma'am, not really. I don't be over there all the
13 time.

14 Q. Okay. Well, let's talk about the 24th then. And
15 actually let's talk about the 23rd, the night it turns into
16 the 24th.

17 A. Yes, ma'am.

18 Q. Had you seen -- had you been over to Julio's that day
19 when it was daylight?

20 A. When it was daylight, for a little bit.

21 Q. Okay. And were there people coming and going that day?

22 A. No, ma'am, not really.

23 Q. Okay. Did you go over there and leave and then come
24 back?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Tell us about that.

2 A. I just like go over there to see what he was doing.

3 And if he ain't doing nothing really, I just go back to my
4 dad's house and wait until later on.

5 Q. And then you do what?

6 A. Go over there and play the game and stuff.

7 Q. Okay. Did you see Onyx over at Julio's that night?

8 A. Yes, ma'am.

9 Q. And could you tell the jury whether he was with anyone
10 or ---

11 A. He was ---

12 Q. --- you saw anyone?

13 A. He was with some white boy.

14 Q. A white boy?

15 A. Yes, ma'am.

16 Q. And was the white boy outside of the car or in the car?

17 A. He was inside the car.

18 Q. Were you in that house when -- when Onyx came in that
19 time?

20 A. Yes, Your Honor.

21 Q. And can you tell the jury what happened when he was in
22 there that time?

23 A. First they was talking. And then I guess they would
24 start arguing. I guess Onyx ain't had enough money to buy
25 something or whatever. So then Julio told him no or

1 whatever. So he had left.

2 Q. Okay. Describe if you would when -- when Onyx left on
3 that occasion how did he appear?

4 A. He was like a normal.

5 Q. Okay. Was he happy; was he angry; was he sad?

6 A. I really don't know.

7 Q. Okay. Did you see Onyx again that night?

8 A. Yes, ma'am.

9 Q. And tell us about when you saw him again.

10 A. I guess he came back with some different people in a
11 different car.

12 Q. Okay. Well, let's do this: Tell me who was inside
13 Julio's house when Onyx came back -- was that the last time
14 he came back?

15 A. Yes, ma'am.

16 Q. When Onyx came back over for the last time who was
17 inside Julio's home?

18 A. It was me, was Julio, his daughter Nikki, and Ross.

19 Q. Okay. And let me show you what's been marked as
20 State's Exhibit 1. Do you see it on the screen?

21 A. Yes, ma'am.

22 Q. Hold on just a second. Can you orient us; can you
23 figure out what is what in this picture?

24 A. Yes, ma'am.

25 Q. Now talk loud enough for everybody to hear, okay?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 A. Yes, ma'am.
- 2 Q. This area right here, those steps lead where?
- 3 A. On the porch.
- 4 Q. Okay. This is the porch?
- 5 A. Yes, ma'am.
- 6 Q. And what is this?
- 7 A. That's the door.
- 8 Q. Okay, I'm not doing a very good job with this. Let me
- 9 let you make the markings, okay?
- 10 A. Yes, ma'am.
- 11 Q. If you would -- okay, that's the door?
- 12 A. Yes, ma'am.
- 13 Q. What does that door lead to; what is that area of the
- 14 house?
- 15 A. It like leads to where the washing machine and stuff
- 16 at.
- 17 Q. Okay. The laundry area?
- 18 A. Yes, ma'am.
- 19 Q. Well, let's back and do State's Exhibit 2. What does
- 20 that picture show us?
- 21 A. The house.
- 22 Q. And if you could, using this pointer -- or maybe you
- 23 could do it with the red. Point to the back porch.
- 24 A. (Witness complied.)
- 25 Q. And point to the front porch.

1 A. (Witness complied.)

2 Q. Okay. I'm showing you State's Exhibit 4. If you walk
3 in that door from the porch is that the area of the laundry
4 room?

5 A. Yes, ma'am.

6 Q. Okay. And when you turn where do you turn to go into
7 the kitchen area; can you show us that on that photograph?

8 A. You turn right.

9 Q. Okay. Once you've done that, showing you State's 16 is
10 that the kitchen area?

11 A. Yes, ma'am.

12 Q. So when Onyx came back for the last time that night
13 you indicated that Ross, Nikki, and Julio's daughter was
14 there?

15 A. Yes, ma'am.

16 Q. And was Julio there?

17 A. Yes, ma'am.

18 Q. Describe what happened once Onyx got to the house.

19 A. When Onyx came back I guess everything was fine or
20 whatever. So he came back to get what he wanted. And then
21 I think Nikki she went outside to go smoke a cigarette. So
22 then Ross had went outside too. And then I guess the dudes
23 in the car had told Ross to tell Onyx to hurry the "F" up.
24 So Ross came back in the house to tell Onyx. Then Onyx told
25 Julio that he needed to hurry up.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Okay.

2 A. Then after that happened then I guess Onyx had got what
3 he wanted and then as soon as he went outside and the door
4 closed we heard Nikki scream.

5 Q. Okay. So let's slow down just a little bit for a
6 second if we could. Where were you when all of this was
7 going on?

8 A. I was in the living room.

9 Q. Okay. And showing you State's Exhibit 16 -- okay,
10 that's 16. Show us where the living room is in connection
11 with that room.

12 A. (Witness complied.)

13 Q. Okay. And showing you State's Exhibit 17 what does
14 that show us?

15 A. Like the whole living room.

16 Q. Okay. In looking at State's 14.

17 A. Yes, ma'am.

18 Q. Could you tell us -- point to us where the kitchen is
19 in that photo.

20 A. Right here (pointing).

21 Q. And in this photo where would the back door be that led
22 to that deck, that porch area in the back?

23 A. Over there (pointing).

24 Q. Could you using this photograph show us which way Onyx
25 left when he left?

1 A. He came out from here and went around there (pointing).

2 Q. Now when that happened could you tell us what do --

3 what do you hear after he heads towards that door?

4 A. We heard Nikki had screamed and then Julio got up to go
5 see what was going on.

6 Q. Okay. And show us which way Julio walked.

7 A. The same way Onyx did.

8 Q. Okay. What happened then?

9 A. Well, he got stopped right here (pointing). And then I
10 could hear, like see people like, like coming inside the
11 house.

12 Q. What do you mean you could hear them?

13 A. Like they're bolstering in the house. I can hear
14 stomping and stuff.

15 Q. Okay.

16 A. And then he stopped right here (pointing). And then I
17 saw like a -- like a black shadow like a shotgun type
18 pointing towards me. And then I was shocked.

19 Q. Okay. Let me slow you down there and let's erase what
20 we've got up there. I know you are better at this than I
21 am. Where do you see the black shadow?

22 A. I saw the black shadow like around here. Because it
23 was dark inside.

24 Q. And what are you talking about; what did it look like?

25 A. It just looked like something pointed towards him.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Towards Julio?

2 A. Yes.

3 Q. Where was Julio when that happened?

4 A. He was like right here (pointing).

5 Q. Okay. Then what happened?

6 A. And then I guess Julio had grabbed the person that was,
7 pointing the gun or something towards him. And then they
8 was fuss -- like fighting a little bit. And then that's
9 when Ross had got up and he had run to the side door.

10 Q. Okay. Now when you're talking about the side door
11 which one are you talking about?

12 A. The front porch area where that first porch at.

13 Q. Okay. So let's go back to 17 for a second. And would
14 you hit that clear button for me, Ishmal.

15 A. (Witness complied.)

16 Q. In looking -- if the person who took this picture would
17 have been standing in the kitchen ---

18 A. Yes, ma'am.

19 Q. Okay. Show us where that front door is.

20 A. Right here. It's like you can't really see it. The
21 refrigerator.

22 Q. I'm showing you State's Exhibit 18. Is that the front
23 door?

24 A. Yes, ma'am.

25 Q. And you see Ross head that way?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. Yes, ma'am.

2 Q. What did you do?

3 A. I had to stand there for a little bit to see what was
4 going on. I was shocked. But as soon as Ross got up and
5 started running I was trying to run behind him. But you
6 know he is a big fellow. So I couldn't get around him. So
7 I just had to -- went in the back bathroom.

8 Q. Okay. Let me ask you this first. When you were
9 telling us earlier that Onyx left and then you heard the
10 guys making the noise in the laundry room ---

11 A. Yes, ma'am.

12 Q. --- how long was it between those two things happening?

13 A. Like it happened so fast I don't really know.

14 Q. Okay. So Onyx goes towards the back door and then you
15 hear the other guys come in?

16 A. As soon as Onyx went back toward the back door we heard
17 Nikki scream first.

18 Q. Okay. Before -- before you heard the sounds of the
19 guys come in?

20 A. Yes, ma'am.

21 Q. And you've told us then you couldn't get out that door?

22 A. No, ma'am.

23 Q. Were you going to go out the porch door ---

24 A. Yes, I was going to go out that door.

25 Q. That door?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. Yes, ma'am.

2 Q. Okay. What about the back door near the laundry room,
3 were you going to head that way again?

4 A. No, ma'am.

5 Q. And you did what instead; you headed where?

6 A. I went to the back bathroom.

7 Q. Okay. And when you say the back bedroom in looking at
8 State's 19 can you show the jury please where the bedrooms
9 are located in that house?

10 A. Back there (pointing).

11 Q. Okay. And showing you State's Exhibit 23. Is this the
12 bedroom -- bathroom that you went to?

13 A. Yes, ma'am.

14 Q. Now let me ask you about the two bedrooms, going back
15 to 19 for a second. When you walk down the hall is there a
16 bedroom straight in front of?

17 A. Yes, straight ahead.

18 Q. Okay.

19 A. Straight to the back.

20 Q. Tell the jury whose bedroom that was if you know.

21 A. Nobody really had stayed there until like my Uncle
22 Kirby would come down and he would stay in that room. But
23 nobody really go back there.

24 Q. Was there something different about that door, that
25 bedroom that is right in front of you when you go down the

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 hall?

2 A. Well, the door is always locked. Like every time he
3 leave he lock the door with the key.

4 Q. Who did?

5 A. My uncle.

6 Q. Your Uncle Kirby?

7 A. Yes.

8 Q. Okay. What about when Julio was there was that door
9 kept locked?

10 A. Yes, ma'am.

11 Q. And showing you State's Exhibit 41. Is that a picture
12 of -- let's see. No, I'm sorry. I'm sorry, I've got the
13 wrong number. State's Exhibit 21. Had you ever got back in
14 that bedroom?

15 A. When my Uncle Kirby been here.

16 Q. Okay.

17 A. Been there.

18 Q. So that is that bedroom that is all the way to the
19 back?

20 A. Yes, ma'am.

21 Q. Do you recall whether not that door was closed in the
22 evening in question?

23 A. Yes, ma'am, it was closed.

24 Q. Okay. And it had a lock on the outside of the door?

25 A. Yes, ma'am, I think so.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. So you're heading towards the bathroom, and you've
2 indicated Ross is headed out the front door?

3 A. Yes, ma'am.

4 Q. Y'all had heard Nikki scream?

5 A. Uh-huh.

6 Q. What happens next; ---

7 A. Yeah, I just heard like ---

8 Q. --- did you hear some gunshots?

9 A. Like one gunshot.

10 Q. Okay. Then what happened?

11 A. Then I went in the bathroom and closed the door. I was
12 like behind the bathroom door. So then I hear people --
13 like you can tell people been in the house like searching
14 for stuff because cabinets and stuff been opened, then like
15 closing ---

16 Q. Where did that noise seem to be coming from, what area
17 of the house?

18 A. From like the living room and the kitchen.

19 Q. Okay. And you were hearing what now?

20 A. Like cabinets opening, like stuff being flipped over,
21 like tear up trying to find something.

22 Q. Okay. Then what happened?

23 A. Then I guess they was coming down the hallway and they
24 went inside the room where Nikki -- where Julio daughter
25 been.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 Q. Okay.
- 2 A. Because she was studying for college.
- 3 Q. Julio's daughter was studying?
- 4 A. Yes, ma'am.
- 5 Q. And you could hear -- what could you hear from the
- 6 bathroom?
- 7 A. I couldn't really hear them talking because it sound
- 8 like something over their mouth.
- 9 Q. What do you mean it sounded like something was over the
- 10 mouth?
- 11 A. Like muzzle. Like I don't.
- 12 Q. Okay. The bathroom that you were in, was it actually
- 13 beside the room that you are talking about?
- 14 A. Yes, ma'am, it is like right next door.
- 15 Q. So while this bedroom is straight ahead, as you go down
- 16 that hall and that bedroom is straight ahead, when you are
- 17 in the hall to the left what is the first room you pass?
- 18 A. That is that first room where she was at.
- 19 Q. A bedroom ---
- 20 A. Yes, ma'am.
- 21 Q. --- where Joy was?
- 22 A. Yes, ma'am.
- 23 Q. And then the next room down is what?
- 24 A. The next room on the left-hand side?
- 25 Q. Yeah.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 A. Then that's the bathroom.
- 2 Q. That's where you were?
- 3 A. Yes, ma'am.
- 4 Q. Was this a mobile home?
- 5 A. Yes, ma'am.
- 6 Q. Was it relatively easy to hear within the house?
- 7 A. Yes, ma'am, because the wall is thin.
- 8 Q. Okay. So you said the voices sounded muffled. Could
- 9 you hear anything that they said?
- 10 A. No, not -- it just sound like they were asking her like
- 11 where the stuff at, like where the money and stuff at.
- 12 Q. Did they ---
- 13 A. She was ---
- 14 Q. --- ask it politely, Ishmal?
- 15 A. No, like they was like -- like angry -- like angry with
- 16 it like mad.
- 17 Q. Well, with the Court's permission could you tell us
- 18 what you heard them say? Go ahead and use a word even if
- 19 it's not a word you usually use in front of people you don't
- 20 know.
- 21 A. Well, I didn't really hear no cursing. It was like
- 22 just give me money or something like that.
- 23 Q. Okay. Did you recognize the voices at all?
- 24 A. No, ma'am.
- 25 Q. Where did they then go after you heard them in Joy's

1 room?

2 A. Then I guess they left out of Joy's room and then they
3 went into the back bathroom like the room, the back room.

4 Q. This room that you're talking about (pointing)?

5 A. Yes, right there.

6 Q. Okay.

7 A. And then it sound like they bust open the door because
8 the door be locked. And then somebody had came to the
9 bathroom door and been like who in here. But I was scared,
10 so I didn't answer them.

11 Q. Okay. What was the next thing that happened?

12 A. Then you heard them like tearing up the back room and
13 stuff. And then I guess they found what they wanted and
14 then they had left. I heard them run out the house. And
15 they got in the car. I heard like doors close. But I don't
16 like know how much doors had closed.

17 Q. You don't know how many doors closed?

18 A. No, ma'am.

19 Q. Okay. Was there any other sound coming from the car
20 after they closed the doors?

21 A. And like when they got on the street like all I heard
22 was like skurr, like a skirt, like they peeled off, they
23 speed off and left.

24 Q. Okay. What did you do then?

25 A. Then I will still in that bathroom. I had wait until I

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 heard his daughter screaming for help and stuff. And then I
2 came out the bathroom.

3 Q. When you came out of the bathroom what area was Julio's
4 daughter in?

5 A. She was like on top of Julio like by the -- the washing
6 machine is.

7 Q. Okay.

8 A. The laundry room.

9 Q. I'm showing you State's Exhibit 4. And can you hit
10 that clear button for me again, Ishmal.

11 A. (Witness complied.)

12 Q. Could you show the jury where Joy was when you saw her.

13 A. She was like over there (pointing).

14 Q. Okay. And did you seek Leland?

15 A. Yes, ma'am.

16 Q. Where was he?

17 A. He was laying down like right here (pointing).

18 Q. What did you do at that point?

19 A. Then I was just -- I stand there, and then I had jumped
20 over Julio. And I went over to get my daddy.

21 Q. And did you in fact to get your daddy?

22 A. Yes, ma'am.

23 Q. And did you go back over to Julio's house that night?

24 A. No, ma'am, because my daddy told me to stay in the
25 house.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 MS. SHEALY: I beg the Court's indulgence just a
2 moment.

3 THE COURT: Certainly.

4 BY MS. SHEALY:

5 Q. Ishmal, I have no more questions for you. But if you
6 would, please answer any the defense may have.

7 A. Okay.

8 THE COURT: Cross-examination.

9 MS. RUNEY: Thank you, Your Honor.

10 CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON:

11 Q. Ishmal, I just have a couple of questions for you.

12 A. Yes, ma'am.

13 Q. You were here in Charleston -- or Lincolnville living
14 with your father; is that correct?

15 A. No, I was going to him like on the weekend.

16 Q. So you were still in Jacksonville but coming down to
17 visit?

18 A. No, I had lived down here -- I was -- I was living down
19 here and then I was staying with my momma like temporary.
20 But I go -- I go see my daddy on the weekend and stuff like
21 that.

22 Q. Where does your mother live?

23 A. In Summerville.

24 Q. Okay. And were you in school in Summerville?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RONEY OF ISHMAL WESTON

1 Q. And if you stayed over at your fathers your dad would
2 take you to school?

3 A. No, because I only go over there for the weekend and
4 then I go back to my momma's house on Sunday.

5 Q. And this weekend had you stayed over longer?

6 A. No, ma'am.

7 Q. And when you heard all the commotion that night you ran
8 to the bathroom?

9 A. Yes, Your Honor.

10 Q. And you were behind the door?

11 A. Yes, ma'am.

12 Q. So you didn't see anybody with a gun?

13 A. All I saw was like a black image. I didn't really see
14 no person or who did it.

15 Q. And when you came out and you saw that Mr. Shannon was
16 on the ground, you jumped over him and ran to your father's?

17 A. Yes, sir. Yes, ma'am.

18 Q. I'm sure you haven't ever seen anything like that
19 before?

20 A. No, ma'am.

21 Q. And you didn't come back over after ---

22 A. No.

23 Q. --- going over to your father's house?

24 A. No, ma'am.

25 Q. Did your father come back over?

CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON

1 A. Yes, he came over to see what -- to see what was going
2 on. And then he told her to call the police and stuff like
3 that.

4 Q. And did your father stick around until the police
5 came?

6 A. I don't -- I really don't know.

7 Q. Do you know if your father talked to the police?

8 A. No, ma'am.

9 Q. You don't know if he did or he did not talk to them?

10 A. I don't know. I was in the house. I was in shock.

11 Q. And he never took you to talk to the police or anybody
12 with the Sheriff's Department?

13 A. No, ma'am.

14 Q. Did you ever go back over to that house?

15 A. No, ma'am.

16 Q. And you never talked with any detectives -- you never
17 told anybody in law enforcement that you were in the house
18 when this happened?

19 A. No, ma'am.

20 MS. RUNEY: Beg the Court's indulgence. That's all I
21 have. Thank you.

22 THE COURT: All right. Thank you. Any redirect?

23 MS. SHEALY: No, Your Honor. I would ask that he be
24 excused from his subpoena so he can return to Florida.

25 THE COURT: Okay. Sir, you may step down. And you are

CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON

1 excused. Thank you.

2 THE WITNESS: All right. Thank you.

3 THE COURT: Yes, sir.

4 MS. SHEALY: We would call Antoine Aiken.

5 THE COURT: All right, sir, come on up and we will
6 swear you in.

7 (WHEREUPON, the witness was duly sworn.)

8 THE CLERK: Sir, you would please state your first and
9 last name and spell your last for the record.

10 MR. AIKEN: Antoine Aiken, A-I-K-E-N.

11 (ANTOINE AIKEN, after having been
12 sworn, testified as follows:)

13 **DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN:**

14 Q. Antoine, if you would please tell the jury how old you
15 are.

16 A. Thirty-five.

17 Q. And where did you grow up?

18 A. First 15 years in Lincolnville and the other part North
19 Carolina.

20 Q. Is that because a parent moved one place?

21 A. Yeah.

22 Q. Who moved?

23 A. My mother.

24 Q. Okay. And why did she move?

25 A. Closing of the shipyard.

1 Q. I'm sorry?

2 A. The closing of the shipyard.

3 Q. Oh, they were closing the shipyard. Okay. Are you
4 related to or were you related to Leland Shannon, Junior?

5 A. Yes, we was first cousins.

6 Q. Okay. And how was that relationship; his -- which of
7 his parents was related to your parent?

8 A. His mother and my father.

9 Q. His mother and your father, okay. What about his
10 father, do you call him your uncle?

11 A. Yes.

12 Q. And is Leland Shannon, Sr., in the courtroom?

13 A. Yes.

14 Q. He is seated right back there on the front row?

15 A. Yes.

16 Q. Now you told us that you lived in Fayetteville for a
17 while; is that correct?

18 A. Yes.

19 Q. Did you get into some criminal trouble while you were
20 in North Carolina?

21 A. Yes.

22 Q. Do you have a 2002 conviction for possession of drug
23 paraphernalia?

24 A. Yes.

25 Q. And do you have in 2004 possession with intent to

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 distribute cocaine and a distribution of cocaine charge?

2 A. Yes.

3 Q. And then what about in South Carolina in 2012 did you
4 get in trouble for possession of cocaine?

5 A. Yes.

6 Q. Are you in fact on probation for that now?

7 A. Yes.

8 Q. Okay. Tell us a little bit if you would about your
9 relationship. Did you call him Julio?

10 A. Yeah.

11 Q. Can you tell the jury a little bit about y'all's
12 relationship. How often would y'all see each other?

13 A. Practically like every day.

14 Q. Practically every day? Where were you living at the
15 time?

16 A. (Inaudible.)

17 Q. I'm sorry?

18 A. I was staying with my grandmother at the time.

19 Q. Staying with your grandmother. Is that where you live
20 now?

21 A. Yes.

22 Q. Focusing your attention then back to January of 2012
23 was Julio living in a mobile home?

24 A. Yes.

25 Q. And showing you State's Exhibit 2. And it's going to

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 come up on that screen in front of you. Is that a picture
2 of Julio's trailer?

3 A. Yes.

4 Q. Show us if you would what is the front porch.

5 A. (Pointing).

6 Q. Okay. And obviously then the back deck or the back
7 porch is where?

8 A. (Pointing).

9 Q. Where is the road that you drive down to get to the
10 trailer? Can you point in right -- the direction that you
11 would be coming down a road to get there?

12 A. What do you mean, the driveway?

13 Q. Well, if you're standing on the front porch, on the
14 front porch, is there a road ahead of you that you turn off
15 of to get back to the trailer?

16 A. Yes, I come right beside it right here (pointing).

17 Q. And is there something in front of that trailer on the
18 same property; is there another building ---

19 A. Yes, a church.

20 Q. And in looking at that photo -- and I'm going to get
21 you to stand. I think it might be a little easier. Could
22 you stand for a second. I'm showing you this pointer. Show
23 us where the church is in relationship to that mobile home.

24 A. Directly in front of the porch probably about 100
25 yards.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. Okay. Now on the other side of the trailer -- I'm
2 going to show you some pictures just so we can get an idea
3 of how it is it set up out there. Okay. Showing you
4 State's Exhibit 100. Are we looking at the front of the
5 mobile home or the back?

6 A. The front.

7 Q. And what is over in this area (pointing)?

8 A. The woods.

9 Q. Okay. Showing you State's Exhibit 101. Hold on just a
10 second and let me clear that screen. If you could, what
11 does that photograph depict; what side of the trailer is
12 that?

13 A. That is the left side of the trailer.

14 Q. If you're looking at the trailer?

15 A. If you're looking at the trailer, yes.

16 Q. So in other words over here is the front of the
17 trailer?

18 A. Over where?

19 Q. Over this -- oh, I'm sorry. Over this way (pointing)?

20 A. Yes. The front of the trailer was on this side.

21 Q. Okay. And then this is the side with the woods
22 (pointing)?

23 A. Yes.

24 Q. This might help us a little bit. State's 102. Where
25 are the woods in that picture?

- 1 A. Over there (pointing).
2 Q. Okay. And then this is the beginning of the back
3 porch?
4 A. Yes.
5 Q. Okay. Or back deck. Talking about Julio, did he sell
6 drugs?
7 A. Yes.
8 Q. Did he do any other type of work?
9 A. He did carpentry work.
10 Q. Okay. And tell us whether Julio would sell it from his
11 house?
12 A. Excuse me?
13 Q. Would Julio sell his drugs from his house?
14 A. Yes.
15 Q. Okay. Did Julio also cook for his buddies?
16 A. Yes..
17 Q. And focusing your attention then to -- well, let me ask
18 you something first. Do you know James Rose?
19 A. Yes.
20 Q. And how long have you know him?
21 A. Like I say, I mean probably about half of my life.
22 Q. Half your what?
23 A. Half of my life.
24 Q. Half of your life, is that what ---
25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. --- you're saying? Okay. Were y'all young boys
2 together?

3 A. I mean be involved on the basketball court when I was
4 younger. He used to be out there playing ball too.

5 Q. Okay. And what do you call James Rose?

6 A. Onyx.

7 Q. Does he go by any other names that you are aware of?

8 A. Just Onyx and "O". That's it.

9 Q. And "O". What did people call you?

10 A. Ross.

11 Q. What is your full name?

12 A. Antoine Aiken.

13 Q. Okay. Is your middle name Renard?

14 A. Antoine Renard Aiken.

15 Q. Now do you know Joy Mills then, Julio's daughter?

16 A. Yes.

17 Q. And could you tell the jury how long Joy had been
18 living with Julio at the time that this happened; do you
19 remember?

20 A. She got there a few days prior to that. Probably about
21 I want to say about three or four days prior to that, that
22 incident.

23 Q. Who else lived at the home with him?

24 A. Tawana.

25 Q. Okay. And does Tawana go by a nickname?

1 A. Nikki.

2 Q. And she was who to Julio?

3 A. His girlfriend.

4 Q. Did you know the kid, Ishmael Weston?

5 A. Yes.

6 Q. And how did you know him?

7 A. His father lived next door and he would come over every
8 now and then.

9 Q. When Ishmal would come over there, what was he doing
10 while he was there?

11 A. Playing video games. Just sitting around. Just like a
12 little kid being in grown people's business. That's it.

13 Q. Being in grown people's business?

14 A. Yeah.

15 Q. Would you ever have to tell him to leave or Julio tell
16 him to leave?

17 A. Yeah, we had before.

18 Q. Now focusing your attention then to January 23rd, the
19 day that -- the events occurred early morning on the 24th.
20 So the day before. What was going on over at Julio's house
21 that day?

22 A. I mean it was just like a normal day.

23 Q. Okay. Meaning what? I mean ---

24 A. Just cooking. I was over there drinking.

25 Q. Who all was there? Were there different people there

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 at different times?

2 A. They were different people there at different times of
3 the day. I can't remember everybody.

4 Q. Okay. Were you there at all when it was daylight?

5 A. Yeah, I was there.

6 Q. And can you tell the jury whether or not you saw Onyx
7 over there during the day?

8 A. Yeah.

9 Q. Do you remember who he came with?

10 A. Came with -- it was him and Amber, Amber Wiley.

11 Q. And who is Amber Wiley?

12 A. I mean at that time I thought it was his girlfriend.

13 Q. Okay. Did you actually know Amber from Lincolnville?

14 A. I mean out at the club, hanging there. But not know
15 personal or nothing like that.

16 Q. Y'all weren't close?

17 A. No.

18 Q. Now when Onyx arrives there with Amber Wiley do you
19 know how they got there, what mode of transportation?

20 A. I don't remember what vehicle they was driving in. But
21 I mean it was a vehicle. That got -- they got there in a
22 vehicle.

23 Q. And do you know whether or not the person inside the --
24 that drove them there got out of the car?

25 A. I just seen them two.

1 Q. You didn't see what?

2 A. I just seen them two.

3 Q. Them two. Okay. Now during that time how long would
4 you say Onyx stayed on that occasion?

5 A. I don't know. Well, we talked for a while. So
6 estimated time roughly about ten -- ten, fifteen minutes.

7 Q. Okay. And during that time with Julio did you hear
8 anything that Onyx was telling Julio?

9 A. No, we all was just out in the yard. So whatever Julio
10 conversated about then earlier that day, I don't know.

11 Q. Okay. What about later, did you ever leave Julio's
12 during the day?

13 A. Yeah, I left -- after that first time I was over there
14 I left. Me and his brother left. Because we was sitting
15 down drinking. We left. I went to the house. His brother
16 went to the house. And then when we came back it was dark.

17 Q. Okay. When you came back did you come back with any
18 other people to celebrate something?

19 A. Yeah, one of my other cousins.

20 Q. What were y'all celebrating?

21 A. It was his birthday.

22 Q. What did you do when you got to Julio's to celebrate?

23 A. We just took a couple of shots.

24 Q. Okay. Other than that cousin did other people join you
25 when you went back there that day?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. Yeah, there was some other people there.

2 Q. Do you see Onyx again that night?

3 A. Yes.

4 Q. And when you saw Onyx could you tell the jury whether
5 or not the people who came over to have a shot were they
6 still there?

7 A. They were still there. But they -- at that point in
8 time they were leaving out.

9 Q. They were leaving. And when they were leaving who was
10 coming?

11 A. When he -- he was already there. But they were
12 leaving.

13 Q. Okay. When he came back that time could you tell the
14 jury after your -- the other group left, who was inside the
15 house?

16 A. Me, Tawana, Ishmal, Julio, and Joy.

17 Q. And Joy?

18 A. Uh-huh.

19 Q. Now do you recall whether or not when Onyx was there --
20 and this would have been the second time Onyx was there that
21 you saw him that day; is that right?

22 A. Yes.

23 Q. Could you describe for the jury what happened between
24 Onyx and Julio on that occasion?

25 A. Well, evidently got into a little confrontation because

1 what it seemed to me is he wanted more than what he was
2 paying for. My cousin wouldn't front it to him. So he
3 got -- he got mad.

4 Q. Who got mad?

5 A. Onyx.

6 Q. And do you recall whether when he was in there talking
7 to Julio about it were the words heated; did they get into
8 an argument?

9 A. I mean it was at a louder tone than normal.

10 Q. Than normal?

11 A. Yes.

12 Q. Do you recall whether or not someone approached the
13 door to try to hurry Onyx out?

14 A. I mean I can't recall. But it has happened before.

15 Q. Who has -- who has tried to hurry him out before?

16 A. They would come there with -- with Onk.

17 Q. Onk?

18 A. Yeah. I mean it happened. But I can't remember if it
19 happened that night.

20 Q. You're not sure if it was that night, okay. When --
21 how long would you say that -- that Onyx was there on that
22 second time that night when they were having the words about
23 the drugs; do you remember?

24 A. I would probably say about ten minutes.

25 Q. Of the second visit?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. Probably about ten minutes.

2 Q. Do you remember?

3 A. I don't really remember how long it was.

4 Q. Okay. Well, if you don't remember, just let me know
5 you don't remember.

6 A. I don't remember.

7 Q. Okay. And what happened when he left; was there
8 anything eventful when he left that time?

9 A. I mean he just said -- I didn't even take him like -- I
10 didn't even take it like he was joking about it. But he was
11 just saying that he would be back.

12 Q. Okay.

13 A. Simple as that.

14 Q. And in fact did he come back?

15 A. Yeah, he came back.

16 Q. How much longer after he left that second time did he
17 come back for the third time?

18 A. About 45 minutes to an hour.

19 Q. And what happened when he came back; how did he get in
20 the house?

21 A. Well, he knocked on the door. Ishmal was right there
22 by the window. He seen him. And he was like that's Onyx.
23 I'm going to go open the door for him. As I went to open
24 the door ---

25 Q. You mean you went to open the door?

1 A. I went to open the door for him.

2 Q. Okay. Now slow down and tell the jury what you saw
3 when you opened the door.

4 A. Well, when I opened the door the first thing he said to
5 me was I told Julio I was going to be back. But said it in
6 like a joking manner.

7 As I opened the door I seen the car, the four-door,
8 midsized sedan sitting right there by the deck pointed in
9 the direction of going out the yard.

10 Q. Okay. Let me slow you down there for just a second. I
11 am showing you State's 3. Can you show us where the car was
12 that you saw?

13 A. Well, it was -- it was over here, but it was like a
14 little further back.

15 Q. Little further back the other way. Okay, let me show
16 you State's 102.

17 A. Yeah, it would have been right here in this area.

18 Q. Okay. And just draw a circle where the front of the
19 vehicle would have been facing.

20 A. (Witness complied.)

21 Q. Okay. And it was pointed out this way (pointing)?

22 A. Well ---

23 Q. This way (pointing)?

24 A. When you are looking at the trailer it would be to your
25 left. It would be facing the trailer.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. Showing you State's 3 again. Okay. In that
2 photograph -- I understand you say it was a little bit
3 further back, but if you were leaving from the back yard to
4 get back out on the road, okay, which way would you go from
5 that trailer?

6 A. Straight -- straight across to the other trailer.

7 Q. How about show us with your finger if you could.

8 A. Just go straight on through (pointing).

9 Q. And then where would you turn to go back out towards
10 the road?

11 A. Right or left.

12 Q. Right or left?

13 A. Uh-huh.

14 Q. Okay. And what way was the vehicle pointed when you
15 saw it when you opened the door?

16 A. The same way I started the line.

17 Q. Facing that way (pointing)?

18 A. Facing that way.

19 Q. When you opened the door and you saw Onyx you were
20 getting ready to tell us about seeing the car. You said it
21 was a four-door car. Do you remember what color it was?

22 A. It was like -- it was either a gray or a white Neon.

23 Q. Okay. And at the time did you remember it being gray?

24 A. At the time I thought it was gray. But I mean it could
25 have been white.

1 Q. Okay. When you saw the car could you tell the jury
2 whether or not anything inside the car drew your attention?

3 A. Yeah, it was -- it looked like it was two people inside
4 the car. I asked him about it. He told me I didn't know
5 who that was so I didn't need to worry about it. So me and
6 him we went back and forth about that.

7 Q. Okay. So let me slow you down. Just because when you
8 are saying I and he it can get a little bit confused. What
9 did you say to Onyx?

10 A. I asked Onyx who was in the car. And he told me
11 that ---

12 Q. Let me stop you there. Tell me how Onyx said it to
13 you.

14 A. He was like -- he's like you don't need to know who
15 that is in the car. He's like you don't know them.

16 I came back and I told Onyx how are you going to tell
17 me who I know. He's like well you don't know them so you
18 don't need to worry about it.

19 Q. And after he said that to you did he come on in the
20 trailer?

21 A. We was underneath the trailer. We was right there at
22 the doorway. And shut the door and locked.

23 Q. Okay. Where did he go once he got in the trailer?

24 A. The kitchen.

25 Q. Okay. And showing you State's Exhibit 16. Is this the

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 kitchen you are talking about?

2 A. Yes.

3 Q. Where did -- what did Onyx do once he got in the
4 kitchen?

5 A. He was sitting down -- the chair is further back. The
6 chair was like right in this area. Sat there in the chair.
7 My cousin Julio was sitting right here in this chair. Ismal
8 was sitting over here (pointing). And I was standing up in
9 the living room over here (pointing).

10 Q. What then happened?

11 A. They were talking at a civil manner. It wasn't like
12 how it was when he left.

13 Q. I wasn't the same way it was the last time he left?

14 A. Yeah. And ---

15 Q. And how long did he stay?

16 A. He didn't stay too long. I mean it was probably like
17 about five minutes.

18 Q. Okay. Was there anything different about how long he
19 stayed that time compared to other times when he comes?

20 A. Usually he come -- usually he come through he come
21 through, you chill for a minute, talk, shoot the breeze.
22 But that time right there was like a lot quicker than
23 normal.

24 Q. When he left would you show the jury please how he
25 leaves from the kitchen. Which way does he go?

1 A. He gets up and walks towards this way (pointing) toward
2 the wall.

3 Q. Okay. And on the other side of that wall, showing you
4 State's Exhibit 6, is that the same wall that you were
5 pointing to on the left?

6 A. Yes.

7 Q. Okay. As you turned that corner, showing you State's
8 Exhibit 4, as you make the turn on that corner, where are
9 you heading?

10 A. Out the backdoor.

11 Q. Okay. Do you need a cup of water?

12 Antoine -- let's just take those down for a second.

13 Can I ask you some more questions? When -- Antoine,
14 when Mr. Rose made that corner to go out the laundry room
15 can you tell us please whether or not Julio does anything.

16 A. He got up to go lock the door behind him.

17 Q. Tell the jury whether or not Julio took the same path
18 that Onyx took.

19 A. Yes.

20 Q. Now could you describe for the jury what happens after
21 Julio turned that corner into the laundry room?

22 A. I mean that's when we heard the first gunshot. And
23 then as he hit the corner somebody -- he met somebody, the
24 fellow -- the tall, slim fellow wearing all black.

25 Q. Now let me interrupt you for a second. When -- when

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1 that happened were you able to see that guy?

2 A. For a brief second.

3 Q. Showing you State's 15. Were you able to see the tall
4 guy -- how did you describe him again? I'm sorry.

5 A. He was a tall, slim fellow.

6 Q. And what type of clothing did he have on?

7 A. He had on all black.

8 Q. Could you see his face at all?

9 A. No, he had on a mask.

10 Q. And when you say a mask what type of mask are you
11 talking about?

12 A. Ski mask.

13 Q. Could you see him in this picture that we are showing,
14 that area shown in that photo?

15 A. Yeah.

16 Q. Okay. Can you point that out to the jury, please.

17 A. (Witness complied.)

18 Q. What happened then, Antoine?

19 A. I mean I was standing over here and ---

20 Q. You were standing where? I'm sorry.

21 A. Over here by this table in the living room.

22 Q. Okay.

23 A. And at that same time everything happened at the same
24 time, the gunshot and my cousin meeting with the dude at
25 that corner.

1 I turned around to go -- because there was a gun right
2 here (pointing). We had kept a rifle right there. I went
3 to go get that, but it wasn't ---

4 Q. Well, let me slow you ---

5 A. --- there.

6 Q. Let me slow you down for that just a second. I'm
7 showing you State's 16. Was the rifle in that room?

8 A. Yeah, it was supposed to have been right here in this
9 corner. But it wasn't there.

10 Q. So what did you do?

11 A. I just tried to go grab something. The only thing ---

12 Q. What did you grab?

13 A. The only thing I could grab was like a pot. That's the
14 only thing I seen close to me to grab.

15 Q. And what did you do with the pot?

16 A. I went around the corner. I heard another shot. And
17 by the time I got there one more shot went off, so I -- my
18 cousin was falling on the floor. I just threw the pot and I
19 ran out the front door.

20 Q. Okay. And when you say you ran out of the front door,
21 showing you State's 17 again, where is the front door in
22 that photograph; where would it -- you can't see it. But
23 where is it?

24 A. (Witness pointing).

25 Q. Okay. And showing you State's 18. Is that a picture

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1 of the front door?

2 A. Yes.

3 Q. Now if you would, please, tell us again as Onyx -- are
4 you okay?

5 As Onyx got up to leave and Julio was following him how
6 long after that did the tall -- did you hear a shot and did
7 you hear the tussling around in the laundry room?

8 A. Say that again.

9 Q. You told us that Onyx turned that corner to go out the
10 laundry room and that Julio got up behind him. How long
11 after Onyx got up to go out to that back door did all the
12 activity take place in the laundry room with the tall, thin
13 guy with the mask?

14 A. I mean it was like probably about ten seconds.

15 Q. Okay. And when you went outside the front door where
16 did you go?

17 A. I ran to -- to the side of the trailer into the woods.

18 Q. Did you have to go through the front porch to get out?

19 A. Yes.

20 Q. Okay. Draw the path that you took.

21 A. (Witness complied.)

22 Q. And at the end of that red line is where the woods are?

23 A. Yes.

24 Q. Could you hear anything when you were in that area?

25 A. I just -- when I got over there I just heard a voice;

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1 somebody saying go to the back room, everything in the back
2 room.

3 Q. Well, when you said that you heard somebody say it, did
4 you know the voice; did you recognize the voice?

5 A. It sounded like Onyx.

6 Q. Okay. And what did he say?

7 A. Go to the back room, everything in the back room.

8 Q. Showing you State's 101, that being that side of it and
9 the woods here?

10 A. Yes.

11 Q. Do you recall where you were when you heard Onyx say
12 that?

13 A. I was still on the front side of the trailer but in the
14 woods.

15 Q. I'm showing you State's 100. You were still over there
16 but in the woods?

17 A. Yeah.

18 Q. After Onyx said that, did you hear anything else?

19 A. I could hear the running through the trailer coming to
20 the back room toward the side of the woods where I was at.

21 Q. Now you've told us where Ishmal was. Where was Nikki
22 before Rose walked out; do you remember?

23 A. She was -- at the same time when she was going outside
24 to smoke a cigarette when I let him in.

25 Q. When you let him in, she was going out?

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1 A. Uh-huh.

2 Q. And when you saw the tall guy with a mask where was
3 Nikki at that point, or do you know?

4 A. I mean she couldn't get back in at that point because I
5 locked the door. So she was outside.

6 Q. She was still outside. Where was Joy?

7 A. In the bedroom.

8 Q. Now when you saw that one guy in the house did you ever
9 see a second person in the house?

10 A. No.

11 Q. At any point do you hear anyone scream from inside the
12 house?

13 A. Well, after I hear all of the running going to the back
14 of the trailer then I heard shortly after that I heard
15 screams.

16 It was Joy screaming in the bedroom. And at that time
17 I didn't hear nothing else. But then I heard: I'll make my
18 way to the other side of the trailer.

19 And I heard another gunshot.

20 Q. After hearing that gunshot did you hear any other voice
21 that you recognized while you were out there in the woods?

22 A. Yeah.

23 Q. What happened?

24 A. I heard Onyx say ya'll hurry up, come on, you're taking
25 too long.

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1 Q. When you make your way to the back area -- and let me
2 just make sure I understand what you're saying. I'm showing
3 you State's 102. You have told us the car was like right
4 here (pointing), right?

5 A. Yeah.

6 Q. And you had gone around this side of the trailer
7 (pointing)?

8 A. Correct.

9 Q. Okay. Were you able to see what was going on in this
10 area at any point?

11 A. As I was getting around there I seen a fellow, the
12 taller fellow, coming out.

13 Q. You saw him coming out of where?

14 A. Out the back door.

15 Q. Now tell the jury when you were -- when you ran out of
16 the front door and around the trailer how were you feeling
17 when you were in those woods?

18 A. I had a lot of mixed emotions; angry, scared. I mean
19 how would you feel if you were in that situation?

20 Q. Okay. And when you say that you saw the tall guy comes
21 out of the house, which door did he come out of?

22 A. This door right here (pointing).

23 Q. And what did you see him do?

24 A. He got in the car.

25 Q. Did you see James Rose when you saw the tall guy come

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1 and get in the car?

2 A. He got in the driver's side.

3 Q. You saw James Rose get in the driver's side?

4 A. Yes.

5 Q. Did you ever see another person out there?

6 A. No.

7 Q. What did you do -- what did the car do?

8 A. Pull off.

9 Q. And which way did it head?

10 A. It just went straight on through to the backyard to the
11 other trailer backyard and out the side.

12 Q. Over to the main road?

13 A. Yeah.

14 Q. Okay. What did you do once the car had left?

15 A. I went back in.

16 Q. And when you went back in which door did you go back
17 in?

18 A. The same door.

19 Q. The back door?

20 A. Yeah.

21 Q. And when you did so --- and I am showing you State's 4.
22 State's 4. Is that the door from the porch?

23 A. Yes.

24 Q. Tell the jury what you saw when you opened that door.

25 A. Julio was laying on the ground on his back, a puddle of

1 blood. And Joy, his daughter, was on top of him crying and
2 screaming.

3 She was on the phone with the 911 operator. And they
4 couldn't understand what she was saying because she was so
5 hysterical.

6 Q. So what did you do?

7 A. I took the phone from her and I proceeded telling them
8 what happened.

9 Q. Now when you told them what happened -- first tell them
10 what name you gave them --

11 A. Ray.

12 Q. --- for yourself.

13 A. Ray.

14 Q. Okay. And why did you give them the name Ray?

15 A. I mean I just did, because I mean all that in my head
16 was going on in my head at that time.

17 Q. Okay. Had -- you hadn't had a chance to calm down yet?

18 A. Huh-uh.

19 Q. And you said that you gave the operator, the 911
20 operator, information about what had happened?

21 A. Yes.

22 Q. Have you had the opportunity -- have you had the
23 opportunity to actually listen to the 911 call from my
24 office?

25 A. Yes.

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1 Q. And did you initial the disc after you had listened to
2 it?

3 A. Yes.

4 MS. SHEALY: Your Honor, at this time we would like to
5 publish State's Exhibit 96.

6 THE COURT: Any objections? This is one of the ones
7 y'all agreed to?

8 MS. SHEALY: Yes, Your Honor.

9 THE COURT: You may.

10 (WHEREUPON, audio played.)

11 BY MS. SHEALY:

12 Q. A couple of questions about the 911 tape, Antoine. At
13 some point it sounds as if you are calling out to somebody
14 that is outside. Do you remember who that was?

15 A. Issie, the fellow next door, Izzie. He was out -
16 outside.

17 Q. Who is Izard?

18 A. Ishmal's father.

19 Q. Ishmal's father. Okay. And you told the 911 operator
20 that you thought Joy saw what happened?

21 A. Yeah.

22 Q. Did you think at that time Joy had seen what happened?

23 A. I thought to myself, because she was inside the
24 trailer.

25 Q. Okay. And -- okay. After EMS came did they take

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1 Leland off pretty quickly?

2 A. Yes.

3 Q. What did you do after that?

4 A. I got a ride right behind him up to the hospital.

5 Q. You got a ride, what? I'm sorry?

6 A. I got a ride up to the hospital.

7 Q. Okay. And when you arrived at the hospital who else
8 was there?

9 A. I mean it was a bunch of us got there at the same time.

10 Q. Oh, let me go back over something real quick. I'm
11 sorry. Tawana, when you left out the front door to go
12 towards the woods did you see Tawana at any point?

13 A. Not until she -- shortly after I got into the woods she
14 came running from the back of the trailer around to the
15 front up the driveway.

16 Q. Okay. And showing you State's 3. Which way around the
17 trailer did she come?

18 A. That way (pointing).

19 Q. Okay. So showing you State's 102 does that show you
20 which way she came around the trailer?

21 A. Yes, she ran around that way (pointing).

22 Q. And did you see where she went after that?

23 A. Yes.

24 Q. Where did she go?

25 A. She ran all the way around the front of the trailer up

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1 the front driveway beside the church. And that's the
2 direction she run.

3 Q. That's the last time you saw her?

4 A. Uh-huh, up until she got back to the hospital.

5 Q. Okay. So when you got to the hospital was Tawana there
6 or did she come there?

7 A. I can't remember if she was there or she got there
8 shortly after I did. But she was there.

9 Q. Did the police come to the hospital?

10 A. Yes.

11 Q. And did you speak to the police while they were there?

12 A. I spoke with them when they took -- they took me
13 somewhere else to speak to me.

14 Q. In the hospital?

15 A. No, outside the hospital.

16 Q. Okay, where -- do you remember where you went?

17 A. I guess it was over there at the jail.

18 Q. The Sheriff's Department?

19 A. Sheriff's Department.

20 Q. Tell the jury if you would, when you got to the
21 Sheriff's Department were you interested in the police
22 finding who did this?

23 A. No, not at that time.

24 Q. I need you to explain to the jury what you were
25 thinking.

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1 A. Really just I wanted to get back at 'em.

2 Q. You wanted to get back a whom?

3 A. Onyx.

4 Q. And so did you in fact give a statement to the police?

5 A. Yeah, I did.

6 Q. And did you actually give two statements that night --
7 that day?

8 A. Yes.

9 Q. Now when you gave your first statement to the police
10 did they have you write it?

11 A. Yes.

12 Q. And tell the jury if you would, did you tell the police
13 during that first statement that it was Onyx?

14 A. No, I didn't.

15 Q. Did you ever call the name of James Rose?

16 A. No, I didn't.

17 Q. "O"?

18 A. I said ---

19 Q. Or "O"?

20 A. I think I said "O". But I didn't say Onyx or James
21 Rose.

22 Q. You did not say Onyx or James Rose?

23 A. No.

24 Q. And what was on your mind about what you were going to
25 do?

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1 A. I mean like I said, I just I wanted to retaliate.

2 Q. Okay. Did the police talk to you again?

3 A. Yes.

4 Q. Well, before that, let me ask you: When you were
5 either at the hospital or at the Sheriff's Department did
6 they take samples from your hand?

7 A. Yes.

8 Q. And would that have been from the front and the back of
9 your hand?

10 A. Yes.

11 Q. Do you remember whether that took place at the hospital
12 or if it took place at the Sheriff's Department?

13 A. It took place at the Sheriff's Department.

14 Q. Okay. When you gave the second statement to the police
15 that evening had you gone somewhere between giving your
16 first statement and giving your second?

17 A. Have I did what?

18 Q. Did you go somewhere or were you at the Sheriff's
19 Department the whole time?

20 A. No, I left -- we left the hospital after they -- they
21 couldn't do no more for my cousin, so I went back to my
22 uncle and my aunt's house.

23 Q. Well, let me stop you for a second. When you went to
24 the Sheriff's Department the first time and gave the
25 statement, when you left there where did you go?

1 A. Back to the hospital.

2 Q. And when you were at the hospital what did you learn
3 about Leland, Julio?

4 A. Pertaining to?

5 Q. Whether he was going to make it.

6 A. Well, the way -- the way they was talking it was like
7 they had to pump so much blood into him and as fast as they
8 was pumping the blood into him it was coming out because he
9 had such a big hole in the back of his leg.

10 Q. Okay.

11 A. And they were telling us that he probably wouldn't make
12 it.

13 Q. Probably what?

14 A. He probably wouldn't make it.

15 Q. Probably wouldn't make it. When you left the hospital
16 had he died at that point?

17 A. Before we left, yeah, he did.

18 Q. Before you left the second time?

19 A. Yes, before we left the hospital he had passed away.

20 Q. Did you talk to the police again that day?

21 A. Yeah, after we left the hospital I rode with my aunt
22 and my uncle, Julio's father and his brother. And I went
23 back to their house. And was over there for a while.

24 And I just the whole ordeal I was wanting to go home
25 and wash up and rest for a little bit. And as I was going

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1 to the house the detective had pulled over Julio's wife, and
2 she seen me walking and she pointed me out and they came
3 over to talk to me and told me that they needed me to come
4 back downtown to talk -- to talk more with them again
5 because they felt like I was withholding something.

6 Q. Were you withholding something?

7 A. Yes.

8 Q. When you went back down there for the second time then
9 did you tell them who was involved?

10 A. Yes.

11 Q. On the first time you gave your statement did they ask
12 you to look at a lineup?

13 A. Yeah, they presented one to me.

14 Q. Excuse me?

15 A. They presented one to me.

16 Q. And tell the jury if you would, was James Rose's
17 picture in that lineup?

18 A. It was.

19 Q. Did you identify him?

20 A. No, I did not.

21 Q. Do you recall what you said when they asked you why you
22 couldn't identify anyone?

23 A. I just basically ---

24 Q. Would it help you to refresh your memory with the
25 document itself, showing you Court's 3?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN.

1 A. At this time I can't make a positive identification.

2 Q. Tell the jury when you gave that first statement and
3 didn't ID him and when you were shown the photo that
4 included James Rose that first time, could you have made an
5 identification?

6 A. Yes.

7 Q. You chose not to?

8 A. Yes.

9 Q. And after the second statement did they similarly ask
10 you to look at an array of photographs?

11 A. Yes.

12 Q. And could you tell the jury whether or not the person
13 that you saw earlier that evening come with the guy in the
14 car and leave with the guy in the car was that person in the
15 lineup?

16 A. Yes.

17 Q. And who was that person?

18 A. James Rose.

19 Q. And were you asked by the police officers at that time
20 to indicate who that person was?

21 A. Yes.

22 Q. Do you recall -- I'm showing you Court's Exhibit 5 if
23 you need it to refresh your memory. Do you recall what you
24 told the police on that occasion?

25 A. Yes.

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1 Q. What did you tell them?

2 A. I said the person responsible for my cousin's murder
3 they all left together, he basically was the one who planned
4 the entire thing.

5 Q. Okay. And if we could go back for just a moment. We
6 have heard -- I'm sorry, when you were shown that array did
7 you circle James Rose's picture at that time?

8 A. Yes.

9 Q. When you were telling us about your going to the
10 hospital after EMS had picked up Julio's body could you
11 describe to the jury how Joy was when she was at the
12 hospital; how did she appear?

13 A. The same as she was on the phone call.

14 Q. Okay. And what about Tawana?

15 A. She was similar.

16 Q. What made you decide the second time that you talked to
17 the police officers to name James Rose?

18 A. I just -- I just thought it over. I mean at that time
19 I was angry. I just thought it over. And it would have
20 been, you know what I am saying, that ain't in my character.
21 That ain't the right -- it wasn't the right thing for me to
22 do. I mean two rights don't make a wrong. So I just set it
23 in the hands of the law.

24 Q. The first time when you gave details to the police but
25 didn't name James -- James Rose, did you tell them what

1 you're telling us today that happened?

2 A. No, I told them the reason why I didn't identify him in
3 the first place was because, like I said, at that point in
4 time I was staying at my grandmother's house and I didn't
5 want anything bad to come -- you know what I'm saying,
6 happen to her.

7 Q. Okay. So that's why you told the police you didn't
8 tell them the first time?

9 A. Yes.

10 Q. When you did give details to them the first time are
11 they the details you shared with us today?

12 A. Yes, same details.

13 Q. What was the one thing you left out?

14 A. His name.

15 MS. SHEALY: I have no further questions. Please
16 answer any that the defense may have.

17 THE COURT: Well, let's hold off. I think it's a good
18 time for us to take a break. That's okay. The jury has
19 been at it for a while and y'all have as well.

20 So I'm going to ask you to go and have your lunch now.
21 If you will be back by 2:15. I have to take the report of
22 the grand jury in other matters for the month of December at
23 lunch and do some work with them. So we will try to get
24 that done as quickly as we can. But if you will be back in
25 your jury room at 2:15 we should be ready to get started

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1 right then.

2 Please don't discuss the case as it has not been given
3 to you for deliberation. And if ya'll would go ahead and
4 select a foreperson for the jury I would very much
5 appreciate it. Have a nice lunch.

6 (WHEREUPON, jury exits courtroom 12:43 p.m.)

7 THE COURT: Okay. Sir, you may step down. You are
8 still under oath. We will do your cross-examination after
9 lunch when everybody gets back so you can get some lunch.
10 You're not allowed to discuss your testimony with anybody
11 because you are still technically on the stand.

12 WITNESS: Fine.

13 THE COURT: Thank you, sir.

14 (WHEREUPON, witness steps down.)

15 THE COURT: All right. Anything we need to take up
16 before lunch?

17 MS. SHEALY: No, ma'am.

18 THE COURT: All right. Well, y'all have a nice lunch.
19 I'll see y'all back at 2:15.

20 (WHEREUPON, recess for lunch at 12:45 p.m.)

21 THE COURT: Let's bring the jury. Thank you, sir.

22 (WHEREUPON, jury enters 3:03 p.m.)

23 THE BAILIFF: All jurors are present, Your Honor..

24 THE COURT: All right. Thank you, sir. And thank you,
25 ladies and gentlemen. I certainly appreciate your patience.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 We got our grand jury matters handled so we are ready for
2 cross-examination. And, sir, you are still under oath.

3 Thank you.

4 **CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN:**

5 Q. Good afternoon, Mr. Aiken:

6 A. Good afternoon.

7 Q. We spoke earlier today.

8 A. Yes.

9 Q. And you testify today that you do have drug convictions
10 on your record?

11 A. Yes.

12 Q. And you are in fact currently on probation?

13 A. Yes.

14 Q. And anything you do while you're on probation that is
15 illegal can get you put back in jail, correct?

16 A. Yes.

17 Q. Like selling drugs?

18 A. Yes.

19 Q. And you said that you and Julio were together every
20 day?

21 A. Not every day. But the majority of the time.

22 Q. And you would be at this trailer?

23 A. There and other places I like to go.

24 Q. And selling drugs?

25 A. No.

CROSS-EXAMINATION BY MS. RONEY OF ANTOINE AIKEN

1 Q. And just Julio?

2 A. No, I mean I have. But not -- not the way you make it.
3 I'm saying we together we'd go -- we probably at his
4 sister's house for a cookout or he would go to his mom and
5 dad's house to wash clothes.

6 I might stop over there, be over there. Be at the
7 trailer. I was over there at the trailer. Yes, drug
8 activity did take place.

9 Q. That's where most of it would happen?

10 A. Yes.

11 Q. People were coming and going from there?

12 A. Yes.

13 Q. A lot of activity?

14 A. What do you call a lot?

15 Q. You tell me.

16 A. I mean activity. People came, people go.

17 Q. And lots of different people?

18 A. Probably the same -- the same people, but some
19 different.

20 Q. Same people, came continuous?

21 A. Yes.

22 Q. The day before this shooting happened you and some of
23 your friends were celebrating?

24 A. The day before?

25 Q. The day before. This was about midnight, so the day

- 1 before it turned ---
- 2 A. Yes.
- 3 Q. Celebrating a birthday?
- 4 A. Yes.
- 5 Q. And you were cooking, handing out ---
- 6 A. I wasn't cooking. Julio was cooking.
- 7 Q. Julio was cooking?
- 8 A. Some lasagna.
- 9 Q. And drinking?
- 10 A. Yes.
- 11 Q. And different people would come and go that day?
- 12 A. Well, that day when I was there only -- only for the
- 13 short period of time I'd been there that day Onyx and Amber
- 14 Wiley them were the only two people that came by while I was
- 15 there.
- 16 Q. How about your cousin Sammy and ---
- 17 A. But that was later that day. We went over there to
- 18 have some drinks later for the birthday.
- 19 Q. Okay. And that's when y'all have the shots together?
- 20 A. Yeah.
- 21 Q. And this is a normal day?
- 22 A. Well, I mean cooking, hanging out. Yeah, normal.
- 23 Q. I believe this was a Monday.
- 24 A. I mean I can't recall the day but.
- 25 Q. Sure. That's understandable. And you told us today

CROSS-EXAMINATION BY MS. RONEY OF ANTOINE AIKEN

1 that James came over several times that day?

2 A. Three times to be exact.

3 Q. Three times. And when you gave a statement to the
4 police did you tell them -- tell them about that?

5 A. I just -- on my first statement I just ran through it
6 real quick. And I can't recall on my first statement
7 exactly everything that I said.

8 Q. Came over one time with Amber?

9 A. Yes.

10 Q. And they were just hanging out?

11 A. I mean we was hanging out. I mean him and Onyx and
12 Julio, they was talking. I don't know what they was talking
13 about. I don't know if he got anything from him.

14 But we had a conversation, me and Onyx, about his
15 girl going to school and her getting a refund back for
16 school.

17 Q. And nothing seemed out of the ordinary?

18 A. No, it was just regular.

19 Q. Okay. And then he came over another time without
20 Amber?

21 A. Well, I was in the house; so I don't know if she was
22 with him or not. I don't know who brought them over there.

23 Q. The second time you ---

24 A. The second time.

25 Q. --- answered the door?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. And you saw a car outside?

3 A. No. The second time he came over, I was in the house.

4 I don't know who came with him that time. The third time

5 when he came back that's when I seen the car.

6 Q. You let him in the third time?

7 A. Yes.

8 Q. The second time you said he mentioned something about

9 Unk?

10 A. I mean the fellow that comes -- that brings him over

11 sometimes, an older fella. Sometimes he comes there or he

12 be waiting -- he be in there a long time and Unk will come

13 knock on the door and tell him to hurry up.

14 Q. Did that happen this day?

15 A. I can't recall.

16 Q. So you are saying you didn't ask James who that was and

17 he said that's Unk?

18 A. I -- I don't remember.

19 Q. But Unk usually tries to hurry him up if he is ---

20 A. Yeah.

21 Q. --- taking too long?

22 A. Yes.

23 Q. So when James came over the second time and you don't

24 know who brought him, how long was he there?

25 A. I mean he was there for a good little while. I would

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 say probably about in between 10, 15 minutes.

2 Q. And is that about as long as he would usually stay, ten
3 or fifteen ---

4 A. I mean that's about the time frame. Because we will
5 sit around and shoot the breeze.

6 Q. Do you know what time it was?

7 A. No, I don't.

8 Q. Was it daytime, nighttime?

9 A. It was nighttime.

10 Q. It was dark?

11 A. Yes.

12 Q. And who was there?

13 A. At which time, the second time?

14 Q. The second time.

15 A. Me, Tawana, Julio, Ishmal, my cousin Sammy, and one of
16 his friends was there. And there was a couple of other
17 people there, but I don't remember who they was that was
18 there.

19 But they left out. Everybody like left out to go to
20 the club just shortly after Onyx got there.

21 Q. All those people were there and then when Onyx got
22 there the second time they left?

23 A. Yes, because they was already on their way. He just
24 happened to -- when he came up they was already -- we
25 already had took a couple of shots, and they were going

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 to -- about to head up to the club.

2 Q. What time do you usually go to the club?

3 A. Who me?

4 Q. Generally. Any of you.

5 A. It all depends. If I'm going to the Sport Bar probably
6 about six, seven o'clock.

7 Q. Do you think it was that early?

8 A. I don't know.

9 Q. Do you know what club they were going to?

10 A. No.

11 Q. So the second time, James comes is when there is some
12 discussion about the price of the drugs?

13 Q. I mean that's -- that's what I overheard.

14 Q. And the price had gone up?

15 A. No, it was just that he wanted more what he -- he
16 wanted to get -- basically he had a certain amount of money
17 he wanted to get in front of the other part.

18 My cousin says no he wouldn't do it. So he made a big
19 deal about it talking about he done spent money with him all
20 day, you know, came all day and got stuff from him. Why you
21 doing me like that. And that was the whole, basically the
22 whole discussion.

23 Q. And lots of times when you're selling drugs you're
24 going to try to negotiate a price, right?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. So that's not anything out of the ordinary?

2 A. And I mean no.

3 Q. So at that time you probably didn't think too much
4 about it?

5 A. Think too much about what?

6 Q. Them discussing the price of the drugs.

7 A. I mean it wasn't even a price that was discussed. It
8 was that he didn't have enough money for what he wanted to
9 get and he wanted ---

10 Q. The price for the amount, correct?

11 A. Yes.

12 Q. Okay. That's how much money?

13 A. But I mean he wanted more than what he had and he
14 wanted to front the other part. And he was going to bring
15 the money back later.

16 Q. And James left. Did you go outside with him when he
17 left?

18 A. No.

19 Q. Did you see him get in the car when you left him?

20 A. No.

21 Q. And you don't know what time it was?

22 A. No.

23 Q. Did you leave after the second time that James came?

24 A. No, I was there the whole time.

25 Q. Do you remember giving a statement to the police?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. Okay. And do you remember that you gave them a time?

