

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

The Honorable James Barber, Circuit Court Judge
Case No. 2013-CP-40-2107
Appellate Case No. 2014-000967

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S.C. Supreme Court

STATE OF SOUTH CAROLINA,..... PETITIONER,

v.

ADAMS GIBSON,.....RESPONDENT.

APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

2005-GS-40-9085

2005-GS-40-9086

2005-GS-40-9739

THE STATE OF SOUTH CAROLINA :

-VS- :

TRANSCRIPT OF RECORD

VOLUME 1, PAGES 1 - 557

JACQUES S. GIBSON AND :

ADAMS K. GIBSON :

MAY 21 - 24, 2007

COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE, AND JURY.

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

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KATHRYN "LUCK" CAMPBELL, ESQUIRE

ATTORNEYS FOR THE STATE

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ATTORNEY FOR DEFENDANT JACQUES GIBSON

NATHANIEL ROBERSON, ESQUIRE

ATTORNEY FOR DEFENDANT ADAMS GIBSON

DAPHNE D. HELMS

CIRCUIT COURT REPORTER

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County: Richland
 Date: 5-21-07

Case No: 2005-65-40-9085 9086 9739 VOIR DIRE

Judge: Steven John

Pl. / State: State

State/Pl's. Atty: Dietrich Lake

Defendant: Jacques Gibson
and Adams Gibson

Kathryn Campbell

Defense Atty: T. S. Leavy

Johnson, Nathaniel

Court Reporter: Daphne Helms

Roberson

Juror No.	Name	Sex	Race	*Court	Strikes		Accept
					Plaintiff	Defense	
22	De Anna Cox	F	W			adams	
111	Andrea Webb	F	B				✓
65	Susan McClam	F	W				✓
97	Alwyn Silver	M	W		✓		
71	Cameron Mowen	M	W				✓
86	Trey Roderick	M	B				✓
48	Karen Heid	F	W				✓
61	Xenia Jones	F	B				✓
90	Kristina Sabia	F	W			adams	
70	Joyce Masby	F	B		✓		
85	Wendi Robinson	F	W		✓		
12	Megan Bumbage	F	W				✓
23	Ronald Davis	M	B		✓		
75	John Ohradovich	M	W			adams	
54	Richard Hult	M	W			adams	
2	Heidi Adams	F	W			jacques	

* For the Court column, indicate who made the motion to strike the jurors "for cause."
 C-Court, P-Plaintiff, D-Defense

page 2

County: RichlandDate: 5-2-07

VOIR DIRE

Case No: 2005-65-40-9085, 9086, 9739Judge: JohnPl. / State: StateState/Pl's Atty: Campbell
DeetrichDefendant: Jacques Gibson
and Adams GibsonDefense Atty: Johnson
RobersonCourt Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff	Defense	Accept
27	Shonelle Danner	F	B				✓
60	Evan Jones	M	B		✓		
107	Charles Thompson	M	W			adams	
1	Adrian Addison	M	B				✓
113	Catherine Whitesides	F	W		✓		
95	Christopher Shiner	M	W				✓
77	Belinda Pearson Tooley	F	B				✓
89	Daniel Sabia	M	W			adams	
119	Thomas Garbrough	M	W				✓
	Alternate 1 :	M	B				
55	Eric Irwin						✓
	Alternate 2 :						
29	David Dubberly	M	W		✓		
98	Cameron Simmons	M	B				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."

C-Court, P-Plaintiff, D-Defense

1 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
2 THANK Y'ALL. ALL RIGHT. MADAM CLERK. HOW DO WE GET THE
3 JURY PANEL HERE?

4 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN THE
5 CLERK AND THE COURT.)

6 MR. ROBERSON: JUDGE?

7 THE COURT: YES, SIR.

8 MR. ROBERSON: CAN YOU GIVE US ABOUT 10 MINUTES JUST TO
9 RUN THROUGH THIS LIST WE'RE GOING TO STRIKE FROM?

10 THE COURT: WELL, YOU'VE GOT ABOUT FIVE MINUTES
11 APPARENTLY BECAUSE THEY'VE GOT TO ADD SOME OTHER PEOPLE TO
12 THE END OF THE LIST, SO WE'LL -- BUT I'M HAVING THEM BRING
13 THEM UP AS QUICKLY AS THEY CAN COME UP.

14 (PAUSE IN PROCEEDINGS)

15 MR. JOHNSON: YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. JOHNSON: THERE IS A MATTER THAT WE NEED TO TAKE UP
18 WITH THE COURT.

19 THE COURT: ALL RIGHT, SIR. WHAT MIGHT THAT BE?

20 MR. JOHNSON: YOUR HONOR, WE HAVE BEEN HANDED A RANDOM
21 STRIKE SHEET.

22 THE COURT: OKAY.

23 MR. JOHNSON: AND -- BEG YOUR PARDON?

24 THE COURT: YES, SIR.

25 MR. JOHNSON: AND IT IS MY UNDERSTANDING THAT HERE IN

1 RICHLAND COUNTY THAT THEY HAVE IMPLEMENTED A NEW PRACTICE FOR
2 PROVIDING A RANDOM STRIKE SHEET THAT THE LAWYERS WILL STRIKE
3 FROM LIKE IN CIVIL CASES. I KNOW OF NO STATUTORY PROVISION
4 THAT PERMITS THAT.

5 THE COURT: ALL RIGHT. AND EXACTLY WHAT ARE YOU
6 CHALLENGING?

7 MR. JOHNSON: I'M CHALLENGING THE FACT THAT WE MUST
8 STRIKE FROM THIS -- THIS -- THIS STRIKE SHEET. THE PROCEDURE
9 IS THAT THE NAMES ARE SUPPOSED TO BE PUT IN SOME TYPE OF
10 TUMBLER AND THEY'RE SUPPOSED TO BE RANDOMLY SELECTED IN THE
11 COURTROOM WHERE---

12 THE COURT: WELL, THEY'RE -- THEY'RE RANDOMLY SELECTED
13 AND THEY'VE GONE NOW TO THAT COMPUTER SYSTEM. SO THEY'VE
14 RANDOMLY SELECTED -- AS I UNDERSTAND IT, THEY'RE GOING TO
15 RANDOMLY SELECT AND THE COMPUTER HAS RANDOMLY SELECTED IN
16 ORDER APPARENTLY 40 OR 50 NAMES.

17 MR. JOHNSON: YOUR HONOR, HELP ME. WHERE IS THE
18 STATUTORY PROVISION FOR THAT?

19 THE COURT: IT'S THE NEW ONE THAT WAS PASSED AND HAS
20 BEEN ADOPTED IN THIS STATE TO ALLOW THE DRAWING BY THE
21 COMPUTER.

22 MR. JOHNSON: IN CRIMINAL CASES, YOUR HONOR?

23 THE COURT: IN EVERY SINGLE CASE THAT'S DRAWN IN THE
24 STATE OF SOUTH CAROLINA.

25 MR. JOHNSON: AND THEN AFTER THEY'RE RANDOMLY

1 SELECTED---

2 THE COURT: THE COMPUTER HAS DONE SO AND THEN THE
3 CLERK'S OFFICE HAS PRINTED THE NAMES ON A SHEET---

4 MR. JOHNSON: RIGHT.

5 THE COURT: ---IN THE RANDOM ORDER THAT WAS SELECTED BY
6 THE COMPUTER.

7 MR. JOHNSON: ALL RIGHT, SIR. AND THEN...

8 THE COURT: THEN THE CLERK WILL CALL THEM STARTING WITH
9 THE FIRST NAME. THE CLERK WILL CALL THE FIRST NAME, AND THAT
10 FIRST PERSON WILL COME DOWN. AND THE STATE WILL -- THE CLERK
11 WILL INQUIRE OF THE STATE TO EITHER PRESENT OR EXCUSE THE
12 JUROR AND THEN WE'LL TURN TO THE -- LET'S SEE. WHO IS LISTED
13 AS THE FIRST DEFENDANT? MR. ADAMS GIBSON. SO MR. ROBERSON
14 WILL THEN -- ON THE FIRST VERY ONE WILL STATE WHETHER TO
15 PRESENT OR EXCUSE THE JUROR. THEN WE'LL TURN TO YOU AND THEN
16 YOU CAN EITHER SEAT OR EXCUSE THE JUROR.

17 MR. JOHNSON: YOUR HONOR, THAT'S FINE. THE LAST TIME I
18 WAS UP HERE THEY WERE DOING IT A DIFFERENT WAY. THAT'S FINE.

19 THE COURT: NO, WE'RE -- NO, THE COMPUTER HAS -- THE
20 COMPUTER RANDOMLY PULLED OUT 50, 60 NAMES.

21 MR. JOHNSON: RIGHT.

22 THE COURT: AND FOR EVERYBODY'S CONVENIENCE, THEN THE
23 CLERK'S OFFICE TOOK THAT RANDOM SELECTION THAT THE COMPUTER
24 DID, PUT IT DOWN ON A PIECE OF PAPER, AND THEY ARE LISTED 1
25 THROUGH 40 OR 50 OR 60 OR HOW EVER NUMBERED MANY THERE IS,

1 AND THEN THE CLERK STARTS WITH NUMBER 1 AND CALLS OUT NUMBER
2 1 AND THEN CALLS OUT NUMBER 2 AND THAT'S HOW WE GO. WE DON'T
3 THEN---

4 MR. JOHNSON: THAT'S FINE, BUT, YOUR HONOR, I HAD
5 ANOTHER EXPERIENCE UP HERE---

6 THE COURT: OKAY.

7 MR. JOHNSON: ---ABOUT SIX...

8 THE COURT: WELL, NO, NO, WE'RE NOT -- NO. WELL, WE'RE
9 NOT THEN HANDING YOU THE LIST AND EXPECTING YOU TO STRIKE OUT
10 10 PEOPLE AND HAVE THE -- YOU KNOW, HAVE YOUR CO-COUNSEL
11 STRIKE OUT 10 AND THEN THE OTHER -- THE STATE STRIKE OUT 10.
12 WE'RE OBVIOUSLY NOT DOING THAT.

13 MR. JOHNSON: ALL RIGHT.

14 THE COURT: ALL RIGHT. MADAM CLERK, LET ME TALK TO YOU
15 FOR A SECOND. COME BACK AROUND. LET ME TALK TO YOU FOR A
16 SECOND.

17 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION TAKES PLACE
18 BETWEEN THE COURT AND THE CLERK. THE JURY PANEL WAS BROUGHT
19 INTO THE COURTROOM.)

20 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
21 THANK Y'ALL. ALL RIGHT. GOOD MORNING, LADIES AND GENTLEMEN.
22 MY NAME IS STEVEN JOHN. I'M THE RESIDENT JUDGE OF THE 15TH
23 JUDICIAL CIRCUIT WHICH COVERS Horry AND GEORGETOWN COUNTIES.
24 FROM THAT YOU'LL UNDERSTAND THAT CIRCUIT JUDGES ACTUALLY DO
25 RIDE THE CIRCUIT. I'VE BEEN ASSIGNED BY THE CHIEF JUSTICE OF

1 COURT ADMINISTRATION TO HOLD A TERM OF CRIMINAL COURT HERE
2 THIS PARTICULAR WEEK.

3 YOU ARE HERE REGARDING YOUR JURY DUTY INVOLVING THE CASE
4 OF THE STATE OF SOUTH CAROLINA VERSUS ADAMS GIBSON AND
5 JACQUES GIBSON. REGARDING THESE PARTICULAR MATTERS, THE
6 STATE HAS CHARGED MR. ADAMS GIBSON AND MR. JACQUES GIBSON
7 WITH THE OFFENSE OF MURDER. THE STATE HAS ALLEGED THAT THESE
8 INDIVIDUALS DID IN RICHLAND COUNTY ON OR ABOUT SEPTEMBER 5,
9 2005, FELONIOUSLY, WILLFULLY, AND WITH MALICE AFORETHOUGHT
10 KILL ONE ROBERT DENNIS IRBY BY MEANS OF USING A HANDGUN TO
11 SHOOT THE VICTIM AND THAT THE VICTIM DID DIE AS A PROXIMATE
12 RESULT THEREOF. ALSO, MR. JACQUES GIBSON IS CHARGED WITH THE
13 ADDITIONAL OFFENSE OF UNLAWFUL POSSESSION OF A PISTOL BY A
14 PERSON UNDER 21 YEARS OF AGE IN THAT HE DID IN RICHLAND
15 COUNTY ON OR ABOUT SEPTEMBER 5, 2005, UNLAWFULLY POSSESS A
16 HANDGUN IN THAT THE DEFENDANT WAS UNDER THE AGE OF 21 IN
17 VIOLATION OR ALLEGED VIOLATION OF THE CODE OF LAWS OF THE
18 STATE OF SOUTH CAROLINA.

19 ALL RIGHT. LADIES AND GENTLEMEN, IS THERE ANY MEMBER OF
20 THE JURY PANEL THAT KNOWS ANYTHING ABOUT THIS PARTICULAR
21 INCIDENT, HAS ANY INFORMATION THAT YOU NEED TO SHARE WITH THE
22 COURT REGARDING THIS PARTICULAR MATTER? IF SO, PLEASE STAND
23 AT THIS TIME. ALL RIGHT. NOW, I'M GOING TO ASK YOU A SERIES
24 OF QUESTIONS, AND DURING THOSE QUESTIONS IF YOU -- I'LL ASK
25 YOU TO STAND AT THE APPROPRIATE TIME. IF YOU DO STAND,

1 PLEASE REMEMBER THAT I'LL BE ASKING YOU -- WELL, YOU'LL NEED
2 TO TELL US WHAT YOUR NAME AND YOUR JUROR NUMBER IS, PLEASE.

3 ALL RIGHT. THE POTENTIAL WITNESSES IN THIS CASE OR THE
4 POSSIBLE WITNESSES IN THIS CASE ARE DEMETRIC DAVIS, TRAMELE
5 DAVIS - THAT'S T-R-E-M-A-L-E (SIC) DAVIS. MARCUS TUCKER,
6 STEPHON WILLINGHAM, JR., VERNON DAVIS, JR., WALTER MCDANIELS
7 OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, JASON WILLOUGHBY
8 OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, CHARLES B.
9 BARHAM, SHUNTA WILSON, TORRI BOYD, MELVIN DEWITT, RAVARIS
10 MARTICE HENRY, ANTWAN MARTIN, ANTONIO SMITH, JASON JOHNSON,
11 DAVID GOFF OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT. DO
12 YOU KNOW MR. DREW'S FIRST NAME?

13 MR. LAKE: YOUR HONOR, IT'S ACTUALLY SAMANTHA DREW.

14 THE COURT: SAMANTHA DREW? AND HOW ABOUT MORRIS?

15 MR. LAKE: IT'S MIKE MORRIS.

16 THE COURT: ALL RIGHT. SAMANTHA DREW AND MIKE MORRIS,
17 E.M.S. WORKERS. SERGEANT TOM AMARO, RICHLAND COUNTY
18 SHERIFF'S DEPARTMENT. DEDRA BROWN, RICHLAND COUNTY SHERIFF'S
19 DEPARTMENT. CORPORAL STACEY DAVIS, RICHLAND COUNTY SHERIFF'S
20 DEPARTMENT. DEPUTY ARNOLD - DO YOU KNOW DEPUTY ARNOLD'S
21 FIRST NAME?

22 MR. LAKE: TIMOTHY ARNOLD.

23 THE COURT: ALL RIGHT. DEPUTY TIMOTHY ARNOLD OF THE
24 FAIRFIELD COUNTY SHERIFF'S DEPARTMENT, DENNIS IRBY SR.,
25 SHARON IRBY, CAPTAIN STAN SMITH - RICHLAND COUNTY SHERIFF'S

JURY VOIR DIRE AND IMPANELING OF THE JURY

23

1 DEPARTMENT, INVESTIGATOR MARSDEN ROE - RICHLAND COUNTY
2 SHERIFF'S DEPARTMENT, SERGEANT JOHN EWING - RICHLAND COUNTY
3 SHERIFF'S DEPARTMENT, LIEUTENANT MARK MCCOLMAN - RICHLAND
4 COUNTY SHERIFF'S DEPARTMENT, RUTH ANN DAVIS, INVESTIGATOR
5 JOHN BAKER - RICHLAND COUNTY SHERIFF'S DEPARTMENT, LIEUTENANT
6 GREG BONEY - FAIRFIELD COUNTY SHERIFF'S DEPARTMENT,
7 INVESTIGATOR MARY ANNE PHILLIPS - FAIRFIELD COUNTY SHERIFF'S
8 DEPARTMENT, INVESTIGATOR JIMMY JOINER - FAIRFIELD COUNTY
9 SHERIFF'S DEPARTMENT, LIEUTENANT HOSS HORTON - SOUTH CAROLINA
10 LAW ENFORCEMENT DIVISION, LAKISHA JANEEN DAVIS, SERGEANT ANNA
11 CLEMENS - RICHLAND COUNTY SHERIFF'S DEPARTMENT, MARSHelda
12 DOZIER OF THE PALMETTO RICHLAND MEMORIAL HOSPITAL, DR.
13 STEPHEN FANN - PALMETTO RICHLAND MEMORIAL HOSPITAL, DR. CLAY
14 NICHOLS - PALMETTO RICHLAND MEMORIAL HOSPITAL, ANN NEELEY -
15 RICHLAND COUNTY CORONER'S OFFICE, CATHY RAWLS - RICHLAND
16 COUNTY CORONER'S OFFICE, DR. CHARLOTTE LINDLER - RICHLAND
17 COUNTY CORONER'S OFFICE, JUDY NIELSEN, INVESTIGATOR MICHAEL
18 BOUKNIGHT - RICHLAND COUNTY SHERIFF'S DEPARTMENT, LIEUTENANT
19 HOWARD HUGHES - RICHLAND COUNTY SHERIFF'S DEPARTMENT,
20 LIEUTENANT IRA W. JEFFCOAT - SOUTH CAROLINA LAW ENFORCEMENT
21 DIVISION, DAVID COLLINS - RICHLAND COUNTY SHERIFF'S
22 DEPARTMENT, NEAL SCHMITZ - RICHLAND COUNTY E.M.S., JESSICA
23 HARPER, DUSTIN SMITH - SOUTH CAROLINA LAW ENFORCEMENT
24 DIVISION, LIEUTENANT ZANE PADGETT - RICHLAND COUNTY SHERIFF'S
25 DEPARTMENT, INVESTIGATOR JAY RUSSELL - RICHLAND COUNTY

1 SHERIFF'S DEPARTMENT, INVESTIGATOR JOHN BARRON - RICHLAND
2 COUNTY SHERIFF'S DEPARTMENT, DR. DEMI GARVIN - RICHLAND
3 COUNTY SHERIFF'S DEPARTMENT, INVESTIGATOR SCOTT FAUST -
4 RICHLAND COUNTY SHERIFF'S DEPARTMENT, TENA GOFF - RICHLAND
5 COUNTY SHERIFF'S DEPARTMENT, JOYE DELLATORRE - RICHLAND
6 COUNTY SHERIFF'S DEPARTMENT, JENNIFER BLAIR, ADAMS GIBSON,
7 AND JACQUES GIBSON. NOW, IS THERE ANY MEMBER OF -- YES, SIR.

8 MR. ROBERSON: JUST ONE MORE, YOUR HONOR.

9 THE COURT: AND WHOM MIGHT THAT---

10 MR. ROBERSON: TAQUILLA JOHNSON.

11 THE COURT: TAQUILLA?

12 MR. ROBERSON: JOHNSON.

13 THE COURT: JOHNSON.

14 MR. ROBERSON: THAT'S THE ONE ADDITION.

15 THE COURT: ALL RIGHT, SIR. IS THERE ANY MEMBER OF THE
16 JURY PANEL THAT'S RELATED BY BLOOD OR MARRIAGE, CLOSE
17 PERSONAL FRIENDS, ACQUAINTANCES OF, KNOWS ANY OF THESE
18 POSSIBLE OR POTENTIAL WITNESSES? IF SO, PLEASE STAND. YES,
19 SIR, YOUR NAME AND JUROR NUMBER, PLEASE?

20 JUROR SABIA: DAN SABIA, NUMBER 89.

21 THE COURT: ALL RIGHT, SIR.

22 JUROR SABIA: I THINK I MAY KNOW -- DID YOU SAY THERE'S
23 A DR. STEPHEN FANN?

24 THE COURT: YES, SIR. ALL RIGHT, SIR. NOW, THE FACT
25 THAT YOU MAY KNOW THAT POTENTIAL OR POSSIBLE WITNESS, MY

1 QUESTION TO YOU IS: CAN YOU GIVE TO THE STATE OF SOUTH
2 CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL TRIAL?
3 CAN YOU BE A FAIR AND IMPARTIAL JUROR?

4 JUROR SABIA: SURE. YES, SIR.

5 THE COURT: THANK YOU VERY MUCH. ANYONE ELSE?

6 MR. ROBERSON: WHAT WAS THE NUMBER, YOUR HONOR?

7 THE COURT: I'M SORRY. YOUR NUMBER AGAIN, JUROR NUMBER
8 AGAIN WAS?

9 JUROR SABIA: 89.

10 THE COURT: 89. ALL RIGHT. THANK YOU, SIR. ALL RIGHT.

11 LADIES AND GENTLEMEN, IS THERE ANY MEMBER OF THE JURY PANEL
12 AS A WHOLE THAT IS -- EITHER YOU YOURSELF OR A MEMBER OF YOUR
13 IMMEDIATE FAMILY HAS EVER HAD ANY MATTER HANDLED IN ANY WAY
14 BY THE FIFTH CIRCUIT SOLICITOR'S OFFICE? REMEMBER, THAT'S
15 THE PROSECUTING OFFICE THAT COVERS RICHLAND AND KERSHAW
16 COUNTIES. IF SO, PLEASE STAND. IF ANY MEMBER OF THE JURY
17 PANEL OR A MEMBER OF YOUR IMMEDIATE FAMILY IS RELATED BY
18 BLOOD OR MARRIAGE, CLOSE PERSONAL FRIENDS, ACQUAINTANCES OF
19 ANYBODY EMPLOYED AT THE FIFTH CIRCUIT SOLICITOR'S OFFICE, IF
20 SO, PLEASE STAND. ALL RIGHT. IF YOU WOULD, MS. CAMPBELL, IF
21 YOU WOULD STAND AND IDENTIFY YOURSELF, PLEASE, MA'AM.

22 MS. CAMPBELL: I'M LUCK CAMPBELL. I'M AN ASSISTANT
23 SOLICITOR HERE IN THE FIFTH JUDICIAL CIRCUIT.

24 THE COURT: ALL RIGHT. MR. LAKE, IF YOU'D STAND AND
25 IDENTIFY YOURSELF, PLEASE, SIR.

1 MR. LAKE: I'M DIETRICH LAKE. I'M AN ASSISTANT
2 SOLICITOR HERE IN THE FIFTH CIRCUIT.

3 THE COURT: ALL RIGHT. MR. ROBERSON?

4 MR. ROBERSON: MAY IT PLEASE THE COURT? MY NAME IS
5 NATHANIEL ROBERSON. I'M IN PRIVATE PRACTICE HERE IN
6 COLUMBIA.

7 THE COURT: AND MR. JOHNSON?

8 MR. JOHNSON: MY NAME IS I.S. LEEVY JOHNSON, AND I'M
9 ASSOCIATED WITH THE JOHNSON, TOAL, AND BATTISTE LAW FIRM.

10 THE COURT: ALL RIGHT. IS THERE ANY MEMBER OF THE JURY
11 PANEL HERE THAT'S RELATED BY BLOOD OR MARRIAGE, CLOSE
12 PERSONAL FRIENDS, ACQUAINTANCES OF ANY OF THE LAWYERS THAT
13 ARE PRESENT IN THIS PARTICULAR CASE? AND IN THE CASE OF MR.
14 ROBERSON AND MR. JOHNSON, HAVE YOU EVER BEEN CLIENTS OF
15 THEIRS IN THE PAST OR CURRENTLY REGARDING THEIR PRIVATE
16 PRACTICE OF LAW? IF ANY OF THOSE QUESTIONS PERTAIN TO YOU,
17 PLEASE STAND. ALL RIGHT. YES, MA'AM, YOUR NAME AND JUROR
18 NUMBER, PLEASE.

19 JUROR GETTYS: ELIZABETH GETTYS, 36.

20 THE COURT: YES, MA'AM.

21 JUROR GETTYS: NEXT-DOOR NEIGHBOR WITH MR. JOHNSON.

22 THE COURT: ALL RIGHT, MA'AM. MY QUESTION TO YOU IS --
23 JUST KEEP STANDING, PLEASE. CAN YOU GIVE TO THE STATE OF
24 SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
25 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

1 JUROR GETTYS: YES, SIR.

2 THE COURT: THANK YOU VERY MUCH, MA'AM. YES, MA'AM,
3 YOUR NAME AND JUROR NUMBER, PLEASE.

4 JUROR DOWDY: KELLI DOWDY, JUROR NUMBER 120.

5 THE COURT: YES, MA'AM.

6 JUROR DOWDY: MR. JOHNSON.

7 THE COURT: ALL RIGHT. YOU KNOW MR. JOHNSON? ALL
8 RIGHT, MA'AM. CAN YOU GIVE---

9 JUROR DOWDY: I KNOW HIM.

10 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
11 AND THE DEFENDANTS A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
12 FAIR AND IMPARTIAL JUROR?

13 JUROR DOWDY: YES.

14 THE COURT: THANK YOU VERY MUCH, MA'AM. ANYONE ELSE?
15 YES, SIR.

16 JUROR DUBBERLY: DAVID DUBBERLY, NUMBER 29. I KNOW MR.
17 JOHNSON ALSO.

18 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
19 OF SOUTH CAROLINA AND TO THE TWO DEFENDANTS A FAIR AND
20 IMPARTIAL TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

21 JUROR DUBBERLY: YES, SIR.

22 THE COURT: THANK YOU VERY MUCH. ANYBODY ELSE? YES,
23 MA'AM.

24 JUROR CLYBURN: ANGELA CLYBURN, JUROR NUMBER 17.

25 THE COURT: YES, MA'AM.

1 JUROR CLYBURN: I ALSO KNOW MR. I.S. LEEVY JOHNSON.

2 THE COURT: ALL RIGHT, MA'AM. CAN YOU GIVE TO THE STATE
3 OF SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
4 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

5 JUROR CLYBURN: YES, I CAN.

6 THE COURT: THANK YOU VERY MUCH, MA'AM. ANYBODY ELSE?
7 YES, MA'AM.

8 JUROR MOSBY: JOYCE MOSBY, JUROR NUMBER 70. I ALSO KNOW
9 MR. JOHNSON.

10 THE COURT: ALL RIGHT. AND CAN YOU GIVE TO THE STATE OF
11 SOUTH CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?
12 CAN YOU BE A FAIR AND IMPARTIAL JUROR?

13 JUROR MOSBY: YES, I CAN.

14 THE COURT: THANK YOU VERY MUCH, MA'AM. ANYBODY ELSE?
15 YES, SIR, IF YOU WOULD PLEASE STAND. YOUR NAME AND JUROR
16 NUMBER, PLEASE?

17 JUROR DAVIS: JUROR NUMBER 23, RONALD DAVIS.

18 THE COURT: YES, SIR.

19 JUROR DAVIS: MR. JOHNSON'S LAW FIRM SERVED ME MANY
20 YEARS AGO.

21 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE---

22 JUROR DAVIS: IN ORANGEBURG, SOUTH CAROLINA.

23 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
24 OF SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
25 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

1 JUROR DAVIS: YES, SIR.

2 THE COURT: THANK YOU VERY MUCH. ANYBODY ELSE? ALL
3 RIGHT. DOES ANY MEMBER OF THE JURY PANEL BELIEVE THAT THEY
4 HAVE ANY KIND OF PERSONAL, POLITICAL, RELIGIOUS, ANY KIND OF
5 PHILOSOPHICAL BELIEF THAT YOU BELIEVE WOULD PREVENT YOU FROM
6 BEING A FAIR AND IMPARTIAL JUROR IN THIS CASE? IF SO, PLEASE
7 STAND. ALL RIGHT. IS THERE ANY MEMBER OF THE JURY PANEL
8 THAT EITHER YOU YOURSELF IS A FORMER LAW ENFORCEMENT OFFICER
9 OR YOU HAVE A CURRENT FAMILY MEMBER WHO IS NOW A LAW
10 ENFORCEMENT OFFICER OR WAS IN THE PAST A LAW ENFORCEMENT
11 OFFICER? IT DOESN'T MATTER IF THEY'RE IN THIS STATE, COUNTY,
12 ANY -- ANYWHERE IS WHAT WE'RE TALKING ABOUT. SO, IF SO,
13 PLEASE STAND. ALL RIGHT. YES, SIR, YOUR NAME AND JUROR
14 NUMBER, PLEASE.

15 JUROR HASSELL: DARRIS HASSELL, JUROR NUMBER 47.

16 THE COURT: YES, SIR. AND YOU HAVE SOMEONE -- WERE YOU
17 IN LAW ENFORCEMENT OR ARE YOU RELATED TO SOMEBODY?

18 JUROR HASSELL: NO, SIR, RELATED TO SOMEBODY.

19 THE COURT: AND WHO IS THAT?

20 JUROR HASSELL: CLARENCE HASSELL.

21 THE COURT: ALL RIGHT.

22 JUROR HASSELL: CITY OF COLUMBIA OFFICER.

23 THE COURT: IN -- SO HE'S WITH THE CITY POLICE
24 DEPARTMENT; IS THAT CORRECT?

25 JUROR HASSELL: YES, SIR.

1 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
2 OF SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
3 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

4 JUROR HASSELL: I CAN.

5 THE COURT: YES, SIR. THANK YOU VERY MUCH. YES, SIR,
6 YOUR NAME AND JUROR NUMBER?

7 JUROR MACK: MY NAME IS CURTISS MACK. MY JUROR NUMBER
8 IS 64. MY BROTHER IS A POLICE OFFICER IN ATLANTA, GEORGIA.

9 THE COURT: ALL RIGHT, SIR. CAN---

10 JUROR MACK: AND I ALSO HAVE A BROTHER THAT'S A
11 CORRECTIONAL OFFICER IN TURBEVILLE.

12 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
13 OF SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
14 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

15 JUROR MACK: YES, YOUR HONOR.

16 THE COURT: THANK YOU VERY MUCH, SIR. YES, SIR, AGAIN?

17 JUROR DAVIS: YES. JUROR NUMBER 23, RONALD DAVIS. I
18 HAVE THREE COUSINS WHO ARE POLICE OFFICERS IN MARION COUNTY
19 AS WELL AS TWO CORRECTIONAL OFFICERS HERE IN COLUMBIA, SOUTH
20 CAROLINA.

21 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
22 OF SOUTH CAROLINA AND THE TWO DEFENDANTS A FAIR AND IMPARTIAL
23 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

24 JUROR DAVIS: YES, SIR.

25 THE COURT: THANK YOU VERY MUCH. YES, MA'AM, NAME AND

1 JUROR NUMBER, PLEASE?

2 JUROR ENGELKENS: KATHY ENGELKENS, JUROR NUMBER 30. I
3 HAVE A SISTER AND BROTHER-IN-LAW AND A BROTHER IN FLORIDA
4 THAT WORK FOR THE STATE CORRECTIONS FACILITY.

5 THE COURT: ALL RIGHT, MA'AM. CAN YOU GIVE TO THE STATE
6 OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL
7 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

8 JUROR ENGELKENS: YES, SIR.

9 THE COURT: THANK YOU VERY MUCH, MA'AM. YES, SIR.

10 JUROR SIMMONS: MY NAME IS CAMERON SIMMONS, JUROR NUMBER
11 98. I HAVE A SISTER EMPLOYED AS A CORRECTIONS OFFICER FOR
12 THE STATE OF SOUTH CAROLINA.

13 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
14 OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL
15 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

16 JUROR SIMMONS: YES, SIR.

17 THE COURT: THANK YOU VERY MUCH. ANYONE ELSE? YES,
18 MA'AM, NAME AND JUROR NUMBER, PLEASE.

19 JUROR ROBISHAW: WENDI ROBISHAW, JUROR NUMBER 85. I
20 HAVE A COUSIN WHO IS A POLICEMAN IN FLORIDA.

21 THE COURT: ALL RIGHT, MA'AM. CAN YOU GIVE TO THE STATE
22 OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL
23 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

24 JUROR ROBISHAW: YES.

25 THE COURT: THANK YOU VERY MUCH, MA'AM. ANYONE ELSE?

1 ALL RIGHT. THE QUESTION WAS PROBABLY COVERED BY MY FIRST
2 ONE, BUT I'LL JUST ASK IT AGAIN JUST TO MAKE SURE. IS THERE
3 ANY MEMBER OF THE JURY PANEL THAT HAS HEARD, SEEN, READ
4 ANYTHING ABOUT THIS PARTICULAR MATTER? IF SO, PLEASE STAND.
5 THANK YOU VERY MUCH. ALL RIGHT. IS THERE ANY MEMBER OF THE
6 JURY PANEL OR A MEMBER OF YOUR IMMEDIATE FAMILY THAT IS A
7 MEMBER OF ANY KIND OF A VICTIMS' RIGHTS OR LAW ENFORCEMENT
8 SUPPORT ORGANIZATION? I'LL JUST GIVE YOU A COUPLE OF
9 EXAMPLES. IT'S CERTAINLY NOT AN EXHAUSTIVE LIST OF ANY KIND,
10 BUT EXAMPLES MIGHT BE CITIZENS AGAINST VIOLENT CRIME, MOTHERS
11 AGAINST DRUNK DRIVING, THE SOUTH CAROLINA LAW ENFORCEMENT
12 OFFICERS ASSOCIATION, SOME KIND OF VICTIMS' RIGHTS OR LAW
13 ENFORCEMENT SUPPORT ORGANIZATION. IF SO, PLEASE STAND. ALL
14 RIGHT.

15 THIS NEXT QUESTION, LADIES AND GENTLEMEN, I'M GOING TO
16 ASK WHETHER YOU YOURSELF OR A MEMBER OF YOUR IMMEDIATE FAMILY
17 HAS EVER BEEN THE VICTIM OF A CRIME. NOW, IN ASKING THIS
18 QUESTION, I'M NOT GOING TO ASK YOU WHAT THE CRIME WAS OR ANY
19 OF THE FACTS INVOLVED NOR DO I WANT YOU TO VOLUNTEER TO ME
20 ANY INFORMATION ABOUT WHAT OCCURRED. THE QUESTION IS GOING
21 TO BE STRAIGHTFORWARD: WAS IT YOURSELF OR A FAMILY MEMBER?
22 BASED UPON THAT RESPONSE, I WILL THEN ASK THE QUALIFICATION
23 QUESTION. SO HAS ANY MEMBER OF THE JURY PANEL OR A MEMBER OF
24 YOUR IMMEDIATE FAMILY HAS EVER BEEN THE VICTIM OF A CRIME?
25 IF SO, PLEASE STAND. YES, MA'AM, YOUR NAME AND JUROR NUMBER,

1 PLEASE.

2 JUROR STIDOM: PAT STIDOM, JUROR NUMBER 101.

3 THE COURT: AND WAS IT YOURSELF OR A FAM---

4 JUROR STIDOM: IT WAS MYSELF.

5 THE COURT: YOURSELF. ALL RIGHT. CAN YOU GIVE TO THE
6 STATE OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND
7 IMPARTIAL TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

8 JUROR STIDOM: YES, SIR.

9 THE COURT: THANK YOU VERY MUCH. YES, SIR.

10 JUROR AUDAIN: MY NAME IS RAMON AUDAIN, JUROR NUMBER 4.

11 THE COURT: YOURSELF OR A FAMILY MEMBER?

12 JUROR AUDAIN: FAMILY MEMBER.

13 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
14 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
15 FAIR AND IMPARTIAL JUROR?

16 JUROR AUDAIN: YES.

17 THE COURT: THANK YOU VERY MUCH, SIR. YES, SIR, RIGHT
18 BEHIND HIM.

19 JUROR IRVIN: ERIC IRVIN, JUROR NUMBER 55.

20 THE COURT: YOURSELF OR A FAMILY MEMBER?

21 JUROR IRVIN: IT WAS MY UNCLE.

22 THE COURT: ALL RIGHT, SIR. CAN YOU GIVE TO THE STATE
23 OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL
24 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

25 JUROR IRVIN: YES, SIR.

1 THE COURT: THANK YOU VERY MUCH. YES, MA'AM, YOUR NAME
2 AND JUROR NUMBER, PLEASE.

3 JUROR DOWDY: KELLI DOWDY, JUROR NUMBER 120, A FAMILY
4 MEMBER.

5 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
6 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
7 FAIR AND IMPARTIAL JUROR?

8 JUROR DOWDY: YES.

9 THE COURT: THANK YOU VERY MUCH, MA'AM. YES, MA'AM.

10 JUROR DOWNER: SHONELLE DOWNER, JUROR NUMBER 27.

11 THE COURT: AND WAS IT YOURSELF OR A FAMILY MEMBER?

12 JUROR DOWNER: MYSELF.

13 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
14 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
15 FAIR AND IMPARTIAL JUROR?

16 JUROR DOWNER: YES.

17 THE COURT: THANK YOU VERY MUCH. YES, MA'AM, YOUR NAME
18 AND JUROR NUMBER, PLEASE.

19 JUROR COX: DE ANNA COX, 22. MY SISTER.

20 THE COURT: ALL RIGHT, MA'AM. CAN YOU GIVE TO THE STATE
21 OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL
22 TRIAL? CAN YOU BE A FAIR AND IMPARTIAL JUROR?

23 JUROR COX: YES.

24 THE COURT: THANK YOU VERY MUCH MA'AM. YES, SIR.

25 JUROR DUBBERLY: DAVID DUBBERLY, NUMBER 29, MYSELF.

1 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
2 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
3 FAIR AND IMPARTIAL JUROR?

4 JUROR DUBBERLY: YES, SIR.

5 THE COURT: THANK YOU VERY MUCH, SIR. YES, SIR.

6 JUROR SIMMONS: JUROR NUMBER 98. MY NAME IS CAMERON
7 SIMMONS. IT WAS A FAMILY MEMBER.

8 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
9 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
10 FAIR AND IMPARTIAL JUROR?

11 JUROR SIMMONS: YES, SIR.

12 THE COURT: THANK YOU VERY MUCH. YES, MA'AM.

13 JUROR ROBISHAW: WENDI ROBISHAW, NUMBER 85. MYSELF.

14 THE COURT: CAN YOU GIVE TO THE STATE OF SOUTH CAROLINA
15 AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL? CAN YOU BE A
16 FAIR AND IMPARTIAL JUROR?

17 JUROR ROBISHAW: YES.

18 THE COURT: THANK YOU VERY MUCH, MA'AM. YES, SIR, IN
19 THE BACK.

20 JUROR WHITE: JUROR 112, TIM WHITE.

21 THE COURT: AND WAS IT YOURSELF OR A FAMILY MEMBER?

22 JUROR WHITE: A FAMILY MEMBER.

23 THE COURT: FAMILY MEMBER. CAN YOU GIVE TO THE STATE OF
24 SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND IMPARTIAL TRIAL?
25 CAN YOU BE A FAIR AND IMPARTIAL JUROR?

1 JUROR WHITE: YES, YOUR HONOR.

2 THE COURT: THANK YOU VERY MUCH. ANYBODY ELSE? ALL
3 RIGHT. THIS IS WHAT I CALL MY GENERAL OR CATCH-ALL QUESTION.
4 DO YOU KNOW OF ANY REASON, HAVE ANY QUESTION IN YOUR MIND,
5 ANY DOUBT IN YOUR MIND THAT YOU BELIEVE YOU CANNOT GIVE TO
6 THE STATE OF SOUTH CAROLINA AND EACH DEFENDANT A FAIR AND
7 IMPARTIAL TRIAL? THAT IS FOR ANY REASON WHATSOEVER YOU
8 BELIEVE YOU CANNOT BE A FAIR AND IMPARTIAL JUROR. IF SO,
9 PLEASE STAND. YES, MA'AM. COULD I HAVE YOUR NAME AND JUROR
10 NUMBER, PLEASE? DON'T TELL ME ANYTHING. JUST YOUR NAME AND
11 JUROR NUMBER.

12 JUROR HEID: KAREN HEID, JUROR NUMBER 48.

13 THE COURT: ALL RIGHT, MA'AM. IF YOU WOULDN'T MIND,
14 COME DOWN AND TALK WITH ME, PLEASE, MA'AM. COUNSEL, IF YOU
15 WANT TO COME AROUND, I'LL BE GLAD FOR YOU TO DO SO.

16 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE IN THE
17 PRESENCE OF JUROR HEID, THE COURT, THE ATTORNEYS, AND THE
18 COURT REPORTER.)

19 THE COURT: HOLD ON ONE SECOND 'TIL THE ATTORNEYS GET UP
20 HERE.

21 JUROR HEID: SURE. I NEED TO KNOW IF THE STATE IS GOING
22 TO BE SEEKING THE CAPITAL---

23 THE COURT: NO, MA'AM.

24 MR. JOHNSON: I DIDN'T HEAR.

25 THE COURT: SHE WANTED TO KNOW IF IT WAS A CAPITAL CASE.

1 I TOLD HER IT WAS NOT.

2 (JUROR HEID LEAVES THE BENCH CONFERENCE.)

3 MR. LAKE: ARE YOU GOING TO ASK IF ANYONE HAS BEEN
4 ACCUSED OF COMMITTING A CRIME? YOU ASKED ABOUT A VICTIM.
5 ARE YOU GOING TO ASK THEM IF THEY'VE BEEN ACCUSED OF---

6 THE COURT: I HAD NOT INTENDED TO. I WOULD -- I WOULD
7 ASSUME THAT Y'ALL HAD RUN YOUR LIST BEFOREHAND TO...

8 MS. CAMPBELL: IT WAS INCLUDED ON HIS LIST. THAT'S WHY
9 I DIDN'T BRING IT UP.

10 THE COURT: WELL, I APPRECIATE THAT AND WILL BE GLAD TO
11 HEAR FROM YOU, BUT THIS IS THE ENTIRETY OF THE QUESTIONS I
12 INTEND TO ASK.

13 MR. LAKE: OKAY.

14 (WHEREUPON, THE BENCH CONFERENCE CONCLUDED.)

15 THE COURT: ALL RIGHT. FURTHER QUESTIONS FROM THE STATE
16 OTHER THAN WHAT YOU'VE ASKED?

17 MR. LAKE: NOTHING FROM THE STATE, SIR.

18 THE COURT: ALL RIGHT. MR. ROBERSON, FURTHER QUESTIONS?

19 MR. ROBERSON: BEG THE COURT'S INDULGENCE, YOUR HONOR.

20 THE COURT: YES, SIR.

21 MR. ROBERSON: NUMBER 29.

22 THE COURT: ALL RIGHT. HOLD ON ONE SECOND, PLEASE.

23 MR. ROBERSON: SOMETHING ALONG THAT ORDER.

24 THE COURT: ALL RIGHT. JUST HOLD ON -- YEAH. OKAY.

25 HOLD ON ONE SECOND. IT IS SO MARKED, BUT I RESPECTFULLY

1 DECLINE TO ASK THE JURY PANEL THAT PARTICULAR QUESTION OR
2 SOME VARIATION OF IT.

3 MR. ROBERSON: OKAY.

4 THE COURT: FURTHER -- FURTHER QUESTIONS, MR. ROBERSON?

5 MR. ROBERSON: NONE FROM US, YOUR HONOR.

6 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

7 MR. JOHNSON: NUMBER 31, YOUR HONOR.

8 THE COURT: ALL RIGHT, SIR. HOLD ON ONE SECOND, PLEASE.

9 I WOULD RESPECTFULLY DECLINE TO ASK THE JURY PANEL THAT
10 PARTICULAR QUESTION. FURTHER QUESTIONS PROPOSED FROM
11 DEFENSE?

12 MR. JOHNSON: ONE MOMENT, YOUR HONOR. JUST THAT
13 OBJECTION, YOUR HONOR.

14 THE COURT: ALL RIGHT, SIR. ALL RIGHT. AND AS I
15 INDICATED, COUNSEL, AT THE BREAK I WILL HAVE YOUR PROPOSED
16 VOIR DIRE QUESTIONS MARKED AS A COURT'S EXHIBIT. ALL RIGHT.
17 LADIES AND GENTLEMEN, WE'RE GOING TO GO THROUGH THE SELECTION
18 PROCESS, AND WHAT HAS HAPPENED IS WITH THE ADVENT OF A NEW
19 SELECTION PROCESS AND THE COMPUTERIZED BADGES THAT Y'ALL NOW
20 HAVE, THE COMPUTER HAS SELECTED NAMES BY RANDOM AND PUT THEM
21 IN A PARTICULAR ORDER. WHAT THE CLERK OF COURT WILL DO IS
22 TAKE THAT PARTICULAR LIST AND CALL THOSE NAMES STARTING WITH
23 THE FIRST ONE LISTED AS NUMBER ONE. OBVIOUSLY THAT DOESN'T
24 CORRESPOND TO YOUR JUROR NUMBER THAT YOU'VE ALREADY BEEN
25 ASSIGNED.

1 WHEN THAT NAME IS CALLED, THAT PERSON WILL STAND. SINCE
2 WE'RE A LITTLE BIT CRAMPED HERE, WHAT I'M GOING TO ASK THAT
3 YOU DO IS -- NORMALLY WE HAVE YOU COME DOWN, BUT WHAT I'M
4 GOING TO HAVE YOU DO IS JUST STAND IN YOUR PLACE WHEREVER IT
5 IS WHEN YOUR NAME IS CALLED. AT THAT POINT IN TIME THE CLERK
6 WILL INQUIRE OF THE STATE AS TO WHETHER TO EXCUSE OR PRESENT
7 THE JUROR. IF YOU ARE PRESENTED BY THE STATE, THEN THE CLERK
8 WILL TURN TO MR. ROBERSON AND ASK HIM WHETHER TO PRESENT OR
9 EXCUSE THE JUROR. IF YOU ARE FURTHER PRESENTED, THEN THE
10 CLERK WILL TURN MR. JOHNSON AND INQUIRE OF HIM AS TO WHETHER
11 TO SEAT THE JUROR OR TO EXCUSE THE JUROR. IF YOU ARE SEATED,
12 YOU WILL COME DOWN AND HAVE A SEAT IN THE JURY BOX OVER
13 THERE.

14 IF YOU HAVE ANY BELONGINGS WITH YOU, PURSE, BOOK,
15 WHATEVER IT MIGHT BE, OBVIOUSLY BRING YOUR BELONGINGS WITH
16 YOU IF YOU ARE SELECTED AS A JUROR IN THIS PARTICULAR CASE.
17 ALL RIGHT. MADAM CLERK, YOU MAY PROCEED.

18 THE CLERK: JUROR NUMBER 22, DE ANNA COX. WHAT SAYS THE
19 STATE?

20 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

21 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

22 MR. ROBERSON: PLEASE EXCUSE THE JUROR.

23 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 111, ANDREA
24 WEBB. WHAT SAYS THE STATE?

25 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

1 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

2 MR. ROBERSON: PLEASE SEAT THE JUROR.

3 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

4 MR. JOHNSON: PLEASE SWEAR THE JUROR.

5 THE CLERK: YOU MAY HAVE A SEAT IN THE JURY BOX. JUROR

6 NUMBER 65, SUSAN MCCLAM. WHAT SAYS THE STATE?

7 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

8 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

9 MR. ROBERSON: BEG THE COURT'S INDULGENCE JUST ONE
10 MINUTE.

11 THE COURT: OKAY.

12 MR. ROBERSON: PLEASE SEAT THE JUROR.

13 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

14 MR. JOHNSON: PLEASE SWEAR THE JUROR.

15 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

16 NUMBER 97, ALWYN SILVER. WHAT SAYS THE STATE?

17 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

18 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 71, CAMERON
19 MOWEN. WHAT SAYS THE STATE?

20 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

21 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

22 MR. ROBERSON: BEG THE COURT'S INDULGENCE JUST ONE
23 MOMENT.

24 THE COURT: YES, SIR.

25 MR. ROBERSON: PLEASE SEAT THE JUROR.

1 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

2 MR. JOHNSON: PLEASE SWEAR THE JUROR.

3 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

4 NUMBER 86, TREY RODERICK. WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

7 MR. ROBERSON: PLEASE SEAT THE JUROR.

8 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

9 MR. JOHNSON: PLEASE SWEAR THE JUROR.

10 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

11 NUMBER 48, KAREN HEID. WHAT SAYS THE STATE?

12 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

13 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

14 MR. ROBERSON: PLEASE SEAT THE JUROR.

15 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

16 MR. JOHNSON: PLEASE SWEAR THE JUROR.

17 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

18 NUMBER 61, XENIA JONES. WHAT SAYS THE STATE?

19 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

20 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

21 MR. ROBERSON: PLEASE SEAT THE JUROR.

22 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

23 MR. JOHNSON: PLEASE SWEAR THE JUROR.

24 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

25 NUMBER 90, KRISTINA SABIA. WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

3 MR. ROBERSON: EXCUSE THE JUROR.

4 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 70, JOYCE
5 MOSBY.

6 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

7 THE CLERK: JUROR NUMBER 85, WENDY ROBISHAW.

8 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

9 THE CLERK: JUROR NUMBER 12, MEGAN BURBAGE. WHAT SAYS
10 THE STATE?

11 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

13 MR. ROBERSON: PLEASE SEAT THE JUROR.

14 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

15 MR. JOHNSON: PLEASE SWEAR THE JUROR.

16 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR
17 NUMBER 23, RONALD DAVIS. WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

19 THE CLERK: JUROR NUMBER 75, JOHN OBRADOVICH. WHAT SAYS
20 THE STATE?

21 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

23 MR. ROBERSON: EXCUSE THE JUROR.

24 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 54, RICHARD
25 HULT. WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

3 MR. ROBERSON: PLEASE EXCUSE THE JUROR.

4 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 2, HEIDI
5 ADONGO. WHAT SAYS THE STATE?

6 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

8 MR. ROBERSON: PLEASE SEAT THE JUROR.

9 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

10 MR. JOHNSON: PLEASE EXCUSE THE JUROR FROM THIS TRIAL.

11 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 27,
12 SHONELLE DOWNER. WHAT SAYS THE STATE?

13 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

15 MR. ROBERSON: SEAT THE JUROR.

16 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

17 MR. JOHNSON: PLEASE SWEAR THE JUROR.

18 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR
19 NUMBER 60, EVAN JONES. WHAT SAYS THE STATE?

20 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

21 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 107,
22 CHARLES THOMPSON. DOES THE STATE CHALLENGE FOR CAUSE?

23 MS. CAMPBELL: WE HAVE 10.

24 THE COURT: IT'S 10 ON EACH SIDE.

25 THE CLERK: WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

3 MR. ROBERSON: PLEASE EXCUSE THE JUROR.

4 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 1, ADRIAN
5 ADDISON. WHAT SAYS THE STATE?

6 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

8 MR. ROBERSON: WHAT'S THE JUROR'S NUMBER?

9 MR. JOHNSON: NUMBER 1.

10 THE CLERK: NUMBER 1.

11 MR. ROBERSON: ADRIAN ADDISON?

12 THE CLERK: UH-HUH.

13 MR. ROBERSON: OKAY. PLEASE SEAT THE JUROR.

14 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

15 MR. JOHNSON: PLEASE SWEAR THE JUROR.

16 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR
17 NUMBER 113, CATHERINE WHITESIDES. WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

19 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 95,
20 CHRISTOPHER SHIRER. WHAT SAYS THE STATE?

21 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

23 MR. ROBERSON: PLEASE SEAT THE JUROR.

24 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

25 MR. JOHNSON: PLEASE SWEAR THE JUROR.

1 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR
2 NUMBER 77, BELINDA PEARSON-TOATLEY. WHAT SAYS THE STATE?

3 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

5 MR. ROBERSON: PLEASE SWEAR THE JUROR.

6 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

7 MR. JOHNSON: PLEASE SWEAR THE JUROR.

8 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR
9 NUMBER 9, DANIEL SABIA. WHAT SAYS THE STATE?

10 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

11 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

12 MR. ROBERSON: EXCUSE THE JUROR.

13 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 119, THOMAS
14 YARBROUGH. WHAT SAYS THE STATE?

15 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

16 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

17 MR. ROBERSON: BEG THE COURT'S INDULGENCE FOR A MINUTE,
18 YOUR HONOR.

19 THE COURT: YES, SIR.

20 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION TAKES PLACE
21 BETWEEN MR. ROBERSON AND MR. JOHNSON.)

22 MR. ROBERSON: YOUR HONOR, MAY WE APPROACH?

23 THE COURT: ALL RIGHT. Y'ALL COME AROUND TO THE SIDE.
24 SOLICITOR?

25 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE OUT OF THE

1 HEARING OF THE JURY.)

2 THE COURT: YES, SIR.

3 MR. JOHNSON: YOUR HONOR, HE INDICATED HE WAS A PASTOR,
4 BUT HE DIDN'T INDICATE HIS DENOMINATION AND WE'RE NOT CERTAIN
5 ABOUT THAT.

6 THE COURT: WELL, I CAN ASK HIM, BUT WHAT POSSIBLE
7 DIFFERENCE COULD THAT MAKE?

8 MR. JOHNSON: PHILOSOPHICAL, YOUR HONOR. SOME
9 DENOMINATIONS ARE FORGIVING. SOME ARE STRICTLY HALF: EYE
10 FOR AN EYE, TOOTH FOR A TOOTH.

11 THE COURT: ALL RIGHT. WHAT'S THE STATE'S POSITION?

12 MS. CAMPBELL: THAT'S UP TO YOU, JUDGE.

13 THE COURT: ALL RIGHT. THANK YOU.

14 (THE BENCH CONFERENCE CONCLUDED.)

15 THE COURT: IS THAT JUROR NUMBER 119?

16 THE CLERK: YES, SIR.

17 THE COURT: MR. YARBROUGH, YOU INDICATED IN YOUR JUROR
18 INFORMATION PACKAGE I BELIEVE THAT YOU ARE A PASTOR. IS THAT
19 CORRECT?

20 JUROR YARBROUGH: THAT'S CORRECT, YOUR HONOR.

21 THE COURT: COULD YOU TELL US FURTHER WHAT DENOMINATION
22 OR CHURCH OR WHATEVER THAT MIGHT BE?

23 JUROR YARBROUGH: IT'S AN INTERDENOMINATIONAL BODY, SO
24 IT'S...

25 THE COURT: ALL RIGHT, SIR. THANK YOU VERY MUCH. ALL

JURY VOIR DIRE AND IMPANELING OF THE JURY

1 RIGHT. PROCEED, PLEASE.

2 MR. ROBERSON: PLEASE SEAT THE JUROR.

3 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

4 MR. JOHNSON: PLEASE SWEAR THE JUROR.

5 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

6 THE COURT: ALL RIGHT. LET'S HAVE TWO ALTERNATES,

7 PLEASE. WE'LL HAVE TWO ALTERNATES.

8 THE CLERK: JUROR NUMBER 55, ERIC IRVIN.

9 MR. ROBERSON: TWO?

10 THE COURT: YES, SIR. FOR EACH DEFENDANT TWO.

11 MR. ROBERSON: JUROR NUMBER?

12 THE CLERK: NUMBER 55, ERIC IRVIN. WHAT SAYS THE STATE?

13 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

15 MR. ROBERSON: PLEASE SWEAR THE JUROR.

16 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

17 MR. JOHNSON: PLEASE SWEAR THE JUROR.

18 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

19 NUMBER 29, DAVID DUBBERLY.

20 THE COURT: MR. IRVIN, PLEASE NOTE THAT YOU'RE ONE OF

21 THE ALTERNATES IN THIS PARTICULAR CASE. ALL RIGHT? THANK

22 YOU. YES, MA'AM.

23 THE CLERK: WHAT SAYS THE STATE?

24 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

25 THE CLERK: YOU MAY BE SEATED. JUROR NUMBER 98, CAMERON

1 SIMMONS. WHAT SAYS THE STATE? DOES THE STATE CHALLENGE FOR
2 CAUSE?

3 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAYS DEFENDANT ADAMS GIBSON?

5 MR. ROBERSON: PLEASE SEAT THE JUROR.

6 THE CLERK: WHAT SAYS DEFENDANT JACQUES GIBSON?

7 MR. JOHNSON: PLEASE SWEAR THE JUROR.

8 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

9 THE COURT: ALL RIGHT. MR. SIMMONS, IF YOU WOULD PLEASE
10 NOTE THAT YOU'RE ALSO AN ALTERNATE IN THIS PARTICULAR CASE.
11 THANK YOU.

12 (WHEREUPON, THE JURY WAS IMPANELED AT 12:28 P.M.)

13 THE COURT: ALL RIGHT. IS THERE ANY OBJECTIONS TO THE
14 JURY AS IMPANELED FROM THE STATE?

15 MS. CAMPBELL: BEG THE COURT'S INDULGENCE. NONE FROM
16 THE STATE, YOUR HONOR.

17 THE COURT: ANY OBJECTIONS TO THE JURY AS IMPANELED FROM
18 THE DEFENDANT ADAMS GIBSON?

19 MR. ROBERSON: NONE, YOUR HONOR.

20 THE COURT: FROM THE DEFENDANT JACQUES GIBSON?

21 MR. JOHNSON: NONE, YOUR HONOR.

22 THE COURT: ALL RIGHT. I FIND THE JURY HAS BEEN
23 PROPERLY IMPANELED PURSUANT TO BATSON VERSUS KENTUCKY AND
24 J.E.B. VERSUS ALABAMA. ALL RIGHT. LADIES AND GENTLEMEN OF
25 THE JURY IN THIS PARTICULAR CASE, I'M GOING TO ASK THAT YOU

1 ACCOMPANY THE BAILIFF AND GO TO YOUR JURY ROOM AND DO ONE
2 THING FOR ME AND THAT IS TO SELECT YOUR FOREPERSON FOR THIS
3 PARTICULAR JURY.

4 LET ME TELL YOU BRIEFLY WHAT THE FOREPERSON DOES. IF
5 WE'RE IN THE COURTROOM HERE AND THERE'S SOME MATTER THAT THE
6 JURY NEEDS ATTENTION TO SUCH AS YOU CAN'T HEAR THE WITNESS OR
7 AN ATTORNEY OR THERE'S SOME OTHER MATTER, BASICALLY THE
8 FOREPERSON ON BEHALF OF THE JURY RAISES THEIR HAND AND GETS
9 THE COURT'S ATTENTION AND WILL HANDLE THE MATTER, WHATEVER IT
10 IS. IF YOU'RE BACK IN YOUR JURY ROOM AND THERE'S SOME MATTER
11 THAT COMES UP, YOU GO AHEAD AND WRITE OUT A NOTE, SIGN IT,
12 AND GET IT TO THE BAILIFF. IT WILL COME TO ME AND WE'LL
13 HANDLE THE MATTER, WHATEVER IT IS.

14 NOW, WHEN WE FINISH THE EVIDENTIARY PORTION OF THIS
15 TRIAL AND THE MATTER HAS BEEN SUBMITTED TO THE JURY AS A
16 WHOLE FOR YOUR DELIBERATIONS, DISCUSSIONS, AND UNANIMOUS
17 DECISION IN THIS PARTICULAR MATTER, THE FOREPERSON'S
18 RESPONSIBILITIES CHANGE IN THIS REGARD: THE FOREPERSON'S
19 RESPONSIBILITY WOULD BE TO MAKE SURE THAT EVERYBODY HAS AN
20 OPPORTUNITY TO SPEAK. EVERYBODY'S VOICE HAS AN OPPORTUNITY
21 TO BE HEARD ON THE ISSUE TO BE DECIDED REGARDING THESE
22 DEFENDANTS.

23 (A CELL PHONE RINGS IN THE COURTROOM.)

24 THE COURT: IS THAT A CELL PHONE, MA'AM?

25 JUROR: YES, SIR.

1 THE COURT: ALL RIGHT. WE'LL DEAL WITH THAT IN JUST A
2 SECOND. NOW, AGAIN IF THERE'S ANY MATTER THAT THE JURY NEEDS
3 ATTENTION TO, THEN THE FOREPERSON WILL WRITE OUT A NOTE, GIVE
4 IT TO THE BAILIFF AND IT WILL COME TO ME AND WE'LL HANDLE THE
5 MATTER, WHATEVER IT IS.

6 THE FINAL RESPONSIBILITY OF THE FOREPERSON IS THAT WHEN
7 THE JURY HAS WELL AND TRULY DELIBERATED IN THIS CASE AND
8 REACHED ITS UNANIMOUS DECISION AS TO EACH DEFENDANT IN THIS
9 CASE, THEN THE FOREPERSON WILL TAKE THE JURY FORMS THAT THE
10 COURT WILL PROVIDE TO YOU AND YOU WILL CHECK THE APPROPRIATE
11 BLOCK OR YOU WILL WRITE THE APPROPRIATE WORD AND THEREAFTER
12 SIGN YOUR NAME AS THE FOREPERSON INDICATING THAT THE VERDICT
13 ON THAT VERDICT SHEET IS INDEED THE UNANIMOUS VERDICT OF THE
14 JURY IN THAT PARTICULAR CASE.

15 SO WITH THAT, I'M GOING TO ASK THAT YOU GO BACK TO YOUR
16 JURY ROOM, AND IF YOU WOULD, PLEASE, MR. BAILIFF, YOU WILL
17 MAKE SURE AND SECURE ALL CELL PHONES FROM ALL JURORS. I'M
18 GOING TO TELL YOU -- I'M GOING TO GIVE YOU AN OPPORTUNITY TO
19 BE EXCUSED HERE IN A MINUTE, AFTER YOU SELECTED THE
20 FOREPERSON, FOR LUNCH. WHEN YOU COME BACK FROM LUNCH, YOU
21 WILL NOT HAVE A CELL PHONE WITH YOU. YOU WILL NOT HAVE A
22 COMMUNICATION DEVICE WITH YOU. BLACKBERRY, PALM TRIO,
23 WHATEVER IT MIGHT BE, YOU WILL NOT HAVE THAT DEVICE WITH YOU.
24 IT IS NOT APPROPRIATE FOR YOU TO HAVE ANY OUTSIDE SOURCES OF
25 COMMUNICATION WHEN YOU'RE ACTUALLY SERVING ON A JURY, MUCH

1 LESS THE FACT THAT IT VIOLATES AN ORDER OF THE CHIEF JUSTICE
2 OF THE STATE OF SOUTH CAROLINA THAT PROHIBITS THE CELL PHONE
3 BEING IN THE COURTROOM. SO, MR. BAILIFF, IF YOU'LL TAKE CARE
4 OF THAT.

5 WHEN YOU SELECT YOUR FOREPERSON, PLEASE KNOCK ON THE
6 DOOR. LET THE BAILIFF KNOW WHO THAT FOREPERSON IS.
7 GENTLEMEN, AS THE ALTERNATES IN THIS PARTICULAR MATTER, MR.
8 YARBROUGH -- I'M SORRY. MR. IRVIN AND MR. -- NO. LET ME
9 SEE. I'M SORRY. WHO WAS IT? MR. IRVIN AND MR. SIMMONS,
10 Y'ALL CAN VOTE ON THE FOREPERSON, BUT OBVIOUSLY BEING THE
11 ALTERNATES IN THIS CASE YOU CAN'T BE THE FOREPERSON. ALL
12 RIGHT? SELECT THE FOREPERSON. LET THE BAILIFF KNOW WHO IT
13 IS. ACCOMPANY THE BAILIFF TO YOUR JURY ROOM.

14 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
15 12:33 P.M.)

16 THE COURT: BEFORE I SEND THE JURY PANEL BACK TO THE
17 JURY ASSEMBLY ROOM, I WILL TELL EVERYONE ASSEMBLED IN THE
18 COURTROOM: YOU'VE HAD YOUR CELL PHONE WARNING FOR THE WEEK.
19 IF ANOTHER CELL PHONE GOES OFF, I WILL ENFORCE THE ORDER OF
20 THE CHIEF JUSTICE OF THE STATE OF SOUTH CAROLINA. THAT
21 INCLUDES THE POTENTIALITY OF YOU GO TO THE RICHLAND COUNTY
22 DETENTION CENTER. SO LET'S BE CLEAR ABOUT THAT. ALL RIGHT.
23 MEMBERS OF THE JURY THAT WERE NOT SELECTED FOR THIS
24 PARTICULAR CASE, GO BACK TO YOUR JURY ASSEMBLY ROOM. THANK
25 YOU VERY MUCH. EVERYONE ELSE REMAIN SEATED.

1 (ALL JURORS EXIT THE COURTROOM.)

2 THE COURT: ALL RIGHT. COUNSEL, WHAT WE'RE GOING TO DO
3 IS WE WILL -- WE'LL BREAK FOR LUNCH. I'M GOING TO HAVE YOU
4 COME BACK. LET'S SEE. WE'VE GOT 12:30. WE'LL COME BACK AT
5 1:45. I'LL HAVE YOU COME BACK AT 1:45. WE'LL HEAR THE
6 JACKSON V. DENNO MATTER AT THAT POINT IN TIME AND ANY OTHER
7 MATTERS THAT THE STATE OR THE DEFENSE HAS. WHEN THE JURY
8 SELECTS THEIR FOREPERSON, I'M GOING TO EXCUSE THEM UNTIL
9 3:00. I'LL HAVE THEM COME BACK AT 3:00 AND WE'LL COMMENCE
10 THE TRIAL AT THAT POINT IN TIME. ALL RIGHT? ANYTHING FROM
11 THE STATE BEFORE WE BREAK FOR LUNCH?

12 MS. CAMPBELL: NO, SIR.

13 THE COURT: MR. ROBERSON?

14 MR. ROBERSON: NOTHING FROM THE DEFENSE, YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: NOTHING. THANK YOU KINDLY, SIR.

17 THE COURT: THANK YOU VERY MUCH. WE'LL SEE YOU BACK AT
18 1:45.

19 (WHEREUPON, A LUNCH BREAK WAS TAKEN. COURT'S EXHIBIT 1
20 WAS MARKED FOR IDENTIFICATION ONLY. STATE'S EXHIBITS 1
21 THROUGH 10 WERE MARKED FOR IDENTIFICATION ONLY.)

22 THE COURT: THANKS VERY MUCH. YOU MAY BE SEATED. ALL
23 RIGHT. AS I UNDERSTAND IT, SOLICITOR AND MR. JOHNSON, THERE
24 WAS A NEED FOR THE COURT TO HAVE A JACKSON V. DENNO HEARING.
25 IS THAT CORRECT?

1 MR. JOHNSON: THAT'S CORRECT, YOUR HONOR.

2 THE COURT: ALL RIGHT. IS THE STATE READY TO PROCEED?

3 MR. LAKE: THE STATE'S READY TO PROCEED, YOUR HONOR.

4 THE COURT: ALL RIGHT, SIR.

5 MR. LAKE: THE STATE WOULD CALL JASON WILLOUGHBY.

6 JASON WILLOUGHBY, AFTER BEING DULY SWORN, TESTIFIED
7 AS FOLLOWS IN CAMERA:

8 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME
9 FOR THE RECORD.

10 THE WITNESS: MY NAME IS JASON WILLOUGHBY.

11 DIRECT EXAMINATION

12 BY MR. LAKE:

13 Q. AND, MR. WILLOUGHBY, WOULD YOU TELL US WHERE YOU'RE
14 CURRENTLY EMPLOYED?

15 A. I'M SORRY, SIR?

16 Q. WOULD YOU TELL US WHERE YOU'RE CURRENTLY EMPLOYED?

17 A. I'M CURRENTLY A FIRE AND THEFT INVESTIGATOR FOR
18 NATIONWIDE INSURANCE.

19 Q. AND HOW LONG HAVE YOU BEEN DOING THAT?

20 A. SINCE DECEMBER OF 2006.

21 Q. BACK IN SEPTEMBER OF 2005, WHAT WAS YOUR POSITION?

22 A. I WAS AN INVESTIGATOR FOR THE RICHLAND COUNTY SHERIFF'S
23 DEPARTMENT.

24 Q. AND HOW LONG WERE YOU AN INVESTIGATOR WITH THE RICHLAND
25 COUNTY SHERIFF'S DEPARTMENT?

1 A. AT THAT POINT JUST UNDER TWO YEARS APPROXIMATELY.

2 Q. AND GENERALLY WHAT WERE YOUR DUTIES?

3 A. TO INVESTIGATE FELONY CASES WITH THE SHERIFF'S OFFICE.
4 AT THAT TIME I WAS ASSIGNED TO THE BURGLARY UNIT. WHEN I
5 FINISHED OUT, I WAS ASSIGNED TO THE MAJOR CRIMES UNIT, SEX
6 CRIMES INVESTIGATION.

7 Q. AND COULD YOU EXPLAIN TO YOUR HONOR HOW YOU BECAME
8 INVOLVED IN THIS PARTICULAR CASE?

9 A. I WAS THE SECONDARY INVESTIGATOR ASSIGNED WITH
10 INVESTIGATOR SHAWN MCDANIELS AS PART OF THE -- FOR HOMICIDE
11 ROTATION WITH THE SHERIFF'S OFFICE.

12 Q. AND WHEN DID YOU BECOME INVOLVED IN THIS CASE?

13 A. SEPTEMBER OF 2005.

14 Q. DO YOU REMEMBER THE ACTUAL DATE? DO YOU HAVE THE
15 INVESTIGATIVE REPORT IN FRONT OF YOU?

16 A. I DO NOT HAVE IT IN FRONT OF ME, SIR. I'M SORRY.

17 Q. ONE SECOND, YOUR HONOR. LET ME SHOW YOU YOUR REPORT.

18 A. THANK YOU, SIR.

19 Q. AND WHEN DID YOU BECOME INVOLVED IN THIS PARTICULAR
20 CASE?

21 A. SEPTEMBER 5TH, 2005.

22 Q. AND YOU INDICATED YOUR ROLE WAS A SECONDARY ROLE. WHAT
23 DID THAT INVOLVE?

24 A. THAT INVOLVES FOLLOWING THE LEAD OF THE PRIMARY
25 INVESTIGATOR AND GIVING AID IN WHATEVER FUNCTIONS HE DEEMS

1 NECESSARY AS FAR AS THE CASE PROGRESSES.

2 Q. AND DID YOU HAVE AN OPPORTUNITY TO COME IN CONTACT WITH

3 A JACQUES GIBSON?

4 A. I DID, SIR.

5 Q. AND WHEN WAS THAT?

6 A. THAT WAS SEPTEMBER 6TH, 2005, UP IN FAIRFIELD COUNTY,

7 SOUTH CAROLINA.

8 Q. AND HOW DID YOU COME INTO CONTACT WITH HIM AT THAT TIME?

9 A. AFTER EXECUTING SEARCH WARRANTS UP THERE ALONG WITH
10 INVESTIGATOR MCDANIELS AND SEVERAL MEMBERS OF THE RICHLAND
11 COUNTY SHERIFF'S OFFICE AND FAIRFIELD COUNTY SHERIFF'S
12 OFFICES, HE WAS TAKEN INTO CUSTODY BY THE FAIRFIELD COUNTY
13 SHERIFF'S DEPARTMENT, AND THEN HIS CUSTODY WAS TURNED OVER TO
14 MYSELF TO BE TRANSPORTED BACK TO RICHLAND COUNTY.

15 Q. AND AT THE TIME THAT YOU CAME INTO CONTACT WITH HIM, WAS
16 HE UNDER ARREST AT THAT PARTICULAR POINT?

17 A. HE WAS. THAT'S CORRECT, SIR.

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

19 A. I DID, SIR.

20 Q. AND JUST KIND OF EXPLAIN TO YOUR HONOR WHAT RIGHTS WERE
21 THOSE THAT YOU ADVISED HIM OF. DID YOU ADVISE HIM OF THE
22 RIGHTS IN FAIRFIELD COUNTY?

23 A. NO, NOT IN FAIRFIELD COUNTY. NO, SIR.

24 Q. OKAY. WHEN YOU FIRST CAME INTO CONTACT WITH MR. GIBSON,
25 WHAT HAPPENED?

1 A. WHEN -- ONCE WE TOOK CUSTODY OF HIM FROM THE FAIRFIELD
2 COUNTY SHERIFF'S DEPARTMENT, OF COURSE, WE CHECKED HIS PERSON
3 FOR WEAPONS OR ANYTHING AND THEN SECURED HIM AND PLACED HIM
4 IN ONE OF OUR VEHICLES TO TRANSPORT BACK. OF COURSE, HE
5 DIDN'T HAVE ANY WEAPONS ON HIM OR ANYTHING, AND AS I RECALL,
6 WE CUFFED HIM, I BELIEVE IN THE FRONT, BEING THERE WAS A
7 DISTANCE WE HAD TO TRAVEL.

8 Q. AND WHAT ONE THING DID HE PROVIDE TO YOU?

9 A. HE PROVIDED A SHEET OF NOTEBOOK PAPER AND STATED TO ME
10 THAT HE HAD WRITTEN OUT THE CIRCUMSTANCE THAT WE WERE THERE
11 FOR.

12 Q. AND HOW DID HE COME TO EXPLAIN OR GIVE THAT PARTICULAR
13 ITEM TO YOU?

14 A. HE BASICALLY, AS I RECALL, STATED THAT HE HAD -- HE HAD
15 WRITTEN OR HE HAD PREPARED SOMETHING FOR US AND HE RETRIEVED
16 IT FROM HIS PERSON WHICH HE HAD IT ON HIM.

17 Q. IS THIS IN RESPONSE TO ANY QUESTIONS THAT YOU POSED TO
18 HIM OR ANYTHING LIKE THAT?

19 A. NO, SIR.

20 Q. OKAY. LET ME SHOW YOU...

21 (MR. LAKE SHOWS A DOCUMENT TO DEFENSE COUNSEL.)

22 MR. JOHNSON: OKAY.

23 (STATE'S EXHIBIT 11 WAS MARKED FOR IDENTIFICATION ONLY.)

24 BY MR. LAKE:

25 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS EXHIBIT NUMBER 11

1 FOR I.D. PURPOSES ONLY. DO YOU RECOGNIZE THAT PARTICULAR
2 ITEM?

3 A. YES, I DO, SIR.

4 Q. AND WHAT DO YOU RECOGNIZE IT TO BE?

5 A. THAT IS THE SHEET OF NOTEBOOK PAPER THAT HE PRESENTED TO
6 ME AFTER WE HAD TAKEN CUSTODY OF HIM.

7 Q. AND WAS THAT FREELY AND VOLUNTARILY GAVE TO YOU?

8 A. YES. HE OFFERED IT UP ALONG WITH HIS STATEMENT.

9 Q. AND HIS EXPLANATION AS TO WHAT THAT PARTICULAR ITEM WAS,
10 WAS THAT FREELY AND VOLUNTARILY GIVEN?

11 A. THAT'S CORRECT, SIR.

12 Q. AND JUST COULD YOU EXPLAIN TO THE JUDGE EXACTLY WHAT HE
13 WAS EXPLAINING THAT THAT ITEM WAS?

14 A. BASICALLY WHAT HE SAID WAS THAT THIS WAS SOMETHING HE
15 HAD PREPARED FOR US AND HE RETRIEVED IT AND HANDED IT OVER.
16 HE STARTED KIND OF TO OR IT APPEARED THAT HE WAS GOING TO
17 ELABORATE ON WHAT IT WAS EXACTLY AT WHICH TIME I TOLD HIM
18 THAT, YOU KNOW, WE WOULD BE BACK IN RICHLAND COUNTY SOON AND
19 WE COULD -- WE COULD GET INTO THE PARTICULARS OF THINGS AT
20 THAT POINT AND HE -- HE WAS FINE WITH THAT. HE DIDN'T
21 PROCEED ANY FURTHER WITH ANY MORE COMMENTS OR STATEMENTS.

22 Q. DID YOU THREATEN HIM IN ANY WAY TO GET THAT PARTICULAR
23 DOCUMENT?

24 A. NO, I DID NOT. HE PROVIDED IT ON HIS OWN FOR ME.

25 Q. DID YOU PROMISE HIM ANYTHING IF HE WOULD GIVE YOU ANY

1 TYPE OF ITEM OR ANYTHING LIKE THAT?

2 A. NO, SIR.

3 Q. DID HE APPEAR TO UNDERSTAND WHAT WAS GOING ON AT THAT
4 PARTICULAR TIME?

5 A. YES, SIR. HE WAS VERY CALM.

6 Q. AT WHAT POINT -- AFTER YOU LEAVE FAIRFIELD COUNTY, WHERE
7 DO YOU GO AT THAT PARTICULAR POINT?

8 A. WE WENT BACK TO THE RICHLAND COUNTY SHERIFF'S DEPARTMENT
9 IN COLUMBIA.

10 Q. AND WHAT HAPPENS AS IT RELATES TO YOU AND MR. GIBSON
11 ONCE YOU GET BACK TO THE RICHLAND COUNTY SHERIFF'S
12 DEPARTMENT?

13 A. ONCE WE ARRIVE BACK, I HAD RECEIVED COMMUNICATION FROM
14 CAPTAIN SMITH AND HE REQUESTED THAT WE GO AHEAD AND START AN
15 INTERVIEW WITH HIM.

16 Q. AND UPON INITIATING THE INTERVIEW WITH HIM, WHAT DO YOU
17 DO?

18 A. BASICALLY SIT DOWN WITH HIM THERE IN THE OFFICE AT THE
19 INVESTIGATIVE DIVISION THERE AT THE SHERIFF'S OFFICE AND, OF
20 COURSE, AT THAT TIME WENT AHEAD AND PROVIDED HIM WITH A
21 MIRANDA WARNING SHEET, WENT OVER THAT WITH HIM LINE BY LINE.

22 Q. OKAY.

23 A. AND BASICALLY ADVISED HIM OF HIS RIGHTS.

24 Q. JUST BEG THE COURT'S INDULGENCE. IF WE COULD GET ALL
25 THESE MARKED.

1 (STATE'S EXHIBITS 12 AND 13 WERE MARKED FOR
2 IDENTIFICATION ONLY.)

3 BY MR. LAKE:

4 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
5 NUMBER 12 FOR I.D. PURPOSES ONLY AND ASK YOU: DO YOU
6 RECOGNIZE THAT PARTICULAR DOCUMENT?

7 A. YES, I DO, SIR. THIS IS THE ADVICE OF RIGHTS FORM THAT
8 WE USE AT THE RICHLAND COUNTY SHERIFF'S OFFICE.

9 Q. AND WHAT PARTICULAR RIGHTS DID YOU ADVISE HIM OF AT THAT
10 TIME?

11 A. HIS -- BASICALLY HIS MIRANDA WARNINGS.

12 Q. AND WOULD YOU GO OVER THOSE SPECIFICALLY -- WHAT THOSE
13 PARTICULAR RIGHTS WERE, HOW THIS FORM ACTUALLY OPERATES?

14 A. YEAH. BASICALLY I GO AHEAD AND FILL OUT THE HEADING OF
15 THE FORM WHICH INVOLVES IN THIS CASE MR. GIBSON'S NAME, THE
16 LOCATION OF THE SHERIFF'S DEPARTMENT WHERE WE WERE ACTUALLY
17 CONDUCTING THE INTERVIEW, MY NAME, THE DATE, THE TIME
18 APPROXIMATELY, AND THEN GO LINE BY LINE.

19 Q. AND WHAT IS THE APPROXIMATE TIME OF THIS INTERVIEW?

20 A. 1400 HOURS.

21 Q. AND THAT WOULD BE WHAT TIME?

22 A. 2 P.M. I'M SORRY, SIR.

23 Q. AND WHO WAS PRESENT DURING THIS TIME WHEN YOU WERE
24 INTERVIEWING HIM?

25 A. AT THAT TIME IT WAS -- DURING THE COURSE OF THE

1 INTERVIEW IT WAS JUST MYSELF AND MR. GIBSON.

2 Q. AND IS HE STILL UNDER ARREST AT THIS PARTICULAR POINT?

3 A. YES, HE IS, SIR.

4 Q. AND WHAT RIGHTS DID YOU ADVISE HIM?

5 A. WOULD YOU LIKE ME TO GO LINE BY LINE?

6 Q. YES.

7 A. OKAY. BASICALLY -- AND THE WAY I COMPLETE THE FORM IS I
8 READ LINE FOR LINE AND I CHECK THE BOX THAT WE HAVE JUST LEFT
9 OF THE LINE.

10 Q. AT WHAT POINT DO YOU CHECK THAT BOX?

11 A. AS I GO THROUGH IT, LOOK AT HIM FOR ACKNOWLEDGEMENT ON
12 IT AND MAKE SURE THAT HE UNDERSTANDS WHAT I'M SAYING. I
13 ACTUALLY GIVE A PAUSE, JUST IN CASE HE HAS A QUESTION, LINE
14 BY LINE. BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
15 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT.
16 ANYTHING YOU CAN -- ANYTHING YOU SAY CAN BE USED AGAINST YOU
17 IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE
18 BEFORE WE ASK YOU ANY QUESTIONS AND HAVE A LAWYER WITH YOU
19 DURING ANY QUESTIONING.

20 IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR
21 YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO
22 ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU STILL HAVE
23 THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE
24 RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A
25 LAWYER.

1 AFTER COMPLETING THAT PORTION AND CHECKING IT LINE BY
2 LINE, YOU KNOW, OF COURSE, I ASKED MR. GIBSON DOES HE HAVE
3 ANY QUESTIONS AT THAT POINT. IS THERE ANYTHING HE NEEDS ANY
4 CLARIFICATION ON?

5 Q. DOES HE APPEAR TO UNDERSTAND EACH LINE AS YOU GO THROUGH
6 IT?

7 A. YES, HE DOES.

8 Q. AND ARE YOU AWARE AT THIS PARTICULAR TIME WHAT HIS
9 EDUCATIONAL BACKGROUND RIGHT NOW IS?

10 A. AT THIS POINT I'M NOT; NO, SIR.

11 Q. OKAY. AND HOW DOES HE SIGNIFY THAT HE UNDERSTANDS HIS
12 RIGHTS?

13 A. BASICALLY I JUST ASKED HIM -- I SAID, YOU KNOW, "DO YOU
14 HAVE ANY -- DO YOU HAVE ANY QUESTIONS ON WHAT WE READ? IS
15 THERE ANYTHING THAT YOU DON'T UNDERSTAND THAT YOU NEED ME TO
16 EXPLAIN FURTHER?" AND HE SAYS, "NO, I UNDERSTAND UP TO THIS
17 POINT."

18 Q. AND WHAT DOES HE DO AT THIS PARTICULAR POINT?

19 A. I ALLOW HIM TO SIGN NEXT TO THE AREA I HAVE MARKED ON
20 THERE FOR HIS SIGNATURE, AND THEN I, OF COURSE, WITNESS IT.

21 Q. AND IS THAT, IN FACT, HIS NAME ON THAT PARTICULAR ITEM?

22 A. IT IS, SIR.

23 Q. AND WHAT HAPPENS NEXT? WHAT DO YOU DO NEXT?

24 A. AT THAT POINT I PROCEED TO THE WAIVE YOUR RIGHTS PORTION
25 WHICH READS AS FOLLOWS: I HAVE READ THE STATEMENT OF MY

1 RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO
2 TALK AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM
3 DOING. NO PROMISES HAVE BEEN MADE TO ME, AND NO PRESSURE OR
4 COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

5 I GENERALLY PAUSE AT COERCION, AND ON THIS FORM I
6 UNDERLINE IT. THAT'S GENERALLY WHAT I DO ON A REGULAR BASIS,
7 AND I STOP AND MAKE SURE THE WORD COERCION IS UNDERSTOOD BY
8 THE INDIVIDUAL I'M READING IT TO, IN THIS CASE MR. GIBSON.

9 Q. THAT WAS DONE IN HIS PARTICULAR PRESENCE?

10 A. YES.

11 Q. AND DID HE APPEAR TO UNDERSTAND THAT?

12 A. YES, HE DID.

13 Q. AND HOW DOES HE SIGNIFY HIS UNDERSTANDING OF THAT?

14 A. HE SHOOK HIS HEAD THAT HE UNDERSTOOD THAT, YOU KNOW --
15 BASICALLY HOW I EXPLAINED IT IS THAT I'M NOT, YOU KNOW,
16 TRYING TO SCARE HIM OR FORCE HIM OR TWIST HIS ARM BEFORE, YOU
17 KNOW, HE ANSWERS ANY QUESTIONS AND COOPERATES ON THIS.

18 Q. AND DID HE, IN FACT, SIGN HIS NAME ON THAT DOCUMENT?

19 A. HE DID, IN FACT, SIGN. YES.

20 Q. DID YOU THREATEN HIM IN ANY WAY TO GIVE YOU A STATEMENT?

21 A. NO, SIR.

22 Q. DID YOU PROMISE HIM ANYTHING IN ORDER TO GIVE YOU A
23 STATEMENT?

24 A. NO, SIR.

25 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL,

1 DRUGS, OR ANYTHING AT THAT PARTICULAR TIME?

2 A. HE DID NOT TO ME; NO, SIR.

3 Q. OKAY. AND JUST GOING TO WHAT'S BEEN MARKED AS STATE'S

4 -- I HAND YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 13

5 FOR I.D. PURPOSES AND I ASK YOU DO YOU RECOGNIZE THAT

6 PARTICULAR DOCUMENT.

7 A. I DO, SIR.

8 Q. AND WHAT DO YOU RECOGNIZE THAT DOCUMENT TO BE?

9 A. THIS IS GENERALLY THE STANDARDIZED STATEMENT FORM THAT I
10 USE WHEN TAKING A STATEMENT FROM A SUSPECT AT THE RICHLAND
11 COUNTY SHERIFF'S DEPARTMENT.

12 Q. AND DID YOU, IN FACT, ADVISE HIM OF HIS RIGHTS AGAIN?

13 A. I DID, SIR. IT'S PART OF THE FORM.

14 Q. AND WHERE IS THAT INDICATED?

15 A. IT'S DIRECTLY AT THE HEADING PORTION. I PUT MR.
16 GIBSON'S NAME, HIS ADDRESS, PHONE NUMBER HE PROVIDES. IT
17 PROCEEDS WITH THE DATE AND TIME AND -- AND SO FORTH, AND THEN
18 IT STARTS IN, "I, JACQUES S. GIBSON, UNDERSTAND I HAVE THE
19 RIGHT TO REMAIN SILENT. ANYTHING THAT I SAY CAN BE USED
20 AGAINST ME IN COURT. I HAVE THE RIGHT TO TALK TO A LAWYER
21 BEFORE YOU ASK ME ANY QUESTIONS AND TO HAVE A LAWYER WITH ME
22 DURING ANY QUESTIONING. IF I CANNOT AFFORD A LAWYER, ONE
23 WILL BE APPOINTED FOR ME BEFORE ANY QUESTIONING, IF I WISH.
24 IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT,
25 I STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. I ALSO

1 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL I TALK TO
2 A LAWYER."

3 Q. AND DID HE APPEAR TO UNDERSTAND THAT?

4 A. HE DID.

5 Q. DID HE ACTUALLY READ THIS OR DID YOU READ THAT TO HIM?

6 A. BASICALLY WE READ OVER IT TOGETHER. I READ IT ALOUD AND
7 I ALLOW HIM TO DO SO.

8 Q. AND DID HE, IN FACT, GIVE YOU A STATEMENT?

9 A. HE DID, SIR. YES, SIR.

10 Q. AND WAS THAT STATEMENT IN YOUR OPINION FREELY AND
11 VOLUNTARILY MADE?

12 A. YES, IT WAS. AND THIS IS ACTUALLY IN ANSWER -- YOU HAD
13 BROUGHT UP EARLIER HIS EDUCATION LEVEL. THAT'S GENERALLY THE
14 FIRST QUESTION I ASK IS, "WHAT LEVEL OF EDUCATION DO YOU
15 POSSESS?" AT WHICH HE RESPONDED, "I'M A SENIOR IN HIGH
16 SCHOOL AT FAIRFIELD CENTRAL HIGH SCHOOL."

17 Q. OKAY. AND ON THAT STATEMENT -- DOES HE AFFIX HIS
18 SIGNATURE ON THAT STATEMENT?

19 A. HE DOES, SIR.

20 Q. AND WHERE DOES HE AFFIX EACH SIGNATURE?

21 A. HE AFFIXES IT AT THE BOTTOM OF EACH PAGE OF THE
22 STATEMENT. IN THIS CASE IT'S A THREE-PAGE STATEMENT.
23 THERE'S ACTUALLY TWO SECTIONS AT THE BOTTOM OF THE STATEMENT.
24 THE FIRST IS: "I HAVE MADE THE FOREGOING STATEMENT FREELY
25 AND VOLUNTARILY, WITHOUT FEAR, THREAT, PROMISE OR REWARD OR

1 HOPE OF REWARD OF ANY KIND."

2 Q. OKAY.

3 A. AND THEN BELOW THAT IS JUST WHERE IT'S CERTIFIED.

4 Q. SO HE ACTUALLY SIGNS ON TWO SEPARATE LOCATIONS WITHIN
5 THAT STATEMENT?

6 A. PER PAGE, YES, SIR.

7 Q. AND IS HE ALLOWED TO, IN FACT, READ HIS STATEMENT PRIOR
8 TO ACTUALLY SIGNING THESE DOCUMENTS?

9 A. YES, HE IS. BASICALLY THIS IS DONE ON THE COMPUTER. WE
10 SIT SIDE BY SIDE; I DO IT ON A COMPUTER. I PRINT IT. WE GO
11 OVER IT AGAIN. ANY CORRECTIONS THAT HE FEELS NEED TO BE MADE
12 TO IT ARE CORRECTED AT THAT TIME. THEN HE'S ALLOWED TO READ
13 OVER IT AGAIN BEFORE HE EVER HAS TO SIGN IT.

14 Q. AND WHAT, IF ANY, CORRECTIONS DO YOU RECALL HIM MAKING
15 AT THAT TIME?

16 A. I DON'T -- I DON'T RECALL ANY CORRECTIONS TO THIS. I
17 THINK EVERYTHING WAS PRETTY MUCH IN AGREEMENT THE FIRST TIME
18 THROUGH.

19 Q. BEG THE COURT'S INDULGENCE. AND WHAT'S THE DATE OF THAT
20 STATEMENT?

21 A. SEPTEMBER 7TH, 2005.

22 Q. AND WHAT'S THE DATE OF THE ADVICE OF RIGHTS?

23 A. THE SAME.

24 MR. LAKE: NO FURTHER QUESTIONS.

25 THE COURT: ANY FURTHER QUESTIONS?

1 MR. LAKE: NO FURTHER QUESTIONS.

2 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

3 MR. JOHNSON: THANK YOU, YOUR HONOR.

4 CROSS-EXAMINATION

5 BY MR. JOHNSON:

6 Q. MR. WILLOUGHBY, REFERRING TO STATE'S EXHIBIT NUMBER 12,
7 OTHER THAN MY CLIENT'S SIGNATURE ON THIS STATEMENT---

8 A. YES, SIR.

9 Q. ---WHAT ELSE IS THERE TO INDICATE THAT HE VOLUNTARILY
10 MADE THAT STATEMENT?

11 A. NOTHING ASIDE FROM HIS SIGNATURE, SIR.

12 Q. ISN'T IT TRUE THAT YOU WROTE HIS NAME AT THE TOP?

13 A. YES, SIR.

14 Q. ISN'T IT TRUE THAT YOU WROTE YOUR NAME AT THE TOP?

15 A. YES, SIR.

16 Q. AND ISN'T IT TRUE THAT YOU DATED IT?

17 A. YES, SIR.

18 Q. AND ISN'T IT TRUE THAT YOU WROTE THE ADDRESS OF 5623 TWO
19 NOTCH ROAD?

20 A. YES, SIR.

21 Q. AND ISN'T IT TRUE YOU WROTE THE TIME 1400?

22 A. YES, SIR.

23 Q. AND YOU TELL JUDGE JOHN THAT MY CLIENT INFORMED YOU HE
24 WAS A SENIOR AT FAIRFIELD CENTRAL. IS THAT TRUE?

25 A. I BELIEVE SO, SIR. IT IS.

1 Q. AND WHEN HE WAS ARRESTED, HE WAS ARRESTED AT THE HIGH
2 SCHOOL. ISN'T THAT RIGHT?

3 A. FAIRFIELD COUNTY ACTUALLY HANDLED THAT PART. I WASN'T
4 PRESENT DURING THAT.

5 Q. ALL RIGHT, SIR. DID YOU HAVE ANY INDICATION THAT MY
6 CLIENT COULD NOT WRITE?

7 A. NO, SIR.

8 Q. DID YOU HAVE ANY INDICATION MY CLIENT COULD NOT READ?

9 A. HE DIDN'T TELL ME THAT WHEN I ASKED HIM, SIR.

10 Q. ALL RIGHT, SIR. DID YOU HAVE ANY INDICATION THAT MY
11 CLIENT COULD NOT MAKE A CHECK MARK OR AN X. MARK?

12 A. NO, SIR.

13 Q. AND ISN'T IT TRUE ON THIS STATEMENT YOU MADE THE X.
14 MARKS BY EACH LITTLE BLOCK?

15 A. YES, SIR. THAT'S CORRECT.

16 Q. ALL RIGHT, SIR. NOW, HOW DID YOU PRESERVE THE
17 CONVERSATION THAT YOU HAD WITH MY CLIENT SO JUDGE JOHN WOULD
18 KNOW, OTHER THAN YOUR TESTIMONY, THAT EVERYTHING THAT YOU'RE
19 SAYING IS ACCURATE?

20 A. ASIDE FROM THE TESTIMONY AND THE STATEMENT TAKEN, THAT
21 WOULD BE IT.

22 Q. COULD YOU SHOW US THE VIDEO SO -- YOU KNOW, A LITTLE
23 CAMERA WHERE Y'ALL TOOK PICTURES OF THE QUESTIONING?

24 A. NO, SIR.

25 Q. COULD YOU SHOW US A TAPE RECORDER WHERE YOU RECORDED IT

1 SO YOU COULD HAVE AN ACCURATE MEMORIZATION OF THE QUESTIONS
2 AND THE ANSWERS?

3 A.. NO, SIR. NONE OF THOSE ITEMS WERE USED.

4 Q. WOULD YOU SHOW US THE -- YOU SAY YOU DID THIS ON A
5 COMPUTER?

6 A. YES, SIR.

7 Q. COULD YOU SHOW US THE COMPUTER DISK WHERE YOU PRESERVED
8 IT?

9 A. IF I'M NOT MISTAKEN, IT'S ACTUALLY MAINTAINED ON THE
10 MAINFRAME AT THE SHERIFF'S OFFICE.

11 Q. YOU DON'T HAVE IT HERE WITH YOU TODAY.

12 A. NO, SIR.

13 Q. AND ISN'T IT ALSO TRUE THAT WHATEVER WAS ASKED, THAT YOU
14 TYPED THAT UP AND NOT MY CLIENT?

15 A. THAT'S CORRECT, SIR.

16 Q. AND WHATEVER THE ANSWER WAS, YOU TYPED IT UP AND NOT MY
17 CLIENT.

18 A. THAT'S CORRECT, SIR.

19 Q. NOW, THE STATEMENT THAT YOU SAY YOU GOT FROM MY CLIENT,
20 WAS THERE ANY PRIOR CONVERSATION BEFORE YOU STARTED ASKING
21 HIM IN THESE QUESTION-AND-ANSWER FORMS? DID Y'ALL TALK IN
22 ANY OTHER -- IN ANY OTHER FASHION?

23 A. NO, SIR, NOT -- NOT TO THE PARTICULARS OF THE CASE OR
24 ANYTHING LIKE THAT. I MEAN, THERE MAY HAVE BEEN, YOU KNOW,
25 JUST SOME COMMON CHIT-CHAT AS FAR AS, YOU KNOW, ARE YOU

1 COMFORTABLE? HOW ARE YOU DOING? DIFFERENT THINGS OF THAT
2 NATURE.

3 Q. WAS THAT PRESERVED IN ANY FASHION?

4 A. NO, SIR.

5 Q. AND THERE WAS NO MENTION BEFORE YOU HAD THIS QUESTION-
6 AND-ANSWER PERIOD WITH MY CLIENT REGARDING THE CASE? THERE
7 WAS NOTHING SAID ABOUT THE CASE BEFORE YOU STARTED GETTING ON
8 YOUR COMPUTER AND TYPING IT.

9 A. NOT THAT I RECALL, NO, SIR.

10 Q. AT WHAT POINT DID YOU ASK HIM ABOUT HIS MEDICAL HISTORY?

11 A. HIS MEDICAL HISTORY?

12 Q. YES, SIR, IN ORDER TO DETERMINE IF HE HAD THE CAPACITY
13 TO UNDERSTAND WHAT YOU WERE ASKING HIM.

14 A. I DON'T BELIEVE I ASKED ANYTHING ACTUALLY MEDICALLY WITH
15 HIM; NO, SIR.

16 Q. AT WHAT POINT DID YOU INVITE ANY OF HIS FAMILY MEMBERS
17 TO JOIN THE CONVERSATION?

18 A. I DIDN'T. IT WAS JUST HE AND I, SIR.

19 Q. OKAY. DID YOU HAVE ON A GUN?

20 A. I BELIEVE SO, YES, SIR.

21 Q. WAS IT VISIBLE?

22 A. YES, SIR, I BELIEVE SO. I DON'T THINK I WAS WEARING A
23 SPORTS COAT AT THAT TIME.

24 Q. OKAY. AND OTHER THAN YOU CHECKING ON THIS ADVICE OF
25 RIGHTS, DID MY CLIENT MAKE ANY NOTATION OTHER THAN SIGNING

1 HIS NAME TO THIS DOCUMENT THAT HE UNDERSTOOD WHAT WAS BEING
2 ASKED OF HIM?

3 A. NO, SIR.

4 MR. JOHNSON: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

5 THE COURT: ANY REPLY?

6 MR. LAKE: NOTHING FROM THE STATE, YOUR HONOR.

7 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR. FURTHER
8 WITNESSES ON THE STATE'S BEHALF?

9 MS. CAMPBELL: ON THE DIFFERENT STATEMENTS, YOUR HONOR,
10 YES.

11 THE COURT: ALL RIGHT. LET ME -- LET ME SEE THE ONES
12 THAT YOU'VE MARKED SO FAR IN THIS PARTICULAR CASE.

13 MR. LAKE: YES, SIR, YOUR HONOR.

14 MR. JOHNSON: HERE THEY ARE.

15 THE COURT: SO THERE'S STATEMENTS OF THIS DEFENDANT THAT
16 HE MADE AT ANOTHER TIME? IS THAT WHAT YOU'RE TELLING ME,
17 SOLICITOR?

18 MS. CAMPBELL: YES, SIR. THERE'S ONE MORE STATEMENT
19 WITH THIS DEFENDANT, AND THEN THERE'S AN ADDITIONAL STATEMENT
20 WITH THE CO-DEPENDANT.

21 THE COURT: ALL RIGHT.

22 MR. JOHNSON: YOUR HONOR, FOR THE RECORD---

23 THE COURT: YES, SIR.

24 MR. JOHNSON: ---I FORGOT TO MENTION THE EXHIBIT NUMBER
25 BUT THE ONE THAT'S IN HIS HAND...

1 THE COURT: YES, SIR. THAT'S LEFT.

2 MR. JOHNSON: YES, SIR. WE DO NOT CONTEST THE
3 VOLUNTARINESS OF THAT.

4 THE COURT: ALL RIGHT, SIR. Y'ALL LET ME LOOK AT THESE
5 FOR JUST A SECOND, PLEASE. (PAUSE.) ALL RIGHT. MR.
6 JOHNSON, ANY ARGUMENTS YOU MIGHT HAVE ABOUT THE STATEMENT
7 MADE AT SEPTEMBER -- MADE ON SEPTEMBER 7, 2005, AT 1450 HOURS
8 IN THE PRESENCE OF JASON WILLOUGHBY, RICHLAND COUNTY
9 SHERIFF'S DEPARTMENT?

10 MR. JOHNSON: YOUR HONOR, WE WOULD ASK YOU TO SUPPRESS
11 THE STATEMENTS ON THE GROUND THAT THE STATE HAS FAILED TO
12 ADEQUATELY PROVE THAT THE STATEMENT WAS VOLUNTARILY AND
13 FREELY GIVEN. YOUR HONOR, OBVIOUSLY, NUMBER ONE, THIS IS A
14 STANDARDIZED STATEMENT. IT IS A STATEMENT THAT WAS PREPARED
15 IN ADVANCE, NUMBER ONE. NUMBER TWO, YOUR HONOR, THERE'S
16 NOTHING THAT -- OTHER THAN THIS OFFICER'S TESTIMONY TO COME
17 IN HERE TO PROVE AFFIRMATIVELY THAT THE STATEMENT WAS
18 VOLUNTARY. EVERYTHING, EXCEPT MY CLIENT'S SIGNATURE ON THE
19 STATEMENT, WAS WRITTEN BY THE OFFICERS.

20 YOUR HONOR, THE WHOLE CONCEPT OF MIRANDA WAS THAT THE
21 SAME PROTECTION THAT A PERSON WOULD HAVE IN A COURTHOUSE
22 WOULD BE GIVEN TO HIM IN A JAILHOUSE, AND WITH ALL THIS
23 MODERN TECHNOLOGY LIKE RADIO, RECORDING DEVICES, VIDEO
24 CAMERAS, EVERY TIME A CLIENT COMES INTO COURT AND THERE'S A
25 CONTEST BETWEEN A LAW ENFORCEMENT OFFICER AND A DEFENDANT,

1 THEY COME IN HERE WITH THESE ROUTINE, PERFUNCTORY ADVICE-OF-
2 RIGHTS STATEMENTS AND SAY, YOU KNOW, HE VOLUNTARILY DID IT.
3 WHAT IS TO CORROBORATE HIS ASSERTION THAT IT WAS VOLUNTARILY
4 DONE? NOTHING AT ALL, YOUR HONOR. AND WE THINK IT'S
5 INSUFFICIENT, BASED ON WHAT THEY HAVE PRESENTED SO FAR, THAT
6 THIS CASE SHOULD BE GIVEN TO THE JURY.

7 THE COURT: ALL RIGHT, SIR. ALL RIGHT. SOLICITOR, ANY
8 ARGUMENTS?

9 MR. LAKE: YOUR HONOR, I WOULD ONLY ARGUE THAT THE
10 THINGS THAT HE'S REFERRING TO IN TERMS OF VIDEO AND RECORDING
11 AND THINGS OF THIS SORT GO TO THE WEIGHT BUT NOT TO THE
12 VOLUNTARINESS. I THINK THE OFFICER HAS DEMONSTRATED THAT HE
13 READ THE RIGHTS NUMEROUS TIMES, THAT HE WENT OVER THEM LINE
14 BY LINE JUST TO MAKE SURE THAT HE UNDERSTOOD IT. HE ALSO ON
15 EACH STATEMENT, AT THE END OF EACH STATEMENT, HE VOLUNTARILY
16 WAIVED TO GIVE THE STATEMENT, THAT AT THE BOTTOM OF THE
17 ADVICE OF RIGHTS FORM THERE WAS A WAIVER THAT HE SIGNED OFF.
18 SO I WOULD THINK, YOUR HONOR, THAT THE STATE HAS MET THE
19 VOLUNTARINESS REQUIREMENT THAT IS SET FORTH BY DENNO.

20 THE COURT: ALL RIGHT. ALL RIGHT. IN THE JACKSON V.
21 DENNO HEARING THE -- IT IS THE STATE'S BURDEN TO ESTABLISH
22 THE VOLUNTARINESS OF THE CONFESSION. IT'S THE COURT'S JOB TO
23 DETERMINE BASED ON A PREPONDERANCE OF EVIDENCE STANDARD
24 WHETHER OR NOT THE STATEMENT WAS VOLUNTARILY MADE, WHETHER IT
25 WAS GIVEN WITH THE PROPER WARNINGS TO THE DEFENDANT AS TO HIS

1 RIGHTS THAT -- AND I FIND FROM THE EVIDENCE PRESENTED THAT
2 THE STATE HAS CARRIED ITS BURDEN OF PROOF TO ESTABLISH THE
3 VOLUNTARINESS OF THIS PARTICULAR STATEMENT. I DO FIND THAT
4 THE DEFENDANT RECEIVED AND THE DEFENDANT UNDERSTOOD HIS
5 RIGHTS AND THEREAFTER VOLUNTARILY GAVE A STATEMENT TO THE
6 POLICE. AND SO I'M GOING TO ALLOW THE STATEMENT AS REFLECTED
7 IN STATE'S EXHIBIT 13 TO BE PRESENTED.

8 OBVIOUSLY IT WILL ULTIMATELY BE UP TO THE JURY ON A
9 REASONABLE DOUBT STANDARD TO DETERMINE WHETHER OR NOT THE
10 STATEMENT WAS VOLUNTARILY GIVEN AND WHETHER OR NOT IT WAS
11 GIVEN WITH THE APPROPRIATE RIGHTS AND THAT THE DEFENDANT
12 UNDERSTOOD THOSE RIGHTS. THAT WILL BE THE JURY'S DECISION,
13 BUT BASED UPON THE PREPONDERANCE OF THE EVIDENCE STATUTE OR
14 STANDARD, I DO FIND THAT THE STATE HAS MET ITS BURDEN OF
15 PROOF AS TO PURPOSES OF THIS JACKSON V. DENNO HEARING ON THIS
16 PARTICULAR STATEMENT. ALL RIGHT. SOLICITOR, YOU MAY
17 PROCEED.

18 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
19 SERGEANT MCDANIELS.

20 THE COURT: PLEASE COME AROUND TO BE SWORN.

21 WALTER SHAWN MCDANIELS, HAVING DULY AFFIRMED TO
22 TELL THE TRUTH, TESTIFIED AS FOLLOWS IN CAMERA:

23 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR NAME.

24 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY PROCEED.

25 MS. CAMPBELL: MAY IT PLEASE THE COURT?

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q. SERGEANT, WHERE ARE YOU EMPLOYED?

A. I'M CURRENTLY EMPLOYED AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

Q. WHAT ARE YOUR CURRENT DUTIES WITH THEM?

A. I HAVE A DUAL RESPONSIBILITY. CURRENTLY, I AM THE SERGEANT OVER BOTH THE COLD CASE HOMICIDE SQUAD AND A BURGLARY TASK FORCE.

Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER OF 2005. WHAT WERE YOUR DUTIES INCLUDED BACK THEN?