3 A. I don't know. I mean it's certain -- I mean I might
4 have given it to that night. I did. But right now it's
5 hard to recollect what ---

6 Q. How about if I let you review that.

7 A. You can.

8 MS. RUNEY: Judge, may I approach?

9 THE COURT: You may.

10 BY MS. RUNEY:

11 Q. I'm going to give you a second to look at that.

12 (Document presented to witness.)

13 I'm going to let you hold onto that. I have a copy.

14 Can you tell me and the jury if you gave a time about when
15 you got to the trailer and how long it was before the people
16 busted into the trailer came? Can you read that first line
17 of that statement for me?

18 A. I said I came into the trailer about 11 o'clock. Was
19 there for about 30 to 45 minutes when a knock was on the
20 door.

21 Q. So that would make it about 11:30, 11:45; is that
22 right?

23 A. Yes.

24 Q. And at this time you told the police that you let a
25 gentleman in; is that correct?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. And that gentleman was talking to your cousin, Leland
3 Shannon?

4 A. Yes.

5 Q. And then you let them know about the man with a gun?

6 A. Yes.

7 Q. And you didn't tell them James Rose's name?

8 A. No, not in my first statement.

9 Q. And this was the night that the shooting had happened,
10 correct?

11 A. Correct.

12 Q. What kind of gun did you see that night?

13 A. I mean I just told him it was a handgun. I couldn't
14 tell you what make it was.

15 Q. A small gun?

16 A. It was -- I just seen a handgun. I just -- it was -- I
17 seen it for a split second.

18 Q. And the man with the handgun was not James Rose?

19 A. I mean I didn't see any of those fellows. Somebody in
20 all black. I couldn't tell you who it was.

21 Q. You don't know who it is?

22 A. No, I do not.

23 Q. And when you gave a statement you also were shown an
24 array of pictures to identify?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And you said that you could not make a positive
2 identification?

3 A. At that time.

4 Q. But you knew there was a picture of James Rose in it?

5 A. Yes, I did.

6 Q. And you didn't want to identify this person because you
7 wanted to retaliate?

8 A. That's the way I was feeling at that point in time.

9 Q. And you testified earlier today that you thought about
10 killing somebody?

11 A. I mean that's just the way I felt at that point in
12 time. That's how bad it was.

13 Q. So you were going to not cooperate with the police, lie
14 to the police, so that you could go after James Rose
15 yourself?

16 A. It didn't happen.

17 Q. Is that what you were thinking?

18 A. That's what I was thinking.

19 Q. And you were also going to try to find out who these
20 other people that were involved were?

21 A. I mean, yeah.

22 Q. The guy who actually had the gun?

23 A. Yeah.

24 Q. And the guy who actually did the shooting?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And so after you met with the police that night at the
2 Sheriff's Department they asked you is there anything else
3 you want to add. And what did you say?

4 A. That's all I can remember.

5 Q. And did you sign the statement?

6 A. Yes.

7 Q. Did you read the last line of this statement that reads
8 I have read or have read to me the foregoing statement which
9 has been freely and voluntarily made by me and it is true
10 and correct to the best of my knowledge?

11 A. Yes.

12 Q. So you signed this statement for the police the night
13 of the incident saying that you were telling the truth?

14 A. Yes, I was telling the truth.

15 Q. And after this first statement you went back to the
16 hospital?

17 A. Yes.

18 Q. Tawana Alston was at the hospital?

19 A. Yes.

20 Q. And then you returned to Lincolnville later that day?

21 A. Yes.

22 Q. And you were walking down the street ---

23 A. Yes.

24 Q. --- going home to wash?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And that's when you saw Detective Perkins?

2 A. Yes.

3 Q. And Detective Perkins had stopped Leland's wife; is
4 that correct?

5 A. Yes.

6 Q. What is her name?

7 A. Andrea.

8 Q. And has she been pulled over by him?

9 A. I -- I mean he was behind her. I don't know if she
10 was -- if he had her pulled over. Because he left her and
11 came straight to me, and she pulled off.

12 Q. So you saw her car with the detective's car behind it?

13 A. Yes.

14 Q. And then he began to talk to you?

15 A. Well, he came and pulled into my grandmother's yard and
16 began to talk to me.

17 Q. And asked you to come back to the Sheriff's Department?

18 A. Yes.

19 Q. Because you hadn't been completely truthful in your
20 first statement; is that correct?

21 A. Just because I left the name out. They -- they told me
22 that Tawana and Joy and had basically told them that I knew
23 who the person was. So I mean that's why they came back and
24 got me just so I could make another statement and put -- and
25 implementing -- instead of saying the gentleman, put his

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 name.

2 Q. And once the police talked to Tawana Alston and Mr.
3 Shannon's daughter Joy ---

4 A. Yes.

5 Q. --- they came back to you?

6 A. Yes.

7 Q. And they told you, listen, Tawana has told us James
8 Rose was involved, ---

9 A. No, ---

10 Q. --- now you tell us?

11 Q. No, they didn't say it like that. What they said was
12 I -- they said they know I know more than what I'm saying.
13 They're saying that I know who the fellow was that was there
14 at the house. They said Tawana had done told them that I --
15 that -- he told me all the time, you know, we're good
16 friends. If -- said if you'll -- if you've got something to
17 hide, if you're afraid of something, you don't need to be.

18 Q. I understand. So because Tawana had told the police
19 that it was James Rose then she said you know James -- they
20 know -- you know James Rose too?

21 A. Yes.

22 Q. So you go back to give a second statement?

23 A. Yes.

24 Q. And instead of using his real name you use what name?

25 A. Onyx.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. So you don't even say James Rose?

2 A. No, not at all.

3 Q. Is that because you still wanted to get him yourself?

4 A. No; I mean that's the name everybody knew him by, Onyx.

5 Q. So the police were just supposed to go by the name
6 Onyx?

7 A. Well, I mean if you've got a -- if you've got a record
8 your street name is going to go with your record. That is
9 an alias.

10 Q. What you're telling me is lots of people have aliases?

11 A. Yes.

12 Q. You have one, right?

13 A. Yes.

14 Q. And what's that?

15 A. Everybody call me Ross?

16 Q. Okay. And that's for Rick Ross?

17 A. Yeah, pretty much.

18 Q. He is a rapper?

19 A. Yeah.

20 Q. And when you gave the second statement is when you
21 identified the picture ---

22 A. Yes.

23 Q. -- of Onyx?

24 A. Yes.

25 Q. In these two statements, two different statements, you

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 didn't tell the police anything about Amber and James coming
2 over there earlier that day; did you?

3 A. No, I just started from where the argument took place,
4 to the second time.

5 Q. Show me in that first statement where you tell about
6 the argument. Are you talking about the confrontation about
7 the drugs?

8 A. I didn't say in the first statement. I think I said it
9 in the second statement. The first statement I just took
10 place of what happened after I let them in the house.

11 Q. I'm going to give you a copy of your second statement,
12 and I will give you a chance to review that.

13 A. All right.

14 MS. RUNEY: May I approach?

15 THE COURT: You may.

16 (WHEREUPON, document presented to the witness.)

17 BY MS. RUNEY:

18 Q. Point out to me in that second statement where you told
19 the police about the confrontation.

20 A. It's not in -- it's not in there.

21 Q. You said it's not in there?

22 A. It's not.

23 Q. And you didn't tell the police who was present when all
24 of this happened?

25 A. I can't recall. Do you mean as in my statement?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. Yes, in your statement.

2 A. No, I did not.

3 Q. And that is pretty important because there are
4 witnesses, right?

5 A. Right.

6 Q. You didn't tell the police about the party that day,
7 did you?

8 A. No.

9 Q. You didn't tell them that the car could have possibly
10 been white that you saw out there, did you?

11 A. Well, I didn't -- I didn't -- I don't -- I don't
12 remember if I did or not. But I know I didn't write it in
13 the statement.

14 Q. When you are on the phone with 911 there is another man
15 there. Who was that?

16 A. The next-door neighbor.

17 Q. And what's his name?

18 A. Charles.

19 Q. Charles Weston?

20 A. Yes.

21 Q. And he goes by Izzard?

22 A. Yes.

23 Q. Were you talking to anybody named Eric?

24 A. Who?

25 Q. Eric.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Eric, no.

2 Q. It may have been Izzard. It's hard to hear. Do you
3 remember who took you to the hospital?

4 A. No, I don't. I just -- I don't remember who took me.

5 Q. But you saw Tawana when you got there?

6 A. When I got there.

7 Q. And the two of you were taken to the Sheriff's Office
8 together?

9 A. Yes.

10 MS. RUNEY: Beg the Court's indulgence.

11 THE COURT: Certainly.

12 MS. RUNEY: That's all I have. Thank you.

13 THE COURT: Okay. Thank you. Any redirect?

14 **REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN:**

15 Q. Antoine, just a few follow-up questions. When you
16 talked to the police that night were they interested in what
17 happened the day before or early in the evening or just when
18 the ---

19 A. Just -- just right then and there at that point in
20 time.

21 Q. And when you say then and there you are talking about
22 when Leland Shannon got gunned down?

23 A. Yes. They didn't ask for nothing that led up to the
24 situation from earlier. They wanted to know what
25 happened -- why he got shot.

1 Q. Okay. And Ms. Runey asked you about your statement
2 indicating that it was about 11 o'clock that last time that
3 James Rose came over there?

4 A. Yes.

5 Q. Let me ask you this: We have heard the 991 tape, and
6 that phone call got made after you had already gone around
7 the trailer and back in?

8 A. Yes.

9 Q. Joy was already on the phone?

10 A. Yes.

11 Q. And I believe on the 911 tape you indicated it had been
12 how many minutes since the whole thing had happened; do you
13 remember?

14 A. No, I don't remember.

15 Q. Okay. Long enough for you to have gone around the
16 trailer and the guys to have left?

17 A. Yeah.

18 Q. Now remember after -- as you were on the phone with 911
19 did officers show up?

20 A. The ambulance showed up when I was on the phone with
21 911 when I was trying to give them -- they couldn't find the
22 trailer.

23 Q. Okay.

24 A. I went outside and I looked. They was coming down the
25 driveway.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. Who was?

2 A. The ambulance.

3 Q. And how long after that did the police arrive?

4 A. He was right there. Right there behind them.

5 Q. Right behind them?

6 A. Uh-huh.

7 Q. Okay. So that night when all of this was going on and
8 when you ran out were you sitting there looking at a watch
9 as to what time it was?

10 A. No.

11 Q. The police officer may have a better idea as to what
12 time that was, right?

13 A. Yeah, the 911 call and the police officer.

14 Q. Now regarding what you heard from Tawana and Joy, tell
15 this jury if you would, did you say in your second statement
16 it was Onyx because Tawana said that?

17 A. No.

18 Q. Did you say in your second statement that it was Onyx
19 because Joy had said that?

20 A. No.

21 Q. Tell the jury why you put in your second statement it
22 was Onyx.

23 A. Because I mean like I said in the first statement I
24 withheld it because I was feeling that type of the way. I
25 was angry. And the only thing I could think of was trying

1 to get back at him for what he did to my cousin.

2 Q. And that's why ---

3 A. As time ---

4 Q. I'm sorry.

5 A. But as time went by I got a -- all those feeling
6 stopped -- they start going away and I just went ahead and
7 came up and let the police know who -- what his name was ---

8 Q. In ---

9 A. --- so they could deal with.

10 Q. I'm sorry.

11 A. So they could deal with it.

12 Q. In your second statement?

13 A. In my second statement.

14 Q. Tell this jury please if you would, did you pull Onyx's
15 name out of a hat?

16 A. No.

17 Q. Why did you say it was Onyx? Was it Onyx?

18 A. I mean he wasn't there. He came there. He came there
19 with whoever was that came in the house. They left with
20 him.

21 Q. Now you told us that earlier in the day the only two
22 people you remember coming other than Tawana and Joy and
23 Ishmael was Amber, Onyx's girlfriend, and Onyx; that was
24 early during the daylight hours?

25 A. Yes.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. And then you have told us that a different cousin of
2 yours and some friends came over to have the shots?

3 A. Yes.

4 Q. Did you see your cousin yelling outside as the people
5 who were running through the house after they shot Leland
6 Shannon? Was your cousin who you celebrated his birthday
7 with, was he back at the scene?

8 A. No.

9 Q. How about those friends that he came over with, were
10 they back in the yard?

11 A. No.

12 Q. Did you see them drive off with the gunman?

13 A. No.

14 Q. Who did you see take that car out of the yard after
15 Julio had been shot?

16 A. James Rose.

17 Q. Who did you hear yelling instructions to the guys
18 inside after Leland had been shot?

19 A. James Rose.

20 Q. Did you and Tawana and Joy ever get together and just
21 say you know what, let's pin this on James Rose?

22 A. No, we really never talked about it. I mean just that
23 it was -- it was something that really was hurting and
24 nobody really wanted to just talk about the situation.

25 Q. You are talking about when y'all were at the hospital

1 together?

2 A. Yeah.

3 Q. In the 991 tape you give a description of the car; is
4 that correct?

5 A. Correct.

6 Q. And what color did you say it was on the 911 tape?

7 A. Gray.

8 MS. SHEALY: I beg the Court's indulgence just a
9 moment.

10 THE COURT: Sure.

11 BY MS. SHEALY:

12 Q. Okay. I may have made something unclear, Antoine. In
13 the statement that Ms. Runey showed you, do you still have
14 it up there?

15 A. Yes.

16 Q. Okay. I had mentioned had you put in the time of
17 eleven o'clock on that statement. Could you tell the jury
18 again what does that sentence read as to what time the
19 incident itself occurred.

20 A. On the second statement?

21 Q. The one that starts off I came.

22 A. Oh, I came into the trailer about 11 o'clock.

23 Q. And then continue with that sentence.

24 A. Was there for about 30 or 45 minutes when a knock was
25 on the door. My cousin told me to open it, and I did

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 because he said he knew who it was.

2 Q. Okay. And on that occasion you're talking about the
3 third time that James Rose came to the trailer while you
4 were there?

5 A. Yes.

6 Q. When you said I came in, how long had you been into the
7 trailer before James Rose came back that third time?

8 A. It would take -- probably was about two hours.

9 Q. And in that time you celebrated your cousin's birthday?

10 A. Yes.

11 Q. James Rose came once and left?

12 A. Yes.

13 Q. Let's talk about that for just a second. Ms. Runey
14 asked you isn't negotiating prices a part of drug dealing.
15 And you would agree that it is?

16 A. I mean it is a part of any business.

17 Q. Part of any business. When James Rose was there on
18 that second occasion and he and Julio were talking do you
19 remember that conversation because it was different than the
20 usual ones they had?

21 A. It was just a little bit more heated. It was heated
22 than any other conversation in -- a lot of times -- I don't
23 know.

24 I mean they had conversations in the past that were
25 like that, but nothing ever transpired from it. But I mean

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 it just -- that one right there was a little bit more
2 intense than any other one.

3 Q. That was the most intense conversation they had had ---

4 A. That I had seen.

5 Q. --- in your presence? I have no further questions.

6 Thank you.

7 THE COURT: Thank you.

8 **RECROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN:**

9 Q. Mr. Aiken, you said that your feelings of wanting to
10 kill James Rose went away?

11 A. Yes.

12 Q. And that's why you decided to give another statement to
13 the police because those feelings went away?

14 A. Yes.

15 Q. But you didn't contact the police to give them another
16 statement, did you?

17 A. No, I did not.

18 Q. They stopped you?

19 A. Yes.

20 Q. And you said that the police didn't ask about what
21 happened earlier that day?

22 A. No, they did not.

23 Q. They just wanted to know what happened?

24 A. They just asked me what happened tonight -- that night.

25 Q. And why Leland Shannon got shot?

RECROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. But you never told the police anything about the
3 argument between James Rose and Leland Shannon, did you?

4 A. No, I did not.

5 MS. RUNEY: That's all I have. Thank you.

6 THE COURT: Okay. Thank you.

7 MS. SHEALY: Your Honor, we would ask that he be
8 excused.

9 THE COURT: All right. Sir, you may step down. And
10 you are excused.

11 MS. SHEALY: Tawana Alston.

12 THE COURT: All right. Ms. Alston, come on up and we
13 will swear you in.

14 (WHEREUPON, the witness was duly sworn.)

15 THE CLERK: And ma'am, once you are seated if you would
16 please state your first and last name and spell your last
17 for the record.

18 MS. ALSTON: Tawana Alston. Alston, A-L-S-T-O-N.

19 (TAWANA ALSTON, after having been
20 sworn, testified as follows:)

21 **DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:**

22 BY MS. SHEALY:

23 Q. Ms. Alston, if you would please tell the jury how old
24 you are.

25 A. Thirty-two.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. And where did you grow up?

2 A. Summerville, South Carolina.

3 Q. Okay. How far did you go in school?

4 A. Tenth grade.

5 Q. And are you still living in the Summerville,
6 Charleston, area?

7 A. Yes, ma'am.

8 Q. You've had some problems with the law in the past; is
9 that correct?

10 A. Yes, I have.

11 Q. Do you have three convictions for shoplifting?

12 A. Yes.

13 Q. Do you have a 2003 unlawful conduct towards a child
14 conviction?

15 A. Yes.

16 Q. Do you have a 2003 burglary third conviction?

17 A. Yes.

18 Q. And an attempted armed robbery conviction?

19 A. Yes.

20 Q. Do you have a 2007 property offense conviction?

21 A. Yes.

22 Q. And an unlawful neglect of a child conviction?

23 A. Yes.

24 Q. Okay. Now tell us about Julio. How long were you and
25 he boyfriend, girlfriend?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 A. Two years.
- 2 Q. And back in January of 2012 were you living with him?
- 3 A. Yes, I was.
- 4 Q. And were you living with him in the mobile home where
- 5 this incident occurred?
- 6 A. Yes.
- 7 Q. Do you know James Rose?
- 8 A. Yes, I do.
- 9 Q. Tell the jury how long you've known James Rose.
- 10 A. Since 1997.
- 11 Q. Since 1997?
- 12 A. Yes, ma'am.
- 13 Q. How old were you then; do you remember? Were you in
- 14 high school?
- 15 A. Yes.
- 16 Q. And what did you call James Rose?
- 17 A. A friend.
- 18 Q. I'm sorry, by what name did you call him?
- 19 A. Onyx.
- 20 Q. And you consider him a friend?
- 21 A. Uh-huh.
- 22 Q. Would he come to Julio's house and were y'all on
- 23 friendly terms?
- 24 A. We would speak.
- 25 Q. You and Onyx would?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Uh-huh.

2 Q. Now tell us about you, Julio's daughter. When did she
3 move in with y'all?

4 A. About two or three weeks earlier before all that
5 happened.

6 Q. Before this incident happened?

7 A. Yes, ma'am.

8 Q. And did y'all in fact switch bedrooms when she moved
9 in?

10 A. Yes.

11 Q. Which bedroom was yours and Julio's at the time this
12 occurred?

13 A. The first bedroom on the left.

14 Q. At the time that this happened?

15 A. Yes.

16 Q. And who was in the bedroom down at the end of the hall?

17 A. His name was Kirby Douglas.

18 Q. Okay. But when Joy came where was she staying?

19 A. In Julio and I room.

20 Q. Okay. That's what I was asking. So the first one on
21 the left, Joy started staying in?

22 A. Yes.

23 Q. And then you and Julio would stay in ---

24 A. In the living room.

25 Q. In the living room?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Uh-huh.

2 Q. Y'all did not go into Kirby's room?

3 A. No.

4 Q. Okay. And Kirby was someone who owns the trailer?

5 A. Yes, ma'am.

6 Q. Now if we could focus your attention then to the day of
7 January 23rd that leads into the morning hours of the 24th.
8 Were you around Julio's mobile home during the daylight
9 hours?

10 A. Yes.

11 Q. Okay. Do you remember seeing Onyx at any time?

12 A. Not that day.

13 Q. Not during the day? And then what about that evening,
14 were you home in the evening hours?

15 A. Yes.

16 Q. Did you leave at any point from Julio's and go
17 somewhere and come back during the day or the evening?

18 A. Yes, I went to my grandmothers and came back.

19 Q. Where did your grandmother live?

20 A. About five-minute away. The next block over.

21 Q. And this is out in Lincolnville?

22 A. Yes.

23 Q. If you would tell us, were you in your home with Julio
24 when Onyx came by?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 Q. And did you see Onyx come and go once or just one time?
- 2 A. Just that one time.
- 3 Q. Tell us about that occasion. What happened?
- 4 A. He came, purchased some weed and just left.
- 5 Q. And left. And then did you see him again later that
- 6 evening?
- 7 A. That night once I got out of the tub.
- 8 Q. Okay. So actually you're saying he comes there twice
- 9 that night?
- 10 A. Yes.
- 11 Q. Am I correct?
- 12 A. Yes.
- 13 Q. Okay. So the first time he just bought some marijuana
- 14 and left?
- 15 A. Yes.
- 16 Q. Did you overhear any type of conversation that Onyx was
- 17 having on that first time over there that evening ---
- 18 A. No.
- 19 Q. --- with Julio?
- 20 A. No.
- 21 Q. After he left that first time what did you go do?
- 22 A. I went to take a -- take a bath.
- 23 Q. And at that -- some point do you see Onyx there again?
- 24 A. Once I got out of the tub.
- 25 Q. Where was he when you got out of the tub?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. In the kitchen sitting by the window.

2 Q. Okay. And who else was in your home at that point?

3 A. It was Ishmal, Ross, and Joy and myself.

4 Q. And when you got out of the tub tell the jury what do
5 you did.

6 A. Got out of the tub. Julio came in, gave me a hug, gave
7 me a kiss and I said I love you beautiful with your dusty
8 ass. We walked down the hall. I gave Joy a peace sign,
9 like this (motioning). Julio gave me a short of a
10 cigarette.

11 Q. Let me stop you right there. What do you mean by a
12 short of a cigarette?

13 A. It was a half a cigarette.

14 Q. Okay.

15 A. He was smoking it. And it was short. And he gave it
16 to me.

17 Q. Okay. And what did you do with that?

18 A. I went outside to smoke the cigarette. Flicked it.
19 Turned around and had a double-barrel shotgun to my face.

20 Q. Okay. Well, let me slow you down a little bit, okay.

21 When you left that kitchen area tell us again who was in the
22 kitchen.

23 A. Ross, Julio, and Onyx.

24 Q. Okay. And did you remember where Ishmal was?

25 A. He was sitting in the living room area.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. What would Ishmal do often when he came over to y'all's
2 house?

3 A. Play games with us. Because we ---

4 Q. Is that in the living room area?

5 A. Yes, ma'am.

6 Q. When you took the cigarette to walk outside, showing
7 you State's Exhibit 3 -- this will come up on that screen
8 right in front of you. What door did you exit from when you
9 went to have the cigarette?

10 A. This door right here (pointing).

11 Q. And tell us where it was that you stood while you were
12 smoking.

13 A. Right here (pointing).

14 Q. Okay. And were you -- did you indicate that you were
15 leaning over the rail?

16 A. Yes, I was leaning like this (motioning.)

17 Q. Could you stand up and demonstrate that for us?

18 A. I was standing over like this, smoking a cigarette
19 (indicating).

20 Q. When you were leaving the house do you know where James
21 Rose was?

22 A. When I -- I was walking out of the house he was coming
23 out behind me.

24 Q. And now tell us what was the next thing that you --
25 that happened once you were out. Did James Rose already get

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 out of the house by that point?

2 A. Yes.

3 Q. And what was the next thing that happened to you?

4 A. I flicked the cigarette, turned around, had a gun to my
5 face. He said freeze Bitch. And I did like this
6 (motioning).

7 Q. Now when that happened did you get a look at the person
8 who had the weapon in your face?

9 A. No, because he had on an all black, ski mask.

10 Q. Okay. Could you tell us whether he was tall or whether
11 he was short or anything about his size?

12 A. He was tall and slender.

13 Q. And you indicated he had a ski mask over his face?

14 A. Yes, ma'am.

15 Q. Could you tell anything about the weapon?

16 A. It was a double-barrel shotgun, all black.

17 Q. Did you see at that point where Onyx was?

18 A. He was in the car.

19 Q. Okay. And the car was parked where; can you show up on
20 that photograph?

21 A. Right up in here (pointing)?

22 Q. And when you walked out of the house and when you were
23 leaning over the rail did you see Onyx make it to the car?

24 A. Yes.

25 Q. And what side of the car did he get in if you remember?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. The driver's side.

2 Q. What happened after the tall guy put the gun to your
3 face; what happened?

4 A. I just sat there and freeze there. Another short,
5 chunky guy came running up the stairs like this (motioning),
6 shooting and went directly into the house.

7 Q. Was the door open at that point?

8 A. Yes, it was.

9 Q. Did the door close at any time after you and Mr. Rose
10 left the house?

11 A. I have no idea.

12 Q. Okay. Do you know how the door got opened for them to
13 go in?

14 A. It was open when I walked out.

15 Q. Okay. When that happened where did the tall guy go;
16 did you see where he went?

17 A. In the house behind the other guy.

18 Q. And what did you do at that point?

19 A. I fell when -- the other guy with the shotgun was
20 running in like that (pointing). I was standing right here
21 (pointing). I was still putting my hands up. And the other
22 guy turned, turned and went in.

23 And I fell over the banister and I crawled under the
24 porch like this (pointing) all the way around, around the
25 trailer and ran across the street and knocked on the

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 neighbor's door and tell them that something was going on
2 and they needed to call the police.

3 Q. Okay. So hold on just a second for me. Showing you
4 State's Exhibit 102. Okay. Could you show the jury which
5 way -- and you can do it on the screen again, which way you
6 ran.

7 A. Crawl -- I mean I was crawling under the porch and then
8 I ran directly all the way around the side of the trailer.

9 Q. And before we go further about where you went from
10 there, then you initially, the tall guy who initially puts
11 the gun in your face, he goes in the first or he goes in the
12 door second?

13 A. Second.

14 Q. Okay. And the shorter guy, the chunky guy, you
15 indicated as he went up the steps he did what?

16 A. He was shooting as he was coming running in.

17 Q. As he was running up?

18 A. Yes, ma'am.

19 Q. Now when you ran around the trailer did you hear any
20 other shots?

21 A. Just three.

22 Q. Three. And did you keep running or did you stop
23 somewhere before ---

24 A. I kept running.

25 Q. When you say that you ran to a neighbor's house, can

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 you describe for the jury where that neighbor lived in
2 relationship to this trailer?

3 A. Right across the street.

4 Q. Do you know who that is?

5 A. His name is Bryan.

6 Q. And when you ran to Bryan's what did you do once you
7 got to his house?

8 A. I bammed on his door screaming, kicking it, saying
9 please open the door, call the police, something is wrong,
10 something has happened to Julio, you need to call the
11 police.

12 Q. And when you said something was happening to Julio did
13 you indicate what was happening?

14 A. No.

15 Q. Did Brian open the door for you?

16 A. No, he did not.

17 Q. And after he didn't open the door where did you then
18 go?

19 A. I ran to my grandmother's house.

20 Q. And how far did your grandmother live from ---

21 A. The next block over.

22 Q. When you got to your grandmother's house -- well, let
23 me ask you this: As you were running did you see a car
24 leave at any point?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. And could you see who was inside the car when it left?

2 A. No.

3 Q. Okay. When you got to your grandmother's what did you
4 then do?

5 A. I called my mother.

6 Q. What ---

7 A. And she ---

8 Q. I'm sorry. Go ahead.

9 A. I called my mother and she came and picked me up.

10 Q. From your grandmother's?

11 A. Yes, ma'am.

12 Q. And where did y'all go?

13 A. We rode back by and we saw all the ambulance and stuff.

14 And we followed the ambulance straight to MUSC.

15 Q. While you were up at MUSC did Joy come up there?

16 A. Yes.

17 Q. And did Leland's daddy come up there?

18 A. Yes.

19 Q. And Antoine, did he come up there?

20 A. Yes, he was.

21 Q. Can you describe for the jury how you were feeling at
22 the point when you got to the hospital?

23 A. Scared, nervous, shook up.

24 Q. And did the police come and want to talk to you while
25 you were there?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Yes.

2 Q. And did you in fact talk to the police officer?

3 A. Yes, I did.

4 Q. Let's go back for a second. You told us that the tall
5 guy had on all black?

6 A. Yes, ma'am.

7 Q. Did you get a look at what the shorter guy had on?

8 A. All black.

9 Q. And what about Onyx, do you know what he was wearing
10 that night?

11 A. Red T-shirt, blue jeans, blue or black Nikes.

12 Q. For his shoes, okay. So when you go the hospital were
13 they trying to talk to you while you were at the hospital,
14 the police officers?

15 A. No, they came and got us one by one and took us to a
16 little substation, that thing on Rivers.

17 Q. To be interviewed?

18 A. Yes, ma'am.

19 Q. And when you left the hospital what was Julio's
20 condition at that point? What was going on with Julio?

21 A. At that time they wasn't telling us anything. They
22 were I guess they were working on him.

23 Q. Do you know whether he was in surgery?

24 A. No, ma'am, I didn't.

25 Q. You don't know. How were you doing emotionally when

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 they -- when you went down to the police station?

2 A. Not good.

3 Q. And by the time you got to the police station is it
4 getting to be later and later in the morning of the 24th?

5 A. Yes.

6 Q. When you gave your statement to the police you wanted
7 to get things right if you could; is that right?

8 A. Yes.

9 Q. Did you try to give them as much information as you
10 could?

11 A. Yes.

12 Q. And if you would, how many people did you see
13 altogether if you saw Onyx with the red shirt and the tall
14 guy with all black, and then the shorter guy had on what
15 again?

16 A. All black.

17 Q. And then was there anybody else in the backyard that
18 you saw or in the car?

19 A. At that time I -- I couldn't tell you. I could have
20 been -- total it was three. But it could have been more.
21 I'm not sure at this time.

22 Q. Okay. And when you talked to the police did you give
23 them the best recollection you could at that time?

24 A. Yes.

25 Q. What were you worried about while you were at the

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 police station?

2 A. If Julio was all right.

3 Q. And while you were at the police station did you -- did
4 they swab -- did they do a technique on your hands on the
5 front and on the back?

6 A. The front, the back, my arms and my legs.

7 Q. And you allowed them to do that?

8 A. Yes.

9 Q. Now did you actually give two statements?

10 A. Yes.

11 Q. Tell me the circumstances for the second statement;
12 were you still at the Sheriff's Department?

13 A. Yes -- no, that's -- the second statement was the next
14 day when they came to pick me up from my house.

15 Q. Okay. And when you say the next day do you mean later
16 that same day ---

17 A. Yes.

18 Q. --- of the 24th?

19 A. Yes.

20 Q. Did they talk to you at your house or did they take you
21 back to the police station?

22 A. They took me back to the police station.

23 Q. And what were the police interested in trying to
24 understand better when they talked to you the second time?

25 A. Who was there, what happened and stuff like that.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. Okay. So I want to make sure that I am clear. What
2 did you see James Rose do when you were out on that porch?

3 A. Ran out and got in the car.

4 Q. Okay. And what did you see the tall guy in all black
5 do?

6 A. Stand in front of me with a shotgun.

7 Q. And what did you see the short, stocky guy do?

8 A. Run in shooting.

9 Q. Run in shooting. Now while you were at the police
10 station did they also show you a photo array?

11 A. Yes.

12 Q. Now I'm going to show you Court's Exhibits 1 and 2 just
13 in case you need to refresh your memory. Did the police
14 officer go through a series of questions to make sure that
15 you understood that the person may be in there or may not be
16 in there?

17 A. Yes.

18 Q. And when you took a look at that photo array, who did
19 you identify?

20 A. Onyx, Mr. James Rose.

21 Q. And you identified him as being who that night?

22 A. The person that I saw inside of the house.

23 Q. Okay. And if I could take those exhibits back again.
24 Did the officers offer you the opportunity to write down
25 what your comments were recording who this was?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Yes, they did.

2 Q. Okay. And if you would please, tell the jury what you
3 wrote.

4 A. I picked him because he was the one in the house with
5 us and told freeze Bitch.

6 Q. Now when you say and told freeze Bitch, were you
7 referring to James Rose at that point?

8 A. When they gave me that and they told me to write
9 down -- they told me to circle the person that I saw first.
10 Which I did, which was Mr. Rose.

11 And then they told me to write down anything that
12 happened after that. And that was what I heard, freeze
13 Bitch.

14 Q. Okay. So will you tell the jury whether or not it was
15 James Rose that said freeze Bitch.

16 A. No, it was not.

17 Q. When you finished your statement the first time did you
18 go back to the hospital or did you go home?

19 A. I went back to the hospital.

20 Q. And when you were at the hospital what did you learn
21 about Julio?

22 A. That he wasn't going to make it.

23 Q. And when that happened; was it after that that you went
24 back and gave your second statement?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. And you had gone home after the hospital?

2 A. Yes.

3 Q. Had you had any sleep that night?

4 A. No.

5 Q. And was Julio someone that you loved?

6 A. Yes.

7 Q. And earlier that evening you had a shotgun put at your
8 face?

9 A. Yes, ma'am.

10 MS. SHEALY: I beg the Court's indulgence just a
11 moment.

12 BY MS. SHEALY:

13 Q. The car that you told us about that was outside, what
14 kind of car was it?

15 A. It was a gray -- a silver Neon, four-door.

16 Q. A Neon is the model?

17 A. The brand of the car, the model.

18 Q. And did you tell the police that when you spoke to them
19 that night?

20 A. Yes.

21 Q. A gray Neon?

22 A. Yes.

23 MS. SHEALY: I have no further question. Answer any
24 that the defense may have.

25 THE COURT: Okay.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 THE COURT: Cross-examination.

2 MS. RONEY: Thank you.

3 CROSS-EXAMINATION BY MR. RONEY OF TAWANA ALSTON:

4 Q. Good afternoon, Ms. Alston.

5 A. Good afternoon.

6 Q. You do know my client, James Rose?

7 A. Yes, I do.

8 Q. In fact you dated James?

9 A. For two days.

10 Q. Two days? And when was that?

11 A. In 1997.

12 Q. Is that when you met him?

13 A. Yes.

14 Q. But then after that things were okay between y'all?

15 A. Yes.

16 Q. And Ms. Shealy asked you about your record?

17 A. Yes.

18 Q. And that you've been in trouble before?

19 A. Yes, I have.

20 Q. Just started out with smalls things like shoplifting,
21 right?

22 A. Yes.

23 Q. And then you were convicted of attempted armed robbery?

24 A. Yes.

25 Q. And burglary third?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 A. Yes.

2 Q. And was that at the same time that you were convicted
3 of unlawful conduct towards a child?

4 A. No.

5 Q. Different occasion?

6 A. Yes.

7 Q. And when you gave a statement to the police after this
8 happened, you wanted to be accurate; right?

9 A. Yes.

10 Q. And you wanted to include everything?

11 A. Yes.

12 Q. Because you wanted whoever was responsible for this to
13 be held accountable, right?

14 A. Yes.

15 Q. And so you were taken to the Sheriff's Department,
16 right?

17 A. Yes, ma'am.

18 Q. And you gave a statement to Detective Church?

19 A. Yes, ma'am.

20 Q. A female officer?

21 A. No, it was a male.

22 Q. It's a man. Did you write out that statement?

23 A. Yes, I did.

24 Q. And at that time you were also shown a photographic
25 lineup?

1 A. Yes, ma'am.

2 Q. And when they asked you to give a statement the
3 detective said tell me what happened?

4 A. Yes.

5 Q. And so you just started writing?

6 A. Yes, ma'am.

7 Q. And you -- did they tell you a time when to start
8 writing or ---

9 A. No, ma'am. They told me to write exactly what went
10 down to best of my knowledge.

11 Q. Because they wanted to know why this happened?

12 A. Yes, ma'am.

13 Q. And you testified earlier today that James came out of
14 the trailer behind you?

15 A. Yes.

16 Q. And then somebody else held a shotgun to your face ---

17 A. Yes.

18 Q. --- and said freeze, Bitch?

19 A. Yes.

20 Q. So what you're telling me is that James did not put a
21 shotgun in your face?

22 A. No, he did not.

23 Q. Do you remember telling the police that night that
24 James held a shotgun to your face?

25 A. At that time when everything was happening he was the

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 only person that I saw, physically, face. And that was the
2 only person that was on my mind because I was mad at the
3 situation that what happened. And everything that was in my
4 mind was all him.

5 Q. And so because he was there, you said that he had a
6 shotgun in your face?

7 A. I said someone had a shotgun in my face. I did not say
8 he had a shotgun in my face.

9 Q. I'm going to give you a copy of your statement and let
10 you review that.

11 A. No problem.

12 MS. RUNEY: May I approach, Your Honor?

13 THE COURT: You may.

14 (WHEREUPON, document provided to the witness.)

15 Q. You initially write a paragraph, kind of a summary.
16 And then the detectives write questions and you answer those
17 to kind of clarify what you had written in the initial
18 paragraph; is that correct?

19 A. Yes.

20 Q. And what the question by the detective is, when you
21 were on the back porch who did you see first. And you
22 answer what? I'm sorry, it's about four lines down on the
23 second page.

24 A. The person -- did you say the fourth question?

25 Q. The second question. The third and fourth line. You

1 were on the back porch. Who did you see first?

2 A. I don't have that on here.

3 Q. On the second page.

4 A. I'm on the second page. The first question is how long
5 did you know James. The second question was when you --

6 okay, when you was on the back porch who did you see first.

7 I answered James. Well, I was confused at that time. I was
8 only thinking about the first person I saw, and it was him.

9 Q. And that is what you've told us here today?

10 A. Yes.

11 Q. You saw James. Okay. And then they ask you did this
12 person have a gun and if so describe it. And what do you
13 answer?

14 A. First James Rose, all black, shotgun, two --
15 double-barreled. What did he say. Freeze, Bitch.

16 Q. So after you tell them about James Rose they ask you
17 what did he say, and you said freeze Bitch; right?

18 A. Uh-huh.

19 Q. And then they start to ask you about the other people
20 that were there that night and you go on to describe the
21 short guy with the what you think is a nine millimeter,
22 right?

23 A. Yes.

24 Q. And then there is a tall, skinny guy?

25 A. Yes.

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 Q. And you write out your descriptions and you list how
2 many suspects?

3 A. Three. Four.

4 Q. Four people. And suspect Number 4 you list as the
5 driver of the car; is that correct?

6 A. I say saw someone, can't describe who it was.

7 Q. You don't know who it is, ---

8 A. No.

9 Q. --- but this person was in the driver's seat?

10 A. Yes, ma'am.

11 Q. And then they don't write out a question, but your
12 answers are related to who had what gun?

13 A. Yes, ma'am.

14 Q. And you told them what you knew?

15 A. Yes, ma'am.

16 Q. And at the same time that they showed you the
17 photographic lineup where you circled James's picture?

18 A. Yes, ma'am.

19 Q. And you wrote out that you picked him because he was at
20 the house with you?

21 A. Yes, ma'am.

22 Q. And he told freeze Bitch, is that what you wrote out?

23 A. Yes.

24 Q. Or what you're telling me today is that you didn't mean
25 that James Rose said that?

- 1 A. No.
- 2 Q. And at that point you were free to go?
- 3 A. Yes.
- 4 Q. You say you went back to the hospital?
- 5 A. Yes, ma'am.
- 6 Q. Did the police take you back to the hospital?
- 7 A. Yes.
- 8 Q. And was Antoine Aiken there?
- 9 A. Yes, he was.
- 10 Q. Was he transported back to the hospital with you?
- 11 A. In separate cars.
- 12 Q. And the next day you went home and the police came back
- 13 to your house?
- 14 A. Yes, ma'am.
- 15 Q. You don't mean the trailer?
- 16 A. Well, yeah, the trailer.
- 17 Q. You went back to the trailer?
- 18 A. Yes.
- 19 Q. And the police came and picked you up there?
- 20 A. Yes.
- 21 Q. And took you back for a second statement?
- 22 A. Yes.
- 23 Q. And was that because they wanted more information?
- 24 A. I guess. They wanted me to write another statement to
- 25 the best of my knowledge from what I did from the previous

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1. night.

2 Q. And you had already told them everything, right?

3 A. Yes.

4 Q. So I'm guessing you are probably wondering why you had
5 to go back and do this again?

6 A. Yes.

7 Q. And they asked you some of the same questions?

8 A. Yes, they did.

9 Q. Like what type of gun did Onyx shoot at you with? Do
10 you remember them asking you that?

11 A. No. The only thing they asked me was what type of gun
12 that I saw first. And that was the shotgun. They asked me
13 who the first person I saw. And it was Onyx.

14 Q. And I'm going to give you a copy of your second
15 statement, Ms. Alston, and give you a chance to review that
16 if I may.

17 THE COURT: You may.

18 (WHEREUPON, document provided to the witness.)

19 Q. Have you had a chance to review it?

20 A. (Witness nods head.)

21 Q. Okay. Now do you remember telling the detective that
22 Onyx had at a shotgun in your face?

23 A. No. Onyx couldn't have the shotgun in my face because
24 he was in the car. And the person that had the shotgun in
25 my face is taller than what Onyx is.

1 Q. Do you think you wrote it out wrong in the statement?

2 A. Yes.

3 Q. Because this statement does read that Onyx had it in
4 your face.

5 A. Uh-huh.

6 Q. And that he is the one that said freeze Bitch to you?

7 A. The questions when they were given me was: Who was the
8 first person that you saw? Onyx. What was the first thing
9 that you saw? It was the shotgun. What was the first thing
10 you heard? Freeze Bitch.

11 And all that is just like running together and it's
12 trying to make me say that he was the one that was doing it,
13 had the gun and said it. But it was not him with the gun to
14 my face.

15 I don't know who was the one with the gun to my face,
16 but I know it wasn't him because he is shorter than that
17 person who had the gun to my face.

18 And when I had the gun to my face all I heard was
19 freeze Bitch and other gunshots. That's all I heard it.

20 Q. And so the police were pressuring you to answer their
21 questions?

22 A. They was pressuring me to answer their questions, but
23 at the same time too I was upset from the previous night.

24 Q. So they're asking you the questions, not writing them
25 down on the paper and having you sit there and write pretty

CROSS-EXAMINATION BY MR. RONEY OF TAWANA ALSTON

1 quickly?

2 A. Yes.

3 Q. And so when you wrote that Onyx shot at you, that
4 wasn't true?

5 A. No.

6 Q. And when you wrote on the photographic lineup form,
7 when you wrote out I picked him because he was there ---

8 A. Because he was the first one that I saw. That was the
9 question they asked me.

10 Q. And you wrote out the part about he told freeze Bitch,
11 because that was the information that the police were
12 looking for?

13 A. No, that was not. They asked me who was the first
14 person I saw. It was Onyx. Then they said: After that
15 what did you do? I went outside. What happened? I saw a
16 tall figure with a shotgun to my face.

17 And then they said: What happened? The person said
18 freeze Bitch. Then what happened? The second subject ran
19 in the house shooting. What did you do? I fell over the
20 banister, crawled under the porch and went to the neighbor's
21 house to bang on the door.

22 Q. So that was a mistake when you wrote Onyx said freeze
23 Bitch and shot at me?

24 A. Yes.

25 Q. And so the police want to clarify that and ask you that

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 again. And they say what happened after Onyx shot at you.

2 At that point did you correct them?

3 A. At this point in time I don't remember.

4 Q. At any time since giving this statement did you go back
5 to the Sheriff's Office ---

6 A. No, I ---

7 Q. --- to say that is not how it happened?

8 A. No.

9 Q. And they continued to ask you the same questions like
10 how many people were there, right?

11 A. Yes, ma'am.

12 Q. And they said how many people were there total. And
13 you answered four?

14 A. Yes, ma'am.

15 Q. And so then they had you to list them out?

16 A. Yes, ma'am.

17 Q. And you wrote Onyx, comma, shotgun on the third page of
18 your statement. At that point did you just want to get out
19 of there?

20 A. No, I was just trying to help to the best of my
21 knowledge that I knew that was going on.

22 Q. Was it easier just to say what they wanted to hear?

23 A. Yes -- no. No.

24 Q. But you didn't correct them when you wrote it the
25 fourth time?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 A. I didn't write anything the fourth time.

2 Q. You also wrote Jeffrey Rose?

3 A. They asked me who do you think is involved in all of
4 this that you know Onyx be with.

5 Q. Who is Jeffrey Rose?

6 A. His brother.

7 Q. And you know his brother from knowing James, right?

8 A. Yes.

9 Q. And is James's brother tall?

10 A. Yes.

11 Q. And so that's why you thought it might be him?

12 A. Yes.

13 Q. Because James is there and then there was a tall guy?

14 A. Yes.

15 Q. So you wrote that down for the police?

16 A. I wrote that down for myself because I was trying to
17 help.

18 Q. And then you gave some information about a
19 brother-in-law. I'm assuming that's a brother-in-law of
20 James?

21 A. Yes.

22 Q. And you said that might be the short guy?

23 A. Yes.

24 Q. But you weren't able to identify either of the people
25 that were there?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 A. No, ma'am.

2 Q. It was simply because they were always together?

3 A. Who was always together?

4 Q. James and his brother?

5 A. Yes.

6 Q. And then on the fourth page they ask you again to
7 clarify your story. Is that your handwriting after that
8 question?

9 A. Yes, it is.

10 Q. And what did you write?

11 A. After what question?

12 Q. Can you clarify your statement in reference to the
13 parties involved.

14 A. There were four guys. Onyx had that shotgun. There
15 was a short, fat, brown-skinned guy. He had a handgun, nine
16 millimeter. He was in all-black. Onyx red T-shirt. Onyx's
17 brother Jeffrey had on an all black jumpsuit. He ran up
18 with Onyx and met the driver. I cannot tell who it was. A
19 short, fat, brown-skinned guy named Matt.

20 Q. And after that, they asked if you want to add anything;
21 and you say no?

22 A. Yes.

23 Q. And at that point you got to go home?

24 A. Yes...

25 Q. And is that your signature at the bottom of the

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 statement?

2 A. Yes, it is.

3 Q. And above that is a statement that says that this is
4 true and accurate as to the best of your knowledge?

5 A. At the end of that it says in a statement with my
6 initials.

7 Q. I'm talking about just above your signature, what does
8 that say?

9 A. I have read the foregoing statement which has been
10 freely and voluntarily made by me and it is true and correct
11 to the best of my knowledge.

12 Q. And you wanted to tell the truth because you wanted the
13 people who were responsible to be caught?

14 A. Yes.

15 Q. Because you knew if you identified them they would be
16 arrested?

17 A. Yes.

18 Q. But it's your testimony today that James Rose did not
19 have a shotgun?

20 A. Not at my face, no, he did not.

21 Q. And he did not have a handgun?

22 A. Not -- no.

23 Q. And he did not say anything to you?

24 A. No.

25 MS. RUNEY: Beg the Court's indulgence.

1 THE COURT: Certainly.

2 BY MS. RUNEY:

3 Q. One more thing, Ms. Alston. You and Julio were not the

4 only people at that trailer?

5 A. No, we were not.

6 Q. Joy?

7 A. Yes.

8 Q. Rick Ross?

9 A. Yes.

10 Q. Ishmal Weston?

11 A. Yes.

12 Q. And when these guys in the car with the guns arrived

13 you went under the house?

14 A. Yes.

15 Q. And so you didn't see what happened inside the trailer?

16 A. No.

17 Q. And you didn't see Julio get shot?

18 A. No.

19 Q. You ran to the neighbor's house?

20 A. Yes.

21 Q. And you were screaming on the door for him to call 911?

22 A. Yes.

23 Q. And do you know that guy?

24 A. Yes, I do.

25 Q. And what's his name?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 A. His name is Brian.

2 Q. How do you know Brian?

3 A. Through the neighborhood. And he cuts my hair
4 sometimes.

5 Q. And his name is Brian Williams?

6 A. I don't know his last name. But I know his name is
7 Brian.

8 Q. And from Brian's house you went to your grandmother's
9 house?

10 A. Yes.

11 Q. And your mother picked you up there and took you to
12 MUSC?

13 A. Yes.

14 Q. So you never went back to the trailer before going to
15 the hospital?

16 A. No.

17 Q. And you testify today that a neighbor told you that
18 something had happened to Julio?

19 A. No, I said something -- I told the neighbor to call the
20 police, something is going on, something is wrong with
21 Julio, call the police.

22 Q. But you knew to go to MUSC?

23 A. No, when we got there my mother -- my mother came to
24 pick me up. We followed the ambulance from the trailer
25 straight to MUSC.

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 Q. But you didn't go back?

2 A. I did not go back inside of that trailer.

3 Q. That's all I have.

4 MS. RUNEY: Thank you.

5 THE COURT: All right. Redirect.

6 MS. SHEALY: Thank you.

7 **REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON:**

8 Q. Ms. Alston, tell the jury were you trying to lie to the
9 police when you gave your statements that night?

10 A. No.

11 Q. And in looking at your first statement -- do you have a
12 copy of it? Do you have up in the corner what time the
13 interview started and what time it ended?

14 A. Yes, I do. It started at 3:50 a.m. and ended at -- I
15 don't know if that's five o'clock or 5:09.

16 Q. Okay. And the first paragraph of the first statement
17 that you gave to police, would you read that to the jury
18 please.

19 A. My statement one or the first statement?

20 Q. The one that had the times up in the corner.

21 A. Julio, Joy, along with myself and Antoine, a.k.a. Ross,
22 we all was in the house enjoying ourselves when Onyx, a.k.a.
23 James Rose, came in. We were all drinking. I went to take
24 a shower. Came back. Smoked a Newport on the back porch.
25 Onyx came up behind me. Went to a gray four-door Neon.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 Q. Stop there for a second, please. If you could read
2 that sentence again slowly for us starting with came back.

3 A. Came back ---

4 Q. Well, go a little further back. It would make more
5 sense. I went to take a shower.

6 A. I went to take a shower. Well, I was in the shower.
7 So I didn't mean to say shower. Came back. Smoked a
8 Newport on the back porch. Onyx came out behind. Went to a
9 gray four-door Neon.

10 Q. Okay. So stop there. The first paragraph that you
11 give the police you indicate that when you came out, Onyx
12 came out behind you and he went to a gray, four-door Neon?

13 A. Yes.

14 Q. Continue reading.

15 A. I flicked the Newport, turned around. I had a shotgun
16 in my face.

17 Q. Stop there. In that sentence when you tell the police
18 that you flicked the Newport, turned around and had a
19 shotgun in your face, did you say that Onyx put the shotgun
20 in your face?

21 A. No, I did not.

22 Q. Continue.

23 A. Then came a short, fat guy came up with like a
24 nine-millimeter. The short -- the shot -- it's -- he shot.

25 Q. He shot.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

- 1 A. My first reaction was to drop. Then I crawled under
2 the porch and ran to the neighbor's and he said he was going
3 to call the police. I then ran and called my mother to come
4 and get me. And we came in straight to MUSC.
- 5 Q. And then what does the next line say?
- 6 A. The only thing I heard was freeze Bitch and shots.
- 7 Q. Okay. So right out-of-the-box on that early morning
8 hours after this incident had occurred you tell the jury
9 that Onyx when he came out the house went to the car?
- 10 A. Yes.
- 11 Q. A gray Neon?
- 12 A. Yes.
- 13 Q. And you have a shotgun in your face?
- 14 A. Yes.
- 15 Q. And you heard what?
- 16 A. Shots. Freeze Bitch and then shots.
- 17 Q. And when you tell the police before they start asking
18 you a whole bunch of questions, that's what you told them?
- 19 A. Yes, ma'am.
- 20 Q. Is that first paragraph in your handwriting?
- 21 A. Yes, it is.
- 22 Q. And then for the rest of the time period they're asking
23 you question after question after question?
- 24 A. Yes, ma'am.
- 25 Q. Is that correct? Let's go over on the second page of

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 that statement. Ms. Runey directed you to the third
2 question at the top of page where it said: Did this person
3 have a gun; if so, describe it. When you're answering this
4 question tell us who you are talking about as you're
5 answering. What's the first thing that you said?

6 A. The first I said was first James Rose.

7 Q. Okay. Then what do you say?

8 A. All black shotgun, two double-barrels.

9 Q. Okay. Now are you telling the police in that sentence
10 that it is James Rose with the double-barrel shotgun or
11 that first there was James Rose then there was the guy with
12 the double-barrel shotgun?

13 A. First there was James Rose, then the guy with the
14 shotgun.

15 Q. Now Ms. Runey's also asked you about bringing up the
16 names of Jeffrey Rose and Matt. This was at -- during the
17 time of your second statement; is that correct?

18 A. Yes, ma'am.

19 Q. At by the time you gave your second statement you had
20 had the opportunity to go back to the hospital and then go
21 home; ---

22 A. Yes.

23 Q. --- is that correct?

24 A. Yes.

25 Q Tell the jury, were you trying to figure out who the

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 other two people were?

2 A. Yes, I was.

3 Q. Well, tell us about Jeffrey Rose. Were he and his
4 brother tight?

5 A. Yes.

6 Q. Was his brother tall?

7 A. Yes.

8 Q. Was his brother slender?

9 A. Yes.

10 Q. Tell us about Matt. Who is Matt's wife; ---

11 A. Amber.

12 Q. --- do you know? Is that his wife or his sister?

13 A. Sister. I don't know his wife.

14 Q. Okay. So Matt is Amber Wiley's brother?

15 A. Yes, ma'am.

16 Q. Who was his girlfriend at the time?

17 A. Yes.

18 Q. Who was Rosen's girlfriend at the time?

19 A. Amber.

20 Q. So when you're trying to put two and two together you
21 think the tall, skinny guy; James Rosen has got a tall,
22 skinny brother that hangs out with him?

23 A. Yes.

24 Q. Short, stocky guy; his girlfriend's brother?

25 A. Yes.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 Q. Is that correct?

2 A. Yes, ma'am.

3 Q. They're always together?

4 A. Yes, ma'am.

5 MS. SHEALY: I have no further questions.

6 THE COURT: Okay. Yes, ma'am.

7 **RECROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON:**

8 Q. Ms. Alston, in between you being at the hospital and
9 going home and then going to the Sheriff's Department you
10 were trying to figure out who this was?

11 A. Yes.

12 Q. And figure out who those people were that were in black
13 and wearing masks?

14 A. Yes.

15 Q. And this was the talk of Lincolnville, wasn't it?

16 A. The talk?

17 Q. People were talking about this, weren't they?

18 A. Yes, they were.

19 Q. And that's why -- that where you got some of this
20 information?

21 A. No, it's not.

22 Q. You didn't talk to anybody about what had happened?

23 A. No.

24 Q. You didn't talk to anybody about James Rose?

25 A. Well, my family.

1 Q. And people weren't calling around talking about what
2 happened, where they?

3 A. If they were, I have no recollection of it. No one
4 called me about it.

5 Q. And when the detective asked you specifically what type
6 of gun did Onyx shoot at you with, you answered a double
7 barreled shotgun; didn't you?

8 A. Yes, I did.

9 Q. And that's because the police wanted you to answer that
10 question?

11 A. No, they asked me who I saw first, which was him. All
12 those -- when they was asking me those questions, the things
13 that they were asking me were still in my mind who did I saw
14 first, what did I saw after that, and what was said. And
15 that's what's all that was going in my head as I was writing
16 this down.

17 Q. So when you answered these questions your responses
18 were not the truth, right?

19 A. Yes, they are the truth. They're the truth to my
20 knowledge of what happened. Who did you see first? Onyx.
21 What was the next thing that you did? Saw a double-barreled
22 shotgun. What came after that? Freeze, Bitch. All those
23 were still in my mind going on in the time as I am writing
24 this.

25 Q. The answer to the question, what type of gun did Onyx

RE CROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON

1 shoot at you with. And you answer double-barreled shotgun.

2 That is not the truth, it is?

3 A. No, it's not.

4 Q. And you wrote that?

5 A. Yes, I did.

6 Q. And you signed a statement saying it was the truth?

7 A. Yes, I did.

8 Q. So some of these statements that you wrote were not
9 true?

10 A. My statement is true except for that part right there.

11 Q. So some is true and some is not true?

12 A. All is true except for that part right there.

13 Q. That James Rose did not shoot at you?

14 A. Yes.

15 Q. And you knew as a result of what you told the police
16 that somebody would be arrested?

17 A. Yes.

18 Q. It didn't concern you that you had said that James Rose
19 shot at you and it wasn't the truth?

20 A. Yes, it did concern me.

21 Q. Did you ever go to correct that with the detectives?

22 A. No, I did not.

23 MS. RUNEY: That's all I have. Thank you.

24 MS. SHEALY: Nothing further.

25 THE COURT: Ma'am, you may step down.

RECROSS-EXAMINATION BY RONEY OF MS. TAWANA ALSTON

1 MS. SHEALY: May she be excused, Your Honor?

2 THE COURT: She may. And you're excused, ma'am. Thank
3 you.

4 THE WITNESS: Thank you.

5 MS. SHEALY: The State calls Brian Williams.

6 THE COURT: Thank you. Let's take one minute. We need
7 to take about a ten-minute break. I need to let everybody
8 stretch.

9 And I know we need to stop at 5:30 today. I did
10 receive the note, and I appreciate that. So y'all take
11 about a quick ten-minute break.

12 Do not discuss the case yet. And I will plan with the
13 attorneys for the rest of the afternoon.

14 (WHEREUPON, jury exits courtroom 4:35 p.m.)

15 THE COURT: Do we have one or two more witnesses we can
16 get in?

17 MS. SHEALY: We do. We have -- I think what we will do
18 is we will do two.

19 THE COURT: Okay. That would be great.

20 MS. SHEALY: Pretty close, and that will be it.

21 THE COURT: All right. That sounds perfect.

22 MS. SHEALY: Okay.

23 THE COURT: All right.

24 MS. SHEALY: Thank you.

25 THE COURT: Okay.

RECROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON

1 (WHEREUPON, break 4:36 p.m.)

2 (WHEREUPON, Court's Exhibit Number 7, juror note, marked for
3 identification.)

4 (WHEREUPON, Court's Exhibit Number 8, juror note, marked for
5 identification.)

6 THE COURT: Are we ready for the Jury?

7 MS. SHEALY: Yes, Your Honor.

8 MS. RUNEY: Yes, Your Honor.

9 THE COURT: All right. Let's bring in the jury.

10 (WHEREUPON, jurors enter courtroom 4:47 p.m.)

11 THE BAILIFF: The jury is all present, Your Honor.

12 THE COURT: All right. Thank you, sir. And thank you,
13 ladies and gentlemen. Ms. Baldwin, call your next witness.

14 MS. BALDWIN: Thank you, Your Honor. The State calls
15 Brian Williams.

16 THE COURT: All right, sir, if you will come on up and
17 we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: Sir, once you are seated if you would
20 please state your first and last name and spell both your
21 first and last name.

22 MR. WILLIAMS: Brian Williams, B-R-I-A-N,
23 W-I-L-L-I-A-M-S.

24 (BRIAN WILLIAMS, after having been
25 sworn, testified as follows:)

1 DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS:
2 Q. Afternoon, Mr. Williams.
3 A. How are you doing?
4 Q. Good. How are you? How about telling the jury a
5 little bit about yourself. Where did you grow up?
6 A. Lincolnville.
7 Q. Live there still?
8 A. Still.
9 Q. Do you work?
10 A. Yes, I do. I'm a barber in the community. My family
11 has owned the barbershop for about 33 years. And I cut
12 their -- cut hair there. And I also have my own trucking
13 company.
14 Q. Do you know the victim, Leland Shannon?
15 A. Oh, yeah.
16 Q. How do you know him?
17 A. We were raised up together. I met him back about
18 seven, eight years old.
19 Q. Did he ever do any work for you?
20 A. Yeah, he remodeled my home.
21 Q. Do you know the defendant, James Rose?
22 A. Yeah.
23 Q. How do you know him?
24 A. Same neighborhood. Just in the streets just being
25 together.

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 Q. Where are you living currently?

2 A. [REDACTED] right on the corner right across the street where
3 the incident happened.

4 Q. You say right across the street?

5 A. Well, right -- yeah, because my house was parallel to
6 the road. Like ---

7 Q. Is there a church right there?

8 A. Yeah, right next to the church.

9 Q. Okay.

10 A. My house is right across the street from the church,
11 and where the incident happened was beyond the church. So
12 it is like walking from here to the second door on the
13 outside.

14 Q. I'm going to bring you into the night of January 23rd,
15 2012, into the 24th. What were you doing that evening?

16 A. That night?

17 Q. Yeah.

18 A. I was sleeping. I was sleeping, and that night I was
19 awake by my wife by the bamming on the front door. And my
20 wife, she came in because I was in the bedroom my side right
21 next to the front door. And she said Brian, somebody is at
22 the front door bamming on the front door.

23 So I woke up and went down and I said who is it. And
24 the person said this is Nikki. I said who is that. And she
25 kept on going this is Nikki, this is Nikki, this is Lee's

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 daughter. I said I don't know no Nikki. I know Sabrina,
2 which I was raised up with her sister. And she was ---

3 Q. Let me stop you there real quick. When you say let
4 me -- when she was banging on the door saying it's Nikki,
5 it's Nikki, what was her tone of voice; was she calm?

6 A. No, she was crying, screaming, you know, still bawling
7 on the door. Because I'm still shaken out of my sleep. And
8 she was telling me that Julio got shot. And I said who.
9 She said Leland, Leland just got shot.

10 So she was down there pleading and begging to come in,
11 and I didn't know this person. So in the meanwhile when she
12 said Leland I automatically dialed 911, went upstairs and
13 put my pants on. And that's when I shot across the street.

14 Q. And what happened -- you went over to the house?

15 A. Yes.

16 Q. Leland's house? What happened when you got there.

17 A. When I got there I was in between -- when I got in
18 between -- by the time I got in between the two trailers I
19 heard some more crying.

20 And when I got around the trailer it's like you've got
21 to come up a deck. And when I got up there I saw the
22 daughter down there with her -- with Leland. And when I saw
23 him laying in a pool of

24 Q. Take your time. What did -- when you say you heard
25 crying and you saw Joy there, what was Joy like?

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 A. She was crying trying to aid her father.

2 Q. Was she calm?

3 A. No.

4 Q. Was she quietly crying?

5 A. No, she -- you know, she was crying out loud.

6 Q. Was she saying anything?

7 A. I can't remember. Because actually when I saw him in
8 that state I said -- I just left. And I said to myself I
9 need to go get your dad and your brother.

10 Q. Did you at any point see the defendant that day, the
11 day of the incident?

12 A. The defendant?

13 Q. Yeah, see Mr. Rose?

14 A. Oh, it was that day. It was earlier. I don't -- I
15 don't know if you remember, but it was like earlier that
16 day, like 11:00, 12:00, something like that. And I was
17 playing in the yard with my kids. And I heard somebody say
18 what's up "B". And he was in the car and he was going in
19 the driveway.