A. I WAS AN INVESTIGATOR IN THE MAJOR CRIMES DIVISION.

Q. AND DURING THE COURSE OF SEPTEMBER, DID YOU BECOME INVOLVED IN AN INVESTIGATION INVOLVING THE MURDER OF DENNIS IRBY?

A. YES, I DID.

Q. AND WHAT WAS YOUR ROLE?

A. I WAS THE LEAD INVESTIGATOR ON THAT PARTICULAR HOMICIDE.

Q. WHAT WAS THE DATE THE SHOOTING ACTUALLY TOOK PLACE, THE MURDER?

A. THE SHOOTING ACTUALLY TOOK PLACE ON THE 5TH OF SEPTEMBER, 2005.

Q. WHEN DID YOU ACTUALLY BECOME INVOLVED IN THE INVESTIGATION ITSELF?

A. ON THE 5TH.

1 Q. THAT MORNING?

2 A. YES, MA'AM.

3 Q. AND DURING THE COURSE OF YOUR INVESTIGATION, DID YOU
4 DEVELOP CERTAIN SUSPECTS IN THE SHOOTING?

5 A. YES, WE DID.

6 Q. AND, SPECIFICALLY, WERE TWO OF THOSE SUSPECTS JACQUES
7 GIBSON AND ADAMS KARTEZ GIBSON?

8 A. YES, MA'AM.

9 Q. CAN YOU EXPLAIN TO THE JUDGE HOW YOU MADE CONTACT WITH
10 THOSE TWO INDIVIDUALS ON THE 7TH?

11 A. ON THE 7TH WE ACTUALLY EXECUTED A SEARCH WARRANT IN
12 FAIRFIELD COUNTY. BOTH MR. JACQUES GIBSON AND ADAMS GIBSON
13 WERE BOTH ARRESTED IN FAIRFIELD COUNTY ON THE 7TH OF
14 SEPTEMBER, 2005.

15 Q. AND WHERE WAS ADAMS GIBSON WHEN YOU FOUND HIM?

16 A. HE WAS AT HIS RESIDENCE AT 2167 MOOD HARRISON ROAD IN
17 FAIRFIELD COUNTY.

18 Q. AND WHERE DID YOU MAKE CONTACT WITH JACQUES GIBSON?

19 A. I MADE CONTACT WITH JACQUES HERE AT THE HEADQUARTERS
20 WITHIN RICHLAND COUNTY SHERIFF'S DEPARTMENT.

21 Q. WERE YOU AWARE THOUGH THAT THEY HAD MADE CONTACT WITH
22 HIM IN FAIRFIELD?

23 A. YES, I WAS.

24 Q. AND WHEN DID YOU FIRST COME IN CONTACT WITH KARTEZ --
25 ADAMS KARTEZ GIBSON?

1 A. IN FAIRFIELD I MADE CONTACT WITH HIM AT HIS RESIDENCE
2 WHILE WE WERE CONDUCTING A SEARCH ON HIS -- ON HIS HOME.

3 Q. AND AFTER INITIALLY MAKING CONTACT WITH HIM, WHAT
4 HAPPENED?

5 A. I WAS ADVISED BY CAPTAIN SMITH AT THE TIME THAT MR.
6 ADAMS KARTEZ GIBSON WAS ADVISED OF HIS MIRANDA RIGHTS ORALLY
7 BY CAPTAIN SMITH HIMSELF. I THEN TOOK CONTROL OVER MR. ADAMS
8 GIBSON AND ESCORTED HIM BACK TO HEADQUARTERS HERE WITHIN
9 RICHLAND COUNTY.

10 Q. ONCE YOU GOT BACK TO HEADQUARTERS, DID YOU ADVISE HIM OF
11 HIS RIGHTS?

12 A. YES, I DID. I ADVISED HIM OF HIS MIRANDA RIGHTS IN
13 WRITTEN FORM.

14 Q. AND AT ANY TIME DURING THE TIME PERIOD WHEN YOU FIRST
15 CAME IN CONTACT WITH MR. GIBSON, THE OLDER MR. GIBSON, UP
16 UNTIL THE TIME YOU ADVISED HIM OF HIS RIGHTS, DID HE INVOKE
17 ANY OF HIS RIGHTS?

18 A. NO, HE DID NOT.

19 Q. DID HE EVER REQUEST A LAWYER?

20 A. NO, HE DID NOT.

21 Q. I WANT TO SHOW YOU -- LET ME MARK THESE TWO ITEMS.

22 (STATE'S EXHIBITS 14 AND 15 WERE MARKED FOR
23 IDENTIFICATION ONLY.)

24 BY MS. CAMPBELL:

25 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S

1 EXHIBIT 14 MARKED FOR I.D. PURPOSES. DO YOU RECOGNIZE THAT?

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

3 Q. AND WHAT IS THAT?

4 A. THAT IS THE WRITTEN FORM OF THE ADVICE OF RIGHTS GIVEN
5 TO MR. ADAMS KARTEZ GIBSON ON THE 7TH OF SEPTEMBER.

6 Q. AND CAN YOU EXPLAIN TO THE JUDGE EXACTLY HOW YOU WENT
7 THROUGH THAT DAY AND ADVISED MR. GIBSON OF HIS RIGHTS?

8 A. I ACTUALLY -- THE WRITTEN FORM -- THE WRITTEN ADVICE
9 FORM IS ACTUALLY BROKEN DOWN INTO PARTS. THERE'S A CHECK BOX
10 NEXT TO EACH SENTENCE. I THEN READ EACH SENTENCE TO MR.
11 GIBSON, AGAIN PAUSING IN BETWEEN EACH SENTENCE TO INSURE THAT
12 HE UNDERSTOOD IT. I ADVISED HIM TO SAY YES OR NO AND THAT
13 GESTURES OR MOANS OF AGREEMENT WERE NOT ENOUGH. HE STATED
14 THAT HE DID UNDERSTAND THAT.

15 I THEN WENT INTO DETAIL BY READING THE FIRST SENTENCE
16 WHICH STATES, "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
17 UNDERSTAND YOUR RIGHTS." I THEN PAUSED. I ASKED HIM, "DO
18 YOU UNDERSTAND THAT?" HE SAID, "YES, SIR." I ASKED HIM,
19 "YOU HAVE THE RIGHT TO REMAIN SILENT." I SAID, "DO YOU
20 UNDERSTAND THAT?" HE SAID, "YES, SIR." "ANYTHING YOU SAY
21 CAN BE USED AGAINST YOU IN COURT." AGAIN, THE SAME PROCEDURE
22 IS DONE. "YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE
23 BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE A LAWYER WITH YOU
24 DURING ANY QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE
25 WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH.

1 IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER
2 PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY
3 TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME
4 UNTIL YOU TALK TO A LAWYER."

5 AT THAT PARTICULAR POINT I THEN ASKED HIM IF HE
6 UNDERSTOOD THE RIGHTS THAT I -- WHICH WERE JUST READ TO HIM.
7 HE STATED, "YES." BELOW THAT THERE IS A LINE FOR HIS
8 SIGNATURE. THAT IS WHERE HE ACTUALLY AFFIXED HIS SIGNATURE,
9 AND I SIGNED AS A WITNESS.

10 THE ADVICE OF RIGHTS FORM GOES ON FURTHER. IT'S -- THE
11 LAST PORTION IS CALLED A WAIVER OF RIGHTS. UNDER THAT
12 PARTICULAR SECTION IT CLEARLY STATES: "I HAVE READ THE
13 STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE. I
14 AM WILLING TO TALK AND ANSWER QUESTIONS. I UNDERSTAND AND
15 KNOW WHAT I AM DOING. NO PROMISES HAVE BEEN MADE TO ME, AND
16 NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST
17 ME." AND, AGAIN, THERE'S A SECTION UNDER THERE FOR HIM TO
18 SIGN. MR. ADAMS GIBSON THEN SIGNED, AND I SIGNED AS A
19 WITNESS.

20 Q. AND WHEN HE WAS SIGNING THAT, HE UNDERSTOOD OR YOU
21 EXPLAINED TO HIM HE WAS SIGNING TO ACKNOWLEDGE THAT HE WANTED
22 TO WAIVE HIS RIGHTS?

23 A. YES. YES, MA'AM.

24 Q. DURING THE COURSE OF YOUR TIME PERIOD IN ADVISING HIM OF
25 HIS RIGHTS, AT ANY TIME DID HE EVER ASK FOR A LAWYER?

1 A. NO, HE DID NOT.

2 Q. AT ANY TIME DID HE TELL YOU THAT HE DIDN'T WISH TO KEEP
3 TALKING?

4 A. NO.

5 Q. DID YOU PROMISE HIM ANYTHING OR THREATEN HIM IN ANY WAY?

6 A. NO, MA'AM.

7 Q. DID YOU USE ANY COERCION OR DEPRIVE HIM OF ANY CREATURE
8 COMFORTS TO GET HIM TO TALK TO YOU?

9 A. NO, MA'AM.

10 Q. DID HE APPEAR TO UNDERSTAND YOU WHEN YOU TALKED TO HIM?

11 A. YES, MA'AM.

12 Q. WAS HE COHERENT?

13 A. YES, HE WAS.

14 Q. AND, IN FACT, AS AN INVESTIGATOR, IN YOUR OPINION DID HE
15 SEEM TO WANT TO TALK TO YOU?

16 A. YES, HE DID.

17 Q. ONCE YOU HAD ADVISED MR. ADAMS GIBSON OF HIS RIGHTS --
18 AND I BELIEVE THE TIME IN HERE IS 14:56?

19 A. YES, IT IS, MA'AM.

20 Q. SO THAT WOULD BE FOUR MINUTES 'TIL THREE IN THE
21 AFTERNOON?

22 A. YES.

23 Q. DID HE, IN FACT, GIVE YOU HIS VERSION OF EVENTS?

24 A. YES, HE DID.

25 Q. AND DID YOU MAKE ANY STEPS OR TAKE ANY STEPS TO

1 MEMORIALIZE HIS VERSION OF EVENTS?

2 A. NO, MA'AM.

3 Q. DID YOU TYPE IT OUT?

4 A. I TYPED IT OUT; YES, MA'AM.

5 Q. AND IN THIS I NOTICE YOU SAY QUESTION AND ANSWERS. WHO
6 IS DOING THE QUESTIONING?

7 A. OH, I SEE WHAT YOU'RE SAYING. I WAS ACTUALLY DOING THE
8 QUESTIONS AND HE WAS DOING THE ANSWERS.

9 Q. AND WHOSE WORDS ARE THE QUESTIONS?

10 A. THE WORDS BOTH -- THE QUESTIONS ARE MY OWN.

11 Q. AND WHOSE ARE THE ANSWERS?

12 A. THE ANSWERS ARE BEING GIVEN BY MR. ADAMS KARTEZ GIBSON.

13 Q. ONCE HE WAS -- OR EXPLAIN TO THE JUDGE IN YOUR OWN WORDS
14 HOW YOU REDUCED THIS TO PAPER.

15 A. WE TYPE IT ON OUR COMPUTER AT THE HEADQUARTERS WHERE
16 BASICALLY IT'S IN Q. AND A. FORMAT. THE STANDARD PROCEDURE
17 FOR US IN N.C.I.D. WHERE WE ACTUALLY -- WE ASK THE QUESTIONS,
18 AND WHATEVER THEY TYPE (SIC) UP WORD FOR WORD, WE PUT THAT IN
19 THEIR RESPONSE.

20 Q. AND IN FACT, ONCE YOU HAD TYPED THAT OUT, DID YOU, IN
21 FACT, PRINT IT OUT?

22 A. YES, WE DID.

23 Q. AND PRIOR TO HIM SIGNING IT, DID YOU DO ANYTHING FURTHER
24 TO MAKE SURE THAT WAS HIS VERSION OF EVENTS?

25 A. AGAIN, PART OF OUR NORMAL PRACTICE IS TO READ OVER THE

1 STATEMENT WITH THE INDIVIDUAL, AND THAT WAS DONE IN THIS
2 PARTICULAR CASE AS WELL.

3 Q. AND, AGAIN, AT ANY TIME DURING THE COURSE OF REDUCING
4 THIS TO WRITING OR TO MEMORIALIZING HIS STATEMENT, DID YOU
5 PROMISE HIM ANYTHING OR THREATEN HIM IN ANY WAY TO GET HIM TO
6 TALK TO YOU?

7 A. NO, MA'AM.

8 Q. AT ANY TIME DID HE EVER ASK FOR A LAWYER OR TELL YOU HE
9 DID NOT WANT TO KEEP TALKING?

10 A. NO, HE DID NOT.

11 Q. AND, IN FACT, DID HE ACKNOWLEDGE THIS WAS HIS STATEMENT
12 HERE ON THE FORMS?

13 A. YES, HE DID. ON THIS FORM -- ON THE ACTUAL WRITTEN FORM
14 THERE ARE TWO PLACES WHERE HE IS TO SIGN. THIS IS A THREE-
15 PAGE STATEMENT WHICH MEANS HE HAD -- WHICH MEANS HE HAD TO
16 SIGN IT SIX TIMES TOTAL TO INCLUDE THE -- NOT INCLUDING THE
17 OTHER TWO FOR THE ACTUAL ADVICE OF RIGHTS. SO HE WAS
18 REQUIRED TO SIGN A TOTAL OF EIGHT TIMES IN BOTH THE ACTUAL
19 ADVICE OF RIGHTS FORM AND THE ACTUAL WRITTEN STATEMENT.

20 Q. AND, IN FACT, ON STATE'S EXHIBIT 14 AND 15 YOU ACTUALLY
21 WITNESSED HIS SIGNATURE ON THOSE?

22 A. YES, I DID.

23 MS. CAMPBELL: YOUR HONOR, MAY I APPROACH?

24 THE COURT: YES, MA'AM.
25

1 BY MS. CAMPBELL:

2 Q. AFTER SPEAKING TO ADAMS GIBSON, DID YOU HAVE AN OCCASION
3 THAT SAME AFTERNOON TO COME IN CONTACT WITH JACQUES GIBSON?

4 A. YES, I DID.

5 (STATE'S EXHIBITS 16 AND 17 WERE MARKED FOR
6 IDENTIFICATION ONLY.)

7 BY MS. CAMPBELL:

8 Q. WHAT WERE THE CIRCUMSTANCES IN WHICH YOU CAME IN CONTACT
9 WITH JACQUES?

10 A. I WAS ADVISED BY INVESTIGATOR WILLOUGHBY THAT HE HAD
11 FINISHED HIS INITIAL INTERVIEW WITH MR. JACQUES GIBSON.
12 BASED ON THE INFORMATION PROVIDED THROUGH THE OTHER
13 WITNESSES, IT APPEARED TO ME THAT HE WAS INTENTIONALLY
14 LEAVING SOME THINGS OUT IN REFERENCE TO SOME OF THE FACTS OF
15 THE CASE.

16 Q. AND WHEN YOU CAME IN CONTACT WITH JACQUES GIBSON, WAS IT
17 YOUR INTENTION TO ACTUALLY ASK HIM QUESTIONS ABOUT THIS CASE?

18 A. YES, IT WAS.

19 Q. DID YOU -- WERE YOU AWARE WHETHER OR NOT HE HAD BEEN
20 ADVISED OF HIS RIGHTS?

21 A. I WAS AWARE THAT HE WAS ADVISED OF HIS RIGHTS BY
22 INVESTIGATOR WILLOUGHBY.

23 Q. AND DO YOU KNOW APPROXIMATELY WHAT TIME THAT WAS? WAS
24 IT WITHIN HOURS, MINUTES, OF YOU TALKING TO HIM?

25 A. IT WAS WITHIN A SHORT PERIOD OF TIME. WITHIN HOURS.

1 Q. OKAY. AND WHEN YOU FIRST STARTED TALKING TO HIM, WHAT
2 HAPPENED?

3 A. I ADVISED HIM OF HIS RIGHTS AGAIN.

4 Q. OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 16.
5 DO YOU RECOGNIZE THAT?

6 A. YES, I DO.

7 Q. AND IS THAT AN ADVICE OF RIGHTS FORM?

8 A. YES, IT IS.

9 Q. AND WHOSE NAME IS AT THE TOP?

10 A. JACQUES SEAN GIBSON.

11 Q. AND WHAT'S THE TIME ON THAT ONE?

12 A. THAT IS AT 17:43 HOURS, 5:43 P.M.

13 Q. AND SO FOR THE SECOND TIME THAT DAY MR. JACQUES GIBSON
14 WAS ADVISED OF HIS RIGHTS.

15 A. YES, HE WAS BY MYSELF.

16 Q. DID HE APPEAR TO UNDERSTAND YOU WHEN YOU SPOKE TO HIM
17 AND RESPOND APPROPRIATELY?

18 A. YES, HE DID.

19 Q. DID YOU, IN FACT, GO THROUGH THE RIGHTS AGAIN THAT ARE
20 SHOWN ON THAT PIECE OF PAPER?

21 A. YES, I DID.

22 Q. AND WAS IT IN THE SAME MANNER AS YOU HAD DONE WITH HIS
23 BROTHER EARLIER THAT DAY?

24 A. YES, IT WAS.

25 Q. AND ARE ALL THE RIGHTS YOU WENT THROUGH NOTARIZED ON

1 THAT PAGE?

2 A. YES, IT IS.

3 Q. AND I NOTICE THESE X. MARKS OVER HERE TO THE LEFT, AS
4 WITH THE OTHER ONE. WHEN WOULD THOSE BE X'D OUT?

5 A. THOSE WOULD BE X'D OUT RIGHT AFTER I ASKED THE SENTENCE,
6 AND, AGAIN, THE PAUSE WOULD OCCUR TO INSURE THAT THEY
7 UNDERSTOOD BY YES OR NO, A VERBAL YES OR NO.

8 Q. AND DID HE INDICATE TO YOU BY SIGNING HIS SIGNATURE THAT
9 HE UNDERSTOOD WHAT HIS RIGHTS WERE?

10 A. YES, HE DID.

11 Q. DID HE ALSO INDICATE THAT TO YOU VERBALLY?

12 A. YES, HE DID.

13 Q. AND I NOTICE YOU WITNESSED IT, AND, AGAIN, THAT'S HIS
14 SIGNATURE?

15 A. YES, MA'AM.

16 Q. AFTER ADVISING HIM OF HIS RIGHTS, DID YOU GO A STEP
17 FURTHER AND MAKE SURE HE WANTED TO WAIVE HIS RIGHTS?

18 A. YES, I DID. I -- ACTUALLY AGAIN AT THE BOTTOM PORTION
19 OF THE ADVICE OF RIGHTS FORM IS THE SECTION CALLED THE WAIVER
20 OF RIGHTS. I READ THAT TO HIM AGAIN AND CHECKED OFF ONCE HE
21 VERBALLY RESPONDED BY STATING, YES, HE UNDERSTOOD. AND THEN
22 HE SIGNED -- SIGNED IT AT THE BOTTOM, AND I WITNESSED IT.

23 Q. AT ANY TIME AGAIN WHEN YOU WERE TALKING TO JACQUES
24 GIBSON, DID YOU THREATEN HIM IN ANY WAY?

25 A. NO, MA'AM.

1 Q. DID YOU PROMISE HIM ANYTHING TO MAKE HIM TALK?

2 A. NO, MA'AM.

3 Q. DID YOU IN ANY WAY INTIMIDATE HIM OR TRY TO COERCE HIM?

4 A. NO, I DID NOT.

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

6 A. NO, HE DID NOT.

7 Q. AT ANY TIME DID HE TELL YOU HE DIDN'T WANT TO TALK TO
8 YOU ANYMORE?

9 A. NO, HE DID NOT.

10 Q. ONCE YOU HAD ADVISED HIM OF HIS RIGHTS AND HE
11 ACKNOWLEDGED THEM BOTH VERBALLY AND BY SIGNING, WHAT DID HE
12 TELL YOU? WHAT HAPPENED?

13 A. HE ADMITTED TO ACTUALLY FIRING THE NINE MILLIMETER
14 HANDGUN.

15 Q. DURING THE COURSE OF THE INTERVIEW, DID HE ALSO HAVE
16 SOME QUESTIONS OF YOU?

17 A. HE ASKED -- I DO RECALL OFF THE TOP OF MY HEAD -- I DO
18 RECALL HIM ASKING WHAT TYPE OF WEAPON -- WHAT TYPE OF BULLET
19 DID WE RETRIEVE FROM THE ACTUAL VICTIM.

20 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER
21 17. THIS IS A FOUR-PAGE STATEMENT. DO YOU RECOGNIZE THAT?

22 A. YES, I DO. IT IS A STATEMENT THAT I -- I OBTAINED FROM
23 MR. JACQUES GIBSON.

24 Q. AND ON THAT FOUR PAGES, THE QUESTIONS AGAIN ARE WHOSE
25 WORDS?

1 A. THE QUESTIONS ARE CREATED BY MYSELF, AND THE ANSWERS ARE
2 THE EXACT WORDS GIVEN TO -- GIVEN TO ME BY MR. JACQUES
3 GIBSON.

4 Q. AT ANY POINT DURING THAT AFTERNOON OR THE ENTIRE TIME
5 YOU WERE WITH MR. JACQUES GIBSON, DID HE EVER INDICATE HE
6 WANTED A LAWYER?

7 A. NO, HE DID NOT.

8 Q. DID HE EVER TELL YOU HE DIDN'T WANT TO TALK TO YOU
9 ANYMORE?

10 A. NO, MA'AM.

11 Q. AND DID YOU EVER PROMISE HIM ANYTHING OR THREATEN HIM IN
12 ANY WAY TO MAKE HIM TALK?

13 A. NO, I DID NOT.

14 Q. ONCE YOU WERE ABLE TO REDUCE THE STATEMENT TO -- AND
15 THIS IS ACTUALLY TYPED ON YOUR COMPUTER?

16 A. YES.

17 Q. ONCE YOU REDUCED IT TO WRITING ON THIS PAGE, DID HE THEN
18 HAVE AN OPPORTUNITY TO GO OVER IT?

19 A. YES. WE READ IT TOGETHER.

20 Q. YOU SAID, "WE READ IT." WHO WAS READING?

21 A. I READ IT, AND I GAVE IT TO HIM TO READ AS WELL.

22 Q. SO YOU READ IT OUT LOUD?

23 A. I DID.

24 Q. AND GAVE IT TO HIM?

25 A. YES, MA'AM.

1 Q. AND DID HE INDICATE TO YOU ONCE YOU HAD GONE THROUGH IT
2 WITH HIM THAT, IN FACT, THAT WAS THE STATEMENT HE WANTED TO
3 GIVE YOU?

4 A. YES, HE DID.

5 Q. AND DID HE MEMORIALIZE THAT BY SIGNING IT AT THE BOTTOM
6 OF EACH AND EVERY PAGE?

7 A. YES, HE DID. AGAIN, WITH THIS PARTICULAR STATEMENT
8 THERE IS -- IT'S A FOUR-PAGE STATEMENT WHICH REQUIRES HIM TO
9 ACTUALLY SIGN A TOTAL OF EIGHT TIMES ON THE WRITTEN
10 STATEMENT, A TOTAL OF TEN TIMES IF YOU INCLUDE THE ACTUAL TWO
11 TIMES HE WAS REQUIRED TO SIGN THE ADVICE OF RIGHTS FORM.

12 Q. AND, IN FACT, THE LAST QUESTION IN THIS - "IS THERE
13 ANYTHING YOU WOULD LIKE TO ADD TO THIS STATEMENT?" - DID YOU
14 ACTUALLY GO BACK AND DO THAT WITH HIM?

15 A. YES, I DID.

16 Q. AND THAT'S WHEN HE SAID HE WAS SORRY.

17 A. THAT'S WHAT HE SAID; YES, MA'AM.

18 MS. CAMPBELL: YOUR HONOR, MAY I APPROACH?

19 THE COURT: YES, MA'AM.

20 BY MS. CAMPBELL:

21 Q. HE INITIALLY ADMITTED TO DISCHARGING THE FIREARM?

22 A. YES, HE DID.

23 Q. AND THEN YOU ADVISED HIM OF HIS RIGHTS AND TOOK THE
24 FORMAL STATEMENT.

25 A. YES, I DID.

1 Q. IN YOUR OPINION AS AN INVESTIGATOR, DURING THE COURSE
2 AND TIME YOU SPENT WITH JACQUES GIBSON DID HE APPEAR COHERENT
3 AND UNDERSTAND YOU?

4 A. YES, HE DID.

5 Q. WAS HE ABLE TO RELAY HIS STORY TO YOU IN A COHERENT
6 MANNER?

7 A. YES, HE DID.

8 Q. AND IN YOUR OPINION WAS IT VOLUNTARILY GIVEN TO YOU
9 FREELY?

10 A. YES, IT WAS.

11 MS. CAMPBELL: THANK YOU.

12 THE COURT: ALL RIGHT. FIRST, MR. ROBERSON, I'LL HEAR
13 FROM YOU OR YOU CAN ASK CROSS-EXAMINATION QUESTIONS ON THE
14 ONE THAT INVOLVES YOUR CLIENT.

15 MR. ROBERSON: MAY IT PLEASE THE COURT?

16 THE COURT: YES, SIR.

17 CROSS-EXAMINATION

18 BY MR. ROBERSON:

19 Q. I'VE JUST GOT A COUPLE OF QUESTIONS. INVESTIGATOR
20 MCDANIELS, YOU TESTIFIED THAT YOU ARRESTED MR. KARTEZ GIBSON
21 IN FAIRFIELD COUNTY.

22 A. HE WAS ALREADY IN CUSTODY BY THE TIME I MADE CONTACT
23 WITH HIM; YES, SIR.

24 Q. DID YOU TAKE CUSTODY OF HIM AND BRING HIM BACK TO
25 RICHLAND COUNTY OR DID ANOTHER INVESTIGATOR?

1 A. I DID IN FAIRFIELD.

2 Q. OKAY. AND ON THE WAY BACK IT'S JUST YOU AND HE IN YOUR
3 VEHICLE OR IS THERE ANYBODY ELSE?

4 A. IT WAS JUST MR. KARTEZ -- ADAMS KARTEZ AND MYSELF.

5 Q. WAS THERE ANY EXCHANGE OF CONVERSATION BETWEEN YOU AND
6 HE ON THE WAY BACK TO RICHLAND COUNTY?

7 A. NOT IN REFERENCE TO THE CASE BUT I'M QUITE SURE THERE
8 WAS SOME INCIDENTAL CONVERSATION BETWEEN MR. ADAMS KARTEZ AND
9 MYSELF.

10 Q. OKAY. TELL ME HOW THE CONVERSATION CAME ABOUT
11 CONCERNING HIM GIVING YOU A STATEMENT. DID HE INITIATE THAT
12 OR DID YOU INITIATE THAT CONVERSATION?

13 A. WHEN WE GOT BACK TO HEADQUARTERS, I ADVISED MR. ADAMS
14 KARTEZ GIBSON OF HIS MIRANDA RIGHTS AT HEADQUARTERS.

15 Q. AND AFTER YOU ADVISED HIM OF HIS RIGHTS, DID YOU SAY TO
16 HIM, "I WOULD LIKE FOR YOU TO GIVE ME A STATEMENT," OR DID HE
17 SAY TO YOU, "I'M WILLING TO TALK TO YOU"?

18 A. HE WAS COOPERATING WITH CAPTAIN STAN SMITH ALREADY BY
19 THE TIME I MADE CONTACT WITH HIM. HE HAD GIVEN CONSENT TO
20 SEARCH HIS HOUSE. HE HAD ACTUALLY ADVISED US THAT THE
21 VEHICLE THAT WE WERE SEARCHING FOR BELONGED TO HIS
22 GIRLFRIEND'S UNCLE. HE HAD ACKNOWLEDGED TO CAPTAIN SMITH
23 THAT HE WAS AWARE OF WHY WE WERE THERE, AND, AGAIN, HE WAS
24 VERY COOPERATIVE EVEN WITH CAPTAIN SMITH. SO BY THE TIME I
25 GOT TO HIM, HE WAS ALREADY COOPERATING.

1 Q. OKAY. BUT MY QUESTION WAS: WHEN YOU GOT HIM BACK TO
2 RICHLAND COUNTY -- AND I'M ASSUMING THAT YOU AND HE IS
3 PROBABLY IN YOUR OFFICE.

4 A. YES, HE IS.

5 Q. AND YOU ADVISED HIM OF HIS MIRANDA RIGHTS.

6 A. I DID SO; YES, SIR.

7 Q. AND AT SOME POINT IN TIME, YOU STARTED TAKING A
8 STATEMENT.

9 A. YES, SIR.

10 Q. JUST PREVIOUS TO TAKING THE STATEMENT, TELL US WHAT THE
11 CONVERSATION WAS BETWEEN YOU AND HIM.

12 A. AFTER ADVISING HIM OF HIS RIGHTS, I ASKED HIM WHAT IS
13 YOUR SIDE OF THE STORY IN A ROUNDABOUT WAY. I DON'T REMEMBER
14 EXACTLY VERBATIM WHAT I ASKED HIM, BUT THAT'S GENERALLY HOW I
15 START A CONVERSATION -- START AN INTERVIEW.

16 Q. OKAY. DID YOU KNOW ADAMS GIBSON BEFORE THE DATE THAT
17 YOU MET HIM ON THE 7TH OF SEPTEMBER OF '05?

18 A. NO, I DID NOT.

19 Q. OKAY. DID YOU ASK HIM ABOUT HIS EDUCATION OR ANYTHING
20 AFTER YOU ADVISED HIM OF HIS MIRANDA WARNINGS?

21 A. NO, I DID NOT.

22 Q. OKAY. WELL, DID YOU HAVE ANY REASON TO BELIEVE THAT HE
23 COULD OR COULD NOT READ?

24 A. I DIDN'T HAVE ANY REASON TO BELIEVE -- BASED ON SOME OF
25 THE QUESTIONS THAT I INITIALLY ASKED HIM DURING THE INITIAL

1 PART OF THAT INTERROGATION, HE SEEMED VERY COHERENT AND KNEW
2 EXACTLY WHAT I WAS SAYING. HE RESPONDED RESPONSIBLY, AND I
3 DIDN'T SEE ANY -- ANY OBVIOUS SIGNS THAT I NEEDED TO BE
4 CONCERNED ABOUT WHETHER HE WAS CAPABLE OF READING OR WRITING.

5 Q. DID YOU ASK HIM ABOUT THE EXTENT OF HIS EDUCATION, IF
6 ANY?

7 A. NO, I DID NOT.

8 Q. OKAY. SO TELL ME THIS: WHEN HE STARTED TELLING YOU HIS
9 SIDE OF THE STORY, WERE YOU DOING THE TYPING OR WAS SOMEBODY
10 ELSE TYPING?

11 A. I WAS DOING THE TYPING.

12 Q. YOU WERE DOING THE TYPING.

13 A. YES, SIR.

14 Q. SO YOU WOULD TYPE, FOR EXAMPLE -- AFTER YOU READ THIS
15 PORTION OF HIS STATEMENT "I UNDERSTAND MY RIGHTS"---

16 A. YES, SIR.

17 Q. ---HE STARTED TALKING AND THEN YOU TYPED IN, QUESTION,
18 INVESTIGATOR W. MCDANIELS; CORRECT?

19 A. RIGHT.

20 Q. AND THEN YOU TYPED, ANSWER, ADAMS KARTEZ GIBSON.

21 A. RIGHT.

22 Q. OKAY. AND THEN YOU SAY TO HIM, "WHAT CAN YOU TELL US
23 ABOUT THE INCIDENT THAT OCCURRED AT 8102 TWO NOTCH ROAD ALSO
24 KNOWN AS CHANCE'S SPORTS BAR ON 09/05 AT APPROXIMATELY
25 12:30?"

1 A. YES, SIR.

2 Q. SO WHEN YOU FINISHED THAT, YOU LET HIM STARTED (SIC)
3 TALKING OR DID YOU JUST SAY TO HIM, "NOW, TAKE YOUR TIME
4 BECAUSE I'M TYPING. I WANT TO TYPE EVERY WORD YOU SAY TO
5 MAKE SURE I PUT DOWN ONLY WHAT YOUR STATEMENT IS"?

6 A. THAT'S EXACTLY WHAT I SAID BECAUSE I'M NOT A FAST TYPER.
7 SO I ASKED HIM -- I SAID -- I SAID, "DON'T GO TOO FAST. TELL
8 ME WHAT HAPPENED." I ASKED THIS QUESTION HERE. I TYPED THE
9 QUESTION OUT, AND THEN I READ IT TO HIM: "WHAT CAN YOU TELL
10 ME ABOUT THE INCIDENT THAT OCCURRED AT 8102 TWO NOTCH ROAD
11 ALSO KNOWN AS CHANCE'S SPORTS BAR AND GRILL ON 09/05/05?" I
12 HAD ACTUALLY STATED THE WORDS SEPTEMBER 5TH, 2005, AT
13 APPROXIMATELY 12:30 A.M. BEFORE HE ANSWERED, I STATED TO
14 HIM, "DON'T GO TOO FAST BECAUSE I'M NOT A FAST TYPER."

15 Q. OKAY. AND I BELIEVE YOU TESTIFIED THAT YOU ADVISED HIM
16 OF HIS RIGHTS AT 14:56 HOURS.

17 A. YES, SIR.

18 Q. AND WHAT TIME IS THAT IN REAL TIME?

19 A. THAT IS 2:56 P.M.

20 Q. 2:56. AND I BELIEVE YOU -- IN THE STATEMENT THAT YOU
21 GIVE -- THAT HE GIVE YOU, YOU SAID IT IS AT 15:01 HOURS.

22 A. YES, SIR.

23 Q. IS THAT CORRECT? THAT IS NOT WHEN YOU FINISHED THE
24 STATEMENT; IS THAT CORRECT? OR IS THAT WHEN YOU BEGAN TAKING
25 THE WRITTEN STATEMENT?

1 A. THAT IS WHEN I -- THE BEGINNING WHEN I'M PREPARING THE
2 WRITTEN STATEMENT, AND THAT SAYS 15:01 WHICH IS 3:01 P.M.

3 Q. SO APPROXIMATELY HOW LONG WERE YOU AND HE ENGAGED IN
4 THIS CONVERSATION UNTIL YOU FINISHED HIS STATEMENT WHERE YOU
5 ASKED HIM IS THIS STATEMENT THE WHOLE TRUTH AND HE SAID YES?
6 JUST APPROXIMATELY HOW LONG. I MEAN, A GUESS.

7 A. IT WOULD BE TOUGH FOR ME TO DO THAT.

8 Q. HOW LONG?

9 A. I REALLY COULDN'T GIVE YOU AN APPROXIMATE TIME ON THAT.
10 I DON'T REALLY RECALL.

11 Q. WELL, DO YOU HAVE ANY IDEA WHAT TIME IT WAS THAT YOU
12 EITHER LEAVE HIM IN YOUR OFFICE TO BE ESCORTED TO THE JAIL BY
13 ANOTHER OFFICER OR YOU TOOK HIM TO THE JAIL?

14 A. I DON'T RECALL WHETHER OR NOT I TOOK HIM TO THE JAIL OR
15 NOT OR WHETHER HE WAS ESCORTED BY ANOTHER OFFICER. I DON'T
16 RECALL THAT.

17 Q. WELL, WHAT DID YOU DO WITH HIM WHEN YOU FINISHED TAKING
18 THE STATEMENT FROM HIM? DO YOU REMEMBER THAT?

19 A. HE WAS PLACED IN THE D. CELL.

20 Q. THAT'S AT---

21 A. AT HEADQUARTERS.

22 Q. IN THE DETENTION CENTER.

23 A. AT HEADQUARTERS.

24 Q. BY HIMSELF.

25 A. HE MAY HAVE BEEN IN THERE WITH SOMEONE ELSE. I'M NOT

1 SURE. I KNOW WE WOULDN'T HAVE PLACED HIM IN THERE WITH
2 JACQUES, BUT HE MAY HAVE BEEN IN THERE WITH SOMEONE ELSE FOR
3 ANOTHER OFFICER WHO MAY HAVE ACTUALLY HAD A PRISONER
4 DETAINED. THE D. CELL AT THE RICHLAND COUNTY SHERIFF'S
5 DEPARTMENT IS A PLACE WHERE WE HOUSE INDIVIDUALS WHO ARE
6 ARRESTED AND THEY ARE AWAITING TRANSPORT. SO HE MAY HAVE
7 BEEN HOUSED WITH ANYBODY. I DON'T RECALL.

8 Q. JUST AGAIN, TODAY DO YOU KNOW WHAT HIS EDUCATIONAL LEVEL
9 IS? HIGH SCHOOL DROPOUT OR WHAT?

10 A. I DO NOT.

11 Q. OKAY. DID YOU HAVE A WAY OF TESTING WHETHER HE COULD
12 READ OR WRITE?

13 A. NO, I DID NOT HAVE A WAY OF TESTING, BUT, AGAIN, BASED
14 ON THE QUESTIONS AND THE ANSWERS THAT HE GAVE, I DIDN'T HAVE
15 ANY -- ANY OBVIOUS SIGN THAT I NEEDED TO BE CONCERNED ABOUT
16 THAT.

17 Q. WOULD YOU -- WOULD YOU THINK THAT A WORD SUCH AS WAIVING
18 RIGHTS WOULD IMPACT A PERSON WHO HAD MARGINAL SKILLS OR ONE
19 WHO HAD ADEQUATE READING KNOWLEDGE AND THAT STUFF WOULD MAKE
20 A DIFFERENCE THAT YOU WOULD INQUIRE OF HIM AS TO WHETHER OR
21 NOT HE UNDERSTANDS WHAT WAIVING HIS RIGHTS MEANS?

22 A. I'M NOT IN A POSITION TO DETERMINE WHETHER SOMEONE IS
23 CAPABLE OF ACTUALLY UNDERSTANDING WHAT THE WORD WAIVE MEANS
24 AS OPPOSED TO -- I MEAN, BASICALLY, LIKE I SAID, BASED ON THE
25 QUESTIONS THAT I ASKED HIM, HE APPEARED TO UNDERSTAND THEM.

1 HE DIDN'T SHOW ANY OBVIOUS SIGNS THAT I NEEDED TO BE
2 CONCERNED ABOUT WHETHER HE WAS ILLITERATE OR NOT.

3 Q. SO WHAT YOU ARE IN EFFECT DOING BY ASKING HIM TO GIVE
4 YOU A STATEMENT AFTER YOU READ HIM HIS MIRANDA STATEMENTS IS
5 ASKING HIM TO WAIVE HIS RIGHTS TO REMAIN SILENT. IS THAT NOT
6 CORRECT?

7 A. I READ IT TO HIM AND THAT'S WHAT I WAS GIVING TO HIM,
8 AND WE WENT THROUGH IT SENTENCE BY SENTENCE.

9 Q. OKAY.

10 A. TO GUARANTEE THAT -- TO INSURE THAT HE UNDERSTOOD IT.

11 Q. SO YOU -- SO THEN YOU WOULD HAVE TO MAKE YOURSELF
12 ASSURED THAT IF HE WAIVES HIS RIGHTS, HE UNDERSTANDS WHAT
13 CONSTITUTIONAL IMPACT THAT HAS IN TERMS OF WHETHER OR NOT HE
14 SAYS I DON'T WANT TO TALK TO YOU AFTER THESE RIGHTS OR
15 WHETHER OR NOT I'M GOING TO TALK TO YOU AFTER YOU HAVE GIVEN
16 ME THESE CONSTITUTIONAL RIGHTS.

17 A. WELL, ONE OF THE INDICATORS THAT SHOW ME THAT HE CLEARLY
18 UNDERSTOOD WAS -- AND THIS IS ALSO A GENERAL PRACTICE FOR
19 MYSELF IS WHEN AT THE BOTTOM OF THE WAIVER OF RIGHTS WHERE
20 THE WORD PRESSURE OR COERCION -- I HAVE FOUND THAT THERE'S
21 SOME PEOPLE WHO MAY NOT KNOW WHAT THAT WORD MEANS. THEY
22 ASSUME THAT THEY DO. I ASKED HIM IF HE KNEW WHAT COERCION
23 MEANT, AND HE STATED THAT HE DID. AND I ASKED HIM WHAT DOES
24 IT MEAN, AND HE GAVE ME AN EXAMPLE OF SCARING. I RECALL THAT
25 FROM MR. ADAMS KARTEZ GIBSON. YES, SIR.

1 Q. AND YOU ASKED HIM ABOUT COERCION. YOU READ HIM THE
2 WAIVER OF RIGHTS; RIGHT?

3 A. YES, SIR. THAT'S THE LAST PORTION.

4 Q. AND THAT STYLED THE LAST CONVERSATION THAT YOU HAD WITH
5 HIM BEFORE YOU COULD SAY TO HIM: I'M GOING TO TAKE YOUR
6 VERSION OF THE STORY.

7 A. RIGHT.

8 Q. OKAY. AND THE WAIVER OF RIGHTS CONTAINS ONE, TWO,
9 THREE, FOUR -- FOUR LINES.

10 A. YES, SIR.

11 Q. AND DID YOU ASK HIM WHEN YOU FINISHED READING THAT TO
12 HIM: DO YOU UNDERSTAND WHAT YOU'RE WAIVING AND WHAT RIGHTS
13 ARE THAT YOU'RE WAIVING?

14 A. YES, I DID ASK HIM THAT.

15 MR. ROBERSON: OKAY. BEG THE COURT'S INDULGENCE.

16 THE COURT: YES, SIR.

17 MR. ROBERSON: JUST A COUPLE MORE QUESTIONS, YOUR HONOR.

18 THE COURT: YES, SIR.

19 BY MR. ROBERSON:

20 Q. I BELIEVE YOU TESTIFIED THAT HE ALSO GAVE YOU A CONSENT
21 TO SEARCH HIS HOUSE?

22 A. YES, HE DID, SIR, IN FAIRFIELD COUNTY. YES, SIR.

23 Q. GOOD. YOU DID NOT HAVE A SEARCH WARRANT IS THE REASON
24 YOU ASKED HIM TO WAIVE IT. IS THAT CORRECT?

25 A. THAT WAS DONE BY CAPTAIN SMITH AND SERGEANT EWING AT THE

1 TIME.

2 Q. OKAY. DID YOU KNOW WHEN YOU WERE ON YOUR WAY TO
3 FAIRFIELD COUNTY THAT YOU MIGHT ARREST ADAMS GIBSON OR THAT
4 YOU MIGHT WANT TO SEARCH HIS HOUSE FOR SOME EVIDENCE THAT MAY
5 RELATE TO THE INCIDENT THAT HAPPENED AT CHANCE'S A COUPLE OF
6 DAYS BEFORE?

7 A. YES, WE DID, SIR. WHILE EN ROUTE TO FAIRFIELD COUNTY,
8 WE WERE UNDER THE IMPRESSION BASED ON D.M.V. RECORDS THAT
9 BOTH MR. ADAMS KARTEZ GIBSON AND JACQUES GIBSON LIVED AT THE
10 SAME ADDRESS. WHEN WE ARRIVED AT THAT PARTICULAR ADDRESS, WE
11 DID HAVE A SEARCH WARRANT IN HAND FOR THAT PARTICULAR
12 ADDRESS. IT WAS AT THAT TIME WHEN WE LEARNED THROUGH THE
13 FATHER OF BOTH MR. JACQUES AND ADAMS GIBSON THAT MR. ADAMS
14 KARTEZ GIBSON ACTUALLY RESIDED AT ANOTHER ADDRESS ALSO ON
15 MOOD HARRISON ROAD. THAT IS WHY THERE WAS NO PREPARED SEARCH
16 WARRANT FOR THAT PARTICULAR RESIDENCE.

17 Q. OKAY. BUT YOU WERE LOOKING FOR THE SAME THINGS AT THE
18 RESIDENCE THAT YOU EVENTUALLY ENDED UP AT THAT YOU WERE
19 LOOKING FOR IN THE EXECUTED SEARCH WARRANT.

20 A. WE WERE LOOKING FOR ANYTHING THAT WE DEEMED TO BE
21 RELATED TO THE HOMICIDE; YES, SIR.

22 Q. OKAY. AND THAT INCLUDES GUNS, CLOTHING, AND OTHER
23 MATTERS.

24 A. YES, SIR.

25 Q. OKAY.

1 A. AND THE VEHICLE WHICH WAS LOCATED AT HIS RESIDENCE.

2 Q. OKAY.

3 THE COURT: ANYTHING ELSE, MR. ROBERSON?

4 BY MR. ROBERSON:

5 Q. JUST... BULLETS, BULLET FRAGMENTS, AND THOSE KINDS OF
6 THINGS.

7 A. YES, SIR.

8 Q. AND YOU DIDN'T FIND ANY OF THAT AT HIS RESIDENCE.

9 MS. CAMPBELL: OBJECTION, YOUR HONOR, JUST TO THIS --
10 IT'S IRRELEVANT TO THIS.

11 THE COURT: I'LL ALLOW IT. ANYTHING ELSE, MR. ROBERSON?

12 MR. ROBERSON: HE HASN'T ANSWERED IT YET.

13 THE WITNESS: WE JUST FOUND THE VEHICLE THAT WAS IN HIS
14 POSSESSION.

15 BY MR. ROBERSON:

16 Q. BUT YOU---

17 A. WE DIDN'T FIND ANY BULLET FRAGMENTS OR ANY BULLETS; NO,
18 SIR.

19 Q. SO THE ONLY THING YOU TOOK POSSESSION OF WAS THE
20 VEHICLE.

21 A. YES, SIR.

22 MR. ROBERSON: OKAY.

23 THE COURT: ANYTHING ELSE?

24 MS. ROBERSON: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT. BEFORE WE GO INTO THE STATEMENT

1 OF MR. JACQUES GIBSON, WE'LL DEAL WITH THIS ONE. ANY
2 ARGUMENTS THAT YOU HAVE, MR. ROBERSON, UNDER YOUR CLIENT'S
3 STATEMENTS?

4 MR. ROBERSON: BEG THE COURT'S INDULGENCE.

5 THE COURT: YES, SIR.

6 MR. ROBERSON: WE HAVE NO OBJECTION TO THE STATEMENT
7 COMING IN.

8 THE COURT: ALL RIGHT. AS TO THE STATEMENT OF ADAMS
9 KARTEZ GIBSON, DOES THE DEFENDANT JACQUES GIBSON HAVE ANY
10 OBJECTIONS TO IT? MR. JOHNSON?

11 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT, SIR. ALL RIGHT. WELL, THEN, AS
13 I UNDERSTAND IT THEN, THERE'S NO QUESTIONS THEN AS TO THE
14 VOLUNTARINESS OR IT IS -- ANY QUESTIONS ABOUT THAT IT IS THE
15 STATEMENT OF ADAMS KARTEZ GIBSON, THAT IT WAS MADE FREELY AND
16 VOLUNTARILY WITHOUT COERCION THEN. IS THAT RIGHT, MR.
17 ROBERSON?

18 MR. ROBERSON: THAT'S CORRECT, YOUR HONOR.

19 THE COURT: ALL RIGHT, SIR. AND, MR. JOHNSON, YOU'RE
20 NOT RAISING ANY ISSUES ABOUT THE -- ANY STATEMENTS CONTAINED
21 IN MR. -- THE STATEMENT OF MR. ADAMS KARTEZ GIBSON AS
22 AFFECTING THE RIGHTS OF YOUR CLIENT IN ANY WAY?

23 MR. JOHNSON: NO, SIR, YOUR HONOR.

24 THE COURT: ALL RIGHT, SIR.

25 MR. JOHNSON: I AM NOT OBJECTING THAT THEY CAN PROVE BY

1 A PREPONDERANCE OF THE EVIDENCE AT THIS STAGE---

2 THE COURT: ALL RIGHT, SIR.

3 MR. JOHNSON: ---THAT -- THAT---

4 THE COURT: ALL RIGHT.

5 MR. JOHNSON: ---THAT IT WAS VOLUNTARY.

6 THE COURT: BUT YOU -- YOU WILL HAVE -- THAT'S WHAT I'M
7 TRYING TO GET AT. YOU'RE GOING TO HAVE OBJECTIONS LATER ON
8 IN THE TRIAL---

9 MR. JOHNSON: THAT'S CORRECT, SIR.

10 THE COURT: ---AS TO THE CONTENTS OF THE STATEMENT.

11 MR. JOHNSON: THAT'S EXACTLY RIGHT, SIR.

12 THE COURT: ALL RIGHT.

13 MR. ROBERSON: AND, YOUR HONOR?

14 THE COURT: YES, SIR.

15 MR. ROBERSON: MY LATTER OBJECTION WAS TO THE
16 VOLUNTARINESS OF THE STATEMENT.

17 THE COURT: RIGHT. I UNDERSTAND. ALL RIGHT. ALL
18 RIGHT. I DO FIND THAT EVEN THOUGH THERE IS NO QUESTION ABOUT
19 IT FROM THE DEFENSE'S STANDPOINT AS TO THE VOLUNTARINESS OF
20 THE STATEMENT, I DO FIND THAT THE STATEMENT WAS MADE --
21 FREELY AND VOLUNTARILY MADE BY MR. ADAMS KARTEZ GIBSON WITH
22 KNOWLEDGE AND UNDERSTANDING OF HIS RIGHTS. ALL RIGHT. MR.
23 JOHNSON, YOU MAY CROSS-EXAMINE AS TO THE STATEMENT OF YOUR
24 CLIENT.

25 MR. JOHNSON: I HAVE NO CROSS-EXAMINATION, YOUR HONOR.

1 I'VE ALREADY STIPULATED THAT THE STATE CAN MEET ITS BURDEN TO
2 A PREPONDERANCE OF THE EVIDENCE---

3 THE COURT: ALL RIGHT, SIR.

4 MR. JOHNSON: ---AS TO THE VOLUNTARINESS.

5 THE COURT: ALL RIGHT. AND, ONCE AGAIN, EVEN WITH THE
6 DEFENDANTS' STIPULATION, I DO FIND THAT THERE WAS IN THE
7 STATEMENT OF JACQUES SEAN GIBSON THAT IS REFLECTED IN STATE'S
8 EXHIBIT 17 FOR I.D. THAT IT WAS VOLUNTARILY MADE AND WITH THE
9 FULL KNOWLEDGE OF AND UNDERSTANDING OF HIS RIGHTS. ALL
10 RIGHT. YOU MAY STEP DOWN, SIR.

11 THE WITNESS: THANK YOU, SIR.

12 THE COURT: ALL RIGHT. ANY OTHER STATEMENTS, SOLICITOR,
13 THAT WE HAVE TO DEAL WITH?

14 MS. CAMPBELL: YOUR HONOR, THERE IS ONE THAT THE FIRST
15 INITIAL ORAL STATEMENT BY I BELIEVE IT'S -- BEG THE COURT'S
16 INDULGENCE. IT'S ADAMS GIBSON MADE TO CAPTAIN SMITH. HE IS
17 HERE IN THE BUILDING. HOWEVER, HE'S STUCK UPSTAIRS IN THAT
18 MURDER TRIAL THEY'RE FINISHING UP, AND HE WAS THE LEAD
19 INVESTIGATOR ON THAT.

20 THE COURT: ALL RIGHT.

21 MS. CAMPBELL: IT MAY BE SOMETHING THEY'LL STIPULATE.

22 THE COURT: WELL, ALL RIGHT. LET'S JUST DEAL WITH IT
23 FOR THE PURPOSES OF THIS PARTICULAR JACKSON V. DENNO HEARING.
24 MR. ROBERSON, IS THERE A QUESTION AS TO THE VOLUNTARINESS OF
25 THE ORAL STATEMENT MADE TO THE CAPTAIN?

1 MR. ROBERSON: I NEED TO REFRESH MY MEMORY AS TO WHETHER
2 OR NOT I KNEW THAT HE HAD MADE AN ORAL STATEMENT---

3 THE COURT: ALL RIGHT, SIR.

4 MR. ROBERSON: ---TO CAPTAIN SMITH.

5 THE COURT: ALL RIGHT, SIR.

6 MS. CAMPBELL: IT'S IN THIS FOLLOW-UP.

7 MR. LAKE: IT'S IN THE INVESTIGATIVE REPORT.

8 MR. ROBERSON: MAY I SEE THAT?

9 MS. CAMPBELL: SURE.

10 THE COURT: MADAM CLERK? WOULD YOU HAND THESE DOCUMENTS
11 TO THE COURT REPORTER, PLEASE, MA'AM? THANK YOU.

12 (PAUSE IN PROCEEDINGS WHILE MR. ROBERSON LOOKS AT
13 DOCUMENTS.)

14 THE COURT: SOLICITOR, FOR THE COURT'S INFORMATION, DO
15 YOU HAVE ANY IDEA WHEN THE CAPTAIN MIGHT BE RELEASED FROM
16 THAT OTHER TRIAL?

17 MS. CAMPBELL: AS SOON AS THEY FINISH CHARGING THE JURY
18 IS MY INFORMATION, WHICH WILL BE THIS AFTERNOON.

19 THE COURT: ALL RIGHT, MA'AM. THANK YOU.

20 MS. CAMPBELL: THANK YOU.

21 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN MR.
22 ROBERSON AND ADAMS GIBSON.)

23 MR. ROBERSON: HAVING MY MEMORY REFRESHED, YOUR HONOR, I
24 HAVE NO OBJECTION TO THE VOLUNTARINESS OF THIS STATEMENT AS
25 WELL.

1 THE COURT: ALL RIGHT, SIR. AND, SOLICITOR, CAN WE HAVE
2 THAT -- A COPY OF THAT STATEMENT MARKED, PLEASE?

3 MS. CAMPBELL: YES, SIR.

4 MR. ROBERSON: YOUR HONOR---

5 THE COURT: YES, SIR, MR. ROBERSON.

6 MR. ROBERSON: ---THERE MAY BE SOME OTHER STUFF ON THIS
7 STATEMENT. I MEAN, I DON'T WANT TO JUST---

8 THE COURT: WELL, THIS IS FOR THE PURPOSES OF THIS
9 HEARING---

10 MR. ROBERSON: ALL RIGHT, SIR.

11 THE COURT: ---THIS JACKSON V. DENNO HEARING. THIS IS
12 NOT FOR THE PURPOSES OF THE TRIAL THAT WE'RE MARKING IT AT
13 THIS POINT IN TIME. I TELL YOU WHAT. WE'RE NOT GOING TO --
14 WE'LL WAIT UNTIL -- IS THAT CAPTAIN SMITH?

15 MS. CAMPBELL: YES, SIR.

16 THE COURT: ALL RIGHT. WE'LL JUST WAIT UNTIL CAPTAIN
17 SMITH IS AVAILABLE AND THEN WE WILL CONDUCT A JACKSON V.
18 DENNO HEARING ON THIS PARTICULAR STATEMENT. I STILL WANT YOU
19 TO MARK IT SO - WE'VE BEEN TALKING ABOUT IT - SO WE KNOW WHAT
20 STATEMENT WE'RE TALKING ABOUT HERE. OKAY? AND WHAT -- HAVE
21 THE COURT REPORTER MARK THAT. AND WHAT NUMBER WILL THAT BE,
22 PLEASE, MA'AM?

23 COURT REPORTER: 18.

24 THE COURT: ALL RIGHT.

25 (STATE'S EXHIBIT 18 WAS MARKED FOR IDENTIFICATION ONLY.)

1 THE COURT: THAT'S STATE'S 18. SO JUST LEAVE THAT WITH
2 THE COURT REPORTER FOR RIGHT NOW. AND WHEN CAPTAIN SMITH IS
3 AVAILABLE, WE'LL GO INTO THE JACKSON V. DENNO HEARING ON THAT
4 PARTICULAR ORAL STATEMENT THAT SUPPOSEDLY WAS MADE BY MR.
5 ADAMS GIBSON TO CAPTAIN SMITH. ALL RIGHT. ANYTHING FURTHER
6 FROM THE STATE AT THIS POINT IN TIME?

7 MS. CAMPBELL: YOUR HONOR, AS FAR AS STATEMENTS, THAT'S
8 THE EXTENT OF IT FROM THE STATE.

9 THE COURT: ALL RIGHT. MR. ROBERSON, ANY MATTERS ON
10 BEHALF OF YOUR CLIENT, MR. ADAMS GIBSON?

11 MR. ROBERSON: YOUR HONOR, FOR THE RECORD I BELIEVE WE
12 HAD THE DISCUSSIONS IN CHAMBERS.

13 THE COURT: YES, SIR.

14 MR. ROBERSON: I ASKED THAT THE COURT HAVE THE
15 GOVERNMENT DISCLOSE WHETHER OR NOT ANY DEALS WERE OFFERED TO
16 ANY OF THE CO-DEFENDANTS THAT WERE CHARGED IN THIS INCIDENT,
17 THOSE WITH MURDER, AND WHETHER OR NOT THEY MADE ANY DEALS
18 WITH ANYBODY WHO WERE CO-DEFENDANTS OR ANYBODY WHO MAY BE
19 WITNESSES WHO WILL TESTIFY IN THIS CASE.

20 THE COURT: ALL RIGHT. SOLICITOR, AS I INSTRUCTED
21 Y'ALL, AS I UNDERSTAND IT, THERE APPARENTLY IS ONLY ONE OTHER
22 POTENTIAL PARTY THAT -- THAT PLED---

23 MS. CAMPBELL: THERE WAS---

24 THE COURT: ---PREVIOUSLY. IS THAT RIGHT?

25 MS. CAMPBELL: THERE WERE FOUR OTHER -- THREE OR FOUR

1 PEOPLE THAT WERE ACTUALLY CHARGED WITH BREACH OF PEACE OF AN
2 AGGRAVATED NATURE.

3 THE COURT: ALL RIGHT, MA'AM.

4 MS. CAMPBELL: AND THAT WOULD BE DEMETRIC DAVIS, TRAMELE
5 DAVIS, MARCUS TUCKER. STEPHON WILLINGHAM WOULD BE THE FOURTH
6 THAT WAS CHARGED WITH THAT. THERE WAS A JUVENILE, VERNON
7 DAVIS, WHO WAS CHARGED WITH MISPRISION OF A FELONY, AND THAT
8 CASE WAS DISPOSED OF IN FAMILY COURT BACK AROUND THE TIME
9 THIS HAPPENED.

10 THE COURT: ALL RIGHT.

11 MS. CAMPBELL: I BELIEVE HE PLED GUILTY TO MISPRISION OF
12 A FELONY AND RECEIVED---

13 THE COURT: WERE THERE ANY TYPE OF OFFERS, ANY KIND
14 WHATSOEVER, MADE TO ANY OF THESE INDIVIDUALS IN EXCHANGE FOR
15 THEIR TESTIMONY IN THIS CASE?

16 MS. CAMPBELL: NO, SIR. THEY STILL HAVE THOSE CHARGES
17 PENDING, AND THERE'S BEEN NO OFFERS.

18 THE COURT: ALL RIGHT. THANK YOU. YES, SIR. ANYTHING
19 ELSE, MR. ROBERSON?

20 MR. ROBERSON: JUST WHETHER OR NOT THERE HAVE BEEN ANY
21 MATERIAL OR SUBSTANTIAL VARIANCES IN THE STATEMENTS WE
22 CURRENTLY HAVE IN THE FILES DELIVERED TO US UNDER DISCOVERY
23 THAT MAY HAVE AROSE DURING LAST WEEK'S INVESTIGATION IN
24 TALKING TO THOSE PEOPLE AND PREPARING THEM FOR TRIAL. IT
25 WOULD BE IMPEACHING INFORMATION IF---

1 THE COURT: ALL RIGHT. I MEAN, IS THERE ANY --
2 ANYTHING -- ANY STATEMENTS THAT THEY HAVE MADE THAT YOU HAVE
3 NOT GIVEN OVER TO THE DEFENSE COUNSEL?

4 MS. CAMPBELL: NO, SIR.

5 THE COURT: ALL RIGHT. SO THEY HAVE -- THEY HAVE ALL
6 THAT INFORMATION.

7 MR. JOHNSON: YOUR HONOR, WE WERE ADVISED BEFORE THE
8 BREAK THAT THEY INTERVIEWED A MR. DEWITT.

9 MS. CAMPBELL: YES, ON MR. DEWITT. I THOUGHT WE WERE
10 REFERRING TO THESE PEOPLE. I DID GIVE THEM INFORMATION THAT
11 MR. DEWITT GAVE A MUCH MORE DETAILED STATEMENT TO US LAST
12 FRIDAY THAN HE HAD IN HIS INITIAL STATEMENT, JUST TO GIVE
13 THEM THE HEAD'S UP.

14 THE COURT: ALL RIGHT. SO THAT'S MELVIN DEWITT.

15 MS. CAMPBELL: HE'S NOT -- YES. HE'S NOT CHARGED IN
16 THIS CASE; YES, SIR.

17 THE COURT: ALL RIGHT. SO THAT WAS NOT A PERSON THAT
18 Y'ALL MENTIONED. THE ONE THAT Y'ALL MENTIONED WAS DEMETRIC
19 DAVIS, TRAMELE DAVIS, MARCUS TUCKER, STEPHON WILLINGHAM, JR.,
20 AND VERNON DAVIS, JR. THOSE ARE THE ONES THAT WERE CHARGED.

21 MS. CAMPBELL: YES, SIR.

22 THE COURT: ALL RIGHT. AND OF THOSE YOU HAVE GIVEN ALL
23 OF THEIR STATEMENTS OR WHATEVER IT IS THAT YOU ANTICIPATE
24 THEY'LL TESTIFY TO. YOU'VE TURNED THAT OVER TO THE DEFENSE;
25 IS THAT CORRECT?

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: ALL RIGHT. AND SO NOW THERE APPARENTLY IS
3 SOME OTHER INDIVIDUAL BY THE NAME OF MELVIN DEWITT WHO I
4 ASSUME HE GAVE YOU A STATEMENT IN THE PAST AND NOW HAS GIVEN
5 YOU MORE OF A STATEMENT.

6 MS. CAMPBELL: MORE OF A STATEMENT, YES, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MS. CAMPBELL: A STATEMENT WAS TAKEN. HE WAS NOT
9 INVOLVED WITH ANYONE THAT WAS INVOLVED IN THIS.

10 THE COURT: ALL RIGHT. AND HE WAS---

11 MS. CAMPBELL: HE WAS AT THE SCENE AND---

12 THE COURT: AND HE WAS NEVER CHARGED; IS THAT CORRECT?

13 MS. CAMPBELL: HE WAS NOT CHARGED.

14 THE COURT: ALL RIGHT.

15 MS. CAMPBELL: HE WAS THERE THAT NIGHT. THEY'VE GOT
16 THAT INFORMATION. HE GAVE US A SHORT, SHORT STATEMENT THAT
17 NIGHT, BUT HE DID NOT -- AND I JUST LET THEM KNOW AS A
18 COURTESY -- GIVE ALL THE DETAILS THAT HE GAVE US.

19 THE COURT: ALL RIGHT. ALL RIGHT. YES, SIR, MR.
20 ROBERSON. IS THERE ANYTHING ELSE? WELL, I'LL TURN YOU TO IN
21 JUST A SECOND, MR. JOHNSON. LET ME HEAR FROM MR. ROBERSON IF
22 HE'S GOT ANYTHING ELSE.

23 MR. ROBERSON: IT APPEARS THAT THE ADMISSION IS THAT
24 THIS IS A MATERIAL DEVIATION FROM THE ORIGINAL STATEMENT. I
25 WOULD LIKE A MORE DETAILED ACCOUNT OF WHAT HE'S NOW SAYING AS

1 MORE OF WHAT HE SAID ON THE NIGHT IN QUESTION WHEN HE GAVE
2 THE STATEMENT.

3 THE COURT: DID Y'ALL RECORD THE SECOND STATEMENT IN ANY
4 FASHION?

5 MR. LAKE: YOUR HONOR, I THINK THIS IS JUST AN ACTUAL
6 INTERVIEW IN PREPARATION FOR TRIAL. THE ONLY THING THAT I DO
7 RECALL HIM SAYING -- I DIDN'T ACTUALLY TAKE NOTES MYSELF. HE
8 JUST -- HE INDICATED THAT HE WAS OUT THERE. HE WAS PRESENT.
9 HE CAN'T COME IN HERE AND IDENTIFY ANY SPECIFIC PERSON, BUT
10 HE CAN INDICATE THAT THERE WERE TWO SHOOTERS, THAT HE HAD A
11 MILITARY BACKGROUND, SO HE CAN DISTINGUISH BETWEEN ONE TYPE
12 OF WEAPON VERSUS ANOTHER TYPE OF WEAPON.

13 THE COURT: SO HE HEARD TWO DIFFERENT TYPES---

14 MR. LAKE: OF GUNS.

15 THE COURT: ---OF WEAPONS GOING OFF.

16 MR. LAKE: YES, SIR. YES, SIR.

17 THE COURT: IS THAT...

18 MR. LAKE: AT THE SCENE. CORRECT.

19 THE COURT: ALL RIGHT. ALL RIGHT. YES, SIR, MR.
20 ROBERSON? ANYTHING ELSE?

21 MR. ROBERSON: YES, SIR. THIS MOTION, YOUR HONOR, IS A
22 MOTION IN LIMINE WITH REFERENCE TO WHETHER OR NOT THE STATE
23 WILL INTRODUCE EVIDENCE TO TRY AND ESTABLISH WHAT WOULD BE
24 COMPLICIT LIABILITY ON THE PART OF MY CLIENT TO INJECT THE
25 HAND OF ONE IS THE HAND OF ALL TO MAKE THE ESSENTIAL ELEMENTS

1 OF THEIR CASE, AND MY MOTION IS GEARED AT: THEY HAVE KNOWN
2 OF ALL THE DISCOVERY WE HAD THAT WE HAVE BEEN GIVEN. THERE'S
3 NO FACTUAL BASIS FOR THEM TO MAKE SUCH AN ALLEGATION, AND IF
4 THEY HAVE ANYTHING TO DEMONSTRATE THAT OR TO SHOW THAT, I
5 THINK AT THIS POINT I'M ENTITLED TO IT.

6 THE COURT: I GUESS MY FIRST QUESTION TO THE STATE IS:
7 I'M ASSUMING THAT Y'ALL HAVE COMPLIED WITH THE DICTATES OF
8 RULE 5 AND Y'ALL HAVE TURNED OVER THE EVIDENTIARY FILE. ALL
9 THE EVIDENCE THAT YOU HAVE, YOU'VE TURNED THAT OVER TO THE
10 DEFENSE. IS THAT CORRECT?

11 MS. CAMPBELL: YES, SIR. I BELIEVE HE'S GOTTEN ALL THE
12 PAPERWORK WE HAVE. IN ADDITION TO THAT, HE HAD AN
13 OPPORTUNITY TO MEET WITH US ON MULTIPLE OCCASIONS,
14 SPECIFICALLY WITH MR. LAKE, AND GO OVER THE EVIDENCE AS WELL,
15 THE PHYSICAL EVIDENCE.

16 THE COURT: ALL RIGHT.

17 MS. CAMPBELL: HE'S SEEN ALL THAT.

18 THE COURT: ALL RIGHT. AND I APPRECIATE THE FACT THAT
19 YOUR VIEW OF THE CASE, MR. ROBERSON, IS SUCH THAT THE STATE
20 DOES NOT POSSESS SUFFICIENT EVIDENCE TO CONVICT YOUR CLIENT
21 AND THAT YOU'LL BE ASKING THE COURT AT SOME POINT IN TIME TO
22 DISMISS THE CASE AGAINST HIM. BUT OBVIOUSLY I HAVEN'T HEARD
23 ANY OF THE FACTS AND THE EVIDENCE IN THIS CASE, SO OBVIOUSLY
24 I CANNOT MAKE THAT DETERMINATION AT THIS POINT IN TIME AND --
25 AND I'LL LEAVE IT TO THE STATE TO PRESENT THEIR CASE, AND

1 THEN YOU MAKE YOUR MOTION AND I'LL MAKE A DETERMINATION AT
2 THAT POINT IN TIME. ALL RIGHT, SIR?

3 MR. ROBERSON: THANK YOU, SIR.

4 THE COURT: THANK YOU VERY MUCH.

5 MR. ROBERSON: MY LAST -- MY LAST MOTION IS IN REFERENCE
6 TO THE UNITED STATES SUPREME COURT CASE OF KYLE VERSUS WHALEY
7 THAT THE GOVERNMENT IS DUTY-BOUND TO BE JUST AS CONSCIENTIOUS
8 IN PURSUING INNOCENCE AS THEY ARE OF GUILT AND THAT ANY AND
9 ALL EVIDENCE TENDING TO SHOW INNOCENCE ON THE PART OF MY
10 CLIENT SHOULD HAVE BEEN REVEALED TO US.

11 THE COURT: I'M ASSUMING THAT ONCE AGAIN, SOLICITOR,
12 THAT THE EVIDENCE THAT YOU HAVE, WHETHER IT'S INCULPATORY OR
13 EXCULPATORY, YOU HAVE DISCLOSED THAT TO THE DEFENSE COUNSEL
14 IN THIS MATTER. IS THAT CORRECT?

15 MS. CAMPBELL: YES, SIR.

16 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

17 MR. ROBERSON: I HAVE NOTHING FURTHER, YOUR HONOR.

18 THE COURT: THANK YOU, MR. ROBERSON.

19 MR. ROBERSON: NOT AT THIS TIME.

20 THE COURT: MR. JOHNSON?

21 MR. JOHNSON: YOUR HONOR, I'M MINDFUL OF THE FACT THAT
22 THIS IS A VERY SENSITIVE CASE, BUT I WOULD ASK THE COURT TO
23 ADMONISH PERSONS IN SUPPORT OF EITHER THE PROSECUTION OR THE
24 DEFENSE DURING THE COURSE OF THE TRIAL THAT NO COMMUNICATION,
25 VERBAL OR NONVERBAL AND ESPECIALLY NONVERBAL, ANY BODY

1 LANGUAGE AND OTHERWISE, ATTEMPT TO COMMUNICATE OR MAKE SOME
2 EXPRESSION TO THE JURY. I DO THAT OUT AN ABUNDANCE OF
3 PRECAUTION, IF YOUR HONOR PLEASE.

4 THE COURT: ALL RIGHT. BEFORE WE GET STARTED I'LL HAVE
5 SOME INSTRUCTIONS FOR THE PARTICIPANTS. ALL RIGHT. ANYTHING
6 ELSE, MR. JOHNSON? ANY OTHER MOTIONS THAT YOU HAVE ON BEHALF
7 OF YOUR CLIENT, JACQUES GIBSON?

8 MR. JOHNSON: NONE, YOUR HONOR.

9 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT BREAK FOR
10 ABOUT -- I'M SORRY, SOLICITOR.

11 MS. CAMPBELL: I'M SORRY, JUDGE. I SHOULD HAVE BROUGHT
12 THIS UP EARLIER. WE DID RUN RAPS ON PRETTY MUCH EVERYBODY
13 INCLUDING ALL BUT ONE WITNESS, AND JUST SO WE COULD GO OVER
14 THE ONES WE ANTICIPATE TODAY, IT MIGHT BE A GOOD TIME TO DO
15 THAT.

16 THE COURT: ALL RIGHT, MA'AM. DID YOU -- THESE N.C.I.C.
17 REPORTS, THESE ARE ONES THAT YOU RAN ON YOUR CLIENTS OR...

18 MS. CAMPBELL: ON THE WITNESSES.

19 THE COURT: I'M SORRY. YOUR CLIENTS. I'M SORRY. ON
20 THE WITNESSES THAT YOU PROPOSE TO PRODUCE; IS THAT CORRECT?

21 MS. CAMPBELL: YES, SIR.

22 THE COURT: ALL RIGHT. AND DO YOU HAVE COPIES OF THOSE
23 FOR THE DEFENSE?

24 MS. CAMPBELL: THEY'VE BEEN GIVEN TO THE DEFENSE.

25 THE COURT: ALL RIGHT. WHAT IS IT THAT YOU ARE ASKING

1 ME TO DO THEN? YOU'VE DISCLOSED THE INFORMATION. IF THEY
2 INTEND TO---

3 MS. CAMPBELL: I JUST WANT TO MAKE SURE WE AGREE BEFORE
4 IT'S BROUGHT UP IN FRONT OF A JURY AS TO WHAT IS IMPEACHABLE
5 AND WHAT IS NOT.

6 THE COURT: ALL RIGHT. ALL RIGHT. WHO -- WHO IS IT
7 THAT YOU WANT TO REVIEW?

8 MS. CAMPBELL: RAVARIS HENRY.

9 THE COURT: ALL RIGHT. GENTLEMEN, Y'ALL HAVE HAD A
10 CHANCE TO LOOK AT THIS. YOU SAID LAVARIS HENRY?

11 MS. CAMPBELL: RAVARIS. R-A-V-A-R-I-S.

12 THE COURT: RAVARIS. ALL RIGHT. Y'ALL PULL OUT YOUR
13 N.C.I.C., GENTLEMEN, ON THAT PARTICULAR INDIVIDUAL.

14 MR. ROBERSON: YOUR HONOR, I'M ASSUMING THIS IS AN OLD
15 SITE. I DO NOT HAVE A RAP SHEET ON RAVARIS HENRY.

16 THE COURT: ALL RIGHT.

17 MR. ROBERSON: I HAVE TWO STATEMENTS BY HIM.

18 THE COURT: ALL RIGHT. COULD WE -- DO YOU HAVE AN EXTRA
19 COPY OF THAT, SOLICITOR, OF HIS N.C.I.C.?

20 MS. CAMPBELL: YES, SIR.

21 THE COURT: ALL RIGHT.

22 MR. JOHNSON: YOUR HONOR, I HAVE ONE, BUT MINE SHOWS AN
23 ARREST ON 10/26/2000, BUT IT DOES NOT SHOW ANY DISPOSITION.

24 THE COURT: ALL RIGHT. SOLICITOR, WHAT DO YOU HAVE ON
25 YOUR N.C.I.C.? MR. JOHNSON IS INDICATING THERE'S AN ARREST

1 BUT NO DISPOSITION.

2 MS. CAMPBELL: YES, SIR. I HAVE THAT HE HAS A
3 CONVICTION FOR SIMPLE ASSAULT AND BATTERY WHICH WOULD NOT BE
4 IMPEACHABLE, AND I HAVE NO DISPOSITION ON THE GRAND LARCENY.

5 THE COURT: ALL RIGHT. MR. JOHNSON? DOES YOURS
6 INDICATE A CONVICTION FOR SIMPLE ASSAULT AND BATTERY?

7 MR. JOHNSON: YES, SIR.

8 THE COURT: ALL RIGHT. AND WHAT'S Y'ALL'S POSITION?

9 MR. JOHNSON: YOUR HONOR, NORMALLY THE SHEET WILL SHOW
10 NO DISPOSITION. ALL IT SAYS IS THE ARREST OF GRAND LARCENY
11 AND NOTHING AT ALL. IT'S SILENT AS TO WHAT DISPOSITION...

12 MS. CAMPBELL: I WOULD CONFIRM AT THE BREAK, JUDGE, IF
13 IT'S OKAY WITH YOU, THAT IT'S A DISMISSAL.

14 THE COURT: ALL RIGHT. IF YOU WOULD, PLEASE.

15 MS. CAMPBELL: YES, SIR.

16 THE COURT: SO YOU CAN INFORM DEFENSE COUNSEL AS TO WHAT
17 THE DISPOSITION WAS. AND AS TO THE OTHER CHARGES, ANY
18 QUESTION ABOUT THAT, MR. JOHNSON?

19 MR. JOHNSON: NOTHING, YOUR HONOR.

20 THE COURT: ALL RIGHT.

21 MR. ROBERSON: YOUR HONOR, AS TO SIMPLE ASSAULT, I THINK
22 THAT'S ADMISSIBLE. IT'S AN INTRUSION INTO THE PRIVATE PARTS
23 OF ANOTHER PERSON. IT'S AN ASSAULT, PHYSICAL HARM. I THINK
24 THAT GOES TO HIS PROCLIVITY TO BE VIOLENT, TO DISRESPECT
25 OTHER HUMAN BEINGS. I THINK IT'S AN IMPEACHABLE OFFENSE.

1 **THE COURT:** ALL RIGHT. LOOKING AT RULE 609, IMPEACHMENT
2 BY EVIDENCE OF CONVICTION OF A CRIME, INDICATES THAT IF THE
3 CRIME WAS PUNISHABLE BY DEATH OR IMPRISONMENT IN EXCESS OF
4 ONE YEAR OR WHETHER OR NOT THE -- IT'S A CRIME OF MORAL
5 TURPITUDE SUCH AS DISHONESTY AND FALSE STATEMENT -- AND
6 THAT'S REGARDLESS OF PUNISHMENT. HOW WOULD YOU SAY THAT THAT
7 FITS UNDER RULE 609?

8 **MR. ROBERSON:** BECAUSE WE'RE OWED A DUTY NOT TO INTRUDE
9 ON THE PERSON OF ANOTHER WITHOUT THEIR PERMISSION AND THIS
10 IS -- IT'S A MORAL TURPITUDE CRIME BECAUSE HE ASSAULTED A
11 PERSON AND HE OBVIOUSLY WAS CONVICTED OF IT.

12 **THE COURT:** ALL RIGHT, SIR. I WOULD SAY THAT THIS IS
13 NOT A CRIME UNDER RULE 609 BY WHICH YOU MAY IMPEACH THE
14 CREDIBILITY OR BELIEVABILITY OF THE WITNESS OR IMPEACH THE
15 WITNESS AND WILL NOT ALLOW IT UNDER RULE 609. ALL RIGHT.
16 WHO ELSE, SOLICITOR?

17 **MS. CAMPBELL:** ANTWAN MARTIN.

18 **THE COURT:** ALL RIGHT. AND?

19 **MS. CAMPBELL:** HE HAS A 2002 CONVICTION FOR CRIMINAL
20 DOMESTIC VIOLENCE FIRST OFFENSE AND A NON-CONVICTION FOR
21 MALICIOUS INJURY TO PROPERTY.

22 **THE COURT:** WHAT'S YOUR POSITION, MR. ROBERSON?

23 **MR. ROBERSON:** CRIMINAL DOMESTIC VIOLENCE GENERALLY IS A
24 CRIME OF MORAL TURPITUDE.

25 **THE COURT:** ALL RIGHT.

1 MR. ROBERSON: AND IT FALLS UNDER 609.

2 THE COURT: ALL RIGHT. WHAT'S YOUR POSITION, MR.
3 JOHNSON?

4 MR. JOHNSON: I ECHO WHAT MR. ROBERSON JUST STATED, YOUR
5 HONOR.

6 THE COURT: I'M SORRY, SIR?

7 MR. JOHNSON: SAME, YOUR HONOR---

8 THE COURT: ALL RIGHT, SIR.

9 MR. JOHNSON: ---AS MR. ROBERSON.

10 THE COURT: THAT YOU BELIEVE THE -- A CONVICTION UNDER
11 C.D.V. FIRST IS A CRIME OF MORAL TURPITUDE? THAT'S YOUR
12 ARGUMENT, MR. JOHNSON?

13 MR. JOHNSON: YES, SIR. YES, SIR.

14 THE COURT: ALL RIGHT. WELL, UNLESS Y'ALL CAN PROVIDE
15 ME WITH SOME CASE LAW DEFINITION IN THE STATUTE OF CRIMINAL
16 DOMESTIC VIOLENCE WHICH INDICATES THAT IT COULD CONCEIVABLY
17 BE DEFINED AS A CRIME OF MORAL TURPITUDE, I'D RESPECTFULLY
18 DECLINE TO ALLOW YOU TO DO SO. OBVIOUSLY IF YOU CAN PROVIDE
19 ME WITH SOME INDICATION BY THE SOUTH CAROLINA SUPREME COURT
20 OR SOUTH CAROLINA COURT OF APPEALS TO THE CONTRARY, I'LL BE
21 GLAD TO LOOK AT THAT. THANK YOU VERY MUCH. ANYTHING ELSE,
22 SOLICITOR?

23 MS. CAMPBELL: SHUNTA WILSON.

24 THE COURT: AND WHAT DO YOUR RECORDS INDICATE ON HER?

25 MS. CAMPBELL: TWO ARRESTS FOR DRIVING UNDER SUSPENSION,

1 ONE NO VEHICLE LICENSE, AND A SEAT BELT VIOLATION.

2 THE COURT: MR. ROBERSON, IS THERE ANYTHING THAT YOU
3 BELIEVE YOU MAY CROSS-EXAMINE HER UNDER RULE 609 ON THOSE
4 PARTICULAR OFFENSES?

5 MR. ROBERSON: IS THIS -- YOUR HONOR, IT APPEARS THAT
6 THESE TWO DRIVING UNDER SUSPENSIONS -- ACTUALLY THEY'RE JUST
7 ONE INCIDENT? IS THAT CORRECT? IT LOOKS LIKE THERE'S AN
8 04/25/06.

9 THE COURT: SOLICITOR, DO YOU HAVE ANY INFORMATION ABOUT
10 THAT?

11 MR. ROBERSON: I'M SORRY. THESE ARE SEPARATES DATES.
12 I'M SORRY.

13 THE COURT: ALL RIGHT, SIR. ALL RIGHT. BUT THEY WERE
14 CONVICTIONS FOR DRIVING UNDER SUSPENSION FIRST; IS THAT
15 CORRECT?

16 MS. CAMPBELL: THEY DON'T EVEN SHOW AS CONVICTIONS.

17 THE COURT: THEY WERE ARRESTS FOR DRIVING UNDER
18 SUSPENSION?

19 MS. CAMPBELL: THEY WERE ARRESTS FOR DRIVING UNDER
20 SUSPENSION.

21 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. MR.
22 ROBERSON, ANY...

23 MR. ROBERSON: I DON'T SEE A CONVICTION FOR THEM.

24 THE COURT: ALL RIGHT, SIR.

25 MS. CAMPBELL: THANK YOU.

1 THE COURT: MR. JOHNSON?

2 MR. JOHNSON: NOTHING, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 MS. CAMPBELL: THERE'S TWO MORE, YOUR HONOR. ANTONIO
5 SMITH.

6 THE COURT: WHAT DO YOUR RECORDS INDICATE?

7 MS. CAMPBELL: A NON-CONVICTION FOR POSSESSION OF
8 MARIJUANA AND A NON-CONVICTION FOR DRIVING UNDER SUSPENSION.

9 THE COURT: ALL RIGHT. SO THE PERSON---

10 MS. CAMPBELL: NON-CONVICTION---

11 THE COURT: THE PERSON WAS ARRESTED FOR THOSE.

12 MS. CAMPBELL: ARRESTED BUT NOT CONVICTED.

13 THE COURT: NOT CONVICTED OF THOSE OFFENSES. ALL RIGHT.
14 MR. ROBERSON?

15 MR. ROBERSON: I DON'T THINK I HAVE A RIGHT TO IMPEACH
16 HIM.

17 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

18 MR. JOHNSON: I AGREE, YOUR HONOR.

19 THE COURT: ALL RIGHT. SOLICITOR?

20 MS. CAMPBELL: THE FINAL PERSON I'D LIKE TO TAKE UP
21 TODAY, YOUR HONOR, IS TORRI BOYD. IT SHOWS THAT HE WAS
22 ARRESTED ON SOME GUN CHARGES WHICH WERE NON-CONVICTIONS THAT
23 WERE NOT PROSECUTED IN 2001.

24 THE COURT: MR. ROBERSON, IS THERE ANYTHING ELSE?

25 MS. CAMPBELL: CONVICTED IN 2002 OF SIMPLE ASSAULT AND

1 POSSESSION OF MARIJUANA LESS THAN A GRAM, POSSESSION OF DRUG
2 PARAPHERNALIA, AND BREACH OF PEACE, ALL THREE OF THOSE.

3 THE COURT: THOSE WERE ALL DISPOSED OF IN MAGISTRATE'S
4 COURT?

5 MS. CAMPBELL: YES, SIR.

6 THE COURT: MR. ROBERSON?

7 MR. ROBERSON: I BELIEVE THAT'S IMPEACHABLE UNDER 609,
8 YOUR HONOR.

9 THE COURT: UNDER WHAT PART OF 609? THEY'RE NOT CRIMES
10 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR, SO WHAT
11 PART OF 609 WOULD THEY BE?

12 MR. ROBERSON: THEY ARE NOT -- THEY ARE NOT, YOUR HONOR.

13 THE COURT: ALL RIGHT, SIR.

14 MR. ROBERSON: YOUR HONOR, CAN I RESERVE THE RIGHT TO
15 ARGUE TOMORROW ABOUT WHETHER OR NOT THOSE OFFENSES ARE
16 IMPEACHABLE?

17 THE COURT: WELL, I WILL TELL YOU IF THERE IS SOME
18 REASON IN THOSE PARTICULAR OFFENSES -- AND I'LL JUST SUGGEST
19 MOST LIKELY THE ASSAULT AND BATTERY. IF FOR SOME REASON THE
20 ASSAULT AND BATTERY THAT THOSE PERSONS WERE CONVICTED OF
21 INVOLVES THESE DEFENDANTS IN SOME WAY OR THE DEFENDANTS'
22 FAMILY IN SOME WAY, IN SOME WAY THAT YOU COULD BRING THAT
23 THEY ARE TESTIFYING AT A CERTAIN FASHION BECAUSE THERE'S SOME
24 CONNECTION TO THAT ASSAULT AND BATTERY, THEN I MIGHT HEAR YOU
25 ABOUT ALLOWING CROSS-EXAMINATION AS TO THEIR CONVICTION, BUT

1 BARRING THE FACT THAT THERE IS SOME CONNECTION TO THESE
2 DEFENDANTS, THEIR FAMILY, OR SOME CONNECTION IN SOME WAY TO
3 THEM, THEN I DO NOT FIND THAT IT'S PROPER UNDER RULE 609 FOR
4 THE ASSAULT AND BATTERY, A SIMPLE ASSAULT AND BATTERY DEALT
5 WITH IN MAGISTRATE'S COURT, TO BE IMPEACHMENT EVIDENCE UNDER
6 RULE 609. BUT I'LL LEAVE IT OPEN THAT IF YOU CAN TIE IT IN
7 SOME WAY OR SUGGEST SOME CONNECTION TO THIS CASE, I'LL BE
8 GLAD TO HEAR FROM EITHER YOU, MR. ROBERSON OR MR. JOHNSON --
9 BE GLAD TO HEAR FROM YOU IF THERE'S ANY KIND OF CONNECTION IN
10 ANY WAY TO THIS CASE THAT -- THEN THAT THE JURY MIGHT USE
11 THAT TO JUDGE THEIR CREDIBILITY AND BELIEVABILITY IN THIS
12 PARTICULAR CASE.

13 MR. ROBERSON: AND ADDITIONALLY, YOUR HONOR, IF THEY
14 SHOULD TAKE THE WITNESS STAND AND TRY TO MAKE THEMSELVES OUT
15 TO BE THE HE-MAN OR THE PRIEST---

16 THE COURT: WELL, YOU KNOW, IF SOMEONE -- NOW, WE'LL
17 JUST HAVE TO SEE HOW THEY -- HOW THEIR TESTIMONY GOES.

18 MR. ROBERSON: I JUST DON'T WANT TO BE FORECLOSED, YOUR
19 HONOR.

20 THE COURT: WELL, I APPRECIATE THAT AND YOU'RE NOT. I
21 MEAN---

22 MR. ROBERSON: RIGHT.

23 THE COURT: ---OBVIOUSLY THINGS CAN HAPPEN IN TRIAL THAT
24 MIGHT CHANGE THE COURT'S RULING THAT I'VE MADE PREVIOUSLY,
25 AND IF YOU BELIEVE SUCH HAS OCCURRED, I'LL BE GLAD TO HEAR

1 FROM YOU. JUST LET ME KNOW THAT YOU HAVE A MATTER FOR THE
2 COURT, AND WE'LL SEND THE JURY OUT AND WE'LL DISCUSS IT.

3 MR. ROBERSON: THANK YOU, SIR.

4 THE COURT: ALL RIGHT?

5 MR. ROBERSON: THANK YOU, SIR.

6 THE COURT: THANK YOU VERY MUCH. MR. JOHNSON?

7 MR. JOHNSON: NOTHING, YOUR HONOR, AT THIS TIME.

8 THE COURT: ALL RIGHT. LET'S TAKE A SHORT BREAK FOR
9 ABOUT FIVE, FIVE OR TEN MINUTES, AND THEN WE'LL CALL THE JURY
10 OUT AND WE'LL SWEAR THE JURY AND GO INTO OPENING STATEMENTS.
11 THANK YOU VERY MUCH.

12 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

13 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.

14 (COURT'S EXHIBITS 2 AND 3 WERE MARKED FOR IDENTIFICATION
15 ONLY. STATE'S EXHIBITS 19 THROUGH 23 MARKED FOR
16 IDENTIFICATION ONLY.)

17 THE COURT: DO YOU HAVE ALL THOSE MARKED, SOLICITOR?

18 MS. CAMPBELL: WE HAVE THE FIRST ONES. WE HAVE A FEW
19 MORE TO MARK.

20 THE COURT: ALL RIGHT. ALL RIGHT. THE FIRST THING THAT
21 I'M GOING TO COVER IS I'LL JUST LET EVERYBODY KNOW, THE
22 PARTICIPANTS IN THIS TRIAL, OBVIOUSLY WE OPERATE UNDER
23 CERTAIN RULES AND REGULATIONS. THE ATTORNEYS KNOW THESE AND
24 I OBVIOUSLY EXPECT Y'ALL TO BE FOLLOWING THOSE, BUT TO ANYONE
25 ELSE THAT WILL PARTICIPATE IN THESE PROCEEDINGS OR VIEW THE

1 TRIAL IN THIS CASE, I INTEND TO HAVE THIS DONE IN A VERY
2 RESPECTFUL FASHION. WE ARE GOING TO RESPECT THE JURY AND ITS
3 DECISION IN THIS MATTER. IT IS THE JURY THAT MAKES THE
4 DECISION IN THIS CASE, AND THEY MAKE THAT DECISION BASED UPON
5 THE EVIDENCE THAT IS PROPERLY INTRODUCED INTO EVIDENCE IN
6 THIS CASE.

7 WHEN WE HAVE PEOPLE TESTIFYING, I WILL NOT TOLERATE ANY
8 KIND OF OUTBURST OF ANY KIND OR ANY KIND OF SHOWING OF ANY
9 KIND OF AGREEMENT OR DISAGREEMENT WITH WHAT THE PERSON IS
10 TESTIFYING ABOUT. THAT IS EITHER VERBALLY OR NONVERBALLY, BY
11 SHAKING YOUR HEAD OR NODDING YOUR HEAD OR IN ANY FASHION.
12 YOU DO THAT ONCE AND YOU WILL NOT BE PERMITTED BACK IN THE
13 COURTROOM. YOU WILL BE IMMEDIATELY REMOVED AND YOU'LL NOT BE
14 PERMITTED BACK. THANK YOU VERY MUCH. ALL RIGHT. ASK JUROR
15 NUMBER 27, SHONELLE DOWNER, TO COME IN AND SPEAK TO ME,
16 PLEASE.

17 (WHEREUPON, JUROR SHONELLE DOWNER WAS BROUGHT INTO THE
18 COURTROOM.)

19 THE COURT: COUNSEL, IF Y'ALL WANT TO COME AROUND, I'LL
20 BE GLAD FOR YOU TO DO SO. MS. DOWNER, COULD YOU COME AROUND,
21 PLEASE, MA'AM? COULD YOU COME AROUND? THANK YOU, MA'AM.
22 JUST HOLD ON ONE SECOND AND LET THE ATTORNEYS COME UP,
23 PLEASE, MA'AM.

24 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE IN THE
25 HEARING AND PRESENCE OF THE COURT, JUROR SHONELLE DOWNER, THE

1 ATTORNEYS, AND THE COURT REPORTER.)

2 THE COURT: MS. DOWNER, YOU INDICATED TO ME THAT YOU HAD
3 A CASE PENDING AND IT'S ON APPEAL TO THE FIFTH CIRCUIT.
4 THAT'S A CIVIL OR A CRIMINAL CASE? WHAT KIND OF A CASE IS IT
5 JUST IN GENERAL? YOU DON'T HAVE TO TELL ME.

6 JUROR DOWNER: I'M NOT SURE HONESTLY. MY PARENTS FILED
7 IT. I'M NOT SURE WHICH ONE IT IS.

8 THE COURT: OKAY. WAS IT SOME KIND OF AUTOMOBILE WRECK
9 OR---

10 JUROR DOWNER: NO, NO.

11 THE COURT: ---CONTRACT?

12 JUROR DOWNER: NO.

13 THE COURT: JUST IN GENERAL WHAT IS IT ABOUT?

14 JUROR DOWNER: IT WAS A LAWSUIT. I KNOW ONE WAS A
15 LAWSUIT AGAINST THE SCHOOL DISTRICT, THE FOURTH---

16 THE COURT: OKAY. ALL RIGHT. NOW, THE FIFTH CIRCUIT --
17 NOW, THE FOURTH CIRCUIT COVERS SOUTH CAROLINA, SO THE FIFTH
18 CIRCUIT IS A DIFFERENT CIRCUIT. SO WHERE WOULD THIS---

19 JUROR DOWNER: IT WAS ACTUALLY -- IT WAS -- IT WAS HERE.

20 THE COURT: YOU MEAN THE FIFTH CIRCUIT HERE IN THIS
21 COURTHOUSE?

22 JUROR DOWNER: I BELIEVE SO.

23 THE COURT: OKAY.

24 JUROR DOWNER: WHEN YOU ASKED THE QUESTION, I WASN'T TOO
25 SURE.

1 THE COURT: I'M NOT QUESTIONING YOU ABOUT NOW WHAT THE
2 CASE IS ABOUT.

3 JUROR DOWNER: UH-HUH.

4 THE COURT: BUT DO YOU UNDERSTAND YOUR JOB AND YOUR ROLE
5 IN THIS CASE AS A JUROR IS TO DECIDE THIS CASE SOLELY UPON
6 THE EVIDENCE THAT'S PRESENTED IN THIS COURTROOM? YOU CAN'T
7 MAKE A DECISION BASED ON ANYTHING ELSE. YOU HAVE TO LAY
8 EVERYTHING ELSE ASIDE AND MAKE YOUR DECISION BASED UPON WHAT
9 YOU HEAR IN THIS COURTROOM THAT THE COURT ALLOWS INTO
10 EVIDENCE. DO YOU UNDERSTAND THAT?

11 JUROR DOWNER: YES, SIR.

12 THE COURT: AND BASED UPON THAT, CAN YOU BE FAIR TO BOTH
13 SIDES?

14 JUROR DOWNER: YES, SIR.

15 THE COURT: AND CAN YOU BE FAIR AND IMPARTIAL TO BOTH
16 SIDES AND YOU CAN GIVE THEM YOUR BEST EFFORTS TO RENDER A
17 TRUE AND JUST VERDICT?

18 JUROR DOWNER: YES, SIR.

19 THE COURT: THANK YOU VERY MUCH, MA'AM. IF YOU WANT TO
20 -- I'M GOING TO CALL ALL THE OTHER JURORS OUT, SO IF YOU WANT
21 TO JUST HAVE A SEAT IN ONE OF THOSE SEATS OUT THERE... ASK
22 THE REST OF THE JURY TO COME BACK IN, PLEASE.

23 (THE BENCH CONFERENCE CONCLUDED. THE REST OF THE JURY
24 PANEL WAS BROUGHT INTO OPEN COURT AT 3:42 P.M.)

25 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY

1 IN THIS PARTICULAR CASE, I HAD SOME MATTERS THAT I HAD TO
2 HEAR OUTSIDE YOUR PRESENCE BEFORE WE GOT STARTED, AND I HAD
3 ANTICIPATED THAT I'D BE ABLE TO BE DONE WITH THOSE BY 3:00.
4 WELL, I SORT OF MISSED THE TIME NECESSARY TO ACCOMPLISH ALL
5 THOSE MATTERS THAT I NEEDED TO DO OUTSIDE YOUR PRESENCE, AND
6 I DON'T WANT TO KEEP YOU ANY FURTHER IN YOUR JURY ROOM
7 WAITING ON US TO DEAL WITH THOSE MATTERS. SO RATHER THAN YOU
8 BEING HERE FOR ANOTHER HOUR OR SO OR HOW EVER LONG - IT MIGHT
9 TAKE EVEN LONGER BEFORE WE GOT STARTED - WHAT I'M GOING TO DO
10 IS EXCUSE YOU FOR THE AFTERNOON. I'M GOING TO HAVE YOU COME
11 BACK TOMORROW MORNING AT 9 A.M. I WANT YOU BACK IN YOUR JURY
12 ROOM BY 9 A.M., AND WE WILL GET STARTED WITH THIS TRIAL.

13 NOW, YOU HAVEN'T HEARD ANYTHING ABOUT THIS CASE AND
14 OBVIOUSLY YOU SHOULD NOT KNOW ANYTHING ABOUT THIS CASE, BUT
15 I'LL JUST GIVE YOU THE GENERAL INSTRUCTION THAT I'LL GIVE YOU
16 EVERY TIME THAT I EXCUSE YOU FOR THE EVENING. WHEN YOU GO
17 HOME AND YOU SEE YOUR HUSBAND, WIFE, BOYFRIEND, GIRLFRIEND,
18 WHOEVER IT IS, YOU MAY NOT DISCUSS THIS CASE.
19 UNINTENTIONALLY, THEY WILL GIVE YOU THEIR OPINION ABOUT THIS
20 CASE; THEY DON'T HAVE ONE.

21 I WILL INSTRUCT YOU IN MY OPENING STATEMENTS TO YOU THAT
22 YOU, ALL THE JURORS IN THIS CASE, WILL NOT DISCUSS THIS CASE
23 AMONG YOURSELVES UNTIL I SEND IT TO YOU AT THE END FOR YOUR
24 DELIBERATIONS AND YOUR UNANIMOUS DECISION IN THIS MATTER. SO
25 WHEN YOU'RE BACK IN YOUR JURY ROOM, YOU CAN TALK ABOUT

1 ANYTHING YOU WANT TO BUT THIS CASE UNTIL I SEND IT TO YOU AT
2 THE END. AND I'LL GIVE YOU THAT REASON WHEN I GIVE YOU MY
3 OPENING STATEMENTS.

4 FURTHER, YOU CAN CONDUCT NO INDEPENDENT INVESTIGATION ON
5 YOUR OWN. YOU CAN'T GO ON THE INTERNET WHEN YOU HEAR THERE'S
6 A SCENE WHERE THIS PLACE -- WHERE THESE ALLEGED ACTIVITIES
7 MIGHT HAVE TAKEN PLACE. YOU CAN'T GO BY IT AND LOOK AT IT
8 UNLESS THE COURT DECIDES TO SEND ALL OF Y'ALL AS A WHOLE TO
9 DO SO. MOST LIKELY THAT WON'T HAPPEN, BUT IT MIGHT. BUT
10 OTHER THAN THAT, YOU MAY NOT DO ANY KIND OF INVESTIGATION ON
11 YOUR OWN. YOU HAVE TO DECIDE THIS CASE SOLELY FROM WHAT YOU
12 HEAR FROM WITNESSES UNDER OATH AND ANY KIND OF DOCUMENTARY
13 EVIDENCE THAT MIGHT BE PROPERLY INTRODUCED IN THIS TRIAL.
14 YOU MAKE YOUR DECISION BASED UPON WHAT GOES ON IN THIS
15 COURTROOM AND FROM NO OTHER SOURCE.

16 SO WITH THAT, I'M GOING TO EXCUSE YOU. I'M GOING TO
17 HAVE YOU BACK TOMORROW MORNING BACK IN YOUR JURY ROOM BY 9
18 A.M., PLEASE. THANK YOU VERY MUCH.

19 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE
20 DAY AT 3:46 P.M.)

21 THE COURT: ALL RIGHT. COUNSEL, JUST FOR YOUR
22 INFORMATION, I KNOW JUDGES ARE -- DO IT DIFFERENTLY, BUT WHEN
23 THE JURY COMES IN AND LEAVES, PLEASE KEEP YOUR SEATS. DO NOT
24 RISE AND STAND WHEN THE JURY COMES IN OR LEAVES THE
25 COURTROOM. THAT IS MY PREFERENCE. ALL RIGHT. AND THE

1 FOREPERSON, THOUGH I DID NOT IDENTIFY HIM AS SUCH, THAT'S
2 APPARENTLY MR. THOMAS YARBROUGH -- YARBROUGH. I DON'T KNOW
3 WHAT NUMBER THAT IS. HE DIDN'T WRITE IT ON HERE. LET'S SEE.
4 THAT'S NUMBER -- JUROR NUMBER 119. THAT IS THE FOREPERSON
5 FOR YOUR JURY IN THIS PARTICULAR MATTER. ALL RIGHT.
6 SOLICITOR, YOU INDICATED TO ME THAT WE NEED TO CONDUCT SOME
7 NEIL VERSUS BIGGERS HEARINGS.

8 MS. CAMPBELL: YES, SIR.

9 THE COURT: ALL RIGHT. YOU MAY PROCEED.

10 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
11 TORRI BOYD.

12 THE COURT: PLEASE COME AROUND AND BE SWORN, SIR.

13 MR. JOHNSON: YOUR HONOR?

14 THE COURT: JUST ONE SECOND. YES, SIR, MR. JOHNSON.

15 MR. JOHNSON: I WOULD RESPECTFULLY MOVE THAT IF THERE
16 ARE ANY OTHER POTENTIAL STATE WITNESSES IN THE COURTROOM THAT
17 THEY BE SEQUESTERED.

18 THE COURT: I WILL GRANT YOUR MOTION AS TO THE STATE AND
19 THE DEFENSE. SO IF THERE'S ANY WITNESSES FOR THE STATE AND
20 THE DEFENSE IN THIS CASE, YOUR MOTION FOR SEQUESTRATION IS
21 GRANTED. SOLICITOR, MAKE SURE THAT ANY OF YOUR POTENTIAL
22 WITNESSES NOW LEAVE THE COURTROOM. OBVIOUSLY DON'T GO
23 ANYWHERE BECAUSE THEY'LL BE CALLING YOU IN JUST A SECOND.

24 MS. CAMPBELL: THAT WOULD BE THE LAY WITNESSES?

25 MR. JOHNSON: BEG YOUR PARDON?

1 MS. CAMPBELL: THE LAY WITNESSES?

2 MR. JOHNSON: YES, SIR. AND THESE OFFICERS ARE...

3 MS. CAMPBELL: ARE MINE.

4 MR. JOHNSON: AT THIS TIME THAT THEY ALL...

5 THE COURT: WELL -- ALL RIGHT.

6 MR. JOHNSON: I CAN'T RULE ON THAT.

7 THE COURT: I APPRECIATE IT, MR. JOHNSON.

8 MR. JOHNSON: YES, SIR.

9 THE COURT: THANK YOU. WHAT I'M GOING TO HAVE YOU DO,
10 SOLICITOR, IS YOUR CHIEF INVESTIGATOR MAY REMAIN. ALL OTHER
11 WITNESSES ARE SEQUESTERED. THANK YOU VERY MUCH.

12 TORRI BOYD, HAVING BEEN DULY SWORN, TESTIFIED AS
13 FOLLOWS IN CAMERA:

14 THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL NAME
15 FOR THE RECORD.

16 COURT REPORTER: WILL YOU SPELL YOUR FIRST NAME?

17 THE WITNESS: T-O-R-R-I.

18 THE COURT: YOU MAY PROCEED, MA'AM.

19 DIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q. TORRI, HOW OLD ARE YOU?

22 A. I AM 26.

23 Q. REAL LOUD.

24 A. TWENTY-SIX.

25 Q. TWENTY-SIX YEARS OLD? AND WHERE DO YOU LIVE?

1 A. I LIVE IN WINNSBORO, SOUTH CAROLINA.

2 Q. AND DO YOU WORK AT THIS TIME?

3 A. YES, I DO.

4 Q. HAVE YOU GOT JOB?

5 A. (WITNESS NODDED HEAD UP AND DOWN.)

6 Q. WHAT DO YOU DO?

7 A. I WORK AT THE VISTA.

8 COURT REPORTER: I'M SORRY?

9 THE WITNESS: AT THE VISTA TIRE COMPANY.

10 THE COURT: ALL RIGHT. MR. BOYD, COULD YOU SCOOT YOUR
11 CHAIR CLOSER TO THAT MICROPHONE, IF POSSIBLE? OKAY. THANK
12 YOU VERY MUCH. ALL RIGHT. GOOD.

13 BY MS. CAMPBELL:

14 Q. I WANT TO TURN YOUR ATTENTION BACK TO A LITTLE AFTER
15 MIDNIGHT ON SEPTEMBER THE 5TH OF 2005. WERE YOU AT A CLUB
16 CALLED CHANCE'S THAT NIGHT HERE IN COLUMBIA?

17 A. YES, MA'AM.

18 Q. AND WHO ALL WERE YOU THERE WITH THAT NIGHT?

19 A. I WAS THERE WITH YO-YO AND A.J., DENNIS, AND B. WE ALL
20 WAS THERE.

21 Q. DURING THE COURSE OF THE EVENING, DID YOU RUN INTO SOME
22 MEN THAT YOU KNEW THAT WERE FROM THE RIDGEWAY AREA?

23 A. YES, I DID.

24 Q. AND WHERE DID YOU FIRST MEET UP WITH THEM?

25 A. IN CHANCE'S.

1 Q. AND AT THAT POINT DID YOU GET A GOOD LOOK AT THEIR FACE?

2 A. WHOSE FACE?

3 Q. ANY OF THE BOYS FROM RIDGEWAY'S FACES?

4 A. YEAH, I SEE ALL OF THEM.

5 Q. LATER THAT NIGHT AFTER CHANCE'S CLOSED, DID YOU END UP
6 HAVING A CONFRONTATION IN THE PARKING LOT OF CHANCE'S?

7 A. YES, MA'AM, I DID.

8 Q. AND WHO WERE YOU SPECIFICALLY HAVING A CONFRONTATION
9 WITH?

10 A. BAM.

11 Q. WERE THERE OTHER BOYS FROM RIDGEWAY STILL THERE IN THE
12 PARKING LOT?

13 A. YEAH. THERE WAS A LOT OF PEOPLE. THERE WAS A LOT OF
14 THEM.

15 Q. TO SUM IT ALL UP, A FIGHT BROKE OUT BETWEEN MANY OF YOU?

16 A. YES, MA'AM.

17 Q. AT SOME POINT DURING THE FIGHT DID DENNIS IRBY GET SHOT?

18 A. YES, MA'AM.

19 Q. DID YOU ACTUALLY SEE HIM GET SHOT OR DID YOU JUST KNOW
20 ABOUT IT AFTERWARDS?

21 A. JUST KNOW ABOUT IT AFTERWARDS.

22 Q. A DAY LATER ON THE 6TH DID YOU HAVE AN OCCASION TO MEET
23 WITH CAPTAIN STAN SMITH OF THE SHERIFF'S DEPARTMENT?

24 A. YES, MA'AM.

25 Q. AND DID YOU TELL HIM WHAT HAD HAPPENED AND WHAT YOU KNEW

1 ABOUT WHAT HAD HAPPENED?

2 A. YES, MA'AM.

3 Q. IN ADDITION TO THAT, DID HE SHOW YOU A NUMBER OF PHOTO
4 LINE-UPS?

5 A. HE SHOWED ME SOME LINE-UPS.

6 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
7 EXHIBIT NUMBER 21, THIS LINE-UP. PRIOR TO SHOWING YOU THESE
8 LINE-UPS, DID HE TELL YOU WHO TO PICK OR ANYTHING?

9 A. NO, MA'AM.

10 Q. AND AT ANY POINT DID HE POINT TO ANYONE YOU SHOULD PICK
11 OUT?

12 A. NO, MA'AM.

13 Q. AND DID HE ASK YOU IF YOU KNEW ANY OF THE PEOPLE IN THIS
14 LINE-UP?

15 A. YES, HE DID.

16 MR. ROBERSON: I WOULD OBJECT TO THE LEADING QUESTIONS,
17 YOUR HONOR. YOU KNOW, I REALIZE WE'RE IN AN IN-CAMERA
18 HEARING.

19 THE COURT: ALL RIGHT. SOLICITOR, DON'T LEAD YOUR
20 WITNESS, PLEASE. THANK YOU, MA'AM.

21 BY MS. CAMPBELL:

22 Q. WHO DID YOU RECOGNIZE?

23 A. I RECOGNIZED HIM.

24 Q. NUMBER TWO?

25 A. YES, MA'AM.

1 Q. AND DID YOU -- WHEN YOU SAW THIS PIECE OF PAPER, DID IT
2 HAVE ANY WRITING ON IT?

3 A. NO, MA'AM.

4 Q. AND WHEN YOU RECOGNIZED NUMBER TWO, WHERE DID YOU
5 RECOGNIZE HIM FROM?

6 A. I ACTUALLY THOUGHT THAT THAT WAS THE ONE OF THE PERSONS
7 THAT I HAD SEEN THAT NIGHT.

8 Q. WAS HE ONE OF THE PEOPLE THAT WAS OUT AT CHANCE'S THAT
9 NIGHT INVOLVED IN THE FIGHT?

10 A. YEAH.

11 Q. AND DID YOU INDICATE THAT TO CAPTAIN SMITH?

12 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S LEADING.

13 THE COURT: ALL RIGHT. SOLICITOR, DON'T SUGGEST THE
14 ANSWER TO ANY QUESTION. JUST ALLOW THE WITNESS TO TESTIFY.
15 THANK YOU VERY MUCH.

16 BY MS. CAMPBELL:

17 Q. WHAT DID YOU TELL CAPTAIN SMITH ABOUT THE PERSON YOU
18 RECOGNIZED?

19 A. I SAID HE WAS SOMEBODY THERE THAT NIGHT.

20 Q. IS THIS YOUR SIGNATURE ON STATE'S EXHIBIT NUMBER 21?

21 A. YES, MA'AM.

22 Q. AND WHICH ONE DOES IT INDICATE YOU RECOGNIZED?

23 A. NUMBER TWO.

24 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S LEADING.

25 THE FIRST PAGE SHE TURNED THE PAGE TO DEMONSTRATE TO HIM...

1 THE COURT: I'M GOING TO ALLOW THAT.

2 MS. CAMPBELL: THANK YOU, YOUR HONOR.

3 THE COURT: THANK YOU VERY MUCH.

4 BY MS. CAMPBELL:

5 Q. THAT WAS IN STATE'S EXHIBIT 21. I'LL SHOW YOU STATE'S
6 EXHIBIT NUMBER 22 AND ASK YOU TO LOOK AT THAT.

7 A. (THE WITNESS LOOKS AT THE EXHIBIT.) YES, MA'AM.

8 Q. AGAIN, WHAT, IF ANYTHING, DID THE INVESTIGATOR ASK YOU?

9 A. ASKED ME DID I KNOW HIM AND I SAID, "YEAH, I KNOW HIM."
10 WELL, HE ASKED ME DID I KNOW ANY OF THE PEOPLE ON THE PAGE,
11 AND I SAID HIM.

12 Q. DID ANYONE TELL YOU WHO TO PICK?

13 A. NO, MA'AM.

14 Q. AND HOW DID YOU KNOW THAT PERSON? WHICH -- WHAT WAS THE
15 NUMBER OF THE ONE YOU PICKED?

16 A. THE NUMBER IS NUMBER THREE.

17 Q. AND WHY DID YOU RECOGNIZE HIM AND TELL HIM YOU KNEW HIM?

18 A. WELL, I KNOW HIM FROM THE FIGHT, AND I PREVIOUSLY ASKED
19 HIM DID HE KNOW HIS NAME.

20 COURT REPORTER: I'M SORRY. COULD YOU REPEAT?

21 THE WITNESS: I KNOW HIS NAME.

22 BY MS. CAMPBELL:

23 Q. AND DID YOU TELL THE OFFICER WHAT HIS NAME WAS?

24 A. YES.

25 Q. WHAT WAS HIS NAME?

1 A. MARCUS TUCKER.

2 Q. I SHOW YOU ANOTHER LINE-UP, STATE'S EXHIBIT NUMBER 23.

3 I ASK YOU TO LOOK AT THAT AND SEE IF YOU RECOGNIZE IT.

4 A. YEAH.

5 Q. AND AGAIN WHAT, IF ANYTHING, DID HE SAY TO YOU PRIOR TO
6 SHOWING YOU THE LINE-UP?

7 A. HE ASKED ME DID I KNOW ANYBODY ON THIS PICTURE.

8 Q. AND DID YOU INDICATE WHETHER OR NOT YOU RECOGNIZED
9 ANYONE IN THOSE SIX PICTURES?

10 A. I SAID YES. I RECOGNIZED NUMBER FIVE.

11 Q. AND HOW DID YOU RECOGNIZE NUMBER FIVE?

12 A. FROM BEING AT THE FIGHT. THERE WAS -- WHO HE LOOKED
13 LIKE BECAUSE -- I SAID THEY LOOKED ALIKE.

14 Q. OKAY. AND DID YOU INDICATE A NAME TO HIM OF WHO IT
15 LOOKED LIKE?

16 A. YEAH.

17 Q. WHO WAS IT?

18 A. KARTEZ.

19 Q. KARTEZ GIBSON?

20 A. YEAH.

21 Q. AND THE PERSON THAT YOU RECOGNIZED FROM THE FIGHT THAT
22 NIGHT, DO YOU SEE HIM HERE IN THE COURTROOM?

23 A. YES, MA'AM.

24 Q. CAN YOU POINT HIM OUT FOR THE JUDGE?

25 A. (THE WITNESS INDICATES.)

1 Q. WHAT COLOR SHIRT HAS HE GOT ON?

2 A. BLUE.

3 Q. YOUR HONOR, MAY THE RECORD INDICATE HE'S POINTED TO
4 KARTEZ GIBSON? I SHOW YOU THIS LINE-UP, STATE'S EXHIBIT
5 NUMBER 19. DO YOU RECOGNIZE THAT?

6 A. YEAH. YES, MA'AM.

7 Q. AND WERE YOU ABLE TO IDENTIFY ANYONE -- WHAT, IF
8 ANYTHING, DID HE SAY TO YOU FIRST?

9 A. HE ASKED ME DID I KNOW ANYBODY FROM THIS PICTURE.

10 Q. AND DID YOU INDICATE WHETHER OR NOT YOU KNEW SOMEBODY?

11 A. YEAH. I HAD DONE TOLD HIM THAT THIS LOOKED LIKE
12 SOMEBODY I KNOW.

13 Q. AND WHO WAS THAT?

14 A. I DIDN'T KNOW HIS NAME. I REALLY DON'T KNOW ALL OF
15 THEM.

16 Q. WAS HE ONE OF THE ONES THAT WAS OUT THERE INVOLVED IN
17 THE FIGHT THAT NIGHT?

18 A. YES.

19 Q. AND DO YOU SEE HIM HERE IN THE COURTROOM TODAY?

20 A. YES, MA'AM.

21 THE COURT: WHAT NUMBER WAS THAT ON THE...

22 MS. CAMPBELL: I'M SORRY, YOUR HONOR.

23 BY MS. CAMPBELL:

24 Q. WHAT WAS THE NUMBER ON THE ONE YOU RECOGNIZED?

25 A. ONE.

1 Q. NUMBER ONE? DO YOU SEE HIM HERE IN THE COURTROOM TODAY?

2 A. YES.

3 Q. CAN YOU POINT HIM OUT FOR THE JUDGE?

4 A. THAT GUY.

5 Q. IN THE BLACK TIE WITH THE WHITE SHIRT?

6 A. YES, MA'AM.

7 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S
8 IDENTIFIED THE DEFENDANT?

9 MR. JOHNSON: WHAT EXHIBIT IS THAT, PLEASE?

10 MS. CAMPBELL: 19.

11 BY MS. CAMPBELL:

12 Q. I'M GOING TO SHOW YOU A FINAL LINE-UP THAT WAS SHOWN TO
13 YOU THAT DAY ON THE 6TH. DID HE ASK YOU TO LOOK AT THOSE
14 PICTURES?

15 A. YES.

16 Q. AND DID YOU RECOGNIZE ANYONE IN THAT?

17 A. YEAH, I KNOW HIM.

18 Q. WHAT NUMBER IS THAT?

19 A. FOUR.

20 Q. YOU KNOW HIM?

21 A. YEAH, BUT NEVER WHO HE THOUGHT IT WAS.

22 Q. WAS HE OUT THERE THAT NIGHT AT ALL?

23 A. I DON'T KNOW. I AIN'T SEEN HIM.

24 Q. OKAY. YOU DIDN'T SEE HIM.

25 A. NO.

1 Q. BUT IN THE FIRST FOUR LINE-UPS THAT YOU WERE SHOWN, WERE
2 THOSE PEOPLE ALL OUT THERE THE NIGHT OF THE SHOOTING?

3 A. YES, MA'AM.

4 Q. BUT YOU DIDN'T SEE THE GUY IN STATE'S EXHIBIT NUMBER 20.
5 YOU JUST KNEW HIM AND THAT'S WHY YOU RECOGNIZED HIM.

6 A. YEAH.

7 Q. THE PEOPLE THAT YOU RECOGNIZED AND YOU KNOW, HOW DID YOU
8 KNOW THEM?

9 A. I REALLY DON'T KNOW THEM AS FAR AS KNOW THEM GOOD, BUT I
10 SEEN THEM AROUND FROM BEING IN RIDGEWAY.

11 Q. FROM BEING IN RIDGEWAY?

12 A. YES, MA'AM.

13 THE COURT: ANYTHING ELSE, SOLICITOR?

14 MS. CAMPBELL: NO, SIR.

15 THE COURT: ALL RIGHT. MR. ROBERSON?

16 MR. ROBERSON: MAY IT PLEASE THE COURT?

17 THE COURT: YES, SIR.

18 MR. ROBERSON: YOUR HONOR, REFERRING TO STATE'S EXHIBIT
19 NUMBER 23.

20 THE COURT: YES, SIR.

21 CROSS-EXAMINATION

22 BY MR. ROBERSON:

23 Q. MR. BOYD, YOU SAID YOU RECOGNIZED NUMBER FIVE AS BEING
24 THERE THAT NIGHT?

25 A. YES, MA'AM -- YES, SIR.

1 Q. AND YOU TESTIFIED THAT THERE WAS A FIGHT GOING ON?

2 A. YEAH, I SAID THERE WAS A FIGHT GOING ON.

3 Q. YOU DIDN'T SEE HIM FIGHTING. YOU JUST SAW HIM THERE
4 WHEN THE FIGHT TOOK PLACE?

5 A. AT THE FIGHT, YEAH.

6 Q. AND HAD YOU SEEN HIM BEFORE THIS NIGHT?

7 A. NO, I DON'T THINK SO.

8 Q. THAT WAS FIRST TIME YOU SAW HIM.

9 A. YEAH. I THINK THIS WAS LIKE THE -- I THINK I SEEN HIM
10 LIKE TWO TIMES.

11 Q. OKAY. DO YOU REMEMBER HOW HE WAS DRESSED THAT NIGHT?

12 A. NO. HUH-UH. I COULDN'T TELL YOU.

13 Q. WAS THERE ANYTHING SIGNIFICANT THAT STOOD OUT THAT
14 HELPED YOU PICK HIM ON THIS DAY AND YOU HAD ONLY SEEN HIM
15 TWICE?

16 A. WELL, HE LOOKED JUST LIKE HIM, AND I KNOW THAT HE'S
17 YOUNGER THAN -- HE'S YOUNGER THAN HIS BROTHER.

18 Q. HE'S YOUNGER THAN HIS BROTHER?

19 A. YEAH.

20 Q. WHAT'S HIS BROTHER'S NAME?

21 A. HIS BROTHER'S NAME IS CARLOS.

22 Q. CARLOS. HE HAS A NICKNAME?

23 A. HUH-UH. I DON'T KNOW.

24 Q. OKAY. YOU'RE SAYING THIS MAN -- YOU PICKED NUMBER FIVE.

25 A. HE WAS AT THE FIGHT, YEAH.

1 Q. IS YOUNGER THAN HIS BROTHER NAMED CARLOS.

2 A. YEAH.

3 Q. OKAY. DID YOU KNOW CARLOS BEFORE THIS NIGHT?

4 A. YEAH, I WENT TO SCHOOL WITH HIM.

5 Q. OKAY. HOW LONG WERE YOU OUT IN THAT YARD BEFORE YOU SAW
6 THIS GENTLEMAN THERE THAT NIGHT?

7 A. I WASN'T IN THE YARD. I WAS IN THE BUILDING.

8 Q. OKAY. AND YOU SAW HIM OUT THERE IN THE YARD AFTERWARDS
9 OR DID YOU?

10 A. YEAH, I SEEN HIM OUT IN THE YARD AFTERWARDS.

11 MR. ROBERSON: OKAY. THANK YOU, SIR.

12 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

13 MR. JOHNSON: THANK YOU, YOUR HONOR.

14 CROSS-EXAMINATION

15 BY MR. JOHNSON:

16 Q. MAY I SEE THOSE EXHIBITS? HAVE YOU GOT ANY OF THOSE
17 EXHIBITS UP THERE?

18 A. NO. NO, SIR.

19 Q. REFERRING TO STATE'S EXHIBIT NUMBER 20 FOR
20 IDENTIFICATION ONLY, WHOSE HANDWRITING IS THAT ON THERE?

21 A. THAT'S MINE.

22 Q. WHO ASKED YOU TO PUT THAT ON THERE?

23 A. THE OFFICER. THE CAPTAIN.

24 Q. DO YOU KNOW WHO THAT IS?

25 A. DO I KNOW WHO HE IS?

1 Q. YES.

2 A. YEAH. HE'S GOT THE SAME NAME, BUT HE AIN'T BAM.

3 Q. HE'S WHAT?

4 A. HE THOUGHT THIS WAS---

5 Q. HE'S WHAT?

6 A. ---SOMEBODY ELSE. HE HAD HIS NAME. HE THOUGHT THIS WAS
7 WHO THE GUY WAS BAM, AND I TOLD HIM, NO, I KNOW THIS PICTURE,
8 BUT THAT'S NOT BAM.

9 Q. HELP ME. HE THOUGHT IT WAS BAM. WHO ARE YOU TALKING
10 ABOUT HE?

11 A. THE OFFICER. THE OFFICER THOUGHT THAT THIS WAS BAM,
12 THAT WHO I WAS TALKING ABOUT ABOUT JAMEL OR JERMAINE OR
13 WHATEVER HIS NAME---

14 Q. NUMBER FOUR -- NUMBER FOUR ON STATE'S EXHIBIT FOR
15 IDENTIFICATION NUMBER 20, THE OFFICER THOUGHT IT WAS SOMEBODY
16 NAMED BAM.

17 A. YEAH.

18 Q. AND YOU THOUGHT IT WAS WHOM?

19 A. I DON'T KNOW WHO HE IS. I KNOW HIS FACE.

20 Q. YOU KNOW HIS FACE?

21 A. YEAH, BUT I DON'T KNOW HIS NAME, BUT I DON'T RECALL
22 SEEING HIM.

23 Q. YOU DO NOT RECALL SEEING HIM.

24 A. NO.

25 Q. ALL RIGHT. SO THE PHOTOGRAPH ON -- DID YOU TELL THE

1 OFFICER THAT YOU---

2 A. I RECOGNIZED HIM. I RECOGNIZED THAT FACE, BUT I DON'T
3 RECALL SEEING HIM THAT NIGHT.

4 Q. YOU RECOGNIZE THE FACE, BUT YOU DO NOT RECALL SEEING HIM
5 THAT NIGHT.

6 A. YES, SIR.

7 Q. OKAY. REFERRING TO STATE'S EXHIBIT NUMBER 21, ON
8 STATE'S EXHIBIT NUMBER 21 FOR IDENTIFICATION WHOSE
9 HANDWRITING IS THAT?

10 A. MY HANDWRITING.

11 Q. AND WHO ASKED YOU TO PUT THAT HANDWRITING ON THERE?

12 A. THE OFFICER.

13 Q. AND WHY WERE YOU PUTTING YOUR NAME AND THAT DATE ON
14 THERE?

15 A. TO SIGNIFY THAT IT WAS ME WHO WAS IDENTIFYING THESE
16 PEOPLE.

17 Q. AND WHO DID YOU IDENTIFY?

18 A. I IDENTIFIED SOMEBODY I DIDN'T KNOW WHO I'D SEEN AT THE
19 TABLE.

20 Q. YOU SAW HIM AT THE TABLE?

21 A. UH-HUH.

22 Q. WHAT TABLE?

23 A. I TALKED TO HIM BEFORE -- PRIOR TO THE FIGHT AND HE WAS
24 WITH THEM. I ASKED HIM WHO HE WAS AND HE SAID HE WAS A
25 DAVIS.

1 COURT REPORTER: COULD YOU REPEAT THAT?

2 THE WITNESS: A DAVIS, HIS LAST NAME.

3 BY MR. JOHNSON:

4 Q. WAS THIS INSIDE OR OUTSIDE THE CLUB?

5 A. INSIDE.

6 Q. WHAT INITIATED THE CONVERSATION YOU HAD WITH HIM?

7 A. WELL, HE WAS SITTING TO THE OPPOSITE TABLE STARING, SO I
8 JUST WENT OVER TO TALK TO HIM.

9 Q. HE WAS STARING AT WHOM?

10 A. AT ME AND US WHEN WE WAS AT THE TABLE. WE WAS AT THE
11 TABLE.

12 Q. AND WHO WAS US?

13 A. IT WAS ME, A.J., B., SAME PEOPLE WHO CAME THERE.

14 Q. WHAT IS A.J.'S REAL NAME?

15 A. ANTONIO, I THINK. ANTWAN? I DON'T KNOW HIS REAL NAME.

16 Q. OKAY. AND WHO IS YO-YO?

17 A. YO-YO IS -- I DON'T KNOW HIS REAL NAME.

18 Q. WHO IS THE OTHER---

19 A. ANTWAN OR SOMETHING LIKE THAT. BOTH OF THEM ARE NAMED
20 SOMETHING LIKE THAT.

21 Q. WHO WAS THE OTHER PERSON YOU WERE WITH?

22 A. DENNIS AND HIS GIRLFRIEND. HIS GIRLFRIEND. THEY WAS
23 MEETING AT THE CLUB, DENNIS AND HIS GIRLFRIEND.

24 Q. WHAT'S HIS GIRLFRIEND'S NAME?

25 A. I HAVE NO IDEA.

1 Q. ALL RIGHT. AND YOU DON'T -- YOU SAY YOU SAW THIS
2 PERSON, BUT YOU DON'T KNOW THE PERSON'S NAME.

3 A. NO.

4 Q. HOW LONG DID YOU HAVE A CHANCE TO LOOK AT HIM?

5 A. ABOUT A COUPLE OF MINUTES.

6 Q. A COUPLE OF MINUTES?

7 A. YEAH, AROUND...

8 Q. NOW, CHANCE'S HAS THE -- WHAT'S THE LIGHTING CONDITION
9 IN CHANCE'S?

10 A. IT'S NOT DARK. IT'S NOT A CLUB. IT'S A BAR.

11 Q. IT'S A BAR.

12 A. YEAH.

13 Q. IT'S NOT DARK.

14 A. NO.

15 Q. AND HOW LARGE IS THE BUILDING?

16 A. IT'S SMALLER THAN THIS ROOM.

17 Q. SMALLER THAN THIS ROOM?

18 A. WAY SMALLER.

19 Q. OKAY.

20 A. WELL, THE AREA WE WAS IN WAS SMALL. IT WAS A BAR AREA.

21 Q. OKAY. OKAY. SO AS TO STATE'S EXHIBIT FOR
22 IDENTIFICATION NUMBER 21, YOU SAW THIS PERSON THAT NIGHT, BUT
23 YOU DON'T KNOW WHO HE IS.

24 A. NO.

25 Q. REFERRING TO STATE'S EXHIBIT FOR IDENTIFICATION NUMBER

1 22, DO YOU RECOGNIZE THAT HANDWRITING?

2 A. YEAH, RIGHT THERE.

3 Q. AND, INCIDENTALLY, WHEN DID YOU GO TO THE POLICE
4 DEPARTMENT TO MAKE THESE IDENTIFICATIONS?

5 A. THE NEXT DAY.

6 Q. THE NEXT DAY?

7 A. (WITNESS NODDED HEAD UP AND DOWN.)

8 Q. AND DO YOU RECOGNIZE THE PERSON IN THAT PHOTOGRAPH?

9 A. YES, I DO.

10 Q. DO YOU KNOW THE PERSON BY NAME?

11 A. MARCUS TUCKER.

12 Q. MARCUS TUCKER?

13 A. (WITNESS NODDED HEAD UP AND DOWN.)

14 Q. DID YOU KNOW HIM BEFORE THAT NIGHT?

15 A. YEAH, I'D SEEN HIM BEFORE. I KNOW HIM FROM HAVING NICE
16 JEWELRY.

17 Q. YOU KNOW HIM FROM WHAT?

18 A. HAVING NICE JEWELRY.

19 Q. NICE JEWELRY? WHAT DOES THAT MEAN?

20 A. HE WEARS BIG CHAINS AND STUFF LIKE THAT.

21 Q. YOU HAD SEEN HIM BEFORE?

22 A. YEAH, I HAD SEEN HIM BEFORE.

23 Q. OKAY. HOW MANY TIMES?

24 A. A COUPLE OF TIMES.

25 Q. A COUPLE OF TIMES?

1 A. I KNOW -- I KNOW A COUPLE OF TIMES, ENOUGH TO KNOW HIS
2 NAME.

3 Q. OKAY. HAVE YOU HAD ANY INTERACTION WITH HIM?

4 A. HUH-UH.

5 Q. DO YOU KNOW IF HE HAS A TWIN OR NOT?

6 A. NO, I WOULDN'T KNOW THAT HE HAD A TWIN.

7 Q. OKAY. AND YOU'RE SURE YOU SAW HIM THAT NIGHT.

8 A. I'M SURE I SAW HIM THAT NIGHT.

9 Q. INSIDE OR OUTSIDE---

10 A. UNLESS HE'S GOT A TWIN.

11 Q. INSIDE OR OUTSIDE THE CLUB?

12 A. I SEEN HIM INSIDE.

13 Q. INSIDE?

14 A. INSIDE AND OUTSIDE THE CLUB.

15 Q. OKAY. AND AS TO STATE'S EXHIBIT NUMBER 23 FOR
16 IDENTIFICATION ONLY, DO YOU RECOGNIZE THAT HANDWRITING?

17 A. YES, I DO.

18 Q. AND IS THAT YOUR HANDWRITING?

19 A. YEP.

20 Q. AND DID YOU PICK OUT ANYBODY OUT OF THAT LINE-UP?

21 A. YES, I DID.

22 Q. AND DID YOU ACCURATELY IDENTIFY THE PERSON?

23 A. I DON'T KNOW IF I ACCURATELY IDENTIFIED HIM. I TOLD HIM
24 WHO HE LOOKED LIKE.

25 Q. YOU TOLD HIM WHO HE LOOKED LIKE?

1 A. YEAH.

2 Q. WHO DOES HE LOOK LIKE?

3 A. KARTEZ.

4 Q. KARTEZ?

5 A. (WITNESS NODDED HEAD UP AND DOWN.)

6 Q. TELL ME, MR. BOYD, LOOKING AT STATE'S EXHIBIT NUMBER 23
7 FOR IDENTIFICATION, 22, 21, AND 20, DO THOSE PEOPLE IN THAT
8 LINE-UP LOOK ALIKE TO YOU?

9 A. NO, THEY DON'T LOOK ALIKE ON HERE.

10 MR. JOHNSON: OKAY. THANK YOU, SIR.

11 THE COURT: ANY REDIRECT QUESTIONS?

12 MS. CAMPBELL: JUST TO CLEAR UP ONE POINT.

13 REDIRECT EXAMINATION

14 BY MS. CAMPBELL:

15 Q. THE FIRST PERSON YOU IDENTIFIED AS KARTEZ WHEN YOU
16 IDENTIFIED HIM IN THE COURTROOM, DOES HE HAVE A BROTHER, AN
17 OLDER BROTHER?

18 A. (WITNESS NODDED HEAD UP AND DOWN.)

19 Q. WHAT'S THE OLDER BROTHER'S NAME?

20 A. CARLOS?

21 Q. OKAY. IS THAT WHO YOU KNEW?

22 A. YEAH.

23 Q. THAT'S ALL I HAVE.

24 A. YES, MA'AM.

25 THE COURT: ANYTHING ON THAT PARTICULAR QUESTION---

1 MR. ROBERSON: YES, SIR.

2 THE COURT: ---MR. ROBERSON?

3 RECROSS EXAMINATION

4 BY MR. ROBERSON:

5 Q. YOU DIDN'T PICK KARTEZ OUT. YOU SAID HE LOOKED LIKE
6 CARLOS. IS THAT CORRECT?

7 A. YEAH. I SAID IF THIS IS KARTEZ, HE WAS THERE, I SAID,
8 BUT THE PICTURE LOOK LIKE CARLOS.

9 Q. OKAY.

10 A. AND HE WAS NOT THERE.

11 MR. ROBERSON: OKAY.

12 THE COURT: MR. JOHNSON?

13 MR. JOHNSON: NO FURTHER QUESTIONS. THANK YOU SO MUCH.

14 THE COURT: YOU MAY STEP DOWN, SIR. ALL RIGHT. SO AS
15 TO THIS PARTICULAR WITNESS AND THE IDENTIFICATION, ANY
16 ARGUMENTS YOU WANT TO MAKE, MR. ROBERSON?

17 MR. ROBERSON: YOUR HONOR, I BELIEVE HIS TESTIMONY WAS
18 ON DIRECT AND CROSS THAT IT LOOKED LIKE CARLOS AND THAT IS
19 THE REASON HE PICKED HIM OUT AND SAID HE WAS AT THE CLUB. I
20 THINK JACKSON -- I MEAN NEIL V. BIGGERS WOULD REQUIRE HIM TO
21 AT LEAST PICK THIS PERSON OUT WITH SOME DEGREE OF CERTAINTY.

22 THE COURT: ALL RIGHT, SIR. MR. JOHNSON, ANY ARGUMENTS
23 THAT YOU HAVE, SIR?

24 MR. JOHNSON: YES, YOUR HONOR. YOUR HONOR, I ASKED HIM
25 THE CRITICAL QUESTION AT THE END OF MY EXAMINATION: IN

1 LOOKING AT THESE PHOTOS, DO THE PEOPLE IN THE PHOTOS LOOK
2 ALIKE? AND HIS ANSWER WAS NO. THE WHOLE IDEA BEHIND A FAIR
3 LINE-UP IS THAT IT IS NOT SUGGESTIVE. WHEN YOU HAVE -- WHEN
4 YOU SINGLE OUT A PERSON, THAT IS SUGGESTIVE. AND IN THESE
5 INSTANCES AS TO EACH EXHIBIT, THIS WITNESS HAS TESTIFIED THAT
6 THEY DON'T EVEN LOOK ALIKE. THAT POLLUTED THE ENTIRE
7 PROCESS, AND IT CONSTITUTES A SUGGESTIVE ANSWER TO HIM. AND
8 SO, YOUR HONOR, WE WOULD ASK THAT IT BE SUPPRESSED.

9 THE COURT: ALL RIGHT, SIR. COULD I SEE THE---

10 MS. CAMPBELL: YES, SIR.

11 THE COURT: ---EXHIBITS?

12 (MS. CAMPBELL HANDS EXHIBITS TO THE COURT.)

13 MS. CAMPBELL: YOUR HONOR, IF I MAY?

14 THE COURT: YES, MA'AM. I'LL BE GLAD TO HEAR FROM YOU.

15 MS. CAMPBELL: IF I RECALL CORRECTLY, HE HANDED HIM ALL
16 FIVE OF THE LINE-UPS AND THEN INDICATED AND MY TAKE ON IT WAS
17 DID THE PEOPLE WHO LOOKED -- THAT HE PICKED LOOK ALIKE AND HE
18 SAID NO. I MEAN, OBVIOUSLY HE DIDN'T GO THROUGH EACH ONE AND
19 SAY, "DO THESE SIX PEOPLE LOOK ALIKE? ARE THEY SIMILAR IN
20 NATURE?"

21 MR. ROBERSON: YOUR HONOR?

22 THE COURT: YES, SIR.

23 MR. ROBERSON: HERE IS ONE THAT I INADVERTENTLY PICKED
24 UP.

25 THE COURT: WELL, THAT'S -- I'M GLAD THAT YOU RECOGNIZED

1 THAT.

2 MR. ROBERSON: I WASN'T TRYING TO...

3 THE COURT: WELL, I APPRECIATE THAT. THANK YOU -- THANK
4 YOU FOR RECOGNIZING THAT. NUMBER 19. ALL RIGHT. UNDER NEIL
5 VERSUS BIGGERS, I AM LOOKING AT WHETHER OR NOT THE
6 IDENTIFICATION HAS TO BE EXCLUDED IF THE PROCESS WAS SO
7 UNDULY SUGGESTIVE AS TO GIVE RISE TO A DECISION THAT THERE'S
8 A SUBSTANTIAL LIKELIHOOD OF MISIDENTIFICATION. I DO NOT FIND
9 THAT THE PROCESS USED HERE BY THE POLICE WAS UNNECESSARILY OR
10 UNDULY SUGGESTIVE. CERTAINLY IT WILL BE FOR THE JURY TO
11 DETERMINE WHETHER OR NOT -- IN JUDGING THE WITNESSES'
12 BELIEVABILITY AND CREDIBILITY, THEY'LL HAVE THE OPPORTUNITY
13 TO JUDGE THE ISSUES OF THE WITNESSES' OPPORTUNITY TO VIEW THE
14 PARTICIPANTS AT THE TIME OF THE INCIDENT, HIS DEGREE OF
15 ATTENTION, THE ACCURACY OF HIS IDENTIFICATION. BUT AS TO AN
16 INITIAL REVIEW, I DO NOT FIND THAT THE IDENTIFICATION WAS
17 UNDULY SUGGESTIVE AND, THEREFORE, I'M GOING TO ALLOW IT.
18 CERTAINLY THERE'S ROOM, AS Y'ALL HAVE SUGGESTED, ON BEHALF OF
19 THE DEFENSE FOR ISSUES ON CROSS-EXAMINATION, BUT THAT DOES
20 NOT PRECLUDE THIS MATTER FROM BEING HEARD BY THE JURY. ALL
21 RIGHT. NEXT WITNESS.

22 MS. CAMPBELL: THE STATE CALLS ANTONIO SMITH.

23 THE COURT: MADAM CLERK, WOULD YOU HAND THOSE TO THE
24 COURT REPORTER, PLEASE?

25 (STATE'S EXHIBITS 24 THROUGH 28 WERE MARKED FOR

1 IDENTIFICATION ONLY.)

2 ANTONIO SMITH, AFTER BEING DULY SWORN, TESTIFIED AS
3 FOLLOWS IN CAMERA:

4 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME
5 FOR THE RECORD.

6 THE WITNESS: ANTONIO SMITH.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q. ANTONIO, HOW OLD ARE YOU?

10 A. TWENTY-FIVE.

11 Q. WHERE DO YOU LIVE?

12 A. WINNSBORO.

13 Q. HOW LONG HAVE YOU BEEN LIVING IN WINNSBORO?

14 A. ALL MY LIFE.

15 Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER OF 2005,
16 TWO YEARS AGO. DO YOU REMEMBER ON SEPTEMBER 5TH RIGHT AROUND
17 MIDNIGHT BEING AT A BAR CALLED CHANCE'S?

18 A. YES.

19 Q. AND WHO ALL WERE YOU THERE WITH THAT NIGHT? DO YOU
20 REMEMBER?

21 A. TORRI BOYD, ANTWAN MARTIN, RAVARIS HENRY, AND DENNIS
22 IRBY---

23 Q. DO YOU -- I'M SORRY?

24 A. DENNIS IRBY.

25 Q. AND DENNIS IRBY? AND DO YOU HAVE A NICKNAME?

1 A. YES.

2 Q. WHAT'S YOUR NICKNAME?

3 A. YO-YO.

4 Q. THAT NIGHT WHILE YOU WERE IN THE BAR PRIOR TO GOING
5 OUTSIDE, DID YOU RUN INTO SOME GUYS YOU KNEW FROM RIDGEWAY?

6 A. YES.

7 Q. AND DID YOU KNOW ANY OF THEIR NAMES AT THE TIME?

8 A. YES.

9 Q. AND WHOSE NAMES DID YOU KNOW AT THE TIME?

10 A. MARCUS TUCKER, DEMETRIUS (SIC) DAVIS, TRAMELE DAVIS,
11 ADAMS GIBSON, AND PUNKY AND LAKISHA DAVIS.

12 Q. LAKISHA?

13 A. YES.

14 Q. AND DID YOU ACTUALLY HAVE AN OPPORTUNITY TO SPEAK TO ANY
15 OF THEM WHILE YOU WERE IN THE CLUB?

16 A. YES.

17 Q. WHO ALL DID YOU TALK TO?

18 A. I TALKED WITH MARCUS TUCKER.

19 Q. THAT NIGHT DID YOU HAVE ANY KIND OF BEEF OR ANY KIND OF
20 PROBLEM WITH ANY OF THESE GUYS?

21 A. NO.

22 Q. TELL THE JUDGE WHAT HAPPENED AFTER Y'ALL WENT OUTSIDE.

23 A. WHEN WE WENT OUTSIDE, BAM -- WELL, DEMETRIUS DAVIS---

24 Q. DOES HE HAVE A NICKNAME?

25 A. BAM.

1 Q. UH-HUH.

2 A. ---AND TORRI BOYD WAS ARGUING. AND RAVARIS HENRY AND
3 ANTWAN, ALSO MARCUS TUCKER, ADAMS GIBSON, AND TRAMELE, THEY
4 ALL WAS FUSSING, BREAK OUT FIGHTING. KARTEZ AND BAM AND
5 TORRI BOYD -- WELL, BAM AND KARTEZ WAS JUMPING ON TORRI. SO
6 I WENT TO BREAK THEM UP, AND THAT'S WHEN SHA-SHA (PHONETIC)
7 PUT A GUN ON ME AND TOLD ME, "YO-YO, DON'T EVEN THINK ABOUT
8 IT."

9 Q. AND WHO DO YOU KNOW -- WHO IS SHA-SHA? WHO DO YOU KNOW
10 HIM AS?

11 A. JACQUES GIBSON.

12 Q. AND HOW IS HE RELATED TO ADAMS GIBSON?

13 A. HIS BROTHER.

14 Q. AND WHERE WAS HE WHEN HE PULLED THE GUN ON YOU?

15 A. IN THE CAR.

16 Q. AND HOW FAR AWAY FROM HIM WERE YOU?

17 A. ABOUT SIX FEET.

18 Q. DID YOU RECOGNIZE HIM?

19 A. YES.

20 Q. DID YOU GET A GOOD LOOK AT HIM?

21 A. YES.

22 Q. DID YOU GET A GOOD LOOK AT ADAMS OR KARTEZ THAT NIGHT?

23 A. YES.

24 Q. HOW LONG DID THE FIGHT GO ON BEFORE THE SHOTS WERE
25 FIRED?

1 A. I'D SAY A MINUTE, TWO MINUTES.

2 Q. OKAY. AND AFTER THE SHOT WAS FIRED, DID CERTAIN PEOPLE
3 LEAVE?

4 A. AFTER THE SHOT WAS FIRED?

5 Q. UH-HUH. THE SHOTS WERE FIRED.

6 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S LEADING.

7 THE COURT: I'LL ALLOW IT.

8 MR. JOHNSON: WHEN PEOPLE WERE LEAVING---

9 THE COURT: I'M GOING TO ALLOW IT. THANK YOU.

10 THE WITNESS: WHAT DO YOU MEAN BY LEAVE? LEAVE THE
11 SCENE?

12 BY MS. CAMPBELL:

13 Q. YEAH.

14 A. YES.

15 Q. WHO ALL LEFT THAT YOU KNEW?

16 A. I SEEN SHA-SHA DRIVING OFF IN A WHITE COROLLA OR ESCORT,
17 AND I DIDN'T -- I DIDN'T SEE WHEN BAM AND THE REST OF THE
18 GUYS LEFT.

19 Q. OKAY. THE NEXT DAY, ON SEPTEMBER THE 6TH, DID YOU GO TO
20 THE SHERIFF'S DEPARTMENT AND DID THEY SHOW YOU SOME PHOTO
21 LINE-UPS?

22 A. YES.

23 Q. DID THEY ASK YOU ABOUT WHAT HAD HAPPENED ACTUALLY THE
24 NIGHT BEFORE---

25 A. RIGHT.

1 Q. ---AT THE BAR? AND WHEN THEY SHOWED YOU THE PHOTO LINE-
2 UPS, WHAT, IF ANYTHING, DID THEY ASK YOU TO DO?

3 A. JUST POINT THEM OUT.

4 Q. DID THEY TELL YOU WHICH ONE TO PICK? DID ANYONE EVER
5 TELL YOU WHICH ONE TO PICK?

6 A. NO.

7 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
8 EXHIBIT NUMBER 24 AND JUST ASK YOU TO LOOK AT THAT, BOTH
9 PAGES.

10 A. (THE WITNESS COMPLIES.) YES, MARCUS TUCKER.

11 Q. AND YOU JUST SAID -- WHEN YOU LOOKED AT THE SIX PHOTOS,
12 DID YOU RECOGNIZE ANYONE?

13 A. YES.

14 Q. AND WHICH ONE DID YOU RECOGNIZE?

15 A. MARCUS TUCKER.

16 Q. WHAT NUMBER IS UNDER HIS PICTURE?

17 A. NUMBER THREE.

18 Q. AND HOW DID YOU INDICATE YOU RECOGNIZED HIM AFTER YOU
19 POINTED IT OUT TO THE OFFICER?

20 A. BECAUSE I KNOW HIM.

21 Q. OKAY. AND DID YOU CIRCLE IT?

22 A. YES, AND INITIALED IT.

23 Q. DID YOU INDICATE WHETHER OR NOT MARCUS TUCKER HAD BEEN
24 OUT THERE THE NIGHT BEFORE AT THE SHOOTING?

25 A. YES.

1 Q. I'M GOING TO SHOW YOU ANOTHER PHOTO LINE-UP WHICH IS
2 STATE'S EXHIBIT NUMBER 25 FOR I.D. PURPOSES, AND WILL YOU
3 LOOK AT THAT FOR ME FOR A MINUTE?

4 A. (THE WITNESS COMPLIES.) YES, TRAMELE DAVIS, PICTURE
5 NUMBER TWO.

6 Q. NUMBER TWO?

7 A. RIGHT.

8 Q. AND HOW DID YOU RECOGNIZE HIM?

9 A. BECAUSE I KNOW HIM.

10 Q. AND WAS HE OUT AT THE SHOOTING THAT NIGHT?

11 A. YES.

12 Q. DID YOU INDICATE THAT TO THE OFFICER?

13 A. YES.

14 Q. AND DID YOU TELL HIM WHAT HIS NAME WAS?

15 A. RIGHT.

16 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 26 FOR I.D.
17 AND ASK YOU TO LOOK AT THAT.

18 A. (THE WITNESS COMPLIES.) YEAH, SHA-SHA. JACQUES.

19 Q. AND WHAT NUMBER IS THAT?

20 A. NUMBER ONE.

21 Q. AND DID ANYONE TELL YOU WHO TO PICK OUT?

22 A. NO.

23 Q. AND DID YOU RECOGNIZE HIM?

24 A. YES.

25 Q. WHEN WAS THE LAST TIME YOU HAD SEEN HIM?

1 A. THE NIGHT BEFORE AT CHANCE'S.

2 Q. DID YOU INDICATE THAT TO THE---

3 A. RIGHT TO THE OFFICER.

4 Q. ---OFFICERS? THE PERSON YOU KNOW AS SHA-SHA, DO YOU SEE
5 HIM HERE IN THE COURTROOM?

6 A. YES.

7 Q. CAN YOU POINT HIM OUT FOR THE JUDGE FOR ME?

8 A. RIGHT THERE IN THE BLACK SUIT.

9 Q. AND THE TIE?

10 A. YES.

11 Q. YOUR HONOR, MAY THE RECORD REFLECT HE'S IDENTIFIED THE
12 DEFENDANT? AND YOU KNEW HIM AS SHA-SHA?

13 A. RIGHT.

14 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 27 AND ASK
15 YOU TO LOOK AT THAT.

16 A. OKAY. (THE WITNESS COMPLIES.) ADAMS.

17 COURT REPORTER: YOU SAID ALVIN?

18 THE WITNESS: ADAMS GIBSON.

19 BY MS. CAMPBELL:

20 Q. WHICH NUMBER IS HE?

21 A. NUMBER FIVE.

22 Q. AND DID YOU CIRCLE AND INITIAL IT THERE?

23 A. YES.

24 Q. AND DID YOU INDICATE WHETHER OR NOT TO THE POLICE HE HAD
25 BEEN OUT THERE THE NIGHT OF THE SHOOTING?

1 A. YES.

2 Q. STATE'S EXHIBIT NUMBER 28, DID THEY ALSO SHOW YOU THAT
3 ONE?

4 A. YES. THAT'S THE GUY WHO HIS NAME WAS DEMETRIUS DAVIS,
5 BUT IT'S NOT THE BAM FROM RIDGEWAY.

6 Q. OKAY. ARE THERE TWO DEMETRIUS DAVISES IN THE WINNSBORO-
7 RIDGEWAY AREA?

8 A. YES.

9 Q. WAS THIS THE ONE THAT WAS OUT THERE OR NOT OUT THERE
10 THAT NIGHT?

11 A. HE WASN'T OUT THERE.

12 Q. AND YOU TOLD HIM THAT.

13 A. RIGHT.

14 Q. OKAY. YOU TOLD HIM HE WAS NOT THE ONE -- THE BAM OR THE
15 DEMETRIUS DAVIS THAT WAS OUT THERE THAT NIGHT.

16 A. RIGHT.

17 Q. BUT YOU RECOGNIZED HIM?

18 A. YEAH, I RECOGNIZED HIM.

19 Q. OKAY.

20 A. HE'S FROM WINNSBORO.

21 Q. AT ANY TIME WHEN YOU WERE BEING SHOWED THOSE PHOTO
22 LINE-UPS OR ANYTHING, DID ANYBODY TELL YOU WHO TO PICK OUT?

23 A. NO.

24 Q. AND DID YOU KNOW ALL THESE GUYS BEFORE, AT LEAST BY
25 FACE---

1 A. YES.

2 Q. ---BEFORE THAT NIGHT? THANK YOU. ANSWER ANY QUESTIONS
3 THE DEFENSE WOULD HAVE. OKAY?

4 THE COURT: ALL RIGHT. MR. ROBERSON?

5 MR. ROBERSON: IF YOUR HONOR PLEASE?

6 THE COURT: YES, SIR.

7 CROSS-EXAMINATION

8 BY MR. ROBERSON:

9 Q. I'M REFERRING TO EXHIBIT NUMBER 27. ON NUMBER FIVE IS
10 THAT YOUR SIGNATURE?

11 A. YES.

12 Q. OKAY. TELL THE COURT WHAT KIND OF SHIRT YOU THINK MR.
13 GIBSON HAS ON.

14 A. ON THAT SHIRT?

15 Q. YES, SIR.

16 A. WHITE.

17 Q. WHITE SHIRT. AND YOU CLEARLY REMEMBER THE NIGHT BEFORE
18 THAT HE WAS ACTUALLY FIGHTING SOMEBODY OR WAS HE JUST AT THE
19 FIGHT?

20 A. HE WAS ACTUALLY FIGHTING SOMEBODY.

21 Q. WHO WAS HE FIGHTING WITH?

22 A. WITH DEMETRIUS DAVIS.

23 Q. OKAY. DO YOU KNOW HOW HE WAS DRESSED ON THAT NIGHT? DO
24 YOU REMEMBER?

25 A. A WHITE TEE SHIRT, BLUE JEAN SHORTS IF I'M NOT MISTAKEN.

1 Q. OKAY. AND I BELIEVE YOU TESTIFIED THAT AT SOME POINT IN
2 TIME THIS GROUP -- PROBABLY SOME LEFT AND PROBABLY SOME HUNG
3 AROUND. DO YOU REMEMBER THAT?

4 A. EXCUSE ME?

5 Q. I BELIEVE YOU SAID AFTER THE SHOOTING SOME PEOPLE LEFT
6 AND SOME STAYED AROUND.

7 A. WELL, I DON'T KNOW. WELL, WE STAYED AROUND.

8 Q. OKAY.

9 A. FROM THEIR GROUP, I DON'T KNOW. I NEVER KNOW ABOUT
10 THAT.

11 Q. WELL, AFTER -- AFTER YOU SAW ADAMS AND THIS GUY
12 FIGHTING---

13 A. RIGHT.

14 Q. ---AND YOU SAID SHA-SHA PULLED A GUN ON YOU AND SAID,
15 "DON'T EVEN TRY IT"---

16 A. RIGHT.

17 Q. ---DID YOU EVER SEE ADAMS AFTER THAT INCIDENT ON THAT
18 NIGHT?

19 A. ACTUALLY, YES, I DID. I SEEN HIM GOING INTO THE
20 PASSENGER REAR SIDE OF THE WHITE---

21 COURT REPORTER: I'M SORRY. WHAT?

22 THE WITNESS: THE PASSENGER SIDE, THE REAR SIDE, OF THE
23 WHITE COROLLA.

24 BY MR. ROBERSON:

25 Q. OKAY. WHERE WAS THE COROLLA IN RELATIONSHIP TO WHERE

ANTONIO SMITH (IN CAMERA) - CROSS-EXAM BY MR. ROBERSON 159

1 SHA-SHA PULLED A GUN ON YOU AND SAID DON'T TRY IT?

2 A. IT WAS -- IT MOVED OUT A LITTLE BIT. MAYBE 10 FEET.

3 Q. OKAY. ARE YOU SAYING THAT THE COROLLA WAS CLOSER TO THE
4 BUILDING, CHANCE'S, AT THAT POINT AND THEN HE MOVED DOWN ON
5 FURTHER?

6 A. RIGHT.

7 Q. OKAY. AND YOU'RE SURE ADAMS GIBSON WAS IN A WHITE TEE
8 SHIRT AND BLUE JEANS AND GOT INTO THE REAR OF A WHITE
9 COROLLA?

10 A. I DON'T KNOW IF HE GOT INTO IT.

11 Q. OKAY.

12 A. I SEEN HIM OPEN THE DOOR.

13 Q. OKAY.

14 A. I DON'T KNOW IF HE WENT IN.

15 Q. OKAY. DID YOU SEE ADAMS WITH A GUN?

16 A. NO.

17 MR. ROBERSON: I HAVE NOTHING FURTHER, YOUR HONOR. JUST
18 A COUPLE OF -- COUPLE OF OTHER QUESTIONS.

19 THE COURT: I'M SORRY. GO AHEAD.

20 BY MR. ROBERSON:

21 Q. WHEN YOU WERE IN THIS ROOM PICKING THIS LINE-UP OUT, WAS
22 ANYBODY ELSE IN THERE WITH YOU AND I BELIEVE IT WAS MR.
23 WILLOUGHBY OR...

24 A. NO. IT WAS JUST ME AND HIM.

25 Q. HOW MUCH TIME DID YOU HAVE TO GO OVER THIS?

1 A. NOT LONG.

2 Q. OKAY. HE JUST GAVE IT TO YOU AND WHAT DID HE SAY TO
3 YOU?

4 A. I DON'T REMEMBER.

5 Q. OKAY. DID YOU AND HE HAVE ANY CONVERSATION BEFORE HE
6 PRESENTED YOU WITH THIS LINE-UP?

7 A. I THINK I GAVE HIM A STATEMENT FIRST.

8 Q. YOU GAVE HIM A STATEMENT?

9 A. YEAH.

10 Q. OKAY. AFTER YOU GAVE HIM A STATEMENT, HE SAID TO YOU,
11 I'M ASSUMING, "I WANT YOU TO LOOK AT A LINE-UP."

12 A. WELL, I CAN'T REMEMBER DID HE DO THE LINE-UP FIRST OR
13 DID HE DO THE STATEMENT FIRST.

14 Q. OKAY. BUT JUST BEFORE HE GAVE YOU THE STATEMENT, DID HE
15 SAY ANYTHING TO YOU?

16 A. I DON'T REMEMBER.

17 Q. OKAY. WELL, DID HE TELL YOU, "I'M GOING TO GIVE YOU A
18 LINE-UP WITH SIX PEOPLE IN IT"?

19 A. YES.

20 Q. DID HE GIVE YOU ANY FURTHER INSTRUCTIONS BEYOND THAT?

21 A. I CAN'T REMEMBER.

22 Q. OKAY. DID THE LINE-UP HAVE A COVER ON IT OR WAS IT JUST
23 A SHEET OF PAPER WITH THE FIVE PHOTOS ON IT?

24 A. I CAN'T REMEMBER. IT MIGHT HAVE HAD A COVER ON IT.

25 Q. DO YOU REMEMBER WHETHER OR NOT ANY OTHER PHOTOS HAD ANY

1 MARKINGS ON IT OR ANYTHING?

2 A. NO.

3 Q. OKAY. THAT'S THE SAME ONE THAT YOU MARKED AS BEING
4 ADAMS GIBSON; IS THAT CORRECT?

5 A. RIGHT.

6 Q. DO THESE FELLOWS LOOK TO BE SIMILAR SIZE, SKIN TONE,
7 HAIR, AND THAT KIND OF THING?

8 A. A LITTLE BIT.

9 Q. OKAY. IS ADAMS IN ANY WAY DISTINGUISHABLE FROM ANY OF
10 THESE FELLOWS?

11 A. WELL, NO, BECAUSE I KNOW WHO HE IS.

12 Q. YOU KNOW WHO HE IS?

13 A. I KNOW ADAMS.

14 Q. HOW LONG HAVE YOU KNOWN HIM?

15 A. I'D SAY TEN YEARS MAYBE.

16 MR. ROBERSON: TEN YEARS? OKAY. I DON'T HAVE ANYTHING
17 FURTHER, YOUR HONOR.

18 THE COURT: ALL RIGHT. MR. JOHNSON?

19 MR. JOHNSON: I HAVE NO QUESTIONS OF THIS WITNESS, YOUR
20 HONOR.

21 THE COURT: ALL RIGHT, SIR. ALL RIGHT. YOU MAY STEP
22 DOWN, SIR. THANK YOU. ANY ARGUMENTS, MR. ROBERSON?

23 MR. ROBERSON: NONE, YOUR HONOR.

24 THE COURT: ALL RIGHT. UNDER NEIL VERSUS BIGGERS I DO
25 NOT FIND THAT THE PROCESS USED HERE WAS SO UNDULY SUGGESTIVE

1 AS TO GIVE RISE TO A SUBSTANTIAL LIKELIHOOD OF MIS-
2 IDENTIFICATION, AND ONCE AGAIN OBVIOUSLY IT WILL BE FOR --
3 ULTIMATELY FOR THE JURY TO DETERMINE THE ISSUE AS FAR AS THE
4 IDENTIFICATION. BUT I'M GOING TO ALLOW IT INTO EVIDENCE.
5 ALL RIGHT. NEXT ONE, SOLICITOR.

6 MS. CAMPBELL: RAVARIS HENRY.

7 (STATE'S EXHIBITS 29 THROUGH 32 WERE MARKED FOR
8 IDENTIFICATION ONLY.)

9 RAVARIS HENRY, AFTER BEING DULY SWORN, TESTIFIED AS
10 FOLLOWS IN CAMERA:

11 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME.

12 COURT REPORTER: WOULD YOU SPELL YOUR FIRST NAME?

13 THE WITNESS: R-A-V-A-R-I-S.

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q. YOU HAVE TO LEAN REAL CLOSE TO THAT MICROPHONE BECAUSE
17 IT'S HARD TO HEAR IN HERE. RAVARIS, HOW OLD ARE YOU?

18 A. TWENTY-THREE.

19 Q. AND WHERE DO YOU LIVE?

20 A. IN COLUMBIA, SOUTH CAROLINA.

21 Q. WHERE ARE YOU FROM ORIGINALLY?

22 A. WINNSBORO.

23 Q. I WANT TO TURN YOUR ATTENTION BACK TO TWO YEARS AGO ON
24 SEPTEMBER THE 5TH, THE EVENING OF THE 4TH INTO THE EARLY
25 MORNING HOURS OF THE 5TH. DID YOU GO WITH SOME GUYS TO A BAR

1 CALLED CHANCE'S?

2 A. YES, MA'AM.

3 Q. AND WHO ALL WENT WITH YOU THAT NIGHT?

4 A. ME, ANTWAN, TORRI, AND DENNIS IRBY.

5 Q. ONCE YOU GOT INSIDE THE BAR THAT NIGHT, DID YOU RUN INTO
6 SOME GUYS YOU KNEW FROM RIDGEWAY?

7 A. AFTER WE GOT THERE THEY CAME.

8 Q. OKAY.

9 A. SO, YEAH.

10 Q. AND DID YOU KNOW ANY OF THEIR NAMES OR NICKNAMES?

11 A. YEAH.

12 Q. AND WHAT WERE THEIR NAMES AND NICKNAMES?

13 A. KARTEZ. BAM. SHA-SHA DIDN'T CAME 'TIL LATER ON.
14 TRAMELE. MARCUS TUCKER. THAT'S IT.

15 Q. AND TELL THE JUDGE HOW YOU KNEW THESE GUYS.

16 A. SOME OF THEM FROM SCHOOL AND SOME OF THEM JUST FROM
17 WHERE THEY WAS FROM.

18 Q. IS RIDGEWAY CLOSE TO WINNSBORO?

19 A. YES, MA'AM.

20 Q. WERE YOU THERE THAT NIGHT WHEN EVERYBODY WENT OUTSIDE?

21 A. I DIDN'T GO OUTSIDE IMMEDIATELY, BUT I CAME OUTSIDE.

22 Q. AND WHEN YOU GOT OUTSIDE, TELL THE JUDGE WHAT WAS GOING
23 ON.

24 A. BAM AND TORRI, THEY WERE FACE TO FACE AND PRETTY MUCH
25 JUST TALKING ABOUT SOMETHING THAT HAD WENT DOWN WITH THEM.

1 AND WHEN I GOT OUT THERE, THAT'S WHEN EVERYBODY JUST STARTED
2 RUNNING AROUND AND GIRLS CAME IN BETWEEN THEM LIKE THEY KNOW
3 THAT WE WAS FIXING TO FIGHT OR WHATEVER BUT -- YOU KNOW WHAT
4 I'M SAYING? SO TRAMELE -- AFTER THEY DONE RAN AROUND AND
5 ARGUING AND ALL THAT, TRAMELE HIT ME WITH A BEER CAN AND
6 THAT'S WHEN WE STARTED FIGHTING.

7 Q. OKAY. DID YOU SEE SOME OF THE GUYS FROM RIDGEWAY OUT
8 THERE THAT NIGHT?

9 A. YES, MA'AM.

10 Q. AND WERE THEY INVOLVED IN THE FIGHT, SOME OF THEM?

11 A. YES, MA'AM.

12 Q. DO YOU REMEMBER WHEN THE SHOOTINGS OCCURRED?

13 A. YES, MA'AM.

14 Q. AND AFTER THE SHOTS WERE FIRED, WERE ANY OF THE GUYS
15 FROM RIDGEWAY HANGING AROUND ANYMORE?

16 A. NO, MA'AM.

17 Q. THE NEXT DAY, I BELIEVE ON THE 6TH OF SEPTEMBER, DID YOU
18 GO TO THE SHERIFF'S DEPARTMENT TO GIVE A STATEMENT?

19 A. YES, MA'AM.

20 Q. AND DID THEY SHOW YOU SOME PHOTO LINE-UPS, AN
21 INVESTIGATOR?

22 A. YES, MA'AM.

23 Q. AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT NUMBER 29 FOR I.D., IF YOU COULD LOOK AT THAT FOR A
25 MINUTE.

1 A. (THE WITNESS COMPLIES.)

2 Q. WHEN THE INVESTIGATOR SHOWED YOU THIS COVER SHEET, THIS
3 PHOTO LINE-UP SHEET FILLED OUT, IT WASN'T FILLED OUT AT THE
4 TIME; RIGHT?

5 A. NO, MA'AM.

6 Q. WHEN HE SHOWED YOU THIS PHOTO LINE-UP THAT'S STATE'S
7 EXHIBIT 29, WAS IT JUST A BLANK PIECE OF PAPER WITH PICTURES
8 ON IT?

9 A. YES, MA'AM. THE PICTURES WERE ON IT, YEAH.

10 Q. OKAY. BUT THERE'S SOME WRITING ON IT NOW. WHOSE
11 WRITING IS THAT?

12 A. MY INITIALS.

13 Q. AND WHAT, IF ANYTHING, DID THE INVESTIGATOR SAY TO YOU?

14 A. DO I KNOW ANY OF THESE PEOPLE ON THIS LINE-UP RIGHT
15 HERE?

16 Q. AND DID YOU RECOGNIZE ANYONE OUT OF THAT SIX-PERSON
17 LINE-UP?

18 A. YES, MA'AM.

19 Q. AND WHO DID YOU RECOGNIZE?

20 A. TRAMELE DAVIS.

21 Q. AND DID YOU INDICATE THAT ON THE PIECE OF PAPER THERE?

22 A. YES, MA'AM.

23 Q. AND WHAT INITIALS ARE THOSE?

24 A. R.H.

25 Q. IS THAT YOUR WRITING?

1 A. YES, MA'AM.

2 Q. AND DID YOU TELL OFFICERS WHETHER OR NOT HE WAS OUT
3 THERE DURING THE FIGHT THAT NIGHT?

4 A. YES, MA'AM.

5 Q. AND WHAT DID YOU INDICATE HE WAS DOING?

6 A. FIGHTING.

7 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 30 AND ASK
8 YOU IF YOU RECOGNIZE THAT PHOTO LINE-UP.

9 A. YES, MA'AM, MARCUS TUCKER.

10 Q. AND WHICH ONE IS MARCUS TUCKER THAT YOU RECOGNIZED?

11 A. THAT ONE RIGHT THERE, NUMBER THREE.

12 Q. NUMBER THREE?

13 A. YES, MA'AM.

14 Q. AND DID YOU -- ONCE YOU RECOGNIZED HIM, DID YOU TELL THE
15 OFFICERS THAT YOU DID?

16 A. YES, MA'AM.

17 Q. AT ANY POINT IN ANY OF THESE, DID ANYBODY TELL YOU WHO
18 TO PICK OUT?

19 A. NO.

20 Q. OKAY. AND DID YOU INDICATE WHAT MARCUS TUCKER WAS DOING
21 OUT AT CHANCE'S THAT NIGHT?

22 A. YES, MA'AM.

23 Q. WHAT WAS HE DOING?

24 A. FIGHTING.

25 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 31 AND ASK

1 YOU TO LOOK AT THAT ONE FOR ME.

2 A. (THE WITNESS COMPLIES.) YES, MA'AM.

3 Q. AND DID YOU RECOGNIZE ANYONE IN THAT ONE?

4 A. YEAH.

5 Q. AND WHAT WAS THE NUMBER UNDER THE PERSON YOU RECOGNIZED
6 FROM THOSE PHOTOS?

7 A. NUMBER FIVE.

8 Q. AND DID YOU INDICATE THAT WITH YOUR INITIALS THERE?

9 A. YES, MA'AM.

10 Q. AND WHO DID YOU RECOGNIZE THAT TO BE?

11 A. ADAMS KARTEZ GIBSON.

12 Q. AND DID YOU KNOW HIM AS ADAMS OR AS KARTEZ?

13 A. KARTEZ.

14 Q. THE PERSON THAT YOU RECOGNIZED IN THE STATE'S EXHIBIT
15 NUMBER 31, DO YOU SEE HIM HERE IN THE COURTROOM?

16 A. YES, MA'AM.

17 Q. AND HOW LONG HAVE YOU KNOWN KARTEZ?

18 A. I DON'T REALLY KNOW HIM. I JUST - YOU KNOW WHAT I'M
19 SAYING - KNOW HIS FAMILY NAME, PEOPLE. I KNOW HIM.

20 Q. ENOUGH TO RECOGNIZE HIM?

21 A. YEAH.

22 Q. AND DO YOU SEE HIM HERE IN THE COURTROOM?

23 A. YES, MA'AM.

24 Q. CAN YOU POINT HIM OUT FOR THE JUDGE?

25 A. RIGHT THERE WITH THE BLUE SHIRT ON.

1 Q. NEXT TO HIS ATTORNEY?

2 A. YEAH.

3 Q. YOUR HONOR, MAY THE RECORD REFLECT HE'S IDENTIFIED THE
4 DEFENDANT? FINALLY, I'M GOING TO SHOW YOU STATE'S EXHIBIT
5 NUMBER 32. WHEN YOU SAID YOU SAW KARTEZ THAT NIGHT, WHAT DID
6 YOU INDICATE HE WAS DOING?

7 A. I DIDN'T REALLY SEE HIM DOING ANYTHING BECAUSE I WAS
8 FIGHTING.

9 Q. OKAY. WAS HE OUT THERE WHERE THE FIGHT WAS TAKING
10 PLACE?

11 A. YEAH.

12 Q. YOU DON'T KNOW WHAT HE WAS DOING.

13 A. NO, MA'AM.

14 Q. BUT IN STATE'S EXHIBIT NUMBER 32 DID YOU RECOGNIZE
15 ANYONE WHEN THEY SHOWED YOU THAT ONE?

16 A. YEAH.

17 Q. WHICH ONE DID YOU RECOGNIZE?

18 A. SHA-SHA.

19 Q. WHAT NUMBER IS HE?

20 A. NUMBER ONE.

21 Q. AND HAD YOU SEEN HIM BEFORE?

22 A. UH-HUH.

23 Q. DID YOU RECOGNIZE HIM THAT NIGHT?

24 A. YEAH.

25 Q. AND WHEN YOU INDICATED HE WAS OUT THERE, WHAT DID YOU

1 INDICATE HE WAS DOING OUT THERE THAT NIGHT?

2 A. SHOOTING.

3 Q. THE PERSON YOU KNOW AS SHA-SHA, DO YOU SEE HIM HERE IN
4 THE COURTROOM?

5 A. YES, MA'AM.

6 Q. CAN YOU POINT HIM OUT FOR THE JUDGE?

7 A. RIGHT THERE.

8 Q. WHAT'S HE WEARING?

9 A. BLACK SUIT.

10 Q. YOUR HONOR, MAY THE RECORD REFLECT HE'S IDENTIFIED THE
11 DEFENDANT JACQUES, SHA-SHA? PRIOR TO THAT NIGHT, YOU HAD
12 SEEN ALL THESE GUYS YOU IDENTIFIED BEFORE?

13 A. YES, MA'AM.

14 Q. ON MORE THAN ONE OCCASION?

15 A. YES, MA'AM.

16 MS. CAMPBELL: THANK YOU.

17 THE COURT: ALL RIGHT. YES, SIR, MR. ROBERSON.

18 MR. ROBERSON: JUST A COUPLE OF QUESTIONS, YOUR HONOR,
19 IF I REMAIN RIGHT HERE?

20 THE COURT: CERTAINLY.

21 CROSS-EXAMINATION

22 BY MR. ROBERSON:

23 Q. DO YOU -- HOW LONG DID YOU HAVE TO SEE ADAMS GIBSON ON
24 THAT NIGHT?

25 A. HUH?

1 Q. ABOUT HOW MUCH TIME DID YOU HAVE TO OBSERVE ADAMS GIBSON
2 ON SEPTEMBER 5 OF '05?

3 A. HOW MUCH TIME DID I OBSERVE HIM?

4 Q. YES, SIR.

5 A. WHEN WE WAS THERE?

6 Q. YES, SIR.

7 A. PROBABLY ABOUT TWO, THREE HOURS, TWO HOURS OR SO.

8 Q. TWO OR THREE HOURS?

9 A. (WITNESS NODDED HEAD UP AND DOWN.)

10 Q. DO YOU REMEMBER HOW HE WAS DRESSED?

11 A. NO, BUT I REMEMBER HIM THERE.

12 Q. BEG YOUR PARDON?

13 A. I REMEMBER HIM THERE. I DON'T REMEMBER WHAT HE HAD ON.

14 Q. DO YOU REMEMBER WHO HE -- DID YOU SEE HIM WHEN HE CAME
15 IN?

16 A. YEAH. ALL OF US---

17 Q. WHO DID HE---

18 A. ALL OF US SHOOK HANDS. EVERYBODY GREETED EACH OTHER.
19 WE WAS TALKING TO EACH OTHER.

20 Q. OKAY. DID HE COME IN BY HIMSELF OR DID HE COME IN WITH
21 SOMEBODY ELSE?

22 A. HE CAME IN WITH A GROUP.

23 Q. DO YOU REMEMBER WHO WAS IN THE GROUP WITH HIM?

24 A. TRAMELE, MARCUS TUCKER, AND BAM AND HIM AND SOME GIRLS.

25 Q. DO YOU REMEMBER WHAT THE GIRLS' NAMES WERE?

- 1 A. I DON'T KNOW WHAT THEIR NAMES WAS.
- 2 Q. HAD YOU EVER SEEN THE GIRLS BEFORE?
- 3 A. YEAH, I SEEN THEM, BUT I DON'T KNOW THEIR NAMES.
- 4 Q. IF I CALL ONE OF THE NAMES, WOULD YOU REMEMBER?
- 5 A. I KNOW ONE OF THEM IS CALLED PUNKIN OR SOMETHING LIKE
- 6 THAT. NICKNAMES.
- 7 Q. HUH?
- 8 A. NICKNAMES. I DON'T KNOW THEIR REAL NAMES.
- 9 Q. LAKISHA DAVIS? IS THAT...
- 10 A. I DON'T KNOW IF THAT'S HER REAL NAME OR NOT. I KNOW IF
- 11 I SEE HER.
- 12 Q. OKAY. DO YOU REMEMBER AT WHAT TIME OF NIGHT IT WAS HE
- 13 CAME IN WITH THESE YOUNG LADIES?
- 14 A. I'M NOT SURE.
- 15 Q. WELL, 8:00? 9:00? 10:00?
- 16 A. IT WASN'T TOO LATE BECAUSE IT CLOSED DOWN EARLY, SO IT
- 17 HAD TO BE AROUND 10 OR 11. I DON'T KNOW.
- 18 Q. SO THEY CLOSED DOWN AROUND 11. YOU SAID YOU'D SEEN HIM
- 19 BEFORE---
- 20 A. THEY CLOSED DOWN AROUND LIKE 12---
- 21 Q. OKAY. AND YOU---
- 22 A. ---1 A.M., SOMETHING LIKE THAT.
- 23 Q. YOU SAY YOU'D BEEN THERE FOR ABOUT TWO OR THREE HOURS?
- 24 A. YEAH.
- 25 Q. SO YOU'RE TALKING AROUND 9, 9:30.

1 A. APPROXIMATELY.

2 MR. ROBERSON: OKAY. I DON'T HAVE ANYTHING FURTHER,
3 YOUR HONOR.

4 THE COURT: MR. JOHNSON?

5 MR. JOHNSON: MR. ROBERSON HAS ALREADY ASKED ALL THE
6 APPROPRIATE QUESTIONS.

7 THE COURT: ALL RIGHT.

8 MR. JOHNSON: I DON'T HAVE ANY QUESTIONS.

9 THE COURT: THANK YOU. ALL RIGHT. YOU MAY STEP DOWN,
10 SIR.

11 THE WITNESS: THANK YOU.

12 THE COURT: ANY ARGUMENTS YOU WANT TO MAKE, MR.
13 ROBERSON, ON THIS NEIL VERSUS BIGGERS ISSUE?

14 MR. ROBERSON: NOT AS TO THE VOLUNTARINESS, YOUR HONOR.

15 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

16 MR. JOHNSON: NOTHING, YOUR HONOR, AS TO VOLUNTARINESS.

17 THE COURT: ALL RIGHT, SIR. I DO NOT FIND THAT THE
18 IDENTIFICATION PROCESS USED HERE IS UNDULY SUGGESTIVE AND,
19 THEREFORE, WILL ALLOW THE TESTIMONY. ONCE AGAIN, IT'S UP TO
20 THE JURY ULTIMATELY TO MAKE THESE DETERMINATIONS. ALL RIGHT.
21 SOLICITOR, YOUR NEXT WITNESS.

22 MR. LAKE: IF YOUR HONOR PLEASE, WE WOULD CALL SHUNTA
23 WILSON.

24 SHUNTA WILSON, AFTER BEING DULY SWORN, TESTIFIED AS
25 FOLLOWS IN CAMERA:

1 THE CLERK: BE SEATED AND STATE YOUR FULL NAME.

2 COURT REPORTER: AND PLEASE SPELL YOUR FIRST NAME.

3 THE WITNESS: MY NAME IS SHUNTA, S-H-U-N-T-A. LAST NAME
4 IS WILSON.

5 DIRECT EXAMINATION

6 BY MR. LAKE:

7 Q. MS. WILSON, TELL US WHAT YOUR EDUCATIONAL BACKGROUND IS.

8 A. I'M A COMPUTER GRAPHICS ENGINEER MAJOR. I'M DOUBLE
9 MAJORING IN BUSINESS MANAGEMENT ALSO.

10 Q. AND ARE YOU CURRENTLY IN SCHOOL?

11 A. YES, SIR, I AM.

12 Q. OKAY. AND HOW OLD ARE YOU?

13 A. I'M 24.

14 Q. AND YOU DO CURRENTLY RESIDE HERE IN COLUMBIA; CORRECT?

15 A. YES, SIR.

16 Q. LET ME TAKE YOU TO THE EVENING OF SEPTEMBER THE 5TH,
17 2005. DO YOU REMEMBER THAT EVENING?

18 A. YES, SIR.

19 Q. AND EXPLAIN TO THE JURY -- I MEAN TO YOUR HONOR WHY YOU
20 REMEMBER THAT PARTICULAR NIGHT.

21 A. JUST THE GRAPHIC (SIC) OF THE SITUATION IS HOW I
22 REMEMBER IT, AND IT'S KIND OF HARD WHERE I CONSTANTLY KEEP
23 THINKING ABOUT IT.

24 Q. AND---

25 THE COURT: COULD YOU SCOOT YOUR CHAIR UP A LITTLE BIT

1 CLOSER TO THE MICROPHONE, PLEASE, MA'AM? THANK YOU.

2 THE WITNESS: I'M SORRY.

3 THE COURT: THAT'S ALL RIGHT. THANK YOU.

4 MR. LAKE: AND---

5 MR. JOHNSON: EXCUSE ME, YOUR HONOR. I COULDN'T HEAR
6 HER---

7 THE COURT: ALL RIGHT. COULD YOU REPEAT -- REPEAT YOUR
8 ANSWER SO EVERYBODY CAN HEAR IT. THANK YOU, MA'AM.

9 THE WITNESS: I REMEMBER IT BECAUSE OF THE GRAPHICS AND
10 MY PART IN THE SITUATION AND THE FACT THAT I THINK ABOUT IT
11 ALL THE TIME SINCE IT HAPPENED.

12 BY MR. LAKE:

13 Q. AND WOULD YOU EXPLAIN WHY YOU WERE OUT THERE THAT
14 PARTICULAR NIGHT?

15 A. IT WAS TWO DAYS BEFORE MY BIRTHDAY. MY BIRTHDAY IS ON
16 THE 7TH OF SEPTEMBER, AND MY GIRLFRIENDS AND MY HOME BOYS
17 TOOK ME OUT BECAUSE TWO OF MY GIRLFRIENDS WERE LEAVING TO GO
18 TO IRAQ BEFORE MY BIRTHDAY. SO WE WERE OUT THERE, AND IT WAS
19 CLOSE TO WHERE I USED TO STAY AT.

20 Q. AND WHAT DID YOU OBSERVE AT SOME POINT DURING -- DURING
21 THAT EVENING?

22 A. WELL, ME AND SOME OF MY FRIENDS WERE ALL SITTING TOWARDS
23 THE BAR, YOU KNOW, WATCHING THE GAME AND STUFF, AND, YOU
24 KNOW, YOU HEAR THESE KIND OF WORDS BEING SAID BACK AND FORTH
25 TOWARDS THE BACK OF THE CLUB WHERE THERE ARE TWO DOUBLE DOORS

1 OR THE ENTRANCE OF THE CLUB. AND SO WE TURNED AROUND AND WE
2 WERE LOOKING AROUND. YOU KNOW HOW YOU HEAR ALTERCATIONS IN
3 PLACES. YOU TURN AROUND AND LOOK FOR A FEW MINUTES TO SEE
4 WHAT'S GOING ON. THEN YOU PLAY IT OFF AND YOU TURN BACK
5 AROUND TO YOUR CONVERSATION.

6 Q. AND SO THIS IS -- AT THIS PARTICULAR POINT IT'S JUST
7 WORDS THAT WERE BEING EXCHANGED BETWEEN INDIVIDUALS?

8 A. YES, SIR.

9 Q. AND HOW LONG DID YOU INDICATE THAT YOU HAD AN
10 OPPORTUNITY TO VIEW THE INDIVIDUALS AT THAT PARTICULAR POINT?

11 A. PROBABLY ABOUT FIVE MINUTES.

12 Q. OKAY. AND WHAT HAPPENS NEXT AFTER THE VERBAL
13 ALTERCATION WITHIN THE CLUB?

14 A. THE OWNER'S SON THAT WAS THERE THAT NIGHT WAS KIND OF
15 OBSERVING THEM, TOO, AND KIND OF SAW THAT IT WASN'T DYING
16 DOWN AND ASKED THEM IF THEY COULDN'T, YOU KNOW, KEEP IT DOWN
17 THAT THEY WOULD HAVE TO LEAVE.

18 Q. AND WHAT HAPPENED NEXT?

19 A. I GUESS THEY KEPT GETTING INTO IT, SO THE OWNER ASKED
20 THEM TO LEAVE, AND THEY WAS ON THE WAY OUT THE DOOR AND I
21 GUESS SOME PEOPLE THAT WERE CLOSER TO THE DOOR SAW THEM, I
22 GUESS, MOVING OUT THE DOOR FIGHTING. SO EVERYBODY GETS UP.
23 MY FRIENDS GETS UP. THEY GO OUT THE FRONT DOOR TO LOOK TO
24 SEE WHAT WAS GOING ON. I WENT BEHIND THEM, YOU KNOW.

25 Q. AND YOU SAID THAT THE ARGUMENTS CONTINUED. ARE YOU

1 OBSERVING THEM AS THEY CONTINUE WITH THE ARGUMENT AS THEY'RE
2 EXITING OUT THE DOOR?

3 A. NOT AT THAT PARTICULAR TIME BECAUSE I WAS STILL KIND OF
4 PAYING ATTENTION TO MY FRIENDS, YOU KNOW, WITH MY BACK
5 TOWARDS THE DOOR UNTIL THEY SAID, "OH, THERE'S A FIGHT AND
6 EVERYTHING," AND, YOU KNOW, EVERYBODY TURNS AROUND, AND THE
7 NEXT THING: WE'RE OUTSIDE TO SEE EXACTLY WHAT'S GOING ON.

8 Q. AND WHAT HAPPENS WHEN YOU GO OUTSIDE?

9 A. I COULD SEE THEM FIGHTING. I COULD SEE, YOU KNOW, ALL
10 THE GUYS IN A HOLE FIGHTING IN THAT SAME LITTLE AREA AND, YOU
11 KNOW, IT JUST ESCALATES.

12 Q. AND WHAT HAPPENS AFTER IT ESCALATES?

13 A. YOU SEE A WHITE ESCORT PULL UP AND A FEMALE GET OUT OF
14 THE CAR, AND SHE GOES OVER TRYING TO BREAK UP THE FIGHT. AND
15 THEN YOU SEE A GENTLEMAN GO TO THE ESCORT, OPEN THE PASSENGER
16 DOOR, OPEN THE DRIVER SIDE DOOR, SITS DOWN, REACHES
17 UNDERNEATH THE CAR AND GETS BACK OUT AND POINTS THIS GUN OVER
18 TOWARDS WHERE THEY'RE FIGHTING AT, AND YOU HEAR SOMEBODY SAY,
19 "OH, HE GOT A GUN." YOU SEE EVERYBODY RUN BACK INSIDE.

20 Q. AND LET ME JUST ASK YOU A QUESTION. YOU INDICATE -- SO
21 WAS IT THE DRIVER'S SIDE THIS PERSON GOES TO OR IS IT THE
22 PASSENGER'S SIDE?

23 A. IT'S THE DRIVER'S SIDE.

24 Q. AND AT SOME POINT DO YOU HEAR SHOTS FIRED?

25 A. YES.

1 Q. AND---

2 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT IS DEFINITELY
3 LEADING.

4 MR. LAKE: AT WHAT POINT---

5 THE COURT: ALL RIGHT.

6 MR. LAKE: ---DID YOU HEAR GUNSHOTS FIRED?

7 THE COURT: THE SOLICITOR---

8 MR. JOHNSON: SHE HASN'T SAID SHE HEARD GUNSHOTS.

9 THE COURT: GENTLEMEN -- NOW, WHEN THERE'S AN OBJECTION
10 MADE, SOLICITOR, YOU WAIT UNTIL THE COURT RULES ON THE
11 OBJECTION. ALL RIGHT?

12 MR. LAKE: YES, SIR.

13 THE COURT: AND, GENTLEMEN, YOU DIRECT YOUR COMMENTS TO
14 THE COURT, NOT EACH OTHER. THANK YOU VERY MUCH. ALL RIGHT.
15 SOLICITOR, PLEASE DON'T LEAD YOUR WITNESS. ALLOW THE WITNESS
16 TO TESTIFY. THANK YOU VERY MUCH.

17 BY MR. LAKE:

18 Q. WHAT, IF ANYTHING, DO YOU HEAR AS THE FIGHT IS
19 ESCALATING?

20 A. WHEN THEY SAID HE HAD A GUN, WE BOTH WENT IN. I WAS
21 STILL WITHIN THE SET OF -- THERE'S TWO SETS OF DOORS.
22 THERE'S A SET TO THE OUTSIDE AND THERE'S A SET TO THE INSIDE.
23 THERE'S TWO SETS OF DOUBLE DOORS. I'M STILL STANDING RIGHT
24 THERE. YOU HEAR THE GUNSHOTS. THERE'S A COUPLE OF GUNSHOTS
25 THAT WERE FIRED, AND THEN STILL INSIDE YOU HEAR ANOTHER --

1 SECOND GUNSHOTS THAT WERE FURTHER AWAY---

2 Q. OKAY.

3 A. ---FROM THE ACTUAL INCIDENT.

4 Q. AND THOSE FIRST SET OF SHOTS, WHAT, IF ANYTHING, DID
5 THEY SOUND LIKE?

6 A. THEY SOUND LIKE A SMALLER GUN LIKE A -- YOU KNOW, THE
7 LITTLE CAP GUNS WE USED TO PLAY WITH WHEN WE WERE YOUNGER,
8 THE LITTLE RED THINGS YOU PUT IN THE BACK OF THE GUN AND THEN
9 YOU CAN SHOOT IT, AND YOU HEAR THAT LITTLE POP SOUND IS WHAT
10 IT SOUNDED LIKE.

11 Q. WHAT KIND OF GUN DID YOU THINK IT WAS AT THIS PARTICULAR
12 POINT?

13 A. ANYWHERE BETWEEN A .22---

14 MR. JOHNSON: OBJECTION, YOUR HONOR. OPINION.

15 THE COURT: FOR THE PURPOSES -- GO AHEAD. JUST FOR THE
16 PURPOSES OF THIS HEARING, I'M GOING TO ALLOW IT, BUT YOU WILL
17 NEED TO TAILOR YOUR QUESTIONS---

18 MR. LAKE: YES, SIR.

19 THE COURT: ---IN THE JURY'S PRESENCE. THANK YOU.

20 MR. LAKE: YES, SIR.

21 BY MR. LAKE:

22 Q. ARE YOU FAMILIAR WITH GUNS?

23 A. YES, SIR.

24 Q. AND HOW ARE YOU FAMILIAR WITH GUNS?

25 A. I'M FAMILIAR BECAUSE OF MY PARENTS' BACKGROUND. MY

1 DAD'S RETIRED MILITARY; SO IS MY MOTHER. MY EX-HUSBAND IS
2 FAMILIAR WITH GUNS, GOING OUT TO THE RANGE, BEING WITH MY
3 FRIENDS, BECAUSE THEY SHOOT GUNS, BEING AROUND IT AND HEARING
4 IT.

5 Q. AND HOW OFTEN WOULD YOU SAY YOU'VE BEEN AROUND GUNS OR
6 HEARD GUNS?

7 A. ALL MY LIFE.

8 Q. AND HOW OLD ARE YOU AGAIN? I'M SORRY?

9 A. I'M 24.

10 Q. AND WHAT TYPE OF GUN DID YOU THINK IT WAS AGAIN? I
11 APOLOGIZE.

12 A. .22. .25.

13 Q. OKAY.

14 A. BETWEEN THOSE TWO.

15 Q. AND THE PERSON THAT YOU INDICATE HAD A GUN, HOW LONG
16 WOULD YOU SAY THAT YOU WATCHED THIS PARTICULAR PERSON?

17 A. I WOULD SAY MAYBE FIVE OR FIFTEEN MINUTES, THROUGH THE
18 WHOLE ESCALATION. I MEAN, IT HAPPENED PRETTY QUICKLY. WE
19 WOULD SAY THE WHOLE THING WENT ON ABOUT MAYBE 20 MINUTES.

20 Q. UH-HUH. AND JUST KIND OF USING ME AS A GAUGE, JUST KIND
21 OF TELL ME WHEN TO STOP. I WANT YOU TO TELL ME HOW CLOSE YOU
22 WERE TO THIS INDIVIDUAL THAT YOU SAW WITH THE GUN. JUST TELL
23 ME WHEN TO STOP.

24 A. OKAY. YOU HAVE TO COME A LITTLE BIT CLOSER. I'M
25 SITTING HERE AND THEY'RE FIGHTING OVER THERE. I CAN SEE HIM

1 ABOUT WHERE YOU'RE STANDING AT.

2 Q. OKAY. AND WHAT, IF ANYTHING, IS OBSTRUCTING YOUR VIEW
3 OF HIM?

4 A. NOTHING. THERE ISN'T ANYTHING.

5 Q. AND WHAT IS THE LIGHTING OUT IN THIS PARTICULAR AREA?

6 A. IT'S VERY WELL LIT WHERE WE WERE AT.

7 Q. OKAY. AND WHAT HAPPENS AFTER THOSE FIRST SET OF SHOTS
8 ARE FIRED---

9 A. I MEAN---

10 Q. ---THAT YOU RECALL?

11 A. I MEAN, WHAT I RECALL, WE JUST -- THE FIRST SHOTS, WE
12 WERE STILL INSIDE. YOU KNOW, I'M LOOKING. YOU KNOW, WE'RE
13 ALL DOWN, YOU KNOW, JUST TO MAKE SURE NOBODY GETS HIT. THEN
14 THE SECOND SET OF SHOTS FIRED, YOU KNOW, AND THEN AFTER THAT,
15 YOU KNOW, WE -- I KIND OF PAUSED FOR A LITTLE BIT KIND OF
16 STILL TRYING TO CATCH MYSELF, AND THEN SOMEBODY SAID, "OH,
17 WELL, THERE'S A KID DOWN." SO I GO OUTSIDE AND I GO AND I
18 LOOK. YOU KNOW, HIS FRIENDS ARE TRYING TO, YOU KNOW, MOVE
19 HIM, SHAKE HIM, AND MOVE HIM AROUND, AND I TOLD THEM NOT TO
20 MOVE HIM AROUND, TO TRY TO KEEP HIM STABLE.

21 Q. AND WHERE ARE THESE INDIVIDUALS THAT YOU OBSERVED?
22 WHERE IS THE INDIVIDUAL THAT YOU OBSERVED WITH THE GUN?
23 WHERE IS HE AT AT THIS PARTICULAR POINT?

24 A. HE'S GONE.

25 Q. DO YOU SEE HOW HE LEAVES THE SCENE---

1 A. HE LEFT OUT---

2 Q. ---OR DO YOU KNOW HOW HE LEFT THE SCENE?

3 A. YES, SIR.

4 Q. HOW DID HE LEAVE?

5 A. HE LEFT OUT IN THE ESCORT THAT CAME AND PULLED UP THAT
6 THE GIRL GOT OUT OF.

7 Q. AND WHAT ABOUT THE OTHER INDIVIDUALS THAT WERE WITH THIS
8 PERSON?

9 A. THEY ALL GOT IN THAT CAR.

10 Q. AND YOU INDICATED THAT YOU ADMINISTERED -- WHAT TYPE OF
11 HELP DID YOU ADMINISTER?

12 A. C.P.R.

13 Q. HOW LONG WERE YOU OUT THERE AT THE SCENE?

14 A. HAD TO BE HOURS, I THINK. I WAS THERE AWHILE. I WAS
15 THERE LONG ENOUGH WITH HIM UNTIL THE PARAMEDICS AND THE
16 POLICE GOT THERE.

17 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO SPEAK WITH ANY
18 OF THE INVESTIGATORS OUT THERE THAT PARTICULAR NIGHT?

19 A. YES.

20 Q. DO YOU PROVIDE A DESCRIPTION TO THEM THAT PARTICULAR
21 NIGHT IN TERMS OF WHO YOU THOUGHT WERE -- THAT WAS PRESENT AT
22 THAT SCENE?

23 A. YES, SIR.

24 Q. DO YOU RECALL THE HEIGHT OF THAT INDIVIDUAL THAT YOU
25 INDICATED WAS OUT AT THAT PARTICULAR SCENE THAT YOU INDICATED

1 THAT YOU THOUGHT HAD THE GUN?

2 A. YES, SIR.

3 Q. WHAT WAS THAT?

4 A. CAN YOU REPEAT THE QUESTION FOR ME? I'M SORRY.

5 Q. ARE YOU OKAY?

6 A. YEAH.

7 Q. WHAT, IF ANYTHING, DO YOU RECALL ABOUT THE HEIGHT OR
8 SKIN TONE OF THE INDIVIDUAL THAT YOU OBSERVED WITH THE WEAPON
9 THAT PARTICULAR NIGHT?

10 A. I REMEMBER HIM HAVING ON A BLACK SHIRT AND THAT HE WAS
11 ABOUT 5'9", 5'10". HE HAD TO BE ABOUT TWO, TWO THIRTY,
12 SOMETHING LIKE THAT, AND HE WAS REAL DARK-SKINNED.

13 Q. AND THESE ARE JUST APPROXIMATES; CORRECT?

14 THE COURT: SOLICITOR, DON'T -- DON'T SUGGEST. THANK
15 YOU VERY MUCH.

16 THE WITNESS: THIS IS WHAT I SAW.

17 BY MR. LAKE:

18 Q. OKAY. AND DO YOU RECALL WHAT, IF ANY, INFORMATION THAT
19 YOU PROVIDED IN TERMS OF AN AGE FOR THIS PERSON, POSSIBLE AGE
20 FOR THIS PERSON?

21 A. PROBABLY ABOUT 21 TO 25, ABOUT MY AGE.

22 Q. OKAY. SOMEWHERE BETWEEN THAT AREA? LET ME TAKE YOU TO
23 THE NEXT DAY. ACTUALLY, HOW DID YOU GET OUT THERE TO THE
24 SCENE THAT NIGHT?

25 A. I DROVE.

1 Q. AND WHAT DID YOU DRIVE?

2 A. I DROVE A 1997 SATURN.

3 Q. AND WERE YOU ABLE TO LEAVE THE SCENE THAT NIGHT IN THAT
4 SATURN?

5 A. NO, I COULDN'T.

6 Q. AND WHY NOT?

7 A. BECAUSE MY TIRE HAD A BULLET HOLE IN IT THAT WAS FROM
8 THE FIRES -- THE SHOTS THAT WERE FIRED THAT NIGHT.

9 Q. AND AS A RESULT OF FINDING THAT BULLET IN YOUR TIRE,
10 WHAT DID YOU DO NEXT? WHAT HAPPENED NEXT?

11 A. I CALLED MY MOM, AND I WAITED FOR THE INVESTIGATOR. AS
12 I GAVE HIM MY STATEMENT, MY MOTHER CAME AND PICKED ME UP AND
13 TOOK ME HOME.

14 Q. AND AT WHAT POINT DO YOU RECALL THE INVESTIGATOR COMING
15 OUT TO YOUR HOME?

16 A. THIS MIGHT HAVE BEEN THE NEXT DAY HE CAME OUT. IT WAS
17 LATER ON IN THE EVENING HE CAME OUT.

18 Q. AND DO YOU RECALL THE INVESTIGATOR THAT CAME OUT THERE?

19 A. YES.

20 Q. WHO WAS THAT?

21 A. MCDANIELS.

22 Q. COULD YOU DESCRIBE TO YOUR HONOR WHAT YOUR STATE OF MIND
23 WAS AND DESCRIBE THAT ENCOUNTER WITH MR. MCDANIELS AT THAT
24 TIME OR SERGEANT MCDANIELS?

25 A. I WAS VERY RELUCTANT. I WAS AFRAID. I REALLY DIDN'T

1 WANT TO COOPERATE BECAUSE I JUST DIDN'T WANT TO BE INVOLVED.

2 IT WAS JUST -- I JUST DIDN'T WANT TO DO IT.

3 Q. AND WHY WAS THAT?

4 A. BECAUSE I'M A SINGLE PARENT. YOU KNOW, YOU SEE THINGS
5 THAT HAPPEN TO OTHER PEOPLE ALL THE TIME. WHO KNOWS, YOU
6 KNOW, FOR ANYBODY COMING AFTER ME BECAUSE I TESTIFIED.

7 MR. ROBERSON: OBJECTION.

8 MR. JOHNSON: OBJECTION, YOUR HONOR. RELEVANCE.

9 THE COURT: I'M GOING TO ALLOW IT.

10 BY MR. LAKE:

11 Q. LET ME -- AND SO BASED UPON THAT, YOU INDICATED YOU
12 DIDN'T WANT TO COOPERATE---

13 A. (WITNESS NODDED HEAD UP AND DOWN.)

14 Q. ---WITH SERGEANT MCDANIELS AT THAT TIME?

15 A. PRETTY MUCH.

16 MR. LAKE: LET ME GET THESE MARKED.

17 (STATE'S EXHIBITS 33 THROUGH 35 WERE MARKED FOR
18 IDENTIFICATION.)

19 BY MR. LAKE:

20 Q. WHERE DID YOU ACTUALLY MEET SERGEANT MCDANIELS AT?

21 A. IN THE SHERIFF'S DEPARTMENT.

22 Q. I'M TALKING ABOUT...

23 A. BECAUSE I HAD SO MANY DIFFERENT INVESTIGATORS.

24 Q. OKAY. THIS PARTICULAR INDIVIDUAL RIGHT HERE, SERGEANT
25 MCDANIELS, DIDN'T HE COME TO YOUR -- DO YOU RECALL HIM COMING

1 TO YOUR MOTHER'S ADDRESS?

2 A. YES.

3 Q. AND WHO WAS PRESENT WHEN YOU MET WITH HIM AT THAT
4 PARTICULAR TIME?

5 A. MY MOTHER AND MY FATHER.

6 Q. AND IS THIS THE TIME WHEN YOU REALLY DIDN'T WANT TO
7 COOPERATE WITH THEM?

8 A. PRETTY MUCH, YES, SIR.

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
10 NUMBER 33 AND ASK YOU: DO YOU EVEN RECOGNIZE THIS PARTICULAR
11 ITEM?

12 A. YES, SIR.

13 Q. WHAT DO YOU RECOGNIZE IT TO BE?

14 A. IT WAS A LINE-UP THAT HE SHOWED ME THAT DAY, THAT
15 EVENING.

16 Q. AND WERE YOU ABLE TO IDENTIFY ANYONE AT THIS PARTICULAR
17 TIME?

18 A. NO, SIR.

19 Q. AND WHY NOT?

20 A. I DIDN'T WANT TO DEAL WITH IT. I DIDN'T WANT TO GET
21 THAT INVOLVED IN IT.

22 Q. HOW LONG DID YOU INDICATE THAT YOU ACTUALLY LOOKED AT
23 THAT LINE-UP?

24 A. SIR?

25 Q. HOW LONG DID YOU -- DID YOU ACTUALLY LOOK AT THE LINE-UP

1 AND OBSERVE THE LINE-UP OR...

2 A. I KIND OF TOOK A GLANCE AT IT AT THE TIME.

3 Q. AT WHAT POINT DO YOU DECIDE THAT YOU WOULD LIKE TO
4 COOPERATE?

5 A. I TALKED TO MRS. GIBBES (SIC) AND---

6 Q. MS. IRBY?

7 A. MS. IRBY. I'M SORRY. I TALKED TO MS. IRBY, AND I JUST
8 FELT REALLY BAD FOR WHAT SHE WAS GOING THROUGH, AND IF I
9 DIDN'T AND AS IMPORTANT AS THE SITUATION WAS, THEN WHO DID IT
10 WOULDN'T BE HELD ACCOUNTABLE FOR IT.

11 Q. SO AS A RESULT OF THAT, YOU DECIDED TO COOPERATE
12 FURTHER?

13 A. YES, SIR.

14 Q. AND DO YOU RECALL WHEN YOU MET WITH ANOTHER
15 INVESTIGATOR?

16 A. YES, SIR.

17 Q. WHEN WAS THAT?

18 A. THAT WAS AFTER I MET WITH MR. MCDANIELS, THE DAY AFTER I
19 CAME DOWN TO THE POLICE STATION.

20 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
21 EXHIBIT NUMBER 34 AND ASK YOU: DO YOU RECOGNIZE THAT
22 PARTICULAR ITEM?

23 A. YES, SIR.

24 Q. AND WHAT DO YOU RECOGNIZE IT TO BE?

25 A. IT WAS A LINE-UP THAT WAS SHOWN TO ME WHILE I WAS DOWN

1 AT THE POLICE STATION.

2 Q. AND WHAT, IF ANYTHING, DID -- DO YOU RECALL THE NAME OF
3 THE INVESTIGATOR THAT ACTUALLY SHOWED YOU THIS PARTICULAR
4 LINE-UP?

5 A. I CAN'T REMEMBER HIS NAME.

6 Q. CAN YOU DESCRIBE WHAT HE LOOKS LIKE?

7 A. HE'S ABOUT 5'10", 5'11", WHITE GUY. HE WAS THE LEAD
8 INVESTIGATOR.

9 Q. OKAY. WHAT, IF ANYTHING, DID HE SAY TO YOU PRIOR TO
10 SHOWING YOU THAT LINE-UP?

11 A. HE WAS TELLING ME HE WAS GOING TO SHOW ME SOME LINE-UPS
12 AND TOLD ME TO PICK OUT WHO I KNEW WAS THERE AND WHO DID
13 WHAT.

14 Q. AND DID HE EVER SUGGEST TO YOU WHO YOU SHOULD PICK?

15 A. NO, SIR.

16 Q. AND WERE YOU, IN FACT, ABLE TO SELECT SOMEONE?

17 A. YES, SIR.

18 Q. AND HOW DID YOU SELECT THAT PARTICULAR PERSON?

19 A. BY LOOKING AT HIM AND SEEING HIS FACE THAT NIGHT.

20 Q. AND HOW DID YOU SIGNIFY THAT YOU IDENTIFIED THIS
21 PARTICULAR PERSON?

22 A. I GAVE MY INITIALS TO THE PICTURE.

23 Q. AND WHAT INITIALS DID YOU GIVE THE PICTURE TO?

24 A. JACQUES GIBBES (SIC).

25 Q. AND AS A RESULT OF THAT, WHAT DID YOU DO ALSO IN TERMS

1 OF THAT PARTICULAR FIRST ONE? WERE YOU ABLE TO GIVE YOUR --
2 SIGN YOUR NAME OR ANYTHING LIKE THAT?

3 A. YES, SIR. I ACTUALLY SIGNED MY NAME, MY ADDRESS, AND
4 EVERYTHING THEY NEEDED TO THE FORM TO LET THEM KNOW THAT I
5 DID IDENTIFY THAT PERSON.

6 Q. AND HOW LONG DID IT TAKE YOU TO IDENTIFY THIS PERSON?

7 A. IT DIDN'T TAKE ME LONG.

8 Q. AND WHAT DID YOU INDICATE THIS PARTICULAR PERSON'S ROLE
9 WAS AT THAT NIGHT?

10 A. HE WAS FIGHTING.

11 Q. AND THIS PARTICULAR PERSON THAT YOU IDENTIFIED AS
12 JACQUES GIBSON, JUST USING ME ONCE AGAIN AS A GAUGE, HOW
13 CLOSE WOULD YOU SAY THAT YOU WERE TO THIS PARTICULAR
14 INDIVIDUAL?

15 A. IF YOU'LL STOP RIGHT THERE.

16 Q. RIGHT IN THIS GENERAL AREA?

17 A. FROM WHERE I WAS STANDING.

18 Q. AND HOW CLOSE WAS HE TO THE PERSON THAT ACTUALLY HAD THE
19 WEAPON OR FIRED THE WEAPON?

20 A. THEY HAD TO MAYBE BE ABOUT DIAGONAL FROM EACH OTHER
21 BECAUSE WHERE THE ESCORT STOPPED, YOU KNOW, HE WASN'T THAT
22 FAR FROM THAT ESCORT THAT THE YOUNG LADY GOT OUT OF.

23 Q. OKAY. AND WHAT WAS THE ACTUAL DATE THAT YOU ACTUALLY
24 SAW THIS LINE-UP?

25 A. OH.

1 Q. IS IT INDICATED ON THE FORM?

2 A. IT WAS ON THE 6TH. IT WAS ON THE 6TH.

3 Q. THIS WOULD BE -- WHAT MONTH AND WHAT YEAR?

4 A. SEPTEMBER.

5 Q. OF '05?

6 A. YES, SIR.

7 Q. DO YOU HAVE ANY DOUBT IN YOUR MIND THAT THAT PERSON WAS
8 OUT THERE AT THE SCENE THAT NIGHT?

9 A. THERE'S NO DOUBT AT ALL.

10 Q. AND YOUR IDENTIFICATION OF HIM, WHAT IS IT BASED UPON?

11 A. ME SEEING HIM.

12 Q. SEEING HIM WHEN?

13 A. THE NIGHT OF THE CRIME.

14 Q. LET ME SHOW YOU -- IF YOU CAN JUST TAKE A LOOK AT
15 STATE'S EXHIBIT NUMBER 34 AND 33. IS THERE A DIFFERENCE
16 BETWEEN THOSE PARTICULAR LINE-UPS, THOSE LINE-UPS? WHAT
17 DIFFERENCE CAN YOU OBSERVE IN TERMS OF THOSE LINE-UPS?

18 A. THE PHOTOGRAPH -- THE LINE-UP IN 34 -- THE PICTURES ARE
19 A LOT LARGER AND CLOSER TO GIVE A MORE DEFINED LOOK AT THEIR
20 FACE IN 34 VERSUS 33.

21 Q. OKAY.

22 A. LOOKS LIKE THE PICTURES ARE CROPPED IN 33.

23 Q. OKAY. AND DO YOU SEE THE INDIVIDUAL THAT YOU IDENTIFIED
24 AS JACQUES GIBSON IN THIS COURTROOM TODAY?

25 A. YES, SIR.

1 Q. AND WHERE IS HE POINTED -- WHERE IS HE SEATED?

2 A. OVER THERE.

3 Q. WOULD YOU DESCRIBE TO YOUR HONOR WHAT HE'S WEARING?

4 A. SIR?

5 Q. WOULD YOU DESCRIBE WHAT HE'S WEARING?

6 A. IN HERE NOW OR THEN?

7 Q. NOW.

8 A. A SUIT.

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
10 NUMBER 35. ARE YOU OKAY?

11 A. UH-HUH.

12 Q. AND ASK YOU: DO YOU RECOGNIZE THAT PARTICULAR ITEM?

13 A. YES, SIR.

14 Q. WHAT DO YOU RECOGNIZE IT TO BE?

15 A. THE SECOND LINE-UP THAT HE SHOWED ME WHEN I WAS DOWN AT
16 THE POLICE STATION.

17 Q. AND WHAT, IF ANYTHING, DID HE SAY TO YOU PRIOR TO
18 SHOWING YOU THAT LINE-UP?

19 A. HE DIDN'T SAY ANYTHING. HE JUST ASKED ME TO IDENTIFY
20 WHO I SAW THAT NIGHT.

21 Q. AND WERE YOU, IN FACT, ABLE TO IDENTIFY SOMEONE?

22 A. YES, SIR.

23 Q. AND HOW DID YOU INDICATE ON THAT FORM THAT YOU
24 IDENTIFIED A PERSON?

25 A. JUST REMEMBERING WHAT HAPPENED THAT NIGHT AND WHAT I

1 SAW.

2 Q. SO YOUR IDENTIFICATION IS BASED UPON WHAT YOU SAW THAT
3 NIGHT?

4 A. YES, SIR.

5 Q. WHAT -- DID YOU DO ANYTHING ON THE FORM TO SHOW THAT YOU
6 PICKED AN INDIVIDUAL PERSON?

7 A. I INITIALED THE SAME WAY I DID ON THE FIRST LINE-UP.

8 Q. AND WHAT NUMBER DID YOU IDENTIFY?

9 A. I IDENTIFIED NUMBER FIVE.

10 Q. AND HOW LONG DID IT TAKE YOU TO IDENTIFY THIS PARTICULAR
11 PERSON?

12 A. NOT LONG.

13 Q. WHEN YOU SAY NOT LONG, ARE YOU TALKING MINUTES?
14 SECONDS? HOW LONG?

15 A. SECONDS. IT WAS QUICK.

16 Q. AND IS YOUR SIGNATURE AFFIXED TO THAT PARTICULAR
17 LINE-UP?

18 A. YES, SIR.

19 Q. AND WHAT DO YOU INDICATE THAT THAT PARTICULAR PERSON'S
20 ROLE WAS IN THIS INCIDENT?

21 A. HE WAS FIGHTING AT FIRST, AND HE'S THE ONE THAT PULLED
22 THE WEAPON OUT THAT I SAW SHOOT THE FIRST SHOT -- SET OF
23 SHOTS.

24 Q. THAT'S THE PERSON THAT YOU SAW SHOOT THE FIRST SHOTS?

25 A. YES, SIR.

1 Q. AND HOW LONG WOULD YOU ESTIMATE -- HOW MANY TIMES DID
2 YOU SEE THIS PARTICULAR PERSON THAT NIGHT?

3 A. I GUESS YOU WOULD COUNT IT THREE TIMES: ONE TIME INSIDE
4 OF THE CLUB WITH -- DURING THE CONVERSATION OR HAVING AN
5 ARGUMENT BETWEEN HIM AND THE OPPOSITE PEOPLE, THE TIME I SAW
6 HIM FIGHTING BESIDE HIS BROTHER, AND THEN THE THIRD TIME WITH
7 HIM GOING TO THE CAR AND PULLING THE GUN OUT.

8 Q. AND WHAT ABOUT THE PERSON YOU IDENTIFIED AS JACQUES
9 GIBSON? HOW -- WHEN DO YOU RECALL FIRST SEEING HIM?

10 A. I SAW HIM ON THE OPPOSITE SIDE. HE WAS ALWAYS KIND OF
11 CLOSE TO HIS BROTHER, BUT HE WASN'T DOING MUCH TALKING AND I
12 SAW HIM A SECOND TIME FIGHTING OUTSIDE.

13 Q. WELL, LET ME ASK YOU A QUESTION. DO YOU SEE THE PERSON
14 IN HERE THAT YOU INDICATED FIRED THAT WEAPON THAT NIGHT?

15 A. YES, SIR.

16 Q. AND WHERE DO YOU SEE THAT PERSON AT?

17 A. RIGHT THERE.

18 Q. AND WHAT IS HE WEARING?

19 A. A BLUE-COLLARED SHIRT.

20 MR. LAKE: YOUR HONOR, LET THE RECORD REFLECT THAT MS.
21 WILSON HAS I.D.'D BOTH MR. JACQUES GIBSON AND ADAMS KARTEZ
22 GIBSON.

23 MR. JOHNSON: OBJECTION, YOUR HONOR.

24 THE COURT: AND WHAT MIGHT THAT BE?

25 MR. JOHNSON: THAT SHE'S I.D.'D BOTH PERSONS.

1 MR. LAKE: SHE I.D.'D HIM EARLIER.

2 MR. JOHNSON: YOUR HONOR...

3 THE COURT: ALL RIGHT. I'LL -- I -- HONESTLY I DON'T
4 UNDERSTAND WHAT YOUR OBJECTION IS. YOU'RE OBJECTING TO THE
5 SOLICITOR MAKING A STATEMENT OR WHAT IS IT THAT YOU'RE
6 OBJECTING TO?

7 MR. JOHNSON: THAT SHE IDENTIFIED MY CLIENT. YOUR
8 HONOR, I CAN APPROACH THE BENCH. I DON'T WANT TO SUGGEST TO
9 HER MY REASON SO THAT SHE CAN CORRECT IT.

10 THE COURT: SOLICITOR, WHY DON'T YOU ASK YOUR CLIENT OR
11 ASK YOUR WITNESS SOME MORE QUESTIONS? WHY DON'T YOU DO THAT,
12 AS TO IDENTIFICATION HERE IN THE COURTROOM?

13 MR. LAKE: THANK YOU, YOUR HONOR. IS -- BEG THE COURT'S
14 INDULGENCE.

15 THE COURT: YES, SIR.

16 BY MR. LAKE:

17 Q. THE PERSON THAT YOU SAW IN THAT FIRST LINE-UP THAT I
18 SHOWED YOU WHICH WOULD BE - I'M SORRY - WOULD BE MARKED --
19 YES. I'M SORRY. STATE'S EXHIBIT NUMBER 34. DO YOU
20 RECOGNIZE THAT PERSON?