20 Q. Which driveway?

21 A. The driveway down, you know, where the incident
22 happened at.

23 Q. Was he with anybody?

24 A. He was with a male, but I don't remember. I ain't look
25 or anything like that.

1 Q. Okay. So say one more time what did you do after you
2 saw Joy and Leland inside the trailer.

3 A. I went and got -- like I said when I saw him in that
4 condition I went and got Mr. Shannon and Pat, his brother,
5 and his dad. Well, his brother and his dad. Pat is his
6 brother. And Mr. Shannon. I left.

7 Q. You left and went and got them?

8 A. Yeah, I ran.

9 Q. Did you come back to the scene?

10 A. Yeah, I came back to the scene. And when I came back
11 to the scene I parked my truck in my yard and me and Pat
12 rode together, and Mr. Shannon come in a separate car. And,
13 you know, we started running. And when I turned around.
14 His brother just stopped, you know, because they were
15 already loading him.

16 Q. When you came back were the police there?

17 A. An ambulance. They was already loading him in an
18 ambulance.

19 MS. BALDWIN: Beg the Court's indulgence?

20 THE COURT: Sure.

21 BY MS. BALDWIN:

22 Q. Mr. Williams, when you saw James Rose earlier in the
23 day in the car you said there was a man in there. Can you
24 tell us whether or not there was a female in there?

25 A. No.

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 Q. Do you remember?

2 A. No, it was just him and another guy.

3 MS. BALDWIN: No further questions. Please answer any
4 questions Ms. Runey has.

5 THE COURT: Cross-Examination.

6 CROSS-EXAMINATION BY MS. RONEY OF BRIAN WILLIAMS:

7 Q. Good afternoon, Mr. Williams.

8 A. How are you?

9 Q. I know this is difficult for you. I just have a few
10 questions. When this woman came to your door she was
11 screaming it's Nikki, it's Nikki.

12 A. Uh-huh.

13 Q. And you didn't know who Nikki was?

14 A. Huh-uh.

15 Q. So at that point you didn't open the door?

16 A. No.

17 Q. But you could hear her saying Julio got shot, ---

18 A. Uh-huh.

19 Q. --- Leland got shot?

20 A. Right.

21 Q. And then you knew immediately who it was?

22 A. No, I still didn't know.

23 Q. Oh, I'm sorry, you didn't know who the female was?

24 A. No, I knew who ---

25 Q. But did you know who she was talking about?

CROSS-EXAMINATION BY MS. RUNEY OF BRIAN WILLIAMS

- 1 A. Yes, ---
- 2 Q. And ---
- 3 A. --- that's when I automatically dialed 911.
- 4 Q. That was your friend and your neighbor, ---
- 5 A. Oh, yes.
- 6 Q. --- Leland Shannon?
- 7 A. Yes.
- 8 Q. And so you called 911?
- 9 A. Right.
- 10 Q. And you also ran over to the house?
- 11 A. Yes.
- 12 Q. Were you still on the telephone with 911?
- 13 A. At that time, no.
- 14 Q. You had already hung up?
- 15 A. Right.
- 16 Q. And when you went over to the trailer you saw Joy with
- 17 her father?
- 18 A. Right.
- 19 Q. And you saw Antoine Aiken?
- 20 A. No one else.
- 21 Q. No one else was there?
- 22 A. No.
- 23 Q. Just Joy and her father?
- 24 A. Right. She didn't even know I was there. Because it
- 25 happened so quick. I ran over there and didn't care who was

CROSS-EXAMINATION BY MS. RONEY OF BRIAN WILLIAMS

1 still in the yard, didn't care what situation I was in. I
2 was just going to help him.

3 Q. To get Mr. Shannon?

4 A. Right.

5 Q. Absolutely. And did you see a young teenager there,
6 around 14 years old?

7 A. Again, no one. I got up to the front stairs, saw him
8 laying in a pool of blood. I came back out. I ran back out
9 to my house.

10 Q. Was ---

11 A. When I came I seen Mr. Aiken and like three or four
12 other people in the yard.

13 Q. Okay. So when you came back with Mr. Shannon you
14 saw ---

15 A. With his brother.

16 Q. --- Mr. Aiken?

17 A. Right.

18 Q. Okay. And Patrick Shannon?

19 A. Right.

20 Q. And Joy obviously?

21 A. Right.

22 Q. And a couple of other people; do you remember who else
23 was there?

24 A. Yeah, Little Ishmal.

25 Q. Who you knew from staying with his father in the

CROSS-EXAMINATION BY MS. RONEY OF BRIAN WILLIAMS

1 neighborhood?

2 A. Yeah, right next-door.

3 Q. So he was there?

4 A. Uh-huh.

5 Q. Was his father there?

6 A. I didn't even see his dad.

7 Q. So just Ishmal?

8 A. Right.

9 Q. That's all.

10 MS. RONEY: Thank you.

11 THE COURT: Thank you. Any redirect?

12 MS. SHEALY: I have no questions, Your Honor.

13 THE COURT: Okay. Sir, you may step down and be
14 excused.

15 MS. SHEALY: Deanna Henderson.

16 THE COURT: All right. Ma'am, if you would come on up
17 and we will swear you in.

18 (WHEREUPON, the witness was sworn.)

19 THE CLERK: Ma'am, once you are seated if you could
20 please state your first and last name and spell your last
21 for the record.

22 MS. HEANDERSON: Deanna Henderson. The last name, did
23 he say spell it.

24 MS. SHEALY: Spell your last name.

25 MS. HENDERSON: H-E-N-D-E-R-S-O-N.

CROSS-EXAMINATION BY MS. RONEY OF BRIAN WILLIAMS

1 (DEANNA HENDERSON, having
2 first been duly sworn, testified as follows:)

3 **DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:**

4 Q. Ms. Henderson, and if you would please tell the jury
5 how old you are.

6 A. Twenty-nine.

7 Q. And where are you from?

8 A. Ridgeville.

9 Q. Ridgeville area?

10 A. Yes, ma'am.

11 Q. Where do you currently reside?

12 A. In Ladson.

13 Q. And in what area in Ladson?

14 A. Summerville Mobile Home Park.

15 Q. And the Summerville Mobile Home Park is there a street
16 called Cindy Drive?

17 A. Yes, ma'am.

18 Q. And do you in fact live on Cindy Drive?

19 A. Yes, ma'am.

20 Q. Back in January of 2012 did you live on Cindy Drive?

21 A. Yes, ma'am.

22 Q. If I could start with did you know Leland Shannon?

23 A. Yes.

24 Q. Did you know him as Leland or as Julio?

25 A. As Julio.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

- 1 Q. Okay. And how did you know him?
- 2 A. He tint my windows on my vehicle.
- 3 Q. He tinted your windows?
- 4 A. Uh-huh.
- 5 Q. And what area of town are you familiar with that he
- 6 lived in?
- 7 A. Lincolnville.
- 8 Q. Do you know Onyx?
- 9 A. Yes.
- 10 Q. And do you see Onyx in the courtroom? Look over the
- 11 whole courtroom.
- 12 A. Yes.
- 13 Q. Okay. Where is Onyx?
- 14 A. Right here (pointing).
- 15 Q. Okay. Now in that mobile home park -- first of all,
- 16 tell us how did you know Onyx.
- 17 A. I know Onyx from coming over playing chess with one of
- 18 my baby daddies.
- 19 Q. With one of your baby daddies?
- 20 A. Uh-huh.
- 21 Q. Oh, let me ask you something real quick. Do you have a
- 22 conviction for 2006 for financial transaction card fraud?
- 23 A. I do.
- 24 Q. And you were put on probation for that?
- 25 A. Uh-huh.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 Q. Okay. Now the baby daddy that you're talking about,
2 what is his name?

3 A. James.

4 Q. James. And when Onyx would come over and play chess
5 with James do you know where Onyx was living?

6 A. In the mobile home park.

7 Q. Excuse me?

8 A. He was staying in the park.

9 Q. The same mobile home park?

10 A. Uh-huh.

11 Q. If I show you State's Exhibit 29 can you -- do you know
12 which trailer that is to the left?

13 A. Uh-huh.

14 Q. And could you tell us whether that is where Onyx was
15 living?

16 A. Yes.

17 Q. Did you know Deanna, who Onyx lived there with?

18 A. Amber and Matt and his fiancée.

19 Q. Okay. You know what, I'm going to need you to do is
20 talk a little bit louder for me.

21 A. Yes, ma'am. Amber, Matt, and his fiancée.

22 Q. Okay. So they all lived in that trailer?

23 A. Uh-huh.

24 Q. And did you get to know Onyx from him coming over to
25 play chess with James?

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 A. Barely, yes.

2 Q. Barely, is that what you said?

3 A. Uh-huh.

4 Q. Okay. Prior to January 24th could you -- and the days
5 leading up to January 24th would you tell the jury whether
6 or not Onyx ever spoke to you about Julio.

7 A. He spoke to me once about Julio. I can't exactly
8 remember exactly how many days or whatever. He came over
9 one night and we were switching out DVD's and ---

10 Q. Y'all were what? I'm sorry?

11 A. Switching our DVD's.

12 Q. Okay.

13 A. We borrowed each other's DVD's. And he was upset that
14 he went to Julio to buy some green but he was taxing him for
15 it.

16 Q. Okay. So let's talk about those terms that you're
17 using.

18 A. Oh, I'm sorry.

19 Q. He would to buy some did you say green?

20 A. Yes, marijuana.

21 Q. Now are you talking marijuana?

22 A. Yes, ma'am.

23 Q. And Onyx was complaining because Julio was taxing him?

24 A. Yes, ma'am.

25 Q. What does that term me?

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 A. He was putting the price up higher than what I guess
2 it's usually.

3 Q. Okay. And when Onyx had that discussion with you could
4 you tell the jury what his demeanor was like; how was he
5 acting?

6 A. At that time it was just like he just said "F-it" and
7 that was it.

8 Q. Well, when you say he said "F-it", with the court's
9 permission if you could tell us exactly what he said.

10 A. He just said when Julio was taxing him he didn't buy
11 it, he said said fuck that, to keep that.

12 Q. Okay. And now focusing your attendance at the morning
13 hours of January 24th, daylight on January 24th, could you
14 tell the jury whether or not you had the occasion to Onyx to
15 see that day?

16 A. Is that the day that -- I was at work that morning and
17 he was calling my phone or whatever. Once I got home around
18 one ---

19 Q. Wait a minute. Let's talk about that for a second. He
20 was calling your phone?

21 A. Yes.

22 Q. Did you talk to him when he called you ---

23 A. I didn't talk to him. I don't remember. I didn't talk
24 to him.

25 Q. And did he call you one time, or did he call you more

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 than one time?

2 A. He called me more than once.

3 Q. Okay. So what then happened?

4 A. Once I came home, he came over. He knocked on the
5 door. We sat on the porch. And he was like -- he told me
6 if anybody came by looking for him or wanted to know if he
7 stayed in the trailer park to say that he didn't stay there.

8 Q. Okay. Can you say that a little bit slower for us,
9 Deanna?

10 A. I'm sorry. He said that if anybody came by looking for
11 him or wanted to know if he stayed in the trailer park, that
12 he didn't stay there.

13 Q. Okay. And did he ask you about whether you had heard
14 anything?

15 A. Yeah, he asked me -- or either I asked him. I can't
16 remember. About what -- the home invasion. I think he
17 asked me about if I heard what happened in Lincolnville. I
18 said I heard on the news that it was a home invasion in
19 Lincolnville.

20 Q. Did y'all have a discussion about whether it mentioned
21 who the victim was on the news?

22 A. I asked him I wonder who got shot in Lincolnville. And
23 he replied and said Julio.

24 Q. When you asked him who got shot, he said who?

25 A. Julio.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 Q. Okay. Did he ask you anything else about the news
2 story?

3 A. He asked me was the person that got shot did the news
4 say living or dead. I told I didn't know, they just said he
5 got shot and the person was transported to MUSC.

6 Q. Okay. Now when you were having this conversation with
7 Onyx you were at -- on your porch at your --

8 A. Yes, ma'am.

9 Q. --- mobile home? And could you describe for the jury,
10 please, how did Onyx appeared when he was asking you all of
11 these questions; how did he look?

12 A. How did he look?

13 Q. How did his mood seem to be?

14 A. A little nervous. Just a little tense.

15 Q. Okay. And do you remember about what time it was that
16 y'all had this conversation; you would have gotten off work
17 at what time?

18 A. I got off work at 1:00.

19 Q. Now what happens next after he had that conversation
20 with you?

21 A. We are having a conversation, and we are on my porch.
22 My back is turned towards him. And he is facing the road.
23 And a black, Dodge Charger started to proceed to pass.

24 He asked me if I'd seen a black, Dodge Charger in the
25 trailer park. I told him yeah, it was an unmarked Berkeley

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 County. Because he always comes through the trailer park.

2 Q. Okay. And what happened after that?

3 A. He asked me to walk down the steps to see exactly where
4 it went.

5 Q. Did you do that for him?

6 A. Yes.

7 Q. And what did you tell him?

8 A. Before I could get to the end of the trailer the police
9 or whoever came rushing in the yard.

10 Q. Okay. When you say they came rushing in the yard, were
11 there police on foot and police in cars or ---

12 A. They had vehicles, but they were already out of the
13 vehicles on foot.

14 Q. Okay. And when that happened did the police put James
15 Rose in a police car?

16 A. Yes.

17 Q. After Onyx -- and I'm sorry, Onyx is what you call him.
18 After Onyx was put in the police car could you describe to
19 the jury what happened next?

20 A. He was put in the police car and he ---

21 Q. What did you do?

22 A. I was standing in my yard.

23 Q. Okay. And do you at some point approach the police
24 car?

25 A. Yeah, one of the officers said that he wanted to speak

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 with me.

2 Q. Okay. What happened when you approached the police
3 car?

4 A. Onyx then apologized to me for bringing the commotion
5 to my house. Because I have kids. And I asked him -- I was
6 like babe, you shot Julio? And he nodded his head.

7 Q. Showing the jury ---

8 A. And held his head down.

9 Q. Show the jury, I'm sorry, how he nodded.

10 A. He just like nodded his head and held his head down
11 (motioning).

12 Q. I'm sorry, what?

13 A. He nodded his head and held his head down.

14 Q. And held his head down?

15 A. Yes, ma'am.

16 Q. Now did you give a statement to the police about what
17 we have just talked about?

18 A. Yes.

19 Q. A written statement? I will show you a copy just to
20 refresh your memory. Do you recall whether you gave it on
21 that same day or the next day?

22 A. I think it was the next day or something. I know it
23 wasn't the same day.

24 Q. And when you gave the statement to the police did you
25 mention the part about him holding his head down when you

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 were asked the question?

2 A. No.

3 Q. Tell the jury why you didn't tell the police, why you
4 didn't tell the police that that day.

5 A. I really don't have a reason. I just didn't.

6 Q. You just didn't? And again, earlier that morning when
7 you saw Onyx, what did he say to do if anybody was looking
8 for him or asked if you knew him?

9 A. He told me if anybody came by looking, for them to say
10 that he didn't stay in the trailer park and I didn't know
11 him.

12 Q. And that you didn't know him?

13 A. Uh-huh.

14 Q. I have no further questions. Please answer any that
15 the defense may have.

16 THE COURT: Thank you. Cross-examination.

17 CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON:

18 Q. Good afternoon, Ms. Henderson.

19 A. Hi.

20 Q. That was kind of a crazy day at your house, wasn't it?

21 A. Yes, ma'am.

22 Q. There were several police cars and SUV's?

23 A. Yes, ma'am.

24 Q. And many many police officers?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 Q. And they came rushing towards your house?

2 A. Uh-huh.

3 Q. And they put James Rose on the ground?

4 A. They did.

5 Q. And handcuffed him?

6 A. Yes, ma'am.

7 Q. And after they handcuffed him they pulled him away and
8 put him in one of their vehicles?

9 A. Yes, ma'am. I think it was a black Suburban.

10 Q. And you were probably nervous at that time, I'm
11 guessing?

12 A. Yes, ma'am.

13 Q. And they let you talk to James?

14 A. Yes, ma'am. One of the officers. I was in the yard
15 walking back to the shed. One of officers said do you want
16 to speak with him.

17 Q. And he wanted to tell you that he was sorry that he had
18 brought this commotion to your house?

19 A. Yes, ma'am.

20 Q. Because the streets in that neighborhood are small,
21 everybody's houses are pretty close together; and I'm sure
22 this was a huge commotion?

23 A. Oh, yes. And you have a kid?

24 A. Yes, ma'am.

25 Q. You have a child with a man who is a cousin of Leland

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 Shannon's, right?

2 A. Yes, ma'am.

3 Q. Okay. So you are not related to him but your child
4 would be?

5 A. Yes.

6 Q. Okay. And when the detectives let you talk to Onyx and
7 he said I'm sorry I've brought this mess to your house, I'm
8 sure they're kind of right on you as well?

9 A. Yes.

10 Q. Many of them?

11 A. It was one of them.

12 Q. One?

13 A. It was one.

14 Q. That went up with you?

15 A. Yes.

16 Q. Okay. But there were many police officers around?

17 A. Oh, yes, ma'am.

18 Q. Okay. And at this point he's going to jail?

19 A. Yes.

20 Q. And it's safe to say he wasn't happy he was going to
21 jail?

22 A. No.

23 MS. RUNEY: Beg the Court's indulgence. That's all I
24 have. Thank you, Ms. Henderson.

25 MS. HENDERSON. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 THE COURT: Any redirect?

2 MS. SHEALY: No, Your Honor. We would just ask that
3 she be excused.

4 THE COURT: All right. Ma'am, you may step down and be
5 excused. Can we get one more?

6 MS. SHEALY: Your Honor, I think our next witness could
7 take after 5:30, so we probably can stop here.

8 THE COURT: Okay. Ladies and gentlemen, our next
9 witness may run a little longer. And I know that some of us
10 need to get on the road by 5:30. So we are going to break
11 for today.

12 I ask that y'all be back in the jury room by 9:30 in
13 the morning. I appreciate the juror who moved her
14 appointment for us. That way we can start a little earlier.

15 I hope you have a nice evening. Please don't discuss
16 the case. Don't do any independent research. Again, I
17 don't think there will be any media coverage. But please
18 don't read or watch or listen to anything if there is.
19 Thank you, ladies and gentlemen. Have a nice evening.

20 (WHEREUPON, jurors exits courtroom 5:14 p.m.)

21 THE COURT: All right. What's our lineup for tomorrow?
22
23 Do we have -- think we will move pretty quickly through the
24 witnesses?

25 MS. SHEALY: We have several quick witnesses.

1 THE COURT: Okay.

2 MS. SHEALY: At some point tomorrow we will be putting
3 our evidence custodian in.

4 THE COURT: All right.

5 MS. SHEALY: That will be relatively lengthy.

6 THE COURT: Sure.

7 MS. SHEALY: And there are a few officers that we are
8 going to debate tonight about whether we are putting them up
9 or not.

10 THE COURT: Okay.

11 MS. SHEALY: And then I really think we could finish
12 our case tomorrow.

13 THE COURT: That would be great, okay.

14 MS. SHEALY: I have some SLED agents, Judge.

15 THE COURT: Okay.

16 MS. SHEALY: I know one of them was expected to be
17 needed in Jasper County Department tomorrow morning ---

18 THE COURT: Okay.

19 MS. SHEALY: --- which would not conflict with this.

20 THE COURT: Okay.

21 MS. SHEALY: I will double check on that when I get out
22 of court today.

23 THE COURT: All right. That would be perfect. They
24 could hit us on the way back from Jasper.

25 MS. SHEALY: That's what I had ---

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1 THE COURT: That's kind of on the way.

2 MS. SHEALY: That's the last message I left her was
3 that maybe she could just travel here ---

4 THE COURT: Okay.

5 MS. SHEALY: --- when she finished there. So I think
6 we can finish tomorrow.

7 THE COURT: All right. Well, I've got a draft of the
8 jury charges ready. I will print those for you and have
9 them for you in the morning. Y'all send me whatever you
10 like.

11 I do have a hand of one charge and a mere presence
12 charge. Y'all may need to argue about that at -- you know,
13 when we have a charge conference. But I just think it is
14 helpful to have a draft to work from. So we will print that
15 for tomorrow.

16 MS. SHEALY: I don't know what your policy is about
17 whether we would argue and charge at -- do you have a cutoff
18 time that you ---

19 THE COURT: I don't really have a cutoff time, but I
20 like to not -- I mean, you know, once we are getting into
21 3:00 and four o'clock I realize that it's not going to work
22 for keeping the jury here. So it really kind of depends on
23 what we also have to do this week.

24 I know I've got a hearing Friday morning I think
25 actually with Jessica. I mean there are things I can do

1 while the jury is out if for some reason we need to wait
2 until Friday morning. But we may get ---

3 MS. SHEALY: Well, we still have Thursday.

4 THE COURT: Right. We may get far enough Thursday to
5 send it to the jury.

6 MS. SHEALY: I'm confused about what day we're on.

7 THE COURT: Today is Tuesday.

8 MS. SHEALY: So --

9 THE COURT: But I'm assuming ---

10 MS. SHEALY: Right.

11 THE COURT: --- you are going to take up most of
12 tomorrow.

13 MS. SHEALY: Right. And I think we might in a position
14 Thursday morning to argue that.

15 THE COURT: Okay.

16 MS. SHEALY: Okay.

17 THE COURT: Sounds good to me. Thank y'all.

18 MS. SHEALY: Thank you.

19 THE COURT: All right.

20 MS. RUNEY: Thank you.

21 THE COURT: All right. We will be at ease. I will see
22 y'all at 9:30 in the morning.

23 MS. SHEALY: Thank you, Judge.

24 THE COURT: Thank you.

25 (WHEREUPON, recessed January 10, 2014, 5:17 p.m.)

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1

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2

MS. SHEALY: We have added State's 104 which is a photograph. I've shown it to the defense. They have no objection.

4

5

THE COURT: Okay. No objection, all right. State's 104 will be admitted without objections.

6

7

(WHEREUPON, State's Exhibit 104, photo, was marked for identification.)

8

9

(WHEREUPON, State's Exhibit 104 was admitted into evidence.)

10

MS. SHEALY: And then regarding previously marked 75, 91, and 93, they were all in a bag from SLED.

11

12

THE COURT: Okay.

13

MS. SHEALY: With the defense's permission ---

14

THE COURT: Okay.

15

MS. SHEALY: --- we have opened that bag to mark the bag itself ---

16

17

THE COURT: All right.

18

MS. SHEALY: --- and to put the stickers on the individual items.

19

20

THE COURT: I appreciate that. That makes so much more sense to have all that ready to go.

21

22

MS. SHEALY: Okay.

23

MS. RUNEY: What are those you numbered? I'm sorry?

24

THE COURT: Seventy-five, ninety-one, and ninety-three I think.

25

1 MS. SHEALY: And then now the SLED bag itself was
2 marked 105.

3 THE COURT: Okay.

4 MS. SHEALY: And then our Exhibit's 85 and 86 which
5 were previously admitted we have taken those out of the SLED
6 bag and marked the SLED bag 106.

7 THE COURT: And I assume -- any objections to 105 and
8 106, the bags themselves?

9 MS. RONEY: I do not, no, ma'am.

10 THE COURT: Okay. Thank you. All right. Great.
11 Whenever y'all are ready.

12 (WHEREUPON, State's Exhibit Number 105, bag, marked for
13 identification.)

14 (WHEREUPON, State's Exhibit Number 105 admitted into
15 evidence.)

16 (WHEREUPON, State's Exhibit Number 106, bag, marked for
17 identification.)

18 (WHEREUPON, State's Exhibit Number 106 admitted into
19 evidence.)

20 (Break 9:40 a.m. to play audio of phone call from Charleston
21 County Detention Center.)

22 THE COURT: Okay. Is there any objection to the jail
23 call?

24 MS. RONEY: Yes, ma'am.

25 THE COURT: All right. What's the basis of the

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1 objection?

2 MS. RUNEY: My first objection is I assume that the
3 State is planning to introduce this jail call under the
4 hearsay 804(b)(3), statement against interest.

5 Your Honor, our position is that this is not a
6 statement against interest. First of all, it is unclear
7 what Mr. Rose is talking about. It's unclear who he is
8 talking to. And he begins the conversation by trying to
9 find his girlfriend.

10 He has just been arrested. He is looking for her.
11 They share a phone. They have several phones amongst them.
12 And the discussion is about getting in touch with her and
13 one of the phones they use is in the car that was seized by
14 the Sheriff's Department.

15 So for that reason, we don't think that it should be
16 admitted under that hearsay rule.

17 THE COURT: Okay.

18 MS. RUNEY: The third -- the second objection is under
19 Rule 403 relevancy, why it is relevant that he is trying to
20 get in touch with his girlfriend. My position is that it is
21 not relevant. It is certainly confusing to the jurors. If
22 we didn't -- if we had more background about what this
23 conversation is about, if we had and the person that he was
24 talking to. We don't know those things. And because of
25 that, we don't know what he is trying to say.

1 It's speculation to say that his phone is in there and
2 then that means that he was in that car to commit this
3 crime. Also, once this car was seized by the Sheriff's
4 Office they found nothing that put James Rose in that car.

5 THE COURT: Did they find a phone?

6 MS. RUNEY: They did.

7 MS. SHEALY: They did, Your Honor.

8 THE COURT: Okay.

9 MS. RUNEY: We don't know whose phone that is. And the
10 fact that there was a phone in there, I don't know if this
11 testimony will be presented; but in the discovery James's
12 girlfriend is in that car... She may be even in that car when
13 the Sheriff's Office takes it.

14 But she does give statements to detectives that she is
15 in that car with the owner of the car the day after this
16 happened going to her probation office.

17 THE COURT: Who is the owner of the car?

18 MS. RUNEY: Everlina Bickman. And she is on the
19 witness list.

20 THE COURT: Okay. So 403, general relevance ---

21 MS. RUNEY: Yes, ma'am.

22 THE COURT: --- and the hearsay exception?

23 MS. RUNEY: Yes, ma'am.

24 THE COURT: All right. Ms. Baldwin or Ms. Shealy, talk
25 to me about what the significance of the phone is -- I mean

State vs. James Rose

1 if we can tell from the outgoing calls if there is anything
2 that ties it to the defendant and what the relevance of the
3 phone call is.

4 MS. BALDWIN: Your Honor, it's the State's position
5 that that jail call ties Mr. Rose to that car. That car
6 that was seized by police is a four-door, gray Neon which is
7 exactly what the witness say they saw outside of the house
8 when the incident occurred.

9 THE COURT: Okay.

10 MS. BALDWIN: They also say they saw Mr. Rose drive
11 away in that car. So we believe that statement ties it all
12 together.

13 THE COURT: Okay. I couldn't quite understand in the
14 telephone call what he was trying to get the other
15 individual to do.

16 MS. BALDWIN: In that telephone call it sounds like he
17 is trying to get the other individual to dial his girlfriend
18 at the time, Amber Wiley.

19 THE COURT: To find out if there was a phone in the car
20 or what? I mean ---

21 MS. BALDWIN: To -- he's got his clothes and
22 belongings at the -- at the house. And the State also
23 believes that is important, Your Honor, to identify that
24 that location where Amber Wiley lived was where Mr. Rose
25 also lived. That is where the car was found.

State vs. James Rose

1 THE COURT: Okay. Let me take a look -- I understand
2 certainly why it would be relevant if he were concerned
3 about his DNA being in the car, if he were concerned about a
4 phone that may have belonged to him being in the car.

5 I need to look at some -- the law to see if 804(b)(3)
6 applies here. I'm not sure that it is actually a statement
7 that is so far contrary to the defendant's pecuniary
8 interest other than the fact that he references DNA that it
9 would come within 804(b)(3). But I will look at some cases.
10 If you've got any, I'm happy to hear.

11 MS. BALDWIN: We can pull some, Your Honor. I would
12 say ---

13 THE COURT: I can pull them while y'all work. I mean
14 I

15 MS. RUNEY: Your Honor, if I could just add one thing.

16 THE COURT: Sure.

17 MS. RUNEY: I believe that the testimony would show
18 that nobody could identify this specific car. It's the same
19 type of car. There's been some testimony that it was a gray
20 car or a white car or a silver car. And this ---

21 THE COURT: I thought it was a gray Neon. I thought
22 that ---

23 MS. BALDWIN: That is what Tawana Alston identified the
24 car as being.

25 THE COURT: Okay.

State vs. James Rose

1 MS. RUNEY: She does. But I think that Antoine Aiken
2 said that it could have been white. And then another
3 witness I can't remember said possibly silver.

4 It is the same type of car that is described, but
5 nobody gives a license plate number or any special sticker
6 that is on it or, you know, damaged part or anything like
7 that.

8 THE COURT: Okay.

9 MS. RUNEY: I would just add that. And the other bit
10 of information that I would provide to the court is that
11 also in statements that were given to the police Amber
12 Wiley, Mr. Rose's girlfriend, who he is trying to find on
13 the phone, gives a statement immediately after this to
14 Detective Church that she went to court in Berkeley County
15 the day after this happened and that James Rose went with
16 her and that that was for an eviction hearing.

17 Their trailer is in Berkeley County and they were being
18 evicted from that trailer. I think that's important to know
19 because he is talking about getting his clothes and stuff.

20 Thank you.

21 THE COURT: Sure.

22 MS. BALDWIN: Your Honor, just for the record, it's the
23 State's positions that this would actually fall under
24 801(D)(2) as an admission by a party opponent, not a
25 statement against interest.

1 THE COURT: Okay. And it may well fall under
2 801(D)(2). The problem becomes if the assertion that he
3 wasn't in any way connected with that car is an argument
4 that is to be made, the fact that he is worried about his
5 DNA being found in it makes the call more relevant than less
6 so.

7 And the 403 standard is that the prejudice must
8 substantially outweigh the relevance. So if it falls within
9 a hearsay exception, I am probably going to let it in under
10 403.

11 But let me just read a little bit of law while the
12 trial goes forward. And I think that 801(D) -- (D)(2) may
13 be more of where we are headed than 804. But let's just
14 look at it and see.

15 If he's concerned about his DNA, I'm not sure why he
16 would be but for the fact that he's worried they are going
17 to find it in that particular car.

18 MS. RUNEY: Well, then I would have to listen to it
19 again. And I don't want ---

20 THE COURT: Yeah, we do need to listen to it again.
21 Because it was somewhat unclear to me and but for his
22 references to that I don't -- to that being the DNA I don't
23 know that it would be relevant because he -- the folks
24 obviously were trying to talk -- they know those calls are
25 being recorded.

State vs. James Rose

1 MS. RUNEY: I think what he says is that they've taken
2 that girl's car, they think they're going to find my DNA in
3 that car.

4 THE COURT: That's what I heard.

5 MS. BALDWIN: And, Your Honor, I also think the fact
6 that he references a phone being inside of there, the phone
7 that he was using ---

8 THE COURT: Yeah.

9 MS. BALDWIN: --- being inside that car.

10 THE COURT: In any event, the State is going to need to
11 lay some foundation any way regarding the car, the search,
12 the police officer that investigated and processed the car.
13 I imagine we are going to hear some of that this morning.

14 MS. SHEALY: You should.

15 THE COURT: So I need -- I'm got to hold off ----

16 MS. RUNEY: Yes, ma'am.

17 THE COURT: --- until that is laid anyway. And then we
18 can certainly listen to the tape again. Because as I
19 indicated, I intended to listen to it last night. Couldn't
20 get it to get my computer to play it. So I apologize for
21 that.

22 Anything else we need to take up before we bring the
23 jury?

24 MS. SHEALY: No, I was just going to mention to
25 security that Clarence Hush should be our second witness.

State vs. James Rose

1 Thank you.

2 THE COURT: Okay. Anything else from the defense
3 before we bring the jury?

4 MS. RUNEY: No, ma'am. Thank you.

5 THE COURT: All right. Let's bring them on in. Thank
6 you.

7 (WHEREUPON, the jurors enters courtroom 9:53 a.m.)

8 THE BAILIFF: Jurors are all present, Your Honor.

9 THE COURT: Thank you, sir, and thank you ladies and
10 gentlemen. Good morning. I hope y'all had a nice evening.
11 The State and the defense are ready to proceed with the
12 trial. So I will call on Ms. Shealy and Ms. Baldwin to call
13 their next witness.

14 MS. BALDWIN: Thank you, Your Honor. The State calls
15 Brandon Cantrell.

16 THE COURT: All right. Mr. Cantrell, if you will come
17 on up, we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: After you are seated if you could please
20 state your first and last name and then spell your last for
21 the record. Speak into the microphone, please.

22 MR. CANTRELL: My name is Brandon Cantrell. It's
23 C-A-N-T-R-E-L-L.

24 **DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL:**

25 Q. Good morning, Brandon. How old are you?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. I'll be 20 this Sunday.

2 Q. Happy early birthday.

3 A. Thank you.

4 Q. Do you work currently?

5 A. I actually just had a job interview yesterday.

6 Q. Do you go to school?

7 A. Yes.

8 Q. Where do you go to school?

9 A. Trident Tech.

10 Q. Trident. Where do you live now?

11 A. At the same house I've lived the past 15 years.

12 Q. And where is that?

13 A. Wilmore Acres, [REDACTED]

14 THE COURT REPORTER: I'm sorry, I didn't hear that.

15 A. [REDACTED]

16 Q. Just make sure you speak up into that mike so the court
17 reporter can hear you.

18 THE COURT: That's Cindy Drive; is that right?

19 THE WITNESS: Yes, ma'am.

20 BY MS. BALDWIN:

21 Q. Do you know the defendant, Mr. Rose?

22 A. He looks different. But yeah.

23 Q. Where do you see him?

24 A. I'm pretty sure that's him right there, right?

25 Q. How do you know him?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Well, he lives down the street from me in the
2 neighborhood. And we hung out from time to time and smoked.
3 But other than that, you know, that was pretty much our
4 relationship.

5 Q. What do you mean by smoked?

6 A. Marijuana.

7 Q. Where did he live?

8 A. Like it's on Cindy Drive as well. I don't know the
9 address. It's the green and white trailer.

10 Q. I'm going to show you State's Exhibit 29. It will come
11 up on the screen in front of you. What is that?

12 A. That is where he lived.

13 Q. And what did you call the defendant; what name did you
14 call him?

15 A. Onyx or "O".

16 Q. Did you -- who did the defendant live with; do you
17 know?

18 A. As far as I knew just his girlfriend. And I think she
19 had a kid or two kids as well if I'm not mistaken. I'm not
20 a hundred percent sure on that.

21 Q. Did you know his girlfriend's name?

22 A. No, I just hung out with him. I never even went inside
23 or anything.

24 Q. I'm going to show you State's Exhibit 28. Do you know
25 what that is?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Yeah, that was his girlfriend's car.

2 Q. So you said you and the defendant smoked ---

3 A. Yes, ma'am.

4 Q. --- marijuana together? Did you ever purchase drugs
5 together?

6 A. Yes, ma'am.

7 Q. Okay. How often did that happen?

8 A. I mean it was under at dozen times. It wasn't very
9 often.

10 Q. Did you ever go over to Lincolnville to get those
11 drugs?

12 A. Yes, ma'am.

13 Q. Okay. Do you know the address of the place in
14 Lincolnville you went to?

15 A. No, ma'am.

16 Q. Okay. Can you describe the house you would go to?

17 A. There was like a church kind of like in the front. And
18 then he went down a little dirt road. And then it was like
19 a trailer, to a doublewide on the right. And then there was
20 another house on the left. And that was the house. I don't
21 really exactly remember what it looks like. It has been
22 like two years so.

23 Q. When you guys would go to buy drugs there did -- who
24 would drive usually?

25 A. Me every time.

1 Q. So just tell the jury a little bit about the last time
2 you guys went to go over there to get drugs. Did you drive
3 that time?

4 A. No, ma'am. The last time that we went I actually had
5 asked him if he could find me anything. And he told me that
6 he couldn't. You know, that he would call as a friend. And
7 I was supposed to take him, but I had a really bad oil leak
8 with my car at the time so I told him I didn't want to
9 drive. And it was getting kind of late. It was about 8:30,
10 nine o'clock. About that time. And I had school the next
11 day.

12 So about maybe around nine o'clock he called me again
13 and told me that he had a ride. And that was with Unk. And
14 us three we drive to the house in Lincolnville.

15 Q. Let me stop you real quick. Do you know who Unk is?

16 A. No, ma'am, that was the first time I met him.

17 Q. Do you know what he -- do you remember what he looked
18 like?

19 A. He had like a bald head and -- or shaved head. There
20 was a few missing teeth. Kind of like a caramel color.

21 Q. And do you remember the date that y'all went to go get?

22 A. The day?

23 Q. The date.

24 A. No.

25 Q. January 23rd of 2012?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Honestly I couldn't tell you. It was just another day
2 of looking for weed and smoking in high school.

3 Q. All right. So you guys went over to Lincolnville to
4 get some drugs. And what happened when you got there?

5 A. Well, we got there. And usually, you know, we wait
6 about 10 or 15 minutes. Well, usually it was just me and
7 "O". But it took like 30, 45 minutes later. And so Unk
8 called him to see what was going on.

9 Q. When you say him, who do you mean?

10 A. "O". And "O" told him that he was coming out in a
11 second. And I think he still hadn't came out, so then Unk
12 went and knocked on the door and a guy came out, and they
13 were talking.

14 And Unk came back to the car. And then maybe about two
15 minutes later that's when "O" came out. And he told me that
16 he couldn't get anything. And, you know, I guess they had
17 got into an argument. Because he seemed pretty mad but.
18 And then ---

19 Q. What did they say again? What did "O" say?

20 A. He said that well that he couldn't get anything and
21 that -- man, I can't

22 Q. Do you remember -- what was his demeanor when he came
23 out?

24 A. I mean he was upset. Cleanly he was mad. But I would
25 be mad too if I went somewhere and waited for an hour and

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 couldn't get anything.

2 Q. It was about an hour that he was in there?

3 A. Yes, ma'am. It was a good -- it was a long time.

4 Q. Did you ever go inside?

5 A. No, ma'am.

6 Q. And typically when you guys would go over there how
7 long was he inside?

8 A. Usually it's about 10 or 15 minutes at the top, you
9 know, like a normal situation would go.

10 Q. And you said that Unk drove over there. Do you
11 remember what Unk's car looked like?

12 A. It was like a Dodge like caravan almost. Like kind of
13 like an SUV. But it wasn't like an SUV. It was a little
14 bit smaller, almost like a car.

15 Q. After "O" came back outside what did y'all do?

16 A. We left and we went --- and we stopped at EBT next
17 to -- between Waffle House and the Sonoco. And "O" gave him
18 \$5.00 for gas money. And Unk went inside and got I think it
19 was \$4.03 in gas. I just remember it was being weird.
20 Because he gave him a whole five. And I was like, oh, he
21 must have bought like a Black or something. And then ---

22 Q. When you say -- what do you mean by that, he must have
23 bought ---

24 A. Like a black of milds.

25 Q. Okay.

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. I don't know. I just remember it wasn't the whole five
2 dollars. And then after we left the station they dropped me
3 off at my house and then I went inside and went to sleep.

4 Q. What was "O" doing while y'all were at the gas station?

5 A. He was in the car and he was just trying to call like
6 to see if he could find anyone else to find -- you know, get
7 any weed from.

8 Q. Do you know who he was talking to?

9 A. No, ma'am.

10 Q. What was he acting like; was he calm, ---

11 A. I mean ---

12 Q. --- upset?

13 A. He was still a little upset from not being able to have
14 anything. But, you know, I guess he was calming down as he
15 was trying to get in touch with whoever.

16 Q. Do you remember what "O" was wearing?

17 A. I what to say it was the red shirt.

18 Q. And you said after the gas station they took you home
19 and dropped you off?

20 A. Uh-huh.

21 Q. Do you remember about what time of night that was?

22 A. I would say close to 11:00 because I was -- it was
23 pretty late.

24 Q. And Brandon, do you remember giving a statement to the
25 police about this whole incident?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Yes, ma'am, the next day at school.

2 Q. At school?

3 A. Yes, ma'am.

4 Q. Where were you going to school at that time?

5 A. Stratford High.

6 Q. And you -- did you know anything about what had
7 happened in Lincolnville ---

8 A. No, it completely threw me off. Like I was sitting in
9 my second period class and then the SRO pulled me out and
10 took me to the SRO office. And there was two detectives
11 there. They started asking me a bunch of questions.

12 MS. BALDWIN: Beg the Court's indulgence.

13 BY MS. BALDWIN:

14 Q. Brandon, I don't have any more questions for you. Just
15 answer any questions from Ms. Runey, please.

16 THE COURT: Thank you. Cross-examination.

17 CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL:

18 Q. Good morning.

19 A. Good morning. I just want to clarify this morning that
20 after you went to the trailer in Lincolnville with Mr. Rose
21 and the man that you know as Unk, you pulled up there; James
22 goes in, right?

23 A. Yes, ma'am.

24 Q. You and Unk are in the car?

25 A. Uh-huh.

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 Q. And it seems like longer than normal?

2 A. Yeah.

3 Q. And when you mean -- when you say longer than normal,
4 when you and James would go there you would stay in the car
5 and he would go in?

6 A. Yes, ma'am.

7 Q. And it would usually be about 10 to 15 minutes?

8 A. Yes, ma'am.

9 Q. At this time it seemed longer?

10 A. Uh-huh.

11 Q. And so did one of you go try to get him, tell him to
12 come on or ---

13 A. Yes, ma'am, Unk went and knocked on the door and a guy
14 in a green shirt came to the door and they talked or
15 conversated. And that's when Unk came back to the car and
16 we waited for a little bit longer and he tried calling him.

17 Q. He tried to call him?

18 A. Yes, ma'am.

19 Q. And then James came out to the car?

20 A. Well, yeah, a little bit after they talked. Yeah.

21 Q. And when he came back to the car he told you that he
22 couldn't get anything?

23 A. Yes, ma'am.

24 Q. And that was the sole reason that you had gone over
25 there ---

CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL

1 A. Yeah.

2 Q. --- to get some weed?

3 A. Yeah, because I just give, you know, him my money and
4 he gets it, you know, along with whatever he gets.

5 Q. You said this whole trip ---

6 THE COURT REPORTER: I'm sorry, I didn't hear the end
7 of that.

8 A. I just, you know, I give him my money and he just gets
9 it, you know, with whatever he gets.

10 Q. So this whole trip was a waste?

11 A. Yes, ma'am.

12 Q. And so he wasn't able to provide what you wanted?

13 A. Uh-huh.

14 Q. Okay. When you left there you went to the Burden of
15 Proof Gas Station?

16 A. Uh-huh.

17 Q. What road is that on?

18 A. That's on College Park Road.

19 Q. And is that close to your home --

20 A. It's on ---

21 Q. --- on a Cindy Lane?

22 A. It's on the way home, yes, ma'am. It's about three
23 miles maybe.

24 Q. About three miles from your home?

25 A. Uh-huh.

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 Q. Okay. And James Rose stayed in the car?

2 A. Yes, ma'am.

3 Q. Because at that point he is still trying to find you
4 some weed?

5 A. Well, yes, I assume for him too as well.

6 Q. Right. Okay. So he is on the phone trying to find
7 some?

8 A. Uh-huh.

9 Q. Okay. And you said he had started to calm down?

10 A. Uh-huh.

11 Q. And this guy named Unk had gone into the store to pay
12 for the gas?

13 A. Yes, ma'am.

14 Q. Okay. And do you remember about what time that was?

15 A. I would say maybe like 10:45ish. Because I got home
16 around 11:00 or so.

17 Q. Were you ever shown a video that was taken from that
18 Burden of Proof Gas Station?

19 A. Just a picture of Unk. And that was the following day
20 after the cops asked me questions.

21 Q. Like a still picture taken from a video?

22 A. Yes, ma'am.

23 Q. So when they came to your school the next day ---

24 A. Well, actually the SRO officer just called me to his
25 office and he had a picture on his phone and he showed me

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 that picture. And I said yes, that was Unk. And then that
2 was it. That is all that --- 29:06

3 Q. And you verified that you had been to that BP Gas
4 Station?

5 A. Yes, ma'am.

6 Q. Okay. At that point you were taken to the Sheriff's
7 Department?

8 A. No, ma'am.

9 Q. Did anybody come interview you at school?

10 A. After that there was nothing until the solicitor came
11 and he tried to talk to me. And I told him I didn't want to
12 talk, you know, because I felt like I wasn't involved. And
13 I didn't, you know, want to get any more involved. I felt
14 like I had already done my part.

15 And then later, a couple of months later, this was
16 about a few weeks ago, that's when he came and, you know,
17 gave me like a form to come here. And ---

18 Q. You really didn't want to come here?

19 A. No, ma'am. But I mean I -- I have to.

20 Q. I see. So did you drop James off -- did Unk drop James
21 Rose off first?

22 A. Honestly I'm not 100 percent clear on that. I'm pretty
23 sure I was dropped off first, but I don't remember.

24 Q. Okay. If I let you review a statement that you gave to
25 the police would you remember giving that statement?

CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL

1 A. Yes, ma'am.

2 Q. Okay.

3 MS. RUNEY: Your Honor, may I approach the witness?

4 THE COURT: You may.

5 (WHEREUPON, document provided to witness.)

6 Q. When they asked you to give a statement, you wrote down
7 a summary of what you remembered from that night?

8 A. Yes, ma'am.

9 Q. And this was taken approximately two days after this
10 happened?

11 A. Uh-huh.

12 Q. And you reference in your statement that "O" called
13 someone about a 15?

14 A. Uh-huh.

15 Q. And by a 15 you mean \$15 worth of -- worth of weed?

16 A. Yeah.

17 Q. Okay. And if you could read me the line that follows
18 that. I'm not sure if you can see where you wrote that.

19 It's at the end of that paragraph, while Unk was paying "O",
20 while Unk was paying.

21 A. Yeah, well, while Unk was paying for gas "O" called
22 someone about a 15.

23 Q. Okay. So trying to find \$15 ---

24 A. Yes, ma'am.

25 Q. Okay. And then you tell the police what time you got

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 back to the neighborhood. What time did you tell them?

2 A. Well, I told them about 11:30, about 11:15, 11:30.

3 Q. 11:15, 11:30. Okay. And if that's what you write back
4 then you probably remembered it a little bit better back
5 then?

6 A. Uh-huh.

7 Q. And then after your paragraph the police start writing
8 down questions and having you answer those. And at the very
9 end of your statement on Page 4 the detective asked you
10 where did y'all go after the gas station. And you wrote
11 what?

12 A. Straight to Wilmore Acres and dropped "O" off at his
13 house and then dropped me off at my house.

14 MS. RONEY: Beg the Court's indulgence.

15 THE COURT: Certainly.

16 MS. RONEY: That's all I have. Thank you.

17 THE COURT: Okay. Any redirect?

18 MS. BALDWIN: Just briefly, Your Honor.

19 **REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL:**

20 Q. Brandon, do you recall what day you gave that
21 statement?

22 A. No, ma'am.

23 Q. Can you look on that statement and tell me?

24 A. January 25th, 2012.

25 Q. And you gave a statement to the Sheriff's Office to the

REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL

1 officers?

2 A. The detectives.

3 Q. Detectives?

4 A. Yes, ma'am.

5 Q. And you mentioned a picture being shown to you?

6 A. Yes, ma'am.

7 Q. Who showed you that picture?

8 A. It was Officer Rivers, the SRO officer at Strafford.

9 Q. The SRO officer ---

10 A. Yes, ma'am.

11 Q. --- for your school? Okay. Do you remember Unk making
12 any phone calls when you guys were at the gas station?

13 A. No, ma'am. The only time he was on the phone was while
14 we were at the house. And that was when he was trying to
15 call "O" and when his girlfriend called him to rush him to
16 get home. Because we were only supposed to be gone ---

17 Q. Oh, when did -- when did his girlfriend call him?

18 A. While we were at the house..

19 Q. While y'all ---

20 A. Before he tried calling "O". Yeah.

21 Q. I see.

22 MS. BALDWIN: I don't have any further questions.

23 THE COURT: Okay. Anything further?

24 MS. RONEY: No, Your Honor.

25 THE COURT: All right. Sir, you may step down. And

REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL

1 you are excused.

2 MS. SHEALY: Clarence Hush.

3 THE COURT: All right, sir, if you will come right over
4 here we will swear you in.

5 MR. HUSH: Thank you.

6 (WHEREUPON, the witness was duly sworn.)

7 THE CLERK: Sir, once you are seated if you would
8 please state your first and last name and spell your last
9 for the record.

10 MR. HUSH: Clarence Hush, H-U-S-H.

11 (CLARENCE HUSH, after having been
12 sworn, testified as follows:)

13 DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH:

14 Q. Mr. Hush, if you would please tell the jury how old you
15 are.

16 A. Fifty-three.

17 Q. And were you brought over to Charleston from the
18 Berkeley County jail?

19 A. Yes, ma'am.

20 Q. Are you facing a grand larceny charge over there?

21 A. Yes, ma'am.

22 Q. And were you arrested on that charge in September of
23 this year?

24 A. Yes.

25 Q. Okay. Now let's talk a second about your criminal

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 history. You don't like talking about it too much? You've
2 got quite a number of convictions for drug charges; is that
3 correct?

4 A. Yes, ma'am.

5 Q. And they back up quite a few years into the '90's; is
6 that correct?

7 A. Yes, ma'am. Also, all of that happened in Florida too.

8 Q. In Florida?

9 A. Yes, ma'am.

10 Q. Are you from Florida?

11 A. Yes, ma'am.

12 Q. Okay. So you had also in addition to your drug charges
13 you have a resisting arrest with an officer charge; do you
14 remember that, that was back in Florida?

15 A. No, ma'am, I don't know about that.

16 Q. You don't remember that one? When did you move from
17 Florida?

18 A. 2005.

19 Q. Okay. So possession of cocaine while you were in
20 Florida and another possession of cocaine in Florida, drug
21 paraphernalia, quite a number of drug offenses; is that
22 right?

23 A. Yes, ma'am. Other than that for ten years. I've been
24 clean for the last seven.

25 Q. Been clean for the last seven?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. Yes, ma'am.

2 Q. Okay. Back in -- first of all, do people call you Unk;
3 do some people call you Unk?

4 A. No.

5 Q. You don't know they call you Unk?

6 A. No.

7 Q. Okay. Did you know a guy named Black?

8 A. Yes.

9 Q. And did you live in the same trailer park that he did?

10 A. Yes, ma'am.

11 Q. Did you have access to a vehicle back in January 2012?

12 A. Yes, ma'am.

13 Q. And whose vehicle was that?

14 A. My wife.

15 Q. And what type of vehicle was it?

16 A. It was a black Nissan.

17 Q. Did you ever give Black any rides from that vehicle?

18 A. Yes, a couple.

19 Q. And could you tell the jury whether or not you ever
20 gave him a ride out to Lincolnville?

21 A. Yes, once.

22 Q. And when you went there was it a mobile home behind a
23 church?

24 A. I don't remember the church. I know I took it to a
25 mobile home that had a big yard in it, a big front yard.

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. And you had only taken it there how many times?

2 A. Once.

3 Q. And on the occasion that you went did anybody else go
4 with y'all; was there ---

5 A. Yeah.

6 Q. And describe that person.

7 A. It was a young, white male.

8 Q. Did you know his name?

9 A. No.

10 Q. While you were there could you tell the jury whether --
11 did the white kid get out of the car?

12 A. No.

13 Q. And did you get out of the car?

14 A. Yes.

15 Q. Before you got out of the car did Black get out of the
16 car?

17 A. Yes.

18 Q. Why do you get out?

19 A. Because he was in the house for about 35 or 40 minutes
20 or something, and my wife was blowing up the phone wanting
21 her car.

22 Q. Your wife was blowing up your phone ---

23 A. My phone, right.

24 Q. --- because she wanted her car back?

25 A. Right.

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. Okay.

2 A. Because I told her we was going to be gone probably
3 about 20 minutes. And I didn't know it was going to take as
4 long as it did.

5 Q. Well, when you got out of the car what did you do?

6 A. I went to the door and knocked on the door, and this
7 guy come to the door, a big, dark-skinned cat come to the
8 door. And I ask him, you know, tell Black to come on
9 because I was going to go.

10 Q. Okay. You said it was a big, black-skinned fellow?

11 A. Dark-skinned guy.

12 Q. Dark-skinned guy?

13 A. Right.

14 Q. And you mean he was ---

15 A. Yeah, yeah ---

16 Q. --- stout?

17 A. Right.

18 Q. What did you tell him?

19 A. I told him to tell Black to come on because, you know,
20 my wife blowing up my phone, she wanted her car back. And
21 he walked away from the door and come back a couple of
22 minutes later -- not even a minute or so and just said -- he
23 said he's coming right now.

24 Q. Okay.

25 A. And I went and got back in the car.

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. When -- what -- do you remember what -- how you got
2 into the trailer or how Black got into the trailer, or do
3 you remember which door you went in?

4 A. The same -- the front -- I guess that's the front door
5 where we went.

6 Q. Okay. Do you remember walking up some stairs?

7 A. Yes.

8 Q. When the big guy answered the door and went and came
9 back and told you he'll be there in a minute could you hear
10 what the conversation was?

11 A. No, I just know -- it sound like it was -- because I
12 had been shooting the bull or whatever, just kicking it.

13 Q. Kicking it?

14 A. Yeah.

15 Q. Do you return to the car after you went to the door?

16 A. Yes.

17 Q. And tell the jury if you would how much longer was it
18 before Black got in the vehicle.

19 A. Probably about five minutes.

20 Q. Okay.

21 A. Five or six minutes he came out.

22 Q. When he got back in the car can you describe for the
23 jury how he was acting?

24 A. Well, he got in the car just like normal. But you know
25 what I'm saying. And we -- you know, we pulled off. And he

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 is showing me how to get out.

2 Because I've never been to Lincolnville. I've never
3 been over there. So he showed me how to get there and how
4 to leave.

5 And I was mad at the time, you know, because wasn't
6 supposed to be gone that long. My wife made. "O" mad, you
7 know. And he was a little antsy a little bit. But other
8 than that, you know, everything seemed normal.

9 Q. He was a little antsy?

10 A. Yeah.

11 Q. Well, tell the jury what he said.

12 A. Well, he didn't really say that much until we was -- we
13 was out of Lincolnville. And he was like man you know they
14 disrespected, man; I'm going to get my respect back. That
15 was that. You know what I'm saying.

16 We got on College Park Road. I stopped at the BP Gas
17 Station. He gave me \$10. I put that in the gas tank and we
18 went off. I dropped him and the little young dude off. And
19 I pulled in the yard.

20 Q. Okay. Now you don't really like being here testifying
21 against somebody, do you?

22 A. No.

23 Q. Okay.

24 A. But I'm telling you what happened.

25 Q. Well, tell me a little bit more then about how Black

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 appeared when he was in the car. You said antsy.

2 A. Yeah, but it's hard -- it was hard to describe, you
3 know, somebody is a little antsy, maybe a little ticked off
4 or something but.

5 Q. A little ticked off?

6 A. Could have been, you know.

7 Q. Well, Mr. Hush, haven't you previously said that he was
8 mad?

9 A. I remember that. But I know I'm telling you what I
10 think -- you know, what I remember him saying.

11 Q. Do you remember him saying - and excuse my language -
12 that's fucked up, when he came back out into the car?

13 A. He didn't say that when we was at the place. We was
14 riding on the road, he said that was fucked up. Also he was
15 on the phone. He could have been telling somebody on the
16 phone it was fucked up.

17 Q. Okay.

18 A. Do you see what I'm saying?

19 Q. When he was talking to the person on the phone is that
20 when he said the stuff about getting his respect back?

21 A. No.

22 Q. He would say that to you?

23 A. Yeah, he was just talking in general. And most of the
24 time I had my radio on and I didn't want to hear that.

25 Because, like I said, we was suppose to have been done 20

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 and we was gone like 45 minutes.

2 Q. Okay. And after you dropped him off did you hear from
3 him again that night?

4 A. No.

5 Q. Well, did he ask you whether you would take him back
6 out there?

7 A. I don't remember.

8 Q. You don't remember him asking you again if you would
9 take him back out there?

10 A. He probably did. But I know once I got -- once I got
11 back in the trailer park and gave my wife her car back that
12 was -- it was a no anyway. I couldn't take him on my back.

13 Q. Do you remember telling my investigator that he called
14 you back and wanted another ride out there and you told him
15 no?

16 A. Maybe. So -- almost two years ago. You know what I'm
17 saying? It's possible.

18 Q. And you don't like being here today?

19 A. No, period.

20 Q. But James Rose intended to get his respect back?

21 A. That's what he said.

22 Q. Did he say he was going back out there to get his
23 respect back?

24 A. No, he didn't never say that to me.

25 Q. And you haven't told us previously that's what he said?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. No, ma'am, I don't remember telling you that.

2 Q. Do you remember the police stopping you when you were
3 in the mobile home park to talk to you about this?

4 A. I remember the next -- the next day after the night
5 before -- the next day after the night we took -- we went
6 over there.

7 My wife drives a school bus. She came to the house
8 about nine o'clock. And about five after 9:00 she -- I was
9 in the house cooking breakfast for her. She came in the
10 house. She said Babe have you looked out the door. I said
11 no. She say you need to look out the door.

12 I looked out the door. There was about 15, 20 officers
13 down towards where James live at. You know, that's what's
14 his name. But I knew him as Black. That's all I -- you
15 know. And I mean so I looked out the door and like okay.
16 You know what I'm saying? Because I would go back in the
17 house.

18 One of the officers came and knocked at the door. And
19 he asked for somebody. And I'm like well I don't know who
20 that person is.

21 Three days after that they came back and asked did I
22 know a Sea Dog or "C". Which that is what some people call
23 me. And I said yeah, that's me.

24 He was asking me about did I know James Rose. And I
25 was like I don't know no James Rose. He said Onyx. I said

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 I don't even know Onyx. He said the dude down the street.
2 I said you are talking about Black? He said yeah. I
3 said -- he say -- I say okay that's what I called him.

4 And the reason that happened is that I saw him one day
5 walking with his son -- because there's a lot of young,
6 black men don't take time out with their sons. And he
7 impress me with that. I didn't know what type of guy he was
8 or nothing. But we kicked it off because we was talking
9 about footfall. I like sports. And evidently he did too
10 with his son. So and that is how all of that started. You
11 know, I know ---

12 Q. That's how y'all's relationship started?

13 A. Right. Right. You know, I just knew him like about
14 two weeks. You know what I'm saying? If -- if it was that
15 long before all of this took place.

16 Q. And you saw him with his child and thought then that he
17 was a good father?

18 A. Yes.

19 Q. Okay. And when you took him out to Lincolnville that
20 day did you know y'all were going to buy drugs?

21 A. No, ma'am. I was on probation.

22 Q. You were on probation?

23 A. Yes, ma'am.

24 Q. You thought you were just ---

25 A. He said ---

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. --- taking him ---

2 A. He said -- he asked me to give him a ride over to a
3 friend's house. And I -- and he told me the little white
4 dude, he say this my white boy, you know, like -- like he
5 was his son or something. I say okay, cool. You know what
6 I'm saying? I had no idea where he was going. I'd never
7 been to Lincolnville until that time.

8 Q. Do you remember giving a statement to the police?

9 A. Yes.

10 Q. Where were you when you gave the statement?

11 A. In my house.

12 Q. Okay. And I'm going to show you this and ask -- it
13 might help you refresh your memory. You don't have your
14 glasses?

15 A. Yes, ma'am. No, ma'am.

16 Q. Are they reading glasses?

17 A. Yes, ma'am. Well, let ask you this question: Do you
18 remember them asking you did Black seem to be upset when
19 y'all left the house; do you remember them asking you that?

20 A. No.

21 Q. Well, do you remember telling them no, but he said he
22 was going to get his respect back?

23 A. Oh, yeah, I remember saying he was going -- yeah.
24 Because that's what he said, you know.

25 Q. That he was going to get this respect back?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. Right.

2 MS. SHEALY: Beg the Court's indulgence for just a
3 moment.

4 THE COURT: Certainly.

5 MS. SHEALY: Mr. Hush, I don't have any further
6 questions. Please answer any that the defense may have.

7 MR. HUSH: Okay.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH:

10 Q. Good morning, Mr. Hush.

11 A. Good morning.

12 Q. You were transported here because you have a pending
13 charge; is that correct, in Berkeley County?

14 A. Yes, ma'am.

15 Q. And you know that Berkeley County and Charleston County
16 crimes in those counties are prosecuted by the same office?

17 A. No, I didn't.

18 Q. You don't want to be here?

19 A. No, but I have to be here.

20 Q. And you don't want to be in jail?

21 A. That is true too.

22 Q. And at the time that the police were interviewing you,
23 you weren't real thrilled about the police coming to your
24 house because you were on probation?

25 A. Right.

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 Q. And that was for a drug conviction?

2 A. Yes.

3 Q. In 2009?

4 A. Yes, ma'am.

5 Q. But you have finished that probation?

6 A. Yes, ma'am.

7 Q. But you gave them a statement anyway?

8 A. Yes, ma'am.

9 Q. And you told them exactly what you know about that
10 night?

11 A. Yes, ma'am.

12 Q. And you've told us today that James seemed normal in
13 the car?

14 A. Right, he was just, you know, a little tense. You know
15 it wasn't -- I ain't going to say he was super mad or mad,
16 because he didn't -- you know, some people mad they -- they
17 lash out. But he didn't ---

18 Q. But nothing ---

19 A. He didn't act like that.

20 Q. But nothing seemed out of the ordinary?

21 A. No, no, not to me anyway. I don't know.

22 Q. And so you pulled up to this trailer and you are
23 waiting for James to come out?

24 A. Yes, ma'am.

25 Q. And I'm sure you're very aware of the time because your

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 wife is not happy?