21 A. YES, SIR.

22 Q. HOW DO YOU RECOGNIZE THAT PERSON?

23 A. FROM THE INCIDENT THAT NIGHT.

24 Q. OKAY. AND DO YOU SEE THAT PERSON IN THE COURTROOM?

25 A. YES, SIR.

1 Q. AND WHERE DO YOU SEE HIM AT?

2 A. I SEE HIM SITTING RIGHT NEXT TO HIM. THAT'S JACQUES
3 GIBBES (SIC).

4 Q. OKAY. AND STATE'S EXHIBIT NUMBER 35, TAKE A LOOK AT
5 THAT PARTICULAR EXHIBIT. DO YOU RECOGNIZE THAT INDIVIDUAL?

6 A. YES, SIR.

7 Q. AND HOW DO YOU RECOGNIZE THAT INDIVIDUAL?

8 A. FROM THE INCIDENT THAT NIGHT.

9 Q. AND DO YOU SEE THAT PERSON IN THE COURTROOM?

10 A. YES, SIR.

11 Q. WHERE IS HE AT?

12 A. RIGHT THERE. IT'S ADAMS GIBBES (SIC).

13 Q. OKAY. YOUR IDENTIFICATION OF BOTH OF THESE INDIVIDUALS,
14 WHAT IS IT BASED UPON?

15 A. THAT INCIDENT THAT NIGHT.

16 Q. DID ANYONE EVER SUGGEST TO YOU WHO YOU SHOULD SELECT IN
17 TERMS OF THESE PHOTO LINE-UPS?

18 A. NO, SIR.

19 THE COURT: IS THERE ANYTHING ELSE, SOLICITOR?

20 MR. LAKE: NOTHING ELSE, YOUR HONOR.

21 THE COURT: IS THERE ANY FURTHER OBJECTION, MR. JOHNSON?

22 MR. JOHNSON: YES, SIR, YOUR HONOR.

23 THE COURT: ALL RIGHT. I TELL YOU I HAVE -- I DON'T

24 UNDERSTAND WHAT YOUR OBJECTION IS, THAT THE FACT THAT -- THAT

25 YOU DO NOT BELIEVE THAT SHE HAS IDENTIFIED YOUR CLIENT AS A

1 PARTICIPANT IN THE FIGHT THAT NIGHT?

2 MR. JOHNSON: HER IN-COURT IDENTIFICATION, YOUR HONOR.

3 YOUR HONOR, LET ME TELL YOU THE REASON WHY.

4 THE COURT: ALL RIGHT, SIR.

5 MR. JOHNSON: HE ASKED HER: CAN YOU IDENTIFY HIM? SHE
6 SAYS, "THE GUY IN THE SUIT."

7 THE COURT: WELL, THEN, SECONDLY, THEN SHE POINTED
8 DIRECTLY AT YOUR CLIENT SITTING NEXT TO YOU.

9 MR. JOHNSON: SHE---

10 THE COURT: ALL RIGHT. FINE.

11 MR. JOHNSON: THAT'S THE OTHER THING.

12 THE COURT: SOLICITOR, ASK HER MORE QUESTIONS. THANK
13 YOU VERY MUCH, MR. JOHNSON.

14 MR. JOHNSON: YOUR HONOR, AND MY SECOND OBJECTION WOULD
15 BE SHE SAID, "RIGHT NEXT TO HIM." NEXT TO HIM WHO?

16 THE COURT: SOLICITOR, CLEAR IT UP, PLEASE.

17 MR. LAKE: THANK YOU.

18 THE COURT: IT'S OBVIOUS TO THE COURT, BUT I WANT THE
19 RECORD TO BE ABSOLUTELY CRYSTAL CLEAR.

20 BY MR. LAKE:

21 Q. MS. WILSON, COULD YOU DESCRIBE WHAT THE PERSON THAT YOU
22 IDENTIFIED AS JACQUES GIBSON -- WHAT IS HE WEARING?

23 A. HE'S WEARING A BLACK SUIT WITH YELLOW SQUARES, BLUE
24 SQUARES. HE'S LIGHTER-COMPLEXIONED.

25 Q. AND WHERE IS HE SEATED?

1 A. TO THE RIGHT OF ME.

2 Q. AND AT WHAT PART OF THE TABLE IS HE SEATED?

3 A. ON THE RIGHT SIDE OF THE TABLE WITH HIS LAWYER.

4 Q. AND WHAT DOES HIS LAWYER -- WHAT DOES HIS LAWYER LOOK
5 LIKE?

6 A. HE'S LIGHT-SKINNED, BLUE SUIT, GLASSES.

7 Q. HE DOESN'T---

8 MR. JOHNSON: OBJECTION, YOUR HONOR. SHE SAID -- SHE
9 DIDN'T SAY HANDSOME.

10 MR. LAKE: YOUR HONOR, I THINK THAT WOULD BE SUFFICIENT.

11 THE COURT: ANY FURTHER OBJECTIONS, MR. JOHNSON?

12 MR. JOHNSON: NONE NOW, YOUR HONOR.

13 THE COURT: THANK YOU VERY MUCH. ALL RIGHT.

14 CROSS-EXAMINATION, MR. ROBERSON.

15 MR. ROBERSON: JUST A COUPLE OF QUESTIONS, IF YOUR HONOR
16 PLEASE?

17 THE COURT: YES, SIR.

18 CROSS-EXAMINATION

19 BY MR. ROBERSON:

20 Q. APPROXIMATELY WHAT TIME DID YOU ARRIVE AT THE CLUB ON
21 THIS PARTICULAR NIGHT?

22 A. I DON'T RECALL THE TIME I GOT THERE.

23 Q. TAKE A GUESS.

24 A. LET'S SEE. I'D JUST DROPPED MY DAUGHTER OFF AT ABOUT
25 9:30, SO PROBABLY ABOUT 10, 10:30.

1 Q. 10, 10:30. WAS JACQUES GIBSON AT THE CLUB WHEN YOU GOT
2 THERE?

3 A. I DON'T RECALL THAT.

4 Q. WAS ADAMS GIBSON AT THE CLUB WHEN YOU GOT THERE?

5 A. I DON'T RECALL THAT EITHER.

6 Q. APPROXIMATELY WHAT TIME OF NIGHT WAS IT WHEN YOU FIRST
7 SAW ADAMS GIBSON?

8 A. I'M NOT SURE. I WASN'T LOOKING THAT FAR.

9 Q. TAKE A GUESS.

10 A. I'M NOT SURE.

11 Q. TAKE A GUESS.

12 A. I CAN'T TAKE A GUESS OF SOMETHING THAT I DON'T KNOW
13 ABOUT.

14 Q. APPROXIMATELY HOW LONG HAD YOU BEEN AT THE CLUB WHEN YOU
15 FIRST SAW ADAMS GIBSON THEN?

16 A. MAYBE 30, 45 MINUTES.

17 Q. AND YOU THINK YOU ARRIVED THERE ABOUT 9, 9:30.

18 A. NO, BECAUSE THAT WOULD BE THE TIME I DROPPED MY DAUGHTER
19 OFF.

20 Q. OKAY. SO, AGAIN, WHAT TIME DO YOU THINK YOU GOT TO THE
21 CLUB?

22 A. PROBABLY ABOUT 10:30.

23 Q. 10:30. SO YOU SAW HIM ABOUT 30 MINUTES LATER, ABOUT
24 11:00.

25 A. OKAY.

1 Q. OKAY. DID HE COME IN BY HIMSELF? WHAT DREW YOUR
2 ATTENTION TO HIM?

3 A. SIR?

4 Q. WHAT DREW YOUR ATTENTION TO MR. ADAMS GIBSON?

5 A. TO THE BICKERING IN THE BACK OF THE CLUB OR THE FRONT OF
6 THE CLUB FROM WHERE I WAS SITTING AT.

7 Q. APPROXIMATELY HOW FAR WERE YOU FROM THE BICKERING THAT
8 WAS TAKING PLACE?

9 A. I WAS STANDING RIGHT HERE.

10 Q. UH-HUH.

11 A. AND MAYBE HE MOVED---

12 Q. TELL ME WHEN TO STOP.

13 A. STOP RIGHT THERE.

14 Q. SO ARE YOU SEATED AT A BAR OR ARE YOU SEATED AT A TABLE?

15 A. I'M SEATED AT A TABLE.

16 Q. WAS ADAMS IN A GROUP WHERE THE BICKERING WAS TAKING
17 PLACE OR WAS HE LEADING THE GROUP OR WAS HE JUST ONE OF THE
18 PARTICIPANTS?

19 A. HE WAS IN A GROUP AND HE WAS THE ONE DOING THE MAIN
20 ARGUING.

21 Q. OKAY. COULD YOU TELL WHO HE WAS ARGUING WITH?

22 A. NO, BECAUSE WHO HE WAS ARGUING WITH, THEIR HEAD WAS TO
23 ME.

24 Q. BEG YOUR PARDON?

25 A. I SAID WHO HE WAS ARGUING WITH, HIS -- HIS HEAD -- THEIR

1 HEADS WERE TOWARDS ME. I COULD SEE HIM. I COULD SEE HIS
2 BROTHER ON THE OPPOSITE SIDE OF HIM BECAUSE I COULD TURN AND
3 LOOK AT THEM.

4 Q. OKAY. WHEN YOU TURNED AND LOOKED, YOU SAW ADAMS AND
5 SHA-SHA (PHONETIC) ARGUING WITH A GROUP OF BOYS.

6 A. I DON'T KNOW THAT NAME.

7 Q. YOU SAW THE FELLOW IN THE BLACK SUIT.

8 A. JACQUES.

9 Q. JACQUES AND ADAMS GIBSON IN THE BLUE SHIRT STANDING
10 THERE ARGUING WITH THE GROUP INSIDE THE CLUB.

11 A. JUST I SAW ADAMS ARGUING. I DIDN'T SEE JACQUES ARGUING.
12 HE WASN'T DOING TOO MUCH TALKING OR ANYTHING.

13 Q. BUT YOU'RE SAYING HE WAS INSIDE THE CLUB AMONG THE GROUP
14 THAT WAS ARGUING.

15 A. YES, SIR.

16 Q. OKAY. HAD YOU EVER SEEN EITHER ONE OF THOSE GENTLEMEN
17 BEFORE?

18 A. NO, SIR.

19 Q. HOW WAS ADAMS DRESSED ON THAT NIGHT?

20 A. HE HAD ON A BLACK TEE SHIRT WITH SOME BLUE JEANS.

21 Q. WERE THEY BLUE JEAN SHORTS OR REGULAR---

22 A. BLUE JEAN SHORTS.

23 Q. ---LONG PANTS? COULD YOU TELL ME WHAT KIND OF SHOES HE
24 WAS WEARING?

25 A. NO, SIR.

1 Q. DID HE HAVE ON A HAT OR ANYTHING?

2 A. NO, SIR.

3 Q. SUNGLASSES?

4 A. NO, SIR.

5 Q. ANY -- ANY -- ANY FEATURES THAT SET HIM APART FROM THE
6 OTHER PEOPLE OTHER THAN THE WAY HE WAS DRESSED?

7 A. WELL, HE WAS A VERY HANDSOME GUY; THAT SET HIM APART.

8 Q. WERE THE OTHER GUYS UGLY?

9 A. KIND OF SORT OF, YEAH.

10 Q. THAT WAS UGLY?

11 A. NO.

12 Q. OH, OKAY. I BELIEVE YOU SAID WHEN YOU HEARD THE FIRST
13 SERIES OF SHOTS YOU WERE STILL INSIDE THE CLUB. IS THAT
14 CORRECT?

15 A. I WAS KIND OF WITHIN THE -- LIKE THE DOUBLE DOORS.

16 Q. UH-HUH.

17 A. AND THOSE DOORS DIDN'T KIND OF SHUT ALL THE WAY.

18 Q. OKAY. LIKE IN A FOYER AREA.

19 A. YES, SIR.

20 Q. OKAY. DID YOU NOTICE WHAT KIND OF CAR IT WAS THAT
21 KARTEZ LEFT THE PARKING LOT IN THAT NIGHT?

22 A. A FORD ESCORT.

23 Q. FORD ESCORT.

24 A. YES, SIR.

25 Q. WHAT COLOR?

1 A. IT WAS WHITE.

2 Q. WHO WAS DRIVING?

3 A. A GIRL WAS. WELL, I DON'T THINK IT WAS A GIRL THAT
4 DROVE THE CAR, BUT IT WAS A GIRL THAT DROVE UP IN THE CAR AND
5 GOT OUT. WHO DROVE AWAY IN THE CAR, I DON'T KNOW.

6 Q. OKAY. BUT HE GOT INTO THE CAR WHERE THE GIRL DROVE UP
7 AND GOT OUT.

8 A. YES, SIR.

9 Q. AND YOU'RE SURE IT WAS A WHITE FORD ESCORT.

10 A. YES, SIR. I'M POSITIVE.

11 Q. WOULD YOU RECOGNIZE THAT GIRL TODAY IF YOU SAW HER?

12 A. YES, SIR.

13 MR. ROBERSON: OKAY. THANK YOU.

14 THE COURT: ALL RIGHT. MR. JOHNSON?

15 CROSS-EXAMINATION

16 BY MR. JOHNSON:

17 Q. MS. WILSON, YOUR TESTIMONY IS THAT JACQUES WAS INSIDE
18 CHANCE'S ARGUING WITH SOME OTHER PEOPLE?

19 A. JACQUES WASN'T ARGUING.

20 Q. OKAY. YOUR TESTIMONY IS THAT OUTSIDE OF CHANCE'S
21 JACQUES WAS INVOLVED IN A FIGHT?

22 A. YES, SIR.

23 Q. AND WHO WAS HE FIGHTING WITH?

24 A. HIS OPPONENT WAS A LOT SMALLER THAN HE WAS.

25 Q. OKAY. AND WHAT DID YOU SEE JACQUES DO?

1 A. HE HIT THE GUY. THE GUY HIT THE FLOOR, AND THE GUY WAS
2 JUST THERE. HE WAS OVER HIM. I MEAN, HE WASN'T LITERALLY
3 POUNDING ON THE OTHER GUY OR HIS OPPOSITE OPPONENT. HE JUST
4 HIT THE GUY. THE GUY HIT THE FLOOR, AND HE WAS JUST STANDING
5 OVER HIM.

6 Q. MS. WILSON, YOU SAID YOU HEARD TWO SETS OF SHOTS. IS
7 THAT CORRECT?

8 A. YES, SIR.

9 Q. THE FIRST TIME YOU HEARD SHOTS, YOU WERE INSIDE THE
10 CLUB?

11 A. NO, SIR, I WAS IN THE FOYER AREA.

12 Q. IN THE FOYER AREA. IS THAT INSIDE THE CLUB?

13 A. IT'S LIKE STEPPING INSIDE THE CLUB, BUT IT'S NOT INSIDE
14 THE CLUB.

15 Q. ARE THERE -- WERE THERE DOORS IN BETWEEN YOU AND THE
16 PARKING LOT?

17 A. YES, SIR, IT IS, BUT THOSE DOORS ARE NOT COMPLETELY
18 CLOSED.

19 Q. THE DOORS WERE NOT COMPLETELY CLOSED?

20 A. NO, SIR.

21 Q. YOU COULD SEE OUTSIDE?

22 A. YES, SIR, I CAN.

23 Q. WHEN YOU HEARD THOSE SHOTS, DID YOU SEE JACQUES GIBSON?
24 AS YOU HEARD THE SHOTS, DID YOU SEE JACQUES GIBSON?

25 A. NO.

- 1 Q. DO YOU KNOW WHO FIRED THOSE SHOTS?
- 2 A. ADAMS GIBSON.
- 3 Q. ADAMS GIBSON FIRED THOSE SHOTS.
- 4 A. YES, SIR.
- 5 Q. ALL RIGHT. THEN SUBSEQUENTLY YOU SAID YOU HEARD ANOTHER
- 6 SET OF SHOTS.
- 7 A. THAT WAS FURTHER AWAY.
- 8 Q. FURTHER AWAY. DO YOU KNOW WHO FIRED THOSE SHOTS?
- 9 A. NO, SIR.
- 10 Q. AND INITIALLY YOU WERE INTERVIEWED THE NIGHT OF THE
- 11 INCIDENT. ISN'T THAT TRUE?
- 12 A. YES, SIR.
- 13 Q. AND DID YOU GIVE A WRITTEN STATEMENT THAT -- THAT NIGHT?
- 14 A. NO, SIR, I DIDN'T.
- 15 Q. DID YOU SUBSEQUENTLY GIVE THE POLICE A WRITTEN
- 16 STATEMENT?
- 17 A. I DIDN'T GIVE ANY WRITTEN STATEMENTS.
- 18 Q. YOU NEVER GAVE ANY WRITTEN STATEMENT.
- 19 A. THE STATEMENTS THAT WERE GIVEN WERE VERBAL, AND THE
- 20 INVESTIGATOR WROTE DOWN WHAT I SAID.
- 21 Q. OH. OH. THEY WERE VERBAL. HE WROTE IT DOWN. DID YOU
- 22 SIGN IT?
- 23 A. YES, SIR.
- 24 Q. DID YOU TELL THE TRUTH IN THAT STATEMENT?
- 25 A. YES, SIR, I DID.

1 Q. DID YOU EVER CHANGE YOUR STORY?

2 A. NO, SIR.

3 Q. WHAT IS THIS ABOUT INITIALLY YOU DIDN'T WANT TO
4 COOPERATE AND THEN LATER ON YOU DECIDED TO COOPERATE? HOW --
5 WHAT DID YOU DO FIRST WHEN YOU WERE NOT COOPERATING?

6 A. WHAT DO YOU MEAN WHAT DID I DO FIRST?

7 Q. I MEAN, HOW DID YOU COMMUNICATE? DID SOMEBODY TRY TO
8 QUESTION YOU OR YOU DIDN'T TELL EVERYBODY EVERYTHING OR WHAT
9 DID YOU TELL?

10 A. IT'S JUST -- IT'S JUST -- IT'S VERY GRAPHIC TO SEE A BOY
11 LYING ON THE GROUND DYING AND SAYING I JUST DIDN'T WANT TO --
12 I DIDN'T WANT TO DEAL WITH IT. IT WAS---

13 Q. I'M NOT -- I'M NOT ASKING YOU ABOUT THAT. WHEN THE
14 POLICE CAME TO THE INTERVIEW, YOU TOLD THEM EVERYTHING YOU
15 KNEW.

16 A. THAT NIGHT, YES.

17 Q. OKAY. SUBSEQUENT TO THAT, DID---

18 A. AFTER THAT?

19 Q. YEAH.

20 A. NO, I DIDN'T.

21 Q. YOU DIDN'T TELL THEM?

22 A. I DIDN'T KNOW---

23 Q. BEG YOUR PARDON?

24 A. I'M NOT UNDERSTANDING WHAT YOU'RE ASKING ME.

25 Q. I'M ASKING YOU: AFTER THAT, YOU SAID YOU DIDN'T WANT TO

1 -- YOU DIDN'T WANT TO COOPERATE OR YOU DIDN'T WANT TO TELL
2 THEM EVERYTHING?

3 A. NO.

4 Q. OKAY. AND THAT WAS THE NEXT DAY?

5 A. YES, SIR.

6 Q. OKAY. AND WHAT HAPPENED THE NEXT DAY? DID THE POLICE
7 COME SEE YOU?

8 A. YES, SIR, HE DID.

9 Q. WHO CAME TO SEE YOU?

10 A. MR. MCDANIELS DID.

11 Q. ALL RIGHT. AND WHAT DID HE ASK YOU?

12 A. HE WANTED TO SHOW ME -- HE CAME TO PICK UP THE CASING
13 FROM OUT OF MY TIRE THAT I PULLED FROM WAL-MART SO I COULD
14 GIVE IT TO HIM FOR EVIDENCE, AND THEN HE WANTED ME TO LOOK AT
15 A LINE-UP OF THE GUYS FROM THAT NIGHT OR FROM WHATEVER LINE-
16 UP HE HAD.

17 Q. AND DID YOU LOOK AT IT?

18 A. NOT REALLY. I GLANCED AT IT.

19 Q. AND WHEN YOU GLANCED AT IT, DID YOU -- DID YOU PICK OUT
20 ANYBODY?

21 A. NO.

22 Q. DO YOU RECALL -- WOULD YOU RECOGNIZE WHAT HE SHOWED YOU
23 THAT DAY?

24 A. YES. YOU MEAN THE LINE-UP THAT HE SHOWED ME?

25 Q. YES.

1 A. UH-HUH.

2 Q. DO YOU HAVE IT BEFORE YOU?

3 A. (THE WITNESS HANDS A DOCUMENT TO MR. JOHNSON.)

4 Q. SO STATE'S EXHIBIT NUMBER 33, THAT'S WHAT HE SHOWED YOU
5 AND YOU DIDN'T PICK ANYBODY OUT?

6 A. RIGHT.

7 Q. AND THAT WAS -- IT'S UNDATED AND YOUR SIGNATURE IS NOT
8 ON THERE.

9 A. WELL, I CAME IN THE NEXT DAY, SO THAT WOULD BE THE 5TH
10 WHEN HE SHOWED ME THAT.

11 Q. HE SHOWED YOU THIS ON THE 5TH.

12 A. YES, SIR.

13 Q. AND YOU CAME IN THE NEXT DAY; IS THAT CORRECT?

14 A. YES, SIR.

15 Q. WHAT HAPPENED BETWEEN SEPTEMBER 5TH AND SEPTEMBER 6TH
16 THAT CHANGED YOUR MIND?

17 A. I HAD TALKED TO THE VICTIM'S MOTHER.

18 Q. HOW DID YOU TALK TO HER?

19 A. OVER THE PHONE.

20 Q. DID SHE CALL YOU OR DID YOU CALL HER?

21 A. SHE CALLED ME.

22 Q. SHE CALLED YOU?

23 A. UH-HUH. SHE WANTED TO PAY HER RESPECTS TO ME FOR TRYING
24 TO HELP HER SON.

25 Q. DID Y'ALL DISCUSS THE INCIDENT?

1 A. NO, SIR. SHE JUST ASKED ME WHAT HE SAID TO HER OR WHAT
2 HE SAID TO ME.

3 Q. YOU DIDN'T TALK ABOUT HOW IT HAPPENED?

4 A. NO, SIR, WE DIDN'T.

5 Q. WERE ANY NAMES MENTIONED?

6 A. NO, SIR.

7 Q. DID YOU TELL HER WHAT YOU'RE TELLING US TODAY?

8 A. NO, SIR. NO, MA'AM -- I MEAN, SORRY, NO, SIR.

9 Q. AND AFTER THAT CONVERSATION WITH YOU, DID YOU CALL
10 SERGEANT -- THE SERGEANT MCDANIELS OR DID HE CALL YOU?

11 A. HE HAD CALLED ME.

12 Q. HE CALLED YOU AGAIN?

13 A. THAT MIGHT HAVE BEEN LATER WHEN I HAD CALLED AND LEFT A
14 MESSAGE FOR HIM. HE CALLED ME BACK.

15 Q. YOU CALLED AND LEFT A MESSAGE FOR HIM.

16 A. YES, SIR.

17 Q. AND AT -- AND ON THE SECOND OCCASION DID HE SHOW YOU THE
18 SAME PICTURES THAT HE HAD SHOWN YOU ORIGINALLY WHEN YOU DID
19 NOT IDENTIFY JACQUES?

20 A. NO, SIR.

21 Q. HE SHOWED YOU ANOTHER SET OF PICTURES?

22 A. YES, SIR. THAT'S THE ONE WHERE I ACTUALLY -- THIS IS
23 THE ONE HE SHOWED ME.

24 Q. TELL JUDGE JOHNS (SIC) IN STATE'S EXHIBIT NUMBER --
25 NUMBER 33 AND IN STATE'S EXHIBIT NUMBER -- NUMBER 34 -- IN

1 STATE'S EXHIBIT NUMBER 33, DOES THE PERSON SHOWN AS NUMBER
2 ONE MATCH THE PERSON SHOWN IN NUMBER ONE IN 34 OR IS IT THE
3 SAME PERSON?

4 A. YOU MEAN -- I DON'T UNDERSTAND. ARE YOU TALKING ABOUT
5 THIS PERSON LOOKS LIKE THIS PERSON?

6 Q. THAT'S CORRECT.

7 A. NO.

8 Q. ALL RIGHT. NUMBER TWO -- DOES NUMBER TWO ON STATE'S
9 EXHIBIT NUMBER 33 MATCH THE PERSON IN STATE'S EXHIBIT NUMBER
10 34?

11 A. NO.

12 Q. HOW ABOUT NUMBER THREE?

13 A. YES.

14 Q. NOW, NUMBER THREE ON STATE'S EXHIBIT NUMBER 33 -- MATCH
15 NUMBER THREE ON THIS ONE?

16 A. NO.

17 Q. NO. THEY'RE DIFFERENT, AREN'T THEY? AND THE SAME THING
18 FOR NUMBER FOUR; ISN'T THAT RIGHT?

19 A. YES.

20 Q. AND NUMBER FIVE ALSO; ISN'T THAT CORRECT?

21 A. YES.

22 Q. AND NUMBER SIX ALSO; ISN'T THAT CORRECT?

23 A. YES.

24 Q. AND SO THE ONLY COMMON THING BETWEEN STATE'S EXHIBIT
25 NUMBER 33 AND NUMBER 34 IS A PHOTOGRAPH OF JACQUES GIBSON.

1 ISN'T THAT TRUE? HE'S IN BOTH -- BOTH OF THEM. ISN'T THAT
2 TRUE?

3 A. YEAH.

4 MR. JOHNSON: OKAY. NO FURTHER QUESTIONS. YOUR HONOR,
5 MAY I APPROACH THE BENCH TO SHOW---

6 THE COURT: YES, SIR.

7 MR. JOHNSON: ---THIS TO THE COURT?

8 THE COURT: BE GLAD FOR YOU TO DO SO. THANK YOU, SIR.
9 ALL RIGHT. ALL RIGHT. MR. ROBERSON, ANY ARGUMENTS ON THE
10 NEIL VERSUS BIGGERS ISSUE? YOU MAY STEP DOWN, MA'AM.

11 MR. ROBERSON: NONE AS TO SUGGESTIBILITY, YOUR HONOR.

12 THE COURT: ALL RIGHT, SIR. MR. JOHNSON, ANY ARGUMENTS
13 ON THE NEIL VERSUS BIGGERS ISSUE? YOU CAN STEP DOWN, MA'AM.

14 MR. JOHNSON: YES, SIR, YOUR HONOR.

15 THE COURT: ALL RIGHT, SIR. BE GLAD TO HEAR FROM YOU.

16 MR. JOHNSON: YOUR HONOR, THAT'S BLATANT SUGGESTIBILITY.
17 SHE WAS SHOWN TWO SETS OF SIX PHOTOGRAPHS. THE FIRST ONE SHE
18 DID NOT IDENTIFY MY CLIENT. THE SECOND ONE SHE DID IDENTIFY
19 MY CLIENT. THE ONLY COMMONALITY BETWEEN STATE'S EXHIBIT 33
20 AND 34 IS A PHOTOGRAPH OF MY CLIENT. NUMBER ONE, YOUR HONOR,
21 LOOK AT STATE'S EXHIBIT NUMBER 34. WHOSE PICTURE IS FIRST?
22 JACQUES GIBSON. NOT TRUE IN STATE'S EXHIBIT NUMBER 33.

23 THEN EVERYBODY IN STATE'S EXHIBIT NUMBER 33, OTHER THAN
24 JACQUES GIBSON, IS DIFFERENT IN STATE'S EXHIBIT FOR
25 IDENTIFICATION 34. THAT IS HIGHLY SUGGESTIVE THAT THE PERSON

1 THAT THEY WANTED TO IDENTIFY WAS JACQUES GIBSON. IF YOU LOOK
2 AT THE TOTALITY OF THE CIRCUMSTANCES, YOUR HONOR, HERE SHE
3 DIDN'T IDENTIFY SOMEBODY THE FIRST TIME. SHE CHANGED HER
4 MIND AFTER TALKING WITH THE MOTHER OF THE DECEASED,
5 SUGGESTING THAT THERE'S NO CONVERSATION ABOUT THE INCIDENT.
6 HERE IT'S COINCIDENTAL THAT MY CLIENT IS THE ONLY ONE WHO'S
7 IN BOTH LINE-UPS. THAT IS HIGHLY IRREGULAR, YOUR HONOR, AND
8 HIGHLY SUGGESTIVE AND WE WOULD ASK THAT IT BE EXCLUDED.

9 THE COURT: ALL RIGHT, SIR. ANY ARGUMENT, SOLICITOR?

10 MR. LAKE: YOUR HONOR, I WOULD JUST POINT TO TWO CASES
11 -- WELL, I'LL ADDRESS THE MATTER. I THINK WHAT HER TESTIMONY
12 WAS ESSENTIALLY IS THAT NOT THAT SHE COULDN'T IDENTIFY THE
13 INDIVIDUAL BUT THAT SHE DIDN'T WANT TO COOPERATE AT THAT
14 PARTICULAR TIME FOR VARIOUS REASONS BECAUSE SHE FEARED HER
15 FAMILY'S SAFETY. SHE INDICATED AT THAT TIME HE DID NOT
16 SUGGEST ANYONE. SHE INDICATED SHE CASUALLY GLANCED AT THE
17 LINE-UP. I THINK WHEN I QUESTIONED HER ABOUT HOW BOTH LINE-
18 UPS LOOKED SHE INDICATED BOTH OF THEM LOOKED SUBSTANTIALLY
19 DIFFERENT IN TERMS OF THE WAY THE PHOTOGRAPHS WERE CROPPED.

20 I THINK THE NEXT THING, YOUR HONOR, IS THAT SHE
21 IDENTIFIED HIM THAT VERY FOLLOWING DAY AND SHE IDENTIFIED
22 ADAMS GIBSON AND SHE INDICATED THAT SHE -- THE IDENTIFICATION
23 OF HIM OCCURRED WITHIN A VERY SHORT PERIOD OF TIME. YOUR
24 HONOR, I'LL POINT TO TWO CASES THAT ARE SIMILAR IN TERMS OF
25 SITUATIONS WHERE THERE WAS A LINE-UP AND THEN A PHYSICAL

1 LINE-UP. I'LL POINT TO STATE VERSUS DOUGLAS STEWART WHICH IS
2 272 SOUTHEASTERN SECOND 628. I'LL ALSO POINT TO STATE V.
3 BOYCE GAMBRELL WHICH IS 266 SOUTHEASTERN SECOND 78.

4 IN BOTH OF THOSE CASES, YOUR HONOR, YOU HAVE A SITUATION
5 WHERE THERE WAS AN INITIAL PHOTO LINE-UP THAT WAS SHOWN TO
6 THE WITNESS. THE WITNESS WAS UNABLE TO IDENTIFY THAT
7 INDIVIDUAL, AND IN STEWART, YOUR HONOR, AT THAT TIME THE
8 WITNESS TOLD THE OFFICER, "WELL, I COULDN'T IDENTIFY HIM IN
9 THE PHOTO LINE-UP, BUT IF YOU BROUGHT HIM IN IN A PHYSICAL
10 LINE-UP, THEN I COULD IDENTIFY HIM WHICH HE DID, IN FACT, DO
11 WHEN THEY BROUGHT HIM IN IN A PHYSICAL LINE-UP WHICH I THINK
12 IS ANALOGOUS TO THE SITUATION WHERE SHE SAID THAT SHE DIDN'T
13 REALLY WANT TO COOPERATE AND THEN FURTHER COOPERATED.

14 IN THAT PARTICULAR CASE, YOUR HONOR, THEY INDICATED THAT
15 THE IDENTIFICATION WAS RELIABLE, AND EVEN IF YOU FOUND THAT
16 THE IDENTIFICATION WASN'T RELIABLE OR THAT THERE WAS A
17 SUGGESTIBILITY TO THE LINE-UP OR THE FACT THAT THIS
18 INDIVIDUAL -- IT'S ANALOGOUS, YOUR HONOR, TO THE FACT THAT
19 THE SAME PERSON STILL WAS IN BOTH PHOTO LINE-UPS AND THE
20 PHYSICAL LINE-UP AND HE WAS THE ONLY PERSON THAT WAS IN BOTH,
21 AND THE COURT FOUND THAT -- INDICATED THAT THAT WAS RELIABLE.
22 THERE WAS NO SUGGESTIBILITY IN THAT, BUT IF THERE WAS
23 SUGGESTIBILITY IN THAT, THEN BASED UPON THE TOTALITY OF THE
24 CIRCUMSTANCES, HER ABILITY TO VIEW THE SUSPECT, THE LIGHTING,
25 THE TIME OF CONFRONTATION -- WHICH IS ANALOGOUS TO THIS

1 PARTICULAR SITUATION WHERE MS. WILSON HAS INDICATED THAT SHE
2 SAW THESE INDIVIDUALS INSIDE THE CLUB. SHE SAW THEM OUTSIDE
3 THE CLUB. SHE GAVE APPROXIMATE DISTANCES BETWEEN THESE
4 INDIVIDUALS AND HER. SHE INDICATED THERE WERE NO
5 OBSTRUCTIONS BETWEEN HER AND THESE INDIVIDUALS. SHE WAS ABLE
6 TO DESCRIBE WHAT ONE PERSON DID VERSUS WHAT THE OTHER PERSON
7 DID.

8 I THINK SHE DISTINGUISHED THAT MR. GIBSON WAS ARGUING IN
9 THE CLUB AND THAT JACQUES WASN'T. SO SHE'S SHOWING THAT SHE
10 WAS ATTENTIVE AND SHE'S ASSERTED THAT HE WAS NOT ARGUING IN
11 THE CLUB. THAT SHOWS AN ATTENTIVENESS TO MR. GIBSON, JACQUES
12 GIBSON. SHE ALSO IDENTIFIED HIM OUTSIDE OF THE CLUB.

13 SO, YOUR HONOR, I WOULD ARGUE THAT EVEN IF YOU FELT THAT
14 IT WAS SUGGESTIBLE WHICH I WOULD SUBMIT THAT IT WASN'T, BASED
15 UPON JUST HER LACK OF COOPERATION, I THINK BASED ON THE
16 TOTALITY OF THE CIRCUMSTANCES SHE HAS MET ALL THE FACTORS
17 THAT ARE LAID OUT IN BIGGERS IN TERMS OF OPPORTUNITY TO VIEW
18 THIS PERSON AT THE TIME OF CONFRONTATION, THE CERTAINTY OF
19 HER IDENTIFICATION WHICH SHE INDICATED THAT SHE IDENTIFIED
20 THEM IN A SHORT PERIOD OF TIME.

21 THE COURT: ALL RIGHT, SIR. ALL RIGHT. IN THIS
22 PARTICULAR MATTER AND IT'S THE COURT'S RULING THAT THE
23 OUT-OF-COURT IDENTIFICATION BY THIS PARTICULAR WITNESS WAS
24 NOT UNDULY SUGGESTIVE. I DO NOT FIND THAT THE FACT THAT SHE
25 VIEWED TWO LINE-UPS TO BE IN AND OF ITSELF SUGGESTIVE. THE

1 FACT THAT THE POSITION OF THE PERSON SHE IDENTIFIED WAS
2 DIFFERENT IN THE TWO LINE-UPS DOES NOT SUGGEST -- IS NOT
3 UNDULY SUGGESTIVE. I THINK THAT THERE'S AN EXPLANATION
4 GIVEN.

5 ONCE AGAIN, IT'S ULTIMATELY GOING TO BE FOR THE JURY TO
6 JUDGE THE CREDIBILITY AND BELIEVABILITY OF THE WITNESSES, BUT
7 I FIND THAT THE LINE-UP WAS NOT UNDULY SUGGESTIVE, AND I
8 FURTHER FIND THAT IF FOR ANY REASON IT WAS UNDULY SUGGESTIVE
9 THAT HER IDENTIFICATION OF THE DEFENDANT IS RELIABLE SUCH
10 THAT NO SUBSTANTIAL LIKELIHOOD OF MISIDENTIFICATION EXISTS
11 REGARDING THE NEIL VERSUS BIGGERS ISSUE IN LOOKING AT THE --
12 HER TESTIMONY AS TO HER OPPORTUNITY TO VIEW THE INDIVIDUAL AT
13 THE TIME OF THE INCIDENT, HER DEGREE OF ATTENTION, HER LEVEL
14 OF CERTAINTY AT THE TIME THAT THE MATTERS TOOK PLACE, AND THE
15 RELATIVELY SHORT PERIOD OF TIME BETWEEN THE INCIDENTS AND THE
16 IDENTIFICATION. THEREFORE, I WILL ALLOW THE TESTIMONY.

17 ONCE AGAIN, I DO BELIEVE IT TO BE THE JURY'S -- JURORS'
18 JOB ULTIMATELY TO DECIDE CREDIBILITY AND BELIEVABILITY. ALL
19 RIGHT, SOLICITOR. ANY FURTHER WITNESSES THAT WE NEED TO
20 CONDUCT A NEIL VERSUS BIGGERS HEARING ON?

21 MR. LAKE: NONE FROM THE STATE, YOUR HONOR.

22 THE COURT: ALL RIGHT, COUNSEL. I WILL SEE Y'ALL
23 TOMORROW MORNING AT 9:00.

24 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:30 P.M.
25 AND RESUMED THE FOLLOWING DAY, MAY 22, 2007, AS FOLLOWS.

1 STATE'S EXHIBITS 36 THROUGH 81 WERE MARKED FOR IDENTIFICATION
2 ONLY.)

3 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
4 THANK Y'ALL. ALL RIGHT. SOLICITOR, IS THE STATE READY TO
5 PROCEED?

6 MR. LAKE: THE STATE'S READY TO PROCEED.

7 MS. CAMPBELL: YES, SIR, AND I WOULD JUST NOTE I DO HAVE
8 CAPTAIN SMITH HERE IF YOU WANTED TO HEAR HIS TESTIMONY OR
9 WHENEVER YOU WANT TO HEAR IT.

10 THE COURT: WHEN DO YOU PROPOSE TO CALL HIM DURING YOUR
11 CASE?

12 MS. CAMPBELL: IT WOULD NOT BE 'TIL TOMORROW.

13 THE COURT: WELL, THEN, WE DON'T NEED TO DO IT NOW.

14 MS. CAMPBELL: YES, SIR.

15 THE COURT: JUST WE'LL DO IT -- REMIND ME AT A BREAK.

16 MS. CAMPBELL: THANK YOU.

17 THE COURT: ALL RIGHT. MR. ROBERSON, IS THE DEFENSE
18 READY?

19 MR. ROBERSON: THE DEFENSE IS READY, YOUR HONOR.

20 THE COURT: MR. JOHNSON?

21 MR. JOHNSON: YES, SIR, YOUR HONOR.

22 THE COURT: ALL RIGHT. GOOD. ASK THE JURY TO COME IN,
23 PLEASE, MA'AM.

24 MR. JOHNSON: YOUR HONOR, WOULD YOU PLEASE ENFORCE YOUR
25 SEQUESTRATION ORDER, PLEASE?

1 MR. LAKE: YOUR HONOR, I'M JUST ASKING THEM TO LEAVE.

2 THE COURT: OKAY. GOOD.

3 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:21
4 A.M.)

5 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
6 GENTLEMEN. WE ARE NOW GOING TO COMMENCE THE TRIAL OF THE
7 STATE OF SOUTH CAROLINA VERSUS ADAMS GIBSON AND JACQUES
8 GIBSON. THE FIRST THING THAT'S GOING TO HAPPEN IS THE CLERK
9 OF COURT WILL ADMINISTER YOUR OATH, SO IF YOU WOULD PLEASE
10 STAND.

11 (WHEREUPON, THE JURY WAS SWORN AT 9:22 A.M.)

12 THE COURT: IS THERE ANY JUROR THAT DID NOT
13 AFFIRMATIVELY TAKE THE OATH AS GIVEN BY THE CLERK OF COURT?
14 IF SO, IF YOU'D PLEASE STAND. THANK YOU. I FIND THAT THE
15 JURY HAS BEEN PROPERLY SWORN IN THIS MATTER. ALL RIGHT.
16 LADIES AND GENTLEMEN, AS I TOLD YOU, WE ARE COMMENCING THE
17 TRIAL OF THIS CASE, AND BASICALLY HOW IT WILL PROCEED - A
18 VERY SHORT OVERVIEW OF IT - IS WHEN I GET DONE WITH THESE
19 BRIEF OPENING STATEMENTS TO YOU, THE ATTORNEYS WILL HAVE
20 THEIR OPENING STATEMENTS FOR YOU.

21 NOW, I WILL TELL YOU THAT THOSE OPENING STATEMENTS ARE
22 NOT EVIDENCE. THEY CANNOT BE CONSIDERED BY YOU AS EVIDENCE
23 IN THE CASE, BUT THEY'RE IMPORTANT. THEY'RE EACH SIDE'S
24 INITIAL PRESENTATION TO YOU OF WHAT THEY BELIEVE OR WHAT THEY
25 EXPECT THAT THE EVIDENCE WILL SHOW TO YOU DURING THE COURSE

1 OF THE TRIAL.

2 WHEN THEY CONCLUDE THOSE OPENING STATEMENTS, WE WILL
3 THEN GO INTO THE EVIDENTIARY PART OF THE TRIAL, AND THAT WILL
4 COME FROM WITNESSES WHO COME BEFORE YOU TO BE -- TO TESTIFY
5 AND WILL BE SWORN UNDER -- UNDER OATH TO GIVE THEIR EVIDENCE,
6 AND ALSO THERE WILL BE CERTAINLY THE INTRODUCTION OF CERTAIN
7 DOCUMENTARY OR OTHER TYPE OF MATERIAL EVIDENCE THAT WILL BE
8 INTRODUCED DURING THE COURSE OF THIS TRIAL.

9 WHEN WE GET DONE WITH THE EVIDENTIARY PORTION OF THE
10 TRIAL, WE WILL GO INTO THE CLOSING ARGUMENTS OF THE
11 ATTORNEYS. THE CLOSING ARGUMENTS OF THE ATTORNEYS, ONCE
12 AGAIN, THEY ARE NOT EVIDENCE, CANNOT BE CONSIDERED BY YOU AS
13 EVIDENCE IN THE CASE. AGAIN, THEY ARE IMPORTANT. THEY'RE
14 EACH SIDE'S SUMMATION AS TO WHAT THEY BELIEVE THE EVIDENCE
15 HAS SHOWN TO YOU DURING THE COURSE OF THE TRIAL AND THEN
16 ULTIMATELY WHAT THEY'RE ASKING YOU TO DO AS A RESULT OF YOUR
17 UNANIMOUS VERDICT IN THIS PARTICULAR MATTER. WHEN WE GET
18 DONE WITH THE CLOSING ARGUMENTS, I WILL GIVE YOU THE LAW THAT
19 YOU WILL APPLY TO THE FACTS AS YOU SO FIND THEM TO BE IN THIS
20 PARTICULAR CASE.

21 ONE OF THE REASONS I WENT OVER THIS BRIEF OUTLINE OF THE
22 TRIAL WITH YOU IS TO TELL YOU AND EMPHASIZE THE FACT TO YOU
23 THAT, AS I TOLD YOU VERY BRIEFLY YESTERDAY, I DO NOT WANT YOU
24 TO DISCUSS THE FACTS, THE EVIDENCE, WHAT YOU HEAR DURING THE
25 TRIAL UNTIL I GIVE IT TO YOU AT THE END FOR YOUR

1 DELIBERATIONS AND YOUR UNANIMOUS DECISION. YOU'LL HAVE
2 PLENTY OF TIME, WHATEVER TIME YOU DEEM NECESSARY, TO TALK
3 ABOUT THIS CASE AT THE END BEFORE YOU MAKE YOUR DECISION.

4 THE REASON I DON'T WANT YOU TO DO THAT IS IF YOU START
5 DISCUSSING IT, YOU MAY FORM IN YOUR MIND OR EXPRESS AN
6 OPINION THAT YOU MIGHT LATER ON FIND IT HARD TO CHANGE EVEN
7 THOUGH IT MIGHT BE NECESSARY. IF YOU START FORMING YOUR
8 OPINION EARLY, YOU'LL DO SO BEFORE YOU'VE HEARD ALL THE
9 EVIDENCE IN THE CASE. I WANT YOU TO, AS BEST YOU CAN, TO
10 KEEP AN OPEN MIND AS TO WHAT YOU BELIEVE OR DO NOT BELIEVE
11 UNTIL YOU'VE HEARD ALL THE EVIDENCE IN THE CASE AND,
12 SECONDLY, YOU KNOW THE LAW THAT I WILL GIVE TO YOU THAT YOU
13 WILL APPLY TO THE FACTS AS YOU SO FIND THEM TO BE IN THIS
14 PARTICULAR CASE. SO AS BEST YOU CAN, KEEP AN OPEN MIND AND,
15 SECONDLY, PLEASE DO NOT DISCUSS THE CASE UNTIL I GIVE IT TO
16 YOU AT THE END.

17 TO THE INDICTMENTS OR TO THE CHARGES BROUGHT BY THE
18 STATE OF SOUTH CAROLINA, THE DEFENDANTS IN THIS CASE HAVE
19 PLED NOT GUILTY. IN THIS CASE YOU HAVE ESSENTIALLY TWO
20 CASES. YOU HAVE TWO DEFENDANTS. EACH CASE IS SEPARATE. YOU
21 MUST MAKE A SEPARATE DECISION IN EACH CASE, A SEPARATE
22 DECISION FOR EACH DEFENDANT.

23 NOW, WHEN THE DEFENDANTS PLED NOT GUILTY, THAT PUT THE
24 BURDEN OF PROOF UPON THE STATE OF SOUTH CAROLINA TO PROVE THE
25 DEFENDANTS GUILTY BEYOND A REASONABLE DOUBT. THE DEFENDANTS

1 HAVE NOTHING TO PROVE TO YOU. THEY HAVE NOTHING TO SHOW TO
2 YOU BECAUSE THE BURDEN IS ON THE STATE OF SOUTH CAROLINA. IT
3 IS ALWAYS ON THE STATE OF SOUTH CAROLINA.

4 THE STATE MUST PROVE TO YOU BY THE EVIDENCE IT PRESENTS
5 OF GUILT OF THE DEFENDANTS BEYOND A REASONABLE DOUBT, AND
6 IT'S YOUR JOB TO EVALUATE THE EVIDENCE, TO LOOK AT THE
7 EVIDENCE, FIND THAT EVIDENCE WHICH CONVINCES YOU OF ITS
8 TRUTH, AND DECIDE WHETHER OR NOT THE STATE HAS CARRIED THAT
9 BURDEN OF PROOF, THAT IS, TO PROVE THE DEFENDANTS' GUILT
10 BEYOND A REASONABLE DOUBT. ONCE AGAIN, THE DEFENDANTS ARE
11 PRESUMED INNOCENT, AND THAT REMAINS THROUGHOUT THE ENTIRETY
12 OF THE TRIAL AND I'LL TALK TO YOU MORE ABOUT THAT AT THE END.
13 THE STATE HAS THE BURDEN. THE DEFENDANTS HAVE NOTHING TO
14 SHOW TO YOU. SO PLEASE KEEP THAT IN MIND.

15 SECONDLY, IT'S YOUR JOB TO JUDGE THE CREDIBILITY AND THE
16 BELIEVABILITY OF THE EVIDENCE THAT COMES BEFORE YOU. YOU, IN
17 FACT, COLLECTIVELY ARE THE JUDGES OF THE FACTS OF THIS CASE.
18 I WILL EXPRESS TO YOU NO OPINION, AND EVEN WHEN THE ATTORNEYS
19 MAKE CERTAIN MOTIONS AS TO OBJECTIONS THEY MIGHT HAVE AS TO A
20 PIECE OF EVIDENCE COMING IN OR SOME RULE OF LAW THEY BELIEVE
21 THAT IS BEING VIOLATED, PLEASE UNDERSTAND THAT THEY ARE
22 ASKING THE COURT DIRECTIONS AS TO HOW THE CASE WILL BE TRIED
23 BECAUSE THAT'S ONE OF MY JOBS. ONE OF THEM IS TO GIVE YOU
24 THE LAW, AND THE OTHER ONE IS TO -- TO GUIDE AND TO RULE OVER
25 CERTAIN MATTERS THAT COME BEFORE THE COURT AS TO HOW THE

1 TRIAL WILL PROCEED.

2 IF I MAKE ANY OF THOSE RULINGS IN YOUR PRESENCE, PLEASE
3 UNDERSTAND I'M JUST TELLING THE ATTORNEYS HOW THE TRIAL WILL
4 PROCEED. I'M MAKING NO COMMENTS ON THE EVIDENCE BECAUSE THAT
5 WOULD BE INVADING YOUR PROVINCE BECAUSE COLLECTIVELY, AGAIN,
6 YOU ARE THE JUDGES OF THE FACTS, AND IT'S YOUR JOB TO DECIDE,
7 ONE, THE EVIDENCE THAT YOU FIND TO BE THE TRUTH OF THIS CASE
8 AND, SECONDLY, WHETHER OR NOT THE STATE BY THAT EVIDENCE THAT
9 YOU BELIEVE TO BE TRUE HAS CARRIED ITS BURDEN OF PROOF TO
10 PROVE THE DEFENDANTS GUILTY BEYOND A REASONABLE DOUBT.

11 ALL RIGHT. SO WITH THAT, I WILL TURN IT OVER TO THE
12 ATTORNEYS FOR THEIR BRIEF OPENING STATEMENTS. SOLICITOR?

13 MR. LAKE: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
14 COURT? GOOD MORNING. DENNIS IRBY WAS JUST STARTING OFF IN
15 LIFE. HE WAS ONLY 21 YEARS OLD. HE HAD A ONE-YEAR-OLD SON.
16 HE WAS -- HE WAS AN EXPECTING FATHER. HE WAS EXPECTING HIS
17 SECOND CHILD, AND HE HAD JUST STARTED A NEW JOB. BUT HE
18 NEVER GOT THE OPPORTUNITY TO COLLECT THAT FIRST CHECK BECAUSE
19 HE WAS SHOT AND HE WAS KILLED ON SEPTEMBER THE 5TH, 2005, AT
20 8102 TWO NOTCH ROAD WHICH IS FORMERLY THE CHANCE'S SPORTS BAR
21 AND GRILL. AND WHEN HE DIED, LADIES AND GENTLEMEN OF THE
22 JURY, HE NEVER HAD AN OPPORTUNITY TO KNOW HIS DAUGHTER. HE
23 NEVER HAD AN OPPORTUNITY TO SEE HIS SON GROW INTO A MAN.

24 YOU KNOW, A COMMENTATOR ONCE SAID THAT IT'S A HELL OF A
25 THING TO KILL A MAN BECAUSE YOU TAKE AWAY EVERYTHING HE'S

1 EVER HAD OR EVER WILL. THAT'S WHAT MURDER DOES. IT'S
2 MALICIOUS, IT'S INTENTIONAL, AND IT'S FINAL. THERE IS NO
3 GOING BACK AFTER A MURDER. LEGALLY A MURDER IS DEFINED AS
4 THE KILLING---

5 MR. JOHNSON: YOUR HONOR, I APOLOGIZE. I OBJECT. THIS
6 IS AN OPENING STATEMENT. THAT'S CLOSING ARGUMENT.

7 THE COURT: I'M GOING TO ALLOW IT. THANK YOU VERY MUCH.
8 YOU MAY CONTINUE, SOLICITOR.

9 MR. LAKE: MURDER IS DEFINED AS THE KILLING OF A PERSON
10 WITH MALICE AFORETHOUGHT, WHETHER THAT BE EXPRESS OR IMPLIED,
11 AND EXPRESS MEANS WHERE THE PERSON SAYS THAT, "WELL, I'M
12 GOING TO KILL YOU," OR IT COULD BE IMPLIED BASED UPON THE
13 CIRCUMSTANCES SURROUNDING THE ACT ITSELF.

14 NOW, WHAT MALICE IS OR CAN BE EXPLAINED AS IN LAYMEN'S
15 TERMS IS THE INTENTIONAL DOING OF A WRONGFUL ACT -
16 ESSENTIALLY, THAT'S WHAT IT IS - WITHOUT ANY LEGAL
17 JUSTIFICATION OR EXCUSE BECAUSE, LADIES AND GENTLEMEN OF THE
18 JURY, THERE IS NO EXCUSE FOR A MURDER, ABSOLUTELY NONE.
19 THAT'S WHY YOU'RE HERE TODAY.

20 YOU'RE GOING TO HEAR TWO TYPES OF EVIDENCE. ONE IS
21 DIRECT EVIDENCE, AND ONE IS CIRCUMSTANTIAL-TYPE EVIDENCE.
22 AND WHAT DIRECT EVIDENCE IS IS WHEN SOMEONE IS GOING TO GET
23 ON THE STAND AND IS GOING TO BE A WITNESS AND THEY'RE GOING
24 TO TELL YOU WHAT THEY KNOW, WHAT THEY SAW, WHAT THEY OBSERVED
25 THAT PARTICULAR NIGHT. THERE WERE A NUMBER OF INDIVIDUALS

1 THAT WERE OUT THERE, AND I'LL GO MORE INTO THE DETAILS. I'M
2 NOT GOING TO REALLY GO INTO THEIR STORY BECAUSE I WANT THEM
3 TO TELL YOU THE STORY. I WANT YOU TO HEAR THEIR STORY OF
4 WHAT HAPPENED THAT PARTICULAR NIGHT.

5 CIRCUMSTANTIAL EVIDENCE, LADIES AND GENTLEMEN OF THE
6 JURY, IS EVIDENCE WHICH ALLOWS YOU TO DRAW AN INFERENCE BASED
7 UPON A CERTAIN SET OF FACTS. FOR EXAMPLE, IF YOU GO TO BED
8 AND YOU LOOK OUT THE WINDOW AND YOU SEE THERE'S NOTHING ON
9 THE GROUND BUT THEN YOU WAKE UP THAT NEXT MORNING AND YOU SEE
10 SNOW, THEN YOU CAN INFER THAT IT SNOWED OVER NIGHT, AND
11 THAT'S WHAT CIRCUMSTANTIAL EVIDENCE IS. AND, LADIES AND
12 GENTLEMEN OF THE JURY, THE JUDGE IS GOING TO TELL YOU AT THE
13 END THAT BOTH OF THEM ARE TO BE WEIGHED EQUAL WHEN YOU MAKE
14 YOUR DECISION AT THE END OF THIS TRIAL.

15 AND WHAT THE FACTS OF THIS CASE ARE GOING TO BE, LADIES
16 AND GENTLEMEN OF THE JURY, IS ESSENTIALLY YOU HAVE TWO GROUPS
17 OF PEOPLE. THIS WILL MAKE THIS A LOT EASIER FOR YOU. YOU
18 HAVE A GROUP FROM WINNSBORO. (MR. LAKE WRITES ON A DRY-ERASE
19 BOARD IN THE COURTROOM.) THAT'S IN FAIRFIELD COUNTY. OF
20 THAT GROUP THAT'S OUT THERE THAT PARTICULAR NIGHT, YOU HAVE
21 TORRI BOYD. YOU HAVE RAVARIS HENRY. YOU HAVE ANTWAN MARTIN.
22 YOU HAVE ANTONIO SMITH. AND YOU HAVE THE VICTIM IN THIS
23 CASE, DENNIS IRBY. AND YOU'RE GOING TO HEAR SOME OF THESE
24 GUYS REFER TO THEMSELVES AS NICKNAMES AND EVERYTHING LIKE
25 THAT.

1 JUST SO THAT YOU WON'T GET CONFUSED, ANTONIO SMITH IS
2 ALSO KNOWN AS YO-YO. ANTWAN MARTIN, THEY CALL HIM A.J.
3 RAVARIS HENRY, THEY CALL HIM B. AND HOW THE SCENE ESCALATES,
4 THESE ARE INDIVIDUALS THAT GO TO CHANCE'S SPORTS BAR FIRST.
5 THEY'RE THERE THAT NIGHT ESSENTIALLY TO HAVE A GOOD NIGHT.
6 THIS IS THE LAST NIGHT THAT CHANCE'S SPORTS BAR WAS OPEN.

7 THEY'RE THERE FOR A PERIOD OF TIME WHEN ANOTHER GROUP
8 COMES IN. THIS WOULD BE A GROUP FROM RIDGEWAY. RIDGEWAY IS
9 ALSO IN FAIRFIELD COUNTY. NOW, THESE GUYS - THEY KNOW EACH
10 OTHER. FOR THE MOST PART, THEY EITHER KNOW EACH OTHER BY
11 NAME OR THEY EITHER KNOW EACH OTHER BY A NICKNAME OR THEY
12 KNOW EACH OTHER BY FACE. YOU HAVE DEMETRIC DAVIS. YOU HAVE
13 TRAMELE DAVIS. YOU HAVE MARCUS TUCKER. AND YOU HAVE ADAMS
14 GIBSON WHICH IS THE DEFENDANT THAT'S SEATED RIGHT THERE WITH
15 THE BLUE SHIRT ON. THAT'S ADAMS GIBSON, LADIES AND GENTLEMEN
16 OF THE JURY.

17 ON THAT PARTICULAR NIGHT THERE'S ONE OTHER PERSON THAT
18 CAME THERE AND YOU'RE GOING TO HEAR FROM HER A LITTLE BIT
19 LATER ON. HER NAME IS LAKISHA DAVIS. I CAN TELL YOU THE
20 FACTS AND EVIDENCE THAT YOU'RE GOING TO HEAR IS THAT
21 ESSENTIALLY THERE ARE ISSUES BETWEEN TRULY THREE PEOPLE:
22 TORRI BOYD, DEMETRIC DAVIS, AND ADAMS GIBSON. THE STRANGE
23 PART THAT YOU'RE GOING TO HEAR, LADIES AND GENTLEMEN OF THE
24 JURY: THAT PRIOR TO THE ESCALATION OF THIS ENTIRE INCIDENT,
25 SOME OF THESE GUYS, ALL THESE OTHER GUYS, THEY WERE TALKING

1 TO EACH OTHER. THEY WENT TO SCHOOL TOGETHER. THEY WERE
2 HAVING DRINKS, BUYING EACH OTHER DRINKS. BUT THERE WAS THREE
3 PEOPLE THAT DIDN'T PARTICULARLY CARE FOR EACH OTHER. THEY'RE
4 EITHER INDIFFERENT TO EACH OTHER OR JUST FLAT OUT DIDN'T LIKE
5 EACH OTHER FOR ONE REASON OR THE OTHER.

6 AS I INDICATED, THERE'S LAKISHA DAVIS WHO IS THERE WHO
7 IS RELATED TO TRAMELE DAVIS, WHO IS RELATED TO DEMETRIC
8 DAVIS. THE EVIDENCE IS GOING TO SHOW, LADIES AND GENTLEMEN
9 OF THE JURY, THAT DURING THAT TIME FRAME LAKISHA DAVIS GOES
10 TO A JUKE BOX JUST TO HEAR SOME MUSIC. BESIDE THAT JUKE BOX
11 IS TORRI BOYD AND ALL HIS FRIENDS. AND TORRI BOYD, HE KNOWS
12 LAKISHA. HE KNOWS HER BY THE NAME OF PUMPKIN. HE'S SEEN HER
13 BEFORE BECAUSE THEY'RE ALL IN THE SAME AREA. RIDGEWAY AND
14 WINNSBORO ARE FAIRLY CLOSE TO EACH OTHER. SO WHAT DOES HE
15 TELL HER? HE TELLS HER, "DON'T PUT YOUR MONEY IN THE JUKE
16 BOX BECAUSE THERE AIN'T NO GOOD MUSIC IN THERE." THAT'S ALL.
17 THAT WAS THE ONLY THING THAT HE SAID.

18 LADIES AND GENTLEMEN OF THE JURY, HE'S GOING TO TELL YOU
19 THAT ADAMS GIBSON -- HE GOT UPSET ABOUT THAT, AND HE CAME AND
20 CONFRONTED LAKISHA ABOUT TALKING TO HIM, AND FROM THAT POINT
21 ON, LADIES AND GENTLEMEN, IT ESCALATED. TORRI BOYD IS GOING
22 TO TELL YOU HE TRIED TO DIFFUSE THE SITUATION BY TELLING
23 ADAMS GIBSON THAT, "HEY, THE ONLY THING I WAS TELLING HER IS
24 THAT THERE WAS NO GOOD MUSIC IN THE BOX; DON'T WASTE YOUR
25 MONEY." THESE ARE PEOPLE FROM THE SAME COMMUNITY.

1 BUT HE DIDN'T WANT TO HEAR THAT. IT ESCALATED. AND AT
2 THE POINT, LADIES AND GENTLEMEN, THAT IT ESCALATED, ADAMS
3 GIBSON DID ONE THING BECAUSE ONE THING YOU'RE GOING TO HEAR
4 ALL THESE INDIVIDUALS TELL YOU, WHETHER IT BE FROM THE GUYS
5 FROM WINNSBORO OR THE GUYS FROM RIDGEWAY, ALL OF THEM ARE
6 GOING TO TELL YOU THAT WHEN THEY WENT INTO THAT CLUB, THAT
7 BAR THAT NIGHT, THAT NONE OF THEM HAD A GUN, NOT ONE OF THEM.

8 BUT YOU CAN SEE, LADIES AND GENTLEMEN OF THE JURY,
9 THERE'S ONE, THERE'S TWO, THERE'S THREE, THERE'S FOUR,
10 THERE'S FIVE... ONE, TWO, THREE, FOUR. YOU'RE GOING TO HEAR
11 ADAMS GIBSON DIDN'T LIKE THOSE ODDS. AND HE MADE A PHONE
12 CALL TO HIS BROTHER, HIS LITTLE BROTHER, HIS CO-DEFENDANT,
13 JACQUES GIBSON. AND WHEN JACQUES GIBSON COMES, HE'S DRIVING
14 A WHITE ESCORT THAT BELONGS TO ADAMS GIBSON BECAUSE JACQUES
15 IS NOT THERE. HE'S NOT INVOLVED. THAT'S WHAT YOU'RE GOING
16 TO HEAR, BUT HE COMES LATER. AND WHEN JACQUES COMES, HE
17 BRINGS VERNON DAVIS AND HE BRINGS STEPHON WILLINGHAM.

18 STEPHON IS KNOWN AS FAT MAN. VERNON DAVIS IS KNOWN AS
19 DUWOP, AND JACQUES GIBSON - HE'S KNOWN AS SHA-SHA. AND JUST
20 A LITTLE BIT MORE BACKGROUND, DEMETRIC DAVIS IS CALLED BAM,
21 AND ADAMS GIBSON - THEY CALL HIM KARTEZ. I THINK HIS MIDDLE
22 NAME IS KARTEZ. THAT'S HOW HE'S REFERRED TO. SO WHEN YOU
23 HEAR THESE NAMES, LADIES AND GENTLEMEN, Y'ALL KNOW WHO THESE
24 PEOPLE ARE.

25 WHAT YOU'RE GOING TO HEAR, LADIES AND GENTLEMEN OF THE

1 JURY, IS THAT AFTER A PERIOD OF TIME -- AND THEY'RE GOING TO
2 TELL YOU -- THERE ARE GOING TO BE PEOPLE THAT TELL YOU THEY
3 HEARD HIM MAKE THE CALL. THERE'S A CALL ABOUT SOME PROBLEM
4 WITH THE BOYS FROM WINNSBORO. THE SITUATION CONTINUES TO
5 ESCALATE.

6 AT SOME POINT THESE INDIVIDUALS ARE PLACED OUTSIDE OF
7 THE BAR. IT'S ABOUT TO CLOSE, BUT THEY'RE ALSO TOLD TO LEAVE
8 BECAUSE IT'S ESCALATED. AND EVERYBODY IN THE CLUB KNEW THAT
9 SOMETHING WAS GOING TO GO DOWN. THESE GUYS WERE MAKING A
10 SCENE INSIDE THE BAR. AND AS THEY GET OUTSIDE THAT BAR,
11 LADIES AND GENTLEMEN OF THE JURY, IT ESCALATES EVEN FURTHER.

12 YOU'RE GOING TO HEAR TESTIMONY THAT SHA-SHA GOES AND
13 GETS HIS BROTHER. THEY COME BACK OUT. AND SOME OF THESE
14 PEOPLE ARE COMING OUT AT THE SAME TIME AND SOME OF THESE
15 PEOPLE ARE COMING OUT BEHIND EACH OTHER, BUT AT SOME POINT,
16 LADIES AND GENTLEMEN OF THE JURY, ALL OF THEM ARE GOING TO BE
17 OUT THERE. AND WHAT YOU'RE GOING TO HEAR IS ONCE THEY GOT
18 OUT THERE, AT THAT TIME BAM, WHO IS KNOWN AS DEMETRIC DAVIS,
19 HE KNOWS THESE GUYS ARE HERE AND IT ESCALATES. AND THE FIRST
20 PERSON THAT HE CONFRONTS, LADIES AND GENTLEMEN OF THE JURY,
21 IS TORRI BOYD. THESE GUYS ARE FACE TO FACE. THEY'RE
22 ARGUING, GOING BACK AND FORTH.

23 YOU'RE GOING TO HEAR ABOUT PEOPLE THAT TRIED TO BREAK
24 THIS THING UP TO STOP IT FROM ESCALATING ANY FURTHER, BUT IT
25 DIDN'T. AND WHAT YOU'RE GOING TO HEAR, LADIES AND GENTLEMEN

1 OF THE JURY, IS THAT AT THAT PARTICULAR POINT AS THEY WERE
2 CLOSE FACE TO FACE, TRAMELE DAVIS PUNCHED TORRI BOYD, AND AT
3 THAT POINT IT'S A FREE FOR ALL. IT'S A CHAOTIC SCENE.
4 YOU'RE GOING TO HAVE MULTIPLE PEOPLE FIGHTING WITH EACH OTHER
5 ESSENTIALLY EXCEPT FOR TWO PEOPLE.

6 YOU'VE GOT TWO PEOPLE THAT DIDN'T FIGHT ANYBODY. YOU'VE
7 GOT TWO PEOPLE WITHIN THIS GROUP THAT ARE TRYING TO BE PEACE-
8 MAKERS. ONE IS YO-YO BECAUSE YO-YO KNOWS EVERYBODY. HE'S
9 FRIENDS WITH ALL THESE GUYS; HE KNOWS THEM. HE BOUGHT THEM
10 DRINKS THAT NIGHT. HE'S TRYING TO STOP THIS, AND HE'S GOING
11 TO TELL YOU THAT. HE'S GOING TO TELL YOU THAT HE WAS TRYING
12 TO BE A PEACEMAKER.

13 HE'S ALSO GOING TO TELL YOU THAT AT ONE POINT WHILE HE
14 WAS TRYING TO BE A PEACEMAKER HE'S GOING TO TELL YOU THAT
15 JACQUES POINTS A GUN AT HIM AND SAYS, "YO-YO, DON'T EVEN
16 THINK ABOUT IT," WHEN HE THOUGHT THAT YO-YO WAS TRYING TO GET
17 HIS BROTHER. AND YO-YO WASN'T TRYING TO GET HIS BROTHER.
18 EVERYBODY IS GOING TO TELL THAT YO-YO WAS TRYING TO STOP HIM.

19 LAKISHA DAVIS WHO WAS WITH THEM THAT NIGHT IS GOING TO
20 TELL YOU THAT YO-YO WAS TRYING TO STOP EVERYTHING. SHE'S
21 GOING TO TELL YOU THAT SHE TRIED TO GET HIM TO -- SHE TOLD
22 YO-YO TO TRY TO STOP EVERYTHING.

23 THERE'S ALSO ONE OTHER PERSON THAT WAS A PEACEMAKER THAT
24 PARTICULAR NIGHT WHO WAS TRYING TO BE A PEACEMAKER THAT
25 NIGHT: DENNIS IRBY, THE VICTIM IN THIS PARTICULAR CASE.

1 YOU'RE GOING TO HEAR FROM THESE GUYS AND THEY'RE GOING TO
2 TELL YOU HE WASN'T INVOLVED IN THIS ALTERCATION AT ALL.
3 YOU'RE GOING TO HEAR ABOUT MULTIPLE PEOPLE THAT WERE
4 INVOLVED, BUT YOU WON'T HEAR ABOUT THESE GUYS THAT WERE
5 INVOLVED. AND YOU'RE GOING TO HEAR THAT THIS SCENE KIND OF
6 SPREAD OUT, AND YOU'RE GOING TO HEAR TESTIMONY, EYEWITNESS
7 TESTIMONY, THAT TELLS YOU THAT ADAMS GIBSON AT SOME POINT
8 DURING THIS ALTERCATION - REMEMBER, THIS IS A HECTIC SCENE -
9 FIRES A GUN UP IN THE AIR OR FIRES A GUN THAT THEY BELIEVE TO
10 EITHER BE A .22 OR A .25. THEY'RE GOING TO FIND SHELL
11 CASINGS THERE THAT BELONG TO A .25.

12 BUT YOU'RE ALSO GOING TO HEAR ABOUT ONE OTHER PERSON
13 THAT DECIDED THEY WANTED TO FIRE A GUN, BECAUSE THERE WAS
14 ANOTHER GUN THAT WAS AT THAT SCENE. IT WAS A NINE
15 MILLIMETER. AND THE PERSON, LADIES AND GENTLEMEN OF THE
16 JURY, THAT HAD THAT NINE MILLIMETER WAS JACQUES JONES -- I
17 MEAN JACQUES GIBSON. HE IS THE PERSON THAT FIRED THAT FATAL
18 SHOT THAT NIGHT. HE FIRED SEVERAL ROUNDS. YOU'RE GOING TO
19 HEAR FROM THE PEOPLE THAT WERE IN THAT CAR WITH HIM THAT
20 NIGHT WHO WILL VERIFY THAT HE FIRED MULTIPLE ROUNDS THAT
21 PARTICULAR NIGHT. AND AS A RESULT, HE SHOT DENNIS IRBY IN
22 THE BACK. IT HIT RIGHT BACK HERE THIS AREA RIGHT HERE. BUT
23 YOU KNOW THE THING ABOUT A BULLET IS EVEN THOUGH YOU HIT
24 RIGHT HERE, THIS BULLET DECIDED TO GO DOWN HERE AND IT ENDED
25 UP SOMEWHERE CLOSE TO HIS SPINE AND HE DIED. HE DIED LATER

1 ON THAT NIGHT AS A RESULT OF THIS INCIDENT.

2 LADIES AND GENTLEMEN OF THE JURY, THAT'S ESSENTIALLY
3 WHAT THE FACTS ARE. THE STATE BEARS THE BURDEN OF PROOF IN
4 THIS CASE TO PROVE TO YOU BEYOND A REASONABLE DOUBT THAT, IN
5 FACT, THESE INDIVIDUALS COMMITTED THIS CRIME. THAT'S A
6 BURDEN TO WHICH WE WELCOME. IT'S NOT PROOF BEYOND ALL DOUBT.
7 IT'S JUST PROOF BEYOND A REASONABLE DOUBT. THAT MEANS THAT
8 THE EVIDENCE FIRMLY CONVINCES YOU THAT ON THAT NIGHT BOTH OF
9 THESE INDIVIDUALS FIRED A WEAPON, AND AS I TOLD YOU, YOU
10 MIGHT ASK YOURSELF: WELL, IF WE KNOW ONE PERSON FIRED THE
11 FATAL SHOT, WHY IS ADAMS GIBSON ON TRIAL? LADIES AND
12 GENTLEMEN, SIMPLY BECAUSE OF THE HAND OF ONE IS THE HAND OF
13 ALL WHICH ESSENTIALLY SAYS IF TWO OR MORE PEOPLE ARE ACTING
14 TOGETHER OR ASSISTING EACH OTHER IN THE COMMISSION OF A CRIME
15 THAT BOTH OF THEM ARE EQUALLY GUILTY, THAT IT DOESN'T MATTER
16 THAT ONLY ONE PERSON MAY HAVE FIRED THE FATAL SHOT. IT'S
17 JUST THAT THEY'RE ACTING TOGETHER IN THE COMMISSION OF THIS
18 CRIME.

19 LADIES AND GENTLEMEN OF THE JURY, THE EVIDENCE WILL SHOW
20 THAT. ALL THESE OTHER INDIVIDUALS WERE CHARGED ALSO. THEY
21 WERE CHARGED WITH AGGRAVATED BREACH OF PEACE BECAUSE THEY'RE
22 GOING TO TELL YOU THEY HAD NO CLUE THAT A GUN HAD BEEN
23 BROUGHT THERE. THEY HAD NO CLUE AT THE TIME THAT SHA-SHA,
24 JACQUES, GOT THERE THAT THERE WAS A GUN. BUT LADIES AND
25 GENTLEMEN OF THE JURY, YOU'RE GOING TO FIND OUT WHO MADE THAT

1 CALL.

2 YOU'RE GOING TO HEAR FROM VERNON DAVIS AND STEPHON
3 WILLINGHAM. THOSE GUYS ARE CHARGED WITH MISPRISION OF A
4 FELONY. VERNON DAVIS AND STEPHON WILLINGHAM ARE GOOD FRIENDS
5 OF HIS. THEY'RE VERY GOOD FRIENDS OF HIS. AND YOU'RE GOING
6 TO HEAR PROBABLY SOME EMOTIONAL TESTIMONY, I CAN IMAGINE,
7 BECAUSE THEY'RE GOING TO BE TESTIFYING AGAINST THEIR FRIENDS.
8 ALL OF THESE GUYS ARE GOING TO BE TESTIFYING AGAINST THEIR
9 FRIENDS, AND YOU'LL GET AN OPPORTUNITY, JUST LIKE THE JUDGE
10 SAID, TO JUDGE THEIR CREDIBILITY TO SEE IF THEY'RE BEING
11 COMPLETELY OPEN WITH YOU. BUT, LADIES AND GENTLEMEN, YOU
12 KNOW, IT'S ALMOST LIKE A PUZZLE. EACH PERSON ADDS ANOTHER
13 'TIL YOU GET A COMPLETE PICTURE OF WHAT HAPPENED THAT
14 PARTICULAR NIGHT.

15 NONE OF THESE GUYS HAVE BEEN PROMISED ONE SINGLE THING
16 FOR THEIR TESTIMONY. THE ONLY PERSON THAT HAS PLED GUILTY IS
17 VERNON DAVIS IN JUVENILE COURT TO THIS PARTICULAR CHARGE, THE
18 MISPRISION OF A FELONY. NOBODY ELSE HAS OFFERED ANYTHING.
19 YOUR ROLE AS A JURY IS TO BE FACT FINDERS, TO SEE WHETHER WE
20 HAVE MET OUR BURDEN OF PROOF.

21 THE JUDGE'S ROLE IS GOING TO BE AS HE INDICATED: TO
22 INSTRUCT YOU AS TO THE LAW AT THE END OF THIS CASE. HE'S
23 GOING TO TELL YOU WHAT THE LAW IS AND WHAT TO APPLY TO THESE
24 PARTICULAR FACTS AND EVIDENCE IN THIS CASE IN WEIGHING YOUR
25 DECISION.

1 SO I ASK THAT YOU PAY CLOSE ATTENTION BECAUSE THIS IS A
2 VERY IMPORTANT CASE. AS I CONCLUDE, I CAN ONLY THINK OF ONE
3 THING. YOU KNOW, AS DENNIS IRBY WAS LAYING ON THAT GROUND IN
4 THAT PARKING LOT, YOU KNOW, AT 8102 TWO NOTCH ROAD AT
5 CHANCE'S SOMETIME AFTER MIDNIGHT AND HE WAS TALKING TO SHUNTA
6 WILSON WHO HAD TRIED TO ADMINISTER C.P.R. BUT SHE DIDN'T HAVE
7 ANYTHING TO DO WITH THE ALTERCATION OR ANYTHING, SHE'S GOING
8 TO TESTIFY BEFORE YOU. SHE'S ALSO GOING TO BE THE PERSON
9 WHO'S GOING TO IDENTIFY THESE TWO INDIVIDUALS. BUT AS DENNIS
10 IS FADING IN AND OUT OF CONSCIOUSNESS, THE ONE THING THAT HE
11 TOLD HER IS THAT I DON'T WANT TO DIE. I DON'T WANT TO DIE.

12 LADIES AND GENTLEMEN OF THE JURY, THE EVIDENCE IS GOING
13 TO SHOW THAT DENNIS IRBY DID NOT DESERVE TO DIE THAT NIGHT.
14 HE WAS BEING A PEACEMAKER. BECAUSE HE WAS A PEACEMAKER, HE
15 GOT SHOT IN THE BACK. AT THE END OF THIS TRIAL WE'RE GOING
16 TO ASK YOU FOR JUSTICE. WE'RE GOING TO ASK YOU FOR JUSTICE
17 FOR JACQUES AND WE'RE GOING TO ASK YOU FOR JUSTICE FOR ADAMS.
18 JACQUES IS ALSO CHARGED WITH POSSESSION OF A FIREARM BY A
19 PERSON UNDER 21, AND YOU'RE GOING TO HEAR THAT HE'S UNDER 21
20 AND HE SHOULDN'T HAVE HAD A GUN.

21 BUT, LADIES AND GENTLEMEN OF THE JURY, JUSTICE MEANS
22 GUILTY. IT MEANS GUILTY OF MURDER. IT MEANS GUILTY OF
23 HAVING THAT GUN BECAUSE THERE IS NO EXCUSE. THERE IS NO
24 JUSTIFICATION FOR DENNIS'S DEATH. LADIES AND GENTLEMEN OF
25 THE JURY, MY NAME IS DIETRICH LAKE. I'M WITH THE FIFTH

1 CIRCUIT SOLICITOR'S OFFICE. ON BEHALF OF MYSELF, MS.
2 CAMPBELL, AND THE IRBY FAMILY, IT'S GOING TO BE OUR PLEASURE
3 TO PRESENT THIS CASE TO YOU. THANK YOU.

4 THE COURT: ALL RIGHT. MR. ROBERSON?

5 MR. ROBERSON: IF YOUR HONOR PLEASE?

6 THE COURT: YES, SIR.

7 MR. ROBERSON: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
8 JURY, MY NAME IS NATHANIEL ROBERSON AS I SAID TO YOU ON
9 YESTERDAY. IT'S MY PLEASURE TO REPRESENT ADAMS GIBSON.
10 WOULD YOU STAND UP? ADAMS GIBSON ON SEPTEMBER 5, 2005, WAS
11 23 YEARS OF AGE. HE AT THAT TIME WAS THE FATHER OF TWO
12 CHILDREN AS WELL. HE WAS BORN AND RAISED IN FAIRFIELD COUNTY
13 AND EDUCATED IN FAIRFIELD COUNTY.

14 ON THE MORNING OF SEPTEMBER 5 ADAMS GIBSON AROSE AND HAD
15 BREAKFAST WITH HIS SONS. THERE WERE CELEBRATIONS FOR THE
16 HOLIDAY. ADAMS VISITED SEVERAL OF HIS FRIENDS AND SEVERAL OF
17 HIS FAMILY WHO WERE HAVING COOKOUTS, AND EVENTUALLY OVER INTO
18 THE EVENING HE RAN INTO LAKISHA DAVIS WHO THERE HAD BEEN A
19 DEATH IN HER FAMILY. SHE AND SOME OF HER FAMILY MEMBERS
20 WANTED TO MOVE AWAY FROM THE GRIEVING, SO THEY DECIDED AT
21 SOME POINT THAT THEY WOULD COME TO A BOWLING ALLEY HERE IN
22 COLUMBIA.

23 AS THE EVENING WENT ON, THEY EVENTUALLY FINALLY MADE UP
24 THEIR MIND THAT THEY WOULD, IN FACT, COME TO COLUMBIA. WELL,
25 THEY GOT TO THE BOWLING ALLEY AND THEY WERE ABOUT TO CLOSE.

1 THE CLUB TO WHICH THE STATE MADE REFERENCE IS JUST DOWN THE
2 STREET FROM WHERE THE BOWLING CENTER IS.

3 AS THEY PASSED THE BOWLING CENTER, THEY SAW THAT THERE
4 WERE A FEW CARS THERE, SO THEY DECIDED TO GO INTO THE CLUB.
5 SO ADAMS, ANOTHER FEMALE, AND TWO GUYS IN THAT BURGUNDY
6 ALTIMA BEING DRIVEN BY LAKISHA DAVIS, THEY WENT INTO THE
7 CLUB. SHORTLY AFTER THEY ARRIVED, LAKISHA DECIDED SHE WANTED
8 SOME CHICKEN FINGERS. SHE WENT ACROSS THE STREET TO THE
9 WAFFLE HOUSE. SHE CAME BACK.

10 WHEN SHE GOT BACK, SHE SAW THAT THERE WAS SOME
11 CONFUSION. ADAMS HAD, IN FACT, GONE INSIDE THE CLUB. WHILE
12 HE WAS INSIDE, THIS ARGUMENT, FOR LACK OF A BETTER WORD,
13 STARTED. IT DID, IN FACT, ESCALATE. ADAMS WAS NOT A PARTY
14 TO THAT. WHEN ADAMS LOOKED AROUND AND DIDN'T SEE LAKISHA
15 INSIDE THE CLUB, HE DID, IN FACT, GET ON HIS CELL PHONE. HE
16 CALLED FOR HIS BROTHER TO COME AND PICK HIM UP BECAUSE HE SAW
17 TROUBLE COMING. HE WAS NOT A PART OF IT, DIDN'T WANT TO BE A
18 PART OF IT. HE WANTED TO REMOVE HIMSELF FROM IT AND, OF
19 COURSE, IT DID CONTINUE TO ESCALATE. THEN EVENTUALLY THEY
20 WERE DISMISSED FROM THE CLUB, AND OUT IN THE YARD THIS
21 CONFUSION CONTINUED. THIS MASS CONFUSION ON THE PART OF ALL
22 THESE PEOPLE DID, IN FACT, RESULT IN SOME SHOTS BEING FIRED.
23 OKAY.

24 IT'S INTERESTING THAT THE STATE WILL SAY TO YOU THAT THE
25 THEORY THAT MAKES ADAMS GIBSON GUILTY OF MURDER IS WHAT

1 THEY'RE GOING TO ALLEGE IS THE HAND OF ONE IS THE HAND OF
2 ALL. THAT MEANS ALL PERSONS WHO WERE ACTIVELY PARTICIPATING
3 IN THIS MELEE, NOT JUST ADAMS GIBSON, NOT JUST JACQUES
4 GIBSON, BUT EVERYBODY WHO'S PARTICIPATING IN THIS FIGHT, IN
5 THIS MELEE, IN THIS SHOOTING, ACTIVELY PARTICIPATING, IF THE
6 HAND OF ONE IS THE HAND OF ALL, EVERYBODY IN THIS MELEE
7 SHOULD BE CHARGED WITH MURDER. EVERYBODY WHO IS
8 PARTICIPATING IN THIS MELEE SHOULD BE CHARGED WITH MURDER
9 BECAUSE THEY ARE THERE. THEY'RE ACTIVELY PARTICIPATING.
10 THEY ARE FIGHTING, AND THERE ARE SHOTS BEING FIRED.

11 THEY HAVE INDICTED ADAMS GIBSON AND CHARGED HIM WITH
12 MURDER. MURDER IS THE UNLAWFUL KILLING OF ANOTHER WITH
13 MALICE AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. THAT MEANS
14 IN ORDER FOR ADAMS GIBSON TO BE GUILTY OF MURDER, HE WILL
15 HAVE FORMULATED AT SOME POINT IN TIME THE IDEA THAT HE IS
16 GOING TO KILL SOMEBODY FOR WHATEVER REASON. HE MUST ACTUALLY
17 IN THIS CASE FIRE THE FATAL SHOT THAT TAKES THE DEATH OF
18 DENNIS IRBY.

19 I CHALLENGE YOU TO LISTEN VERY, VERY CAREFULLY AT THE
20 SCIENTIFIC TESTIMONY THAT YOU WILL HEAR FROM THIS WITNESS
21 STAND. LISTEN AT THE TESTIMONY OF THE LAY PEOPLE VERY, VERY
22 CAREFULLY. I WANT YOU TO LISTEN FOR ANY TESTIMONY FROM
23 ANYONE WHO WILL SHOW THAT ADAMS GIBSON ENCOURAGED, INVITED,
24 DIRECTED ANYBODY TO BRING A WEAPON TO THAT SCENE. I
25 CHALLENGE YOU.

1 I CHALLENGE YOU TO BE CAREFUL HOW YOU WEIGH THE STATE'S
2 TESTIMONY THROUGH ITS INFERENCES, THAT SIMPLY BECAUSE ADAMS
3 GIBSON DECIDED HE DID NOT WANT TO BE A PART OF THIS MELEE, HE
4 DID NOT WANT TO BE A PART OF THIS FIGHT -- IT HAD GOTTEN TO
5 THE POINT WHERE HE WAS UNCOMFORTABLE THAT HE SIMPLY SAID TO
6 HIMSELF: THE ONLY WAY OUT IS FOR ME TO GET MYSELF OUT. HE
7 CALLED HIS BROTHER. HIS BROTHER CAME TO PICK HIM UP. WHEN
8 HIS BROTHER GOT THERE, THINGS WERE OUT OF CONTROL.

9 LADIES AND GENTLEMEN, I SAY TO YOU AND I CHALLENGE YOU:
10 AT THE END OF THIS CASE, I THINK YOU'LL BE SATISFIED THAT
11 WHAT THE GOVERNMENT IS ATTEMPTING TO PROVE IS NOT MURDER ON
12 THE PART OF ADAMS GIBSON, AND THE JUDGE WILL TELL YOU THAT IT
13 IS YOUR SWORN DUTY TO RETURN A VERDICT THAT SPEAKS THE TRUTH.
14 AND HOW DOES YOUR VERDICT SPEAK THE TRUTH? IT SPEAKS THE
15 TRUTH WHEN YOU LISTEN AT THE TESTIMONY FROM THESE WITNESSES,
16 NOT OUT OF SYMPATHY, NOT BECAUSE THERE ARE QUESTIONS THAT THE
17 DEFENSE DIDN'T ANSWER THAT OUGHT TO BE ANSWERED BECAUSE THAT
18 IS THE BURDEN ON THE STATE TO PROVE BEYOND A REASONABLE DOUBT
19 EACH AND EVERY ELEMENT OF THE CRIME CHARGED.

20 IF YOU SHOULD FIND THAT THERE IS NO HAND OF ONE, HAND OF
21 ALL BECAUSE ADAMS GIBSON DIDN'T CAUSE, DIDN'T ENCOURAGE THIS
22 INCIDENT TO COME ABOUT, THAT ADAMS GIBSON DID NOT HAVE MALICE
23 AFORETHOUGHT, THAT ADAMS DID NOT FIRE THE SHOT THAT TOOK THE
24 LIFE OF DENNIS IRBY, THEN, LADIES AND GENTLEMEN, THE
25 GOVERNMENT HAS NOT PROVEN ITS CASE AND IT BECOMES YOUR DUTY

1 AND YOUR RESPONSIBILITY TO PROUDLY WRITE ON THAT INDICTMENT:
2 ADAMS GIBSON IS NOT GUILTY OF MURDER. AND YOU DON'T HAVE TO
3 ANSWER TO ANYBODY FOR IT. YOU DON'T EVEN HAVE TO ANSWER TO
4 YOUR FELLOW JURORS. IF YOU'RE SATISFIED THAT THE GOVERNMENT
5 HAS NOT PROVED THIS CASE, THEN IT'S YOUR DUTY. AND I SIMPLY
6 ASK YOU TO LISTEN CAREFULLY, AND IN THE END I'LL SHARE WITH
7 YOU WHY I THINK THAT ADAMS GIBSON IS NOT GUILTY AND I HOPE
8 YOU'LL AGREE. THANK YOU.

9 THE COURT: MR. JOHNSON?

10 MR. JOHNSON: MR. FOREMAN AND LADIES AND GENTLEMEN OF
11 THE JURY, IT IS IMPORTANT FOR YOU TO UNDERSTAND AT THE OUTSET
12 OF THIS TRIAL THAT JUST BECAUSE A PERSON IS ACCUSED OF A
13 CRIME DOES NOT MEAN THEY ARE GUILTY OF THAT CRIME. JUDGE
14 JOHN. MS. CAMPBELL. MR. LAKE. LADIES AND GENTLEMEN OF THE
15 JURY, MY NAME IS I.S. LEEVY JOHNSON, AND I REPRESENT JACQUES
16 GIBSON WHO YOU HAVE LEARNED IS CHARGED WITH MURDER AND
17 POSSESSION OF A WEAPON UNDER THE AGE OF 21.

18 DURING THE COURSE OF THIS TRIAL, EACH OF US HAVE
19 IMPORTANT ROLES TO PLAY. DURING THE COURSE OF THIS TRIAL,
20 YOU WILL OBSERVE THERE WILL BE DISPUTES BETWEEN THE
21 PROSECUTION AND THE DEFENSE REGARDING THE LAW. ONE PERSON
22 MIGHT GET UP AND SAY, "OBJECTION, YOUR HONOR." AND WHEN
23 DISPUTES OF LAW ARISE, JUDGE JOHN - AND HE'S ONE OF THE BEST
24 - WILL RESOLVE THOSE DISPUTES.

25 IN THIS CASE THERE'S A DISPUTE REGARDING WHAT HAPPENED

1 ON SEPTEMBER 5TH, 2005, WHAT WE CALL THE FACTS OF THE CASE,
2 AND IN A REAL SENSE YOU WILL SERVE AS JUDGES OF THIS DISPUTE.
3 NOW, I'M SURE WHEN YOU GOT YOUR JURY SUMMONS MOST OF YOU
4 SAID, "OH, I SURE HOPE I DON'T HAVE TO SERVE ON THE JURY. I
5 DON'T WANT TO DO THAT. I DON'T WANT TO MAKE A DECISION."
6 BUT WHAT YOU'RE GOING TO HAVE TO DO IS TO MAKE A DECISION AS
7 TO WHETHER OR NOT MY CLIENT IS GUILTY OF THESE CHARGES. AND
8 IN THE COURSE OF DOING THAT YOU ARE GOING TO HAVE TO BE
9 JUDGES OF THE CREDIBILITY, THE BELIEVABILITY OF THESE
10 WITNESSES.

11 IN MOST CASES YOU WILL FIND THAT THERE'S A CONFLICT
12 BETWEEN THE PROSECUTION AND THE DEFENSE, BUT IN THIS CASE YOU
13 ARE GOING TO FIND NUMEROUS, NUMEROUS CONFLICTS BETWEEN THE
14 VERSIONS OF THE STATE'S OWN WITNESSES. AS YOU SEE THESE
15 WITNESSES CALLED TO THE WITNESS STAND, OBSERVE THEIR
16 DEMEANOR. TAKE INTO CONSIDERATION THEIR BIAS AND THEIR
17 PREJUDICE. TAKE INTO CONSIDERATION THEIR OPPORTUNITY TO
18 OBSERVE AND MAKE A DETERMINATION WHETHER OR NOT THESE PEOPLE
19 ARE BELIEVABLE. I ANTICIPATE THAT YOU ARE GOING TO FIND THAT
20 THERE WERE INCONSISTENT STATEMENTS MADE THAT NIGHT AS TO WHAT
21 HAPPENED AND WHAT THEY TESTIFY TODAY UNDER OATH.

22 LOOK CAREFULLY AND LISTEN CAREFULLY AT EACH WITNESS WHEN
23 THEY START TESTIFYING HOW MANY SHOTS THEY HEARD. YOU'RE
24 GOING TO HEAR FROM ZERO UP TO SEVEN. NOW, THAT IS IMPORTANT
25 FOR SEVERAL REASONS BECAUSE, NUMBER ONE, YOU'RE GOING TO FIND

1 OUT THAT THERE WERE MULTIPLE GUNSHOTS THAT NIGHT. NUMBER
2 TWO, YOU'RE GOING TO FIND THAT NO ONE KNOWS WHERE ALL OF
3 THOSE SHOTS CAME FROM. NUMBER THREE, YOU ARE GOING TO FIND
4 THAT THERE MUST HAVE BEEN TWO OR THREE PISTOLS OUT THERE THAT
5 NIGHT. NOW, MR. LAKE HAS SAID, YOU KNOW, ALL THESE PEOPLE
6 DIDN'T HAVE GUNS. SOMEBODY HAD TO HAVE GUNS BECAUSE YOU'RE
7 GOING TO FIND CASINGS FROM A .22 AND A .25 AND A NINE
8 MILLIMETER. THERE'S NO QUESTION MY CLIENT HAD A GUN, BUT
9 WHAT YOU ARE GOING TO FIND MISSING IS THAT THE GUN WAS THROWN
10 AWAY BY MY CLIENT, AND WHEN THE BALLISTIC EXPERT COMES AND
11 TESTIFIES, THE QUESTION WILL BE ASKED OF HIM: THE BULLET
12 THAT KILLED DENNIS IRBY, CAN YOU TESTIFY UNDER OATH THAT THAT
13 -- WHERE THAT BULLET CAME FROM? AND HE WILL NOT BE ABLE TO
14 ANSWER IT. NO ONE CAN COME INTO THIS COURTROOM AND SAY THAT
15 JACQUES GIBSON'S GUN KILLED DENNIS IRBY.

16 THIS APPEAL BY MR. LAKE TO YOUR SYMPATHY IS MISPLACED.
17 WE ARE NOT HERE UNSYMPATHETIC TO THE DEATH OF DENNIS IRBY,
18 BUT THAT IS NOT THE ISSUE THAT YOU ARE GOING TO DECIDE. IN
19 YOUR LIFE YOU MAKE MANY MAJOR DECISIONS REGARDING MARRIAGE,
20 REGARDING EDUCATION, REGARDING WHERE YOU'RE GOING TO LIVE,
21 BUT IN THIS CASE YOU HAVE GOT TO DECIDE WHETHER OR NOT THE
22 STATE PRESENTS SUFFICIENT PROOF TO YOU TO CONVINCE YOU BEYOND
23 A REASONABLE DOUBT THAT ON SEPTEMBER 5TH, 2005, THAT DENNIS
24 -- THAT MY CLIENT, JACQUES GIBSON, KILLED DENNIS IRBY AND IT
25 COULDN'T HAVE BEEN ANYBODY ELSE, THAT IT POSSIBLY COULDN'T

1 HAVE BEEN ANYBODY ELSE.

2 THERE'S A BIG DIFFERENCE BETWEEN CONJECTURE AND
3 SUSPICION AND IT MIGHT HAVE AND PROBABLY HAVE OR COULD HAVE
4 OR THAN THIS IS EXACTLY WHAT HAPPENED, AND I SUBMIT TO YOU AT
5 THE END OF THIS CASE YOU'RE GOING TO COME TO THE CONCLUSION
6 THAT THIS IS SUSPICION AND THAT IT MIGHT HAVE HAPPENED THAT
7 WAY, BUT Y'ALL JUST HAVEN'T PROVED TO MY SATISFACTION THAT IT
8 HAPPENED THAT WAY.

9 IN MAKING YOUR DECISION, THERE'S SORT OF THREE BASIC
10 GUIDELINES THAT YOU MUST FOLLOW. JUDGE JOHN HAS TOLD YOU
11 ABOUT THEM. NUMBER ONE, EVERY DEFENDANT IS PRESUMED TO BE
12 INNOCENT. NOW, THAT IS NOT SOME ABSTRACT CONCEPT THAT I
13 CONJURED UP OR MADE UP TODAY OR SOME LAW PROFESSOR MADE UP.
14 THAT'S IN OUR CONSTITUTION. THAT IS A BASIC RIGHT THAT
15 EVERYONE HAS. SO OFTEN WHEN A PERSON IS ACCUSED OF A CRIME,
16 PEOPLE THINK THAT THAT PERSON SHOULD COME IN AND PROVE HIS OR
17 HER INNOCENCE, THAT IS, THAT THEY HAVE THE BURDEN. IT'S UP
18 TO THEM TO DEMONSTRATE THAT THEY ARE INNOCENT, BUT THAT IS
19 NOT OUR SYSTEM.

20 THE BURDEN - AND THAT'S THE SECOND FACTOR - IS ALWAYS ON
21 THE PROSECUTION. THEY MAKE THE CHARGES, AND SO THEY'RE
22 RESPONSIBLE. IT'S THEIR DUTY TO PROVE TO YOUR SATISFACTION
23 THAT MY CLIENT WITH PREMEDITATION, WITH MALICE, KILLED DENNIS
24 IRBY. AND FINALLY, THEY MUST PROVE BEYOND A REASONABLE
25 DOUBT -- A REASONABLE DOUBT IS NOT A FANCIFUL OR AN IMAGINARY

1 DOUBT OR A DOUBT THAT YOU JUST THINK ABOUT. IT IS A DOUBT
2 THAT YOU CAN GIVE A REASON FOR. AND IN THIS CASE THERE ARE
3 GOING TO BE NUMEROUS REASONS FOR YOU TO DOUBT THAT MY CLIENT
4 KILLED DENNIS IRBY.

5 DID YOU NOTICE THAT MR. LAKE JUST SAID THERE WERE GUNS
6 FIRED? HE NEVER DID SAY THAT THE GUN THAT JACQUES GIBSON
7 FIRED KILLED DENNIS IRBY. THE TESTIMONY WILL SHOW THAT THERE
8 WERE A SEQUENCE, A SERIES, OF SHOTS AND NO ONE KNOWS WHERE
9 THEY CAME FROM. THE EVIDENCE WILL SHOW THAT THE CRIME SCENE
10 WAS POLLUTED AND COMPROMISED. WHEN THE INITIAL OFFICER GOT
11 THERE, HE DIDN'T PUT UP CRIME TAPE. PEOPLE JUST SCATTERED
12 AROUND, RUNNING AROUND, DOING DIFFERENT THINGS, POLLUTED THE
13 CRIME SCENE.

14 THE EVIDENCE WILL SHOW THAT MY -- ON AN OCCASION MY
15 CLIENT GAVE STATEMENTS AND SAID, YOU KNOW, I PROBABLY -- I
16 MIGHT HAVE, BUT NEVER DID HE SAY THAT I SHOT DENNIS IRBY.
17 THAT'S THE DIFFERENCE BETWEEN REASONABLE DOUBT: COULD HAVE,
18 PROBABLY HAVE, MIGHT HAVE, AND DID I SHOOT? BECAUSE NOBODY
19 IS GOING TO COME INTO THIS COURTROOM AND TESTIFY THAT THEY
20 SAW MY CLIENT SHOOT DENNIS IRBY, NOT A SINGLE PERSON CAN COME
21 INTO THIS COURTROOM AND SAY THEY SAW MY CLIENT SHOOT DENNIS
22 IRBY, BUT ALL OF THEM, MOST OF THEM EXCEPT MAYBE ONE, CAN
23 COME IN HERE AND SAY THAT THEY HEARD MULTIPLE GUNSHOTS.

24 WHO ELSE WAS FIRING THAT NIGHT? WHO ELSE WAS SHOOTING?
25 YOU NEED TO ASK THAT QUESTION OF THE PROSECUTION. SHOW US

1 THAT DURING THAT SCENE THAT NIGHT THAT DENNIS IRBY -- THAT
2 JACQUES GIBSON SHOT DENNIS IRBY. SHOW US WHERE JACQUES
3 GIBSON WAS STANDING, WHERE DENNIS IRBY WAS. SHOW US THE
4 TRAJECTORY WHEN MY CLIENT HAD THAT GUN THAT HE SHOT DENNIS
5 IRBY. THEY CAN'T DO IT. AND THAT'S WHY IT IS SO IMPORTANT
6 THAT YOU NOT BE INFLUENCED BY SYMPATHY. AND THAT IS WHY IT'S
7 SO IMPORTANT THAT DURING THE COURSE OF THIS TRIAL, AS JUDGE
8 JOHN HAS TOLD YOU, THAT YOU NOT MAKE A PREMATURE JUDGMENT
9 REGARDING THE FACTS OF THIS CASE.

10 LISTEN CAREFULLY TO THE OATH THAT EVERYONE WHO COMES
11 INTO THIS COURTROOM AND WHEN THEY PUT THEIR HAND ON THE BIBLE
12 TO TESTIFY... I SWEAR TO TELL THE TRUTH, THE WHOLE TRUTH,
13 AND NOTHING BUT THE TRUTH. THREE WAYS. I SWEAR TO TELL THE
14 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. ISN'T THE
15 TRUTH THE WHOLE TRUTH? ISN'T THE TRUTH NOTHING BUT THE
16 TRUTH? YOU ARE GOING TO FIND IN THIS CASE THAT PEOPLE ARE
17 GOING TO PUT THEIR HANDS ON THIS BIBLE AND LIE, AND THEY'RE
18 NOT GOING TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
19 THE TRUTH.

20 I'VE BEEN LIVING IN COLUMBIA FOR MANY, MANY YEARS, AND I
21 NEVER DREAMED THAT ONE DAY WE'D HAVE HOCKEY IN COLUMBIA. I
22 MEAN, YOU KNOW, HOCKEY IS A GAME THAT THEY PLAY IN CANADA AND
23 SOME OF THESE -- MINNESOTA AND MICHIGAN, THOSE COLDER STATES.
24 SO ONE NIGHT I DECIDED TO GO TO A HOCKEY GAME, AND I GOT
25 THERE EARLY. WHEN I GOT THERE EARLY, I SAW THIS MAN. HE HAD

1 ON HIS INFERNO TEE SHIRT. HE WAS OBVIOUSLY AN EMPLOYEE OF
2 THE INFERNO, BUT HE GOT ON THAT LITTLE MACHINE AND I KNOW
3 WHAT THAT MACHINE WAS. I THINK IT WAS SOMETHING SAMBINO OR
4 SOMETHING, AND HE GOT ON THAT MACHINE AND HE STARTED GOING
5 INTO THE ICE, ROLLING OVER THAT ICE, JUST ROLLING OVER THE
6 ICE, AND HE WOULD GO TO THE CORNERS AND HE'D GET THAT SMOOTH.
7 HE'D GO IN THIS CORNER AND HE'D GET THAT SMOOTH. HE'D BACK
8 UP AND THEN HE WOULD GET EVERY AREA SMOOTH.

9 NOW, HE WAS AN EMPLOYEE OF THE INFERNO COMPANY, BUT YOU
10 KNOW WHAT HE WAS DOING? HE HAD A BIAS IN FAVOR OF THE
11 INFERNO COMPANY. HE HAD A PREJUDICE IN FAVOR OF THE INFERNO
12 COMPANY, BUT HE WAS SMOOTHING THAT ICE SO BOTH SIDES COULD
13 GET A FAIR CHANCE, THAT BOTH SIDES WOULD GET AN EQUAL
14 OPPORTUNITY TO WIN.

15 WE HAVE CAREFULLY SELECTED EACH AND EVERY ONE OF YOU TO
16 GIVE EACH SIDE A FAIR AND AN IMPARTIAL OPPORTUNITY TO WIN.
17 DO NOT BE INFLUENCED BY THE FACT THAT MY CLIENT HAS BEEN
18 CHARGED WITH THESE SERIOUS CHARGES. DO NOT BE INFLUENCED BY
19 SYMPATHY. DO NOT BE INFLUENCED BY ANY BIAS OR PREJUDICE THAT
20 YOU HAD BEFORE YOU CAME INTO THIS COURTROOM BECAUSE YOU HAD
21 ATTITUDE; YOU HAD FEELINGS.

22 WE HAVE BEEN WAITING NEARLY TWO YEARS SINCE
23 SEPTEMBER 5TH, 2005, TO COME BEFORE A FAIR AND IMPARTIAL
24 JURY. NEARLY TWO YEARS WE'VE BEEN WAITING TO BE IN THIS
25 COURTROOM TO HAVE THIS OPPORTUNITY. AND AFTER YOU LISTEN --

1 I ALMOST SAID HEARD THE EVIDENCE, BUT AFTER YOU FIND OUT AND
2 BE SHOCKED BY THE MISSING EVIDENCE, YOU WILL COME TO THE
3 INESCAPABLE CONCLUSION THAT MY CLIENT IS NOT GUILTY. THANK
4 YOU VERY MUCH.

5 THE COURT: ALL RIGHT. SOLICITOR, YOUR FIRST WITNESS,
6 PLEASE, MA'AM.

7 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
8 TORRI BOYD.

9 TORRI BOYD, AFTER BEING DULY SWORN, TESTIFIED AS
10 FOLLOWS:

11 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
12 YOUR FULL NAME FOR THE RECORD, PLEASE.

13 THE WITNESS: TORRI BOYD.

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q. TORRI, HOW OLD ARE YOU?

17 A. I'M 26.

18 Q. WHERE DO YOU LIVE?

19 A. WINNSBORO, SOUTH CAROLINA.

20 Q. AND HOW LONG HAVE YOU BEEN LIVING IN WINNSBORO?

21 A. SINCE I WAS BORN.

22 Q. DO YOU WORK?

23 A. YES, MA'AM.

24 Q. WHAT DO YOU DO FOR A LIVING?

25 A. I WORK AT THE VISTA TIRE COMPANY.

1 Q. A TILE COMPANY?

2 A. TIRE.

3 Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER OF 2005.

4 DO YOU KNOW SOMEONE NAMED RAVARIS HENRY?

5 A. YES, MA'AM.

6 Q. AND HOW DO YOU KNOW RAVARIS HENRY?

7 A. WE GREW UP TOGETHER, SAME NEIGHBORHOOD.

8 Q. DOES HE HAVE A NICKNAME?

9 A. B.

10 Q. B.?

11 A. (WITNESS NODDED HEAD UP AND DOWN.)

12 Q. ANTWAN MARTIN, DO YOU KNOW HIM?

13 A. ANTWAN MARTIN?

14 Q. DO YOU KNOW A GUY NAMED A.J.?

15 MR. JOHNSON: OB---

16 THE WITNESS: A.J.

17 MR. JOHNSON: ---JECTION.

18 THE WITNESS: I KNOW HIM AS A.J.

19 MR. JOHNSON: OBJECTION, YOUR HONOR.

20 MS. CAMPBELL: HOW---

21 MR. JOHNSON: IT'S TOO LATE. I'M JUST...

22 THE COURT: ALL RIGHT, SIR.

23 BY MS. CAMPBELL:

24 Q. HOW DO YOU KNOW A.J.?

25 A. I'VE KNOWN A.J. FOR ABOUT A YEAR AND A HALF IN BEING KIN

1 TO B.

2 Q. DO YOU KNOW A GUY NAMED YO-YO?

3 A. YEAH, I KNOW YO-YO.

4 Q. DID YOU KNOW HIS REAL NAME?

5 A. ANTONIO SOMETHING.

6 Q. AND DID YOU KNOW A PERSON NAMED DENNIS IRBY?

7 A. YES, I DID.

8 Q. AND HOW DID YOU KNOW DENNIS IRBY?

9 A. FROM BEING AROUND THE SAME NEIGHBORHOOD.

10 Q. I WANT TO TURN YOUR ATTENTION -- I BELIEVE IT WAS A
11 SUNDAY NIGHT, SEPTEMBER THE 5TH, 2007 (SIC). WHAT DID Y'ALL
12 DO -- WHAT DID YOU DO THAT DAY?

13 A. IT WAS LABOR DAY, SO WE WENT TO CHANCE'S.

14 Q. WHO ALL WENT WITH YOU TO CHANCE'S THAT NIGHT?

15 A. IN THE CAR IT WAS ME, A.J., B., AND DENNIS.

16 Q. AND WHO WAS DRIVING? DO YOU REMEMBER?

17 A. I DON'T REMEMBER. I THINK IT WAS A.J.

18 Q. AND WHOSE CAR WAS IT?

19 A. A.J.'S.

20 Q. AND WHAT KIND OF CAR WAS IT? DO YOU REMEMBER?

21 A. A TAHOE.

22 Q. A TAHOE?

23 A. (WITNESS NODDED HEAD UP AND DOWN.)

24 Q. WHEN YOU GOT TO CHANCE'S, DO YOU REMEMBER APPROXIMATELY
25 -- WAS IT BEFORE DARK OR AFTER DARK OR DO YOU REMEMBER?

- 1 A. I THINK IT WAS BEFORE. IT WASN'T QUITE DARK.
- 2 Q. HOW LONG DID Y'ALL STAY AT CHANCE'S THAT NIGHT?
- 3 A. ABOUT AN HOUR AND 30 MINUTES, HOUR AND 20 MINUTES.
- 4 Q. DO YOU KNOW THE EXACT TIME?
- 5 A. NO, I DON'T.
- 6 Q. AND DURING THE TIME THAT YOU WERE THERE, DID YOU SEE
- 7 SOME OTHER MEN COME IN THAT YOU KNEW FROM FAIRFIELD COUNTY?
- 8 A. YEAH, I KNEW SOME OF THE GUYS THAT CAME IN.
- 9 Q. AND HAD YOU SEEN SOME OF THEM BEFORE?
- 10 A. YEAH, I HAD SEEN SOME OF THEM BEFORE.
- 11 Q. AND HOW HAD YOU SEEN THEM BEFORE?
- 12 A. BEING IN RIDGEWAY.
- 13 Q. DO YOU REMEMBER ANY OF THEIR NAMES OR THEIR NICKNAMES?
- 14 A. BAM.
- 15 Q. BAM.
- 16 A. MARCUS TUCKER.
- 17 Q. UH-HUH.
- 18 A. KARTEZ. AND THAT'S ABOUT ALL I KNOW OF FROM THERE.
- 19 Q. COULD THERE HAVE BEEN MORE PEOPLE WITH THEM?
- 20 A. YEAH.
- 21 Q. THOSE ARE THE ONES YOU KNEW THEIR NICKNAMES OR WHATEVER?
- 22 A. THAT'S THE ONES I KNEW THEIR NAME.
- 23 Q. AND HAD YOU EVER HAD ANYTHING TO DO WITH ANY OF THOSE
- 24 YOUNG MEN BEFORE?
- 25 A. YEAH.

1 Q. ANY KIND OF PROBLEMS?

2 A. WELL, IN THE PAST I HAD HAD SOME RUN-INS, BUT IT AIN'T
3 BEEN NOTHING SERIOUS.

4 Q. AND WHO HAD YOU HAD A RUN-IN WITH IN THE PAST?

5 A. WITH BAM. HE...

6 Q. ANYBODY ELSE?

7 A. AND KARTEZ.

8 Q. OKAY. AND EXPLAIN TO THE JURY WHAT YOUR PRIOR PROBLEMS
9 HAD BEEN.

10 A. WELL, KARTEZ -- I WAS AT A PARTY AND THEY WAS CHARGING
11 FOR DRINKS. IT WASN'T LIKE A REGULAR HOUSE PARTY SO... MY
12 HOMEBOY TOLD ME TO GO TELL THE PERSON WHO WAS SERVING DRINKS
13 THAT HIS -- THAT RED ASKED FOR A DRINK. SO THE FIRST TIME I
14 WENT IN I TOLD HER RED ASKED FOR A DRINK, AND THEN SHE GAVE
15 ME A DRINK. SO THE SECOND TIME I CAME IN SHE WAS LIKE, "NO."
16 SO I WENT TO GO BACK IN AND OUT, AND I WAS THINKING ABOUT
17 WHAT I WAS GOING TO SAY TO GO GET ANOTHER DRINK. AND HE CAME
18 AND APPROACHED ME AND HE SAID, "DON'T BE LOOKING AT MY GIRL
19 IN THE DOOR." SO I WAS LIKE I AIN'T KNOW WHAT HE WAS TALKING
20 ABOUT AT FIRST. SO THEN WHEN I KNOW WHAT HE WAS TALKING
21 ABOUT, HE KIND OF WALKED OFF, SO I DIDN'T GET TO EXPLAIN,
22 JUST LEFT.

23 Q. SO THAT WENT ON ON AN EARLIER OCCASION? NOT THIS NIGHT.

24 A. WAY EARLIER.

25 Q. WAY EARLIER?

1 A. YEAH.

2 Q. LIKE MONTHS? YEARS?

3 A. IT'S BEEN ABOUT PROBABLY ABOUT A YEAR.

4 Q. AND AT THAT POINT OTHER THAN HIM SAYING THAT TO YOU, WAS
5 THERE ANY OTHER CONFRONTATION ON THAT NIGHT?

6 A. NO, MA'AM.

7 Q. YOU ALSO MENTIONED THAT YOU HAD HAD SOME PROBLEMS WITH
8 BAM?

9 A. YES, MA'AM.

10 Q. AND EXPLAIN TO THE JURY WHAT THAT WAS ABOUT.

11 A. I WAS DOWN TO THE SAME HOUSE AND HE ASKED ME ABOUT ME
12 KNOWING ABOUT MY COUSIN TAKING HIS MONEY OR TAKE SOME STUFF
13 FROM HIM. I TOLD HIM I DON'T GOT NOTHING TO DO WITH THAT;
14 THEY'RE GROWN. AND HE GOT IN THE CAR AND LEFT. WE AIN'T ON
15 NO SPEAKING LEVEL, BUT WE DIDN'T ARGUE.

16 Q. HAD YOU EVER HAD ANY KIND OF PHYSICAL ALTERCATION WITH
17 EITHER OF THEM BEFORE?

18 A. NO, MA'AM.

19 Q. DO YOU KNOW A YOUNG WOMAN NAMED LAKISHA DAVIS?

20 A. PUNKIN (PHONETIC)?

21 Q. YEAH.

22 A. YEAH, I KNOW HER BY PUNKIN BUT...

23 Q. I WANT TO TALK ABOUT THAT NIGHT, THAT EVENING, WHEN
24 Y'ALL WERE IN THE BAR. WERE Y'ALL DRINKING?

25 A. YEAH. WE HAD SOME YAGAMEISTER, ONE AND A HALF, AND BUD

1 LIGHT.

2 Q. AND WHILE YOU WERE THERE, YOU SAW SOME -- WHERE ARE
3 THESE GUYS FROM, THE ONES WE'RE REFERRING TO BAM AND KARTEZ
4 AND THOSE?

5 A. RIDGEWAY.

6 Q. RIDGEWAY?

7 A. (WITNESS NODDED HEAD UP AND DOWN.)

8 Q. AND WHERE ARE YOU FROM?

9 A. WINNSBORO.

10 Q. AND ARE THOSE CLOSE TOGETHER?

11 A. REAL CLOSE. GO TO THE SAME SCHOOL.

12 Q. DURING THAT EVENING, WHILE YOU WERE AT THE BAR, YOU SAW
13 THE ONES YOU'VE NAMED AND SOME MORE COME INTO THE BAR. IS
14 THAT CORRECT?

15 A. YES, MA'AM.

16 Q. WHAT HAPPENED AFTER THEY CAME IN?

17 A. WELL, WHEN THEY CAME IN, THEY KIND OF LIKE JUST WALKED
18 RIGHT PAST US. WE WAS AT THE DOOR, NEAR THE DOOR, WHERE THE
19 DISCO PLAYER WAS.

20 Q. UH-HUH.

21 A. AND WALKED TO THE BAR.

22 Q. WHO WALKED TO THE BAR?

23 A. ALL OF THEM, WHO ALL WAS WITH THEM.

24 Q. OKAY.

25 A. AND THEY STARTED DRINKING, AND I GUESS EVERYBODY STARTED

1 SOCIALIZING.

2 Q. OKAY. AND FIRST -- WHEN THEY FIRST GOT THERE, WAS
3 EVERYTHING OKAY?

4 A. YEAH, EVERYTHING SEEMED TO BE OKAY.

5 Q. DID YOU SPEAK TO ANY OF THEM?

6 A. YEAH, I SPOKE TO A DAVIS FELLOW BECAUSE HE WAS SITTING
7 AT THE TABLE DIRECTLY ACROSS FROM ME, YOU KNOW, JUST
8 SOCIALIZE -- SEEING IF THERE WAS ANY -- AND I JUST ASKED HIM
9 WHO HE WAS, YOU KNOW, BASICALLY WHERE HE'S FROM.

10 Q. IS THIS ONE OF THE PEOPLE THAT WAS WITH BAM, MARCUS, AND
11 ADAMS?

12 A. YEAH.

13 Q. AND HOW DID YOU KNOW HE WAS A DAVIS?

14 A. HE TOLD ME.

15 Q. DID Y'ALL HAVE A CONVERSATION?

16 A. YEAH. WELL, I JUST BASICALLY ASKED HIM, LIKE I SAID,
17 WHO HE WAS AND WHERE HE'S FROM. HE TOLD ME HE WAS A DAVIS.
18 THERE WAS NOTHING ELSE SAID REALLY. I WENT BACK TO THE TABLE
19 I WAS AT. THAT'S IT.

20 Q. WHAT HAPPENED NEXT?

21 A. PUNKIN, LAKISHA, WHATEVER, SHE CAME TO THE BOX RIGHT
22 BEHIND ME AND SHE WAS GOING TO PUT HER MONEY IN THERE.

23 Q. WHAT KIND OF BOX WAS IT?

24 A. IT WAS A C.D. PLAYER, SOME KIND OF OLD DISCO PLAYER BOX.

25 Q. OKAY. AND WHAT DID YOU SAY TO HER?

1 A. I TOLD HER THERE WASN'T ANYTHING IN THERE. I HAD JUST
2 PUT MY MONEY IN THERE AND IT TOOK MY MONEY.

3 Q. YOU TOLD HER WHAT? I'M SORRY.

4 A. I TOLD HER I HAD JUST PUT MY MONEY IN THERE AND IT HAD
5 TOOK MY MONEY.

6 Q. THEN WHAT HAPPENED?

7 A. AND THEN KARTEZ CAME AND HE STARTED LIKE HE WAS MAD AT
8 HER, TOLD HER NOT TO BE TALKING TO ME. SO HE WENT IN THE
9 BATHROOM AND I WENT IN AND EXPLAINED. I WENT IN THERE AND I
10 TOLD HIM BASICALLY THAT -- WHAT I HAD SAID TO HER ABOUT THAT
11 C.D. PLAYER, AND HE WAS ON THE PHONE AND HE NODDED AND I
12 WALKED OUT. THAT'S ALL.

13 Q. AFTER THAT, WHEN YOU WALKED INTO THE BATHROOM AND HE WAS
14 ON THE PHONE, COULD YOU HEAR WHAT HE WAS SAYING?

15 A. NO, NOT WHEN I WAS IN THE BATHROOM, BUT WHEN HE CAME OUT
16 HE WALKED RIGHT PAST US. SO HE WAS TELLING ME WHERE WE WAS
17 AT, BASICALLY WHERE HE WAS AT SO -- TELLING THEM TO COME
18 THERE AND HE WAS WALKING SO WE CAN HEAR IT. THAT'S WHEN I
19 STARTED GETTING THE FEELING, YOU KNOW, WE MIGHT AS WELL GO.

20 Q. EXCUSE ME?

21 A. I STARTED TELLING EVERYBODY IT MIGHT WELL BE TIME TO GO.
22 I STARTED TRYING TO TELL EVERYBODY.

23 Q. WHY DID YOU FEEL LIKE IT WAS A GOOD TIME FOR YOU TO
24 LEAVE?

25 A. BECAUSE IT WASN'T LIKE HE WAS LETTING IT GO. IT WASN'T

1 LIKE -- YOU KNOW WHAT I'M SAYING? I EXPLAINED SO... I
2 THOUGHT IT WOULD BE BETTER IF WE LEAVE.

3 Q. WERE THERE SOME LOOKS OR STARES GOING BACK AND FORTH?

4 A. YEAH.

5 Q. WERE THERE SOME WORDS BEING SAID?

6 A. NO, THERE WASN'T, NOT THAT I KNOW OF, NOT IN THE BAR.

7 MR. JOHNSON: I'M SORRY, YOUR HONOR. I DIDN'T HEAR WHAT
8 HE SAID.

9 THE COURT: YOU NEED TO SPEAK UP JUST A LITTLE BIT,
10 PLEASE, SIR.

11 THE WITNESS: I SAID NOT IN THE BAR.

12 THE COURT: THANK YOU.

13 MR. JOHNSON: HE SAID NO WORDS WERE SAID IN THE BAR?
14 YOUR HONOR, I'M SORRY. I JUST COULDN'T HEAR THAT.

15 THE COURT: ALL RIGHT. JUST ASK THE QUESTION AGAIN,
16 SOLICITOR. THAT'S ALL RIGHT. ASK THE QUESTION AGAIN,
17 PLEASE.

18 BY MS. CAMPBELL:

19 Q. WERE THERE SOME WORDS GOING BACK AND FORTH?

20 A. I SAID THERE WAS NO MORE WORDS GOING BACK AND FORTH IN
21 THE BAR.

22 MR. JOHNSON: THANK YOU.

23 BY MS. CAMPBELL:

24 Q. AT THAT POINT DID YOU---

25 A. BESIDES WHAT I JUST SAID.

1 Q. OKAY. DID Y'ALL LEAVE?

2 A. WELL, WE WENT TO LEAVE AFTER I TOLD EVERYBODY. I GOT TO
3 THE TRUCK, TO THE DOOR, AND I COULD SEE THERE WAS -- KARTEZ
4 WAS IN THE CAR LEANED OVER TALKING TO THEM SO... A WHITE CAR
5 HAD PULLED UP SO... I BASICALLY TOLD HIM, YOU KNOW, THAT
6 WE'RE GOING HOME; WE AIN'T CAME FOR NO TROUBLE. AND I GOT TO
7 THE CAR AND---

8 Q. WHICH CAR?

9 A. A.J.'S TRUCK AND THAT'S WHEN BAM CAME OUT THE DOOR.

10 Q. LET ME BACK UP FOR A SECOND. YOU SAID WHEN YOU GOT TO
11 THE FRONT DOOR, YOU LOOKED OUT AND YOU SAW WHO?

12 A. BAM. TRAMELE DAVIS OR TREMAINE, WHATEVER Y'ALL CALL
13 HIM.

14 Q. DID YOU SEE KARTEZ?

15 A. WHEN I FIRST CAME OUT, HE WAS OUTSIDE THE DOOR IN A CAR
16 TALKING.

17 Q. AND WHAT DID THE CAR LOOK LIKE?

18 A. A WHITE CAR. I DON'T KNOW WHAT KIND.

19 Q. HAD YOU SEEN IT BEFORE?

20 A. NO, I HADN'T SEEN THE CAR BEFORE.

21 Q. AND THEN YOU SAID THAT YOU WENT OVER TO YOUR TRUCK, I
22 BELIEVE?

23 A. A.J.'S TRUCK.

24 Q. A.J.'S TRUCK. AND WHEN YOU GOT TO THE TRUCK, WHAT
25 HAPPENED?

1 A. WELL, I GOT TO THE TRUCK, AND BAM WAS COMING OUT THE
2 DOOR. HE WAS HOLLERING, "WHAT? WHAT? WHAT?" IN LIKE A MAD
3 MANNER. SO I TURNED TO FACE HIM SO, YOU KNOW, I WOULDN'T GET
4 HIT IN THE BACK OR ANYTHING GETTING IN THE CAR. AND I WAS
5 EXPLAINING TO HIM THAT, YOU KNOW, I AIN'T GOT -- BASICALLY
6 GOT NOTHING TO DO WITH WHAT'S GOING ON, BUT YOU'RE MY FAMILY,
7 MY COUSIN, AND TRYING TO TALK IT OUT TO HIM.

8 Q. EXCUSE ME. WHAT DID YOU SAY ABOUT BEING A COUSIN?

9 A. HE AND I WAS TALKING ABOUT WHATEVER ME AND HIM HAD GOING
10 ON AIN'T HAD NOTHING TO DO WITH MY FAMILY; YOU KNOW WHAT I
11 MEAN.

12 Q. OKAY.

13 A. I AIN'T HAD NOTHING TO DO WITH THAT IS BASICALLY WHAT I
14 HAD TOLD HIM THE ONLY THING I KNOW HE COULD BE MAD AT ME
15 ABOUT SO...

16 Q. AND THAT'S SOMETHING ABOUT YOUR COUSIN AND HIM?

17 A. YEAH.

18 Q. WHERE WERE Y'ALL STANDING IN THE PARKING LOT? DO YOU
19 REMEMBER?

20 A. WE WAS STRAIGHT IN FRONT OF THE DOOR. IT WASN'T A
21 COUPLE OF FEET. WE DIDN'T PARK FAR; WE WAS IN THE FRONT.

22 Q. WAS IT IN THE PARKING LOT THOUGH WHERE THE CARS WERE
23 PARKED?

24 A. YEAH.

25 Q. WERE YOU NEAR THE TRUCK?

1 A. I WAS AT THE TRUCK.

2 Q. AND WHAT HAPPENED?

3 A. AND AFTER HE CAME OUT OF THE DOOR, THEN I STARTED
4 TALKING TO HIM. HE HAD GOT SO CLOSE IT WAS LIKE, YOU KNOW,
5 HE WAS -- HE WAS GOING TO SPIT ON ME, YOU KNOW WHAT I'M
6 SAYING, IF HE WOULD HAVE BEEN STANDING AT THE CAR. HE WAS SO
7 CLOSE, SO I KIND OF BACKED HIM AWAY FROM ME.

8 Q. WHEN YOU SAY YOU BACKED HIM AWAY FROM YOU, HOW DID YOU
9 DO IT?

10 A. I TOOK MY HAND. I OPEN-HANDEDLY EASED HIM AWAY SO HE
11 WOULDN'T BE SO FAR---

12 Q. WHERE DID YOU TOUCH HIM---

13 A. ---NOT ACTUALLY PUSHING HIM DOWN BUT, YOU KNOW, BACK --
14 BACK RIGHT IN THERE.

15 Q. HERE?

16 A. YES.

17 Q. SO YOU BASICALLY WERE PUSHING HIM AWAY FROM YOU.

18 A. YEAH, SO HE WOULDN'T BE SPITTING IN MY FACE OR NOTHING
19 LIKE THAT.

20 Q. THEN WHAT HAPPENED?

21 A. THEN HE STARTED SAYING, "GET YOUR HAND OFF OF ME AND
22 DON'T ME TOUCHING ON ME." AND B., RAVARIS HENRY, HE WAS
23 LIKE, "WELL, DON'T BE ALL UP ON HIM LIKE THAT THERE," AND
24 CAME FOR, YOU KNOW, TO STEP IN MY DEFENSE. YOU KNOW WHAT I
25 MEAN? AND HIS COUSIN---

1 Q. WHOSE COUSIN?

2 A. THE DAVIS DUDE, HE TOOK HIS SHIRT OFF.

3 Q. IS THAT BAM'S COUSIN?

4 A. YES, MA'AM.

5 Q. SO IT WASN'T BAM THAT TOOK HIS SHIRT OFF.

6 A. NO, IT WAS TRAMELE, WHATEVER HIS NAME IS, DAVIS. THE
7 DUDE THAT I HAD MET---

8 Q. OKAY.

9 A. ---THAT I HAD JUST MET, HE TOOK HIS SHIRT OFF.

10 Q. HE TOOK HIS SHIRT OFF?

11 A. AND HE WASN'T NO RAVARIS THOUGH. HE WAS LIKE HE WANTED
12 TO FIGHT RAVARIS. SO HE CAME AROUND THE OTHER SIDE OF THE
13 TRUCK, AND I CAME AROUND AND STOPPED HIM AND I SAID
14 BASICALLY, YOU KNOW WHAT I MEAN, "LEAVE BECAUSE WE AIN'T
15 GOING TO FIGHT THE SAME THING," AND HE SWUNG.

16 Q. WHO SWUNG?

17 A. HE DID.

18 Q. WHO IS HE?

19 A. THE DAVIS GUY, TRAMELE.

20 Q. THE ONE WITHOUT THE SHIRT?

21 A. YEAH.

22 Q. THEN WHAT HAPPENED? WHO DID HE SWING AT?

23 A. I GUESS HE SWUNG AT B. BECAUSE B. WAS BEHIND THE...

24 Q. B.?

25 A. (WITNESS NODDED HEAD UP AND DOWN.)

1 Q. AND THEN WHAT HAPPENED?

2 A. AND THEN IT ALL BROKE LOOSE. I GRABBED THE FIRST PERSON
3 I COULD GRAB AND I FELL TO THE GROUND, AND I WAS GETTING
4 KICKED AND HIT BASICALLY.

5 Q. WHO WAS KICKING AND HITTING YOU?

6 A. I HAVE NO IDEA. I MEAN...

7 Q. WHO ALL WAS OUT THERE IN THE PARKING LOT FIGHTING? DO
8 YOU KNOW?

9 A. BASICALLY EVERYBODY THAT CAME WITH THEM WAS OUT THERE.

10 Q. AND DID THAT INCLUDE BAM?

11 A. YES, MA'AM.

12 Q. AND YOU MENTIONED THE COUSIN. WAS HE INVOLVED?

13 A. YEAH.

14 Q. YOU MENTIONED EARLIER THAT YOU SAW A MAN NAMED MARCUS
15 TUCKER. WAS HE OUT THERE?

16 A. YES.

17 Q. WAS HE FIGHTING?

18 A. I DON'T KNOW. I MEAN, HE COULD HAVE BEEN. I WAS DOWN.

19 Q. AND EXPLAIN TO THE JURY HOW YOU JUST WERE CONCENTRATING
20 ON WHAT WAS GOING ON WITH YOU.

21 A. YES, MA'AM.

22 Q. AND COULD YOU TELL WHO ALL ELSE WAS INVOLVED IN THE
23 FIGHTS AT THAT POINT?

24 A. WHEN EVERYTHING STARTED BREAKING LOOSE, I COULDN'T
25 REALLY TELL WHO ALL WAS IN THE FIGHT BECAUSE I WAS TRYING NOT

1 TO GET HIT IN THE FACE.

2 Q. AND WHERE WERE YOU?

3 A. ON THE GROUND.

4 Q. AND WHAT WAS HAPPENING TO YOU?

5 A. GETTING KICKED AND HIT IN THE BACK AND IN THE SIDE.

6 Q. SO AT THAT POINT, ONCE YOU GO DOWN, CAN YOU TELL WHAT'S
7 HAPPENING TO EVERYBODY ELSE?

8 A. NO. NO, MA'AM.

9 Q. WHAT'S THE NEXT THING THAT HAPPENED?

10 A. THE NEXT THING THAT HAPPENED: THE GUY, WHOEVER WAS
11 KICKING ME, HAD STOPPED, AND WHOEVER WAS UNDER ME, I HIT HIM
12 LIKE TWO TIMES.

13 Q. YOU WERE ON TOP OF SOMEBODY?

14 A. YES, MA'AM.

15 Q. OKAY. SO WHEN YOU WENT DOWN, YOU SAID YOU GRABBED
16 SOMEBODY.

17 A. YEAH.

18 Q. WHO DID YOU GRAB?

19 A. I HAVE NO IDEA. I BELIEVED IT TO BE BAM.

20 Q. BAM?

21 A. YEAH.

22 Q. SO HE'S UNDERNEATH YOU?

23 A. (WITNESS NODDED HEAD UP AND DOWN.)

24 Q. SO THERE'S SOMEONE ELSE KICKING YOU?

25 A. YES, MA'AM.

1 Q. IS BAM HITTING YOU?

2 A. NO, I HAD HIM GRABBED. HE COULDN'T MOVE.

3 Q. HE COULDN'T MOVE?

4 A. NO.

5 Q. AND THEN I THINK YOU JUST TESTIFIED WHAT HAPPENED?

6 A. AND AFTER -- AFTER THEY STOPPED KICKING ME, I MAY HAVE
7 HIT HIM ONCE, TWICE MAYBE.

8 Q. WHO? BAM?

9 A. YEAH. I KNOW I MISSED BECAUSE I HIT MY HAND ON THE
10 CONCRETE. AND THEN I HEARD HIM SAY HE WAS SHOT - DENNIS.

11 Q. DENNIS SAID HE WAS SHOT?

12 A. YES, MA'AM.

13 Q. AND WHERE WAS HE IN RELATION TO WHERE YOU WERE DOWN ON
14 THE GROUND?

15 A. HE WAS PROBABLY ABOUT FROM HERE TO THAT GUY.

16 Q. FROM HERE TO THAT GUY?

17 A. YES, MA'AM.

18 Q. AND ONCE YOU HEARD HIM SAY HE HAD BEEN SHOT, WHAT
19 HAPPENED?

20 A. I CRAWLED OVER TO HIM AND I WAS TRYING TO BASICALLY TO
21 KEEP HIM TALKING AND KEEP HIM FROM GOING TO SLEEP 'TIL
22 SOMEBODY GET SOME HELP, ME OR -- WELL, I THINK B. WAS THE
23 FIRST ONE TO REACH HIM.

24 Q. WAS HE UP OR DOWN WHEN YOU REACHED HIM?

25 A. DOWN.

1 Q. SO BY THE TIME YOU GOT THERE HE WAS DOWN?

2 A. YES.

3 Q. HAD YOU SEEN HIM WHEN HE WAS UP OR DID YOU SEE THAT?

4 A. I DON'T REMEMBER SEEING HIM UP. IF HE WAS UP, HE WAS
5 FALLING DOWN.

6 Q. WHEN YOU GOT OVER THERE -- YOU SAID YOU CRAWLED OVER TO
7 HIM?

8 A. YES, MA'AM.

9 Q. WHAT WERE YOU TRYING TO DO?

10 A. TRYING TO KEEP HIM TALKING.

11 Q. HAD YOU HEARD ANY GUNSHOTS?

12 A. NO, MA'AM. I AIN'T KNOW THERE WAS NO GUN. I NEVER DID
13 SEE A GUN.

14 Q. WHAT ALL DID YOU DO TO TRY TO HELP DENNIS ONCE YOU
15 CRAWLED OVER TO HIM?

16 A. THAT'S BASICALLY ALL I KNEW, JUST TO TRY TO KEEP HIM UP.

17 THE COURT: MR. BOYD, YOU'RE DOING A GOOD JOB SPEAKING
18 UP, BUT UNFORTUNATELY APPARENTLY IT'S CARRYING NEXT DOOR. SO
19 COULD YOU SCOOT BACK JUST A LITTLE BIT? ALL RIGHT. THANK
20 YOU. GENTLEMEN, Y'ALL ARE JUST GOING TO HAVE TO LISTEN AS
21 BEST YOU CAN BECAUSE APPARENTLY IT'S TOO LOUD NEXT DOOR.
22 THANK YOU.

23 BY MS. CAMPBELL:

24 Q. DO YOU KNOW WHAT HAPPENED TO BAM, WHERE HE WENT?

25 A. NO. HE MAY HAVE GOT IN THE CAR. ALL OF THEM,

1 EVERYBODY, STARTED SCATTERING.

2 Q. WHEN YOU SAY EVERYBODY STARTED SCATTERING, DID THAT
3 INCLUDE THE PEOPLE WITH YOU?

4 A. NO, MA'AM. I MEAN, ALL OF THEM WAS BASICALLY GONE.

5 Q. WHEN YOU SAY THEM WAS GONE, WHO IS THEM?

6 A. THE PEOPLE WHO THE ALTERCATION WAS WITH FROM RIDGEWAY.

7 Q. THE PEOPLE THAT YOU WERE WITH - YO-YO A.J., B. - DID
8 THEY ALSO LEAVE?

9 A. NO, WE STAYED. WE WAS LOOKING FOR SOME HELP.

10 Q. DID THE YOUNG WOMAN COME OVER AND HELP?

11 A. YES, MA'AM. SHE TOLD US TO TURN HIM OVER AND HOLD SOME
12 PRESSURE TO HIM. SHE WAS DOING SOME STUFF.

13 Q. DO YOU KNOW WHO LEFT IN WHAT CARS THAT NIGHT AS FAR AS
14 THE RIDGEWAY BOYS?

15 A. THE LAST CAR I SEEN LEAVING WAS A WHITE CAR THAT -- A
16 WHITE CAR THAT WAS SPED AWAY, AND IT WAS HAVING TROUBLE
17 GETTING ON THE ROAD. THAT'S THE LAST THING I SEEN.

18 Q. DID YOU KNOW WHO GOT IN THAT CAR?

19 A. NO, MA'AM.

20 Q. DID YOU HAVE A GUN THAT NIGHT?

21 A. NO, MA'AM.

22 Q. AND YOU WERE FIGHTING THAT NIGHT WITH BAM?

23 A. YES, MA'AM.

24 Q. DID BAM HAVE A GUN THAT YOU EVER SAW?

25 A. NOT THAT I SEEN.

1 Q. DID YOU EVER SEE HIM SHOOT?

2 A. NO, MA'AM.

3 Q. DID YOU ACTUALLY SEE WHO ACTUALLY SHOT ANYBODY THAT
4 NIGHT?

5 A. I ACTUALLY DIDN'T SEE IT.

6 Q. COULD BAM HAVE BEEN THE ONE THAT SHOT THAT NIGHT?

7 MR. JOHNSON: OBJECTION, YOUR HONOR.

8 THE COURT: SOLICITOR, DON'T ASK FOR A CONCLUSION. GO
9 AHEAD.

10 BY MS. CAMPBELL:

11 Q. WHERE WAS -- WHEN YOU HEARD DENNIS SAY WHAT HE SAID
12 ABOUT BEING SHOT, WHERE WAS BAM?

13 A. ON THE GROUND. I PRESUME THAT'S WHO I WAS FIGHTING ON
14 THE GROUND.

15 Q. DID THAT---

16 MR. JOHNSON: OBJECTION, YOUR HONOR. PRESUMPTION.
17 OBJECTION.

18 THE COURT: THE LAST QUESTION AND ANSWER?

19 MR. JOHNSON: YES, SIR. HE SAID HE PRESUMED.

20 THE COURT: HE'D ALREADY TESTIFIED TO THAT EARLIER WITH
21 NO OBJECTION, SO I'M GOING TO ALLOW IT.

22 BY MS. CAMPBELL:

23 Q. WHILE BAM WAS DOWN, DID HE SHOOT ANYBODY?

24 A. NOT THAT -- NO, I DIDN'T SEE HIM SHOOT NOBODY.

25 Q. AND YOU WERE ON TOP OF HIM?

- 1 A. YES, MA'AM.
- 2 Q. DID THE AMBULANCE COME THAT NIGHT?
- 3 A. THE AMBULANCE CAME. IT WAS LATE WHEN THEY GOT THERE.
- 4 Q. AND WAS DENNIS STILL AWAKE AT THAT POINT WHEN THE
- 5 AMBULANCE CAME? DO YOU REMEMBER?
- 6 A. WELL, I THINK HE WAS DOING BETTER AFTER THE GIRL HELPED
- 7 HIM, AND HE KIND OF HELPED HIMSELF ON THE STRETCHER. SO HE
- 8 WAS SHOWING A LITTLE MORE MOVEMENT THEN.
- 9 Q. DID THE POLICE COME THAT NIGHT?
- 10 A. YES, MA'AM, THE POLICE CAME.
- 11 Q. DID YOU TALK TO THEM?
- 12 A. YEAH. YEAH, I HAD TO TALK TO HIM BECAUSE B. WAS HAVING
- 13 A HARD TIME STAYING AWAY FROM -- SHU-SHU (PHONETIC) AND THEM
- 14 WAS TAKING EVERYTHING OFF, SO HE HAD TO STAY BACK, AND SHE
- 15 HAD AT ONE POINT PUT HIM IN THE CAR.
- 16 Q. THAT WAS B.?
- 17 A. YES, MA'AM.
- 18 Q. WHAT WAS HE HAVING A HARD TIME ABOUT?
- 19 A. A HARD TIME STAYING AWAY FROM HIM, TRYING TO TALK TO HIM
- 20 AND---
- 21 Q. TRYING TO TALK TO WHOM?
- 22 A. ---THE OFFICER WAS LIKE, "GET BACK FROM US," TELLING US
- 23 BASICALLY TO GET BACK AND LEAVE HIM ALONE.
- 24 Q. LEAVE WHO ALONE?
- 25 A. DENNIS.

1 Q. WAS THAT BEFORE THE AMBULANCE GOT THERE OR AFTER?

2 A. THAT WAS BEFORE THE AMBULANCE GOT THERE.

3 Q. DID YOU TELL THE POLICE WHAT HAD HAPPENED OR WHAT YOU
4 KNEW ABOUT WHAT HAD HAPPENED THAT NIGHT?

5 A. YES, MA'AM.

6 Q. AND DID YOU ACTUALLY GO AND GIVE THEM A STATEMENT?

7 A. YES, MA'AM.

8 Q. I SHOW YOU THIS AND JUST -- YOU CAN'T SAY WHAT'S IN IT,
9 BUT DO YOU RECOGNIZE THIS?

10 A. YES, MA'AM.

11 Q. IS THAT THE STATEMENT YOU GAVE THE POLICE?

12 A. YES, MA'AM.

13 Q. WHEN DID YOU GO DOWN AND GIVE IT TO THEM? DO YOU
14 REMEMBER?

15 A. I THINK THIS WAS THE DAY AFTER.

16 Q. OKAY.

17 A. I GAVE ONE THE SAME NIGHT, TOO, THOUGH.

18 Q. YOU TALKED TO THEM THAT NIGHT AND THEN YOU WENT DOWN AND
19 GAVE A STATEMENT LATER, TOO?

20 A. YES, MA'AM.

21 Q. AND WHEN YOU WENT TO GO -- WHERE DID YOU GO TO GIVE THEM
22 A STATEMENT?

23 A. THE POLICE DEPARTMENT OFF OF TWO NOTCH.

24 Q. WHEN YOU WENT THERE, DID THE OFFICERS ASK YOU TO LOOK AT
25 SOME PHOTO LINE-UPS?

1 A. YES, MA'AM.

2 Q. AND WHAT, IF ANYTHING, DID THEY SAY TO YOU PRIOR TO
3 SHOWING YOU SOME PHOTO LINE-UPS?

4 A. BASICALLY JUST THAT---

5 MR. JOHNSON: THAT WOULD BE HEARSAY, YOUR HONOR, UNLESS
6 THAT OFFICER IS GOING TO TESTIFY.

7 MS. CAMPBELL: THE OFFICER IS GOING TO TESTIFY.

8 THE WITNESS: BASICALLY---

9 THE COURT: JUST A SECOND. SOLICITOR, WHY DON'T YOU
10 JUST REPHRASE YOUR QUESTION?

11 MS. CAMPBELL: I'LL REPHRASE IT, YOUR HONOR.

12 THE COURT: THANK YOU, MA'AM.

13 BY MS. CAMPBELL:

14 Q. WHILE YOU WERE AT THE POLICE DEPARTMENT, THEY SHOWED YOU
15 SOME LINE-UPS. IS THAT CORRECT?

16 A. YES, MA'AM.

17 Q. AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
18 EXHIBIT NUMBER 19 AND JUST ASK IF YOU RECOGNIZE THAT FIRST.

19 A. YES, MA'AM, I RECOGNIZE IT.

20 Q. AND IT'S GOT TWO PAGES ATTACHED TO IT, BUT WHEN THEY
21 SHOWED IT TO YOU WAS -- DID YOU SEE BOTH PAGES FIRST OR JUST
22 THE ONE PAGE?

23 A. I THOUGHT I JUST SEEN THIS PAGE.

24 Q. OKAY. AND WHEN THEY SHOWED YOU THIS LINE-UP, DID IT
25 HAVE ANY WRITING ON IT?

1 A. NO, MA'AM.

2 Q. AND WHEN THEY SHOWED YOU THIS LINE-UP, WERE YOU GIVEN
3 ANY INFORMATION ABOUT WHO TO PICK OR ANYTHING OF THAT NATURE?

4 A. NO, MA'AM.

5 Q. WHEN YOU LOOKED AT STATE'S EXHIBIT NUMBER 19, THE SHEET
6 THAT'S ATTACHED TO THE COVER SHEET, DID YOU RECOGNIZE ANYONE?

7 A. YES, I RECOGNIZED NUMBER ONE.

8 Q. NUMBER ONE?

9 A. (WITNESS NODDED HEAD UP AND DOWN.)

10 Q. WHO DID YOU RECOGNIZE THAT TO BE?

11 A. IT'S SOMEBODY WHO WAS IN THE FIGHT OR AT THE FIGHT.

12 Q. AFTER YOU TOLD THE OFFICER THAT YOU RECOGNIZED HIM, DID
13 HE HAVE YOU WRITE SOMETHING ON IT?

14 A. MY NAME.

15 Q. AND?

16 A. CIRCLE IT.

17 Q. OKAY. DID YOU ALSO SIGN WHAT'S ATTACHED TO STATE'S
18 EXHIBIT 19 AFTERWARDS, THAT SHEET INDICATING WHO YOU HAD
19 RECOGNIZED?

20 A. YES, MA'AM.

21 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
22 STATE'S EXHIBIT NUMBER 19 INTO EVIDENCE.

23 THE COURT: ANY OBJECTION?

24 MR. ROBERSON: NONE FROM ADAMS GIBSON.

25 THE COURT: MR. JOHNSON?

1 MR. JOHNSON: NONE, YOUR HONOR.

2 THE COURT: IT'S IN EVIDENCE WITHOUT OBJECTION.

3 (STATE'S EXHIBIT 19 WAS RECEIVED IN EVIDENCE.)

4 BY MS. CAMPBELL:

5 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
6 EXHIBIT 20 FOR IDENTIFICATION PURPOSES. AGAIN, I JUST ASK
7 YOU FIRST TO LOOK AT THAT.

8 A. (THE WITNESS COMPLIES.) YES, MA'AM. YES, MA'AM.

9 Q. WHEN YOU SAW THAT, DID YOU -- AGAIN, DID ANYONE GIVE YOU
10 ANY INFORMATION ABOUT WHO TO PICK?

11 A. NO, MA'AM.

12 Q. WHEN YOU LOOKED AT THAT LINE-UP, DID YOU RECOGNIZE
13 ANYBODY?

14 A. YEAH, I RECOGNIZED HIM, BUT THAT WASN'T WHO THEY SAID IT
15 WAS.

16 Q. AND EXPLAIN THAT TO THE JURY.

17 A. WELL, THEY ASKED ME WAS THIS THE TRAMELE KNOWN AS BAM,
18 AND I SAID, "NO," BUT I DID RECOGNIZE HIM.

19 Q. IS IT TRAMELE KNOWN AS BAM?

20 A. TREMAINE. TRAMELE. I DON'T KNOW HIS REAL NAME, BUT
21 THEY ASKED ME WAS HE KNOWN AS BAM, AND I SAID, "NO."

22 Q. AND YOU RECOGNIZED THIS PERSON. HOW DID YOU KNOW THIS
23 PERSON?

24 A. FROM WINNSBORO.

25 Q. WAS THIS PERSON OUT THERE THAT NIGHT?

1 A. I AIN'T SEEN HIM IF HE WAS THERE.

2 Q. SO YOU INDICATED THAT TO THEM WHEN YOU IDENTIFIED THIS
3 PERSON?

4 A. YES, I DID.

5 Q. BUT YOU NEVER SAW THIS PERSON IN STATE'S EXHIBIT 20.

6 A. NO.

7 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD OFFER
8 IT INTO EVIDENCE.

9 THE COURT: ANY OBJECTION?

10 MR. ROBERSON: NONE.

11 THE COURT: MR. JOHNSON?

12 MR. JOHNSON: NO, BUT I'D LIKE TO SEE IT, PLEASE.

13 THE COURT: ALL RIGHT, SIR. IT'S IN EVIDENCE WITHOUT
14 OBJECTION.

15 MR. JOHNSON: AND WHAT'S THAT NUMBER?

16 THE COURT: 20.

17 (STATE'S EXHIBIT 20 WAS RECEIVED IN EVIDENCE.)

18 BY MS. CAMPBELL:

19 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 21. DID THEY
20 SHOW YOU ANOTHER LINE-UP? DO YOU RECOGNIZE THAT?

21 A. YES, I RECOGNIZE IT.

22 Q. AND WHEN THEY SHOWED IT TO YOU, DID ANYONE GIVE YOU ANY
23 INFORMATION ON WHO TO PICK?

24 A. NO, MA'AM.

25 Q. DID YOU RECOGNIZE ANYONE IN THAT SIX-PERSON LINE-UP?

1 A. YES, MA'AM.

2 Q. WHO DID YOU RECOGNIZE?

3 A. NUMBER TWO. AND I TOLD THEM THAT THAT LOOKED LIKE THE
4 GUY THAT CALLED HIMSELF DAVIS.

5 Q. OKAY. AND WAS THIS -- HE CALLED HIMSELF DAVIS?

6 A. UH-HUH.

7 Q. WAS IT THE ONE YOU KNEW AS BAM?

8 A. NO, MA'AM.

9 Q. WHICH ONE WAS IT?

10 A. THE ONE TRAMELE OR SOMETHING LIKE THAT.

11 Q. OKAY. AND YOU INDICATED ON STATE'S EXHIBIT 21 THAT HE
12 WAS THE ONE THAT---

13 A. YEAH, TOOK OFF HIS SHIRT.

14 MS. CAMPBELL: OKAY. YOUR HONOR, AT THIS TIME WE'D
15 OFFER STATE'S EXHIBIT 21 INTO EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. ROBERSON: NONE, YOUR HONOR. NONE.

18 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

19 MR. JOHNSON: NONE, YOUR HONOR. I'D LIKE TO SEE IT WHEN
20 YOU GET TIME.

21 THE COURT: ALL RIGHT, SIR. IT'S IN EVIDENCE WITHOUT
22 OBJECTION.

23 (STATE'S EXHIBIT 21 WAS RECEIVED IN EVIDENCE.)

24 BY MS. CAMPBELL:

25 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 22.

1 WERE YOU ALSO SHOWN THAT PHOTO LINE-UP?

2 A. YES.

3 Q. AND, AGAIN, WHEN YOU WERE SHOWN ALL THESE PHOTO
4 LINE-UPS, DID THEY HAVE ANY WRITING ON THEM OR ANYTHING?

5 A. YEAH. ALL OF THEM HAVE GOT MY NAME AND SIGNATURE HERE.
6 IT HAD THE DATE, MY NAME, AND CIRCLE THE PERSON THAT I'M
7 TALKING ABOUT.

8 Q. IS THAT WHAT YOU DID AFTER YOU IDENTIFIED THEM?

9 A. YES, I DID.

10 Q. AND IN THAT ONE WHEN YOU LOOKED AT THAT SIX-PERSON
11 LINE-UP, DID YOU RECOGNIZE ANYONE?

12 A. YEAH, I RECOGNIZED MARCUS TUCKER.

13 Q. AND DID YOU INDICATE THAT TO THE OFFICERS?

14 A. YES, MA'AM.

15 Q. STATE'S EXHIBIT 22. AND DID YOU INDICATE WHETHER OR NOT
16 HE WAS THERE THAT NIGHT DURING THE FIGHT?

17 A. YES, MA'AM. I INDICATED THAT HE WAS THERE---

18 Q. HE WAS---

19 A. ---AT THE FIGHT AND PRESENT -- BEFORE AND AFTER.

20 MS. CAMPBELL: WE'D OFFER STATE'S EXHIBIT 22.

21 THE COURT: ANY OBJECTION, MR. ROBERSON?

22 MR. ROBERSON: YOUR HONOR, MAY I SEE IT, YOUR HONOR?

23 THE COURT: YES, SIR.

24 MR. ROBERSON: WHO DID HE RECOGNIZE ON THAT?

25 MS. CAMPBELL: MARCUS TUCKER.

1 THE WITNESS: MARCUS TUCKER.

2 THE COURT: DO YOU WANT TO LOOK AT IT, MR. ROBERSON?

3 MR. ROBERSON: YES, SIR.

4 THE COURT: ANY OBJECTION, MR. JOHNSON?

5 MR. JOHNSON: NO OBJECTION, YOUR HONOR. THANK YOU.

6 MR. ROBERSON: NO OBJECTION.

7 THE COURT: ALL RIGHT, SIR. STATE'S 22 IS IN EVIDENCE
8 WITHOUT OBJECTION.

9 (STATE'S EXHIBIT 22 WAS RECEIVED IN EVIDENCE.)

10 BY MS. CAMPBELL:

11 Q. DID THEY SHOW YOU ONE MORE LINE-UP?

12 A. YES, MA'AM.

13 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER
14 23 AND ASK IF YOU RECOGNIZE THAT.

15 A. YES, MA'AM.

16 Q. AND DID YOU RECOGNIZE ONE OF THE PEOPLE IN THAT LINE-UP
17 THAT WAS SHOWN TO YOU?

18 A. YES.

19 Q. WHICH ONE?

20 A. NUMBER FIVE.

21 Q. WHO DID YOU RECOGNIZE THAT TO BE?

22 A. I SAID IT WAS KARTEZ OR EITHER HIS BROTHER, BUT I KNOW
23 IT WAS KARTEZ THERE THAT NIGHT.

24 Q. AND HE'S GOT A BROTHER THAT LOOKS LIKE HIM?

25 A. YES, MA'AM.

1 Q. IS HIS BROTHER OLDER OR YOUNGER?

2 A. OLDER.

3 Q. WHAT'S HIS NAME?

4 A. CARLOS.

5 Q. HOW DO YOU KNOW CARLOS?

6 A. FROM SCHOOL.

7 Q. FOR THE RECORD, WHO IS THE ONE THERE THAT NIGHT IN THE
8 FIGHT?

9 A. KARTEZ.

10 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

11 THE COURT: YES, MA'AM.

12 BY MS. CAMPBELL:

13 Q. YOU TESTIFIED EARLIER THAT THE FIGHT WHERE YOU WERE WAS
14 NEAR WHICH CAR?

15 A. NEAR A.J.'S CAR, A.J.'S TRUCK.

16 Q. AND WHAT KIND OF TRUCK IS THAT?

17 A. TAHOE.

18 Q. AND AS FAR AS WHERE DENNIS IRBY WAS WHEN YOU -- WHEN YOU
19 SAW HIM WHEN HE SAID HE WAS SHOT, WHERE WAS HE FROM YOU?

20 A. A GOOD -- HOW CAN I SAY -- IT WOULD BE PROBABLY ABOUT
21 FROM HERE TO THAT CHAIR OVER THERE TO THE BACK OF THE POST.

22 Q. WAS IT STILL IN THE PARKING LOT IN CHANCE'S?

23 A. STILL IN THE PARKING LOT.

24 Q. AND WHERE WAS THE TRUCK Y'ALL RODE IN THAT NIGHT? WHERE
25 WAS IT PARKED?

1 A. I WAS ON THE SIDE OF IT.

2 Q. WAS IT NEAR THE FRONT DOOR?

3 A. NEAR THE FRONT DOOR.

4 MS. CAMPBELL: YOUR HONOR, I THINK I WAS REMISS IN
5 MOVING THE LAST LINE-UP INTO EVIDENCE.

6 THE COURT: YOU DID NOT.

7 MS. CAMPBELL: WHAT IS IT?

8 THE COURT: STATE'S 23.

9 MS. CAMPBELL: WE WOULD OFFER IT AT THIS TIME.

10 THE COURT: ANY OBJECTION TO STATE'S 23 COMING INTO
11 EVIDENCE, MR. ROBERSON?

12 MR. ROBERSON: NONE, YOUR HONOR.

13 THE COURT: MR. JOHNSON?

14 MR. JOHNSON: NONE, YOUR HONOR.

15 THE COURT: IT'S IN EVIDENCE WITHOUT OBJECTION.

16 (STATE'S EXHIBIT 23 WAS RECEIVED IN EVIDENCE.)

17 THE COURT: ANY FURTHER QUESTIONS, SOLICITOR?

18 MS. CAMPBELL: JUST BRIEFLY, YOUR HONOR.

19 BY MS. CAMPBELL:

20 Q. THE PERSON THAT YOU KNEW AS KARTEZ, DO YOU SEE HIM HERE
21 IN THE COURTROOM?

22 A. YES, MA'AM.

23 Q. CAN YOU POINT HIM OUT FOR THE JURY?

24 A. IN THE BLUE SHIRT.

25 Q. IN THE BLUE SHIRT?

1 A. YES, MA'AM.

2 Q. YOUR HONOR, MAY THE RECORD REFLECT THAT HE'S IDENTIFIED
3 THE DEFENDANT? THE OTHER PERSON THAT YOU IDENTIFIED IN ONE
4 OF THOSE LINE-UPS, DID YOU KNOW IF HE HAD ANY RELATION TO
5 KARTEZ?

6 A. YEAH, I KNOW THEY WAS BROTHERS.

7 Q. WAS HE OUT THERE THAT NIGHT?

8 A. YES, MA'AM.

9 Q. DO YOU SEE HIM HERE IN THE COURTROOM?

10 A. THIS GUY OVER HERE WITH THE BLACK COAT ON.

11 Q. WHERE IS HE SITTING AT THAT TABLE?

12 A. AT THE END.

13 Q. YOUR HONOR, MAY THE RECORD REFLECT HE'S IDENTIFIED THE
14 DEFENDANT JACQUES GIBSON? WAS HE OUT THERE THAT NIGHT?

15 A. YEAH, HE WAS THERE AFTER THE FACT, AFTER ANY FIGHT, NOT
16 PRE IN THE CLUB.

17 Q. YOU DIDN'T SEE HIM IN THE CLUB.

18 A. I DIDN'T SEE HIM IN THE CLUB.

19 Q. WHERE DID YOU SEE HIM THAT NIGHT?

20 A. OUTSIDE.

21 Q. AND THEN THAT'S WHEN YOU SAW THE WHITE CAR?

22 A. YEAH.

23 MS. CAMPBELL: THANK YOU. I DON'T HAVE ANY FURTHER
24 REQUESTS. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

25 THE COURT: ALL RIGHT. MR. ROBERSON?

1 MR. ROBERSON: IF YOUR HONOR PLEASE?

2 THE COURT: YES, SIR.

3 CROSS-EXAMINATION

4 BY MR. ROBERSON:

5 Q. MR. BOYD, YOU TESTIFIED IN A HEARING HERE YESTERDAY, DID
6 YOU NOT?

7 A. YES, SIR.

8 Q. AND YOU DIDN'T TESTIFY YESTERDAY THAT YOU EVER SAW ADAMS
9 GIBSON INVOLVED IN THE FIGHT.

10 A. NO, I DIDN'T SAY THAT.

11 Q. YOU DIDN'T SAY THAT.

12 A. HUH-UH.

13 Q. OKAY. AND YOU TESTIFIED TODAY THAT YOU STILL DIDN'T SEE
14 HIM INVOLVED IN THE FIGHT.

15 A. NO, BECAUSE I WAS DOWN.

16 Q. BUT HE WAS AT THE CLUB; RIGHT?

17 A. YEAH, HE WAS AT THE -- HE WAS OUT THERE.

18 Q. RIGHT. AND I BELIEVE YOU SAID THAT THERE MAY HAVE BEEN
19 SOME WORDS EXCHANGED BETWEEN YOU AND ADAMS ABOUT YOU SPEAKING
20 TO LAKISHA DAVIS?

21 A. YEAH.

22 Q. AND THAT YOU---

23 A. NOT BETWEEN US. BETWEEN HIM AND HER.

24 Q. RIGHT. AND THAT YOU WENT -- ADAMS WENT INTO THE
25 RESTROOM AND YOU FOLLOWED HIM IN THERE.

1 A. AND EXPLAINED.

2 Q. AND YOU EXPLAINED TO HIM WHAT THAT WAS ABOUT.

3 A. YEAH.

4 Q. AND THEN ON YOUR WAY OUT YOU HEARD ADAMS ON THE PHONE
5 TALKING TO SOMEBODY.

6 A. HE WAS ON THE PHONE WHEN WE WAS IN THE BATHROOM.

7 Q. RIGHT. OKAY.

8 A. HE CAME OUT AND WALKED PAST US AND WAS ON THE PHONE LIKE
9 HE WANTED US TO HEAR.

10 Q. LIKE WHAT NOW?

11 A. LIKE HE WANTED US TO HEAR HIM ON THE PHONE.

12 Q. OKAY. COULD YOU HEAR WHAT HE WAS SAYING?

13 A. YEAH. HE WAS TELLING PEOPLE -- SOMEBODY TO COME TO
14 CHANCE'S OR TELLING THEM HOW TO GET THERE.

15 Q. RIGHT. BUT YOU COULDN'T HEAR WHAT THE OTHER PARTY WAS
16 SAYING.

17 A. NO, SIR.

18 Q. BUT YOU COULD HEAR HIM TELL SOMEBODY TO COME AND GET HIM
19 FROM THE CLUB.

20 A. I DON'T KNOW ABOUT COMING TO GET HIM. I KNOW HE WAS
21 TELLING THEM WHERE HE WAS AT, WHERE CHANCE'S WAS AT.

22 Q. YOU SAID HE WAS TALKING LOUD ENOUGH FOR YOU TO HEAR;
23 RIGHT?

24 A. YES, SIR.

25 Q. OKAY. YOU DIDN'T HEAR THE WHOLE CONVERSATION.

1 A. NO. I HEARD HIM SAYING, WELL, BASICALLY WHERE CHANCE'S
2 WAS AT. "Y'ALL COME ON UP HERE."

3 Q. OKAY. BUT THAT'S TELLING THEM HOW TO GET THERE, RIGHT?

4 A. YEAH.

5 Q. OKAY. WAS -- YOU KNOW JACQUES AS SHA-SHA?

6 A. (WITNESS NODDED HEAD UP AND DOWN.)

7 Q. WAS HE AT THE CLUB DURING THE TIME YOU HEARD ADAMS MAKE
8 THIS PHONE CALL?

9 A. NO, SIR.

10 Q. HAVE YOU GOT ANY IDEA ABOUT HOW LONG AFTER THAT WHEN YOU
11 SAW SHA-SHA IN THE PARKING LOT?

12 A. IT WASN'T LONG. IT WASN'T LONG.

13 Q. IT WASN'T LONG.

14 A. IT WAS AROUND 20 TO -- ANYWHERE FROM 25 TO 30 MINUTES.

15 Q. OKAY. AND---

16 A. TWENTY-FIVE MINUTES.

17 Q. ---YOU ALSO TESTIFIED YESTERDAY AND TODAY THAT YOU NEVER
18 SAW ADAMS GIBSON WITH A GUN.

19 A. NO, I NEVER SEEN NO GUN.

20 Q. OKAY. AND YOU GAVE A COUPLE OF STATEMENTS TO THE
21 POLICE, DIDN'T YOU?

22 A. YEAH.

23 Q. YOU GAVE ONE ACTUALLY THE NIGHT OF THE SHOOTING.

24 A. THE NIGHT OF THE SHOOTING.

25 Q. AND THEN YOU GAVE ONE THE NEXT NIGHT.

1 A. YES.

2 Q. SO YOU'VE GIVEN TWO WRITTEN STATEMENTS.

3 A. TWO WRITTEN STATEMENTS.

4 Q. YES, SIR. AND THE STATEMENTS THAT YOU'VE GIVEN TODAY
5 ARE FAR MORE DETAILED THAN THE STATEMENTS YOU GAVE THE NIGHT
6 OF AND THE NEXT DAY.

7 A. YEAH.

8 Q. IS YOUR MEMORY CLEARER TODAY---

9 A. YEAH.

10 Q. ---THAN IT WAS ON THOSE OCCASIONS?

11 A. NO, I AIN'T GOING TO SAY THAT IT'S MORE CLEARER, BUT BY
12 ME SAYING -- YOU KNOW, I REMEMBER MORE DETAILS ABOUT WHAT
13 HAPPENED.

14 Q. BUT WERE YOU HAVING THESE DISCUSSIONS WITH OTHER PEOPLE
15 WHO WERE THERE OR YOU WERE JUST RUNNING THIS THROUGH IN YOUR
16 OWN MIND?

17 A. WELL, I WAS RUNNING MOST OF IT THROUGH MY MIND, BUT I
18 TALKED TO THEM -- BASICALLY WHEN THEY BREAK IT ALL THE WAY
19 DOWN ASKING THESE IMPORTANT QUESTIONS AND I CAN REMEMBER MORE
20 STILL ABOUT WHAT HAPPENED.

21 Q. HOW MANY TIMES DID YOU TALK TO THEM?

22 A. THAT WOULD BE TWICE SINCE THEN, THE TWO REPORTS I DID.

23 Q. SO YOU TALKED TO THEM ON AT LEAST FOUR OCCASIONS.

24 A. FOUR OCCASIONS?

25 Q. TWO STATEMENTS. YOU GAVE TWO WRITTEN STATEMENTS.

1 A. THAT'S WHAT I'M TALKING ABOUT, WHEN I GAVE THE TWO
2 STATEMENTS.

3 Q. AND THEN YOU SAID---

4 A. THAT'S THE TWO TIMES.

5 Q. AND THEN YOU SAID YOU TALKED TO THEM.

6 A. OH, ARE YOU TALKING ABOUT THESE PEOPLE?

7 Q. YEAH. YES. YES.

8 A. NO, I HAVEN'T TALKED TO HER. I JUST MET HER.

9 Q. WHEN DID YOU TALK TO HER?

10 A. A COUPLE OF DAYS AGO.

11 Q. OKAY. SO ON AT LEAST THREE OCCASIONS YOU'VE DISCUSSED
12 THIS CASE.

13 A. THREE OCCASIONS.

14 Q. RIGHT. AND YOU NEVER DISCUSSED THIS CASE WITH ANY OF
15 YOUR FRIENDS FROM WINNSBORO SINCE YOU GAVE THOSE TWO WRITTEN
16 STATEMENTS.

17 A. OH, YEAH. YEAH.

18 Q. HOW MANY TIMES DID YOU TALK TO THEM?

19 A. I TALKED ABOUT WHAT HAPPENED ALL THE TIME, WHAT THEY HAD
20 SEEN---

21 Q. OKAY.

22 A. BUT I CAN'T SAY WHAT THEY HAD SEEN.

23 MR. ROBERSON: I UNDERSTAND. I HAVE NOTHING FURTHER,
24 YOUR HONOR.

25 THE COURT: ALL RIGHT. MR. JOHNSON?

1 MR. JOHNSON: THANK YOU, YOUR HONOR.

2 CROSS-EXAMINATION

3 BY MR. JOHNSON:

4 Q. MR. BOYD, ISN'T IT TRUE THAT YOU WERE INTERVIEWED AT THE
5 RICHLAND COUNTY SHERIFF'S DEPARTMENT ON SEPTEMBER 6TH, 2005,
6 THE NEXT DAY?

7 A. YES, THE NEXT DAY.

8 Q. AND DURING THE COURSE OF THAT INTERVIEW YOU WERE ASKED
9 SOME QUESTIONS. IS THAT NOT RIGHT?

10 A. YES, SIR.

11 Q. AND WHEN YOU ANSWERED THOSE QUESTIONS, WERE YOU TELLING
12 THE TRUTH?

13 A. YES, SIR.

14 Q. ISN'T IT TRUE THAT YOU TOLD THE POLICE OFFICER ASKING
15 YOU THOSE QUESTIONS WHEN HE ASKED YOU, "DID YOU SEE ANYBODY
16 WITH A GUN?" YOU ANSWERED, "NO"?

17 A. YES, SIR.

18 Q. AND ISN'T IT ALSO TRUE ON THAT NIGHT YOU SAID -- WHEN
19 YOU WERE INTERVIEWED THE NEXT DAY YOU SAID THAT SOME FELLOW
20 TOOK OFF HIS SHIRT? ISN'T THAT TRUE?

21 A. YEAH.

22 Q. AND YOU LEARNED LATER THE PERSON'S NAME WHO TOOK OFF HIS
23 SHIRT?

24 A. YEAH, I KNOWED (SIC) HIS FACE AND DAVIS.

25 Q. YOU KNOW HIS LAST NAME IS DAVIS.

- 1 A. YEAH.
- 2 Q. BUT YOU DON'T KNOW HIS FIRST NAME.
- 3 A. I DIDN'T KNOW IT AT THE TIME.
- 4 Q. DO YOU KNOW -- DO YOU KNOW IT NOW?
- 5 A. TRAMELE. SOMETHING LIKE THAT.
- 6 Q. TRAMELE?
- 7 A. YEAH.
- 8 Q. SO YOU SAID TRAMELE SNEAKED AROUND AND TRIED TO THROW A
- 9 PUNCH AT RAVARIS WHO IS ALSO KNOWN AS B. ISN'T THAT RIGHT?
- 10 A. YES, SIR.
- 11 Q. AND YOU ALSO SAID THAT HE HIT RAVARIS -- THIS TRAMELE
- 12 HIT RAVARIS; IS THAT TRUE?
- 13 A. I TOLD HIM HE REACHED UP AND HIT SOMEBODY WHO I PRESUMED
- 14 TO BE RAVARIS.
- 15 Q. YOU PRESUMED TO BE RAVARIS.
- 16 A. YEAH, BECAUSE I---
- 17 Q. YOUR STATEMENT -- I BEG YOUR PARDON. I'M SORRY.
- 18 A. I WAS FACING HIM, SO...
- 19 Q. YOU WERE FACING WHOM?
- 20 A. THIS DAVIS GUY BECAUSE HE HAD CAME AROUND THE CAR AND---
- 21 Q. AND SO THAT NIGHT YOU SAY HE HIT RAVARIS, AND THEN THE
- 22 REST OF THEM STARTED HITTING ME.
- 23 A. YEAH.
- 24 Q. NOW---
- 25 A. I WENT DOWN. I GRABBED HIM AND WENT DOWN.

1 Q. AND WHEN YOU SAID THE REST OF THEM STARTED HITTING ME,
2 DID YOU IDENTIFY WHO THE REST OF THEM WERE?

3 A. NO, I COULDN'T.

4 Q. ISN'T IT TRUE ON SEPTEMBER 6TH, 2005, THAT YOU SAID
5 KARTEZ HIT YOU?

6 A. HE ASKED ME WAS -- COULD KARTEZ BE ONE OF THE PERSONS
7 THAT HIT ME? I SAID, "AS FAR AS I'M CONCERNED, ALL OF THEM
8 COULD HAVE BEEN HITTING ME."

9 Q. ALL RIGHT. NOW---

10 A. THAT'S HOW I SAID IT.

11 Q. NOW, MR. BOYD, THE OFFICER ASKED YOU WHAT HAPPENED.

12 A. EXACTLY.

13 Q. AND YOU RESPONDED IN A NARRATIVE. HE DIDN'T ASK YOU A
14 SPECIFIC QUESTION: DID KARTEZ HIT YOU? YOU WERE RELATING TO
15 HIM A STORY, AND INCLUDED IN THAT STORY YOU SAID, "I KNOW
16 KARTEZ HIT ME." HE DIDN'T ASK YOU THAT SPECIFICALLY.

17 A. YES, HE DID.

18 Q. ISN'T THAT TRUE?

19 A. YES, HE DID. HE ASKED ME---

20 Q. HE DID?

21 A. HE ASKED ME WHO WOULD BE HITTING ME. I SAID, "AS FAR AS
22 I'M CONCERNED, ALL OF THEM COULD HAVE HIT ME."

23 Q. NOW, WHEN YOU SAY ALL OF THEM, DID MY CLIENT HIT YOU?

24 A. I DON'T KNOW THAT. I'M NOT SURE OF THAT.

25 Q. DID YOU SEE -- DID YOU SEE HIM FIGHTING?

1 A. NO, I DIDN'T SEE HIM FIGHTING.

2 Q. WHEN YOU -- WHEN THE FIGHT STARTED, WAS MY CLIENT
3 PRESENT?

4 A. YES, HE WAS THERE. HE WAS RIGHT WHERE HE WAS AT.

5 Q. WHAT WAS HE DOING?

6 A. I GOT NO CLUE.

7 Q. I BEG YOUR PARDON?

8 A. I DON'T HAVE A CLUE WHAT HE WAS DOING.

9 Q. IF YOU DON'T HAVE ANY CLUE WHAT HE WAS DOING, HOW DO YOU
10 KNOW HE WAS THERE?

11 A. I SEEN HIM BEFORE.

12 Q. YOU SAW HIM BEFORE WHERE?

13 A. BEFORE THE FIGHT BROKE OUT.

14 Q. WHERE WAS HE BEFORE THE FIGHT BROKE OUT?

15 A. WELL, HE CAME FROM THE CAR. I CAME OUT OF THE CLUB---

16 Q. CAME FROM WHAT CAR?

17 A. A WHITE CAR THAT I SEEN WHEN I CAME OUT THE DOOR. THEN
18 WHEN BAM STARTED SAYING, "WHAT? WHAT?" THAT WHOLE CROWD CAME
19 TO WHERE I WAS AT.

20 Q. WHERE WAS THE CAR PARKED, SIR?

21 A. IN FRONT OF THE CLUB.

22 Q. WHAT KIND OF CAR?

23 A. TAHOE.

24 Q. A TAHOE?

25 A. YES.

1 Q. WHAT COLOR IS THE TAHOE?

2 A. LIKE A GRAY COLOR.

3 Q. A GRAY COLOR TAHOE WAS IN FRONT OF THE CHANCE'S CLUB.

4 A. YES.

5 Q. WAS MY CLIENT IN THE CAR OR OUTSIDE THE CAR?

6 A. NO. YOU ASKED ME ABOUT WHAT KIND OF CAR. A WHITE CAR.

7 Q. A WHITE CAR.

8 A. I THOUGHT YOU WAS TALKING ABOUT WHAT KIND OF CAR WE WAS
9 IN.

10 Q. OKAY. A WHITE CAR WAS IN FRONT OF CHANCE'S.

11 A. YEAH, ON THE SIDE. IT WAS NOT IN FRONT. IT WAS PARKED.
12 I COULD SEE IT FROM RIGHT HERE.

13 Q. WELL, WAIT NOW. FRONT AND SIDE ARE TWO DIFFERENT
14 THINGS, AREN'T THEY?

15 A. WELL, NO, IT WAS NOT PULLED UP TO THE DOOR.

16 Q. IT WAS NOT PULLED UP TO THE DOOR?

17 A. I NEVER SAID IT WAS PULLED UP TO NO DOOR.

18 Q. NOBODY SAID YOU DID.

19 A. I DIDN'T SAY THAT.

20 Q. BUT I'M TRYING TO FIGURE OUT IF THE CAR WAS IN FRONT OF
21 CHANCE'S OR TO THE SIDE OF CHANCE'S.

22 A. RIGHT TO THE SIDE OF CHANCE'S.

23 Q. SO THE WHITE CAR WAS IN THE SIDE OF CHANCE'S, AND WHO
24 WAS IN THE CAR?

25 A. ON THE FRONT RIGHT SIDE OF CHANCE'S -- I DON'T KNOW WHO

1 ALL WAS IN THE CAR WHEN THEY FIRST PULLED UP.

2 Q. WELL, WHERE WAS MY CLIENT?

3 A. YOUR CLIENT WAS GETTING OUT WITH EVERYBODY ELSE WHEN
4 THEY CAME TO THE---

5 Q. GETTING OUT OF WHAT?

6 A. GETTING OUT OF THE CAR.

7 Q. HE WAS GETTING OUT OF THE CAR.

8 A. I GUESS THEY GOT OUT OF THE CAR.

9 Q. YOU GUESS THEY GOT OUT OF THE CAR.

10 A. YEAH. THEY COULD HAVE GOT OUT OF ANOTHER CAR. WELL,
11 ALL I KNOW WAS WHEN I TURNED AROUND---

12 Q. YOU TURNED AROUND FROM WHERE?

13 A. I TURNED AROUND TO WATCH BAM AND WHEN---

14 Q. YOU TURNED AROUND TO WATCH BAM.

15 A. EXACTLY. I DIDN'T SEE THEM GET OUT OF THE CAR. WHEN
16 THEY CAME TOWARD ME, EVERYBODY WAS ON ME. SO THERE WASN'T NO
17 SEEING WHO GOT OUT OF NO CAR.

18 Q. WAIT A MINUTE. YOU SAID YOU SAW HIM. NOW YOU'RE SAYING
19 YOU DIDN'T SEE HIM. WHICH IS TRUE?

20 A. I SEEN HIM AT THE FIGHT WHEN I WAS ARGUING WITH BAM. I
21 DID NOT SEE HIM IN NO CAR. I DID NOT SEE HIM GET OUT OF THE
22 CAR. I WAS WATCHING BAM.

23 Q. AND SO MY QUESTION TO YOU: YOU SAY YOU SAW HIM AT THE
24 FIGHT.

25 A. (WITNESS NODDED HEAD UP AND DOWN.)

1 Q. AND MY SIMPLE QUESTION IS: WHAT WAS HE DOING?

2 A. AT THE FIGHT. THAT'S WHAT MY QUESTION IS.

3 Q. AT THE FIGHT. I MEAN, WHAT WAS HE DOING? WAS HE
4 HITTING SOMEBODY, SLAPPING SOMEBODY, KICKING SOMEBODY?

5 A. I AIN'T GOT NO CLUE.

6 Q. WHAT WAS HE DOING?

7 A. I DON'T KNOW. I DON'T KNOW WHAT HE WAS DOING AT THE
8 FIGHT.

9 Q. WHAT DID HE HAVE ON? WHAT WAS HE WEARING?

10 A. I DON'T REMEMBER.

11 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER 19, AND THAT IS A
12 PICTURE OF A LINE-UP. IS THAT YOUR SIGNATURE ON IT?

13 A. YES, SIR.

14 Q. AND YOU TOLD THE OFFICER -- WHAT IS THE DATE OF THAT?

15 A. 9/6/05.

16 Q. 9/6/05. AND YOU TOLD THE OFFICERS THAT NIGHT THAT YOU
17 RECOGNIZED THE FACE?

18 A. YES.

19 Q. YOU DIDN'T KNOW THE PERSON'S NAME.

20 A. DIDN'T KNOW HIS NAME.

21 Q. AND WHERE DID YOU SEE THAT PERSON THAT NIGHT?

22 A. AT THE FIGHT.

23 Q. AT THE FIGHT. WHAT WAS THE PERSON DOING?

24 A. I HAVE NO IDEA.

25 Q. OKAY. AND THAT'S A PICTURE OF WHOM?

- 1 A. THIS GUY.
- 2 Q. THAT GUY? YOU'RE POINTING TO MY CLIENT.
- 3 A. YES.
- 4 Q. SO HE WAS AT THE FIGHT. YOU DON'T KNOW WHAT HE WAS
- 5 DOING.
- 6 A. NOPE.
- 7 Q. NOW, LET ME ASK YOU THESE QUESTIONS. YOU TOLD THE
- 8 OFFICER ON SEPTEMBER THE 6TH THAT THEY WERE ALL HITTING ME,
- 9 AND YOU DON'T KNOW WHO WAS HITTING YOU; RIGHT?
- 10 A. NO.
- 11 Q. A COUPLE OF MINUTES WENT BY WHEN -- WHEN EVERYBODY
- 12 SUDDENLY SCATTERED. IS THAT TRUE?
- 13 A. YEAH.
- 14 Q. I DIDN'T EVEN HEAR THE SHOTS. IS THAT TRUE?
- 15 A. THAT IS TRUE.
- 16 Q. BUT I GUESS THAT WAS WHEN DENNIS GOT HIT.
- 17 A. (WITNESS NODDED HEAD UP AND DOWN.)
- 18 Q. IS THAT RIGHT?
- 19 A. UH-HUH.
- 20 Q. I SAW DENNIS ON THE GROUND. IS THAT TRUE?
- 21 A. YEAH, I SEEN HIM.
- 22 Q. I CRAWLED OVER TO HIM. IS THAT TRUE?
- 23 A. THAT'S TRUE.
- 24 Q. I SAW THEM GETTING INTO THAT WHITE CAR.
- 25 A. YEAH, I SEEN THE WHITE CAR. THEY HAD TO GET INTO IT,

1 YEAH.

2 Q. WAIT NOW. YOU SAID, "I SAW THEM GETTING INTO THE WHITE
3 CAR."

4 A. YEAH.

5 Q. WHO DID YOU SEE GET INTO THE WHITE CAR?

6 A. I DIDN'T SEE WHO GOT INTO THE WHITE CAR.

7 Q. YOU DIDN'T SEE WHO GOT INTO THE WHITE CAR.

8 A. NO. I JUST BASICALLY SEEN THE CAR LEAVING THE SCENE,
9 SPEEDING OUT, LETTING SOMEBODY IN, AND THEN GOT ON THE
10 HIGHWAY.

11 Q. YOU DIDN'T TELL THE OFFICER THAT ON SEPTEMBER 5TH. YOU
12 DIDN'T TELL THE OFFICER THAT ON SEPTEMBER 6TH, DID YOU, SIR?

13 A. YES, I DID.

14 Q. ISN'T IT TRUE THAT, ACCORDING TO YOUR TESTIMONY, DENNIS
15 IRBY HAD BEEN SHOT BEFORE THE PEOPLE GOT INTO THE WHITE CAR?

16 A. BEFORE THEY GOT INTO THE WHITE CAR?

17 Q. RIGHT.

18 A. YEAH, HE HAD GOT SHOT.

19 Q. HE HAD ALREADY BEEN SHOT.

20 A. YEAH.

21 Q. AND AFTER HE WAS SHOT, THAT'S WHEN THE CAR TOOK OFF.

22 A. YES, SIR.

23 Q. IS THAT YOUR TESTIMONY?

24 A. WHEN I CRAWLED OVER TO HIM AND I LOOKED DOWN THE STREET,
25 IT WAS LIKE FACING THE STREET. I COULD SEE THEM JUMPING IN

1 AND THE CAR DOORS CLOSED AND THEM GETTING OUT.

2 Q. AND YOU DIDN'T HEAR ANY MORE SHOTS.

3 A. NO. THAT'S IT.

4 Q. AFTER THE WHITE CAR TOOK OFF, YOU DIDN'T HEAR ANY MORE
5 SHOTS. ISN'T THAT TRUE, MR. BOYD?

6 A. I DIDN'T HEAR NO SHOTS.

7 Q. ALL RIGHT, SIR. THANK YOU SO MUCH FOR COMING. I
8 APPRECIATE IT.

9 A. I WOULD LIKE TO EXPLAIN SOMETHING.

10 Q. I DIDN'T ASK YOU ANY QUESTION.

11 THE COURT: ALL RIGHT, GENTLEMEN. THANK YOU.
12 SOLICITOR, REDIRECT?

13 MS. CAMPBELL: YES, SIR.

14 REDIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q. HE ASKED YOU ABOUT YOUR STATEMENTS. YOU GAVE A
17 STATEMENT TO THE POLICE WHEN YOU STAYED AT THE SCENE THAT
18 NIGHT?

19 A. YES.

20 Q. AND THEN YOU WENT BACK AND GAVE A MORE DETAILED
21 STATEMENT; IS THAT NOT TRUE?

22 A. THAT'S RIGHT.

23 MR. JOHNSON: OBJECTION. THAT'S LEADING, YOUR HONOR.
24 MORE DETAILED QUESTION.

25 THE COURT: I'M GOING TO ALLOW IT. I THINK IT'S IN

1 RESPONSE.

2 BY MS. CAMPBELL:

3 Q. AND I SHOW YOU THAT STATEMENT. DO YOU RECOGNIZE THAT?

4 A. YES, I DO.

5 Q. AND IS THAT YOUR THREE-PAGE STATEMENT YOU GAVE IN THIS
6 CASE?

7 A. YES, IT IS.

8 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER IT
9 INTO EVIDENCE.

10 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

11 THE COURT: ANY OBJECTION?

12 MR. ROBERSON: BEG THE COURT'S INDULGENCE FOR A MINUTE.

13 THE COURT: YES, SIR.

14 MR. ROBERSON: I DON'T HAVE AN OBJECTION.

15 THE COURT: STATE'S NUMBER 82 IS IN EVIDENCE WITHOUT
16 OBJECTION.

17 (STATE'S EXHIBIT 82 WAS RECEIVED IN EVIDENCE.)

18 BY MS. CAMPBELL:

19 Q. HE ASKED YOU ABOUT CERTAIN PARTS IN HERE. IN THE FIRST
20 PAGE OF THE STATEMENT DO YOU TALK ABOUT WHAT HAD GONE ON WITH
21 YOU AND KARTEZ IN THE PAST?

22 A. YEAH. YES, I DID.

23 Q. OKAY. ON THE SECOND PAGE OF THE STATEMENT DOES IT TALK
24 ABOUT WHAT HAPPENED THAT NIGHT?

25 A. YES, IT DOES.

1 Q. AND THEN THE THIRD PART OF THE STATEMENT, WHAT IS THAT?
2 SOME FOLLOW-UP QUESTIONS?

3 A. YES. YES, MA'AM.

4 Q. AND REVIEWING THIS STATEMENT, IS THERE ANYTHING IN
5 THIS -- YOUR TESTIMONY HERE TODAY THAT'S NOT IN THAT
6 STATEMENT?

7 MR. JOHNSON: OBJECTION, YOUR HONOR. OBJECTION, YOUR
8 HONOR.

9 THE COURT: SUSTAINED.

10 MR. JOHNSON: OBJECTION.

11 THE WITNESS: YEAH, THE COLOR OF THE--

12 THE COURT: SUSTAINED.

13 MR. JOHNSON: OBJECTION, YOUR HONOR.

14 THE COURT: I SUSTAIN THE OBJECTION.

15 THE WITNESS: OH.

16 THE COURT: YOU MAY NOT ANSWER THE QUESTION.

17 THE WITNESS: OH, OKAY.

18 THE COURT: THAT'S OKAY. THAT'S ALL RIGHT.

19 BY MS. CAMPBELL:

20 Q. IN THIS STATEMENT DO YOU TALK ABOUT THE WHITE CAR?

21 A. YES, I DO.

22 Q. IN THIS STATEMENT DO YOU REFER TO WHAT KIND OF CAR Y'ALL
23 WERE IN?

24 MR. JOHNSON: OBJECTION, YOUR HONOR. THE STATEMENT
25 SPEAKS FOR ITSELF.

1 THE WITNESS: YES.

2 THE COURT: SOLICITOR, IF YOU HAVE SOMETHING THAT YOU
3 NEED TO BRING OUT IN RESPONSE TO THE QUESTIONS AND ANSWERS
4 THAT THE WITNESS GAVE, YOU MAY DO SO.

5 MS. CAMPBELL: YES, SIR.

6 THE COURT: WE'RE NOT GOING TO HAVE HIM READ FROM THE
7 STATEMENT.

8 MS. CAMPBELL: YES, SIR.

9 THE COURT: IT IS IN EVIDENCE. THANK YOU.
10 BY MS. CAMPBELL:

11 Q. HE ASKED YOU ABOUT WHETHER OR NOT YOU KNEW TRAMELE'S
12 NAME AT THE TIME?

13 A. (WITNESS NODDED HEAD UP AND DOWN.)

14 Q. AND YOU TOLD HIM -- HOW DID YOU KNOW HIM?

15 A. BY MEETING HIM, ASKING HIM WHO HE WAS.

16 Q. WHAT NAME DID YOU RECOGNIZE AS HIM?

17 A. DAVIS.

18 Q. AND ANYWHERE IN THAT STATEMENT DOES IT REFER TO HIM AS
19 TRAMELE?

20 A. NO, I DON'T THINK SO. NO. NO, MA'AM.

21 MS. CAMPBELL: THANK YOU, SIR. I DON'T HAVE ANY FURTHER
22 QUESTIONS.

23 MR. ROBERSON: JUST A COUPLE OF QUESTIONS.

24 THE COURT: YES, SIR, MR. ROBERSON.
25

RECROSS EXAMINATION

1
2 BY MR. ROBERSON:

3 Q. MAY I SEE THE STATEMENT?

4 A. (THE WITNESS HANDS THE STATEMENT TO MR. ROBERSON.)

5 Q. IN THIS STATEMENT THEY WERE ASKING YOU TO GIVE THEM
6 DETAILS ABOUT WHAT WENT ON THAT NIGHT TO THE BEST OF YOUR
7 MEMORY; RIGHT?

8 A. YEAH.

9 Q. DID THEY EVER ASK YOU WHAT ANY OF THE FELLOWS WERE
10 WEARING, IF YOU REMEMBER?

11 A. I DON'T KNOW, BUT I DON'T REMEMBER.

12 Q. AND READ THAT FOR THE JURY.

13 A. "CAN YOU DESCRIBE WHAT ANY OF THE BOYS WERE WEARING?"

14 "NO. I WASN'T REALLY TRYING TO STARE AT THEM LIKE THAT."

15 Q. OKAY. OKAY. I BELIEVE YOU TESTIFIED EARLIER THAT YOU
16 DID, IN FACT, GO IN THE BATHROOM WITH KARTEZ.

17 A. YES, SIR.

18 Q. SO YOU HAD AT LEAST A LITTLE BLOCK OF TIME WHERE YOU
19 COULD OBSERVE HIM THEN.

20 A. YEAH.

21 Q. AND YOU OBSERVED HIM WHEN HE CAME BACK OUT ON THE PHONE.

22 A. YEAH, HE CAME RIGHT PAST US ON THE PHONE.

23 Q. AND THEN YOU SAID YOU SAW HIM IN THE PARKING LOT.

24 A. UH-HUH.

25 Q. AND HE HAD ON A WHITE TEE SHIRT, DIDN'T HE?

1 A. I DON'T KNOW WHAT HE HAD ON.

2 Q. YOU OBSERVED HIM ON AT LEAST THREE OCCASIONS. YOU HAD A
3 PRIVATE CONVERSATION WITH HIM IN THE BATHROOM.

4 A. YEAH.

5 Q. YOU SAW HIM WALK BACK BY ON THE TELEPHONE, SAW HIM
6 AGAIN. RIGHT?

7 A. UH-HUH.

8 Q. SAW HIM IN THE PARKING LOT; RIGHT?

9 A. RIGHT.

10 Q. DO YOU REMEMBER WHAT YOU WERE WEARING THAT NIGHT?

11 A. NO, NOT REALLY.

12 MR. ROBERSON: OKAY. I HAVE NO FURTHER QUESTIONS.

13 THE COURT: MR. JOHNSON, ANY FURTHER QUESTIONS?

14 MR. JOHNSON: NO FURTHER QUESTIONS. THANK YOU, YOUR
15 HONOR.

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

17 MR. LAKE: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

18 THE COURT: I'M SORRY, SIR?

19 MR. LAKE: MAY THIS WITNESS BE EXCUSED?

20 THE COURT: ANY OBJECTION TO THE WITNESS BEING EXCUSED,
21 GENTLEMEN?

22 MR. JOHNSON: YES, SIR, YOUR HONOR.

23 THE COURT: ALL RIGHT, SIR.

24 MR. JOHNSON: HE MIGHT BE SUBJECT TO RECALL.

25 THE COURT: ALL RIGHT. SIR, YOU ARE FREE TO LEAVE, BUT

1 YOU ARE STILL UNDER YOUR SUBPOENA. SO YOU MAY BE SUBJECT TO
2 BEING CALLED BACK TO TESTIFY AGAIN. DO YOU UNDERSTAND?

3 THE WITNESS: I UNDERSTAND.

4 THE COURT: THANK YOU VERY MUCH.

5 MR. LAKE: YOUR HONOR, I JUST ASK THAT THEY LET HIM KNOW
6 NOT TO DISCUSS HIS TESTIMONY WITH ANYONE ELSE.

7 THE COURT: ALL RIGHT, SIR.

8 MR. ROBERSON: YOUR HONOR, IF HE'S ALLOWED TO LEAVE THE
9 BUILDING, CAN WE HAVE A CONTACT NUMBER FOR HIM IN CASE WE
10 WANT TO CALL HIM?

11 THE COURT: YES, SIR.

12 MR. ROBERSON: OKAY.

13 THE COURT: YOU'LL GET THAT FROM THE SOLICITOR.

14 MR. ROBERSON: THANK YOU, SIR.

15 THE COURT: SOLICITOR, YOU HAVE THAT; CORRECT.

16 MR. LAKE: YES, SIR.

17 THE COURT: ALL RIGHT, SIR.

18 MR. LAKE: I JUST TOLD HIM TO STAY HERE.

19 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. ALL RIGHT.
20 LADIES AND GENTLEMEN, LET'S GO AHEAD AND TAKE A SHORT BREAK
21 FOR ABOUT FIVE OR TEN MINUTES. YOU GO TO YOUR JURY ROOM, AND
22 THEN WE'LL COME BACK WITH THE NEXT WITNESS. EVERYONE ELSE
23 REMAIN SEATED, PLEASE.

24 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
25 11:15 A.M.)

1 THE COURT: ALL RIGHT. WE'LL BE AT EASE FOR ABOUT FIVE
2 OR TEN MINUTES. THANK YOU VERY MUCH.

3 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
5 THANK Y'ALL. DO WE KNOW WHERE MR. ROBERSON IS?

6 MR. LAKE: YOUR HONOR, I'LL LOOK FOR HIM OUT HERE.

7 (PAUSE IN PROCEEDINGS)

8 THE COURT: VERY GOOD. ALL RIGHT. STATE READY TO
9 PROCEED?

10 MR. LAKE: STATE'S READY TO PROCEED, YOUR HONOR.

11 THE COURT: MR. ROBERSON?

12 MR. ROBERSON: YES, SIR.

13 THE COURT: ARE YOU READY TO PROCEED?

14 MR. ROBERSON: YES, SIR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: YES, SIR, YOUR HONOR. THANK YOU.

17 THE COURT: ALL RIGHT. ASK THE JURY TO COME IN, PLEASE.

18 MR. ROBERSON: JUDGE?

19 THE COURT: YES, SIR.

20 MR. ROBERSON: WHEN I ASK HIM TO REPEAT SOME THINGS,
21 DON'T THINK I'M BEING CUTE.

22 THE COURT: WELL, NO. NO. NO, SIR. I UNDERSTAND THERE
23 IS GOING TO BE SOME PROBLEMS, BUT APPARENTLY WHEN WE HAD THAT
24 WITNESS SPEAK UP, IT WAS GOING INTO THE NEXT COURTROOM WITH
25 JUDGE BARBER SO HE COULD HEAR IT. SO WE HAD TO -- WE HAVE TO

1 BE A LITTLE CAREFUL HOW LOUDLY WE SPEAK IN HERE.

2 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
3 11:26 A.M.)

4 THE COURT: MR. FOREMAN, YESTERDAY YOU HAD LEFT A NOTE
5 AND I DID NOT ANSWER IT. I DIDN'T WANT YOU TO THINK THAT I
6 HAD IGNORED IT. YOU HAD A NOTE ABOUT TAKING NOTES.
7 OBVIOUSLY I DID NOT ALLOW THAT, AND THE REASON I DID NOT WAS
8 BECAUSE I FIND -- MY EXPERIENCE IS WHEN SOMEBODY'S TAKING
9 NOTES THEY HAVE A TENDENCY TO LOOK DOWN AND -- AND/OR ARE
10 WRITING SOMETHING, AND INVARIABLY THAT'S WHEN SOMETHING ELSE
11 THAT THEY NEED TO BE HEARING IS BEING SAID AND THEY'RE NOT
12 LISTENING TO THAT. AND SOMETIMES WE HAVE A TENDENCY THAT IF
13 WE WRITE IT DOWN, THAT'S EXACTLY WHAT HAPPENED AND YOU HAVE
14 MAYBE SOME OTHER -- A LARGER NUMBER OF PEOPLE REMEMBERING IT
15 IN A DIFFERENT WAY. SO THAT'S WHY I TEND NOT TO ALLOW THE
16 TAKING OF NOTES AND ASK YOU TO RELY ON YOUR COLLECTIVE MEMORY
17 AND YOUR COLLECTIVE WISDOM AS TO WHAT OCCURRED. ALL RIGHT?

18 FOREMAN: I APPRECIATE IT.

19 THE COURT: AND I'LL TELL YOU, MR. FOREMAN, AND ALL THE
20 LADIES AND GENTLEMEN OF THE JURY: IF AT ANY POINT IN TIME
21 YOU NEED SOMETHING OR YOU NEED TO TAKE A BREAK OR THERE IS
22 SOMETHING YOU NEED ATTENTION TO, PLEASE JUST RAISE YOUR HAND
23 AND WE'LL TRY AND ACCOMMODATE YOU AS WE CAN. ALL RIGHT?

24 FOREMAN: I APPRECIATE IT.

25 THE COURT: ALL RIGHT. SOLICITOR, NEXT WITNESS, PLEASE.

1 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL RAVARIS
2 HENRY.

3 RAVARIS M. HENRY, AFTER BEING DULY SWORN, TESTIFIED
4 AS FOLLOWS:

5 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
6 YOUR FULL NAME FOR THE RECORD, PLEASE.

7 THE WITNESS: RAVARIS MARTICE HENRY.

8 COURT REPORTER: WHAT'S YOUR MIDDLE NAME?

9 THE WITNESS: MARTICE.

10 COURT REPORTER: SPELL IT, PLEASE.

11 THE WITNESS: M-A-R-T-I-C-E.

12 DIRECT EXAMINATION

13 BY MR. LAKE:

14 Q. RAVARIS, I NEED YOU TO SPEAK DIRECTLY INTO THE
15 MICROPHONE ALSO. OKAY?

16 A. ALL RIGHT.

17 Q. COULD YOU TELL US WHERE YOU CURRENTLY LIVE?

18 A. COLUMBIA, SOUTH CAROLINA.

19 Q. AND HOW LONG HAVE YOU LIVED IN COLUMBIA?

20 A. ABOUT TEN MONTHS.

21 Q. AND PRIOR TO THAT, WHERE DID YOU RESIDE?

22 A. WINNSBORO, SOUTH CAROLINA.

23 Q. AND HOW LONG DID YOU RESIDE IN WINNSBORO?

24 A. PROBABLY ABOUT 22 YEARS.

25 Q. TWENTY-TWO YEARS?

1 A. YES, SIR.

2 Q. AND BACK IN SEPTEMBER OF 2005, WERE YOU STAYING THERE
3 ALSO?

4 A. YES, SIR.

5 Q. AND COULD YOU EXPLAIN TO THE JURY HOW YOU KNOW TORRI
6 BOYD, ANTWAN MARTIN, ANTONIO SMITH, AND DENNIS IRBY?

7 A. DENNIS - HE WAS MY COUSIN. ANTWAN WAS MY COUSIN. TORRI
8 WAS MY COUSIN, AND ANTONIO IS MY FRIEND FROM HIGH SCHOOL.

9 Q. SO Y'ALL HAD KNOWN EACH OTHER FOR AWHILE?

10 A. ALL MY LIFE.

11 Q. AND HOW OLD ARE YOU?

12 A. TWENTY-THREE.

13 Q. AND HOW DO YOU KNOW DEMETRIC DAVIS, TRAMELE DAVIS,
14 MARCUS TUCKER, ADAMS GIBSON, JACQUES GIBSON, VERNON DAVIS,
15 AND STEPHON WILLINGHAM?

16 A. FROM SCHOOL AND BECAUSE THEY'RE FROM RIDGEWAY.

17 Q. AND HOW LONG HAVE YOU KNOWN -- COULD YOU TELL THE JURY
18 HOW LONG YOU'VE KNOWN EACH INDIVIDUAL PERSON?

19 A. ABOUT THE SAME, ALL MY LIFE, TOO.

20 Q. YOU'VE KNOWN ALL THOSE INDIVIDUALS?

21 A. UH-HUH.

22 Q. AND HOW OFTEN WOULD YOU HAVE CONTACT WITH THEM?

23 A. NOT THAT OFTEN BUT, YOU KNOW, YOU KNOW THEM.

24 Q. WHERE DID YOU GET TO KNOW THEM FROM?

25 A. SCHOOL AND STUFF LIKE THAT, JUST SEEING THEM AROUND.

1 Q. AND WHAT SCHOOL DID YOU ALL GO TO?

2 A. FAIRFIELD CENTRAL.

3 Q. AND WHAT COUNTY IS THAT LOCATED IN?

4 A. HUH?

5 Q. WHAT COUNTY IS THAT LOCATED IN?

6 A. FAIRFIELD.

7 Q. OKAY. AND WHERE -- ARE YOU CURRENTLY EMPLOYED?

8 A. NO, SIR.

9 Q. OKAY. AND LET ME TAKE YOU BACK TO THE EVENING OF
10 SEPTEMBER THE 5TH, 2005. DO YOU REMEMBER THAT PARTICULAR
11 DAY?

12 A. YES, SIR.

13 Q. AND CAN YOU EXPLAIN TO THE JURY WHY YOU KNOW THAT
14 PARTICULAR DAY?

15 A. BECAUSE THAT'S THE DAY WHEN ALL OF THIS OCCURRED.

16 Q. WHEN YOU SAY ALL OF THIS, WHAT IS ALL OF THIS?

17 A. THE INCIDENT, THE MURDER, THE FIGHT, EVERYTHING.

18 Q. AND COULD YOU TELL THE JURY APPROXIMATELY WHEN Y'ALL
19 WENT TO CHANCE'S?

20 A. PROBABLY ABOUT 8, 9:00 P.M.

21 Q. AND WHY DID Y'ALL GO THERE THAT PARTICULAR NIGHT?

22 A. JUST TO CHILL OUT, HANG OUT. LABOR DAY WAS COMING UP.

23 Q. AND WHO ALL WENT OUT THERE THAT NIGHT WITH YOU ALL?

24 A. ME, ANTWAN, TORRI BOYD, AND DENNIS IRBY.

25 Q. AND DID Y'ALL ALL RIDE TOGETHER?

- 1 A. YES, SIR.
- 2 Q. AND HOW DID Y'ALL GET THERE?
- 3 A. WE RODE WITH ANTWAN.
- 4 Q. AND WHAT TYPE OF VEHICLE DO YOU RECALL HIM HAVING AT
- 5 THAT TIME?
- 6 A. I THINK IT WAS A TAHOE, CHEVY TAHOE.
- 7 Q. OKAY. AT WHAT POINT DID YO-YO GET THERE?
- 8 A. YO-YO GOT THERE PROBABLY I WANT TO SAY AN HOUR --
- 9 PROBABLY AN HOUR AND 45 MINUTES AFTER WE GOT THERE.
- 10 Q. AND DO YOU KNOW HOW HE GOT THERE?
- 11 A. HE GOT DROPPED OFF BY HIS FRIEND. SOMEBODY HE WAS WITH
- 12 DROPPED HIM OFF.
- 13 Q. OKAY. WERE Y'ALL DRINKING THAT NIGHT?
- 14 A. YES, SIR.
- 15 Q. DO YOU RECALL WHAT Y'ALL WERE DRINKING OR HOW MUCH Y'ALL
- 16 HAD TO DRINK?
- 17 A. BEERS, SHOTS. WE WAS JUST DRINKING.
- 18 Q. AND AT WHAT POINT DO YOU SEE THE GUYS -- WELL, LET ME
- 19 ASK YOU A QUESTION. THOSE GUYS THAT I NAMED EARLIER THAT YOU
- 20 WENT TO SCHOOL WITH, WHERE ARE THEY FROM?
- 21 A. RIDGEWAY.
- 22 Q. AND YOU'RE FROM WINNSBORO?
- 23 A. YEAH.
- 24 Q. AND AT WHAT POINT DID YOU SEE THE GUYS FROM RIDGEWAY?
- 25 A. PROBABLY LIKE A FEW MINUTES AFTER YO-YO CAME.

1 Q. NOT TOO LONG AFTER YO-YO CAME?

2 A. YEAH.

3 Q. AND DESCRIBE TO THE JURY WHAT HAPPENS AS THEY COME INTO
4 THE BAR THAT NIGHT.

5 A. WHEN THEY GOT THERE, EVERYBODY SHOOK HANDS, HUGGING,
6 TALKING, LAUGHING, YOU KNOW, AND WE JUST WENT BACK TO WHAT WE
7 WAS DOING BEFORE THEY GOT THERE.

8 Q. AND YOU SAY Y'ALL WERE LAUGHING, TALKING, AND EVERYTHING
9 LIKE THAT---

10 A. EVERY---

11 Q. WHO WAS LAUGHING AND TALKING?

12 A. EVERYBODY.

13 Q. THAT YOU RECALL?

14 A. EVERYBODY THAT CAME IN THERE, WE SHOOK HANDS WITH THEM,
15 ALL OF THEM, AND EVERYBODY ON MY SIDE SHOOK THEIR HAND.

16 Q. AND WHEN YOU SAY THAT, WAS THERE AN EXCHANGE OF -- DID
17 ANYONE BUY ANYBODY ANY BEERS OR ANYTHING LIKE THAT? DO YOU
18 RECALL?

19 A. YEAH, TRAMELE -- HE BOUGHT ME A BEER AND I BOUGHT HIM
20 ONE BECAUSE HE WAS IN MY -- HE WAS IN MY CLASS. ME AND HIM
21 WAS, YOU KNOW WHAT I'M SAYING, REAL COOL. SO ME AND HIM --
22 AUTOMATICALLY WE SAT SIDE BY SIDE AND WE WAS SITTING AT THE
23 BAR DRINKING.

24 Q. SO IT'S YOU AND TRAMELE FROM RIDGEWAY.

25 A. YEAH. YES.

1 Q. AND AT WHAT POINT DO YOU NOTICE THAT THE TEMPERAMENT HAS
2 KIND OF CHANGED WITHIN THE GROUPS OR DO YOU REALIZE IT'S
3 GOING ON?

4 A. WHEN IT WAS ALL -- WHEN THE CLUB -- WHEN IT WAS OVER
5 WITH.

6 Q. OKAY. DID YOU KNOW AT WHAT POINT -- WELL, DID YOU HAVE
7 ANY PERSONAL KNOWLEDGE -- LET ME ASK YOU A QUESTION. STRIKE
8 THAT. AT THAT PARTICULAR POINT WHEN Y'ALL ARE THERE AND THAT
9 GROUP FROM RIDGEWAY WAS THERE, WAS JACQUES GIBSON THERE?

10 A. JACQUES? SHA-SHA?

11 Q. SHA-SHA.

12 A. NO.

13 Q. WHAT ABOUT VERNON DAVIS WHO'S KNOWN AS DUWOP?

14 A. NO.

15 Q. WHAT ABOUT STEPHON WILLINGHAM WHO'S KNOWN AS FAT MAN?

16 A. NO.

17 Q. DID YOU HAVE A GUN WHEN Y'ALL WENT INTO CHANCE'S THAT
18 NIGHT?

19 A. NO.

20 Q. DO YOU CARRY A GUN?

21 A. NO.

22 Q. OWN A GUN?

23 A. NO.

24 Q. DO YOU HAVE ANY PERSONAL KNOWLEDGE AS TO WHETHER TORRI
25 BOYD HAD A GUN?

- 1 A. NO, HE DIDN'T.
- 2 Q. WHAT ABOUT ANTWAN MARTIN?
- 3 A. HE DIDN'T.
- 4 Q. WHAT ABOUT ANTONIO SMITH?
- 5 A. NO.
- 6 Q. DENNIS IRBY?
- 7 A. NO.
- 8 Q. WHAT'S THE WEATHER CONDITIONS LIKE THIS PARTICULAR
- 9 EVENING?
- 10 A. IT WAS KIND OF COOL OUTSIDE. IT WASN'T THAT COLD
- 11 BECAUSE I HAD A TEE SHIRT ON.
- 12 Q. I MEAN, IT WASN'T LIKE COLD USING JACKETS OR ANYTHING
- 13 LIKE THAT.
- 14 A. NO.
- 15 Q. YOU DIDN'T OBSERVE ANY BULGES OR WHAT APPEARED TO BE
- 16 GUNS ON ANYONE; CORRECT?
- 17 A. NO, SIR.
- 18 Q. WHAT ABOUT ON THIS OTHER GROUP FROM RIDGEWAY? DID YOU
- 19 SEE ANYTHING THAT APPEARED TO BE WEAPONS OR ANYTHING LIKE
- 20 THAT?
- 21 A. NO, SIR.
- 22 Q. AT SOME POINT YOU END UP OUTSIDE; CORRECT?
- 23 A. YES, SIR.
- 24 Q. EXPLAIN TO THE JURY WHAT HAPPENS ONCE YOU ALL GET
- 25 OUTSIDE.

1 A. OKAY. WHEN I WAS -- I WAS STILL -- I WAS LIKE THE LAST
2 ONE. I SEEN THEM ALL GETTING READY TO GO OUTSIDE. I DIDN'T
3 KNOW WHAT IT WAS FOR THOUGH. SO I'M STILL SITTING AT THE BAR
4 FINISHING UP MY BEER BECAUSE THEY WAS FIXING TO CLOSE. SO AS
5 I'M SWALLOWING DOWN MY BEER, DENNIS -- HE CAME RUNNING BACK
6 IN AND WAS LIKE, "B., B., COME ON. THE BOYS ARE FIXING TO
7 GET INTO SOME STUFF OUTSIDE." SO I AUTOMATICALLY THOUGHT
8 THAT THEY WAS FIXING TO GET INTO IT WITH SOMEBODY FROM
9 COLUMBIA, SO I GET OUT THERE. IT'S BAM, HE AND TORRI FACING.

10 Q. LET ME ASK YOU A QUESTION. PRIOR TO THIS PARTICULAR
11 INCIDENT, I MEAN GOING OUTSIDE -- SO YOU'RE KIND OF AWAY AT
12 THE BAR?

13 A. YEAH.

14 Q. AND EVERYONE ELSE IS SOMEWHERE ELSE?

15 A. YEAH.

16 Q. SO ANYTHING ELSE THAT'S GOING ON, YOU DON'T HAVE ANY
17 KNOWLEDGE OF WHAT'S GOING ON AT THAT PARTICULAR POINT.

18 A. NO, SIR.

19 Q. UNTIL YOU GET OUTSIDE?

20 A. YES, SIR.

21 Q. NOW -- I'M SORRY. GO AHEAD. AFTER YOU GET OUTSIDE --
22 AND YOU SEE BAM AND TORRI DOING WHAT?

23 A. THEY'RE FACE TO FACE TALKING AND, YOU KNOW, LIKE BAM IS
24 TRYING TO EXPLAIN SOMETHING TO HIM AND HE WAS ACTING LIKE HE
25 AIN'T WANT TO HEAR NOTHING WHAT TORRI HAD TO SAY BECAUSE HE

1 WAS SO ANGRY WITH WHATEVER THEY HAD GOT INTO IT ABOUT BACK IN
2 THE DAY OR WHATEVER. THEY WAS GOING AT IT.

3 Q. YOU SAID THEY'RE GOING AT IT. COULD YOU DESCRIBE TO THE
4 JURY THE TYPE OF LANGUAGE AND THE TONE OF THEIR VOICE WHEN
5 THEY'RE TALKING?

6 A. FUSSING AND, YOU KNOW, JUST DISRESPECTING, YELLING OUT,
7 "RIDGWAY," AND, YOU KNOW, ACTING LIKE ANIMALS. AND THEN THE
8 GIRLS THAT THEY WAS WITH -- SEE, WHEN IT -- WE WAS IN BETWEEN
9 TWO CARS, YOU KNOW, LIKE A CAR PARKED RIGHT HERE AND A CAR
10 PARKED RIGHT HERE. THERE'S LIKE SIX PEOPLE IN THAT LITTLE
11 SMALL AREA, YOU KNOW, TOTAL CHAOS, YELLING AND ALL THAT. THE
12 GIRLS, THEY'RE TRYING TO KEEP THEM SEPARATED, YOU KNOW, AND
13 THEN IT WASN'T FAR AFTER THAT I GOT HIT IN THE HEAD WITH A
14 BEER CAN.

15 Q. AND WHO HIT YOU WITH THE -- WHO HIT YOU?

16 A. I DON'T RECALL WHO HIT ME WITH THE BEER CAN, BUT I KNOW
17 AS SOON AS I GOT HIT I AUTOMATICALLY -- EVERYBODY STARTED
18 FIGHTING: ME, TORRI, A.J., US THREE. WE WAS FIGHTING.

19 Q. WHAT ABOUT ANTONIO?

20 A. HE WASN'T FIGHTING.

21 Q. WHAT ABOUT DENNIS?

22 A. HE WASN'T FIGHTING, NOT TO MY KNOWLEDGE. I DIDN'T SEE
23 HIM FIGHTING. THE ONLY PERSON I SEEN FIGHTING WAS ME,
24 ANTWAN, AND TORRI.

25 Q. AND SPECIFICALLY WHO WERE YOU FIGHTING WITH?

1 A. TRAMELE.

2 Q. THIS WAS THE PERSON THAT JUST BOUGHT YOU A BEER AND YOU
3 HAD JUST BOUGHT THEM A BEER?

4 A. YES, SIR.

5 Q. WHY WOULD YOU BE IN A FIGHT WITH TRAMELE?

6 A. I DON'T KNOW.

7 Q. DO YOU RECALL GIVING A STATEMENT TO LAW ENFORCEMENT BACK
8 ON SEPTEMBER THE 6TH, 2005?

9 A. YES, SIR.

10 Q. IF I SHOWED YOU THIS RIGHT HERE, WOULD YOU HAVE AN
11 OPPORTUNITY TO REFRESH YOUR MEMORY AS TO WHY YOU AND---

12 MR. JOHNSON: OBJECTION, YOUR HONOR.

13 MR. LAKE: ---TRAMELE GOT INTO IT SPECIFICALLY?

14 MR. JOHNSON: OBJECTION, YOUR HONOR.

15 THE COURT: ALL RIGHT. JUST A SECOND. I'M GOING TO
16 ALLOW -- I'M GOING TO ALLOW HIM TO REVIEW THE STATEMENT TO
17 SEE IF THAT REFRESHES HIS MEMORY. HE MAY NOT TESTIFY FROM
18 THE STATEMENT, BUT HE MAY READ IT TO REFRESH HIS MEMORY.

19 MR. LAKE: THANK YOU, YOUR HONOR.

20 BY MR. LAKE:

21 Q. LET ME JUST SHOW YOU THIS DOCUMENT. YOU CAN'T READ FROM
22 IT, BUT JUST READ THIS DOCUMENT. AFTER YOU'VE HAD A CHANCE
23 TO READ IT, JUST LET ME KNOW BEFORE YOU MAKE ANY COMMENTS.

24 A. (THE WITNESS READS THE DOCUMENT.) YEAH. ALL RIGHT.

25 Q. HAVE YOU FINISHED READING THROUGH THE STATEMENT?

1 A. YEAH.

2 Q. READ THROUGH THE ENTIRE STATEMENT JUST TO MAKE SURE
3 YOU...

4 A. I GOT IT. I GOT IT.

5 Q. ARE YOU FINE?

6 A. YEAH.

7 Q. LET ME TAKE THIS STATEMENT BACK FROM YOU. DID READING
8 YOUR STATEMENT REFRESH YOUR MEMORY AS TO WHY SPECIFICALLY YOU
9 AND TRAMELE GOT INTO IT?

10 A. HE RAN AROUND THE TRUCK AND HIT ME.

11 Q. AND---

12 A. IT WASN'T, YOU KNOW, LIKE HE WAS REALLY -- ME AND HIM
13 WAS REALLY TRYING TO FIGHT EACH OTHER. HE WAS JUST ON HIS
14 SIDE. YOU KNOW, HE WAS TRYING TO GET A LICK OFF EVERYBODY ON
15 MY SIDE, YOU KNOW, AND HE HIT ME. AND THEN I HAD RAN BECAUSE
16 HE HIT ME AND HE RAN OFF, SO I RAN HIM DOWN AND GRABBED HIM
17 BY THE HAIR AND SLUNG HIM DOWN.

18 Q. UH-HUH.

19 A. YOU KNOW, SO NOW HE'S ON THE GROUND -- WE'RE ON THE
20 GROUND AND WE'RE FIGHTING.

21 Q. UH-HUH. AND DO YOU RECALL WHAT HE'S WEARING AT THIS
22 PARTICULAR POINT PRIOR TO HIM -- YOU AND HIM GETTING INTO AN
23 ALTERCATION?

24 A. NO, I DON'T RECALL WHAT HE WAS WEARING.

25 Q. AND AFTER YOU -- YOU'VE BEEN STRUCK, WHERE WERE YOU HIT

1 AT? DO YOU RECALL?

2 A. IN MY FACE.

3 Q. OKAY.

4 A. RIGHT ON THIS SIDE.

5 Q. WHAT DO YOU RECALL HAPPENING AFTER YOU GET STRUCK?

6 A. EVERYBODY STARTS FIGHTING. IT JUST STARTED GOING DOWN
7 FROM THERE.

8 Q. AFTER EVERYONE STARTS FIGHTING, WHAT HAPPENS NEXT?

9 A. OKAY. WHILE I'M FIGHTING TRAMELE, I'VE GOT HIM ON THE
10 GROUND AND I'M FIGHTING HIM. I HEAR GUNSHOTS GO OFF. I LOOK
11 UP.