2 A. Exactly.

3 Q. And you saw several people coming and going from that
4 house?

5 A. True.

6 Q. And when James finally came out and y'all were able to
7 leave, you are ready to get home?

8 A. Yes, ma'am.

9 Q. Because you weren't supposed to be gone that long?

10 A. True.

11 Q. But you needed gas?

12 A. Right.

13 Q. And James was going to give you money for gas ---

14 A. He did.

15 Q. --- for taking them?

16 A. He did.

17 Q. And he gave you \$5.00?

18 A. \$10.00.

19 Q. \$10.00. And you stopped where?

20 A. At the BP Gas Station.

21 Q. And where is that located?

22 A. Right over 26 on College Park.

23 Q. On your way home?

24 A. On my way home.

25 Q. College Park Road?

CROSS-EXAMINATION BY MS. RONEY OF CLARENCE HUSH

1 A. Right.

2 Q. Okay. Do you remember about what time you stopped at
3 the BP Gas Station?

4 A. Probably about ten minutes outside of 11:00.

5 Q. Ten minutes after 11:00?

6 A. Yes, ma'am.

7 Q. Okay. And when you were interviewed by the police did
8 they show you a video surveillance from that?

9 A. No, ma'am. But they told me that they had one.

10 Q. That they had one?

11 A. Yes, ma'am.

12 Q. So they were able to verify that you were at the BP Gas
13 Station?

14 A. Yes, ma'am.

15 Q. Okay. And James is sitting in your car at the gas
16 station?

17 A. Yes, ma'am.

18 Q. As well as the white boy ---

19 A. Yes, ma'am.

20 Q. --- that you took there? Okay. And you went in to
21 get -- pay for the gas?

22 A. Pay for the gas, right.

23 Q. Okay.

24 A. Came by the pump.

25 Q. Okay. And at that point everything seemed normal?

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

- 1 A. Yes, ma'am.
- 2 Q. And you went home?
- 3 A. Yeah.
- 4 Q. Dropped James off?
- 5 A. Yes, I dropped him out and I went in my house.
- 6 Q. You dropped the teenager off?
- 7 A. Yeah.
- 8 Q. And then you went home?
- 9 A. Went home, yes, ma'am.
- 10 Q. Okay. And then what did you do when you went home?
- 11 A. Excuse my French. I got my ass chewed out.
- 12 Q. I bet you did.
- 13 A. Yes, ma'am.
- 14 Q. Did you go to bed?
- 15 A. Yeah, we went to bed. That's what people do when they
- 16 go home.
- 17 Q. That's right. Or when you get chewed out?
- 18 A. Yeah, get chewed out.
- 19 Q. Okay. So you dropped James off around 11:30?
- 20 A. Yes.
- 21 Q. And that's what you told the police?
- 22 A. Yes, ma'am.
- 23 Q. Okay. And when you gave a statement to the police you
- 24 thought that you have gotten the times mixed up a little bit
- 25 and you called the detective back to verify that you had

CROSS-EXAMINATION BY MS. RONEY OF CLARENCE HUSH

1 given them the right time?

2 A. Yes, ma'am, I initially told them we left around like
3 it was like eight -- eight something, like 8:40.

4 Q. Yes.

5 A. But it was really like 9:40 or ten -- (cough), because
6 it was some show on that my wife liked to look at that come
7 on at ten o'clock. And that was the only reason I got away
8 with getting the car.

9 Because normally she don't let me hold the car. We
10 got -- we got -- we've got this thing that we're home there
11 at 10:30. Anything after -- anything in the streets after
12 10 o'clock ain't nothing good.

13 Q. But she was watching the show?

14 A. Right. Right.

15 Q. She let you go?

16 A. Right, I got away.

17 Q. Okay. And so when you realized that you had given them
18 the wrong time ---

19 A. I called them and he said it was okay that they -- you
20 know, that they got in on video that I stopped at the BP,
21 you know, to make up the other time so.

22 Q. So the video at the BP verified what time you had been
23 there and approximately what time you got home because they
24 knew how far ---

25 A. How ---

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 Q. --- the BP was from your house?

2 A. Right, right.

3 Q. Okay. And what they told you is they don't ---

4 MS. SHEALY: Object to hearsay, Your Honor.

5 THE COURT: Sustained.

6 BY MS. RUNEY:

7 Q. You didn't go back in and give another statement to
8 correct that to the police?

9 A. No.

10 Q. They told you not to worry about it?

11 A. Right.

12 Q. And since you have been in jail in Berkeley County,
13 investigators have come to visit you to talk about
14 testifying here?

15 A. Yes, once.

16 Q. Once. The solicitor's investigator came to talk to
17 you?

18 A. True.

19 Q. And my investigator came to talk to you as well?

20 A. Yes, ma'am.

21 Q. Okay. And you told them that James said I'm going to
22 get my respect back but he wasn't angry, right?

23 A. Yeah. I told your solicitor -- I mean your
24 investigator the same thing that I told them.

25 Q. That's right. And you also told my investigator that

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 the solicitor's office, their investigator, was trying real
2 hard to get you to say that he was mad and angry and upset;
3 right?

4 A. Yeah, maybe. I don't remember, but I think so. I'm
5 not sure.

6 Q. But he acted pretty normal?

7 A. Depends on what you call normal. Everybody that is
8 normal don't act the same way. Ain't no two people alike.

9 A. That is true.

10 A. So if I'm mad and you don't know me, you don't know if
11 I'm mad or not. If I'm antsy that don't mean I'm antsy
12 because I want to go do something different.

13 Q. That is true.

14 A. That's as well everybody else in here.

15 Q. Yes, sir. Thank you so much.

16 A. No problem.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION BY MS. SHEALY OF CLARENCE HUSH:

19 Q. Mr. Hush, you were saying that you don't know -- you
20 don't know how people react to anger?

21 A. Right.

22 Q. Some people can keep it inside and it can stir up,
23 right?

24 A. Yes, ma'am.

25 Q. And you indicated that when Black was with you he

REDIRECT EXAMINATION BY MS. SHEALY OF CLARENCE HUSH

1 didn't lash out?

2 A. No, he was just -- he didn't lash out. You know, he
3 was just on the phone. He say man I'm going to get my
4 respect back.

5 Q. Okay.

6 A. But that -- and that was that. You know what I'm
7 saying?

8 Q. And ---

9 A. And most of the time he was talking. I'm listening at
10 my radio and I'm mad because I'm going to get -- you know, I
11 know what ---

12 Q. You are going to get in trouble?

13 A. --- I've got to get -- you know, when I get home. Do
14 you know what I'm saying? You know, most gentlemen that
15 have got wives like mine, you know, you respect that. It's
16 her car. You know what I'm saying? She was doing me a
17 favor for a friend.

18 Q. Yeah.

19 A. You know, so.

20 Q. You of course were not with Black later that
21 evening ---

22 A. No.

23 Q. --- and into the early morning hours?

24 A. No.

25 Q. So you wouldn't know if in fact he lashed out later,

REDIRECT EXAMINATION BY MS. SHEALY OF CLARENCE HUSH

1 right?

2 A. No.

3 Q. Thank you.

4 THE COURT: All right. Sir, you may step down.

5 MR. HUSH: Thank you, ma'am.

6 MS. SHEALY: We will call Joy Mills.

7 THE COURT: All right, Ms. Mills, if you'll come on up
8 and we will swear you in. Thank you.

9 (WHEREUPON, the witness was sworn.)

10 THE CLERK: And ma'am, once you are seated if you could
11 please state your first and last name and then spell your
12 last name for the record.

13 THE WITNESS: My name is Joy Mills, M-I-L-L-S.

14 MS. SHEALY: Okay, I can tell already, Joy, that we are
15 going to have to get you to speak up a little bit. Can you
16 pull that microphone a little closer to your mouth or point
17 it down. And just do it -- try to speak up for us if you
18 can.

19 (JOY MILLS, having been first duly
20 sworn, testified as follows:)

21 **DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS:**

22 Q. Okay. How old are you?

23 A. Twenty-two.

24 Q. And was Leland Shannon, Jr., your father?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

- 1 Q. Where did you grow up?
- 2 A. I grew up in Summerville and in Charleston.
- 3 Q. Okay. And did you go to high school in Summerville?
- 4 A. Yes, ma'am.
- 5 Q. Where did you graduate from?
- 6 A. Berkeley High School.
- 7 Q. And are you currently in school?
- 8 A. Yes, ma'am.
- 9 Q. Where to go to attend school?
- 10 A. I go to Trident Technical College on the Berkeley
- 11 campus.
- 12 Q. What are you studying?
- 13 A. Cosmetology.
- 14 Q. Prior to going to Trident Tech were you doing some
- 15 online schooling?
- 16 A. Yes, ma'am, I was.
- 17 Q. What was that?
- 18 A. For psychology.
- 19 Q. And that was through an internet ---
- 20 A. Yes.
- 21 Q. --- educational system?
- 22 A. Yes, ma'am.
- 23 Q. Let's focus back to January of 2012. Could you tell
- 24 the jury whether you had moved in to live with your father?
- 25 A. Yes, ma'am, I had.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. Do you remember the date that you moved in by any
2 chance?

3 A. Well, I moved in around December.

4 Q. Okay.

5 A. Early beginning of January.

6 Q. Or the early beginning of January?

7 A. Yes. I know it was like December 30 between the first.

8 Q. And was Tawana Alston living there with y'all?

9 A. Yes, ma'am.

10 Q. Now we heard testimony there are two bedrooms in that
11 house. And which bedroom were you staying in?

12 A. The first one.

13 Q. When you say the first one you are talking about as you
14 go down the hall?

15 A. Yes, ma'am, as you go down the hall it's the first one
16 on the left.

17 Q. Antoine Aiken, he is who to you?

18 A. My cousin.

19 Q. And did you know Ishmal Weston?

20 A. I seen him a couple of times.

21 Q. Okay. And who was he?

22 A. He was the next-door neighbor's son.

23 Q. And would he come over to your dad's house some?

24 A. Yes, ma'am.

25 Q. Do you know James Rose?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Yes, ma'am.

2 Q. And how long have you known him?

3 A. Ever since I was younger. Him and my father used to be
4 around each other.

5 Q. Okay. They would hang out together, know each other?

6 A. Yes, ma'am.

7 Q. Did you have a close relationship with James Rose?

8 A. No, ma'am.

9 Q. Now once you moved into your father's house or even
10 before that would your -- would James Rose come over to see
11 your father?

12 A. When I was in Lincolnville before that I mean they
13 would talk whenever he drove down the street or whatever.
14 Now when I moved in he used to come over.

15 Q. Joy, can you talk -- it may just be me, but can you
16 talk up just a little bit louder for me. I guess I am
17 rustling these papers.

18 A. Yes, ma'am.

19 Q. Let's focus then on the day in question which would be
20 January 23rd, 2012, spilling into January 24th, okay?

21 A. Okay.

22 Q. Tell us whether or not you saw James Rose at your
23 father's house while it was still daylight outside?

24 A. Yes, ma'am, I did.

25 Q. Okay. And was he by himself or was he alone, or do you

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 know?

2 A. From as far as I knew he was by himself.

3 Q. Okay. And did you see him inside your dad's house or
4 outside your dad house?

5 A. Outside and inside.

6 Q. And that was during the daylight hours?

7 A. Yes, ma'am.

8 Q. Now did you see him again once it got dark?

9 A. Yes, ma'am.

10 Q. And could you describe for the jury, please, who was
11 inside the house when you saw James Rose.

12 A. It was me, my father, James Rose, my cousin Antoine,
13 Tawana, and Ishmal.

14 Q. And could you hear what James Rose and your dad were
15 talking about?

16 A. Earlier they were talking about marijuana prices going
17 up.

18 Q. Okay.

19 A. He was mad because my father told him that the price
20 went up.

21 Q. Did you hear your father say anything back to James
22 Rose?

23 A. He said that his price went up so your price has to go
24 up. And I walked off after that.

25 Q. When they were talking could you describe to the jury

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 whether or not it was a calm conversation or did it get
2 heated?

3 A. He even had a little tension in his voice. But my
4 father didn't really have any tension in his voice.

5 Q. Were you there when he left; did you see when James
6 Rose left on that occasion?

7 A. No, ma'am, I didn't.

8 Q. Why -- where were you?

9 A. I believe I was in the back of the house.

10 Q. And when you say the back of the house are you talking
11 about the bedroom you described?

12 A. Yes, ma'am, I was in my room.

13 Q. Do you know whether James Rose got any marijuana at
14 that time?

15 A. From as far as I know he did.

16 Q. Okay. Do you know specifically?

17 A. No, ma'am.

18 Q. Do you see James Rose again that evening?

19 A. Yes, ma'am.

20 Q. Could you describe for the jury what happened?

21 A. It was -- I was in the living room doing schoolwork and
22 my father, him, Antwan, and Tawana, and Ishmal was all in
23 the kitchen.

24 Q. And you were where doing homework at that point?

25 A. In the living room.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. So you had gone from your bedroom back to the living
2 room?

3 A. Yes, ma'am.

4 Q. Did you see James Rose come in?

5 A. Yes, ma'am.

6 Q. And while they were all back at the kitchen table could
7 you describe what was going on back there as it related to
8 how people were getting along at the kitchen table?

9 A. Everybody seemed fine. They were drinking and talking.

10 Q. Okay. What happened next?

11 A. Next I started getting a headache and I told them I was
12 going to go lay down.

13 Q. And you went to lay down which room did you go to?

14 A. I went to my bedroom, the first door on the left.

15 MS. SHEALY: Beg the Court's indulgence just a second.

16 THE COURT: Certainly.

17 MS. SHEALY: I'm sorry, Judge. I've got to grab one
18 thing. Okay.

19 Q. Joy, showing you what has been previously marked as
20 State's Exhibit 24. It is going to show up on the screen
21 right in front of you. Is this the bedroom that you were
22 in?

23 A. Yes, ma'am.

24 Q. Okay. And showing you State's Exhibit 25, is that a
25 snack you were eating when you were in the back room?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

- 1 A. Yes, ma'am.
- 2 Q. And is that one cell phone or two cell phones?
- 3 A. Two cell phones. One was mine.
- 4 Q. When you went back to the bedroom what were you doing?
- 5 A. I was talking to my boyfriend at the time.
- 6 Q. And you were talking to him -- he was in there with you
- 7 or you are talking to him on the phone?
- 8 A. I was talking to him on the phone.
- 9 Q. What happened with your phone when you were back there?
- 10 A. It ran out of minutes.
- 11 Q. So what did you do?
- 12 A. I went into the living room and I asked my father for
- 13 his phone. He told me no because he was waiting on a phone
- 14 call. So he told me to get Antoine's phone.
- 15 Q. And did you take Antoine's phone back to your bedroom?
- 16 A. Yes, ma'am, I did.
- 17 Q. When you went out there to get the phone was James Rose
- 18 still there?
- 19 A. No, ma'am.
- 20 Q. He was not still there when you went back to get the
- 21 phone?
- 22 A. Yes, ma'am.
- 23 Q. I'm sorry, he was or he wasn't?
- 24 A. He wasn't.
- 25 Q. Okay. So did you see when he left?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. No, ma'am.

2 Q. When you get back to the phone -- well, first of all,
3 tell me where was your father when you went to get your
4 phone?

5 A. He was standing in the kitchen.

6 Q. And showing you State's Exhibit 14, can you show me on
7 that photograph where father was standing?

8 A. He was standing right up in there (pointing).

9 Q. Okay. And what happened right when you got back to
10 your bedroom?

11 A. I was talking on the phone to Mike, and the next couple
12 of minutes I started hearing scuffling. And after that I
13 started hearing gunshots. And he was like what is that.
14 And I said I don't know, let me get off the phone.

15 Q. At first did you believe that they were real gunshots?

16 A. No, I thought it was just him playing his -- from my --
17 was father playing his modern day warfare game.

18 Q. Playing his what? I'm sorry.

19 A. Modern day warfare game.

20 Q. Okay. When did you get concerned?

21 A. When I didn't hear anybody in the living room anymore.

22 Q. And what happened then?

23 A. Then Ish- -- well, somebody ran past me back -- past my
24 room and went to the back.

25 Q. And you do know who that was?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. I believe it was Ishmal because he was heavy set and he
2 had on black-and-white that night.

3 Q. Was your bedroom door open?

4 A. Yes, ma'am.

5 Q. What is the next thing that happens?

6 A. I see two people running past my room and going to the
7 back. I believe they thought -- they went into the back
8 room. Because there was a hole in the floor in the back
9 room. And they kicked the door open, rammaged -- rambled
10 around in there.

11 I tried to get out my bed, but then by the time I heard
12 them turn around I hurried up and jumped back into my bed
13 and put the covers over me and act like I was sleeping.

14 Q. Okay. So let's break that down a little bit. You've
15 indicated that you heard scuffling in the kitchen ---

16 A. Yes, ma'am.

17 Q. --- and you heard gunshot?

18 A. Yes, ma'am.

19 Q. Do you remember whether you heard one or several
20 gunshots?

21 A. I heard several. I heard about three or four.

22 Q. And then you see Ishmal run past you?

23 A. Yes, ma'am.

24 Q. What made you believe that the other two people then
25 went into the back room?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Because the backroom door was closed. That door and
2 the bathroom door. And they kicked the door.

3 Q. Okay.

4 A. So it just popped right open. You could hear it pop
5 right open.

6 Q. And when you say they kicked the door, did you see them
7 kick the door?

8 A. No, I just heard like a foot or something hit the door
9 wide open.

10 Q. Okay. And heard some sound to open that door. And you
11 did -- you then heard what in that back bedroom; you were
12 saying that you heard some other noises in the back bedroom?

13 A. Like they were rumbling through stuff, just scuffling
14 around looking and acting like they were going to find
15 something.

16 Q. Okay. After that you indicated you got back in your
17 bed?

18 A. Yes, ma'am.

19 Q. And what did you do?

20 A. I just laid there.

21 Q. And what did you do with your covers?

22 A. I put them back over me and I was watching out my door,
23 because I had my TV on.

24 Q. What happened after that?

25 A. They came into my room.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. Tell the jury about that.

2 A. Came into my room with a double barrel shotgun and a
3 single barrel shotgun, and had one to my chest and one to my
4 head, and told me to pull the covers back Bitch.

5 And I didn't pull it back quick enough so they pulled
6 it back for me. And I'm listening to the voice. I'm
7 hearing that it's Onx- -- well, James Rose's voice telling
8 me to pull it back. And he's saying well where is the shit
9 at Bitch. And I said I don't what you're talking about.

10 He asked me the question again. I had my hands up. I
11 said I don't know what you're talking about. There was
12 another person in the room with him. And his finger was on
13 the trigger but he didn't pull it. He told him fuck that
14 Bitch, she don't know shit.

15 Q. Who said that?

16 A. Onyx. And then they walked out the room.

17 Q. Okay. So let's slow that down a little bit, okay.

18 When you say that two guys approached your bed, can you show
19 me again where on you they pointed the gun?

20 A. The double-barrel was at my head this far away. And
21 the single-barrel was this far away from my chest.

22 Q. And what did the person that you say was Onyx what did
23 he have on?

24 A. He had on a red shirt, a navy blue jacket, dark-colored
25 jeans. And he had a ski mask on with his mouth cut out and

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 his eyes cut out.

2 Q. And what did the other guy look like?

3 A. He was short and stocky. He had a forest green shirt
4 on with a navy blue jacket and dark jeans ---

5 Q. Okay.

6 A. --- with a ski mask on.

7 Q. Did they -- when the second person said "f" that, she
8 doesn't know anything, what happened?

9 A. They just walked out of my room.

10 Q. They what?

11 A. Walked out of the room and walked towards back towards
12 the kitchen area.

13 Q. When they went back toward the kitchen did you hear
14 anything else be said?

15 A. Yes, ma'am ---

16 Q. And Joy, you're going to have to speak up just a little
17 bit for me.

18 A. Yes, ma'am. They walked past my father. And I guess
19 one of them was about to shoot him, and he said fuck that
20 nigger he is about to die anyway.

21 Q. Could you hear them leave the house?

22 A. Yes, ma'am.

23 Q. And what did you do once they left the house?

24 A. Once they left the house I tipped-toed around into the
25 living room and made sure nobody was in there. And I

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 started walking towards the kitchen because I still haven't
2 seen my father. And when I went in there I just saw blood
3 and I ran and slipped and tried to help -- into the blood
4 and tried to help my father.

5 Q. Okay. Now Joy, showing you State's Exhibit 6. Can you
6 point if it is in this picture where you slipped?

7 A. There (pointing), and in here (pointing).

8 Q. And where was your father?

9 A. He was laying right here (pointing).

10 Q. Do you know what happened with Ishmal?

11 A. No, ma'am.

12 Q. Now ---

13 MS. SHEALY: You can just take that photo down.

14 Q. Now Joy, what did you start doing with your father?

15 A. I then tried to slip him over and try to see where he
16 was shot at. And he was shot in his left leg in the thigh.
17 I had a basket of dirty clothes right there so I tried to
18 grab some clothes out of there to block the bleeding on his
19 left leg.

20 And then my cousin ran back in while I was on the phone
21 with 911 trying to tell them where I was at.

22 Q. Were you able to talk to 911?

23 A. No, the only thing I was doing was screaming.

24 Q. Okay. And when you say that your cousin came back in,
25 you're talking about Antoine?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Yes, ma'am.

2 Q. Did he take your phone from you to talk to 911?

3 A. Yes, ma'am.

4 Q. While your father was laying there were his eyes open
5 or closed?

6 A. They were slightly open. But before the ambulance came
7 they were starting to close. He was starting to roll he
8 eyes and look around other places. Wasn't functioning on
9 me.

10 Q. Okay. Now when the ambulance got there what happened
11 with you?

12 A. They pulled me off the top of him. Because they -- I
13 wouldn't let him go. And then made me go outside.

14 Q. And when you went outside did you have shoes on?

15 A. No, ma'am.

16 Q. I'm sorry to have to ask you all this, Joy. But when
17 you went outside did somebody come and give you a ride
18 somewhere?

19 A. My granddaddy got me.

20 Q. Okay. That's your granddaddy that's in the courtroom?

21 A. Yes, ma'am.

22 Q. Where did y'all go once your grandfather picked you up?

23 A. Went to the house and got me some shoes and picked up
24 my grandma and went to the hospital.

25 Q. And when you say you went to the house, you are talking

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 about whose house?

2 A. My granddaddy's house.

3 Q. And you had to get shoes from whom?

4 A. My grandma.

5 Q. Now when you got to the hospital could you describe to
6 the jury how you were feeling?

7 A. I was in shock. I still wasn't understanding what was
8 going on.

9 Q. Okay. And did you in fact talk to the police officers?

10 A. Yes, ma'am.

11 Q. And did they take you from the hospital to interview
12 you at the station?

13 A. Yes, ma'am.

14 Q. Now when you left the house after trying to attend to
15 your father did you still have on the clothes that you had
16 when you were trying to help him when you got to the
17 hospital?

18 A. Yes, ma'am.

19 Q. And could you tell the jury whether or not your clothes
20 had blood on them?

21 A. Yes, ma'am, I was saturated from the blood. I had long
22 hair then at the time. I had blood in my hair. I had blood
23 all on my arms and down in between my toes.

24 Q. And when they took you down to the station -- or
25 actually they did your gun -- they did your hands at MUSC;

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 is that right?

2 A. Yes, ma'am.

3 Q. And when they asked you if they could check your hands
4 and do some swapping and do a kit on you, did you agree to
5 that?

6 A. Yes, ma'am.

7 Q. Did the officer notice something about your hands?

8 A. Yes, ma'am.

9 Q. What was that?

10 A. Blood.

11 Q. Now when you got down to the Sheriff's Department what
12 was going on when you left your father at the hospital?

13 A. They had him in intensive care while my family was down
14 in the waiting room while they you were trying to do
15 surgery.

16 Q. And when you left the hospital did you leave your
17 grandfather and you grandmother too?

18 A. Yes, ma'am.

19 Q. So the police took you to the station without the two
20 of them?

21 A. Yes, ma'am.

22 Q. When you got there do you -- did they immediately
23 interview you or did they have to wait to interview?

24 A. They had to wait a second because I wasn't calm enough.
25 They had to go buy me a pack of cigarettes.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. Did you tell them whether you would be able to talk
2 unless you had some cigarettes?

3 A. Yes, ma'am. Because I still wasn't calm. I didn't
4 smoke anything since then, and I needed a cigarette.

5 Q. And were they interviewing other people while you were
6 there?

7 A. They had Tawana was there. But I think she already had
8 I think. And then my cousin -- well, Antoine. But I think
9 he already left.

10 Q. So when they interviewed you could you describe to the
11 jury how you were thinking that night; was it very clear to
12 you what all had happened?

13 A. No, ma'am.

14 Q. Did you try to do your best in talking to them?

15 A. Yes, ma'am, I did.

16 Q. And did you give a statement?

17 A. Yes, ma'am.

18 Q. Now when you gave your statement to the police did you
19 tell them about the guy in the red shirt?

20 A. Yes, ma'am.

21 Q. And what if anything did you tell them about his voice?

22 A. I told them that I knew it, I remember it.

23 Q. But at that time did you tell them it was James Rose?

24 A. No, ma'am. It didn't register to me because I was
25 still in shock.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. When you told -- but you told them that the guy had on
2 a red shirt?

3 A. Yes, ma'am.

4 Q. And that you knew the voice?

5 A. Yes, ma'am.

6 Q. After you gave your statement to the police that night
7 who picked you up -- do you go back to the hospital?

8 A. Yes, ma'am.

9 Q. And when you went back to the hospital what did you
10 learn about your father?

11 A. A couple of hours later he ended up dying.

12 Q. Were you at the hospital when that happened?

13 A. Yes, ma'am.

14 Q. And who picked up from the hospital?

15 A. My boyfriend at the time.

16 Q. Joy, were you able to go to your father's wake?

17 A. No, ma'am.

18 Q. Why was that?

19 MS. RUNEY: Objection, Your Honor.

20 THE COURT: Sustained.

21 A. Because ---

22 THE COURT: Sustained.

23 Q. They are not going to let you answer that, okay. The
24 way that you were describing how you felt that evening did
25 it continue for several days afterwards?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Yes, ma'am.

2 MS. RUNEY: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MS. SHEALY:

5 Q. Joy, you gave a lengthy statement to the police
6 officers when they took your statement, right?

7 A. Yes, ma'am.

8 Q. And were you doing your best to try to answer their
9 questions?

10 A. Yes, ma'am.

11 Q. So could you describe for us when you were saying you
12 weren't thinking straight so you think that later you began
13 thinking straight, or did that continue?

14 A. At first I wasn't. And it took some time like for me
15 to really register everything that had really happened. And
16 once it started coming back to me I remember who it was.

17 Q. Okay. Are you saying that it was James Rose now just
18 because you know he got arrested for it?

19 A. No, ma'am.

20 Q. Has anybody tried to talk you into saying it was James
21 Rose?

22 A. No, ma'am. My family wouldn't even talk to me about
23 anything.

24 Q. What do you mean they wouldn't talk to you about
25 anything?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. They didn't want me to be more upset than what I
2 already was.

3 Q. When you were there that evening -- and this would have
4 been after people went down the hall and came back to your
5 room -- the guy in the red shirt was who?

6 A. Onyx.

7 MS. SHEALY: Beg the Court's indulgence just a moment.

8 THE COURT: Certainly.

9 MS. SHEALY: Joy, I have no further questions. Please
10 answer questions the defense has.

11 THE COURT: Cross-examination.

12 **CROSS-EXAMINATION BY MS. RONEY OF JOY MILLS:**

13 Q. Good morning, Ms. Mills.

14 A. Good morning.

15 Q. I know this is hard for you. I'm sorry you have to be
16 here. I just have a couple of questions. You gave a
17 statement to the police as you told Ms. Shealy earlier?

18 A. Yes, ma'am, I did.

19 Q. And you were upset at the time because this had just
20 happened?

21 A. Yes, ma'am.

22 Q. It was all very fresh?

23 A. Yes.

24 Q. And what the detectives did is they had you sit down
25 with some lined paper that they gave you and write down what

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

- 1 you remembered about what had just happened?
- 2 A. Yes, ma'am.
- 3 Q. And you did your very best to do that?
- 4 A. Yes, ma'am.
- 5 Q. And then after that they asked you some follow-up
- 6 questions?
- 7 A. Yes, ma'am.
- 8 Q. Where they would write them out and you would answer
- 9 them?
- 10 A. Yes, ma'am.
- 11 Q. So a general writing down of what you could remember
- 12 and then you answered specific questions?
- 13 A. Yes, ma'am.
- 14 Q. And because you had been so upset and you had just come
- 15 from the hospital they let you have some cigarettes and calm
- 16 down?
- 17 A. Yes, ma'am.
- 18 Q. Okay. And then you wrote out what you knew?
- 19 A. Yes, ma'am.
- 20 Q. Okay. And in that statement you told the police that
- 21 two masked men came into your room?
- 22 A. Yes, ma'am.
- 23 Q. What you have told us here today?
- 24 A. Yes, ma'am.
- 25 Q. One had a single-barrel shotgun and the other had a

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

1 double-barrel shotgun.?

2 A. Yes, ma'am.

3 Q. And they both had masks on?

4 A. Yes, ma'am.

5 Q. And one man had on a red shirt?

6 A. Yes, ma'am.

7 Q. And one man had on a green shirt?

8 A. Yes, ma'am.

9 Q. And that's what you told them that -- it was the middle
10 of the night when you were having to give the statement,
11 right?

12 A. Yes, ma'am.

13 Q. And that's what you told them in the middle of the
14 night because that's what happened?

15 A. Yes.

16 Q. That two men with a red shirt -- one with a red shirt,
17 one with a green shirt and both of them had masks on?

18 A. Uh-huh.

19 Q. Came into your room, asked you to pull back the covers?

20 A. Yes, ma'am.

21 Q. And when the police wanted to know a little bit more or
22 some more details they asked you to describe the two men?

23 A. Yes, ma'am, I did.

24 Q. And you gave a description along with the description
25 of the guns, and that description was one had a

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

1 double-barrel shotgun and was with the tall guy and one
2 single-barrel shotgun was with the short guy because that is
3 what happened? And they also wanted to identify anybody who
4 was there?

5 A. Uh-huh.

6 Q. Presumably so they could interview those people. And
7 you told them who was there, correct?

8 A. Yes.

9 Q. The exact question was who all was at the house during
10 the shooting, and you responded my father, his girlfriend
11 who is Tawana, right; my cousin, that is Antoine; --

12 A. Yes.

13 Q. --- and myself?

14 A. Yes.

15 Q. Because that was true?

16 A. Yes.

17 Q. After you knew that the men were gone you wanted to
18 come out and check on your father?

19 A. Yes.

20 Q. When you came out of the room no one was there besides
21 your father?

22 A. Yes.

23 MS. RUNEY: Beg the Court's indulgence.

24 THE COURT: Okay.

25 MS. RUNEY: That's all I have. Thank you, Your Honor.

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

1 THE COURT: Thank you. Any redirect?

2 MS. SHEALY: Just briefly, Your Honor.

3 REDIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS:

4 Q. Ms. Mills, I'm going to hand you a copy of your
5 statement if you need it to refresh your memory. Ms. Runey
6 was asking you start writing down the details in free-hand
7 initially ---

8 A. Yes, ma'am.

9 Q. --- before they started asking you questions? And you
10 indicated you were -- she asked you questions about did you
11 say that one was tall. And you indicated that one was
12 shorter; is that right?

13 A. Yes, ma'am.

14 Q. Now on Page 3 of your statement tell the jury if you
15 would, looking at the last sentence, what did you tell the
16 police -- well, let's go back, Joy, for a second. Look at
17 the first page of your statement.

18 A. Okay.

19 Q. Do you see at the top of the page as to what time the
20 statement was taken?

21 A. It was taken three o'clock in the morning.

22 Q. Three o'clock in the morning. And on Page 3 what did
23 you indicate in that last sentence about the tall guy?

24 A. Also I think I heard that voice before and I think that
25 it was the tall man that said it.

1 Q. So you gave the officers that detail when you were
2 writing your statement?

3 A. Yes, ma'am.

4 Q. And on Page 4 at the bottom of the page when you were
5 asked to describe the tall guy what color shirt did you
6 indicate he had on?

7 A. A red shirt.

8 Q. What kind of pants?

9 A. Dark. Jeans.

10 Q. And what do you say about his voice there?

11 A. A dark voice.

12 Q. A dark voice. Did the short guy have on a ski mask as
13 well?

14 A. Yes, ma'am.

15 Q. And you were in the room until they came into your
16 room?

17 A. Yes, ma'am.

18 Q. I have no further questions.

19 THE COURT: Anything further?

20 MS. RUNEY: No, Your Honor.

21 THE COURT: Okay. Ma'am, you may step down. Thank
22 you.

23 All right, ladies and gentlemen, let's take about a
24 ten-minute break. I can give the lawyers a break and see
25 what the rest of our plan for the morning is.

REDIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Please don't discuss the case yet as you have not yet
2 heard all the evidence and it has not been given to you for
3 deliberation. Thank you.

4 (WHEREUPON, jury exits courtroom 11:06 a.m.)

5 THE COURT: Okay. We would be at ease for 10 minutes.

6 (WHEREUPON, break 11:07 a.m.)

7 (WHEREUPON, resumed.)

8 THE COURT: Everybody ready for the jury?

9 MS. SHEALY: We are.

10 THE COURT: Thank you.

11 (WHEREUPON, break awaiting jury).

12 (WHEREUPON, jury enters courtroom 11:20 a.m.)

13 THE BAILIFF: All present, Your Honor.

14 THE COURT: All right. Thank you, sir. Thank you,
15 ladies and gentlemen. Counsel, call your next witness.

16 MS. BALDWIN: Thank you, Your Honor. The State calls
17 Deputy Chris Hochreiter.

18 THE COURT: All right. Deputy, if you will come on up
19 we will swear you in.

20 (WHEREUPON, witness was sworn.)

21 THE CLERK: If you would please, state your first and
22 last name and spell your last for the record.

23 THE WITNESS: Christopher Hochreiter. Last name is
24 H-O-C-H-R-E-I-T-E-R.

25 (CHRISTOPHER HOCHREITER, having

DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER

1 been duly sworn, testified as follows:)

2 DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER:

3 Q. Deputy Hochreiter, where do you work?

4 A. The Charleston County Sheriff's Office.

5 Q. And what is your position there?

6 A. I am a patrol deputy at this time.

7 Q. What does that involve?

8 A. Responding to calls for service, traffic stops, and
9 things like that.

10 Q. And what do you mean by calls for service?

11 A. Whenever someone calls our dispatch I'm sent -- I'm
12 sent to the call if it is in the area that I'm assigned to.

13 Q. Did you respond to a call at [REDACTED]
14 in Lincolnvile, South Carolina, on January 24th of 2012?

15 A. Yes, ma'am, that's correct.

16 Q. Is that in Charleston County?

17 A. Yes, ma'am.

18 Q. What did you do when you got there?

19 A. Well, we were -- should I say what kind of call we were
20 sent to?

21 Q. Sure.

22 A. All right. We were originally dispatched to a
23 disturbance at that location. And while I was on my way we
24 received information that someone had been shot. So that is
25 what's referred to as a Code 3 response with lights and

DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER

1 siren on our vehicle.

2 The -- my first objective to a call like that whenever
3 I arrive on the scene is to ensure whatever was happening
4 before I arrived on the scene is no longer happening once I
5 arrive on the scene. So when I arrived on the scene I
6 established that there was nothing violent going on, it was
7 then my objective to secure the scene so EMS could arrive.

8 Q. What time were you dispatched to the scene?

9 A. Around 12:30 a.m.

10 Q. Do you need to refer to your report?

11 A. If I may. Sure.

12 Q. Just to refresh your memory?

13 A. I'm sorry, we were dispatched from 12:40. I arrived at
14 12:44.

15 Q. How did you approach the house?

16 A. We -- I came in through the driveway. And the entrance
17 to the house is actually at the rear of the house. So I
18 walked around to the rear.

19 Q. And when you walked around to the rear what did you
20 see?

21 A. I saw a black male who was pointing into the house.
22 And whenever I turned and looked to the house from the rear
23 I observed a black male who was laying on the floor of the
24 kitchen area residence, a large amount of blood, and a black
25 female who was on his left, left side with a towel and both

DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER

1 of her hands on his upper-left thigh area.

2 Q. And what was her demeanor?

3 A. She was hysterical. I could hear yelling from my
4 vehicle. And that was 50 to 60 feet away from the house.

5 Q. After you witnessed on that, what did you do?

6 A. I advised my supervisor of the situation. After the
7 scene was secured I notified dispatch and EMS came on the
8 scene to do what was needed with the victim.

9 Q. What did EMS do with the victim?

10 A. They placed him on a stretcher, and he was going to the
11 ambulance very quickly. And they transported him.

12 Q. While they were doing that, what were you doing?

13 A. I spoke to the original black male. He was first
14 contact. That was Mr. Aiken, Antoine Aiken.

15 Q. And did Mr. Aiken tell you what happened?

16 A. He gave me a brief synopsis of what he had saw, yes,
17 ma'am.

18 Q. Were you trying to get a whole statement from him?

19 A. No, due to the severity of the case, everything that
20 was going on I had -- it was a brief conversation. But he
21 did give me the high points so to speak.

22 Q. Did you talk to the complainant as well?

23 A. The original complainant that we were given, Brian
24 Williams, he walked over from his residence after EMS has
25 transported the victim. And I spoke with him very briefly.

DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER

1 Q. And what did you do after you spoke with Mr. Aiken?

2 A. After -- while I was speaking to Mr. Aiken EMS had
3 already taken the victim. We made sure no one else was in
4 the house and we secured it with crime scene tape and
5 started a crime scene log.

6 MS. BALDWIN: Beg the Court's indulgence. I have no
7 further questions for you, Deputy.

8 THE COURT: Okay. Cross-examination.

9 **CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER:**

10 Q. Of course your first responsibility as the responding
11 officer is to secure the scene?

12 A. That's correct.

13 Q. Make sure that anybody that is injured is treated or
14 taken by EMS to a hospital?

15 A. Yes, ma'am.

16 Q. Make sure that there is nobody else in the house?

17 A. Uh-huh.

18 Q. And before gathering information you just simply need
19 to make sure everybody was safe?

20 A. Yes, ma'am. That's correct.

21 Q. But as a responding officer you are also responsible
22 for gathering information?

23 A. Yes, ma'am.

24 Q. And that is because after this call is over you have to
25 document what you did, who you saw, and anything that you

- 1 were told?
- 2 A. Yes, ma'am.
- 3 Q. And when you become a deputy sheriff you go through a
- 4 lot of training?
- 5 A. Yes, ma'am.
- 6 Q. And some of that training involved what to include in
- 7 an incident report?
- 8 A. Yes, ma'am.
- 9 Q. What to ask witnesses?
- 10 A. To a certain extent.
- 11 Q. I guess I could say that a little bit better. What
- 12 information you should gather?
- 13 A. Yes, ma'am, that is correct.
- 14 Q. And the importance of including all that you can?
- 15 A. Yes, ma'am.
- 16 Q. Because you want to be complete?
- 17 A. As complete as I can in situations. That is fair.
- 18 Q. As complete as you can as the responding officer?
- 19 A. Yes, ma'am.
- 20 Q. And that is because the information that you collect
- 21 will be given to detectives? In ---
- 22 A. In most cases, yes, ma'am.
- 23 Q. --- some cases? In a case like this ---
- 24 A. Yes, ma'am.
- 25 Q. --- this information is going to go to somebody else?

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 A. Yes, ma'am.

2 Q. It is going to go to other officers especially
3 detectives; if it is a case where somebody is prosecuted, it
4 is going to go to the prosecutor's office?

5 A. Yes, ma'am.

6 Q. Usually it will go to defense attorneys?

7 A. Uh-huh.

8 Q. And all of those people rely on that information?

9 A. Yes, ma'am.

10 Q. And that's why you want to make sure that you include
11 everything that you can?

12 A. Yes, ma'am.

13 Q. If people don't give you the information, you can't put
14 it in your report?

15 A. No, I can't.

16 Q. And you have to rely on them to give you that
17 information? You have no other way to collect that?

18 A. No, no, I don't.

19 Q. Okay. This was an emergency type of situation?

20 A. Yes, ma'am.

21 Q. So you have to get what information that you can?

22 A. That's right.

23 Q. Certainly understand that. But you are doing your best
24 to do that?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. Secure the scene, take care of people that are injured,
2 people who are upset?

3 A. That's right.

4 Q. But then there is time after that to plan?

5 A. Yes, ma'am.

6 Q. Okay. And that is what you did this day?

7 A. Yes, ma'am.

8 Q. I believe you testified earlier that you listed Brian
9 Williams as the complainant?

10 A. Yes, ma'am.

11 Q. And he had called 911?

12 A. That's my understanding.

13 Q. And so that is why he is listed as a witness?

14 A. Yes, ma'am.

15 Q. Okay. And you have a form incident report where you
16 add the information?

17 A. Yes, ma'am.

18 Q. Okay. And so each time you do an incident report it is
19 going to ask for the -- or contain the same information?

20 A. Yes, you could say that.

21 Q. Well, the blanks for that information?

22 A. Yes, ma'am.

23 Q. There may not be a response to that block of
24 information?

25 A. Sometimes, no.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. Okay. But you add what you can?

2 A. Uh-huh.

3 Q. You were able to ascertain the victim's name; is that
4 correct?

5 A. Yes, ma'am.

6 Q. And you list the victim as Leland M. Shannon, Jr.?

7 A. Uh-huh, that's correct.

8 Q. And then you're to list the relationship to the
9 subject?

10 A. Uh-huh, that's correct.

11 Q. And as to Subject Number Three what is the relationship
12 that you have listed?

13 A. Boyfriend.

14 Q. And to make that clear, he is -- you have him listed as
15 a boyfriend of somebody else on your report?

16 A. That is correct.

17 Q. And who is that?

18 A. The only name I was given for that was a black female
19 by the name of Limehouse was her last name.

20 Q. So her full name is unknown, but the information about
21 a Limehouse was given?

22 A. Yes, ma'am.

23 Q. Okay. So there had been a black female who is the
24 girlfriend of Leland Shannon on the scene?

25 A. That is what I was told, yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. Okay. And she was not there at the time that you were
2 present?

3 A. No, she was not.

4 Q. And so the information that is listed for her would be
5 given out to other officers?

6 A. I'm not sure what you -- what you mean.

7 Q. What I'm asking you is when you get information on the
8 subject you give that to other officers to be on the lookout
9 for these people?

10 A. For the Limehouse subject I don't -- I wouldn't give
11 information as a be on the lookout.

12 Q. You didn't have that much ---

13 A. No.

14 Q. Okay. But you didn't speak with a witness that you list
15 on your report as Mr. Antoine Aiken?

16 A. That's correct.

17 Q. And he was not able to give you any information; when I
18 say information, I mean a name of anybody that had come into
19 the house?

20 A. Do you mean besides the victim?

21 Q. Correct.

22 A. No, no, the -- no, he wasn't.

23 Q. He could not give you a name for any of the
24 perpetrators?

25 A. No, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. And nobody was able to give you any license plate
2 number on a car that had been there?

3 A. No, ma'am.

4 Q. The information that was given to you was that this
5 incident involved a shotgun?

6 A. That's correct.

7 Q. And you had no other information about any type of
8 handguns ---

9 A. No

10 Q. --- at that point?

11 A. No.

12 THE COURT: I think they probably got that water for
13 the juror who was coughing if he wants it.. If nobody wants
14 it, that fine. Thank y'all for doing that though. I
15 appreciate it. If anybody else needs to get a cough drop,
16 now would be a good time to do it.

17 MS. BALDWIN: That's all I have. Thank you.

18 THE COURT: All right. Any redirect?

19 MS. BALDWIN: Briefly, Your Honor.

20 REDIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER

21 HOCHREITER:

22 Q. Deputy, was anybody able to provide you with a
23 description of the vehicle -- of the suspect? Sorry.

24 A. I guess a Mr. Aiken provided a brief description that
25 was a gray sedan.

REDIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER

HOCHREITHER

1 Q. And then a call such as this, this type of incident,
2 your role is not to play detective; correct?

3 A. Not whenever we first -- when I first get on the scene,
4 no.

5 Q. You weren't trying to get a whole written statement?

6 A. No.

7 Q. I believe those are all the questions I have.

8 THE COURT: Okay. Thank you, sir. You may step down.

9 MS. SHEALY: James Perkins.

10 THE COURT: Could I see the lawyers real quick just
11 before we put this witness up.

12 (WHEREUPON, bench conference was had.)

13 (WHEREUPON, the witness was duly sworn.)

14 THE CLERK: Sir, once you are seated if you would
15 please state your first and last name and spell your last
16 for the record.

17 THE WITNESS: James Perkins, P-E-R-K-I-N-S.

18 DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS:

19 Q. Detective Perkins, please tell the jury where you are
20 employed.

21 A. Charleston County Sheriff's Office.

22 Q. And how long have you been employed there?

23 A. Thirteen years.

24 Q. And how long have you served as a detective there?

25 A. A little over eight years.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 Q. Regarding the investigation and this case involving
2 James Rose could you tell the jury what the first thing you
3 did as a detective -- are you the lead detective in the
4 case?

5 A. Yes, ma'am.

6 Q. What was the first thing that you did?

7 A. I got a call from Sergeant Boyd in reference to a
8 shooting. While in route I spoke with other detectives that
9 would be assisting me in the case, Detective Colson,
10 Detective Kahn, and Detective Church.

11 I went to the scene. While at the scene I was being --
12 I was in contact with medical personnel as relates to the
13 victim. By the time I got there the victim had already been
14 transported. So I was in contact with them. And they were
15 advising me of the severity of his injuries.

16 Q. When you arrived at the scene were there family members
17 still present at the scene?

18 A. The only one there was the daughter Joy.

19 Q. Where did you go from the scene?

20 A. When I left the scene I went to the hospital.

21 Q. And you indicated that you were calling other
22 detectives. Did you ask that any of those detectives report
23 to the hospital?

24 A. Yes, ma'am.

25 Q. And those where who.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Detective Kahn and Detective Colson.

2 Q. When you got to the hospital what was going on?

3 A. It was extremely chaotic. Emotions was high as it
4 relates to the family and friends of the victim. And
5 Detective Kahn was attempting to get an interview done on
6 Joy.

7 Q. On Joy?

8 A. Yes, ma'am.

9 Q. Okay. Where y'all having much success with dealing
10 with all of that at the hospital?

11 A. Somewhat. But it was -- it was a lot going on, you
12 know, with the -- with the, you know, physicians and
13 everything and the emotions, nurses coming in, checking on
14 him, seeing if they needed anything so.

15 Q. What did you decide to do this because of that?

16 A. Relocate to the Sheriff's Office.

17 Q. And when you were relocated back at the Sheriff's
18 Department did you have other detectives assisting you?

19 A. Yes, I did.

20 Q. Okay. When you got there were -- people called it like
21 a substation. Where were y'all actually located?

22 A. 3505 Pinehaven Drive. That's actually our
23 headquarters.

24 Q. And the detective building is a little bit -- is
25 separate from the main building?

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Yes, ma'am. It is right behind it.

2 Q. Did you in fact interview Joy Holmes?

3 A. Yes, ma'am, along with Detective Kahn and Colson.

4 Q. And during that process can you describe to the jury
5 how her emotions were?

6 A. Her emotions were very up and down. She knew that she
7 needed to speak with us as it relates to injuries that her
8 father had sustained as it relates to the incident.

9 But she also was feeling the emotions because he was
10 injured. And it was at the hospital. So it was emotions
11 was high at times.

12 Q. Now as lead detective could you tell the jury whether
13 you would walk in on various interviews that were taking
14 place?

15 A. As a lead detective what you do is you try to gather
16 all the information, but some of the most pertinent
17 information as it relates to the case. And so as they are
18 interviewing people I'm going from one interview room like
19 with Joy and Ms. Alston.

20 Q. Okay. Do you recall how many times Antoine Al- --
21 Antoine Aiken was interviewed?

22 A. Yes, ma'am. Twice.

23 Q. And was that at one sitting or was there one at the
24 station and then one later?

25 A. The initial one was done at the station, at the

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 Sheriff's Office.

2 Q. There has been some testimony about an officer finding

3 Mr. Aiken and asking for another statement. Was that you?

4 A. No, ma'am.

5 Q. Who was that?

6 A. That was Detective Lawrence.

7 Q. And his first name is Charlie?

8 A. Charles Lawrence.

9 Q. Is Charles Lawrence also African-American?

10 A. Yes, ma'am.

11 Q. And do you know -- why did y'all make the decision to

12 interview him again?

13 Q. When I spoke with him I collected his GSR and I did the

14 initial interview with him. And when I was speaking with

15 him you can -- I can tell by my experience that he was

16 withholding some information. He wasn't being dishonest.

17 He was just ---

18 MS. RUNEY: Objection, Your Honor.

19 A. --- withholding.

20 THE COURT: His characterization?

21 MS. RUNEY: Speculating ---

22 THE COURT: Sustained.

23 MS. RUNEY: --- as to what ---

24 THE COURT: Sustained.

25 BY MS. SHEALY:

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 Q. You decided that you wanted to talk to him again
2 because you thought he had more information?

3 A. Yes.

4 Q. Now you mentioned to us that you did the GSR on him.
5 For the benefit of the jury what are you talking about?

6 A. It's called a gunshot residue test.

7 Q. And would you describe to the jury how that -- how the
8 samples are taken?

9 A. Pretty much what you do is you ask a few questions.
10 Left, right-handed. You then take what is -- it looks
11 somewhat of a top of a soda can. But it has a sticky
12 plaster on the bottom -- bottom side of it. And you place
13 it on their hands, both sides. And then you take a cotton
14 swab, add some liquid to it. And then you swab his hands.
15 You then send that off to the South Carolina Law Enforcement
16 Division to be analyzed.

17 Q. In addition to performing that on both sides of the
18 hand do you also check another part of their body; do you do
19 the same thing with another part of their body?

20 A. Yes, ma'am, you get what is called a control substance.
21 That's an area where in -- there wasn't -- there would not
22 be any gunshot residue like a leg, a shoulder, the back.

23 Q. And in fact did you do that with Antoine Aiken?

24 A. I did. I did the leg.

25 Q. While you were -- y'all were in the process of

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 initially interviewing everyone did you later get some
2 information about the condition of the victim?

3 A. I did.

4 Q. And what did you learn?

5 A. I learned that he had succumbed to his injuries.

6 Q. Now after those additional statements were taken could
7 you please tell the jury who were y'all looking for?

8 A. After the initial statements was collected and taken
9 and viewed we was looking for James Rose also known as Onyx
10 or "O" or Black.

11 Q. And what type of vehicle were you looking for?

12 A. A gray sedan. A gray Neon.

13 Q. So we are talking about the morning hours of January
14 24th when you are talking to the people initially?

15 A. Yes, ma'am.

16 Q. Could you tell the jury whether or not you had listed
17 the assistance of the Marshal's Office in finding James
18 Rose?

19 A. Yes, we did. We elicited the assistance of the
20 Marshal's Office.

21 Q. And did you in fact find James Rose?

22 A. We did.

23 Q. And that would have been on the 24th?

24 A. Yes, ma'am.

25 Q. Tell the jury where y'all located him.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. We located him at [REDACTED]

2 Q. Now was that his home address or that was someone
3 else's address?

4 A. That was not his home address. That was Deanna
5 Henderson's address.

6 Q. And when officers were patrolling that Cindy Drive area
7 did y'all just see him to approach him?

8 A. I tasked Deputy Ali (ph) with the US Marshals to assist
9 us in locating him. I wasn't on the scene when he was
10 located. But that is what I was advised.

11 Q. And that was at Ms. Henderson's home?

12 A. Yes, ma'am.

13 Q. Could you tell the jury whether or not a gray Neon was
14 located?

15 A. Yes, ma'am.

16 Q. And where was the gray Dodge Neon located?

17 A. In front of Mr. James Rose's residence.

18 Q. And showing you what has been previously marked as
19 State's Exhibit 28 I ask you whether that is the gray Neon
20 that you located.

21 A. Yes, ma'am, it is.

22 Q. Can you tell by that photograph - I'm not sure if you
23 can tell by that photograph - which mobile home James Rose
24 was living in. Can you tell by that photograph?

25 A. No, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

- 1 Q. Okay. I am showing you State's Exhibit 29.
- 2 A. Yes, ma'am.
- 3 Q. That was the mobile home that he lived in?
- 4 A. Yes, ma'am.
- 5 Q. Now did you determine who else lived at that Cindy
- 6 Drive address?
- 7 A. Yes, ma'am, we did.
- 8 Q. And who else lived there?
- 9 A. Amber Wiley, Matt Wiley -- Matthew Wiley, and Sophia
- 10 Wiley. Amber Wiley ---
- 11 Q. That was -- I'm sorry.
- 12 A. Amber Wiley is reportedly the girlfriend of Mr. Rose.
- 13 Matt and Sophia Wiley are married.
- 14 Q. Now when you located Mr. Rose was he then arrested?
- 15 A. Yes, ma'am.
- 16 Q. And after his arrest who else did y'll hope to identify
- 17 in this case?
- 18 A. The other two suspects that was reportedly inside the
- 19 residence that was masked.
- 20 Q. Okay. And tell the jury, have those efforts been
- 21 fruitful?
- 22 A. No, ma'am.
- 23 Q. Has anybody else been arrested in this case?
- 24 A. Not as of yet.
- 25 Q. Once Mr. Rose was arrested were you -- did you obtain

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 some buccal swabs from him?

2 A. Yes, ma'am, I did.

3 Q. Okay. And describe to us the process of obtaining
4 buccal swabs.

5 A. Okay. Buccal swabs are very -- buccal swabs look
6 similar to a Q-tip. And they are in some type of plaster
7 like a Band-Aid.

8 You open up the buccal swabs. You then swab the gum,
9 teeth area to collect DNA. And then you place it in a
10 sterile container. After you place it in the sterile
11 container you seal it, put the time and the date on it. And
12 you sent that to Columbia to the South Carolina Law
13 Enforcement Division to be analyzed.

14 Q. Okay. Now did you put it in a gold envelope at that
15 point or not?

16 A. I'm sorry?

17 Q. After you got the swabs how do you turn this into
18 evidence; are they in the case that the swabs came in, or do
19 you put them in a gold envelope?

20 A. I put them in a gold envelope.

21 Q. Okay. Well, then showing you what has been previously
22 marked as State's Exhibit 95 could you tell me whether - you
23 are going to have to kind of look through the plastic - are
24 those the swabs you obtained?

25 Q. Do I need to open it?

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Yes, ma'am.

2 (WHEREUPON, exhibit was not opened.)

3 Q. As it relates to any evidence in a case, once an
4 officer has retrieved the evidence do you turn it into your
5 evidence compound?

6 A. I do.

7 Q. And can you tell the jury whether or not that is a
8 secure compound?

9 A. It is.

10 MS. SHEALY: I beg the Court's indulgence for just a
11 moment.

12 THE COURT: Certainly.

13 MS. SHEALY: Detective Perkins, I have no further
14 questions. Answer any please the defense may have.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Cross-examination.

17 CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS:

18 Q. Good morning, Detective Perkins.

19 A. How are you doing, ma'am?

20 Q. Good, thank you. At the time of this case or this
21 incident you were a detective as you are now?

22 A. Yes, ma'am.

23 Q. And you got a call in the middle of the night to be
24 assigned to this case?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. You respond to the scene first?

2 A. Initially, yes, ma'am.

3 Q. And there is a responding officer there?

4 A. Yes.

5 Q. And he is gathering information?

6 A. He is tasked with gathering somewhat information but
7 making sure that he controls the scene.

8 Q. Absolutely. And that is why you are assigned as the
9 case agent to interview witnesses and gather more
10 information ---

11 A. Yes, ma'am.

12 Q. --- than the responding officer was able to do?

13 A. Yes, ma'am.

14 Q. Okay. And you become the case agent not for just that
15 night or the next day or even the next day, right?

16 A. I'm sorry?

17 Q. You are the case agent throughout the entire ---

18 A. Yes, ma'am.

19 Q. --- case? From when the incident happens, from when
20 someone is arrested, for any pretrial hearings, ---

21 A. Yes.

22 Q. --- and for this trial that we are here for today?

23 A. That is correct.

24 Q. And as part of your job as the case agent you have to
25 repair -- prepare reports?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. Yes.

2 Q. And have witnesses interviewed either by you or other
3 detectives?

4 A. That is correct.

5 Q. And on the night of January the 24th - or the early
6 morning is a better description - you and other detectives
7 had brought in witnesses to interview them?

8 A. That is correct.

9 Q. And you had other detectives to actually sit down and
10 do some of these interviews so that you could go around and
11 be in part of all of the interviews?

12 A. Well, I was pretty much overseeing the interviews like
13 I earlier stated to collect particular pertinent
14 information.

15 Q. And that is so you don't just have information from one
16 witness, you heard about all that is going on in the case?

17 A. Yes, ma'am.

18 Q. Because you are responsible for this case?

19 A. Yes, ma'am.

20 Q. And you are responsible for making an arrest for the
21 people who did this?

22 A. That's correct.

23 Q. So as part of your gathering of information you learned
24 about a woman named Tawana Alston?

25 A. Yes.

CROSS-EXAMINATION BY MS. RONEY OF DETECTIVE PERKINS

1 Q. And she was there at this trailer in Lincolnville the
2 night Leland Shannon was shot?

3 A. Yes.

4 Q. And you knew that she was the girlfriend of Leland
5 Shannon?

6 A. I had been informed that she was the girlfriend.

7 Q. And you had been informed that she knew James Rose?

8 A. Yes.

9 Q. Who she had dated?

10 A. Yes.

11 Q. And you also were able to be involved with the
12 interview of Antoine Aiken who was also present at the
13 scene?

14 A. Yes.

15 Q. As well as Ms. Holmes who is the daughter of Mr.
16 Shannon?

17 A. Correct.

18 Q. Did you ever interview a young man named Ishmal Weston?

19 A. No, I did not.

20 Q. Were you aware that there was a teenager named Ishmal
21 Weston at the trailer?

22 A. No, ma'am, I was not.

23 Q. And if you are not made aware of information you can't
24 follow up on that, can you?

25 A. No, I cannot.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

- 1 Q. Were you made aware that Brian Williams had called 911?
- 2 A. I was aware that there was numerous reports. But I
- 3 wasn't aware by name that it was Brian Williams.
- 4 Q. If you had, you would have interviewed him?
- 5 A. Yes, ma'am.
- 6 Q. And if you couldn't get there, you would have gotten
- 7 another detective to interview him?
- 8 A. Yes, ma'am.
- 9 Q. And as the case agent you are responsible for keeping a
- 10 case file, right?
- 11 A. That is correct.
- 12 Q. And what that includes is anything related to the case?
- 13 A. Yes, ma'am.
- 14 Q. Every single report?
- 15 A. I'm sorry?
- 16 Q. An incident report?
- 17 A. Oh, yes, ma'am.
- 18 Q. Witness statements?
- 19 A. Yes, ma'am.
- 20 Q. Could have multiple from different witnesses?
- 21 A. Yes.
- 22 Q. Any photographic lineups?
- 23 A. Yes, ma'am.
- 24 Q. Notes that you or other detectives have made?
- 25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. If they have handed them over to you?

2 A. Uh-huh.

3 Q. And of course all of this is for many reasons. But the
4 most important is for you to investigate the case and find
5 out who did it?

6 A. Yes, ma'am.

7 Q. And also as part of your responsibilities is to testify
8 in court as you are today?

9 A. Yes, ma'am.

10 Q. And early on in this case shortly after Mr. Rose's
11 arrest you testified at a preliminary hearing?

12 A. I did.

13 Q. And what a preliminary hearing is for is to determine
14 whether there was probable cause?

15 A. Yes.

16 Q. To arrest someone?

17 A. Yes.

18 Q. And you testify in that court?

19 A. Yes.

20 Q. And it is an important part of the process?

21 A. It is.

22 Q. And you testify under oath like you are today?

23 A. Correct.

24 Q. And sometimes there is a court reporter, but the
25 proceedings are always recorded?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

- 1 A. Correct.
- 2 Q. A solicitor is present at that preliminary hearing in
- 3 court? Not Ms. Shealy but another solicitor?
- 4 A. Yes, ma'am.
- 5 Q. And that solicitor asked you questions?
- 6 A. Yes.
- 7 Q. And then I'm able to ask you questions like I am today?
- 8 A. Yes, ma'am.
- 9 Q. And we see each other often at the preliminary
- 10 hearings?
- 11 A. We do.
- 12 Q. And James Rose was at his preliminary hearing?
- 13 A. I don't recall. He may have been there.
- 14 Q. That is fair. But I did cross-examine you? Okay. And
- 15 when you testified there, you want to be accurate?
- 16 A. I'm sorry?
- 17 Q. When you testify there, you want to be accurate?
- 18 A. I do.
- 19 Q. Okay. Do you remember or what type of gun that any of
- 20 the witnesses said that James Rose had?
- 21 A. It was several. I would say more than two.
- 22 Q. That he possessed two guns.
- 23 A. No, that it was different -- we were advised at one
- 24 point that he had a shotgun. At one point it was a black
- 25 handgun. At one point it was a double-barrel shotgun.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. Would you say that it is accurate that at the
2 preliminary hearing that you testified that he had a handgun
3 and that he shot at Ms. Alston?

4 A. That's correct.

5 Q. And as a result of your investigation how many people
6 did you understand were in this car that came to the
7 trailer, shot at Mr. Shannon and left?

8 A. We received information that it was potentially as many
9 as three -- three to four subjects or suspects.

10 Q. Three to four?

11 A. Yes.

12 Q. So it was not clear to you how many people were there?

13 A. Well, you have got to understand the emotions. And
14 that's one of the reasons that they were interviewed and
15 re-interviewed because emotions and everything that was
16 involved. So we had to make sure we was as accurate as we
17 possible could be.

18 Q. When you say re-interviewed witnesses do you mean
19 Antoine Aiken and Tawana Alston?

20 A. Yes, ma'am.

21 Q. Those are the only two witnesses that you got two
22 different statements from, correct?

23 A. Yes, ma'am.

24 Q. And that was within a couple of days after that
25 happened?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. Yes, ma'am.

2 Q. After the week of the incident did you ever interview
3 Tawana Alston or Antoine Aiken again?

4 A. After a week?

5 Q. After the week of January 23rd and January 24 did you
6 ever interview them again?

7 A. I did not re-interview Antoine. I'm not sure on Tawana
8 Alston.

9 Q. But you know you got two statements within 48 hours of
10 the incident?

11 A. That's correct.

12 Q. So after their two statements it wasn't clear how many
13 people had come to that trailer and shot Mr. Leland and left
14 together?

15 A. No.

16 Q. You said you collected the gunshot residue kit from Mr.
17 Aiken?

18 A. Yes.

19 Q. And I couldn't quite hear well. Did you say you
20 collected it from his hands?

21 A. Yes.

22 Q. So how someone would hold a gun or a weapon?

23 A. No, I said which -- the dominant hand.

24 Q. Dominant hand?

25 A. Yes. We do both hands, but I was asking as it relates

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 to doing it you would ask if you are left or right-handed.

2 Q. And if he tells you it is the left-hand, that is the
3 one you test as the dominant?

4 A. No, we just document it that that's what he indicated.

5 Q. Okay.

6 A. We test them both the same.

7 Q. And you tested them both?

8 A. I collected -- I collected samples off of them both. I
9 didn't -- I don't do the test.

10 Q. Left and right?

11 A. Yes, ma'am.

12 Q. Okay. You are right. And his leg?

13 A. No, we get a controlled substance off his leg.

14 Q. To compare what you collect from his hands?

15 A. Correct.

16 Q. Okay. Did you take Mr. Aiken's clothes into evidence?

17 A. No, we did not.

18 Q. And a swab was not done on his clothes?

19 A. No, a swab was not done on his clothes.

20 Q. As a result of your investigation it was or was not
21 your understanding that Mr. Rose actually fired the gun?

22 A. Our understanding initially as you have heard by the
23 testimony, our understanding initially was that he did fire
24 a gun. As the investigation evolved it was our
25 understanding that potentially he may not have fired the gun

CROSS-EXAMINATION BY MS. RONEY OF DETECTIVE PERKINS

1 but he was there.

2 Q. So when you did testify at the preliminary hearing at
3 that point it was your understanding that Mr. Rose had fired
4 the gun?

5 A. Oh, yes, ma'am.

6 Q. And you gathered that information from the witnesses
7 that you interviewed?

8 A. Correct.

9 Q. As part of your investigation?

10 A. Correct.

11 Q. Do you know who called 911?

12 A. I knew that Joy. Because I spoke with her. I know
13 that she had called 911. But of course that timeframe in
14 the morning hearing gunshots I would assume that someone
15 else would be calling 911.

16 Q. Neighbors? Neighbors?

17 A. Correct.

18 Q. So if you testified at the prelim, preliminary hearing,
19 that Ms. Alston called the -- called 911, that was a
20 mistake? That is not your understanding now is it?

21 A. She advised that she had ran to call 911.

22 Q. She -- she told you that she called 911?

23 A. Meaning that she was getting assistance I later came to
24 know.

25 Q. Who was really Brian Williams?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. That is correct.

2 Q. But you didn't know who Brian Williams was?

3 A. Correct.

4 Q. Only that she had run from the trailer and told you
5 that she was going to call 911?

6 A. That is correct.

7 Q. And going back one more time to the preliminary
8 hearing. At that point it was your understanding that the
9 only people in the trailer were Tawana, Antoine, and Joy?

10 Q. And if I told you that that preliminary hearing was in
11 March of 2012, that would sound about right?

12 A. Correct.

13 Q. Okay. And that was a little less than two months after
14 this happened?

15 A. Correct.

16 Q. And again, you had to rely on what you had been told?

17 A. Correct.

18 Q. Were you present when a search was done on the trailer
19 at Carolina Avenue? After this happened they searched the
20 scene for anything of evidentiary values. Were you present
21 for that or had you already gone to the ---

22 A. I left.

23 Q. And you would receive any search warrants or
24 evidence -- lists of evidence that was collected from that
25 part of your case file?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. Correct.

2 Q. And because even if you weren't there for that, it is
3 important for you to know to continue to investigate?

4 A. Yes, ma'am.

5 Q. And especially in this case because Mr. Rose had been
6 the only one that had been arrested?

7 A. That is correct.

8 Q. Are you aware of any drugs that were found in the
9 trailer?

10 A. There was drugs located in the trailer from my
11 understanding.

12 Q. And where were those drugs located?

13 A. I can't -- I don't want to -- I don't -- I don't not
14 want to know -- I don't know definitively where they was
15 located. I just know that some was collected inside the
16 residence.

17 Q. And when you see drugs do you mean marijuana, cocaine,
18 heroin; do you remember what it was?

19 A. I do not.

20 Q. Do you know if these bags were in drugs -- if these
21 drugs were in bags, were those bags tested for fingerprints?

22 A. As far as what was being tested, that was done by my
23 supervisor. He handled all of the evidentiary testing, even
24 what I collected like the buccal swabs, the GSR's, he was
25 directed to handle everything as it relates to the evidence

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 and what was tested.

2 Q. You don't do the testing?

3 A. No.

4 Q. But you would receive the results of that testing?

5 A. That's correct.

6 Q. I want to ask you about this Dodge Neon. A Dodge Neon
7 was seized by the Sheriff's Office, correct?

8 A. Correct.

9 Q. Okay. And I believe that I asked you about a car that
10 was seen on the scene at the preliminary hearing. Because
11 that is pretty important, right?

12 A. Potentially.

13 Q. Because at that point you're looking for a car that
14 drove these -- one or two shooters and some others to the
15 scene and then left in this car?

16 A. Potentially.

17 Q. Were you aware that that car that was seized belonged
18 to a Ms. Everlina Bickman?

19 A. Bickman.

20 Q. Bickman.

21 A. Yes, ma'am.

22 Q. So as the case agent you know that a gray car that was
23 ceased belongs to Everlina Bickman. Do you know how she
24 knows James Rose? She is a friend of Ambers; is that right?

25 A. Yeah, I was going to say a friend, yeah.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. Amber Wiley is James Rose's girlfriend or was his
2 girlfriend at the time?

3 A. Yes, ma'am.

4 Q. And as a result of that you went to look for Ms.
5 Bickman?

6 A. Correct.

7 Q. And her car?

8 A. We had her vehicle.

9 Q. Right.

10 A. Yes.

11 Q. Right. And did a lot of forensic tests on that
12 vehicle?

13 A. We collected a lot of stuff to be tested.

14 Q. You're right, collected. And you learned that James's
15 girlfriend had been in that car with Ms. Bickman?

16 MS. SHEALY: Object to hearsay, Your Honor.

17 THE COURT: Sustained.

18 Q. The car was on Cindy Lane?

19 A. Correct.

20 Q. James Rose was arrested on Cindy Lane across the street
21 from where he lives?

22 A. Correct.

23 Q. And as you testified on direct, nobody else was ever
24 arrested in this case?

25 A. Not as of yet.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. Does that mean you are still investigating?

2 A. We're always investigating. We have two other suspects
3 that we are currently still looking for.

4 Q. When you brought the witnesses to the Sheriff's
5 Department that night you kept them in separate rooms?

6 A. Correct.

7 Q. And then you released them all to go back to the
8 hospital?

9 A. They were released. Not together. When they was at
10 the office they was always separated, never together to
11 discuss anything as it relates to the incident. Because we
12 was trying to collect the information. So they were always
13 separate.

14 But when we released them after we had finished
15 interviewing they were released to go home, to go the
16 hospital or wherever they choose.

17 Q. You didn't want them to talk to each other? So they
18 could give independent statements?

19 A. Correct.

20 Q. And you picked them up originally from the hospital and
21 took them to the Sheriff's Office?

22 A. I personally did not. My detectives that was assisting
23 me in the case, they picked them up and had them separately
24 in vehicles and taken to the Sheriff's Office?

25 Q. But they were transported by police officers?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. I'm sorry?

2 Q. They were transported to your department by police
3 officers?

4 A. Correct.

5 MS. RUNEY: Beg the Court's indulgence. That's all I
6 have. Thank you.

7 THE COURT: Okay. Redirect.

8 THE COURT: Thank you, Your Honor.

9 **REDIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS:**

10 Q. Detective Evans, you're familiar that when items of
11 evidence are collected pursuant to a search warrant that an
12 evidence technician takes them into evidence; is that
13 correct?

14 A. Yes, ma'am.

15 Q. And do they log -- are you familiar with the fact that
16 log in the information on every item of evidence that they
17 receive?

18 A. Yes, ma'am.

19 Q. I am going to show you that log of evidence in this
20 case and allow you a moment to look through it. And if you
21 could, tell the jury whether there were any drugs located
22 pursuant to the search warrant.

23 (Pause for review of documents.)

24 Q. You don't see any?

25 A. No.

REDIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 Q. Okay. So when Ms. Runey was asking you about whether
2 drugs were found, you were just mistaken?

3 A. Yes.

4 Q. Okay. Now that you have had the time to refresh your
5 memory, were there any drugs taken from the scene?

6 A. As it relates to that evidence, no, ma'am.

7 Q. Okay. And Ms. Runey was asking about the name of
8 Ishmal Weston?

9 A. Yes.

10 Q. And Tawana Alston had been interviewed two times; is
11 that correct?

12 A. Yes.

13 Q. And one of those times was by Nick Waggoner and Charles
14 Lawrence?

15 A. Correct.

16 Q. You weren't present for that interview, were you?

17 A. No, ma'am.

18 Q. And but as an officer you had access to all the
19 statements in the case?

20 A. That's correct.

21 Q. Showing you that second interview and looking at
22 Page 3, could you indicate to the jury whether in fact the
23 name Ishmal Weston was provided by Tawana Alston?

24 A. It was.

25 Q. And what was the date of that statement?

REDIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. January 24.

2 Q. When Ms. Runey was asking you about whether or not you
3 were aware that Tawana Alston had dated James Rose ---

4 A. Yes.

5 Q. --- do you know for how long or how long ago it was
6 that they dated?

7 A. No, I did not know how long.

8 Q. And regarding the vehicle that was owned by Everlina
9 Bickman you indicated she was friends with Amber Wiley?

10 A. That's correct.

11 MS. SHEALY: I have no other questions. Thank you.

12 THE COURT: Okay. Anything further?

13 MS. RUNEY: No, Your Honor.

14 THE COURT: All right. Sir, you may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Thank you. Well, let me see. Do you have
17 a relatively brief witness we can put up or ---

18 MS. SHEALY: Can we approach?

19 THE COURT: Sure. Come on up.

20 (Bench conference.)

21 THE COURT: All right. Ladies and gentlemen, we have a
22 few issues we need to deal with at lunch. But the next
23 witness may take a little while. So I'm going to ask that
24 you go ahead and go to lunch now. Please don't discuss the
25 case. You have not heard all the evidence yet. If y'all

State vs. James Rose

1 will be back in your jury room at 1:45. That should give us
2 plenty of time to finish what we need to do before y'all get
3 back. Thank you.

4 (WHEREUPON, jury exits courtroom December 11, 2013,
5 12:19 p.m.)

6 THE COURT: All right. That is just a draft of what
7 may or may not be relevant. There are a few things in there
8 we can take out.

9 For example, I imagine we will hear some expert
10 testimony at some point. So I will put that in. Whether
11 the defendant chooses to testify or not, we can leave that
12 in or not. And I will talk to him probably when we get back
13 would be a good time to do that.

14 Why don't y'all be back between 1:30 and 1:45. We can
15 talk about jury charges at the end of the day. I don't
16 think we are going to get to that point today.

17 But anything that y'all want to add to it y'all can
18 certainly send me tonight and we can, you know, modify those
19 as needed. It just always helps me to have a draft to work
20 off of.

21 All right. Anything we need to take up before y'all
22 leave for lunch?

23 MS. SHEALY: Not from the State, Your Honor.

24 MS. RUNEY: No, Your Honor.

25 THE COURT: All right. I will see y'all then about a

State vs. James Rose

1 little before 1:45. We will be at ease. Thank you.

2 (WHEREUPON, resumed after lunch 12/11/2013.)

3 THE COURT: Anything we need to take up before we bring
4 the jury?

5 MS. SHEALY: Just briefly, Judge.

6 THE COURT: Sure.

7 MS. SHEALY: We have three stipulations that we've
8 agreed to.

9 THE COURT: Oh, wonderful.

10 MS. SHEALY: I wasn't sure if you like them marked as
11 Court's exhibits or ...?

12 THE COURT: I think it's easier to mark them as court's
13 exhibits. But y'all -- I really don't have a preference.

14 MS. SHEALY: Okay.

15 THE COURT: As long as they are in, they're in.

16 MS. SHEALY: And what I would ask to do is at the
17 completion of our evidence is to read this into the record.

18 THE COURT: Okay. Any objection to that?

19 MS. RONEY: Are you going to read them or ...?

20 MS. SHEALY: I usually read them.

21 MS. RONEY: That's fine.

22 THE COURT: I'm happy to read them if you want me to,
23 or she can. That work?

24 MS. RONEY: Yes, ma'am.

25 (WHEREUPON, Court's Exhibit marked 9, stipulation, was

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1 marked for identification.)

2 (WHEREUPON, Court's Exhibit Number 10, stipulation, was

3 marked for identification.)

4 (WHEREUPON, Court's Exhibit Number 11, stipulation, was

5 marked for identification.)

6 THE COURT: Do you think y'all are going to finish your
7 case today?

8 MS. SHEALY: I do.

9 THE COURT: All right. Well, why don't I go ahead and
10 talk to Mr. Rose about his constitutionally rights.

11 MS. SHEALY: Sure.

12 THE COURT: I think now would make -- be a good time to
13 do it. Sir, if you could stand up for me. I need to make
14 sure you can hear me. And I need to ask you a few
15 questions.

16 I know that your attorneys have gone over all of this
17 with you, because you have excellent attorneys. But I need
18 to make sure that you understand that your Fifth Amendment
19 right to remain silent.

20 As you probably heard me tell the jury before we picked
21 the jury at the beginning of the trial, and I will tell them
22 again at the trial, the defendant has no burden here. You
23 are presumed innocent and you don't have to put up any case
24 whatsoever. That is completely a strategy decision for you
25 to work out with your lawyers.

1 Likewise, you have the absolute constitutional right to
2 remain silent. And if you choose not to testify, I will
3 instruct the jury that they can't hold that against you,
4 can't talk about it, can't mention it. It can't be a part
5 of their deliberations or thought process when they are
6 deliberating at all. In fact you may see I included that
7 language in my charge. Just I think it is helpful to have.

8 Do you understand that right to remain silent, sir?

9 MR. ROSE: Yes, I do, Your Honor.

10 THE COURT: Have you had enough time to talk with your
11 lawyers about that?

12 MR. ROSE: Yes, I have.

13 THE COURT: And y'all don't have to tell me now. It is
14 a decision that you will make once the State rests its case.
15 But do you have any questions for the court about that right
16 to remain silent?

17 MR. ROSE: No, I don't, Your Honor.

18 THE COURT: Okay. Anything further y'all would like
19 for me to instruct him about?

20 MS. RONEY: No, ma'am.

21 THE COURT: Anything further from the State you think I
22 need to mention?

23 MS. SHEALY: No, Your Honor.

24 THE COURT: All right, sir. Thank you so much.

25 MR. ROSE: You're welcome.

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1 THE COURT: I just needed to make sure you understood
2 that. I know you do because I know your lawyers. But we
3 will go ahead and get the jury out and hear the rest of the
4 State's case and see how far we get today. Okay. All
5 right. Are y'all ready for them?

6 Yes, sir. Thank y'all for being so organized and
7 efficient by the way.

8 (WHEREUPON, break awaiting jury.)

9 (WHEREUPON, jury enters courtroom 1:59 p.m.)

10 THE BAILIFF: The jurors are all present, Your Honor.

11 THE COURT: Thank you, sir. And thank you, ladies and
12 gentlemen. I hope you had a nice lunch. And we are ready
13 to continue with the trial. So I will call on -- hang on.
14 (Note presented to the Court.)

15 THE COURT: That shouldn't be a problem. Just for
16 court's counsel benefit, I've got a note. Two members of
17 the jury need to be excused as close to 5:15 for childcare
18 purposes.

19 Y'all don't have to apologize. We appreciate your
20 patience and your kind attention. One needs to be in West
21 Ashley to pick up a seven-month-old as close to 5:30 as
22 possible.

23 We are moving pretty efficiently today. So that is not
24 a problem. I will just let everybody know. So thank you.

25 Are you ready to proceed?

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1 MS. SHEALY: Erin Myer.

2 THE COURT: Good afternoon. If you will come on up we
3 will swear you in.

4 (WHEREUPON, the witness was duly sworn.)

5 THE CLERK: Once seated if you would please state your
6 first and last name and spell your last.

7 THE WITNESS: My name is Erin Meyer. My last name is
8 spelled M-E-Y-E-R.

9 (ERIN MEYER, having first been duly
10 sworn, testified as follows:)

11 DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER:

12 Q. Officer Meyer, if you would please tell the jury where
13 you are employed.

14 A. I work for the Charleston County Sheriff's Office in
15 the Forensics Services Division.

16 Q. And how long have you worked for the Sheriff's
17 Department?

18 A. Seven years.

19 Q. And how long in the forensic division?

20 A. Six years.

21 Q. Would you describe to the jury what your unit does?

22 A. We respond to scenes, process crime scenes, collect
23 evidence, preserve evidence, and maintain evidence at the
24 Sheriff's Office.

25 Q. And would you advise the jury what SLED is.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. We refer to SLED as a parent agency, State Law
2 Enforcement Division, located in Columbia. They process and
3 analyze a lot of our evidence that we don't have
4 capabilities to do here in Charleston.

5 Q. Okay. Regarding this case, the State versus James
6 Rose, could you tell the jury whether or not you were the
7 evidence technician in this case.

8 A. I was.

9 Q. And if you would start by telling us where you first
10 reported.

11 A. I responded to Lincolnville, [REDACTED]

12 Q. And I'm showing you State's Exhibit 2. It is going to
13 come up on a screen right in front of you. Is that the
14 location where you reported?

15 A. Yes, ma'am.

16 Q. And tell us how it is you go about examining a home,
17 for example, if it is the scene of a crime. What do you
18 first do when you get there?

19 A. When we respond on the scene we usually speak to the
20 officers or the investigators, whoever might be there. Get
21 some initial information from them and then if it is just me
22 there or if I have a coworker there we will do what we call
23 a walk-through and for security reasons make sure our scene
24 is secure and see what we have.

25 Q. Okay. And the yellow tape that is reflected on the

1 back porch there, what is that?

2 A. Crime scene tape, barrier tape.

3 Q. And what is the purpose of it?

4 A. To secure the scene. To keep ---

5 Q. Keep other people ---

6 A. To keep people out.

7 Q. Okay. What I would like for you to do, first of all
8 did you prepare the diagram in State's 1?

9 A. Yes, ma'am.

10 Q. Okay. And if you would, let's begin with the back
11 porch area if we could. I'm showing you what has been
12 previously marked as State's Exhibit 3 again. Which door
13 did you enter the house from?

14 A. This door (pointing). The back door.

15 Q. Okay. And you can actually point to that screen.

16 A. (Witness complied.)

17 Q. Okay. And showing you State's Exhibit 4, is that the
18 scene as you open the door?

19 A. Yes, ma'am.

20 Q. Showing you State's Exhibit Number 5, is that a little
21 tighter shot as you are entering towards the kitchen?

22 A. Yes, ma'am.

23 Q. Now if you could describe to the jury, is there a saw
24 on the floor?

25 A. Yes, ma'am. It is a bench saw.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Would you point to that. Why don't you put a check by
2 that.

3 A. (Witness complied.)

4 Q. And prior to the saw there is a blue book bag?

5 A. Yes, ma'am.

6 Q. Can you put a check by that for us?

7 A. (Witness complied.)

8 Q. When you were looking in this area what were you
9 looking for?

10 A. Do you mean initially when I entered the scene?

11 Q. Yes. Well, when you came back to the laundry room area
12 to look for evidence ---

13 A. During processing?

14 Q. Yes.

15 A. Okay. We initially go through and do a set of
16 photographs and then we come back and we start identifying
17 with certain areas we want to process..

18 This particular area I'm looking for -- we had gotten
19 information that he had been shot. So we are looking for
20 shell casings, projectiles, ricochets, pieces, fragments,
21 any firearms, anything that would be of any kind of
22 evidentiary value.

23 Q. Okay. And showing you State's Exhibit 6, is that a
24 picture as you turn that corner ---

25 A. Yes, you turn ---

1 Q. --- from the laundry room?

2 A. --- that corner and looking back.

3 Q. Now in looking at that, is there a gap in the counter
4 to your -- if you are looking at the picture on the right?

5 A. Yes, ma'am.

6 Q. Mark that area for us.

7 A. (Witness complied.)

8 Q. Okay.

9 MS. SHEALY: Now if we can clear that. Clear that
10 picture. If you will go back to seven for me. And then can
11 you clear the marks. Okay.

12 Q. This is a closer up a photograph of the saw that you
13 were talking about?

14 A. Yes, ma'am.

15 Q. And would you explain to the jury what if anything you
16 noticed about the saw.

17 A. There was -- there is a piece of the guard, the saw
18 blade guard, right here missing that had been broken off.

19 Q. And showing you State's Exhibit 8, what does that
20 reflect?

21 A. That is a piece with a projectile in it.

22 Q. Okay. Could you check that mark -- or circle it for
23 us.

24 A. (Witness complied.)

25 Q. And so that was actual projectile; ---

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1 A. Yes, embedded in the ---

2 Q. --- is that correct?

3 A. --- in the guard in that piece of plastic.

4 Q. Okay. Showing what has been marked as State's Exhibit
5 75, I ask you whether that is the projectile that you
6 gathered.

7 A. Yes, ma'am.

8 Q. And how can you tell that by looking at that package?

9 A. It has got my label on it, my initials, my signature.
10 I sealed it. That is the piece of this -- the guard right
11 here. And that is consistent with the bullet that was
12 inside of the guard.

13 Q. Okay.

14 MS. SHEALY: And, Your Honor, with the Court's
15 permission I'm going to open that packet.

16 THE COURT: Certainly.

17 MS. SHEALY: I will have to cut the packet open. Okay.

18 Q. Ms. Meyer, when you were saying that there was a piece
19 of the saw depicted in that photograph is that the piece of
20 the saw?

21 A. Can you flip it over?

22 Q. (Complied.)

23 A. Yes, ma'am.

24 Q. That does show up better. Okay. And the projectile
25 itself, is that what I am showing you now?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. Yes, ma'am.

2 Q. And those were found then on the floor where the piece
3 was next to the saw?

4 A. Yes, ma'am.

5 Q. Now after you collected this did you later submit
6 projectiles to SLED?

7 A. Yes, ma'am.

8 Q. Now showing you what has been previously marked as
9 State's Exhibit 10 -- well, first of all, let's look at
10 nine.

11 MS. SHEALY: That's State's Exhibit 8. If we could
12 look at State's 9. Or is that State's 9?

13 BY MS. SHEALY:

14 Q. Okay. Is that just another depiction of the projective
15 with the piece of plastic?

16 A. Yes, ma'am.

17 Q. Showing you State's Exhibit 10, I notice in this
18 photograph there is a stove in that gap; is that correct?

19 A. Yes, ma'am.

20 Q. Was this photograph taken the night of the incident?

21 A. No, ma'am. I returned out to the scene.

22 Q. Okay. And can you tell the jury why you returned out
23 to the scene?

24 A. I think there were new people moving into this house.

25 And they were installing a stove. They had contacted -- and

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1 noticed something shiny embedded in the cabinet down here
2 (pointing) from the inside.

3 They had called the detective division. And one of the
4 detectives sent me back out there to take a look.

5 Q. Okay. And showing you State's Exhibit 11.

6 MS. SHEALY: If we could get rid of that check.

7 ASSISTANT: (Complied.)

8 BY MS. SHEALY:

9 Q. Can you show the jury what is depicted in this
10 photograph. What is significant?

11 A. There is a mark on the floor next to the scale that
12 represents -- or is consistent with being a ricochet mark.
13 And then up here in the front of the cabinet -- do you want
14 me to ---

15 Q. Yeah, if you can circle the areas you are talking
16 about, that might may it helpful for us.

17 A. Okay.

18 Q. And you refer to that as what?

19 A. A ricochet. A projectile ricocheted off of the floor.
20 And went into the cabinet right here (pointing). Went into
21 the wood.

22 Q. And showing you State's 12. Is that a closer up
23 shot ---

24 A. Yes.

25 Q. --- of that area?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. Yes, ma'am.

2 Q. What did you do once you found that hole?

3 A. Photographed it obviously. And then I dug out the wood
4 from the cabinet as best I could without coming in contact
5 with the projectile to preserve whatever condition it is.

6 Q. And then showing you State's Exhibit 13, what does that
7 picture reflect?

8 A. That is the projectile that I pulled from the cabinet.

9 Q. Okay. Showing you State's Exhibit 76 I ask you whether
10 that package contains that projectile.

11 A. Yes, ma'am.

12 Q. And again with this projectile did you then send it to
13 SLED?

14 A. Yes.

15 Q. Okay. Was there anything else of an evidentiary nature
16 in that laundry room area that you recall?

17 A. No, ma'am.

18 Q. If we then could move to Photograph 14. What does this
19 picture reflect?

20 A. You are coming in -- this picture shows from the
21 laundry room kind of out towards the kitchen and living
22 room.

23 Q. And then 15, you are making your way through the
24 house ---

25 A. Yes, ma'am.

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1 Q. --- at this location? And then 16?

2 A. It would be the kitchen area, eating area.

3 Q. And then 17?

4 A. Living room.

5 Q. Do you see the hall that leads to the bedroom in that
6 picture?

7 A. Yes, ma'am.

8 Q. And then 18, that is the door that leads to the ---

9 A. The front door.

10 A. Front porch. Okay. Once you go down that hall,
11 showing you State's 20, is that the bedroom straight down
12 the hall?

13 A. Yes, ma'am, at the end of the hall.

14 Q. And when you went into the bedroom were you also
15 looking for anything that might be connected to the case?

16 A. Yes.

17 Q. And were you sure whether when you found things they
18 would be connected to the case?

19 A. Not -- no, we never do.

20 Q. In bedroom -- we will refer to that as Bedroom 1.

21 A. Thank you.

22 Q. In Bedroom 1, I am showing you -- I think you can see
23 it in that photograph actually, Photograph 21. Could you
24 tell the jury whether or not you found a BB gun.

25 A. Yes, ma'am.

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- 1 Q. And can you show the jury where that is located?
- 2 A. It is right there on top of the dresser.
- 3 Q. So that is a gun that you don't use real bullets with;
- 4 is that correct?
- 5 A. Correct, BB, air-soft gun.
- 6 Q. And then did you also locate in Photograph 22 is --
- 7 what is that?
- 8 A. It is a 22-caliber rifle.
- 9 Q. And a 22-caliber rifle is not a shotgun; is that
- 10 correct?
- 11 A. Correct.
- 12 Q. And was there a magazine with that rifle?
- 13 A. Yes, ma'am.
- 14 Q. Okay. And did you also find in Photograph 27 -- now is
- 15 that in the same room?
- 16 A. Yes, ma'am.
- 17 Q. Are their shotgun shells in that box?
- 18 A. Yes.
- 19 Q. And underneath that box are there some other type of
- 20 ammunition?
- 21 A. Some 22-caliber ammunition in the box right here
- 22 (pointing).
- 23 Q. And so those are the items that you found in Bedroom 1?
- 24 A. Yes, ma'am. It's a nightstand next to the bed.
- 25 Q. And I'm sorry, what type -- what caliber ammunition was

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 that?

2 A. Twenty-two.

3 Q. Twenty-two. Then did you make your way to Bedroom 2?

4 A. Yes, ma'am.

5 Q. Prior to that was there a bathroom that you passed as
6 you exited Bedroom 1?

7 A. Yes.

8 Q. And then as you are exiting it, it would have been on
9 your right side?

10 A. Yes, ma'am.

11 Q. And showing you State's Exhibit 23, is that the
12 bedroom?

13 A. That's the bathroom.

14 Q. Oh -- the bathroom?

15 A. Yes, ma'am.

16 Q. Okay. Then the bedroom that you next come to, that
17 being what we will call Bedroom 2, I am showing you
18 Photograph 24. Can you tell me whether you looked in that
19 area?

20 A. Yes, ma'am.

21 Q. And showing in 25, State's 25, were those the items
22 that were found on the bed?

23 A. Yes, ma'am.

24 Q. And did you take the cell phone into evidence?

25 A. Both cell phones. Yes, ma'am.

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1 Q. Are there two -- can you show us the two cell phones;
2 can you point that out? It's a little dark in that area.

3 A. (Witness complied.)

4 Q. Okay. And so both of those cell phones were taken into
5 evidence?

6 A. Yes, ma'am.

7 Q. And showing State's Exhibit 25 -- no, I'm sorry, 26.
8 What door are we looking at?

9 A. That is Bedroom Number 2's door. The same bedroom you
10 just showed the picture of with the bed.

11 Q. And so the hall is where in that picture?

12 A. Right outside the door.

13 Q. Okay. And did you find that gun behind that door?

14 A. Yes, ma'am.

15 Q. And what type of gun was that?

16 A. It is a bolt-action rifle. I think it is a Mossberg
17 22.

18 Q. Okay. And just for those who may not be as familiar
19 with guns, that is not a shotgun; ---

20 A. Correct.

21 Q. --- is that correct? And it is not a 357-magnum?

22 A. Correct.

23 Q. And it is not a 38-special?

24 A. Correct.

25 Q. When you -- when you finish going through the entire

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1 house, items of evidence you would collect, there was some
2 cell phones I think found on the kitchen table; is that
3 correct?

4 A. Yes, ma'am.

5 Q. But regarding the items that we've discussed today,
6 these photographs reflect of where you found them; is that
7 correct?

8 A. Correct.

9 Q. Now turning your attention to a different address, did
10 you have the occasion to go over to Cindy Drive?

11 A. Yes, ma'am.

12 Q. And did you in fact have a search warrant ultimately to
13 go into Cindy Drive?

14 A. Yes, ma'am.

15 Q. Showing you what has been marked as State's Exhibit 28,
16 can you tell the jury what that photograph reflects?

17 A. My vehicle. The house we were executing a search
18 warrant on and the other side of my vehicle. And then a
19 Dodge Neon.

20 Q. How about point those things out to us.

21 A. Dodge Neon (pointing), my vehicle (pointing), the
22 trailer (pointing).

23 Q. And when you arrived at the scene was the Neon in that
24 location?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. I am showing you State's Exhibit 29. Does that reflect
2 the mobile home that you entered and searched?

3 A. Yes, ma'am.

4 Q. And also 30?

5 A. Yes, ma'am.

6 Q. Just another angle. And then 31 reflects the address?

7 A. Yes, ma'am.

8 Q. And that address was [REDACTED]?

9 A. Yes, ma'am.

10 Q. Okay. Now in discussing the vehicle, showing you
11 State's Exhibit 32, did y'all open the doors and photograph
12 the vehicle as it appeared when you initially saw it?

13 A. When I arrived on the scene my sergeant was already
14 there. But he had advised me that we would be towing that
15 vehicle back to the evidence compound for processing later.
16 And the owner was on the scene and wanted some items out of
17 the vehicle.

18 Just habit and per policy we photograph if we are going
19 to bring a vehicle back to execute a search warrant on it we
20 would photograph it in its entirety prior to transport in
21 case there's any evidence that shifts or moves or slides
22 under the seat during transport. It's just for
23 documentation purposes.

24 Q. Okay. So a couple of things. Who was the owner; do
25 you have that name?

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1 A. I think it was Everlina.

2 Q. Okay.

3 A. Is that right? I don't know.

4 Q. Everlina.

5 A. Is it Everlina?

6 Q. And showing you how the vehicle appeared on the inside,
7 showing you State's 33, that is the back seat area?

8 A. Yes, ma'am.

9 Q. And showing you 34, front seat passenger area?

10 A. Yes, ma'am.

11 Q. And I notice a pack of cigarettes there; is that
12 correct?

13 A. Yes.

14 Q. State's Exhibit 35, is that a pocketbook in the ---

15 A. Floorboard, ---

16 Q. --- floorboard?

17 A. --- the passenger-side. Yes, ma'am.

18 Q. And 36, just a closer up photograph of that?

19 A. Yes, ma'am.

20 Q. I noticed that the keys are in the car.

21 A. Yes.

22 Q. Were the keys in the car when you approached the
23 vehicle?

24 A. Yes, that -- that vehicle -- those photographs document
25 the way we found the vehicle.

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1 Q. Okay. And 37?

2 A. Yes, ma'am.

3 Q. And 38. On this photograph had you changed the
4 position of the pocketbook?

5 A. Yes, she had -- she was on the scene requesting some
6 items out of the vehicle. She was notified that we were
7 going to be taking it.

8 Q. And 39, it's hard to tell in that picture. But the
9 jury will have the actual photograph. Does it have the name
10 of the prescription on that bottle? I don't know if you can
11 see it -- get from where you are.

12 A. Do you mean the individual's name it is prescribed to?

13 Q. Yes.

14 A. Everlina Bickman.

15 Q. Okay. After taking those photographs to assure how it
16 appeared when you arrived did you then search the residence
17 itself?

18 A. Yes, ma'am.

19 Q. And showing you State's Exhibit 40 then, is that how
20 you entered ---

21 A. Yes.

22 Q. --- the mobile home that evening ---

23 A. No.

24 Q. --- or that afternoon?

25 A. No, that is the backdoor.

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1 Q. Oh, that's the back door. Okay. Is that how you
2 entered or not?

3 A. No.

4 Q. You entered through the front door?

5 A. Yes, ma'am.

6 Q. Okay. I'm not sure I have a photograph of the front
7 door. Let's see. Okay. Showing you 29, that's the front
8 door?

9 A. Yes.

10 Q. Okay. As you entered through that door what was to
11 your right as you entered the door?

12 A. A bedroom.

13 Q. I'm showing you State's Exhibit 40. Oh, I'm sorry, I'm
14 showing you State's Exhibit 41. Is that the bedroom to the
15 right?

16 A. We entered through there (pointing). And that's the
17 living room straight ahead. You go down that little I guess
18 little doorway there to the right would be the bedroom.

19 Q. Okay. Showing the State's Exhibit 43. Show us where
20 that front door was.

21 A. The front door in here. And that is the bedroom in the
22 front.

23 Q. Okay. If we could concentrate on that bedroom then.
24 Showing you State's Exhibit 44. Does that reflect how the
25 bedroom appeared when you went in?

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- 1 A. Yes, ma'am.
- 2 Q. And just acclimate us to the picture. The front door
- 3 is where of the trailer?
- 4 A. Here and to the left (pointing).
- 5 Q. Okay. Now located on that blue and red bedspread what
- 6 is that red area next to the pillow?
- 7 A. A piece of clothing. A red shirt.
- 8 Q. And showing you State's Exhibit 47 and then 48. That
- 9 is the red shirt that you've mentioned?
- 10 A. Yes, ma'am.
- 11 Q. If we could go back one second to Photograph 40 showing
- 12 the back door of the trailer.
- 13 A. I took that.
- 14 Q. What are those black things depicted on the ground?
- 15 A. There were a pair of black tennis shoes out there on
- 16 the back porch we collected.
- 17 Q. They were outside?
- 18 A. Yes, ma'am.
- 19 Q. Showing you State's Exhibit 77. Could you tell the
- 20 jury whether or not those are the ---
- 21 A. Can I open it?
- 22 Q. Yes, you may.
- 23 A. Yes, ma'am.
- 24 Q. Could you show the jury those shoes. I have just
- 25 handed you some gloves.

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1 A. Thank you. (Witness complied.)

2 Q. Okay. We can go back to Photograph 48. Here I will
3 just take those. And again, there's the red shirt that was
4 on the bed in that bedroom?

5 A. Yes, ma'am.

6 Q. I'm showing you State's Exhibit 78. Could you tell the
7 jury whether or not it is that red shirt.

8 A. (Complied by showing exhibit.)

9 Q. Okay. If we could show the State's 45 -- actually go
10 back to 44, please. Looking at State's Exhibit 44 again,
11 what is that with the polka dotted fabric?

12 A. A little coffee-table, a little side table.

13 Q. And did you find any kind type of identification on
14 that table? I'm showing you State's Exhibit 46.

15 A. The identification that we found came from a wallet in
16 that little stand underneath the TV.

17 Q. Underneath the television -- oh, okay.

18 A. Yes, ma'am.

19 Q. Okay. And whose identification was that; what name
20 appeared?

21 A. James Rose.

22 Q. Okay. Now showing you State's Exhibit 49. What does
23 that picture depict?

24 A. The red hoodie that was hanging on the back of the
25 bedroom door.

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1 Q. Is that the big door that was opened in the previous
2 picture?

3 A. Yes, ma'am.

4 Q. And did you in fact collect the red hoodie?

5 A. Yes, ma'am.

6 Q. Showing you State's Exhibit 79. If you could show the
7 jury what's located in that bag.

8 A. (Witness complies.)

9 Q. Okay. After you finish looking in that bedroom did you
10 go elsewhere in the house and look in other bedrooms and
11 bathrooms?

12 A. Yes, ma'am. There was another bedroom located at the
13 other end of the house.

14 Q. Showing you 43 again, just to orient us. Which way was
15 the other bedroom located in looking at this picture?

16 A. Behind you.

17 Q. Well, can you do it on this ---

18 A. Oh.

19 Q. Can you do it on the screen?

20 A. (Witness complied.)

21 Q. Very good. And was there a bathroom headed that way as
22 well?

23 A. Yes, there is a kitchen and a hallway. And once you go
24 down the hallway there is a bathroom and a bedroom.

25 Q. Showing you State's Exhibit 50.

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1 A. That's actually the master bedroom, so there -- the
2 bathroom actually connected to the bedroom and the hallway.

3 Q. Okay. So you said there are two doors to that bedroom?

4 A. Yes, ma'am.

5 Q. I mean that bathroom. I'm sorry.

6 A. Yeah.

7 Q. Showing you State's Exhibit 50. Could you tell us what
8 is located in that picture.

9 A. The placard next to Placard B is another red shirt.

10 Q. And in Photograph 51?

11 A. Next to Placard C is another red shirt.

12 Q. And showing you State's Exhibit 80 and 81.

13 A. This is "B" (displaying). And this is "C"
14 (displaying).

15 Q. Okay. Now while you are folding that up, you had
16 mentioned to us earlier that after you took the photographs
17 of the Neon that it was going to be towed?

18 A. Yes, ma'am.

19 Q. And where would it have been towed to?

20 A. The Charleston County Sheriff's Office, the evidence
21 compound, the forensic services lab. We process all of our
22 vehicles. That's where all of the evidence is housed,
23 stores, where our offices are.

24 Q. Showing any State's Exhibit 29 again.

25 MS. SHEALY: If we could clear that.

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1 Q. Can you see in that photograph the tail end of the Neon
2 behind your cars?

3 A. Yeah, that was like the tow trucks.

4 Q. Okay. And then showing you State's Exhibit 104. Does
5 that picture reflect the tow truck on the other side of the
6 trailer?

7 A. Yes, ma'am.

8 Q. Now did you have the opportunity to inventory the
9 vehicle -- or search the vehicle? I'm sorry.

10 A. I did once back at the compound, yes.

11 Q. Okay. And when doing so there was a search warrant for
12 that vehicle; is that correct?

13 A. Yes, ma'am.

14 Q. I'm showing you what has -- well, first of all tell us
15 what you first did to process the vehicle. What did you do?

16 A. There are several procedures we go through and we
17 execute search warrants. And I mentioned before, we take
18 over all photographs before we move or touch anything. And
19 then once you're finished we go over all photographs she
20 photographed in detail whatever you need to and begin
21 processing the fingerprints or evidence or whatever it is
22 that you need to.

23 Q. Okay. Showing you State's 52. Could you tell the jury
24 what that photograph reflects?

25 A. The numbers that are in the photograph represent latent

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1 prints. We photograph them. Once I process the vehicle
2 with black powder we lift the print but we like to
3 photograph and number them first so you can recall where on
4 the car we located them.

5 Q. And do those numbers reflect the areas that you located
6 them?

7 A. Yes.

8 Q. And similarly with 53 and then 54; is that correct?

9 A. Yes, ma'am.

10 Q. And once you took -- well, also, I'm sorry, 55, 56, and
11 I think 57. And those numbers reflect where you saw prints?

12 A. Yes.

13 Q. Now what do you do with the prints once what you
14 receive them? Once you lift them?

15 A. Once we -- once we -- we lift the tape, put it on the
16 card. We usually number the card and print some information
17 on the back. And then they will be examined for AFIS for
18 comparisons if they are quality enough.

19 Q. And showing you what has been marked as State's
20 Exhibit 87. Does this reflect the latent prints that you
21 lifted?

22 A. Yes, ma'am.

23 Q. Where do you send those once you have lifted them?

24 A. North Charleston Police Department they have an AFIS
25 examiner.

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1 Q. And do they have an examiner named Andy Coker and
2 Lisa -- I'll get Lisa's last name.

3 A. Ku-bith ---

4 Q. What is it?

5 A. Ku-bis-kee (ph).

6 Q. Ku-bis-ko (ph)?

7 A. Kubisko, yes, ma'am, they do.

8 Q. And those latent prints were then sent to North
9 Charleston and examined by Mr. Coker and Ms. Kubisko; is
10 that correct?

11 A. Yes, ma'am.

12 Q. Now discuss with us if you would when you were saying
13 if they had enough ridge detail. What does that mean?

14 A. Everybody's fingers have what we call ridge detail.
15 They are identifiable to you individually. You leave oils
16 in the closets and whatever you touch.

17 We use, for example, black powder to lift those, make
18 them more identifiable. We lift them on a card and it
19 gets -- on a tape and it gets put on a card.

20 Depending -- a lot of -- a lot of things can affect the
21 quality of a print. You can look at -- I can look at a
22 fingerprint and see one or two ridges or I can look at one
23 and have a full finger. A lot of it depends on
24 environmental factors, rain, heat, has the car been washed.

25 So sometimes you have to have enough ridge detail for

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1 it to go into the AFIS machine or be qualify enough for the
2 AFIS machine to be able to recognize it as a print.

3 If it's not, you can always do comparisons. But it
4 is not unusual to get -- lift prints that are not AFIS
5 quality.

6 Q. And that would be the role of Mr. Coker and Ms. Kubisco
7 on whether or not you could do that?

8 A. Yes, ma'am.

9 Q. And obviously if someone was being careful not to leave
10 fingerprints, you may not have any success in finding their
11 prints on a vehicle?

12 A. Correct, or vehicles a lot of times they get washed or
13 cleaned up, heavy rain.

14 Q. And what about the use of gloves?

15 A. It would leave a different pattern.

16 Q. And if they were rubber gloves would it leave any
17 pattern?

18 A. A rubber glove pattern.

19 Q. Yeah.

20 A. Yes, ma'am.

21 Q. Showing then what now has -- let's see -- let's go back
22 to the vehicle. Was there a package of Newport cigarettes
23 in there?

24 A. Yes, ma'am.

25 Q. And did you in fact process that package of cigarettes?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. I did.

2 Q. And did you also send that to North Charleston?

3 A. Yes, ma'am.

4 Q. And showing you State's 82. If you can identify it
5 from the outside, that's fine.

6 A. Yes, ma'am.

7 Q. And those were sent?

8 A. Yes.

9 Q. Okay. What else did you do to the either the interior
10 or the exterior of the Neon regarding the door handles?

11 A. We collected the DNA in the form of what we call touch,
12 touch-DNA.

13 Q. When you say you collected it in that form, what do you
14 mean?

15 A. DNA can be left in a lot of different manners. In this
16 particular case we are collecting something referred to as
17 touch-DNA. It is just ah-feel-yals (ph) that are left by
18 just randomly touching something. We do that by -- by using
19 a swab. And we swab the area and then package the swab,
20 seal it up and sent it for processing.

21 Q. And you are sending it to SLED for processing?

22 A. Yes, ma'am.

23 Q. And regarding this vehicle where did you make those
24 efforts?

25 A. We did the interior door latches of all four doors.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Showing you 83, 84 -- well, let's do it this way so it
2 will be a little bit more clear. Showing you State's
3 Exhibit 83. Is that from the driver's side, interior door
4 latch?

5 A. Yes, ma'am.

6 Q. And 84. From the driver's side, rear passenger seat,
7 interior door latch?

8 A. Yes, ma'am.

9 Q. And 85 is the passenger side, interior door latch?

10 A. Yes, ma'am.

11 Q. And 86 is the passenger side, rear seat interior door
12 latch?

13 A. Yes, ma'am.

14 Q. Which of those items if any were sent to SLED?

15 A. The front passenger seat interior door latch and at the
16 rear passenger on the passenger side interior door latch.

17 Q. Wait. Say that -- say that to me again.

18 A. The front passenger interior door latch.

19 Q. Okay.

20 A. And then ---

21 Q. Point -- point on the car as to what you are talking
22 about. Just which side.

23 A. Right here (pointing). And this door, the interior.

24 Q. So those two were send to SLED?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. To see if there were any DNA ---

2 A. Yes, ma'am.

3 Q. --- that could be matched?

4 A. Yes, ma'am.

5 Q. Did you realize that there were two suspects that had
6 not arrested ---

7 A. No, we don't ---

8 Q. --- or did you even know that?

9 A. No, we -- the detectives usually stay pretty busy. We
10 very seldom have an opportunity to communicate well. So we
11 collect everything that we need to collect, everything that
12 may be possible at the time when we have the opportunity.

13 So at that time I really -- other than the information
14 I was given when responded on the scene and this possibly
15 being the suspect vehicle I just tradition is you just make
16 sure you get everything you can. So I collected from all
17 four doors.

18 Q. Okay. Very good. Now did you receive some items that
19 came from autopsy?

20 A. Yes.

21 Q. And not only autopsy but MUSC separately?

22 A. Yes, ma'am.

23 Q. Were you aware that Leland Shannon underwent surgery
24 prior to dying?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Okay. And regarding the items that you found at --
2 that you received from MUSC, could you tell the jury whether
3 or not there was any wadding found?

4 A. Yes, Detective Colson -- usually a detective responds
5 to the hospital if there is a victim there. He had
6 responded to the hospital and they had given him a piece of
7 wadding. And I believe there was another piece that was
8 either removed from him or found once they were operating
9 that was given to ---

10 Q. On Mr. Shannon?

11 A. Yes, ma'am.

12 Q. Once -- and then they were given to him, to another
13 officer. I had to go down the next morning and pick it up.
14 So two pieces of wadding came from MUSC ER.

15 Q. When we are talking about wadding can you describe to
16 the jury what you mean by wadding?

17 A. Wadding is something you traditionally find in a
18 shotgun cartridge. It is the piece of plastic that
19 separates powder from the pellets. It gets projected just
20 like the pellets do. Frequently sometimes comes apart, stay
21 together. But it is usually a large piece of plastic. Can
22 come cork sometimes. But it is usually plastic.

23 Q. Showing you State's -- well, first let me ask you did
24 you also receive the clothing of Leland Shannon from
25 autopsy?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. Yes, ma'am.

2 Q. Showing you what's been marked as State's Exhibit 90.
3 We are not going to open this right now. But can you tell
4 me whether or not that is the clothing that was found?

5 A. Yes, ma'am.

6 Q. Okay. I'm going to show you photographs of the
7 clothing. Showing you State's Exhibit 68.

8 MS. SHEALY: Can we clear those checks?

9 Q. What does that picture project?

10 A. A red -- a white T-shirt that has been stained with
11 blood.

12 Q. Showing you State's Exhibit 69. Is that an over-shirt?

13 A. Yes, ma'am.

14 Q. State's Exhibit 70?

15 A. Shorts. A pair of blue cargo shorts.

16 Q. State's Exhibit 71?

17 A. Boxer shorts.

18 Q. State's Exhibit 72?

19 A. White tank top stained with blood.

20 Q. And is there anything else depicted in that photograph
21 of interest?

22 A. The hole.

23 Q. Okay. Can you point the hole up -- can you circle it
24 for us.

25 A. (Witness complied.)

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 MS. SHEALY: You can take that down now.

2 Q. In addition to those items were there other items of
3 clothing that were turned into evidence from him?

4 A. Yes, ma'am.

5 Q. Okay. And what did those include?

6 A. Are you referring to the items that came back from
7 autopsy?

8 Q. Yes. I can ask you, if that might make it easier. Was
9 there a pair of black and blue Nike tennis shoes?

10 A. Yes, ma'am.

11 Q. A pair of black socks?

12 A. Yes.

13 Q. A black zip up hoodie?

14 A. Yes.

15 Q. A blue T-shirt?

16 A. Yes.

17 Q. I think that may have been the one we just saw ---

18 A. Yes.

19 Q. --- a photograph of. And then is it customary at
20 autopsy for them to take samplings of fingernails and hair
21 and a blood spot while they are being autopsied?

22 A. Yes.

23 Q. That MUSC takes those items?

24 A. Yeah, they collect a lot. Anything -- we don't
25 traditionally empty pockets and stuff like that other than

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 making sure that don't have a gun or something in there.

2 But they go to autopsy the way that we usually find them.

3 So we will get stuff back from autopsy that would
4 include the contents of their pockets to projectiles that
5 have been removed from them, anything they may have pulled
6 out while they were conducting the autopsy to include all of
7 the clothing.

8 Q. Okay. And in addition to the clothing that was
9 returned and the wadding were there also some pellets from
10 the left thigh ---

11 A. Yes.

12 Q. --- of Mr. Shannon returned?

13 A. Yes, ma'am.

14 Q. And when we are talking about pellets we are talking
15 about shotgun pellets?

16 A. Yes, ma'am.

17 Q. Showing you 92 does that container reflect the
18 projectiles?

19 A. Yes, ma'am.

20 Q. And was that in -- that was not sent to SLED, the
21 projectiles?

22 A. Correct.

23 Q. Okay. Let me hold those. They are contained within
24 this package?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Was there also a projectile from the left chest cavity
2 return to -- turned to y'all?

3 A. Yes, ma'am.

4 Q. And showing you State's Exhibit 91. I ask you whether
5 that is the projectile from the left chest cavity?

6 A. Yes.

7 Q. Now was that sent to the SLED?

8 A. Yes.

9 Q. And is this the projectile that MUSC turned over to
10 evidence?

11 A. Yes, ma'am.

12 Q. Having come from his chest?

13 A. Yes, ma'am.

14 Q. And then showing you State's Exhibit 93. Was there a
15 projectile and fragment from Mr. Shannon's head?

16 A. Yes, ma'am.

17 Q. And that was -- did this go to SLED?

18 A. Yes, ma'am.

19 Q. And is this the projectile and fragment that you sent
20 to SLED?

21 A. Yes, ma'am.

22 Q. Did you also obtain -- well, first of all did you
23 perform any gunshot kit on anyone in this case?

24 A. Yes.

25 Q. Who did you do that on?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. James Rose.

2 Q. And tell us how you went about collecting for the GSR
3 analysis.

4 A. GSR is collected from individual's hands, person's
5 clothing. The particle collectors and you dab somebody's
6 clothing or hands and it collects particles. You tube it,
7 seal it, secure it, and put it in the envelope. And it goes
8 to SLED.

9 Q. Well, when you do someone's hand do you do both hands?

10 A. Yes, ma'am.

11 Q. Do you do front and back?

12 A. Yeah, inside fingers, up their arms, inside their
13 hands.

14 Q. I'm going to show you what has been marked State's
15 Exhibit 94. When you -- when someone collects for GSR
16 analysis is it important to note what time it was collected?

17 A. Yes.

18 Q. And do you know the reason for that?

19 A. No.

20 Q. Okay. So we can ask our SLED analysis -- analyst. But
21 you do have to note what time it was collected?

22 A. Yes.

23 Q. If you would please, in 95 we have the gunshot residue
24 kit of Joy Holmes, James Rose, Antoine Aiken, and Tawana
25 Alston. Could you tell the jury, please, what time the

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 gunshot residue tests were taken?

2 A. On all four?

3 Q. Yes, please.

4 A. Joy Holmes was collected on the 24th at 250 in the
5 morning.

6 Q. Zero two fifty?

7 A. Zero two fifty.

8 Q. James Rose was collected on the 24th at 1810.

9 Q. Which is what time?

10 A. 6:10.

11 Q. 6:10 on the 24th.

12 A. In the evening. Antoine Aiken collected on the 24th at
13 310 in the morning.

14 Q. Zero three ten?

15 A. Yes, ma'am.

16 A. Yes, ma'am. And Tawana Alston was collected on the
17 24th at 0445 in the morning.

18 Q. Did you also receive some buccal swabs in the case?

19 A. Yes, ma'am.

20 Q. And from whom did you receive those; do you remember?

21 A. James Rose -- oh, what officer or collection ---

22 Q. Well, both.

23 A. --- from the person?

24 Q. Both.

25 A. Detective Colson actually submitted them into evidence.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Okay.

2 A. But based on his description they were collected from
3 James Rose.

4 Q. And showing you -- just a second. Okay, here we go.
5 Showing you State's 95. Could you tell the jury whether or
6 not that is the buccal swab taken from James Rose.

7 A. Yes.

8 Q. And did that go to SLED?

9 A. Yes.

10 MS. SHEALY: I beg the court's indulgence just a
11 moment.

12 Okay. A couple more questions. I'm sorry.

13 BY MS. SHEALY:

14 Q. When you were looking in the Neon did you find any cell
15 phones in the Neon?

16 A. Yes.

17 Q. And where were they located?

18 A. Okay, that's what I thought. We recovered two cell
19 phones. I just didn't want to get them mixed up. We
20 recovered two cell phones. There was a black Kio Sierra
21 from the front passenger interior drawer compartment and a
22 silver LG from the front passenger interior door
23 compartment.

24 Q. Okay. Showing you State's Exhibit 34. Can you show us
25 in that photograph where the cell phones have been located?

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 A. (Pointing.)

2 Q. There is an indentation there where you can leave things?

3 A. Yes, ma'am.

4 Q. Okay. And you found both of those cell phones in that
5 area?

6 A. Yes, ma'am.

7 Q. Now looking back at State's 2 and 3. Could you discuss
8 with us please for the jury how well lit was the area that
9 night; is there some artificial lighting in those
10 photographs?

11 A. Yes, ma'am, there's -- still several officers on the
12 scene. And I'm sure their headlights are on. But our flash
13 is strong enough to make that apparently lighted.

14 Q. Do you remember whether or not there was a streetlight
15 near that trailer?

16 A. I don't recall.

17 Q. Looking back at two, that photograph doesn't refresh
18 your memory as to where another light may have been?

19 A. No.

20 Q. Okay.

21 A. As you can see the headlights over there. So I'm
22 thinking that -- that reflection of the glass is from my
23 camera.

24 Q. The reflection where?

25 A. Off the window off the -- of the front of the -- right

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 there (pointing).

2 Q. Is from your camera?

3 A. Yes, ma'am.

4 Q. Okay. In looking at the backyard did it appear that
5 someone had driven off from that area?

6 A. It was hard to tell. The ground was wet and when you
7 look at the grass it was that time of year where everything
8 was dying off. It was difficult to tell.

9 Q. Okay. And regarding the areas that you swabbed for DNA
10 in the car, those being the handles, you would agree that
11 obviously people don't use the handles to close a door?

12 A. Correct.

13 Q. In looking at the photographs where you took
14 fingerprints, for example let's look at 52. Is some of the
15 smudging on that car from the actual substance that you put
16 on the vehicle?

17 A. Yeah, you -- that powder that we use adheres to
18 moisture. So you can see moisture drops, raindrops,
19 smudges.

20 Q. Okay. Very good. Thank you. I have no further
21 questions. Please answer any that the defense may have.

22 THE COURT: Cross-examination.

23 **CROSS-EXAMINATION BY MS. RONEY OF ERIN MEYER:**

24 Q. Good afternoon, Ms. Erin Myers.

25 A. Hi.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. The first thing that you did when you responded to
2 Carolina Avenue is that you get a quick debriefing on the
3 scene and you need to clear the residence?

4 A. This particular incident, yes, we still -- it still
5 needed to be cleared.

6 Q. And so if you responded and that hadn't been done yet,
7 that's what you do?

8 A. Most definitely, yes.

9 Q. And that is for safety purposes?

10 A. Yes.

11 Q. For several reasons, make sure nobody else was in
12 there, witnesses or suspects, and for the officer's safety
13 who are looking for evidence?

14 A. Yes, ma'am. I don't think our -- our concern with
15 doing that, both doors were within sight of the officers but
16 it was what had not been cleared inside.

17 Q. Absolutely. And you are quickly told the situation?

18 A. Yes, ma'am.

19 Q. And you are told that the suspect had not gone past the
20 kitchen area?

21 A. They did not believe the suspect had gone past the
22 kitchen area. A lot of the information we receive on the
23 scene is taken with a grain of salt I guess. We don't
24 eliminate. We don't not do something just because somebody
25 told us this.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Sure. You're going to collect evidence ---

2 A. If we feel like it is got an evidentiary value.

3 Q. Absolutely. And even if you're not sure, you're still
4 going to collect that?

5 A. Yes, ma'am.

6 Q. And that is because you could test that piece of
7 evidence later and find out that it's important or you could
8 find out more information from witnesses and detectives that
9 would make that piece of evidence important ---

10 A. Yes, I mean ---

11 Q. --- or relevant?

12 A. In some cases it is not testable.

13 Q. Absolutely.

14 A. It may have been under certain circumstances but it may
15 not be now for some reason. And then there are
16 circumstances where it is just not relevant.

17 Q. And at that point you aren't sure what's relevant so
18 you want to be overly cautious about collecting things?

19 A. Yes, ma'am.

20 Q. If there is any doubt you want to take it with you?

21 A. Yes, ma'am.

22 Q. And you told us on direct that you did collect this
23 projectile that had hit the saw guard?

24 A. Yes, ma'am.

25 Q. And a piece of the saw guard was still on the

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 projectile?

2 A. The projectile was imbedded in the plastic piece, yes,
3 ma'am.

4 Q. And based on the position of the saw where the
5 projectile struck that saw guard, that tells you that the
6 shot was coming from the doorway?

7 A. The trajectory, yes.

8 Q. And from close range?

9 A. Not necessarily. It doesn't -- it doesn't say how
10 close.

11 Q. No, it doesn't tell you how close.

12 A. Give you a direction.

13 Q. Right, it gives you a direction. But that saw was not
14 that far away from that door?

15 A. Right, um ---

16 Q. That ---

17 A. I think we ---

18 Q. --- laundry area is not a big room?

19 A. Correct.

20 Q. Okay.

21 A. We did measurements. But it couldn't have been five,
22 seven feet, may ten at the most.

23 Q. Okay. And you in this case have collected several
24 firearms on Caroline Avenue, Cindy Lane?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Any of those firearms sent to SLED for any type of
2 testing?

3 A. I -- no, I don't think so. No.

4 Q. Your job as an evidence technician is also to collect
5 evidence from other offices?

6 A. Yes, ma'am.

7 Q. And you document those things in your computer system
8 in a report and keep track of all of those?

9 A. Yes, ma'am.

10 Q. And just by example, the GSR kit, you may not have
11 collected the kit on that person but you keep it stored at
12 Charleston County Sheriff's Office and keep track of it?

13 A. Yes, ma'am.

14 Q. Now you testified that you processed the gray 2005
15 Dodge Neon that we have seen in these pictures?

16 A. Yes, ma'am.

17 Q. And when you arrived on Cindy Lane to process that
18 vehicle you weren't the first office there?

19 A. No, ma'am.

20 Q. And at Dodge Neon had just been seized from Ms. Bickman
21 as a result of the search warrant?

22 A. I don't know if they physically seized it from her,
23 like got her out of the vehicle. I know that Everlina -- is
24 that ---

25 Q. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 A. Ms. Bickman. Okay. I was advised that was her vehicle
2 and that we would be taking it. I don't know the
3 circumstances behind -- I don't know what you are calling
4 seized I guess.

5 Q. You just showed up and the car had been parked for you
6 to process?

7 A. I showed up and I was advised by my supervisor that
8 we're going to be taking the car back to the compound.

9 Q. And before you take it back to the compound you've got
10 to takes some pictures?

11 A. We do overall -- yeah.

12 Q. Ms. Bickman was there and wanted to take some items out
13 of the car?

14 A. Yes, ma'am.

15 Q. Including her medication?

16 A. Yes, ma'am.

17 Q. And you photographed those; to be safe ---

18 A. Yes.

19 Q. --- you have those things documented?

20 A. Yes, ma'am.

21 Q. And some of her clothes were in that car, her work
22 clothes were in the car?

23 A. Okay. Are you -- I don't know ---

24 Q. There was a lot of stuff in the car?

25 A. There was -- from the pictures there was a towel and a

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 pair of tennis shoes.

2 Q. And some clothes?

3 A. And a laundry bag in the back seat.

4 Q. And in the back there was some cleaning materials?

5 A. I don't recall there being any cleaning materials. I
6 saw a laundry bag and a pair of tennis shoes ---

7 Q. A laundry bag, there were some clothes in the laundry
8 bag?

9 A. Yes, ma'am.

10 Q. Okay.

11 A. Don't know whose clothes they were. I'm sorry, I'm
12 assuming that they are hers from what you're telling me.

13 Q. All of those things were not taken into evidence?

14 A. No, ma'am.

15 Q. Okay. And that car was taken into custody the next
16 day? This is the day after the shooting.

17 A. This was like -- yeah, I think this was like 12 hours
18 later. I don't think -- I think the incident actually
19 occurred really early in the morning, and on the same
20 day ---

21 Q. Right. You are right.

22 A. --- we recovered the car.

23 Q. Okay. You are right. You took this car back and
24 processed it for latent prints?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. And when you are gathering evidence like fingerprints
2 you have got to compare this to something ---

3 A. No ---

4 Q. Somebody -- well, you don't actually do it. But you're
5 going to need information from the detectives or witnesses
6 to figure out who to compare these fingerprints with that
7 were taken from the car?

8 A. Not always.

9 Q. Do the detectives ---

10 A. You don't need -- you don't need -- you don't need an
11 individual's name or you don't need any information on any
12 subject or suspect in order to run them through AFIS.

13 Q. To see if you find any fingerprints that are in a
14 computer ---

15 A. AFIS ---

16 Q. --- system to match them up?

17 A. AFIS will do its own match.

18 Q. Okay.

19 A. I don't -- they don't -- from my understanding they
20 don't put any -- any names or anything of that. You run the
21 print solely by itself without any previous information.

22 Q. So in this case you didn't need any previous
23 information?

24 A. I think some of them were AFIS quality. And I think
25 some of them were not.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. So AFIS quality you have to have a number -- a certain
2 number of matches on the fingerprint ridges?

3 A. Your lift has to be quality. It has to be good enough
4 in order for the system to be able to see it and recognize
5 it.

6 I don't know how that -- I don't know how the system
7 functions. But I'm assuming it's based on ridge detail that
8 you have to have a certain amount of ridge detail for the
9 computer to recognize it and be able to compare it.

10 Q. You also swabbed the handles of this car for touch DNA?

11 A. Yes, ma'am.

12 Q. And touch-DNA can be left by cells from a -- the
13 person's hands or skin, and you're going to have to collect
14 DNA swabs from a known person to compare these things to;
15 correct?

16 A. No, not always. The circumstances behind your case
17 meet the requirements -- when somebody's DNA is collected
18 and a profile is developed from that sample of DNA. If that
19 case meets the federal requirements for that profile to be
20 uploaded into CODIS, a system called CODIS, you don't have
21 to have anybody to compare it to. It ---

22 Q. And that system ---

23 A. --- doesn't ---

24 Q. --- looks for a match from the swabs you have
25 collected?

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

- 1 A. Similar to the way AFIS works, yes. You ---
- 2 Q. But that was not the situation in this case?
- 3 A. I would have to look and see. The circumstances behind
- 4 this case it would have qualified. I am thinking - you
- 5 would have to ask the SLED people - it would have qualified
- 6 for it to be uploaded in the CODIS if they would have
- 7 developed a profile. It does go quicker if we do have a
- 8 standard to compare it to.
- 9 Q. You collected from each door because you weren't sure
- 10 at that point where the suspects were sitting?
- 11 A. Correct, or how many suspects there were.
- 12 Q. Right. And even if a person had been in that car
- 13 getting in one door, at some point they could have touched
- 14 another door?
- 15 A. Sure. Yes.
- 16 Q. It is safer to test every door?
- 17 A. Right.
- 18 Q. As far as ---
- 19 A. I don't know that my thought process was because they
- 20 got in one door and out the other. I think it would just be
- 21 because we don't know how many or who was involved so
- 22 collect all you can.
- 23 Q. And because you had collected these samples a swab from
- 24 James Rose was also collected?
- 25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. And that is so that it can be sent to SLED to see if
2 his touch-DNA is on any of these doors?