12 Q. GO AHEAD.

13 A. I SEE SHA-SHA SHOOTING AT -- AT THAT WHITE LITTLE CAR HE
14 WAS -- HE WAS DRIVING. SO AFTER HE SHOOT IN THE AIR, HE
15 PULLS DOWN, AND I LOOK ACROSS MY SHOULDER ONE MORE TIME. I
16 SEE SOMEONE HAS GOT A GUN. I DON'T KNOW WHETHER IT WAS HIM
17 OR WHO, BUT I SEE THEY'VE GOT THE GUN AIMED. SO NOW I'M
18 GETTING DOWN AND I'M RUNNING TOWARDS CARS. AS I'M GOING
19 TOWARDS THE CAR THAT I'M FIXING TO GO AROUND FOR COVER, I SEE
20 THE TIRES GOING OUT AND, YOU KNOW WHAT I'M SAYING, THE CAR
21 BEING HIT. SO I KNOW THEY'RE TRYING TO SHOOT US. YOU KNOW,
22 THEY AIN'T JUST SHOOTING IN THE AIR TO HIT A PLANT. THEY'RE
23 TRYING TO SHOOT SOMEBODY, YOU KNOW, BECAUSE I THOUGHT I WAS
24 GOING TO GET HIT. I WAS WAITING TO GET SHOT IN THE BACK OR,
25 YOU KNOW, SOMETHING LIKE THAT.

1 Q. LET ME JUST KIND OF BACK YOU UP JUST A LITTLE BIT. YOU
2 INDICATED YOU SAW SHA-SHA SHOOTING A GUN.

3 A. YEAH, I SAW HIM SHOOTING A GUN IN THE AIR.

4 Q. AND YOU INDICATED THAT AT SOME POINT YOU STARTED RUNNING
5 BETWEEN CARS?

6 A. YEAH.

7 Q. DO YOU REMEMBER WHAT CARS YOU WERE RUNNING THROUGH OR
8 ANYTHING LIKE THAT?

9 A. NO, NOT SPECIFICALLY.

10 Q. ARE YOU ON THE GROUND AT THIS POINT?

11 A. YEAH. I'M LIKE CRAWLING ON MY HANDS AND KNEES BASICALLY
12 TRYING TO RUN, YOU KNOW---

13 Q. SO YOU'RE GOING TO BE ESSENTIALLY LIKE THIS RIGHT HERE?

14 A. NO, NOT ON MY KNEES. LIKE ON MY FEET AND HANDS BUT I'M
15 DOWN LOW LIKE THAT CRAWLING.

16 Q. SO YOU'RE CRAWLING LIKE THIS RIGHT HERE?

17 A. PUT YOUR HANDS DOWN---

18 Q. DID YOU---

19 A. ---AND STRETCH YOUR LEGS OUT. NO. STRETCH THEM OUT
20 FURTHER THAN THAT.

21 Q. FURTHER THAN THIS RIGHT HERE?

22 A. YEAH, LIKE THAT.

23 Q. SO YOU'RE ESSENTIALLY DOING THAT (DEMONSTRATES.) WHILE
24 YOU'RE STRETCHING AND ON YOUR HANDS AND YOUR FEET LIKE THAT,
25 YOU INDICATED WHAT'S GOING BY YOU?

1 A. BULLETS. THEY ARE BEING FIRED. THE CAR THAT I'M GOING
2 TOWARDS AND GOING AROUND FOR COVER, I SEE THE TIRES GOING OUT
3 ON THEM.

4 Q. SO AT THIS POINT YOU'RE PRETTY LOW.

5 A. I'M LOW, YEAH. I DON'T KNOW HOW I AIN'T GET SHOT.

6 Q. HOW CLOSE WAS THAT BULLET THAT STRUCK THAT TIRE TO YOU?

7 A. IT WAS CLOSE.

8 Q. WERE YOU RIGHT BESIDE THAT TIRE WHEN IT GOT SHOT?

9 A. I WAS RIGHT -- I WAS GOING DIRECTLY TO IT. I WAS
10 PROBABLY TWO OR THREE FEET AWAY FROM THE CAR.

11 Q. AND WHAT DID YOU OBSERVE ABOUT THAT TIRE?

12 A. THAT IT HAD BEEN FLAT FROM A BULLET.

13 Q. WHAT HAPPENS AFTER YOU -- THAT SECOND SET OF SHOTS WHEN
14 YOU SEEN THE TIRE GET FLAT AND EVERYTHING? WHAT HAPPENS
15 NEXT?

16 A. OKAY. I GET AROUND THE CAR. I HEAR ABOUT FIVE MORE
17 SHOTS GO OFF AND THEN AFTER THAT IT'S TOTAL SILENCE. "OH,
18 I'M HIT. I'M HIT. I'M HIT."

19 Q. WHEN YOU SAY, "OH, I'M HIT," WHO IS THAT?

20 A. DENNIS IRBY.

21 Q. AND WHERE IS DENNIS IRBY IN RELATION TO YOU?

22 A. IN RELATION?

23 Q. IN TERMS OF WHERE IS HE AT?

24 A. HE IS LIKE UP BY THE CLUB, LIKE THE CORNER.

25 Q. HOW -- IF YOU HAD TO ESTIMATE HOW FAR AWAY YOU WERE FROM

1 HIM AT THIS PARTICULAR POINT, USING ME AS A GUIDE, JUST TELL
2 ME EXACTLY---

3 A. PROBABLY ABOUT 15 FEET AWAY FROM ME.

4 Q. TELL ME WHEN TO STOP IN TERMS OF HOW---

5 A. OH, OKAY. GO AHEAD. HE WAS ABOUT RIGHT WHERE THAT WALL
6 IS, RIGHT WHERE THAT LADY IS SITTING AT.

7 Q. RIGHT HERE?

8 A. YEAH, EXACTLY WHERE THE WALL IS AT.

9 Q. OKAY. AND WHEN YOU TURN AROUND, WHAT IS DENNIS DOING AT
10 THIS PARTICULAR POINT AFTER HE SAID HE'S HIT? WHAT DO YOU
11 OBSERVE?

12 A. HE WAS STANDING UP AND HE WAS JUST YELLING, "OH, I'M
13 HIT." HE WAS HOLDING HIS BACK. "OH, I'M HIT. I'M HIT. I'M
14 HIT," AND HE FELL TO THE GROUND.

15 Q. AND HOW DID HE FALL TO THE GROUND?

16 A. HE JUST FELL. HE COLLAPSED, BUT HE WASN'T OUT OR
17 NOTHING. HE WAS STILL UP, BUT HE DIDN'T SAY NOTHING ELSE
18 THOUGH.

19 Q. AND WHAT WAS YOUR REACTION TO THAT AT THIS PARTICULAR
20 POINT?

21 A. I WAS OUT THERE. I THOUGHT HE WAS PLAYING, YOU KNOW,
22 BECAUSE WHEN I GOT TO HIM, I LOOKED AT HIM DEAD IN THE EYE
23 AND HE WAS SMILING. HE AIN'T SAY NOTHING. I SAID, "MAN,
24 STOP PLAYING. WHY ARE YOU PLAYING?" AND THEN HE STARTED
25 CLOSING HIS EYES. THAT'S WHEN I KNOW HE WASN'T PLAYING.

1 Q. AND WHAT WAS YOUR REACTION AT THAT PARTICULAR POINT?

2 A. I HAD GRABBED HIM. I SAID, "MAN, DON'T GO TO SLEEP.
3 DON'T GO TO SLEEP. DON'T GO TO SLEEP." I JUST KEPT TELLING
4 HIM NOT TO GO TO SLEEP, AND THEN A GIRL HAD CAME AND SHE GOT
5 HIM AND SHE WAS LIKE, "HE AIN'T BEEN SHOT IN HIS CHEST OR
6 NOTHING." SHE LIFT HIM UP AND HIS BACK, YOU KNOW WHAT I'M
7 SAYING, THERE'S BLOOD. WET. YOU SEE THE BULLET HOLE AND ALL
8 THAT.

9 Q. THIS IS YOUR COUSIN?

10 A. YEAH.

11 Q. DO YOU REMEMBER WHEN THE POLICE---

12 A. YES.

13 Q. ---ARRIVED?

14 A. UH-HUH.

15 Q. HOW DO YOU REMEMBER? WHAT WAS ONE OF THE REASONS WHY
16 YOU REMEMBER THE POLICE ARRIVING?

17 A. BECAUSE THEY PUT ME IN HANDCUFFS BECAUSE I WAS CUTTING
18 UP.

19 Q. WHEN YOU SAY YOU WERE CUTTING UP, WHY WERE YOU CUTTING
20 UP?

21 A. BECAUSE THEY WEREN'T DOING NOTHING.

22 Q. WHEN YOU SAY THEY WEREN'T DOING ANYTHING, ARE YOU
23 REFERRING TO DENNIS?

24 A. THEY GOT -- WHEN THEY GOT OUT THERE, DENNIS WAS LAYING
25 OUT THERE. THEY WAS LIKE, "DON'T TOUCH NOTHING. THAT'S

1 EVIDENCE." HE WAS STILL LAYING ON THE GROUND. THEY WENT TO
2 JUST WRAPPING IT OFF WITH YELLOW TAPE, AND SO I'M TRYING TO
3 TELL THEM, "Y'ALL AIN'T GOING TO DO NOTHING? HE'S LAYING ON
4 THE GROUND DYING." SO THE LADY POLICE OFFICER -- I'M
5 CUSSING. I'M YELLING. I'M GOING CRAZY. YOU KNOW, SHE IS
6 GOING -- SHE IS PUSHING ME, YOU KNOW. I GUESS SHE WANTED ME
7 TO STRIKE HER OR SOMETHING, BUT I AIN'T DO NOTHING. SHE
8 PUSHED -- SHE SHOVED ME TWO TIMES.

9 Q. BECAUSE YOU WANTED THEM---

10 A. TO HELP HIM.

11 Q. ---TO GO HELP HIM.

12 MR. JOHNSON: OBJECTION, YOUR HONOR, FOR INTERRUPTING
13 HIM. LET HIM FINISH HIS ANSWERS.

14 THE COURT: SOLICITOR, LET THE WITNESS FULLY ANSWER THE
15 QUESTION BEFORE YOU ASK ANOTHER. THANK YOU.

16 THE WITNESS: BUT, YEAH, SHE WAS PUSHING ME, AND I WAS
17 TRYING TO TELL HER, "Y'ALL AIN'T DOING NOTHING. YOU KNOW,
18 Y'ALL COME OUT THERE, AND Y'ALL ARE WRAPPING IT OFF WITH
19 YELLOW TAPE. THE AMBULANCE AIN'T EVEN GOT THERE, AND Y'ALL
20 AIN'T EVEN TRYING TO SEE ABOUT HIM." IF I REMEMBER -- THE
21 WAY I RECALL IT, THE POLICE AIN'T EVEN TOUCHED HIM AT ALL,
22 PERIOD---

23 BY MR. LAKE:

24 Q. OKAY.

25 A. ---YOU KNOW. THAT GIRL THAT WAS OUT THERE, SHE DID MORE

1 -- SHE PUT PRESSURE ON IT; YOU KNOW WHAT I'M SAYING? THAT IS
2 STUFF THAT THE COPS ARE SUPPOSED TO DO, YOU KNOW. SO I CUT
3 UP AND I WAS TRYING TO TELL THEM, YOU KNOW, "Y'ALL AIN'T DO
4 NOTHING." I WAS CUSSING, YELLING. SHE SHOVED ME TWO TIMES,
5 AND THE OTHER OFFICER CAME AND HE PUT ME IN HANDCUFFS.

6 Q. AND THEY PUT YOU IN THE BACK OF THE CAR?

7 A. THEY PUT ME IN THE BACK OF THE CAR.

8 Q. AND BY THIS TIME THE AMBULANCE HADN'T EVEN ARRIVED YET;
9 CORRECT?

10 A. THE AMBULANCE -- WHEN I GOT IN THE CAR -- THEY HAD ME IN
11 THE BACK OF THE POLICE CAR. THAT'S WHEN THE AMBULANCE CAME.

12 Q. WOULD IT BE FAIR TO SAY, MR. HENRY, AT THAT PARTICULAR
13 TIME -- YOU GO BY B.; CORRECT?

14 A. YEAH.

15 Q. THAT YOU WERE UPSET?

16 A. OH, YEAH.

17 MR. JOHNSON: LEADING, YOUR HONOR.

18 THE COURT: ALL RIGHT. SOLICITOR, PLEASE DON'T LEAD
19 YOUR WITNESS. THANK YOU VERY MUCH.

20 BY MR. LAKE:

21 Q. AT THAT PARTICULAR TIME WHEN YOU SEE YOUR COUSIN LAYING
22 DOWN ON THAT GROUND---

23 A. UH-HUH.

24 Q. ---AND YOU THINK HE'S DYING, HOW ARE YOU FEELING AT THIS
25 PARTICULAR POINT?

1 A. LIKE, MAN, WHY AM I IN HERE THEN? WHY HAVE THEY GOT ME
2 IN HANDCUFFS? I AIN'T DOING NOTHING BUT TRYING TO TELL THEM
3 TO SEE ABOUT HIM. THEY'RE TOO BUSY AND SO WORRIED ABOUT
4 TRYING TO GET A STATEMENT OF WHAT HAD HAPPENED THAT THEY
5 AIN'T EVEN THINKING ABOUT THAT YOUNG MAN LAYING ON THE GROUND
6 THAT'S DYING. THEY DON'T KNOW WHETHER HE'S DEAD OR WHAT.

7 Q. WHO WAS YOU CONCERNED ABOUT?

8 A. HIM. DENNIS.

9 MR. ROBERSON: OBJECTION, YOUR HONOR. RELEVANCY.

10 THE COURT: I'M GOING TO ALLOW IT. THANK YOU VERY MUCH.

11 THE WITNESS: THEN AFTER THAT, WHILE I WAS IN THE CAR,
12 THE AMBULANCE GOT THERE. HE GOT UP AND HE GOT UP ON HIS OWN
13 FEET. THE NECKLACE THAT I HAD ON, HE PICKED IT UP OFF THE
14 GROUND AND HE GOT ON THE STRETCHER.

15 BY MR. LAKE:

16 Q. YOU THOUGHT HE WAS FINE THEN.

17 A. FINE.

18 Q. WELL, HOW DID YOU FEEL AT THIS PARTICULAR TIME?

19 A. I WAS LIKE, "MAN, THAT BOY AIN'T STRAIGHT. HE DON'T BE
20 CUTTING UP WHEN HE COME HOME. HE DONE GOT SHOT."

21 Q. DID HE EVER COME HOME?

22 A. NEVER CAME HOME.

23 Q. WHEN DID YOU LEARN HE WASN'T COMING HOME ANYMORE?

24 A. THE NEXT MORNING.

25 Q. AND---

1 A. ALL THAT WAS ABOUT NOTHING. THERE WASN'T NO NEED FOR
2 NOBODY TO PULL OUT NO GUN.

3 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S NOT
4 RESPONSIVE.

5 THE COURT: I'M GOING TO ALLOW IT. THANK YOU.

6 THE WITNESS: THERE WAS NO NEED.

7 BY MR. LAKE:

8 Q. OKAY. YOU INDICATED THAT YOU HAD SLUNG TRAMELE TO THE
9 GROUND?

10 A. YES.

11 Q. HOW DID YOU HAVE TRAMELE TO THE GROUND?

12 A. I HAD HIM ON THE GROUND. I HAD HIM BY HIS HAT, AND HE
13 HAD HAIR IN IT.

14 Q. I'M SORRY. HE HAD WHAT?

15 A. HE HAD HAIR LIKE LITTLE DREADS. I HAD GRABBED HIM BY
16 HIS HAT AND SLUNG HIM DOWN. SO NOW ME AND HIM, WE'RE ROLLING
17 ON THE GROUND AND IT WAS---

18 Q. OKAY.

19 A. IT HAPPENED SO FAST, MAN.

20 Q. THAT ENTIRE TIME THAT Y'ALL TWO ARE GOING ON, IT'S JUST
21 YOU AND HIM?

22 A. UH-HUH.

23 Q. DID ANYONE ELSE THROW ANY LICKS ON YOU?

24 A. NO.

25 Q. SO YOU HAD NO ARGUMENT IN THIS FIGHT. IT WAS JUST YOU

1 AND TRAMELE.

2 A. UH-HUH.

3 Q. AND AT THIS PARTICULAR POINT WHEN YOU -- Y'ALL ARE
4 TUSSLING, DOES HE HAVE A GUN ON HIM?

5 A. NO.

6 Q. DID YOU SEE TRAMELE FIRE A GUN?

7 A. NO.

8 Q. DID YOU SEE HIM FIRE ANY SHOTS?

9 A. I DIDN'T SEE HIM FIRE NOTHING.

10 Q. AND YOU DID GIVE SOME STATEMENTS THAT PARTICULAR NIGHT;
11 CORRECT?

12 A. YES, SIR.

13 Q. YOU GAVE TWO SETS OF STATEMENTS?

14 A. UH-HUH.

15 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
16 NUMBER 29, 30, 31, AND 32 AND GET YOU TO LOOK AT ALL FOUR OF
17 THOSE ITEMS.

18 A. YOU DON'T WANT ME TO NAME NONE OF THESE, DO YOU?

19 Q. NO. JUST TAKE A LOOK AT THOSE AND LET ME ASK YOU: DO
20 YOU RECOGNIZE THOSE DOCUMENTS?

21 A. YEAH. YES, SIR.

22 Q. AND HOW DO YOU RECOGNIZE THOSE DOCUMENTS?

23 A. IT'S EVERYBODY OUTSIDE.

24 Q. IT'S EVERYBODY OUTSIDE THERE?

25 A. UH-HUH.

1 Q. DO YOU RECALL WHEN THESE PARTICULAR ITEMS WERE SHOWN TO
2 YOU?

3 A. I THINK IT WAS THE NEXT DAY.

4 Q. THE VERY NEXT DAY WHICH WOULD HAVE BEEN THE 6TH?

5 A. YEAH.

6 Q. AND WHAT, IF ANYTHING, DID THE INVESTIGATOR SAY TO YOU
7 PRIOR TO SHOWING YOU THESE LINE-UPS?

8 A. WHAT DID HE SAY?

9 Q. YEAH. WHAT, IF ANYTHING, DID HE SAY TO YOU---

10 MR. JOHNSON: OBJECTION---

11 MR. LAKE: ---PRIOR TO SHOWING YOU THESE LINE-UPS?

12 THE WITNESS: NOTHING.

13 MR. JOHNSON: OBJECTION, YOUR HONOR. HEARSAY.

14 THE COURT: I'M GOING TO ALLOW IT.

15 BY MR. LAKE:

16 Q. OKAY. AND YOU HAVE -- HOW LONG HAVE YOU KNOWN ALL THOSE
17 INDIVIDUALS AGAIN?

18 A. ABOUT ALL MY LIFE.

19 Q. HOW MANY OF THOSE INDIVIDUALS DID YOU TALK TO THAT
20 NIGHT?

21 A. I TALKED TO HAM AND MARCUS AND TRAMELE. I DIDN'T SAY
22 NOTHING TO KARTEZ BECAUSE I DON'T REALLY KNOW HIM LIKE -- I
23 JUST KNOW HIM FROM SEEING HIM.

24 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
25 EXHIBIT NUMBER 29. WHO DID YOU IDENTIFY IN THAT PARTICULAR

1 LINE-UP?

2 A. TRAMELE DAVIS.

3 Q. AND HOW DID YOU SIGNIFY TO THE OFFICER THAT YOU KNEW
4 THAT PERSON?

5 A. THAT WAS MY CLASSMATE AND MY PARTNER.

6 Q. AND THAT'S THE PERSON THAT YOU WERE FIGHTING WITH THAT
7 NIGHT?

8 A. YES, SIR.

9 Q. AND WHAT, IF ANYTHING, DID YOU DO ON THAT FORM TO
10 INDICATE THAT'S THE PERSON WHO WAS INVOLVED AND THAT WAS OUT
11 THERE THAT NIGHT?

12 A. WHAT?

13 Q. DID YOU PUT ANYTHING ON THAT DOCUMENT?

14 A. OH, YEAH, I INITIALED IT.

15 Q. OKAY. WHAT ELSE DID YOU DO -- AND WHICH PERSON WAS HE
16 ON THAT LINE-UP?

17 A. NUMBER TWO, WASN'T IT? YEAH, NUMBER TWO.

18 Q. AND DID YOU SIGN THAT LINE-UP?

19 A. I SIGNED IT.

20 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
21 NUMBER 30 AND ASK YOU: WHO DID YOU PICK OUT IN THAT
22 PARTICULAR LINE-UP?

23 A. MARCUS TUCKER.

24 Q. AND WHICH NUMBER WAS HE?

25 A. NUMBER THREE.

1 Q. AND DID YOU INITIAL ON THAT LINE-UP ALSO?

2 A. YES, SIR.

3 Q. AND DID YOU SIGN THAT PARTICULAR DOCUMENT?

4 A. YES, SIR.

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
6 NUMBER 31 AND ASK YOU IF YOU RECOGNIZE THAT DOCUMENT.

7 A. YES, SIR.

8 Q. AND WHO DID YOU IDENTIFY IN THAT PARTICULAR---

9 A. KARTEZ GIBSON.

10 Q. HOW DID YOU SIGNIFY THAT AGAIN?

11 A. MY INITIALS AND I SIGNED IT.

12 Q. AND WHAT DID YOU INDICATE ON THIS FORM AS THAT YOU SAW
13 ALL THREE OF THOSE INDIVIDUALS DOING?

14 A. FIGHTING. AND I AIN'T SEE KARTEZ FIGHTING, BUT, YOU
15 KNOW EVERYBODY ELSE HAS GOT THEIR STORY ON THAT.

16 Q. OKAY.

17 COURT REPORTER: I'M SORRY. EVERYBODY ELSE WHAT?

18 THE WITNESS: HAD THEIR STORY ON THAT. I DIDN'T SEE
19 THEM...

20 BY MR. LAKE:

21 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
22 NUMBER 32 AND ASK YOU: DO YOU RECOGNIZE THAT PARTICULAR
23 EXHIBIT?

24 A. YES, SIR.

25 Q. WHAT DO YOU RECOGNIZE THAT TO BE? WHO DID YOU IDENTIFY

1 IN THAT LINE-UP?

2 A. JACQUES GIBSON.

3 Q. AND HOW (SIC) DO YOU KNOW HIM AS?

4 A. I JUST KNOW HIM FROM SEEING HIM AROUND. HE WAS THE
5 GUNMAN. HE WAS SHOOTING THE GUN.

6 Q. AND DID YOU IDENTIFY HIM ON THAT FORM AS DISCHARGING THE
7 FIREARM?

8 A. YES, SIR.

9 Q. AND DID YOU SIGN THAT DOCUMENT?

10 A. YES, SIR.

11 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
12 STATE'S EXHIBIT NUMBER 29, 30, 31, AND 32 IN EVIDENCE.

13 THE COURT: ALL RIGHT. MR. ROBERSON, ANY OBJECTION?

14 MR. ROBERSON: NO OBJECTION YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

17 THE COURT: ALL RIGHT. STATE'S 29, 30, 31, AND 32 ARE
18 IN EVIDENCE WITHOUT OBJECTION.

19 (STATE'S EXHIBITS 29 THROUGH 32 WERE RECEIVED IN
20 EVIDENCE.)

21 MR. LAKE: THANK YOU, YOUR HONOR. BEG THE COURT'S
22 INDULGENCE.

23 MR. ROBERSON: YOUR HONOR, MAY I APPROACH?

24 THE COURT: YES, SIR. MR. JOHNSON? SOLICITOR? JUST A
25 SECOND. MR. JOHNSON NEEDS TO GET HERE.

1 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE IN THE
2 PRESENCE OF THE COURT, THE ATTORNEYS, AND THE COURT
3 REPORTER.)

4 THE COURT: YES, SIR.

5 MR. ROBERSON: I'M INVOLVED IN THE CASE WHERE THAT
6 DEPUTY GOT KILLED OUT IN CHARLESTON.

7 THE COURT: YES, SIR.

8 MR. ROBERSON: MY GIRLS HAVE BEEN HAVING SOME PROBLEMS
9 TRYING TO TALK TO THOSE POLICE OFFICERS. I JUST GOT THE
10 EMERGENCY ROOM CALL FROM MY SECRETARY. CAN I JUST GO OVER
11 AND SEE IF IT'S RELATED TO THAT? IT WILL TAKE TWO MINUTES.
12 I CAN JUST STEP OUTSIDE OVER THERE.

13 THE COURT: WHERE ARE YOU IN YOUR CROSS-EXAMINATION?

14 MR. LAKE: I HAVE---

15 THE COURT: WE'RE GOING TO FINISH THIS WITNESS. THEN
16 YOU CAN TAKE A BREAK. OKAY? THANK YOU.

17 (WHEREUPON, THE BENCH CONFERENCE CONCLUDED.)

18 THE COURT: ALL RIGHT. CONTINUE, SOLICITOR.

19 MR. LAKE: THANK YOU, YOUR HONOR.

20 BY MR. LAKE:

21 Q. MR. HENRY, LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBIT 79. AND HOW MANY TIMES HAVE YOU BEEN OUT TO CHANCE'S
23 SPORTS BAR?

24 A. PROBABLY THREE TIMES AT THE MOST.

25 Q. AND LET ME SHOW YOU WHAT'S BEEN -- I'VE SHOWN YOU THIS

1 DIAGRAM BEFORE. DOES THIS FAIRLY AND ACCURATELY DEPICT WHAT
2 THE SPORTS BAR LOOKED LIKE ALONG WITH THE PARKING LOT THAT
3 PARTICULAR NIGHT? JUST TAKE A LOOK AT THE ENTIRE THING.

4 A. YEAH.

5 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
6 STATE'S EXHIBIT NUMBER 79 INTO EVIDENCE.

7 THE COURT: ANY OBJECTION, MR. ROBERSON?

8 MR. ROBERSON: CAN I JUST ASK HIM A COUPLE OF QUICK
9 QUESTIONS, YOUR HONOR?

10 THE COURT: ASK WHO SOME QUESTIONS, SIR?

11 MR. ROBERSON: THE WITNESS.

12 THE COURT: IF YOU HAVE AN OBJECTION, I'LL BE GLAD TO
13 HEAR FROM YOU.

14 MR. ROBERSON: I WILL HAVE NO OBJECTION.

15 THE COURT: ALL RIGHT, SIR. MR. JOHNSON?

16 MR. JOHNSON: YOUR HONOR, MAY I LOOK AT IT ONE MORE
17 TIME?

18 THE COURT: YES, SIR.

19 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

20 THE COURT: ALL RIGHT, SIR. 79. IS THAT CORRECT?

21 MR. LAKE: YES, SIR.

22 THE COURT: ALL RIGHT. IT'S IN EVIDENCE WITHOUT
23 OBJECTION.

24 (STATE'S EXHIBIT 79 WAS RECEIVED IN EVIDENCE.)

25 MR. LAKE: THANK YOU, YOUR HONOR. IF I COULD GET THE

1 WITNESS TO STAND DOWN FOR JUST A SECOND, YOUR HONOR?

2 THE COURT: YES, SIR.

3 BY MR. LAKE:

4 Q. LET -- MR. HENRY, LET ME GET YOU TO STAND TO THIS SIDE
5 FOR ONE -- THIS SIDE OVER HERE AND KIND OF EXPLAIN TO THE
6 JURY KIND OF GOING THROUGH THIS DIAGRAM - MAKE SURE EVERYBODY
7 CAN SEE IT - EXACTLY ONCE YOU CAME OUT OF THE CLUB WHERE YOU
8 OBSERVED THE PEOPLE AT AND WHERE ALL THIS INCIDENT OCCURRED.

9 A. EVERYBODY WAS RIGHT---

10 THE COURT: ALL RIGHT. SOLICITOR, THE COURT REPORTER
11 CANNOT SEE NOR HEAR THE WITNESS, SO YOU'RE EITHER GOING TO
12 HAVE TO MOVE THAT THING BACK OR HAVE HIM SWITCH SIDES SO WE
13 CAN SEE HIM.

14 BY MR. LAKE:

15 Q. WHY DON'T YOU STAND ON THIS SIDE OVER HERE? MAKE SURE
16 YOU TALK NICE AND LOUD SO SHE CAN... KIND OF STAND RIGHT
17 OVER HERE TO THIS... OKAY. IF YOU CAN JUST START OFF AGAIN.

18 A. WHEN WE CAME OUT, EVERYONE WAS RIGHT IN...

19 Q. THIS RIGHT HERE -- THIS RIGHT HERE IS THE FRONT OF
20 CHANCE'S. WHERE IS EVERYONE AT AT THIS PARTICULAR POINT?

21 THE COURT: SIR, YOU HAVE TO SPEAK UP.

22 THE WITNESS: RIGHT HERE.

23 BY MR. LAKE:

24 Q. AND WHEN YOU SAY THEY ARE OUT THERE, WHO WAS OUT THERE
25 AT THIS PARTICULAR POINT THAT YOU SEE AT THE FRONT?

1 A. BAM, TORRI, AND ANTWAN.

2 Q. AND WHERE DO YOU SEE SHA-SHA AT? DO YOU SEE SHA-SHA AT
3 THIS POINT?

4 A. NO, SIR.

5 Q. AT WHAT POINT DO YOU SEE SHA-SHA?

6 A. WHEN HE'S LEAVING FIRING THE GUN.

7 Q. AND WHAT IS HE DRIVING AT THIS PARTICULAR POINT?

8 A. THE LITTLE WHITE CAR.

9 Q. DO YOU KNOW WHAT TYPE OF CAR IT IS?

10 A. COROLLA, ESCORT, SOMETHING LIKE THAT.

11 Q. DO YOU HAVE ANY DOUBT IN YOUR MIND THAT YOU SAW SHA-SHA
12 DRIVING A WHITE ESCORT OR COROLLA THAT PARTICULAR NIGHT?

13 A. YEAH, HE WAS DRIVING IT.

14 Q. OKAY. AND EXACTLY WHERE IN THIS PARKING LOT DID YOU SEE
15 HIM?

16 A. HE WAS RIGHT HERE.

17 Q. THAT'S WHERE HE WAS INITIALLY?

18 A. YEAH.

19 Q. AND WHERE DO YOU -- DO YOU RECALL WHERE THE CAR DROVE
20 OUT AT?

21 A. THIS IS WHERE HE WAS PARKED AT WHEN HE STARTED FIRING
22 THE GUN, AND THIS IS WHERE HE RODE OUT RIGHT THERE. THIS IS
23 WHERE HE -- SOMEBODY OUT OF THE CAR HAD A GUN AIMED WHEN HE
24 GOT ABOUT RIGHT HERE.

25 Q. BECAUSE YOU SAW THE GUN AIMED AGAIN AT THIS PARTICULAR

1 POINT?

2 A. YES. HE DROVE OUT.

3 Q. WENT OUT THAT DIRECTION?

4 A. YEAH.

5 Q. AND WHERE IS DENNIS AT THIS PARTICULAR POINT?

6 A. DENNIS IS ABOUT SOMEWHERE UP HERE.

7 Q. AND WHERE ARE YOU AT FIGHTING WITH TRAMELE?

8 A. RIGHT IN HERE.

9 Q. OVER IN THAT PARTICULAR AREA RIGHT THERE?

10 A. UH-HUH.

11 Q. AND DO YOU KNOW WHERE ANYONE ELSE IS AT THIS PARTICULAR
12 POINT?

13 A. NO.

14 Q. AND YOU INDICATED THERE WAS A CAR THAT WAS SHOT. DO YOU
15 RECALL APPROXIMATELY WHERE THAT CAR IS?

16 A. ABOUT RIGHT HERE.

17 Q. WHERE THE TIRE IS AT.

18 A. YEAH. I'M COMING FROM---

19 COURT REPORTER: I CAN'T HEAR HIM.

20 BY MR. LAKE:

21 Q. SPEAK LOUDER.

22 A. I'M COMING FROM RIGHT HERE, AND THE CAR WAS LIKE RIGHT
23 HERE WHERE I WAS HEADED TO.

24 Q. THAT'S WHERE YOU WERE HEADED TO, IN THAT PARTICULAR
25 DIRECTION?

1 A. YEAH.

2 Q. AND---

3 THE COURT: YOU NEED TO ANSWER OUT LOUD, SIR, IF HE ASKS
4 YOU A QUESTION.

5 THE WITNESS: OKAY.

6 BY MR. LAKE:

7 Q. AND DO YOU SEE TORRI AT THIS PARTICULAR POINT WHEN YOU
8 COME OUT THERE?

9 A. ARE YOU TALKING ABOUT WHEN I FIRST CAME OUT?

10 Q. YEAH, WHEN YOU FIRST CAME OUT.

11 A. YES, SIR.

12 Q. AND WHO IS TORRI MAINLY INVOLVED IN AN ALTERCATION WITH?

13 A. BAM.

14 Q. OKAY. AND WHERE EXACTLY IS KARTEZ AT THE POINT WHERE
15 YOU COME OUT AND YOU SEE TORRI AND BAM ARGUING?

16 A. HE WAS LIKE OVER HERE BY THE CAR.

17 Q. WHEN YOU SAY THE CAR, WHAT CAR IS THAT?

18 A. THE WHITE CAR.

19 Q. THE WHITE COROLLA OR ESCORT?

20 A. YEAH.

21 MR. JOHNSON: OBJECTION, YOUR HONOR. HE DIDN'T SAY
22 ESCORT; HE SAID COROLLA.

23 MR. LAKE: HE TESTIFIED EARLIER---

24 THE COURT: GENTLEMEN, DON'T SUGGEST THE ANSWER. JUST
25 GO AHEAD AND ASK THE QUESTION. THANK YOU VERY MUCH.

1 MR. LAKE: I APOLOGIZE, YOUR HONOR.

2 BY MR. LAKE:

3 Q. WHAT TYPE OF CAR---

4 A. WHITE CAR.

5 Q. OKAY. HE DROVE AWAY IN A WHITE CAR?

6 A. WHITE CAR.

7 Q. OKAY. THANK YOU. YOU CAN USE THIS RIGHT HERE. LET ME
8 GET THE PEN BACK. AND AFTER YOU SEE HIM AT THAT PARTICULAR
9 POINT, WHERE ELSE DO YOU SEE THAT NIGHT OR DO YOU SEE HIM AT
10 ANY OTHER POINT AFTER THAT?

11 A. NO, SIR.

12 Q. OKAY. WHY ARE YOU NOT ABLE TO SEE HIM AT THAT
13 PARTICULAR POINT?

14 A. THEY HAD ALL SCATTERED OUT.

15 Q. OKAY. AND IF YOU HAD TO DESCRIBE THIS SCENE, THIS
16 ALTERCATION BETWEEN ALL OF YOU, HOW WOULD YOU DESCRIBE THAT?

17 A. FOOLISH AND---

18 COURT REPORTER: I'M SORRY. I CAN'T HEAR YOU.

19 THE COURT: SIR, YOU HAVE TO SPEAK UP.

20 THE WITNESS: FOOLISH.

21 THE COURT: EITHER YOU -- YOU'RE EITHER GOING TO HAVE TO
22 HAVE THE WITNESS EITHER SPEAK UP OR HE'S GOT TO GO BACK ON
23 THE STAND, SIR.

24 BY MR. LAKE:

25 Q. YOU HAVE TO TALK A LITTLE BIT LOUDER. DO YOU HAVE ANY

1 KNOWLEDGE AS TO WHERE ANY OTHER ALTERCATIONS WERE OCCURRING
2 IN THAT PARKING LOT THAT YOU OBSERVED?

3 A. YEAH. WHEN I WAS HIT, I WAS -- WE WAS RIGHT THERE,
4 RIGHT IN BETWEEN THERE, AND WHEN I WAS FIGHTING, I ENDED UP
5 RIGHT UP IN HERE, YOU KNOW. SO I'M GUESSING THAT EVERYBODY
6 ELSE THAT WAS FIGHTING WAS STILL UP IN HERE.

7 Q. BUT YOU DIDN'T SEE ANYONE ELSE.

8 A. I DIDN'T SEE NOBODY ELSE.

9 MR. JOHNSON: OBJECTION. MOVE THAT BE STRICKEN, YOUR
10 HONOR. GUESSING.

11 THE COURT: ALL RIGHT, SIR. IT'S STRUCK. MOVE ALONG,
12 SOLICITOR.

13 BY MR. LAKE:

14 Q. YOU CAN TAKE YOUR SEAT UP HERE. RAVARIS, HAD YOU EVER
15 SEEN THAT WHITE VEHICLE BEFORE?

16 A. NO, SIR.

17 Q. DO YOU REMEMBER WHAT DENNIS WAS WEARING THAT NIGHT?

18 A. HE WAS WEARING A BLACK TEE SHIRT WITH A WHITE SNOWMAN ON
19 IT.

20 Q. DO YOU REMEMBER WHAT ANYONE ELSE WAS WEARING THAT
21 PARTICULAR NIGHT THAT YOU CAN RECALL?

22 A. NO, SIR.

23 Q. WOULD IT BE FAIR TO SAY Y'ALL HAD HAD SOME DRINKS THAT
24 NIGHT?

25 A. YES, SIR.

1 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS I.D. (MR. LAKE
2 SHOWS PHOTOGRAPHS TO THE DEFENSE ATTORNEYS.) YOUR HONOR, THE
3 DEFENSE HAS STIPULATED INTO THE ADMISSION OF EVIDENCE STATE'S
4 EXHIBIT NUMBER 1, 2, AND 3.

5 THE COURT: IS THERE ANY OBJECTION TO THAT, MR.
6 ROBERSON?

7 MR. ROBERSON: NO, YOUR HONOR.

8 THE COURT: MR. JOHNSON?

9 MR. JOHNSON: NONE, YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. STATE'S 1, 2, AND 3 ARE IN
11 EVIDENCE WITHOUT OBJECTION. THANK YOU.

12 (STATE'S EXHIBITS 1, 2, AND 3 WERE RECEIVED IN
13 EVIDENCE.)
14 BY MR. LAKE:

15 Q. LET ME SHOW YOU -- TAKE A LOOK AT STATE'S EXHIBITS
16 NUMBER 1, 2, AND 3. IS THAT -- IS THE VEHICLE IDENTIFIED IN
17 THAT CAR CONSISTENT WITH THE VEHICLE THAT YOU SAW THAT NIGHT?

18 A. YES, SIR.

19 Q. AND WHO ALL DID YOU SEE AROUND THAT PARTICULAR VEHICLE
20 THAT ENTIRE NIGHT?

21 A. I SEEN SHA-SHA DRIVING THE CAR.

22 Q. WHO ELSE DID YOU SEE NEAR IT, EITHER IN OR NEAR IT?

23 A. DUWOP AND STEPHON.

24 Q. WHO IS DUWOP AND STEPHON?

25 A. THAT'S WHO HE CAME WITH. THAT'S WHO THEY CAME TOGETHER

1 WITH.

2 Q. DO YOU KNOW HOW LONG AFTER Y'ALL HAD BEEN THERE OR HOW
3 LONG AFTER THEY HAD BEEN THERE THAT JACQUES, WHO IS SHA-SHA,
4 DUWOP, AND FAT MAN CAME?

5 A. THEY CAME PROBABLY -- THEY CAME LIKE RIGHT PROBABLY 30
6 MINUTES BEFORE IT WAS GOING TO CLOSE. THEY CAME IN AND THEY
7 TURNED THEM AROUND AND TOLD THEM THEY WAS TOO YOUNG TO BE IN
8 THERE.

9 Q. OKAY..

10 A. ALL OF US WERE STILL IN THERE AT THAT TIME.

11 Q. DID YOU SEE -- DO YOU KNOW PUNKIN, LAKISHA DAVIS?

12 A. YEAH, I KNOW HER BY FACE.

13 Q. AND WAS SHE THERE THAT PARTICULAR NIGHT?

14 A. YES, SIR.

15 Q. AND HOW LONG WAS SHE THERE THAT NIGHT?

16 A. SHE CAME WITH HIM.

17 Q. WAS SHE THERE THE ENTIRE TIME WITHIN THE CLUB THAT YOU
18 OBSERVED?

19 A. YES.

20 Q. OKAY. MR. HENRY, DO YOU SEE THE PERSON IN THIS
21 COURTROOM THAT YOU IDENTIFIED AS ADAMS KARTEZ GIBSON THAT WAS
22 NEAR THAT WHITE ESCORT THAT NIGHT?

23 A. YES, SIR.

24 Q. WHERE IS HE SEATED?

25 A. SITTING RIGHT THERE.

1 Q. AND DESCRIBE TO THE JURY WHAT HE'S WEARING.

2 A. A BLUE SHIRT.

3 Q. YOUR HONOR, LET THE RECORD REFLECT THAT HE'S CHOSEN THE
4 DEFENDANT ADAMS KARTEZ GIBSON. DO YOU SEE THE PERSON IN HERE
5 THAT YOU OBSERVED DISCHARGE A FIREARM FROM A WHITE VEHICLE
6 THAT NIGHT?

7 A. YES, SIR.

8 Q. AND WHERE IS HE SEATED?

9 A. RIGHT THERE.

10 Q. AND WHAT IS HE WEARING?

11 A. A BLACK SUIT.

12 Q. AND YOU KNOW BOTH OF THESE GUYS, DON'T YOU?

13 A. YES, SIR.

14 MR. LAKE: BEG THE COURT'S INDULGENCE. NO FURTHER
15 QUESTIONS, MR. HENRY. PLEASE ANSWER ANY QUESTIONS THAT THE
16 DEFENSE ATTORNEYS HAVE.

17 THE COURT: ALL RIGHT. MR. ROBERSON?

18 MR. ROBERSON: IF YOUR HONOR PLEASE?

19 THE COURT: YES, SIR.

20 CROSS-EXAMINATION

21 BY MR. ROBERSON:

22 Q. MR. DAVIS (SIC), YOU GAVE AT LEAST TWO STATEMENTS TO THE
23 POLICE FOLLOWING THIS INCIDENT, DID YOU NOT?

24 A. I'M HENRY.

25 Q. I'M SORRY. I'M SORRY. I BEG YOUR PARDON. MR. HENRY,

1 YOU GAVE TWO STATEMENTS TO THE POLICE.

2 A. YES, SIR.

3 Q. IN ANY OF THOSE STATEMENTS DID YOU EVER SAY YOU SAW
4 ADAMS GIBSON WITH A GUN?

5 A. NO, SIR.

6 Q. IN EITHER OF THESE STATEMENTS DID YOU EVER SAY YOU SAW
7 ADAMS GIBSON IN A FIGHT?

8 A. NO, SIR.

9 Q. OKAY. AND MR. LAKE JUST ASKED YOU DID YOU SEE ADAMS
10 GIBSON INSIDE THAT WHITE CAR.

11 A. NO, SIR.

12 Q. YOU NEVER SAW HIM IN THAT CAR, DID YOU?

13 A. HUH-UH.

14 Q. OKAY. HOW MANY FELLOWS DO YOU THINK WERE FIGHTING THAT
15 NIGHT?

16 A. WELL, I KNOW IT WAS ME, A.J., AND TORRI WERE FIGHTING,
17 AND MARCUS TUCKER, BAM, AND TRAMELE WERE FIGHTING.

18 Q. THAT'S ABOUT SIX OR SEVEN FELLOWS FIGHTING.

19 A. YEAH.

20 Q. HAVE YOU TALKED WITH THOSE FELLOWS SINCE THIS INCIDENT
21 TOOK PLACE?

22 A. ARE YOU TALKING ABOUT THE RIDGEWAY GUYS?

23 Q. THE RIDGEWAY GUYS OR THE WINNSBORO GUYS.

24 A. NO, I AIN'T TALKED TO NOBODY FROM RIDGEWAY. I TALKED TO
25 MY GUYS.

1 Q. OKAY. AND TELL US AGAIN WHICH ONE OF THE FELLOWS FROM
2 WINNSBORO WAS INVOLVED IN THE FIGHT.

3 A. FROM WINNSBORO?

4 Q. YEAH.

5 A. TORRI.

6 Q. OKAY.

7 A. ANTWAN.

8 Q. RIGHT.

9 A. AND ME.

10 Q. AND YOU.

11 A. UH-HUH.

12 Q. OKAY. AND HAVE YOU BEEN CHARGED WITH ANYTHING HAVING TO
13 DO WITH THAT INCIDENT ON SEPTEMBER THE 5TH OF '05?

14 A. NO, SIR.

15 Q. DO YOU KNOW OF YOUR OWN KNOWLEDGE WHETHER OR NOT ANY OF
16 THOSE FELLOWS YOU JUST MENTIONED HAVE BEEN CHARGED WITH ANY
17 CRIMINAL OFFENSES FOR WHAT HAPPENED ON THAT NIGHT?

18 A. NO, SIR.

19 Q. BUT ALL OF Y'ALL WERE OUT THERE FIGHTING.

20 A. YEAH.

21 MR. ROBERSON: OKAY. I DON'T HAVE ANYTHING FURTHER.

22 THE COURT: MR. JOHNSON?

23 MR. JOHNSON: THANK YOU, YOUR HONOR.

24

25

CROSS-EXAMINATION

1

2

BY MR. JOHNSON:

3

Q. WOULD YOU PLEASE STEP DOWN HERE? COME TO THIS SIDE,

4

PLEASE, AND USING THAT POINTER -- SHE'S GOT TO HEAR

5

EVERYTHING YOU SAY. OKAY?

6

A. OKAY.

7

Q. ALL RIGHT. NOW, REFERRING TO STATE'S EXHIBIT NUMBER 79,

8

YOU SAY YOU RECOGNIZED THIS DIAGRAM?

9

A. YES, SIR.

10

Q. AND YOU RECOGNIZE THAT THAT'S TWO NOTCH ROAD OUT IN

11

DENTSVILLE?

12

A. YES, SIR.

13

Q. AND IF YOU TRAVEL THIS WAY YOU GO TOWARD -- TURN -- TURN

14

-- COME OVER HERE SO THAT YOU WON'T BLOCK THE JURORS. NO,

15

COME RIGHT HERE, PLEASE, SIR, AND STAND RIGHT THERE. AND IF

16

YOU WENT IN THIS DIRECTION, YOU'D COME TO COLUMBIA. IS THAT

17

CORRECT?

18

A. YES, SIR.

19

Q. AND IF YOU WENT IN THAT DIRECTION, YOU GO TOWARDS

20

PONTIAC. IS THAT NOT CORRECT?

21

A. YES, SIR.

22

Q. AND IF YOU WERE COMING FROM COLUMBIA TO GO TO CHANCE'S,

23

YOU'D COME UP TWO NOTCH ROAD AND YOU'D TURN RIGHT ON TRENHOLM

24

ROAD. ISN'T THAT RIGHT?

25

A. YES, SIR.

1 Q. AND THEN THERE IS AN ENTRANCE INTO WHERE CHANCE'S WAS
2 LOCATED, AND THERE'S A QUALITY INN MOTEL TO THE LEFT. ISN'T
3 THAT RIGHT?

4 A. YES, SIR.

5 Q. AND THERE ARE PARKING SPACES THAT ARE REPRESENTED HERE
6 ON THIS DIAGRAM. ISN'T THAT TRUE?

7 A. YES, SIR.

8 Q. AND THERE ARE PARKING SPACES RIGHT IN FRONT OF CHANCE'S.
9 ISN'T THAT RIGHT?

10 A. YES, SIR.

11 Q. AND THEN THERE ARE PARKING SPACES HERE NEAR THE GRASSY
12 AREA.

13 A. YES, SIR.

14 Q. AND YOU REMEMBER THERE WAS A SIGN RIGHT OUT FRONT THERE
15 THAT ADVERTISED CHANCE'S. DO YOU REMEMBER SEEING THAT SIGN
16 OUT THERE?

17 A. YES, SIR.

18 Q. SO WHEN PEOPLE WERE COMING FROM COLUMBIA OR COMING FROM
19 PONTIAC, THEY COULD SEE THE SIGN INDICATING THAT THAT WAS THE
20 CHANCE'S CLUB.

21 A. YES, SIR.

22 Q. ISN'T THAT RIGHT? AND GOING INTO CHANCE'S, THE --
23 THERE'S A CENTER DOOR FOR THE ENTRANCE. ISN'T THAT TRUE?

24 A. YES, SIR.

25 Q. NOW, ARE THERE TWO DOORS AT THE -- AT THE FRONT YOU CAN

1 GO THROUGH ONE DOOR AND THEN THERE'S A FOYER AND THEN THERE'S
2 ANOTHER DOOR?

3 A. GO THROUGH THE FIRST DOOR TO GET IN THERE AND THEN YOU
4 GO THROUGH ANOTHER DOOR.

5 Q. AND THEN YOU GO THROUGH ANOTHER DOOR.

6 A. YES, SIR.

7 Q. ALL RIGHT. AND Y'ALL HAD GONE OUT THERE THAT NIGHT, AS
8 YOU CALLED IT, TO CHILL.

9 A. YES, SIR.

10 Q. AND BY CHILLING, YOU MEAN Y'ALL WERE DRINKING BEERS.
11 ISN'T THAT TRUE?

12 A. YES, SIR.

13 Q. YOU USED THE EXPRESSION YOU HAD SOME SHOTS. WHAT DOES
14 THAT MEAN?

15 A. SHOTS OF LIQUOR.

16 Q. SHOTS OF LIQUOR?

17 A. YEAH.

18 Q. AND WHO WAS DRINKING SHOTS OF LIQUOR?

19 A. ME, DENNIS IRBY, AND TORRI BOYD.

20 Q. YOU, DENNIS IRBY, AND TORRI BOYD.

21 A. YES, SIR.

22 Q. SO DENNIS IRBY WAS DRINKING SOME SHOTS. YOU WERE
23 DRINKING SOME SHOTS, AND TORRI BOYD WAS DRINKING SOME SHOTS.

24 A. YES, SIR.

25 Q. AND -- AND SO AFTER Y'ALL WERE DRINKING, LATER ON SOME

1 OTHER FELLOWS CAME IN FROM RIDGEWAY. ISN'T THAT CORRECT?

2 A. YES, SIR.

3 Q. AND THERE WAS NO HOSTILITY OR ILL WILL OR ANY HARSH
4 WORDS BETWEEN Y'ALL. ISN'T THAT RIGHT?

5 A. NO, SIR.

6 Q. NOW, THE CLUB CLOSED AT 12:00 THAT NIGHT, DIDN'T IT?

7 A. YES, SIR.

8 Q. AND AFTER IT WAS -- JUST BEFORE THE CLUB DOORS CLOSED,
9 THAT WAS WHEN PEOPLE STARTED EXITING, STARTED LEAVING THE
10 CLUB.

11 A. YES, SIR.

12 Q. ALL RIGHT. NOW, DURING THAT PERIOD OF TIME THERE WERE
13 CARS PARKED OUT IN THE PARKING LET. ISN'T THAT RIGHT?

14 A. YES, SIR.

15 Q. AND DO YOU REMEMBER WHERE THE CAR YOU WERE RIDING IN IS
16 PARKED?

17 A. RIGHT -- RIGHT HERE.

18 Q. RIGHT IN THE THIRD PARKING SPACE.

19 A. YES.

20 Q. OKAY. AND WHAT KIND OF CAR WERE YOU RIDING IN?

21 A. A TAHOE.

22 Q. A TAHOE.

23 A. (WITNESS NODDED HEAD UP AND DOWN.)

24 Q. AND BEFORE YOU GOT TO YOUR CAR, A FIGHT GOT STARTED.
25 ISN'T THAT RIGHT?

1 A. YES, SIR.

2 Q. DO YOU RECALL WHO STARTED THE FIGHT, WHO WAS FIGHTING
3 FIRST?

4 A. THEY WAS JUST -- IT JUST GOT TO BE CONFUSION THERE.
5 EVERYBODY GOT CLUTTERED INTO THAT SMALL LITTLE AREA AND IT
6 GOT STARTED.

7 Q. OKAY.

8 A. THERE WAS ARGUMENTS GOING BACK AND FORTH.

9 Q. ALL RIGHT. OKAY. NOW, WHERE DID THAT TAKE PLACE? DID
10 THAT TAKE PLACE DIRECTLY IN FRONT OF THE CLUB?

11 A. WE WAS IN BETWEEN TWO CARS.

12 Q. SO THERE WAS---

13 A. LIKE---

14 Q. ---A CAR PARKED IN THE FIRST PARKING SPACE, AND THE
15 SECOND PARKING SPACE WAS EMPTY, AND THEN THE THIRD PARKING
16 SPACE IS WHERE THE CAR Y'ALL WERE RIDING IN...

17 A. YEAH.

18 Q. IS THAT CORRECT?

19 A. YES, SIR.

20 Q. AND THE FIGHT SORT OF TOOK PLACE IN BETWEEN IN THE EMPTY
21 PARKING LOT.

22 A. NO.

23 Q. THE EMPTY PARKING LOT---

24 A. WE WAS IN BETWEEN TWO CARS, ABOUT THIS CAR RIGHT HERE...

25 Q. TURN AROUND SO YOU WON'T BLOCK THE JURY. SHOW US ON THE

- 1 DIAGRAM WHERE THE FIGHT WAS TAKING PLACE.
- 2 A. LIKE RIGHT UP IN THERE.
- 3 Q. THAT'S WHAT I WAS SAYING.
- 4 A. YEAH.
- 5 Q. THE SECOND PARKING SPACE BECAUSE THERE WAS NO CARS
- 6 PARKED THERE.
- 7 A. THERE WAS CARS. WE WAS IN BETWEEN TWO CARS. THAT'S
- 8 WHAT I'M TRYING TO TELL YOU.
- 9 Q. SO THERE WAS A CAR---
- 10 A. A SMALL -- YOU KNOW HOW IT IS. YEAH.
- 11 Q. THERE WAS A CAR IN THE FIRST PARKING SPACE?
- 12 A. YES.
- 13 Q. A CAR IN THE SECOND PARKING SPACE?
- 14 A. YEAH, AND WE WAS IN BETWEEN THAT NARROW LITTLE GAP.
- 15 Q. I GOT YOU. AND SO EIGHT OF Y'ALL WERE IN BETWEEN A
- 16 NARROW LITTLE GAP FIGHTING.
- 17 A. NOT EIGHT OF US WAS FIGHTING.
- 18 Q. HOW MANY WAS THERE?
- 19 A. THE GIRLS WAS TRYING TO SEPARATE IT, AND IT GOT STARTED
- 20 LIKE THAT.
- 21 Q. OKAY.
- 22 A. TRAMELE RAN AROUND AND HIT ME WITH A BEER CAN IN MY
- 23 FACE, AND THAT'S WHEN EVERYBODY STARTED FIGHTING.
- 24 Q. SHOW US ON THIS DIAGRAM WHERE TRAMELE RAN AROUND, WHERE
- 25 YOU WERE STANDING WHERE HE HIT YOU IN THE FACE.

1 A. I WAS FACING LIKE CHANCE'S, AND SO HE RAN AROUND THIS
2 WAY.

3 Q. OKAY. YOU ARE WHERE?

4 A. RIGHT HERE.

5 Q. YOU'RE RIGHT HERE AND IT'S OVER IN THAT SECOND PARKING
6 SPACE?

7 A. YEAH. HE RAN AROUND THE CAR AND CAME LIKE THAT---

8 Q. UH-HUH.

9 A. ---LIKE AROUND THE OTHER CAR.

10 Q. UH-HUH.

11 A. HIT ME IN THE SIDE OF THE FACE.

12 Q. HIT YOU IN THE SIDE OF THE FACE.

13 A. YES.

14 Q. AND THAT'S WHEN Y'ALL STARTED FIGHTING.

15 A. YES.

16 Q. ALL RIGHT. AND WHEN Y'ALL STARTED -- STARTED FIGHTING,
17 WHERE WAS DENNIS IRBY?

18 A. I HAVE NO IDEA.

19 Q. ALL RIGHT. WHERE WAS BAM?

20 A. HE WAS FIGHTING TORRI.

21 Q. AND WHERE WAS HE FIGHTING TORRI?

22 A. BY BAM.

23 Q. SO YOU AND TRAMELE ARE FIGHTING, AND TORRI AND BAM WERE
24 FIGHTING WHERE?

25 A. LIKE RIGHT HERE. THEY'RE WAY OUT HERE NOW.

- 1 Q. UH-HUH.
- 2 A. RIGHT HERE.
- 3 Q. OKAY. AND DID YOU SEE ANYBODY ELSE FIGHTING?
- 4 A. ANTWAN.
- 5 Q. ANTWAN.
- 6 A. HE WAS RIGHT HERE.
- 7 Q. NEAR THE---
- 8 A. YEAH, AND I WAS LIKE OVER IN HERE, OUT HERE IN THE OPEN.
- 9 Q. SO---
- 10 A. ME AND TRAMELE.
- 11 Q. ---YOU AND TRAMELE HAD MOVED FROM AROUND THE SECOND
- 12 PARKING SPACE---
- 13 A. LIKE I SAID -- LIKE I SAID, I HAD TO CHASE HIM DOWN AND
- 14 I CAUGHT HIM RIGHT HERE.
- 15 Q. OKAY.
- 16 A. THAT'S WHERE ME AND HIM ENDED UP AT. I DON'T REMEMBER
- 17 NOTHING ELSE ABOUT NOBODY ELSE OR WHAT THEY WAS DOING, NONE
- 18 OF THAT.
- 19 Q. OKAY. NOW, AT WHAT POINT DID YOU HEAR SHOTS?
- 20 A. WHEN I WAS OUT HERE.
- 21 Q. WHEN YOU WERE OUT THERE.
- 22 A. I WAS ON TOP OF HIM, AND I HAD -- I WAS ON TOP OF HIM
- 23 ABOUT TO HIT HIM. I HIT HIM TWO TIMES, AND WHILE I WAS
- 24 FIXING TO HIT HIM THE THIRD TIME, THAT'S WHEN THE SHOTS RANG
- 25 OUT.

1 Q. ALL RIGHT. AND SO YOU WERE FACE DOWN ABOUT TO HIT
2 TRAMELE AND YOU HEARD SHOTS.

3 A. YEAH.

4 Q. SO YOU DON'T KNOW WHERE THE SHOTS CAME FROM.

5 A. YES, I DO BECAUSE THEY WERE STILL GOING OFF WHILE I HAD
6 STOPPED AND LOOKED UP, AND I LOOKED DEAD AT HIM HOLDING HIS
7 HAND OUT SHOOTING INTO THE AIR.

8 Q. ALL RIGHT. SO YOU WERE DOWN HERE.

9 A. HE WAS DOWN.

10 Q. CARS WERE PARKED HERE, AND YOU LOOKED ACROSS THE PARKING
11 LOT.

12 A. CARS WEREN'T IN ALL THESE PARKING SPACES.

13 Q. OKAY.

14 A. THAT'S WHAT I'M TRYING TO SAY.

15 Q. UH-HUH. BUT YOU SAW HIM SHOOTING IN THE AIR.

16 A. YEAH.

17 Q. AND AS I UNDERSTOOD YOUR TESTIMONY WHEN YOU WERE TALKING
18 TO MR. LAKE, YOU HEARD THE CAR -- YOU HEARD THE SHOTS WHEN HE
19 WAS SHOOTING IN THE AIR AND THAT WHITE CAR PULLED OFF AND
20 LEFT OUT OF THE PARKING LOT. IS THAT NOT CORRECT?

21 A. THAT'S CORRECT.

22 Q. THAT'S CORRECT. ALL RIGHT. NOW -- TAKE YOUR SEAT
23 AGAIN, PLEASE.

24 A. HERE YOU GO.

25 Q. THANK YOU VERY MUCH.

1 A. YOU'RE WELCOME.

2 Q. SO YOUR TESTIMONY IS THAT YOU NEVER SAW DENNIS IRBY
3 FIGHTING. IS THAT NOT CORRECT?

4 A. THAT'S CORRECT.

5 Q. OKAY. SO THE FIRST TIME YOU HEARD SHOTS -- IS IT YOUR
6 TESTIMONY YOU HEARD ABOUT FOUR SHOTS WHEN JACQUES WAS
7 SHOOTING UP IN THE AIR?

8 A. YES, SIR.

9 Q. HOW MANY?

10 A. ABOUT THREE OR FOUR.

11 Q. ABOUT THREE OR FOUR?

12 A. YEAH.

13 Q. HEARD THREE OR FOUR SHOTS IN THE AIR. AND DID YOU HEAR
14 ANY MORE SHOTS?

15 A. YES, SIR.

16 Q. YOU HEARD SOME MORE SHOTS.

17 A. YES, SIR, AFTER THAT.

18 Q. YOU HEARD SOME MORE SHOTS AFTER THAT.

19 A. IT WAS TWO DIFFERENT KINDS OF SOUNDS OF SHOTS.

20 Q. HEARD SOME MORE. IS THAT -- IS THAT CORRECT?

21 A. YES, SIR.

22 Q. AND THAT'S WHEN THOSE SHOTS -- THAT'S WHEN YOU -- THAT'S
23 WHEN THE TIRE---

24 A. THAT'S WHEN THE CAR PULLED DOWN AND I WAS RUNNING
25 TOWARDS THE CAR AND THE TIRES WERE BLOWING OUT.

1 Q. AND THE TIRES WENT OUT.

2 A. YES, SIR.

3 Q. AND SO THOSE SHOTS WERE CONNECTED TO THE SHOTS THAT HIT
4 THE TIRE?

5 A. I GUESS. YES, SIR.

6 Q. OKAY. AND DO YOU RECALL WHAT TYPE OF CAR THAT WAS THAT
7 HAD THE FLAT TIRE ON IT?

8 A. NO, SIR. I KNOW IT WAS A CAR THOUGH.

9 Q. IT WAS WHAT?

10 A. IT WAS A CAR. IT WASN'T A TRUCK OR AN S.U.V.

11 Q. OKAY. NOW, THE TIRE -- THE CAR -- I'M REFERRING TO
12 STATE'S EXHIBIT NUMBER 79. THE CAR THAT -- WHERE THE TIRE
13 WAS SHOT OUT, IT WAS PARKED IN THIS AREA OVER HERE IN THE
14 GRASSY PORTION. ISN'T THAT TRUE?

15 A. YES, SIR.

16 Q. ISN'T THAT RIGHT?

17 A. YES, SIR.

18 Q. OKAY. AND THOSE -- THOSE WERE THE SHOTS THAT YOU HEARD
19 THE SECOND TIME WHEN THAT TIRE WENT OUT. ISN'T THAT RIGHT?

20 A. YES, SIR.

21 Q. OKAY. NOW, SO LET ME GET THIS STRAIGHT. YOU HEARD
22 THREE OR FOUR SHOTS THE FIRST TIME. THEN THE SECOND TIME YOU
23 HEARD HOW MANY?

24 A. ABOUT FOUR, FIVE.

25 Q. FOUR OR FIVE?

- 1 A. YES, SIR.
- 2 Q. SO THAT'S A TOTAL OF ONE WAY EIGHT SHOTS AND THE OTHER
- 3 WAY NINE SHOTS. SO IT'S THREE -- IT WOULD BE---
- 4 A. ABOUT NINE SHOTS.
- 5 Q. BEG YOUR PARDON?
- 6 A. ABOUT NINE SHOTS I HEARD.
- 7 Q. YOU HEARD ABOUT NINE SHOTS ALTOGETHER.
- 8 A. YES, SIR.
- 9 Q. NOW, DID YOU SEE JACQUES GIBSON FIGHTING ANYONE?
- 10 A. NO, SIR.
- 11 Q. WHEN YOU SAW JACQUES GIBSON, ISN'T IT TRUE THAT HE WAS
- 12 ALWAYS IN A WHITE VEHICLE?
- 13 A. I SEEN HIM INSIDE THE BUILDING.
- 14 Q. YOU SAW HIM INSIDE THE BUILDING.
- 15 A. UH-HUH.
- 16 Q. AND OTHER THAN THAT, YOU SAW HIM IN THE WHITE VEHICLE.
- 17 A. YES, SIR.
- 18 Q. AND WHEN MR. LAKE -- WHERE IS THE PHOTOGRAPHS OF THE
- 19 CARS?
- 20 A. THERE YOU GO.
- 21 Q. WHEN MR. LAKE ASKED YOU ABOUT STATE'S EXHIBIT 1, 2, AND
- 22 3, HE ASKED YOU: ARE THESE PHOTOGRAPHS CONSISTENT WITH THE
- 23 CAR YOU SAW THAT NIGHT? DO YOU REMEMBER THAT?
- 24 A. YES, SIR.
- 25 Q. AND YOU CAN'T TESTIFY UNDER OATH THAT THIS IS THE SAME

1 CAR, CAN YOU?

2 A. THAT IS THE SAME CAR. I SAID AN ESCORT.

3 Q. OKAY. TELL ME WHAT DISTINGUISHING FEATURES ON THAT CAR
4 MAKE YOU IDENTIFY -- MAKE YOU QUALIFIED TO IDENTIFY IT.

5 A. THAT'S THE CAR THAT I SEEN THAT NIGHT.

6 Q. OKAY. TELL ME WHAT ABOUT IT THAT'S DIFFERENT FROM ANY
7 OTHER CAR, FORD ESCORT.

8 A. IT'S THE SAME CAR THAT I SEEN. WHAT YOU MEAN? IT'S A
9 WHITE---

10 Q. DO YOU RECOGNIZE THE LICENSE PLATE?

11 A. NO.

12 Q. IT'S A WHITE CAR.

13 A. I DON'T RECOGNIZE THE LICENSE PLATE.

14 Q. DO YOU RECOGNIZE ANY FEATURES ON IT?

15 A. NO.

16 Q. NO?

17 A. IT'S GOT CLEAR -- YOU CAN SEE THROUGH IT. IT AIN'T GOT
18 NO TINT ON THE WINDOWS. THAT'S THE SAME CAR.

19 Q. SO IF A WHITE CAR -- IF A PICTURE OF A WHITE CAR IS
20 SHOWN TO YOU AND THERE'S NO TINT ON THE WINDOW, THAT'S THE
21 SAME CAR YOU SAW THAT NIGHT.

22 A. YEAH.

23 Q. OKAY. SO THAT'S IT. JUST SHOW YOU A PICTURE OF A WHITE
24 CAR. THAT MEANS THAT'S THE CAR YOU SAW THAT NIGHT.

25 A. YEAH.

1 MR. JOHNSON: OKAY. NO FURTHER QUESTIONS.

2 MR. LAKE: JUST A FEW QUICK QUESTIONS.

3 MR. JOHNSON: NO. JUST ONE MINUTE.

4 MR. LAKE: I'M SORRY. THANK YOU.

5 THE COURT: REDIRECT?

6 MR. LAKE: YES, YOUR HONOR.

7 THE COURT: ALL RIGHT, SIR.

8 REDIRECT EXAMINATION

9 BY MR. LAKE:

10 Q. MR. HENRY, HOW LONG AGO WAS THIS -- DID THIS INCIDENT
11 OCCUR?

12 A. HUH?

13 Q. HOW LONG AGO WAS THIS?

14 A. THAT WAS IN 2005.

15 Q. AND YOU RECALL -- AS WE INDICATED EARLIER, YOU RECALL
16 GIVING A STATEMENT. CORRECT?

17 A. YES, SIR.

18 Q. AND I THINK MR. ROBERSON AND MR. JOHNSON ASKED YOU
19 QUESTIONS IN REFERENCE TO -- MR. ROBERSON WAS ASKING ABOUT
20 WHAT KARTEZ WAS DOING, AND MR. JOHNSON ASKED YOU ABOUT
21 SPECIFICALLY THE NUMBER OF SHOTS THAT YOU HEARD.

22 A. RIGHT.

23 Q. DO YOU RECALL SPECIFICALLY THE EXACT AMOUNT YOU GAVE?

24 MR. JOHNSON: OBJECTION, YOUR HONOR. HE'S ALREADY
25 ANSWERED THAT.

1 THE WITNESS: HOW MANY SHOTS?

2 THE COURT: I'M GOING TO ALLOW IT. IT'S PROPER REDIRECT
3 AS TO---

4 THE WITNESS: HOW MANY SHOTS I HEARD?

5 THE COURT: SIR.

6 THE WITNESS: OH.

7 MR. LAKE: JUST HOLD ON A SECOND.

8 THE WITNESS: OH.

9 THE COURT: YOU MAY CONTINUE, SIR.

10 MR. LAKE: THANK YOU, YOUR HONOR. LET ME SHOW YOU YOUR
11 STATEMENT AGAIN JUST TO REFRESH YOUR MEMORY AS TO---

12 MR. JOHNSON: OBJECTION, YOUR HONOR.

13 THE COURT: SOLICITOR, WHAT'S THE PURPOSE OF THAT? HE
14 DIDN'T INDICATE THAT HE WAS CONFUSED IN ANY FASHION IN
15 ANSWERING YOUR QUESTIONS.

16 MR. LAKE: MR. HENRY, DO YOU REMEMBER THE EXACT NUMBER
17 OF SHOTS?

18 MR. JOHNSON: REPETITIVE, YOUR HONOR. OBJECTION, YOUR
19 HONOR. REPETITIVE.

20 THE COURT: I'M GOING TO ALLOW -- I'M GOING TO ALLOW THE
21 QUESTION.

22 BY MR. LAKE:

23 Q. DO YOU RECALL SPECIFICALLY HOW MANY SHOTS YOU TOLD LAW
24 ENFORCEMENT ON THE NIGHT YOU GAVE YOUR STATEMENT WAS -- THAT
25 YOU GAVE A STATEMENT HOW MANY SHOTS YOU TOLD THEM?

1 A. IT WAS ABOUT NINE OR TEN SHOTS.

2 Q. BUT DO YOU KNOW SPECIFICALLY WHAT YOU TOLD THEM IN YOUR
3 STATEMENT?

4 A. NO, I DO NOT.

5 THE COURT: I'M NOT GOING TO ALLOW THAT, SOLICITOR.
6 HE'S ANSWERED YOUR -- HE'S ANSWERED YOUR QUESTION. I'M NOT
7 GOING TO ALLOW HIM TO READ THE STATEMENT.

8 MR. LAKE: DO YOU REMEMBER SPECIFICALLY WHAT YOU TOLD
9 LAW ENFORCEMENT THAT KARTEZ DID THAT PARTICULAR NIGHT?

10 MR. JOHNSON: YOUR HONOR, THAT'S NOT -- THAT'S IMPROPER.
11 I DIDN'T ASK ANYTHING ABOUT KARTEZ.

12 MR. LAKE: YOUR HONOR, THERE'S TWO---

13 THE COURT: GENTLEMEN.

14 MR. JOHNSON: OBJECTION.

15 THE COURT: I APPRECIATE THAT. I AM GOING TO ALLOW --
16 THERE'S TWO DEFENDANTS. IT IS PROPER REPLY AS TO QUESTIONS
17 ASKED BY MR. ROBERSON. THANK YOU VERY MUCH.
18 BY MR. LAKE:

19 Q. DO YOU RECALL SPECIFICALLY WHAT YOU TOLD LAW ENFORCEMENT
20 WHEN YOU GAVE THEM THAT STATEMENT AS TO WHAT KARTEZ DID THAT
21 NIGHT?

22 A. YES, SIR.

23 Q. YOU DO? WHAT DID YOU TELL THEM THAT KARTEZ DID THAT
24 NIGHT?

25 A. HE GOT ON THE PHONE AND CALLED HIS BROTHER UP THERE.

1 Q. DO YOU REMEMBER ANYTHING ELSE THAT YOU MAY HAVE TOLD
2 THEM?

3 A. NO, SIR.

4 Q. IF I SHOWED YOU A DOCUMENT, WOULD THAT REFRESH YOUR
5 MEMORY AS TO WHAT ELSE YOU TOLD LAW ENFORCEMENT THAT
6 PARTICULAR NIGHT?

7 MR. ROBERSON: OBJECTION, YOUR HONOR. HE'S ALREADY
8 ANSWERED IT. HIS MEMORY HAS NOW BEEN EXHAUSTED. HE
9 RESPONDED TO THE QUESTION.

10 THE COURT: I SEE NO -- I SEE NO PURPOSE FOR ALLOWING
11 HIM TO REVIEW THE STATEMENT TO REFRESH HIS MEMORY. HE
12 ANSWERED YOUR QUESTION, SOLICITOR. THANK YOU.

13 MR. LAKE: NO FURTHER QUESTIONS.

14 THE COURT: ANYTHING ON THOSE QUESTIONS ASKED BY THE
15 SOLICITOR, MR. ROBERSON?

16 MR. ROBERSON: NONE, YOUR HONOR.

17 THE COURT: MR. JOHNSON?

18 MR. JOHNSON: NOTHING, YOUR HONOR. THANK YOU.

19 THE COURT: YOU MAY STEP DOWN, SIR.

20 MS. CAMPBELL: THE STATE CALLS ANTWAN.

21 THE COURT: WE'RE NOT CALLING ANYONE ELSE AT THIS POINT
22 IN TIME. IT'S 12:30, SOLICITOR.

23 MS. CAMPBELL: I'M SORRY.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE ARE
25 GOING TO GO TO LUNCH. I'M GOING TO HAVE YOU COME BACK AT

1 2:00. THE REASON FOR THAT IS THERE IS SOME MATTER THAT I
2 HAVE TO TAKE UP OUTSIDE YOUR PRESENCE, SO I NEED A LITTLE BIT
3 OF TIME TO DO THAT AND TO GIVE THE PARTICIPANTS TIME FOR
4 LUNCH. SEE YOU BACK AT 2:00. THANK YOU VERY MUCH.

5 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO GO
6 TO LUNCH AT 12:29 P.M.)

7 THE COURT: ALL RIGHT. SOLICITOR, IS CAPTAIN SMITH
8 HERE?

9 MS. CAMPBELL: NO, SIR.

10 THE COURT: ALL RIGHT. I WANT YOU TO HAVE HIM HERE AT
11 1:30, PLEASE. THANK YOU VERY MUCH. WE'LL TAKE A BREAK. BE
12 BACK AT 1:30.

13 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

14 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
15 THANK Y'ALL. ALL RIGHT. BEFORE WE GET STARTED, SOLICITOR,
16 ON THE NEIL VERSUS BIGGERS HEARING ON THE CAPTAIN SMITH, WE
17 NEED TO SPEED THINGS UP A LITTLE BIT. IF WE KEEP GOING AT
18 THE PACE THAT WE'RE GOING AT, THEN WE'RE GOING TO BE HERE
19 NEXT WEEK. I'M SCHEDULED TO HOLD CRIMINAL COURT IN
20 GEORGETOWN COUNTY NEXT WEEK. SO, MR. JOHNSON, I'M NOT SURE
21 YOU'RE GOING TO BE ABLE TO MAKE YOUR MEETING. AS SLOW AS
22 WE'RE GOING AND THE NUMBER OF WITNESSES THE STATE HAS, WE'RE
23 GOING TO BE HERE A LITTLE BIT TONIGHT.

24 MR. JOHNSON: ALL RIGHT.

25 THE COURT: AND I'M SORRY FOR THAT.

JAMES STANDIN SMITH (IN CAMERA) DIRECT BY MS. CAMPBELL 353

1 MR. JOHNSON: I UNDERSTAND, SIR.

2 THE COURT: BUT, OTHERWISE, I'D CERTAINLY BE GLAD TO
3 ACCOMMODATE YOU, BUT WE'VE JUST GOT TO MOVE ALONG A LITTLE
4 BIT. ALL RIGHT. SOLICITOR, LET'S HEAR YOUR WITNESS ON
5 THE -- CAPTAIN SMITH ON THE NEIL VERSUS BIGGERS ISSUE.

6 JAMES STANDIN SMITH, AFTER BEING DULY SWORN,
7 TESTIFIED AS FOLLOWS IN CAMERA:

8 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
9 YOUR FULL NAME FOR THE RECORD, PLEASE.

10 THE WITNESS: JAMES STANDIN SMITH. IT'S S-T-A-N-D-I-N,
11 MIDDLE NAME.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q. CAPTAIN SMITH, I WANT TO TURN YOUR ATTENTION TO
15 SEPTEMBER 7TH, 2005. DID YOU GO TO A RESIDENCE AT 2167 MOOD
16 HARRISON ROAD IN FAIRFIELD COUNTY?

17 A. YES, MA'AM, I DID.

18 Q. AND WHO DID YOU MAKE CONTACT WITH THERE THAT DAY?

19 A. MR. KARTEZ GIBSON OR ADAMS GIBSON.

20 Q. WHEN YOU INITIALLY MADE CONTACT WITH HIM, BEFORE ASKING
21 HIM ANY QUESTIONS ABOUT THE EVENTS THAT TRANSPIRED TWO DAYS
22 EARLIER DID YOU ADVISE HIM OF HIS RIGHTS?

23 A. I DID.

24 Q. AND WHAT RIGHTS DID YOU ADVISE HIM OF?

25 A. I ADVISED HIM THAT BEFORE WE ASK ANY QUESTIONS HE NEEDS

1 TO UNDERSTAND HIS RIGHTS, THAT HE HAD THE RIGHT TO REMAIN
2 SILENT, THAT ANYTHING HE SAID COULD BE USED AGAINST HIM IN A
3 COURT, THAT HE HAD THE RIGHT TO TALK TO A LAWYER FOR ADVICE
4 BEFORE WE ASK HIM ANY QUESTIONS AND DURING QUESTIONING AND
5 THAT IF HE COULD NOT AFFORD A LAWYER ONE WOULD BE APPOINTED
6 TO HIM BEFORE ANY QUESTIONING IF HE WISHED.

7 I ALSO ADVISED HIM THAT IF HE DECIDED TO ANSWER
8 QUESTIONS THEN THAT HE WOULD HAVE THE RIGHT -- WITHOUT A
9 LAWYER PRESENT HE WOULD HAVE THE RIGHT TO STOP ANSWERING AT
10 ANY TIME, AND HE WOULD ALSO HAVE THE RIGHT TO STOP ANSWERING
11 AT ANY TIME UNTIL HE SPOKE TO A LAWYER. AND I ACTUALLY USED
12 A CARD THAT I KEEP WITH ME TO COVER THE RIGHTS.

13 Q. AND ONCE YOU WENT THROUGH HIS RIGHTS WITH HIM, DID HE
14 INDICATE WHETHER OR NOT HE WANTED TO TALK TO YOU?

15 A. YES. HE WAS COOPERATIVE.

16 Q. AND DID YOU ASK HIM WHAT HAD HAPPENED ON THAT DATE?

17 A. YES. I ASKED HIM -- YOU KNOW, I ASKED HIM BASICALLY IF
18 HE WAS GOING TO TELL THE TRUTH ABOUT HIS ROLE IN THE
19 INCIDENT; HE SAID HE WOULD. AND I ASKED HIM BRIEFLY WHAT HIS
20 SIDE WAS GOING TO BE REGARDING THE MATTER. HE RESPONDED THAT
21 HE DIDN'T ACTUALLY SEE WHO DID THE SHOOTING BECAUSE HE WAS
22 SITTING IN ANOTHER CAR IN THE PARKING LOT, THAT HE WASN'T,
23 HOWEVER, IN THE WHITE FORD ESCORT BUT HIS BROTHER, JACQUES,
24 WAS.

25 HE DID DENY AT THAT TIME FIRING ANY SORT OF WEAPON. I

1 THEN ASKED HIM IF HE MINDED IF WE SEARCHED HIS HOME AND CAR.
2 PRIMARILY, OF COURSE, WE WERE LOOKING FOR AMMUNITION AND
3 WEAPONS. HE DID CONSENT TO THE SEARCH OF HIS -- I RETRIEVED
4 A CONSENT FORM AND WE COMPLETED THAT.

5 Q. AND AT THAT TIME AFTER MAKING AN INITIAL CONTACT WITH
6 MR. GIBSON -- AND THAT WOULD BE KARTEZ GIBSON?

7 A. YES.

8 Q. DID YOU THEN TURN HIM OVER TO THE CUSTODY OF ANOTHER
9 INVESTIGATOR IN YOUR DEPARTMENT?

10 A. YES. MYSELF AND SERGEANT EWING WERE AT THAT LOCATION,
11 AND WE SUMMONED INVESTIGATOR MCDANIELS WHO WAS THE CASE
12 OFFICER. HE RESPONDED AND I BELIEVE HE ACTUALLY TOOK CUSTODY
13 OF MR. GIBSON.

14 Q. DURING THE TIME PERIOD ONCE YOU ADVISED HIM OF HIS
15 RIGHTS AND WITHIN THE TIME THAT HE WAS IN YOUR CUSTODY, I
16 GUESS, DID -- AT ANY POINT DID HE EVER ASK FOR A LAWYER?

17 A. NO, MA'AM.

18 Q. DID HE EVER TELL YOU HE DIDN'T WANT TO TALK ANYMORE?

19 A. NO, MA'AM.

20 Q. DID YOU OR ANYONE THREATEN HIM IN ANY MANNER TO MAKE HIM
21 TALK TO YOU OR PROMISE HIM ANYTHING?

22 A. NO, MA'AM.

23 Q. AND IN YOUR OPINION WAS HE SPEAKING TO YOU VOLUNTARILY?

24 A. HE WAS.

25 MS. CAMPBELL: THANK YOU, SIR.

1 THE COURT: ALL RIGHT. MR. ROBERSON?

2 MR. ROBERSON: BEG THE COURT'S INDULGENCE FOR A QUICK
3 MATTER.

4 THE COURT: YES, SIR.

5 CROSS-EXAMINATION

6 BY MR. ROBERSON:

7 Q. CAPTAIN SMITH, DID YOU HAVE AN ARREST WARRANT FOR HIM
8 FOR MURDER WHEN YOU WENT TO HIS HOUSE?

9 A. YES, SIR. I BELIEVE THAT INVESTIGATOR MCDANIELS HAD
10 SECURED ARREST WARRANTS FOR BOTH OF THEM PRIOR TO US LEAVING
11 TO GO TO FAIRFIELD COUNTY.

12 Q. BUT MCDANIELS WASN'T PRESENT AT THAT TIME WITH YOU WITH
13 THE WARRANT. IS THAT CORRECT?

14 A. HE WAS AT ANOTHER LOCATION WHEN WE FIRST ARRIVED THERE;
15 THAT IS CORRECT. WE HAD ACTUALLY DISPATCHED FAIRFIELD COUNTY
16 UNITS AHEAD OF US AFTER WE HAD GONE TO, I BELIEVE, THE
17 FATHER'S HOUSE, AND THEN WE LEARNED ABOUT THIS OTHER
18 RESIDENCE, AND I THINK FAIRFIELD COUNTY DEPUTIES ACTUALLY
19 ASSISTED US IN THAT REGARD.

20 Q. OKAY. BEFORE YOU MIRANDIZED HIM, DID YOU TELL HIM THAT
21 THERE WAS AN OUTSTANDING WARRANT FOR HIS ARREST FOR MURDER?

22 A. I DON'T RECALL SPECIFICALLY TELLING HIM THAT VERBATIM.
23 I ASKED HIM IF HE KNEW WHY WE WERE THERE, AND HE ACKNOWLEDGED
24 THAT HE DID. IT WAS SORT OF OBVIOUS WHY WE WERE THERE. HE
25 KNEW WHY WE WERE THERE. HE -- HE WAS NOT PROTESTING OR

1 ANYTHING. HE -- YOU KNOW, HE HAD AN UNDERSTANDING. I DON'T
2 KNOW IF I OFFICIALLY ADVISED HIM WE HAVE AN ARREST WARRANT
3 FOR MURDER OR NOT, BUT IT WAS APPARENT TO ME THAT HE KNEW WHY
4 WE WERE THERE.

5 MR. ROBERSON: OKAY. I DON'T HAVE ANYTHING FURTHER,
6 YOUR HONOR.

7 THE COURT: ALL RIGHT. MR. JOHNSON?

8 MR. JOHNSON: YOUR HONOR, I APOLOGIZE. I THOUGHT IT WAS
9 A BIGGERS HEARING.

10 THE COURT: IT WAS ON THE ORAL STATEMENT. AND DID I SAY
11 BIGGERS? I'M SORRY. IT IS A DENNO HEARING. I'M SORRY. I'M
12 SORRY. I'M SORRY. YOU'RE RIGHT. I KEPT SAYING BIGGERS.
13 YOU'RE EXACTLY RIGHT. IT'S A JACKSON V. DENNO HEARING. I'M
14 SORRY.

15 MR. JOHNSON: OH.

16 THE COURT: IT IS A -- YOU'RE EXACTLY RIGHT. I CONFUSED
17 EVERYBODY BY SAYING NEIL VERSUS BIGGERS, BUT IT'S A JACKSON
18 V. DENNO HEARING. YOU'RE CORRECT.

19 MR. JOHNSON: OH.

20 CROSS-EXAMINATION

21 BY MR. JOHNSON:

22 Q. WITH YOUR UNDERSTANDING, YOU ARE QUOTING STATEMENTS MADE
23 BY MR. GIBSON HERE, IF I'M UNDERSTANDING?

24 A. MR. KARTEZ GIBSON. THAT'S RIGHT.

25 Q. OKAY. THAT'S YOUR TESTIMONY BY KARTEZ.

1 A. THAT'S CORRECT.

2 Q. ALL RIGHT. THANK YOU, SIR.

3 A. YES, SIR.

4 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE STATE?

5 MS. CAMPBELL: NO, SIR.

6 THE COURT: ALL RIGHT. CAPTAIN, YOU MAY STEP DOWN.

7 THE WITNESS: THANK YOU.

8 THE COURT: ALL RIGHT. I FIND THAT THE STATEMENT, ORAL
9 STATEMENT, AS MADE BY MR. ADAMS KARTEZ GIBSON TO CAPTAIN
10 SMITH WAS DONE VOLUNTARILY. IT WAS DONE WITH KNOWLEDGE OF
11 HIS RIGHTS, THAT HE VOLUNTARILY WAIVED THOSE RIGHTS AND GAVE
12 THE -- GAVE THE STATEMENT TO CAPTAIN SMITH AND, THEREFORE, I
13 WILL ALLOW THAT TO COME INTO EVIDENCE. OBVIOUSLY, ONCE
14 AGAIN, IT WILL BE ULTIMATELY UP TO THE JURY TO DECIDE THE
15 ISSUE IN QUESTION. ALL RIGHT. IS THERE ANYTHING THAT WE
16 NEED TO DO OUTSIDE THE PRESENCE OF THE JURY THAT THE STATE IS
17 AWARE OF AT THIS POINT IN TIME?

18 MS. CAMPBELL: NO, SIR.

19 THE COURT: MR. ROBERSON, ANYTHING THAT YOU KNOW OF?

20 MR. ROBERSON: NOTHING I CAN THINK OF, YOUR HONOR.

21 THE COURT: MR. JOHNSON? ANYTHING THAT YOU KNOW OF OR
22 ANYTHING THAT WE -- ANY QUESTIONS ABOUT EVIDENCE THAT YOU
23 KNOW ARE GOING TO COME UP THIS AFTERNOON THAT WE CAN DEAL
24 WITH NOW RATHER THAN SENDING THE JURY OUT? ANYTHING THAT
25 Y'ALL KNOW ABOUT?

1 MR. JOHNSON: NO, SIR, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 MS. CAMPBELL: YOUR HONOR, I WOULD JUST -- WE DID MARK A
4 NUMBER OF PHOTOGRAPHS WE INTEND ON INTRODUCING.

5 THE COURT: OKAY.

6 MS. CAMPBELL: WE TRIED TO GET TOGETHER WITH THEM
7 YESTERDAY AND AGREE ON PHOTOGRAPHS. THEY WERE ABLE TO AGREE
8 ON 10 OF THEM, I BELIEVE.

9 THE COURT: ALL RIGHT.

10 MS. CAMPBELL: THERE ARE A NUMBER OF PHOTOGRAPHS WE
11 MIGHT BE ABLE TO -- IT'S MAYBE A LITTLE HARD FOR THE COURT,
12 BUT THERE---

13 THE COURT: WELL, IF THERE'S -- IF THERE'S EXHIBITS THAT
14 Y'ALL HAVE AGREED UPON, THERE'S NO SENSE IN NOT---

15 MS. CAMPBELL: THESE ARE NOT AGREED---

16 THE COURT: THESE ARE NOT THE ONES THAT YOU -- OKAY.
17 HOW ABOUT LET ME TAKE A LOOK AT THEM REAL QUICK---

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: ---SO THAT WHEN Y'ALL START TALKING ABOUT
20 THEM I'LL HAVE SOME IDEA WHAT IT IS YOU'RE OBJECTING TO?

21 MS. CAMPBELL: I JUST THOUGHT THAT MIGHT EXPEDITE
22 THINGS.

23 THE COURT: ALL RIGHT.

24 (MS. CAMPBELL HANDS EXHIBITS TO THE COURT.)

25 THE COURT: ARE THESE ALL GOING TO COME IN THROUGH ONE

1 PARTICULAR WITNESS, SOLICITOR?

2 MS. CAMPBELL: YOUR HONOR, THE MAJORITY -- SOME ARE
3 COMING IN THROUGH -- LIKE PICTURES OF THE OWNERS OF THE CAR
4 ARE COMING IN THROUGH CERTAIN WITNESSES, AND THEN WE PLAN ON
5 THE FIRST OFFICER AT THE SCENE WILL PUT IN THE MAJORITY
6 EXCEPT FOR THE ONES AT THE END WHICH JUST SHOW THE BULLET
7 THAT WAS RECOVERED FROM THE BODY.

8 THE COURT: ALL RIGHT. ALL RIGHT.

9 MS. CAMPBELL: AND THERE ARE ALSO SOME OF THE WHITE FORD
10 ESCORT WHICH WOULD COME IN LATER THROUGH INVESTIGATORS.

11 THE COURT: ALL RIGHT.

12 MR. JOHNSON: YOUR HONOR, MAY I SEE THE ONES YOU'VE
13 SEEN?

14 THE COURT: WELL, I WAS GOING TO HAND THEM ALL TO YOU IN
15 JUST ONE SECOND, MR. JOHNSON, AND I WAS GOING TO ASK YOU TO
16 KIND OF GO THROUGH THOSE AND GIVE ME A HEADS UP AS TO WHY
17 Y'ALL ARE OBJECTING TO THEM.

18 (PAUSE IN PROCEEDINGS WHILE THE COURT, MR. JOHNSON, AND
19 MR. ROBERSON LOOK AT THE PHOTOGRAPHS.)

20 THE COURT: LET'S NOT MIX THOSE UP JUST YET.

21 MR. JOHNSON: THOSE ARE TWO SEPARATE...

22 THE COURT: YEAH, THOSE ARE SEPARATE ISSUES. LET'S DEAL
23 WITH THAT PACKAGE FIRST RIGHT THERE.

24 MR. JOHNSON: YOUR HONOR, I DON'T HAVE ANY OBJECTION TO
25 ANY OF THESE PHOTOGRAPHS EXCEPT NUMBER 61.

1 THE COURT: ALL RIGHT. NUMBER 61.

2 MR. JOHNSON: THAT'S THE ONE.

3 THE COURT: ALL RIGHT. AND WE'LL -- WE'LL DEAL WITH
4 THAT IN JUST A SECOND.

5 MS. CAMPBELL: I'LL WITHDRAW IT.

6 MR. JOHNSON: SHE SAID SHE'LL WITHDRAW IT.

7 THE COURT: ALL RIGHT.

8 MS. CAMPBELL: MAKES SENSE IF HE'S GOING TO...

9 THE COURT: ALL RIGHT. AND, MR. ROBERSON, CAN YOU LOOK
10 THROUGH THOSE REAL QUICK AND SEE IF THERE'S ANY ONE OF THOSE
11 THAT YOU HAVE ANY OBJECTION TO. AND, SOLICITOR, IF YOU DON'T
12 MIND, IF YOU'LL JUST NOTE WITH THE COURT REPORTER THAT ONE
13 THAT YOU WITHDREW SO THAT SHE'LL HAVE HER RECORDS CORRECT.

14 MS. CAMPBELL: WE'RE WITHDRAWING STATE'S EXHIBIT 61.

15 THE COURT: THANK YOU, MA'AM.

16 (STATE'S EXHIBIT 61 WAS WITHDRAWN FROM EVIDENCE.)

17 MS. CAMPBELL: YOUR HONOR, FOR THE RECORD, I'M
18 WITHDRAWING NUMBER 55.

19 THE COURT: THANK YOU, MA'AM.

20 (STATE'S EXHIBIT 55 WAS WITHDRAWN FROM EVIDENCE.)

21 THE COURT: ALL RIGHT. YOU HAVE NO OBJECTIONS TO THOSE
22 THEN, MR. ROBERSON?

23 MR. ROBERSON: AS TO THIS STACK.

24 THE COURT: ALL RIGHT. ALL RIGHT. SO LET'S -- IF YOU
25 WOULD, SOLICITOR, IF YOU'D CALL OUT THE NUMBERS THAT NEITHER

1 DEFENDANT ADAMS GIBSON NOR THE DEFENDANT JACQUES GIBSON HAVE
2 ANY OBJECTION TO.

3 MS. CAMPBELL: YOUR HONOR, I BELIEVE, WITH THE EXCEPTION
4 OF NUMBERS 55 AND 61, THEY WOULD BE STATE'S EXHIBITS -- WHAT
5 WAS THE NUMBER? 36 THROUGH 78 WITH THE EXCEPTION OF THOSE
6 TWO EXHIBITS.

7 THE COURT: ALL RIGHT. 36 THROUGH 78 EXCEPT WHAT WAS
8 THE---

9 MS. CAMPBELL: 61 AND I BELIEVE 55.

10 THE COURT: 61 AND 55.

11 MS. CAMPBELL: YES, SIR.

12 THE COURT: THOSE ARE IN EVIDENCE WITHOUT OBJECTION.

13 MS. CAMPBELL: THANK YOU. ALL RIGHT.

14 THE COURT: ALL RIGHT.

15 MR. ROBERSON: YOUR HONOR, YOU'RE TALKING 36 THROUGH 78
16 IS IN WITHOUT OBJECTION; RIGHT?

17 THE COURT: THAT'S RIGHT, EXCEPT FOR 61 AND 55 WHICH THE
18 STATE WITHDREW, BUT 36 THROUGH 78 ARE IN EVIDENCE WITHOUT
19 OBJECTION BY EITHER DEFENDANT.

20 (STATE'S EXHIBITS 36 THROUGH 78, WITH THE EXCEPTION OF
21 EXHIBITS 55 AND 61, WERE RECEIVED IN EVIDENCE.)

22 THE COURT: ALL RIGHT? ALL RIGHT. ALL RIGHT. WE'LL
23 RESUME BACK JUST AS SOON AS ALL THE JURORS ARE PRESENT. ALL
24 RIGHT? THANK YOU VERY MUCH.

25 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

1 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.

2 THANK Y'ALL. ALL RIGHT. STATE READY TO PROCEED?

3 MS. CAMPBELL: STATE'S READY.

4 THE COURT: AND MR. ROBERSON?

5 MR. ROBERSON: ADAMS GIBSON IS READY, YOUR HONOR.

6 THE COURT: AND MR. JOHNSON?

7 MR. JOHNSON: YES, SIR, WE'RE READY.

8 THE COURT: ASK THE JURY TO COME IN, PLEASE.

9 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 2:06
10 P.M.)

11 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY PROCEED WITH
12 YOUR NEXT WITNESS.

13 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
14 ANTWAN MARTIN.

15 THE COURT: PLEASE COME AROUND TO BE SWORN.

16 ANTWAN MARTIN, AFTER BEING DULY SWORN, TESTIFIED AS
17 FOLLOWS:

18 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
19 YOUR FULL NAME FOR THE RECORD, PLEASE.

20 THE WITNESS: ANTWAN MARTIN.

21 DIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. ANTWAN, HOW OLD ARE YOU?

24 A. TWENTY-THREE.

25 Q. TWENTY-THREE?

- 1 A. (WITNESS NODDED HEAD UP AND DOWN.)
- 2 Q. AND DO YOU HAVE A NICKNAME?
- 3 A. YES, MA'AM.
- 4 Q. WHAT'S YOUR NICKNAME?
- 5 A. A.J.
- 6 Q. WHERE ARE YOU FROM?
- 7 A. WINNSBORO.
- 8 Q. DO YOU STILL LIVE IN WINNSBORO?
- 9 A. YES, MA'AM.
- 10 Q. DO YOU WORK?
- 11 A. NO, MA'AM.
- 12 Q. WHO ARE YOU LIVING WITH IN WINNSBORO?
- 13 A. MY MOTHER.
- 14 Q. I'M GOING TO TURN YOUR ATTENTION BACK TO SEPTEMBER THE
- 15 5TH OF 2005. DO YOU REMEMBER WHAT YOU DID THAT EVENING?
- 16 A. YEAH. YES, MA'AM.
- 17 Q. ACTUALLY SEPTEMBER THE 4TH, THAT SUNDAY EVENING.
- 18 A. YES, MA'AM.
- 19 Q. AND WHAT DID YOU DO?
- 20 A. WE GOT READY TO GO TO A BAR, CHANCE'S.
- 21 Q. AND WHO WERE YOU GOING WITH THAT NIGHT?
- 22 A. ME, DENNIS IRBY, RAVARIS HENRY, YO-YO. AND WHO ELSE?
- 23 THAT WAS IT.
- 24 Q. HOW MANY OF THERE WERE YOU?
- 25 A. IT WAS ME, DENNIS IRBY, RAVARIS HENRY, YO-YO, AND -- AND

1 TORRI BOYD.

2 Q. OKAY. AND DID Y'ALL ALL DRIVE TOGETHER?

3 A. WELL, WE MET YO-YO. THE REST OF US WAS TOGETHER.

4 Q. AND WHO WAS DRIVING THAT NIGHT?

5 A. ME.

6 Q. WHAT KIND OF CAR WERE YOU DRIVING?

7 A. A TAHOE.

8 Q. AND I SHOW YOU SOME PHOTOGRAPHS, STATE'S EXHIBITS, FIRST
9 OF ALL, 48 AND 42 AND FIRST JUST ASK YOU IF YOU RECOGNIZE
10 THOSE.

11 A. YEAH.

12 Q. AND DO THOSE SHOW YOUR CAR?

13 A. YEAH.

14 Q. AND YOU SAID IT WAS A -- WHAT KIND OF CAR?

15 A. TAHOE.

16 Q. WHAT COLOR WAS IT?

17 A. GRAY.

18 Q. AND CAN YOU POINT TO IT ON THIS PICTURE FOR ME?

19 A. (THE WITNESS INDICATES.)

20 Q. IT'S RIGHT HERE?

21 A. YEAH.

22 Q. AND WHAT PART OF IT IS IN THIS PICTURE?

23 A. RIGHT THERE.

24 Q. WHERE DID YOU PARK YOUR CAR THAT NIGHT WHEN YOU WENT TO
25 CHANCE'S?

1 A. THE FRONT OF THE BUILDING.

2 Q. IN FRONT OF WHICH BUILDING?

3 A. CHANCE'S.

4 Q. AND HOW FAR BACK IN THE PARKING LOT WERE YOU WHEN YOU
5 PARKED YOUR CAR IN FRONT OF CHANCE'S THAT EVENING?

6 A. EXCUSE ME?

7 Q. DO THESE EXHIBITS, 48 AND 42, SHOW WHERE YOU PARKED?

8 A. YEAH.

9 MS. CAMPBELL: YOUR HONOR, PERMISSION TO PUBLISH?

10 THE COURT: ANY OBJECTION, MR. ROBERSON?

11 MR. ROBERSON: I DIDN'T HEAR.

12 MS. CAMPBELL: PERMISSION TO PUBLISH---

13 THE COURT: ANY OBJECTION TO PUBLICATION TO THE JURY---

14 MR. ROBERSON: NO.

15 THE COURT: ---SHOWING THE PICTURES TO THE JURY. ALL
16 RIGHT, SIR. MR. JOHNSON?

17 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

18 THE COURT: YOU MAY DO SO.

19 MS. CAMPBELL: THANK YOU, SIR.

20 BY MS. CAMPBELL:

21 Q. ONCE Y'ALL GOT TO THE BAR, ONCE YOU WENT IN, WHAT
22 HAPPENED?

23 A. WELL, WE JUST WENT IN AND STARTED HAVING A GOOD TIME,
24 LAUGHING AND TALKING, AND SOME GUYS WALKED IN. AND A FEW OF
25 US HAD SPOKE TO THEM, SHOOK THEIR HAND AND SPOKE TO THEM OR

1 WHATEVER AND THEN...

2 Q. DID YOU KNOW ANY OF THE GUYS?

3 A. YES, MA'AM.

4 Q. AND WHO DID YOU KNOW IN THE GUYS THAT WALKED IN?

5 A. I KNOW BASICALLY ALL OF THEM; I SEEN THEM AROUND. I
6 DON'T KNOW THEM THAT GOOD, BUT I HAD SEEN THEM AROUND QUITE A
7 FEW TIMES.

8 Q. DO YOU HAVE ANY ILL FEELINGS OR HAVE ANY BEEF WITH ANY
9 OF THOSE GUYS?

10 A. NO, MA'AM.

11 Q. AND WHEN THEY FIRST WALKED IN, WHAT WAS THE MOOD LIKE?

12 A. JUST SOME PEOPLE, YOU KNOW, JUST SPEAK TO THEM. I MEAN,
13 THAT'S ALL IT WAS TO ME.

14 Q. DO YOU KNOW A GUY NAMED BAM?

15 A. I KNOW OF HIM.

16 Q. DID YOU SEE HIM THAT NIGHT?

17 A. YES, MA'AM.

18 Q. WHERE DID YOU SEE HIM?

19 A. AT THE BAR.

20 Q. DO YOU REMEMBER ANY OF THEIR OTHER NAMES?

21 A. I THINK SOMEBODY -- KARTEZ, BAM, MARCUS, AND I THINK
22 TRAMELE.

23 Q. WERE THOSE THE ONES YOU SAW FIRST THAT NIGHT INSIDE THE
24 BAR?

25 A. YES, MA'AM.

1 Q. LATER ON DID SOME ADDITIONAL GUYS THAT YOU KNEW FROM
2 RIDGEWAY COME?

3 A. YES, MA'AM.

4 Q. AND DO YOU REMEMBER ANY OF THEIR NAMES?

5 A. I THINK ONE WAS NAMED SHA-SHA, AND I DON'T REALLY KNOW
6 THE OTHER ONES. I DON'T KNOW THEM.

7 Q. SO THOSE ARE THE ONES, BUT WAS SHA-SHA THERE WHEN YOU
8 INITIALLY SAW THE OTHER GUYS FROM RIDGEWAY?

9 A. NO, MA'AM.

10 Q. INSIDE THE BAR DID -- DID THINGS CHANGE?

11 A. YEAH. THEY HAD WENT -- THEY WENT OUTSIDE AND THERE WAS
12 LIKE AN ALTERCATION WITH ONE OF MY FRIENDS.

13 Q. AND WHO WENT OUTSIDE?

14 A. TORRI AND THE OTHER GUYS FROM RIDGEWAY.

15 Q. DID YOU SEE TORRI GO OUTSIDE?

16 A. YES, MA'AM.

17 Q. DID HE GO OUT BEFORE YOU?

18 A. YES, MA'AM.

19 Q. DID ANY OF THE OTHER GUYS THAT WERE WITH YOU, RAVARIS OR
20 ANY OF THOSE, GO OUT WITH HIM?

21 A. NO, MA'AM.

22 Q. HOW DID YOU END UP GOING OUTSIDE?

23 A. WHEN I NOTICED -- I SEEN THEM LIKE KIND OF CIRCLING
24 AROUND HIM OR SOMETHING LIKE THAT.

25 Q. WERE YOU ABLE TO SEE THAT FROM INSIDE?

1 A. YES, MA'AM.

2 Q. SO WHY DID YOU GO OUTSIDE WHEN YOU SAW THEM CIRCLING
3 AROUND HIM?

4 A. BECAUSE IT LOOKED LIKE THEY WAS ARGUING OR SOMETHING,
5 LIKE SOMETHING WAS FIXING TO HAPPEN TO HIM, SO I WENT OUT
6 THERE.

7 Q. WHERE WERE THEY STANDING IN THE PARKING LOT WHEN YOU SAW
8 THEM ARGUING INITIALLY?

9 A. LIKE MAYBE LIKE SEVEN OR EIGHT FEET AWAY FROM MY TRUCK.

10 Q. WERE THEY STANDING BETWEEN THE CARS OR BESIDE THE CAR OR
11 WHAT?

12 A. WELL, WHEN THEY FIRST STARTED ARGUING, THEY WAS LIKE A
13 LITTLE FARTHER AWAY FROM MY TRUCK, AND THEN THEY MOVED OVER
14 IN BETWEEN CARS, BETWEEN THE TRUCK AND A CAR.

15 Q. WHAT DID YOU DO WHEN YOU SAW THEM CIRCLING AROUND HIM?

16 A. JUST CAME OUT THERE AND I GOT BESIDE HIM.

17 Q. WHO ALL WAS OUT THERE AT THAT POINT WHEN YOU GOT BESIDE
18 HIM?

19 A. THERE WAS TORRI, I THINK BAM, MARCUS, TRAMELE, AND
20 KARTEZ.

21 Q. WAS ANYBODY SAYING ANYTHING?

22 A. THEY WERE JUST YELLING, JUST YELLING. EVERYBODY WAS
23 YELLING LIKE THEY'RE MAD ABOUT SOMETHING, TAKING THEIR SHIRTS
24 OFF AND STUFF.

25 Q. DO YOU REMEMBER WHO TOOK THEIR SHIRT OFF?

- 1 A. YES, MA'AM.
- 2 Q. WHO?
- 3 A. TRAMELE.
- 4 Q. AND WHEN HE TOOK HIS SHIRT OFF, WHAT HAPPENED?
- 5 A. HE SOME KIND OF WAY CAME FROM THE FRONT END OF MY TRUCK
- 6 AND SNUCK UP BEHIND RAVARIS AND HIT HIM WITH SOMETHING.
- 7 Q. RAVARIS?
- 8 A. YES, MA'AM.
- 9 Q. AND WAS THAT THE FIRST TIME YOU SAW ANYBODY GET INTO A
- 10 PHYSICAL ALTERCATION?
- 11 A. THAT WAS THE FIRST LICK THAT I SEEN PASSED.
- 12 Q. THEN WHAT HAPPENED?
- 13 A. THEN WE ALL JUST STARTED FIGHTING.
- 14 Q. DO YOU KNOW EXACTLY WHO WAS FIGHTING WHO AT THAT POINT?
- 15 A. NO, MA'AM. I JUST KNOW WHO I WAS FIGHTING.
- 16 Q. OKAY. WHO WERE YOU FIGHTING?
- 17 A. MARCUS.
- 18 Q. DO YOU KNOW MARCUS'S LAST NAME?
- 19 A. TUCKER, I BELIEVE.
- 20 Q. AND WHEN YOU WERE FIGHTING MARCUS, WHAT WERE YOU
- 21 STANDING IN RELATION TO YOUR TAHOE?
- 22 A. IN FRONT.
- 23 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
- 24 EXHIBIT NUMBER 53. DO YOU RECOGNIZE THAT?
- 25 A. YES, MA'AM.