3 A. Yeah, like I said, I'm not sure if the swabs got sent
4 prior to us even having the standard from James. I don't
5 know. I would have to look. I'd like to look at the
6 submission sheets and let you know if you want to give me a
7 minute.

8 Yes, they went up -- they went up together. So we
9 probably sent them up to have them compared to each other.

10 Q. A swab with James's DNA on it and the swabs that were
11 taken from the car?

12 A. Correct.

13 Q. It's safe to say that touch-DNA can easily be left
14 behind?

15 A. Yes, ma'am. Yes, ma'am. It is difficult to collect;
16 but it's frequently left, yes.

17 Q. And in this case you did the four on the door?

18 A. Correct.

19 Q. Also taken into evidence were James Rose's clothes when
20 he was arrested, correct?

21 A. Yes, ma'am.

22 Q. Any you found no blood on those clothes?

23 A. I don't recall examining the clothes for blood. I know
24 the clothes were collected from him later on that day. And
25 I'm not -- I didn't do the collection of those clothes.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Those clothes were turned in to us. So I don't know if I
2 particularly examined them for blood.

3 Q. And you didn't see any blood on any of the red shirts
4 that were collected from Cindy Lane where James lived with
5 Amber Rose?

6 A. I don't recall seeing any blood on those shirts.

7 Q. Amber Wiley. You didn't -- you don't recall?

8 A. I don't recall seeing any blood on those shirts.

9 Q. Did you lift any latent prints from the house on
10 Carolina Avenue?

11 A. No, ma'am. We processed for prints, but we did not
12 lift any.

13 Q. So what that means is you dusted; you just didn't lift
14 any?

15 A. Yes, ma'am.

16 MS. RUNEY: Beg the Court's indulgence. Your Honor,
17 may we approach?

18 THE COURT: You may.

19 (WHEREUPON, bench conference as follows:)

20 MS. EHRLICH: One of the jurors is sleeping. I think
21 they may need a break. The guy on the first row, second
22 seat over on the left.

23 THE COURT: Okay. I've been -- I've been watching him.
24 Has he been out for long?

25 MS. EHRLICH: I don't know. I just noticed him five

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 minutes ago.

2 THE COURT: All right. I'll go ahead and give them a
3 break right now.

4 (WHEREUPON, end of bench conference.)

5 THE COURT: All right. Thank you. Ladies and
6 gentlemen, it appears that we need a break to stretch and
7 get a cup of coffee or do whatever needs to be done to make
8 sure everyone is awake and alert. So I'm going to ask you
9 to run -- return to your jury room for about ten minutes.

10 Please don't discuss the case yet. I will give the
11 lawyers a break as well, and we will take a break. See you
12 back in ten minutes. Thank you.

13 (WHEREUPON, jury exits courtroom 3:15 p.m.)

14 (WHEREUPON, off-record discussions.)

15 THE COURT: Anything further anybody else need to put
16 on the record with respect to that?

17 MS. EHRLICH: Your Honor, I think we will just keep an
18 eye on him.

19 THE COURT: Okay. We can read anything back that y'all
20 want to read back or go over anything. Do you just want to
21 watch it for moving forward?

22 MS. EHRLICH: I think we will just keep an eye on him.

23 THE COURT: Okay. Thank y'all.

24 (WHEREUPON, break 3:18 p.m.)

25 (WHEREUPON, resume 3:29 p.m.)

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 THE COURT: Thank you very much.

2 MS. SHEALY: Your Honor?

3 THE COURT: Yes.

4 MS. SHEALY: I actually over the break spoke with the
5 pathologist regarding the photos, if I could clarify.

6 THE COURT: Sure.

7 MS. SHEALY: And I have spoken with Ms. Runey and Ms.
8 Ehrlich.

9 THE COURT: All right.

10 MS. SHEALY: So the first one State 64 is pretty
11 self-explanatory. Those are the shotgun pellets ---

12 THE COURT: Sure.

13 MS. SHEALY: --- in the victim's thigh. It's an x-ray.
14 State 65 is actually out of order with State 66. State 66
15 is as taken by the ER doctors. It's an x-ray. And it shows
16 both two bullets in the chest. The projectile, excuse me,
17 was removed by the ER doctors. This one was in the chest
18 cavity; it wasn't removed. State 65 was taken by the
19 pathologist. It's an x-ray taken by the pathologist. And
20 it shows the projectile that's in the chest cavity. And
21 it's actually moved from higher up to lower down.

22 Q. Okay. And then State 67 shows the bullet that is in
23 the victim's head along with some fragments in the wound on
24 the side there. And those would be all that we are seeking
25 to admit.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 THE COURT: And I understand that the defense has an
2 objection. And the basis was I think Rule 403 and what
3 else?

4 MS. RUNEY: That's all.

5 THE COURT: Okay.

6 MS. RUNEY: I don't have any further argument as to
7 those.

8 THE COURT: All right. As I indicated before, I do
9 think that they are relevant and will aid the pathologist in
10 her testimony. We limited I think one that was cumulative.
11 And there are only four instead of five.

12 I just don't find under Rule 403 that there is any
13 prejudice and certainly not such that would substantially
14 outweigh the relevance.

15 That being said, let's not belabor it. I mean but I
16 think she can use it to demonstrate where the bullets were,
17 what she had to do at autopsy so.

18 MS. SHEALY: So they are admitted, Your Honor?

19 THE COURT: I will admit them. But I will give them a
20 chance to object contemporaneously before I do that. Okay.

21 MS. SHEALY: Thank you, Your Honor.

22 MS. RUNEY: Like I said, Your Honor, as just as that
23 they not remain up. If she can just put them up there, let
24 her testify.

25 THE COURT: Right, we won't leave them up there for any

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 inordinate amount of time. You can put them up. She can
2 identify it and say what it is and then move on.

3 Usually a pathologist isn't up there for very long
4 anyway in this type of case so. Okay. Anything else we
5 need to take up before we bring the jury? Is the
6 pathologist next?

7 MS. SHEALY: Is what? I'm sorry?

8 THE COURT: Is the pathologist next?

9 MS. SHEALY: No, our SLED people are next.

10 THE COURT: The SLED people are next. Okay. Because
11 just whenever y'all do have an expert I will give the
12 little spiel I always give about expert witnesses and why
13 they are allowed to give their opinions.

14 MS. SHEALY: Well, I think we will start with
15 stipulations.

16 THE COURT: Okay. All right.

17 MS. SHEALY: Actually I am going to do the -- read the
18 stipulations in.

19 THE COURT: Before the SLED people?

20 MS. SHEALY: I was.

21 THE COURT: All right. Well, Ms. Runey just finished
22 her cross. Are you going to have any redirect?

23 MS. SHEALY: Just very brief.

24 THE COURT: All right. Then we will do that and then
25 you can take it in whatever order you like.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 MS. SHEALY: Okay. Thank you.

2 THE COURT: And if we get everybody in today, fine. If
3 we don't, I do want to make sure we leave at least by maybe
4 ten after 5:00, 5:15 to accommodate those two jurors with
5 childcare issues and also the fact that they seem to be
6 falling out on us a little but today. I think they are just
7 tired.

8 MS. SHEALY: It's every time when I put up evidence the
9 evidence -- everybody gets lulled. Okay.

10 THE COURT: Sarah says she has candy to pass out if
11 that would help the sugar.

12 MS. SHEALY: All right. I'm going to tell Shameka
13 about the x-rays going in quickly.

14 THE COURT: All right. And we can go ahead and bring
15 them. Thank you.

16 (Break awaiting jury.)

17 THE COURT: While we wait on them, did y'all have a
18 chance to look at the proposed jury charges or did y'all
19 want to do that tonight and talk about them tomorrow?

20 MS. SHEALY: We both were indicating we would love to
21 be able to do that tonight.

22 THE COURT: That's perfectly fine.

23 MS. RUNEY: Thank you, Judge.

24 THE COURT: You are welcome.

25 MS. SHEALY: Would you want to handle the jail

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 recording issue?

2 THE COURT: I think Ms. Runey indicated she needed to
3 hear it again. Do we want to play it again now or -- when
4 were you planning putting that in anyway?

5 MS. SHEALY: If we were following the order that we
6 set out we would like to do it right before the -- well,
7 we could actually do it after the pathologist. But
8 otherwise ---

9 THE COURT: So we have got the SLED people, the
10 pathologist, then possibly the recording. We can deal with
11 that later this afternoon if we need to.

12 MS. SHEALY: Okay.

13 THE COURT: I mean I don't know if we are going to have
14 time to listen to it now and again. Okay.

15 (WHEREUPON, jurors enters courtroom December 11, 2013,
16 3:36 p.m.)

17 THE BAILIFF: All present, Your Honor.

18 THE COURT: Thank you, sir. And thank you, ladies
19 and gentlemen. I understand y'all had some coffee. I
20 have got my diet Coke. So we are ready to continue. The
21 cross-examination is complete. Any redirect?

22 MS. SHEALY: Just a few, Your Honor. Thank you.

23 **REDIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER:**

24 Q. Ms. Meyer, Ms. Runey was asking you about whether any
25 of the guns that were found at the West Carolina address had

REDIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 been sent off for testing; is that correct?

2 A. Yes, ma'am.

3 Q. And they had not?

4 A. Correct.

5 Q. And again, one was a Ruger rifle and one was a Mossberg
6 rifle?

7 A. Yes, ma'am.

8 Q. Neither of those were shotguns?

9 A. Correct.

10 Q. Neither of those are handguns?

11 A. Correct.

12 Q. Neither is a 38-special?

13 A. Correct.

14 Q. And neither is a 357-magnum?

15 A. Correct.

16 Q. And when she was asking you about Rose's clothes you
17 are talking about the ones that he had on that afternoon
18 when he was arrested; ---

19 A. Yes, ma'am.

20 Q. --- is that correct? And when you told us that -- I
21 think you were asking -- answering Ms. Runey's question.
22 But when you went to West Carolina and attempted to lift
23 fingerprints did you indicate you did not lift any?

24 A. Right, we processed the fingerprints but we did not
25 recover any.

REDIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Explain that to a jury how it is that in a house where
2 people were located that you cannot get prints.

3 A. There's a lot of reasons why you may not be able to
4 lift a print.

5 A. This particular situation based on the information that
6 we obtained, entrance was made through the laundry room door
7 which was also made from our information by EMS.

8 So we had a lot of cross-contamination. We processed
9 for prints. There's a lot of reasons you don't get them.
10 It could have been contaminated with blood, smudged,
11 smeared. And we had a lot of traffic in and out of that the
12 laundry room prior to me getting there.

13 Q. Okay. And regarding the possibility of finding
14 fingerprints on the car what type of conditions could affect
15 the ability for you to be able to find prints from the
16 evening before on a car?

17 A. Heat, rain, cold, any -- any kind of weather, washing
18 the vehicle, wiping down the vehicle, the vehicle brushing
19 up against some -- I mean there's a lot of reasons.

20 I mean fingerprints aren't in stone. It's just your
21 oils resting on top of a surface. They can be easily
22 removed or smudged. It happens all the time.

23 Q. It is not like TV?

24 A. Correct. No, it's not like TV.

25 Q. I have no further questions. Thank you.

RE CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 THE COURT: Okay. Anything further?

2 RE CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER:

3 Q. Investigator Meyer, you lifted latent prints from the
4 interior and the exterior of the vehicle?

5 A. I'd have to actually look at the individual cards and
6 my photographs. I need my fingerprint cards. If you have
7 the photographs of the vehicle with my numbers on the
8 outside of the vehicle I need to see those.

9 THE COURT: Do you know the exhibit numbers?

10 MS. SHEALY: Would you like for us to bring ---

11 THE COURT: That would ---

12 MS. SHEALY: Pull those up?

13 THE COURT: --- be very helpful.

14 MS. RUNEY: And I can hand her State's Exhibit Number
15 87 which is her 22, LPC.

16 THE WITNESS: Latent print card.

17 THE COURT: Thank you.

18 BY MS. RUNEY:

19 Q. And could you tell me if those are from the interior
20 and exterior of the car?

21 A. Do you want me to go through them each individually
22 with you?

23 A. You don't have to. I believe the label on the outside
24 does that tell you where they were from where they were
25 lifted in the car?

RE CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 A. Correct. But I don't know which one. I guess that is
2 what you are asking me.

3 THE COURT: Just look through them and see if you have
4 a note on them or there is any notation. I think what's
5 she's asking is were there any taken from the interior of
6 the car as well, correct?

7 MS. RUNEY: I am.

8 THE COURT: Thank you.

9 A. The -- I can go to the photographs quicker. If you can
10 go to the next one I can tell you. One through six are from
11 the outside. Seven, eight, outside. Nine, ten, eleven,
12 and 12 outside. Thirteen, fourteen, fifteen, from the
13 exterior. There is 16 exterior. Seventeen and eighteen is
14 exterior. Nineteen looks like it is possibly from the
15 interior side of the window. I can pull that card.
16 Nineteen looks like it is from the interior side of the
17 window.

18 And then the other like 20, 21, 22.

19 MS. SHEALY: I don't know that those photos we have in
20 evidence.

21 THE COURT: Okay.

22 BY MS. RUNEY:

23 Q. I'm really just asking you took latent print cards from
24 the inside and the outside of the car?

25 A. correct.

RE CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Okay. That's all. Thank you.

2 THE COURT: Thank you. Anything further?

3 MS. SHEALY: Nothing further.

4 THE COURT: Ma'am, you may step down.

5 MS. SHEALY: Your Honor, as she is leaving I do have

6 three stipulations I would like to read into the record.

7 THE COURT: All right. Let's make sure we get all the
8 evidence together. Thank you.

9 MS. SHEALY: Are you ready for me just to read this?

10 THE COURT: Sure. Go ahead.

11 MS. SHEALY: Attorneys for the State and the defendant
12 agree that regarding State's Exhibits 97 and 98 fingerprint
13 analyst Andrew Coker and Lisa Kubisco of the North
14 Charleston Police Department if they were called to
15 testimony they would testify as to the results contained in
16 those reports.

17 Stipulation Two, items of evidence regarding gunshot
18 residue, bullets, projectiles, and DNA were admitted.
19 Attorneys for the State and the defendant agree that
20 regarding those exhibits the proper chain of custody was
21 followed.

22 And Stipulation Three, attorneys for the State and
23 Defendant agree that Detective Rob Colson of the Charleston
24 County Sheriff's Department collected sample from Tawana
25 Alston at 040 -- 0445 hours for the purpose of determining

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1 whether her hands had the presence of gunshot residue and
2 that Detective Colson deliver the samples to the CCSO
3 Evidence Compound.

4 Attorneys for the State and the defendant agree that
5 Detective James Perkins of the Charleston County Sheriff's
6 Office collected samples from Antoine Aiken at 0310 hours
7 for the purpose of determining whether his hand had the
8 presence of gunshot residue and that Detective Perkins
9 delivered the same to CCSO Evidence Compound.

10 Attorneys for the State and the defendant agree that
11 Detective Zulfiqar Kahn of the Charleston County Sheriff's
12 Office collected samples from Joy Holmes at 2:50, 0250 hours
13 for the purpose of determining whether her hands had the
14 presence of gunshot residue and that Detective Kahn
15 delivered the samples to the CCSO Evidence Compound and
16 attorneys for the State and the defendant agree that
17 Investigator Erin Meyer of the Charleston County Sheriff's
18 Office collected samples from James Rose at 1810 hours for
19 the purpose of determining his hands had the presence of
20 gunshot residue and that Investigator Meyer delivered the
21 samples to the CCSO Evidence Compound.

22 THE COURT: Thank you. Ladies and gentlemen, a
23 stipulation is in agreement, admission or understanding made
24 in judicial proceedings by the parties or their attorneys.

25 Stipulation are binding upon those who make them. If

State v. Rose

1 counsels for the parties have stipulated to any fact, you
2 are to regard that fact as having been conclusively proven
3 as to the party or parties making the stipulation or
4 agreement. Okay.

5 Call your next witness, please.

6 MS. BALDWIN: Thank you, Your Honor. The State calls
7 John Roberts.

8 (WHEREUPON, the witness was duly sworn.)

9 THE CLERK: Once you are seated if you will please
10 state your first and last name and spell your last for the
11 record.

12 THE WITNESS: My name is John Roberts, R-O-B-E-R-T-S.

13 (JOHN ROBERTS having been sworn,
14 testified as follows:)

15 **DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS:**

16 Q. Agent Roberts, where are you employed?

17 A. I work for the South Carolina Law Enforcement, more
18 commonly called SLED.

19 Q. And how long have you been at SLED?

20 A. I've been at SLED since 2005.

21 Q. You are currently what unit?

22 A. I'm in the Arson Investigations Unit.

23 Q. Back in May of 2012 what unit were you in?

24 A. I was in the Trace Evidence Unit.

25 Q. And tell us about trace evidence. What does that unit

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 involve?

2 A. Trace evidence is the analysis of evidence that you
3 generally cannot see with your naked eye. What we did in my
4 department was analyzed gunshot residue. We analyze paint,
5 fiber, glass, explosives, bank dye packs, arson analysis. I
6 believe that's it.

7 Q. And what were your duties when you were in that unit?

8 A. When I was in trace what I mainly did was gunshot
9 residue analysis.

10 Q. What's your educational background?

11 A. I have a bachelor's science degree in Chemistry from
12 Texas A&M Corpus Christi. When I got my degree and I moved
13 back up here to South Carolina I got my job at SLED and I
14 went through our in-house training program in gunshot
15 residue.

16 What that consisted of was me following my lieutenant
17 around who was a court qualified examiner, gunshot residue,
18 and learning how to work the evidence.

19 I learned how to intake evidence. I learned how to
20 process the evidence for use on the analytical instruments.
21 I learned how to run the instruments. I learned how to pull
22 stuff off. I learned how to generate data. I learned how
23 to write reports. And finally I learned how to testify.
24 And I learned how to testify by going and watching him.

25 When I was done with all of that they gave me a test.

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 All the people that were in my department had been there
2 long before I was. So they were all qualified. And they
3 gave me a test.

4 It was much like a courtroom setting except instead of
5 y'all sitting there just listening to me they sat there and
6 listened to me and then they asked questions and more
7 question and more questions until I felt like I had been
8 grilled.

9 Once I passed that test I was given my own cases to
10 work. And that's what I did from basically the beginning of
11 2006 until near the end of 2012.

12 Q. So Agent Roberts, you have testified in court before?

13 A. I have.

14 Q. About how many times?

15 A. Seventy times.

16 Q. Your Honor, at this time we would like to qualify Agent
17 Roberts as an expert in trace evidence.

18 MS. RUNEY: No objection.

19 THE COURT: Okay. Any voir dire?

20 MS. RUNEY: No, ma'am.

21 THE COURT: All right. Agent Roberts is so qualified
22 as an expert in the area of trace evidence. Ladies and
23 gentlemen, normally a witness cannot give opinion testimony.
24 Usually when a person testifies they must testify to
25 something that they saw, heard, did, sense, or experienced.

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 We have an exception in our law for witnesses who are
2 qualified by their education or experience in some
3 particular field. When those witnesses are so qualified
4 they are permitted to give their opinion in certain areas in
5 the area in which they are qualified.

6 That doesn't mean that you must accept any expert
7 witness's opinion. You consider it just as you would any
8 other evidence in the case and you give it the weight that
9 you would give any other witness's testimony, and that is
10 the weight that you see fit. Thank you.

11 MS. SHEALY: Thank you, Your Honor.

12 BY MS. SHEALY:

13 Q. Agent, tell the jury a little bit about gunshot
14 residue. What is it?

15 A. Sure. Gunshot residue is the term that we give to the
16 particles that are ejected from a firearm when it's fired.
17 I don't mean the bullet. That's somebody else that's going
18 to talk about that.

19 Gunshot residue is the chemicals that are in the primer
20 of a firearm. Now when you look at the back of a bullet it
21 is two circles basically. There's the outer circle and the
22 inner circle.

23 The inner circle is usually a differently colored disk,
24 and that contains chemicals. Those chemicals are pressure
25 sensitive, and they explode when they are struck by the

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 primer or the striker of the firearm.

2 Those chemicals explode and they light the powder
3 charge that is in the cartridge case to force the bullet
4 down the barrel. You hit your paper target.

5 And what we look for in a trace when we are asked to do
6 a gunshot residue analysis is the chemicals that are
7 contained in the primer. Basically what we're looking for
8 are lead, barium, and antimony.

9 Q. And how do you guys test for those chemicals?

10 A. There are two different ways that somebody can be
11 tested for gunshot residue. And they are generally
12 contained in one gunshot residue kit. A gunshot residue kit
13 has particle list which are aluminum discs with carbon
14 sticky tape on them. And they are labeled right palm, right
15 back; left palm, left back.

16 And when I say right back, I mean the back of the hand.
17 Because that's what we test in general for gunshot residue
18 is we test the hands because they are closest to the firearm
19 when it goes off.

20 Those discs are uncapped and dabbed on the hands much
21 like you would dab a bingo dabber, B12. Stamp it. That's
22 what you do. Left palm, left palm comes out. Left palm
23 particle lift comes out and you stamp the hand until is goes
24 non-sticky. You put it away. You do the next three areas
25 with the exact same way.

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 The other type of sampling is a swab. And it is a
2 cotton swab like you would go to Wal-Mart and you would buy
3 cotton Q-Tips, that is exactly what this is except enclosed
4 in the gunshot residue kit is a very little vile of dilute
5 nitric acid. Now nitric acid is used to dissolve any
6 metals which is what we are looking for when we are testing
7 for gunshot residue. We're looking for lead and barium and
8 antimony. All three are metals.

9 The swabs are just you drop some dilute nitric acid on
10 them and you swab the hands. You just run them like you are
11 trying to run out marking on a piece of paper with an
12 eraser. And those come in four different viles. And they
13 are labeled right palm, right; left palm, left back.

14 So you need two samples for each area of the hand taken
15 two different ways.

16 Q. Thank you. Agent Roberts, I'm going to show you
17 State's Exhibit 94. Can you tell me what that is?

18 A. Can I open it?

19 Q. Yes. Do you need any scissors?

20 A. Yeah, they took my knife away from me. Scissors or a
21 knife would be.

22 Q. And for the record does that -- what is that yellow
23 tape that is on there?

24 A. I can explain -- this -- that would be easier than
25 going in the envelope. This is an evidence package that

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 comes into SLED. Basically it is a brown envelope with some
2 writing on it.

3 What makes this different from any other brown envelope
4 with writing on it is that it had several things on it that
5 mean something to me.

6 First of all this yellow tag at the top that says L12
7 01088. That is a lab number. "L" stands for laboratory.
8 Twelve stands for the year that we got it which was 2012.
9 And then its case number was 1088. So it was the 1,088th
10 case that we got that year.

11 Each case that comes into SLED into the laboratory gets
12 its own number L12, L13. In three weeks it will be L14.
13 What happens is it comes into SLED. It's logged in. It's
14 put in an envelope like this. It is given a tag like this.

15 And then on the back there is some yellow tape applied.
16 And it is pressure sensitive and tear sensitive. So the
17 person who submits it signs their initials where it says
18 initials and signs date where it says date.

19 In this case it was sealed up. It hasn't been broken
20 since 4/16 of 2012.

21 Q. Actually, Agent Robert, you don't need to open it up.
22 What do those labels on the front say that envelope
23 contains?

24 A. What this evidence -- or what this envelope contains
25 are four -- four gunshot residue kids. And they are from

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 according to the outside of the envelope, Joy T. Holmes,
2 James Rose, Antoine Aiken, and Tawana Alston.

3 Q. And on each of those labels does it indicate what time
4 the kit was done?

5 A. It does.

6 Q. And why are those times important?

7 A. The times are important because we have a protocol that
8 says that no more than six hours pass between the time of an
9 incident and the time that a gunshot residue kit collected
10 from somebody.

11 If I go out and I shoot my firearm and then I put my
12 firearm down and I don't touch it and I just sit there and I
13 breath, within six hours I will have lost any material that
14 could have been deposited on my hand by that firearm if all
15 I do is just sit there and breath. I don't have to touch
16 anything. I just sit there.

17 If I shoot my firearm and I go out and I start touching
18 things, if I go to the range because I'm not lucky enough to
19 have a range at my house, I've got to drive some place and
20 shoot, I go and I shoot. I put my gun up. I get back in
21 the car.

22 I've touched the door handle of my car. I've touched
23 the trunk of my vehicle because that's where I put the ammo
24 for my firearm. I've touched my clothes. Because I
25 reholster my firearm I have to move my clothes out of the

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 way. I touch my steering wheel. I drive to McDonald's and
2 I get something to eat. I touch the door at McDonald's. I
3 touch things.

4 And as I'm touching all the stuff, that material is
5 transferred from my hands to whatever I've touched. So what
6 we've found is that in six hours you will have lost the
7 material from your hands that was deposited by that firearms
8 even if you are just sitting there breathing much less
9 exerting yourself physically in any manner.

10 Q. And those kits were tested by your agency in this case?

11 A. They -- yes, the kits were done at SLED.

12 Q. And a report was generated?

13 A. It was.

14 Q. By whom?

15 A. The report was generated by Megan Fletcher.

16 Q. And who is Megan Fletcher?

17 A. Megan Fletcher is one of the analysts in the Trace
18 Evidence Department.

19 Q. Now our understanding is Ms. Fletcher is unavailable
20 today; she is in a training?

21 A. That's correct.

22 Q. So you are here to testify on her behalf?

23 A. I am.

24 Q. You are capable of interpreting the results of her
25 report?

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 A. I am.

2 Q. Do y'all do peer review?

3 A. We do.

4 Q. And what is that?

5 A. Peer review means that when somebody generates a report
6 such as this it is handed to somebody else who has no idea
7 about what's going on but is qualified to testify in court
8 on whatever report has been handed to them.

9 They go through a report and make sure the report is
10 grammatically and structurally correct. And then they go
11 through the data that is generated and they make sure that
12 the conclusions that are drawn and written out on the report
13 are correct and in line with SLED's protocol.

14 Q. Well, let's go through the report shall we?

15 A. Sure.

16 Q. Tell me about Item 1.

17 A. Item 1 was gunshot residue kit from Joy Terese Holmes.

18 Q. And Item 1.1?

19 A. Item 1.1 was the right palm from that gunshot residue
20 kit.

21 Q. What were the results?

22 A. No gunshot residue was found.

23 Q. And Item 1.2?

24 A. Item 1.2 was the right back.

25 Q. What were those results?

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 A. The quantities of metals found did not indicate the
2 presence of gunshot residue.

3 Q. Now what's the difference between no gunshot residue
4 was found and the quantities of metals found does not
5 indicate the presence of gunshot residue?

6 A. First of all, they are both negatives. No gunshot
7 residue found, that's fairly simple. We didn't find any
8 gunshot residue.

9 Quantities of metals found did not indicate presence of
10 gunshot residue is also a negative; however, it is slightly
11 more complicated than just negative.

12 They are both of those are results for different types
13 of testing. The first one is the result that you get when
14 you test the particle lifts. The particle lifts we are
15 looking for actual particles of gunshot residue that may be
16 on lifts. We don't find any, no gunshot residue found.
17 Easy.

18 Item 1.2, the right back. Quantities of metals found
19 do not indicate the presence of gunshot residue. That is a
20 result from the swabs that correspond to the right back of
21 the hand.

22 The swabs we are not looking for particles. We are
23 looking for amounts of metals. Now the metals that are in
24 the particles are the same as the metals that we are looking
25 for on the swabs. They are just in a different physical

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 manner.

2 So they are both negatives, one is from swab. One is
3 from a particle lift.

4 Q. And tell me about Item 1.3.

5 A. One point three was the left palm. And it reads no
6 gunshot residue a result from a particle lift.

7 Q. And Item 1.4.

8 A. Item 1.4 was the -- was the left back sample. And
9 quantities of metals found did not indicate the presence of
10 gunshot residue.

11 Q. Now tell me about Item 2 and what those results were.

12 A. Item 2 was a gunshot residue kit from James Reginald
13 Rose. The results were no conclusions can be drawn. The
14 samples were collected beyond the six-hour timeframe in
15 which probative evidence would be found.

16 This gunshot residue kit was taken on a live person
17 after the six-hour window had passed between the time of the
18 incident and the time of collection.

19 Q. And Item 3 and those results?

20 A. Item 3 was a gunshot residue kit from Antoine Aiken.
21 And on the right palm, the right back, the left palm and the
22 left back, all four areas. Quantities of metals found did
23 not indicate the presence of gunshot residue. Negative.

24 Q. Item 4 and those results?

25 A. Item 4 was a gunshot residue kit from Tawana Alston and

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 the right palm, the right back, the left palm, and the left
2 back. Quantities of metals found did not indicate the
3 presence of gunshot residue. So a negative on that one as
4 well.

5 MS. BALDWIN: Beg the Court's indulgence. I have no
6 further questions. Please answer any Ms. Runey has.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Cross-examination.

9 MS. RUNEY: Thank you, Your Honor.

10 **CROSS-EXAMINATION BY MS. RUNEY OF JOHN ROBERTS:**

11 Q. Good afternoon, Agent Robert.

12 A. Hi.

13 Q. The only items you received in this case were gunshot
14 residue kits from four individuals?

15 A. That's the only items that were received by the Trace
16 Evidence Department. That's correct.

17 Q. No articles of clothing were received?

18 A. No, ma'am, not by us.

19 Q. And what you testified is gunshot residue consists of
20 lead, barium, and antimonies?

21 A. That's what we look for when we're -- when we're
22 testing for it, yes.

23 Q. When you're determining whether gunshot residue is
24 present?

25 A. If I was determining whether gunshot residue was

CROSS-EXAMINATION BY MS. RUNEY OF JOHN ROBERTS

1 present I would be looking for a particle that contains all
2 three elements in a spherical shape.

3 Q. Lead, barium, and antimonies, all of them?

4 A. That's correct.

5 Q. And you did not find -- or I'm sorry, Ms. Fletcher from
6 your department did not find any gunshot residue when she
7 tested any of these kits?

8 A. That's correct. But the one was not tested at all --
9 or there weren't any conclusions to be drawn because it was
10 taken beyond the six-hour window.

11 Q. Collected too late?

12 A. Yes.

13 Q. But Ms. Fletcher notes in her report that they were
14 metals detected?

15 A. Yes, the quantity of metals found could also indicate
16 that there were metals found.

17 Q. And we could use any of that as an example beside Mr.
18 Rose's kit because it wasn't tested at all?

19 A. That's correct.

20 Q. So each case metals were found; so that means it could
21 have been lead, it could have been barium, or it could have
22 been antimony; they just weren't in a particle together,
23 correct?

24 A. No, they weren't in quantities that we would associate
25 with being near a gun, holding a gun, or firing a gun.

CROSS-EXAMINATION BY MS. RUNEY OF JOHN ROBERTS

1 Q. And there are many things in the environment that can
2 remove these particles that constitute gunshot residue,
3 correct?

4 A. Yes.

5 Q. Weather, rain?

6 A. Rain could, yes, ma'am.

7 Q. Washing your hands?

8 A. Yes, ma'am.

9 Q. Blood?

10 A. Yes, ma'am.

11 Q. Touching your car, this podium, the desk?

12 A. Yes, ma'am.

13 Q. Door handles?

14 A. Yes, ma'am.

15 Q. Normal physical activity?

16 A. Yes, ma'am.

17 Q. So because actual gunshot residue is not found, you
18 can't determine whether somebody fired a gun or not?

19 A. All I got was negatives on this. I can't tell what --
20 I mean my -- my assumption would be that they were not near
21 a gun when it went off in the very least.

22 Q. You testified earlier that if you went to the shooting
23 range and you fired your weapon and then you left and you
24 started touching things, that gunshot residue would be
25 removed; right?

CROSS-EXAMINATION BY MS. RUNEY OF JOHN ROBERTS

1 A. It could be, yes, ma'am.

2 Q. Especially if you washed your hands?

3 A. Especially if I washed my hands.

4 Q. That's all I have. Thank you.

5 A. You are welcome.

6 THE COURT: Any redirect?

7 MS. BALDWIN: Just briefly.

8 **REDIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS:**

9 Q. Those metals you were speaking of, Agent, can also get
10 on your hands naturally; correct, through not firing a gun?

11 A. They can.

12 Q. Could you give us some examples of those what you would
13 touch that would cause that?

14 A. Just for lead by itself, fishing weights.

15 Q. Anything in the courtroom that you think could cause
16 that?

17 A. No.

18 Q. Okay. But things in our environment?

19 A. Yes.

20 Q. Anything besides just fishing weights?

21 A. Anything that had lead in it. Anything that had lead
22 in a manner that I could rub off and get it. Lead paint
23 wouldn't to do it. The paint, the lead is embedded in the
24 paint in a manner where I couldn't just reach up and grab
25 like an old where somebody had painted with lead paint. I

REDIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 couldn't just reach in onto that paint and get lead on my
2 hands from that paint. It would have to be something that
3 wasn't readily accessible.

4 MS. BALDWIN: Beg the Court's indulgence.

5 Q. So when in that report it says the quantities in metals
6 found do not indicate the presence of gunshot residue,
7 you're not just talking about lead then?

8 A. No, ma'am.

9 Q. You are talking about antimony?

10 A. And barium.

11 Q. And barium. And so those don't indicate that a gun was
12 fired, the presence of those metals in that quantity?

13 A. That's correct

14 MS. BALDWIN: I have no further questions.

15 THE COURT: Okay. All right.

16 MS. RUNEY: No further questions. Thank you.

17 THE COURT: Sir, you may step down and be excused.

18 THE WITNESS: Thank you

19 THE COURT: Thank you.

20 MS. SHEALY: Maryann Boehm.

21 (WHEREUPON, the witness was duly sworn.)

22 THE CLERK: Once you are seated if you would please
23 into the microphone state our first and last name and spell
24 your last.

25 THE WITNESS: My name is Maryann Boehm, B-O-E-H-M.

REDIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 (MARYANN BOEHM, having been first
2 duly sworn testified as follows:

3 DIRECT EXAMINATION BY MS. SHEALY OF MARYANN BOEHM:

4 Q. Ms. Boehm, if you would please tell the jury where you
5 are currently employed.

6 A. I work for the South Carolina Law Enforcement Division,
7 commonly known as SLED.

8 Q. And what do you do for SLED?

9 A. I am assigned to the DNA Case Work Department.

10 Q. And how long have you worked there?

11 A. Approximately eight year.

12 Q. Tell us a little bit about your educational background.

13 A. I received a bachelors of science at Integrated Science
14 and Technology with a concentration in bio technology from
15 James Madison University which is in Harrisonburg, Virginia.

16 Q. Okay. And have you ever testified before regarding DNA
17 analysis?

18 A. Yes, I have.

19 Q. Where were you instructed regarding how to in fact
20 analyze DNA?

21 A. I was trained at SLED by a qualified analyst for
22 approximately a year prior to my taking on cases.

23 Q. Okay. And how many times have you been qualified
24 previously as a DNA analyst?

25 A. Approximately 40 times.

1 MS. SHEALY: Your Honor, at this time we would offer
2 her as an expert in the field of DNA analysis.

3 THE COURT: Any objection or voir dire?

4 MS. RUNEY: No, Your Honor. Thank you.

5 THE COURT: She is also qualified as an expert in the
6 field of DNA analysis.

7 Q. Ms. Boehm, if you would please could you just briefly
8 describe to the jury what is meant by the term DNA.

9 A. Sure. DNA stands for DeoxyriboNucleic Acid. It is the
10 chemical found in all of our cells of our body except for
11 red blood cells.

12 We get half of our DNA from her mother and half from
13 our father. With the exception of identical twins no two
14 individuals have the same DNA.

15 In forensic science we are interested in the portions
16 of DNA that differ between individuals which have 15
17 different locations. The combination of these tests results
18 make up what we call a DNA profile.

19 Q. Could you also tell us what is meant by the term
20 touch-DNA?

21 A. Touch-DNA is when a request is made to look for in DNA
22 where a person has touched an object. So like for this
23 countertop. Sometimes if you touch an object you leave some
24 skin cells behind. And it can vary whether you leave DNA
25 behind. Some people are called shedders. They slough off

DIRECT EXAMINATION BY MS. SHEALY OF MARYANN BOEHM

1 more skin cells so they are more likely to leave DNA behind.

2 It also depends on how frequently you touch the object.

3 Say for example my steering wheel of my car, I touch that
4 often, multiple times a day. So more likely to find my DNA
5 on there because I touch it often versus just touching this
6 counter for the first time. You know, I might not leave as
7 much DNA behind.

8 It also depends on how hard I touch the object. If I
9 just brush the object I'm probably not going to leave as
10 many skin cells if I rub the object.

11 Q. Okay. And in order for you to be able to perform a DNA
12 analysis do you have to have some type of sample to compare
13 lift stick or swab stick?

14 A. Yes. We develop a DNA profile from the evidence and
15 then we compare it to any standards that are committed in a
16 case. Standards are from known individuals. It is either a
17 swab from the inside of their cheek or a blood sample.

18 Q. And in this case were you provided with State's
19 Exhibit 95, that being two DNA buccal swabs from James Rose?

20 A. Yes, ma'am. This is our Lab Item Number 10.

21 Q. And were you also provided with State's Exhibit 85,
22 that being a swab from the front passenger interior door
23 latch?

24 A. Yes, ma'am. I did receive this as well. It's our Lab
25 Number 8.

1 Q. And regarding State's Exhibit 86, that being a swab
2 from the passenger side rear passenger interior door latch?

3 A. Yes, I did.

4 Q. Okay. If you would please, did you in fact perform an
5 analysis on these items?

6 A. Yes, I performed DNA analysis on all of these items.

7 Q. And could you tell the jury what the conclusions of
8 your analysis were?

9 A. Sure. Referring to my report, the DNA profile
10 developed from Item 8 which was the swab from the front
11 passenger side interior door latch is from an unidentified
12 male individual.

13 The DNA profile developed from Item 9 which was swabbed
14 from the passenger side, rear passenger interior door latch
15 is a mixture of at least two individuals. The DNA of the
16 major contributor to this mixture is from an unidentified
17 male individual. James Rose can be excluded as a
18 contributed to this mixture.

19 Q. Okay. So in other words, your conclusions were that
20 James Rose's DNA were not on the two swabs that you have
21 been provided with?

22 A. That's correct.

23 Q. But in fact there were two other individuals ultimately
24 or three other unidentified individuals' DNA?

25 A. From looking at my results it looks like the

DIRECT EXAMINATION BY MS. SHEALY OF MARYANN BOEHM

1 unidentified individual from Item 8 is the same unidentified
2 individual from the major contributor of Item 9. So there's
3 at least two individuals who touched that car.

4 Q. And at least one of those is a male?

5 A. Yes, ma'am.

6 Q. Let's see. I have no further questions. Answer any
7 the defense may have.

8 THE COURT: Thank you. Any cross-examination?

9 MS. RUNEY: No, ma'am, I have no questions for this
10 witness.

11 THE COURT: All right. Ma'am, you may be excused.
12 Thank you.

13 MS. SHEALY: Michelle Eichenmiller.

14 (WHEREUPON, the witness was duly sworn.)

15 THE CLERK: Please state your first and last name and
16 spell your last for the record.

17 THE WITNESS: My name is Michelle Eichenmiller,
18 E-I-C-H-E-N-M-I-L-L-E-R.

19 DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER:

20 Q. Ms. Eichenmiller, would you please can you tell the
21 jury where you are currently employed.

22 A. I currently work for the State Law Enforcement Division
23 in the Forensic Laboratory in the Firearms Department.

24 Q. And how long have you worked at SLED?

25 A. It will be eight years this April.

1 Q. And while you have been at SLED have you always been in
2 the same department?

3 A. Yes, ma'am.

4 Q. Okay. Tell us a little bit about your educational
5 background.

6 A. I have a bachelor's degree in biology, and I also have
7 a master of forensic science degree.

8 Q. And where were you trained as to firearm
9 identification?

10 A. Unfortunately you can't learn firearm's identification
11 in school. So you have to do an apprenticeship program
12 which is a three to five-year program under trained,
13 qualified firearm's examiners.

14 So I watched what they did, learned how they examined
15 evidence, took tests, did my own microscopic examinations.
16 And at the end of about four years I took a comprehensive
17 exam and then they signed off and said I could do forensics
18 identification on my own.

19 Q. And you have been doing that for how long now?

20 A. Since 2010, so three years.

21 Q. Have you previously testified in court?

22 A. I have.

23 Q. And have you been qualified as an expert in the field
24 of firearm identification?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 Q. Your Honor, at this time we would offer her as an
2 expert in the field of firearm identification.

3 MS. RUNEY: No questions and no objections.

4 THE COURT: She is so qualified as an expert in the
5 field of firearm's identification.

6 BY MS. SHEALY:

7 Q. Ms. Eichenmiller, if you would please tell the jury
8 when we are talking about the field of firearm
9 identification what are the possibilities of what you can
10 find in doing an analysis?

11 A. The common answers that we can give are either
12 positive, negative, inconclusive or unsuitable. Positive
13 would be this piece of fire ammunition was fired by this
14 firearm. Negative is it wasn't fired by this firearm.
15 Inconclusive is we can't tell you if it was or it wasn't.
16 And unsuitable is it is too damaged for me to tell you if it
17 was.

18 Q. Okay. And in answering that question, you're talking
19 about when you have ammunition or a projectile, fired
20 ammunition, and are comparing it to an actual weapon; is
21 that correct?

22 A. Correct.

23 Q. Now if you would, tell the jury what you can do if what
24 you have are projectiles and no weapon.

25 A. Sometimes we will receive projectiles or cartridge

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 cases in the case and we have no weapons. So we can compare
2 those to each other to see if they were fired by the same
3 firearm.

4 And if they are bullets we can also give you a list of
5 manufacturers that could have made a firearm that would fire
6 that bullet based on the dimensions of the landing grooves.

7 Q. Okay. And regarding this case were you provided with a
8 number of projectiles?

9 A. Yes, sir.

10 Q. And with one projectile, State's Exhibit 93, that being
11 from the head during autopsy?

12 A. Whenever we receive evidence in the lab I take pictures
13 of the outside packages and then when we open it up I will
14 write on it with the lab number my initials and the item
15 number and then repackage it and seal it with my initials
16 too.

17 So this is what I examined in this case.

18 Q. Okay. And showing you State's Exhibit 76, that a
19 projectile removed from the bottom of cabinet, could you
20 tell the jury whether or not you also analyzed that item?

21 A. It is the same container which still has my initials
22 and the date on it. It's the projectile is in here.

23 Q. Okay. And then what about State's Exhibit 91, that
24 being a projectile from the left chest cavity during
25 autopsy?

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 A. Yes, this is the item I examined.

2 Q. How many did I give you?

3 A. Three.

4 Q. Okay. And then State's seven -- excuse me, Exhibit 75,
5 the projectile and a piece of plastic saw guard from the
6 laundry room floor, did you also analyzed that?

7 A. Yes. This one also has the lab number, my initials,
8 and the item number.

9 Q. Now if pellets were removed from someone is there any
10 type of examination that you can do regarding pellets?

11 A. Basically what we would do with pellets if they were
12 removed from the scene would be we could just measure them
13 and tell you what size they're consistent with and if they
14 could have been in and if we have shot shells or shotguns.

15 Q. Okay. If we could just stop on that for just a second.
16 Explain to a jury when a shotgun is fired explain what
17 pellets are in relationship to a shotgun being fired.

18 A. Shotguns normally have many pellets that could come out
19 of a gun. That's how -- that's what we refer to pellets.
20 They are very -- they could be very small or very large.

21 There is birdshot which is smaller and buckshot which
22 is larger. But there are several projectiles that come out
23 at once with a shotgun typically.

24 Q. And once you receive the various projectiles in this
25 case could you describe to the jury what type of analysis

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 you performed.

2 A. These were fired bullets. I was able to examine them,
3 count lands and grooves where applicable. There was one
4 that I couldn't. Compare them to each other. Determine if
5 they were fired by the same firearm and then measure their
6 lands and grooves and for investigative purposes of what
7 type of gun you might be looking for.

8 Q. Describe that for us again. When you say lands and
9 grooves what does that mean?

10 A. When a firearm is manufactured the manufacturer chooses
11 a number of lands and grooves to put in a barrel. They give
12 stability to a bullet.

13 It is sort of like when a quarterback throws a football
14 it gets stability and accuracy. That's dependant on what
15 the manufacturer wants to do. They pick a number. They
16 pick a direction. And then they pick a size of lands and
17 grooves. So that is particular to different firearms.

18 Q. So when you're looking at the various projectiles are
19 you trying to determine whether or not they have the same
20 lands and grooves or similar lands and grooves?

21 A. That's where I start usually. I will count the number
22 and see if they could have come from the same firearm.

23 And then I put them up under my comparison microscope
24 which is basically two separate microscopes connected by an
25 optical bridge. Basically a pair of binoculars where I can

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 look through and see both bullets at the same time, rotate
2 them around and try to match up the striations that I see.

3 Striations are scratches that are placed on the bullet
4 by the firearm.

5 Q. And as it relates to the projectiles that you are
6 discussing could you describe to the jury whether or not
7 that means a shotgun could have emitted those projectiles?

8 A. Not typically. These would come from a handgun.

9 Q. Okay. If you would please, tell the jury your
10 conclusions from analyzing each projectile.

11 A. Do you want me to use State's exhibit or ...?

12 Q. If you could.

13 A. Okay.

14 Q. Or just the description from where it came.

15 A. Okay. The fired bullet that was in the saw guard which
16 is State's Exhibit 75, and one from the left chest cavity
17 which is 91, and State's Exhibit 76 which is from the bottom
18 of the cabinet, were all fired by one firearm, the same
19 firearm; and they may be suitable for identification with
20 that firearm.

21 Q. Meaning if we had a firearm you could then compare it?

22 A. Correct.

23 Q. Okay. So the one from the saw guard, the one from the
24 chest cavity, and the one from the cabinet, all were fired
25 by the same weapon?

1 A. Yes.

2 Q. And could you tell the jury based on the projectile
3 what type of weapon would have fired those projectiles?

4 A. Yes, based on the size which is the caliber, it was a
5 .38 Special or a .357 magnum caliber.

6 They were fired out of a firearm with five grooves,
7 right twist. When I put that information into a database
8 that we have, it will be list of firearm -- or manufacturers
9 that could have fired it.

10 Do you want me to read the list?

11 Q. Yes, go ahead and tell us that.

12 A. Okay. In .38 Special there's a couple of different
13 ones. It could have been manufacturer Alamo, Alpha, Century
14 Arms, Aerisoti (ph), Escoden (ph), Gabliando, Herbert
15 Schmidt, INA, Llama, Ruger, Smith and Wesson, Sport Arms, or
16 Taurus.

17 In 357 magnum caliber it could have been Coonan Arms,
18 Kaznar, Llama, Ruger, Smith and Wesson, or Taurus.

19 Q. Okay. And when you were discussing a .38 Special or a
20 357 magnum, are those handguns?

21 A. Yes.

22 Q. And are they revolvers?

23 A. Yes, typically.

24 Q. What is the significance of a revolver over a non
25 revolver?

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 A. A revolver versus a semi automatic, a revolver will not
2 eject cartridge cases typically. It will be they will stay
3 in the cylinder.

4 A semiautomatic will after each firing will kick the
5 cartridge case out and it will laden at the scene.

6 Q. Okay. And I notice that as you were telling us your
7 conclusions you did not mention State's 93, that having come
8 from the head at autopsy.

9 A. Correct.

10 Q. Could you describe to us what the results of that
11 were?

12 A. That one was damaged and limited marks of value. So it
13 may or may not be suitable for identification.

14 It was compared to the other three. And it was
15 inconclusive. That means it was too damaged for me to tell
16 you for certain that it came from the same firearm as the
17 other three.

18 Q. And what are ways that a projective can get damaged?

19 A. Depending on what it impacts could cause damage.

20 Q. And within a head you mean if it had struck structures?

21 A. Bone or -- correct.

22 Q. Okay.

23 MS. SHEALY: Beg the Court's indulgence for just a
24 moment. I have no further questions. Please answer any the
25 defense may have.

DIRECT EXAMINATION BY MS. SHEALY OF MICHELLE EICHENMILLER

1 THE COURT: Cross-examination.

2 MS. RUNEY: I don't have any questions.

3 THE COURT: Thank you. You may be excused.

4 MS. SHEALY: Your Honor, may be approach for just a
5 moment?

6 THE COURT: Sure.

7 (Bench conference.)

8 MS. BALDWIN: The State calls Dr. Lee Marie Tormos.

9 THE CLERK: Once you are seated, please state your name
10 and last name and then spell your last for the record.

11 THE WITNESS: My name is Lee Marie Tormos. Last name
12 Tormos, T-O-R-M-O-S.

13 (LEE MARIE TORMOS, after having
14 been sworn, testified as follows:)

15 DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS:

16 Q. Dr. Tormos, what is your occupation?

17 A. I am a forensic pathologist.

18 Q. What is forensic pathology?

19 A. Forensic pathologist is a person that does a postmortem
20 surgical examination to determine the cause and manner of
21 death.

22 Q. And tell the jury a little bit about your education and
23 training.

24 A. First of all, I went to the University of Puerto Rico
25 where I got a bachelor's degree in science as a premed

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 student. Then I went on to the state medical school where I
2 did my medical doctorate.

3 Then I underwent four years of specialty training in
4 anatomic and clinical pathology where I learned autopsy
5 techniques and I also learned to diagnose deceased as a
6 cause of death.

7 And then I did subspecialty training at the Medical
8 University of South Carolina where I did a fellowship. I
9 learned forensic pathology and how injury and the
10 interpretation of injuries to the body leads to the
11 determination of cause and manner of death in medical legal
12 cases.

13 Q. Do you belong to any medical or scientific groups or
14 associations?

15 A. Yes, I do. I belong to several. The most relevant
16 here is NAME which is a National Association of Medical
17 Examiners. I also belong to the AABB which is the American
18 Association of Blood Banking and the College of American
19 Pathologists in the past.

20 THE COURT REPORTER: I'm sorry, I didn't hear the last
21 one.

22 A. The College of American Pathologists.

23 Q. And excuse me if you have said it already. Where are
24 you employed?

25 A. I work at the Medical University of South Carolina

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 where I stayed on as a full-time forensic pathologist.

2 Q. How many autopsies have you performed?

3 A. I worked as a medical examiner for two years before
4 moving to the states. So all told I've done over a thousand
5 autopsies.

6 Q. Have you testified in court before?

7 A. Yes, I have.

8 Q. Approximately how many times?

9 A. About ten times. Here in the State of South Carolina.

10 MS. BALDWIN: Your Honor, at this time we would like to
11 have Ms. Tormos -- or Dr. Tormos qualified as an expert in
12 the field of forensic pathology.

13 MS. RUNEY: Dr. Tormos is certainly qualified.

14 THE COURT: Okay. She is so qualified.

15 BY MS. BALDWIN:

16 Q. Dr. Tormos, can you explain to the jury what happens
17 during an autopsy what the procedure is.

18 A. Sure. During an autopsy the case is referred to by the
19 medical -- by the coroner in the State of South Carolina who
20 is leading the death investigation.

21 They give us a little bit of history and they tell us
22 the name and date of birth of the patient, and then the body
23 is brought up to us for the actual examination. When we
24 receive the body in the autopsy room we take pictures and
25 photographs to document the findings on the outside of the

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 body. We also draw diagrams. We do a detailed inspection,
2 drawing and samples that are needed including hair samples,
3 fingernail clipping, depending on the nature of the case.

4 And then we do the internal examination which consists
5 of a Y-incision and examination of the internal organs,
6 document the findings of the internal organs. And we also
7 look at the brain.

8 Q. Did you have the occasion to perform an autopsy on the
9 victim in this case, Leland Shannon, Jr.?

10 A. Yes, I did.

11 Q. And can you tell the jury about what your findings
12 were?

13 A. Okay, I have to give you a little bit of background.
14 This gentleman after he actually after he sustained his
15 injuries he was still responsive and he was transferred to
16 the Medical University by Carolina Emergency Department
17 where the doctors underwent heroic, heroic measures trying
18 to save his life.

19 We he arrived he was put under my anesthesia and he was
20 intubated. And despite all the surgical intervention that
21 the doctor -- the doctors did, the infusion of possible
22 blood products, the blood transfusions, the fluids they gave
23 him, they were not able to sustain his life and therefore he
24 was pronounced about six hours after he arrived in the
25 emergency department.

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 During that time a lot of procedures were done on his
2 body. So when I get the body for autopsy a couple of hours
3 later I have to take into consideration the medical
4 intervention that happened.

5 At that time when I received the body he had a sutured
6 incision on his scalp. He had tubes extending into his
7 mouth that had helped him breathe. He had a cervical
8 immobilizer in place. He had an abdominal incision that
9 extended from right below the ribs all the way down to the
10 anterior pelvis. And that had been closed off by gauze and
11 surgical film in order to allow his internal organs to swell
12 up and not be constricted.

13 They had also attempted to repair an injury to the left
14 thigh. And there was a sutured incision of the left thigh.
15 And they had also the suture -- they had also done incisions
16 below the left knee.

17 Chest tubes were in place. And he had other things
18 like EKG pads, IV fluid, and tubes inserted into his
19 antitibial (ph) facet and other monitors to monitor his
20 vital signs.

21 I documented all of those. I removed all of those. At
22 the time of examination I found that this descendant had
23 sustained three gunshot wounds and one shotgun wound.

24 Q. And where was the shotgun wound?

25 A. The shotgun wound was to the anterior left thigh

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1 basically at the medial left side, a little bit on the
2 medial side.

3 The doctors had incised right through the entrance
4 wound. The shotgun pellets had shredded his femoral artery.
5 And they had -- it had also shredded his femoral vein.

6 They, the surgeons, had put a tub very similar to a
7 drinking straw on the ends of the femoral artery in an
8 attempt to bridge them temporarily until a more suitable
9 graft was done. And they had sutured his -- his femoral
10 vein.

11 There were pellets, birdshot pellets, still in the soft
12 tissues. But I did redocumentation that the surgeons did
13 remove the shotgun wadding, the plastic capsule that holds
14 the birdshot pellets together in the shotgun. They did
15 remove it from the soft tissues during the course of the
16 surgery.

17 Q. And tell us about the gunshot wounds, where were those?

18 A. Okay. The decedent had three gunshot ones. The first
19 gunshot wound was to the top of the head on the left side.
20 And it traveled in a downward direction and it lodged in his
21 brain.

22 I do not know if the clinicians were initially aware of
23 this wound to the head. I know they did not x-ray the head
24 prior to taking him to surgery. And so I am not sure if the
25 wound was identified by the clinicians early on.

1 They were more concerned with the wounds to the chest
2 and to the leg.

3 (WHEREUPON, State's Exhibit Number 107 marked for ID.)

4 Q. And Dr. Tormos, it actually might help you. I have
5 State's Exhibit 107 for identification. Can you tell me
6 what this is?

7 A. That is our standard male diagram for wound diagram,
8 the wounds on the body.

9 Q. And if I could have the witness step down, Your Honor,
10 if she could demonstrate on the diagram.

11 A. (Witness complies.)

12 Q. Use that marker. And if you could show the jury where
13 those wounds were.

14 A. The first -- I'm sorry, I'm right-handed. I'm sorry.
15 On the left side of the body. The first gunshot wound was
16 right here to the top of the head on the left side. And the
17 bullet travelled in a downward position. And it was
18 recovered right here in the head and within the brain.

19 The second gunshot wound was at the base of the neck,
20 right at the top of the shoulder right where this crease
21 sometimes forms. It was right there at the top of the
22 shoulder.

23 And the third gunshot wound is this one. So if you
24 look at it from the front and the back it is sort of at the
25 mid line. There was another gunshot wound just on the

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 posterior shoulder right there. This is about an inch
2 apart. So they are very close together.

3 This entrance wound (pointing) actually goes downward
4 and meets up with this entrance wound (pointing). So
5 therefore I know that two projectiles entered the body at
6 this point. But I cannot tell which one went where because
7 the trajectories overlap.

8 I do know that one of the bullets entered the body at
9 this level (pointing) approximately and it went into the
10 chest cavity where it lacerated the left lung and caused
11 blood accumulation.

12 The other one traveled under the skin, which is the
13 path of least resistant. In this fracture three ribs on the
14 lateral side which are ribs five, six, and seven. It then
15 fractured these ribs and then stayed right on the lateral
16 chest right under the skin.

17 The projectile on the lateral -- right under his skin,
18 was removed by the clinician when they were doing the
19 surgery because they had to place a chest tube as the bullet
20 was in the way. So the clinician did remove that one and
21 they transferred it to public safety which is our internal
22 department within MUSC for transfer of evidence.

23 The one that entered the chest cavity that lacerated
24 the lung, that one was loose within the lung chest cavity.
25 So it can move. And it's within the chest cavity, and you

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1 can see it in the x-rays that it is moving.

2 And then remember also that he also had a shotgun wound
3 to the anterior medial left side. The doctors did cut right
4 through it. They removed the plastic wadding from the side,
5 which was right here (pointing).

6 They removed part of the pellets. They tried to fix a
7 femoral vein and femoral artery which were both transected,
8 okay. And then they closed it back up.

9 They also did surgical incisions of the leg. And they
10 also did the midline abdominal incision in order to allow
11 the body to swell up and not constrict any organ.

12 Q. Thank you. You can take your seat.

13 MS. RUNEY: Your Honor, before we go any further I just
14 would like to renew my earlier objection.

15 THE COURT: Okay, and these are to the documents she is
16 getting ready to offer into evidence?

17 MS. RUNEY: Yes, ma'am.

18 THE COURT: And the objection is overruled. I will
19 incorporate the prior arguments. I need the item numbers.

20 MS. BALDWIN: Your Honor, these are State's Exhibit 64
21 through 67.

22 THE COURT: Okay. Are you offering them into evidence?

23 MS. BALDWIN: Yes, Your Honor.

24 THE COURT: Defendant 64, 65, 66, and 67 are admitted
25 over objection. Defendant ---

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 Q. Doctor ---

2 THE COURT: I'm sorry, State's Exhibit 64, 65, 66, and
3 67 are admitted over the defendant's objection.

4 (WHEREUPON, State's Exhibit 64, photo, was marked for
5 identification.)

6 (WHEREUPON, State's Exhibit 64 was admitted into evidence.)

7 (WHEREUPON, State's Exhibit 65, photo, was marked for
8 identification.)

9 (WHEREUPON, State's Exhibit 65 was admitted into evidence.)

10 (WHEREUPON, State's Exhibit 66, photo was marked for
11 identification.)

12 (WHEREUPON, State's Exhibit 66 was admitted into evidence.)

13 (WHEREUPON, State's Exhibit 67, photo was marked for
14 identification.)

15 (WHEREUPON, State's Exhibit 67 was admitted into evidence.)

16 BY MS. BALDWIN:

17 Q. Doctor, you are going to see State's Number 64 come up
18 in front of you on that screen. Can you tell us what that
19 is?

20 A. That is an x-ray that was taken by the clinicians where
21 they identified the shotgun wound to the left thigh. And it
22 is an x-ray of the decedent's left thigh where you can see
23 all those little white dots are the birdshot pellets in the
24 soft tissues of the thigh.

25 Q. And State's 66, could you tell us what that is?

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 A. That is the pre-surgical procedure chest x-rays that
2 the clinicians took before taking this gentleman up to the
3 operating room.

4 As you can see, it has two projectiles. The one in the
5 mid left chest cavity, that is the one that was loose within
6 the chest cavity. And that is the one that I recovered.

7 And then there is right at the very edge near the lower
8 right-hand corner, that is the projectile that was under the
9 skin that the clinicians removed in the process of inserting
10 the chest tub.

11 Q. And State's 65?

12 A. This is the chest x-ray that I took at the autopsy
13 which only shows one projectile. You can see it is still in
14 the left chest cavity. But it in the margin of the lower
15 aspect of the heart which is this gray silhouette that you
16 can see on the left chest cavity. And that is a projectile
17 that I recovered at the time of autopsy.

18 Q. And State's 67?

19 A. This is an x-ray of the head. I took this x-ray before
20 I performed the autopsy. And it shows a deformed projectile
21 and projectile fragments as it entered the left aspect of
22 the head.

23 You can see the projectile fragments. May I point?

24 Q. You can actually -- you can touch that screen.

25 A. Okay. I'm sorry I didn't know that. These projectile

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1 fragments are where the entrance wound is. And you can see
2 the fragments sort of give us the trajectory. And then that
3 is the projectile that I recovered from the brain.

4 Q. And just using that Smartscreen real great can we pull
5 us State's 66?

6 A. Okay.

7 Q. And just point out for the jury where those two
8 projectiles are.

9 A. Okay. So this is the chest. You can see the right --
10 the "R" marker is on the right side. This is the projectile
11 that I recovered at the autopsy (pointing). And this is the
12 projectile that was under the skin on the side of the chest
13 (pointing) that the clinicians recovered when they placed
14 the chest tube.

15 Q. Okay. We could just take this down. Doctor, as to the
16 shotgun injury, what did the dispersion of the pellets or
17 the nature of wound indicate to you as far as how far away
18 the gun was?

19 A. Okay, when shotgun pellets are fired to come out of the
20 plastic capsule and that basically spread out in the form of
21 a cone. But it travels a certain distance before they start
22 spreading out.

23 The wound characteristics with the scalloped edges tell
24 me that the end of the shotgun and the surface of the skin
25 were three feet or maybe a little less away from each other.

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 So this is what we call a relatively close gunshot wound.

2 Another characteristic is the actual plastic device
3 that holds the pellets was also embedded in the wound which
4 tells me that this is also less than three feet away from
5 the end of the weapon.

6 Q. And as to the head, neck, and shoulder injuries can you
7 tell the position that the victim was in when he was shot?

8 A. No, I cannot. I can tell you how the bullets traveled
9 when they were within the body. So the bullets once they
10 entered the body they went downward, both the head and the
11 two to the base of the neck and the shoulder, they all went
12 downward and slightly leftward.

13 And I can tell you that the muzzle in relation to the
14 body was probably pointed in this direction (pointing). But
15 I cannot tell you if he was sitting up straight, if he was
16 shot from a second story balcony, if he was bent over at the
17 waist. I do not have that information.

18 MS. BALDWIN: Beg the Court's indulgence.

19 I have no further questions, Doctor.

20 MS. RUNEY: I don't have any questions for this
21 witness.

22 THE COURT: All right. Doctor, you may step down.

23 Thank you. And be excused.

24 MS. SHEALY: We just have that one other matter
25 remaining.

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 THE COURT: Okay. Ladies and gentlemen, I have a
2 matter of law that I need to take up with the attorneys. It
3 will not take us very long. Otherwise, I would excuse y'all
4 for the day. I know we have some folks that need to leave
5 by 5:15.

6 Do you have one short witness you can put up, Ms.
7 Shealy?

8 MS. SHEALY: Oh, no, we do not. We do not.

9 THE COURT: Okay. So do we want to just let everybody
10 go for today and ---

11 MS. SHEALY: Well, could we approach?

12 THE COURT: Uh-huh.

13 (WHEREUPON, bench conference was had.)

14 THE COURT: Ladies and gentlemen, as I indicated we
15 have -- I think we have one more witness that will be very
16 short. If you will return to your jury room we will get you
17 right back out as soon as we can. Thank you.

18 (WHEREUPON, jury exits courtroom 4:46 p.m.)

19 THE COURT: I'm sorry, that came across in a confusing
20 way. I'm assuming you're just putting the custodian up to
21 put the tape in, ---

22 MS. SHEALY: That's correct.

23 THE COURT: --- admitted and then that ---

24 MS. SHEALY: That's it.

25 THE COURT: Okay. Now I know there is an objection to

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 the one jail call. We wanted to listen to it again I
2 believe. So we could go ahead and do that.

3 MS. SHEALY: We will go ahead and do that.

4 (WHEREUPON, DVD of jail call was played.)

5 THE COURT: Okay.

6 MS. RUNEY: Thank you, Your Honor. My previous
7 objection was that Rule 804(b)(3) did not apply and that
8 this was not a statement against interest.

9 I also objected under Rule 403 and that it is not
10 relevant and it is confusing because it is not very clear
11 from the recording what he is talking about.

12 It is clear that he has been incarcerated, he is
13 looking for his girlfriend, finding -- trying to find out
14 how to get in touch with her and concerned that he can't
15 find her from the jail.

16 The end of the conversation is that he wants to see
17 what is going on, I know they took that girl's car, I guess
18 they're trying to find -- try to see if my DNA is in there.

19 I don't think that he is saying my DNA is in there. He
20 is -- he is saying that the police are taking that car to
21 see if his DNA is in there.

22 They take the car or some car that is of the
23 description at the scene that night and DNA is tested. The
24 jury is going to hear about that.

25 And he says my phone is in that car and -- or the phone

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1 that I was using is inside there. He doesn't ever say that
2 the phone I was using that night is in that car.

3 And I think it is very unclear -- I don't -- I don't
4 know the context of the entire conversation. I think the
5 jury is certainly not going to know the context of the
6 entire conversation.

7 And then the State did raise that could fall under
8 801(b) an admission by a party opponent. But our position
9 is that this is not an admission. He is in jail. He is
10 trying to find his girlfriend. And he is having whoever he
11 is talking to to try to track her down.

12 THE COURT: Okay. Ms. Shealy or Ms. Baldwin.

13 MS. BALDWIN: Thank you, Your Honor. It's the State's
14 position that it is an admission by a party opponent. He
15 states not only is he concerned that DNA may be in the car
16 that the police recovered, but he is also concerned about a
17 phone that he was using, his phone. And then he backs off
18 and says well the phone I was using.

19 It is in the car that police took into custody. Phones
20 were recovered in that car. The car the police took into
21 custody was a silver or gray, depending on how you describe
22 it, Neon.

23 Witnesses described a silver or gray sedan or silver or
24 gray Neon coming to the scene. One witness described the
25 defendant getting into that car and leaving after the

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1 shooting in that same car. For those reasons we believe it
2 is evidence of guilt.

3 THE COURT: Okay. Well, you know, the caption for
4 801(d) (2) was a little bit confusion because they called it
5 admission by a party opponent.

6 But what the rule actually says is the statement is
7 offered against a party and is - and this subject is
8 Subsection A - the parties own statement in either an
9 individual or represented capacity.

10 Well, the statement about the phone and not my phone by
11 the phone I was using that night is the defendant's own
12 statement. I'm going to admit it 801(d) (2) (a).

13 I don't have a 403 problem with it for this reason: It
14 is relevant to his presence in the car for his concern about
15 connecting his presence to the car.

16 The only prejudice is that it is relevant to his
17 presence in the car. There is simply no substantial
18 prejudice to outweigh the probative value. So I'm going to
19 admit it under that -- what -- that's not hearsay. That is
20 what the rule is. It isn't hearsay.

21 I'm also going to admitted it -- nobody has put forth
22 this argument, but there are arguments that have been made
23 regarding using jail phone calls and the context of the
24 call. Ms. Runey did mention the context. And I understand
25 it that's that full telephone call, correct?

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1 I mean the jail calls are usually limited to 15
2 minutes. But that one hung up a little over three. So I'm
3 not sure that there was any other conversation which could
4 context it.

5 And quite frankly, I'm not sure that the folks talking
6 wanted anybody to be able to figure out the context. So I'm
7 going to allow it. But I certainly note your objection for
8 the record.

9 MS. RUNEY: Thank you.

10 THE COURT: All right. Anything further before we
11 bring the jury out and play the tape for them?

12 MS. SHEALY: No, could I approach your court reporter
13 because after that I can rest.

14 THE COURT: Okay.

15 MS. ERHLICH: Your Honor, the only thing about that is
16 when the evidence goes back to the jury I don't think the
17 entire CD can go back to them.

18 THE COURT: No, they will have to redact it out.

19 MS. ERHLICH? Okay.

20 THE COURT: If it goes back.

21 MS. BALDWIN: I think they would have to just ---

22 THE COURT: They would have to ask to have it played is
23 what they would have to do.

24 We don't need to check the evidence right now ---

25 MS. SHEALY: Okay.

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1 THE COURT: --- because you are going to rest. But I'm
2 going to let them go. I mean there are people that need to
3 be gone.

4 MS. SHEALY: Okay. That's fine.

5 THE COURT: So we can look at that after.

6 MS. SHEALY: Okay.

7 THE COURT: Okay. Are y'all ready for the jury; do you
8 want to go ahead and call your witness in?

9 MS. BALDWIN: Yes.

10 THE COURT: All right. Let's bring them in. Thank
11 you.

12 (WHEREUPON, jury enters courtroom December 11, 2013,
13 4:58 p.m.)

14 THE BAILIFF: The jurors are all present, Your Honor.

15 THE COURT: Thank you, sir. Thank you ladies and
16 gentlemen. Call your next witness, please.

17 MS. BALDWIN: Thank you, Your Honor. The State calls
18 Sergeant Kieviet Heyward.

19 THE COURT: Okay. Sergeant, if you would come on up
20 and we will swear you in.

21 (WHEREUPON, the witness was duly sworn.)

22 THE CLERK: After you are seated if you would please
23 state your first and last name and spell your last.

24 MS. HEYWARD: Kieviet Heyward. Last name is spelled
25 H-E-Y-W-A-R-D.

DIRECT EXAMINATION BY MS. BALDWIN OF LEE MARIE TORMOS

1 THE COURT REPORTER: I'm sorry, could I get the first
2 name too?

3 THE WITNESS: Kieviet, K-I-E, V as in Victor, I-E-T.

4 THE COURT: Thank you.

5 (KIEVIET HEYWARD, after having been
6 sworn, testified as follows:)

7 DIRECT EXAMINATION BY MS. BALDWIN OF KIEVIET HEYWARD:

8 Q. Sergeant, what is your occupation?

9 A. I'm the lobby sergeant for the Sheriff Al Canon
10 Detention Center..

11 Q. Okay. What do those duties involve?

12 A. We handle visitation, bonds and fines, phone records,
13 visitation logs, mail logs.

14 Q. And when you say phone records what do you mean?

15 A. We are responsible for keeping the records for all
16 phone calls made throughout the facility from inmates that
17 record and have those -- of those phone calls.

18 Q. You said those phone calls are recorded?

19 A. Yes, they are.

20 Q. And how are they recorded?

21 A. They are recorded digitally. And they are kept -- they
22 are filed on a computer. And we have to burn a disc when
23 subpoenaed for them.

24 Q. How are they organized; how do you keep track of each
25 inmate?

DIRECT EXAMINATION BY MS. BALDWIN OF KIEVIET HEYWARD

1 A. We keep track of the record records through inmate's
2 pin numbers. When an inmate comes into a facility they are
3 given each their own individual pin. And that's what they
4 use to make phone calls. So their pin is logged to them, to
5 that individual inmate.

6 Q. And those records are stored?

7 A. Correct.

8 Q. They are completed in the normal course of business?

9 A. Correct.

10 Q. How long are those records kept?

11 A. We keep records for approximately five years.

12 Q. And were you served with a subpoena requiring the
13 production of jail recordings, jail phone call recordings,
14 as to James R. Rose?

15 A. Correct.

16 Q. I'm going to show you what's been marked as State's
17 Exhibit 99 for ID. Can you tell me what that is?

18 A. This is the disc made by the jail. I see that Thomas
19 signed the disc. She is an employee of -- who works under
20 me who also assists me with printing and recorded when
21 subpoenaed.

22 MS. BALDWIN: Your Honor, at this time we would like to
23 admit State's Exhibit 99 into evidence.

24 THE COURT: Okay. I note there has been an objection.

25 MS. RONEY: Yes, Your Honor, I would just renew that

DIRECT EXAMINATION BY MS. BALDWIN OF KIEVIET HEYWARD

1 objection.

2 THE COURT: All right. And subject to my prior ruling
3 the objection is overruled and I will admit the evidence,
4 State's 99 pursuant to Rule 803-6 and Rule 801(d)(2)(a).

5 MS. BALDWIN: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibit 99 marked and admitted.)

7 MS. RUNEY: And Your Honor, that is limited to one
8 phone call on this CD?

9 THE COURT: The one phone call that we have discussed.

10 MS. RUNEY: Yes, Your Honor.

11 THE COURT: Thank you.

12 MS. BALDWIN: Beg the Court's indulgence.

13 BY MS. BALDWIN:

14 Q. And just to clarify, Sergeant, this disc is for phone
15 calls from inmate James R. Rose?

16 A. Correct.

17 MS. BALDWIN: Your Honor, at this time we would like to
18 publish the phone calls.

19 THE COURT: You may.

20 MS. BALDWIN: Exhibit 99.

21 (WHEREUPON, phone call played.)

22 THE COURT: Thank you. Cross-examination.

23 MS. RUNEY: I don't have any questions. Thank you.

24 THE COURT: All right. Thank you. Sergeant, you may
25 be excused. Thank you.

DIRECT EXAMINATION BY MS. BALDWIN OF KIEVIET HEYWARD

1 THE WITNESS: Thank you.

2 THE COURT: Yes, ma'am.

3 MS. SHEALY: Your Honor, at this time the State would
4 rest.

5 THE COURT: Thank you. Ladies and gentlemen, the State
6 has rested. So we are finished with the State's portion of
7 the case. And I'm going to go ahead and let y'all go for
8 the day.

9 We will see you back at 9:30 in the morning. I
10 understand we will have some doughnuts for you. So maybe
11 that will help keep everybody alert. And we might even
12 order lunch tomorrow. I just need to wait and see where we
13 are in the case.

14 Please do not begin discussing the case even with each
15 other. As you have only heard the State's portion. You've
16 not even heard the argument of the lawyers and the charge on
17 the law. And as always, please don't do any independent
18 research or communicate with anyone about your service.

19 Thank you, ladies and gentlemen. Have a safe ride
20 home. See you in the morning.

21 (WHEREUPON, jury exits courtroom 5:08 p.m.)

22 THE COURT: Okay. Any motions from the defense at this
23 time?

24 MS. RUNEY: Yes, Your Honor. At this time the defense
25 would renew all of our previous objections for the record.

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1 We would also make a motion for a directed verdict as to the
2 murder charge against Mr. James Rose.

3 There has been no physical evidence that links Mr. Rose
4 to this crime, nothing collected in the trailer where Mr.
5 Shannon was shot or Mr. Rose's home that would indicate he
6 had anything to do with this crime.

7 There has been a car that had been seized. There is
8 nothing that put Mr. Rose in that car, no physical evidence.
9 There is really no evidence that this is the same car other
10 than the make and the color of the car.

11 We have no gun that ties Mr. Rose to this shooting.
12 There is no blood found on him. There is no blood found in
13 his car. And there is no blood found in his home.

14 There are no fingerprints at the scene that put him
15 there at the time of the shooting. And, Your Honor, as far
16 as the witnesses that we heard from, they have shown us all
17 that they are not credible witnesses. They've given several
18 versions of their stories about what happened that night.
19 They have admitted that to us on the stand.

20 And because of those reasons the State has failed to
21 produce competent evidence that would show that Mr. Rose is
22 in fact guilty of these charges or that he shot Mr. Leland
23 Shannon.

24 THE COURT: Okay. Yes, ma'am.

25 MS. SHEALY: Thank you, Your Honor. It would be our

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1 assertion that we have in testimony of Antoine Alston --
2 Antoine Aiken and Tawana Alston who indicate that Mr. Rose
3 was present that evening, that he had been irritated earlier
4 in the evening, that when he left that is when the other
5 individuals come into the home, one being tall and one being
6 short, and that Antoine Alston indicates that while --
7 Antoine Aiken indicates that when he runs around the mobile
8 home he can hear the voice that he has known since they were
9 children together, Mr. Rose indicating to tell them to go to
10 the back, go to the back, and then telling them to hurry up.

11 We also have the testimony of Joy Holmes who sees the
12 two people in her bedroom that is obviously after the
13 shooting occurs and sometime between when the vehicle leaves
14 that she said at the time that she gave her statement wore a
15 red shirt and had a familiar voice and who now has indicated
16 that after upon reflection and calming down that she
17 realizes that that was James Rose.

18 And, Your Honor, the fact that two of our witnesses
19 indicate that it was a gray Neon, a gray Neon was found at
20 his residence the next day.

21 The neighbor had indicated that he had become
22 increasingly hostile towards Julio, that he came over that
23 morning saying if anybody asks you if you know me or where I
24 am, say you don't, that when she asked him whether or not he
25 was involved in the shooting he dips his head.

State v. James Rose

1 Additionally she indicates on the news show it did not
2 say who had gotten shot. She asked him the morning hours of
3 the day that he was arrested and the later morning hours of
4 the incident who got shot. He answers Julio.

5 That we have substantial information that would warrant
6 the jury making a decision in this case.

7 THE COURT: Thank you.. All right. Respectfully I'm
8 going to deny the motion for a directed verdict. As you
9 know, if there is any direct evidence or substantial
10 circumstantial evidence reasonably tending to prove guilt,
11 basically any evidence, competent evidence, the jury must
12 make the decision and a directed verdict is not indicated.

13 Certainly evidence has been presented. Eyewitness ---
14 (Pause.)

15 THE COURT: Okay. Just always worried when that door
16 opens to the jury.

17 ... from Mr. Antoine Aiken and Ms. Tawana Alston. We
18 also have Joy Mills testimony regarding what they saw and
19 heard on the evening of the shooting.

20 I believe Ms. Alston put the defendant as the driver of
21 the gray Neon that left with the individuals that she
22 indicated had ski masks on and that were the shooters.

23 We've also got Brandon Cantrell and Clarence Hush who
24 testified about the experience earlier in the day at the
25 decedent's residence where there was some issue with the pot

1 that they were going to buy, either the price being raised
2 or there not -- it not being there. But in the event that
3 Mr. Rose was made to wait for some period of time and was
4 not happy about that, that he was agitated. And according
5 to Mr. Hush wanted to get his respect.

6 All of that is properly submitted to the jury to give
7 it the weight that it sees fit. So I will deny the motion
8 for a directed verdict. Anything further?

9 MS. SHEALY: No, Your Honor. Thank you.

10 THE COURT: All right. Do you know yet if y'all are
11 putting any evidence up, or do y'all want to talk about it
12 tonight and just let me know tomorrow? That's certainly
13 fine.

14 (Counselors confer.)

15 MS. RUNEY: Your Honor, we would like to discuss this
16 tonight with Mr. Rose.

17 THE COURT: Okay.

18 MS. RUNEY: But we do feel like if we did, it could
19 move pretty quickly tomorrow morning.

20 THE COURT: Okay. Well, I'm just trying to figure out
21 what time to get you all to come. Go ahead and come at
22 9:30. Y'all have been really efficient today.

23 And if you do decide to put some evidence up, we can
24 talk about the charges when we take a break. And if you
25 don't, we can just let the jury wait for a little while and

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1 eat their doughnuts.

2 I don't think it will take long to talk about the
3 charges. There's one indictment. Y'all have all tried
4 things with me before and usually we seem to move through
5 the charge conference pretty quickly.

6 You also should have a draft verdict form with those
7 charges since they are prepared. So anything else before we
8 break for the day?

9 MS. SHEALY: No, Your Honor. Thank you.

10 THE COURT: All right. Well, then I will see y'all at
11 9:30 in the morning. Thank you.

12 (WHEREUPON, recess for the day December 11, 2013, 5:15 p.m.)

13 (December 13, 2013)

14 (WHEREUPON, bench conference 9:40 a.m.)

15 THE COURT: We will be at ease until 10:00.

16 (WHEREUPON, break 9:41 a.m. for defense counsel to confer
17 with client.)

18 MS. SHEALY: Judge, he has in December of 2003
19 trafficking crack conviction, possession of cocaine second
20 conviction. And I'm only mentioning the convictions that I
21 think would fall under the rule.

22 THE COURT: Okay.

23 MS. SHEALY: He also had the December '08 bank fraud
24 charge -- I mean conviction. And a 2010 giving false
25 information conviction.

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1 THE COURT: All right. Well, certainly the '08 and '10
2 are fair game. Y'all talk to me about the 2003 conviction.

3 MS. SHEALY: The conviction was December 6th of 2003.
4 And obviously the incident would have been prior to the
5 conviction.

6 THE COURT: Sure.

7 MS. SHEALY: And let me see. Let me double check what
8 that punishment was. On the trafficking charge he received
9 five years. And on the possession charge he received two
10 years. So I think that would put it within our ten-year
11 period.

12 THE COURT: It does put it within the ten-year period.
13 Okay. Y'all addressed for me the Rule 403 issue. And
14 anything else y'all need to tell me? Happy to hear from the
15 defense.

16 MS. RUNEY: Your Honor, I think that these convictions
17 fall under the rule. I don't have any argument against
18 those. But I just want to make sure that I've got them all:
19 December 2003 trafficking, the five-year sentence; 2008
20 financial transaction card fraud charge or financial card
21 charge; a 2010 false info. Am I leaving one out?

22 MS. SHEALY: Possession of cocaine second in '03.

23 MS. RUNEY: Was that December of '03 too?

24 MS. SHEALY: It was, the date of the conviction was.
25 And the rap sheet reflects bank fraud. That would be

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1 December of '08.

2 MS. RUNEY: Thank you, Your Honor.

3 THE COURT: Okay. Anything further that we need to
4 take up before we bring the jury?

5 MS. SHEALY: Not from the State. Thank you.

6 THE COURT: Okay. Yes, sir, they can come on in.

7 (WHEREUPON, jury enters courtroom 10:16 a.m.)

8 THE BAILIFF: Jurors are all present, Your Honor.

9 THE COURT: Thank you, sir. And thank you ladies and
10 gentlemen. Thank you so much for your patience. We are
11 ready to continue with the trial. So I will call on Ms.
12 Runey.

13 MS. RUNEY: Thank you, Your Honor. The defense calls
14 James Reginald Rose.

15 THE COURT: All right, sir. If you will come on up we
16 will swear you in.

17 (WHEREUPON, the witness was duly sworn.)

18 THE CLERK: Sir, once you are seated if you would
19 please state your first and last name and spell your last
20 for the record.

21 MR. ROSE: Okay. My name is James Rose, R-O-S-E.

22 (JAMES ROSE, after having been
23 sworn, testified as follows:)

24 **DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE:**

25 Q. Good morning, James.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

- 1 A. Good morning.
- 2 Q. How old are you?
- 3 A. I'm 36.
- 4 Q. Are you from Charleston?
- 5 A. No, I am originally from Philadelphia, Pennsylvania.
- 6 Q. How long were you in Philadelphia?
- 7 A. All my life.
- 8 Q. When did you come here?
- 9 A. When I was about 14 or 15.
- 10 Q. Do you have family here?
- 11 A. Yes, I do.
- 12 Q. Did you have family here when you came at 14?
- 13 A. My mother was here. My siblings were still in
- 14 Philadelphia.
- 15 Q. You have several brothers and sisters?
- 16 A. Yes.
- 17 Q. And did they move here?
- 18 A. Yes, they did.
- 19 Q. Are all of them here now?
- 20 A. Except for two. But I have a sister and a brother
- 21 still here.
- 22 Q. And some of the family is in the courtroom for you
- 23 today?
- 24 A. Yes, they are.
- 25 Q. Who is that?

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

- 1 A. My brother Siaeb (ph) and my sister Malaysha (ph).
- 2 Q. Okay. Do you work?
- 3 A. No, I don't.
- 4 Q. What do you do for money?
- 5 A. I sell marijuana.
- 6 Q. And have you been in trouble with the law before?
- 7 A. Yes, I have.
- 8 Q. In 2003 were you convicted of assault on a corrections
- 9 officer?
- 10 A. Yes.
- 11 Q. And you were convicted of something else then too.
- 12 What were you convicted of?
- 13 A. I think trafficking.
- 14 Q. Trafficking crack second offense?
- 15 A. Yes.
- 16 Q. And in 2003 were you convicted of a simple possession
- 17 of cocaine?
- 18 A. I believe so, yes.
- 19 Q. And you've been in trouble again after that?
- 20 A. Yes, I have.
- 21 Q. So in 2008 were you convicted of a bank fraud charge?
- 22 A. Yes, I have.
- 23 Q. And 2010 a false information?
- 24 A. Yes, I have.
- 25 Q. And you make your living doing something illegal, don't

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 you?

2 A. Yes, I do. I'm not proud of it. But yes, I do.

3 Q. And in January of 2012 that is exactly what you were
4 doing?

5 A. Yes, I was.

6 Q. And where did you get your drugs from?

7 A. Lincolnville from a guy named Leland Shannon.

8 Q. How did you know Leland Shannon?

9 A. Well, when I first came down here we used to live
10 together. He had a situation where as he just had a baby
11 and nobody really cared for his wife Andrea, so I asked my
12 girlfriend would she move her kids in one room so that they
13 could stay in another room. And she said yes, so we stayed
14 together for a while.

15 And, you know, I used to buy weed from him because he
16 had a bunch of weed back then.

17 Q. How long have you known him?

18 A. I think it is fair to say ten years or better maybe.
19 Maybe longer.

20 Q. Okay. And did you go to see him on Carolina Avenue?

21 A. Yes, I did.

22 Q. And where is Carolina Avenue?

23 A. In Lincolnville.

24 Q. Is that where Leland Shannon lived?

25 A. Yes.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. And do you know who lived with him?

2 A. Tawana Alston.

3 Q. How do you know Tawana Alston?

4 A. We used to date back in like '97. She got pregnant one
5 time and tried to say that I was the baby father. And I
6 asked her mother one time and her mother said they took the
7 blood test so I didn't have nothing to worry about, they
8 knew who the real father of the baby is.

9 Q. So it was not your child?

10 A. No, it wasn't.

11 Q. And do you know Julio's daughter, Joy?

12 A. I remember her when she was three years old. And
13 matter of fact, the night that I went over there I saw her
14 and I said -- I asked Leland I said is that Joy. He was
15 like yeah. I said damn, I ain't seen her since she was like
16 three years old. I said Joy do you remember me. She said
17 no. I said you don't remember when I stole your bike when
18 you was younger. She said oh yeah give me my money back.

19 Q. So you hadn't seen her in a very long time?

20 A. No.

21 Q. Okay. But you did see her in January of 2012?

22 A. Yes, I did.

23 Q. Okay. Do you know Antoine Aiken?

24 A. Yes, I do.

25 Q. And how do you know him?

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 A. He be around Lincolnville selling weed and trying to
2 get coke and stuff like that.

3 Q. Is he hanging -- does he hang around Leland's a lot?

4 A. Yes, he do. Because he be trying to get free coke.
5 That's why a lot of them hang around like him and Tawanda
6 Alston they be trying to get free coke off of Leland.

7 Q. Would you see Antoine there often?

8 A. Yes.

9 Q. And do you know Ishmael Weston?

10 A. I know him from being over to that trailer. He smoked
11 weed with them. And he tried to sell me some weed one time.
12 But I told him I'm not getting no weed from him. Because he
13 was a little dude and all he had was like quarters trying to
14 sell me them for a whole ones and I ---

15 Q. Do you know how old he is?

16 A. At the time I know he was like 13 or 14 or something
17 like. He was just a little boy to me.

18 Q. Would you see him at Leland's trailer?

19 A. Yes.

20 Q. Do you know where he lived?

21 A. Directly next door. I know his mother. And I know his
22 father.

23 Q. Okay. Now I want us to focus on January the 23rd of
24 2012. I want you to tell the jury what you did that day.

25 A. January 2012 on the 23rd?

DIRECT EXAMINATION BY MS. RONEY OF JAMES ROSE

1 Q. Yes.

2 A. Well

3 Q. Did you go over to Leland Shannon's trailer?

4 A. Yes, I did.

5 Q. Okay. Who did you go over there with?

6 A. Early that morning -- well, maybe it was like in the
7 afternoon I went over there with my girlfriend.

8 Q. What is your girlfriend's name?

9 A. Amber Wiley. That was my then girlfriend. But since
10 I've been here, you know, she left me.

11 Q. Okay. So you went over to the trailer in Lincolnville?

12 A. Yes.

13 Q. To do what?

14 A. To get some marijuana.

15 Q. And you took who with you?

16 A. Amber Wiley and Sea Dog who now I know as Clarence
17 Hush.

18 Q. Did Amber go with you with Clarence Hush?

19 A. Yes.

20 Q. He gave you a ride?

21 A. Yes, he did.

22 Q. And did you go over there any more that day?

23 A. Yes, I did. Later on that night.

24 Q. With who?

25 A. Clarence Hush and Brandon -- I don't recall Brandon's

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 last name. The Little White Guy. That's what I called him.

2 Q. Do you remember what time you went over there with
3 them?

4 A. I knew it was like ten something because I don't ride
5 real late on the street because I knew I had a warrant on me
6 so I would be cautious of who I ride with and what time I
7 ride on the street.

8 Q. What was that warrant for?

9 A. I was supposed to go to court one day. With the lawyer
10 I had notified me after the court hearing was over with so
11 they put a bench warrant on me.

12 Q. That wasn't me, was it?

13 A. No, that was Cantrell Frayer.

14 Q. Okay. But you did go back out to the trailer?

15 A. Yes, I did.

16 Q. And tell me why.

17 A. Cantrell -- Brandon -- I think his last name is
18 Cantrell also. He wanted some marijuana. So he didn't have
19 nobody to get it from, and I didn't have none.

20 Q. Had you ever taken him out there before?

21 A. Yes, I had.

22 Q. For what?

23 A. To get marijuana.

24 Q. Okay. And how would y'all get out there in the past?

25 A. In his car.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. Did you take his car that day?

2 A. Not that day because his car was leaking oil so we
3 couldn't take his car. But we normally do take his car.
4 Because I don't have a car and I don't have access to one.
5 So I usually pay somebody to give me a ride or something.
6 And that specific day Brandon's car was leaking oil so I
7 asked Sea Dog if he would take us and I would pay him.

8 Q. How did you know Sea Dog?

9 A. Being around the neighborhood. He would introduce you
10 to weed sales.

11 Q. Where did he live?

12 A. Right across the street from the trailer I was staying
13 in.

14 Q. Where you stayed with Amber?

15 A. Yes, where I stayed with Amber.

16 Q. And what did you call him?

17 A. Sea Dog, Unk.

18 Q. Do you know his name now?

19 A. Yes, I do.

20 Q. What is that?

21 A. Clarence Hush.

22 Q. Okay. And so Mr. Hush took you out to Lincolnville?

23 A. Yes, he did.

24 Q. And what did he do when you got there?

25 A. I went in -- the first person I saw was Joy. She was

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 outside. And that's when I told you I asked her if she
2 remembered me and she said no and I said well you don't
3 remember when I stole your bike when you was little. She
4 said yeah let me get my money.

5 And I went inside. We start talking about marijuana,
6 me and Julio. So he tried to sell me -- I don't know if
7 y'all know anything about the weight and stuff of marijuana.
8 But he tried to sell me 20 grams for \$120. And I told him I
9 wasn't paying for no weed like that because the weed was
10 brown and don't nobody like to smoke brown reefer.

11 And Brandon wanted some weed too. But he didn't have
12 enough. So I got a little bit of weed and I was supposed to
13 be waiting on some more, but they was taking so long and
14 Clarence was rushing me because he had to get his wife back
15 her car.

16 Q. Was that price bad for some bad weed?

17 A. Yes, it was. And prior to me telling him that the weed
18 was wack, Ross he jumped in the conversation and was telling
19 me well you could sell it for 20's.

20 And I was telling him man, you need to mind your
21 business because I ain't talking to you. So basically it
22 was me and him that was really arguing. And that is the
23 same thing I told the detective, Detective Perkins.

24 Q. Antoine Aiken jumped into the conversation?

25 A. Yes, he did like he always do. Because he is one of

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 those type of people if you've got something, he on your
2 side.

3 Q. Were you finished with your discussions about this?

4 A. Yes.

5 Q. Did you get some weed?

6 A. Yes, I ultimately got some.

7 Q. And why did you leave?

8 A. Because Clarence was rushing us and he didn't have
9 enough for Brandon. And I got a little bit for myself.

10 Q. Clarence Hugh came to the door ---

11 A. Yes.

12 Q. --- to get you?

13 A. Yes, he did.

14 Q. Who answered the door?

15 A. Ross. Antoine Aiken. Sorry.

16 Q. And did you leave?

17 A. Yes.

18 Q. And where did you go next?

19 A. I went back home. I know I stopped at the gas station.
20 But I'm not sure if I told the police that. But I stopped
21 at a gas station and I paid Clarence Hugh some money for
22 gas. And I got two cigars. Because I was going to smoke a
23 blunt later. And I went home. They dropped me off first
24 and then dropped the white boy off second. And then
25 Clarence went home.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. James, I'm going to go back up a little bit. Tell me
2 about what you did when you got in the car with Hush and
3 Cantrell, Brandon Cantrell, ---

4 A. Yes.

5 Q. --- who was looking for his weed ---

6 A. Right.

7 Q. --- what happened in the car?

8 A. We was riding back and I was like man I'm going to find
9 you something, man. Because the little that I had got I
10 mean it wasn't enough for the both of us. Because he likes
11 to smoke weed and he likes to sell weed.

12 So, you know, on our way back I'm just thinking of
13 people that I could call for some weed for him. And as I
14 was talking Clarence turned up the music and I was rapping
15 along with the music. That's when we got to the gas station
16 and we got the gas and stuff and went home.

17 Q. Were you angry in the car?

18 A. No.

19 Q. Were you looking for more weed?

20 A. Yes.

21 Q. Was Clarence Hush upset?

22 A. Yes, he was.

23 Q. Why?

24 A. Because his wife let him hold the car and as I was in
25 Lincolntonville I took longer than expected. I stayed in there

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 too long. And that is why he came to the door and was
2 rushing me. I didn't mean to take that long, but I was
3 waiting on them.

4 Q. Waiting on what?

5 A. On the weed, the extra weed. And it never came so.
6 And I had already been there for like almost an hour.

7 Q. So Clarence was upset?

8 A. Yes, he was.

9 Q. You stopped at the BP?

10 A. Yes.

11 Q. And then what did you do?

12 A. We got gas. I bought two cigars. And we went straight
13 to Wilmer Acres. And they dropped me off first, and then
14 they dropped Brandon off second. And then I guess Clarence
15 went home.

16 Q. And just to clear this up, does Brandon Cantrell live
17 in Wilmer acres?

18 A. Yes, he stays directly in the back of me.

19 Q. Is this a trailer park?

20 A. Yes, it is.

21 Q. Brandon Cantrell lives there?

22 A. Yes.

23 Q. Does Clarence Hugh live there?

24 A. Yes, he does.

25 Q. And your girlfriend at the time, Amber Wiley, does she

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 live there?

2 A. Yes, she does.

3 Q. Did you stay with Amber?

4 A. Yes, I did.

5 Q. Okay. What did you do when you got home?

6 A. I watched ESPN for a little while. And it was kind of
7 late so I didn't feel like smoking, and I just went to bed.
8 And got up the next morning.

9 Q. I'm going to back up just a little bit. What did you
10 wear out to Lincolnville?

11 A. Some blue jeans, a red thermal long-sleeve, and some
12 black Adidas with cleats on the bottom.

13 Q. Okay. So you went to bed. Did you ever get up during
14 the night?

15 A. No, I did not.

16 Q. Did you ever leave Amber's house?

17 A. No, I did not.

18 Q. What did you do when you woke up the next morning?

19 A. When we woke up the next morning we had an eviction
20 hearing to go to because we was getting evicted.

21 Q. And where was that?

22 A. In Goose Creek.

23 Q. What county do you live -- or what county does Amber
24 live in?

25 A. I believe it is Berkeley County because it is College

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Park. But Summerville is right by it. So I'm not sure.

2 Q. Where did you go to court?

3 A. In Goose Creek.

4 Q. Okay.

5 A. And I think that's Berkeley County.

6 Q. Okay. Did you go to the hearing with Amber?

7 A. Yes, I did.

8 Q. And where did you go when that was over?

9 A. After the hearing we went back home. And then Amber
10 called Lena -- I can't remember her last name. Bickman
11 or

12 Q. What did you call her?

13 A. I called her Lena.

14 Q. Who was she?

15 A. That's the girl ---

16 Q. How do you know her?

17 A. She -- I know her brother and I knew her from Woodside
18 Manor when I used to live there. Me and her brother we used
19 to work together for this guy that redoes parking lots. He
20 put down the ground foundation on a parking lot.

21 As a matter of fact, we did the parking lot in the
22 lawyer's office right across the street from here.

23 Q. Okay. Is Lena friends with Amber?

24 A. Yes. They consider their selves cousins. More like
25 sisters.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. Would Lena take Amber places?

2 A. Yes, that is why Amber called her so she could take her
3 to Charleston to see her probation officer.

4 Q. Was Amber on probation at the time?

5 A. Yes, she was.

6 Q. So Amber needed to be at her probation agent's office?

7 A. Yes.

8 Q. Who took her?

9 A. Lena took her.

10 Q. Did you go?

11 A. No, I did not.

12 Q. And in what type of car did Lena take Amber to
13 probation in?

14 A. In a silver Dodge Neon.

15 Q. Is that the car you know her to drive?

16 A. Yes.

17 Q. Do you ever drive that car?

18 A. No. I don't even know her well enough to drive her
19 car.

20 Q. But she would take Amber places?

21 A. Yes, she would.

22 Q. Did you go to the probation office?

23 A. No, I did not.

24 Q. What did you do?

25 A. I stayed home.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. And did what?

2 A. I was just, you know, watching TV like I always do
3 until, you know, I get some sales or something.

4 Q. You get some ...?

5 A. Sales, you know, ---

6 Q. Okay.

7 A. --- like for marijuana.

8 Q. But this day when Amber went to probation ---

9 A. Yes.

10 Q. --- did you stay at home?

11 A. Yes, I did.

12 Q. And do you remember what time her appointment was?

13 A. I think it was like 9:00 -- maybe nine o'clock in the
14 morning ---

15 Q. Okay.

16 A. --- or ten-ish; something like that.

17 Q. In the morning?

18 A. Yes.

19 Q. And so you were at the trailer alone?

20 A. Yes.

21 Q. Did you talk to people on the phone?

22 A. Yes. My phone started ringing. This guy named Brian
23 called me, a guy that Nikki used to mess with. He called me
24 and said that man, your name stink around here. I said what
25 are you talking about. He said man, Nikki said you killed

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Julio.

2 MS. SHEALY: I'm going to object to the hearsay, Judge.

3 THE COURT: Sustained.

4 BY MS. RUNEY:

5 Q. Your phone was ringing a lot, James?

6 A. Yes.

7 Q. And did you think the police would be looking for you?

8 A. One I heard -- well, once I saw it on the news and I
9 heard that a guy with a red shirt just left and coupled with
10 people were saying on the phone, I knew that they was coming
11 to look for me then.

12 Q. What time did you watch the news?

13 A. Twelve o'clock.

14 Q. Did you see a story on the news about this shooting?

15 A. Yes.

16 Q. Did that news story tell you who had been shot?

17 A. No.

18 Q. Did you know at that time who had been shot?

19 A. No, I did not.

20 Q. Did you find out from the phone calls that Julio had
21 been shot?

22 A. Yes, I did.

23 Q. Were you scared?

24 A. I was more like -- I was nervous because my name was
25 bordered to it and I couldn't understand why. So, you know,

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 I know that once your name is out there like that it is not
2 long before you go to jail.

3 Q. Did you run, James?

4 A. No, I did not.

5 Q. Where did you go next?

6 A. I walked across the street to my friend's baby mother
7 house. Her name is Diana. And I knocked on her door and I
8 said to her, I said did you see the news. She said yeah,
9 somebody in Lincolnville got shot.

10 So I said well -- she said I wonder who. I said man it
11 was Julio, and Nikki's going around telling people that I
12 did it. And she said -- I asked her did she know Nikki.
13 She said no. So ---

14 Q. Let me back up just a second. People had been calling
15 you?

16 A. Yes.

17 Q. On your cell phone?

18 A. Amber's cell phone. Because I had the food stamp cell
19 phone. And when you -- they only provide you with 250
20 minutes. So after that runs out the whole phone shuts off.
21 So I would use Amber's phone too.

22 Q. And you kept her phone at the trailer with you?

23 A. Yes.

24 Q. She didn't take it to probation?

25 A. No.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. Did she have a phone with her?

2 A. Yes, I would contact Amber through Lena's phone.

3 Q. If you needed her you would call Lena?

4 A. Right.

5 Q. Okay. I'm sorry to backtrack. You went over Deanna
6 Henderson's house?

7 A. Yes.

8 Q. What happened there?

9 A. After I asked her did she see the news she -- she asked
10 me. She said I wonder who got shot. And I told her Julio.
11 And again I told her I said Nikki's going around telling
12 people that I did it.

13 So I asked her did she know who Nikki was. She said
14 no.

15 Q. Who is Nikki?

16 A. Tawanda Alston.

17 Q. Okay.

18 A. So a gray Charger rolled past. And it looked kind of
19 suspect. So I asked her. I said have you ever seen a gray
20 Charger back here. Because she lived there before I even
21 got over to that side. So I said you ever seen a gray
22 Charger. She said yeah. She said somebody stay back here.
23 And I said go see where they are going at.

24 So by the time she got to the edge of the driveway
25 police was coming from everywhere. And I had the weed in my

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 pocket and I was sitting in on the chair on her porch that
2 she was going to throw away, and I stuffed the weed in the
3 corner of the chair because I didn't want to get caught with
4 it. And ---

5 Q. James, did you ever tell Deanna Henderson that if
6 anybody comes looking for me don't tell them I am here?

7 A. Well, actually I did because it was a situation that
8 took place.

9 Q. Was it that day you told her that?

10 A. No, it wasn't that day.

11 Q. When?

12 A. It was a situation that took place a couple days before
13 that. I sold this guy a bag of weed when I was standing in
14 her driveway and the dude was kind of slow.

15 And his girlfriend called me and said did you sell him
16 a bag of weed. I said yeah. She said I told him not to get
17 that weed. I said okay. She said I need that money back.
18 And I said it don't work like that. So she said well I need
19 that for gas, you know, to get to work tomorrow.

20 So I said well man just tell him to come around here.
21 So I went in there and I told her I said look if somebody
22 come here looking for me tell them I don't live here now.

23 Q. Okay. Now take -- take us back and tell the jury what
24 happened when the police came to Deanna's house.

25 A. When the police came they asked me my name and they

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 told me to put my hands up in the air like this (motioning)
2 and walk down the steps backwards.

3 And by the time I got my foot on the last step they
4 picked me up by my belt and slammed me on the ground. And I
5 was like man what is all this for.

6 And they just kept roughing me up. They never told me
7 anything. They got me in the handcuffs and then they put me
8 in the back of the -- an SUV at first.

9 So as I was sitting in the back of the SUV saw Lena and
10 Amber coming through in the silver Dodge Neon. They parked
11 in the yard. And I was trying to yell for Amber to come
12 into the car. And the police was telling her don't come
13 next to the car.

14 So as I was sitting back there I was like damn I've got
15 to tell this girl to get weed out that chair. So I call her
16 to the car ---

17 Q. When you say her, who are you talking about?

18 A. Deandra. So I call her to the car. I didn't know the
19 police was going to come with her, so I had to think of
20 another story real fast.

21 Although I was sincere about it, I told her that I was
22 sorry for having them come into her driveway. Because she's
23 got small kids. Although I was sincere but my intentions
24 were to tell her to get that weed out that chair before they
25 find it.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Because I knew they was going to go in there and search
2 for it. Because I was sitting in that chair when they came
3 to her trailer.

4 Q. So you are under arrest?

5 A. Yes.

6 Q. Are you aware that you are under arrest for murder?

7 A. No.

8 Q. At some point were you told that you are under arrest
9 for murder?

10 A. No.

11 Q. Where were you taken from there?

12 A. To Rivers Avenue at the Sherriff's Station.

13 Q. And did they place you in a room; where did they take
14 you at the Sherriff's Station?

15 A. They had me in a room interrogating me.

16 Q. Okay. Do you remember who that was?

17 A. Detective Perkins.

18 Q. Did they ask you to give a statement?

19 A. Yes, they did.

20 Q. And did you give a statement?

21 A. Yes, I did.

22 Q. And what did you tell the police?

23 A. I told him that I went to buy some marijuana. Excuse
24 me. I went home. I don't know if I told them I stopped at
25 the gas station or not.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. Okay. Did you tell them who took you?

2 A. Yes, I did.

3 Q. Okay.

4 A. And I told them that I went home. I think I told them
5 I watched TV and then I went to sleep.

6 Q. Detective Perkins didn't like that, did he?

7 A. No, he did not.

8 Q. How do you know that?

9 A. Because he told me that if I didn't tell him who did
10 it ---

11 MS. SHEALY: Objection to the hearsay.

12 THE COURT: Sustained.

13 BY MS. RUNEY:

14 Q. Did you know who did it?

15 A. No, I didn't.

16 Q. Did you tell Detective Perkins who did it?

17 A. No, because I didn't know. That's why he charged me.

18 Q. So after that you were charged with murder?

19 A. Yes.

20 Q. Did you go to jail?

21 A. Yes, I did.

22 Q. When you went to jail did you talk to Amber?

23 A. No, but I was looking for her.

24 Q. How were you looking for her if you were in jail?

25 A. I knew she didn't have a phone because she had -- I

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 want to back up for a second because I never explained to
2 y'all how she got her phone back.

3 When she came back from the probation office this was
4 after I saw the news. So I told her I was going to turn
5 myself in. So she asked me was I ready. And I said no, let
6 me brush my teeth and stuff first.

7 So she took her phone and went to the store and said by
8 the time they get back would I be ready. And I told her
9 yes. But all of this happened before she got back.

10 Q. You were arrested before ---

11 A. Yes.

12 Q. --- you could do that?

13 A. Yes.

14 Q. Okay. And did you try to call her from the jail?

15 A. Yes, I knew that her brother was still there. But what
16 I didn't know was that he was locked up. He got locked up
17 the same time I did. But I knew I could contact her through
18 his phone because we all stayed together.

19 Q. Did he get locked up in Charleston County?

20 A. No, Berkeley County.

21 Q. Okay. And you're aware that the phone calls at the
22 jail are being recorded?

23 A. Yes, I was.

24 Q. Is there a recording on there that lets you know that?

25 A. Yes.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. And who did you call to try to find Amber?

2 A. I called my friend to make a three-way for me.

3 Q. Did you get Amber?

4 A. No.

5 Q. How did that make you feel?

6 A. I was kind of depressed because I knew that now, you
7 know, she didn't have nowhere to go and we was getting
8 evicted and it really made matters worse when all those
9 police came there and the man kicked us out the parking
10 lot -- well, out of the trailer park.

11 Q. Any you knew you were in jail for murder?

12 A. Yes, by that time, yes.

13 Q. Did you know that they had seized Ms. Everlina
14 Bickman's car?

15 A. Yes, when I was in the police car Amber and Everlina
16 drove up and they parked along side of one of the -- one of
17 the police's SUVs.

18 And I saw Everlina standing in the street hollering
19 y'all taking my damn car, y'all taking my car. And then she
20 was looking at me like it was my fault.

21 And they -- I saw them when they hooked the car up to
22 the tow truck. And that's when Detective Perkins came and
23 put me inside of his car. And once I got inside his car
24 they was pulling the silver Dodge Neon off taking it to be
25 towed.

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 Q. When you called your friend what did you mean by they
2 took that girl's car?

3 A. Because they said that it was -- her car -- Detective
4 Perkins said that her car matched the description that was
5 at the -- at Lincolnville at the time of the incident.

6 Q. Did you think that they were looking for evidence to
7 try to link you to this murder?

8 A. Yes.

9 Q. And explain to me what you are talking about when you
10 say my phone is in that girl's car.

11 A. You know me and my girlfriend -- like I told y'all
12 before, my phone went dead. So we share the same phone.
13 You know, she don't have no problem with me using her phone.
14 Just like if I to have a phone I wouldn't have no problem
15 with her using it. And I knew that she left the phone in
16 the car.

17 Q. James, you told Detective Perkins what you knew; didn't
18 you?

19 A. Yes, I did.

20 Q. Did you go back over to Lincolnville to Carolina Avenue
21 for a third time?

22 A. No, I did not.

23 Q. Did you plan to shoot and kill Leland Shannon?

24 A. No, I did not.

25 Q. Did you shoot Leland Shannon?

DIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE

1 A. No, I did not.

2 Q. That all I have. Thank you, James. Please answer any
3 questions Ms. Shealy may have.

4 A. Yes.

5 THE COURT: Cross-examination.

6 MS. SHEALY: Thank you, Your Honor.

7 CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

8 Q. Mr. Rose.

9 A. Yes.

10 Q. You think you are pretty smart, don't you?

11 A. No, not really.

12 Q. You have had since January of 2010 to be getting your
13 story together, haven't you?

14 A. No.

15 Q. You got copies of all the witness's statements, didn't
16 you?

17 A. Yes.

18 Q. In fact you pitched a fit to get those witness
19 statements, did you not?

20 A. No.

21 Q. You didn't get irritated with your lawyer?

22 A. Excuse me?

23 Q. You didn't get irritated with you lawyer because you
24 didn't have ---

25 MS. RUNEY: Objection, Your Honor.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 THE COURT: Sustained.

2 BY MS. SHEALY:

3 Q. Tell the jury whether or not you have read Tawana
4 Alston's statement.

5 A. Yes, I have.

6 Q. How many times do you think you have read it?

7 A. I don't know.

8 Q. Five times?

9 A. Probably not.

10 Q. Twenty times?

11 A. Probably way less than that.

12 Q. Way less than that?

13 A. Yes.

14 Q. You've got other things to occupy your time while
15 you're sitting in jail?

16 A. Yes, I work in the county jail. I'm a unit worker.

17 That means I clean the showers. I clean the floor. I mop
18 the floor. And I get a dollar a day.

19 Q. So that is the first legal job you have ever had; is
20 that right?

21 A. No, not really. When -- back in '97 I moved to New
22 York and I found a job at this place called Clean Are Us.
23 They -- what they do is they've got contracts with stores
24 like Banana Republican, Express, Victoria Secrets.

25 And they -- if you work for them they let you clean --

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 well, you clean department stores, vacuum clean it and dust
2 mop it for dust bunnies and buff the floor. I did stuff
3 like that.

4 Q. Oh, you did; and that was back in '97?

5 A. Like '98 to '99.

6 Q. '98 to '99?

7 A. Yes.

8 Q. And you no longer wanted to have an honest job?

9 A. No, I moved back down here because of my situation in
10 New York City. And once I got here, you know, I couldn't
11 find a job.

12 Q. Okay. And you got back here when again?

13 A. Back in '99.

14 Q. So since 1999 you haven't been able to find a legit
15 job?

16 A. No, I haven't. As a matter of a fact, you know what,
17 when I came down here in '99 me and Tawanda Alston was
18 together then.

19 Because I thought that the last time we was together
20 was '97, but actually it was '99 because I got locked up and
21 she was in the car with me and my mother.

22 Q. She was in the car when you got locked up?

23 A. Yes.

24 Q. You pretty much have an answer for everything, don't
25 you, Mr. Rose?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. No, not everything.

2 Q. Well, let's go back over a couple of those statements.

3 How many times did you read Antoine Aiken's statements?

4 A. I don't know.

5 Q. But you read them and read them and read them, did you
6 not?

7 A. I had read them before. Because they are mine. And I
8 had read them. But I'm not a lawyer so.

9 Q. You don't usually dress this way, do you, Mr. Rose?

10 A. Actually ---

11 MS. RUNEY: Objection, Your Honor.

12 A. --- yes, I do.

13 THE COURT: Sustained.

14 BY MS. SHEALY:

15 Q. Deanna Henderson's statement, how many times did you
16 read hers?

17 A. I don't know. I can't recall.

18 Q. Joy Mills?

19 A. I can't recall.

20 Q. Okay. Now you told us that you have got several
21 brothers and sisters. Could you tell me their names again?

22 A. Yes, my brother's name is Siaed (ph) Rose which is back
23 there now next to my beautiful sister Malashia Rose. And I
24 have a brother named Jeffrey Dawan Robinson. He's in
25 Philadelphia right now. And I have another sister named

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Lady Simmons. Well, her last -- her maiden name is Rose,
2 but she got married while she was down here. But she's back
3 in Philly right now.

4 Q. So Jeffrey, he is tall?

5 A. Yes.

6 Q. He is thin?

7 A. Yes.

8 Q. And he is in Philadelphia?

9 A. Yes, he is.

10 Q. Now you told us that you were living in that trailer
11 park with Amber Wiley; she was your girlfriend?

12 A. Yes.

13 Q. And did Matt Wiley live there?

14 A. Yes, he did.

15 Q. Tell this jury, Matt Wiley is short and stocky; isn't
16 he?

17 A. I wouldn't say short. But he is stocky.

18 Q. And Sofia Wiley, his wife, lived in that mobile home
19 with y'all?

20 A. Yes, she did.

21 Q. And tell me has Amber Wiley come to see you at the jail
22 at all?

23 A. No, she hasn't.

24 Q. Has your brother Jeffrey come to see you at the jail at
25 all?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. No, he hasn't.

2 Q. Has Matt Wiley come to see you at the jail at all?

3 A. No, he hasn't.

4 Q. And has Sophia Wiley come to see you at the jail at
5 all?

6 A. No, she hasn't.

7 Q. Now you've told us that Amber and Everlina Bickman were
8 pretty much like sisters; is that correct?

9 A. That's my opinion.

10 Q. That they were tight?

11 A. That's my opinion, yes.

12 Q. And did you know that Everlina's boyfriend was furious
13 with her for letting Amber use her car so much?

14 A. I have no knowledge of that. I never see Amber drive
15 that car. Every time I seen Everlina she was taking Amber
16 somewhere.

17 Q. Okay. Well, you've told us about your relationship
18 with Brandon Cantrell. Let me clarify that. Not only did
19 you take that high schooler to go buy drugs, you also helped
20 him to be able to sell drugs; is that correct?

21 A. No, that's not correct.

22 Q. Well, didn't you tell us that he would buy some to
23 sell?

24 A. I'm guessing. You know that is just my opinion.

25 Don't ---

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. You testified ---

2 A. --- quote me on that.

3 Q. --- to it though?

4 A. Yes, but that's my opinion.

5 Q. And you swore on the bible, did you not?

6 A. Yes, I did.

7 Q. Okay. So then you would agree that not only did you
8 help a teenager use marijuana, you helped to put him in a
9 position to sell marijuana?

10 A. Well, actually I just met Brandon when I was around
11 there. I never knew how old he was. I never asked. We
12 just had a marijuana relationship. That's all.

13 Q. You didn't know he went to high school?

14 A. No, I did not.

15 Q. Didn't you refer to him as your little white friend or
16 little white guy?

17 A. Yes, because he's smaller than I am.

18 Q. And you were in this courtroom when he said that that
19 Neon was Amber's car?

20 A. The reason why he said that was because me, Matthew,
21 Sophia, and Amber stayed together. Matthew Wiley and Sophia
22 Wiley -- well, Sophia Wiley has the Neon that's gold. And
23 if you come there at nighttime it could look very much
24 similar to Lena's but it's just smaller.

25 And that guy would be so high all the time he could

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 have just an honest mistake.

2 Q. Okay. So you've ---

3 A. But ---

4 Q. --- got an answer for why Brandon Cantrell said that
5 the Neon was Amber's car; ---

6 A. Yes.

7 Q. --- you've got an answer for that?

8 A. Yes, it is.

9 Q. You've got an answer for that. And is it fair to say
10 that in that trailer park you were kind of the man for
11 drugs?

12 A. No, that's not fair to say.

13 Q. Well, where were you selling them? You said you would
14 sit around until you had some sales.

15 A. Right.

16 Q. Would you sell them outside the trailer park as well?

17 A. If need be, yes.

18 Q. Well, how did you get there?

19 A. Walking distance.

20 Q. So you sold your drugs within a walking distance?

21 A. Yes. Or people would come to me.

22 Q. Now tell us, Amber Wiley, she has a legitimate job;
23 didn't she?

24 A. Yes, she did.

25 Q. She worked at McDonald's?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

- 1 A. Yes, she did.
- 2 Q. And Sofia she had a legitimate job?
- 3 A. Yes, she did.
- 4 Q. She worked at McDonald's?
- 5 A. Yes, she did.
- 6 Q. What did Matt Wiley do?
- 7 A. He was a construction worker. He used to work for
- 8 Sophia's dad.
- 9 Q. And while those people would get up and go to work, you
- 10 would stay home and watch TV and make some sales?
- 11 A. Actually they had a kid staying with them and he didn't
- 12 have a babysitter, so it was more so I was like the sit-in
- 13 guy. I would clean the house, take care of the kid until
- 14 they would get off of work. And then I would go out there
- 15 and do whatever.
- 16 Q. How old is that child?
- 17 A. Nine.
- 18 Q. And was the nine-year-old with you when people come and
- 19 buy pot at the house?
- 20 A.. No, he wasn't.
- 21 Q. Was the nine-year-old would you take him when you would
- 22 go in walking distance to sell the drugs?
- 23 A. No, I would not.
- 24 Q. So you honored some type of daytime hours to watch the
- 25 kid?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. Yes.

2 Q. You've got an answer for that too, don't you? Now it's
3 fair to say that you were getting ticked off at Julio; is
4 that fair to say?

5 A. No, that's not.

6 Q. So when Deanna Henderson comes in and tells the jury
7 that you had been complaining about Julio the days up to the
8 24th, that is just incorrect?

9 A. Yes, it is.

10 Q. She just made that up?

11 A. No, actually me and Deannie, me and her boyfriend was
12 in prison together.

13 Q. You and who? I'm sorry.

14 A. Me and -- her name -- Henderson. Me and her. Me and
15 her baby father were in prison together. And we got out it
16 was like hey what's up man. You know, it was -- I haven't
17 seen him in like seven years since we've been in prison
18 together. So we used to play chess together.

19 And I got to talking to him one day about Julio raising
20 the price of the weed. And I was like man you don't know
21 nobody else. And she was basically eavesdropping on our
22 conversation.

23 Q. Oh, okay. So she was an eavesdropper?

24 A. Yes.

25 Q. But the conversation took place?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. Yes.

2 Q. So you were irritated with Julio that he was raising
3 the price?

4 A. No.

5 Q. It suited you fine?

6 A. Excuse me?

7 Q. It suited you fine?

8 A. I mean yes, it did because it wasn't mine. It wasn't
9 like I could do anything about it.

10 Q. Oh, but you tried to do something about it and did
11 something about it; didn't you, Mr. Rose?

12 A. No, I did no.

13 Q. You felt like Julio was cutting you out, didn't you?

14 A. No, I did not.

15 Q. He didn't want to deal with you anymore?

16 A. That's not true.

17 Q. Ya'll had words that night, did you not?

18 A. No, like I told them earlier, me and Rick Ross had the
19 words. Me and Julio I just told him that I wouldn't --
20 wasn't going to pay that much for no brown marijuana because
21 the people I sell marijuana to like green marijuana.

22 And I told him I wasn't paying no \$120 for no 20 grams
23 of marijuana. So Rick Ross jumped in my business and me and
24 him had words. And that's the same thing I told Detective
25 Perkins.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. You didn't put that in your statement, did you?

2 A. Well, no. But I told him that verbally. And it was
3 recorded and audio too.

4 Q. Recorded, audio?

5 A. Right.

6 Q. He gave you the sheet of paper and let you write what
7 you wanted to, didn't he?

8 A. He, he did.

9 Q. But you didn't write that down?

10 A. No, I didn't.

11 Q. And you and Julio and even Brian Williams y'all were
12 boys growing up together in Lincolnville, weren't you?

13 A. No, I'm from Philadelphia. And I never grew up down
14 here in Lincolnville. I met them once I came to South
15 Carolina. And I know Brian Williams from being around here.
16 I know he's a real good guy. And I met Julio through buying
17 marijuana. But as far as us growing up together, we never
18 grew up together.

19 Q. Okay. Well, Brian Williams has done well for himself;
20 is that fair to say?

21 A. I guess. I don't ---

22 Q. Do you know where his house is?

23 A. I don't know his background or nothing like that.

24 Q. Did you know where his house was?

25 A. Yes. Yes.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. And he lives in a nice house; is that correct?

2 A. I mean you -- I guess.

3 Q. And he worked as a barber and as a truck driver?

4 A. I have no idea.

5 Q. Julio was doing better than you were, wasn't he?

6 A. I can't say because I would be giving an opinion and it
7 wouldn't be factual. So I can't say. Because I wasn't
8 doing bad myself. I was just, you know, getting marijuana
9 and doing my little thing. But I wasn't like no drug
10 kingpin or nothing. I was just trying -- trying to survive.

11 Q. Let's talk about the survival. Amber who is working,
12 Sophia who is working, and you say Matt Wiley was working.
13 They were getting kicked out of the mobile home, weren't
14 they?

15 A. Yes.

16 Q. And you didn't want to go get a real job and help them
17 out?

18 A. That's basically why I was selling marijuana because
19 Amber's job, which was my girlfriend at the time her job --
20 her hours were part-time. Plus she was on child support.
21 And they was taking 50 percent on her check.

22 So we had to make a way somehow. And that's the only
23 way we could make ends meet. And I couldn't get a job for
24 the simple fact that I'm a convicted felon and I was on the
25 run at the time for not showing up for court on time.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. Let me make sure I got that straight. I think you told
2 us that the last legitimate job that you had other than
3 while you've been in the jail was in '99?

4 A. Yes.

5 Q. You were selling weed way back then too, weren't you?

6 A. I have.

7 Q. Okay. So you're not telling this jury that you just
8 all of a sudden started selling pot to help make ends meet?
9 Or are you?

10 A. I don't understand your question.

11 Q. Didn't you just tell this jury that the reason you were
12 selling pot is because - and you turned to them - because I
13 needed to help with the expenses?

14 A. Yes, that's true.

15 Q. But in fact, you have been dealing drugs for a number
16 of years; isn't that true?

17 A. I wouldn't say a number of years. That's not true, no.
18 But I have sold marijuana before '99. Because it is not
19 like that I'm, I'm doing real good and was able to hold a
20 job down or -- I was out on my own since I was 14 and came
21 down here.

22 So I guess you could relate to the struggle. I didn't
23 have like a steady family that I could depend on. I always
24 had to depend on myself.

25 Q. Did you just tell this jury that you were holding down

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 a steady job?

2 A. No, I did not.

3 Q. You didn't just say you were holding down a steady job?

4 A. No, I did not.

5 Q. Okay. Now that evening when you went over with Brandon
6 and Hush, first of all, you thought those guys would stick
7 by you; didn't you?

8 A. I'm not sure of the question you're asking.

9 Q. You thought they were loyal to you and were your
10 friends?

11 A. No, because I don't even know them. I just met them in
12 that trailer park. And I couldn't tell you none of their
13 names prior to me receiving the motion of discovery with
14 their statements and they name -- government names on it.

15 Q. Well, let's go back to this. You had told this jury
16 that when you finished up at Julio's that second time that
17 day you went, the first time that night, that when you got
18 in the car you weren't irritated?

19 A. No, I wasn't.

20 Q. You weren't mad?

21 A. No, I was.

22 Q. Well, why did you say to Clarence Hush that you were
23 going back to get your respect back?

24 A. Again, I didn't tell him that. The -- he turned up the
25 radio and we was listening to "T-I". And I was singing some

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 of his lyrics on the radio. And I said -- and he must have
2 misquoted me. But if -- if I would have said something to
3 that nature I'm sure Brandon Cantrell would have heard the
4 same thing. I never nothing like that. I was just quoting
5 music.

6 Q. Just singing lyrics?

7 A. Yes.

8 Q. So when Clarence Hush came up here you could tell he
9 didn't want to be up here, couldn't you?

10 A. I'm not sure. I don't really study nobody's demeanor
11 like that.

12 Q. You don't?

13 A. No.

14 Q. That night you're telling the jury that you went home
15 and went to sleep after you were dropped off by Mr. Hush; is
16 that correct?

17 A. That's correct.

18 Q. Was Amber there?

19 A. Yes, she was.

20 Q. Was Sofia there?

21 A. I don't know. Because me and Amber stays in one room.
22 And down the hall is the master bedroom. And Matthew and
23 Sophia stays in that room with the door closed all day. And
24 so we rarely have contact with each other.

25 Q. Y'all rarely have contact with each other?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. Yes, other than passing by each other. Like when we
2 cook breakfast we eat separately. Things like that.

3 Q. When Ms. Runey was asking you about how you knew
4 Antoine and how you knew Tawana. Are you telling this jury
5 that because Tawana said you might be the father of her
6 child she is coming in here and just lying on you?

7 A. No, Tawanda actually has a history of lying. That's
8 all she does. I remember it was a time where she robbed my
9 sister out of \$1,800. And the only reason why my sister let
10 her stay with her is because of me. And I used to deal with
11 her back in the past.

12 And one day -- one night my sister fell asleep. And my
13 sister liked to leave her money on her dresser. Tawanda
14 snuck in her room and took the money and called a cab and
15 left. And then she tried to call the police and make a
16 report that said that my sister tried to threaten her.

17 Q. Okay. So that story that you just told, does that have
18 anything to do with the question I asked you?

19 A. No, I was just ---

20 Q. Telling the story?

21 A. Yes.

22 Q. When you gave your statement to the police that night
23 did you tell them look you cannot believe Tawana Alston?

24 MS. RUNEY: Objection, Your Honor.

25 THE COURT: What is the basis for your objection?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 MS. RUNEY: Pitting the witnesses.