1 Q. AND THE CAR THAT'S SHOWN IN THERE, WHERE WAS IT PARKED
2 IN RELATION TO YOUR TAHOE?

3 A. BEHIND IT.

4 Q. WAS IT IN A PARKING SPACE?

5 A. YES, MA'AM.

6 Q. AND WHERE WERE Y'ALL FIGHTING IN RELATION TO THIS DODGE?

7 A. LIKE IN BETWEEN THE CARS AND ALONG THE SIDE OF THE
8 TRUCK.

9 Q. OKAY. AND WOULD THAT HAVE BEEN TOWARDS THE ENTRANCE
10 WHERE YOU COME IN OR TOWARDS THE CAR -- IN BETWEEN THE CARS
11 AND CHANCE'S?

12 A. THE CARS AND CHANCE'S.

13 Q. AND IS THAT REFLECTED HERE?

14 A. YES, MA'AM.

15 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D ASK
16 PERMISSION TO PUBLISH THE PHOTOGRAPH.

17 THE COURT: ANY OBJECTION, MR. ROBERSON?

18 MR. ROBERSON: NO OBJECTION.

19 THE COURT: MR. JOHNSON?

20 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

21 THE COURT: YOU MAY DO SO.

22 BY MS. CAMPBELL:

23 Q. WERE YOU STANDING UP OR WERE YOU DOWN ON THE GROUND WHEN
24 YOU WERE FIGHTING?

25 A. A LITTLE BIT OF BOTH.

1 Q. WHAT'S THE NEXT THING YOU REMEMBER?

2 A. THAT WAS BASICALLY IT. I WAS JUST FIGHTING UNTIL I
3 HEARD SOME SHOTS. I HEARD LIKE FIVE OR SIX SHOTS, BUT I WAS
4 STILL FIGHTING.

5 Q. THEN WHAT HAPPENED?

6 A. DENNIS IRBY YELLED HE WAS HIT. HE KEPT SAYING HE WAS
7 HIT, AND WHEN I WAS FIGHTING, I WAS LOOKING AT HIM SAYING HE
8 WAS HIT STANDING OVER -- STANDING THERE. THEN HE STARTED
9 GOING TO HIS KNEES. HE FINALLY JUST LAID DOWN ON HIS
10 STOMACH. THEN WE STOPPED FIGHTING RIGHT AFTER HIM. THEN I
11 SEE A CAR JUST TAKING OFF AFTER THAT.

12 Q. WHAT CAR?

13 A. A SMALL WHITE CAR. I'M NOT SURE WHAT KIND OF CAR --
14 WHAT MODEL IT WAS.

15 Q. DO YOU KNOW WHOSE CAR IT WAS?

16 A. NO, MA'AM.

17 Q. DID YOU EVER SEE ANYBODY DO ANY SHOOTING THAT NIGHT?

18 A. NO, MA'AM.

19 Q. AND YOU MENTIONED EARLIER THAT YOU WERE FIGHTING WITH
20 MARCUS. IS THAT CORRECT?

21 A. YES, MA'AM.

22 Q. AND YOU JUST TESTIFIED THAT THE SHOTS RANG OUT WHILE YOU
23 WERE FIGHTING WITH HIM?

24 A. YES, MA'AM.

25 Q. AND THEN YOU BROKE UP YOUR FIGHT.

1 A. YES, MA'AM.

2 Q. DID YOU HEAR ANY MORE SHOTS AFTER YOU AND MARCUS QUIT
3 FIGHTING?

4 A. NO, MA'AM.

5 Q. DID YOU HAVE A GUN THAT NIGHT?

6 A. NO, MA'AM.

7 Q. DID MARCUS HAVE A GUN THAT YOU SAW THAT NIGHT OR DO ANY
8 SHOOTING?

9 A. NO, MA'AM.

10 Q. DID YOU GO OVER AND TRY TO HELP DENNIS?

11 A. YES, MA'AM.

12 Q. AFTER THE SHOOTING, YOU SAW THE WHITE CAR LEAVING. DID
13 YOU SEE ANY MORE OF THE GUYS FROM RIDGEWAY THERE IN THE
14 PARKING LOT?

15 A. NO, MA'AM.

16 Q. WHO ALL WAS STILL IN THE PARKING LOT WHEN THE POLICE
17 CAME AND THE AMBULANCE CAME?

18 A. ME, DENNIS, TORRI, YO-YO, AND B.

19 Q. AND WHAT'S B.'S REAL NAME?

20 A. RAVARIS.

21 Q. THE GUY YOU NAMED AS KARTEZ, DO YOU SEE HIM ANYWHERE IN
22 THE COURTROOM TODAY?

23 A. YES, MA'AM.

24 Q. CAN YOU POINT HIM OUT FOR THE JURY?

25 A. BLUE SHIRT.

1 Q. YOUR HONOR, MAY THE RECORD REFLECT HE'S POINTING TO THE
2 DEFENDANT AT THE DEFENSE TABLE? SHA-SHA.

3 A. YES, MA'AM.

4 Q. DO YOU SEE HIM IN THE COURTROOM?

5 A. YES, MA'AM.

6 Q. CAN YOU POINT HIM OUT FOR THE JURY?

7 A. BLACK SUIT.

8 Q. WHERE IS HE SEATED AT THAT TABLE? CLOSEST TO YOU OR
9 FURTHEST AWAY?

10 A. CLOSEST TO ME.

11 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S
12 IDENTIFIED THE DEFENDANT JACQUES GIBSON? THANK YOU, SIR.
13 PLEASE ANSWER ANY QUESTIONS DEFENSE WOULD HAVE.

14 THE COURT: ALL RIGHT. MR. ROBERSON?

15 MR. ROBERSON: IF YOUR HONOR PLEASE?

16 THE COURT: YES, SIR.

17 CROSS-EXAMINATION

18 BY MR. ROBERSON:

19 Q. MR. MARTIN, YOU DON'T PERSONALLY KNOW ADAMS GIBSON, DO
20 YOU?

21 A. NO, SIR.

22 Q. HOW LONG DID YOU HAVE THE OPPORTUNITY TO SEE HIM ON THAT
23 NIGHT?

24 A. THE WHOLE NIGHT SINCE HE GOT THERE SO...

25 Q. ABOUT WHAT TIME DO YOU THINK IT WAS HE GOT THERE?

1 A. I DON'T HAVE A CLUE.

2 Q. OKAY. COULD YOU JUST ESTIMATE WHETHER OR NOT YOU WERE
3 IN HIS PRESENCE FOR 15 MINUTES, 20 MINUTES, 30 MINUTES?

4 A. IT'S PROBABLY A COUPLE OF HOURS.

5 Q. A COUPLE OF HOURS?

6 A. YES, SIR.

7 Q. DO YOU REMEMBER HOW HE WAS DRESSED?

8 A. NO, SIR.

9 Q. WOULD YOU DENY THAT HE HAD ON A WHITE TEE SHIRT?

10 A. I CAN'T REMEMBER.

11 Q. WOULD YOU DENY THAT HE HAD ON BLUE JEANS?

12 A. NO, SIR. I DON'T REMEMBER.

13 Q. OKAY. YOU DIDN'T SEE HIM WITH A GUN.

14 A. NO, SIR. I DIDN'T SEE ANYONE WITH A GUN.

15 Q. YOU DIDN'T SEE HIM SHOOT ANYTHING.

16 A. NO, SIR.

17 Q. YOU DIDN'T SEE WHAT KIND OF CAR HE GOT IN TO LEAVE.

18 A. NO, SIR.

19 MR. ROBERSON: OKAY. I HAVE NOTHING FURTHER.

20 THE COURT: ALL RIGHT. MR. JOHNSON?

21 MR. JOHNSON: THANK YOU, YOUR HONOR.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q. MR. MARTIN, YOU WENT TO THE CLUE ON A SUNDAY NIGHT. IS
25 THAT NOT CORRECT? SEPTEMBER THE 4TH?

1 A. YES, SIR.

2 Q. AND THIS INCIDENT HAPPENED EARLY SUNDAY MORNING. ISN'T
3 THAT RIGHT?

4 A. SUNDAY MORNING?

5 Q. THE SAME MORNING.

6 A. SUNDAY NIGHT.

7 Q. SEPTEMBER 4TH WAS WHAT DAY OF THE WEEK?

8 A. WELL, IT WAS, YEAH, EARLY SUNDAY MORNING. YEAH, MONDAY
9 NIGHT WAS...

10 Q. IT WAS EARLY SUNDAY MORNING.

11 A. YES, SIR.

12 Q. AND YOU WENT THERE WITH YOUR FRIENDS. ISN'T THAT RIGHT?

13 A. YES, SIR.

14 Q. AND Y'ALL WERE THERE DRINKING. ISN'T THAT TRUE?

15 A. YES, SIR.

16 Q. Y'ALL WERE HAVING BEER AND HAVING SOME SHOTS. ISN'T
17 THAT RIGHT?

18 A. WELL, I DIDN'T DRINK. THEY WAS DRINKING.

19 Q. YOU WEREN'T DRINKING.

20 A. I DIDN'T DRINK.

21 Q. OKAY. BUT YOU WERE DRIVING THE TAHOE.

22 A. YES, SIR.

23 Q. I APOLOGIZE TO YOU. I DIDN'T UNDERSTAND BECAUSE I WAS
24 WAY OVER THERE. THIS IS STATE'S EXHIBIT NUMBER 79. WOULD

25 YOU LOOK AT THAT DIAGRAM AND POINT OUT TO THE JURY WHERE YOUR

1 TAHOE WAS PARKED? LET ME GET YOU TO A POINTER. COULD YOU
2 POINT TO -- TO ORIENTATE YOU, THIS IS THE QUALITY INN. DO
3 YOU KNOW WHERE THAT MOTEL IS TO THE LEFT OF CHANCE'S?

4 A. YES, SIR.

5 Q. AND THIS HERE IS SHOWN AS THE CHANCE'S BAR AND GRILL,
6 SPORTS BAR, AND THESE ARE SOME PARKING SPACES. THESE ARE THE
7 PARKING SPACES, AND THESE ARE THE PARKING SPACES OVER BY THE
8 GRASS.

9 A. YES.

10 Q. IN WHAT PARKING SPACE WAS YOUR CAR IN?

11 A. RIGHT THERE.

12 Q. THE FIRST PARKING SPACE.

13 A. YES, SIR.

14 Q. AND THE FIGHT TOOK PLACE IN THE SECOND PARKING SPACE?

15 A. WHERE?

16 Q. THIS SECOND PARKING SPACE RIGHT HERE?

17 A. YES, SIR, WHERE THE TAHOE WAS AT.

18 Q. THE FIGHT WAS TAKING PLACE IN FRONT OF THE TAHOE?

19 A. BETWEEN THE TAHOE AND ANOTHER CAR.

20 Q. WHERE WAS THE OTHER CAR?

21 A. LIKE RIGHT BEHIND THE TAHOE.

22 Q. BACK HERE?

23 A. YES, SIR.

24 Q. SO THE FIGHT WAS TAKING PLACE IN THE FIRST PARKING SPACE
25 WHERE YOUR TAHOE WAS PARKED.

1 A. UH-HUH.

2 Q. WAS YOUR TAHOE PARKED FRONT END OR HAD YOU BACKED IT IN?

3 A. IT WAS BACKED IN.

4 Q. IT WAS BACKED IN. AND SO -- AND THE FIGHT -- AND SO
5 ANOTHER CAR IS RIGHT BEHIND IT.

6 A. YES, SIR.

7 Q. THE FIGHT WAS TAKING PLACE UP NEAR THESE FIRST TWO
8 PARKING SPACES; ISN'T THAT CORRECT?

9 A. YES, SIR.

10 Q. OKAY. NOW, THAT NIGHT DID ANYONE COME TO YOU AND SAY,
11 "ANTWAN, WHAT DO YOU KNOW ABOUT THIS CASE? WHAT HAPPENED?"
12 DID ANYONE TELL YOU -- ASK YOU THAT THAT NIGHT?

13 A. THAT NIGHT?

14 Q. YES, SIR.

15 A. YES, SIR.

16 Q. AND THAT NIGHT WHEN THEY ASKED YOU, "ANTWAN, WHAT
17 HAPPENED?" DID YOU TELL THEM THAT YOU HAD HEARD THREE SHOTS
18 THAT NIGHT?

19 A. YES, SIR.

20 Q. NOW, ON SEPTEMBER 5TH, 2005, YOU TOLD A POLICE OFFICER
21 YOU HEARD THREE SHOTS. ISN'T THAT RIGHT?

22 A. YEAH, I HEARD A COUPLE OF SHOTS. I DON'T KNOW EXACTLY
23 HOW MANY.

24 Q. BUT YOU JUST TOLD THE JURY WHAT A FEW MINUTES AGO? HOW
25 MANY -- HOW MANY SHOTS DID YOU TELL THE JURY A FEW MINUTES

1 AGO?

2 A. BETWEEN LIKE FIVE AND SIX SHOTS.

3 Q. NOW, THAT'S THREE DIFFERENT STORIES. YOU TOLD THE
4 OFFICER ON SEPTEMBER 5TH THREE SHOTS. NOW YOU'RE SAYING
5 COUPLE OF SHOTS, AND A FEW MINUTES AGO YOU SAID FIVE OR SIX
6 SHOTS. WHICH IS IT?

7 A. I JUST HEARD A COUPLE OF SHOTS.

8 Q. YOU JUST HEARD A COUPLE OF SHOTS.

9 A. SEVERAL SHOTS.

10 Q. BEG YOUR PARDON?

11 A. SEVERAL SHOTS.

12 Q. SEVERAL SHOTS?

13 A. YES, SIR.

14 Q. NOW IT'S SEVERAL SHOTS. TRANSLATE THAT INTO A NUMBER.
15 A COUPLE OF SHOTS IS HOW MANY?

16 A. IT'S TWO, BUT I HEARD MORE THAN TWO SHOTS.

17 Q. OKAY. ALL RIGHT. SO IT WASN'T A COUPLE OF SHOTS. WHEN
18 YOU SAID JUST A WHILE AGO IT WAS A COUPLE, YOU WAS WRONG.

19 A. YEAH. WELL, I HEARD SEVERAL SHOTS. I KNOW I HEARD
20 SEVERAL SHOTS.

21 Q. AND SEVERAL SHOTS MEANS WHAT?

22 A. BETWEEN FIVE, SIX, AND SEVEN.

23 Q. SO WHEN THIS THING WAS FRESH ON YOUR MIND AND YOU TOLD
24 THE OFFICER THAT THERE WAS THREE SHOTS, YOU WERE WRONG.

25 ISN'T THAT RIGHT?

1 A. NO, SIR. I JUST HEARD SEVERAL SHOTS. THAT'S ALL I EVER
2 SAID.

3 Q. AND THE REASON YOU TOLD THEM THAT YOU HAD HEARD THREE
4 SHOTS IS BECAUSE SOMEBODY ELSE HAD TOLD YOU THAT. ISN'T THAT
5 RIGHT, MR. MARTIN?

6 A. NO, SIR. I KNOW WHAT I HEARD.

7 Q. YOU HEARD.

8 A. I HEARD SHOTS MYSELF.

9 Q. SO YOU HEARD THREE SHOTS THAT NIGHT?

10 A. I HEARD SEVERAL SHOTS.

11 Q. YOU HEARD SEVERAL SHOTS THAT NIGHT. YOU ALSO SAID --
12 YOU SAID BEFORE THAT SHA-SHA WAS FIGHTING. IS THAT RIGHT?

13 A. NO, SIR. I NEVER SAID THAT.

14 Q. SO ON SEPTEMBER 5TH WHEN YOU TALKED TO THE POLICE
15 OFFICER AND SAID SHA-SHA WAS FIGHTING, THAT'S NOT TRUE, IS
16 IT?

17 A. I NEVER SAID HE WAS FIGHTING.

18 Q. YOU NEVER SAID THAT?

19 A. NO, SIR.

20 Q. YOU NEVER SAID SHA-SHA GIBSON, KARTEZ GIBSON, MARCUS
21 TAYLOR -- MARCUS TUCKER, BAM, AND TRAMELE -- AND THERE WERE
22 AT LEAST THREE OTHERS. THE QUESTION WAS: CAN YOU NAME THE
23 GUYS THAT WERE FIGHTING? YOU NEVER DID CALL SHA-SHA'S NAME?

24 A. NO, SIR.

25 Q. ALL RIGHT. AND YOU NEVER SAID THAT YOU SAW JACQUES WITH

1 A GUN. ISN'T THAT RIGHT?

2 A. WHO IS JACQUES?

3 Q. SHA-SHA.

4 A. NO, I NEVER DID SEE HIM WITH A GUN.

5 Q. AND YOU NEVER SAW WHO WAS SHOOTING THAT NIGHT.

6 A. NO, SIR.

7 Q. BUT YOU KNOW THAT THERE WERE MULTIPLE SHOTS, A SERIES OF
8 SHOTS. ISN'T THAT RIGHT?

9 A. YES, SIR.

10 Q. TELL THE JURY: WAS DENNIS IRBY FIGHTING?

11 A. NOT THAT I REMEMBER. I DIDN'T SEE HIM. I DIDN'T SEE
12 HIM GETTING IN WITH ANY OF THAT RIGHT THERE.

13 Q. WHERE WAS HE?

14 A. WELL, WHEN HE HAD REALIZED HE WAS SHOT, HE WAS LIKE
15 ABOUT SIX, SEVEN FEET AWAY FROM MY TRUCK.

16 Q. AGAIN, REFERRING TO STATE'S EXHIBIT NUMBER 79, WHEN YOU
17 SAY -- YOU SAID SIX OR SEVEN FEET AWAY FROM YOUR TRUCK?

18 A. YES, SIR.

19 Q. TAKE THIS HERE AND POINT OUT TO THE JURY IN WHAT
20 DIRECTION WAS HE SIX OR SEVEN FEET.

21 A. RIGHT UP HERE IN THE MIDDLE SOMEWHERE.

22 Q. HE WAS OVER IN THE MIDDLE.

23 A. YES, SIR, BETWEEN THE PARKING LOTS.

24 Q. BETWEEN WHAT?

25 A. LIKE RIGHT UP BETWEEN THAT PARKING LOT AND THAT PARKING

1 LOT---

2 THE COURT: YOU NEED TO SPEAK UP, SIR, SO THE COURT
3 REPORTER CAN HEAR YOU.

4 THE WITNESS: BETWEEN THE TWO PARKING LOTS.

5 BY MR. JOHNSON:

6 Q. BETWEEN THE TWO PARKING---

7 A. BETWEEN THE TWO -- BETWEEN -- LIKE WHERE THE TRUCK WAS
8 AT RIGHT HERE.

9 Q. UH-HUH.

10 A. HE WAS LIKE RIGHT UP IN HERE.

11 Q. OKAY. WAS ANYBODY ELSE OVER THERE?

12 A. NO, HE WAS BY HIMSELF AT THE TIME.

13 Q. HE WAS BY HIMSELF---

14 A. YES, SIR.

15 Q. ---AT THE TIME. DO YOU KNOW TRAMELE DAVIS?

16 A. YES, SIR.

17 Q. WAS HE INVOLVED IN THE FIGHT?

18 A. YES, SIR.

19 Q. DID YOU SEE WHO HE WAS FIGHTING?

20 A. I SEEN HIM PASS A LICK, ONE LICK. THAT'S ALL I SEEN.

21 Q. WHO DID HE PASS A LICK -- WHO DID HE HIT?

22 A. HE HIT RAVARIS.

23 Q. WHO?

24 A. RAVARIS.

25 Q. RAVARIS? IS THAT WHO YOU'RE SAYING?

1 A. YES, SIR.

2 MR. JOHNSON: OKAY. I HAVE NO FURTHER QUESTIONS. THANK
3 YOU SO MUCH.

4 THE COURT: REDIRECT?

5 MS. CAMPBELL: NO, SIR.

6 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR. ALL
7 RIGHT. SOLICITOR, YOUR NEXT WITNESS, PLEASE, MA'AM.

8 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
9 MELVIN DEWITT.

10 MELVIN DEWITT, AFTER BEING DULY SWORN, TESTIFIED AS
11 FOLLOWS:

12 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
13 YOUR FULL NAME ON THE RECORD, PLEASE.

14 THE WITNESS: MELVIN DEWITT. M-E-L-V-I-N D-E-W-I-T-T.

15 DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q. MR. DEWITT, WHERE ARE YOU EMPLOYED?

18 A. AT FORT JACKSON, SOUTH CAROLINA. FORT JACKSON ARMY
19 BASE.

20 Q. WHAT DO YOU DO THERE, SIR?

21 A. I'M A TRANSPORTATION INSPECTOR.

22 Q. AND ARE YOU IN THE MILITARY CURRENTLY?

23 A. NO, MA'AM, I'M RETIRED ARMY.

24 Q. AND HOW MANY YEARS DID YOU SPEND IN THE ARMY?

25 A. TWENTY-FOUR YEARS.

1 Q. HOW LONG HAVE YOU BEEN WORKING AT FORT JACKSON?

2 A. ABOUT ALMOST THREE YEARS. ON SEPTEMBER 1ST IT WILL BE
3 THREE YEARS NOW.

4 Q. SO YOU RETIRED HERE IN THE COLUMBIA AREA?

5 A. ROGER THAT. YEAH.

6 Q. I'M GOING TO TURN YOUR ATTENTION BACK TO THE EARLY
7 MORNING HOURS SOMETIME AFTER MIDNIGHT OF SEPTEMBER THE 5TH OF
8 2005. WERE YOU AT A BAR CALLED CHANCE'S THAT NIGHT, A SPORTS
9 BAR?

10 A. YES, MA'AM.

11 Q. AND WHO WERE YOU THERE WITH?

12 A. I WAS THERE BY MYSELF.

13 Q. DO YOU KNOW TORRI BOYD, RAVARIS HENRY, ANTWAN MARTIN,
14 ANTONIO SMITH, OR DENNIS IRBY?

15 A. NO, MA'AM, I DO NOT KNOW THEM.

16 Q. AND IN A MINUTE I'M GOING TO ASK YOU ABOUT THE FIGHT.
17 DID YOU KNOW ANYONE INVOLVED IN THE FIGHT?

18 A. NO, MA'AM. I DON'T KNOW THEM.

19 Q. WHILE YOU WERE IN THAT BAR -- IN THE BAR THAT NIGHT, DID
20 YOU NOTICE SOMETHING GOING ON INSIDE THE BAR?

21 A. OH, YES, MA'AM.

22 Q. AND TELL THE JURY WHAT YOU NOTICED FIRST.

23 A. WELL, I NOTICED THAT SEVERAL, YOU KNOW, YOUNG AFRICAN
24 AMERICANS WAS TALKING OR ARGUING, DEBATING ABOUT SOME THINGS,
25 AND IT JUST LEAD (SIC) OUT TO THE PARKING LOT.

1 Q. AND COULD YOU TELL HOW MANY OF THEM THERE WERE
2 APPROXIMATELY?

3 A. IT WAS ABOUT FOUR OR FIVE, MAYBE SIX.

4 Q. THAT YOU NOTICED?

5 A. THAT I NOTICED IN THE BAR.

6 Q. YOU MENTIONED THAT YOU SAW THEM ALL GO OUT INTO THE
7 PARKING LOT. WHAT DID YOU DO WHEN THEY WENT OUT INTO THE
8 PARKING LOT?

9 A. I WENT OUT IN THE PARKING LOT WITH THEM.

10 Q. AND WHY DID YOU GO OUT IN THE PARKING LOT WHEN YOU SAW
11 THAT GROUP GO OUT?

12 A. WELL, WHEN I WENT OUT INTO THE PARKING LOT I WAS GETTING
13 READY TO GET IN MY CAR UNTIL THEY -- WHEN THEY HEADED OUT TO
14 THE PARKING LOT, THEY STOPPED AND STARTED FIGHTING.

15 Q. AND WHAT PART OF THE PARKING LOT WERE THEY FIGHTING IN
16 WHEN YOU FIRST SAW THEM FIGHTING? DO YOU REMEMBER?

17 A. LIKE THE FRONT LIKE -- LIKE IN THE FRONT OR WHATEVER,
18 NOT THE FRONT FRONT BUT---

19 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 79, AND YOU
20 CAN SIT THERE AND I'LL HAND YOU THIS.

21 A. OH. THANKS.

22 Q. IF THIS IS THE FRONT DOOR OF CHANCE'S -- IT SAYS
23 "CHANGES" BUT IT'S REALLY CHANCE'S. APPROXIMATELY WHERE WERE
24 THEY WHEN YOU INITIALLY SAW THE FIGHT START?

25 A. OKAY.

1 Q. THIS IS THE SIDE PARKING LOT AND THIS IS THE MIDDLE
2 PARKING LOT.

3 A. OKAY. THE FIGHT STARTED SOMEWHERE UP IN HERE.

4 Q. UP IN THERE?

5 A. UH-HUH. UP IN---

6 Q. AND WERE THERE SEVERAL CARS PARKED IN THIS AREA?

7 A. NOT MANY BUT THERE WAS SOME CARS PARKED, YEAH.

8 Q. OKAY. AND WHEN YOU FIRST SAW THE FIGHT BREAK OUT, WHERE
9 WERE YOU - I'M SORRY - BEFORE I PUT THAT DOWN?

10 A. I WAS RIGHT AT THE DOOR THERE, RIGHT AT THE DOOR BEING
11 IN THIS AREA.

12 Q. AND WHEN IT STARTED OUT, WHAT KIND OF FIGHT WAS IT? WAS
13 IT A PHYSICAL ALTERCATION? A VERBAL ALTERCATION?

14 A. THIS WAS VERY PHYSICAL. THEY HAD A YOUNG MAN DOWN,
15 KICKING HIM AND STOMPING HIM IN HIS FACE, AND IT WAS LIKE
16 BASICALLY DOUBLE-TEAMING OF THE YOUNG MAN ON THE GROUND, ON
17 THE FLOOR.

18 Q. DID YOU SEE OTHER GROUPS OF YOUNG MEN FIGHTING, TOO?

19 A. OH, MOST DEFINITELY. IT WAS -- MAYBE IT WAS THREE
20 AGAINST FOUR OR FIVE OR SOMETHING IN THAT AREA, BUT THEY HAD
21 ONE IN PARTICULAR YOUNG MAN DOWN AND STOMPING HIM IN HIS FACE
22 AND KICKING HIM AND ALL IN HIS CHEST.

23 Q. AND WERE YOU STILL STANDING AT THE FRONT DOOR WATCHING
24 THIS GO ON?

25 A. YES, MA'AM, BECAUSE MY CAR WAS PARKED IN THAT AREA, SO I

1 JUST HAD TO WAIT THAT OVER FOR IT TO FINISH SO I COULD GET TO
2 MY CAR.

3 Q. DURING THE COURSE OF THE FIGHT, DID YOU SEE A SMALL
4 WHITE VEHICLE IN THE PARKING LOT?

5 A. YES, I NOTICED A CAR WAS -- WAS -- AFTER THE FIGHT WAS
6 ALMOST OVER. THEN IT LOOKED LIKE IT WAS LIKE DISPERSING, AND
7 THEN THE WHITE VEHICLE STARTED OFF BECAUSE THEY WERE
8 DISPERSING. EVERYBODY WAS GOING TO MY CAR -- GOING TO THEIR
9 CAR. I WAS ATTEMPTING TO GO TO MY CAR, AND THEY STARTED
10 SHOOTING.

11 Q. AND DID YOU ACTUALLY SEE PEOPLE SHOOTING?

12 A. I SEEN, LET'S SAY, THE GUNFIRE -- THE GUN -- FIRE FROM
13 THE GUN.

14 Q. OKAY.

15 A. OKAY.

16 Q. COULD YOU TELL HOW MANY GUNS WERE OUT THERE SHOOTING
17 THAT EVENING?

18 A. YES, MA'AM. THERE WAS TWO GUNS. THERE WAS TWO GUNS.

19 Q. AND WHAT AREA WERE THE GUNSHOTS COMING FROM?

20 A. LIKE THE NEXT ROW OF CARS.

21 Q. AGAIN, I SHOW YOU STATE'S EXHIBIT NUMBER 79. YOU
22 MENTIONED THE WHITE CAR. DO YOU REMEMBER WHAT AREA YOU SAW
23 IT IN?

24 A. YEAH, IN THIS AREA HERE.

25 Q. AND WHERE WERE THE GUNSHOTS COMING FROM? FROM WHAT

1 AREA?

2 A. IT WAS COMING FROM -- FROM RIGHT HERE.

3 Q. UH-HUH.

4 A. AND ONE WAS IN A CAR UP IN THIS AREA HERE.

5 Q. OKAY.

6 A. SOMEWHERE IN THERE.

7 Q. YOU'VE HAD TRAINING IN THE MILITARY?

8 A. YES, MA'AM.

9 Q. COULD YOU TELL HOW MANY DIFFERENT GUNS WERE SHOOTING
10 THAT NIGHT?

11 A. WELL, IT WAS -- IT APPEARED TO ME -- SOUNDED LIKE A NINE
12 MILLIMETER AND A .22, A LITTLE SMALLER WEAPON.

13 Q. SMALLER? THAT'S WHAT IT SOUNDED LIKE TO YOU.

14 A. YES, MA'AM.

15 Q. COULD YOU TELL HOW MANY DIFFERENT PEOPLE WERE SHOOTING?

16 A. THERE WAS TWO PEOPLE, MA'AM.

17 Q. COULD YOU TELL WHETHER OR NOT SOMEONE IN THE CAR WAS
18 INVOLVED IN THE SHOOTING OR NOT?

19 MR. ROBERSON: OBJECTION TO LEADING.

20 THE COURT: ALL RIGHT. PLEASE DO NOT LEAD YOUR WITNESS,
21 SOLICITOR.

22 MS. CAMPBELL: YES, SIR.

23 BY MS. CAMPBELL:

24 Q. COULD YOU TELL WHERE THE PEOPLE WERE WHEN THE SHOTS WERE
25 BEING FIRED?

1 A. YES, MA'AM. I COULD TELL WHERE THE PEOPLE WERE WHEN IT
2 WAS FIRED.

3 Q. AND WHERE WERE THEY?

4 A. ONE WAS IN THE CAR AND ONE WAS OUT OF THE CAR.

5 Q. AND WHERE WAS THE PERSON OUT OF THE CAR IN RELATION
6 TO -- IS IT THE WHITE CAR WE'RE TALKING ABOUT?

7 A. WE'RE TALKING ABOUT THE WHITE CAR.

8 Q. WHERE WAS THE PERSON OUTSIDE THE CAR IN RELATION TO THE
9 WHITE CAR THAT WAS IN THAT?

10 A. IT WAS IN THAT LITTLE -- I'LL JUST SHOW YOU THE DIAGRAM.
11 IT WAS---

12 Q. RIGHT WHERE YOU JUST SHOWED ME?

13 A. WHERE I JUST SHOWED YOU.

14 Q. OVER HERE?

15 A. YES, MA'AM.

16 Q. OKAY. AND COULD YOU TELL WHICH DIRECTION THEY WERE
17 SHOOTING?

18 A. THEY WERE SHOOTING TOWARD THE YOUNG MAN, THE YOUNG MAN
19 THAT WAS BEAT UP, THE GUY THAT WAS GETTING BEAT UP.

20 Q. SO WHEN YOU SAW THE SHOOTING OCCUR, DID YOU SEE HIM
21 SHOOTING UP IN THE AIR OR AT SOMEONE?

22 A. THEY WERE SHOOTING AT THE YOUNG MAN.

23 Q. AND WHILE YOU WERE THERE, DID YOU BECOME AWARE THAT
24 SOMEONE WAS ACTUALLY SHOT?

25 A. OH, YES, MA'AM.

1 Q. DID YOU WAIT AROUND AND TALK TO THE POLICE THAT MORNING?

2 A. YES, MA'AM, I SPOKE TO THE ONE POLICE INVESTIGATOR.

3 Q. DID YOU GIVE HIM YOUR PERSONAL INFORMATION THAT MORNING?

4 A. YES, MA'AM.

5 Q. HOWEVER, DID YOU GIVE THEM A STATEMENT WHERE YOU WERE
6 FORTHCOMING WITH EVERYTHING?

7 A. WELL, I GAVE -- I DIDN'T FULLY WANT TO BE INVOLVED WITH
8 IT BECAUSE, YOU KNOW, I REALLY DIDN'T WANT TO BE INVOLVED
9 WITH IT. SO I JUST GAVE THEM JUST MY BASIC INFORMATION AND A
10 BASIC STATEMENT, AND I THOUGHT THAT WAS OVER AND DONE AND
11 THEN PEOPLE STARTED CALLING -- YOU KNOW, PEOPLE STARTED
12 CALLING ME.

13 Q. AND WHAT MADE YOU CHANGE YOUR MIND AND BE FORTHCOMING
14 WITH WHAT YOU SAW THAT NIGHT?

15 A. WELL, I HEARD THAT THE VICTIM DIED AND THAT, YOU KNOW...

16 Q. YOU WERE---

17 A. NOT THE VICTIM. I MEAN, DID I SAY THAT RIGHT?

18 Q. YEAH, YOU SAID THAT RIGHT.

19 A. YEAH, THE YOUNG MAN. I HEARD THE YOUNG MAN HAD DIED
20 AND...

21 Q. AND YOU DON'T KNOW ANYONE INVOLVED IN THIS.

22 A. NO, MA'AM. I JUST MOVED HERE MAYBE TWO YEARS AGO, TWO
23 YEARS -- ABOUT THREE YEARS AGO NOW. IT'S GOING ON THREE
24 YEARS. I HAD JUST MOVED TO SOUTH CAROLINA.

25 MS. CAMPBELL: THANK YOU, SIR.

1 THE COURT: ALL RIGHT. MR. ROBERSON, CROSS-EXAMINATION?

2 MR. ROBERSON: IF YOUR HONOR PLEASE?

3 CROSS-EXAMINATION

4 BY MR. ROBERSON:

5 Q. MR. DEWITT, YOU DID GIVE A WRITTEN STATEMENT, DID YOU
6 NOT?

7 A. YES, SIR.

8 Q. DOES THAT LOOK LIKE THE STATEMENT THAT YOU GAVE?

9 A. YEAH, THIS LOOKS LIKE SOME OF THE STATEMENT, VAGUELY THE
10 STATEMENT.

11 Q. THAT'S YOUR SIGNATURE AT THE BOTTOM?

12 A. YES, SIR.

13 Q. OKAY. AND THAT'S APPROXIMATELY 13 LINES, IS IT NOT?

14 A. YES, SIR.

15 Q. OKAY. YOU JUST TESTIFIED THAT YOU SAW THREE OR FOUR
16 GUYS FIGHTING WITH ABOUT FIVE GUYS. IS THAT CORRECT?

17 A. I SAID MAYBE SIX. FOUR OR FIVE, MAYBE SIX GUYS.

18 Q. YOU JUST SAID ON DIRECT TESTIMONY FROM THIS WITNESS
19 STAND---

20 A. UH-HUH.

21 Q. ---THAT YOU SAW THREE OR FOUR GUYS JUMPING ON ABOUT FIVE
22 GUYS. DO YOU RECALL SAYING THAT?

23 A. SAYING THAT THREE GUYS... IT WAS -- YEAH, ABOUT -- IT
24 WAS FOUR GUYS -- IT WAS LIKE FOUR OF THOSE GUYS -- FOUR OR
25 FIVE OF THOSE GUYS AND IT WAS THREE OF THOSE OTHER GUYS

1 FIGHTING THE FOUR GUYS. AND IT WAS ABOUT -- AND WITHIN
2 THAT -- WITHIN THOSE GROUPS OF PEOPLE, OKAY, IT WAS -- I SEEN
3 TWO OF THEM WAS KICKING THE YOUNG MAN, TWO OF THE GUYS
4 KICKING THAT YOUNG MAN THAT PASSED AWAY.

5 Q. OKAY.

6 A. OKAY? SO...

7 Q. ARE YOU FINISHED?

8 A. YES.

9 Q. YOU DIDN'T MENTION ANYTHING ABOUT THAT PHYSICAL
10 ENCOUNTER IN THIS 13-LINE STATEMENT.

11 A. CORRECT.

12 Q. YOU ALSO TESTIFIED THAT THERE WERE TWO GUNS BEING
13 DISCHARGED THAT NIGHT.

14 A. CORRECT.

15 Q. A NINE MILLIMETER AND A .22.

16 A. CORRECT.

17 Q. DID YOU SAY ANYTHING IN THIS STATEMENT THAT NIGHT ABOUT
18 TWO GUNS BEING FIRED, A NINE MILLIMETER AND A .22?

19 A. CORRECT. THE POLICE OFFICER DID NOT ASK ME THAT. HE
20 DID NOT ASK ME HOW MANY GUNS OR HOW MANY GUYS KICKED THAT
21 YOUNG MAN. THE POLICE OFFICER DIDN'T ASK ME THAT. HE ASKED
22 ME BASIC INFORMATION: WHERE I'M FROM, WHERE I CAME FROM, YOU
23 KNOW, JUST BASIC STUFF.

24 Q. IS THAT YOUR HANDWRITING FOR THOSE 13 LINES OR IS THAT
25 THE OFFICER'S?

1 A. THAT'S THE OFFICER'S HANDWRITING.

2 Q. DID HE WRITE DOWN ANY OF THOSE QUESTIONS IN THERE THAT
3 YOU JUST SAID HE ASKED YOU, THE BASIC QUESTIONS?

4 A. THE OFFICER WROTE THOSE QUESTIONS DOWN, AND NOW HE COULD
5 HAVE WROTE DOWN SOMETHING OR DIDN'T WRITE DOWN THE RIGHT
6 INFORMATION THAT I TOLD HIM.

7 Q. DID YOU SEE ANY QUESTIONS IN THERE?

8 A. ANY QUESTIONS?

9 Q. DID YOU SEE ANY QUESTIONS IN THESE 13 LINES?

10 A. I DON'T UNDERSTAND WHAT YOU'RE SAYING.

11 Q. DO YOU SEE ANY QUESTIONS OR ANY ANSWERS IN THESE 13
12 LINES?

13 A. NO, I DON'T SEE NO QUESTIONS.

14 Q. THIS IS A NARRATIVE OF WHAT YOU WERE TELLING HIM THAT
15 HAPPENED ON THAT NIGHT. IS THAT NOT TRUE?

16 A. PRETTY MUCH A NARRATIVE.

17 Q. ARE YOU A BALLISTICS EXPERT?

18 A. NO, SIR, I'M NOT A BALLISTICS EXPERT.

19 Q. DO YOU HAVE ANY TRAINING IN BALLISTICS?

20 A. NO, SIR.

21 Q. OKAY. DISTINGUISH FOR THIS JURY THE DIFFERENCE IN THE
22 SOUND FROM A NINE MILLIMETER TO A .45 CALIBER.

23 A. IT'S A LOUD -- IT'S A LOUDER SOUND. IT'S A LOUDER SOUND
24 OF THE -- OF THE ROUND.

25 Q. TELL THIS JURY THE DIFFERENCE BETWEEN A NINE MILLIMETER

1 AND A .380.

2 A. OF A .380? IT'S A SMALLER ROUND.

3 Q. TELL THEM ABOUT THE QUALITY OF THE SOUND BECAUSE THAT'S
4 HOW YOU DETERMINED IT WAS A NINE MILLIMETER AND A .22. IS
5 THAT CORRECT?

6 A. SAY IT AGAIN.

7 Q. YOU DISTINGUISHED THE SOUND THAT YOU HEARD TO BE A NINE
8 MILLIMETER AND A .22; RIGHT?

9 A. CORRECT.

10 Q. AND YOU SAID THE WAY YOU WERE ABLE TO MAKE THAT
11 DISTINCTION IS BECAUSE ONE WAS A NINE MILLIMETER AND ONE WAS
12 A .22.

13 A. IT SOUNDED LIKE A SMALLER CALIBER, A SMALLER ROUND.

14 Q. SO YOU ARE ABLE TO DISTINGUISH THE DIFFERENCE BETWEEN
15 THE SOUND OF A .22 AND A NINE MILLIMETER.

16 A. WAS I ABLE TO DISTINGUISH?

17 Q. YOU SAID YOU DID, DIDN'T YOU?

18 A. YEAH. SIR, IT WAS A SMALL WEAPON THAT WAS FIRED. OKAY?
19 I DID NOT SEEN THE WEAPON OTHER THAN THE FIRE UPON THE WEAPON
20 AND THAT'S BASICALLY IT. I DID NOT SEE THE ROUND. I DID NOT
21 SEEN THE WEAPON ITSELF OTHER THAN THE FIRE COMING FROM THE
22 WEAPON.

23 Q. CAN YOU TELL THE DIFFERENCE BETWEEN THE SOUND OF A .44
24 CALIBER AND A NINE MILLIMETER?

25 A. NOT JUST -- I CAN'T TELL THE SOUND, NO.

1 Q. OKAY. NOW, WHEN DID YOU FIND OUT THAT THIS YOUNG MAN
2 HAD EXPIRED?

3 A. FOLLOWING THE -- THE NEXT MORNING, THE NEXT DAY.

4 Q. THE NEXT DAY. AND AT THAT TIME YOU WERE LIVING AT 208
5 WOODLAND RIDGE ROAD, COLUMBIA, SOUTH CAROLINA.

6 A. CORRECT, SIR.

7 Q. DO YOU KNOW WHERE THE RICHLAND COUNTY SHERIFF'S
8 DEPARTMENT IS?

9 A. DO I KNOW WHERE IT'S AT?

10 Q. YES, SIR.

11 A. YES, SIR.

12 Q. IT'S ON TWO NOTCH ROAD.

13 A. OKAY.

14 Q. YES, SIR. HOW FAR IS THAT FROM 208 WOODLAND RIDGE ROAD?

15 A. THE SHERIFF'S DEPARTMENT AND 208 WOODLAND RIDGE ROAD? I
16 WOULD SAY MAYBE FIVE MILES.

17 Q. FIVE MILES. BETWEEN SEPTEMBER 5, 2005, AND TODAY, HOW
18 MANY TIMES DO YOU ESTIMATE YOU PASSED THE RICHLAND COUNTY
19 SHERIFF'S DEPARTMENT?

20 A. A LOT.

21 Q. A LOT.

22 A. YES, A LOT.

23 Q. YES, SIR. AND YOU DO OWN A TELEPHONE, DON'T YOU?

24 A. I DO WHAT?

25 Q. OWN A TELEPHONE.

- 1 A. CORRECT.
- 2 Q. LAND BASED?
- 3 A. LAND BASED.
- 4 Q. AND A CELL.
- 5 A. AND A CELL, CORRECT.
- 6 Q. AND YOU DO OWN A CAR.
- 7 A. YES, I OWN A VEHICLE.
- 8 Q. OKAY. NOW, HOW MANY TIMES DID YOU PICK UP THE PHONE TO
- 9 CALL THE RICHLAND COUNTY SHERIFF'S DEPARTMENT TO TELL THEM
- 10 THE ADDITIONAL THING THAT YOU TOLD US TODAY THAT YOU DIDN'T
- 11 SAY IN THIS STATEMENT?
- 12 A. HOW LONG IN TIME WAS THAT?
- 13 Q. HOW MANY TIMES DID YOU CALL THE SHERIFF'S DEPARTMENT TO
- 14 ADD TO THE STATEMENT YOU MADE ON SEPTEMBER OF '05 TO CONFORM
- 15 TO WHAT YOU'RE TELLING THIS JURY TODAY?
- 16 A. I DIDN'T -- I NEVER CALLED THE SHERIFF'S DEPARTMENT,
- 17 SIR. WHAT'S THE QUESTION? I DON'T UNDERSTAND IT.
- 18 Q. YOU JUST ANSWERED IT. YOU NEVER CALLED, DID YOU?
- 19 A. I NEVER CALLED THE SHERIFF'S DEPARTMENT.
- 20 Q. THE MANY TIMES YOU'VE PASSED THE SHERIFF'S DEPARTMENT
- 21 YOU NEVER STOPPED BY THERE TO TELL THEM THAT I NEED TO ADD TO
- 22 THIS STATEMENT I MADE ON SEPTEMBER THE 5TH, '05, THAT WOULD
- 23 ACCURATELY DESCRIBE WHAT I SAW THAT NIGHT. NEVER DID IT, DID
- 24 YOU?
- 25 A. NO. FIRST OF ALL, I DON'T GO THAT WAY OF THE SHERIFF'S

1 DEPARTMENT.

2 Q. WELL, DIDN'T YOU JUST TESTIFY YOU PASSED IT MANY TIMES?

3 A. OH, I PASSED IT MANY TIMES IN MY TIME OF LIVING THERE AT
4 MY RESIDENCE, BUT IT'S NOT LIKE I GO THERE -- GO PAST THERE
5 EVERY DAY.

6 Q. WELL, LET'S SAY YOU WENT BY THERE EVERY OTHER DAY. YOU
7 NEVER STOPPED BY IT A SINGLE TIME.

8 A. STOPPED BY THE SHERIFF'S OFFICE?

9 Q. NO, SIR. YOU NEVER STOPPED BY THERE TO CORRECT YOUR
10 STATEMENT.

11 A. OH, NO, I -- NO, I NEVER STOPPED BY THE SHERIFF'S
12 DEPARTMENT TO CORRECT THE STATEMENT. CORRECT.

13 Q. IS YOUR MEMORY TODAY BETTER THAN IT WAS ON SEPTEMBER THE
14 5TH OF '05?

15 A. IS IT BETTER?

16 Q. YES, SIR.

17 A. IT'S THE SAME. IT'S BASICALLY THE SAME AS BEFORE.

18 Q. WHY DIDN'T YOU TELL THEM, THE INVESTIGATOR, ALL OF WHAT
19 YOU'RE TELLING US TODAY ON THE NIGHT YOU GAVE THIS STATEMENT?

20 A. BECAUSE WHEN I WAS INITIALLY GIVING THE VAGUE STATEMENT
21 TO THE FIRST INVESTIGATOR THAT I TALKED WITH, I WAS READY TO
22 GO HOME. OKAY? THAT'S THE ONE. NUMBER TWO, I DIDN'T WANT
23 TO BE PART OF IT. OKAY. THAT'S NUMBER TWO. AND WHEN I GOT
24 SUMMONSED, THEN OBVIOUSLY, YOU KNOW, I HAVE TO TELL EXACTLY
25 WHAT ALL I REMEMBER, OKAY, ABOUT THE INCIDENT.

1 Q. WHEN DID YOU GET SUMMONSED?

2 A. I DON'T KNOW THE DATE, SIR.

3 Q. TWO WEEKS AGO? THREE WEEKS AGO? A MONTH AGO?

4 A. IT WAS -- ACTUALLY IT WAS TWICE. IT WAS -- IT WAS ONCE,
5 BUT THE DATE BE CHANGING ON THE TRIAL AND ALL, SO IT WAS THE
6 SAME SUMMONS. THEY JUST CHANGED THE DATES ON THE SUMMONS;
7 THAT'S ALL.

8 Q. OKAY. WHEN YOU GOT THE SUMMONS---

9 A. UH-HUH.

10 Q. ---DID YOU CALL THE SHERIFF'S OFFICE OR DID YOU CALL THE
11 SOLICITOR'S OFFICE AND SAY, "LOOK. I GAVE A 13-LINE
12 STATEMENT. I HAVE MORE DETAILS ABOUT WHAT HAPPENED THAT
13 NIGHT, AND I NEED TO COME IN AND CORRECT MY 13-LINE
14 STATEMENT?" DID YOU DO THAT?

15 A. NO, I DIDN'T REALLY KNOW IT WAS THAT SERIOUS ABOUT WHAT
16 THE INITIAL STATEMENT VERSUS WHAT I'M SAYING NOW.

17 Q. YOU DIDN'T THINK IT WAS SERIOUS?

18 A. I DIDN'T THINK---

19 Q. IS THAT WHAT YOU SAID?

20 A. I DIDN'T THINK IT WAS REALLY THAT, YOU KNOW, DIFFERENT,
21 REALLY THAN WHAT I'M SAYING NOW.

22 Q. WELL, HOW WOULD SOMEBODY IN THE SHERIFF'S DEPARTMENT OR
23 IN THE SOLICITOR'S OFFICE KNOW THAT THERE'S A DIFFERENCE IN
24 THIS STATEMENT AND WHAT YOU HAVE IN YOUR MEMORY IF YOU DIDN'T
25 TELL THEM?

1 A. WELL, I WAS TELLING YOU WHAT MY OPINION IS OF THIS WHOLE
2 THING. I DIDN'T KNOW IT WAS THAT DIFFERENT THAN WHAT I'M
3 SAYING FROM THE STATEMENT VERSUS NOW. I'M JUST TELLING YOU
4 WHAT I COULD HEAR, WHAT I'VE SEEN, AND WHAT HAD HAPPENED.

5 Q. YOUR MEMORY AT 01:45 HOURS ON 9/05/05 WAS FOCUSED ON
6 THOSE EVENTS THAT YOU HAD JUST WITNESSED. IS THAT NOT TRUE?

7 A. THAT'S TRUE, BUT LET ME GIVE YOU SOME MORE DETAILS.
8 OKAY?

9 Q. OH, YOU'VE GOT SOME MORE?

10 A. OH, YES. OKAY? FIRST OF ALL, THE INCIDENT HAPPENED
11 AROUND ABOUT 12 -- BETWEEN 12:30 AND 1:00. OKAY? I DIDN'T
12 SPEAK TO THAT PRIVATE INVESTIGATOR UNTIL AROUND ABOUT MAYBE 3
13 OR 4:00 IN THE MORNING.

14 Q. THEN HE'S WRONG WHEN HE PUT DOWN HERE IT IS 01:45 HOURS?

15 A. IT APPEARED TO ME THAT IT WAS LATER WHEN I SPOKE TO THE
16 GUY.

17 Q. DO YOU REMEMBER THE GUY'S NAME YOU SPOKE WITH?

18 A. NO, I DON'T REMEMBER THE GUY. IT JUST SEEMED LIKE A
19 LONG PERIOD OF TIME.

20 Q. DO YOU SEE HIM HERE IN THE COURTROOM?

21 A. THAT NIGHT?

22 Q. THE GUY THAT YOU SPOKE TO THAT NIGHT THAT YOU SAY IT WAS
23 THREE OR FOUR HOURS LATER.

24 A. IT APPEARED TO ME IT WAS THREE OR FOUR HOURS LATER.

25 Q. OKAY.

1 A. ARE YOU TALKING ABOUT THE INCIDENT WHEN THE INCIDENT
2 STARTED 'TIL I STARTED TALKING TO THE INVESTIGATOR? BECAUSE
3 A LONG PERIOD OF TIME HAD ELAPSED FROM WHEN THE INCIDENT
4 ACTUALLY HAPPENED TO -- 'TIL THE PRIVATE INVESTIGATORS CAME
5 TO THE SCENE. THAT'S WHAT WE'RE TALKING ABOUT.

6 Q. ARE YOU TALKING THERE WERE HOURS BETWEEN THE TIME THE
7 INCIDENT HAPPENED AND THE TIME THE INVESTIGATORS GOT THERE
8 AND STARTED TALKING TO PEOPLE?

9 A. WHEN IT WAS MY TURN. WHEN IT WAS MY TURN TO TALK.
10 OKAY? BECAUSE I WASN'T THE ONLY ONE THAT WAS TALKING TO THE
11 PRIVATE INVESTIGATORS. SEVERAL PEOPLE WAS TALKING TO THE
12 PRIVATE INVESTIGATORS, SO I FINALLY GOT AROUND TO TALKING TO
13 THEM. IT LOOKED LIKE WHEN THE INCIDENT -- WHEN THE INCIDENT
14 STARTED TO -- WHEN I GOT AROUND TO TALKING TO THE PRIVATE
15 INVESTIGATOR, IT JUST SEEMED LIKE LATER BEFORE -- WHEN I WAS
16 GOING THROUGH THAT, I WAS TIRED OF EVEN TALKING ABOUT THE
17 SITUATION. I WAS READY TO GO HOME. IT SEEMED LIKE IT WAS
18 MAYBE TWO OR THREE, BUT MAYBE IT WASN'T.

19 Q. OKAY. YOU READ THIS STATEMENT BEFORE YOU SIGNED IT.

20 A. CORRECT.

21 Q. HE GAVE YOU THIS ENTIRE SHEET OF PAPER. DID HE ASK YOU
22 TO READ IT BEFORE YOU SIGNED IT?

23 A. I READ IT, BUT I REALLY DIDN'T READ IT BECAUSE I HAD
24 READ IT ALL.

25 Q. WAS THERE ANYTHING BLANK UP THERE WHEN YOU READ THIS

1 STATEMENT BEFORE YOU SIGNED IT?

2 A. NO.

3 Q. NO. IT WAS COMPLETELY FILLED OUT.

4 A. CORRECT.

5 Q. OKAY. SO THEN AGAIN YOU GAVE THIS STATEMENT AT 01:45
6 HOURS THAT NIGHT.

7 A. UH-HUH.

8 Q. AND THAT WAS ALMOST IMMEDIATELY AFTER THESE SERIES OF
9 EVENTS TOOK PLACE.

10 A. CORRECT, MAYBE AN HOUR OR SO, A COUPLE OF HOURS MAYBE.

11 Q. AND THOSE EXCITED EVENTS---

12 A. OKAY.

13 Q. ---WAS FRESH IN YOUR MIND AT THAT TIME.

14 A. IT WAS FRESH IN MY MIND, BUT I WAS MORE FOCUSED ON GOING
15 TO THE HOUSE AND DON'T BE A PART OF THIS.

16 Q. YOU WERE MORE FOCUSED ON GOING TO THE HOUSE AND YOU HAD
17 JUST HEARD A .22 CALIBER AND NINE MILLIMETER GUN FIRED.

18 A. YEAH, A .22 CALIBER AND A NINE MILLIMETER, CORRECT.

19 Q. AND YOU THOUGHT IT WAS MORE IMPORTANT THAT YOU GO HOME
20 THAN TO TELL THESE INVESTIGATORS ABOUT YOU HEARING A NINE
21 MILLIMETER AND A .22 CALIBER GUN FIRED ON THAT NIGHT.

22 A. CORRECT. WELL, HE DIDN'T ASK ME WHAT TYPE OF WEAPON IT
23 WAS, SIR, WHEN HE WAS TALKING TO ME. HE DIDN'T ASK ME, "DO
24 YOU KNOW WHAT TYPE OF WEAPON IT WAS?" HE DIDN'T ASK ME HOW
25 MANY -- HE DIDN'T ASK ME THOSE THINGS.

1 Q. BUT YOU WERE TELLING HIM WHAT HAPPENED, DIDN'T YOU?

2 A. I WAS TELLING HIM WHAT HAPPENED, BUT I WAS VERY VAGUE
3 WITH IT BECAUSE I WAS READY TO GO HOME AND DIDN'T WANT TO BE
4 A PART OF IT.

5 Q. HE DIDN'T KNOW WHAT WAS IN YOUR MIND; RIGHT?

6 A. CORRECT.

7 Q. THAT'S WHY HE ASKED YOU TO TELL WHAT HAPPENED.

8 A. AND I WAS VERY VAGUE WITH IT BECAUSE I WAS READY TO GO
9 HOME AT THAT TIME.

10 MR. ROBERSON: I HAVE NOTHING FURTHER, YOUR HONOR.

11 THE COURT: MR. JOHNSON?

12 MR. JOHNSON: THANK YOU, YOUR HONOR.

13 CROSS-EXAMINATION

14 BY MR. JOHNSON:

15 Q. MR. DEWITT, WHEN YOU WERE ANXIOUS TO GET HOME THAT NIGHT
16 ON SEPTEMBER 5TH, IT WAS ABOUT 1:20 IN THE MORNING?

17 A. I DON'T UNDERSTAND THE QUESTION, SIR.

18 Q. I WAS ASKING YOU WHAT TIME IN THE MORNING THAT YOU GAVE
19 THIS STATEMENT.

20 A. WHAT TIME I GAVE THE STATEMENT?

21 Q. TO THE POLICE, YES, SIR.

22 A. WELL, ON THE REPORT IT SAYS 1:45.

23 Q. 1:45? IS THAT ACCURATE?

24 A. YES, I WOULD ASSUME IT IS ACCURATE BECAUSE THE PRIVATE
25 INVESTIGATOR WROTE IT DOWN. IT JUST SEEMED TO ME I WAS TIRED

1 FROM TALKING ABOUT IT, DIDN'T WANT TO BE A PART OF IT. IT
2 JUST SEEMED LIKE IT WAS A LITTLE LATER, BUT IT PROBABLY
3 WASN'T BECAUSE HE PUT THE TIME DOWN THERE.

4 Q. AND YOU HAD BEEN DRINKING THAT NIGHT.

5 A. WAS I DRINKING THAT NIGHT?

6 Q. YES, SIR.

7 A. YES, I WAS, SIR.

8 Q. WHAT WERE YOU DRINKING? BEER OR SOME SHOTS?

9 A. I WAS DRINKING BEER, SIR.

10 Q. AND YOU WERE CONCERNED ABOUT BEING ARRESTED FOR PUBLIC
11 DRUNKENNESS. IS THAT NOT CORRECT?

12 A. I WAS WHAT NOW?

13 Q. YOU WERE CONCERNED ABOUT BEING ARRESTED FOR BEING DRUNK.

14 A. NO, I WASN'T CONCERNED ABOUT BEING ARRESTED FOR BEING
15 DRUNK BECAUSE I DON'T DRINK THAT MUCH TO BE DRUNK, SIR.

16 Q. HOW MUCH DID YOU DRINK THAT NIGHT?

17 A. PROBABLY ABOUT -- ABOUT THREE BEERS.

18 Q. JUST ABOUT THREE BEERS.

19 A. YEAH, ABOUT THREE BEERS. YEAH.

20 Q. ALL RIGHT, SIR. AND YOU WERE INSIDE THE CLUB. ISN'T
21 THAT CORRECT?

22 A. YES, SIR.

23 Q. WHEN THE FIGHT GOT STARTED.

24 A. YES, SIR.

25 Q. AND YOU CAME OUT TOWARD THE FIGHT. ISN'T THAT RIGHT?

1 A. CORRECT.

2 Q. AND YOU DIDN'T GET INVOLVED IN THE FIGHT, DID YOU?

3 A. NO, SIR.

4 Q. AND SOMEONE TOLD YOU THERE WAS A FIGHT OUTSIDE. THAT'S
5 WHAT GOT YOUR ATTENTION. ISN'T THAT RIGHT?

6 A. SOMEONE TOLD ME THERE WAS A FIGHT OUTSIDE?

7 Q. YES, SIR.

8 A. NO, NOBODY TOLD ME A FIGHT WAS OUTSIDE.

9 Q. DO YOU REMEMBER TELLING THE OFFICER THAT NIGHT THAT
10 SOMEONE MENTIONED THERE WAS A FIGHT OUTSIDE IN THE PARKING
11 LOT?

12 A. WHEN I SEEN THE PEOPLE WALKING TOWARD THE DOOR, THAT'S
13 WHEN I WALKED.

14 Q. THAT'S NOT MY QUESTION.

15 A. OKAY.

16 Q. MY QUESTION TO YOU IS: DID YOU TELL THE INVESTIGATOR
17 THE NIGHT OF SEPTEMBER 5TH AT 1:45 IN THE MORNING THAT
18 SOMEONE MENTIONED THERE WAS A FIGHT OUTSIDE IN THE PARKING
19 LOT? DID YOU TELL THE OFFICER THAT, SIR?

20 A. THAT I TOLD HIM -- I DON'T REMEMBER, SIR.

21 Q. DID YOU TELL THE OFFICER THAT NIGHT, "I WALKED OUTSIDE
22 AND I SAW SIX TO EIGHT BLACK MALES IN THEIR LATE TEENS OR
23 EARLY TWENTIES"?

24 A. THERE WERE SEVERAL -- REPEAT THE QUESTION, SIR.

25 Q. I'M ASKING YOU ON SEPTEMBER 5TH---

1 A. OKAY.

2 Q. ---2005, DID YOU TELL THE INVESTIGATING POLICE OFFICER,
3 "I WALKED OUTSIDE AND I SAW SIX TO EIGHT BLACK MALES IN THEIR
4 LATE TEENS OR EARLY TWENTIES"? YES OR NO.

5 A. YES, SIR.

6 Q. ALL RIGHT, SIR. DID YOU ALSO TELL THEM THAT "I HEARD
7 TWO POPS"?

8 A. TWO POPS FROM BOTH WEAPONS, SIR.

9 Q. I'M ASKING YOU: DID YOU TELL HIM THERE'S TWO POPS THAT
10 NIGHT? YOU DIDN'T SAY ANYTHING ABOUT TWO DIFFERENT WEAPONS.

11 A. TWO DIFFERENT WEAPONS.

12 Q. SIR?

13 A. SAY THAT AGAIN.

14 Q. SIR, I'M ASKING YOU ON THAT NIGHT DID YOU TELL THE
15 POLICE OFFICER THAT YOU HEARD TWO POPS?

16 A. I TOLD HIM I SEEN -- I HAD HEARD TWO POPS FROM TWO
17 DIFFERENT WEAPONS. NOW, IF HE DIDN'T WROTE THAT DOWN, THAT'S
18 NOT MY FAULT, SIR.

19 Q. BUT YOU SIGNED YOUR NAME VERIFYING THAT IT WAS TRUE.
20 ISN'T THAT RIGHT?

21 A. YES, I DID. I SIGNED IT BECAUSE I WAS READY TO GO HOME
22 AND JUST TIRED OF IT.

23 Q. ARE YOU READY TO GO HOME THIS AFTERNOON?

24 A. SIR?

25 Q. MY QUESTION TO YOU: ARE YOU READY TO GO HOME THIS

1 AFTERNOON? YES, SIR, OR NO, SIR?

2 MS. CAMPBELL: OBJECTION, YOUR HONOR, HIS TONE.

3 THE COURT: SUSTAINED, MR. JOHNSON. ALL RIGHT, SIR.

4 YOU CAN ANSWER THE QUESTION IF YOU CAN. YOU MAY ALSO EXPLAIN
5 YOUR ANSWER IF YOU CHOOSE TO DO SO. THANK YOU.

6 THE WITNESS: NO, SIR, I'M NOT READY TO GO HOME.

7 BY MR. JOHNSON:

8 Q. DID YOU TELL THE OFFICER, "I HEARD TWO POPS, ONE AFTER
9 ANOTHER, WHICH WERE GUNSHOTS," ON SEPTEMBER 5TH, 2005?

10 A. I TOLD THE OFFICER THAT I HEARD TWO POPS FROM EACH
11 WEAPON, SIR. NOW, IF HE DIDN'T WRITE THAT DOWN OR IF I -- I
12 DIDN'T READ THE WHOLE STATEMENT WHEN I SIGNED IT, SIR.

13 Q. SO THAT NIGHT YOU TOLD HIM THAT YOU HEARD TWO POPS FROM
14 TWO DIFFERENT WEAPONS. IS THAT WHAT YOU JUST SAID?

15 A. THAT'S WHAT I TOLD HIM. THAT'S WHAT I -- THAT'S WHAT I
16 HEARD, SIR.

17 Q. ALL RIGHT, SIR. SO THAT'S FOUR GUNSHOTS YOU HEARD THAT
18 NIGHT.

19 A. TWO POPS FROM TWO DIFFERENT WEAPONS, CORRECT.

20 Q. SIR?

21 A. TWO POPS FROM TWO DIFFERENT WEAPONS.

22 Q. TWO POPS FROM TWO DIFFERENT WEAPONS AND HE JUST DIDN'T
23 WRITE THAT DOWN.

24 A. NO, HE DIDN'T WRITE -- YES, SIR, I SEEN THE STATEMENT A
25 FEW SECONDS AGO AND YOU'RE RIGHT. HE DIDN'T WRITE THAT DOWN.

1 Q. OKAY. YOU SAW YOUR STATEMENT.

2 A. YES. IT WAS TWO DIFFERENT WEAPONS, SIR. "

3 Q. OKAY. IT WAS TWO DIFFERENT WEAPONS WITH TWO -- WITH TWO
4 POPS FROM EACH.

5 A. YEAH.

6 Q. AND HE DIDN'T WRITE THAT DOWN. AND THEN YOU SAY, "I
7 KNEW THEY WERE GUNSHOTS BECAUSE I'M IN THE MILITARY AND HAVE
8 HEARD GUNSHOTS BEFORE." ISN'T THAT TRUE?

9 A. YES, SIR.

10 Q. "AND AFTER I HEARD THE GUNSHOTS, I RAN BACK INTO
11 CHANCE'S." IS THAT TRUE?

12 A. WHEN -- WHEN -- THAT'S -- SAY THAT AGAIN.

13 Q. "AFTER I HEARD THE GUNSHOTS, I RAN INTO CHANCE'S."

14 A. YES. WHEN I HEARD THE GUNSHOTS, I WENT BACK IN FOR A
15 MINUTE AND THEN I CAME BACK OUT.

16 Q. WHAT DID YOU DO WHEN YOU CAME BACK OUT?

17 A. WHAT DO YOU MEAN WHAT I DID? I JUST...

18 Q. WHAT DID YOU DO? WHERE DID YOU GO?

19 A. I STOOD UP. I WAS ON THE SIDEWALK WITH OTHER PEOPLE.

20 Q. YOU STOOD ON THE SIDEWALK. DID YOU EVER LEAVE?

21 A. AFTER -- AFTER I GOT THROUGH TALKING TO THE PRIVATE
22 INVESTIGATOR, THEN I LEFT.

23 Q. ALL RIGHT. NOW, THAT WAS ON SEPTEMBER 5TH, 2005, ALMOST
24 TWO YEARS AGO; RIGHT?

25 A. OKAY. YEAH.

1 Q. AND I BELIEVE I UNDERSTOOD YOU TO SAY THAT YOU GOT A
2 SUMMONS TO COME TO COURT SOMETIME IN AUGUST AND IT WAS
3 POSTPONED?

4 A. YEAH. YES. THE DATE -- I THINK THE DATE ON THE SUMMONS
5 WAS CHANGED, SO I GOT ANOTHER ONE.

6 Q. SO YOU GOT A NOTICE SEVERAL MONTHS AGO TO COME TO COURT,
7 AND THEN YOU GOT ANOTHER ONE TO COME TO COURT. IS THAT
8 CORRECT?

9 A. CORRECT, SIR.

10 Q. AND WHEN YOU GOT THE SUMMONS THE FIRST TIME, YOU DIDN'T
11 GO TO THE SHERIFF'S DEPARTMENT AND TELL THEM WHAT YOU'RE
12 TELLING THIS JURY TODAY. ISN'T THAT TRUE?

13 A. NO, SIR.

14 Q. AND YOU SAID WHAT CHANGED YOUR MIND WAS THAT YOU LEARNED
15 THAT THERE HAD BEEN A DEATH AND YOU LEARNED THAT THE DAY
16 AFTER THIS INCIDENT. ISN'T THAT TRUE?

17 A. I LEARNED THAT THE DAY AFTER, CORRECT.

18 Q. AND YOU DIDN'T GO TO THE POLICE OR ANYBODY ELSE TO TELL
19 -- TO TELL THEM WHAT YOU'RE TELLING THIS JURY TODAY. ISN'T
20 THAT TRUE?

21 A. THAT'S TRUE, SIR, BUT AFTER THE -- AFTER THE DEATH,
22 OKAY, AFTER THE DEATH, AFTER THE YOUNG MAN PASSED AWAY, OKAY,
23 THE PRIVATE INVESTIGATOR HAD OBVIOUSLY MY STATEMENT AND
24 EVERYBODY ELSE'S STATEMENT, SO THAT'S WHEN THE SUMMONS
25 STARTED COMING AROUND AND THEY STARTED CONTACTING US. OKAY?

1 SO...

2 Q. OKAY. AND WHEN THEY CONTACTED YOU---

3 A. OKAY.

4 Q. ---DID YOU COME IN AND TELL THEM WHAT YOU'RE TELLING US
5 TODAY? YOU DIDN'T DO THAT, DID YOU?

6 A. YES, I DID. I TOLD THEM---

7 Q. TELL THE JURY WHEN YOU TOLD THEM FOR THE FIRST TIME.

8 A. WHEN I TOLD WHO FOR THE FIRST TIME?

9 Q. ISN'T IT TRUE, MR. DEWITT, THE FIRST TIME YOU TOLD
10 ANYBODY WHAT YOU'RE TELLING THIS JURY TODAY WAS LAST FRIDAY?

11 A. NO. I TOLD THEM WHEN I -- WHEN I FIRST GOT SUMMONSED,
12 THE INITIAL TIME, THE FIRST TIME, I TOLD HIM EXACTLY WHAT I'M
13 TELLING YOU NOW.

14 Q. AND WHO DID YOU TELL THAT TO, SIR?

15 A. TO -- TO THE GUY RIGHT THERE.

16 Q. WHAT GUY RIGHT THERE?

17 A. RIGHT THERE.

18 Q. MR. LAKE?

19 A. YEAH.

20 Q. AND THAT WASN'T LAST FRIDAY?

21 A. THAT -- I MISSPOKE AGAIN. FRIDAY, THIS PAST FRIDAY, I
22 SPOKE TO HIM.

23 Q. LAST FRIDAY YOU SPOKE TO HIM AND YOU TOLD HIM WHAT
24 YOU'RE TELLING THIS JURY TODAY. IS THAT RIGHT?

25 A. YES.

1 Q. BUT YOU HAD TOLD HIM THAT BEFORE LAST FRIDAY?

2 A. HIM AND I SPOKE A TIME BEFORE LAST FRIDAY.

3 Q. WHEN WAS THAT, SIR?

4 A. I DON'T REMEMBER THE DATE.

5 Q. AND WHAT DID YOU TELL HIM ON THAT OCCASION?

6 A. I TOLD HIM -- DO YOU WANT ME TO LOOK AT THE JURY AND
7 TELL THEM OR DO YOU WANT ME TO LOOK AT YOU?

8 Q. DOESN'T MAKE ANY DIFFERENCE.

9 A. YOU SAID LOOK AT THEM. I DIDN'T KNOW.

10 Q. I DIDN'T SAY LOOK AT THEM. YOU JUST TELL ME---

11 A. YOU SAID TELL THIS JURY. YOU SAID TELL THE JURY.

12 Q. ALL RIGHT. TELL THE JURY WHAT YOU TOLD HIM THE FIRST
13 TIME WHEN YOU TALKED TO MR. LAKE.

14 A. WHICH PART OF IT? ALL OF IT?

15 Q. THE WHOLE THING. WHAT YOU'RE TELLING US TODAY, IS THAT
16 WHAT YOU TOLD MR. LAKE THAT FIRST TIME?

17 A. YES.

18 Q. AND YOU TOLD HIM THE FIRST TIME, AND WHEN WAS THAT?
19 THAT'S IMPORTANT TO US. WHEN DID YOU---

20 A. WELL, SEE, I DON'T REMEMBER THE DATE. I DIDN'T WRITE IT
21 DOWN.

22 Q. WAS IT A WEEK AGO OR TWO WEEKS AGO OR THREE WEEKS AGO?

23 A. I DON'T REMEMBER THE DATE, SIR.

24 Q. DID YOU WRITE IT DOWN?

25 A. DID I WRITE THE DATE DOWN?

1 Q. RIGHT.

2 A. NO, SIR, I DIDN'T WRITE THE DATE DOWN.

3 Q. SO SEVERAL WEEKS AGO---

4 A. IT WAS MONTHS.

5 Q. SEVERAL MONTHS AGO---

6 A. YES, SIR.

7 Q. ---YOU TOLD MR. LAKE AND LAST FRIDAY YOU TOLD MR. LAKE
8 THAT, "I SAW THE GUNFIRE," BUT YOU DIDN'T TELL THEM THAT ON
9 SEPTEMBER 5TH, 2005. ISN'T THAT RIGHT?

10 A. CORRECT.

11 Q. YOU'VE BEEN TELLING THE JURY TODAY YOU SAW THE GUNFIRE.

12 A. I SEEN THE GUNFIRE; CORRECT.

13 Q. AND SEVERAL WEEKS AGO AND LAST FRIDAY -- TELL THE JURY
14 WHY YOU CAME UP HERE LAST FRIDAY TO MEET WITH MR. LAKE.

15 A. WELL, I WAS TOLD TO COME UP HERE TO TALK ABOUT THE CASE.

16 Q. WHO TOLD YOU TO COME UP HERE?

17 A. WHAT DO YOU MEAN BY WHO TOLD ME TO COME UP HERE? THE
18 DISTRICT ATTORNEY.

19 Q. WHO COMMUNICATED WITH YOU TO COME UP HERE TO THE
20 COURTHOUSE?

21 A. I DON'T KNOW HER NAME. THE LADY RIGHT THERE.

22 Q. AND SO---

23 A. I MEANT THE SUMMONS -- WAS THE SUMMONS AND I WAS TOLD TO
24 COME IN. I DON'T REMEMBER -- I DON'T REMEMBER THE PERSON'S
25 NAME WHO TOLD ME TO COME UP HERE, BUT I WAS TOLD TO COME UP

- 1 HERE LAST FRIDAY TO GO OVER -- TO TALK.
- 2 Q. TO GO OVER YOUR TESTIMONY?
- 3 A. SAY THAT AGAIN.
- 4 Q. TO GO OVER YOUR TESTIMONY?
- 5 A. NO, NO. WHAT I SEEN.
- 6 Q. WHAT YOU SEEN.
- 7 A. AND HEARD.
- 8 Q. AND WAS THAT WRITTEN DOWN ANYWHERE LIKE IT WAS WRITTEN
- 9 ON SEPTEMBER THE 5TH?
- 10 A. I'M NOT SURE IF THEY WROTE IT DOWN OR NOT.
- 11 Q. AND THEN YOU'RE TELLING -- YOU TOLD MR. LAKE TWO WEEKS
- 12 AGO AND TOLD THIS JURY TODAY IT SOUNDED LIKE A .22 CALIBER
- 13 AND A NINE MILLIMETER.
- 14 A. CORRECT.
- 15 Q. AND THEN YOU SAID IT SOUNDED LIKE TWO PEOPLE WERE
- 16 SHOOTING.
- 17 A. IT WAS TWO PEOPLE SHOOTING, SIR.
- 18 Q. ALL RIGHT. SHOW US ON STATE'S EXHIBIT NUMBER 79 WHERE
- 19 THOSE TWO PEOPLE WERE.
- 20 A. OKAY. THERE WAS A PERSON HERE.
- 21 Q. THAT'S THE SHOOTER.
- 22 A. YES, THAT'S ONE OF THE SHOOTERS OUTSIDE THE CAR AND THEN
- 23 ONE WAS INSIDE THE CAR.
- 24 Q. WAIT A MINUTE NOW. ONE WAS---
- 25 A. IT APPEARED -- IT APPEARED TO ME THE GUY WAS UP --

1 SOMEWHERE UP IN HERE.

2 Q. THAT WAS DOING THE SHOOTING?

3 A. ONE GUY WAS DOING THE SHOOTING OUTSIDE.

4 Q. NOW, WAS THAT THE .22 OR THE NINE MILLIMETER?

5 A. I DON'T KNOW, SIR. IT WAS A GUN.

6 Q. IT WAS A GUN.

7 A. OKAY?

8 Q. BUT YOU SAID YOU KNEW THE DIFFERENCE.

9 A. IT WAS A GUN, SIR.

10 Q. IT WAS A GUN.

11 A. IT WAS ONE OF THEM. I JUST HEARD THE SHOOTING. I

12 DIDN'T SEE THE WEAPON. OKAY? THERE'S A DIFFERENCE.

13 Q. UH-HUH.

14 A. OKAY. AND THE GUY WAS INSIDE THE CAR SHOOTING.

15 Q. OKAY.

16 A. ONE WAS INSIDE THE CAR SHOOTING AND ONE WAS OUTSIDE THE

17 CAR SHOOTING, PROBABLY HERE.

18 Q. AND WHERE WAS THE MAN WHOM YOU SAY THEY WERE SHOOTING AT

19 WHO WAS BEING BEAT UP?

20 A. THIS RIGHT HERE. HE WAS RIGHT HERE WHEN -- THEY STARTED

21 THE FIGHT UP IN HERE, AND THE GUY GOT SHOT UP IN HERE. IT

22 WAS ALMOST THE SAME PLACE UP IN HERE.

23 Q. ALMOST THE SAME PLACE.

24 A. JUST ABOUT THE SAME PLACE, THE FIGHTING AND THE

25 SHOOTING.

1 Q. AND SO YOU COULD SEE BOTH OF THESE PEOPLE SHOOTING IN
2 THAT DIRECTION.

3 A. CORRECT.

4 Q. NOW, WASN'T IT DARK OUT THERE, MR. DEWITT?

5 A. IT WAS DARK, SIR.

6 Q. AND SO YOU HAD THE ABILITY TO SEE WHO PEOPLE FIRE THE
7 GUNS IN THE DARKNESS?

8 A. YES, SIR. WHEN A WEAPON GOES OFF, YOU SEE THE FIRE.
9 YOU -- YOU HEAR IT AND YOU SEE THE FIRE. THAT'S ABOUT IT.

10 Q. OKAY. DO YOU KNOW WHICH ONE WAS FIRED FIRST?

11 A. NO, SIR. THEY WENT OFF LIKE SIMULTANEOUSLY.

12 Q. SIMULTANEOUSLY. AND YOU TOLD MR. LAKE THAT TWO WEEKS
13 AGO AND LAST FRIDAY?

14 A. YES, SIR. AS WELL AS I REMEMBER, THAT'S WHAT I SAID.

15 Q. OKAY. AND TWO POPS FROM EACH GUN.

16 A. YES, THERE WAS TWO -- IT APPEARED TO ME THERE WAS TWO
17 ROUNDS ON EACH -- EACH WEAPON. BOTH OF THEM WAS FIRING.

18 Q. OKAY.

19 A. THERE WAS TWO WEAPONS, AND BOTH WEAPONS WAS FIRING.

20 Q. AND YOU DID NOT SEE WHO WAS FIRING THE GUNS; RIGHT?

21 A. LIKE, YOU KNOW, IT WAS DARK OUT THERE.

22 Q. IT WAS DARK OUT THERE. AND WHAT'S THE CONSEQUENCES OF
23 IT BEING DARK OUT THERE?

24 A. YOU CAN SEE FIRE BUT NOT THE FACES.

25 Q. BUT YOU COULDN'T SEE FACES.

1 A. YOU CAN SEE THE FIRE COMING FROM THE WEAPON. OKAY. BUT
2 YOU -- I COULDN'T SEE -- I COULDN'T IDENTIFY THEM BECAUSE IT
3 WAS DARK OUT THERE.

4 Q. AND BECAUSE IT WAS DARK OUT THERE, YOU COULD SEE ALL THE
5 WAY ACROSS THE PARKING LOT. THE PARKING LOT. YOU WERE UP
6 HERE NEAR CHANCE'S, AND YOU COULD SEE ALL THE WAY DOWN THERE
7 WHERE THIS YOUNG MAN YOU SAY WAS BEING KICKED AND THESE TWO
8 PEOPLE ON THIS SIDE OF THE PARKING LOT SHOOTING. YOU COULD
9 SEE ALL OF THAT.

10 A. OH, YES, SIR. HAVE YOU EVER BEEN TO CHANCE'S?

11 Q. I HAVEN'T HAD THE PLEASURE YET.

12 A. OKAY. IF YOU GO TO THE PARKING LOT, YOU'LL NOTICE IT'S
13 NOT THAT FAR AWAY.

14 Q. I HAVE BEEN THERE, SIR.

15 A. OKAY. IT'S NOT THAT FAR AWAY. IT'S REALLY CLOSE.

16 Q. THAT'S YOUR OPINION THAT IT'S NOT VERY FAR AWAY.

17 A. FROM THE SHOOTING AND THE FIGHTING, IT WASN'T THAT FAR
18 AWAY FROM THE DOOR. FROM THE DOOR.

19 Q. ALL RIGHT, SIR. THANK YOU SO MUCH FOR COMING.

20 A. ALL RIGHT.

21 THE COURT: SOLICITOR, REDIRECT?

22 MS. CAMPBELL: NO, SIR.

23 THE COURT: YOU MAY STEP DOWN, SIR. ALL RIGHT. NEXT
24 WITNESS, SOLICITOR.

25 MR. LAKE: WE WOULD CALL LAKISHA DAVIS.

1 LAKISHA DAVIS, AFTER BEING DULY SWORN, TESTIFIED AS
2 FOLLOWS:

3 THE CLERK: HAVE A SEAT ON THE WITNESS STAND AND STATE
4 YOUR FULL NAME FOR THE RECORD, PLEASE.

5 COURT REPORTER: AND SPELL YOUR FIRST NAME.

6 THE WITNESS: YES, MA'AM. LAKISHA. L-A-K-I-S-H-A.
7 DAVIS.

8 DIRECT EXAMINATION

9 BY MR. LAKE:

10 Q. MS. DAVIS, HOW ARE YOU DOING TODAY?

11 A. I'M FINE.

12 Q. DO YOU KNOW WHY YOU'RE HERE?

13 A. YES, SIR.

14 Q. DO YOU MIND GIVING THE JURY A LITTLE BACKGROUND IN TERMS
15 OF WHERE YOU'RE FROM, ORIGINALLY FROM?

16 A. I'M FROM RIDGEWAY, SOUTH CAROLINA.

17 Q. AND HOW LONG HAVE YOU LIVED IN RIDGEWAY?

18 A. TWENTY YEARS.

19 Q. DO YOU STILL RESIDE THERE?

20 A. I STAY IN WILLIAMSBURG.

21 Q. YOU STAY IN WILLIAMSBURG NOW? BACK IN 2005 DID YOU STAY
22 IN RIDGEWAY?

23 A. NO, SIR.

24 Q. WHEN DID YOU ACTUALLY MOVE FROM RIDGEWAY TO
25 WILLIAMSBURG?

1 A. ABOUT SIX YEARS AGO.

2 Q. TELL THE JURY HOW YOU KNOW DEMETRIC DAVIS AND TRAMELE
3 DAVIS.

4 A. THEY'RE MY FIRST COUSINS.

5 Q. AND WHAT IS DEMETRIC KNOWN AS?

6 A. BAM.

7 Q. WHAT'S HIS NICKNAME?

8 A. BAM.

9 Q. AND HOW DO YOU KNOW MARCUS TUCKER?

10 A. JUST A FRIEND OF THE FAMILY.

11 Q. AND HOW LONG HAVE YOU KNOWN THOSE PARTICULAR THREE
12 PEOPLE?

13 A. ALL MY LIFE.

14 Q. AND WHAT ABOUT KARTEZ GIBSON?

15 A. ABOUT ALL MY LIFE.

16 Q. AND---

17 MR. ROBERSON: I DIDN'T HEAR THAT.

18 THE COURT: ANSWER THE QUESTION AGAIN, PLEASE, MA'AM.

19 THE WITNESS: ALL MY LIFE.

20 MR. ROBERSON: OKAY.

21 BY MR. LAKE:

22 Q. AND WHAT ABOUT JACQUES GIBSON?

23 A. ALL MY LIFE.

24 Q. WHAT ABOUT VERNON DAVIS?

25 A. ALL MY LIFE.

1 Q. HOW DO YOU KNOW VERNON DAVIS?

2 A. OH, HE'S MY COUSIN.

3 Q. FIRST COUSIN? SECOND COUSIN?

4 A. FIRST COUSIN.

5 Q. AND WHAT IS VERNON KNOWN AS? WHAT'S HIS NICKNAME?

6 A. DUWOP.

7 Q. AND WHAT ABOUT JACQUES? WHAT IS HIS NICKNAME?

8 A. SHA-SHA.

9 Q. OKAY. AND DO YOU KNOW STEPHON WILLINGHAM?

10 A. YES.

11 Q. AND HOW DO YOU KNOW HIM?

12 A. FRIEND OF THE FAMILY.

13 Q. AND WHAT IS HE KNOWN BY?

14 A. FAT MAN.

15 Q. THAT PARTICULAR NIGHT -- I'M GOING TO TAKE YOU TO THE
16 EVENING OF SEPTEMBER THE 5TH, 2005. WOULD YOU TELL THE JURY
17 WHERE YOU WERE PRIOR TO GOING TO CHANCE'S SPORTS BAR?

18 A. I WAS AT MY GRANDMOTHER'S HOUSE.

19 Q. AND WHO WAS WITH YOU THERE?

20 A. ME AND MY COUSINS, MY AUNTS.

21 Q. OF THOSE INDIVIDUALS THAT I JUST NAMED, WHICH ONE OF
22 THESE INDIVIDUALS WAS PRESENT AT YOUR GRANDMOTHER'S HOUSE?

23 A. BAM AND TRAMELE.

24 Q. BAM AND TRAMELE? HOW OFTEN DID YOU HANG OUT WITH THOSE
25 GUYS?

1 A. NOT VERY OFTEN.

2 Q. WHAT'S THE RELATIONSHIP -- DO YOU HAVE A CLOSE
3 RELATIONSHIP WITH THESE INDIVIDUALS?

4 A. THEY'RE FAMILY.

5 Q. OKAY. AND DO YOU KNOW TORRI BOYD?

6 A. YES.

7 Q. HOW DO YOU KNOW TORRI BOYD?

8 A. WE WENT TO SCHOOL TOGETHER.

9 Q. AND HOW LONG DID YOU KNOW HIM? OVER WHAT TIME PERIOD?

10 A. LIKE SIX YEARS.

11 Q. OKAY. WHAT ABOUT RAVARIS HENRY?

12 A. I DON'T KNOW HIM.

13 Q. DO YOU KNOW ANTWAN MARTIN?

14 A. NO.

15 Q. WHAT ABOUT ANTONIO SMITH?

16 A. NO.

17 Q. DO YOU KNOW YO-YO?

18 A. YES.

19 Q. OKAY. DO YOU KNOW WHAT YO-YO'S REAL NAME IS?

20 A. NO.

21 Q. OKAY. BUT YOU JUST KNOW WHO YO-YO IS.

22 A. YES.

23 Q. DO YOU KNOW WHO B. IS?

24 A. NO.

25 Q. DO YOU KNOW WHO DENNIS IRBY IS?

- 1 A. NO.
- 2 Q. ON THAT PARTICULAR EVENING WHO WENT TO CHANCE'S SPORTS
- 3 BAR?
- 4 A. ME, BAM, AND KARTEZ.
- 5 Q. YOU, BAM, AND KARTEZ?
- 6 A. YES.
- 7 Q. WERE Y'ALL THE ONLY ONES IN THE VEHICLE?
- 8 A. YES.
- 9 Q. AND WHAT ABOUT MARCUS TUCKER?
- 10 A. NO.
- 11 Q. WHAT ABOUT TRAMELE, YOUR COUSIN?
- 12 A. NO.
- 13 Q. AND WHERE DID YOU -- WHERE WAS MARCUS AND TRAMELE AT AT
- 14 THIS PARTICULAR TIME?
- 15 A. I DON'T KNOW.
- 16 Q. YOU DON'T KNOW?
- 17 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)
- 18 Q. DID YOU EVER SEE THEM THAT PARTICULAR NIGHT?
- 19 A. I SAW THEM IN CHANCE'S, YES.
- 20 Q. OKAY. DO YOU KNOW HOW THEY GOT TO CHANCE'S?
- 21 A. NO.
- 22 Q. ALL RIGHT. THEY DIDN'T GO WITH YOU.
- 23 A. THEY DIDN'T GO WITH ME.
- 24 Q. HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH ADAMS
- 25 GIBSON?

1 A. WE'RE FRIENDS.

2 Q. DID Y'ALL DATE?

3 A. NO.

4 Q. DID YOU HAVE ANY TYPE OF RELATIONSHIP TOGETHER OR
5 ANYTHING LIKE THAT?

6 A. WE'RE FRIENDS.

7 Q. DID HE EVER LIKE YOU IN A ROMANTIC WAY?

8 A. NO.

9 MR. ROBERSON: OBJECTION, YOUR HONOR.

10 THE COURT: I'M GOING TO ALLOW IT. YOU MAY PROCEED.
11 BY MR. LAKE:

12 Q. WHEN YOU GET TO THE CLUB, IS MARCUS AND TRAMELE ALREADY
13 THERE?

14 A. NO, THEY CAME SHORTLY AFTER WE DID.

15 Q. OKAY. AND HOW DID THEY KNOW YOU WERE THERE?

16 A. I THINK THEY CALLED BAM ON THE PHONE, AND BAM TOLD THEM
17 WE WAS HEADING TO THE BOWLING ALLEY. WELL, WE ALL MET AT THE
18 BOWLING ALLEY AND THEN CAME SHORTLY AFTER WE GET TO CHANCE'S.

19 Q. OKAY. AND WHAT TYPE OF VEHICLE WERE THEY DRIVING IN?

20 A. I'M NOT SURE.

21 Q. OKAY. AND WHAT HAPPENS ONCE Y'ALL ACTUALLY GET INTO
22 CHANCE'S? WHO DO YOU SEE UPON GETTING INTO CHANCE'S?

23 A. I SAW TORRI AND THE BOYS WHO WAS WITH HIM.

24 Q. AND THROUGHOUT ALL THOSE BOYS, WHICH ONES DID YOU KNOW?

25 A. JUST TORRI AND YO-YO.

1 Q. TORRI AND YO-YO?

2 A. (WITNESS NODDED HEAD UP AND DOWN.)

3 Q. WHAT HAPPENS AS Y'ALL ARE INSIDE THE BAR?

4 A. WE WAS AT THE BAR AND THEY WAS OVER BY THE JUKE BOX AND
5 NOTHING REALLY... THEY WAS TALK -- I MEAN, THEY WAS TALKING
6 AMONGST THEM AND WE WAS TALKING, AND ONE OF THE BOYS CAME
7 OVER AND STARTED TALKING TO TRAMELE.

8 Q. SO HAD THERE BEEN ANY PROBLEMS THEN?

9 A. NO. HE CAME OVER TO TALK TO TRAMELE.

10 Q. OKAY. DO YOU RECALL AT ANY POINT GOING TO THE JUKE BOX
11 SPECIFICALLY TO PUT SOME MUSIC IN IT?

12 A. NO.

13 Q. SO YOU NEVER WENT TO THE JUKE BOX?

14 A. I NEVER WENT TO THE JUKE BOX.

15 Q. DO YOU EVER RECALL A TIME WHEN KARTEZ CAME AND
16 CONFRONTED YOU ABOUT BEING AT THAT JUKE BOX?

17 A. NO.

18 Q. DID YOU EVER TALK TO TORRI BOYD AT THAT JUKE BOX?

19 A. NO.

20 Q. DID HE EVER SAY ANYTHING TO YOU ABOUT, "DON'T PUT YOUR
21 MONEY IN THERE? THERE'S NO GOOD MONEY"?

22 MR. JOHNSON: OBJECTION, YOUR HONOR. OBJECTION TO THE
23 LEADING QUESTIONS.

24 THE WITNESS: NO.

25 MR. JOHNSON: HE'S ON DIRECT.

1 THE COURT: SOLICITOR, DO NOT LEAD YOUR WITNESS. THANK
2 YOU VERY MUCH.

3 MR. LAKE: THANK YOU, YOUR HONOR.

4 BY MR. LAKE:

5 Q. LET ME ASK YOU A QUESTION. WHAT, IF ANY, CONVERSATIONS
6 DID YOU HAVE WITH TORRI BOYD THAT PARTICULAR NIGHT?

7 A. I JUST SPOKE.

8 Q. YOU JUST SPOKE? THAT WAS IT?

9 A. (WITNESS NODDED HEAD UP AND DOWN.)

10 Q. DID YOU EVER SEE ANY CONFRONTATIONS BETWEEN EITHER
11 TORRI, DEMETRIC, OR KARTEZ WHILE Y'ALL ARE INSIDE THE BAR?

12 A. NO.

13 MR. ROBERSON: OBJECTION, YOUR HONOR. SHE NEVER SAID
14 SHE SAW A CONFRONTATION BETWEEN THEM.

15 THE COURT: I'M GOING TO ALLOW IT. THANK YOU VERY MUCH.
16 BY MR. LAKE:

17 Q. WHAT, IF ANYTHING -- ANY TYPE OF DISAGREEMENTS DID YOU
18 SEE INSIDE THE CLUB?

19 A. I DIDN'T SEE ANY.

20 Q. YOU DIDN'T SEE ANY?

21 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)

22 Q. HOW LONG WERE YOU IN THE CLUB?

23 A. LIKE 20, 30 MINUTES THAT I WAS IN CHANCE'S.

24 Q. AND WHAT TIME DO YOU RECALL THAT Y'ALL GOT THERE?

25 A. I DON'T REMEMBER.

1 Q. YOU DON'T REMEMBER WHAT TIME?

2 A. WHATEVER TIME THE BOWLING ALLEY CLOSED, THAT'S WHAT TIME
3 WE GOT TO CHANCE'S BECAUSE THAT'S WHY WE COULDN'T GET INTO
4 THE BOWLING ALLEY BECAUSE IT WAS CLOSED.

5 Q. OKAY. AND WHAT ARE YOU DOING THIS ENTIRE TIME WHILE
6 YOU'RE INSIDE CHANCE'S?

7 A. NOTHING. I WAS GOING TO ORDER FOOD, BUT THEY STOPPED
8 SERVING. SO THAT'S WHY I LEFT CHANCE'S IN ANOTHER 20 OR 30
9 MINUTES AND -- I ONLY STAYED THERE 20 TO 30 MINUTES AND I
10 WENT TO THE WAFFLE HOUSE.

11 Q. YOU SAY YOU WENT TO THE WAFFLE HOUSE. WHERE IS THIS
12 WAFFLE HOUSE AT?

13 A. LIKE RIGHT DOWN THE ROAD. IT'S WALKING DISTANCE. IT
14 WAS RIGHT BY IT ACTUALLY.

15 Q. AND HOW LONG WERE YOU GONE?

16 A. LIKE 30 -- ABOUT 30 MINUTES.

17 Q. AND WHAT, IF ANYTHING -- WHAT HAPPENS AFTER YOU RETURN?
18 AT WHAT POINT DO YOU RETURN?

19 A. I RETURN AFTER 30 MINUTES BECAUSE THEY WAS TAKING TOO
20 LONG WITH THE FOOD, AND I WAS LETTING BAM AND THEM KNOW THAT
21 I WAS STILL OVER TO THE WAFFLE HOUSE AND I'LL RETURN BACK.

22 Q. SO PRIOR TO YOU GOING TO THE WAFFLE HOUSE, WHO ALL DID
23 YOU LET KNOW THAT YOU WERE GOING TO THE WAFFLE HOUSE THEN?

24 A. I LET BAM AND THEM KNOW THAT I WAS WALKING TO THE WAFFLE
25 HOUSE. BAM.

1 Q. HOW ELSE?

2 A. WELL, EVERYBODY WAS TALKING -- I'M TALKING ABOUT THAT
3 I'M WALKING TO THE WAFFLE HOUSE TO GET SOMETHING TO EAT. SO
4 WHOEVER WAS SITTING BY ME KNEW I WAS GOING TO THE WAFFLE
5 HOUSE.

6 Q. AND DID YOU -- OUT OF THAT PARTY RIGHT THERE, WHO ALL IN
7 THIS PARTICULAR PARTY KNOWS THAT YOU'RE GOING TO THE WAFFLE
8 HOUSE THEN?

9 A. PROBABLY BAM. PROBABLY JUST BAM.

10 Q. PROBABLY JUST BAM?

11 A. YES.

12 Q. AND WHERE IS KARTEZ AT THIS PARTICULAR POINT?

13 A. OFF JUST SITTING AT THE BAR.

14 Q. BUT HE DIDN'T HEAR IT?

15 A. I DON'T KNOW IF HE HEARD IT OR NOT. I MEAN, I JUST SAID
16 IN GENERAL I MIGHT WALK TO THE WAFFLE HOUSE, SO HE MAY HAVE.

17 Q. WHAT, IF ANY, RESPONSES DID YOU GET FROM ANY OF THE GUYS
18 THAT WERE THERE?

19 A. BAM SAID, "OKAY."

20 Q. OKAY.

21 A. BECAUSE THEY KNEW THAT I WOULD NEED FOOD.

22 Q. SO AT LEAST ONE PERSON KNEW WHERE YOU WERE AT.

23 A. AT LEAST ONE PERSON KNEW, YES.

24 Q. AND WHAT HAPPENS WHEN YOU RETURN?

25 A. WHEN I RETURNED, THEY WAS ALL OUTSIDE.

- 1 Q. WHEN YOU SAID THEY, WHO IS THEY?
- 2 A. EVERYBODY WHO WAS IN THE CLUB. BAM AND ALL OF THEM WAS
- 3 OUTSIDE, AN TORRI AND ALL OF THEM WAS OUTSIDE.
- 4 Q. AND WHAT DO YOU OBSERVE?
- 5 A. THEY WAS FUSSING.
- 6 Q. WHEN YOU SAY FUSSING, DESCRIBE TO THE JURY THE TYPE OF
- 7 LANGUAGE, THE VOLUME OF THE CONVERSATION THAT THEY'RE HAVING.
- 8 A. YELLING.
- 9 Q. AND WHO IS -- WHO IS MAINLY YELLING?
- 10 A. EVERYBODY.
- 11 Q. AND WHAT DO YOU DO NEXT?
- 12 A. I TOLD BAM, "COME ON. LET'S GET IN THE CAR."
- 13 Q. AND DOES BAM, IN FACT, GET IN THE CAR WITH YOU?
- 14 A. NO.
- 15 Q. WHAT DO YOU DO NEXT?
- 16 A. I TOLD YO-YO TO HELP ME GET BAM IN THE CAR.
- 17 Q. AND YO-YO WOULD BE ANTONIO SMITH. CORRECT?
- 18 A. I DON'T KNOW.
- 19 Q. OKAY. SO YOU TOLD YO-YO TO HELP YOU OUT. WAS YO-YO
- 20 INVOLVED IN ANY OF THAT ALTERCATION GOING ON WITH ANY OF
- 21 THOSE INDIVIDUALS?
- 22 A. HE WAS STANDING BESIDE BAM. HE -- NO, HE WASN'T.
- 23 Q. SO YOU KNOW FOR A FACT THAT HE WASN'T INVOLVED.
- 24 A. NO, NOT THAT I RECALL.
- 25 Q. AND WHAT DID HE DO TO TRY TO ASSIST YOU IN TERMS OF---

1 A. NOTHING.

2 Q. ---STOPPING THIS ALTERCATION?

3 A. NOTHING.

4 Q. SO HE DIDN'T DO NOTHING.

5 A. NO.

6 Q. OKAY. WHAT HAPPENS AFTER THAT? WHAT DO YOU DO NEXT?

7 A. I WENT IN MY CAR.

8 Q. AND WHO GOES WITH YOU TO YOUR CAR?

9 A. I WENT BY MYSELF.

10 Q. AND JUST KIND OF USING THIS DIAGRAM -- I'LL GIVE YOU THE

11 POINTER. DESCRIBE TO THE JURY -- THIS IS THE FRONT OF THE

12 SPORT CHANCE'S BAR. EXACTLY WHERE IS THAT WAFFLE HOUSE THAT

13 YOU REFERRED TO JUST A MOMENT AGO?

14 A. WHERE IS CHANCE'S? RIGHT HERE.

15 Q. THIS IS CHANCE'S RIGHT HERE.

16 A. THE WAFFLE HOUSE IS -- WHERE IS TWO NOTCH? RIGHT HERE.

17 SO THE WAFFLE HOUSE HAS GOT TO BE LIKE RIGHT HERE BECAUSE YOU

18 HAVE TO CROSS THE STREET.

19 Q. SO YOU HAD TO WALK ACROSS THE STREET?

20 A. YES.

21 Q. OKAY. AND WHEN YOU CAME BACK UP, WHERE ARE ALL THESE

22 INDIVIDUALS?

23 A. THIS IS CHANCE'S. LIKE RIGHT -- THIS IS THE FRONT.

24 ABOUT RIGHT HERE.

25 Q. IN THAT AREA?

- 1 A. YES.
- 2 Q. AND ARE YOU SURE THAT THEY WERE RIGHT THERE?
- 3 A. IN FRONT OF CHANCE'S KIND OF. IN THE PARKING LOT LIKE
- 4 IN FRONT OF CHANCE'S. YES.
- 5 Q. IN THIS PARKING LOT YOU KNOW EXACTLY WHERE THEY ARE OR
- 6 YOU REALLY DON'T KNOW?
- 7 A. MY CAR WAS PARKED---
- 8 Q. WHERE WAS---
- 9 A. IT WAS RIGHT HERE.
- 10 Q. ---YOUR CAR AT?
- 11 A. RIGHT HERE.
- 12 Q. ARE YOU SURE OF THAT?
- 13 A. YES.
- 14 Q. OKAY. AND WHERE WAS THE OTHER GUYS? WHERE ARE THEY
- 15 ARGUING AT?
- 16 A. BACK HERE.
- 17 Q. BACK THERE?
- 18 A. UH-HUH.
- 19 Q. AND WHERE IS KARTEZ AT THIS PARTICULAR POINT?
- 20 A. WHEN? WHEN THEY'RE ARGUING AND FUSSING?
- 21 Q. YES.
- 22 A. HE WAS -- I THINK HE WAS AROUND IN A GROUP. I'M NOT
- 23 SURE.
- 24 Q. AND WHERE IS SHA-SHA AT THIS PARTICULAR POINT?
- 25 A. I NEVER SEEN SHA-SHA.

1 Q. YOU NEVER SAW SHA-SHA?

2 A. NEVER SAW SHA-SHA.

3 Q. DID YOU SEE SHA-SHA AT ANY POINT THAT NIGHT AT ALL?

4 A. NO.

5 Q. NEVER SAW SHA-SHA?

6 A. NEVER SAW SHA-SHA.

7 Q. YOU'RE A HUNDRED PERCENT SURE YOU NEVER SAW---

8 MR. JOHNSON: OBJECTION, YOUR HONOR.

9 THE WITNESS: I'M A HUNDRED PERCENT SURE I NEVER SAW---

10 MR. JOHNSON: OBJECTION, YOUR HONOR. ASKED AND ANSWERED
11 REPEATEDLY.

12 THE COURT: SUSTAINED. LET'S MOVE ALONG, SOLICITOR.

13 BY MR. LAKE:

14 Q. WHAT ABOUT VERNON DAVIS?

15 A. I NEVER SAW VERNON.

16 Q. DID YOU SEE HIM AT ANY POINT THAT ENTIRE NIGHT?

17 A. NO, SIR.

18 Q. WHAT ABOUT STEPHON WILLINGHAM? DID YOU SEE HIM AT ANY
19 POINT THAT ENTIRE NIGHT?

20 A. NO, SIR.

21 Q. ARE YOU FAMILIAR WITH A WHITE ESCORT?

22 A. I SEEN THEM ON THE ROAD.

23 Q. ARE YOU SAYING -- WHO ARE YOU SEEING IN THAT WHITE
24 ESCORT?

25 A. WHEN?

- 1 Q. WHO DO YOU KNOW HAS A WHITE ESCORT?
- 2 A. MY OLD ROOMMATE KENYETTA (PHONETIC) HAD A WHITE ESCORT.
- 3 Q. HAVE YOU EVER SEEN KARTEZ GIBSON IN A WHITE ESCORT?
- 4 A. WHEN?
- 5 Q. HAVE YOU EVER SEEN HIM AT ANY POINT IN A WHITE ESCORT?
- 6 A. YES.
- 7 Q. HOW MANY TIMES HAVE YOU SEEN HIM IN A WHITE ESCORT?
- 8 A. I DON'T KNOW.
- 9 Q. YOU DON'T KNOW?
- 10 A. A FEW TIMES.
- 11 Q. AT WHAT POINT DO YOU HEAR SHOTS FIRED?
- 12 A. WHEN I WAS IN MY CAR.
- 13 Q. WHEN YOU HEAR THE SHOTS FIRED, WHO WAS IN THE CAR WITH
- 14 YOU?
- 15 A. I'M IN THE CAR BY MYSELF.
- 16 Q. NO ONE ELSE IS IN THERE.
- 17 A. NO, SIR.
- 18 Q. ARE YOU SURE OF THAT?
- 19 A. POSITIVE.
- 20 Q. DID YOU SEE ANYONE IN PARTICULAR FIGHTING OUT THERE?
- 21 A. YES.
- 22 Q. WHO IS -- SPECIFICALLY WHO DO YOU SEE FIGHTING?
- 23 A. BAM AND TORRI AND TRAMELE AND A BIGGER GUY. I DON'T
- 24 KNOW WHO THAT IS.
- 25 Q. SO WHEN YOU SAY TORRI---

- 1 A. TORRI AND DEMETRIC.
- 2 Q. THIS WOULD BE YOUR COUSIN; CORRECT?
- 3 A. YES.
- 4 Q. DID YOU SEE EITHER ONE OF THOSE GUYS WITH A GUN?
- 5 A. NO, SIR.
- 6 Q. DID YOU SEE EITHER ONE OF THOSE GUYS FIRE A GUN?
- 7 A. NO, SIR.
- 8 Q. WHERE IS KARTEZ?
- 9 A. HE WAS STANDING OUTSIDE.
- 10 Q. BY WHAT?
- 11 A. I THINK BY THE FIGHT.
- 12 Q. DID YOU EVER SEE HIM IN A FIGHT?
- 13 A. I NEVER SAW HIM FIGHTING; NO, SIR.
- 14 Q. HOW MANY GUNSHOTS WOULD YOU ESTIMATE THAT YOU HEARD?
- 15 A. I THINK TWO.
- 16 Q. WHAT HAPPENS AFTER SHOTS ARE FIRED?
- 17 A. EVERYBODY WAS RUNNING. BAM, KARTEZ, AND TRAMELE JUMPED
- 18 IN MY CAR.
- 19 Q. AND WHAT ABOUT MARCUS TUCKER?
- 20 A. I DON'T REMEMBER MARCUS JUMPING IN MY CAR.
- 21 Q. YOU DON'T REMEMBER MARCUS AT ALL IN YOUR CAR?
- 22 A. I DON'T -- I DON'T REMEMBER. I DON'T REMEMBER IF HE
- 23 JUMPED IN. I JUST KNOW BAM, KARTEZ, AND TRAMELE -- I KNOW
- 24 THEY GOT IN MY CAR.
- 25 Q. AND WHAT DID YOU DO AFTER THAT?

- 1 A. I LEFT.
- 2 Q. HOW DID YOU LEAVE THE SCENE?
- 3 A. WHAT DO YOU MEAN HOW DID I LEAVE THE SCENE?
- 4 Q. HOW DID YOU LEAVE THE SCENE? WHAT'S YOUR RATE OF SPEED
- 5 WHEN YOU LEFT THE SCENE?
- 6 A. FAST.
- 7 Q. WHY DID YOU LEAVE THE SCENE FAST?
- 8 A. BECAUSE I HEARD GUNSHOTS.
- 9 Q. I WANT TO SHOW YOU THIS, MA'AM, ONE MORE TIME. HOW DID
- 10 YOU ACTUALLY COME TO CHANCE'S SPORTS BAR? WHICH WAY -- WHICH
- 11 DIRECTION DID YOU COME?
- 12 A. HOW DID I ARRIVE AT CHANCE'S---
- 13 Q. YES.
- 14 A. ---WHEN I FIRST GOT THERE? UP TWO NOTCH. I WENT THE
- 15 BACK WAY.
- 16 Q. THE BACK WAY?
- 17 A. YES.
- 18 Q. HOW DID YOU RETURN?
- 19 A. THE BACK WAY.
- 20 Q. SO YOU DIDN'T USE THE INTERSTATE?
- 21 A. NO, SIR.
- 22 Q. NEVER USED THE INTERSTATE TO COME---
- 23 A. NO, SIR.
- 24 Q. ---TO---
- 25 MR. ROBERSON: OBJECTION, YOUR HONOR. SHE DIDN'T SAY

1 THAT. THAT'S NOT RESPONSIVE.

2 THE COURT: I'M GOING TO ALLOW IT. YOU GO AHEAD AND ASK
3 YOUR, SOLICITOR, AND I'LL ALLOW THE ANSWERS. GO AHEAD.

4 BY MR. LAKE:

5 Q. DO YOU RECALL -- WELL, LET ME ASK YOU A QUESTION. HOW
6 OFTEN WOULD YOU COME TO RIDGEWAY OR WINNSBORO TO COLUMBIA?

7 A. IT DEPENDS ON---

8 MR. JOHNSON: RELEVANCE, YOUR HONOR.

9 THE WITNESS: ---WHERE I'M GOING AT IN COLUMBIA.

10 THE COURT: EXCUSE ME?

11 MR. JOHNSON: RELEVANCE.

12 THE COURT: I'M GOING TO ALLOW IT.

13 THE WITNESS: IT DEPENDS ON WHERE I'M GOING AT IN
14 COLUMBIA.

15 BY MR. LAKE:

16 Q. HOW DO YOU TYPICALLY COME TO COLUMBIA?

17 A. IT DEPENDS ON WHERE I'M GOING AT IN COLUMBIA.

18 Q. ISN'T IT TRUE THAT YOU TYPICALLY COME UP INTERSTATE 77?

19 MR. JOHNSON: LEADING QUESTION, YOUR HONOR.

20 THE COURT: DON'T LEAD YOUR WITNESS, SOLICITOR.

21 MR. LAKE: YES, SIR.

22 MR. JOHNSON: YOUR HONOR---

23 THE COURT: I UNDERSTAND YOUR OBJECTION, MR. JOHNSON, AS
24 TO RELEVANCE.

25 MR. JOHNSON: I KNOW.

1 THE COURT: I'M GOING TO ALLOW IT.

2 BY MR. LAKE:

3 Q. JUST A FEW MORE QUESTIONS, MS. DAVIS.

4 A. YOU'RE FINE.

5 Q. YOU INDICATED YOU WENT THE BACK WAY HOME?

6 A. I DID.

7 Q. WERE YOU TRAVELING FAST THE ENTIRE TIME?

8 A. NO.

9 Q. AT WHAT POINT DID YOU SLOW DOWN?

10 A. ONCE I GOT OFF TWO NOTCH.

11 Q. ONCE YOU GOT OFF TWO NOTCH?

12 A. (WITNESS NODDED HEAD UP AND DOWN.)

13 Q. AND WHERE DID YOU GO AFTER THAT?

14 A. TO MY GRANDMOTHER'S HOUSE.

15 Q. AND WHO WENT WITH YOU THERE?

16 A. ME, BAM, KARTEZ, AND TRAMELE.

17 Q. AND DO YOU SEE MARCUS TUCKER THERE AT THAT TIME?

18 A. NO.

19 Q. MARCUS TUCKER - DOES HE EVER COME TO THE LOCATION WHERE
20 YOU WERE AT?

21 A. ONCE I HAD PARKED AT MY GRANDMOTHER'S HOUSE, I GOT IN MY
22 CAR AND THEN LEFT. I DIDN'T SEE ANYMORE -- I MEAN, ANYONE
23 ANYMORE THAT NIGHT.

24 Q. DID Y'ALL TALK ABOUT WHAT HAPPENED?

25 A. NO.

1 Q. NONE OF Y'ALL TALKED ABOUT WHAT HAPPENED ON THE WAY
2 DRIVING BACK TO WINNSBORO?

3 A. NO.

4 Q. HAVE YOU EVER TALKED ABOUT IT SINCE THEN?

5 A. NO.

6 Q. YOU DIDN'T TALK ABOUT IT WITH YOUR COUSIN DEMETRIC?

7 A. NO.

8 Q. BAM?

9 A. NO.

10 Q. WHAT ABOUT WITH DUWOP?

11 A. I HAVEN'T SEEN DUWOP.

12 MR. LAKE: BEG THE COURT'S INDULGENCE.

13 THE COURT: YES, SIR.

14 BY MR. LAKE:

15 Q. WHAT, IF ANYTHING, DO YOU RECALL TRAMELE DOING AS Y'ALL
16 ARE DRIVING BACK TO WINNSBORO?

17 A. HE THREW UP.

18 Q. HE THREW UP WHERE?

19 A. IN MY CAR. NOT WINNSBORO. RIDGEWAY.

20 Q. RIDGEWAY?

21 A. YES.

22 Q. AND YOU'RE FRIENDS -- YOU ARE FRIENDS WITH THESE PEOPLE,
23 AREN'T YOU?

24 A. YES.

25 Q. YOU CARE ABOUT THEM, DON'T YOU?

1 MR. JOHNSON: OBJECTION, YOUR HONOR.

2 THE COURT: SUSTAINED.

3 MR. JOHNSON: YOUR HONOR, THIS IS HIS WITNESS.

4 THE COURT: SUSTAINED.

5 MR. LAKE: NO FURTHER QUESTIONS, YOUR HONOR.

6 THE COURT: ALL RIGHT. CROSS-EXAMINATION, MR. ROBERSON.

7 MR. ROBERSON: IF YOUR HONOR PLEASE?

8 CROSS-EXAMINATION

9 BY MR. ROBERSON:

10 Q. HOW ARE YOU DOING TODAY?

11 A. I'M GOOD. HOW ARE YOU?

12 Q. THERE HAD BEEN A DEATH IN YOUR FAMILY ABOUT THIS TIME.

13 IS THAT NOT CORRECT?

14 A. YES.

15 Q. AND PART OF YOUR RECOVERING FROM THE GRIEF ON THIS DAY

16 WAS TO GET OUT OF WINNSBORO AND COME TO COLUMBIA.

17 A. YES.

18 Q. AND YOUR ORIGINAL PLANS WERE TO GO TO THE BOWLING ALLEY.

19 A. YES.

20 Q. AND SOMETIME DURING THE COURSE OF THE DAY YOU DID, IN

21 FACT, RUN INTO KARTEZ AND I THINK HE WAS WITH ONE OF HIS

22 LITTLE BOYS?

23 A. YES.

24 Q. AND IT IS AT THAT POINT IN TIME YOU ASKED KARTEZ TO RIDE

25 TO COLUMBIA WITH YOU AND THESE OTHER PEOPLE TO THE BOWLING

1 CENTER.

2 A. YES.

3 Q. WHAT KIND OF CAR WERE YOU DRIVING?

4 A. A BURGUNDY ALTIMA.

5 Q. A BURGUNDY ALTIMA?

6 A. YES.

7 Q. DO YOU REMEMBER HOW KARTEZ WAS DRESSED ON THAT NIGHT?

8 A. HE HAD ON A WHITE TEE SHIRT AND BLUE JEANS.

9 Q. OKAY. ON THE RIDE FROM RIDGEWAY TO COLUMBIA, DID YOU
10 EVER SEE KARTEZ WITH A GUN?

11 A. NO, SIR, I DIDN'T.

12 Q. WAS THERE EVER ANY DISCUSSION OF A GUN?

13 A. NO, SIR.

14 Q. AFTER THE SHOOTING AND YOU GATHERED BACK IN YOUR CAR, IT
15 WAS WHO? YOU?

16 A. ME, BAM, TRAMELE, AND KARTEZ.

17 Q. OKAY. DID YOU SEE KARTEZ WITH A GUN AT THAT POINT?

18 A. NO, SIR, I DIDN'T.

19 Q. WAS THERE EVER ANY DISCUSSION ABOUT A GUN?

20 A. NO, SIR, THERE WASN'T.

21 Q. DID YOU EVER SEE KARTEZ FIGHTING THAT NIGHT?

22 A. NO, SIR, I DIDN'T.

23 Q. DID YOU EVER SEE A CONFRONTATION BETWEEN -- BEG THE
24 COURT'S INDULGENCE FOR A MINUTE, YOUR HONOR.

25 THE COURT: YES, SIR.

1 BY MR. ROBERSON:

2 Q. DID YOU EVER SEE A VERBAL DISPUTE BETWEEN TORRI BOYD AND
3 KARTEZ ABOUT HIM TELLING YOU NOT TO PUT THE MONEY IN A JUKE
4 BOX OR A C.D.?

5 A. NO, SIR.

6 Q. DID TORRI BOYD EVER TELL YOU NOT TO PUT YOUR MONEY IN A
7 C.D.?

8 A. NO, SIR.

9 Q. DID YOU EVER ATTEMPT TO PUT YOUR MONEY IN A C.D. ON THAT
10 NIGHT?

11 A. NO, SIR.

12 MR. ROBERSON: I DON'T HAVE ANYTHING FURTHER, YOUR
13 HONOR.

14 THE COURT: MR. JOHNSON?

15 MR. JOHNSON: NO QUESTIONS OF THIS WITNESS. THANK YOU,
16 YOUR HONOR.

17 THE COURT: ALL RIGHT, SIR. ANY REDIRECT ON THOSE
18 PARTICULAR QUESTIONS ASKED BY MR. ROBERSON?

19 MR. LAKE: NOTHING FROM THE STATE, YOUR HONOR.

20 THE COURT: YOU MAY STEP DOWN.

21 MR. LAKE: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

22 THE COURT: ANY OBJECTION, MR. ROBERSON?

23 MR. ROBERSON: YOUR HONOR, I'D JUST LIKE A CONTACT
24 NUMBER FOR HER.

25 THE COURT: ALL RIGHT. SOLICITOR, DO YOU HAVE THAT?

1 MR. LAKE: YES, SIR.

2 THE COURT: ALL RIGHT. IF YOU'LL GIVE IT TO THE
3 DEFENSE. AND, MA'AM, YOU'RE NOT RELEASED FROM YOUR SUBPOENA.

4 THE WITNESS: OH, I'M SORRY.

5 THE COURT: YOU MAY LEAVE AND YOU'RE FREE TO GO, BUT
6 YOU'RE NOT RELEASED FROM YOUR SUBPOENA. YOU'RE SUBJECT TO
7 BEING CALLED BACK. DO YOU UNDERSTAND THAT?

8 THE WITNESS: YES, SIR.

9 THE COURT: THANK YOU VERY MUCH. ALL RIGHT. LADIES AND
10 GENTLEMEN, WE'RE GOING TO TAKE A SHORT BREAK FOR ABOUT 10
11 MINUTES. GO TO YOUR JURY ROOM. WE'LL COME BACK AND CONTINUE
12 ON WITH THE CASE. EVERYONE ELSE REMAIN SEATED, PLEASE.

13 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 3:33
14 P.M.)

15 THE COURT: ALL RIGHT. WE'LL BE AT EASE FOR ABOUT 10
16 MINUTES. THANK YOU VERY MUCH.

17 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

18 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
19 THANK Y'ALL. STATE READY TO PROCEED WITH ITS NEXT WITNESS?

20 MS. CAMPBELL: THE STATE'S READY, YOUR HONOR. THE NEXT
21 WITNESS IS ONE OF THE ONES THAT WAS CHARGED WITH BREACH OF
22 PEACE. I'VE SPOKEN WITH MR. JOHNSON, AND WE WOULD BE GOING
23 INTO -- HE DIDN'T ASK THAT WE GO INTO HOW MUCH TIME THAT
24 CARRIES, BUT I NEED TO CHECK WITH MR. ROBERSON.

25 THE COURT: DO---

1 MS. CAMPBELL: AS FAR AS BIAS AND PREJUDICE.

2 THE COURT: SINCE IT INVOLVES THIS PARTICULAR MATTER, I
3 AM GOING TO ALLOW THE DEFENSE TO ASK HIM THE QUESTION AS TO
4 WHETHER OR NOT HE HAS BEEN CHARGED WITH THE OFFENSE AND
5 WHETHER OR NOT THAT CASE HAS BEEN ENDED IN ANY FASHION. SO I
6 WILL ALLOW THE DEFENSE TO QUESTION HIM IN THAT REGARD.

7 MS. CAMPBELL: COULD WE GO INTO THAT, YOUR HONOR?

8 THE COURT: CAN THE STATE?

9 MS. CAMPBELL: YES, SIR.

10 THE COURT: YES, MA'AM. YES, MA'AM.

11 MS. CAMPBELL: OKAY.

12 THE COURT: YES, SIR?

13 MR. ROBERSON: I THOUGHT SHE SAID SHE WAS GOING TO GO
14 INTO PUNISHMENT.

15 MS. CAMPBELL: THAT'S WHAT I WAS ASKING -- I ASKED MR.
16 JOHNSON IF HE WANTED ME TO, AND HE SAID NO. I WAS ASKING MR.
17 ROBERSON IF HE WANTED ME TO.

18 THE COURT: ALL RIGHT. AND WHAT IS YOUR POSITION, MR.
19 ROBERSON?

20 MR. ROBERSON: YES, I THINK SHE CAN GO INTO IT.

21 THE COURT: ALL RIGHT, SIR. AND THEN, MR. JOHNSON, YOUR
22 POSITION IS WHAT?

23 MR. JOHNSON: IF SHE'S GOING TO GO INTO IT, YOUR HONOR,
24 THAT'S FINE.

25 THE COURT: ALL RIGHT, SIR. I -- WHAT I WAS GOING TO DO

1 IS ALLOW YOU TO, BOTH STATE AND DEFENSE, ASK THE WITNESS WHAT
2 OFFENSE, IF ANY, THEY WERE CHARGED WITH REGARDING THIS
3 PARTICULAR MATTER, AND IF THAT MATTER HAD BEEN RESOLVED, WHAT
4 THE RESOLUTION OF THAT WAS.

5 MR. JOHNSON: YES, SIR.

6 THE COURT: NOW, IF THE MATTER HAS NOT BEEN RESOLVED,
7 WE'RE NOT GOING TO BE ASKING THE QUESTION: NOW, DO YOU KNOW
8 THIS CARRIES 30 DAYS OR 90 DAYS OR 10 YEARS OR WHATEVER IT
9 MIGHT BE. IF IT HAS BEEN RESOLVED, THEN YOU CAN ASK HOW IT
10 HAS BEEN RESOLVED. ALL RIGHT?

11 MR. JOHNSON: YES, SIR.

12 MS. CAMPBELL: YOUR HONOR, MAY I ASK JUST: HAVE YOU
13 BEEN PROMISED ANYTHING IN EXCHANGE FOR HIS TESTIMONY?

14 THE COURT: YES, MA'AM.

15 MS. CAMPBELL: AND HIS ONLY PRIOR RECORD IS A 2002
16 FAILURE TO STOP FOR A BLUE LIGHT.

17 THE COURT: NOW, THE FAILURE TO STOP FOR A BLUE LIGHT
18 GOES FROM 90 DAYS TO?

19 MS. CAMPBELL: THREE.

20 THE COURT: THREE YEARS.

21 MS. CAMPBELL: YES, SIR.

22 THE COURT: SO I'M ASSUMING, GENTLEMEN, THAT -- WELL,
23 Y'ALL DO WHAT YOU WANT TO, BUT I WILL ALLOW YOU TO ASK HIM IF
24 HE WAS -- HE'S BEEN CONVICTED OF THAT OFFENSE. IS THAT
25 CORRECT?

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: I WILL ALLOW THE DEFENSE TO ASK HIM IF HE'S
3 BEEN CONVICTED OF THAT OFFENSE IN THE PAST. ALL RIGHT. ASK
4 THE JURY TO COME IN, PLEASE.

5 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 3:56
6 P.M.)

7 THE COURT: YOU MAY PROCEED, SOLICITOR.

8 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
9 DEMETRIC DAVIS.

10 THE COURT: ALL RIGHT, SIR. IF YOU'D PLEASE COME AROUND
11 AND BE SWORN.

12 DEMETRIC A. DAVIS, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
15 YOUR FULL NAME FOR THE RECORD, PLEASE.

16 COURT REPORTER: AND WILL YOU SPELL YOUR FIRST NAME?

17 THE WITNESS: D-E-M-E-T-R-I-C ANTONIO DAVIS.

18 DIRECT EXAMINATION

19 BY MS. CAMPBELL:

20 Q. MR. DAVIS, HOW OLD ARE YOU?

21 A. TWENTY-FOUR YEARS OLD.

22 Q. WHERE DO YOU LIVE?

23 A. COLUMBIA, SOUTH CAROLINA.

24 Q. AND HOW LONG HAVE YOU BEEN LIVING IN THE COLUMBIA AREA?

25 A. EIGHT MONTHS.

1 Q. WHERE DID YOU GROW UP?

2 A. RIDGEWAY, SOUTH CAROLINA.

3 Q. AND WHERE DID YOU GO TO HIGH SCHOOL?

4 A. I ATTENDED TWO HIGH SCHOOLS. I STARTED AT FAIRFIELD
5 CENTRAL HIGH SCHOOL AND GRADUATED FROM RIDGEVIEW HIGH SCHOOL
6 IN COLUMBIA.

7 Q. DO YOU KNOW OR DO YOU -- DO YOU KNOW A GUY NAMED TRAMELE
8 DAVIS?

9 A. YES, MA'AM.

10 Q. AND HOW DO YOU KNOW TRAMELE?

11 A. THAT'S MY FIRST COUSIN.

12 Q. DO YOU KNOW SOMEBODY NAMED MARCUS TUCKER?

13 A. YES, MA'AM.

14 Q. AND HOW DO YOU KNOW MARCUS TUCKER?

15 A. THAT'S TRAMELE'S FIRST COUSIN ON HIS DADDY'S SIDE.

16 Q. AND ARE YOU AND MARCUS -- DO Y'ALL HAVE ANY KIND OF
17 RELATIONSHIP OR FRIENDSHIP, ANYTHING OF THAT NATURE?

18 A. I MEAN, WE WENT TO SCHOOL TOGETHER, SO, YEAH, WE GOT A
19 RELATIONSHIP TOGETHER.

20 Q. DOES TRAMELE LIVE IN RIDGEWAY?

21 A. YES, MA'AM.

22 Q. IS MARCUS FROM RIDGEWAY?

23 A. NO, HE'S FROM OHIO. OHIO. CINCINNATI, OHIO.

24 Q. AND AT SOME POINT DID HE MOVE TO RIDGEWAY?

25 A. YES, MA'AM.

1 Q. AND DID YOU GO TO HIGH SCHOOL, THE SAME HIGH SCHOOL?

2 A. MIDDLE SCHOOL TOGETHER.

3 Q. DO YOU KNOW ADAMS KARTEZ GIBSON?

4 A. YES, MA'AM.

5 Q. TELL THIS JURY HOW YOU KNOW HIM.

6 A. WE WENT TO SCHOOL TOGETHER. ALSO THAT'S A COUSIN OF
7 MINE.

8 Q. HE'S A COUSIN OF YOURS?

9 A. DISTANT.

10 Q. AND HIS YOUNGER BROTHER'S NAME IS, I BELIEVE, SHA-SHA?

11 A. I KNOW HIM BY JACQUES.

12 Q. JACQUES. AND THAT'S WHAT YOU CALL HIM.

13 A. YES, MA'AM.

14 Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER THE 4TH
15 OF 2005, THAT SUNDAY EVENING. WHAT WERE Y'ALL DOING?

16 A. WELL, WE WAS HEADED TO THE BOWLING ALLEY. THE BOWLING
17 ALLEY HAD STOPPED SERVING DRINKS, SO WE PROCEEDED TO CHANCE'S
18 SPORTS BAR.

19 Q. AND WHO -- WHEN YOU SAID WE WERE HEADED, WHO ALL WAS
20 GOING AND HOW WERE YOU GETTING THERE?

21 A. MY COUSIN LAKISHA WAS DRIVING ADAMS, ME, AND TRAMELE.

22 Q. WHEN YOU SAY ADAMS, HAVE YOU EVER HEARD ADAMS REFERRED
23 TO AS KARTEZ?

24 A. YES, MA'AM.

25 Q. OKAY. SO IT WAS -- YOUR COUSIN LAKISHA WAS DRIVING, YOU

1 SAID?

2 A. YES, MA'AM.

3 Q. AND WHO ELSE WAS IN THE CAR?

4 A. ADAMS, TRAMELE, AND ME.

5 Q. WHEN YOU GOT TO THE BOWLING ALLEY, DID Y'ALL GO IN?

6 A. WE WENT TO THE DOOR AND THE LADY TOLD US THE BAR WAS
7 CLOSING WITHIN THE NEXT 30 MINUTES, SO WE LEFT. THERE WAS NO
8 POINT TO BE THERE.

9 Q. AND APPROXIMATELY WHAT TIME OF NIGHT WAS THIS? DO YOU
10 REMEMBER?

11 A. I DON'T REMEMBER.

12 Q. WAS IT AFTER DARK?

13 A. YES, MA'AM.

14 Q. ONCE YOU DECIDED THAT THERE WASN'T ANY POINT IN GOING IN
15 THE BOWLING ALLEY, WHERE DID Y'ALL GO?

16 A. WE WENT DOWN THE STREET AND WENT TO CHANCE'S SPORTS BAR.

17 Q. HAD YOU BEEN THERE BEFORE?

18 A. NO, MA'AM, I HAD NEVER BEEN THERE.

19 Q. THAT NIGHT WHEN YOU WENT IN CHANCE'S SPORTS BAR, WHEN
20 YOU WENT INSIDE WHO ALL WENT IN WITH YOU? DID EVERYBODY IN
21 THE CAR GO IN?

22 A. YES, MA'AM.

23 Q. ONCE YOU GOT INSIDE, TELL THE JURY WHAT HAPPENED.

24 A. WE GOT INSIDE, HAD A FEW DRINKS, PROCEEDED WITH
25 CONVERSATION, LEFT OUTSIDE, WAS THEN APPROACHED BY TORRI BOYD

1 ON A RUMOR THAT WAS LINGERING IN THE STREETS. IT BEGAN AN
2 ARGUMENT. HIS COUSIN, RAVARIS HENRY, SHOVED ME. TRAMELE
3 DAVIS HIT HIM. A FIGHT BROKE OUT. ME AND TORRI I HIT THE
4 GROUND. IN A MATTER OF SECONDS I HEARD GUNSHOTS. I WENT ONE
5 WAY; TORRI WENT ONE WAY.

6 Q. NOW, LET ME BACK YOU UP. WHEN YOU WENT INSIDE THE CLUB,
7 I BELIEVE YOU SAID IT WAS THE FOUR OF YOU THAT WENT IN? WAS
8 LAKISHA IN THE CLUB WITH YOU THAT NIGHT?

9 A. SHE CAME IN THE CLUB, MA'AM, BUT THEN SHE LEFT OUT.

10 Q. DID YOU KNOW WHERE SHE WAS GOING?

11 A. NO, MA'AM.

12 Q. YOU DON'T REMEMBER LAKISHA TELLING YOU WHERE SHE WAS
13 GOING.

14 A. NO, MA'AM.

15 Q. WHEN SHE LEFT OUT, WERE YOU WORRIED THAT SHE HAD LEFT
16 YOU?

17 A. NO, MA'AM. NO, MA'AM. I KNEW SHE WASN'T GOING TO LEAVE
18 ME. THAT'S MY COUSIN. WE'RE IN COLUMBIA. WE'RE 30 MILES
19 AWAY FROM HOME.

20 Q. ONCE YOU WERE INSIDE THE CLUB, DID YOU SEE SOME OF THE
21 GUYS FROM WINNSBORO?

22 A. YES, MA'AM.

23 Q. WHO ALL DID YOU SEE?

24 A. BY FACE THAT I KNOWN AT THE TIME WAS TORRI, RAVARIS. I
25 DON'T REALLY KNOW ANTWAN AND YO-YO.

1 Q. OKAY. DID YOU KNOW DENNIS IRBY?

2 A. NO, MA'AM, NOT -- NO, MA'AM, NOT -- NEVER KNOWN HIM.

3 Q. ONCE YOU WERE INSIDE THE CLUB, DID -- AT FIRST WERE THE
4 TWO GROUPS FRIENDLY?

5 A. YES, MA'AM. I MEAN, WE WAS ALL TALKING, YOU KNOW,
6 CERTAIN -- CERTAIN ONES OF US. I WAS TALKING TO ANTONIO AND
7 I WAS TALKING TO RAVARIS BECAUSE THEM WAS THE MAIN ONES I
8 KNEW. TORRI WAS ON THE OTHER SIDE OF THE CLUB, SO I REALLY
9 DIDN'T GET A CHANCE TO TALK TO HIM.

10 Q. HAD YOU AND TORRI HAD BAD BLOOD IN THE PAST?

11 MR. ROBERSON: OBJECTION. LEADING, YOUR HONOR.

12 THE COURT: DON'T LEAD YOUR WITNESS.

13 BY MS. CAMPBELL:

14 Q. WHAT WAS Y'ALL'S RELATIONSHIP FROM THE PAST?

15 A. I MEAN, WE WENT TO SCHOOL TOGETHER. WE HAD A PRIOR
16 ARGUMENT OVER A FEMALE WHEN I WAS IN SEVENTH OR EIGHTH GRADE.
17 THAT WAS IT. BUT WE HAD SPOKEN WAY SINCE THEN. WE HAD
18 SPOKEN ON NUMEROUS ACCOUNTS SINCE THAT ALTERCATION.

19 Q. WHILE YOU WERE IN THE CLUB, DID YOU EXCHANGE ANY WORDS
20 WITH TORRI?

21 A. NO, MA'AM. HE WAS ON THE OTHER SIDE OF THE CLUB.

22 Q. DO YOU RECALL ANYBODY ELSE IN YOUR GROUP GETTING STARES
23 OR EXCHANGING WORDS?

24 MR. ROBERSON: OBJECTION, YOUR HONOR. STILL LEADING.

25 THE COURT: SOLICITOR, LET YOUR WITNESS TESTIFY. THANK

1 YOU VERY MUCH, MA'AM.

2 MS. CAMPBELL: WHILE YOU WERE IN THE CLUB, WAS THERE ANY
3 ANIMOSITY GOING ON?

4 MR. ROBERSON: OBJECTION.

5 THE COURT: I'LL ALLOW THAT.

6 THE WITNESS: NO, MA'AM.

7 BY MS. CAMPBELL:

8 Q. WHY DID Y'ALL LEAVE THE CLUB THAT NIGHT?

9 A. THE CLUB -- CHANCE'S SPORTS BAR WAS CLOSING. THE BAR
10 HAD SHUT DOWN, SO THERE WAS NO OTHER POINT IN BEING THERE.

11 Q. DID YOU KNOW WHY THEY WERE CLOSING THAT NIGHT?

12 A. I GUESS IT WAS TIME TO CLOSE. THEY ASKED FOR THE LAST
13 ROUND OF DRINKS, SO THAT'S USUALLY WHEN CLOSING PERIOD...

14 Q. WERE YOU DRINKING THAT NIGHT?

15 A. YES, MA'AM.

16 Q. ONCE YOU FOUND OUT THE BAR WAS CLOSING, WHERE DID YOU
17 GO?

18 A. I WENT AND USED THE BATHROOM, CAME BACK TO THE BAR,
19 DRUNK THE REST OF MY DRINK, AND PROCEEDED OUTSIDE.

20 Q. WHO WAS WITH YOU WHEN YOU WALKED OUTSIDE?

21 A. ME, ADAMS, TRAMELE, AND MARCUS. LAKISHA HAD CAME BACK
22 BY THEN AND SHE WALKED OUTSIDE WITH US.

23 Q. DID SHE COME BACK IN THE BAR AND WALK OUTSIDE WITH YOU?

24 A. YES, MA'AM.

25 Q. ONCE YOU WERE OUT IN THE PARKING LOT, DID YOU PRO --

1 WHERE DID YOU GO?

2 A. WHEN I CAME OUT TO THE PARKING LOT, LAKISHA WAS IN
3 FRONT. SHE WAS HEADED TO HER CAR, AND I PROCEEDED BEHIND
4 HER. AT THAT TIME I WAS APPROACHED IN MY TRACKS BY TORRI ON
5 A RUMOR THAT WAS LINGERING IN THE STREETS THAT HE HAD HEARD.
6 WE BEGAN ARGUING.

7 Q. WHERE WERE YOU IN THE PARKING LOT WHEN YOU WERE
8 APPROACHED BY TORRI?

9 A. DEAD IN THE MIDDLE. DEAD IN THE CENTER.

10 Q. AND WERE YOU TOWARDS THE DOOR OR TOWARDS THE BACK OF THE
11 PARKING LOT?

12 A. AS WE'RE COMING OUT, I MIGHT SAY AT THE BEGINNING.

13 Q. OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 7.
14 DO YOU WANT TO LOOK AT THAT? CAN YOU SEE IT? THIS IS THE
15 FRONT DOOR OF CHANCE'S, AND YOU CAN USE THIS IF YOU WANT.

16 A. UH-HUH.

17 Q. DO YOU WANT TO POINT OUT WHERE YOU WERE WHEN THE
18 CONFRONTATION TOOK PLACE?

19 A. I WAS SOMEWHERE UP IN HERE.

20 Q. WHERE WAS LAKISHA'S CAR PARKED? DO YOU REMEMBER?

21 A. SHE WAS OVER HERE.

22 Q. AND WHEN THE CONFRONTATION TOOK PLACE, IT WAS BETWEEN
23 WHOM?

24 A. ME AND TORRI.

25 Q. HOW DID THE -- YOU MENTIONED THAT YOU WERE HAVING WORDS?

- 1 A. YEAH, WE WAS ARGUING BACK AND FORTH.
- 2 Q. WHAT WERE YOU SAYING?
- 3 A. I CAN'T RECALL RIGHT NOW. I WAS UNDER THE INFLUENCE.
- 4 Q. AND WHAT HAPPENED TO MAKE IT INTO A PHYSICAL FIGHT?
- 5 A. HIS COUSIN RAVARIS ACTUALLY REACHED OVER TORRI AND GAVE
- 6 ME A SHOVE.
- 7 Q. SO HIS COUSIN RAVARIS SHOVED YOU?
- 8 A. YES, MA'AM. B. IS WHAT THEY CALL HIM.
- 9 Q. AND SO AT THAT POINT WHAT DID YOU DO?
- 10 A. AT THAT POINT AS HE SHOVED ME AND I'M FALLING BACK, MY
- 11 COUSIN TRAMELE SWUNG AND HIT B. ME AND TORRI BEGAN A SCUFFLE
- 12 WHICH WE HIT THE GROUND.
- 13 Q. ONCE YOU HIT THE GROUND, WHAT HAPPENED?
- 14 A. IN A MATTER OF SECONDS I HEARD GUNSHOTS.
- 15 Q. IN A MATTER OF SECONDS?
- 16 A. (WITNESS NODDED HEAD UP AND DOWN.)
- 17 Q. AND HOW MANY GUNSHOTS DID YOU HEAR THAT NIGHT?
- 18 A. I CAN'T RECALL. MORE THAN ONE.
- 19 Q. COULD YOU TELL WHAT DIRECTION THE GUNSHOTS WERE COMING
- 20 FROM?
- 21 A. NO, MA'AM.
- 22 Q. DO YOU KNOW HOW MANY PUNCHES Y'ALL EXCHANGED?
- 23 A. NO, MA'AM. IN A MATTER OF SECONDS THE GUNSHOTS FIRED.
- 24 Q. ONCE YOU HEARD THE GUNSHOTS, WHAT HAPPENED?
- 25 A. TORRI WENT ONE WAY; I WENT ONE WAY.

1 Q. BY THE TIME Y'ALL SEPARATED, HAD THE GUNSHOTS, HOW EVER
2 MANY, STOPPED?

3 A. THE GUN STOPS (SIC) HAD CEASED.

4 Q. WHILE YOU WERE FIGHTING WITH TORRI, DID YOU SEE TORRI
5 WITH ANY WEAPONS?

6 A. NO, MA'AM.

7 Q. DID YOU SEE TORRI DOING ANY SHOOTING?

8 A. NO, MA'AM.

9 Q. DID YOU HAVE A WEAPON?

10 A. NO, MA'AM.

11 Q. WERE YOU SHOOTING?

12 A. NO, MA'AM.

13 Q. YOU SAID YOU WENT ONE WAY. WHERE DID YOU GO TO?

14 A. I WENT TOWARDS THE LEFT.

15 Q. AND WHERE DID YOU END UP?

16 A. IN MY COUSIN LAKISHA'S CAR.

17 Q. WHO ALL ENDED UP IN LAKISHA'S CAR?

18 A. ME, TRAMELE, MARCUS, AND ADAMS.

19 Q. DID Y'ALL ALL GET THERE AT THE SAME TIME OR DID YOU HAVE
20 TO WAIT FOR ANYBODY OR WHAT?

21 A. HAD TO WAIT ON MARCUS AND TRAMELE.

22 Q. AND WHO WAS THE FIRST ONE ACTUALLY TO THE CAR? DO YOU
23 REMEMBER?

24 A. LAKISHA WAS ALREADY IN THE CAR.

25 Q. SO IT WAS LAKISHA AND WHO?

1 A. AND I CAN'T TELL YOU IF IT WAS ME OR ADAMS. WE PROBABLY
2 MADE IT THERE THE SAME TIME.

3 Q. OKAY. AND THEN THE LAST TWO THAT GOT IN THE CAR WERE
4 WHO?

5 A. TRAMELE AND MARCUS.

6 Q. MARCUS DEFINITELY RODE HOME WITH Y'ALL THAT NIGHT?

7 A. YES, MA'AM.

8 Q. ONCE YOU WERE IN THE CAR, WHERE DID Y'ALL GO? WHO WAS
9 DRIVING?

10 A. LAKISHA WAS DRIVING, AND WE WENT BACK TO RIDGEWAY.

11 Q. AND HOW DID Y'ALL GET BACK TO RIDGEWAY? WHAT ROADS DID
12 Y'ALL TAKE?

13 A. I DON'T KNOW, MA'AM. I HAD MY HEAD IN THE SEAT. I
14 DIDN'T KNOW IF WE WAS BEING FIRED ON AGAIN OR WHAT. I JUST
15 HAD MY HEAD DOWN THE WHOLE TIME.

16 Q. JUST FOR THE RECORD, ONCE YOU ALL SPLIT WAYS, YOU AND
17 TORRI, DID YOU HEAR ANY MORE GUNSHOTS?

18 A. NO, MA'AM.

19 Q. SO YOU DON'T KNOW HOW YOU GOT HOME BECAUSE YOUR HEAD WAS
20 IN THE SEAT?

21 A. YES, MA'AM.

22 Q. WHO ALL WAS IN THE BACK SEAT?

23 A. ME, MARCUS, AND TRAMELE.

24 Q. WHAT WAS TRAMELE DOING ON THE WAY HOME?

25 A. HE WAS THROWING UP.

1 Q. YOUR TESTIMONY HERE TODAY IS THAT TORRI APPROACHED
2 YOU---

3 A. YES, MA'AM.

4 Q. ---AND STARTED ARGUING? DO YOU REMEMBER GIVING A
5 STATEMENT BACK ON SEPTEMBER 8TH OF 2005 TO THE SHERIFF'S
6 DEPARTMENT?

7 A. YES, MA'AM.

8 Q. HAVE YOU HAD A CHANCE TO REVIEW IT?

9 A. AFTER IT WAS TYPED AND PRINTED, I REVIEWED IT.

10 Q. OKAY. OKAY. NOW, LOOK AT IT. CAN YOU JUST REFRESH
11 YOUR MEMORY WITH THAT?

12 MR. JOHNSON: YOUR HONOR?

13 THE COURT: YES, SIR?

14 MR. JOHNSON: OBJECTION. I THINK -- WHAT'S THE PURPOSE
15 OF THIS?

16 THE COURT: I'M GOING TO LET HER PROCEED SO FAR. WE'LL
17 SEE IF YOU HAVE AN OBJECTION, BUT I'M ALLOWING THIS TO
18 PROCEED.

19 (THE WITNESS LOOKS AT THE DOCUMENT.)

20 MR. JOHNSON: YOUR HONOR, MY OBJECTION IS THERE'S NO
21 INDICATION HE NEEDED TO REFRESH HIS MEMORY.

22 THE COURT: IT'S NOT TO REFRESH HIS MEMORY APPARENTLY.
23 SO UNDER THE RULES I BELIEVE IT'S TO BE ALLOWED. WE'LL HEAR
24 THE SOLICITOR'S NEXT QUESTION AFTER HE REVIEWS IT.

25

1 BY MS. CAMPBELL:

2 Q. HAVE YOU GOT IT?

3 A. YOU SAID THE FIRST PART THERE.

4 Q. ALL RIGHT. DO YOU REMEMBER WHO YOU TOLD APPROACHED --
5 THAT YOU APPROACHED TORRI? DO YOU REMEMBER THAT?

6 A. NO, MA'AM. I SAID HE APPROACHED ME. THAT'S EXACTLY
7 WHAT I SAID IN 2005.

8 Q. WAS THAT IN YOUR STATEMENT?

9 THE COURT: SOLICITOR, LET HIM READ THE STATEMENT,
10 PLEASE, MA'AM.

11 MS. CAMPBELL: YES, SIR. I'M SORRY.

12 THE WITNESS: THAT'S A TYPO ERROR.

13 BY MS. CAMPBELL:

14 Q. DID YOU SEE ANYBODY SHOOTING OUT THERE THAT NIGHT?

15 A. NO, MA'AM.

16 Q. NOW, AS A RESULT OF WHAT HAPPENED THAT NIGHT, YOU WERE
17 CHARGED WITH I THINK BREACH OF PEACE OF A HIGH AND AGGRAVATED
18 NATURE?

19 A. YES, MA'AM.

20 Q. DO YOU KNOW HOW MUCH TIME THAT CARRIES?

21 MR. JOHNSON: OBJECTION.

22 THE WITNESS: NO, MA'AM.

23 THE COURT: SUSTAINED.

24 BY MS. CAMPBELL:

25 Q. HAS THAT CASE BEEN RESOLVED?

1 A. NO, MA'AM.

2 Q. OR IS IT STILL PENDING?

3 A. STILL PENDING.

4 Q. HAS ANYONE PROMISED YOU ANYTHING IN EXCHANGE FOR YOUR
5 TESTIMONY HEAR TODAY?

6 A. NO, MA'AM.

7 Q. AND THEN BACK IN 2002 YOU HAD A CONVICTION? WHAT WAS
8 THAT FOR?

9 A. FAILURE TO STOP FOR A BLUE LIGHT.

10 Q. FOR A BLUE LIGHT?

11 A. YES, MA'AM.

12 Q. JACQUES IS WHAT YOU CALL HIM? DID YOU SEE HIM THAT
13 NIGHT?

14 A. NO, MA'AM.

15 Q. YOU NEVER SAW HIM INSIDE THE BAR OR OUTSIDE.

16 A. NEVER SEEN HIM INSIDE OR OUTSIDE THE BAR.

17 Q. ARE YOU FAMILIAR WITH A WHITE ESCORT?

18 A. I'M FAMILIAR WITH AN ESCORT; YES, MA'AM.

19 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT 1 AND 2 AND 3. DO
20 YOU RECOGNIZE THAT CAR? YOU CAN LOOK AT IT ALL YOU NEED TO.

21 A. YES, MA'AM, LOOKS LIKE A '90 OR CLOSE TO A 2000 FORD
22 ESCORT.

23 Q. HAVE YOU EVER SEEN ANYBODY DRIVING THAT ESCORT?

24 A. I DONE SEEN SOMEBODY DRIVING AN ESCORT THAT COLOR.

25 Q. AND WHO IS THAT?

1 A. JACQUES.

2 Q. HAVE YOU EVER SEEN HIS BROTHER, KARTEZ, DRIVE THAT?

3 A. NO, MA'AM.

4 Q. DID YOU SEE THAT CAR OUT THERE THAT NIGHT?

5 A. I SEEN A WHITE CAR, FOUR-DOOR, SMALL, MA'AM. I CAN'T
6 SAY IF IT WAS AN ESCORT OR NOT.

7 Q. THE PERSON THAT YOU KNOW AS JACQUES, DO YOU SEE HIM HERE
8 IN THE COURTROOM?

9 A. YES, MA'AM.

10 Q. COULD YOU POINT HIM OUT FOR THE JURY?

11 A. YEAH, HE'S RIGHT THERE.

12 Q. AND THE PERSON THAT YOU KNOW AS ADAMS?

13 A. YES, MA'AM.

14 Q. DO YOU SEE HIM HERE IN THE COURTROOM?

15 A. YES, MA'AM.

16 Q. COULD YOU POINT HIM OUT FOR THE JURY?

17 A. YEAH, HE'S RIGHT THERE.

18 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S
19 IDENTIFIED THE DEFENDANTS? THANK YOU, SIR.

20 THE COURT: ALL RIGHT. MR. ROBERSON?

21 MR. ROBERSON: IF YOUR HONOR PLEASE?

22 THE COURT: YES, SIR.

23 CROSS-EXAMINATION

24 BY MR. ROBERSON:

25 Q. DEMETRIC, SHE MAY HAVE FORGOTTEN TO ASK YOU: WHAT KIND

1 OF CAR WAS LAKISHA DRIVING THAT NIGHT?

2 A. SHE WAS DRIVING A BURGUNDY NISSAN ALTIMA.

3 Q. OKAY. AND YOU, ADAMS, AND THREE OTHER PEOPLE RODE FROM

4 RIDGEWAY TO COLUMBIA AND THEN TO CHANCE'S BAR WITH LAKISHA

5 GIBSON -- I MEAN, LAKISHA DAVIS.

6 A. NO, FOUR OF US WENT.

7 Q. FOUR OF THEM.

8 A. FIVE RAN BACK.

9 Q. THAT'S RIGHT. OKAY. DO YOU REMEMBER HOW ADAMS WAS
10 DRESSED THAT NIGHT?

11 A. IF I SAY ANYTHING, I'LL BE GUESSING.

12 Q. YOU WOULD BE GUESSING?

13 A. I'D BE GUESSING.

14 Q. IF I SUGGESTED SOMETHING TO YOU, COULD YOU CORRECT ME IF
15 I'M WRONG?

16 A. YES, SIR.

17 Q. WHITE TEE SHIRT?

18 A. DEFINITELY WHITE TEE SHIRT.

19 Q. BLUE JEANS?

20 A. I'M NOT SURE ABOUT THE JEANS.

21 Q. OKAY. DID YOU SEE ADAMS GIBSON WITH A GUN?

22 A. NO, SIR.

23 Q. DID YOU SEE ADAMS GIBSON FIRE A GUN?

24 A. NO, SIR.

25 Q. DID YOU SEE ADAMS GIBSON FIGHTING WITH ANYBODY?

1 A. NO, SIR.

2 Q. OKAY. AND HAVE YOU HAD A DISCUSSION WITH THE OTHER GUYS
3 FROM RIDGEWAY ABOUT WHAT HAPPENED THAT NIGHT AND WHETHER OR
4 NOT THEY WERE CHARGED WITH CRIMINAL OFFENSES?

5 A. NO, SIR.

6 Q. YOU HAVE NOT TALKED TO THEM ABOUT ANYBODY BEING CHARGED
7 AS A RESULT OF THE FIGHT ON THAT NIGHT.

8 A. REPHRASE THE QUESTION NOW.

9 Q. OKAY. DO YOU KNOW IF ANYBODY ELSE WAS CHARGED WITH
10 ANYTHING ON THAT NIGHT OTHER THAN ADAMS GIBSON AND SHA-SHA
11 GIBSON?

12 A. ME.

13 Q. UH-HUH.

14 A. TRAMELE AND MARCUS.

15 Q. RIGHT. AND ALL OF Y'ALL ARE FROM WHERE?

16 A. RIDGEWAY.

17 Q. DO YOU KNOW OF ANYBODY FROM WINNSBORO THAT WAS CHARGED
18 WITH ANYTHING?

19 A. NO, SIR, NOT IN THE LAST TWO YEARS THEY WASN'T CHARGED.

20 Q. OKAY. BUT ALL OF Y'ALL -- BUT THE FELLOWS FROM RIDGEWAY
21 AND WINNSBORO WERE OUT THERE FIGHTING THAT NIGHT.

22 A. YES, SIR. IF IT WAS UP TO ME, THEY ENGAGED THE FIGHT.

23 MR. ROBERSON: THANK YOU, SIR.

24 THE COURT: ALL RIGHT. MR. JOHNSON?

25 MR. JOHNSON: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. JOHNSON:

Q. MR. DAVIS, WHO SUBPOENAED YOU TO COME TO COURT TODAY?

A. SOLICITOR LUCK CAMPBELL.

Q. SOLICITOR SUCK -- LUCK CAMPBELL, THE LADY WHO WAS ASKING YOU THOSE QUESTIONS NOW? SHE SUBPOENAED YOU TO COME TO COURT?

A. YES, MA'AM -- YEAH. YES, SIR. YES. YEAH.

Q. AND WHEN DID YOU GET YOUR SUBPOENA?

A. I GOT A SUBPOENA LAST THURSDAY.

Q. LAST THURSDAY? AND HAVE YOU TALKED TO HER BEFORE YOU CAME TO COURT TODAY?

A. YES, SIR. WE HAD A DISCUSSION ON THURSDAY.

Q. THURSDAY? WHERE ABOUT?

A. IN THE SOLICITOR'S OFFICE.

Q. IN THE SOLICITOR'S OFFICE. AND YOU RELATED TO HER WHAT YOU WERE GOING TO TESTIFY TO TODAY?

A. ALL SHE LET ME KNOW WAS I WAS TESTIFYING FOR THE STATE, AND SHE WANTED TO GO BACK OVER WHAT HAPPENED THAT NIGHT OR WHAT I SEEN THAT NIGHT.

Q. ALL RIGHT. AND WHEN YOU WENT BACK OVER WHAT YOU SAW THAT NIGHT, YOU TOLD HER THAT TORRI BOYD STARTED THE FIGHT?

A. YES, SIR.

Q. AND YOU TOLD HER THAT -- AND YOU TOLD HER THEN THAT YOU DID NOT SEE JACQUES THAT NIGHT, DIDN'T YOU?

- 1 A. YES, SIR.
- 2 Q. AND YOU TOLD HER YOU DIDN'T SEE ANYBODY SHOOTING.
- 3 A. YES, SIR.
- 4 Q. ISN'T THAT RIGHT? AND YOU DIDN'T SEE ANYBODY WITH A
- 5 GUN. ISN'T THAT RIGHT?
- 6 A. YES, SIR.
- 7 Q. AND YOU DIDN'T SEE WHEN DENNIS IRBY GOT SHOT.
- 8 A. NO, SIR.
- 9 Q. ISN'T THAT RIGHT? AND YOU DIDN'T SEE JACQUES FIGHTING.
- 10 ISN'T THAT RIGHT?
- 11 A. NO, SIR.
- 12 Q. AND YOU DIDN'T SEE JACQUES WITH A GUN. ISN'T THAT
- 13 RIGHT?
- 14 A. NEVER SEEN HIM.
- 15 Q. YOU DIDN'T SEE JACQUES IN A WHITE ESCORT; ISN'T THAT
- 16 RIGHT?
- 17 A. I DIDN'T SEE JACQUES AT ALL.
- 18 Q. DIDN'T SEE JACQUES AT ALL. AND DO YOU RECALL AT THIS
- 19 POINT -- HOW MANY SHOTS DID YOU HEAR THAT NIGHT?
- 20 A. I CAN'T RECALL. I KNOW I HEARD ONE SHOT THAT FROZE ME.
- 21 Q. ONE SHOT FROZE YOU.
- 22 A. AND I CAN'T RECALL HOW MANY AFTER THAT.
- 23 Q. BUT YOU HEARD SOME AFTER THAT.
- 24 A. YES, SIR, AS WE WAS ON THE GROUND.
- 25 Q. AND SO ALL THE SHOOTING THAT YOU HEARD -- REFERRING TO

1 STATE'S EXHIBIT NUMBER 79, ALL THE SHOOTING THAT YOU HEARD
2 WAS WHEN - LET ME GET ORIENTED - WHEN Y'ALL WERE OVER HERE
3 NEAR THESE PARKING SPACES FIGHTING.

4 A. YES, SIR.

5 Q. AND WHILE Y'ALL WERE DOWN ON THE GROUND, YOU HEARD --
6 Y'ALL WERE FIGHTING AND YOU HEARD SOME SHOTS ABOUT 10 SECONDS
7 AFTERWARDS. ISN'T THAT RIGHT? 10 OR 20?

8 A. IT MIGHT HAVE BEEN A LITTLE BIT BEFORE 10 SECONDS.

9 Q. MIGHT HAVE BEEN LESS THAN 10 SECONDS.

10 A. MIGHT HAVE BEEN LESS THAN 10 SECONDS.

11 Q. ALL RIGHT. DID YOU SEE DENNIS IRBY?

12 A. NO, SIR.

13 Q. DO YOU KNOW DENNIS IRBY?

14 A. NO, SIR, NEVER NOT REALLY KNOWN HIM UNTIL I SEEN A
15 PICTURE AFTERWARDS.

16 Q. YOU SAW A PICTURE AFTERWARDS. ALL RIGHT, SIR. AND SO
17 ABOUT SOMEWHERE BETWEEN ZERO AND TEN SECONDS WHILE WERE Y'ALL
18 WERE DOWN ON THE GROUND, THAT'S WHEN YOU HEARD ALL THE SHOTS
19 THAT YOU -- ALL THE SHOTS THAT WERE FIRED. ISN'T THAT RIGHT?

20 A. YES, SIR.

21 MR. JOHNSON: OKAY. THANK YOU VERY MUCH.

22 THE COURT: ANY REDIRECT?

23 MS. CAMPBELL: JUST BRIEFLY.

24

25

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q. MR. ROBERSON ASKED YOU ABOUT THE FOUR PEOPLE THAT WERE
IN THE CAR. I'M SORRY. MR. ROBERSON ASKED YOU ABOUT THE
FOUR PEOPLE THAT WERE IN THE CAR ON THE WAY THERE?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. WHO ALL RODE OVER THERE WITH YOU?

A. ME, LAKISHA, TRAMELE, AND ADAMS.

Q. DO YOU RECALL GIVING YOUR STATEMENT BACK ON SEPTEMBER
8TH?

A. (THE WITNESS LOOKS AT THE STATEMENT.) YES, MA'AM.

Q. DO YOU KNOW WHY YOU TOLD THE INVESTIGATOR SOMETHING
DIFFERENT?

A. TYPO ERROR, MA'AM.

MR. JOHNSON: OBJECTION, YOUR HONOR. THIS IS NOT MY
WITNESS BUT---

THE COURT: I APPRECIATE THAT. IF YOU -- DO YOU OBJECT
TO THE QUESTION AND THE ANSWER?

MR. JOHNSON: YES, SIR.

THE COURT: I'M GOING TO ALLOW IT. THANK YOU VERY MUCH.

MR. JOHNSON: THE QUESTION, YOUR HONOR.

THE COURT: WAS IN RESPONSE TO THE QUESTION ASKED BY MR.
ROBERSON, AND AS TO THAT, I ALLOWED THAT AS PROPER REDIRECT.

MS. CAMPBELL: THANK YOU.

THE COURT: ANYTHING FURTHER, SOLICITOR?

1 MS. CAMPBELL: NO, SIR.

2 THE COURT: ANYTHING ON THOSE QUESTIONS, MR. ROBERSON,
3 OR THAT QUESTION ASKED BY THE SOLICITOR?

4 MR. ROBERSON: BEG THE COURT'S INDULGENCE.

5 THE COURT: YES, SIR.

6 RECROSS EXAMINATION

7 BY MR. ROBERSON:

8 Q. IT WAS YOU, LAKISHA, TRAMELE, AND ADAMS THAT RODE TO
9 COLUMBIA IN THAT RED ALTIMA ON 9/5/05.

10 A. YES, SIR.

11 MR. ROBERSON: OKAY. THANK YOU, SIR.

12 THE COURT: MR. JOHNSON, ANYTHING ON THE QUESTION ASKED
13 BY THE SOLICITOR?

14 MR. JOHNSON: NO, SIR. THANK YOU, YOUR HONOR.

15 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR. YOUR
16 NEXT WITNESS, SOLICITOR.

17 MR. LAKE: THE STATE WOULD CALL TRAMELE DAVIS.

18 TRAMELE DAVIS, AFTER BEING DULY SWORN, TESTIFIED AS
19 FOLLOWS:

20 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
21 YOUR FULL NAME FOR THE RECORD, PLEASE.

22 COURT REPORTER: AND SPELL YOUR FIRST NAME.

23 THE WITNESS: T-R-A-M-E-L-E DAVIS.
24
25

DIRECT EXAMINATION

2 BY MR. LAKE:

3 Q. TRAMELE, CAN YOU TELL THE JURY WHERE YOU RESIDE NOW?

4 A. SIR?

5 Q. WHERE DID YOU LIVE?

6 A. RIDGEWAY.

7 THE COURT: COULD YOU SCOOT YOUR CHAIR UP JUST A LITTLE
8 BIT CLOSER TO THE MICROPHONE, PLEASE?

9 BY MR. LAKE:

10 Q. SPEAK DIRECTLY INTO THE MICROPHONE. OKAY? AND HOW LONG
11 HAVE YOU LIVED IN RIDGEWAY?

12 A. ALL MY LIFE.

13 Q. AND JUST KIND OF BY WAY OF LETTING THE JURY KNOW WHO YOU
14 KNOW, HOW DO YOU KNOW DEMETRIC DAVIS?

15 A. THAT'S MY FIRST COUSIN.

16 Q. AND WHAT DO THEY CALL HIM?

17 A. BAM.

18 Q. AND HOW DO YOU KNOW LAKISHA DAVIS?

19 A. THAT'S MY FIRST COUSIN. SHE'S OLDER THAN ME.

20 Q. WHAT DO THEY CALL HER?

21 A. PUNKIN.

22 Q. WHAT ABOUT VERNON DAVIS?

23 A. THAT'S MY LITTLE COUSIN.

24 Q. AND DOES HE HAVE A NICKNAME?

25 A. YEAH, HE IS CALLED DUWOP.

- 1 Q. AND WHAT ABOUT MARCUS TUCKER?
- 2 A. THEY JUST CALL HIM MARCUS.
- 3 Q. HOW DO YOU KNOW MARCUS?
- 4 A. THAT'S MY FIRST COUSIN, TOO.
- 5 Q. AND WHAT ABOUT STEPHON WILLINGHAM?
- 6 A. THE DUDE'S NO KIN TO ME.
- 7 Q. DO YOU KNOW HIM?
- 8 A. YEAH, I KNOW HIM.
- 9 Q. AND WHAT DO YOU KNOW HIM AS?
- 10 A. FAT MAN.
- 11 Q. AND WHAT ABOUT ADAMS GIBSON?
- 12 A. HE IS MY COUSIN.
- 13 Q. HE'S YOUR COUSIN ALSO?
- 14 A. YES, SIR.
- 15 Q. AND WHAT ABOUT JACQUES GIBSON?
- 16 A. HE'S MY COUSIN, TOO.
- 17 Q. FROM THE WINNSBORO SIDE -- LET ME JUST SHOW YOU THESE
- 18 NAMES RIGHT HERE: TORRI BOYD, RAVARIS HENRY, ANTWAN MARTIN,
- 19 ANTONIO SMITH, DENNIS IRBY. WHO ALL DO YOU KNOW ON THAT
- 20 PARTICULAR LIST?
- 21 A. ALL OF THEM.
- 22 Q. HOW LONG HAVE YOU KNOWN THOSE GUYS?
- 23 A. ABOUT A COUPLE OF YEARS. I WENT TO THE SAME HIGH
- 24 SCHOOL.
- 25 Q. HOW DO YOU KNOW THEM?

- 1 A. WE WENT TO THE SAME HIGH SCHOOL.
- 2 Q. DID Y'ALL GO TO HIGH SCHOOL TOGETHER?
- 3 A. YES, SIR.
- 4 Q. DID YOU HAVE ANY PROBLEM WITH ANY OF THOSE GUYS?
- 5 A. NO, SIR.
- 6 Q. PRIOR TO SEPTEMBER THE 5TH OF 2005?
- 7 A. NO, SIR.
- 8 Q. LET ME TAKE YOU TO THE EVENING OF SEPTEMBER THE 4TH,
- 9 2005, GOING INTO SEPTEMBER 5TH, 2005. COULD YOU TELL THE
- 10 JURY HOW YOU CAME TO BE AT CHANCE'S?
- 11 A. I HAD RODE WITH MY COUSIN, AND ME AND HER WAS SUPPOSED
- 12 TO HAVE WENT TO THE BOWLING ALLEY. THEY WAS CLOSED, SO WE
- 13 WENT TO CHANCE'S.
- 14 Q. AND LET ME ASK YOU A QUESTION: WHO ALL WENT WITH YOU?
- 15 WHO ALL WAS TOGETHER?
- 16 A. ME, ADAMS GIBSON, LAKISHA DAVIS, AND DEMETRIC.
- 17 Q. AND WHAT ABOUT MARCUS TUCKER?
- 18 A. MARCUS AIN'T RIDE WITH US DOWN THERE.
- 19 Q. HE DIDN'T RIDE WITH YOU DOWN THERE?
- 20 A. NO, BUT HE CAUGHT A RIDE BACK.
- 21 Q. HE CAUGHT A RIDE WITH YOU BACK?
- 22 A. YEAH.
- 23 Q. AND DO YOU REMEMBER APPROXIMATELY WHAT TIME---
- 24 A. NO, SIR.
- 25 Q. ---YOU ARRIVED AT THE CHANCE'S SPORTS BAR?

1 A. NO, SIR.

2 Q. HAD YOU BEEN DRINKING PRIOR TO ARRIVING AT THE BAR?

3 A. REPEAT THE QUESTION.

4 Q. HAD YOU BEEN DRINKING PRIOR TO WORKING AT THE BAR -- I
5 MEAN GOING TO THE BAR?

6 A. HUH?

7 Q. HAD YOU HAD ANY ALCOHOL PRIOR TO GOING TO CHANCE'S BAR
8 THAT NIGHT?

9 A. NO, NOT REALLY. NO.

10 Q. AND WHEN YOU GOT THERE, WHO DID YOU SEE?

11 A. THE BOYS FROM WINNSBORO.

12 COURT REPORTER: I DIDN'T UNDERSTAND HIM.

13 BY MR. LAKE:

14 Q. REPEAT WHAT YOU SAID.

15 A. THE BOYS FROM WINNSBORO.

16 Q. WHICH BOYS ARE THAT?

17 A. TORRI BOYD, RAVARIS HENRY, DENNIS IRBY, ANTONIO SMITH.

18 Q. AND WHAT HAPPENED ONCE Y'ALL WERE IN THERE?

19 A. THEY JUST -- WE HAD LIKE A LITTLE MEAN MUGGING GOING ON
20 BETWEEN US.

21 Q. I'M SORRY. YOU SAID MEAN MUGGING. DESCRIBE TO THE JURY
22 WHAT MEAN MUGGING IS. IS THAT A STARE?

23 A. THEY STARE AT EACH OTHER.

24 Q. AND SPECIFICALLY WHO WAS STARING AT WHO?

25 A. TORRI BOYD AND ME.

1 Q. HOW LONG WERE Y'ALL DOING THAT?

2 A. PROBABLY ABOUT FIVE OR SIX MINUTES.

3 Q. AND AS A RESULT OF DOING THAT, WHAT HAPPENS?

4 A. WE HAD WENT ON THE OUTSIDE, AND THE DUDE HAD SHOVED MY
5 COUSIN, RAVARIS HENRY.

6 Q. JUST KIND OF BACK UP JUST A LITTLE BIT. WHAT, IF
7 ANYTHING, DID TORRI DO IN RESPONSE TO BOTH OF YOU STARING AT
8 EACH OTHER?

9 MR. ROBERSON: OBJECTION. LEADING.

10 THE WITNESS: NOTHING.

11 THE COURT: SOLICITOR, DON'T LEAD YOUR WITNESS, PLEASE.
12 JUST ASK HIM TO RELAY THE STORY.

13 MR. LAKE: WHEN -- HOW CLOSE ARE Y'ALL TO EACH OTHER
14 WHEN Y'ALL ARE---

15 MR. ROBERSON: OBJECTION.

16 THE COURT: FINISH YOUR QUESTION, SOLICITOR.

17 MR. LAKE: HOW CLOSE ARE YOU TO TORRI BOYD WHEN Y'ALL
18 ARE SUPPOSEDLY MEAN MUGGING EACH OTHER?

19 THE COURT: I'LL ALLOW THAT.

20 MR. ROBERSON: OBJECTION.

21 THE COURT: GO AHEAD.

22 THE WITNESS: PROBABLY FROM HERE TO ABOUT THAT CART
23 RIGHT THERE.

24 MR. ROBERSON: I DIDN'T HEAR THE ANSWER, YOUR HONOR.

25 THE COURT: COULD YOU REPEAT YOUR ANSWER? AND PLEASE

1 SPEAK UP IF YOU DON'T MIND, PLEASE, SIR.

2 THE WITNESS: LIKE FROM HERE TO THE CART RIGHT THERE.

3 BY MR. LAKE:

4 Q. AND WHAT -- WHERE IS KARTEZ AT THIS PARTICULAR POINT?

5 A. WHEN? WHEN WE WAS IN THE CLUB?

6 Q. YEAH, WHEN ALL THIS MEAN MUGGING WAS GOING ON.

7 A. I CAN'T RECALL. HE PROBABLY WAS CHILLING.

8 Q. AND WHAT ABOUT -- WHERE IS LAKISHA?

9 A. SHE WAS IN THE INSIDE, TOO.

10 Q. WHAT, IF ANYTHING, DO YOU REMEMBER ABOUT HER LEAVING?

11 A. I THINK SHE WENT TO THE WAFFLE HOUSE.

12 Q. DO YOU KNOW HOW LONG SHE WAS GONE?

13 A. PROBABLY ABOUT 10 MINUTES.

14 Q. ABOUT 10 MINUTES?

15 A. YEAH.

16 Q. DO YOU RECALL HER COMING BACK?

17 A. SHE CAME BACK LIKE AS SOON AS IT ALL -- WHEN THE FIGHT
18 TOOK PLACE.

19 Q. OKAY. AND DO YOU RECALL WHETHER SHE CAME BACK INTO THE
20 CLUB?

21 A. NO, SHE DIDN'T COME BACK IN THE CLUB BECAUSE WE WENT
22 OUTSIDE OF THE CLUB AND THE CLUB HAD DONE CLOSED.

23 Q. SO SHE WASN'T INSIDE THE CLUB. SHE NEVER DID COME BACK
24 INSIDE THE CLUB.

25 A. NO, SHE WENT TO GO GET SOME FOOD.

1 Q. DO YOU KNOW OR HAVE ANY PERSONAL KNOWLEDGE YOURSELF AS
2 TO WHETHER CHANCE'S SPORTS BAR SELLS FOOD?

3 A. NO, NOT REALLY BECAUSE IT'S A SPORTS BAR AND
4 (UNINTELLIGIBLE WORDS SPOKEN.)

5 Q. AND DO YOU HAVE ANY PERSONAL KNOWLEDGE OF -- WHAT, IF
6 ANY, PERSONAL KNOWLEDGE DO YOU HAVE OF ANY OTHER ALTERCATIONS
7 OR INCIDENTS THAT ARE GOING ON---

8 MR. ROBERSON: OBJECTION.

9 MR. LAKE: ---INSIDE---

10 THE COURT: I'M GOING TO -- FINISH YOUR QUESTION,
11 SOLICITOR.

12 MR. LAKE: THAT ARE GOING ON WHILE YOU'RE INSIDE THE
13 BAR.

14 THE WITNESS: NO.

15 THE COURT: I'M GOING TO ALLOW IT.

16 THE WITNESS: NO, SIR.

17 BY MR. LAKE:

18 Q. WHAT HAPPENS AT SOME POINT THEN? WHAT HAPPENS AFTER ALL
19 THIS STUFF IS GOING ON?

20 A. THE CLUB HAD CLOSED AND EVERYBODY WENT ON THE OUTSIDE,
21 AND EVERYBODY GOT INTO IT WHEN THE FIGHT TOOK PLACE. RAVARIS
22 HENRY SHOVED MY COUSIN.

23 Q. LET ME ASK YOU A QUESTION. PRIOR TO GOING OUTSIDE, DID
24 YOU HAVE ANY IDEA THAT SOMETHING MIGHT GO DOWN OUTSIDE?

25 A. NO, NOT REALLY.

1 Q. EVEN WITH ALL THAT MEAN MUGGING AND ALL THOSE THINGS
2 THAT WERE GOING ON INSIDE THE CLUB?

3 A. NO, SIR.

4 MR. ROBERSON: OBJECTION. LEADING.

5 THE COURT: I'LL ALLOW THAT. GO AHEAD, SOLICITOR.
6 BY MR. LAKE:

7 Q. ANSWER THE QUESTIONS, SIR.

8 A. WHAT DO YOU SAY?

9 THE COURT: REPHRASE YOUR QUESTION OR REPEAT YOUR
10 QUESTION.

11 THE WITNESS: CAN YOU REPEAT YOUR QUESTION?

12 MR. LAKE: COURT'S INDULGENCE.

13 BY MR. LAKE:

14 Q. WHEN Y'ALL WENT OUTSIDE, DID YOU HAVE ANY IDEA THAT
15 SOMETHING WAS GOING TO HAPPEN ONCE YOU GOT OUTSIDE?

16 A. NO, SIR.

17 Q. EVEN WITH ALL MEAN MUGGING?

18 MR. ROBERSON: OBJECTION.

19 THE WITNESS: NO, SIR.

20 THE COURT: I'M GOING TO ALLOW THAT.

21 BY MR. LAKE:

22 Q. AND SO HOW DO THINGS ESCALATE ONCE THEY GET OUTSIDE?

23 A. OH, DUDE -- RAVARIS HENRY AND MY COUSIN HAD HAD LITTLE
24 WORDS, AND THEN HE SHOVED MY COUSIN AND THAT'S WHY I HIT HIM.

25 Q. WHO WAS ARGUING ONCE YOU FIRST GOT OUTSIDE? WHO DID YOU

- 1 OBSERVE ARGUING?
- 2 A. TORRI BOYD AND DEMETRIC.
- 3 Q. AND WHERE DO YOU GO AT THIS PARTICULAR POINT?
- 4 A. WHERE DO I GO AT?
- 5 Q. YES.
- 6 A. HEY, I'M BESIDE HIM, BESIDE DEMETRIC.
- 7 Q. WHERE AT WITHIN THIS PARKING LOT ARE YOU ALL?
- 8 A. ALL OF US WAS LIKE IN ONE HUDDLE.
- 9 Q. IN ONE HUDDLE?
- 10 A. YES, SIR.
- 11 Q. HOW CLOSE ARE YOU ALL TO EACH OTHER?
- 12 A. AS FAR AS FROM ME TO YOU.
- 13 Q. AND HOW ARE Y'ALL COMMUNICATING TO EACH OTHER? ARE YOU
- 14 SAYING ANYTHING AT THIS POINT?
- 15 A. YES, SIR.
- 16 Q. WHO ARE YOU TALKING TO?
- 17 A. I WAS TALKING TO RAVARIS HENRY.
- 18 Q. WHAT WERE YOU AND RAVARIS DOING IN THE CLUB PRIOR TO
- 19 GOING OUTSIDE?
- 20 A. REPEAT THAT.
- 21 Q. WHAT WERE THE TWO OF YOU DOING PRIOR TO GOING OUTSIDE
- 22 WHILE Y'ALL WERE INSIDE THE BAR?
- 23 A. I DON'T REALLY UNDERSTAND THAT.
- 24 Q. DID ANY ONE OF THOSE GUYS FROM WINNSBORO BUY YOU A
- 25 DRINK---

- 1 A. YES.
- 2 Q. ---WHILE YOU WERE INSIDE THE CLUB?
- 3 A. RAVARIS HENRY DID.
- 4 Q. HOW LONG WERE YOU AND RAVARIS IN THERE TALKING TO EACH
- 5 OTHER?
- 6 A. PROBABLY LIKE 30 MINUTES.
- 7 Q. THIRTY MINUTES?
- 8 A. YES, SIR.
- 9 Q. WERE THERE ANY HARD FEELINGS BETWEEN THE TWO OF YOU AT
- 10 THAT POINT?
- 11 A. NO. HE JUST SHOVED ME DOWN---
- 12 MR. ROBERSON: OBJECTION, YOUR HONOR.
- 13 THE COURT: I'M GOING TO ALLOW THAT. GO AHEAD.
- 14 BY MR. LAKE:
- 15 Q. BUT OUTSIDE TORRI BOYD AND DEMETRIC DAVIS ARE THE PEOPLE
- 16 THAT YOU SEE ARGUING.
- 17 A. YES, SIR.
- 18 Q. IS THAT WHAT BRINGS YOU INTO THIS ARGUMENT -- INTO THIS
- 19 INCIDENT?
- 20 A. YES, SIR. THAT'S MY COUSIN.
- 21 Q. WHO IS THAT?
- 22 A. DEMETRIC DAVIS.
- 23 Q. ARE ALL THESE PEOPLE THERE RELATED TO YOU IN SOME FORM
- 24 OR FASHION?
- 25 A. ADAMS, LAKISHA, DEMETRIC, MARCUS, VERNON.

- 1 Q. OKAY. ADAMS GIBSON?
- 2 A. YEAH, AND JACQUES.
- 3 Q. AND JACQUES. ALL OF THESE GUYS ARE RELATED TO YOU.
- 4 A. YES, SIR.
- 5 Q. DID YOU SEE JACQUES -- AT WHAT POINT -- WELL, DID YOU
- 6 SEE JACQUES OUT THERE THAT NIGHT?
- 7 A. I NEVER SEEN HIM AT ALL.
- 8 Q. YOU NEVER SAW HIM AT ANY POINT THAT NIGHT AT ALL?
- 9 A. NO.
- 10 Q. WHAT ABOUT DUWOP---
- 11 A. NO.
- 12 Q. ---VERNON DAVIS? DID YOU EVER SEE HIM AT ANY POINT AT
- 13 ALL THAT NIGHT?
- 14 A. NO, SIR.
- 15 Q. WHAT ABOUT FAT MAN, STEPHON WILLINGHAM? DID YOU SEE HIM
- 16 AT ANY POINT OUT THERE THAT NIGHT?
- 17 A. NO, NOT REALLY. NO, I AIN'T SEEN HIM.
- 18 Q. WHAT TYPE OF VEHICLE DO YOU TYPICALLY SEE MR. GIBSON
- 19 DRIVE?
- 20 A. REALLY, WHEN I USUALLY SEE HIM DRIVING, HE'S DRIVING A
- 21 LITTLE CAR---
- 22 COURT REPORTER: YOU'RE GOING TO HAVE TO REPEAT YOUR
- 23 ANSWER BECAUSE I'M NOT UNDERSTANDING YOU.
- 24 THE COURT: JUST SLOW DOWN JUST A LITTLE BIT, SIR.
- 25

1 BY MR. LAKE:

2 Q. SLOW DOWN JUST A LITTLE BIT.

3 A. HE USUALLY DRIVE A GREEN CAR, A MITSUBISHI.

4 Q. HAVE YOU EVER SEE HIM IN A WHITE ESCORT BEFORE?

5 MR. ROBERSON: OBJECTION.

6 MR. JOHNSON: LEADING.

7 THE COURT: SOLICITOR, DON'T SUGGEST THE ANSWER TO ANY
8 QUESTION, PLEASE.

9 MR. LAKE: YES, SIR.

10 BY MR. LAKE:

11 Q. WHAT ARE THE TYPES OF VEHICLES THAT YOU'VE SEEN HIM IN?

12 A. I SAW HIM IN A BLUE LINCOLN AND A GREEN MITSUBISHI.

13 Q. AND AT WHAT POINT DOES THE FIGHT ESCALATE?

14 A. REPEAT YOUR QUESTION.

15 Q. AT WHAT POINT DOES THE FIGHT ESCALATE? OR IT GOES FROM
16 A VERBAL ALTERCATION TO A PHYSICAL ALTERCATION?

17 A. YES, SIR.

18 Q. AT WHAT POINT DOES THAT HAPPEN?

19 A. WHEN THE CLUB CLOSED.

20 Q. AND WHO THROWS THE FIRST PUNCH?

21 A. ME.

22 Q. YOU THROW THE FIRST PUNCH?

23 A. YES, SIR.

24 Q. ARE YOU SURE OF THAT?

25 A. YEAH.

1 Q. DID RAVARIS THROW THE FIRST PUNCH?

2 A. WELL, HE HAD PUSHED MY COUSIN. WELL, HE SHOVED HIM.
3 I'M THE ONE THAT THREW THE FIRST BLOW.

4 Q. WHAT ABOUT TORRI?

5 A. NO, I WASN'T FOCUSED ON HIM. I WAS FOCUSED ON RAVARIS.

6 Q. WHAT ABOUT ANTWAN MARTIN?

7 A. I WASN'T FOCUSED ON ANYONE BUT RAVARIS.

8 Q. DID YOU SEE DENNIS IRBY AT THIS PARTICULAR POINT?

9 A. NO. I WAS FOCUSED ON RAVARIS. THAT'S THE ONE I WANTED.

10 Q. LET ME SHOW YOU WHAT'S BEEN MARKED IN EVIDENCE AS
11 STATE'S EXHIBIT NUMBER 1, 2, AND 3 AND ASK WHETHER YOU'VE
12 SEEN EITHER ADAMS GIBSON, YOUR COUSIN, OR JACQUES GIBSON,
13 YOUR COUSIN, DRIVE A VEHICLE LIKE THAT.

14 A. TO ME THIS LOOKS LIKE A BRAND-NEW CAR. I AIN'T NEVER
15 SEEN THEM DRIVE A CAR LIKE THAT.

16 Q. NEVER SEEN THEM DRIVE A CAR LIKE THAT.

17 A. NO.

18 Q. OKAY. THAT'S FINE. ARE YOU SURE YOU'VE NEVER SEEN THEM
19 DRIVE A CAR LIKE THAT?

20 A. NO.

21 MR. JOHNSON: OBJECTION. ASKED AND ANSWERED.

22 THE COURT: I'M GOING TO ALLOW IT. LET'S MOVE ALONG,
23 SOLICITOR.

24 BY MR. LAKE:

25 Q. AND ONCE THE FIRST PUNCH IS THROWN, WHERE DOES EVERYBODY

1 GO? WHAT HAPPENS NEXT?

2 A. WHEN THE FIRST PUNCH IS THROWN, HEY, I WAS FOCUSED ON
3 RAVARIS. THE OTHER PEOPLE, HEY, I DIDN'T KNOW WHAT THEY WAS
4 DOING AT THE TIME. I WAS JUST FOCUSED ON MY MAN, AND WHEN I
5 HEARD GUNSHOTS, I LEFT. I RAN.

6 Q. HOW DID YOU GET TO THE POINT WHERE YOU ACTUALLY STRUCK
7 RAVARIS?

8 A. BECAUSE---

9 Q. WELL, DESCRIBE THAT SCENE OF HOW YOU GO TO ACTUALLY--

10 A. HIT RAVARIS?

11 Q. YES, SIR.

12 A. BECAUSE HE HAD SHOVED MY COUSIN.

13 Q. WERE YOU STANDING IN FRONT OF HIM FACE TO FACE WHEN YOU
14 DID THAT?

15 A. YEAH.

16 Q. HOW DID YOU GET TO THAT POINT?

17 A. FACE TO FACE.

18 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED INTO EVIDENCE
19 AS STATE'S EXHIBIT NUMBER 79 AND ASK YOU, JUST USING THIS
20 POINTER... THIS IS CHANCE'S SPORTS BAR, THE FRONT OF IT.
21 EXACTLY WHERE DO YOU OBSERVE THIS ALTERCATION COME FROM?

22 A. I GUESS FROM THE CLUB RIGHT HERE. WE WAS ARGUING RIGHT
23 THERE. IT TOOK PLACE RIGHT THERE.

24 THE COURT: YOU NEED TO SPEAK UP A LITTLE BIT, PLEASE.

25 THE WITNESS: IT TOOK PLACE RIGHT IN FRONT OF THE CLUB.

1 RIGHT IN FRONT OF THE CLUB.

2 BY MR. LAKE:

3 Q. AND AFTER YOU HIT RAVARIS, WHAT HAPPENS BETWEEN YOU AND
4 RAVARIS?

5 A. WE STARTED FIGHTING LIKE THREE OR FOUR SECONDS. THEN I
6 HEARD GUNSHOTS AND I RAN.

7 Q. AND WHERE DID Y'ALL END UP FIGHTING WHEN Y'ALL WERE
8 FIGHTING?

9 A. WE WERE FIGHTING BETWEEN CARS.

10 Q. COULD YOU SHOW ON THE MAP WHERE YOU WERE AT WHEN YOU
11 WERE FIGHTING?

12 A. WELL, WHEN I WAS JUST FIGHTING, I DON'T EVEN KNOW WHERE
13 I WAS FIGHTING. I MEAN, I WAS JUST FIGHTING BETWEEN SOME
14 CARS. IT WAS DARK. IT WAS LATE.

15 Q. AND AT WHAT POINT DO YOU SEE THE VICTIM IN THIS CASE?

16 A. WHO WAS THE VICTIM?

17 Q. DENNIS IRBY.

18 A. HE WAS STANDING BEHIND ME.

19 Q. BEHIND YOU WHERE AT EXACTLY WITHIN THE PARKING LOT?

20 A. REALLY I AIN'T -- REALLY I CAN'T RECALL BECAUSE WE WAS
21 FIGHTING.

22 Q. YOU CAN'T RECALL THAT EITHER?

23 A. NO, SIR.

24 Q. DID YOU AT ANY POINT SEE YO-YO INVOLVED IN ANY OF THE
25 ALTERCATIONS OR ARGUMENTS?

1 A. NO, SIR. I AIN'T -- I WASN'T FOCUSED ON YO-YO. I WAS
2 FOCUSED ON RAVARIS.

3 Q. WHAT ABOUT DENNIS?

4 A. I WAS FOCUSED ON RAVARIS.

5 Q. WELL, DESCRIBE TO THE JURY WHAT YOUR ENCOUNTER WAS WITH
6 DENNIS THAT NIGHT AFTER---

7 A. YOU SAY WHAT?

8 Q. ---AFTER THE FIGHT.

9 A. WHAT?

10 Q. AFTER YOU AND RAVARIS WERE FIGHTING.

11 A. I DIDN'T KNOW HE'D BEEN SHOT UNTIL HE WAS SHOT.

12 Q. AT WHAT POINT DO YOU HEAR SHOTS?

13 A. I HEAR THEM ABOUT THREE OR FOUR SECONDS FROM WHEN THE
14 FIGHT TOOK PLACE.

15 Q. AND WHERE DO YOU HEAR THE SHOTS COMING FROM?

16 A. EVERYBODY -- I MEAN, THEY WAS JUST COMING. I WAS
17 FIGHTING, AND I WASN'T REALLY FOCUSED ON WHERE THE SHOTS WAS
18 COMING FROM. I WAS FOCUSED ON LEAVING, GET ON, TRYING TO
19 LEAVE THE SCENE TO MAKE SURE I DIDN'T GET MY LIFE TOOK FROM
20 ME.

21 Q. AND WHAT DID YOU DO TO DENNIS WHEN YOU HAD FOUND HIM OUT
22 THERE AFTER HE HAD BEEN SHOT?

23 A. YOU KNOW, AT THE TIME WHEN HE WAS ON TOP OF ME, I HAD
24 PUSHED HIM OFF OF ME, AND THEN WHEN HE RAN, HE FELL. THEN I
25 KNOW THAT HE WAS SHOT.

1 Q. WHAT DID YOU DO TO HIM?

2 A. I HAD KICKED HIM OFF OF ME, YOU KNOW WHAT I'M SAYING,
3 BECAUSE I DIDN'T KNOW HE WAS SHOT. HE WAS LAYING ON TOP OF
4 ME, AND I GOT HIM OFF OF ME AND I BROKE OUT RUNNING. AT THE
5 TIME I DIDN'T KNOW HE WAS SHOT, BUT HE FELL. BY THAT TIME I
6 WAS IN THE CAR GONE. I WAS LEAVING.

7 Q. SO AFTER HE GOT SHOT, HE FELL.

8 A. NO, HE AIN'T REALLY FELL. HE WAS STILL OVER ME.

9 Q. HE WAS STILL OVER YOU.

10 A. YEAH, HE JUST GONE LIMP LIKE BY THE BULLET OR... I
11 NOTICED THE BLOOD.

12 Q. AND SO THEN YOU KICKED HIM OFF OF YOU.

13 A. YEAH, AFTER I GOT HIM ON TOP OF ME AND I GOT ON.

14 MR. JOHNSON: YOUR HONOR, MAY I APPROACH THE BENCH,
15 PLEASE, SIR?

16 THE COURT: YES, SIR. Y'ALL COME AROUND HERE TO THE
17 SIDE.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

19 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY CONTINUE,
20 PLEASE.

21 BY MR. LAKE:

22 Q. PRIOR TO THAT ALTERCATION, WHAT, IF ANYTHING, HAPPENED
23 TO YOUR CLOTHES?

24 A. THEY HAD CAME OFF.

25 Q. HOW DID THEY COME OFF?

1 A. WHEN WE HAD CAME OUT OF THE CLUB, I HAD TOOK MY SHIRT
2 OFF.

3 Q. YOU TOOK YOUR SHIRT OFF?

4 A. YES. I WAS HOT.

5 Q. SO YOU KNEW SOMETHING WAS ABOUT TO HAPPEN THEN WHEN YOU
6 WERE AT THAT CLUB; RIGHT?

7 A. NO, NOT REALLY.

8 Q. WHY DID YOU TAKE YOUR SHIRT OFF THEN?

9 A. BECAUSE THERE WAS A LOT OF ARGUING GOING ON AND, LIKE I
10 SAID, I WAS HOT.

11 Q. WERE YOU THE ONLY PERSON WHO TOOK YOUR SHIRT OFF?

12 A. YES, SIR.

13 Q. LET ME SHOW YOU THREE EXHIBITS THAT HAVE BEEN MARKED
14 INTO EVIDENCE, STATE'S EXHIBIT NUMBER 53, 51, AND 50, AND ASK
15 YOU: DO YOU RECOGNIZE THE ITEMS WITHIN THOSE PICTURES?

16 A. YES. ALL OF THESE ARE MY ITEMS.

17 Q. DID YOU LEAVE THEM AT THE SCENE?

18 A. YES, SIR.

19 Q. WHY DIDN'T YOU TRY TO GET THEM BACK?

20 A. I WASN'T TRYING TO BECAUSE, HEY, THERE WAS SOMEBODY
21 SHOOTING AND I WAS TRYING TO GET -- DO WHATEVER I COULD TO
22 LEAVE.

23 Q. WHO ALL LEFT THE SCENE TOGETHER?

24 A. EVERYBODY LEFT.

25 Q. WHEN YOU SAY EVERYBODY, WHO IS EVERYBODY?

1 A. ME, LAKISHA, ADAMS, MARCUS, AND DEMETRIC RODE HOME
2 TOGETHER.

3 Q. DO YOU ACTUALLY KNOW WHAT DENNIS IRBY'S ROLE WAS THAT
4 PARTICULAR NIGHT?

5 A. NO, SIR.

6 Q. DID YOU OBSERVE HIM FIGHTING?

7 A. NO, SIR.

8 Q. DO YOU RECALL WHETHER YOU PUNCHED DENNIS AT ANY POINT?

9 A. NO, I NEVER DID HIT HIM UNLESS HE WAS ON TOP OF ME AND I
10 GOT HIM OFF ME.

11 Q. AND YOU NEVER SAW WHO FIRED THE GUN?

12 A. NO, I WASN'T LOOKING AT THE GUN. I WASN'T TRYING TO
13 FIND OUT WHO WAS SHOOTING NOTHING.

14 Q. AND YOU NEVER SAW A WHITE FORD ESCORT OUT THERE AT THE
15 SCENE?

16 A. NO, BECAUSE, HEY, OUT THERE, HEY, THERE WERE PLENTY OF
17 CARS OUT THERE. I WASN'T FOCUSED ON NO CARS. I WAS FOCUSED
18 ON RAVARIS.

19 Q. SIR, ISN'T IT TRUE THAT---

20 MR. JOHNSON: THAT'S ABOUT TO BE A LEADING QUESTION,
21 YOUR HONOR. ISN'T IT TRUE...

22 THE COURT: WELL, I DON'T KNOW THAT IT'S A LEADING
23 QUESTION. SOLICITOR, JUST UNDERSTAND THAT THERE'S AN
24 OBJECTION THAT CAN BE MADE. JUST GO AHEAD AND ASK YOUR
25 QUESTION.

1 BY MR. LAKE:

2 Q. SIR, ISN'T IT TRUE THAT YOU SAW SHA-SHA THAT NIGHT?

3 A. NO, I DIDN'T---

4 MR. JOHNSON: OBJECTION, YOUR HONOR.

5 THE WITNESS: ---EVER SEE HIM.

6 THE COURT: I'M GOING TO ALLOW IT. HE ANSWERED THE
7 QUESTION. LET'S MOVE ALONG, SOLICITOR.

8 BY MR. LAKE:

9 Q. DO YOU RECALL GIVING A STATEMENT TO INVESTIGATOR
10 WILLOUGHBY?

11 A. YES, SIR. YES, SIR, BECAUSE HE WAS CONFUSING MY
12 STATEMENT.

13 Q. DO YOU RECALL TELLING INVESTIGATOR WILLOUGHBY THAT
14 SHA-SHA WAS THERE AND YOU SAW THE WHITE FORD ESCORT?

15 A. YES, I DID.

16 Q. SO YOU TOLD THE INVESTIGATOR THAT.

17 A. I TOLD THE INVESTIGATOR THAT.

18 Q. SO NOW YOU'RE GOING TO TELL JURY SOMETHING COMPLETELY
19 DIFFERENT.

20 A. YEAH, BECAUSE HE WAS CONFUSING MY QUESTIONS IN MY
21 STATEMENT.

22 Q. ISN'T IT TRUE ALSO, SIR, THAT YOU SAID THAT MARCUS
23 TUCKER WENT TO THE -- TO CHANCE'S BAR WITH YOU ALL?

24 A. NO. MARCUS AIN'T RIDE THERE WITH US. HE RODE WITH HIS
25 GIRLFRIEND, AND SHE LEFT.

1 Q. SIR, LET ME SHOW YOU YOUR STATEMENT.

2 A. YEAH, THAT'S MY STATEMENT, BUT HE DID NOT RIDE WITH US
3 DOWN THERE.

4 Q. SO THAT'S INCORRECT ALSO?

5 A. THAT'S INCORRECT.

6 Q. MARCUS DIDN'T RIDE WITH YOU.

7 A. NO.

8 Q. HE ONLY RODE BACK WITH YOU.

9 A. HE RODE BACK WITH ME AND LAKISHA BECAUSE WE WAS FIXING
10 TO LEAVE.

11 Q. WHERE DID Y'ALL GO AFTER Y'ALL LEFT CHANCE'S SPORTS BAR?

12 A. WE WENT STRAIGHT TO THE HOUSE.

13 MR. JOHNSON: REPETITIVE, YOUR HONOR. LEADING.

14 MR. LAKE: HOW DID Y'ALL LEAVE---

15 THE COURT: I'M GOING TO ALLOW THAT.

16 MR. LAKE: I'M SORRY, YOUR HONOR.

17 THE COURT: GO AHEAD.

18 BY MR. LAKE:

19 Q. HOW DID Y'ALL LEAVE -- WHICH DIRECTION DID Y'ALL GO BACK
20 HOME?

21 A. THE DIRECTION? I DON'T REALLY RECALL.

22 Q. HOW DID Y'ALL COME TO CHANCE'S SPORTS BAR? WHICH
23 DIRECTION DID Y'ALL COME?

24 A. WELL, REALLY, I CAN'T RECALL. IT'S BEEN ABOUT TWO YEARS
25 AGO.

1 Q. HOW DID YOU TYPICALLY COME FROM THAT AREA TO COLUMBIA
2 THEN?

3 A. I HIT THE INTERSTATE AND GET ON BLYTHEWOOD INTERSTATE,
4 PASS KILLIAN AND ALL THAT.

5 Q. DO YOU RECALL WHETHER Y'ALL GOT ON THE INTERSTATE WHEN
6 Y'ALL LEFT OUT OF HERE?

7 A. I DON'T REALLY REMEMBER.

8 Q. WHERE DO Y'ALL GO AFTER Y'ALL GET BACK TO RIDGEWAY AND
9 WINNSBORO?

10 A. NO, I DIDN'T GO TO WINNSBORO. I STAY IN RIDGEWAY.

11 Q. WHERE DID Y'ALL GO WHEN Y'ALL WENT TO RIDGEWAY?

12 A. I WENT STRAIGHT TO THE HOUSE.

13 Q. AND WHAT HOUSE IS THAT?

14 A. THAT'S MY -- THAT'S MY HOME.

15 Q. AND WHO ALL STAYS THERE WITH YOU?

16 A. ME AND MY MOTHER AND HER TWO KIDS.

17 Q. AND WHERE ARE THE OTHER PEOPLE THAT RODE BACK THAT YOU
18 RODE WITH WHEN Y'ALL WENT TO RIDGEWAY?

19 A. TALKING ABOUT WHO? ADAMS AND...

20 Q. ADAMS. DEMETRIC. MARCUS.

21 A. ME, MARCUS, AND LAKISHA WAS TOGETHER. ADAMS NEVER WENT
22 BACK HOME. MY COUSIN TOOK HIM HOME.

23 Q. YOUR COUSIN TOOK HIM HOME?

24 A. LAKISHA.

25 Q. ARE YOU SURE OF THAT?

1 A. YES.

2 Q. AND YOU NEVER SAW VERNON THAT NIGHT?

3 A. NO. I WAS IN THE CLUB.

4 Q. BEG THE COURT'S INDULGENCE. HOW DID YOUR SHOES GET LEFT
5 AT THE SCENE?

6 A. BECAUSE I HAD -- THEM WAS THE SHOES I HAD, AND THEY
7 DIDN'T HAVE NO STRINGS IN THEM. THEY WERE LOOSE, AND THEN I
8 SAID, HEY -- THEN I RAN OUT OF THEM.

9 Q. AND YOU WERE CHARGED WITH THIS INCIDENT; CORRECT?

10 A. WHAT?

11 Q. YOU WERE CHARGED WITH AGGRAVATED BREACH OF PEACE.

12 A. YES, SIR.

13 Q. CORRECT?

14 A. YEAH.

15 Q. AND WERE YOU PROMISED ANYTHING TO COME IN HERE---

16 A. NO, SIR.

17 Q. ---TO TESTIFY OR ANYTHING LIKE THAT?

18 A. NO, I WASN'T PROMISED ANYTHING.

19 Q. AND WHO DID YOU MEET WITH IN PREPARATION FOR THIS CASE
20 OR TO COME IN HERE AND TESTIFY?

21 A. WHO I MET WITH?

22 Q. WHO DID YOU SEE?

23 A. I MEAN, WHAT DO YOU MEAN BY THAT?

24 Q. DID YOU EVER HAVE AN OPPORTUNITY TO MEET WITH ME?

25 A. YES, I HAD MET YOU A COUPLE OF TIMES.

1 Q. WHO WAS PRESENT WHEN YOU MET WITH ME?

2 A. LUCK CAMPBELL.

3 Q. AND WHO WAS YOUR ATTORNEY?

4 A. NICOLE SINGLETON.

5 Q. WAS SHE PRESENT ALSO?

6 A. YES, SIR.

7 Q. DO YOU SEE ADAMS GIBSON IN THIS COURTROOM?

8 A. YES, I SEE ADAMS GIBSON.

9 Q. WHERE IS HE SEATED?

10 A. HE'S SEATED RIGHT THERE.

11 Q. AND WHAT DID YOU SEE HIM DO THAT NIGHT? WHAT WAS HIS
12 ROLE?

13 A. HEY, I WASN'T FOCUSED ON HIM.

14 Q. YOU WASN'T FOCUSED ON HIM?

15 A. I WASN'T FOCUSED ON HIM THE ENTIRE TIME.

16 Q. AND WHAT ABOUT SHA-SHA, JACQUES GIBSON?

17 A. I DIDN'T SEE HIM; HE WAS AROUND.

18 Q. HE WAS WHAT?

19 A. I SAID WHEN SHA-SHA WAS AROUND.

20 Q. YOU DIDN'T SEE WHEN SHA-SHA WAS AROUND WHO?

21 A. I SAID SHA WAS AROUND AT THE TIME BECAUSE HE COULDN'T
22 COME IN THE CLUB.

23 Q. BUT DID HE COME OUT TO THE SCENE? THAT'S WHAT I'M
24 ASKING.

25 A. I AIN'T SEEN HIM. I NEVER SEE HIM.

1 MR. LAKE: NO FURTHER QUESTIONS.

2 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

3 MR. ROBERSON: IF YOUR HONOR PLEASE?

4 THE COURT: EXAMINATION, MR. ROBERSON.

5 MR. ROBERSON: THANK YOU, SIR. YOUR HONOR, JUST A
6 COUPLE OF QUESTIONS, IF YOU WILL.

7 THE COURT: YES, SIR.

8 CROSS-EXAMINATION

9 BY MR. ROBERSON:

10 Q. DEMETRIC?

11 A. NO, I'M TRAMELE.

12 Q. I'M SORRY. I'M SORRY. I APOLOGIZE. DO YOU REMEMBER
13 HOW ADAMS WAS DRESSED THAT NIGHT?

14 A. NO, SIR.

15 Q. DID HE HAVE ON A WHITE TEE SHIRT?

16 A. LIKE I SAID, I DIDN'T KNOW WHAT HE HAD ON.

17 Q. YOU CAN'T TELL US.

18 A. I CAN'T TELL YOU.

19 Q. DID YOU EVER SEE HIM WITH A GUN?

20 A. NO.

21 Q. DID YOU EVER SEE HIM DISCHARGE A GUN?

22 A. NO, BECAUSE HE RODE WITH ME.

23 Q. OKAY. WHEN HE GOT BACK IN THE CAR---

24 A. NO.

25 Q. ---ON THE WAY YOU DIDN'T SEE A GUN.

1 A. NO.

2 Q. WAS THERE ANY DISCUSSION ABOUT HIM HAVING A GUN IN THE
3 CAR?

4 A. NO, SIR, NOT AT ALL.

5 Q. DO YOU KNOW HOW OLD YOU HAVE TO BE TO GET INTO THAT
6 CLUB?

7 A. YES. YOU'VE GOT TO BE 18 TO GET IN THERE AND 21 TO
8 DRINK.

9 Q. HOW OLD WAS SHA-SHA THEN?

10 A. HE HAD TO BE 17. HE WAS A SENIOR IN HIGH SCHOOL.

11 Q. AND THEY DID NOT LET HIM IN THE CLUB THAT NIGHT.

12 A. THEY DID NOT LET HIM UP IN THE CLUB.

13 MR. ROBERSON: THANK YOU, SIR.

14 THE COURT: ALL RIGHT. MR. JOHNSON?

15 CROSS-EXAMINATION

16 BY MR. JOHNSON:

17 Q. MR. DAVIS, I UNDERSTOOD YOUR TESTIMONY THAT YOU HAD MET
18 WITH MR. LAKE ON TWO OCCASIONS?

19 A. YES, SIR.

20 Q. AND YOU WERE SUBPOENAED BY MR. LAKE AND MS. CAMPBELL TO
21 COME HERE---

22 A. YES, SIR.

23 Q. ---TO BE WITNESSES FOR THE STATE OF SOUTH CAROLINA?

24 A. YES, SIR.

25 Q. AND YOUR SUBPOENA SAID YOU WERE TO COME HERE AND BE

1 WITNESSES FOR THE STATE OF SOUTH CAROLINA?

2 A. (WITNESS NODDED HEAD UP AND DOWN.)

3 Q. AND ON TWO OCCASIONS BEFORE YOU CAME AND TESTIFIED ON
4 THIS WITNESS STAND, YOU TOLD THEM WHAT YOUR VERSION WOULD BE
5 OF WHAT HAPPENED THAT NIGHT? YOU TOLD THEM WHAT HAPPENED?

6 A. YES, SIR.

7 Q. AND IS THAT WHAT YOU'RE TELLING US TODAY?

8 A. YES, SIR.

9 Q. AND THE NIGHT OR SHORTLY THEREAFTER THIS INCIDENT, DID
10 YOU TELL THE POLICE THAT DENNIS IRBY HAD BEEN ON YOUR BACK?

11 A. NO. HE WAS ON TOP OF ME. I HAD TO PUT HIM OFF OF ME.

12 Q. HE WAS ON TOP OF YOU?

13 A. YES.

14 Q. TELL US -- DESCRIBE HOW THAT HAPPENED. WAS HE FIGHTING?

15 A. NO, NOT REALLY.

16 Q. WHAT WAS HE DOING?

17 A. HE WAS JUST WATCHING AND SPECTATING.

18 Q. HE WAS JUST WATCHING AND SPECTATING ON TOP OF YOU?

19 A. NO, HE WAS STANDING OVER ME.

20 Q. HE WAS STANDING OVER YOU.

21 A. HE WAS STANDING OVER ME.

22 Q. HE WAS STANDING OVER YOU.

23 A. AND ME AND RAVARIS HAD BEEN FIGHTING.

24 Q. YOU AND WHO?

25 A. ME AND RAVARIS HENRY HAD BEEN FIGHTING.

1 Q. YOU AND RAVARIS HENRY WAS FIGHTING.

2 A. YEAH.

3 Q. DENNIS IRBY WAS STANDING OVER YOU.

4 A. YES, SIR.

5 Q. WHAT DID DENNIS IRBY DO TO YOU?

6 A. WELL, HE HAD HIT ME ONE TIME.

7 Q. HE HIT YOU ONE TIME.

8 A. YES, SIR.

9 Q. AND IN HITTING YOU ONE TIME, THAT WASN'T FIGHTING.

10 A. NO, BECAUSE, HEY, I WAS ALREADY ON THE GROUND, SO THAT
11 MEANS THAT WASN'T NO LICK. THAT WAS JUST A LITTLE SLICK
12 LICK.

13 Q. A LITTLE SLICK LICK?

14 A. YES, SIR.

15 Q. ALL RIGHT. AND AS A RESULT OF THE SNEAK (SIC) LICK,
16 WHAT DID YOU DO?

17 A. I HAD JUST TOOK IT.

18 Q. YOU TOOK IT?

19 A. I TOOK IT LIKE A MAN.

20 Q. AND DID YOU EVER DO ANYTHING TO DENNIS IRBY?

21 A. I DIDN'T DO NOTHING TO HIM. ALL I KNOW IS WHEN I HEARD
22 A SHOT HE WAS STANDING OVER ME. ALL OF A SUDDEN HE WAS LIKE
23 HE WAS WEAK OR WHATEVER. I PUSHED HIM OFF OF ME. WELL, I
24 AIN'T PUSHED HIM. HEY, I KICKED HIM OFF OF ME, AND THEN I
25 RAN AND JUMPED IN THE CAR.

1 Q. OKAY. AND SO YOU DIDN'T SAY PREVIOUSLY, "I JUMPED UP."
2 HAVE YOU EVER SAID, "I SAW DENNIS COMING UP BEHIND ME"?

3 A. YES.

4 Q. HAVE YOU EVER SAID, "I JUMPED UP AND PUNCHED DENNIS IN
5 THE FACE"?

6 A. NO, I AIN'T PUNCHED HIM. I HAD KICKED HIM OFF OF ME.

7 Q. HAVE YOU EVER SAID, "HE STARTED KICKING ME AND KNOCKED
8 ME DOWN"?

9 A. YES, SIR.

10 Q. SO WHAT DID YOU CALL THAT? A SLICK LICK?

11 A. YEAH.

12 Q. SO IN ADDITION TO A SLICK LICK---

13 A. HE WAS SNEAKING AND BACKING UP AT THE SAME TIME.

14 Q. AND HE STARTED KICKING YOU, AND HE KNOCKED YOU DOWN?

15 A. YES, SIR.

16 Q. AND THAT'S NOT FIGHTING.

17 A. NO.

18 Q. OKAY. AND SO SHORTLY AFTER THE SLICK LICK AND THE
19 KICKING BY DENNIS IRBY AND KNOCKING YOU DOWN, SHORTLY
20 THEREAFTER YOU HEARD---

21 A. I HEARD.

22 Q. ---SOME GUNSHOTS.

23 A. YES.

24 Q. NOW, YOU WERE FIGHTING WITH, YOU SAID, RAVARIS?

25 A. RAVARIS HENRY.

1 Q. RAVARIS HENRY. DID I UNDERSTAND YOUR TESTIMONY THAT
2 YOUR -- THAT Y'ALL WERE FIGHTING RIGHT IN FRONT OF CHANCE'S?

3 A. NO.

4 Q. POINT OUT WHERE Y'ALL WERE FIGHTING.

5 A. ME AND RAVARIS WAS FIGHTING BETWEEN CARS UP IN HERE.

6 Q. UP IN THERE?

7 A. YES, SIR.

8 Q. OKAY. AND WHERE DID YOU AND DENNIS IRBY HAVE THE SLICK
9 LICK WHEN YOU KICKED HIM?

10 A. WELL, AT THE SAME TIME THAT I HAD FELL, YOU KNOW WHAT
11 I'M SAYING, THE DUDE WAS STANDING ON TOP OF ME.

12 Q. WHO WAS STANDING ON TOP OF YOU?

13 A. RAVARIS -- I MEAN, DENNIS WAS STANDING ON TOP OF ME.

14 Q. OKAY. WHERE WAS DENNIS WHEN HE WAS STANDING ON TOP OF
15 YOU?

16 A. RIGHT THERE. RIGHT THERE.

17 Q. Y'ALL WAS FURTHER DOWN?

18 A. YEAH.

19 Q. HOW DID THE FIGHT MOVE FROM LOOKS LIKE OVER THE FIRST
20 TWO PARKING SPACES DOWN TO ABOUT THE THIRD OR FOURTH, FOURTH
21 OR FIFTH PARKING SPACES?

22 A. RAVARIS STARTED RUNNING. WHEN I HIT THE RAVARIS -- WHEN
23 I HIT RAVARIS, HE WENT RUNNING.

24 Q. WHEN YOU HIT WHO AT FIRST?

25 A. RAVARIS. AND THEN -- AND THEN -- AND THEN WE HAD WENT

1 UP ON FURTHER GROUND TO WHERE THE FIGHT TOOK PLACE AT.

2 Q. OKAY. AND SO RAVARIS -- THE FIRST LICK TOOK PLACE AND
3 RAVARIS STARTED RUNNING?

4 A. YES.

5 Q. AND DENNIS WAS RUNNING, TOO?

6 A. NO. AT THE SAME TIME HE WAS JUST WATCHING THE FIGHT AND
7 HE WAS BASICALLY---

8 Q. COULD YOU BACK OFF THE MICROPHONE JUST A LITTLE BIT?
9 NOT THAT FAR.

10 A. IS THAT GOOD?

11 Q. OKAY. AND DO YOU RECALL BACK IN SEPTEMBER HOW MANY
12 SHOTS YOU SAID YOU HEARD FIRED?

13 A. I HEARD, LIKE I SAY, AT LEAST ABOUT FOUR.

14 Q. AT LEAST ABOUT FOUR.

15 A. YES, SIR.

16 MR. JOHNSON: ALL RIGHT, SIR. THANK YOU SO MUCH, SIR.

17 THE COURT: ALL RIGHT. REDIRECT QUESTIONS?

18 MR. LAKE: THANK YOU, YOUR HONOR.

19 REDIRECT EXAMINATION

20 BY MR. LAKE:

21 Q. MR. ROBERSON WAS ASKING YOU ABOUT SOME DISCUSSIONS IN
22 THE CAR AS YOU WERE GOING BACK. DID YOU HAVE ANY DISCUSSIONS
23 IN THE CAR WHEN Y'ALL WERE GOING BACK ABOUT WHAT JUST
24 HAPPENED?

25 A. NO. I WAS SICK. I WAS THROWING UP.

1 Q. SO NO ONE HAD ANY CONVERSATIONS AT ALL.

2 A. NO, BECAUSE EVERYBODY -- LIKE ADAMS AND THE REST OF THEM
3 WAS FOCUSED ON ME BECAUSE I WAS THROWING UP.

4 Q. OKAY.

5 A. I WAS VOMITING.

6 Q. I'M SORRY. GO AHEAD.

7 A. I SAID I WAS VOMITING.

8 Q. OKAY. AND, TRAMELE, TELL ME: WHEN DID YOU TELL A LAW
9 OFFICER OR INVESTIGATOR THAT DENNIS DID A -- WHAT YOU CALL A
10 SLICK LICK ON YOU.

11 A. REPEAT THE QUESTION.

12 Q. WHEN DID YOU TELL AN OFFICER OR ANYONE THAT DENNIS HAD
13 DID A SLICK LICK ON YOU?

14 A. I PROBABLY TOLD THEM ABOUT THAT LIKE PROBABLY WHEN I
15 FIRST GOT ARRESTED.

16 Q. ISN'T IT TRUE THAT YOU INDICATED THAT DENNIS APPROACHED
17 YOU AND YOU PUNCHED HIM?

18 A. YEAH, BUT I AIN'T PUNCH HIM. I KICKED HIM OFF ME. I
19 AIN'T -- I AIN'T EVER PUNCHED HIM.

20 Q. SIR, LET ME SHOW YOU YOUR STATEMENT.

21 A. YEAH, THAT'S MY STATEMENT RIGHT THERE, BUT I AIN'T PUNCH
22 HIM. I KICKED HIM.

23 Q. LET ME JUST GET YOU TO LOOK AT YOUR STATEMENT.

24 A. YEAH, I SEE IT.

25 Q. DO YOU SEE WHAT YOUR STATEMENT SAYS?

- 1 A. YES, SIR.
- 2 Q. WHAT DOES YOUR STATEMENT SAY?
- 3 A. "I JUMPED UP AND PUNCHED HIM."
- 4 Q. DOES IT SAY ANYTHING ABOUT HIM DOING A SLICK LICK ON
- 5 YOU?
- 6 A. NO.
- 7 Q. AND WHEN IS THE FIRST TIME YOU EVER SAID SOMETHING ABOUT
- 8 RAVARIS IS THE ONE RUNNING AFTER YOU PUNCHED HIM?
- 9 A. YES, I HIT HIM.
- 10 Q. WASN'T THAT PUNCH THAT YOU MADE A SECOND PUNCH?
- 11 A. YES, SIR.
- 12 Q. YOU GAVE A SECOND PUNCH, BUT YOU'RE THE ONE -- HE'S THE
- 13 ONE THAT RAN.
- 14 A. YEAH, BECAUSE HE GOT THE FIRST LICK.
- 15 Q. WAS HE EXPECTING YOU TO PUNCH HIM?
- 16 A. NO, SIR.
- 17 Q. SO AFTER YOU PUNCHED HIM, HE JUST GOT UP AND STARTED
- 18 RUNNING.
- 19 A. YES, AND I CAME BEHIND HIM.
- 20 Q. OH, SO YOU WERE CHASING HIM.
- 21 A. YES, SIR.
- 22 Q. IS RAVARIS BIGGER THAN YOU?
- 23 A. NO. ME AND HIM IS ABOUT THE SAME POUNDS, BUT HE'S JUST
- 24 A LITTLE TALLER.
- 25 MR. LAKE: NO FURTHER QUESTIONS.