2 THE COURT: Sustained.

3 MS. SHEALY: May we approach just for a moment?

4 (WHEREUPON, bench conference as follows:)

5 MS. SHEALY: I asked him when he was talking to the
6 police that night did he tell them that. That's not -- I'm
7 not asking -- I'm not pitting him against her. I'm asking
8 did he tell the police that.

9 THE COURT: Did he -- did he tell them that?

10 MS. SHEALY: No.

11 THE COURT: Okay. Well, sustained.

12 (WHEREUPON, end of bench conference.)

13 THE COURT: Sustained.

14 MS. SHEALY: Sustained?

15 THE COURT: Yes.

16 MS. SHEALY: Okay.

17 BY MS. SHEALY:

18 Q. Mr. Rose.

19 A. Yes.

20 Q. Was there any reason that you were staring at Tawana
21 when you were telling that to Ms. Runey?

22 A. Excuse me?

23 Q. When you were telling Ms. Runey about how Tawana one
24 time said you were the father of her child you were staring
25 right out at her. Was there a reason for that?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. Maybe you thought I was staring at her, but I was just
2 looking out into the crowd.

3 Q. When you were talking about Joy you would agree that
4 she had not been around Julio's for a long time; is that
5 correct?

6 A. I can't agree to that, again, because I don't know. So
7 I can't agree to something I don't know -- have no knowledge
8 of. So I don't know.

9 Q. Well, let me ask it this way: You had not seen Joy in
10 a long time?

11 A. Me personally?

12 Q. Yes.

13 A. No. I seen her when she was a little baby or three
14 years old maybe.

15 Q. And when you -- when you would go over to Julio's,
16 before that night you didn't see Joy over there?

17 A. Can you say that again, please.

18 Q. Before the night in question when you would go over to
19 buy drugs from Julio, Joy wasn't there?

20 A. I don't know.

21 Q. You just took note over that night?

22 A. I -- like I said, when I saw her, that was like my
23 first time seeing her since she was three. I don't know if
24 she was in the trailer or not.

25 Q. On those earlier occasions?

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 A. I don't know if she was there or not.

2 Q. Okay. And you've told the jury you knew Ishmal as a
3 kid?

4 A. Yes. He was -- he's like a kid that tries to act
5 grown.

6 Q. Now you've told us -- on the one hand you've told us,
7 you know, that you were making due by selling drugs?

8 A. Yes.

9 Q. And then you told us that there was an eviction
10 hearing; is that correct?

11 A. Yes.

12 Q. And you didn't have a car?

13 A. No, I do not own a car.

14 Q. How did you and Amber get to that evidence hearing that
15 morning?

16 A. It's a guy that lives around the corner and we paid him
17 \$10 to take us to Goose Creek.

18 Q. You didn't tell that when Ms. Runey was asking you
19 questions, did you?

20 A. No, because she never asked me.

21 Q. And did tell us that you called Clarence Hush Sea Dog
22 or Unk?

23 A. Yes.

24 Q. Now on your second visit to Julio's house that night
25 when you left you had been in there for an hour; is that

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 correct?

2 A. Approximately.

3 Q. And during that hour you never came to a successful
4 conclusion with Julio, did you?

5 A. I bought the weed anyway. It just wasn't enough for
6 Brandon because he wanted some also and it wasn't enough.

7 Q. And you're telling this jury that you deny getting back
8 in the car and being mad at Julio?

9 A. Yes.

10 Q. And when you got back in that car you had to listen to
11 Clarence Hush complain the whole time about keeping him
12 waiting?

13 A. That's correct.

14 Q. And he was complaining about how his wife was giving
15 him a difficult time?

16 A. That's correct.

17 Q. So you didn't have a good situation with Julio in the
18 house, Clarence is complaining, you can't find any pot; and
19 you're telling this jury that when you said I'm going to get
20 my respect back, it was lyrics?

21 A. Like I was telling y'all earlier that I had marijuana,
22 I just couldn't find none for Brandon. And yes, I was
23 rapping the TI song. I don't know if y'all are familiar
24 with it. But some of his lyrics he said I don't know what
25 you do for your respect but I'll die for mine.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 And, you know, like I said, maybe he misquoted me or
2 something. He doesn't listen to the same type of music we
3 do. So I guess he was just trying to just drown us out
4 because he was made that I took longer than expected.

5 Q. And those lyrics say I'll die trying?

6 A. No, it says I don't know what you will do with your --
7 for your respect, but I will die for mine.

8 Q. I will die for mine?

9 A. Yes.

10 Q. Now you were telling us that you were using a food
11 stamp cell phone?

12 A. Yes.

13 Q. Did you use a food stamp cell phone to make your drug
14 deals?

15 A. Um, no, because the way that phone works is that you
16 have 250 minutes and the minutes run even when somebody
17 calls you. So no, I was trying to hold on to that -- those
18 minutes as long as possible when I really need it for
19 emergencies like talking to my mother or my family members.

20 Q. Okay. Now was your testimony with Ms. Runey that
21 Detective Perkins made the decision to arrest you for murder
22 because you wouldn't tell him who else was involved?

23 A. Yes, that's what he told me. He said ---

24 Q. That he was going to arrest you?

25 A. --- that if I didn't tell him who did it he was going

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 to charge me for it. And that's what he did.

2 Q. Okay. So the only reason that Detective Perkins
3 charged you with murder is because you wouldn't tell him the
4 other people?

5 A. Yes.

6 Q. Otherwise he was going to let you walk out?

7 A. I have no idea. But that's what he told me, if I don't
8 tell him who did it he was going to charge me for it. And
9 that's what he did.

10 Q. Now on that phone call from the jail ---

11 A. Yes.

12 Q. You've got a reason for everything don't you?

13 A. Not everything.

14 Q. Well, you were worried about DNA being in that car;
15 were you not?

16 A. No, I was not.

17 Q. You were not worried?

18 A. No, not at all.

19 Q. And when you say - and I'm quoting: My phone is inside
20 that shit. Well, not my phone but the phone I was using is
21 inside there.

22 A. Right, what I meant by that is that -- you know, I
23 didn't get into full detail. Because when you come in here
24 and intake you've got to go through processing. And they --
25 like after a certain amount of hours they dress you out and

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 take you upstairs. So I really was limited on that phone
2 call.

3 And the reason I called him was because I was trying to
4 get in touch with Amber and I knew that her phone was inside
5 of that car. So when I say my phone, I mean our phone. I
6 wasn't really concentrating on the choice of words I was
7 using.

8 But when I said my phone, I meant our phone. Because I
9 took -- I explained to y'all earlier that my phone went dead
10 so I use her phone. I don't have a phone that you pay the
11 bill every month. I just had the free food stamp phone.

12 Q. The food that the government gives to people who
13 don't -- can't afford a phone?

14 MS. RUNEY: Objection, ---

15 A. Yes.

16 MS. RUNEY: --- Your Honor.

17 THE COURT: Sustained.

18 BY MS. SHEALY:

19 Q. Mr. Rose.

20 A. Yes.

21 Q. In that phone conversation you say you don't want to
22 talk to the dude.

23 A. Yes, I was talking about her brother. Again, I didn't
24 know her brother was in jail at the time and that was his
25 phone. Because me and him we really don't see eye to eye.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 One time we got into something in front of his mom's
2 house. And so we don't really see eye to eye like that.
3 And that's what I mean when I said I don't want to talk with
4 the dude. I'm talking about her brother. Because I had --
5 when I placed the phone call I had my home boy call her
6 brother's phone on three-way.

7 Q. Mr. Rose.

8 A. Yes.

9 Q. You were furious when you left Julio's with Brandon and
10 Clarence in the car, were you not?

11 A. No, I was not.

12 Q. You sat there seething thinking that Julio had
13 disrespected you; ---

14 A. I didn't ---

15 Q. --- is that correct?

16 A. No, that's not correct.

17 Q. You found two guys to come with guns and masks and join
18 you back at that house; isn't that correct?

19 A. That's incorrect.

20 Q. So the fact that there is testimony regarding a Dodge
21 Neon ---

22 MS. SHEALY: Objection, Your Honor. Asking the witness
23 to comment on the testimony.

24 THE COURT: Sustained. Rephrase your question.

25 BY MS. SHEALY:

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. Mr. Rose.

2 A. Yes.

3 Q. Is it just a coincidence that right outside your
4 trailer park the next day is parked a Dodge Neon?

5 MS. RUNEY: Objection, Your Honor.

6 THE COURT: Y'all approach.

7 (WHEREUPON, bench conference was had 11:20 a.m. as follows:)

8 THE COURT: You are venturing into arguing instead of
9 asking him questions. You can -- you need to lead with a
10 question, not try to testify. All right. Any other
11 objection?

12 MS. RUNEY: No.

13 THE COURT: All right. That objection is sustained.

14 (WHEREUPON, end of bench conference.)

15 THE COURT: Sustained.

16 BY MS. SHEALY:

17 Q. Mr. Rose.

18 A. Yes.

19 Q. Had you ever gone over to Julio's house before in the
20 Dodge Neon?

21 A. No.

22 Q. And that day that you got arrested later that morning
23 there was a Dodge Neon parked outside your trailer; is that
24 correct?

25 A. No, that's not correct.

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 Q. That's not correct?

2 A. No.

3 Q. And when you went back over to Julio's that night you
4 didn't care who was inside, did you?

5 A. Excuse me?

6 Q. On that third time that you went back with your two
7 guys you didn't care who was inside, did you?

8 A. I never went a third time.

9 Q. Did you walk out of the door right as Tawana was going
10 to smoke a cigarette?

11 A. I don't recall that.

12 Q. You don't recall that?

13 A. No.

14 Q. Do you recall getting into the Dodge Neon with your two
15 guys and leaving?

16 A. I've never been in a Dodge Neon.

17 Q. You've never been in a Dodge Neon?

18 A. No.

19 Q. So Everlina Bickam who is like a sister to your
20 girlfriend, you have never been in her car?

21 A. Never.

22 Q. And did you direct your guys, the stuff in the back, at
23 Julio's?

24 A. I never been there a time -- time with nobody other
25 than Clarence Hush and the white guy. That's the only time

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 I've been there at nighttime.

2 Q. Antoine Aiken asked you when you arrived in that Neon
3 who were the guys in the car; and you wouldn't tell him,
4 would you?

5 A. I've never been in a Neon.

6 Q. You make sure that all three of y'all had weapons, did
7 you not?

8 A. I never owned a weapon.

9 Q. You have never owned a weapon?

10 A. No.

11 Q. Mr. Rose, you've been sitting at that jail trying to
12 figure out a response for everything; haven't you?

13 A. No.

14 Q. When Deanna Henderson approached the car and she said
15 did you shoot Julio did you go (motioning)?

16 A. First of all, I don't know if she was listening or
17 y'all was paying attention that I was explaining why I
18 called her to the car and the police came with her.

19 So if I was to do something like that or she asked me a
20 question like that, the police would have known about that.

21 Q. You have an answer for that as well, right, Mr. Rose?

22 A. No, well, I'm just stating the facts, you know, that a
23 police officer escorted her to the car and that's when I
24 told her that I was sorry for bringing cops in her yard like
25 that. Because she has two small kids. And she told me, she

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 said that okay, write me when you get to jail. She never
2 said nothing like that.

3 Q. So you're saying ---

4 A. Up until trial.

5 Q. --- you and Deanna Henderson were buddies?

6 A. No, I'm not saying that.

7 Q. But y'all were going to be pen pals?

8 A. No, I said that's what she said. I told you earlier
9 that that was just something that came out real quick
10 because I wanted -- I really wanted to tell her to get the
11 weed out that chair before them cops see it in there.

12 MS. SHEALY: Your Honor, may we approach for a moment?

13 THE COURT: You may.

14 (WHEREUPON, bench conference as follows:)

15 MS. SHEALY: Your Honor. He does have an unlawful
16 carrying of a weapon charge. He has testified that he has
17 never owned a gun. I think he has opened the door to that.

18 THE COURT: Anything on that? I think he has opened
19 the door.

20 (Counselors conferred.)

21 THE COURT: Do you have the indictment or any of the
22 information?

23 MS. SHEALY: No, I don't or any other information.

24 MS. RUNEY: There is a charge for a knife. That is
25 something other I think it would unlawful carry of a pistol

CROSS-EXAMINATION BY MS. SHEALY OF JAMES ROSE:

1 how they list it on the rap sheet.

2 THE COURT: Okay. If you have to establish that it was
3 a handgun pistol then I will let you do it. But other than
4 that, I don't think we can, okay. Thank you for
5 approaching.

6 (WHEREUPON, end of bench conference.)

7 BY MS. SHEALY:

8 Q. Mr. Rose.

9 A. Yes.

10 Q. I have nothing further.

11 THE COURT: Okay. Redirect.

12 REDIRECT EXAMINATION BY MS. RUNEY OF JAMES ROSE:

13 Q. James, have you ever hidden the fact that you sell
14 drugs?

15 A. No, I have not.

16 MS. RUNEY: That's all I have. Thank you.

17 THE COURT: Okay. Sir, you may step back to the table.
18 Thank you.

19 MR. ROSE: You are welcome.

20 THE COURT: Yes, ma'am.

21 MS. RUNEY: The defense rests.

22 THE COURT: Okay. Ladies and gentlemen, the defense
23 has rested. I need to take up a few matters with the
24 attorneys. And now would be a good time for you to
25 midmorning break. Please do not discuss the case yet.

CLOSING BY MS. RUNEY

1 and the defense have rested. We've reached the point in the
2 trial where you will hear the closing arguments of the
3 attorneys and then we will have the charge on the law. So
4 I'm going to call on Ms. Shealy and Ms. Baldwin or Ms.
5 Runey.

6 MS. RUNEY: Thank you, Your Honor.

7 CLOSING BY MS. RUNEY:

8 Things were normal that day. Normal days don't make
9 for a murder. Lots of people were coming and going, buying
10 and selling of drugs, partying, celebrating, drinking,
11 hanging out, joking, and smoking, taking shots.

12 James Rose participated in this too. He went there to
13 buy weed. And he told you that. And he went there twice
14 that day. And when this shooting happened his name is the
15 first one mentioned.

16 And things escalate from there. It is like a chain
17 reaction, dominoes. First mentioned by Tawana Austin. And
18 I told you when we started this trial there could possibly
19 be many surprises during this case. She has told so many
20 stories. So many stories that you cannot believe her.

21 She told police the same day that this happened that
22 Onyx held a gun to her face, that he is the one that said
23 freeze Bitch. She had it out for him then. They show her a
24 lineup, circles it right there, James's picture. He is the
25 one, he is the one that told me to freeze Bitch.

CLOSING BY MS. RUNEY

1 She gives a description to the police of the shooters.
2 She says James is there. There is a tall guy with a gun, a
3 short guy with a gun and a driver. Four people. You didn't
4 hear anybody else talk about four people there.

5 And that is what detectives ran with. You heard from
6 Detective Perkins, the case agent. He testified at the
7 preliminary hearing that that is what they base the arrest
8 on.

9 A preliminary hearing is a hearing that is used to
10 determine whether there is probable cause to arrest
11 somebody. And that's the evidence that he used it.

12 But that is not what you heard from her in here. And
13 now she tells you that she didn't tell the truth. She told
14 you that was wrong, that James didn't hold a gun to her face
15 and that James wasn't the man who said freeze Bitch.

16 He was the first person I saw. The first person you
17 saw? So that is how you decide to pin a murder on somebody?
18 She leaves, leaves the Sheriff's Department and goes back
19 with her friends. Her same friend that is also a witness in
20 this case.

21 And when she is picked up again by the police and taken
22 back to the Sheriff's Department that wasn't by her own
23 choice. And suddenly what she has to say is different. I
24 think within 24 of when this happened.

25 She told you this was the talk of the town, the talk of

CLOSING BY MS. RONEY

1 Lincolnville. And she was out there spreading James Rose's
2 name. Antoine is taken in and he is shown a lineup. He
3 looks at photographs of six people. James Rose is in there,
4 right there in the middle, the third picture.

5 Does he pick him out? No. Hours later. And he
6 doesn't even tell the man that he says is responsible for
7 this. Oh, I didn't tell because I was going to take it into
8 my own hands. A want-to-be killer, I will just kill who is
9 responsible for this.

10 He is picked up again walking down the street, going
11 home to wash up. Isn't that convenient. And now is when he
12 tells the police that James Rose orchestrated this plan for
13 these men who are dressed in black, wearing masks, to come
14 in and shoot Leland Shannon.

15 And you know why he didn't tell the police it was James
16 Rose? Because it wasn't.

17 And you know why he never even told the police those
18 words that he is now saying that James said? Because it
19 didn't happen. He didn't say those words.

20 Now two years later Antoine Aiken is going to come in
21 here and tell you that James was telling them what to do and
22 afterwards he is telling them to hurry?

23 Those are things you remember. You remember it after
24 it happened. Joy never saw James. She told the police
25 that. She told the police that two masked men came in her

CLOSING BY MS. RUNEY

1 room.

2 And all of this worked for the detectives. It was
3 easy. They could go arrest James and be done with it. It
4 was an easy arrest. Pick up the man that Tawana Alston said
5 did this.

6 When in fact the story that is used to prosecute him
7 later is completely different. It was easy, easy not to
8 check their stories out. And what I mentioned to you in
9 opening is that it is scary, scary that a man can sit at
10 that table and look at being prosecuted for murder, losing
11 his freedom. That's scary. Losing your freedom from
12 witnesses who can't even tell the truth. That James
13 murdered somebody for some weed, some brown weed, that he
14 was getting charged too much. Yet none of this was
15 mentioned to the detectives. Nothing about any argument
16 over the price of weed.

17 And you know what, it is pretty obvious. It's pretty
18 obvious that Detective Perkins he doesn't care about this
19 case. He did the interviews that he is supposed to do,
20 showed them the lineup, came back and got a name on a second
21 interview, and ran with it.

22 And as I said earlier, not a thing was done to verify
23 these accounts. Not Tawana's, not Antoine's, not Joy's.
24 There were even other people there that weren't even
25 interviewed.

CLOSING BY MS. RONEY

1 Ishmal Weston was an eyewitness, and the police don't
2 interview him? Why is that? You heard a 911 call. I don't
3 know that Detective Perkins had even listened to that 911
4 call.

5 He didn't know that Brian Williams had called the
6 police. Brian Williams is across the street. Tawana runs
7 over there is banging at his door. Yeah, he is a witness.
8 He goes back over to the scene. Nobody ever talks to him.

9 And had he interviewed Brian Williams he would have
10 learned an important fact. Tawana told you that she jumped
11 under the porch and she ran. She heard shots. She even
12 said that she does not know what happened inside the
13 trailer. She could not see. And she did not see Julio get
14 shot.

15 But you know what Brian Williams said to you? He said
16 that Tawana was banging on the door screaming. At that time
17 he didn't know who she was. She screams Julio is shot,
18 Leland is shot. How did she know this? An important thing
19 to find out in investigating a murder.

20 Is it because she knew this was going to go down? Did
21 she scream to get Julio to come to the door? She knew he
22 had been shot without even seeing anything happen. What is
23 the real story?

24 They didn't find any drugs in the trailer. Okay, fine.
25 We all know that they were dealing drugs. We all know James

CLOSING BY MS. RUNEY

1 went there to buy the drugs. But what makes that fact
2 important is that Detective Perkins didn't even know. It is
3 your case. Trying to put the putting somebody away from
4 murder aren't you going to know your file, know your case?

5 The same as the preliminary hearing I asked about,
6 solely depending on the inaccurate accounts of Tawana Alston
7 and Antoine Aiken.

8 A lot is going to be made about what James Rose did the
9 next day. He knew the police were coming to look for him.
10 Word travels fast especially about things like this. He
11 goes over to his neighbor's house. And there is going to be
12 some debate about did James ask her who got shot or did she
13 ask James who got shot and somebody says that it was Julio.

14 Yeah, they knew that. People were calling. Things
15 were on the news. And James knew people were calling his
16 name. And then when the real shooters are never arrested,
17 nobody does anything to track them down, James is the
18 natural assumption. Somebody is going to pay.

19 Antoine Aiken told you this is what happens when you
20 buy and sell drugs, you negotiate the price. It is not like
21 going to the Harris Teeter picking out something you want,
22 looking at the price and paying for it. That's what drug
23 dealers do.

24 He also told you that he had heard these discussions
25 between Julio and James a lot and that this was nothing out

CLOSING BY MS. RUNEY

1 of the ordinary. It's normal, not something you would kill
2 over.

3 Clarence Hush was mad at James. Mad at James because
4 he was taking too long, and his wife was going to be furious
5 with him. She was lighting up his phone.

6 So he went to the door to find out when James was
7 coming. And a big black guy in a green shirt answered the
8 door. A green shirt.

9 James comes to the car. Brandon Cantrell is in the
10 back. He doesn't have the weed for Brandon. So he is on
11 the phone calling trying to get a 15. Again, not something
12 you're going to kill over.

13 And you better believe if that video from the BP showed
14 James Rose all hyped up mad that you would have seen it in
15 here. He's sitting in the car calling for more weed for his
16 little white boy in the back.

17 I'm going to backtrack a little bit. Clarence Hush.
18 In a hurry to get home, goes to the door. The man is in a
19 green shirt. I'm going to tell you it is not just a
20 coincidence that Joy says one of the guys that comes in her
21 room in a mask with a shotgun has on a green shirt.

22 There are so many things about this case that don't
23 make sense. If Joy now says that she recognizes that voice
24 that she heard in her room that that was James Rose's voice,
25 when in the world did he go and get a gun and put a mask on

CLOSING BY MS. RUNEY

1 and why in the world would he come in there without a mask
2 and then put one on?.

3 I am not saying that Joy is lying. I'm not saying that
4 she intentionally came in here to try to lie on James Rose
5 or to frame James Rose.

6 She lost her father. She saw a horrific scene when she
7 left that bedroom. She wants somebody to be responsible.
8 It is human nature.

9 When this happens of course she is hysterical. She is
10 in the midst of a nightmare. If she had heard James Rose's
11 voice and recognized it, she would have told the police
12 that.

13 I don't think she thought to herself oh now I'm going
14 to say it is James. It can't sit well with her that two
15 people who shot her father are still out there, that nothing
16 has been done to find them.

17 It is easy to want somebody to be responsible. And now
18 that we are in this trial and that James Rose has been
19 arrested and James Rose sits at that table, it is easy to
20 think that that was his voice. But that should not be the
21 evidence that allows for James to sit here facing a murder
22 charge.

23 The real killers are still out there. And nothing has
24 been done. Clarence Hush told you he made a mistake on his
25 statement so he called the police, called the detectives to

CLOSING BY MS. RUNEY

1 say I told you the wrong time. And that was confirmed with
2 the video from the BP.

3 And you know what they told him? Don't worry about;
4 it's not important. What else did they say that about? It
5 doesn't matter; it's not important.

6 And you heard the same thing that I did, detectives are
7 busy. Detectives don't communicate well. Communicate.
8 Isn't that part of their job to communicate, to collect
9 evidence.

10 And you know what, in their -- in this case there is no
11 evidence that links James Rose to this murder. Nothing.
12 Nothing that the Charleston County Sheriff's Office Evidence
13 Unit, Crime Scene Unit, whatever you want to call it, did to
14 link him there.

15 And I know and I understand that you can't always find
16 fingerprints, you can't always find DNA. But there is
17 nothing. Nothing at James's house, no guns that are linked
18 to the murder or James, no blood found on anything that
19 belongs to James.

20 That was a brutal murder. You saw those terrible
21 pictures. There is blood everywhere. And if James was
22 involved in this murder he would have blood on him.

23 And if he wasn't standing right there in that small
24 area, you don't think that there would be blood in the car
25 from the shooters? You did not hear one thing about any

CLOSING BY MS. RUNEY

1 blood in that car. You know why? Because that is not the
2 car. And a big deal is going to be made about that car.

3 You didn't see any pictures of the Dodge Neon that
4 belonged to Everlina Bickman shown to Antoine Aiken or
5 Tawana Alston. Neither one of them were asked is this the
6 car you saw. And they weren't asked because it wasn't the
7 car.

8 We heard about a lot of stuff. And you are going to
9 get a lot of stuff back there with you. But nothing puts
10 James Rose killing Leland Shannon. In fact, you will see a
11 picture of some shotgun shells that were in the trailer at
12 Carolina Avenue, several red shirts that were collected at
13 James's house.

14 The house was a mess. There were clothes everywhere.
15 Nothing came of those shirts. No blood on his shoes, his
16 shoes that he left right outside.

17 Now if you had just committed a murder would you leave
18 your shoes right outside your door? You will have these
19 pictures. But this car is a mess.

20 This car was seized the very next day. Nobody cleaned
21 this car out. Nobody tried to wash blood out of this car.
22 And you know why? This car wasn't used.

23 Oh, and a big deal is going to be made about these
24 keys being in the car. And you know why these keys are in
25 the car? Because Everlina Bickman drove this car up to

CLOSING BY MS. RUNEY

1 Cindy Lane and the police pulled her out of it. So the keys
2 are in it.

3 There was a lot of blood and the pathologist told you
4 that Leland Shannon was shot in the leg at close range.
5 Three feet. Three feet from the muzzle of the gun to the
6 surface of the skin. And don't you know there was a lot of
7 blood.

8 There was blood dripping from the skill saw. There's
9 blood dripping on the wall. There is no way that this
10 shooter did not have blood all over him.

11 Touch-DNA, the handles of the car. It is not James
12 Rose's DNA. I don't know who it is. And they're going to
13 make a big deal about only two handles were swabbed for that
14 DNA. And let's blame it on SLED too. SLED's fault that
15 only two swabs of the four went up there?

16 SLED doesn't decide what they test. Detectives in
17 crime scenes do. And they made the decision not to send all
18 of those swabs.

19 And you know why they didn't send all of them? Because
20 it didn't matter because it wasn't in the car that was used.
21 They knew this wasn't the car they were looking for. This
22 car is a distraction, a distraction for an already weak
23 case.

24 And don't you think if you had used a car to commit a
25 murder you surely wouldn't have it around you or your house,

CLOSING BY MS. RUNEY

1 have it driven right up to your neighborhood where you now
2 know that the police are looking for you.

3 And you sure didn't hear from Ms. Everlina Bickman who
4 owns the car. Because don't you know that Everlina said
5 yeah that's my car outside with the keys in it or yes I let
6 James Rose use my car. Don't you think you would have heard
7 about it? You didn't.

8 You didn't hear it because she didn't say that. We
9 didn't even hear from a police officer that was there when
10 this car was taken into custody.

11 Ms. Meyer who works in crime scene said that the
12 Sheriff's Department already had the car when she got there.
13 You didn't hear that evidence because the State chose not to
14 tell you the truth.

15 And we know she was driving that car up. James told
16 you. Her purse is sitting in the front seat with all of her
17 medications. And she is asking for her stuff out of the
18 car.

19 And there is a phone in that car. You heard nothing
20 about trying to fingerprint that phone. Maybe you don't get
21 anything off of it. But don't you think you would try if
22 you thought this was a getaway car from a murder.

23 Nobody came in here and told you whose phone it was.
24 Cell phones can be tracked. And you didn't hear any
25 evidence of that. Nobody came in here to tell you that they

1 tracked the cell phone and where this car went because they
2 didn't do it.

3 And because the police don't do anything the
4 Solicitor's Office is left to prosecute the case with
5 nothing. Nothing but the words of people we know who lied.
6 Forced to use things like his jail phone call when he is
7 arrested trying to find his girlfriend.

8 So he knows he is about to be evicted, let out on the
9 street. Calling different cell phones trying to find her.
10 He has his friend call a family member's phone to find her.
11 That doesn't work.

12 He knows he is being blamed for a murder. He has been
13 arrested for it and is sitting at the jail. He has seen
14 that this car has been seized by the Sheriff's Office.

15 Of course they are going to look for DNA. Or you think
16 they would. He never says oh, no, my DNA is going to be
17 found in that car. He knew before the police even got there
18 why they were coming. He knew he was going to jail. Word
19 was traveling fast.

20 And after Antoine and Tawana gave their story it didn't
21 work. All of their stories didn't work. And Tawana's final
22 version she says James wasn't the shooter. I called James's
23 name because he -- I saw him. He was the first person I
24 saw.

25 And so now the State has to defend on something called

CLOSING BY MS. RUNEY

1 the hand of one to try to prosecute James, the hand of one
2 is the hand of all. He is not the shooter, he didn't bust
3 in the door, he didn't kill Leland Shannon, so now let's try
4 to prosecute him for it because he is the only man we have
5 got.

6 It has been two years and nobody has done anything to
7 find out who really shot him. So now suddenly Antoine Aiken
8 remembers oh yeah I ran out in the woods and I heard this
9 voice and it sounded like James Rose.

10 And Ms. Shealy kept asking him what else did James say..
11 Not what else did the person that sounded like James say,
12 what did James say.

13 So kept talking. And he says Onyx says this. He can
14 all of a sudden hear all this stuff outside of the trailer.
15 When Ishmal Weston told you he is in the bathroom and he
16 can't even hear what is going on in the bedroom next to him.

17 So you're left to depend on Rick Roth, a liar. He told
18 you he was a liar. He lied to 911 and said this is Ray. He
19 is a liar. He was drunk. And he was willing to kill,
20 himself, take matters into his own hands.

21 And they rely on Tawana Alston, convicted of attempted
22 armed robbery herself, convicted of burglary, convicted of
23 unlawful conduct towards a child.

24 And I'm not going to stand here and tell you that James
25 doesn't have a record. He does. And he tells you that.

CLOSING BY MS. RUNEY

1 But when I asked Tawana why her story was different, she
2 said I was confused.

3 This is not something to get confused about. And what
4 really baffles me about this case are there are so many
5 things that we have heard about that murderers don't do.
6 Murderers don't kill over a little bit of brown weed.

7 Murderers don't just hang out until their ride knocks
8 on the door and says come on, we've got to go, my wife is
9 going to be really mad.

10 They don't get mad over some weed and then catch a ride
11 from an old dude in the neighborhood and give him \$10 for
12 gas. If this was a fight about the money, James had it. He
13 had money for the 15 that he was looking for, \$15 worth of
14 weed. He didn't need to be fronted. Murderers don't do
15 that.

16 And you don't return to commit a murder and come in the
17 door joking about I told you I was going to come back. And
18 you definitely don't show up in the same clothes that you
19 had been wearing there earlier. You don't show up with two
20 masked men and you walk in plain as day.

21 You don't show your face if you are going to commit a
22 murder. And if you showed up to a place where there were
23 people you knew and you didn't have a mask on, you don't go
24 home and hang around your house where people know you are.
25 You don't walk around the neighborhood and go talk to your

CLOSING BY MS. RONEY

1 neighbor. You don't let the getaway car ride around right
2 where you are.

3 You don't come home from committing a murder and hang
4 up your red hoodie on the back of the door. You don't come
5 home and leave the same red thermal shirt that you wore on
6 your bed where people know you are. And you don't apologize
7 to your neighbor for bringing the police to your -- her
8 house. And you don't just hang out like normal.

9 And James told you. He didn't have to testify but he
10 told you. Sells drugs and gets his drugs from Julio. And
11 he had been over that day. But he never went back a third
12 time.

13 And the solicitor tried to trip him up and said he had
14 an answer for everything. This is his chance. Of course he
15 wants to talk. He has been in jail for two years. Two
16 years for something he didn't do.

17 Accused of murdering his friend. And he wants his
18 chance to tell the truth. And he did. He told you he did
19 not go back over there a third time.

20 James Rose is not guilty, period. He didn't do this.
21 And now because the case is bad they are going to try to
22 convict him under the theory of the hand of one is the hand
23 of all.

24 Well, he's not guilty under that theory either. The
25 hand of one is the hand of all. Where is the hand of one?

1 And you know what, James Rose didn't have an answer for
2 everything. He didn't have an answer as to who did this.
3 And you know why? That is because James Rose is innocent.
4 Thank you.

5 THE COURT: Ms. Baldwin or Shealy.

6 MS. SHEALY: May it please the Court.

7 CLOSING BY MS. SHEALY:

8 Good afternoon. Why in the world would Antoine Aiken,
9 Tawana Alston, Joy Mills and Ishmal Weston want the wrong
10 person convicted? Why in the world?

11 Antoine Aiken took that stand and he tells y'all I told
12 the police everything my first interview except that man's
13 name. And why did he do it? He wanted to get his hands on
14 him. He wanted to kill him.

15 Why did he want to kill him? Because he knows he is
16 responsible. He knew it from the very beginning. He came
17 in this courtroom with the judge on the bench and law
18 enforcement in various areas in the courtroom and admitted I
19 called him a gentleman because I wanted to get my hands on
20 him, I wanted street justice.

21 But before he had gotten angry, before he had the
22 opportunity to sit up in that hospital and wonder whether or
23 not his cousin was going to die, before he had time to get
24 steamed up about what happened, he talked to the 911
25 operator. Antoine Bernard Aiken spoke to the 911 operator.

CLOSING BY MS. SHEALY

1 You could hear it in his voice the pain.

2 Joy, heard her screams in the background are wrenching.

3 The 911 operator: Where are the responsible people now?

4 They are gone.

5 That is what Antoine tells the 911 operator: They are
6 gone. They drove off. They were in a gray car.

7 Now this is important. James Rose when he walked up
8 here today and took the stand and all of his answers, he
9 told you he hadn't ever gone over to Julio's house before in
10 that gray car.

11 There was no way for Antoine and Tawana to know there
12 was a gray car associated with James Rose. They didn't know
13 that. Antoine told the 911 operator that two minutes after
14 the scene went down, it was a gray car.

15 And what does he say to the 911 operator. He asks
16 please somebody hurry up. Describe the man. Black, braids
17 in his hair, red shirt. How old did he look: Thirty-two.
18 Do you know his name?

19 Antoine Aiken when seeking help for his dying cousin
20 and listening to his younger cousin wale as he takes his
21 last breaths, he is giving 911 the best information he can.

22 And when he was asked, when he was asked do you know
23 his name -- and you can listen to the 911 call again if you
24 need to: Do you know his name?

25 What did Antoine Aiken say? Everybody calls him "O"...

CLOSING BY MS. SHEALY

1 Everybody calls him "O". How tall? Six feet. How heavy?
2 A hundred and forty pounds.

3 She asked oh was it an SUV? No, a gray car. Two door,
4 four door? Antoine: I'm coming, Joy. Four door.

5 911 operator: Well, where is the vehicle now? I don't
6 know. They left. They left.

7 James Rose is guilty of murder. And let me address
8 something that Ms. Runey said. Murders don't make sense.
9 Is Ms. Runey is suggesting that there is always a good
10 reason for a murder? Murders don't make sense. And there
11 is nothing less about the law of the hand of one is the hand
12 of all. If you are guilty, it is the hand of one is the
13 hand of all.

14 Our law addresses the situation because often there is
15 just one trigger man but other people right there. Right
16 there in the planning, right there in the execution just
17 simply did not pull the trigger.

18 Let's take a look again at hand of one, hand of all.
19 The judge is going to tell you -- when I finish she is going
20 to give you the law on all the cases. And she will describe
21 to you and define for you what the hand of one is the hand
22 of all.

23 And listen to Judge McDonald when she tells you full
24 picture of hand of one, hand of all. If a crime is
25 committed by two or more people who are acting together in

CLOSING BY MS. SHEALY

1 committing a crime the act of one is the act of all.

2 A person who joins with another to accomplish an
3 unlawful act is criminally responsible for everything done
4 by the other person which happens as a natural consequence
5 of the act done in carrying out the common plan and purpose.
6 Loading up in a car, bringing maps, bringing guns, bringing
7 loaded guns.

8 If two or more people are together acting together
9 assisting each other in committing the offense, the act of
10 one is the act of all. Or as it is said, the hand of one is
11 the hand of all.

12 Ms. Runey was telling you what hand. What is she
13 talking about? We have the hand of the man who had the .38
14 Special, 357 magnum. That is a hand. We have the hand of
15 the man who shot the shotgun. That is a hand. And we have
16 the hand of that man, the one that was ticked off. Nothing
17 affects someone like James Rose like his pride does wanting
18 respect.

19 A principal in a crime is one who either actually
20 commits the crime or who is present, aiding, abetting, or
21 assisting in committing the crime. Driving, gathering,
22 yelling, go to the back, go to the back, the stuff's in the
23 back.

24 When a person does an act in the presence of and with
25 the assistance of another, the act is done by both. Where

CLOSING BY MS. SHEALY

1 two or more acting with a common plan or intent are present
2 at the commission of a crime it does not matter who actually
3 commits the crime.

4 Present at the commission of a crime means to be
5 sufficiently near to aid and abet and assist in commission
6 of the crime. That is our law.

7 James Rose wasn't just merely present over there. He
8 tells you he wasn't there at all. He denies a third trip.
9 Come on. James Rose was fed up. And who else told us that?
10 Deanna Henderson.

11 For the days before January 2014 he is complaining
12 Julio is not doing him right. He's the big man. He's the
13 big man in the trailer park. He's the one you buy stuff
14 from him. He may get you enough that you can sell some,
15 especially if you are a kid like Brandon Cantrell. That is
16 who James Rose is.

17 He takes a high schooler, drives him over town to get
18 you some stuff. You can smoke it. That's a great thing for
19 him to be doing. And in addition you might make a lot of
20 money off of it.

21 Last legit job he had was back in the '90s. Deanna
22 Henderson told us he was complaining and complaining. He
23 was mad. Because he had been dealing with Julio for a long
24 time. What did Brandon Cantrell tell us? He didn't say
25 that James Rose got back in the vehicle with some brown

CLOSING BY MS. SHEALY

1 marijuana. He said James Rose got back in the vehicle after
2 being in there for 45 minutes to an hour with nothing.

3 You got a glimpse of this man. That doesn't sit well
4 with James Rose. He is taking his underlings, let's go buy
5 some stuff, I'm the man, I can get it for you. And he comes
6 out empty-handed. Nobody is going to do that to me.

7 Been in there so long that Clarence Rush had to rush
8 him out -- Clarence Hush had to rush him out, go up to the
9 door. What's taking so long? Can you imagine, James Rose
10 trying to talk Julio into something. And Julio wasn't
11 buying it. And he paid dearly.

12 Just think about it. Onyx had to get back in that car
13 with Brandon and Clarence Hush and admit I couldn't get the
14 stuff. And in addition to that he had to hear Clarence Hush
15 fuss at him the whole time about how he was getting in
16 trouble with his wife and how it took too long. He's
17 sitting there seething.

18 And the rap song lyrics. Come on. If he and Clarence
19 Hush don't listen to the same kind of music do you think
20 Clarence Hush when he is getting yelled at and fussed by his
21 wife is going to turn on some rap music if he doesn't
22 usually listen to it? Come on.

23 And James Rose just wants to tell you he was feeling
24 musical. Just feeling the beat. Just giving us some rap
25 lyrics. Come on.

CLOSING BY MS. SHEALY

1 He's been sitting over there in that jail for almost
2 two years. He's been reading every single statement in this
3 case and he is trying to give you an answer for everything.

4 He was humiliated. And then he's got to give Clarence
5 \$10, has to pay for the ride out there. You could tell
6 Clarence didn't want to be here. Goodness gracious. You
7 could tell he didn't want to be here.

8 But he is the one who told you James Rose said I am
9 going to go back and get my respect. Again, murders don't
10 make sense. They are not for good reasons. They are not
11 for good reasons.

12 Joy and Antoine also told us that there was some words
13 between Julio and Rose when he was in the house. Now Ms.
14 Runey wants you to believe that everybody is a liar.

15 Well, if they were liars they could have come in here
16 and said listen they were having a knock down drag out.
17 They could come in here and say James Rose threatened Julio.

18 They didn't say that. They told you the way it did
19 happen. They said that the words were heated. Now let's
20 don't lose sight of this.

21 It is sort of interesting that what we have is we have
22 a mobile home and we have several people in the house. And
23 each of those people see an aspect of this murder. It's
24 like framed, freeze framed. Ishmal sees what he sees. Joy
25 in the bedroom sees what she sees it. Tawana walking

CLOSING BY MS. SHEALY

1 outside sees what she sees. And Antoine sees what he sees.

2 They didn't come up here and try to tell you they all
3 saw the same thing at the same time. They are not lying.
4 And what do they all say?

5 Tawana, his live-in girlfriend. Antoine, you saw him
6 break down on the stand. He loved Julio. Julio was his
7 cousin. Joy, Joy, the daughter who had just moved back in,
8 the daughter who didn't join the other guys at the table.
9 Ishmal told you Joy was working on homework. And when she
10 started feeling bad she -- bad, she retreated to her bedroom
11 to call her boyfriend. She had her snack on the bed and of
12 the cell phones.

13 Why would Ishmal who lives in Jacksonville now, who the
14 police never did interview, why would Ishmal, Antoine, Joy,
15 and Tawana tell you that James Rose came back that third
16 time unless he did. They also saw him.

17 Now what else did they tell you? When James Rose goes
18 to leave through that laundry room, Julio follows and
19 immediately the masked gunman upon Onyx getting on the porch
20 come tearing in there.

21 Ms. Runey can say what she wants about Tawana Alston.
22 You will have the opportunity if you need to to read --
23 listen to her testimony. But maybe you remember it vividly.
24 She wants to tell you that Tawana was lying.

25 Now Tawana nails it. Tawana nails it. Remember, they

CLOSING BY MS. SHEALY

1 had gotten her from the hospital. She gives her statement
2 at 3:50 in the morning. And before the police start saying
3 okay well who did you see first and what happened first and
4 whose first and first.

5 There are two different firsts here. The first person
6 she sees when she is on the porch is James Rose leaving
7 behind her. Where did he go with a red shirt on and no
8 mask? He goes to the car to get them. And the guys come
9 barreling up onto the porch.

10 The first statement, she read it for us. First
11 paragraph, in her handwriting, Julio, Joy, along with myself
12 and Ross, Antoine, we all was in the house enjoying
13 ourselves when Onyx, a.k.a. James Rose, came in. We all was
14 drinking. I went to take a shower. She corrected herself
15 and said it was a bath. Came back, smoked a Newport on the
16 back porch. Onyx came out behind me and went to a gray
17 four-door Neon. I flicked the Newport, turned around and I
18 had a shotgun in my face. Then a short fat guy came up with
19 like a nine-millimeter. He shot and my first reaction was
20 to drop, then went in, crawled under the porch and ran to
21 the neighbor. He said he was going to call the police. I
22 then ran and called my mother to come get me. And we came
23 straight to MUSC. The only thing I heard was Bitch freeze.

24 Is Ms. Runey trying to suggest that Tawana Alston is
25 involved in this? Why would she run to Brian Williams'

CLOSING BY MS. SHEALY

1 house and knock on the door and say something is going on
2 with Julio, he's been shot. Why?

3 Later she told us in this statement that the guy who
4 said -- that had the shotgun was tall and dressed in all
5 black. Ms. Runey tried to cross her up. But every time she
6 tried to explain: I'm telling you the order of the events
7 that happened.

8 Tawana passed Antoine when she ran around the side of
9 the mobile home. Something is wrong she calls out to Brian
10 Williams at his house.

11 She tells us the specifics on the car, gray, four-door,
12 Neon. She tells us that the tall guy and the short guy both
13 had on masks. It is interesting, and one of the reasons I
14 say that she nailed it is, she tells us one had a shotgun,
15 one had a handgun.

16 Now at three o'clock in the morning they were still
17 operating on Leland Shannon. Erin Meyer hadn't retrieved
18 all of the evidence. SLED hadn't analyzed anything.

19 But what does the evidence show us? He got shot in the
20 head by a handgun. He got shot in the neck and shoulder by
21 a handgun. And you saw the x-rays. Shotgun pellets, you
22 can see them in his leg. And we have them in evidence.

23 Tawana Alston nailed it. She tells you there are two
24 different kinds of guns. She tells you there is a tall guy.
25 She tells you there was a short guy.

1 If these people were conspiring to pin this on an
2 innocent man wouldn't Antoine have said oh, I saw the short
3 guy too? He didn't say that. He didn't have the
4 opportunity to see him. He was heading out the front door.

5 And that short guy with the handgun, remember what the
6 pathologist said about the path of those weapons? Straight
7 down in the head. Straight down to the shoulder. And he
8 missed twice. One is found on the saw, and one is found in
9 the cabinet. These guys were not playing.

10 Brian Williams told you in the middle of the night he
11 hears that frantic knock. And what does he do? He calls
12 911 and he goes over there.

13 Let's talk about Antoine. The judge is going to tell
14 you you are the judge of the credibility, the believability
15 of the witness, of all the witnesses.

16 Antoine Aiken, he was telling you like it happened.
17 And what is interesting about what he told you was when he
18 went to answer the door on that third visit from James Rose
19 he saw two guys in the car.

20 He asked Onyx who are they. And remember I was trying
21 to figure out if that happened on the porch. He goes no, it
22 started when I opened the door and it continued as we were
23 in the laundry room.

24 That memory is vivid for him. And Onyx was you don't
25 know them, you don't need to worry about it. But Antoine's

CLOSING BY MS. SHEALY

1 radar went up. Don't you know that he relives that
2 conversation every single day. Every single day. He knew
3 something wasn't right. You don't know them, you don't need
4 to worry about it.

5 Antoine tells you on that third visit, unlike the other
6 visits, Rose was there for a shorter time. Time enough.
7 Time enough to assess how many people were in Julio's house,
8 time enough to see whether the rifle that was usually in the
9 kitchen Antoine told us about whether it was there.

10 And he heads out, and Julio follows. And as Julio
11 turns that corner into the laundry room he hears shots. He
12 hears scuffling.

13 His immediate reaction was to help. The only thing he
14 could find was a pot. He turned that corner and saw a tall,
15 skinny guy in all black and something black in his hand.

16 He threw the pot and got the heck out of there. He
17 left. He ran. He hid. And he heard. He heard James Rose
18 calling the shots: The stuff is in the back.

19 And later: You're taking too long.

20 What does he see? He sees James Rose get in the
21 driver's seat of that gray Neon, the same description that
22 Brandon Cantrell gives of his girlfriend's car.

23 And again, in accessing whether Antoine is lying. He
24 doesn't tell you he sees the short guy ever. He doesn't say
25 oh and there was a short gut that got into the car too. He

CLOSING BY MS. SHEALY

1 doesn't tell you that. He tells you what frame he sees.
2 And the frame he sees is the tall guy and James Rose getting
3 into the vehicle. And they flee.

4 Ms. Runey wanted to make a big deal about the fact that
5 Detective Perkins -- and let me just offer, it is insulting
6 to suggest that the Sheriff's Department is going to do
7 what's easy in a murder.

8 Detective Perkins has told you it's still open as to
9 the other guys, that case is still open. But she made a big
10 deal about the fact they didn't go talk to Brian Williams,
11 they didn't go talk to her Ishmal.

12 So what's the problem. Ishmal came here from
13 Jacksonville to testify. Brian Williams has been sitting in
14 the courtroom since he testified. They told you what
15 happened. She wants you to believe this is a police
16 problem.

17 Let's stop and think about Ishmal for a second. I
18 think he was 15 or 16. James Rose said he was 13 or 14. He
19 was a kid. He was a kid that came to Julio's when he stayed
20 at his dad's because Julio had the video games.

21 James Rose has no more regard for human life than to
22 send those guys in when there is a kid over there. And
23 Ishmal is kind of a bigger teenager physically. But
24 remember how he talked. What did he say he did afterwards?
25 I went to go get my dad.

CLOSING BY MS. SHEALY

1 He tells you that James Rose was there. He tells you
2 that James Rose left. He tells you that when he hears the
3 shot he is trying to go for the door, the front door. Ross
4 beat him to it.

5 He fled down the hallway to the bathroom and closed the
6 door. And what did he hear? This is interesting. What did
7 he hear? The first thing he heard was the sound of
8 footprints in the kitchen. And you have seen photographs of
9 the floor in the kitchen.

10 But what else does he hear? He hears the kitchen
11 cabinets opening, closing, slamming. James Rose, the stuff
12 down the hall in the back. The stuff in the back.

13 He tells you that he hears a bam when he hears feet
14 running down the hall when the door to the back room opens.

15 Ms. Runey wants to make big deal about whether there
16 were drugs in that house. Maybe there were. Maybe there
17 were. And Mr. Rose and the tall man and short man hoped to
18 benefit from them. Because they were headed towards the
19 back.

20 And what did he -- does he tell you that he hears from
21 Joy's room? A muzzled sound, talking through the ski mask
22 in Joy's room.

23 Joy, she had just moved back in with her father. She's
24 doing schoolwork while the others are doing their thing.
25 Talked about her lying on the bed, having a snack, talking

1 to her boyfriend. And her phone goes out of batteries. The
2 batteries run out.

3 She told us that prior to going in there -- or after
4 she went in there and she goes back to see if somebody else
5 has a phone that she sees her dad right before he turns into
6 the laundry room. Who was there before, before she went to
7 the room? Who does Joy tell you was there? "O". Onyx.

8 When she sees her father as he crests the laundry room
9 she had no idea that moments later her life would never be
10 the same. She heard the shots. She heard the commotion.
11 She saw men running by her room. She pulls her covers up.
12 They enter the room.

13 What Joy tells us is extremely important. She tells
14 the police from the beginning the guy had a red shirt on and
15 a Navy jacket, he had a mask on his face and a shotgun.

16 Who had gone out to the car after they walked on the
17 porch? James Rose. Now a Navy jacket, a shotgun, and a ski
18 mask. She told the police then, then, the same night that
19 she has got her father's blood on her, when she is given a
20 statement knowing that her father is dying in the hospital,
21 red shirt, navy jacket, dark voice that was familiar. That
22 is the best she could do under those circumstances.

23 The other one in her room? Short, 5'9". A gun to her
24 chest and to her head. They're trying to ask her where the
25 stuff was. And remember what the guy in the red shirt said.

CLOSING BY MS. SHEALY

1 Because this is important. Forget her, the Bitch doesn't
2 know anything.

3 Who would know that? James Rose. Joy hadn't been
4 around for years. He knew Joy wouldn't know where her
5 father kept the stuff because she was doing homework
6 earlier. She had not been over at that house a number of
7 times that James Rose came here.

8 And what did Joy tell us after she had time to process
9 everything? And keep in mind why would she want James Rose
10 convicted if he weren't the one, in addition to the two that
11 we don't have yet, responsible for her father's death?

12 She would have no motivation to come in here and tell
13 you something that wasn't true. She wants the right people
14 convicted.

15 And she said later, later when she could replay it,
16 when she could calm down enough, she realized the red shirt,
17 the voice; it was Onyx.

18 And then what was the final insult? She heard the
19 shot. She didn't hear her father. She hadn't made it out
20 the room yet. She hears the two guys heading back towards
21 the laundry room.

22 And what does one of them say? I won't use the words.
23 They were his words. "F" that "N", he's going to die
24 anyway. "F" that "N", he's going to die anyway. When she
25 could tell they were gone she runs and slips in his blood to

CLOSING BY MS. SHEALY

1 try to help him, screaming daddy.

2 And when the EMS gets there they have to pull her off
3 of him. Her last embrace. She walks out of that house
4 barefooted, blood between her toes, blood in her hair, blood
5 on her hand, blood on her clothing. Doesn't even think to
6 put on shoes before her grandfather takes her to the
7 hospital. That is where her mind was.

8 What do we know about James Rose that next morning?
9 Murderers aren't really -- they're not smart. We know he
10 goes across the street to Deanna Anderson -- Henderson and
11 says did you hear what happened in Lincolnville. And she
12 says the home invasion? Yeah. Well, who got shot, she
13 asked. And he says Julio.

14 Rose knew it was Julio. The news hadn't shared that.
15 If anyone comes looking for me, don't say I stay in this
16 trailer park. Say I don't stay here.

17 And hey that Dodge Charger rides by. He wants you to
18 believe he's just interested in a new automobile riding the
19 streets. Balogny. The Dodge Charger, the police are there.
20 And he asks her go see where they're going.

21 They arrest him. They put him in that car. Deanna
22 Henderson goes up there and he does say I'm sorry I brought
23 the police to your house.

24 Did you shoot Julio?

25 (Motioning). That's how he responses. No no; no hell

CLOSING BY MS. SHEALY

1 no.

2 And ladies and gentlemen, I don't know if Ms. Runey or
3 Mr. Rose want us to believe that of all the coincidences in
4 the world that there just happens to be a gray four-door
5 Neon parked outside his trailer. Come on.

6 This case has been proven in this chair by the people
7 who loved Julio, by the people who would want the killers of
8 Julio to -- excuse me -- to get justice. It is
9 disappointing -- it is disappointing that we were unable to
10 identify the other two passengers in the Neon when they
11 left.

12 Let's talk about that jail phone call. I tell you
13 what, James Rose is creative. Because he doggone has an
14 answer for everything.

15 He asked on that call: How did Amber sound when you
16 talked to her.

17 Ladies and gentlemen, he told you Amber is his former
18 girlfriend. Amber hasn't stuck by him. Amber hasn't come
19 to see him at the jail. He wants to talk to Amber to make
20 sure she is not going to hurt him with these charges.

21 He says: She didn't even pick up the phone. I guess
22 they're thinking I ain't never going to get out.

23 Well, they would because they know what you have done.

24 Let me leave a message, Rose says, because I'm going to
25 "F" that "N" up when I get out of here. I don't want to

CLOSING BY MS. SHEALY

1 talk to the dude. I'm just trying to see what is going on
2 with Amber. He's wondering are they talking, are they
3 telling.

4 They took that girl's car and saying I got DNA in there
5 I guess, and my phone is inside that shit; well, not my
6 phone but the phone I was using inside there. Putting
7 himself in that car. The phone I was using inside there.

8 Ms. Runey said they can't tell you whose phone was
9 inside the car. James Rose told us, the phone he was using
10 is inside the car.

11 Let's listen to the tape.

12 (WHEREUPON, jail phone recording was played.)

13 MS. SHEALY: He wanted to see if they were trying to
14 play him. Amber, Matt. Where is his brother?
15 Pennsylvania. He didn't murder for weed. He murdered for
16 pride. He murdered for ego. He murdered for desperation.

17 A human life was taken. And you saw him testify. Cold
18 as ice.

19 We are asking that you return a verdict of guilty.
20 Thank you.

21 THE COURT: Thank you. Everybody okay? All right.
22 Ladies and gentlemen, you have heard the testimony, the
23 evidence, and the arguments of the State and of the
24 defendant. I will now discuss the law that applies to this
25 case.

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1 Under the Constitution and laws of the State of South
2 Carolina you are the finders of the fact in this case. I do
3 not have the right to comment upon the facts or even to
4 express any opinion that I might have as to them. This is a
5 matter solely for use the jury to determine.

6 As jurors it is your duty to determine the effect, the
7 value, the weight, and the truth of the evidence presented
8 during this trial.

9 As the trial judge it is my responsibility to preside
10 over the trial of the case and to rule upon or pass upon the
11 admissibility of the evidence offered during the trial.

12 You are to consider only the testimony which has been
13 presented from this witness stand together with the
14 stipulations and the exhibits which have been admitted into
15 evidence and made a part of the record.

16 I have the additional duty to charge you about the law
17 applicable to the case, and as the presiding judge I am the
18 sole judge of the law of this case.

19 It is your duty as jurors to accept and apply the law
20 as I now state it to you and then reach your verdict.
21 Finally, ladies and gentlemen, I charge you in this regard
22 that you should not be concerned with what the law ought to
23 be but what the court charges you that the law is.

24 The credibility of witnesses is a matter for you the
25 jury to determine. You are the judges and the sole judges

1 of the credibility or believability of the witnesses who
2 have testified and the evidence in this case.

3 In passing upon credibility you may take into
4 consideration many things such as the demeanor or the manner
5 of the witness testifying, whether a witness had a reason to
6 be biased or prejudiced in some way, whether a witness's
7 testimony was contradict on the one hand or supported and
8 corroborated on the other hand, whether a particular witness
9 has a motive to testify favorably for one party versus the
10 other.

11 You may believe a small portion of a witness's
12 testimony and disregard the larger or vice versa. You may
13 believe one witness against many or many against one.

14 All of these things you will consider bearing in mind
15 that you should give the benefit of any reasonable doubt.
16 It becomes your duty as jurors to analyze and to evaluate
17 the evidence and determine that evidence which convinces you
18 of its truth.

19 The rules of evidence ordinarily do not permit
20 witnesses to testify as to opinions or conclusions. An
21 exception to this rule exists for witnesses we call and
22 designate as expert witnesses.

23 A witness who by their education and experience has
24 become expert in some art, science, profession or calling
25 may state an opinion as to relevant and material matters in

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1 the areas in which the witness has been qualified as an
2 expert. Such a witness may also state the reason for any
3 such opinions.

4 Ladies and gentlemen, you should consider any expert
5 opinion received in evidence in this case and like any other
6 evidence give it the weight you think it deserves.

7 If you decide that the opinion of an expert witness is
8 not based on sufficient education and experience or if you
9 conclude that the reasons given in support of the opinion
10 are not sound or that the opinion is outweighed by other
11 evidence, you may disregard the opinion entirely.

12 An expert witness's testimony is to be given no greater
13 weight than that of other witnesses simply because the
14 witness is an expert. You are not required to accept an
15 expert's opinion even though it is not contradicted.

16 There are two types of evidence which are generally
17 presented during a trial, direct evidence and circumstantial
18 evidence.

19 Direct evidence is the testimony of person who claims
20 to have actual knowledge of a fact such as an eyewitness.
21 It is evidence which immediately establishes the main factor
22 to be proved.

23 Circumstantial evidence is proof of a chain of facts
24 and circumstances indicating the existence of a fact. It is
25 evidence which immediately establishes collateral facts from

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1 which the main fact may be inferred. Circumstantial
2 evidence is based on inference and not on personal knowledge
3 or observation.

4 Crimes may be proven by circumstantial evidence;
5 however, to the extent of the State relies on circumstances
6 evidence all of the circumstances must be consistent with
7 each other and when taken together point conclusively to the
8 guilt of the accused beyond a reasonable doubt.

9 If the circumstances merely portray the defendant's
10 behavior as suspicious, the proof has failed. The State has
11 the burden of proving the defendant guilty beyond a
12 reasonable doubt.

13 This burden rests with the State regardless of whether
14 the State relies on direct evidence, circumstantial evidence
15 or some combination of the two.

16 The fact that the defendant was arrested, charged --
17 arrested, charged and indicted is not evidence in this case
18 and cannot be considered by you as evidence of guilt in this
19 case nor does it create any presumption or inference of
20 guilt.

21 The indictment is simply the formal written instrument
22 which contains the charge made against this defendant. An
23 indictment is the formal document by which the case is
24 brought into this court.

25 The defendant has pled not guilty to the charge in this

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1 indictment. And that plea puts the burden on the State to
2 work to prove the defendant guilty. A person charged with
3 committing a criminal offense in South Carolina is never
4 required to prove himself innocent.

5 Ladies and gentlemen, I charge you that it is an
6 important rule in the law that the defendant in a criminal
7 trial no matter what the seriousness of the charge may be
8 will always be presumed to be not guilty of the crime for
9 which the indictment was issued unless guilt has been proven
10 by evidence satisfying you of that guilt behind a reasonable
11 doubt.

12 The presumption of innocence does not end when you
13 begin your deliberations. It accompanies the defendant
14 throughout the trial unless you reach a verdict of guilt
15 based on evidence satisfying you of that guilt beyond a
16 reasonable doubt.

17 The presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the defendant
19 which remains with him unless it has been stripped from him
20 by evidence satisfying you of the defendant's guilt beyond a
21 reasonable doubt.

22 The presumption of innocence is not mere legal theory
23 and it's not just a legal phrase. It is a substantial right
24 to which every defendant is entitled unless you the jury are
25 satisfied from the evidence of the defendant's guilt beyond

1 a reasonable doubt.

2 So the State must prove the defendant guilty beyond a
3 reasonable doubt. What is a reasonable doubt in the law. A
4 reasonable doubt is a doubt which makes an honest, sincere,
5 conscientious juror in search of the truth in the case
6 hesitate to act.

7 Proof beyond a reasonable doubt must therefore be proof
8 of such a convincing character that a reasonable person
9 would not hesitate to rely and act upon it in the most
10 important of his or her affairs.

11 Proof beyond a reasonable doubt can also be described
12 as proof that leaves you firmly convinced of the defendant's
13 guilt.

14 Now there are very few things in this world that we
15 know with absolute certainty. And in criminal cases the law
16 does not require proof that overcomes every possible doubt.

17 If based on your consideration of the evidence you are
18 firmly convinced that the defendant is guilty of the crime
19 charged, you must find him guilty.

20 If on the other hand you think there is a real
21 possibility that he is not guilty, you must give him the
22 benefit of that doubt and find him not guilty.

23 You have heard evidence that the defendant has been
24 convicted of a crime other than the one for which the
25 defendant is now on trial. This evidence may be considered

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1 by you, if you conclude that it is true, only in deciding
2 whether the defendant's testimony is believable and not for
3 any other purpose.

4 You must not consider the defendant's prior record as
5 any evidence of the defendant's guilt of the charge we are
6 trying today.

7 The defendant is charged with murder. The State must
8 prove beyond a reasonable doubt that the defendant killed
9 another person with malice of forethought.

10 Malice is hatred, ill will, or hostility towards
11 another person. It is the intentional doing of a wrongful
12 act without just cause or excuse and with an intent to
13 inflict an injury or under circumstances that the law --
14 from which the law will infer an evil intent.

15 Malice of forethought does not require the malice
16 exists for any particular time before the act is committed,
17 but malice must exist in the mind of the defendant just
18 before and at the time the act is committed. Therefore,
19 there must be a combination of the previous evil intent and
20 the act.

21 Malice of forethought may be expressed or implied --
22 express or implied. These terms express and inferred do not
23 mean different kinds of malice but merely the manner in
24 which the malice is shown to exist. That is either by
25 direct evidence or by inference from the facts and

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1 circumstances which are proved to your satisfaction.

2 Express malice is shown when a person speaks words
3 which express hatred or ill will for another or when the
4 person prepared beforehand to do the act which was later
5 accomplished.

6 For example, lying in wait for a person or any other
7 acts of preparation going to show that the deed was in the
8 defendant's mind would be express malice.

9 In order to establish criminal liability, criminal
10 intent is required. For example, the mental state required
11 to be proven by the State for a particular crime might be
12 purpose, intent, knowledge, recklessness, or criminal
13 negligence.

14 Criminal intent must be proven by the State beyond a
15 reasonable doubt. Criminal intent is always a matter that
16 must be determined by the jury from the circumstances
17 surrounding the situation.

18 There is no way to prove intent to a mathematical
19 certainty. There is no way medical science can dissect a
20 person's brain and determine what the person had in mind.

21 So the law provides that criminal intent may be
22 inferred from the circumstances shown to have existed. This
23 is how you make a determination of whether or not the
24 element requiring intent was present.

25 Criminal intent can arise from action or from a failure